CURRENT PERIODICAL SERIES

PUBLICATION NO: 2575

TITLE: FEDERAL REGISTER

VOLUME: 41

ISSUES: 243-252
pages 54917-57072

DATE: December 16-30 1976
Reel 12 of 12

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MICROFILMED – 1977

VOL 41

243

Vol.41—No.243
12–16–76

PAGES
54917–55146

federal register

THURSDAY, DECEMBER 16, 1976

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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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federal register
Area Code 202 Phone 523–5240

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Orange Reg. 75, Amt. 4; Grapefruit Reg. 77, Amt. 3; Tangerine Reg. 48, Amt. 5; Tangelo Reg. 48, Amt. 3]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

These amendments are issued pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905). The amendments prescribe total limitation of shipment regulations for oranges, grapefruit, tangerines, and tangelos during the period beginning at 6:00 p.m., e.s.t., December 22, 1976, and ending at 12:01 a.m., e.s.t., December 28, 1976. The regulations are designed to avert the accumulation of excessive market supplies of the specified fruits during and immediately following the Christmas holiday period in which, historically, there has been greatly reduced market demand.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, grapefruits, tangerines, and tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) These amendments reflect the Department's appraisal of the potential marketing situation during the week in which Christmas Day occurs and for the period immediately following. Historically, there has been heavy purchasing of fresh oranges, grapefruit, tangerines, and tangelos in the terminal markets prior to Christmas Day followed by a period of slow movement immediately following the holiday. An accumulation of excessive quantities of fruit in the markets during and immediately following the Christmas Day week contributes to unstable marketing conditions. Hence, the curtailment of such shipments, as hereinafter specified, would contribute to a better-managed supply situation and in turn to the establishment of orderly marketing.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of these amendments until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which these amendments are based became available and the time when these amendments must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Domestic shipments of Florida oranges, grapefruit, tangerines, and tangelos are currently regulated through September 25, 1977; determinations as to the need for, and extent of, regulation under § 905.52(a)(3) of the order must await the development of the crops and the availability of information about the demand for such fruits; the recommendation and supporting information for limiting the total quantity of fresh oranges, grapefruit, tangerines, and tangelos by prohibiting shipments thereof, pursuant to said section, during the period herein provided, were promptly submitted to the Department after open meetings of the committees on December 7, 1976, held to consider recommendations for such regulations, after giving due notice of such meetings, and interested persons were afforded an opportunity to submit their views at these meetings; information regarding the provisions of the regulations recommended by the committees has been disseminated among shippers of such fruits grown in the production area, and these regulations, including the effective time thereof, are identical with the recommendations of the committees; and compliance with these regulations will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time hereof.

Order. 1. In § 905.564 (Orange Regulation 75; 41 FR 42177, 49474, 51029, 53007), the provisions of paragraph (d) are revised to read as follows:

§ 905.564 Orange Regulation 75.

* * * * *

(d) During the period beginning at 6:00 p.m., e.s.t., December 22, 1976, and ending at 12:01 a.m., e.s.t., December 28, 1976, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any oranges grown in the production area.

2. In § 905.565 (Grapefruit Regulation 77; 41 FR 42177, 49474, 51029), the provisions of paragraph (d) are revised to read as follows:

§ 905.565 Grapefruit Regulation 77.

* * * * *

(d) During the period beginning at 6:00 p.m., e.s.t., December 22, 1976, and ending at 12:01 a.m., e.s.t., December 28, 1976, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any grapefruit grown in the production area.

3. In § 905.566 (Tangerine Regulation 48; 41 FR 42177, 49801, 51029, 51796, 53649), the provisions of paragraph (d) are revised to read as follows:

§ 905.566 Tangerine Regulation 48.

* * * * *

(d) During the period beginning at 6:00 p.m. e.s.t., December 22, 1976, and ending at 12:01 a.m., e.s.t., December 28, 1976, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangerines grown in the production area.

4. In § 905.567 (Tangelo Regulation 48; 41 FR 42177, 49474, 51029), the provisions of paragraph (d) are revised to read as follows:

§ 905.567 Tangelo Regulation 48.

* * * * *

(d) During the period beginning at 6:00 p.m., e.s.t., December 22, 1976, and ending at 12:01 a.m. e.s.t., December 28, 1976, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangelos grown in the production area.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated, December 13, 1976, to become effective 6:00 p.m., e.s.t., December 22, 1976.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-37038 Filed 12-15-76;8:45 am]

[Navel Orange Reg. 391]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Minimum Size Requirement

This regulation sets a minimum size requirement of 2.32 inches in diameter for navel oranges grown in District 2 of the production area, effective December 17, 1976, through January 20, 1977.

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This requirement is designed to promote orderly marketing in the interest of producers and consumers.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the regulation of shipments of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This action reflects the Department's appraisal of the need for regulation and of the crop and current and prospective market condition. Shipments of navel oranges from District 2 of the production area are now in progress and navel oranges in such shipments should be required to be at least 2.32 inches in diameter beginning December 17, 1976. The volume and size composition of the navel orange crop grown in District 2 is such that ample supplies of the more desirable sizes of fruit are available to satisfy the demand in regulated channels. The regulation is designed to permit shipment of ample supplies of navel oranges of acceptable size in the interest of both growers and consumers, and is necessary to maintain orderly marketing conditions, provide consumer satisfaction, and prevent the shipment of fruit of undesirable sizes. Navel oranges which do not meet the minimum size requirement may be shipped to fresh markets where smaller fruit is in demand, left on the trees to attain further growth, or utilized in processing. The regulation is consistent with the objectives of the act of promoting orderly marketing and protecting the interest of consumers.

(3) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting on December 7, 1976, after giving due notice, to consider the supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and express their views at this meeting; the recommendation and supporting information for regulation were submitted to the Department on December 7, 1976; the provisions of this regulation are the same as those recommended by the committee, and information concerning the regulatory provisions and effective time has been disseminated among handlers of navel oranges; it is necessary to make this regulation effective during the period herein specified in order to effectuate the declared policy of the act; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date of this regulation.

§ 907.691 Navel Orange Regulation 391.

Order. (a) During the period December 17, 1976, through January 20, 1977, no handler shall handle any navel oranges grown in District 2 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the navel oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(b) The terms "handler" and "handle" as used herein shall have the same meaning as is given to the respective terms in said marketing agreement and order.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A–107.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: December 10, 1976.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–36964 Filed 12–15–76;8:45 am]

[Navel Orange Reg. 392]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period December 17–23, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.692 Navel Orange Regulation 392.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges continued active until last Thursday, but since then it has been chaotic. Prices f.o.b. averaged $4.28 a carton on a reported sales volume of 889 carlots last week, compared with $4.43 per carton on sales of 660 carlots a week earlier. Track and rolling supplies at 477 cars were up 226 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 14, 1976.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 17, 1976, through December 23, 1976, are hereby fixed as follows:

(i) District 1: 704,000 cartons;

(ii) District 2: 50,000 cartons;

(iii) District 3: 96,000 cartons."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: December 16, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–37221 Filed 12–15–76;12:20 pm]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendments to the Refiners' Price Formulae Clarifying the Computation of the Increased Cost of Purchased Product and Permitting Separate Price Computation for Non-Canadian Imports of Propane and Butane

I. COMPUTATION OF THE INCREASED COST OF PURCHASED PRODUCT (THE "B" FACTOR)

On May 24, 1976, the FEA proposed two amendments to the "*B*" factor of the refiners' price formulae contained in § 212.83(c)(2). (41 FR 21938, May 28, 1976.).

Currently, the refiners' price formulae of § 212.83(c)(2) (i) and (ii), which govern the total dollar amount of increased product costs that may be included by a refiner in prices charged for covered products, include an element designated by the term "B_i."

Section 212.83(c)(2)(iii) defines "B_i" in part as follows:

$$B_i = B_i^1 + B_i^2 + B_i^3$$

"B_i" is, for $i=1$, $i=2$, $i=3$, and $i=4$, the sum of the increased costs of the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 and prior to or during the period "s" and not recovered in sales of that product through the period "t" and the increased costs of the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 in the period "t."

$$B_i^1 = c_i^1 - c_i^o - Y_i(q_i^1 - q_i^o)$$

"B_i^1" is the total increased cost of the specific covered product or products of the type "i" purchased or landed in the period "t," provided such cost is not included in computing "A_i". The cost of a specific covered product or products of the type "i" shall include the cost of a specific covered product or products not of the type "i" that was a covered product as of May 31, 1976 that are purchased and refined or blended and that are attributable to the production of the covered products of the type "i". The cost and quantity of covered products purchased or landed that are consumed as refinery fuel shall be excluded from this amount.

Where:

c_i^o = The total cost of a covered product or products of the type "i" purchased or landed in the period "o".

c_i^1 = The total cost of a covered product or products of the type "i" purchased or landed in the period "t".

q_i^o = The total quantity or volume of a covered product or products of the type "i" purchased or landed in the period "o".

q_i^1 = The total quantity or volume of a covered product or products of the type "i" purchased or landed in the period "t".

Y_i = The lowest price at or above which at least 10 percent of the product or products of type "i" were priced in transactions during the month of May 1973 or, if none occurred in that month, the month next preceding May 1973 in which such transactions occurred. Alternatively, the cost of the covered product or products concerned during the month of May 1973 may be used if computed by the use of accounting procedures generally accepted and consistently and historically applied by the firm conserned, and provided that the FEA has approved in writing of the cost figures used.

In its May 24 proposal, FEA stated that it was proposing to amend the definition of "B_i" in two respects.

First, FEA stated that in many instances the computation performed in accordance with the "B_i^1" definition does not accurately reflect a firm's total increased cost of purchased product incurred, measured on a per unit basis and multiplied by the current volume of product purchased.

For example, where (1) a firm purchased 100,000 gallons of products of the type "i" during the month of May 1973 at a cost of $.05 per gallon, (2) the firm purchased 150,000 gallons of products of the type "i" during the month of measurement at a cost of $.15 per gallon, and (3) the lowest price at or above which at least 10 percent of the firm's products of the type "i" were priced in transactions during the month of May 1973 was $.075, the "$B_i^1$" term of the "$B$" factor is computed as follows:

$B_i^1 = c_i^1 - c_i^o - Y_i(q_i^1 - q_i^o)$

$B_i^1 = \$22{,}500 - \$5{,}000 - \$.075 \quad (150{,}000 - 100{,}000)$

$B_i^1 = \$17{,}500 - \$3{,}750$

$B_i^1 = \$13{,}750$

Thus, the total increased cost of products of the type "i" purchased during the month of measurement and measured pursuant to the current definition of "B_i^1" is $13,750. However, the actual total increased cost of such products incurred by the firm measured on a per unit basis ($.15–$.05=$.10 increased cost per gallon) and multiplied by the volume of products purchased during the month of measurement (150,000 gallons) is $15,000.

The computation of the "*B*" factor contrasts markedly in this regard with the computation of the "*A*" factor, which measures the total increased cost of crude oil purchased or landed in the period "*t*" on a per unit basis multiplied by the volume of crude oil purchased or landed during the period "*t*."

It should be noted that FEA has since May 24 also proposed that the "*N*" factor of the refiners' price formulae, increased non-product costs, also be computed by this method. (41 FR 31863, July 30, 1976) No final action has been taken with respect to that proposal.

Second, FEA stated in its May 24 notice that the use of the "Y_i" term in the "*B*" factor results in a comparison of the cost of product purchased in the month of measurement with the cost of product purchased in the month of May 1973, less an amount which consists of the volume differential between the two periods multiplied by a price charged for the product during May 1973.

The use of a term reflecting a May 1973 price for product in a formula designed to measure the increased *costs* of a specific covered product is not entirely consistent with FEA's cost-based pricing system. The fact that "Y_i" is defined as either "the lowest price at or above which at least 10 percent of the product or products of type "*i*" were priced in transactions during the month of May 1973 or * * * [a]lternatively, the cost of the covered product or products concerned during the month of May 1973" (subject to certain conditions) indicates that the "Y_i" term is intended to approximate the per unit cost of a particular product during May 1973 by reference to the lowest range of prices charged for that product at that time or by some other method of cost approximation.

The use of such an approximate cost figure is appropriate only under circumstances in which the actual cost of product is not available (i.e., where product was not purchased during May 1973) or where the available May 1973 cost figure is unrepresentatively high (e.g., where product was purchased only on the spot market at such unusually high prices that sales of certain volumes of purchased product during May 1973 were at a loss). The use of an approximate cost (that is, price) figure where an actual representative cost figure is available is inappropriate.

Moreover, the comparison of current costs to May 1973 costs, less a factor reflecting May 1973 prices, is not well-suited to the purpose of ascertaining actual increases in product costs incurred.

Accordingly, the FEA proposed to amend the "B_i" portion of the "*B*" factor of the refiners' formulae to pattern the computation of "B_i" more closely to computation of the "*A*," the increased

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costs of crude oil, and, in this manner, to provide for a method of computation which is better suited to the purpose of ascertaining actual increases in the cost of purchased products.

The proposed amendment provided that the result derived by subtracting the per unit cost of product incurred during the month of May 1973 from the per unit cost of product incurred during the month of measurement be multiplied by the quantity of product purchased during the month of measurement.

The proposed amendment also provided for an alternate method of computing the increased cost of purchased product where no product was purchased during May 1973 or where the per unit cost of product purchased during May 1973 was unrepresentatively high, that is, exceeded the lowest price at or above which at least 10 percent of the product was priced in transactions during that month. Under such circumstances, a figure which is the equivalent of the current "Y^i" factor is proposed to be substituted for the per unit cost of product incurred during the month of May 1973 in the revised "B_i'" equation. Thus where no May 1973 cost figure is available or where that cost figure is abnormally high, an approximation of the May 1973 per unit cost will be permitted, but otherwise the use of actual cost figures was proposed as a requirement.

Based upon its analysis of comments received in the rulemaking proceeding, FEA has decided to adopt the amendments as set forth below.

II. CALCULATION OF REFINERS' INCREASED PRODUCT COSTS FOR NON-CANADIAN IMPORTS OF PROPANE AND BUTANE

On July 16, 1975, the FEA issued a notice of proposed rulemaking (40 FR 30671, July 22, 1975) proposing to amend the Mandatory Petroluem Price and Allocation regulations concerning propane and butane imports other than from Canada. On August 29, 1975, the FEA issued final amendments in the proceeding initiated by the July 6 notice. (40 FR 20821, September 4, 1975)

Among the amendments adopted on August 29, 1975, was a revision of § 212.93, the price rule for resellers and retailers, requiring sellers of propane and butane which distribute those products pursuant to § 211.12(g) to calculate separately both the increased costs attributable to the amount of such products held in inventory and designated for sale to industrial users, and the maximum lawful prices permitted under § 212.93 to be charged for products so designated.

After adoption of the August 29 amendments, the FEA received comments from several refiners that the proposal contained in the July 16 notice and the final rule adopted on August 29, 1975 (10 CFR 211.12(g)), contained provisions to modify the allocation regulations for all suppliers of propane and butane, including resellers, retailers, and refiners, so that they may maintain, upon satisfaction of certain prerequisites, separate inventories of non-Canadian imports of these products for allocation to industrial users.

With respect to the FEA's price regulations, however, no specific proposal was included in the July 16 notice, although comments were solicited regarding the propriety of certain amendments to the price rules to facilitate the efforts of all suppliers to import supplemental supplies of non-Canadian propane and butane for their industrial customers.

The amendments to § 212.93 adopted on August 29, 1975, permitted resellers and retailers to include the higher costs associated with supplemental imports of non-Canadian propane and butane in prices charged to the industrial customers which benefit from these supplemental imports while these higher costs are not generally permitted to be included in prices charged to their other customers. However, no similar amendment to the refiners' price regulations was adopted.

Accordingly, on May 24, 1976 FEA proposed an amendment to § 212.83 to permit a separate cost calculation for that portion of a refiner's non-Canadian imports of propane or butane which is maintained in a separate inventory for distribution to industrial customers pursuant to § 211.12(g)(2)(iii).

The proposed amendment would create a separate pricing formula to be included in § 212.83(c)(2) for non-Canadian imports of propane or butane maintained in a separate inventory pursuant to § 211.12(g)(2)(iii). The proposed formula provides for a separate increased cost calculation consisting of a comparison of the per unit cost of propane or butane imported from a source other than Canada in the month of measurement with the per unit cost of all propane or butane purchased or landed in the month of May 1973 multiplied by the volume of product landed in the month of measurement. The increased costs represented by the calculation would then be used in accordance with the other provisions of Subpart E to calculate maximum lawful prices for all non-Canadian imports of propane and butane designated for industrial use.

The increased product cost calculation for the remainder of a refiner's propane or butane inventory would be computed separately as part of the total dollar amount a refiner may apportion to general refinery products ($i=4$) pursuant to the formula set forth in § 212.83(c)(2)(ii) for use in calculating the refiner's maximum lawful prices for these products in accordance with the remaining provisions of Subpart E. Thus, where increased non-Canadian imports have not been designated for industrial use, a refiner would be required to include the cost of such imports in the total of increased product costs attributable to the remainder of its inventory general refinery products, including the remainder of its propane and butane. Moreover, once offshore imports of propane or butane have been included in the refiners inventory from domestic and Canadian sources, they could not be designated thereafter for industrial use and the costs of such products therefore would not be taken into account in calculating the increased costs attributable to the inventory maintained for industrial use.

Based upon its analysis of the comments received in the rulemaking proceeding, FEA has decided to adopt the amendments as set forth below. However, because of the complexities inherent in adding another category of covered products to the § 212.83 price formulae and because the effect of the amendment regarding propane and butane is essentially to modify the rule requiring equal application of increased costs contained in § 212.83(h)(1) as to imported propane and butane other than from Canada and designated for industrial use pursuant to § 211.12(g)(2)(iii), FEA has decided not to adopt the amendment in the form it was proposed. Rather than amending the refiners' price formulae in § 212.83(c) as proposed, the equal application rule in § 212.83(h) is amended. The amendment to § 212.83(h) does not affect the application of the rules set forth in § 212.83 regarding sales of propane and butane other than non-Canadian imports designated for industrial use pursuant to § 211.12(g)(2)(iii). Furthermore, the total amount of increased costs calculated under § 212.83(c)(2)(iii)(D) for B_i when $i=4$ continues to be the total amount of such increased costs available for recovery for all propane and butane. Insofar as a refiner, pursuant to the new § 212.83(h)(2)(iii)' applies unequal amounts of increased costs to imported propane and butane other than from Canada and designated for industrial use pursuant to the new § 211.12(g)(iii), the total amount of increased costs so applied must be excluded from the amount computed as available under § 212.83(c)(2)(iii)(D) for B_i where $i=4$.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-63, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Part 212 of Chapter II of Title 10 Code of Federal Regulations is amended as follows, effective December 1, 1976.

Issued in Washington, D.C., December 9, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

Section 212.83(c)(2)(iii) is amended by revising the definition of the "B" factor and a new clause (iii) is added to (h)(2) to read as follows:

§ 212.83 Allocation of refiner's increased costs.

* * * * * * *

(c) * * *

(2) * * *

(iii) * * *

(D) *The "B" factor.*

$$B_i = B_i' + B_i' + B_i'$$

"B_i" is, for $i=1$, $i=2$, $i=3$, and $i=4$ the sum of the increased costs of the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 and prior to or during the period "s" and not recovered in sales of that product through the period "t" and the increased costs of the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 in the period "t."

$$B_i' = q_i' \left(\frac{c_i'}{q_i'} - \frac{c_i^o}{q_i^o} \right)$$

except that where, in the period "o," no covered product or products of the type "i" were purchased or landed or, where

$$\frac{c_i^o}{q_i^o}$$

is greater than Y_i:

$$B_i' = q_i' \left(\frac{c_i'}{q_i'} - Y_i \right)$$

"B_i'" is the total increased cost of the specific covered product or products of the type "i" purchased or landed in the period "t," provided such cost is not included in computing "A_i". The cost of a specific covered product or products of the type "i" shall include the cost of a product or products not of the type "i" which was a covered product as of May 31, 1976 and is purchased and refined or blended, that is attributable to the production of the covered product or products of the type "i". The cost and quantity of covered products purchased or landed that are consumed as refinery fuel shall be excluded from this amount.

Where:

c_i^o=The total cost of a covered product or products of the type "i" purchased or landed in the period "o".

c_i'=The total cost of a covered product or products of the type "i" purchased or landed in the period "t".

q_i^o=The total quantity or volume of a covered product or products of the type "i" purchased or landed in the period "o".

q_i'=The total quantity or volume of a covered product of the type "i" purchased or landed in the period "t".

Y_i=The lowest price at or above which at least 10 percent of the product or products of type "i" were priced in transactions during the month of May 1973, or, if no transactions occurred in that month, the month next preceding May 1973 in which such transactions occurred.

"B_i'" is the total increased costs of the specific covered product or products of the type "i" computed under "B_i'" for the month preceding the month of measurement ("s") beginning on or after January 1, 1976 but not recovered in sales of that product during the period "t".

"B_i'" is the total increased cost of the specific covered product or products of the type "i" computed under "B_i'" for all months through the month two months before the month of measurement ("r") beginning on or after January 1, 1976 but not recovered in sales of that product through the period "t".

* * * * * * *

(h) * * *

(2) * * *

(iii) *Imports of propane or butane other than from Canada maintained in a separate inventory.* Notwithstanding the provisions of paragraph (1) of this section with respect to equal application of costs, a refiner may apply unequal amounts of increased costs to the weighted average May 15, 1973 selling prices of any imported propane or butane other than from Canada designated for industrial use pursuant to § 211.12(g)(2)(iii) if such imported propane or butane other than from Canada is maintained in a separate inventory or inventories and never commingled with other inventories of propane or butane, and provided that the increased costs for such imports are computed pursuant to the following formula and further provided that the increased costs so computed are subtracted from the amount computed in § 212.83(c)(2)(iii)(D) for B_i when $i=4$:

$$I^{i\prime\prime} = B^{i\prime}$$

Where:

$I^{i\prime\prime}$=The total dollar amount that may be applied in the period "r" (the current month) to the May 15, 1973 selling prices of products "i" to compute maximum allowable prices for these products.

$B^{i\prime}$=The "B" factor as defined in § 212.83(c)(2)(iii)(D).

i=imported propane or butane other than from Canada designated for industrial use pursuant to § 211.12(g)(2)(iii).

[FR Doc.76-36735 Filed 12-10-76;9:39 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 76-WE-22]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Los Angeles, California Vicinity

On September 30, 1976, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 43187) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would alter the jet route structure in the vicinity of Los Angeles, Calif.

Interested persons are afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 24, 1977, as hereinafter set forth.

Section 75.100 (42 FR 707) is amended as follows:

1. In Jet Route No. 9 "From Los Angeles, Calif., via Hector, Calif.; Boulder City, Nev.;" is deleted and "From Los Angeles, Calif., via Daggett, Calif.; INT of Daggett 046° and Boulder City, Nev., 245° radials; Boulder City.;" is substituted therefor.

2. In Jet Route No. 100 "From Los Angeles, Calif., via Hector, Calif.; Boulder City, Nev.;" is deleted and "From Los Angeles, Calif., via Daggett, Calif.; INT of Daggett 046° and Boulder City, Nev., 245° radials; Boulder City.;" is substituted therefor.

3. In Jet Route No. 107 "From Los Angeles, Calif., via Hector, Calif.; Boulder City, Nev.;" is deleted and "From Los Angeles, Calif., via Daggett, Calif.; INT of Daggett 046° and Boulder City, Nev., 245° radials; Boulder City.;" is substituted therefor.

4. In Jet Route No. 96 "From Los Angeles, Calif., via Ontario, Calif.; INT of Ontario 093° and Parker, Calif., 261° radials; Parker;" is deleted and "From Los Angeles, Calif., via Seal Beach, Calif.; Thermal, Calif.; Parker, Calif.;" is substituted therefor.

5. Jet Route No. 169 is added as follows: "From Los Angeles, Calif.; via Seal Beach, Calif.; Thermal, Calif.; Blythe, Calif."

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on December 8, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-36728 Filed 12-15-76;8:45 am]

[Airspace Docket No. 76-SW-53]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Refugio, Tex., transition area.

On October 28, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 47265) stating the Federal Aviation Administration proposed to alter the Refugio, Tex., transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.M.T., February 24, 1977, as hereinafter set forth.

In § 71.181 (41 FR 440), the Refugio, Tex., transition area is altered as follows:

REFUGIO, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Tom O'Connor Oilfield Airport (latitude 28°20'04" N., longitude 97°08'58" W.); within 2 miles each side of the 338° bearing from the Vidauri RBN (latitude 28°23'51" N., longitude 97°10'40" W.), extending from the 5-mile-radius area to 8 miles northwest of the Vidauri NDB; within a 5-mile radius of Mellon Ranch Airport (latitude 28°16'50"

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N., longitude 97°12'30" W.), and within 3½ miles each side of the 319° bearing from the Mellon Ranch NDB (latitude 28°16'47" N., longitude 97°12'20" W.), extending from the 5-mile radius to 12 miles northwest of the Mellon Ranch NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Fort Worth, Tex. on December 7, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.76-36966 Filed 12-15-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 0—ORGANIZATION

PART 5—STANDARDS OF CONDUCT

Organization; Standards of conduct; Correction

In FR Doc. 76-36558 appearing in the FEDERAL REGISTER of Tuesday, December 14, 1976, 41 FR 54483, redesignating Part 0 of 16 CFR as Part 5 and setting out the renumbering from Part 0 to Part 5, there was inadvertently omitted the renumbering of Old Section Number 0.735-19 to New Section Number 5.19 under Subpart B—Ethical and Other Conduct and Responsibilities of Employees.

Accordingly, Old Section Number 0.735-19 is renumbered as New Section Number 5.19.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.76-37065 Filed 12-15-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5780, 34-13055, 35-19802, AS-203]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Disclosure of Certain Replacement Cost Data; Amendment to Regulation S-X

The Securities and Exchange Commission hereby adopts an amendment to Rule 3-17 of Regulation S-X (17 CFR 210.3-17). Rule 3-17(g) was originally proposed for comment in Securities Act Release No. 5696 (41 FR 13626), which was issued concurrently with Accounting Series Release No. 190 (Release Nos. 33-5695, 34-12240, 35-19437, March 23, 1976 (41 FR 13596)) in which Rule 3-17(a)-(f) requiring certain replacement cost data was adopted. A revised amendment was published for comment on October 7, 1976 in Securities Act Release No. 5749 (41 FR 45030).

The Commission is adopting the rule because of the imprecise nature of replacement cost information and its desire to encourage the development and disclosure of such information in good faith. The Commission recognizes that it is requiring companies to disclose data that is not subject to precise calculation. It is expected that there will be various approaches taken in the preparation and disclosure of replacement cost data. The Commission believes that persons required to disclose replacement cost data should be protected against the imposition of liability for such disclosures unless it can be clearly shown that the disclosures were prepared without a reasonable basis or disclosed in other than good faith.

By defining various terms found in the securities laws to require a showing that the data was either (1) prepared without a reasonable basis or (2) disclosed in other than good faith, the rule places a burden of proof on a person seeking to establish liability for a disclosure or nondisclosure of replacement cost data. If such a person can establish that a misstatement of a material fact (or other similar term found in the rule) has occurred, he must then meet whatever standards are applicable in the circumstances of the particular claim and the relief sought. See, e.g., sections 11, 12 and 17 (15 U.S.C. 77k, l, o and q) of the Securities Act of 1933, Sections 10, 18 and 20 (15 U.S.C. 78j, r and t) of the Securities Exchange Act of 1934.

Some commentators questioned the requirement that the data be demonstrated to have been prepared "without a reasonable basis." These commentators recommended that a person seeking to establish liability for replacement cost data be required to demonstrate that such information was prepared with an intent to deceive or defraud and disclosed other than in good faith. The Commission recognizes that there will be more than one reasonable way of preparing the data but believes that a showing that data was prepared without a reasonable basis should be sufficient to remove any special protection afforded by the rule. A requirement that there be a showing of an intent to deceive or defraud may be appropriate in other circumstances, but the Commission does not believe that such a standard is appropriate in a "safe harbor" rule. The rule would apply to data furnished in response to the requirements of Rule 3-17(a)-(f) or as further supplemental disclosure.

Most of those commenting on the revised rule favored adoption of the rule as revised, although a majority of those supporting the adoption of the rule favored the deletion of the July 1, 1978 termination date. In response to these comments, the Commission has removed the termination date. However, as with other aspects of the Commission's requirements for replacement cost data, the Commission will consider the desirability of amending or eliminating the rule in light of its experience with the rule. The Commission will review its experience with the rule by July 1, 1978.

Commission Action: The Commission hereby amends § 210.3-17 of Part 210 of 17 CFR, Chapter II, by the addition of paragraph (g) as given below.

§ 210.3-17 Current replacement cost information.

* * * * *

(g) Current replacement cost information disclosed pursuant or supplemental to the requirements of this § 210.3-17 shall be deemed not to be an untrue statement of a material fact; a statement false or misleading with respect to any material fact; an omission to state a material fact necessary to make a statement not misleading; or the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business or an artifice to defraud; as those terms are used in the Securities Act of 1933, the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935, or rules and regulations thereunder, unless such inforamtion:

(1) Was prepared without a reasonable basis; or

(2) Was disclosed other than in good faith.

The Commission solicited comment on whether it would be preferable to have no rule rather than the revised rule proposed in Securities Act Release No. 5749. Almost all those responding favored adoption of the rule rather than no rule. It should be emphasized that the Commission has adopted the rule because of the nature of replacement cost data. The rule should not be taken as an indication of what the Commission believes to be the appropriate standard in the absence of a rule, or what an appropriate safe harbor rule would be for other types of disclosures or activities.

Pursuant to section 23(a)(2) of the Exchange Act, the Commission has considered the effect that the amendment would have on competition and is not aware of any burden that the rule would impose on competition not necessary or appropriate in furtherance of the purposes of that Act.

The Commission has adopted the foregoing amendment pursuant to its authority under section 19(a) (15 U.S.C. 77s) of the Securities Act of 1933, sections 3(b) and 23(a)(1) (15 U.S.C. 78c and 78w) of the Securities Exchange Act of 1934, and section 20 (15 U.S.C. 79t) of the Public Utility Holding Company Act of 1935. In addition to the definitional authority provided therein, section 19a (15 U.S.C. 77s) of the Securities Act, section 23(a)(1) (15 U.S.C. 78w) of the Exchange Act and section 20(d) (15 U.S.C. 79t) of the Holding Company Act specifically provide that no liability under those Acts "shall apply to any act done or omitted in good faith in conformity" with any rule or regulation of the Commission.

Inasmuch as the above described amendment does not impose any additional requirements under § 210.3-17, the Commission finds that, for good cause, the thirty day notice provision specified in the Administrative Procedure Act (5 U.S.C. 553(d)) is unnecessary, and accordingly the amendment shall be effective on December 16, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 10, 1976.

[FR Doc.76-36990 Filed 12-15-76;8:45 am]

[Release No. 34-13053; File No. S7-611]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Adoption of Reporting and Inquiry Requirements With Respect to Missing, Lost, Stolen and Counterfeit Securities

The Securities and Exchange Commission today announced the adoption of Rule 17f-1 (17 CFR 240.17f-1) under section 17(f) of the Securities Exchange Act of 1934, ("the Act") (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)) to establish reporting and inquiry requirements with respect to missing, lost, counterfeit or stolen securities. The Commission also announced a pilot program, from March 1, 1977 to February 28, 1978, to ease the implementation of the rule. Under the terms of the pilot program, the rule will become effective on March 1, 1977. The pilot period will end on February 28, 1978. Finally, the Commission seeks comments concerning the designation of an entity to process reports and inquiries required to be made with the Commission during the pilot period.

INTRODUCTION

The problems relating to missing, lost, counterfeit or stolen securities have been described by the Commission [1] and were the subject of a series of Congressional hearings.[2] The recommendation for a system for the receipt of reports and inquiries concerning missing, lost, stolen or counterfeit securities has been supported widely. Section 17(f) of the Act established the legislative framework for such a system by providing that every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System and bank whose deposits are insured by the Federal Deposit Insurance Corporation shall report and inquire with respect to missing, lost, counterfeit or stolen securities in accordance with rules promulgated by the Commission.

[1] Study of Unsafe and Unsound Practices of Brokers and Dealers, Report and Recommendations of the Securities and Exchange Commission (pursuant to section 11(h) of the Securities Investor Protection Act of 1970), December 1970.

[2] Organized Crime—Stolen Securities, Hearings Before the Permanent Subcommittee on Investigations, Senate Committee on Government Operations, 92nd Cong., 1st Sess. (1971); 93rd Cong., 1st Sess. (1973); 93rd Cong., 2d Sess. (1974).

Proposed Rule 17f-1 was announced by the Commission on January 20, 1976.[3] Numerous comment letters were received from interested members of the public, and impact studies on the effects of the proposed rule were conducted by the securities and banking industries. The Commission has carefully reviewed these comment letters and impact studies and has made modifications in the rule where it was deemed appropriate.

RULE 17f-1

(a) *Definitions.* Paragraph (a) defines the terms "reporting institution" and "appropriate instrumentality."

(b) *Reporting requirements.* Paragraph (b) requires financial institutions and others to report missing, lost, counterfeit or stolen securities within specified time periods. Reports with respect to U.S. Government or Agency securities or securities of certain international organizations are to be made to the nearest Federal Reserve Bank or Branch; reports with respect to all other securities are to be made to the Securities and Exchange Commission. Where there is a substantial belief that criminal activity is involved, an additional report must be made to the appropriate law enforcement agency. A report is also required if a security previously reported missing, lost or stolen is recovered. The information required to be reported is set forth in the rule and shall be provided on Form X-17F-1A, Lost, Missing, Stolen, Counterfeit Securities Report.

The rule requires the reporting institution to report: (1) Those securities missing, lost, or stolen from its possession or control and (2) those securities which are missing, lost or stolen from the possession or control of a person which is not a reporting institution and which securities have not been reported by another reporting institution. For example, if securities are missing from the control of a broker, the broker would be required to report. A transfer agent receiving a "stop" on such securities from the broker would not be required to report. In contrast, where securities are lost by a nonreporting entity such as an individual, the transfer agent would be required to make a report when it receives the stop. Form X-17F-1A will be designed so that transfer agents will be able to ascertain whether a report is required by them. During the pilot program, transfer agents will not be required to report stops received prior to the effective date of the rule. The Commission will study the desirability of requiring the reporting of such stops at a later date. The Commission also intends to consider and may make proposals concerning methods by which duplicative reporting and inquiry by registered transfer agents may be eliminated.

For the purpose of paragraph (b)(2) only, but not (b)(2)(i)-(iii), the time periods for reporting begin to run when, on the basis of all relevant circumstances, the reporting institution believes a certificate to be lost or missing as opposed to a belief that the certificate is merely misplaced or misfiled by the institution.

Counterfeit securities, including altered or forged securities, are required to be reported to the appropriate law enforcement agency as well as to the appropriate instrumentality. Reports of recoveries of lost, missing, or stolen securities are required to be made to the appropriate instrumentality. Where stolen securities were reported to a law enforcement agency, a report of recovery is required to be made to such agency. Recovery may only be reported by the institution which reported the security as missing, lost or stolen. However, report of recovery may be made by a successor institution, trustee or the recovering institution where the reporting institution no longer exists.

(c) *Inquiry requirements.* Paragraph (c) of Rule 17f-1 requires financial institutions to determine whether securities coming into their possession or keeping under certain circumstances have been reported as missing, lost, counterfeit or stolen. Inquiry with the appropriate instrumentality is required whenever securities are received, whether by pledge, transfer or in some other manner, unless they are received (1) from the issuer on original issue; (2) from another institution which is a reporting institution under the rule; or (3) from a customer and are registered in the name of such customer or its nominee.

Under the proposed rule, the third exemption stated that no inquiry is required if the securities are received from a regular customer, are registered in the name of such customer or its nominee and the size and nature of the transaction are not inconsistent with past transactions with the same customer. However, in light of the Senate hearings, which demonstrated that the stolen securities traffic mainly involves bearer and street name securities and the concern expressed in the comment letters, the Commission has eliminated the requirement that the person be a regular customer and the transaction not be inconsistent with past transactions. Consequently, under the third exemption as adopted, securities registered in the name of the customer will be exempt from required inquiry. All bearer or street name securities, unless received from the issuer or another reporting institution, would require inquiry. Any reporting institution may make inquiry with respect to any transaction pursuant to paragraph (d) of the rule.

These exceptions are intended to make inquiry unnecessary in the majority of instances and to require inquiry in those circumstances most likely to involve missing, lost, counterfeit or stolen securities. The system will be designed to avoid undue disruption to the course of normal commercial transactions.

[3] Securities Exchange Act Release No. 12030 (January 20, 1976); 41 FR 4834 (February 2, 1976)

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(d) *Permissive reports and inquiries.* Paragraph (d) describes the availability of the reporting and inquiry system to any reporting entity whether or not Rule 17f–1 would require a report or inquiry. With respect to the granting of authority to make permissive inquiries, it should be pointed out that this authority is provided to allow sufficient flexibility when an inquiry is not mandated but suspicious circumstances are involved. The Commission, in allowing permissive inquiries, does not intend to incorporate an inquiry requirement into the bona fide purchaser doctrine each time a reporting institution receives a security certificate. The Commission recognizes that to require or to suggest inquiry in all cases would seriously jeopardize the ability of financial institutions to function in an efficient manner.

The rule also provides that the Commission may grant other persons access to the system upon such terms or conditions as it deems necessary and appropriate in the public interest and for the protection of investors. The Commission recognizes that a number of banks, including foreign banks and branches, and other institutions, such as insurance companies, are not included in the definition of "reporting institution." In order to allow these institutions access into the system and to allow those reporting institutions dealing with non-reporting institutions the exemption allowed under paragraph (c) (1) (ii) of the rule, the Commission encourages financial institutions not within the jurisdiction of this section to apply under paragraph (d) to become so included.

PILOT PROGRAM

In order to implement Rule 17f–1 in the most efficient manner, the Commission has determined that it would be appropriate to institute a pilot program to determine the effectiveness of the rule and the systems designed to carry out its provisions. Accordingly, Rule 17f–1 will be implemented on a pilot basis between March 1, 1977 and February 28, 1978.

During the pilot program, the Commission will not require certain reports and inquiries to be made which otherwise would be required under the rule.

1. Corporate securities not assigned CUSIP numbers will be exempt from required reporting and inquiry.

2. Transactions involving less than $10,000 will be exempt from inquiry.

On the basis of the impact studies conducted, the Commission believes that allowing these additional exemptions from reporting and inquiry during the pilot program will allow the efficient implementation of a system to carry out the mandate of the Act. In addition, these exemptions will allow financial institutions subject to the rule an opportunity to adapt to the operation of the rule without undue disruption to the course of normal commercial transactions.

The Commission will study the operation of the rule and the system during this pilot program and make modifications where appropriate.

DESIGNATION OF AN OUTSIDE ENTITY

Section 17(f) (1) (A) of the Act authorizes reports and inquiries to be made to the Commission or "other person designated by the Commission." The Commission has determined that a manual, computer-assisted system would best achieve the purposes of the pilot program and that the goals of the Act would best be fulfilled by the designation of a private entity to perform certain functions under the Commission's direction.[4] These conclusion are based on the easy implementation and lower cost of such a designee-operated system over a real-time, on-line fully automated system. These views are also buttressed by the fact that the movement towards the immobilization and elimination of securities certificates will greatly diminish the lost and stolen securities problem. Accordingly, the implementation cost of any system should be kept as low as possible.

The Commission contemplates that any system designated by it will be flexible enough to accommodate high volume users on an automated basis.

The designee's functions, to be carried out upon terms and conditions as approved by the Commission would be:

1. To receive reports and inquiries for which the Commission is the appropriate instrumentality;

2. To maintain records of such reports and inquiries and furnish such records to institutions in accordance with the provision of Rule 17f–1;

3. To collect fees, as approved by the Commission, from reporting institutions to defray the cost of the system; and

4. To convey receipt of reports to the transfer agents concerned where such transfer agent is not the reporting institution; and

5. To carry out other specified functions ordered by the Commission.

The Commission's designee will serve in its capacity upon specified terms and conditions approved by the Commission and shall operate pursuant to and under the terms of:

1. A plan approved by the Commission and amended by the Commission as appropriate or necessary; and

2. A fee structure to be submitted to and approved by the Commission.

The Commission solicits comments regarding its determination to utilize a manual computer assisted system in implementing Rule 17f–1. In addition, the Commission encourages entities interested in acting as the Commission's designee to make submissions and proposals for systems to implement Rule 17f–1, including costs for such a system.

EFFECTIVE DATES AND RESPONSIBILITY OF APPROPRIATE INSTRUMENTALITIES

Rule 17f–1 will become effective on March 1, 1977. No fee will be charged to users for reports and inquiries for which a Federal Reserve Bank or Branch is the appropriate instrumentality between March 1, 1977 and June 1, 1977. Thereafter, a reasonable fee as approved by the Commission may be charged to all reporting institutions. Reporting institutions will be charged a reasonable fee, determined by the Commission, for making available the information on missing, lost, counterfeit or stolen securities for which the Commission is the appropriate instrumentality.

The Commission and the Federal Reserve Bank will shortly disseminate to all reporting institutions the procedures for reporting and inquiry.

The appropriate instrumentalities undertake no responsibility with regard to any party in maintaining the lists of missing, lost, counterfeit or stolen securities or responding to inquiries pertaining thereto and will not be liable for any act or failure to act with respect to any procedures set forth in Rule 17f–1.

IMMOBILIZATION AND ELIMINATION OF CERTIFICATES

It should be noted that this program is not intended to be a substitute for other steps which are being undertaken to improve securities processing, prevent losses and reduce the risk of theft. The Commission continues to endorse the concepts of improved securities processing and certificate immobilization and elimination through greater use of depositories and book entry systems. It is expected that this program will be developed in a manner appropriate to meet existing needs and will be flexible enough to adjust to changing circumstances.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

The Commission adopts Rule 17f–1 pursuant to the Securities Exchange Act of 1934, as amended, including sections 2, 6, 10, 15, 17, and 23 thereof. The Commission finds that any burden upon competition imposed by the rule is necessary and appropriate in the public interest and for the protection of investors in order to implement a lost or stolen securities program pursuant to section 17(f) of the Act.

Since the modifications of the rule as proposed are technical in nature or make the rule less restrictive, the Commission finds, in accordance with the Administrative Procedure Act, that notice and public procedure are not necessary as a prerequisite to the adoption of the rule.

[4] See Appendix—Criteria for a Lost and Stolen Securities Reporting and Inquiry System, for a discussion of those criteria the Commission suggests be included in a system. The conclusion that a manual computer-assisted system is the most appropriate means of implementing section 17(f) (1) of the Act was reached after review of preliminary proposals submitted by numerous firms during the public comment period. The criteria described herein were formulated from submissions received by the Commission and contain many suggestions initially made by the Securities Industry Automation Corporation.

SOLICITATION OF COMMENTS

The Commission solicits comments from all interested persons on Rule 17f–1 and the Commission's pilot program for the implementation of the rule. In particular, the Commission solicits comments pertaining to the following:

1. Whether the standards for inquiry set forth in paragraph (c) (1) (iii) of the rule are appropriate;

2. Whether the use of a manual, computer assisted system to receive reports and inquiries is appropriate and desirable in the public interest and for the protection of investors;

3. Whether it is appropriate to require the Commission's designee to convey receipt of reports to the transfer agent concerned where the transfer agent is not the reporting institution;

4. Whether the pilot program allows reporting institutions sufficient flexibility in the implementation of the rule;

5. Whether the additional exemptions allowed during the pilot program should be retained permanently in the rule;

6. Whether the effective date of March 1, 1977 is appropriate; and

7. Whether it is desirable for the Commission to appoint an advisory committee consisting of representatives of the banking and securities industries, the self-regulatory organizations and regulatory agencies to advise the Commission on the conduct of the lost and stolen securities pilot program.

In addition, the Commission solicits submissions from persons interested in serving as the Commission's designee regarding the manner in which a system should operate including costs for the establishment and operation of such a system.

Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, by January 15, 1977. All comments should refer to File No. S7–611. Comments submitted will be available for public inspection at the Commission's Public Reference Room.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 10, 1976.

Part 240 is amended as follows:

Commission action: Pursuant to sections 2, 6, 10, 15, 17(f) and 23 of the Securities Exchange Act of 1934, the Securities and Exchange Commission adopts § 240.17f–1 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 240.17f–1 Requirements for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.

(a) *Definitions*—(1) *Reporting institution.* For purposes of this section, the term "reporting institution" shall include every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System and bank whose deposits are insured by the Federal Deposit Insurance Corporation.

(2) *Appropriate instrumentality.* For purposes of this section the term "appropriate instrumentality" shall mean:

(i) Any Federal Reserve Bank or Branch thereof with respect to securities issued by:

(A) The United States Government,

(B) Any agency or instrumentality of the United States Government,

(C) The International Bank for Reconstruction and Development,

(D) The Inter-American Bank, or

(E) The Asian Development Bank; and

(ii) The Securities and Exchange Commission with respect to all other securities.

(b) *Reporting requirements*—(1) *Stolen securities.* (i) Every reporting institution shall report to the appropriate instrumentality the discovery of the theft or loss of any security where there is substantial basis for believing that criminal activity was involved. Such report shall be made within one business day of the discovery and, if the certificate numbers of the securities cannot be ascertained at that time, they shall be reported as soon thereafter as possible.

(ii) Every reporting institution shall promptly report to the appropriate law enforcement agency upon the discovery of the theft or loss of any security where there is substantial basis for believing that criminal activity was involved.

(2) *Missing or lost securities.* Every reporting institution shall report to the appropriate instrumentality the discovery of the loss of any security where criminal actions are not suspected when the security has been missing or lost for a period of two business days. Such report shall be made within one business day of the end of such period except that:

(i) Securities lost in transit to customers, transfer agents, banks, brokers or dealers shall be reported by the delivering institution no later than two business days after notice of non-receipt or as soon after such notice as the certificate numbers of the securities can be ascertained.

(ii) Securities considered lost or missing as a result of securities counts or verifications required by rule, regulation or otherwise (e.g., dividend record date verification made as a result of firm policy or internal audit function report) shall be reported no later than ten business days after completion of such securities count or verification or as soon after such count or verification as the certificate numbers of the securities can be ascertained.

(iii) Securities not received during the completion of a delivery, deposit or withdrawal shall be reported in the following manner:

(A) Where delivery of securities is through clearing agency, the delivering institution shall supply the receiving institution the certificate number of the security within two business days from the date of request from the receiving institution. The receiving institution shall report within one business day of notification of the certificate number;

(B) Where the delivery of securities is over the window and where the delivering institution has a receipt, the delivering institution shall supply the receiving institution the certificate numbers of the securities within two business days from the date of request from the receiving institution. The receiving institution shall report within one business day of notification of the certificate number;

(C) Where the delivery of securities is over the window and where the delivering institution has no receipt, the delivering institution shall report within two business days of notification of non-receipt by the receiving institution; or

(D) Where delivery of securities is made by mail or via draft, if payment is not received within ten business days, the delivering institution shall confirm with the receiving institution the failure to receive such delivery; if confirmation shows non-receipt, the delivering institution shall report within two business days of such confirmation.

(3) *Counterfeit securities.* Every reporting institution shall report the discovery of any counterfeit security to the appropriate instrumentality and the appropriate law enforcement agency within one business day of such discovery.

(4) *Recovery.* Every reporting institution shall report the recovery or finding of any security previously reported missing, lost or stolen pursuant to this rule to the appropriate instrumentality within one business day of such recovery or finding. If a report of stolen securities was made to the appropriate law enforcement agency, a report of recovery shall also be made to such agency. Recovery may only be reported by the institution which reported the security as missing, lost or stolen.

(5) *Information to be reported.* All reports made pursuant to this section shall include, if applicable or available, the following information with respect to each security:

(i) Issuer;
(ii) Type of security and series;
(iii) Date of issue;
(iv) Maturity date;
(v) Denomination;
(vi) Interest rate;
(vii) Certificate number, including alphabetical prefix or suffix;
(viii) Name in which registered;
(ix) Distinguishing characteristics, if counterfeit;
(x) Date of discovery of loss or recovery;
(xi) CUSIP number; and
(xii) FINS number.

(6) *Forms.* All reports made pursuant to this section shall be made on Form X–17F–1A.

(c) *Required inquiries.* (1) Every reporting institution shall inquire of the appropriate instrumentality with respect to every security which comes into its possession or keeping, whether by pledge, transfer, or otherwise, to ascertain whether such security has been reported

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as missing, lost, counterfeit or stolen, unless

(i) The security is received directly from the issuer or issuing agent at issuance;

(ii) The security is received from another reporting institution or Federal Reserve Bank in its capacity as fiscal agent;

(iii) The security is received from a customer of the reporting institution and is registered in the name of such customer or its nominee.

(2) *Form of inquiry.* Inquiries shall be made in such manner as prescribed by the appropriate instrumentality.

(d) *Permissive reports and inquiries.* Every reporting institution may report to or inquire of the appropriate instrumentality with respect to any security not otherwise required by this section to be the subject of a report or inquiry. The Commission on written request or upon its own motion may permit reports to and inquiries of the system by any other person or entity upon such terms and conditions as it deems appropriate and necessary in the public interest and for the protection of investors.

APPENDIX—CRITERIA FOR A LOST AND STOLEN SECURITIES REPORTING AND INQUIRY SYSTEM

The Commission suggests that those persons interested in serving as the Commission's designee for reporting and inquiry under § 240.17f–1 should include the following criteria in plans which they may choose to submit. While the Commission believes that this program may be best implemented by a system containing the following characteristics, the Commission encourages the submission of any plan which would implement § 240.17f–1 in an efficient manner.

DESIGNEE'S FUNCTIONS

The designee will perform certain functions under the Commission's direction. It is contemplated that the designee will operate a manual, computer assisted system.

The designee will collect reports of instances of lost or stolen securities and maintain such information on microfilm or similar means. Such reports will be maintained on a current basis. Reports should be capable of being received by means of telephone, the mails or telex.

Similarly, the designee will receive inquiries by means of telephone, the mails or telex, and answer such inquiries promptly. The designee shall send hard copy confirmations to the inquiring institution concerning each inquiry.

It is contemplated that the designee will process approximately 10,000 reports and inquiries daily.

GENERAL CONSIDERATIONS

The immobilization and elimination of securities certificates will greatly diminish the lost and stolen securities problem. Accordingly, the start-up costs of any system to implement § 240.17f–1 should be as low as possible.

The "reporting institutions" subject to Rule 17f–1 will encompass entities of differing sizes, geographic locations and frequency of contact with the system. Consequently, the system should have sufficient flexibility to deal with these institutions as their needs require. This flexibility should entail different means of communication, ranging from the use of the mails for low volume users to automatic input and retrieval for the high volume entities.

Submissions should also address equitable means of allocating the costs of the system among the participants. Finally, not only the cost of operating the system, but compliance costs to participants should be considered in the design of a system.

REPORTING CONSIDERATIONS

The system should be capable of receiving reports by telephone and the mails as well as electronic means. The system should verify that the reporting entity is an authorized subscriber. The system should have the capacity to include reports into its lost and stolen securities file promptly and to generate a hard copy confirmation to the person making the report and to the transfer agent concerned.

The system should also contain procedures for removing such reports when the security is recovered by the reporting institution.

INQUIRY CONSIDERATIONS

The system should have the flexibility to answer inquiries in a variety of ways including by telephone, by mail and by electronic means. The system should initially verify that the person making inquiry is an authorized subscriber. The system should be able to respond to the inquiry promptly and to provide the inquirer with a hard copy confirmation.

The system should have the capacity to store a record of inquiries. Such records should be capable of being retrieved by the name of the subscriber as well as the particular security.

OTHER CONSIDERATIONS

The system should be capable of handling fluctuations in volume of reports and inquiries without loss of efficiency. All proposed systems should include estimates of the cost of implementation, the amount of time necessary to initiate the system, the cost of operation, the method of billing subscribers and allocation of the costs of the system among subscribers.

In making a designation for the purposes of the pilot program, the Commission will consider the following factors among others: The cost of implementing the system, the amount of time necessary to initiate the system, the cost of operation, the cost of compliance to reporting institutions, the compatibility of the system with existing securities information systems, the ability of the system to respond to fluctuations in reporting and inquiry volume in an efficient manner, the experience of the designee in managing similar programs, and the method of allocating costs and billing subscribers.

The Commission has solicited comments regarding the desirability of appointing an advisory committee to advise the Commission on the conduct of the lost and stolen securities pilot program. If such an advisory committee is appointed, it is anticipated that the committee will advise the Commission regarding the performance of the designee during the pilot program and make recommendations concerning the appointment of an entity on a permanent basis

[FR Doc.76–36969 Filed 12–15–76;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER VI—WATER RESOURCES COUNCIL

PART 701—COUNCIL ORGANIZATION

Observer Status for River Basin Commission Vice-Chairmen

Pursuant to the authority vested in it by section 402 of the Water Resources Planning Act (Pub. L. 89–80) (42 U.S.C. 1962d–1) the Water Resources Council hereby amends its regulations to grant observer status on the Council to the Vice-Chairmen of River Basin Commissions established under Title II of that Act.

Dated: December 13, 1976.

GARY D. COBB,
Acting Director.

Section 701.56(a) is amended to read as follows:

§ 701.56 Observers.

(a) Chairmen and Vice-Chairmen of River Basin Commissions established under Title II of the Act shall be Observers.

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[FR Doc.76–37054 Filed 12–15–76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76–339]

PART 1—GENERAL PROVISIONS

Extension of Port Limits of Progreso, Texas

On June 8, 1976, a notice of a proposal to extend the port limits of Progreso, Texas, in the Laredo, Texas, Customs district (Region VI) was published in the FEDERAL REGISTER (41 FR 22952).

One of the responses to the notice correctly noted that the description of the territorial boundaries of the proposed extended port limits of Progreso, Texas, failed to include all of the area within the city limits of Mercedes, Texas. Consequently, on October 22, 1976, the notice of proposed rulemaking was republished in the FEDERAL REGISTER (41 FR 46605) in order to clarify the geographical limits of the proposed extension. All of the comments received in response to the proposal were favorable.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 12 (41 FR 47970), the port limits of Progreso, Texas, in the Laredo, Texas Customs district (Region VI), are extended to include all the territory within the following boundaries:

Beginning at the intersection of Mile 9 North Road and the Cameron County and Hidalgo County line proceeding in a westerly direction along Mile 9 North Road to its intersection with Mile 6½ West Road, then proceeding in a southerly direction along Mile 6½ West Road and a continuation thereof to its intersection with the United States-Mexico international boundary, then proceeding in a easterly direction along the United States-Mexico international boundary to its intersection with the Cameron County and Hidalgo County Line, then proceeding in a northerly direction on the Cameron County and Hidalgo County line, to its intersection with Mile 9 North Road.

To reflect this change, the table in § 1.2(c) of the Customs Regulations (19 CFR 1.2(c)) is amended by deleting the language "(T.D. 71–278)." which appears directly after "Progreso" in the column headed "Ports of entry" in the Laredo, Texas, Customs district (Region VI) and adding in lieu thereof the language "(including territory described in T.D. 76–339)."

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended (19 U.S.C. 1, 2))

It is desirable to make the benefits of this extension of the port limits of Progreso, Texas, available to the public as soon as possible. Therefore, good cause is found for dispensing with the 30 day effective date provision of 5 U.S.C. 553(d).

Effective date: This amendment shall become effective January 3, 1977.

Dated December 10, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76–37016 Filed 12–15–76;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

[Dept. Reg. 108.730]

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Miscellaneous Amendments

The enactment on October 20, 1976 of Pub. L. 94–571, the Immigration and Nationality Act Amendments of 1976, requires a series of amendments to Title 22, Code of Federal Regulations, Part 42—Visas: Documentation of Immigrants under the Immigration and Nationality Act, as amended. Many of the necessary amendments are editorial; some are substantive in nature. The Department finds that, because of the necessity of making the amendments required by Pub. L. 94–571 effective as of January 1, 1977, notice of proposed rulemaking with respect to these amendments is impractical. The amendments are therefore promulgated to become effective January 1, 1977.

In accordance with the intent of 5 U.S.C. 553, however, interested persons may submit written comments, suggestions, data or arguments concerning these amendments to the Administrator, Bureau of Security and Consular Affairs, Room 6811, Department of State, Washington, D.C. 20520. Material submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as further changes are made, the amendments contained in this document shall remain in effect, in order to permit orderly implementation of the provisions of Pub. L. 94–571 commencing January 1, 1977.

Part 42, Chapter I Title 22 of the Code of Federal Regulations is amended as follows:

1. In § 42.1 Definitions, the following definitions are amended as set forth below:

§ 42.1 Definitions.

• • • • •

"Dependent area" means a colony or other component or dependent area overseas from the governing foreign state, natives of which are subject to the limitation prescribed by section 202(c) of the Act (i.e., not more than 600 per year).

• • • • •

"Entitled to immigrant classification" means that the alien (1) is the beneficiary of an approved petition to accord him immediate relative or preference status, or (2) has obtained an individual labor certification, or (3) has satisfied the consular officer that he (i) is entitled to special immigrant status under section 101(a)(27) of the Act, or (ii) is within one of the professional or occupational groups listed in Schedule A of the Department of Labor regulations, or (iii) is within one of the classes described in § 42.91(a)(14)(ii) and is therefore not within the purview of section 212(a)(14) of the Act.

"Foreign state." For the purpose of according alternate chargeability pursuant to section 202(b) of the Act, the term "foreign state" is not restricted to those areas to which the numerical limitation prescribed by section 202(a) of the Act applies but includes dependent areas, as defined in this section, and the Canal Zone.

"Not subject to numerical limitations" means that the alien is entitled to immigrant status as an immediate relative within the meaning of section 201(b), as a special immigrant within the meaning of section 101(a)(27) of the Act, or as a nonquota immigrant as defined in this section.

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2. In § 42.12, paragraph (b) is amended to read as follows:

§ 42.12 Classification symbols.

• • • • •

(b) The following symbols shall be used in cases of aliens who are special immigrants:

Class	Section of the law	Symbol to be inserted in visa
Returning resident	101(a)(27)(A)	SB–1
Person who lost U.S. citizenship by marriage.	101(a)(27)(B) and 324(a).	SC–1
Person who lost U.S. citizenship by serving in foreign armed forces.	101(a)(27)(B) and 327.	SC–2
Minister of religion	101(a)(27)(C)	SD–1
Spouse of alien classified SD–1.	do	SD–2
Child of alien classified SD–1.	do	SD–3
Certain employees or former employees of U.S. Government abroad.	101(a)(27)(D)	SE–1
Accompanying spouse of alien classified SE–1.	do	SE–2
Accompanying child of alien classified SE–1.	do	SE–3

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§ 42.20 [Amended]

3. In § 42.20, the third and fourth lines are amended by deleting "or section 21(e) of the Act of October 3, 1965," and by placing a comma immediately after "203 of the Act". Lines eight and nine are amended by deleting "(B) through (E)".

§ 42.21 [Amended]

4. Section 42.21 is amended by deleting the last line reading "(B) through (E)." and by placing a period at the end of the preceding line.

§ 42.23 [Amended]

5. Section 42.23, paragraph (a) is amended by changing "101(a)(27)(B)" to read "101(a)(27)(A)" in line three.

§ 42.24 [Amended]

6. Section 42.24, paragraph (a) is amended by changing "101(a)(27)(C)" to read "101(a)(27)(B)" in line four. Paragraph (b) is amended by changing "101(a)(27)(C)" to read "101(a)(27)(B)" in line three.

§ 42.25 [Amended]

7. Section 42.25, paragraph (a) is amended by changing "101(a)(27)(D)" to read "101(a)(27)(C)" in line three. Paragraph (b) is amended by changing "101(a)(27)(D)" to read "101(a)(27)(C)" in line two.

§ 42.26 [Amended]

8. Section 42.26, line three is amended by changing "101(a)(27)(E)" to read "101(a)(27)(D)".

§ 42.34 [Amended]

9. Section 42.34, paragraph (a) is amended by deleting the last sentence and inserting in place thereof, "In the case of a petition filed on or after January 1, 1977, a U.S. citizen must be at least twenty-one years of age to confer fifth preference status upon a brother or sister."

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§ 42.37 [Revoked]

10. Section 42.37 is hereby revoked and the entry in the table of contents deleted.

§ 42.50 [Amended]

11. Section 42.50, lines three through eight are amended by deleting "or to the numerical limitation prescribed by section 21(e) of the Act of October 3, 1965 for special immigrants within the meaning of section 101(a)(27)(A) of the Act,". Line twelve is amended by deleting "(B) through (E)".

§ 42.51 [Amended]

12. In § 42.51, lines two through four are amended by deleting "or in an independent country of the Western Hemisphere,".

§ 42.52 [Amended]

13. In § 42.52, lines two through four are amended by deleting "or in an independent country of the Western Hemisphere,".

§ 42.55 [Amended]

14. In § 42.55, line eight is amended by deleting "(B) through (E)".

15. In § 42.60, paragraph (a) is amended to read as follows:

§ 42.60 Control of numerical limitations by the Department.

(a) *Centralized control.* Centralized control of the numerical limitations on immigration specified in sections 201, 202, and 203 of the Act is established in the Department. In order to effectuate this control, the Department shall limit the number of immigrant visas that may be issued and the number of adjustments of status and conditional entries that may be granted to aliens subject to these numerical limitations as follows: (1) Within the numerical limitations specified in sections 201, 202, and 203 of the Act for aliens born in any foreign state or dependent area located in the Eastern Hemisphere, a number not to exceed a total of 45,000 in any of the first three quarters of any fiscal year and of 17,000 each month plus any balance remaining from authorizations for preceding months in the same fiscal year; (2) within the numerical limitations specified in sections 201, 202, and 203 of the Act for aliens born in any foreign state of the Western Hemisphere or in the Canal Zone, or in a dependent area located in the Western Hemisphere, a number not to exceed a total of 32,000 in any of the first three quarters of any fiscal year and of 12,000 each month plus any balance remaining from authorizations for preceding months in the same fiscal year.

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§ 42.61 [Amended]

16. In § 42.61, paragraph (a) is amended by deleting "and section 21(e) of the Act of October 3, 1965," in lines 15 through 17; by deleting "(B) through (E)" in lines 18 and 19; by deleting "(B) through (E)" in lines two and three of subsection (3)(i); by deleting subsection (3)(iii) in its entirety and by renumbering subsection "(3)(iv)" as "(3)(iii)".

17. In § 42.62, paragraph (b)(2) is amended by deleting subdivision (ii) in its entirety and by renumbering subdivision "(iii)" as "(ii)". Paragraph (c) is amended to read as follows:

§ 42.62 Priority date of individual applicants.

• • • • •

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, an alien who prior to January 1, 1977 was subject to the numerical limitation specified in section 21(e) of the Act of October 3, 1965 and who was registered as a Western Hemisphere immigrant with a priority date prior to January 1, 1977 shall retain such priority date as a nonpreference immigrant pursuant to section 203(a)(8) of the Act.

• • • • •

§ 42.63 [Amended]

18. In § 42.63, paragraph (a) is amended by deleting "and section 21(e) of the Act of October 3, 1965" in lines four through six.

§ 42.64 [Amended]

19. In § 42.64, paragraph (a) is amended by deleting "and section 21(e) of the Act of October 3, 1965" in lines six and seven.

20. An entry for § 42.65 is added to the table of contents and the text is added as follows:

§ 42.65 Termination of registration.

(a) *Grounds of termination.* An alien's registration on an immigrant visa waiting list shall be terminated if he shall have failed to respond within one year to a notification sent subsequent to January 1, 1977 from a consular officer to prepare for final action on his application for an immigrant visa or if he shall have failed to apply for an immigrant visa within one year following the scheduling of an appointment for final interview.

(b) *Termination following visa refusal.* An alien's registration on an immigrant visa waiting list shall be terminated if within one year following the refusal of his immigrant visa application pursuant to section 221(g) of the Act he shall have failed to present to a consular officer evidence purporting to overcome the basis for the refusal.

(c) *Notice of termination.* Upon the termination of registration provided for in paragraph (a) or (b) of this section, the consular officer at the post where the alien is registered shall notify the alien of the termination and shall inform him of his right to have his registration reinstated if the alien shall, within one year from the date of termination, establish to the satisfaction of the consular officer that his failure to take further action in the case was due to circumstances beyond his control.

(d) *Reinstatement of registration.* If an alien, as provided for in paragraph (c) of this section, establishes to the satisfaction of a consular officer that his failure to take further action in the case was due to circumstances beyond his control, the consular officer shall reinstate the alien's registration on an immigrant visa waiting list. Any petition approved pursuant to section 204(b) which had been automatically revoked as a result of the termination of registration shall be considered to be automatically reinstated.

(e) *"Circumstances beyond his control".* For the purposes of this section, the term "circumstances beyond his control" shall include, but shall not be limited to, an illness or other physical disability which prevents the alien from travelling, a refusal by the authorities of the country of an alien's residence to grant him permission to depart the territory of that country as an immigrant, and foreign military service.

21. In § 42.91(a)(14), paragraph (i) is amended by striking the comma and deleting all language following "203(a)(8)" and by placing a period in place thereof. This section is further amended by adding a new subdivision (iii) and by revising subparagraph (24) to read as follows:

§ 42.91 Aliens ineligible to receive visas.

(a) *Aliens ineligible under the provisions of section 212(a) of the Act.* • • •

(14) • • •

(iii) Notwithstanding the provisions of subdivisions (i) and (ii) of this subparagraph, an alien who is within the purview of § 42.62(c) shall be deemed to have met the requirements of section 212(a)(14) of the Act for the purpose of applying for an immigrant visa: *Provided,* That the status, relationship or other qualification on the basis of which the alien was originally registered as an intending immigrant continues to exist as of the time of the alien's application for a visa, or if such status, relationship, or other qualification no longer exists, that the alien has again become entitled to nonpreference immigrant classification.

• • • • •

(24) *Aliens arriving in foreign contiguous territory or adjacent islands on nonsignatory or noncomplying transportation lines.* The provisions of section 212(a)(24) of the Act shall not be applicable to the following classes of immigrants:

(i) An alien who is described in section 101(a)(27)(A) of the Act;

(ii) An alien born in the Western Hemisphere;

(iii) An alien who proceeded to an adjacent island or foreign contiguous territory by nonsignatory carrier and who subsequently proceeded to Canada by signatory carrier and seeks to enter the United States from Canada, regardless of the method by which he first entered the adjacent island or foreign contiguous territory; or

(iv) An alien who proceeded from the United States by a nonsignatory carrier to an adjacent island or foreign contiguous territory from which he seeks to reenter the United States, if, at the time of his last entry into the United States he would not have been ineligible to receive an immigrant visa under the provisions of section 212(a)(24) of the Act.

• • • • •

§ 42.124 [Amended]

22. In § 42.124, paragraph (a)(2) is amended by deleting the last sentence. Paragraph (a)(3) is amended by deleting "(B) through (E)" in line four.

§ 42.125 [Amended]

23. In § 42.125, paragraph (a) is amended by deleting "(B) through (E)" in line six. Paragraph (b) is amended by deleting "or section 21(e) of the Act of October 3, 1965" in lines four and five.

Effective date. The amendments will become effective January 1, 1977. (Amendments issued pursuant to Pub. L. 94-571 and section 104 of the Immigration and Nationality Act, 66 Stat. 174. 8 U.S.C. 1104. Interpret or apply sections 201, 202, 203 and 212 of the Act.)

For the Secretary of State.

Dated: December 6, 1976.

ROBERT T. HENNEMEYER,
Acting Administrator, Bureau of Security and Consular Affairs, Department of State.

[FR Doc.76-36775 Filed 12-15-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-3—PROCUREMENT BY NEGOTIATION

Subpart 3-3.8—Price Negotiation Policies and Techniques

NONCOMPETITIVE PROCUREMENTS

On August 4, 1976, a document was published in the FEDERAL REGISTER (41 FR 32607-32612) proposing to amend 41 CFR, Chapter 3, Part 3-3, Procurement by Negotiation, Subpart 3-3.8, Price Negotiation Policies and Techniques, by revising Subsection 50 to § 3-3.802, Preparation for Negotiation.

The purpose of the amendment is to strengthen the Department's rules against unnecessary noncompetitive procurement. It (a) sets forth revised illustrative definitions of circumstances that constitute availability of services or supplies from only a single source, (b) requires that where a test of the market is an appropriate method of ascertaining whether such circumstances exist the market be tested at an early stage of the procurement process, (c) requires that where a number of procurements totaling $100,000 or more conceived as an entity for planning and budgetary purposes is planned as including any noncompetitive procurement, the whole project be reviewed at the outset for appropriateness of the contemplated noncompetitive aspects and (d) requires that justifications for sole-source procurements of $100,000 or over be approved by a chief administrative official or by a sole-source review board consisting of a chief administrative official, a key procurement official and two program officials.

Interested parties were asked to comment within 45 days of its publication. Three organizations submitted comments.

The first response was from a university and concerned the following:

(a) The increased administrative burden created by the proposed rule on program operators and their upper levels of management;

(b) A recommendation to exclude "whole project buys" from the provisions of the regulation if less than $100,000 is going to be spent in each fiscal year; and

(c) A recommendation to exclude additional work requirements that are to be added to existing contracts from the review process if the contractor has performed satisfactorily.

These comments were considered but not adopted because:

(a) The need to strengthen the Department's rules against unnecessary noncompetitive procurement and the benefits of increased competition justify the establishment of these policies and procedures.

(b) Projects aggregating $100,000 represent significant procurement notwithstanding that amounts spent in any fiscal period may be less than $100,000. Therefore, such projects will be subject to the "whole project" review and $100,000 represents a logical dollar level for application of the "whole project buy" process.

(c) The policy requires that all noncompetitive procurements be reviewed and approved. Therefore, the regulation must be applied to proposed noncompetitive modifications to contracts in effect at the time this regulation becomes effective. If the proposed noncompetitive action was not included in the "whole project buy," separate review and approval will be required.

The second response was from a Government agency and concerned various suggestions to strengthen the proposed regulation by:

(a) Adopting new procurement policies;

(b) Revising two of the criteria used to illustrate factors to be considered in determining whether a procurement should be awarded on a noncompetitive basis; and

(c) Changing the composition of the noncompetitive review board.

These comments were als onot adopted for the reasons set forth in the following paragraphs.

(a) We were requested to adopt procurement policies providing for: (1) The release of requests for proposals containing a clause which stated "award is contingent upon availability of funds;" (2) A Department or agency-wide source referral system for research and development procurements; and (3) The establishment of a Departmental policy regarding a cutoff date for acceptance of requests for contracts.

The Department has a policy regarding the release of requests for proposals with a notice regarding the availability of funds. This action can be undertaken in limited circumstances only. However, the policy is currently under review and consideration will be given to expanding the application of the policy. Regarding the adoption of a research and development referral system and strengthening bidders mailing list procedures, these actions are outside the framework of this regulation. However, consideration will be given to these suggestions, and, if desirable, they will be accomplished separately. The Department does have policies regarding end-of-the-year buying. Section 3-1.351, Year-end procurements, of the Department's procurement regulations requires all HEW procuring activities to determine closing date for purchases made under annual appropriations. The procurement planning policy (HEWPR 3-3.50) is also directed toward the reduction of year-end buying and the establishment of realistic time frames for accomplishing procurement.

(b) The respondent suggested that the criterion (3-3.802-50(f)(8)) be broadened to allow profitmaking firms to compete unless the Noncompetitive Review Boards deny them the opportunity to do so. This criterion is applicable where the required services must be procured from a certain State or local government unit, or from a nonprofit organization comprised of representatives of such governmental units, and should not be used to obtain services or supplies available from the commercial marketplace. This criterion covers such situations where legislation or other requirements restrict the procurement to a State or local government or other nonprofit organization. In these circumstances, competition cannot be expanded to include profitmaking organizations and the Board review could not alter the circumstances. In addition, the respondent suggested we require the use of a sources sought synopsis under this criterion. This was not deemed feasible since it would be fruitless if the criterion is being properly applied (i.e., you must contract with a particular State or local government or another type of nonprofit organization).

The respondent also questioned the use of time as a factor in deciding whether noncompetitive procurement is justified (3-3.802-50(f)(9)). However, there are circumstances which would permit the use of urgency as a factor and this criterion deals with those circumstances.

Another Government agency submitted comments as follows:

(a) Further explain the procedure requiring the issuing of a "sources sought synopsis" under the criterion in § 3-3.802-50(f)(3) where one source has a unique idea, approach, or equipment.

(b) Include the requirements for issuing a sources sought synopsis in such cases where competition is precluded by geographic, socio-economic, or epidemiologic considerations.

With regard to the first comment, the fact that a source has a unique idea, ap-

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proach, or equipment does not, in itself, justify noncompetitive procurement. Where feasible, a description of the Government's need in terms of desired end results will be prepared without compromising the unique idea or approach. This description will be used to formulate a sources sought synopsis to test the market for other potential sources. We have not revised this procedure because, although complex, it is considered necessary in order to assure that noncompetitive procurement is fully justified under this criterion.

The second recommendation was not adopted because the issuance of a sources sought synopsis would be fruitless if competition is precluded by such factors as socioeconomic, geographic or epidemiologic considerations.

During the internal review process, one Departmental component suggested changes regarding (a) responsibility for establishing boards in Regional Offices; (b) the selection of chairpersons for such boards; and (c) the appointment of individuals in the Regional Offices to approve justifications for noncompetitive procurements when boards are not used.

Based on these suggestions, the regulation has been revised to provide that the Regional Director will be responsible for such tasks for those activities for which he has delegated procurement authority. The principal operating components will be responsible for such tasks in the regional offices for which they have functional contracting responsibilities.

(5 U.S.C. 301; 40 U.S.C. 486(c))

Effective date. The provisions of this amendment shall be effective February 14, 1977.

The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 10, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

Accordingly, the revised regulation is hereby adopted subject to the following changes:

1. Section 3–3.802–50(l)(4) is deleted and the following is substituted therefor:

All Procurements $100,000 or over shall be submitted through the contracting officer for approval by a Noncompetitive Review Board as described in § 3–3.802–50(k), unless the Head of the POC, Agency Head, or the Regional Director, as required, determines that the activity will not utilize a Noncompetitive Procurement Review Board. If a review board is not utilized, the justifications for $100,000 or over shall be submitted through the contracting officer for approval by the chief official of the agency responsible for administration. In regional offices the Regional Director shall appoint the official to approve such justification for those activities for which he has delegated procurement authority, *Provided, however,* That this official shall be at an organizational level not lower than the Assistant Regional Director for Administration. The POC's which have functional contracting responsibilities in the regional offices shall appoint the approval official to approve justifications of $100,00 or over in those offices.

2. Section 3–3.802–50(k)(1) and (2) are deleted and the following is substituted therefor:

(1) *Purpose.* The purposes of the Noncompetitive Procurement Review Board, hereinafter referred to as the "Board," are to review the reasons given in certain justifications for noncompetitive procurement against the criteria in this section, and to make judgments as to the applicability of the policy requiring competition to specific procurements. In regional offices, the Regional Director shall have authority to establish Boards for those activities for which he has been delegated procurement authority. The POC's which have functional contracting responsibilities in the regional offices also have the authority to establish boards in those offices. If it is determined by the Head of POC, Agency Head, or appropriate regional personnel to utilize a board, such board shall comply with the requirements of this paragraph.

(2) *Establishment of Boards.* Boards shall be established at an organizational level not lower than agency head. The heads of the POC's (the Assistant Secretaries for Health, Human Development, Education; the Administrator of the Social and Rehabilitation Service; and the Commissioner of the Social Security Administration) are responsible for establishing Boards as needed in their POC's and their respective agencies. The Assistant Secretary for Administration and Management is responsible for establishing a Board in the Office of the Secretary. In regional offices, the Regional Director shall have the authority to establish Boards for those activities he has delegated procurement authority. The POC's which have functional contracting responsibilities in the Regional Offices also have the authority to establish boards in these offices. The number and geographical location of Boards will be decided by the Heads of POC's based upon volume of noncompetitive procurements to be reviewed and the need for timely decisions: *Provided,* That the composition of the Boards shall meet the requirements of (3) below.

3. Section 3–3.802–50(k)(3)(i) is deleted and the following is substituted therefor:

(i) Chairperson—There will be a permanent chairperson of the Board who shall be the chief agency official responsible for administration. In the regional offices, the Regional Director shall be responsible for the appointment of the chairperson of the Board for those activities for which he has delegated procurement authority and POC's which have functional contracting responsibilities in the regional offices shall be responsible for the appointment of the chairperson of the Boards for such activities. The chairperson should represent the appointing official and be able to review actions submitted to the Board from an agencywide point of view. The chairperson will designate which of the alternate members will attend individual board meetings and will assure that the proceedings of each meeting are recorded.

The revised section will read as follows:

§ 3–3.802–50 Noncompetitive procurements.

(a) *Purpose.* This subsection states the policies and procedures applicable to all noncompetitive procurements. It describes the criteria for use in determining whether a procurement may be made noncompetitively, describes the justification documents required, and prescribes review and approval requirements.

(b) *Policy.* (1) All negotiated procurements will be conducted competitively as required by FPR 1–1.301–1, 1–1.302–1(b), and 1–3.101(d) unless there are compelling and convincing reasons and/or circumstances which justify a noncompetitive procurement. Procurements should be conducted competitively to obtain the benefits of competitive prices and to stimulate bidders, offerors, and current contractors who desire contracts to exert their best efforts to deliver high quality physical and conceptual products. Although competition is the rule, it is recognized that there are certain instances where a noncompetitive procurement may be necessary. Where a noncompetitive procurement can be justified, affirmative action must be taken whenever possible to avoid the need for subsequent or continuing noncompetitive procurements.

(2) Submission of an unsolicited proposal can also lead to a noncompetitive procurement. In this circumstance, the initiating program office may recommend, for approval by the appropriate authority listed in paragraph (1) of this section, that a noncompetitive procurement be made to only one organization or individual to perform the required work or services. This recommendation shall be in writing and prepared as a document entitled "Justification for Acceptance of Unsolicited Proposal" that shall set forth information required by § 3–4.5203–3. A solicitation for a noncompetitive procurement shall not be issued, and negotiations with a source that submitted an acceptable unsolicited proposal shall not be undertaken, in advance of approval in accordance with § 3–3.802–50(i).

(c) *Exceptions.* The provisions of this subsection will apply to all negotiated procurements except:

(1) Procurements of $500, or less (see § 3–3.603–50(a));

(2) Procurements of professional services, e.g., for physician, veterinarian, dentist, or legal services negotiated under the authority of 41 U.S.C. 252(c)(4), or where the foregoing kinds of services are for $10,000 or less and are negotiated under 41 U.S.C. 252(c)(3) (see § 3–3.603–50(b)(4));

(3) Procurement of architect-engineer services (see §§ 1–4.10 and 3–4.10);

(4) Procurements of utility services where the services are available from only one source;

(5) Acquisitions from or through other Federal Government agencies, e.g., interagency agreements, contracts with the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) *Competitive Procurement.* A procurement is competitive when the Government provides the opportunity to more than one source to submit bids, offers, or quotations. If a procurement is announced in a presolicitation synopsis which states where copies of solicitations may be obtained, provides the opportunity for interested sources to submit bids, offers, or quotations, provides adequate time for requests for solicitations and submission of responses, and describes the procurement requirement without restrictions which would unavoidably result in only one source being responsive, the procurement will be classified as competitive.

(e) *Classification of procurements.* (1) The issuance of a sources sought synopsis does not require classification of a procurement as competitive or noncompetitive. The data resulting from the sources sought synopsis must be evaluated to determine whether there is more than one source which can adequately perform the contract requirement. If there is more than one source, the procurement should be classified as competitive and a presolicitation synopsis making solicitations available should be issued. If there is only one source resulting from the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement. (The term "sources sought synopsis" includes advance notices in accordance with § 1–1.1003–3, and other similar types of notices which are used to determine the availability of interested potential sources. A sources sought synopsis does not permit potential sources to request solicitations and therefore is merely an opportunity for the marketplace to indicate its interest in submitting bids, offers, or quotations for a future procurement.)

(2) The decision to classify a specific procurement as competitive should be made at the point in the procurement process prior to issuance of a presolicitation synopsis where required, or solicitation(s) where a presolicitation synopsis is not required. This classification is fixed throughout the procurement's life and may not be subsequently altered even though only one offer is received.

(f) *Criteria.* Criteria are provided below for use in deciding whether a proposed noncompetitive procurement is justified. The critical question to be answered in each justification is why the opportunity to meet a procurement requirement cannot be made available to more than one source. It is critical to justify a noncompetitive procurement that reasonable, informed opinions supported by available facts be provided. Each of the criteria is illustrative of possible reasons. Short of giving the marketplace an opportunity to speak for itself with respect to its capabilities and available sources, the value of the supporting statements and opinions in a justification must be judged by the extent to which the opinions reflect accurate and knowledgeable judgments about the marketplace. The more facts that are offered and the more knowledgeable the opinions about the marketplace are, the greater is the support to conclude that a noncompetitive procurement is justified. If the contracting officer or approving officials conclude that support offered to justify a noncompetitive procurement is not convincing, or where there is some unresolved doubt, the doubt should be settled by permitting the marketplace to speak for itself by issuing a sources sought synopsis. As each justification for noncompetitive procurement is reviewed against these criteria, the reviewer should ask why the procurement cannot be competed are there sufficient grounds for excluding all other actual or potential offerors, what action can be taken to obtain competition in the instant procurement, and what action is needed to avoid the need for a subsequent or a continued noncompetitive procurement?

(1) There is only one source in existence which can perform the contract requirements. The existence of one source for the purposes of this regulation should be a matter of fact, and not a matter dependent upon the relative and limited knowledge of sources known by the project or contracting officers. This criterion may not be used to justify a noncompetitive procurement prior to testing the marketplace by issuing a sources sought synopsis. Such a sources sought synopsis should state that the Government knows of only one source who can do the work, state the name of the source, and the work required. If only one source submits a response to the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement.

(2) One source controls copyrights, patent rights, trade secrets, technical data, secret processes, or other proprietary data which are essential to the performance of the contract requirements and the source refuses to license or otherwise make the foregoing data available to other sources, and the requirement cannot be revised to allow other sources to compete who do not have access to the foregoing data. Factual information should be provided to support the use of this criterion such as the citation of copyrights, exactly what is covered by the copyright or other data which is necessary to the contract performance, and why the requirement cannot be revised to permit competition. The mere existence of such rights does not in and of itself justify noncompetitive procurement. It must be shown that the Government cannot meet its requirement(s) without the use of the proprietary data. Any doubts should be resolved by summarizing the procurement requirement and issuing a sources sought synopsis. When this criterion is to be utilized the approving official will obtain legal advice from the OGC (BAL).

(3) One source or individual has a truly unique idea, approach, or equipment which has no like or equal and is the only known item which can meet the Government's needs. Unsolicited proposals are excluded from the provisions of this paragraph and shall be processed in accordance with § 3–4.52. Except in very rare cases, the fact that a proposer submits a proposal containing a unique idea or approach does not, in itself, justify a noncompetitive procurement. Mere claims of uniqueness must not be pointed to in justifications for departures from regulatory requirements for competitive procurements. There may be other potential sources with equally suitable approaches or ideas which could accomplish the same end results. Except in cases which are convincingly supported by a panel opinion or a consensus of experts who are very familiar with the sources available in the marketplace, the opinion of uniqueness should be tested. The claim that the unique item is the only one which can meet the Government's needs should be based on the objective requirements of the Government not the personal preferences of the originator. Where a test of the claim of uniqueness becomes appropriate, the project officer should draft a description of the agency's requirement that does not compromise the unique idea or proprietary data of the proposer, and the procurement office shall issue a sources sought synopsis. If the only acceptable response to the sources sought synopsis is the organization or individual which the Government originally believed had a unique offering, this data may be used to support a justification for noncompetitive procurement.

(4) A specific item or equipment must be obtained as part of an agency's program responsibility to test and evaluate certain kinds and types of products. This criterion is limited to testing and evaluation purposes only and may not be used for initial outfitting or repetitive procurements. Project officers should support the use of this criterion with citations from their agency's legislation and the technical rationale for the item or equipment required.

(5) Only one source has complex or specialized physical facilities or equipment which by reason of exclusive use, access or ownership, or by reason of clear superiority to facilities and equipment available to other sources is capable of adequately meeting the technical requirements of the contract. The success of the contract objective is critically dependent upon the use of the facilities and equipment of this one source. Specific details should be provided as to why the facilities or equipment are mandatory for the contract performance and why the facilities and equipment of other contractors cannot meet the contract requirements. This criterion should not be used to justify a noncompetitive procurement without first defining what equipment or facilities is needed and issuing a sources sought synopsis asking for sources with comparable equipment and facilities. If no other qualified sources respond, then this data may be used to support the justification of a noncompetitive procurement.

(6) Government - owned facilities which are essential to performance of the contract are available to only one source. Efforts should be made to determine from the cognizant Government agency whether the Government-owned facil-

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ities can be made available to more than one source. Then a noncompetitive procurement may be justified.

(7) Full and free competition is precluded because of geographic, socio-economic, or epidemiologic considerations necessarily associated with the procurement. This criterion is intended to recognize certain limits to achieving full and free competition which sometimes follow from certain program legislation and special program requirements. This criterion may not be used in the absence of such established limits and only where it can be shown that there is only one source which can perform the particular procurement.

(8) The required services must be procured from a certain State, interstate, or local government unit, or from a nonprofit organization comprised of representatives of such governmental units or of their officers, which organizations or units are unique bodies without like or equal in being able to meet the contract requirements. This criterion is intended to recognize that in certain cases where dealing with governmental entities or their representatives, there is in fact only one entity available to perform and/or the entity has a unique ability to accomplish the work. This criterion should not be used to obtain supplies or services which are or can be provided from the commercial marketplace. Where there is more than one such unit or organization which can meet the contract requirements, a noncompetitive procurement cannot be justified, unless a Federal or State statute dictates the source. The fact that the government units or other nonprofit organizations may offer a lower price or agree to cost share, is not adequate reason to justify a noncompetitive procurement to the exclusion of others.

(9) *Time is of the essence* and only one known source can meet the Government's needs within the required time frame or time would not permit the testing of a product offered by a source other than a sole source to meet the delivery schedule. However, the recognized extreme of public exigency in § 1–3.202 is not to be taken lightly. It contemplates a need which is compelling and of unusual urgency, as when the Government would be seriously injured financially or otherwise, if the property or services to be purchased or contracted for were not furnished by a certain time, and when they could not be procured by that time by means of formal advertising. This applies irrespective whether that urgency could or should have been foreseen. Examples are when property or services are needed at once because of a fire, flood, explosion, or other disaster. Public exigency or other reasons causing situations where time is of the essence, may not be used to justify noncompetitive procurement without first showing that a limited competition using abbreviated procedures is impossible. If a limited competition is impossible, it must be shown that the recommended contractor possesses the unique capability to perform the required work on time to the exclusion of all other firms. The considerable latitude of the contracting officer to determine the method best suited to satisfy the urgent need is limited by the need to try and achieve a limited competition if at all possible and, if not, to determine that one contractor is uniquely able to meet the Government's requirements in time.

(10) There is existing equipment which for reasons of compatibility and interchangeability, requires an item which is manufactured only by one source. This criterion is for use in procurements where a particular brand name item is required and an "or equal" will not meet the Government's requirements. This criterion may not be used where there are other manufacturers available who may be able to produce acceptable items even though their products might require some adjustments and modifications. Such other manufacturers must be given the opportunity to compete.

(11) The segments of the project are so intertwined that it is impossible to successfully accomplish the project objectives if all segments are not procured from the same contractor. This criterion is intended for use under research and development procurements as well as studies. It can only be used where there is a necessity to procure the project as a whole package in order to successfully complete the project. This criterion can not be used where segments of the project can be completed separately. The possibility, by itself, that additional work may be done more conveniently or even at less expense by the original contractor is not sufficient reason to justify a noncompetitive procurement using this criterion.

(g) *Procedure.* (1) Program offices should discuss prospective noncompetitive procurement requests with the procurement offices as early as possible during the procurement planning stage (see § 3–3.50), preferably before submitting the requisition or request for contract. Such discussions may resolve uncertainties, provide program offices with names of other sources, allow proper scheduling of the procurement, and avoid delays which might otherwise occur should it be determined that noncompetitive procurement is unjustified.

(2) When a program office desires to obtain certain goods or services by contract without competition, it shall, at the time of forwarding the request for contract furnish the procurement office a "Justification for Noncompetitive Procurement" prepared in accordance with this subsection. All justifications shall be submitted initially to the contracting officer.

(3) A contracting officer who receives a justification for processing shall ascertain whether the document is complete; shall request advice from pricing, audit, legal, and other staff offices as appropriate; shall forward the justification including his recommendation and/or concurrence to the appropriate approving official. If noncompetitive procurement is disapproved, he shall promptly so notify the program office concerned.

(4) All required approvals shall be obtained prior to issuing a solicitation to, or commencement of contract negotiations with the proposed contractor. Preliminary arrangements or agreements with the proposed contractor not made by the contracting officer will have no effect or influence on the rationale to support a noncompetitive procurement.

(5) It is the responsibility of the approving official to determine whether a contract may properly be awarded without competition. Program offices and project officers are responsible for furnishing contracting officers and other approving officials with pertinent factual information and opinions necessary to make such determinations. Other staff offices shall advise the contracting officer and approving official as requested.

(h) *Format.* (1) The justification for noncompetitive procurement in excess of $10,000 will be a separate, self-contained document. Justifications for noncompetitive procurements of $10,000 or less may be a statement in the requisition or request for contract.

(2) Justifications for noncompetitive procurement whether over or under $10,000 shall fully express what is to be procured and the reason why the requirement should not be competed. Justifications must offer reasons which go beyond inconvenience and must explain why it is impossible to obtain competition. The justification will be documented only with information that is based on facts rather than untested and unsubstantiated conclusions or opinions. Documentation in the justification should be sufficient to permit an individual with technical competence in the area to follow the rationale.

(3) Justifications have two parts.

(i) Part I contains background information about the program and a description of the procurement. The following information should be included:

(A) Date.

(B) Agency, program office, and project officer (name, address, and telephone number).

(C) Project identification (Program legislation including citations or other internal program identification data such as title, contract number, etc.)

(D) Descriptive title of the project. Attach a full description of the contract requirement. This may be a specification, purchase description, or statement of work. If the "whole project buy" (see § 3–3.820–50(j) for explanation of "whole project buy" concept) as contemplated at the outset is expected to exceed $100,000, a procurement plan as required by § 3–3.50 shall be prepared by the project officer and attached to the justification. The description of the whole project buy must include what is being bought, the estimated cost of the whole or component parts, phases, options, continuations, etc., and the periods of time involved. The description is critical to the approving official's understanding of what he is being asked to approve, and

subsequent use of the approval by the procurement or project offices.

(E) Explain whether the instant procurement is an entity in itself, whether it is one in a series, or part of a related group of procurements.

(F) Proposed contractor (name and address).

(ii) Part II includes the facts and reasons to justify a noncompetitive procurement. Part II should begin with the statement:

I recommend that this procurement be noncompetitively negotiated with _____ (Name of proposed contractor) in the amount of _____ (Amount) for the following reasons:

Each of the applicable criteria listed in § 3–3.802–50(f) must be addressed and specific support for its use must be included.

At the end of Part II signatory lines should be provided as follows:

Recommended _____ Project Officer Date _____

Concur _____ Project Officer's Immediate Supervisor Date _____

Concur _____ Contracting Officer Date _____

Approved _____ Approving Officer Date _____

(i) *Review and Approvals.* Justifications for noncompetitive procurement shall be reviewed as follows:

(1) For small purchases over $500, but not over $10,000, the "justification", which must address the criteria in § 3–3.802–50(f), may be in the form of a statement within the requisition or request for contract. The contracting officer may approve or disapprove the justification. If the contracting officer awards the contract or purchase order up to $10,000 as requested, such award shall constitute the contracting officer's approval of the justification.

(2) For procurements over $10,000, but not over $25,000, the justification shall be submitted to the contracting officer for approval.

(3) For procurements over $25,000, but not over $100,000 the justification shall be submitted through the contracting officer who will add a recommendation and forward to the chief of the procurement office for approval. Where the chief of the procurement office and the contracting officer are the same individual, the approval level will be at one administrative level above the chief of the procurement office.

(4) All procurements $100,000 or over shall be submitted through the contracting officer for approval by a Noncompetitive Review Board as described in § 3–3.802–50(k), unless the Head of the POC, Agency Head, or the Regional Director, as required, determines that the activity will not utilize a Noncompetitive Review Board. If a review board is not utilized, the justifications for $100,000 or over shall be submitted through the contracting officer for approval by the chief official of the agency responsible for administration. In regional offices the Regional Director shall appoint the official to approve such justification for those activities for which he has delegated procure-authority, *Provided, however,* That this official shall be at an organizational level not lower than the Assistant Regional Director for Administration. The POC's which have functional contracting responsibilities in the regional offices shall appoint the approval official to approve justifications of $100,000 or over in those offices.

(5) Agencies may prescribe board reviews for procurements under $100,000, if reduced levels for review would be more consistent with the dollar ranges of contracts awarded.

(j) *Whole Project Buys.* (1) A "whole project buy" is a project consisting of any number of procurements which is conceived as a single entity for planning and budgetary purposes. The whole project buy concept should not be limited to only that part of the whole project which is the subject of the current contract when contracts to be awarded in the future are part of the same project.

(2) Any whole project buy which exceeds $100,000 in the aggregate which contemplates any noncompetitive procurement actions of any dollar value at any time during the project life shall be submitted to the review board or approving official for approval.

(3) This requirement applies even if the first of a series of related procurements in a whole project buy is less than $100,000. This includes projects with several related procurement actions where the first part of the project is competitively or noncompetitively awarded, and there are to be subsequent noncompetitive procurements with the original contractor, This requirement applies to all procurements regardless of whether the noncompetitive procurement is called a renewal, follow-on, continuation, extension or the like, or is effected by means of a contract modification or is a new start.

(4) Justifications of whole project buys submitted to the review board or approving official shall fully describe what the whole requirement is, how the requirement will be divided into procurement actions, the total estimated cost of the project whole and each individual procurement action, the total period of time for the project whole and each procurement action, and whether all or only part of the project whole will be procured noncompetitively. For certain projects, as in the case of basic research, where an end point cannot be forecast with certainty, the whole project buy will be the circumscribed amount of time which the program office presently intends to continue a certain effort.

(5) If the review board or approving official clearly approves the noncompetitive procurement action(s) at the outset of a whole project buy, and the whole project buy results in an original contract followed by either a noncompetitive new contract, or noncompetitive modifications to the original contract for work, dollars, and time approved by the board or approving official at the outset, these subsequent noncompetitive procurement actions will not have to be resubmitted for approval. Once the noncompetitive procurement actions for the whole project buy are approved, no subsequent approvals of the individual procurement actions are required. Whole project buys may not be approved in excess of 3 years before a subsequent review is required. Approval is limited to that explicitly contained in the justification. If a part of the "whole project buy" is not included in the justification or there are changes in the project which change the whole project buy as approved, the excluded part and/or changes will require separate review and approval. Doubts as to what was approved shall be submitted to the review board or approving official for clarification. Noncompetitive increases for new work to contracts in effect at the time this regulation becomes effective which are part of a whole project buy exceeding $100,000 shall be submitted to the review board or approving official for approval prior to taking the noncompetitive action.

(k) *Noncompetitive Procurement Review Boards.*—(1) *Purpose.* The purposes of the Noncompetitive Procurement Review Board, hereinafter referred to as the "Board," are to review the reasons given in certain justifications for noncompetitive procurement against the criteria in this section, and to make judgments as to the applicability of the policy requiring competition to specific procurements. In regional offices, the Regional Director shall have authority to establish Boards for those activities for which he has been delegated procurement authority. The POC's which have functional contracting responsibilities in the regional offices also have the authority to establish boards in those offices. If it is determined by the Head of POC, Agency Head, or appropriate regional personnel to utilize a board, such board shall comply with the requirements of this paragraph.

(2) *Establishment of Boards.* Boards shall be established at an organizational level not lower than agency head. The heads of the POC's (the Assistant Secretaries for Health, Human Development, Education; the Administrator of the Social and Rehabilitation Service; and the Commissioner of the Social Security Administration) are responsible for establishing Boards as needed in their POC's and their respective agencies. The Assistant Secretary for Administration and Management is responsible for establishing a Board in the Office of the Secretary. In regional offices, the Regional Director shall have the authority to establish Boards for those activities he has delegated procurement authority. The POC's which have functional contracting responsibilities in the Regional Offices also have the authority to establish boards in these offices. The number and geographical location of Boards will be decided by the Heads of POC's based upon volume of noncompetitive procurements to be reviewed and the need for timely decisions, provided that the com-

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position of the boards shall meet the requirements of subparagraph (3) of this paragraph.

(3) *Authority and responsibility.* The Board members shall be appointed by the Head of the POC's, Agency Heads, or Regional Directors as appropriate. The Board shall be established and delegated the authority by the appointing official to represent and make decisions on behalf of the appointing official with respect to approving or disapproving certain justifications for noncompetitive procurement.

(i) *Chairperson.* There will be a permanent chairperson of the Board who shall be the chief agency official responsible for administration. In the regional offices, the Regional Director shall be responsible for the appointment of the chairperson of the Board for those activities for which he has delegated procurement authority and POC's which have functional contracting responsibilities in the regional offices shall be responsible for the appointment of the chairperson of the Boards for such activities. The chairperson should represent the appointing official and be able to review actions submitted to the Board from an agency-wide point of view. The chairperson will designate which of the alternate members will attend individual board meetings and will assure that the proceedings of each meeting are recorded.

(ii) *Procurement official.* There will be a key procurement official appointed to the Board. This official will be the chief of the contract office or procurement staff of the agency, whichever is organizationally higher. Where the agency has more than one contracting office, the chiefs of the respective contracting offices will be designated alternate members. In this case, a contracts chief will serve on the Board to review proposed noncompetitive procurements expected to be assigned to his office for procurement action. Whenever the chief of the contract office and the contracting officer are the same individuals, the official one administrative level above the chief of the contract office shall represent the procurement office in such Board actions.

(iii) *Program official(s).* Two representatives will be selected from officials at the agency level which have responsibility for program policy or operations, program planning and evaluation, scientific affairs, research and the like and/or from the program divisions of the agency that sponsor contract projects. The members should be selected on the basis of their knowledge of a program as a whole, but should not ordinarily be involved in the initiation and mangement of particular or single projects.

(iv) *Contracting Officer.* The contracting officer responsible for the procurement to which the justification for noncompetitive procurement relates shall serve as a nonvoting member. When Board meetings consider justifications for procurements involving more than one contracting officer, each contracting officer may attend and offer opinions on the justification pertinent to him.

(v) *Project Officer.* The project officer is that individual in the program office who originated the justification and will be responsible for project mangement of the contract project. The project officer is not a member of or alternate member of the Board. The project officer may be invited by the chairperson to the Board meeting during which the justification will be discussed. The project officer should be prepared to answer questions raised by the Board.

(4) *Meetings.* (i) If the estimated amount of the procurement is more than $500,000, a formal meeting of the Board is required. If the estimated amount of the procurement is $500,000 or less, a formal meeting of the Board need not be held if the chairperson, procurement official and the contracting officer concur that a noncompetitive procurement is justified. If any one of these three persons is of the opinion that a noncompetitive procurement is not justified, a formal meeting must be held. Formal meetings will include all appropriate members and will be convened by the chairperson. No action shall be considered by the Board unless the chairperson, procurement official, and two program officials are present. Decisions of the Board will be by majority rule. In case of a tie vote the action will be resolved in favor of seeking competition.

(ii) The chairperson may seek independent counsel from any source inside or outside of the agency if he feels that additional advice is necessary for the Board to reach a sound decision.

(iii) The Board shall maintain a written record of the justifications reviewed and the decision made on each. If a justification is approved, only Board approval need be indicated. If a justification is disapproved, the reasons should be stated in writing and forwarded to the originator of the justification. The written decision of the Board should be made a part of the contract file.

(1) *Implementation.* Each POC, Agency Head, and Regional Director is responsible for implementing this regulation. Implementing instructions and subsequent changes shall be furnished to the Deputy Assistant Secretary, Office of Grants and Procurement Management, OS, for review and approval prior to implementation.

[FR Doc.76-37001 Filed 12-15-76;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

PART 252 — OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN WORLDWIDE SERVICES

Amendment

Part 252 of Title 46, Code of Federal Regulations, which prescribes regulations governing the payment of operating-differential subsidy (ODS) to bulk cargo vessels engaged in worldwide services, pursuant to Title VI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1171-1183), is hereby amended.

The amendment to § 252.21(a) provides that the requirement that a vessel carry at least 30 percent of all cargo in subsidized service in the U.S. foreign Commerce (defined in § 252.3) in order to be "deemed to be used in an essential service of the U.S.", shall be satisfied, as to all voyages commenced by a vessel under an ODS contract on or before December 31, 1977, by worldwide service, including foreign-to-foreign trading, without regard to any required percentage of carriage of cargo in U.S. foreign Commerce.

This amendment affects operators of subsidized vessels, and is adopted without notice of proposed rulemaking under the exemption provided in 5 U.S.C. 553 (a)(2), relating to public grants.

Part 252 of Title 46, Code of Federal Regulations, is hereby amended by adding a sentence at the end of § 252.21(a) to read as follows:

§ 252.21 Essential service and U.S. foreign commerce requirements.

(a) • • • With respect to any voyage commenced by a vessel on or before December 31, 1977, for the carriage of bulk cargo under an ODSA, the essential service requirement shall be satisfied by worldwide service, including foreign-to-foreign trading, without regard to any required percentage of carriage in U.S. foreign commerce as provided in paragraph (b) of this section.

Effective date: The amendment shall be effective as of July 8, 1976.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1224), Reorganization Plans No. 21 of 1950 (64 Stat. 1279) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 1970, July 23, 1973))

This amendment to 46 CFR 252 has been reviewed pursuant to Executive Order 11821 and OMB Circular A107, and has been determined to have no major inflationary impact.

Dated: December 13, 1976.

By Order of the Maritime Subsidy Board/Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-37059 Filed 12-15-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20550; FCC 76-1113]

PART 1—PRACTICE AND PROCEDURE

Nondiscrimination in Employment Policies and Practices of Broadcast Licensees

Adopted: November 30, 1976.
Released: December 16, 1976.

Order. In the matter of nondiscrimination in the employment policies and practices of Broadcast Licensees—Revision of Section VI of FCC Forms 301, 309, 311, 314, 315, 340 and 342, Docket No. 20550.

1. In July of 1976, the Commission undertook in this proceeding a thorough

review of its rules, policies and compliance review procedures as they relate to nondiscrimination in the employment policies and practices of broadcast applicants, permittees and licensees. See Notice of Inquiry and Notice of Proposed Rulemaking, 54 FCC 2d 354. Following an eleven-month inquiry, the Commission issued a Report and Order wherein it revised its equal employment opportunity rules and procedures and adopted a model EEO program which is to serve as a sample program for applicants filing certain broadcast station applications on or after December 1, 1976. See 60 FCC 2d 226 (1976) (41 FR 31210, July 27, 1976). Since it appeared that the formal and sophisticated techniques of affirmative action programs were of questionable applicability to the operations of smaller broadcast stations and due to the relative unreliability of statistical information in analyzing employment patterns of stations with small numbers of employees, the threshold for filing EEO programs was raised to stations with more than ten full-time employees. Again, the scheduled effective date of this revision was December 1, 1976.

2. In paragraph 57 of the aforenoted Report and Order, we stated our intention to revise through further orders our broadcast application forms to comport with the actions taken in this proceeding. Accordingly, we modified the instructions accompanying the EEO questions contained in the new radio and revised television renewal application forms. See Memorandum Opinion and Order (Docket No. 20419), FCC 76-868, 41 Fed. Reg. 42030 (Sept. 24, 1976), released September 20, 1976. Through this Order we are revising the other broadcast application forms affected by our earlier action in this proceeding—that is, FCC Forms 301, 309, 311, 314, 315, 340 and 342.[1] The revised forms are attached hereto as Appendix A below.

3. In accordance with 44 U.S.C. 3512, the revisions to the aforenoted broadcast station application forms were transmitted to the Government Accounting Office for its review and reporting clearance. While GAO assented to the scheduled implementation of the revised threshold for submission of written EEO programs, full and final clearance of the other reporting requirements flowing from the Commission's action in Docket No. 20550 was delayed pending that agency's consideration of the comments received in response to its clearance review notice.

4. While the required reporting clearance has now been obtained, a further delay is unavoidable as the approved revisions are incorporated into the existing forms. Therefore, the Commission has determined on its own motion to postpone the effective date of the revisions to FCC Forms 301, 309, 311, 314, 315 and 340 until February 1, 1977. Accordingly, broadcast applicants utilizing these forms shall respond to the questions and follow the guidelines set forth in the existing equal employment opportunity sections. It should be noted, however, that a written affirmative action program need not be filed where the applicant proposes to employ or has ten or less full-time station employees.

5. The February 1, 1977 date cannot be used with respect to the commercial and noncommercial license renewal application forms—that is, FCC Forms 303, 303-R, and 342. Licensees scheduled to file renewals on February 1, 1977 have already been sent the existing, unrevised forms. The Commission will, therefore, postpone the effective date of the EEO revisions to FCC Forms 303, 303-R, and 342 until April 1, 1977—the filing date for licensees whose station authorizations expire on August 1, 1977.

6. For the reasons set forth in the foregoing paragraphs and considered in the Report and Order in Docket No. 20550: *It is ordered,* That Section VI of FCC Forms 301, 309, 311, 314, 315, 340 and 342 IS REVISED in the manner set forth in Appendix A below.

7. *It is further ordered,* That Question 23 of FCC Form 303-R and the similarly-worded Question 1, Section V of FCC Form 303, are revised in the manner set forth in Appendix B.

8. *It is further ordered,* That the above revisions are effective for broadcast applicants filing FCC Forms 301, 309, 311, 314, 315 and 340 on or after February 1, 1977, and for license renewal applicants filing FCC Forms 303, 303-R and 342 on or after April 1, 1977.

FEDERAL COMMUNICATIONS COMMISSION,[2]
VINCENT J. MULLINS,
Secretary.

APPENDIX A

Section VI of FCC Forms 301, 309, 311, 314, 315, 340 and 342 are revised to read as follows:

FCC form 301, equal employment opportunity, sec. VI

Name of applicant	Call sign	City and State which station is licensed to serve

INSTRUCTIONS TO SECTION VI

Applicants seeking authority to construct or make changes in a commercial AM, FM, or TV broadcast station are required by the Commission's regulations to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See §§ 73.125, 73.301, and 73.680 of the Commission's rules. Pursuant to these requirements, an applicant who either proposes to employ or has more than ten full-time station employees, must establish a positive, continuing program of practices to assure equal employment opportunity for women. A program must also be established by that applicant for minority groups that have traditionally suffered from discrimination in employment (that is, Blacks, Orientals, Spanish-Surnamed Americans, and American Indians) unless the minority group is represented in the area in such insignificant numbers that a program would not be meaningful. In such a situation, a statement of explanation should be submitted with the application filed with the Commission. An explanatory statement should also be filed in response to Question No. 1, *infra,* where the applicant proposes to employ or has ten or less full-time employees.

On July 26, 1976, the Commission issued a Report and Order in Docket No. 20550, 60 FCC 2d 226, 41 FR 31210, wherein it adopted a ten-point EEO program which is to serve as a model to be followed by all non-exempt broadcast applicants. Guidelines to assist these applicants in applying the model EEO program to their particular situations are set forth in Attachment A. Also appended hereto as Attachment B is a copy of the model EEO program.

In responding to Question No. 1, an applicant for a construction permit for a new commercial broadcast station who proposes to employ more than ten full-time employees must, therefore, set forth in an exhibit its proposed EEO policy and practices relative to the first five elements of the model program. An applicant seeking a change in facilities of an existing commercial broadcast station, which employs more than ten persons on a full-time basis, must set forth in its exhibit a description of the station's EEO program (elements 1-5) and a demonstration of the effectiveness of that program (elements 6-10). However, a program need not be filed where the required information was submitted to the Commission within the preceding 12 months in another application involving the subject station.

Complaints, alleging unlawful discrimination in the employment practices of the station for which a change in facilities is requested, should be reported in response to Question No. 2. The applicant should set forth in an exhibit a description of any discrimination complaint filed during the preceding license period before any judicial or administrative body having competent jurisdiction under federal, state, or local law. That description should include an identification of the persons involved, the specification of the court or agency with which it was filed as well as the date of filing and file number assigned to that complaint (if any), and the disposition or current status of the matter.

1. Submit as Exhibit No. ------ a description of the program the applicant proposes to follow during the coming license term and, where applicable, the program implemented during the preceding license term to assure equal employment opportunity for minorities and women.

2. Submit as Exhibit No. ------ a brief description of any complaint which has been filed before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in employment practices of the station, including the persons involved, the date of filing, the court or agency, the file number (if any), and the disposition or current status of the matter.

FCC form 309, equal employment opportunity, sec. VI

Name of applicant	Call sign	City and State which station is licensed to serve

[1] The text of Question 23, FCC Form 303-R and Question 1, Section V of FCC Form 303 will also be conformed to the standard text used in the aforenoted forms to elicit a description of the applicant's existing and/or proposed EEO program. See Appendix B.

[2] Commissioner Lee absent.

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INSTRUCTIONS TO SECTION VI

Applicants seeking authority to construct or make changes in an existing international broadcast station are required by the Commission's regulations to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See section 73.793 of the Commission's Rules. Pursuant to these requirements, an applicant who either proposes to employ or has more than ten full-time station employees, must establish a positive, continuing program of practices to assure equal employment opportunity for women. A program must also be established by that applicant for minority groups that have traditionally suffered from discrimination in employment (that is, Blacks, Orientals, Spanish-Surnamed Americans, and American Indians) unless the minority group is represented in the area in such insignificant numbers that a program would not be meaningful. In such a situation, a statement of explanation should be submitted with the application filed with the Commission. An explanatory statement should also be filed in response to Question No. 1, infra, where the applicant proposes to employ or has ten or less full-time station employees.

On July 26, 1976, the Commission issued a Report and Order in Docket No. 20550, 60 FCC 2d 226, 41 FR 31210, wherein it adopted a ten-point EEO program which is to serve as a model to be followed by all non-exempt broadcast applicants. Guidelines to assist these applicants in applying the model EEO program to their particular situations are set forth in Attachment A. Also appended hereto as Attachment B is a copy of the model EEO program.

In responding to Question No. 1, an applicant for a construction permit for a new international broadcast station who proposes to employ more than ten full-time employees must, therefore, set forth in an exhibit its proposed EEO policy and practices relative to the first five elements of the model program. An applicant seeking a change in facilities of an existing international broadcast station, which employs more than ten persons on a full-time basis, must set forth in its exhibit a description of the station's EEO program (elements 1–5) and a demonstratton of the effectiveness of that program (elements 6–10). However, a program need not be filed where the required information was submitted to the Commission within the preceding 12 months in another application involving the subject station.

Complaints, alleging unlawful discrimination in the employment practices of the station for which a change in facilities is requested, should be reported in response to Question No. 2. The applicant should set forth in an exhibit a description of any discrimination complaint filed during the preceding license period before any judicial or administrative body having competent jurisdiction under federal, state, or local law. That description should include an identification of the persons involved, the specification of the court or agency with which it was filed as well as the date of filing and file number assigned to that complaint (if any), and the disposition or current status of the matter.

1. Submit as Exhibit No. ------ a description of the program the applicant proposes to follow during the coming license term and, where applicable, the program implemented during the preceding license term to assure equal employment opportunity for minorities and women.

2. Submit as Exhibit No. ------ a brief description of any complaint which has been filed before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in employment practices of the station, including the persons involved, the date of filing, the court or agency, the file number (if any), and the disposition or current status of the matter.

FCC form 311, equal employment opportunity, sec. VI

Name of applicant	Call sign	City and State which station is licensed to serve

INSTRUCTIONS TO SECTION VI

Applicants seeking renewal of license for an international broadcast station are required by the Commission's regulations to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See § 73.793 of the Commission's Rules. Pursuant to these requirements, an applicant who has more than ten full-time station employees must establish a positive, continuing program of practices to assure equal employment opportunity for women. A program must also be established by that applicant for minority groups that have traditionally suffered from discrimination in employment (that is, Blacks, Orientals, Spanish-Surnamed Americans, and American Indians) unless the minority group is represented in the area in such insignificant numbers that a program would not be meaningful. In such a situation, a statement of explanation should be submitted with the application filed with the Commission. An explanatory statement should also be filed in response to Question No. 1, infra, where the applicant has ten or less full-time station employees.

On July 26, 1976, the Commission issued a Report and Order in Docket No. 20550, 60 FCC 2d 226, 41 FR 31210, wherein it adopted a ten-point EEO program which is to serve as a model to be followed by all non-exempt broadcast applicants. Guidelines to assist these applicants in applying the model EEO program to their particular situations are set forth in Attachment A. Also appended hereto as Attachment B is a copy of the model EEO program.

In responding to Question No. 1, an applicant seeking renewal of license for an international broadcast station which employs more than ten persons on a full-time basis must, therefore, set forth in an exhibit a description of its station's EEO program (elements 1–5) and a demonstration of the effectiveness of that program (elements 6–10). However, a program need not be filed where the required information was submitted to the Commission within the preceding 12 months in another application involving the subject station.

Complaints, alleging unlawful discrimination in the employment practices of the station for which renewal is requested, should be reported in response to Question No. 2. The renewal applicant should set forth in an exhibit a description of any discrimination complaint filed during the preceding license period before any judicial or administrative body having competent jurisdiction under federal, state, or local law. That description should include an identification of the persons involved, the specification of the court or agency with which it was filed as well as the date of filing and file number assigned to that complaint (if any), and the disposition or current status of the matter.

1. Submit as Exhibit No. ------ a description of the program the applicant proposes to follow during the coming license term and, where applicable, the program implemented during the preceding license term to assure equal employment opportunity for minorities and women.

2. Submit as Exhibit No. ------ a brief description of any complaint which has been filed before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in employment practices of the station, including the persons involved, the date of filing, the court or agency, the file number (if any), and the disposition or current status of the matter.

FCC form 314, equal employment opportunity, sec. VI

Name of applicant	Call sign	City and State which station is licensed to serve

INSTRUCTIONS TO SECTION VI

Applicants seeking authority to assign a broadcast station construction permit or license are required by the Commission's regulations to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See §§ 73.125, 73.301, 73.599, 73.680 and 73.793 of the Commission's rules. Pursuant to these requirements, an applicant who either proposes to employ or has more than ten full-time station employees, must establish a positive, continuing program of practices to assure equal employment opportunity for women. A program must also be established by that applicant for minority groups that have traditionally suffered from discrimination (that is, Blacks, Orientals, Spanish-Surnamed Americans, and American Indians) unless the minority group is represented in the area in such insignificant numbers that a program would not be meaningful. In such a situation, a statement of explanation should be submitted with the application filed with the Commission. An explanatory statement should also be filed in response to Question No. 1, infra, where the applicant proposes to employ or has ten or less full-time station employees.

On July 26, 1976, the Commission issued a Report and Order in Docket No. 20550, 60 FCC 2d 226, 41 FR 31210, wherein it adopted a ten-point EEO program which is to serve as a model to be followed by all non-exempt broadcast applicants. Guidelines to assist these applicants in applying the model EEO program to their particular situations are set forth in Attachment A. Also appended hereto as Attachment B is a copy of the model EEO program.

The assignee who is seeking to acquire a broadcast station construction permit or license must, therefore, set forth in an exhibit its proposed EEO policy and practices relative to the first five elements of the model program if it proposes to employ more than ten full-time station employees. The assignor who is requesting authority to dispose of either a permit for a broadcast station that has been constructed and is operating pursuant to program test authority or a license for an existing broadcast station, must also respond to Question No. 1. The assignor's exhibit must include a description of the station's EEO program (elements 1–5) and a demonstration of the effectiveness of that program (elements 6–10) provided that the station being assigned employs more than ten persons on a full-time basis. A program need not be filed by the assignor where the subject station is not as yet on the air or where the required information was submitted to the Commission within the preceding 12 months in another application involving that station.

Complaints, alleging unlawful discrimination in the employment practices of the station for which assignment is requested, should be reported in response to Question No. 2. The assignor should set forth in an exhibit a description of any discrimination complaint filed during the preceding license period before any judicial or administrative body having competent jurisdiction under federal, state, or local law. That description should include an identification of the persons involved, the specification of the court or agency with which it was filed as well as the date of filing and file number assigned to that complaint (if any), and the disposition or current status of the matter.

1. Submit as Exhibit No. -- a description of the program the applicant proposes to follow during the coming license term and, where applicable, the program implemented during the preceding license term to assure equal employment opportunity for minorities and women.

2. Submit as Exhibit No. -- a brief description of any complaint which has been filed before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in employment practices of the station, including the persons involved, the date of filing, the court or agency, the file number (if any), and the disposition or current status of the matter.

FCC form 315, equal employment opportunity, sec. VI

Name of applicant	Call sign	City and State which station is licensed to serve

INSTRUCTIONS TO SECTION VI

Applicants seeking authority to transfer control of a corporation holding a broadcast station construction permit or license are required by the Commission's regulations to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See §§ 73.125, 73.301, 73.599, 73.680 and 73.793 of the Commission's rules. Pursuant to these requirements, an applicant who either proposes to employ or has more than ten full-time station employees, must establish a positive, continuing program of practices to assure equal employment opportunity for women. A program must also be established by the applicant for minority groups that have traditionally suffered from discrimination (that is, Blacks, Orientals, Spanish-Surnamed Americans, and American Indians) unless the minority group is represented in the area in such insignificant numbers that a program would not be meaningful. In such a situation, a statement of explanation should be submitted with the application filed with the Commission. An explanatory statement should also be filed in response to Question No. 1, infra, where the applicant proposes to employ or has ten or less full-time station employees.

On July 26, 1976, the Commission issued a Report and Order in Docket No. 20550, 60 FCC 2d 226, 41 FR 31210, wherein it adopted a ten-point EEO program which is to serve as a model to be followed by all non-exempt broadcast applicants. Guidelines to assist these applicants in applying the model EEO program to their particular situations are set forth in Attachment A. Also appended hereto as Attachment B is a copy of the model EEO program.

The transferee who is seeking to acquire control of a corporation holding a broadcast station construction permit or license must, therefore, set forth in an exhibit its proposed EEO policy and practices relative to the first five elements of the model program if it proposes to employ more than ten full-time station employees. The transferor who is seeking to relinquish control of a corporation holding either a permit for a broadcast station that has been constructed and is operating pursuant to program test authority, or a license for an existing broadcast station, must also respond to Question No. 1. The transferor's exhibit must include a description of the station's EEO program (elements 1–5) and a demonstration of the effectiveness of that program (elements 6–10) provided that the subject station employs more than ten persons on a full-time basis. A program need not be filed by the transferor where the subject station is not as yet on the air or where the required information was submitted to the Commission within the preceding 12 months in another application involving that station.

Complaints, alleging unlawful discrimination in the employment practices of the subject station, should be reported in response to Question No. 2. The transferor should set forth in an exhibit a description of any discrimination complaint filed during the preceding license period before any judicial or administrative body having competent jurisdiction under federal, state, or local law. That description should include an identification of the persons involved, the specification of the court or agency with which it was filed as well as the date of filing and file number assigned to that complaint (if any), and the disposition or current status of the matter.

1. Submit as Exhibit No. -- a description of the program the applicant proposes to follow during the coming license term and, where applicable, the program implemented during the preceding license term to assure equal employment opportunity for minorities and women.

2. Submit as Exhibit No. -- a brief description of any complaint which has been filed before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in employment practices of the station, including the persons involved, the date of filing, the court or agency, the file number (if any), and the disposition or current status of the matter.

FCC form 340, equal employment opportunity, sec. VI

Name of applicant	Call sign	City and State which station is licensed to serve

INSTRUCTIONS TO SECTION VI

Applicants seeking authority to construct or make changes in a noncommercial educational AM, FM, or TV broadcast station are required by the Commission's regulations to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See §§ 73.125, 73.599, and 73.680 of the Commission's rules. Pursuant to these requirements, an applicant who either proposes to employ or has more than ten full-time station employees, must establish a positive, continuing program of practices to assure equal employment opportunity for women. A program must also be established by that applicant for minority groups that have traditionally suffered from discrimination in employment (that is, Blacks, Orientals, Spanish-Surnamed Americans, and American Indians) unless the minority group is represented in the area in such insignificant numbers that a program would not be meaningful. In such a situation, a statement of explanation should be submitted with the application filed with the Commission. An explanatory statement should also be filed in response to Question No. 1, infra, where the applicant proposes to employ or has ten or less full-time station employees.

On July 26, 1976, the Commission issued a Report and Order in Docket No. 20550, 60 FCC 2d 226, 41 FR 31210, wherein it adopted a ten-point EEO program which is to serve as a model to be followed by all non-exempt broadcast applicants. Guidelines to assist these applicants in applying the model EEO program to their particular situations are set forth in Attachment A. Also appended hereto as Attachment B is a copy of the model EEO program.

In responding to Question No. 1, an applicant for a construction permit for a new noncommercial educational broadcast station who proposes to employ more than ten full-time employees must, therefore, set forth in an exhibit its proposed EEO policy and practices relative to the first five elements of the model program. An applicant seeking a change in facilities of an existing noncommercial educational broadcast station, which employs more than ten persons on a full-time basis, must set forth in its exhibit a description of the station's EEO program (elements 1–5) and a demonstration of the effectiveness of that program (elements 6–10). However, a program need not be filed where the required information was submitted to the Commission within the preceding 12 months in another application involving the subject station.

Complaints, alleging unlawful discrimination in the employment practices of the station for which a change in facilities is requested, should be reported in response to Question No. 2. The applicant should set forth in an exhibit a description of any discrimination complaint filed during the preceding license period before any judicial or administrative body having competent jurisdiction under federal, state, or local law. That description should include an identification of the persons involved, the specification of the court or agency with which it was filed as well as the date of filing and file number assigned to that complaint (if any), and the disposition or current status of the matter.

1. Submit as Exhibit No. a description of the program the applicant proposes to follow during the coming license term and, where applicable, the program implemented during the preceding license term to assure equal employment opportunity for minorities and women.

2. Sumit as Exhibit No. a brief description of any complaint which has been filed before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in employment practices of the station, including the persons involved, the date of filing, the court or agency, the file number (if any), and the disposition or current status of the matter.

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FCC form 342, equal employment opportunity, sec. VI

Name of applicant	Call sign	City and State which station is licensed to serve

INSTRUCTIONS TO SECTION VI

Applicants seeking renewal of license for a noncommercial educational AM, FM, or TV broadcast station are required by the Commission's regulations to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See §§ 73.125, 73.599 and 73.680 of the Commission's rules. Pursuant to these requirements, an applicant who has more than ten full-time station employees must establish a positive, continuing program of practices to assure equal employment opportunity for women. A program must also be established by that applicant for minority groups that have traditionally suffered from discrimination in employment (that is, Blacks, Orientals, Spanish-Surnamed Americans, and American Indians) unless the minority group is represented in the area in such insignificant numbers that a program would not be meaningful. In such a situation, a statement of explanation should be submitted with the application filed with the Commission. An explanatory statement should also be filed in response to Question No. 1, infra, where the applicant has ten or less full-time station employees.

On July 26, 1976, the Commission issued a Report and Order in Docket No. 20550, 60 FCC 2d 226, 41 FR 31210, wherein it adopted a ten-point EEO program which is to serve as a model to be followed by all non-exempt broadcast applicants. Guidelines to assist these applicants in applying the model EEO program to their particular situations are set forth in Attachment A. Also appended hereto as Attachment B is a copy of the model EEO program.

In responding to Question No. 1, an applicant seeking renewal of license for a noncommercial educational station which employs more than ten persons on a full-time basis must, therefore, set forth in an exhibit a description of its station's EEO program (elements 1–5) and a demonstration of the effectiveness of that program (elements 6–10). However, a program need not be filed where the required information was submitted to the Commission within the preceding 12 months in another application involving the subject station:

Complaints, alleging unlawful discrimination in the employment practices of the station for which renewal is required, should be reported in response to Question No. 2. The renewal applicant should set forth in an exhibit a description of any discrimination complaint filed during the preceding license period before any judicial or administrative body having competent jurisdiction under federal, state, or local law. That description should include an identification of the persons involved, the specification of the court or agency with which it was filed as well as the date of filing and file number assigned to that complaint (if any), and the disposition or current status of the matter.

1. Submit as Exhibit No. ____ a description of the program the applicant proposes to follow during the coming license term and, where applicable, the program implemented during the preceding license term to assure equal employment opportunity for minorities and women.

2. Submit as Exhibit No. ____ a brief description of any complaint which has been filed before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in employment practices of the station, including the persons involved, the date of filing, the court or agency, the file number (if any), and the disposition or current status of the matter.

ATTACHMENT A

GUIDELINES TO THE MODEL EEO PROGRAM

The model EEO program, which was adopted by the Commission in Docket No. 20550, provides comprehensive and clearly-defined practices to assist the non-exempt broadcast applicant in developing an effective EEO program for its proposed or existing station. The EEO program designed for a particular station should be reasonably responsive to the elements of the model program to the extent they are appropriate in terms of station size, location, and the like. However, the data requirements, which are set forth in sections IV, VI, VII, and VIII of the model, are essential for self-evaluation and must be part of whatever program is devised by the broadcast applicant. While the most current information available should be used in responding to these elements, statements of policy and general descriptions of a station's EEO practices, which were set forth in an earlier-filed EEO program, can be incorporated by reference where the applicant does not intend to augment or otherwise modify its program in that respect during the forthcoming license term. The specific elements which should be addressed are as follows:

I. General policy. The first section of the program should contain a statement by the applicant that it will or does afford equal employment opportunity in all personnel actions without regard to race, color, religion, national origin or sex, and that it has adopted an EEO program which is designed to fully utilize the skills of minorities and women in the relevant available labor force.

II. Responsibilities for implementation. This section calls for the title and the name (if possible) of the official designated by the applicant with responsibility for implementation of the station's program.

III. Policy dissemination. The purpose of this section is to disclose the manner in which the station's EEO policy will be or is communicated to employees and prospective employees. In this respect, the applicant's program should disclose whether it: (a) proposes to or does utilize an employment application form which contains a notice informing job applicants that discrimination is prohibited and that persons who believe that they have been discriminated against may notify appropriate government agencies; (b) proposes to or does post a notice which informs job applicants and employees that the broadcast applicant is an equal employment opportunity employer and that they may notify appropriate governmental authorities if they believe that they have been discriminated against; and, where applicable, (c) proposes to or does seek the cooperation of labor unions represented at the station in the implementation of its EEO program and in the inclusion of nondiscrimination provisions in union contracts. The applicant should also set forth any other methods it will or does utilize in conveying its EEO policy (e.g., orientation materials, on-air announcements, station newsletter) to employees and prospective employees.

IV. Recruitment. In this section, the applicant should set forth the recruitment sources and other techniques it proposes to or does use to refer minority and female job applicants or to increase the station's pool of minority and female job applicants.

All minority and female applicant referral sources which the station has contacted in the previous 12 months and the number of individuals, who were referred from each source, should also be listed.

NOTE.—Not all of the categories of recruitment sources listed in the model program need be utilized if there are sufficient numbers of minority and females applying for positions at the station. The purpose of the listing is to determine whether the specialized referral sources are producing the desired results. Sources which prove to be nonproductive in terms of qualified minority and female applicants should not be relied on and new sources should be sought.

V. Training. Training programs are not mandatory. Each applicant is expected to decide, depending on its own individual situation, whether a training program is feasible and would assist it in its effort to increase the pool of available minority and female applicants. Also, where an applicant already has employee training programs, the information reported in this element of the model program should enable it to ascertain whether minority and female employees have the same opportunity to participate as other employees. Information submitted with respect to any training programs utilized should include a report covering at least the 12-month period prior to the filing of the application, but may encompass the entire license period, if so desired.

Additionally, the applicant may set forth any other assistance to students, schools or colleges which is designed to be of benefit to minorities and women interested in entering the broadcasting field. The beneficiary of such assistance should be listed, as well as the form of assistance, such as contributions to scholarship, participation in work-study programs, and the like.

VI. Availability survey. Pursuant to this section the applicant should state the percentages of women, Blacks, Orientals, American Indians, and persons with Spanish-surnames in the station's labor recruitment area. Generally speaking, where a station is located in a Standard Metropolitan Statistical Area, the S.M.S.A. should be considered as the labor recruitment area. Where a station is not located in an S.M.S.A., the city of license or county figures should be used. The necessary data may be obtained from state employment agencies' "Manpower Information for Affirmative Action Programs," which is available in most localities, or other publications such as "General Population Characteristics" and "General Social and Economic Characteristics," obtainable from any Department of Commerce Field Office.

NOTE.—The inclusion of this data is designed to assist the applicant in evaluating the effectiveness of its station's EEO program. The availability survey produces a means to determine whether the station's workforce percentages bear some reasonable relationship to those reflected in the relevant available labor force.

VII. Current employment survey. Applicants of stations with less than 50 full-time employees are required to state whether there has been any change in their employment profile from the payroll period covered by the station's most recently filed Annual Employment Report (FCC Form 395). If there has been no change with respect to the station's full-time or part-time employee profile, the sentence to this effect should be checked. If there has been a change in the total number and/or the makeup of the incumbents in any of the job categories the applicant must submit an updated Form 395 that identifies all employees under each job category by race and sex. The updated employment profile should cover the payroll period as close to the filing of the application as possible. The payroll period chosen must be specified.

Stations with 50 or more full-time employees are required to prepare and submit a list of all job titles within each Form 395 job category, with part-time and full-time status indicated. Each job title must show the number of incumbents that are male, female, Black, Spanish-surnamed American, Oriental, and American Indian. In other words, under each applicable job category, (i.e., Officials and Managers, Professionals, Technicians, etc.) the applicant should list each job title it includes in the category on the Form 395 and identify the number of incumbents by sex and race. This showing should reflect the station's employment profile for the payroll period as close to the filing of the application as possible. The payroll period chosen must be specified.

VIII. Job hires. Each applicant must state the total number of persons hired for station positions, both full-time and part-time, during the 12-month period preceding the date utilized for the "Current Employment Survey." This aggregate hiring information is to also include a breakout of the number of minorities and women hired. Predicated on this data and the recruitment information already compiled for the fourth element of the EEO program, the applicant must determine whether a sufficient number of minorities and women are applying for positions at the station. (The answer to the two parts of this question need not be the same. For example, a representative number of minorities may be applying, whereas the pool of women applicants may be less than sufficient.) Should either minorities or women be inadequately represented among the applicants for available positions, the applicant should analyze its recruitment techniques and referral sources and propose additional methods to expand the applicant pool of minorities and/or women.

IX. Promotion. Under this section the applicant should describe any promotional policies and practices which have benefited minority or female employees during the preceding 12 months. (For instance, the licensee might list the number of minorities and/or women elevated from part-time to full-time status, the number of those promoted from a training status, or the number that have advanced to more responsible jobs.) Also, if not listed in the "Training" element, the applicant may wish to note any extra effort undertaken to increase promotional opportunities for minorities and women.

X. Effectiveness of the affirmative action plan. Under this section the applicant should analyze the results of its efforts to recruit, hire and promote minorities and women and explain any difficulties encountered in implementing its EEO program. One way this can be done is to compare the percentages of minorities and women on the station's current staff with their respective percentages in the relevant available labor force. (See "Availability Survey" and "Current Employment Survey" of the model program.) If the percentages do not reasonably relate, the disparity may be attributable to deficiencies in the station's recruitment, hiring, placement, training or promotional policies and practices. If so, the applicant should propose alternative policies to correct the deficiency.

ATTACHMENT B

MODEL EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

I. General Policy. It is our policy to provide equal employment opportunity to all qualified individuals without regard to their race, color, religion, national origin or sex in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

It is also our policy to promote the realization of equal employment opportunity through a positive, continuing program of specific practices designed to ensure the full realization of equal employment opportunity without regard to race, color, religion, national origin or sex.

To make this policy effective, and to ensure conformance with the Rules and Regulations of the Federal Communications Commission, we have developed an Equal Employment Opportunity Program which includes the following elements:

II. Responsibility for Implementation. (Name ____ Title), is responsible for the administration and implementation of our Equal Employment Opportunity Program. It is also the responsibility of all persons making employment decisions with respect to recruitment, evaluation, selection, promotion, compensation, training and termination of employees to ensure that our policy and program is adhered to and that no person is discriminated against in employment because of race, color, religion, national origin or sex.

III. Policy Dissemination. To assure that all members of the staff are cognizant of our equal employment opportunity policy and their individual responsibilities in carrying out this policy, the following communication efforts are made:

☐ The station's employment application form contains a notice informing prospective employees that discrimination because of race, color, religion, national origin or sex is prohibited and that they may notify the appropriate local, state, or federal agency if they believe they have been the victims of discrimination.

☐ Appropriate notices are posted informing applicants and employees that the station is an Equal Opportunity Employer and of their right to notify an appropriate local, state, or federal agency if they believe they have been the victim of discrimination.

☐ We seek the cooperation of the unions represented at the station to help implement our EEO program and all union contracts contain a nondiscrimination clause.

☐ Other (Specify) ____

IV. Recruitment. To ensure nondiscrimination in relation to minorities and women, and to foster their full consideration in filling job vacancies, we utilize the following recruitment procedures:

☐ We attempt to maintain systematic communication, both orally and in writing, with a variety of minority and women organizations to encourage the referral of qualified minority and female applicants. Examples of such organizations contacted during the past twelve months are the number of referrals are:

Organization/Source	Number of Referrals

☐ In addition to the organizations noted above, which specialize in minority and women candidates, we deal only with employment services, including state employment agencies, which refer job candidates without regard to their race, color, religion, national origin or sex. Examples of these employment referral services contacted during the past twelve months and the number of referrals are:

☐ When we recruit prospective employees from educational institutions such recruitment efforts include area schools and colleges with significant minority and female enrollments. Educational institutions contacted for recruitment purposes during the past twelve months and the number of referrals are:

☐ When utilizing media for recruitment purposes, help-wanted advertisements always include a notice that we are an Equal Opportunity Employer and contain no indication, either explicit or implied, of a preference for one sex over another.

☐ When we place employment advertisements in printed media some of such advertisements are placed in media which have significant circulation or are of particular interest to minorities and women. Examples of publications utilized during the past twelve months and the number of referrals are:

☐ We encourage present employees, particularly minority and female employees, to refer minority and female candidates for existing and future job openings.

V. Training. ☐ Station resources and or needs are such that we are unable or do not choose to institute specific programs for upgrading the skills of employees.

☐ We provide on-the-job training to upgrade the skills of employees. Tangible benefits of such training to minority and women employees during the past 12 months may be briefly described as follows: ____

☐ We provide assistance to students schools or colleges in programs designed to enable minorities and women to compete in the broadcast employment market on an equitable basis:

Schools or Other Beneficiary	Form of Assistance

☐ Other (Specify) ____

VI. Availability Survey. Based on information derived from ____, the respective minority and female workforce in the station's recruitment area is as follows:

Percentage in the workforce:
- Women ____
- Blacks ____
- Oriental ____
- American Indian ____
- Spanish-surnamed ____

NOTE.—The following to be used only if workforce data is unavailable.

Based on information derived from ____, the respective minority and female population in the station's recruitment area is as follows:

Percentage in the population:
- Women ____
- Blacks ____
- Oriental ____
- American Indian ____
- Spanish-surnamed ____

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The above information is for: ☐ S.M.S.A. ☐ City ☐ County ☐ Other (Specify)

VII. *Current Employment Survey.* A. To be completed by stations with less than 50 full-time employees.

☐ There has been no change in our employment profile since the filing of our most recent Annual Employment Report.

☐ There has been a change in our employment profile since the filing of our last Annual Employment Report. Attached is an updated report identifying the incumbents under each FCC Form 395 job category for the two weeks period beginning _____ and ending _____

B. To be completed by stations with 50 or more full-time employees.

☐ Attached as Exhibit No. VII B is a survey of our workforce showing a list of all job titles within each FCC Form 395 category and showing the number of incumbents who are male, female, Black, Spanish-Surnamed American, Oriental, and American Indian.

VIII. *Job Hires.* During the twelve month period beginning (Month—Day—Year) and ending (Month—Day—Year), we hired a total of ( ) persons of whom ( ) were minorities and ( ) were women.

☐ An analysis of our recruitment techniques, job applications, and new hires suggests that a sufficient number of qualified minorities and women (are) (are not) applying for available positions.

☐ We are expanding our recruitment sources to include:

IX. *Promotion.* It is our policy to provide promotions on a nondiscriminatory basis. Further, to assure that minorities and women are given due consideration for promotional opportunities, special effort is taken to encourage minorities and women to qualify and apply for advancement. During the past twelve months our policy has had the following results:

X. *Effectiveness of Affirmative Action Plan.* [This section should contain a brief narrative discussion of the effectiveness of the station's efforts to ensure Equal Employment Opportunity. For example, the licensee might compare the percentage of minority employees in its own workforce with the percentage of minority persons in the licensee's labor market, also setting forth information which suggests that discrepancies which may exist are not unreasonable. The licensee may also explain any difficulties it has experienced in implementing its affirmative action plan, together with any steps it proposes to take to surmount these difficulties in the future.]

APPENDIX B

Question 23 of FCC Form 303–R and Question 1, Section V of FCC Form 303, are amended to read as follows:

Attach as EXHIBIT 23 ["Submit as Exhibit No.—" in the case of FCC Form 303] a description of the program the applicant proposes to follow during the coming license term and, where applicable, the program implemented during the preceding license term to assure equal employment opportunity for minorities and women.

[FR Doc.76–36867 Filed 12–15–76;8:45 am]

[Docket No. 20815; Second Erratum to Report and Order, FCC 76–898]

EXPANSION OF SECONDARY FIXED USE OF BASE/MOBILE FREQUENCIES

Report and Order; Correction

Released: December 15, 1976.

In the Matter of amendment of Parts 89, 91, and 93 of the Commission's rules to expand the secondary fixed use of base/mobile frequencies in the 450–470 MHz band, Docket 20815.

Commission's Report and Order, FCC 76–898 in Docket 20815, released October 8, 1976, and published at 41 FR 46853, October 26, 1976, is amended to read as follows:

Parts 89, 91, and 93 of the Commission's rules and regulations are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

1. Section 89.101(q) is corrected to read as follows:

§ 89.101 Frequencies.

• • • • • •

(q) Fixed stations authorized prior to June 1, 1968, for operation on frequencies in the region 450–470 MHz, if located 85 or more miles from any urbanized area of 600,000 or more population, may continue until such time as a modification involving new facilities is proposed. At that time, the system must be modified to frequencies available pursuant to paragraph (p) of this section.

2. Sections 89.259(g)(4), 89.309(h)(4), 89.359(g)(4), 89.409(f)(1), 89.459(e)(1), 89.525(f)(22), 91.254(b)(30), 91.304(b)(33), 91.354(b)(33), 91.454(b)(12), 91.504(b)(29), 91.554(b)(9), 91.730(b)(18), and 91.754(b)(14) are corrected to read as follows:

This frequency may be assigned to a control station associated with a mobile relay system if it is also assigned to the associated mobile station. Control stations operating on this frequency shall comply with the following requirements if they are located within 85 miles of the center of urbanized areas of 600,000 or more population.

(i) If the station is used to control one or more mobile relay stations located within 45 degrees of azimuth, a directional antenna having a front-to-back ratio of at least 15 dB shall be used at the control station. For other situations where a directional antenna cannot be used, a cardioid, bidirectional or omnidirectional antenna may be employed. In each case, the antenna used must, consistent with reasonable design, produce a radiation pattern that provides only the coverage necessary to permit satisfactory control of each mobile relay station and limit radiation in other directions to the extent feasible.

(ii) The strength of the signal of a control station controlling a single mobile relay station, may not exceed by more than 6 dB, at the antenna terminal of the mobile relay receiver, the signal strength produced then by a unit of the associated mobile station. When the station controls more than one mobile relay station, the 6 dB control-to-mobile signal difference need be verified at only one of the mobile relay station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location, or, if that is not practical, from a location within one-fourth mile of the control station site.

(iii) Each application for a control station to be authorized under the provisions of this paragraph shall be accompanied by a statement certifying that the output power of the proposed station transmitter will be adjusted to comply with the foregoing signal level limitation. Records of the measurements used to determine the signal ratio shall be kept with the station records and shall be made available for inspection by Commission personnel upon request.

(iv) [Reserved]

(v) Urbanized areas of 600,000 or more population are defined in the U.S. Census of Population, 1970, Volume 1, Table 20, pages 1–74. The centers of urbanized areas are determined from the Appendix, page 226, of the U.S. Commerce publication, "Air Line Distance between Cities in the United States."

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PART 91—INDUSTRIAL RADIO SERVICE

3. Section 91.8(1) is corrected to read as follows:

§ 91.8 Policy governing the assignment of frequencies.

• • • • • •

(1) Fixed stations located more than 85 miles from the center of urbanized areas of 600,000 or more population and operating on frequencies no longer available for that use may continue indefinitely until such time as a modification involving an addition of new facilities is proposed. Such use is, however, on a secondary basis to land mobile operations and harmful interference may not be caused to land mobile stations.

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4. Section 91.504(b)(35) is corrected to read as follows:

§ 91.504 Frequencies available.

• • • • • •

(b) • • •

(35) This frequency may be assigned to an itinerant fixed control or relay station on a secondary, noninterference basis to land mobile stations in this service, provided that the fixed relay or control station is to be associated with base and mobile facilities authorized to use other itinerant or general use frequencies available in this service. All such use of these frequencies for fixed systems is limited to locations 85 or more miles from the center of any urbanized area of 600,000 or more population, except that the distance may be 65 miles if the output power does not exceed 20 watts. All such fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, the separation between transmit-receive frequencies is 5 MHz. The centers of urbanized areas of 600,000 or more population are determined from the Appendix, page 226, of the U.S. Commerce publication, "Air Line Distance Between Cities in the United States." Urbanized areas of 600,000 or more population are defined in the U.S. Census of Population, 1970, Volume 1, Table 20, pages 1–74.

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PART 93—LAND TRANSPORTATION RADIO SERVICE

5. The table and the footnotes in § 93.104(b)(2) are corrected to read as follows:

§ 93.104 Emission limitations.

• • • • • •

(b) • • •
(2) • • •

Frequency band (megahertz)	Authorized bandwidth (kilohertz)	Frequency deviation (kilohertz)
25 to 50	20	5
50 to 150	20	5
150 to 450	20	5
450 to 470	20	5
470 to 512	20	5
806 to 821	20	5
851 to 866	20	5

[1] Stations authorized for operation on or before Dec. 1, 1961, in the frequency band 72–74.6 MHz may continue to operate with a bandwidth of 40 kHz and a deviation of ±15 kHz.

• • • • • •

6. Section 93.352(d) is changed to read as follows:

§ 93.352 Frequencies below 952 MHz available for base and mobile stations.

• • • • • •

(d) Control stations associated with mobile relay systems may be authorized to operate on the mobile only frequency assigned to the associated mobile station. Control stations operating on these frequencies shall comply with the following requirements if they are located within 65 miles of the center of urbanized areas of 600,000 or more population.

(1) If the station is used to control one or more mobile relay stations located within 45 degrees of azimuth, a directional antenna having a front-to-back ratio of at least 15 dB shall be used at the control station. For other situations where a directional antenna cannot be used, a cardioid, bidirectional or omnidirectional antenna may be employed. In each case, the antenna used must, consistent with reasonable design, produce a radiation pattern that provides only the coverage necessary to permit satisfactory control of each mobile relay station and limit radiation in other directions to the extent feasible.

(2) The strength of the signal of a control station, controlling a single mobile relay station, may not exceed by more than 6 dB, at the antenna terminal of the mobile relay receiver, the signal strength produced there by a unit of the associated mobile station. When the station controls more than one mobile relay station, the 6 dB control-to-mobile signal difference need be verified at only one of the mobile relay station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location, or, if that is not practical, from a location within one-fourth mile of the control station site.

(3) Each application for a control station to be authorized under the provisions of this paragraph shall be accompanied by a statement certifying that the output power of the proposed station transmitter will be adjusted to comply with the foregoing signal level limitation. Records of the measurements used to determine the signal ratio shall be kept with the station records and shall be made available for inspection by Commission personnel upon request.

(4) [Reserved]

(5) Urbanized areas of 600,000 or more population are defined in the U.S. Census of Population, 1970, Volume 1, Table 20, pages 1–74. The centers of urbanized areas are determined from the Appendix, page 226, of the U.S. Commerce publication, "Air Line Distance Between Cities in the United States."

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FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–36865 Filed 12–15–76;8:45 am]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Miscellaneous Amendments; Correction

Released: December 13, 1976.

Editorial Amendment of Part 2 of the Commission's rules and regulations.

1. On November 1, 1976 the Commission adopted an Order containing numerous editorial changes to Part 2 of the rules and regulations. These changes were made to improve Part 2 from an editorial standpoint in preparation for the new edition of Volume II of the rules. (41 FR 49820, November 11, 1976.)

2. Several typographical errors were contained in this Order most of which resulted in misspellings, word omissions and punctuation errors. All of the typographical errors arose in the Appendix to the Order, specifically, in the text of the Geneva footnotes. In footnote (246) the comma after the word "services" in line 2 should be changed to a semicolon. In footnote (256) the word "service" in line 3 should be changed to "services". In footnote (258) the comma after the word "service" in line 3 should be changed to a semicolon, and a comma should be inserted between the words "fixed mobile" on line 3. In footnote (274) the word "provinces" in line 2 should be capitalized. In footnote (275) the word "Provinces" in line 2 was misspelled and the word "Rwanda" in line 2 was misspelled and the word "Sierra" in line 3 was misspelled. In footnote (281C) the words "United Arab Republic, Roumania, Czechoslovakia" should appear between the two words "the the" in line 1. Also, the double hyphen between "137—138 MHz" should be corrected to read "137–138 MHz". In footnote (295) a comma should be inserted after the words "MHz" on line 1. In footnote (305) the word "Sierra" was misspelled on line 1. In footnote (314) the comma after the word "service" on line 2 should be changed to a semicolon. In footnote (323) the word "mobile" was omitted after the word "aeronautical" on line 2. In footnote (324) the word "field" on lines 1 and 2 should be changed to "fixed". In footnote (364) the words "radio communication" on line 3 should be combined into one word, and the word "table" on line 4 should be capitalized. In footnote (364B) the word "Bulgaria" was misspelled on line 1, and the word "table" on line 5 should be capitalized. In footnote (368) the word "Roumania" was misspelled. In footnote (386) the word "service" should be inserted after the word "radionavigation" on line 2. In footnote (394) the words "radio location" should be combined into one word. In footnote (407) the band 13.25–13.56 MHz in line 2 should be corrected to read 13.25–13.5 GHz. In footnote (409) the word "Hungary" should be inserted between "Bulgaria, Poland" on line 1. In footnote (412) the word "services" on line 2 should be corrected to read "service". The complete text of all affected footnotes is contained below.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

In § 2.106 the Table is amended by changing the following Geneva footnotes to read as follows:

(246) In Australia, the band 50–54 MHz is allocated to the fixed, mobile and broadcasting services; the band 56–58 MHz is allocated to the amateur service.

(256) In Korea, the band 68–72 MHz is also allocated to the broadcasting service; the bands 76–87 MHz and 100–108 MHz are al-

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located to the fixed, mobile and broadcasting services.

(258) In North Borneo, Brunei, Sarawak, Singapore and Malaya, the band 72.8–74.6 MHz is also allocated to the aeronautical radionavigation service; the band 100–106 MHz is allocated to the fixed, mobile and broadcasting services.

(274) In Bulgaria, Japan, Poland, Portugal, Portuguese Oversea Provinces in Region 1 south of the equator, Roumania, Sweden, Czechoslovakia and the U.S.S.R. existing stations in the aeronautical mobile (OR) service in the band 132–136 MHz, may continue to operate for an unspecified period on a primary basis.

(275) In Burundi, Ethiopia, Gambia, Malawi, Nigeria, Portuguese Oversea Provinces in Region 1 south of the equator, Rhodesia, Rwanda, Sierra Leone and in the Republic of South Africa, the band 138–144 MHz is allocated to the fixed and mobile services. In these countries, existing stations in the fixed and mobile services may continue to operate in the band 132–136 MHz until 1 January 1976.

(281C) in Bulgaria, Hungary, Kuwait, Lebanon, Poland, the United Arab Republic, Roumania, Czechoslovakia, the U.S.S.R. and in Yugoslavia, the band 137–138 MHz is also allocated to the aeronautical mobile (OR) service.

(295) In India, the band 197–216 MHz, and in New Zealand, Pakistan and the Philippines, the band 200–216 MHz are also allocated to the aeronautical radionavigation service.

(305) In Nigeria, Sierra Leone and Gambia, the band 223–251 MHz is also allocated to the broadcasting service.

(314) In the United Kingdom, the band 400.05–420 MHz is also allocated to the radiolocation service; however, between 400.05 and 410 MHz the allocation to the radiolocation service is on a secondary basis.

(323) In Indonesia, the band 420–450 MHz is also allocated, on a secondary basis, to the fixed service and mobile, except aeronautical mobile, service.

(324) In Australia, the band 420–450 MHz is also allocated to the fixed service until the frequency assignments in this band for the fixed service stations are transferred to another band.

(364) In Region 1, tropospheric scatter systems may operate in the band 2550–2690 MHz, subject to agreement between the administrations concerned and those having terrestrial radiocommunication services, operating in accordance with the Table, which may be affected.

(364B) In Algeria, Bulgaria, Hungary, Poland, the United Arab Republic, Yugoslavia, Roumania, Czechoslovakia and the U.S.S.R., tropospheric scatter systems may operate in the band 2690–2700 MHz under agreements concluded between administrations concerned and those having services operating in accordance with the Table, which may be effected.

(368) In Albania, Austria, Belgium, Bulgaria, Hungary, Poland, Roumania, Sweden, Switzerland, Czechoslovakia and the U.S.S.R., the band 3100–3300 MHz is also allocated to the radionavigation service.

(386) In Albania, Bulgaria, Hungary, Poland, Roumania, Czechoslovakia and the U.S.S.R., the band 5470–5650 MHz is also allocated to the aeronautical radionavigation service.

(394) In Australia and the United Kingdom, the band 8250–8400 MHz is allocated to the radiolocation and fixed-satellite services.

(407) In Albania, Bulgaria, Hungary, Poland, Roumania, Czechoslovakia and the U.S.S.R., the bands 13.25–13.5 GHz, 14.175–14.3 GHz, 15.4–17.7 GHz, 23.6–24 GHz, 24.05–24.25 GHz and 33.4–36 GHz are also allocated to the fixed and mobile services.

(409) In Albania, Bulgaria, Hungary, Poland, Roumania, Czechoslovakia, and the U.S.S.R., the band 3.5–14 GHz is also allocated to the radionavigation service.

(412) In Japan the bands 24.25–25.25 GHz and 33.4–36 GHz are also allocated to the meteorological aids service.

[FR Doc.76–37017 Filed 12–15–76;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM–126; Amdt. 175–3]

PART 175—CARRIAGE BY AIRCRAFT

Approval of Bulk Tanks for Transportation By Air

The purpose of this amendment to the Department's Hazardous Materials Regulations is to amend § 175.320(c) to require air carriers to obtain FAA Regional Office approval for the use of bulk tanks, associated piping, and the installation thereof, in the air carriage of flammable and combustible liquids. The present requirements of 49 CFR 175.320 (c) state that an approval under a supplemental type certificate is necessary for the air carriage of these materials in bulk tanks. This requirement for such an approval was published in an amendment to 14 CFR 103.37 on December 16, 1975, (40 FR 58284), under this docket. Subsequently, this requirement was set forth in 49 CFR 175.320 under Docket HM–103/112 published on April 15, 1976, (41 FR 15972).

Section 175.320(c) presently requires air carriers with aircraft having type certificates covering bulk tanks to also obtain supplemental type certificates. Type certificates are required for tanks installed in aircraft at the time of its manufacture. However, this section does not take into account the need for expeditious handling of requests for approval of tanks, piping, and installations due to changes in demand for air deliveries of fuel to remote locations such as the native villages in Alaska. These areas may become dependent on delivery of fuel by air on short notice. The Bureau believes that approval of the tanks, piping, and their installation is necessary. Accordingly, approval by the appropriate FAA Regional Office is specified. The appropriate Regional Office is that office either issuing the type certificate or responsible for the region in which the aircraft is operating.

Since this amendment concerns internal procedures of the Department, notice and public procedure thereon are not necessary. This amendment is effective on January 1, 1977 less than 30 days after publication in the FEDERAL REGISTER, since it does not impose additional requirements on the public and because compliance with amendments to 49 CFR 175.320(c) as published under Docket HM103/112 becomes mandatory on that date.

In consideration of the foregoing, Part 175 of Title 49 CFR is amended as follows:

In § 175.320, paragraphs (c)(1) and (c)(2) are revised to read as follows:

§ 175.320 Cargo-only aircraft; only means of transportation.

* * * * *

(c) * * *

(1) The tanks and their associated piping and equipment and the installation thereof must have been approved for the material to be transported by the appropriate FAA Regional Office.

(2) In the case of an aircraft being operated by a certificate holder, the operator shall list the aircraft and the approval information in its operating specifications. If the aircraft is being operated by other than a certificate holder, a copy of the FAA Regional Office approval required by this section must be carried on the aircraft.

Effective: January 1, 1977.

(49 U.S.C. 1803, 1804, 1806; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued in Washington, D.C. on December 8, 1976.

JAMES T. CURTIS, JR.,
Director,
Materials Transportation Bureau.

[FR Doc.76–36592 Filed 12–15–76;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 71–13; Notice 12]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Brake Fluids

This notice amends Standard No. 116, Motor Vehicle Brake Fluids, to specify color coding requirements for hydraulic brake system fluids, to alter the warnings required on labels, to include a definition for "brake fluid," and to revise the definition of "hydraulic system mineral oil."

These amendments are based on a proposal to amend Standard No. 116 (49 CFR 571.116) issued by the National Highway Traffic Safety Administration (NHTSA) on December 5, 1975 (40 FR 56928). Interested persons were afforded an opportunity to submit comments on the proposal by February 5, 1976, and due consideration has been given to the 15 comments received. The National Motor Vehicle Safety Advisory Council did not take a position on the proposed amendments.

As proposed, paragraphs S1 and S2 of Standard No. 116 are amended to substitute the word "fluid" for the term "brake fluid," since the standard now includes requirements for hydraulic system mineral oils which are not normally called "brake fluids." A definition of the term "brake fluid" is added to the standard in order to clarify the distinction between it and hydraulic system mineral oil.

With regard to the proposed definition of hydraulic system mineral oil, Citroen requested that polychloroprene rubber (CR) be deleted from the list of components designated as incompatible with the mineral oil. The NHTSA has determined that Citroen's comments have merit, since the type of CR used in brake hoses is compatible with hydraulic system mineral oils, unlike the SBR, EPR, and NR materials also listed in the proposed definition. This final rule reflects revision of the definition accordingly.

In addition to changes in the labeling requirements, the notice proposed color coding requirements for both fluids and their containers and closures. After reviewing the comments submitted in response to the proposed amendments, the NHTSA has decided not to adopt the proposed changes in labeling (with one exception) or the proposed color coding of containers and their closures. The NHTSA has concluded that color coding of the fluids, combined with the existing warnings on container labels, is a sufficient safeguard against failures in hydraulic braking systems that may result from the use of improper or contaminated fluids.

The proposed color coding of fluids was generally supported by the commenters, although there were requests for colors different than those specified in the proposal. Burma-Castrol requested that the NHTSA defer color coding of fluids until the International Standard Organization (ISO) establishes standard colors for all motor vehicle fluids. This request is denied since the ISO is not actively developing a color code, and there is no indication that it will issue such a code at any time in the near future. The NHTSA can act immediately to reduce the potential safety hazards created by the use of improper fluids in hydraulic braking systems.

Alfred Teves GMBH requested that the color requirement for DOT 3 and DOT 4 brake fluids be blue instead of the proposed "colorless to amber," in order to distinguish these fluids from motor oil and antifreeze. This request is denied since there are many windshield cleaning solutions and some antifreeze fluids that are blue, and because most domestic brake fluids are currently "colorless to amber."

Volkswagen also requested that DOT 3 and DOT 4 brake fluids be blue in order to assure visibility of the fluids in translucent master cylinder reservoirs. The NHTSA does not consider visibility in master cylinders to be a problem since clear or amber fluids would be visible initially in most cases, or would soon become so, because brake fluids generally darken rapidly with use. The major purpose of the color coding requirements is to permit easy identification of fluids before they are placed in the vehicle, in order to prevent the mixing of an incompatible fluid in a braking system. Volkswagen pointed out that if amber or yellow fluids are mixed with the blue fluids that are currently in many master cylinder reservoirs, the resulting green colored fluid might be mistaken for a hydraulic system mineral oil (by this amendment, hydraulic system mineral oils are required to be green). The NHTSA does not consider this concern justification for a change in the proposed color because, as stated earlier, most brake fluids tend to become darker after they are in use for a short period.

Volkswagen suggested that hydraulic system mineral oils be required to be red in color instead of green to avoid any confusion with mixtures of existing brake fluids that would be green. The NHTSA rejects this suggestion in order to avoid confusion with the synthetic red fluids that must be used in some older brake systems. The addition of the wrong fluid to such vehicles could result in substantial damage to the brake system and potential brake failure.

The U.S. Army Mobility Equipment Research and Development Center requested that hydraulic system mineral oils be required to be colored red, consistent with the Army color code. The Center's comment cited examples of brake failure caused by the inadvertent mixing of incompatible fluids in hydromechanical systems. The NHTSA has determined, however, that inconsistency between the Army color code and the proposed color coding requirements for oils sold commercially should not create a safety problem. Only mineral oils procured specifically for use by the military would be colored red, because § 571.7(c) of NHTSA regulations (49 CFR 571.7(c)) provide that no standard applies to a vehicle or item of equipment manufactured for, and sold directly to, the Armed Forces of the United States in conformity with contractual specifications. If a situation arose in which it was necessary to buy commercial oil for a military vehicle, the oil would be purchased according to label information.

The Brake System Parts Manufacturers Council (BSPMC) iterated its previous comments to Docket No. 71–13, Notice 5, stating that requirements for color coding of fluids and containers would not enhance safety but would only increase cost. They commented that the matching of a fluid in a master cylinder reservoir by its color would be impossible after a few months since DOT 3 and DOT 4 fluids tend to darken rapidly and thereafter might not be distinguishable from incompatible green hydraulic system mineral oils. They further commented that because master cylinder reservoirs are not required to be color coded with the appropriate fluid, the inadvertent mixing of incompatible fluids would still continue to occur.

The NHTSA agrees that the matching of color coded fluids is difficult under certain conditions. However, the main purpose of the fluid color coding requirements is to enable users to distinguish among various unused brake fluids, rather than to match fluid in a master cylinder with additional fluid. It is particularly important to be able to distinguish fluids when they are in unmarked drums or pressured dispensing containers in garages.

Volkswagen requested that the NHTSA regulate the marketing of DOT 5 brake fluids to prevent their use in vehicles unsuited to DOT 5. Volkswagen takes issue with advertisements stating that DOT 5 fluids are suitable for all vehicles and that they can be mixed with all other types of brake fluids. It contended that DOT 5 fluids cause severe corrosion when added to brake systems containing DOT 3 fluids, and submitted a report of laboratory tests to substantiate this claim. Volkswagen recommended that DOT 5 fluids be excluded from regulation by Standard No. 116.

The request by Volkswagen is repetitious of a petition for reconsideration submitted by Ford Motor Company that was denied by a notice published May 16, 1975 (40 FR 21474). Ford petitioned to revoke the amendments that added DOT 5 brake fluids to the standard, because the fluids "may cause hazardous deterioration of brake systems or their components." The NHTSA rejected Ford's petition on the basis that the information submitted did not substantiate the claim that DOT 5 fluids are deleterious to some brake systems. Likewise, the NHTSA does not consider the test reports submitted by Volkswagen adequate to simulate actual field use, and field testing in the United States and Panama has demonstrated that mixtures of DOT 5 and DOT 3 fluids do not accelerate corrosion.

It should be understood that the NHTSA considers the question of the compatibility of DOT 5 fluids with brake systems and other brake fluids to be a separate issue from the question whether DOT 5 fluids should be regulated by Standard No. 116. The fact that DOT 5 fluids might cause corrosion in certain systems does not mean that there should not be specified performance requirements for DOT 5 fluids in Standard No. 116. By its terms Standard No. 116 applies "to all fluid for use in hydraulic brake systems of motor vehicles."

Concerning Volkswagen's alternative request that the NHTSA regulate the marketing and use of DOT fluids, we assume that Volkswagen intended this to be accomplished by the use of additional warnings on the labels of DOT 5 brake fluid containers. Any such labeling changes will have to be dealt with in future rulemaking. Interested persons should submit additional data concerning the compatibility of DOT 5 with various brake systems and other brake fluids, along with any recommended label changes.

The notice proposing these amendments also specified requirements for the color coding of brake fluid containers. Bell Chemical Company, Brake System Parts Manufacturers Council, Gold Eagle and Wagner Corporation opposed the proposed color coded border around the printed warnings on brake fluid containers, on the basis that the color of the border would have no significance to the typical consumer. They commented that the propsed borders would cost approximately one million dollars for printing and that no tangible benefit would be realized. After considering these comments, the NHTSA has decided that the

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color coded borders should not be required on brake fluid containers. Likewise, the color coded cap requirement is not included in paragraph S5.2.2.4 as was proposed, although the proposed labeling requirement of S5.2.2.5 is made final as S5.2.2.4. It specifies that the labeling requirements of the standard shall be placed on the protective outer container or carton of brake fluids whose inner container is not normally visible during use. Since the color-coded-border requirement is not adopted, the proposed paragraph S5.2.2.6 regarding color tolerance requirements is unnecessary and, therefore, is not included in the amendments.

Eight commenters opposed the proposed color coding requirements for container caps and closure devices. The commenters pointed out that consumers would not be cognizant of the significance of the colored caps, and that procurement of colored caps would result in high costs and require long lead times. It was also noted that the wrong color of cap could easily be inadvertently applied by packages or switched by users of the brake fluids. Further, they stated that since service stations and shops often mount dispenser pumps on one gallon brake fluid cans in place of their original caps, the purpose of color coded caps would be thwarted in many instances. The NHTSA has concluded that these arguments have merit. The proposed requirements for color coded caps and closures are not included in the amendments.

The proposed labeling changes included specification of the minimum wet boiling point in degrees Celsius as well as Fahrenheit, container capacity in liters as well as gallons, and colored border width in millimeters as well as inches. Classic Chemical supported these proposed labeling changes. Wagner Electric and Bell Chemical opposed them on the basis that metric equivalents do not serve a safety need and should be left to the jurisdiction of the Federal agencies responsible for the "metrication" program.

The agency's authority extends to labeling with safety information, and all available methods to increase the comprehensibility of labeling, including metric equivalents, is justified. Nonetheless, the NHTSA has concluded that the cost of the proposed metric labeling does not justify a change at this time. The proposed changes in S5.2.2.1(c), S5.2.2.2.(f) and S5.2.2.2(g)(4) are not adopted.

Classic Chemical objected to the proposed change in the last sentence of paragraph S5.2.1 regarding requirements for container sealing. The rewording was proposed for the purpose of clarifying the requirement that the container closure be tamper-proof to the extent that it would be obvious to a user that the closure had been previously opened. Classic Chemical commented that the present wording which refers to inclusion of a "tamper proof feature" is preferable to the proposed wording. After reconsideration, the NHTSA has decided that the proposed rewording could result in confusion rather than clarification. Therefore, paragraph S5.2.1 is not amended as was proposed.

Dow Corning Corporation, a manufacturer of DOT 5, a low-water-tolerance silicone brake fluid, earlier suggested that the admonition in S5.2.2.2(g)(3) to keep containers "tightly closed to prevent absorption of moisture" is unnecessary and redundant when applied to water intolerant brake fluids such as DOT 5 fluids. Based on this suggestion, the notice proposing these amendments specified the amendment of S5.2.2.2(g)(3) to read, "• • • to prevent entry of water and other contaminants." Wagner Electric commented that the S5.2.2.2(g)(3) warning label on DOT 3 and DOT 4 containers should not be required to be changed simply because the label does not apply, as worded, to DOT 5 brake fluids. They noted that consumer cost could be greatly reduced if only the labels on DOT 5 fluids are changed. The NHTSA agrees with this suggestion. Paragraph S5.2.2.2(g)(3) is therefore modified to add the following parenthetical: "(The last five words of the second sentence may be omitted from the labeling on DOT 5 containers.)"

Bowes Seal Fast commented that the third warning listed in S5.2.2.2(g) ("Store Brake Fluid Only In Its Original Container • • •") is contrary to the general garage practice of using dispensing containers that are continuously refilled from bulk containers. Bell suggested that warning number (3) be eliminated on the basis that warning number (2) is adequate. The NHTSA considers the dispensing containers to be devices for use rather than for storage, so warning number (3) is not contrary to normal garage practices. The NHTSA disagrees with Bell since warning number (2) concerns contamination of fluids in master cylinders, while warning number (3) pertains to the storage of fluids.

The notice proposing these amendments specified a new consumer warning against accepting containers whose "tamper proof" seals have been broken. Wagner opposed the proposed warning. They noted that metal screw caps on fluid containers are often very tightly fastened, and that consumers could not remove them without pliers to inspect the inner "tamper proof" seal. The tendency would be, according to Wagner, to not inspect the inner seal at the place of purchase. The NHTSA has considered these comments and further evaluated the possible problems of the sale of brake fluid or hydraulic system mineral oil containers refilled with other than approved fluid. It has been determined that the potential safety problem does not warrant the expense of adding another warning of this type to either the container or its outer closure. The proposed new warning, S5.2.2.2(g)(5), is not adopted.

The notice preceding these amendments proposed the amendment of paragraph S6.7.3(a) to specify the phrase "suitable solvent" rather than the solvents presently listed, to be used to inhibit frosting of the exterior surfaces of specimen containers in the test for fluidity and appearance at low temperature. After reconsideration, the NHTSA has decided that this proposed change might only create confusion and should, therefore, not be adopted. This does not mean that manufacturers are restricted to the use of ethanol, isopropanol, or acetone. The obligation of a manufacturer is to ensure that its certification of compliance is not false or misleading in a material respect, and that it has exercised due care in manufacturing to conform to the requirements of Standard No. 116 (15 U.S.C. 1397(b)(2)). A manufacturer is not required to follow specifically the test procedures of the standards, but only to ascertain, in the exercise of due care, that its product will conform to the standard's requirements when it is tested by the stated methods.

The NHTSA has determined that these amendments will have a negligible economic impact. It is estimated that the color coding requirements will have an annual cost of approximately $10,000. Because of residual inventories it should take several years before all brake fluids are color coded. After this phasing-in period it is estimated that the amendments will result in the reduction of approximately 400 accidents per year, with an annual consumer cost savings of $512,000. The NHTSA has determined that the amendments will have a negligible effect on the environment.

It has been determined that an effective date later than the normal statutory limit of one year is justified for these amendments in order to give manufacturers and packagers sufficient time to exhaust existing supplies of brake system fluids destined for new motor vehicles.

In consideration of the foregoing, Standard No. 116 (49 CFR 571.116) is amended as follows:

1. Section S1 is amended to read:

S1 *Scope.* This standard specifies requirements for fluids for use in hydraulic brake systems of motor vehicles, containers for these fluids, and labeling of the containers.

2. Section S2 is amended by deleting the word "brake".

3. In S4, a definition for "brake fluid" is added following the definition of "blister" and the definition of "hydraulic system mineral oil" is amended, to read:

S4 *Definitions*

• • • • •

"Brake fluid" means a liquid designed for use in a motor vehicle hydraulic brake system in which it will contact elastomeric components made of styrene and butadiene rubber (SBR), ethylene and propylene rubber (EPR), polychloroprene (CR) brake hose inner tube stock or natural rubber (NR).

• • • • •

"Hydraulic system mineral oil" means a mineral-oil-based fluid designed for use in motor vehicle hydraulic brake systems in which the fluid is not in contact with components made of SBR, EPR or NR.

• • • • •

4. In S5, the first sentence is amended to read:

S5 *Requirements.* This section specifies performance requirements for DOT 3, DOT 4 and DOT 5 brake fluids, requirements for brake fluid certification, and for container sealing, labeling and color coding for both brake fluids and hydraulic system mineral oils.

5. S5.1 is amended to read:

S5.1 *Brake fluid.* When tested in accordance with S6, brake fluids shall meet the following requirements.

6. S5.1.14 is added to read:

S5.1.14 *Fluid color.* Brake fluid and hydraulic system mineral oil manufactured on or after September 1, 1978, shall be of the color indicated:

DOT 3 and DOT 4—colorless to amber.
DOT 5—purple.
Hydraulic system mineral oil—green.

7. In S5.2.2.2, the words "other than hydraulic system mineral oil" are deleted.

8. S5.2.2.2(g)(3) is amended by the addition of "(The last five words of the second sentence may be omitted from the labeling on DOT 5 containers)" at the end of the text.

9. A new paragraph S5.2.2.4 is added to read:

S5.2.2.4 If a container for brake fluid or hydraulic system mineral oil is not normally visible but designed to be protected by an outer container or carton during use, the outer container or carton rather than the inner container shall meet the labeling requirements of S5.2.2.2 or S5.2.2.3, as appropriate.

10. Section S5.3 is amended by deleting the word "brake" preceding "fluid".

Effective date: September 1, 1978.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on December 6, 1976.

JOHN W. SNOW,
Administrator.

[FR Doc.76-36932 Filed 12-15-76;8:45 am]

[Docket No. 73-8; Notice 06]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

School Bus Seating

This notice amends Standard No. 222, *School Bus Passenger Seating and Crash Protection*, to delay the effective date for maximum rearward deflection of seats from April 1, 1977, to April 1, 1978.

Standard No. 222 (49 CFR 571.222), as published January 28, 1976 (41 FR 4016), established October 27, 1976, as the effective date of the standard, as mandated by the Motor Vehicle and School-bus Safety Amendments of 1974 (the Act) (Pub. L. 93-492). Congress subsequently amended the Act by Pub. L. 94-346 (July 8, 1976) to extend the effective date for the implementation of school bus standards to April 1, 1977.

The NHTSA has promulgated regulations on several aspects of performance mandated by Congress in the Act. These regulations become effective on April 1, 1977. The agency concludes, however, that compliance with one provision of Standard No. 222 by the April 1, 1977, effective date would be impracticable, would result in substantial economic waste, and would not be in the public interest.

Since publication of Standard No. 222, a misunderstanding has arisen within the industry concerning the definition of the term "absorbed" when used in connection with the requirements in sections S5.1.3.4 and S5.1.4.2. The NHTSA explained the term "absorbed" in an interpretation to Thomas Built Buses (July 30, 1976) to mean "receive without recoil." This interpretation requires that returned energy be subtracted from total energy applied to the seat back to calculate energy "absorbed" by the seat back.

School bus manufacturers tested their seats in accordance with the NHTSA definition of "absorbed" and found that the seats continued to comply with the requirements of Standard No. 222 when tested for forward performance (S5.1.3), but these same seats were marginally below the NHTSA requirements for rearward seat deflection. Based upon these test data, petitions have been received from Thomas Built Buses, Blue Bird Body Company, Carpenter Body Works, Wayne Corporation, and Ward School Bus Manufacturing, all requesting a change in rearward performance requirements.

The NHTSA has examined the data submitted by the manufacturers and concludes that the seats upon which the tests were made demonstrate a high probability of meeting most of the requirements of Standard No. 222. Further, the agency concludes that to mandate full compliance with the rearward performance requirements of Standard No. 222 would require extensive retooling and redesign. This would result in substantial economic waste of seats now in production and severe economic hardship for manufacturers.

The NHTSA is particularly concerned that to require full compliance with the rearward performance requirements at this late date might mean that manufacturers would be unable to redesign their seats in time to commence manufacture of completed buses on April 1, 1977. Since single-stage buses produced after April 1, 1977, must meet NHTSA safety requirements in all other respects, they will be substantially safer than buses currently in use. Therefore, the agency finds that it is in the interest of safety to ensure that these safer buses will be available on April 1, 1977, to replace older less safe models. To ensure that safer buses can be marketed without delay, the NHTSA extends the effective date of requirements for maximum rearward deflection of seats to April 1, 1978. It is emphasized that the numerous other requirements for school bus seating, including all other rearward performance requirements, remain in effect which ensures adequate interior protection as of April 1, 1977, as mandated by Congress. A proposal for minor modification of S5.1.4 (to be published shortly) will permit reinstitution of rearward deflection requirements following the 1-year delay.

Because of the imminent effective date of the school bus safety standards and the lead time required to modify seat design, the NHTSA for good cause finds that notice and public procedure on this amendment are impracticable and contrary to the public interest.

In consideration of the foregoing, S5.1.4(b) of Standard No. 222 (49 CFR 571.222) is amended by the addition, at the beginning of the first sentence, of the following phrase: "In the case of a school bus manufactured on or after April 1, 1978,".

Effective date: December 16, 1976, because this amendment relieves a restriction and does not impose requirements on any person, it is found, for good cause shown, that an immediate effective date is in the public interest.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 202, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392); delegation of authority at 49 CFR 1.50)

Issued on December 10, 1976.

CHARLES E. DUKE,
Acting Administrator.

[FR Doc.76-36986 Filed 12-15-76;8:45 am]

[Docket No. 74-21; Notice 05]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Windshield Zone Intrusion

This notice amends Standard No. 219, Windshield Zone Intrusion, to exclude walk-in van-type vehicles from the requirements of the standard.

The National Highway Traffic Safety Administration (NHTSA) proposed to exclude walk-in van-type vehicles from the applicability of Standard No. 219 (49 CFR 571.219) in a notice published March 11, 1976 (41 FR 10451). No opposition was registered in response to the proposed rulemaking. The National Motor Vehicle Safety Advisory Council did not take a position on the proposal.

The NHTSA, therefore, amends Standard No. 219 in accordance with the proposal. For the information of all interested persons, the NHTSA considers a "walk-in van-type" vehicle to be only the "step van" city delivery type of vehicle that permits a person to enter the vehicle without stooping.

It has been determined that this amendment will have a negligible economic and environmental impact, since it creates an exemption from existing

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requirements that is expected to affect relatively few vehicles.

In consideration of the foregoing, paragraph S3 of Standard No. 219 (49 CFR 571.219) is amended to read as follows:

S3. *Application.* This standard applies to passenger cars and to multipurpose passenger vehicles, trucks and buses of 10,000 pounds or less gross vehicle weight rating. However, it does not apply to forward control vehicles, walk-in van-type vehicles, or to open body-type vehicles with fold-down or removable windshields.

Effective date: December 16, 1976, because this amendment relieves a restriction and does not create additional obligations for any person and because it permits the resumption of manufacture of a vehicle type not intended to be covered by the standard, it is found that an immediate effective date is in the public interest.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on December 10, 1976.

CHARLES E. DUKE,
Acting Administrator.

[FR Doc.76-36985 Filed 12-15-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING TAKING AND IMPORTING OF MARINE MAMMALS

Cape Fur Seals; Waiver of Moratorium; Correction

In FR Doc. No. 76-34754 appearing on page 51795, in the issue of Wednesday, November 24, 1976, the Director, National Marine Fisheries Service amended Part 216—Regulations Governing Taking and Importing of Marine Mammals, Cape Fur Seals; Waiver of Moratorium.

The paragraph amending § 216.32 was erroneously stated and is corrected to read as follows:

§ 216.32 [Amended]

Section 216.32 is amended by deleting the number 19,180 from paragraphs (a), (a)(1), (b), and (f)(5) and substituting therefor, in each case, the number 23,170.

Dated: December 8, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-36994 Filed 12-15-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

[1 CFR Part 445]

PRIVACY ACT OF 1974

Proposed Regulations for Implementation

The following proposed regulations, drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974, are hereby offered for public comment. Interested parties should submit comments on or before January 17, 1977. Comments should be addressed to the Chairman, National Transportation Policy Study Commission, 312 House Office Building Annex #1, Washington, D.C. 20515. The Commission's system of records has been published in the December 10, 1976 issue of the FEDERAL REGISTER on Page 54157.

Signed this 10th day of December 1976, by

BUD SHUSTER,
Chairman.

It is proposed to add the following Part 445 to Title 1 of the CFR:

PART 445—PRIVACY ACT IMPLEMENTATION

Sec.

445.1 Purpose and scope.
445.2 Definitions.
445.3 Procedures for requests for access to individual records in a record system.
445.4 Times, places, and requirements for the identification of the individual making a request.
445.5 Access of requested information to the individual.
445.6 Request for correction or amendment of the record.
445.7 Agency review of request for correction or amendment of the record.
445.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
445.9 Disclosure of record to a person other than the individual to whom the record pertains.
445.10 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 445.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the National Transportation Policy Study Commission (hereafter known as the Commission) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 445.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it is collected.

§ 445.3 Procedures for requests for access to individual records in a record system.

An individual shall submit a request to the Executive Director of the Commission to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Executive Director of the Commission which states the individual's desire to review his or her record.

§ 445.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Executive Director of the Commission pursuant to § 445.3 shall present the request at the Commission offices, 312 House Office Building Annex No. 1, Washington, D.C. 20515, on any business day between the hours of 9 a.m. and 5 p.m. The individual submitting the request should present himself or herself at the Commission's offices with a form of identification which will permit the Commission to verify that the individual is the same individual as contained in the record requested.

§ 445.5 Access to requested information to the individual.

Upon verification of identity the Commission shall disclose to the individual the information contained in the record which pertains to that individual.

§ 445.6 Request for correction or amendment to the record.

The individual should submit a request to the Executive Director of the Commission which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with the provisions of § 445.4.

§ 445.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Executive Director of the Commission will acknowledge in writing such receipt and promptly either:

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 445.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Executive Director of the Commission to correct or to amend his or her record may submit a request for a review of such refusal to the Chairman, National Transportation Policy Study Commission, 312 House Office Building Annex No. 1, Washington, D.C. 20515. The Chairman will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Chairman extends such thirty day period. If, after his or her review, the Chairman also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Foundation and may seek judicial review of the Chairman's determination under 5 U.S.C. 552a (g)(1)(A).

§ 445.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record

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pertains, unless the disclosure has been listed as a "routine use" in the Commission's notices of its systems of records.

§ 445.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record in advance of receipt of the pages.

[FR Doc.76-36919 Filed 12-15-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Proposed Change in Nomination of Plum Commodity Committee Grower Members

Notice is given of a proposal to: (1) Increase the number of grower members nominated to serve on the Plum Commodity Committee from the Fresno District from six nominees to seven nominees; and (2) provide that one grower member be nominated from the Placer-Colfax District, North Sacramento Valley District, and Central Sacramento Valley District to serve on that committee.

The Plum Commodity Committee is established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917; 41 FR 17528). The order regulates the handling of fresh pears, plums, and peaches grown in California and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The grower representation on the Plum Commodity Committee is set forth in § 917.116 of Subpart—Rules and Regulations (7 CFR 917.100–917.179). Grower representation on the committee is allocated on the basis of production of plums in districts established under the order. The present allocation has been in effect since 1969. Production in some of the districts has changed since that time, thus the committee has recommended appropriate changes in representation to more nearly reflect current production patterns.

As proposed, the Placer-Colfax District (which currently nominates one grower member) and the North and Central Sacramento Valley Districts (which currently nominate one grower member) would nominate one member to represent all three districts. Membership from the Fresno District would be increased from six to seven members. It is intended that nominations of grower members to the Plum Commodity Committee to serve the two-year term ending the last day of February 1979, would be made on the basis of the changes recommended in this proposal.

All persons who desire to submit written data, views, or arguments in connection with this propbsal should file them, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than December 31, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is to amend § 917.116 to read as follows:

§ 917.116 Changes in nomination of Plum Commodity Committee members.

Nominations for membership on the Plum Commodity Committee shall be made by the growers of plums in the respective representative areas as follows:

(a) Kern District, Tehachapi District, South Coast District, and Southern California District one nominee.

(b) Tulare District two nominees.

(c) Fresno District seven nominees.

(d) Placer-Colfax District, North Sacramento Valley District, and Central Sacramento Valley District one nominee.

(e) All of the production area not included in the Kern District, Tehachapi District, South Coast District, Southern California District, Tulare District, Fresno District, Placer-Colfax District, North Sacramento Valley District, and Central Sacramento Valley District one nominee.

Dated: December 10, 1976.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-36963 Filed 12-15-76;8:45 am]

[7 CFR Part 959]

ONIONS GROWN IN SOUTH TEXAS

Proposed Handling Regulation

This proposal, designed to promote orderly marketing of South Texas onions, would impose minimum grade, size and container standards and require inspection of fresh market shipments to keep undesirable onions from being shipped to consumers.

Consideration is being given to the issuance of a handling regulation, hereinafter set forth, which was recommended by the South Texas Onion Committee, established pursuant to Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959). This program regulates the handling of onions grown in designated counties in South Texas and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1977 early spring crop of South Texas onions and of the marketing prospects for the shipping season which is expected to begin about March 7.

The proposed grade and size requirements are similar to last season's and are designed to prevent onions of poor quality or undesirable sizes from being distributed in fresh market channels.

Thus, only onions that contain not more than 20 percent defects of U.S. No. 1 grade and are not packed or loaded on Sunday except for export may be shipped from March 7 through May 14, 1977. Again this season in order to provide more orderly marketing from all districts, the inspection and container requirements are proposed to be extended through June 11, 1977.

The proposed container requirements should prevent the use of off-size or deceptive containers which could adversely affect the reputation and returns of South Texas onions. However, it would not preclude the use of containers customarily packed for the retail trade. The proposed prohibition on packaging and loading onions on Sunday is recommended principally to provide more orderly marketing by tailoring shipments from the production area more closely to the ability of receiving markets to accept marketings. However, this season handlers may, with approval of the committee, grade, package and load onions on Sunday for export, provided that they shut down packing and loading operations on the first working day after shipment for the same length of time as they operated on Sunday. This should prevent handlers who ship on Sunday for export from gaining a competitive advantage due to longer packing hours over handlers who do not have export orders.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Up to 100 pounds of onions may be handled, other than for resale, per day without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of onions.

The proposals with respect to special purpose shipments are recommended to allow the shipment of onions for experimental purposes or the use of containers including bulk bins which have been the subject of test shipments during past seasons, and should encourage exports by allowing the use of containers required for such purposes. Shipments for relief or charity should be exempt from inspection and assessment requirements since no useful purpose would be served by regulating such shipments.

All persons who desire to submit written data, views, or arguments in connection with this proposal should file the same in duplicate with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than January 3, 1977.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 959.317 Handling regulation.

During the period March 7 through June 11, 1977, no handler may package or load onions on any Sunday, except in accordance with paragraph (f) of this section, or handle any lot of onions grown in the production area, except red onions, unless such onions meet the assessment requirements of § 959.217 and the requirements of paragraphs (a), (b), (c), and (d) of this section, or unless such onions are handled in accordance with the provisions of paragraphs (e) or (f) of this section except the grade and size requirements of paragraphs (a) and (b) and the Sunday packaging prohibition shall terminate at 11:59 p.m. on May 14, 1977.

(a) *Grade requirements.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. onion standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small" 1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) "Medium"—2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(5) Tolerances for size in the U.S. onion standards shall apply except that for 'repacker' and 'medium' sizes not more than 20 percent, by weight, of onions in any lot may be larger than the maximum diameter specified. Application of tolerances in the U.S. onion standards shall apply.

(c) *Container requirements.* (1) 25-pound bags, with an average net weight in any lot of not more than 27½ pounds per bag, and with outside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with an average net weight in any lot of not more than 55 pounds per bag, and with outside dimensions not larger than 33 inches by 39½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal agencies.

(d) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (e) or (f) (3) of this section, unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document, upon request, is surrendered to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(e) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 100 pounds of onions per day without regard to the requirements of this section, but this exemption shall not apply to any shipment or any portion thereof of over 100 pounds of onions.

(f) *Special purpose shipments and culls.* (1) Onions may be handled in containers customarily packed for the retail trade and in other designated special purpose containers as follows:

(i) Each handler desiring to make such shipments shall first apply to the committee for and obtain a Certificate of Privilege to make such shipments.

(ii) After obtaining an approved Certificate of Privilege, each handler may handle onions packed in 2-, 3- or 5-pound containers customarily packed for the retail trade, or 50-pound cartons, if they meet the grade, size, and inspection requirements of paragraphs (a), (b) and (d) of this section and if they are handled in accordance with the reporting requirements established in subparagraph (2) of this paragraph on such shipments: *Provided*, That shipments of 2-, 3- and 5-pound containers shall not exceed 10 percent of a handler's total weekly onion shipments, *and provided further*, That shipments of 50-pound cartons shall not exceed 10 percent of a handler's total weekly onion shipments of all onions allowed to be marketed under this section.

(iii) The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designated net contents.

(iv) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(2) *Reporting requirements for shipments in designated special purpose containers.* Each handler who handles shipments of onions in containers customarily packed for the retail trade and in other designated special purpose containers, shall report thereon to the committee, the inspection certificate numbers, the grade and size of onions packed, and the size of the containers in which such onions were handled. Such report, in accordance with § 959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Also, each handler of such shipments of onions shall maintain records of such marketings, pursuant to § 959.80(c). Such records shall be subject to review and audit by the committee to verify reports thereon.

(3) *Experimental shipments.* Upon approval of the committee, onions may be shipped in bulk bins with inside dimensions of 47 inches x 37½ inches x 36 inches deep and having a volume of 59,440 cubic inches, or similar containers. Each container shall have a new perforated 2-mil polyethylene liner. Also, onions may be shipped in 40-pound cartons, but not to exceed 4,000 cartons. Such experimental shipments shall be exempt from paragraph (c) of this section but shall not exceed ten percent of a handler's total weekly onion shipments and shall be handled in accordance with safeguard provisions of § 959.54 and this paragraph. Also, the receiver must agree to furnish the committee with a report on the arrival condition of each shipment. Further, upon approval of the committee, onions may be shipped for other experimental purposes exempt from regulations issued pursuant to §§ 959.42, 959.52 and 959.60, provided they are handled in accordance with safeguard provisions of § 959.54.

(4) *Export shipments.* Upon approval of the committee, the prohibition against packaging or loading onions on any Sunday may be modified or suspended to permit the handling of onions for export. If a handler, with approval of the committee, grades, packages and ships onions for export on any Sunday, such handler shall on the first workday following shipment of the onions, cease all grading, packaging and shipping operations for the same length of time as the handler operated grading, packaging and shipping operations on Sunday.

(5) *Onions failing to meet requirements.* Onions failing to meet the grade, size, and container requirements of this section, and not exempted under paragraph (e) of this section, may be handled only pursuant to § 959.126. Culls may be handled pursuant to § 959.126(a)(1). Shipments for relief or charity may be handled without regard to inspection and assessment requirements.

(g) *Definitions.* "U.S. onion standards" mean the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (§§ 51.3195–51.3209 of this title), or the United States Standards for Grades of Onions (Other Than Bermuda Grenex-Grano and Creole Types) (§§ 51.2830–51.2854 of this title), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "U.S. No. 1" shall have the same meaning as set forth in these standards.

All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

Dated: December 13, 1976.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-37039 Filed 12-15-76;8:45 am]

[7 CFR Part 981]

[Docket No. AO-214-A6]

ALMONDS GROWN IN CALIFORNIA

Emergency Decision On Proposed Further Amendment of the Marketing Agreement and Order; Correction

In FR Doc. 76-35015 appearing at page 52478 in the FEDERAL REGISTER of Tuesday November 30, 1976, the following changes should be made:

1. On page 52478 in the second full paragraph of the third column, the word "edible" is corrected to read "inedible".

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2. On page 52479 in the second full paragraph of the first column, the word "or" is corrected to read "of".

3. On page 52479, the second sentence of paragraph (1) of the *General findings* is corrected to read "Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed."

Dated: December 13, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-37040 Filed 12-15-76;8:45am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76-SW-47]

ALTERATION OF VOR FEDERAL AIRWAYS

Withdrawal of Notice of Proposed Rulemaking

On September 30, 1976, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 43182) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would exclude the airspace 4,000 feet MSL and below from V-76, V-76N and V-306 within the Camp Swift Military Operations Area (MOA).

Subsequent to publication of the NPRM it was determined by the Department of Air Force that the type of training to be conducted in the Camp Swift MOA does not require alteration of Federal Airways.

In consideration of the foregoing, notice is hereby given that the proposal contained in Airspace Docket No. 76-SW-47 (41 FR 43182) is withdrawn.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 9, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-36736 Filed 12-15-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-WE-33]

ALTERATION OF TRANSITION AREA

Palmdale, California

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Palmdale, California Transition Area.

The proposed additional transition area is necessary in order to provide controlled airspace for radar vectors in the Trona-China Lake areas. Edwards Radar Approach Control (RAPCON) facility is presently providing radar vectors in the area but is limited due to lack of controlled airspace. Designation of controlled airspace in the area would provide for descending arrival aircraft to China Lake to the minimum vector altitude and for vectoring departure aircraft.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before January 17, 1977 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with the Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public document will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261.

In consideration of the foregoing, the FAA proposed the following airspace action.

In § 71.181 (41 FR 440) the description of the Palmdale, California Transition Area is amended by deleting all between latitude 36°07'00" N., longitude 117°35'00" W., and to latitude 35°34'30" N., longitude 116°29'40" W., and substituting therein the following: Latitude 35°47'46" N., longitude 116°55'20" W., to latitude 35°21'35.8" N., longitude 116°55'20" W., to latitude 35°34'30" N., longitude 116°29'40" W.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California on December 3, 1976.

LYNN L. HINK,
Acting Director, Western Division.

[FR Doc.76-36729 Filed 12-15-76;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Chapter I]

VETERANS EDUCATION POLICIES AND PROCEDURES

Opportunity for Public Comment

CROSS REFERENCE: For the text of DVB Circular 20-76-84, and of Appendices A through H to that circular, see FR Doc. 76-36835, published in the Notices section of this issue under the Veterans Administration.

This document contains Veterans Administration policies and procedures concerning Pub. L. 94-502 (90 Stat. 2383), relating to various aspects of the veterans education benefits program. In this document the Veterans Administration also requests comments on Circular 20-76-84, which will be considered in drafting final regulations implementing Pub. L. 94-502.

POSTAL RATE COMMISSION

[39 CFR Part 3001]

[Docket No. RM77-3]

POSTAL RATE COMMISSION AND EX PARTE COMMUNICATIONS

Rules Governing Public Attendance At Meetings

DECEMBER 10, 1976.

Pursuant to the authority contained in 39 U.S.C. 3603 and 5 U.S.C. 552b(g), the Postal Rate Commission gives notice that it proposes to amend certain sections of 39 CFR Part 3001, Subpart A, to implement (1) the open meeting requirements of section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409) and (2) the ex parte provisions of section 4 of that act.

Section 3(a) of Pub. L. 94-409, which was signed by the President on September 13, 1976, amends title 5 of the United States Code by adding a new section 552b. Subsection (b) of this new section requires that, except as provided in section 552b(c), every portion of every meeting of government agencies subject to the act must be open to public observation. In addition, section 552b(g) requires each agency subject to section 552b to promulgate regulations to implement the requirements of sections 552b(b) through (f) within 180 days of enactment and following opportunity for written comment by any person.

The Sunshine Act does not specifically require subject agencies to promulgate regulations implementing the ex parte provisions found in section 4 of the Act. Nevertheless, the Commission believes that implementing regulations are necessary since the ex parte provisions contained in the Sunshine Act are, for the most part, broader and more stringent than those currently found in the Commission's rules of practice. The current rules, for example, forbid ex parte communications by any party or limited participator, or any person acting on his behalf or any interceder (39 CFR 3001.7 (a)). The Sunshine Act, however, extends the prohibition to any "interested person outside the Agency" (5 U.S.C. 557 (d)(1)(A)). In addition, the Sunshine Act provides more severe sanctions for violation of the ex parte provisions than do the current rules. Under the Sunshine Act the Commission may go so far as to consider a violation of the ex parte rules grounds for a decision adverse to the violator (5 U.S.C. 556(d)).

In order to incorporate the open meeting requirements of section 3(a) of the Act (5 U.S.C. 552b(b) through (f)) the Commission proposes to amend 39 CFR 3001.5 by adding a new paragraph (n). Although section 552b(g) of title 5 does not require subject agencies to define the term "meeting," paragraph (n) would incorporate the definition of meeting contained in section 552b(a)(2).

The Commission also proposes to add a new § 3001.43.

Section 3001.43(a) would provide that Commission meetings shall be open to the public. Neither this section nor § 3001.5(n) is intended to prevent members of the Commission from considering individually business that is circulated to them sequentially in writing. The Commission has frequently used notation voting to dispose of procedural matters and to make minor refinements to orders informally adopted but not yet issued.[1] It will continue in this practice.

Section 3001.43(b) would provide that the Secretary of the Commission shall make the physical arrangements for open Commission meetings.

Section 3001.43(c) would provide 10 exceptions to the requirement that Commission meetings be open to the public. Paragraph (c) incorporates the exceptions found in 5 U.S.C. 552b(c)(1) through (10).

Section 3001.43(d) would provide procedures for closing Commission meetings under subsection (c) by the recorded vote of three Commissioners. Paragraph (d)(2) of § 3001.43 would require the Commission to vote whether to close a meeting whenever any person whose interests may be directly affected by a portion of the meeting requests them to close the meeting for the reasons referred to in paragraph (c) pertaining to

(1) Matters involving accusation of a crime or formal censure (§ 3001.43(c)(5)),

(2) Information of a personal nature (§ 3001.43(c)(6)), or

(3) Investigatory records compiled for law enforcement purposes (§ 3001.43(c)(7)).

Paragraph (d)(3) of § 3001.43 would provide that, within one day of a vote to close a meeting, the written copy of the vote reflecting the vote of each member is to be made public, and, if a portion of a meeting is to be closed, a written explanation of the action must be made available together with a list of all persons expected to attend.

Paragraph (d)(4) of § 3001.43 would require any person who wishes to protest a Commission decision to close a meeting pursuant to (d)(1) or (d)(2) to file a motion to open the meeting within 24 hours of the time for which the closed meeting is scheduled.

The Commission has determined that a majority of its meetings may be closed pursuant to paragraphs (c)(4), (c)(8), (c)(9)(i), or (c)(10) of § 3001.43 or any combination thereof. With respect to paragraph (c)(10), the Commission notes that over the course of FY 1976 approximately 57 percent of its agenda items involved the initiation, conduct, or disposition of proceedings requiring a hearing on the record pursuant to sections 556 and 557 of title 5. The Commission interprets section 552b(c)(10) of title 5 as including information which is likely to specifically concern the initiation, conduct, or disposition of Commission proceedings pursuant to 39 U.S.C. 3622 (ratemaking), 3623 (changes in the mail classification schedule), and 3661 (advisory opinions on changes in postal services). Although these proceedings are not cases of agency adjudication as that term is used in the Administrative Procedure Act (5 U.S.C. 551(4)-(7)), nevertheless, they do require a determination on the record under sections 556 and 557 of title 5. Thus, they are procedures for formal rulemaking and are within the exemption of 5 U.S.C. 552b(c)(10).[2] Accordingly paragraph (d)(5) of § 3001.43 would provide for the closing of any Commission meeting under paragraphs (c)(4), (c)(8), (c)(9)(i), or (c)(10) of § 3001.43 or any combinations thereof by a vote at the beginning of the meeting. The procedures of paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) of § 3001.43, and the announcement procedures of paragraph (e) would not apply to a meeting closed under these special procedures.

Section 3001.43(e)(1) would require the Commission to announce information pertinent to a meeting at least a week in advance and to state whether it will be open or closed. Three Commissioners may determine by recorded vote that Commission business requires the meeting to be called earlier. When this is done public announcement must be at the earliest practicable time.

Normally the Commission will meet every week. Copies of its agenda for that week will be available on Monday at 12 noon in the Commission's Office of Information at 2000 L Street, NW., Washington, D.C. 20268. Further requests for information may be directed to the Information Officer of the Postal Rate Commission by calling phone number (202) 254-5614.

Paragraph (e)(2) of § 3001.43 would allow the time or place of a meeting to be changed following public announcement if the change is announced at the earliest practicable time. Change in the subject matter of a meeting or in the determination to open or close it, however, would require a vote by three Commissioners that agency business so requires.

Paragraph (e)(3) of § 3001.43 would require certain information announcing the meeting to be published in the FEDERAL REGISTER.

For every closed meeting, § 3001.43 (f)(1) would require the General Counsel of the Commission (1) to certify that it may be closed and (2) to state the relevant exemption. The Commission would be required to maintain complete transcripts or recordings of all closed meetings. For meetings closed pursuant to paragraphs (c)(8), (c)(9)(i), or (c)(10) of § 3001.43, however, the Commission may choose to maintain either a transcript or recording, or a set of minutes.

Paragraph (f)(2) of § 3001.43 would require the Commission to make public the recording, transcript, or minutes of any item discussed which was not exempt under paragraph (c). It would also establish the length of time during which the Commission must maintain the transcripts, recording, or minutes.

In addition to the amendments proposed above, the Commission also proposes amendments to implement the ex parte provisions of section 4 of the Sunshine Act.

Section 3001.5 of 39 CFR is proposed to be amended by adding a new paragraph (o). This paragraph incorporates into the Commission's rules the definition of ex parte communications found in section 4(b) of the Sunshine Act (5 U.S.C. 551(14)).

Section 3001.7 of 39 CFR is proposed to be amended to combine the provisions of sections (4)(a) and (4)(c) of the Sunshine Act (5 U.S.C. 557(d) and 556(d)) with several of the Commission's current ex parte rules.

Section 3001.7(a) would forbid ex parte communications between interested persons outside the Commission and Commission employees involved in the decisional process.

Paragraph (a)(3) of § 3001.7 would retain the Commission's rule concerning offers of ex parte communications. Commission employees subject to the prohibitions are required to decline to listen to such communications. Some changes are proposed to make the language of the current rule match the phraseology of the proposed rules based on the Sunshine Act.

Paragraph (b) of § 3001.7 would apply ex parte prohibitions to the Officer of the Commission and his staff. An exception is provided for communications between the Officer of the Commission and participants in agency proceedings where the communications relate to matters of procedure only. Paragraph (b) is based on the Commission rule currently in effect concerning communications between participants and the Officer of the Commission. No similar provision is contained in the Sunshine Act. Nevertheless, the Commission thinks that the policy of insulating the OOC from ex parte communications on matters of substance is a wise one and should be retained.

Section 3001.7(c) would establish provisions concerning the applicability of the new rules as found in 5 U.S.C. 557(d)(1)(E) and (d)(2). Section 3001.7(c)(1) would provide that ex parte prohibitions apply when a proceeding is noticed for hearing; however, if the person responsible for an ex parte communication has knowledge that it will be noticed, the pro-

[1] Notation voting has sustained judicial scrutiny. T.S.C. Motor Freight Lines, Inc. v. U.S., 186 F. Supp. 777, 784-86 (S.C. Tex. 1960) aff'd sub nom. Herrin v. U.S., 366 U.S. 419 (1961).

[2] See House of Representatives Committee on the Judiciary, Government in the Sunshine Act, H.R. Rep. 94-880, Part 2, 94th Cong., 2d Sess. 9 (1976).

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hibitions would apply from the time he acquires such knowledge. Section 3001.7 (c)(2) woud provide that these ex parte prohibitions do not constitute authority to withhold information from Congress.

Section 3001.7(d) would embody the sanctions authorized for violation of the ex parte rules (5 U.S.C. 556(d), 557(d)(1)(D)). Under § 3001.7(d)(1) the presiding officer would be permitted to require a violator of the ex parte prohibitions to show cause why his interest in the proceeding should not be adversely affected on account of his violation. Section 3001.7(d)(2) would authorize the presiding officer to consider a violation of the ex parte prohibitions as grounds for an adverse decision.

In consideration of the foregoing, the Commission proposes to amend 39 CFR Part 3001 as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURES

Subpart A—Rules of General Applicability

1. By adopting a new § 3001.5 (n) and (o) to read as follows:

§ 3001.5 Definitions.

• • • • •

(n) *Commission meeting* means the deliberations of at least three Commissioners where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by § 3001.43(d) or § 3001.43(e).

(o) *Ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by subchapter II of chapter 5 of title 5.

2. By revising § 3001.7 to read as follows:

§ 3001.7 Ex parte communications.

(a) *Prohibition.* In any agency proceeding which is required to be conducted in accordance with section 556 of title 5, except to the extent required for the disposition of ex parte matters as authorized by law:

(1) No interested person outside the Commission shall make or knowingly cause to be made to any member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

(2) No member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or knowingly cause to be made to any interested person outside the Commission an ex parte communication relevant to the merits of the proceeding;

(3) A member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding who receives an ex parte communication relevant to the merits of the proceeding shall decline to listen to such communication and explain that the matter is pending for determination. If unsuccessful in preventing such communication, the recipient thereof shall advise the communicator that he will not consider the communication and shall promptly and fully inform the Commission in writing of the substance of and the circumstances attending the communication, so that the Commission will be able to take appropriate action.

(4) A member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or knowingly causes to be made, a communication prohibited by this paragraph shall place on the public record of the proceeding:

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses, and memoranda stating the substance of all oral responses to the materials described in paragraphs (a)(4)(i) and (a)(4)(ii) of this section;

(5) Requests for an opportunity to rebut, on the record, any facts or contentions contained in an ex parte communication which have been placed on the public record of the proceeding pursuant to paragraph (a)(4) of this section may be filed in writing with the Commission. The Commission will grant such requests only where it determines that the dictates of fairness so require. Generally, in lieu of actually receiving rebuttal material, the Commission will direct that the alleged factual assertion and the proposed rebuttal be disregarded in arriving at a decision.

(b) *Officer of the Commission.* The prohibitions of paragraph (a) of this section shall apply to the Officer of the Commission designated to represent the interest of the general public (or his staff or the technical staff designated to support him); however, the prohibitions of paragraph (a) of this section do not apply to a communication between a participant or a limited participator and the Officer of the Commission (or his staff or the technical staff designated to support him), if such communication relates to matters of procedure only, including matters arising in the course of requests for interrogatories or discovery and informal requests for clarification of evidentiary material. Said Officer shall file with the Commission a monthly report briefly describing any ex parte communication received pursuant to this exception, and this report, which shall be a public record of the Commission, shall identify the individuals involved and the nature of the subject matter discussed.

(c) *Applicability.* (1) The prohibitions of paragraph (a) of this section shall apply beginning at the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

(2) Paragraph (a) of this section does not constitute authority to withhold information from Congress.

(d) *Violations of ex parte rules.* (1) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this paragraph (a) of this section, the Commission, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(2) The Commission may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the Commission, consider a violation of paragraph (a) of this section sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.

3. By adopting a new § 3001.43 to read as follows:

§ 3001.43 Public attendance at Commission meetings.

(a) *Open Commission meetings.* Commissioners shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in paragraph (c) of this section, every portion of every meeting of an agency shall be open to public observation. The public shall not be permitted to participate nor to record any of the discussions by means of electronic or other devices, or cameras. Access to documents being considered at Commission meetings shall be obtained in the manner set forth in § 3001.42.

(b) *Physical arrangements for open meetings.* The Secretary shall be responsible for seeing that ample space, sufficient visibility, and adequate acoustics are provided for public observation of the Commission meetings.

(c) *Closed Commission meetings.* Except in a case where the Commission finds that the public interest requires otherwise, the second sentence of paragraph (a) of this section shall not apply to any portion of a Commission meeting, and the requirements of paragraphs (d) and (e) of this section shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the Commission properly determines that such portion or portions of its meeting or the disclosure of such information is likely to

(1) Disclose matters that are (i) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) In fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5), provided that such statute (i) Requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) Interfere with enforcement proceedings, (ii) Deprive a person of a right to a fair trial or an impartial adjudication, (iii) Constitute an unwarranted invasion of personal privacy, (iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) Disclose investigative techniques and procedures, or (vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would

(i) Be likely to (a) lead to significant financial speculation in currencies, securities, or commodities, or (b) significantly endanger the stability of any financial institution; or

(ii) Be likely to significantly frustrate implementation of a proposed Commission action, except that paragraph (c)(9)(ii) of this section shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required by law to make such disclosure on its own initiative prior to taking final Commission action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpoena or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition by the Commission of a particular case of formal Commission adjudication pursuant to the procedures in section 554 of title 5 or otherwise involving a determination on the record after opportunity for a hearing as provided by 3624(a), 3661(c) of title 39.

(d) *Procedures for closing meetings.* (1) Action under paragraph (c) of this section shall be taken only when three Commissioners vote to take such action. A separate vote of the Commissioners shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to paragraph (c) of this section, or with respect to any information which is proposed to be withheld under paragraph (c) of this section. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraphs (c)(5), (c)(6), or (c)(7) of this section, the Commission upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(3) Within one day of any vote taken pursuant to paragraph (d)(1) or (d)(2) of this section, the Commission shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Commission shall, within one day of the vote taken pursuant to paragraph (d)(1) or (d)(2) of this section, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(4) Any person may protest a Commission decision to hold a closed meeting under paragraphs (d)(1) or (d)(2) of this section by filing a motion to open the meeting. Such motion shall be addressed to the Commission and shall set forth with particularity the statuory or other authority relied upon, the reasons for which the movant believes the meeting should not be closed, and the reasons for which the movant believes that the public interest requires the meeting to be open. Such motion shall be filed with the Secretary no later than 24 hours prior to the time for which the closed meeting is scheduled.

(5) The Commission has determined that a majority of its meetings may be closed to the public pursuant to paragraphs (c)(4), (c)(8), (c)(9)(i) or (c)(10) of this section or any combination thereof. Therefore, pursuant to 5 U.S.C. 552b(d)(4), Commission meetings shall be closed to the public pursuant to paragraphs (c)(4), (c)(8), (c)(9)(i), or (c)(10) of this section or any combination thereof when three Commissioners vote by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each Commissioner on the question, is made available to the public. The provisions of paragraphs (d)(1), (d)(2), (d)(3) and (e) of this section shall not apply to any portion of a meeting to which paragraph (d)(5) of this section applies: Provided, that the Commission shall, except to the extent that such information is exempt from disclosure under the provisions of paragraph (c) of this section, provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof at the earliest practicable time.

(e) *Scheduling and public announcement.* (1) In the case of each meeting, the Commission shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting. Such announcement shall be made unless three Commissioners determine by a recorded vote that Commission business requires that such meeting be called at an earlier date, in which case the Commission shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(2) The time or place of a meeting may be changed following the public announcement required by paragraph (e)(1) of this section only if the Commission publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or a portion of a meeting, to the public, may be changed following the public announcement required by paragraph (e)(1) of this section only if (i) three Commissioners determine by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and (ii) the Commission publicly announces such change and the vote of each Commissioner upon such change at the earliest practicable time.

(3) Immediately following each public announcement required by paragraph (e) of this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

(f) *Certification of closed meetings; transcripts, electronic recordings, and minutes.* (1) For every meeting closed pursuant to paragraphs (c)(1) through (c)(10) of this section, the General Counsel of the Commission shall publicly

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certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Commission. The Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (c) (8), (c) (9) (i), or (c) (10) of this section, the Commission shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(2) The Commission shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes (as required by paragraph (f) (1) of this section) of the discussion of any item on the agenda, or any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Commission determines by a majority vote of all its members (i) contains information which may be withheld under paragraph (c) of this section, and (ii) is not required by the public interest to be made available. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The Commission shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

Comments regarding the efficacy and fairness of the proposed rules are invited and are to be filed by January 13, 1977. Any replies to such comments are to be filed by February 3, 1977. An original plus 19 fully conformed copies of all comments and replies must be filed with the Secretary of the Commission at the offices of the Postal Rate Commission, 2000 L Street, NW., Washington, D.C. 20268.

By the Commission.

JAMES R. LINDSAY,
Secretary.

[FR Doc.76-36966 Filed 12-15-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 656-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revision of the New Jersey Implementation Plan

On October 27, 1976 New Jersey submitted to the Environmental Protection Agency (EPA) a proposed revision to the New Jersey State Implementation Plan. Supplemental information was submitted by New Jersey on November 22, 1976.

The proposal, if approved by EPA, would permit until July 12, 1977 the continued use by 18 facilities of fuel oil with a sulfur content higher than that normally required by the applicable State regulation. The 18 facilities affected are all located in Salem, Cumberland or Cape May Counties in New Jersey. The temporary use of fuel oil with a higher sulfur content was approved previously by EPA for 16 of these facilities on July 12, 1976 (41 FR 28491); approval was granted for an additional facility on October 1, 1976 (41 FR 43408). Finally, the temporary use of higher sulfur content fuel oil at one more facility was proposed in the FEDERAL REGISTER on October 28, 1976 (41 FR 47283), but final action has not yet been taken by EPA. A list of the 18 facilities affected by this proposal, their location, the normally applicable (under Subchapter 9, Sulfur in Fuels, of the New Jersey Administrative Code (N.J.A.C. 7:27-9.2)) and proposed sulfur in fuel limitations are presented in Table 1.

TABLE 1.—*Proposed Sulfur in Fuel Limitations*

[In percent]

Source	Location	Sulfur by weight	
		Normally applicable limitation	Proposed limitation
National Bottle Corp.	Salem City, Salem County	0.3	2.0
E. I. DuPont de Nemours & Co.	Deepwater, Salem County	.3	1.5
Heinz-USA	Salem City, Salem County	.3	2.0
B. F. Goodrich Chemical Co.	Pedricktown, Salem County	.3	1.5
Anchor Hocking Corp.	Salem City, Salem County	.3	2.0
Atlantic City Electric Deepwater Station	Penns Grove, Salem County	.3	1.5
E. I. DuPont de Nemours & Co.	Carney's Point, Salem County	.3	1.5
Mannington Mills, Inc.	Salem City, Salem County	.3	2.0
Atlantic City Electric B. L. England Station	Beesley Point, Cape May County	1.0	2.0
Hunt Wesson Foods, Inc.	Bridgeton City, Cumberland County	1.0	2.5
Kerr Glass Manufacturing Corp.	Millville City, Cumberland County	1.0	2.5
Owens Illinois, Inc., Kimble Products Division.	Vineland City, Cumberland County	1.0	2.5
Leone Industries	Bridgeton, Cumberland County	1.0	2.5
Owens Illinois, Inc.[1]	Bridgeton City, Cumberland County	1.0	1.5
Progresso Food Corp.	Vineland City, Cumberland County	1.0	2.5
Bridgeton Dyeing & Finishing Corp.	Bridgeton City, Cumberland County	1.0	2.5
Whitehead Bros. Co.	Haleyville, Cumberland County	1.0	2.5
Vineland Chemical Co.	Vineland City, Cumberland County	1.0	2.5

[1] Owens Illinois currently is required to use fuel oil with a sulfur content of 1 pct. A request from New Jersey to permit the use of fuel oil with a sulfur content of 1.5 pct at this facility is presently being considered for approval by EPA (see 41 FR 47283).

The control strategy demonstration for this proposed plan revision was submitted by the State at the time that the earlier EPA action of July 12, 1976 was being considered. This control strategy demonstration shows through the use of a diffusion analysis that the proposed plan revision will not cause any contravention of national ambient air quality standards for sulfur oxides in New Jersey. For the currently proposed plan revision, the control strategy demonstration also includes air quality data for Cumberland, Salem, Atlantic and Cape May Counties for the period of July through September 1976 when higher sulfur content fuel oil than is normally required was being used in these counties. The data show no contraventions of the national ambient air quality standards for sulfur oxides.

In addition to New Jersey's control strategy demonstration submitted in support of the approval action published in the FEDERAL REGISTER on July 12, 1976, EPA analyzed the impact of that proposal on the air quality of the City of Philadelphia. This analysis predicted that the potential impact, although small (0.3 $\mu g/m^3$ sulfur dioxide, annual average), could be expected to increase the ambient concentrations of sulfur dioxide in Philadelphia. At the time of EPA's analysis the air quality standards for sulfur dioxide were being attained in the City of Philadelphia. However, recent ambient air monitoring data indicates that standards are being contravened.

EPA indicated in its July 12, 1976 FEDERAL REGISTER notice that New Jersey would have to consider air quality in Philadelphia in any subsequent request to EPA to extend beyond the initial 6-month period the use of fuel oil with a sulfur content higher than normally required. In response, in its current submittal the State reports that the City of Philadelphia Air Management Services is of the opinion that the presently approved use in New Jersey of fuel oil with a higher sulfur content than normally required has had little or no impact on

Philadelphia's air quality. The State also notes that EPA, Region III has not determined (41 FR 28826; July 13, 1976) that the Pennsylvania State Implementation Plan is "substantially inadequate" to provide for the attainment and maintenance of standards in Philadelphia and has determined that any existing air quality problems will be eliminated once the Eddystone Power Plant, which is located in Pennsylvania, completes the installation of sulfur dioxide emission control systems. EPA invites information or comment on these issues.

In this regard, in accordance with the provisions of section 110(a)(2)(E) of the Clean Air Act, EPA is requesting the State of Pennsylvania to comment with respect to the impact of this proposal on the attainment and maintenance of standards in the City of Philadelphia.

It should be noted that, if EPA approves the currently proposed sulfur-in-fuel limitations, such approval will expire on July 12, 1977, the same expiration date as applies to New Jersey's approval. Any extension of this date will require that New Jersey submit to EPA for approval a new proposal to revise the State's Implementation Plan. It also should be noted that this relaxation of sulfur-in-fuel limitations can limit or preclude, depending upon the degree of air quality degradation, the type and amount of future growth in the affected areas.

This proposed revision to the New Jersey State Implementation Plan was submitted in accordance with all applicable EPA requirements as contained in 40 CFR Part 51. A public hearing on this proposal was held by the State on October 12, 1976.

This notice is issued, as required by section 110 of the Clean Air Act, to advise the public that comments may be submitted on whether the proposed plan revision should be approved or disapproved. Only comments received during a period for public comment ending on or before January 17, 1977. The Administrator's decision to approve or disapprove the proposed plan revision will be based on whether the revision meets the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

Copies of the proposed plan revision are available for public inspection during normal business hours at the Air Branch, EPA, Region II, 26 Federal Plaza, New York, New York 10007, and at the New Jersey Department of Environmental Protection, John Fitch Plaza, Trenton, New Jersey 08625. Additional copies are available for inspection at the Public Information Research Unit, 401 M Street, S.W., Washington, D.C. 20460. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York 10007.

Dated: December 9, 1976.

G. M. HANSLER,
Regional Administrator,
Environmental Protection Agency.

[FR Doc.76-36927 Filed 12-15-76;8:45 am]

[40 CFR Part 52]

[FRL 656-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revision of the New York State Implementation Plan

On September 20, 1976, the State of New York submitted to the Region II Office of the Environmental Protection Agency (EPA) a proposed revision to the New York State Implementation Plan (SIP). Supplemental information pertaining to this revision was submitted on November 5, 1976. The proposal, which revises 6 NYCRR 225, "Fuel Composition and Use," was submitted in accordance with all applicable EPA requirements as contained in 40 CFR Part 51 including a public hearing which was held by the State on October 9 and 10, 1975.

A detailed discussion of each aspect of the proposed revision to Part 225 follows:

A. Changes in Current Sulfur Content Limitation for Fuel Oil in the Niagara Frontier Air Quality Control Region (AQCR).

1. *Regulation of fuel sulfur content.* The proposal revises the State's control strategy for the attainment and maintenance in the Niagara Frontier AQCR (Erie and Niagara Counties) of national ambient air quality standards for sulfur oxides. Since October 1, 1975, the approved SIP for New York State has limited the sulfur content of fuel oil used in the entire Niagara Frontier AQCR to 1.1 percent. A limitation of 2.2 percent sulfur in fuel oil was in effect before October 1, 1975. Under the State's proposal the applicable limitations on the sulfur content of fuel oil which may be used in the AQCR are as follows:

a. 1.1 percent sulfur in fuel oil in the South Buffalo-Lackawanna area. This area consists of the entire City of Lackawanna and part of the City of Buffalo (primarily the portion south of Interstate 190).

b. 1.7 percent sulfur in fuel oil as a 3-month average and 2.0 percent maximum for the rest of the AQCR until December 1, 1977.

c. 1.1 percent sulfur in fuel oil for the entire AQCR effective December 1, 1977.

2. *Sulfur dioxide emissions.* The average sulfur content of residual fuel oil used during 1975 in the AQCR was 1.32 percent. Based on 1975 fuel use data, a limit for sulfur in fuel oil of 1.1 percent in South Buffalo-Lackawanna and a 1.7 percent 3-month average in the rest of the AQCR equates to an annual average sulfur content of 1.47 percent for residual fuel oil. This increases sulfur dioxide emissions over those which occurred in 1975 in the AQCR by 3,000 tons per year. The increase in sulfur dioxide emissions resulting from the proposed revision over that which would occur if the current limitation of 1.1 percent were in effect is 5,800 tons per year for the entire AQCR.

For South Buffalo-Lackawanna, the use of fuel oil with a 1.1 percent sulfur limit will reduce sulfur dioxide emissions by 428 tons per year from 1975 emissions. However, if emission sources increase their operating rates and reach maximum fuel use, a 1.1 percent limit will increase sulfur dioxide emissions by 390 tons per year over 1975 emissions.

The State indicates in its submittal that further changes in sulfur dioxide emissions in the AQCR are expected during 1976 and 1977. These changes include:

a. An increase in emissions resulting from increased production levels at industrial process facilities in South Buffalo-Lackawanna;

b. A decrease in emissions resulting from compliance by the Donner Hanna Company and the Bethlehem Steel Corporation with the State's regulation, 6 NYCRR 214, "By-Product Coke Oven Batteries." Both facilities are located in South Buffalo-Lackawanna;

c. A decrease in emissions resulting from compliance by the Niagara Mohawk Power Corporation's C.R. Huntley Steam Station with Part 225; and

d. An increase in emissions resulting from increased fuel oil use required by natural gas curtailments to current users of natural gas.

3. Air quality. The national ambient air quality standard for sulfur oxides (sulfur dioxide) is 80 $\mu g/m3$ (0.03 ppm) as an annual arithmetic average. In 1975, the annual average concentrations of sulfur dioxide observed at two sampling sites were equal to or greater than 0.03 ppm. Both sites are located in South Buffalo–Lackawanna. For the 12-month period ending September 9, 1976, the annual averages at both sites increased. The site and their annual concentration for 1975 and the 12-month period ending September 9, 1975 are shown in the Table I.

TABLE I.—*Annual average sulfur dioxide concentrations (parts per million)*

Site location	Address	Average for the 12-mo period ending—	
		Dec. 31, 1975	Sept. 9, 1976
Buffalo	P.S. 20, 84 Harrison Ave.	0.032	0.045
Lackawanna	P.S. 4, 36 11th St.	.030	.053

The national ambient air quality standards for sulfur dioxide are not being exceed in the AQCR outside of South Buffalo-Lackawanna.

4. *Anaylsis.* The submittal by the State indicates that the increase in the allowable sulfur content of fuel oil in the area outside of South Buffalo-Lackawanna will not contribute to the contraventions of the air quality standards in South Buffalo-Lackawanna or cause additional contraventions in the AQCR. The State believes that coke ovens in South Buffalo-Lackawanna are the principle source of the sulfur dioxide which is causing the contraventions and that standards will be attained upon the control of these sources by compliance with Part 214.

The analysis by the State is based on the use of modified rollback techniques. However, EPA hereby advises the State that for subsequent plan revisions of Part 225 for the Niagara Frontier AQCR, the State must demonstrate attainment of

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the standards utilizing diffusion modeling techniques. Acceptable diffusion modeling for this revision is not possible because a complete and accurate emission inventory for the Niagara Frontier does not exist.

In an effort to assist the State in preparing subsequent plan revisions to demonstrate attaintment and maintenance of standards, the EPA Region II Office is currently assisting the State in the development of a complete and accurate emission inventory. This work is being performed under an EPA contract and will be followed by diffusion modeling of the AQCR. The work is scheduled for completion in mid-1977.

At this time, within the context of the limited data base available for the Niagara Frontier, EPA agrees with the State's conclusion that the proposed revision can reasonably be expected not to cause or contribute to the contravention of ambient air quality standards.

As a further point supporting its proposed revision, New York State indicates that during 1975 it was informed by the fuel suppliers for the AQCR that the suppliers would not be able to meet the 1.1 percent limit for sulfur in fuel oil effective October 1, 1975. The State notes in its submittal to EPA that almost all of the fuel oil consumed in the AQCR is produced and supplied by two local refineries. Additional fuel oil is supplied to the area from an out-of-State refinery. Canada has been the primary source of crude oil for these refineries. However, the Canadian government has recently instituted a plan to phase out crude oil exports by January 1, 1984 on a stepwise basis. The State also notes that the refineries are now attempting to develop alternative sources of low sulfur crude oil; however, this is made difficult by the present crude oil supply and transportation conditions in the AQCR.

B. *Changes affecting special limitations.* Under § 225.2(b), the Commissioner of the NYSDEC has the authority to approve a special limitation increasing the permissible sulfur content of fuel used by small air pollution sources in areas where the ambient air quality standards for sulfur dioxide are being met. For large sources, the Commissioner also has the authority under § 225.2(c) to approve a special limitation increasing the permissible sulfur content of fuel used after the source owner demonstrates that the use of the higher sulfur fuel would not contribute to the contravention of the ambient standards.

The State has requested that EPA approve a change in the cutoff point for applicability of § 225.2 (b) and (c) for coal burning sources from the present 250 million BTU per hour to 100 million BTU per hour. Therefore, coal burning sources greater than 100 million BTU per hour would be considered to be large sources. This change is proposed because coal users have a greater air pollution impact than oil users of an equivalent heat input.

C. *Changes incorporating gas into fuel mixtures.* The State has requested that EPA approve a revision to § 225.5 to delete § 225.5(a)(2) and modify the formula contained in § 225.5(a)(1) dealing with sulfur dioxide emissions from the burning of fuel mixtures. These changes permit the allowable emissions of sulfur compounds to be determined by prorating on the basis of the heat input from gaseous fuels in addition to that from oil and coal. At present, only coal and oil may be used in applying the formula found in § 225.5(a)(1). The State finds no good reason for excluding gaseous fuels from prorating.

D. *Changes in fuel reporting requirements.* The proposed revision to § 225.7 (c) requires a person selling fuel to furnish fuel sale records upon request of the State. This will eliminate the present necessity for NYSDEC personnel to expend time and travel to inspect these fuel records. The proposed revision also states what information a fuel analysis should include.

E. *Changes in determining operating levels for boilers.* The State has requested that EPA approve a revision to delete the word "rated" from §§ 225.1(a)(1), 225.2 and 225.6 where the phrase "rated total heat input" currently appears. The State believes that the use of the work "rated" in association with total heat input is ambiguous since uncertainty exists whether the work "rated" refers to the rated heat input of the boilers or the entire facility. The intent of the regulation is to consider the total maximum heat input of the facility.

This notice is issued, as required by section 110 of the Clean Air Act, to advise the public that comments may be submitted for a period on or before January 17, 1977, on whether the proposed revision to 6 NYCRR 225, "Fuel Composition and Use," should be approved or disapproved. Only comments received during the 30-day public comment period hereby established will be considered. the Administrator's decision to approve or disapprove the proposed plan revision will be based on whether such revision meets the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

A copy of the proposed plan revision is available for public inspection during normal business hours at the Air Branch, EPA, Region II, 26 Federal Plaza, New York, New York 10007; at the New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233; and at the New York State Department of Environmental Conservation, Region 9, 584 Delaware Avenue, Buffalo, New York 14202. Additional copies are available for inspection at the Public Information Research Unit, 401 M Street, S.W., Washington, D.C. 20460. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

Dated: December 8, 1976.

G. M. HANSLER,
Regional Administrator,
Environmental Protection Agency.

[FR Doc.76-36928 Filed 12-15-76;8:45 am]

[40 CFR Part 52]
[FRL 659-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Montana Plan Revisions

Correction

In the issue for Monday, December 6, 1976, FR Doc. 76-35730 appearing on page 53370 was incorrectly published as a Notice. It should have appeared as a Proposed Rule with the hearings set forth as above.

NATIONAL SCIENCE FOUNDATION

[45 CFR Part 614]

NATIONAL SCIENCE BOARD

Open Meeting Regulations

The National Science Board is proposing the regulations set out below to implement the Government in the Sunshine Act, 5 U.S.C. 552b. The Board invites and would appreciate written comments on the proposed regulations from anyone who is interested. Please send such comments to:

General Counsel, National Science Foundation, Washington, D.C. 20550.

The Board can promise that any comment will be fully considered before promulgation of final regulations only if it receives the comment on or before January 21, 1977.

It is the policy of the United States and of the National Science Board to give the public open access to the decisionmaking of the Board to the fullest extent that is practicable, consistent with the rights of individuals, and consistent with the ability of the Board and the Government generally to carry out their responsibilities. Thus, the general rule under the Act and § 614.1 of the proposed regulations is that "every portion of every meeting of the National Science Board will be open to public observation". Because of the need to protect the rights of citizens and the functioning of the Foundation and the Government as a whole, however, there must be some exceptions. The exceptions under which portions of the Board's meetings may be closed and certain other information may be withheld are spelled out in proposed § 614.2, which with limited and non-substantive exceptions follows the language of the Act. The Board will be called upon to determine how these rather abstract provisions apply to specific Board deliberations. It will do so on a case-by-case basis, taking a separate vote for each meeting if it is considering closing any portion of the meeting. Hard-and-fast rules are not feasible here. For the guidance of the public, however, and to allow the Board the benefit of public comment, the Board wishes to make clear its present inclinations as to certain types of Board deliberations.

General policy deliberations of all types will normally be open to the public and will usually take up most of any Board meeting.

The Executive Branch of the Government has long taken the position that internal deliberations on budget matters before the President has forwarded his budget to the Congress are privileged. The Board understands that the Office of Management and Budget (OMB) will soon provide guidance on how, if at all, the Sunshine Act affects the application of this position to budget deliberations of the Board and other affected agencies. The Board will follow the OMB guidance.

Portions of most Board meetings are devoted to considering particular proposed awards to institutions for the use of individual investigators or groups of investigators. In most cases the Board will close those portions of its meetings in order to protect the personal privacy of the investigators and, in at least some cases, their trade secrets and confidential commercial or financial information.

Portions of meetings in which the Board specifically considers the personal or professional qualifications of individuals will ordinarily be closed.

In particular, portions of meetings in which the Board considers recommendations to the President on filling vacancies in the Office of Director, Deputy Director, or Assistant Director of the Foundation or vacancies in the membership of the Board itself will almost invariably be closed. Public discussion of candidates could easily disclose highly personal information and seriously invade their privacy. Moreover, premature revelation of confidential recomendations to the President would be likely in many cases to significantly frustrate implementation of the recommendations.

Board discussions of any Foundation disputes or negotiations with grantees, contractors, other Federal agencies, or other independent parties may often be closed in order to protect personal privacy, to present frustration of the implementation of a negotiating strategy, or to forestall complication of a judicial or similar proceeding.

Again, none of these indications of present Board inclinations represents any hard-and-fast rule. Nor are the types of Board deliberations mentioned exhaustive. Nor are the accompanying brief explanations to be taken as legal justifications for the closings. The Board will decide whether to open or close meetings based on specific circumstances and with the advice of counsel. Explanation of the Board's action and counsel's certificate of its propriety will be provided each time any portion or portions of a particular meeting are closed. The Board nonetheless wishes to give the public an opportunity to understand and comment on its present thinking.

These regulations, when made final, will, like the Act they implement, apply not only to the National Science Board but also to its Executive Committee whenever that Committee is meeting pursuant to its authority to act on behalf of the Board. Proposed Regulations § 614.8. Neither these regulations nor the Act, however, will otherwise apply to the committees of the Board, for the Act applies to a "subdivision" of an affected agency only when and if the subdivision is "authorized to act on behalf of the agency". 5 U.S.C. 551b(a)(1).

The remainder of the proposed regulations concern primarily procedural, notice, and recordkeeping requirements and are self-explanatory.

TEXT OF PROPOSED REGULATIONS

PART 614—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

Sec.
614.1 General rule.
614.2 Grounds for closing meetings.
614.3 Materials relating to closed portions of meetings.
614.4 Opening of transcript or recording.
614.5 Public announcement.
614.6 Meeting changes.
614.7 Record vote.
614.8 Application to Board Executive Committee.

AUTHORITY: Government in the Sunshine Act, sec. 552b of Title 5, United States Code; 90 Stat. 1241.

§ 614.1 General rule.

Except as otherwise provided in these regulations, every portion of every meeting of the National Science Board will be open to public observation.

§ 614.2 Grounds for closing meetings.

(a) The National Science Board may by record vote close any portion of any meeting if it properly determines that an open meeting

(1) Is likely to disclose matters that (i) are specifically authorized under criteria established by Executive Order to be kept secret in the interests of national defense or foreign policy and (ii) are in fact properly classified pursuant to the Executive Order;

(2) Is likely to relate solely to the internal personnel rules and practices of the National Science Foundation;

(3) Is likely to disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That the statute (i) requires in such a manner as to leave no discretion on the issue that the matters be withheld from the public, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Is likely to involve accusing any person of a crime, or formally censuring any person;

(6) Is likely to disclose personal information where the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Is likely to disclose investigatory law-enforcement records, or information which, if written, would be contained in such records, but only to the extent provided in 5 U.S.C. 552b(v)(7);

(8) Is likely to disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Is likely to disclose information, the premature disclosure of which would

(i) In the case of information received from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) Be likely to significantly frustrate implementation of a proposed Foundation action, unless the Foundation has already disclosed to the public the content or nature of its proposed action or is required by law to make such disclosure on its own initiative before taking final action; or

(10) Is likely to specifically concern the Foundation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

(b) Anyone who believes his interests may be directly affected by a portion of a meeting may request that the Board close it to the public for any reason referred to in paragraphs (a)(5), (6), or (7) of this section. The request should be addressed to the National Science Board at the headquarters of the National Science Foundation. It will be circulated to Members of the Board if received at least three full days before the meeting, and on motion of any Member, the Board will determine by record vote whether to close the affected portion of the meeting.

§ 614.3 Materials relating to closed portions of meetings.

If a portion or portions of any meeting of the National Science Board are closed to the public under § 614.2:

(a) The General Counsel of the National Science Foundation shall publicly certify that, in his opinion, that portion or portions may properly be closed to the public. The certificate shall state the exemptions under 5 U.S.C. 552b(c) that make the closings proper.

(b) The presiding officer of the meeting (usually the Chairman of the Board) shall furnish a statement setting forth the time and place of the meeting and the persons present.

(c) The Board shall make a complete transcript or electronic recording adequate to record fully the proceedings of each portion of the meeting that is closed to the public.

(d) The National Science Board office shall maintain the General Counsel's certificate, the presiding officer's statement and the transcript or recording of the meeting for at least two years after the meeting and at least one year after the Board completes consideration of any proposal, report, resolution, or similar matter discussed in any closed portion of the meeting.

§ 614.4 Opening of transcript of recording.

(a) Except as otherwise provided in this section, the transcript or electronic recording of every portion of every meet-

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ing closed to the public will promptly be made available on request to any member of the public in an easily accessible place. The National Science Board office will furnish to any member of the public on request copies of the transcript or of a transcription of the recording disclosing the identity of each speaker, and will charge for the copies or transcriptions no more than the actual cost of duplication or transcription.

(b) The Board will, however, withhold the transcript or recording of the discussion of any agenda item if the Chairman of the Board or a Board Member designated by him determines that the discussion contains information which should be withheld under the same standards as apply for closing meetings under § 614.2.

(c) The Board will release any transcript or recording withheld under paragraph (b) of this section when the chairman of the Board or any person designated by him determines that the grounds for withholding it no longer apply.

(d) A request under paragraph (a) of this section should be directed in writing to the Executive Secretary of the Board, should clearly state what is requested, and should contain a promise to pay the costs of any duplication or transcription requested.

§ 614.5 Public announcement.

(a) Except as provided in paragraphs (c) and (d) of this section, the National Science Board will make a public announcement of each Board meeting at least one week before the meeting takes place. The announcement will cover: (1) The time, place, and subject matter of the meeting; (2) what portions of the meeting, if any, are to be closed to the public; and (3) the name and phone number of the official designated to respond to requests for information on the meeting.

(b) Each such announcement will be promptly made available to journals of general scientific interest. Immediately following the issuance of such an announcement it will be submitted for publication to the FEDERAL REGISTER.

(c) The announcement may be made less than a week before the meeting it announces or after the meeting only if (1) the Board by record vote determines that agency business requires the meeting to be called on such short or after-the-fact notice and (2) a full announcement is made at the earliest practicable time.

(d) All or any portion of the announcement of any meeting may be omitted if the Board by record vote determines that the announcement would disclose information which should be withheld under the same standards as apply for closing meetings under § 614.2.

§ 614.6 Meeting changes.

(a) The time or place of a meeting of the National Science Board that has been publicly announced as provided in § 614.5 may subsequently be changed, but any such change will be publicly announced at the earliest practicable time.

(b) The subject matter of any portion of any meeting of the Board that has been publicly announced as provided in § 614.5 or the determination whether any portion of any meeting so publicly announced will be open or closed may subsequently be changed, but only when: (1) The Board determines by record vote that agency business so requires and that no earlier announcement of the change was possible, and (2) the Board publicly announces the change and the vote of each member on the change at the earliest practicable time.

§ 614.7 Record vote.

(a) For purposes of this part a vote of the National Science Board is a "record vote" if: (1) It carries by a majority of all those holding office as Board Members at the time of the vote; (2) no proxies are counted toward the necessary majority; and (3) the individual vote of each Member present and voting is recorded.

(b) Within one day of any such record vote or any attempted record vote that fails to achieve the necessary majority under paragraph (a)(1) of this section the Board office will make publicly available a written record showing the vote of each member on the question.

(c) Within one day of any record vote under which any portion or portions of a Board meeting are to be closed to the public, the Board office will make available a full written explanation of the Board's action and a list of all persons expected to attend the meeting, showing their affiliations.

§ 614.8 Application to Board Executive Committee.

All the provisions of this part applicable to the National Science Board shall apply equally to the Executive Committee of the Board whenever the Executive Committee is meeting pursuant to its authority to act on behalf of the Board.

Dated: December 9, 1976.

CHARLES H. HERZ,
General Counsel.

[FR Doc.76-37014 Filed 12-15-76;8:46 am]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 173 and 178]

[Docket No. HM-146; Notice No. 76-13]

SHIPPING CONTAINERS

Extension of Service Life of DOT 3HT Cylinders

The Materials Transportation Bureau (MTB) is considering amending §§ 173.34 and 178.44 of the Department's Hazardous Materials Regulations as they pertain to shipments of certain nonflammable, non-poisonous compressed gases by extending the service life of DOT 3HT specification cylinders from 15 years to 24 years.

DOT 3HT cylinders are made of high strength steel with high operating wall stresses. Because of these high stresses, the authorized service life of the 3HT cylinder is specifically limited. Authorized service life in the original DOT 3HT specification was limited to 4380 pressurization (equivalent to a 12-year life based on once-a-day pressurization) or 12 years, whichever occurred first. In 1970 while retaining the 4380 pressurization limitation, the 12 years was extended to 15 years by Docket HM-31, Amendment Nos. 173-19 and 178-9 (35 FR 5331, March 31, 1970). That docket provided for consideration of further extension if sufficient justification was provided.

This proposal is based on the petitions by the Air Transport Association, Inc. (ATA), dated July 17, 1975, and Compressed Gas Association, Inc. (CGA), dated March 6, 1973. These Associations have submitted the results of a comprehensive test program performed on cylinders selected at random representing eight existing 3HT cylinder sizes. The test cylinders selected had been in service for an average of 14.2 years. The test results show that:

1. Each cylinder of the 26 cylinders subjected to a pressure cycling test passed the 10,000 cycles required for new cylinders.

2. Of 24 cylinders that were pressurized to burst, one cylinder failed to withstand the specified minimum burst pressure requirement for new cylinders (2.22 times the service pressure). This cylinder burst at 2.11 times the service pressure. Considering that this cylinder has been in service for 14 years and has successfully passed other prescribed tests, such as the hydrostatic test, magnetic particle inspection, and visual inspection, this minimal deviation in burst pressure is not considered significant.

3. The test regimen, consisting of but not limited to complete internal and external visual inspection, magnetic particle inspection, hydrostatic testing, cycling and physical testing, was followed and all results obtained were satisfactory.

The ATA, in its supporting data, showed that the field service recharging frequency of these cylinders was estimated to be not more than once in 10 days. Based on the 4,380 pressurization allowed, this is equivalent to 120 years service life.

The MTB agrees that the petitions have merit. In addition, the MTB on its own initiative is proposing to require that the cylinder be permanently marked with its rejection elastic expansion (REE). The reason for this proposal is to make the retester aware of this requirement peculiar only to the DOT 3HT specification. The MTB proposes to amend certain sections in the regulations, covering cylinder rejection due to excessive elastic expansion, as follows:

1. For new cylinders, the REE instead of the original elastic expansion (EE) must be marked on the cylinder.

2. For existing cylinders, the REE must be determined and then marked on the cylinder near the original EE prior to the next retest.

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 173 and 178 as follows:

1. In § 173.34, paragraphs (e)(13)(i) and (e)(13)(iii) would be revised; paragraph (e)(13)(v) would be added to read as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

* * * * * * *

(e) * * *

(13) * * *

(i) Cylinder shall be subjected, at least once in three years, to a test by hydrostatic pressure in a water jacket, for the determination of the expansion of the cylinder. A cylinder must be condemned if the elastic expansion exceeds the marked rejection elastic expansion.

(ii) * * *

(iii) A cylinder must be condemned at the termination of a 24-year period following the date of the original test or after 4,380 pressurizations, whichever occurs first. If a cylinder is recharged more than an average of once every other day, an accurate record of the number of rechargings must be maintained by its owner, or his agent.

(iv) * * *

(v) A cylinder made before [effective date of this rule] and not yet marked with a rejection elastic expansion (REE) must be marked with that REE in cubic centimeters near the marked original elastic expansion. The REE for a cylinder is 1.05 times its original elastic expansion.

2. Section 178.44-23(a)(4) would be revised to read as follows:

§ 178.44-23 Marking.

(a) * * *

(4) Rejection elastic expansion (REE) in cubic centimeters (cc) near the date of test. The REE for a cylinder is 1.05 times its original elastic expansion.

Interested persons are invited to give their views on these proposals. Communications should identify the docket number and submitted to the Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted. Communications received on or before March 22, 1977, will be considered before final action is taken on these proposals. All comments received will be available for examination by interested persons at the Office of Hazardous Materials Operations, Room 6500, Trans Point Building, 2100 Second Street, S.W. Washington, D.C., both before and after the closing date for comments.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102.)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued at Washington, D.C., on December 8, 1976.

C. H. THOMPSON,
Acting Director, Office of Hazardous Materials Operations.

[FR Doc.76-36593 Filed 12-15-76;8:45 am]

[49 CFR Parts 172, 173, 174, 176, 177]

[Docket No. HM-143; Notice No. 76-11]

BLASTING AGENTS

Proposed Rule Making

Correction

In FR Doc. 34554, appearing at page 52083 in the issue of Friday, November 26, 1976, make the following changes on page 52084:

1. In column three, in the table of contents for Part 172, the words "EXPLOSIVE A," "EXPLOSIVE B," "EXPLOSIVE C," and "BLASTING AGENTS" should all be in capital letters;

2. In the table, under the heading "Maximum net quantity in 1 package, cargo only aircraft," the figure should read "100 lb.";

3. In the first column, the BLASTING AGENT label should read from the lower left hand corner diagonally to the upper right hand corner.

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 72-23; Notice 02]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Seat Belt Anchorages

This notice proposes the elimination of an optional configuration of the test device used in Standard No. 210, *Seat Belt Anchorages*, to evaluate the strength of seat belt anchorages. A clarification in the description of another test device is also proposed.

Standard No. 210 (49 CFR 571.210) requires that the seat belt anchorages in motor vehicles comply with specified strength requirements. The procedure for strength testing is set forth in paragraph S5 of the standard. It involves the attachment of seat belts to the anchorages, followed by the application of force to the seat belt which is thereby transferred to the anchorage itself.

Force is applied to Type 1 and Type 2 seat belt assemblies through body blocks that simulate the human torso. The body blocks are described in Figures 2 and 3 of the standard. Experience in compliance testing demonstrates that minor changes in their description is justified.

Figure 2 describes the body block for lap belt anchorage testing. Recent experience with a similar body block used in Standard No. 222 (49 CFR 571.222) has shown that the description can be clarified somewhat by modification of the drawing in Figure 2. The proposed modifications are not intended to change the requirements of the standard in any way. To illustrate the proposed change, both the present Figure 2 and the proposed new Figure 2 are reproduced below.

Figure 3 describes the body block for combination shoulder and lap belt anchorage testing. An optional "buckle cutout" is shown on the surface of the body block, which means that a manufacturer may, if it chooses, make an indentation in the face of the body block to accommodate buckle hardware. NHTSA compliance test experience with the cutout demonstrates that the edge of the cutout places additional stress on the belt webbing and interferes with its movement, thereby complicating the test of the underlying anchorage.

The agency estimates that the "buckle cutout" option is disadvantageous to manufacturers and therefore is not being utilized. For this reason, the option is no longer justified and the agency proposes its deletion. However, it is conceivable that some manufacturer utilizes the cutout option, and therefore comments are solicited on the proposed modification.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: January 31, 1977.

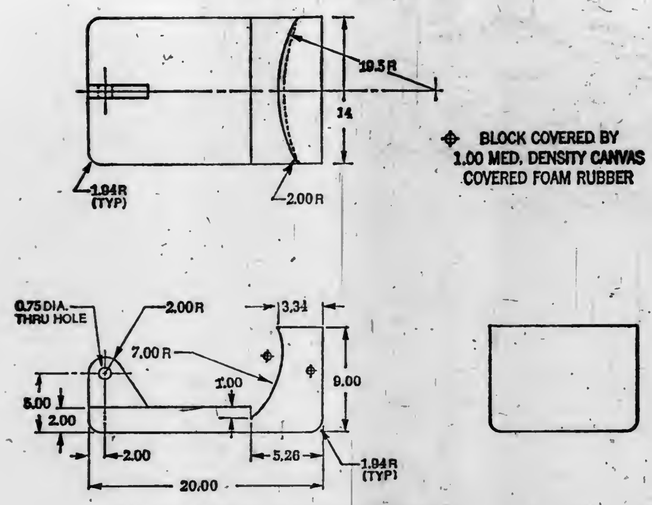
Proposed effective date: 30 days after publication of final rule.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on December 8, 1976.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

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(PROPOSED) FIGURE 2 – BODY BLOCK FOR LAP BELT

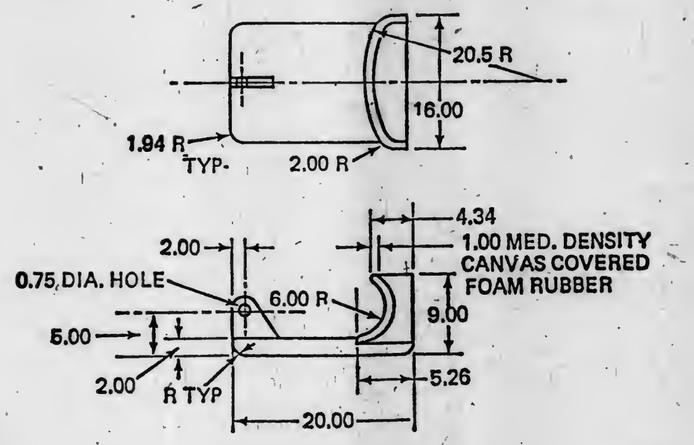


FIGURE 2 - BODY BLOCK FOR LAP BELT

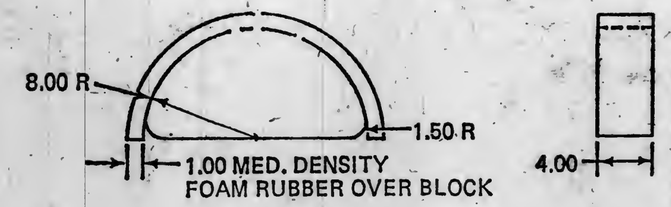


FIGURE 3 - BODY BLOCK FOR COMBINATION SHOULDER AND LAP BELT ANCHORAGE

[FR Doc.76-36934 Filed 12-15-76;8:45 am]

[49 CFR Part 571]

[Docket No. 74-14; Notice 7]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Advance Notice Concerning Improvement of Seat Belt Assemblies

This is an advance notice of proposed rulemaking to advise the public that the National Highway Traffic Safety Administration (NHTSA) is considering several modifications of its occupant crash protection standards as they regulate seat belt assembly performance.

Standard No. 209, *Seat Belt Assemblies* (49 CFR 571.209), specifies requirements for the construction of seat belt assemblies. Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), requires the installation of seat belt assemblies (that conform to Standard No. 209) at each designated seating position of most motor vehicles. Exceptions to the installation requirement exist for passenger positions in heavy trucks and buses. Standard No. 210, *Seat Belt Assembly Anchorages*, specifies location and strength requirements for the anchorages to which assemblies are attached.

The purpose of this ANPRM is to discuss possible new requirements for seat belt assembly performance intended to increase their rate of usage and effectiveness as installed in new motor vehicles. The notice solicits the views of all interested persons on specific questions relating to the need and proper form for such new requirements. The specific questions are set forth below, followed by discussions of some of the major issues which are relevant to the contemplated change. Interested persons are encouraged to comment on these aspects of the contemplated changes and any others not raised directly by the questions. It is also requested that responses indicate whether the comments concern active "type 2" belt systems or passive belt systems. A type 2 belt assembly means a combination lap-shoulder belt. A passive belt system refers to a system that does not require occupant action to provide protection.

Could improved consumer acceptance and hence increased rates of seat belt use be achieved through the establishment of specifications for ease of donning and stowing and for the comfort of seat belt systems?

A study completed for NHTSA by Man Factors, Inc., in 1974 (Sources and Remedies for Restraint System Discomfort and Inconveniences, DOT HS-801 277) reinforces other studies that conclude "The most frequent reasons given for non-use of seat belts include inconvenience, discomfort, laziness, forgetfulness, and fear of entrapment • • •." The Man Factors study confirms that "• • • research indicated that usage rates have increased with newer belt system in which [integral lap-shoulder belts with emergency-locking retractor (ELR)] characteristics have been implemented." Other factors, such as the ignition interlock introduced along with these comfort and convenience features, obscure the degree to which greater usage is due to increased comfort and convenience. However, two studies of the newer belt systems (DOT HS-801 594, -801 957) confirm that discomfort and inconvenience are still the main reasons given for not using belts.

The existing requirements for seat belt characteristics related to comfort and convenience in Standard No. 208 are as follows: The belts must "fit" persons of specified size; front outboard lap belts must adjust by means of automatic-locking or emergency-locking retractors (ELR's) and shoulder portions must adjust by means of ELR's (in the first two rows of seats of a vehicle); the latch mechanism must be accessible, must release both portions of a type-2 belt simultaneously, and must release by pushbutton action. Standard No. 210 specifies anchorage location to improve belt fit.

The NHTSA has responded favorably to a Center for Auto Safety petition for rulemaking to improve belt systems. In September 1974 (39 FR 32624, September 10, 1974), the NHTSA also proposed additional ELR requirements and limitations on "comfort clips" to improve the performance of integral type-2 seat belt assemblies.

Because improved comfort and convenience would increase belt usage and thus contribute to motor vehicle safety, additional requirements in this area, based largely on recommendations in the Man Factors study, are under consideration. The inboard (receptable end) of seat belt assemblies at front and rear outboard designated seating positions would be required to meet a "stiffness" requirement, tested by means of a lateral force application to the belt as installed in the vehicle. The receptable end of belt assemblies would be required to be not less than 6 inches and not more than 7 inches from the occupant's centerline, as measured in accordance with the existing requirements of S7.1.2 of Standard 208.

The required force on the pushbutton (minimum size of 1 inch by 1 inch) to effect release would be limited to a force of 2 to 4 pounds. The pushbutton would be required to be recessed a minimum of one-thirty second of an inch and not more than one-eighth of an inch. To balance comfort and convenience considerations against potential loss of safety performance, the agency is considering limits on hardware size to avoid injury-producing forces on the abdomen during a crash.

To facilitate accessibility and ease of buckling, the shoulder portion of a type-2 assembly would be required to join the lap belt portion of the assembly within 5 inches of the center of the pushbutton of the latch mechanism. The requirements of S7.1.2 of FMVSS 208 would remain in effect. In the fully retracted position, the outboard portion of the assembly would be required to be incapable of being caught in a closing door, the shoulder portion would lie along the side of the seat back, and the latch plate would be no closer than 4 inches to the rearmost surface of any armrest provided.

Vehicle-sensitive ELR's would be required for both shoulder harness and for lap belt retraction. The use of automatic locking retractors (ALR's) on lap belts would be permissible only if they locked after the buckle is fastened (i.e., they could not lock while the belt is being donned). All retractors that are electrically operated would be required to lock if electric power is lost. ELR's could incorporate a manually actuated lock, as long as the lock released automatically upon unfastening of the belt.

Retractors, as tested in the vehicle, would be required to fully retract both the lap and the shoulder belts. A maximum of 3 pounds of belt tension would be permitted on a 50th-percentile male occupant's pelvis, with a maximum of 1.5 pounds on his shoulder. In addition, no more than 4.5 pounds of force would be required to pull the latch plate from its fully retracted position to its latched position.

The retraction of all belt restraint systems would be required to be sufficiently rapid (and consistent) to prevent entrapment of the belt or its hardware when the door is closed immediately after exiting rapidly. Comment is solicited on a time requirement for retraction.

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"Comfort clips" would be permitted only on type-2 assemblies that are equipped with a separate retractor on the lap belt portion.

Automatic comfort devices of the "window-shade retractor" type might be allowed if they retract automatically and sufficiently to permit full retraction of the assembly whenever the assembly is unfastened and the belt released, and whenever the door is opened. However, the tendency of such retractors to permit introduction of excessive slack in the upper torso portion is an argument against permitting their use. Comments are specifically solicited on this question.

To improve and maintain comfort and "fit," the shoulder belt would be required to pass through seat-mounted guides to prevent change in belt geometry with changes in seat position. Requirements for the geometric relationship of belt anchorages would be as set forth in figure 1. The NHTSA recognizes that the geometric location of the upper torso restraint anchorage has contributed substantially to the public's complaints of lack of comfort and fit. Permanently attaching the upper torso restraint to the top of the seat back is one means of improving fit. Information is therefore requested on the complexity of integrating the upper torso restraint, as well as the lap belt, into the seat structure.

The concept of belt assembly "fit" would be extended to require that a 5th-percentile female would be capable, while restrained at the driver's position, of reaching the vehicle's driving controls, the glove compartment latch, the nearest ash tray, the left front window handle, the seat-adjustment control, and the locks on both front doors.

A clearly-discernible contrasting color strip would be required to be imprinted on the "reverse" side of the webbing (normally the side next to user's body) to aid the user in determining if belts are twisted.

Related changes would be made to the requirements of Standard No. 209. To protect clothing against damage from rough or sharp edges or protrusions on hardware or webbing of the assembly, a requirement would be specified to draw webbing and hardware (as assembled) over a fabric-covered surface (having specified characteristics and size) without snagging or abrasion.

This notice solicits views on these and other suggested improvements in the comfort and convenience of type 1 and type 2 seatbelts, in either active or passive configurations. Persons interested in background for the suggestions are directed to the Man Factors study (DOT HS-801 277, and 712) which is available from NHTSA's Technical Reference Library.

Because comfort and convenience are qualities of complex and inherently subjective character, it is difficult to characterize them completely in simple objective terms. An approach under consideration for purposes of this rulemaking is application of the "jury rating" method wherein samples of individuals, representative of the range of intended users, subjectively assess qualities of a product (in this case, comfort and convenience qualities of a safety belt), and assign them numerical ratings according to suitably defined criteria. Measures obtained by utilizing appropriate statistics (e.g., DOT HS-801 594, -801 957) on a sufficiently large sample of such ratings can provide reliable, repeatable, and objective measurements.

Application of such a jury rating method is being considered as a possible basis for minimum requirements that at least 90 percent of intended users would judge that: both latch plates and buckles are comfortably accessible regardless of seat position (one means of facilitating this would be to require that the end(s) of the lap belt portion be attached to the seat); that the belt system is capable of easy one-hand fastening, accomplishable even with some initial misalignments (e.g., 15 degrees) of the latch plate and buckle; that latch plates and buckles are of shape, dimensions and materials which are easily gripped and manipulated from the fully stowed to the fully latched position; that manual repositioning (if required) of latch plates be easily accomplished; that the system's comfort and convenience are not significantly degraded when occupants are in winter clothing (e.g., heavy coats and wool gloves); and that the system is comfortable when worn with the vehicle in motion over both smooth and rough roads as well as when the vehicle is stopped.

This notice also solicits comments on potential loss of seat belt effectiveness that could result from the addition of comfort and convenience features. It is evident that some improvements in design for comfort may be made at the expense of effectiveness.

Would the establishment of injury criteria and dynamic tests for seat belt assemblies installed in vehicles be an appropriate means to improve seat belt effectiveness?

Standard No. 208 specified "structural integrity" requirements for seat belt installations in 1972- and 1973-model passenger cars (see § 4.1.1.3.1(c)). These requirements and requirements that seat belt assemblies meet the "injury criteria" of Standard No. 208 were issued for 1974- and 1975-model passenger cars. They were deleted before they became effective as a result of two court decisions that found the anthropomorphic test dummy used in these requirements to be inadequate. The NHTSA indicated to the Center for Auto Safety in July 1975 that injury criteria performance standards would be considered anew if a decision were made not to mandate passive protection for vehicle occupants. Volkswagen has also commented on the need to apply performance criteria to belt restraint systems.

The NHTSA, as it stated in April 1973 (38 FR 9830, April 20, 1973), believes that a structural integrity requirement does not contribute substantially to the performance of belt systems, which are required by Standard No. 209 to have higher breaking strength than they would be subjected to during a 30-mph barrier impact. The agency considers that a more appropriate assessment of a belt system's protective performance capability lies in its ability to properly restrain a Part 572 test dummy in a simulated crash environment. The agency is contemplating a requirement for a dynamic test for belt systems. The test would be a frontal and frontal oblique test at 30 mph into a fixed flat barrier. A number of alternatives exist to evaluate the belt systems protective performance. First, the head and chest accelerations and femur force levels measured on the dummy could be limited to some levels, although these may not necessarily be the existing levels specified in § 5 of FMVSS 208.

Another option is to limit the torso belt load applied to the test dummy. This criteria would be in addition to head, chest, and femur criteria. The data in a recent paper presented by Eppinger at the Sixth International Conference on Experimental Safety Vehicles indicates that 1,200 pounds of shoulder belt force can produce multiple rib fractures.

Comments are solicited on these two alternatives as well as any others thought to be more appropriate.

Two other possible types of injury for occupants are facial and abdominal injury. Comments regarding methods to avoid these injuries are requested.

Comment is requested on the comparability of forces registered with the Part 572 dummy to forces that would be expected to register with a comparable adult male restrained by the same seat belt assembly. Comments on the potential for pre-loading of belts and use of energy-absorbing webbing are also solicited, as well as the desirability of web-locking devices to reduce belt stretch and eliminate "spool out."

Other performance requirements for seat belt assemblies may be justified. The agency would not require ELR's on center seat belt assemblies, to permit the attachment of child restraints without difficulty. However, the agency believes it may be reasonable to require a manually operated lock (self-restoring after seat belt release) to the outboard ELR on the passenger side to permit the secure attachment of child restraints. Consideration is also being given to limiting buckle size to permit passage of the hardware through slots on child restraints.

A method to prevent unlocking of ELR's also appears justified to prevent their release during pre-crash maneuvering and throughout the crash sequence.

A further performance requirement would apply to "continuous-loop" systems equipped with "automatic comfort devices" in the shoulder portion and a single ELR at the shoulder portion attachment point. In these cases, slack can be introduced into the lap belt portion inadvertently, increasing the danger of submarining under the lap belt in the event of a crash. The agency contemplates placing the Part 572 dummy at the seating position, attaching the continuous loop assembly, and pulling the lap belt in the outboard direction to see if slack is transferred into the lap portion. Another test would evaluate whether slack in the lap portion is removed by the single ELR during "normal occupant motion" (e.g., lifting the dummy legs several inches off the seat cushion several times). These requirements would be intended to assure that comfort and convenience features would not be added at the expense of adequate protection.

Should durability requirements be added to Standard No. 209 (and possibly Standard No. 208) to assure that systems do not malfunction after introduction into service?

Surveys of new car owners and rental car fleets indicate that a significant percentage (10 to 35 percent) of seat belt assembly and warning system components malfunction relatively soon after introduction into service. The term "malfunction" refers to the failure of the system, including the warning system, to operate as it was designed with regard to donning, wearing, doffing, and stowage. Malfunctions that occur in normal operation (e.g., failure of belt to retract or extend properly, reminder light and buzzer sound when belt is being worn) nullify the motivating properties of the use-inducing system and the belt's protective capability. For example, many systems develop webbing that is twisted or folded double (roughly parallel to the long dimension of the webbing). Such conditions occur with significant frequency and degrade the crash-protective effectiveness of belts. Use of these systems becomes difficult or impossible for the average vehicle occupant. These malfunctions motivate users to circumvent or defeat the system permanently (usually by disconnecting or removing various sensing or signalling components). Additionally, these failures stimulate negative attitudes and hostility toward belt use, the automobile manufacturers, and government regulation, and provide substance for arguments opposing seat belt use.

Designing and producing a system so that it operates properly over the life of the car and assures the availability of rapid repair is, of course, a basic responsibility of the vehicle manufacturer. At the same time durability requirements have been shown to be a valid regulatory concern. Therefore, comments are invited as to means which would lower the incidence of system malfunction through improper or inadequate design, manufacture, quality control, or testing. Means of assuring that repairs for such malfunctions are available rapidly should also be considered. Comments are also invited as to how to render such systems less susceptible to circumvention or defeat (e.g., making the components or wiring of such systems less accessible, providing better protection to wiring, eliminating easily disconnectable components from the system, or placing other systems (e.g., the fuel gauge) on the same circuit, so that disconnecting the remainder system would also result in the disconnection of systems which the user would wish to retain). Comments addressed to the subject of diminishing system defeatibility should address both the beneficial and the detrimental facets of recommended solutions. Specific suggestions for bench tests or in-vehicle testing are requested.

The Department notes that it could encourage continued functioning of seat belt assemblies by amendment of the criteria for vehicle-in-use inspection (49 CFR Part 570).

Would a sequential logic warning system (designed to activate unless buckling action follows occupancy of seating position) with a continuous light and a 4- to 8-buzzer significantly improve seat belt usage? What would the cost of such a system be?

One avenue for improved seat belt usage would be a more effective warning system that advises an occupant that the seat belt assembly is not fastened. Since Congressional prohibition of "continuous buzzer" warning systems in 1974, the agency has required a warning system at the driver's position which activates, for a period of 4 to 8 seconds, a reminder light each time the vehicle ignition is operated, and an audible warning if the driver's lap belt is not in use.

Studies of seat belt usage in 1975-model vehicles indicate that a sequential logic system which incorporates a visible reminder light of continuous duration and a 4- to 8-second audible reminder could produce usage rates significantly greater than those obtained with the warning system presently specified. Incorporating a continuous buzzer (presently prohibited by law) would increase seat belt use even more. While the agency anticipates field studies to examine the efficacy and consumer acceptability of longer-duration reminders, and would have to obtain a statutory change to implement a continuous buzzer, it would be beneficial to have the views of interested persons on the likely effect of improved warnings on seat belt usage. Several vehicle manufacturers have suggested that increased usage would result, and the agency requests the arguments and data that underlie these suggestions.

Equally important are the views of vehicle and component manufacturers on the cost associated with a sequential warning systems, installed at both outboard seating positions or at the driver's position only.

Interested persons are invited to submit comments on this advance notice. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered and will be available for examination in the docket at the above address both before and after that date. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: April 15, 1977.

(Secs. 103, 119, Pub. L. 89-563; 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 13, 1976.

ROBERT L. CARTER,
Acting Administrator.

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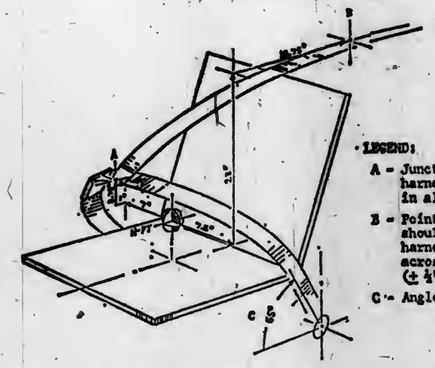


Figure 1 Geometric Requirements for Seat Belt-Shoulder Harness Assembly and Installation to Insure Proper Fit for Passenger Population Ranging From 5th %-tile Female Through 95th %-tile Male (Adults).

[FR Doc.76-36984 Filed 12-13-76;2:24 pm]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

FEDERAL GRAIN INSPECTION SERVICE

Establishment of New Agency

Notice is hereby given that pursuant to section 3A of the United States Grain Standards Act (7 U.S.C. 71 et seq.), as amended by the United States Grain Standards Act of 1976, Pub. L. 94-582 (90 Stat. 2867), the Federal Grain Inspection Service was established effective November 20, 1976, in the Department of Agriculture to administer the Act and establish policies, guidelines, and regulations for carrying out the provisions of the Act.

A more detailed statement of organization, functions, and delegations of the new Service will be published later in the FEDERAL REGISTER.

Done at Washington, D.C., on: December 13, 1976.

DONALD E. WILKINSON,
Interim Administrator.

[FR Doc.76-37037 Filed 12-15-76;8:45 am]

Forest Service

MT. HOOD NATIONAL FOREST BADGER-JORDAN PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Badger-Jordan Planning Unit, USDA-FS-R6-DES(Adm)-77-5.

The environmental statement concerns a proposed land use plan for the Badger-Jordan Planning Unit, Barlow Ranger District, Mt. Hood National Forest, in Wasco and Hood River Counties, Oregon. The plan applies to approximately 58,000 acres within the National Forest, of which 21,200 were inventoried and reported in the Forest Service Final Environmental Statement for Roadless and Undeveloped Areas in 1973. The plan includes a preferred management plan plus three alternatives, allocating land to a variety of uses, such as wildlife winter range, timber harvest, roadless backcountry recreation and watershed.

Copies are available for inspection during regular working hours at the following locations:

Mt. Hood National Forest Supervisor's Office, 2440 S.E. 195th, Portland, Oregon 97233.
Barlow Ranger District, Mt. Hood National Forest, Dufur, Oregon 97021.

A limited number of single copies are available upon request to F. Dale Robertson, Forest Supervisor, Mt. Hood National Forest, 2440 S.E. 195th, Portland, Oregon 97233.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to F. Dale Robertson, Forest Supervisor, Mt. Hood National Forest, 2440 S.E. 195th, Portland, Oregon 97233. Comments must be received by March 7, 1977 in order to be considered in the preparation of the final environmental statement.

F. DALE ROBERTSON,
Forest Supervisor.

DECEMBER 8, 1976.

[FR Doc.76-37010 Filed 12-15-76;8:45 am]

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (the Act) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on Thursday, January 6, 1977 from 8:00 a.m. to 6:00 p.m. and on Friday, January 7, 1977 from 8:30 a.m. to 5:00 p.m., at 2201 C Street, NW., Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 11652 dated March 10, 1972.

The meeting will be closed to the public in accordance with the determination of even date made by the Director of the Arms Control and Disarmament Agency pursuant to section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: December 6, 1976.

SIDNEY D. ANDERSON,
Advisory Committee, Management Officer, Arms Control and Disarmament Agency.

[FR Doc.76-36962 Filed 12-15-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 30099, etc.; Order 76-12-66]

DELTA AIR LINES, INC. AND NATIONAL AIRLINES, INC.

Order of Suspension Regarding Increased Air Freight Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of December 1976.

By tariff revisions[1] bearing the posting date of November 12 and marked to become effective December 27, 1976, Delta Air Lines, Inc. (Delta), and National Airlines, Inc. (National) propose, with certain exceptions, systemwide increases of 6 percent in standard service and express rates and charges. Exceptions include certain northbound rates from Florida origins, which would be increased by 10 percent, but not to exceed the southbound rate, and rates on human remains, which would not be increased. Delta also proposes to increase small package charges to levels similar to that of other carriers and to extend its density-discount rates until December 27, 1977.[2]

The carriers variously assert, inter alia, that the purpose of these proposed increases is to obtain needed revenue to compensate for deficient rate levels and rising costs although neither carrier will achieve a 12-percent rate of return on freight investment from the proposals. As a result of the proposed increases, Delta and National estimate annual revenue increases of $5.1 million and $1.7 million, respectively. In addition, Delta indicates that its proposal is justified, except for bulk minimum charges, on the basis of June 1976 industry-average costs, updated from the "Domestic Air Freight Rate Investigation (DAFRI)", Docket 22859.

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariffs C.A.B. Nos. 169, 227 and 235.

[2] Density-discount general commodity rates are applicable on bulk traffic with a density of at least 25 pounds per cubic foot and are equal to 60 percent of the otherwise applicable general commodity rate.

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A complaint requesting suspension has been filed by Braniff Airways, Inc. (Braniff) against Delta's proposed extestion of density-discount rates. The complaint alleges, inter alia, that the density-discount experiment has been a failure, contrary to Delta's claim of success; that no real evidence has been submitted to substantiate Delta's claim that most traffic generated under this rate would not have otherwise moved by air; that the vast bulk of the traffic has been diverted not only from Delta's regular freight service, but from other carriers as well; that while Delta made a $17,000 profit over a three-month period from this service, Braniff lost almost this much revenue from one shipper in one month due to the availability of the density-discount rate; and that, if these rates are extended, Braniff will be forced to file lower rates to recapture the traffic diverted.

In support of its proposed extension of density-discount rates and in answer to the complaint Delta asserts, inter alia, that these rates not only have received wide and ever increasing acceptance by the shipping public, as evidenced by numerous letters from shippers in support of the concept,[2] but also have been successful from an economic and marketing standpoint, resulting in about $17,000 of profits and approximately 1 million pounds of traffic for the period July through September 1976. Furthermore, the extremely impressive average weight of 1,438 pounds and the average shipment revenue of about $160 are far greater than anticipated, highlighting the fact that density-discount-traffic is not typical air freight and a strong indication that only insignificant diversion is occurring. Delta asserts that the overwhelming majority of density-discount shipments would otherwise not have moved by air and that, since the density-discount concept is in an embryonic stage and will require further experimentation, it should be extended.

The proposed rates all come within the scope of either "DAFRI" or the "Priority Reserved Air Freight Rates Investigation (PRAFRI)", Docket 26838, and their lawfulness will be determined in those procveedings. The issue before the Board is whether to suspend the rates or to permit them to become effective pending the decision in those investigations.

In Order 76–6–93, adopted June 11, 1976, we permitted the Delta density-discount rates to be established on the expectation that the rates would cover all variable noncapacity costs and make a contribution to fixed noncapacity and capacity costs, and that the diversionary/dilutionary effect of the reduced rates would be minimal. The Braniff complaint does not present any facts or arguments which would warrant a change in the Board's previous position. Consequently, since the results attained thus far reflect only three months' experience, we believe the density discounts should be continued for another year. Should Delta desire to extend these rates in the future, we would expect the carrier to submit supporting data similar to that requested previously in Order 76–6–93.

The Board has also reviewed all of the other rates proposed in the light of recent industry-average costs (including return on investment) of carrying air freight and, in this respect, we find that a number of the proposed increased minimum charges per shipment exceed costs.[4]

In view of the foregoing and upon consideration of all other relevant factors, the Board finds that the proposed bulk minimum charges per shipment for markets with lengths of haul less than about 497 miles,[5] as specified in Appendix A hereto,[6] should be suspended. The corresponding express minimum charges should also be suspended since, if permitted to become effective, they would exceed the 50-percent premium over standard service charges in these markets. The remaining portions of these proposals, including the remaining regular and express bulk and container rates and charges, do not appear excessive and the Board will permit them to become effective.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That: 1. Pending hearing and decision by the Board, the charges and provisions described in Appendix A hereto are suspended, and their use deferred to and including March 26, 1977, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension, except by order or special permission of the Board;

2. Except to the extent granted herein, the complaint of Braniff Airways, Inc. in Docket 30099 is dismissed; and

3. Copies of this order shall be filed with the tariffs and served upon Delta Air Lines, Inc., National Airlines, Inc., and Braniff Airways, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–37025 Filed 12–15–76;8:45 am]

[2] The Board has received thirteen shipper letters in support of Delta's proposed extension of density discount.

[4] Industry-average costs recommended by the administrative law judge in DAFRI, revised for cost increases through the 12 months ended June 1976. The minimum charges suspended exceed the costs of a 35-pound shipment, the estimated size of an average shipment below 100 pounds in various markets. This standard for small shipment rates has been applied in Orders 76–10–90 and 76–10–136.

[5] Since National does not publish its minimum charges on a point-to-point basis, it is necessary as a technical matter to suspend such charges on a systemwide basis.

[6] Filed as part of the original document.

[Docket No. 27813; Order 76–12–58]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North/Central Pacific and South Pacific Passenger Fares

Issued under delegated authority December 10, 1976.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements, which were adopted at the Composite Passenger Traffic Conference held in Miami during September and October 1976, have been assigned the above designated C.A.B. agreement numbers.

In general, the agreements would establish a charge of $10 for stopovers at certain points on through South Pacific and North/Central Pacific first-class, normal economy and promotional fares for which no stopover charge is presently applied. The charge would be imposed only for stopovers between certain designated gateway points and interior points of origin, destination or turnaround within Australia, New Zealand, and the continental U.S./Canada. Free stopovers at specified international gateway points would continue to be permitted under existing fare resolutions.

It is not the Board's customary approach to call for specific justification from the carriers and comments from other interested persons on IATA agreements which do not involve an overall change in fare structure or level within a major international ratemaking area. However, in this instance, we consider it appropriate to do so since this particular agreement, although of apparent limited extent, nonetheless involves a principle of broad implication for the worldwide structure of international fares. The Board has long supported, and indeed urged, the imposition of a charge for stopovers, particularly but not exclusively in connection with North Atlantic travel, to counteract in some degree the dilution in yield stemming from the relatively liberal circuity permitted at through fares. The carriers have responded to some extent by limiting stopover privileges or imposing a stopover charge on certain promotional fares. However, to date, their move in this direction has fallen far short of the Board's ultimate objective.

Accordingly, the agreement here before us takes on a significance beyond its particular terms, and we have therefore concluded to solicit comments prior to its disposition by the Board. We will expect the carriers to provide the cost basis underlying the amount of the stopover charge to be imposed, a forecast of volume of traffic involved and the additional revenue anticipated, and an explanation as to the reason for restricting imposition of the charge to certain points and routes of travel rather than applying it as a general rule for transpacific travel.

Northwest Airlines, Inc., a non-IATA carrier, will be required to file data similar to that required of the IATA carriers so that the full economic impact of the agreement in the North/Central Pacific area may be assessed.

Accordingly, it is ordered, That: 1. All United States air carrier members of the International Air Transport Association providing North/Central or South Pacific passenger services shall file, within 10 calendar days after the date of service of this order, full documentation and economic justification for the stopover charges and related conditions embodied in the subject agreements;

2. Northwest Airlines, Inc. shall file within 10 calendar days after the date of service of this order, data similar to that required of the IATA carriers;

3. Comments and objections from interested persons shall be submitted within 10 calendar days after the date of service of this order;

4. Replies to submissions received in response to ordering paragraphs 1 and 2 above and comments received pursuant to ordering paragraph 3 above shall be submitted within 15 calendar days after the date of service of this order; and

5. Insofar as air transportation is defined by the Act is concerned, tariffs implementing the subject agreements shall not be filed in advance of Board action on the subject agreements.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–37024 Filed 12–15–76;8:45 am]

[Docket No. 21448]

SPOKANE-MONTANA POINTS SERVICE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 8, 1977, at 9:30 a.m. (local time) in the Isabella Room, Davenport Hotel, W 807 Sprague, Spokane, Washington, before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report, served on October 6, 1976, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 10, 1976.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.76–37023 Filed 12–15–76;8:45 am]

[Docket Nos. 23584, etc; Order 76–12–69]

TACA INTERNATIONAL AIRLINES, S.A. AND AEROLINEAS EL SALVADOR, S.A.

Order Regarding Foreign Permit Amendment and Renewal

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of December 1976.

In a motion filed October 19, 1976, the Bureau of Operating Rights requests the consolidation into one prpceeding, Docket 23584, of four other applications of TACA International Airlines, S.A. (TACA) and an application of Aerolineas El Salvador, S.A. (AESA) for renewal and/or amendment of their foreign air carrier permits.

TACA is presently authorized to engage in foreign air transportation with respect to persons, property and mail between El Salvador, various intermediate points in Guatemala, Honduras, British Honduras (Belize), and the terminal points New Orleans and Miami. It is also authorized to serve Merida Mexico, on its New Orleans route, but the service between Merida and New Orleans is not of a continuing nature.[1] The carrier has applied to amend its permit by adding the additional United States points Los Angeles, San Francisco, Washington, D.C., New York and Newark (Docket 23584), Houston (Docket. 27909), and Dallas (Docket 26565), and the foreign points Managua, Nicaragua (Docket 26343) and Merida (Docket 26342). AESA is presently authorized to engage in foreign air transportation with respect to property and mail only, between points in El Salvador and Miami. It seeks to renew its permit and to receive additional property and mail authorization between El Salvador and Houston.

The Bureau's motion contends that the applications should be consolidated because they are highly inter-related, require analysis of a great deal of identical factual data, and can more efficiently be handled in one proceeding. It also asserts that since both applicants are of El Salvador nationality, the elements of comity and reciprocity between the United States and El Salvador should be considered in one proceeding as a matter of formulating a consistent policy toward U.E.–El Salvador foreign air transportation.

In an answer filed November 11, 1976, TACA indicated that it was requesting dismissal of its applications in Dockets 26343 and 27909 and that it would not prosecute that part of its application requesting authority to New York, Newark, and Washington, D.C. The carrier agreed with the Bureau that the remainder of its applications should be consolidated, but opposes the consolidation of AESA's application.

AESA also opposed consolidation of its application, arguing that consolidation is not warranted under the standards of Rule 12 of the Board's Rules of Practice since the same parties are not involved, the same or closely related issues are not involved, and the cases are not such that consolidation would be conducive to the proper dispatch of the Board's business.

We will grant the Bureau's motion to the extent it requires consolidation of Docket 26565 in Docket 23584, but deny it in all other respects.[2] TACA is already authorized to serve New Orleans-Merida for a temporary period, and we will be more able to evaluate its application in Docket 26342 for more permanent fifth-freedom rights in this market after completion of the "Houston/New Orleans-Yucatan Route Proceeding" in Docket 29198, where applications by U.S. carriers to provide this service are being considered.

Turning to Docket 26373, we agree with the applicants' conclusions. With the dismissal of Docket 27909 the motion rests solely on the ground that the applicants are of the same nationality, but the formulation of a consistent policy on the question of comity and reciprocity does not here require consideration of AESA's application in the same docket as TACA's.[3] In the present circumstances, it would be unduly burdensome upon AESA, a small carrier seeking only cargo authority, to require it to participate in a much broader proceeding where the full spectrum of operating rights are involved and there are several, different, U.S. points in issue. Consolidation of AESA's application would add a needless complication to Docket 23584, would turn a relatively routine proceeding in Docket 26373 into a more complex case, and would not be conducive to the orderly dispatch of the Board's business and the ends of justice.

Accordingly, it is ordered, That. 1. The application of TACA International Airlines, S.A., in Docket 26565 be, and it hereby is, consolidated in Docket 23584;

2. The motion of the Bureau of Operating Rights be, and it hereby is, denied in all other respects; and

3. This order shall be served upon TACA International Airlines, S.A., Aerolineas El Salvador, S.A., and the Bureau of Operating Rights.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–37027 Filed 12–15–76;8:45 am]

[Docket No. 30137; Order 76–12–67]

VENEZOLANA INTERNACIONAL DE AVIACION, S.A.

Statement of Tentative Findings and Conclusions and Order To Show Cause

In the matter of Venezolana Internacional de Aviacion, S.A. for amendment

[1] Orders 76–1–78 and 76–10–44.

[2] The request to dismiss Dockets 26343 and 27909 will be acted upon in a separate order.

[3] Compare Order 75–8–106, where, because of the relationship between the carriers, there were a number of other inter-related reasons pointing toward consolidation of the applications of two carriers which were of common nationality.

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of a foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of December 1976.

Venezolana Internacional de Aviacion, S.A. (VIASA) is the holder of a foreign air carrier permit[1] authorizing: (a) Foreign air transportation of persons, property, and mail over five routes between a point or points in Venezuela via specified intermediate points to Houston, Miami, Washington, D.C., San Juan, New York and beyond New York to Canada and beyond San Juan to Europe; and (b) the performance of charter trips in foreign air transportation pursuant to Part 212 of the Board's Economic Regulations.

By application filed on December 1, 1976,[2] VIASA requests amendment of one of its routes[3] so as to add Baltimore, Maryland as a hyphenated point with Washington, D.C.

In granting VIASA routes to the United States, the Board found that the carrier met the fitness standards of the Act and that its services were in the public interest. VIASA has performed its presently authorized services successfully. It currently serves the Venezuela-United States market with 22 northbound and 23 southbound frequencies with DC-8 and DC-10 equipment. Service to Baltimore, Maryland via the Netherlands Antilles and the Dominican Republic is provided for in the United States-Venezuela Air Transport Services Agreement,[4] and VIASA has been appropriately designated by the Government of Venezuela.

In view of the foregoing and all the facts of record, the Board tentatively finds:

1. That it is in the public interest to amend the foreign air carrier permit held by Venezolana Internacional de Aviacion, S.A. so as to authorize the carrier under Route 4 to engage in the foreign air transportation of persons, property, and mail between a point or points in Venezuela, except Maracaibo; intermediate points in the Netherlands Antilles and the Dominican Republic; and the coterminal points Washington, D.C.-Baltimore, Maryland, and New York, New York, subject to the condition that the holder shall serve Washington, D.C.-Baltimore, Maryland through a single airport: either Dulles International Airport or Baltimore-Washington International Airport.

2. That the public interest requires that the exercise of the privileges granted by said amended permit shall be subject to the terms, conditions, and limitations contained in the specimen form of permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

3. That Venezolana Internacional de Aviacion, S.A. is fit, willing, and able properly to perform the above-described foreign air transportation, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

4. That an evidentiary hearing is not required in the public interest; and

5. That the amendment of Venezolana Internacional de Aviacion, S.A.'s foreign air carrier permit is not a "major federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Quality Act of 1969.[5]

Accordingly, it is ordered, That: 1. All interested persons be and they hereby are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and why an amended foreign air carrier permit substantially in the form attached to this order should not, subject to the approval of the President pursuant to section 801 of the Act, be issued to Venezolana Internacional de Aviacion, S.A.;

2. Any interested person having objection to the issuance, without hearing, of an order making final the tentative findings and conclusions stated herein shall file a statement of objections supported by evidence within 21 days after the adoption of this order. If an evidentiary hearing is requested, the objection should state in detail why such hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;[6]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon Venezolana Internacional de Aviacion, S.A. and the Ambassador of Venezuela in Washington, D.C.

[1] Issued pursuant to Order 72-6-109, approved June 23, 1972.

[2] A copy of the application has been transmitted to the President of the United States in accordance with the requirements of section 801 of the Act.

[3] Between a point or points in Venezuela, except Maracaibo; intermediate points in the Netherlands Antilles and the Dominican Republic; and the coterminal points Washington, D.C., and New York, New York.

[4] The Agreement was amended by exchange of notes dated September 22, 1976 to add Baltimore, Maryland.

[5] Our tentative finding therein is based upon the fact that the amendment of VIASA's permit will not result in a significant increase in operations in the near future to Washington, D.C.-Baltimore, Maryland, as VIASA merely plans to transfer its services from Dulles International Airport to Baltimore-Washington International Airport.

[6] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN PERMIT

PERMIT TO FOREIGN AIR CARRIER

(as amended)

Venezolana Internacional de Aviacion, S.A. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows:

1. Between a point or points in Venezuela, except Maracaibo; intermediate points in the Netherlands Antilles and the Dominican Republic, the intermediate point New York, N.Y.; and the coterminal points Montreal and Toronto, Canada.

2. Between a point or points in Venezuela, except Maracaibo; and the coterminal points San Juan, Puerto Rico, and New York, N.Y.

3. Between a point or points in Venezuela; intermediate points in the Netherlands Antilles, Jamaica, and Cuba; and the coterminal points Miami, Florida, and Houston, Texas.

4. Between a point or points in Venezuela, except Maracaibo; intermediate points in the Netherlands Antilles and the Dominican Republic; and the coterminal points Washington, D.C.-Baltimore, Maryland, and New York, N.Y.

5. Between a point or points in Venezuela; the intermediate points San Juan, Puerto Rico; Madrid, Spain; Paris, France; Amsterdam, the Netherlands; and the coterminal points Frankfurt and Hamburg, Germany.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

This permit shall be subject to the conditions that the holder shall (1) serve New York, N.Y., only on flights originating or terminating at a point in Venezuela other than Maracaibo, and (2) serve Washington, D.C.-Baltimore, Maryland through a single airport: either Dulles International Airport or Baltimore-Washington International Airport.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Venezuela for Venezuelan international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Venezuela shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to the liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The holder shall not commence any service authorized herein, except pursuant to an initial tariff setting forth rates, fares, and charges no lower than the lowest rates, fares, or charges that are then in effect for any U.S. air carrier engaged in the same foreign air transportation.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted hereby shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on _____. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date on any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the routes hereby authorized from the routes which may be operated by airlines designated by the Government of Venezuela (or in the event of the elimination of any part of a route or routes hereby authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Venezuela in lieu of the holder hereof, or (3) upon the termination or expiration of the Air Transport Agreement between the Government of the United States and the Government of Venezuela, effective August 22, 1953, as last amended by an exchange of notes dated September 22, 1976: *Provided, however*, That clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Venezuela are or shall become parties.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the _____.

Secretary.

(SEAL)

Issuance of this permit to the holder approved by the President of the United States on _____ in Order _____.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FREDERICK CANCER RESEARCH CENTER ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrmuent or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before January 5, 1977.

Amended regulations issued under cited Act (15 CFR Part 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00032. Applicant: Frederick Cancer Research Center, P.O. Box B, Frederick, MD 21701. Article: Scanning Electron Microscope, Model HFS-2 and accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used to study the distribution of antigen sites on the cell surface with use of tagged antibodies. For pilot studies, ferritin, keyhole limpet hemocyanin, polystrene and viruses will be used to label antibodies in an attempt to determine specific antigen sites of various tumor cells (leukemia, melanomas, sarcomas). The studies will include investigations of the following: (1) Various parameters that are known biochemically to alter membrane characteristics thus altering the distribution of antigens on the cell surface and the susceptibility of different types of cells to various chemical and physical agents. (2) Certain characteristics of the cell membrane such as fluidity of cell membrane and surface change of tumor cells, lymphocytes and macrophages. Application received by Commissioner of Customs: November 8, 1976.

Docket number: 77-00034. Applicant: The University of Texas, Department of Chemistry, Austin, Texas 78712. Article: Rotating Anode X-ray Generator, Model GX-20 and accessories. Manufacturer: Marconi-Elliott Avionics Ltd., United Kingdom. Intended use of article: The article is intended to be used as a high intensity monochromatic X-ray source for irradiating small protein crystals so that their diffraction patterns may be analyzed and their three-dimensional molecular structure determined. Under current investigation are the photo receptor accessory pigment proteins responsible for harvesting the light for photosynthesis, a number of toxins that have been implicated as possible anti-tumor agents and several enzymes which occupy key positions in the regulation of metabolism. The structures of these systems are being investigated with an objective of understanding the principles of the molecular mechanisms of action for these types of compounds. Application received by Commissioner of Customs: November 9, 1976.

Docket number: 77-00035. Applicant: University of California, San Francisco, 1438 South Tenth Street, Richmond, CA 94804. Article: Electron Microscope, Model JEM 100C. Manufacturer. JEOL (West), Inc., Japan. Intended use of article: The article is intended to be used to study the detailed fine structure of a variety of biological tissues which are currently under investigation by the Department of Physiology. Some of the specific experiments to be carried out include:

(1) Immunohistochemical localization of neurosecretory peptides in the brain.
(2) Role of microfilaments and microtubules in secretion from the pancreas.
(3) Role of zymogen granule membrane in secretion from the pancreas.
(4) Insertion of biologically active proteins into artificial phospholipid membranes.
(5) Ultrastructural basis of neuronal "competition" for peripheral fields during development.
(6) Isolation and purification of the synaptic vesicles and toxin binding sites involved in secretion from motor nerves.
(7) Ultrastructural basis of neurosecretion.
(8) Isolation and chemical characterization of the cholinergic receptor protein from the synapse.

The overall objectives to be pursued in the course of these investigations are to reveal the relationships between the molecular organization and function of cellular and subcellular components of biological systems. The article will also be used to teach graduate students the methods of electron microscopy in the course Physiology 203. At various other times during the year, selected students will be allowed to carry out their Ph. D. research on the article. Application received by Commissioner of Customs: November 9, 1976.

Docket number: 77-00036. Applicant: University of California, Lawrence Livermore Laboratory, Post Office Box 808—Livermore, Calif. 94550. Article: Electronic Intensifying Streak Camera. Manufacturer: John Hadland Photographic Instrumentation, Ltd., United

[FR Doc.76-37026 Filed 12-15-76;8:45 am]

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Kingdom. Intended use of article: The article is intended to be used for the study of shock-induced free surface motion and high-speed intensified flash X-ray diagnostics. The experiments to be conducted will consist of measurement of the thermodynamic properties of various materials under shocked conditions, and the measurement of the velocity vs. time history of material-air interfaces with the objective of understanding more fully the thermodynamic properties of matter at high pressure temperature. Application received by Commissioner of Customs: November 9, 1976.

Docket number: 77-00037. Applicant: NASA Lewis Research Center, 21000 Brookpark Rd., Cleveland, Ohio 44135. Article: Electron Microscope, Model JEM-100C/SEG. Manufacturer: JEOL Limited, Japan. Intended use of article: The article is intended to be used in a wide variety of research programs which will include the following:

(1) Identification of precipitates and/or inclusions in dispersion strengthened alloys, directionally solidified alloys, ceramics, fibers, powders, fiber-reinforced plastics, solar cells, cell separators, etc.;

(2) Investigation of high temperature lubrication properties which will be applicable in space technology;

(3) Research on high strength, high temperature alloys, high strength plastics, ceramics fiber reinforced materials, solar cells, etc.; and

(4) Characterization and identification of all the materials used in the various research projects and to aid in correlating physical phenomena with microstructure and distribution of elemental characteristics. Application received by Commissioner of Customs: November 9, 1976.

Docket number: 77-00038. Applicant: Emory University School of Medicine, 1380 S. Oxford Rd., N.E., Atlanta, Georgia 30322. Article: Electron Microscope, Model EM 400 HTG., Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in the following research that will tend to link basic and clinical sciences:

(1) Interests in demyelinating diseases and neuromuscular diseases using a range of ultrastructural approaches, e.g., human multiple sclerosis (MS), studies of experimental allergic encephalomyelitis (EAE), and study of the possible relation of measles virus to multiple sclerosis; and

(2) Research into cardiovascular diseases and diseases of the central nervous system, e.g., cardiomyopathy; cardiac fibrillation and certain other disrhythmias; herpes virus infection of cardiac cells, and generation of abnormal movements such as tremors, by certain regions of the brain. Application received by Commissioner or Customs: November 10, 1976.

Docket number: 77-00039. Applicant: University of Nebraska Medical Center, 42nd and Dewey Avenue, Omaha, Nebraska 68105. Article: Electron Microscope, Model EM 201C and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in the following research programs:

(1) Research efforts directed toward virology with examination of virus infected tissue in order to detect and characterize any virus present and also for the detection and description of cell damage.

(2) Study of the sputum cell dynamics and chronic obstructive pulmonary diseases, morphologic studies of eosinophilic leukocytes and mast cells in sputum obtained from patients with COPD and the role of pulmonary alveolar macrophages in alpha-1 antitrypsin utilization; and

(3) Experimental work on the diabetic monkey in which studies will be done in regard to glomerular changes in the long term animal on varying doses of insulin and on certain diets.

The article will also be used for training in a course of ultrastructural techniques (Pathology 861). Application received by Commissioner of Customs: November 10, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-36939 Filed 12-15-76;8:45 am]

National Bureau of Standards

RECOMMENDED VOLUNTARY PRODUCT STANDARD

Circulation

The National Bureau of Standards is giving public notice that it is circulating the following recommended voluntary product standard for a determination of its acceptability: TS 214c, "Carbonated Soft Drink Bottles."

This circulation is being made in accordance with the provisions of § 10.5 of the Department of Commerce "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as amended; 35 FR 8349 dated May 28, 1970).

The purpose of the recommended standard is to improve safety performance by establishing nationally recognized manufacturing requirements for conventional glass bottles designed as containers for carbonated soft drinks. This standard is intended to provide producers, distributors, users, and other interested groups with a basis for common understanding of the characteristics of these products.

Copies of this recommended standard [1] may be obtained from the Standards Development Services Section, National Bureau of Standards, Washington, D.C. 20234. Written comments concerning the standard should be submitted to the Standards Development Services Section on or before January 31, 1977.

Dated: December 9, 1976.

ERNEST AMBLER,
Acting Director.

[FR Doc. 76-36936 Filed 12-15-76; 8:45 am]

[1] Filed as part of original document.

National Oceanic and Atmospheric Administration

NORTHWEST FISHERIES CENTER, NATIONAL MARINE FISHERIES SERVICE

Receipt of Application of Scientific Research and Scientific Purposes Permits to Take Marine Mammals

Notice is hereby given that the following Applicant has applied for permits to take marine mammals for the purpose of scientific research under the Marine Mammal Protection Act of 1972 (16 U.S.C 1361-1407) and for scientific purposes under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543).

Northwest Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington 98112, to take, by tagging, eight hundred eighty (880) Hawaiian monk seals, which species is listed as endangered.

The Applicant proposes to study the population numbers and dynamics of the Hawaiian monk seal (*Monachus schauinslandi*) throughout the range of the species. Up to 250 pups will be marked with plastic tags over a 5 year period. During the course of the study up to six hundred (600) temporary tags may be applied and up to thirty (30) seals will be fitted with radio transmitters and subsequently tracked at sea to determine where pelagic feeding occurs. Aerial photo surveys will be conducted during the pupping season to determine pup production. An unspecified number of seal specimens will be collected and retained for study, as they are found dead. No animals will be killed during the course of this study.

The Application for the Marine Mammal Protection Act permit will be considered under the Regulations Governing the Taking and Importing of Marine Mammals. The application for the Endangered Species Act permit will be considered under the Regulations Governing Endangered Fish and Wildlife Permits.

Documents submitted in connection with thse applications are available in the following offices:

Director, National Marine Fisheries Service, Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C.; Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application for the Marine Mammal Protection Act permit to the Marine Mammal Commission and the Committee of Scientific Advisors. Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235 on or before January 17, 1977. Those individutls requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: December 1, 1976.

HARVEY M. HUTCHINGS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.76-36998 Filed 12-15-76;8:45 am]

QUINLAN MARINE ATTRACTIONS

Issuance of Public Display Permit to Take Marine Mammals

On January 20, 1976, notice was published in the FEDERAL REGISTER (41 FR 2841), that an application has been filed with the National Marine Fisheries Service by Quinlan Marine Attractions, Route 3, Lincolnton, Lincoln County, North Carolina 28092 for a permit to take eight (8) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on November 29, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking to Quinlan Marine Attractions subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702; Regional Director, National Marine Fisheries Service, Southwest Reigon, 300 South Ferry Street, Terminal Island, California 90731; and Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: November 29, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-36997 Filed 12-15-76;8:45 am]

SOUTHWEST FISHERIES CENTER, NATIONAL MARINE FISHERIES SERVICE

Issuance of Scientific Research Permit for Marine Mammals

On July 12, 1976, notice was published in the FEDERAL REGISTER (41 FR 28566), that an application had been filed with the National Marine Fisheries Service by the Southwest Fisheries Center, National Marine Fisheries Service, La Jolla, California 92038, for a scientific research permit to take by killing, 8,349 porpoises, as part of the Applicant's Porpoise/Tuna Interaction Program, which is directed towards 1) developing methods, techniques, and technology to reduce porpoise mortality incidental to yellowfin tuna purse seine fishing; and 2) determining the status of the porpoise stocks.

It was estimated that the following porpoises might be killed during the proposed research:

Spotted dolphin (*Stenella attenuata*)	4,905
Spinner dolphin (*Stenella longirostris*)	2,909
Common dolphin (*Delphinus delphis*)	135
Striped dolphin (*Stenella coeruleoalba*)	100
Bottlenosed dolphin (*Tursiops truncatus*)	50
Risso's dolphin (*Grampus griseus*)	50
Short-finned pilot whale (*Globicephala macrorhynchus*)	50
Rough-toothed dolphin (*Steno bredanensis*)	50
Fraser's dolphin (*Lagenodelphis hosei*)	50
Pygmy killer whale (*Feresa attenuata*)	25
Melon-headed whale (*Peponocephala electra*)	25

Notice is hereby given that, on November 19, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above-described activities to the Southwest Fisheries Center, National Marine Fisheries Service, subject to certain conditions set forth therein.

During periods in any fishing year when the incidental take of a given species or stock is limited by a quota established by regulations, marine mammals taken under this permit will be counted against such quota.

During periods in any fishing year when the incidental take quota for a given species or stock has been reached, marine mammals taken under this permit will be added to the total incidental take for the year and be used with that incidental take in determining the following year's quota.

The take under this permit of a species or stock not covered by an incidental take quota or for which no incidental take is permitted, will be monitored for use in subsequent quota determinations.

In any event, the take under this permit will be monitored to assure that the take will not operate to the disadvantage of the species or stock.

The above-described method of accounting for the take of marine mammals will also be applied to that take authorized under the permit issued to Dr. Kenneth S. Norris, as announced on October 6, 1976 (41 FR 44062).

This Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 19, 1976.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

[FR Doc.76-36996 Filed 12-15-76;8:45 am]

THEATRE OF THE SEA, INC.

Issuance of Public Display Permit to Take Marine Mammals

On July 14, 1976, notice was published in the FEDERAL REGISTER (41 FR 29008) that an application had been filed with the National Marine Fisheries Service by Theater of the Sea, Inc., P.O. Box 407, Islamorado, Florida 33036, for a permit to take two (2) California sea lions (*Zalophus californianus*) for public display.

Notice is hereby given that on December 6, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking to Theater of the Sea, Inc., subject to certain conditions set forth therein. The Permit is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Gandy Boulevard, Duval Building, St. Petersburg, Florida 33702; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 6, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-36995 Filed 12-15-76;8:45 am]

Domestic and International Business Administration

[Order No. 41-1, Amdt. 1]

OFFICE OF THE ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS

Organization and Function

This order effective November 18, 1976 amends the material appearing at 41 FR 1935 of January 13, 1976.

DIBA Organization and Function Order 41-1, dated December 15, 1975, is hereby amended as shown below to expand upon the function of development and production of audio visual information material intended for public consumption.

1. Section 4., The Office of Public Affairs paragraph 4.02 is revised to read as follows:

.02 The "Public Information Division" shall develop long-range plans, programs and goals; develop, prepare, clear and release press releases; develop and

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produce audio visual information material intended for public consumption including slide presentations, motion pictures, and television production, audio (cassette) presentation, exhibit displays, advertising material (radio-TV-print), and scripts and record material for distribution; draft speeches and public statements; develop speaking forums for DIBA officials designed to support Departmental and Administration objectives; perform editorial services including research and editorial assistance in the preparation and publication of technical articles; and maintain mailing lists, biographical data, business information and other reference material.

Effective date: November 18, 1976.

DONALD E. JOHNSON,
Acting Assistant Secretary for Domestic and International Business.

[FR Doc.76-36941 Filed 12-15-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows:

Monday, 10 January 1977

The entire meeting commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552(b)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter is to work on a study of specialized intelligence data requirements.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 13, 1976.

[FR Doc.76-36999 Filed 12-15, 76;8:45 am]

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Pub. L. 94-409, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held at the Pentagon, Washington, D.C. on:

Tuesday and Wednesday, 1-2 February 1977.

The entire meetings commencing at 0900 hours are devoted to the discussion of classified information as defined in Section 552(b)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

DECEMBER 13, 1976.

[FR Doc.76-37000 Filed 12-15-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

MANDATORY PATENT LICENSING

Public Colloquium

In response to the requirements of subsection 9(n) of the Federal Nonnuclear Energy Research and Development Act of 1974, Pub. L. 93-577, ERDA submitted a report, ERDA 76-16, entitled "The Patent Policies Affecting ERDA Energy Programs". Copies of this report may be obtained from the Government Printing Office, Washington, D.C. 20402.

This report was devoted to assessing the applicability of existing patent policies affecting ERDA programs under the patent provisions of the Federal Nonnuclear Energy Research and Development Act of 1974 and the Atomic Energy Act of 1954, as amended.

It investigated the statutory scheme for allocating the rights to inventions made under ERDA contracts, the acquisition of rights in the contractor's background patents, the licensing of ERDA-owned patents, and the subject of compulsory licensing. Compulsory (or mandatory) licensing of patents can generally be defined as requiring patent owners to forego the injunctive remedy against the infringing acts of another.

The study on mandatory licensing was based on the twenty-nine (29) years of ERDA (the Atomic Energy Commission) and six (6) years of Environmental Protection Agency experience with legislative compulsory licensing. In addition, during two days of public hearings (40 FR 48388, October 15, 1975) ERDA obtained the public's views on compulsory licensing of patents in the energy field, and specifically, if legislation is required, what should be its essential provisions.

In presenting ERDA's initial findings to the President and Congress on compulsory patent licensing, ERDA determined that further study was needed on this subject prior to recommendation as to whether additional compulsory licensing authority would be desirable for energy technology. These studies will include an empirical data gathering effort as to nature and frequency of injunctive relief in patent infringement cases, the need for and effect of existing compulsory licensing through industry surveys, an analysis of the effect of compulsory licensing degrees in antitrust cases and an assessment of experience of foreign countries with compulsory licensing. A panel of experts in law, business and economics has also been formed to prepare papers and present their views on these issues.

ERDA will hold a public colloquium on mandatory patent licensing on January 12, 1977, at Germantown, Maryland, for the presentation and discussion of ERDA sponsored papers on compulsory patent licensing by this panel of distinguished members of the business, legal and economic professions.

The panelists are as follows:

Dr. Dayton H. Clewell, Vice President, Research and Development, Mobil Oil Corporation, New York City, New York;
Dr. Nat C. Robertson, Senior Vice-President, Research and Development, Air Products and Chemicals, Allentown, Pennsylvania;
Mr. Marcus B. Finnegan, Partner, Finnegan, Henderson, Farabow and Garrett, Washington, D.C.;
Professor James B. Gambrell, Partner, Pravel, Wilson and Gambrell, Houston, Texas;
Dr. Frederic M. Scherer, Economist, College of Arts and Sciences, Northwestern University, Evanston, Illinois, (formerly Director, Bureau of Economics, Federal Trade Commission);
Dr. Jesse W. Markham, Charles Edward Wilson Professor of Business Administration, Graduate School of Business Administration, Georgia Baker Foundation, Harvard University, Cambridge, Massachusetts.

The purpose of this colloquium is to obtain comments on such questions as:

1. What is the need for compulsory patent licensing in the energy field?
2. What is the impact of compulsory patent licensing on research, development and demonstration, patent licensing and other pertinent industry practices?
3. What is the effect of compulsory patent licensing under existing domestic and foreign legislative compulsory licensing provisions, and compulsory licensing decrees in antitrust cases?

The intent of this colloquium is to provide a forum for panel members having particular expertise in the legal, economic and business communities to express their views on this emotional, complex and controversial subject.

Notice is hereby given by the Energy Research and Development Administration that this public colloquium on compulsory patent licensing will be held on January 12, 1977, at 9:30 a.m. (local time) in the auditorium; U.S. Energy Research and Development Administration, Maryland State Route 118, Germantown, Maryland.

This colloquium will be conducted in three phases. The first phase will be an oral presentation of the papers by each panelist. The second phase will be a round table discussion of each panelist's paper by the remaining members of the panel. The third, and last phase, will be a dialogue between panelists responsive to questions submitted by the Department of Justice, Department of Commerce, the Office of Federal Procurement Policy and ERDA.

Members of the public are invited to attend this colloquium. Due to the prior public hearings on this subject providing an opportunity for public comment, the public colloquium will be limited to the above presentations, discussions and dialogues. ERDA will receive written public comments on all colloquium phases for inclusion in the colloquium record up to 45 days after the date of the colloquium. Copies of the colloquium transcript will

be available in the ERDA Public Document Room, 20 Massachusetts Avenue, SW., Washington, D.C. after the colloquium for those desiring to submit written comments.

All persons or organizations desiring to submit written comments or suggestions on this public colloquium are requested to notify Mr. Kenneth L. Cage, Office of the Assistant General Counsel for Patents, U.S. Energy Research and Development Administration, Washington, D.C. 20545, Telephone (301) 353-5093 before the close of business (5 p.m. local time) on February 28, 1977.

For the United States Energy Research and Development Administration.

Dated at Washington, D.C., this 14th day of December 1976.

JAMES A. WILDEROTTER,
General Counsel.

[FR Doc.76-37118 Filed 12-15-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 657-5; OPP-240016]

STATE OF MONTANA

Approval of Request for Interim Certification To Register Pesticides To Meet "Special Local Needs"

On July 3, 1975, final regulations for the registration, reregistration, and classification of pesticides pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*), were published in the FEDERAL REGISTER (40 FR 28241). These regulations became effective August 4, 1975. Since that date, States have been prohibited from issuing new registrations for pesticide products or uses of pesticide products which are not registered by the Environmental Protection Agency (EPA), except pursuant to certification from the Administrator in accordance with section 24(c) of FIFRA.

On September 3, 1975, proposed regulations for State Registration of Pesticides To Meet Special Local Needs under section 24(c), FIFRA, were published in the FEDERAL REGISTER (40 FR 40538). Since it did not prove possible to promulgate final section 24(c) regulations prior to the effective date of the FIFRA section 3 regulations, some interruption in the authority of States to register pesticides has occurred. In order to prevent further disruption of State registration programs (particularly in relation to minor uses), a procedure has been established by which States may request interim certification to register pesticides to meet special local needs until such time as the final section 24(c) regulations are promulgated. If such a request is granted, a State may register pesticides subject to the terms of the certification and other limitations set out in the Preamble to the proposed regulations. Interim certification will expire if the State has not submitted a plan pursuant to the final section 24(c) regulations within 60 days after the effective date of these regulations, or, if such a plan is submitted and it is disapproved by the Administrator, on the effective date of the Administrator's disapproval.

A State may request interim certification to register pesticides to meet special local needs at any time by having the Governor or Chief Executive Officer or their designee submit a request in writing to the Administrator. The request shall satisfy the requirements set out in the FEDERAL REGISTER announcement of the Interim Certification program (40 FR 40542), and the statutory standard set forth in section 24(c) of FIFRA.

The FEDERAL REGISTER announcement of the Interim Certification program provides that the Administrator shall notify the State of his approval or denial of a request for Interim Certification and publish notice of approval or denial in the FEDERAL REGISTER. The announcement further states that since the Agency expects Interim Certification to be of limited duration, it will not solicit public comment with respect to requests for Interim Certification. Adequate opportunity for public comment on State plans submitted pursuant to final section 24(c) regulations is provided for in proposed section 162.158(c).

The Agency has received a Request for Interim Certification to register pesticides to meet special local needs (Request) from the State of Montana. After reviewing the Request, the Agency found that it satisfies the requirements set forth in the FEDERAL REGISTER document of September 3, 1975. Accordingly, notice is hereby given that the EPA has approved the Montana Request for Interim Certification, as described below.

MONTANA

The Montana Request sought authority to register "new products", as that term is defined in section 162.152(g) of the proposed regulations, to amend EPA registrations which involve "changed use patterns", as that term is defined in section 162.152(c), and to amend EPA registrations which do not involve changed use patterns. The Agency has found that the specific requirements of the Interim Certification program are satisfied in the Request. Procedures for product hazard review and efficacy determination are part of the State's registration program; these procedures are adequate to assure that special needs registrations issued by this State will be in accord with the purposes of FIFRA.

The State agency which has been designated responsible for issuance of such registrations is the Montana Department of Agriculture. This agency was notified on November 22, 1976, that its Request had been approved.

A copy of the Montana Request for Interim Certification, along with a letter reflecting the Agency's decision to approve the Request, are available at the following locations: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St., S.W., Washington, D.C. 20460. Pesticide Branch, Hazardous Materials Control Division, EPA, 1860 Lincoln Street, Suite 103, Denver, Colorado 80295.

Dated: December 13, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-37057 Filed 12-15-76;8:45 am]

[FRL 657-6; OPP-50267]

WEYERHAEUSER CO.

Receipt of Application for Experimental Use Permit To Use Strychnine Alkaloid To Control Gopher Damage to Forests and Solicitation of Views

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), the Weyerhaeuser Company, Tacoma, Washington 98401 (hereafter referred to as the "Applicant") has applied to the Environmental Protection Agency (EPA) for an experimental use permit allowing use of a maximum of 1.5 lbs or 680.4 grams of strychnine alkaloid in small polyethylene bags on a total of 600 acres in the State of Oregon; this permit would be granted in order to determine the efficacy of polyethylene-bagged baits for control of pocket gopher damage to forest regeneration. This application for an experimental use permit is subject to the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

According to the section 5 regulations, the Administrator shall publish notice in the FEDERAL REGISTER of receipt of an application for an experimental use permit upon finding that issuance of the permit may be of regional or national significance; the determination has been made that this application falls within that category. It should be noted that a rebuttable presumption exists against registration of those pesticide products containing strychnine and strychnine sulfate which are registered for outdoor, above-ground use (see FEDERAL REGISTER of December 1, 1976, p. 52810). However, this application is concerned with underground use of strychnine. Accordingly, all interested parties are invited to submit written comments pertinent to the application to the Federal Register Section, Room E-401, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the submissions. The comments must be received within 30 days after the date of publication of this notice in the FEDERAL REGISTER, and should bear the identifying notation OPP-50267. All written comments filed pursuant to this notice will be available for public inspection in the office of

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the Federal Register Section from 8:30 a.m. to 4 p.m. during normal work days.

This document contains a summary of information required by regulation to be included in the notice and does not indicate a decision by this Agency on the application. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567), Office of Pesticide Programs, Room E–315, located at the Headquarters address mentioned above.

According to the Applicant, pocket gopher damage to reforestation in the western United States is increasing; a recent questionnaire survey conducted by the Northwest Forest Pocket Gopher Committee (1976) indicated that excessive pocket gopher damage is occurring on over 200,000 acres of timber land in eastern Washington, Oregon, and northern California. Damage has been reported as increasing on forest lands in Idaho, Montana, Utah, Wyoming, and Colorado. The Applicant states that over the years, population reduction through toxic baiting has been the primary method of damage control. Data on the relationship of population reduction to seedling damage reduction are limited; observations to date indicate population reductions of 30–70 percent reduce damage by 50–70 percent. However, this response is highly variable, depending on such factors as initial population level, vegetation type, soil type, and similar aspects. Costs for control of gopher damage are also variable, according to the Applicant, and range from about $5 to $15 per acre for hand baiting and from $2.50 to $10 per acre for machine baiting.

At present, oat groats treated with 0.25 to 0.6 percent strychnine alkaloid used as a poison bait are the most effective means of pocket gopher control via toxic baits. This bait is currently registered with EPA for hand or machine application below ground. Hand application involves locating and making a small opening into the underground burrow system of the gopher. A small quantity of bait is then dropped into the burrow and the hole closed. Machine application with the "burrow builder" involves systematic baiting of artificial tunnels as they are formed by the machine.

Gopher populations range from 1 or 2 to over 30 animals per acre. On forest lands populations are usually less than 15 animals per acre. Normally, two points in the burrow system are treated with 3 to 5 grams of oat bait per point, or a maximum of about 150 grams of oat bait per acre. This bait remains acceptable to gophers for 2 to 4 weeks, depending on soil moisture and temperature. After this time, the oats either become moldy or sprout, and are no longer of value as a bait. A factor limiting the effectiveness of baiting is rapid repopulation of treated areas, which often occurs. Evaluations of baiting programs indicate population reductions of up to 90 percent several weeks after baiting; however, by the next year, populations have often recovered to pre-treatment levels. This rapid recovery occurs as result of invasion of animals from outside the treated area or from reproduction of treatment survivors. In areas of high populations, annual baiting is necessary to control damage.

The Applicant proposes to evaluate small polyethylene bags containing 2 to 5 grams of the registered strychnine and oat groat bait for their potential for gopher control. The main advantage of this bait delivery system is that bagged baits would remain available for a longer period than standard baits. The 3 to 4 mil. thick polyethylene allows movement of odor out through the bag but prohibits moisture movement into the bag. The Applicant states that the following factors have been discovered in its research efforts:

1. Gophers readily locate bagged baits, open the bags, and consume the baits;
2. Bagged baits may be consumed when first located, or transported to the nest or food cache intact and subsequently opened and consumed;
3. Contents of a single bag are sufficient to cause mortality if consumed by a gopher;
4. In moist soil, bagged baits have remained in good condition and acceptable to gophers for as long as 240 days;
5. Attractant material (parsley, carrot, or banana flakes) can be readily added to the bagged bait to increase acceptance; and
6. Bagged baits could readily be adapted for mechanical application.

With these factors in mind, the Applicant proposes to have treatment blocks of 50 to 100 acres in size, with at least 1 replication for each of the following treatments:

1. Standard 0.57 percent strychnine/oat groat bait;
2. Bagged 0.57 percent strychnine/oat groat bait;
3. Bagged 0.57 percent strychnine/oat groat bait plus attractant mixture; and
4. Control block—no treatment.

The maximum acreage in the test would be 800 acres, of which 600 would be treated. Application rates would be approximately the same for each treatment, with variation corresponding to variation in gopher density on the field plots. All burrow systems would be treated with 3 to 5 bait drops per system. Expected rates of application per acre would be 50 to 200 grams of bait, which is equivalent to 0.3 to 1.14 grams of strychnine alkaloid per acre. Treatments would be applied by hand in the spring and fall of 1977. Animal activity determination and levels of seedling damage will be evaluated prior to treatment, two weeks post-treatment, and for at least 1½ additional years. Major treatment effects to be compared are (1) The reduction in gopher population as indicated by activity before and after baiting, and (2) The reduction in seedling damage determined through examination of samples of marked trees.

Dated: December 10, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76–37058 Filed 12–15–76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I–299]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

DECEMBER 13, 1976.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

Amendment TELECABLE OF OVERLAND PARK, INC., Overland Park, Kansas. Amendment to the construction permit/license application to permit the reception of Channel 17, Station WTCG–TV, Atlanta, Georgia.

55–DSE–P/L–77 AMERICAN TELEVISION & COMMUNICATIONS CORPORATION, West Monroe, Louisiana. For authority to construct, own and operate a domestic communications satellite Receive-Only earth station at this location. Lat. 32°32'–10'', Long. 92°09'51''. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 10 meter antenna.

56–DSE–P–77 TELECABLE OF SPARTANBURG, INC., Spartanburg, South Carolina. For authority to construct, own and operate a domestic communications satellite Receive-Only earth station at this location. Lat. 34°59'11'', Long. 81°54'09''. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 10 meter antenna.

[FR Doc.76–37019 Filed 12–15–76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Construction Orders to Certain Powerplants in the Early Planning Process

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue construction orders pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and in accordance with 10 CFR Parts 303 and 307, to the following powerplants in the early planning process:

Docket No.	Owner	Generating station	Unit No.	Location
OCU–156–N	Gulf Power Co.	Robert F. Ellis	1	Caryville, Fla.
OCU–162–N	Central Louisiana Electric Co., Inc.	Rodemacher	2	Near Boyce, La.
OCU–166–N	East Kentucky Power Co-op., Inc.	H. L. Spurlock	2	Maysville, Ky.
OCU–168–N	Indianapolis Power & Light Co.	Petersburg	4	Petersburg, Ind.
OCU–176–N	Power Authority of the State of New York.	MTA fossil plant (Arthur Kill).		Staten Island, N.Y.
OCU–181–N	City of Hastings, Nebr., and city of Grand Island, Nebr.	Great Plains		Doniphan, Nebr.
OCU–183–N	Nebraska Public Power District.	Gerald Gentlemen	2	Sutherland, Nebr.
OCU–197–N	Southwestern Public Service Co.	Harrington	3	Amarillo, Tex.
OCU–199–N	Upper Peninsula Power Co.	Dollar Bay		Dollar Bay, Mich.
OCU–201–N	Kentucky Utilities Co.	Ghent	4	Ghent, Ky.
OCU–202–N	Arkansas Power & Light Co.	Arkansas Coal Station	1	Unsited.
OCU–203–N	do	do	2	Do.
OCU–205–N	Colorado-Ute Electric Association, Inc.	Craig	3	Craig, Colo.
OCU–206–N	do	do	4	Do.
OCU–207–N	New York State Electric & Gas Corp.	Cayuga		Lansing, N.Y.
OCU–208–N	Sunflower Electric Co-op	1982 coal fired		Unsited.
OCU–211–N	Northern States Power Co.	1985 coal fired		Do.
OCU–216–N	South Carolina Electric & Gas Co.	1984 unit		Do.
OCU–218–N	Southwestern Electric Power Co.	South Hallsville (temporary name).	1	Hallsville, Tex.
OCU–219–N	do	do	2	Do.

FEA hereby also gives notice of the opportunity for written presentation of data, views and arguments regarding these proposed construction orders.

The proposed orders would require each of the above listed powerplants in the early planning process to be designed and constructed to be capable of using coal as its primary energy source.

Prior to issuance of a construction order to a powerplant in the early planning process, section 2(c) of ESECA and FEA's regulations (§§ 303.46(b) and 307.3 (b) and (c)) require that FEA find that the powerplant is in the early planning process. They also prohibit FEA from issuing a construction order if FEA finds that (1) such order is likely to result in an impairment of reliability or adequacy of service, or (2) an adequate and reliable supply of coal is not reasonably expected to be available. FEA's initial conclusions and rationale with respect to these findings for each of the powerplants are set out in section 1 of Appendix A to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, in a construction order when it is issued.

In addition, ESECA and FEA's regulations (§§ 303.46(b), 307.3(d)) require that FEA consider certain other factors prior to issuance of a construction order. FEA's initial conclusions, and a brief statement of the rationale for such conclusions, with respect to such considerations are set out in section 2 of Appendix A to this notice. The conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The conclusions and rationale will be included, with any amendments, in the construction order when it is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue construction orders to some or all of the above listed powerplants in the early planning process. These construction orders will not become effective, however, until FEA has considered the environmental impact of any such order, pursuant to 10 CFR 208.3 (a)(4) and 307.7, and has served the affected powerplant in the early planning process with a Notice of Effectiveness, as provided in §§ 303.10(b), 303.47(b) and 307.5 of FEA's regulations. Section 307.7 (c) requires that prior to the issuance of a Notice of Effectiveness to a powerplant, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result either 1) in a declaration that a specific construction order or group of construction orders, will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or, 2) in the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from a specific construction order or group of construction orders and that have not been adequately discussed in the programmatic Environmental Impact Statement (FES 75–1, dated April 25, 1975) for the FEA program to implement section 2 of ESECA, or in other official documents made publicly available during the FEA proceedings in connection with issuance of a construction order, or otherwise made available to the public. If FEA prepares an environmental impact statement covering significant site-specific impacts from a construction order or group of such orders, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 and prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to § 303.173 of the FEA regulations to comment on the contents of a draft environmental impact statement published pursuant to § 307.7(c) of the FEA regulations.

Public comment on the proposals to issue construction orders to the above listed powerplants in the early planning process is invited in the form of written presentation of data, views and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments are solicited addressing (1) the adequacy and validity of each of the proposed findings, and the conclusions and the rationale in support of these findings, as well as the conclusions, and rationale in support of the conclusions, with respect to the other factors EPA must consider; (2) the identification of any site-specific environmental impacts resulting from the proposed construction orders that were not identified or described in the programmatic Environmental Impact Statement for the FEA program to implement section 2 of ESECA; and, (3) any other aspects or impacts of the proposed construction order believed to be relevant. It should be recognized that any such powerplant in the early planning process would have to comply with applicable new source performance standards prescribed by the Environmental Protection Agency under the Clean Air Act, as amended.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to a proposed construction order or group of orders to Executive Communications, Federal Energy Administration, Box JT, Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted with the designation "Proposed Construction Order for the _____ _____ Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m. e.s.t., January 17, 1976, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of any construction order.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Copies of the FEA regulations implementing section 2 of ESECA (10 CFR Parts 303 and 307) are available from the FEA Regional Offices:

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Federal Energy Administration, regional offices

Region	Address	Phone
I	Robert Mitchell, Regional Administrator, 150 Causeway St., Room 700, Boston, Mass. 02114.	(617) 223-3701
II	Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, N.Y. 10007.	(212) 264-1021
III	J. A. LaSala, Regional Administrator, 1421 Cherry St., Room 1001, Philadelphia, Pa. 19102.	(215) 597-3800
IV	Donald Allen, Regional Administrator, 1655 Peachtree St., N.E., 8th Floor, Atlanta, Ga. 30309.	(404) 526-2837
V	N. Allen Andersen, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Ill. 60604.	(312) 353-8420
VI	Delbert Fowler, Regional Administrator, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235.	(214) 749-7345
VII	Neil Adams, Regional Administrator, Twelve Grand Building, P.O. Box 2208, 112 East 12th St., Kansas City, Mo. 64142.	(816) 374-2061
VIII	Dudley Faver, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226.	(303) 234-2420
IX	William Arntz, Regional Administrator, 111 Pine St., San Francisco, Calif. 94111.	(415) 556-7216
X	Jack Robertson, Regional Administrator, 1992 Federal Building, 915 2d Ave., Seattle, Wash. 98174.	(206) 442-7280

Any questions regarding this notice should be directed to the FEA National Office as follows Federal Energy Administration, Code OCU (Construction Order No. 3), Washington, D.C. 20461.

(Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (Pub. L. 93-275); E. O. 11790 (39 FR 23185).)

Issued in Washington, D.C., December 10, 1975.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

APPENDIX A

Proposed Findings and Conclusions

ESECA and the FEA regulations require FEA to make certain findings and consider certain factors before issuing a construction order. FEA's initial findings, as well as its initial conclusions with respect to the factors FEA is required to consider, are set out below with respect to each of the powerplants in the early planning process listed below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OCU-156-N	Gulf Power Co	Robert F. Ellis	1	Caryville, Fla.
OCU-163-N	Central Louisiana Electric Co., Inc.	Rodemacher	2	Near Boyce, La.
OCU-166-N	East Kentucky Power Co-op., Inc.	H. L. Spurlock	2	Maysville, Ky.
OCU-168-N	Indianapolis Power & Light Co.	Petersburg	4	Petersburg, Ind.
OCU-176-N	Power Authority of the State of New York.	MTA fossil plant (Arthur Kill)		Staten Island, N.Y.
OCU-181-N	City of Hastings, Nebr., and city of Grand Island, Nebr.	Great Plains		Doniphan, Nebr.
OCU-183-N	Nebraska Public Power District.	Gerald Gentlemen	2	Sutherland, Nebr.
OCU-197-N	Southwestern Public Service Co.	Harrington	3	Amarillo, Tex.
OCU-199-N	Upper Peninsula Power Co.	Dollar Bay		Dollar Bay, Mich.
OCU-201-N	Kentucky Utilities Co.	Ghent	4	Ghent, Ky.
OCU-202-N	Arkansas Power & Light Co.	Arkansas Coal Station	1	Unsited.
OCU-203-N	do	do	2	Do.
OCU-205-N	Colorado-Ute Electric Association, Inc.	Craig	3	Craig, Colo.
OCU-206-N	do	do	4	Do.
OCU-207-N	New York State Electric & Gas Corp.	Cayuga		Lansing, N.Y.
OCU-208-N	Sunflower Electric Co-op.	1982 coal fired		Unsited.
OCU-211-N	Northern States Power Co.	1985 coal fired		Do.
OCU-216-N	South Carolina Electric & Gas Co.	1984 unit		Do.
OCU-218-N	Southwestern Electric Power Co.	South Hallsville (temporary name).	1	Hallsville, Tex.
OCU-219-N	do	do	2	Do.

(1) *Proposed Findings.*

(a) *The powerplant is in the early planning process.* Based on an analysis of the information submitted to or otherwise available to FEA, including the information provided to FEA by the powerplant on FEA Form C-603-S-0 (Identification Report), and information provided by the powerplant in response to subsequent inquiry to assure the continued applicability and currency of such information, FEA proposes to find that the powerplant is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning stated below:

(i) The date by which the powerplant plans to commence the sale or exchange of electric power is not more than 10 years from December 10, 1976, and the driving of the foundation piling, or the equivalent foundation structural event, in accordance with the approval final drawing for the main boiler of the powerplant, has not commenced.

(ii) The powerplant has identified itself as a powerplant in the early planning process by filing with FEA an FEA Form C-603-S-O in accordance with 10 CFR 307.6(b) and with the notice of the requirement to file such report that was published in the FEDERAL REGISTER on May 22, 1975 (40 FR 22309).

(b) *FEA cannot find that the design and construction of the powerplant with the capability of using coal as its primary energy source is likely to result in an impairment of the reliability or adequacy of service.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes that it cannot find that the requirement that the powerplant be designed and construction to be capable of using coal as its primary energy source is likely to result in an impairment of the reliability or adequacy of service. This proposed conclusion is based on the facts, assumptions and reasoning stated below:

(i) There will not be a delay in the commencement of the sale or exchange of electric power by reason of the FEA requirement that the powerplant be designed and constructed to be capable of using coal as its primary energy source, because such capability is already planned. Specifically, the powerplant stated on FEA Form C-603-S-0 that it is being designed and constructed either (1) to burn only coal, or (2) if it is being designed and constructed with multiple fuel design, coal is its anticipated primary fuel.

(ii) The fact that there will not be a delay in the commencement of the sale or exchange of electric power by the powerplant by reason of the FEA requirement means that the dispatching system of which the powerplant will be a part cannot be adversely affected, nor can the Gross Reserve Margin for such system be reduced by reason of this requirement. ("Dispatching system" means the group of powerplants for which there is centralized control of power generation scheduling and transmission planning.)

(iii) Because the powerplant is being designed and contructed to burn coal as its primary energy source, FEA assumes that there will be no derating of the powerplant when using coal as its primary energy source that would impair reliability or adequacy of service.

(c) *FEA cannot find that an adequate and reliable supply of coal is not reasonably expected to be available.* Based on analysis of the information submitted to or otherwise available to FEA, FEA proposes that it cannot find that an adequate and reliable supply of coal is not reasonably expected to be available. This proposed conclusion is based on the facts, interpretations and reasoning stated below:

(i) It is 40 or more months before the powerplant can realistically plan to commence the sale or exchange of electric power. Since the length of time prior to the planned commencement of the sale or exchange of electric power is 40 or more months, there is a sufficient period of time for the powerplant to obtain an adequate and reliable supply of coal.

(ii) Because the powerplant stated on FEA Form C-603-S-0 that it is being designed and constructed either (1) to burn only coal, or (2) if it is being designed and constructed with multiple fuel design, coal is its anticipated primary fuel, FEA assumes that the powerplant has determined that an adequate and reliable supply of coal will be available at the time the powerplant commences the sale or exchange of electric power.

(2) *Proposed Conclusions Concerning Factors FEA Is Required To Consider.*

(a) *The existence and effects of any contractual commitment for the construction of the powerplant.* The powerplant has not informed FEA, nor is FEA aware, of any contractual commitments for the construction of the powerplant that would be adversely affected by the FEA requirement that the powerplant be designed and constructed to be capable of using coal as its primary energy source. Further, because the powerplant has indicated on FEA Form C-603-S-0 that it will be designed and constructed to be capable of using coal as its primary energy source, FEA assumes that the FEA requirement will have no independent effect on any contractual commitments for design or construction of the powerplant. FEA therefore proposes to conclude that the FEA requirement that the powerplant be designed and constructed to be capable of using coal as its primary fuel will not affect any contractual commitment for the design or construction of the powerplant, and that as a result there are no such effects which FEA is required to consider.

(b) *The capability of the powerplant to recover any increase in projected capital investment required as a result of a construction order.* In the response to FEA Form C-603-S-0, the powerplant indicated that it would be designed and constructed to be capable of using coal as its primary fuel. FEA proposes to conclude, therefore, that the FEA requirement that the powerplant be designed and constructed to be capable of burning coal as its primary energy source will not require any increase in projected capital investment. FEA further proposes to conclude that since no increase in projected capital investment is required, FEA is not required to consider the capability of the powerplant to recover any increase.

(c) *The potential loss of revenue resulting from a delay in commencement of the sale or exchange of electric power, if any, as a result of a construction order.* In response to FEA Form C-603-S-0, the powerplant indicated that it would be designed and constructed to be capable of using coal as its primary fuel. FEA proposes to conclude, therefore, that the FEA requirement that the powerplant be designed and constructed to be capable of using coal as its primary energy source will not result in a delay in the commencement of the sale or exchange of electric power by such powerplant. FEA further proposes to conclude that because no delay will result, it is not necessary or appropriate for FEA to consider the potential for a significant loss of revenue as a result of delay in the commencement of sale or exchange of electric power.

(d) *The relevant regulations or policies of any State or local agency with jurisdiction over the sale or exchange of electric power by the powerplant.* No relevant regulations or policies of any State or local agency with jurisdiction over the sale or exchange of electric power by the powerplant have been brought to FEA's attention that would affect the powerplant as a result of the FEA requirement that the powerplant be designed and constructed to be capable of using coal as its primary energy source, nor is FEA aware of any such regulations or policies. FEA proposes to conclude, therefore, that it is not necessary or appropriate for FEA to consider the effects on the powerplant of such regulations or policies.

[FR Doc.76-36896 Filed 12-10-76;3:41 pm]

INDUSTRIAL ENERGY CONSERVATION

Identification of Corporations Required To File Information Regarding Energy Consumption

The Federal Energy Administration (FEA) hereby gives notice of the identification of corporations pursuant to section 373 (42 U.S.C. 6343) of the Energy Policy and Conservation Act (EPCA) (89 Stat. 871 et seq.). Each corporation has been identified as a corporation which consumes at least one trillion British thermal units (Btu's) of energy per year within the United States in any one of the ten major energy-consuming industries previously identified by FEA and which is among the 50 most energy-consumptive corporations within any one of these industries. Based upon these statutory criteria, some corporations have been identified as among the most energy-consumptive corporations in more than one industry. The identified corporations are listed by industry, in alphabetical order, in the appendix to this notice.

BACKGROUND

Part D of Title III (42 U.S.C. 6341-6346) of the EPCA authorizes FEA, in consultation with the Department of Commerce and the Energy Research and Development Administration, to establish a program to promote increased energy efficiency by American industry and to establish voluntary energy efficiency improvement targets for at least the ten most energy-consumptive major manufacturing industries in the United States.

By notice issued March 20, 1976 (41 FR 12766, March 23, 1976), FEA identified the ten most energy-consuming industries in the United States and established a priority ranking of such industries on the basis of their total annual energy consumption, as required by section 373 (42 U.S.C. 6343) of EPCA. The rankings, grouped by two-digit industries within the Standard Industrial Classification (SIC) manufacturing division, is as follows:

Ranking	Industry	SIC code
1	Chemical and allied products	28
2	Primary metal industries	33
3	Petroleum and coal products	29
4	Stone, clay, and glass products	32
5	Paper and allied products	26
6	Food and kindred products	20
7	Fabricated metal products	34
8	Transportation equipment	37
9	Machinery, except electrical	35
10	Textile mill products	22

Pursuant to a FEDERAL REGISTER notice dated September 1, 1976 (41 FR 36828), any corporation that consumed at least one trillion Btu's of energy, exclusive of energy consumed as feedstocks, within the United States and is within any of the ten previously identified major energy-consuming industries in calendar year 1975, was required to provide certain information to FEA by September 30, 1976. (The deadline for this information subsequently was extended through November 8, 1976 (41 FR 47285, October 28, 1976).) Each corporation was required to provide FEA with the total energy consumed in 1975, according to SIC classification, with the percentage of such energy that was in the form of electricity separately stated.

As provided in section 375(a) of EPCA (42 U.S.C. 6345(a)), each corporation identified is required to report directly to FEA the progress such corporation has made in improving its energy efficiency, unless the corporation has been exempted from the requirement in accordance with section 376(g) of EPCA (42 U.S.C. 6346(g)). (On November 22, 1976 FEA issued criteria that pertain to requests for exemption from the section 375(a) mandatory reporting requirement (41 FR 51866, November 24, 1976).) FEA now is in the final stages of internal review prior to proposing the form to be utilized by identified corporations in making section 375(a) reports and expects to publish the form in the FEDERAL REGISTER for public comment within the next several weeks.

METHODOLOGY

In response to the requirement to provide information on energy consumption appearing in the FEDERAL REGISTER, approximately 832 corporations identified themselves as consuming at least one trillion Btu's of energy within the United States in the calendar year 1975. For industries where the number of respondents exceeded 50, FEA selected the 50 most energy-consuming corporations based on the information provided by the corporations. In instances where FEA's evaluation of the information raised questions about the accuracy or adequacy of the data provided, FEA contacted the corporation or utilized its own resources to resolve any questions. In four of the SIC industries, all corporations using a trillion Btu's or more in 1975 were identified.

The number of corporations identified within each industry and, when more than 50 corporations reported the utilization of one trillion or more Btu's per year, the energy use cutoff for that industry are stated below:

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SIC code	Industry	Number of identified corporations	Minimum level 1975 energy use (10^{12} Btu's)
28	Chemical and allied products	50	12.6
33	Primary metal industries	50	6.0
29	Petroleum and coal products	50	5.4
32	Stone, clay, and glass products	50	5.5
26	Paper and allied products	50	6.2
20	Food and kindred products	50	3.7
34	Fabricated metal products	42	1.0
37	Transportation equipment	38	1.0
35	Machinery, except electrical	45	1.0
22	Textile mill products	49	1.0

REQUESTS FOR MODIFICATION AND APPEAL

Except as stated below, any appeal of FEA's determination that a particular corporation consumed at least one trillion Btu's of energy and is among the 50 most energy-consumptive corporations within any of the 10 most energy-consuming industries identified by FEA and the subsequent identification of such corporations by this notice shall be filed with the FEA Office of Exceptions and Appeals, at the address provided in 10 CFR 205.12, on or before January 17, 1977. The procedures applicable for such appeal are those stated in 10 CFR Part 205, Subpart H.

Notwithstanding the preceding paragraph stating the procedures for appeal, a request for the modification of FEA's determination with respect to the identification of a particular corporation on the grounds of clerical or technical error may be filed with FEA in advance of any appeal. Any such request shall be filed on or before November 27, 1976, and FEA shall respond to such request by granting or denying it within 20 days of its receipt by the appropriate office. Such request shall be filed with the Director, Office of Industrial Reporting Programs, Federal Energy Administration, Room 311 Old Post Office Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461. (10 CFR 205.131 and 205.134 (a,b) may be used as a guide for the format of such request.)

The request must demonstrate that the corporation identified does not use at least one trillion Btu's per year or that it is not among the 50 most energy-consumptive corporations within any of the 10 most energy-consuming industries identified by FEA. The filing of such a request shall automatically stay, until 30 days after the receipt of an FEA order granting or denying the request for modification, the requirement that any appeal of the determination with respect to the identified corporations be filed within 30 days of publication of this notice. The appeal of any denial of a request for modification shall be filed with FEA's Office of Exceptions and Appeals, at the address provided in 10 CFR 205.12, within 30 days of the issuance of such denial by FEA and shall be joined with any appeal on other grounds of FEA's determination with respect to its identification of a particular corporation. The procedures applicable for such an appeal are those specified in 10 CFR Part 205, Subpart H.

A request for modification of FEA's determination based on a showing of "significantly changed circumstances" may be filed in accordance with 10 CFR Part 205, Subpart J, at any time subsequent to the 30-day period within which a person may file an appeal has lapsed or, if, an appeal has been filed, a final order has been issued. Such request shall be filed with the FEA Office of Exceptions and Appeals, at the above-stated address.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 231851.)

Issued in Washington, D.C., December 10, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

APPENDIX

SIC 28, CHEMICAL AND ALLIED PRODUCTS

Air Products and Chemicals, Inc.
Akzona, Inc.
Allied Chemical Corp.
Aluminum Company of America
American Can Co.
American Cyanamid Co.
Atlantic Richfield Co.
B. F. Goodrich Co., The
Borden, Inc.
Celanese Corp.
C. P. Industries, Inc.
Cities Service, Co.
Continental Oil Co.
Diamond Shamrock Corp.
Dow Chemical Co.
Eastman Kodak Co.
E. I. du Pont de Nemours and Co., Inc.
El Paso Co.
Ethyl Corp.
Exxon Corp.
Farmland Industries, Inc.
Firestone Tire and Rubber Co.
FMC Corp.
Gulf Oil Corp.
Hercules Inc.
International Minerals and Chemical Corp.
J. M. Huber Corp.
Kaiser Aluminum and Chemical Corp.
Kerr-McKee Corp.
Luchem Corp.
Merck & Co., Inc.
Mississippi Chemical Corp.
Monsanto Co.
National Distillers and Chemical Corp.
Occidental Petroleum Corp.
Olin Corp.
PPG Industries, Inc.
Pennwalt Corp.
Phillips Petroleum Co.
Rohm and Haas Co.
Shell Oil Co.
Standard Oil Co. (Indiana)
Standard Oil Co. (Ohio)
Stauffer Chemical Co.
Tenneco, Inc.
Texaco, Inc.
Union Carbide Corp.
Union Oil Company of Calif.
W. R. Grace & Co.
Williams Companies, The

SIC 33, PRIMARY METAL INDUSTRIES

Alan Wood Steel Co.
Allegheny Ludlum Industries, Inc.
Aluminum Company of America
Amax Inc.
Anaconda Co., The
Armco Steel Corp.
ASARCO Inc.
Babcock & Wilcox Co., The
Bethlehem Steel Corp.
Colt Industries Inc.
Consolidated Aluminum Corp.
Crane Co.
Cyclops Corp.
Dow Chemical Co.
Ford Motor Co.
General Motors Corp.
Georgetown Steel Corp.
Gulf & Western Industries, Inc.
Inland Steel Co.
Interlake Inc.
International Harvester Co.
Jim Walter Corp.
Kaiser Aluminum & Chemical Corp.
Kaiser Steel Corp.
Kennecott Copper Corp.
Laclede Steel Co.
LTV Corp., The
Lukens Steel Co.
Lykes Corp.
Martin Marietta Corp.
McLouth Steel Corp.
National Steel Corp.
Newmont Mining Corp.
NL Industries, Inc.
Northwest Industries
Northwestern Steel & Wire Co.
NVF Corp.
Ohio Ferro-Alloys Corp.
Ormet Corp.
Pechiney Ugine Kuhlmann Corp.
Phelps Dodge Corp.
Republic Steel Corp.
Reynolds Metals Co.
Revere Copper & Brass Inc.
St. Joe Minerals Corp.
Shenango, Inc.
Timken Co.
Union Carbide Corp.
United States Steel Corp.
Wheeling Pittsburgh Steel Corp.

SIC 29, PETROLEUM AND COAL PRODUCTS

Allied Chemical Corp.
Amerada Hess Corp.
American Petrofina, Inc.
APCO Oil Corp.
Ashland Oil, Inc.
Atlantic Richfield Co.
Charter Oil Co.
Cities Service Co.
Clark Oil & Refining Corp.
Coastal States Gas Corp.
Commonwealth Oil Refining Co., Inc.
Continental Oil Co.
Crown Central Petroleum Corp.
Diamond Shamrock Corp.
Earth Resources Co.
Esmark, Inc.
EXXON Corp.
Farmers Union Central Exchange, Inc.
Farmland Industries, Inc.
Getty Oil Co.
Gulf Oil Corp.
Husky Oil Co.
Jim Walter Corp.
Kerr-McGee Corp.
Koch Industries, Inc.
La Gloria Oil & Gas Co.
Lion Oil Co.
Marathon Oil Co.
Mobil Oil Corp.
Murphy Oil Corp.
National Cooperative Refinery Association
Pennzoil Co.
Phillips Petroleum Co.
Placid Oil Co.
Quaker State Oil Refining Corp.
Rock Island Refining Corp.
Shell Oil Co.
Sinclair Oil Corp.
Standard Oil Co. of Calif.
Standard Oil Co. (Indiana)
Standard Oil Co. (Ohio)
Sun Co.
Tenneco, Inc.
Tesoro Petroleum Corp.
Texaco, Inc.
Texas City Refining, Inc.
Texas Oil & Gas Corp.
Total Leonard, Inc.
Union Oil Company of California
Union Pacific Corp.

SIC 32, STONE, CLAY AND GLASS PRODUCTS

Alpha Portland Industries, Inc.
Amcord, Inc.
Anchor Hocking Corp.
Ash Grove Cement Co.
Brockway Glass Co., Inc.
California Portland Cement Co.
Citadel Cement Corp.
Combustion Engineering, Inc.
Corning Glass Works
Dart Industries, Inc.
Dresser Industries, Inc.
Dundee Cement Co.
Englehard Minerals and Chemical Corp.
Flintkote Co., The
Ford Motor Co.
General Dynamics Corp.
General Portland, Inc.
General Refractories Co.
Gifford-Hill & Co., Inc.
Gulf & Western Industries, Inc.
Ideal Basic Industries, Inc.

SIC 32, STONE, CLAY AND GLASS PRODUCTS—Con.

Indian Head, Inc.
Interpace Corp.
Jim Walter Corp.
Johns-Manville Sales Corp.
Kaiser Aluminum and Chemical Corp.
Kaiser Cement and Gypsum Corp.
Kerr Glass Manufacturing Corp.
Lehigh Portland Cement Co.
Libby-Owens-Ford Co.
Lone Star Industries, Inc.
Louisville Cement Co.
Martin Marietta Corp.
Medusa Corp.
Midland Glass Co., Inc.
Mississippi Lime Co.
Missouri Pacific Corp.
Missouri Portland Cement Co.
National Gypsum Co.
Newmont Mining Corp.
Norton Simon, Inc.
Owens-Corning Fiberglass Corp.
Owens-Illinois, Inc.
Penn Dixie Industries, Inc.
Philtrol Corp.
PPG Industries, Inc.
Southdown, Inc.
Texas Industries, Inc.
United States Gypsum Co.
United States Steel Corp.

SIC 26, PAPER AND ALLIED PRODUCTS

Abitibi Paper Co.
Alton Box Board Co.
American Can Co.
Boise Cascade Corp.
Bowater Inc.
Champion International Corp.
Chesapeake Corp. of Virginia, The
Consolidated Papers, Inc.
Continental Group, Inc., The
Crown Zellerbach Corp.
Federal Paper Board Co., Inc.
Fibreboard Corp.
Flintkote Co., The
Port Howard Paper Co.
Garden State Paper Co., Inc.
Georgia Pacific Corp.
Great Northern Nekoosa Corp.
Green Bay Packaging, Inc.
Gulf & Western Industries, Inc.
Gulf States Paper Corp.
Hammermill Paper Co.
Boerner Waldorf Corp.
Hudson Pulp and Paper Corp.
Inland Container Corp.
International Paper Co.
International Telephone and Telegraph Co.
Kimberly-Clark Corp.
Longview Fibre Co.
MacMillan Bloedel Inc.
Mead Corp., The
Mobil Oil Corp.
Olinkraft, Inc.
Owens-Illinois, Inc.
Pineville Kraft Corp.
Potlatch Corp.
Proctor and Gamble Co., The
St. Joe Paper Co.
St. Regis Paper Co.
Scott Paper Co.
Sonoco Products Co.
Southland Paper Mills, Inc.
Southwest Forest Industries, Inc.
Time Inc.
Times-Mirror Co.
Tenneco Inc.
Union Camp Corp.
United States Gypsum Co.
Westvaco Corp.
Weyerhaeuser Co.
Willamette Industries, Inc.

SIC 20, FOOD AND KINDRED PRODUCTS

Adolph Coors Co.
A. E. Staley Manufacturing Co.
Amalgamated Sugar Co., The
American Crystal Sugar Co.
American Maize-Products Co.
AMFAC, Inc.
Amstar Corp.
Anderson Clayton, Inc.
Anheuser-Busch Inc.
Archer-Daniels-Midland Co.
Beatrice Foods Co.
Borden, Inc.
California and Hawaiian Sugar Cc
Campbell Soup Co.
Cargill, Inc.
Carnation Co.
Central Soya Co., Inc.
Coca Cola Co., The
Consolidated Foods Corp.
Continental Grain Co.
CPC International, Inc.
Del Monte Corp.
Esmark, Inc.
Foremost-McKesson, Inc.
General Foods Corp.
General Mills, Inc.
Grain Processing Corp.
Great Western United Corp., The
Greyhound, Corp., The
H. J. Heinz Co.
Holly Sugar Corp.
International Telephone and Telegraph Co.
IU International Corp.
Joe. Schlitz Brewing Co.
Kellogg Co.
Kraft, Inc.
Land O' Lakes, Inc.
LTV Corp., The
Nabisco, Inc.
Nestle Co., Inc., The
Norton Simon, Inc.
Oscar Mayer and Co., Inc.
Pabst Brewing Co.
Pepsico, Inc.
Procter and Gamble Co., The
Ralston Purina Co.
Standard Brands, Inc.
Stokely-Van Camp, Inc.
U and I, Inc.
Univar Corp.

SIC 34, FABRICATED METAL PRODUCTS

Allegheny Ludlum Industries, Inc.
Aluminum Company of America
American Can Co.
American Standard Inc.
Amsted Industries Inc.
Babcock & Wilcox Co., The
Beatrice Foods Co.
Budd Co., The
Cameron Irons Works, Inc.
Canton Drop Forging & Manufacturing Co.
Chrysler Corp.
Combustion Engineering, Inc.
Continental Group, Inc., The
Crown Cork & Seal Co., Inc.
E. I. du Pont de Nemours Co., Inc.
Ethyl Corp.
Ford Motor Co.
General Motors Corp.
Gulf & Western Industries, Inc.
Harsco Corp.
International Telephone and Telegraph Corp.
Kaiser Aluminum & Chemical Corp.
Kohler Co.
Ladish Co.
Martin Marietta Corp.
Mason & Hanger-Silas Mason Co., Inc.
National Can Corp.
NL Industries Inc.
Olin Corp.
Pechiney Ugine Kuhlmann Corp.
Pittsburgh Forgings Co.
Questor Corp.
Reynolds Metals Co.
Rockwell International Corp.
Russell, Burdsall & Ward Inc.
Southwire Co.
Stanley Works, The
TRW Inc.
Textron Inc.
United States Steel Corp.
Wallace Murray Corp.
Wyman-Gordon Co.

SIC 37, TRANSPORTATION EQUIPMENT

American Motors Corp.
AMF Inc.
A. O. Smith Corp.
AVCO Corp.
Bendix Corp., The
Bethelehem Steel Corp.
Boeing Co., The
Borg-Warner Corp.
Budd Co., The
Chrysler Corp.
Clark Equipment Co.
Curtiss-Wright Corp.
Dana Corp.
Dayton-Walther Corp.
Eaton Corp.
Ford Motor Co.
Fruehauf Corp.
General American Transportation Corp. (GATX)
General Dynamics Corp.
General Electric Co.
General Motors Corp.
Goodyear Tire & Rubber Co., The
Grumman Aerospace Corp.
Hercules, Inc.
International Harvester Co.
Lockheed Aircraft Corp.
LTV Corp., The
Martin Marietta Corp.
McDonnell Douglas Corp.
Northrop Corp.
Rockwell International Corp.
Rohr Industries, Inc.
Signal Companies, The
Teledyne, Inc.
Tenneco, Inc.
Textron, Inc.
TRW, Inc.
United Technologies Corp.

SIC 35, MACHINERY, EXCEPT ELECTRICAL

Allis Chalmers Corp.
Beatrice Foods Co.
Beloit Corp.
Borg-Warner Corp.
Briggs and Stratton Corp.
Bucyrus-Erie Co.
Carrier Corp.
Caterpillar Tractor Co.
Chrysler Corp.
Clark Equipment Co.
Colt Industries Inc.
Control Data Corp.
Cooper Industries, Inc.
Cummins Engine Co., Inc.
Dana Corp.
Deere & Co.
Dresser Industries, Inc.
Eaton Corp.
Emhart Corp.
Federal-Mogul Corp.
Fiat-Allis, Inc.
Ford Motor Co.
FMC Corp.
Gardner Denver Co.
General Electric Co.
General Motors Corp.
Harnischfeger Corp.
Hughes Tool Co.
Ingersoll-Rand Co.
International Business Machines Corp.
International Harvester Co.
Joy Manufacturing Co.
Massey-Ferguson, Inc.
NCR Corp.
Outboard Marine Corp.
Rexnord, Inc.
Rockwell International Corp.
SKF Industries, Inc.
Sperry Rand Corp.
Teledyne, Inc.
Tenneco, Inc.
Textron, Inc.
Trane Co., The
TRW, Inc.
Westinghouse Electric Corp.

SIC 22, TEXTILE MILL PRODUCTS

Abney Mills
Allied Products Corp.
American Hoechst Corp.
American Thread Co.
Amoco Fabrics Co.
Armstrong Cork Co.
Avondale Mills
Bemis Co., Inc.
Bibb Co., The
Borden, Inc.
Burlington Industries, Inc.
Cannon Mills Co.
Coats & Clark, Inc.
Colgate-Palmolive Co.
Collins and Aikman Corp.
Cone Mills Corp.
Cranston Print Works Co.
Crompton Co., Inc.
Dan River, Inc.
Dixie Yarns, Inc.
E. T. Barwick Industries, Inc.
Fieldcrest Mills, Inc.
Goodyear Tire & Rubber Co., The
Graniteville Co.
Greenwood Mills Inc.
Gulf & Western Industries, Inc.
Hanes Corp.
Johnson and Johnson
J. P. Stevens and Co., Inc.
Lowenstein, M. and Sons, Inc.
Martin Processing, Inc.
Milliken and Co.
Mohasco Corp.
Monsanto Co.
Northwest Industries, Inc.
Reeves Brothers, Inc.
Riegel Textile Corp.
Russell Corp.
Salem Carpet Mills, Inc.
Shaw Industries, Inc.
Spartan Mills
Sperry and Hutchinson Co.
Springs Mills, Inc.
Standard-Coosa-Thatcher Co.
Texfi Industries, Inc.
Textile-Incorporated
Thomaston Mills
United Merchants and Manufacturers, Inc.
West Point-Pepperell, Inc.

[FR Doc. 76-36920 Filed 12-10-76; 4:55 pm]

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BOSTON GAS CO.

Public Hearing and Opportunity to Submit Written Comments on Petition for Assignment of Synthetic Natural Gas Feedstocks

The Federal Energy Administration (FEA) hereby gives notice that written comments will be received and a public hearing will be held regarding the July 12, 1976, petition of Boston Gas Company (Boston Gas) a synthetic natural gas (SNG) manufacturer, for the assignment of a supplier and base period volume of propane to be utilized as SNG feedstock. The application was filed pursuant to 10 CFR 205.30 *et seq.* and 10 CFR 211.29, and Special Rule No. 1, issued thereunder, and in accordance with an FEA Decision and Order dated May 27, 1976.

The volume of SNG feedstock requested in the petition is 62,329,970 gallons (1,484,047 barrels) of propane per year commencing January 1, 1977.

The proposed suppliers and corresponding volumes requested are: Petrolane-Northeast Gas Service, Inc. (5,129,648 gallons); Country Gas Distributors, Inc. (1,295,863 gallons); Commonwealth Oil Refining Co., Inc. (2,606,118 gallons); C. M. Dining, Inc. (899,907 gallons); Enterprise Products Co. (298,434 gallons); and Exxon Company, U.S.A. (52,100,000 gallons.)

Boston Gas is currently producing SNG from an allocation of propane assigned to Boston Gas by an FEO Region I Decision and Order dated March 8, 1974 which granted an exception to Boston Gas. The March 8, 1974 Decision and Order was rescinded by FEA on May 27, 1976, effective as of January 1, 1977. Pursuant to the May 27, 1976 Decision and Order, Boston Gas was provided with an opportunity to file an application for assignment of SNG feedstocks under § 211.29. On November 16, 1976, to allow the July 12, 1976 petition to be fully considered, FEA changed the effective date of the rescission of the March 8, 1974 Decision and Order to January 31, 1977.

The July 12, 1976, petition, which is currently being reviewed under criteria established in 10 CFR 211.29, if granted, would allow Boston Gas to continue operation of its Everett, Massachusetts, SNG facility after January 31, 1977, at the same level and in a manner consistent with the March 8, 1974, exception, i.e., for 180 days per year of peak shaving service.

A file containing all information and data filed in conjunction with Boston Gas's petition, other than confidential information which FEA has determined to be exempt from the disclosure requirements of 5 U.S.C. 552, is available for public inspection and copying at the FEA Freedom of Information Library, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Written comments regarding the Boston Gas petition will be accepted and considered if filed by January 7, 1977. Any person submitting written comments with respect to the Boston Gas petition should comply with the requirements of the FEA procedural regulations set forth at 10 CFR 205.33. Comments should be submitted to the Office of Product Allocations, Specialty Fuels Branch, Federal Energy Administration, Room 6318, 2000 M Street, NW., Washington, D.C. 20461, Attention Mr. Finn Neilsen. Comments should be identified on the outside envelope and on documents submitted to FEA with the designation "Allocation of Feedstock for Boston Gas SNG Plant." Five copies should be submitted to FEA and one copy to Boston Gas Company, 155 McBride Street, Jamaica Plain, Mass. 02130, Attention: Mr. Richard A. Bleakney.

FEA believes that factual disputes between interested parties respecting this petition are likely and that a public hearing on this petition will materially advance consideration of the issues involved. Therefore, a public hearing on Boston Gas's petition will be held beginning at 9:30 a.m. e.s.t., on January 10, 1977, in the Auditorium, Room 2105, 2000 M Street, N.W., Washington, D.C., to receive comments from interested persons.

Any person who has an interest in the petition set forth above or who is a representative of a group or class of persons which has an interest in the petition, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., January 4, 1977. Such a request may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give concise summary of the proposed oral presentation and a phone number where he or she may be reached through January 6, 1977. Each person selected to be heard will be notified by FEA before 4:30 p.m., e.s.t., January 6, 1977, and must submit 50 copies of his or her statement to Allocation Regulations Development Office, FEA, Room 2214, 2000 M Street, N.W., Washington, D.C. 20461 before 4:30 p.m., e.s.t., on January 7, 1977.

The FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearing will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, before 4:30 p.m., e.s.t., January 7, 1977. Any person who makes an oral statement and who wishes to ask a question at the hearing to another person making an oral statement may submit the question in writing to the presiding officer. The FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

It is expected that the public hearing will initiate requests by the hearing panel for certain factual information and data which will not be immediately available for inclusion in the hearing record. Consequently, the hearing record will remain open to receive such information until January 21, 1977, after which the hearing record will be closed.

Additional public comment on all written and oral presentations received by January 21, 1977, will be permitted through January 28, 1977. Comments should be submitted to the Office of Product Allocations, Specialty Fuels Branch, Room 6318, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn Neilsen. Persons submitting comments during this additional period must send five copies to FEA and one copy each to Boston Gas and to all persons who participated in the public hearings or who submitted written comments prior to the hearing. A list of such persons will be made available for public viewing on January 11, 1977, at the FEA Freedom of Information Library, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The transcript of the public hearing will be available for public review at the FEA Freedom of Information Library, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

MICHAEL F. BUTLER,
General Counsel.

DECEMBER 13, 1976.

[FR Doc.76-37036 Filed 12-13-76;4:03 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of October 18 through October 22, 1976

Notice is hereby given that during the week of October 18 through October 22, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exceptions or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

C. H. Sprague & Son Co.; Boston, Mass.; FEA-0966; Freedom of Information

C. H. Sprague & Son Company (Sprague) filed an Appeal from an Order which had been issued to it by the FEA Information Access Officer. In that determination a Request for Information which Sprague had filed under the Freedom of Information Act, 5 U.S.C. 552 was denied in part. Sprague contended in its present Appeal that it was erroneous for the Information Access Officer to have denied release of thirteen FEA documents which discuss the interpretation or application of Sections 212.93(b) and 212.93(e) of the FEA Mandatory Petroleum Price Regulations. In considering the Appeal, the FEA determined that each of the thirteen documents withheld by the Information Access Officer were predecisional memoranda or drafts which reflect the agency's group thinking in formulating its policy. The FEA concluded that these documents were therefore properly withheld from public disclosure pursuant to 5 U.S.C. 552(b)(5) and this portion of Sprague's Appeal was denied. However, the FEA also concluded that other documents which properly fall within the scope of Sprague's Request for Information exist within the Office of Compliance and were not reviewed by the Information Access Officer. The FEA therefore remanded this portion of the Sprague Appeal and directed that an immediate review of these documents be conducted to determine which are releasable.

General Crude Oil Co., Houston, Tex., FEA-0855; Crude Oil

General Crude Oil Company (General Crude) appealed from a Remedial Order in which the FEA determined that the firm had been selling crude oil to Armour Oil Company (Armour) at prices which exceeded the maximum price levels specified in 6 CFR 150.354 and 10 CFR 212.73 and 212.74. The crude oil involved in the proceeding had been produced from the Banning Lease of which General Crude owns one-half of the working interest. In the Remedial Order the FEA held that General Crude had been improperly determining its sale price for the crude oil which it produced from the Banning Lease by reference to the provisions of the FEA Price Regulations which apply to refiners rather than those which apply to producers of crude oil. According to the findings reached in the Remedial Order, General Crude had improperly characterized the crude oil which it sold as "residual fuel oil" in order to obtain a higher price than it would have received from the sale of "crude oil". In considering General Crude's Appeal, the FEA noted that in a prior proceeding involving the owner of the remaining one-half of the working interest in the Banning Lease it was determined that the operation of the lease constituted a production activity which yielded crude oil, and that this decision constituted binding precedent in the present proceeding. *See G. E. Kadane and Sons*, 3 FEA Par. 80,516 (December 5, 1975). The FEA further determined that even if it is assumed that the product sold by General Crude meets the technical specifications of residual fuel oil as well as crude oil, General Crude is nevertheless essentially engaged in the recovery of crude oil from underground reservoirs. The FEA found that although the chemical composition of the substance concerned is altered somewhat as a result of the "in situ" combustion process through which it is recovered from the lease, that technique does not constitute a refining process but is merely the manner in which the firm extracts the substance from the property. The FEA also determined that the incidental and relatively insubstantial filtration and blending processes to which General Crude subjects the substance after it is recovered do not constitute the refining of residual fuel oil. In considering General Crude's further contentions, the FEA made the following findings: (i) the Remedial Order properly held General Crude responsible for refunding overcharges related to sales of the royalty owners' shares of production from the Banning Lease; (ii) the proceedings which led to the issuance of the Remedial Order did not violate General Crude's right to due process; (iii) the FEA has the authority to require General Crude to pay interest on the refunds which it is required to make the marketplace; and (iv) the determination reached in the Remedial Order did not constitute rulemaking. The determination reached in the Remedial Order that General Crude had charged prices in excess of maximum price levels was therefore upheld. The FEA further concluded, however, that the record did not contain substantial evidence to support the conclusion that General Crude's actions constituted the type of practices which are prohibited by 10 CFR 210.62(c). The FEA therefore rescinded those portions of the Remedial Order which found that General Crude had violated Section 210.62(c).

Gibbs, Roper, Loots & Williams; Milwaukee, Wis.; FEA-0609; Freedom of Information

The law firm of Gibbs, Roper, Loots & Williams (Gibbs, Roper) appealed from an Order denying in part a request, which it had filed under the Freedom of Information Act (the Act) seeking the production of all records relating to FEA Region V's audit policy concerning "netting" during the period prior to July 28, 1975. Although the FEA Information Access Officer released 53 pages of documents which were responsive to Gibbs, Roper's request, four documents or portions of documents were withheld on the grounds that they were intra-agency memoranda which were exempt from mandatory public disclosure under Section 552(b)(5) of the Act. In the Decision which was issued with respect to the Gibbs, Roper Appeal, the FEA determined that two of the four documents were properly withheld under Section 552(b)(5). This portion of the Appeal was therefore denied. The FEA also determined however that the two remaining documents which were withheld should have been released to Gibbs, Roper pursuant to 10 CFR 202.1. That provision requires the FEA to release documents to the public which are exempt from mandatory public disclosure under the Act if withholding the material would not be in the public interest. In this case, although portions of the two documents were arguably exempt from mandatory disclosure under Section 552(b)(5), the documents contain no sensitive, pre-decisional opinions or discussions of options for decision. In addition, a portion of one of the documents contains a statement of Region V policy which was in effect at that time and other portions of that document contain information which has been released in another form. Under these circumstances, no public interest would be served by withholding these materials, and copies of these documents were made available to the firm.

Hunt Oil Co.; Dallas Tex.; FEA-1007; Crude Oil

Hunt Oil Company filed an Appeal from the October Entitlements Notice which, if granted, would permit the firm to sell 48,472 additional entitlements. In August 1976, Hunt filed an amended entitlements report which resulted in certain retroactive adjustments to the firm's crude oil receipts and runs to stills. In preparing the October Notice, the FEA determined that after these adjustments for the prior periods were made, the number of entitlements which Hunt was permitted to sell in October should be reduced by 48,472. In considering Hunt's Appeal, the FEA found that the retroactive adjustments which were made related to February and March of 1976, periods when the small refiner exemption contained in Section 403(a) of the Energy Policy and Conservation Act was in effect. In accord with precedents established in *Kern County Refinery, Inc.*, 4 FEA Par. 80,538 (September 10, 1976) and *Newhall Refining Company, Inc.*, 4 FEA Par. 80,542 (September 24, 1976), the FEA concluded that Hunt's entitlement obligations should not have been increased on the basis of adjustments to crude oil receipts and runs to stills during a period when the small refiner exemption was in effect, and the firm's Appeal was therefore granted.

Petroleum Management, Inc., Wichita, Kans.; FEA-0912, Crude Oil

Petroleum Management, Inc. (PMI) appealed from a Decision and Order which had been issued to it by the FEA. *Petroleum Management, Inc.*, 3 FEA Par. 83,259 (June 29, 1976). In the prior determination the FEA denied an Application for Exception which PMI filed from the provisions of 10 CFR, Part 212, Subpart D. The PMI request, if granted, would have permitted the firm to increase the price of certain crude oil produced from the Kuhn Lease during February and May of 1975. The exception request was based upon the firm's contention that if the crude oil which was produced from the Kuhn Lease in February and May of 1975 had been sold during the months in which it had been produced, 278 barrels of crude oil sold at old oil prices during February and May could lawfully have been sold at exempt prices. In analyzing PMI's Appeal, the FEA determined that, contrary to PMI's contention the firm had not made any showing that the FEA had erred in finding that the crude oil in question was not marketable during February and May because it contained too much water and basic sediment. The FEA also found that

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despite its significant expenditures to increase the capacity of the Kuhn Lease, PMI had failed to demonstrate that it had been uniquely or disproportionately affected by FEA regulatory requirements. PMI itself had indicated that the type of delay which it had experienced in the sale of the crude oil which it produced in February and May of 1975 is not uncommon. The FEA therefore concluded that PMI had failed to establish that the June 29, 1976 Decision was erroneous in fact or law, or was arbitrary or capricious, and the firm's Appeal was accordingly denied.

Supreme Petroleum Co. of New Jersey, Inc.; Petroleum International Associates, Inc.; Washington, D.C., FEA–0933, FEA–0932, Covered Petroleum Products

Supreme Petroleum Company of New Jersey, Inc. (Supreme) and Petroleum International Associates, Inc. (PIA) appealed from an Interpretation issued to them by the Regional Counsel of FEA Region II on July 19, 1976. In that Interpretation, the Regional Counsel concluded that when Supreme and PIA tok title in the course of a transfer of covered petroleum products, the firms acted as resellers or retailers subject to Section 212.93 of the FEA Mandatory Petroleum Price Regulations. The Appeals, if granted, would result in the issuance of an Order rescinding the Interpretation and concluding that the status of Supreme and PIA under the FEA Regulations and predecessor regulations would depend on the primary nature of each firm's activities with respect to each transaction involving covered products. In the Decision which it issued with respect to the Appeal, the FEA stated that the precedent established in *International Trading and Transport, Ltd.*, 3 FEA Par. 87,031 (July 9, 1976), governed the case and that passage of title alone was sufficient to result in the determination that a firm fell within the scope of the definition of the term "reseller" or "retailer" as specified in Section 212.31 of the FEA Price Regulations. The FEA also determined that two Price Commission Rulings upon which the firms relied in their Appeals were inapplicable because of the substantial difference between the authority and objectives of the Price Commission and the FEA. Consequently, the Appeals were denied.

Union Oil Company of Calif.; Los Angeles, Calif.; FEA–0907; *Refined Petroleum Products*

Union Oil Company of California (Union) appealed from a Remedial Order which had been issued to it by FEA Region IX. In the Remedial Order, Union was required to reinstate the credit arrangements which it had maintained on May 15, 1973, and thereby accept American Express, Carte Blanche, and Diner's Club credit card sales invoices as payment for gasoline or other covered products sold by Union dealers; Union was also required to refund 66.6 percent of the costs which individual Union resellers and dealers incurred in negotiating individual arrangements with the credit card companies subsequent to June 30, 1974, the date on which Union refused to accept the invoices. In its Appeal, Union contended that the provisions of 10 CFR 210.62(a) do not apply to its practice of accepting credit card sales invoices as payment for covered products because the only cerdit relationship which previously existed was between the credit card companies and the ultimate consumer. In considering the Union Appeal, the FEA found that the facts presented were virtually identical to those involved in a previous case. *Atlantic Richfield Company*, 3 FEA Par. 80,522 (December 12, 1975). In that Decision, the FEA held that the provisions of Section 210.62 were directly applicable to arrangements under which credit was extended by the firm to its customers. The FEA therefore determined that Union's termination of previous credit arrangements constitutes the type of change in business practice to which Section 210.62 was specifically directed. The FEA further held that contrary to Union's contention that the termination of its credit card arrangements did not impose any hardship upon Union resellers, dealers, and customers, a substantial number of customers had used the credit cards involved and were affected by Union's actions. Moreover, with respect to Union's claim that the Remedial Order should be rescinded as a result of a recent United States District Court Decision which held that the FEA does not have regulatory authority over the credit terms imposed in sales of covered petroleum products, the FEA noted that the holding had been stayed by the Temporary Emergency Court of Appeals and the FEA vigorously asserts that the Decision which the District Court reached is erroneous. Based on these considerations, the FEA denied the Appeal in the form submitted. However, the FEA found there was some merit to Union's contention that the terms of the Remedial Order fail to provide the firm with the contractual bargaining flexibility necessary to implement the prospective provisions of the Order. The FEA therefore remanded this portion of the Remedial Order to Region IX with a direction to provide Union with the option of complying with the Remedial Order on a prospective basis either by reinstating its terminated credit card programs or by reducing the selling prices which it currently charges for covered products to reflect the cost savings which resulted from the discontinued credit card arrangements.

Upham Oil and Gas Co., Chico, Tex., FEA–0853; Natural Gas Liquid Products

Upham Oil and Gas Company (Upham) appealed from a Decision and Order which the FEA issued to it on May 12, 1976. *Upham Oil and Gas Co.*, 3 FEA Par. 83,189 (May 12, 1976). In the previous Decision, the FEA granted exception relief which permitted Upham to reflect in the selling prices of its products non-product cost increases which the firm had incurred amounting to $.0194 per gallon above the levels set forth in 10 CFR 212.165. However, the FEA denied the firm's request that it be permitted to increase prices to reflect an additional $.0563 per gallon for certain non-product cost increases which Upham claimed that it had incurred. The present Appeal, if granted, would permit Upham to recover the additional cost increases which had been disallowed. In considering the Upham Appeal, the FEA found that the May 12 Decision and Order had erred in disallowing cost increases which the FEA had construed to be attributable to several expense categories including depreciation and wages and salaries. The FEA concluded that these cost increases represented necessary expenditures in operating the firm's natural gas processing plant and that their disallowance was inconsistent with FEA decisions in prior cases. Accordingly, the FEA granted Upham's Appeal and permitted the firm to increase its prices in order to recover an additional $.0473 of non-product cost increases which had been improperly disallowed in the May 12 Decision and Order.

REQUESTS FOR EXCEPTION

Bryant Oil Co., Huntington Park, Calif.; FEE–2905; Motor Gasoline

Bryant Oil Company (Bryant) filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would have resulted in the issuance of FEA orders (1) assigning Bryant a new supplier of motor gasoline to replace its base period suppliers, and (ii) directing the new supplier to furnish Bryant with its base period use of motor gasoline. In considering the exception request, the FEA determined that Bryant had failed to make any showing that the financial difficulties which it was experiencing were a direct result of the price which the firm pays Lion or Barnes & Rogers for motor gasoline. The copies of independent price surveys which both Bryant and Lion submitted in order to show comparative wholesale rack prices of gasoline in the Los Angeles, California area on specified recent dates indicated that Lion's price for motor gasoline was approximately equal to, or somewhat less than, the average price at which Lion's competitors sell product to their customers. In addition, Bryant's purchases of surplus gasoline from Lion in a recent month when demand for motor gasoline in the entire state of California was apparently depressed provided a further indication that the price which Lion charges for motor gasoline is within the competitive range in the Bryant marketing area. With respect to its request that Barnes & Rogers be replaced by a new supplier, Bryant made no showing that the price it pays Barnes & Rogers for gasoline is uncompetitive, or that the markup which the firm applies to its sales of that product has declined by any significant amount from the levels which the firm applied in historic periods. The exception request was therefore denied.

Central Petroleum Corp.; Bronz, N.Y.; FEE–2710; Residual Fuel Oil

Central Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR 211.67(a)(3). Central's request, if granted, would result in the issuance of entitlements to the firm for 148,391 barrels of residual fuel oil which it purchased from the Howard Oil Company, Inc. during the month of February 1976. Central based its exception request on the fact that under the provisions of the Entitlements Program which were in effect from November 1974 through February 1975, it would have been eligible to receive entitlements for these purchases, since at that time entitlements were issued to the owners of the residual fuel oil at the first place of storage. In considering the exception request, the FEA held that Central is not entitled to exception relief merely because the FEA changed the manner in which entitlements are issued for residual fuel oil imported into the East Coast market. The further findings were made that Central failed to demonstrate that it was disproportionately affected by the present Entitlements Program or that relief is necessary to effectuate any statutory or regulatory objective of the Entitlements Program. In addition, Central had not responded to the FEA's request that it provide documentary evidence in support of its contention that it is experiencing a serious financial hardship. Accordingly, the FEA determined that the record does not contain evidence which could lead to the conclusion that the firm is being adversely affected as a result of the FEA regulatory program, and Central's exception request was denied.

Exchange Oil & Gas Corp.; New Orleans, LA.; FEE–2947; Crude Oil

Exchange Oil and Gas Corporation (Exchange) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of the exception relief previously granted to Exchange and would permit Exchange to continue to sell a certain portion of the crude oil produced from 22 wells on the Golden Meadow Field, Lafourche Parish, Louisiana, at upper tier ceiling prices. *Exchange Oil and Gas Corporation*, 3 FEA Par. 83,162 (April 9, 1976). In considering the exception application, the FEA found that the Golden Meadow Field wells were still incurring increased operating costs and the working interests would as a result lack the incentive to continue to produce crude oil from the property at the lower tier ceiling price. In view of this situation and on the basis of the operating data presented for the wells for January through June 1976, the FEA continued that an extension of exception should be granted. Accordingly, the working interest owners were permitted to sell 41.77 percent of the crude oil produced from the 22 wells on the Golden Meadow Field at upper tier ceiling prices in order to recover the increased operating costs which were being experienced.

Flying Diamond Oil Corp.; Washington, D.C.; FEE–2238; Crude Oil

The Flying Diamond Oil Corporation filed an Application for Exception from 10 CFR, Part 212, Subpart D which, if granted, would result in the issuance of an Order relieving the firm of any requirement that it recalculate the quantities of old and new crude oil which it produced during prior periods from the Altamont-Bluebell Field in Utah. The firm would also be permitted to calculate its production of old and new crude oil in future periods as if all of its interests in the Field were a single producing property. In its application, Flying Diamond contended that the extensive overlapping of leases and the 640 acre sections which resulted from a State spacing requirement for wells in the Field made it virtually impossible for the firm to determine its crude oil production levels separately for each lease as required by the definition of the term "property" in the FEA Regulations. In considering the Application, the FEA found that since June 1975, Flying Diamond had calculated its production of old and new crude oil by using a well or unit method of measurement which the FEA has recognized as proper under a recent clarification of the definition of the term "property." It was therefore determined that exception relief was not necessary for the period after June 1, 1975. With respect to the prior period, the FEA determined that: (i) the method of calculating production which Flying Diamond employed during this period clearly violated FEA Regulations because the firm aggregated the production of all of its interests in the Field in calculating quantities of old and new crude oil instead of computing production separately for each producing property; (ii) although the firm alleged that it had sought a determination from the FEA in 1974 with regard to the application of the term "property," it failed to present any evidence to show that it had received or relied on incorrect advice from the FEA; (iii) the possible existence of noncompliance with FEA Regulations by other producers in the Field does not justify Flying Diamond's violation or provide a basis for granting exception relief, since the approval of relief of this nature would effectively alter the general definition of the term "property" for all crude oil producers; and (iv) contrary to Flying Diamond's contention, the financial data which it presented failed to demonstrate that it would incur a serious hardship if it were required to recalculate its production levels in accordance with the FEA's definition of "property." With respect to Flying Diamond's request for prospective exception relief, the FEA found that because the firm's submission was filed prior to recent regulatory changes, it did not sufficiently address the issue of whether the firm will incur a hardship or inequity if it complies with the regulations as amended. The FEA therefore dismissed without prejudice that portion of the Application which pertains to the period subsequent to September 1, 1976. Flying Diamond's Application with respect to prior periods was denied.

Kerr-McGee Corp., Southwestern Refining Co., Inc.; Corpus Christi, Tex.; FEE–2577; Residual Fuel Oil

The Kerr-McGee Corporation filed an Application for Exception from the provisions of 10 CFR 211.67(d)(4) (the Old Oil Entitlements Program, on behalf of its subsidiary, Southwestern Refining Company, Inc.) (Southwestern). The exception request, if granted, would permit the firm to calculate its entitlements obligations by including the crude oil runs to stills which are attributable to residual fuel oil produced by the firm for sale in the East Coast market and which are also in excess of the volumes otherwise permitted to be included under FEA Regulations. In addition, the firm would also be permitted to recalculate, retroactive to April 1, 1976, its entitlements obligations without regard to the provisions of Section 211.67(d)(4). In considering the Southwestern request, the FEA determined that although the provisions of Section 211.67(d)(4) reduce the benefits which the firm previously enjoyed under the Entitlements Program and the Crude Oil Allocation Program, Southwestern is still realizing a net benefit from those programs. Moreover, the benefit which Southwestern receives enhances its profitability and competitive position. Accordingly, the firm has not demonstrated that its overall operations were impeded or that its financial position was affected by the application of Section 211.67(d)(4) to such an extent that exception relief was warranted. Southwestern's Application for Exception was therefore denied.

McCulloch Gas Processing Corp.; Los Angeles, Calif.; FEE–3205; Natural Gas Liquid Products

McCulloch Gas Processing Corporation (McCulloch) filed an Application for Exception from the provisions of 10 CFR 211.9. The request, if granted, would result in a termination of the supplier/purchaser relationship which exists under FEA Regulations between McCulloch and H. W. Lemens, Inc. (Lemens). In its exception application, McCulloch contended that the maintenance of its supplier/purchaser relationship with Lemens constitutes a gros inequity because the natural gas processing plant from which it supplied Lemens during the base period is no longer in operation. In considering McCulloch's exception request, the FEA found that: (i) Lemens has not purchased any natural gas liquid products from McCulloch since February 1975, and McCulloch submitted no material to indicate that this situation is likely to change; and (ii) the provisions of 10 CFR 211.25 provide a method whereby any supplier may arrange to supply a purchaser which is entitled to receive an allocation from it through another supplier or suppliers in accordance with normal business practices. The FEA therefore concluded that McCulloch had failed to demonstrate that it was experiencing a current hardship, and its exception request was consequently denied.

Mobile Oil Corp.; New York, N.Y., FEE–2960 (Bryans Mill), FEE–2961 (Cameron), FEE–2962 (Chitwood), FEE–2963 (Dewey), FEE–2964 (Levelland), FEE–2965 (Old Ocean), FEE–2966 (Pegasus), FEE–2967 (Spivey), FEE–2968 (Wilcox); Natural Gas Liquids

Mobil Oil Corporation filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase the prices it charges to reflect non-product cost increased which the firm has incurred at nine of its natural gas processing plants. In considering the applications, the FEA noted that, as a general rule, exception relief will be granted to any natural gas processor which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough for natural gas liquid products and the $.00375 per gallon passthrough for natural gas liquids which are permitted under Section 212.165. *See Superior Oil Co.*, 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Mobil had made such a showing with respect to eight of the nine plants and granted Mobil appropriate exception relief with respect to those plants for the period October 22, 1976 through March 31, 1977. However, the FEA denied exception relief for the remaining plant on the grounds that the non-product cost increase experienced at that plant was not substantially in excess of $.005 per gallon.

Crude Oil

The Monsanto Company (Monsanto) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). In its Application, Monsanto requested retroactive exception relief which would permit it to include unfinished oils in the calculation of its crude oil runs to stills during the period November 1974 through December 1975. In considering the exception application, the FEA noted that as a result of the crude oil shortage which refiners were experiencing in 1974 and in view of the fact that unfinished oils could be substituted for crude oil as a feedstock for use at Monsanto's Chocolate Bayon petrochemical plant, the FEA Office of Regulatory Programs permitted Monsanto to include unfinished oils in the calculation of its crude oil runs to stills at the Chocolate Bayon plant. The resulting calculations were then used to determine Monsanto's crude oil purchase opportunity on the Buy/Sell List which is issued pursuant to Section 211.65. The FEA also found that in accordance with the FEA's directive Monsanto voluntarily relinquished a substantial portion of its right to purchase crude oil during the period for which exception relief was requested. During this period of time Monsanto purchased imported feedstocks rather than crude oil which would have been available to the firm at a substantially lower price through the Buy/Sell List. The FEA further noted that the definition of the term 'crude oil runs to stills" in Section 211.62 is the same for both the Buy/Sell Program and the Entitlements Program, and that although unfinished oils do not qualify as crude oil runs to stills under the Entitlements Program, Monsanto had reported its runs to stills for entitlement purposes in the same manner that it used in its initial reports for the Buy/Sell Program. This practice increased the amount of new oil included in the runs to stills which Monsanto reported and had the effect of reducing its entitlement purchase obligation. As a result unless exception relief were approved, the firm would be required to refile reports under the Entitlements Program for this period and to purchase a significant number of additional entitlements to correct for its reporting errors. The FEA found that the reduction in Monsanto's entitlement purchase obligations during the period November 1974 through December 1975 which resulted from its inclusion of unfinished oils in crude oil runs to stills nearly offset the entire amount of the increased feedstock costs which it incurred

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during that period as a consequence of importing crude oil. In addition, on the basis of the record in this proceeding the FEA found that if at the inception of the Entitlements Program in November 1974 Monsanto had pointed out to the FEA that it was incurring an economic detriment as a result of its voluntary cooperation with the agency's directive to include unfinished oils in its crude oil runs to stills, it is very likely that some form of prospective exception relief would have been approved. On the basis of these factors the FEA determined that it would be grossly inequitable for the FEA to have invited Monsanto at a time of crude oil shortages to make a financial sacrifice of significant dimensions without permitting it to realize a concomitant reduction in obligations which were part of the same overall regulatory program and were based on exactly the same regulatory terms. Accordingly, Monsanto's request for retroactive exception relief was granted.

Southland Oil Co.; Savannah, Ga.; FEE–3202; Motor Gasoline

On December 8, 1975, the FEA granted exception relief to Southland Oil Company (Southland) on the ground that the application to it of the provisions of 10 CFR, Part 211, which require adherence to its base period supplier/purchaser relationship which its principal base period supplier resulted in a serious hardship to the firm. *Southland Oil Co.*, 3 FEA Par. 80,527 (December 8, 1975). In that Order the Regional Administrator for the FEA, Region IV, was directed to assign to Southland a supplier whose wholesale prices for motor gasoline and diesel fuel were within the range of prices paid for those products in Southland's marketing area by wholesale marketers. The Order further provided that upon the submission of certain financial and operating data Southland could request that the exception relief granted to the firm be extended for an additional period of time. On the basis of the data submitted by Southland in connection with its present Application, the FEA determined that (1) the serious hardship which Southland experienced in the past as a result of the provisions of 10 CFR 211.9 would continue to exist unless further exception relief were granted; and (ii) in order to alleviate this hardship Southland should be assigned a lower-cost supplier for the months of November and December 1976 for the quantity of gasoline which it is entitled to receive from its principal base period supplier.

Superior Oil Co.; Houston, Tex.; FEE–2954 (West Seminole), FEE–3160 (South Fullerton); Natural Gas Liquids

Superior Oil Company (Superior) filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase its selling prices for the natural gas liquids which it produces at its West Seminole and South Fullerton natural gas processing plants to levels which are in excess of those permitted by Section 212.165. In a number of previous Decisions, the FEA determined that, as a general rule, exception relief would be granted to any natural gas processor which could demonstrate that the non-product costs which it has incurred at its gas plant since May 1973 have increased substantially in excess of the passthrough permitted under the provisions of Section 212.165. Based on an analysis of the data presented by Superior, the FEA determined that the firm's West Seminole and South Fullerton gas plants did not qualify for exception relief under this standard. Exception relief for those plants was therefore denied.

REQUEST FOR STAY

McCoy Oil Co., Inc.; Portland, Oreg.; FES–1000; Refined Petroleum Products

The McCoy Oil Company, Inc. (McCoy) filed an Application for Stay of a Remedial Order which was issued to the firm by the FEA Region X on September 3, 1976. In the Remedial Order the FEA found that McCoy had charged prices in certain sales of No. 2 heating oil and No. 1 stove oil which were in excess of the maximum permissible prices for those products specified in 10 CFR 212.93, and directed the firm to make refunds to its purchasers to account for those overcharges. In considering McCoy's stay request, the FEA found that the firm failed to provide any evidence to support its assertions that in the absence of a stay the firm would incur an irreparable injury or that the denial of a stay would result in a more serious hardship and gross inequity to McCoy than to other persons affected by the proceeding. The FEA also concluded that McCoy had failed to make a prima facie showing that it would prevail on the merits of its Appeal. The McCoy stay request was therefore denied.

SUPPLEMENTAL ORDER

Energy Corp. of Louisiana Ltd.; Garyville, La.; FEX–0093; Residual Fuel Oil

On September 10, 1976, the FEA issued a Decision and Order to the Energy Corporation of Louisiana Ltd. (ECOL) in which ECOL was granted special redress relief. The relief granted was stayed until ECOL filed specified documents which indicate that ECOL's equity owners agree to repay the benefits which ECOL would have obtained under the September 10 Order. On October 12, 1976, the Marathon Oil Company advised the FEA that it had acquired ECOL and that it did not intend to request that the stay of the special redress relief be vacated. In view of these material changes in the factual conditions which formed the basis of the determination, the FEA revoked the September 10 Decision and Order.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Mike's Mobil Service; Howell, Mich.; FEE–3149

Standard Oil Co.; Cleveland, Ohio; FES–3196, FEE–3196

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Beard Oil Co.; Clearfield, Pa.; FEE–3137

The following submissions were dismissed after the applicants repeatedly failed to respond to requests for additional information:

H. S. Edwards; Abilene, Tex.; FEE–2841

Olico Eastern, Inc.; Gesham, Oreg.; FEE–2893

The following submission was dismissed on the grounds that the request is now moot:

Hunt Oil Co.; Dallas, Tex.; FES–1007

The following submission was dismissed on the grounds that an Application for Modification of a Stay is not permitted under FEA Regulations:

Cities Service Co.; Washington, D.C.; FMR–0066

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: December 13, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-37031 Filed 12-13-76;4:00 pm]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of October 25 through October 29, 1976

Notice is hereby given that during the week of October 25 through October 29, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Coastal States Gas Corp.; Houston, Tex.; FEA–0918; Crude Oil and Refined Products

Coastal States Gas Corporation (Coastal States) appealed from a Decision and Order which the FEA issued to the firm on June 29, 1976. Coastal States Gas Corp., 3 FEA Par. 83,252 (June 29, 1976). In the prior determination, the FEA specified the manner in which Coastal States should compute its maximum allowable selling prices for petroleum products which it produces at a refinery in Hercules, California (the Hercules refinery) which Coastal States recently purchased from the Gulf Oil Corporation (Gulf). According to the June 29 Decision, Section 212.111(c)(1) of the FEA Regulations required Coastal States to apply Gulf's May 15, 1973 selling prices for refined products as well as Gulf's May 1973 cost of crude oil at the Hercules refinery in order to calculate maximum permissible selling prices for products produced at the Hercules refinery. In its Appeal from that determination, Coastal States contended that Section 212.111 had been applied in an erroneous manner. In considering the Coastal States Appeal, the FEA pointed out that the provisions of Section 212.111(c)(1) apply only in circumstances where a firm has acquired a "legal entity or a component of a legal entity" and observed that the terms "legal entity" and "component of a legal entity" have been interpreted as referring to an ongoing business activity or a discrete subsidiary or division of a business activity. See The Oil Shale Corp., 2 FEA Par. 83,169 (June 10, 1975). In considering whether Coastal States had acquired an ongoing business operation, the FEA found that under the terms of its agreement with Gulf, Coastal States purchased only the Hercules refinery assets, but did not obtain the right to supply Gulf's customers and did not obtain the right to purchase crude oil from the refinery's traditional sources. In addition, Coastal States did not acquire the marketing assets or facilities which had been used in the past to distribute the products refined at the Hercules refinery. In view of these factors, the FEA concluded that the type of business activity which Coastal States conducts at the Hercules refinery is substantially different from Gulf's previous integrated business activity and does not fall within the scope of Section 212.111(c)(1). The FEA therefore granted the Appeal and vacated the June 29, 1976 Order, stating that Coastal States should apply its firmwide May 15, 1973 selling prices and May 1973 crude oil costs in calculating maximum permissible price levels for the covered products produced at the Hercules refinery.

Garland Petroleum Co., Inc.; Cumberland, Md.; FEA–0914; Refined Petroleum Products

Garland Petroleum Company, Inc. (Garland) appealed from a Decision and Order denying an Application for Exception which the firm had previously submitted from the provisions of 10 CFR 212.93. Garland Petroleum Co., Inc., 3 FEA Par. 83,192 (May 21, 1976). The Appeal, if granted, would have permitted Garland to increase its selling price for motor gasoline above the maximum permissible levels specified in Section 212.93 and retain any revenues that it may have realized during the period November 1973 through August 1975 from charging prices for motor gasoline, No. 4 fuel oil, No. 5 fuel oil, and No. 6 fuel oil which were in excess of maximum permissible levels. In considering Garland's Appeal, the FEA noted that Garland merely reiterated in the same form the arguments which it had previously presented. Since no alleged error of fact or law in the prior determination was even addressed in the Garland submission, the FEA concluded that the Appeal should be denied.

Southern California Edison Co.; Rosemead, Calif.; FPI–0102; Residual Fuel Oil

Southern California Edison Company (Edison) appealed from a Decision and Order in which the FEA denied an Application for Exception which the firm had submitted from the provisions of 10 CFR 213.35(c). Southern California Edison Co., 3 FEA Par. 83,199 (May 21, 1976). Edison's Appeal, if granted, would result in the approval of exception relief which would permit the firm to import low sulfur residual fuel oil on a fee-exempt basis during the current allocation period. The exception relief would also apply to the nine subsequent allocation periods ending on April 30, 1986. Edison also requested a refund for license fees previously paid during the current allocation period. In considering Edison's Appeal, the FEA determined that the fact that Edison's cost of low sulfur residual fuel oil includes a component for import fees paid by its supplier does not in and of itself demonstrate the existence of a hardship either to Edison or to its customers. The FEA also rejected Edison's argument that the regulations governing license fees are unfair and discriminatory, stating that the exceptions process is not the appropriate vehicle for seeking a change in the overall FEA regulatory program. The FEA also determined that the evidence in the record supported the finding in the prior Decision that Edison had failed to demonstrate that domestic suppliers of residual fuel oil were unable or unwilling to guarantee it a supply of product on a long-term basis. Finally, the FEA determined that the evidence presented by Edison did not demonstrate that any individual customer would incur a financial hardship as a result of the payments of the license fees. On the basis of these considerations, the FEA concluded that Edison had failed to demonstrate that the May 21 Decision was erroneous. The Edison Appeal was therefore denied.

REQUESTS FOR EXCEPTION

A&N Producing Services, Inc.; Jackson, Miss.; FEE–3110; Crude Oil

A & N Producing Services, Inc. (A & N) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell crude oil produced from the USA well No. 2 at upper tier ceiling prices. In considering A & N's Application, the FEA determined that the costs of producing crude oil from the USA well have increased substantially and now exceed, on a per barrel basis, the lower tier ceiling price which A & N is permitted to charge. Consequently, A & N has no economic incentive to continue to operate the USA well. The FEA also determined that, if A & N were to abandon the well, a substantial amount of crude oil which otherwise could be recovered would not be produced. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application to A & N of the lower tier ceiling price rule resulted in a gross inequity and that exception relief should be approved. An analysis of the specific financial and operating data which A & N submitted led to the further conclusion that A & N should be permitted to sell for a six month period 68.21 percent of the crude oil produced for the benefit of the working interest owners at upper tier ceiling prices.

Berry Holding Co.; Fresno, Calif.; FEE–2641; Crude Oil

Berry Holding Company (Berry) filed an Application for Exception which, if granted, would permit the firm to retain approximately $7 million in revenues which it apparently realized during 1975 as a result of charging prices for crude oil which were in excess of the maximum levels permitted under the provisions of Subpart D of the FEA Mandatory Petroleum Price Regulations. In considering the exception request, the FEA held that there was no reasonable basis upon which Berry could have construed Section 210.32 of the FEA Regulations as permitting it to consider any well which produces crude oil for a portion of a calendar year to have produced crude oil for the entire year for purposes of determining whether the property qualifies as a stripper well lease. The FEA also determined that since the properties involved in the case operated on a profitable basis during 1975, it was unlikely that Berry would have received prospective exception relief if it had filed an exception application in a timely manner. The FEA therefore determined that Berry's request for retroactive relief should be denied. *See* John J. Cathey, 4 FEA Par. 83,022 (July 30, 1976). With respect to Berry's contention that it committed itself to an extensive crude oil drilling and exploration program in reliance on the revenues which it received as a result of classifying the properties as stripper well leases during 1975, the FEA determined that, in view of the fact that a final determination had not yet been reached with respect to the extent of the overcharges involved in the case, the issue was not ripe for consideration. Berry's exception request was therefore denied.

Clark Equipment Co.; Buchanan, Mich.; FEE–2959; Propane

The Clark Equipment Company (Clark) filed an Application for Exception from the provisions of 10 CFR, Part 211, which, if granted, would increase Clark's base period use of propane. In considering the exception request, the FEA reviewed the standards which it had previously applied in determining whether exception relief to increase a firm's base period use of an allocated product is warranted on the basis of a gross inequity. In this case, the FEA determined that Clark is experiencing an increased demand for propane at its Fort Benton plant as a result of a significant change in the circumstances under which the petroleum product is used. The FEA observed that while propane was used exclusively for heating during the base period, the Fort Benton plant now requires additional propane to fuel make-up air units which it must maintain in order to comply with regulations promulgated by the Federal Occupational Safety and Health Administration. The FEA also determined that if Clark were unable to obtain an increase in its base period volume of propane the objectives specified in Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 would be significantly frustrated. Furthermore, Clark demonstrated that a gross disparity exists between the quantity of propane which the firm is actually using and its base period volume. Clark also made a showing that its operations at the Fort Benton plant are significantly and uniquely impeded by the conflict between the OSHA regulations and the FEA regulations limiting Clark's allocation of propane. On the basis of its consideration of those factors, the FEA concluded that a gross inequity existed in this case. The Application for Exception which Clark submitted was accordingly granted and the firm's base period volume of propane was established at 66,700 gallons per year.

Equitable Petroleum Corp. and Equitable Production 1974–A; New Orleans, La.; FEE–2547; Crude Oil

Equitable Petroleum Corporation and Equitable Production 1974–A (Equitable) filed a joint Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would permit the working interest owners of State Lease No. 2388, State Lease No. 2453 and the Jefferson Parish School Board Lease (the Leases) to sell the crude oil produced from the Leases at upper tier ceiling prices. In considering the exception application, the FEA found that the Jefferson Parish School Board Lease and a portion of State Lease No. 2453 were unitized in 1954 to form Unit B. Consequently, Unit B, that portion of State Lease No. 2453 which was not unitized, and State Lease No. 2388 constitute three separate properties under the provisions of the Mandatory Petroleum Price Regulations and the operations of each of the three properties should be considered separately in evaluating whether a serious hardship or gross inequity results from the application of the FEA regulatory requirements. Since Equitable failed to provide separate operating expense data for each of the crude oil producing properties despite repeated requests that it do so, the FEA was unable to determine whether a serious hardship or gross inequity exists with respect to any of the individual properties. However, the FEA determined that the financial data which Equitable did provide for the properties indicated that on a combined basis the working interest owners of the Leases would realize a significant profit in 1976. Equitable's exception application was therefore denied.

MAPCO, Inc.; Tulsa, Okla.; FEE–2836 (Altonah), FEE–2837 (Tyrone); Natural Gas Liquids

MAPCO, Inc. filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase its selling prices for natural gas liquid products produced at its Altonah gas

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plant and natural gas liquids processed at its Tyrone gas plant to levels which are in excess of those permitted under Section 212.165. In a number of previous Decisions, the FEA determined that, as a general rule, exception relief would be granted to any natural gas processor which demonstrates that the nonproduct costs which it has incurred at its gas plant since May 1973 have increased substantially in excess of the $.005 per gallon passthrough for natural gas liquid products and the $.00375 per gallon passthrough for natural gas liquids permitted under the provisions of Section 212.165. The FEA found that MAPCO had made such a showing and therefore granted appropriate exception relief with respect to the Altonah and Tyrone plants for the period October 29, 1976 through March 31, 1977.

Maurice L. Brown Co.; Kansas City, Mo.; FEE–3139; Crude Oil

Maurice L. Brown Company (Brown) filed an Application for Exception from the provisions of 10 CFR, Part 212, which, if granted, would result in an extension of the exception relief granted to Brown in a May 21, 1976 Decision and Order permitting Brown to sell the crude oil produced from the East Stroud Prue Unit (the Stroud Unit) in Creek County, Oklahoma, at upper tier ceiling prices. In considering Brown's Application, the FEA determined that the cost of producing crude oil from the Stroud Unit has increased significantly since 1973 and now exceeds the lower tier ceiling price which Brown is permitted to charge. Consequently, Brown does not currently have an economic incentive to continue to operate the Stroud Unit. The FEA also determined that, if Brown abandons the property, a considerable amount of otherwise recoverable crude oil will be lost. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application to Brown of the lower tier ceiling price rule resulted in a gross inequity and that exception relief should be granted in this case. An analysis of the specific financial and operating data which Brown submitted led to the further conclusion that Brown should be permitted to sell for a six month period 70.29 percent of the crude oil produced for the benefit of the working interest owners at upper tier ceiling prices.

Saxon Oil Co.; Midland, Tex.; FEE–2842; Crude Oil

Saxon Oil Company (Saxon) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit Saxon to sell all of the crude oil produced from the W. B. Reeves Lease (the Lease) at upper tier ceiling prices. In considering the exception application, the FEA determined that: (i) the operating losses which Saxon sustained during 1975 and the first six months of 1976 are clearly attributable to certain non-recurring expenditures which were incurred in connection with the completion of a salt water disposal well and the replacement of tubing; and (ii) in view of the operating profits which Saxon projects that the Lease will generate during the last half of 1976, Saxon failed to make a convincing showing that it has an economic incentive to terminate its crude oil production activities at the Lease. The exception application was therefore denied.

Sun Oil Co.; Dallas, Tex.; FEE–2949 (Halley), FEE–2950 (Jameson), FEE–2951 (Spivey), FEE–3081 (Fordoche), FEE–3082 (Pledger), FEE–3083 (Slaughter), FEE–3084 (Victoria), FEE–3143 (Bayou Sale), FEE–3144 (Levelland), FEE–3145 (Van); Natural Gas Liquids

Sun Oil Company filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase the prices it charges to reflect non-product cost increases which the firm has incurred at ten of its natural gas processing plants. In considering the applications, the FEA noted that, as a general rule, exception relief will be granted to any natural gas processor which can demonstrate that the nonproduct costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough for natural gas liquid products and the $.00375 per gallon passthrough for natural gas liquids that are permitted under Section 212.165. *See Superior Oil Co.*, 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Sun had made such a showing with respect to each of the ten plants and granted Sun exception relief with respect to those plants for the period October 29, 1976 through March 31, 1977.

Texaco, Inc.; Houston, Tex.; FEE–3091 (Buckeye), FEE–3092 (Coalinga Nose), FEE–3093 (Garvin), FEE–3094 (Handy), FEE–3095 (Kettleman Hills), FEE–3096 (Lignite), FEE–3097 (Luby), FEE–3098 (Maurice), FEE–3099 (New Hope), FEE–3100 (Shiells Canyon), FEE–3101 (South Kermit), FEE–3102 (Wilson Creek), FEE–3103 (Van); *Natural Gas Liquids.*

Texaco, Inc. filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase the prices it charges to reflect non-product cost increases which the firm has incurred at 13 of its natural gas processing plants. In considering the applications, the FEA noted that, as a general rule, exception relief will be granted to any natural gas processor which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough for natural gas liquid products permitted under Section 212.165. *See Superior Oil Co.*, 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Texaco had made such a showing with respect to 11 of the 13 gas plants and therefore granted Texaco appropriate exception relief for those plants. However, the FEA denied exception relief for the remaining two plants on the grounds that the non-product cost increase experienced at the Coalinga Nose plant was not substantially in excess of $.005 per gallon and that no unit cost increase was experienced at the Maurice plant.

Varibus Corp.; Beaumont, Tex.; FEE–2549; *No. 2 Fuel Oil*

Varibus Corporation (Varibus) filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would have retroactively relieved Varibus of the requirement that it determine the price of the No. 2 fuel oil which it sold to unaffiliated entities in accordance with the provisions of the Mandatory Petroleum Price Regulations. The approval of the retroactive exception would have also relieved Varibus of its obligation to refund overcharges which it realized on two sales of fuel oil during October 1973. In considering the exception request, the FEA noted that Varibus, a wholly-owned subsidiary of Gulf States Utilities Company (Gulf States) was principally engaged in the procurement of fuel oil which its corporate parent then used to generate electricity. However, on those occasions when Varibus had purchased fuel oil which exceeded Gulf States' immediate requirements and storage capabilities, Varibus resold the fuel oil from its inventories to utilities other than Gulf States and to resellers. In a Remedial Order which was issued to Varibus during the pendency of the exception proceeding, FEA Region VI found that Varibus had charged unlawful prices in two sales of fuel oil to unrelated parties during October 1973. The Remedial Order required the firm to refund the specified overcharges. On the basis of the financial data which Varibus submitted in connection with its Application for Exception, the FEA determined that the firm had failed to show that it would incur a serious financial hardship if the price regulations were applied to the transactions specified in the Remedial Order. After reviewing the record in this matter, the FEA rejected Varibus' contention that the reseller regulations should not be applied to the sales involved because the firm characterized its primary business as the procurement of fuel for Gulf States. The FEA noted that the applicability of the reseller price rules does not depend on a firm's own characterization of its business activities, but should properly be based on a determination as to whether a firm's activities fall within the definition of the term "reseller" as set forth in 10 CFR 212.31. The FEA concluded that since Varibus had taken title to covered products in its own name and subsequently resold them, the firm had failed to show that a gross inequity would result if it were required to determine the prices which it charged on those sales in accordance with the reseller regulations. The Application for Exception was therefore denied.

REQUESTS FOR STAY

Marion Corp.; Mobile, Ala.; FES–1010; Crude Oil

Marion Corporation (Marion) requested its obligation to purchase 169,492 entitlements as specified in the Entitlement Notice for August 1976 be stayed pending a determination by the FEA on the merits of an Appeal which the firm had filed. In considering the Application for Stay, the FEA found that the Office of Regulatory Programs had erroneously calculated the firm's August entitlement obligation. Furthermore, the Office of Regulatory Programs had indicated that it intended to correct that error by issuing Marion additional entitlements in November 1976. In view of these circumstances, the FEA concluded that Marion had made a *prima facie* showing that it would succeed on the merits of its Appeal. In addition, the FEA determined that Marion had presented financial data which demonstrated that the firm would incur an irreparable injury if it were required to expend the funds necessary to purchase the 169,492 entitlements. An Order was therefore issued staying Marion's obligation to purchase the 169,492 entitlements.

Varibus Corp., Beaumont, Tex.; FES–1003; No. 2 Fuel Oil

Varibus Corporation (Varibus) requested that a Remedial Order issued to the firm on September 20, 1976 be stayed pending a final determination of the firm's Appeal from the Remedial Order and of an Application for Exception which the firm had previously submitted. In the Remedial Order the Deputy Regional Administrator of Region VI of the FEA directed Varibus to refund the revenues which it had realized from charging prices for No. 2 fuel oil in October 1973 which were in excess of the maximum price levels permitted by 10 CFR 212.93(a) and 6 CFR 150.–359(b). In considering the Varibus stay request, the FEA applied the principles established in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976). On the basis of those principles, the FEA concluded that a stay should be granted with regard to the refund provisions of the Remedial Order, provided that Varibus place in an escrow account the amount of the refunds set forth in the Remedial Order. The FEA further determined that the Procedural Regulations contemplate

that stay applications will only be considered in connection with specified proceedings which are currently or may soon be initiated by the stay applicant. The FEA therefore declined to consider Varibus' request that the stay which was approved in this Decision be extended beyond the pendency of its present Appeal and Application for Exception.

SUPPLEMENTAL ORDER

Southland Oil Co.; Yazoo City, Miss.; FEX–0091; Crude Oil

On September 24, 1976, the FEA issued a Decision and Order to Southland Oil Company (Southland) granting an Application for Stay which the firm had filed. *Southland Oil Co.*, 4 FEA Par. 85,021 (September 24, 1976). The stay which was issued relieved Southland of an obligation to purchase 90,826 of the firm's total entitlement purchase obligation specified in the Entitlement Notice issued in September 1976. Southland's obligation to purchase the 90,826 entitlements resulted from an administrative error which occurred in the calculation of Southland's entitlement purchase obligation. In the Entitlement Notice which was issued on October 21, 1976, the FEA Office of Regulatory Programs adjusted Southland's entitlement purchase obligation for October 1976 to correct for the error made in the previous Entitlement Notice. In view of the fact that upon consummation of its October entitlement sales Southland would be able to purchase the portion of its September obligation which was stayed, the effect of the error in the September Notice would be wholly eliminated. The FEA therefore issued a Supplemental Order which provides that the stay which was issued on September 24, 1976 would be rescinded effective on the date on which Southland consummates its October entitlement sales.

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Southland Oil Co.; Washington, D.C.; FEA–1009

The following submissions were dismissed after the applicants repeatedly failed to respond to requests for additional information:

Custom Oil Co., Inc.; New York, N.Y.; FEE–2927

Oil Patch Leasing Corp.; Borger, Tex.; FEE–3147

The following submission was dismissed on grounds that the request is now moot:

Southland Oil Co.; Washington, D.C.; FES–3202

The following submission was dismissed on the grounds that the request failed to present any basis for the FEA to reevaluate a Decision and Order previously issued to the applicant:

Placid Oil Co.; Washington, D.C.; FMR–0064

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: December 13, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76–37032 Filed 12–13–76;4:01 pm]

FEDERAL HOME LOAN BANK BOARD

[H.C. #217]

BASS FINANCIAL CORP.

Receipt of Application for Permission to Purchase the Assets of Bridgeport Building and Loan Association

DECEMBER 13, 1976.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Bass Financial Corporation, Norridge, Illinois, a multiple savings and loan holding company, for approval of a bulk purchase of the assets of Bridgeport Building and Loan Association, Bridgeport, Illinois, an uninsured institution, under the provisions of Section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the Regulations for Savings and Loan Holding Companies (12 CFR 584.4). Said acquisition to be effected through the purchase of all the assets of Bridgeport Building and Loan Association by the applicant for cash, the assumption of all liabilities and the payment of a premium to the shareholders. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before January 17, 1977.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.76–37022 Filed 12–15–76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77–44]

ABITIBI CORP. v. FLORIDA GAS TRANSMISSION CO.

Complaint, Request for An Order To Show Cause and Request for Interim Relief

DECEMBER 9, 1976.

Take notice that on October 22, 1976, the Abitibi Corporation (Abitibi), pursuant to sections 4(b), 5(a), 14(a) and 16 of the Natural Gas Act, 15 U.S.C. 717 et seq and section 1.6 of the Commission's Rules of Practice and Procedure, filed a complaint against Florida Gas Transmission Company (FGT).

Abitibi states that FGT has allocated natural gas entitlements to it in an unjust and discriminatory manner. Abitibi states that FGT's curtailment allocations constitute an undue preference in violation of the Natural Gas Act in that it discriminates in favor of firm customers and against interruptible customers such as Abitibi in contravention of the Commission's policies relating to the end use of natural gas.

Abitibi requests that the Commission direct FGT to file an end-use curtailment plan and provide for expedited procedures including an immediate hearing. Pending final resolution of the matter, Abitibi requests the Commission to suspend the present FGT curtailment plan and provide interim natural gas allotments to Abitibi commensurate with the initial FGT undertaking to it.

Abitibi states that a copy of the complaint has been served on FGT.

Any person desiring to be heard or to respond with reference to said notice should on or before January 7, 1977, file with the Federal Power Commission a petition to intervene or a response in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.6 or 1.8). All responses filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–36971 Filed 12–15–76;8:45 am]

[Docket Nos. CS77–100, etc.]

CHARLES G. NISSEN, ET AL.

Applications for "Small Producer" Certificates[1]

DECEMBER 9, 1976.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and section 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules and practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
C877-100	Nov. 23, 1976	Charles Graham Nissen a/k/a, Charles G. Nissen, Box 97, Livermore, Calif. 94550.
C877-101	Nov. 24, 1976	William M. Hall, 4214 Ortega Forest Dr., Jacksonville, Fla. 32210.
C877-102	do	William R. Funk, agent for 2 groups, 70 South Morgan St., Waynesburg, Pa. 15370.
C877-103	do	John M. Traxler, 129 Fairmor Dr., Morgantown, W. Va. 26506.
C877-104	Nov. 23, 1976	Fire Frying Pan Oil & Gas Co., 2461 North Washington Blvd., Arlington, Va. 22201.
C877-105	Oct. 28, 1976	Calpeteo III—1976, 465 California St., San Francisco, Calif. 94104.
C877-106	Nov. 23, 1976	O. F. Warren, 813 Beacon Bldg., Tulsa, Okla. 74103.
C877-107	Nov. 26, 1976	Hugh B. Long, 78 Indian Hill Rd., Winnetka, Ill. 60093.
C877-108	do	V. F. Martin, 1120 One Energy Square, 4925 Greenville Ave., Dallas, Tex. 75206.
C877-109	do	Clay P. Bedford, 5223 East Palo Verde Pl., Scottsdale, Ariz. 85253.
C877-110	do	J. W. Rettig, Jr., P.O. Box 51594, Lafayette, La. 70505.
C877-111	do	Daniel C. Harrington, deceased estate, 2150 Valdez St., Suite 850, Oakland, Calif. 94612.
C877-112	do	Dee J. Kelly, 3002 Fort Worth National Bank Bldg. Fort Worth, Tex. 76102.
C877-113	do	Myrldean Scott McCollum, 417 Northwest 40th St., Oklahoma City, Okla. 73118.
C877-114	do	Wolf Run Oil & Gas Co., 3031 Wallace Circle, Huntington, W. Va.
C877-115	do	Callahin National Bank, guardian of the estate of J. A. Fox, agent, P.O. Box 759, Uniontown, Pa. 15401.
C877-116	do	King No. 4, contract 1450 and contract No. 1167 B, 407 Penn Ave., Harrisville, W. Va.
C877-117	do	Walter C. Crane, agent, 212 East Pierpoint St., Harrisville, W. Va.
C877-118	do	Vesta Fuel Com., 212 East Pierpoint St., Harrisville, W. Va. 26362.
C877-119	do	Nima Gas Co., 212 East Pierpoint St., Harrisville, W. Va. 26362.
C877-120	do	Arlie and Iva P. Wright, R.F.D. 2 Box 128, Fairview, W. Va. 26570.
C877-121	Nov. 29, 1976	William K. Finch, 836 Country Club Dr., Sistersville, W. Va. 26175.
C877-122	do	Barry Holding Co., P.O. Box Bin X, Taft, Calif. 93268.
C877-123	do	Robert B. Wallace, 1006 Guaranty Bank Plaza, Corpus Christi, Tex. 78401.
C877-124	do	Carpenter Oil & Gas Co., 3105 Fidelity Union Tower, Dallas, Tex. 75201.
C877-125	do	E. R. Carpenter, 3105 Fidelity Union Tower, Dallas, Tex. 75201.
C877-126	do	Stanley F. Pauley, 3105 Fidelity Union Tower, Dallas, Tex. 75201.
C877-127	do	Alan J. Schottenstein, 1000 Urlin Ave., Columbus, Ohio 43212.
C877-128	do	Frances D. Schneider, 301 Cameron Bldg., Oklahoma City, Okla. 73106.
C877-129	do	Laban H. Southmayd, 27 Barclay Rd., Scarsdale, N.Y. 10583.
C877-130	Dec. 1, 1976	Huntington Oil & Gas Co., 3327 Route 60E, Huntington, W. Va. 25705.

[FR Doc.76-36981 Filed 12-15-76;8:45 am]

[Docket No. E-9574]

FLORIDA POWER & LIGHT CO.

Application

DECEMBER 9, 1976.

Take notice that on November 26, 1976, Florida Power & Light Company (Applicant), filed an application seeking an order pursuant to section 203 of the Federal Power Act authorizing it to acquire the fixed assets constituting the electric system operated by the City of Vero Beach, Florida.

Applicant is incorporated under the laws of the State of Florida with its principal business office in Miami, Florida and is engaged in the electric utility business in parts of 35 of the 67 counties in the State.

Vero Beach is a municipal authority, a body politic and corporate of the State of Florida and owns and operates facilities for the distribution and sale of electric energy within the city limits and adjacent areas.

The Applicant proposes, subject to regulatory approval, to purchase the facilities used for the sale and distribution of energy by the City of Vero Beach to customers within the city limits and adjacent areas (service territory of approximately 32 square miles).

The Applicant will pay a sum of up to $39,057,000 in exchange for said property (subject to adjustments at time of closing).

Any person desiring to be heard or to make any protest with reference to said application should, on or before January 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36976 Filed 12-15-76;8:45 am]

GENERAL MOTORS CORP. v. NATURAL GAS PIPELINE CO. OF AMERICA

Filing of Complaint and Request for Order To Show Cause

DECEMBER 9, 1976.

Take notice that on April 16, 1976, General Motors Corporation (General Motors) filed a complaint against Natural Gas Pipeline Company of America (Natural) and a request for an order to show cause pursuant to sections 1.6 of the Commission's rules of practice and procedure and section 5 of the Natural Gas Act.

General Motors states that Natural's existing curtailment plan bears no relationship whatsoever to the end uses in which the gas is ultimately consumed and has no provisions designed to limit or deter distributor market expansion. Natural's curtailment tariff was approved in the form of an uncontested settlement in the Commission's Order issued November 23, 1971, in Docket No. RP70-42, 46 FPC 1262.

General Motors states that given the change in curtailment policy at the Commission since 1971 and given the deteriorating supply situation on Natural's system, it is imperative that there be a thorough and complete review of Natural's tariff provisions governing curtailments of service. General Motors states that Natural's current tariff provisions governing curtailment are unjust, unreasonable and unduly discriminatory. General Motors requests the issuance of an order requiring Natural to appear and show cause why its present curtailment plan should not be declared unjust, unreasonable, and unduly discriminatory and requests that formal hearings be ordered to consider the complaint and order to show cause.

General Motors states that copies of its complaint were served on Natural and on the parties to the proceeding in which Natural's curtailment plan was approved, Docket No. RP70-42.

Any person desiring to be heard or to respond with reference to said notice should on or before January 7, 1977, file with the Federal Power Commission a petition to intervene or a response in

accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.6 or 1.8). All responses filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All parties who have previously filed protests or petitions to intervene need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36973 Filed 12-15-76;8:45 am]

[Docket No. RP73-17; (PGA 77-2)]

GRANITE STATE GAS TRANSMISSION, INC.

Proposed Changes In Rates Pursuant to Purchased Gas Adjustment Provision

DECEMBER 8, 1976.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 66 Market Street (P.O. Box 508), Portsmouth, New Hampshire 03801, on December 1, 1976, tendered for filing Fifteenth Revised Sheet No. 3A in its FPC Gas Tariff, Original Volume No. 1, containing proposed changes in rates for effectiveness on January 1, 1977.

According to Granite State, the instant filing tracks revised changes in its cost of gas purchased from Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) which Tennessee has proposed to make effective January 1, 1977. Granite State further avers that its filing is made pursuant to the purchased gas cost adjustment provision in its Tariff, previously approved by the Commission on December 14, 1972, in Docket No. RP73-17.

Granite State further states that its revised purchased gas cost changes are applicable to its sales to Northern Utilities, Inc. (Northern) which is Granite State's sole jurisdictional customer. According to Granite State, the annual effect on Northern of the proposed rates contained on Fifteenth Revised Sheet No. 3A is $107,258. The estimate is based on purchases from Tennessee and sales to Northern for the twelve months ended October 31, 1976.

According to Granite State, copies of the filing were served upon Northern and the regulatory commissions of the States of Maine and New Hampshire.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commssion, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36979 Filed 12-15-76;8:45 am]

[Docket No. ER77-48]

MAINE PUBLIC SERVICE CO.

Order Accepting for Filing Suspending Proposed Tariff Sheets and Granting Intervention

DECEMBER 9, 1976.

On November 9, 1976, the Maine Public Service Company (Maine), tendered for filing a proposed increase in rates to its three wholesale customers.[1] The proposed rates would increase revenues by $380,820.80 (24 percent). Maine has requested that the increase become effective December 1, 1976. For the reasons discussed in this order, the Commission will accept the proposed tariff sheet reflecting the higher rates for filing, suspend its effectiveness for one day and permit it to become effective subject to refund, and grant intervention.

Public notice of the proposed filing was issued on November 12, 1976, with comments, protests and petitions due on or before November 30, 1976. On December 2, 1976, the Van Buren Light and Power District (Petitioner), filed a late Protest and Petition to Intervene. Petitioner alleges that it is a wholesale for resale customers of Maine, obtaining all of its power requirements from such company. In addition, Petitioner asserts that it will be directly and adversely affected by the proposed change in rates, that it may be bound by the Commission's actions in this proceeding, and that its interest cannot be adequately represented by other parties.

Maine's proposed rates under the revised tariff sheets have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. The Commission therefore suspends the proposed rates for one day and will establish hearing procedures.

The Commission finds: (1) Good cause exists to accept for filing Maine's proposed increased rates filed November 9, 1976, and to suspend those rates for one day until December 11, 1976, when they may be permitted to become effective subject to refund, pending the outcome of a hearing and decision thereon.

[1] See Attachment for Rate Schedule Designations.

(2) Participation in this proceeding by the Petitioner is in the public interest.

The Commission orders: (A) Pending a hearing and decision thereon, Maine's proposed rate schedules are hereby accepted for filing and suspended from operation for one day, to become effective December 11, 1976, subject to refund.

(B) Pursuant to the authority of the Federal Power Act, particularly sections 205 and 206 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act, a hearing shall be held concerning the justness and reasonableness of the rate increases proposed by Maine's filing.

(C) Commission Staff shall prepare and serve top sheets on all parties for purposes of settlement on or before March 15, 1977. (See Administrative Order No. 157).

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the rules of practice and procedure.

(E) The Petitioner is hereby premitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* that participation of this Company shall be limited to matters affecting asserted rights and interests as specifically set forth in the Petition to Intervene; and *Provided, further,* that the admission of this company shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(F) Maine shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by § 35.19a of the Commission's regulations, 18 CFR 35.19a.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

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ATTACHMENT.—*Maine Public Service Co., rate schedule designations*

Dated: Undated. Filed: Nov. 9, 1976

Designations	Description	Other party
(1) Supp. No. 3 to rate schedule FPC No. 10 (supersedes rate 0-1, sheet No. 1, 5th revision; sheet No. 2, 7th revision; and sheet No. 3 original).	Rate 0-1, sheets Nos. 1, 2, and 3 original.	Houlton Water Co.
(2) Supp. No. 3 to rate schedule FPC No. 11 (supersedes rate 0-1, sheet No. 1, 5th revision; sheet No. 2, 7th revision; and sheet No. 3 original).	....do.....	Van Buren Light and Power District.
(3) Supp. No. 3 to rate schedule FPC No. 12 (supersedes rate 0-1, sheet No. 1, 5th revision; sheet No. 2, 7th revision; and sheet No. 3 original).	....do.....	Eastern Maine Electric Cooperative, Inc.

[FR Doc.76-36980 Filed 12-15-76;8:45 am]

[Docket No. RP73-14; (PGA77-1)]

MICHIGAN WISCONSIN PIPE LINE CO.

Proposed PGA Rate Adjustment Pursuant to Opinion No. 770-A

DECEMBER 8, 1976.

Take notice that on November 24, 1976, Michigan Wisconsin Pipe Line Company (Mich Wisc) tendered for filing a proposed PGA rate adjustment pursuant to Opinion No. 770-A. In its letter of transmittal, Mich Wisc states as follows:

Pursuant to the provisions of Section 15 of the General Terms and Conditions of its tariff and Opinion No. 770-A at Docket No. RM75-14, Michigan Wisconsin Pipe Line Company submits herewith for filing as part of its F.P.C. Gas Tariff, Second Revised Volume No. 1, six (6) copies of Fifteenth Revised Sheet No. 27F.

The foregoing tariff sheet reflects a commodity increase of 9.63¢ per Mcf in the Purchased Gas Adjustment to reflect Opinion No. 770-A effective December 1, 1976 and a special surcharge of 2.79¢ per Mcf reflecting the estimated impact of Opinion No. 770-A for the period July 27, 1976 through November 30, 1976 as authorized by the Commission's order at Docket No. RM75-14. Schedules detailing the cost of gas, the surcharge adjustment and related calculations supporting the change in rates are also enclosed.

Michigan Wisconsin requests a waiver of the requirements of Part 154 of the Commission's regulations under the Natural Gas Act to the extent that such waiver may be necessary to permit this filing of Fifteenth Revised Sheet No. 27F to be made and to become effective December 1, 1976.

Copies of this letter and the enclosures are being made available during regular business hours for public inspection in a convenient form and place at Michigan Wisconsin's office at One Woodward Avenue, Detroit, Michigan, 48226.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36977 Filed 12-15-76;8:45 am]

[Docket No. ER77-74]

MINNESOTA POWER & LIGHT CO.

Filing of Agreement

DECEMBER 9, 1976.

Take notice that Minnesota Power & Light Company (MP&L), on November 22, 1976, tendered for filing six modifying supplements dated June 25, 1976, June 30, 1976, July 16, 1976 (three) and September 16, 1976, respectively, between MP&L and United Power Association. These modifications supplement the Transmission Service Agreement (FPC Rate Schedule Nos. 52 and 80) dated January 1, 1954 and May 19, 1964, between MP&L and United Power Association.

The supplements respectively delete a point of delivery, add a point of delivery, provide for maintenance of certain maintenance on United Power Association switching equipment by United Power Association, installation of a 34 to 69 kV substation and installation of two 115 to 69 kV substations.

No change in kilowatt hours used or wheeled is anticipated, nor is any increase or decrease in revenues anticipated to result therefrom.

Service on United Power Association has been made in accordance with section 35.2(d).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36975 Filed 12-15-76;8:45 am]

[Docket Nos. G-11989, etc.]

MOBIL OIL CORP., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

DECEMBER 9, 1976.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 Ft³	Pressure base
G-11989..... B 9-15-76	Mobil Oil Corp., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America, Clayton area, McMullen and Livcock Counties, Tex.	(1)	(1)
G-16810..... D 11-26-76	Union Oil Co. of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Transwestern Pipeline Co., Crawford Field, Eddy County, N. Mex.	(2)	(2)
G-16563..... D 10-22-76	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	United Gas Pipe Line Co., portion of State tract 9, Corpus Christi Bay, offshore Nueces County, Tex.	(3)	(3)
G-17378..... D 11-26-76	Texaco, Inc., P.O. Box 3109, Midland, Tex. 79701.	Transwestern Pipeline Co., Various Fields, Sherman, Ochiltree, Lipscomb, and Roberts Counties, Tex.	(4)	(4)
G-17896..... D 9-24-76	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Florida Gas Transmission Co., Half Moon Reef Field, Aransas County, Tex.	(5)	(5)
CI68-55..... C 9-27-76	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Arkansas Louisiana Gas Co., West Wilburton Field No. 1 Marcangeli Well, Pittsburg County, Okla.	[6] [7] 153.07¢	14.65
CI-74-528..... C 11-26-76	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	El Paso Natural Gas Co., Sand Hills Field, Crane County, Tex.	[8] [9] $1.6906	14.65
CI76-374..... C 11-26-76	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	Texas Gas Transmission Corp., Red Rock Field, North Shongaloo Area, Webster Parish, La.	[10] 60.8626¢	14.73
CI76-630..... (CI63-555) B 6-11-76	Coastal States Gas Producing Co., Five Greenway Plaza East, Houston, Tex. 77046.	Texas Eastern Transmission Corp., Dallas-Husky Field, Goliad County, Tex.	(11)	(11)
CI76-645 [12] 6-28-76	Ashland Oil, Inc., P.O. Box 1503, Houston, Tex. 77001.	Colorado Interstate Gas Co., Keyes Field, Cimarron County, Okla.	[6] [13] 25.405¢	14.65
CI76-666..... (G-11481) (CI66-1027) E 6-30-76	Edwin L. Cox (successor to Champlin Petroleum Co. and Mobil Oil Corp.), 3800 First National Bank Bldg., Dallas, Tex. 75202.	Texas Eastern Transmission Corp., Chapman Ranch Field, Nueces County, Tex.	[6] [14] 56.309¢	14.65
CI76-719..... B 8-2-76	C. & Y. Casing Pulling Co., P.O. Box 37, Duncan, Okla. 73533.	Lone Star Gas Co., sec. 30, 2N, 8W, Stephens County, Okla.	(15)	(15)
CI77-34..... A 10-7-76	Dover Exploration Co., P.O. Box 615, N. duPont Highway, Dover, Del. 19901.	Eastern Shore Natural Gas Co., North Jefferson Island, Iberia Parish, La.	[7] [16] $1.42	14.73
CI77-40..... A 10-18-76	Mobil Oil Corp.....	Texas Eastern Transmission Corp., east ½ Eugene Island block 333, Eugene Island area, south addition, offshore Louisiana.	[6] [16] 148.41¢	15.025
CI77-54..... A 10-20-76	Napeco, Inc.,[17] 122 South Michigan Ave., Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, East McCaskill Field, Goliad County, Tex.	[9] [16] $1.7438	14.65
CI77-62..... A 10-22-76	Amoco Production Co.....	El Paso Natural Gas Co., Sand Dunes Field, Eddy County, N. Mex.	[7] [9] [16] $1.5508	14.73
CI77-63..... A 10-22-76	do.....	El Paso Natural Gas Co., Drinkard Field, Lea County, N. Mex.	[7] [9] [16] $1.5508	14.73
CI77-70 [18] 10-22-76	Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102.	Michigan Wisconsin Pipeline Co., H. M. Wright Gas Unit, lease No. 55611, Kiowa County, Kans.	[9] 51.80758¢	14.65
CI77-72..... B 10-6-76	Juniper Petroleum Corp., Valdeterro No. 1, Suite 1600, Lincoln Center, 1600 Lincoln, Denver, Colo. 80203.	Transcontinental Gas Pipeline Corp., Andrus Cove Field, Jefferson Davis Parish, La.	(19)	(19)
CI77-73..... B 10-6-76	Juniper Petroleum Corp., Alston et al. No. 1.	Continental Oil Co., Andrus Cove Field, Jefferson Davis Parish, La.	(11)	(11)
CI77-75..... F 10-22-76	Sun Oil Co.[20] P.O. Box 20, Dallas, Tex. 75221.	Texas Eastern Transmission Corp., De Late Charco Field, Brooks County, Tex.	[6] 19.3537¢	14.65
CI77-76..... B 10-26-76	McMoRan Exploration Co., Miller No. 1, 4579 First National Bank Bldg., Dallas, Tex. 75202.	United Gas, South Grand Chenier, Cameron Parish, La., sec. 17, T16S, R5W.	(11)	(11)
CI77-77..... B 10-26-76	McMoRan Exploration Co., Miller No. 2A:	do.....	(11)	(11)
CI77-78..... (CI71-033) B 10-26-76	McMoRan Exploration Co., Brown No. 1-X.	Trunkline Gas Co., E. Donner, Terrebonne Parish, La., sec. 52, T16S, R15E.	(11)	(11)
CI77-88..... F 11-2-76	Gill-Mac, Inc. (successor to Cities Service Oil Co.), Box 259, Route 2, Nowata, Okla. 74048.	Cities Service Gas Co., Eureka Field, Grant County, Okla.	15.0¢	14.65
CI77-117..... (G-3031) E 11-17-76	Pennzoil Producing Co. (successor to Cities Service Oil Co.), P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., Carthage Field, Panola County, Tex.	[6] 15.037¢	14.65
CI77-118..... F 11-18-76	Kenbill Oil Co. (successor to Petroleum, Inc.), Box 27, Ellinwood, Kans. 67526.	Kansas-Nebraska Natural Gas Co., Rush County, Kans.; Schneider K Unit.	[6] 12.94¢	14.65
CI77-119..... B 11-19-76	Cities Service Oil Co.....	Phillips Petroleum Co., Cities Service Empire Abo Unit, sec. 35-17S-27E and sec. 2-18S-27E, Eddy County, N. Mex. (central point in the field).	(21)	(21)
CI77-120..... A 11-22-76	Texaco Inc.....	Southern Natural Gas Co., South Timbalier Blocks 36 and 37, offshore, Louisiana.	[9] [22] 174.56¢	15.025
CI77-121..... A 11-22-76	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., South Rock Tank Well No. 1, South Rock Tank Unit, Eddy County, N. Mex.	[9] [19] [24] 160.9686¢	14.73

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

V41243 DEC 16 76 UMI

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-122 A 11-19-76	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Eugene Island Block 332, offshore Louisiana.[2]	[3][4] $1.90	14.025
CI77-123 A 11-22-76	Gulf Oil Corp.	El Paso Natural Gas Co., State FI No. 1 Well, State FV Com. No. 1 Well, SW/4 of sec. 26 and NE/4 of sec. 25, township 30 south, range 27 east, Eddy County, N. Mex.	[3][5] 161.8877¢	14.73
CI77-124 B 11-22-76	Aminoil USA, Inc., 2800 North Loop West, Houston, Tex. 77092.	Chesapeake Bay Gas Co.,[6] Strawn Field, Crockett County, Tex.	(7)	(7)

[1] Depleted.
[2] Lease expired or assigned to other parties.
[3] Applicant conveyed to Jake L. Hanon, Don O. Chapell, and McMoran Exploration Co. by assignment of oil and gas lease dated Oct. 8, 1975.
[4] Leases expired.
[5] Marathon assigned its interest by assignment of oil and gas lease No. 42618 dated Apr. 20, 1966, to Coastal States Gas Producing Co.
[6] Subject to upward and downward Btu adjustment from 1,000 Btu per cubic foot.
[7] Applicant proposes to collect the national rate in accordance with opinion No. 770 as amended.
[8] Includes 13.84¢ Btu adjustment and 1.40¢ gathering.
[9] Applicant is willing to accept a certificate in accordance with opinion No. 770 as amended.
[10] Subject to upward and downward Btu adjustment.
[11] Wells plugged and abandoned.
[12] Applicant filing to cover its own interest. Filings previously made by operator (Cities Service Oil Co.) under Cities' FPC gas rate schedule No. 244 and its certificate in docket No. G-8994.
[13] Includes 100-pct tax reimbursement.
[14] Includes 0.306¢/1,000 ft³ gathering.
[15] Well plugged.
[16] Plus $0.01 escalation per quarter.
[17] Applicant and purchaser are affiliated.
[18] Includes $1.43 base, $0.1269 tax and Btu adjustment.
[19] Applicant is filing to cover its own interest under Gulf Oil Co. FPC gas rate schedule No. 44.
[20] Watered out.
[21] Nonproductive.
[22] Sun acquired the 12½ pct working interest in the Felix de Barrera lease from Bentex Oil Co., and is currently selling its gas under Atlantic Richfield Co.'s rate schedule No. 554.
[23] Base rate 17.9022¢ plus 1.4515¢ tax reimbursement.
[24] Or area rate, if higher.
[25] Subject to downward Btu adjustment.
[26] Contract expired.
[27] Buyer to reimburse seller for 100 pct of future taxes and any excess royalty payments.
[28] Includes 11.7775¢ tax reimbursement and 6.1911¢ Btu adjustment.
[29] Includes 11.7775¢ tax reimbursement and 6.8102¢ Btu adjustment.
[30] Applicant purchases on a percentage contract and sells to Northern Natural Gas Co.

[FR Doc.76-36982 Filed 12-15-76;8:45 am]

[Docket Nos. RP76-96 and RP77-14]

NATIONAL FUEL GAS SUPPLY CORP.

Order Accepting for Filing and Suspending Proposed Increases in Rates, Consolidating Procedures, and Establishing Procedures

DECEMBER 9, 1976.

On November 17, 1976, National Fuel Gas Supply Corporation (NFGS) tendered for filing a proposed revised tariff sheet to its FPC Gas Tariff, Original Volume No. 1.[1] The proposed change will increase revenues from jurisdictional sales and service by approximately $2,779,744 annually, based on the twelve month period ended December 31, 1975, as adjusted. NFGS requests that this filing be consolidated with Docket No. RP76-96 for final determination and requests a shortened suspension period to allow the proposed rates to become effective on February 1, 1977.

NFGS states that the requested rate increase is required to recover increased operating costs over and above those claimed in Docket No. RP76-96 as a result of Tennessee Gas Pipeline Company's (TGP) filing for an increase in its T-1 and T-28 rate schedules in Docket No. RP76-137 on July 30, 1976, which increases are to become effective on February 1, 1977. Tennessee provides transportation services to NFGS under the T-1 and T-28 rate schedules. NFGS requests a shortened suspension period so as to allow the proposed rates to become effective concurrently with TGP's rate increase.

Public notice of the instant filing was issued on November 19, 1976, with any comments, protests, or petitions to intervene due on or before December 3, 1976. On December 3, 1976, the Pennsylvania Public Utility Commission filed a notice of intervention in this proceeding.

Upon review of NFGS's filing herein, the Commission finds that NFGS's proposed increase in rates should be accepted for filing, suspended as requested by NFGS, and permitted to become effective thereafter on February 1, 1977, subject to refund. The Commission further finds that the proceeding in Docket No. RP77-14 should be consolidated with the proceeding in Docket No. RP76-96 for the purposes of hearing and decision thereon.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly section 4 and 5 thereof, a public hearing shall be held concerning the lawfulness of the rates and charges contained in the revised tariff sheets filed by NFGS on November 17, 1976, in Docket No. RP77-14.

(B) NFGS's proposed increased rates are accepted for filing and suspended until February 1, 1977, when they shall be permitted to become effective in the manner prescribed by the Natural Gas Act, subject to refund.

(C) The proceedings in Docket Nos. RP76-96 and RP77-14 are consolidated for purposes of hearing and decision.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36970 Filed 12-15-76;8:45 am]

[1] Tenth Revised Sheet No. 4.

[Docket No. RP72-115; (PGA77-1)]

OKLAHOMA NATURAL GAS GATHERING CORP.

Filing of PGA Rate Adjustment

DECEMBER 9, 1976.

Take notice that on December 1, 1976, Oklahoma Natural Gas Gathering Corporation (Oklahoma) filed in the above-designated docket a proposed PGA rate adjustment to become effective on January 1, 1977. The proposed rate adjustment combines Oklahoma's semi-annual PGA rate adjustment and the rate adjustment resulting from Commission opinion No. 770-A. In its letter of transmittal, the company states as follows:

Pursuant to the provisions of Section 4 of the Natural Gas Act and the Applicable provisions of the Commission's regulations thereunder, more particularly section 154.38(d)(4) as revised in Order 452 and 452-A, and pursuant to Opinion Nos. 770-A and 742-A, as revised, Oklahoma Natural Gas Gathering Corporation (Gathering Corporation) submits herewith 10 copies of tariff sheets to track increases in producer rates authorized by 18 CFR 2.56(a). Said tariff sheet provides for changes in Gathering Corporation's FPC Gas Tariff to include Second Amended Eleventh Revised Sheet PGA-1.

This tariff sheet will become effective on January 1, 1977, and revise Gathering Corporation's Base Tariff Rate to flow through the increase in the system cost of purchased gas and recover the balanced accumulated in the unrecovered purchased gas cost account. A special surcharge is included to recover the increases accumulated from July 27, 1976, through December 31, 1976, which are attributable to Opinion Nos. 770-A and 742-A. This special surcharge is recoverable over a 12-month period beginning January 1, 1977, and includes a nine percent carrying charge.

Copies of this Tariff Filing are being posted in accordance with section 154.16 of the Commission's regulations and are being mailed to all jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36974 Filed 12-15-76;8:45 am]

[Docket Nos. RP72-74 and RP74-6 (Phase I)]

SOUTHERN NATURAL GAS CO.

Certification of Proposed Settlement

DECEMBER 9, 1976.

Take notice that on November 30, 1976, Presiding Judge Thomas L. Howe certified to the Commission a proposed settlement of all issues of Phase I in the above-docketed proceeding.

By order issued November 16, 1976, the Commission set for hearing an October 1 tariff filing by Southern Natural Gas Company (Southern). By order issued October 29, 1976, the tariff sheets were suspended for five months. The tariff sheets provide that the penalty provisions applicable to gas taken in excess of curtailment orders shall not be applicable to a Purchaser under certain circumstances. The November 16 order instructed the Presiding Judge and the Parties to endeavor to find a solution to the problem of growth on the pipeline system for the 1976-77 winter heating season. The overall question of growth was docketed as Phase II.

At a hearing held on November 29, Southern placed into the record a proposed stipulation and agreement and an illustrative exhibit. This stipulation and agreement would settle all issues in Phase I. The stipulation would permit Southern to waive the penalty provisions of its tariff for the period November 1, 1976 through March 31, 1977 for takes of gas in excess of curtailment orders by Resale Purchasers with Contract Demands or Maximum Delivery Obligations of 16,000 Mcf per day or less when the Resale Purchasers apply for the exemption and certify that the following conditions exist:

1. No additional requirements were added during the November 1, 1976-March 31, 1977 period.

2. The excess gas was needed for firm priority 1, 2 or 3 consumers (or interruptible priority 1, 2 or 3 consumers without alternate fuel capability).

3. The Resale Purchaser sold no gas on any day during a month for which relief was requested to consumers in lower curtailment priorities than Southern allocated gas to on such day.

4. All gas supplies available from other sources, including maximum withdrawals from storage and peak shaving, were fully utilized on any day for which relief is sought.

No party at the hearing opposed the proposed stipulation and agreement. Staff stated that it did not object to the certification and that it did not object to the approval of the stipulation and agreement by the Commission.

All parties wishing to submit comments on the proposed stipulation and agreement shall file such comments with the Commission within 10 days of the issuance of this notice.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36978 Filed 12-15-76;8:45 am]

[Docket No. RP77-19]

TRANSWESTERN PIPELINE CO.

Proposed Changes in FPC Gas Tariff

DECEMBER 9, 1976.

Take notice that pursuant to the provisions of section 4 of the Natural Gas Act, Transwestern Pipeline Company, on December 1, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. The proposed changes would increase revenue from jurisdictional sales by $38,977,337 based on the 12 months ended August 31, 1976, as adjusted. Approximately $10 million of the proposed increase can be attributed to purchased gas cost increases reflected in the proposed rate levels but not accounted for in the present rate level and which Transwestern is permitted to track under the purchased gas cost adjustment provision of its FPC Gas Tariff. The remainder of the increase is related to other than purchased gas cost increases.

Transwestern states that the principal reasons for the proposed rate increase are: (1) increased cost of labor, supplies, expenses, plant facilities, and working capital requirements; (2) the need for an increased rate of return of 11 percent; (3) the need for an overall rate of depreciation of 7.2 percent; (4) increased taxes, including income taxes associated with the increased return; and (5) lower sale quantities than those on which its current rates are based.

The proposed effective date of the tariff changes is January 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-36972 Filed 12-15-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

NATIONAL ADVISORY COUNCIL ON DRUG ABUSE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of January 1977:

NATIONAL ADVISORY COUNCIL OF DRUG ABUSE

Date and time: January 17, 9:30 a.m.; January 18, 9:00 a.m.

Place: Conference Room 873, Rockwall Building, Rockville, Maryland.

Type of meeting: Open—January 17, 1:00-5:00 p.m., January 18, 9:00 a.m.-5:00 p.m.; Closed—January 17, 9:30 a.m.-12:00 noon.

Contact person: Ms. Pamela Thurber, Rockwall Building, Room 840, 11400 Rockville Pike, Rockville, Maryland 20852, 301-443-6618.

Purpose of panel: The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse research, training, demonstration, prevention and community services programs. The Council also gives advice on policies and priorities for drug abuse grants and contracts and reviews and makes recommendations on grant applications.

Agenda: From 9:30 a.m. to 12:00 noon, January 17, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of sections 552(b)(5) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

The remainder of the meeting from 1:00 p.m. on January 17 until 5:00 p.m. on January 18 will be open for a discussion of issues in the field of drug abuse, orientation to the programs of the Institute, development of priorities for action by the Council, and administrative announcements.

Agenda items are subject to change as priorities dictate.

Substantive program information, summaries of the meeting and rosters of the Council members can be obtained from the contact person listed above.

Dated: December 10, 1976.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-36940 Filed 12-15-76;8:45 am]

Office of the Secretary

ADVISORY COUNCIL ON EDUCATION STATISTICS

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that a meeting of the Advisory Council on Education Statistics will be held on January 10, 1977, from 9 a.m. to 4:30 p.m., in Room 3000, FOB #6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. The meeting will be continued on January 11, from 9 a.m. to 3:30 p.m., at the same location.

V41243 DEC 16 76 UMI

The Advisory Council on Education Statistics is mandated by Section 406(c) of the General Education Provisions Act as added by Section 501(a) of the Education Amendments of 1974, Pub. L. 93-380 (20 USC 1221e-1(c)), to advise the Secretary of the Department of Health, Education, and Welfare and the Assistant Secretary for Education, and the National Center for Education Statistics (NCES); and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to ensure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

The meeting agenda will include the swearing in of one new Council member; a summary of NCES responses to previous Council discussions; work on the Council's Annual Report; a discussion of a draft policy on the collection by NCES of program and compliance data; and a review of NCES preliminary responses to mandates contained in the Education Amendments of 1976 (P.L. 94-482).

The meeting is open to the public; however, because of limited accommodations, those members of the public wishing to attend should make reservations by writing, no later than December 31, 1976; to:

Executive Director, Advisory Council on Education Statistics, Room 3033-D, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Records shall be kept of all Council proceedings and shall be available for public inspection in the Office of the Administrator, National Center for Education Statistics, located at 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on December 8, 1976.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

[FR Doc.76-37055 Filed 12-15-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing, Federal Housing Commissioner

[Docket No. N-76-658]

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

Demonstration Rehabilitation Program

Pursuant to the Notice under the same heading published in the FEDERAL REGISTER on November 9, 1976, at 41 FR 49537, the cities of Atlanta and New York were selected on December 10, 1976. Each City met the requirement in 24 CFR, Part 881, Subpart D, "Demonstration Rehabilitation Program," (§ 881.402(a)), that there be a substantial reduction in the cost of rehabilitation, by submitting specific evidence to support meeting this requirement. (This supporting evidence showed a reduction in the wage scale in each trade for rehabilitation of both high and low-rise structures for low and moderate income housing in excess of 25 percent and a commitment to abide by the Statement of Principles and Objectives cited in § 881.402.) Each City met all the other requirements of the November 9, 1976, Notice and the Regulations.

Notice is hereby given that the Department will accept new applications and modifications of applications submitted pursuant to the November 9, 1976, Notice until 5 p.m. on January 3, 1977. The selection of applications received or modified will be completed by January 14, 1977.

HUD Field Offices with jurisdiction oevr localities selected pursuant to this Notice will advertise by January 21, 1977, for developers wishing to be pre-qualified for participation in the program, and developers will be pre-qualified in accordance with § 881.406.

The special labor-management agreement applicable to a locality to be selected pursuant to this Notice must be executed by January 31, 1977, or approval of the application may be withdrawn.

All applicants should make certain that they have fully complied with all other requirements in the November 9, 1976, Notice and the Regulations, particularly with respect to stating the specific savings to be achieved as a result of the negotiated labor-management agreement based on (1) the amount of reduction in the wage scale in each trade for rehabilitation of both high- and low-rise structures for low- and moderate-income housing, (2) the commitment to abide by the Statement of Principles and Objectives cited in § 881.402(a) of the Regulations, and particularly with respect to furnishing specific information on the acceptability of the target neighborhoods in terms of the site and neighborhood standards, 24 CFR 881.112, and the supporting services to be provided in the target neighborhoods.

Issued at Washington, D.C., December 10, 1976.

JOHN T. HOWLEY,
Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc.76-37086 Filed 12-15-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 29286]

NEW MEXICO

Application

DECEMBER 9, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 25 E.,
Sec. 34, NW¼NE¼ and E½NW¼.

This pipeline will convey natural gas across 0.524 mile of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-37012 Filed 12-15-76;8:45 am]

[NM 29291 and NM 29294]

NEW MEXICO

Applications

DECEMBER 9, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 10¾-inch and one 6⅝-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 27 E.,
Sec. 6, lot 6;
Sec. 20, SE¼SE¼;
Sec. 21, SW¼SW¼.

These pipelines will convey natural gas across .283 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-37013 Filed 12-15-76;8:45 am]

[NM 28357]

NEW MEXICO

Proposed Withdrawal and Reservation of Lands

DECEMBER 10, 1976.

The United States Energy Research and Development Administration filed an application, NM 28357 on December 3, 1976, for the withdrawal of approximately 17,200 acres of national resource lands from all forms of appropriation under the public land laws, including location under the mining laws and leasing under the mineral leasing laws, and including leasing under the Geothermal Steam Act of 1970. Grazing will eventually be allowed outside an area, to be specified in the future, around the principal facilities. Casual mineral exploration may also be possible at a later date if the applicant agency should so determine. The Energy Research and Development Administration desires the lands for a waste isolation pilot plant.

On or before January 17, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by January 24, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized office will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

On or before December 18, 1978, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, it will be for an indefinite period, and the lands will remain segregated.

The lands involved in the application are:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 30 E.,
Sec. 12, SE¼SE¼;
Sec. 13, E½, SE¼NW¼ and E½SW¼;
Sec. 24, E½, E½NW¼ and SW¼;
Sec. 25.

T. 23 S., R. 30 E.,
Sec. 1, lot 1.

T. 22 S., R. 31 E.,
Sec. 7, lots 3, 4, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Secs. 8 and 9;
Sec. 10, SW¼NE¼, W½NW¼, SE¼NW¼ and S½;
Sec. 11, SW¼SW¼;
Sec. 14, SW¼NE¼, W½, NW¼SE¼ and S½SE¼;
Secs. 15 and 17 to 23, inclusive;

Secs. 26 to 31, inclusive;
Secs. 33 and 34;
Sec. 35, N½NE¼, SW¼NE¼, W½ and NW¼SE¼.

T. 23 S., R. 31 E.,
Sec. 3, lots 1, 2, 3, 4, S½N½, N½SW¼, SW¼SW¼ and NW¼SE¼;
Secs. 4 and 5;
Sec. 6, lots 1, 2, 3, 4, SE¼NE¼ and NE¼SE¼.

The areas described aggregate approximately 17,200 acres in Eddy County, New Mexico.

All communications in connection with this withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Division of Technical Services, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-37011 Filed 12-15-76;8:45 am]

SALMON DISTRICT MULTIPLE USE ADVISORY BOARD

Cancellation of Meeting

Notice is hereby given that the proposed meeting of the Salmon District Multiple Use Advisory Board, published on page 52910 of Vol. 41 No. 233 of the FEDERAL REGISTER on Thursday, December 2, 1976 is cancelled.

DECEMBER 10, 1976.

HARRY R. FINLAYSON,
District Manager.

[FR Doc.76-37020 Filed 12-15-76;8:45 am]

Office of the Secretary

INDUSTRIAL ADVISORY COMMITTEE TO THE DEFENSE ELECTRIC POWER ADMINISTRATION

Renewal

This notice is published in accordance with provisions of section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act Pub-L. 92-463), I have determined that renewal of the Industry Advisory Committee to the Defense Electric Power Administration is necessary and in the public interest.

The Office of Management and Budget has concurred in the renewal of this committee.

Further information regarding this renewal may be obtained from the Department Committee Management Officer, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, telephone 202-343-8401.

Dated: December 9, 1976.

THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.76-36942 Filed 12-15-76;8:45 am]

WAYNE C. ASTLEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of December 30, 1976.

Dated: November 18, 1976.

WAYNE C. ASTLEY.

[FR Doc.76-36943 Filed 12-15-76;8:45 am]

WILLIAM CANDELARIO

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of December 30, 1976.

Dated: November 22, 1976.

WILLIAM CANDELARIO.

[FR Doc.76-36944 Filed 12-15-76;8:45 am]

EARL D. DRYER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of December 16, 1976.

Dated: November 30, 1976.

EARL D. DRYER.

[FR Doc.76-36945 Filed 12-15-76;8:45 am]

FRED B. DYER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Pro-

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duction Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of December 30, 1976.

Dated: November 19, 1976.

FRED B. DYER.

[FR Doc.76-36946 Filed 12-15-76;8:45 am]

DAVID HAYWARD

Statement of Changes In Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of December 9, 1976.

Dated: November 19, 1976.

DAVID HAYWARD.

[FR Doc.76-36947 Filed 12-15-76;8:45 am]

GLENN L. KOESTER

Statement of Changes In Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of December 30, 1976.

Dated: November 23, 1976.

GLENN L. KOESTER.

[FR Doc.76-36948 Filed 12-15-76;8:45 am]

JOHN M. MADARA, JR.

Statement of Changes In Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Add: American Electronics Laboratories, Inc., American Telephone and Telegraph, Inc.
(3) No change.
(4) No change.

This statement is made as of December 30, 1976.

Dated: November 18, 1976.

JOHN M. MADARA, Jr.

[FR Doc.76-36949 Filed 12-15-76;8:45 am]

FRANK J. MEYER

Statement of Changes In Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Delete Ryder Systems, Inc.
(3) No change.
(4) No change.

This statement is made as of December 30, 1976.

Dated: November 19, 1976.

FRANK J. MEYER.

[FR Doc.76-36950 Filed 12-15-76;8:45 am]

ROSS MULLINS

Statement of Changes In Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of December 30, 1976.

Dated: November 19, 1976.

ROSS MULLINS.

[FR Doc.76-36951 Filed 12-15-76;8:45 am]

FREDERICK L. PETERSEN

Statement of Changes In Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of December 16, 1976.

Dated: November 23, 1976.

FREDERICK L. PETERSEN.

[FR Doc.76-36952 Filed 12-15-76;8:45 am]

JOHN R. VOGEL, JR.

Statement of Changes In Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of December 16, 1976.

Dated: November 19, 1976.

JOHN R. VOGEL, Jr.

[FR Doc.76-36953 Filed 12-15-76;8:45 am]

PAUL G. WALLOF, JR.

Statement of Changes In Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of December 30, 1976.

Dated: November 18, 1976.

PAUL G. WALLOF, Jr.

[FR Doc.76-36954 Filed 12-15-76;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 14, 1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by December 24, 1976.

JERRY L. ROGERS,
Acting Chief, Office of Archeology and Historic Preservation.

ALABAMA

Dallas County

Selma, *Old Town Historic District*, roughly bounded by Jefferson Ave., Pettus, Broad, Franklin Sts., and the Alabama River.

CALIFORNIA

Alameda County

Oakland, *First Unitarian Church of Oakland*, 685 14th st.

San Bernardino County

Redlands and vicinity, *Mill Creek Zanja*, from Sylvan Blvd to Mill Creek Rd.

San Joaquin County

Stockton, *El Dorado Elementary School*, Harding Way and Pacific Ave.

IDAHO

Boundary County

Bonners Ferry vicinity, *Harvey Mountain Quarry*, N of Bonners Ferry

IOWA

Mitchell County

Stacyville vicinity, *Union Presbyterian Church*, NW of Stacyville

MARYLAND

Somerset County

Westover vicinity, *Liberty Hall*, S of Westover off MD 361

MISSISSIPPI

Hinds County

Clinton, *Cedar Grove*, 405 E. College St.

Jefferson County

Church Hill, *Christ Church*, MS 553

MISSOURI

Jackson County

Kansas City, *Kansas City Public Library*, 500 E. 9th St.

NEBRASKA

Hall County

Grank Island, *Hall County Courthouse*, 1st and Locust Sts.

NEW JERSEY

Essex County

Fairfield vicinity, *Van Ness House*, 236 Little Falls Rd. HABS

Hunterdon County

Glen Gardner, *Glen Gardner Pony Pratt Truss Bridge*, Mill St. over Spruce Run
Hampton vicinity, *New Hampton Pony Pratt Truss Bridge*, N of Hampton over Musconetcong River (also in Warren County)
Pittstown vicinity, *St. Thomas Episcopal Church*, SW of Pittstown on Sky Manor Rd.
Stockton, *Prallsville District*, NJ 29, Delaware River and Wickecheoke Creek

Mercer County

Trenton, *Trenton Battle Monument*, Warren and Broad Sts.

Morris County

Boonton, *Delaware, Lackawanna and Western Railroad Station*, Myrtle Ave., Main and Division Sts.
Chester, *First Congregational Church*, Hillside Rd.
Mountain Lakes, *Grimes Homestead*, 45 Bloomfield Ave.

NEW MEXICO

Bernalillo County

Albuquerque, *KiMo Theater*, 421 Central Ave.

San Miguel County

Las Vegas, *Bridge Street Historic District*, Bridge St.

NEW YORK

New York County

New York, Fraunces Tavern Block, bounded by Pearl, Water, Broad Sts., and Coenties Slip

NORTH CAROLINA

Bladen County

Tar Heel vicinity, *Purdie House and Purdie Methodist Church*, 2.8 mi. E of Tar Heel on NC 87

Forsyth County

Winston-Salem, *Arista Cotton Mill Complex*, 200 Brookstone Ave.

Wayne County

Goldsboro, *Goldsboro' Union Station*, 101 North Carolina St.

PENNSYLVANIA

Venango County

Oil City, *U.S. Post Office*, 270 Seneca St.

RHODE ISLAND

Providence County

Providence, *St. Michael's Roman Catholic Church, Convent, Rectory, and School*, 251 Oxford St.

TENNESSEE

Marshall County

Chapel Hill vicinity, *Forest, Nathan Bedford, Boyhood Home*, W of Chapel Hill

Tipton County

Covington, *St. Matthew's Episcopal Church*, Munford St.

TEXAS

Bexar County

San Antonio, *Alamo Plaza Historic District*, roughly bounded by Commerce, S. Broadway, Travis, and Bonham Sts.

Bosque County

Meridian, *Bosque County Courthouse*, Public Square

Hill County

Itasca vicinity, *Turner, Joe E., House*, 3 mi. E of Itasca on SR 934

UTAH

Salt Lake County

Salt Lake City, *Hills, Lewis S., House*, 126 S. 200 West

WYOMING

Albany County

Woods Landing vicinity, *Boswell, N. K., Ranch*, S of Woods Landing off WY 230

Weston County

Newcastle vicinity, *Whoop-up Canyon Petroglyphs*, S of Newcastle

[FR Doc.76-37090 Filed 12-15-76;8:45 am]

ROCKY MOUNTAIN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Rocky Mountain Regional Advisory Committee will be held on January 11–12, 1977, at the Marriott Inn, 6363 East Hampden Avenue, Denver, Colorado. The business sessions will convene at 9:00 a.m. each day.

The purpose of the Rocky Mountain Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Rocky Mountain Region of the National Park Service.

The members of the Advisory Committee are as follows:

Dr. John D. Hunt, Logan, Utah (Chairman)
Mr. Samuel J. Taylor, Moab, Utah
Mr. Ralph M. Clark, Denver, Colorado
Mr. William W. Robinson, Denver, Colorado
Mr. Hoadley Dean, Rapid City, South Dakota
Mrs. Harold (Alice) Fryslie, Bozeman, Montana
Mr. D. C. "Del" Shipman, Watford City, North Dakota
Mr. David Carmichael, Cheyenne, Wyoming
Mr. Vince R. Lee, Wilson, Wyoming

The matters to be discussed at this meeting include:

1. Concessions
2. Proposal to redesignate Theodore Roosevelt National Memorial Park
3. Election of officers—1977
4. Effect of legislation enacted in the 94th Congress
5. Improving effectiveness of Advisory Committee

The meeting will be open to the public. Any member of the public may file with the Committee a written statement concerning the matters to be formally discussed by the Committee on January 11–12, 1977.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Committee Manager Forrest M. Benson, Rocky Mountain Regional Office, National Park Service, Denver, Colorado 80225. Telephone: (303) 234-4943.

Minutes of the meeting will be available for public inspection approximately four weeks after the meeting at the Rocky Mountain Regional Office, 655 Parfet Street, Denver, Colorado.

Dated: December 7, 1976.

VERNON D. DAME,
Acting Regional Director, Rocky Mountain Region.

[FR Doc.76-37097 Filed 12-15-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[USITC SE-76-1 A]

GOVERNMENT IN THE SUNSHINE, MEETING CHANGE

Additional Agenda Item

At its meeting of December 13, 1976, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 in conformity with proposed 19 CFR 201.38, voted to add the fol-

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lowing item to its agenda for the meeting of December 13, 1976:

9. Investigations 337–TA–23, 606–TA–1, and TA–201–19—vote on motions 23–37 to extend the date for completion of the hearing, and 23–57 to suspend the investigation.

Chairman Leonard, Vice Chairman Minchew, and Commissioners Moore, Bedell, Parker, and Ablondi voted by unanimous consent that Commission business requires the change in subject matter by addition of the agenda item, and affirmed that no earlier announcement of the addition to the agenda was possible. The Commission directed the issuance of this notice at the earliest practicable time.

By order of the Commission.

Issued: December 13, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76–37009 Filed 12–15–76;8:45 am]

[Investigation No. 337–TA–26]

SOLDER REMOVAL WICKS

Prehearing Conference and Hearing

Notice is hereby given that a Prehearing Conference will be held in connection with Investigation No. 337–TA–26, Certain Solder-Removal Wicks, at 10:00 a.m. on December 15, 1976, in the hearing room of the Administrative Law Judge, Room 610 Bicentennial Building, 600 E Street, N.W., Washington, D.C. On or before December 13, 1976, the parties will have filed and served Prehearing Conference Statements in conformity with the Order for Prehearing Statements issued December 3, 1976. The purpose of this Prehearing Conference is to review such statements, and resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing in this proceeding will commence at 10:00 a.m. on January 11, 1977, in the hearing room of the Administrative Law Judge, Room 610 Bicentennial Building, 600 E Street, N.W., Washington, D.C., and will continue daily until completed.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

Issued December 13, 1976.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.76–37008 Filed 12–15–76;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. UNITED ARTISTS THEATRE CIRCUIT, INC. AND UNITED ARTISTS EASTERN THEATRES, INC.

Proposed Judgment; Written Comments

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, the following written comments on the proposed judgment filed with the United States District Court for the Eastern District of New York in 71 Civ. 609, United States of America v. United Artists Theatre Circuit, Inc. and United Artists Eastern Theatres, Inc., were received by the Department of Justice and are published herewith, together with Justice's response to the comments.

Dated: December 8, 1976.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

United States of America, Plaintiff v. *United Artists Theatre Circuit, Inc., and United Artists Eastern Theatres, Inc.*, Defendants.

71 Civ. 609.

OBJECTIONS OF CALDERONE OPERATING CORPORATION PURSUANT TO 15 U.S.C. 16(d)

Calderone Operating Corporation, a New York corporation, by its attorneys, GOLDSTEIN & SCHRANK, respectfully submit the following objections relating to the proposal for the consent judgment pursuant to the provisions of 15 U.S.C. 16(d).

DESCRIPTION OF CALDERONE OPERATING CORPORATION

Calderone Operating Corporation (Calderone) is a New York corporation, the shares of which are privately held, with principal offices at 120 Mineola Boulevard, Mineola, Nassau County, New York 11501.

It presently operates three motion picture theatres, the Valley Stream Theatre, a 1,025 seat motion picture theatre, located at 81 Rockaway Avenue, Valley Stream, New York; the Mineola Theatre, a 1,207 seat theatre, located at 120 Mineola Boulevard, Mineola, New York; and the Hempstead Theatre, a 1,440 seat theatre, located at 314 Fulton Avenue, Hempstead, New York. It previously operated, in addition, the Westbury Theatre, and the Calderone Theatre and the Rivoli Theatre, the latter two of which are located in Hempstead, New York, but which were forced to close because of insufficient business and are no longer operated as motion picture theatres.

Calderone is the plaintiff in an anti-trust action now pending in the United States District Court for the Southern District of New York (Index No. 75 Civ. 2192), instituted against United Artists Theatre Circuit, Inc., one of the defendants in this proceeding, another publicly owned circuit of motion picture theatres, Century Circuit, Inc., and several distributors of motion pictures, in which action Calderone has alleged violations of the Clayton and Sherman Acts to the damage of Calderone.

THE PURPOSE OF THIS ACTION

The Government instituted this action to remedy the lessening of competition and tending to create a monopoly which resulted from the illegal acquisition by defendant UATC of The Prudential Circuit of theatres.

In its Competitive Impact Statement, the Government has stated: "The Government's principal theory of illegality is that the acquisition of Prudential's theatres in the New York Metropolitan Area has significantly increased UATC's bargaining power with distributors to the detriment of smaller theatre circuits and independent exhibitors in the area. That is, UATC may now offer distributors substantially greater and more extensive theatre coverage in the New York Metropolitan Area thereby enhancing its bargaining power, especially for licenses to the more desirable films".

It must be assumed, therefore, that UATC now uses its bargaining power with distributors to the detriment of smaller theatre circuits and independent exhibitors in the area.

Calderone, as an independent exhibitor and operator of a minutely small circuit, is a victim of such bargaining power.

THE PROPOSED CONSENT JUDGMENT WILL NOT EFFECT THE RELIEF IN NASSAU COUNTY SOUGHT BY THE GOVERNMENT

This Court has the power to grant in this action such relief as will prevent the lessening of competition resulting from the defendants' conduct.

Since the institution of this action, the defendants have expanded their circuit by the acquisition, through construction or otherwise, of screens in Nassau County. In recent years it has become a practice in the motion picture exhibition industry on the part of large circuits to extend their bargaining power, not by constructing or acquiring individual theatres, whether of small or large seat capacities, but by constructing new theatres with several auditoriums (popularly referred to in the trade as "screens") or converting existing large screen theatres to multi-screened operations, the conversions being conventionally from one theatre to two to four screens. Such expansion permits the circuit to blanket the market for valuable motion pictures by preempting at one physical location, two, three or four of the better motion pictures available on early runs.

A specific example involving these defendants relates to Massapequa, one of the three Nassau County areas where divestiture of a Prudential theatre is directed by the order. The defendants have, since the Prudential acquisition, erected a five-screen theatre. In this instance, accordingly, the divestiture of the old Prudential theatre is meaningless. Defendants have five screens with which further to lessen competition and increase their power in the area.

In the southeastern tier of the County an imminent problem exists. It is rumored that the defendants plan to triplex, i.e., convert from one screen to three screens, their Lynbrook Theatre. The Lynbrook Theatre is located immediately to the east of Calderone's Valley Stream Theatre and is in direct competition with it. Calderone has found it difficult to compete against the one screen of the Lynbrook Theatre, being able to acquire appropriate product only on rare occasions, usually only when the defendants do not wish to, or cannot exhibit a picture. When and if the defendants are permitted to maintain three screens competing against the Valley Stream Theatre, the adverse effect will be exacerbated and may well force the Valley Stream Theatre to close, as the Calderone and Rivoli Theatres have already been forced to do.

THE COURT HAS THE POWER TO ORDER SUCH RELIEF AS SHALL CURE THE ILL EFFECTS OF THE ILLEGAL CONDUCT AND ASSURE THE PUBLIC FREEDOM FROM ITS CONTINUANCE

In *Ford Motor Co.* v. *United States, et al.*, 405 U.S. 562, the Supreme Court dealt with a divestiture action under § 7 relating to the acquisition by Ford of a spark plug manufacturer, Autolite. The District Court not only decreed divestiture but granted additional relief, among other things, in the form of prohibiting Ford for ten years from manufacturing its own spark plugs. Objection was made to the ancillary relief granted. The Supreme Court pointed out: "The relief in an antitrust case must be "effective to redress the violations" and "to restore competition." United States v. Du Pont & Co., 366 U.S. 316, 326. The District Court is clothed with "large discretion" to fit the decree to the special needs of the individual case. International Salt Co. v. United States, 332 U.S. 392, 401; United States v. Du Pont & Co., 353 U.S. at 606; United States v. Crescent Amusement Co., 323 U.S. 173, 185."

It went on to discuss the ancillary relief stating: "The ancillary measures ordered by the District Court are designed to allow Autolite to re-establish itself in the OE and replacement markets and to maintain it as a viable competitor until such time as forces already at work within the marketplace weaken the OE tie. Thus Ford is prohibited for 10 years from manufacturing its own spark plugs."

And finally, the Court said: "Antitrust relief should unfetter a market from anti-competitive conduct and "pry open to competition a market that has been closed by defendant's illegal restraints." International Salt Co. v. United States, 332 U.S. at 401. The temporary elimination of Ford as a manufacturer of spark plugs lowers a major barrier to entry to this industry. See C. Kaysen & D. Turner, Anti-trust Policy—An Economic and Legal Analysis 116 (1959). Forces now at work in the marketplace may bring about a deconcentrated market structure and may weaken the onerous OE tie. The District Court concluded that the forces of competition must be nurtured to correct for Ford's illegal acquisition. We view its decree as a means to that end."

Thus, it may readily be seen that this Court has the power and authority to tailor the decree to the needs of the market place and is not restricted in a section 7 action, to divestiture.

RELIEF REQUESTED

Under 15 U.S.C. 16(e) the Court, before entering the consent judgment, may consider the impact of the entry of the judgment "upon the public generally and individuals alleging specific injury from the violations set forth in the complaint". In making its determination under sub-section (e), the Court may take testimony and review comments, including objections filed under subsection (d).

Based on the foregoing objections, the Court should not enter the proposed judgment unless provision is made requiring the divestiture of all theatres and/or screens aquired since the acquisition of the Prudential circuit, and/or prohibiting the acquisition, by purchase, or construction, or renovation of an existing theatre, of any additional screens without the consent of the Court after notice of all competitive theatres; or, in the alternative, taking testimony of such experts or other persons as the Court may deem appropriate with respect to the matters raised by these objections.

Dated: New York, New York, October 6, 1976.

GOLDSTEIN & SCHRANK, ATTORNEYS FOR CALDERONE OPERATING CORPORATION

HERBERT SCHRANK,
A Member of the Firm.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

United States of America, Plaintiff v. *United Artists Theatre Circuit, Inc., and United Artists Eastern Theatres, Inc.*, Defendants.

71 Civ. 609.

Filed: November 24, 1976.

GOVERNMENT'S RESPONSE TO WRITTEN COMMENTS CONCERNING THE PROPOSED CONSENT JUDGMENT BETWEEN THE UNITED STATES AND UATC

In accordance with the provisions of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), this response is made to written comments received by the Government on October 6, 1976, from Calderone Operating Corporation (Calderone) concerning the proposed consent judgment between the United States and UATC.[1]

The proposed judgment and a Competitive Impact Statement were filed with this Court on July 26, 1976, and published in the FEDERAL REGISTER on August 3, 1976. The written comments from Calderone are attached hereto as Exhibit 1 and will also be published in the FEDERAL REGISTER together with this response.

I

Calderone's comments relate in large part to the trend in the motion picture exhibition industry in recent years towards the conversion of large single screen theatres into multi-screen operations of 2 to 5 screens. Poor quality films together with the diminishing number of people who will go to a theatre, irrespective of the quality of the film shown, have made it increasingly difficult to regularly attract capacity or near capacity audiences to theatres with more than 800 seats. As operating costs have continued to rise, many of these large theatres have become unprofitable or only marginally profitable. Consequently, exhibitors have added screens at some of these theatres in an effort to achieve a lower overhead cost per patron and greater and more profitable use of the available space. Multi-screen theatres may show a different film on each screen, with a separate admission for each, and likely attract a larger overall audience because of the wider choice available to patrons. Operating expenses, however, do not increase in proportion to the number of added screens. Fuel, maintenance, and similar costs remain essentially the same. No substantial addition of suport personnel is required (porters, ushers, projectionists, etc.) and oftentimes only one lobby and box office are needed. In addition, a particularly successful film may be exhibited on each screen with the advantage of staggered starting times.

For related reasons, theatres constructed in recent years have had 2 or more screens with comparatively smaller seating capacities for each screen.

Calderone fears that multi-screen conversions at any of UATC's theatres in Nassau county will be disadvantageous to the 3 theatres which it presently operates in that county. Calderone, therefore, urges that the proposed decree prohibit UATC, for 10 years, from adding screens at any of its existing theatres in Nassau county without approval of this Court. For similar reasons, Calderone also asks that UATC be prohibited during this period from constructing any new theatres in Nassau county without approval and that it be ordered to divest any screens which it has added in Nassau county, through conversion or new construction, since its acquisition of Prudential Theatres Co., Inc. (Prudential) in 1968.[2]

After carefully considering Calderone's written comments and conferring with its chief operating officer and counsel regarding such comments, the Government has concluded that there is no public interest justification to include such provisions in the proposed consent judgment.

As noted in the Competitive Impact Statement, the Government's principal theory of illegality in this case is that the acquisition of Prudential's theatres in the New York Metropolitan Area significantly increased UATC's bargaining power with distributors to the detriment of smaller theatre circuits and independent exhibitors in the area. That is, UATC has been able to offer distributors substantially greater and more extensive theatre coverage in the New York Metropolitan Area thereby enhancing its bargaining power, especially for licenses to the more desirable films. This increased bargaining power has been derived primarily from Prudential's block of 40 theatres in Suffolk county which, at the time of the acquisition, accounted for approximately 60 percent of all the theatres located there. Smaller theatre circuits and independent exhibitors, unable to offer such broad and extensive coverage to distributors, were placed at a competitive disadvantage in negotiating for film licenses.

The theatre divestitures required by the proposed judgment will substantially reduce UATC's additional bargaining power, thereby dissipating the primary anticompetitive consequences of the acquisition and accomplishing the purposes of this suit. It is unlikely that UATC will be able to offset the effects of such divestitures through multi-screen conversions or new constructions. For, while UATC will be free to convert to multi-screen operations or construct new theatres, so too will all other exhibitors in the New York Metropolitan Area including Calderone and the purchasers of the divested Prudential theatres. Since July 1968, UATC has added 27 screens in the New York Metropolitan Area by conversions or new constructions but other exhibitors have added approximately 138 screens. In Suffolk county, UATC has added 7 screens while other exhibitors have added approximately 25 screens. In Nassau county, UATC has added 8 screens (including the Lynbrook) while other exhibitors have added approximately 13. UATC has not acquired any operating theatres in Nassau, Suffolk, or Queens counties since its acquisition of Prudential in July 1968.[3]

It would, therefore, be inappropriate to prohibit UATC from accommodating itself to changing industry conditions through multi-screen conversions: especially since such conversions may in-

[1] UATC refers collectively to both defendants: United Artists Theatre Circuit, Inc. and its wholly-owned subsidiary, United Artists Eastern Theatres, Inc.

[2] Calderone would extend these provisions to all of the theatres operated by UATC in Nassau county, not just those acquired from Prudential. As of 1975, excluding the 3 former Prudential theatres to be divested under the proposed judgment, UATC operated approximately 16 screens in Nassau out of a total of about 89 or approximately 18 percent.

[3] UATC has also closed or disposed of 36 theatres in the New York Metropolitan Area since 1968, of which 14 are believed to be presently operated by other exhibitors.

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sure the continued viability of the theatres in question and other exhibitors are free to do so. Similarly, the Government believes that the proposed decree should not interfere with new constructions by UATC. Rather, the free interplay of market forces should continue to determine whether UATC or any other exhibitor will construct theatres in the New York Metropolitan Area, including Nassau county.[4]

The proposed decree does enjoin UATC for 10 years from acquiring any existing theatres in Nassau, Suffolk and Queens counties without approval of the Government or the Court. However, such acquisitions are inherently anticompetitive, eliminating competition between the acquired and acquiring exhibitors. The addition of screens through conversion or new construction is not inherently anticompetitive and may at times be pro-competitive. Such conversions and new constructions provide distributors and the public with additional theatre facilities.

Calderone makes specific reference in its comments to the prospective conversion of UATC's Lynbrook theatre to 3 screens. However, the Lynbrook is an older theatre with over 1500 seats which has been operated by UATC since the 1930's. Its conversion may be helpful to its continued economic viability. In addition, there are approximately 10 other theatres in that area (including Calderone's Valley Stream theatre) and 3 of them have two screens.

III

For the reasons discussed above, the Government believes that entry of the proposed consent judgment is in the public interest and that there is no need or justification for the taking of testimony with respect to the matters raised by Calderone's comments.

Dated: November 24, 1976.

RALPH T. GIORDANO,
ERWIN L. ATKINS,
Attorneys, Department of Justice, Antitrust Division.

[FR Doc.76-36955 Filed 12-15-76;8:45 am]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Meeting

DECEMBER 6, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that meetings of the Fellowships Panel will be held at 806 15th Street, NW., room 314, Washington, D.C. on January 3, 4, 5, 7, 8, 14, 17, 20, and 21, 1977.

[4] It is noteworthy that the Paramount decrees were modified in May 1974 to permit 4 national exhibitors to construct new theatres or convert to multi-screen operations anywhere in the nation without prior Court approval. Three of these exhibitors—Loews' Theatres, Inc., RKO-Stanley Warner Theatres, Inc. and Mann Theatres—operate theatres in the New York Metropolitan Area in competition with UATC. (See United States v. Paramount Pictures Inc., et al., SDNY—Equity No. 87-273)

The purpose of the meetings is to review Fellowships in Residence for College Teachers applications submitted to the National Endowment for the Humanities for 1977-78 fellowship grants.

Because the proposed meetings will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C., 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-37005 Filed 12-15-76;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Meeting

DECEMBER 6, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that meetings of the Fellowships Panel will be held at 806-15th Street, N.W., room 314, Washington, D.C. on January 7, 10, 12, and 14, 1977.

The purpose of the meetings is to review Summer Stipend applications submitted to the National Endowment for the Humanities for 1977 summer grants.

Because the proposed meetings will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C., 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-37006 Filed 12-15-76;8:45 am]

ADVISORY COMMITTEE PLANNING OFFICE PANEL

Meeting

DECEMBER 7, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Planning Office Panel will meet at Washington, D.C., on January 13 and 14, 1977 from 9:00 AM to 5:30 PM.

The purpose of the meeting is to review Youthgrants in the Humanities applications submitted to the National Endowment for the Humanities for project grant awards.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Panel.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code (202) 382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-37007 Filed 12-15-76;8:45 am]

FELLOWSHIPS PANEL

Renewal

DECEMBER 9, 1976.

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)); and paragraph 9 of OMB Circular A-63, notice is hereby given that renewal of the Fellowships Panel has ben approved by the Chairman of the National Endowment for the Humanities for a period of two years until December 8, 1978.

The Fellowships Panel advises the National Council on the Humanities concerning the recommendations Council members should make on applications for financial support presented to the Fellowships Division of the Endowment and to advise the Chairman of the National Endowment for the Humanities concerning the action he should take on applications for financial support presented to the Fellowships Division. The Committee will report to the Chairman of the National Endowment for the Humanities and to the National Council on the Humanities.

The charter for the Fellowships Panel will be filed with standing committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-37002 Filed 12-15-76;8:45 am]

PLANNING OFFICE PANEL

Renewal

DECEMBER 9, 1976.

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)); and paragraph 9 of OMB Circular A-63, notice is hereby given that renewal of the Planning Office Panel has been approved by the Chairman of the National Endowment for the Humanities for a period of two years until December 8, 1978.

The Planning Office Panel advises the National Council on the Humanities concerning the recommendations Council members should make on applications for financial support presented to the Planning Office of the Endowment and to advise the Chairman of the National Endowment for the Humanities concerning the action he should take on applications for financial support presented to the Planning Office. The Committee will report to the Chairman of the National Endowment for the Humanities and to the National Council on the Humanities.

The charter for the Planning Office Panel will be filed with standing committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-37003 Filed 12-15-76;8:45 am]

PUBLIC PROGRAMS PANEL

Renewal

DECEMBER 9, 1976.

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); Section 10 (a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959 (a)(4)); and paragraph 9 of OMB Circular A-63, notice is hereby given that renewal of the Public Programs Panel has been approved by the Chairman of the National Endowment for the Humanities for a period of two years until December 8, 1978.

The Public Programs Panel advises the National Council on the Humanities concerning the recommendations Council members should make on applications for financial support presented to the Public Programs Division of the Endowment and to advise the Chairman of the National Endowment for the Humanities concerning the action he should take on applications for financial support presented to the Public Programs Division. The Committee will report to the Chairman of the National Endowment for the Humanities and to the National Council on the Humanities.

The charter for the Public Programs Panel will be filed with standing committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-37004 Filed 12-15-76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 76-51]

ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Railroad Accident Report.—The National Transportation Safety Board has made public the report of its investigation of the Auto-Train derailment which occurred last May 5 near Jarratt, Virginia. The report, No. NTSB-RAR-76-11, was released December 8. The Safety Board determined that the probable cause of this accident, which involved 25 automobile carriers northbound on the Seaboard Coast Line Railroad, was an undetected, fractured, loose, and out-of-gauge wheel which struck the track structure. Dragging and incompletely released brakes caused the wheel to overheat at its tread; the overheating caused design stress patterns on the wheel to change and the wheel to fracture. The brakes did not fully release because of the train's length and because of the type of brake equipment used. No one was injured.

Two days after the derailment, the Safety Board urged Auto-Train Corporation to inspect its auto-carrying cars immediately for wheel cracking, and to determine and act upon any exact cause of wheel overheating. (See recommendations R-76-18 and R-76-19; 41 FR 19791, May 13, 1976.) As a result of the Safety Board's findings and subsequent recommendations of the Federal Railroad Association, Auto-Train Corporation by letter of May 26 advised that it intended to convert to an ABD-type brake system on its entire auto-carrying fleet. (See 41 FR 22427, June 3, 1976.) In the meantime, Auto-Train now operates two separate sections—a passenger section and an auto-carrying section.

Also as a result of the investigation of the derailment, the Safety Board on November 19 recommended that (1) the Federal Railroad Administration act to improve the inspection of car wheels and the detection and reporting of overheated wheels, and to tighten standards for wheel removal; and (2) the Association of American Railroads establish systems which would insure removal of overheated wheels before they fail and the reporting of such wheels by railroad employees. (See recommendations R-76-52 through R-76-55 to FRA and R-76-56 and R-76-57 to AAR; 41 FR 52116, November 26, 1976.)

Aviation Safety Recommendations.—The Safety Board has issued three safety recommendations to the Federal Aviation Administration following investigation of the American Airlines B-727-95 which crashed last April 27 during an attempted takeoff from an aborted landing at Harry S Truman Airport, St. Thomas, Virgin Islands. The aircraft was destroyed by impact and fire; 37 persons died in the accident.

Investigation of the crash revealed that the airport operations manual had several outdated sections, that firefighters failed to bring necessary equipment to the accident site, that airport management did not adequately oversee airport operations during the emergency, and that the airport does not have a direct emergency telephone line.

The Safety Board's recommendations, issued by letter dated December 9, are that the Federal Aviation Administration:

Insure that procedures in the operations manuals of airports certificated under 14 CFR 139 are current and applicable to the airport. (A-76-138)

Institute, through the regional offices of the Office of Airport Programs, a program to emphasize to airport management the importance of a continual, critical review and update of airport operations manuals. (A-76-139)

Require that the Virgin Islands Port Authority revise its operating procedures at Harry S Truman Airport to insure that (a) all necessary CFR equipment, especially air packs and proximity suits, is brought to an accident site on the responding CFR vehicles; (b) the direct emergency line is reinstalled to provide immediate communications between the airport and the Insular Fire Department; (c) the Insular Fire Department be included on the Virgin Islands Port Authority radio frequency for accident notification and control purposes; and (d) procedures for proper continuity of airport command during emergencies be included in the Harry S Truman Airport operations manual. (A-76-140)

Recommendations A-76-138 and A-76-140 are designated Class II, for priority followup; A-76-139 is a Class III, longer term followup recommendation.

Letters in Response to Aviation Safety Recommendations.—Federal Aviation Administration letter of November 30 concerns recommendations A-76-122 through A-76-128, issued following Board study of accidents occurring in low visibility environments during the completion of an instrument landing approach. (See 41 FR 43255, September 30, 1976.)

With reference to A-76-122, FAA states that it is expediting two advanced landing system programs conducted by its Systems Research and Development Service—the Microwave Landing System and evaluation of a Heads-Up Display; FAA and the National Aeronautics and Space Administration are work-

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ing together to develop the latter program plan this month. Also, FAA states that wide-bodied aircraft and some B–727's have sophisticated Automatic Landing Systems which will further enhance the operator's capabilities in Categories II and IIIa all-weather operations.

In responding to A–76–123, which asked FAA to institute procedures which require air traffic controllers to release an aircraft from all airspeed restrictions at least 3 to 4 miles outside of the outer marker on all ILS approaches when the reported weather is below basic VFR minima, FAA cites five procedures presently followed by both air traffic controllers and pilots. FAA comments that a preliminary review of the impact of adopting this recommendation disclosed that "it could result in a reduction of airport acceptance rate by approximately eight aircraft per runway, per hour."

A–76–124 recommended that FAA implement flightcrew coordination procedures which will insure continuous monitoring of the aircraft's instruments from the outer marker to landing; A–76–125 recommended that FAA develop flightcrew coordination procedures which will limit sighting callouts to those visual cues which are associated with the runway environment; and A–76–126 recommended that FAA develop a standard flightcrew coordination procedure within each carrier for altitude callouts to be used on all approaches under all conditions. In its response, FAA refers to the callout procedures contained in its Handbook 8430.6A and indicates that "noncompliance with established procedures is the problem rather than a lack of adequate procedures." In its comments with reference to each of these three recommendations, FAA states that it will again emphasize to all operators the need for strict adherence to established callout procedures.

With reference to A–76–127, which asked FAA to encourage flightcrews to keep the autopilot-coupler engaged until its minimum certified altitude has been reached, FAA stated that it will request all operators through the Principal Operations Inspectors to include this information in their manuals and training programs; it will be included in the operations bulletin mentioned above.

A–76–128 asked FAA to include in air carrier training programs flightcrew discussions of formal reports involving approach and landing accidents or incidents. FAA answered by stating that a similar proposal, submitted last year for consideration during the First Biennial Operations Review, will be included in a notice of proposed rulemaking scheduled for issuance by the end of 1977. However, FAA believes that air carriers should have the latitude of selecting how this information will be disseminated to crewmembers.

Federal Aviation Administration letter of November 26 responds to recommendations A–76–129 through A–76–131 which called for corrective action on McCauley propeller hubs after Board investigation showed that certain hubs had failed as a result of fatigue cracks originating in the blade-retention thread area. (See 41 FR 43255, September 30, 1976.)

In response to A–76–129, FAA states that a preliminary appraisal of the McCauley propeller service history indicates that a service life limit on hubs with truncated threads may not be practical. The manufacturer, according to FAA, is providing data to substantiate the superior load-life endurance limits of the truncated and shot-peened thread design over the previous thread design used in McCauley propeller hubs. FAA evaluation of these data was to have been completed by the end of November; further action will be based on the results of the evaluation.

A–76–130 recommended that FAA, until an appropriate life limit is established on these propellers, issue an Airworthiness Directive to require periodic inspection of the threaded area. FAA's response indicates that Airworthiness Directives covering the McCauley 2D34C53–AMN, D2AF34C61–XM, 2AF34C55–N, and D2AF34C81–XM propeller models will be processed as a notice of proposed rulemaking. According to FAA, these proposed ADs will require repetitive external dye penetrant inspection of the hub at 100-hour intervals until the incorporation of a McCauley oil filled hub modification which will provide a self-contained, dyed-oil crack detector system; issuance of the proposed rules is expected by January 1, 1977.

Recommendation A–76–131 asked FAA to issue an AD to require that the relevant provisions of AD–75–24–12 are applied to all model propellers which have been involved in ground strikes or sudden stops. In answer, FAA states that a review of service history records revealed that, except for those installations now affected by AD–75–24–12, hub failures have not been attributed to prior ground strikes. FAA further states that the manufacturer is studying the effect of blade impact bends of varying degrees of severity with respect to consequent hub damage. The need for mandatory corrective measures will be determined by an evaluation of the study; FAA expects the evaluation to be completed by June 30, 1977.

Letters Concerning Highway Safety Recommendations.—The Safety Board on November 15 wrote to the Federal Highway Administration for further comment regarding the mandatory aspect of recommendation H–76–19, issued following investigation of the Surtigas, S.A., tractor-tank-semitrailer accident near Eagle Pass, Texas, on April 29, 1975. (See 41 FR 52116, November 26, 1976.) FHWA's reply of December 3 references an earlier response of October 12 (41 FR 47291, October 28, 1976), which FHWA states did address the mandatory feature of the recommendation. FHWA in its December 3 letter states that the report, "Highway Design and Operational Practices Related to Highway Safety, Report on the Special AASHTO Traffic Safety Committee, AASHTO 1974," is applicable to Federal-aid projects and contains criteria for the safe design of drainage structures, and that modified and new construction on Federal-aid work is to be accomplished in accordance with the criteria in the report.

FHWA, according to the December 3 letter, does not establish standards for roads and streets off of the Federal-aid systems. Under Highway Safety program Standard 12, States are required to adopt their own standards for highway design, construction, and maintenance. The safety related criteria in FHPM 6–2–1–1, "Interim Design Standards for Highways," are established as goals for developing State and local safety programs for all public highways as required by Standard 12, according to FHWA.

The State Highway and Public Transportation Commission of San Antonio, Texas, by letter of November 29 responds to recommendations H–76–17 and H–76–18 which were also issued as a result of investigation of the Eagle Pass accident. The Commission indicates that, as of last June, a maintenance project was approved to improve drainage, modify the intersection, and beautify the section between Loop 431 and U.S. Route 57. This work is still under construction. However, the Commission states, the District made additional speed checks to see if the present speed zone of 55 mph was still valid; these checks indicate that this speed limit is consistent with the 85 percentile speed. Since construction is being done along this section of roadway, shoulder parking is not a factor at this time, according to the Commisison. The leter indicates that when construction is completed, additional speed checks will be made to determine the appropriate speed limits and additional studies will be made to determine what restrictions will be required to control parking along the highway.

The National Highway Traffic Safety Administration's letter of November 26 concerns recommendation H–76–28 and related accident report NTSB–HAR–76–7 which resulted from investigation of the Union Oil Company of California tank truck and full trailer overturn and fire at Seattle, Washington, December 4, 1975. (See 41 FR 43255, September 30, 1976.) In NHTSA's opinion, the analysis presented in the Board's report "does not indicate that the different types of braking systems on the truck and trailer contributed to, or increased the severity of, the accident."

Recommendation H–76–28 asked NHTSA to test and resolve the apparent problem of operating any vehicle combination over the full-speed range and road and whether conditions encountered in normal operations if one of the units is equipped with a Federal Motor Vehicle Safety Standard No. 121 antilock brake system and the other unit is not. NHTSA states that its previous tests "have not indicated that intermixing of 'pre-121' and '121' vehicles presents a safety problem, although those tests were limited in scope and did not include the type of combination vehicle involved in this accident (straight truck and full trailer)." Additional compatibility testing is included in NHTSA's FY '77 research program. Tests will be conducted at Aberdeen Proving Ground, Maryland, by the NHTSA Safety Research Laboratory, and test vehicles will include "pre-121" and "121" configurations, including four vehicle types—truck tractor, semi-trailer, straight truck, and full trailer. Testing is scheduled to begin next spring and should be completed by fall, 1977; a test report will be written after completion of the testing.

In connection with this same recommendation, H–76–28, the Safety Board on December 3 acknowledged receipt of the October 25 letter from Consolidated Freightways of Menlo Park, California, expressing concern of the motor carrier industry in the implementation of this recommendation. Also on December 3, the Safety Board forwarded copies of the Consolidated Freightways letter to the National Highway Transportation Safety Administration and to the Materials Transportation Bureau for their consideration. The two areas of concern to Consolidated Freightways are (1) assurance that the testing recommended in H–76–28 includes twin trailer combinations where the tractor and dolly are equipped with 121 brake systems and the trailers are not so equipped, and (2) the economic impact on carriers resulting from the mandatory retrofitting of all equipment with new diamond shaped placards by July 1, 1977, as required by newly published regulations on handling hazardous materials (CFR 49 Dockets HM 103/112).

The railroad accident report and the safety recommendation letter are available to the general public; single copies may be obtained without charge. Copies of the letters concerning recommendations may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

DECEMBER 13, 1976.

[FR Doc.76–37051 Filed 12–15–76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–571]

BABCOCK & WILCOX

Application for Consideration of Issuance of Facility Export License

Please take notice that Babcock & Wilcox, Lynchburg, Virginia, has submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a pressurized water reactor with a thermal power level of 3,600 megawatts to the Federal Republic of Germany and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authoring the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulations set forth in 10 CFR, Chapter 1, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported. Consequently, there are no safety analysis or Advisory Committee on Reactor Safeguards reports.

Unless on or before January 17, 1977, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of International Programs may, upon the determinations and findings noted above, cause to be issued to Babcock & Wilcox a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 6th day of December, 1976.

For the Nuclear Regulatory Commission.

M. A. GUHIN,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc.76–36576 Filed 12–15–76;8:45 am]

[Docket No. 50–251]

FLORIDA POWER & LIGHT CO.

Issuance of Amendments to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR–41, issued to Florida Power and Light Company, which revised Technical Specifications for Operation of the Turkey Point Nuclear Generating Unit No. 4, located in Dade County, Florida. The amendment is effective as of the date of issuance.

The amendment requires that the plant be brought to a cold shutdown condition within 60 equivalent days of operation unless the Nuclear Regulatory Commission grants prior approval for continued operation.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittal dated November 24, 1976, as supplemented by letter dated November 30, 1976, (2) Amendment No. 20 to License No. DPR–41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida 33199.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3 day of December 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operation Reactors.

[FR Doc.76–36577 Filed 12–15–76;8:45 am]

[Docket No. 50–335]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. DPR–67, issued to Florida Power & Light Company (the licensee), which revised the Technical Specifications for operation of the St. Lucie Plant Unit No. 1 (the facility) located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

The amendment deletes the limit on azimuthal power tilt while in the startup mode (at which time the power is less than 5% of rated thermal power).

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The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d) (4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 11, 1976, (2) Amendment No. 9 to License No. DPR–67, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of December, 1976.

For the Nuclear Regulatory Commission:

DENNIS L. ZIEMANN,
Chief Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-36573 Filed 12-15-76;8:45 am]

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR–67, issued to Florida Power & Light Company (the licensee), which revised the license for operation of the St. Lucie Plant Unit No. 1 (the facility) located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

The amendment (1) authorized operation with repaired fuel assemblies and (2) required additional monitoring during power operation if the core power distribution is being determined by use of the excore detector monitoring system when the core burnup is less than 10,000 megawatt days per metric ton of uranium.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's filings dated October 25, 1976 and November 18, 1976, (2) Amendment No. 10 to License No. DPR–67, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of December, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-36579 Filed 12-15-76;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operations and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states.

As a part of this program, Safety Guide, SG–S5, "Man Induced Events Related to Nuclear Power Plant Siting," has been developed and the NRC is soliciting U.S. public comment on it.

An IAEA Working Group, consisting of Mr. R. LeQuinio of France; Mr. D. Jungclaus of the Federal Republic of Germany and Mr. Held of the U.S. Nuclear Regulatory Commission, developed this draft from an IAEA collation during a meeting on November 8–19, 1976. An opportunity for public comment exists prior to review of this draft at the next meeting of the IAEA Technical Review Committee on Design. Opportunities for public comments on later drafts will also be presented as this draft is later sent to the IAEA Senior Advisory Group, then to the member states.

Comments on this draft Safety Guide are requested by January 7, 1977. Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Maryland this 3rd day of December 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76-36574 Filed 12-15-76;8:45 am]

[Docket No. 50-549]

POWER AUTHORITY OF THE STATE OF NEW YORK

Greene County Nuclear Power Plant Hearing

An Atomic Safety and Licensing Board of the U.S. Nuclear Regulatory Commission (Commission) and a Presiding Examiner and Associate Examiner of the Board on Electric Generation Siting and the Environment of the State of New York (Siting Board) will conduct a joint hearing for the purpose of receiving limited appearances from persons who desire to make statements regarding the applications filed by the Power Authority of the State of New York with the Commission and the Siting Board involving the proposed siting and construction of a nuclear power plant in Greene County, New York.

The hearing will be held at Columbia-Greene Community College, Hudson, New York, beginning at 1 p.m. on Tuesday, January 4, 1977, and will remain in session during that afternoon until all who wish to speak have been heard. The hearing will reconvene at 7 p.m. on the same day and at the same location so that persons who were not present during the afternoon may speak.

Dated at Bethesda, Maryland, this 8th day of December, 1976.

FREDERIC J. COUTAL,
Chairman, Atomic Safety and Licensing Board.

[FR Doc.76-36576 Filed 12-15-76;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.40, "Design Basis Floods for Fuel Reprocessing Plants and for Plutonium Processing and Fuel Fabrication Plants," describes methods acceptable to the NRC staff of determining the design basis floods that fuel reprocessing plants and plutonium processing and fuel fabrication plants should be designed to withstand without loss of safety-related functions if the applicant should decide to locate the plant where such floods can occur.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.40 will, however, be particularly useful in evaluating the need for an early revision if received by February 11, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 3 Regulatory Guides currently being developed include the following:

—Quality Assurance for the Design, Construction, and Operation of Fuel Reprocessing Plants.
—Guide for Design of Irradiated Fuel Receiving and Storage Facilities.
—Assumptions Used for Evaluating the Consequences of a Criticality Accident in LWR Fuel Fabrication Plants.
—Assumptions Used for Evaluating the Consequences of a Criticality Accident in Fuel Reprocessing Plants.
—Assumptions Used for Evaluating the Consequences of a Criticality Accident in Plutonium Processing and Fuel Fabrication Plants.
—Protection Systems for Fuel Reprocessing Plants and for Plutonium Processing and Fuel Fabrication Plants.
—Administrative Controls for Nuclear Fuel Reprocessing Plants.
—Emergency Planning for Plutonium Processing and Fuel Fabrication Plants.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 7th day of December 1976.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director, Office of Standards Development.

[FR Doc.76-36572 Filed 12-15-76;8:45 am]

TOPICAL REPORT

Issuance and Availability

The Nuclear Regulatory Commission has issued a topical report, NR–DES–0001, "Measurement of Radiation Exposure Received by Flight Attendants from Shipments of Radioactive Material."

NR–DES–0001 reports a study conducted in late 1974 to measure physically the radiation dose received by selected flight attendants from shipments of radioactive material transported on board commercial airline flights in the United States. The study was sponsored jointly by two flight attendants' unions and by the Nuclear Regulatory Commission.

This document is available for inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161. (Paper copy: $4.00, Microfiche: $3.00.)

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 6th day of December 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76-36580 Filed 12-15-76;8:45 am]

[Docket No. 50-570]

WESTINGHOUSE ELECTRIC CORP.

Application for and Nuclear Regulatory Commission Consideration of Issuance of Facility Export License

Please take notice that Westinghouse Electric Corporation, Pittsburgh, Pennsylvania, has submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a pressurized water reactor with a thermal power level of 3,000 megawatts to Spain and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to Section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulations set forth in 10 CFR, Chapter 1, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported. Consequently, there are no safety analysis or Advisory Committee on Reactor Safeguards reports.

Unless on or before January 17, 1976, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of International Programs may, upon the determinations and findings noted above, cause to be issued to Westinghouse Electric Corporation a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 6th day of December, 1976.

For the Nuclear Regulatory Commission.

MICHAEL A. GUHIN,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc.76-36375 Filed 12-15-76;8:45 am]

[Docket No. STN 50-482]

KANSAS GAS & ELECTRIC CO. AND KANSAS CITY POWER & LIGHT CO. (WOLF CREEK GENERATING STATION, UNIT 1)

Order Cancelling Evidentiary Hearing

The Atomic Safety and Licensing Board by Order dated December 8, 1976 scheduled an evidentiary hearing to con-

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vene on December 20, 1976 in Courtroom Division 2 of the Jackson County Courthouse, 415 East 12th Street, Kansas City, Missouri 64106. Notice hereof was published in the FEDERAL REGISTER on December 13, 1976 (41 FR 54263).

The Board has been in consultation with the attorneys for the parties in two conference telephone calls and, after a consideration of the several matters which were the subjects of the discussion, has determined that an evidentiary session of hearings would not be advantageous nor expeditious to a final resolution of issues in the proceeding. The parties will present further documentary submittals to the Board and exchange with all parties. After a consideration of such presentation, the Board will determine whether an evidentiary session will be convened and, if so, will specify the further issues to be considered.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that the previously scheduled evidentiary hearing designated to commence at 9:00 a.m. on Monday, December 20, 1976, in Courtroom Division 2 (Fifth Floor) of the Jackson County Courthouse, 415 East 12th Street, Kansas City, Missouri 64106 is cancelled and will not convene.

Issued: December 14, 1976. Bethesda, Maryland.

Atomic Safety and Licensing Board.

SAMUEL W. JENSCH,
Chairman.

[FR Doc.76-37121 Filed 12-15-76;10:05 am]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT OF 1974

Proposed Change To System of Personal Records

The Office of Management and Budget is proposing to revise Systems Notice OMB/PERSL/01, Recruiting and Applicant Records (41 FR 44294), to reflect a proposed change in the way the records pertaining to active employment applicants are indexed and retrieved. The Office plans to convert from a manual alphabetical indexing system to a system utilizing an automated applicant information summary index. The change will enable the OMB Personnel Office to advise applicants of their candidate status and refer qualified applicants to OMB managers on a more timely basis. The change will also provide the Office with an improved capability for maintaining a comprehensive and accurate inventory of applicants and for preparing statistical summaries and analyses for internal personnel management planning and evaluation (including affirmative action reporting) purposes.

The attached copy of the revised systems notice identifies the authority for maintaining the system, the uses and nature of information disclosed on individuals included in the system and the safeguards established to minimize the risk of unauthorized access.

There are no rules changes or exemptions proposed in connection with this notice.

This systems notice has been filed with the Office of Management and Budget, the Speaker of the House, the President of the Senate, and the Privacy Protection Study Commission. This systems notice will become effective within 60 days (February 14, 1977). Written comments are invited within the 60 days, addressed to the Assistant to the Director for Administration, Office of Management and Budget, 17th and Pennsylvania Avenue, N.W., Washington, D.C. 20503.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

OMB/PERSL/01

System name:

Recruiting and Applicant Records.

Security classifications:

None.

System location:

Personnel Office, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Categories of individuals covered by the system:

Persons who have applied or who have been referred for employment consideration or who otherwise seek an association with the Office of Management and Budget. The automated index to the system consists of persons who have been included by the OMB Personnel staff in the Office's computer file of active OMB employment candidates.

Categories of records in the system:

These records contain information relating to the education and training; employment history and earnings; appraisal of past performance; convictions for offenses against the law; results of written tests; appraisal of potential; honors, awards, or fellowships; military service, veterans preference, birthplace; birth date; social security number; names of relatives who are employed in the Federal service; legal residence; and home address of persons who have applied for employment with the Office of Management and Budget or have been referred for employment consideration by the Office of Management and Budget. The automated index consists of information concerning the availability, Civil Service status, Federal employer (if applicable), race, sex, handicap (if declared), veterans preference, legal or voting residence, birth date, education and OMB job eligibility of candidates.

Authority for maintenance of the system:

Title 5, U.S.C. Section 3109, 3301, 3302, 3304, 3309, 3318, 3319 and Executive Orders 10577 and 11103.

Routine uses of records maintained in the system including categories of users and purposes of such uses:

a. U.S. Civil Service Commission to the extent the information is relevant to the Commission's decision on an OMB request.

b. A congressional office in response to an inquiry from the congressional office made at the applicant's request.

c. A requesting Federal agency, Commission or other public office if the applicant has indicated to OMB that he or she is available for referral to other agencies for consideration.

d. To anyone requesting statistical information (without personal identification of individual applicants) under the Freedom of Information Act.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Records are maintained in two forms: files of documents retained in the Personnel Office and an index maintained on a computer tape file.

Retrievability:

Individual records are indexed by name, OMB control number (if applicable) and date of most recent contact. Records to be referred for employment consideration are retrieved by applicant status, availability, education, and OMB job eligibility codes. Statistical summaries and other analyses of the applicant inventory data-base will be conducted utilizing all pertinent categories of data contained in the automated index. (See Categories of Records in the System.)

Safeguards:

Access to and use of the system and its records is limited to employees of the OMB Personnel staff whose official duties require having access. Files are kept in the OMB Personnel Office and in the OMB computer center. Both facilities are locked and alarmed. All output reports from the computer system will be placed in locked boxes in the computer center until retrieved by authorized personnel.

Retention and disposal:

Records are retained and disposed of according to the recency of the date of last contact with the individual on whom the record is maintained under the GSA general records schedule 1.

System manager and address:

Personnel Officer, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

Notification procedures:

Individuals should contact the system manager. The request should be made in writing, giving full name, date of birth, the approximate date of most recent application or when and where contact with an OMB representative was most recently made, if applicable.

Record access procedures:

(See Notification Procedures.)

Contesting record procedures:

(See Notification Procedures.)

Record source:

Information in this system of records either comes from the individual to whom it applies or is derived from information he or she supplied, except reports from medical personnel or physical qualifications; results of examination which are made known to applicants and vouchers supplied by references.

Systems exempted from certain provisions of the act:

None.

[FR Doc.76-36988 Filed 12-15-76;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

RESEARCH AND STATISTICS

Hearings and Draft Recommendations

The Privacy Protection Study Commission will hold public hearings on research and statistical records collected or maintained under Federal authority or supported by Federal funds between 9:30 a.m. and 5:30 p.m. on January 5 and 6, 1977 in Room 2358, Rayburn House Office Building, Washington, DC. These hearings are part of the Commission's consideration of the desirability and feasibility of extending the principles and requirements of the Privacy Act of 1974 (Pub. L. 93-579) to organizations and activities to which they do not now apply.

As part of its inquiry, the Commission has prepared for circulation and comment a set of draft recommendations regarding the use of individually identifiable data in research and statistical activities. The goal of these draft recommendations is to provide adequate protection for the individual data subject while assuring necessary access to data about individuals for research and statistical purposes.

The recommendation are of two kinds: (1) "Policy recommendations, which the Commission views as potentially applicable to all research and statistical activities; and (2) "Program" recommendations, which are directed at Federally-conducted or assisted research and statistical activities.

This dual approach should not be interpreted as a judgment by the Commission that the protection of individually identifiable research and statistical data should only be of concern where there is some Federal involvement. Rather, it simply recognizes the extent to which organized research and statistical activities depend on Federal funding and further, that where Federal funding is involved, some means already exist for achieving the goals of the Commission recommendations.

The Commission hopes that this specific focus on the Federal research and statistical activities will also elicit opinion and informed judgments regarding the applicability of its approach to such activities in other areas.

To assist in the development of its inquiry, the Commission wishes to solicit a broad range of views regarding both the approach and the specific recommendations presented in this notice. Written submissions should be made to the Executive Director, Privacy Protection Study Commission, Suite 424, 2120 L Street, NW, Washington, DC 20506, and should be received in the Commission's office no later than January 1, 1977.

DRAFT RECOMMENDATIONS

I. *Background.* Research and statistical activities have become widespread throughout our society. While many of these activities focus primarily on increasing understanding of the physical, biological, and social environments in which we live, others focus on applying that understanding to policy and operational decision making. Research and statistical activities have become a major tool of public policy making. Their importance has been recognized in terms of the increasing level of total investment made in them and in the expanding role of government in their sponsorship and financing.

Because so much of the information generated by research and statistical activities relates to human behavior, they inevitably involve the collection, maintenance, use and dissemination of records about individuals. The quality of work performed under the rubric of research and statistics is largely dependent upon the ability of researchers and statisticians:

1. To collect information from individuals directly; and
2. To collect information in individually identifiable form from records that have been developed for other purposes.

Recognizing this necessity, and concerned about the consequences for the individual that could flow from the misuse of such information, the Privacy Protection Study Commission has examined a number of research and statistical activities to identify and assess the protections for the individual currently in force. Its preliminary conclusions are:

While researchers and statisticians have long depended on the individual data subject's expectation that the information they gather about him will be used only in research and statistical activities, the "dramatic" expansion in the number and range of such activities has raised doubts about the validity of that expectation.

The growing dependence of research and statistical activities on information in records created for other uses raises serious questions about the individual's ability to control the uses to which information and records about him are put.

Various new research and statistical techniques have combined to attenuate the relationship between the individual data subject and the researchers and statisticians who utilize data about him.

A potential for serious abuse of records that an individual expects to be used only for research or statistical activities centers on the possibility of the use of such records for administrative, legislative, judicial, or law enforcement purposes.

Standards and procedures currently in force for the protection of research and statistical records about individuals vary substantially.

II. *Definitions.* In the discussion of the Commission's recommendations, the following definitions apply:

1. *Research and statistical information* means any information about an individual, regardless of source, which is collected, maintained, or used for a research or statistical purpose.

2. *Research and statistical records* means any item, collection, or grouping of information which is maintained in any form of record solely for a research or statistical purpose.

3. *Research and statistical purpose* means the development and reporting of aggregate or anonymous information not intended to be used; in whole or in part, for making any determination about an individual.

III. *The Basic Policy Principle.* In this inquiry, the Commission's objective is to strike a proper balance between protecting the interests of data subjects in the collection, maintenance, use, and dissemination of identifiable information about themselves, and satisfying society's need for effective research and statistical functions.

As the first and fundamental step toward achieving such a balance, the Commission believes that a clear boundary must be established between information (regardless of source) which is collected, maintained, used or disseminated for a research or statistical purpose and information which is collected, maintained, used, or disseminated for other purposes. While research and statistical activities cover a broad range of subjects, disciplines and methods, they have a common element: their purpose is not to examine individuals as such, but rather, to discover and analyze characteristics of groups. The basic result of research and statistics is aggregation; i.e., the sorting of individual elements into group characteristics which are subsequently reported on a group basis.

It should be clear that the Commission is addressing the issue of research and statistical "uses" of information, rather than particular "methods" of information gathering and analysis. Particular methods of data collection and analysis developed and used by researchers and statisticians can be, and are being, used for purposes wholly unrelated to research and statistical purposes. When research techniques or methodologies are used for such purposes, the information they generate and maintain should not be regarded as research or statistical information or records, nor be subject to the requirements proposed in the Commission's recommendations.

As a practical matter, research and statistical activities are generally performed in organizational units which are functionally separated from action and decision-making units. Nevertheless, information and records about individuals used for a research or statistical purpose are often commingled with information and records used for other purposes, sometimes by happenstance and occasionally by design, as when a program assessment project is intended to serve both as a source of statistical summaries and as a mechanism to assist administrators in making decisions about the eligibility of particular individuals to participate in the program.

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Moreover, the flow of individually identifiable information among researchers within, or working for, operational units of an organization which makes decisions about the individual subjects of such information is often unclearly restricted, if restricted at all. The current legal situation does not discourage such commingling of functions, nor does it clearly restrict the exchange of information among them or necessarily preclude the availability of individually identifiable research or statistical information to investigative, legislative, or judicial bodies.

The Commission believes that there is a need to protect the individual from inadvertently placing himself in jeopardy of an enforcement action or from being exposed to substantial harm or embarrassment as a consequence of information about him being used for research or statistical purposes. In the Commission's view, accurate, reliable research and statistical results are too important to risk eroding public confidence in the integrity of the activities that produce them and thus the key to maintaining that public confidence, the Commission believes, is to establish a clear functional separation between research and statistical uses of individually identifiable information and all other possible uses.

Such separation cannot always be absolute; however, accepting it in principle means that information collected for purposes other than research and statistics should flow into research and statistical uses only on the basis of demonstrated need, and that the reverse flow—from a research or statistical user back to decision makers and other types of users—should be permitted only in anonymous or aggregate form.

In sum, the Commission accepts as a basic policy principle that there be a clear functional separation between research and statistical uses and other uses of individually identifiable information and records, and, therefore recommends that:

POLICY RECOMMENDATION I:

As a general rule, any information or record collected or maintained in individually identifiable form for a research or statistical purpose should not be used to make any determination about an individual without the specific authorization of the individual to whom the information or record pertains.

POLICY RECOMMENDATION II:

Based on the foregoing principle, a special set of information practice requirements should be established for information and records collected or maintained in individually identifiable form for a research or statistical purpose.

IV. *Implementing the basic principle:* To accomplish the stated goal of the principle of separation, it is necessary to establish:

Proper limits for the disclosure of any individually identifiable information or record collected or maintained for a research or statistical purpose;

Safeguards for protecting individually identifiable information or records collected or maintained for a research and statistical purpose from unauthorized use or disclosure;

Conditions under which records collected or maintained for other purposes may be disclosed and used for a research or statistical purpose;

The protections, if any, which need to be invoked by the individual or on his behalf.

The remainder of this notice deals with these four major steps. The Commission views them as the essential elements of a strategy for implementing its proposed principle of separation. That is, unless all four are taken, functional separation will not be achieved. Accordingly, to understand the implications of each recommendation presented below, the reader should consider it in the context of the preceding ones.

A. *Establishing Appropriate Uses and Disclosures.* In implementing the principle of separation, important decisions must be made concerning the permissible uses and disclosures of individually identifiable research and statistical information and records for administrative, legislative and judicial purposes, as well as for further research or statistical purposes.

1. *Disclosure for Purposes Other than Research or Statistics.*

If applied in its pristine form, the basic principle of separation would totally eliminate the use of research and statistical information and records for all other purposes. The Commission, however, recognizes that there are other important interests to be protected as well. These include the need to hold public agencies accountable for their expenditure of public funds and for meeting their obligations to assure compliance with laws and regulations applicable to the conduct of government programs; the responsibilities of law enforcement agencies to investigate criminal activity and enforce criminal laws; and the obligations of courts to insure the fairness of both criminal and civil proceedings.

Having reviewed the Federal experience in addressing these conflicts, the Commission believes that any exceptions to the basic principle of separation should be made as a matter of uniform public policy determined by the political process. It is particularly important that the circumstances and limits of use and disclosure for a purpose other than research or statistics—whether for judicial, legislative, or administrative purposes—be known, and adequately communicated to the users and subjects of research and statistical information and records. Therefore, the Commission recommends:

PROGRAM RECOMMENDATION A–1:

That the Congress provide by statute that no individually identifiable information or record collected or maintained for a research or statistical purpose under Federal authority or with Federal funds may be disclosed or used in individually identifiable form for any other purpose without the authorization of the individual to whom such information or record pertains, except as specifically authorized by Federal statute or as required by the order of a court of competent jurisdiction.

One such area of administrative and management use which needs to be considered as a statutory exception to the general principle of separation is disclosure for the purpose of auditing or evaluating Federal and Federally-funded research and statistical activities. While the legitimacy of the auditor's requirements for information is recognized, the conditions of disclosure for auditing and evaluation need to be established so that the individual is protected from potential harm arising from such use. Accordingly, the Commission recommends:

PROGRAM RECOMMENDATION A–2

That when disclosure in individually identifiable form of any information or record collected or maintained for a research or statistical purpose is authorized by Federal statute for the purpose of auditing or evaluating a Federal or Federally-funded program, such statute should prohibit the use or disclosure of such information to make any determination about the individual to whom it pertains, except as authorized by that individual or as required by order of a court of competent jurisdiction.

A second issue which must be considered in dealing with the uses of individually identifiable research and statistical information is whether there are circumstances in which immunity from compulsory processes is necessary, and if so, what mechanisms should be established to provide such protection. There are currently no uniform minimum protections from compulsory processes for individually identifiable research and statistical information and records. While the Commission is not convinced that such a minimum level of protection is warranted, it also feels that the current situation is both too ambiguous and too limited in terms of the protections afforded the individual.

In seeking a mechanism to protect individually identifiable research and statistical information and records from compulsory process, there are two major approaches: Constitutional protection and statutory protection.

The constitutional approach has limitations. The cases in which newsmen's privilege has been asserted as a First Amendment right do not provide a basis for optimism that an analogous researchers' privilege would find judicial support. In civil litigation, where countervailing Fifth Amendment or other powerful rights are not asserted, courts may be willing to recognize a privileged status for the researcher. This is less likely to be true in criminal prosecutions, if Sixth Amendment rights of cross examination are impeded by the assertion of researcher privilege. In either case, judicial recognition of Constitutional privilege based on nothing stronger than a generalized concern for harm to the research process is not a likely possibility.

Statutory protection from compulsory process can be provided by means of: (1) General legislation, with or without specific criteria, or (2) statutory authority, delegated to one or more administrative entities, to grant immunity, subject to specified statutory criteria. Each has its strengths and weaknesses. The first approach may be simpler but less predictable in terms of results because the courts would be required to adjudicate on a case by case basis. The second approach can provide greater uniformity, but in turn has the disadvantage of being more cumbersome.

The Commission is not ready, at this time, to make a preliminary recommendation regarding the type of mechanism or scope of coverage for statutory immunity. It does reject blanket immunity and prefers the conferral of immunity of specific projects. It also feels that statutory immunity should be limited to Federally-funded research and statistical activities.

On preliminary examination, authorizing administrative agencies to confer immunity seems, on balance, to have considerable advantages over reliance solely on judicial authorities. The principal difference between these approaches is that an administrative statute could designate an agency, an official, or an institutional review board to authorize the granting of privilege. This would provide a regular mechanism and process of review, and would provide a greater element of consistency in application.

Although administrative decisions would also be ultimately subject to judicial determinations, the judicial review would ordinarily focus on the process rather than the privilege, and would leave the balancing of confidentiality interests to the administrative board, which would be expected to develop expertise in applying the statutory criteria.

The Commission wishes to gather more information before coming to terms with this issue and hopes that the discussion here will encourage the submission of focused and documented approaches to the immunity question.

2. *Reuse for a Research or Statistical Purpose.*

Insulation from the decision-making process is key to protecting the individual subject of research and statistical information and records. Given the principle of separation from administrative uses and compulsory process discussed above, the next question concerns the safe limits of data flow among research and statistical users.

The Commission is mindful that the increased availability of individually identifiable research and statistical information and records within the research community inevitably enlarges the risk of unauthorized use or disclosure. The objective of these recommendations is not to augment the flow of identifiable information, but to avoid unduly impeding those flows which are recognized as necessary for socially beneficial research or statistical purposes. The Commission, therefore, recommends that:

POLICY RECOMMENDATION III

Disclosure in individually identifiable form of any information or record collected or maintained for a research or statistical purpose should be allowed for another research or statistical purpose without the authorization of the individual to whom such information or record pertains only when:

Prohibition of use or redisclosure for all other purposes is made a condition of the disclosure;

Disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which disclosure is to be made; and

The importance of the research or statistical activity for which the disclosure is to be made is such as to warrant the additional risk to the individual.

Two main areas need to be examined with regard to Federal sponsorship of research. First is the extent to which Federal contractors, grantees, and other researchers should be given access to Federal agency research and statistical records; and, secondly, the extent to which individual data collected under Federal contracts and grants should be made available to other contractors, grantees, or researchers, including agencies other than the sponsoring agency.

Use of Federal Agency Research and Statistical Records: Researchers and statisticians seeking access to research and statistical records generated with Federal funds can be expected to fall into three groups: (1) Federal research and statistical components wanting to use records produced by Federal agencies, contractors or grantees; (2) Federal contractors and grantees wanting access to records in the hands of other federal contractors and grantees; and (3) researchers and statisticians wanting access to Federal agency contractor or grantee records for research or statistical activities in which they engage without Federal sponsorship. The reasons for wanting access may range from obtaining the names and addresses of individuals in a particular sample, to obtaining the full content of a research or statistical record on one or more identifiable individuals.

Given adequate separation of research and statistical uses of individually identifiable information and records from all other uses, some existing statutory impediments to releasing such information or records to researchers and statisticians might be relaxed somewhat if there were effective limitations on further use and disclosure.

Under proper safeguards for separation of research and statistical uses, federal agencies could allow use by and disclosure of research and statistical information and records in individually identifiable form to other Federal agencies, Federal contractors and grantees, or other researchers or statisticians under written disclosure agreements which specify that such information and records may only be used for research or statistical purposes, and the conditions, if any, of further disclosure. In all cases, user accountability should be to the agency which collects or sponsors the collection of the data. Accordingly, the Commission recommends:

PROGRAM RECOMMENDATION A–3:

That except as specifically prohibited by Federal statute, disclosure in individually identifiable form of any information or record collected or maintained by a Federal agency for a research or statistical purpose without the authorization of the individual to whom such information or record pertains, be permitted provided that disclosure would not violate any limitations under which the information or records was acquired, and further, provided that the disclosure is made pursuant to a written agreement with the proposed recipient which (1) justifies the necessity and importance of disclosing the information or record in individually identifiable form, and (2) prohibits any redisclosure of such information or record in individually identifiable form.

When the disclosure is to a Federal contractor or grantee, the agreement should be between the disclosing agency and the funding agency, with the latter responsible for assuring that the terms of the agreement are met.

Use of Research and Statistical Records Generated or Maintained through Federal Funding: When Federal funding is used to collect or maintain a record about an individual for research or statistical purposes, the Federal government should be accountable to the individual for the use and disclosure that are made of such records. That accountability includes attention to such matters as the user's intention to recontact the individual, disclosure of personal or sensitive data outside the research environment, and use of individually identifiable research or statistical information to make any determinations about the individual to whom such information pertains.

Access by researchers to research and statistical data collected by others presupposes a chain of accountability to safeguard the individual data subject from improper uses or disclosures. Program Recommendation A–1 would provide a Federal obligation to protect such data. However, if researchers not related to the project are to be permitted to use research and statistical information or records generated or maintained under a Federal contract or grant, additional protection must be provided the individual data subject. Therefore, the Commission recommends:

PROGRAM RECOMMENDATION A–4:

That any person who, under Federal contract or grant, collects or maintains any information or record in individually identifiable form for a research or statistical purpose be prohibited from disclosing such information or record in individually identifiable form for another research or statistical purpose, except pursuant to a written agreement that meets the specifications of A–3, above and further, has been approved by the Federal funding agency.

B. *Establishing Safeguards Against Unauthorized Use or Disclosure.* The basic arguments underlying the principle of separation support the requirement that active steps be taken to as-

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sure the confidentiality of research and statistical records. Most research and statistical efforts involve substantial numbers of people in the handling of data and the possibilities of unauthorized or inadvertent disclosure may be high unless active measures are taken to prevent such disclosure. Therefore, the Commission recommends that:

POLICY RECOMMENDATION IV:

Any person who collects or maintains any information or record in individually identifiable form for a research or statistical purpose should be required to establish and maintain appropriate physical, technical and administrative safeguards to protect such information or record from unauthorized disclosure.

In light of the Commission's preceding program recommendations regarding Federal contractors and grantees, the Commission believes that Federal agencies should be required to establish appropriate physical, technical and administrative safeguards as provisions of Federal contracts and grants. In this respect, the Commission has found no pervasive rationale for treating grantees differently than contractors, or for distinguishing among different classes of contractors. The Commission believes that Federal agencies should be responsible for assuring the protection of confidentiality in research and statistical activities conducted under their auspices and that their responsibility should be made explicit. Therefore, the Commission recommends:

PROGRAM RECOMMENDATION B–1:

That whenever a Federal agency provides, by contract or grant, for the performance of any activity which results in the collection or maintenance of any information or record in individually identifiable form for a research or statistical purpose, the terms of such contract or grant should:

Require the contractor or grantee to establish and maintain appropriate physical, technical and administrative safeguards to protect such information or record from unauthorized disclosure;

Include rules for the disposition of such information or record upon termination of the contract or grant which provide appropriate protection against future unauthorized disclosure; and

Make the contractor or grantee subject to the requirements of the most stringent, applicable Federal and State statutes.

Research and statistical activities create the need for special technical and administrative safeguards. The function of such activities is to disseminate and publish aggregate data on a routine basis while maintaining the confidentiality of individual information. Agencies which collect and analyze research and statistical information may disseminate it in the form of tabulations or microdata (i.e., files containing detailed information about the characteristics of individuals). Both forms of publication require care to avoid releasing information in a way in which the individual data subject can be recognized by unique characteristics. A number of techniques are available for protecting an individual's identity, and agencies should exercise great care to develop and apply these methods. Professional associations, such as the American Statistical Association, are giving considerable attention to this problem and an Office of Management and Budget task force is currently studying and developing methodologies for the protection of statistical data. The Commission recommends:

PROGRAM RECOMMENDATION B–2

That the National Academy of Sciences be asked to develop and propagate, in conjunction with the relevant scientific and professional organizations, a set of statistical and procedural techniques to protect the anonymity of an individual who is the subject of any information or record collected or maintained for a research or statistical purpose.

C. *Establishing Conditions for the Use of Administrative Records for a Research and Statistical Purpose.* Records collected or maintained by organizations for administrative purposes, particularly those maintained by public agencies in operating their social programs, produce a basic source of data for research and statistical activities. Such records for defined populations may produce sampling frames from which samples can be drawn with the names and addresses of individuals to be surveyed or interviewed.

Administrative records may also be used for analysis and as a result, program information can often be enriched with information from other programs. A sample of records drawn from one program population may be matched with other program records for the same sample of individuals, thereby, in effect, creating a "new set" of information about those individuals.

Even though the Commission's recommendations in Sections A and B above would provide substantial protection of individually identifiable information or records used for research and statistical purposes, fair information practices place obligations upon all record holders regarding the proper disclosure of information and the protection of the individual's interests.

Although there is a growing dependence of research and statistical activities upon access to information and records collected for administrative purposes, the Commission believes that there is a minimum set of conditions which should be applied to disclosure and use of individually identifiable administrative records for research and statistical purposes.

The primary condition, of course, would be that the person who wants the information would accept and implement the limitations on use and disclosure and the obligation to provide adequate safeguards recommended in Sections A and B above. In addition, the Commission recommends that:

POLICY RECOMMENDATION V:

Except where specifically prohibited by law, any information or record collected or maintained in individually identifiable form for any other purpose may be used or disclosed for a research or statistical purpose provided that:

Such use or disclosure does not violate any limitations on use or disclosure under which the information or record was collected;

Disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which disclosure is to be made;

Adequate safeguards for the protection of such information or record from unauthorized disclosure are established; and

Redisclosure by the researcher or statistician without the authorization of the individual to whom such information or record pertains is prohibited except for an expressly authorized research or statistical purpose, or as required by a court of competent jurisdiction.

The disclosure of Federal agency administrative records is currently governed by a patchwork of rules derived from a variety of statutory sources. Access to agency administrative records for research and statistical purposes is governed by individual agency statutes on the confidentiality of specific records or records of specific agencies, as well as general statutes such as the Privacy Act and the Freedom of Information Act.

Under current legislation, Federal agencies have considerable discretion to make individually identifiable data available for research and statistical purposes. Except for disclosures specifically prohibited by statute, individually identifiable information may be disclosed to researchers and statisticians within an agency under the subsection 3(b)(1) exemption of the Privacy Act and to researchers and statisticians outside an agency on a "routine use" basis under subsection 3(b)(3).

A major problem today is that these protections for the individual vary considerably. Accordingly, in keeping with the recommendations in Section A above, the Commission recommends:

PROGRAM RECOMMENDATION C–1:

That for a research or statistical purpose no Federal agency be permitted to disclose, in individually identifiable form, any information or record it collects or maintains for some other purpose unless the disclosure is made pursuant to a written agreement which specifies:

The reasons why disclosure in individually identifiable form, and any proposed recontact of any individual subject of such information or record, is necessary to accomplish the research or statistical purpose for which the disclosure is to be made;

That adequate safeguards for the protection of such information or record from unauthorized disclosure be established;

That once such record or information has been disclosed for the specified research or statistical purpose, it shall be held to be maintained by the researcher or statistician as if it were originally collected in individually identifiable form for a research or statistical purpose; and

Except for any research or statistical purpose expressly authorized in the agreement or as required by a court of competent jurisdiction, redisclosure by the researcher or statistician without the authorization of the individual to whom such information or record pertains is prohibited.

When the disclosure is to a contractor or grantee of another Federal agency, the written agreement should be between the disclosing agency and the Federal funding agency, with the latter responsible for assuring that the terms of the agreement are met. Note also that this recommendation, if adopted, would not require,

and indeed, is not intended to result in, any change in existing statutory prohibitions on disclosure.

D. *Establishing Protections to be Invoked by the Individual or on His Behalf.* The final set of information practices for research and statistical information and records which must be addressed, relate to the role of the individual. Once it is established that individually identifiable research and statistical information should be insulated from all other uses, with adequate safeguards and mechanisms of accountability, the issue to be considered is whether there is a need for protections that can be invoked by the individual or on his behalf.

Consent and Notice

Identifiable data about individuals flows into research and statistical record systems from several types of sources. First, information may be obtained directly from individuals through questionnaires and other data collection instruments designed expressly for research and statistical purposes, with the individual's full knowledge of what is being collected. However, data may also be collected about individuals unobtrusively, without their full awareness of the collection process, or from persons not fully competent to understand the collection process. Finally, information may be extracted from administrative or program records, some of which may have been supplied by third parties, with or without full knowledge of the individual to whom the information pertains.

Information collected for research and statistical purposes is collected under different circumstances and different assumptions about use and confidentiality than information collected for making a decision about an individual. Therefore, information collected directly from the individual for research and statistical purposes and the use for research and statistical purposes of individually identifiable information collected for administrative purposes must be looked at differently in considering the control of the individual over the collection, use, and dissemination of information about him for research and statistical purposes.

Information Collected for Research and Statistical Purposes: When individually identifiable research and statistical information and records are adequately insulated from becoming the basis for a decision about the individual to whom they pertain, then that individual has less need than otherwise to be concerned about their use and disclosure. Given this protection, the Commission recommends that:

POLICY RECOMMENDATIONS VI:

Absent an explicit statutory requirement to the contrary, no individual should be coerced into divulging information about himself for a research or statistical purpose. To assure that there is no coercion, the individual must be informed:

That his participation is voluntary;

Of the conditions under which he may refuse to continue to participate;

Of the purposes and nature of the data collection;

Of the possibility and conditions of any disclosure in individually identifiable form of any information or record to be collected or maintained about him;

That he will be notified in advance of any disclosure made for other than a research or statistical purpose; and

That if he so chooses, he can prevent his participation from resulting in subsequent recontact for a research or statistical purpose.

POLICY RECOMMENDATION VII:

When information about an individual is required for a research or statistical purpose, institutional review processes or responsible representatives should be used to protect him:

Who is not capable of consenting to provide information about himself (e.g., a minor or mentally incompetent individual);

Whose consent may be seriously compromised by fear of some loss of benefit or imposition of sanction (e.g., "captive populations" such as students, welfare recipients, employees, prison inmates, or hospital patients); or

When the ability to conduct statistical or research activity is predicated on the individual being unaware of its existence, purpose, or specific nature.

Information Collected from Administrative Files: The major issue is whether the individual should be compelled to participate in research as a condition of receiving a benefit. The trade-off is between an individual's right to control the collection and use of information and the needs of society for sufficient information to plan and manage its endeavors. On the one hand, the Commission's previous recommendations have provided substantial protections for the individual in research and statistical uses of information about himself; and, in addition, the imposition of any consent mechanisms for the use of administrative records for research and statistical purposes does create increased burdens and costs for important research and statistical tasks. On the other hand, some individuals may not support particular lines of research; indeed, some may actively resist having any information about them used for research purposes which even in aggregation provides information to policy makers on issues repugnant to them. In addition, many individuals feel that the probabilities of any vital research or statistical activities being substantially biased or made impossible by refusals to allow one's administrative records to be used for research and statistical purposes are reasonably low. On balance, the Commission believes that providing the individual some control is warranted. Therefore, the Commission recommends that:

POLICY RECOMMENDATION VIII:

When individually identifiable information is collected for a purpose other than research or statistics, the individual should be informed;

That such information may be used or disclosed in individually identifiable form for a research or statistical purpose and that he may be recontacted as a result;

That he can refuse to authorize such disclosure but his refusal to do so may be overridden by an institutional review process authorized to determine whether the needs and importance of a particular research or statistical activity justify the disclosure of information about him in individually identifiable form.

Subject Access to Research and Statistical Records

The fair information practice mechanism permitting an individual access to his own records is based on his need to have a role in the decision-making process, and to protect himself from decisions about him being made on the basis of incorrect or secret information. On the other side, it needs to be recognized that providing such access is not without cost, and may be quite burdensome.

Under the Privacy Act, those records required by statute to be used exclusively for statistical research or reporting purposes—that is, those which by definition cannot be used in making individual decisions about the data subject—may be exempted from the individual access requirement. The rationale for the exemption is the general irrelevance of access to records which are separated from the decision-making process.

Where research and statistical records and information cannot be totally protected from use and disclosure for other purposes, the right of access retains its relevance. Further, the degree of relevance is dependent upon the extent to which this separation of uses is not total.

Given the recommendations set forth in Sections A and B above, the Commission therefore proposes these additional recommendations:

POLICY RECOMMENDATION IX:

No individual should be denied access to any information or record collected or maintained about him in individually identifiable form for a research or statistical purpose, if such information or record is used or disclosed for any purpose other than research or statistics.

POLICY RECOMMENDATION X:

Any person who collects or maintains any information or record in individually identifiable form for a research or statistical purpose should be required to keep an accurate accounting of all disclosures of such information or record for purposes other than research or statistics, and further, to make the accounting available to the individual who is the subject of such information or record when the individual so requests.

POLICY RECOMMENDATION XI:

When any information or record collected or maintained for a research or statistical purpose is disclosed in individually identifiable form without a guarantee that such information or record will not be used to make any determination about the individual to whom it pertains, the individual should be notified of the disclosure.

DECEMBER 10, 1976.

DAVID F. LINOWES,
Chairman.
CAROLE W. PARSONS,
Executive Director.

[FR Doc.76-36035 Filed 12-15-76;8:45 am]

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RAILROAD RETIREMENT BOARD

PRIVACY ACT OF 1974

Addition System of Records

The U.S. Railroad Retirement Board proposes to establish a new system of records entitled the Regional Rail Reorganization Act Reimbursement System.

It is necessary for the Board to establish this new system of records in order for it to carry out its functions as designated by the Regional Rail Reorganization Act of 1973. The Railroad Retirement Board feels that the establishment of this record system will not adversely affect the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals

A justification for establishing this new system of records has been sent to the Director of the Office of Management and Budget, the President of the Senate, the Speaker of the House of Representatives, and the Privacy Protection Study Commission on November 8, 1976, pursuant to subsection (o) of the Privacy Act of 1974 and OMB Circular A–108, Transmittal Memorandum No. 1.

The public is invited to comment on the establishment of this proposed system of records. Data, views or arguments regarding the commentor's position should be sent to the Secretary of the Board, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, not later than January 17, 1977.

By authority of the Board.

R. F. BUTLER,
Secretary.

System name:

Regional Rail Reorganization Act Reimbursement System-RRB.

System location:

Headquarters: U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Categories of individuals covered by the system:

Any railroad employee who may be eligible for displacement, separation, termination or moving expense payments under Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 771-779).

Categories of records in the system:

Information as to the amount of displacement, separation, termination or moving expenses paid by the employer to the employee, the basis for the payment, the kind of payment made, and if applicable, the period for which payment was made, RUIA benefits paid and recovered, railroad retirement taxes paid on payments covered under Regional Rail Reorganization Act Reimbursement System, RUIA contributions paid, hours worked in railroad service, effective date of separation, health/welfare premiums, FICA contributions, moving and related expenses. Identifying information includes the name of the employee, his social security account number, his employee identification number, job and employer code.

Authority for maintenance of the system:

Title V, Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 779).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Information received from sources other than the employer which conflicts with information furnished by the employer in support of its reimbursement claims may be released to the employer to the extent needed to resolve the conflict.

b. A list of RUIA benefit claimants, amounts paid and periods covered, plus identifying information, may be disclosed to any employer requesting reimbursement for displacement, separation, termination or moving expenses for which a reimbursement set-off must be made.

c. If a request for information pertaining to an employee is made by an official of a labor organization of which the employee is a member and the request is made on behalf of the employee, information may be released to the extent needed to respond to the inquiry.

d. Disclosure may be made to a congressional office from the employee's record in response to an inquiry from the congressional office made at the request of the employee.

e. Information in this system of records regarding a reimbursement claim pertaining to an employee may be released to the attorney representing such employee, with respect to such claim, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject employee.

f. Information may be released to private contractors to the extent needed to fulfill contract requirements.

g. Information may be released to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under the Regional Rail Reorganization Act of 1973 or the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

h. Information may be released to the Department of Justice and to courts of competent jurisdiction in response to properly issued subpoenas.

i. In the event that this system of records maintained by the Railroad Retirement Board to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, or local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper, magnetic tape and microforms.

Retrievability:

Social security number and name.

Safeguards:

Records are maintained in areas not accessible to the public and are not permitted to be removed from headquarters without authorization.

Retention and disposal:

Retained until authorized to destroy by the General Accounting Office.

System manager(s) and address:

Director of Unemployment and Sickness Insurance, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Notification procedure:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures:

See Notification section above.

Contesting record procedures:

See Notification section above.

Record source categories:

Employee or his representative, employers, unemployment claims agents, labor organizations, and all Railroad Retirement Board files.

Dated: December 9, 1976.

[FR Doc.76-36987 Filed 12-15-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–13056; File No. S7–661]

MEANS OF IMPROVING DISCLOSURE BY CERTAIN FOREIGN PRIVATE ISSUERS

The Securities and Exchange Commission today announced that it is soliciting the views of the public concerning means of improving the disclosure presently required by Forms 20 (17 CFR 249.220) and 20–K (17 CFR 249.320) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). Forms 20 and 20–K are the registration and annual reporting forms, respectively, authorized for use by certain foreign private issuers under the Exchange Act. The Commission is considering the possibility of publishing for further comment proposals to make filings on Forms 20 and 20–K substantially similar in content to filings on Forms 10 (17 CFR 249.210) and 10–K (17 CFR 249.310) authorized for use by domestic and certain other North American issuers.

The theory has been advanced that amendments of this nature might not only make more meaningful the information available to investors concerning foreign issuers, but also improve the domestic market for foreign securities and thereby facilitate the free flow of capital among nations. It has also been suggested that amendments of this type might reduce, to an extent, any competitive disadvantages reporting domestic issuers possibly suffer in relation to reporting foreign issuers. In addition, certain subsidiary benefits could result under the Commission's integration concept. For example, rights offerings by foreign issuers to their United States shareholders might be facilitated by the use of a short form registration statement under the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)) such as Form S–16 (17 CFR 239.27) which could include, by reference, the information disclosed in Form 20–K filings if that reporting form were to be amended to require more meaningful disclosure.[1]

Forms 20 and 20–K, which were last amended in 1967, presently require substantially less information than is required of domestic issuers filing Forms 10 and 10–K. Form 20 presently requires disclosure of information concerning country of incorporation; ownership and control; the general character of business and any substantial changes therein which have occurred during the preceding five years; the character and location of the principal plants and other important units; the capital shares, funded debt and other securities to be registered; exchange controls; directors' and officers' compensation; and the financial statements, schedules and accountants' certificates which would be required if the report were filed on Form 10–K. The required financial disclosures include a comparative balance sheet for the latest and the preceding fiscal year, a statement of income for the last three years, a statement of source and application of funds, and usually a statement of stockholders' equity and supplementary profit and loss statement. Such financial statements are not required to be reconciled with the Commission's Regulation S–X (17 CFR Part 210), but any material variation in accounting principles or practices from the requirements of that Regulation must be disclosed and, to the extent practicable, the effect of such variation must be given.

Form 20–K is the annual reporting form required to be filed by each foreign issuer which has registered equity securities under the Exchange Act on Form 20 or which has a reporting obligation resulting from a prior effective registration statement under the Securities Act. Form 20–K requires foreign issuers to report annually only the changes and modifications in any of the above information previously reported, and to file current certified financial statements of the character described above.

The Commission's continual efforts to improve disclosures to investors have resulted in material amendments to Forms 10 and 10–K in the past several years. Registrants must provide in both forms a description of the business in which the issuer presently engages or intends to engage. This includes, for each of the preceding five fiscal years, the revenues and income attributable to separate material lines of business or classes of similar products. If material, the description of business includes: (a) competitive conditions in the industry and the registrant's position; (b) dependency on a single customer or a few customers; (c) backlog; (d) source and availability of raw materials; (e) importance of patents, trademarks, licenses, franchises and concessions; (f) expenditures on, and employees engaged in, research and development, and description of new products; (g) effects and cost of compliance with environmental laws; (h) number of employees; and (i) seasonal aspects of the business. The registrant must also disclose its foreign operations (outside of its country of incorporation) and must give a description of all material properties and oil and gas reserves.

The registrant must also include in Forms 10 and 10–K a description of parents and subsidiaries; principal security holders and the security holdings of directors and officers as a group; name and family relationships between directors and executive officers and petitions in bankruptcy by, and criminal indictments or certain injunctions against, directors and executive officers; remuneration of, retirement benefits set aside for, and options granted to, officers and directors, naming them individually where the direct remuneration payments exceed $40,000 per annum; interest of management and affiliates thereof in transactions involving the registrant; and pending material litigation. Further, registrants must provide in Forms 10 and 10–K not only the financial statements indicated above but also a five year summary of operations which is accompanied by management's analysis of material changes disclosed therein.

The Commission is interested in being apprised of the views or comments of interested persons with respect to possible expansion of the disclosure requirements of the foreign registration and reporting forms. Of particular interest are any views concerning the desirability, feasibility, and potential impact of such measures on the United States domestic markets for foreign securities, including the reaction of foreign issuers, organizations, and governments to any possibly increased disclosure burdens. The Commission is particularly concerned about the ability of foreign issuers presently to comply with substantially the same annual reporting requirements imposed on domestic issuers and whether such requirements would result in foreign issuers not using our markets. The public's views will be helpful to the Commission in considering the appropriate approach to be used with respect to disclosure by foreign issuers which have used the United States markets or which contemplate using those markets in the future. The Commission specifically invites comment from individual investors, publicly owned domestic and foreign companies, interested professionals, members of the investment community, members of the academic community, the financial media, and related associations, as well as from members of the general public.

The Commission requests that all interested persons submit their written views, in triplicate, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before February 28, 1977. Such communications should refer to File S7–661 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549. Any definitive proposals to amend the disclosure requirements applicable to foreign issuers will, of course, be published for comment.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 10, 1976.

[FR Doc.76-36992 Filed 12-15-76;8:45 am]

[1] Form S–16 may be used for the registration of securities offered in specified transactions if the issuer meets also the requirements for the use of Form S–7 (17 CFR 239.26). In general, Form S–7 is available for use by issuers which, in addition to certain other requirements, file reports with the Commission pursuant to the Exchange Act. These reports are specifically incorporated into the prospectus on Form S–16, even where such reports are filed after the effective date of the registration statement, so as to maintain current disclosure of the issuer's status during the term of the offering.

[Release No. 34–13040; File No. SR–NYSE–76–57]

NEW YORK STOCK EXCHANGE, INC.

Proposed Rule Change by Self-Regulatory Organizations; Percentage Orders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on November 26, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NYSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed changes to Exchange Rules 13 and 123A would redefine the

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term "Percentage Orders" and include within the Exchange Rules the procedures to be followed in handling such orders.

The purpose and effect of the proposed rule changes are discussed in greater detail below. The texts of the proposed rule changes are attached as Exhibit I.

NYSE's STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF PROPOSED RULE CHANGE

Institutional investors who deal in large quantities of stock often do not desire to initiate activity in a stock but rather wish to "go along"; that is, to participate in transactions without unduly influencing the market. Their intention is to have their orders executed in a manner that will not have a significant effect on the market in the stock. Since it usually takes a period of time to execute an order of this type, and commission brokers ordinarily cannot remain in an inactive market waiting for orders to come into the market on the other side of their orders, such orders are often entrusted to specialists as percentage orders. (A percentage order, as presently defined, is a market or a limited price order to buy or sell a stated amount of a specified stock after a fixed number of shares are traded.) Under the present procedures for handling percentage orders, it is often difficult for members to execute or have such orders executed in accordance with the intent of their customers.

The proposed rule changes will redefine the term "percentage orders" to facilitate handling such orders, and include new procedures within the rules of the Exchange.

Specifically, Rule 13 will include a definition of the types of percentage orders that can be handled in terms of how they will be executed. Market percentage orders will no longer be accepted, rather each percentage order will be a limited price order.

This will eliminate situations where a percentage order is executed at a price or prices not anticipated by the investor. On the other hand, the establishment of a Last Sale Order—a new kind of limit percentage order—will add further flexibility to the execution of large orders. Percentage orders other than 50% will no longer be accepted to preclude the need for complex mathematical calculations on the Floor.

In addition, the current rules governing percentage orders often serve to defeat the purpose of such orders when large block transactions are effected in a stock. Since a percentage order is not elected until a sale takes place, specialists are not able to participate in block transactions on behalf of a percentage order. Furthermore, once such a block transaction takes place, it elects all or part of the percentage order for execution in the "after market." These situations frustrate the intent of the customer who places the percentage order with the specialist to go along with the market and avoid disrupting the market. The proposed rule change provides that, upon instruction by the entering broker, the specialist may convert a percentage order into a regular limit order to alleviate this situation.

Proposed Rule 123A.30 contains explanatory material for handling percentage orders, such as the procedure to follow when a specialist has accepted more than one percentage order. It also sets forth the requirement that all percentage orders given to a specialist must be time-stamped by the specialist at his Post location. This provision will enable the specialist to determine the time priority of the percentage orders he is holding.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The proposed changes to Rules 13 and 123A of the Exchange relate to Section 6(b)(5) of the Act in that they would remove impediments to and perfect the mechanism of a free and open market, and in general, protect investors and the public interest by setting forth procedures for improving the handling and execution of percentage orders in accordance with the investor's instructions.

The proposed rule changes further relate to Section 6(b)(5) and Section 6(b)(8) of the Act insofar as these Sections, respectively, do not permit the rules of an exchange to unfairly discriminate between brokers or dealers, or to impose any burden on competition not necessary or appropriate to further the Act. Under the existing procedures, certain Exchange members are hampered in their ability to effectively handle and execute certain orders pursuant to the instructions and intent of the investor.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The Exchange has not solicited comments regarding the proposed changes to Rules 13 and 123A and has received none.

BURDEN ON COMPETITION

The NYSE states that the proposed rule changes will not impose any burden on competition.

On or before January 24, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be filed on or before January 5, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 3, 1976.

EXHIBIT I; PROPOSED TEXT OF RULE 13

DEFINITION OF ORDERS

Percentage Orders. A limited price order to buy (or sell) 50 percent of the volume of a specified stock after its entry. There are three types of percentage orders:

(a) Straight Limit Percentage Orders—Such an order is to be executed when a transaction has occurred at that price or a better price. However, unless otherwise specified, only volume at or below the limit subsequent to the receipt of the order will be applied in determining the elected portion of buy orders. Conversely, only volume at or above the limit will be calculated in determining the elected portion of sell orders.

(b) Last Sale Percentage Orders—Orders designated "last sale" may be executed at the last sale or better, provided that such last sale is at or better than the limit specified in the order.

(c) "Buy Minus"—"Sell Plus" Percentage Orders—The elected portion of an order to "buy minus" can be executed on a "minus" or "zero minus" tick only. Orders of this type must also be qualified further by designating a limit price.

The elected portion of an order to "sell plus" can be executed on a "plus" or "zero plus" tick only. Orders so designated are handled in the same manner as an order to sell short. Orders of this type must also be further qualified by designating a limit price.

If so instructed by the entering broker(s), percentage orders to buy will be converted into regular limit orders for transactions effected no "minus" or "zero minus" ticks. Conversely, if so instructed by the entering broker(s), percentage orders to sell will be converted into regular limit orders for transactions effected on "plus" or "zero plus" ticks.

* * * * * *

PROPOSED TEXT OF RULE 123A

.30

A specialist may accept one or more percentage orders. When accepting more than one order, the specialist must make every effort to inform the entering brokers that they will be participating with another order or orders. Information of this type would alert brokers to the fact that each order will do less than 50% of the volume. When the specialist is handling more than one percentage order, each such order will be on parity with the other. When an odd amount of shares is involved, for example, 300 shares, and a specialist holds two percentage orders, he must give the extra 100 shares to the broker having priority on a time basis. Therefore, all percentage orders given to a specialist must be time-stamped by the specialist at his Post location.

If a specialist feels he cannot properly handle a number of percentage orders at one time, he should call in a Floor Official to discuss the situation.

If so instructed by the entering broker(s), percentage orders to buy will be converted into regular limit orders for transactions effected on "minus" or "zero minus" ticks. Conversely, if so instructed by the entering broker(s), percentage orders to sell will be converted into regular limit orders for transactions effected on "plus" or "zero plus" ticks.

The entering broker may permit the specialist to be on parity with his order. However, when the specialist is handling more than one percentage order, he may not be on parity with any such order unless permission has been obtained from all brokers for whom he is holding percentage orders in the particular stock. If a specialist is on parity with one or more percentage orders, at no time may the specialist participate for his own account in an amount in excess of what each percentage order would receive. Specialists must make every effort to execute percentage orders in amounts which correspond as nearly as possible to the percentage specified therein.

[FR Doc.76-36991 Filed 12-15-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 06/10-0150]

CAPITAL MARKETING CORP.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Capital Marketing Corporation (CMC), 9001 Ambassador Row, Dallas, Texas 75247, a Federal Licensee under the Small Business Investment Act of 1958, as amended (The Act), has filed an application pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1976)), for approval of a conflict of interest transaction.

It is proposed that CMC provide $180,000 in financing to Food Fare Keller, Inc. The loan proceeds will be used to finance the purchase of equipment for their newly constructed facilities located at Highway 377 and Keller Hicks Road, Keller, Texas. Dallas Food Fare, Inc. (DFF), a holding company owning Food Fare Keller, Inc., will guarantee the loan.

DFF is considered to be an Associate of CMC, pursuant to the provisions of § 107.3 of the Small Business Administration (SBA) rules and regulations, in that Mr. Nat Paul Gibbs, Jr., the principal shareholder of DFF, is the son of CMC's president. As such, the transaction falls within the purview of § 107.1004(b)(1) of the regulations.

As of November 12, 1976, DFF was indebted to CMC in the approximate amount of $704,966. When this amount is added to the proposed new financing of $180,000, CMC's lending limit of $571,085 will be exceeded by approximately $313,881. The $844,966 in aggregate financing represents approximately 31 percent of CMC's $2,855,425 paid-in capital and surplus.

Notice is further given that any person may, not later than January 3, 1977, submit to SBA, in writing, comments on this transaction. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by CMC in a newspaper of general circulation in Keller, Texas and Dallas, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 7, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-36958 Filed 12-15-76;8:45 am]

CINEMA FUND, INC.

[Proposed License No. 02/02-0322]

Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a Small Business Investment Company under the Small Business Investment Act of 1958, as amended, (Act) (15 U.S.C. 661 et. seq.) has been filed by The Cinema Fund, Inc. (the applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102.

The applicant, with its principal place of business at 375 Park Avenue—Suite 2706, New York, New York 10022 will begin operations with $11,006,000 of Paid-in Capital and Surplus.

The officers and directors of the applicant will be as follows:

Barry Levinson, Chairman of the Board and Secretary, 105 Mount Street, London, England.

Seymour H. Malamed, President, Treasurer, and Director, 33 Pond Park Road, Great Neck, New York 11023.

John C. Lewis, Director, Horizon Tower South, 5 Horizon Road, Ft. Lee, New Jersey 07024.

The stock of the applicant consists of Class A and Blass B Common Stock. All six shares of issued and outstanding Class A Common Stock, the only voting stock, are owned by Messrs. Levinson and Malamed. It is proposed to sell 11,000 shares of Class B Common Stock at $1,000 per share to a group of no more than twenty-eight investors. The minimum Class B subscription is fifty shares.

Messrs. Levinson and Malamed are also the sole partners in Cinema Fund Consultants, Inc., the applicant's Investment Advisor.

The applicant will conduct its operations in New York City and California. It proposes to invest in, make loans and provide management services to and furnish advice concerning motion picture and television production and related communications-oriented enterprises.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA rules and regulations.

Any person may, on or before January 17, 1977, submit to SBA written comments on the proposed License. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York City and Los Angeles, California, as well as a trade newspaper, "Variety".

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 8, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-36959 Filed 12-15-76;8:45 am]

[License Application No. 04/04-5124]

PHOENIX MESBIC OF ALABAMA, INC.

Application for License as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Phoenix MESBIC of Alabama, Inc. (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1976).

The officers, directors, and stockholders of the applicant are as follows:

Lois D. Bethune, Chairman of the Board, 174 Powder Horn Avenue, Apt. 114, Homewood, Alabama 35209.

Harold E. Gill, President, Director, 3005 Hood Road S.W., Birmingham, Alabama.

Paul L. Bethune, Vice President, Director, 1904 Portage Avenue, North, Birmingham, Alabama 35234.

Robert A. Wanninger, Secretary, Director, 20 percent Stockholder, 750 Euclid Avenue, Birmingham, Alabama 35213.

Henry N. McCarl, Treasurer, Director, 18 percent Stockholder, 4316 Ninth Court, South, Birmingham, Alabama 35222.

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Trust Land Company, Inc., 62 percent Stockholder, 1823 Avenue E, Birmingham, Alabama 35218.

The applicant, an Alabama corporation, with its principal place of business located at 1823 Avenue E, Birmingham, Alabama 35218, will begin operations with $500,000 of paid-in capital and paid-in surplus, derived from the sale of 50 shares of common stock to 4 investors. The applicant will initially conduct its operations within the state of Alabama. It is intended that as applicant's business and operations grow, the operation will be conducted on a national basis.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA Rules and Regulations.

Any person may, not later than January 3, 1977, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Birmingham, Alabama.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 7, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-36960 Filed 12-15-76;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/3]

OCEAN AFFAIRS ADVISORY COMMITTEE

Meeting

Notice is hereby given pursuant to the provisions of Pub. L. 92-463 that a meeting of the Ocean Affairs Advisory Committee will be convened on January 11 and 12, 1977, at the Sheraton Airport Inn, San Diego, California, at 9:00 a.m.

The morning meeting on January 11 will be open to the public. That session will consist of an unclassified report on the November 30-December 9 Special Meeting of the International Convention for the Northwest Atlantic Fisheries (ICNAF) and a report on bilateral fisheries agreements concluded pursuant to Pub. L. 94-265 and the status of ongoing negotiations. An unclassified U.S. Delegation report on the August-September session of the UN Conference on the Law of the Sea will be available for discussion and the session will close with a question and answer period.

The afternoon session on January 11 and the January 12 meeting will not be open to the public as the discussion will involve matters exempt from public disclosure under 5 U.S.C. 552(b)(1) and the public interest requires that such discussions will include classified briefings on the Law of the Sea session mentioned above and the status of bilateral fishery negotiations and they will include examination and discussion of classified documents.

Dated: December 8, 1976.

ROZANNE L. RIDGWAY,
Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc.76-36961 Filed 12-15-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 132—AIRBORNE AUDIO SYSTEMS & EQUIPMENT

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the RTCA Special Committee 132—Airborne Audio Systems & Equipment to be held January 11-12, 1977, RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. 20006 commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Chairman's opening comments; (2) Secretary's comments and briefing on RTCA Committee procedures; (3) Review terms of reference and definition of aircraft audio systems and equipment; (4) Presentation of member inputs and discussion of new technology precipitating update of minimum performance standards; (5) Assessment of scope of revisions to DO-78A, DO-90 and DO-91; and (6) Assignment of tasks.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on December 7, 1976.

KARL F. BIERACH,
Designated Officer.

[FR Doc.76-36967 Filed 12-15-76;8:45 am]

Materials Transportation Bureau

EXEMPTION APPLICATIONS

In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

COMMENTS BY: January 25, 1977 with respect to applications for a new exemption.

ADDRESSED TO: Docket Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying-aircraft.

New exemptions

Application No.	Applicant	Regulation(s) affected	Nature of application
7569-N	Rich International Airways, Inc., Miami, Fla.	49 CFR 172.101, 175.30 (a)(1).	To authorize shipment of dynamite in cargo aircraft. (Mode 4.)
7575-N	Petrolite Corp., St. Louis, Mo.	49 CFR 172.101, 175.30.	To authorize shipment of certain flammable liquids in 55 gal drums by cargo-only aircraft. (Mode 4.)
7576-N	Hugonnet S.A., Paris, France.	49 CFR 173.630; 46 CFR 98.35.	To authorize shipment of certain combustible and ORM-A liquids in non-DOT tank containers. (Modes 1, 2, 3.)
7577-N	Monitor Labs, Inc., San Diego, Calif.	49 CFR 172.101, 175.3.	To authorize shipment of sulfur dioxide and nitrogen dioxide by cargo aircraft. (Mode 4.)
7578-N	U.S. Dept. of Defense, Washington, D.C.	49 CFR 173.98(a)(10).	To authorize shipment of Class B propellant explosives in DOT 21C fiber drums. (Mode 2.)
7579-N	Staple Cotton Services Association, Greenwood, Miss.	49 CFR 173.358, 173.359.	To authorize shipment of certain Class B poison liquids in DOT MC-331 cargo tanks. (Mode 1.)
7580-N	FMC Corp., Philadelphia, Pa.	49 CFR 172.400, 172.402(a)(2), 172.406(c), 172.407.	To authorize shipment of Class B poisons which have EPA poison labels on the shipping containers to be shipped without the DOT poison label; to use a smaller label; or deviate from the label placement requirements. (Modes 1, 2.)
7581-N	Mobay Chemical Co., Pittsburgh, Pa.	49 CFR 173.245(a)(14), 173.346(a)(2), 173.366 (a)(2).	To authorize shipment of certain corrosive and poisonous liquids and poisonous solids in a non-DOT steel drum. (Modes 1, 2, 3.)
7582-N	General Electric Co., Pleasanton, Calif.	49 CFR 172.101, 173.244, 175.3.	To authorize shipment of radioactive materials containing up to 2 grams of nitric acid in packages not bearing the corrosive label and marked solely as radioactive materials by passenger aircraft. (Modes 5.)
7583-N	Diagnostics Isotopes Inc., Upper Saddle River, N.J.	49 CFR 173.390(c)(4).	To authorize shipment of certain transport Group I radionuclides as Group IV. (Modes 4, 5.)
7584-N	Orval Tank Containers, Paris, France.	49 CFR 173.244(a), 173.266.	To authorize shipment of hydrogen peroxides in non-DOT portable tanks. (Modes 1, 3.)
7585-N	Fabricated Metals Inc., Modena, Pa.	49 CFR 173.345, 173.348.	To authorize shipment of arsenic acid solutions in DOT 57 portable tanks. (Modes 1, 2.)
7586-N	Rockwell International, Downey, Calif.	49 CFR 173.88(e)(2)(ii), 173.92.	To authorize shipment of a rocket motor and igniter, Class B explosives, in a propulsive state in non-DOT packaging. (Mode 1.)
7587-N	Bernzomatic Corp., Medina, N.Y.	49 CFR 173.304(e), 178.33, 178.33a.	To authorize shipment of dichlorodifluoromethane in modified DOT 2P and 2 Q containers. (Modes 1, 2.)
7588-N	Hoyt Corp., Rogers, Ariz.	49 CFR 172.400(a), 173.302(a)(1).	To authorize shipment of compressed air in non-DOT low-pressure water tanks without labeling. (Mode 1.)
7589-N	Recordati Industria Chimica E Farmaceistica, Milano, Italy.	49 CFR 173.245	To authorize shipment of certain corrosive liquids in glass carboys overpacked by a metal drum overpacked by a wooden box. (Modes 1, 2.)
7590-N	National Motor Freight Traffic Association Inc., Washington, D.C.	49 CFR 177.841(e)	To authorize shipment of poisonous liquids and solids in the same motor vehicle trailer with foodstuffs when the poisons are in DOT containers overpacked in a special overpack. (Mode 1.)
7591-N	Albright & Wilson Ltd., Norwood, N.J.	49 CFR 173.270	To authorize shipment of phosphorus tribromide in non-DOT lead-lined metal drums. (Modes 1, 3.)
7592-N	Shell Oil Co., Houston, Tex.	49 CFR 173.314(c). Note 23, 179.100-23.	To authorize the use of Shelf E or F couplers in lieu of head shields on all uninsulated pressure tank cars. (Mode 2.)

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Application No.	Applicant	Regulation(s) affected	Nature of application
7593-N..	McDonnell-Douglas Corp., Tulsa, Okla.	49 CFR 173.304(a)(1)..	To authorize shipment of anhydrous ammonia in a heat pipe system. (Modes 1, 3.)
7594-N..	Solchem Inc., New York, N.Y.	49 CFR 173.353.....	To authorize shipment of methyl bromide in a non-DOT portable tank manufactured in accordance with the ISO requirements. (Modes 1, 3.)
7595-N..	American Cyanamid Co., Wayne, N.J.	49 CFR 173.358.....	To authorize shipments of organic phosphate compounds, n.o.s. in DOT MC-312 cargo tanks. (Mode 1.)
7596-N..	Puerto Rico Marine Management Inc., Elizabeth, N.J.	49 CFR Part 173 Subpart C; 46 CFR 98.35	To authorize shipment of certain flammable and combustible liquids in a non-DOT portable tank. (Modes 1, 2, 3.)
7597-N..	Riverside Chemical Co., Memphis, Tenn.	49 CFR 173.358, 173.359.	To authorize shipment of certain Class B poisons in 55 gal DOT 17E drums by private carrier. (Mode 1.)
7598-N..	Pratt & Whitney Aircraft, East Hartford, Conn.	49 CFR Part 173, 178.255.	To authorize shipment of certain hazardous materials in rectangular and cylindrical shaped, modified DOT 60 portable tanks. (Mode 1.)
7599-N..	Martin Marietta Corp., Charlotte, N.C.	49 CFR 173.365.....	To authorize shipment of 2,4-dinitrophenol in reconditioned drums built to 17E specification except for a removeable head. Single trip by private motor vehicle only. (Mode 1.)
7600-N..	Lubbock Manufacturing Co., Lubbock, Tex.	49 CFR 173.315.....	To authorize shipment of liquefied ethylene in non-DOT cargo tanks. (Mode 1.)
7601-N..	Atlantic Research Corp., Gainesville, Va.	49 CFR 173.53(e).....	To authorize shipment of desensitized liquid nitroglycerin using a desensitizer significantly more volatile than nitroglycerin. (Mode 1.)
7602-N..	Gaspro Inc., Honolulu, Hawaii.	49 CFR 173.850.....	To authorize shipments of calcium oxide in non-DOT 40,000 lb capacity bulk containers. (Mode 3.)
7603-N..	Air Products and Chemicals Inc., Allentown, Pa.	49 CFR Part 173, Subpart F.	To authorize shipment of non-pressurized liquid argon, nitrogen, and oxygen in non-DOT cargo tanks. (Mode 3.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on December 7, 1976.

C. H. THOMPSON,
Acting Director, Office of Hazardous Materials Operations.

[FR Doc.76-36465 Filed 12-15-76;8:45 am]

EXEMPTION APPLICATIONS

In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein. Normally, the modes of transportation would be identified and the nature of application would be described, as in past publications. However, this notice is abbreviated to expedite docketing and public notice. These applications have been separated from the new applications for exemptions because they represent the large majority of applications awaiting disposition.

COMMENTS BY: January 10, 1977 with respect to applications for renewal and applications to become a party.

ADDRESSED TO: Docket Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C.

Application No.	Applicant	Renewal of special permit or exemption
3109-X	Raytheon Co., Lowell, Mass....	3109
3307-X	Apache Powder Co., Benson, Ariz.	3307
3415-X	Department of the Army, Washington, D.C.	3415
4177-X	Hydrodyne Industries, Inc., Hauppauge, N.Y.	4177
4275-X	Kaiser Aluminum & Chemical Corp., Oakland, Calif.	4275
4575-X	....do.....	4572
4763-X	Allied Chemical, Morristown, N.J.	4763
4990-X	Schenley Distillers, Inc., Cincinnati, Ohio.	4990
5243-X	Apache Powder Co., Benson, Ariz.	5243
5243-X	Atlas Powder Co., Dallas, Tex.	5243
5643-X	Union Carbide Corp., Tarrytown, N.Y.	5643
6178-X	Olympic Manufacturing Co., Atlanta, Ga.	6178
6247-X	J. T. Baker Chemical Co., Phillipsburg, N.J.	6247
6253-X	Mobay Chemical Corp., Pittsburgh, Pa.	6253
6348-X	Olin Corp., Stamford, Conn..	6348
6416-X	Allied Chemical Corp., Morristown, N.J.	6416
6453-X	Allied Chemical Corp., Mount Clemens, Mich.	6453
6569-X	Westerwalder Eisenwerk, Weitefeld, West Germany.	6569
6616-X	Fenwal Inc., Ashland, Mass...	6616
6632-X	Airwick Industries, Inc., Teterboro, N.J.	6632
6760-X	Helena Chemical Co., Memphis, Tenn.	6760
6826-X	McDonnell Douglas Astronautics Co., Huntington Beach, Calif.	6826
6864-X	Westerwalder Eisenwerk, Weitefeld, West Germany.	6864
6984-X	Atlas Power Co., Dallas, Tex.	6984
7038-X	Farm Chemicals, Inc., Aberdeen, N.C.	7038
7044-X	Thiokol Corp., Huntsville, Ala.	7044
7052-X	Eagle-Picher Industries, Inc., Joplin, Mo.	7052
7082-X	Container Division Igloo Corp., Houston, Tex.	7082
7087-X	Unitak Corp., Monrovia, Calif.	7087
7220-X	Prestex Products Co., St. Paul, Minn.	7220
7413-X	Chilton Metal Products Division, Chilton, Wis.	7413
7466-X	Firmenich Inc., Princeton, N.J.	7466
7477-X	Systron Donner Corp., Berkeley, Calif.	7477
7604-X	American Cyanamid Co., Wayne, N.J.	[1] 28-73
3066-P	North Central Chemicals, Inc., Madison, Wis.	3066
3066-P	Western Eaton Solvents & Chemical Co., Romulus, Mich.	3066
3966-P	Specialty Chemical Co., Inc., Chattanooga, Tenn.	3966
3966-P	Chemtech Industries, Inc., St. Louis, Mo.	3966
3966-P	Jayar-Hoag Chemical Co., Inc., Morton Grove, Ill.	3996
3966-P	Hawkins Chemical, Inc., Minneapolis, Minn.	3966
4041-P	Hercules Inc., Wilmington, Del.	4041
4763-P	A. J. Lynch & Co., Oakland, Calif.	4763
4763-P	North Central Chemicals, Inc., Madison, Wis.	4763
4763-P	Eagle Chemical Co., Reading, Pa.	4763
4763-P	Chemtech Industries, Inc., St. Louis, Mo.	4763
4763-P	Western Solvent & Chemicals Co., Romulus, Mich.	4763
4763-P	Specialty Chemical Co., Inc., Chattanooga, Tenn.	4763
5403-P	Oime Oil Industries, Manufacturing & Engineering, Odessa, Tex.	5403
5792-P	Northern Petrochemicals Co., Des Plaines, Ill.	5792
5944-P	Dow Chemical Co., Midland, Mich.	5944
6267-P	Tesco, Marietta, Ga.....	6267
6299-P	Wolverine Gas Products, Inc., Saginaw, Mich.	6299
6602-P	Great Lakes Chemical Corp., El Dorado, Ark.	6602
6902-P	Michigan Chemical Corp., Chicago, Ill.	6902
6998-P	Flow Control Division, Raleigh, N.C.	6998
7052-P	Tadiran Industries, Tel Aviv, Israel.	7052
7423-P	Hart Metals, Inc., Pamaqua, Pa.	7423
7470-P	Hooker Chemicals & Plastics Corp., Niagara Falls, N.Y.	7470

[1] USCG.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on December 7, 1976.

C. H. THOMPSON,
Acting Director, Office of Hazardous Materials Operations.

[FR Doc.76-36466 Filed 12-15-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP76-10; Notice No. 2]

FLXIBLE CO.

Petition for Exemption From Notice and Recall for Inconsequential Noncompliance

This notice grants the petition of the Flxible Company of Delaware, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.205, Motor Vehicle Safety Standard No. 205, *Glazing Materials*, on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on September 23, 1976 (41 FR 41736), and an opportunity afforded for comment.

Flxible determined that certain plastic glazing material components used in passenger compartment side and rear windows, standee windows, and rear doors in approximately 500 buses were not marked AS4 or AS5 as Standard No. 205 requires, or were marked erroneously. Flxible provided NHTSA with a certificate by the glazing supplier attesting that the glazing materials otherwise comply with Standard No. 205. Even though the company sought to be excused from the formal notification and remedy requirements of the Act, it nevertheless will mark the glazing by having its field service representatives locate the buses and affix appropriate decals to it.

One comment was received on the petition, from the California Highway Patrol which supported it (though disapproving of the manufacturer's method of marking the glass).

The NHTSA accepts the certification by the glazing supplier that the materials meet all the performance requirements of Standard No. 205. Since marking is for identification purposes only and does not in itself contribute to occupant protection, it has been determined that the noncompliance is inconsequential as it relates to motor vehicle safety and the petition by Flxible Company is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on December 8, 1976.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.76-36933 Filed 12-15-76;8:45 am]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held January 12 and 13, 1977 at the DOT Headquarters Building, 400 Seventh Street, S.W., Washington, D.C.

The agenda for the meeting is as follows:

On January 12 at 8:30 a.m. in room 2230 there will be a general session to discuss pending resolutions of the Adjudication and Alcohol Subcommittee and to hear an update on a propose March Conference on Role of Sanctions & Role of Highway Safety Standards.

At 10:00 a.m. on January 12 in room 2230 the Adjudication and Alcohol Subcommittee will meet to hear a report on the American Judges Association's Las Vegas Program; a report on rural court site visits; a briefing on NHTSA DUI (driving under the influence) Rehabilitation Programs and Accomplishments and old and new business.

Also at 10:00 a.m. on January 12 in room 4234 the Highway Environment Subcommittee will meet to hear reports on visits to FHWA Division Safety Coordinators; review rail-highway grade crossing problems; review revisions of subcommittee resolutions and old and new business.

At 2:00 p.m. on January 12 in room 2230 the Driver Subcommittee will meet to hear briefings on in-depth curriculum review of Georgia demonstration projects on driver education; National Driver Register; review of April subcommittee resolutions and old and new business.

On January 13 at 8:30 a.m. in room 6200 the Vehicle Subcommittee will meet to hear briefings on motorized bicycle standard (Moped) and truck size and weight axle study. They will also discuss the national truck length and weight questions and the proposed subcommittee resolution and the safety implications of 1980 goals on commercial motor vehicles and old and new business.

At 11:30 a.m. the full Committee will meet in room 2230 to hear reports by subcommittees and any old or new business pending.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meetings. Any member of the public may present a written statement to he Committee at any time.

This meeting is subject to the approval of the Secretary of Transportation.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on: December 10, 1976.

WM. H. MARSH,
Executive Secretary.

[FR Doc.76-37029 Filed 12-15-76;8:45 am]

TRUCK AND BUS SAFETY SUBCOMMITTEES

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Truck and Bus Safety Subcommittees of the National Highway Safety Advisory Committee and the National Motor Vehicle Safety Advisory Council. The subcommittees will meet on January 11 from 10:30 a.m. to 5:00 p.m. in room 2230 of the DOT Headquarters Building, 400 Seventh Street, S.W., Washington, D.C.

The agenda will consist of briefings on all DOT in-house programs and proposals concerning standards, regulations and research, both current and future, which impact safety and are applicable to heavy trucks and buses.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meetings. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on December 10, 1976.

WM. H. MARSH,
Executive Secretary.

[FR Doc.76-37028 Filed 12-15-76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series—No. 33-76]

TREASURY NOTES SERIES U-1978

Offering of Securities

DECEMBER 13, 1976.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders for $3,000,000,000, or thereabouts, of securities of the United States, designated Treasury Notes of December 31, 1978, Series U-1978 (CUSIP No. 912827 GG 1). The securities will be sold at auction with bidding on the basis of yield, and with the interest rate and the price equivalent of each accepted bid to be determined as set forth below. Additional amounts of these securities may be issued to Government accounts and to Federal Reserve Banks for their own account in exchange for maturing Treasury securities being held by them, and to Federal Reserve Banks, as agents of foreign and international monetary authorities, for new cash only.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated December 31, 1976, and will bear interest from that date, payable on a semiannual basis on June 30 and December 31, 1977,

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and thereafter on June 30 and December 31 in each year until the principal amount becomes payable. They will mature December 31, 1978, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000 and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The securities will be subject to the general regulations of the Department of the Treasury governing United States securities, now or hereafter prescribed.

3. Sale Procedures

3. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Monday, December 20, 1976. Noncompetitive tenders, as defined below, will be considered timely if postmarked no later than Friday, December 17, 1976.

3. 2. Each tender must state the face amount of securities bid for, which must be $5,000 or a multiple thereof. Competitive tenders must show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3. 3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers, provided the names of the customers and the amount for each customer are furnished. Others will not be permitted to submit tenders except for their own account.

3. 4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States and political subdivisions or instrumentalities thereof; public pension and retirement and other public funds; international organizations in which the United States holds membership, foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3. 5. Immediately after the closing hour, tenders will be opened, following which public announcement will be made of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be determined at a ⅛ of one percent increment that translates into an average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of yield. Additional tenders received from Government accounts and Federal Reserve Banks will be accepted at the average price of accepted competitive tenders.

3. 6. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. Those submitting noncompetitive tenders will not be notified except when the tender is not accepted in full or when the price is over par.

4. Reservations

4. 1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when he deems it to be in the public interest, and his action in any such respect shall be final.

5. Payment and Delivery

5. 1. Except as otherwise stipulated, settlement for securities allotted hereunder must be made or completed on or before Friday, December 31, 1976, at the Federal Reserve Bank or Branch, or the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, December 28, 1976, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Monday, December 27, 1976, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Some Federal Reserve Banks and Branches and the Bureau of the Public Debt will be closed on December 31. Settlement for accepted tenders at those offices must be completed no later than Monday, January 3, 1977, with payment including three days' accrued interest unless settlement is made with Treasury securities maturing on or before December 31, 1976. If, however, settlement is completed by Thursday, December 30, 1976, there will be no accrued interest due.

5. 2. Payment will not be deemed to have been completed where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5. 3. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5. 4. Registered securities tendered as deposits and in payment for securities allotted hereunder are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. Specific instructions for the issuance and delivery of the new securities, signed by the owner or his authorized representative, must accompany the securities presented. Otherwise, the presented securities should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered herein) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered herein) to be delivered ot (name and address)." Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5. 5. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shal be exchangeable for the securities offered herein, when such securities are available, at any Federal Reserve Bank or Branch, or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5. 6. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established and the securities have been inscribed.

6. General Provisions

6. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6. 2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

William E. Simon,
Secretary of the Treasury.

[FR Doc.76-37069 Filed 12-14-76;12:00 pm]

VETERANS ADMINISTRATION

VETERANS EDUCATION

Policies and Procedures

Notice is hereby given of the publication of Veterans Administration policies and procedures concerning the provisions of Pub. L. 94-502 (90 Stat. 2383), including specific publications dealing with the 6-month normal completion time requirement for correspondence courses; 45 months of basic entitlement; period of operation of a course—two-year rule; prohibition of assignment of educational benefit payments; education loans; provisions of vocational rehabilitation program; so-called 85-15 rule; and termination of the program known as PREP.

In order to obtain the views of the public, interested persons are invited to submit written comments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 before January 14, 1977. The comments will be considered in drafting regulations to implement the provisions of Pub. L. 94-502 and any future revisions of publications published below. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any field station will be informed that records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that provisions of the policies and procedures are effective as indicated in the body of the basic circular set out below. The specific appendixes will be effective on the respective dates described in that basic portion. The material below is the contents of DVB Circular 20-76-84 and appendixes A through H of that circular. The numbering system used is that of the circular.

Approved: December 9, 1976.

R. L. Roudebush,
Administrator.

[DVB Circular 20-76-84]

Public Law 94-502, Veterans Education and Employment Assistance Act of 1976

October 15, 1976.

1. *General.* S. 969 was enacted as Public Law 94-502 on October 15, 1976. This law provides for an increase in educational assistance benefits for Chs. 31, 34 and 35; an extension of basic eligibility for veterans under Ch. 34 and for eligible dependents under Ch. 35; a new Ch. 32 benefit program and other changes in existing programs. The various provisions of this law are effective on several different dates. This circular has been arranged to show a breakdown of the provisions according to the effective dates.

2. *Provisions Effective October 1, 1976.*—a. *Rates.* Chs. 31, 34 and 35 benefits have been increased approximately 8 percent. The charge against entitlement for correspondence training will be at the rate of $292 per month. (Flight training remains unchanged at $270 per month). The new rates are shown in paragraph 9.

b. Other provisions effective October 1, 1976:

(1) Increases tutorial assistance to $65 per month and the maximum to $780.

(2) Increases education loan amount to $292 multiplied by number of months of remaining entitlement, and the maximum to $1,500 per year. Changes the rate of interest charged to be comparable to that imposed on loans under part B of title IV of the Higher Education Act of 1965. These changes apply to loans made on or after October 1, 1976.

(3) Increases maximum period of entitlement from 36 to 45 months for Ch. 34 and 35 and is not limited to pursuit of a standard undergraduate college degree. (See par. 8, below.) Note, there has not been any extension to the ten year delimiting date.

(4) The new law has several provisions affecting Ch. 35 periods of eligibility and ending dates. No special review will be made to identify cases affected by the following provisions; any necessary adjustments will be made whenever the cases are reviewed in the future. Note the new law does not permit extensions of entitlement beyond 45 months except those provided in VAR 13044(C).

(a) Permits extension of ending date of Ch. 35 benefits under conditions in 38 U.S.C. 1711(b) for 12 weeks or to the end of the course, whichever is less, for schools not operated on a quarter or semester system. No change has been made in the extension provisions already in existence for schools operated on a quarter or semester basis; these may still be extended to the end of the quarter or semester.

(b) Extends period of eligibility for children eligible for Ch. 35 benefits from 5 to 8 years after date of "first finds" or date of first discharge or release from active duty if the eligible person served on active duty between his/her 18th and 26th birthdays but not beyond the 31st birthday (VAR 13041 (D)).

(c) Permits extension of ending date for Ch. 35 beneficiaries to the end of the course or 12 weeks, whichever is less, for enrollment in a course not regularly operated on a term, quarter or semester basis and if eligibility period ends after a major portion of the course is completed; or to the end of the term, quarter or semester.

(d) Eliminates extension of ending date for Ch. 35 due to processing time delays.

(5) Allows the SAA to be reimbursed for work performed by subcontractors when the work has a direct relationship to Ch. 32, 34, 35 or 36 and has prior approval of the Administrator.

(6) Increases allowances for administrative expenses paid to State approving agencies by approximately 8 percent. The allowances range from $600 to $12,960 base. The administrative allowances for Fiscal Year 1977 will be computed on the basis of the following rate chart:

Total salary cost reimbursable	*Allowable for administrative expense*
$5,000 or less	$600.
Over $5,000 but not exceeding $10,000.	$1,060.
Over $10,000 but not exceeding $35,000.	$1,060 for the first $10,000 plus $1,000 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000.	$8,535.
Over $40,000 but not exceeding $75,000.	$8,535 for the first $40,000 plus $865 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$12,960.
Over $80,000	$12,960 for the first $80,000 plus $755 for each additional $5,000 or fraction thereof.

(7) Increases by $2 the reporting fee paid to educational institutions and joint apprenticeship committees. This adjustment will be made automatically by Hines DPC; however, if a station makes an out-of-system

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payment to a school, the increase must be added by the station prior to payment.

3. *Provisions Effective Date of Enactment.* a. Allows continued payment of educational benefits for periods between consecutive terms when transferring from one institution to another to pursue a similar course, provided period between the consecutive terms is less than 30 days. Such periods are to be counted as absences for courses not leading to a standard college degree. Payment for the interval will be made upon enrollment in the second school at the rate of payment in effect at the first school.

b. Allows continued payment of educational benefits for periods between semesters, terms or quarters when an institution certifies on an individual semester, term or quarter basis, provided the interval period is less than one full calendar month. Such periods are also counted as absences for courses.

c. Permits a work-study student to complete a work agreement even though the student ceases to attend school full time. If the student terminates training, the student may be permitted to work out only that portion for which he/she has received an advance. A new contract is not needed when the student drops below full time attendance.

d. Eliminates the Ch. 31 extended termination date cutoff (June 30, 1975 or 10 years after applicable termination date, whichever is later) for blinded and other seriously disabled veterans. Provides for training after the applicable termination date when it is determined that such training is needed to accomplish vocational rehabilitation.

e. Defines the terms "institution of higher learning" and "standard college degree". These definitions are basically the same as those presently in PG 21-1 and VA regulations. The provisions of VAR 14280 dealing with independent study have also been placed in statutory language.

f. Changes the title of Ch. 35 benefits as contained in title 38, United States Code, from "War Orphan's and Widows' Educational Assistance" to "Survivors' and Dependents' Educational Assistance."

g. Provides that an otherwise eligible person for Ch. 35 benefits may submit his/her own application if legal age has been attained.

h. Requires that the records and accounts of educational institutions pertaining to *all students* be made available to duly authorized representatives of the Government to ascertain compliance with Chs. 31, 32, 34 and 35.

i. Repeals the existing 38 U.S.C. sec. 1793 "Institutions listed by Attorney General." Substitutes a new 38 U.S.C sec. 1793 which defines standards and manpower requirements for annual compliance surveys. These standards of surveys to be made are basically the same as those contained in M22-2, part VII. The law requires one survey specialist for each 40 surveys to be conducted. The Area Field Director will notify stations regarding any modification in staffing and ceilings.

j. Requires a study of vocational objective programs with special attention directed towards the 50 percent employment criteria to be completed and submitted to the Congress and the President within 180 days after date of enactment.

k. Makes minor technical and gender changes throughout Chs. 31, 34, 35 and 36.

l. Establishes within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans Employment who shall advise the Secretary of Labor with regard to policy and procedure for DOL employment assistance and training programs as they affect veterans. Assigns responsibility to the Veterans Employment Service of DOL for promoting veterans' participation in CETA (Comprehensive Employment and Training Act) programs.

4. *Provisions effective November 1, 1976.* Terminates enrollments and reenrollments in PREP under Ch. 34 effective November 1, 1976. Inservice persons enrolled in and pursuing a PREP course prior to that date will be permitted to complete the current certified enrollment period, but no enrollments or reenrollments may be approved after that date. Stations will immediately notify all schools over which they have processing jurisdiction. (The following stations process Central Office approved PREP courses: Washington Regional Office, Manila, Honolulu, San Diego, Seattle, San Francisco, San Juan, Louisville, Nashville and Waco.) The notice will be sent by certified mail, return receipt requested, and must be received by the school prior to the effective date of this provision.

5. *Provisions effective December 1, 1976.* a. Prohibits payment of educational assistance or subsistence allowance for any program of training as follows:

(1) For auditing a course.

(2) When grade assigned is not used in computing graduation requirement (includes withdrawals except for mitigating circumstances).

(3) For a correspondence or combination correspondence-residence program if the correspondence portion is normally completed in less than 6 months.

b. Even though a beneficiary may designate the address of an attorney-in-fact as the payee's address for the purpose of receiving his or her benefit check, the power of attorney of the beneficiary may not operate to permit the attorney-in-fact to negotiate the check as this is considered an assignment and is prohibited. This prohibition also applies to benefit checks sent to a Post Office box or bank for deposit if the attorney-in-fact has access to the funds deposited.

c. Extends the requirement that no more than 85 percent of the students in a course may have all or part of their tuition or other charges paid to or for them by the school, VA, and/or by Federal grants to all courses except educationally disadvantaged, farm cooperative, and certain courses on or adjacent to military bases. The Administrator may waive these requirements if it is in the best interest of the eligible veteran and the Federal Government.

d. Reduces the number of clock hours required to be considered full-time training for institutional trade or technical courses not leading to a standard college degree approved under 38 U.S.C. 1775, from 30 to 27 per week, excluding supervised study (shop practice predominates) and from 25 to 22 per week, excluding supervised study (theoretical or classroom instruction predominates).

e. Requires as additional conditions for approval of a course under 38 U.S.C. 1775: copies of the school catalog certified as to content and policy by an authorized school official; such catalogs must specifically set out schools' standards of progress and conduct; and school must maintain adequate records to show satisfactory standards are enforced.

f. Applies the 2-year rule of operation to each course offered by branches or extensions of public or other tax supported institutions located outside the taxing jurisdiction of the parent school. It also applies the 2-year rule to each course offered by branches or extensions of proprietary institutions located beyond the normal commuting distance of the main campus. Approved courses offered by schools under contract with the DOD (Department of Defense) given on or adjacent to a military base which are available to inservice persons and dependents only do not come under the 2-year rule, but such courses must be approved by the SAA in the State where the base is located.

g. Require institutions offering approved courses to maintain a complete record of all advertising, sales and enrollment materials used during the preceding 12-month period.

h. Provides that progress will be considered unsatisfactory for programs of education or training under Ch. 34 or 35, except for mitigating circumstances, whenever a veteran or eligible person is not progressing at such a rate so as to graduate within the approved length of the course based on the training time as certified to the VA. Also specifies that the date of interruption or termination will be the last date of pursuit or, for correspondence training, the last date a lesson was serviced by the school.

i. Permits Ch. 31 participants to be trained in facilities of a Federal agency on an uncompensated basis and considers them as Federal employees only in regard to injuries on the job.

6. *Provisions effective January 1, 1977.* a. Eliminates Ch. 34 training for persons entering service after December 31, 1976 with limited exception for delayed entry program.

b. Provides a final cutoff date of December 31, 1989 for otherwise eligible persons to use Ch. 34 benefits.

c. *Chapter 32.* Establishes a new Ch. 32—"Post-Vietnam Veterans' Educational Assistance Act," which is voluntary contributory matching-program for persons entering service after December 31, 1976.

(1) The basic delimiting date is 10 years after the date of last release or discharge from active duty after January 1, 1977. Benefits will be accumulated by including contributions from the participating service-person and a matching fund from the VA at the rate of $2 for each $1 contributed by the participant. DOD may contribute an additional unspecified amount. The participant's contributions are limited to the range of $50 to $75 monthly and a total maximum of $2,700. Entitlement is limited to a maximum of 36 months or the number of months of participation, whichever is less. Participants may pursue PREP in the last 6 months of their first enlistment.

(2) The law also provides and/or defines for Ch. 32: Eligibility, contribution formula and refund provisions, administrative responsibilities and required reports. Aligns Ch. 32 with Ch. 34 concerning various sections of title 38 U.S.C. Detailed explanations and instructions will follow.

7. *Provisions effective June 1, 1977.* a. modifies advance pay provisions previously changed by Department of Housing and Urban Development—Independent Agencies Appropriation Act, FY 1977 (Pub. L. 94-376). Eliminates need determination for advance payment, but requires request from individual beneficiary and requires that the VA find the school agrees to and can comply with requirements of the law. Eliminates prepayment provisions.

b. Stations will be notified when modifications have been installed concerning these provisions.

8. *45 months' entitlement*—a. *Chapter 35.* The original net entitlement of all eligible persons under Ch. 35 is increased under this law from 36 to 45 months.

b. *Chapter 34.* Eligible persons under Ch. 34 are now entitled to 45 months of educational assistance allowance if they have served a period of 18 continuous months or more on active duty after January 31, 1955. Those who have not served on active duty for a period of at least 18 continuous months are entitled to educational assistance on the basis of one and one-half months of benefits for each month of creditable service, up to a maximum of 45 months. (Any previous extension beyond 36 months will be deducted prior to the extension to 45 months.)

NOTE.—The maximum aggregate entitlement to educational benefits under all laws administered by the VA remains 48 months. Therefore, the entitlement determined in accordance with the above, for either Ch. 34 or Ch. 35, is subject to reduction based on prior VA training under a different law.

c. *Effective date.* The 45 month entitlement provision of this law is effective October 1, 1976. Therefore, any additional entitlement afforded by this provision, beyond that previously established, can be used only for education or training pursued on or after October 1, 1976.

d. *Notification.* Individual notice will not be sent to those affected by the 45-month entitlement provision. The VA Information Service, however, will be preparing appropriate news releases to the media (including college campuses and veterans organizations) covering this provision. Stations should participate by forwarding this information, as soon as it becomes available, to schools and Vet Reps for prominent posting and/or other means of publication to those affected.

9. *Payment tables:*

a. NEW MONTHLY RATES - GI BILL

	NO DEPS.	1 DEP.	2 DEPS.	EACH ADD. DEP.
INSTITUTIONAL:				
FULL TIME	$ 292	$ 347	$ 396	$24
THREE-QUARTER TIME	219	260	297	18
HALF TIME	146	174	198	12
COOPERATIVE	235	276	313	18
APPRENTICESHIP/OJT:				
1ST 6 MONTHS	212	238	260	11
2ND 6 MONTHS	159	185	207	11
3RD 6 MONTHS	106	132	154	11
4TH AND ANY SUCCEEDING 6 MOS.	53	79	101	11
FARM COOPERATIVE:				
FULL TIME	235	276	313	18
THREE-QUARTER TIME	176	207	235	14
HALF TIME	118	138	157	9
ACTIVE DUTY, OR LESS THAN HALF TIME	TUITION COST, NOT TO EXCEED RATE OF $292 FOR FULL TIME. $219 FOR 3/4 TIME. $146 FOR 1/2 TIME OR LESS BUT MORE THAN 1/4 TIME, $73 FOR 1/4 TIME OR LESS.			
CORRESPONDENCE	ENTITLEMENT CHARGED AT RATE OF 1 MONTH FOR EACH $292 PAID.			
FLIGHT	ENTITLEMENT CHARGED AT RATE OF 1 MONTH FOR EACH $270 PAID.			

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b. NEW MONTHLY RATES - DEPENDENTS EDUCATIONAL ASSISTANCE PROGRAM

	FULL TIME	THREE-QUARTER	HALF-TIME
INSTITUTIONAL LESS THAN HALF TIME	$292	$219	$146
	TUITION COST, NOT TO EXCEED RATE OF $146 FOR FOR 1/2 TIME AND $73 FOR 1/4 TIME		
COOPERATIVE	$235	(FULL TIME ONLY)	
FARM COOPERATIVE	235	$176	$118
CORRESPONDENCE AND APP/OJT RATES - SAME AS SHOWN ON CHART 9a			

c. NEW MONTHLY RATES - VOCATIONAL REHABILITATION - CHAPTER 31

TYPE OF TRAINING		NO DEPS.	1 DEP.	2 DEPS.	EACH ADD. DEP.
INSTITUTIONAL	FULL TIME	$226	$280	$329	$24
	THREE-QUARTER TIME	170	210	247	18
	HALF TIME	113	140	165	12
SHELTERED WORKSHOP, TRAINING IN THE HOME, INDEPENDENT INSTRUCTOR (FULL TIME ONLY)		226	280	329	24
On-Farm, APPRENTICESHIP OR OTHER ON-THE-JOB TRAINING (FULL TIME ONLY)		197	238	275	18
COMBINATION (INST. AND OJT) (FULL TIME ONLY)					
INST. 1/2 TIME OR MORE		226	280	329	24
INST. LESS THAN 1/2 TIME		197	238	275	18
COOPERATIVE (FULL TIME ONLY)					
INST. FULL TIME		226	280	329	24
BUSINESS/INDUSTRY FULL TIME		197	238	275	18

10. Detailed instructions, where necessary, will follow in separate appendixes and circulars.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84]

APPENDIX A, REVISED—SIX-MONTH NORMAL COMPLETION TIME REQUIREMENT FOR CORRESPONDENCE COURSES—PUB. L. 94-502

NOVEMBER 12, 1976.

1. *Purpose.* This appendix provides instructions for implementing the 6-month normal completion time requirement of 38 U.S.C. 1780(a).

2. *General.* Pub. L. 94-502 amends 38 U.S.C. 1780(a), effective December 1, 1976, to provide that educational benefits may not be paid for pursuit of any correspondence course or correspondence portion of a combination course leading to a vocational objective if the normal period of time required to complete the correspondence course or correspondence portion is less than 6 months.

3. *Implementation.* Before benefits may be authorized for an enrollment period beginning on or after December 1, 1976, correspondence schools must certify to the Veterans Administration the normal completion time of each correspondence course or portion which is approved.

a. "Normal" completion time of 6 months means that 80 percent or more of the students completing the course over the past 2-year period required 6 months or longer to complete it. Completion time for a course is the span between the date a student was sent the first lesson and the date on which the last lesson was received by the school. Note that dates on which the school services lessons are not used to compute completion time, nor is the date the school issues its diploma or certificate. Delays due to payment or shipping problems must be excluded.

b. Education liaison representatives will immediately notify their respective SAA (State approving agency) and all correspondence schools within the jurisdiction of the regional office of the provisions of the law and all requirements of this appendix. The required certification of normal completion time for each course must be received by the SAA, reviewed and sent to the VA before December 1, 1976. Unless it is established that the normal completion time is 6 months or more, benefits will not be authorized for enrollments beginning on or after December 1, 1976.

(1) Before providing the certification, schools will be required to determine if each approved course meets the completion time criterion by computing the completion time for all students who completed the course during the 24 months preceding the date of certification. A school's certification must be based on actual records, and not on estimates. All completers, both veteran and nonveteran, must be considered. If a school has a course or courses for which the audit of actual records cannot be completed before December 1, 1976, and it can with certainty certify that 80 percent of its graduates over the past 2 years required 6 months or longer, it may send such a certification. If a school elects to make such a certification, it must follow it up within 60 days with a certificate of the actual percentage of its graduates over the past 2 years who required 6 months or longer to complete. If the actual percentage report which is subsequently received shows the percentage is less than 80 percent, all awards with commencing dates on or after December 1, 1976 will be terminated retroactively to the date of enrollment. School liability for the resulting overpayments will be considered under existing procedures on the basis of false certifications. If it is found that the school willfully submitted a false or misleading report; e.g., the school fails to submit an actual percentage report or a report is submitted which is substantially below 80 percent, a complete report will be made and referred to the district counsel for possible referral to the Attorney General of

the United States in accordance with VAR 14006.

(2) Applications for approval of new correspondence courses received on or after December 1, 1976, must include a certification of normal completion time. Until VA Form 22-8670, State Approving Agency Review Check Sheet (Correspondence Courses), is revised to include this item, inclusion of the required certification will be indicated under "Remarks."

(3) Applications for approval of correspondence courses as similar in character to a previously offered course (VAR 14251(C)) must also include the normal completion certification, even though it cannot be based on a 24-month history of students completing the course in these cases. The SAA and liaison representative must therefore examine the normal completion certification critically, comparing the normal completion length of the new course to that of the old course of alleged similar character. As a general rule, a course that is being considered as similar in character to another course previously offered should not be considered to require a longer period to complete than the course which was previously approved. As an alternative guideline for determining the validity of such a certification of normal completion time, the judgment should be made whether the course material reasonably requires an average of not less than 6 hours of preparation per week for at least 26 weeks, resulting in a 6-month requirement for course completion.

(4) No extensions of time for submission of the required certification shall be granted.

c. It must be emphasized to schools that this is a statutory requirement and normal completion times as certified for each approved course will be reviewed during SAA supervisory visits and VA compliance surveys.

(1) If it is later found that a certification of normal completion time which was accepted, is incorrect, and in fact normal completion time for a particular course is less than 6 months, the approval for that course will be withdrawn and all awards with a beginning date on or after December 1, 1976 terminated retroactively to the date of enrollment. School liability for the resulting overpayments should be considered under existing procedures on the basis of false certifications.

(2) If an SAA forwards a certification for normal completion time, but the regional office of jurisdiction has evidence from certifications of lessons completed, compliance survey reports, etc., that the certification is not accurate, it should not be accepted until a 100 percent audit of students completing the course within the applicable 24-month period is conducted for verification of the certification.

4. *Reports.* Beginning November 8, 1976, and each Monday through November 29, 1976, liaison representatives will notify Central Office (223B) by teletype of the names of those courses for which affirmative certifications or negative determinations were received during the previous week. On December 1, 1976, liaison representatives must teletype to Central Office (223B) a final report listing the names of all courses for which schools have failed to furnish required 6-month normal completion certifications. The final report should also include and identity all affirmative certifications and negative determinations which were not previously reported. The complete title of each course, the name of the school, and the school facility code must be included with each report. If a certification is received subsequent to transmission of the final report, the liaison representative should notify Central Office (223B) by teletype. RCS 22-20-S is assigned to the weekly reports and the final report of December 1, 1976. Do not enter the RCS report number on reports transmitted subsequent to the final report.

a. As notices are received, Central Office will inform all stations by teletype of the names of the courses which fail to meet the 6-month completion requirement. Stations will also be notified by teletype of the names of all courses for which enrollments will not be accepted because the certification was not received from the school. Once the final reports of December 1, 1976, are received, Central Office will send an all-station teletype which will summarize the previous teletypes and will list those courses not previously reported. No award will be prepared to authorize benefits for any enrollment beginning December 1, 1976, or later, for any course which has failed to meet the 6-month normal completition requirement or for any course for which the school has failed to furnish the required certification.

b. The liaison representative will maintain a control for each case where the school certified without actually checking records to assure that the actual percentage computation is properly certified. If the report from the school is not received by February 1, 1977, or if it fails to support the certificate that the course requires 6 months, Central Office (223B) will be notified. Central Office will then notify all stations by teletype to terminate benefits for any enrollment beginning on or after December 1, 1976 effective from the date of enrollment. Central Office will request VA Forms 20-8270a, Education Master Record—Audit Writeout, for all such courses. These forms will be sent to the office of jurisdiction for appropriate action to terminate payments.

c. Please note that enrollments effective before December 1, 1976 are not affected by the 6-month normal completion provision. Awards for all such enrollments will be continued until completion or interruption.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84]

APPENDIX B.—INCREASED EDUCATIONAL ALLOWANCE AND 45 MONTHS ENTITLEMENT

OCTOBER 22, 1976.

1. *Purpose.* This appendix provides procedural instructions for implementing Pub. L. 94-502 provisions increasing rates of educational assistance and subsistence allowance, and increasing maximum entitlement under 36 U.S.C., chapters 34 and 35 from 36 to 45 months.

2. *Adjustment of subsistence allowance (Chapter 31)*—a. *General.* (1) The increase in chapter 31 subsistence allowance provided by Pub. L. 94-502 will be effected automatically through the computer and adjustment checks issued for only those accounts in running award status. Terminated accounts and accounts with withholdings or apportionments, suspended accounts, on-farm, apprenticeship and other on-job training accounts, and accounts with intervening dependency changes cannot be adjusted automatically.

(2) Nonadjustment accounts will be identified for review by a listing and matching deck of punch cards for each field station (except the Manila Regional Office). The listing, furnished in triplicate and in claim number sequence, will contain the payee number, stub name, dependency code, and the reason for nonadjustment (e.g., Terminated; Suspended; Has Futures; Withholding or Apportioned; No Match in Table; No Address; Other).

b. *Regional Office Review and adjustment of awards.* (1) The deck of cards furnished field stations will be associated with the appropriate R&E folder, and routed to the Adjudication Division for further review and award action if in order. If an R&E folder has been transferred out, the corresponding card will be immediately forwarded to the Adjudication Officer at the office having the R&E folder for appropriate review and action.

(2) After reviewing the R&E folder with the listing, a VA Form 22-1907a, Authorization of Subsistence Allowance under Chapter 31, Title 38, U.S.C., will be prepared if a rate adjustment is in order, in accordance with existing procedure and the following:

(a) *Withholding or apportionment.* The increased subsistence allowance will be awarded to the veteran unless the application of VAR 10137 warrants otherwise.

(b) *Suspended.* The rate adjustment will be made, if in order, when award action is taken to lift the suspense.

(c) *No match in Table (Apprenticeship and Other On-Job Training).* If the rate of subsistence allowance being paid is the difference between the trainee wage and the journeyman wage, no adjustment will be required.

c. *Notice to Veterans.* A computer-generated award letter will not be issued with the adjustment check. However, veterans will be notified of the new subsistence rates by means of an insert to be included with each adjustment check issued. This notice will contain rate tables for the various types of training.

3. *Adjustment of Educational Allowances (Chapters 34 and 35)*—a. *General.* The increase in chapters 34 and 35 educational allowance provided by Pub. L. 94-502 will be effected automatically through the computer, where possible, and adjustment checks issued. This will be done for established awards by computer-generation of a 14G transaction for each account which can be adjusted, using reason code 37 for the first applicable award line (existing or computer-generated) on which the new rates are effective. Recycled awards for a period which spans the legislative effective date will be adjusted by generating an October 1, 1976 award line for the new rates.

b. *Adjustment Message.* Generally, neither a message nor a letter will be generated for those accounts automatically adjusted. However, when an award for an inservice student or student training less than half time is adjusted (i.e., old rate was the maximum payable under Pub. L. 93-602 and total charges support an increased rate under the new law), VA Form 20-8270a, Education Master Record—Audit Writeout, bearing message code 956, "ADJUSTED BASED ON TOTAL CHARGES," will issue for drop filing. This message will provide ready reference to the adjusted monthly rate for the award period (or portion thereof) to facilitate response to inquiries, etc.

c. *"Not Adjusted" Messages.* A VA Form 20-8270a will issue for each account in which automatic adjustment was not possible. The message codes and conditions for these audit writeouts are described below.

Message code	*Legend and explantion*
540---	"Recycled Award Purged—Review for Adj": Recycled awards for students, other than inservice students, training half time or more (institutional courses) will be adjusted automatically if possible. If an award cannot be adjusted in its entirety, it will be purged. Recycled awards for inservice and less than half-time students cannot be automatically adjusted and will be purged.

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729--- "Not Adjusted—in Suspense": Any account in a suspended status for a reason other than code 63, "Interrupted—Delinquent certification" will not be adjusted.

NOTE: Many of these messages will reflect no-rate dates prior to October 1, 1976, and some will be issued for correspondence courses. While these will require no legislative rate adjustment, nevertheless they must be carefully reviewed with the claims or DEA folders, and affirmative action must be taken in each case to clear the suspense.

939--- "Not Adjusted—Review Apportiones": Accounts in which the "Dependency This" field does not equal the "Dependency Total" field cannot be automatically adjusted.

951--- "Not Adjusted—First APP Line Does Not Compute": Although the dependency code for a chapter 34 veteran is not retained for prior award lines, increased rates can nevertheless be generated by matching the old rate (by type training and training time) to a corresponding new rate. If, however, the old rate does not equal a Pub. L. 93–508 or Pub. L. 93–602 rate, as appropriate, it will not be possible to match it to a new rate nor to adjust the retroactive period automatically.

952--- "Prior/Future Rate Not Adjusted": Since entitlement charge, rather than training time, is carried in prior award lines for deficiency courses ("D" type hours), automatic adjustment of such "priors" is not appropriate. Likewise, since the total charges field is not carried in prior award lines, it is not possible to automatically adjust a prior lump-sum award. This message will issue in either case. (Current and/or future award lines in these cases, nevertheless, will be adjusted when possible.) This message will also issue when any future rate cannot be matched to a PL 93–508 or PL 93–602 rate.

953--- "Not ADJ—MUL Rates Based on Total Charges": Accounts for in-service students and students training less than half time cannot be automatically adjusted if more than one rate or enrollment period is involved.

954--- "Not Adjusted—Inconsistent Payment Data": Automatic adjustment is inappropriate and cannot be made for those accounts containing: Inconsistencies between type of training, training time and cost (entitlement) codes; type of training I (Special Restorative) or X (invalid); or a "current" lump-sum award terminated by 09V transaction (monthly rate cannot be computed based upon total charges not prorated for the shortened enrollment period).

955--- "Not Adjusted—New Rates Less Than Current": New rate computed based on total charges is less than old rate.

960--- "Not Adjusted—Death Case": A terminated record will not be automatically adjusted if the payee is deceased (either death indicator is set or reason for termination is code 22).

d. Regional Office Review and Adjustment of Awards. All VA Forms 20–8270a issued for accounts which could not be adjusted automatically will be referred with the appropriate claims or DEA folders to the Adjudication Division for review and any necessary action. If a rate adjustment is in order, an award will be prepared using VA Form 22–1997S.

e. Correspondence Training. Since correspondence course payment is based solely on the cost of lessons completed and serviced by the school, no adjustment of award rate is necessary in such cases. Rather, the adjustment required is to the entitlement charged based on VA payment for lessons serviced on or after October 1, 1976.

(1) Program modifications have been installed to charge entitlement at the old rate of 1 month for each $270 paid if the commencing date of the certification period on which payment is based is prior to October 1, 1976. If the certification period begins on or after October 1, 1976, entitlement will be charged at the rate of 1 month for each $292 paid.

(2) Fortunately, October 1, 1976 marks the beginning of a new certification quarter for correspondence courses. Therefore, proper entitlement charge will be effected as a result of routine processing of the computer-generated VA Form 22–6553B, Certification of Lessons Completed. Care must be taken, however, when processing a 35C transaction via other than a computer-generated VA Form 22–6553 B to ensure that the certification period does not overlap legislative rates. If certification must be processed for lessons service both before and after October 1, 1976, submit two 35C transactions: The first, for those lessons completed prior to October 1; the second, for lessons serviced on or after October 1. Transmittal of these transactions must be controlled to ensure proper sequence processing.

f. Legislative Rate Coding. M22–2, part IV, chapter 4, paragraphs 4.16c and 4.19b(13) should be consulted regarding the necessity for intervening legislative rate change coding. Such instructions must be strictly followed when preparing awards for processing after the rate adjustment in order to avoid rejects and/or error message issuance.

NOTE.—Awards prepared on VA Form 22–1997S need not contain coding for an intervening legislative rate change, provided the award is for a veteran or chapter 35 eligible person training at half time or greater. In such case, the scan program will generate the award line, if appropriate.

g. Withholding or Apportionment. The increased educational assistance allowance will be awarded to the veteran unless the application of VAR 14140 warrants otherwise.

h. Notice to Veterans and Eligible Persons. A computer-generated award letter will not be issued as a result of adjustment processing. However, veterans and other eligible persons will be notified of the new educational assistance allowance rates for the various types of training via a check insert to be included with all payments issued cycle 9 November.

4. 45 Months Entitlement. a. Pub. L. 94–502 increases the maximum original net entitlement under 38 U.S.C., chapters 34 and 35, from 36 to 45 months. Existing master records affected by this increase will be automatically adjusted through the computer during cycle 9 November. At the same time, modifications will be installed to effect proper on-going systems original net entitlement computation based on the new 45 month's maximum.

b. *Master record adjustment.* (1) All chapter 35 master records will be automatically adjusted to reflect 45 months original net entitlement, subject, of course, to any appropriate reduction for prior VA training under the same or other laws.

(2) Chapter 34 master records on both the Active and Inactive Files will be automatically adjusted (subject to prior VA training reduction) as follows:

(a) When service consists of one period of 18 or more months; or multiple periods, one of which is 18 or more months (Additional Service Code 4), original net entitlements will be established as 45 months.

(b) In those cases not covered above, if service consists of multiple periods aggregating 25 or more months, original net entitlement will be extended beyond the previous 36 months, based on 1½ months of benefits for each month of service.

c. *OJT/Apprenticeship adjustment message.* Generally, due to the vast potential number of claimants affected, neither a computer-generated letter nor adjustment message will be issued as a result of the one-time entitlement conversion. However, in the case of certain adjusted OJT/Apprenticeship accounts, a VA Form 20–8270a bearing message code 982, "45 MO ADJ–REVIEW FOR AWD EXT (OJT/APP)," will be generated and sent to the regional office of record (routing to Adjudication) for review.

(1) 982 messages will be generated for each adjusted account in which current type training is G or K; original net entitlement (prior to adjustment) is exhausted; and the last no-rate date of record is on or after October 1, 1976.

(2) It is most probable that benefits were or will be terminated in many of the cases selected for the 982 message based solely on exhaustion of entitlement; that sufficient, current evidence is already of record upon which payment may be authorized beyond the existing termination date. Therefore, rather than requiring the claimant to initiate request for receipt of the additional training allowance permitted by his or her new original net entitlement, it is both feasible and appropriate that the VA take independent action to extend benefits in these cases. Accordingly, the Adjudication Division must review each 982 message issued and, if appropriate, authorize an amended award extending training allowance from the existing no-rate date to either the certified ending date of the course, the date on which new original net entitlement will be exhausted, or the delimiting date, whichever is earliest.

d. *On-Going Systems Computation.* (1) Effective cycle 1 November permanent modifications to the original net entitlement computation program will be installed, making such computation consistent with the new law entitlement provisions. The changed program will establish 45 months entitlement (subject to prior VA training) for all chapter 35 eligible persons; all eligible persons under chapter 34 who served on active duty for a period of at least 18 continuous months. Original net entitlement for other chapter 34 eligible persons will be computed on the basis of one and one half months entitlement for each month of service, up to the maximum 45 months.

(2) Maximum (45 months) entitlement now requires either 18 continuous months or more creditable active duty service, or multiple service periods aggregating at least 30 months creditable service (30 x 1.5=45). Therefore, to ensure appropriate systems computation when multiple service periods aggregate less than 30 months, but one period consists of at least 18 continuous months, Additional Service Code 4 must be input. If this is not done, entitlement will be erroneously computed at 1.5 times the months of creditable service and result in less than maximum entitlement being established.

(NOTE.—The "18–24 MOS" indicator on VA Form 22–1997S will continue to be used for input of Additional Service Code 4. Upon next form replenishment, the legend for this indicator field will be changed to "18–29 MOS."

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20–76–84]

APPENDIX C.—PERIOD OF OPERATION OF A COURSE—TWO-YEAR RULE

1. Purpose. This Appendix provides detailed instructions and procedures for implementing those provisions of Pub. L. 94–502 pertaining to the two-year rule.

General. Pub. L. 94–502 amends 38 U.S.C. 1789 by excepting certain courses from the two-year rule and by applying the rule to courses offered by certain branches and extensions previously excluded. These provisions are effective December 1, 1976.

3. New Exception. In addition to the five exceptions to the two-year rule listed under 38 U.S.C. 1789(b) and VAR 14251(A), a course offered by an institution under contract with DOD (Department of Defense) is also excepted: *Provided*, The following three conditions are met: *First*, the course is given on, or immediately adjacent to, a military base; *second*, the course is available only to active duty military personnel and/or their dependents; and *third*, the course is approved by the SAA (State approving agency) in the state where the base is located or, for degree courses offered overseas, by the SAA of jurisdiction over the parent institution. If the first or second condition is not met, the course must be offered continuously for two years before enrollments may be accepted. If the third condition is not met, the course cannot be approved by any other SAA, since all branches and extensions fall under the jurisdiction of the SAA in the state where they are located.

a. The term "immediately adjacent" to a military base refers to facilities that are clearly neighboring or in close proximity to the base so that it is easily accessible to active duty personnel. The location must be such that effective supervision by the military authorities is possible. Presumably, such facilities have been established off base because of a lack of onbase facilities.

b. For a course offered by a branch or extension to be approved by the SAA, the branch or extension must meet the following administrative criteria:

(1) Maintain sufficient records and files for VA purposes pertaining to students enrolled therein;

(2) Designate a named certifying official;

(3) Have the administrative capability to furnish all reports and certifications to the VA without resort to the parent school; and,

(4) Maintain a local mailing address.

NOTE.—In this regard, it is important to distinguish between additional facilities and branches and extensions. See M22–2, part VI, chapter 4, paragraph 4.02c, and PG 21–1 section M–26, for clarification of this distinction.

4. New Courses Affected. a. A course in operation for less than two years shall not be approved when offered by a branch or extension of the following institutions:

(1) Public or tax-supported institutions where the branch or extension is located outside of the area of the taxing jurisdiction which provides support to the parent institution; or

(2) Proprietary institutions (profit or nonprofit) where the branch or extension is located beyond the normal commuting distance of the main campus.

NOTE.—"Normal commuting distance" is interpreted to mean within the same general locality from which the main campus draws students. Normal commuting distance may vary with each institution depending on various factors, such as the geography of the area and the proximity of similar institutions. No firm guideline specifying exact mileage can be established, although a location more than 30 miles (48 kilometers) away from the main campus would ordinarily be considered beyond the normal commuting distance.

b. The two-year rule applies to the courses listed above, with *only* the following two exceptions:

(1) A FREP or SAED (Special Assistance for the Educationally Disadvantaged) course offered by a branch or extension of a proprietary nonprofit institution in operation for more than two years, or a public or other tax-supported institution, even though the branch or extension is located beyond the normal commuting distance of the main campus or area of taxing jurisdiction.

(2) A course offered by a branch or extension of an institution under contract with DOD as specified in paragraph 3 above.

5. Identification of New Courses Affected. a. The liaison representative will request from all the schools within the jurisdiction of the regional office a list of each school's branches and extensions. The list should include the names and addresses of all branches and extensions (in state and out of state) and the courses or curricula offered at each. The school will also be asked to certify to the period of operation of each course or curriculum at each location. The following certification should be used:

"It is hereby certified that the course (or curriculum), ----------, (Name of course) has been in continuous operation at ---------- from ---------- (Name of branch) (Date) to the present inclusive of reasonable vacation and holiday periods."

b. Courses offered by a branch or extension located on a military installation must now be approved by the SAA in the state where the branch or extension is located rather than in the state where the parent institution is located. Enrollments in courses offered at such branches may continue if, in addition to the certification required above, the school certifies that application for approval was made to the local SAA on or before December 1, 1976. If such a branch or extension does not meet the two-year requirement, certification to the following will be acceptable pending approval by the local SAA:

(1) The course is given on, or immediately adjacent to, a military base, and

(2) The course is available only to active duty military personnel and/or their dependents.

c. The schools should submit their lists and certifications before December 1, 1976; otherwise, no new enrollments will be processed for payment of benefits.

d. The schools will also be advised that, effective immediately, the name and address of the branch or extension must be shown on all enrollment certifications. If the enrollment is at the main campus, that fact must appear on the enrollment certification.

6. Referral to the SAA. a. The liaison representative will screen the lists of branches and extensions as they are received from the schools. In-state branches and extensions which may offer courses that must now meet the two-year requirement (as outlined in par. 4 above) will be referred to the SAA for verification of the schools' certifications. For out-of-state branches (including those on military installations), the information will be forwarded to the regional office where the branch or extension is located for referral to the SAA with jurisdiction over the branch location for approval or disapproval action.

b. Where out-of-state branches or extensions are encountered that were not previously identified, the following actions will also be taken (as outlined previously in DVB Circular 20–75–93, rescinded July 1, 1976):

(1) All information on the out-of-state branch or extension (including those on military installations) will be forwarded to the responsible liaison activity with jurisdiction over the area where the branch is located in order to request a new approval from the SAA.

(2) The SAA will initiate approval action and notify the liaison representative at the new office of jurisdiction of all subsequent approvals and denials. The SAA should provide the names and file numbers of all VA education beneficiaries currently enrolled, if obtainable from the branch or extension.

(3) If a course is approved, the liaison representative will process the approval material and establish a new facility code for the branch or extension. The list of names and file numbers will be forwarded to the original regional office of jurisdiction for transfer of folders. Upon transfer, an 02V correction to establish the new facility code must be input in each master record by the Adjudication activity in the receiving station.

(4) If a course approval is denied for reason(s) other than the two-year rule, running awards will be terminated in accordance with VAR 14135(J) at the original office of jurisdiction. (See par. 8b.) Cases that are terminated will not be transferred.

7. SAA Action. a. The appropriate SAA will be advised as to the date schools certified as the beginning date of each course for the purpose of meeting the two-year requirement at each branch or extension. The SAA will be requested to verify if the two-year period of operation is met or if one of the two exceptions in paragraph 4b applies. The approval should then be amended to show the basis for continued approval or, if appropriate, denial action should be taken.

b. The SAA will notify the liaison representative of the continued approval or denial action for each course.

8. Regional Office Control. a. The liaison representative will maintain a control on all courses referred to the SAA to ensure that notification of continued approval or denial is received.

b. If a course approval is denied because the two-year requirement is not met, the approval for that course will be withdrawn and all awards for new enrollments on or after December 1, 1976 will be terminated retroactively to that date. School liability for the resulting overpayments should be considered under existing procedures on the basis of false certification, if the school certified erroneously to the period of operation.

9. Enrollments. No new enrollments in a course at a branch or extension location with an effective date on or after December 1, 1976, may be approved if the school's certifications are not received or if the two-year requirement is not met. Students enrolled in and pursuing the course before that date will be permitted to complete their program provided they remain continuously enrolled. A break in enrollment due to extenuating circumstances, such as serious illness, will not be considered an interruption in the student's program. Students attending a school operated on a term basis will not be required to attend the summer term to be considered continuously enrolled. If approval of a course is denied or withdrawn for a reason other than the two-year rule, all awards must be terminated in accordance with VAR 14135(J).

10. Followup Reviews. On routine SAA supervisory visits and station compliance sur-

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veys, school records will be reviewed to verify the certifications made in accordance with this appendix. If the certifications are found to have been false or erroneous, termination action will be taken and school liability considered in accordance with paragraph 8b.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84]

APPENDIX D—PROHIBITION OF ASSIGNMENT OF EDUCATIONAL BENEFIT PAYMENTS (PUB. L. 94-502)

1. *Purpose.* This appendix provides instructions for implementing the provision of Pub. L. 94-502 which prohibits the assignment of educational benefit payments.

2. *General.* Pub. L. 94-502 amends 38 U.S.C. 3101(a) effective December 1, 1976, to prohibit the assignment of educational assistance checks through the practice of a payee designating the address of an attorney-in-fact (a school or school representative in this context) as the payee's mailing address, and also executing a power of attorney authorizing the attorney-in-fact to negotiate Veterans Administration educational benefit checks. No school may have authority to negotiate VA educational benefit checks or direct or indirect access to the proceeds of such checks through devices such as post office box addressees or sales offices of the school which serve as students' mailing addresses, or bank accounts jointly held with payees to which benefit checks are mailed. All educational benefit checks must be negotiated by the veteran or eligible person.

a. All correspondence schools must be informed that no enrollments or reenrollments will be processed on or after December 1, 1976, which show the school's address, or a post office box or sales office address of the school as the student's mailing address, since it is obvious that the student cannot be present at the school to receive checks. Such enrollment certifications will be returned to the student at the school address and no further action taken until a home address is provided for the student. All correspondence schools will also be notified that if a school address is shown as the student's mailing address on any currently running awards, the school must submit a certification that effective December 1, 1976, they will not accept a power of attorney to cash VA educational benefit checks, and they will not exercise check-negotiating authority under any power of attorney previously accepted.

b. All schools, other than correspondence schools, will be informed that no enrollments or reenrollments using the school's address or a post office box or sales office address of the school as the student's address will be processed on or after December 1, 1976, unless the school certifies that it holds no power of attorney to negotiate VA benefit checks and it does not have direct or indirect access to the proceeds of such checks other than by direct payment by the payee thereof.

(1) Each certification must be worded as follows and signed by the appropriate school certifying official: "This is to certify that, in accordance with Title 38 U.S.C. 3101(a), (*Name of School*) holds no power of attorney agreements authorizing the school to negotiate VA educational assistance checks, and neither (*Name of School*) nor any of its representatives has direct or indirect access to the proceeds of any such checks other than direct payment by the payee thereof."

(2) As these certifications are received they will be made part of the respective schools' approval folders and the liaison representative will notify the Finance and Adjudication Divisions that the power of attorney requirements of the law have been met, and enrollments, reenrollments, and certifications of attendance or lessons completed may be processed showing a school address.

(3) In cases (other than correspondence awards) processed after November 30, 1976, in which the school's address is shown as the payee's mailing address, and the school has not submitted the required certification regarding power of attorney arrangements, development will be necessary before processing any enrollments, reenrollments, or adjustments to running awards.

NOTE: No special review will be made to identify running awards with a school address. However, when these cases are encountered during normal claims processing and the school has not submitted the required certification, the award will be suspended and development undertaken.

(a) The claimant will be informed of the provisions of the law and requested to furnish either a current home mailing address or a signed statement that he or she has not executed a power of attorney authorizing the school to negotiate VA educational assistance checks and no arrangements have been made to provide the school or its representative direct or indirect access to the proceeds of such checks other than by direct payment by the payee thereof. The claimant will also be informed that no further action can be taken until the requested information is furnished.

(b) Similar development must be undertaken if the claimant indicates a post office box or bank address as his or her mailing address and the school has not submitted the required certification. The VA will not require an actual home address in these cases, but the signed certification provided award action can be processed.

3. It must be made clear to schools that compliance with this provision of the law will be checked during future compliance surveys. Spot checks may also be made to verify the signatures on negotiated checks. If it is found that a school held a power of attorney and negotiated VA checks or otherwise had access to the proceeds of such checks other than by direct payment by the payee thereof after having certified that it did not, payments (for those beneficiaries involved) for attendance at the school and further enrollments in the school will be suspended under VAR 14134 and the matter will be referred to the Station Committee on Educational Allowances to consider withdrawal of the school's approval. In addition, overpayments may be established and school liability assessed on the basis of false certifications.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84]

APPENDIX E—EDUCATION LOANS

NOVEMBER 16, 1976.

1. *Purpose.* This appendix provides instructions for implementing the provision of Pub. L. 94-502 which increased the education loan amount effective October 1, 1976.

2. *General.* Pub. L. 94-502 increased the amount a veteran or eligible person may borrow not to exceed $292 multiplied by the months of remaining entitlement at the beginning of the academic year or other period to which the loan is to apply. The loan amount may not exceed $1,500 in any one regular academic year.

3. *Implementation.* The following instructions apply:

a. The loan amount will be rounded to the nearest $10 amount; e.g., if the approved loan amount is $495, this amount will be rounded to $500. Additionally, loan amounts are subject to the following limitations:

(1) Courses organized on a term basis.

Period:	*Maximum*
Academic year[1]	$1,500
Semester	750
Quarter or summer session[2]	500
Academic year plus summer session	2,000
Semester plus summer session	1,250
Quarter plus summer session	1,000

[1] "Academic year" means the 9-month period, usually from August or September to May or June, which includes generally two semesters or three quarters.

[2] "Summer session" means a designated summer term of at least 10 weeks' duration.

(2) Courses not organized on a term basis.

Length of course (mos).	*Maximum loan*
6 through 8	$1,000
9 through 11	1,500
12	2,000

b. The interest rate is changed to 7 percent. For all loans paid since October 1, 1976, the borrower will be notified in writing that the interest rate of 8 percent shown on the promissory note (VA Form 22-8726) is changed to 7 percent. Copies of this letter will be filed with the original promissory note in the Finance activity and with the copy in the claims or DEA folder.

c. If a loan request is being considered and the promissory note has not yet been released, the maximum loan amount (item 7, VA Form 22-8727, Education Loan Worksheet) will be adjusted, if appropriate, based on the new increased maximum allowable. In addition, the amount entered in the approved loan amount (item 8, VA Form 22-8727) may be more than that requested by the applicant. The promissory note will be completed reflecting loan amount as approved.

d. If the promissory note has been released but has not yet been returned, the following procedures will control. Upon the return of the promissory note, the Finance activity will process the promissory note for payment. In addition, if the original loan amount was the old maximum for the period involved (see M22-2, pt. IV, ch. 14, par. 14.04), the Finance activity will refer the case to the Adjudication Division for a reconsideration of the loan amount. If it is determined, based on evidence of record, that an additional amount is payable, a promissory note will be sent to the claimant showing only the additional amount and an explanation of the reconsideration under Pub. L. 94-502.

e. The following considerations will be given to loans paid since October 1, 1976, but prior to receiving these instructions. If the veteran or eligible person specifically requests in writing that consideration for a higher loan amount be given now, such requests will be reconsidered based on evidence of record only if the original loan amount was the maximum for the period involved. If the reconsideration results in a favorable decision, a new promissory note for only the additional amount will be sent to the claimant for completion before the additional amount can be paid. No general review of cases in these circumstances will be made, nor will solicitation be made when cases are discovered in routine processing.

f. For education loans paid before October 1, 1976, in which the period of time the loan was based ends before October 1, 1976, no reconsideration for an increased loan amount may be made. For those loans paid before October 1, 1976, in which the period of time the loan was based ends October 1, 1976 or later, reconsideration of the loan amount may be made only when requested in writing by the veteran or eligible person. Such requests will be reconsidered based on evidence of record only if the original loan amount was the maximum for the period involved. When the reconsideration results in a favorable decision, a new promissory note for only the additional amount to be paid will be sent to the claimant for completion. This may result in two notes, each with different interest rates and possibly different amounts for the same period; however, this is appropriate.

4. Until modifications can be made to VA Forms 22-8725, Application for Education Loan, and 22-8727, these forms will be modified by hand before they are sent to a claimant (22-8725) or when used in loan processing (22-8727). For VA Form 22-8725, items 1C and 4 of the instruction sheet must be modified. For VA Form 22-8727, items 7C and 7D must be modified.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84]

APPENDIX F—PUB. L. 94-502 PROVISIONS AFFECTING CHAPTER 31 PROGRAM

NOVEMBER 16, 1976.

1. *Purpose.* This appendix provides instructions for implementing those provisions of PL 94-502 pertaining to the extension of eligibility for seriously disabled veterans and chapter 31 training in Federal agencies.

2. *Extension of eligibility for seriously disabled veterans.* Title 38, U.S.C., section 1503 (c), was amended by Pub. L. 94-502, effective October 15, 1976, by striking out "but not beyond ten years after such termination date, or June 30, 1975, whichever date is the later" and inserting in lieu thereof "when such action is determined by the Administrator to be necessary for such veteran based upon such veteran's disability and need for vocational rehabilitation". This means that veterans who are seriously disabled as a result of disability incurred in service on or after September 16, 1940, and who are found to be in need of training to overcome the handicap of such disability may be provided the training necessary to accomplish vocational rehabilitation in a suitable occupation (M22-1, pt. I, ch. 5, pars. 5.01 and 5.02, and VAR 10701) after the termination date that would be applicable if the veteran were not seriously disabled, regardless of how much time has elapsed since that termination date.

a. *Identifying veterans affected by the extension.* Each station will make every effort practicable to identify those seriously disabled veterans who have been precluded or discontinued from chapter 31 training because of the previously applicable limit to extension because of serious disability. Groups to be identified include:

(1) Those seriously disabled veterans currently in training whose extended termination date will arrive before training is completed.

(2) Those seriously disabled veterans discontinued from chapter 31 training as of June 30, 1975 or subsequent to that date because their extended termination date had been reached.

(3) Those veterans rated 30 percent or more who applied for chapter 31 training after March 31, 1975, who were disallowed because the extended termination date under VAR 10041(F) was past or there was insufficient time remaining before such date to provide at least 3 months' training benefits.

b. *Notifying Veterans.* Veterans so identified will be contacted and informed of the change in the law and those who desire consideration for further Veterans Administration training will be scheduled for counseling and provided benefits as warranted. If the veteran is in training under the State-Federal rehabilitation program, plans for VA training should be coordinated with the State vocational rehabilitation counselor.

c. *Basic considerations.* It is relevant to call attention to the fact that the veterans to whom the change in the law applied include some veterans who are at a stage of life where there may be limited prospect of restoring employability through training. In each case, it is essential to consider whether there is basis for reasonable expectation that the provision of vocational rehabilitation training will, in fact, restore employability since it is only for such purpose that vocational rehabilitation training may be authorized. (Title 38, U.S.C., sec. 1501, and VAR 10701(C))

d. *Referral to C&R by adjudication.* Vocational rehabilitation applications received from veterans with 30 percent or higher disability compensation rating will now be referred by Adjudication to C&R, if otherwise eligible, regardless of termination date.

3. *Chapter 31 Training in Federal Agencies.* Procedures for providing unpaid training or work experience in Federal agencies as a part or all of a veteran's program of vocational rehabilitation are in process of development with the Civil Service Commission and will be provided stations as soon as possible.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84]

APPENDIX G—TERMINATION OF CHAPTER 34 PREP (PL 94-502)

NOVEMBER 17, 1976.

1. *Purpose.* This appendix provides instructions for implementing the Pub. L. 94-502 provision terminating chapter 34 eligibility for course pursuit under PREP (Predischarge Education Program).

2. *General.* a. Pub. L. 94-502 amends 38 U.S.C. 1696, providing that no serviceperson shall be permitted to enroll or reenroll in any PREP course after October 31, 1976; therefore, no educational assistance allowance shall be authorized for such enrollments. The effect of this provision is to terminate PREP eligibility under chapter 34, though existing PREP awards for *individual* subjects commenced prior to November 1, 1976, shall be allowed to run to completion.

NOTE.—Any enrollment certifications for such PREP course enrollments as commence prior to November 1, 1976, regardless of when received, shall continue to be processed in accordance with existing instructions.

b. Effective with enrollments after October 31, 1976, chapter 34 inservice students may receive educational assistance allowance for pursuit of approved non-PREP courses at the secondary level leading to a high school diploma or noncredit deficiency courses under VAR 14272(F), but only with an accompanying charge against entitlement. As to the latter type courses (whether they be termed deficiency, remedial, or refresher), no benefits shall be authorized to an inservice student for their pursuit without evidence that completion of such courses is specifically required by the school for that particular individual, to meet certain post-secondary program scholastic or entrance requirements. No foreign training may be approved unless it leads to a standard college degree and is offered by an approved educational institution of higher learning.

3. *Authorization Procedure.* a. Systems programs already provide for charging an inservice student entitlement for pursuit of high school type training (type "F") when the special eligibility indicator in the master record is other than code 5 (PREP). Therefore, no delay is necessary in processing award authorizations for non-PREP-approved high school enrollments commencing on or after November 1, 1976. The adjudicator or education claims clerk need only ensure that any current or pending special eligibility indicator code 5 in the master record is eliminated prior to award processing.

(1) In most cases, new C/E (Certificate of Eligibility) data to update the facility and/or program of education will have to be input with the award. When VA Form 22-1997S, Education Award Code Sheet, is used, checking the appropriate C/E data block and leaving the PREP indicator blank will remove the special eligibility code 5. When flexotype (SYCOR) is used, it must be ensured that special eligibility code 0 (or other appropriate code, not 5) is input as part of the 03C Transaction to accomplish the desired result.

(2) In other cases, such as when the inservice student transfers from a PREP-approved high school program to a non-PREP-approved high school program at the same school, complete new C/E data input, though otherwise not required, nevertheless should be processed as provided above to ensure that the special eligibility indicator is properly updated. As an alternative procedure, an 02V correction transaction to the pending special eligibility field may be processed prior to the award action (input code 0 to Field Identification No. 436). Such correction, however, can only be input via flexotype (SYCOR), since PREP indicator coding on VA Form 22-1997S (without C/E data action coding) will result in 02V Transaction processing to the "current" special eligibility indicator (Field Identification No. 385). This would cause an erroneous recomputation of entitlement for the last rate period of record.

b. As is the case with high school pursuit, no systems modification is required to properly implement charging an inservice student entitlement for noncredit deficiency course pursuit commencing after October 31, 1976. The adjudicator or education claims clerk need simply prepare the award in the usual manner, showing "D" type hours, but enter an entitlement charge in all such cases comparable to training time, based on the total number of hours, credit and noncredit, for which the student is enrolled.

4. *Prospective Processing Modification.* Stations will be further advised concerning the installation of systems edits planned to prevent erroneous PREP award authorization for enrollments after October 31, 1976. Notice will also be provided, if necessary, regarding any changes to be made to the facility file. Separate instructions for PREP processing based on chapter 32 eligibility will be issued at an appropriate future date.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84]

APPENDIX H—EXTENDED 85-15 PERCENT RATIO REQUIREMENTS

NOVEMBER 22, 1976.

1. *Purpose.* This appendix provides instructions for implementing the provision of Pub. L. 94-502 which extends the 85-15 percent ratio requirements to additional types of courses and specifies additional types of financial support which must be computed into the 85 percent portion of the ratio. This appendix also explains the conditions under which the Administrator may waive the requirements because it is determined to be in the best interest of the veteran and the Federal Government.

2. *General.* Pub. L. 94-502 amends title 38 U.S.C. 1673(d) to provide that, effective December 1, 1976, the enrollment of an eligible

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veteran (not already enrolled) may not be approved in any course for a period during which more than 85 percent of the students enrolled are having all or part of their tuition, fees, or other charges paid to or for them by the school, the Veterans Administration, and/or by grants from any Federal agency. Specifically excepted from computing 85–15 percent ratios are special assistance payments for the educationally disadvantaged (under subchapter V of chapter 34), farm cooperative courses, and courses offered under contract with the Department of Defense on or immediately adjacent to a military base and which are available only to active-duty military personnel and their dependents if approved by the SAA (State approving agency) in the State where the base is located. In the case of a military installation located outside of the United States, approval will be by the SAA in the State where the parent school is located. As noted in paragraph 1, certain requirements can and will be waived by the Administrator. The new law extends the 85–15 percent ratio requirement to degree-granting institutions, and the requirement now applies to both proprietary profit, proprietary nonprofit institutions and public and other tax-supported schools. In addition, students receiving grants from all Federal agencies other than the VA, with certain exceptions as explained below, must now be counted in the 85 percent portion of the ratio.

3. *Identification of Affected Courses.* An 85–15 percent ratio must be computed for each course of study or curriculum leading to a separate approved educational or vocational objective. Computations will not be made for unit subjects, unless only one unit subject is approved by the SAA to be offered at a separate branch or extension of a school. Courses or curricula which are offered at separately approved branches or extensions must have an 85–15 percent ratio computed separately from the same course offered at the parent institution; the student figures from the branch may not be added to those of the parent institution even for the same courses or curricula. Courses or curricula offered at an additional facility, as opposed to a branch or extension, must be added for 85–15 percent computation purposes to the same course at the parent institution. Pursuit of a course or curriculum that varies in any way, although it may have the same designation as another curriculum, will require a separate 85–15 percent computation. A course or curriculum will be considered to vary from another if there are different attendance requirements (e.g., night vs. day schedules), required unit subjects are different, required completion length is different, etc.

a. Separate courses for computation purposes in IHL's (Institution of Higher Learning) will be determined by general or specific curriculum:

(1) In 2-year IHL's, general curricula such as AA (Associate of Arts) or AS (Associate of Science) degrees with no major specified will require separate computations. Specific curricula for associate degrees will require separate computation for each curriculum. Terminal 2-year courses (i.e., AAS (Associate of Applied Science) Dental Technology, Auto Mechanics Certificate) must be computed separately for each objective.

(2) Students attending 4-year IHL's and graduate schools may be counted in general curricula such as BA (Bachelor of Arts) and BS (Bachelor of Science) only until the normal point at which the student must declare a major subject at the particular school. Then the 85–15 percent computation must be made for each specific curriculum; i.e., BS (Bachelor of Science) in Electrical Engineering, MA (Master of Arts) in English, etc. The rules mentioned above regarding branches and extensions must be applied strictly to yield accurate computations and correct approvals.

b. NCD (noncollege degree) courses must be computed separately by approved vocational objective. If several curricula lead to the same coded vocational objective, each must meet the 85–15 percent requirement separately, unless it can be shown that two or more courses are identical in all respects (scheduling, hours devoted to each unit subject, etc.). Once again, branch or extension courses will be computed as separate courses or curricula. Courses offered on full- and part-time basis which are identical in length and content will be combined for computing the ratio.

4. *Waivers.* The following waivers for 85–15 percent computation have been determined by the Administrator to be in the best interest of veterans and the Federal Government, and authority to apply them is hereby delegated to all station Directors:

a. Graduate Students; waive counting all Federal assistance (other than VA benefits) and all support from the institution. No specific application for this waiver is required from the school.

b. Undergraduate and NCD Students;

(1) Waive counting all assistance provided by an institution, if the institutional policy for determining the recipients of such aid is equal with respect to veterans and nonveterans alike. An application to the appropriate station Director will be required for this type of waiver. It must state the basis for requesting a waiver and include the estimated separate percentages of students that will be receiving VA support, other Federal assistance, and school assistance.

(2) Waive computation of the 85–15 percent ratio for any course offered by an IHL or NCD if 35 percent or fewer of the students *in the course* receive VA educational benefits, and the percentage of VA-supported students in the course plus the percentage of the school's total enrollment receiving BEOG (Basic Educational Opportunity Grants) or SEOG (Supplementary Educational Opportunity Grants) totals 85 percent or less. For example, if a school finds that 29 percent of the enrollees in a business AA degree curriculum receive VA payments and 52 percent of the school's total enrollment receives BEOG or SEOG support, the total of the percentages (81 percent) qualifies that business AA degree for a waiver of any further 85–15 percent ratio computation. Satisfactory compliance with the 85–15 percent requirement is assumed when the above conditions are fulfilled. If the total of the two percentages exceeds 85 percent, the ratio must be computed for that course with BEOG and SEOG recipients included in the 85 percent portion of the ratio.

(a) When more than 35 percent of the enrollment in a course receives VA assistance, the ratio must be computed for that course with BEOG and SEOG recipients included in the 85 percent portion of the ratio.

(b) This count of VA-supported students and BEOG or SEOG recipients must be completed within 30 days of the beginning of each regular academic term (summer sessions excluded) for application to the next term for the purpose of waiving computation of an 85–15 percent ratio for each affected course. For schools not operating on a term basis, counts must be completed within 30 days of the end of each calendar quarter (March, June, September, December). If this count is not submitted for a course which previously had its ratio computation waived, a complete computation will be required before any new enrollments of eligible veterans may be processed for that course.

(3) Waive counting all forms of Federal assistance other than BEOG and SEOG. Specific examples of this type of waiver are benefits administered by the Social Security Administration, Federal grants supporting specific programs such as law enforcement (LEEP, Safe Cities Act grants), nursing, etc., Government Employee Training Act support, and tuition paid by an Armed Service to active-duty personnel. No specific application is required for this waiver.

(4) Waiver for all so-called military aero clubs which were previously exempt from 85–15 percent requirements under VAR 14202(C)(3). No specific application is required for this waiver.

(5) Waiver for courses open only to military personnel, their dependents, and civilian employees of a military installation when the course is offered on or adjacent to the base under contract with the Department of Defense and the branch or extension is approved by the SAA in the State where the military installation is located. In the case of foreign military installations, approval will be by the SAA in the State where the parent school is located. This waiver is an expansion of the statutory exclusion explained in paragraph 2 above. If the course is offered to other students, the 85–15 percent ratio requirement must be met. An application will be required for this waiver showing the percentages of military personnel, dependents, and civilian employees enrolled in each course.

c. All applications for partial waiver of 85–15 percent requirements under the above criteria will be made by schools to Directors of the respective stations of jurisdiction. If a school disagrees with a Director's determination concerning a partial waiver, it may request that the application along with the Director's recommendation be forwarded to Central Office (224C) for administrative review.

d. Schools which offer courses not meeting the 85–15 percent requirement for any reason may apply to the appropriate station Director for a total waiver to the requirements.

NOTE.—No waiver may be granted under any circumstances for a course in which the percentage of veterans enrolled exceeds 85 percent.

The school must state the specific basis of the total waiver request, show the computation of the ratio for the affected course, and submit sufficient information to allow the Director to judge the merits of the request against the criteria shown below. The Director should use all VA sources as well as school-submitted data and statements when considering a total waiver request in relation to these criteria.

(1) Availability of comparable alternative educational facilities effectively open to veterans in the vicinity of the school requesting a waiver.

(2) Status of the school requesting a waiver as a developing institution primarily serving a disadvantaged population. The school should enclose a copy of the notification of developing status from the Office of Education, if applicable. Otherwise, the school should submit data sufficient to allow the Director to judge whether the school is similar to officially classified developing institutions, according to the criteria and data categories published in Part 169, Subpart B, Title 45, Code of Federal Regulations. The requirement that a school be a "Public or Nonprofit" institution need not be met.

(3) Previous compliance history of the school, including such factors as false or deceptive advertising complaints, enrollment certification timeliness and accuracy, and amount of school liability indebtedness to the VA.

(4) General effectiveness of the school's program in providing educational and employment opportunities to the particular veteran population it serves. Factors to be considered should include percentage of veteran students completing the first year of the course of study and completing the entire course, results of the 50 percent employment survey for vocational objective courses, ratio of educational and general expenditures to full-time equivalency enrollment, etc.

(5) If a school does not agree with a Director's determination concerning a total 85–15 percent waiver, it may request that the application along with the Director's findings and recommendation be forwarded to Central Office (224C) for administrative review.

c. All waivers of 85–15 percent requirements, whether partial or total and whether granted by a station Director under delegated authority or by Central Office decision, will be made part of the school approval folder and will be subject to annual review for continuation.

5. *Countable Assistance for 85–15 percent Computations.* In conjunction with the delegated waivers provided for in the preceding paragraph, the following types of assistance must be counted for determining compliance with 85–15 percent requirements.

a. Accredited graduate and advanced professional courses; count all VA assistance (chapters 31, 32, 34 and 35), except for courses offered on or adjacent to a military installation as explained in paragraph 2.

b. All other courses:

(1) Count all VA assistance except farm cooperative, assistance under subchapter V of chapter 34, and courses offered on or adjacent to a military base open to only active-duty personnel and their dependents (and civilian employees of the base, if waived by the Station Director).

(2) Count BEOG and SEOG as federal assistance, unless computation for a course is waived by the station Director (see par. 4b (2)) under delegated authority or waived by Central Office.

(3) Count all support offered by the institution, unless waived by the Station Director or Central Office.

6. *Computation of 85–15 percent Ratio.* To determine if this requirement has been met, the number of students in a course who are not veterans, are not receiving a form of federal or institutional aid (exclusive of waivers and statutory exemptions), or are receiving a form of aid which has been waived, will be compared to the total number of students enrolled in the course. If the non-VA, nonsupported students (unless waived) do not comprise at least 15 percent of the total enrollment, the 85–15 percent requirement has not been met for that course.

a. If all students in a course are full-time trainees, the ratio is computed simply by dividing non-VA, nonsupported students by total students; e.g., 20 non-VA, nonsupported students divided by 100 total students equals .20; the 15 percent requirement would be met in this case.

b. Ratios which include less than full-time students may be computed by comparing full-time equivalent non-VA, nonsupported students to the total number of full-time equivalent students. For example, assume that there are 100 students enrolled in a particular course of study; 75 are full-time students and 25 are half time. The total full-time equivalency enrollment would be 75 plus 12.5 or 87.5. Similarly, if 20 non-VA, nonsupported students are full-time trainees and five are half-time students, the non-VA, nonsupported full-time equivalency would be 20 plus 2.5 or 22.5. The ratio is computed by dividing non-VA, nonsupported equivalencies by total full-time equivalencies: 22.5 divided by 87.5 equals .26. In this example the 15 percent non-VA requirement would be fulfilled.

7. *Certifications of 85–15 Percent Compliance.* The requirements of the new law make it necessary to institute new procedures for school certification of compliance with the 85–15 percent requirements. Results of the ratio computation for each affected course must be submitted to the appropriate regional office no later than 30 days after the beginning of each regular school term (excluding summer sessions), or no later than 30 days after the end of each calendar quarter for schools not operating on a term basis.

a. New enrollments of eligible veterans in each term will be processed based on submission of a satisfactory 85–15 percent certification during the preceding term. If the computation for the current term (required above) then shows that the 85 percent limitation has been exceeded, processing of new enrollments of veterans will be discontinued immediately. Such new enrollments may be processed once again only after the school submits a certification showing that the proper ratio has been reestablished. When a school shows a reestablished 85–15 percent ratio, each new veteran enrollment submitted after reestablishment must be individually computed into the ratio to ensure that the 85 percent limitation is not again immediately exceeded.

b. Certifications of compliance with 85–15 percent requirements must be based on actual computations accomplished for each course beginning on or after December 1, 1976. Schools which are unable to complete computations for certain courses by that date due to difficulty in obtaining data concerning sources of student financial support may, nevertheless, continue to submit new veteran enrollments provided officials are certain that the courses will meet the requirement when computations are complete.

(1) Schools operating under this interim procedure must notify the appropriate liaison representative of each separate course which is being certified without actual computation of the ratio. The liaison representative will allow the school an additional 60 days beyond December 1, 1976, to provide notification that each course has met 85–15 percent requirements based on actual computations. At this time, the liaison representative will emphasize to the school that if the computation and certification of the 85–15 percent ratio is not received within 60 days after December 1, 1976, no further extension will be granted, and no further new enrollments of veterans will be processed for the course until the school computes and certifies the 85–15 percent ratio.

(2) Schools will maintain the records and computations showing 85–15 percent compliance for each course for a period of 3 years after the date the computation is accomplished.

c. Once a student is properly enrolled in a course either before December 1, 1976, or enrolls after November 30, 1976 in a course which meets the 85–15 percent requirement, such a student may not have benefits for that course terminated because the 85–15 percent requirement is subsequently not met, as long as the student's enrollment remains continuous. A student enrolled in an institution organized on a term basis need not attend summer sessions in order to maintain continuous enrollment. An enrollment may also be considered continuous if a "break" in enrollment is wholly due to circumstances beyond the student's control such as serious illness.

d. Compliance surveys performed after December 1, 1976 will include verification of 85–15 percent compliance under the criteria in this appendix for new enrollments effective on or after December 1, 1976. Item 10 on VA Forms 22–1936 and 22–1936A, Compliance Survey Worksheet for Students Pursuing Training Under Chapter 34 or 35, must be altered to delete the words "proprietary noncollege degree." Revision of these forms will be accomplished soon in accordance with the new provisions of PL 94–502.

8. *85–15 Percent Statement on Enrollment Certifications.* The new law renders the 85–15 percent ratio certifications on VA Forms 22–1999 and 22–1999–1 obsolete. Nevertheless, all enrollments in courses affected by 85–15 percent requirements effective on or after December 1, 1976 must be accompanied by a proper certification.

a. The VA will issue revised enrollment certification forms for use with all new enrollments showing a beginning date on or after December 1, 1976.

b. Until the revised enrollment documents become available, institutional certifying officials must use interim measures to show compliance with the law. The 85–15 percent certification statement currently shown on enrollment documents must be deleted and a signed certification worded as follows attached to each document certifying a new enrollment covering a period beginning on or after December 1, 1976: "It is hereby certified that for enrollments under chapter 34, on the date training began or the first lesson was sent to the student, not more than 85 percent of the students enrolled in the course, including this student, are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, the Veterans Administration under title 38 U.S.C., and/or by grants from any federal agency, unless such payments have been waived by the VA for purposes of this requirement. (Note: This provision does not apply to persons pursuing courses under 38 U.S.C. 1691, farm cooperative courses, or courses offered on military bases solely for military personnel and their dependents if approved by the SAA in the State where the base is located." Each statement should show the name and VA claim number of the student whose enrollment is being certified. The statement itself may be duplicated, but each statement must bear an original or acceptable facsimile signature of the appropriate school certifying official. New enrollment documents without the proper 85–15 percent certification will be returned to the school for completion of the certification.

c. No student will be counted more than one time in any computation of an 85–15 percent ratio. If a student receives both VA or other countable benefits and a noncountable or waived type of benefit, that student must be included in the countable (85 percent) portion of the ratio.

RUFUS H. WILSON,
Chief Benefits Director.

[FR Doc.76–36835 Filed 12–15–76;8:45 am]

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INTERSTATE COMMERCE COMMISSION

[Vol. No. 61]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

DECEMBER 10, 1976.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before January 17, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No MC 52709 (Sub-No. 320) (Notice of filing of petition to modify restriction), filed November 22, 1976. Petitioner: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, Colo. 80207. Petitioner's representative: Robert P. Tyler (same address as applicant). Petitioner holds a motor *common carrier* Certificate in No. MC 52709 (Sub-No. 320), issued May 3, 1974, authorizing transportation over regular routes, of *general commodities* (except commodities in bulk in tank vehicles), between Casper, Wyo., and Sheridan, Wyo., serving no intermediate points: (1) From Casper over U.S. Highway 87 to Sheridan, and return over the same route; and (2) from Casper over Interstate Highway 25 to junction Interstate Highway 90, thence over Interstate Highway 90 to Sheridan, and return over the same route, restricted as follows: (I) Service at Sheridan, Wyo., is restricted to the transportation of traffic received from or delivered to connecting carriers; and (II) said operations are restricted further against the transportation of traffic (a) originating at and destined to points in Wyoming; (b) originating at points in Colorado, on the one hand, and, on the other, destined to points in Wyoming; and (c) originating at points in Wyoming, on the one hand, and, on the other, destined to points in Colorado.

By the instant petition, petitioner seeks to modify the restriction in (I) above by deleting the present language and substituting in lieu thereof the following: "Service at Sheridan is for purpose of joinder only."

No. MC 68100 (Sub-No. 9) (Notice of filing of petition to modify commodity description) filed November 23, 1976. Petitioner: D. P. BONHAM TRANSFER, INC., 318 S. Adeline, P.O. Drawer "G", Bartlesville, Okla. 74003. Petitioner's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Petitioner holds a motor *common carrier* Certificate in No. MC 68100 (Sub-No. 9), issued March 23, 1960, authorizing transportation over irregular routes, of *well-pumping units* (except those used in, or, in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), and *equipment, materials, and supplies* used in the installation, operation, and maintenance of such units, between Bartlesville, Okla., on the one hand, and, on the other, points in Alaska, Alabama, Arizona, California, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, Wisconsin, the upper peninsula of Michigan, and the District of Columbia, restricted against tacking or joinder with any other operating rights now held by carrier for the purpose of rendering a through service.

By the instant petition, petitioner seeks to broaden the commodity description above by deleting the parenthetical exception.

No. MC 89021 (Notice of filing of petition to modify commodity and territorial description) filed November 24, 1976. Petitioner: JOHN WEIGERT, doing business as LEVINE'S EXPRESS & TRUCKING COMPANY, P.O. Box Drawer C, Cliffwood, N.J., 07721. Petitioner's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Petitioner holds a motor *common carrier* Certificate in No. MC 89021, issued April 25, 1967, authorizing transportation over irregular routes, of *Advertising display materials*, uncrated, during the season extending from the 1st day of September to the 1st day of June, inclusive, between New York, N.Y., on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Pennsylvania, Ohio, Indiana, Illinois, and Michigan.

By the instant petition, petitioner seeks (I) to broaden the commodity description above by deleting the following: "uncrated, during the season extending from the 1st day of September to the 1st day of June, inclusive"; and (II) to broaden the territorial description above by adding California as an additional radial state.

No. MC 110420 (Sub-No. 709), (Notice of filing of petition to modify commodity description) filed November 18, 1976. Petitioner: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Petitioner's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th Street, N.W., Washington, D.C. 20004. Petitioner holds a motor *common carrier* Certificate in No. MC 110420 (Sub-No. 709), issued October 9, 1975, authorizing transportation over irregular routes, of *corn products* and *soybean products* and *blends thereof*, in bulk, in tank vehicles, from the plant sites and storage facilities of Archer Daniels Midland Company, located at or near Decatur, Ill., to points in the United States (except Alaska and Hawaii), restricted to the transportation of shipments originating at the plant sites and storage facilities of Archer Daniels Midland Company, located at or near Decatur, Ill.

By the instant petition, petitioner seeks a finding by the Commission that its authority above permits the transportation of corn alcohol, or, in the alternative, seeks to modify the commodity description above to include corn alcohol.

No. MC 119459 (Notice of filing of petition to modify commodity description) filed November 24, 1976. Petitioner: MATTY'S GULF & TOWING SERVICE, INC., 343 South St., Newark, N.J. 07105. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a *motor common carrier* Certificate in No. MC 119459, issued September 15, 1972, authorizing transportation over irregular routes, of *disabled trucks, disabled tractors, and disabled buses*, in driveaway service, or in truckaway service using wrecker vehicles, between points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, restricted against service from or to points in Cuyahoga, Summit, Medina, and Portage Counties, Ohio.

By the instant petition, petitioner seeks to modify the commodity description above by deleting *disabled trucks, disabled tractors, and disabled buses*, and substituting in lieu thereof, *disabled vehicles*.

No. MC 123778 (Sub-No. 23), (Notice of filing of petition to add a contracting shipper) filed August 23, 1976. Petitioner: JALT CORP., doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Dock Road, P.O. Box 398, Woodbridge, N.J. 07095. Petitioner's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Petitioner holds a motor *contract carrier* Permit in No. MC 123778 (Sub-No. 23), issued January 23, 1976, authorizing transportation, as pertinent, over irregular routes, of *magazines and advertising matter* shipped with magazines, from Old Saybrook, Conn., to points in New Jersey, points in that part of Pennsylvania on and east of U.S. Highway 15, and points in that part of New York on, east, and south of a line beginning at the New York-Pennsylvania State line, and extending along U.S. Highway 11 to Syracuse, thence along New York Highway 5 to Schenectady, and thence along New York Highway 7 to the New York-Vermont State line, and to Wilmington, Del., Baltimore, Md., and the District of Columbia, under a continuing contract, or contracts, with U.S. News & World Report, of Chicago, Ill.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

By the instant petition, petitioner seeks to add Curtis Circulation Company as an additional contracting shipper to the authority above.

No. MC 128217, (notice of filing of petition to add to the territorial description) filed November 18, 1976. Petitioner: REINHART MAYER, doing business as MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, N. Dak. 58401. Petitioner's representative: Jene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Petitioner holds a motor *contract carrier* Permit in No. MC 128217, issued August 15, 1975, authorizing it to operate in interstate or foreign commerce by motor vehicle, over irregular routes, in the transportation of *Iron and steel articles* as described in Group III of Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from, as pertinent, Joliet, Ill., to points in montana, under a continuing contracts, or contracts, with Pacific Hide and Fur Depot, of Great Falls, Mont.

By the instant petition, petitioner seeks to add Wilton, Iowa, as pertinent, as an additional origin point.

No. MC 140986 (Sub-No 1), (notice of filing of petition to add contracting shipper) filed October 21, 1976. Petitioner: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, N.J. 07857. Petitioner's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Petitioner holds a motor *contract carrier* permit in No. MC 140986 (Sub-No. 1), issued February 11, 1976, authorizing transportation over irregular routes, of (1) *Clay* (except in bulk), from Flanders, N.J., to points in Connecticut, Delaware, Kentucky, Maryland, Massachusetts, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, and the District of Columbia; and (2) *talc* and *materials and supplies* used in the manufacturing of ceramics (except in bulk), from points in Kentucky, Maryland, New York, Ohio, Pennsylvania and Tennessee to Flanders, N.J., under a continuing contract, or contracts with Byrnes Ceramic Supply Co., Inc., of Flanders, N.J.

By the instant petition, petitioner seeks to add Hammill & Gillespie, Inc., of Livingston, N.J., as an additional contracting shipper.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 5470 (Sub-No. 118), filed November 24, 1976. Applicant: TAJON, INC., R.D. 5, Mercer, Pa. 16137. Applicant's representative: Don Cross, 700 World Center Bldg., 918 Sixteenth St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in dump vehicles, from Ellenville and Oswego, N.Y. and Botsford, Conn., to Philadelphia, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 30204 (Sub-No. 36), filed November 11, 1976. Applicant: HEMINGWAY TRANSPORT INC., 438 Dartmouth Street, New Bedford, Mass. 02740. Applicant's representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, Va. 23229. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, gasoline, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) Serving the plantsite of S. S. Kresge Company, Shenandoah Industrial Park, located at or near Newnan, Ga., as an off-route point in connection with applicant's presently authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Greenville, S.C.

No. MC 30237 (Sub-No. 34), filed November 11, 1976. Applicant: YEATTS TRANSFER COMPANY a corporation, Box 666, Altavista, Va. 24517. Applicant's representative: J. J. Eller, Jr., 513 Main Street, Box 551, Altavista, Va. 24517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from Point Pleasant, W. Va., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia; and (2) *returned shipments* of new furniture, on return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Roanoke, Va.

No. MC 30319 (Sub-No. 149), filed October 19, 1976. Applicant SOUTHERN PACIFIC TRANSPORT COMPANY OF TEXAS AND LOUISIANA, 7600 South Central Expressway, P.O. Box 6187, Dallas, Tex. 75222. Applicant's representative: Lloyd M. Roach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, tranpsorting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between Bremond, Tex., and the plant site of Texas Utilities Company known as Twin Oak Power Plant located at Twin Oak, Tex., via highways 46, 2293 and unnumbered roads for a distance of approximately 12 miles, and return over the same route, serving no intermediate points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas or Houston, Tex.

No. MC 33322 (Sub-No. 18), filed November 17, 1976. Applicant: JOHN N. APGAR, SR. (IRVING L. APGAR, JOHN N. APGAR, JR. AND THE FIRST NATIONAL BANK OF CENTRAL JERSEY, EXECUTORS AND TRUSTEES), STERLING E. APGAR (MORRIS RUTER TRUSTEE) AND DOROTHY E. ANDERSON, doing business as APGAR BROS. a Partnership, 222 West Union Avenue, Bound Brook, N.J. 08805. Applicant's representative: Herbert Alan Dubin, 1819 H Street, N.W., Suite 1030, Washington, D.C. 20006. Authority

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sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the facilities of Union Carbide Corporation, located at or near Freehold, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania and Rhode Island, under a continuing contract, or contracts, with Union Carbide Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 35807 (Sub-No. 63), filed November 12, 1976. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: Harry J. Jordan, 1000 16th Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments and accounting media*, between DeFuniak Springs, Fla., on the one hand, and, on the other, Dothan, Ala., restricted to prior and subsequent intrastate movements by air, under a continuing contract with First National Bank of Birmingham, Birmingham, Ala.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Birmingham, Ala.

No. MC 42011 (Sub-No. 27), filed November 16, 1976. Applicant: D. Q. WISE & CO., INC., P.O. Box 15125, Tulsa, Okla. 74115. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, Va. 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aircraft cable and wire rope* from Houston, Tex., to points in Alabama, Arizona, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Utah, Wisconsin and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex.

No. MC 42011 (Sub-No. 28), filed November 18, 1976. Applicant: D. Q. WISE & CO., INC., 13309 East Apache St., P.O. Box 15125, Tulsa, Okla. 74115. Applicant's representative: J. Michael Alexander, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos shorts or waste*, from King City, Calif., to points in Alabama, Arkansas, Colorado, Florida, Illinois, Kansas, Louisiana, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla., or Dallas, Tex.

No. MC 44639 (Sub-No. 89), filed November 12, 1976. Applicant: L. & M. EXPRESS COMPANY, INC., 220 Ridge Road, Lyndhurst, N.J. 07071. Applicant's representative: Robert B. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk), (1) between Charlottesville, Va., on the one hand, and, on the other, New York, N.Y.; and (2) between Greensboro, N.C., on the one hand, and, on the other, New York, N.Y., and Charlottesville, Va.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Newark, N.J.

No. MC 78118 (Sub-No. 29), filed November 17, 1976. Applicant: W. H. JOHNS, INC., 35 Witmer Road, Lancaster, Pa. 17602. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pretzels*, from the plantsites and warehouses of J. Reisman & Sons, Inc., located at Pennsauken, N.J., to points in Delaware, Maryland, North Carolina, Ohio, Pennsylvania, Virginia and the District of Columbia, restricted to traffic originating at the named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

No. MC 82841 (Sub-No. 201), filed November 15, 1976. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulated building panels and foam board panels*, from Dallas, Tex., to points in the United States east of the Mississippi River, and points in Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 95540 (Sub-No. 965), filed November 18, 1976. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Pincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), from the plantsite of Mid Continent Underground Storage, at or near Kansas City, Kans., to North Little Rock, Ark., and points in Georgia, Kentucky, Tennessee, Virginia and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio; Tampa, Fla.; or Washington, D.C.

No. MC 99234 (Sub-No. 8), filed November 15, 1976. Applicant: WESTWAY MOTOR FREIGHT, INC., 5231 Monroe Street, Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Jefferson County, Colo., to points in Nebraska; and (2) *empty containers and materials for recycling*, from points in Nebraska, to Jefferson County, Colo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 102616 (Sub-No. 925), filed November 8, 1976. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, Akron, Ohio 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from the plantsite of Mobile Oil Corporation, located at Trenton (Duck Island), N.J., to points in that part of Pennsylvania in a territory bounded on the south and east by the Delaware River, and by a line beginning at the intersection of Pennsylvania Highway 212 and the Delaware River, near Riegelsville, Pa., thence along Pennsylvania Highway 212 to its intersection with Pennsylvania Highway 663, thence along Pennsylvania Highway 663 to its intersection with Pennsylvania Highway 29, thence along Pennsylvania Highway 29 to its intersection with U.S. Highway 30, thence along U.S. Highway 30 to its intersection with Pennsylvania Highway 252, thence along Pennsylvania Highway 252 to its intersection with the Delaware River, near Chester, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 103051 (Sub-No. 381), filed November 18, 1976. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry starch*, from Roebuck, S.C., to points in Alabama and Georgia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Nashville, Tenn.

No. MC 103490 (Sub-No. 71), filed November 15, 1976. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, N.Y. 12550. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and fittings, and materials, supplies, and equipment*, used in the manufacture and sale thereof, between Haverstraw, N.Y., on the one hand, and, on the other, New York, N.Y.; points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island and Vermont, and points in Nassau and Suffolk Counties, New York.

NOTE.—Applicant holds contract carrier authority in MC 125709, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

, No. MC 105461 (Sub-No. 95), filed November 15, 1976. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 8, Quarryville, Pa. 17566. Applicant's representative: Robert R. Herr, P.O. Box 8, Quarryville, Pa. 17566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Juvenile furniture, child care products, and materials, equipment and supplies* used in the manufacture and distribution of juvenile furniture and child care products (except commodities in bulk), between the facilities of Graco Children's Products, Inc., located in or near Elverson, Pa., on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, restricted to traffic originating at or destined to the above named facilities of Graco Children's Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Reading, Pa. or Washington, D.C.

No. MC 106497 (Sub-No. 136), filed November 17, 1976. Applicant: PARKHILL TRUCK COMPANY, a Corporation, P.O. Box 912, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Casting, pipe, couplings, connections, valves, and hydrants*, and *accessories, materials, and supplies* used in the installation thereof, from the plantsite and warehouse facilities of Clow Corporation, located at or near Coshocton, Ohio, to points in the United States (except Alaska and Hawaii), restricted to traffic originating at and destined to the above named points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 106644 (Sub-No. 226), filed November 3, 1976. Applicant: SUPERIOR TRUCKING COMPANY, a Corporation, 2770 Peyton Road, N.W., Atlanta, Ga. 30318. Applicant's representative: Hubert Johnson, P.O. Box 916, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe, cast iron and brass valves and components, cast iron fittings, and cast iron fire hydrants* (except pipe and pipe fittings as described in Mercer Oil Field Extension 74 MCC-459), from points in Jefferson County, Ala., to points in Kansas, Minnesota and Nebraska.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala. or Washington, D.C.

No. MC 106674 (Sub-No. 219), filed November 24, 1976. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Batting, wadding, or padding*, from Corbin, Ky., to Hammon and Lowell, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Indianapolis, Ind.

No. MC 107515 (Sub-No. 1040), filed November 10, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from plants at Menomonie, Vesper, and Cameron, Wis., and storage facilities at Eau Claire and Wisconsin Rapids, Wis., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, Ohio, South Carolina, Tennessee and Virginia.

NOTE.—Applicant controls Refrigerated Transport, Inc., which has contract carrier authority in MC 126436 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Chicago, Ill.

No. MC 107839 (Sub-No. 171), filed November 17, 1976. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Avenue, P.O. Box 16106, Denver, Colo. 80216. Applicant's representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, Colo. 80246. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except meats, meat poducts, meat by-products, dairy products, chilled and frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza, and pizza pie ingredients), from the facilities of Merchants Refrigerating Company, at or near Denver, Colo., to points in Texas (except points in the Dallas Commercial Zone as defined by the Commission), and points in Oklahoma, restricted to the transportation of traffic originating at the above-named origin and destined to points in the named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Dallas, Tex.

No. MC 108119 (Sub-No. 52), filed November 18, 1976. Applicant: E. L. MURPHY TRUCKING CO., a Corporation, 3303 Sibley Memorial Highway, P.O. Box 3010, St. Paul, Minn. 55165. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock crusher equipment*, from the plantsite of Hewitt-Robins, Inc., located in Richland County, S.C., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C., or Washington, D.C.

No. MC 108119 (Sub-No. 53), filed November 18, 1976. Applicant: E. L. MURPHY TRUCKING CO., a Corporation, 3303 Sibley Memorial Highway, P.O. Box 3010, St. Paul, Minn. 55165. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nuclear reactor components*, from the facilities of Aeroject Manufacturing Company, at or near Fullerton, Calif., to Memphis, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 108119 (Sub-No. 54), filed November 18, 1976. Applicant: E. L. MURPHY TRUCKING COMPANY, a Corporation, 3303 Sibley Memorial Highway, P.O. Box 3010, St. Paul, Minn. 55165. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cryogenic steel storage tanks and parts, materials and supplies* used in the installation thereof, from the plantsite and storage facilities of Union Carbide Corporation, Linde Division, located at or near Theodore, Ala., to points in the United States (except Alaska and Hawaii); and (2) *parts, materials, supplies and equipment* used in the manufacture of the commodities described in (1) above, from points in the United States (except Alaska and Hawaii), to the plantsite and storage facilities of Union Carbide Corporation, Linde Division located at or near Theodore, Ala.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 108341 (Sub-No. 54), filed November 18, 1976. Applicant: MOSS TRUCKING COMPANY, INC., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cryogenic tanks and parts, materials, equipment, and supplies* used in the installation and distribution thereof, from the facilities of Union Carbide Corporation located at or near Theodore, Ala., to points in the United States (except Alaska and Hawaii); and (2) *parts, materials, equipment and supplies* used in the manufacture of commodities described in (1) above, from points in the United States (except Alaska and Hawaii), to facilities of Union Carbide Corporation located at or near Theodore, Ala., restricted against the transportation of commodities in bulk.

NOTE.—Common control may be involved. If a hearing is deemed necessary the applicant requests it be held at Washington, D.C.

No. MC 109397 (Sub-No. 347), filed November 18, 1976. Applicant: TRI-

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STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: A. N. Jocobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled articles* weighing less than 15,000 pounds, transported on trailers; (2) *parts, attachments and accessories* of items in (1) above, between Cobb County, Ga., on the one hand, and, on the other, points in the United States (including Alaska, but excluding Hawaii); and (3) *materials, equipment and supplies* (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Cobb County, Ga.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga., or Birmingham, Ala.

No. MC 110012 (Sub-No. 33), filed November 12, 1976. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, Morristown, Tenn. 37814. Applicant's representative: John R. Sims, Jr., 425 13th Street, N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from Newcomerstown, Ohio and New Albany, Ind., to points in the United States in and east of Arkansas, Iowa, Minnesota, Missouri, and Texas; and (2) *materials and supplies* used in the manufacture of new furniture, on return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 110525 (Sub-No. 1172), filed November 15, 1976. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry aluminum chloride*, (1) from the Aluminum Co. of America plantsite located near Palestine, Tex., to Mobile, Ala.; Baton Rouge, Carville, and St. James, La.; Baltimore, Md.; Hamilton, Picayune and Gulfport, Miss.; Sugar Creek, Mo.; Bound Brook and East Hanover, N.J.; Ashtabula, Ohio; West Elizabeth, Pa.; Memphis, Tenn.; and Institute, W. Va.; and (2) from the Aluminum Co. of America plantsite located near Palestine, Tex., to ports of entry on the International Boundary line between the United States and Canada located at Port Huron, Mich., restricted to traffic destined to Sarnia, Ontario.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Pittsburgh, Pa. or Washington, D.C.

No. MC 110981 (Sub-No. 8), filed November 17, 1976. Applicant: ALFRED BERGMAN AND LOIS BERGMAN, doing business as A & A BERGMAN, 7375 Nitz Street, Pigeon, Mich. 48755. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soy bean meal*, from Frankfort and Logansport, Ind., to points in Michigan, under a continuing contract or contracts with Farm Bureau Services, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lansing or Detroit, Mich, and/or Chicago, Ill.

No. MC 111302 (Sub-No. 98), filed November 19, 1976. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, Tenn. 37919. Applicant's representative: David A. Petersen (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Can liner varnish, enamel paint and necker flanger lubricants*, in bulk, in tank vehicles, from the plantsite of the Midland Division of the Dexter Corporation, located at or near Birmingham, Ala., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Birmingham, Ala.

No. MC 111302 (Sub-No. 99), filed November 24, 1976. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, Tenn. 37949. Applicant's representative: David A. Petersen (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Nashville, Tenn., to points in Kentucky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

No. MC 111397 (Sub-No. 119), filed November 15, 1976. Applicant: DAVIS TRANSPORT, INC., 1345 South 4th Street, Paducah, Ky. 42001. Applicant's representative: H. S. Melton, Jr., P.O. Box 1407, Avondale Station, Paducah, Ky. 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, having a prior or subsequent movement by water, between the site of the Paducah-McCracken County Riverport Authority, located in Paducah, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Mississippi, Missouri, Ohio, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Louisville, Ky.

No. MC 113267 (Sub-No. 345), filed November 12, 1976. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Rd., P.O. Box 30130 A.M.F., Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Margarine*, in containers and packages, from Osceola, Ark., to points in Colorado, Pennsylvania, and Wisconsin, restricted to traffic originating at the above named origin and destined to the above named destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Memphis, Tenn., or Little Rock, Ark.

No. MC 113624 (Sub-No. 76), filed November 19, 1976. Applicant: WARD TRANSPORT, INC., P.O. Box 735, Pueblo, Colo. 81001. Applicant's representative: Marion F. Jones, 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions* (except petroleum-based), in bulk, in tank vehicles, from Wiley, Colo., to points in Kansas on and west of U.S. Highway 283, points in Nebraska on and west of U.S. Highway 83, points in New Mexico, points in Oklahoma on and west of Interstate Highway 35 and on and north of Interstate Highway 40, and points in Texas on and north of Interstate Highway 40.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 113678 (Sub-No. 644), filed November 15, 1976. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpets, carpeting, carpet remnants* or *rugs*, soft surface (pile) fabric, power machine tuffed or power loom woven; and (2) *carpets, carpeting, and carpet remnants*, in wrapped bales or in boxes, (a) from Carlisle, Pa., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, North Dakota, Ohio, Pennsylvania, and South Dakota; and (b) from Mobile, Ala. and Memphis, Tenn., to points in California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 113908 (Sub-No. 389), filed November 15, 1976. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flavoring and flavoring syrup*, in bulk, from Linden, N.J., to points in California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo.; Chicago, Ill.; or Washington, D.C.

No. MC 114211 (Sub-No. 291), filed November 11, 1976. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel grain bins*, and *such commodities* as are dealt in, or used by, agricultural equipment and industrial equipment dealers (except commodities in bulk), from Davenport, Iowa, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Des Moines, Iowa.

No. MC 114273 (Sub-No. 270), filed November 15, 1976. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Bldg., 2720 First Ave. N.E., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Drugs, medicines, pharmaceutical supplies, and materials and supplies* used in connection therewith, from Kalamazoo and Allen Park, Mich., to Kansas City, Mo., Minneapolis, Minn. and Denver, Colo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 273), filed November 18, 1976. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Bldg., 2720 First Avenue, N.E., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite of Kraft, Inc., at New Ulm, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to traffic originating at the above-named origin and destined to the above-named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114457 (Sub-No. 276), filed November 18, 1976. Applicant: DART TRANSIT COMPANY, a Corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, container components, and materials and supplies* used in the manufacture or distribution of containers, (1) from Columbus, Cincinnati and Worthington, Ohio; Oil City and West Mifflin, Pa.; Racine, Wis.; Itasca, Ill., and Lenexa, Kans., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin; (2) from Mankato, Minn.; LaCrosse, Wis.; Danville, Ill.; Elwood, Ind.; Shoreham, Mich.; and St. Joseph, Mo., to points in Arkansas, Kentucky, Ohio, Pennsylvania, and Tennessee; (3) from Danville and Peoria Heights, Ill., to Indianapolis, Ind.; and (4) from St. Joseph, Mo. to Kansas City and Lenexa, Kans.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis-St. Paul or Chicago, Ill.

No. MC 114569 (Sub-No. 156), filed November 19, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kensingtown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* (except hides, animal foods and animal food ingredients and commodities in bulk), from the plantsite and storage facilities of Spencer Foods, Inc., located at or near Schuyler, Nebr., and the storage facilities used by Spencer Foods, Inc., located at or near Fremont, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 115730 (Sub-No. 21) filed November 17, 1976. Applicant: THE MICKOW CORP., 531 S.W. Sixth Street, Des Moines, Iowa 50309. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in the Chicago, Ill. Commercial Zone, and points in Porter County, Ind., to the plantsite and facilities of Sperry New Holland, at or near Grand Island and Lexington, Nebr., restricted to traffic destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 115793 (Sub-No. 21) filed November 19, 1976. Applicant: CALDWELL FREIGHT LINES, INC., U.S. Highway 321 South, P.O. Box 620, Lenoir, N.C. 28645. Applicant's representative: Charles Ephraim, 1250 Connecticut Avenue, N.W., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and materials and supplies* used in the manufacturing of furniture, from Barbourville, Ky., to points in North Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 116004 (Sub-No. 41) filed November 11, 1976. Applicant TEXAS OKLAHOMA EXPRESS, INC., 2222 E. Grauwyler, Irving, Tex. 75062. Applicant's representative: Doris Hughes, P.O. Box 47112, Dallas, Tex. 75247. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commisison, commodities in bulk, commodities requiring special equipment), Between Kansas City, Mo., on the one hand, and, on the other, St. Louis, Mo.: From Kansas City, Mo. over Interstate Highway 70 to St. Louis, Mo., and return over the same route, serving no intermediate points, as alternate route, for operating convenience only.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Tulsa, Okla.

No. MC 116763 (Sub-No. 359) filed November 19, 1976. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's reprsentative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operats as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising material*, from points in Houston County, Ga., to points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 116763 (Sub-No. 360) filed November 19, 1976. Applicant: CARL SUBLER TRUCKING, INC., Northwest Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising materials*, from Baltimore, Md., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118159 (Sub-No. 189) filed November 19, 1976. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., Dawson Station, P.O. Box 51366, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from the plantsite and storage facilities of the L. D. Schreiber Cheese

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Company located at Logan, Utah to points in Idaho, Oregon, Utah, Washington, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant reuests it be hled at Chicago, Ill.

No. MC 118202 (Sub-No. 65) filed November 15, 1976. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of, or utilized by, Hygrade Food Products Corporation located at or near Storm Lake and Cherokee, Iowa, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island and Virginia.

NOTE.—Applicant holds contract carrier authority in No. MC 134631 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis, Minn. or Detroit, Mich.

No. MC 118457 (Sub-No. 16) filed November 18, 1976. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 2436 Algoma Blvd., Oshkosh, Wis. 54901. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and butter*, from the plantsites of Schurman's Butter & Cheese, Inc., located at Lancaster and Bloomington, Wis., to points in Illinois, Indiana, Michigan and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee or Madison, Wis.

No. MC 118535 (Sub-No. 92) filed November 18, 1976. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead oxide*, from Dallas, Tex., to points in Alabama, Arkansas, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Oklahoma, South Carolina, Tennessee and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis or Kansas City, Mo.

No. MC 118831 (Sub-No. 145) filed November 12, 1976. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, N.C. 27264. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kyanite*, dry, in bulk, from points in Appomattox, Buckingham, Charlotte Cumberland and Prince Edward Counties, Va., to points in North Charlotte, Cumbreland and Prince and Richmond and Norfolk, Va.

NOTE.—Applicant seeks to tack the requested authority with its Sub-No. 32 authority for Kyanite, dry, in bulk, in tank or hopper type vehicles, from points in Appomattox, Buckingham, Charlotte, Cumberland and Prince Edward Counties, Va., to points in Georgia. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 118959 (Sub-No. 140) filed November 15, 1976. Applicant: JERRY LIPPS, INC., 130 S. Frederick, Cape Girardeau, Mo. 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1111 Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, wrapping paper, paper bags, paper and paper products*, from St. Marys, Ga., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC 125664, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Jacksonville or Miami, Fla.

No. MC 119634 (Sub-No. 21) filed November 18, 1976. Applicant: DICK IRVIN, INC., 218 12th Avenue North, P.O. Box F, Shelby, Mont. 59474. Applicant's representative: Joe Gerbase, 100 Transwestern Building, 404 North 31st Street, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc*, from Barretts, Mont., to the ports of entry on the International Boundary line between the United States and Canada, located at Roosville and Sweetgrass, Mont., restricted to the transportation of traffic destined to the Provinces of Alberta and British Columbia, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Great Falls, or Billings, Mont.

No. MC 119765 (Sub-No. 39) filed November 18, 1976. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, Nebr. 68107. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite and storage facilities utilized by Kraft Foods, Division of Kraft, Inc., located at or near Milan, Ill., to Des Moines, Boone and Chariton, Iowa, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Chicago, Ill.

No. MC. 120761 (Sub-No. 18) filed November 15, 1976. Applicant: NEWMAN BROS. TRUCKING COMPANY, a Corporation, 6559 Midway Road, P.O. Box 13302, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compositng machines and related parts, materials, and supplies* (except commodities in bulk, in tank vehicles), between the plantsite of Scarab Manufacturing Co., located at or near White Deer, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas or Lubbock, Tex.

No. MC 121450 (Sub-No. 10) filed November 1, 1976. Applicant: MCCOMAS TRUCK LINES, INC., P.O. Box 869, Chickasha, Okla. 73018. Applicant's representative: Robert A. Miller, 2505 City National Bank Tower, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (A) Between Wichita Falls, Tex., and Geronimo, Okla., serving the intermediate points of Randlett, Okla., and the off-route point of Walters, Okla.: From Wichita Falls over U.S. Highway 281 to junction unnumbered county road west of Geronimo, thence over unnumbered county road to Geronimo, and return over the same route; (B) Between junction U.S. Highway 281 and Oklahoma Highway 53 and Walters, Okla., over Oklahoma Highway 53, serving all intermediate points, and return over the same route; (C) Between junction U.S. Highway 281 and the H. E. Bailey Turnpike near Randlett, Okla. and Geronimo, Okla.: From junction U.S. Highway 281 and the H. E. Bailey Turnpike near Randlett, over the H. E. Bailey Turnpike to junction Oklahoma Highway 36, thence over Oklahoma Highway 36 to junction U.S. Highway 281, thence over U.S. Highway 281 to junction unnumbered county road, thence over unnumbered county road to Geronimo, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only; and (D) Between Geronimo, Okla. and junction Oklahoma Highway 7, and U.S. Highway 81: From Geronimo over unnumbered county road to junction U.S. Highway 281, thence over U.S. Highway 281 to junction Oklahoma Highway 7, thence over Oklahoma Highway 7 to junction U.S. Highway 81, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lawton, Okla. or Wichita Falls, Tex.

No. MC 123389 (Sub-No. 32) filed November 19, 1976. Applicant: CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, Iowa 51401. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, and *articles* processed, manufactured or *distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the plantsite of Scarab Manufacturing Co., located at or near White Deer, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas or Lubbock, Tex.

No. MC 121450 (Sub-No. 10) filed November 1, 1976. Applicant: MCCOMAS TRUCK LINES, INC., P.O. Box 869, Chickasha, Okla. 73018. Applicant's representative: Robert A. Miller, 2505 City National Bank Tower, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (A) Between Wichita Falls, Tex., and Geronimo, Okla., serving the intermediate points of Randlett, Okla., and the off-route point of Walters, Okla.: From Wichita Falls over U.S. Highway 281 to junction unnumbered county road west of Geronimo, thence over unnumbered county road to Geronimo, and return over the same route; (B) Between junction U.S. Highway 281 and Oklahoma Highway 53 and Walters, Okla., over Oklahoma Highway 53, serving all intermediate points, and return over the same route; (C) Between junction U.S. Highway 281 and the H. E. Bailey Turnpike near Randlett, Okla. and Geronimo, Okla.: From junction U.S. Highway 281 and the H. E. Bailey Turnpike near Randlett, over the H. E. Bailey Turnpike to junction Oklahoma Highway 36, thence over Oklahoma Highway 36 to junction U.S. Highway 281, thence over U.S. Highway 281 to junction unnumbered county road, thence over unnumbered county road to Geronimo, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only; and (D) Between Geronimo, Okla. and junction Oklahoma Highway 7, and U.S. Highway 81: From Geronimo over unnumbered county road to junction U.S. Highway 281, thence over U.S. Highway 281 to junction Oklahoma Highway 7, thence over Oklahoma Highway 7 to junction U.S. Highway 81, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lawton, Okla. or Wichita Falls, Tex.

No. MC 123389 (Sub-No. 32) filed November 19, 1976. Applicant: CROUSE

CARTAGE COMPANY, P.O. Box 151, Carroll, Iowa 51401. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, and *articles* processed, manufactured or *distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between Denison and LeMars, Iowa to points in Alabama, Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 123407 (Sub-No. 340) filed November 19, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, vinyl sheet goods and adhesives*, from Salem, N.J., to points in Arizona, California, New Mexico and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 123407 (Sub-No. 341) filed November 22, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foam board, insulation, insulating gypsum, foam board panels, insulated panels and insulated building systems*, from points in Dallas County, Tex., to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Washington, D.C.

No. MC 123885 (Sub-No. 24) filed November 3, 1976. Applicant: C & R TRANSFER CO., a Corporation, P.O. Box 1010, Rapid City, S. Dak. 57701. Applicant's representative: James W. Olson, 821 Columbus, Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile home truss rafters*, from Sioux Falls, S. Dak. to Hutchison, Kan., Blue Earth, Minn., and Tekamah, Nebr.

NOTE.—Applicant holds contract carrier authority in MC 112306 and Subs thereunder, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Rapid City, S. Dak. or Denver, Colo.

No. MC 124170 (Sub-No. 64), filed November 8, 1976. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, Mich. 48207. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared flour mixes and frostings, or icing mixes*, from Chelsea, Mich., to points in Maryland, North Carolina, South Carolina, Virginia, West Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 124230 (Sub-No. 30), filed November 12, 1976. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, Colo. 81321. Applicant's representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ore and ore concentrates*, (a) between points in Mineral County, Colo.; (b) between points in Mineral County, Colo., on the one hand, and, on the other, points in Pueblo and Fremont Counties, Colo.; (c) from points in Grant County, N. Mex., to Creede, Colo.; and (d) from points in Lincoln County, Nev., to points in Inyo County, Calif.; (2) *mining and milling equipment and supplies*, from points in Inyo County, Calif., to points in Lincoln County, Nev.; and (3) *gold and silver ore*, in bulk, from points in Sierra County, N. Mex., to El Paso, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 124679 (Sub-No. 71) filed November 17, 1976. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, Utah 84119. Applicant's representative: Daniel E. England, 716 Newhouse Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, from points in Colorado, to point in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 128813 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo. or Salt Lake City, Utah.

No. MC 124774 (Sub-No. 98) filed October 28, 1976. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Ave., P.O. Box 7344, Omaha, Nebr. 68107. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, Iowa 51104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Omaha, Nebr., to points in Iowa, Kansas, Minnesota, Missouri, Montana, North Dakota, Oklahoma, South Dakota, Wisconsin and Wyoming, restricted to traffic originating at Omaha, Nebr., and points in the Commercial Zone thereof.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 125522 (Sub-No. 9) filed November 12, 1976. Applicant: SUNBURY TRANSPORT LIMITED, Hoyt, New Brunswick, Canada. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plasterboard, gypsum board, plasterboard, plywood and asphalt products* (except in bulk) *and waste paper*, from points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island and Vermont to ports of entry on the International boundary line between the United States and Canada located at or near Houlton, Vanceboro, Calais, Madawaska, Fort Kent and Jackman, Maine, restricted to the transportation of traffic destined to the Provinces of Buctouche, St. John, Sussex and St. George, New Brunswick and Debert, Nova Scotia.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at either Portland, Maine or Boston, Mass.

No. MC 126118 (Sub-No. 26) filed November 10, 1976. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle, parts, accessories and related items*, (1) between North Kansas City, Mo., on the one hand, and, on the other, points in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, (2) between Atlanta, Ga., on the one hand, and, on the other, points in Arkansas, New Mexico, Oklahoma and Texas; and (3) between Dallas, Tex., on the one hand, and, on the other, North Kansas City, Mo. and Atlanta, Ga., under a continuing contract or contracts in (1), (2) and (3) above with Maremont Corporation.

NOTE.—Applicant holds common carrier authority in MC 126118 and subs thereunder, therefore, dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Lincoln, Nebr.

No. MC 127042 (Sub-No. 180), filed November 12, 1976. Applicant: HAGEN, INC., 3232 Highway 75 north, P.O. Box

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98-Leeds Station, Sioux City, Iowa 51106. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plantsite and storage facility of Mid-Continent Underground Storage, located at or near Kansas City, Kans., to points in Illinois and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 127042 (Sub-No. 181), filed November 12, 1976. Applicant: HAGEN, INC., 3232 Highway 75 north, P.O. Box 98-Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Scottsbluff, Nebr., to points in North Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 128095 (Sub-No. 14), filed November 18, 1976. Applicant: PARKER TRUCK LINE, INC., Senter Drive, P.O. Box 1402, Tupelo, Miss. 38801. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Mississippi to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jackson or Tupelo, Miss., and/or Memphis, Tenn.

No. MC 128273 (Sub-No. 236), filed November 15, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail department stores, garden and lawn supply houses, dealers in recreational vehicles, and equipment, and promotional materials used in the sale and distribution of the foregoing commodities (except commodities in bulk, and such commodities that require the use of special equipment), from points in the United States (except Alaska and Hawaii), to points in Arkansas, Louisiana and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 128273 (Sub-No. 239), filed November 10, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: James W. Muldoon, 50 West Broad, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives* when moving in mixed shipments with paper and paper products, from Chillicothe and Schooleys, Ohio, to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

NOTE.—Applicant states that it presently has authority to transport paper and paper products from the above described origin to the requested destination territory. If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 128273 (Sub-No. 240), filed November 24, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers, converters and printers of paper and paper products (except commodities in bulk), from points in Wisconsin and the Upper Peninsula of Michigan, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis. or Washington, D.C.

No. MC 129032 (Sub-No. 30), filed November 15, 1976. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, P.O. Box 9667, Tulsa, Okla. 74107. Applicant's representative: John Paul Fischer, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged petroleum, lubricating oil and grease*, from Maryland Heights, Mo., to points in Arkansas, Colorado, Illinois, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Tulsa, Okla., or San Francisco, Calif.

No. MC 129802 (Sub-No. 11), filed November 5, 1976. Applicant: GAIL R. KALDENBERG, doing business as ABC CARTAGE, 129 S.E. 18th Street, Des Moines, Iowa 50317. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Des Moines, Moulton, Pleasantville, Milo, Lacona, Russell, Melrose, Lovilia, Hamilton, Attica, Bussey, Tracy, Seymour, Alerton, Lineville, Clio, Harvard, Kiniffin, Numa, Drakesville, Unionville, Udell, Paris, Bunch, Liberty Center, Lucas, Woodburn, Melcher, and Dallas, Iowa as off-route points in conjunction with applicant's presently authorized regular route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 129808 (Sub-No. 22), filed November 19, 1976. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., P.O. Box 2078, West Highway No. 30, Grand Island, Nebr. 68801. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Home decorating trimmings and accessories*, from Traverse City and Greenville, Mich., to Grand Island, Nebr., under a continuing contract, or contracts, with Burwood Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Grand Island, Nebr.

No. MC 133119 (Sub-No. 104), filed November 12, 1976. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Mellman Food Industries Inc., located at or near Sioux Falls, S. Dak., to points in the United States (except Montana, Wyoming, North Dakota, Indiana, Ohio, Kentucky, West Virginia, Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, Alaska, Hawaii, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Sioux Fall, S. Dak.

No. MC 133119 (Sub-No. 105), filed November 12, 1976. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Whitehall Packing Co., located at or near Whitehall and Eau Claire, Wis., to points in the United States (except Montana, Wyoming, North Dakota, Wisconsin, Michigan, Indiana, Ohio, Kentucky, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, the District of Columbia, Alaska, and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Sioux Falls, S. Dak.

No. MC 133566 (Sub-No. 68), filed November 4, 1976. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, 1224 Seventeenth Street N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and materials, supplies, equipment and ingredients* used in the manufacturing, packaging, and distribution of frozen foods (except in bulk), from the plantsite and storage facilities of The Quaker Oats Company located at or near Jackson, Tenn., to points in Maine, New Hampshire, Vermont, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 133689 (Sub-No. 90), filed November 5, 1976. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the plantsite and storage facilities of Armour & Co. located at or near Huron, S. Dak., to points in Florida, Georgia, North Carolina, South Carolina, and Tennessee; and (2) from the plantsite and storage facilities of Armour & Co. located at or near Worthington, Minn., to points in Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, North Carolina, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, restricted in (1) and (2) above to traffic originating at the above named origins and destined to the above named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 133928 (Sub-No. 10), filed November 15, 1976. Applicant: COURTNEY J. MUNSON, doing business as: MUNSON TRUCKING, 700 South Main, Monmouth, Ill. 61462. Applicant's representative: Courtney J. Munson (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard, tallow, shortening, vegetable oil shortening, margarine, and cooking oils*, in packages, from the facilities of Swift Edible Oil Company located at or near Bradley, Ill., to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and the District of Columbia; and Manassas, Williamsburg, Richmond, and Newport News, Va.; Dover, Rehoboth Beach, and Wilmington, Del.; Levitt City, New Haven, New London, Hartford, Meriden, Colchester, and Stamford, Conn.; Burlington, Brattleboro, Ruthland and White River Jct., Vt.; Dover, Concord, and Manchester, N.H.; Fairfield, Lewiston, Portland and Augusta, Maine; and Providence and Cranston, R.I., and the Commercial Zones of the respectively named cities.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 135658 (Sub-No. 3), filed November 12, 1976. Applicant: ROCK RIVER CARTAGE, INC., R.R. No. 2, P.O. Box 430, Rock Falls, Ill. 61071. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refractory materials and products* (except in bulk), from points in Lake County, Ind., to Sterling, Ill., for the account of, and under a continuing contract, or contracts, with Northwestern Steel and Wire Company, located at Sterling, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 135698 (Sub-No. 9), filed November 15, 1976. Applicant: GERALD E. AMUNDSON, dong business as JERRY AMUNDSON TRUCKING, Route 3, New Richmond, Wis. 54017. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry feed ingredients*, from New Richmond, Wis., to points in Brown, Watonwan, and Martin Counties, Minn., and points in Faribault and Blue Earth Counties, Minn., on and west of U.S. Highway 169.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135797 (Sub-No. 61), filed November 8, 1976. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, Ark. 72745. Applicant's representative: Don Garrison, 204 Highway 71 North Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sporting goods and recreational equipment*, from the plantsite and warehouse facilities of Gym-Dandy, Inc., at Bossier City, La., to points

Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and building materials, and materials and supplies* used in the manufacturing, distribution and installation of gypsum, gypsum products and building materials, (1) between the plantsite of United States Gypsum Company located at or near Plaster City, Calif., and points in Los Angeles County, Calif., on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming; and (2) between the plantsite of United States Gypsum Company located at or near Heath, Mont. on the one hand, and, on the other, points in California, Idaho, Montana, North Dakota, Nevada, Oregon, South Dakota, Utah, Washington and Wyoming, restricted in (1) and (2) above to a transportation service to be performed under a continuing contract or contracts with United States Gypsum Company of Chicago, Ill.

NOTE.—Applicant holds common carrier authority in MC 138782 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 134477 (Sub-No. 128), filed November 17, 1976. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and samples thereof*, from Marietta, Pa., and Ringgold, Ga., to points in Minnesota, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135082 (Sub-No. 39), filed November 17, 1976. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road N.E., Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing products* (except commodities in bulk, moving in tank vehicles), from Bernalillo County, N. Mex., to points in California, Idaho, Montana, Nebraska, Nevada, and Wyoming.

NOTE.—Applicant holds contract carrier authority in No. MC 115524 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Albuquerque, N. Mex. or Phoenix, Ariz.

No. MC 135410 (Sub-No. 7), filed November 15, 1976. Applicant: COURTNEY J. MUNSON, doing business as: MUNSON TRUCKING, 700 South Main, Monmouth, Ill. 61462. Applicant's representative: Courtney J. Munson (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard, tallow, shortening, vegetable oil shortening, margarine, and cooking oils*, in packages, from the facilities of Swift Edible Oil Company located at or near Bradley, Ill., to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and the District of Columbia; and Manassas, Williamsburg, Richmond, and Newport News, Va.; Dover, Rehoboth Beach, and Wilmington, Del.; Levitt City, New Haven, New London, Hartford, Meriden, Colchester, and Stamford, Conn.; Burlington, Brattleboro, Ruthland and White River Jct., Vt.; Dover, Concord, and Manchester, N.H.; Fairfield, Lewiston, Portland and Augusta, Maine; and Providence and Cranston, R.I., and the Commercial Zones of the respectively named cities.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 135658 (Sub-No. 3), filed November 12, 1976. Applicant: ROCK RIVER CARTAGE, INC., R.R. No. 2, P.O. Box 430, Rock Falls, Ill. 61071. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refractory materials and products* (except in bulk), from points in Lake County, Ind., to Sterling, Ill., for the account of, and under a continuing contract, or contracts, with Northwestern Steel and Wire Company, located at Sterling, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 135698 (Sub-No. 9), filed November 15, 1976. Applicant: GERALD E. AMUNDSON, dong business as JERRY AMUNDSON TRUCKING, Route 3, New Richmond, Wis. 54017. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry feed ingredients*, from New Richmond, Wis., to points in Brown, Watonwan, and Martin Counties, Minn., and points in Faribault and Blue Earth Counties, Minn., on and west of U.S. Highway 169.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135797 (Sub-No. 61), filed November 8, 1976. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, Ark. 72745. Applicant's representative: Don Garrison, 204 Highway 71 North Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sporting goods and recreational equipment*, from the plantsite and warehouse facilities of Gym-Dandy, Inc., at Bossier City, La., to points

scribed in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Mellman Food Industries Inc., located at or near Sioux Falls, S. Dak., to points in the United States (except Montana, Wyoming, North Dakota, Indiana, Ohio, Kentucky, West Virginia, Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, Alaska, Hawaii, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Sioux Fall, S. Dak.

No. MC 133119 (Sub-No. 105), filed November 12, 1976. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Whitehall Packing Co., located at or near Whitehall and Eau Claire, Wis., to points in the United States (except Montana, Wyoming, North Dakota, Wisconsin, Michigan, Indiana, Ohio, Kentucky, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, the District of Columbia, Alaska, and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Sioux Falls, S. Dak.

No. MC 133566 (Sub-No. 68), filed November 4, 1976. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, 1224 Seventeenth Street N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and materials, supplies, equipment and ingredients* used in the manufacturing, packaging, and distribution of frozen foods (except in bulk), from the plantsite and storage facilities of The Quaker Oats Company located at or near Jackson, Tenn., to points in Maine, New Hampshire, Vermont, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 133689 (Sub-No. 90), filed November 5, 1976. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the plantsite and storage facilities of Armour & Co. located at or near Huron, S. Dak., to points in Florida, Georgia, North Carolina, South Carolina, and Tennessee; and (2) from the plantsite and storage facilities of Armour & Co. located at or near Worthington, Minn., to points in Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, North Carolina, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, restricted in (1) and (2) above to traffic originating at the above named origins and destined to the above named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 133928 (Sub-No. 10), filed November 15, 1976. Applicant: COURTNEY J. MUNSON, doing business as: MUNSON TRUCKING, 700 South Main, Monmouth, Ill. 61462. Applicant's representative: Courtney J. Munson (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard, tallow, shortening, vegetable oil shortening, margarine, and cooking oils*, in packages, from the facilities of Swift Edible Oil Company located at or near Bradley, Ill., to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and the District of Columbia; and Manassas, Williamsburg, Richmond, and Newport News, Va.; Dover, Rehoboth Beach, and Wilmington, Del.; Levitt City, New Haven, New London, Hartford, Meriden, Colchester, and Stamford, Conn.; Burlington, Brattleboro, Ruthland and White River Jct., Vt.; Dover, Concord, and Manchester, N.H.; Fairfield, Lewiston, Portland and Augusta, Maine; and Providence and Cranston, R.I., and the Commercial Zones of the respectively named cities.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 135658 (Sub-No. 3), filed November 12, 1976. Applicant: ROCK RIVER CARTAGE, INC., R.R. No. 2, P.O. Box 430, Rock Falls, Ill. 61071. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refractory materials and products* (except in bulk), from points in Lake County, Ind., to Sterling, Ill., for the account of, and under a continuing contract, or contracts, with Northwestern Steel and Wire Company, located at Sterling, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 135698 (Sub-No. 9), filed November 15, 1976. Applicant: GERALD E. AMUNDSON, dong business as JERRY AMUNDSON TRUCKING, Route 3, New Richmond, Wis. 54017. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry feed ingredients*, from New Richmond, Wis., to points in Brown, Watonwan, and Martin Counties, Minn., and points in Faribault and Blue Earth Counties, Minn., on and west of U.S. Highway 169.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135797 (Sub-No. 61), filed November 8, 1976. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, Ark. 72745. Applicant's representative: Don Garrison, 204 Highway 71 North Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sporting goods and recreational equipment*, from the plantsite and warehouse facilities of Gym-Dandy, Inc., at Bossier City, La., to points

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in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., or Little Rock, Ark.

No. MC 136144 (Sub-No. 2), filed November 12, 1976. Applicant: ACME TRANSFER AND STORAGE CO., INC., 701 North First Street, Minneapolis, Minn. 55401. Applicant's representative: Harry P. Strong, Jr., 222 North Concord Street, South St. Paul, Minn. 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, canned and preserved (except frozen), from the facilities of Hunt-Wesson Foods, Inc., located at or near Shakopee, Minn., to Albert Lea, and Northfield, Minn., restricted to the transportation of traffic having an immediately prior movement by rail or motor carrier.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 136385 (Sub-No. 5), filed November 15, 1976. Applicant: HALL WAY, INC., P.O. Box 22, Ankeny, Iowa 50021. Applicant's representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson & Co., Inc., at Cedar Rapids, Iowa, to Chicago, Ill., and points located within the Chicago, Ill. Commercial Zone as defined by the Commission, restricted to the transportation of traffic originating at the above named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Kansas City, Mo.

No. MC 136818 (Sub-No. 15) filed November 11, 1976. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, Ariz. 85041. Applicant's representative: Donald E. Fernaays, Suite 320, 4040 East McCowell Road, Phoenix, Ariz. 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granular cheese*, from Tempe, Ariz., to Carthage, Neosho and Springfield, Mo.

NOTE.—Applicant holds contract carrier authority in MC 136897 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Phoenix, Ariz.

No. MC 138157 (Sub-No. 32) filed November 15, 1976. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, Tenn. 37140. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpeting, carpet paddings and yarn*, from Anadarko and Watonga, Okla., to points in the United States (except Alaska and Hawaii); and (2) *supplies, materials and equipment*, used in the manufacture, production and shipment of the above-named commodities (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Anadarko and Watonga, Okla., restricted to traffic originating at or destined to the facilities of Sequoyah Industries, Inc., at or near Anadarko and Watonga, Okla.

NOTE.—Applicant holds contract carrier authority in MC 134150 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138258 (Sub-No. 3), filed November 18, 1976. Applicant: JAMES D. WILCOX, 201 Depot Street, P.O. Box 128, Boone, N.C. 28607. Applicant's representative: Douglas W. Greene, P.O. Box 629, Boone, N.C. 28607. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hand-saw blades*, finished and unfinished, and *electrical parts and components*, between Lansing and Boone, N.C., and Johnson City, Kingsport and Bristol, Tenn., and points in their respective commercial zones.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Charlotte, Hickory or Boone, N.C.

No. MC 139193 (Sub-No. 50), filed November 15, 1976. Applicant: ROBERTS & OAKE, INC., P.O. Box 1356, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billing, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is used or dealt in by wholesale, retail, and chain grocery and food business houses, between the plant sites, warehouses and storage facilities of Lever Brothers Company, located at St. Louis, Mo., on the one hand, and, on the other, points in Arkansas, California, Colorado, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Minnesota, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Rhode Island and Texas, under a continuing contract, or contracts, with Lever Brothers Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Chicago, Ill.

No. MC 139310 (Sub-No. 3) filed November 19, 1976. Applicant: G. E. BELMORE, doing business as MOTOR TRANSIT COMPANY, 5822 N. Interstate, Portland, Oreg. 97217. Applicant's representative: Earle V. White, 2400 S.W. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Compressed gasses*, in cylinders; *cylinders; cylinder trucks; welders' machinery, equipment, kits, accessories, parts and supplies; metal, cable, calcium carbide electrodes and hose*, (1) between Portland, Oreg. and Longview, Wash.; and (2) between Longview, Wash., on the one hand, and, on the other, points in Columbia and Clatsop Counties, Oreg., and Cowlitz, Wahkiakum, and Pacific Counties, Wash., under a continuing contract, or contracts, with Liquid Air, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 139495 (Sub-No. 178) filed October 28, 1976. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors, shutters, blinds, and accessories* used in the installation thereof, from Greenville and Terrell, Tex., to points in Arizona, California, Colorado, Florida, Illinois, Iowa, Kansas, Massachusetts, Maryland, Missouri, Minnesota, Nebraska, New Jersey, New Mexico, North Carolina, Oregon, Utah and Washington.

NOTE.—Applicant holds contract carrier authority in MC 133106 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Kansas City, Mo.

No. MC 140553 (Sub-No. 2) filed November 15, 1976. Applicant: ROGERS TRUCK LINE, INC., Box 125, Webster City, Iowa 50595. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 204 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Hygrade Food Products Corporation, located at or near Storm Lake and Cherokee, Iowa, to points in Connecticut, Delaware, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Mich. or Chicago, Ill.

No. MC 140553 (Sub-No. 2) filed November 15, 1976. Applicant: ROGERS TRUCK LINE, INC., Box 125, Webster City, Iowa 50595. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Wilson Foods Corp. located at Albert Lea, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140829 (Sub-No. 28) filed November 15, 1976. Applicant: CARGO CONTRACT CARRIER CORP., U.S. Highway 20, P.O. Box 206, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and/or storage facilities of Northern Star located at or near Minneapolis, Minn., to points in Connecticut, Kansas, Maryland, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Virginia and West Virginia, restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140829 (Sub-No. 29) filed November 19, 1976. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese, butter, dairy products and dairy by-products*, from the plantsite and storage facilities of Schurman's Butter & Cheese, Inc., at or near Lancaster and Bloomington, Wis., to points in Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Kansas, Louisiana, Massachusetts, Mississippi, Missouri, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, South Carolina, Tennessee and Texas, restricted to the transportation of traffic originating at the named origins and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 140829 (Sub-No. 32) filed November 18, 1976. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Wilson Foods Corp. located at Alberta Lea, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in No. MC 136408 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 141693 (Sub-No. 1) filed November 15, 1976. Applicant: GREGORY LEE JENCEN, doing business as AGRARIAN WAY OF WISCONSIN, 323 South Elm Street, Oconomowoc, Wis. 53066. Applicant's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and granulated fertilizer compounds, agricultural chemicals, fertilizer and pesticide sprayers, tanks, and containers, and supplies* used in the production, manufacture, sale and distribution thereof, between points in Illinois, Indiana, Iowa, Michigan, Minnesota, and Wisconsin, under a continuing contract, or contracts, with Farm Better Service, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, Wis.

No. MC 141693 (Sub-No. 2) filed November 15, 1976. Applicant: GREGORY LEE JENCEN, doing business as AGRARIAN WAY OF WISCONSIN, 323 South Elm Street, Oconomowoc, Wis. 53066. Applicant's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel buildings, grain bins, and drying equipment, and grain and feed handling equipment*, from points in Illinois, Iowa and Nebraska to points in Wisconsin, under a continuing contract or contracts with Materials Handling Equipment, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, Wis.

No. MC 141804 (Sub-No. 32) filed November 15, 1976. Applicant: WESTERN EXPRESS, P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Disposable respiratory care articles*, fabricated of plastic or metal or combinations of plastic and metal (except compressed gases in containers and articles utilizing compressed gasses as a propellant) and *parts and accessories* thereof, and *intravenous equipment and supplies* (except liquids) in cartons in straight or mixed loads, from the plant site and storage facilities of Inspiron, located at or near Upland, Calif., to Salt Lake City, Utah and to points located on or east of U.S. Highway 85, restricted to traffic originating at the above location.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif., or Lincoln, Nebr.

No. MC 141804 (Sub-No. 33) filed November 17, 1976. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New and used electric storage batteries and parts thereof, battery fluid, battery boxes, battery covers, and battery vents*, between the plantsites and storage and/or distribution facilities of Gould, Inc., located at or near Dunmore, Pa.; Lynchburg, Va.; Zanesville, Ohio; Atlanta, Ga.; Orlando, Fla.; Memphis, Tenn.; Shreveport, La.; Farmers Branch, Tex.; Leavenworth, Kans.; St. Paul, Minn.; Denver, Colo.; Phoenix, Ariz.; Hayward and City of Industry, Calif.; Salem, Oreg.; Omaha, Nebr.; Frisco, Tex.; and Philadelphia, Pa.; (2) *electric storage batteries and parts thereof, battery fluid, battery boxes, battery covers and battery vents*, from the plantsites and storage and/or distribution facilities of Gould, Inc. located at or near Kankakee, Ill.; Trenton, N.J.; and Fort Smith, Ark.,

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to points in the United States (except Alaska and Hawaii); and (3) *equipment, materials and supplies* used in the manufacture, production, and distribution of the commodities named in parts (1) and (2) above, from points in the United States (except Alaska and Hawaii), to the plantsites and storage and/or distribution facilities of Gould, Inc. as stated in parts (1) and (2) above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either St. Paul, Minn. or Lincoln, Nebr.

No. MC 142059 (Sub-No. 2), filed November 17, 1976. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, Ill. 60434. Applicant's representative: Jack Riley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum products, and supplies, materials and equipment* used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley and Woodland, Calif.; Loveland, Colo.; Hialeah, Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Ill.; Lebanon, Bristol and Franklin, Ind.; McPherson, Kans.; Frederick, Md.; Niles, Mich.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Umatilla and Stayton, Oreg.; Bloomsburg, Pa.; Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis.; on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests a consolidated hearing at Washington, D.C.

No. MC 142241 (Sub-No. 1), filed November 15, 1976. Applicant: KENNETH HOLBROOK & J. R. HOLBROOK, a Partnership, doing business as K & R TRUCKING COMPANY, Route 40, Davis Branch Road, Paintsville, Ky. 41240. Applicant's representative: Kenneth Holbrook (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials and supplies*, between Paintsville, Ky., and points in Boyd, Breathitt, Carter, Elliott, Floyd, Greenup, Johnson, Knott, Lawrence, Letcher, Lewis, Martin, Morgan, Magoffin, Perry and Pike Counties, Ky., under a continuing contract, or contracts, with Western Electric Company, Incorporated.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 142271 (Sub-No. 1), filed November 15, 1976. Applicant: WAYNE E. WATKINS, doing business as WATKINS REFRIGERATED DISTRIBUTING SERVICE, 20436 Schoolcraft Street, Winnetka, Calif. 91306. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Los Angeles, Calif. 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastic*, in vehicles equipped with mechanical refrigeration, from the plantsite of Furane Plastics, Inc., located at Los Angeles, Calif., to Ft. Bragg, Samoa, and Arcata, Calif.; Brookings, Eugene, Goldbeach, Medford, Roseburg, Klamath Falls, Springfield and Corvallis, Oreg.; Shelton, Tacoma and Olympia, Wash.; Missoula, Bonner, Columbia Falls and Kalispell, Mont.; New Waverly, Tex.; Alexandria, Urania, Holden and Hammond, La.; Crossett, Ark.; Cedar Springs and Atlanta, Ga.; Greensboro, N.C.; Silver Street, S.C.; Chapman, Ala.; and to the Port of Entry on the International Boundary Line between the United States and Canada located at or near Blaine, Wash., under a continuing contract or contracts with Willamette Valley Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 142485, filed September 29, 1976. Applicant: KENDRICK MOVING AND STORAGE, INC., P.O. Box 209, Lebanon, Ohio 45036. Applicant's representative: A. Charles Tell, 100 E. Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, and commodities requiring special equipment), between Blanchester, Ohio, on the one hand, and, on the other, points in Ohio, restricted against serving those commercial zone points outside Ohio.

NOTE.—The purpose of this filing is to transfer and convert a Certificate of Registration in MC 97323 (Sub-No. 1) to a Certificate of Public Convenience and Necessity. Applicant presently holds contract carrier authority in MC 136334 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 142508 (Sub-No. 2), filed November 15, 1976. Applicant: NATIONAL TRANSPORTATION, INC., 14031 L Street, P.O. Box 37465, Omaha, Nebr. 68137. Applicant's representative: Joseph Winter, 33 North LaSalle, Suite 2108, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in the *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Fort Morgan, Colo., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, restricted to traffic originating at the facilities of Morgan Colorado Beef Company, located at Fort Morgan, Colo., and destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 134734 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 142639, filed November 1, 1976. Applicant: KELLY MCKNIGHT, doing business as KELLY MCKNIGHT WRECKER SERVICE, 1108 Harrison Street, P.O. Box 1052, Arlington, Tex. 76010. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed, and replacement vehicles and trailers* (except mobile homes) by wrecker equipment, between points in Texas and Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Ft. Worth or Dallas, Tex.

No. MC 142657 filed November 17, 1976. Applicant: PORTEADORES DEL NOROESTE, S.A., P.O. Box 364, Calexico, Calif. 92231. Applicant's representative: David P. Christianson, 606 South Olive, Suite 825, Los Angeles, Calif. 92231. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, including kerosene, jet fuel, solvent, aviation gasoline, turbine fuel, lubricants, fuel oils, diesel and gasoline*, between points in Los Angeles County, Calif., on the one hand, and, on the other, ports of entry on the International Boundary Line between the United States and the Republic of Mexico located at or near Calexico and San Ysidro, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 142659 filed November 15, 1976. Applicant: ANTHONY B. CUCINOTTA, doing business as A B C CARTAGE, 4501 N. Pontiac Ave., Norridge, Ill. 60656. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard boxes and fibreboard scrap*, between the plant site and warehouse facilities of Container Corporation of America located at or near Carol Stream, Ill., on the one hand, and, on the other, Ft. Wayne, Indianapolis, Lepel, LaPorte, and Terre Haute, Ind.; Burlington, Cedar Rapids, Clinton, Davenport, Des Moines, Dubuque, and Mt. Pleasant, Iowa.; Charlotte, Cheboygan, and Detroit, Mich.; Anoka and St. Paul, Minn.; St. Louis, Mo.; Cincinnati, Cleveland, Columbus, St. Bernard, and Toledo, Ohio; Beaver Dam Burlington, Delavan, Ft. Atkinson Green Bay, Jefferson, Neenah, and Oshkosh, Wis., under a continuing contract or contracts with Container Corporation of America.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 142660 filed November 15, 1976. Applicant: LONNIE L. FERRIL, doing business as T. MILLER WRECKER, INC., 411 North Polk Street, Amarillo, Tex. 79107. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles*, by use of wrecker equipment only, and replacement vehicles for wrecked or disabled vehicles, between points in Texas within a 150 mile radius of Amarillo, Tex., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Kansas, Louisana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Amarillo or Dallas, Tex., and/or Oklahoma City, Okla.

No. MC 142661 filed November 15, 1976. Applicant: RICHARD E. BOWYER, 130 South Rambaugh Road, Route 5, Lima, Ohio 45801. Applicant's representative: Richard H. Brandon, 220 West Bridge Street, Box 97, Dublin, Ohio 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive brake parts*, from Warren, Mich., to points in New Jersey and in Long Island, N.Y., under a continuing contract or contracts with E & D Manufacturing Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 142663, filed November 12, 1976. Applicant: SPRINGBROOK TRANSPORT, INC., P.O. Box 422, Springfield, Pa. 19064. Applicant's representative: Robert Kubiak (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chocolate candy*, in vehicles equipped with mechanical refrigeration, from West Reading, Pa., to points in Arizona, California, Colorado, Nevada, New Mexico, Oregon, Texas, Utah and Washington, under a continuing contract with R. M. Palmer Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 142665, filed November 15, 1976. Applicant: MERCURY FREIGHT, INC., 15 South Kaiser Avenue, Taylor, Pa. 18517. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel tubing and springs, welding materials and supplies, and anchor reels*; and (2) *materials, supplies and equipment, personal effects and household goods* (except commodities in bulk, in tank vehicles), used in the manufacture, distribution or installation of commodities in (1) above, between South Abington Township, and Mountain Top, Pa., and Benton Harbor, Mich., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contract with Sankvik Steel Co.

NOTE.—Applicant holds common carrier authority in MC 99739 Sub 2, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Scranton, Pa.

PASSENGER APPLICATIONS

No. MC 544 (Sub-No. 1) (Amendment), filed April 19, 1976, published in the FEDERAL REGISTER issues of May 20, 1976 and July 1, 1976, and republished as amended this issue. Applicant: VANCOUVER-PORTLAND BUS CO., 111 East Fifth Street, Vancouver, Wash. 98660. Applicant's representative: David C. White, 2400 S.W. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in one-way or round trip charter operations, beginning or ending at points in Clackamas, Multnomah and Washington Counties, Oreg., and Clark County, Wash., and extending to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—The purpose of this republication is to: (1) include the phrase "in one-way or round trip" to applicant's request for authority; and (2) to include the words "or ending" to the territorial description. Common control may involved. Hearing: February 14, 1977 (1 week), at 9:30 a.m., Local Time, Portland, Oreg. Location of hearing room will be by subsequent notice.

No. MC 29839 (Sub-No. 6) (Amendment), filed August 11, 1976, published in the FEDERAL REGISTER issue of September 23, 1976, and republished as amended this issue. Applicant: EVERGREEN STAGE LINES, INC., 9038 N. Denver, Portland, Oreg. 97217. Applicant's representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in one-way round trip charter operations, beginning or ending at points in Clackamas, Multnomah and Washington Counties, Oreg., and Clark County, Wash., and extending to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—The purpose of this republication is to include the phrase "in one-way or round trip" to applicant's request for authority. Common control may be involved. Hearing: February 14, 1977 (1 week), at 9:30 a.m., Local Time, Portland, Oreg. Location of hearing room will be by subsequent notice.

No. MC 95622 (Sub-No. 3), filed November 18, 1976. Applicant: AVERY TRANSPORTATION INC., Box 444, Beachlake, Pa. 18405. Applicant's representative: W. C. Mitchell, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter and special operations, beginning and ending at points in Wayne County, Pa., and extending to points in the United States in and east of Illinois, Kentucky, Louisiana, Minnesota, Mississippi, Tennessee and Wisconsin.

NOTE.—Applicant states that it holds certain charter authority in MC 95622 and sub numbers thereto, from the origin county above to points in 17 states and the District of Columbia; no duplicating authority is being sought. If a hearing is deemed necessary, the applicant requests it be held at Scranton, Pa.

No. MC 108222 (Sub-No. 1), filed November 15, 1976. Applicant: EAGLE BUS LINES LIMITED, 339 Archibald Street, Winnipeg, Manitoba, Canada. Applicant's representative: R. Brock McArthur, 200 Childs Building, 211 Portage Avenue, Winnipeg, Manitoba, Canada R3B 2A2. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round trip charter operations, beginning and ending at ports of entry on the International Boundary Line between the United States and Canada located in Minnesota and North Dakota, and extending to points in the United States (except Alaska and Hawaii), restricted to the conduct of charter operations originating and terminating within the Province of Manitoba, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fargo, N. Dak. or Minneapolis, Minn.

No. MC 118348 (Sub-No. 24), filed November 12, 1976. Applicant: DOMENICO BUS SERVICE, INC., 75 New Hook Access Road, Bayonne, N.J. 07002. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, beginning and ending at New York, N.Y., and points in Nassau County, N.Y., and extending to Atlantic City, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Bayonne, N.J.

No. MC 142643 (Sub-No. 1), filed November 15, 1976. Applicant: RELIABLE RAILROAD SERVICE, INC., 1014 Enquirer Building, Cincinnati, Ohio 45202. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, who are employees of Consolidated Rail Corporation, and their baggage*, between Indianapolis, Ind., on the one hand, and, on the other, points in Illinois, Kentucky and Ohio, under a continuing contract, or contracts, with Consolidated Rail Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill, or Indianapolis, Ind.

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WATER CARRIER

No. W–1278 (Sub-No. 4), filed November 15, 1976. Applicant: BULK FOOD CARRIERS, INC., 425 California Street, San Francisco, Calif. 94104. Applicant's representative: J. Raymond Clark, 600 New Hampshire Ave., N.W., Suite 1150, Washington, D.C. 20037. Authority sought to engage in operation, in interstate or foreign commerce as a *common carrier by water* in the transportation of *commodities generally*, by self-propelled vessel and/or tug and barge service; (1) between ports and points on the Atlantic Coast and its tributary waterways, on the one hand, and, on the other, ports and points on the Gulf and Pacific Coasts and their tributary waterways; and (2) between ports and points on the Pacific Coast and its tributary waterways on the one hand, and, on the other, ports and points on the Gulf Coast and its tributary waterways. Note: Applicant holds contract carrier authority in W–1189 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary the applicant requests it be held at either San Francisco, Calif., or Washington, D.C.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission on or before January 17, 1977. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.-240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC–F–13008. (Correction), (Island Transportation Corp.—Purchase—The Guyott Company), published in the November 11, 1976 FEDERAL REGISTER on page 49954. Notice should include as follows: liquid phenol, in bulk, in tank trucks, from Philadelphia, Pa., to Watertown, Conn., with no transportation for compensation on return except as otherwise authorized. Liquid petroleum products, from Wethersfield and New Haven, Conn., to points in Hampden, Hampshire, and Franklin Counties, Mass., with no transportation for compensation on return except as otherwise authorized. Bunker-C fuel oil, from New Haven, Conn., to Adams, North Adams, Lee, and Pittsfield, Mass., with no transportation for compensation on return except as otherwise authorized.

No. MC–F–13030. Authority sought for purchase by AERO DISTRIBUTING CO., INC. (non-carrier) 7259 Delta Circle, Mableton, GA., 30336, of the operating rights of SWIFT-O CARRIER, INC., 2053 St. Deville N.E., Atlanta, GA., 30345, and for acquisition by VERNON PETTENGILL, Jr., 6714 Cascade Road, S.E., Apt. C–12, Grand Rapids, MI., 49506, of control of such rights through the purchase. Applicants' attorney: K. Edward Wolcott, 1600 First Federal Building, Atlanta, GA., 30303. Operating rights sought to be transferred: Such merchandise as is dealt in by home products distributors, as a *contract carrier* over irregular routes from the plant site and storage facilities of Amway Corporation, in Fulton County, GA., to points in Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, with no transportation for compensation on return except as otherwise authorized, with restrictions. AERO DISTRIBUTING CO., INC., holds no authority from this Commission. However it is controlled by VERNON PETTENGILL, JR., who is also in control of AERO LIQUID TRANSIT, INC. AERO LIQUID is authorized to operate as a *common carrier* in Michigan, Indiana, and Ohio, and as a *contract carrier* in Illinois, Indiana, New Jersey, and Michigan.

No. MC–F–13031. Authority sought for purchase by YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS., 66207, of a portion of the operating rights of LA SALLE TRUCKING COMPANY, P.O. Box 3447, 690 Anita Street, Chula Vista, CA., 92011, and for acquisition by GEORGE E. POWELL, JR., 1040 West 57th Street, Kansas City, MO., 64113, of control of such rights through the purchase. Applicants' attorneys: Leonard Kofkin, 39 South LaSalle Street, Chicago, IL., 60603, and Donald Murchison, Suite 400, Glendale Federal Bldg., 9454 Wilshire Boulevard, Beverly Hills, CA., 90212. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over irregular routes (1) between points in Imperial County, CA., on the one hand, and, on the other, the Port Of Entry of Calexico, CA., on the United States-Mexico Boundary line, restricted to operations in foreign commerce only; (2) between points in Imperial County, CA.; (3) between points in Imperial County, CA., on the one hand, and, on the other, points in San Diego County, CA., Vendee is authorized to operate as a *common carrier* in Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13032. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA., 94025, of the operating rights of VESS TRANSFER, INC., 1127 East Virginia Street, Evansville, IN., 47711, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., International Building, 601 California Street, San Francisco, CA., 94108, of control of such rights through the purchase. Applicants' attorneys: R. C. Stetson, 175 Linfield Dr., Menlo Park, CA., 94025 and Eugene T. Liipfert, 1660 L St., N.W., Washington, D.C., 20036. Operating rights sought to be transferred: Newspapers, as a common carrier over regular routes between Evansville, Ind., and Lawrenceville and Harrisburg, Ill., and all intermediate points and Lawrenceville and Harrisburg, Ill., restricted to delivery only of traffic originating at Evansville; general commodities, with exceptions between Evansville, Ind., and New Harmony, Ind., and the intermediate point of Wadesville, Ind., between New Harmony, Ind., on the one hand, and, on the other, Cynthiana, Ind., between Poseyville, Ind., and Griffin, Ind., and the intermediate point of Stwartville, Ind., between Evansville, Ind. and Owensville, Ind., and the intermediate and off-route points of Armstrong and St. Wendells, Ind., between Evansville, Ind., and Mount Vernon, Ind., serving no intermediate points, between Evansville, Ind., and Mt. Vernon, Ind., serving no intermediate points except Uniontown Dam site located on the Ohio River approximately 11 miles southwest of Mt. Vernon, Ind., as an off route point in connection with its authorized regular route operations between said points. General commodities, as a common carrier over irregular route between points in Indiana within ten miles of Evansville, Ind., including Evansville. Vendee is authorized to operate as a common carrier in all the States in the United States (except Hawaii, Maine, and Vermont). Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13033. Authority sought for purchase by LYONS TRANSPORTATION LINES INC., 138 East 26th Street, Erie, PA 16512, of a portion of the operating rights of EASTERN FREIGHTWAYS, INC., SIDNEY B. GLUCK, TRUSTEE IN BANKRUPTCY, c/o Edgar H. Booth, 405 Park Avenue, New York, N.Y. 10022, and for acquisition by JOHN M. COCHRAN, 138 E. 26th Street, Erie, PA 16512, of control of such rights through the purchase. Applicants' attorneys: John P. McMahon, 100 East Broad Street, Columbus, OH 43215 and William W. Becker, 1819 H Street, N.W., Suite 950, Washington, D.C. 20006. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes between Waterbury, Conn., and Albany, N.Y., serving all intermediate points; the off-route points of Chatham and Cohoes, N.Y., Bridgeport, Bristol, Falls Village, Hartford, Lakeville, Lime Rock, Meriden, Middletown, Naugatuck, New Britain, New Hartford, New Haven, Oakville, Pequabuck, Pine Meadow, Salisbury, Watertown, West Cornwall, and West Goshen, Conn., and Housatonic, Lenox Dale, South Egremont, Springfield, and West Stockbridge, Mass., and off-route points within 10 miles of Albany, N.Y., as follows: From Waterbury over Connecticut Highway 8 to the Connecticut-Massachusetts State line, thence over Massachusetts Highway 8 to junction U.S. Highway 20, thence over U.S. Highway 20 via Lenon, Mass., to Albany, and return over the same route. From Waterbury over Connecticut Highway 8 to Winsted, Conn., thence over U.S. Highway 44 to Canaan, Conn., thence over U.S. Highway 7 to Lenox, Mass., thence over U.S. Highway 20 to Albany, and return over the same route; Between Pittsfield, Mass., and North Adams, Mass., serving all intermediate points; and the off-route points of Dalton, and Griswoldville, Mass., as follows: From Pittsfield over Massachusetts Highway 9 to Coltsville, Mass., thence over Massachusetts Highway 8 to North Adams, and return over the same route; From Pittsfield over U.S. Highway 7 to Williamstown, Mass., thence over Massachusetts Highway 2 to North Adams, and return over the same route; *General commodities*, with exceptions between Junction U.S. Highways 9 and 20 over U.S. Highway 9 to junction New York Highway 203, thence, over New York Highway 203 to Austerlitz, N.Y., thence over New York Highway 22 to Green River, N.Y., thence over New York Highway 71 to the New York-Massachusetts State line, thence over Massachusetts Highway 71 to junction Massachusetts Highway 23, thence over Massachusetts Highway 23 to Great Barrington, and return over the same route. Vendee is authorized to operate as a *common carrier* in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Vermont, Virginia, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13034. Authority sought for purchase by KDB EXPRESS, INC., P.O. Box 217, Archbold, OH., 43502, of the operating rights and property of GRIESER TRUCKING CO., INC., Route 1, Archbold, OH., 43502, and for acquisiton by KDB ENTERPRISES, INC., GERALD DEFOE, President, Box 217, Archbold, OH., 43502, of control of such rights and property through the purchase. Applicants' attorney: Michael M. Briley, 300 Madison Avenue, P.O. Box 2088, Toledo, OH., 43603. Operating rights sought to be transferred: *New furniture*, as a *common carrier* over irregular routes, from Archbold, Ohio, to points in the United States (Excluding Alaska and Hawaii); and *returned shipments of new furniture, and equipment, materials, and supplies* used in the manufacture and distribution of furniture, from points in the United States (excluding Alaska and Hawaii), to Archbold, Ohio, with restrictions; *uncrated tubular steel scaffolding and accessories, uncrated boarding ramps, uncrated maintenance stands, and uncrated baggage loading stands*, between Archbold, Ohio, on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii), between points in the United States (except Alabama, Alaska, Florida, Georgia, Hawaii, Indiana, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; Agricultural machinery, implements, and parts, as described in Appendix XII to the report on Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, except those requiring the use of special equipment, between the site of the Yoder & Frey, Inc., auction yard, located near Archbold, Ohio, on the one hand, and, on the other, points in Illinois, Pennsylvania, and Wisconsin, between the site of the Yoder & Frey, Inc. auction yard located approximately one and one-quarter miles northwest of Archbold, Ohio, on an unnumbered county road, on the one hand, and, on the other, points in Arkansas, Indiana, Iowa, Kentucky, Michigan, Missouri, New York, North Carolina, Tennessee, and West Virginia, with restrictions; *furniture parts and furniture stock*, from Archbold, Ohio, to points in the United States (excluding Alaska and Hawaii), with no transportation for compensation on return except as otherwise authorized; *Agricultural machinery implements and parts*, between the auction yard of Yoder & Frey, Inc., located near Archbold, Ohio, on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, New Jersey, Maryland, Virginia, Delaware, Ohio, and the District of Columbia, with restrictions; *new furniture, furniture parts, and furniture stock*, from Stryker, Ohio, to points in the United States (except Alaska and Hawaii); and *returned shipments of new furniture, and equipment, materials, and supplies* used in the manufacture and distribution of furniture (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Stryker, Ohio; (1) *Corrugated sheets, pads, boxes, and related packaging*, from the facilities of the Georgia-Pacific Corporation at Archbold, Ohio, to points in Illinois, Indiana, and Michigan; and (2) *materials and supplies* used in the manufacture and distribution of corrugated sheets, pads, boxes, and related packaging (except commodities in bulk), from points in the States listed in (1) above to facilities of the Georgia-Pacific Corporation at Archbold, Ohio, with restrictions. KDB EXPRESS, INC., holds no authority from this Commission. However, it is controlled by KDB ENTERPRISES, INC., who also controls ARLINGTON TRUCK COMPANY, who under MC–60253 and subs thereunder is authorized to operate as a contract carrier in Ohio, Missouri, Illinois, New York, Indiana, Michigan, Iowa, West Virginia, Wisconsin, Kentucky, Pennsylvania, Alabama, Arkansas, Connecticut, Delaware, Florida, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, New Hamphisre, New Jersey, Rhode Island, Tennessee, Vermont, the District of Columbia, and North Carolina. Application has been filed for temporary authority under section 210a(b).

Motor Carrier of Passengers

No. MC–F–13035. Authority sought for purchase by VALLEY COACH LINES, INC., 12154 N. Saginaw Road, Clio, MI., 48420, of a portion of the operating rights of NORTH STAR LINES, INC., 341 Ellsworth Ave. S.W., Grand Rapids, MI., 49503, and for acquisition by STANLEY CUPP and A. JEAN CUPP, both of 12154 N. Saginaw, Clio, MI., 48420, of control of such rights through the purchase. Applicants' attorney: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI., 48080. Operating rights sought to be transferred: *Passengers and their baggage, express, and new papers in the same vehicle with passenger*, as a *common carrier* over regular routes, (Route 7) Between Ann Arbor, Michigan, and Flint, Michigan, serving all intermediate points and the off route points of Brighton, Michigan, and Fenton, Michigan, from Ann Arbor over U.S. Highway 23 Business Route to junction U.S. Highway 23, thence over U.S. Highway 23 to junction Michigan Highway 78, thence over Michigan Highway 78 to Flint, and return over the same route. (Route 8) Between Flint, Michigan and Fenton, Michigan serving all intermediate points: from Flint over Fenton Road to Fenton, and return over the same route. Vendee is authorized to operate as a common carrier in Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13036. Authority sought for purchase by H. C. GABLER INC., R.D. #3, Chambersburg, PA., 17201, of a portion of the operating rights of SPECIALTY TRANSPORT, INC., P.O. Box 511, 20 Wilbraham Street, Palmer, MA., 01069, and for acquisition by HAROLD C. GABLER, Montgomery Avenue Extended, Chambersburg, PA., 17201, of control of such rights through the purchase. Applicants' attorneys: Christian V. Graf, 407 North Front Street, Harrisburg, PA., 17101, and David M. Marshall, 135 State Street, Suite 200, Springfield, MA., 01103. Operating rights sought to be transferred: Paper, paper products and commodities used in the manufacture, distribution, and sale of paper and paper products, except commodites in bulk, in tank or hopper type vehicles, as a contract carrier over irregular routes between the facilities of Albemarle Paper Company, at Roanoke Rapids, N.C., on the one hand, and, on the other, points in Virginia, Maryland (except Baltimore and points in its commercial zone, as defined by the Commission, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Maine, Vermont, New Hampshire, and Pennsylvania (except Philadelphia and points in its commercial zone, as defined by the Commission, and Lancaster, York, Harrisburg, and Pittsburgh), from Washington, D.C., to the facilities of Albermarle Paper Company at Roanoke Rapids, N.C., with no transportation for compensation on return except as otherwise authorized, with restrictions. Vendee is authorized to operate as a common carrier in all the States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

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NOTE.—MC 27817 (Sub-No. 125), is a directly related matter.

No. MC–F–13037. Authority sought for purchase by R. H. REDIKER TRANSPORT LTD., Beebe, Quebec, CANADA, of the operating rights of RODOLPHE GROULX, Guenette, County of Labelle, P.Q., CANADA, and for acquisition by R. H. REDIKER, L. R. GOODSELL, and DELLA GOODSELL, of control of such rights through the purchase. Applicants' attorney: Adrien R. Paquette, 200 St. James Street, Montreal, Quebec, Canada H2Y 1M1. Operating rights sought to be purchased: *Sawed slabs of granite* and *rough granite blocks*, as a *common carrier* over regular routes from the port of entry in Vermont, on the United States-Canada Boundary line near Highgate Springs, Vt., to Barre, Vt., serving no intermediate points; From a point on the United States-Canada Boundary line at U.S. Highway 7 to junction Vermont Highway 2A, near Colchester, Vt., thence over Vermont Highway 2A to junction U.S. Highway 2, near Williston, Vt., thence over U.S. Highway 2 to junction U.S. Highway 302; from junction U.S. Highway 2 and Interstate Highway 89, over Interstate Highway 89 to junction U.S. Highway 2, thence over U.S. Highway 2 to junction U.S. Highway 302, and thence over U.S. Highway 302 to Barre, and return over the same route with no transportation for compensation except as otherwise authorized. Vendee is authorized to operate as a *common carrier* in Vermont. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13038. Authority sought for purchase by A & B FREIGHT LINE, INC., 2800 Falund Street, Rockford, IL 61109, of the operating rights of KEHE MOTOR SERVICE, INC., 29 Hickory Street, Arlington Heights, IL 60004, and for acquisition by ELVIN F. BLUME and FREDRICK L. BLUME, both of 2800 Falund Street, Rockford, IL 61109, of control of such rights through the purchase. Applicants' attorney: Robert M. Kaske, 2800 Falund Street, Rockford, IL 61109. Operating rights sought to be transferred: *General commodities*, except those of unusual value, high explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, as a *common carrier* over regular routes between Chicago, Ill., and Palatine, Ill., serving the intermediate points of Des Plaines, Mt. Prospect, and Arlington Heights, Ill. Vendee is authorized to operate as a *common carrier* in Illinois and Indiana. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13039. Authority sought for purchase by SCHIPPER'S EXPRESS, INC., 11425 Williamson Road, Cincinnati, OH, 45241, of a portion of the operating rights of POINT EXPRESS, INC., 440 Greenlawn Avenue, P.O. Box 418, Columbus, OH., 43216, and for acquisition by LOUIS H. GROENE, 11425 Williamson Rd., Cincinnati, OH., 45241, of control of such rights through the purchase. Applicants' attorneys: Richard L. Goodman, Paul F. Beery, Paul F. Beery Co., L.P.A. 8 East Broad Street, Columbus, OH., 43215, and John S. Fessenden, 1600 Willson Blvd., Arlington, VA., 22209. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes, between Huntington, West Virginia, and Portsmouth, Ohio, serving all intermediate points between Huntington, West Virginia, and Portsmouth, Ohio: from Huntington over U.S. Highway 60 to Ashland, Kentucky, thence across the Ohio River to junction U.S. 52, thence over U.S. Highway 52 to Portsmouth, Ohio, and return over the same route. Vendee is authorized to operate as a *common carrier* under a Certificate of Registration MC 21572 (Sub-No. 2) solely within the state of Ohio. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13040. Authority sought for purchase by MOUNTAIN MOTOR EXPRESS, INC., P.O. Box 727, Sidney, OH., 45365, of a portion of the operating rights of ZERKLE TRUCKING COMPANY, 34 Race Street, Middleport, OH., 45760, and for acquisition by PAUL B. LONG, JR., and PAUL B. LONG, SR., both of P.O. Box 727, Sidney, OH., 45365, of control of such rights through the purchase. Applicants' attorney: Paul F. Beery and Michael Spurlock, Paul F. Beery, Co., L.P.A., 8 East Broad Street, Columbus, OH., 43215. Operating rights sought to be transferred: *General commodities*, except those of unusual value, dangerous explosives, commodities in bulk other than salt, and those requiring special equipment, as a *common carrier* over irregular routes between Pomeroy, Middleport, and Minersville, Ohio, on the one hand, and, on the other, points and places in West Virginia. MOUNTAIN MOTOR EXPRESS, INC. holds no authority from this Commission. However, it is controlled by PAUL B. LONG JR., and PAUL B. LONG SR. who are shareholders, officers and directors of GENERAL HIGHWAY EXPRESS, INC. GENERAL HIGHWAY EXPRESS, INC. is a common carrier authorized to operate in Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13042. Authority sought for purchase by RUSSELL TRANSFER, INCORPORATED, 444 Glenmore Drive, Salem, VA., 24153, of the operating rights and property of INDUSTRIAL TRUCKING, INC., 4236 Kanawha Turnpike, So. Charleston, W. Va., 25303, and for acquisition by BILL B. BUMGARNER, BERKELEY H. RILEY, and VERNON S. CHURCH, 444 Glenmore Drive, Salem, VA., of control of such rights through the purchase. Applicants' attorney: Daniel B. Johnson, 1329 E Street, N.W., Washington, D.C., 20004. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC 120390 (Sub-No. 1) covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of West Virginia. Vendee is authorized to operate as a *common carrier* in Virginia, West Virginia, Ohio, Kentucky, Maryland, the District of Columbia, Tennessee, South Carolina, North Carolina, Pennsylvania, New Jersey, Delaware, and New York. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 68860 (Sub-No. 23), is a directly related matter.

No. MC–F–13043. Authority sought for purchase by JOHNSON MOTOR LINES, INC., DBA JOHNSON MOTOR LINES SYSTEM, 2426 North Graham Street (P.O. Box 10677), Charlotte, N.C., 28234, of a portion of the operating rights of MODERN TRANSFER COMPANY, INC., (ALLEGED BANKRUPTCY–ALAN BLACK, REC'R.), 1300 Hanover Avenue, (P.O. Box 2008), Allentown, PA., 18001, and for acquisition by H. BEALE ROLLINS, 6th Floor, Title Building, Baltimore, MD., 21202, of control of such rights through the purchase. Applicants' attorney: Donald E. Cross, 700 World Center Bldg., 918 Sixteenth St., N.W., Washington, D.C., 20006. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes between Allentown, Pa., and Pittsburgh, Pa., serving the intermediate and off-route points of Jim Thorpe, PA. (formerly known as Mauch Chunk and East Mauch Chunk, Pa.); points in Pennsylvania within 30 miles of the City-County Building in Pittsburgh, Pa.; points in that part of Pennsylvania bounded by a line beginning at Lehighton, Pa., and extending along Pennsylvania Highway 443 to junction Pennsylvania Highway 895 at McKeansburg, Pa., thence along Pennsylvania Highway 895 to junction U.S. Highway 122 at Molino, Pa., and thence along U.S. Highway 122 via Hamburg, Pa., to junction Pennsylvania Highway 662, thence along Pennsylvania Highway 662 to junction Pennsylvania Highway 562.

Thence along Pennsylvania Highway 562 to junction Pennsylvania Highway 73, thence along Pennsylavnia Highway 73 to Schwenksville, Pa., thence along unnumbered highway to junction Pennsylvania Highway 113 (near Harleysville, Pa.), thence along Pennsylavnia Highway 113 to junction U.S. Highway 611, thence south aolng U.S. Highway 611 to Pipersville, Pa., thence in a northeasterly direction along unnumbered Highway to Pennsylvania Highway 32, thence along Pennsylvania Highway 32 to junction U.S. Highway 611, thence along U.S. Highway 611 to Richmond, Pa., thence along an unnumbered highway ot Windgap, Pa., thence along Pennsylvania Highway 115 to junction U.S. Highway 209, and thence along U.S. Highway 209 to point of beginning at Lehighton, including points on the above-specified highways (except Hamburg, Pa.); between Allentown, Pa., and Pittsburgh, Pa., for operating convenience only, serving no intermediate or off-route points, except as otherwise authorized; RESTRICTION[1]: The service authorized above is subject to the following conditions: No shipment shall be transported solely between points in that part of Pennsylvania bounded by a line beginning at Lehighton, Pa., and extending along Pennsylvania Highway 443 to junction Pennsylvania Highway 895 at McKeansburg, Pa., thence along Pennsylvania Highway 895 to junction U.S. Highway 122 at Molino, Pa., and thence along U.S. Highway 122 via Hamburg, Pa., to junction Pennsylvania Highway 622, thence along Pennsylvania Highway 622 to junction Pennsylvania Highway 562, thence along Pennsylvania Highway 562 to junction Pennsylvania Highway 73, thence along Pennsylvania Highway 73 to Schwenksville, Pa., thence along unnumbered Highway to junction Pennsylvania Highway 113 (near Harleysville, Pa.), thence along Pennsylvania Highway 113 to junction U.S. Highway 611, thence south along U.S. Highway 611 to Pipersville, Pa., thence in a northeasterly direction along unnumbered highway to Pennsylvania Highway 32, thence along Pennsylvania Highway 32 to junction U.S. Highway 611, thence along U.S. Highway 611 to Richmond, Pa., thence along an unnumbered highway to Windgap, Pa., thence along Pennsylvania Highway 115 to junction U.S. Highway 209, and thence along U.S. Highway 209 to points of beginning at Lehighton, including points on the above-specified highways (except Hamburg, Pa.); *General commodities*, with exceptions, as a *common carrier* over regular routes between Pittsburgh, Pa., and Warren, Ohio, serving all intermediate points in Ohio, and the off-route points of Niles, Ohio, and Beaver Falls, Pa.; between Rochester, Pa., and Salem, Ohio, serving the intermediate points of East Palestine, and Columbiana, Ohio, and the off-route point of Leetonia, Ohio: between East Liverpool, Ohio, and East Palestine, Ohio, serving no intermediate points. Vendee is authorized to operate as a *common carrier* in North Carolina, Pennsylvania, Delaware, the District of Columbia, Florida, Georgia, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, Ohio, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Alabama, Kentucky, and Connecticut. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13044. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA., 94025, of a portion of the operating rights of POINT EXPRESS, INC., 440 Greenlawn Avenue, Columbus, OH., 43216, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., Raymond F. O'Brien, President, 601 California Street, San Francisco, CA. 94108, of control of such rights through the purchase. Applicants' attorneys: R. C. Stetson, 175 Linfield Dr., Menlo Park, CA., 94025, Eugene T. Lipfert, 1660 L Street, NW., Washington, D.C. 20036, and John S. Fessenden, 1660 Wilson Blvd., Arlington, VA., 22209. Operating rights sought to be transferred: General commodities, with exceptions, as a common carrier over regular routes between Charleston, W. Va., and Cincinnati, Ohio, serving the intermediate point of Huntington, W. Va., and all intermediate and off-route points in the Cincinnati, Ohio, Commercial Zone, as defined by the Commission, without restriction; and all intermediate points between Charleston, and Huntington, W. Va., and the off-route point of Barboursville, W. Va., restricted against the transportation of livestock: between Huntington, W. Va., and Charleston, W. Va., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and New Hampshire. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13045. Authority sought for purchase by CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, North Carolina 28021, of a portion of the operating rights of BYRNES L.I. MOTOR CARGO, INC., 136 Allen Boulevard, Farmingdale, New York 11735, and for acquisition by C. Grier Beam, Route 2, Cherryville, N.C. 28021, of control of such rights through the puchase. Applicants' attorneys: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, D.C. 20004, and Arthur Liberstein, Suite 1503, One Penn Plaza, New York, N.Y. 10001. Operating rights sought to be transferred: *General commodities*, (with exceptions noted), as a *common carrier* over irregular routes between points in Nassau and Suffolk Counties, N.Y.; and between New York, N.Y., on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y. Vendee is authorized to operate as a common carrier in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

[1] The restriction included in this publication is not contained in the present certificate. The restriction is that agreed upon by Transferee and Transferor.

MC–F–13046. Authority sought for merger by MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, St. Louis, MO., 63103, of the operating rights and property of the TEXAS AND PACIFIC MOTOR TRANSPORT COMPANY, same address as Transferee. Applicants' attorney: Robert S. Davis, same address as applicant. Operating rights sought to be merged: *General commodities*, with certain exceptions, as a *common carrier*, over regular routes, from, to, and between specified points in the States of Texas, Louisiana and New Mexico, with certain restrictions as described below, serving various intermediate and off-route points, over numerous routes for operating convenience only, as more specifically described in Certificate No. MC–50544 and Sub numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating in full, the entirety thereof. MISSOURI PACIFIC TRUCK LINES, INC., is a general commodity *common carrier* over regular routes authorized to operate in the States of Texas, Louisiana, Arkansas, Missouri, Illinois, Kansas, Nebraska, Memphis, Tennessee and Natchez, Mississippi. Application has not been filed for temporary authority under section 210a(b). Transferor's authorized service is subject to the following conditions: Carrier's service is limited to that which is auxiliary to, or supplemental of, train service of the TEXAS AND PACIFIC RAILWAY COMPANY, THE WEATHERFORD, MINERAL WELLS, AND NORTHWESTERN RAILWAY COMPANY, or TEXAS-NEW MEXICO RAILWAY COMPANY; and between El Paso and Sierra Blanca, Texas, train service of Texas and New Orleans Railroad Company, hereinafter called the Railways. Shipments may be handled at motor Carrier rates on the TEXAS AND PACIFIC MOTOR TRANSPORT COMPANY billing. Substitution of the TEXAS AND PACIFIC RAILWAY COMPANY rail service for motor service is authorized between points which cannot be served by highway because of restrictions in this Certificate. No rail traffic shall be transported by carrier in all-highway service at a rate lower than if it had moved on a motor carrier bill of lading. Carrier shall not render any service to or from any point not a station on a rail line of the Railways.

No shipments shall be transported by carrier between any of the following points, or through, or to, or from, more than one of said points: New Orleans and Shreveport, Louisiana, Texarkana, Texas-Arkansas, Fort Worth-Dallas (considered as one), and El Paso, Texas. Shreveport, Louisiana, shall apply as a key point only with respect to commodities in bulk and on traffic moving from, to, or through points on the TEXAS AND PACIFIC RAILWAY between Shreveport and New Orleans, Louisiana, including New Orleans.

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All contractual arrangements between carrier and Railways shall be reported to the Commission, and shall be subject to revision, if and when it is found necessary, in order that such arrangement shall be fair and equitable to the parties.

Such further specific conditions as in the future the Commission may find necessary to impose in order to insure that carrier's service shall be auxiliary to, or supplemental of, train service of the railways.

NOTE.—THE TEXAS AND PACIFIC MOTOR TRANSPORT COMPANY has been a wholly owned subsidiary of the TEXAS AND PACIFIC RAILWAY COMPANY, and the MISSOURI PACIFIC TRUCK LINES, INC., is a wholly owned subsidiary of the MISSOURI PACIFIC RAILROAD COMPANY. The merger application of these two parent railroads, under Docket No. FD-27773-4, became effective October 15, 1976, hence this application to merge the subsidiary truck lines. Applicants have been operating under common control and management for many years, and have been transporting shipments via their authorities in jointline service on a single division basis. There will be no change in the restrictions in the involved authority and there will be no change in the physical movement of shipments.

NOTICE

Western Maryland Railway Company, 2 North Charles Street, Baltimore, Maryland 21201, represented by Mr. Rene J. Gunning, General Attorney, 2 North Charles Street, Baltimore, Maryland 21201, hereby give notice that on the 24th day of November, 1976, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for an order approving and authorizing the Western Maryland (WM) to lease and operate a portion of Washington County Railroad Company's (Washington County) line of railroad (operated by The Baltimore and Ohio Railroad Company) (B&O) located between Valuation Station 980+00 at or near Roxbury, Maryland, and Valuation Station 1250+94 at end of the line at or near Hagerstown, Maryland, including portion of the Antietam Branch located between Valuation Station 130+00 near Security, Maryland, and Valuation Station 194+21.3 at end of the line near Security, Maryland, a total distance of approximately 6.35 miles, all in Washington County, Maryland, which application was assigned Finance Docket No. 28348. B&O presently operates the line of railroad which WM proposes to lease and operate. This application is made contingent upon the issuance of an appropriate certificate of public convenience and necessity by the Commission in Docket ~~No. AB-19~~ (Sub-No. 20) of The Baltimore and Ohio Railroad Company and the Washington County Railroad Company, as amended, to abandon a portion of the Hagerstown Branch between Valuation Station 0+00 at or near Weverton, Maryland, and Valuation Station 980+00 at or near Roxbury, Maryland, including portion of the Antietam Branch between Valuation Station 0+00 and Valuation Station 130+00 near Security, Maryland, a total distance of approximately 21.02 miles, all in Washington County, Maryland.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 45 days after date of first publication in the FEDERAL REGISTER; that such comments shall be served upon (a) Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590, (b) Mr. Edward H. Levi, Attorney General, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, and certificate of all such service is given to the Interstate Commerce Commission; and that all other applications, which are inconsistent, in whole or in part, with such applications, and all petitions for inclusion in the transaction, shall be filed with the Commission and furnished to the Docket Clerk, Secretary of Transportation, within 90 days after the publication of notice of the application in the FEDERAL REGISTER.

Western Maryland Railway Company

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission on or before January 17, 1977. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 1824 (Sub-No. 72) filed November 12, 1976. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, Md. 21655. Applicant's representative: Thomas M. Auchincloss, Jr., 918 16th Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Philadelphia, Pa., and Boyertown, Pa., serving the intermediate and off-route points of Norristown, Collegeville, Royersford, Phoenixville, Spring City, Craterford, Schwenksville and Pottstown, Pa.: From Philadelphia, Pa. over U.S. Highway 422 to Pottstown, Pa., thence over Pennsylvania highway 100 to the junction of Pennsylvania highway 100 and Pennsylvania highway 73, thence over Pennsylvania highway 73 to Boyertown, Pa., and return over the same route.

NOTE.—The purpose of this application is to convert applicant's irregular route authority to regular route authority. This is a matter directly related to a Section 5(2) finance proceeding in MC-F-13025, published in the FEDERAL REGISTER issue of December 2, 1976. If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 129631 (Sub-No. 51) filed November 8, 1976. Applicant: PACK TRANSPORT, INC., 3975 So. 300 West, Salt Lake City, Utah 84107. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Bldg., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from points in Idaho, Oregon and Washington to points in Colorado and Nebraska; (2) *lumber* (except commodities which because of size or weight require special handling or special equipment), from points in Lincoln, Lake, Flathead, Sanders, Mineral, Missoula, Granite, Ravilli and Powell Counties, Mont., to points in Colorado and Nebraska; (3) *lumber* when building materials (except commodities which because of size or weight require special handling or special equipment), from points in Box Elder, Cache, Davis (except Centerville), Morgan, Summitt, Salt Lake and Weber Counties, Utah to points in Colorado and Nebraska; and (4) *lumber* (except commodities which because of size or weight require special handling or special equipment), from points in Coconino, Navajo, Apache, Yavapai, and Mohave Counties, Ariz., to points in Colorado and Nebraska. The purpose of this filing is to eliminate the gateways at Albany and Platte Counties, Wyo.

NOTE.—This is a matter directly related to a Section 5(2) finance proceeding in MC-F-13012, published in the FEDERAL REGISTER issue of December 2, 1976. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo. or Salt Lake City, Utah.

No. MC 134356 (Sub-No. 5) (Supplementary notice) filed May 10, 1976, published in the FEDERAL REGISTER issue of June 10, 1976, and republished this issue for the purpose of allowing protests. Applicant: GALE DELIVERY, INC., 45 Sweeneydale Avenue, North Bayshore, Long Island, N.Y. 11706. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Bergen, Essex, Hudson, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, points in the New York; N.Y. Commercial Zone as defined by the Commission, and points in Nassau and Suffolk Counties, N.Y.; and (2) between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, points in the New York, N.Y. Commercial Zone. The purpose of this filing with respect to both Parts (1) and (2) above is to request tacking and concurrently eliminate a gateway at that portion of Hudson County, N.J. within the New York, N.Y. Commercial Zone.

NOTE.—This is a matter directly related to MC-F-12120 which was published in the FEDERAL REGISTER issue of February 6, 1974. The purpose of this supplemental notice is to indicate that appropriate persons desiring to participate in this proceeding may file protests within 30 days of this notice as governed by the applicable Commission Rules.

No. MC 142562 filed October 19, 1976. Applicant: AAA TRUCKING CORPORATION OF CALIFORNIA, 3630 Quaker Bridge Road, Trenton, N.J. 08619. Applicant's representative: Herbert Burstein, 2373 One World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: Regular routes: (A) *general commodities* (except used household goods, motor vehicles which require special equipment for their transportation, livestock, commodities requiring refrigeration, commodities when transported in motor vehicles equipped for mechanical mixing in transit, logs, uncrated furniture, commodities in bulk, articles of unusual value, commodities which because of size or weight require special equipment or handling, and Classes A and B explosives), (1) Between junction U.S. Highway 101 and the southern boundary of the Los Angeles Basin Area (described in (D) below) and Chula Vista, Calif., over U.S. Highway 101, and return over the same route, serving all intermediate points; (2) Between junction California Highway 78 and U.S. Highway 101 and Escondido, Calif., over California Highway 78, and return over the same route, serving all intermediate points; (3) Between Escondido, Calif. and San Diego, Calif., over U.S. Highway 395, and return over the same route, serving all intermediate points; (4) Between San Diego, Calif. and El Cajon, Calif., over U.S. Highway 80, and return over the same route, serving all intermediate points; (5) Between San Bernardino, Calif. and Victorville, Calif., over U.S. Highway 66, and return over the same route, serving all intermediate points, and serving the off-route point of Hesperia, Calif.; (6) Between San Bernardino, Calif. and Victorville, Calif., over California Highway 18, and return over the same route, serving all intermediate points, and serving with respect to (1)—(6) above all off-route points within 5 miles of the specified routes; (7) Between Escondido, Calif. and Temecula, Calif., over U.S. Highway 395, and return over the same route, serving all intermediate points; and (8) Between Coachella, Calif. and junction California Highway 86 and the Imperial County Line, Calif., over California Highway 86, and return over the same route, serving all intermediate points; and serving with respect to (7) and (8) above all off-route points within 15 miles of the specified routes.

(B) *General commodities* (except commodities requiring the use of refrigeration or temperature control in specially designed and constructed refrigerated equipment), (1) Between San Fernando, Calif. and Mojave, Calif., over U.S. Highway 6, and return over the same route, serving all intermediate points; and (2) Between Keene, Calif. and Kramer Junction, Calif., over U.S. Highway 466, and return over the same route, serving all intermediate points; and serving with respect to (B) (1) and (B) (2) next above all off-route points within 10 miles of the specified routes; and (C) *general commodities*, (1) Between Hemet, Calif. and junction Monterey Avenue and Park View Drive, Calif.: From Hemet over California Highway 75 to junction Monterey Avenue, thence over Monterey Avenue to junction Park View Drive, and return over the same route, serving all intermediate points; (2) Between junction California Highways 71 and 79 (near Aguanga, Calif.) and junction California Highways 7 and 74 (near Anza, Calif.), over California Highway 71, and return over the same route, serving all intermediate points; and (3) Between junction U.S. Highway 395 and California Highway 71 and junction California Highway 71 and 79, over California Highway 71, and return over the same route, serving no intermediate points, serving with respect to (C) (1)—(C) (3) next above all off-route points within 10 miles of the specified routes, and restricted with respect to (C) (1)—(C) (3) above against service at Palm Springs, Calif. Irregular routes: (D) *general commodities* (except commodities requiring the use of refrigeration or temperature control in specially designed and constructed refrigerated equipment), between points in The Los Angeles Basin Area described as follows: Beginning at the point the Ventura-County Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects California Highway 118, approximately two miles west of Chatsworth; easterly along California Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary.

Southeasterly and easterly, along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway 99; northwesterly along U.S. Highway 99 to the corporated boundary of the City of Redlands; westerly and northerly along said Corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway 60; southwesterly along U.S. Highways 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to California Highway 74; westerly along California Highway 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of the Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the County road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway 395; southeasterly along U.S. Highway 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning; (E) *general commodities* (including as exceptions those exceptions listed in (A) above), (1) between points in Imperial County, Calif.; and (2) between points in Imperial County, Calif., on the one hand, and, on the other, points in The

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Los Angeles Basin Area as described in (D) above.

(F) *Cement*, lime or plaster (except when transported in vehicles equipped for mechanical mixing in transit, or in bulk), between points in Imperial County, Calif. on the one hand, and, on the other, Riverside, Crestmore and Colton, Calif.; (G) *conduits, drain tile, sewer pipe*, and *parts and accessories for the installation thereof*, clay, concrete or earthen (except those which because of size or weight require special handling or special equipment), between points in Imperial County, Calif., on the one hand, and, on the other, Corona, Calif.; (H) *cotton* (except in bulk), between points in Imperial County, Calif., on the one hand, and, on the other, points within 25 miles of Blythe, Coachella and Hinkely, Calif.; and (I) *general commodities* (except commodities requiring the use of refrigeration or temperature control in specially designed and constructed refrigerated equipment), between points in The Los Angeles Basin Area as described in (D) above, on the one hand, and, on the other, Castaic, Pearblossom, Inyokern, China Lake, Ridgecrest, Westend, Argus, Trona, Johannesburg, Randsburg and Red Mountain, Calif. Note: Applicant states that the purpose of this filing is to convert Vendor's Certificates of Registration in MC 109216 Sub-Nos. 4, 6, 8, 13 and 14 to Certificates of Public Convenience and Necessity as a matter directly related to MC-F-12891 noticed in the FEDERAL REGISTER issue of July 29, 1976. The language in this request for authority has been modified pursuant to the Commission's request, and is not intended to broaden applicant's request beyond conversion of existing authorities. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. or Washington, D.C.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before January 17, 1977.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

Motor Carriers of Property

No. MC 33641 (Deviation No. 120), IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 30277, Salt Lake City, Utah 84125, filed December 2, 1976. Carrier proposes to operate as a *common* carrier, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Wooster, Ohio, over Ohio Highway 3 to junction Interstate Highway 76, thence over Interstate Highway 76 to junction Interstate Highway 71, thence over Interstate Highway 71 to junction Interstate Highway 271, thence over Interstate Highway 271 to junction Interstate Highway 90, thence over Interstate Highway 90 to Albany, N.Y., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Wooster, Ohio, over U.S. Highway 30 to East Liverpool, Ohio, thence over Ohio Highway 39 to the Ohio-Pennsylvania State line, thence over Pennsylvania Highway 68 to Rochester, Pa., thence over Pennsylvania Highway 65 to Pittsburgh, Pa., thence over U.S. Highway 22 to junction unnumbered highway (formerly portion U.S. Highway 22), thence over unnumbered highway via Export and Delmont, Pa., to junction U.S. Highway 22, thence over U.S. Highway 22 via Harrisburg, Pa., to junction unnumbered highway (formerly portion U.S. Highway 22), thence over unnumbered highway via Ono and Jonestown, Pa., to junction U.S. Highway 22, thence over U.S. Highway 22 to junction unnumbered highway (formerly portion U.S. Highway 22), thence over unnumbered highway via Upper Bern and Hamburg, Pa., to junction U.S. Highway 22, thence over U.S. Highway 22 to Elizabeth, N.J., thence over U.S. Highway 1 to New York, N.Y., thence over U.S. Highway 9 to Albany, N.Y., and return over the same route.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-36912 Filed 12-15-76;8:45 am]

[Notice No. 213]

ASSIGNMENTS OF HEARINGS

DECEMBER 13, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 61592 (Sub 386), Jenkins Truck Line, Inc. now being assigned January 11, 1977 (1 day), at Chicago, Illinois and will be held in Courtroom 1044-C, Everett McKinley Dirksen Building, 219 South Dearborn Street.

FD 27421, Southern Pacific Transportation Co.—Common Use of Terminal Facilities—Union Pacific Railroad Company and Burlington Northern, Inc. now being assigned January 24, 1977 for pre-hearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 138875 (Sub-No. 29), Shoemaker Trucking Company, now being assigned February 1, 1977 (2 days), at Boise, Idaho, in a hearing room to be later designated.

No. FF-C-62, Rail Van, Inc., Freight Handlers, Inc., Foutty Freight, Inc., Trailer Train, Inc., Trans-Rail, Inc., Lee Lydic, and Robert Marden—Investigation of Operations, now assigned February 7, 1977 at Chicago, Illinois, is canceled and reassigned February 7, 1977 (1 week) at Cleveland, Ohio; in Room 1455 Federal Office Building, 1240 East 9th Street.

MC-F-12974, Takin Bros, Freight Line, Inc.—Purchase (Portion)—Chi-Fil, Inc., now being assigned February 14, 1977 (1 week), at Chicago, Illinois; in a hearing room to be later designated.

MC 142174, Loiselle Transport Limited, now being assigned February 8, 1977 (9 days), at Helena, Montana, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37048 Filed 12-15-76;8:45 am]

[Ex Parte No. 277 (Sub-No. 1); Service date Dec. 13, 1976]

ADEQUACY OF INTERCITY RAIL PASSENGER SERVICE

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 24th day of November, 1976.

It appearing, That by report and order dated December 7, 1973, the Commission, pursuant to section 801 of the Rail Passenger Service Act, adopted regulations governing the adequacy of intercity rail passenger service, 48 CFR 1124.1, *et seq.*;

It further appearing, That on October 19, 1976, S. 3131, the "Rail Transportation Improvement Act" became effective; that section 801 of the Rail Passenger Service Act (45 U.S.C. 641(a)) by adding the following sentence: "No regulation issued by the Commission under this section shall require the Corporation or any railroad providing intercity rail passenger service to provide food service other than during customary dining hours."

It further appearing, That the Commission's current regulation 17(a) (49 CFR 1124.17(a)) must be revised to conform to the requirements of the Rail Transportation Improvement Act; that regulation 17(b) is unnecessary as it refers to health regulations under the jurisdiction of the Food and Drug Administration (presently 21 C.F.R. Parts 1240 and 1250); that regulation 17(c) is unnecessary, as the requirement that complete meals be served contemplates either a full-service dining area or the alternative services described therein; that, therefore, regulations 17(b) and 17(c) should be deleted; and that such revision of regulation 17 falls within the exception to section 553(b) of the Administrative Procedure Act, so that notice or hearing of the proposed revision is not required; and

Wherefore, and good cause: *We find*, That notice of the revision of regulation 17 is unnecessary; and

It is ordered, That this proceeding be, and it is hereby, reopened for the purpose of revising regulation 17 of the Commission's Adequacy of Service Regulation; and that regulation 17 (a), (b) and (c), be, and is hereby, revised and amended to read as follows:

Regulation 17—Carriers operating trains which travel for 2 hours or more shall make complete meals available during customary dining hours.

It is further ordered, That this order shall be effective on the date it is served; and

It is further ordered, That notice of this order shall be given to the general public by filing a copy with the Office of the Secretary of the Commission, and by filing a copy with the Director, Office of the Federal Register.

By the Commission, (Vice Chairman Clapp dissenting (written expression), Commissioner Murphy dissenting, Commissioner O'Neal dissenting (written expression), Commissioner Christian was absent and did not participate, Commissioner Corber did not participate).

ROBERT L. OSWALD,
Secretary.

NOTE.—This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

VICE CHAIRMAN CLAPP, DISSENTING

I disagree with the decision of the majority insofar as it has resulted in deletion of Regulation 17(c).

It is my view that Regulation 17(c), although somewhat confusing, was designed to encourage the use of dining cars on passenger trains while allowing for flexibility by permitting the provision, in the alternative, of meal service to seated passengers in other cars of the train.

The majority gives up all too quickly on Regulation 17(c). I believe that rail passenger carriers should be required to provide service to passengers while seated (either in the dining room or elsewhere) on those trains traveling for 12 hours or more. Snack bars and/or vending machines, etc., could be provided in addition for those passengers desiring such service.

Some effort should also be made by the Commission to encourage the use of dining cars on these long distance trains. Finally, I strongly believe that some provision for public participation in this decision should have been made in view of the deletion of 17(c).

COMMISSIONER O'NEAL, DISSENTING

I agree with the views expressed by Vice Chairman Clapp. The difference of opinion here highlights the fact that both the original and the revised regulation 17 are vague and confusing. Accordingly, to avoid further confusion we should now define the term "complete meal" and clearly distinguish the type of service required for a two-hour trip from that required for a twelve-hour trip. Without greater certainty it may be difficult to hold Amtrak to a level of service consistent with that contemplated by our regulations.

[FR Doc.76-37047 Filed 12-15-76;8:45 am]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

Twenty-Fourth Revised Exemption No. 12

TO ALL RAILROADS

It appearing, That the railroads named herein own numerous plain boxcars; that under present conditions there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 401, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company.[1]
Reporting Marks: ASAB.
Atlantic and Western Railway.
Reporting Marks: ATW.
Chicago & Illinois Midland Railway Company.
Reporting Marks: CIM.
Fonda, Johnstown and Gloversville Railroad Company.
Reporting Marks: FJG.
Hartford and Slocomb Railroad Company.
Reporting Marks: HS.
Louisiana Midland Railway Company.
Reporting Marks: LOAM.
Manufacturers Railway Company.
Reporting Marks: MRS.
Maryland and Pennsylvania Railroad Company.
Reporting Marks: MPA.
Minneapolis, Northfield and Southern Railway.
Reporting Marks: MNS.
New Hope and Ivyland Railroad Company.
Reporting Marks: MHIR.
Pickens Railroad Company.
Reporting Marks: PICK.
Roscoe, Snyder and Pacific Railway Company.
Reporting Marks: RSP.
Wellsville, Addison & Galeton Railroad Corporation.
Reporting Marks: WAG.

Effective December 15, 1976, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 8, 1976.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.76-37042 Filed 12-15-76;8:45 am]

[1] Addition.

[Amdt. No. 3 to Exemption No. 116]

GRAND TRUNK WESTERN RAILROAD CO. AND NORFOLK AND WESTERN RAILWAY CO.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

Upon further consideration of Exemption No. 116 issued March 6, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 116 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire March 15, 1977.

This amendment shall become effective December 15, 1976.

Issued at Washington, D.C., December 8, 1976.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.76-37045 Filed 12-15-76;8:45 am]

[No. 36382]

MONTANA INTRASTATE RAIL FREIGHT RATES AND CHARGES—1976

Petition for Investigation

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed June 4, 1976, petitioners, three common carriers by railroad[1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Montana, request that this Commission institute an investigation of their Montana intrastate freight rates and charges, under section 13 and 15a of the Interstate Commerce Act, wherein they will seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 310, Increased Freight Rates and Charges, 1975, Nationwide; and Ex Parte No. 313, Increased Freight Rates and Charges—Labor Costs—1975.

By tariff filed with the Montana Public Service Commission, petitioners sought to make the increases granted in Ex Parte No. 310, supra, effective on interstate traffic April 27, 1975, and in Ex Parte No. 313, supra, effective on interstate traffic June 20 and October 11, 1975, applicable on Montana intrastate traffic. Said Commission on May 13, 1976, ordered canceled the tariff then under suspension and investigation which would have implemented the aforementioned increase in Montana intrastate freight rates and charges.

Petitioners contend that present interstate freight rates from, to, and within Montana are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Montana are not more favorable than for interstate traffic; that traffic moving under present Montana

[1] The Chicago, Milwaukee, St. Paul & Pacific R.R. Co.; Union Pacific Railroad Company; and Burlington Northern, Inc.

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intrastate rail freight rates and charges fails to provide its fair share of earnings; and, that the present Montana intrastate rail freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Montana and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of section 13 and 15a of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 310, supra, and Ex Parte No. 313, supra.

Under section 13(4) and 13(5) of the Interstate Commerce Act, this Commission is directed to institute an investigation, into the lawfulness of intrastate rail freight rates and charges, upon filing of a petition by the railroads pursuant to section 13(3) of the Act, after the appropriate State agency has reached a final decision or has failed to act within 120 days after a carrier by railroad has filed with such appropriate state body a change in an intrastate rate, fare, or charge for the purpose of adjusting such rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce. This Commission may act not withstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority. We note the final decision of the Montana Public Service Commission, vesting our jurisdiction.

The Commission notes that joint pleadings have been filed on June 22, 1976, by Montana Department of Agriculture, Montana Wheat Research and Marketing Committee, and Montana Grain Growers Association. The subject matter of these pleadings raise issues which shall be considered in the investigation into the lawfulness of Montana intrastate rail freight rates and charges, and, as such, resolution of the replicants' contentions is not necessary at this time.

Wherefore, and good cause appearing therefor;

It is ordered, That the petition be, and it is hereby, granted; and that an investigation, under section 13 and 15a of the Interstate Commerce Act, be, and it is hereby, instituted to determine whether the Montana intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons and localities in intrastate commerce and those in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 310, supra, and Ex Parte No. 313, supra; and to determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

It is further ordered, That all common carriers by railroad operating in the State of Montana, subject to the jurisdiction of this Commission, be, and they are hereby, made respondents in this proceeding.

It is further ordered, That all persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before January 3, 1977. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order be served upon each of the petitioners and replicants herein; that the State of Montana be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of Montana and The Montana Public Service Commission, Helena, Montana; and that further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 8th day of December, 1976.

By the Commission, Commissioner Hardin.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37046 Filed 12-15-76;8:45 am]

[Notice No. 166]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 9, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 20861 (Sub-No. 5TA), filed December 2, 1976. Applicant: FROZEN FOOD DELIVERY SERVICE, INC., 300 West St., Berlin, Mass. 01513. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from Bridgeton, N.J., to points in Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont and Maine, under a continuing contract with Newton Acres, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Newton Acres, Inc., 500 Turnpike St., Canton, Mass. 02021. Send protests to: J. D. Perry, Jr., District Supervisor, 436 Dwight St., Springfield, Mass. 01103.

No. MC 30260 (Sub-No. 3TA), filed December 2, 1976. Applicant: DELMOT MOTOR EXPRESS, INC., 1024 Lackawanna Ave., Elmira, N.Y. 14903. Applicant's representative: Clinton Cornell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, high explosives, household goods, commodities in bulk, commodities requiring special equipment and those injurious to other lading), serving the terminal sites of B. & D. Transfer, Inc., located at Blossburg, Pa., and Liberty, Pa., as off-route points in conjunction with applicant's regular route authority, for the purpose of interchange only, for operating convenience only. Applicant intends to interling at Blossburg, Pa., and Liberty, Pa., for 180 days. Supporting shipper: Gary Dinnison, Secretary-Treasurer, B. & D. Transfer, Inc., P.O. Box 133, Liberty, Pa. 16930. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., Room 1259, Syracuse, N.Y. 13202.

No. MC 60887 (Sub-No. 4TA), filed December 2, 1976. Applicant: HARRY H. LONG MOVING STORAGE & EXPRESS, INC., 1001 S. Douglas St., Appleton, Wis. 54911. Applicant's representative: John R. Long (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, commodities requiring special equipment, Classes A and B explosives and household goods), in rail trailers or steamship containers having a prior or subsequent movement by rail, water or air, between Appleton, Wis., on the one hand, and, Bloomer, Durand, Mondovi, Frederic and Cumberland, Wis., on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cast North America Limited, One Westmount Square, Montreal, Quebec, Canada H3Z 2R8. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 107002 (Sub-No. 492TA), filed December 2, 1976. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: Edward M. Regan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate fertilizer*, dry, in bulk, in pneumatic tank vehicles, from the facilities of Air Products and Chemicals, located in Pace, Fla., to points in Alabama, Georgia and Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mississippi Chemical Corporation, P.O. Box 388, Zazpo City, Miss. 39193. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 E. Amite Bldg., Jackson, Miss. 39201.

No. MC 107403 (Sub-No. 990TA), filed December 3, 1976. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets*, in bulk, in tank vehicles, from East Syracuse, N.Y., to points in New York, for 180 days. Supporting shippers: Mobil Chemical Company, Macedon, N.Y. 14502. Cosden Oil & Chemical Company, P.O. Box 2159, Dallas, Tex. 75221. Consolidated Rail Corporation, Room 450, Six Penn Center Plaza, Philadelphia, Pa. 19104. Send protests to: Monica A. Blodgett, Transportation, Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 108207 (Sub-No. 450TA), filed December 2, 1976. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from Wichita, Kans., to points in Missouri, Nebraska, Iowa, Minnesota, Wisconsin, Kentucky, Tennessee, Michigan, Illinois, Indiana and Ohio, for 180 days. Supporting shipper: Sunflower Beef Inc., 800 E. 37th St., North, Wichita, Kans. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 108207 (Sub-No. 451TA), filed December 2, 1976. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic molding powder*, in packages, requiring transportation in refrigerated equipment, from Military, Kans., to points in Arizona, Arkansas, California, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, Texas, Tennessee and Wisconsin, for 180 days. Supporting shipper: Gulf Oil Corporation, P.O. Box 3706, Houston, Tex. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 112750 (Sub-No. 332TA), filed December 3, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents and written instruments* (except currency and negotiable securities), used in the operation of banks and banking institutions, from Chicago, Ill., to points in Elkhart, Lake, La Porte, Marshall, Porter, St. Joseph and Starke Counties, Ind., under a continuing contract with Federal Reserve Bank of Chicago, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Federal Reserve Bank of Chicago, 230 S. La Salle St., Chicago, Ill. 60609. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114211 (Sub-No. 292TA), filed December 2, 1976. Applicant: WARREN TRANSPORT, INC., P.O. Box 240, 324 Manhard St., Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, 327 S. LaSalle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation systems, and parts and attachments* for irrigation systems, from Havanna, Ill., to points in Indiana, Iowa, Kansas, Michigan, North Carolina, New Jersey, Wisconsin, Georgia and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ag-Rain, Inc., S. Schrader Ave., Havanna, Ill. 62644. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 114273 (Sub-No. 274TA), filed December 3, 1976. Applicant: CRST, INC., P.O. Box 68, 3930 16th Ave., Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Kraft, Inc., located at or near New Ulm, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and Washington, D.C., restricted to traffic originating at the above-named origin and destined to the above-named destination areas, for 180 days. Supporting shipper: Kraft, Inc., 500 Peshtigo Ct., Chicago, Ill. 60690. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 117119 (Sub-No. 607TA) filed December 3, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Campbell Soup Company, at Pocomoke City and Salisbury, Md., to points in the Lower Peninsula of Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Campbell Soup Company, Campbell Place, Camden, N.J. 08101. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 117119 (Sub-No. 608TA) filed December 3, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vitamin supplements*,

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liquid and tablet form plus cough syrups (except in bulk), in vehicles equipped with mechanical refrigeration, from Tampa, Fla.; New Orleans, La.; Houston, Tex.; Los Angeles, Calif., and Greenville, S.C., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hadacol International, 1350 Pine Ave., East Point, Ga. 30344. Send protests to: William H. Land, Jr., 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 119493 (Sub-No. 147 TA) filed November 26, 1976. Applicant: MONKEM COMPANY, INC., W. 20th St., Road, P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: Katherine Kempt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds*, from Webb City, Mo., to points in Ohio and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Multifoods Corporation, 1200 Multifoods Bldg., Minneapolis, Minn. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 119789 (Sub-No. 315TA) (Correction) filed November 16, 1976, published in the FEDERAL REGISTER issue of November 30, 1976, and republished as corrected this issue. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs*, from Aspers, Pa., to points in Texas, Oklahoma, Louisiana and Arkansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Duffy-Mott, Inc., 370 Lexington Ave., New York, N.Y. 10017. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242. The purpose of this republication is to correct the territorial description.

No. MC 127304 (Sub-No. 15TA) filed December 3, 1976. Applicant: CLEAR WATER TRUCK COMPANY, INC., 9101 North West St., Valley Center, Kans. 67147. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by American Beef Packers, Inc., at Omaha, Nebr., to Wichita, Kans., under a continuing contract with American Beef Packers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. 68106. Send protests to: M. E. Taylor, District Supervisor, Suite 101 Litwin Bldg., 110 N. Market, Wichita, Kans. 67202.

No. MC 128685 (Sub-No. 22TA) filed November 29, 1976. Applicant: DIXON BROS., INC., P.O. Box 8, Newcastle, Wyo. 82701. Applicant's representative: Jerome Anderson, 100 Transwestern Bldg., 404 N. 31st St., Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Such commodities*, including those requiring special equipment for loading and unloading, as are dealt in and used by agricultural and farm implement, machinery, equipment and supply dealers, as well as by lawn and garden care equipment machinery and supply dealers; and (b) *Portable space heaters*, from Sioux Falls, S. Dak., to points in Montana and Wyoming; and (2) *Wooden packing boxes and crates, and agricultural implements*, from points in Montana and Wyoming, to Sioux Falls, S. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: DaKon, Inc., 100 E. Delaware, Sioux Falls, S. Dak. 57101. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 1006 Federal Bldg., & Post Office, 100 E. "B" St., Casper, Wyo. 82601.

No. MC 128685 (Sub-No. 22TA), filed November 29, 1976. Applicant: DIXON BROS., INC., P.O. Box 8, Newcastle, Wyo. 82701. Applicant's representative: Jerome Anderson, 100 Transwestern Bldg., 404 N. 31st St., Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Such commodities*, including those requiring special equipment for loading and unloading, as are dealt in and used by agricultural and farm implement, machinery, equipment and supply dealers, as well as by lawn and garden care equipment machinery and supply dealers; and (b) *Portable space heaters*, from Sioux Falls, S. Dak., to points in Montana and Wyoming; and (2) *Wooden packing boxes and crates, and agricultural implements*, from points in Montana and Wyoming, to Sioux Falls, S. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: DaKon, Inc., 100 E. Delaware, Sioux Falls, S. Dak. 57101. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 1006 Federal Bldg., & Post Office, 100 E. "B" St., Casper, Wyo. 82601.

No. MC 136635 (Sub-No. 3TA), filed December 2, 1976. Applicant: UNIVERSAL CARTAGE, INC., 4902 W. 15th St., Speedway, Ind. 46224. Applicant's representative: Donald W. Smith, 2465 One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-stressed concrete forms and materials and supplies* used in the erection of such concrete forms, when transported in the same vehicle with concrete forms, from points in St. Joseph County, Ind., to points in Illinois, Kentucky, Michigan and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: StressCore Company, Division of Hass Wholesale, Inc., State Road 23, South Bend, Ind. 24445. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 142449 (Sub-No. 1TA), filed December 2, 1976. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, Ind. 46624. Applicant's representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except automobiles, commodities in bulk, trucks and farm vehicles), restricted to traffic having a prior or subsequent movement by rail, between points in Indiana on and north of U.S. 40 (except Indianapolis, Ind.), on the one hand, and, on the other, rail ramps presently situated in Elkhart and Fort Wayne, Ind., and Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 9 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 142694TA filed December 2, 1976. Applicant: JOSEPHINE V. CREAGER, doing business as JACK CREAGER TRUCKING, 3812 S. 243rd Kent, Wash. 98031. Applicant's representative: Josephine V. Creager (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ferrous and non-ferrous meals*, between Los Angeles and Berkeley, Calif., Portland, Oreg., and Seattle, Wash., under a continuing contract with Ducommun Metals, Co., Inc., for 180 days. Supporting shipper: Ducommun Metals Co., Inc., 8212 S. 196th St., Kent, Wash. 98031. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

PASSENGER APPLICATION

No. MC 142684 (Sub-No. 1 TA), filed December 2, 1976. Applicant: B. C. LINES, INC., 10 Lodge St., Worcester, Mass. 01604. Applicant's representative: David M. Marshall, 135 State St., Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special round-trip operations, from Worcester and Oxford, Mass., to the site of Plainfield Greyhound Park, Plainfield, Conn., and return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 300 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: J. D. Perry, Jr., District Supervisor, 436 Dwight St., Room 338, Springfield, Mass. 01103.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37049 Filed 12-15-76;8:45 am]

[Notice No. 89]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before January 17, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' repersentative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76681, filed August 3, 1976. Transferee: Bickford Transportation, Inc., Route 1, Box 333, Yarmouth, Maine 04096. Transferor: Earle W. Mason, Kendall Pond Road, Derry, New Hampshire. Applicants' representative: Erving H. Bickford, Rt. 1, Box 333, Cousins Island Road, Yarmouth, Maine 04096. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 107251 (Sub-No. 2), issued December 22, 1954, as follows: Lumber, (1) between specified counties in New Hampshire, on the one hand, and, on the other, points in Massachusetts on and east of U.S. Highway 5; (2) between specified counties in Vermont and New Hampshire; (3) from specified points in Vermont, and New Hampshire to specified points in Massachusetts and New Hampshire; and (4) from points in York County, Maine, to Wilton, N.H.; Rough Hampshire; and (4) from points in York County, Maine, to Wilton ,N.H.; Rough lumber, from points in Strafford and Carroll Counties, N.H., to Stoughton, Mass.; Logs, from points in Vermont within 20 miles of the Village of Ascutneyville, Vt. to Claremont, N.H.; Building materials and forest products, between points in Rockingham, Hillsboro, and Merrimack Counties, N.H., on the one hand, and, on the other points in Essex, Suffolk, and Middlesex Counties, Mass.; Fertilizer, feed, agricultural commodities, and farm machinery, between points in Merrimack, Grafton, and Hillsboro Counties, N.H., on the one hand, and, on the other points in Massachusetts on and east of U.S. Highway 3; and carnival equipment, between points in Vermont, New Hampshire, and that part of Massachusetts on and east of a line beginning at the Massachusetts-New Hampshire State line and extending along Massachusetts Highway 12 to Worcester, Mass., thence along Massachusetts Highway 122 to the Massachusetts-Rhode Island State line. Transferee presently holds authority from this Commission. Application for temporary authority has not been filed.

No. MC-FC-76691, filed November 18, 1976. Transferee: Flying L Trucking Co., 870 W. 9th Street, San Pedro, California 90731. Transferor: Caravan Refrigerated Cargo, Inc., 1612 E. Irving Blvd., P.O. Box 6188, Dallas, Texas 75222. Applicant's representative: Arthur M. Katz, Esq., 1801 Century Park East, Suite 1717, Los Angeles, California 90067. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate No. MC-119789 (Sub-No. 153) issued by the Commission January 31, 1974, as follows: Canned Tuna, pet food (except in bulk), and knocked down cartons when moving in mixed loads from the plantsite and storage facilities of Star-Kist Foods, Inc., at Terminal Island, Calif. to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76764, filed November 17, 1976. Transferee: Gerald R. Hackett, doing business as G. R. Hackett Transport, 10529 N.E. 141st Street, Kirkland, WA 98033. Transferor: Kirk A. Jefferts, Route 2, Box 37A, Bow, WA 98232. Applicants' representative: Michael D. Duppenthaler, Registered Practitioner, Room 515, Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-136309 Sub 1, issued May 31, 1974, as follows: Wooden shakes, shingles, and ridge trim, from Skagit County, Wash., to points in California. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76790, filed October 20, 1976. Transferee: R. & W. EXPRESS, INC., 6861 Main Street, Lithonia, Georgia 30058. Transferor: W. O. Moore & Sons Division of Cedar Rock Ranch, Inc., 6877 Main Street, Lithonia, Georgia 30058. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Georgia 30349. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 139009 (Sub-No. 1) issued July 14, 1976, as follows: General commodities with the usual exceptions between Conyers, Doraville, Lithonia, Stone Mountain, and Tucker, Ga., on the one hand, and, on the other, points in De Kalb, Gwinnett, Newton, Rockdale, and Walton Counties, Ga. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76824, filed November 15, 1976. Transferee: 2-G Transportation,

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Inc., 10 E. Minnesota St., Savage, Minn. 55378. Transferor: Gerald Gordon Gogin, doing business as Gogin Trucking, North 16 W. 24990 Hwy. JJ, Pewaukee, Wis. 53072. Applicants' representative: Val M. Higgins, attorney at law, 1000 First National Bank Bldg., Minneapolis, Minn. 55424. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 139023 Sub-2, issued April 30, 1976, as follows: *Glass containers* and *closures* for glass containers, over irregular routes, from the facilities of Midland Glass Company at Shakopee, Minn., to points in Wisconsin and Illinois; and *Corrugated cardboard cartons, fiberboard dividers* and *carriers*, and *wooden pallets*, from points in Illinois and Wisconsin, to the facilities of Midland Glass Company at Shakopee, Minn. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–37050 Filed 12–15–76;8:45 am]

[I.C.C. Order No. 14; 1252]

REROUTING TRAFFIC

Chesapeake and Ohio Railway Co.

In the opinion of Joel E. Burns, Agent, The Chesapeake and Ohio Railway Company is unable to transport through traffic over its line between Chicago, Illinois, and Detroit, Michigan, via Grand Rapids, Michigan, because of a derailment.

It is ordered, That: (a) *Rerouting traffic.* The Chesapeake and Ohio Railway Company, being unable to transport through traffic over its line between Chicago, Illinois, and Detroit, Michigan, via Grand Rapids, Michigan, because of a derailment, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement.

(b) *Concurrence of receiving road to be obtained.* The Chesapeake and Ohio Railway Company, in rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The Chesapeake and Ohio Railway Company, when rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11 a.m., December 4, 1976.

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 6, 1976, unless otherwise modified, changed or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as Agent of all railroads, subscribing to the car service and car hire agreement under the terms of that agreement; and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 6, 1976.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.76–37043 Filed 12–15–76;8:45 am]

[Amdt. No. 1, I.C.C. Order No. 4, 1252]

REROUTING TRAFFIC

Chicago, Rock Island and Pacific Railroad Co.

Upon further consideration of I.C.C. Order No. 4, (Chicago, Rock Island and Pacific Railroad Company and the Fort Worth and Denver Railway Company) and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 4 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 a.m., June 15, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., December 15, 1976, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 8, 1976.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.76–37044 Filed 12–15–76;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 11, 1977, at 9:30 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building—U.S. Courthouse, Room A–220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Shelby State Community College, 1588 Union Avenue, Memphis, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place. This supersedes the notice previously published which scheduled the hearing on December 21, 1976.

Dated: December 10, 1976.

R. S. BIELAK,
Director, VA Regional Office, Nashville, Tennessee 37203.

[FR Doc.76–37015 Filed 12–15–76;8:46 am]

federal register

THURSDAY, DECEMBER 16, 1976

PART II:

FEDERAL ELECTION COMMISSION

CLEARINGHOUSE ON ELECTION ADMINISTRATION

Clearinghouse Advisory Committee; Notification of Hearing

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FEDERAL ELECTION COMMISSION

[Notice No. 1976-69]

CLEARINGHOUSE ON ELECTION ADMINISTRATION; CLEARINGHOUSE ADVISORY COMMITTEE

Hearing

In accordance with the Clearinghouse Advisory Panel Charter approved by the Federal Election Commission on November 25, 1975, and in accordance with the Federal Advisory Committee Act (Pub. L. 92-463), the Commission announces the following panel meeting:

Name: Federal Election Commission Clearinghouse Advisory Panel.
Date: 10-11 January 1977.
Place: Congressional Room, Statler-Hilton Hotel, 16th and K Streets, N.W., Washington, D.C.
Time: 0900-1200, 1400-1630 on 10 January 1977; 0900-1200, 1400-1630 on 11 January 1977.
Proposed Agenda: Discussion sessions addressing research projects, including election office planning and budgeting, voter registration, voter equipment, bi-lingual registration and voting, vote recount, and certification of candidates for Federal office.
Purpose of the meeting: The Panel will review present and future Clearinghouse research efforts, discuss problems in the administration of Federal elections, and formulate recommendations to the Federal Election Commission Clearinghouse for its future research program.

The Advisory Panel meeting is open to the public depending on available space. Any member of the public may file a written statement with the Panel before, during, or after the meeting. To the extent that time permits, the Panel Chairman may allow public presentation of oral statements at the meeting.

All communications regarding this Advisory Panel should be addressed to Dr. Gary Greenhalgh, Clearinghouse on Election Administration, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

Dated: December 9, 1976.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.76-36713 Filed 12-15-76;8:45 am]

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THURSDAY, DECEMBER 16, 1976

PART III:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

■

DEFINITION OF FAMILIES AND OTHER RELATED TERMS AND OCCUPANCY BY SINGLE PERSONS

Proposed Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 812]

[Docket No. R-76-428]

DEFINITION OF FAMILIES AND OTHER RELATED TERMS AND OCCUPANCY BY SINGLE PERSONS

Proposed Rule

Notice is hereby given that the Department of Housing and Urban Development proposes to amend Chapter VIII of Title 24 by adding a new Part 812 *Definition of Family and Other Related Terms and Occupancy by Single Persons*. The Proposed Part will implement the amendment to the United States Housing Act of 1937 (the Act) contained in the Housing Authorization Act of 1976 that extends eligibility for occupancy in certain housing assisted under the Act to single persons who are not otherwise eligible by reason of their qualification as "elderly", "displaced", or the remaining member of a tenant family. The proposed part extends eligibility for occupancy to such persons if they are residing in a project at the time of its conversion to a low-income or lower-income project (including projects receiving assistance under Part 886 of this Chapter) except for units or projects assisted under Part 882 of this Chapter and for occupancy in projects that are experiencing sustained vacancies where there is no likelihood of filling vacant units with other eligible applicants.

The proposed part limits the number of units that the HUD Field Office Director may authorize to be occupied by such single persons within the jurisdiction of any public housing agency to 10 percent of the total number of units assisted under the Act. Further, the Proposed Part requires that priority for admission to the projects be given to single persons who are eligible because they qualify as "elderly" or "displaced" over such single persons.

The definition of the term "family" and other related terms for all programs under the Act are consolidated in the proposed Part 812. When the Part is issued as a final rule, Parts 880, 881, 883, and 886, applicable to the Section 8 program, and Part 860, applicable to the Low-Income Housing Program, which now contain definitions of these terms, will be amended to delete the text of the existing definitions and to cross reference the appropriate term to this Part.

Interested persons are invited to submit written comments, suggestions, objections or views with respect to this proposed Part to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. All relevant material received by *January 19, 1977*, will be considered before adoption of the Part. A copy of each written communication will be available for public inspection during regular hours at the above address.

The Secretary has determined that the proopsed Part does not have a substantial environmental impact. A Finding of Inapplicability of Section 102(2)(e) of the National Environmental Policy Act of 1969 has been made with respect to this proposed Part, in accordance with procedures in HUD Handbook 1390.1. It is available for public inspection in the Office of the Rules Docket Clerk, at the above address.

It is hereby certified that the economic and inflationary impacts of this Proposed Part have been carefuly evaluated in accordance with OMB Circular A-107. Accordingly, it is proposed to amend Title 24 of the Code of Federal Regulations by adding a new Part to read as follows:

PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS AND OCCUPANCY BY SINGLES PERSONS

Sec.
812.1 Purpose and scope.
812.2 Definitions.
812.3 Authorization to admit single persons.
812.4 Effect of authorization on contract provisions.

Authority: Sec. 2(f) of Housing Authorization Act of 1976; 42 U.S.C. 1437a; Sec. 7 (d) Dept. of HUD Act, 42 U.S.C. 3535(d).

§ 812.1 Purpose and Scope.

The purpose of this Part is to establish a definition of the term Family and other related terms applicable to all housing assisted under the United States Housing Act of 1937 (the Act) and to prescribe criteria and procedures for occupancy in low-income and lower-income housing projects assisted under the Act by Single Persons who are not otherwise eligible by reason of qualification as an Elderly Family or as a Displaced Person or as the remaining member of a tenant family. This Part establishes definitions of the terms, Family, Elderly Family, Handicapped Person, Disabled Person, Displaced Person and Single Person, which incorporate the requirements of the Act. The Part shall be applicable to all housing assisted under the Act.

§ 812.2 Definitions.

The following definitions shall be applicable to all housing assisted under the Act:

(a) *Disabled Person.* Disabled Person means a person who is under a disability as defined in section 223 of the Social Security Act (42 U.S.C. 423) or in section 102(a) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970 (42 U.S.C. 2691).

(b) *Displaced Person.* Displaced Person means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(c) *Elderly Family.* Elderly Family means a family whose head or spouse or whose sole member is at least sixty-two years of age, or a Disabled Person as defined in this section or a Handicapped Person as defined in this section, and may include two or more elderly, Disabled or Handicapped Persons living together, or one or more such persons living with another person who is determined to be essential to his or her care and well being.

(d) *Family.* Family means (1) two or more persons sharing residency whose income and resources are available to meet the family's needs and who are either related by blood, marriage, or operation of law, or have evidenced a stable family relationship, (2) an Elderly Family or Single Person as defined in this Part, (3) the remaining member of a tenant family, and (4) a Displaced Person.

(e) *Handicapped Person.* Handicapped Person means a person having a physical or mental impairment which (1) is expected to be of long-continued and indefinite duration, (2) substantially impedes his ability to live independently, and (3) is of such a nature that such ability could be improved by more suitable housing conditions.

(f) *Single Person.* A Single Person means a person living alone, and who does not qualify as an Elderly Family or a Displaced Person as defined in this Part, or as the remaining member of a tenant family.

§ 812.3 Authorization to admit single persons.

(a) *Requirement for HUD Authorization.* No PHA or private owner shall admit Single Persons to any housing assisted under the Act except pursuant to an authorization issued by the HUD Field Office Director in accordance with this section.

(b) Types of projects eligible for authorization. The HUD Field Office Director may authorize any PHA or private owner to permit Single Persons to occupy any project for which the PHA or private owner has the authority to select tenants or intends to acquire such authority if (1) the project is or is intended to be converted to a low-income or lower-income project assisted under the Act (except projects or units receiving assistance under the provisions of § 882 of this Chapter), or (2) the project is a low-income or lower-income project receiving assistance under the Act and one or more units have been vacant for a period of sixty days or more and no eligible applicants other than Single Persons are available.

(c) Authorization for occupancy by Single Persons. An authorization to a PHA or private owner to permit Single Persons to occupy a project may be initiated by the Field Office Director, or the Field Office Director may request the PHA or private owner to submit an application for such authorization. In addition, any PHA or private owner may initiate an application for such authorization. The application shall be submitted to the appropriate HUD Field Office in the form of a letter which shall include the following:

(1) Identification of the project or projects involved and the maximum number of units for which the authorization is requested.

(2) A copy of the tenant selection policy which shall govern occupancy by Single Persons or in the case of a project receiving assistance under Parts 880, 881, 883, or 886 of this Chapter, a statement that the selection criteria set forth in the Management Plan applicable to the project will be adhered to in the selection of Single Persons.

(3) A narrative justification for the request including, in cases where the request is based on vacancies in a project already receiving assistance, a description of the PHA's or private owner's efforts to attract eligible applicants other than Single Persons to the project or projects involved.

(d) The HUD Field Office shall notify the PHA or private owner in writing of the action taken with respect to the application which may be one of the following:

(1) Approval as requested.

(2) Approval for a lesser number of units or projects than requested and any other conditions or modifications.

(3) Disapproval, with a statement of the reasons. In the event of approval, the letter of approval shall constitute the authorization to he PHA or private owner to permit Single Persons to occupy the specified number of units under the specified conditions. Notwithstanding the authorization to permit occupancy by Single Persons, a PHA or private owner shall extend preference to Elderly Families and Displaced Persons over Single Persons.

(e) Statutory ten percent limitation pursuant to Section 3(2)(D) of the Act. The number of units authorized by HUD to be made available to Single Persons within the area under the jurisdiction of a PHA shall not exceed ten percent of the number of units within the jurisdiction assisted under the Act at the time of the authorization.

§ 812.4 Effect of authorization on contract provisions.

Notwithstading the provisions of any contract or agreement pursuant to the Act, defining terms otherwise than as defined in § 812.2, PHAs or private owners are authorized to house Single Persons in accordance with an authorization by HUD issued pursuant to this Part.

Issued at Washington, D.C., December 8, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.76-37041 Filed 12-15-76;8:45 am]

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federal register

THURSDAY, DECEMBER 16, 1976

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Appeals

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-1198]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Borough of Kingston, Luzerne County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Kingston, Luzerne County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Borough Building, 500 Wyoming Avenue, Kingston, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Church St. (extended)	551		800
	James St. (extended)	550		500
	North Street Bridge	549		440
	Market Street Bridge	548		900

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36799 Filed 12-15-76;8:45 am]

[Docket No. FI-1176]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Borough of Marysville, Perry County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Marysville, Perry County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review on the Bulletin Board in the lobby of the Borough Hall, Overcrest Road, Marysville, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Corporate limits (downstream)	326	(1)	220
	Rockville Bridge	327	(1)	100
	Weaver Rd. (extended)	327	(1)	340
	Perry St. (extended)	328	(1)	630
	Weaver St. (extended)	329	(1)	170
	Corporate limits (upstream)	332	(1)	90
Mill Creek	Corporate limits (upstream)	(2)	430	30
	Kings Highway	(2)	190	100
	State road (Routes 11 to 15)	328	250	370

[1] Corporate limits.
[2] Not defined.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36801 Filed 12-15-76;8:45 am]

[Docket No. FI-2193]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Borough of Saddle River, New Jersey

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Borough of Saddle River, New Jersey under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Borough Hall, East Allendale Road, Saddle River, New Jersey 07458.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Saddle River	Lower Cross Rd.[1]	117	45	750
	Lower Cross Rd.[2]	118	55	775
	Lower Cross Rd.[3]	119	60	540
	East Allendale Rd.[2]	144	275	175
	Upper Cross Rd.[2]	172	(4)	435

[1] Downstream side.
[2] Centerline.
[3] Upstream side.
[4] To corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36792 Filed 12-15-76;8:45 am]

[Docket No. FI-2222]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Borough of Swarthmore, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Swarthmore, Delaware County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing

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the detailed outlines of the flood-prone areas and the final elevations are available for review at the library located in the Borough Administration Building, 121 Park Avenue, Swarthmore.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Crum, Creek	South corporate limits	50	300	(1)
	Yale Ave	58	100	(1)
	Crum Ledge Lane (extended)	65	350	(1)
	Con Rail	67	70	(1)
	North corporate limits	72	10	(1)
Little Crum Creek	Yale Ave	100	380	110
	Harvard Ave	101	70	120
	Amherst Ave	102	60	120

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 11, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36798 Filed 12-15-76;8:45 am]

[Docket No. FI-2201]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Borough of Swoyersville, Luzerne County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.-10)), hereby gives notice of his final determinations of flood elevations for the Borough of Swoyersville, Luzerne County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Office of the Project Coordinator, Swoyersville Municipal Building, Shoemaker and Main Streets, Swoyersville, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Wade Run	Dennison St	554	255	20
	Townsend St	552	315	1,000
	Walnut St	552	75	1,180
	Park Ave	548	175	1,175
Abrahams Creek of Forty Fort	Shoemaker St	546	360	45
	Barber St	546	370	55
	Lindberg St	546	645	205
	Lehigh Valley R.R	546	[1] 25	[2] 15
	Kasack St	546	70	440
	Warsaw St	546	80	400
	Hughes St	546	50	5
	Owen St	548	60	1,160
	Talcott St	548	100	1,410
	Dennison St	548	35	40
	Location between Maltby Ave. and Cemetary Rd., Culvert and Maltby Ave., and Inglewood St. culvert.	548	30	20
	Entire length of Gracie St	546		

[1] Upstream.
[2] Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 11, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36800 Filed 12-15-76;8:45 am]

[Docket No. FI-2464]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for City of Belle Fourche, Butte County, South Dakota

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.-10)), hereby gives notice of his final determinations of flood elevations for the City of Belle Fourche, Butte County, South Dakota under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the City Hall in the Auditor's office, Belle Fourche.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Redwater River	11th Ave	3,015	440	(1)
	Harding St. (extended)	3,014	1,210	(1)
	State St. (extended)	3,013	1,350	(1)
Belle Fourche River	Corporate limits	3,012	30	200
	7th Ave. (extended)	3,012	450	80
	9th Ave. (extended)	3,011	1,100	20
	Custer St. (extended)	3,010	140	(1)
Hay Creek	7th Ave	3,035	90	100
	National St	3,033	20	120
	6th Ave. (south)	3,027	40	150
	Lawrence St. (extended)	3,024	40	110
	Jackson St. (extended)	3,017	530	25
	Indian St. (extended)	3,015	440	100
	10th Ave	3,015	20	200
		Area flooded		
Belle Fourche River	Western corporate limit	Majority of area south of Chicago & Northwestern RR., west of 5th Ave., and north of National St.		

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36802 Filed 12-15-76;8:45 am]

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[Docket No. FI-2278]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for City of Binghamton, Broome County New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.-10)), hereby gives notice of his final determinations of flood elevations for the City of Binghamton, Broome County, New York under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the bulletin board in the hallways of the City Hall, 38 Hawley Street, Binghamton.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Upstream corporate limit	850	(1)	160
	Moeller St. (extended)	848	40	280
	Conklin Avenue Bridge	846	20	20
	Washington Street Bridge	844	20	10
	Vermont Ave. (extended)	841	80	40
	Jutland Rd. (extended)	848	40	470
	Downstream corporate limit	839	90	210
Chenango River	Upstream corporate limit	850	350	(1)
	Eldredge St. (extended)	848	40	70
	Henry St. (extended)	846	40	10
	Main St.	845	20	20
	Leroy St. (extended)	844	50	240

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 25, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36793 Filed 12-15-76;8:45 am]

[Docket No. FI-2277]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for City of Leon Valley, Bexar County, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.-10)), hereby gives notice of his final determinations of flood elevations for the City of Leon Valley, Bexar County, Texas under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review on the Bulletin Board in the Valley City Hall, 6400 El Verde Road, San Antonio, Texas.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Huebner Creek	Balky Dr.	827	100	100
	Ebers Rd.	822	350	500
	Peachtree Dr.	817	850	130
	Bandera Rd.	811	250	1,000
	Samaritan Dr.	800	250	1,050
	Downstream corporate limits	793	575	1,000
Drain 1	William Rancher Rd.		10	25
	Grass Hill Dr.		40	30
	Aids Dr.		200	70
Drain 1A	Seneca Dr.		20	35
	Kinman Dr.		25	30
	Mary Jamison Dr.		(1)	(1)
Drain 2	Evening Sun Dr.		60	70
	Seneca Dr.		15	30
Drain 3	Stirrup Lane		50	60
	Forest Meadow Dr.		30	40
	Forest Mont Dr.		80	60
	Forest Ridge Dr.		60	80
Zarzamora Creek	I-410—Service road		150	600
	Bandera Rd.		425	750
Drain 4	I-410		(2)	(3)
	Wurzbach Rd.		20	20

[1] Flooding contained within channel.
[2] 40 ft of flooding on left side of Bandera Rd.
[3] 40 ft of flooding on right side of Bandera Rd.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 11, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36804 Filed 12-15-76;8:45 am]

[Docket No. FI-2178]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for City of Live Oak, Bexar County, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Live Oak, Bexar County, Texas under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.-10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 8001 Shinoak Street, Live Oak, Texas.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

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Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Sautrille Creek	Woodview Dr. (extended)	833	70	50
	Village Oak Dr.	820	85	70
	Sandy Oaks (extended)	815	40	400
	Regal Oaks Dr. (extended)	810	105	55
	Mountain Shadows (extended)	801	115	115
	Oak Forest Dr. (extended)	795	295	90
	South Side of Martinez Creek Dam		20	25
Drain No. 1	Cherrywood Lane	841	60	60
	Shin Oak Dr.	837	145	90
	Greyeliff Dr.	840	15	60
	Welcome Dr.	830	75	115
Drain No. 2	Wilderness Trail	851	140	105
	Northledge Dr.	839	160	80
	Lone Shadow Trail	825	95	70
	Welcome Dr.	815	375	190
Drain No. 4	Village Oak Dr.	845	55	105
	Lajolla Dr. (extended)	830	25	120
	Shin Oak Dr.	811	55	
Drain No. 5	Enchanted Oaks Dr.	829	100	80
	Northledge Dr.	870	40	25
Drain No. 6	Lone Shadow Trail	818	80	70
	Welcome Dr.	800	100	120
Drain No. 7	Lone Shadow Trail	815	25	60
	Northledge Dr.	847	25	60
Drain No. 8	Lone Shadow Trail	816	15	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 11, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36805 Filed 12-15-76;8:45 am]

[Docket No: FI-2272]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for City of Meadville, Crawford County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), (42 U.S.C. 4001–4128), and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Meadville, Crawford County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the legal bulletin board in the City Hall, 984 Water Street, Meadville.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
French Creek	Park Ave.	1,075	(1)	(1)
	Mercer St.	1,077	1,720	(1)
	Mead Ave.	1,079	1,200	(1)
	Spring St.	1,081	380	(1)
	Ferry Rd.	1,081	(1)	(1)
Cussewago Creek	Center St. (extended)	1,080	1,750	(1)
	Race St.	1,081	(1)	(1)
	Dunham Rd.	1,081	(1)	(1)

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36797 Filed 12-15-76;8:45 am]

[Docket No. FI-1124]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for City of Panama City Beach, Florida

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Panama City Beach, Florida under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 110 South Highway 79, Panama City Beach, Florida 32401.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from abreline or bank of stream (facing downstream) to 100-yr flood boundary
Gulf of Mexico	3d St.	10	Entire street seaward of the point 150 ft south of junction with U.S. 98.
	Lake View Dr.	10	Entire street north 400 ft from junction with U.S. 98.
	Georgia Ave.	10	Entire street seaward of the point 120 ft south of junction with U.S. 98.
Grand Lagoon	State Highway 392	5	Highway section 950 ft north of junction with 3d St.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 26, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36791 Filed 12-15-76;8:45 am]

[Docket No. FI-2465]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for City of Sturgis, Meade County, South Dakota

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448) (42 U.S.C. 4001–4128), and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Sturgis, Meade County, South Dakota under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the council room, City Hall, 1147 Sherman Street, Sturgis.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

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Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Bear Butte Creek	Upstream corpofate limits	3,460	120	480
	3d St	3,409	505	445
	Junction Ave	3,394	110	70
	Downstream corporate limits	3,348	85	310
Vanocker Creek	Upstream corporate limits	3,501	10	5
	Arlette St	3,499	90	155
	Tilford St	3,456	385	30
	Douglas St	3,410	545	225
	Lazelle St	3,376	160	350
Deadman Gulch	Upstream corporate limits	3,492	80	170
	Davenport St	3,478	220	160
	Baldwin St	3,462	(1)	190
Doland Creek	Upstream corporate limits	3,446	440	80
	Spruce St	3,415	380	415
	Main St	3,398	120	225
	Lazelle St	3,386	280	300
Cook Canyon	11th St	3,472	50	95
	Sherman St		95	80

1 Coincides with flood plain, Vanocker Creek.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36803 Filed 12-15-76;8:45 am]

[Docket No. FI-2275]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Township of Ontellaunee, Berks County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), (42 U.S.C. 4001–4128), and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Ontellaunee, Berks County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Ontellaunee Township Office, Route 61, Leesport, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Schuylkill River	Upstream corporate limits	294	1,220	(1)
	Upstream corporate limits Leesport Borough.	288	820	(1)
	Downstream corporate limits Leesport Borough.	281	10	(1)
	West Huller Lane (LR 06043)	284	30	(1)
	Downstream corporate limits	280	40	(1)
Malden Creek	LR 506 (FAS)	281	270	30
	T748 (Bowers Rd.)	277	40	300
	LR 160 (FAP)	272	100	90
	ConRail	268	20	30

1 Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 25, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36795 Filed 12-15-76;8:45 am]

[Docket No. FI-2466]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Town of Poquoson, York County, Virginia

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), (42 U.S.C. 4001–4128), and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Town of Poquoson, York County, Virginia under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the bulletin board, City Hall, 830 Poquoson Avenue, Poquoson.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above	Width in feet from shoreline to 100-yr flood boundary—Entire area flooded except area—
Chesapeake Bay	Within corporate limits of city of Poquoson.	8.5	South of intersection Pasture Rd. and Hunts Neck Rd.
		8.5	Surrounding intersection Yorktown Rd. and Emmans Rd.
		8.5	East and south of intersection Little Florida Rd. and Wythe Creek Rd.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36806 Filed 12-15-76;8:45 am]

[Docket No. FI-2271]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Township of Westtown, Chester County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), (42 U.S.C. 4001–4128), and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Westtown, Chester County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pur-

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suant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.-10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Township Building, Route 202 and Pleasant Grove Road, Westtown.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Upstream corporate limit	830	(1)	160
	Moeller St. (extended)	848	40	280
	Conklin Avenue Bridge	846	20	20
	Washington Street Bridge	844	20	10
	Vermont Ave. (extended)	841	80	40
	Jutland Rd. (extended)	840	40	470
	Downstream corporate limit	839	90	210
Chenango River	Upstream corporate limit	850	350	(1)
	Eldredge St. (extended)	848	40	70
	Henry St. (extended)	846	40	10
	Main St.	845	20	20
	Leroy St. (extended)	844	50	240

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 11, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76–36796 Filed 12–15–76;8:45 am]

[Docket No. FI–2279]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Village of Gowanda, Erie and Cattaraugus Counties, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), (42 U.S.C. 4001–4128), and 24 CFR Part 1917 (§ 1917.-10)), hereby gives notice of his final determinations of flood elevations for the Village of Gowanda, Erie and Cattaraugus Counties, New York under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Village must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the office of the Village Clerk-Treasurer, 27 East Main Street, Gowanda.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Cattaraugus Creek	Aldrich St.	750	690	110
	West Main St.	759	30	10
	Con Rail	766	30	10
	Corporate limits	798	200	
Grannis Creek	Buffalo St.	799	820	50
	Con Rail	798	30	35
	Cemetery Rd.	792	20	45
	Corporate limits	801	20	30
Thatcher Brook	North Water St.	750	40	150
	Corporate limits	750	130	120
	do	753	20	15
	West Main St.	756	40	0
	Johnson St.	760	40	20
	South Chapel St.	765	80	30
	Dam	782	35	140
	Hill St.	786	200	10
	Con Rail	790	110	35

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–36794 Filed 12–15–76;8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2483]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Borough of Clymer, Indiana County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Clymer, Indiana County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, Sherman and 6th Streets, Clymer.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Norman Richardson, 99 Morris Street, Clymer, Pennsylvania 15728. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Two Lick Creek	Downstream corporate limits.	1,209.00
	Franklin Street Bridge.	1,213.75
	Confluence with Dixon Run.	1,215.20
	6th Street Bridge	1,216.60
	Franklin Street Bridge.	1,223.20
	Upstream corporate limit.	1,228.75
Dixon Run	Mouth	1,215.20
	6th Street Bridge	1,219.10
	Wilson Street Bridge	1,221.50
	Upstream corporate limits.	1,228.20

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36820 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2486]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Borough of New Philadelphia, Schuylkill County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of New Philadelphia, Schuylkill County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the fire house in New Philadelphia.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Honorable Jack Savitsky, Mayor of New Philadelphia, Nacond Street, New Philadelphia, Pennsylvania 17959. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Schuylkill River	Upstream corporate limits.	698
	LR 53098	698
	Copper St. (extended).	682
	Downstream corporate limits.	672

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 15, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36822 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2491]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Burnsville, Minnesota

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Burnsville, Minnesota.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Burnsville must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 1313 East Highway 13, Burnsville, Minnesota 55337.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Pete Achsner, City Hall, 1313 East Highway 13, Burnsville, Minnesota 55337. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Minnesota River	I-35 west	717
Allmagnet Lake	County Road II	950

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 11, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36812 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2518]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Cherry Hills Village, Colorado

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added sction 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Cherry Hills Village, Colorado.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Cherry Hills Village must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 2450 East Quincy Avenue, Englewood, Colorado 80110.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Beth H. Jenkins, City Hall, 2450 East Quincy Avenue, Englewood, Colorado 80110. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Little Dry Creek	Clarkson St.	5,341
	Martin Lane	5,348
	Quincy Ave.	5,863
Greenwood Gulch	Ogden St.	5,345
	Corona St.	5,346
	Cherry Hills Lake spillway.	5,376
	University Blvd.	5,383
	Quincy Ave.	5,384
	Meade Lane.	5,390
	do.	5,397
Blackmer Gulch	Random Rd.	5,404
	do.	5,410
	Monroe St.	5,414
	Blackmer Lake spillway.	5,437
	do.	5,458
	Highline Canal	5,489
	Whitehall Dr.	5,617
	Holly St.	5,533
Quincy Gulch	Random Rd.	5,414
	Monroe St.	5,420
	Quincy Ave.	5,426
	South Colorado Blvd.	5,443
	South Bellaire St.	5,455
	do.	5,467
	Highline Canal	5,487

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 25, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36807 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2493]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Chippewa Falls, Wisconisn

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448) (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Chippewa Falls, Wisconsin.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Chippewa Falls must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 30 West Central Street, Chippewa Falls, Wisconsin 54729.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Gerald H. Jeffers, City Hall, 30 West Central Street, Chippewa Falls, Wisconsin 54729. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Chippewa River	Highway 53	824
	Soolner R.R.	827
	Main St.	828
	Bridge St.	843
	CNW R.R.	845
Duncan Creek	Bridge St.	826
	Spring St.	829
	Central St.	832
	Grand Ave.	833
	Columbia St.	833
	Jefferson Ave.	856
	Starmin Dam	861
	Bridgewater Ave.	862

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 11, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36827 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2478]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Escanaba, Michigan

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Escanaba, Michigan.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Escanaba must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at 121 South 11th Street, Escanaba, Michigan 49829.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Robert Bink, 121 South 11th Street, Escanaba, Michigan 49829. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Little Bay De Noc.	23d St.	584
	13th Ave.	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Ad-

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ministrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 22, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36810 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2520]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Jacksonville, Florida

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Jacksonville, Florida.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Jacksonville must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 228 East Bay Street, Jacksonville, Florida 32202.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Hans Tanzler, City Hall, 228 East Bay Street, Jacksonville, Florida 32202. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
St. Johns River	I-295	6
	Fuller Warren Bridge	6
	Acosta Bridge	6
	Main Street Bridge	6
	Matthews Bridge	8
	Seaboard Coastline R.R. bridge.	7
Intracoastal Waterway.	Beach Blvd.	4
	Atlantic Blvd.	5
Pablo Creek—Sawmill Slough.	Beach Blvd.	40
Trout River	Kings Rd.	11
	Seaboard Coastline R.R.	8
	New Kings Rd.	7
	Lem Turner Rd.	7
Ribault River—Six Mile Creek.	Kings Rd.	12
	Southern R.R.	9
	New Kings Rd. (U.S. 1).	8
Strawberry Creek.	Merrill Rd.	40
	Expressway (90)	12
Pottsburg Creek.	Beliflrt Rd.	15
	Bowden Rd.	11
	Beach Blvd.	11
Hogan Creek	Broad St.	10
	Pearl St.	10
	Main St.	10
	Newman St.	9
	Duval St.	6
McCoys Creek	Seaboard Coastline R.R.	10
	Stockton St.	8
	Seaboard Coastline R.R.	7
	I-95	6
Southwest Branch of McCoys Creek.	Post St.	13
	I-95	9
McGirts Creek	Seaboard Coastline R.R.	64
	Chaffee Rd.	62
	Timuquana Rd.	6
Cedar River	Seaboard Coastline R.R.	16
	Normandy Blvd.	12
	Blanding Blvd.	6
Wills Branch	Normandy Blvd.	20
	Middleburg Rd.	14
	Lane Ave.	8
Julington Creek	Florida East Coast R.R.	14
	Old St. Augustine Rd.	6
	Highway 13	6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 25, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36808 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2481]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of John Day, Oregon

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of John Day, Oregon.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of John Day must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 240 South Canyon Boulevard, John Day, Oregon 97845.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor John Moreau, City Hall, 240 South Canyon Boulevard, John Day, Oregon 97845. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Canyon Circle	Main Street Highway 26 Bridge.	3,077
	Delore St.	3,079
	Canton St.	3,081
	Southwest 2d Ave.	3,091
	Southwest 41st Ave.	3,116
	Southwest 6th Ave.	3,126

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 22, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36817 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2521]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Liberty, Missouri

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Liberty, Missouri.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Liberty must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 16 South Missouri Street, Liberty, Missouri 64068.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Robert Weagley Jr., City Hall, 16 South Missouri Street, Liberty, Missouri 64068. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cates Branch	Liberty Landing Rd.	[1] 754
	Missouri Highway 291.	756
	Old Missouri 71 bypass.	758
	Ruth Ewing Rd.	[2] 764
	Sheriff Ave.	769
	Marilyn Ave.	[2] 774
	Missouri Highway 291 (2 mi from confluence with Town Branch.)	[2] 822
	Murray Rd.	[2] 838
	Shrader Rd.	843
	Mill Ave.	849
Fishing River	County Highway C	844
Holmes Creek	Missouri Highway 33	[2] 820
Little Shoal Creek.	Withers Rd.	762
	Missouri Highway 10	[2] 780
	Interstate 35	[2] 804
Little Shoal Creek Trident No. 2.	Liberty Rd.	[2] 814
	Circle Dr.	[2] 830
Little Shoal Creek Trident No. 3.	Old RR.	[2] 790
Little Shoal Creek Trident No. 4.	Campbell Rd.	763
	Abandoned railroad bridge.	783
	Kings Highway	794
Missouri River	Liberty Bend Bridge	732
Rush Creek	Railroad bridge.	792
	Highway 10	[1] 796
Shoal Creek	Birmingham Rd.	742
	Chicago, Rock Island & Pacific RR.	[1] 744
	OBQ RR.	744
	U.S. Highway 69	[2] 758
Town Branch	Missouri Highway 10	[1] 737
	Ewing Rd.	754

[1] Upstream side.
[2] Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 25, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36813 Filed 12-15-76;8:45 am]

the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 16 South Missouri Street, Liberty, Missouri 64068.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Robert Weagley Jr., City Hall, 16 South Missouri Street, Liberty, Missouri 64068. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cates Branch	Liberty Landing Rd.	[1] 754
	Missouri Highway 291.	756
	Old Missouri 71 bypass.	758
	Ruth Ewing Rd.	[2] 764
	Sheriff Ave.	769
	Marilyn Ave.	[2] 774
	Missouri Highway 291 (2 mi from confluence with Town Branch.)	[2] 822
	Murray Rd.	[2] 838
	Shrader Rd.	843
	Mill Ave.	849
Fishing River	County Highway C	844
Holmes Creek	Missouri Highway 33	[2] 820
Little Shoal Creek.	Withers Rd.	762
	Missouri Highway 10	[2] 780
	Interstate 35	[2] 804
Little Shoal Creek Trident No. 2.	Liberty Rd.	[2] 814
	Circle Dr.	[2] 830
Little Shoal Creek Trident No. 3.	Old RR.	[2] 790
Little Shoal Creek Trident No. 4.	Campbell Rd.	763
	Abandoned railroad bridge.	783
	Kings Highway	794
Missouri River	Liberty Bend Bridge	732
Rush Creek	Railroad bridge.	792
	Highway 10	[1] 796
Shoal Creek	Birmingham Rd.	742
	Chicago, Rock Island & Pacific RR.	[1] 744
	OBQ RR.	744
	U.S. Highway 69	[2] 758
Town Branch	Missouri Highway 10	[1] 737
	Ewing Rd.	754

[1] Upstream side.
[2] Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 25, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36813 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2487]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Red Bank, Hamilton County, Tennessee

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Red Bank, Hamilton County, Tennessee.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 3117 Dayton Boulevard, Red Bank.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Ralph C. Berger, 3117 Dayton Boulevard, Red Bank, Tennessee 37415. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Stringers Branch	Corporate limits	654.2
	U.S. Highway 127 and State Highway 8.	654.2
	Spur State Highway 27.	663.0
	Strawberry Lane	664.2
	Dayton Blvd. (U.S. Highway 27).	666.8
	Merriman Ave.	668.4
	Midvale St.	672.8
	Kildare St.	680.5
	Memorial Dr.	687.0
	Hawkins St.	692.7
	Dayton Blvd. (U.S. Highway 27).	699.0
	Laurel St.	703.5
	Lancaster St.	705.9
	Newberry St.	711.5
	Fair St.	713.9
	Dayton Blvd. (U.S. Highway 27).	715.5
	Euclid Ave.	734.7
	Leawood Street Bridge.	736.0

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 17, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc. 76-36824 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2490]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Ripley, West Virginia

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Ripley, West Virginia.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Ripley must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, Ripley, West Virginia 25271.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor John W. Miller, City Hall, Ripley, West Virginia 25271. The period for comment will be ninety days following the second publication of this notice in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Sycamore Creek	Church St.	601
	Sycamore Rd.	601
Mill Creek	Route 33	599
	Main St.	602

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

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Issued: November 22, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36826 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2522]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Roanoke Rapids, North Carolina

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Roanoke Rapids, North Carolina.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Roanoke Rapids must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, P.O. Box 38, Roanoke Rapids, North Carolina 27870.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor William R. Massey, Jr., City Hall, P.O. Box 38, Roanoke Rapids, North Carolina 27870. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Roanoke River	NC 48	83
	Interstate 95	89
Chockoyotte Creek	Boiling Rd (SR 1426)	164
	Branch Ave. (SR 1450)	140
	Roanoke Ave. (NC 45)	130
	U.S. 158	120
	Smith Church Rd (NC 125)	109
Tributary A Chockoyotte Creek	SR 1683	133
	NC 125	112
	Private drive	97
Hale's Branch	SR 1434	127
	SR 1426	215
Bells Branch	NC 48	122

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 25, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36816 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No FI-2479]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of St. Joseph, Michigan

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of St. Joseph, Michigan.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of St. Joseph must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 616-620 Broad Street, St. Joseph, Michigan 49085.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Franklin H. Smith, City Hall, 616-620 Broad Street, St. Joseph, Michigan 49085. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
St. Joseph River	Miller Dr. (extended)	584		120
	Wayne St. (on Radio Island)	584	(1)	(1)
	Upton Dr.	584	280	

[1] Completed flooded.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 15, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36811 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2519]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Vero Beach, Florida

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Vero Beach, Florida.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Vero Beach must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 686 Date Palm Drive, Vero Beach, Florida 32960.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor James Smith, City Hall, 686 Date Palm Drive, Vero Beach, Florida 32960. The period for comment will be ninety days following the second publication of this notice in a newspaper

of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Indian River	Indian River Dr. (east)	5
	Sunset Dr.	5
	Bethel Creek Dr.	5
	Indian River Blvd.	5
	Sea Gull Ave.	5
	Sea Horse Lane	5
	Starfish Dr.	5
	Sailfish Rd.	5
	Park Ave.	5
	Dolphin Dr.	5
	Tulip Lane	5
	East Causeway Blvd.	5
	Point Lane	5
	Indian Bay Dr.	5
	West Camino Del Rio	5
	East Camino Del Rio	5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 25, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-36809 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2489]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Whatcom County, Washington

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for Whatcom County, Washington.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the County must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Bulletin Board, Whatcom County Courthouse, 311 Grand Avenue, Bellingham, Washington.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. C. J. Johnson, Chairman of the Board of Commissioners, Whatcom County Courthouse, 311 Grand Avenue, Bellingham, Washington 98225. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Nooksack River	Bakerview Rd.	10
	Route 540	17
	Ulrick Rd.	22
	Harksell Rd (extended)	38
	Guide Meridian Rd.	47
	Hannegan Rd.	56
	Johnson Rd (extended)	64
	Zwaahka Rd (extended)	101
	Mount Baker Highway	156
South Fork Nooksack River	Potter Rd.	237
	Strand Rd.	256
	Swamp Rd (extended)	268
	Route 9	293
	Saxon Rd.	360
Nooksack River overflow in Sumas Valley	Halverstick Rd.	46
	Clearbrook Rd.	48
	Lindsay Rd.	70
	Tom Rd.	75

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 15, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36825 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2468]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Town of Woodbury, Cannon County, Tennessee

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Town of Woodbury, Cannon County, Tennessee.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Hall, 102 Tatum Street, Woodbury, Tennessee.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Northcutt, 102 Tatum Street, Woodbury, Tennessee 37190. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
East Fork Stones River	West Adams St.	691
	Main St.	696
	College St.	698
	Dolittle St.	699
	Cannon St.	700
	Clinch St. (extended)	701
Lehman Branch	Hollis Creek Rd.	691
	South College St.	705
	Tanglewood Dr. North.	719
	Tanglewood Dr. South.	740

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Federal Insurance Administrator.

[FR Doc.76-36823 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2483]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Township of Edgmont, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Edgmont, Delaware County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the

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statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the home of Mrs. Daniel Malman, Secretary of the Township of Edgmont, Gradyville.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. William H. Bates, Chairman of the Board of Supervisiors of Edgmont, Gradyville, Pennsylvania 19039. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Crum Creek	Upstream corporate limits.	235
	Shimer Lane	228
	Private Dr.	226
	West Chester Pike	219
Ridley Creek	Upstream corporate limits.	228
	Corporate limits	227
	Delchester Rd	(1)
	Downstream corporate limits.	224
Pony Tail Run	Stackhouse Mill Rd.	252
	Huntebs Rd.	230
	Confluence with Ridley Creek.	228
Stackhouse Mill Run.	Valley Rd.	260
	Pony Tail Dr.	231
	Confluence with Ridley Creek.	228

[1] EL 226 MSL.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting
Federal Insurance Administrator.

[FR Doc.76-36819 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2492]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Township of Lacey, New Jersey

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), (42 U.S.C. 4001–4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the Township of Lacey, New Jersey.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township of Lacey must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, 818 West Lacey Road, Forked River, New Jersey 08731.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Edward J. Scanlon, Town Hall, 818 West Lacey Road, Forked River, New Jersey 08731. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
North Branch Forked River.	Parker Ave.	8
	Central RR. of New Jersey.	10
	Deerhead Lake	21
	Garden State Parkway north bound lane.	29
Barnegat Bay	Bay Way	7
	Laurel Blvd.	7
	Sunrise Blvd.	7
	East Lacey Rd.	7
	Parker's Point Blvd.	7
	Clearwater Dr.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 11, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-36814 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2484]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Township of Muhlenberg, Berks County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), (42 U.S.C. 4001–4128), and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the Township of Muhlenberg, Berks County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, 5400 Leesport Avenue, Temple, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Harold I. Anderson, Jr., President of the Board of Commissioners, 5400 Leesport Avenue, P.O. Box 296, Temple, Pennsylvania 19560. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Schuylkill River	Downstream corporate limits.	226
	Leises Bridge Rd	234
	Eisenbrown Rd. (extended).	237
	Felix Dam	253
	LR 1035	253
	Con Rail	260
Laurel Road	Leises Bridge Rd	239
	Meadow Lane (extended).	250
	Hain Ave.	254
	Moll Ave. (extended)	265
	Alabama Ave.	270
	Reading Crest Ave.	282
	Con Rail	299
	Pottsville Pike (Pennsylvania Route 61).	301
	Con Rail	319
	Allentown Pike (U.S. 222).	322
	Mount Vernon Ave. (extended).	400
	Rising Sun Ave.	421
	Private road	436
	Hillcrest Ave.	473
	Upstream corporate limit.	523
Bernhart Creek	Richmond St.	282
	Jefferson St. (extended).	298
	Madison St. (extended).	322
	Con Rail	344
	Spring Valley Rd.	371
	Bernhart Reservoir Dam.	402
	Little Rock Rd.	407
	Crystal Rock Rd.	462
	U.S. corporate limits.	486

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-36818 Filed 12-15-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2485]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Plymouth Township, Montgomery County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) (42 U.S.C. 4001–4128), and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for Plymouth Township, Montgomery County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building on the bulletin board in the main lobby, 700 Belvoir Road, Plymouth, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Charles P. Gronhoski, Chairman of the Council of Plymouth, 700 Belvoir Road, Plymouth, Pennsylvania. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Plymouth Creek	Gallagher Rd.:	
	Downstream	108
	Upstream	109
	Reading RR.:	
	Downstream	110
	Upstream	112
	Kaiser refactory:	
	Downstream	112
	Upstream	114
	Kaiser refactory warehouse:	
	Downstream	114
	Upstream	116
	Box culvert:	
	Downstream	117
	Upstream	118
	Old Bridge piers:	
	Downstream	118
	Upstream	119
	Germantown Pike.	126
	Victory, Inc.:	
	Downstream	128
	Upstream	129
	Penn Central RR.:	
	Downstream	129
	Upstream	133
	Plymouth Rd.	133
	Waterfall No. 1	135
Schuylkill River	Corporate limits	70
	Northbound I-476	70
	Reading RR.	70
	Penn Central RR.	72
	Corporate limits	72
Plymouth Creek	Downstream corporate limits.	75
	Reading RR downstream.	80
	Reading RR upstream.	82
	Reading RR downstream.	83
Plymouth Creek	Reading RR. upstream.	86
	Alanwood Steel Co.	86
	Reading RR.	86
	Brook Rd.	87
	Reading RR. downstream.	87
	Reading RR. upstream.	89
	Reading RR. downstream.	90
	Reading RR. upstream.	91
	Dam No. 1	96
	Reading RR. (1st I upstream from dam No. 1):	
	Downstream	98
	Upstream	99
	Reading RR.:	
	Downstream	102
	Upstream	104

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 17, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-36821 Filed 12-15-76;845 am]

[24 CFR Part 1917]

[Docket No. FI-2480]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Village of Larchmont, Westchester County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Village of Larchmont, Westchester County, New York.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Village must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Board Room, Municipal Building, Larchmont, New York.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Maurice L. Noyer, Municipal Building, Larchmont, New York. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Long Island Sound.	Pryer Lane	14
	Beach Ave.	14
	Larchmont Ave.	14
Larchmont Harbor.	Park Ave.	14
	Bay Ave.	14
	Woodbine Ave.	14
	Willow Ave.	14
Premium River (coastal).	Manor Rd.	14
	Orchard Ave.	14
	Oak Ave.	14
Pine Brook (flooding from coastal and tidal effect).	Chestnut Ave.	14
	Jochum Ave.	14
	Boston Post Rd.	14
East Creek (flooding from coastal and tidal effect).	Douglas Lane	14
	Old Colony Dr.	14
	Shore Dr. (extended)	14
	Birch Lane (extended).	14

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 25, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-36815 Filed 12-15-76;8:45 am]

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federal register

THURSDAY, DECEMBER 16, 1976

PART V:

OFFICE OF MANAGEMENT AND BUDGET

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BUDGET RESCISSIONS AND DEFERRALS

Cumulative Report, December, 1976

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OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

Cumulative Report, December 1976

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of December 1, 1976, of the 4 rescissions and 36 deferrals contained in the first four special messages transmitted to the Congress for fiscal year 1977. These messages were transmitted to the Congress on July 29, September 22, October 1, and November 5, 1976.

RESCISSIONS (TABLE A AND ATTACHMENT A)

Two rescissions totaling $54.1 million in FY 1977 budget authority are presently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of December 1, 1976. Attachment A shows the history and status of each rescission proposed for fiscal year 1977.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of December 1, 1976, $1,886.4 million in 1977 budget authority was being deferred from obligation and another $95.3 million in 1977 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President. Attachment B shows the history and status of each deferral proposed during fiscal year 1977.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTER of:

Tuesday, August 3, 1976 (Vol. 41, No. 150, Part VI)
Thursday, September 23, 1976 (Vol. 41, No. 188, Part III)
Thursday, October 7, 1976 (Vol. 41, No. 196, Part IV)
Wednesday, November 10, 1976 (Vol. 41, No. 218, Part VII)

JAMES T. LYNN,
Director.

TABLE A

STATUS OF 1977 RESCISSION PROPOSALS

	Amount (in millions of dollars)
Rescissions proposed by the President.....	134.1
Withdrawn (R77-4A, Special Message No. 4)...	-35.0
Currently proposed in special messages....	99.1
Accepted by the Congress.....	---
Rejected by the Congress.....	-45.0
Pending before the Congress:	
(Special Message No. 2, less R77-4 withdrawn in Special Message No. 4 by R77-4A).....	54.1

* *

TABLE B

STATUS OF 1977 DEFERRALS

	Amount (in millions of dollars)
Deferrals proposed by the President.....	2,016.0
Routine Executive releases.....	-34.3
Overturned by the Congress.....	---
Currently before the Congress.....	1,981.7 1/

1/ Includes $95.3 million of outlays in two Treasury deferrals--D77-26 and D77-27.

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ATTACHMENT A

STATUS OF RESCISSIONS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

As of December 1, 1976

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of Defense-Civil							
Corps of Engineers-Civil:							
Revolving fund	R77-2	6,600	09-22-76				
Department of the Interior							
Bureau of Mines:							
Helium fund	R77-3	47,500	09-22-76				
Department of Transportation							
Federal Highway Administration:							
Highway crossing	R77-4	[35,000]	09-22-76			35,000 1/	10-01-76
Federal projects	R77-4A	0	11-05-76				
Other Independent Agencies							
Legal Services Corporation:							
Payment to the Legal Services Corporation	R77-1	[45,000] 2/	07-29-76			45,000	10-01-76
TOTAL		54,100				80,000	

1/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on November 5, 1976.
2/ These funds were not withheld during the 45-day Congressional consideration period.

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Funds Appropriated to the President

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Emergency Refugee and Migration Assistance Fund	D77-1		8,640	10-01-76					
				10-28-76	-1,000				
				11-12-76	-1,200				6,440
TOTAL			8,640		-2,200				6,440

R-2

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Agriculture

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Foreign Agricultural Service									
Salaries and expenses (Special foreign currency program)	D77-2		1,610	10-01-76					1,610
Agricultural Stabilization and Conservation Service									
Commodity credit corporation administrative expenses	D77-3		2,919	10-0 -76					2,919
Forest Service									
Expenses, brush disposal	D77-4		22,321	10-01-76					22,321
Licensee programs	D77-5		146	10-01-76					146
TOTAL			26,996						26,996

B-3

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D77-6		1,771	10-01-76					1,771
Fisheries loan fund	D77-7		5,799	10-01-76					5,799
Offshore shrimp fisheries fund	D77-8		59	10-01-76					59
Fishermen's guaranty fund	D77-9		356	10-01-76					356
TOTAL			7,985						7,985

B-4

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Shipbuilding and conversion, Navy	D77-34		929,250	11-05-76					929,250
Military contruction, all services	D77-10		76,483	10-01-76					76,483
TOTAL			1,005,733						1,005,733

B-5

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Panama Canal									
Canal Zone Government: Capital outlay	D77-11		146	10-01-76					146
Miscellaneous Accounts									
Wildlife conservation, etc., military reservations	D77-12		363	10-01-76					363
TOTAL			509						509

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STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Office of the Assistant Secretary for Health									
Scientific activities overseas (Special foreign current program)	D77-13		1,113	10-01-76					1,113
Office of Education									
Higher education	D77-14	(31,702)		10-01-76				-31,702	
				11-05-76					
	D77-14A		303,862	11-05-76					303,862
Social Security Administration									
Limitation on construction	D77-15	(17,272)		10-01-76				-17,272	
				11-05-76					
	D-77-15A		18,673	11-05-76					18,673
Special Institutions									
Howard University	D77-35		500	11-05-76					500
TOTAL		48,974	326,148					-84,974	326,148

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Bureau of Land Management									
Oregon and California grant lands	D77-16		5,426	10-01-76					5,426
Bureau of Outdoor Reclamation									
Land and water conservation fund	D77-17		30,000	10-01-76					30,000
National Park Service									
Road construction	D77-18		3,245	10-01-76					
				10-01-76	-3,245				0
Geological Survey									
Payment from proceeds, sale of water	D77-19		30	10-01-76					30
Bureau of Mines									
Drainage of anthracite mines	D77-20		3,525	10-01-76					3,525
TOTAL			42,226		-3,245				38,981

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Federal Prison System: Buildings and facilities	D77-21		1,980	10-01-76					1,980
TOTAL			1,980						1,980

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Administration of Foreign Affairs: Acquisition, operation, and maintenance of buildings abroad	D77-22		14,225	10-01-76					14,225
TOTAL			14,225						14,225

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Coast Guard: Acquisition, construction and improvements	D77-23		22,581	10-01-76					22,581
Federal Aviation Administration: Civil supersonic aircraft development termination	D77-24		464	10-01-76					464
Facilities and equipment (Airport and airway trust fund)	D77-25		276,101	10-01-76					276,101
TOTAL			299,146						299,146

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

B-11

Agency: Department of the Treasury

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Office of the Secretary									
State and local government fiscal assistance trust fund	D77-26		113,732	1/10-01-76 11-01-76	-28,433				85,299 1/
State and local government fiscal assistance trust fund	D77-27		10,000	1/10-01-76					10,000 1/
State and local government fiscal assistance trust fund	D77-28		81,500	10-01-76 11-01-76 12-01-76	-226 -186				81,088
Loans to the District of Columbia for capital outlay	D77-36		51,002	11-05-76					51,002
TOTAL			132,502BA 123,732O		-412BA -28,433O				132,090BA 95,299O

1/ Outlays only.

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

B-12

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Rare Silver Dollar Program	D77-29		1,709	10-01-76					1,709
TOTAL			1,709						1,709

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

B-13

Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 12-01-76
Foreign Claims Settlement Commission Payment of Vietnam prisoner of war claims	D77-30		10,833	10-01-76					10,833
American Revolution Bicentennial Administration Salaries and expenses	D77-31		1,346	10-01-76	1/				1,346
Interstate Commerce Commission Payment for directed rail service	D77-32		13,700	10-01-76					13,700
National Commission on the Observance of International Women's Year Salaries and expenses	D77-33		680	10-01-76					680
TOTAL			26,559						26,559
TOTAL, ALL DEFERRALS		48,974	1,892,278BA 123,732O		-5,857BA -28,433O			-48,974	1,886,421BA 95,299O

1/ A supplementary report reflecting release of most of this deferral is being planned for transmittal to the Congress.

[FR Doc.76-37078 Filed 12-14-76;10:49 am]

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federal register

THURSDAY, DECEMBER 16, 1976

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

PART VI:

FEDERAL POWER COMMISSION

FINANCIAL REPORT FOR MUNICIPAL ELECTRIC UTILITIES AND FEDERAL PROJECTS

New FPC Form No. 164

V41243 DEC 16 76 6 UMI

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. RM76-25]

FINANCIAL REPORT FOR MUNICIPAL ELECTRIC UTILITIES AND FEDERAL PROJECTS

New FPC Form No. 164

DECEMBER 9, 1976.

Notice is hereby given that the Commission proposes to amend its Notice of Proposed Rulemaking in Docket No. RM76-25 by adding three additional schedules which make up the proposed new FPC Form No. 164M.[1] The original Notice was issued July 12, 1976 (41 FR 31340, July 27, 1976). An Erratum Sheet was issued July 16, 1976.

As issued on July 12, 1976, the rulemaking proposes to require the reporting of Schedules 0190–0192, 0194–0198 and 0839 on new FPC Form No. 164 by municipal utilities having annual electric operating revenues of $1,000,000 or more and by Federal projects having annual electric operating revenues of $1,000,000 or more. The submission date for a municipal is to be annually on the last day of the third month following the close of its fiscal year. The submission date for Federal projects is to be annually on the last day of the third month following the close of the Federal government's fiscal year. For municipal utilities, these schedules correspond roughly to certain schedules of the old FPC Form No. 1M.[2] For Federal projects, these schedules correspond roughly to certain schedules of the old FPC Form No. 1.[3]

The Commission now proposes, in addition, to have municipal utilities with annual electric operating revenues of $2,500,000 or more and Federal projects having annual operating electric revenues of $2,500,000 or more submit Schedules 0165, 0166 and 0215 on Form No. 164M also. These three schedules correspond roughly to the old FPC Form No. 5.[4] They are to be submitted to the Commission monthly within 40 days after the end of the reporting month.

This amendment is necessary because the Commission proposed originally to make Schedules 0165, 0166 and 0215 part of new FPC Form No. 162M in its notice of proposed rulemaking in Docket No. RM76-34 issued August 31, 1976 (41 FR 39948, September 15, 1976). In that notice, it was not stated explicitly that municipal utilities with annual electric operating revenues of $2,500,000 or more and Federal projects with annual electric operating revenues of $2,500,000 or more will be required to file these schedules.

Specific details of the proposed reporting scheme and related procedures are included as three separate attachments to this rulemaking, labeled Attachments D, E and F respectively, as follows:

Attachment D contains amendments to the general instructions first page of Attachment A of notice dated July 12, 1976 for each schedule to be submitted by the respondent.

Attachment E contain detailed instructions for Schedules 0165 and 0166 and Schedule 0215.

Attachment F contains a sample of schedules to be submitted by the respondent.

Attachment G is a list of those publicly owned electric utilities affected by the amendment proposed herein.

It is anticipated that at least one year of parallel reporting will be required for system evaluation. Assuming successful operation of the new system within such time period, the present FPC Form 1M and the need for Federal project respondents to use FPC Form 1 would then be eliminated.

All data and information submitted pursuant to the proposed form would be required to be subscribed and verified by a duly authorized executive officer of the respondent as being factually accurate and complete to the best of his or her knowledge according to the Commission's Rules of Practice and Procedure (18 CFR Part 1). An original and four copies of each completed Form No. 164A and 164M would be required to be filed with the Commission.

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to be received no later than January 25, 1977, data, views, comments or suggestions in writing concerning all or part of the proposed form. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Commission to discuss the proposed form. The Staff, in its discretion, may grant or deny written requests for conference prior or subsequent to the filing of formal submittals.

The proposed amendments to Part 141 of the Commission's Approved Forms under the Federal Power Act would be issued pursuant to the authority granted the Federal Power Commission by the Federal Power Act, as amended, particularly Sections 3(13), 4(a), 4(b), 4(c), 302(a), 304, 309, and 311 (41 Stat. 1064, 1065; 49 Stat. 839, 840, 854, 855, 856, 858, 859; 16 U.S.C. 796(13), 797(a), 797(b), 797(c), 825(a), 825a(a), 825c(b), 825c(c), 825h, 825(j).

Effective for the reporting year 1976, the Commission proposes to amend Part 141, Statements and Reports (Schedules), in Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 141.70 prescribing new FPC Form No. 164M, Financial Report for Municipal Electric Utilities and Federal Projects, in the format set out in Attachment F hereto. New Section 141.70 wil read as follows:

§ 141.70 Form No. 164M—Monthly Corporate and Financial Report for Certain Municipal Electric Utilities and Federal Projects.

(a) The form of the monthly statement for electric utilities, designated herein as Form No. 164M is prescribed for the month beginning January 1977, and thereafter.

(b) This monthly statement is designed to obtain monthly information concerning operating revenues, revenue deductions, and income from all publicly owned electric utilities having annual electric operating revenues of $2,500,000 or more. Such report shall be filed in an original and four conformed copies, within 40 days after the end of the reported month beginning with the reporting month of January 1977, and monthly thereafter. The report shall be signed by the Chief Accounting Officer of the responding company, but is not required to be under oath.

(c) The report consists of:

Monthly Statement of Electric Operating Revenues and Income—Part I
Monthly Statement of Electric Operating Revenues and Income—Part II
Monthly Notes to Financial Data

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[1] These are the same three schedules which comprise new FPC Form No. 162M proposed in Docket No. RM76-34 issued August 31, 1976 (41 FR 39948, September 15, 1976). Form No. 162M is to be completed monthly by Class A Electric Utilities. Form No. 164M is to be completed by publicly owned utilities having annual electric operating revenues of $2,500,000 or more.

[2] 18 CFR 141.7 (1975).

[3] 18 CFR 141.1 (1975).

[4] 18 CFR 141.25 (1975).

Docket No. RM76-25 Attachment D

FINANCIAL REPORT FOR MUNICIPAL ELECTRIC
UTILITIES AND FEDERAL PROJECTS

GENERAL INSTRUCTIONS

AMENDMENT TO ATTACHMENT A
OF NOTICE DATED JULY 12, 1976

V41 I 243 DEC 16 76 UMI

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
FORM 164	FINANCIAL REPORTS FOR MUNICIPAL ELECTRIC UTILITIES AND FEDERAL PROJECTS	1 of 1

GENERAL INSTRUCTIONS

Municipal is defined to mean a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

Federal projects include those electric projects operated under supervision of the Alaska Power Administration, Bonneville Power Authority, Bureau of Indian Affairs, Colorado River Storage Project, Southwestern Power Administration, Tennessee Valley Authority, U.S. Bureau of Reclamation, and U.S. Corps of Engineers, or any other agency, authority or instrumentality of the United States.

Submission Requirements:

Respondent Category	Schedules(s)	Old FPC Form	Submission Date
Municipal having electric operating revenues of $1,000,000 or more.	190-192, 194-198, 839	1M	Annually, 3 months following close of fiscal year.
Federal Projects having operating revenues of $1,000,000 or more.	190-192, 194-198, 839	1	Annually, 3 months following close of fiscal year, usually with FY of Government.
Class A Electric Utilities and Publicly Owned Electric Utilities having Annual Electric Operating Revenue of $2,500,000 or more.	0165-0166, 0215	5	Monthly (40 days after end of reporting month).

For Municipal Electric Utilities and Federal Projects the required submission should be filled out in accordance with the individual schedule instructions which provide titles of data requirements to fit special respondent cases. Account numbers are related to each of the data titles to assist internal processing of data.

The reporting period entered by the respondent on each schedule represents the ending period (month, day, year) of the period to which the data applies, not the date the schedule was completed. An example for an annual submission would be 12/31/76.

Prior to mailing the schedules to the Commission, the respondent must complete FPC Schedule 0100, Index of Public Use Schedules Submitted, and submit it with the completed Schedule(s).

Footnotes cannot be placed directly on any public use data schedule. FPC Schedule 0000 is used for a footnote entry.

Additional statements, maps, diagrams, charts or other documentation supportive to the data schedules not otherwise specifically required should enter and submit the supplemental information utilizing FPC Schedule 1000.

All schedules should be forwarded to:

Federal Power Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426
ATTN: Office of the Secretary

FPC Form 131
(3-76)

Docket No. RM76-25 Attachment E

FINANCIAL REPORT FOR MUNICIPAL ELECTRIC
UTILITIES AND FEDERAL PROJECTS

DETAILED INSTRUCTIONS FOR
SCHEDULES 0165, 0166 AND 0215

V41N243 DEC 16 76 UMI

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULES 0165 & 0166	MONTHLY STATEMENT OF ELECTRIC OPERATING REVENUE AND INCOME, PARTS I & II	1 of 4

I. DESCRIPTION.

These schedules are used to collect details on selected monthly electric operating data for plant, revenues and expenses.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A Electric respondents and Publicly Owned Electric Utilities (municipals and Federal projects) having annual electric operating revenues of $2,500,000 or more.

B. Respondents shall complete all data fields on these schedules monthly.

C. Report the information on these schedules by the Uniform System of Accounts and Supplemental Account numbers shown below:

Uniform System of Accounts	Supplemental Accounts	Description
		ELECTRIC PLANT/DIVIDENDS
	120.70	Electric utility plant - total
	120.80	Accumulated provision for depreciation and amortization of electric utility plant
	107.10	Construction work in progress - electric gross additions
	238.10	Dividends declared - preferred stock
	238.20	Dividends declared - common stock
	238.90	Total (Accounts 120.7-238.90 for edit purposes only)
		ELECTRIC EXPENSES AND INCOME
401.00		Operating expense - total
	401.10	Operation expense - salaries and wages
	401.20	Operation expense - fuel
	401.30	Operation expense - other
402.00		Maintenance expense - total
	402.10	Maintenance expense - salaries and wages
	402.20	Maintenance expense - other
403.00		Depreciation expense
	407.90	Amortization expense
408.10		Taxes other than income taxes, utility operating income
409.10		Income taxes, utility operating income - total
	409.18	Income taxes, utility operating income - Federal
	409.19	Income taxes, utility operating income - other
410.10		Provision for deferred income taxes, utility operating income
411.10		Provision for deferred income taxes - credit, utility operating income
411.40		Investment tax credit adjustments, utility operations
411.60		Gains from disposition of utility plant
411.70		Losses from disposition of utility plant

FPC Form 131
(3-76)

R&S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULES 0165 & 0166	MONTHLY STATEMENT OF ELECTRIC OPERATING REVENUE AND INCOME, PARTS I & II	2 of 4

Uniform System of Accounts	Supplemental Accounts	Description
413.00		Expenses of electric plant leased to others
	413.90	Total Electric Operating Expenses
414.00		Other utility operating income
	414.90	Net Utility Operating Income
	417.90	Nonutility Operating Income
418.10		Equity in earnings of subsidiary companies
419.00		Interest and dividend income
419.10		Allowance for funds used during construction
421.00		Miscellaneous nonoperating income
421.10		Gain on disposition of property
421.20		Loss on disposition of property
425.00		Miscellaneous amortization
	426.70	Miscellaneous income deductions
408.20		Taxes other than income taxes, other income and deductions
409.20		Income taxes, other income and deductions
410.20		Provision for deferred income taxes, other income and deductions
411.20		Provision for deferred income taxes - credit, other income and deductions
411.50		Investment tax credit adjustments, nonutility operations
420.00		Investment tax credits
	426.90	Net Other Income and Deductions
427.00		Interest on long-term debt
428.00		Amortization of debt discount and expense
428.10		Amortization of loss on reacquired debt
429.00		Amortization of premium on debt (credit)
	429.10	Amortization of gain on reaquired debt - (credit)
430.00		Interest on debt to associated companies
431.00		Other interest expense
	431.90	Total Interest Charges
	432.90	Income Before Extraordinary Items
434.00		Extraordinary income
435.00		Extraordinary deductions
409.30		Income taxes, extraordinary items
433.00		Balance transferred to net income
440.00		Residential sales
	442.10	Commercial and industrial sales - commercial
	442.20	Commercial and industrial sales - industrial
444.00		Public street and highway lighting
445.00		Other sales to public authorities
446.00		Sales to railroads and railways
447.00		Sales for resale
448.00		Interdepartmental sales
	449.90	Total Sales of Electricity
450.00		Forfeited discounts
451.00		Miscellaneous service revenues

FPC Form 131
(3-76)

V41N243 DEC 16 76 UMI

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0165 & 0166	MONTHLY STATEMENT OF ELECTRIC OPERATING REVENUE AND INCOME, PARTS I & II	3 of 4

Uniform System of Accounts	Supplemental Accounts	Description
453.00		Sales of water and water power
454.00		Rent from electric property
455.00		Interdepartmental rents
456.00		Other electric revenues
	457.90	Total Other Operating Revenues
400.00		Total Electric Operating Revenues
412.00		Revenues from gas plant leases to others

D. Where a company has changed its accounting policy and begins to recognize unbilled revenues, the initial amount recorded and reported should be included in Account 434.00, Extraordinary Items, with the tax effect in Account 409.30, Income Taxes, Extraordinary Items, when the amounts are significant. Thereafter, the amounts relating to unbilled revenues should be reported in the class of sales giving rise to unbilled revenues (Accounts 440.00 to 448.00). If the amounts are not significant, report the amounts in the appropriate operating revenues accounts (Accounts 440.00 to 448.00). Do not report unbilled revenues as a separate line item.

E. Report residential space heating amounts in Account 440.00.

F. Smaller commercial sales should be included in Account 442.10. Large or industrial sales should be included in Account 442.00.

G. Payments for lease obligations included in the 500.00 and 900.00 series of accounts should be included in Account 401.30.

H. Salaries and wages charged to electric operation expense (Account 401.10) and maintenance expense (Account 402.10) should include only amounts charged to electric operation and maintenance expense accounts, including O & M clearing accounts. Total company salaries and wages should not be reported. Electric operations and maintenance salaries and wages may be estimated if actual amounts are not available.

I. Include steam purchase expense relating to utility operations in Account 401.30.

J. Fuel expense reported in Account 401.20 should include only amounts actually charged to operations during the reporting period which were recorded in primary Accounts 501.00, 518.00 and 547.00 for the production of energy during the month.

K. Report in Accounts 238.10 and 238.20 only the amounts for dividends actually declared during the month, exclusive of dividends paid.

L. Account Definitions:

107.10 Construction Work in Progress, Gross Additions - The total expenditures (both direct and indirect) charged for the month to Account 107.00, Construction Work in Progress. Do not include credits for transfer of completed construction or abandoned projects.

120.70 Electric Utility Plant - Sum of Account 101.00-107.00, 114.00, 116.00 and 120.10-120.40.

FPC Form 131
(3-76)

RIS	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0165 & 0166	MONTHLY STATEMENT OF ELECTRIC OPERATING REVENUE AND INCOME, PARTS I & II	4 of 4

120.80 Accumulated Provision for Depreciation and Amortization - Sum of Accounts 108.00, 111.00, 115.00 and 120.50.

401.20 Operation Expense - Fuel - Sum of amounts recorded in Accounts 501.00, 518.00 and 547.00.

401.00 Operation Expense - Equals the sum of Accounts 401.10, 401.20 and 401.30.

407.90 Amortization Expense - Sum of Accounts 404.00, 405.00, 406.00 and 407.00

426.70 Miscellaneous Income Deductions - Sum of Accounts 426.10 through 426.50.

457.90 Total Other Operating Revenues - Sum of Accounts 450.00 through 456.00.

M. Notes to financial data should be reported on Schedule 0215.

N. Accounts 401.00 through 411.90 pertain only to electric department operations. If a respondent has more than one utility department, include the net of revenues and expenses applicable to the other departments in Account 414.00.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Month/Year (N4): Enter the month and year, in the format MMYY. (TMMAYR)
2 (Key)	Account Number (N3.2): This is a preprinted data field, see General Information, II-C above. (ACCTML)
3	Amount (N9) DOL.
4	Sales (N9.3) MWH: Report sales of electric included in Accounts 440.00 through 448.00.
5	Customers (N7) NO: Report number of customers related to sales of electric included in Accounts 440.00 through 448.00.

FPC Form 131
(3-76)

V41243 DEC 16 76 UMI

R S	FEDERAL POWER COMMISSION REGULATORY INFORMATION SYSTEM	
DETAILED INSTRUCTIONS: SCHEDULE 0215	MONTHLY NOTES TO FINANCIAL DATA	1 of 1

I. DESCRIPTION

This schedule is used to collect information deemed necessary for adequate disclosure to support the financial data presented to the Commission in the monthly filing, to include the following aspects:

A. Disclosure of accounting changes made during the month which had significant effect on the reported net income.

B. Disclosure of any important factor occurring during the month that may materially effect the comparability of the financial data.

II. GENERAL INFORMATION

A. This schedule shall be submitted by Class A and Class B Natural Gas respondents, Class A Electric respondents and Publicly Owned Electric Utilities (municipals and Federal projects) having annual electric operating revenues of $2,500,000 or more.

B. Respondents shall complete all data fields on this schedule monthly.

III. DETAILED INSTRUCTIONS

The following data field-by-data field instructions are cross-referenced to the corresponding schedule layout by data field number:

Data Field Number	Instructions
1 (Key)	Type of Note (A60): (IDDESC)
2	Note Number (N1): Use successive numbers to designate more than one occurrence of the type of note listed in data field 1 above. If only one occurrence is needed for a particular type note, enter "1". (NRCADL)
3	Entry Continuation Number (N1): Use successive numbers to designate continuation entries of textual information for a particular note. If only one textual entry is needed to report the required disclosure, enter "1" in this data field. (NRCADL)
4	Text of Note (A249): (IDDESC)

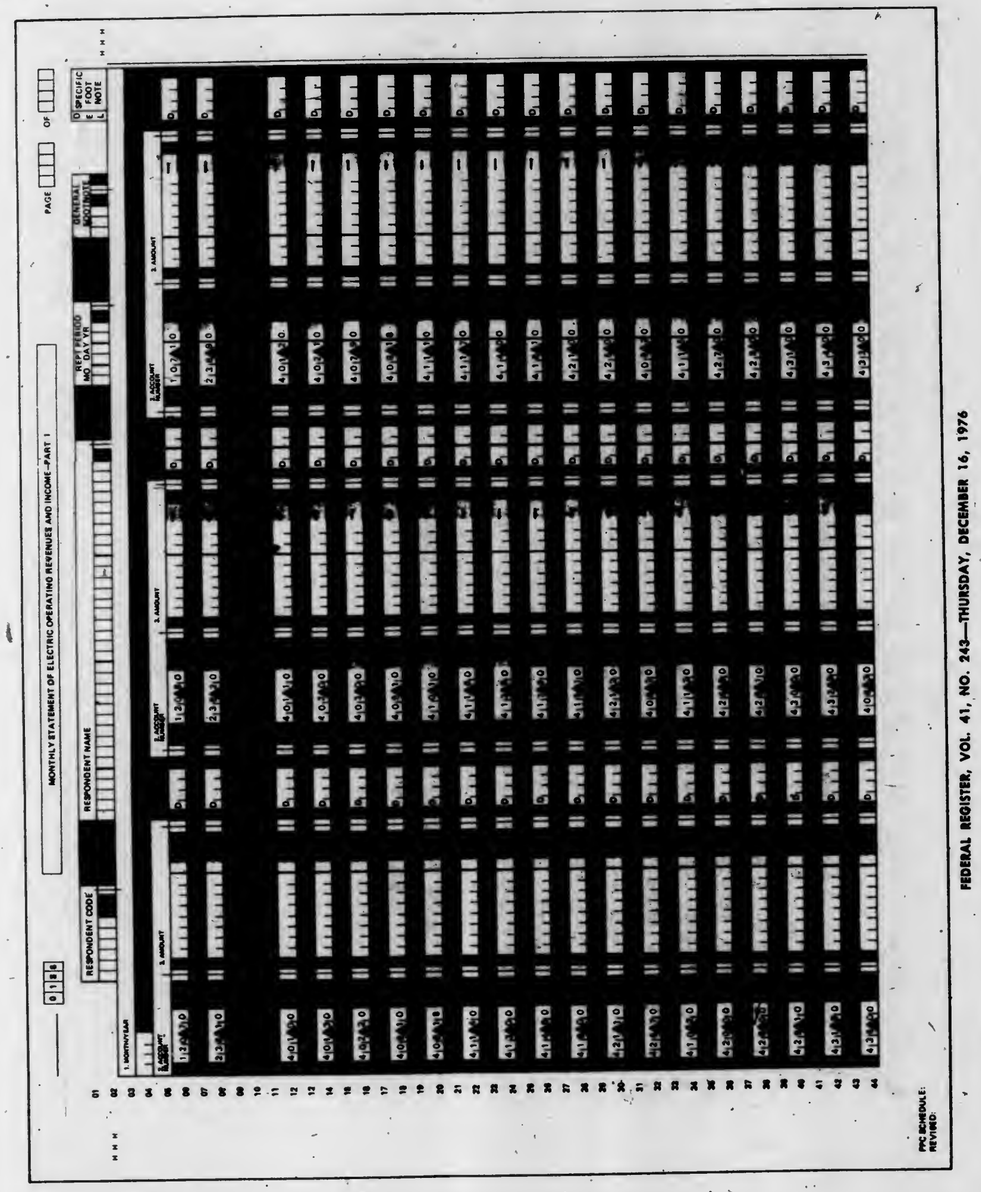
FPC Form 131
(3-76)

Docket No. RM76-25 Attachment F

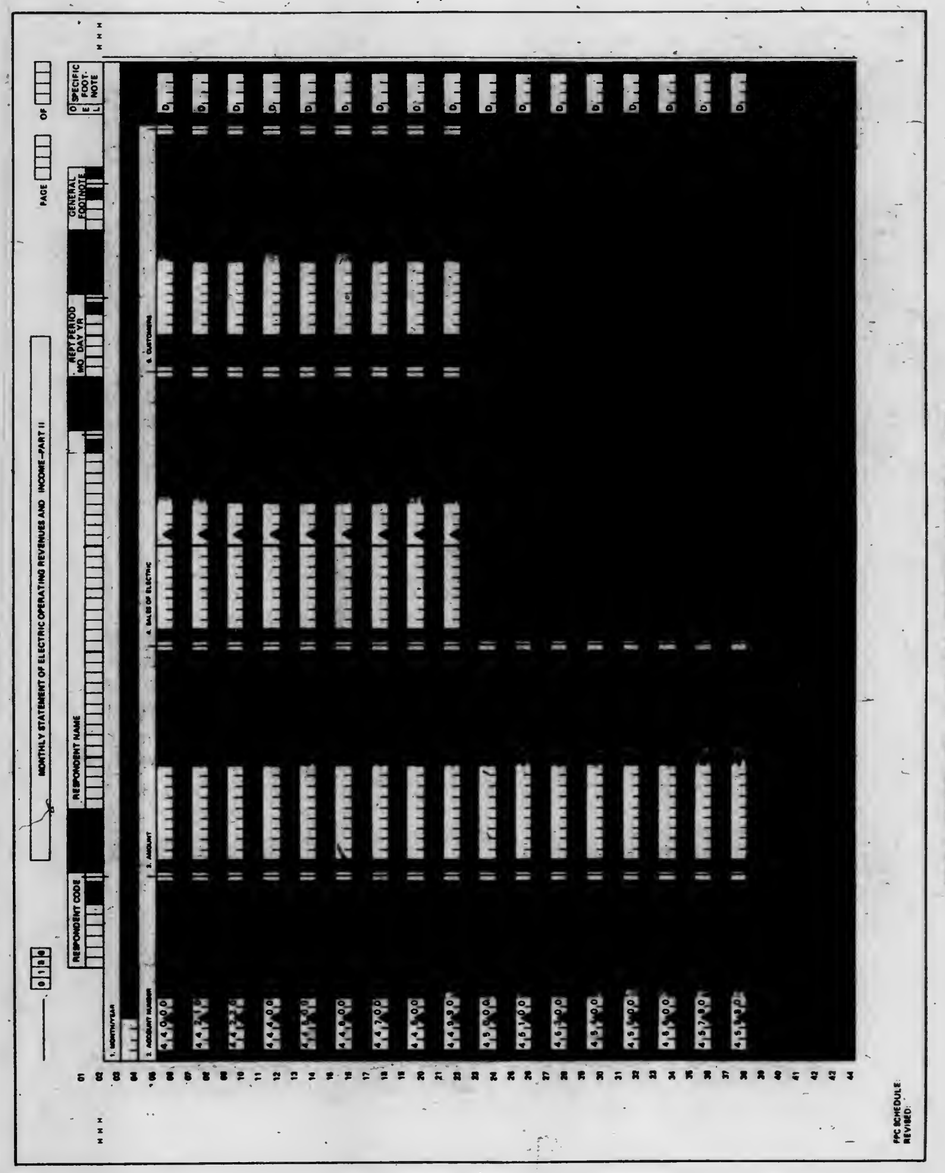
FINANCIAL REPORT FOR MUNICIPAL ELECTRIC UTILITIES AND FEDERAL PROJECTS

SAMPLE SCHEDULES 0165, 0166 AND 0215

V41243 DEC 16 76 UMI V

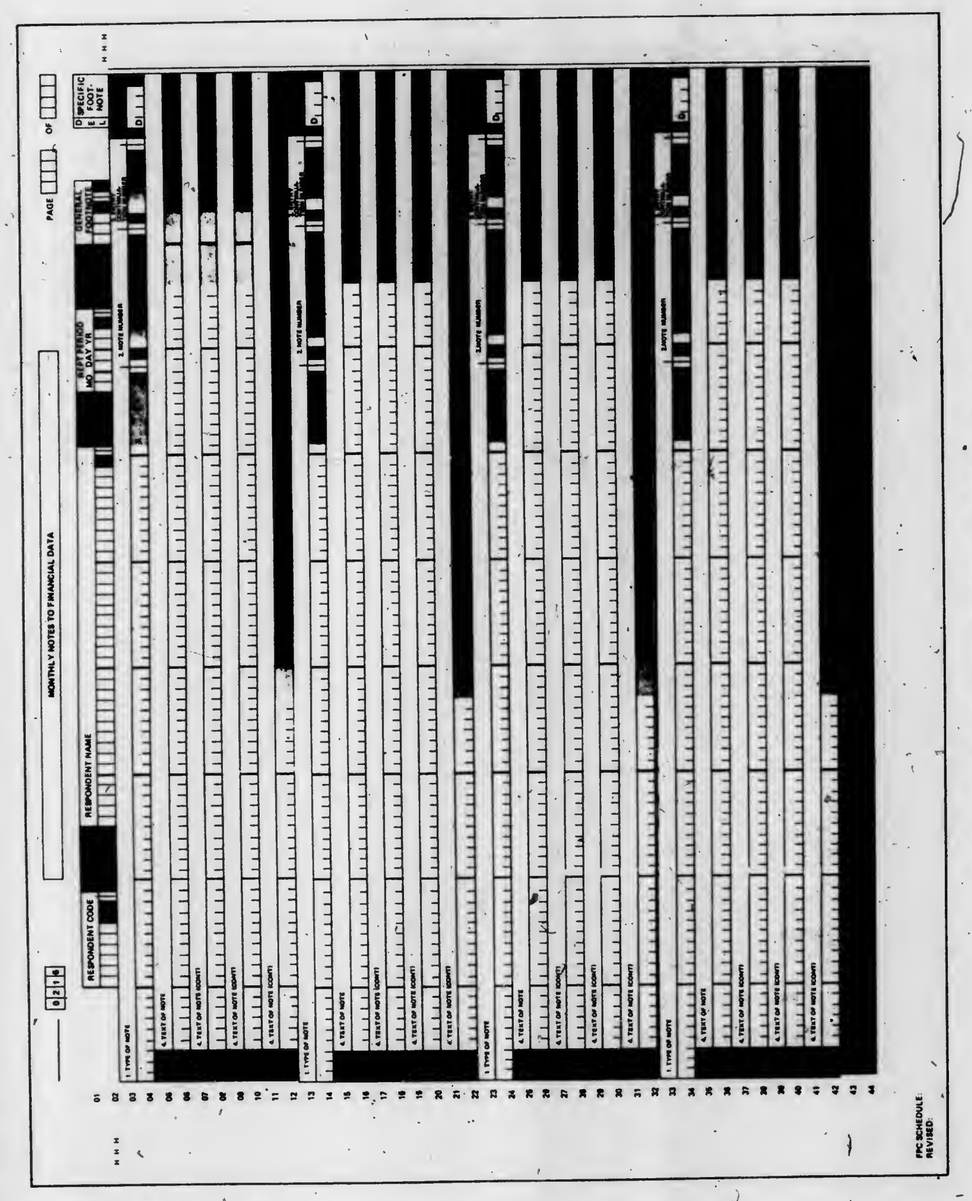


SAMPLE



SAMPLE

V 41 243 DEC 16 76 D UMI



SAMPLE

Docket No. RM76-25 Attachment G

PUBLICLY OWNED ELECTRIC UTILITIES
HAVING ANNUAL ELECTRIC OPERATING
REVENUES OF $2,500,000 OR MORE

V41243 DEC 16 76 UMI

Publicly Owned Electric Utilities Having Annual Electric Operating Revenues of $2,500,000 or More

Albertville Municipal Utilities Board
210 West Main St., Box 130
Albertville, Alabama 35950

Athens Electric Department
Box 268
Athens, Alabama 35611

Bessemer Electric Service
1600 First Avenue, N.
Box 846
Bessemer, Alabama 35020

Cullman Utilities Board
Drawer 927
Cullman, Alabama 35055

Decatur Electric Department
110 Johnston St., S. E.
Box 1469
Decatur, Alabama 35601

Dothan Electric Department
St. Andrews Street
Dothan, Alabama 36301

Florence Electricity Dept.
Box 877
Florence, Alabama 35630

Foley Utilities Board
413 E. Laurel Avenue
Box 550
Foley, Alabama 36535

Huntsville Utilities
Box 2048
Huntsville, Alabama 35804

Scottsboro Electric Power Board
Box 399
Scottsboro, Alabama 35768

Sheffield City Power, Water & Gas Department
300 Nashville Ave., Box 580
Sheffield, Alabama 35660

*Anchorage Municipal Light & Power Department
1200 E. First Avenue
Anchorage, Alaska 99501

Fairbanks Municipal Utilities
645 Fifth Avenue, Box 2215
Fairbanks, Alaska 99707

Arizona Power Authority
1810 W. Adams, Box 6694
Phoenix, Arizona 85005

Electrical District No. 2
Pinal County, Box 66
Coolidge, Arizona 85228

Mesa, City of
55 N. Center St., Box 1466
Mesa, Arizona 85201

Navaho Tribal Utility Authority
Box 170
Fort Defiance, Arizona 86504

*Salt River Project
Box 1980
Phoenix, Arizona 85001

Conway Corporation
1319 Prairie St., Box 99
Conway, Arkansas 72032

Jonesboro City Water & Light
400 E. Monroe, Box 1289
Jonesboro, Arkansas 72401

North Little Rock Electric Dept.
800 Main Street
North Little Rock, Arkansas 72114

*Alameda Bureau of Electricity
2000 Grand Street
Alameda, California 94501

Anaheim, City of
518 S. Anaheim Blvd., Box 3222
Anaheim, California 92805

*Burbank Public Service Department
164 W. Magnolia Blvd., Box 631
Burbank, California 91503

California Department of Water Resources
1416 Ninth Street
Sacramento, California 95814

Colton Electric Department
650 N. La Cadena Avenue
Colton, California 92324

*Glendale Public Service Department
119 N. Glendale Avenue
Glendale, California 91206

Hetch Hetchy Water Supply & Power Project
855 Harrison Street
San Francisco, California 94107

Lodi Municipal Electric Works
City Hall, 221 W. Pine Street
Lodi, California 95240

*Los Angeles Department of Water and Power
111 N. Hope Street, Box 111
Los Angeles, California 90054

*Modesto Irrigation District
1231 Eleventh St., Box 4060
Modesto, California 95352

Palo Alto Dept. of Light & Power
250 Hamilton Avenue
Palo Alto, California 94301

*Pasadena Municipal Light & Power Department
100 N. Garfield Avenue
Pasadena, California 91109

Riverside Dept. of Public Utilities
City Hall, 3900 Main Street
Riverside, California 92502

Sacramento Municipal Utility District
6201 S St., Box 15820
Sacramento, California 95813

San Francisco Public Utilities Commission
Rm. 287, City Hall
San Francisco, California 94102

Santa Clara Municipal Electric Dept.
1500 Warburton Avenue
Santa Clara, California 95050

*Turlock Irrigation District
333 E. Canal Drive, Box 949
Turlock, California 95380

*Colorado Springs Dept. of Public Utilities
16 S. Nevada Ave., Box 1103
Colorado Springs, Colorado 80947

Fort Collins Light & Power Department
300 La Porte Avenue, Box 580
Fort Collins, Colorado 80521

Longmont Municipal Light & Power Dept.
City Hall, Fourth and Kimbark Streets
Longmont, Colorado 80501

Groton Department of Utilities
295 Meridian St., Box 820
Groton, Connecticut 06340

Norwich Dept. of Public Utilities
34 Shetucket Street
Norwich, Connecticut 06360

Wallingford Electric Division, Dept. of Public Utilities
100 John St., Box 190
Wallingford, Connecticut 06492

Dover, City of
Box 475
Dover, Delaware 19901

Newark, City of
Main and Academy Sts., Box 390
Newark, Delaware 19711

Bartow City Electric Department
250 N. Central, Box 1669
Bartow, Florida 33820

Fort Pierce Utilities Authority
609 S. Sixth St., Box 3191
Fort Pierce, Florida 33450

Gainesville-Alachua County Regional Electric Water & Sewer Utilities Board
P. O. Box 490
Gainesville, Florida 32601

Homestead Power Plant
940 N.W. First Ave., Drawer 429
Homestead, Florida 33030

*Jacksonville Electric Authority
233 W. Duval Street
Jacksonville, Florida 32202

Jacksonville Beach Electric Department
11 N. Third Street
Jacksonville Beach, Florida 32250

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Key West Utility Board
535 Eaton St., Drawer 1060
Key West, Florida 33040

Kissimmee, City of
112 Ruby Ave., Box 340
Kissimmee, Florida 32741

Lakeland Dept. of Electric & Water Utilities
1000 E. Parker St., Box 368
Lakeland, Florida 33802

Lake Worth Utilities Authority
114 College Street
Lake Worth, Florida 33460

Leesburg Electric Department
223 S. Fifth St., Box 630
Leesburg, Florida 32748

New Smyrna Beach Utilities Commission
Box 519
New Smyrna Beach, Florida 32069

Ocala, City of
City Hall, Box 1270
Ocala, Florida 32670

*Orlando Utilities Commission
400 S. Orange Ave., Box 3193
Orlando, Florida 32802

Tallahassee Electric Department
2602 Jackson Bluff Road
Tallahassee, Florida 32304

Vero Beach Municipal Plant
City Hall, 1053 Twentieth Place
Box 1389
Vero Beach, Florida 32960

Albany Water, Gas & Light Commission
111 Oglethorpe Ave., Box 1788
Albany, Georgia 31702

Crisp County Power Commission
Box 489
Cordele, Georgia 31015

East Point Electrical Dept.
City Hall Annex, Box 348
East Point, Georgia 30344

Griffin Light, Water & Sewerage Dept.
Griffin, Georgia 30223

La Grange Electric Department
200 Ridley St., Box 430
La Grange, Georgia 30240

Marietta Board of Light & Water Works
42 Atlanta Rd., Box 609
Marietta, Georgia 30061

Thomasville Water & Light Department
411 W. Jackson St., Box 50
Thomasville, Georgia 31792

Idaho Falls Electric Division
308 C St., Box 220
Idaho Falls, Idaho 83401

Geneva Municipal Electric Light & Water Works
2 W. State Street
Geneva, Illinois 60134

Naperville Light Department
175 W. Jackson Avenue
Naperville, Illinois 60540

St. Charles, City of
2 E. Main Street
St. Charles, Illinois 60174

* Springfield City Water, Light & Power
201 Municipal Building
Springfield, Illinois 62701

Anderson Municipal Light & Power
550 Baxter Road
Anderson, Indiana 46011

Crawfordsville Electric Light & Power
City Building, Box 428
Crawfordsville, Indiana 47933

Frankfort Utilities Board
758 Washington Avenue
Frankfort, Indiana 46041

Logansport Municipal Utilities
City Building, 601 E. Broadway
Logansport, Indiana 46947

Mishawaka Municipal Utilities
126 N. Church Street
Mishawaka, Indiana 46544

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*Richmond Power and Light
2000 Hwy. U.S. 27 South, Box 908
Richmond, Indiana 47374

Ames Municipal Electric System
Municipal Bldg.
Ames, Iowa 50010

Cedar Falls Municipal Utilities
612 E. Twelfth Street
Cedar Falls, Iowa 50613

Muscatine Power & Water
818 E. Eighth Street
Muscatine, Iowa 52761

Coffeyville Municipal Light & Power
Seventh and Spring Sts. Box 498
Coffeyville, Kansas 67337

Kansas City Board of Public Utilities
700 Minnesota Avenue
Kansas City, Kansas 66101

McPherson Board of Public Utilities
400 E. Kansas, Box 650
McPherson, Kansas 67460

Bowling Green Electric Plant Board
805 Center Street, Box 149
Bowling Green, Kentucky 42101

Frankfort Electric and Water Plant Board
315 W. Second Street, Box 308
Frankfort, Kentucky 40601

Glasgow Electric Plant Board
100 Mallory Drive, Box 390
Glasgow, Kentucky 42141

Hopkinsville Electric Plant Board
101 N. Main, Street
Hopkinsville, Kentucky 42240

Murray Electric System
401 Olive Street, Box 391
Murray, Kentucky 42071

Owensboro Municipal Utilities
115 E. Fourth St., Box 780
Owensboro, Kentucky 42301

Paducah Electric Plant Board
1400 Broadway, Box 180
Paducah, Kentucky 42001

Alexandria Municipal Power & Light Dept.
City Hall, 1011 N. Third, Box 71
Alexandria, Louisiana 71301

Lafayette Utilities Systems
733 Jefferson St., Box 4017-C
Lafayette, Louisiana 70501

Monroe Utilities Commission
2809 Louisville Ave., Box 84
Monroe, Louisiana 71201

Morgan City Municipal Power Plant
808 Florence St., Box 1218
Morgan City, Louisiana 70380

Ruston Utilities System
McDonald Ave., Box 280
Ruston, Louisiana 71270

Easton Utilities Commission
11 S. Harrison Street
Easton, Maryland 21601

Hagerstown Municipal Electric Light Dept.
W. Memorial Blvd.
Gagerstown, Maryland 21740

Belmont Municipal Light Department
450 Concord Avenue
Belmont, Massachusetts 02178

Braintree Electric Light Department
44 Allen Street
Braintree, Massachusetts 02184

Chicoppe Electric Light Department
725 Front Street
Chicoppe, Massachusetts 01013

Concord Municipal Light Plant
133 Keyes Road
Concord, Massachusetts 01742

Danvers Electric Department
2 Burroughs Street
Danvers, Massachusetts 01923

Hingham Light Department
19 Elm Street
Hingham, Massachusetts 02043

Holyoke Gas & Electric Department
70 Suffolk Street
Holyoke, Massachusetts 01040

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Hudson Light and Power Dept.
49 Forest Avenue
Hudson, Massachusetts 01749

Mansfield Municipal Electric Department
50 West Street
Mansfield, Massachusetts 02048

Middleborough Gas & Electric Department
Town Hall, Nickerson Avenue
Middleborough, Massachusetts 02346

North Attleborough Electric Dept.
7 S. Washington Street, Box 790
North Attleborough, Massachusetts 02671

Norwood Municipal Light Department
404 Central Street, Box 40
Norwood, Massachusetts 02062

Peabody Municipal Light Plant
70 Endicott Street, Box 673
Peabody, Massachusetts 01960

Reading Municipal Light Dept.
25 Haven Street
Reading, Massachusetts 01867

Shrewsbury Municipal Light Dept.
100 Maple Avenue
Shrewsbury, Massachusetts 01545

*Taunton Municipal Lighting Plant
55 Weir Street, Box 870
Taunton, Massachusetts 02780

Wakefield Municipal Light Dept.
9 Albion Street
Wakefield, Massachusetts 01880

Wellesley Department of Public Works
Electric Division, 455 Worcester St.
Box 364
Wellesley Hills, Massachusetts 02181

Westfield Gas & Electric Light Dept.
101 Elm Street
Westfield, Massachusetts 01085

Bay City Electric Light Dept.
301 Washington
Bay City, Michigan 48706

Coldwater Board of Public Utilities
21 S. Monroe Street
Coldwater, Michigan 49036

Detroit Public Lighting Commission
7500 Joseph Campau Avenue
Detroit, Michigan 48211

Escanaba Municipal Electric Utility
120 N. Eighth Street
Escanaba, Michigan 49829

Grand Haven Board of Light & Power
City Hall
Grand Haven, Michigan 49417

Holland Board of Public Works
City Hall, 268 River Avenue
Holland, Michigan 49423

*Lansing Board of Water & Light
123 W. Ottawa Street, Box 570
Lansing, Michigan 48903

Marquette Department of Light & Power
City Hall, Drawer 40
Marquette, Michigan 49855

Traverse City Light & Power Dept.
160 E. State Street
Traverse City, Michigan 49684

Wyandotte Department of Municipal Service
140 Elm Street
Wyandotte, Michigan 48192

Austin Utilities
500 Fourth Avenue, S.E.
Box 368
Austin, Minnesota 55912

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*Power Authority of the State of New York
10 Columbus Circle
New York, New York 10019

Rockville Centre Municipal Electric System
110 Maple Ave., Box 150
Rockville Centre, New York 11571

Albemarle Light Department
Box 190
Albemarle, North Carolina 28001

Concord Board of Light & Water Commission
66 S. Union St., Box 567
Concord, North Carolina 28025

Elizabeth City Public Utility Commission
300-02 E. Colonial Avenue
Box 347
Elizabeth City, North Carolina 27909

Fayetteville Public Works Commission
508 Person Street, Drawer 1089
Fayetteville, North Carolina 28302

Gastonia Utilities Department
City Hall, Box 1748
Gastonia, North Carolina 28052

Greenville Utilities Commission
205 W. Fifth St., Box 1847
Greenville, North Carolina 27834

High Point Department of Public Utilities
200 E. Commerce St., Box 230
High Point, North Carolina 27260

Kinston Public Utilities
207 E. King St., Box 339
Kinston, North Carolina 28501

Lexington Water, Light & Power Department
City Hall, Box 649
Lexington, North Carolina 27292

Lumberton Utilities Department
609 N. Water Street
Lumberton, North Carolina 28358

Monroe Water & Light Department
Box 69
Monroe, North Carolina 28110

Morganton Electric Utilities
201 W. Meeting St., Drawer 430
Morganton, North Carolina 28655

New Bern Water & Light Department
Box 1129
New Bern, North Carolina 28560

Rocky Mount Public Utilities
117 N. Main St., Box 1180
Rocky Mount, North Carolina 27801

Shelby Utilities
City Hall, Box 207
Shelby, North Carolina 28150

Statesville Light Department
227 S. Center St., Box 1111
Statesville, North Carolina 28677

Tarboro Electric Department
500 Main St., Box 220
Tarboro, North Carolina 27886

Washington Municipal Electric & Water Department
Box 850
Washington, North Carolina 27889

Wilson Utilities
112 N. Coldsboro St., Box 10
Wilson, North Carolina 27893

Bowling Green Board of Public Affairs
515 E. Wooster Street
Bowling Green, Ohio 43402

Cleveland Division of Light & Power
1201 Lakeside Avenue
Cleveland, Ohio 44114

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Rochester Department of Public Utilities
215 First Avenue, N.E.
Rochester, Minnesota 55901

Willmar Municipal Utilities Commission
704 W. Litchfield Avenue, Box 937
Willmar, Minnesota 56201

Columbus Light & Water Dept.
Box 949
Columbus, Mississippi 39701

Greenwood Utilities
101 Wright Place, Box 866
Greenwood, Mississippi 38930

Tupelo Water & Light Dept.
Box 588
Tupelo, Mississippi 38801

Columbia Water & Light Dept.
Municipal Building
Seventh & Broadway, Box N.
Columbia, Missouri 65201

Independence City Power & Light
21500 E. Truman Road
Independence, Missouri 64056

Kirkwood Electric Division
212 S. Taylor Avenue
Kirkwood, Missouri 63122

*Springfield City Utilities
301 E. Central Street
Springfield, Missouri 65802

Central Nebraska Public Power & Irrigation District (The)
Fourth and Lincoln, Box 356
Holdredge, Nebraska 68949

Dawson County Public Power District
200 S. Washington St., Box 777
Lexington, Nebraska 68850

Fremont Department of Utilities
725 N. Park Avenue
Fremont, Nebraska 68025

Grand Island Utilities Dept.
102 W. Second St., Box 1968
Grand Island, Nebraska 68801

Hastings Utilities
1228 N. Denver, Box 289
Hastings, Nebraska 68901

* Lincoln Electric System
1401 O Street
Lincoln, Nebraska 68501

Loup River Public Power District
2404 Fifteenth St., Box 988
Columbus, Nebraska 68601

* Nebraska Public Power District
2504 Fourteenth St., Box 499
Columbus, Nebraska 68601

Norris Public Power District
606 Irving St., Box 399
Beatrice, Nebraska 68310

* Omaha Public Power District
Electric Building
1623 Harney Street
Omaha, Nebraska 68102

Southern Nebraska Rural Public Power District
1306 W. Third St., Box 340
Grand Island, Nebraska 68801

Vineland Electric Utility
Seventh and Wood Streets
Vineland, New Jersey 08360

Farmington Electric Utility
Box 900
Farmington, New Mexico 87401

Freeport Municipal Light Plant
46 N. Ocean Avenue
Freeport, New York 11520

* Jamestown Board of Public Utilities
200-212 E. Third St., Box 700
Jamestown, New York 14701

Columbus Division of Electricity
Room 127, City Hall
90 W. Broad Street
Columbus, Ohio 43215

Cuyahoga Falls Electric System
2550 Bailey Road
Cuyahoga Falls, Ohio 44221

Hamilton Department of Public Utilities
Municipal Building, 20 High St., Box 747
Hamilton, Ohio 45011

Orrville Municipal Utilities
1115 Perry Street, Box 126
Orrville, Ohio 44667

Painesville Electric Power Dept.
City Hall, 7 Richmond Street
Painesville, Ohio 44077

Piqua Municipal Power System
219 W. Water Street
Piqua, Ohio 45356

*Grand River Dam Authority
Drawer G.
Vinita, Oklahoma 74301

Ponca City Municipal Water & Light Department
1400 N. Union, Box 1450
Ponca City, Oklahoma 74601

Stillwater Municipal Water & Light Department
723 S. Lewis St., Box 631
Stillwater, Oklahoma 74074

Central Lincoln People's Utility District
255 S. W. Coast Highway
Newport, Oregon 97365

* Eugene Water & Electric Board
500 E. Fourth Ave., Box 1112
Eugene, Oregon 97401

Springfield Utility Board
250 N. A St., Box 300
Springfield, Oregon 97477

Tillamook People's Utility District
906 Main Ave., Box 433
Tillamook, Oregon 97141

Chambersburg Municipal Electric Light Department
100 S. Second Street
Chambersburg, Pennsylvania 17201

Lansdale Municipal Power Plant
421 W. Main
Lansdale, Pennsylvania 19446

Easley Commission of Public Works
202 N. First St., Box 605
Easley, South Carolina 29640

Rock Hill Utilities
120 Hampton St., Box 821
Rock Hill, South Carolina 29371

South Carolina Public Service Authority
223 N. Live Oak Drive, Box 398
Moncks Corner, South Carolina 29461

Athens Utilities Board
100 Englewood Road, Box 689
Athens, Tennessee 37303

Blount Electric System
264 N. Rankin Road
Alcoa, Tennessee 37701

Bolivar Electric Department
Box 188
Bolivar, Tennessee 38008

Bristol Electric System
137 Edgemont Avenue
Bristol, Tennessee 37620

Carroll County Electrical Dept.
Huntingdon, Tennessee 38344

* Chattanooga ElectricPower Board
537 Cherry Street
Chattanooga, Tennessee 37402

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Clarksville Department of Electricity
Clarksville, Tennessee 37040

Cleveland Electric System
2450 Guthrie Drive, N.W.
Box 1479
Cleveland, Tennessee 37311

Clinton Utilities Board
Box 296
Clinton, Tennessee 37716

Columbia Power System
201 Pickens Lane, Box 633
Columbia, Tennessee 38401

Dickson Electric Department
202 S. Main Street, Box 627
Dickson, Tennessee 37055

Dyersburg Electric System
211 E. Court St., Box 664
Dyersburg, Tennessee 38024

Elizabethton Electric System
Box 790
Elizabeth, Tennessee 37643

Fayetteville Electric System
408 W. College St., Drawer E
Fayetteville, Tennessee 37334

Gallatin Department of Electricity
135 Jones St., Box 167
Callatin, Tennessee 37066

Greeneville Light & Power System
Box 420
Greeneville, Tennessee 37743

Harriman Utility Board
Roanne St., Box 434
Harriman, Tennessee 37748

Jackson Utility Division, Electric Department
119 E. College, Box 68
Jackson, Tennessee 38301

Johnson City Power Board
100 N. Roan St., Box 1636
Johnson City, Tennessee 37601

*Knoxville Utilities Board
626 Gay St., S. W., Box 1951
Knoxville, Tennessee 37901

La Follette Electric Department
N. Tennessee Ave., Box 1411
La Follette, Tennessee 37766

Lawrenceburg Power System
1607 N. Locust Avenue
Lawrenceburg, Tennessee 38464

Lebanon Electric Department
City Hall
Lebanon, Tennessee 37087

Lenoir City Utilities Board
200 Depot St., Box 499
Lenoir City, Tennessee 37771

Lexington Electric System
Box 30
Lexington, Tennessee 38351

Maryville Utilities Board
Box 280
Maryville, Tennessee 37801

* Memphis Light, Gas & Water Division
220 S. Main St., Box 430
Memphis, Tennessee 38101

Milan Department of Public Utilities
407 S. Second St., Box 109
Milan, Tennessee 38358

Morristown Power System
441 W. Main St., Box 667
Morristown, Tennessee 37814

Murfreesboro Electric Department
225 N. Walnut St., Box 9
Murfreesboro, Tennessee 37130

* Nashville Electric Service
1214 Church Street
Nashville, Tennessee 37246

Newport Utilities Board
Box 510
Newport, Tennessee 37821

Oak Ridge Electrical Department
Oak Ridge, Tennessee 37830

Paris Board of Public Utilities
117 E. Washington Street
Box 460
Paris, Tennessee 38242

Pulaski Electric Systems
S. First St., Box 368
Pulaski, Tennessee 38478

Rockwood Electric Utility
Box 108
Rockwood, Tennessee 37854

Sevier County Electric System
Church St., Box 310
Sevierville, Tennessee 37862

Shelbyville Power System
308 S. Main St., Box 530
Shelbyville, Tennessee 37160

Tullahoma Utilities Board
201 W. Grundy, Box 788
Tullahoma, Tennessee 37388

Union City Electric System
215 E. Grove St., Box 369
Union City, Tennessee 38261

Weakley County Municipal Electric System
501 Lindell St., Box 170
Martin, Tennessee 38237

Austin Electric Utility
Box 1088
Austin, Texas 78767

Brownsville Public Utilities Board
Box 3270
Brownsville, Texas 78520

Bryan Public Utility
300 S. Washington, Box 1000
Bryan, Texas 77801

Denton Electric Light & Power System
215 E. McKinney
Denton, Texas 76201

Garland Municipal Power & Light
Box 189
Garland, Texas 75040

Greenville Municipal Light & Power
2810 Washington St., Box 1049
Greenville, Texas 75401

* Lower Colorado River Authority
414 N. Main, Box 220
Austin, Texas 78767

Lubbock Municipal Power & Light
Box 2000
Lubbock, Texas 79457

* San Antonio City Public Service Board
Box 1771
San Antonio City, Texas 78296

Murray City Corporation Power Department
153 W., 4800 South
Murray, Utah 84107

Provo City Power
251 W. 800 N., Box 658
Provo, Utah 84601

Burlington Electric Light Dept.
585 Pine Street
Burlington, Vermont 05401

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Bedford Municipal Electric Department
215 E. Main St., Drawer 37
Bedford, Virginia 24523

Bristol Utilities Board
300 Lee Street
Bristol, Virginia 24201

Danville Water, Gas & Electric Departments
Municipal Building
Patton Street, Drawer 3308
Danville, Virginia 24541

Harrisonburg Electric Commission
89 W. Bruce Street
Harrisonburg, Virginia 22801

Martinsville Electric Department
Box 1112
Martinsville, Virginia 24112

Benton County Pud No. 1
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* (Currently files the monthly FPC Form No. 5.

[FR Doc.76-36983 Filed 12-15-76;8:45 am]

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Due to the large number of amendments to Part 213 of Title 5 of the Code of Federal Regulations which have been published during 1976, it has been determined that a republication without change would serve to set forth all published amendments in one codified statement. There is no substantive change in the provisions of this part. It is merely republished for the convenience of the users of the FEDERAL REGISTER and the Code of Federal Regulations. Therefore, Part 213 is revised to read as follows.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

PART 213—EXCEPTED SERVICE

Subpart A—General Provisions

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213.101 Definitions.
213.102 Identification of positions in Schedule A, B, or C.

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AUTHORITY: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp. p. 218.

Subpart A—General Provisions

§ 213.101 Definitions.

In this chapter:

(a) Excepted service has the meaning given that term by section 2103 of title 5, United States Code, and includes all positions in the executive branch of the Federal Government which are specifically excepted from the competitive service by or pursuant to statute, by the President, or by the Commission under § 6.1 or § 9.20 of the civil service rules (Subchapter A of this chapter).

(b) "Excepted position" means a position in the excepted service.

§ 213.102 Identification of positions in Schedule A, B, or C.

The Commission shall decide whether the duties of any particular position are such that it may be filled as an excepted position under Schedule A, B, or C.

Subpart B—[Reserved]

Subpart C—Excepted Schedules

SCHEDULE A

§ 213.3101 Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.

(a) The positions enumerated in §§ 213.3102 to 213.3199 are positions other than those of a confidential or policy-determining character for which it is not practicable to examine and which are excepted from the competitive service and constitute Schedule A.

(b) An agency (including a military department) may not appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service, to a position listed in Schedule A for summer or student employment within the United States. This prohibition does not apply to the appointment of persons (1) who are eligible for placement assistance under the Commission's Displaced Employee (DE) Program, (2) who are employed to meet urgent needs resulting from an emergency posing an immediate threat to life or property, or (3) who are members of families which are eligible to receive financial assistance under a public welfare program or the total income of which in relation to family size does not exceed limits established by the Commission and published in the Federal Personnel Manual.

(c) An agency may appoint for summer employment within the United States in positions listed in Schedule A only in accordance with the terms of the Commission's summer employment program. This restriction does not apply to positions that are excepted only when filled by particular types of individuals.

(d) In this section "summer employment" means any employment beginning after May 12 which will end before October 1 of the same year. "Student employment" means the employment of persons who are enrolled or who have been accepted for enrollment, on a substantially full-time basis, as resident students of a secondary school or of an institution of higher learning; a resident student, for this purpose, is a student in actual physical attendance at a school as distinguished from a correspondence student.

§ 213.3102 Entire executive civil service.

(a) Positions of Chaplain and Chaplain's Assistant.

(b) Cooks, except at fixed locations such as hospitals, quarantine stations, and penal institutions.

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment which was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any position the duties of which are part-time or intermittent in which the appointee will receive compensation during his service year that aggregates not more than 40 percent of the annual salary rate for the first step of GS–2. This limitation on compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority shall not be for job employment. In the metropolitan area of Washington, D.C., appointments under this authority shall be subject to the prior approval of the Commission.

(h) Subject to prior approval by the Commission, positions in Federal mental institutions when filled by persons who have been patients of such institutions and been discharged and are certified by the medical head thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Subject to prior approval of the Commission, positions requiring temporary, part-time, or intermittent employment in wage board type occupations (i.e., position excluded from Classification Act coverage by section 202(7) of the Act) on construction or repair work, where the activity is carried on in localities where examination coverage for the positions has not been provided and where because of employment conditions there is a shortage of available candidates for the positions. Appointments under this paragraph shall not extend beyond 1 year, and the employment thereunder shall not exceed 180 working days a year. Seasonal employments of a recurring nature are not authorized under this paragraph.

(j) Subject to approval of the Director of Selective Service, positions for which in the opinion of the Commission a local recruiting shortage exists when filled by individuals performing reconciliation service pursuant to Presidential Proclamation No. 4313 of September 16, 1974. Initial appointments under this authority may not exceed 1 year, and an initial appointment may be extended for one or more periods to a total of not to exceed 1 year. Such appointment may be further extended for one or more periods not to exceed 1 additional year. No person may serve under this authority longer than 2 years. No new appointments may be made under this authority after June 30, 1977.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, or technical experts for consultation purposes.

(m) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) in field establishments outside central office and regional office cities of the Commission where examination coverage has not been provided for the positions, as follows:

(1) For temporary, intermittent, or seasonal employment (exclusive of positions covered by paragraph (l) of this section) not to exceed 180 working days a year in the Departments of Agriculture, Commerce, and Interior, in the Federal Aviation Agency, and in the International Boundary and Water Commission; or

(2) When it is specifically held by the Commission that this authority is applicable, for employment in localities that are isolated with respect to labor supply and where there is a shortage of available candidates for the positions.

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(o) Positions of a scientific, professional, or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employments under this provision shall not exceed 130 working days a year.

(p) Positions of a scientific, professional, or analytical nature when filled by bona fide graduate students at accredited colleges or universities provided that the work performed for the agency is to be used by the student as a basis for completing certain academic requirements toward a graduate degree. Employments under this provision may be continued only so long as the foregoing conditions are met, and the total period of such employment shall not exceed one year in any individual case: *Provided*, That such employment may, with the approval of the Commission, be extended for not to exceed an additional year.

(q) Postions at grade GS–7 and below when appointees are to assist scientific, professional, or technical employees. Persons employed under this provision shall be: (1) Bona fide high school science or mathematics teachers or (2) bona fide students at high schools or accredited colleges or universities who are pursuing courses related to the field in which employed. No person shall be employed under this provision in (1) positions of a routine clerical type or (ii) in excess of 1040 working hours a year; except that the 1040 working-hours-a-year limitation shall not apply to positions at grade GS–4 and below which are established in connection with associate degree cooperative education programs. Students enrolled in bachelor's degree cooperative education programs as defined in § 213.3202(a) of this Part shall not be employed under this provision. Appointments under this authority may be made only to positions for which qualification standards established under Part 302 of this chapter are consistent with the education and experience standards established for comparable positions in the competitive service.

(r) All positions of a project nature when filled by individuals the salaries of whom are paid out of (1) funds allocated by the President under authority of Public Law 87–658, approved September 14, 1962, the Public Works Acceleration Act of 1962, or (2) funds allocated by the Secretary of Commerce under authority of title X of the Public Works and Economic Development Act of 1965, as amended. Employment under this authority shall be for a temporary period not to exceed 1 year. No new appointments of persons paid out of funds allocated under title X of the Public Works and Economic Development Act of 1965, as amended, may be made after February 28, 1977.

(s) [Reserved]

(t) Positions when filled by mentally retarded persons in accordance with written agreements executed between an agency and the Commission. Provisions to be included in such agreements are specified in the Federal Personnel Manual.

(u) Subject to prior approval of the Commission, positions when filled by severely physically handicapped persons who: (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Prior Commission approval is not required for promotions or reassignments within the same agency or department when the physical qualification standards remain substantially the same and all other qualification requirements are met.

(v) Temporary Summer Aid positions whose duties involve work of a routine nature not regularly covered under the General Schedule and requiring no specific knowledge or skills, when filled by youths appointed for summer employment under such economic or educational needs standards as the Commission may prescribe. A person may not be appointed unless he has reached his sixteenth but not his twenty-second birthday, or employed for more than 700 hours under this paragraph. This paragraph shall apply only to the positions whose pay is fixed at the equivalent of the highest minimum wage rate established by the Fair Labor Standards Act of 1938, as amended. However, during 1974 an agency shall not fix the pay at a rate less than that paid to Summer Aids by Federal agencies (other than the Postal Service) in the geographic area concerned in 1973.

(w) Part-time or intermittent positions the duties of which involve work of a routine nature when filled by students appointed in furtherance of the President's Youth Opportunity Stay-in-School Campaign and when the following conditions are met: (1) Appointees are enrolled in or accepted for enrollment in a resident secondary school or institution of higher learning, accredited by a recognized accrediting body; (2) employment does not exceed 16 hours in any calendar week (40 hours in any calendar week which falls within a vacation period); (3) while employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer; (4) appointees need the earnings from the employment to continue in school; and (5) salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance. Appointments under this authority may not extend beyond 1 year: *Provided*, That such appointments may be extended for additional periods of not to exceed 1 year each if the conditions for initial appointment are still met. A person may not be appointed under this authority unless he has reached his 16th but not his 22d birthday. No new appointments may be made under this authority between May 1 and August 31, inclusive.

(x) Subject to prior approval of the Commission, positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed 1 additional year each with the prior approval of the Commission upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date he is released from custody.

(y) Positions at grade GS–2 and below for summer employment, as defined in § 213.3101(d), of assistants to scientific, professional, and technical employees, when filled by finalists in national science contests under hiring programs approved by the Commission.

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program and may be made initially for 1 year only. An agency may extend an appointment made under this authority for up to 1 additional year when the program committee at the laboratory concerned determines that extension will benefit both the associate and the laboratory.

(bb) Subject to prior approval of the Commission, positions when filled by aliens in the absence of qualified citizens.

(cc) Positions at GS–15 and below when filled by persons identified as Interchange Executives by the President's Commission on Personnel Interchange. Appointments made under this authority may not extend beyond 2 years.

(dd)–(ee) [Reserved]

(ff) Not to exceed 25 positions when filled in accordance with an agreement between the Commission and the Department of Justice by persons in programs administered by the Attorney General of the United States under Pub. L. 91–452 and related statutes. A person ap-

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pointed under this authority may continue to be employed under it after he ceases to be in a qualifying program only as long as he remains in the same agency without a break in service.

(gg) Positions providing direct services to Indo-Chinese refugees or directly aiding the refugee resettlement program when filled by noncitizens previously employed by the United States in Vietnam and Cambodia. Service under this authority may not exceed 2 years. No new appointments may be made under this authority after June 30, 1976.

§ 213.3103 Executive Office of the President.

(a) *Office of Science and Technology.* (1) All professional positions on the Staff of the Office.

(b) [Reserved]

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–13 through 15 on the staff of the Council.

(d) [Reserved]

(e) *Office of Telecommunications Policy.* (1) Professional positions in grades GS–13 through 15 on the staff of the Office.

(2) All positions assigned to the staff of the Domestic Council Committee on the Right of Privacy in grades GS–7 through GS–15.

(f) [Reserved]

§ 213.3104 Department of State.

(a) *Office of the Secretary.*

(1)–(4) [Reserved]

(5) Executive Officer, Executive Secretariat.

(b) [Reserved]

(c) *International Boundary and Water Commission, United States and Mexico.* (1) Gage readers employed part-time or intermittently at isolated localities when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(d) *International Boundary Commission, United States and Canada.* (1) Temporary and intermittent field employees such as instrumentmen, foremen, recorders, packers, cooks, and axemen, for not to exceed 130 working days or 6 months within any 1 calendar year.

(e) *Bureau of Oceans and International Environmental and Scientific Affairs.*

(1) Six Physical Science Administration Officers at GS–14 and above.

§ 213.3105 Department of the Treasury.

(a) [Reserved]

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2) [Reserved]

(3) Positions of part-time, intermittent, or temporary Customs Inspectors, and Port Directors in Alaska paid at a rate not above GS–9 and for not more than 130 working days in a service year.

(4) Positions of day "pickup" laborers whose assignments are to intermittent duties of short duration that must be performed without delay in field establishments where hiring of "pickup" laborers is authorized by the Bureau of Customs headquarters. Persons appointed under this authority may not be employed in this kind of work in the Bureau of Customs for more than 180 working days a year under this authority or under a combination of this authority and any other authority for excepted appointment that may be appropriate. This authority is not appropriate for job employment.

(5) Positions at GS–9 and below of Customs Enforcement Officer, Customs Inspector, Customs Marine Clerk/Officer, Customs Aid (sampling), Customs Warehouse Officer, Port Director, Interpreter, and Laborer, with duties of a continuing nature that require the part-time or intermittent service of an employee for not more than 700 hours in his service year. An individual appointed under this exception may not be employed in the Bureau of Customs under a combination of this and any other exception for more than 700 hours in his service year.

(6) Twenty-five positions of Criminal Investigator for special assignments.

(7) [Reserved]

(8) Staff assistant positions established to aid in the reorganization of the Bureau of Customs under Reorganization Plan No. 1 of 1965, when filled by persons with 1 year or more of current service as a Presidential appointee in a key position in the Bureau. No person may be employed under this paragraph in excess of 3 years.

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(c) *Office of Trade, Energy, and Financial Resources Policy Coordination.* (1) Not to exceed 10 positions at the equivalent of GS–13 through GS–17 to supplement the permanent staff in the study of complex problems relating to international trade and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(d) [Reserved]

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(f) *Office of the Assistant Secretary for International Affairs.* (1) Not to exceed 10 positions in the Research and Planning Office at the equivalent of GS–13 through GS–17 to supplement the permanent staff in the study of complex problems relating to international financial and economic policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) Forty-two positions of investigator for special assignments.

(h) *Office of New York Finance.* (1) Not to exceed 25 positions. Employment under this authority may not exceed June 30, 1979.

§ 213.3106 Department of Defense.

(a) *Office of the Secretary.* (1) Five Special Advisers in the immediate office of the Secretary or Deputy Secretary with responsibility for studies and recommendations in broad program areas. These positions have advisory rather than operating duties, except as operating or administrative responsibility may be exercised in connection with pilot studies.

(2) Positions assigned exclusively to Communications Intelligence Activities.

(3) Positions assigned to or in support of special classified training activities.

(4) Three Staff Assistants.

(5) Director, Intelligence Resources and Programs, OASD (Administration).

(6) One Executive Secretary, US-USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the Staffs of the Chaplains in the military services.

(5) Positions under the program for utilization of alien scientists approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the Department resident in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or the separation of a dependent's sponsor: *Provided*, That (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds the additional employment is in the interest of management.

(7) Positions assigned to all Cryptologic Intelligence Activities/Functions of the Military Departments.

(8) The Dean, Associate Dean, Assistant Dean, faculty members, and teaching/research assistant positions on the staff of the Uniformed Services University of the Health Sciences.

(c) *Interdepartmental Activities.* (1) Positions in support of National Security Programs and Space Council Activities.

(d) *General.* (1) Positions concerned with advising, administering, supervising or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of the Commission, it is impracticable to examine. This authority does not apply to positions assigned to Cryptologic and Communications Intelligence Activities/Functions.

§ 213.3107 Department of the Army.

(a) *General.*

(1) [Reserved]

(2) Unskilled laborers and munitions handlers engaged in handling Ordnance materiel, including ammunition, where temporary or intermittent employment is necessary.

(3) Student occupational therapist positions in Army hospitals. Appointments to these positions will not extend beyond the training period applicable to each individual case, which is a minimum of 3 months' training and a maximum of 12 months' training, depending upon the individual's previous clinical training.

(4) [Reserved]

(5) Positions assigned exclusively to Army Communications Intelligence Activities.

(6) Trainee student medical technologist (intern) positions at the Rodriguez Army Hospital, Fort Brooke, Puerto Rico. Appointments to these positions will not extend beyond the training period applicable to each individual case, depending upon the individual's previous clinical training. Employment under this provision may not exceed 1 year in any individual case: *Provided*, That such employment may, with the approval of the Commission, be extended for not to exceed an additional year. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Pub. L. 80–330.

(7) [Reserved]

(8) Not to exceed 350 positions of members of treatment and counseling teams and related positions, such as those of ward attendants and occupational therapy assistants, to assist in the implementation of an alcohol and drug abuse prevention and control program, when filled by persons who have a history of alcoholism or drug addiction and who have been successfully treated.

(b) *Transportation Corps.* (1) Longshoremen and stevedores employed at ports of embarkation in the United States; and all positions on vessels operated by the Transportation Corps.

(c) *Corps of Engineers.* (1) Land appraisers employed on a temporary basis for a period not to exceed 1 year on special projects where knowledge of local values or conditions or other specialized qualifications not possessed by appraisers regularly employed by the Corps of Engineers are required for successful results.

(2) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) on survey, construction, short-term maintenance, or floating-plant operations, where because of turnover, lack of housing facilities, mobility of work site, or remoteness of personnel servicing facilities, an adequate labor force can be recruited only by immediate on-the-spot hiring on a local basis. This authority can be used only when the Commission has determined that it is specifically applicable to a given situation; ordinarily, it will not be used for employment in Civil Service central office, regional, and branch office cities or in cities where there is a local Board of U.S. Civil Service Examiners to service the employing establishment.

(d) *U.S. Military Academy, West Point, N.Y.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), hostesses, chapel organist and choirmaster, librarian when filled by an officer of the Regular Army retired from active service, and military secretary to the Superintendent when filled by a Military Academy graduate retired as a regular commissioned officer for disability.

(e) *National War College, Washington, D.C.* (1) Civilian directors of studies for employment of not to exceed 1 year: *Provided*, That such employment may, with the prior approval of the Commission, be extended for not to exceed 2 additional years.

(f) *Joint Brazil-United States Defense Commission.* (1) One position of clerk-stenographer-translator or civilian aide requiring a knowledge of English, Portuguese, and Spanish.

(g) *Defense Language Institute.*

(1) Positions of instructors whose duties require proficiency in the teaching of a foreign language, supervisory instructors whose duties require a background in language teaching, and foreign language subject-matter specialists whose duties require proficiency in a given foreign language to assist in the development and evaluation of instructional material and methods directly related to the teaching of foreign languages.

(2) Clerical and Education Aid positions (except at the English Language School) whose incumbents are required to have a foreign language knowledge and whose duties require rapid and accurate typing, writing, proofreading or related skills used in the production of foreign language materials.

(3) [Reserved]

(4) Foreign language instructor positions at local Army language training facilities established pursuant to the Defense Language Program.

(h) *Army War College, Carlisle Barracks, Pa.* (1) One position of Educational Specialist for employment of not to exceed 1 year: *Provided*, That such employment may, with the prior approval of the Commission, be extended for not to exceed 1 additional year.

(i) *Defense Systems Management School, Fort Belvoir, Va.* (1) The Deputy Commandant and professors in grades GS–13 through 15.

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.*

(1) Positions of Academic Director, Department Head and Instructor.

§ 213.3108 Department of the Navy.

(a) *General.*

(1)–(3) [Reserved]

(4) Not to exceed 50 positions of resident-in-training at U.S. naval regional medical centers, hospitals, and dispensaries which have residency training programs, when filled by residents assigned as affiliates for part of their training from non-Federal hospitals. Assignments shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be applied only to persons whose compensation is fixed under 5 U.S.C. 5351–54.

(5) One Staff Assistant to the Naval Aide to the President.

(6) [Reserved]

(7) Positions of student social worker for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by bona fide students enrolled in academic institutions: *Provided*, That the work performed in the agency is to be used by the student as a basis for completing certain academic requirements by such educational institution to qualify for a graduate degree in social work. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(8) Positions of student practical nurse for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by trainees enrolled in a non-Federal institution in an approved program of educational and clinical training which meets the requirements for licensing as a practical nurse. This authority shall be applied only to trainees whose compensation is fixed under 5 U.S.C. 5351–54.

(9) One Personnel Security Specialist, Naval Personnel Program Support Activity, Bureau of Naval Personnel.

(10) Positions of medical technology intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by students enrolled in approved programs of training in non-Federal institutions. Employment under this authority may be filled on a full-time, part-time, or intermittent basis but may not exceed 1 year. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(11) Positions of medical intern at U.S. naval regional medical centers, hos-

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pitals, and dispensaries, when filled by persons who are serving medical internships at participating non-Federal hospitals and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(12) Positions of student speech pathologist at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are enrolled in participating non-Federal institutions and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(13) Positions of student dental assistant in U.S. naval dental centers, clinics, and departments, when filled by students who are enrolled in an approved dental assistant program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(14) [Reserved]

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; and the librarian, organist-choirmaster, registrar, the dean of admissions, and social counselors at the Naval Academy.

(c) *Naval Home.* (1) Positions of orderly when filled by the appointment of beneficiaries of the Home.

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e)–(f) [Reserved]

(g) *Office of Naval Research.* (1) Not to exceed 5 positions of Liaison Scientist, GS–13/15, in the office of Naval Research Branch Office in Japan, when filled by research scientist who have specialized experience in scientific disciplines of current interest to the Department and who have a demonstrated ability to deal with the Japanese scientific community in their disciplines. An appointment under this authority may be made initially for a period not to exceed 2 years. With the prior approval of the Commission, total employment under this authority may be for as long as 3 years.

§ 213.3109 Department of the Air Force.

(a) *Office of the Secretary.* (1) Three Special Assistants in the Office of the Secretary of the Air Force. These positions have advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b)–(c) [Reserved]

(d) *U.S. Air Force Academy, Colorado.* (1) Positions of Cadet Hostesses, Instructors in Physical Education, and two Instructors in Music (Choirmasters).

(e) *Air Force Systems Command.* (1) Not to exceed 12 positions of engineer, GS–14–15, at the Aeronautical Systems Division, Wright-Patterson Air Force Base, when filled on a temporary basis by persons serving under an agreement with aerospace contractors. Employment under this authority is limited to 4 years.

§ 213.3110 Department of Justice.

(a) *General.* (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions of temporary deputy marshals in lieu of bailiff in the U.S. courts when employed on an intermittent basis.

(3) U.S. Marshal in the Virgin Islands.

(4) [Reserved]

(5) Thirty positions of Field Representative, GS–9 through GS–14, in the Community Relations Service for temporary or intermittent employment for not to exceed 130 working days a year.

(6) Not to exceed 20 positions of Field Representative Trainee, GS–5–7, in the Community Relations Service, for employment on college campuses for not to exceed 130 working days a year. Employment under this authority is limited to 1 year: *Provided*, That an appointment may be extended for one additional year with the prior approval of the Commission.

(b) *Immigration and Naturalization Service.* (1) Information Officer.

(2) Four positions of Regional Commissioner.

(c) *Drug Enforcement Administration.* (1) 154 special agent positions for undercover work.

(2) 150 positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GJ–132 series, grades GS–9 through GS–15.

§ 213.3112 Department of the Interior.

(a) *General.* (1) Temporary, intermittent, or seasonal positions in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of the Commission.

(4) Temporary, intermittent, or seasonal field assistants at GS–5, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority shall not exceed 180 working days a year for positions at GS–4 and below in survey parties in the Bureau of Land Management and Geological Survey and shall not exceed 130 working days a year for other positions authorized under this subparagraph. This authority shall not apply to positions of field assistants engaged in fishery management work in Alaska.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided*, That an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term "Indian."

(8) Subject to prior approval of the Commission, temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers; and positions of field assistants engaged in fishery management work. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area, there is no Board of U.S. Civil Service Examiners to service the employing establishment, and there is a shortage of available candidates for the positions.

(9) Subject to prior approval of the Commission, temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work for not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area, there is no Board of U.S. Civil Service Examiners to service the employing establishment, and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(b) *Bureau of Indian Affairs.* (1) Housekeeper positions at a gross salary not in excess of the entrance rate of grade GS–4 or its equivalent when, because of isolation or lack of quarters, appointment through competitive examination is, in the opinion of the Commission, impracticable.

(2) Subject to prior approval of the Commission, assistants in Alaska native schools (not including teachers and instructors) at a salary rate not in excess of that of GS–4 or its equivalent where the schools are in isolated or remote areas or lack suitable quarters.

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) *Bonneville Power Administration.* (1) Five Area Managers.

(e) *Office of Territories.* (1) The Clerk of the High Court of American Samoa.

(2)–(3) [Reserved]

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his immediate staff.

(f) *National Park Service.* (1) Park Ranger positions (appropriate specializations) at salaries equivalent to GS–5 or GS–4 and those equivalent to grade GS–7 or GS–6 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career protective or interpretive personnel of the National Park Service. (The total number of Park Ranger and Park Technician positions at salaries equivalent to GS–7 and GS–6 excepted under this subparagraph and subparagraph (2) of this paragraph shall not exceed 200.) Employment under this subparagraph is limited to persons who meet the qualification standards for each salary level which have been agreed upon by the Commission and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a Park Ranger at a salary equivalent to the next lower grade:

(i) For IGS–7: Two seasons at IGS–6 level.

(ii) For IGS–6: Two seasons at IGS–5 level.

(iii) For IGS–5: One season at IGS–4 level.

Employment under this subparagraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this subparagraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(2) Park Aid and Park Technician positions at salaries equivalent to GS–2 through GS–5 to perform technical and practical work supporting the management, conservation, interpretation, development, and use of park areas and resources; and positions at salaries equivalent to GS–7 and GS–6 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career resources management, interpretive or visitor service personnel of the National Park Service. (The total number of Park Technician and Park Ranger positions at salaries equivalent to GS–7 and GS–6 excepted under this subparagraph and subparagraph (1) of this paragraph shall not exceed 200.) Employment under this subparagraph is limited to persons who meet the qualification standards for each salary level which have been agreed upon by the Commission and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a Park Aid or Park Technician equivalent to the next lower grade:

(i) For IGS–7; Two seasons at IGS–6 level.

(ii) For IGS–6; Two seasons at IGS–5 level.

(iii) For IGS–5; One season at IGS–4 level.

(iv) For IGS–4; One season at IGS–3 level or its equivalent in experience.

(v) For IGS–3; One season at IGS–2 level or its equivalent in experience.

Employment under this subparagraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this subparagraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values or conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided*, That such employment may, with prior approval of the Commission, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

§ 213.3113 Department of Agriculture.

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agriculture Research Service, the Animal and Plant Health Inspection Service, or positions in the Statistical Reporting Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural Commodity grader (grain) and (meat), (poultry), and (dairy) agricultural commodity aid (grain), and tobacco inspection positions.

(2) Any local veterinarian employed on a fee basis or a part-time basis.

(3) Not to exceed 25 professional, scientific, or technical positions in grade GS–7 or higher to be filled on an exchange basis by qualified employees on the rolls of State governments, colleges, or universities, for a limited period not to exceed 1 year.

(4) [Reserved]

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services; caretakers at temporarily closed camps or improved areas; field enumerators and supervisors; forest workers engaged primarily for fire prevention or suppression activities and other forest workers employed at headquarters other than forest supervisor and regional offices; State performance assistants in the Agricultural Stabilization and Conservation Service; collectors of the Farmers Home Administration; agricultural commodity aids (cotton) in the Agricultural Marketing Service; agricultural helpers, helper-leaders, and workers in the Agricultural Research and the Animal and Plant Health Inspection Service; and, subject to prior Commission approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided*, That an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraphs (l) and (m) of § 213.3102.

(6) Not to exceed eight positions whose incumbents serve on an intermittent or temporary basis as field representatives of the Department of Agriculture and in this capacity represent the Department's Disaster Committee in conducting surveys and appraisals of conditions in areas whose status as "major disaster" areas under Pub. L. 81–875, is under consideration. Employment under this authority shall not exceed 130 working days a year.

(b) *Office of the Secretary.* (1) Special Livestock Loans Committeemen employed for not more than 180 working days a year, to approve and direct the servicing of emergency livestock loans.

(2) The positions of the two members and two alternate members of the Board of Forest Appeals which must be filled under departmental regulation by persons who have not been Federal employees for 2 years before appointment. Employment under this exception shall be on a when-actually-employed basis.

(c) *Forest Service.* (1) Temporary, intermittent, or seasonal positions when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a national forest and as being dependent for livelihood primarily upon employment available within the national forest.

(2) Positions in Alaska of Laborers, Boat Operators, Mechanics, Equipment Operators, and Carpenters whose duties require the operation of boats in coastal waters and/or the establishment and

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maintenance of work camps in remote areas.

(d) *Agricultural Stabilization and Conservation Service.* (1) Six positions of Regional Director at GS–14 and GS–15.

(2) Members of State Committees.

(3) State Executive Directors.

(e) *Farmers Home Administration.* (1) State committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(2) County committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(3) Temporary positions whose principal duties involve the making and servicing of emergency loans pursuant to current statutes authorizing emergency loans. Appointments under this provision shall not exceed 1 year unless extended with the prior approval of the Commission for additional periods not to exceed 1 year each.

(4) State Directors and not to exceed three positions of State Director-at-Large.

(5) Temporary positions in State and county offices of the Farmers Home Administration whose principal duties involve the making and servicing of loans pursuant to the Economic Opportunity Act of 1964. Appointments under this provision shall not exceed 1 year unless extended with prior Commission approval for not to exceed 1 additional year.

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) *Agricultural Marketing Service.* (1) Positions of cotton classers GS–9 and below, clerks GS–2, supervisory clerks GS–3, and laborers, employed on a seasonal basis in cotton-classing offices outside the Washington, D.C. Metropolitan Area. Employment under this authority (or under a combination of this authority and any other excepting authority) shall not exceed 1,280 hours a year in the case of cotton classers and laborers, and 1,040 hours a year in the case of clerks; except that a GS–5 cotton classer may be employed as a trainee during his first appointment for an initial period of 6 months for training purposes without regard to the above time limitation.

(2) [Reserved]

(3) Milk Market Administrators.

(4) All positions on the staffs of Milk Market Administrators.

(5) Positions of agricultural commodity graders (processed fruits and vegetables), GS–9 and below, and of graders' aides (processed fruits and vegetables), GS–2–4, for temporary employment on a part-time or intermittent basis for not to exceed 1,280 hours a year.

(6) Temporary positions at GS–9 and below of agricultural commodity graders (poultry) and agricultural commodity graders (dairy). Employment under this authority may not exceed 1,280 hours a year.

(g) *Agricultural Research Service.* (1) Field employees on programs conducted under the terms of cooperative agreements or memorandums of understanding with States or other non-Federal cooperating organizations, provided the employees are jointly selected and their salary is supplied by the cooperators on the basis of not less than a 40-percent contribution by each of the cooperators.

(h) *Foreign Agricultural Service.* (1) Agricultural Attaché positions at grade GS–16 and above where the duties require that the major portion of the employee's time be spent in foreign countries.

(i) [Reserved]

(j) *Food and Nutrition Service.* (1) Temporary positions in grade GS–4 and below, and the wage system equivalents, whose principal duties involve the distribution of food to needy families at Federal Commodity Distribution Centers. After June 30, 1971, appointments under this authority may be made only to replace employees on the rolls as of that date, or their successors.

(k) *Animal and Plant Health Inspection Service.* (1) Field employees on programs conducted under the terms of cooperative agreements or memorandums of understanding with States or other non-Federal cooperating organizations, provided the employees are jointly selected and their salary is supplied by the cooperators on the basis of not less than a 40-percent contribution by each of the cooperators.

(2) Temporary field positions concerned with the control, suppression, and eradication of emergency livestock diseases. Persons appointed under this authority may not be employed in these positions in the Animal and Plant Health Inspection Service for longer than 1 year under this authority, or under a combination of this and any other authorities for excepted appointment that may be appropriate, without prior approval of the Commission. This authority shall be appropriate only in situations declared by the Secretary of Agriculture to be emergencies threatening the livestock industry of the country.

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

§ 213.3114 Department of Commerce.

(a) *General.* (1) Agents to take and transmit meteorological observations in connection with aviation who are employed on a part-time basis and whose compensation is based on a fee for each observation performed rather than on an hourly or per annum basis: *Provided,* That the number of observations shall not exceed a daily average of 12 during any calendar month.

(2) Employment of individuals, firms, or corporations for not to exceed 1 year for special statistical studies and statistical compilations, other than Personal Census Records Service, the compensation for which is derived from funds deposited with the United States under the Act of May 27, 1935 (49 Stat. 292): *Provided,* That such employments may, with the approval of the Commission, be extended for not to exceed an additional year.

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in continental United States for periods of orientation, training, analysis of data, and report writing.

(b) *Office of the Secretary.* (1) [Reserved]

(2) One Civil Aviation Specialist.

(3) One Advisor on Equal Employment Opportunity.

(4) Until February 20, 1977, not to exceed 29 positions of Business Management Fellowship Program Specialists, GS–11/12.

(c) *Coast and Geodetic Survey.* (1) All civilian positions on vessels operated by the Coast and Geodetic Survey.

(2) Temporary positions required in connection with the surveying operations of the field service of the Coast and Geodetic Survey. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(d) *Bureau of the Census.* (1) Supervisors, assistant supervisors, supervisors' clerks, and enumerators in the field service, other than Current Program Interviewers, for temporary, part-time, or intermittent employment for not to exceed 1 year: *Provided,* That such appointments may be extended for additional periods of not to exceed 1 year each, but that prior Commission approval is required for extension for longer than 1 year.

(2) Current Program Interviewers employed on an intermittent basis in the field service.

(e)–(g) [Reserved]

(h) *Maritime Administration.* (1) Public Information Officer.

(2)–(4) [Reserved]

(5) The positions of Chief Investigator and Security Officer and Deputy Chief Investigator and Security Officer.

(6) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(7) [Reserved]

(8) One Special Assistant to the Administrator (Tanker Advisor).

(9) Two Special Assistants to the Deputy Administrator.

(10) U.S. Merchant Marine Academy positions of: Professors, Instructors, and Teachers; including heads of Departments of Physical Education and Athletics, Shipboard Training, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; and seven Company Officers.

(11) U.S. Merchant Marine Academy positions of: the Superintendent; the Assistant Superintendent for Planning; Dean; Registrar; one Educational Specialist (Director of Admissions) and one Assistant Director of Admissions; Assistant Dean; Director, Office of External Affairs; Placement Officer; Administrative Librarian; the Special Assistant to the Superintendent; three Academy Training Representatives; and Shipboard Training Assistant.

(i) *Office of the Assistant Secretary for Domestic and International Business.* (1) Thirty positions at GS–12 and above in specialized fields relating to international trade or commerce in the Bureau of International Commerce or in other units under the jurisdiction of the Assistant Secretary for Domestic and International Business. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for any individual appointee.

(2) Not to exceed 40 positions of Managers and Deputy Managers of International Trade Fairs and Exhibit Programs in foreign countries when the duties require a considerable portion of the employee's time to be spent in foreign countries.

(3) Not to exceed 30 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists, who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit practices applicable to one or more of the current segments of U.S. industry served by the Assistant Secretary for Domestic and International Business, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period of not to exceed two years and may, with prior approval of the Commission, be extended for an additional period of two years.

(j) *National Oceanic and Atmospheric Administration.* (1) Subject to prior approval of the Commission, which shall be contingent upon a showing of inadequate housing facilities, meteorological aid positions at the following stations in Alaska: Barrow, Bethal, Kotzebue, McGrath, Northway, and St. Paul Island.

(2) Cook positions on Swan Island.

§ 213.3115 Department of Labor.

(a) *Office of the Secretary.* (1) Chairman and two members, Employees' Compensation Appeals Board.

(2) Chairman and two members, Benefits Review Board.

(b) *Bureau of Labor Statistics.* (1) Part-time and intermittent employment for field survey and enumeration work in the Bureau of Labor Statistics. This authority is applicable to positions where the salary is equivalent to GS–5 and below. Employment within the Bureau of Labor Statistics under this authority, or a combination of this authority and any other authorities for excepted appointment, shall not exceed:

(i) 180 working days a year for positions at GS–5;

(ii) 130 working days a year for positions at GS–4 and below.

The total number of appointments at GS–5 shall not exceed 75. Appointments at the GS–3 and GS–4 grade levels are not limited in number.

(c) *Office of Federal Contract Compliance.* (1) All positions at GS–15 and below involving performance of the functions of the program known as "Plans for Progress."

(d) *Manpower Administration.* (1) Not to exceed 10 positions of Manpower Development Officer and Manpower Development Specialist in the Division of Indian Manpower Programs when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities in the development and administration of comprehensive manpower training and employment programs.

§ 213.3116 Department of Health, Education, and Welfare

(a) *Saint Elizabeth's Hospital.* (1) Three Medical Officers (Surgical Resident).

(2) Student Medical Interns for temporary or part-time employment.

(3) Temporary positions of graduate nurses appointed as students for the purpose of receiving 12 weeks of training equivalent to psychiatric affiliation. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Pub. L. 80–330.

(4) Three positions of Medical Officers (Radiology Resident): *Provided,* That employment under this authority shall not exceed 1 year, except that selected residents may be nominated and reappointed for an additional year of training when the parent hospital determines that the supplemental training will meet the specialized needs of the individual resident.

(5) 15 positions of psychodrama trainees, including interns and first- and second-year residents. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(6) Two Medical Officers (Anatomical Pathology Resident) for not to exceed 2 years' employment in the case of any one individual.

(7) Three Medical Officers (Internal Medicine Resident) for not to exceed 3 months' employment in the case of any one individual.

(8) Four positions of Medical Officer (Physical Medicine and Rehabilitation Resident): *Provided,* That employment under this authority shall not exceed 1 year, except that selected residents may be nominated and reappointed for an additional year of training when the parent hospital determines that the supplemental training will meet the specialized needs of the individual resident. Initial appointments may be made at any level within the 3-year residency as approved by the American Medical Association.

(9) Positions of Chaplain Residents: *Provided,* That employment under this authority shall not exceed 39 months for any individual. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of 5 U.S.C. sections 5351 and 5352.

(10) One position of Medical Officer (Ophthalmology Resident) when filled by persons whose compensation is fixed under 5 U.S.C. 5351–5356. Employment under this authority may not exceed 4 months.

(11) Ten positions of group dynamics and group psychotherapy trainees, including interns and residents in the Overholser Training and Research Division. Employment under this authority shall not exceed 2 years, and shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(b) *Public Health Service.* (1) Special escorts to accompany patients of the Public Health Service in accordance with existing laws and regulations. Employment under this subparagraph shall be only for the period of time necessary for the escort to deliver the patient to his destination and to return.

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) All positions in leprosy investigation stations.

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health, Education, and Welfare and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the cooperating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5) Medical and dental interns, externs, and residents; and student nurses.

(6) Positions of scientific, professional, or technical nature when filled by bona fide students enrolled in academic institutions: *Provided,* That the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by an educational institution to qualify for a scientific, professional, or technical field: *And provided further,* That appropriate exclusions of the positions under the authority of Pub. L. 80–330 have been approved by the Civil Service Commission.

(7) Student Dietitians and Resident Physicians at Freedman's Hospital.

(8) All positions in the Public Health Service and other positions in the Department of Health, Education, and Welfare directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health, Education, and Welfare is responsible for defining the term "Indian."

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(9) Not to exceed 30 positions of clerical assistants employed on a part-time and intermittent basis to aid cooperating clinicians in non-Federal tuberculosis sanatoria in the keeping of records and the preparation of reports in connection with research studies into the effectiveness of antimicrobial agents in the treatment of tuberculosis. Persons appointed under this authority may not be employed in this kind of work in the Public Health Service for more than 180 working days in a single year under this authority or under a combination of this and any other authority for excepted appointment that may be appropriate.

(c) *Office of Education.* (1) Positions concerned with problems in education financed and participated in by the Office of Education, Department of Health, Education, and Welfare, and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(d) *Social Security Administration.* (1) Six positions of social insurance representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(2) Seven positions of social insurance representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(3) Two positions of social insurance representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointment of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

(e) *General.* (1) Not to exceed 40 positions in medical and related occupations for employment under the Cuban refugee program. No new appointments may be made after December 31, 1968.

(f) *The President's Council on Physical Fitness.* (1) Three staff assistants, The President's Council on Physical Fitness.

(g) *Social and Rehabilitation Service.* (1) Not to exceed 195 positions directly concerned with programs conducted by the Department in connection with the problems of Cuban refugees: *Provided,* That new appointments shall be limited to Cuban refugees.

(2) Not to exceed 50 professional and 4 clerical positions directly concerned with special teams to review the Medicaid program in selected states. Employment under this authority may not exceed June 30, 1979.

(h) *National Institute of Mental Health—Health Services and Mental Health Administration.* (1) Positions in the National Institute of Mental Health involving performance of various therapeutic and service assignments under a rehabilitation program concerned with the treatment of drug addicts, when filled by persons who have a history of drug addiction and who have been successfully treated.

(i) *National Center for Health Statistics.* (1) Not to exceed 20 positions of Health Examination Representative, grades GS–7 and 9, serving on Health and Nutrition Examination Survey teams of the Division of Health Examination Statistics.

§ 213.3118 Environmental Protection Agency.

(a) Not to exceed 12 positions of Sanitation Facility Trainees, WG–1 through 5, to implement the Alaska Village Demonstration Projects under the Water Quality Improvement Act of 1970. Employment under this authority may not exceed 2 years.

§ 213.3121 National Security Council.

(a) All positions on the staff of the Council.

§ 213.3123 Cabinet Committee on Opportunities for Spanish-Speaking People.

(a) All positions on the committee staff.

§ 213.3124 Board of Governors, Federal Reserve System.

(a) All positions.

§ 213.3127 Veterans Administration.

(a) *Construction Division.* (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 300 positions of rehabilitation Counselors, GS–3 through GS–11, in drug and alcoholic treatment units when filled by former patients.

§ 213.3128 U.S. Information Agency.

(a) Two Liaison Officers (Congressional) in the Office of the General Counsel.

(b) One Chief of Religious Information.

§ 213.3129 Federal Power Commission.

(a) Three special assistants to the Commission.

§ 213.3130 Securities and Exchange Commission.

(a) Director, Division of Corporation Finance; Director, Division of Corporate Regulation; Director, Division of Trading and Markets.

(b) Nine positions of Regional Administrator.

(c) Positions of accountant and auditor, GS–13 through 15, when filled by persons selected under the SEC Accounting Fellow program. No more than four positions may be filled under this authority at any one time. An employee may not serve under this authority longer than 2 years.

(d) Positions of Economist, GS–13 through 15, when filled by persons selected under the SEC Economic Fellow Program. No more than four positions may be filled under this authority at any one time. An employee may not serve under this authority longer than two years unless selected under provisions set forth in the Intergovernmental Personnel Act (IPA), 5 U.S.C. § 3372(b)(2).

§ 213.3132 Small Business Administration.

(a) When the President under 42 U.S.C. 1855–1855g, or the Secretary of Agriculture under 7 U.S.C. 1961 or the Small Business Administration under 15 U.S.C. 636(b)(1), declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) [Reserved]

(c) Position of Community Economic-Industrial Planner, GS–7 through 12, when filled by local residents who represent the interest of the groups to be served by the Minority Enterpreneurship Teams of which they are members.

§ 213.3133 Federal Deposit Insurance Corporation.

(a) All field positions concerned with the work of liquidating the assets of closed banks or the liquidation of loans to banks, and all temporary field positions the work of which is concerned with paying the depositors of closed insured banks.

(b) One position of Chief Clerk in the San Juan, P.R., office.

§ 213.3136 U.S. Soldiers' and Airmen's Home.

(a) All positions.

§ 213.3137 General Services Administration.

(a) *General.* (1) Custodians, guards, watchmen, laborers, and other employees engaged in the custody, care, and preservation of plants, warehouses, shipyards, airfields, and surplus facilities of a similar nature pending disposition of such facilities.

(b) [Reserved]

(c) *Office of the Regional Administrator—Region 9.* (1) One Program Assistant.

§ 213.3139 U.S. International Trade Commission.

(a) The Secretary of the Commission.

§ 213.3141 National Labor Relations Board.

(a) Election Clerks and Election Examiners for temporary, part-time or intermittent employment in connection with elections under the Labor Management Relations Act.

§ 213.3142 Export-Import Bank of the United States.

(a) Three Special Assistants to the Board of Directors, grade GS–14 and above, with responsibility for carrying out special overseas assignments for the Board.

§ 213.3143 Farm Credit Administration.

(a) Federal Land Bank Association receivers and conservators.

(b) Not to exceed seven positions in the Credit Services of the Farm Credit Administration in grades GS–13 or above, requiring technical or administrative experience in the field of agricultural credit: *Provided,* That this authority may be used only when making appointments of persons who have acquired such experience in the Farm Credit Administration or in one or more of the institutions supervised by the Farm Credit Administration.

§ 213.3146 Selective Service System.

(a) State Directors.

(b) Deputy or Assistant State Directors and State Medical Officers in State Headquarters.

(c) [Reserved]

(d) Executive Secretary, National Selective Service Appeal Board.

§ 213.3147 Federal Mediation and Conciliation Service.

(a) Executive Secretary of a Board of Inquiry appointed under section 206 of the Labor-Management Relations Act of 1947 (29 U.S.C. 176).

§ 213.3148 National Aeronautics and Space Administration.

(a) One hundred fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

(b) Forty scientific specialists to be engaged on special research projects.

(c) [Reserved]

(d) Ten medical officer positions for employment of third year medical residents in the field of aerospace medicine. An individual may not be employed more than one year under this exception.

(e) Twenty-two positions in the Secretarial Science program at Langley Research Center when occupied by students at Thomas Nelson Community College. No one may be employed under this authority for more than 1,280 hours in a service year. No new appointments may be made under this authority after August 31, 1976.

§ 213.3149 Panama Canal Company.

(a) All positions on vessels operated by the Panama Canal Company.

§ 213.3152 U.S. Government Printing Office.

(a) One Umpire.

(b) Positions in the printing trades when filled by students majoring in printing technology employed under a cooperative education agreement with the Washington Technical Institute.

§ 213.3153 Government of the District of Columbia.

(a) *Board of Higher Education.* (1) Positions of noneducational employees of the Federal City College.

(b) *Board of Vocational Education.* (1) Positions of noneducational employees of the Washington Technical Institute.

(c) *Department of Housing and Community Development.* (1) One Executive Director.

(2) Positions of teachers engaged on a part-time or intermittent basis in the instruction of trainees enrolled in training programs for the maintenance and repair of buildings and grounds.

(3) Until March 1, 1978, seven positions of Resident Housing Manager, GS–5 through GS–8, under an experimental demonstration program for improvement of public housing management.

(4) Neighborhood Aide (Urban Renewal) positions when filled by residents of the urban renewal project area in which the Aides will serve. Employment under this authority may not exceed 2 years.

§ 213.3154 Federal Home Loan Bank Board.

(a) One Secretary, Federal Home Loan Bank Board.

(b) [Reserved]

(c) All temporary field positions in the Federal Savings and Loan Insurance Corporation concerned with the work of liquidating the assets of closed insured institutions, or the liquidation of loans or the handling of contributions to insured institutions and the purchase of assets therefrom, and all temporary field positions of the Federal Savings and Loan Insurance Corporation the work of which is concerned with paying the depositors of closed insured institutions.

§ 213.3156 Commission on Civil Rights.

(a) Twenty-five positions at grade GS–11 and above of employees who collect, study, and appraise civil rights information to carry out the national clearinghouse responsibilities of the Commission under Pub. L. 88–352, as amended. No new appointments may be made under this authority after March 31, 1976.

§ 213.3157 National Credit Union Administration.

(a) Liquidation Agents employed on a temporary or intermittent basis in the field.

§ 213.3158 Franklin Delano Roosevelt Memorial Commission.

(a) All positions on the staff of the Commission.

§ 213.3161 James Madison Memorial Commission.

(a) One Executive Secretary.

§ 213.3162 National Aeronautics and Space Council.

(a) All positions.

§ 213.3165 President's Advisory Committee on Labor-Management Policy.

(a) One Assistant Executive Director.

§ 213.3170 Civil Service Commission.

(a) Persons employed on a WAE basis to serve as members of the International Organizations Employees Loyalty Board for the purpose of holding hearings overseas.

(b) Chairman, Federal Prevailing Rate Advisory Committee.

§ 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* (1) [Reserved]

(2) Until September 30, 1980, Director of Federal-State Partnerships, when filled at GS–15 and below.

(3) Until September 30, 1980, eight Program Directors.

(4) Until September 30, 1980, one Assistant Director for Theatre Programs.

(5) Until September 30, 1980, one Director of Folk Arts Programs.

(6)–(10) [Reserved]

(11) Until September 30, 1980, four Project Evaluators.

(12) Until September 30, 1980, one Director of Museum Programs.

(13) Until September 30, 1980, two Assistant Directors for State and Community Operations.

(14) Until September 30, 1980, one Assistant Director of Music Programs.

(15) Until September 30, 1980, one Director of Developing Arts Programs.

(16) Until September 30, 1980, one Director for Public Media Programs.

(17) Until September 30, 1980, one Assistant to the Chairman.

(18) [Reserved]

(19) Until September 30, 1980, one Director, Interdisciplinary Programs.

(20) Until September 30, 1980, one Director of Special Projects.

(21) Until September 30, 1980, one Assistant Director of Expansion Arts Programs.

(22) Until September 30, 1980, one Assistant Director of Public Media Programs.

(23) Until September 30, 1980, one Assistant Director of Architecture and Environment Arts Programs.

(24) Until September 30, 1980, one Assistant Director of Dance.

(25) Until September 30, 1980, one Assistant Director of Visual Arts.

(26) Until September 30, 1980, one Assistant Director of Museum.

(27) Until September 30, 1980, one Assistant Director of Special Projects.

(28) Until September 30, 1980, one Crafts Coordinator.

(29) Until September 30, 1980, one Director of Performing Arts and Public Media Programs.

(b) *National Endowment for the Humanities.* (1) and (2) [Reserved]

(3) Until September 30, 1980, Director of Planning and Analysis, when filled at GS–15 and below.

(4) Until September 30, 1980, Director of Fellowships and Stipends.

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(5) [Reserved]
(6) Until September 30, 1980, one Special Assistant to the Chairman.
(7) [Reserved]
(8) Until September 30, 1980, three Program Officers, Division of Fellowships and Stipends.
(9) Until September 30, 1980, two Program Officers, Division of Research and Grants.
(10) Until September 30, 1980, one Assistant to the Director of Planning and Analysis.
(11) Until September 30, 1980, Director of Education Programs.
(12) Until September 30, 1980, two Program Officers, Division of Public Programs.
(13) Until September 30, 1980, Director of Public Programs.
(14) Until September 30, 1980, five Program Officers, State-Based Programs, Division of Public Programs.
(15)–(16) [Reserved]
(17) Until September 30, 1980, one Program Officer, Special Projects, Division of Public Programs.
(18) Until September 30, 1980, two Programs Officers, Museum Programs, Division of Public Programs.
(19) Until September 30, 1980, two Special Assistants to the Deputy Chairman.
(20) Until September 30, 1980, one Program Analyst, Office of Planning and Analysis.
(21) Until September 30, 1980, one Media Programs Officer, Division of Public Programs.
(22) Until September 30, 1980, one Bicentennial Coordinator, Office of the Chairman.
(23) Until September 30, 1980, one Deputy Director of Public Programs.
(24) Until September 30, 1980, one Program Officer/Deputy Director, Division of Research Grants.
(25) Until September 30, 1980, one Planning Officer, Office of Planning and Analysis.
(26) Until September 30, 1980, one Humanist Administrator, Division of Fellowships.
(27) Until September 30, 1980, one Humanist Administrator, Division of Education Programs.

§ 213.3194 Department of Transportation.

(a) *U.S. Coast Guard.* (1) Continuing positions at grade GS–9 and below whose incumbents are engaged in the admeasurement or documentation of merchant vessels on a part-time or intermittent basis not exceeding 700 hours in a service year. A person appointed under this authority may not be employed in the Coast Guard under a combination of this authority and any other authority for excepted appointment for more than 700 hours during his service year.
(2) Lamplighters.
(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Conn.

(b) *The Alaska Railroad.* (1) Temporary, part-time, or intermittent positions of nonsupervisory laborers in Alaska, involving railroad construction or repair work at locations outside the Fairbanks and Anchorage commuting areas when there are no local housing facilities available except crew cars and examination is impracticable because of the mobility of the work site, the short-term nature of a maintenance project, or the immediate need for a temporary work force to cope with unexpected turnover or unexpected situations requiring augmentation of the regular work crew in remote or isolated locations. Employment under this authority shall not exceed 180 working days a year.
(2) The General Manager.
(3) The Assistant General Manager.
(c) *Federal Highway Administration.* (1) Temporary, intermittent, or seasonal employment in the field service of the Bureau of Public Roads at grades not higher than GS–5 for subprofessional engineering aide work on the highway surveys and constructions projects, for not to exceed 180 working days a year, when in the opinion of the Commission appointment through competitive examination is impracticable.
(d) *Federal Aviation Administration.* (1) Caretakers and Light Attendants employed on emergency fields and other air navigation facilities who are paid on a fee basis.
(2) Medical Officer positions on Wake Island.
(3) Laborer positions on Swan Island.
(4) One Air Carrier Cabin Safety Specialist. Service under this authority may not exceed 2 years.
(e) *St. Lawrence Seaway Development Corporation.* (1) Assistant Manager, Seaway International Bridge.
(f) *Urban Mass Transportation Administration.* (1) Employment for not to exceed two years of up to six individuals in grades ranging from GS–11 through 15, for the international seminar on "The Role of Urban Transportation in Community Development."

§ 213.3195 President's Temporary Commission on Pennsylvania Avenue.

(a) Not to exceed six positions on the Temporary Comission staff.

§ 213.3199 Temporary boards and commissions.

(a)–(f) [Reserved]
(g) *The National Council on Indian Opportunity.* (1) Positions at GS–15 and below on the staff of the Council when filled by Indians who are of one-fourth or more Indian blood.
(h)–(j) [Reserved]
(k) *American Revolution Bicentennial Administration.* (1) Positions in grades GS–9 through 15, other than those primarily concerned with administrative and internal management matters.
(l)–(n) [Reserved]
(o) *Marine Mammal Commission.* (1) Until June 30, 1977, all positions on the staff of the Commission.
(p) *Micronesian Claims Commission.* (1) Until October 15, 1976, 4 Legal Research Assistant positions on the staff of the Commission.
(q) *Alaska Native Claims Ad Hoc Appeals Board.* (1) Members of this Board.
(r) *Council on Wage and Price Stability.* (1) Until September 30, 1979, all positions on the staff of the Council.
(s) *President's Commission on Olympic Sports.* (1) All positions on the staff of the Commission.
(t) *National Study Commission on Records and Documents.* (1) All positions at grades GS–15 and below.
(u) *National Center for Productivity and Quality of Working Life.* (1) Until September 30, 1978, positions in grade GS–15 and below on the staff of the Center.

SCHEDULE B

§ 213.3201 Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination.

The positions enumerated in §§ 213.3202 to 213.3299 are positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination and which are excepted from the competitive service and constitute Schedule B. Appointments to these positions are subject to such noncompetitive examination as may be prescribed by the Commission.

§ 213.3202 Entire executive civil service.

(a) Student Trainee positions established in connection with a bachelor's degree cooperative education program which provides for a formally arranged schedule of periods of attendance at an institution of higher learning combined with periods of at least six months of study-related work in a Federal agency. The periods of work and study together must satisfy requirements for a bachelor's degree and provide experience necessary for career or career-conditional appointment to administrative, professional, or technical positions in the Federal Government upon the student's graduation. The Commission's determination on requirements relating to appointments under this paragraph will be published in the Federal Personnel Manual. Except for the requirement concerning competitive selection from a register, appointments under this paragraph are subject to all the requirements and conditions governing career-conditional appointment, including investigation by the Commission to establish an appointee's qualifications and suitability. Appointees may not continue to serve in Student Trainee positions more than 90 days after completion of or separation from the cooperative education program.

§ 213.3204 Department of State.

(a) Persons formerly employed abroad in the Foreign Service of the United States (this means civilian employment in the executive branch) for a period of at least 4 years for service in executive and administrative positions, or for at least 2 years for professional positions, in grades GS–9 and above.
(b) Technical cryptographic positions in the Communications Security Division, Office of Communications.
(c) Director and Deputy Director, Foreign Buildings Operations.

§ 213.3205 Department of the Treasury.

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.
(b) [Reserved]
(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS–13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employments under this paragraph shall not exceed a period of 18 months in any individual case.
(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by the Commission. Service under this authority may not exceed (1) a total of 4 years or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever occurs first.

§ 213.3206 Department of Defense.

(a) *Office of the Secretary* (1) [Reserved]
(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).
(3) [Reserved]
(4) One Assistant for Counter-Insurgency, Office of the Assistant Secretary (International Security Affairs).
(5) One Net Assessment Coordinator.
(b) *Interdepartmental activities.* (1) Five positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

§ 213.3207 Department of the Army.

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment under this authority may not exceed 2 years.

§ 213.3209 Department of the Air Force.

(a) [Reserved]
(b) Civilian Deans and Professors at the Air Force Institute of Technology, Wright-Patterson Air Force Base, Dayton, Ohio.

§ 213.3210 Department of Justice.

(a) [Reserved]
(b) Positions of Port Receptionist and Supervisory Port Receptionist, Immigration and Naturalization Service.

§ 213.3212 Department of the Interior.

(a) Any competitive position at an Indian school when filled by the spouse of a competitive employee of the school, when because of isolation or lack of quarters, the Commission deems appointment through competitive examination impracticable.

§ 213.3214 Department of Commerce.

(a) *Bureau of the Census.* (1) Not to exceed 100 positions of interviewers, supervisors, and data collection specialists in the Census Bureau who conduct interviews in the hard-core poverty areas of large cities or who supervise the conduct of these interviews, when filled by residents of the areas served.
(2) Not to exceed 200 Community Services Specialist positions at the equivalent of GS–5 through GS–12. No initial appointment may be made under this authority after April 1, 1980. No one may serve under this authority after December 31, 1982.
(b) *Economic Development Administration.* (1) Four Area Supervisors.
(2) Four Assistant Area Supervisors.
(c) *Office of Minority Business Enterprise.*
(1) Until December 31, 1976, not to exceed 15 positions of Minority Business Opportunity Specialist at grades GS–9 through GS–15.
(d) *Office of Telecommunications.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

§ 213.3215 Department of Labor.

(a) and (b) [Reserved]
(c) Not to exceed 35 positions of Manpower Development Specialist at grades GS–9 through GS–15 in the Manpower Administration. This authority may not be used after June 30, 1973.

§ 213.3216 Department of Health, Education, and Welfare.

(a) *Office of Education.* (1) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Civil Service Commission, be extended for an additional period of 1 year.
(b) [Reserved]
(c) Not to exceed 20 positions of HEW Fellows in grades GS–11 through 15. Employment under this authority may not extend beyond 1 year.

§ 213.3228 U.S. Information Agency.

(a) Persons formerly employed abroad in the Foreign Service of the United States or as Binational Center Grantees for a period of at least 4 years for service in executive and administrative positions, or for at least 2 years for professional positions, in grades GS–9 and above.

§ 213.3229 Federal Power Commission.

(a) A Chief Engineer.

§ 213.3242 Export-Import Bank of the United States.

(a) Not to exceed 24 positions of Loan Specialist GS–7 through 14 when occupied by persons selected jointly by commercial banks and the agency for participation in the Eximbank-Commercial Bank Orientation Program. Appointments under this authority may not exceed 15 months.

§ 213.3246 Selective Service System.

(a) Positions in the Selective Service System when filled by persons who as commissioned officer personnel in the Armed Forces have previously been trained for or have been on active military duty in the Selective Service program, and cannot, for some reason beyond their control, be brought to active military duty in the current Selective Service program.

§ 213.3248 National Aeronautics and Space Administration.

(a) Not to exceed 40 positions of Command Pilot, Pilot and Mission Specialist candidates at grades GS–7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

§ 213.3253 Government of the District of Columbia.

(a) Chairman, Secretary and Members of the Board of Police and Fire Surgeons, District of Columbia.

§ 213.3259 ACTION.

(a) *Office of Domestic and Anti-Poverty Operations.* (1) Not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15.
(2) Not to exceed ten positions of Regional Director, GS–15. No one may be initially appointed under this authority after March 31, 1976.

§ 213.3268 Agency for International Development.

(a) Not to exceed 30 positions at GS–9 and above when filled by persons who have served overseas with the Agency for International Development for not less than 2 years.

§ 213.3272 Administrative Office of the U.S. Courts

(a) Not to exceed twelve positions of Federal Probation System Administrator

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in the Division of Probation, when filled by Federal Probation Officers on active service in the U.S. Courts.

(b) [Reserved]

(c) Three positions of Clerks Liaison Officer in the Division of Clerks of Court.

§ 213.3273 Community Services Administration.

(a) Seven Regional Directors.

(b) [Reserved]

(c) One Chief, Research and Plans Division.

§ 213.3276 Appalachian Regional Commission.

(a) Two Program Coordinators.

§ 213.3282 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* (1) Until September 30, 1980, Assistant Director, Office of Program Development and Coordination.

(b) *National Endowment for the Humanities.* (1) Until September 30, 1980, Assistant Director, Research Materials Program.

(2) Until September 30, 1980, Assistant Director for Project Grants Programs.

(3) Until September 30, 1980, Deputy Director, Division of Education Programs.

(4) Until September 30, 1980, Director, Division of Research Grants.

SCHEDULE C

§ 213.3301 Positions of a confidential or policy-determining character.

The positions enumerated in §§ 213.3302 to 213.3399 are positions of a confidential or policy-determining character which are excepted from the competitive service, to which appointments may be made without examination by the Commission and which constitute Schedule C.

§ 213.3301a Special revocation of exceptions.

The exception from the competitive service for each position in the executive branch listed in Schedule C which is classified in grade GS–16, GS–17, or GS–18, and is covered by Civil Service Rule IX (§ 9.1 of Subchapter A of this chapter) is revoked effective November 17, 1967. Each such position is removed from Schedule C effective November 17, 1967.

§ 213.3301b Revocation of exceptions.

(a) Except as provided by paragraph (b) of this section the exception from the competitive service for each position at GS–15 and below in the executive branch listed in Schedule C is revoked when the position has been vacant for 60 calendar days or more.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Commission may delay the revocation action for an additional 60 calendar days when the agency demonstrates that it: (1) Has been actively recruiting for the position; (2) has made a tentative selection; and (3) has set an appointment date within the additional 60-day period.

(c) An agency shall notify the Commission within 3 work days after a Schedule C position at GS–15 and below has been vacated or filled.

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.* (1) Five Secretaries to the Director.

(2) One Special Assistant to the Deputy Director.

(3) One Private Secretary to the Deputy Director.

(4) Associate Director.

(5) [Reserved]

(6) One Secretary to each of four Associate Directors.

(7) Four Assistant Directors.

(8) One Private Secretary to an Assistant Director.

(9) Two Special Assistants to the Director.

(10) Associate Director for National Security and International Affairs.

(11) Associate Director for Human and Community Affairs.

(12) Associate Director for Economics and Government.

(13) Associate Director for Natural Resources, Energy and Science.

(14) One Secretary to the Assistant to the Director for Public Affairs.

(15) [Reserved]

(16) One Confidential Secretary to the Administrator, Office of Federal Procurement Policy.

(b) *Council of Economic Advisers.* (1) Two Secretaries to the Chairman and one to each of the other two members.

(c)–(e) [Reserved]

(f) *President's Commission on White House Fellows.* (1) The Executive Director.

(2) The Associate Executive Director.

(g) *Council on Environmental Quality.* (1) One Special Assistant to the Chairman.

(2) One Confidential Assistant to each Member of the Council.

(h) [Reserved]

(i) *Office of Telecommunications Policy.* (1)–(3) [Reserved]

(4) One Courier.

(5) [Reserved]

(6) One Confidential Secretary to the Director.

(7) One Confidential Secretary to the Deputy Director.

(j) [Reserved]

(k) *Office of Science and Technology Policy.* (1) One Secretary to the Director.

(2) One Senior Policy Analyst.

§ 213.3304 Department of State.

(a) *Office of the Secretary.* (1) [Reserved]

(2) Two Private Secretaries to the Secretary.

(3) One position of Secretary to the Under Secretary for Political Affairs.

(4)–(8) [Reserved]

(9) The Chief of Protocol.

(10) [Reserved]

(11) One Personal Assistant to the Under Secretary for Coordinating Security Assistance Programs.

(12) One Personal Assistant to the Ambassador at Large and Chief of Mission to the North Atlantic Treaty Organization.

(13)–(15) [Reserved]

(16) One Secretary (Stenography) to the Deputy Under Secretary for Management.

(17) One Personal Assistant to the Ambassador-at-Large.

(18) [Reserved]

(19) One Assistant Chief of Protocol for Visits.

(20) [Reserved]

(21) One Secretary (Steno) to the Deputy Secretary.

(22) One Protocol Officer (Visits).

(23) One Secretary (Stenography) to the Chief of Protocol.

(24) Two Secretarial Assistants (Stenography) to the Secretary.

(b) [Reserved]

(c) *Office of the Assistant Secretary for Congressional Relations.* (1)–(3) [Reserved]

(4) One Legislative Officer.

(d) *Bureau of Oceans and International Environmental and Scientific Affairs.* (1) One Secretary to the Assistant Secretary.

(e) *Bureau of Economic Affairs.* (1) One Private Secretary to the Assistant Secretary.

(f) *Bureau of Intelligence and Research.* (1) One Private Secretary.

(2) Director of Intelligence and Research.

(g) [Reserved]

(h) *Bureau of International Organization Affairs.* (1) One Secretary (Steno) to the Assistant Secretary.

(2) One Secretary and Personal Assistant to the U.S. Representative to the Council of the Organization of American States.

(3) One Supervisory Foreign Affairs Officer.

(i) [Reserved]

(j) *Office of the Assistant Secretary for East Asian and Pacific Affairs.* (1) One Secretary (Stenography) to the Assistant Secretary.

(k)–(p) [Reserved]

(q) *Office of the Under Secretary for Economic Affairs.* (1) [Reserved]

(2) One Confidential Assistant to the Under Secretary.

(r) [Reserved]

(s) *Bureau of Educational and Cultural Affairs.* (1) One Private Secretary to the Assistant Secretary for Educational and Cultural Affairs.

(2) [Reserved]

(t) *Office of the Inspector General, Foreign Assistance.* (1) One Private Secretary to the Inspector General, Foreign Assistance.

(2) One Private Secretary to the Deputy Inspector General, Foreign Assistance.

(u) *Office of the Counselor.* (1) [Reserved]

(2) One Staff Assistant to the Counselor.

(v) *Bureau of Politico-Military Affairs.* (1) One Private Secretary to the Director.

(w)–(x) [Reserved]

(y) *Office of the Assistant Secretary for Public Affairs.* (1) One Secretary and Personal Assistant to the Assistant Secretary for Public Affairs.

(z) *Office of the Assistant Secretary for Near Eastern and South Asian Affairs.* (1) Secretary to the Assistant Secretary.

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* (1) One Staff Assistant to the Secretary (Director, Executive Secretariat).

(2) Special Assistant to the Secretary (National Security Affairs).

(3) [Reserved]

(4) One Public Information Officer.

(5) [Reserved]

(6) One Staff Assistant to the Special Assistant to the Secretary (National Security Affairs).

(7) One Staff Assistant to the National Director, U.S. Savings Bonds Division.

(8)–(9) [Reserved]

(10) One Deputy Special Assistant to the Secretary (National Security Affairs).

(11) [Reserved]

(12) One Staff Assistant to the Assistant Secretary (International Affairs).

(13) One Secretary to the Secretary.

(14) One Liaison Officer, Office of the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations).

(15) [Reserved]

(16) One Confidential Secretary to the Assistant Secretary (Enforcement, Operations, and Tariff Affairs).

(17) One Confidential Assistant to the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations).

(18) One Confidential Secretary to the Assistant Secretary (Economic Policy).

(19) One Staff Assistant to the Assistant Secretary (International Affairs).

(20) Deputy to the Assistant Secretary, Saudi Arabian Operations and Policies.

(21) Deputy Assistant Secretary (Trade and Raw Materials Policy).

(22) One Confidential Staff Assistant to the Assistant Secretary for International Affairs.

(23)–(24) [Reserved]

(25) One Secretary to the Special Assistant to the Secretary (Public Affairs).

(26)–(30) [Reserved]

(31) One Deputy Assistant Secretary for Research and/or Director of Research (International Affairs).

(32) Deputy Assistant Secretary for Developing Nations Finance.

(33) [Reserved]

(34) One External Affairs Officer (Public Affairs).

(35) One Special Assistant to the Under Secretary.

(36)–(37) [Reserved]

(38) One Secretary to the Deputy Assistant Secretary (Enforcement, Operations, and Tariff Affairs).

(39) One Staff Assistant to the Assistant Secretary for Administration.

(40) One Executive Assistant to the Deputy Secretary.

(41) One Staff Assistant to the Assistant Secretary (Legislative Affairs).

(42)–(45) [Reserved]

(46) Special Assistant to the Assistant Secretary for International Affairs.

(47) Three Staff Assistants to the Secretary.

(48) One Secretary to the Assistant Secretary (Legislative Affairs).

(49)–(50) [Reserved]

(51) One Special Assistant to the Assistant Secretary (Legislative Affairs).

(52) Director, Office of Revenue Sharing.

(53) One Confidential Assistant to the Treasurer of the United States.

(54) [Reserved]

(55) One Confidential Assistant to the Secretary.

(56) [Reserved]

(57) Deputy Assistant Secretary (Financial Resources Policy Coordination).

(58) Deputy Assistant Secretary (Energy Policy).

(59) Adviser to the Secretary (Counselor to the Chairman, Economic Policy Board).

(60) One Staff Assistant (Secretary) to the Counselor to the Secretary.

(61) One Special Assistant to the Assistant Secretary (Enforcement, Operations, and Tariff Affairs).

(62) One Special Assistant to the Under Secretary for Revenue Sharing and Intergovernmental Relations.

(63) One Special Assistant to the Assistant Secretary (Tax Policy).

(64) One Confidential Secretary to the Assistant Secretary (Tax Policy).

(65) One Public Information Specialist to the Special Assistant to the Secretary (Public Affairs).

(66) One Secretary to the Assistant to the Secretary and Director, Office of Revenue Sharing.

(67) Special Assistant to the Assistant to the Secretary and Director, Office of Revenue Sharing.

(68) One Staff Assistant (Secretary) to the Assistant Secretary (Capital Markets and Debt Management).

(69) One Special Assistant to the Special Assistant to the Secretary (Public Affairs).

(b) [Reserved]

(c) *Bureau of Customs.* (1) Commissioner of Customs.

(2)–(4) [Reserved]

(d)–(e) [Reserved]

(f) *Bureau of the Mint.* (1) [Reserved]

(2) One Confidential Assistant to the Director of the Mint.

(3) [Reserved]

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* (1) One Special Assistant, one Personal Assistant, one Assistant, and two Private Secretaries to the Secretary.

(2) One Private Secretary to the Deputy Secretary of Defense and one Private Secretary to each of the following: Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic Systems), (Research and Technology); the Director, Advanced Research Project Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Comptroller), (Program Analysis and Evaluation), (Intelligence), and (Legislative Affairs); the General Counsel, the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

(3) One Chauffeur to the Secretary and one Chauffeur to the Deputy Secretary.

(4) [Reserved]

(5) The Defense Advisor to USNATO in Brussels, Belgium.

(6) One Private Secretary to the Defense Adviser to USNATO in Brussels, Belgium.

(7) [Reserved]

(8) One Assistant to the Secretary of Defense (Legislative Affairs).

(9) [Reserved]

(10) One Special Assistant to the Assistant Secretary of Defense (Legislative Affairs).

(11) One Personal Secretary to the Deputy Secretary of Defense.

(12) One Private Secretary to the Principal Deputy Assistant Secretary (International Security Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

(13) One Confidential Assistant to the Special Assistant to the Secretary.

(14)–(15) [Reserved]

(16) One Staff Assistant to the Director of Economic Utilization Policy, Office of the Assistant Secretary of Defense (Installations and Logistics).

(17) One Confidential Assistant to the President of the Uniformed Services University of the Health Sciences.

(18) One Special Assistant for Foreign Affairs Legislation to the Assistant Secretary of Defense (Legislative Affairs).

(19) Adjutant General to the Director, D.C. National Guard.

(20) One Principal Assistant to the Assistant Secretary of Defense (Legislative Affairs), for House Affairs.

(21) One Confidential Assistant (Interdepartmental Activities) to the Chairman, Presidential Clemency Board.

(22) Special Assistant to the Assistant Secretary of Defense (International Security Affairs).

(23) Four Deputy Directors of Defense Research and Engineering and the Director, Advanced Research Projects Agency.

(24) [Reserved]

(25) One Principal Deputy Director of Defense Research and Engineering.

(26)–(28) [Reserved]

(29) Principal Deputy Assistant Secretary of Defense (Comptroller).

(30) [Reserved]

(31) One Private Secretary to the Deputy Assistant Secretary (Reserve Affairs).

(32)–(33) [Reserved]

(34) One Staff Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense.

(35) One Private Secretary to the Assistant Secretary (Health Affairs).

(36) [Reserved]

(37) One Personal Security Assistant to the Secretary.

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(38) Private Secretary to the Principal Deputy Assistant Secretary of Defense (Program Analysis and Evaluation).
(39) [Reserved]
(40) One Confidential Assistant to the Deputy Director of Defense Research and Engineering (Test and Evaluation).
(41)–(44) [Reserved]
(45) One Private Secretary to the Principal Deputy Assistant Secretary (Manpower and Reserve Affairs).
(46)–(47) [Reserved]
(48) One Private Secretary to the Principal Deputy Assistant Secretary (Public Affairs).
(49) One Private Secretary to the Principal Deputy Assistant Secretary (Health Affairs).
(50) Defense Representative, Iran.
(51)–(53) [Reserved]
(54) One Private Secretary to the Secretary of Defense, Mutual and Balanced Force Representative.
(55) [Reserved]
(56) One Personal and Confidential Assistant to the Director of Net Assessment.
(57) One Private Secretary to the Director of Net Assessment.
(58) One Special Assistant to the Director, Telecommunications and Command and Control Systems.
(59) One Private Secretary to the Director, Telecommunications and Command and Control Systems.
(60) One Special Assistant for Communication and Community Liaison to the Deputy Assistant Secretary (Equal Opportunity).
(61) Director of Telecommunications and Command and Control Systems.
(62) Principal Deputy Assistant Secretary of Defense (International Security Affairs).
(63) One Secretary to the President, Uniformed Services University of the Health Sciences.
(64) President of the Uniformed Services University of the Health Sciences.
(65)–(66) [Reserved]
(67) One Special Assistant to the Director of Defense Research and Engineering.
(68) One Private Secretary to the Principal Deputy Assistant Secretary (Legislative Affairs).
(69) One Staff Assistant to the Special Assistant to the Secretary.
(70) One Confidential Assistant to the Defense Representative, Iran.
(71) One Private Secretary to the Defense Representative, Iran.
(72) One Confidential Assistant to the Assistant Secretary (International Security Affairs).
(73) One Staff Assistant (Interdepartmental Activities) to the Assistant to the President for National Security Affairs.
(74) One Private Secretary to the second Deputy Secretary of Defense.
(75) One Confidential Aide to the Secretary of Defense.
(76) One Private Secretary to the Principal Deputy Director, Telecommunications, Command and Control Systems.
(77) One Assistant to the Secretary of Defense.
(78) One Private Secretary to the Deputy Director (Policy and Planning), Defense Research and Engineering.
(79) Assistant to the Secretary and Deputy Secretaries.
(80) One Confidential Assistant to the Assistant Secretary of Defense (Legislative Affairs).

(b) *Court of Military Appeals.* (1) One Private Secretary to each of four Judges of the Court.

(c) *Interdepartmental Programs.* (1) [Reserved]
(2) Two Private Secretaries engaged in the interdepartmental activities of the office of the Secretary of Defense.

(d) [Reserved]

(e) *Defense Civil Preparedness Agency.* (1) The Director.
(2) One Special Assistant to the Director.

§ 213.3307 Department of the Army.

(a) *Office of the Secretary.* (1) One Private Secretary or Confidential Assistant to the Secretary, to the Under Secretary, and to each Assistant Secretary of the Army.
(2) The General Counsel.
(3) One Special Assistant to the Secretary.
(4) One Secretary to the Special Assistant to the Secretary.

§ 213.3308 Department of the Navy.

(a) *Office of the Secretary.* (1) [Reserved]
(2) One Private Secretary to the Secretary and one Private or Confidential Secretary to the Under Secretary and to each Assistant Secretary of the Navy.
(3)–(8) [Reserved]
(9) Three Special Assistants to the Military Assistant to the President.
(10)–(11) [Reserved]
(12) General Counsel.
(13) One Special Assistant for Emergency Planning to the Military Assistant to the President.

§ 213.3309 Department of the Air Force.

(a) *Office of the Secretary.* (1) Two Private Secretaries to the Secretary, one Private Secretary to the Under Secretary, and one Private Secretary each to each of the four Assistant Secretaries of the Air Force.
(2) The General Counsel.
(3) One Private Secretary to the General Counsel.
(4)–(6) [Reserved]
(7) One Administrative Assistant and one Private Secretary in the Office of the Military Aide to the Vice President.
(8) Two Private Secretaries in the Office of the Military Assistant to the President.
(9) One Secretary to the Deputy Assistant Secretary of the Air Force (Research and Development).
(10) One Special Assistant to the Secretary.

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* (1) Two Private Secretaries to the Attorney General.
(2)–(3) [Reserved]
(4) Four Confidential Assistants to the Attorney General.
(5) Two Secretaries for the Attorney General,
(6)–(7) [Reserved]
(8) Associate Attorney General.
(9) [Reserved]
(10) One Private Secretary to the Executive Assistant to the Attorney General.
(11) Confidential Secretary to the Director, Office of Public Information.

(b) *Office of the Deputy Attorney General.* (1) One Confidential Assistant (Private Secretary) to the Deputy Attorney General.
(2)–(3) [Reserved]
(4) One Confidential Secretary to the Associate Deputy Attorney General.
(5) One Staff Assistant to the Deputy Attorney General.
(6) One Special Assistant to the Director, Office of Criminal Justice.

(c) *Office of the Solicitor General.* (1) One Confidential Assistant (Private Secretary) to the Solicitor General.

(d) *Anti-Trust Division.* (1) [Reserved]
(2) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(e) *Civil Division.* (1) [Reserved]
(2) One position of Confidential Assistant (Private Secretary) to the Assistant Attorney General.
(3) [Reserved]
(4) One Special Assistant to the Assistant Attorney General.

(f) *Criminal Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(g) *Tax Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(h) *Land and Natural Resources Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(i) *Drug Enforcement Administration.* (1) [Reserved]
(2) One Special Assistant to the Administrator.
(3) Two Directors of Public Affairs.

(j) *Immigration and Naturalization Service.* (1) One Public Information Officer.

(k) [Reserved]

(l) *Office of Legal Counsel.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(m) *Bureau of Prisons.* (1) The Director.

(n) *Federal Prison Industries, Inc.* (1) The Commissioner of Industries.

(o) *Office of U.S. Attorney.* (1) Secretary and Confidential Assistant to the U.S. Attorney (24 positions).

(p) [Reserved]

(q) *Civil Rights Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(r) *Community Relations Service.* (1) One Private Secretary to the Director.
(2)–(4) [Reserved]
(5) One Special Assistant to the Director.

(6) One Special Assistant to the Deputy Director.
(7) One Staff Assistant to the Director.
(8) One Associate Director.

(s) *Law Enforcement Assistance Administration.* (1) One Secretary (Steno) to the Administrator.
(2) [Reserved]
(3) Three Special Assistants to the Administrator.
(4) [Reserved]
(5) One Secretary to the Director, National Institute of Law Enforcement and Criminal Justice.
(6) One Deputy Director, National Institute of Law Enforcement and Criminal Justice.
(7) One Special Assistant to the Director, National Institute of Law Enforcement and Criminal Justice.
(8) One Special Assistant to the Deputy Administrator for Administration.
(9) One Secretary to the Deputy Administrator.
(10) One Special Assistant to the Deputy Administrator for Policy.
(11) One Special Assistant (Women and Minority Rights) to the Administrator.
(12) One Program Planning Officer (Assistant Administrator, Office of National Priority Programs).
(13) One Secretary (Stenography) to the Deputy Administrator for Policy Development.
(14) One Special Assistant to the Assistant Administrator, Office of Juvenile Justice and Delinquency Prevention.

(t) *Office for Drug Abuse Law Enforcement.* (1) One Director.

(u) *Office of National Narcotics Intelligence.* (1) One Director.
(2) [Reserved]

(v) *Office of Legislative Affairs.* (1) One Secertary to the Assistant Attorney General.
(w) [Reserved]

(x) *Office of Justice Policy and Planning.* (1) One Confidential Assistant to the Director.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* (1) Eight Confidential Assistants to the Secretary.
(2) Five Special Assistants to the Secretary.
(3) Six Special Assistants (Field Representatives).
(4) Chauffeur for the Secretary.
(5) Four Special Assistants to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Energy and Minerals, Land and Water Resources, Fish and Wildlife and Parks and Congressional and Legislative Affairs.
(6) One Assistant to the Assistant Secretary for Energy and Minerals (Congressional Liaison).
(7) [Reserved]
(8) One Private Secretary to the Under Secretary.
(9) One Steward.
(10) One Special Assistant to the Assistant to the Secretary and Director of Public Affairs.
(11) [Reserved]
(12) One Assistant and Science Adviser to the Secretary.
(13) One Confidential Assistant to the Assistant to the Secretary and Director of Communications.
(14) [Reserved]
(15) One Confidential Assistant to the Secretary (Interdepartmental Activities).
(16) One Coal Policy Coordinator, Office of the Assistant Secretary for Energy and Minerals.
(17) One Special Assistant to the Assistant Secretary for Congressional and Legislative Affairs.
(18) One Confidential Assistant to the Secretary (Interdepartmental Activities).
(19) [Reserved]
(20) One Director of International Programs to the Assistant Secretary, Program Development and Budget.
(21) [Reserved]
(22) One Confidential Assistant to the Director, Office of Hearings and Appeals.
(23)–(25) [Reserved]
(26) Three Assistants to the Secretary (Congressional Liaison).
(27)–(29) [Reserved]
(30) One Special Assistant to the Assistant Secretary—Administration and Management.
(31) One Confidential Assistant to the Assistant Secretary—Administration and Management.
(32)–(33) [Reserved]
(34) Two Staff Assistants to the Assistant Secretary for Program Development and Budget.
(35)–(36) [Reserved]
(37) One Special Assistant to the Assistant Secretary for Energy and Minerals.
(38)–(42) [Reserved]
(43) One Deputy Director for Information.
(44) One Assistant to the Assistant Secretary, Land and Water Resources.
(45) One Assistant to the Secretary.

(b) *Office of the Solicitor.* (1) One Confidential Assistant to the Solicitor.
(2) One Special Assistant to the Solicitor.
(3) One Confidential Assistant to the Deputy Solicitor.

(c) *Mining Enforcement and Safety Administration.* (1) One Secretary (Typing) to the Administrator.
(2) One Special Assistant to the Administrator.
(d)–(g) [Reserved]

(h) *National Park Service.* (1) Director.
(2) [Reserved]
(3) One Special Assistant to the Director.
(4)–(6) [Reserved]
(7) One Special Assistant to the Deputy Director.

(i) *Bonneville Power Administration.* (1) Administrator.
(2) Confidential Assistant to the Administrator.
(j) [Reserved]

(k) *Southwestern Power Administration.* (1) Administrator.
(2) [Reserved]
(3) One Confidential Assistant to the Administrator.

(l) *Office of the Director of Territorial Affairs.* (1) [Reserved]
(2) One Secretary of American Samoa.
(3) One Chief Justice of American Samoa.
(4) One Special Assistant to the Director (American Samoa).
(5)–(10) [Reserved]
(11) One Secretary to the High Commissioner of the Trust Territory.
(12) One Staff Assistant to the Director.

(m) *Bureau of Outdoor Recreation.* (1) The Director.
(2) [Reserved]
(3) One Confidential Assistant to the Director.

§ 213.3313 Department of Agriculture

(a) *Office of the Secretary.* (1) One Administrative Assistant to the Secretary.
(2) One Assistant to the Secretary for Intergovernmental Affairs.
(3)–(4) [Reserved]
(5) Four Confidential Assistants to the Secretary.
(6) [Reserved]
(7) One Chauffeur for the Secretary.
(8) One Private Secretary and Administrative Assistant to the Executive Assistant to the Secretary.
(9) Two Confidential Assistants to the Assistant Secretary for Marketing and Consumer Services.
(10) One Private Secretary to each of the four Assistant Secretaries other than the Administrative Assistant Secretary.
(11) One Confidential Assistant to the Assistant Secretary for Conservation, Research, and Education.
(12) One Confidential Assistant to the Assistant Secretary for International Affairs and Commodity Programs.
(13) One Private Secretary to the Deputy Assistant Secretary for International Affairs and Commodity Programs.
(14)–(19) [Reserved]
(20) One Confidential Assistant to the Assistant Secretary for Rural Development.
(21)–(23) [Reserved]
(24) One Private Secretary to the Assistant to the Secretary for Intergovernmental Affairs.
(25)–(27) [Reserved]
(28) One Private Secretary to the Confidential Assistant to the Secretary.
(29)–(31) [Reserved]
(32) One Private Secretary to the Deputy Assistant Secretary for Marketing and Consumer Service.
(33) One Private Secretary to the Deputy Assistant Secretary for Rural Development.
(34) One Special Assistant to the Secretary for Consumer Affairs.
(35) [Reserved]
(36) [Reserved]

(b) *Rural Electrification Administration.* (1) One Private Secretary to the Administrator.
(2)–(3) [Reserved]
(4) Two Assistants to the Administrator.

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(c) *Office of the Under Secretary.* (1) One Administrative Officer and Private Secretary to the Under Secretary.
(2) and (3) [Reserved]
(4) One Private Secretary to the Deputy Under Secretary for Congressional and Public Affairs.
(5) [Reserved]
(6) Thirteen Confidential Assistants to the Deputy Under Secretary for Congressional and Public Affairs.
(7) [Reserved]
(8) One Staff Assistant to the Deputy Under Secretary.
(9) One Deputy Under Secretary for Congressional and Public Affairs.
(10) One Confidential Assistant to the Under Secretary.
(11) One Private Secretary to the Deputy for Congressional Affairs.
(12) One Private Secretary to the Deputy for Public Affairs.
(13) One Confidential Assistant to the Deputy Under Secretary.
(d) *Office of General Counsel.*
(1)–(2) [Reserved]
(3) One Private Secretary to the General Counsel.
(4) One Confidential Assistant to the General Counsel.
(e) *Foreign Agricultural Service.* (1) [Reserved]
(2) The Administrator.
(3) One Confidential Assistant to the Administrator.
(f) *Farmers Home Administration.*
(1)–(2) [Reserved]
(3) One Assistant to the Administrator.
(4) Two Confidential Assistants to the Administrator.
(5) One Private Secretary to the Administrator.
(g) *Federal Crop Insurance Corporation.* (1) The Manager.
(2) Members of the Board of Directors.
(3) One Private Secretary to the Manager.
(h) *Agricultural Stabilization and Conservation Service.* (1) Administrator.
(2) One Assistant Deputy Administrator, Programs.
(3) [Reserved]
(4) Four Confidential Assistants to the Administrator.
(5) One Private Secretary to the Administrator.
(6) Director, Tobacco Division.
(7) [Reserved]
(8) Director, Conservation and Land Use Programs Division.
(i) *Commodity Credit Corporation.*
(1) The President.
(2) The Executive Vice-President.
(3) The Secretary.
(j)–(l) [Reserved]
(m) *Agricultural Marketing Service.*
(1) The Administrator.
(2) One Private Secretary to the Administrator.
(n) *Agricultural Economics.* (1) The Director.
(2) [Reserved]
(3) One Private Secretary to the Director.
(o) [Reserved]
(p) *Science and Education.* (1) The Director.
(q) *Food and Nutrition Service.* (1) Three Confidential Assistants to the Administrator.
(r) [Reserved]
(s) *Packers and Stockyards Administration.* (1) One Private Secretary to the Administrator.
(t) *Rural Development Administration.* (1) Two Confidential Assistants to the Administrator.
(2) One Private Secretary to the Administrator.

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* (1) Six Confidential Assistants to the Secretary.
(2) Two Private Secretaries to the Secretary.
(3) One Confidential Assistant and two Private Secretaries to the Under Secretary.
(4) [Reserved]
(5) One Confidential Assistant and one Private Secretary to the General Counsel.
(6) One Private Secretary to the Deputy General Counsel.
(7) One Chauffeur for the Secretary.
(8) Two Confidential Assistants to the Assistant Secretary for Administration.
(9) Three Congressional Liaison Officers.
(10) One Private Secretary to the Assistant to the Secretary for Congressional Affairs.
(11)–(14) [Reserved]
(15) One Private Secretary to the Assistant Secretary for Administration.
(16) [Reserved]
(17) Two Confidential Assistants to the Director, Office of Minority Business Enterprise.
(18) Chief Economist.
(19) Special Assistant to the Secretary for Policy Development.
(20) One position of Confidential Assistant to the Deputy Under Secretary for Field Programs.
(21) Assistant to the Secretary.
(22) [Reserved]
(23) Two Confidential Assistants to the Chief Economist.
(24) One Private Secretary to the Chief Economist.
(25) One Private Secretary to the Assistant Secretary for Maritime Affairs.
(26) Assistant to the Secretary for Congressional Affairs.
(27) One Private Secretary to the Director, Office of Minority Business Enterprise.
(28) [Reserved]
(29) Two Special Assistants to the Assistant Secretary for Administration.
(30)–(31) [Reserved]
(32) One Secretary to the Special Assistant to the Secretary for Energy Policy.
(33) Two Confidential Assistants to the Special Assistant to the Secretary for Energy Policy.
(b) *Office of the Assistant Secretary for Policy.*
(1) One Private Secretary to the Assistant Secretary.
(2) Two Confidential Assistants to the Assistant Secretary.
(c)–(k) [Reserved]
(l) *U.S. Travel Service.*
(1) One Confidential Assistant to the Assistant Secretary for Tourism.
(2) [Reserved]
(3) One Private Secretary to the Assistant Secretary for Tourism.
(4) [Reserved]
(m) *Office of the Assistant Secretary for Domestic and International Business.*
(1) One Private Secretary and one Confidential Assistant to the Assistant Secretary.
(2) One Confidential Assistant to the Deputy Assistant Secretary for Resources and Trade Assistance.
(3)–(6) [Reserved]
(7) National Export Expansion Coordinator.
(8)–(9) [Reserved]
(10) One Confidential Assistant to the Director, Bureau of Competitive Assessment and Business Policy.
(11)–(15) [Reserved]
(16) Deputy Assistant Secretary for Domestic and International Business.
(17) Deputy Assistant Secretary for Domestic Commerce.
(18) Two Confidential Assistants to the Deputy Assistant Secretary for International Commerce.
(19) One Private Secretary to the Deputy Assistant Secretary for Domestic and International Business.
(20) One Confidential Assistant to the Director, Bureau of East-West Trade.
(n) *Office of the Assistant Secretary for Science and Technology.* (1) Two Special Assistants to the Assistant Secretary for Science and Technology.
(o)–(p) [Reserved]
(q) *Office of the Assistant Secretary for Economic Development.* (1) Confidential Secretary to the Assistant Secretary.
(2)–(6) [Reserved]
(7) Director, Office of Congressional Relations.
(8) [Reserved]
(9) Two Congressional Liaison Officers.
(10) Director, Office of Public Affairs.
(11) One Special Assistant to the Assistant Secretary.
(12) One Confidential Assistant to the Assistant Secretary.
(13) One Confidential Assistant to the Deputy Assistant Secretary for Operations.
(r) *National Oceanic and Atmospheric Administration.* (1) One Private Secretary to the Administrator.
(2) One Private Secretary (Confidential Assistant) to the Deputy Administrator.
(s) [Reserved]
(t) [Reserved]
(u) *National Fire Prevention and Control Administration.* (1) One Confidential Assistant to the Administrator.
(2) Private Secretary to the Deputy Administrator.
(3) One Private Secretary to the Administrator.

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* (1) One Special Assistant, one Confidential Assistant, and three Staff Assistants.
(2) One Private Secretary to the Under Secretary.
(3) One Private Secretary to each Assistant Secretary of Labor appointed by the President except the Assistant Secretary for Policy, Evaluation and Research who has one Confidential Assistant.
(4)–(5) [Reserved]
(6) One Assistant to each Assistant Secretary of Labor appointed by the President except the Assistant Secretary for Manpower and the Assistant Secretary for Labor-Management Relations.
(7) One Private Secretary to the Executive Assistant to the Secretary.
(8) Three Assistants to the Deputy Under Secretary for Legislative Affairs.
(9) The Manpower Administrator.
(10)–(14) [Reserved]
(15) Deputy Under Secretary for International Labor Affairs.
(16) One Confidential Assistant to the Deputy Under Secretary for International Affairs.
(17)–(20) [Reserved]
(21) One Confidential Assistant to the Deputy Under Secretary.
(22) Three Special Assistants to the Assistant Secretary for Occupational Safety and Health Administration.
(23) One Assistant to the Deputy Assistant Secretary for Occupational Safety and Health.
(24)–(25) [Reserved]
(26) One Secretary to the Public Affairs Director.
(27) Two Secretaries to the Secretary.
(28) [Reserved]
(29) Two Assistants to the Deputy Under Secretary for Legislative Affairs.
(30) [Reserved]
(31) Counselor to the Secretary.
(32) [Reserved]
(33) Deputy Under Secretary for Legislative Affairs.
(34) [Reserved]
(35) One Executive Assistant to the Assistant Secretary for Occupational Safety and Health.
(36)–(37) [Reserved]
(38) One Confidential Staff Assistant to the Deputy Assistant Secretary for Manpower/Manpower Administrator.
(39) [Reserved]
(40) Executive Director of the Pension Benefit Guaranty Corporation.
(41) Administrator for Pension and Welfare Benefits, Labor Management Services Administration.
(42) One Secretary (Steno) to the Administrator for Pension and Welfare Benefits.
(43) [Reserved]
(44) One Special Assistant to the Public Affairs Director.
(45) One Confidential Assistant to the Administrator for Pension and Welfare Benefits.
(46) One Special Assistant to the Assistant Secretary for Labor-Management Relations.
(47) One Assistant to the Special Assistant to the Secretary.
(48) One Executive Assistant to the Assistant Secretary for Employment Standards.
(49) One Executive Assistant to the Under Secretary.
(50) One Executive Assistant to the Assistant Secretary for Labor-Management Relations.
(51) One Private Secretary to the Deputy Under Secretary for Legislative Affairs.
(b) *Office of the Solicitor.* (1) One Private Secretary to the Solicitor.
(c)–(e) [Reserved]
(f) *Women's Bureau.* (1) [Reserved]
(2) Two Special Assistants to the Director.
(g)–(h) [Reserved]
(i) *Office of Federal Contract Compliance.* (1) One Special Assistant to the Director.
(j) *Office for Economic Policy Review.*
(1) One Private Secretary to the Deputy Under Secretary for Economic Policy Review.
(2) One Executive Assistant to the Deputy Under Secretary for Economic Policy Review.

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* (1) [Reserved]
(2) One Confidential Assistant to the Secretary.
(3)–(4) [Reserved]
(5) One Confidential Secretary to the Under Secretary.
(6) Six Confidential Assistants to the Under Secretary.
(7)–(10) [Reserved]
(11) Four Assistants to the Secretary for Special Programs.
(12) [Reserved]
(13) Four Assistants to the Secretary.
(14)–(18) [Reserved]
(19) Counselor.
(20) One Receptionist (Typing) to the Secretary.
(21)–(28) [Reserved]
(29) Three Special Assistants to the Assistant Secretary for Public Affairs.
(30) [Reserved]
(31) Commissioner, Youth Development.
(32) Deputy Commissioner, Youth Development.
(33) [Reserved]
(34) One Executive Assistant to the Secretary.
(35) One Secretary to the Executive Assistant to the Secretary.
(36) One Motor Vehicle Operator (Chauffeur for the Secretary).
(37) [Reserved]
(38) Assistant to the Secretary (Executive Secretary to the Department).
(39) One Special Assistant to the Under Secretary.
(b) [Reserved]
(c) *Office of Education.* (1) [Reserved]
(2) Deputy Commissioner for Occupational and Adult Education.
(3) One Confidential Assistant to the Commissioner of Education.
(4)–(11) [Reserved]
(12) Assistant Commissioner for Public Affairs.
(d)–(e) [Reserved]
(f) *Office of the Assistant Secretary for Legislation.* (1) Two Special Assistants to the Assistant Secretary.
(2) One Confidential Secretary to the Deputy Assistant Secretary for Legislation.
(3)–(6) [Reserved]
(7) One Special Assistant to the Deputy Assistant Secretary for Legislation (Education).
(8) One Deputy Assistant Secretary for Legislation (Welfare).
(9) One Special Assistant to the Deputy Assistant Secretary for Legislation (Welfare).
(10) Five Special Assistants to the Deputy Assistant Secretary for Congressional Liaison.
(11) One Special Assistant to the Deputy Assistant Secretary for Legislation (Health).
(12) One Confidential Assistant to the Assistant Secretary.
(13) One Deputy Assistant Secretary (Education).
(g) *Welfare Administration.* (1) The Commissioner.
(2) [Reserved]
(3) One Confidential Assistant to the Commissioner.
(h) *Office of the Assistant Secretary for Health.* (1)–(4) [Reserved]
(5) The Commissioner, Food and Drug Administration.
(6) Administrator, Health Services Administration.
(7)–(10) [Reserved]
(11) Administrator, National Institutes of Health.
(i) *Federal Council on the Aging.* (1) [Reserved]
(2) One Special Assistant to the Chairperson, Federal Council on the Aging.
(j) [Reserved]
(k) *Office of the Assistant Secretary for Planning and Evaluation.* (1)–(3) [Reserved]
(4) One Special Assistant to the Assistant Secretary.
(5)–(9) [Reserved]
(10) One Special Assistant for Telecommunications.
(l) *Social Security Administration.*
(1) One Deputy Commissioner.
(2) [Reserved]
(m) *Office of Consumer Affairs.* (1) Director of Public Affairs.
(2) Director for External Liaison.
(3) [Reserved]
(4) One Writer-Editor.
(5) One Confidential Assistant to the Special Assistant to the President for Consumer Affairs.
(n) *Office of the Assistant Secretary for Human Development.* (1) [Reserved]
(2) [Reserved]
(3) One Special Assistant for Juvenile Delinquency to the Deputy Assistant Secretary for Youth and Student Affairs.
(4)–(5) [Reserved]
(6) One Special Assistant to the Deputy Assistant Secretary for Youth and Student Affairs.
(7) One Special Assistant for Student Affairs to the Deputy Assistant Secretary for Youth and Student Affairs.

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(8)–(14) [Reserved]
(15) One Confidential Assistant to the Commissioner of Vocational Rehabilitation.
(16) One Confidential Assistant to the Commissioner of Rehabilitation Services Administration.
(o) *Social and Rehabilitation Service.* (1) Administrator, Social and Rehabilitation Service.
(2) [Reserved]
(3) One Confidential Assistant to the Administrator.
(4) Commissioner of Vocational Rehabilitation.
(5)–(8) [Reserved]
(9) One Assistant Administrator for Policy Coordination.
(10) [Reserved]
(11) One Confidential Assistant to the Commissioner, Assistance Payments Administration.
(p) *Office of the General Counsel.* (1) One Confidential Secretary to the General Counsel.
(2) [Reserved]
(3) One Special Assistant to the General Counsel.
(q) *Office of the Special Assistant to the Secretary for Civil Rights.* (1) Director, Office of Governmental Relations.
(2) One Confidential Secretary to the Special Assistant.
(3) One Assistant to the Special Assistant.
(4) Three Special Assistants for Special Groups.
(5) One Special Assistant for Public Affairs.
(6) [Reserved]
(7) Director, Office of Policy Communication.
(r) *Office of the Assistant Secretary for Education.* (1) One Special Assistant to the Assistant Secretary.
(2) One Confidential Assistant to the Assistant Secretary.
(3) One Confidential Assistant to the Deputy Assistant Secretary for Education (Policy Communications).
(4) One Special Assistant to the Deputy Assistant Secretary for Education (Policy Communications).
(5) One Executive Assistant to the Assistant Secretary.
(6) One Staff Assistant for Special Projects to the Assistant Secretary.
(7) One Confidential Secretary to the Deputy Assistant Secretary for Education.
(8) One Special Assistant to the Deputy Assistant Secretary.
(9) Deputy Assistant Secretary (Policy Communications).

§ 213.3317 Overseas Private Investment Corporation.

(a) One Chauffeur to the President.
(b) [Reserved]
(c) One Secretary (Steno) to the Vice President and General Counsel.
(d) [Reserved]
(e) One Secretary (Steno) to the Legislative Counsel.

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* (1) Ten Special Assistants to the Administrator.
(2)–(3) [Reserved]
(4) One Staff Assistant to the Administrator.
(5) One Secretary to the Deputy Administrator.
(b) *Office of Legislation.* (1) One Assistant Director for Congressional Affairs.
(2)–(5) [Reserved]
(6) One Legislative Affairs Specialist.
(c) *Office of Public Affairs.*
(1)–(3) [Reserved]
(4) Two Public Information Specialists.
(5) One Special Assistant to the Director.
(d) *Office of the Assistant Administrator for Enforcement.* (1) One Special Assistant to the Assistant Administrator.
(e) *Office of Regional and Intergovernmental Relations.* (1) One Regional and Intergovernmental Liaison Specialist.

§ 213.3319 Administrative Conference of the United States.

(a) One Private Secretary to the Chairman.

§ 213.3320 Inter-American Foundation [Reserved]

§ 213.3322 Interstate Commerce Commission.

(a) One Confidential Assistant to each Commissioner.
(b)–(d) [Reserved]
(e) One Confidential Assistant to the Chairman.
(f) One Secretary to the Congressional Liaison Officer.
(g) [Reserved]

§ 213.3325 The Tax Court of the United States.

(a) One Private Secretary and one Technical Assistant for the Chief Judge and one Private Secretary and two Technical Assistants for each Judge.

§ 213.3327 Veterans Administration.

(a) *Office of the Administrator.* (1) One Confidential Assistant to the Special Assistant to the Administrator.
(2) The Deputy Administrator.
(3) The General Counsel.
(4) The Associate Deputy Administrator.
(5) [Reserved]
(6) Three Confidential Assistants to the Administrator.
(7) One Confidential Assistant to the Executive Assistant to the Administrator.
(8) Four Confidential Assistants to the Assistant Deputy Administrator.
(9) Director, National Cemetery System.
(10) One Confidential Assistant to the Deputy Administrator.
(b) *Department of Veterans Benefits.* (1) The Chief Benefits Director.

§ 213.3328 U.S. Information Agency.

(a) Two Secretarial Assistants to the Deputy Director.
(b) One Confidential Assistant to the General Counsel.
(c) One Secretarial Assistant to the Director.
(d) One Secretary to the Director.
(e)–(f) [Reserved]
(g) Deputy Director (Policy and Plans).
(h) Associate Director (Policy and Plans).
(i)–(k) [Reserved]
(l) One Special Assistant to the Assistant Director (Motion Picture and Television Service).
(m) One Secretarial Assistant to the Assistant Director (Broadcasting).

§ 213.3329 Federal Power Commission.

(a) Five Private Secretaries in the Office of the Chairman, one Confidential Assistant to the Chairman, and one Private Secretary to each of two Commissioners.
(b)–(d) [Reserved]
(e) One Private Secretary to the Executive Director.
(f) Two Assistants to the Chairman and three Technical Assistants to the other three Commissioners.
(g)–(j) [Reserved]
(k) One Private Secretary to the Assistant to the Chairman.
(l) One Secretary (Stenography) to the General Counsel.
(m) One Special Assistant to the Executive Director.

§ 213.3330 Securities and Exchange Commission.

(a)–(c) [Reserved]
(d) Two Confidential Assistants to the Chairman and one Confidential Assistant to each of the other four Members of the Commission.
(e) Two Administrative Aides to the Executive Director.
(f) One Secretary to the General Counsel.
(g) One Secretary to the Chief Accountant.
(h) One Executive Aide to the Executive Assistant to the Chairman.
(i) Special Assistant to the Executive Director.
(j) One Public Information Officer.
(k) One Secretary (Typing) to the Director of Economic and Policy Research.

§ 213.3332 Small Business Administration.

(a) One Deputy Administrator, Associate Administrator for Finance and Investment, Associate Administrator for Operations and the Associate Administrator for Procurement and Management Assistance.
(b) Two Special Assistants to the Associate Administrator for Operations.
(c) One Confidential Assistant to the Administrator.

(d) [Reserved]
(e) Two Congressional Relations Officers.
(f) Director, Office of Congressional Relations.
(g) One Advisory Councils Officer.
(h) [Reserved]
(i) One Confidential Assistant to the Deputy Administrator.
(j)–(k) [Reserved]
(l) One Confidential Assistant (Secretary) to the Associate Administrator for Operations.
(m) One Executive Assistant to the Administrator.
(n) One Confidential Assistant to the Executive Assistant to the Administrator.
(o) [Reserved]
(p) Three positions of Special Assistant to the Associate Administrator for Minority Small Business.
(q) [Reserved]
(r) One Confidential Assistant (Secretary) to the Associate Administrator for Finance and Investment.
(s) One Confidential Assistant to the General Counsel.
(t) One Special Assistant to the Deputy Administrator.
(u) [Reserved]
(v) One Confidential Assistant to the Assistant Administrator for Management Assistance.
(w) One Director, Office of Public Communications.
(x) Director, Office of Legislative Affairs.

§ 213.3333 Federal Deposit Insurance Corporation.

(a) One Assistant to each member of the Board of Directors.
(b) One Confidential Assistant to the Board of Directors.
(c) General Counsel.
(d) One Special Assistant to the Chairman.
(e) Executive Assistant and Controller.
(f) [Reserved]
(g) One Special Assistant to the Director (Appointive).
(h) One Secretary to a Member of the Board of Directors.

§ 213.3334 Federal Trade Commission.

(a) Two Secretaries to the Chairman.
(b) Director of Public Information.
(c) One Secretary to the Director of Public Information.

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* (1) [Reserved]
(2) The Deputy Administrator.
(3) The Assistant Administrator.
(4) Three Confidential Assistants to the Assistant Administrator.
(5) Two Confidential Assistants to the Deputy Administrator.
(6) Two Confidential Assistants to the Administrator.
(7) [Reserved]
(8) One Special Assistant to the Assistant Administrator.
(9)–(10) [Reserved]
(11) One Confidential Assistant to the General Counsel.
(12) [Reserved]
(13) Associate Administrator for Federal Management Policy.
(14) One Special Assistant to the Deputy Administrator.
(15) Director, Office of Preparedness.
(16) [Reserved]
(17) One Special Assistant to the Administrator.
(18) Deputy Director of Congressional Affairs.
(19) Director of Communications.
(b) *Public Buildings Service.* (1) The Commissioner.
(2) Four Confidential Assistants to the Commissioner.
(c) *Federal Supply Service.* (1) The Commissioner.
(2) Three Confidential Assistants to the Commissioner.
(d) *National Archives and Records Service.* (1) The Archivist of the United States.
(e) [Reserved]
(f) *Property Management and Disposal Service.* (1) Commissioner.
(g) [Reserved]
(h) *Automated Data and Telecommunications Service.* (1) [Reserved]
(2) The Commissioner.
(3) One Confidential Assistant to the Commissioner.
(4) One position of Confidential Assistant to the Commissioner.
(i) *National Advisory Council on Economic Opportunity.* (1) One Special Assistant to the Chairman.

§ 213.3338 Federal Communications Commission.

(a) One Special Assistant to the Chairman.
(b) One Secretary to the Legal Assistant to the Chairman.
(c) One Special Assistant to a Commissioner.

§ 213.3339 U.S. International Trade Commission.

(a) One Confidential Assistant, one Secretary, one Administrative Assistant, and one Staff Assistant (Legal) to the Chairman.
(b) One Staff Assistant (Legal), and two Staff Assistants to the Vice Chairman.
(c) One Staff Assistant (Legal), one Staff Assistant, and one Confidential Assistant to a Commissioner.
(d) One Staff Assistant (Legal), one Staff Assistant, and one Confidential Assistant to a Commissioner.
(e) One Professional Assistant (Legal), one Confidential Assistant, and one Secretary (Stenography) to a Commissioner.
(f) One Staff Assistant (Legal), one Staff Assistant, one Confidential Assistant, and one Secretary to a Commissioner.
(g) One Administrative Assistant to the Executive Director.

§ 213.3340 Civil Aeronautics Board.

(a) One Administrative Assistant to each Member of the Board.
(b) One Secretary to each Member of the Board.
(c) Director of Information.
(d)–(e) [Reserved]
(f) One Secretary to the Director, Bureau of International Affairs.

§ 213.3341 National Labor Relations Board.

(a) One Confidential Staff Assistant to the Chairman.
(b) One Confidential Assistant to the Chairman and one Confidential Assistant to each of four Board Members.
(c) [Reserved]
(d) One Confidential Assistant to the General Counsel.
(e) [Reserved]
(f) One Executive Assistant to the Chairman.

§ 213.3342 Export-Import Bank of the United States.

(a) One Confidential Assistant to the President and Chairman.
(b) One Private Secretary to the First Vice-President.
(c) One Private Secretary to each of two members of the Board of Directors.
(d) One Special Assistant to the President and Chairman.
(e)–(h) [Reserved]
(i) One Private Secretary to the Senior Vice President for Exporter Credits, Guarantees and Insurance.
(j)–(k) [Reserved]
(l) One Secretary to the Senior Vice President, Reseach and Communications.
(m)–(n) [Reserved]
(o) Executive Vice President.
(p) [Reserved]
(q) One Secretary to each of two Executive Vice Presidents.
(r) [Reserved]
(s) Associate Administrator for Track-President and Chairman.

§ 213.3343 Farm Credit Administration.

(a) [Reserved]
(b) Deputy Governor, Credit and Operations.
(c) Deputy Governor, Finance and Research.
(d) Deputy Governor, Administration.
(e) Deputy Governor and General Counsel.
(f) Deputy Governor and Chief Examiner.
(g) One Congressional Liaison Officer.
(h) One Secretary (Stenography) to the Governor.

§ 213.3344 Occupational Safety and Health Review Commission.

(a) One Staff Assistant to the Chairman.
(b) [Reserved]
(c) One Confidential Assistant to each member of the Commission other than the Chairman.
(d) The General Counsel.

§ 213.3345 Indian Claims Commission.

(a) One Private Secretary to the Chairman and one Private Secretary to each of the other four Commissioners.

§ 213.3346 Selective Service System.

(a)–(c) [Reserved]
(d) One Private Secretary to the Deputy Director of Selective Service.

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(e) and (f) [Reserved]
(g) One Private Secretary to the Director of Selective Service.

§ 213.3348 National Aeronautics and Space Administration.

(a) One Secretary to the Administrator.
(b) One Secretary to the Deputy Administrator.
(c) One Secretary to each of the following: The Associate Administrator for Manned Space Flight, the Associate Administrator for Advanced Research and Technology.
(d) Associate Administrator.
(e)–(f) [Reserved]
(g) Associate Administrator for Space Flight.
(h) Associate Deputy Administrator.
(i) Deputy Associate Administrator.
(j) General Counsel.
(k)–(l) [Reserved]
(m) One Secretary to the Associate Administrator.
(n) One Secretary to the Associate Administrator for Center Operations.
(o) One Physical Fitness Services Program Specialist.
(p) Associate Administrator for Aeronautics and Space Technology.
(q) Associate Administrator for Space Science.
(r) Associate Administrator for Applications.
(s) Associate Administrator for Tracking and Data Acquisition.
(t) Associate Administrator for Center Operations.
(u) One Executive Assistant to the Deputy Administrator.
(v) Associate Administrator/Comptroller.

§ 213.3349 Panama Canal Company.

(a) Secretary.

§ 213.3350 Foreign Claims Settlement Commission of the United States.

(a)–(b) [Reserved]
(c) One Private Secretary to the Chairman.

§ 213.3354 Federal Home Loan Bank Board.

(a) One Secretary to the Chairman of the Board.
(b) Two Secretaries to Board Members.
(c) One Assistant to a Board Member.
(d) [Reserved]
(e) Director, Office of Communications.
(f)–(i) [Reserved]
(j) One Secretary to the Director, Office of Economic Research, and Adviser to the Board.
(k) One Secretary to the Director, Office of the Federal Home Loan Banks.

§ 213.3355 The Renegotiation Board.

(a) One Special Assistant to the Chairman and one Special Assistant to each of the other four Renegotiation Board Members.
(b) One Secretary to the Chairman.
(c) One Secretary to each of three Board Members.

§ 213.3356 Commission on Civil Rights.

(a) One Confidential Secretary to the Staff Director.
(b)–(c) [Reserved]
(d) One Confidential Secretary to the Deputy Staff Director.
(e) One Special Assistant to the Staff Director.
(f) One Director, Congressional Liaison.

§ 213.3357 National Credit Union Administration.

(a) One Secretary to the Deputy Administrator.
(b) One Public Information Officer.
(c) One Legislative Liaison Officer.
(d) One Staff Assistant to the Administrator.
(e) One Executive Officer (Policy Implementation).

§ 213.3359 ACTION.

(a) One Special Assistant to the Associate Director for Domestic and Anti-Poverty Operations.
(b) One Chauffeur to the Director.
(c)–(f) [Reserved]
(g) One Motor Vehicle Operator to the Director.
(h)–(j) [Reserved]
(k) One Deputy Associate Director for ACTION Education Programs.
(l)–(n) [Reserved]
(o) One Special Assistant to the Assistant Director for Policy and Planning.
(p) One Confidential Secretary to the Deputy Associate Director (Domestic and Anti-Poverty Operations).
(q) One Staff Assistant to the Director.
(r) Two Special Assistants to the Director.
(s) One Special Assistant to the Deputy Director.

§ 213.3360 Consumer Product Safety Commission.

(a) Two Special Assistants, one Director of Congressional Relations, and one Public Information Officer to the Chairman.
(b) Three Special Assistants, one Staff Assistant, and one Secretary (Stenography) to a Commissioner.
(c) Three Special Assistants to a Commissioner.
(d) One Special Assistant to a Commissioner.

§213.3363 Harry S. Truman Scholarship Foundation.

(a) Executive Secretary.

§ 213.3364 U.S. Arms Control and Disarmament Agency.

(a) One Private Secretary to the Director.
(b) One Private Secretary to the Deputy Director.
(c) One Private Secretary to each Assistant Director appointed by the President (four positions).
(d) One Public Affairs Adviser.
(e) The General Counsel.
(f) One Private Secretary to the General Counsel.
(g)–(h) [Reserved]
(i) One Congressional Assistant to the General Counsel.
(j) One Confidential Assistant to the General Counsel.
(k) One Private Secretary to the ACDA Representative to the Mutual and Balanced Force Reduction Talks.
(l) One Staff Assistant to the Deputy Director.

§ 213.3367 Federal Maritime Commission.

(a) One Confidential Assistant to each of four Commissioners.
(b) One Administrative Assistant to the Chairman, one Private Secretary to each Commissioner, and one Administrative Assistant to the Managing Director.
(c) One Confidential Assistant to the Chairman.
(d) One Administrative Assistant to the General Counsel.

§ 213.3368 Agency for International Development.

(a) *Office of the Administrator.* (1) [Reserved]
(2) One Confidential Assistant (Private Secretary) to the Administrator.
(3) One Chauffeur for the Administrator.
(4) One Executive Assistant to the Deputy Administrator.
(b) [Reserved]
(c) *Office of the General Counsel.* (1) One Private Secretary to the General Counsel.
(2) The General Counsel.
(d) [Reserved]
(e) *Office of the Assistant Administrator for Legislative Affairs.* (1)–(4) [Reserved]
(5) One Congressional Liaison Officer.
(f) [Reserved]

§ 213.3372 Administrative Office of the United States Courts.

(a) One Legislative Liaison Officer.

§ 213.3373 Community Services Administration.

(a) *Office of the Director.* (1)–(3) [Reserved]
(4) One Confidential Secretary and one Private Secretary to the Director.
(5) One Confidential Assistant to the Special Assistant to the Director.
(6) One Special Assistant to the Director.
(7) One Confidential Secretary (Stenography) to the Deputy Director.
(b) *Office of Operations.*
(1)–(2) [Reserved]
(3) One Chief, State and Local Government Division.
(c) *Office of Program Review.*
(1) [Reserved]
(2) One Planning and Review Advisor to the Associate Director.
(d) *Office of Congressional Relations.*
(1) The Associate Director.
(2) One Confidential Advisor to the Associate Director.
(e) *Office of Public Affairs.* (1) The Associate Director.
(2) One Confidential Assistant to the Associate Director.

(f) *Office of General Counsel.* (1) One Confidential Staff Assistant to the General Counsel.

§ 213.3376 Appalachian Regional Commission.

(a) One Special Assistant to the Federal Cochairman.
(b) One Private Secretary to the Federal Cochairman and one Private Secretary to his alternate.

§ 213.3377 Equal Employment Opportunity Commission.

(a) Four Special Assistants to the Chairman.
(b) One Special Assistant and one Secretary to each Member of the Commission.
(c) Two Secretaries to the Chairman.
(d) One Secretary to each of two Special Assistants to the Chairman.
(e) One Public Information Officer.
(f) One Special Assistant to each of three members of the Commission.
(g) One Special Assistant to the Vice Chairman.
(h) One Private and Confidential Assistant to the Director of Congressional Affairs.
(i) One Special Assistant to the Executive Director.
(j) One Secretary to the Executive Assistant to the Chairman.

§ 213.3379 Commodity Futures Trading Commission.

(a) One Administrative Assistant to the Chairman.
(b) One Administrative Assistant to each of the four Commissioners.
(c) One Public Information Officer.
(d) One Congressional Relations Officer.
(e) The General Counsel.
(f) The Executive Director.
(g) Administrative Assistant to the Executive Director.
(h) [Reserved]
(i) One Assistant to the Chairman.
(j) One Special Assistant to the Vice Chairman.
(k) One position of Special Assistant to the Commissioner for each of four Commissioners.
(l) One Special Assistant for Intergovernmental Affairs.
(m) One Special Assistant for Policy Review.

§ 213.3382 National Foundation on the Arts and the Humanities.

(a) One Executive Secretary to the Chairman, National Endowment for the Arts.
(b) One Assistant to the Chairman, National Endowment for the Arts.
(c) One Staff Assistant to the Chairman, National Endowment for the Arts.
(d) [Reserved]
(e) One Special Assistant to the Chairman of the National Endowment for the Humanities.
(f)–(g) [Reserved]
(h) One Congressional Liaison Officer, National Endowment for the Arts.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* (1) [Reserved]
(2) One Executive Secretary to the Secretary.
(3) One Executive Assistant to the Secretary.
(4)–(8) [Reserved]
(9) One Special Assistant to the Under Secretary.
(10) One Private Secretary to the Assistant Secretary for Legislative Affairs.
(11) [Reserved]
(12) Two Special Assistants to the Secretary.
(13)–(16) [Reserved]
(17) Federal Insurance Administrator.
(18) [Reserved]
(19) One Special Assistant to the General Counsel.
(20) Deputy Assistant Secretary for Equal Opportunity.
(21) Deputy General Counsel.
(22) [Reserved]
(23) One Private Secretary to the Deputy Assistant Secretary for Legislative Affairs.
(24) One Staff Assistant to the Under Secretary.
(25) One Staff Assistant to the Assistant to the Secretary (Public Affairs).
(26) Three Senior Assistants for Legislative Affairs.
(27) Seven Assistants for Legislative Affairs.
(28)–(30) [Reserved]
(31) One Special Assistant to the Secretary and One Program Assistant.
(32)–(34) [Reserved]
(35) One Administrative Aide to the Executive Assistant to the Secretary.
(36)–(37) [Reserved]
(38) Two Special Assistants to the Assistant Secretary for Consumer Affairs and Regulatory Functions and one Director, Office of Program Development and Evaluation.
(39) One Staff Assistant to the Assistant Secretary for Consumer Affairs and Regulatory Functions.
(40)–(43) [Reserved]
(44) One Deputy Under Secretary for Field Operations.
(45) [Reserved]
(46) Two Public Information Officers, Office of the Assistant to the Secretary for Public Affairs.
(47) Three Public Information Specialists, Office of the Assistant to the Secretary for Public Affairs.
(48) [Reserved]
(49) One Director, Executive Secretariat.
(50)–(52) [Reserved]
(53) Assistant to the Secretary (Public Affairs).
(54) One Deputy Departmental Adviser for Elderly and Handicapped Policy.
(55) One Staff Assistant to the Director, Executive Secretariat.
(56) One Special Assistant to the Assistant to the Secretary for Public Affairs.
(57) Deputy Under Secretary for Management.
(58) [Reserved]
(59) One Staff Assistant to the Deputy Under Secretary for Field Operations.
(60) One Staff Assistant to the Assistant Secretary for Legislative Affairs.
(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* (1) One Private Secretary to the Assistant Secretary-Commissioner.
(2) One Deputy Assistant Secretary-Commissioner.
(3)–(4) [Reserved]
(5) Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.
(6) One Staff Assistant to the Assistant Secretary-Commissioner.
(7)–(8) [Reserved]
(9) President, Government National Mortgage Association.
(10)–(11) [Reserved]
(12) Three Special Assistants to the Assistant Secretary-Commissioner.
(13)–(14) [Reserved]
(15) One Executive Assistant to the President, Government National Mortgage Association.
(16) One Special Assistant to the Assistant Secretary for Housing Production and Mortgage Credit.
(17) One Executive Assistant to the Deputy Assistant Secretary for Assisted Housing.
(c) *Office of Assistant Secretary for Housing Management.* (1) One Private Secretary to the Assistant Secretary.
(2)–(3) [Reserved]
(4) Three Special Assistants to the Assistant Secretary.
(5) Two Staff Assistants to the Assistant Secretary.
(d) *Office of Assistant Secretary for Community Planning and Management.* (1) One Private Secretary to the Assistant Secretary.
(2) [Reserved]
(3) Four Special Assistants to the Assistant Secretary.
(4)–(9) [Reserved]
(10) One Staff Assistant to the Deputy Assistant Secretary.
(11) Deputy Assistant Secretary for Community Planning and Development.
(e) [Reserved]
(f) *Office of the Assistant Secretary for Fair Housing and Equal Opportunity.* (1) One Private Secretary to the Assistant Secretary.
(2) [Reserved]
(3) Three Special Assistants to the Assistant Secretary.
(4) One Staff Assistant to the Deputy Assistant Secretary.
(5) One Confidential Assistant to the Assistant Secretary.
(6) One Executive Assistant to the Assistant Secretary.
(g) *Office of the Assistant Secretary for Research and Technology.* (1) One Private Secretary to the Assistant Secretary.
(h) [Reserved]
(i) *Office of the Assistant Secretary for Policy Development and Research.*
(1)–(4) [Reserved]
(5) One Special Assistant.
(6) [Reserved]

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(7) One Confidential Assistant to the Deputy Assistant Secretary for Economic Affairs.

(j) *Community Development Corporation.*

(1) [Reserved]

(2) One Staff Assistant to the General Manager.

(3) One Special Assistant to the General Manager.

(k) *Office of New Communities Administration.* (1) One Confidential Secretary to the Administrator.

(2) Special Assistant to the Administrator.

§ 213.3386 Regional Commissions, Public Works and Economic Development Act of 1965.

(a) One Special Assistant to the Federal Cochairman of each Regional Commission (except Old West Regional Commission) established under the Public Works and Economic Development Act of 1965.

(b) One Special Assistant to the Alternate Federal Cochairman of each Regional Commission (except for the New England, Four Corners, and Old West Regional Commissions) established under the Public Works and Economic Development Act of 1965.

(c) One Private Secretary to the Federal Cochairman of each Regional Commission established under the Public Works and Economic Development Act of 1965.

(d) One Private Secretary to the Alternate Federal Cochairman of each Regional Commission (except for the Four Corners Regional Commission and the Ozarks Regional Commission) established under the Public Works and Economic Development Act of 1965.

§ 213.3388 Federal Energy Administration.

(a) *Office of the Administrator.* (1)–(2) [Reserved]

(3) One Staff Assistant to the Administrator.

(b) *Office of the Deputy Administrator.* (1) One Staff Assistant to the Deputy Administrator.

(2) One Staff Assistant to the Director for Nuclear Affairs.

(3) One Special Assistant to the Deputy Administrator.

(c) *Office of Communications and Public Affairs.* (1) The Director.

(2) [Reserved]

(3) One Assistant Director for Special Projects and Publications.

(4) One Confidential Assistant (Secretary) to the Director.

(d) *Office of Congressional Affairs.* (1) One Special Assistant, Congressional Affairs.

(2) Three Staff Assistants, Congressional Affairs.

(3) One Staff Assistant to the Special Assistant, Congressional Affairs.

(4) One Special Assistant to the Director.

(e) *Office of the General Counsel.* (1) [Reserved]

(2) One Confidential Assistant (Secretary) to the General Counsel.

(f) *Office of Intergovernmental, Regional and Special Programs.*

(1) [Reserved]

(2) One Special Assistant to the Director.

(3) One Confidential Assistant (Secretary) to the Director.

(g) *Office of the Assistant Administrator for Conservation and Environment.* (1) One Confidential Assistant (Secretary) to the Assistant Administrator.

(2) One Special Assistant to the Assistant Administrator.

(h) *Office of the Assistant Administrator for Management and Administration.* (1) Deputy Assistant Administrator.

(2) One Special Assistant to the Assistant Administrator.

(i) *Office of the Assistant Administrator for International Energy Affairs* (1) One Confidential Assistant (Secretary) to the Assistant Administrator.

(j) *Office of The Assistant Administrator for Energy Resource Development.*

(1) One Executive Assistant to the Assistant Administrator.

(2) One Confidential Assistant for Legislation.

(k) *Office of the Assistant Administrator for Policy and Analysis.* (1) One Executive Assistant to the Assistant Administrator.

(2) One Confidential Assistant (Secretary) to the Assistant Administrator.

(l) *Office of the Deputy Administrator (Policy Planning).* (1) One Special Assistant

(2) One Staff Assistant to the Deputy Administrator.

(m) *Office of the Assistant Administrator for Strategic Petroleum Reserve.*

(1) Executive Assistant to the Assistant Administrator.

(n) *Office of Intergovernmental Relations and Special Programs.* (1) Director of Intergovernmental Relations.

(o) *Office of the Assistant Administrator for Regulatory Programs.* (1) One Special Assistant to the Assistant Administrator.

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* (1) [Reserved]

(2) Three Special Assistants to the Secretary.

(3) Two Confidential Secretaries to the Secretary.

(4) One Secretary to the Director, Materials Transportation Bureau.

(5) [Reserved]

(6) One Confidential Secretary to the General Counsel.

(7) One Confidential Secretary to the Deputy Secretary.

(8) Director, Materials Transportation Bureau.

(9) One Confidential Secretary to the Assistant Secretary for Systems Development and Technology.

(10) Special Assistant for Special Projects.

(11) One Special Assistant to the Deputy Secretary.

(12) One Chauffeur to the Secretary.

(13) One Chauffeur to the Deputy Secretary.

(14) [Reserved]

(15) One Special Assistant to the Deputy Under Secretary of Transportation.

(16) [Reserved]

(17) Seven Congressional Liaison Officers, Office of the Director of Congressional Affairs.

(18) Director, Office of Congressional Relations.

(19)–(20) [Reserved]

(21) One Special Assistant to the Assistant Secretary for Policy, Plans, and International Affairs.

(22) One Confidential Secretary to the Assistant Secretary for Environment, Safety, and Consumer Affairs.

(23)–(25) [Reserved]

(26) One Public Information Assistant to the Director, Office of Public Affairs.

(27)–(28) [Reserved]

(29) Director, Office of Public Affairs.

(30) One Special Assistant to the Assistant Secretary for Environment, Safety, and Consumer Affairs.

(31)–(35) [Reserved]

(36) One Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs.

(37) [Revoked]

(38) One Staff Assistant to the Executive Secretary to the Secretary.

(39) One Secretary to the Assistant Secretary for Congressional and Intergovernmental Affairs.

(40) [Reserved]

(41) One Secretary to the Special Assistant to the Deputy Secretary.

(42)–(43) [Reserved]

(44) Deputy Under Secretary.

(45) [Reserved]

(46) One Secretary to the Director, Office of Program Management.

(47) One Intergovernmental Liaison Officer.

(b)–(c) [Reserved]

(d) *Federal Highway Administration.* (1) Deputy Administrator.

(2) One position of Secretary (Steno) to the Administrator.

(3) [Reserved]

(e) *Federal Railroad Administration.*

(1)–(3) [Reserved]

(4) One Confidential Secretary to the Administrator.

(5) One Public Information Officer.

(6) One Secretary to the Deputy Administrator.

(7) One Special Assistant to the Administrator.

(8) [Reserved]

(f) *Urban Mass Transportation Administration.* (1) [Reserved]

(2) One Confidential Secretary to the Administrator.

(3) Deputy Administrator.

(4) One Secretary to the Deputy Administrator.

(5) One Special Assistant to the Administrator.

(g) *St. Lawrence Seaway Development Corporation.* (1) One Special Assistant to the Administrator.

(2) One Confidential Secretary to the Administrator.

(3) [Reserved]

(h) *Federal Aviation Administration.* (1) One Private Secretary to the Administrator.

(2) One Special Assistant to the Administrator.

(3) Assistant Administrator for Information Services.

(4) One Private Secretary to the Chief Counsel.

(5)–(7) [Reserved]

(i) *National Highway Traffic Safety Administration.* (1) Deputy Administrator.

(2) One Private Secretary to the Administrator.

(3) One Special Assistant to the Administrator.

(4) One Public Information Officer.

§ 213.3396 National Transportation Safety Board.

(a) *Office of the Chairman.* (1) One Administrative Assistant to the Chairman and each of four Board Members.

(2) One Confidential Secretary to the Chairman and each of four Board Members.

(b) *Office of the General Manager.* (1) One Confidential Secretary to the General Manager.

(2) One Legislative Affairs Officer.

(3) One Program Analysis Officer.

§ 213.3399 Temporary Boards and Commissions.

(a) [Reserved]

(b) *American Revolution Bicentennial Administration.* (1) Director.

(2) Deputy Executive Director for Program Development and Coordination.

(3) Deputy Executive Director for Communications and Field Services.

(4) Deputy Executive Director for Finance and Administration.

(5) One Staff Assistant (Secretary) to the Administrator.

(6) One Staff Assistant (Secretary) to the Deputy Administrator.

(c) *National Center for Productivity and Quality of Working Life.*

(1) One Confidential/Executive Assistant.

[FR Doc.76-36911 Filed 12-16-76;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—FOOD DISTRIBUTION

[Amdt. 36]

PART 250—DONATION OF FOODS FOR USE IN UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

Eligibility of Household Members Who Receive Supplemental Security Income Payments or Other Income Supplementation

Pub. L. 94-365, approved July 14, 1976, extended through July 1, 1977, the exclusion from eligibility for Federally donated foods of certain recipients of supplemental security income payments or other income supplementation.

Accordingly, § 250.6(e)(5) of the regulations for the operation of the Food Distribution Program (31 FR 14297), as amended, is further amended by deleting the words "thirty-month period beginning January 1, 1974" and inserting in lieu thereof "period ending June 30, 1977."

Since the statutory provisions upon which this change is made are mandatory, compliance with proposed rulemaking and public participation procedures is impracticable and unnecessary.

(Catalog of Federal Domestic Assistance Program No. 10.550, National Archives Reference Services).

This Amendment is effective as of July 1, 1976.

Dated: December 8, 1976.

JOHN DAMGARD,
Assistant Secretary.

[FR Doc.76-37053 Filed 12-16-76;8:45 am]

PART 272—PARTICIPATION OF RETAIL FOOD STORES, WHOLE FOOD CONCERNS, MEAL SERVICES, AND BANKS

Food Stamp Program; Correction

In § 272.2(e) of Chapter II, Title 7, as it appeared in the Code of Federal Regulations published in January 1976, several sentences were deleted in error. Therefore, to correct this error the Department is republishing Section 272.2 (e) in its entirety.

§ 272.2 Participation of retail food stores and meal services.

* * * * *

(e) Change in cash shall not be given for coupons. An authorized food retailer or meal service must use for the purpose of making change in an amount of 1-dollar (or 50 cents through August 31, 1975) or more, those uncanceled and unmarked coupons having a denomination of 1-dollar (or 50 cents through August 31, 1975) which were previously accepted in exchange for eligible foods. If change in an amount of less than 1-dollar (or 50 cents through August 31, 1975) is required, the eligible household shall have the option of receiving credit from the authorized firm for future delivery of an equivalent value of eligible foods, or of trading out in eligible food the difference between the cost of the purchase and the next higher 1-dollar (or 50 cents through August 31, 1975) increment, or of paying in cash the difference between the cost of the purchase and the next lower 1-dollar (or 50 cents through August 31, 1975) increment. Credit in excess of 99 cents shall not be returned in coupon transactions. Tokens or credit slips used for change in coupon transactions shall conform with the following:

(1) Tokens shall not resemble U.S. coins in any way.

(2) Tokens shall be dissimilar in size and material to lawful coins.

(3) Credit slips or tokens shall bear langauge similar to the following: "Redeemable only in eligible food and only at (insert the name of the issuing store or chain) store(s)."

(4) Credit slips or tokens shall not bear the seal of the Department.

(5) Credit slips shall be clearly and easily distinguishable from the official food coupons.

(6) Credit slips or tokens shall not in any way indicate that they are obligations of the United States or the Department.

(7) Credit slips or tokens issued by one authorized firm shall not be accepted by another authorized firm unless the two firms are under single ownership, or are members of a food marketing cooperative and hold themselves out to be members of the same cooperative by use of the same name, trademarks, house brands, etc.

* * * * *

Dated: December 14, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-37161 Filed 12-16-76;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1977 Crop of Upland Cotton; Base Acreage Allotments

STATE RESERVES AND COUNTY BASE ACREAGE ALLOTMENTS

The regulation at 7 CFR 722.467 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) (referred to as the "Act"), with respect to the 1977 crop of upland cotton (referred to as "cotton"). The purpose of this section is to establish State reserves, allocate the State reserves to counties and officially establish county base acreage allotments (referred to as "county allotments"). Determinations with respect to the 1977 State reserves and allocation of State reserves to counties were made initially by the respective State committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (35 FR 19798, 36 FR 6907, 37 FR 624, 3845, 22008, 40 FR 18815).

Notice that the Secretary was preparing to establish 1977 State and county allotments was published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31848) in accordance with 5 U.S.C. 553. No comments or recommendations were received concerning this determination.

In order that farmers may be informed as soon as possible of 1977 farm base acreage allotments so that they may make plans for their 1977 farming operations, it is essential that this section be made effective immediately. Accordingly, it is hereby found and determined that compliance with the 30-day effec-

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tive date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest, and this document shall be effective upon filing with the Director, Office of the Federal Register. The material previously appearing in this section as "Subpart—1976 Crop of Upland Cotton; Base Acreage Allotments" remain in full force and effect as to the crop to which it was applicable.

7 CFR 722.467 and the title to the subpart are amended to read as follows:

Subpart—1977 Crop of Upland Cotton; Base Acreage Allotments

§ 722.467 State reserves and county allotments for the 1977 crop of cotton.

(a) *State reserves.* The total State reserve for all uses established by the State committee shall not exceed one percent of the State allotment available for distribution to counties in the State. The allotment available for distribution shall be the State's share of the national allotment less the allotment in the State productivity pool attributable to history acreage pooled as a result of productivity adjustments under section 344a (f) of the Act. It is hereby determined that no State reserve for abnormal conditions or for small farms is required. The State committee may establish a single reserve for new farms and correction of errors. The amount of the reserve held in each State and the amount of allotment in the State productivity pool is available for inspection at each State ASCS office.

(b) *Apportionment of State allotment to counties.* The State allotment less the allotment in the State productivity pool and the State reserve is apportioned among counties in the State on the basis of the acreage planted (including acreage regarded as having been planted) to cotton within the farm base acreage allotment during 1971, 1972, 1973, 1974 and 1975, adjusted for abnormal weather conditions or other natural disaster. It is hereby determined that no adjustments for abnormal weather conditions or other natural disaster are required. The acreage apportioned under this paragraph is referred to as the computed county allotment and is available for inspection at the respective State and county ASCS offices.

(Secs. 301, 350, 375, 52 Stat. 38, as amended, 84 Stat. 1358, 52 Stat. 66, as amended (7 U.S.C. 1301, 1350, 1375).)

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with Executive Order 11821.

Effective date: These amendments become effective on December 16, 1976.

Signed at Washington, D.C., on December 9, 1976.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-36785 Filed 12-16-76;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 71]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period Dec. 19–25, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.371 Lemon Regulation 71.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons has eased slightly this week. Average f.o.b. price was $4.81 per carton the week ended December 11, 1976, compared to $4.79 per carton the previous week. Track and rolling supplies at 145 cars were up 35 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 14, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period December 19, 1976, through December 25, 1976, is hereby fixed at 180,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: December 16, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-37388 Filed 12-16-76;12:33 pm]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—GUARANTEED LOANS

[FmHA Instruction 449.1]

PART 1845—FmHA EMERGENCY LIVESTOCK LINE OF CREDIT GUARANTEES

Miscellaneous Amendments

Sections 1845.32 and 1845.33 of Part 1845, Title 7, Code of Federal Regulations (40 FR 30623) are amended. Section 1845.32 is amended to add paragraph (k) and to clarify the Emergency Livestock

loan servicing policy with regard to borrowers who cease to carry on livestock operations but continue farming; § 1845.33 is amended by deleting the word "bona fide" from the second sentence of the text.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comments notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. See the Secretary of Agriculture's statement setting forth the policy on public participation in rulemaking, 36 FR 13804, dated July 24, 1971. However, this document is being published without notice of proposed rulemaking since such notice would delay the servicing of Emergency Livestock loans to indebted borrowers causing possible financial losses, and therefore, is contrary to the public interest.

Accordingly, as amended, §§ 1845.32 and 1845.33 read as follows:

1. Section 1845.32 is amended to add paragraph (k).

§ 1845.32 Loan servicing.

* * * * *

(k) *Change from livestock operation to farming operation.* When a borrower ceases to carry on a livestock operation, but will continue farming he is not eligible to receive any more loan advances under the Contract of Guarantee. In such case the lender may continue with the loan(s) and reamortize it within the original term provided FmHA and the lender determine and agree that:

(1) There is a reasonable chance for the guaranteed loan advance(s) to be paid in full.

(2) The remaining collateral plus any to be obtained will be sufficient to meet EL security requirements.

(3) Proceeds from livestock sales properly have been paid on the guaranteed loan advance(s) or released for authorized EL purposes.

§ 1845.33 [Amended].

2. Section 1845.33 is amended by deleting the word "bona fide" from the second sentence of the text.

(Sec. 10 Pub. L. 93-357, 88 Stat. 392, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Effective date: This document shall become effective December 17, 1976.

Dated: November 22, 1976.

FRANK W. NAYLOR, JR.,
Acting Administrator, Farmers Home Administration.

[FR Doc.76-37081 Filed 12-16-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Areas Quarantined

These amendments quarantine a portion of Lubbock County in Texas, and a portion of Texas County in Oklahoma because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the areas quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

In § 73.1a, paragraph (a) relating to the State of Texas is amended and a new paragraph (f) relating to the State of Oklahoma is added to read:

§ 73.1a Notice of quarantine.

(a) Notice is hereby given that cattle in certain portions of the State of Texas are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following areas in such State are hereby quarantined because of said disease:

(1) That portion of *Moore County* bounded by a line beginning at the junction of Farm to Market Road 2203 and State Highway 152; thence, following Farm to Market Road 2203 in a northerly direction approximately two miles to its intersection with an unnumbered graded road; thence, following the unnumbered graded road in an easterly direction for approximately three miles, thence, in a northerly direction for approximately one mile, and thence, in an easterly direction for approximately two miles to its intersection with secondary road 1284; thence, following secondary road 1284 in a southerly direction for approximately three miles to its intersection with State Highway 152; thence, following State Highway 152 in a westerly direction for approximately five miles to its junction with Farm to Market Road 2203.

(2) The premises of Lawson Feedlot located in the southeast portion of sec. 22, Block JS and the southwest portion of sec. 13, Block JS, in Lubbock County, Texas.

* * * * *

(f) Notice is hereby given that cattle in certain portions of the State of Oklahoma are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following area in such State is hereby quarantined because of said disease:

(1) That portion of Texas County, Oklahoma, beginning at the junction of U.S. Highway 64 and State Highway 95; thence, following State Highway 95 in a northerly direction to County Road 7; thence, following County Road 7 in an easterly direction to County Road 40; thence, following County Road 40 in a southerly direction to U.S. Highway 64; thence, following U.S. Highway 64 in a westerly direction to its junction with State Highway 95.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date: The foregoing amendments shall become effective December 10, 1976.

The amendments impose certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, DC, this 10th day of December 1976.

The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

J. M. HEJL,
Deputy Administrator, Veterinary Services.

[FR Doc.76-37052 Filed 12-16-76;8:45 am]

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

Correction

In FR Doc. 76-34823, appearing at page 52043 in the issue for Friday, November 26, 1976, the following changes should be made on page 52044:

1. In § 78.20, paragraph (b), the third word in the next to last line of the listing for South Dakota should read "Washabaugh".

2. In § 78.21, paragraph (b), the second complete word in the third from last line of the listing for Alabama should read "Talladega".

3. In § 78.21, paragraph (b), the second word in the seventh from last line of the listing for Kansas should read "Ottowa".

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. B]

PART 202—EQUAL CREDIT OPPORTUNITY

Official Staff Interpretation

In accordance with 12 CFR Part 202.13 (c), the Board is publishing the following official staff interpretation of § 202.5 of Regulation B, issued by a duly author-

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ized official of the Division of Consumer Affairs.

Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board, however, maintains and makes available for public inspection and copying a current index providing identifying information, subject to certain limitations stated in 12 CFR Part 261.6.

Official staff interpretations may be reconsidered by the Board upon request of interested parties and in accordance with 12 CFR Part 202.13(c)(2). Each request for reconsideration should clearly identify the number of the official staff interpretation in question and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

The following interpretation shall be effective immediately.

§ 202.5 *Evaluation of applications.*

This will respond to your letter of November 12, 1976. The following is an official staff interpretation of section 202.5(b)(2) of Regulation B.

Section 202.5(b)(2) allows creditors to "* * * request the name in which an account is carried, if the applicant discloses the account in applying for credit." You inquire whether, even if the applicant has not disclosed the existence of an account in another name, the creditor may ask if the applicant has applied for credit using a name other than that used on the application. While such an inquiry arguably could be interpreted as an indirect inquiry into marital status, to prohibit this inquiry could deny creditors access to information necessary to evaluate an applicant's creditworthiness. In our view, neither the Act nor the regulation is intended to have this result. Therefore, it is the opinion of the staff that such an inquiry is permissible.

If we may be of further assistance, please do not hesitate to contact us.

Sincerely,

JANET HART,
Director.

Board of Governors of the Federal Reserve System, December 8, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-37076 Filed 12-16-76;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. R-362; Order No. 383-4]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Reliability and Adequacy of Electric Service—Reporting of Data

DECEMBER 13, 1976.

This order revises the information which is requested in the annual reports of all electric systems participating in the program of adequacy and reliability established by prior orders of the Commission pursuant to section 202(a) of the Federal Power Act, 16 U.S.C. 824a(a).[1] The revision consists of deleting Item 4 of Appendix A–1 as it is presently set forth in § 2.11(c), Informational Reporting, (d), Part 2, General Policy and Interpretations, Chapter I, Title 18 of the Code of Federal Regulations. Data as set forth in Appendix A–1 are to be submitted annually on April 1 by the electric systems participating in the nine regional reliability councils, the data being coordinated by the respective regional councils. Other changes in reporting requirements are presently under consideration by the Staff; those changes will be covered in future orders.

The public reporting procedures of Appendix A–1 serve the interests of the public and the reporting utilities in that they provide information relevant to the Commission's adequacy and reliability program. Long-range planning is an indispensable element to the accomplishment of the objectives of section 202(a) of the Federal Power Act "* * * assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources * * *". Item 4[2] is to be deleted since the information concerning proposed plans of cooling, proposed fuels and plans for controlling stack gas emissions is now reported on Form No. 67[3]; the information concerning the status of principal studies or model tests and the status of consultations with government authorities is not to be collected since it has been found to be unnecessary.

The Commission finds: (1) It is appropriate and in the public interest in administering Part II of the Federal Power Act to amend the requirements governing the collection of data relating to the reliability and adequacy of electric service, in the manner hereinafter provided.

(2) Good cause exists that the provisions of this order become effective upon issuance.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly Sections 202(a) and 309 (49 Stat. 848, 858–9; 16 U.S.C. 824(a), 825h, *orders:*

(A) § 2.11(d), Part 2, General Policy and Interpretations, Chapter I, Title 18, Code of Federal Regulations, are revised to read as follows:

§ 2.11 Reliability and adequacy of electric service.

* * * * *

(d) The information requested for inclusion in the annual reports is set forth in Appendix A–1 to this section. Initial reporting is to be for the period 1976–1995, inclusive. The annual report and four conformed copies are to be filed with the commission of each State which is wholly or partly within the geographic boundaries of the reporting council. Reports are to be filed not later than April 1 of each year.

APPENDIX A–1

INFORMATION TO BE REPORTED BY REGIONAL COUNCILS ON COORDINATED REGIONAL BULK POWER SUPPLY PROGRAMS

Information to be reported annually should include:

1. Estimates of monthly peak loads for the first two years of the projection; estimates of summer and winter peak loads for the following eight years; and monthly gross and net energy requirements for the first two years and annual gross and net energy requirements for the following eight.

2. Itemization of all existing capacity resources in the region and new capacity resources (or retirements) as committed or projected for each year 10 years into the future; including, where known, in-service dates, locations, ownership, types of future generating units, primary fuel and capability for use of alternate fuels including length of time alternate fuel can be used, handling and storage capacity, and capacity exchanges with others at the time of summer and winter peak demands.

3. For each year of the 10-year projection, show the indicated capacity margins for reserves at the time of summer and winter peak loads, based on Items (1) and (2) above, with an assessment of adequacy of reserves for the first five years of the projection. Include a statement of the criteria now being used in determining reserve requirements by the Council or its appropriate subdivisions; also include an estimate of the magnitude of the capacity which will be unavailable for service due to scheduled maintenance or other known reasons at the time of the summer and winter peaks for the next five years.

4. For each steam generating unit of 300 MW or more, and for which construction has begun or is scheduled to begin within two years from the date of reporting, a status report on the proposed plan of cooling, and for fossil-fired plants, the fuels proposed and the plan for controlling stack emissions; also, the status of principal studies or model tests and the status of consultations with appropriate local, State or Federal authorities concerned. This item is not to be reported on April 1, 1977 for the calendar year 1976, or for any year thereafter.

5. A plan of the bulk power transmission network of the region in service at the time of the report (including interties with adjoining regions) and the general routing of facilities committed or tentatively projected for service within six years including identification of principal substations, operating voltages and projected in-service dates. In addition, show the transmission facilities projected for the balance of the 10-year period based upon the best information available.

6. A plotting and a description of the base case for load flow studies of the bulk power network of the region (or principal subdivisions) as it exists substantially at the time of reporting and as projected four to six years in the future; and a tabulation based upon calculated operating limits specifying the transmission capability between the region and adjacent regions and between subdivisions of the region; and a tabulation and brief statements on the results of a representative number of contingency cases studied; and similarly, information on stability analyses of the network, and including the criteria adopted by the regional council relating to network stability.

7. A description of the principal communication and control systems operating or planned within the region and listing of functions performed by such facilities.

8. For each transmission segment designed to operate at 230 kV (nominal) or higher for which construction has begun or is scheduled to begin within two years from the date of the report, information on the status of consultations with affected local communities and groups and status of applications to State or regional authorities, as appropriate.

9. Information on the following coordinated regional practices:

a. Load shedding programs, including estimated steps of load reduction at various steps in declining frequency.

b. Emergency power and shutdown facilities to prevent damage to equipment if station loses system power.

c. Power facilities available for unit start-up in the event of total loss of system power.

d. Availability of continuous power independent of system sources for communication and control facilities.

e. Provisions for sustaining the operation of generating units on local loads.

f. Programs for scheduling maintenance outages of generation and transmission facilities.

g. Programs for the selection, setting and maintenance of relays that affect the overall reliability of the interconnected network.

h. Operating reserve policy.

10. For each year in the period of 11–20 years in the future show projected load and generating capability which will be necessary to serve this load. Include a statement as to the percentages of the projected capacity to be installed in the 11–20 year period which will be hydro, nuclear and fossil-fueled, respectively.

11. For the tenth year, include a map which shows the general configuration of the transmission network both within the region and the ties to adjacent regions. In addition, state voltage levels of possible transmission overlays being considered and approximate timing of the system overlay during the period 11–20 years in the future. Diagram possible patterns of transmission as of the twentieth year.

* * * * *

(B) The amendments prescribed herein shall be effective upon the issuance of this order.

(C) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37122 Filed 12-16-76;8:45 am]

[1] See Commission Order No. 383 issued June 25, 1969, 41 FPC 846, 34 FR 11200; Order No. 383–1 issued January 13, 1970, 43 FPC 37, 35 FR 3240; Order No. 383–2 issued April 10, 1970, 43 FPC 515, 35 FR 6121; Order No. 383–3 issued March 15, 1973, 49 FPC 700, 38 FR 7455.

[2] Item 4. For each steam generating unit of 300 MW or more, and for which construction has begun, or is scheduled to begin within two years from the date of reporting, a status report on the proposed plan of cooling, and for fossil-fired plants, the fuels proposed and the plan for controlling stack emissions; also, the status of principal studies or model tests and the status of consultations with appropriate local, tSate or Federal authorities concerned.

[3] Form No. 67, Docket No. R–465, promulgated in Order No. 412 issued October 22, 1970, 44 FPC 1291, 35 FR 16631; as amended by Order No. 492 issued September 26, 1973, 50 FPC 873, 30 FR 27605; as amended by Order No. 552, issued July 13, 1976, ------ FPC ------, 41 FR 29665.

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PHENYLBUTAZONE, CHLORAMPHENICOL, AND DEXAMETHASONE

Change of Sponsor

The Food and Drug Administration (FDA) approves six supplemental new animal drug applications (NADA's) filed by International Multifoods, Corp., 8th and Marquette Sts., Minneapolis, MN 55402, requesting approval of the change of sponsor from Tevcon Industries, Inc. (who similarly requested approval of the change of sponsor), to International Multifoods, Corp. The approval is effective December 17, 1976.

The approval covers the following NADA's: 44–756V, Phenylbutazone Tablets; 45–416V, Phenylbutazone Injection; 55–002V, Chloramphenicol Injection; 55–003V, Chloramphenicol Oral Solution; 55–059V, Chloramphenicol Tablets; and 95–218V, Dexamethasone Tablets. This approval reflects a corporate reorganization. For this reason, it has not required review of the new animal drug application or reaffirmation of the underlying safety and effectiveness data.

Tevcon Industries, as a result of these applications, is no longer the sponsor of an approved NADA. Therefore, the firm is being deleted from the list of sponsors in § 510.600(c) (21 CFR 510.600(c)). International Multifoods Corp., not having previously been the sponsor of an approved NADA, is being added to this list.

The Commissioner of Food and Drugs is amending Parts 510, 520, 522, and 555 (21 CFR Parts 510, 520, 522, and 555) to reflect these approvals.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.28) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In § 510.600, paragraph (c)(1) is amended by deleting the sponsor "Tevcon Industries, Inc.," and alphabetically adding new sponsor "International Multifoods Corp."; and paragraph (c)(2) is amended by deleting "011757" and numerically adding "012518" to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address:	*Drug listing No.*
* * * * *	
International Multifoods Corp., 8th & Marquette Sts., Minneapolis, MN 55402.	012518
* * * * *	

(2) * * *

Drug listing No.:	*Firm name and address*
* * * * *	
012518----	International Multifoods Corp., 8th & Marquette Sts., Minneapolis, MN 55402.
* * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§§ 520.540b, 520.1720a [Amended]

2.a. In § 520.540b *Dexamethasone tablets and boluses*, paragraph (b)(2) is amended by deleting sponsor No. "011757" and inserting No. "012518."

b. In § 520.1720a *Phenylbutazone tablets and boluses*, paragraph (b)(2) is amended by deleting sponsor No. "011757" and inserting No. "012518."

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1720 [Amended].

3. In § 522.1720 *Phenylbutazone injection*, paragraph (b)(1) is amended by deleting sponsor No. "011757" and inserting No. "012518."

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

§§ 555.110a, 555.110c, 555.210 [Amended].

4.a. In § 555.110a *Chloramphenicol tablets*, paragraph (c)(2)(ii) is amended by deleting sponsor No. "011757" and inserting No. "012518."

b. In § 555.110c *Chloramphenicol oral solution*, paragraph (c)(2) is amended by deleting sponsor No. "011757" and inserting No. "012518."

c. In § 555.210 *Chloramphenicol injection*, paragraph (c)(2) is amended by deleting sponsor No. "011757" and inserting "012518."

Effective date. These amendments shall be effective December 17, 1976.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: December 8, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76-36752 Filed 12-16-76;8:45 am]

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CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Prazepam in Schedule IV

A notice was published in the FEDERAL REGISTER on Thursday, July 29, 1976 (41 FR 31553) proposing that Schedule IV of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812(c)) be amended to include prazepam. All interested persons were given until August 31, 1976 to submit their comments or objections in writing regarding this proposal.

None were received, and in view thereof, and based upon the investigations and review of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare, received pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), the Administrator of the Drug Enforcement Administration finds that:

1. Based on information now available, prazepam has a low potential for abuse relative to the drugs or other substances currently listed in Schedule III;

2. Prazepam will, upon the approval of a New Drug Application by the FDA, have a currently accepted medical use in treatment in the United States;

3. Abuse of prazepam may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

Therefore, under the authority vested in the Attorney General by section 201 (a) of the Act (21 U.S.C. 811(a)), and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice, the Administrator hereby orders that § 1308.14(b) of Title 21 of the Code of Federal Regulations (CFR) be amended by adding subparagraph (19) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

* * * * *

(19) Prazepam 2764

* * * * *

The issuing of a letter approving the New Drug Application for prazepam, by FDA, has occurred simultaneously with the issuing of this order, which is effective on December 17, 1976.

Dated: December 8, 1976.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.76-37185 Filed 12-16-76;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER F—RESEARCH AND DEVELOPMENT

[FHWA Docket No. 76-20]

GRANTS, BENEFITS, OR CONTRACTS

• *Purpose.* The purpose of this document is to publish the Research and Development (R. & D.) regulations. •

The information contained in these regulations had previously been printed in the Research and Development Program Manual. The material which had been included in this manual has been revised and may now be found in Volume 5 of the Federal-aid Highway Program Manual. Regulatory material contained therein is published in Subchapter F of Chapter I of the Code of Federal Regulations, Title 23.

The matters affected relate to grants, benefits, or contracts within the purview of 5 U.S.C. 553(a)(2), therefore, general notice of proposed rulemaking is not required.

In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments, suggestions, data, or arguments to: Federal Highway Administration, Room 4230, FHWA Docket No. 76-20, 400 7th Street, SW., Washington, D.C. 20590. It would be appreciated if they were sent in triplicate. All comments and suggestions will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., Monday through Friday.

In consideration of the foregoing, Chapter I of Title 23, CFR is hereby amended by adding to Subchapter F new Parts 520, 522, 524, 530, 540, 542, 544, and 560 as set forth below.

The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Effective date: January 5, 1977.

Issued on: December 9, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Subchapter F of 23 CFR reads as follows:

PART 520—MANAGEMENT OF THE RESEARCH AND DEVELOPMENT (R. & D.) PROGRAM—GENERAL

Sec.
520.1 Purpose.
520.3 Definition.
520.5 Policy on eligibility.
520.7 Policy on civil rights.
520.9 Policy on travel.

AUTHORITY: 23 U.S.C. 302, 307(c), 315; 49 CFR 1.48(b).

§ 520.1 Purpose.

The purpose of this regulation is to prescribe policies and procedures for the Federal-aid R. & D. Program regarding civil rights, travel and eligibility of work.

§ 520.3 Definition.

As used in this regulation, "Federal-aid R. & D. Work Program" is the R. & D. portion of each State Highway Agency's (SHA) annual Highway Planning and Research (HP&R) work program.

§ 520.5 Policy on eligibility.

(a) The criteria for the determination of the eligibility of R&D studies, activities and equipment for inclusion in the R. & D. portion of the HP&R program are based on 23 U.S.C. 302 and 307(c). The following tests shall be made in determining eligibility for the proposed activity.

(1) Does it qualify as an objective of the enabling legislation as defined in section 307(c)?

(2) Will it contribute to the attainment of one or more of the objectives?

(3) Is it normally needed as part of a suitably equipped and organized SHA?

(b) If the answer to questions (1) and (2) is yes and to question (3) is no, the item is normally eligible for funding under the Federal-aid R. & D. Work Program.

§ 520.7 Policy on civil rights.

The SHA shall assure that full consideration of Title VI of the Civil Rights Act of 1964 (see the Federal-Aid Highway Program Manual, Volume 2, Civil Rights)[1] is included in all stages of research and development operations, and that universities and consultants performing these services comply with the provisions of Title VI. Title VI considerations should also be discussed at the periodic program review conferences. Regarding FHWA Administrative contracts, the FHWA contracting officers and R. & D. contract managers shall assure that FHWA contractors comply with the Equal Opportunity clause of the Federal Procurement Regulations (41 CFR 1-12.8).

§ 520.9 Policy on travel.

The chief executive officer of the SHA, or his designee, shall determine the necessity of and approve travel, foreseen and unforeseen, in connection with any Federal-aid R&D activity whether by SHA personnel, or by personnel of an organization under contract to the SHA.

PART 522—RESEARCH AND DEVELOPMENT PROPERTY MANAGEMENT

Sec.
522.1 Purpose.
522.3 Definition.
522.5 Policy.
522.7 Disposal of nonexpendable equipment.
522.9 Inventory.
522.11 Patents and inventions.

AUTHORITY: 23 U.S.C. 101(d), 307(c) and 315; 49 CFR 1.48(b).

§ 522.1 Purpose.

The purpose of this regulation is to prescribe policies and procedures for the purchase, rental and management of

[1] The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

R. & D. property financed under the Federal-aid R. & D. program.

§ 522.3 Definition.

As used in this regulation, "nonexpendable equipment" is equipment having a useful life of more than one year and an acquisition cost of more than $500 per unit.

§ 522.5 Policy.

Nonexpendable equipment for an R. & D. study shall be purchased and managed in such a manner that only those equipment costs reasonably attributable to the study are charged to that study. Any residual value in the nonexpendable equipment purchased with HP&R funds shall be properly disposed of at the completion of the study. The State highway agency (SHA) shall obtain prior Federal Highway Administration (FHWA) approval, on all equipment purchased, rented, or disposed of which exceeds $1,000, except as provided in 23 CFR Part 524, R. & D. Management Option.

§ 522.7 Disposal of nonexpendable equipment.

If nonexpendable equipment has residual value after use in the specific study for which it was purchased, arrangements for its disposal by sale or transfer shall be approved by FHWA.

§ 522.9 Inventory.

The SHA's shall maintain an inventory record for each piece of nonexpendable equipment purchased or built under the Federal-aid R&D program. The inventory shall also include equipment acquired and/or constructed for use on research work at any of the universities doing cooperative research financed under the R&D portion of the HP&R program.

§ 522.11 Patents and inventions.

If an HP&R study produces patents, patent rights, processes or inventions, the SHA shall follow procedures similar to those set forth in 23 CFR 420.205(a)(15) to assure the preservation of the public's rights in inventions resulting from HP&R studies.

PART 524—R. & D. MANAGEMENT OPTION

Sec.
524.1 Purpose.
524.3 Policy.
524.5 Definitions.
524.7 Procedures.

AUTHORITY: 23 U.S.C. 307(c), 315; 49 CFR 1.48(b).

§ 524.1 Purpose.

The purpose of this regulation is to prescribe policies and procedures for waiving specified R. & D. administrative requirements if a State highway agency (SHA) satisfies specified management standards.

§ 524.3 Policy.

SHA's which meet certain R. & D. management standards may operate under the R. & D. management option which grants greater flexibility in the administration of the Federal-aid R. & D. program.

§ 524.5 Definitions.

As used in this regulation

(a) "Federal-aid R. & D. Work Program" is the R. & D. portion of each State's annual Highway Planning and Research (HP&R) work program.

(b) "Type A Study" is a study whose total cost generally exceeds $30,000 and/or the time required to complete the study generally exceeds 2 years and the study is not one of the types described in 23 CFR 540.11(a), R. & D. New Studies.

(c) "Type B Study" is an R. & D. study whose cost is generally $30,000 or less, the time required for completion is generally 2 years or less, and the study is one of the types described in 23 CFR 540.11(a), R. & D. New Studies.

§ 524.7 Procedures.

(a) Any SHA operating under the R. & D. management option may take the following actions on Federal-aid R. & D. studies without prior Federal Highway Administration (FHWA) approval:

(1) Initiation of new Type B studies listed in the current SHA R. & D. work program except those which require FHWA approval of the statement of work (work plan) in accordance with 23 CFR Part 420, Subpart B, Contracts.

(2) Clearance of the presentation or publication of papers and articles. (see 23 CFR Part 544)

(3) Make all minor changes listed in 23 CFR Part 542 R. & D. Studies—Changes and Terminations.

(4) Make major personnel changes described in 23 CFR Part 542, R. & D. Studies—Changes and Terminations.

(5) Make all major changes in Type B studies listed in 23 CFR Part 542, R. & D. Studies—Changes and Terminations.

(6) Purchase or rent equipment provided the total cost is $30,000 or less. (See 23 CFR Part 522, Research and Development Property Management.)

(b) The FHWA shall be fully informed of all actions the SHA takes in accordance with paragraph (a) of this section by transmittal of copies of the action documents to FHWA.

(c) In order to qualify for this alternate procedure, a SHA shall meet the following R. & D. management standards:

(1) The SHA has established an R. & D. advisory council or committee.

(2) The SHA has prepared an R. & D. manual documenting the current internal operating procedures and regulations which include the requirements of Title 23, Code of Federal Regulations, Subchapter F and adequate to manage the program. FHWA procedures in the 23 CFR may be incorporated by reference where required.

(3) The SHA's internal reporting and review procedures are adequate to control the SHA's R. & D. portion of the HP&R work program.

(4) The SHA's fiscal accounting and review procedures are adequate to control the use of funds for the SHA's Federal-aid R. & D. program.

(d) If a SHA desires to manage its Federal-aid R. & D. program under this option, the SHA shall submit a request to FHWA and document that it meets the R. & D. management standards.

(e) If the SHA's request meets the standards, its request to operate under the R. & D. management option shall be approved. If the SHA's R. & D. management is in substantial (but not complete) agreement with the standards, the SHA's request may be approved on a provisional basis for a period not to exceed 1 year.

(f) Any R. & D. management options which are approved shall be reviewed annually, preferably at the time the Federal-aid R. & D. work programs are reviewed. The approval of a SHA's management option shall be withdrawn if the SHA's management of the Federal-aid R. & D. program is inadequate.

PART 530—R. & D. ANNUAL WORK PROGRAM—GENERAL

Sec.
530.1 Purpose.
530.3 Definitions.
530.5 Policy.
530.7 Limitations for type B studies.
530.9 Elements of the R. & D. work program.

AUTHORITY: 23 U.S.C. 307(c) and 315; 49 CFR 1.48(b).

§ 530.1 Purpose.

The purpose of this regulation is to prescribe policies and procedures for the R. & D. portion of the Highway Planning and Research (HP&R) work program.

§ 530.3 Definitions.

As used in this regulation

(a) "Budget Item" is a short descriptive title in the summary tabulation with its associated budget estimate.

(b) "HP&R Work Program, Part I" is the planning portion of each State highway agency's (SHA's) annual or biennial HP&R work program as described in 23 CFR Part 420, Subpart A, Program Approval and Authorization.

(c) "HP&R Work Program, Part II (R&D Work Program)" is the research and development portion of each SHA's annual or biennial HP&R work program.

(d) "Type A Study" is an R. & D. study whose total cost generally exceeds $30,000 and/or the time estimated to complete the study generally exceeds 2 years and the study is not one of the types described in 23 CFR 540.11(a), R. & D. New Studies.

(e) "Type B Study" is an R. & D. study whose total cost is generally $30,000 or less, the time estimated for completion is generally 2 years or less, and the study is one of the types described in 23 CFR 540.11(a), R. & D. New Studies.

§ 530.5 Policy.

The SHA shall prepare the R. & D. portion of the proposed annual or biennial HP&R work program and submit it to FHWA for approval.

§ 530.7 Limitations for type B studies.

(a) Total Cost—The total amount allocated for all "Type B" studies in any State during any work program year

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shall not exceed $100,000 or 30 percent, whichever is greater, of the total Federal and State Funds allocated to the R. & D. portions of the HP&R work program.

(b) Individual Studies—Limitations concerning individual Type B studies are described in 23 CFR Part 540, R. & D. New Studies.

§ 530.9 Elements of the R. & D. work program.

(a) A summary tabulation shall be prepared listing the Type A and Type B studies.

(b) Each Type A and Type B study listed as a budget item in the summary tabulation shall be described in the work program.

PART 540—R. & D. NEW STUDIES

Sec.

540.1 Purpose.
540.3 Definitions.
540.5 Policy.
540.7 General.
540.9 Type A studies.
540.11 Type B studies.
540.13 Study proposals.

AUTHORITY: 23 U.S.C. 307(c), 315; 49 CFR 1.48(b).

§ 540.1 Purpose.

The purpose of this regulation is to prescribe policies and procedures for new R. & D. studies in the R. & D. portion of the Highway Planning and Research (HP&R) work program.

§ 540.3 Definitions.

As used in this regulation:

(a) "Proposal" is an outline of specific research to be conducted which includes such items as description of the objectives, work plan, and manpower and budget estimate.

(b) "Type A Study" is an R. & D. study whose total cost generally exceeds $30,000 and/or the time estimated to complete the study generally exceeds 2 years and the study is generally not one of the types described in 23 CFR 540.11(a).

(c) "Type B Study" is an R. & D. study whose cost is generally $30,000 or less, the time estimated for completion is generally 2 years or less, and the study is one of the types described in 23 CFR 540.11(a).

§ 540.5 Policy.

State highway agencies (SHA's) are encouraged to initiate new R. & D. studies to solve local, regional, and national problems using HP&R funds in partnership with FHWA. To assure a minimum of duplication in R. & D. work, new studies shall be coordinated with the work of others in the subject area. New studies may address a new subject area or may extend, modify or refine previous work in a subject area.

§ 540.7 General.

R. & D. studies shall be classified as Type A or Type B: The major considerations being objective, duration, and total cost.

§ 540.9 Type A studies.

SHA initiates a request for Type A study by submitting copies of the study proposal to the appropriate FHWA division office.

§ 540.11 Type B studies.

(a) Type B R. & D. studies are limited to one of the following types:

(1) Short-Term, low-cost studies,

(2) Exploratory, survey, or feasibility studies,

(3) Experimental construction studies,

(4) Implementation efforts.

(b) Limitation on a Type B study:

(1) The estimated total cost of a single Type B study shall not exceed $30,000 or require more than 2 years to complete. However, if unanticipated costs develop or reasonable delays are incurred in conducting the work, Type B study funding may be increased beyond this limitation with the prior approval of the FHWA.

(2) Exceptions to the cost and time limitations are experimental construction studies for which evaluations and reporting are not funded as "Preliminary Engineering," under a Federal-aid construction project. For experimental construction studies, after the initial research tests associated with installation or construction have been completed, performance evaluation may continue at an annual cost of not more than $5,000 until such time as it becomes evident that additional information of experimental value is unlikely to develop, or for a maximum not to exceed 8 years, whichever is lesser.

(c) Except as specified in 23 CFR Part 524, R. & D. Management Option, a SHA shall initiate a request for a Type B study by submitting copies of the proposal for the study to the appropriate FHWA division office.

§ 540.13 Study proposals.

(a) *General.* A research study proposal shall be a well thought-out document which establishes the necessity for a research undertaking, clearly defines the objective, provides a detailed work plan for achieving the objective, and indicates how the research findings are expected to be used.

(b) *Reports.* The preparation of a final report (for submittal to FHWA) shall be required in the proposal as a condition of study approval by FHWA.

PART 542—R. & D. STUDIES—CHANGES AND TERMINATIONS

Sec.

542.1 Purpose.
542.3 Definitions.
542.5 Policy.
542.7 Type A and Type B study changes.
542.9 R. & D. work program changes.
542.11 Terminations.

AUTHORITY: 23 U.S.C. 307(c), 315; 49 CFR 1.48(b).

§ 542.1 Purpose.

The purpose of this regulation is to prescribe policies and procedures for changes and terminations in R. & D. studies.

§ 542.3 Definitions.

As used in this regulation

(a) "Major Cost Change" is a change in the cost of the study which increases the total cost by $25,000 or more.

(b) "Major Personnel Change" is a change in the principal investigator(s) of a study.

(c) "Major Work Change" is a change, including termination, in the objective, scope or work plan of a study which significantly alters the course or the expected results of the study.

(d) "Minor Cost Change" is a change in the cost of the study which increases the total cost by less than $25,000.

(e) "Minor Personnel Change" is a change in study personnel other than the principal investigator.

(f) "Minor Work Change" is any other change in the work plan of the study.

§ 542.5 Policy.

Changes and terminations in R. & D. studies shall require prior Federal Highway Administration (FHWA) approval except as provided in this regulation or 23 CFR Part 524, R. & D. Management Option.

§ 542.7 Type A and Type B study changes.

(a) *Major Cost Changes.* A major change shall be justified by the researchers and forwarded by the SHA to FHWA for approval.

(b) *Major Work Changes.* Major changes in the objective, scope, or work plan shall be fully documented and submitted to FHWA for approval.

(c) *Major Personnel Changes.* Changes in the principal investigator shall be submitted to FHWA for approval except as provided in 23 CFR Part 524, R. & D. Management Option.

(d) *Minor Cost Changes.* Minor cost changes less than $1,000 may be made by the SHA without FHWA approval. Other minor cost changes shall be submitted to FHWA for approval except as provided in 23 CFR Part 524, Management Option.

(e) *Other Minor Changes.* Other minor changes shall be submitted to FHWA for approval except as provided in 23 CFR Part 524, R. & D. Management Option.

§ 542.9 R. & D. Work Program Changes.

(a) Changes which are made for individual studies are automatically changes in the current R. & D. work program and no further action is required unless a cost increase exceeds the funds available in the Highway Planning and Research (HP&R) project agreement. If a cost increase exceeds the funds available, a cost change shall not be made until the PR–2, Project Agreement, has been modified to permit the cost increase in accordance with 23 CFR Part 630, Subpart C.

(b) Other work program changes, such as a cost increase in the administrative line item, shall be submitted to FHWA for approval.

§ 542.11 Terminations.

The termination of an R. & D. study is a major work change for the purposes of FHWA approval. A SHA may terminate a previously approved study prior to fulfillment of its objectives when the SHA and FHWA conclude that further research will be unproductive and/or unwarranted. To terminate a study under these circumstances, the SHA shall submit copies of a formal request for termination to the FHWA.

PART 544—REPORTS ON R. & D. STUDIES

Sec.

544.1 Purpose.
544.3 Definition.
544.5 Policy.
544.7 Final reports.

AUTHORITY: 23 U.S.C. 307(c), 315; 49 CFR 1.48(b).

§ 544.1 Purpose.

The purpose of this regulation is to prescribe policies and procedures for reports from the R. & D. studies.

§ 544.3 Definition.

As used in this regulation, "Final Report" is a report documenting a completed study.

§ 544.5 Policy.

A final report shall be prepared and submitted to the Federal Highway Administration (FHWA) upon completion of an R. & D. study as required in 23 CFR Part 540. This report shall document the findings and results of the study or reference other study reports which contain this information. When the work is not normally expected to result in a final report, such as for implementation efforts, this provision will not apply.

§ 544.7 Final reports.

Each final report should contain a summary statement on research implementation. This statement should point out practical applications of research findings, give recommended procedures for implementation, expected benefits and/or recommendations for additional work needed to achieve implementation. The statement should be prepared cooperatively by the researcher and State operations personnel in the area of concern. If significant implementation is proposed which could be profitably shared and an Implementation Package is going to be prepared, it should be indicated here.

PART 560—FEDERAL-AID FUNDS WITHOUT STATE MATCHING ON SPECIAL R. & D. PROJECTS

Sec.

560.1 Purpose.
560.3 Definitions.
560.5 Policy.
560.7 Procedures.

AUTHORITY: 23 U.S.C. 307(c), 315; 49 CFR 1.48(b).

§ 560.1 Purpose.

The purpose of this regulation is the prescribe the policies and procedures for determining when Highway Planning and Research (HP&R) funds may be used without State matching in the area of R. & D.

§ 560.3 Definitions.

As used in this regulation

(a) "Pooled Fund Study" is a study funded by two or more State Highway Agencies (SHA's).

(b) "National Pooled Fund Study" is a pooled fund study administered by the FHWA Washington Headquarters in cooperation with the sponsoring SHA's.

(c) "Intra-Regional Cooperative Study" is a pooled fund study administered by the lead SHA and the appropriate regional office in cooperation with the other sponsoring SHA's.

(d) "National Cooperative Highway Research Program (NCHRP)" is a pooled fund program sponsored by the SHA's, and FHWA, and administered by the Transportation Research Board, National Academy of Sciences.

§ 560.5 Policy.

(a) The following criteria are used by FHWA for determining when HP&R funds used for R. & D. studies without State matching would best serve the interests of the Federal-aid highway program:

(1) The proposed study or program addresses a national or regional problem of high priority.

(2) The proposed study or program has generated wide interest among the SHA's and would involve two or more SHA's.

(3) The proposed study satisfies the requirements in 23 CFR Part 540, R. & D. New Studies.

(4) The results of the proposed study or program will be immediately implementable, and

(5) HP&R 100-percent funding will facilitate the pooling of funds from several SHA's.

(b) The following criteria are used by FHWA for determining other cases when HP&R funds without State matching would best serve the interests of the Federal-Aid highway program:

(1) The proposed study activity in a State addresses a problem of specific and significant national interest, and

(2) The proposed study activity in a State is requested by the Associate Administrator for R. & D. to complement a FHWA R. & D. contract activity being conducted in that State.

§ 560.7 Procedures.

Proposals for a 100-percent pooled fund R. & D. study shall be submitted to the Associate Administrator for R. & D. for review. If the proposal meets the criteria set forth in 23 CFR 560.5(a) the Associate Administrator for R. & D. may recommend the study for 100-percent funding to the Federal Highway Administrator.

[FR Doc.76-37111 Filed 12-16-76;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 674–76]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart C—Office of the Deputy Attorney General

OFFICE OF PRIVACY AND INFORMATION APPEALS

The Freedom of Information Act and the Privacy Act of 1974 (5 U.S.C. 552, 552a) require agencies to establish internal mechanisms for administrative appeals from denials of access to information or records subject to these laws. In the Department of Justice, these appeal functions have been assigned to the Freedom of Information Appeals Unit in the Office of the Deputy Attorney General (23 CFR 0.18). This order redesignates the Freedom of Information Appeals Unit as the Office of Privacy and Information Appeals and formally adds to the regulations the functions of handling Privacy Act appeals and providing staff support to the Department Review Committee, established by 28 CFR 17.38.

By virtue of the authority vested in me by 5 U.S.C. 301, 552, and 552a, 28 U.S.C. 509 and 510, and Executive Order No. 11652 of March 8, 1972, as amended, § 0.18 of Subpart C of Part O of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

§ 0.18 Office of Privacy and Information Appeals.

The Office of Privacy and Information Appeals is established in the Office of the Deputy Attorney General, under the supervision of the Deputy Attorney General, to assist in acting on Privacy and Freedom of Information appeals under §§ 16.47 and 16.7, respectively, of this chapter, except that in the case of appeals from initial decisions in which the Deputy Attorney General participated this assistance shall be provided by the Office of Legal Counsel. The Office of Privacy and Information Appeals shall provide staff support to the Department Review Committee, established by § 17.38 of this chapter.

Dated: December 8, 1976.

EDWARD H. LEVI,
Attorney General.

[FR Doc.76-37113 Filed 12-16-76;8:45 am]

Title 31—Money and Finance

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY

PART 13—PROCEDURES FOR PROVIDING ASSISTANCE TO STATE AND LOCAL GOVERNMENTS IN PROTECTING FOREIGN DIPLOMATIC MISSIONS

On September 17, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 40139), which proposed to add a new Part to Subtitle A of Title 31 of the Code of Federal Regulations to prescribe procedures governing protective and financial assistance to State and local governments in

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the protection of foreign diplomatic missions as authorized by sections 202 and 208 of title 3, United States Code, as amended and added, respectively, by Pub. L. 94–196 (89 Stat. 1109).

Specifically, section 202, title 3, United States Code, as amended by Pub. L. 94–196, authorizes Executive Protective Service protection of foreign diplomatic missions located in metropolitan areas in the United States (other than the District of Columbia) where there are located twenty or more such missions headed by full-time officers, except that such protection shall be provided only (A) on the basis of extraordinary protective need, (B) upon request by the affected metropolitan area, and (C) when the extraordinary protective need arises in association with a visit to or occurs at a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of such organization, provided that such protection may be extended at places of temporary domicile in connection with such a visit. Further, section 208 of title 3, United States Code, as added by Pub. L. 94–196, provides that the services, personnel, equipment, and facilities of State and local governments may be utilized, with their consent, on a reimbursable basis, to provide protection.

Interested persons were given until October 18, 1976, to submit written data, views, or arguments to the Assistant Secretary (Enforcement, Operations and Tariff Affairs), Department of the Treasury, regarding the proposal. Data, views and arguments were received from three people.

Two commentators suggested that § 13.3(b)(3) of the regulations be expanded to provide that the costs of protection by State and local governments may be reimbursable where the protection is not only extended to the mission itself, but also to: (1) all activities in connection with the visit to the mission; (2) a visit to an international organization, whether or not the visitor actually enters his or her mission building during the visit; and (3) travel between the mission and the international organization. These suggestions could not be incorporated into these regulations since Pub. L. 94–196 clearly provides for reimbursement only for protection by State and local governments of "foreign diplomatic missions * * * except that such protection shall be provided only [upon certain specific conditions] * * *, provided that such protection may be extended to places of temporary domicile in connection with such a visit." Pub. L. 94–196 does not provide for reimbursement for protection of other locations, activities or persons.

One commentator also suggested that the regulations make clear that the costs of protection by State and local governments of places of temporary domicile are also reimbursable. The regulations already provide for reimbursement of such costs under §§ 13.3(b), 13.5, 13.6, and 13.7.

Another commentator inquired whether additional protection necessitated by an extraordinary protective need at a mission where police are always stationed would be reimbursable. The regulations as proposed do cover such additional protection.

Another comment was that a new section should be added to the regulations which would provide for an appeal to the Secretary of the Treasury from any decision of the Assistant Secretary made in connection with these regulations. Inasmuch as the Assistant Secretary is acting for the Secretary under these regulations, this suggestion was not incorporated into these regulations.

A suggestion was also made that the definition of "extraordinary protective need" as found in § 13.2(b) of the proposed regulations, should be redefined to include not only actual, but also potential, violent confrontations. This suggestion was not accepted inasmuch as the potentially violent confrontation was not envisioned by the drafters of the legislation as indicated by the legislative history. In the report of the House Committee on Public Works and Transportation which considered the predecessor H.R. 1184, the definition of extraordinary protective need is explained at page 3. The definition covers the need for extra protection occasioned by specific events such as the 25th anniversary of the United Nations, and international incidents resulting in confrontations between nationalistic groups which require additional heavy police protection beyond the ordinary capacity of the local governments. The report goes on to cite such confrontations as the Middle East conflict in late 1973; the Greek/Turkish Cypriot conflict; and the Yasser Arafat visit in the Fall of 1974. Report No. 94–185, 94th Congress, First Session, Committee on Public Works and Transportation. The report also indicated that under ordinary circumstances the protection of foreign missions outside of the District of Columbia metropolitan area, is a matter under the jurisdiction of the local law enforcement agencies.

Therefore, potentially violent confrontations would be a local concern and would not give rise to an extraordinary protective need unless there was evidence of an example of a situation similar to that mentioned in the above cited report at page 3.

Since these regulations involve a foreign affairs function of the United States, good cause is found not to delay the effective date of these regulations.

Accordingly, Title 31, Code of Federal Regulations is amended by adding a new Part 13, "Procedures for Providing Assistance to State and Local Governments in Protecting Foreign Diplomatic Missions," as set forth below.

Effective date: This part takes effect on December 17, 1976.

The Department of the Treasury has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 9, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

Sec.
13.1 Purpose.
13.2 Definitions.
13.3 Eligibility to receive protection.
13.4 Requests for protection.
13.5 Utilization of the services, personnel, equipment, and facilities of State and local governments.
13.6 Reimbursement of State and local governments.
13.7 Reimbursement when the Assistant Secretary makes no determination to utilize State and local government services, personnel equipment, and facilities.

Appendix I: Form of request for assistance.
Appendix II: Form of bill for reimbursement.

AUTHORITY: Secs. 202 and 208, title 3, U.S. Code, as amended and added, respectively, by Pub. L. 94–196 (89 Stat. 1109); 5 U.S.C. 301.

§ 13.1 Purpose.

This part prescribes the procedures governing protective and financial assistance to State and local governments when an extraordinary protective need requires the protection of foreign diplomatic missions as authorized by sections 202 and 208 of title 3, U.S. Code, as amended and added, respectively, by Public Law 94–196 (89 Stat. 1109).

§ 13.2 Definitions.

As used in this part, these terms shall have the following meaning:

(a) The term "Assistant Secretary" means the Assistant Secretary of the Treasury (Enforcement, Operations and Tariff Affairs).

(b) The term "extraordinary protective need" means a need for protection requiring heavy reinforcements of police personnel or equipment, or both, significantly beyond the ordinary deployments of the State or local government, arising out of: (1) Violent confrontations between nationalist groups, (2) threats or acts of violence by terrorist groups, or (3) a specific diplomatic event or visit. Such a need is not occasioned by the day-to-day protection of foreign diplomatic missions, or the protection occasioned by an isolated threat of a single individual.

(c) The term "foreign diplomatic mission" means a mission (including foreign consular offices) of a foreign country located in the United States.

(d) The term "full time officers" means permanent officers whose duties as foreign diplomatic officers occupy their full time.

(e) The term "international organization" means those international organizations designated by Presidential Executive Order as being entitled to the privileges, immunities, and exemptions accorded under the International Organization Immunities Act of December 29, 1945 (22 U.S.C. 288).

(f) The term "metropolitan area" means a city in the United States (other than the District of Columbia) and those areas contiguous to it.

(g) The term "observer mission" means a mission invited to participate in the work of an international organization by that organization. The invitation to participate shall be extended by the international organization pursuant to the same internal rules of the international organization as are applicable to any permanent mission.

(h) The term "permanent mission" means a fixed continuing mission staffed by full time officers and maintained by a member state of an international organization.

(i) The term "temporary domicile" means a domicile of limited duration of a visiting foreign dignitary or officer in connection with a visit to a permanent or observer mission to an international organization in a metropolitan area.

§ 13.3 Eligibility to receive protection.

(a) Protection, as determined by the Assistant Secretary, will be provided by the Executive Protective Service pursuant to section 202 of title 3, U.S. Code, as amended by Public Law 94–196, only to foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) where there are located twenty or more such missions, as determined by the Secretary of State, which are headed by full time officers. According to present State Department figures, the following metropolitan areas have 20 or more such foreign diplomatic missions: Chicago, Houston, Los Angeles, Miami, New York City, New Orleans, and San Francisco.

(b) Protection will be provided in the metropolitan areas described in paragraph (a) of this section only if:

(1) The affected metropolitan area requests such protection;

(2) The Assistant Secretary determines that an extraordinary protective need exists; and

(3) The extraordinary protective need arises in association with a visit to or occurs at: (i) A permanent mission to an international organization of which the United States is a member or (ii) an observer mission invited to participate in the work of an international organization of which the United States is a member.

(c) Protection may be extended at places of temporary domicile in connection with a visit under paragraph (b) of this section.

§ 13.4 Requests for protection.

(a) Requests for protection shall be made to: Assistant Secretary (Enforcement, Operations, and Tariff Affairs), Department of the Treasury, Washington, D.C. 20220. Each government requesting the protection authorized pursuant to section 202 of title 3, U.S. Code, as amended by Public Law 94–196, shall submit an application describing the extraordinary protective need. Applications made pursuant to this section shall be submitted to the Assistant Secretary 14 days before the extraordinary protective need is expected to arise. If the extraordinary protective need arises in association with a visit, the application shall include the name and title of the visiting foreign official or dignitary, the country he represents, and the name and location of the international organization or mission he will be visiting. The application shall also include, if available, the temporary domicile of the visiting official or dignitary and his schedule, including dates and times of arrival and departure from the United States. If the extraordinary protective need occurs at a permanent mission to an international organization of which the U.S. is a member or an observer mission invited to participate in the work of such organization, the application shall include the name and location of the mission. State and local governments shall also indicate on the application whether they desire to provide the protection. In order to assist the Assistant Secretary in determining whether to utilize the Executive Protective Service to meet the extraordinary protective need, or to utilize, with their consent, the services, personnel, equipment, and facilities of the State or local government, or both, the application must include an estimate of the approximate number of personnel, by grade and rank, the specific services, equipment, and facilities required, along with an estimate of the cost of such personnel, services, equipment, and facilities. This application must be submitted in the format illustrated in Appendix I of this part.

(b) Upon receipt of a request for protection pursuant to paragraph (a) of this section and for the purposes of reimbursement pursuant to §§ 13.6 and 13.7, the Assistant Secretary will determine whether an extraordinary protective need exists. In making his determination, the Assistant Secretary may consult with appropriate Federal, State, and local government agencies.

§ 13.5 Utilization of the services, personnel, equipment, and facilities of State and local governments.

(a) The Assistant Secretary may decide to utilize, on a reimbursable basis, the services, personnel, equipment, and facilities of State and local governments of the affected metropolitan area desiring to provide protection, or he may utilize the Executive Protective Service, or both. If only the Executive Protective Service is utilized to meet the extraordinary protective need, the governments of the affected metropolitan area will not be reimbursed. If the Assistant Secretary decides to utilize, with their consent, the services, personnel, equipment, and facilities of such State and local government to meet the extraordinary protective need, he will so notify the government within 7 days after receipt of a request for protection made pursuant to § 13.4.

(b) If the Assistant Secretary decides to utilize the services, personnel, equipment, and facilities of such State and local governments of the affected metropolitan area upon request for protection made pursuant to § 13.4, he will advise those governments within 7 days after receipt of such request for protection regarding the extent of the reimbursement permitted by law for such services, personnel, equipment, and facilities, but such reimbursement shall not exceed the estimates submitted pursuant to § 13.4, unless the Assistant Secretary is further consulted.

§ 13.6 Reimbursement of State and local governments.

(a) State and local governments providing services, personnel, equipment, or facilities to the affected metropolitan area pursuant to § 13.5 may forward to the Assistant Secretary a bill for reimbursement for the personnel, equipment, facilities, and services utilized in meeting the extraordinary protective need. The bill shall be in accordance with the format in Appendix II of this part. The Assistant Secretary will reimburse only those incremental costs directly related to the extraordinary protective need. Costs of an indirect nature such as administrative costs, overhead, and depreciation will not be reimbursable. For the purposes of reimbursement the Assistant Secretary will in all cases determine when the extraordinary protective need began and terminated.

(b) State and local governments requesting reimbursement shall permit representatives of the Assistant Secretary and the General Accounting Office to audit and examine their records and accounts pertaining to any bills for reimbursement at such reasonable times and places as may be mutually agreed upon by the State and local governments and said representatives. Each claimant shall insure access to the such records and accounts.

§ 13.7 Reimbursement when the Assistant Secretary makes no determination to utilize State and local government services, personnel, equipment and facilities.

(a) In the event there is insufficient time to submit a request for protective assistance pursuant to § 13.4 prior to the occurrence of an extraordinary protective need, and State or local governments, or both, utilized their own services, personnel, equipment, and facilities to provide extraordinary protection, an application by such government to the Assistant Secretary for reimbursement otherwise conforming to the requirements of this part will be considered. Each application submitted under such circumstances must explain why there was insufficient time to submit a timely request.

(b) In cases where State or local governments, or both, utilized their own services, personnel, equipment, and facilities to provide protection for an extraordinary protective need, and no request for protective assistance pursuant to § 13.4 was made because the extraordinary protective need occurred

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prior to the promulgation of this Part but after July 1, 1974, an application by such government to the Assistant Secretary for reimbursement otherwise conforming to the requirements of this part will be considered.

APPENDIX I—FORM OF REQUEST FOR ASSISTANCE

I hereby request assistance from the Department of the Treasury pursuant to section 202 of Title 3, U.S. Code, as amended by Public Law 94–196. This assistance is needed to enable the affected metropolitan area of _____ to meet an extraordinary protective need, which is expected to arise on _____.
(Date)

The nature of the extraordinary protective need prompting this request is as follows:

(If in association with a visit, include the name and title of the visiting foreign official or dignitary, the country represented and the name and location of the international organization or mission to be visited. The temporary domicile of the visiting official or dignitary and his schedule, including dates and times of arrival and departure from the United States, if available, must also be included. If the extraordinary protective need occurs at a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of the organization, the application shall include the name and location of the mission.)

The _____ _____
(Governmental entity) (Is or is not)
_____ prepared to provide _____
(All of or a portion of)
the protection required to meet this need. Attached is an estimate of the approximate number of personnel, by grade and rank, and the specific services, equipment and facilities which will be required to meet this extraordinary protective need, along with an estimate of the cost of such personnel, services, equipment, and facilities.

_____
(Date)

_____
(State or local government of the affected metropolitan area)

_____
(Signature)

_____
(Title)

APPENDIX I(A)

Summary of Estimated Direct Costs for the Period_____to_____

Date (mo/day)	Personnel	Equipment	Facilities	Services	Daily Total
Period Total					

* Attach daily cost estimating sheets (Appendix I(B) through I(E).

Estimated Personnel Costs
Date:_____

APPENDIX I (B)

1	2	3	4	5	6	7	8	9	10
Explanation of Duties to be Performed	Number	Rank	Straight Hourly Rate	Straight Manhours	Sub-total (4 X 5)	Overtime Hourly Rate	Overtime Manhours	Subtotal (7 X 8)	Total (6 + 9)
Total									

Comments:

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APPENDIX I (C)

Estimated Equipment Costs
Date:_____

1 Explanation of How Equipment is to be Used	2 Nature of Equipment	3 Unit Measure	4 Total Units	5 Unit Cost	6 Total Cost (4 X 5)
Total					

Comments:

APPENDIX I (D)

Estimated Facilities Costs
Date:_____

1 Explanation of How Facilities are to be Used	2 Nature of Facilities	3 Unit Measure	4 Total Units	5 Unit Cost	6 Total Cost (4 X 5)
Total					

Comments:

APPENDIX I (E)

Estimated Services Costs
Date: _____

1 Explanation of How Services are to be Used	2 Nature of Services	3 Unit Measure	4 Total Units	5 Unit Cost	6 Total Cost (4 X 5)

APPENDIX II(B)

Personnel Costs
Date:_____

1 Explanation of duties to be performed	2 Number	3 Rank	4 Straight Hourly Rate	5 Straight Manhours	6 Sub-total (4 X 5)	7 Overtime Hourly Rate	8 Overtime Manhours	9 Sub-total (7 X 8)	10 Total (6 + 9)
Total									

Comments:

APPENDIX II(C)

Equipment Costs
Date:_____

1 Explanation of How Equipment Was Used	2 Nature of Equipment	3 Unit Measure	4 Total Units	5 Unit Cost	6 Total Cost (4 X 5)
Total					

Comments:

APPENDIX II(D)

Facilities Cost____
Date:____

1	2	3	4	5	6
Explanation of How Facilities Were Used	Nature of Facilities	Unit Measure	Total Units	Unit Cost	Total Cost (4 X 5)
Total					

Comments:

APPENDIX II(E)

Services Costs
Date:_____

1	2	3	4	5	6
Explanation of How Services Were Used	Nature of Services	Unit Measure	Total Units	Unit Cost	Total Cost (4 X 5)
Total					

Comments:

[FR Doc.76-37077 Filed 12-16-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 658-3]

PART 55—ENERGY-RELATED AUTHORITY

Georgia: Compliance Date Extensions

• *Purpose.* The purpose of this promulgation is to issue compliance date extensions (CDE's) for the Savannah Electric and Power Company's Port Wentworth Generating Station, Units 1, 2, and 3, Chatham County, Georgia (hereinafter referred to as "the units"), with respect to Georgia air pollution control regulation 391-3-.02(2)(d), which limits emissions of particulate matter. These CDE's are issued with the condition that the units be equipped with adequate air pollution control devices (electrostatic precipitators) before burning coal. The units must remain in compliance with all applicable air pollution requirements by continuing to burn low-sulfur oil until the electrostatic precipitators are operational. Conversion from oil to coal cannot take place until the electrostatic precipitators are installed in accordance with the installation schedules set forth below. •

EPA's decision to require air pollution controls before coal burning is based on two technical findings:

(1) The existing air quality in the Savannah Air Quality Control Region (AQCR) in which the units are located does not meet the national primary ambient air quality standard for particulate matter.

(2) Immediate conversion to coal burning without adequate air pollution controls would result in violations of the primary ambient air quality standards for particulate matter. Particulate emissions from burning coal in the units without adequate controls would be greater than the particulate emissions from all other sources in the Savannah AQCR combined, and would greatly violate the applicable particulate emission limiting regulation of the Georgia regulations.

Under section 119(c)(2)(D) of the Clean Air Act, these findings require that the units may not burn coal until they can comply with the above-mentioned particulate emission limiting regulation of the Georgia implementation plan. This requirement is known as the "regional limitation." The technical basis for imposing the regional limitation on the Port Wentworth Plant was published in the FEDERAL REGISTER on June 22, 1976 (41 FR 25025), and a public hearing was held in Savannah on September 8, 1976. The public comments received before, during and after the hearing did not, in EPA's opinion, invalidate the technical findings on which the regional limitation is based.

However, EPA will review all air quality data from the air monitoring network in the Savannah AQCR as it becomes available. If this review shows that the national ambient air quality standards for particulate matter are being met, the CDE's may be modified to allow earlier coal burning. In that case, the regional limitation would no longer apply and the units would become subject to the primary standard condition in accordance with section 119(d)(2) of the Clean Air Act. This primary standard condition would assure (throughout the period that the control equipment is being installed) that the burning of coal in any unit prior to the installation of par-

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ticulate control equipment would not result in emissions which would cause the national primary ambient air quality standards for particulate matter to be exceeded.

PROVISIONS

On June 22, 1976 (41 FR 25025), the Administrator of the Environmental Protection Agency proposed to amend 40 CFR Part 55 by adding a new Subpart L for the issuing of CDE's to three units of the Savannah Electric and Power Company's Port Wentworth Generating Station as stated above.

Subpart L, § 55.570(a)(1), as proposed, contained a provision requiring the installation of air pollution control equipment on the units within a 27-month time limit. This installation schedule would have commenced on the date that the Federal Energy Administration (FEA) served its Notice of Effectiveness (NOE) to the Savannah Electric and Power Company (SEPCO). On August 20, 1976, EPA and SEPCO agreed to an installation schedule containing firm dates which are not dependent upon the date that FEA serves its NOE. The schedule developed with SEPCO's cooperation will expedite the installation of the control equipment, thereby allowing conversion to coal burning in compliance with the regional limitation at the earliest possible date for each unit. These dates herein promulgated in 40 CFR 55.570(a)(1) are May 1, 1978, for Unit 1; June 1, 1978, for Unit 2; and November 1, 1978, for Unit 3. A 60-day period following each of the above dates will be granted to allow SEPCO to certify final compliance to EPA. According to section 119(c)(2)(C) of the Clean Air Act, as amended, December 31, 1978, is the date by which the units must achieve the most stringent degree of emission reduction required under the Georgia implementation plan. EPA acknowledges the cooperation of SEPCO in developing a firm, expeditious schedule for the installation of adequate control equipment within the time limits contained in the Clean Air Act.

PUBLIC COMMENTS

A 30-day public comment period followed the June 22, 1976, FEDERAL REGISTER proposal of the present compliance date extensions. Fifty comments and requests for a public hearing were received regarding the proposed rulemaking. Fifteen were in favor of immediate conversion without controls, eleven were in favor of EPA's proposed decision to require controls before conversion, and twenty-four took neither position, but requested that a public hearing be held.

On August 3, 1976, EPA gave notice in the local press that a public hearing on this matter would be held in Savannah, Georgia, on September 3, 1976. During the hearing EPA explained its findings and proposed rulemaking concerning coal conversion at SEPCO's Port Wentworth Plant, Units 1, 2, and 3 in the following terms.

EPA stated that its proposed decision not to allow coal burning until adequate control equipment is installed is based on technical findings as to existing air quality, and the effect that immediate conversion would have on it. Immediate conversion to coal without adequate air pollution controls would result in a total estimated particulate matter emission rate of three to four tons per hour, which is about ten times the allowable particulate emission rate for the three units. The annual particulate emissions, assuming the units are operated at a 67 percent load factor, would amount to roughly 21,000 tons. This would be more than the existing particulate emissions of all other facilities in the Savannah AQCR combined.

EPA further stated that the national annual primary ambient air quality standard for particulate matter was exceeded in the Savannah AQCR during 1975. The annual geometric mean for particulate matter at the Lathrop and Augusta monitoring station was 78 micrograms per cubic meter, a violation of the national primary ambient air quality standard for particulate matter (75 micrograms per cubic meter). Also, two excursions of the national 24-hour primary ambient air quality standard for particulate matter were recorded at the Lathrop and Augusta monitoring station during the 12-month period from July 1, 1975, through June 30, 1976; readings of 267 and 268 micrograms per cubic meter were recorded on November 18, 1975, and June 11, 1976, respectively. These readings exceed the 24-hour ambient standard of 260 micrograms per cubic meter, which is not to be exceeded more than once a year. EPA as well as the Georgia Environmental Protection Division, independently evaluated the Lathrop and Augusta monitoring station and determined that the measured air quality data are valid and representative of the area.

EPA noted that the concentrations of particulate matter estimated by atmospheric diffusion models indicate that a maximum 24-hour ambient concentration of 258 micrograms per cubic meter can be expected if Port Wentworth burns coal immediately. This is the contribution to the ambient pollutant levels resulting solely from the operation of the Port Wentworth Plant when burning coal in Units 1, 2, and 3 at a 50 percent particulate collection efficiency, and when burning oil in Unit 4. This could result in maximum 24-hour particulate matter ambient concentrations of at least 333 micrograms per cubic meter if the contribution from other sources in the area is included.

During the September 3, 1976, public hearing, 7 witnesses testified in favor of immediate conversion without controls, and 11 witnesses testified in favor of EPA's tentative decision to require controls before converting from oil to coal.

Objections to EPA's proposed decision centered around economic factors and the validity of the ambient monitoring data. Several speakers contended that the electric rates would decrease as a result of the savings realized from burning coal immediately without air pollution controls, and that these savings would offset possible environmental damage from the increase in particulate matter emissions from the three units.

Section 119 of the Clean Air Act does not provide for consideration of economic factors by EPA in certifying to FEA an effective date for conversion to coal. Economic factors are considered by FEA before issuing the Prohibition Orders. In the case of Port Wentworth, FEA has found that coal conversion is economically practicable, and this finding was presented during a public hearing held by FEA on June 10, 1975. During EPA's hearing of September 8, 1976, several speakers noted that while immediate coal burning without controls would result in fuel savings, there would be an increase in medical costs and a loss of tourism in the Savannah area, which would offset the fuel savings.

Representatives of SEPCO testified that the violations recorded at two air pollution monitoring stations in Chatham County are not representative of the quality of the air in the Savannah AQCR. EPA agrees that the data recorded at one monitoring station (Fire Station No. 4) are not valid. These data were not used by EPA in making its finding that the national particulate ambient air quality standard was violated during 1975. However, the data recorded at the Lathrop and Augusta monitoring station are valid and represent air quality at that location.

A SEPCO representative noted that air quality as measured at other monitoring stations in the Savannah area meets the Federal and State annual ambient air quality standards for particulate matter, and that these annual standards were also met at the Lathrop and Augusta monitoring station during the 12-month period ending June 30, 1976, with a measured annual average of 73 micrograms per cubic meter. These statements are correct, but a single violation at any one monitoring station within the air quality control region constitutes a violation of the national ambient air quality standards. The Lathrop and Augusta station recorded a valid violation of the annual particulate ambient standard during calendar year 1975 and also recorded two excursions of the 24-hour particulate ambient standard during the 12-month period ending June 30, 1976. Additional violations of the 24-hour standard could be anticipated if conversion to coal takes place without adequate particulate emissions control equipment.

Several witnesses stated that the existing concentration of particulate matter would not be significantly increased if the units converted from oil to coal before installing controls, and therefore immediate conversion should be allowed. EPA testified that the units would contribute at the point of maximum impact as much as 258 micrograms of particulate matter per cubic meter on a 24-hour basis, that all other sources would contribute a 24-hour average concentration of 40 micrograms of particulate matter per cubic meter, and that the general background concentration would be 35 micrograms of particulate matter per cubic meter.

SEPCO stated that although coal had been burned at the Port Wentworth Plant for a period in 1973, a monitoring station installed by SEPCO on the roof of a fire station in Port Wentworth showed no significant increase in particulate matter concentration over the concentration measured when the sources were burning oil. SEPCO further stated that immediate coal burning would not increase the measured concentration of particulate matter at the Lathrop and Augusta monitoring station. A statistical study submitted to EPA after the hearing by a corporation in Chatham County attempted to support SEPCO's claim that immediate coal burning would have no significant effect on the data recorded at the Lathrop and Augusta monitoring station.

EPA has determined that the present particulate emissions from the units would be increased about ten times if coal is burned immediately, which should increase the concentration of particulate matter at the Lathrop and Augusta monitoring station. Because this station is located about four miles from the Port Wentworth Plant, the ambient concentration of particulate matter could be assumed to be greater at a point closer to the plant. As previously stated in "Provisions" above, section 119(c)(2)(D) of the Clean Air Act provides that no source of air pollution may violate any air pollution control regulation if the national primary ambient air quality standards for that pollutant are being violated anywhere in that AQCR (i.e., if a regional limitation applies). Even if it could be shown that allowing immediate conversion to coal without particulate emission controls would have no effect on ambient particulate concentrations, the units could not legally receive any relief from the regional limitation. This means that the Port Wentworth Plant must comply with the particulate matter emission regulation as long as the national primary ambient air quality standard for particulate matter is being exceeded in the Savannah AQCR.

Several environmental, medical, and civic associations supported EPA's proposed decision to require controls before conversion. Generally, these associations testified that the air pollution resulting from immediate coal conversion would increase the already high incidence of respiratory ailments in the Savannah area.

The hearing record was held open for 30 days following the public hearing. (The original period of 20 days was extended to 30 days at the request of a Chatham County Corporation in order that additional data might be submitted.) During this period 29 written comments were received by EPA. Twenty-five expressed opposition to immediate conversion to coal, while four were in favor. Two of the letters opposed to immediate conversion contained a total of thirteen signatures, and two letters in favor of immediate conversion contained a total of thirty-five signatures.

The Mayor and Council of the City of Port Wentworth stated that they were opposed to the immediate burning of coal before air pollution controls are installed, and suggested that the particulate matter pollution in the City of Port Wentworth was greater than that measured at the Lathrop and Augusta monitoring station, which is four miles away. Other local government officials were in favor of immediate coal burning, and one official stated that immediate burning should be permitted by EPA as long as national health-related air quality standards are met.

After considering public comments before, during, and after the public hearing, EPA holds to its initial decision that the units must be equipped with adequate air pollution control equipment before converting from oil to coal. This regional limitation requirement is authorized under section 119(c)(2)(D) of the Clean Air Act, which states that "A source * * * located in an air quality control region in which a national primary ambient air quality standard [for particulate matter] is not being met, may not emit [particulate matter] in amounts which exceed any emission limitation * * *"

Accordingly, the Administrator issues compliance date extensions to the Savannah Electric and Power Company for Units 1, 2, and 3 of its Port Wentworth, Georgia, generating facility on condition that the company meet the terms set forth below. This action is effective immediately, and shall remain in effect until it can be demonstrated that the national primary standards for particulate matter are no longer being exceeded in the region. The Administrator finds that good cause exists for making his action immediately effective in that:

(1) The national primary ambient air quality standard for particulate matter is being exceeded in the Savannah area, and the units would exceed the applicable emission limitation for particulate matter if they burned coal without adequate particulate matter control equipment; furthermore, any delay in effectiveness would be unnecessary and contrary to the public interest.

(2) Implementation of the schedule has already been undertaken by the company, which cooperated in the development of the schedule.

(3) The units are subject to section 2(a) FEA Prohibition Orders 068, 069, and 070, respectively and will have converted (or will convert) after September 15, 1973, to coal as their primary energy source.

(4) The Administrator, pursuant to section 119(c)(2)(A), finds that the units cannot burn coal available to them in compliance with Georgia regulation 391-3-1-.02(2)(d) for particulate matter.

(5) The Administrator finds that the compliance plans submitted by SEPCO provide for compliance by May 1, 1978, for Unit 1; June 1, 1978, for Unit 2; and November 1, 1978, for Unit 3, with Georgia regulation 391-3-1-.02(2)(g) for the control of sulfur dioxide on the basis of coal usage.

(6) The Administrator further finds that the units will be able to burn coal in compliance with Georgia regulation 391-3-1-.02(2)(g) for the control of sulfur dioxide without a compliance date extension and that, therefore, under section 119(c)(2)(A)(i) a compliance date extension for sulfur dioxide may not be issued in this case.

(7) The regional limitation for particulate matter is applicable since the national primary ambient air quality standards for total suspended particulate matter are being exceeded in the AQCR in which the units are situated.

(8) The units can comply with all conditions upon which a compliance date extension may be granted for regulation 391-3-1-.02(2)(d) which limits the emission of particulate matter in that the units will be able to burn coal and comply with regulation 391-3-1-.02(2)(d) to be able to burn coal and comply with regulation 391-3-1-.02(2)(d) to satisfy the regional limitation requirement by July 1, 1978, for Unit 1; August 1, 1978, for Unit 2, and December 31, 1978, for Unit 3, by the terms of compliance schedules submitted by SEPCO.

Section 119(d)(3)(B)(iii) of the Act allows the Administrator to suspend the effectiveness of an FEA prohibition order at any time if coal burning results in increased emissions of unregulated pollutants or precursor pollutants at levels which may cause or materially contribute to a significant risk to public health. Based on currently available health effects information, EPA has decided to implement this significant risk provision only with respect to sulfates. EPA plans to restrict emissions of sulfate precursor pollutants (sulfur dioxide and particulate matter) if a converting plant is located in an area with high sulfate concentrations and concentrations of the sulfate precursor pollutants in excess of primary standards. EPA has prepared a document, *Position Paper on Regulation of Atmospheric Sulfates* (EPA-450/2-75-007, available from the National Technical Information Service), which analyzes the potential impacts of sulfates on public health, discusses how emissions of sulfate precursor pollutants impact on outlines the implementation of the significant risk provision with respect to sulfates.

Because Port Wentworth is not located in an area where high sulfate concentrations and high ambient concentrations of sulfur dioxide and particulate matter currently pose a significant risk to public health, implementation of the significant risk provision to sulfates should not limit the conversion of Port Wentworth to coal.

However, under the authority of section 119(d)(3)(B)(iii) of the Act, if the

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Administrator at any time finds that the burning of coal by Port Wentworth results in an increase in sulfates (or any other unregulated pollutant or precursor pollutants) and that such increase may cause or materially contribute to a significant risk to public health, he shall notify FEA and certify the period during which the prohibition order issued to Port Wentworth shall not be in effect.

(Secs. 110, 119, and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857c-10, and 1857q))

Dated: December 13, 1976.

JOHN QUARLES,
Acting Administrator.

Part 55 of Chapter I, Title 40, Code of Federal Regulations, is amended by adding a new Subpart L as follows:

Subpart L—Georgia

§ 55.570 Compliance date extensions.

(a) The Administrator issues compliance date extensions to the Savannah Electric and Power Company's Port Wentworth Generating Station for Units 1, 2, and 3, located in Chatham County, Georgia, upon the following conditions:

(1) *Regional Limitation.* The Savannah Electric and Power Company shall comply with section 391-3-1-.02(2)(d) of the Georgia Rules and Regulations for Air Quality Control on or before December 31, 1978, in accordance with the schedules below. This regulation deals with particulate emission limits for fuel-burning equipment. The Savannah Electric and Power Company shall complete the following acts with respect to Units 1, 2, and 3 of its Port Wentworth Generating Station on or before any time limit specified below.

(i) Completed—Submit to the Director of the EPA Region IV Enforcement Division (hereafter in this paragraph referred to as the Director), a final control plan describing the steps which will be taken to achieve compliance with applicable particulate emission limiting regulations for Units 1, 2, and 3.

(ii) December 20, 1976—Negotiate, submit to the Director for approval, and sign all necessary contracts for particulate emission control equipment or issue orders for the purchase of component parts to accomplish particulate emission control following the conversion to coal at Units 1, 2, and 3.

(iii) April 1, 1977—Initiate site preparation toward installation of particulate emission control equipment for Units 1, 2, and 3.

(iv) December 1, 1977—Initiate on-site construction or installation of particulate emission control equipment for Units 1, 2, and 3.

(v) December 15, 1977—Submit to the Director coal contracts for coal of the appropriate specifications to enable compliance with all applicable air pollution requirements in conjunction with the particulate emission control equipment specified in (ii) above.

(vi) May 1, 1978 (Unit 1), June 1, 1978 (Unit 2), November 1, 1978 (Unit 3)—Complete on-site construction or installation of particulate emission control equipment and initiate use of such equipment.

(vii) July 1, 1978 (Unit 1), August 1, 1978 (Unit 2), December 31, 1978 (Unit 3)—Complete shakedown operations and performance tests on the control equipment required by this sub-paragraph; also, achieve compliance with section 391-3-1-.02(2)(d) of the Georgia Rules and Regulations for Air Quality Control and certify such compliance to the Director.

(viii) The Savannah Electric and Power Company must give the Director twenty (20) days notice before conducting any performance tests in order to afford the Director an opportunity to approve the test procedure and to have an observer present. All tests must conform to the procedures of Method 5 set forth in Appendix A of 40 CFR Part 60.

(2) The Savannah Electric and Power Company is required to notify the Director no later than ten (10) days after the completion of each time period as specified in this paragraph, as to whether the corresponding incremental step toward compliance has been completed. The Company must also submit status reports to the Director at six-month intervals.

(3) The units shall not, until January 1, 1979, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d)(3) of the Clean Air Act (42 U.S.C. 1857c-10(d)(3)).

[FR Doc.76-37188 Filed 12-16-76;8:45 am]

[FRL 658-4]

PART 55—ENERGY-RELATED AUTHORITY

North Carolina: Compliance Data Extension

• *Purpose.* The purpose of this promulgation is to issue a compliance date extension for the Carolina Power and Light Company's L. V. Sutton Plant, Unit No. 3, Wilmington, North Carolina, with respect to the North Carolina Administrative Code, Title 15—Department of Natural and Economic Resources, Chapter 2—Environmental Management, Subchapter 2D—Air Pollution Control Requirements, and Subsection .0503—Control of Particulates from Fuel Burning Sources (15 NCAC 2D .0503). •

PROVISIONS

On June 22, 1976 (41 FR 25028), under the provisions of section 119 of the Clear Air Act, as amended, 42 U.S.C. 1857c-10 ("the Act"), the Environmental Protection Agency (EPA) proposed to amend the provisions of 40 CFR Part 55 by adding a new subpart II to provide for the issuance of compliance date extensions to the Carolina Power and Light Company's L. V. Sutton Plant, Units 1, 2, and 3, in Wilmington, North Carolina. A condition of each extension requires the upgrading of the existing air pollution control equipment while coal is being burned in the three units.

Interested parties were invited to comment on the Agency's findings and proposed rulemaking. No requests for a public hearing were received. The North Carolina Department of Natural and Economic Resources, Division of Environmental Management, notified EPA that Units 1 and 2 had achieved final compliance with 15 NCAC 2D .0503 (formerly Emission Control Standard 1.10) ahead of the scheduled dates. EPA in turn notified the Federal Energy Administration (FEA) on August 5, 1976, that Units 1 and 2 were able to burn coal as their primary energy source and be in compliance with all applicable air pollution requirements without compliance date extensions. Unit 1 achieved compliance on July 13, 1976, and Unit 2 achieved compliance on April 13, 1976. Accordingly, the compliance date extensions proposed for Units 1 and 2 in the June 22, 1976, FEDERAL REGISTER are hereby withdrawn.

On July 20 and 22, 1976, the North Carolina Department of Natural and Economic Resources and the Carolina Power and Light Company respectively informed EPA that Unit 3 had not achieved compliance as scheduled and requested a postponement of the promulgation of the proposed rulemaking until a new compliance schedule for Unit 3 could be negotiated. EPA granted the postponement on August 12, 1976.

On September 27, 1976, the North Carolina Department of Natural and Economic Resources submitted a revised compliance schedule for Unit 3 in the form of Special Order by Consent AQ-75-123R. This revised schedule requires that modifications to the existing air pollution control equipment (electrostatic precipitator) be completed and compliance with 15 NCAC 2D .0503 be demonstrated by February 1, 1977.

The schedule proposed in the June 22, 1976, FEDERAL REGISTER called for final compliance by July 1, 1976. The Administrator of EPA finds that the revised compliance plan is approvable under section 119(c) of the Act, as amended.

Accordingly, the Administrator issues a compliance date extension to Unit 3 of Carolina Power and Light Company's L. V. Sutton generating facility in Wilmington, North Carolina, on condition that the company meet the terms set forth below. The Administrator finds that good cause exists for making the regulation effective immediately upon publication because:

(1) Any delay in effectiveness would be unnecessary and contrary to public interest.

(2) The source is subject to section 2(a) FEA Prohibition Order 063, and has converted after September 15, 1973, to coal as its primary energy source.

(3) The Administrator, pursuant to section 119(c)(2)(A), finds that the source cannot burn coal available to it in compliance with 15 NCAC 2D.0503 dealing with the control and prohibition of particulate matter emissions from fuel burning sources of the North Carolina Rules and Regulations Governing the Control of Air Pollution.

(4) The regional limitation for particulate matter is applicable since the NPAAQS for total suspended particulate matter is being exceeded in the AQCR in which the source is situated.

(5) The source can presently comply with all conditions of the North Carolina Emission Control Standard 2.40(b) for sulfur dioxide on the basis of coal usage.

(6) The source will be able to comply by the date of effectiveness of FEA's Notice of Effectiveness with all conditions upon which a CDE may be granted for 15 NCAC 2D.0503 which limits emissions of particulate matter, in that:

(a) The source is now burning coal in violation of the Particulate emission control standard of 15 NCAC 2D.0503;

(b) The source is subject to a North Carolina enforcement order which provides for expeditious compliance with 15 NCAC 2D.0503 by February 1, 1977 at Unit No. 3; and

(c) The source will continue to burn coal and will comply with 15 NCAC 2D.0503 by February 1, 1977 at Unit No. 3 to satisfy the regional limitation requirement. Since the schedule to comply with 15 NCAC 2D.0503 will provide for compliance as soon as practicable, and compliance can be achieved by the source prior to December 31, 1978, these compliance plans therefore satisfy section 119(c).

Section 119(d)(3)(B)(iii) of the Act allows the Administrator to suspend the effectiveness of an FEA prohibition order at any time if coal burning results in increased emissions of unregulated pollutants or precursor pollutants at levels, which may cause or materially contribute to a significant risk to public health. Based on currently available health effects information, EPA has decided to implement this significant risk provision only with respect to sulfates. EPA plans to restrict emissions of sulfate precursor pollutants (sulfur dioxide and particulate matter) if a converting plant is located in an area with high sulfate concentrations and concentrations of the sulfate precursor pollutants in excess of primary standards. EPA has prepared a document, *Position Paper on Regulation of Atmospheric Sulfates* (EPA-450/2-75-007, available from the National Technical Information Service), which analyzes the potential impacts of sulfates on public health, discusses how emissions of sulfate precursor pollutants impact on atmospheric sulfate concentrations, and outlines the implementation of the significant risk provision with respect to sulfates.

Because Sutton No. 3 is not located in an area where high sulfate concentrations and high ambient concentrations of sulfur dioxide and particulate matter currently pose a significant risk to public health, implementation of the significant risk provision to sulfates should not limit the conversion of Sutton No. 3 to coal.

However, under the authority of section 119(d)(3)(B)(iii) of the Act, if the Administrator at any time finds that the burning of coal by Sutton No. 3 results in an increase in sulfates (or any other unregulated pollutant or precursor pollutants) and that such increase may cause or materially contribute to a significant risk to public health, he shall notify FEA and certify the period during which the prohibition order issued to Sutton No. 3 shall not be in effect.

(Secs. 110, 119, and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857c-10, and 1857q))

Dated: December 13, 1976.

JOHN QUARLES,
Acting Administrator.

Part 55 of Chapter I, Title 40, Code of Federal Regulations, is amended by adding Subpart II as follows:

Subpart II—North Carolina

§ 55.1770 Compliance date extensions.

(a) The Administrator issues a compliance date extension to the Carolina Power and Light Company for the L. V. Sutton Plant, Unit 3, in Wilmington, North Carolina, under the following conditions:

(1) *Regional Limitation.* Unit 3 shall comply with 15 NCAC 2D .0503 as found in North Carolina Administrative Code, Title 15 Department of Natural and Economic Resources, Chapter 2 Environmental Management, Subchapter 2D Air Pollution Control Requirements, in accordance with the following schedule:

(i) February 1, 1977—Complete modifications to the electrostatic precipitator in accordance with North Carolina Permit No. 1318R; and complete shakedown operations and performance testing on modified electrostatic precipitator; achieve compliance with 15 NCAC 2D .0503 and certify compliance to the Director of the Enforcement Division, EPA, Region IV.

(2) The Carolina Power and Light Company shall operate and maintain the existing electrostatic precipitator on Unit 3 in proper working order and in accordance with good operating practices during the interim period specified in this paragraph for achieving compliance with 15 NCAC 2D .0503.

(3) In accordance with § 55.04(a)(2)(i)(F), the Carolina Power and Light Company shall notify the Director of the Enforcement Division, EPA, Region IV, no later than ten days after the date upon which each incremental step towards compliance is due to be completed, as to its progress in meeting the increment in question. If the increment has not been met, an explanation of this failure must be given.

(4) Unit 3 shall not, until January 1, 1979, be prohibited from burning coal which is available to it by reason of the application of any air pollution requirement except as provided in section 119(d)(3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

[FR Doc.76-37189 Filed 12-16-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA—PR Temporary Reg. No. 24]

PART 9-51—REVIEW AND APPROVAL OF CONTRACT ACTIONS

Noncompetitive Procurement; Policy on Preparation of Justifications

DECEMBER 10, 1976.

• 1. *Purpose:* This regulation establishes ERDA policy and procedure concerning preparation of justifications for noncompetitive procurement and the establishment of ERDA management approval levels of noncompetitive procurements. •

2. *Effective date:* This regulation is effective December 17, 1976. Interested persons may submit comments on this regulation to: Director of Procurement, U.S. Energy Research and Development Administration, Washington, DC, 20545, Attention: Hugh M. Turpie. Comments received on or before February 15, 1977 will be considered in determining whether revision of this regulation may be advisable.

3. *Expiration date.* This regulation will remain in effect until canceled and replaced by a permanent ERDA Procurement Regulation.

4. *Explanation of change.*

A new § 9-51.302, *Noncompetitive procurement,* is added.

Subpart 9-51.3—Other Approval Requirements

§ 9-51.302 Noncompetitive procurement.

(a) While "negotiated procurement shall be on a competitive basis to the maximum practical extent" (FPR 1-3.101(d)) and "reasonable competition shall be obtained in making small purchases in excess of $500" (FPR 1-3.603-(1)), there are circumstances where one source has exclusive capability to perform the work within the time required and at reasonable prices, e.g., by reason of experience, specialized facilities, or technical competence. In such a circumstance, the initiating program office may conclude that only one source is qualified to perform the work and, therefore, recommend that a contract be negotiated only with that source. The recommendation shall be in writing and will be contained in a separate document entitled, "Justification for Noncompetitive Procurement" and shall examine the reasons for the procurement being noncompetitive in accordance with paragraph (c) of this section.

(1) A justification for noncompetitive procurement is also required where "new" procurements (i.e., outside the contractual scope of work) are initiated through modifications to existing contracts.

(2) If a noncompetitive procurement has been justified and approved, in accordance with this § 9-51.302, as a part

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of an annual procurement plan and such plan has been reviewed and approved by the Administrator, it will not be necessary to resubmit the justification for approval at the time each individual procurement action is processed. Such justifications shall be made a part of the permanent contract file (see ERDA-PR 9-55.102-2).

(b) The provisions of this regulation do not apply to:

(1) Procurements of $500 or less (see FPR 1-3.603-1(a)(1));

(2) Acquisitions from or through other Government agencies;

(3) Procurements of utility services where the services are available from only one source (see FPR 1-4.4);

(4) Subscriptions to periodicals;

(5) Procurements resulting from Program Opportunity Notices, ERDA-PR 9-4.57, or Program Research and Development Announcements, ERDA-PR 9-4.58 (which are forms of competitive solicitations and subject to requirements stated in the respective regulations);

(6) Procurements subject to the procedures set forth in ERDA-PR 9-4.51, Research Agreements and Contracts With Educational Institutions;

(7) Procurements subject to the procedures set forth in ERDA-PR 9-4.52, Unsolicited Proposals;

(8) Contracts for management and operation of the major ERDA laboratories and production facilities;

(9) On-site service contracts of a continuing nature; or

(10) Contracts which are subject to separate justification for recompetition or extension.

(c) *Justification for noncompetitive procurement.* (1) The document entitled, "Justification for Noncompetitive Procurement" shall examine the reasons for the procurement being noncompetitive and shall contain, in the first sentence of the document, an appropriate recommendation (e.g., "I recommend that negotiations be conducted only with (*name of entity*) for the supplies and services described herein.")

(2) Each justification shall reflect the degree of consideration that has been given to other sources in the particular field and the reason(s) they lack the capability(ies) and/or capacity that the proposed contractor evidences. The following format includes considerations to be made in preparing the justification.

(i) *Description of supplies or services to be procured.* (A) A brief, general, nontechnical description and statement of the general application and particular significance or specialized character of the procurement.

(B) A description of all associated supplies or services, e.g., technical data, reports, engineering services, and so forth to be procured.

(ii) *Procurement history, estimated future requirements, and long range procurement objectives.* (A) Brief statement of the technical and contractual evolution of the supplies or services being procured from initiation to present status.

(B) Brief statement as to whether the work is a continuation of previous effort performed by the proposed contractor.

(C) Reference should be made to any advance planning information previously prepared or furnished, together with information with respect to any changes proposed in the present justification which represents a departure or modification of prior procurement plans, including a statement of the effect of the changes, if any, on scheduled milestones.

(D) Brief statement as to what actions have been taken to develop competition and eliminate a noncompetitive situation in future procurements of the proposed supplies or services.

(iii) *Estimated cost.* (A) The estimated cost of the procurement and a brief description of assumptions made and data used by the initiating program office to develop the estimate.

(B) The estimated cost listed by fiscal years.

(C) Whether the proposed contractor or the Government have a substantial investment of some kind that would have to be duplicated at Government expense by another source.

(iv) *Schedule requirements.* (A) The basis for establishing schedule requirements.

(B) An explanation of the urgency, if any, of the requirement. Describe why the schedules are critical and why only the proposed contractor can meet them.

(C) Describe what significant cost savings or other benefits could result if schedules could be relaxed and whether competition could thus be obtained.

(v) *Exclusive capability.* (A) Does the proposed contractor have personnel considered unquestionably predominant experts in the particular field?

(B) What prior experience of a highly specialized nature does the source exclusively possess that is vital to the proposed effort?

(C) What facilities and/or test equipment does the source exclusively have that are complex or specialized and vital to the effort?

(D) Is competition precluded because of the existence of patent rights, copyrights, secret processes, trade secrets, technical data, or other proprietary data?

(E) What other capability and/or capacity does the proposed contractor have that is necessary for the specific effort and makes it clearly the only source that can perform the work on the required time schedule without incurring clearly unreasonable costs?

(vi) *Other.* (A) If lack of drawings or specifications are a constraining factor, why is the proposed contractor clearly best able to perform under these circumstances? Why are the drawings and specifications lacking? What is the lead time required to get drawings and specifications suitable for competition?

(B) Are parts or components being procured as replacement parts in support of equipment specially designed by a manufacturer, where data available is not adequate to assure that the parts or components obtained from another source would perform the same function?

(d) *Review and approval.* The justification shall, as a minimum requirement, be reviewed and approved as follows: (In the case of cost sharing contracts, the contractor's shared amount is included in the dollar amounts specified.)

(1) For procurements in excess of $500, but not in excess of $10,000 (small purchases), the justification shall be submitted by the initiating office, with the advice and assistance of the Division of Procurement Program Support staff, for the approval of the assistant administrator (or designee) or the head of the staff office (or designee) (Headquarters), the field office manager (or designee), or the energy research center director (or designee).

(2) For procurements in excess of $10,000, but not in excess of $5 million, the justification shall be submitted by the initiating office, with the advice and assistance of the Division of Procurement Program Support staff, for the review and concurrence of, at Headquarters (i) the Assistant Director of Procurement for Program Support, (ii) the Office of the General Counsel and (iii) the Office of the Controller or, in the field, legal counsel, and shall be submitted for the approval of the assistant administrator (or designee) or the head of the staff office (or designee) (Headquarters), the field office manager (or designee), or the energy research center director (or designee).

(3) For procurements in excess of $5,000,000, but not in excess of $10 million, the justification shall be submitted by the initiating office, with the advice and assistance of the Division of Procurement Program Support staff, for the review and concurrence of (i) the program division director (Headquarters) or the manager (field), (ii) the Assistant Director of Procurement for Program Support, (iii) the Office of the General Counsel and (iv) the Office of the Controller and shall be submitted for the approval of the assistant administrator or the head of the staff office.

(4) For procurements in excess of $10 million, the justification shall be submitted by the initiating office, with the advice and assistance of the Division of Procurement Program Support staff, for the review and concurrence of (i) the division director (Headquarters) or the manager (field), (ii) the Director of Procurement, (iii) the Office of the General Counsel, (iv) the Office of the Controller, (v) the assistant administrator, (vi) the Assistant Administrator for Administration, and (vii) the Assistant Administrator for Field Operations *and* shall be submitted for the approval of the Administrator.

(Sec. 105 of the Energy Reorganization Act of 1974 (Pub. L. 93-438).)

Effective date: December 17, 1976.

M. J. TASHJIAN,
Director of Procurement.

EXHIBIT 1.—*Noncompetitive procurement justification—review and approval*

	Concur	Approve
$500 to $10,000 (small purchases)[1].	----------	AA (or designee) or the head of the staff office (or designee) (headquarters), the field office manager (or designee), or the ERC director (or designee).
$10,000 to $5,000,000....	HQ—AD of PROC for program support general counsel and controller. Field—Legal counsel.	Do.
$5,000,000 to $10,000,000.	Division director (HQ) or field office manager, general counsel, controller and assistant director of processing for program support.	Assistant administrator or the head of the staff office.
Greater than $10,000,000.	Division director (HQ) or field office manager, general counsel, controller, director of processing, assistant administrator or the head of the staff office, assistant administrator for administration, and assistant administrator for field operations.	Administrator.

[1] "Reasonable competition shall be obtained in making small purchases in excess of $500" (FPR 1-3.603-1).

[FR Doc.76-36993 Filed 12-16-76;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed New Specification for Electronic Trunk Circuits

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to issue REA Bulletin 345–75 to announce a new REA Specification PE-65 for Electronic Trunk Circuits. On issuance of REA Bulletin 345–75, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the new specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, on or before January 17, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the new REA Specification PE–65 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of the new REA Bulletin 345–75 announcing the issuance of the new specification is as follows:

REA BULLETIN 345–75

Subject: REA Specification for Electronic Trunk Circuits.

I. *Purpose:* To announce the issuance of a new REA Specification PE–65 for Electronic Trunk Circuits.

II. *General:* REA Specification PE–65 has been developed to cover requirements for electronic trunk circuits for direct acting offices. The equipment covered by this specification will result in substantial size reduction compared to electromechanical circuits. This new specification will become effective April 1, 1977. This does not preclude the adoption of the new specification by manufacturers prior to the effective date.

III. *Availability of Specification:* Copies of the new PE–65 will be furnished by REA upon request. Questions concerning the new specifications may be referred to the Chief, Central Office Equipment Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–5773.

Dated: December 8, 1976.

C. R. BALLARD,
Assistant Administrator, Telephone.

[FR Doc.76–36908 Filed 12–16–76;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Docket No. R–0066; Reg. Z]

TRUTH IN LENDING

Proposed Amendment to Regulation Z Permitting Spanish Language Truth in Lending Disclosures in the Commonwealth of Puerto Rico

The Board of Governors of the Federal Reserve System proposes to amend Regulation Z to permit Spanish language Truth in Lending disclosures in the Commonwealth of Puerto Rico with English language disclosures provided upon the customer's request, either in substitution for the Spanish disclosures or as additional information. The purpose of this amendment is to conform the Act's disclosure requirements to language usage in Puerto Rico where the pervasive and dominant language is Spanish. In developing this proposal, the Board has preliminarily examined relevant case and statutory law and statistical data, as well as the potential effects on administrative enforcement should such an amendment be adopted. The assistance of Commonwealth officials has also been solicited in determining Spanish language usage in Puerto Rico. The Board's proposal is based upon the premise that Spanish is an official language as well as the prevailing and predominant language of the people of Puerto Rico and that to provide solely English disclosures in this Spanish speaking jurisdiction might be contrary to the purpose and intent of the Truth in Lending Act.

Although the statutory laws of Puerto Rico generally evince a spirit and effort to create a bilingual system in the Commonwealth,[1] a review of the applicable case law indicates that Spanish is the traditionally favored language of the Puerto Rican people. The Supreme Court of Puerto Rico has recognized the underlying spirit of bilingualism, while demanding recognition of the Spanish language as the pervasive, dominant and permanent language of the Commonwealth.[2] Moreover, statistical data taken from the 1970 Census indicates that more than half the Puerto Rican population[3] 10 years old and over cannot speak English.

It has been indicated to the Board that there would be few dialect problems in Puerto Rico should such an amendment be adopted. Therefore, the Board would welcome comments, particularly from government agencies and other authorities, regarding the feasibility of drafting approved and accepted Spanish translations of the required terminology of Regulation Z.

In light of this information, the Board proposes for comment that Spanish language Truth in Lending disclosures be permitted in Puerto Rico with English language disclosures provided upon the customer's request, either in substitution for the Spanish disclosures or as additional information in accordance with § 226.6(c). In proposing this amendment the Board is not suggesting that foreign language Truth in Lending disclosures are advisable or practical in the United States. Significantly, statistics made available from a Department of Commerce, Bureau of the Census Study, issued July, 1976, indicate that only 4.1 per cent of United States' residents claim a language other than English as their usual language, and only 2.5 per cent indicate difficulty with the English language.[4] Therefore, the Board believes that the statistical data does not support a finding that the use of foreign language Truth in Lending disclosures would be of substantial benefit to customers in the United States.

The Board invites comments on the proposed amendment generally and is especially interested in receiving comments regarding the effect of the proposed amendment on transactions which are conducted by mail and subject to Regulation Z.

The deadline for receipt of written comments on the proposed amendment is January 15, 1977. Comments should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments should include a reference to Docket No. R–0066.

Pursuant to the authority granted in 15 U.S.C. 1604 (1968) the Board proposes to amend 12 CFR Part 226 by adding a new paragraph to § 226.6(a) to read as follows:

§ 226.6 General disclosure requirements.

(a) *Disclosures; general rule.* * * *

All disclosures required to be given by this Part shall be made in the English language except in the Commonwealth of Puerto Rico where disclosures may be made in the Spanish language with English language disclosures provided upon the customer's request, either in substitution for the Spanish disclosures or as additional information in accordance with § 226.6(c).

By order of the Board of Governors, December 6, 1976.

THEODORE E. ALLISON,
Secretary to the Board.

[FR Doc.76–37075 Filed 12–16–76;8:45 am]

[1] Title I L.P.R.A. 51 designates both English and Spanish official languages of Puerto Rico. See also Title 31 L.P.R.A. 19(c), which reflects a Spanish language preference when discrepancies exist between Spanish texts of statutes passed by the Legislative Assembly of Puerto Rico and Title 32 L.P.R.A., Appendix II: Rules of Civil Procedure, Rule 9.5 which mandates that pleadings, petitions, motions, and other papers be drawn in Spanish, although they may be drawn in English provided they are accompanied by the necessary Spanish copies.

[2] See *People v. Superior Court*, 92 P.R.R. 580, 588–590 (1965).

[3] General Social and Economic Characteristics, Puerto Rico, 1970 Census of Population, United States Department of Commerce, Bureau of the Census, October, 1972.

[4] Current Population Reports, Special Studies, United States Department of Commerce, Bureau of the Census, July, 1976.

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 704]

SHARE CERTIFICATES

Proposed Rulemaking

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766, and section 209, 84 Stat. 1014, 12 U.S.C. 1789, proposes to promulgate regulations authorizing and governing the issuance of share certificates by Federal credit unions.

The purpose of the proposed regulation is to implement the authority granted to the Administrator and to Federal credit unions by Pub. L. 91–468. That law amended section 101*(4), 12 U.S.C. 1752*(4), by defining "member accounts" to include shares, share certificates, or share deposit accounts of the type approved by the Administrator. In addition, Pub. L. 91–468 amended section 107(7), 12 U.S.C. 1757(7), by authorizing Federal credit unions to receive payments on shares, share certificates, and share deposit accounts. However, the authority granted to Federal credit unions by that amendment, to receive payment on share certificates, had not been implemented because the Administrator had not approved share certificates. Thus, the purpose of the proposed regulation is to grant approval to Federal credit unions to issue share certificates in conformity with the regulation.

The basic concept of the share certificate is a share account evidenced by a certificate, upon which a rate of return in excess of that paid on regular share accounts will be paid if a specified minimum amount is maintained for a certain fixed qualifying period. A significant dividend penalty will be assessed for withdrawals prior to maturity. The rate of return on share certificates will vary according to the minimum amount requirement and the length of the qualifying period. In drafting the proposed regulation, it is the intention of the National Credit Union Administration to conform share certificates to the Federal Credit Union Act's requirements for regular share accounts. In those areas of regulation not covered in the proposed amendment, it is intended that share certificates be treated in the same manner as regular share accounts. For example, share certificates will be entitled to the same insurance coverage as regular share accounts under Title II of the Federal Credit Union Act and shall be subject to the same regulations on insurance coverage set forth in Part 745 of the National Credit Union Administration's Rules and Regulations (12 CFR Part 745). The National Credit Union Administration specifically invites comments on those areas not covered by the proposed regulation where questions may arise as to similar treatment of share certificates and regular share accounts.

The following is a paragraph by paragraph explanation of the proposed regulation.

Section 704.1 is a definition section. Subsection (a) defines a share certificate as having four significant features. First, it is a share account evidenced by a certificate. Second, it will receive a rate of return in excess of that paid on regular share accounts. Third, it must be held for a fixed period of time in order to qualify for the special rate of return. Fourth, a substantial dividend penalty will be assessed for any withdrawal prior to maturity.

Section 704.2(a) establishes the date of maturity for all share certificates as the last dividend declaration date of the qualifying period. Since Federal credit unions cannot establish a dividend prior to the dividend declaration date, no determination could be made as to the dividends earned by a share certificate during the period from the last dividend period to the date of maturity if the maturity date fell within a dividend period. In addition, since the earnings on a share certificate are expressed as a rate of return in excess of that paid on regular share accounts, the rate of return on regular share accounts must be established before the share certificate's earnings are determined. Therefore, the maturity date must coincide with a dividend declaration date.

Section 704.2(b) authorizes the board of directors to establish the rate of return on share certificates. This rate is to be expressed as a percentage in excess of the dividend rate on regular share accounts. Thus, the board of directors will, prior to the issuance of a share certificate, establish that share certificates meeting a certain minimum amount and qualifying period will receive a dividend at a rate, for example, one percent (1 percent) greater than the regular share accounts. This is necessary because Federal credit unions cannot establish or guarantee a dividend rate prior to the close of a dividend period and thus could not establish or guarantee a total rate of return on share certificates prior to their issuance. Subsection (b) also directs the board of directors to take into account the qualifying periods and minimum amount requirements of the share certificates that the credit union will issue, in establishing the rate of return in excess of that paid on regular share accounts.

Section 704.2(c) provides that a minimum amount requirement be established for share certificates receiving a specified rate of return. For example, a credit union may provide a $1,000 minimum amount requirement for one year certificates receiving an excess rate of one percent. It may provide the same minimum amount requirement and pay a greater rate of return by establishing a longer qualifying period for other share certificates. (The figures quoted above are meant as examples only and do not indicate that such minimum amount requirements, qualifying periods, or rate of return should be adopted. Such decisions are reserved for the board of directors of each Federal credit union.) Federal credit unions may receive payments on share certificates in excess of the minimum amount requirement. The rate of return on a certificate issued for more than the minimum amount requirement will be the same as the rate of return for certificates with the same minimum amount requirement and qualifying period but the actual return will be calculated upon the amount received for the share certificate. Using the figures in the above example, a Federal credit union could issue share certificates with a $1,000 minimum amount requirement, one year qualifying period, and one percent excess rate, in amounts of $1,000, $1,500, $1,685, etc. The actual return on these certificates would be based upon the amount of the certificate ($1,000, $1,500, $1,685) and not on the minimum amount requirement.

Section 704.2(c) does require, however that, in establishing minimum amount requirements, a Federal credit union must offer share certificates of at least $100. The Board of Directors may however authorize minimum amount requirements less than $100. This requirement is in keeping with the purpose of Federal credit unions, namely, to promote thrift among persons of small or limited means.

Section 704.2(d) establishes a minimum qualifying period of 90 days (three months). This minimum time requirement, however, is subject to the provisions of § 704.2(a) which requires that the date of maturity coincide with a dividend declaration date. The effect of subsection (a) on subsection (d) is best explained by an example. In the case of a Federal credit union that declares dividends on a semi-annual basis, for example on June 30 and December 31 of each year, a share certificate with a minimum qualifying period of three months could not be issued on January 1 because the certificate would mature in the middle of the dividend period. This would be in violation of § 704.2(a). A three month certificate, in this example, could only be issued on March 30 and September 30.

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The certificates issued on January 1 would have to have a qualifying period of at least six months so that the maturity date will coincide with the dividend declaration date of June 30.

Subsection (e) prohibits a total rate of return, the dividend rate on regular share accounts plus the excess rate for share certificates, greater than the maximum dividend rate set forth in the Federal credit union's Bylaws. This provision is necessary so that share certificates are not offered as a means for violating the bylaw provisions. Subsection (f) provides that dividends paid during the qualifying period and remaining in the share certificate may be compounded.

Section 704.2(g) contains provisions pertaining to early withdrawal. Section 704.2(g)(1) is best explained by the following example. A share certificate with a minimum amount requirement of $1,000 and a qualifying period of one year is issued in the amount of $1,500. If, prior to the end of the qualifying period, $600 is withdrawn, then the certificate must be cancelled and the remaining amount withdrawn, subject to the penalty provisions of § 704.2(h). However, if only $400 is withdrawn, then a notation of the amount withdrawn, the date withdrawn, and remaining amount ($1,100) may be made on the certificate and the certificate may remain in effect, subject to the penalty provisions, in the amount of $1,100. Or, the certificate may be cancelled and a new certificate issued for $1,100 with a $1,000 minimum amount requirement and the same maturity date and excess rate as the old certificate. In either situation where the remaining balance is above the minimum amount requirement, the entire amount of the certificate need not be withdrawn and the penalty provision of § 704.2(h) would apply only to the amount withdrawn (in the above example, $400). If the remaining balance would be less than the minimum amount requirement, then the entire amount must be withdrawn and a penalty applied to that entire amount.

Section 704.2(g)(3) provides that a share certificate holder may withdraw any dividends paid on the certificate during the qualifying period without incurring a penalty. In the event that such dividends are withdrawn and then, later, part of the principal amount of the certificate is withdrawn, § 704.2(g)(2) would require that the penalty, assessed upon the dividends, be deducted from the amount then withdrawn. This prevents an evasion of the penalty provision by withdrawing all dividends, without penalty, and then making further withdrawals when there are no dividends left on the share certificate upon which to impose such penalties.

Section 704.2(h) establishes the penalty provisions for withdrawal prior to maturity. First, since the prerequisite to obtaining a rate of return greater than that paid on regular share accounts is the requirement of holding the certificate for a fixed qualifying period, the excess rate of return should not be paid if that requirement is not met. Therefore, the amounts representing the dividends at the excess rate, which are accrued as dividend credit during the qualifying period pursuant to § 704.3, must be forfeited on the amount withdrawn. Second, an additional penalty is applied which is equal to the rate of return on the regular share accounts, on the amount withdrawn, for either 90 days or from the date of issuance, whichever is less. This additional penalty is necessary to distinguish share certificates from regular share accounts. Applying only the first penalty provision would, in effect, reduce the certificate to the status of a regular share account and would, therefore, make the fixed qualifying period ineffective.

Section 704.2(i) provides the following exceptions to the penalty provisions. First, where withdrawal is made subsequent to the death of the owner of the certificate or where the Federal credit union is required to transfer the certificate to an account payable after the member-owner's termination from membership. Second, where the share certificate is part of a Keogh or individual retirement account, the penalty provision will not apply to withdrawals following the participant's death, disability, or attainment of the age of 59½ years. Third, in the event of the liquidation of the Federal credit union issuing the certificate, the penalty provision will not apply to the payment of the certificate pursuant to such liquidation. These exceptions are provided because the situations under which the withdrawals are made are not within the control of the share certificate holder.

Section 704.3 establishes the manner in which both the dividend at the same rate as that paid on regular accounts and the dividend at the excess rate will be distributed to the share certificate. The same procedure applies to Federal credit unions declaring dividends quarterly or more frequently (§ 704.3(a)) and to Federal credit unions declaring dividends annually or semiannually and issuing certificates with qualifying periods greater than one dividend period. (§ 704.3(b)(2)). For each dividend period during the qualifying period, a dividend at the same rate as that paid on regular share accounts will be paid out, either on the share certificate or to the owner directly. Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) requires dividends to be paid on all shares outstanding at the close of the dividend period and, therefore, these amounts should be paid. However, since a prerequisite to earning a rate of return in excess of that paid on regular share accounts is the holding of that certificate for the qualifying period, the share certificate holder is not entitled to those amounts until the prerequisite is met. Therefore, these amounts will be accrued as dividend credits, which are authorized by section 117 of the Federal Credit Union Act (12 U.S.C. 1763), during the qualifying period, and only paid upon maturity. As with regular share accounts, share certificates will be entitled to a proportional part of the dividend for the period from the date of issuance to the beginning of the first full dividend period, and such dividends will be distributed in the same manner as described above.

Section 704.3(b)(1) provides an exception to this procedure. Federal credit unions that declare dividends on an annual or semi-annual basis can issue share certificates with qualifying periods less than one full dividend period because the 90 day (three month) minimum qualifying period requirement of § 704.2(d) can be met within one dividend period. There is no need to accrue as dividend credits those dividends at the excess rate because such certificates will mature at the close of the first dividend period after issuance. Also, since such certificates are issued during a dividend period, the certificates are entitled to a proportional part of the dividends at both the rate paid on regular share accounts and the excess rate.

Section 704.4(a) provides advertising requirements for share certificates in addition to, and not in lieu of, the advertising requirements of Part 740 (12 CFR Part 740). First, since Federal credit unions may not guarantee the payment of a specific dividend rate in the future, the total rate of return (i.e., the rate of return on regular share accounts plus the excess rate) may not be advertised or guaranteed. Instead, a Federal credit union may state, as a percentage, the rate in excess of the rate paid on regular share accounts. In addition, such advertisement may include the recent dividend record of that Federal credit union for the previous year in order to give prospective share certificate holders an indication of the total return such certificates would have earned. However, the Federal credit union shall in no way appear to guarantee that such dividends will be paid in the future.

Second, § 704.4(b) provides a requirement that all advertisements contain a statement that the total dividend paid on such share certificates will not exceed the maximum rate established in the bylaws. Third, a clear and conspicuous notice of the penalty provision must be included in any advertisement. This requirement can be met by a statement that "A substantial dividend penalty is required for early withdrawal."

Section 704.4(b) requires a much greater disclosure at the time of issuance of the share certificate. First, the Federal credit union must provide, in writing, a description of the method of distribution of dividends pursuant to § 704.3. Second, the credit union must provide a written description of the penalty provisions of § 704.2(h) and the exceptions thereto set forth in § 704.2(i). Last, the credit union must disclose, also in writing, that the total rate of return on such certificates will not exceed the maximum rate set forth in its Bylaws. It is believed that such disclosures will adequately inform the prospective share certificate holder of the advantages, risks, and penalties. These disclosures, however, need not be given when the share certificate is renewed or converted to another certificate pursuant to § 704.2(g)(1).

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulation to the Administrator, National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456. Comments received prior to March 15, 1977, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for public inspection during normal business hours at the foregoing address.

C. AUSTIN MONTGOMERY,
Administrator.

DECEMBER 10, 1976.

A new Part 704 of Title 12 of the Code of Federal Regulation is added to read as follows:

PART 704—SHARE CERTIFICATES

Sec.
704.1 Definitions.
704.2 General provisions.
704.3 Distribution of dividends on share certificates.
704.4 Advertising and disclosure requirements.

AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).

§ 704.1 Definitions.

As used in this Part:

(a) "Share certificate" means any form of share account which is evidenced by a certificate, on which a rate of return greater than that paid on regular share accounts will be paid if the account is held for a certain fixed qualifying period, and on which a penalty will be assessed for the withdrawal, in whole or in part, prior to the end of the fixed qualifying period.

(b) "Regular share account" means any form of share account that is not a share certificate.

(c) "Return" means dividends.

(d) "Qualifying period" means the time from date of issuance to date of maturity.

§ 704.2 General provisions.

The following provisions shall be applicable to all share certificates issued by Federal credit unions.

(a) *Date of maturity*—All share certificates shall mature on the dividend declaration date of the last dividend period of the qualifying period.

(b) *Determination of rate of return*—The rate of return on share certificates shall be established by the board of directors prior to the issuance of the certificates as a percentage in excess of the dividend rate to be paid on regular share accounts. In determining the rate of return, the board of directors shall take into account different qualifying periods and minimum amount requirements.

(c) *Minimum amount requirement*—The board of directors shall establish a minimum amount requirement for share certificates receiving a specified rate of return, provided that share certificates with a minimum amount of $100.00 are made available to members.

(d) *Minimum qualifying period*—Share certificates shall have a qualifying period of at least 90 days (3 months).

(e) *Maximum rate of return*—The rate of return paid on share certificates shall not be in excess of the maximum dividend rate set forth in the bylaws.

(f) *Compounding.* In calculating the rate of return paid, the dividends previously paid on the share certificate may be compounded.

(g) *Withdrawals.* (1) In case of early withdrawal of only a portion of the funds evidenced by a share certificate, that certificate shall be canceled if the applicable minimum amount requirement ceases to be met. If the minimum amount continues to be met, appropriate notation may be made on the certificate indicating the amount and date of such withdrawal and the remaining certificate balance, or the certificate may be canceled and a new certificate issued for the remaining balance.

(2) If any dividends have been paid to the share certificate holder prior to such withdrawal, a deduction shall be made from the amount withdrawn to adjust for the penalty applicable to such dividends.

(3) A share certificate holder may withdraw any and all dividends previously paid on such certificate without incurring a penalty as provided in subsection (h) of this section.

(h) *Penalty provisions*—The following conditions shall be imposed on the withdrawal of funds evidenced by a share certificate before the expiration of the qualifying period: (1) the share certificate holder shall forfeit all accrued division credits from the date of issuance on the amount withdrawn; and, (2) the share certificate holder shall also forfeit an amount not less than the lesser of (i) the dividends at the rate paid on regular share accounts for 90 days (3 months) on the amount withdrawn since the date of issuance, or, (ii) all dividends at such rate, since the date of issuance, on the amount withdrawn.

(i) *Exceptions to the penalty provisions*—The penalty provisions of subsection (h) need not be applied if (1) the withdrawal is made subsequent to the death of any owner of a share certificate or pursuant to Article III, section 5(e) of the Federal Credit Union Bylaws; or (2) the certificate is part of a pension plan which qualifies/or qualified for specific tax treatment under section 401 (d) or 408 of the Internal Revenue Code and withdrawal is made to effect distribution of the funds evidenced by the share certificate following the participant's death or disability or upon attaining not less than 59½ years of age; or (3) such withdrawal is made as a result of the voluntary or involuntary liquidation of the Federal Credit Union issuing the share certificate.

(j) *Liquidation*—Upon the voluntary or involuntary liquidation of a Federal credit union issuing share certificates, the share certificate holders:

(1) Shall have the same priority as holders of regular share accounts; and

(2) Shall be entitled to all dividend credits accrued from the date of issuance until the date of liquidation.

§ 704.3 Distribution of dividends on share certificates.

(a) *Dividends declared quarterly or more frequently than quarterly.* Federal credit unions issuing share certificates and declaring dividends on a quarterly basis or more frequently than quarterly shall distribute dividends on share certificates in the following manner:

(1) For the period from the date of issuance to the beginning of the first full dividend period, pay a proportional part of the dividend at the same rate as that paid on regular share accounts and accrue as dividend credit a proportional part of the dividend at the rate in excess of that paid on regular share accounts;

(2) Pay a dividend at the same rate as that paid on regular share accounts for each dividend period in which the certificate is held;

(3) At the close of each dividend period determine the return in excess of the return on regular share accounts for that period and accrue such return as dividend credit; and

(4) Pay the accrued dividend credit to the share certificate holder at the date of maturity of the share certificate.

(b) *Dividends declared annually or semiannually.* Federal credit unions issuing share certificates and declaring dividends on an annual or semi-annual basis shall distribute dividends on share certificates in the following manner:

(1) For share certificates with qualifying periods less than one full dividend period, pay such certificates a proportional part of the dividend at the same rate as paid on regular share accounts and pay a proportional part of the dividend at the rate in excess of that paid on regular share accounts; or

(2) For share certificates with qualifying periods greater than one full dividend period, distribute dividends to such share certificates in the manner set forth in subsection (a), above.

(c) Subsections (a) and (b) above are subject to the penalty provisions of Subsection 704.2(h).

§ 704.4 Advertising and disclosure requirements.

(a) In addition to the advertising requirements established in Part 740 of the Rules and Regulations (12 CFR Part 740), the following rules shall apply to every advertisement, announcement or solicitation relating to share certificates.

(1) The rate of return on share certificates shall only be stated as a percentage in excess of the dividends to be paid on regular share accounts. No total dividend rate (regular dividend rate plus excess rate) shall be advertised as guaranteed. However, a Federal credit union may include in such advertisement, announcement or solicitation, a statement

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of the recent dividend history of that credit union (not in excess of one year) but shall in no manner appear to guarantee that such dividends will be paid in the future.

(2) Any advertisement, announcement, or solicitation of share certificates shall contain a statement that the rate of return on share certificates shall not exceed the maximum dividend rate established in the bylaws.

(3) Any advertisement, announcement, or solicitation of share certificates shall include clear and conspicuous notice that Federal regulations require Federal credit unions to impose a substantial dividend penalty for a withdrawal of funds evidenced by a share certificate before the end of the fixed or minimum qualifying period of the share certificate. Such notice may state that, "A substantial dividend penalty is required for early withdrawal."

(b) At the time a Federal credit union issues a share certificate, the member shall be provided a written description of:

(1) The method by which the excess dividend shall be accrued and paid;

(2) The penalty imposed on a withdrawal of funds evidenced by a share certificate before the end of the fixed qualifying period; and

(3) The fact that the share certificate shall not pay a rate of return in excess of the maximum rate established in the bylaws.

(4) A Federal credit union need not provide such a written statement in connection with the renewal of an existing certificate.

[FR Doc.76-37110 Filed 12-16-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Proposal To Adopt Definition of Small Farm for the Purpose of Receiving Financial Assistance

Until the recent adoption of Pub. L. 94-305, the Small Busines Administration had rather limited authority to make loans to farms. Accordingly, it established a single definition of a small farm, to wit, a farm which is independently owned and operated and which has gross annual receipts for its preceding fiscal year not exceeding $275,000.

Pub. L. 94-305 gave SBA authority to make loans to all types of farms and, therefore, it becomes necessary that we adopt a definition of a small farm for those industries not previously within our authority. Moreover, it is our view that it would be appropriate to adopt, for the entire loan program, standards that vary from farm industry to industry so as to take into account the difference in the size structure of such industries.

With this in mind, we have attempted to obtain data on which we could reasonably determine at what point, in terms of gross receipts, to establish the maximum size standard for qualification as a small farm. Unfortunately, the data currently available are not broken down by farm industry. (Internal Revenue Service data for 1972 will be available in 1977 for certain Standard Industrial Classification Industries, but not for others.)

Data that are now available for farms, without reference to particular industries, indicate that 93.6 percent of all farms with annual receipts exceeding $25,000 have annual receipts not exceeding $200,000 and account for 53 percent of the total receipts of all farms with recepts in excess of $25,000.

Under such circumstances, we propose to adopt (or retain where applicable) a $275,000 annual receipts size standard for each of the crop and livestock production industries recognized in the Standard Industrial Classification Manual published by the Office of Management and Budget, Executive Office of the President (see list below).

The above proposal is being made with the understanding that if we are provided with data which indicate the desirability of a higher or lower standard for one or more of the such industries, we will consider the data and argument and, if we deem such action desirable, will make a further proposal with respect to such particular industries. Data submitted should be on a national basis and should be in approximately the following format:

SIC industry XXXX

	Number of farms with gross receipts	Percentage of total accounted for by farms with gross receipts
Under $25,000		
$25,000 under $50,000		
$50,000 under $100,000		
$100,000 under $200,000		
$200,000 under $500,000		
$500,000 under $1,000,000		
$1,000,000 under $2,500,000		
$2,500,000 under $5,000,000		
$5,000,000 under $10,000,000		
$10,000,000 or more		

NOTE.—Total number of farms ... Total farm receipts ....

Specifically, we propose to amend Part 12, Chapter I, Title 13 of the Code of Federal Regulations by:

1. Deleting § 121.3-10(k) and revising § 121.3-10(j) to read as follows:

§ 121.3-10 Definition of small business for SBA loans.

* * * * *

(j) Farms. Any concern primarily engaged in the operation of a farm is classified as small if its annual receipts do not exceed the size standard set forth in Schedule J of this part for the industry in which it is primarily engaged.

2. Adding new Schedule J to Part 121 to read as follows:

SCHEDULE I.—*Annual receipts size standards for concern primarily engaged in the operation of a farm*

[The following size standards are to be used for those SBA loan programs requiring that the recipient be a small firm, and for the purpose of the surety bond guarantee program, and as alternate standards for the SBIC and development company assistance programs.]

Census classification code	Industry	Annual receipts size standard (maximum in thousands)
0212	Beef cattle, except feedlots	$275
0213	Hogs	275
0214	Sheep and goats	275
0219	General livestock, except dairy, poultry, and animal specialties	275
0241	Dairy farms	275
0251	Broiler, fryer, and roaster chickens	275
0252	Chicken eggs	275
0253	Turkeys and turkey eggs	275
0254	Poultry hatcheries	275
0259	Poultry and eggs, not elsewhere classified	275
0271	Fur-bearing animals and rabbits	275
0272	Horses and other equines	276
0279	Animal specialties, not elsewhere classified	275
0291	General farms, primarily livestock	275

Census classification code	Industry	Annual receipts size standard (maximum in thousands)
0111	Wheat	$275
0112	Rice	275
0115	Corn	275
0116	Soybeans	275
0119	Cash grains, not elsewhere classified	275
0131	Cotton	275
0132	Tobacco	275
0133	Sugar crops	275
0134	Irish potatoes	275
0139	Field crops, except cash grains, not elsewhere classified	275
0161	Vegetables and melons	275
0171	Berry crops	275
0172	Grapes	275
0173	Tree nuts	275
0174	Citrus fruits	275
0175	Deciduous tree fruits	275
0179	Fruits and tree nuts, not elsewhere classified	275
0181	Ornamental floriculture and nursery products	275
0182	Fruit crops grown under cover	275
0189	Horticultural specialties, not elsewhere classified	275
0191	General farms, primarily crop	275

Interested parties may file with the Small Business Administration, on or before January 31, 1977, written statements of facts, opinions, or arguments concerning the proposal. All correspondence shall be addressed to:

William L. Pellington, Director, Size Standards Division, 1441 L Street, NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Programs Nos. 59.001, Displaced Business Loans; 59.002, Economic Injury Disaster Loans; 59.003, Economic Opportunity Loans for Small Businesses; 59.010, Product Disaster Loans; 59.011, Small Business Investment Companies; 59.012, Small Business Loans; 59.013, State and Local Development Company Loans; 59.016, Bond Guarantees for Surety Companies; 59.017, Meat and Poultry Inspection Loans; 59.018, Occupational Safety and Health Loans; 59.020, Base Closing Economic Injury Loans; 59.021, Handicapped Assistance Loans; 59.022, Emergency Energy Shortage Economic Injury Loans; 59.023, Strategic Arms Economic Injury Loans; 59.024, Water Pollution Control Loans; and 59.025, Air Pollution Control Loans.)

Dated: December 6, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-36957 Filed 12-16-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230, 239, 240]

[Release Nos. 33-5781, 34-13057, 35-19803, IC-9564; File No. S7-655]

PROPOSED EXPERIMENTAL SHORT REGISTRATION FORM AND PROPOSED AMENDMENTS OF RELATED RULES

Extension of Comment Period

The Securities and Exchange Commission today extended the comment period on proposed Form S-14A, an optional short form for registration under the Securities Act of 1933 of securities of certain issuers to be issued in reclassification and business combinations of the character described in Securities Act Rule 145(a), and proposed amendments to related rules (Release No. 33-5744, September 27, 1976 [41 FR 43876]). The Commission believes that an extension from December 10, 1976, until January 10, 1977 is appropriate in view of the significance of the proposals.

Accordingly, all interested persons are invited to submit in triplicate their views and comments on the proposals in Release No. 33-5744 to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before January 10, 1977. Such communications should refer to File No. S7-655. All such communications will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 10, 1976.

[FR Doc.76-37148 Filed 12-16-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[19 CFR Part 205]

MODIFICATION OF DUTIES

Investigations To Determine the Probable Economic Effects on the Economy of the United States

These proposed amendments to Title 19, Chapter II, Subchapter B, Part 205 of the Code of Federal Regulations would provide a procedural framework for implementing sections 131, 503, and section 301(e)(2) of the Trade Act of 1974.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Office of the Secretary, United States International Trade Commission, Washington, D.C. 20436. All communications received on or before January 17, 1977 will be considered before action is taken on the proposed amendment. Comments received will be available for public examination in the Office of the Secretary.

It is proposed to revise Part 205 of Title 19 of the Code of Federal Regulations as set forth in tentative form below:

PART 205—INVESTIGATIONS TO DETERMINE THE PROBABLE ECONOMIC EFFECTS ON THE ECONOMY OF THE UNITED STATES OF PROPOSED MODIFICATIONS OF DUTIES OR OF ANY BARRIER TO (OR OTHER DISTORTION OF) INTERNATIONAL TRADE OR OF TAKING RETALIATORY ACTIONS TO OBTAIN THE ELIMINATION OR UNJUSTIFIABLE OR UNREASONABLE FOREIGN ACTS OR POLICIES WHICH RESTRICT U.S. COMMERCE

Sec.

205.1 Applicability of part.

Subpart A—Investigations To Determine the Probable Economic Effects of Modifications of United States Duties or of Any Barrier to (or Other Distortion of) International Trade on Domestic Industries and on Consumers

205.2 Applicability of subpart.
205.3 Investigations under section 131(a)-(b), 503(a), and 131(c) of the Trade Act of 1974.
205.4 [Reserved]

Subpart B—Investigations Concerning the Probable Impact on the Economy of the United States of the President's Taking Retaliatory Action To Obtain the Elimination of Unjustifiable or Unreasonable Foreign Acts or Policies Which Restrict U.S. Commerce

205.5 Applicability of subpart.
205.6 Investigations under section 301(e)(3) of the Trade Act of 1974.

AUTHORITY: Sec. 335 of the Tariff Act of 1930 (72 Stat. 680; 19 U.S.C. 1335) and sec. 603 of the Trade Act of 1974 (88 Stat. 2073; 19 U.S.C. 2482).

§ 205.1 Applicability of part.

This Part 205 applies specifically to functions and duties of the Commission under sections 131, 301(e)(3), and 503(a) of the Trade Act of 1974. For other applicable rules, see Part 201 of this chapter.

Subpart A—Investigations To Determine the Probable Economic Effect of Modifications of United States Duties or of Any Barrier to (or Other Distortion of) International Trade on Domestic Industries and on Consumers

§ 205.2 Applicability of subpart.

This Subpart A of Part 205 applies specifically to investigations for the purposes of section 131(a)-(b), 503 and 131(c) of the Trade Act of 1974. For other applicable rules, see Part 201 of this chapter.

§ 205.3 Investigations under sections 131 and 503 of the Trade Act of 1974.

(a) *Purpose of investigations.*—(1) *Section 131(a)-(b) and 503(a).* Upon the receipt of a list of articles from the President as provided in section 131(a) or 503(a), which may be considered for modification of United States duties, or as eligible articles for duty-free treatment under the generalized system of preferences, respectively, the Commission shall initiate an investigation to obtain information pertinent to the formulation of its advice to the President under section 131(b) with respect to such articles to assist him in making an informed judgment as to the impact which might be caused by such duty modifications or duty-free treatment on U.S. manufacturing, agriculture, mining, fishing, labor, and consumers, including whether any reductions in rates of duty should take place over a period longer than the minimum periods provided by section 109(a) of the Trade Act of 1974 (88 Stat. 1985; 19 U.S.C. 2119).

(2) *Section 131(c).* Upon the receipt of a request from the President as provided in section 131(c) to assist him in his detremination of whether to enter into any trade agreement under section 102, the Commission shall institute an investigation to obtain information pertinent to the formulation of its views with respect to the probable economic effects of modifications of any barrier to (or other distortion of) international trade on domestic industries and purchasers and on prices and quantities of articles in the United States.

(b) *Institution and notice of investigation.* An investigation to which this Subpart A relates will be instituted promptly after the receipt from the President of (1) a list of articles which may be considered for duty modifications or duty-free treatment or (2) a request for an investigation and report concerning the probable economic effects of modifications of any barrier to (or other distortion of) international trade.

(c) *Hearings.* Public hearings will be held in connection with every investigation to which this Subpart A relates. For other applicable rules, see section 201.11 of this part.

(d) *Report to the President.* After the completition of its investigation, the Commission will incorporate its advice or views in a report which will be transmitted to the President.

Subpart B—Investigations Concerning the Probable Impact on the Economy of the United States of the President's Taking Retaliatory Action To Obtain the Elimination of Unjustifiable or Unreasonable Foreign Acts or Policies Which Restrict U.S. Commerce

§ 205.5 Applicability of subpart.

This Subpart B of Part 205 applies specifically to investigations for the purpose of section 301(e)(3) of the Trade Act of 1974. For other applicable rules, see Part 201 of this chapter.

§ 205.6 Investigations under section 301(e)(3) of the Trade Act of 1974.

(a) *Purpose of investigation.* The purpose of an investigation by the Commission is to provide the President with its views pursuant to section 301(e)(3) as to the probable impact on the economy of the United States of imposing retaliatory restrictions on imports into the United States from countries or foreign instrumentalities which maintain restrictions against U.S. exports.

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(b) *Institution and notice of investigation.* An investigation to which this Subpart B relates will be instituted promptly after the receipt from the President of a request for the views of the Commission with regard to the matters indicated in subsection (a).

(c) *Public hearings.* If, in the judgment of the Commission, there is good and sufficient reason therefor, the Commission, in the course of its investigation, will hold a public hearing and afford interested parties opportunity to appear and be heard at such hearing. If no notice of public hearing issues concurrently with a notice of investigation, any interested party who believes that a public hearing should be held may, within fifteen (15) days after the date of publication in the FEDERAL REGISTER of the notice of investigation, submit a request in writing to the Secretary of the Commission that a public hearing be held, stating the reasons for such request.

(d) *Written statements.* At any time after a notice of investigation under subsection (b) is published in the FEDERAL REGISTER, any interested party may submit to the Commission a written statement of information pertinent to the subject matter of such investigation. If a public hearing is held in the investigation, such statement may be received in lieu of or in addition to appearance at the hearing. Statements shall conform with the requirements for documents set forth in § 201.8 of this chapter.

(e) *Report to the President.* After the completion of its investigation, the Commission will incorporate its views in a report which will be transmitted promptly to the President.

Issued: December 14, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-37181 Filed 12-16-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 888]

[Docket No. R-76-311]

FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

On April 6, 1976, at 41 FR 14662, the Department of Housing and Urban Development (HUD) amended Title 24 of the Code of Federal Regulations, incorporating in Part 888, Subpart A, a revised Schedule A, "Fair Market Rents for New Construction and Substantial Rehabilitation (including Housing Finance and Development Agencies Program)," for all market areas.

Since April 6, 1976, additional comments and data have been received from the Anchorage Insuring Office indicating a need to establish schedules A for three additional market areas in the State of Alaska.

The Department proposes to incorporate in Part 888, Subpart A, at 41 FR 14717, additional Schedules A for the following market areas: Barter Island, North Coastal Area; Coastal Area, North of Aleutians; and Inland Area, North of Aleutians, Alaska.

Because it is necessary to the operation of the Section 8 program that fair market rents remain as current as possible, and because interested parties are encouraged at all times to submit information and data on those rents which will be considered in initiating revisions as needed, it has been determined that it is impracticable and unnecessary to provide a 30-day period for comments on these proposed revisions and that a 15-day period is reasonable and in the public interest.

Interested persons are invited to submit written data, comments, suggestions, or objections concerning the proposed revisions. Communications should identify the subject matter by title and docket number and should be filed with the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. All relevant material received on or before January 6, 1976, will be considered before adoption of the revisions in final form. Copies of comments received will be available for examination during business hours at the above address.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C.

It has been determined that this proposal does not have a substantial impact on the economy in accordance with OMB Circular A-107. A copy of that determination is on file at the office of the Rules Docket Clerk at the above address.

(Sec. 7(d) Department of HUD Act (42 USC 3535(d).)

Dated: December 13, 1976.

JOHN T. HOWLEY,
Deputy Assistant Secretary for Housing — Federal Housing Commissioner.

It is proposed that § 888.103 Schedule A be amended by adding communities as follows:

SCHEDULE A—FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM.)

These Fair Market Rents have been trended ahead two years to allow time for processing and construction of proposed new construction and substantial rehabilitation rental projects.

NOTE.—The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-Bedroom, multiplied by 1.05 rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units and (3) single room occupancy dwelling units are those for 0-Bedroom units of the same type.

INSURING OFFICE ANCHORAGE, ALASKA REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BARTER ISLAND, NORTH COASTAL AREA	DETACHED	-	640	703	773	851
	SEMI-DETACHED/ROW	-	621	683	751	826
	WALKUP	548	603	663	729	802
	ELEVATOR	-	-	-	-	-
COASTAL AREA, NORTH OF ALEUTIANS	DETACHED	-	640	703	773	851
	SEMI-DETACHED/ROW	-	621	683	751	826
	WALKUP	548	603	663	729	802
	ELEVATOR	-	-	-	-	-
INLAND AREA, NORTH OF ALEUTIANS	DETACHED	-	640	703	773	851
	SEMI-DETACHED/ROW	-	621	683	751	826
	WALKUP	548	603	663	729	802
	ELEVATOR	-	-	-	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR					

[FR Doc.76-37087 Filed 12-16-76;8:45 am]

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DEPARTMENT OF LABOR

Employee Benefits Security Office

[29 CFR Part 2550]

EMPLOYEE BENEFIT PLANS; RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

Proposed Regulation Regarding the Maintenance of the Indicia of Ownership of Plan Assets Outside the Jurisdiction of the District Courts of the United States

Section 404(b) of the Employee Retirement Income Security Act of 1974 (the Act) prohibits a fiduciary with respect to an employee benefit plan from maintaining the indicia of ownership of any plan assets outside the jurisdiction of the district courts of the United States, except as authorized by the Secretary of Labor (the Secretary). The purpose of section 404(b) is to preserve the jurisdiction of the district courts of the United States over plan assets so as to preclude frustration of adequate fiduciary supervision and remedies for breaches of trust and fiduciary responsibility.

Investments in securities of foreign companies and governments have been and may well continue to be in the best interests of plan participants and beneficiaries in appropriate circumstances and with proper safeguards. However, such investments by plans may be unreasonably limited by the high costs associated with the physical transfer of securities to and from the United States in order to satisfy the requirements of section 404(b) of the Act.

Accordingly, the Department of Labor hereby proposes to adopt § 2550.404b–1 of Title 29 to permit the maintenance of the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States if such assets are in the form of foreign securities, and if (1) the fiduciary who manages or controls such assets for the plan is a bank, insurance company or investment adviser registered under the Investment Advisers Act of 1940, and such fiduciary satisfies other specified requirements, relating generally to net worth, or (2) the person who has physical possession of such securities in a foreign location is either a regulated United States bank or a domestic broker-dealer registered under the Securities Exchange Act of 1934, and such person satisfies other specified requirements, relating generally to net worth.

If a fiduciary who manages or controls plan assets meets the requirements of (1) above, then such fiduciary may maintain the indicia of ownership of such plan assets in the custody of any foreign entity anywhere outside the jurisdiction of the district courts of the United States. However, if a fiduciary who manages or controls plan assets does not meet the requirements of (1) above, then such fiduciary may maintain the indicia of ownership of such plan assets outside the jurisdiction of the district courts of the United States only if such indicia of ownership is in the physical possession of, or, as a result of normal business operations, in transit to the physical possession of, an entity meeting the requirements of (2) above.

A special provision of the proposed regulation is applicable with respect to plans which have received, or which have applied to receive, tax exempt status under the laws of Canada. Under the proposed regulation, a fiduciary of such a plan would be permitted to maintain the indicia of ownership of plan assets, including securities of issuers domiciled in the United States or property located in the United States, in Canada if such assets are purchased with or derived from contributions made by Canadian employers on behalf of participants who are citizens or residents of Canada, and if the indicia of ownership of the assets must remain in Canada in order for the plan to qualify for and maintain tax exempt status under the laws of Canada. The Department of Labor requests comments specifically with respect to the interrelationship between the provisions of section 404(b) of the Act and the requirements of the laws of other foreign jurisdictions.

If adopted, § 2550.404b–1 would be effective as of January 1, 1975.

All interested persons are invited to submit written views, data and arguments on the proposed regulation on or before January 17, 1977, to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C., 20210. All letters of comment should be clearly referenced to proposed § 2550.-404b–1.

This regulation is proposed under the authority of section 505 of the Act, Pub. L. 93–406, 88 Stat. 894 (29 U.S.C. 1135), and section 404(b) of the Act, Pub. L. 93–406, 88 Stat. 877 (29 U.S.C. 1104).

Accordingly, it is proposed to amend Part 2550 of 29 CFR Chapter XXV by adding a new § 2550.404b–1 to read as follows:

§ 2550.404b–1 Maintenance of the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States.

(a) Effective January 1, 1975, no fiduciary may maintain the indicia of ownership of any assets of a plan outside the jurisdiction of the district courts of the United States, unless:

(1) Such assets are securities issued by (i) a person, as defined in section 3(9) of the Act (other than an individual), which is not organized under the laws of the United States or a State and does not have its principal place of business within the United States, or (ii) a government other than the government of the United States or of a State, or any political subdivision, agency or instrumentality of such a government; and

(2) (i) Such assets are under the management and control of a fiduciary which is a corporation or partnership organized under the laws of the United States or a State and which has its principal place of business within the United States, if such fiduciary is—

(A) A bank, as defined in section 202 (a) (2) of the Investment Advisers Act of 1940, and has, as of the last day of its most recent fiscal year, equity capital in excess of $1,000,000;

(B) An insurance company qualified under the laws of more than one State to manage, acquire, or dispose of any asset of a plan, is subject to supervision and examination by the State authority having supervision over insurance companies, and has, as of the last day of its most recent fiscal year, net worth in excess of $1,000,000; or

(C) An investment adviser registered under the Investment Advisers Act of 1940, and has, as of the last day of its most recent fiscal year, shareholders' or partners' equity in excess of $750,000 and total client assets under its management and control in excess of $50,000,-000; or

(ii) Such assets are in the physical possession of, or, as a result of normal business operations, in transit to the physical possession of, a person which is organized under the laws of the United States or a State, and which has its principal place of business in the United States, if such person is—

(A) A bank as defined in section 202 (a) (2) of the Investment Advisers Act of 1940, which has, as of the last day of its most recent fiscal year, equity capital in excess of $1,000,000; or

(B) A broker or dealer registered under the Securities Exchange Act of 1934 which has, as of the last day of its most recent fiscal year, net worth in excess of $750,000.

(b) Notwithstanding paragraph (a), a fiduciary with respect to a plan may maintain the indicia of ownership of any plan assets in Canada if such plan:

(1) Has a substantial number of participants who are citizens or residents of Canada;

(2) Receives contributions on behalf of such participants from one or more employers which are organized under the laws of Canada or a Province of Canada or have their principal place of business in Canada; and

(3) Is required to maintain the indicia of ownership of such plan assets within Canada in order to qualify for and maintain tax exempt status under the laws of Canada and to comply with other applicable laws of Canada or the Provinces of Canada.

(c) For purposes of this regulation the term "management or control" shall mean the power to direct the disposition through sale, hypothecation, or other means.

Signed at Washington, D.C., this 13th day of December 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.76–36068 Filed 12–16–76;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 503]

[General Order 22; Docket No. 76–65]

PUBLIC OBSERVATION OF FEDERAL MARITIME COMMISSION MEETINGS AND PUBLIC ACCESS TO INFORMATION PERTAINING TO COMMISSION MEETINGS

Notice of Proposed Rulemaking

The purpose of these proposed regulations is to provide a new Subpart H entitled "Public Observation of Federal Maritime Commission Meetings and Public Access to Information Pertaining to Commission Meetings" to the provisions of Part 503 of Chapter IV of this title. These regulations are designed to implement the provisions of the "Government in the Sunshine Act" (Pub. L. 94–409; 5 U.S.C. § 552b, September 13, 1976) as they affect the conduct of the business of the Federal Maritime Commission.

The first two sections of the proposed regulations (§§ 503.70 and 503.71) provide the Commission's statement of policy and the definitions applicable to this Subpart, respectively. These sections are largely self-explanatory. However, the definiton of "information pertaining to a meeting" requires some explanation. The definition provides that information pertaining to a meeting includes "* * * but is not limited to * * *" certain listed items relating to public notification of Commission meetings. The phrase "* * * but is not limited to * * *" should not be misconstrued. This phrase is intended not to indicate that information pertaining to a meeting might include internal documents, memoranda, or the like which form the basis for Commission discussion of any item of a meeting agenda. Rather, the phrase in question is intended merely to address the possibility that notice provided the public by the Commission regarding a meeting may, from time to time, include information not required to be publicized but which the Commission deems to be helpful to the public. Any such additional information found in a public announcement of a Commission meeting would, under the phrase in question, be considered to be information pertaining to a meeting irrespective of its omission from the listed items.

In general, the remaining sections of proposed Subpart H implement the substantive requirements of the Government in the Sunshine Act (Act) by creating two separate procedures with respect to Commission meetings. One set of procedures is addressed to the requirements of the Act regarding the opening of Commission meetings to public observation. The second set of procedures addresses the requirements of the Act regarding public announcement of information pertaining to a meeting and the recordkeeping requirements of the Act.

Sections 503.72, 503.73, 503.74, and 503.75 provide the procedures applicable to determinations by the Commission of whether or not a meeting of the Commission or a portion of a meeting of the Commission shall be open or closed to public observation. Section 503.72 provides the general rule applicable to meetings of the Commission. Section 503.73 provides the statutory exceptions which permit the Commission to close a portion of a meeting or a meeting in its entirety to public observation. Section 503.74 provides the procedures to be used by the Commission in making a determination to close a meeting or a portion of a meeting or to permit that portion or that meeting to remain open to public observation. This section addresses only requests initiated by a member or an employee of the Commission. Section 503.75 provides the complementary procedure for determinations by the Commission to close a meeting or a portion of a meeting upon the request of an interested person as defined in these provisions.

The next two sections of the proposed regulations, §§ 503.76 and 503.77, provide, respectively, for the effect of a vote to close a portion of a meeting and the responsibility of the General Counsel of the Commission with respect to any determination to close a portion of any meeting. Section 503.76 is fundamentally a recordkeeping requirement which generally follows the statutory requirement that there be made available certain information with respect to the Commission's vote on a request to close a meeting. Section 503.77, details the responsibilities of the General Counsel of the Commission with respect to any requests that a portion of a meeting or a meeting of the Commission be closed to public observation. That section requires that, upon such a request, the General Counsel is to certify to the public and to the Commission his or her opinion as to whether or not the proposed closing of a meeting or a portion of a meeting is proper under the provisions of the Act.

Sections 503.78, 503.79, 503.80, and 503.-81 are those provisions which address the requirements of the Act regarding public disclosure of information pertaining to Commission meetings. Section 503.78 establishes the general rule requiring that information pertaining to meetings of the Commission be disclosed to the public unless excepted under other provisions of the Subpart. Section 503.79 lists the statutory exceptions which form the basis for allowing the Commission to determine to withhold from public disclosure information pertaining to a meeting. Section 503.80 provides the procedures to be followed by the Commission in its determination of whether or not information pertaining to a meeting shall be disclosed to the public. These procedures are self-explanatory and are comparable to the procedures applicable to determinations by the Commission to close meetings to public observation or to permit the meeting to be open to public observation. Section 503.81 merely describes the effect of a vote by the Commission to withhold from public disclosure information pertaining to meetings and is self-explanatory.

Sections 503.82 and 503.83 deal with public announcement of Commission meetings and changes with respect to Commission meetings. These provisions conform to the statutory provisions of the Act scrupulously and address the information with respect to which the Commission may make determinations regarding disclosure or withholding from disclosure to the public under the provisions of § 503.80. Section 503.84 is reserved in the event the Commission should decide at a later date that further regulatory provisions are required under the Act.

The final sections of these proposed regulations, §§ 503.85, 503.86 and 503.87 are, respectively, recordkeeping requirements, provisions for public access to those records, and a statement of the effect of the provisions of this Subpart on any other Subpart of this Chapter. The recordkeeping requirements of § 503.85 parallel precisely the requirements of the Act and, as such, are self-explanatory. The provisions of § 503.86 which address public access to such records are also closely drawn to the statutory provisions and require no explanation here. Section 503.87 also precisely follows the statutory language of the Act. That section merely provides for the interaction of the requirements of the Act with the requirements of the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a).

The Commission has determined that the proposed addition of Subpart H to Part 503 of this Chapter will have no significant impact on the human environment. Therefore, pursuant to the provisions of § 553 of the Administrative Procedure Act (5 U.S.C. 553) and the provisions of § 552b(g) of the Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given that the Federal Maritime Commission proposes to amend Part 503 of Chapter IV of Title 46 CFR by the addition of a new Subpart H reading as follows:

PART 503—PUBLIC INFORMATION

Subpart H—Public Observation of Federal Maritime Commission Meetings and Public Access to Information Pertaining to Commission Meetings

Sec.
503.70 Policy.
503.71 Definitions.
503.72 General rule—meetings.
503.73 Exceptions—meetings.
503.74 Procedures for closing a portion or portions of a meeting or a portion or portions of a series of meetings on agency initiated requests.
503.75 Procedures for closing a portion of a meeting on request initiated by an interested person.
503.76 Effect of vote to close a portion or portions of a meeting or series of meetings.
503.77 Responsibilities of general counsel of the agency upon a request close any portion of any meeting.
503.78 General Rule—information pertaining to meetings.
503.79 Exceptions—information pertaining to meetings.
503.80 Procedures for withholding information pertaining to a meeting.
503.81 Effect of vote to withhold information pertaining to meetings.

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Sec.
503.82 Public announcement of agency meetings.
503.83 Public announcement of changes in meetings.
503.84 [Reserved].
503.85 Agency recordkeeping requirements.
503.86 Public access to records.
503.87 Effect of provisions of this subpart on any other subpart.

AUTHORITY: Sec. 553 of the Administrative Procedure Act (5 U.S.C. 553) and sec. 552b(g) of the Government in the Sunshine Act (5 U.S.C. 552b).

Subpart H—Public Observation of Federal Maritime Commission Meetings and Public Access to Information Pertaining to Commission Meetings

§ 503.70 Policy.

It is the policy of the Federal Maritime Commission, under the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b, September 13, 1976) to entitle the public to the fullest practicable information regarding the decisional processes of the Commission. The provisions of this Subpart set forth the procedural requirements designed to provide the public with such information while continuing to protect the rights of individuals and to maintain the capabilities of the Commission in carrying out its responsibilities under the shipping statutes administered by this Commission.

§ 503.71 Definitions.

The following definitions apply for purposes of this Subpart:

"Agency" means the Federal Maritime Commission;

"Information pertaining to a meeting" means, but is not limited to, the following: the record of any agency vote taken under the provisions of this Subpart, and the record of the vote of each member; a full written explanation of any agency action to close any portion of any meeting under this Subpart; lists of persons expected to attend any meeting of the agency and their affiliation; public announcement by the agency under this Subpart of the time, place, and subject matter of any meeting or portion of any meeting; announcement of whether any meeting or portion of any meeting shall be open to public observation or closed; any announcement of any change regarding any meeting or portion of any meeting; and the name and telephone number of the Secretary of the agency who shall be designated by the agency to respond to requests for information concerning any meeting or portion of any meeting;

"Meeting" means the deliberations of at least three of the members of the agency which determine or result in the joint conduct or disposition of official agency business, but does not include: (1) individual member's consideration of official agency business circulated to the members in writing for disposition on notation; (2) deliberations by the agency in determining whether or not to close a portion or portions of a meeting or series of meetings as provided in §§ 503.74 and 503.75 of this subpart; (3) deliberations by the agency in determining whether or not to withhold from disclosure information pertaining to a portion or portions of a meeting or series of meetings as provided in section 503.80 of this Subpart; or (4) deliberations pertaining to any change in any meeting or to changes in the public announcement of such a meeting as provided in § 503.83 of this subpart;

"Member" means each individual Commissioner of the agency;

"Person" means any individual, partnership, corporation, association, or public or private organization, other than an agency as defined in 5 U.S.C. § 551(1);

"Public observation" means attendance at any meeting but does not include participation, or attempted participation, in such meeting in any manner;

"Series of meetings" means more than one meeting involving the same particular matters and scheduled to be held no more than thirty (30) days after the initial meeting in such series.

§ 503.72 General rule—meetings.

(a) Except as otherwise provided in §§ 503.73, 503.74, 503.75 and 503.76 of this subpart, every portion of every meeting and every portion of a series of meetings of the agency shall be open to public observation.

(b) The opening of a portion or portions of a meeting or a portion or portions of a series of meetings to public observation shall not be construed to include any participation by the public in any manner in the meeting. Such an attempted participation or participation shall be cause for removal of any person so engaged at the discretion of the presiding member of the agency.

§ 503.73. Exceptions—meetings.

Except in a case where the agency finds that the public interest requires otherwise, the provisions of § 503.72(a) shall not apply to any portion or portions of an agency meeting or portion or portions of a series of meetings where the agency determines under the provisions of §§ 503.74 or 503.75 of this subpart that such portion or portions of such meeting or series of meetings is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive order;

(b) Related solely to the internal personnel rules and practices of an agency;

(c) Disclose matters specifically exempted from disclosure by any statute other than 5 U.S.C. § 552 (FOIA), provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, unless the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 503.74 Procedures for closing a portion or portions of a meeting or a portion or portions of a series of meetings on agency initiated requests.

(a) Any member of the agency, the Managing Director, or the General Counsel of the agency may request that any portion or portions of a meeting or any portion or portions of a series of meetings be closed to public observation for any of the reasons provided in § 503.73 of this subpart by submitting such request in writing to the Secretary of the agency not later than two weeks prior to the commencement of the meeting or the commencement of the first meeting in a series of meetings.

(b) Upon receipt by him of any request made under paragraph (a) of this section, the Secretary of the agency shall schedule a time at which the members of the agency shall vote upon the request which vote shall take place not later than eight (8) days prior to the scheduled meeting of the agency.

(c) At the time the Secretary schedules a time for an agency vote as described in paragraph (b) of this section, he shall forward the request to the General Counsel of the agency who shall act upon such request as provided in § 503.77 of this subpart.

(d) At the time scheduled by the Secretary as provided in paragraph (b) of this section, the members of the agency, upon consideration of the request submitted under paragraph (a) of this section and consideration of the certified opinion of the General Counsel of the agency provided the members under § 503.77 of this subpart, shall vote upon that request.

(e) In the case of a vote on a request under this section to close to public observation a portion or portions of a meeting, no such portion or portions of any meeting may be closed unless a majority of the entire membership of the agency shall vote to close such portion or portions of a meeting by recorded vote.

(f) In the case of a vote on a request under this section to close to public observation a portion or portions of a series of meetings as defined in § 503.71 of this Subpart, no such portion or portions of a series of meetings may be closed unless a majority of the entire membership of the agency shall vote to close such portion or portions of a series of meetings. A determination to close to public observation a portion or portions of a series of meetings may be accomplished by a single vote provided that the vote of each member of the agency shall be recorded and the vote shall be cast by each member and not by proxy vote.

§ 503.75 Procedures for closing a portion of a meeting on request initiated by an interested person.

(a) Any person as defined in § 503.71 of this subpart whose interests may be directly affected by a portion of a meeting of the agency may request that the agency close that portion of a meeting for the reason that matters in deliberation at that portion of the meeting are such that public disclosure of that portion of a meeting is likely to:

(1) Involve accusing any person of a crime, or formally censuring any person;

(2) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy; or

(3) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel.

(b) Any person described in paragraph (a) of this section who submits a request that a portion of a meeting be closed shall submit an original and 15 copies of that request to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, and shall state with particularity that portion of a meeting sought by him to be closed and the reasons therefor as described in paragraph (a) of this section.

(c) Upon receipt by him of any request made under paragraphs (a) and (b) of this section, the Secretary of the agency shall:

(1) Furnish a copy of the request to each member of the agency;

(2) Furnish a copy of the request to the General Counsel of the agency; and

(3) Furnish a copy of the request to the Managing Director of the agency.

(d) Upon receipt of a copy of a request made under paragraphs (a) and (b) of this section, any member of the agency, the Managing Director, or the General Counsel of the agency, may request agency action upon the request to close a portion of a meeting by notifying the Secretary of the agency of that request for agency action.

(e) Upon receipt by him of a request for agency action under paragraph (d) of this section, the Secretary of the agency shall schedule a time for an agency vote upon the request of the person whose interests may be directly affected by a portion of a meeting, which vote shall take place prior to the scheduled meeting of the agency.

(f) At the time the Secretary receives a request for agency action and schedules a time for an agency vote as described in paragraph (e) of this section, he shall forward the request of the person whose interests may be directly affected by a portion of a meeting to the General Counsel of the agency who shall act upon such request as provided in § 503.77 of this subpart.

(g) At the time scheduled by the Secretary as provided in paragraph (e) of this section, the members of the agency, upon consideration of the request of the person whose interests may be directly affected by a portion of a meeting submitted under paragraphs (a) and (b) of this section, and consideration of the certified opinion of the General Counsel of the agency provided the members under § 503.77 of this subpart, shall vote upon that request.

(h) In the case of a vote on a request under this section to close to public observation a portion of a meeting, no such portion of a meeting may be closed unless a majority of the entire membership of the agency shall vote to close such portion of a meeting by a recorded vote.

§ 503.76 Effect of vote to close a portion or portions of a meeting or series of meetings.

(a) Where the agency votes as provided in sections 503.74 or 503.75, to close to public observation a portion or portions of a meeting or a portion or portions of a series of meetings, the portion or portions of a meeting or the portion or portions of a series of meetings shall be closed.

(b) Except as otherwise provided in §§ 503.80, 503.81 and 503.82 of this Subpart, not later than the day following the day on which a vote is taken under §§ 503.74 or 503.75, by which it is determined to close a portion or portions of a meeting or a portion or portions of a series of meetings to public observation, the Secretary shall make available at his offices: (1) a written copy of the recorded vote reflecting the vote of each member of the agency; (2) a full written explanation of the agency action closing that portion or those portions to public observation; and (3) a list of the names and affiliations of all persons expected to attend the portion or portions of the meeting or the portion or portions of a series of meetings.

(c) Except as otherwise provided in §§ 503.80, 503.81 and 503.82 of this subpart, not later than the day following the day on which a vote is taken under §§ 503.74 or 503.75 by which it is determined that the portion or portions of a meeting or the portion or portions of a series of meetings shall remain open to public observation, the Secretary shall make available at his offices a written copy of the recorded vote reflecting the vote of each member of the Agency.

§ 503.77 Responsibilities of general counsel of the agency upon a request to close any portion of any meeting.

(a) Upon any request that the agency close a portion or portions of any meeting or any portion or portions of any series of meetings under the provisions of §§ 503.74 and 503.75 of this subpart, the General Counsel of the agency shall certify in writing to the agency, whether or not in his or her opinion the closing of any such portion or portions of a meeting or portion or portions of a series of meetings is proper under the provisions of this Subpart and the terms of the Government in the Sunshine Act (5 U.S.C. § 552 b). If, in the opinion of the General Counsel, a portion or portions of a meeting or portion or portions of a series of meetings is proper under the provisions of this subpart and the terms of the Government in the Sunshine Act (5 U.S.C. 552b), his or her certification of that opinion shall cite each applicable particular exemptive provision of that Act and provision of this Subpart.

(b) A copy of the certification of the General Counsel as described in paragraph (a) of this section together with a statement of the presiding officer of the portion or portions of any meeting or the

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portion or portions of a series of meetings setting forth the time and place of the relevant meeting or meetings, and the persons present, shall be maintained by the Secretary of the agency in his offices for public inspection.

§ 503.78 General rule—information pertaining to meetings.

As defined in section 503.71 of this Subpart, all information pertaining to a portion or portions of a meeting or portion or portions of a series of meetings of the agency shall be disclosed to the public unless excepted from such disclosure under §§ 503.79, 503.80 and 503.81 of this subpart.

§ 503.79 Exceptions—information pertaining to meetings.

Information pertaining to a portion or portions of a meeting or portion or portions of a series of meetings need not be disclosed by the agency if the agency determines, under the provisions of §§ 503.80 and 503.81 of this subpart that disclosure of that information is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of an agency;

(c) Disclose matters specifically exempted from disclosure by any statute other than 5 U.S.C. § 552 (FOIA), provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, unless the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 503.80 Procedures for withholding information pertaining to a meeting.

(a) Any member of the agency, the Managing Director, or the General Counsel of the agency may request that information pertaining to a portion or portions of a meeting or to a portion or portions of a series of meetings be withheld from public disclosure for any of the reasons set forth in § 503.79 of this subpart by submitting such request in writing to the Secretary of the agency not later than two (2) weeks prior to the commencement of the meeting or the commencement of the first meeting in a series of meetings.

(b) Upon receipt by him of any request made under paragraph (a) of this section, the Secretary of the agency shall schedule a time at which the members of the agency shall vote upon the request which vote shall take place not later than eight (8) days prior to the scheduled meeting of the agency.

(c) At the time scheduled by the Secretary in paragraph (b) of this section, the Members of the agency, upon consideration of the request submitted under paragraph (a) of this section shall vote upon that request.

(d) In the case of a vote on a request under this section to withhold from public disclosure information pertaining to a portion or portions of a meeting, no such information shall be withheld from public disclosure unless a majority of the entire membership of the agency shall vote to withhold such information by recorded vote.

(e) In the case of a vote on a request under this section to withhold information pertaining to a portion or portions of a series of meetings, no such information shall be withheld unless a majority of the entire membership of the agency shall vote to withhold such information. A determination to withhold information pertaining to a portion or portions of a series of meetings from public disclosure may be accomplished by a single vote, provided that the vote of each member of the agency shall be recorded and the vote shall be cast by each member and not by proxy vote.

§ 503.81 Effect of vote to withhold information pertaining to meetings.

(a) Where the agency votes as provided in § 503.80 of this Subpart to withhold from public disclosure information pertaining to a portion or portions of a meeting or portion or portions of a series of meetings, such information shall be excepted from the requirements of §§ 503.78, 503.82 and 503.83 of this subpart.

(b) Where the agency votes as provided in § 503.80 of this Subpart to permit public disclosure of information pertaining to a portion or portions of a meeting or portion or portions of a series of meetings, such information shall be disclosed to the public as required by §§ 503.78, 503.82 and 503.83 of this subpart.

(c) Not later than the day following the day on which a vote is taken under § 503.80 of this subpart, by which the information pertaining to a meeting is determined to be disclosed, the Secretary shall make available to the public at his offices a written copy of such vote reflecting the vote of each member of the agency on the question.

§ 503.82 Public announcement of agency meetings.

(a) Except as provided in §§ 503.80 and 503.81 of this subpart regarding a determination to withhold from public disclosure any information pertaining to a portion or portions of a meeting or portion or portions of a series of meetings, or as otherwise provided in paragraph (c) of this section, the Secretary of the agency shall make public announcement of each meeting of the agency.

(b) Public announcement of each meeting of the agency shall be accomplished not later than one week prior to commencement of a meeting or the commencement of the first meeting in a series of meetings, except as otherwise provided in this section, and shall disclose:

(1) The time of the meeting;

(2) The place of the meeting;

(3) The subject matter of each portion of each meeting or series of meetings;

(4) Whether any portion or portions of a meeting or portion or portions of any series of meetings shall be open or closed to public observation; and

(5) The name and telephone number of the Secretary of the agency who shall respond to requests for information about a meeting.

(c) The announcement described in paragraphs (a) and (b) of this section may be accomplished less than one week prior to the commencement of any meeting or series of meetings provided the agency determines by recorded vote that the agency business requires that any such meeting or series of meetings be held at an earlier date. In the event of such a determination by the agency, public announcement as described in (b) of this section shall be accomplished at the earliest practicable time.

(d) Immediately following any public announcement accomplished under the provisions of this section, the Secretary of the agency shall submit a notice for publication in the FEDERAL REGISTER disclosing:

(1) The time of the meeting;

(2) The place of the meeting;

(3) The subject matter of each portion of each meeting or series of meetings;

(4) Whether any portion or portions of any meeting or any portion or portions of any series of meetings is open or closed to public observation; and

(5) The name and telephone number of the Secretary of the agency who shall respond to requests for information about any meeting.

§ 503.84 [Reserved]

§ 503.85 Agency recordkeeping requirements.

(a) In the case of any portion or portions of a meeting or portion or portions of a series of meetings determined by the agency to be closed to public observation under the provisions of this subpart, the following records shall be maintained by the Secretary of the agency:

(1) The certification of the General Counsel of the agency required by § 503.77 of this subpart;

(2) A statement from the presiding officer of the portion or portions of the meeting or portion or portions of the series of meetings setting forth the time and place of the portion or portions of the meeting or portion or portions of the series of meetings, the persons present at those times; and

(3) Except as provided in paragraph (b) of this section, a complete transcript or electronic recording fully recording the proceedings at each portion of each meeting closed to public observation.

(b) In case the agency determines to close to public observation any portion or portions of any meeting or portion or portions of any series of meetings because public observation of such portion or portions of any meeting is likely to specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing, the agency may maintain a set of minutes in lieu of the transcript or recording described in paragraph (a) (3) of this section. Such minutes shall contain:

(1) A full and clear description of all matters discussed in the closed portion of any meeting;

(2) A full and accurate summary of any action taken on any matter discussed in the closed portion of any meeting and the reasons therefor;

(3) A description of each of the views expressed on any matter upon which action was taken as described in subparagraph (2) of this paragraph;

(4) The record of any roll call vote which shall show the vote of each member on the question; and

(5) An identification of all documents considered in connection with any action taken on a matter described in subparagraph (1) of this paragraph.

(c) All records maintained by the agency as described in this section shall be held by the agency for a period of not less than two (2) years following any meeting or not less than one (1) year following the conclusion of any agency proceeding with respect to which that meeting or portion of a meeting was held.

§ 503.86 Public access to records.

(a) All records required to be maintained by the agency under the provisions of § 503.85 of this subpart promptly shall be made available to the public by the Secretary of the agency, except for any item of discussion or testimony of any witnesses which the agency determines to contain information which may be withheld from public disclosure because its disclosure is likely to:

(1) Disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of an agency;

(3) Disclose matters specifically exempted from disclosure by any statute other than 5 U.S.C. § 552 (FOIA), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) Interfere with enforcement proceedings, (B) Deprive a person of a right to a fair trial or an impartial adjudication, (C) Constitute an unwarranted invasion of personal privacy, (D) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) Disclose investigative techniques and procedures, or (F) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, unless the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the agency's issuance of a subpena, or the agency's

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participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(b) Requests for access to the records described in this Subpart shall be made in accordance with procedures described in Subpart D of this Part.

(c) Records disclosed to the public under this section shall be furnished at the expense of the party requesting such access at the actual cost of duplication or transcription.

§ 503.87 Effect of provisions of this subpart on any other subpart.

(a) Nothing in this Subpart shall limit or expand the ability of any person to seek access to agency records under subpart D of this Part except that the exceptions of § 503.79 shall govern requests to copy or inspect the records required to be kept under this subpart.

(b) Nothing in this subpart shall permit the withholding from any individual to whom a record pertains any record required by this subpart to be maintained by the agency which record is otherwise available to such an individual under the provisions of Subpart G of this Part.

Therefore, it is ordered, That interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 17, 1977, an original and 15 copies of their views or arguments pertaining to the proposed regulations. All suggestions for changes in the text as set out above should be accompanied by drafts of the language thought necessary to accomplish the desired change and by statements and arguments in support thereof.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37066 Filed 12-16-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 233]

SAN CARLOS INDIAN IRRIGATION PROJECT, ARIZONA

Proposed Revision of Regulations and Rates

DECEMBER 15, 1976.

This notice is published in exercise of the authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that it is proposed to revise §§ 233.5, 233.6, 233.7, 233.9, 233.10, 233.12, 233.16, 233.17, 233.20, 233.21, 233.25, 233.26, 233.51, 233.52, and 233.53 of Part 233, Subchapter U, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in 5 U.S.C. 301 (1970 ed.), section 6 of the Act of June 7, 1924 (43 Stat. 475, 476), and the Act of March 7, 1928 (45 Stat. 200, 210–211).

Below is a brief description of the reason for each of the subject changes.

In the table of contents, § 233.12 is changed from "Multiple meter installations" to "Metering" to reflect changes in the paragraph.

In § 233.5; a provision is added for increasing the amount of deposit should it be necessary to insure payment of the account, and also to make the "year in advance" requirement at the option of the Project.

In § 233.6; the determination of extension length constructed at Project expense is simplified and the reference to urban and rural is eliminated. Also the wording is revised so that the extension policy can be applied to underground.

In § 233.7; a line is added which was inadvertently left out of the last publication.

In § 233.9; the voltage designation is changed to conform with the National Electrical Code.

In § 233.10; the maximum height that a meter may be installed is lowered to accommodate our meter readers.

In § 233.12; the paragraph on "Multiple meter installation" is replaced wih a multi-part paragraph on metering. Except for sub-paragraph (e) the paragraph is identical to paragraph 232.10 which is used by the Flathead Irrigation Project. Sub-paragraph (e) is replaced with a reference to American National Standards Institute (ANSI) which has established standards for metering.

In § 233.16; a sentence is added limiting the size of meter which may be considered for "across the line starting" for clarification to our customers.

In § 233.17; a sentence is added to allow the Project to discontinue service for failure of the consumer to comply with the provisions of this part. This is necessary to provide the Project with enforcement powers.

In § 233.20; the service establishment fee is increased from $7.50 to $10.00 to cover increased Project costs.

In § 233.21; the word "reconnection" is changed to "collection" to allow the Project to recover costs of going into the field to collect delinquent accounts. Also the charge is increased from $10.00 to $12.50 to cover increased Project costs.

In § 233.25; the last half of the paragraph which required reporting to the Commissioner any temporary relaxation of any of these regulations in a hardship case is deleted. This provision added to the difficulty of administering these regulations.

In § 233.25; a sub-paragraph is added to require the customer to try to determine if a power failure is his own problem. This usually will restore the customer's service sooner and will save the Project the expense of sending a repairman out to tell a customer to hire an electrician.

In § 233.51(d) and § 233.52(g); the term "fuel adjustment" is changed to "purchased power adjustment". Since the Project's power suppliers are allowed to adjust the rates paid by the Project considering factors other than fuel costs (labor, material, etc.), the provision allows the Project to pass these adjustments on to its customers.

The purpose of revising § 233.53 and the remaining parts of §§ 233.51 and 233.52 is to provide additional power revenue to meet the incost of purchased power and to meet the increased cost of operating and maintaining the power system of the San Carlos Indian Irrigation Project, Arizona. It is proposed to accomplish this by increasing the rates to all customers.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Commissioner of Indian Affairs, Washington, D.C. 20245, on or before January 17, 1977.

PART 233—SAN CARLOS INDIAN PROJECT, ARIZONA

It is proposed to amend Part 233, Subchapter U, Chapter I of Title 25 of the Code of Federal Regulations as follows:

1. By revising the table of contents to read as follows:

Sec.
233.1 Effective date; changes.
233.2 Authority of Project Engineer.
233.3 Disputes.
233.4 Applications; contracts.
233.5 Deposits.
233.6 Extensions.
233.7 Installation or extension financed by consumer.
233.8 Temporary service.
233.9 Type of service.
233.10 Service connections.
233.11 Connection methods.
233.12 Metering.
233.13 Consumer responsibility.
233.14 Change of equipment.
233.15 Apparatus detrimental to service.
233.16 Motor starting equipment.
233.17 Service discontinued.
233.18 Bills for service.
233.19 Special bills.
233.20 Connect, reconnect, and accounting charges.
233.21 Delinquent bills.
233.22 Discontinuance by consumer.
233.23 Fraud; Tampering.
233.24 Compensation of employees.
233.25 Hardship cases.
233.26 Interruptions to service.
233.27 Contingent upon appropriations.
233.51 Rate Schedule No. 1—Residential Rate.
233.52 Rate Schedule No. 2—General Rate.
233.53 Rate Schedule No. 3—Street and Area Lighting.

AUTHORITY: The provisions of this Part 233 issued under Sec. 5, 43 Stat. 476, 45 Stat. 210, 211; U.S.C. 301.

SOURCE: The provisions of this Part 233 appear at 22 FR 10667, December 24, 1927, unless otherwise noted.

2. By revising § 233.5 to read as follows:

§ 233.5 Deposits.

A cash deposit in an amount equal to twice the estimated monthly bill, but in no case less than $30.00 will be required from each applicant. The Project Engineer may require an additional deposit should it become apparent that the estimated amount is insufficient to cover two months bills. Any cash deposit, less the amount of any unpaid bills, shall be refunded after the termination of service. Before extensions are constructed each applicant may be required to deposit an amount sufficient to cover his portion of the required minimum charges for a period of not less than one year, and must otherwise establish his credit and satisfy the Project Engineer of his intention to take service and his ability to meet the guarantee.

3. By revising § 233.6 to read as follows:

§ 233.6 Extensions.

(a) The length of an extension constructed at the expense of the Project shall not exceed 500 feet.

(b) The length of an extension shall include the horizontal length of the primary and secondary circuits and the service drop. Insofar as practicable, all extensions shall be constructed along established highways. The prospective consumer, or consumers, shall furnish or procure satisfactory rights-of-way necessary for the lines and other facilities of the Project incidental to the furnishing of service. The Project Engineer may decline to construct any extension which, in his opinion, will be excessive in cost, or detrimental to the best interest of the Project, or for which funds are not available.

4. By revising § 233.7 to read as follows:

§ 233.7 Installation or extension financed by consumer.

If funds, material or labor are not otherwise available for an installation or extension, or if an extension to a prospective consumer will require new construction beyond the distance specified in § 233.6, the consumer or prospective consumer may, after executing an appropriate contract satisfactory to the Project Engineer, construct the needed installation or extension, or deposit funds estimated to be sufficient to pay for he construction. Such installations or extensions shall be built in accordance with suitable plans and specifications approved by the Project Engineer. All extensions when constructed shall be and remain the property of the United States.

5. By revising § 233.9 to read as follows:

§ 233.9 Type of service.

Service for lights and the usual domestic and other appliances, including motors and less than seven and one-half horsepower shall be single phase, nominally 120/240 volts, three wire, except when special approval for another type of service has been obtained from the Project Engineer. Three-phase service at suitable voltage may be furnished for motor installations of seven and one-half horsepower and over, provided a three-phase circuit of the required voltage and capacity is available where the service is desired. All service will be sixty cycle.

6. By revising § 233.10 to read as follows:

§ 233.10 Service connections.

On each new service the consumer shall provide and maintain a service entrance at a location convenient to the lines of the Project, and all connections from the service entrance to the meter base and from the meter base to the main line circuit breaker or distribution center. The meter will be furnished by the United States. The meter socket will be furnished and installed by the consumer and in a suitable location preferably on the outside of the building, or service pole, where the meter will be accessible to the meter reader at all times. Except for underground service installations, the meter socket shall not be more than 6 feet nor less than 5 feet above the ground or floor. For underground service installations, the meter shall be mounted a minmum of 3 feet above the ground or floor. The entire service installation must be satisfactory to the Project Engineer and must conform to the provisions then in force of the National Electrical Code of the National Board of Fire Underwriters for Electric Wiring and Apparatus. When alternations of a consumer's premises make it necessary to move an existing meter loop, the consumer may be required to install a meter socket in the new loop, located in conformity with the stipulations of this section. When an inspection is required by municipal ordinance, the Project Engineer shall require a certificate of inspection and approval by the municpal inspector before connecting a new service.

7. By revising § 233.12 to read as follows:

§ 233.12 Metering.

(a) The Project shall furnish the meter, and the customer shall provide and maintain free of expense to the Project an unobstructed location satisfactory to the Project in accordance with § 233.11 above. In the case of new installations in multiple-occupancy buildings such as apartment houses in connection with which more than one meter in a building is required, the meters shall be assembled at one central location, or in such other areas and with such other arrangements as may be approved by the Project Engineer. Each meter shall be clearly marked so as to make it possible to identify the consumer.

(b) Customer's responsibility. The customer shall exercise reasonable care in protecting the Project's meter and other Project-owned equipment located on his premises. Only Project employees or agents, or persons authorized by law are permitted to inspect or handle same.

(c) Final connection. Final conection of the meter shall in all cases be made by the Project.

(d) Meters sealed. All meters shall be sealed by the Project. The breaking of a seal by unauthorized persons or tampering with a meter or meter wiring is prohibited by law and is subject to summarily discontinuance of service.

(e) Regularly scheduled meter tests shall be in accordance with the American National Standards Institute (ANSI) Code for electricity metering.

(f) Special meter tests. On request of a customer, the Project shall, within 10 days after receipt of such request, make special meter tests. The customer shall bear the cost of such tests, including meter removal and replacement when the meter is found to be within the limits of acceptable accuracy as defined in section (h). In all other cases the Project will bear the cost of the test.

(g) Replacement of meter. Whenever a customer requests the replacement of the service meter because of accuracy, such request shall be treated as a request for a test of such meter and, as such, shall fall under the provision of special meter tests.

(h) Standard of meter accuracy. The Project shall not place in service or knowingly allow to remain in service without adjustment any meter that has known error in registration of more than plus or minus two percent at light or at full load and unity power factor, or more than plus or minus three percent at full load and fifty percent power factor.

(i) Adjustment for inaccurate meter registration. Whenever a tested meter in service is found to be fast or slow beyond the limit of accepted accuracy as defined, the Project shall make an adjustment, based on the corrected registration for the period in which the meter was registering incorrectly, if such period is known, and if not known for a period of not exceeding six months, but in no event for a period longer than the present customer's occupancy. Whenever any bill or bills have been adjusted or corrected as provided above and whenever such adjustment amounts to $1.00 or more. The Project shall credit to the customer any amount found to have been collected in excess of the proper amount, or the Project may require the customer to pay any additional amount due, as the case may be.

(j) Incorrect meter installation. Whenever any customer shall have been over-charged or under-charged as a result of incorrect installation of a meter or the use of an incorrect meter multiplier in billing the account, the amount of the over-charge shall be adjusted and credited to the customer if in excess of $1.00 or the amount of the under-charge may be adjusted and billed to the customer if in excess of $5.00, provided that in no event shall such period of adjustment exceed the length of time the service has been supplied to the customer through the incorrect metering installation at the present location.

(k) Non-registering meter. When a meter fails to register for any period, for reasons beyond the reasonable con-

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trol of the Project, the Project may estimate the charge for service during such period, such estimate to be based on the best available data.

8. By revising § 233.16 to read as follows:

§ 233.16 Motor starting equipment.

Motors having a rated capacity of three horsepower or more shall be provided with such starting and overload equipment as may be required by the Project Engineer. In no case will the Project Engineer approve "across the line starting" of motors larger than 150 horsepower.

9. By revising § 233.17 to read as follows:

§ 233.17 Service discontinued.

The Project Engineer may discontinue electric service to any consumer who shall continue to use appliances or apparatus detrimental to the Electric Power System after he has been notified to correct the condition and has failed to do so within a reasonable time. The Project Engineer may also discontinue service for failure of the consumer to comply with any of the provisions of this part.

10. By revising § 233.20 to read as follows:

§ 233.20 Connect, reconnect and accounting charges.

A non-refundable service establishment fee of $10.00 will be charged each time the Project is requested to establish or re-establish electric service to the customer's delivery point. The charge will be included in and rendered with the first month's bill for electricity after connection or reconnection service. An accounting charge of $5.00 will be made when a check is returned unpaid by a bank because of insufficient funds or other reasons. This charge will be in addition to any other applicable charges and will appear on the next month's bill for electricity.

11. By revising § 233.21 to read as follows:

§ 233.21 Delinquent bills.

Bills for electric service will be delinquent if not paid on or before the tenth day following the date of issue of a bill showing arrears. When such delinquency occurs, the Project Engineer shall discontinue service and service shall not be restored until the consumer has paid all bills then due plus a collection charge of $12.50 and has made the deposit required under § 233.5. (Discontinuance of service for delinquency shall not relieve the consumer of liability for minimum monthly payments guaranteed by him under his contract.)

12. By revising § 233.25 to read as follows:

§ 233.25 Hardship cases.

The Project Engineer may relax temporarily strict enforcement of a regulation when in his judgment such enforcement would work undue hardship upon a consumer.

13. By revising § 233.26 to read as follows:

§ 233.26 Interruptions to service.

(a) The United States will furnish energy continuously so far as reasonable diligence will permit. But the United States, its officers, agents or employees, assume no liability for damage due to interruptions of service to the consumer.

(b) If the customer's service fails, he shall endeavor to determine if he has blown fuses, tripped breaker, or his equipment is at fault before calling the Project. The customer may be charged the cost of the service call if the trouble is found to be caused by his equipment or actions.

14. By revising § 233.51 to read as follows:

§ 233.51 Rate Schedule No. 1—Residential Rate.

(a) Application of schedule. This schedule is applicable to single-phase or three-phase service for residences and small non-commercial users. Unless specifically permitted by the contract, use must be limited to the consumer's own premises and power supplied must not be resold. If more than one meter is required by the customer's installation or for the customer's convenience, bills will be independently calculated for each meter.

(b) Monthly rate.

(1) $5.50, which includes the use of 50 kilowatt hours.

(2) 6.1 cents per kilowatt hour for the next 100 kilowatt hours.

(3) 3.7 cents per kilowatt hour for the next 350 kilowatt hours.

(4) 1.8 cents per kilowatt hour for all additional kilowatt hours.

(c) Minimum bill. The minimum bill shall be $5.50 per month except when a higher minimum bill is stipulated in the contract.

(d) Purchased power adjustment. An adjustment shall be added to each KWH chased power adjustment (rounded to used equal to the estimated average purthe nearest $.0001) paid by the Project to the Project's power suppliers.

15. By revising § 233.52 to read as follows:

§ 233.52 Rate Schedule No. 2—General Rate.

(a) This schedule is applicable to single-phase or three-phase electric service for all purposes except residences and small non-commercial users. Unless specifically permitted by the contract, use must be limited to the consumer's premises and the power supplied must not be resold. If more than one meter is required by the customer's installation, or for the customer's convenience, bills will be independently calculated for each meter.

(b) Monthly rate.

(1) First 50 kilowatt hours, five dollars and fifty cents.

(2) 6.1 cents per kilowatt hour for the next 350 kilowatt hours.

(3) 3.7 cents per kilowatt hour for the next 600 kilowatt hours.

(4) 2.0 cents per kilowatt hour for the next 9000 kilowatt hours.

(5) When use is 10,000 kilowatt hours or more: First 10,000 kilowatt hours $229.05.

(6) Additional kilowatt hours at 2.0 cents per kilowatt hour, less a credit of 0.4 cents per kilowatt hour for each kilowatt hour above 200 times the billing demand (50 KW min.).

(c) Minimum bill. The minimum bill shall be $1.00 per month per kilowatt of billing demand, except where the customer's requirements are of a distinctly recurring seasonal nature. Then the minimum monthly bill shall not be more than an amount sufficient to make the total charges for the twelve (12) months ending with the current month, equal to twelve times the highest monthly minimum computed for the same twelve month period. However, no monthly billing shall be less than $5.50.

(d) Contract demand. Each contract for 50 KW or over shall state the number of kilowatts which the customer expects to require and desires to have reserved for his service. This quantity is called the contract demand.

(e) Actual demand. The actual demand for any month shall be the average amount of power used during the period of 15 consecutive minutes when such average is the greatest for the month as determined by suitable meters, or if meters are unavailable, the actual demand shall be connected load or such portion of the connected load as the Project Engineer may determine to be appropriate based on available information as to the customer's use of connected lights, appliances, and equipment, or from check metering.

(f) Billing demand. The billing demand for a month shall be the contract demand or the actual demand for the month, whichever is greater.

(g) Purchased power adjustment. An adjustment shall be added to each KWH used equal to the estimated average purchased power adjustment (rounded to the nearest $.0001) paid by the Project to the Project's power suppliers.

16. By revising § 233.53 to read as follows:

§ 233.53 Rate Schedule No. 3—Street and Area Lighting.

(a) Application. This rate schedule applies to service for yard lighting, lighting streets, alleys, thoroughfares, parks, schoolyards, industrial areas, parking lots, and similar area where dusk-to-dawn service is desired. The Project will own and operate the lighting system and provide normal lamp replacements. Other maintenance shall be at customer's expense.

(b) Monthly rate. (1) Lamps:

	Each		
	1	2 to 5	6 or more
200 W or less, incandescent (2,500 lm or less)	3.70	3.70	3.70
175 W mercury vapor (approximately 6,500 lm)	6.10	5.50	4.90
250 W mercury vapor (approximately 10,000 lm)	7.40	6.80	6.10
400 W mercury vapor (approximately 18,000 lm)	9.80	8.60	7.40

The minimum term of a service contract will be 12 months, payable in advance. The advance payment may be waived in special cases by the Project Engineer. Installation charges, the cost of wood poles or special steel, aluminum, or other supports, special fixtures, and the cost of underground service, will be charged as determined by the Project Engineer.

BEN REIFEL,
Commissioner of Indian Affairs.

[FR Doc. 76-37222 Filed 12-16-76;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

ADVISORY COMMITTEE ON NUTRITION EVALUATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Name: Advisory Committee on Nutrition Evaluation.

Date and Time: January 17–18, 1977; 8:30 a.m.

Place: Holiday Inn, 480 King Street, Alexandria, Virginia 22314.

Purpose of meeting: At this third meeting of the Committee, the members will conclude their deliberations on how to evaluate the health benefits of the WIC Program and consider the report to be submitted to the Secretary of Agriculture.

Proposed agenda: The agenda will cover a review of various alternative evaluations, specifically in relation to: the design, the methodology to be used, and the implications and limitations of each. All aspects of the final report will be discussed, including the Committee's recommendation to the Secretary as to how the health benefits of WIC may best be evaluated and assessed in the future.

This meeting will be open to the public.

Person wishing to attend the meeting as observers, or wishing to submit written comments, should write Deborah McIntosh, Recording Secretary, Advisory Committee on Nutrition Evaluation, Special Supplemental Food Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–8421.

Dated: December 14, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76–37305 Filed 12–16–76;8:45 am]

Rural Electrification Administration

NORTHERN MICHIGAN ELECTRIC COOPERATIVE AND WOLVERINE ELECTRIC COOPERATIVE

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Aministration (REA) has adopted the Final Environmental Statement prepared by the Atomic Energy Commission (AEC) (presently the Nuclear Regulatory Commission), for the Enrico Fermi Atomic Power Plant, Unit No. 2 under construction in Monroe County, Michigan. The adoption of AEC's statement together with independent determinations made by REA and additional commitments receive by REA from the Detroit Edison Company concerning the transmission facilities being constructed in connection with this plant, constitute REA's Final Environmental Impact Statement. This action on the part of REA is in accordance with section 102(2)(C) of the National Environmental Policy Act and is in connection with the review of anticipated applications for loan guarantee commitments from the Northern Michigan Electric Cooperative, Inc., 1050 East Division Street, Boyne City, Michigan 49712 and the Wolverine Electric Cooperative, Inc., 302 South Warren Avenue, Big Rapids, Michigan 49307. The anticipated applications are for the financing of a combined 20 percent ownership interest by these two cooperatives in the Enrico Fermi Unit No. 2.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW Washington, D.C., Room 4310, or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects.

Dated at Washington, D.C., this 10 day of December, 1976.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.76–37083 Filed 12–16–76;8:45 am]

SOUTH MISSISSIPPI ELECTRIC POWER ASSOCIATION

Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $44,562,000 to South Mississippi Electric Power Association, of Hattiesburg, Mississippi. These loan funds will be used to finance approximately $25,994,000 for the completion of two 280 MW coal fired generating units. Also loan funds in the approximate amount of $18,568,000 will be used to finance construction of coal preparation facilities to service fuel requirements for operation of the generating units.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. George B. Taylor, Manager, South Mississippi Electric Power Association, P.O. Box 1589, Hattiesburg, Mississippi 39401.

In order to be considered, proposals must be submitted (within 30 days from the date of this notice) to Mr. Taylor. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as South Mississippi Electric Power Association and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 10th day of December, 1976.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.76–37084 Filed 12–16–76;8:45 am]

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Tri-State Generation and Transmission Association, Inc., 10520 Melody Drive, Northglenn, Colorado (Mailing address: P.O. Box 29198, Denver, Colorado 80229). The statement covers two 50 MW combustion turbine generating units to be installed at a 43 acre site in Kit Carson County, Colorado, and accessory facilities which include bus work for interconnection with the Burlington Substation presently under construction, fuel supply and fuel storage facilities, water storage reservoir, evaporative cooler blowdown storage reservoir and site peripheral irrigation system with associated pumps, and an office and parts warehouse building.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C., Room 4310, or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 10th day of December, 1976.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.76–37062 Filed 12–16–76;8:45 am]

Office of the Secretary

OFFICE OF THE GENERAL COUNSEL

Statement of Organization, Functions, Delegations of Authority, and Availability of Information

The Statement of Organization, Functions, Delegations of Authority, and Availability of Information, of the Office of the General Counsel, appearing in 41 FR 5333, February 5, 1976, as amended in 41 FR 32280, August 2, 1976, is further amended as follows:

1. In section 2, paragraph (a) is revised to read as follows:

(a) *Washington Office.* The Washington office of OGC is located in the South Building of the Department at 14th Street and Independence Avenue, SW., Washington, D.C. 20250.

2. In section 2, paragraph (b) is amended by deleting the words "Santurce, PR.", and inserting in lieu thereof the words "Hato Rey, PR.".

3. Section 3 is amended by deleting the words "central office" in the third sentence, and inserting in lieu thereof the words "Washington office", and by deleting the word "eight" in the fourth sentence and inserting in lieu thereof the word "seven".

4. A new section 4A is added to read as follows:

SEC. 4A. *Confidential Assistant to the General Counsel.* The Confidential Assistant to the General Counsel is responsible for all phases of administrative management for the Office of the General Counsel. In this capacity he represents the Office in its relationships with the Office of Personnel, Office of Operations and the Office of Management and Finance for the furnishing of management support including personnel, budget, fiscal, procurement, space management and property management. He also serves as staff assistant to the General Counsel in all matters set out in section 25 with the exception of subsections (a) and (j) thereof. He is responsible for providing administrative support for Field Offices as well as the Washington office.

5. In section 6, paragraph (c) is revised to read as follows:

(c) Coordinates review of proposed testimony by Departmental witnesses before Congressional committees; and

6. Section 15 is amended by inserting the words "the Federal Grain Inspection Service and" immediately before the words "the Agricultural Marketing Service" in the second sentence.

7. Section 17 is amended by revising the second sentence to read as follows:

* * * He exercises general supervision over the Food and Nutrition, Transportation, and PACA Division and the Foreign Agricultural and Commodity Stabilization Division.

8. Section 18 is revised to read as follows:

SEC. 18. *Director, Food and Nutrition, Transportation, and PACA Division.* The Director, Food and Nutrition, Transportation, and PACA Division, is under the general supervision of the Assistant General Counsel, Production Distribution and Assistance. He is responsible for the supervision and direction of the Food and Nutrition, Transportation, and PACA Division, which performs legal work arising from the activities of the Food and Nutrition Service, plus matters under the Perishable Agricultural Commodities Act and Produce Agency Act, and transportation activities under section 201 of the Agricultural Adjustment Act of 1938, and section 203(j) of the Agricultural Marketing Act of 1946.

9. Section 20 is revised to read as follows:

SEC. 20. *Regional Attorneys and Attorneys in Charge.* (a) Regional Attorneys are under the general supervision of the Deputy General Counsel. Each Regional Attorney to whom a Branch Office is assigned will exercise general supervision over that Branch Office. Regional Attorneys are responsible for the supervision and direction of their Regional Office, which provides counsel to and performs legal work referred by USDA offices located in the following geographical areas:

Regional office	USDA legal matters exclusive of Forest Service	Forest Service
Atlanta, Ga	Federal region 4	Forest Service region 8, except national forests and grasslands in Arkansas, Louisiana, Texas, and Puerto Rico.
Chicago, Ill	Federal region 5	Forest Service region 9.
Denver, Colo	Federal region 8 plus FmHA in Nevada	Forest Service regions 1, 2, and 4.
Harrisburg, Pa	Federal regions 1, 2, and 3	National forest in Puerto Rico.
Portland, Oreg	Federal region 10	Forest Service regions 6 and 10.
San Francisco, Calif	Federal region 9 except FmHA in Nevada	Forest Service region 5.
Shawnee Mission, Kans.	Federal region 7	
Temple, Tex	Federal region 6	Forest Service region 3; national forests and grasslands in Arkansas, Louisiana, and Texas.

(b) Attorneys-in-Charge are under the general supervision of a Regional Attorney. Attorneys-in-Charge are responsible for the supervision and direction of their Branch Office, which provides counsel to and performs legal work referred by USDA offices located in the following geographical areas:

Branch office	USDA legal matters exclusive of Forest Service	Forest Service
Milwaukee, Wis	SCS work in Federal region 5	Forest Service region 9.
Missoula, Mont	State of Montana	Forest Service region 1.
Ogden, Utah	State of Utah plus FmHa in Nevada	Forest Service region 4.
Hato Rey, P.R	Puerto Rico and Virgin Islands	National forest in Puerto Rico.
Albuquerque, N. Mex	State of New Mexico	Forest Service region 3.
Little Rock, Ark	State of Arkansas and Louisiana	National forests in Louisiana and Arkansas.
Stillwater, Okla	State of Oklahoma	

(c) Field offices may also be assigned responsibility for legal matters or specific cases which otherwise would be performed in Washington. Such assignments, except in unusual cases, will be in writing, and a copy will be sent to the Deputy General Counsel.

10. In section 22, paragraph (e) is amended by deleting the words "Central Office" and inserting in lieu thereof the words "Washington office".

11. In section 23, paragraph (b)(3) is revised to read as follows:

(3) Sign releases of claims of the United States against private persons for damage to or destruction of United States property in custody of the Department.

12. In section 23, paragraph (c)(3) is revised to read as follows:

(3) Sign releases of claims of the United States against private persons for damage to or destruction of United States property in custody of the Department.

13. In section 23, paragraph (c)(4) is amended by deleting the word "Department" and inserting in lieu thereof the words "United States".

14. Section 24 is revised to read as follows:

SEC. 24. *Redelegations of Authority.* Officers to whom delegations are made in this notice may redelegate their authority. They are encouraged to redelegate authority to approve and sign docu-

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ments to experienced attorneys conversant with the assigned area of work. Officers retain continuing responsibility for the proper discharge of work delegated to them in this notice, and any redelegations by them do not relieve them of that responsibility.

15. Section 25 is revised to read as follows:

SEC. 25. *Reservations of Authority.* The following is reserved to the General Counsel to approve:

(a) Correspondence to be signed in the Secretary's Office;
(b) Promotions;
(c) Incentive awards;
(d) Travel, travel vouchers and advancement of travel funds for Deputy General Counsel, Assistant General Counsels and Division Directors;
(e) Travel for field attorneys outside the geographic areas assigned to their offices, which is not in connection with scheduled administrative hearings or litigation;
(f) Travel outside of continental U.S. which is not in connection with scheduled administrative hearings or litigation;
(g) Travel on an actual expense basis;
(h) Training;
(i) Personnel authorizations, assignments and reassignments;
(j) Recommending appeals of matters in litigation which are of significant importance;
(k) Leave without pay;
(l) Annual leave in excess of 30 days;
(m) Advance of sick or annual leave;
(n) Transfer of duty stations;
(o) Requests for furniture, equipment and supplies costing $500 or more.

Effective date: December 17, 1976.

Done at Washington, D.C., this 13th day of December 1976.

JAMES D. KEAST,
General Counsel.

[FR Doc.76-37056 Filed 12-16-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 29123, 27573; Agreement C.A.B. 26175, etc.; Order 76-11-122]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Currency Matters

Correction

In FR Doc. 76-35170, appearing at page 52506 in the issue for Tuesday, November 30, 1976, the following changes should be made:

In the first column on page 52507, the number at the end of the next to last line above the table should be "26235".

2. The number "26235" followed by a colon should appear above the sixth from last number in the first column of the table on page 52507.

[Docket 29123, Agreement C.A.B. 26210 R-1 through R-23, Agreement C.A.B. 26213 R-1 through R-20; Order 76-11-141]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Western Hemisphere Fares

Correction

In FR Doc. 76-35784, appearing at page 53365 in the issue for Monday, December 6, 1976, the seventh line of the second paragraph in the right hand column should read "$10 per diem thereafter. The fare would".

CIVIL SERVICE COMMISSION

DEPARTMENT OF LABOR

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Regional Director (Denver, Region VIII), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37093 Filed 12-16-76;8:45 am]

DEPARTMENT OF LABOR

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Chairman, Mountain Plains Federal Regional Council/Regional Director, Region VIII, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37092 Filed 12-16-76;8:45 am]

DEPARTMENT OF LABOR

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for National Programs.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37094 Filed 12-16-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

CORNELL UNIVERSITY, ET AL.

Consolidated Decision On Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the Regulations provides in pertinent part:

The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90 day period. * * * If the applicant fails, within the applicable time periods spcified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11.

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20 day period, or fails to resubmit a new application within the 90 day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

* * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket Number: 75-00077-33-46070. Applicant: Cornell University, New York State Veterinary College, Pathology Department, Multicategorical Research Wing, Ithaca, New York 14850. Article: Scanning Electron Microscope, Model HHS-2R, and accessories. Date of denial without prejudice to resubmission: July 9, 1976.

Docket Number: 75-00239-33-46070. Applicant: St. Louis University Medical School, Department of Pathology, 1402 South Grand, St. Louis, Mo. 63104. Article: Scanning Electron Microscope, Model JSM-35U. Date of denial without prejudice to resubmission: July 9, 1976.

Docket Number: 76-00317. Applicant: IIT Research Institute, 10 West 35th Street, Chicago, Illinois 60616. Article: Mass Spectrometer MAT 311A. Date of denial without prejudice to resubmission: July 16, 1976.

Docket Number: 76-00321. Applicant: University of Vermont, Burlington, Vermont 05401. Article: Electron Microscope, Model EM 201C. Date of denial without prejudice to resubmission: July 14, 1976.

Docket Number: 76-00327. Applicant: Methodist Hospital of Indiana, Inc., 1604 North Capitol Avenue, Indianapolis, Indiana 46202. Article: Electron Microscope, Model EM 201C and attachments. Date of denial without prejudice to resubmission: July 9, 1976.

Docket Number: 76-00338. Applicant: University of California, Los Angeles, Center for the Health Sciences, Los Angeles, California 90024. Article: EMI Scanner Body System Model CT5005 (Prototype Design). Date of denial without prejudice to resubmission: July 9, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-37096 Filed 12-16-76;8:45 am]

National Oceanic and Atmospheric Administration

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Mid-Atlantic Regional Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Mid-Atlantic Regional Fishery Management Council will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This meeting of the Council will be held on January 12 and 13, 1977, from 10 a.m. to 5 p.m., and 9 a.m. to 3 p.m., respectively, at the Sheraton Beach Inn, 36th Street, Virginia Beach, Virginia.

PROPOSED AGENDA

1. Personnel matters.
2. Development of organizational and operational procedures, including content and format of the annual report.
3. Other management business.

This meeting is open to the public and there will be seating for approximately 30 public members available on a first-come, first-serve basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. Interested members of the public should contact:

Mr. Donald G. Birkholz, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, State Fish Pier, Gloucester, Massachusetts 01930.

on or about 10 days before the meeting to receive information on changes in the agenda, if any.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Birkholz at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: December 14, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-37095 Filed 12-16-76;8:45 am]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the New England Regional Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The New England Regional Fishery Management Council will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This meeting of the Council will be held on January 4 and 5, 1977, from 10 a.m. to 5 p.m., and 9 a.m. to 3 p.m., respectively, at the Holiday Inn, Junction of Rts. #1 & 128, Peabody, Massachusetts.

PROPOSED AGENDA

1. Fishery management plan development.
2. Advisory committee and panel formation.
3. Other management business.

This meeting is open to the public and there will be seating for approximately 30 public members available on a first-come, first-serve basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. Interested members of the public should contact:

Mr. Donald G. Birkholz, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, State Fish Pier, Gloucester, Massachusetts 01930.

on or about 10 days before the meeting to receive information on changes in the agenda, if any.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Birkholz at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: December 14, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-37096 Filed 12-16-76;8:45 am]

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[Department Organization Order 10-3; Amdt 2]

ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS

Delegation of Authority

This order effective November 17, 1976, further amends the material appearing at 41 FR 24202 of June 15, 1976, and 41 FR 28334 of July 9, 1976.

Department Organization Order 10-3, dated May 19, 1976, is hereby further amended as shown below. The purpose of this amendment is to delegate to the Assistant Secretary for Domestic and International Business certain authorities for energy activities conferred upon the Secretary under Executive Order 11912.

Section 5. Delegation of Authority. Subparagraph .01b. is revised to read, as follows:

b. The Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), conferred on the Secretary under: (1) Executive Order 10480, dated August 14, 1953, as amended, including authority to issue or modify orders restricting surface transportation and discharge of certain commodities or for the prohibition of movement of American carriers to certain designated destinations, which authority has heretofore been implemented by the issuance of Transportation Order T-1 and T-2, except the authority to create new agencies within the Department of Commerce; and (2) Executive Order 11912, dated April 13, 1976.

JOSEPH F. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76-37071 Filed 12-16-76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPPED

PROCUREMENT LIST 1977

Proposed Addition

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 77, of the proposed addition of the following commodity to Procurement List 1977, November 18, 1976 (41 FR 50975).

Class 7105

Mirror, Glass, 7105-00-260-1390.

If the Committee approves the proposed addition, all entities of the Government will be required to procure the above commodity from workshops for the blind or other severely handicapped.

Comments and views regarding the proposed addition may be filed with the Committee on or before January 17, 1977. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-37103 Filed 12-16-76;8:45 am]

PROCUREMENT LIST 1977

Addition

Notice of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975) of the service listed below was published in the FEDERAL REGISTER on October 22, 1976 (41 FR 46641).

After consideration of all the relevant data presented, the Committee has determined that the service listed below is suitable for procurement by the Government under Pub. L. 92-28, 85 Stat. 77. Accordingly, it is hereby added to the Procurement List.

SIC 0872

Grounds Maintenance (SH), Federal Aviation Administration, Palmdale, California.

Class 7510

Portfolio:

7510-00-584-2489
7510-00-584-2490
7510-00-584-2491
7510-00-584-2492

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-37104 Filed 12-16-76;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

PRIVACY ACT OF 1974

Systems of Records Amendment, Adoption of New Routine Uses

In the FEDERAL REGISTER of November 3, 1976 (41 FR 48398, FR Doc. 76-32057), the Consumer Product Safety Commission proposed, in accordance with section 3(e)(11) of the Privacy Act of 1974 (Pub. L. 93-579), 5 U.S.C. 552a(e)(11), to adopt the routine uses set forth below. These routine uses were proposed in order to cover transfers of records by the Commission from its systems of records to the General Services Administration; and transfer by the General Services Administration of payroll records of Commission employees to local taxing jurisdictions. The Commission invited public comment on the proposed routine uses. No comments were received.

Accordingly, the following routine uses are hereby adopted:

1. For all of the Commission's systems of records published in the FEDERAL REGISTER, September 2, 1976, (41 FR 37292):

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to the Commission under agreement with GSA.

2. For the Commission's system of records CPSC-13, Employee Payroll, Leave and Travel Records, published in the FEDERAL REGISTER, September 2, 1976, (41 FR 37297):

Routine uses of records maintained in this system shall include providing a copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517 or 5520.

Dated: December 13, 1976.

Effective date: December 17, 1976.

SADYE E. DUNN,
Secretary,
Consumer Product Safety Commission.

[FR Doc.76-37149 Filed 12-16-76;8:45 am]

PRIVACY ACT OF 1974

System of Records Amendment, Proposed New Routine Use

Notice is hereby given that the Consumer Product Safety Commission, in accordance with section 3(e)(11) of the Privacy Act of 1974 (Pub. L. 93-579), 5 U.S.C. 552a(e)(11), proposes to adopt the following routine use for its system of records CPSC-1, Accident Reports (In-Depth), published in the FEDERAL REGISTER September 2, 1976, (41 FR 37292):

Records may be provided to another Federal, State or local agency or authority engaged in activities relating to health, safety, or consumer protection in accordance with section 29(e) of the Consumer Product Safety Act, as amended (Pub. L. 92-573, as amended by Pub. L. 94-284, 15 U.S.C. 2078 (e)).

This routine use is proposed in order to provide for the disclosure of accident reports to States and other Federal agencies as permitted by section 29(e) of the Consumer Product Safety Act, as amended. That section, while permitting such disclosure, prohibits the Federal, State or local agency receiving the report from disclosing to the public the identity of any injured person and any person who treated an injured person which is contained in the report.

Interested persons are requested to submit comments regarding the proposed routine use on or before January 17, 1977, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be seen in the Office of the Secretary, 3rd Floor, 1111 18th Street, NW, Washington, D.C. 20207 during business hours Monday through Friday.

Dated: December 13, 1976.

SADYE E. DUNN,
Secretary, Consumer
Product Safety Commission.

[FR Doc.76-37150 Filed 12-16-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

ARMED FORCES EPIDEMIOLOGICAL BOARD

Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcements is made of the following committee meeting:

Name of Committee: Subcommittee on Health Maintenance Systems of the Armed Forces Epidemiological Board.
Date of Meeting: January 6, 1977.
Place: Conference Room 3092, Walter Reed Army Institute of Research, Washington, D.C.
Time: 0900-1700.
Proposed Agenda: The proposed agenda includes an examination of various aspects of periodic physical examinations in the Armed Force. This will include matters pertaining to the administration, purpose, scope, frequency, and use and value of these physicals.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: December 8, 1976.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc.76-37107 Filed 12-16-76;8:45 am]

ARMED FORCES EPIDEMIOLOGICAL BOARD

Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Executive Subcommittee of the Armed Forces Epidemiological Board.
Date of Meeting: January 7, 1977.
Place: Room 7E083, Forrestal Building, 10th and Independence Ave., S.W., Washington, D.C.
Time: 0930-1530.
Proposed Agenda: The purpose of this meeting is to plan the operational program for the Board for the next year. The AFEB President, the Directors of the Board's three continuing subcommittees and the staff representatives of the Surgeons General of the three military departments will meet to discuss the programs, priorities, requirements and objectives of the Board.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: December 8, 1976.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc.76-37108 Filed 12-16-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ENVIRONMENTAL ADVISORY COMMITTEE

Determination To Establish

DECEMBER 13, 1976.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I hereby certify that the establishment of an Environmental Advisory Committee as hereinafter identified, is in the public interest in connection with the performance of duties imposed upon the Energy Research and Development Administration by the Energy Reorganization Act of 1974 and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A-63 (Revised).

Name of Advisory Committee: Environmental Advisory Committee.

Purpose: The Committee will advise the Administrator, through the Assistant Administrator for Environment and Safety, on matters which pertain to the research, development, and demonstration of energy technologies and policies which affect the environment and safety of the general society. Such advice shall be directed principally but not exclusively to: (1) The issues of biomedical and environmental research and planning; (2) preparation of environmental impact assessments and statements; (3) the review of occupational and safety requirements; and (4) the social, economic, and institutional impacts which are the result of energy activities.

Effective date of establishment and duration: The Advisory Committee is established, effective 15 days after publication of this notice and after filing of the charter with the standing committees of Congress having legislative jurisdiction of the Energy Research and Development Administration. The Advisory Committee's termination date shall be September 30, 1978.

Membership: The membership of the Advisory Committee shall be balanced fairly in terms of the points of view represented and the functions to be performed by the Advisory Committee. Twenty-one persons from the fields of science, medicine and engineering, industry, state and local groups, environmental organizations, and other sectors of the general public will serve on the Committee. There will be no discrimination based on race, color, creed, national origin, religion, or sex.

Operation: The Environmental Advisory Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), ERDA policy and procedures (10 CFR Part 707), OMB Circular A-63 (revised), and other directives and instructions issued in accordance with the implementation of the Act. Environmental Advisory Committee meetings will be held a minimum of four times a year. The committee may establish *ad hoc* study groups as needed to address specific proposals or projects. An agenda for each meeting will be developed cooperatively between the Advisory Committee Chairman and ERDA. The Assistant Administrator for Environment and Safety will provide on a continuous basis all information on environment and safety programs, issues, and policies reasonably required by the EAC to perform its function. The EAC will fully coordinate its activities with the General Advisory Committee. Staff support will be provided to the Committee by the Office of the Assistant Administrator for Environment and Safety.

ROBERT C. SEAMANS, Jr.,
Administrator.

[FR Doc.76-37072 Filed 12-16-76;8:45 am]

LIGNITE ADVISORY COMMITTEE

Renewal

Notice is hereby given that ERDA's Lignite Advisory Committee has been renewed for a one-year period, i.e., from January 1, 1977, until January 1, 1978. Renewal of the committee is necessary and in the public interest.

The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), ERDA policy and procedures, OMB Circular No. A-63 (Revised), and other directives and instructions issued in implementation of that Act.

This determination follows consultation with the Office of Management and Budget pursuant to the relevant sections of the Federal Advisory Committee Act and OMB Circular No. A-63 (Revised).

ROBERT W. FRI,
Deputy Administrator.

[FR Doc.76-37073 Filed 12-16-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

(FRL 656-7)

ASPEN/SNOWMASS, COLO.; 201 WASTEWATER FACILITIES PLAN

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for the Aspen Metro Sanitation District and the Snowmass Water and Sanitary District 201 Wastewater Facilities Plans, Colorado.

The subject action of this FEIS is awarding grant funds for the construction of additional wastewater treatment facilities at Aspen and Snowmass Resort, Colorado.

This FEIS was transmitted to CEQ on December 10, 1976 and, in accordance with the CEQ Guidelines (40 CFR 1500.11), no administrative action will be taken by this Agency until thirty days after receipt of the FEIS by the Council. Copies of the FEIS are available for review from: Mr. William Geise, Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203 (telephone: 303-837-4831 or FTS 327-4831).

Copies of the FEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region VIII, Library, 1st Floor, 1860 Lincoln Street, Denver, Colorado 80203.
Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC 20406.

Information copies of the FEIS are available at cost (10 cents per page) from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, DC 20036. Please reference ELR No. 61738.

Copies of the FEIS have been sent to various Federal, State, and local agen-

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cies, and interested individuals as outlined in the CEQ Guidelines.

Dated: December 13, 1976.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.76-37192 Filed 12-16-76;8:45 am]

[FRL 658-6]

GREELEY REGION, COLO.; WASTEWATER MANAGEMENT PROGRAM

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for the Greeley Region Wastewater Management Program, Weld County, Colorado.

Proposed is the granting of funds to Greeley, Colorado, for the construction of wastewater treatment facilities. The City of Greeley has recommended the building of a regional wastewater treatment facility in the delta agricultural area east of the city near the confluence of the Cache La Poudre and South Platte Rivers.

The FEIS was transmitted to the Council on Environmental Quality (CEQ) December 7, 1976, and in accordance with the CEQ Guidelines (40 CFR 1500.11), no administrative action will be taken by this agency until 30 days after receipt of the FEIS by the Council. Copies of the FEIS are available for review and comment from: Mr. William Geise, Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203 (telephone: 303-837-4831 or FTS 327-4831).

Copies of the FEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region VIII, Library, 1st Floor, 1860 Lincoln Street, Denver, Colorado 80203.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

Information copies of the FEIS are available at cost 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036. Please reference ELR No. 61709.

Copies of the FEIS have been sent to various Federal, State, and local agencies, and interested individuals are outlined in the CEQ Guidelines.

Dated: December 13, 1976.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.76-37191 Filed 12-16-76;8:45 am]

[FRL 659-7; OPP-00038]

STATE-FEDERAL FIFRA IMPLEMENTATION ADVISORY COMMITTEE (SFFIAC); WORKING GROUP ON CERTIFICATION

Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a two-day meeting of the State-Federal FIFRA Implementation Advisory Committee's Working Group on Certification will be held on Tuesday and Wednesday, January 4-5 in Room 3305, Waterside Mall, 401 M St. SW., Washington, D.C. The meeting will begin at 9 a.m.

This will be the fourth meeting of the Working Group on Certification under SFFIAC auspices. The purpose of the meeting is to discuss current aspects of pesticide applicator certification with the intent of reporting to the full Committee, so that the latter will be able to advise EPA on certification at its next meeting. Among the topics scheduled for discussion are:

1. Uniformity of commercial applicator categories and sub-categories;
2. Review of draft procedures for certification of federal government employees;
3. Update from EPA on certification of Indian applicators;
4. Review by EPA of progress in establishing a library of certification and training materials; and
5. Other items pertaining to certification.

This meeting is open to the public. For further details, please contact P. H. Gray, Jr., SFFIAC Executive Secretary, Operations Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460, (202) 755-7014.

Dated: December 14, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-37214 Filed 12-16-76;8:45 am]

[FRL 658-5]

HENDERSON, N.C.; WASTEWATER TREATMENT SYSTEM

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the 201 Wastewater Treatment System, Henderson, North Carolina.

The proposed action is awarding grant funds to the city of Henderson, North Carolina for the purpose of developing a system to service the Greater Henderson Area. The project consists of the necessary facilities to process and treat approximately 3.7 million gallons per day of wastewater.

To receive additional public comments, the Environmental Protection Agency, Region 4, will hold an open public hearing on this DEIS on January 18, 1977 at 7 pm at the Henderson Junior High School, 219 Charles Street, Henderson, North Carolina. Registration will begin at 6 pm. All interested persons are invited to express their views at this hearing. To ensure the accuracy of the record, oral statements should be accompanied by a written statement. Oral statements should summarize extensive written materials to allow time for all interested persons to be heard.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on December 7, 1976. In accordance with CEQ's notice of availability, comments are due on January 31, 1977. Copies of the DEIS are available for review and comment from: Mr. John Hagan, Chief EIS Branch, Environmental Protection Agency, Region 4, 345 Courtland Street, NE, Atlanta, Georgia 30308 (telephone 404-881-7458 or FTS 8-257-7458).

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region IV Library, 345 Courtland Street, NE, Atlanta, Georgia.

Leslie Perry Memorial Library, 109 Young Street, Henderson, North Carolina.

Department of Natural and Economic Resources, 417 North Salisbury Street, Raleigh, North Carolina.

Franklin County Library, North Main Street, Louisburg, North Carolina.

Environmental Protection Agency, Public Information Reference Unit, Room 2922 Waterside Mall, 401 M Street, SW, Washington, DC 20460.

Information copies of the DEIS are available at cost (10 cents per page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036. Please reference ELR No. 61713.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: December 13, 1976.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.76-37190 Filed 12-16-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1080]

PETITIONS FOR RECONSIDERATION OF ACTIONS

Rule Making Proceedings Filed

DECEMBER 10, 1976.

Docket or RM No.	Rule No.	Subject	Date received
19982	Sec. 73.606(b)	Amendment of sec. 73.606(b), table of assignments, television broadcast stations. (Mountain View, Ark.) Filed by Harrison T. Slaughter, attorney for Arkansas Educational Television Commission.	Dec. 8, 1976
20422	Sec. 73.202(b)	Amendment of sec. 73.202(b), table of assignments, FM broadcast stations. (Fort Walton Beach, Crestview and Destin, Fla.) Filed by Harry C. Sells, attorney for Dr. John Matkowski	Dec. 6, 1976
		Filed by John B. Jacob, attorney for Vacationland Broadcasting Co., Inc. (WFTW and WFTW-FM.)	Dec. 8, 1976

NOTE.—Oppositions to petitions for reconsideration must be filed on or before Jan. 3, 1977. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37018 Filed 12-16-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of November 12 through November 19, 1976

Notice is hereby given that during the week of November 12 through November 19, 1976 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

Dated: December 13, 1976.

MICHAEL F. BUTLER,
General Counsel.

List of cases received by the Office of Exceptions and Appeals, Nov. 12 through Nov. 19, 1976

Date	Name and location of applicant	Case No.	Type of submission
Nov. 12, 1976	Getty Oil Co., Washington, D.C. (If granted: Getty Oil Co. would be permitted to exclude petroleum coke from the application of the sales volume allocation formula contained in sec. 212.83(c)(2).	FEE-3368	Price exception (sec. 212.83 (c)(2)).
Nov. 15, 1976	Algonquin Gas Transmission Co., Boston, Mass. (If granted: The permanent import fee-exempt authorization extended to Algonquin by the Oil Import Appeals Board in an order issued on Jan. 9, 1975, would be terminated effective Apr. 30, 1977.)	FEX-0008	Supplemental order.
Do	E. C. Johnston Co., (R. M. Stephens plant), Longview, Tex. (If granted: E. C. Johnston Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the R. M. Stephens plant.)	FEE-3372	Price exception (sec. 212.-166).
Do	Gary Operating Co. (Bluebell), Englewood, Colo. (If granted: Gary Operating Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Bluebell plant on the basis that it is continuing to experience a serious hardship.)	FEE-3375	Extension of relief granted in Gary Operating Co., 4 FEA par. 83,123 (Oct. 1, 1976).
Do	Theodore Gore, Wichita, Kans. (If granted: The FEA's Oct. 29, 1976, remedial order would be rescinded and Theodore Gore would not be required to make a refund for overcharges made in sales of crude oil produced from the G. Kastrup, R. Miller, E. Z. Ruby and Dietz leases located in Russell County, Kans.)	FEA-1033 FES-0055	Appeal of FEA region VII's remedial order dated Oct. 29, 1976. Stay requested.
Do	Hewit & Dougherty, Refugio, Tex. (If granted: Hewit & Dougherty would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Roche plant on the basis that it is continuing to experience a serious hardship.)	FEE-3374	Extension of relief granted in Hewit & Dougherty, 4 FEA par. 83,094 (Sept. 17, 1976).
Do	Kathol Petroleum, Inc., (Indian Wells), Wichita, Kans. (If granted: Kathol Petroleum, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Indian Wells plant.)	FEE-3373	Price exception (sec. 212.165.)
Do	Lebeack Oil Production, Inc., Hays, Kans. (If granted: Lebeack Oil Production, Inc.'s, Lebeack-Hartle lease would be classified as a stripper well property.)	FEE-3370	Price exception (sec. 212.73.)

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Date	Name and location of applicant	Case No.	Type of submission
Do.	Peters Fuel Corp., Oakland, Md. (If granted: Peters Fuel Corp., would be permitted to increase its prices for fuel oil above the maximum level permitted under 10 CFR 212.93.)	FEE-3369	Price exception (sec. 212.-93).
Do.	Quincy Oil, Inc., Quincy, Mass. (If granted: Quincy Oil, Inc., would receive a temporary stay of the requirements of a remedial order issued to the firm on Nov. 2, 1976, pending a final determination of its appeal from the order.)	FST-0054	Temporary stay request (remedial order issued Nov. 2, 1976).
Do.	Standard Oil Co. of Ohio, Midland, Ohio. (If granted: The FEA's Oct. 8, 1976, decision and order would be rescinded and Standard Oil Co. of Ohio would be permitted to calculate its entitlement benefits by including 35,000 bbl/d of its crude oil runs to stills attributable to residual fuel oil which it produces for sale in the east coast plus 50 pct of any such volumes in excess of 35,000 bbl/d and be permitted to recalculate retroactive to Apr. 1, 1976, its entitlement sales obligation without regard to the provisions of 10 CFR 211.67(d)(4).)	FEA-1034	Appeal of decision and order in Standard Oil Co. of Ohio, 4 FEA par. ---- (Oct. 8, 1976).
Do.	Terrible Herbst, Inc., Washington, D.C. (If granted: The FEA's Oct. 15, 1976, decision and order would be rescinded and Terrible Herbst, Inc., would be assigned a new, lower priced supplier of motor gasoline to replace its base period supplier, Fletcher Oil & Refining Co.).	FEA-1032	Appeal of decision and order in Terrible Herbst, Inc., 4 FEA par. ---- (Oct. 15, 1976).
Do.	Texaco, Inc., New York, N.Y. (If granted: The FEA's Oct. 15, 1976, decision and order would be rescinded and Texaco, Inc., would not be required to supply UCO Oil Co. with motor gasoline.)	FEA-1035	Appeal of decision and order in UCO Oil Co., 4 FEA par. ---- (Oct. 15, 1976).
Do.	Texas Asphalt & Refining Co., Euless, Tex. (If granted: The permanent import fee-exempt authorization extended to Tarco by the Oil Import Appeals Board in an order issued on Apr. 23, 1970, would be terminated.)	FEX-0099	Supplemental order.
Do.	Time Oil Co., Los Angeles, Calif. (If granted: The permanent import fee-exempt authorization extended to Time Oil Co. by the Oil Import Appeals Board in an order issued on June 13, 1974, would be terminated effective Apr. 30, 1977.)	FEX-0100	Do.
Nov. 16, 1976	Marvin E. Boyer Oil Co., Inc., Iola, Kans. (If granted: Marvin E. Boyer Oil Co., Inc., would be permitted to resell crude oil at prices in excess of the maximum permissible levels determined pursuant to 10 CFR 212.93 on the basis that it is continuing to experience a serious hardship.)	FEE-3377	Extension of relief granted in Marvin E. Boyer Oil Co., Inc., 3 FEA Par. 83,257 (June 29, 1976).
Do.	Pester Refining Co., American Petrofina, Inc., Washington, D.C. (If granted: Pester Refining Co. would receive various types of relief from the mandatory petroleum allocation and price regulations in connection with its acquisition of the El Dorado refinery from American Petrofina, Inc.)	FEE-3376	Exception to mandatory petroleum allocation and price regulations (pt. 211 and pt. 212).
Do.	Standard Oil Co. of Ohio, Cleveland, Ohio. (If granted: Standard Oil Co. of Ohio would receive a stay of the requirements of the ancillary order issued to it on Aug. 12, 1976, pending a final determination of the Getty Oil Co.'s appeal of the remedial order issued Aug. 12, 1976.)	FES-0056	Stay request.
Nov. 17, 1976	McCulloch Gas Processing Corp., Washington, D.C. (If granted: McCulloch Gas Processing Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.006 per gallon for natural gas liquid products produced at the Jamison Prong plant, the Tule Creek plant, and the Well Draw plant on the basis that it is continuing to experience a serious hardship.)	FEE-3379—FEE-3381	Extension of relief granted in McCulloch Gas Processing Corp., 4 FEA par. 83,127 (Oct. 1, 1976).
Do.	McCulloch Gas Processing Corp. (Hilight), Washington, D.C. (If granted: McCulloch Gas Processing Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.006 per gallon for natural gas liquid products produced at the Hilight plant.)	FEE-3382	Price exception (sec. 212.165).
Do.	Rock Island Refining Corp., Indianapolis, Ind. (If granted: Rock Island Refining Corp. would receive a stay of its entitlement purchase obligations pending a final determination of its appeal which it intends to file from the decision and order issued by the FEA on Nov. 5, 1976.)	FES-0057	Stay request.
Do.	Rock Island Refining Co., Indianapolis, Ind. (If granted: The FEA's Nov. 5, 1976, decision and order would be rescinded and Rock Island Refining Co. would not be required to purchase entitlements during each month of the period November 1976 through October 1977.)	FSG-0031	Request for special redress.
Do.	Sentry Refining Co., New York, N.Y. (If granted: Sentry Refining Co. would receive exception relief from the mandatory petroleum allocation and price regulations in order to facilitate the operation of its newly constructed refinery located near St. Mary's, W. Va.)	FEE-3378	Exception to mandatory allocation and price regulations. (Pt. 211 and pt. 212).
Nov. 18, 1976	Arizona Fuels Corp., Salt Lake City, Utah. (If granted: Arizona Fuels Corp. would be relieved of its entitlement purchase obligations for the period January 1977 through June 1977 on the basis that it is continuing to experience a serious hardship.)	FEE-3388	Extension of relief granted, in Arizona Fuels Corp. 4 FEA par. 83,002 (July 16, 1976).
Do.	Atlantic Richfield Co., Dallas, Tex. (If granted: Atlantic Richfield Co. would receive an extension of the price relief granted in the FEA Sept. 24, 1976, decision and order which would permit Arco to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas plants: East Village Mills, Hull, Ojai Timber, Riverton Dome, South Hampton, and Taft.)	FEE-3389—FEE-3394	Extension of relief granted in Atlantic Richfield Co., 4 FEA par. 83,087 (Sept. 24, 1976).

Date	Name and location of applicant	Case No.	Type of submission
Do.	Belridge Oil Co., Los Angeles, Calif. (If granted: Belridge Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.006 per gallon for natural gas liquid products on the basis that it is continuing to experience a serious hardship.)	FEE-3395	Extension of relief granted in Belridge Oil Co., 4 FEA par. 83,119 (Sept. 29, 1976).
Do.	Connecticut Refining Co., West Haven, Conn. (If granted: The FEA's remedial order would be rescinded and Connecticut Refining Co. would not be required to make a refund to the State of Connecticut for overcharges in sales of petroleum products.)	FEA-1033	Appeal of FEA region I's remedial order.
Do.	Houston Propane, Inc., Dothan, Ala. (If granted: Houston Propane, Inc., would be assigned a new, lower priced supplier of motor gasoline to replace its base period suppliers, Enterprise Products Co. and Union Oil Co.)	FEE-3384	Exception to change base period supplier (sec. 211.9).
Do.	Jack & Roland's Truck Stop, Inc., Mariana, Fla. (If granted: Jack & Roland's Truck Stop, Inc., would not be required to refund alleged overcharges and would be permitted to establish its selling price for diesel fuel above the maximum level permitted under the mandatory petroleum price regulations.)	FEE-3397	Price exception (sec. 212.93).
Do.	Kewanee Oil Co., Tulsa, Okla., (If granted: Crude oil produced from the Kewanee Oil Co.'s north Stanley polymer flood unit would be sold at upper tier ceiling prices.)	FEE-3385	Price exception (sec. 212.73).
Do.	Kewanee Oil Co., Tulsa, Okla., (If granted: Crude oil produced from the Kewanee Oil Co.'s south Stanley waterflood unit would be sold at prices above the maximum allowable prices pursuant to the mandatory petroleum price regulations.)	FEE-3386	Price exception (sec. 212.74).
Do.	Laketon Asphalt Refining, Inc., Evansville, Ind., If granted: The FEA's Oct. 15, 1976, decision and order would be rescinded and Laketon Asphalt Refining, Inc., would relieved of its obligation to purchase entitlements pursuant to the notice of special correction amounts which the FEA issued in accordance with sec. 211.67(j)(2) of the mandatory petroleum allocation regulations.)	FEA-1036	Appeal of decision and order in Laketon Asphalt Refining, Inc., 4 FEA par. ---- (Oct. 15, 1976).
Do.	Land O' Lakes, Inc., Fort Dodge, Iowa. (If granted: Land O' Lakes, Inc., would be assigned a new, lower priced supplier of propane to replace its base period suppliers, Northern, Atlantic Richfield, Reese Oil, NGL Supply, Wanda Petroleum, Koch Oil, and NCRA.)	FEE-3396	Exception to change base period supplier (sec. 211.9).
Do.	Molloy Manufacturing Co., Fraser, Mich. (If granted: Molloy Manufacturing Co. would receive an increase in its base period use of propane and Michigan-Ohio Propane would be assigned as a base period supplier.)	FEE-3387	Allocation exception (sec. 211.9 and 211.13).
Do.	New England Petroleum Corp., Washington, D.C. (If granted: The FEA's May 2, 1975, and Nov. 17, 1976, decisions and orders would be modified and the entitlements issued to NEPCO under those orders which were not sold as of Sept. 30, 1976, would be canceled and FEA would issue in their place current entitlements of a dollar value equivalent to the canceled entitlements plus interest.)	FMR-0070	Modification of FEA's decisions and orders in New England Petroleum Corp., 2 FEA par. 83,136 (May 2, 1975); New England Petroleum Corp., 3 FEA par. 83,015 (Nov. 17, 1976).
Do.	Petrochemical Energy Group, Washington, D.C. (If granted: The 30-d period for the filing of an appeal from the temporary assignment issued to Commonwealth would be suspended until a final order is issued by the FEA.)	FEA-1037	Appeal of FEA decision and order issued Nov. 8, 1976, granting to Commonwealth Natural Gas Corp. a temporary assignment of SNG feedstock.
Do.	Readygas Propane Service, Inc., Eldon, Mo. (If granted: Readygas Propane Service, Inc., would be assigned a new, lower priced supplier of propane on the basis that it is continuing to experience a serious hardship.)	FEE-3383	Extension of relief granted in Readygas Propane Service, Inc., 4 FEA par. 80,543 (Sept. 21, 1976).
Do.	Skelton, C. D. d/b/a, Skelton Oil Co., Hobbs, N. Mex. (If granted: Skelton would be permitted to make repayment of overcharges made in its crude oil sales over a period of 24 mo instead of 12 mo.)	FEA-1039 FES-1039	Appeal of FEA remedial order issued Nov. 5, 1976. Stay requested.
Do.	Whitco, Inc., Dallas, Tex. (If granted: Whitco, Inc., would receive an extension of the relief granted in the FEA's Sept. 9, 1976, decision and order which (i) prohibits Sun Oil Co. from continuing to supply Whitco through South Central Oil Co./Amtel, Inc., and (ii) directs Sun to supply Whitco directly with that portion of Whitco's adjusted base period volume of motor gasoline which Sun is obligated to furnish.)	FEX-0101	Supplement to decision and order in Whitco, Inc., 4 FEA par. 87,011 (Sept. 9, 1976).
Nov. 19, 1976	Southland Oil Co./VGS Corp., Jackson, Miss. (If granted: Southland Oil Co. would receive a temporary stay of the requirements of the FEA's Nov. 5, 1976, decision and order pending a final determination of its appeal of that order which it intends to file.)	FST-0018	Request for temporary stay.

[FR Doc.76-37083 Filed 12-13-76;4:02 pm]

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of November 19 through November 26, 1976

Notice is hereby given that during the week of November 19 through November 26, 1976, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date or receipt by an aggrieved person of actual notice, whichever occurs first.

Dated: December 13, 1976.

MICHAEL F. BUTLER,
General Counsel.

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List of Cases received by the Office of Exceptions and Appeals, Week of Nov. 19 through Nov. 26, 1976

Date	Name and location of applicant	Case No.	Type of submission
Nov. 19, 1976	Apco Oil Corp., Oklahoma City, Okla. (If granted: Apco Oil Corp. would be granted an exception which would permit it to recalculate its passthrough of increased nonproduct costs on a proportional basis for 1975.)	FEE-3399	Exception to the required sequence of refinery cost recovery as it existed prior to Feb. 1, 1976 (sec. 212.83).
Do	Arizona Fuels Corp., Salt Lake City, Utah. (If granted: The FEA would supplement its Aug. 27, 1976, decision and order by prohibiting Hatch, Phillips, Amoco, and Tenneco from together drawing more than 1,000 bbl of crude oil from the Escalante Field located in Garfield County, Utah, on any given day until Arizona Fuels has purchased the 2,000 bbl allocated to it pursuant to the Aug. 27 order.)	FMR-0071	Supplement to decision and order in Arizona Fuels Corp., 4 FEA par. 83,061 (Aug. 27, 1976).
Do	Arizona Fuels Corp., Salt Lake City, Utah. (If granted: FEA would issue a temporary stay directing the W. S. Hatch Co., the Phillips Petroleum Co., the Standard Oil Co. of Indiana, and the Tenneco Oil Co. to refrain from purchasing or removing more than 1,000 bbl of crude oil per day in the aggregate from the Upper Valley Escalante Field in southern Utah.)	FST-0019	Request for temporary stay.
Do	John R. Groom, Jr. (Central Hilight Unit), Mills, Wyo. (If granted: The FEA's Oct. 8, 1976, decision and order would be rescinded and crude oil produced from the Central Hilight Unit located in the Powder River basin of eastern Wyoming would be sold at upper tier ceiling prices for the benefit of both the working interest owners and the royalty interests.)	FEA-1040	Appeal of a decision and order in Central Hilight Unit, 4 FEA par. 83, 138 (Oct. 8, 1976).
Do	Luke Bros., Inc., Oklahoma City, Okla. (If granted: Luke Bros., Inc., would receive a stay of the remedial order issued to it on Oct. 5, 1976, pending a final determination of Luke's appeal of that order.)	FEA 1041	Stay request.
Do	Navajo Refining Co., Washington, D.C. (If granted: Navajo Refining Co. would receive an extension of the relief granted in the FEA's June 21, 1976, decision and order, thereby reducing the value of entitlements which it is required to purchase during the period Dec. 1, 1976, through July 31, 1977.)	FEE-3400	Extension of relief granted in Navajo Refining Co., 3 FEA par. 83,242 (June 21, 1976).
Do	Permian Corp. (Possum Kingdom and Todd Ranch); Houston, Tex. (If granted: The Permian Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Possum Kingdom and Todd Ranch natural gas processing plants.)	FEE-3401 FEE-3402	Price exception (sec. 212.-165).
Do	Phillips Petroleum Co., Bartlesville, Okla. (If granted: Phillips Petroleum Co. would be permitted to transfer allocation entitlements among its company owned and operated service stations without regard to the 30-pct limitation provided in sec. 211.106(b)(3)(ii).)	FEE-3398	Allocation exception (sec. 211.106(b)(3)(ii)).
Do	Standard Oil Co. of California, San Francisco, Calif. (If granted: The FEA's Oct. 15, 1976, decision and order would be rescinded and UCO Oil Co. would not be assigned new, lower priced suppliers of motor gasoline on the basis that it is continuing to experience a serious hardship.)	FEA-1042	Appeal of decision and order in UCO Oil Co., 4 FEA par. ---- (Oct. 15, 1976).
Do	Time Oil Co., Los Angeles, Calif. (If granted: Time Oil Co. would receive a temporary stay of the requirements of 10 CFR 212.83(e)(2).)	FST-0020	Request for temporary stay.
Nov. 22, 1976	Boston Gas Co., Washington, D.C. (If granted: FEA's Oct. 19, 1976, interpretation would be rescinded and Boston Gas Co. would be permitted to use its peak shaving allocation in its SNG plant as well as in its propane air plants for peak shaving purposes.)	FEA-1044	Appeal of FEA's Oct. 19, 1976 interpretation.
Do	Bryant Oil Co., Pasadena, Calif. (If granted: FEA's Oct. 22, 1976, decision and order would be rescinded and Bryant Oil Co. would be assigned a new supplier of motor gasoline to replace its base period suppliers, the Lion Oil Co. and Barnes & Rogers, Inc.)	FEA-1045	Appeal of FEA's decision and order in Bryant Oil Co., 4 FEA par. ---- (Oct. 22, 1976).
Do	Gulf Oil Corp., Tulsa, Okla. (If granted: Gulf Oil Corp. would receive an extension of the relief granted in the FEA's Oct. 7, 1976, decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas processing plants: Azalea, Knox, Millay, and Sand Hills.)	FEE-3405- FEE-3408	Extension of relief granted in Gulf Oil Corp., 4 FEA par. 83,141 (Oct. 7, 1976).
Do	Gulf Oil Corp., Houston, Tex. (If granted: The FEA's Oct. 15, 1976, decision and order would be rescinded and UCO Oil Co. would not be assigned new, lower priced suppliers of motor gasoline on the basis that it is continuing to experience a serious hardship.)	FEA-1041	Appeal of FEA's decision and order in UCO Oil Co., 4 FEA par. (Oct. 15, 1976).
Do	Kerr-McGee Corp., (Southwestern Refining), Corpus Christi, Tex. (If granted: FEA's Oct. 22, 1976, decision and order would be rescinded and Kerr-McGee would be permitted to calculate its entitlement obligations by including in its crude oil runs to stills the entire volume of crude oil which is attributable to production by Southwestern of residual fuel oil for sale into the east coast market.)	FEA-1043	Appeal of FEA's decision and order in Kerr-McGee Corp. (Southwestern), 4 FEA par. ---- (Oct. 22, 1976).
Do	Mobil Oil Corp. (Greeley and Vanderbilt), New York, N.Y. (If granted: Mobil Oil Corp. would receive an extension of the relief granted in the FEA's Sept. 29, 1976, decision and order, thereby permitting it to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Greeley and Vanderbilt natural gas processing plants.)	FEE-3403 FEE-3404	Extension of relief granted in Mobil Oil Corp., 4 FEA par. 83,128 (Sept. 29 1976).

Date	Name and location of applicant	Case No.	Type of submission
Do	Mobil Oil Corp., New York, N.Y. (If granted: Mobil Oil Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas processing plants: Cameron, Cotton Valley, Cow Island, Delhi, Elwood, Gulf-Knox, Heyser, Postle Hongh, R. M. Stephens, Sellig-son, South Sarepta, and Union-Adena.)	FEE-3418— FEE-3429	Price exception (sec. 212.165).
Do	Saveway Gas & Appliance, Inc., Dexter, Mo. (If granted: Saveway Gas & Appliance would receive an extension of the relief granted in FEA's Sept. 27, 1976, decision and order and would be assigned a new, lower priced supplier of propane to replace its base period supplier, NGL Supply, Inc.)	FEE-3430	Extension of the exception relief granted in Saveway Gas & Appliance, Inc., 4 FEA par. 83,132 (Sept. 27, 1976).
Do	Shell Oil Co., Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase its prices to reflect non-product cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas processing plants: Elmwood, Goodwater, Houston Central, Indian Basin, Person, Wasson, Weeks Island, West Lake, and West Seminole.)	FEE-3422— FEE-3440	Price exception (sec. 212.165).
Do	Shell Oil Co. (Molino), Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the relief granted in FEA's Sept. 29, 1976, decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Molino gas plant.)	FEE-3431	Extension of relief granted in Shell Oil Co., 4 FEA par. 83,133 (Sept. 29, 1976).
Do	Sun Oil Co. (Carney, Mayfield, and Tonkawa), Dallas, Tex. (If granted: Sun Oil Co. would receive an extension of the relief granted in the FEA's Sept. 29, 1976, decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Carney, Mayfield, and Tonkawa natural gas processing plants.)	FEE-3411— FEE-3413	Extension of relief granted in Sun Oil Co., 4 FEA par. 83,135 (Sept. 29, 1976).
Do	Texaco, Inc., (Lignite and Wilson Creek), Houston, Tex. (If granted: Texaco, Inc., would receive an extension of the relief granted in the FEA's Oct. 29, 1976, decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Lignite and Wilson Creek natural gas processing plants.)	FEE-3409 FEE-3410	Extension of relief granted in Texaco, Inc., 4 FEA par. ---- (Oct. 29, 1976).
Do	Union Oil Co. of California (Dominguez, Rio Bravo, and South Coles Levee), Los Angeles, Calif. (If granted: Union Oil Co. of California would receive an extension of the relief granted in the FEA's Nov. 12, 1976, decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Dominguez, Rio Bravo, and South Coles Levee natural gas processing plants.)	FEE-3414— FEE-3416	Extension of relief granted in Union Oil Co. of Calif., 4 FEA par. ---- (Nov. 12, 1976).
Nov. 23, 1976	Exxon Co., U.S.A., Houston, Tex. (If granted: Exxon Co., U.S.A. would be granted an exception which would permit it to recalculate its passthrough of increased nonproduct costs on a proportional basis for 1975.)	FEE-3417	Exception to the required sequence of refinery cost recovery as it existed prior to Feb. 1, 1976 (sec. 212.83).
Do	Southwestern Refining Co., Inc., Washington, D.C. (If granted: Southwestern Refining Co., Inc., would receive a temporary stay of the requirements of the entitlements notice for September 1976 issued Nov. 22, 1976, which requires Southwestern to purchase 1,400 entitlements by Nov. 30, 1976.)	FST-0021	Request for temporary stay.
Nov. 24, 1976	Beco, Ltd., et al., Washington, D.C. (If granted: The royalty interest owners would share in the relief granted in the FEA's Sept. 21, 1976, decision and order which permits crude oil produced from the Banning lease of the Newport Field, Orange County, Calif., to be sold at upper tier ceiling prices.)	FEA-1046	Appeal of decision and order in General Crude Oil Co., 4 FEA par. 83,104 (Sept. 21, 1976).
Do	Good Hope Industries, Inc., Springfield, Mass. (If granted: The FEA's Nov. 5, 1976, decision and order would be rescinded and Good Hope Industries, Inc., would not be required to purchase entitlements during each month from November 1976 through April 1977.)	FEA-1048	Appeal of decision and order in Good Hope Industries, Inc., 4 FEA par. ---- (Nov. 5, 1976).
Do	Louisiana Land & Exploration Co., New Orleans, La. (If granted: FEA's Oct. 15, 1976, decision and order would be rescinded and Louisiana Land & Exploration Co. would not be required to refund any of the costs imputed for December 1975 in calculating maximum allowable selling prices for products sold in January 1976.)	FEA-1049	Appeal of FEA's decision and order in Louisiana Land & Exploration Co., 4 FEA par. ---- (Oct. 15, 1976).
Do	Zenith Oil Co., Inc., Minneapolis, Minn. (If granted: The FEA's Oct. 28, 1976, remedial order would be rescinded and Zenith Oil Co., Inc., would not be required to make refunds for overcharges in its sales of No. 2 heating oil.)	FEA-1047 FST-1047	Appeal of FEA region V's remedial order issued Oct. 28, 1976. Stay request.

[FR Doc.76-37034 Filed 12-13-76;4:02 pm]

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of November 26 through December 3, 1976

Notice is hereby given that during the week of November 26 through December 3, 1976, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the applica-

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tion within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt of an aggrieved person of actual notice, whichever occurs first.

Dated: December 13, 1976.

MICHAEL F. BUTLER,
General Counsel.

List of cases received by the Office of Exceptions and Appeals, Week of Nov. 26 through Dec. 3, 1976

Date	Name and location of applicant	Case No.	Type of submission
Nov. 26, 1976	Beacon Oil Co., Hanford, Calif. (If granted: Beacon Oil Co. would receive a stay of the requirements of the FEA's Nov. 5, 1976, decision and order which require Beacon to purchase entitlements valued at $2,071,628, pending a final determination of its appeal of that order which it intends to file.)	FES-1051	Stay request.
Do	Glacier Park Co., Washington, D.C. (If granted: Glacier Park Co.'s entitlement purchase obligation for September 1976 would be reduced by 30,513 entitlements.)	FEA-1050 FES-1050	Appeal of entitlement notice for September 1976 issued Nov. 22, 1976 Stay requested.
Do	Gulf Oil Corp., Tulsa, Okla. (If granted: FEA's Oct. 6, 1976, decision and order would be rescinded and Gulf Oil Corp. would be permitted to supply Mid-Michigan Truck Service through a substitute supplier.)	FEA-1053	Appeal of FEA's decision and order in Mid-Michigan Truck Service, 4 FEA par. 87,015 (Oct. 6, 1976).
Nov. 29, 1976	Delta Refining Co., Memphis, Tenn. (If granted: Delta Refining Co. would receive a stay of the requirements of the FEA's Nov. 5, 1976, decision and order which require Delta to purchase entitlements during each month of the period November 1976 through October 1977, pending a final determination of its appeal of that order which it intends to file.)	FES-1052	Stay request.
Do	Delta Refining Co., Memphis, Tenn. (If granted: Delta Refining Co. would receive a temporary stay of the requirements of the FEA's Nov. 5, 1976, decision and order which require Delta to purchase entitlements during each month of the period November 1976 through October 1977, pending a final determination of its appeal of that order which it intends to file.)	FST-0022	Request for temporary stay.
Do	Gasco Gasoline, Inc., Oxnard, Calif. (If granted: FEA's Nov. 15, 1976, decision and order would be rescinded and Gasco Gasoline, Inc., would be assigned a new, lower priced supplier for the portion of the firm's total base period use of motor gasoline which is furnished by the Fletcher Oil & Refining Co.).	FEA-1055	Appeal of FEA's decision and order in Gasco Gasoline, Inc., 4 FEA par. ---- Nov. 15, 1976).
Do	Milton Crow, Inc. (R. M. Stephens), Shreveport, La. (If granted: Milton Crow, Inc., would be permitted to increase prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the R. M. Stephens plant.)	FEE-3443	Price exception (sec. 212.165).
Do	Minard Run Oil Co., Bradford, Pa. (If granted: Minard Run Oil Co.'s crude oil producing property situated in Hamlin Township, McKean County, Pa., would be classified as a stripper well property.	FEE-3444	Price exception (sec. 212.54).
Do	Natrogas, Inc., Minneapolis, Minn. (If granted: Natrogas, Inc., would be assigned a new, lower priced supplier of propane to replace its base period suppliers, Shell Oil Co., Mobil Oil Corp., and Warren Petroleum.)	FEE-3442	Exception to change suppliers.
Do	Petrochemical Energy Group, Washington, D.C. (If granted: FEA's Oct. 28, 1976, information request denial would be rescinded and Petrochemical Energy Group would receive copies of FEA forms G-101-2-0 or FEA forms G-101-P-1 filed by certain gas utilities.)	FEA-1056	Appeal of FEA's information request denial.
Do	Time Oil Co., Los Angeles, Calif. (If granted: Time Oil Co. would receive a stay of the requirements of 10 CFR 212.83(e)(2) pending a final determination of its exception application which it intends to file.)	FES-3441	Stay request.
Do	Vessels Gas Processing Co. (Halliburton Resources), Denver, Colo. (If granted: Vessels Gas Processing Co. would receive an extension of the price relief granted on Sept. 10, 1976, to permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products at its Irondale plant.)	FEE-3445	Extension of price relief in Vessels Gas Processing Co., 4 FEA par. 83,061 (Sept. 10, 1976).
Do	Western Stations, Portland, Oreg. (If granted: FEA's Nov. 5, 1976, decision and order would be rescinded and western stations would continue to be supplied motor gasoline by Gulf Oil Corp.)	FSG-0032	Appeal of FEA's Nov. 5, 1976 decision and order.
Nov. 11, 1976	Beren Corp., Kansas City, Mo. (If granted: FEA's Nov. 15, 1976, remedial order requiring Beren Corp. to refund alleged overcharges to crude oil purchasers from eight particular leases would be stayed pending final determination of Beren Corp.'s proposed appeal.)	FES-1059	Stay of the requirements of FEA's remedial order.
Do	Cities Service Co., Tulsa, Okla. (If granted: Cities Service Co. would receive an extension of the relief granted in the FEA's Nov. 5, 1976, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Citronelle, Garrett, Kimball, May, Myrtle Springs, Rio Grande, and St. Amelia natural gas plants.)	FEE-3449—FEE-3455	Extension of relief granted in Cities Service Co., 4 FEA par. ---- (Nov. 5, 1976).
Do	Exxon Co., U.S.A., Houston, Tex. (If granted: Exxon's entitlement purchase obligation for August 1976 would be adjusted to correct for FEA's alleged error in computing old oil receipts.)	FEA-1060	Appeal of FEA entitlement notice for Aug. 1976, dated Oct. 28, 1976.

Date	Name and location of applicant	Case No.	Type of submission
Do	Sanford P. Fagadau (Bluegrove), Dallas, Tex. (If granted: Sanford P. Fagadau would receive an extension of the price relief granted on Nov. 12, 1976, to permit him to increase prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Bluegrove processing plant.)	FEE-3446	Extension of price relief granted in Sanford P. Fagadau, 4 FEA par. ------ (Nov. 12, 1976).
	Southland Oil Co./VGS Corp., Jackson, Miss. (If granted: Southland Oil Co. would not be penalized for overrecovery of crude oil costs in its product prices.)	FEE-3447	Price exception (sec. 212.83 (c)).
Do	Southland Oil Co./VGS Corp. (If granted: Southland Oil Co. would be permitted to recalculate its costs on the basis of the proportional recovery of all nonproduct costs retroactive to January 1976.)	FEE-3448	Price exception (sec. 212.83 (d)).
Do	Standard Oil Co. of Ohio, Cleveland, Ohio: (If granted: FEA's Aug. 12, 1976, ancillary order would be rescinded and Standard Oil Co. of Ohio would not receive a refund from Getty Oil Co. for crude oil exchanges.)	FEA-1057	Appeal of FEA's ancillary order with respect to the remedial order issued to Getty Oil Co.
Do	Varibus Corp., Beaumont, Tex. (If granted: FEA's Oct. 29, 1976, decision and order would be rescinded and Varibus Corp. would retroactively be relieved of the requirement that it establish the prices which it charged in its sales of No. 2 fuel oil to unaffiliated entities in accordance with the mandatory petroleum price regulations.)	FEA-1058	Appeal of FEA's decision and order in Varibus Corp., 4 FEA par. ---- (Oct. 29, 1976).
Dec. 1, 1976	General Crude Oil Co., Houston, Tex. (If granted: Crude oil produced from the Banning lease of the West Newport Field, Orange County, Calif., would be sold at upper tier ceiling prices for the benefit of both working interest owners and royalty owners.)	FXA-1061	Appeal of decision and order in General Crude Oil Co., 4 FEA par. 83,104 (Sept. 21, 1976).
Do	Inexco Oil Co., Houston, Tex. (If granted: Inexco Oil Co. would receive an exception from the certification requirements of 10 CFR 212.131(a)(3) for units in the Reddell Field in Louisiana, the Hillight Field in Wyoming, and the Brandon Field in Colorado until 45 d after the FEA clarifies its regulations in a manner which Inexco claims is essential for it to establish unit base production control levels for these properties.)	FEE-3456 FES-3456	Price exception (sec. 212.131 (a)(3)). Stay request.
Do	L. G. Vanderwork, Towner, Colo. (If granted: L. G. Vanderwork would not be required to make refunds for overcharges made in sales of propane and would be permitted to establish his selling price for propane above the maximum level permitted under the mandatory petroleum price regulations.)	FEE-3457	Price exception (sec. 212.93).
Dec. 2, 1976	Beren Corp., Denver, Colo. (If granted: The FEA's Nov. 15, 1976, remedial order would be rescinded and Beren Corp. would not be required to make refunds for overcharges in its sales of crude oil during the period November 1973 through December 1974.)	FRA-1069	Appeal of FEA's remedial order dated Nov. 15, 1976.
Do	Central Carolina Farmers, Inc., Durham, N.C. (If granted: The FEA's Nov. 1, 1976, decision and order would be rescinded and Central Carolina Farmers, Inc., would be assigned a new, lower priced supplier of propane to replace its base period suppliers, the Mobil Oil Co. and the American Oil Co.)	FXA-1062	Appeal of decision and order in Central Carolina Farmers, Inc., 4 FEA par. ---- (Nov. 1, 1976).
Do	Chaplin Petroleum Co., Fort Worth, Tex. (If granted: Chaplin Petroleum Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas plants: Black 31, Dover-Hennessey, East Rexas, Gulf Plains, Mayfield, Patrick Draw, Peoria, South Fullerton, and Witcher.)	FEE-3458—FEE-3200	Price exception (sec. 212.165).

[FR Doc.76-37035 Filed 12-13-76;4:02 pm]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1678]

ACTION CARGO SYSTEMS, INC.

Order of Revocation

On December 6, 1976, Mr. Vincent G. Kessler, Vice President, Action Cargo Systems, Inc., P.O. Box 593293, Miami, FL 53159, voluntary surrendered his Independent Ocean Freight Forwarder License No. 1678 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01 (b), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1678 issued to Action Cargo Systems, Inc., be and is hereby revoked effective December 6, 1976 without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Action Cargo Systems, Inc.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.76-37069 Filed 12-16-76;8:45 am]

CITY OF MILWAUKEE AND HANSEN SEAWAY SERVICE, LTD.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 27, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. L. Haskell, Deputy Municipal Port Director, Board of Harbor Commissioners, City of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wisconsin 53202.

Agreement No. T-3386, between the City of Milwaukee (City) and Hansen Seaway Service, Ltd., (Hansen) grants Hansen the exclusive right to perform stevedoring services at the City Heavy Lift Dock located at Milwaukee, Wisconsin. The term of this agreement shall be from the time it is approved by the Federal Maritime Commission, assuming such approval is granted, through December 31, 1980. Hansen will pay City an annual fee of $15,000, a tonnage charge based on the amount of cargo handled over the facility and wharfage charges as they appear in City's published tariff. Hansen will be permitted to rent office space, available covered space and the use of agreed storage space at rates to be agreed upon by the parties. It is further agreed that Hansen will abide by all the rules, regulations, and charges as set forth in City's published tariff. This agreement is almost identical to approved Federal Maritime Commission Agreement No. T-2965 currently in use by the parties. Assuming approval of T-3386 is granted, it will replace T-2965 which will expire by its own terms on December 31, 1976.

By order of the Federal Martime Commission.

Dated: December 13, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37070 Filed 12-16-76;8:45 am]

NORTH CAROLINA STATE PORTS AUTHORITY AND SEATRAIN LINES, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to

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section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before January 6, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

H. C. Jackson, Director of Traffic, North Carolina State Ports Authority, P.O. Box 3037, Wilmington, North Carolina 28401.

Agreement No. T-3384, between North Carolina State Ports Authority (Authority) and Seatfain Lines, Inc., (Seatrain), provides for the use of 6.325 acres of land at Wilmington Port Terminal and preferential use of: (1) Berths A and B on two consecutive preferential days; (2) a gantry crane of at least 75-ton capacity; and (3) a truck scale. As compensation, Seatrain will pay $50,600 per annum as rental plus wharfage (subject to a guaranteed minimum of 100,000 tons per contract year) and dockage as set forth in the agreement. In addition, Seatrain will pay for electrical, fresh water and sewage services as set forth in the agreement. Authority will receive $100 a month for the preferential use of the truck scale.

By order of the Federal Maritime Commission.

Dated: December 10, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37068 Filed 12-16-76;8:45 am]

WEST COAST OF INDIA AND PAKISTAN/U.S.A. CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 27, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William L. Hamm, Chairman, West Coast of India and Pakistan/U.S.A. Conference, 25 Broadway, New York, New York 10004.

Agreement No. 8040-10, entered into by the member lines of the West Coast of India and Pakistan/U.S.A. Conference, amends the fourth paragraph of Clause 3 of the conference agreement by deleting the words "or its equivalent in Pounds Sterling," whereby prepaid freight and charges if payable in the United Kingdom shall be paid in U.S. Dollars. At the present time, prepaid freight and charges if payable in the United Kingdom shall be paid in U.S. Dollars or its equivalent in Pounds Sterling.

By order of the Federal Maritime Commission.

Dated: December 14, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37067 Filed 12-16-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77-76]

ALABAMA-TENNESSEE NATURAL GAS CO.

Application

DECEMBER 13, 1976.

Take notice that on December 1, 1976, Alabama-Tennessee Natural Gas Company (Applicant), P.O. Box 918, Florence, Alabama 35630, filed in Docket No. CP77-76 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretation (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Wolverine Division of UOP, Inc. (Wolverine), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Wolverine up to 600 Mcf of natural gas per day for a period of two years following the date of first delivery. It is stated that said gas will be for the use of Wolverine at its manufacturing facility in the City of Decatur, Alabama. It is stated that such gas will be received by Applicant at Tennessee Gas Pipeline Company's (Tennessee's) Barton Sales Delivery Point located in Colbert County, Alabama and would be redelivered to the City of Decatur, a distributor of natural gas, at Applicant's existing Sales Delivery Point located in Morgan County, Alabama. Applicant states that it, the City of Decatur and Wolverine entered into a transportation contract dated October 4, 1976 whereby, in addition to the arrangements outlined above, the City of Decatur agrees to deliver the gas received from Applicant to Wolverine.

It is stated that pursuant to a gas sales contract between Wolverine and Franks Petroleum, Inc. and Arkla Exploration Company (Sellers), dated October 4, 1976, Wolverine will purchase natural gas produced at Sellers' North Crowley Field in Acadia Parish, Louisiana in the amount of at least 75 percent of the contract volume of 500 Mcf per day (at 15.-025 psia). Additional volumes in excess of this daily contract volume may be taken by Wolverine if in the Sellers' judgment such deliveries can be made in accordance with good operating practice and without injury to the wells or reservoir, it is indicated. It is also stated that the price in the first year of the two year agreement is $1.55 per Mcf and shall increase to $1.65 per Mcf in the second year. It is indicated that delivery under the contract is to be made to a point on Columbia Gulf Transmission Company's (Columbia's) Pipeline in Acadia Parish, Louisiana. Applicant indicates that from that point the contract gas would travel through Columbia's system to the interconnection of the facilities of Columbia and Tennessee at Tennessee's Egan "B" Delivery Point in Acadia Parish, Louisiana, and then through Tennessee's system to its system at the Barton Sales Delivery Point. Applicant further indicates that Wolverine is arranging for this series of deliveries and that Tennessee and Columbia would file for necessary authorization.

Applicant states that a transportation charge of 12.78 cents per Mcf would be paid by Wolverine. Transportation, it is stated, would be subject to available capacity of the Applicant's system. Further, Applicant asserts that the natural gas supply which is the subject of this application was not secured by the Applicant because by the time Applicant became aware of its existence it was already under contract to Wolverine.

It is stated that Wolverine requires natural gas in its manufacturing processes because of its precise temperature

and flame characteristics. Wolverine, it is indicated, is a manufacturer of nonferrous, seamless copper, copper alloy, and aluminum tubing. Due to the inability of the plant to use fuel oil, it is asserted, substantial gas curtailments could affect the security of employees and the community.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37142 Filed 12-16-76;8:45 am]

[Docket No. RP71-131]

ALGONQUIN GAS TRANSMISSION CO.

Availability of the Federal Power Commission Staff's Final Environmental Impact Statement

DECEMBER 13, 1976.

Take notice that on April 30, 1976, the Federal Power Commission Staff (Staff) issued a Final Environmental Impact Statement (FEIS) in the above captioned proceeding.

The Staff's FEIS analyzes the impact of pipeline curtailment considering air pollution, alternate fuel use, conservation and socio-economic effects at varying levels of curtailed volumes.

On August 20, 1975, the Commission issued an order prescribing a permanent curtailment plan for Algonquin Gas Transmission Company (Algonquin). The Commission concluded, however, that the ordering of a permanent curtailment plan for Algonquin was a "major federal action significantly affecting the quality of human environment" and that an environmental impact statement was required. The Commission further concluded that the permanent curtailment plan would be subject to review when an FEIS was completed.

On August 11, 1976, Staff filed a motion for acceptance of the FEIS as a late filed exhibit. The motion requested that, unless an answer demanding formal hearing and opportunity to cross-examine was timely filed by any party, the FEIS should be accepted into evidence in order that the final review of Algonquin's curtailment plan may be completed. No such answers have been filed.

A copy of the FEIS has been served on each person designated on the official service list compiled by the Secretary in the instant proceeding. The FEIS is on file with the Commission and is available for public inspection at its Office of Public Information, Room 1000, 815 North Capitol Street, NE., Washington, D.C. Any Federal Agency or member of the general public that wishes to submit comments on this FEIS must do so on or before December 30, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37130 Filed 12-16-76;8:45 am]

[Docket No. CP77-67]

BLUE DOLPHIN PIPE LINE CO.

Application

(DECEMBER 13, 1976).

Take notice that on November 22, 1976, Blue Dolphin Pipe Line Company (Blue Dolphin) filed an Application for a Certificate of Public Convenience and Necessity to transport natural gas and liquid hydrocarbons produced from the Galveston Block 255 Field, Offshore, Texas, to delivery points onshore in Texas for use in the Dow Chemical Company's (Dow) plant located in Freeport, Texas.

Blue Dolphin states that Coastal States has undertaken the development of oil and gas reserves underlying the Galveston Block 255 Field (G-255 Field), Offshore, Texas. Blue Dolphin understands that Coastal States Gas Production Company, et al., (Coastal States) has executed a gas sale contract with Transcontinental Gas Pipe Line Company (Transco) covering the sale of gas produced from Block G-255. Blue Dolphin also understands that Transco has filed for, and received, certificate authority to construct and operate a proposed new pipeline from an onshore interconnection point with their existing pipeline system in the vicinity of the Cameron Meadows Plant, Louisiana, extending seaward to the G-255 Field. However, Blue Dolphin is informed that because of unavoidable delays, first deliveries of gas into the new Transco pipeline are not expected to begin until June of 1977. In order to dispose of their field liquids, Coastal States has built a gathering line from their G-255 Field to Shell Oil Company's (Shell) existing platform "A" in the Galveston Area Block 288 Field. That line can be used to save the casinghead gas which Blue Dolphin understands otherwise will be flared until the Transco line is completed. The liquids and gas produced by Coastal States, will be delivered through such gathering line to Shell, for redelivery by Shell for Coastal States account into Blue Dolphin's pipeline. Said liquids and gas will then be transported onshore to Shell's Buccaneer Condensate Separation and Stabilization Facilities located at Freeport, Texas. The commingled gas and liquids mixture delivered by Blue Dolphin into Shell's aforementioned facilities will be separated as to its gas and liquid portions, and the gas stream will be redelivered to Blue Dolphin for ultimate delivery to Dow Chemical for the account of Coastal States.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1977, file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be necessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37136 Filed 12-16-76;8:45 am]

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[Docket No. RI77-12]

C. A. HURST

Petition for Special Relief

DECEMBER 13, 1976.

Take notice that on November 22, 1976, C. A. Hurst (Petitioner), P.O. Box 2683, Laurel, Mississippi 39440, filed in Docket No. RI77-12 a petition for special relief pursuant to Order Nos. 481 and 551 and Section 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76). Petitioner is seeking a rate of 87.50 cents per Mcf for the sale of natural gas to Texas Eastern Transmission Corporation from four wells located in the Siloam Field, Clay County, Mississippi. Petitioner states that pressure has declined to the point where more compression equipment and facilities are required. Petitioner also states that maintenance, workovers, and operating costs have exceeded present income on the wells. Petitioner proposes a workover on one well that is currently not producing gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37134 Filed 12-16-76;8:45 am]

[Docket No. RP77-12]

CAROLINA PIPELINE CO., COMPLAINANT VS. SOUTHERN NATURAL GAS CO., RESPONDENT

Complaint

DECEMBER 10, 1976.

Take notice that on November 8, 1976, Carolina Pipeline Company (Carolina) filed a complaint against Southern Natural Gas Company (Southern), pursuant to Sections 5(a) and (13) of the Natural Gas Act and § 1.6 of the Commission's Rules of Practice and Procedure. Carolina alleges that Section 9.7 of the General Terms and Conditions of Southern's FPC Gas Tariff, Sixth Revised Volume No. 1 is unjust, unreasonable, unduly discriminatory, and therefore unlawful under the Natural Gas Act.

Section 9.7 of Southern's FPC Gas Tariff is entitled, "Index of Requirements." Carolina proposes modification of Section 9.7 to remove plant protection and customer storage injection requirements from the basic Index of Requirements and to place such requirements in a supplemental Index. Carolina states that, at present, injection requirements and plant protection requirements are placed in priority 2 every day, regardless of whether those requirements are being served that day.

Carolina next alleges that the language in Section 9.7 which states that the requirements reflected in categories (1) through (3) shall never exceed a "Purchaser's applicable Contract Demand or Maximum Delivery Obligation," absent a Commission finding of extraordinary circumstances, is unduly discriminatory, Carolina states that the limitation on requirements should only be applicable when the forecast system mean temperative is 41 degrees Fahrenheit or lower.

Carolina states that its proposed modification was submitted to the Audit Committee which concluded that Carolina's request went beyond the jurisdiction of the Audit Committee. Carolina requests that the Commission issue an order requiring Southern to show cause why the language of Section 9.7 of Southern's FPC Gas Tariff is not unjust, and unreasonable and therefore unlawful under the Natural Gas Act.

Respondent shall file a response to the complaint within 21 days of the service of the complaint. Any person desiring to be heard or to respond with reference to said notice should on or before January 10, 1977 file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a response in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.6 or 1.8). All responses filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37124 Filed 12-16-76;8:45 am]

[Docket No. ER77-89]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Proposed Changes in FPC Electric Service Tariffs

DECEMBER 10, 1976.

Take notice that Central Illinois Public Service Company on December 1, 1976 tendered for filing Service Schedule W-3 (FPC Electric Tariff, Original Volume No. 3) for whole electric service to customers purchasing partial requirements to supplement their own generation. The proposed tariff would increase revenues from jurisdictional sales and service by $441,190 based on calendar year 1976.

The proposed tariff will become effective January 1, 1977, and applicable for service being provided to the customers upon the expiration of the various effective periods for the rates and charges currently specified in the agreements between the Company and the customers. The proposed tariff contains an upward adjustment in the rate level to more adequately reflect current and anticipated economic conditions.

Copies of the filing were served upon the Company's jurisdictional customers.

Any persons desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 28, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37123 Filed 12-16-76;8:45 am]

[Docket No. CP77-60]

COLUMBIA GULF TRANSMISSION CO.

Application

DECEMBER 13, 1976.

Take notice that on November 17, 1976, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas, 77001, filed in Docket No. CP77-60 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of its one-half interest in a 3000 horsepower compressor unit which related facilities, on an existing platform in Block 313, Eugene Island Area, Offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Texaco, the operator, has indicated to Applicant that absent sufficient compression to enable low pressure gas and oil well gas to enter Applicant's transmission line, said gas must either be flared or otherwise disposed of or production must be curtailed.

Applicant estimates that the cost of the proposed facilities would be approximately $1,168,925, which costs would be financed from current working funds available to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37135 Filed 12-16-76;8:45 am]

[Docket No. CP77-65]

COLUMBIA GULF TRANSMISSION CO.

Application

DECEMBER 13, 1976.

Take notice that on November 22, 1976, Columbia Gulf Transmission Company (Applicant), 3805 West Alabama Avenue, Houston, Texas, 77027, filed in Docket No. CP77-65 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the disassembly, transportation and relocation of a gas turbine compressor unit for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to relocate a 20,000 horsepower unit from its Inverness, Mississippi Compressor Station to the Pecan Island Compressor Station (Pecan Island) on the Western Shore Line of the Blue Water Project (BWP) at Pecan Island, Louisiana.

It is stated that the installation of 20,000 horsepower of compression at Pecan Island will provide Applicant with 124.9 MMcfd additional capacity in the BWP, which additional capacity will be used to transport volumes of gas from West Cameron Block 617 which Applicant is contractually bound to transport.

The total estimated cost of the proposed facilities is $4,334,686.00, which will be financed from current funds available to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to be the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37143 Filed 12-16-76;8:45 am]

[Docket No. CP74-204]

COLUMBIA GULF TRANSMISSION CO. AND NATURAL GAS PIPELINE CO. OF AMERICA

Application

DECEMBER 13, 1976.

Take notice that on November 12, 1976, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois, 60603, and Columbia Gulf Transmission Company (Columbia), P.O. Box 683, Houston, Texas, 77001, filed in Docket No. CP74-204 a fourth amendment to the joint abbreviated application, as amended, pursuant to Section 7(c) of the Natural Gas Act, whereby Natural and Columbia Gulf would transport each for the other up to ten thousand (10,000) Mcf per day in excess of the seventy-five thousand (75,000) Mcf originally requested and add a new delivery point, all as more fully set forth in the abbreviated joint application, as amended, which is on file with the Commission and open to public inspection.

Natural and Columbia Gulf state that by a joint application filed February 11, 1974, as subsequently amended on June 26, 1974 and August 12, 1974, they requested, inter alia, authorization of a transportation and exchange arrangement under which Natural would make available up to seventy-five thousand (75,000) Mcf per day of pipeline delivery capacity from its entitlement in the system of Stingray Pipeline Company (Stingray) to transport gas available to Columbia Gulf in the West Cameron Area, Offshore Louisiana, and Natural would deliver up to seventy-five thousand (75,000) Mcf per day of gas into the Blue Water Project which is owned jointly by Columbia Gulf and Tennessee Gas Pipeline Company (Tennessee). A temporary certificate was issued herein on January 16, 1975.

Natural and Columbia Gulf in a joint amendment filed September 23, 1975, requested authorization for the additional transportation of up to thirty thousand (30,000) Mcf per day by each party from additional volumes available to Natural from Eugene Island Block 331 Area, Offshore Louisiana beginning in the fall of 1975 and continuing possibly through the 1976-77 heating season, and to Columbia Gulf from Blocks 485-507 and 531, West Cameron Area, Offshore Louisiana.

The thirty thousand (30,000) Mcf per day additional capacity was to be made available by Natural to Columbia Gulf only for so long as combined production rates from the West Cameron Blocks exceed seventy-five thousand (75,000) Mcf per day. Similarly, up to thirty thousand (30,000) Mcf per day additional capacity in Blue Water Project is to be made available by Columbia Gulf for so long as Block 331 production will support in excess of seventy-five thousand (75,000) Mcf per day to the Blue Water Project. The Commission issued a temporary certificate authorizing the additional transportation on January 2, 1976.

Natural and Columbia Gulf each have agreed by Letter Agreement dated August 23, 1976, to provide up to ten thousand (10,000) Mcf per day additional capacity in Stingray and Blue Water, respectively, in excess of the seventy-five thousand (75,000) Mcf per day and the additional capacity provided by the January 2, 1976 order. The additional capacity to be provided by Natural is to be reduced by the daily volume in excess of the Effective Transportation Quantity then being transported by Natural for Columbia Gas Transmission Corporation (Columbia Gas) from Block 146, West Cameron Area, Offshore Louisiana.

Natural and Columbia Gulf propose to add an additional delivery point on Stingray at an existing valve in Block 269, West Cameron Area, Offshore Louisiana. Columbia Gas has reserves located in Block 266, West Cameron, which Columbia Gulf desires to connect to Stingray as part of its entitlement herein. Natural and Columbia Gulf state that the additional transportation volumes are needed to protect winter deliverability and minimize curtailments to the customers of Natural and Columbia Gas.

Any person desiring to be heard or to make any protest with reference to said amendment to the joint application should on or before January 3, 1977, file with the Federal Power Commission,

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Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this amended application if no petition to intervene is filed within the time require dtherein, if the Commission, on its own review of the matter, finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission, on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Natural and Columbia Gulf to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37132 Filed 12-16-76;8:45 am]

[Docket No. ID-1801]

D. B. REINHART

Application

DECEMBER 10, 1976.

Take notice that on November 22, 1976, Mr. D. B. Reinhart filed an application, pursuant to section 305(b) of the Federal Power Act, seeking authorization to hold the following positions:

Position	Name of corporation	Classification
Director	Northern States Power Co. (Minnesota).	Public utility.
Do	Northern States Power Co. (Wisconsin).	Do.

On October 27, 1976, applicant was elected Director of Northern States Power Company (Minnesota) effective November 1, 1976. Effective October 28, 1976, Applicant resigned as a member of the Board of Directors of Northern States Power Company (Wisconsin). Upon approval of this application, applicant expects to be re-elected to the Board of Directors of Northern States Power Company (Wisconsin).

Northern States Power Company, Minnesota, has its principal office at 414 Nicollet Mall, Minneapolis, Minnesota. It owns and operates utility properties and furnishes electric service at retail and wholesale in 446 communities located in Minnesota, North Dakota, and South Dakota. Additionally, the Company provides wholesale service to 20 other utility companies, including its only utility subsidiary, Northern States Power Company (Wisconsin).

The Company also furnishes natural gas at retail in Saint Paul and 61 other communities in Minnesota and in five communities in North Dakota; steam heating service in the central business districts of Saint Paul, Minnesota; and telephone service in Minot, North Dakota and vicinity.

Northern States Power Company (Wisconsin) has its principal office at 100 North Barstow Street, Eau Claire, Wisconsin. It owns and operates utility properties in west central Wisconsin. It furnishes electric service at retail in 171 communities and adjacent territories and electric energy at wholesale for resale to 11 additional communities. It also furnishes natural gas at retail in 11 communities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 10, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37125 Filed 12-16-76;8:45 am]

[Docket Nos. CI77-95, CI77-96, CI77-97]

GULF OIL CORP.

Order Setting for Hearing

DECEMBER 10, 1976.

On November 5, 1976, Gulf Oil Corporation (Gulf) filed for authorization from the Commission to abandon the sale of natural gas to Tennesse Gas Pipeline Company (Tennessee) under three contracts made in 1956 which have now expired or will shortly expire. These applications were noticed by the Commission on November 30, 1976, in Docket Nos. CI77-95, CI77-96, CI77-97 (published December 8, 1976, 41 F.R. 53706).

Gulf alleges that it should be allowed to abandon these sales on the grounds that it has been ordered by the Commission to serve Texas Eastern under its warranty contract, and certificate issued in CI64-26; that Texas Eastern's curtailment is considerably greater than that in Tennessee; that since the contracts with Tennesse have expired, and the gas would remain in the interstate market, Tennessee has no claim to the gas; and that the public interest would be served by the sale to Texas Eastern at a price considerably lower than the likely price in a continued sale to Tennessee.

Petitions to intervene have been received from seven parties, including Tennessee, which has also requested a formal hearing.

In light of the serious gas shortage situation, and in light of the important policy questions involved in this proceeding, the Commission will establish the following expedited schedule of proceedings. As requested by Tennessee and as required by the Natural Gas Act, Section 7(b) (15 U.S.C. § 717f(b)), the Commission will hold a hearing to determine whether "the present or future public convenience or necessity permit such abandonment."

It is the opinion of the Commission that the primary issues to be considered at that hearing include a "• • • comparison of the needs of the two natural gas systems and the public markets they serve. • • • " *Transcontinental* v. *F.P.C.*, 488 F.2d 1325, 1330 (D.C. Cir., 1973). The Commission declares that the underlying validity of the Commission's orders concerning the Gulf warranty contract, as expressed in Opinions 692, 692-A, 780, and 780-A, is not an issue in this proceeding, nor is the impact of a decision on these applications with regard to the corporate financial situation of Gulf or Tennessee.

The Commission believes that the necessary factual record can be made expeditiously, so that it may focus on that record and the legal and policy questions raised by this proceeding.

The Commission finds: A hearing under the Natural Gas Act, Section 7(b), should be instituted in Docket Nos. CI77-95, CI77-96, and CI77-97, as hereinafter ordered and conditioned.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act an the Commission's Rules of Practice and Procedure (18 CFR, Chapter 1), a hearing under Section 7(b) of the Act is hereby instituted to determine whether the present or future public convenience or necessity permit the abandonments herein applied for.

(B) A Presiding Administrative Law Judge, to be designated for that purpose by the Chief Administrative Law Judge (see delegation of authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding. As soon as possible, the Judge shall set dates for a prehearing conference, if necessary, and for the taking of testimony. The proceeding should continue without unnecessary delays until all relevant and material evidence which the parties wish to present has been taken. Unless otherwise ordered, the Presiding Administrative Law Judge shall then issue a decision as expeditiously as possible.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37129 Filed 12-16-76;8:45 am]

[Docket No. ER77-78]

HARTFORD ELECTRIC LIGHT CO.

Purchase Agreement

DECEMBER 10, 1976.

Take notice that on November 26, 1976 The Hartford Electric Light Company (HELCO) tendered for filing a proposed Purchase Agreement with Respect to South Meadow Gas Turbine Units, dated September 27, 1976 between (1) HELCO and (2) the Town of Mansfield, Massachusetts Municipal Electric Department (MMED).

HELCO states that the Purchase Agreement provides for a sale to MMED of a specified percentage of capacity and energy from four gas turbine generating units (South Meadow Unit Nos. 11, 12, 13, and 14,) during the period from October 1, 1976 to October 31, 1976, together with related transmission service.

HELCO states that questions as to MMED's Capability Responsibility Obligation, under the terms of the New England Power Pool (NEPOOL) Agreement, during the term of this Purchase Agreement affected the amounts of gas turbine capacity that could be purchased by MMED and thus delayed execution of the agreement until a date which prevented the filing of such rate schedule more than thirty days prior to the proposed effective date.

HELCO therefore requests that, in order to permit MMED to receive urgently needed capacity, the Commission, pursuant to Section 35.11 of its regulations, waive the thirty-day notice period and permit the rate schedule filed to become effective on October 1, 1976.

HELCO states that the capacity charge for the proposed service was a negotiated rate. The monthly transmission charge is equal to one-twelfth of the annual average unit cost of transmission service on the Northeast Utilities (NU) system determined in accordance with Section 13.9 of the NEPOOL Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts of winter capability which MMED is entitled to receive, reduce to give due recognition of the payments made by MMED for transmission services on intervening systems. The variable maintenance charge was arrived at through negotiations.

HELCO requests an effective date of October 1, 1976 for the MMED agreement.

HELCO states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Connecticut, and MMED, Mansfield, Massachusetts.

HELCO further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37126 Filed 12-16-76;8:45 am]

[Docket No. RM75-14]

NATIONAL RATES FOR JURISDICTIONAL SALES OF NATURAL GAS

Extension of Time

DECEMBER 13, 1976.

In the matter of National Rates for Jurisdictional Sales of Natural Gas Dedicated to Interstate Commerce on or after January 1, 1973, for the Period January 1, 1975, to December 31, 1976.

On November 22, 1976, Belco Petroleum Corporation filed a motion to extend the time to make refunds on amounts collected in excess of the nationwide rates set in Opinion No. 770-A, issued November 5, 1976, in the above-styled proceeding. In the motion, Belco stated that only partial payment had been received for gas delivered between July 27, 1976, and November 5, 1976; other payments for deliveries were due at the end of November. Belco requested an extension of time to calculate the amount and make refunds.

Notice is hereby given that an extension of time is granted to and including December 20, 1976, within which Belco Petroleum Corporation shall make refunds required by Opinion No. 770-A.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37119 Filed 12-16-76;8:45 am]

[Docket No. RM75-14]

NATIONAL RATES FOR JURISDICTIONAL SALES OF NATURAL GAS

Accepting Filings

DECEMBER 13, 1976.

In the matter of National Rates for Jurisdictional Sales of Natural Gas Dedicated to Interstate Commerce on or after January 1, 1973, for the Period January 1, 1975, to December 31, 1976.

On November 19, 1976, Enserch Exploration, Inc., filed revised rate schedules and affidavits as required by Opinion No. 770-A, issued November 5, 1976, in the above-styled proceeding. With its revised rate schedules, Enserch filed a motion to waive the November 12 filing deadline set in Opinion No. 770-A to November 19, 1976.

For good cause shown, Enserch's revised rate filings pursuant to Opinion No. 770-A shall be accepted as timely filed.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37120 Filed 12-16-76;8:45 am]

[Docket No. CP77-71]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

DECEMBER 13, 1976.

Take notice that on November 24, 1976, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-71 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for General Electric Company (G.E.), and the construction and operation of a measuring facility to effectuate such transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

According to an agreement dated November 15, 1976, Applicant proposes to transport up to 6,000 Mcf of natural gas for G.E. for a period of 10 years from the date delivery commences, such gas to be purchased in place by G.E. in the Blue Buck Point Field, Cameron Parish, Louisiana.

It is stated that Applicant would receive gas for G.E.'s account at its Sabine Delivery Point, located in the Southwest Quarter of Section 7, Township 15 South, Range 15 West, Cameron Parish, Louisiana, and would deliver a thermally equivalent volume of gas to Texas Gas Transmission Corporation (Texas Gas) for the account of G.E. at the Erath Redelivery Point located in Section 21, Township 13 South, Range 4 East, Vermilion Parish, Louisiana. Applicant states that it would charge G.E. the greater of 4.0 cents per Mcf for all gas transported during any month or a monthly charge of $1,500.00. Applicant further states that it would have the right to purchase from G.E. a minimum of 10 percent of the gas delivered to Applicant for delivery.

It is asserted that the transportation service herein described would be effectuated by utilization of Applicant's existing facilities with the exception of a meter station which Applicant would construct at the Sabine Delivery Point at an estimated cost of $27,000.00. Applicant, it is stated, would be reimbursed by G.E. for this construction cost.

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It is stated that such gas would be used solely by G.E. in its three manufacturing facilities, deliveries to each of which have either been curtailed, or are threatened with curtailment in the near future, and solely for Priority 2 and Priority 3 uses.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commisson's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37139 Filed 12-16-76;8:45 am]

[Docket No. CP77-54]

NORTHERN NATURAL GAS CO.

Application

DECEMBER 13, 1976.

Take notice that on November 9, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska, filed in Docket No. CP77-54, an application pursuant to Section 7(c) of the Natural Gas Act for a Certificate of Public Convenience and Necessity authorizing Applicant, to sell natural gas to Panhandle Eastern Pipe Line Company (Panhandle). Northern also requests the Commission to grant a Temporary Certificate for the proposed sale, all as more fully set forth in the Application on file with the Commission and open to public inspection.

Applicant has contracted to purchase Cabot Corporation's (Cabot) production from West Cameron Area, South Addition Block 543, Offshore Louisiana. In order to accommodate the transportation of such gas from West Cameron Area, South Addition Block 565, Offshore Louisiana to Applicant near Applicant's Mullinville compressor station, Applicant has entered into certain transportation arrangements with Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline).

As partial consideration for the transportation of Applicant's offshore gas, Panhandle has a continuing option to purchase up to twenty percent (20%) of the volume of Applicant's Block 543 gas received by Trunkline at Block 565.

Accordingly, Applicant proposes to sell natural gas to Panhandle for resale in interstate commerce. The gas will be sold to Panhandle on a monthly cost of service basis, which cost represents Applicant's cost to acquire and transport the gas to the point of delivery to Trunkline. The estimated average cost of service per Mcf for the first year of operations is $1.51.

Protests and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before January 3, 1977.

Take further notice that, pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein and the Commission on its own review of the matter believes that a grant of the Certificate is required by the Public Convenience and Necessity. If a protest or petition for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedures herein provided for, unles otherwise advised, it will be unnecessary for Northern to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37133 Filed 12-16-76;8:45 am]

[Docket No. CP73-162]

SEA ROBIN PIPELINE CO.

Application

DECEMBER 13, 1976.

Take notice that on November 2, 1976, Sea Robin Pipeline Company (Sea Robin), pursuant to Section 7(c) of the Natural Gas Act, filed an application to amend the Certificate of Public Convenience and Necessity in Docket No. CP73-162, seeking authorization to increase the Contract Demand level presently applicable to Southern Natural Gas Company (Southern) under Rate Schedule X-6 to 21,400 Mcf per day. The application requests authorization to increase the quantity of natural gas to be transported for Southern by Sea Robin from 16,300 Mcf per day, to 21,400 Mcf per day, and to designate Block 231, East Cameron Area as an additional transportation point of delivery from Southern to Sea Robin, all as more fully set forth in the application as amended which is on file with the Federal Power Commission in this docket and open to public inspection.

Petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (157.19) on or before January 3, 1977.

Take further notice that pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time prescribed herein, if the Commission on its own review of this matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing will be duly given.

Under the procedure herein provided for, unless otherwise provided, it will be unnecessary for Sea Robin to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-37141 Filed 12-16-76; 8:45 am]

[Docket No. CP77-77]

SOUTHERN UNION COMPANY, APPLICANT AND NORTHERN NATURAL GAS COMPANY, RESPONDENT

Application

DECEMBER 13, 1976.

Take notice that on December 2, 1976, Southern Union Gas Company (Applicant), a division of Southern Union Company, First International Building, Dallas, Texas 75270, filed an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Northern Natural Gas Company (Respondent) to deliver and sell an additional 344,668 Mcf of natural gas per billing year to Applicant for the purpose of distribution and resale to Respondent's pipeline right of way grantors and other customers of Applicant for use as irrigation pump engine fuel and other domestic uses in rural areas of Beaver, Ellis, Harper, Roger Mills, Texas, and Woodward Counties, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it currently is authorized to purchase, and Respondent is authorized to sell, 655,332 Mcf of natural gas per billing year and that it seeks to

increase this authorization by 344,668 Mcf to a total authorization of 1,000,000 Mcf. Applicant indicates that by the order of the Commission on August 13, 1976, in Docket No. CP75-333 Respondent was authorized and directed to deliver the currently effective volume.

Applicant states that it serves residential, commercial, firm industrial, public authority, and irrigation customers with the natural gas purchased by it from Respondent, and that it has experienced minimal growth in the number of customers served with this gas, but due to increases in the amount of gas used by individual customers, and due to the prolonged dry spells that often occur in Oklahoma, additional gas is needed for these customers. It is further stated that Applicant's customers have no alternative source of energy.

Applicant states that unacceptably large volumes of gas are not accounted for and that it will supplement filed data as soon as full information concerning this abnormality is available. Applicant indicates that it and Respondent have adequate facilities to handle the requested volumes and that no expansion is necessary.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37140 Filed 12-16-76;8:45 am]

[Docket No. CP77-21]

TENNECO INC. AND COLUMBIA GULF TRANSMISSION CO.

Application

DECEMBER 13, 1976.

Take notice that on November 4, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas, 77001, and Columbia Gulf Transmission Company (Columbia Gulf) P.O. Box 683, Houston, Texas, 77001, filed an amendment to their joint application in Docket No. CP77-21 for the purpose of authorizing Tennessee to commence the transportation of natural gas for Gulf Energy and Minerals Company-U.S., a Division of Gulf Oil Corporation (Gulf), on a best efforts basis and for a limited period of one year, through existing facilities of Tennessee in the East Timbalier Island Area, Offshore Louisiana.

Applicants state that their original application in Docket No. CP77-21, filed on October 19, 1976, requested authorization to construct and operate facilities, including a large diameter pipeline, in the South Timbalier Block 37 Field, Offshore Louisiana, for the purpose of attaching gas reserves committed to Applicants from such field. In addition, the application contemplated that a portion of Tennessee's capacity in such proposed pipeline would be utilized to enable Gulf to make available to Texas Eastern Transmission Corporation (Texas Eastern) volumes of gas produced from Gulf's share of the reserves in such field, which volumes Gulf is to sell to Texas Eastern pursuant to outstanding certificate authorization at Docket No. CI64-26.

By the amendment, Tennessee requests temporary authorization to utilize the capacity available in its existing 12-inch pipeline facilities on East Timbalier Island to commence the transportation of Gulf's gas, which is expected to be available in early November, to Texas Eastern, for Gulf's account, at a mutually agreeable existing point or points onshore, pending certification and construction of the facilities proposed at Docket No. CP77-21.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will duly be given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (157.10) on or before January 3, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37137 Filed 12-16-76;8:45 am]

[Docket No. RP72-99 (DCA77-1)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

DECEMBER 10, 1976.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on November 30, 1976, tendered for filing revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2 to become effective January 1, 1977. Pursuant to the provision contained in its Tariff providing for "tracking" of curtailment credits and debits, Transco proposes to increase its rates effective January 1, 1977 to reflect the balance of credits in the Deferred Account as of October 31, 1976.

Thirty-third Revised Sheet No. 5 and Twenty-eighth Revised Sheet No. 6 to First Revised Volume No. 1, and Fourth Alternate Eleventh Revised Sheet No. 121 to Original Volume No. 2 included in the filing reflect an increase of 1.7¢ in the commodity rate or delivery charge of the Company's CD, G, OG, E, PS, S-2 and X-20 rate schedules.

The Company states that copies of the filing have been mailed to each of the Company's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37127 Filed 12-16-76;8:45 am]

[Docket No. CP77-79]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

DECEMBER 13, 1976.

Take notice that on December 3, 1976, Transcontinental Gas Pipe Line Corporation (Applicant), Post Office Box 1396, Houston, Texas 77001, filed in Docket No. CP77-79 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Dan River Inc. (Dan River), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Dan River up to 1000 Mcf [1] of gas per day, for a period of two years following the

[1] All volumes at 15.025 psia unless otherwise indicated.

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date of the first delivery, for use at Dan River's Danville, Virginia plant. It is stated that said gas will be received by Applicant at a mutually agreeable point on Transco's Main Line "A" in Calcasieu Parish, Louisiana and redelivered at existing points of delivery to the City of Danville, Virginia (Danville), one of Applicant's resale customers, for the account of and for deliver to Dan River.

It is stated that pursuant to a gas sales contract between Dan River and Dyco Petroleum Corporation, Wright Oil Company and Time Oil and Gas Company (Sellers), dated November 11, 1976, Dan River would purchase natural gas produced at Sellers' fields in Beauregard Parish, Louisiana, in the maximum amount of 1,000 Mcf per day. It is indicated that the minimum purchase would be 80% of Seller's delivery capacity which is defined as that quantity of gas that can be delivered from Sellers' gas reserves during a twenty-four hour period following seventy-two hours of flow at 800 Mcf but in no event more than 800 Mcf. It is also indicated that the price in the first year of the two year agreement is $1.55 per Mcf and shall increase to $1.60 in the second year.

Applicant states that a transportation charge of 22.0 cents per Mcf (at 14.7 psia) would be paid by Dan River. Transportation, it is stated, would be on an interruptible basis and would be limited by the contract demand of Danville. Applicant states that it did not consider the subject natural gas supply to be available for purchase by it since the Sellers showed no willingness to sell in the interstate market.

It is stated that Dan River required the subject gas supply for its finishing plant because it currently receives no regular pipeline service from its distributor, Danville. It is stated that Dan River has a need for 2,000 Mcf of natural gas at its Danville plant and that current, Commission-approved, direct purchase supply only 600 Mcf. It is further stated that curtailments would have an adverse effect upon the 8,000 employees working at the Danville plant as well as employees working in thirty-two other Dan River Plants located in North Carolina, Georgia, Alabama and sales operations in the city of New York, New York.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37136 Filed 12-16-76;8:45 am]

[Docket No. CP77-52]

TRUNKLINE GAS CO.

Application

DECEMBER 13, 1976.

Take notice that on November 9, 1976, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-52 an application pursuant to Section 7(c) of the Natural Gas Act and the regulations thereunder for Certificates of Public Convenience and Necessity authorizing the transportation of natural gas on behalf of Gulf Oil Corporation (Gulf), and for a temporary certificate therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes a two part transportation service consisting of the receipt, transportation and redelivery of volumes equivalent to 50% of the capacity of Applicant's ten-inch line under construction between Blocks 23 and 26 of the Vermilion Area, Offshore Louisiana; and initial volumes of 35,000 Mcf per day for the account of Gulf between Block 26 and points of connection with Texas Eastern Transmission Corporation in Beauregard Parish, Louisiana, utilizing the existing capacity of its system. The facilities to be used in the portion of the proposed transportation service from Vermilion Block 23 to Block 26 are being construction by Applicant pursuant to its Budget Certificate obtained in Docket No. CP76-281. Gulf is making a contribution in aid of construction of one-half of the cost of such facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1977, file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing herein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at a hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37131 Filed 12-16-76; 8:45 am]

[Docket No. E-9147 (Phase II)]

VIRGINIA ELECTRIC AND POWER CO.

Extension of Time

DECEMBER 10, 1976.

On November 22, 1976, ElectriCities of North Carolina filed a motion to further extend the procedural dates, as most recently modified by Notice issued August 30, 1976, in the above-designated proceeding. The motion states that all parties have been contacted, and there are no objections.

Notice is hereby given that the procedural dates are further extended as follows:

Service of Intervenor Testimony.	Feb. 7, 1977.
Service of Staff Testimony.	Mar. 7, 1977.
Service of Company Rebuttal.	Mar. 21, 1977.
Service of Intervenor Rebuttal.	Apr. 11, 1977.
Hearing ----------	Apr. 19, 1977.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37128 Filed 12-16-76;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL CHARTER CORP.

Order Approving Acquisition of Charter Bankers Life Insurance Company

First National Charter Corporation, Kansas City, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under § 4(c)(8) of the Act (12 U.S.C. § 1842(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), to acquire all the shares of Charter Bankers Life Insurance Company, Kansas City, Missouri ("Company"), a company that would engage de novo in the activity of underwriting credit life and credit accident and health insurance directly related to extensions of credit by Applicant's subsidiary banks. Such activity has been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 44473 (1976)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in § 4(c)(8) of the Act (12 U.S.C. 1842(c)(8)).

Applicant, the fourth largest banking organization in Missouri, controls 18 banks with aggregate deposits of approximately $928 million, representing 5.4 per cent of the total deposits in commercial banks in the State.[1] Company will be organized as a fully-capitalized Missouri insurance company and will limit its activity to that of engaging de novo in underwriting credit life and credit accident and health insurance directly related to extensions of credit by Applicant's subsidiary banks. Since this proposal involves a de novo acquisition, consummation of the transaction would not have any adverse effect upon existing or potential competition in any relevant market.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR § 225.4(a)(10) n. 7)

[1] All banking data are as of December 31, 1975.

Applicant has stated that following consummation of the acquisition, Company will offer at reduced premiums the several types of credit insurance policies that it will underwrite. Company would offer level term credit life insurance on single payment loans; and reducing term credit life insurance on installment loans, at premium rates which are 25 and 20 per cent, respectively, below those rates presently being charged by most of Applicant's banking subsidiaries. Applicant also proposes that Companw will offer credit accident and health insurance at premium rates which are 5 per cent below those presently being charged by Applicant's banking subsidiaries. In addition to the above-mentioned premium rate reductions, Applicant would also offer slightly broadened policy coverage. The Board is of the view that the slightly expanded policy coverage together with the reductions in insurance premiums that Applicant proposes to establish are, and will continue to be, in the public interest.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant to maintain on a continuing basis the public benefits which the Board has found to be reasonably expected to result from this proposal and upon which the approval of this proposal is based, the Board has determined that the balance of the public interest factors the Board is required to consider under § 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City.

By order of the Board of Governors,[2] effective December 8, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37074 Filed 12-16-76;8:45 am]

Y&S INVESTMENT CO.

Formation of Bank Holding Company

Y&S Investment Co., Omaha, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of State Bank of Atwood, Atwood, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 10, 1977

Board of Governors of the Federal Reserve System, December 10, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37105 Filed 12-16-76;8:45 am]

[2] Voting for this action: Vice Chairman Gardner, and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 13, 1976. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 4, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL ENERGY ADMINISTRATION

FEA requests clearance of Schedule A-3 of its new form C607-S-O entitled Major Fuel Burning Installations—Early Planning Process Report. The C607-S-O will enable the FEA to identify major fuel burning installations (MFBI's), in the early planning process so that construction orders may be issued which will require the recipient MFBI's to be designed and constructed so as to be capable of burning coal as the primary energy source. Schedules A1 and A2 are primarily concerned with the identification of those MFBI's currently in the early planning process. Once identified, certain of the responding organizations will be required to submit a third schedule (A-3) providing the necessary financial and coal availability information

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for the FEA to determine whether construction orders should be issued to newly planned MFBI's. It is the analysis of this information that will determine whether or not the FEA will issue a construction order to a given company. FEA estimates burden for Schedule A–3 of the C607 to average 75 hours with an estimated 300 respondents.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 76–37183 Filed 12–16–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the National Advisory Council on Equality of Educational Opportunity will convene at 9:30 a.m. on Friday, January 28, 1976, until 4:30 p.m., and reconvene at 9:30 a.m. on Saturday, January 29, 1976, until 12 noon, in the Volusia-Cape Canaveral Room of the Sheraton-Twin Towers, 5780 Major Boulevard, Orlando, Florida.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Pub. L. 92–318, Title VII, as amended by Pub. L. 93–380 and Pub. L. 94–482). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting of the Council, which is open to the public, will consist of presentations from various ESAA program personnel as well as a discussion of recent trends in desegregation plans as presented by Dr. Gordon Foster. USOE program personnel from national headquarters are expected to discuss the recent legislative changes in the Act, as well as plans for regulatory implementation. Council business will center on a discussion of new operational organization and plans for the year ahead.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street, NW., Suite 710, Washington, D.C., 20005, and are available for public inspection.

Signed at Washington, D.C., on December 14, 1976.

LEO A. LORENZO,
Executive Director.

[FR Doc.76–37080 Filed 12–16–76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, that the first meeting of the Special Committee on Dissemination of the National Advisory Council on Women's Educational Programs will be held from 1:30 p.m. to 6:30 p.m. on January 7, 1977 at the Plaza International Hotel, 1515 Hotel Circle South, San Diego, California.

The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93–380 section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 of Pub. L. 93–380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under section 408 of Pub. L. 93–380.

The Committee meeting shall be open to the public. The agenda will include (1) development of policy recommendations on the dissemination function and an organizational structure to address it; (2) discussion of the format for the Council's Annual Report; (3) other business.

Records will be kept of all Council proceedings and will be available at the Council offices at Suite 821, 1832 M Street, NW., Washington, D.C.

Signed at Washington, D.C. on December 14, 1976.

JOY R. SIMONSON,
Executive Director.

[FR Doc.76–37144 Filed 12–16–76;8:45 am]

Food and Drug Administration

[Docket No. 76G–0466]

ABBOTT LABORATORIES

Withdrawal of Food Additive Petition and Filing of Petition for Affirmation of GRAS Status

The Food and Drug Administration (FDA) announces that Abbott Laboratories has withdrawn its food additive petition (4H2973) that would permit use of Halazone tablets containing a certain microbicidal chemical in potable water, and refiled it as GRAS petition 5G0050; comments by February 15, 1977.

Accordingly, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of GRAS status in § 121.40 (21 CFR 121.40), the following notice is issued:

A notice of filing of a petition (FAP 4H5043) was published in the FEDERAL REGISTER of September 13, 1973 (38 FR 25467) proposing establishment of a food additive tolerance under Part 121 (21 CFR Part 121) for residues of the microbicidal chemical *p*-(*N,N* dichlorosulfamoyl) benzoic acid in potable water at 6 parts per million.

The notice of filing was issued by the Environmental Protection Agency in accordance with Reorganization Plan No. 3 of 1970 (3 CFR 1970 Comp., p. 199; 35 FR 15623), which transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency (EPA) the functions vested in the Secretary of Health, Education, and Welfare (HEW) for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348). Subsequently, in accordance with the agreement between HEW and EPA regarding matters of mutual responsibility, published in the FEDERAL REGISTER of December 22, 1971 (36 FR 24234), it was concluded that the subject petition should be processed by FDA and was then renumbered 4H2973.

In accordance with § 121.52 (21 CFR 121.52), notice is hereby given that Abbott Laboratories, North Chicago, IL 60064 has withdrawn this petition (4H2973) without prejudice to future filing.

Notice is also given that this petition is hereby refiled as a GRAS petition (5G0050) and placed on public display at the office of the Hearing Clerk, Food and Drug Administration. The petition proposes that Halazone tablets containing *p*-(*N,N* dichlorosulfamoyl) benezoic acid are generally recognized as safe (GRAS) for use in the emergency treatment of potable water.

Any petition that meets the format requirements outlined in § 121.40 (21 CFR 121.40) is filed by FDA. There is a prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before February 15, 1977, review the petition and/or file comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, from 9 a.m. to 4 p.m., Monday through Friday.

Dated: December 8, 1976.

HOWARD R. ROBERTS,
Acting Director, Bureau of Drugs.

[FR Doc.76–36751 Filed 12–16–76;8:45 am]

[Docket No. 76N–0479; DESI 5963]

CERTAIN SULFONAMIDE OPHTHALMIC OINTMENTS AND SOLUTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 5963) published in the FEDERAL REGISTER of September 10, 1969 (34 FR 14248), the Food and Drug Administration announced its conclusions that the drug products described below are effective in the treatment of certain ocular infections. The drug products were also classified as possibly effective for certain other indications. In response to that notice, the less-than-effective indications were deleted from the labeling of the drug products. No person has submitted any data in support of the less-than-effective indications, and they are now reclassified to lacking substantial evidence of effectiveness. Other drugs included in the September 10, 1969 notice are not affected by the conclusions of this notice. This notice offers an opportunity for hearing concerning the downgraded indications and states the conditions for marketing such drugs for the indications for which they continue to be regarded as effective. Persons who wish to request a hearing may do so on or before January 17, 1977.

NDA 8–724; Sodium Sulfacetamide Ointment; ICN Pharmaceuticals, 222 No. Vincent Ave., Covina, CA 91722.

NDA 7–757; Gantrisin Ophthalmic Solution containing sulfisoxazole diolamine; Rhode Laboratories, Division of Hoffman-LaRoche, Inc., Nutley, NJ 07110.

NDA 8–414; Gantrisin Ophthalmic Ointment containing sulfisoxazole diolamine; Roche Laboratories.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that he may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below and lack substantial evidence of effectiveness for all their other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in solution or ointment form suitable for ophthalmic administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For the treatment of conjunctivitis, corneal ulcer, and other superficial ocular infections due to susceptible microorganisms, and as an adjuct in systemic sulfonamide therapy of trachoma.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before (insert date 60 days after date of publication in the FEDERAL REGISTER), the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f) must be obtanied prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s), providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before January 17, 1977, a written notice of appearance and request for hearing, and (2) on or before February 15, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for

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hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 5963, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Anti-Infective Drug Products, (HFD–140), Rm. 12B–45, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC–18), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

(Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).)

Dated: December 6, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76–36750 Filed 12–16–76;8:45 am]

Health Resources Administration

ARIZONA

Redesignation of Health Service Areas

Correction

In FR Doc. 36459, appearing at page 54228, in the issue of Monday, December 13, 1976, on page 54229, in column 1, line 2, place a "3" behind the word "Area".

Social Security Administration

SECRETARY OF HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Redelegations of Authority Pertaining to the Reimbursement of Suppliers of End-Stage Renal Disease Services Under the Medicare Program, and to the Withdrawal of Approval of Medicare Coverage of Such Suppliers of Services

Subsection (g) of section 226 of the Social Security Act (the Act), 42 U.S.C. 426(g), as added to title II of the Act by section 299I of Pub. L. 92–603 (the Social Security Amendments of 1972), authorizes the Secretary of Health, Education, and Welfare (the Secretary) to limit reimbursement for kidney transplant and dialysis services, under the Medicare program, to kidney disease treatment centers which meet such requirements as the Secretary prescribes by regulation. These regulations must include requirements for a minimal utilization rate for covered procedures, and for a medical review board to screen the appropriateness of patients for the proposed treatment procedures. Final regulations on the conditions for coverage of suppliers of such end-stage renal disease (ESRD) services were recently approved by the Secretary and published in the FEDERAL REGISTER (41 FR 22501–22, dated June 3, 1976), as Subpart U of Social Security Regulations No. 5 (20 CFR, Part 405 of Chapter III).

Authority to implement the provisions contained in subsection (g) of section 226 of the Act is derived by the Commissioner of Social Security (the Commissioner) from the Secretary's general delegation of authority to the Commissioner with respect to those functions vested in the Secretary by title II of the Act, as amended (33 FR 5836). The Commissoiner may redelegate such authority to the extent he deems appropriate.

The ESRD program became effective on July 1, 1973, and operated under interim regulations published in the FEDERAL REGISTER of June 29, 1973 (38 FR 17210). To provide the public with a formal opportunity to participate in the formulation of the interim regulations, these regulations were republished as a notice of proposed rulemaking (39 FR 35814, dated October 4, 1974). Among other things, these regulations provided that Medicare reimbursement would be limited to those facilities which were in operation on June 1, 1973; provided renal services prior to that date; and had not substantially expanded their capacity to render such services since that date. However, services rendered by facilities which were not furnishing renal services on June 1, 1973, or which had substantially expanded their capacity to render such services since that date, would be reimbursed only if the facility in question was granted an exception—through demonstration of both a need for the services and ability to deliver these services effectively and efficiently with an appropriate ESRD treatment delivery system. End-stage renal disease facilities in the latter category had to file an application for an exception in order to qualify for reimbursement. As of September 1, 1976, the effective date of the final ESRD regulations, no new applications for exception under the interim regulations are being accepted. Beginning 6 months after that effective date, no further exceptions will be granted under the interim regulations. Also, as of March 1, 1977, determinations with respect to a facility's approval or nonapproval for reimbursement under the final regulations will supersede determinations made under the interim regulations.

I. Notice is hereby given that, on September 2, 1974, the Commissioner redelegated authority to adjudicate requests from applicant facilities under the ESRD exception procedure to the following Social Security Administration (SSA) officials:

A. Deputy Commissioner of Social Security.

B. Assistant Commissioner, Field (This position has since been abolished.)

C. Director and Deputy Director, Bureau of Health Insurance (The position of Deputy Bureau Director has since been abolished.)

D. Deputy Director (Program Operations) and Assistant Deputy Director (Program Operations), Bureau of Health Insurance.

E. Assistant Bureau Director, State Operations and Deputy Assistant Bureau Director, State Operations, Bureau of Health Insurance (These positions have since been retitled as Director, Division of State Operations and Deputy Director, Division of State Operations, respectively.)

F. Regional Commissioners.

G. Regional Representatives and Deputy Regional Representatives, Health Insurance. (These positions have since been retitled as Regional Medicare Directors and Deputy Regional Medicare Directors, respectively.)

II. Notice is also hereby given that the Commissioner has redelegated, to the SSA positions specified below, authority to determine that suppliers of ESRD services qualify to have their services reimbursed under the Medicare program, pursuant to subsection (g) of section (g) of section 226 of the Act:

Delegates	*Scope of authority*
A. Deputy Commissioner of Social Security.	A. Any case, without restriction.
B. Director, Bureau of Health Insurance.	B. Cases within the jurisdiction of the Bureau of Health Insurance.
C. Chief, Provider Certification Branch, Division of State Operations, Bureau of Health Insurance.	C. Cases within the jurisdiction of the Provider Certification Branch, Division of State Operations, Bureau of Health Insurance.
D. Regional Commissioners.	D. Cases within the jurisdiction of the respective Office of the Regional Commissioner.
E. Regional Medicare Directors and Deputy Regional Medicare Directors, Bureau of Health Insurance.	E. Cases within the jurisdiction of Regional Offices, Bureau of Health Insurance.
F. All positions in the direct line of supervision between the positions specified in items B. and C. above.	F. Cases within the jurisdiction of the component headed by the particular delegate.
D. Director, Division of State Operations and Deputy Director, Division of State Operations, Bureau of Health Insurance.	D. Cases within the jurisdiction of the Division of State Operations, Bureau of Health Insurance.
E. Regional Commissioners.	E. Cases within the jurisdiction of the respective Office of the Regional Commissioner.
F. Regional Medicare Directors and Deputy Regional Medicare Directors, Bureau of Health Insurance.	F. Cases within the jurisdiction of Regional Offices, Bureau of Health Insurance.

III. Notice is further hereby given that the Commissioner has redelegated, to the SSA positions specified below, authority to withdraw approval of the coverage of a supplier of ESRD services under the Medicare program, pursuant to subsection (g) of section 226 of the Act, at such time and upon such reasonable notice to the supplier of services and to the public as may be specified in Subpart O of Social Security Regulations No. 5, after determing that the supplier of services no longer meets the conditions for coverage described in Subpart U of Social Security Regulations No. 5:

Delegates	*Scope of Authority*
A. Deputy Commissioner of Social Security.	A. Any case, without restriction.
B. Director, Bureau of Health Insurance.	B. Cases within the jurisdiction of the Bureau of Health Insurance.
C. Deputy Director (Program Operations) and Assistant Deputy Director (Program Operations), Bureau of Health Insurance.	C. Cases within the jurisdiction of components reporting to the Deputy Director (Program Operations), Bureau of Health Insurance.

IV. The redelegations specified in sections II and III above are effective as of the date that this notice thereof is published in the FEDERAL REGISTER. Those redelegations specified in section I above were effective as of September 2, 1974.

V. Any actions taken by incumbents of those SSA positions designated in sections I, II and III above which, in effect, involve the exercise of the redelegations described therein prior to the date that this notice is published in the FEDERAL REGISTER, are hereby affirmed and ratified.

VI. Further redelegations of the authorities specified in sections I, II and III above are not authorized, except that, upon receipt of formal concurrence from the Director, Bureau of Health Insurance, Regional Medicare Directors, Bureau of Health Insurance may further redelegate the authority specified in section II above to other positions at or above the Program Officer level in Regional Offices, Bureau of Health Insurance.

Dated: December 13, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

[FR Doc.76–37112 Filed 12–16–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N–76–635]

COMMUNITY DEVELOPMENT BLOCK GRANTS

Closing Date for Submission of Applications for Areawide Programs

On September 29, 1976, HUD published interim regulations in the FEDERAL REGISTER, with respect to Community Development Block Grant (CDBG) Areawide discretionary funding (41 FR 43104). A notice also appeared in the FEDERAL REGISTER on September 28, 1976, pertaining to the closing date for submission of applications for grants for areawide programs (41 FR 42692). The September 28 Notice stated that applications for areawide programs under § 570.404(b) of the interim regulations, submitted by units of general local government which are Participating Jurisdictions in Areawide Housing Opportunity Plans and which have received a supplemental allocation of housing assistance pursuant to 24 CFR Part 891, must be received by December 31, 1976.

The purpose of this notice is to modify the submission date for such applications in order to allow ample time for completion and packaging of applications, including the required A–95 review. In order to receive consideration for funding pursuant to 24 CFR Part 570.404(b), two copies of the complete CDBG application package must be received by the Assistant Secretary for Community Planning and Development by 5 p.m. (Washington, D.C. time) on April 13, 1977.

The request shall be addressed to:

Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7149, Washington, D.C. 20410.

In addition, two copies of the application package shall be addressed to the HUD Area Office serving the Areawide Planning Organization and applicant's jurisdictions, and one copy to the HUD Regional Office.

Issued in Washington, D.C. December 10, 1976.

WARREN H. BUTLER,
Acting Assistant Secretary for Community Planning and Development.

[FR Doc.76–37065 Filed 12–16–76;8:45 am]

Office of Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. D–76–471]

ACTING ASSISTANT SECRETARY FOR HOUSING-ACTING FEDERAL HOUSING COMMISSIONER

Designation

Section A. Designation. The officials appointed to, or designated to serve as Acting during a vacancy in the following positions are hereby designated to serve as Acting Assistant Secretary for Housing-Acting Federal Housing Commissioner during the absence of the Assistant Secretary for Housing-Federal Housing Commissioner with all the powers, functions and duties delegated or assigned to the Assistant Secretary for Housing-Federal Housing Commissioner: Provided, That no official is authorized to serve as Acting Assistant Secretary for Housing-Acting Federal Housing Commissioner unless all other officials whose appointed, or designated Acting, position titles precede his in this designation are unable to act by reason of absence:

1. Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

2. Deputy Assistant Secretary for Insured and Direct Loan Programs.

3. Deputy Assistant Secretary for Assisted Housing.

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4. Executive Assistant.
5. Director, Office of Management.

Sec. B. Authorization. Each head of an organizational unit of Housing is authorized to designate an employee under his jurisdiction to serve as Acting during the absence of the head of the unit.

Sec. C. Supersedure. This designation supersedes the designation of Acting Assistant Secretary for Housing-Acting Federal Housing Commissioner published at 40 FR 12304, March 18, 1975. (Secretary's delegation of authority to designate Acting officials, 36 FR 5004, Mar. 16, 1971)

Effective date: This designation to serve an Acting Assistant Secretary for Housing-Acting Federal Housing Commissioner is effective December 17, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc.76-37154 Filed 12-16-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

REDDING DISTRICT ADVISORY BOARD

Planning Committee Meeting

Notice is hereby given that the Redding District Multiple Use Advisory Board of the Bureau of Land Management will meet in Redding, California on January 18-20, 1977. The meeting will be devoted to election of board officers, a recap of the board's 1976 efforts, a staff briefing on the Cinder Cone Planning Unit, and a field trip of the Cinder Cone Planning Unit.

On January 18, 1977, the board will meet at 7:30 p.m. at the Redding District Office, 2460 Athens Avenue, Redding, California. The agenda will include the election of officers, discussion of the resolutions drafted at the November 18, 1976 meeting, a summary of the 1976 board efforts, and staff briefing of the Cinder Cone Planning Unit.

On January 19, 1977, a field examination of the northern portion of the Cinder Cone Planning Unit will commence at 7:45 a.m. from the Redding District Office. A scheduled stop is planned for 9 a.m. at the Fort Crook Museum parking lot in Fall River Mills, California to provide a meeting point for members of the public wanting to participate in the field tour.

On January 20, 1977, a field examination of the southern portion of the Cinder Cone Planning Unit will commence at 8 a.m. from the Charm Motel parking lot in Burney, California. This field trip will conclude at the Redding District Office at 2 p.m. The board will convene at 2:30 p.m. in the district office to discuss and present recommendations concerning the Cinder Cone Planning Unit.

The meetings and field trips will be open to the public. Members of the public wishing to participate in the field trips will have to furnish their own transportation. Time will be available for statements by members of the public. Those wishing to make oral statements should notify the District Manager, Redding District, 2460 Athens Avenue, Redding, California 96001 prior to the meeting. Any interested persons may file a written statement with the board for its consideration. Written statements may be submitted at the meeting or mailed to the Redding District Manager at the cited address.

Further information regarding this meeting may be obtained from Mr. Art Derby, Public Affairs Officer, Bureau of Land Management, 2460 Athens Avenue, Redding, California 96001. His telephone number is (916) 246-5325. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Redding District Office, Bureau of Land Management, 2460 Athens Avenue, Redding, California 96001.

WAYNE W. ZINNE,
Acting Redding District Manager.

[FR Doc.76-37109 Filed 12-16-76;8:45 am]

Bureau of Reclamation

SOUTHERN NEVADA WATER PROJECT, SECOND STAGE

Public Hearing on Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Southern Nevada Water Project, Second Stage. This statement (INT DES 76-51) filed with the Council on Environmental Quality on December 7, 1976, is available to the public as specified in the notice of availability.

The Southern Nevada Water Project is a water supply system for the Las Vegas area. The first stage consists of intake facilities at Lake Mead, eight pumping plants, a main aqueduct 4 miles long, a 4-mile-long tunnel, and 30 miles of pipelines and laterals. The State of Nevada constructed the Alfred Merritt Smith Water Treatment Facility in conjunction with the first stage.

The second stage consists of five new pumping plants, modifications to four existing first stage pumping plants, a 2.5-mile long second barrel to the main aqueduct installed beside the first stage, and 30 miles of new aqueduct and pipelines with a capacity of 166,800 acre-feet per year. The State of Nevada plans a major expansion of the Alfred Merritt Smith Water Treatment Facility in conjunction with the second stage.

A public hearing will be held in Las Vegas, Nevada, in Room 17 of the Las Vegas Convention Center, 3150 Paradise Road, Las Vegas, Nevada, on January 18, 1977, to receive views and comments from interested organizations or individuals relating to the environmental impact of the project. The hearing will commence at 2 p.m., and continue until 5 p.m. The meeting will reconvene at 6:30 p.m., that evening. Oral statements at the hearing will be limited to periods of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional comment after all persons wishing to comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letters or telephone requests whenever possible, and any scheduled speaker not present when called will lose his position in the scheduled order, and his name will not be called again until the end of the order. Requests for scheduled presentations will be accepted up to 4 p.m., on January 17, 1977, and any subsequent requests will be handled on a first-come-first-serve basis following the scheduled presentations.

Organizations or individuals desiring to present statements at the hearing should contact Regional Director Manuel Lopez, Jr., Bureau of Reclamation, P.O. Box 426, Boulder City, Nevada 89005, telephone (702) 293-8464, and announce their intention to participate. Written comments from those wishing to supplement their oral presentations at the hearing should be received by January 30, 1977, for inclusion in the hearing record.

Dated: December 13, 1976.

CLIFFORD I. BARRETT,
Commissioner of Reclamation.

[FR Doc.76-37102 Filed 12-16-76;8:45 am]

Office of the Secretary

[INT FES 76-64]

CROW CEDED AREA COAL LEASE DEVELOPMENT PROPOSAL

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Bureau of Indian Affairs has prepared a Final Environmental Statement for the Westmoreland Resources Crow Ceded Area Coal Lease, Tracts II and III, which is located in Bighorn County, Montana.

The environmental statement considers human and physical environmental effects associated with the approval of a 30,876 acre coal mining lease on Crow Ceded Area.

The U.S. Geological Survey has prepared a Draft Environmental Statement for the Westmoreland Resources Absoloka Mine, Crow Indian Ceded Area, Bighorn County, Montana for a proposed 20-year plan of mining and reclamation on 2,151 acres within Tract III. INT DES 76/45. This statement was made available to the public on November 9, 1976.

Copies of the BIA statement will be available for inspection at the following locations:

Bureau of Indian Affairs, Division of Trust Facilitation, Room 4554—Department of the Interior Bldg., Washington, D.C. 20245. Telephone: (202) 343-4004.

Bureau of Indian Affairs, Billings Area Office, Billings, Montana 59103. Telephone: (406) 657-6145.

Bureau of Indian Affairs, Crow Indian Agency, Crow Agency, Montana 59022. Telephone: (406) 638-2671.

Copies of the Final Environmental Statement may be obtained from the Area Director, Bureau of Indian Affairs, 316 N. 26th Street, Billings, Montana 59101.

Dated: December 15, 1976.

STANLEY D. DOREMUS,
Deputy Assistant, Secretary of the Interior.

[FR Doc.76-37208 Filed 12-16-76;8:45 am]

[FES 76-63]

OROVILLE-TONASKET UNIT EXTENSION OKANOGAN—SIMILKAMEEN DIVISION, CHIEF JOSEPH DAM PROJECT, WASHINGTON

Availability of Final Environmental Statement and Final Report

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement and final report concerning the proposed replacement of the deteriorated irrigation system of the Oroville-Tonasket Irrigation District in north-central Washington with a new buried pipe system. Pumping plants will be installed along the Similkameen and Okanogan Rivers.

Copies of the statement and final report are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620 Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone (202) 343-4991.

Office of the Regional Director, Bureau of Reclamation, P.O. Box 043, 550 W. Fort Street, Boise, Idaho 83724, telephone (208) 342-2711.

Chief Joseph Dam Project Office, Bureau of Reclamation, P.O. Box 346, Wapato Way, Mason, Washington 98831, telephone (509) 687-3511.

Single copies of the final statement and final report may be obtained on request to the Commissioner of Reclamation or the Regional Director. Copies will also be available for inspection in libraries in north-central Washington. Please refer to the statement number above.

Dated: December 14, 1976.

STANLEY D. DOREMUS,
Deputy Assistant, Secretary of the Interior.

[FR Doc.76-37182 Filed 12-16-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

GOVERNMENT IN THE SUNSHINE

Commission Meeting

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on December 21, 1976, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436. The Commission plans to consider the following agenda items in open session:

1. Agenda of future meetings;
2. Minutes of November 18, 19, 23, 24, 30, and December 1 (2 sets), 1976, and retirement minutes for Messrs. V. Mariner, H. McClain, and C. Twining;
3. Ratification List 76-12;
4. Reorganization including:
(a) briefing by Mr. Ramsdale; (b) selection of Director of Administration; (c) selection of Director, Policy and Planning; (d) selection of Director of Industries; (e) selection of Deputy Director of Operations; and (f) selection of Director of Operations.
5. Footwear (Inv. TA-201-18)—briefing;
6. Stoves and motors (Inv. 332-79)—briefing;
7. Personnel (action jackets GC-76-149 and ED-76-24), and Commissioner Bedell's memorandum dated December 8, 1976, subject: Exemption from the freeze order to permit recruitment for a Public Information Officer;
8. Proposed amendments to the General Rules of Practice and Procedure (see memorandum dated November 29, 1976, from the General Counsel's Advisory Staff);
9. Mushrooms (Inv. TA-201-17)—vote on the question of injury; and
10. Any other items left over from previous agenda.

If you have any questions concerning the agenda for the December 21, 1976, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Public access to any documents considered by the Commission at the meeting may be obtained under the provisions of Subpart C of the Commission's rules (19 CFR 201.17-201.21).

Issued: December 14, 1976.

By order of the Commission

KENNETH R. MASON,
Secretary.

[FR Doc.76-37180 Filed 12-16-76;8:45 am]

DEPARTMENT OF LABOR

Employee Benefits Security Office

[Application No. L-317]

EMPLOYEE BENEFIT PLANS

Pendency of Exemption Relating to A Transition Involving the Teamsters-Rock Products and Ready Mixed Concrete Industries Training and Upgrading Fund

Notice is hereby given of the pendency before the Department of Labor (the Department) of a proposed exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act). The pending exemption was requested in an application filed by the trustees of the Teamsters-Rock Products and Ready Mixed Concrete Industries Training and Upgrading Fund (the Plan), to allow the Plan to lease equipment on a short term basis from parties in interest. The application was filed pursuant to section 408 (a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Representations. The application contains representations with regard to the pending exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

Various employers in the rock products and ready mixed concrete industry of Southern California have entered into collective bargaining agreements with various locals of the Teamsters Union for training and upgrading present and potential empoyees. The purpose of the program is to develop a more highly skilled labor force by training employees to operate the specialized equipment used by the employers.

The Plan is not sufficiently capitalized to purchase the equipment needed to implement the full field portion of the training program. In view of this financial limitation, the Plan must lease the required equipment. It is impossible, at this time, to present any precise schedule of training if the exemption is granted. It is anticipated that equipment will be needed for training purposes on a short term basis. However, such equipment is generally not available for lease on a short term basis (less than one year) from non-industry sources. Therefore, in most instances the contributing employers will constitute the only available source of such equipment.

In implementing the training program, both contributing employers and sources outside the industry will be contacted in each geographical section in which training is undertaken to determine whether the required equipment is available. The Plan will select one location in each geographical area for training all participants of the Plan who are employed or live within that area. Employers who will bid on equipment leases with the Plan constitute parties in interest solely by virtue of being employers of employees who are covered by the Plan. Employers who are Trustees of the Plan or who have officers, directors or employees who are Trustees of the Plan will be excluded from leasing equipment to the Plan.

The Plan will not enter into any equipment lease with a contributing employer for any equipment which can be rented from outside sources, at the same or lower cost to the Plan. In making the cost analysis, the Plan will take into account the direct cost of equipment rental, additional direct costs established by the lessor, cost of transportation of equipment to the training location, the cost of driver-trainers and insurance. The Plan will utilize whatever equipment sources result in the lowest cost to the Plan for specific equipment.

The pending exemption, if granted, will be subject to the condition that the Trustees keep records of transactions made pursuant to the exemption.

As soon as feasible after this notice is published in the FEDERAL REGISTER it will be posted in all union halls, a request will be sent to each contributing employer to post the notice in every yard,

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and the notice will be published in the next edition of the Southern California Teamster, a monthly periodical circulated to all dues paying members of the union. The notification will include a copy of the notice as published in the FEDERAL REGISTER. Copies of all such notifications will be forwarded to the Department at the time they are made available for distribution.

General Information. The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The pending exemption does not extend to transactions prohibited under section 406(b) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is the subject of an exemption is not dispositive of whether the transaction would have been a prohibited transaction in the absence of such exemption or, though it would have been a prohibited transaction, is exempt by operation of a statutory or other exemption or a transitional rule.

All interested persons are invited to submit written comments on the pending exemption contained herein. All written comments (preferably six copies) should be addressed to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. L-317.

In order to receive consideration, such comments must be received by the Department on or before February 14, 1977. The application for exemption referred to herein and all such comments will be available for public inspection at the Public Document Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Pending Exemption. Based upon the application, hereinabove described, the Department has under consideration the granting of the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) so that the restrictions of section 406(a) of the Act shall not prohibit the Plan from leasing equipment on a short term basis from persons who are parties in interest with respect to the Plan solely by reason of being contributing employers to the Plan pursuant to the terms, conditions and representations set forth in the application.

The pending exemption, if granted, will be subject to the express conditions that:

(a) The Plan maintain or cause to be maintained for a period of six years from the date of each bid transaction such records as are necessary to enable the persons described in paragraph (b) to determine whether the terms of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the Trustees, such records are lost or destroyed prior to the end of such six-year period, and (2) such employer shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, if such records are not maintained, or are not available for examination as required by paragraph (b) below;

(b) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (a) be unconditionally available at their customery location for examination during normal business hours by duly authorized employees and representatives of (1) the Department of Labor, (2) plan participants and beneficiaries, (3) any employer of plan participants and beneficiaries, and (4) any employee organization any of whose members are covered by the Plan;

(c) The material facts and representations contained in the application are true and complete; and

(d) The application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 13th day of December 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.76-37030 Filed 12-13-76;4:00 pm]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924 (b), 1932, or 1942(b).

The Act required the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 13th day of December, 1976.

BEN BURDETSKY,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending Dec. 10, 1976

Name of applicant	Location of enterprise	Principal product or activity
Archie D. Jackson	Harrisville, W. Va	Lease of store facility.
Grady Farm Center, Inc	Whigham, Ga	Buying and selling peanuts, grain and farm supplies.
Midstate Meat Co., Inc	Perry, Ga	Custom butchering of cattle and hogs; and retail sales of other meats.
King's Tuft, Inc	Chatsworth, Ga	Manufacture and sales of broadloom carpets.
Hydra-Tool Co., Inc	Greenwood, Miss	Manufacture of patented hydraulic metal fabricating machines.
Encino/Fairmont, division of U.S. Ind., Inc. (tenant of town of Mount Pleasant).	Mount Pleasant, N.C.	Manufacture of men's and boys' knitted shirts.
Grayling Inns	Grayling, Mich	Motel and restaurant.
Genuine Parts Co. (tenant of the village of Carrollton).	Carrollton, Ohio	Distribution of automotive replacement parts and related supply items.

[FR Doc.76-37101 Filed 12-16-76;8:45 am]

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

Correction

In FR Doc. 76-36055 appearing at page 54100 in the issue for Friday, December 10, 1976, the following correction should be made.

On page 54146, an entry was inadvertently omitted from the table in the right column. As corrected that table should read as follows:

DECISION NO. VT76-2170

VERMONT HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS (CONT'D)					
Remainder of State	$ 6.90	.35	.30		
PILEDRIVERMEN					
Townshend, Brookline, Westminister, Putney, Drummersoon, Brattleboro, Guilford, Vernon, Halifax, Whitingham, Marlboro and Newrane	6.78	.35	.30		
Rupert, Dorset, Winhall, Londonderry, Jamaica, Wardsboro, Dover, Wilmington, Readsboro, Stamford, Pownal, Bennington Shaftsbury, Arlington, and Sandgate	6.71	.40	.		
Remainder of State	7.00	.35	.30		
TRUCK DRIVERS:					
Two axle equipment	5.35				
Three axle equipment	5.50				
Specialized earth moving equipment	5.60				
AUGER MACHINE, POST DRIVER OP., GUARD RAIL	5.50				
POWER EQUIPMENT OPERATORS:					
Caledonia County					
Backhoes and shovels	8.35	.45	.60		.05
Bulldozer	8.15	.55	.70		.05
Compactors, compressors, and scrapers	8.10	.45	.60		.05
Crane and shovel-gradall	8.20	.35	.50		.05
Dozer-scraper, Mechanic, Paver, and rollers	7.75	.35	.50		.05
Front End Loaders	8.60	.55	.70		.05
Grader	7.95	.35	.50		.05
Oilers	6.75	.55	.70		.05

FOOTNOTE:
a. Two paid holidays (memorial Day & Independence Day), provided he works at least two (2) full days in the calendar week in which the holidays falls.

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Office of the Secretary

PRIVACY ACT OF 1974

Annual Notice of Systems of Records

In FR Doc. 76-36194 appearing at page 54724 in the issue for Tuesday, December 14, 1976, make the following changes:

1. On page 54724:
   a. The second column, the first paragraph, the phrase "Categories of individuals covered by the system:" should be deleted.
   b. The third paragraph, the phrase "Categories of records in the system:" should be deleted.
   c. The fifth paragraph, the phrase "Authority for maintenance of the system:" should be deleted.
   d. The sixth paragraph, the phrase "Routine uses of records in the system, including categories of users and the purposes of such uses:" should be deleted.
   e. The last paragraph, the word "Storage:" should be deleted.
2. On page 54725, the first column, the fourth paragraph, the word "Safeguards:" should be deleted.
3. On page 54727 under DOL/ESA-6:
   a. The authority for maintenance of the system should read "30 U.S.C. 936, 20 CFE 730.1 et. seq. (proposed but not promulgated)."
   b. Under Safeguards, the material after the word "only." should be deleted.
   c. Immediately following the paragraph on Safeguards, insert the following paragraph:
   "Retention and disposal: Being determined at this time."
4. On page 54733 under DOL/ETA-7:
   a. The authority for maintenance of the system should read "Public Law 414, Immigration and Nationality Act, as amended by Public Law 89-236."
   b. Under record source categories, the last line should read "tions." and DOL/ETA-8 should be centered above the next system name.
5. On page 54734 under DOL/ETA-13:
   a. The system name should read "One Percent Employee-Employer Sample File."
   b. The categories of individuals covered by the system should read "One percent of all employed persons covered by SSA in the U.S."
6. On page 54736, under DOL/LMSA-4, under systems exempted from certain provisions of the act, the first line of paragraph "a." should read "Criminal law enforcement. In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained".
7. On page 54737, under DOL/LMSA-4, the first line of paragraph "b." should read "Other law enforcement. In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for".
8. On page 54742, under DOL/OSAM-3 (which begins on page 54741) under record source categories:
   a. The first line of paragraph "b." should read "Other law enforcement. In accordance with paragraph 3(k)(2) of the act, other investigatory material including cer-".
   b. The first line of paragraph "c." should read "Protective service. In accordance with paragraph 3(k)(3) of the act, OI investigatory material maintained in con-".
   c. The first line of paragraph "d." should read "Contract investigations. In accordance with paragraph 3(k)(5) of the act, investigatory material compiled".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-113]

BELL & HOWELL CO.

Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405 (e), the National Aeronautics and Space Administration announces its intention to grant to the Bell & Howell Company, Chicago, Illinois, an exclusive patent license in Austria, Canada, France, Italy, Japan, Great Britain, Netherlands and West Germany, for the invention covered by the foreign counterparts of U.S. Patent Application Serial No. 623,561, for "Plastic Lens Antireflection Coating," filed on October 20, 1975. Copies of the U.S. application for patent can be obtained from NASA. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP, National Aeronautics and Space Administration, Washington, DC, 20546.

Dated: December 10, 1976.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc.76-37115 Filed 12-16-76;8:45 am]

[Notice 76-114]

FASTCO OF CALIFORNIA

Intent To Grant Exclusive Patent License

Notice is hereby given of intent to grant to Fastco of California, Paramount, California, a limited exclusive, revocable license to practice the invention described in U.S. Patent No. 3,942,398, for "Zero Torque Gear Head Wrench," issued to NASA on March 9, 1976, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain other appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.2, as revised April 1, 1972. NASA will grant the exclusive license unless within 30 days of this Notice, the Chairman, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following together with supporting documentation: (i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention in accordance with § 1245.206(b), in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: December 10, 1976.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc.76-37116 Filed 12-16-76;8:45 am]

[Notice (76-112)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL PANEL ON GENERAL AVIATION TECHNOLOGY

Meeting

The NASA Research and Technology Advisory Council Panel on General Aviation Technology will meet on January 5-7, 1977, at the NASA Langley Research Center, Hampton, Virginia 23665. The meeting will be held in Conference Room 225 of Building 1219. Members of the public will be admitted on a first-come, first-served basis, up to the seating capacity of the room, which is about 50 persons. All visitors must report to the Langley Research Center Receptionist in Building 1219.

The NASA Research and Technology Advisory Council Panel on General Aviation Technology serves in an advisory capacity only. The current Chairman is Mr. John Olcott. There are 14 members. The following list sets forth the approved agenda and schedule for the January 5-7, 1977, meeting of the Panel on General Aviation Technology. For further information, please contact Mr. Roger L. Winblade, NASA Headquarters, Area Code (202) 755-2399.

JANUARY 5, 1977

Time	Topic
9 a.m.	Welcoming Remarks (Purpose: To officially welcome the members of the General Aviation Technology Panel to the Langley Research Center.)
9:20 a.m.	Chairman's Report (Purpose: To summarize action taken at the July 1976 meeting of the Research and Technology Advisory Council and to review for disposition recommendations previously made by the Panel.)
10:15 a.m.	Executive Secretary's Report (Purpose: To brief the Panel on developments since last meeting including any program and organizational changes, and current status of FY 1977/78 program.)
11:15 a.m.	Hydrogen Enrichment Program (Purpose: To brief Panel on progress and current status on research activities aimed at applying this concept to aircraft engines.)
1 p.m.	Stall/Spin Program (Purpose: To review for Panel comments and recommendations NASA plans for expanded and accelerated stall/spin research.)
2:15 p.m.	Composite Materials Research (Purpose: To discuss with the Panel current plans and future options for an expanded research effort in composite materials for light aircraft.)
3 p.m.	Aerial Applications Technology (Purpose: To review for Panel comment and recommendation the current status of planning efforts for the proposed aerial application technology program.)
4 p.m.	Cooling Drag (Purpose: To review for Panel current status and future plans for research to reduce reciprocating engine cooling drag.)

JANUARY 6, 1976

Time	Topic
8:30 a.m.	Ames Research Center Program Report (Purpose: To provide Panel with current status and progress in general aviation programs at the Ames Research Center.)
9:15 a.m.	Lewis Research Center Program Report (Purpose: To provide Panel with current status and progress in general aviation programs at the Lewis Research Center.)
10:15 a.m.	Wallops Flight Center Program Report (Purpose: To provide Panel with current status and progress in general aviation programs at the Wallops Flight Center.)
11 a.m.	Langley Research Center Program Report (Purpose: To provide the Panel with current status and progress in general aviation programs at the Langley Research Center.)
4 p.m.	Panel Summary (Purpose: To provide the Panel members with an opportunity to obtain additional information or clarification information presented during preceding sessions.)

JANUARY 7, 1977

Time	Topic
8:30 a.m.	Member Reports and Recommendations (Purpose: To provide the opportunity for individual member reports and discussion in the formulation of recommendations.)
12 noon	Adjournment.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

DECEMBER 10, 1976.

[FR Doc.76-37114 Filed 12-16-76;8:45 am]

NATIONAL LABOR RELATIONS BOARD

CHAIRMAN'S TASK FORCE

Meeting

The Chairman's Task Force on the National Labor Relations Board will hold open meetings at 9 a.m. on Tuesday, January 11, 1977, and at 9 a.m. on Wednesday, January 12, 1977, in the Board hearing room and other offices of the agency located at 1717 Pennsylvania Avenue, N.W., Washington, D.C.

The Task Force agenda for both meeting days will consist of consideration of comments made by interested persons on the "Interim Report and Recommendations of the Chairman's Task Force on the NLRB for 1976". Time permitting, the Task Force committees may also continue their deliberations on further recommendations.

Requests for further information on the meeting should be addressed to Mr. Earl D. Proctor, Secretary for the Task Force. He may be reached by telephone on (202) 254-8047.

Dated this 14th day of December 1976 in Washington, D.C.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.76-37179 Filed 12-16-76;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

GENERALIZED SYSTEM OF PREFERENCES

Conclusion of Review Regarding Duty-Free Treatment for Angostura Aromatic Bitters

A FEDERAL REGISTER notice of May 14, 1976 (41 FR 20027) announced that the Trade Policy Staff Committee was reviewing, and was including in public hearings scheduled for June 1-4, 1976, the question of whether products like or directly competitive with angostura aromatic bitters, entering under item no. 168.15 of the Tariff Schedules of the United States (TSUS), were being produced in the United States on January 3, 1975, the date of enactment of the Trade Act of 1974. This review was undertaken in response to a request made on behalf of A-W Brands, Inc.

Pursuant to section 504(d) of the Trade Act of 1974 (19 U.S.C. 2464(d), 88 Stat. 2071), a determination of no such domestic production would have caused the "competitive-need" limit set forth in section 504(c)(1)(B) of the Trade Act not to apply. That limit requires that beneficiary developing countries not receive duty-free treatment under the GSP for eligible articles that, during the preceding calendar year, such countries exported to the United States in quantities exceeding 50 percent of the total U.S. imports of such articles. Application of this limit currently causes imports of angostura aromatic bitters to be ineligible for duty-free treatment when imported from Trinidad, although the article is eligible for GSP benefits when imported from other beneficiary developing countries.

As a result of its review, the TPSC has concluded that articles like or directly competitive with angostura aromatic bitters, entering under TSUS item no. 168.15, were being produced in the United States on January 3, 1975. Accordingly, the "competitive-need" limit set forth in section 504(c)(1)(B) of the Trade Act of 1974 will continue to apply to that article.

WILLIAM B. KELLY, JR.,
Chairman, Trade Policy Staff Committee.

[FR Doc.76-37099 Filed 12-16-76;8:45 am]

GENERALIZED SYSTEM OF PREFERENCES

Conclusion of Review of Petition To Withdraw GSP Benefits From Leather Wearing Apparel

As was announced in previous FEDERAL REGISTER notices of April 1, April 30, and May 14, 1976, several interested parties had petitioned the Trade Policy Staff Committee (TPSC), pursuant to regulations codified at 15 CFR Ch. XX, Part 2007, requesting that the eligibility of leather wearing apparel, entering under item no. 791.75 of the Tariff Schedules of the United States (TSUS), for duty-free treatment under the Generalized System of Preferences (GSP) provided for in Title V of the Trade Act of 1974 (88 Stat. 2066-2071, 19 U.S.C. 2461-2465), be withdrawn.

Public hearings were held with respect to those petitions, and a number of other petitions, in Washington, D.C. from June 1-4, 1976. A FEDERAL REGISTER notice of September 8, 1976 (41 FR 37859) announced that action was being deferred on the petitions regarding leather apparel, pending receipt by the TPSC of information that had been requested from the U.S. International Trade Commission (USITC), and pending a review by the TPSC to be completed within 90 days.

The TPSC has completed that review, taking into account the information that was requested and received from the USITC, the presentations made at the public hearings in June, 1976, and all other available information. The recommendations of the TPSC have been reviewed by the Trade Policy Review Group (TPRG), an interagency commit-

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tee composed of Assistant-Secretary-level representatives of the Office of the Special Representative for Trade Negotiations, the Council on International Economic Policy, and the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, and Treasury. The TPRG, like the TPSC, is a subcommittee of the cabinet-level Trade Policy Committee.

On the basis of the TPSC and TPRG reviews, the petitions in case no. 76–2, to remove from GSP eligibility leather wearing apparel entering under TSUS item no. 791.75, have been denied.

In addition to the information furnished by the USITC with respect to current production and employment trends in the domestic industry, the TPSC and TPRG particularly noted the fact that leather apparel imports from the two GSP beneficiary countries that supplied the largest amount of such imports during 1976 are expected to be ineligible for duty-free treatment under GSP in 1977, by reason of the "competitive-need" limits set forth in section 504(c) of the Trade Act. During the first ten months of 1976, a relatively small proportion of leather apparel imports came from countries that are expected to maintain GSP eligibility for leather apparel during 1977. Moreover, leather apparel imports from such countries constituted a small proportion of domestic production and consumption.

This denial does not preclude interested parties from petitioning the TPSC again with respect to the eligibility status of leather wearing apparel.

CLAYTON K. YEUTTER,
Deputy Special Representative for Trade Negotiations, Chairman, Trade Policy Review Group.

[FR Doc.76–37100 Filed 12–16–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

AMINEX RESOURCES CORP.

Suspension of Trading

DECEMBER 9, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Aminex Resources Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 10 a.m. (EDT) on December 9, 1976 through December 18, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FM Doc.76–37145 Filed 12–16–76;8:45 am]

[Rel. No. 9566]

FIRST AMERICAN-AUSTRALIAN INVESTORS LIMITED

Filing of Application

DECEMBER 13, 1976.

In the Matter of FIRST AMERICAN-AUSTRALIAN INVESTORS LIMITED, c/o Dominick & Dominick, Inc., 55 Water Street, New York, New York 10041, (811–2041).

NOTICE IS HEREBY GIVEN that Dominick & Dominick, Incorporated ("Applicant") filed, on behalf of First American-Australian Investors Limited ("FAAI"), an application on November 5, 1976, for an order of the Commission, pursuant to section 8(f) of the Investment Company Act of 1940, declaring that a closed-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

FAAI, a company incorporated under the laws of the Australian Capital Territory, registered under the Act pursuant to an order of the Commission under section 7(d) of the Act issued on May 12, 1971. The application states that on May 25, 1976, the Registrar of Companies of the Australian Capitol Territory struck the name of FAAI off the Register pursuant to section 308 of the Companies Ordinance 1962–1974 of the Australian Capital Territory, and that FAAI was thereby dissolved by operation of law. According to the application, Applicant was the sponsor of FAAI and, at the time of the dissolution of FAAI, owned beneficially all of the outstanding shares of FAAI. The Applicant represents that FAAI has never made a public offering of its shares, has no shares currently outstanding, and has no outstanding debts or liabilities.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 6, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request, or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–37146 Filed 12–16–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

[FRA Waiver Petition No. HS–76–12]

VERMONT RAILWAY, INC.

Petition for Exemption From the Hours of Service Act

The Vermont Railway, Inc. of Burlington, Vermont, has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–76–12, Room 5101, 400 Seventh Street SW, Washington, D.C. 20590. Communications received before January 15, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590.

Issued in Washington, D.C. on December 9, 1976.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.76–37088 Filed 12–16–76;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Environmental impact statements received by the Council on Environmental Quality from December 6 through December 10, 1976. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (January 17, 1977) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359–A, Washington, D.C. 20250, 202–447–3965.

FOREST SERVICE

Draft

Big Sur Coastal Unit Plan, Los Padres N.F., Monterey County, Calif., December 10: Proposed is the selection of a land use plan for the management of the western portion of the Monterey Ranger District, Los Padres National Forest. The proposed plan recommends that maintenance of the unique visual qualities of the area be emphasized. Strong recreational emphasis, particularly for dispersed types of recreation, is given. There are also provisions in the plan for emphasis, particularly for dispersed types of recreation, is given. There are also provisions in the plan for sustaining or increasing wildlife and botanical populations. This plan is intended to guide the development and land use of only National Forest System lands lying within the Unit boundaries. (156 pages). (ELR Order No. 61735.)

Algaecide Treatment, Snow and Quemado Lakes, Gila N.F., Catron County, N. Mex., December 7: Proposed is the implementation of a blue green algae control program for Snow and Quemado Lakes located on Gila National Forest, Catron County, New Mexico. The project calls for utilization of a copper sulfate algaecide for a limited one year period and allows for utilization of either Simazine or Hydrothol on a long term basis. The objective is to prevent massive buildups of blue green algae thereby maintaining the valuable recreational and fishery resources. Adverse impacts include possible effects on non-target organisms, potential buildup of copper to toxic levels, and introduction of small amounts of chemicals into the Gila wilderness (26 pages). (ELR Order No. 61719.)

Rogue-Illinois Unit Plan, Siskiyou N.F., Josephine County, Oreg., December 10: Proposed is a land use plan for the management of the 444,511-acre Rogue-Illinois Planning Unit on the Siskiyou National Forest. The preferred alternative recommends a balanced mix of land allocations designed to sustain a high level of timber harvest; to protect the qualities of the Rogue and Illinois Rivers; to provide recreational opportunities; and to protect and manage the soil, water, fish, wildlife, timber, visual, and other resources. (281 pages). (ELR Order No. 61737.)

Final

North End Planning Unit, Deerlodge N.F., Granite and Powell Counties, Mont., December 10: Proposed is the implementation of a revised Mutiple Use Plan for the North End Planning Unit of the Deerlodge National Forest in Montana. The 41,804-acre unit will be subdivided in the following manar: 4134 acres of roadless area, 1673 acres for dispersed recreation, 3710 acres for a big game winter range, 5134 acres for protection of watershed, and 27,253 acres in various combinations for timber, wildlife, recreation, livestock and water values. Negative effects include disturbance of soil, vegetation, water, and wildlife (308 pages). Comments made by: DOI, USDA, EPA, State agencies, and concerned citizens. (ELR Order No. 61734.)

RURAL ELECTRIFICATION ADMINISTRATION

Final

Spurlock Station Unit 2 and Transmission, Mason County, Ky., December 6: The action relates to the use of guaranteed loan funds to finance the construction of Spurlock Unit No. 2, related substations, and related transmission lines from the generating station, in Mason County, Kentucky. The project includes construction of a 500 MW coal-fired steam electric generating unit at the existing station, 58 miles of new 354 kV transmission line to the new 345/138 kV substation at Avon, and 13 miles of 345 kV tieline to the Stuart Plant. Adverse impacts of the project include the release of oxides of nitrogen and sulfur and particulates from the burning of coal, and visual intrusion of the transmission lines (415 pages). Comments made by: USDA, DOI, EPA, State and local agencies, and concerned citizens. (ELR Order No. 61707.)

SOIL CONSERVATIVE SERVICE

Draft

E. Branch Brandywine Creek Watershed, Chester County, Pa., December 9: Proposed is the completion of the Brandywine Creek Watershed Project, which was approved for construction in October 1972. Project actions that have been installed include conservation land treatment, one floodwater retarding dam, and two multiple purpose dams that include storage for flood prevention, water supply, and recreation. The project described in this statement consists only of the land treatment and structural measures remaining to be installed on the East Branch Brandywine Creek Watershed. Adverse effects include relocation of three homes (93 pages). (ELR Order No. 61723.)

DEPARTMENT OF DEFENSE

ARMY

Contact: Mr. George A. Cunney, Jr., Acting Chief, Environmental Office, Directorate of Installations, Office of the Deputy Chief of Staff for Logistics, Washington, D.C. 20310, 202–OX–4–4269.

Draft

Research Department Explosive and High Melting Explosive Expansion Facility, Oklahoma, Tennessee, and Indiana, December 10: The proposed action consists of constructing and operating a large chemical/industrial complex to manufacture the explosives RPX (Research Department Explosive) and HMX (High Melting Explosive)" and various blended products. The final site selected will be capable of accommodating a total of four RDX/HMX lines. Three sites are still in contention for the facility: McAlester Naval Ammunition Depot in southeastern Oklahoma; Milan Army Ammunition Plant in west-central Tennessee; and Newport Army Ammunition Plant in west-central Indiana. (450 pages.) (ELR Order No. 61725.)

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, 202–693–6795.

Draft

Great Lakes-St. Lawrence Seaway Navigational Season Extension (2) December 7: The Secretary of the Army, acting through the Chief of Engineers, is in the process of conducting a Survey Study and a Demostration Program directed toward evaluating the feasibility of extending the navigation season on the Great Lakes-St. Lawrence Seaway System. The Demonstration Program has been conducted during the past five winter seasons and will terminate on 31 December 1976. This EIS consists of an Interim Feasibility Report concerning this extension. (Detroit District.) (75 pages.) (ELR Order No. 61716.)

Sebewaing River, O&M of Navigation and Flood Control, several counties, Mich., December 10: Proposed is a plan for the operation and maintenance of navigation and flood control facilities on the Sebewaing River, Michigan. The proposed action calls for the maintenance dredging of the Sebewaing River navigation and flood control channel, repair of stop-logs and other structures forming the flood protection project, maintenance of navigation structures protecting the channel, and, as necessary, dynamiting the ice jams to prevent flooding of the village of Sebewaing. Dredging and disposal activities will have temporary adverse effects on water quality, organisms living in and on the bottom sediments, and aesthetics. (Detroit District.) (125 pages.) (ELR Order No. 61733.)

Redwood River Flood Control, Marshall, Lyon County, Minn., December 6: Proposed is a flood control projection the Redwood River at Marshall, Minnesota. The recommended plan consists of about 3.6 miles of levee, 0.9 mile of channel modification and attendant overflow and interior drainage works to provide a 100-year degree of protection against flooding. Related recreational improvements will include a 6-mile long cross-country ski trial, improvements to outdoor games area, and picnicking facilities. Long-term adverse effects include the conversion of 15.6 acres of agricultural land. The project will require a total of 47.5 acres of land. (St. Paul District.) (61 pages.) (ELR Order No. 61722.)

Final

Talkeetna, Flood and Bank Erosion Control, Alaska, December 8: The proposed action is the construction of flood control structures on the Talkeetna River, Alaska. The project involves construction of a 600-ft. dike, 740 feet of bank grading and seeding, and 1,660 feet of rock revetment. The purpose of the structural measures is to prevent bank erosion by flood waters of the Talkeetna and Susitna Rivers. Approximately two acres of vegetation along the riverbanks will be lost. (Anchorage District.) (86 pages.) Comments made by: DOI, DOC, USDA, DOT, EPA, State and local agencies, and concerned citizens. Order No. 61721.)

Gulf Intracoastal Waterway, Pearl to Apalachee Bay, Florida, and Mississippi, December 10: The statement concerns the continued operation and maintenance to authorized dimensions of the Gulf Intracoastal Waterway from Pearl River, Louisiana-Mississippi to Apalachee Bay, Florida. Primary adverse effects include loss of benthic communitity in the dredged material; turbidity, mudflows, and lower water quality in the area of the cutterhead and open water disposal sites; and displeasing appearance of the fast land disposal sites. (Mobile District.), (313 page.) Comments made by: USDA, DOC, HEW, HUD, DOI, DOT, EDA, USCG, State and local agencies, and concerned citizens. (ELR Order No. 61721.)

Redmond Dam and Reservoir, Marion and Council Grove, Lyon County, Coffey, Kans., December 10: This statement proposes a project for operation and maintenance of John Redmond Dam and Reservoir, Marion and Council Grove Lakes, Kansas. The activities would consist of reservoir regulation,

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flood control, management of land resources and facilities, management of leases, easements and other outgrants, and project management and maintenance activities. Adverse impacts include soil erosion and/or compaction due to heavy recreational use, traffic in unauthorized areas, and alterations of the natural environment through recreational development and other minor construction activities. (Tulsa District.) (120 pages.) Comments made by: EPA, HUD, DOI, DOT, USDA, AHP, State agencies and concerned individuals. (ELR Order No. 61731.)

Loyalsock Township Local Flood Protection, Lycoming County, Pa., December 7: The proposed project provides for the utilization of the proposed Williamsport Beltway highway to double as a levee for flood protection in Loyalsock Township, Pennsylvania. The subject project will provide commercial, industrial, and residential development subject to flooding during high waters and directly affected by flooding during the 1972 flood. Adverse effects include soil erosion and sedimentation. (Baltimore District.) (126 pages.) Comments made by: DOI, EPA, HUD, USDA, HEW, State and county agencies, industry, and private individuals. (ELR Order No. 61717.)

Captain's Cove Development, Chincoteague Bay, Accomack County, Va., December 6: Proposed is the granting of a permit for dredge and fill operations at Captain's Cove Development, a recreational second home development which is currently under construction on the navigable waters of Chinocteague Bay. The permit will allow construction of water-oriented recreational facilities and the development of waterfront property. Adverse impacts which have or will take place includes the loss of salt marsh areas and the induced development of homes within the flood plain. (Norfolk District.) (350 pages.) Comments made by: EPA, DOC, DOI, AHP, USDA, HUD, State and local agencies, and concerned citizens. (ELR Order No. 61705.)

Supplement

Camp Nine Road Relocation, New Melones Lake (S–1), several counties, California, December 10: This statement supplements a final EIS filed with CEQ in July, 1972 concerning the New Melones Lake Project on the Stanislaus River, California. Proposed is the relocation of about 1 mile of the Camp Nine Road and construction of a replacement bridge about 500 feet long. Adverse effects include the disturbance of two cultural resource sites, the destruction of one cultural site, and the alteration of the natural setting of seven other cultural resource sites. Approximately 8 acres of land will be disturbed by construction, and some existing vegetation and wildlife habitat will be removed. (Sacramento District,) (20 pages.) (ELR Order No. 61739.)

Grays Harbor and Chehalis River Navigation Project (S–1), Grays Harbor County, Wash., December 6: The proposed action is the relocation 6,000 feet south of the Sand Island Reach of the existing navigation channel at Grays Harbor, Washington. The project will also realign the reach with prevailing flood and ebb tide currents. Initial dredging of an estimated 3.0 million c.y. and annual maintenance dredging of 300,000 c.y. will be required. The project will result in a net gain of 16.9 acres of marine habitat. Adverse effects include destruction of bottom dwelling organisms, increased turbidity, and impacts to habitat and organisms contiguous to the channel. (Seattle District.) (65 pages.) (ELR Order No. 61708.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Rebecca W. Hanmer, Director, Office of Federal Activities, Room WSMW 537, 401 M Street, S.W., Washington, D.C. 20460, 202–755–0780 (stop 460).

Draft

Henderson 201 Wastewater Treatment System, Warren, Franklin, and Vance Counties, N.C., December 7: Proposed is the development of a wastewater treatment system to service the Greater Henderson area in North Carolina. The project consists of the necessary facilities to process and treat approximately 3.7 million gallons per day (MGD) of water. The major environmental impacts resulting from implementation of any of the three alternatives considered will be those associated with the water quality downstream of wastewater treatment plant discharges. (Region IV.) (273 pages.) (ELR Order No. 61713.)

Final

Greeley Region Wastewater Management, Weld County, Colo., December 7: Proposed is the granting of funds to Greeley, Colorado for the construction of wastewater treatment facilities. The city of Greeley has recommended the building of a regional wastewater treatment facility in the Delta agricultural area east of the city near the confluence of the Cache La Poudre and South Platte Rivers. The initial phase would include construction of a 4 million gallon/day modular plant. The existing 6 million gal./day activated sludge portion of the First Avenue plant would be upgraded as necessary and the trickling filter on the south side would be deactivated. Adverse impacts include odor, flooding, and potential secondary impacts from induced growth. (Region VIII.) (363 pages.) Comments made by: DOI, USDA, FEA, COE, HUD, HEW, State and local agencies, and concerned citizens. (ELR Order No. 61709.)

Final

Aspen/Snowmass 201 Wastewater Facilities, Aspen County, Colo., December 10: Proposed is a regional wastewater treatment plant in the combined Aspen and Snowmass resort areas, Colorado. The principal river drainage for the area is the Roaring Fork River which is threatened by increased future discharges from point (sewage plant) and nonpoint (runoff) sources. In Aspen the closing of the older of the 2 existing plants is recommended and in Snowmass capacity will be increased in 1977 from 0.8 to 1.6 mgd. Because the 201 project is not considered a growth stimulant, adverse impacts will be minimal. (Region VIII.) (125 pages.) Comments made by: HEW, DOI, HUD, USDA, FEA, State and local agencies, and concerned citizens. (ELR Order No. 61738.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, S.W., Washington, D.C. 20410, 202–755–6308.

Draft

Leslie Estates Development, Dade County, Dade County, Fla., December 7: Proposed is a Planned Unit Development covering 455 acres in Dade County, Florida. The development will consist of some 770 single family detached units, 929 townhouse units, 275 low density garden apartments, and 1728 high density garden apartments. There will also be a neighborhood shopping complex, an office park, and a 20-acre school-park site. The development is bounded on the north by Snake Creek Canal, on the east by N.W. 27th Avenue, on the south by N.W. 191st Street, and on the west by N.W. 37th Avenue. Adverse effects include construction disruption. (30 pages.) (ELR Order No. 61715.)

Belinda City Subdivision, Wilson Co., Wilson County, Tenn., December 7: Proposed is the granting of an application by Belinda City, Inc., a private development company, for HUD Subdivision Feasibility Analysis. The purpose of such application is to attempt to qualify proposed housing construction for GHA Home Mortgage Insurance and VA Home Loan Guarantees. The site of the proposed development is within two miles of the Nashville-Davidson County line, and its development will affect both Wilson and Davidson Counties in Middle-Tennessee. Marginally productive agricultural and woodlands will be converted into a primarily residential community. (100 pages.) (ELR Order No. 61712.)

Section 104(h)

Draft

Winston-Salem State University, Community Project No. 3, Winston-Salem and Forsyth Counties, N.C., December 10: Proposed is the Greater Winston-Salem State University Community Development Project No. 3. The project area is bounded by I–40 on the north, Salem Creek on the south, U.S. 52 on the west and an irregular line crossing the Winston-Salem State University campus and following Stadium Drive on the east. Special activities proposed include acquisition, relocation, clearance, and site improvements on 12.81 acres of residential land. The land will provide right-of-way for the relocation of Stadium Drive south of Claremont Avenue and 8.25 acres for expansion of the Winston-Salem State University campus. (105 pages.) (ELR Order No. 61730.)

Final

Pensacola Senior Citizens Center, Escambia County, Fla., December 10: Proposed is the construction of a Senior Citizens Center in the City of Pensacola, Florida. The 12–15,000 sq. ft. facility, located in the western watershed of Bayou Texar, will house a social hall/theater with seating for approximately 200 persons; 2 club rooms; a solarium; a game room and snack area; kitchen, arts and crafts rooms restrooms; and administrative offices. The construction of the Center will result in off site erosion and sedimentation, increase in noise and air pollution, and loss of .35 acres of ground cover (27 pages.) Comments made by: EPA. (ELR Order No. 61729.)

Final

Union Community Water System, Greene County, Ala., December 10: The proposed project is a water supply system designated to serve the most heavily populated and developed rural areas of north Greene County, Alabama. This project forms the core of the Union-Snoddy-Mantua project. The Union-Snoddy-Mantua project in turn forms the major elements of a water supply and distribution system for the rural areas in the northern half of the county. The proposed system is to construct mains of 6" and 8" in the rights-of-way of existing roadways. Also, various sized smaller lines are proposed for the distribution system, all to be located in road rights-of-way. Comments made by: USDA, EPA, HEW, and State, and local agencies. (ELR Order No. 61724.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

BUREAU OF INDIAN AFFAIRS

Draft

Mancos Canyon Indian Park, Montezuma County, Colo., December 6: The proposed action is the development of the Mancos Canyon Indian Park that will protect, preserve, and interpret numerous rivers located in Mancos Canyon on the Ute Mountain Ute Indian Reservation. The project includes a modern access road, foot trails, camp facilities in the park, and a modern motel and restaurant near the park entrance. Adverse impacts resulting from the development will be the excavation of ruins, and the introduction of many visitors to a relatively unvisited area. (142 pages) (ELR Order No. 61706.)

BUREAU OF LAND MANAGEMENT

Final

Lower Cook Inlet, OCS Oil & Gas Lease Sale, Alaska, December 7: Proposed is the leasing of 152 tracts (.9 million acres) of OCS lands at Lower Cook Inlet, Alaska. The tracts are located offshore of the Kenai Peninsula and the west coast of Lower Cook Inlet with distance to shore ranging from 6 to 22 miles, and at water depths from 35 to 80 meters. If implemented, the sale will be held in early 1977. The major adverse impact is the possibility of accidental or chronic oil spills which would disturb the wildlife and have impacts on onshore development. (793 pages). Comments made by: DOC, DOT, ERDA, NRC, EPA, FPC, AHP, DOI, and State and local agencies concerned citizens. (ELR Order No. 61720.)

BUREAU OF RECLAMATION

Draft

S. Nevada Water Project, Second Stage, Clark County, Nev., December 7: Proposed is the second stage of the Southern Nevada Water Project, a water supply system for the Las Vegas area. (Stage One was completed in 1971.) The second stage consists of five new pumping plants, modifications to four existing first stage pumping plants, a 2.5-mile long second barrel to the main aqueduct installed beside the first stage, and 30 miles of new aqueduct and pipelines with a capacity of 166,800 acre-feet per year. The State of Nevada plans a major expansion of the Alfred Merritt Smith Water Treatment Facility in conjunction with the second stage. A slight deterioration of the water quality is expected. (140 pages.) (ELR Order No. 61710.)

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Contact: Mr. T. R. Martin, Special Asst. U.S. Section IBWC, ARA/MEX., Room 3906A, Washington, D.C. 20520, 202–632–1317.

Final

Amistad Hydroelectric Plant, Rio Grande, Val Verde County, Tex., December 10: Proposed is the construction and operation of a conventional hydroelectric facility at Amistad Dam and Reservoir on the Rio Grande in Val Verde County, Texas. The plant will provide fast-response energy to a total electric power system covering a large part of southern Texas. Construction activities would cause minor degradation of water quality in the immediate vicinity of the project; produce some beneficial and adverse effects to the economy and some beneficial and adverse effects to the economy and way of life within the local community; and consume both renewable and nonrenewable resources. (83 pages.) Comments made by: EPA, AHP, DOC, HEW, USDA, FPC, DOI, STAT, State and local agencies, and concerned citizens. (ELR Order No. 61736.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202–426–4357.

FEDERAL AVIATION ADMINISTRATION

Final

Noise Reduction Requirements, Subsonic Transport A, December 10: The proposed action is an amendment of the Federal Aviation Regulations, Part 36 to provide for three stages of noise reduction, to require new applications for type certificates to comply with noise limits more restrictive than those in current Appendix C, and to increase the severity of the acoustical change requirements for airplanes that comply with current Appendix C. These proposals would apply to transport category large airplanes and to turbojet powered airplanes. Minor increases in fuel consumption would result. (88 pages) Comments made by: EPA, HUD, DOI, NASA, and State and local agencies interested groups and persons. (ELR Order No. 61727.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

F.A. Primary Route 662, Sangamon County, Ill., December 7: Proposed is the financing, with Federal-Aid matching funds, of the construction costs of a section of an area service highway from ½ mile north of Wabash Avenue (Illinois Route 54) southeast of Springfield to Peoria Road (U.S. Business Route 66) north of Springfield, a total distance of 7.5 miles. The improvement will be a divided four-lane rural type highway with partial access control. The planned facility would require the relocation of a small stream at five locations, and would increase noise levels in the area. (Region 5) (100 pages) (ELR Order No. 61711.)

Final

U.S. 501, I–85 to Wellington Drive, Durham County, North Carolina, December 7: The proposed action is improvement to US 501, Duke Street-Roxboro Road from the interchange of Duke Street with I–85 north to Wellington Road in Durham, North Carolina. The selected alternative provides for 5 lanes all along the 2.75-mile project length. Adverse impacts include the possibility of relocation of families and businesses, noise levels, and the removal of ornamental trees and shrubs. (Region 4) (114 pages). Noise levels exceeding the FHWA design noise levels, and the removal of ornamental trees and shrubs. Comments made by: DOI, ICC, USDA, COE, EPA, GSA, HEW, and State and local agencies concerned citizens. (ELR Order No. 61714.)

U.S. 14, Evansville to Madison, Wisconsin, in Dane County, Wisc., December 7: The proposed project consists of reconstructing Highway 14, from Highway 92 near the south Dane County line, northerly to the intersection with County Highway "MM" located 0.64 mile north of the village of Oregon. The recommended project provides for an ultimate expressway facility south of Oregon and a freeway facility bypassing the village to connect with the freeway section of relocated Highway 14 between Oregon and Madison. The project will require 280 acres of land currently used for agricultural purposes and 46 acres of untillable wildlife habitat. Two families were affected by the project; acquisition of the land has already been partially accomplished. (Region 5) (137 pages) Comments made by: DOT, DOI, EPA, HEW, USDA, State and county agencies concerned citizens. (ELR Order No. 61718.)

U.S. COAST GUARD

Final

Dumbarton Bridge Replacement, Alameda and San Mateo Counties, Calif., December 10: Proposed is the improvement of Loute 84 between Route 7 in Alameda County and Route 101 in San Mateo County, California. The existing 2-land, low level lift span bridge will be replaced with a 4-lane, high level bridge. Project plans also call for widening and realigning the east and west approaches, constructing a new easterly connection to Route 7, and constructing and/or improving 3 westerly connections to Route 101. Major adverse impacts include degradation of air, loss of wildlife habitat, and increased noise levels. (420 pages) Historical sites, eight archeological sites, and the proposed San Francisco National Wildlife Refuge. Comments made by: EPA, AHP, COE, USN, DOI, DOT, and State and local agencies concerned citizens. (ELR Order No. 61726.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.76–37354 Filed 12–16–76;9:48 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 214]

ASSIGNMENT OF HEARINGS

DECEMBER 14, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139381 Spirit of '76 Overland Express, Inc., now assigned January 19, 1977, at Chicago, Ill. is postponed indefinitely. No. 35479 Southern Railway Company, ET Al, V. Seaboard Coast Line Railroad Co., et. al. now being assigned for continue hearing on January 18, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 106119 (Sub-No. 51), E. L. Murphy Trucking Company, now being assigned January 12, 1977 (1 day), at San Francisco, California; in Room 510 5th Floor, 210 Main Street.

MC 95540 (Sub 954), Watkins Motor Lines, Inc. now being assigned February 8, 1977 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

FF 480, Midwest Container Services, Inc. now being assigned February 17, 1977 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 45656 (Sub No. 20) Anderson Truck Line, Inc. now being assigned March 1, 1977 (9 days), at Charlotte, North Carolina in a hearing room to be later designated.

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MC 136786 (Sub No. 91), Robco Transportation, Inc., now assigned January 17, 1977 at Washington, D.C., has been postponed to February 1, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 123048 Sub 338, Diamond Transportation System, Inc.; And MC 114211 Sub 264, Warren Transport, Inc., now being assigned February 23, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC-F 12881, Cassens Transport Company-Purchase-Square Deal Cartage, Now being assigned February 15, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC-F 12884, O'Boyle Tank Lines, Inc.—Control And Merger-Shipley Transfer, Inc., ET AL, now being assigned February 22, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 117604 (Sub-No. 11), Meadors Freight Lines, Inc., now assigned January 10, 1977 at Atlanta, Georgia has been postponed indefinitely.

MC 111871 (Sub-No. 10), Southeastern Freight Lines, now being assigned March 1, 1977 (19 days), at Columbia, South Carolina; in hearing room to be later designated.

MC 109064 (Sub 31), Tex-O-Ka-N Transportation Co., Inc. now being assigned March 1, 1977 (1 day), at Dallas, Texas in a hearing room to be later designated.

MC 133095 (Sub 105), Texas Continental Express, Inc. now being assigned March 2, 1977 (1 day), at Dallas, Texas in a hearing room to be later designated.

MC 82841 (Sub 186), Hunt Transportation, Inc. now being assigned March 3, 1977 (1 day), at Dallas, Texas in a hearing room to be later designated.

MC 73165 (Sub 390), Eagle Motor Lines, Inc. now being assigned March 4, 1977 (1 day), at Dallas, Texas in a hearing room to be later designated.

MC 133655 (Sub 94), Trans-National Truck, Inc. now being assigned March 7, 1977, (2 days), at Dallas, Texas in a hearing room to be later designated.

MC 142369, Clarence Cornish Automotive Service, Inc. dba Clarence Cornish Wrecker Service now being assigned March 9, 1977 (3 days), at Dallas, Texas in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37152 Filed 12-16-76;8:45 am]

[Notice No. 167]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 10, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than January 3, 1977. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 43685 (Sub-No. 18TA) (Correction) filed October 18, 1976, published in the FEDERAL REGISTER issue of November 2, 1976, and republished as corrected this issue. Applicant: MERCER TRUCKING CO., INC., N. 1414 Fancher Road, P.O. Box 11585, Spokane, Wash. 99211. Applicant's representative: George Hart, 1100 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed scrap automobiles and scrap metal*, from points in Montana, on the one hand, and to points in Washington and Oregon on the other, for 180 days. Supporting shippers: McCracken Metals, Inc., 631 E. Aluminum St., Butte, Mont. J. B. Junk & Salvage, 520 18th St., N., Lewiston, Idaho 83501. Auto Disposal Service, Inc., 8820 Goddard Place, Boise, Idaho 83704. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. The purpose of this republication is to correct the applicant's name.

No. MC 51146 (Sub-No. 481TA) filed December 6, 1976. Applicant: SCHNEIDER TRANSPORT, INC., 2661 S. Broadway, P.O. Box 2298, Green Bay, Wis. 54304. Applicant's representative: James W. Muldoon, Suite 1815, 50 W. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives*, when moving in mixed loads with paper and paper products, from Chillicothe and Schooleys, Ohio, to points in the United States (except Maryland, Virginia, the District of Columbia, points in North Carolina east of U.S. Highway 25, and points in South Carolina east of a line beginning at the North Carolina-South Carolina state line and extending southeast along U.S. Highway 176 to Columbus, then east along I-20 to Florence, then south along U.S. Highway 52 to Charleston), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operations authority. Supporting shipper: The Mead Corporation, Talbott Tower, Dayton, Ohio 45402. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 89684 (Sub-No. 96TA), filed December 2, 1976. Applicant: WYCOFF COMPANY, INCORPORATED, 560 S. 300 West, Salt Lake City, Utah 84101. Applicant's representative: Robert G. Shepherd, Jr., 600 S. Cherry St., No. 717, Denver, Colo. 80222. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (a) *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and Classes A and B posions). Restriction: The service authorized herein is subject to the following conditions: Said service is restricted (1) to the transportation of packages or articles each weighing not more than 100 pounds, and (2) against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day; (b) The intermediate points of Wheatland and Douglas, Wyo., and the off-route point of Glenrock, Wyo.; from Denver, Colo., over Interstate Highway 25 and U.S. Highway 87 to Casper, Wyo., and return over the same route; Alternative Routes: From Denver, Colo., over Interstate Highway 25 and U.S. Highway 87 to Cheyenne, Wyo., thence over Interstate Highway 80 or U.S. Highways 30 and 87 to Rawlins, Wyo., thence over U.S. Highway 287 to Muddy Gap, Wyo., and thence over U.S. Highway 220 to Casper, Wyo., and return over the same route; from Denver, Colo., over U.S. Highway 287 to Laramie, Wyo., thence over Interstate Highway 80 or U.S. Highways 30 and 287 to Rawlins, Wyo., thence over U.S. Highway 287 to Muddy Gap, Wyo., and thence over U.S. Highway 220 to Casper, Wyo., and return over the same route. Applicant intends to tack its existing authority with MC 89684, at Fort Collins, Colo., and Rawlins, Wyo., for 180 days. Supporting shippers: There are approximately 80 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protest to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 107452 (Sub-No. 8TA), filed November 29, 1976. Applicant: R. D. BROWN, doing business as BROWN TRUCKING, Greybull Heights, Greybull, Wyo. 82426. Applicant's representative: James B. Hovland, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay*, in bulk, in pneumatic tank vehicles, from the facilities of American Colloid Corp., at or near Lovell, Wyo., to points in Washington, Oregon, Nevada, Idaho, California, Arizona, Colorado and Utah, restricted against the transportation of oil field commodities as defined in Mercer Extension-Oil Field Commodities, 74 M.C.C. 459, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Colloid Co., P.O. Box 228, Skokie, Ill. 60076. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 1006, Federal Bldg. and Post Office, 100 E. "B" St., Casper, Wyo. 82601.

No. MC 109533 (Sub-No. 81TA) (correction) filed November 24, 1976, published in the FEDERAL REGISTER issue of December 6, 1976, and republished as corrected this issue. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Ave., Richmond, Va. 23224. Applicant's representative: C. H. Swanson, P.O. Box 1216, Richmond, Va. 23209. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Cincinnati and Portsmouth, Ohio, serving all intermediate points; from Cincinnati over Interstate Highway 71 to junction U.S. Highway 35, thence over U.S. Highway 35 to Chillicothe, Ohio, thence over U.S. Highway 23 to Portsmouth and return over the same route. Applicant intends to tack its existing authority with MC 109533 (Subs-48 and 71), applicant also intends to interline at Cincinnati, Ohio; Charleston, W. Va.; Atlanta, Ga., Baltimore, Md.; Richmond, Va.; Charlotte, N.C., and Birmingham, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 32 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502, Federal Bldg., 400 N. 8th St., Richmond, Va. 23240. The purpose of this republication is to correct the territorial description.

No. MC 112627 (Sub-No. 23TA) filed December 6, 1976. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, N.Y. 14437. Applicant's representative: S. Michael Richards, 44 North Ave., P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Columbus, Ohio, to Olean, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Anthony Sanzo, President, Sanzo Beverage, Inc., P.O. Box 466, Olean, N.Y. 14760. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 S. Clinton St., Room 1259, Syracuse, N.Y. 13202.

No. MC 113106 (Sub-No. 46TA) filed November 30, 1976. Applicant: THE BLUE DIAMOND COMPANY, 4401 E. Fairmount Ave., Baltimore, Md. 21224. Applicant's representative: Chester A. Zyblut, 1030 15th St., N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite of Union Camp, at Franklin, Va., to points in New York (except New York, N.Y., and points in Nassau and Suffolk Counties, N.Y.), and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. F. Worrell, Manager, Traffic Analysis, Union Camp Corporation, 1600 Valley Road, Wayne, N.J. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 119765 (Sub-No. 40TA) filed December 3, 1976. Applicant: EIGHT WAY XPRESS, INC., 5402 S. 27th St., P.O. Box 7356, Omaha, Nebr. 68107. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packinghouse products*, from the plantsite of American Beef Inc., at Oakland, Iowa and Omaha, Nebr., to St. Louis, Mo., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. J. Sheehan, Vice-President, American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. 68106. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 119765 (Sub-No. 41TA) filed December 3, 1976. Applicant: EIGHT WAY XPRESS, INC., 5402 S. 27th St., P.O. Box 7356, Omaha, Nebr. 68107. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsites and facilities utilized by Meilman Food Industries, at or near Sioux Falls, S. Dak., to points in California, Georgia, Pennsylvania, Illinois, Massachusetts, Michigan, Nebraska, New York, Oregon and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lester Pucik, Traffic Manager, Meilman Food Industries, 1900 Lee, Whitehall, Wis. 54773. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 119880 (Sub-No. 90TA) filed December 6, 1976. Applicant: DRUM TRANSPORT, INC., 617 Chicago St., P.O. Box 2056, East Peoria, Ill. 61611. Applicant's representative: B. N. Drum (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alocohol and grain neutral spirits*, in bulk, in tank vehicles, from Delavan and Peoria, Ill., to Bardstown, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hiram Walker & Sons, Inc., D. J. Anderson, General Traffic Manager, Foot of Edmund St., Peoria, Ill. 61601. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 123389 (Sub-No. 34TA) filed December 2, 1976. Applicant: CROUSE CARTAGE COMPANY, P.O. Box 586, Hwy 30W, Carroll, Iowa 51401. Applicant's representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat poducts and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plants and facilities utilized by Spencer Foods, Inc., at or near Spencer and Hartley, Iowa, to points in Illinois, restricted to the transportation of traffic originating at the plants and facilities utilized by Spencer Foods, Inc., at or near Spencer and Hartley, Iowa, and destined to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bill D. Gardner, Corporate Traffic Manager, Spencer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 127820 (Sub-No. 9TA), filed December 2, 1976. Applicant: TRANSERVICE, INC., 1943 S. Lawn Extension, Coshocton, Ohio 43812. Applicant's representative: Taylor C. Burneson, 1631 Northwest Professional Plaza, Columbus, Ohio 43220. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, pipe fittings, valves, fire hydrants, and accessories* used in the installation thereof, from the plantsite and warehouse facilities of Clow Corporation,

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at or near Coshocton, Ohio, to points in Minnesota and Wisconsin, under a continuing contract with Clow Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clow Corporation, 1211 W. 22nd St., Oak Brook, Ill. 60521. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., & U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 134806 (Sub-No. 42TA), filed December 6, 1976. Applicant: B-D-R TRANSPORT, INC., P.O. Box 813, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, D.C. 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Titanium rings and metal alloy rings*, from points in Los Angeles County, Calif., to points in Connecticut, under a continuing contract with Pratt & Whitney Aircraft, Division of United Technologies Corp., 400 Main St., East Hartford, Conn. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 136952 (Sub-No. 4TA), filed December 2, 1976. Applicant: ADAMIC TRUCKING, INC., 15522 Rider Road, Burton, Ohio 44021. Applicant's representative: Lewis S. Witherspoon, 88 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic horticultural trays and plastic insert trays*, from Sandusky, Ohio, to points in Connecticut, Florida, Georgia, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island and Texas, under a continuing contract with Foster Grant Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Foster Grant Co., Inc., 400 Broadway, Sandusky, Ohio 44870. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Ninth St., Cleveland, Ohio 44199.

No. MC 138555 (Sub-No. 6TA), filed December 6, 1976. Applicant: ROBERT H. COWEN, doing business as COWEN TRUCK LINE, Rt. #2, Perrysville, Ohio 44864. Applicant's representative: Boyd B. Ferris, 50 W. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances and materials, equipment and supplies* (except commodities in bulk), used in the manufacture of household appliances, between North Canton, Ohio; St. Louis, Mo.; and Chicago, Ill., under a continuing contract with The Hoover Company, for 180 days. Supporting shipper: The Hoover Company, North Canton, Ohio 44720. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Ninth St., Cleveland, Ohio 44199.

No. MC 140829 (Sub-No. 34TA), filed December 2, 1976. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and storage facilities of Wilson Foods Corporation, at or near Cherokee, Iowa, to points in Massachusetts, New York, New Jersey and Pennsylvania. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the named origin and destined to points in the above-named destination states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. N. Brent, Manager, Transportation, Wilson Foods Corporation, P.O. Box 26724, Oklahoma City, Okla. 73126. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37153 Filed 12-16-76;8:45 am]

federal register

FRIDAY, DECEMBER 17, 1976

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

PART II:

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secertary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931. as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Mississippi	MS76–1139

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:		
AL76–1124		Oct. 29, 1976.
Florida:		
FL76–1135		Nov. 26, 1976.
Georgia:		
GA76–1120		Oct. 29, 1976.
Hawaii:		
HI76–5092		Sept. 24, 1976.
Idaho:		
ID76–5112		Nov. 26, 1976.
Illinois:		
IL76–2132		Oct. 29, 1976.
IL76–2153		Nov. 26, 1976.
IL76–2154		Dec. 3, 1976.
Kentucky:		
KY76–1077		July 23, 1976.
KY76–1129		Nov. 26, 1976.
Louisiana:		
LA76–4187		Nov. 19, 1976.
Maryland:		
MD76–3272		Nov. 12, 1976.
Massachusetts:		
MA76–2098;MA76–2099;MA 76–2100.		Aug. 13, 1976.
MA76–2101; MA76–2103		Aug. 20, 1976.
MA76–2102		Sept. 3, 1976.
Michigan:		
MI76–2139		Nov. 19, 1976.
Mississippi:		
MS76–1020		Jan. 30, 1976.
Nevada:		
NV76–5098		Oct. 29, 1976.
New Mexico:		
NW76–4182		Nov. 12, 1976.
Texas:		
TX76–4110		July 2, 1976.
TX76–4125		July 23, 1976.
TX76–4152		Sept. 24, 1976.
TX76–4169		Oct. 8, 1976.
Virginia:		
MD76–3285		Nov. 19, 1976.
Washington, D.C.:		
DC76–3284		Do.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Mississippi:		
MS75–1067	(MS76–1137)	Dec. 12, 1975.
Missouri:		
MO76–4159	(MO76–4191)	Oct. 1, 1976.
Tennessee:		
TN76–1116	(TN76–1131)	Oct. 8, 1976.
Texas:		
TX76–4106	(TX76–4192)	July 2, 1976.
Wisconsin:		
AR–3151	(WI76–2157); AR–3152 (WI76–2158); AR–3153 (WI76–2160); AR–3155 (WI76–2161); AR–3159 (WI76–2167); AR–3161 (WI76–2168).	Oct. 11, 1974.

Change in publication dates. Due to the forthcoming holidays the FEDERAL REGISTER will not be published on Friday, December 24 or 31. Modifications and supersedeas decisions to general wage determination decisions scheduled for publication on these two dates will be published on the following Tuesday of each week, December 28, 1976 and January 4, 1977.

Signed at Washington, D.C., this 10th day of December 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Mississippi
DECISION NUMBER: MS76-1139
DESCRIPTION OF WORK: Sewer Line, and Water Line Construction.

COUNTY: Statewide *See below
DATE: Date of Publication

	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE V
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Bricklayers	4.53	5.50	4.00	4.50	7.00	5.38
Carpenters & form setters	4.10	5.50	4.00	3.75	3.10	4.50
Cement masons	3.00	2.61				
Chain saw operators		8.95+a	8.95+a	7.16	8.95+a	
Electricians		12.75				
Grade checkers			8.10+b		8.10+b	
Ironworkers:			2.68		6.00	
Structural	4.00					2.75
Reinforcing				2.50	3.00	2.50
Laborers:						
Air tool operator	2.50	2.61	2.81	2.50	3.00	4.00
Laborers	3.25					
Mortar mixers	3.00	3.00	3.48	3.15	4.00	
Pipelayers		3.90			4.75	3.50
Painters	2.50	2.61	4.50	3.00	3.33	
Truck drivers	4.00					5.00
Welders						4.25
Power equipment operators:	3.97	4.09	4.41	4.00	5.29	
Backhoe	4.08	4.25	5.00	3.75	4.86	7.00
Bulldozer		6.63				5.27
Concrete finishing machine	5.00	4.75	5.09	4.00	5.50	
Crane	4.00	3.76	4.10		4.10	5.00
Drilling machine		4.25				
Elevating grader	3.50	3.50	5.00	4.00		4.00
Front end loader		4.98				
Grader	4.09	4.50	5.58	5.50		2.75
Mechanic	3.50	4.00	4.50	4.55	3.38	
Motor patrol	4.00	2.70	4.25	4.50	5.00	
Oiler-greaser		5.00				4.00
Piledriver	3.00		3.50	3.60		4.75
Roller	4.50	4.25	4.50	4.55	4.00	3.35
Scraper	2.50	2.65			5.00	
Tractor		3.50	4.01	5.00		
Trenching machine		4.25	4.25			
Winch						

FOOTNOTES:

a. .37 Health & Welfare; .09 Pension; .06 Apprentice Training

b. .35 Health & Welfare; .35 Pension; .04 Apprentice Training

* COUNTIES:

ZONE I: Alcorn, Benton, Calhoun, Chickasw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, and Webster.

ZONE II: Bolivar, Carroll, Coahoma, DeSoto, Grenada, Leflore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, and Yalobusha.

ZONE III: Claiborne, Copiah, Hinds, Holmes, Humphreys, Issequena, Madison, Rankin, Sharkey, Simpson, Warren, and Yazoo.

ZONE IV: Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston.

ZONE V: Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson.

ZONE VI: George, Hancock, Harrison, Jackson, Pearl River, and Stone.

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MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL76-1124 - Mod. #1 (41 FR-47719 - October 29, 1976) Mobile County, Alabama.					
Change:					
Boilermakers	9.50	.75	1.00		.02
Sheet metal workers	10.03	.45	.50		.04
Decision # FL76-1135 - Mod. #1 (41 FR-52234 - November 26, 1976) Leon County, Florida					
Change:					
Laborers: Concrete cutters, (grouters; Gunnite workers, Mason tenders, Mechanical tool operators; Mortar mixers, Pipelayers; Plasterers tenders, Power buggy operators.	4.40	.20			
DECISION #GA76-1120 - Mod. #3 (41 FR-47722 - October 29, 1976) Chatham County, Georgia					
Change:					
Boilermakers	9.50	.75	1.00		.02
Ironworkers: Structural, ornamental, and reinforcing	8.80	.55	.60		.03
DECISION #HI76-5092 - Mod. #4 (41 FR 42099 - September 24, 1976) Statewide Hawaii					
Change:					
Roofers	$9.15	.80	.50		.10

MODIFICATIONS P. 2

DECISION #ID76-5112 - Mod. #2 (41 FR 52236 - November 26, 1976) Statewide Idaho	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons: Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls Counties	$9.90	.35	.40		
Carpenters: Remainder of Counties and Idaho County (south of the northern boundary of Township #29 North):					
Carpenter; Floor Layer; Shingler; Drywall Applicator and Installer	9.18	.52	.50	.50	.10
Sawfiler; Piledriverman; Bridgeman and Wharf Builder	9.35	.52	.50	.50	.10
Millwright; Machine erector; Piledriverman's boom man	9.47	.52	.50	.50	.10
Cement Masons: Remainder of Counties and Idaho County (south of the 46th Parallel):					
Cement Masons	8.67	.74	.45	.50	.10
Power Trowel; Power Grinder; Gunite and Composition Floorlayer	8.87	.74	.45	.50	.10
Electricians: Remaining Counties:					
Electricians	10.60	.45	1% + .50		1%
Cable Splicers	11.66	.45	1% + .50		1%

MODIFICATIONS P. 3

DECISION #ID76-5112 (Cont'd): Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers: (AREA 2): Remaining Counties and Idaho County (south of 46th Parallel):					
Group 1	$7.21	.65	.87	.20	.10
Group 2	7.31	.65	.87	.20	.10
Group 3	7.41	.65	.87	.20	.10
Group 4	7.51	.65	.87	.20	.10
Group 5	7.56	.65	.87	.20	.10
Group 6	7.81	.65	.87	.20	.10
Group 7	8.06	.65	.87	.20	.10
Group 8	7.36	.65	.87	.20	.10
Group 9	7.51	.65	.87	.20	.10
Group 10	7.81	.65	.87	.20	.10
Painters: Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties: Brush Spray; Steel; Steam Cleaning; Rollers (over 9" or 10" handle); Finish Drywall Taper	9.77	.40	.70		.02
Swing Stage; Over 30 ft. high	10.02	.40	.70		.02
Bituminastic; Sand Blast; Bridge; Towers; Stacks; Steeples; Tanks on legs	10.12	.40	.70		.02
Plasterers: Remainder of Counties	10.17	.40	.70		.02
	8.57	.45	.45	.35	

MODIFICATIONS P. 4

DECISION #ID76-5112 (Cont'd): Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators: (AREA 2): Remaining Counties and Idaho County (south of 46th Parallel):					
Group 1	$8.56	.70	.75		.10
Group 2	8.72	.70	.75		.10
Group 3	9.09	.70	.75		.10
Group 4	9.40	.70	.75		.10
Group 5	9.57	.70	.75		.10
Group 6	9.75	.70	.75		.10
Group 7	10.11	.70	.75		.10
Group 8	10.34	.70	.75		.10
Group 9	10.57	.70	.75		.10
Group 10	10.81	.70	.75		.10
Roofers: Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Idaho County (south of 46th Parallel), Lemhi, Owyhee, Payette, Valley, Washington Counties:					
Roofers; Kettlemen	8.60	.60	.30	.50	
Roofers working with coal tar and pitch products	10.60	.60	.30	.50	
Truck Drivers: (AREA 1): Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Group 1	9.28	1.07	.70		
Group 2	9.32	1.07	.70		
Group 3	9.38	1.07	.70		
Group 4	9.47	1.07	.70		
Group 5	9.68	1.07	.70		
Group 6	9.72	1.07	.70		
Group 7	9.78	1.07	.70		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #ID76-5112 (Cont'd):					
Change (Cont'd):					
Truck Drivers (Cont'd):					
(AREA 1) (Cont'd):					
Group 8	$9.82	$1.07	.70		
Group 9	9.93	1.07	.70		
Group 10	9.97	1.07	.70		
Group 11	10.28	1.07	.70		
Group 12	10.42	1.07	.70		
Group 13	10.58	1.07	.70		
Group 14	10.72	1.07	.70		
Truck Drivers:					
(AREA 2):					
Remainder of Counties and Idaho County (south of 46th Parallel):					
Group 1	8.41	.65	.65	.25	.10
Group 2	8.47	.65	.65	.25	.10
Group 3	8.53	.65	.65	.25	.10
Group 4	8.59	.65	.65	.25	.10
Group 5	8.64	.65	.65	.25	.10
Group 6	8.90	.65	.65	.25	.10
Group 7	8.96	.65	.65	.25	.10
Group 8	9.02	.65	.65	.25	.10
Group 9	9.13	.65	.65	.25	.10
Group 10	9.19	.65	.65	.25	.10
Group 11	9.25	.65	.65	.25	.10
Group 12	9.31	.65	.65	.25	.10
Group 13:					
Class A	8.79	.65	.65	.25	.10
Class B	8.90	.65	.65	.25	.10
Class C	9.13	.65	.65	.25	.10
Class D	9.31	.65	.65	.25	.10
Class E	9.42	.65	.65	.25	.10
Class F	9.54	.65	.65	.25	.10
Class G	9.82	.65	.65	.25	.10
Class H	10.05	.65	.65	.25	.10
Class I	10.28	.65	.65	.25	.10
Group 14:	9.70	.65	.65	.25	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2132 - Mod. #1 (41 FR 47729 - October 29, 1976) Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, White & Williamson Counties, Illinois					
OMIT:					
Bricklayers & Stonemasons:					
Jackson & Perry Counties:					
Bricklayers, Stonemasons, Terrazzo & Tile Workers	$9.35		.40		
CHANGE:					
Bricklayers & Stonemasons:					
Remainder of Counties	9.35	.35	.40		
Carpenters:					
Marion County:					
Centralia & Vicinity					
Carpenters, Piledrivermen & Soft Floor Layers	9.06	.45	.50		.02
Millwrights	9.41	.45	.50		.02
Salem & Vicinity					
Carpenters, Piledrivermen & Soft Floor Layers	8.76	.45	.50		.02
Millwrights	9.11	.45	.50		.02
Remainder of Counties:					
Carpenters, Piledrivermen, Millwrights & Soft Floor Layers	9.00	.35	.35		.02
Cement Masons:					
Franklin, Hamilton, Jefferson & Williamson Cos.	9.15				
Electricians	11.20	.40	11%		1%
Laborers:					
Marion County	7.75		.30		.035
Plumbers & Steamfitters:					
Franklin, Hamilton, Jefferson, Saline, Williamson & Gallatin Counties	11.20	.35	.55		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2153 - Mod. #1 (41 FR 52253 - November 26, 1976) Clay, Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawerence, Marion, Richland, Wabash, Wayne & White Counties, Illinois					
CHANGE:					
Electricians:					
Edwards, Hamilton, Jefferson, Marion, Clay, Wayne & White Counties; Remainder of Effingham & Fayette Counties	$11.20	.40	11%		1%
DECISION #IL76-2154 - Mod. #1 (41 FR 53256 - December 3, 1976) Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union & Williamson Counties, Illinois					
CHANGE:					
Electricians	$11.20	.40	11%		1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY76-1077 - Mod. #3 (41 FR-30525 - July 23, 1976) Warren County, Kentucky					
Change:					
Lathers	7.90		.20	.40	.01
Plumbers	10.65	.60	.75	.77	.10
Sheet metal workers	11.99	1.067	.80		.14
DECISION #KY76-1129 - Mod. #1 (41 FR-52257 - November 26, 1976) Hardin, Jefferson, and Meade Counties, Kentucky					
Change:					
Boilermakers	10.80	.75	1.00		.02
Plumbers:					
Zone 1					
Jefferson County	10.65	.60	.75	.77	.10
Zone 2					
Outside of Jefferson & Warren Counties and within 35 mile radius of Jefferson and Warren Counties Courthouses and entire Ft. Knox Reservation	11.10	.60	.75	.77	.10
Zone 3					
Beyond 35 mile radius of Jefferson & Warren Counties Courthouses	11.35	.60	.75	.77	.10
Sheet metal workers:					
Zone 1					
Jefferson County	10.74	1.067	.80		.14
Zone 2					
Hardin & Meade Counties including Ft. Knox Reservation	11.99	1.067	.80		.14

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA76-4187 - Mod. #1 (41 FR 51288 - November 19, 1976) Statewide Louisiana					
Change:					
Glaziers:					
Zone 2	$ 7.25		.25		
Laborers (Highway Construction):					
Group 1:					
Zone 4	5.50	.15	.20		.05
Group 2:					
Zone 4	5.60	.15	.20		.05
Group 3:					
Zone 4	6.05	.15	.20		.05
Group 4:					
Zone 5	6.30	.15	.20		.05
Lathers:					
Zone 2	8.88	.20	.30		.05
Plumbers & pipefitters:					
Zone 6	10.38	.67	.72		.08

MODIFICATIONS P. 10

BALTIMORE REGION RAPID TRANSIT SYSTEM

DECISION NO. MD76-3272-Mod. #1 (41 FR50147-November 12, 1976) Baltimore, Harford, and Howard Counties and Baltimore City, Md.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD: LABORERS:					
GROUP I	$ 8.00	.30	.50		.07½
GROUP II	8.25	.30	.50		.07½
GROUP III	8.75	.30	.50		.07½
GROUP IV	9.00	.30	.50		.07½

CLASSIFICATIONS

TUNNELS, RAISES AND SHAFTS - FREE AIR

GROUP I
Brakeman, bull gang, dumper, trackman, concrete man

GROUP II
Chuck tender, powderman in prime house, form setters and movers, nippers, cableman, hosemen, groutman, bell or signalman, top or bottom, vibrator operator, caulkers' helpers, air tool operator

GROUP III
Miners, rodmen, re-bar underground, concrete or gunnite nozzlemen, switchmen, powderman, timberman and re-timberman, wood steel including liner plate or any other support material, motorman, caulkers, diamond drill operators, riggers, cement finishers - underground, welders and burners, shield driver, air trac operator, shotcrete nozzleman and potman, brakemen.

GROUP IV
Mucking machine operator (air)

MODIFICATIONS P. 11

BALTIMORE REGION RAPID TRANSIT SYSTEM

DECISION NO. MD76-3272-Mod. #1 (Cont'd)
(41 FR50147-November 12, 1976)
Baltimore, Harford, and Howard Counties and Baltimore City, Maryland

ADD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
GROUP I	$ 7.00	.30	.50		.075
GROUP II	7.10	.30	.50		.075
GROUP III	7.25	.30	.50		.075
GROUP IV	7.35	.30	.50		.075
GROUP V	7.40	.30	.50		.075
GROUP VI	8.00	.30	.50		.075
GROUP VII	8.00	.30	.50		.075

CLASSIFICATIONS

LABORERS:
GROUP I - Carloader, choker setter, concrete crewman, crushed feeder, demolition laborer (including salvaging all material, loading and cleaning up), wrecking, driller helper, dumpman, flagman, fence erector and installer (including installation and erection of fence, guard rails, median rails, reference posts, guide posts and right-of-way markers), form stripper, general laborers, railroad track laborer, riprap man, scale man, stake jumper, structure mover (includes foundation, separation, preparation, cribbing, shoring, jacking and unloading of structures), water nozzleman, timber bucker and faller, truck loader
GROUP II - Combined air and water nozzlemen, cement handler, dope pot fireman (nonmechanical), form cleaning machine, mechanical railroad equipment (includes spiker, puller, tie cleaner, tamper pipe wrapper, power driven wheelbarrow), signalman operators of hand derricks, townsters, scootcretes, buggymobiles and similar equipment), tamper or rammer operator, trestle, scaffold builders over one tier high, power tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector (steel or wood), vibrator operator (up to 4'), asphalt cutter, mortar men, shorer and lagger, creosote material handler, corrosive enamel or equal, paving breaker and jackhammer operators, topman,
GROUP III - Multi-section pipe layer, non-mentallic clay and concrete pipe layer (including caulker, collarman, joiner, rigger and jacker) thermite welder and corrugated metal culvert pipe layer
GROUP IV - Asphalt block pneumatit cutter, asphalt roller, walking chain-saw with attachment, concrete saw (walking), high scalers, erectors, laser beem, switchmen cage tenders, air tugger, grout laborer, well point installers, air-trac operator
GROUP V - Asphalt screeder, big drills, cut of the hole drills (4½ piston or larger) down the hole drills (3½" piston or larger), gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, form setter, cutting torch operator, shotcrete nozzleman and oorman
GROUP VI - Powderman, master form setters, mechanic-welder
GROUP VII - Brick paver (asphalt block paver, asphalt block saw man, asphalt block grinder; hastings block or similar type)

MODIFICATIONS P. 12

BALTIMORE REGION RAPID TRANSIT SYSTEM

DECISION NO. MD76-3272- Mod. #1 (Cont'd)
(41 FR50147-November 12, 1976)
Baltimore, Harford, and Howard Counties and Baltimore City, Md.

ADD: LABORERS: COMPRESSED AIR RATES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gauge Pressure Pounds					
0-12	$10.333	a	b		c
12-14	14.165	a	b		c

FOOTNOTES:

a. The employer pays 2.40 to health and welfare per day.

b. The employer pays 4.00 to pension per day.

c. The employer pays .60 training fund per day.

DECISION NO. MA76-2098- Mod #3 (41 FR 34514- August 13, 1976) Essex County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Elevator constructors	$11.445	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR	.545	.35	4%+a+b	.02
Line construction:					
Linemen	12.00	.65	1%	d	3/8of1%
Equipment operators	11.28	.65	1%	d	3/8of1%
Driver Groundman	9.03	.65	1%	d	3/8of1%
Groundman	7.68	.65	1%	d	3/8of1%
Plumbers:					
Lynn, Lynnfield, Nahant, Saugus and Swampscott	10.80	1.02	1.28		.05
Remainder of Co: (Plumbers and steamfitters)	9.90	1.35	.52		.05
Piledrivermen	10.15	.60	1.00		

DECISION NO. MA76-2099- Mod #2 (41 FR 34519- August 13, 1976) Franklin County, Massachusetts					
Change:					
Carpenters and Soft floor layers:					
Leverett, Shutesbury, Sunderland	9.15	.45	1.00	.25	.02
Monroe and Monroe Bridge	8.64	.55	1.00		.04
Remainder of County	9.15	.45	1.00	.50	.02
Electricians: Remainder of County:					
Electrical contracts under $75,000	8.30	.70	1%+.40		.02
Electrical contracts over $75,000	10.21	.70	1%+.40		.02
Shaft and tunnel work	10.71	.70	1%+.40		.02
Piledrivermen	10.15	.60	1.00		

DECISION NO. MA76-2100- Mod #2 (41 FR 34522- August 13, 1976) Hampden County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters and Soft floor layers	$9.15	.45	1.00	.25	.02
Electricians:					
Chester, Holyoke, & that portion of Chicopee north of the line as specified in the full decision:					
Electrical contracts under $75,000	8.30	.70	1%+.40		.02
$75,000 and over	10.21	.70	1%+.40		.02
Shaft and tunnel work	10.71	.70	1%+.40		.02
Remainder of County	9.60	.50	1%+.30	.43	.02+a
Piledrivermen	10.15	.60	1.00		

DECISION NO. MA76-2101- Mod #2 (41 FR 35369- August 20, 1976) Hampshire County, Massachusetts					
Change:					
Carpenters	9.15	.45	1.00	.25	.02
Electricians:					
Belchertown, Ware	9.60	.50	1%+.30	.43	.02+a
Remainder of County:					
Electrical contracts $75,000 and over	10.21	.70	1%+.40		.02
Contracts under $75,000	8.30	.70	1%+.40		.02
Shaft and tunnel work	10.71	.70	1%+.40		.02
Piledrivermen	10.15	.60	1.00		

DECISION NO. MA76-2102- Mod #2 (41 FR 37479- September 3, 1976) Middlesex County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Cement masons:					
Bedford, Burlington, Lowell, Billerica, Tyngsboro, Westford, Tewksbury, Acton, Littleton, Dracut, Wilmington, Dunstable, Cholmsford, and Carlisle	$9.80	.90	.70		.02
Elevator constructors	11.445	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elev. constructors' helpers (prob)	50%JR	.545	.35	4%+a+b	.02
Line construction:					
Linemen	12.00	.65	1%	d	3/8of1%
Equipment operator	11.28	.65	1%	d	3/8of1%
Driver groundman	9.03	.65	1%	d	3/8of1%
Groundman	7.68	.65	1%	d	3/8of1%
Piledrivermen	10.15	.60	1.00		
Plumbers:					
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, N. Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester, and Woburn	10.80	1.02	1.28	.05	

DECISION NO. MA76-2103- Mod #2 (41 FR 35373- August 20, 1976 Norfolk County, Massachusetts					
Change:					
Electricians: Avon, Holbrook, Randolph, and Stoughton:					
Elec. contracts under $40,000	9.15	6%	5%	2%	.5%
Elec. contracts $40,000 or over	11.05	6%	5%	2%	.5%
Residential	6.60	.50	5%	2%	.5%
Elevator constructors	11.445	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elev. constructors' helpers (prob)	50%JR	.545	.35	4%+a+b	.02
Line construction:					
Linemen	12.00	.65	1%	d	3/8of1%
Equipment operator	11.28	.65	1%	d	3/8of1%
Driver Groundman	9.03	.65	1%	d	3/8of1%
Groundman	7.68	.65	1%	d	3/8of1%
Piledrivermen	10.15	.60	1.00		
Plumbers and Gasfitters:					
Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Weymouth, Norwood, Plainville, Quincy, Sharon, S. Weymouth, Walpole, Westwood, Weymouth, & Wrentham	10.80	1.02	1.28		.05

DECISION #MI76-2139 - Mod. #2 (41 FR 51313 - November 19, 1976) Macomb, Monroe, Oakland, Washtenaw & Wayne Counties, Michigan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters:					
Remainder of Counties	$10.48	.75	9%	11%	.04

Decision # MS76-1020 - Mod. # 1 (41 FR 4780 - January 30, 1976) Hancock, Harrison, Jackson, and Pearl River Counties, Mississippi.					
Change:					
Bricklayers:					
Bricklayers	8.40	.40			
Blockmasons	8.40	.40			
Marble masons	8.40	.40			
Stonemasons	8.40	.40			
Plasterers	8.30	.40			
Terrazzo workers	8.30	.40			
Tile setters	8.30	.40			
Cement masons	7.78	.40			
Ironworkers:					
Hancock, Pearl River, and western 2/3 of Harrison Co.	10.19	.30	.35		.04
Jackson Co, and eastern 1/3 of Harrison Co.	9.23	.30	.40		
Laborers:					
Laborers	5.05	.15	.15		
Air tool operators, Asphalt rakers, Mason tenders, Mortar mixers, Pipe wrappers, Post hole digger operators, Plasterers tenders.	5.20	.15	.15		

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV76-5098 - Mod. #4 (41 FR 47812 - October 29, 1976)					
Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada					
Change:					
Electricians:					
Clark, Lincoln, Nye County (south of Mt. Diablo Base Line):					
Electricians; Technicians	$13.81	.73	1% + .40		.08
Cable Splicers	14.14	.73	1% + .40		.08
Nye County (north of Mt. Diablo Base Line) and Remaining Counties including Lake Tahoe Area:					
Electricians; Technicians	12.33	.67	1% + .77		.08
Cable Splicers	13.56	.67	1% + .77		.08
Line Construction Workers:					
Remaining Counties (excluding Lake Tahoe Area):					
Lineman	12.33	.67	1% + .77		.08
Line Equipment Operator	11.10	.67	1% + .77		.08
Groundman	9.25	.67	1% + .77		.08
Cable Splicers	13.56	.67	1% + .77		.08
Plasterers:					
Remaining Counties	10.52	.65	1.00		.03
Sheet Metal Workers:					
Clark, Esmeralda, Lincoln, Nye County (south half), White Pine Counties	11.43	.93	1.60	1.00	.07

DECISION NO: NM76-4182 - Mod. #2
(41 FR 50163 - November 12, 1976)
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
ELECTRICIANS - ZONE V	$5.80	.30	1%		1/4%
ELECTRICIANS DEFINITION(Zone V)					

ELECTRICIANS DEFINITION - ZONE V

Single or multiple, family dwelling or apartments up to and including 26 units under one roof not exceeding two stories - Bernalillo, Santa Fe, Taos, Rio Arriba, Sandoval, Valencia and San Juan Counties, but not on the Navajo Indian Reservation.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4110 - Mod. #5 (41 FR 27652 - July 2, 1976) Lubbock County, Texas					
Change:					
Electricians:					
Electricians	$ 9.25	.40	1%		1/10%
Cable splicers	9.50	.40	1%		1/10%
Line Construction:					
Linemen	9.25	.40	1%		
Operators	80%JR	.40	1%		
Groundmen (more than 1 year experience)	55%JR	.40	1%		
Groundman (less than 1 year experience)	50%JR	.40	1%		
Flat bed truck operator	70%JR	.40	1%		
Plumbers & steamfitters	8.81	.39	.40		.04
DECISION #TX76-4125 - Mod. #5 (41 FR 30563 - July 23, 1976) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Carpenters:					
Millwrights	9.05				1%
DECISION #TX76-4152 - Mod. #5 (41 FR 42152 - September 24, 1976) Travis County, Texas					
Change:					
Line Construction:					
Linemen	10.20	.40	1%		1/2%
Groundman	5.61	.40	1%		1/2%
Groundmen (1st year)	5.10	.40	1%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4169 - Mod. #3 (41 FR 44467 - October 8, 1976) Bowie County, Texas					
Change:					
Line Construction:					
Lineman	$ 9.80		1%		1/2%
Cable splicer	10.09		1%		1/2%
Hole digger operator, heavy equipment operators (or pole cat equivalent); powderman	8.92		1%		1/2%
Line truck driver (winch operator	8.04		1%		1/2%
Jackhammerman	7.35		1%		1/2%
Groundman	6.57		1%		1/2%
Groundman, 1st year	4.90		1%		1/2%
Truck driver (flat bed, ton & half & under)	6.96		1%		1/2%
DECISION #MD76-3285 - Mod. # 1 (41 FR 51308 - November 19, 1976) Montgomery and Prince Georges Counties, Maryland; Arlington and Fairfax Counties, Virginia; and For WMATA - Rapid Rail Transit System Projects Only, Alexandria, Virginia					
Change:					
BUILDING CONSTRUCTION, (INCLUDING WMATA-RRTS)					
Truck Drivers:					
Boom trucks	$7.60	.415	.425	s+j	
Small dump, water sprinkler, grease and oil	7.35	.415	.425	s+j	
Flat, pick-up hauling materials, small euclids, dump over 8 wheels	7.45	.415	.425	s+j	
Trailers, low boys, tractor pulls	7.65	.415	.425	s+j	
Helpers	7.20	.415	.425	s+j	
Carryalls, large euclids, euclid water sprinkler, tunnel work under ground	7.75	.415	.425	s+j	
Mechanics	7.50	.415	.425	s+j	
Omit:					
Footnote (f)					

MODIFICATIONS P. 21

DECISION #DC76-3284 - Mod. # 1
(41 FR 51368 - November 19, 1976)
Washington, D. C.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
BUILDING AND HEAVY CONSTRUCTION, (INCLUDING WMATA)					
TRUCK DRIVERS:					
Boom trucks	$7.60	.415	.425	g+j	
Small dump, water sprinkler, grease and oil	7.35	.415	.425	g+j	
Flat, pick-up hauling materials, small euclids, dump over 8 wheels	7.45	.415	.425	g+j	
Trailers, low boys, tractor pulls	7.65	.415	.425	g+j	
Helpers	7.20	.415	.425	g+j	
Carryalls, large euclids, euclid water sprinkler, tunnel work under ground	7.75	.415	.425	g+j	
Mechanics	7.50	.415	.425	g+j	
OMIT:					
Footnote (f)					

SUPERSEDEAS DECISION

STATE: Mississippi
DECISION NUMBER: MS76-1137
Supersedes Decision No.: MS75-1067 dated December 12, 1975 in 40 FR-58046
DESCRIPTION OF WORK: Highway Construction.

COUNTY: Statewide *See below
DATE: Date of Publication

	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air tool operator	3.25	3.25	3.25	3.00	3.50	3.35
Asphalt raker	2.90	2.50	3.25	3.00	2.75	3.25
Bricklayers	5.50	5.50	5.00	5.50	5.00	7.00
Carpenters	4.30	4.50	4.60	4.00	4.50	5.10
Carpenters helper	3.00	3.25	3.50	3.25	3.50	3.50
Cement masons (Finisher)	4.10	4.15	4.25	3.85	4.50	4.95
Concrete saw operator	3.25	3.25	3.25	4.00	3.25	5.00
Electricians	5.50	6.00	7.00	7.00	6.00	6.00
Form setter	4.30	4.00	3.75	3.20	3.25	3.25
Grade checker	3.75	3.00	3.00	2.50	3.25	3.10
Ironworkers, reinforcing	4.50	3.50	4.05	3.50	4.50	5.25
Ironworkers, structural	4.00	3.75	3.75	3.00	3.00	4.50
Laborer, unskilled	2.75	2.30	2.30	2.30	2.30	3.00
Mason tender (Cement mason helper)	3.00	3.00	3.00	3.00	3.25	3.50
Painter (Structural steel)	4.75	3.50	5.00	4.50	4.00	4.00
Piledriverman	3.00	3.25	3.00	3.15	4.25	4.50
Truck driver	2.75	2.50	3.00	2.75	2.75	3.00
Tugboat operator						3.75
Welder	4.70	3.70	4.00	3.00	4.25	5.00
POWER EQUIPMENT OPERATORS:						
"A" frame truck (winch)			5.00	3.75	3.75	4.50
Aggregate spreader operator	3.25	3.25	3.00	3.25	3.50	3.50
Air compressor	3.50	2.75	3.25	3.25	3.50	3.00
Asphalt distributor-spreader operator	3.45	3.00	3.35	3.20	3.00	3.50
Asphalt plant	3.25	3.00	3.00	3.00	3.25	4.00
Backhoe or shovel operator	4.00	3.50	4.00	4.00	4.00	4.35
Bulldozer operator	4.25	4.20	4.00	3.50	4.00	4.50
Concrete batch plant operator	4.25	4.00	4.00	3.10	3.50	4.25
Concrete breaker & hydro-hammer operator	2.75	2.50	2.50			
Concrete finishing machine operator	4.00	3.50	3.50	4.00	3.75	4.00
Concrete paving machine operator	3.50	3.50	3.50	3.50	3.25	3.55
Concrete spreader machine operator	3.50	3.00	4.25	3.25	3.00	3.25
Crane, dragline operator	5.00	4.85	5.20	4.25	5.00	5.50
Crusher feeder operator		3.00	3.00	3.50	3.25	3.25
Curing machine operator	3.00	3.00	3.00	3.00		3.00

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MS76-1137 - (Cont'd)

	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Earth auger	4.00	3.00	4.25	2.80	3.25	4.00
Fireman	3.00	3.00	3.60	3.00	3.00	3.00
Guard rail post driver	3.00	3.50	3.50	3.20	2.80	3.50
Joint filler	2.75	2.50	2.50		3.00	3.00
Joint setter	2.75		3.50	3.00	3.50	
Loader operator (all types)	3.75	3.50	3.80	3.30	3.75	4.00
Mechanic	4.60	4.10	4.50	3.85	4.50	4.50
Mechanic helper	3.75	3.75	3.00	3.00	3.75	3.50
Mixer operator (all types)	3.65	3.50	3.60	2.75	3.50	3.00
Motor patrol operator	4.65	4.40	4.00	4.00	4.50	4.50
Mulcher operator	2.75	2.75	2.75	2.75	2.75	3.00
Oiler-greaser	3.35	3.50	3.00	2.75	3.45	3.25
Piledriver operator	4.00	4.25	4.00	4.25	4.75	5.00
Pipelayer	3.50	3.00	3.25	3.00		3.50
Roller operator (self-propelled)	3.15	2.75	3.15	3.00	3.25	3.20
Scales (all types)	3.00	2.50	2.75	2.50	3.00	3.40
Scraper operator	4.55	4.00	4.00	3.25	3.95	3.75
Steel machine operator			2.50			3.00
Striping machine operator	4.25	3.85	4.00	4.25	4.00	3.90
Sub grader machine operator	3.15	4.00				3.60
Tractor operator (track type)	3.25	2.50	4.00	2.85	3.50	3.00
Tractor operator (wheel type)	2.80	2.50	2.75	2.75	2.75	3.00
Trenching machine	3.00	4.00	3.00	3.00	3.00	4.00

COUNTIES:

*ZONE I: Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union and Webster.

*ZONE II: Bolivar, Carroll, Coahoma, DeSoto, Grenada, Leflore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, & Yalobusha.

*ZONE III: Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren and Yazoo.

*ZONE IV: Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston.

*ZONE V: Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson.

*ZONE VI: George, Hancock, Harrison, Jackson, Pearl River, and Stone.

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SUPERSEDEAS DECISION

STATE: Missouri
DECISION NO. MO76-4191 DATE: Date of Publication
Supersedes Decision No. MO76-4159 dated October 1, 1976, in 41 FR 43584
DESCRIPTION OF WORK AND LOCATION
Highway Construction
Statewide except Jasper County
Heavy Construction

Adair
Andrew
Atchison
Audrain
Barton
Bates
Benton
Bollinger
Boone
Buchanan
Caldwell
Callaway
Camden
Cape Girardeau
Carroll
Cass
Cedar
Chariton
Clark
Clay
Clinton
Cole
Cooper
Crawford
Dade
Dallas
Daviess
DeKalb
Franklin
Gasconade
Gentry
Greene
Grundy
Harrison
Henry
Hickory
Holt
Howard
Jackson
Jefferson
Johnson
Knox
Laclede
Lafayette
Lawrence
Lewis
Lincoln
Linn
Livingston
McDonald
Macon
Madison
Maries
Marion
Mercer
Miller
Moniteau
Monroe
Montgomery
Morgan
Newton
Nodaway
Osage
Perry
Pettis
Phelps
Pike
Platte
Polk
Pulaski
Putnam
Ralls
Randolph
Ray
St. Charles
St. Clair
St. Francois
St. Louis and City
Ste. Genevieve
Saline
Schuyler
Scott
Scotland
Shelby
Sullivan
Vernon
Warren
Washington
Worth

DECISION NO. MO76-4191

CARPENTERS & PILEDRIVERMEN:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1	$9.96	.50	.70	.50	.03
ZONE 2	10.20	.50	.30		.05
ZONE 3	10.46	.50	.70		
ZONE 4	9.81	.50	.70	.50	.03
ZONE 5	10.45	.50	.30		.03
ZONE 6	9.85	.50	.30		.03
ZONE 7	8.95	.50	.70	.50	.03
ZONE 8	10.45	.20			.03
ZONE 9	10.32	.33			.03
ZONE 10	10.22	.23			.03
ZONE 11	10.17	.33	.15		.03

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN ZONES

ZONE 1 - Franklin, Jefferson, St. Charles, Lincoln and Warren Counties.
ZONE 2 - Clay, Jackson, Platte and Ray Counties
ZONE 3 - St. Louis County & City
ZONE 4 - Pike, St. Francois & Washington Counties
ZONE 5 - Cass and Lafayette Counties
ZONE 6 - Atchison, Andrew, Barry, Barton, Bates, Buchanan, Caldwell, Camden, Carroll, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Johnson, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clair, Saline, Stone, Taney, Vernon, Webster, Worth & Wright Counties
ZONE 7 - Crawford, Dent, Gasconade, Iron, Madison, Maries, Montgomery, Phelps, Pulaski, Reynolds, Shannon and Texas Counties.
ZONE 8 - Boone, Cooper & Howard Counties
ZONE 9 - Adair, Audrain, Benton, Callaway, Chariton, Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Morgan, Pettis, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby and Sullivan Counties
ZONE 10 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Howell, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Ste. Genevieve, Scott, Stoddard and Wayne Counties
ZONE 11 - Cole, Miller, Moniteau and Osage Counties.

DECISION NO. MO76-4191

CEMENT MASONS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
ZONE 1	9.475	.40	.50	.50	
ZONE 2	10.93				
ZONE 3	8.90	.90	.85		
ZONE 4	9.655	.40	.50	1.25	
ZONE 5	7.05	.70	.30	.35	
ZONE 6	8.75				
ZONE 7	9.325				
ZONE 8	9.75				
ZONE 9	7.40				
ZONE 10	9.30	.40	.50		
ZONE 11	9.75				
ZONE 12	8.30		.50		
ZONE 13	9.60	.90	.85		

AREAS COVERED BY CEMENT MASONS ZONES

ZONE 1 - Bates, Carroll, Cass and Lafayette Counties
ZONE 2 - Dent, Phelps, Pulaski and Texas Counties
ZONE 3 - Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren & Washington Counties on projects less than $100,000.00.
ZONE 4 - Clay, Jackson, Platte and Ray Counties
ZONE 5 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Scott, Stoddard and Wayne Counties
ZONE 6 - Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, Laclede, Ozark, Polk, Stone, Taney, Webster and Wright Counties
ZONE 7 - Benton, Henry, Hickory, Johnson, Morgan, Pettis, Saline and St. Clair Counties
ZONE 8 - Adair, Audrain, Boone, Chariton, Cooper, Howard, Linn, Macon, Moniteau, Monroe, Randolph, Shelby, Schuyler, Sullivan and Putnam Cos.
ZONE 9 - Barry, Barton, Lawrence, McDonald, Newton and Vernon Counties.
ZONE 10 - Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, Nodaway and Worth Counties.
ZONE 11 - Callaway, Camden, Cole, Gasconade, Maries, Miller, Montgomery, and Osage Counties
ZONE 12 - Clark, Knox, Lewis and Scotland Counties.
ZONE 13 - St. Louis City and County, Jefferson and St. Charles Counties; and Counties of Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren and Washington on projects $100,000.00 and over.

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ELECTRICIANS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Electrical contracts over $7,500.00	$9.70	4%	1%	11.5%	4%
Electrical contracts $7,500.00 and under	8.35	4%	1%	11.5%	4%
ZONE 2	11.22	.39	1%+.51	.80	.06
ZONE 3					
Electrical contracts over $5,000.00	11.22	.39	1%+.51	.80	.06
Electrical contracts $5,000.00 and under	10.67	.39	1%+.51	.80	.06
ZONE 4					
Electrical contracts over $5,000.00	11.22	.39	1%+.51	.80	.06
ZONE 5					
Electrical contracts over $5,000.00	11.22	.39	1%+.51	.80	.06
Electrical contracts $5,000.00 and under	10.06	.39	1%+.51	.80	.06
ZONE 6	10.30	.55	1%+5½%	15½%	.10
ZONE 7					
Electrical contracts over $10,000.00	10.30	.55	1%+5½%	15½%	.10
ZONE 8					
Electrical contracts $10,000.00 and under	9.64	.55	1%+5½%	15½%	.10
ZONE 9					
Electrical contracts $10,000.00 and under	7.45	.55	1%+5½%	15½%	.10
ZONE 10					
Electrical contracts $10,000.00 and under	5.27	.55	1%+5½%	15½%	.10

DECISION NO M076-4191

ELECTRICIANS CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 11	$10.325	.47	1%+.50	6%	.02
ZONE 12	10.815	.47	1%+.50	6%	.02
ZONE 13	10.59	.35	1%	7%	.01
ZONE 14					
Electrical contracts over $10,000.00	10.82	.35	1%	7%	.01
Electrical contracts $10,000.00 and under	10.59	.35	1%	7%	.01
ZONE 15					
Electrical contracts over $10,000.00	11.18	.35	1%	7%	.01
Electrical contracts $10,000.00 and under	10.59	.35	1%	7%	.01
ZONE 16					
Electricians	9.15	.35	1%		.01
Cable splicers	9.50	.35	1%		.01
ZONE 17					
Electricians	10.25	.27	1%	7%+.30	¢ of 1%
Cable splicers	10.50	.27	1%	7%+.30	¢ of 1%

AREAS COVERED BY ELECTRICIANS ZONES

ZONE 1 - Adair, Audrain (That part east of Highway 19), Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Montgomery, Pike, Putnam, Ralls, Schuyler, Scotland, Shelby and Sullivan Counties:
Electrical contracts over $7,500.00
Electrical contracts $7,500.00 and under
ZONE 2 - Western half of Clay & Jackson Cos. not including Blue Springs; Northern half of Platte Co.; North Western portion of Cass Co. not including Pleasant Hill
ZONE 3 - Remainder of Clay, Jackson, Platte & Cass Counties:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under
ZONE 4 - Bates, Benton, Henry, Johnson, Lafayette and Pettis Counties:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under
ZONE 5 - Carroll, Cooper, Morgan, Ray & Saline Counties:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under
ZONE 6 - St. Charles County, St. Louis County and City
ZONE 7 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Franklin, Iron, Jefferson, Lincoln, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Scott, St. Francois, Ste. Genevieve, Stoddard, Warren, Washington and Wayne Counties:
Electrical contracts over $10,000.00
ZONE 8 - Franklin, Jefferson, Lincoln and Warren Counties
Electrical contracts $10,000.00 and under
ZONE 9 - Bollinger, Cape Girardeau, Perry, Scott, St. Francois and Ste. Genevieve Counties:
Electrical Contracts $10,000.00 and under
ZONE 10 -Butler, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Pemiscot, Ripley, Reynolds, Stoddard, Washington and Wayne Counties:
Electrical contracts $10,000.00 and under
ZONE 11 -Christian, Dallas, Douglas, Greene, Hickory, Howell, Laclede, Oregon, Ozark, Polk, Shannon, Stone, Taney, Texas, Webster, and Wright Counties
ZONE 12 -Pulaski County
ZONE 13 -Andrew, Buchanan, Clinton and DeKalb Counties
Zone 14-Caldwell, Daviess, Gentry, Holt and Nodaway Counties:
Electrical contracts over $10,000.00
Electrical contracts $10,000.00 and under
ZONE 15 -Atchinson, Grundy, Harrison, Livingston, Mercer and Worth Counties:
Electrical contracts $10,000.00 and under
Electrical contracts over $10,000.00
ZONE 16 -Barry, Barton, Cedar, Dade, Lawrence, McDonald, Newton, St. Clair, and Vernon Counties
ZONE 17 - Audrain (except Cuivre Township), Boone, Callaway, Camden, Chariton, Cole, Crawford, Dent, Gasconade, Howard, Maries, Miller, Moniteau, Osage, Phelps and Randolph Counties

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IRONWORKERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1	10.625	.55	.70		.05
ZONE 2	9.60	.70	1.00	1.00	.05
ZONE 3	9.475	.70	1.00	1.00	.05
ZONE 4	9.35	.45	.50		.10
ZONE 5	10.25	.50	.30		
ZONE 6	8.71	.45	.40		.04
ZONE 7	9.10	.45	.65		.02

AREAS COVERED BY IRONWORKERS ZONES

ZONE 1 - Audrain, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Iron, Jefferson, Lincoln, Madison, Maries, Miller, Montgomery, Osage, Perry, Phelps, Pike, Pulaski, Reynolds, Shannon, St. Charles, St. Francois, St. Louis & City, Ste. Genevieve, Texas, Warren, Washington, and Wright Counties

ZONE 2 - Andrew, Atchison, Barton, Bates, Benton, Buchanan, Caldwell, Camden, Carroll, Cass, Cedar, Chariton, Clay, Clinton, Cooper, Dallas, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Johnson, Laclede, Lafayette, Linn, Livingston, Mercer, Moniteau, Morgan, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Clair, Saline, Sullivan, Vernon and Worth Counties.

ZONE 3 - Christian, Dade, Douglas, Greene and Webster Counties.

ZONE 4 - Barry, Lawrence, McDonald, Newton and Stone Counties.

ZONE 5 - Adair, Clark, Knox, Lewis, Macon, Marion, Monroe, Ralls, Schuyler, Scotland and Shelby Counties.

ZONE 6 - Howell, Oregon, Ozark and Taney Counties

ZONE 7 - Butler, Bollinger, Carter, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, Scott, Stoddard and Wayne Counties.

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LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1					
ZONE 1	7.98	.50	.50	.50	.10
ZONE 2	6.58	.50	.50	.50	.10
ZONE 3	6.58	.50	.50	.50	.10
ZONE 4	8.75	.40	.50		.10
ZONE 5	7.85	.40	.50		.10
ZONE 6	7.85	.40	.50		.10
GROUP 2					
ZONE 1	8.13	.50	.50	.50	.10
ZONE 2	6.73	.50	.50	.50	.10
ZONE 3	6.73	.50	.50	.50	.10
ZONE 4	8.90	.40	.50		.10
ZONE 5	8.00	.40	.50		.10
ZONE 6	8.00	.40	.50		.10
GROUP 3					
ZONE 1	8.28	.50	.50	.50	.10
ZONE 2	6.88	.50	.50	.50	.10
ZONE 3	6.88	.50	.50	.50	.10
ZONE 4	9.05	.40	.50		.10
ZONE 5	8.15	.40	.50		.10
ZONE 6	8.15	.40	.50		.10
GROUP 4					
ZONE 1	8.48	.50	.50	.50	.10
ZONE 2	7.08	.50	.50	.50	.10
ZONE 3	7.08	.50	.50	.50	.10
ZONE 4	9.25	.40	.50		.10
ZONE 5	8.35	.40	.50		.10
ZONE 6	8.35	.40	.50		.10
GROUP 5					
ZONE 1	8.73	.50	.50	.50	.10
ZONE 2	7.33	.50	.50	.50	.10
ZONE 3	7.33	.50	.50	.50	.10
ZONE 4	9.50	.40	.50		.10
ZONE 5	8.60	.40	.50		.10
ZONE 6	8.60	.40	.50		.10

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CLASSIFICATION DEFINITIONS

GROUP 1 - General laborc - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagmen; loading trucks under bins, hoppers, and conveyors; track men and all other general laborers.

GROUP 2 - First Semi-Skill - Air tool operator; cement handler, bulk or sack; dump man on earth fill; georgie buggie man; material batch hopper man; scale man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers - rock, block or brick; signal man; scaffolds over ten feet not self-supported from ground up; skipman on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only); straw blower nozzleman.

GROUP 3 - Second Semi-Skill - Aspbalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; vibrator man; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 feet where compressed air is not used; abutment and pier hole men working six (6) feet or more below ground; men working in coffer dams for bridge piers and footings in the river

GROUP 4 - Third Semi-Skill - Laser beam man; asphalt raker; barco tamper; jackson or any other similar tamp; wagon driller; churn drills; air track drills and all other similar drills; cutting torch man; form setters; liners and stringline men on concrete paving, curb, gutters, ditch liners, etc.; hot mastic kettleman; hot tar applicator; hand blade operators; manhole builder helpers and mortar men on brick or block manholes; sand blasting and gunite nozzle men; rubbing concrete; air tool operator in tunnels; caulker and lead man; screed man on asphalt machine, chain or concrete saw; cliff scalers working from scaffolds, bosuns' chairs or platforms on dams or power plants over ten (10) feet above ground; grade checker on cuts and fills; string line man for electronic grade control; pressure groutmen

GROUP 5 - Fourth Semi-Skill - Manhole builders, - brick or block; dynamite and powder men; welder

AREA COVERED BY LABORERS

ZONE 1 - Buchanan, Cass and Lafayette Counties

ZONE 2 - Andrew, Barton, Bates, Benton, Caldwell, Carroll, Cedar, Christian, Clinton, Dade, Dallas, DeKalb, Greene, Henry, Johnson, Laclede, Lawrence, Livingston, Newton, Pettis, Polk, St. Clair, Saline, Vernon, Webster and Wright Counties

ZONE 3 - Atchison, Barry Camden, Daviess, Douglas, Gentry, Grundy, Harrison, Hickory, Holt, McDonald, Mercer, Morgan, Nodaway, Ozark, Stone Taney and Worth Counties

ZONE 4 - Franklin, Jefferson, and St. Charles Counties

ZONE 5 - Audrain, Bollinger, Boone, Callaway, Cape Girardeau, Chariton, Cole, Cooper, Crawford, Dent, Gascoande, Howard, Iron, Lincoln, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Ralls, Randolph, Reynolds, St. Francois, Ste. Genevieve, Scott, Warren and Washington Counties.

ZONE 6 - Adair, Bucler, Carter, Clark, Dunklin, Howell, Knox, Lewis, Linn, Macon, Oregon, Putnam, Ripley, Schuyler, Scotland, Shelby, Shannon, Stoddard, Sullivan, Texas and Wayne Counties.

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LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 8					
GROUP 1	8.30	.50	.50	.75	.10
GROUP 2	8.45	.50	.50	.75	.10
GROUP 3	8.60	.50	.50	.75	.10
GROUP 4	8.80	.50	.50	.75	.10
GROUP 5	9.10	.50	.50	.75	.10

CLASSIFICATION DEFINITIONS

GROUP 1 - General Laborer - Carpenter tenders, salamander tenders; dump man, & ticket takers on stock piles; flagmen; loading trucks under bins, hoppers and conveyors; track men and all other general laborers

GROUP 2 - First Semi-Skill - Air tool operator; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pierhole men working below ground); riprap pavers rock, block or brick; signal man; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; pudlers (paving only)

GROUP 3 - Second Semi-Skill - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe & ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working on underground tunnels where compressed air is not used

GROUP 4 - Third Semi-Skill - Spreader on screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any other similar tamp; wagon driller, churn drills, air track drills and all other similar drills; cutting torch man; form setter; liners and stringline men on concrete paving, curb, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operators; manhole builders helpers and mortar men on brick or block manholes; sand blasting and gunnite nozzle men; rubbing concrete; air tool operator in tunnels

GROUP 5 - Fourth Semi-Skill - Manhole builder (brick or block); dynamite and powder men.

AREA COVERED BY LABORERS

ZONE 8 - Clay, Jackson, Platte and Ray Counties

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LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7 - St. Louis City and County:					
General laborer	8.675	.40	.90		.03
Wrecking	8.55	.40	.90		.03
Plumbers laborer	9.05	.40	.90		.03
Dynamiter or powderman	9.175	.40	.90		.03

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LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Lineman	$10.56	.38	1%+.15		½%
Heavy equipment operator	9.83	.38	1%+.15		½%
Groundman powderman	7.34	.38	1%+.15		½%
Groundman	6.97	.38	1%+.15		½%
Groundman (1st year)	5.99	.38	1%+.15		½%
ZONE 2					
Lineman	10.09	.38	1%+.15		½%
Heavy equipment operator	9.62	.38	1%+.15		½%
Groundman powderman	7.01	.38	1%+.15		½%
Groundman	6.48	.38	1%+.15		½%
Groundman (1st year)	4.93	.38	1%+.15		½%
ZONE 3					
Lineman & cable splicers	10.75	.40	1%	12½%	½%
Groundman - winch driver	7.90	.40	1%	12½%	½%
Groundman - driver	7.62	.40	1%	12½%	½%
Equipment operator	9.61	.40	1%	12½%	½%
Groundman - 1st 6 mos.	6.11	.40	1%	12½%	½%
Groundman - next 12 mos.	6.36	.40	1%	12½%	½%
Groundman - next 12 mos.	6.98	.40	1%	12½%	½%
Groundman - theresafter	7.62	.40	1%	12½%	½%
ZONE 4					
Lineman	9.77	.35	1%		.25%
Groundman - Class I	8.35	.35	1%		.25%
Groundman - Class II	6.83	.35	1%		.25%
Groundman - Class A	6.23	.35	1%		.25%
Groundman - 1st. 6 mos.	5.95	.35	1%		.25%

AREAS COVERED BY LINE CONSTRUCTION

ZONE 1 - Bates, Benton, Carroll, Cass, Clay, Henry, Johnson, Jackson, Lafayette, Pettis, Platte, Ray and Saline Counties.

ZONE 2 - Andrew, Atchison, Barry, Barton, Buchanan, Caldwell, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas, Gentry, Greene, Grundy, Harrison, Hickory, Holt, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clair, Stone, Taney, Vernon, Webster, Worth and Wright Counties

ZONE 3 - Crawford, Franklin, Iron, Jefferson, Reynolds, St. Charles, St. Francois, St. Louis, Washington, Adair, Audrain, Boone, Callaway, Camden, Carter, Chariton, Clark, Cole, Cooper, Dent, Gasconade, Howard, Howell, Knox, Lewis, Lincoln, Linn, Macon, Maries, Marion, Miller, Moniteau, Monroe, Montgomery, Morgan, Oregon, Osage, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Ripley, Ste. Genevieve, Schuyler, Scotland, Shannon, Shelby, Sullivan, Texas and Warren Counties

ZONE 4 - Bollinger, Butler, Cape Girardeau, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Scott, Stoddard, and Wayne Counties.

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PAINTERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Brush & roller	9.49	.55	.70		.07
Spray	10.49	.55	.70		.07
Bridge	10.24	.55	.70		.07
ZONE 2					
Brush	7.40		.25		
Spray	8.15		.25		
ZONE 3					
Brush	6.80				
Spray	7.20				
ZONE 4					
Brush and roller	7.75	.45	.35		
Spray, structural steel and sandblasting	10.00	.45	.35		
ZONE 5					
Brush	8.75				
Spray, taping machine	9.75				
Bridges 75 ft. in height	9.75				
All structural steel over 50 ft. in height	9.50				
Sandblasting	9.75				
Bridge	9.50				
ZONE 6					
Brush	9.20	.45	.35		
Spray	10.20	.45	.35		
Structural steel 30 ft.. or more	9.60	.45	.35		
ZONE 7					
Brush	7.25				
Soray	7.75				
ZONE 8					
Brush, roller	7.92		.30		
Spray	8.295		.30		

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PAINTERS CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 9					
Brush	$8.90		.20		
Spray	9.40		.20		
ZONE 10					
Brush	9.46	.30	.30		
Spray	10.96	.30	.30		
ZONE 11					
Brush, bridge & construction steel	7.85				
Spray	8.35				
ZONE 12					
Brush	6.25				
Structural steel	7.75				
Spray	6.55				

AREA COVERED BY PAINTERS

ZONE 1 - Bates, Caldwell, Carroll, Cass, Clay, Henry, Jackson, Johnson, Lafayette, Livingston, Platte, and Ray Counties
ZONE 2 - Bollinger, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott and Stoddard Counties
ZONE 3 - Lincoln and Pike Counties
ZONE 4 - Camden, Crawford, Dent, Laclede, Maries, Miller, Phelps, Pulaski and Texas Counties
ZONE 5 - Benton, Cooper, Moniteau, Morgan, Pettis and Saline Counties
ZONE 6 - Andrew, Atchison, Buchanan, DeKalb, Gentry, Holt, Nodaway and Worth Counties
ZONE 7 - Adair, Knox, Linn, Macon, Putnam, Schuyler, Scotland, Shelby and Sullivan Counties
ZONE 8 - Barry, Barton, Cedar, Dade, Lawrence, McDonald, Newton, St. Clair and Vernon Counties
ZONE 9 - Audrain, Boone, Callaway, Chariton, Cole, Gasconade, Howard, Monroe, Montgomery, Osage and Randolph Counties
ZONE 10 - Jefferson, St. Charles and St. Louis & City Counties
ZONE 11 - Christian, Dallas, Douglas, Greene, Hickory, Howell, Ozark, Polk, Stone, Taney, Webster and Wright Counties
ZONE 12 - St. Francois and Ste. Genevieve Counties

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
GROUP I	10.10	.50	1.00	.75	.10
GROUP II	9.85	.50	1.00	.75	.10
GROUP III	9.60	.50	1.00	.75	.10
GROUP IV	8.60	.50	1.00	.75	.10
GROUP V	10.35	.50	1.00	.75	.10
GROUP VI	10.60	.50	1.00	.75	.10
GROUP VII	10.10	.50	1.00	.75	.10
GROUP VIII	9.10	.50	1.00	.75	.10
ZONE 2					
GROUP I	8.52	.35	.40		
GROUP II	8.52	.35	.40		
GROUP III	7.97	.35	.40		
GROUP IV	7.52	.35	.40		
GROUP V	9.32	.35	.40		
GROUP VI	10.07	.35	.40		
GROUP VII	10.52	.35	.40		
GROUP VIII	11.27	.35	.40		
GROUP IX	9.02	.35	.40		
GROUP X	8.02	.35	.40		
GROUP XI	8.52	.35	.40		
ZONE 3					
GROUP I	10.25	.35	.65	.40	.02
GROUP II	10.05	.35	.65	.40	.02
GROUP III	9.85	.35	.65	.40	.02
GROUP IV	9.25	.35	.65	.40	.02
GROUP V	10.50	.35	.65	.40	.02
GROUP VI	10.75	.35	.65	.40	.02
GROUP VII	11.00	.35	.65	.40	.02
ZONE 4					
GROUP I	9.80	.35	.65	.40	.02
GROUP II	9.45	.35	.65	.40	.02
GROUP III	9.25	.35	.65	.40	.02
GROUP IV	8.40	.35	.65	.40	.02
GROUP V	10.05	.35	.65	.40	.02
GROUP VI	10.30	.35	.65	.40	.02
GROUP VII	10.55	.35	.65	.40	.02

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POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ZONE 5					
GROUP I	10.10	.50	1.00	.75	.10
GROUP II	9.90	.50	1.00	.75	.10
GROUP III	9.70	.50	1.00	.75	.10
GROUP IV	8.60	.50	1.00	.75	.10
GROUP V	10.35	.50	1.00	.75	.10
GROUP VI	10.60	.50	1.00	.75	.10
GROUP VII	10.85	.50	1.00	.75	.10
GROUP VIII	9.10	.50	1.00	.75	.10
ZONE 6					
GROUP I	9.35	.50	1.00	.75	.10
GROUP II	9.00	.50	1.00	.75	.10
GROUP III	8.80	.50	1.00	.75	.10
GROUP IV	7.60	.50	1.00	.75	.10
GROUP V	9.35	.50	1.00	.75	.10
GROUP VI	9.60	.50	1.00	.75	.10
GROUP VII	9.85	.50	1.00	.75	.10
GROUP VIII	8.10	.50	1.00	.75	.10
ZONE 7					
GROUP I	10.35	.50	.25		.02
GROUP II	10.00	.50	.25		.02
GROUP III	9.80	.50	.25		.02
GROUP IV	8.35	.50	.25		.02
GROUP V	10.60	.50	.25		.02
GROUP VI	10.85	.50	.25		.02
GROUP VII	11.10	.50	.25		.02
GROUP VIII	9.10	.50	.25		.02
ZONE 8					
GROUP I	10.35	.50	.25		.02
GROUP II	10.00	.50	.25		.02
GROUP III	9.80	.50	.25		.02
GROUP IV	8.35	.50	.25		.02
GROUP V	10.60	.50	.25		.02
GROUP VI	10.85	.50	.25		.02
GROUP VII	11.10	.50	.25		.02
GROUP VIII	9.10	.50	.25		.02

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS ZONE 1

GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; back hoe; blade operator, all types; boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; highloader-fork lift; hoisting engine-2 active drums; locomotive operator, standard gauge; mechanics and welders, field or shop; maintenance operator; mucking machine; piledriver operator; pitman crane operator; pump-2; quad-trac; scoop operator-all types; scoops in tandem; self-propelled rotary drill (Leroy or Equal-not Ait Trac); shovel operator; side discharge spreader; side boom cats; skimmer scoop operator; slip-form paver (CMI, REX, OR Equal); throttle man; truck crane; welding machine maintenance operator-2

GROUP II - "A" frame truck; asphalt hot mix silo; asphalt plant fireman; drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; backfiller operator; chip spreader; concrete batch plant, dry, power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader operator; greaser; hoisting engine-1 drum; Latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator; tractor operator-over 50 h.p.

GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator-combination boiler and booster; tractor, 30 hp or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator - 1

GROUP IV - Mechanic's helper, oiler

GROUP V - Clamshells, 3 yd. capacity or over, crane or rigs 80 ft. of boom or over (including jib); draglines, 3 yd. capacity or over; pile drivers, 80 ft. of boom or over (including jib); shovels, 3 yd. capacity or over

GROUP VI - Crane or rigs, over 200 ft. of boom (including jib)

GROUP VII - Hoist (each additional drum over 1 drum)

GROUP VIII - Oiler driver, all types

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in lenght or depth will be paid fifty cents (50c) per hour above the regular classification.

POWER EQUIPMENT OPERATORS ZONE 2

GROUP I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted - 16 tons & over; crane, locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; gradeall, crawler or tire mounted; locomotive, gas, steam & other powers; pile driver, land or floating; scoop, skimmer, shovel, power (steam, gas, electric, or other powers), switch boat; whirley

GROUP II - Air tugger 2/air compressor; anchor-placing barge; asphalt spreader; athey force feed loader (self-propelled); backfilling machine; boat operator-push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer such as mixermobile; compressors, two, not more than 20 ft. apart; compressors, not more than five ft. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as a pump-crete machine; concrete spreader; conveyor, large (not self-propelled), hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boiring (wagon drills and any hand drills obtaining power from other sources including concrete breakers jackhammers and barco equipment - no engineer required); elevating grader; engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist, concrete and brick (brick cages on concrete skips operating in or on tower, towermobile, or similar equipment); hoist, stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-greene); mechanic, on job site; mixer, paving; mixermobile; mucking machine; pipe cleaning machine; pipe wrapping machine; plant asphalt; plant, concrete producing or ready-mix job site; plant heating-job site; plant mixing-job site; plant, power, generating-job site; pump, self-powered, over 2" (one operator will operate two); pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or sub-grade; scoop, tractor drawn; spreader box; sub-grader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine; tunnel boring machine; vibrating machine, automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

GROUP III - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor large (not self-propelled moving brick and concrete (distributing) on floor level; curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman, form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity, mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, with outside loader, 2 bag capacity or more; mixer, with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane;

POWER EQUIPMENT OPERATORS ZONE 2 CONTD:

GROUP III CONTD: - pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck

GROUP IV - Boat operator-outboard motor (job site); conveyor (such as con-vay-it) regardless of how used; oiler; sweeper, floor

GROUP V - Air pressure; oiler engineer; operating under ten pounds

GROUP VI - Air pressure, oiler engineer operating over ten pounds

GROUP VII - Air pressure engineer operating under ten pounds

GROUP VIII - Air pressure engineer operating over ten pounds

GROUP IX - Crane-piledriving with leads; crane using rock socket tool; dragline - 7 cu. yds. & over; shovel, power - 7 cu. yds, and over; crane, climbing (such as Linden); derrick, diesel, gas, electric hoisting material and erecting steel - 150' or more above ground; hoist, three or more drums; scoop, tandem; tractor, tandem crawler

GROUP X - Heaters

Crane with boom (including jib), over 100' from pin to pin (add 1c per foot to maximum of 75c) above basic rate for crane

GROUP XI - Mud jack (where mud jack is used in conjunction with an air compressor, operator)

Work in tunnel or tunnel shaft, .25c above base rate.

POWER EQUIPMENT OPERATORS ZONE 3 and 4

GROUP I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; autograder; automatic slipform paver; back hoe; blade operator - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clam shell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat-with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launchhammer wheel; locomotive operator - standard gauge; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operator; quad-trac; scoop operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane, shovel operator

GROUP II - A-frame; asphalt hot-mix silo; asphalt roller operator; asphalt plant fireman (drum or boiler); asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-greene loader; boat operator (bridge & dams); chip spreader; compressor maintenance operator - 2; concrete mixer operator - skip loader; concrete plant operator, concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor; pavement breaker; powerbroom - self-propelled; power shield; rooter; slip-form finishing machine; stumpcutter machine; side discharge concrete spreader; throttle man; tractor operator (over 50 hp); welding machine maintenance operator - 2 winch truck

POWER EQUIPMENT OPERATORS ZONE 3 and 4 CONTD

GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; clef plane operator; compressor maintenance operator - 1; concrete saw operator (self-propelled); conveyor operator; curb finishing machine; distributor operator; finishing machine, operator; fireman - rig; flex plane operator; float operator; form grader operator; generator-maintenance operator; light plant maintenance operator; maintenance operator; oiler driver; pugmill operator; pump maintenance operator (other than dredge); roller operator, other than high type asphalt; screening & washing plant operator; Siphons & Jets; subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination Boiler & Booster); ulmac, ulric or similar spreader; vibrating machine operator, not hand; welding machine maintenance operator - 1; Tractor operator (50 hp or less)

GROUP IV - Oiler

GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clamshell - 3 yds. & over; crane, rigs or piledrivers, 100' to 150' of boom (incl. jib); hoists - each additional active drum over 2 drums

GROUP VI - Tandem scoop operator; crane, rigs or piledrivers, 150' to 200' of boom (incl. jib)

GROUP VII - Crane, rigs or piledrivers 200 ft of boom or over (incl. jib)

POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8

GROUP I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; automatic slipform paver; autograder; backhoe; blade operator, - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launchhammer wheel; locomotive operator - standard gauge; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operator; quad-trac; shovel operator; sideboom cats; skimmer scoop operator all types; trenching machine operator; truck crane.

GROUP II - A-frame; aspahlt hot mix silo; asphalt plant fireman (drum or boiler); asphalt roller operator; asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-greene loader; boat operator (bridge & dams); chip spreader; compressor maintenance operator - 2; concrete mixer operator - skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor, pavement breaker; power-broom - self-propelled; power shield; rooter; slip form finishing machine; stumpcutter machine; side discharge concrete spreader; throttle man; tractor operator (over 50 hp); welding machine maintenance operator - 2 winch truck

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POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8 CONTD:

GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; clef plane operator; compressor maintenance operator - 1; concrete saw operator (self-propelled); conveyor operator; curb finishing machine; distributor operator; finishing machine operator; fireman rig; flex plane operator; float operator; form grader operator; generator-maintenance operator; light plant maintenence operator; maintenance operator; oiler driver; pugmill operator; pump maintenance operator other than dredge; roller operator, other than high type asphalt; screening & washing plant operator; siphons & jets; subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination boiler & booster); ulmac, ulric or similar spreader; vibrating machine operator; welding machine maintenance operator - 1; tractor operator (50 hp or less)

GROUP IV - Oiler

GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clam-shell - 3 yds. & over; crane, rigs or piledrivers, 100' to 150' of boom (incl. jib), hoists - each additional active drum over 2 drums

GROUP VI - Tandem scoop operator; crane, rigs or piledrivers, 150' to 200' of boom (incl. jib)

GROUP VII - Crane rigs, or piledrivers 200 ft. of boom or over (incl. jib)

GROUP VIII - Oiler - drivers

AREAS COVERED BY POWER EQUIPMENT OPERATORS ZONES

ZONE 1 - Clay, Jackson, Platte and Ray Counties

ZONE 2 - St. Louis City & County

ZONE 3 - Franklin, Jefferson, Lincoln, St. Charles, and Warren Counties

ZONE 4 - Adair, Audrain, Bollinger, Boone, Butler, Callaway, Cape Girardeau, Carter, Clark, Cole, Crawford, Dent, Dunklin, Gascoande, Howell, Iron, Knox, Lewis, Macon, Maddison, Marion, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Oregon, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Francois, Ste. Genevieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Texas, Washington, and Wayne Counties

ZONE 5 - Buchanan, Cass, Clinton and Lafayette Counties

ZONE 6 - Andrew, Atchison, Bates, Benton, Caldwell, Carroll, Chariton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Johnson, Linn, Livingston, Mercer, Nodaway, Pettis, Saline, Sullivan and Worth Counties

ZONE 7 - Christian, Greene, Lawrence and Taney Counties

ZONE 8 - Barry, Barton, Camden, Cedar, Dade, Dallas, Douglas, Hickory, Laclede, McDonald, Newton, Ozark, Polk, St. Clair, Stone, Vernon Webster and Wright Counties

DECISION NO. M076-4191

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or - Appr. Tr.
ZONE 1 - St. Louis City and County					
GROUP 1	6.99	a	b	c&d	
GROUP 2	7.19	a	b	c&d	
GROUP 3	7.29	a	b	c&d	

FOOTNOTES:

a - Employer contribution of $12.50 per week

b - Employer contribution of $12.50 per week

c - Paid Holidays; New Year's Day, Thanksgiving Day, Memorial Day, Independence Day, Friday after Thanksgiving Day, Labor Day, Veternas Day, Christmas.

d - Paid vacation of 3 days for 600 hours of service in any one contract year;
4 days paid vacation for 800 hours of service in any one contract year;
5 days paid vacation for 1,000 hours of service in any one contract year

CLASSIFICATION DEFINITIONS

GROUP 1 - Truck or trailers of a water level capacity of 11.99 cu. yds. or less for lift trucks, job site ambulances, pick-up trucks, flat bed trucks

GROUP 2 - Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace & similar equipment of same capacity

GROUP 3 - Truck or trailers of a water level capacity of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom trucks & similar equipment of same capacity

DECISION NO. M076-4191

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2					
GROUP 1	8.59	.50	1.00	.75	
GROUP 2	8.79	.50	1.00	.75	
GROUP 3	9.10	.50	1.00	.75	
GROUP 4	9.25	.50	1.00	.75	
GROUP 5	8.365	.50	1.00	.75	

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - One team; station wagons; pickups, material, single axle; tank wagon, single axle

GROUP 2 - Two teams; material tandem; semi-trailers, winch, fork distributor drivers and operators, agitator and transit mix, tank wagon, tandem or semi-trailers, insley wagons, dump, excavating, 5 cu. yds, & over, dumpsters, half-tracks, speedace, euclids and other similar excavating equipment

GROUP 3 - A-frame, low boy, boom

GROUP 4 - Mechanics & welders

GROUP 5 - Mechanic's helpers, oilers, & greasers

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 2 - Clay, Jackson, Platte and Ray Counties

DECISION NO. M076-4191

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ZONE 3					
GROUP 1	10.90				
GROUP 2	11.05				
GROUP 3	11.12				
GROUP 4	11.02				
GROUP 5	10.80				
ZONE 4					
GROUP 1	10.20				
GROUP 2	10.35				
GROUP 3	10.42				
GROUP 4	10.31				
GROUP 5	10.10				
ZONE 5					
GROUP 1	9.69	.50	1.00		
GROUP 2	9.84	.50	1.00		
GROUP 3	9.91	.50	1.00		
GROUP 4	9.80	.50	1.00		
GROUP 5	9.59	.50	1.00		
ZONE 6					
GROUP 1	8.83	.50	.75		
GROUP 2	8.98	.50	.75		
GROUP 3	9.10	.50	.75		
GROUP 4	8.99	.50	.75		
GROUP 5	8.73	.50	.75		
ZONE 7					
GROUP 1	8.10	.50	1.00		
GROUP 2	8.25	.50	1.00		
GROUP 3	8.37	.50	1.00		
GROUP 4	8.26	.50	1.00		
GROUP 5	8.00	.50	1.00		

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POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8 CONTD:

GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; clef plane operator; compressor maintenance operator - 1; concrete saw operator (self-propelled); conveyor operator; curb finishing machine; distributor operator; finishing machine operator; fireman rig; flex plane operator; float operator; form grader operator; generator-maintenance operator; light plant maintenence operator; maintenance operator; oiler driver; pugmill operator; pump maintenance operator other than dredge; roller operator, other than high type asphalt; screening & washing plant operator; siphons & jets; subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination boiler & booster); ulmac, ulric or similar spreader; vibrating machine operator; welding machine maintenance operator - 1; tractor operator (50 hp or less)

GROUP IV - Oiler

GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clam-shell - 3 yds. & over; crane, rigs or piledrivers, 100' to 150' of boom (incl. jib), hoists - each additional active drum over 2 drums

GROUP VI - Tandem scoop operator; crane, rigs or piledrivers, 150' to 200' of boom (incl. jib)

GROUP VII - Crane rigs, or piledrivers 200 ft. of boom or over (incl. jib)

GROUP VIII - Oiler - drivers

AREAS COVERED BY POWER EQUIPMENT OPERATORS ZONES

ZONE 1 - Clay, Jackson, Platte and Ray Counties

ZONE 2 - St. Louis City & County

ZONE 3 - Franklin, Jefferson, Lincoln, St. Charles, and Warren Counties

ZONE 4 - Adair, Audrain, Bollinger, Boone, Butler, Callaway, Cape Girardeau, Carter, Clark, Cole, Crawford, Dent, Dunklin, Gascoande, Howell, Iron, Knox, Lewis, Macon, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Oregon, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Francois, Ste. Genavieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Texas, Washington, and Wayne Counties

ZONE 5 - Buchanan, Cass, Clinton and Lafayette Counties

ZONE 6 - Andrew, Atchison, Bates, Benton, Caldwell, Carroll, Charlton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Johnson, Linn, Livingston, Mercer, Nodaway, Pettis, Saline, Sullivan and Worth Counties

ZONE 7 - Christian, Greene, Lawrence and Taney Counties

ZONE 8 - Barry, Barton, Camden, Cedar, Dade, Dallas, Douglas, Hickory, Laclede, McDonald, Newton, Ozark, Polk, St. Clair, Stone, Vernon Webster and Wright Counties

DECISION NO. MO76-4191

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - St. Louis City and County					
GROUP 1	6.99	a	b	c&d	
GROUP 2	7.19	a	b	c&d	
GROUP 3	7.29	a	b	c&d	

FOOTNOTES:

a - Employer contribution of $12.50 per week

b - Employer contribution of $12.50 per week

c - Paid Holidays; New Year's Day, Thanksgiving Day, Memorial Day, Independence Day, Friday after Thanksgiving Day, Labor Day, Veternas Day, Christmas.

d - Paid vacation of 3 days for 600 hours of service in any one contract year;
4 days paid vacation for 800 hours of service in any one contract year;
5 days paid vacation for 1,000 hours of service in any one contract year

CLASSIFICATION DEFINITIONS

GROUP 1 - Truck or trailers of a water level capacity of 11.99 cu. yds. or less for lift trucks, job site ambulances, pick-up trucks, flat bed trucks

GROUP 2 - Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace & similar equipment of same capacity

GROUP 3 - Truck or trailers of a water level capacity of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom trucks & similar equipment of same capacity

DECISION NO. MO76-4191

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2					
GROUP 1	8.59	.50	1.00	.75	
GROUP 2	8.79	.50	1.00	.75	
GROUP 3	9.10	.50	1.00	.75	
GROUP 4	9.25	.50	1.00	.75	
GROUP 5	8.365	.50	1.00	.75	

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - One team; station wagons, pickups, material, single axle; tank wagon, single axle

GROUP 2 - Two teams; material tandem, semi-trailers, winch, fork distributor drivers and operators, agitator and transit mix, tank wagon, tandem or semi-trailers, insley wagons, dump, excavating, 5 cu. yds, & over, dumpsters, half-tracks, speedace, euclids and other similar excavating equipment

GROUP 3 - A-frame, low boy, boom

GROUP 4 - Mechanics & welders

GROUP 5 - Mechanic's helpers, oilers, & greasers

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 2 - Clay, Jackson, Platte and Ray Counties

DECISION NO. MO76-4191

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ZONE 3					
GROUP 1	10.90				
GROUP 2	11.05				
GROUP 3	11.12				
GROUP 4	11.02				
GROUP 5	10.80				
ZONE 4					
GROUP 1	10.20				
GROUP 2	10.35				
GROUP 3	10.42				
GROUP 4	10.31				
GROUP 5	10.10				
ZONE 5					
GROUP 1	9.69	.50	1.00		
GROUP 2	9.84	.50	1.00		
GROUP 3	9.91	.50	1.00		
GROUP 4	9.80	.50	1.00		
GROUP 5	9.59	.50	1.00		
ZONE 6					
GROUP 1	8.83	.50	.75		
GROUP 2	8.98	.50	.75		
GROUP 3	9.10	.50	.75		
GROUP 4	8.99	.50	.75		
GROUP 5	8.73	.50	.75		
ZONE 7					
GROUP 1	8.10	.50	1.00		
GROUP 2	8.25	.50	1.00		
GROUP 3	8.37	.50	1.00		
GROUP 4	8.26	.50	1.00		
GROUP 5	8.00	.50	1.00		

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CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - Flat bed trucks - single axle; station wagon; pickup trucks; material trucks - single axle; tank wagon - single axle
GROUP 2 - Flat bed trucks - tandem axle; material trucks, tandem axle; tank wagon - tandem axle
GROUP 3 - Semi and/or pole trailers; winch fork and steel trucks; Insley wagons, dumpsters, half tracks, speedace, euclids, and other similar equipment, a-frame and derrick trucks, float or low boy, distributor drivers and operators, tank wagon, semi-trailer
GROUP 4 - Agitator and transit mix trucks
GROUP 5 - Warehouseman

AREAS COVERED BY TRUCK DRIVERS ZONES

ZONE 3 - Franklin, Jefferson and St. Charles Counties
ZONE 4 - Lincoln and Warren Counties
ZONE 5 - Buchanan, Cass, Johnson and Lafayette Counties
ZONE 6 - Andrew, Audrain, Barton, Bates, Benton, Bollinger, Boone, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cedar, Charlton, Christian, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Dent, Douglas, Gasconade, Greene Henry, Hickory, Howard, Iron, Laclede, Lawrence, Linn, Livingston Macon, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Newton, Osage, Pemiscot, Perry, Pettis, Phelps, Pike, Polk, Pulaski, Ralls, Randolph, Reynolds, St. Clair, St. Francois, Ste. Genevieve, Saline, Scott, Shannon, Shelby, Stoddard, Texas, Vernon, Washington, Wayne, Webster, and Wright Counties
ZONE 7 - Adair, Atchison, Barry, Butler, Clark, Dunklin, Gentry, Grundy, Harrison, Holt, Howell, Knox, Lewis, McDonald, Mercer Nodaway, Oregon, Ozark, Putnam, Ripley, Schuyler, Scotland, Stone, Sullivan, Taney, and Worth Counties

SUPERSEDEAS DECISION

STATE: Tennessee COUNTY: Shelby
DECISION NUMBER: TN76-1131 DATE: Date of Publication
Supersedes Decision No.: TN76-1116 dated October 8, 1976, in 41 FR 44658
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy, Water, Sewer and Utility Construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	11.20	.45	.50		.02
Boilermakers	9.50	.75	1.00		.02
Bricklayers, Stonemasons	9.85	.43	.20		.10
Carpenters, Piledrivermen, Soft floor layers	9.25	.30	.30		.065
Cement masons:					
Cement masons	8.875	.45	.55		.10
Cement masons machine operator	9.125	.45	.55		.10
Electricians:					
Electricians, Linemen	9.53	.75	1%+.40		.5%
Cable splicers	9.63	.75	1%+.48		.5%
Elevator constructors	9.43	.495	.32	4%+a+b	.02
Elevator constructors' helpers	70%JR	.495	.32	4%+a+b	.02
Elevator constructors' helpers (Prob.)	50%JR				
Glaziers	9.20	.35	.20		
Ironworkers	9.15	.65	.60		.125
Lathers	9.30	.25			.01
Leadburners	10.50	.40	.25	c	.01
Line Construction:					
Linemen	9.53	.75	1%+40		3/8%
Special Equipment operator	7.15	.75	1%+40		3/8%
Cable splicer	9.63	.75	1%+40		3/8%
Groundmen:					
1st year	3.81	.75	1%+40		3/8%
2nd year	4.77	.75	1%+40		3/8%
Marble setters, Terrazzo workers tile setters	8.20	.45	.20		.05
Marble setters helpers, Terrazzo setters helpers, Tile setters helpers	4.05				
Millwrights	9.55	.46	.30		.06
Painters:					
Commercial	8.85	.40	.45		.06
Industrial	9.10	.40	.45		.06
Plasterers	9.65				.01
Plumbers	10.37	.40	.30		
Roofers:					
Composition	9.10		.25		.03
Slate, tile, asbestos & precast tile	9.35		.25		.03
Sheet metal workers	9.71	3%+.55	.25	.25	.02
Sprinklers	10.10	.60	.90		.08
Steamfitters, air conditioning mechanics and pipefitters	10.47	.30	.30		
Truck drivers:					
Up to 5 tons	6.10		d		
5 tons & over incl., special equipment	6.50		d		
Welders, riggers, & riveters receive rate prescribed for craft performing operation to which welding is incidental.					

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PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day F-Christmas Day

FOOTNOTES:

a. 6 paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Employer contribution of $5.00 per week.

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TN76-1131 - (Cont'd)

BUILDING CONSTRUCTION LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	6.125	.25	.30		.05
GROUP B	6.225	.25	.30		.05
GROUP C	6.275	.25	.30		.05
GROUP D	6.475	.25	.30		.05
GROUP E	6.675	.25	.30		.05
GROUP F	6.80	.25	.30		.05

GROUP A: General and common laborers, concrete laborers, track laborer walkers, cement finisher helper, plumber helpers, carpenters tenders, asphalt rakers tampers, form strippers, roofing helpers.

GROUP B: Well driller helpers, storm and sanitary pipe layers, mat weavers, motor buggie operators.

GROUP C: Chain saw operator, jackhammer, vibrator and electric hammer and all air tool and pneumatic tools.

GROUP D: Deep hole man

GROUP E: Powdermen, toolroom attendant, torchman on demolition and salvage, sand hog (free air).

GROUP F: Hod carriers, mason tenders and plasterers tenders.

TN76-1131 - (Cont'd)

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	8.925	.40	.50		
CLASS B	8.495	.40	.50		
CLASS C	7.795	.40	.50		
CLASS D	7.395	.40	.50		

CLASS A: Shovels, backhoes, draglines, cranes, gantrys, gradall, winch with boom, motor patrol, trenching machine (18" & over), pile driver, tug boat operator, mechanics (heavy), central mixing plant, locomotive engineer, etrattle carriers, core drills (over 3"), tower cranes, hydro cranes, austin western (and similar type cranes), drilling of piling, tugger, earth freezing equipment, 3 drum hoist, side boom, dredge operator (engineer), hopto, pump crete, mucking machines, cableways, central compressor plant, derrick boat, concrete pump, welders (men from the craft), helicopter operator, well point system, sweeper, bulldozers, pans, scrapers, traxcavators, fork lift, front end loader.

CLASS B: Trenching machinee (18" and smaller), tandem rollers, pavers, mobile mixers (rubber tired, mobile, mixed on job), back filler, blade graders, dinkey operator (over 10 tons, elevating graders, winches (operated from trucks or tractors, without booms and powered by other than the truck), distributors, bituminous surfaces, 1 and 2 drum hoist, grout pumps, motor boat, switchman, earth compactors (motorized-Buffalo-Springfield type)

CLASS C: Locomotive fireman (on boilers 100 h.p. and over), operator, air compressor (stationary), earth drills, scale operators, tractors (40 h.p. and less), motor crane driver and oiler, pumps (larger than 4"), dinkey operators (10 tons and less), oilers or gantrys, greasers

CLASS D: Air compressor operator, mechanic helper, locomotive fireman, welding machine operators, deck hand, elevator operators.

TN76-1131 (Cont'd)

HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	6.40				
Carpenters or leadsman	5.35				
Cement masons	5.35				
Electricians	6.15				
Ironworkers, reinforcing	5.10				
Ironworkers, structural	5.70				
Laborers:					
Laborers, unskilled, Flagman Chain saw, Concrete rubber,	3.25				
Mortar mixer, Pipclayer	3.50				
Air tool operator, firemen	3.55				
Concrete edger	3.65				
Concrete saw operator, fence erector, guard rail erector	3.75				
Asphalt raker	3.85				
Sign erector	3.95				
Form setter, Steel road	4.25				
Powderman	4.55				
Nozzleman or gunman (gunite)	5.35				
Painters or sand blaster	5.35				
Truck drivers:					
2 & 3 axles	3.65				
4 & 5 axles or more or heavy duty off-the-road trucks	4.30				
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Pump operator, welder helper	3.40				
Ditch paver, mechanic helper	3.55				
Curb machine	3.65				
Motor crane driver, muloher or seeder, scals operator	3.75				
Tractor, farm	3.80				
Concrete mixer, less than 1 yd, Earth drill	3.85				
Track drill	4.00				
Dozer or loader - stock pile only	4.10				
Oiler, roller, other than finish	4.15				

TN76-1131 - (Cont'd)

POWER EQUIPMENT OPERATORS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Distributors (bituminous)	4.35				
Tractor, crawler, utility	4.40				
Spreader (self-propelled)	4.50				
Asphalt paver, central mixing (asphalt or conorete), Concrete finishing machine, mechanic, Class II, Motor patrol (rough), Roller (high-type), Soil cement machine	4.65				
Tractor - boom & hoist, trenching machine	4.80				
Bulldozer or push dozer, scraper	5.25				
Backhoe, concrete paver, Cranes, end loader, Mechanic, Class I, Motor patrol finish, pile-driver, Shovel	5.35				

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TN76-1131 - (Cont'd)

WATER, SEWER AND UTILITIES	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	Apprentice Tr.	Others
Bricklayers	$3.50					
Carpenters	3.50					
Cement masons	3.00					
Laborers	2.30					
Truck drivers:						
Up to 3 tons	2.32					
Over 3 tons	2.50					
Power Equipment Operators:						
Air compressors	2.37					
Backhoe	3.50					
Blade grader	3.50					
Bulldozer	3.45					
Cranes, derricks & draglines	3.85					
Front end loader	3.50					
Mechanics	3.42					
Motor grader	3.50					
Scrapers	3.34					
Shovels	3.50					
Tractors	2.37					
Trenching machines	3.30					

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX76-4192
Supersedes Decision No. TX76-4106, dated July 2, 1976, in 41 FR 27649.
DESCRIPTION OF WORK: Building (including Residential) Construction

COUNTIES: Jefferson & Orange
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Jefferson County	$10.00	.70	.70		.06
Orange County	9.845	.475	.70		.04
BOILERMAKERS	9.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	11.005	.38	.30		.04
CARPENTERS:					
Carpenters:					
Commercial	9.685		.30		.05
Residential construction of not more than two units and condominium townhouses of not more than 6 units, excluding all apartments construction and multiple buildings for rental purposes	7.45		.30		
Millwrights	8.605				
Piledrivermen	7.96		.30		
CEMENT MASONS	9.30				
ELECTRICIANS	10.80	.40	1%+.285		.06
ELEVATOR CONSTRUCTORS	9.76	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROM.)	50%JR				
GLAZIERS:					
Northern half of Jefferson Co. Southern half of Jefferson Co. & all of Orange Co.:	9.075				
Commercial	9.40				
Residential	9.25				
IRONWORKERS	9.10	.55	.85		.10
LABORERS:					
GROUP 1 - Common laborer; asphalt ironer & raker; sand blaster, exclusive of preparation for painters; dumper, spotter & wagon drill; powderman-blaster; well driller	6.25	.28	.40		.02
GROUP 2 - Carpenter tender	6.30	.28	.40		.02
GROUP 3 - Cement masons tender; air tool operator (jackhammer-vibrator)	6.35	.28	.40		.02

DECISION NO. TX76-4192

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
GROUP 4 - Plaster & lather tender; pipelayers, non-metallic pipe, including handling & laying pumperete pipe	$ 6.45	.28	.40		.02
GROUP 5 - Mortar mixers, hod carriers & mason tender	6.50	.28	.40		.02
GROUP 6 - Machine man & nozzleman for gunniting 1½" & over	6.625	.28	.40		.02
LATHERS	9.385	.30			.01
LINE CONSTRUCTION:					
Linemen	11.085	.40	1%		1/2%
Groundmen	8.09	.40	1%		1/2%
PAINTERS:					
Southern half of Jefferson County and all of Orange County:					
GROUP 1 - Brush, wood & wall, paperhanger:					
Commercial	9.40				
Residential	9.25				
GROUP 2 - Brush, steel:					
Commercial	9.45				
Residential	9.30				
GROUP 3 - Spray:					
Commercial	9.90				
Residential	9.77				
GROUP 4 - Sandblaster, power cleaning; All time spent rigging:					
Commercial	9.725				
Residential	9.51				
GROUP 5 - Brush, hot paint or creosote:					
Commercial	10.15				
Residential	9.51				
GROUP 6 - Spray, hot paint or creosote:					
Commercial	10.65				
Residential	10.04				
Twenty-five cents (25c) per hour premium on all work from stage, chair, window jack or ledge in all classifications					

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DECISION NO. TX76-4192

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Northern half of Jefferson County:					
GROUP 1 - Brush:					
Commercial	$ 9.175				
Residential	8.925				
GROUP 2 - Paper & vinyl hanger:					
Commercial	9.425				
Residential	9.175				
GROUP 3 - Brush, steel:					
Commercial	9.35				
GROUP 4 - Spray:					
Commercial	9.60				
Residential	9.35				
Twenty-five cents (25c) per hour above the prevailing wage rate when working on window jacks or ledge, swing stage, bosun chair, cat walks, spiders & skates in all classifications					
PIPEFITTERS	9.86	.35	.72		.08
PLASTERERS	9.70	.52	.30		.02
PLUMBERS	10.52	.30			.03
ROOFERS:					
Roofers	8.49	.20	.25	.25	.03
Kettlemen	7.92	.20	.25	.25	.03
Helpers	5.52	.20	.25	.25	.03
SHEET METAL WORKERS:					
Commercial	9.50	3%+.40	.27		.10
Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apartment is individually conditioned by a separate & independent unit or system	6.38	3%+.40	.27		.10
SPRINKLER FITTERS	10.90	.60	.90		.08
TILE SETTERS	9.495	.38	.30		.04

DECISION NO. TX76-4192

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons & wash, grease, fireman, fuel pump operators when used on construction	$ 4.40				
GROUP 2 - 1½ tons thru 2½ tons, dump truck less than 7 yds., town driver	4.69				
GROUP 3 - Over 2½ tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards & when used to transport material), floats, hydraulic tail gate lifts	4.85				
GROUP 4 - Euclids (not self-loading)	4.95				
GROUP 5 - Warehousemen-material checker	4.965				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX76-4192

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$10.035		.25		
GROUP 2	8.50		.25		
GROUP 3	7.88		.25		
GROUP 4	7.69		.25		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grade, Self-propelled; Bull Clam; Back Filler; Derrick - Power Operated, all types; Draglines; Push Cat Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Rack-Hoe; Shovel; Crane-Power Operated, all types; Elevating Grader, Self-propelled; Hoist - motor driven, two drums or more; Mix mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Piledrivers; Scraper - heavy type, over 3 cu. yds.; Trench Machine, all sizes; Cradall; High-Lift; Foundation Drilling Machines; Gasoline or Diesel driven welding machines - 7 to 12 machines; Concrete Machine; Drill Operator - Water Well; DW-10 Euclid; Tournapulls; Asphalt Plants; Crushing Machines and Batch-plants; Scoopmobiles; Pingerlift Operator; Elevator when used to haul men or material on construction work; Well Point Systems & operation of similar dewatering devices

GROUP 2 - Air Compressor; Blade Grade - Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pump, Pulsometer; Truck Crane Driver; Gasoline or Diesel Driven Welding Machines, 3 to 6 machines; Hoist - Single Drum; Scraper, 3 cu. yds. or less; Conveyors - power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Ashland, Bayfield and Douglas

DECISION NUMBER: WI76-2157

DATE: Date of Publication

Supersedes Decision No. AR-3151, dated October 11, 1974 in 39 FR 36706

DESCRIPTION OF WORK: Building (including residential) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.70	.30	.25	1.00	
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS	9.56	.45	.45		.01
CARPENTERS: Ashland County	7.94	.30	.25	.15	
Bayfield & Douglas Cos	9.05	.30	.40	.30	
CEMENT MASONS: Douglas County	9.65	.30			
Ashland & Bayfield Counties	8.74	.45	.45		.01
ELECTRICIANS	10.15	4%	1%	11%	3%
ELEVATOR CONSTRUCTORS:					
Constructors	9.325	.495	.32	4%+a+b	.02
Helpers	70%JR	.495	.32	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	10.50	.30	.55	.10	.02
LATHERS	10.00	.30			.04
LEADBURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	9.37	.35	1%		.5%
Digger, crane, tractor, winch truck operators	7.77	.35	1%		.5%
Truck tractor & line trucks w/o winch	6.16	.35	1%		.5%
Experienced Groundman	5.88	.35	1%		.5%
MILLWRIGHTS & PILEDRIVERMEN:					
Ashland County	8.14	.30	.25	.15	
Bayfield & Douglas Counties					
Millwrights	9.28	.30	.40	.30	
Piledrivermen	9.05	.30	.40	.30	
PAINTERS:					
Brush	9.63	.30	.20		.05
Spray	10.13	.30	.20		.05
PLASTERERS	9.65	.30		.45	
PLUMBERS	8.46	.30	.75	1.00	.05
ROOFERS	9.23	.30	.25	1.00	
SHEET METAL WORKERS	9.60	.62	.40		.03
SOFT FLOOR LAYERS	9.05	.30	.40	.30	
SPRINKLER FITTERS	11.40	.60	.90		.08
TERRAZZO WORKERS	9.56	.45	.45		.01
TILE SETTERS	9.56	.45	.45		.01
Welders receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. WI76-2157

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years

c. Holidays: A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, regularly scheduled work days immdiately preceding and following the holiday.

DECISION NO. WI76-2157

WISC. 18 - LAB G

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GENERAL LABOR:					
Handling of material for carpenters, craftsmen, cleaning forms, rough, grading, digging shallow trenching, tool checkers, general labor around building & construction work	$ 8.05	.30	.35		
CONCRETE WORK:					
Concrete, bituminous concrete aggregates for walls, footings, foundations, floors, any other const. Mixing, handling, conveying, pouring, vibrating, gunniting, etc. Operating motorized wheelbarrows, buggies or machine of similar character, the hooking on, signaling, dumpling & unhooking of bucket when concrete or aggregates are conveyed by crane, derrick, or similar method. Placing of concrete or aggregates, Assembly, uncoupling cleaning, etc. of equipment used in mixing or conveying concrete, aggregates or mortar, all vibrating, grinding, spreading, flowing, puddling, leveling and strike-off of concrete or aggregates by floating, rodding or screening, Loading, unloading, etc., of prestressed or pre-cast concrete, slabs, wall, etc. Mixing, handling, conveying, placing & spreading of grout, cutting of concrete or aggregate	8.05	.30	.35		
Jackhammer, concrete busters, air spades, sheeting drivers, air hammers, jumping jack tamper	8.30	.30	.35		
Vibrators, macon tenders, tile & terrsso helpers demolition & wrecking laborers, Lanscaping	8.05	.30	.35		

DECISION NO.WI76-2157

WISC. 18 LAB G

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CONCRETE WORK: (CONT'D)					
Steel burners & steel form setters, mixing by hand for two or more bricklayers, hod carriers & plaster laborers	$ 8.30	.30	.35		
Mixing by hand for one bricklayer, operator of power machinery used in cleaning brick roofing helper & kettlemen, jack men on slip forms, underpinning, lagging, bracing, propping, shoring and all basement work etc.	8.05	.30	.35		
Miners, shafts, tunnels, underground sewers, drilling & blasting & compressed air work under ground or in compression chamber	8.40	.30	.35		
SEWER WORK:					
Pipelayers, cement manhole builder	8.30	.30	.35		
Bottom man and bracers, caulker & joint man, swamper on a pipe gang, buffing machine man	8.20	.30	.35		
Kettlemen, top man	8.05	.30	.35		
DYNAMITE MAN	8.50	.30	.35		
Handling creosoted lumber, pileing square timber & like material where covered with creosote applying bit, or creosote on wood, steel or cement	8.30	.30	.35		
Work on towers or scaffolds 25 ft. or more above ground	8.30	.30	.35		
BITUMINOUS WORKER:					
Dumper, ironer, smoother, shoveler, loader, utility man Raker, luteman	8.20	.30	.35		
STEEL WORK:					
Handling of all rods, mesh & material for use in reinforcing concrete const. hoisting rods, mesh & other materials except when a derrick or outrigger operated by other than hand is used	8.05	.30	.35		

DECISION NO. WI76-2157

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 10.02	.70	.70		.10
GROUP II	9.77	.70	.70		.10
GROUP III	9.47	.70	.70		.10
GROUP IV	9.37	.70	.70		.10
GROUP V	9.16	.70	.70		.10
GROUP VI	8.92	.70	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshella, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin — COUNTIES: Barron, Dunn, Polk & St. Croix Counties

DECISION NUMBER: WI76-2158 — DATE: Date of Publication

Supersedes Decision No. AR-3152, dated October 11, 1974 in 39 FR 36823

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

49-Wisconsin B

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.57	.51	.65		.02
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS	9.19	.55	.25		.04
CARPENTERS:					
Carpenters	9.20	.30	.40		.03
Millwrights & Piledrivermen	9.60	.30	.40		.03
CEMENT MASONS	9.19	.55	.25		.04
ELECTRICIANS: (Hudson, St Joseph & Troy Twps. in St. Croix Co.	10.05	5 3/4%	4%	11¼%	¼%
ELECTRICIANS (Remainder of Area)	10.35	5%	1%		
ELEVATOR CONSTRUCTORS:					
Constructors	10.345	.545	.35	4%+a+b	.02
Helpers	7.24	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS: Structural, Ornamental and Reinforcing	10.35	.55	.55		.02
LABORERS:					
Laborers, common	7.24	.30	.30		.02
Mason Tender	7.24	.30	.30		.02
Mortar mixer & plasterer laborer, air, gas & electric equipment, vibrator operator, Kettlemen, dumpmen & pittmen, Burner on wrecking, Scaffold builder & washing walls on swinging scaffold	7.39	.30	.30		.02
Gunnite man & nozzle men, puddlers (when concrete pumps & when working behind paving machine), Cement dumper	7.39	.30	.30		.02
Jackhammer	7.49	.30	.30		.02
LABORERS:					
Western ½ OF County	8.51	.50	.40	.01	.08
Eastern ½ of County	9.30				
LEADBURNERS	9.25	.35		a	.01
LINE CONSTRUCTION:					
Linemen	9.37	.35	1%		.5%
Heavy Truck Driver	6.46	.35	1%		.5%
Light Truck Driver	6.16	.35	1%		.5%
Groundmen 1st 6 Months	5.09	.35	1%		.5%
Equipment Operator	7.77	.35	1%		.5%
Groundmen - Thereafter	5.88	.35	1%		.5%

DECISION NO. WI76-2158

49 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	$ 8.15			5%	
Structural Steel	8.40			5%	
Sandblaster & Spray	8.65			5%	
Swing Stage	8.40			5%	
PLASTERERS	8.73	.45	.25	.60	.02
PLUMBERS & STEAM FITTERS	9.47	.45	.60	1.00	
ROOFERS	9.32			3%+.10	.03
SHEET METAL WORKERS	9.60	.62	.40		
SPRINKLER FITTERS	8.00	.25			.05
TRUCK DRIVERS:					
Two axle	7.40	g	h	.20	
3 or more axles	7.50	g	h	.20	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:

A. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Holidays A through F

c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas eve, providing employee has worked 45 full dyas during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.

g. $14.25 per week for each employee.

h. $12.00 per week for each employee

DECISION NO. WI76-2158-

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 10.02	.70	.70		.10
GROUP II	9.77	.70	.70		.10
GROUP III	9.47	.70	.70		.10
GROUP IV	9.37	.70	.70		.10
GROUP V	9.16	.70	.70		.10
GROUP VI	8.92	.70	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Conorete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Porklift (12' to 25'), Tampers-compactors riding type),Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Pitemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric),Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Brown, Door, Kewaunee & Oconto

DECISION NUMBER: WI76-2160

DATE: Date of Publication

Supersedes Decision No.AR-3153, dated October 11, 1974 in 39 FR 36825

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

5 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.66	.45	.20	.65+c	.03
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & MARBLE SETTERS & STONEMASONS	8.15	.45	.35	.55	.02
CARPENTERS	8.82	.30	.40		.02
CEMENT MASONS	8.20	.45	.35		.02
ELECTRICIANS	10.26	.52	1%		1/8%
ELEVATOR CONSTRUCTORS:					
Constructors	10.04	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS:					
Structural, Ornamental & Reinforcing	10.06	.95	.70	1.15	.15
LATHERS	8.15	.50		.50+a	.01
LEADBURNERS	8.75		.30		.01
MILLWRIGHTS & PILEDRIVERMEN	9.22	.30	.40		.03
PAINTERS:					
Brush	7.95	.60			
Structural	8.35	.60			
Spray	8.35	.60			
Swing Stage	8.35	.60			
PLASTERERS	8.15	.45	.35	.55	.02
PLUMBERS & STEAMFITTERS	10.40	.55	.90		.03
ROOFERS: Composition	8.38			.30	
SHEET METAL WORKERS	9.01	.50	.30	.90	
SOFT FLOOR LAYERS	8.82	.30	.40		.03
TERRAZZO WORKERS & TILE SETTERS	8.15	.45	.35	.55	.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. WI76-2160 5 - Wisconsin

PAID HOLIDAYS:
A-New Year's Day B-Memorial Day; D-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:

a. Holidays, a through F

b. Employer contributes 4% regularly hourly rate tO vacaion pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employer who has worked in businesss less than 5 years

c. .05 holiday pay.

DECISION NO. WI76-2160

Wisconsin 15 - Lab

BUILDING CONSTRUCTION

LABORERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 7.28	.30	.30		.02
CLASS II	7.33	.30	.30		.02
CLASS III	7.48	.30	.30		.02

CLASS I - Construction laborers, form stripper, form oiler, form cleaner, dump men, pit men, building wrecker, plumbers laborer, motorized buggy operator, concrete laborer, air spade and chipping hammer, drag tender and signal man, concrete pumps and nozzle man, bituminous worker

CLASS II - Plasterer tender, hod carrier, dry cement handler, kettlemen, vibrator operator, slacking line, tile setter helpers, core drill operator

CLASS III - Jackhammer operator, driller, gunite men, burner on wrecking, air operated concrete breaker, sheeting driver, power tamper, fork lift operator, jumping jack, terrazzo grinder, mortar and plaster mixer, creosote worker, bob cat operator, sand blaster, welder, mud jack operator, precast erector bituminous raker and luteman

DECISION NO. WI76-2160

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 10.02	.70	.70		.10
GROUP II	9.77	.70	.70		.10
GROUP III	9.47	.70	.70		.10
GROUP IV	9.37	.70	.70		.10
GROUP V	9.16	.70	.70		.10
GROUP VI	8.92	.70	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin
COUNTIES: Columbia, Dane, Iowa & Sauk
DECISION NUMBER: WI76-2161
DATE: Date of Publication
Supersedes Decision No. AR-3155, dated October 11, 1974 in 39 FR 36829
DESCRIPTION OF WORK: Building Construction and residential construction in Dane County only.

13 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.57	.60	.70	1.00	.04
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS	9.29	.55	.60		
CARPENTERS	9.37	.30	.40		.03
CEMENT MASONS	9.35	.45	.40		
ELECTRICIANS:					
Electricians	9.95	.74	1%	7%	.75%
ELEVATOR CONSTRUCTORS:					
Constructors	10.175	.545	.35	4%+a+b	.02
Helpers	7.12	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	9.15	.40	.30	.45	.01
IRONWORKERS: Structural, ornamental & reinforcing	10.22	.50	.25		.03
BRICKLAYERS (Columbia & Sauk Cos)	9.60	.55	.30		
CEMENT MASONS (Columbia & Sauk Counties)	9.35	.55	.40		
LATHERS	9.05	.45	.20	.50	.01
LEADBURNERS	8.75		.30	c	.01
LINE CONSTRUCTION:					
Linemen	9.37	.35	1%		.5%
Digger, crane & tractor operator	7.77	.35	1%		.5%
Winch truck or truck tractor	6.46	.35	1%		.5%
Line truck w/o winch	6.16	.35	1%		.5%
Experienced groundman	5.88	.35	1%		.5%
MILLWRIGHTS & Piledriverman	9.77	.30	.30		.03
PAINTERS:					
Brush	8.69	.60	.30	.30	.01
Spray	9.44	.60	.30	.30	.01
Structural steel (brush)	8.84	.60	.30	.30	.01
Swing stage	8.94	.60	.30	.30	.01
Sandblaster	8.69	.60	.30	.30	.01
PLASTERERS (Columbia & Sauk Cos.)	9.36	.55	.40		
PLASTERERS	9.20	.45	.40	.25	
PLUMBERS	10.64	.45	.40		.3%
ROOFERS	9.80				
SOFT FLOOR LAYERS	9.37	.30	.40		.03
SPRINKLER FITTERS	8.75	.30	.40		.05
STEAMFITTERS	10.39	.45	.65		.3%
TERRAZZO WORKERS	9.25	.55	.30		
TILE SETTERS	9.00	.45	.30		
Welders receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. WI76-2161

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: AthroughF.

b. Employer contributes 4% of regular hourly rate to Vaction Pay Credit for employee who has worked in business mroe than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay credit for employee who has worked in business less than 5 years.

c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.

Wisconsin 14 - Lab A

BUILDING, SEWER, WATER, EXCAVATING AND INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Building;					
Pneumatic tool op., air hammer, jackhammer, concrete buster, sheeting driver, air spade	$ 8.78	.30	.30		.02
Vibrator, air tamper & mortar mixer	8.68	.30	.30		.02
General laborer, concrete work, form stripeers, mason tenders, building wreckers	8.53	.30	.30		.02

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DECISION NO. WI76-2161

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 10.02	.70	.70		.10
GROUP II	9.77	.70	.70		.10
GROUP III	9.47	.70	.70		.10
GROUP IV	9.37	.70	.70		.10
GROUP V	9.16	.70	.70		.10
GROUP VI	8.92	.70	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type),Asssistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric),Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin
COUNTY: Kenosha
DECISION NUMBER: WI76-2167
DATE: Date of Publication
Supersedes Decision No. AR-3159, dated October 11, 1974 in 39 FR 36837
DESCRIPTION OF WORK: Building Construction (including Residential)

30 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.57	.60	.70	1.00	.04
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.35	.40	.40		
CARPENTERS	9.85	.40	.60	.50	
CEMENT MASONS (BUILDING)	8.76	.40	.60	.50	
ELECTRICIANS	11.34	.45	1%	.25	.75%
ELEVATOR CONSTRUCTORS:					
Constructors	11.17	.545	.35	4%+a+c	.02
Helpers	7.82	.545	.35	4%+a+c	.02
Helpers (PROb.)	50%JR				
IRONWORKERS: Structural & Ornamental & Reinforcing	10.06	.95	.70	1.15	.15
MILLWRIGHTS	10.11	.40	.60		.03
LATHERS	8.23	.40	1.45		
LEADBURNERS	9.25	.30			.01
PAINTERS:					
Brush & Roller	8.575	.40	.40		
Structural STee;	8.725	.40	.40		
Spray	9.32	.40	.40		
Swing stage	8.775	.40	.40		
PILEDRIVERMEN	9.93	.40	.60		.03
PLASTERERS	8.88	.40	.40		
PLUMBERS & STEAMFITTERS	10.97	.50	.40	9.95	
SPRINKLER FITTERS	8.00	.25	.40		.05
SOFT FLOOR LAYERS-Resilient floor layer	9.95	.40	.50		.03
TERRAZZO WORKERS	9.42	.80	.60	.47	
TILE SETTERS	8.58	.50	.50	.50	

Welders - receive rate prescribed for operation to which welding is incidental.

DECISION NO. WI76-2167

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays, A through F

b. Includes .21 holidays pay

c. Employer contributes 4% of regulur hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regularly hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

d. $8.00 per week

e. Holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.

f. $7.30 per week

g. Holidays: A through F plus Christmas Eve, the day after Thanksgiving and Good Friday.

H. Additional payment of 4 hours per month plus .03 per hourly weekly for employee who has worked less than 5 years - 6-2/3 hours per month for employee who has worked 5 years or more.

Wisconsin 20 - LAB-1 H

BUILDING CONSTRUCTION LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Mason Tenders	$ 7.56	.40	.60	.60	
Plaster tender	7.72	.40	.60	.60	
Air, electric & gas tool operator	7.88	.40	.60	.60	
Jack hammer, fork lift, buggies	8.26	.40	.60	.60	

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DECISION NO. WI76-2167

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 10.02	.70	.90		.10
GROUP II	9.77	.70	.90		.10
GROUP III	9.47	.70	.90		.10
GROUP IV	9.37	.70	.90		.10
GROUP V	9.16	.70	.90		.10
GROUP VI	8.92	.70	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch buckets)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanics), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Langlade, Lincoln & Marathon

DECISION NUMBER: WI76-2168

DATE: Dateof Publication

Supersedes Decision No. AR-3161 dated October 11, 1974 in 39 FR 36841

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and gardon type apartments up to and including 4 stories)

37 - Wisconsin C

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.66	.45	.20	.65	.06
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	8.80	.45	.25		.05
CARPENTERS	8.82	.30	.40		.03
Millwrights & Piledrivermen	9.22	.30	.40		.03
CEMENTMASONS	8.30	.45	.25		
ELECTRICIANS	9.60	.45	1&	7⅛8	1/88
ELEVATOR CONSTRUCTORS:					
Constructors	10.04	.545	.35	4&+a+b	.02
Helpers	7.03	.545	.35	4&+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS: Structural, Ornamental and Reinforcing	10.22	.50	.25		.03
LABORERS: Laborers	7.28	.30	.30		.02
Air tool op. (jackhammer, vibrator)	7.48	.30	.30		.02
Mason tender and concrete worker	7.33	.30	.30		.02
Mortar mixers	7.33	.30	.30		.02
Building wrecker, form stripper and scaffold builder	7.28	.30	.30		.02
Kettle, concrete buster & gunnite men	7.48	.30	.30		.02
LATHERS (Southeastern corner of County)	8.35	.40	.50	.50	
Lathers (Western ½ of County)	9.30				
Lathers (Remainder of County)	8.15	.50		.50	
PAINTERS:					
Brush	8.50				
Spray & Structural steel	9.00				
PLASTERERS	8.80	.45	.25		.05
PLUMBERS	9.66	.50	.30	1.00+b	
ROOFERS	8.00			d	
SHEET METAL WORKERS	9.96	.45	.30		.04
SOFT FLOOR LAYERS - Resilient floor layers	8.82	.30	.40		.03
SPRINKLER FITTERS	8.00	.25	.40		.05
STEAMFITTERS	9.66	.50	.30	1.00+b	
TERRAZZO WORKERS	8.55	.45	.25		.05
TILE SETTERS	8.55	.45	.25		.05

DECISION NO. WI76-2168

37 - Wisconsin

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years. Employer contributes 2% of regularhourly rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Holidays: A through F

c. Includes .05 Holiday pay.

d. 1 week's vacation after 1 year's employment

e. $30.67 per month for eachemployee

DECISION NO. WI76-2168

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 10.02	.70	.70		.10
GROUP II	9.77	.70	.70		.10
GROUP III	9.47	.70	.70		.10
GROUP IV	9.37	.70	.70		.10
GROUP V	9.16	.70	.70		.10
GROUP VI	8.92	.70	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

[FR Doc.76-36864 Filed 12-16-76;8:45 am]

federal register

FRIDAY, DECEMBER 17, 1976

PART III:

FEDERAL MEDIATION AND CONCILIATION SERVICE

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PRIVACY ACT OF 1974

Systems of Records

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

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FEDERAL MEDIATION AND CONCILIATION SERVICE

PRIVACY ACT OF 1974

Notices of Systems of Records

The purpose of this document is to give notice that the systems of records identified in the notices published in the Federal Register at 40 FR 39037 continue in effect. This notice is published in compliance with the requirement of 5 USC 552a(e)(4) as added by Section 3 of the Privacy Act—1974.

James F. Scearce,
National Director.

INDEX OF SYSTEM NAMES

System
FMCS/I Agency Internal Personnel Record—Agency Employee
FMCS/II Agency Pay Records—Agency Employee
FMCS/III Agency Personnel Security Records—Agency Employee
FMCS/IV Arbitrator Personal Data File—Arbitrator/Arbitrator Applicant

FMCS—I

System name: Agency Internal Personnel Records

System location: National Office

Federal Mediation and Conciliation Service
Washington, D.C. 20427
Region 1
Federal Mediation and Conciliation Service
2937 Federal Building
26 Federal Plaza
New York, NY 10007
Region 2
Federal Mediation and Conciliation Service
401 Mall Building
4th and Chestnut Streets
Philadelphia, PA 19106
Region 3
Federal Mediation and Conciliation Service
Suite 400
1422 W. Peachtree Street, NW.
Atlanta, GA 30309
Region 4
Federal Mediation and Conciliation Service
1525 Superior Building
815 Superior Avenue, N.E.
Cleveland, OH 44114
Region 5
Federal Mediation and Conciliation Service
1402 Dirksen Building
219 S. Dearborn Street
Chicago, IL 60604
Region 6
Federal Mediation and Conciliation Service
Chromalloy Plaza—Fifth Floor
120 S. Central
St. Louis, MO 63105
Region 7
Federal Mediation and Conciliation Service
Box 36007
450 Golden Gate Avenue
San Francisco, CA 94102
Region 8
Federal Mediation and Conciliation Service
Federal Building, Room 644
915 Second Avenue
Seattle, WA 98174

Categories of individuals covered by the system: Agency Employees

Categories of records in the system: The records in this system are Agency internal operating records used in the operation of the Agency's personnel management program. This record system contains the following files:

1. Personnel Folders—correspondence and other documents relating to employee debt, station transfer, employee evaluations, background information, and recommendations for promotion.
2. Station Transfer Requests—request forms and related documents.
3. Performance Evaluation Files—evaluations of new employees.
4. Applicant Files—where applicable, employment applications, personal resumes, correspondence relating to medical examination and conditions, qualifications or suitability for employment. documents related to verifying qualifications, rating sheet for years of qualifying experience, and interview reports of FMCS staff.
5. Employee Conduct Files—records relating to employee performance, code of conduct, and possible disciplinary/corrective action.
6. Employee Productivity Statistics—self explanatory.

Authority for maintenance of the system: Title II, Labor Management Relations Act, 1947, As Amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A. In the event that the above system of records maintained by this Agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulations or order issued pursuant thereto.

B. Information within this system of records is referred to appropriate sources from which information is requested in the course of an investigation as to suitability for initial or continued employment to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

C. Information within this system of records is referred to members of Congress to the extent necessary to answer routine letters of inquiry concerning employment applications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are stored in both locked and unlocked file cabinets, depending upon the nature of the record and availability of filing equipment. Data may be retrieved by an individual's name. Access to these records is restricted to appropriate employees of the National Office and the Regional Office. Files are retained indefinitely, subject to periodic review.

System manager(s) and address:

Director of Administration
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries in writing to the Director of Administration, FMCS at the aforementioned address. All such inquiries should include the requestor's name and any other information that may be helpful in locating the files.

Record access procedures: See Notification

Record source categories: Information is obtained directly from the individual concerned, whenever possible. However, also included is information obtained from Agency personnel and occasionally from sources outside the Agency.

Systems exempted from certain provisions of the act: In order to preserve the accuracy of information necessary for determining suitability for employment, the identity of a confidential source is exempted from disclosure under 5 USC 552 (a) (k) (5). The exemption is published in this issue of the Federal Register.

FMCS—II

System name: Agency Pay Records

System location:

Federal Mediation and Conciliation Service
Washington, D.C. 20427

Categories of individuals covered by the system: Agency Employees

Categories of records in the system: The records in this system are used to administer the agency pay system. The records in an employee's pay file may be copies of a personnel action form, tax withholding certificates, notification of check mailing address, allotment forms, health and life insurance forms, retirement forms, and the salary clearance form. The travel records consist of a request for travel, travel authorization, travel vouchers, transportation requests, authorizations, and reimbursements for expenses incurred in connection with an official change of duty station. The system also contains computer listings reflecting pay data, leave records, and time and attendance records.

Authority for maintenance of the system: 5 USC Chapters 51, 53, and 57.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are maintained in original/duplicate document form and filed by an individual's name. The files are contained in regular file cabinets, access to which is restricted to Budget and Finance Division personnel only. These records are maintained and disposed of in accordance with the Federal Property Management Regulation 101-11.4 (General Records Schedules 2, 6, and 9).

System manager(s) and address:

Director of Administration
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries to the Director of Administration, FMCS, at the aforementioned address. All such inquiries should indicate name, and any other information that may be helpful in locating the file.

Record access procedures: See above.

Record source categories: Information is obtained directly from the individual concerned.

FMCS—III

System name: Agency Personnel Security Records

System location:

Federal Mediation and Conciliation Service
Washington, D.C.

Categories of individuals covered by the system: Agency Employees

Categories of records in the system: Various information pertaining to the background investigation and issuance of clearances.

Authority for maintenance of the system: Executive Order 10450 and 10501, or other Statutory/Regulatory requirements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A. A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

B. The existence and date of security clearance are furnished to government agencies or private firms dealing in classified matters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are maintained in original/duplicate document form and filed by an individual's name. They are used by agency management officials in determining suitability for employment and in issuing security clearances. The files are contained in locked security file cabinets, access to which is restricted. The Agency Personnel Security Officer determines personnel who are authorized to review these records. These records are maintained and disposed of in accordance with the Federal Personnel Manual and the Federal Property Management Regulation 101-11.4 (General Records Schedule 18).

System manager(s) and address:

Agency Personnel Security Officer
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries to the Agency Personnel Security Officer at the above address.

Record access procedures: All inquiries relating to the Civil Service Commission background reports or national agency checks should be addressed to Director, Bureau of Personnel Investigations, U.S. Civil Service Commission, 1900 E Street, Washington, D.C. All other requests for agency security records should be directed in writing to the Director of Administration at the address provided above. All such inquiries should indicate name and any other information that may be helpful in locating the file.

Record source categories: Information is obtained directly from the individual on an application for background investigation which is furnished to the Civil Service Commission.

FMCS—IV

System name: Arbitrator Personal Data File

System location:

Federal Mediation and Conciliation Service
Washington, D.C. 20427

Categories of individuals covered by the system: Arbitrator Applicants and Arbitrators

Categories of records in the system: The first category of records consists of arbitrator applicant records (those not accepted). These records contain personal resumes, the personal data questionnaire listing education, professional background and experience, confidential and other recommendations as to acceptability, and correspondence pertaining to rejection from placement on the panel. The second category of records consists of current arbitrator files (those currently on the roster), and contain the same information as in the applicant files. In addition, such files include correspondence with an arbitrator regarding standard fee, interest in only certain cases, complaints, and other correspondence related to case handling procedures, and biographical sketches summarizing information contained in the personal data questionnaire.

Authority for maintenance of the system: Title II Labor Management Relations Act, 1947, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Biographical sketches are furnished to the parties requesting the referral of a panel of arbitrators.

They are also furnished to persons conducting research on the arbitration process in a particular area.

Data furnished by the applicant or arbitrator and other sources listed above is routinely disclosed to appropriate persons or organizations outside the agency in the course of verification or evaluation for the purpose of admittance to or retention on the roster. Data furnished by any source in the nature of a complaint or inquiry about the arbitrator's performance or qualifications are routinely referred to the appropriate person outside the agency in the course of investigating an arbitrator's eligibility for retention on the roster.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are maintained in original/duplicate document form and computer tape. In either case, they are retrieved by an individual name or identification number. Access is restricted to Office of Arbitration personnel, and Management Systems personnel on a limited basis only. These files are used for purposes of referring arbitration panels to labor/management. Presently, the files are stored in lateral file cabinets. Files on active arbitrators are maintained as long as the individual is utilized for referral of panels. Arbitrator applicant files are maintained for two years. After the two year retention period, a separate listing of rejected arbitrator applicants is prepared and the file is destroyed.

System manager(s) and address:

Director of Office of Arbitration Services
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries in writing to the Director of Administration, FMCS, or Director of Arbitration Services, FMCS, at the aforementioned address. All such inquiries should indicate name and any other information that may be helpful in locating the file.

Record access procedures: See Notification.

Record source categories: Direct from the individual, sources furnished by the individual, or obtained by FMCS.

Systems exempted from certain provisions of the act: In order to preserve the accuracy of information necessary for determining appointmeat to the roster for arbitration records, the identity of a confidential source is exempted from disclosure under 5 USC 552(a)(k)(5). The exemption is published in this issue of the Federal Register.

[FR Doc.76-35710 Filed 11-30-76;4:33 pm]

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PRIVACY ACT OF 1974

Systems of Records

The purpose of this document is to give notice that the records of the National Foundation on the Arts and the Humanities identified in notices published in the Federal Register (40 F.R. 49288) of October 21, 1975 and in the Federal Register (41 F.R. 13893) of March 31, 1976 continue in effect.

In addition, the Foundation has identified an additional system of records for which no public notice as yet has been published in the Federal Register. Consequently, in accordance with 5 U.S.C. 552a(e)(4) and (11), section 3 of the Privacy Act of 1974 (Public Law 93-579), notice is hereby given that the Foundation proposes to establish a new system of records including information concerning past and present participants in the Arts Endowment's Work Experience Internship Program.

Pursuant to 5 U.S.C. 552a(o) and guidelines for implementing the Privacy Act established by the Office of Management and Budget in OMB Circular No. 108, Transmittal Memorandum No. 1, dated September 30, 1975 and Transmittal Memorandum No. 3, dated May 17, 1976, the required "Report on New Systems" has been transmitted to the Congress, the Privacy Protection Study Commission, and the Office of Management and Budget.

Interested persons are invited to submit written comments on this notice to the Office of General Counsel, National Endowment for the Arts, 2401 E Street, NW., Washington, D.C. 20506. All written comments received on or before January 17, 1977, will be considered by the Foundation before adoption of a final notice.

Nancy Hanks,
Chairman, National Endowment for the Arts.

Robert Kingston,
Deputy Chairman, National Endowment for the Humanities.

ALPHABETICAL LIST OF SYSTEMS NAMES

Consultants—NFAH—1
Contracts—NFAH—2
Employee Payroll and Leave and Attendance Records and Files—NFAH—3
Equal Employment Opportunity Case File—NFAH—4
Grant Applications—NFAH/NEA—5
Grant Applications—NFAH/NEH—6
Grants to Individuals—NFAH/NEA—7
Grants to Individuals and Institutions—NFAH/NEH—8
Personnel Records—NFAH—9
Reviewer File—NFAH/NEH—10
Interns—NFAH/NEA—11

NFAH—1

System name: Consultants—NFAH—1.

System location: NEA—2401 E St. NW, Washington, D.C. 20506.

System location: NEH—806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Past and present members of the National Council on the Arts, the National Council on the Humanities, Advisory Panels to the Arts Endowment and Advisory Panels to the Humanities Endowment.

Categories of records in the system: Contains name, address and telephone number of individual. Contains compensation claims, travel diaries, notification of personnel actions, correspondence. May contain curriculum vitae and press clippings.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of Foundation consultants and their activities; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name.

Safeguards: Records are maintained in lockable drawers or file cabinets.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Director, Program Offices—NEA/NEH, Director, Program Information—NEA, Director, Public Information—NEH, Director, Planning—NEA, Secretary to the National Council on the Arts—NEA, Office of the General Counsel—NEH.

NEA—2401 E St. NW, Washington, D.C. 20506.
NEH—806 15th St. NW, Washington, D.C. 20506

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom record is maintained, newspapers and journals, Foundation employees.

NFAH—2

System name: Contracts—NFAH—2

System location: NEA—Office of General Counsel, Room 1338, 2401 E St. NW, Washington, D.C. 20506.

System location: NEH—Office of the General Counsel, Room 1000, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals who have entered into contracts with the Foundation.

Categories of records in the system: Contains contract, including name and address of contractor, specific and general contract provisions, contract amendments, correspondence, relevant backup material.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General Accounting Office audits, general congressional oversight; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 12 inch by 10 inch folders.

Retrievability: Indexed by name and number

Safeguards: Records are maintained in a lockable file cabinet.

Retention and disposal: Retained indefinitely.

System manager(s) and address: General Counsel—NEA, Room 1338, 2401 E St. NW, Washington, D.C. 20506. General Counsel—NEH, Room 1000, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Foundation employees involved in contract development, administration, and execution.

NFAH—3

System name: Employee payroll and leave and attendance records and files—NFAH—3

System location: Finance Office, NFAH, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Foundation Employees.

Categories of records in the system: Records consist of manual files containing payroll-related information for Foundation employees. Payroll and leave and attendance records and information includes many records or information also maintained in employee's official personnel folder and related files maintained in accordance with Civil Service Commission regulations and of which notice has been given by the Commission in its notice of Governmentwide systems of personnel records. Payroll and related information consists of various forms which disclose on a biweekly, year-to-date, and in some cases an annual basis, payroll and leave data for each employee relating to rate and amount of pay, leave, and hours worked, and leave balances; tax and retirement deductions; life insurance and health insurance deductions; savings allotments; savings bond and charity deductions; mailing addresses and home addresses.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.), Federal Personnel Manual and Treasury Fiscal Requirements Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to prepare payroll and to meet Government payroll recordkeeping and reporting requirements, and for retrieving and supplying payroll and leave information as required for agency needs. Civil Service Commission Notice of Governmentwide Systems of Personnel Records: "C.S.C.—General Personnel Records (Official Personnel folder and records related thereto)"; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Time and attendance files maintained on 8 inch by 5 inch cards included with other information maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name.

Safeguards: Records are maintained in a lockable file cabinet.

Retention and disposal: Records maintained for three years or until audited by the General Accounting Office.

System manager(s) and address: Finance Manager, Room 807, Shoreham Building, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

NFAH—4

System name: Equal Employment Opportunity Case File—NFAH—4.

System location: Room 812, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Foundation employees and job applicants.

Categories of records in the system: Contains transcripts, documentation concerning pre-complaint counseling activities, documentation concerning filing of complaint, written records of terms of adjustment and disposition of complaint.

Authority for maintenance of the system: Title 5 CFR Chapter I, Part 713.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Implementation of Foundation program for equal opportunity in employment and personnel operations; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Retrievable by name.

Safeguards: Maintained in lockable filing cabinets.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Equal Employment Opportunity Officer, Room 812, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Foundation employees involved in the claim or proceeding.

NFAH/NEA—5

System name: Grant Applications—NFAH/NEA—5.

System location: 2401 E St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals applying to the National Endowment for the Arts for financial assistance.

Categories of records in the system: Grant application, sample of work where appropriate.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General Administration of grant review process; statistical research; congressional oversight and analysis of trends; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 9 inch by 12 inch folders.

Retrievability: Indexed by name and number.

Safeguards: Records are maintained in a lockable file cabinet.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer, Room 1101, 2401 E St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

NFAH/NEH—6

System name: Grant Applications—NFAH/NEH—6.

System location: 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals and institutions applying to the National Endowment for the Humanities for financial assistance.

Categories of records in the system: Grant application, sample of work where appropriate.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General administration of grant review process; statistical research; congressional oversight and analysis of trends; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 9 inch by 12 inch folders.

Retrievability: Indexed by name of applicant.

Safeguards: Records are maintained in a lockable filing cabinet.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer—NEH, Room 522, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual and institution on whom the record is maintained.

NFAH/NEA—7

System name: Grants to Individuals NFAH/NEA—7.

System location: 2401 E St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals receiving grant awards (fellowships) from the National Endowment for the Arts.

Categories of records in the system: Grant application, including sample of work where appropriate, award notification letter, grant award acceptance agreement, payment schedule, relevant correspondence, final report.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General administration

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of grant review and award process; statistical research; congressional oversight and analysis of trends; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name and number.

Safeguards: Records are maintained in lockable filing cabinets.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer, Room 1101, 2401 E St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Employees involved in administration of the grant.

NFAH/NEH—8

System name: Grants to Individuals and Institutions—8

System location: 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals and institutions receiving grant awards from the National Endowment for the Humanities.

Categories of records in the system: Grant application including sample of work where appropriate, award notification letter, grant award acceptance agreement, payment schedule, relevant correspondence, final report.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Administrative processing, general statistical research, congressional analysis of trends; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Information concerning grantees, principal investigator's location of grantee, title of grant, field of study, type of grantee, special characteristics, length of award, application date, date of recommendation, grant number, division and program element, amount and brief description of purpose of award is routinely forwarded to the Smithsonian Science Information Exchange (SSIE) and the Foreign Area Research Unit (FARU) in the Intelligence and Research Office of the Department of State.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name of individual, name of institution, and number.

Safeguards: Records are maintained in a lockable filing cabinet.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer—NEH, Room 522, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Employees involved in administration of the grant.

NFAH—9

System name: Personnel Records—NFAH—9.

System location: Room 410, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Foundation employees.

Categories of records in the system: Contains copies of official personnel records, consultants' employment files.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of Foundation Employees and their personnel records. Used for internal reporting; also referred to any appropriate agency, private organization or official in the course of an employment or security clearance investigation; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Retrieved by name.

Safeguards: Stored in lockable file cabinets.

Retention and disposal: Retained during course of employment and for one month subsequent to termination thereof; thereafter sent to St. Louis, Mo.

System manager(s) and address: Personnel Officer, Room 410, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual to whom the record pertains, Foundation employees.

NFAH/NEH—10

System name: Reviewer File—NFAH/NEH—10

System location: Room 1104, 806 15th Street, NW., Washington, D.C. 20506.

Categories of individuals covered by the system: Scholars and experts in humanities who are willing to donate time to comment on applications received by the Endowment.

Categories of records in the system: Contains addresses, fields of expertise, and notations of applications forwarded for review.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended 20 U.S.C. 951 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are used by Endowment staff, principally in the division of research grants for the purpose of mailing applications to appropriate scholars for their evaluations, which are the basis of our peer review system; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on 5 inch by 8 inch cards filed in boxes by field and on 3 inch by 5 inch cards alphabetically by name.

Retrievability: Retrieved by discipline and/or name.

Safeguards: Room locked after office hours; files are not permitted to be removed at any time from room.

Retention and disposal: Retained even when no longer used.

System manager(s) and address: Deputy Director, Division of Research Grants, Room 1101, 806 15th Street, NW., Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Available to NEH staff, through Division of Research Grants.

Record source categories: Individual to whom the record pertains; foundation employees note use of records on cards.

NFAH/NEA—11

System name: Interns—NFAH/NEA—11

System location: NEA—Office of Staff Development Officer, Room 1250, 2401 E St., NW., Washington, D.C. 20506.

Categories of individuals covered by the system: Past and present participants in the Endowment's Work Experience Internship Program.

Categories of records in the system: Contains resume and essay submitted by candidate, letters of recommendation, grant award letter, cash request, correspondence.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of past and present participants in Work Experience Internship Program, general reference purposes; disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name.

Safeguards: Records are maintained in lockable filing cabinets.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Staff Development Officer, Room 1250, 2401 E St., NW., Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained, reference sources for individual.

[FR Doc.76-36667 Filed 12-9-76;3:05 pm]

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federal register

FRIDAY, DECEMBER 17, 1976



PART IV:

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

■

PRIVACY ACT OF 1974

Systems of Records

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UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

PRIVACY ACT OF 1974

Systems of Records

The purpose of this document is to give notice again that the systems of records identified in notices published in the Federal Register at 40 FR 39665-39669 on August 28, 1975, as amended at 41 FR 21624-21626 on May 26, 1976, continue in effect. Formal notice of the existence and character of these systems of records was initially given at 41 FR 29012 on July 14, 1976.

As required by 5 U.S.C. 552a(e)(4) the U.S. Arms Control and Disarmament Agency hereby gives annual notice of the existence and character of its systems of records as published at 40 FR 39665-39669 on August 28, 1975, and amended at 41 FR 21624-21626 on May 26, 1976.

Effective date. This notice shall be effective December 17, 1976.

Dated: December 1, 1976.

John F. Lehman, Jr.
Acting Director

ACDA—1

System name: Official Personnel Records—ACDA

System location: Agency Headquarters, Department of State Building, 320 21st St., NW., Washington, D.C. 20451

Categories of individuals covered by the system: All ACDA personnel, including consultants.

Categories of records in the system: Records relating to employment, including but not limited to personal qualifications statement, performance rating, personnel actions, insurance and conflict of interest, except to the extent controlled by the CSC.

Authority for maintenance of the system: Executive order 10561.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to ACDA management officials for use in evaluating performance and entitlement to rights under the Federal Personnel System. Also generally available to management officials in other agencies in connection with pre-employment verification.

In the event that these records indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee. The issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to financial and credit institutions for loan and credit purposes to verify the employee's employment with ACDA, date of employment, present and past positions, titles, grades, salaries, and duty stations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: The policies and practices of the agency regarding storage, retrievability, access control, retention and disposal of these records are directed by the Civil Service Commission in accordance with Federal Personnel Manual Supplement 296-31.

Storage: Same as above.

Retrievability: Same as above.

Safeguards: Same as above.

Retention and disposal: Same as above.

System manager(s) and address: Personnel Officer, Rm 5720.

Notification procedure: Privacy Act Officer, Rm 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Both internal agency sources and other federal agencies which have previously employed an ACDA employee.

ACDA—2

System name: Pending Personnel Files—ACDA

System location: Agency Headquarters

Categories of individuals covered by the system: All individuals currently under consideration for employment, including pending consultants.

Categories of records in the system: Forms relating to employment, including but not limited to personal qualifications statement, resume, and tenure, health insurance and life insurance forms.

Authority for maintenance of the system: 22 U.S.C. 2581

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by ACDA management for the evaluation of employment potential and to establish entitlement to rights under the Federal Personnel System.

In the event that these records indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the reponsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued, pursuant thereto.

A record from this system of records may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee. The issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: By last name of individual.

Safeguards: Records are maintained in a bar-lock steel cabinet.

Retention and disposal: Records are maintained only until a final decision is made regarding employment and are then either destroyed or replaced by an official personnel folder; access limited to ACDA management on a need-to-know basis.

System manager(s) and address: Personnel Officer, Rm. 5720.

Notification procedure: Privacy Act Officer, Rm. 5725.

Record access procedures: Privacy Act Officer, Rm 5725.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained, previous employers, internal agency sources.

ACDA—3

System name: Security Records—ACDA

System location: Agency Headquarters

Categories of individuals covered by the system: All current and former ACDA employees, including employees of contractors.

Categories of records in the system: Contains questionnaires completed by the individual. Personal qualifications statement, AEC! (Parts I & II), AEC—0115 security acknowledgement, release forms. Contains forms relating to security clearances, including letter requesting investigation, investigative reports, memo of security clearance, notification of "Q" clearance, reports of security violations and classified visit requests, may also contain memo of medical determination and memo advising of eligiblity for special clearances.

Authority for maintenance of the system: 22 U.S.C. 2585

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by a limited number of ACDA management officials and management officials of other agencies to evaluate employment potential, suitability for federal employment, and access to classified information.

In the event that these records indicate a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred as a routine use to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee. The issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency; in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: By last name of individual.

Safeguards: Files maintained in accordance with the strictest security requirements applicable to classified documents, records maintained in a three-way combination lock steel container, access only on a need-to-know basis, based on the above routine uses.

Retention and disposal: Records once established are maintained indefinitely.

System manager(s) and address: Chief of Security, Rm 5731.

Notification procedure: Privacy Act Officer, Rm 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Federal investigative agencies, State Department Medical Bureau, individual on whom the record is maintained, internal agency sources.

Systems exempted from certain provisions of the act: Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information is exempted from the provisions of the act, in accordance with subsection (K)(5) of the act and section 603.7(A)(3) of the agency regulations concurrently published, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence. Investigatory material compiled for law enforcement purposes is also exempted from the provisions of the act, in accordance with subsection (K)(2) of the act and section 603.7(A)(2) of the agency regulations concurrently published, provided however that if any individual is denied any right, privilege, or benefit to which he would otherwise be entitled by federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

ACDA—4

System name: Statements by principals during the Strategic Arms Limitation Talks, Mutual Balanced Force Reduction Negotiations, and the Standing Consultative Committee—ACDA.

System location: Agency Headquarters.

Categories of individuals covered by the system: Members of Delegations of U.S. and foreign governments concerned with the subject negotiations.

Categories of records in the system: Transcripts of official statements made by principals in negotiating sessions.

Authority for maintenance of the system: 22 U.S.C. 2551; Executive Order 11044, Sec. 4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available as necessary background material to ACDA officers and management officials of other agencies concerned with the formulation and implementation of U.S. Arms Control objectives.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer tape.

Retrievability: Indexed by several data elements, including last name of principal. Discs are stored in accordance with strictest security measures applicable to secret/restricted data. They are loaded only upon request. Listings prepared from tapes are maintained in accordance with security requirements, according to the highest classification on the list.

Safeguards: Access limited, on a need-to-know basis, to ACDA managers and management of other federal agencies with appropriate security clearances, who are involved in formulation of arms control policy.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Chief, Communications and Service Section, Rm. 5666.

Notification procedure: Privacy Act Officer, Rm. 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Transcripts of negotiations.

System name:

Systems exempted from certain provisions of the act: Because the information contained in this system is data classified for reasons of national security pursuant to Executive Order 11652, it has been ruled exempt from the disclosure provisions of the act by section 603.7(A)(1) of concurrently published agency regulations in accordance with sec. (K)(1) of the act.

ACDA—5

System name: Top Secret Document Control File—ACDA

System location: Agency Headquarters.

Categories of individuals covered by the system: Any individual holding a top secret document under ACDA's physical control.

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Categories of records in the system: Contains a listing of those Top Secret Documents to which an individual has had access and for which he is accountable.

Authority for maintenance of the system: Executive Order 11652, Sec. 6(E).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to ACDA management to determine personal accountability for Top Secret Documents also available as a routine use to Federal law enforcement officials to determine access to and accountability for top secret documents.

In the event that these records indicate a violation or potential violation of law, whether civil, criminal or regulator in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on data index cards.

Retrievability: Through card sorting.

Safeguards: Records maintained in bar-lock steel cabinet. Access limited, on a need-to-know basis.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Chief, Communications and Services Section, Rm. 5666.

Notification procedure: Privacy Act Officer, Rm. 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Internal agency sources.

ACDA—6

System name: Document Classifier Data Index—ACDA

System location: Agency Headquarters

Categories of individuals covered by the system: ACDA personnel with authority under Executive Order 11652 to classify documents in the interest of national security.

Categories of records in the system: Contains names listing of documents classified by a particular individual.

Authority for maintenance of the system: Executive Order 11652, Sec. 13.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to ACDA management officials and management officials of other agencies on a need-to-know basis, for the purpose of determining the original classifier of a classified document and to identify any misuse of the National Security Classification Authority.

In the event that these records indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: Filed by last name.

Safeguards: Maintained in bar-lock steel cabinet.

Retention and disposal: Maintained until the Subject Member of Congress leaves office.

System manager(s) and address: Congressional liason officer, Rm. 5534.

Notification procedure: Privacy Officer, Rm. 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Congressional Directory, Congressional Quarterly, Congressional Records, Members of Congress on whom records are maintained, public speeches and minutes of meetings.

ACDA—8

System name: External Contracts (Other than Small Purchases)—ACDA

System location: Control Data Corp., 6003 Executive Blvd. Rockville, Md. 20852.

Categories of individuals covered by the system: Individuals performing work on contracts for the agency.

Categories of records in the system: Name of individual, amount of contract, date of award, title of contract, research category, fiscal year, type of business, reporting requirements.

Authority for maintenance of the system: 22 U.S.C. 2571, 2581; 40 U.S.C. 481.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to agency officials for the purpose of determining progress on agency contracts, including research and completed research in various categories and dollar amount by fiscal year. Also available to Congressional committees for purposes of authorization hearings.

In the event that these records indicate a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

A record from this system of records may be disclosed as a routine use to a Federal State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer tape.

Retrievability: By last name of contractor or project number.

Safeguards: Computer printouts are kept in bar-lock steel cabinets; access limited on a need-to-know basis, in accordance with the above routine uses.

Retention and disposal: Records are maintained for six years after final settlement and then destroyed.

System manager(s) and address: Contracting Officer, Rm. 5534.

Notification procedure: Privacy Act Officer, Rm. 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained, internal agency sources.

ACDA—9

System name: Privacy Act Requests File—ACDA

System location: Agency Headquarters

Categories of individuals covered by the system: Requesters for information or other services provided by the agency under The Privacy Act of 1974, including but not limited to agency responses thereto.

Authority for maintenance of the system: 5 U.S.C. 552A.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to agency officials for use in monitoring and evaluating requests for information or other services provided by the agency under The Privacy Act of 1974. In the event that these records indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: By last name of individual requester.

Safeguards: Records are maintained in a bar-lock steel cabinet.

Retention and disposal: Records are maintained as long as the systems of records which have been the subject of Privacy Act requests are active, or for a period of five years after the agency response to the request, whichever is longer.

System manager(s) and address: Privacy Officer, Rm. 5725.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Authors of Privacy Act requests.

ACDA—10

System name: Freedom of Information Act Requests

System location: Agency Library, Department of State Building, Rm. 5672 320 21st St., NW., Washington, D.C. 20451.

Categories of individuals covered by the system: Requesters for information under the Freedom of Information Act.

Categories of records in the system: Requests for information under the Freedom of Information Act and agency disposition thereof.

Authority for maintenance of the system: 5 U.S.C. 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to agency officials for use in monitoring and evaluating requests for information under the Freedom of Information Act.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on standard 3x5 file cards.

Retrievability: By last name of individual requester.

Safeguards: Records are maintained in a bar-lock steel cabinet.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Freedom of Information Officer, Rm. 5672.

Notification procedure: Privacy Act Officer, Rm. 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Authors of Freedom of Information Act requests.

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ACDA—11

System name: World Military Expenditures Mailing List—ACDA

System location: Agency headquarters, Department of State Building, 320 21st St., NW., Washington, D.C. 20451.

Categories of individuals covered by the system: Requesters of the publication "World Military Expenditures and Arms Transfers".

Categories of records in the system: Names and addresses of requesters of the publication.

Authority for maintenance of the system: 22 U.S.C. 2551.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to Agency officials for use in disseminating current editions of the publication "World Military Expenditures and Arms Transfers".

Disclosure may be made to a congressional office as a route use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on standard 3x5 file cards.

Retrievability: By last name of requester.

Safeguards: Records are maintained in a bar-lock steel cabinet.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Project Officer for WMEAT.

Notification procedure: Privacy Act Officer, Room 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Authors of requests for the publication.

ACDA—12

System name: ACDA mailing list

System location: State Department Computer Bank, Department of State Building, 320 21st St., NW., Washington, D.C. 20451.

Categories of individuals covered by the system: Requesters of information on arms control and related affairs.

Authority for maintenance of the system: 22 U.S.C. 2551.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to Agency officials for use in disseminating public information and publications concerning arms control and related affairs.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer tape.

Retrievability: By last name of requester.

Safeguards: Records are maintained in the computer which has limited access for official use only by authorized personnel.

Retention and disposal: Records are maintained for two years at which time the individuals are sent an address card which must be filled out and returned or the name and address of the individual concerned will be removed from the list.

System manager(s) and address: Deputy Public Affairs Advisor, Room 5923:

Notification procedure: Privacy Act Officer, Room 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Authors of requests for information on arms control and related affairs.

ACDA—13

System name: Travel Authorization File—ACDA

System location: Agency Headquarters, Department of State Building, 230 21st St., NW., Washington, D.C. 20451.

Categories of individuals covered by the system: Any individuals who travel on Agency business.

Categories of records in the system: Travel authorizations and completed travel vouchers.

Authority for maintenance of the system: 31 U.S.C. 200; 31 U.S.C. 66a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to Agency officials for use in monitoring official Agency travel.

In the event that these records indicate a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: By last name of traveler.

Safeguards: Records are maintained in a bar-lock steel cabinet.

Retention and disposal: Records are maintained three years.

System manager(s) and address: Budget Officer, State Department Annex No. 6, Room 804.

Notification procedure: Privacy Act Officer, Room 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals who travel on official Agency business.

ACDA—14

System name: Confidential Statement of Employment and Financial Interests Records—ACDA

System location: Agency Headquarters, Department of State Building, 320 21st St., NW., Washington, D.C. 20451.

Categories of individuals covered by the system: Special Government employees (consultants) of the Agency and individuals occupying positions listed in 22 CFR 606.735-71(a).

Categories of records in the system: Statements of Employment and Financial Interests and letters and memoranda relating thereto, except to the extent controlled by the CSC.

Authority for maintenance of the system: Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to the Agency Ethics Counselor and Deputy Ethics Counsel and to other Agency personnel on a need-to-know basis as may be required in the performance of their duties. Records in the system may also be used as follows, except that information from a statement may be disclosed only upon the determination of the CSC or the ACDA Director that such disclosure is for good cause shown;

In the event that these records indicate a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necesssary to the requesting agency's decision on the matter.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set fourth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

Disclosure may be made to a congressional office as a routine use from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in standard file folders.

Retrievability: By last name of employee.

Safeguards: Records are maintained in a three-way combination lock steel container located in the office of the Deputy Ethics Counselor.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Ethics Counselor, Room 5534.

Notification procedure: Privacy Act Officer, Room 5725.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals who file Confidential Statements of Employment and Financial Interests with the Agency.

[FR Doc.76-35799 Filed 12-1-76;4:29 pm]

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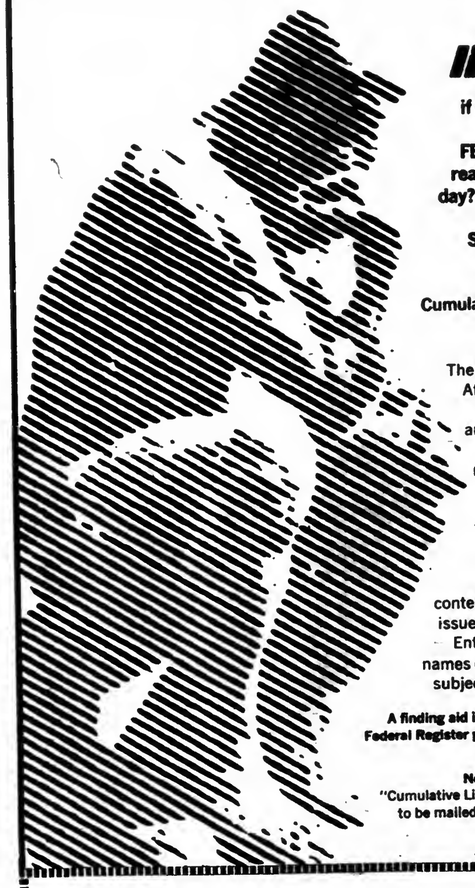
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Weekly Briefings at the Office of the Federal Register
(For Details, See 41 FR 46527, Oct. 21, 1976)
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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—GUARANTEED LOANS

[FmHA Instruction 449.1]

PART 1845—FmHA EMERGENCY LIVESTOCK LINE OF CREDIT GUARANTEES

Extension of Program

Various sections of Part 1845, Title 7, Code of Federal Regulations (40 FR 30623) are amended. These amendments extend the emergency livestock (EL) loan program through September 30, 1978, pursuant to Pub. L. 94–517 enacted October 15, 1976. The purpose of these changes is to permit lenders to obtain guarantees on loans to new applicants and continue making advances to those borrowers already indebted under the EL loan program.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comments notwithstanding the exemption of 5 U.S.C. 533 with respect to such rules. See the Secretary of Agriculture's statement setting forth the policy on public participation in rulemaking 36 FR 13804, dated July 24, 1971. These amendments, however, are being published without prior notice of proposed rulemaking because they implement provisions of Pub. L. 94–517, thus public notice and procedure thereon are unnecessary.

Accordingly, §§ 1845.2, 1845.3, 1845.13, 1845.14, 1845.26, 1845.31 and 1845.35 are amended as follows:

§ 1845.2 [Amended]

1. Section 1845.2 is amended by deleting "by Public Law 94–35" from the first sentence of the text.

2. Section 1845.3(a) is amended to read as follows:

§ 1845.3 Definitions. • • •

(a) *Act.* The Emergency Livestock Credit Act of 1974 (Pub. L. 93–357); as amended by Pub. L. 94–35, and Pub. L. 94–517.

• • • • • •

§ 1845.13 [Amended]

3. Section 1845.13(g) is amended by deleting "December 31, 1976" and inserting "September 30, 1978"" in the first sentence.

§ 1845.14 [Amended]

4. Section 1845.14(d) is amended by deleting "January 1, 1977" and inserting "October 1, 1978" in the last sentence.

§ 1845.26 [Amended]

5. Section 1845.26(c) is amended by deleting "December 31, 1976" and inserting "September 30, 1978" in the last sentence.

§ 1845.26 [Amended]

6. Section 1845.26(e) is amended by deleting "December 31, 1976" and inserting "September 30, 1978" in the first sentence.

7. Section 1845.31 is amended to add a paragraph (e) as follows:

§ 1845.31 Revision of existing forms.

• • • • • •

(e) Form FmHA 449–27, "Contract of Guarantee, (Emergency Livestock Loan.)" in item "a" of the first paragraph, delete "December 31, 1976" and insert "September 30, 1978."

• • • • • •

§ 1845.35 [Amended]

8. Section 1845.35 is amended by deleting "December 31, 1976" and inserting "September 30, 1978" in the second sentence.

(Sec. 10 Pub. L. 93–357, 88 Stat 392, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary of Rural Development, 7 CFR 2.70.)

Effective date: This document shall become effective on December 20, 1976.

Dated: December 1, 1976.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.76–37196 Filed 12–17–76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER II—PACKERS AND STOCKYARDS ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 204—ORGANIZATION AND FUNCTIONS

Miscellaneous Amendments

Effective on December 20, 1976, paragraphs (b) (3) and (e) (2) of § 204.2 and paragraph (c) of § 204.3 of Title 9, Code of Federal Regulations, are amended to read as follows:

§ 204.2 Organization.

• • • • • •

(b) • • •

(3) Executive Assistant to the Administrator. The Executive Assistant to the Administrator participates with the Administrator and the Associate Administrator in the development, administration, and analysis of policies and programs and directs the internal administrative management, and related activities of the Packers and Stockyards Administration and maintains liaison with the Agricultural Marketing Service in arranging for management support services.

• • • • • •

(e) • • •

(2) The locations of these offices, which are under officers in charge, are as follows:

Atlanta—Rm. 640, 1720 Peachtree St., NW, Atlanta, Georgia 30309.
Denver—206 Livestock Exchange Building, Denver, Colorado 80216.
Fort Worth—Rm. 8A36, Federal Building, 819 Taylor Street, Fort Worth, Texas 76102.
Indianapolis—Suite 24, 537 Turtle Creek South Drive, Indianapolis, Indiana 46227.
Kansas City—826 Livestock Exchange Building, Kansas City, Missouri 64102.
Lawndale—Rm. 2W6, Federal Office Building, 15000 Aviation Boulevard, Lawndale, California 90260.
Memphis—Rm. 459, Federal Building, 167 North Main Street, Memphis, Tennessee 38103.
North Brunswick—525 Milltown Road, North Brunswick, New Jersey 08902.
Omaha—435 Livestock Exchange Building, Omaha, Nebraska 68107.
Portland—Suite E, 9370 SW Greenburg Road, Portland, Oregon 97223.
South St. Paul—200 Post Office Building, Box 8, South St. Paul, Minnesota 55075.
Springfield—Emmerson Building Annex, State Fairgrounds, Springfield, Illinois 62706.
Sterling—Route 1, Box 109, Sterling, Virginia 22170.

§ 204.3 Delegations of authority.

• • • • • •

(c) Division Directors: The Directors of the Industry Analysis Staff, Livestock Marketing Division, and the Packer and Poultry Division, under administrative and technical direction of the Administrator and Associate Administrator, are hereby individually delegated authority, in connection with the respective functions assigned to each of said organizational units in § 204.2, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation) except such authority as is reserved to the Administrator and the Associate Administrator under paragraph (i) of this section.

• • • • • •

This amendment changes only the information regarding the name of the organization furnishing management services to the agency, the current locations and addresses of the field offices, and the withdrawal from division directors of authority to issue subpoenas. The amendment does not affect the rights or obligations of any person. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice of rulemaking and other public procedure in connection

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with this amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication thereof in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of December 1976.

MARVIN L. MCLAIN,
Administrator,
Packers and Stockyards Administration.

[FR Doc.76-37269 Filed 12-17-76;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 9—PUBLIC RECORDS

Privacy Act Regulations; Exemptions

On August 19, 1976, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (41 FR 35073) a notice proposing to amend 10 CFR Part 9 of its regulations to exempt from certain requirements of the Privacy Act portions of the NRC systems of records NRC–1, "Appointment and Promotion Certificate Records–NRC." The exemptions are intended to protect investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under a promise of confidentiality, as provided by 5 U.S.C. 552a (k)(5).

The notice included a statement that an appropriate exemption, pursuant to 5 U.S.C. 552a(k)(5), of the NRC system of records NRC–1, to conform with the amendment of 10 CFR 9.95 will be published when final action is taken on the proposed amendment of 10 CFR 9.95.

Interested persons were invited to submit written comments by September 20, 1976. No comments have been received on the proposed exemption. Accordingly, the Commission has adopted the amendment as proposed. By separate notice the Commission is publishing amendments of the NRC system of records NRC–1 to conform with the amendment of 10 CFR 9.95 (see the Notices section of today's issue of the FEDERAL REGISTER).

Since the amendment does not impose obligations on persons other than the Nuclear Regulatory Commission, the Commission has found that good cause exists for making the amendment effective immediately upon publication without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552, 552a, and 553 of Title 5 of the United States Code, as amended, the following amendment of Title 10, Chapter I, Code of Federal Regulations, Part 9, is published as a document subject to codification.

1. Section 9.95 of 10 CFR Part 9 is amended by adding a new paragraph (m) to read as follows:

§ 9.95 Specific exemptions.

Pursuant to 5 U.S.C. 552a(k), portions of the following NRC systems of records are exempted from 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), (I), and (f) and are subject to the provisions of § 9.61 of this part:

* * * * *

(m) Appointment and Promotion Certificate Records.

Effective date: This amendment becomes effective on December 20, 1976.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841; 5 U.S.C. 552a).)

Dated at Bethesda, Maryland this 11th day of November 1976.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.76-37335 Filed 12-17-76;8:45 am]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

PART 210—GENERAL ALLOCATION AND PRICE RULES

Amendments to Procedures for Review of Subpoenas and Special Report Orders

I. BACKGROUND

On July 20, 1976, the Federal Energy Administration ("FEA") gave Notice (41 FR 29868, July 20, 1976) of a Proposed Rulemaking to consider proposals to revise Parts 205 and 210 of Title 10, Code of Federal Regulations, in order to clarify the procedures for administrative review of subpoenas (§ 205.8) and Special Report Orders (SROs) (§ 210.91).

In response to that Notice, 10 comments were received by FEA. FEA's consideration of these comments, as well as other information available to FEA, is reflected in these amendments.

II. CHANGES TO THE CURRENT REGULATIONS

With regard to subpoenas, § 205.8(h) has provided that a person to whom a subpoena was issued may apply to the "* * * FEA official who issued the subpoena, or if he is unavailable to the Administrator, to quash or modify such subpoenas." FEA regulations adopted today continue to require that applications to quash or modify should initially be made to the official who issued the subpoena within 10 days from the date of service. However, in order to insure that further administrative review will be available from denials of applications to quash or modify, § 205.8(h)(2) is amended to provide a review by the Regional Administrator for the region in which the subpoena was issued of the initial decision on applications to quash or modify, if filed within 10 days after service of such decision. In the case of subpoenas issued by the FEA National Office in Washington, D.C., § 205.8(h)(2) is amended to require that review from the initial decision on such applications be made by the Assistant Administrator or Director of the office that issued the subpoena.

Special Report Orders (SROs) are authorized by 10 CFR § 205.91. The existing regulations are silent with regard to the proper method of modifying or quashing such orders. Therefore, in order to clarify the procedures regarding SROs, § 210.91 is amended to provide that within 10 days after the date of service of an SRO, the person to whom the SRO was issued may submit to the official that issued the SRO an application to have it modified or quashed. Upon denial of that motion, the person may within 10 days thereafter seek review by the Regional Administrator of the region in which it was issued or by the Assistant Administrator for Regulatory Programs in the case of an SRO issued by the National Office.

Sections 205.8 and 210.91 are also amended to provide that in the case of any adverse ruling on an application to quash or modify a subpoena or a special report order by a Regional Administrator, or the Assistant Administrator or Director of the Office that issued the action, an applicant may seek relief in the nature of a writ of review from the FEA Office of Private Grievances and Redress within 10 days of the date of service of the adverse decision. FEA's Office of Private Grievances and Redress will hear only those cases in which the applicant demonstrates that the circumstances are so exceptional that an immediate review is warranted to correct substantial errors of law, or to prevent substantial injury to legal rights, or cure a gross abuse of administrative discretion. The Office of Private Grievances and Redress will make an initial review of all requests for relief to determine if there is a reasonable probability that an applicant for extraordinary relief will be able to satisfy the prerequisites warranting the granting of such relief. If the Office of Private Grievances and Redress determines that an application fails to meet this threshold burden, the application will be dismissed. Those applications which, in the view of the Office of Private Grievances and Redress, are likely to meet the test for exceptional relief will be considered on the merits.

Several responses to the proposed rulemaking presented questions concerning whether enforcement action on a subpoena and SRO by the agency would be automatically stayed pending the various stages of administrative review. FEA believes that the concern evinced by these commentators is well-founded and that the regulations should clearly establish the agency's policy with regard to stays of enforcement when subpoenas and SROs are under review. Accordingly, the regulations as adopted (§ 205.8(h)(5) and § 210.91(e)) provide for an automatic stay pending timely application for and during administrative review of the application to quash or modify. However, when the time for application for the first stage of review has expired, or after the FEA has completed a review which has resulted in an unfavorable decision to the applicant, the stay evaporates.

An applicant who seeks further review by the Regional Administrator, the Assistant Administrator or Director of the office that issued the action, or the Office of Private Grievances and Redress may request a stay of the obligation to comply with the subpoena or SRO. FEA has concluded that the grant of "stays" beyond the initial stage of review should be discretionary with the reviewing body. The necessity for an applicant for further review to file for such a stay at the intermediate and final levels of review will tend to eliminate the more frivolous or dilatory requests for review and result in a more expedient processing of subpoena and SRO review applications.

One of those responding to the Notice of Proposed Rulemaking expressed concern that a "subpoena issued for immediate compliance" would not be practicably appealable under both the existing and proposed FEA regulations. However, under the regulations adopted herein, return of any subpoena is automatically stayed for a period of 10 days, and, therefore, a party has adequate opportunity to file an application to quash or modify before the expiration of the 10 day period.

In response to several comments regarding the time allowed FEA for review of subpoenas and SROs at the intermediate stage of review, amendments are adopted today clarifying the provisions of § 205.8(h)(3) and § 210.91(c). The amendments now state that if a Regional Administrator or other reviewing official fails to take action on a petition for review within 20 days, then the application will be deemed to have been denied in all respects as of 12:01 a.m. on the day following the 20th day after the petition was filed. This modification should eliminate any confusion concerning the appropriate time for proceeding to the last stage of administrative review.

Several of the comments received indicated that the proposed rulemaking was unclear as to whether it will be possible to request further review when a subpoena or SRO has not been modified or quashed in the manner asked for in the application for review. In response to those comments, §§ 205.8(h)(2) and (4) and § 210.92 (c) and (d) have been modified to treat any partial denial of a request to quash or modify as constituting grounds for further appeal. Thus, if an applicant has received only partial relief on his request to modify or quash a subpoena or SRO, he may consider that decision adverse and pursue further review.

One of the commentators criticized the proposed scope of review of subpoenas and SROs delegated to the Office of Private Grievances and Redress as too narrow in that it is limited to correcting substantial or gross errors of law or administrative discretion. That commentator proposed that the scope of review at the third level should be patterned on the standards applied to appeals generally under § 205.100. FEA has provided extensive means for the reexamination of the sufficiency of subpoenas and SROs at the first two levels of review. Any additional review should only exist to check gross errors in judgment made at those two levels. The intent of FEA in establishing such a review procedure is to ensure that there is a means within the agency to redress such gross errors in judgment, not to provide another routine level of review. For this reason, FEA has concluded that an initial determination should be made by the Office of Private Grievances and Redress to exclude any applications which upon initial review do not show a reasonable probability of satisfying the prerequisites warranting extraordinary relief.

One of the comments received questioned whether review by the Regional Administrator or Assistant Administrator or Director of the office that issued the subpoena or SRO could constitute review by a "disinterested party," and requested clarification on how an aggrieved party might further pursue his appeal in the federal courts. FEA believes that an administrative review procedure offers a fair, prompt and less formal means of evaluating application to quash or modify SROs and subpoenas. It is intended that this administrative review will provide adequate redress for most applicants. Of course, an applicant may seek judicial intervention if aggrieved by the decision reached at the conclusion of the FEA administrative process.

One of the comments received questioned the constitutional propriety of the entire SRO procedure as a violation of Fourth Amendment rights. FEA is confident that the SRO is a legitimate exercise of the power granted FEA by Section 13 of the Federal Energy Administration Act of 1974 and the Emergency Petroleum Allocation Act of 1973.

This amendment has been reviewed in accordance with Executive Order No. 11821, issued on November 27, 1974 (39 FR 41502), and has been determined not to be of a nature that requires an evaluation of its inflationary impact pursuant to that Order.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133 and Pub. L. 94-163; Federal Energy Administration Act of 1974, Pub. L. 93-275 as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Parts 205 and 210 of Chapter II, Title 10, Code of Federal Regulations are amended as set forth below, effective from December 13, 1976.

Issued in Washington, D.C., December 13, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

1. Section 205.8(h) is amended to read as follows:

§ 205.8 Subpoenas; witness fees.

* * * * *

(h)(1) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than ten (10) days after the date of service such subpoena, apply to quash or modify such subpoenas to the FEA official who issued the subpoena, who may (i) deny the application; (ii) quash or modify the subpoena; or (iii) condition denial of the application to quash or modify the subpoena upon the satisfaction of certain just and reasonable requirements. A denial of an application must contain a statement of facts and conclusions of law.

(2) Within 10 days after the day of service of any adverse decision on an application to quash or modify a subpoena, an applicant may seek review of that decision from the Regional Administrator for the region which issued the subpoena, or the Assistant Administrator or Director of the office which issued the subpoena in the case of subpoenas issued by the National Office. The relief requested may include a request for a stay of the obligation to comply with the subpoena, for good cause shown, pending a determination by the Regional Administrator or Assistant Administrator or Director of the office which issued the subpoena. The Regional Administrator or other reviewing official will evaluate the application and render a determination. A denial of an application must contain a statement of facts and conclusions of law.

(3) If the Regional Administrator or other reviewing official fails to take action on an application for review within 20 days of filing, the application for review will be deemed to have been denied in all respects as of 12:01 a.m. on the day following the 20th day.

(4) Any person to whom a subpoena is directed, in the event that an application to quash or modify such subpoena is in any part denied by a Regional Administrator or other reviewing official, may, within ten (10) days after the date of service of such denial, seek relief from the Office of Private Grievances and Redress, at the address provided in § 205.12, only upon a showing that the circumstances are so exceptional that an immediate review is warranted to correct substantial errors of law, or to prevent substantial injury to legal rights, or to cure a gross abuse of administrative discretion. The relief requested may include a request for a stay of the obligation to comply with the subpoena, for good cause shown, pending a determination by the Office of Private Grievances and Redress.

(5) Return on any subpoena issued by FEA pursuant to § 205.8 is temporarily stayed pending timely application for and during administrative review by FEA as specified in § 205.8(h)(1).

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2. Section 210.91 is amended to read as follows:

§ 210.91 Reports.

(a) Whenever the FEA considers it necessary for the effective administration of the FEA, it may order any firm to file special or separate reports, setting forth information relating to the FEA regulations in addition to any other reports required in Part 211, Part 212, or Part 214 of this chapter.

(b) Notwithstanding any provision of Part 205 of this chapter, any firm ordered to file a special or separate report under this section, may, within ten (10) days after the date of service of such order, submit an application to the FEA official that issued that order to quash or modify that order. The FEA official who issued the order, on an application to quash or modify, may (i) deny the application; (ii) quash or modify the order; or (iii) condition denial of the application to quash or modify the order upon the satisfaction of certain and just reasonable requirements. A denial of an application must contain a statement of facts and conclusions of law.

(c) Within 10 days after the date of service of any adverse decision on an application to quash or modify an order issued pursuant to this section, an applicant may seek review of that decision from the Regional Administrator for the region which issued the separate or special report order, or the Assistant Administrator for Regulatory Programs if the order was issued by the FEA National Office. The relief requested may include a request for a stay of the obligation to comply with the order, for good cause shown, pending a determination by the Regional Administrator or the Assistant Administrator for Regulatory Programs. The Regional Administrator or Assistant Administrator for Regulatory Programs will evaluate the application and render a determination. Denial of an application must contain a statement of facts and conclusions of law. If the Regional Administrator or the Assistant Administrator for Regulatory Programs failed to take action on an application for review within 20 days of filing, the application for review will be deemed to have been denied in all respects as of 12:01 a.m. on the day following the 20th day.

(d) Any firm which receives a special or separate report order and whose application to quash or modify pursuant to this section is in any part denied by a Regional Administrator or the Assistant Administrator for Regulatory Programs, may, within ten (10) days from the date of service of such denial, seek relief from the Office of Private Grievances and Redress, at the address provided in § 205.12, only upon a showing that the circumstances are so exceptional that an immediate review is warranted to correct substantial errors by law, or to prevent substantial injury to legal rights or cure a gross abuse of administrative discretion. The relief requested may include a request for a stay of the obligation to comply with the order, for good cause shown, pending a determination by the Office of Private Grievances and Redress.

(e) Return on any special or separate report order issued by FEA pursuant to § 210.91(a) is temporarily stayed pending timely application for and during administrative review by FEA as specified in § 210.91(b).

[FR Doc.76-37184 Filed 12-14-76;4:32 pm]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 1—INVESTMENT SECURITIES REGULATION

Securities Eligible for Purchase, Dealing In and Underwriting; Limitations on Holdings

The following new sections are added to 12 CFR Part 1:

Sec.
1.411 Connecticut Development Authority, Industrial Projects Bonds.
1.412 Board of Trustees of the University of Alabama Medical Center Revenue Bonds.
1.413 Missoula County (Montana) Special Revenue Refunding Bonds.
1.414 Hillsborough County Port District Special Refunding Revenue Bonds (Florida).
1.415 Gilroy Unified School District School Building Corporation (California).
1.416 Pajaro Valley Unified School District School Building Corporation (California).
1.417 Los Angeles County Health Facilities Authority.
1.418 Ventura County Public Facilities Corporation (California).
1.419 Livermore Valley Joint Unified School District Educational Facilities Corporation (California).
1.420 Linden Roselle Sewerage Authority (New Jersey).
1.421 San Ramon Valley Unified School District Educational Facilities Corporation (California).
1.422 New Jersey Sports and Exposition Authority.
1.423 Maryland Consolidated Transportation Bonds.
1.424 University of South Alabama.
1.425 Jackson Redevelopment Authority (Mississippi).
1.426 Connecticut Resources Recovery Authority, Greater Bridgeport System Bonds.
1.427 New Courthouse Corporation, Madison County, Nebraska.
1.428 City of Memphis, Tennessee, Electric System Special Obligation Refunding Bonds.
1.429 Louisiana Stadium and Exposition District, Refunding Bonds.
1.430 Municipal Assistance Corporation for the City of New York, Refunding Bonds.
1.431 Arizona State University.

AUTHORITY: §§ 1.411–1.431 issued under R.S. 324 et seq., as amended, paragraph Seventh of R.S. 5136, as amended; (12 U.S.C. 1 et seq., 24(7)), unless otherwise noted.

§ 1.411 Connecticut Development Authority, Industrial Projects Bonds.

(a) *Request.* Ruling on the eligibility of the $23,635,000 Connecticut Development Authority, Industrial Projects Bonds, Series 1975A through Series 1975K for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Connecticut Development Authority is a body politic and corporate constituting a public instrumentality and political subdivision of the State of Connecticut created in 1973 for the performance of an essential public function by an Act of the General Assembly of the State. The principal purpose of the Authority is to assist in financing the cost of acquiring, constructing, improving and equipping plants and other industrial and commercial facilities. The Authority is authorized to borrow money for such projects through the issuance of its bonds and notes and is issuing these bonds for that purpose.

(2) The Act requires the Authority to establish and maintain a capital reserve fund sufficient to meet the maximum payments required in the succeeding calendar year for principal and interest on its outstanding bonds, and provides that on or before December 1 of each year there is deemed to be appropriated from the State general fund such sums as shall be certified by the chairman of the Authority as necessary to restore said fund to an amount equal to the required minimum capital reserve and such amounts shall be allotted and paid to the Authority. The State of Connecticut which possesses general powers of taxation has thus committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion that the $23,635,000 Connecticut Development Authority, Industrial Projects Bonds Series 1975A through Series 1975K, are general obligations of a State under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated Dec. 8, 1975.)

§ 1.412 Board of Trustees of the University of Alabama Medical Center Revenue Bonds.

(a) *Request.* Ruling on the eligibility of approximately $25,530,000 Birmingham Medical Center Facilities Revenue Bonds, Series 1976, of The Board of Trustees of the University of Alabama for purchase, dealing in, underwriting and holding by national banks under paragraph Seventh of 12 U.S.C. 24, subject to the ten percent limitation thereof.

(b) *Opinion.* (1) The Board of Trustees of the University of Alabama is a public educational corporation and instrumentality of the State of Alabama. The Board controls the University of Alabama and is authorized to issue bonds to finance the acquisition and construction of buildings and other facilities for use by an institution under its supervision.

(2) The University of Alabama in Birmingham is one of five campuses of the University of Alabama. The Medical Center is composed of five health schools: Medicine, Dentistry, Nursing, Optometry, and Community and Allied Health Resources; the University of Alabama Hospitals, a 680 bed teaching hospital complex, and a number of specialized health care and medical research facilities.

(3) The University of Alabama in Birmingham is currently implementing a major capital expansion and improvement program with a total estimated cost of approximately $57,000,000. The Board is issuing these bonds to provide a portion of that cost. The proceeds of the bonds will be used in part to finance improvements to existing health care facilities and to construct new health care facilities, and in part to refund certain outstanding bonds of the Board issued to provide a part of the facilities comprising the Medical Center.

(c) *Ruling.* It is our conclusion that the approximately $25,530,000 Birmingham Medical Center Facilities Revenue Bonds, Series 1976, of The Board of Trustees of the University of Alabama are issued by an agency of a State for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting, and holding by national bank within the ten percent limitation with respect to aggregate holdings of obligations issued by The Board of Trustees of the University of Alabama. (letter dated Jan. 26, 1976.)

§ 1.413 Missoula County (Montana) Special Revenue Refunding Bonds.

(a) *Request.* Ruling on the eligibility of the $4,430,000 Missoula County, Montana Special Revenue Bonds, 1976, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Missoula County is a political subdivision of the State of Montana. The County is authorized to issue revenue bonds to finance the acquisition of hospitals and other facilities.

(2) The County is issuing these bonds and $5,500,000 in Hospital Revenue Bonds to provide funds for the establishment of an escrow account which will provide for the payment of interest and principal on the outstanding Hospital Revenue bonds and notes in the total amount of $3,805,000 issued by the Missoula Community Hospital in 1970.

(3) The refunding program is being undertaken to restructure the Hospital's indebtedness, generate additional working capital for the Hospital, and facilitate the issuance of additional parity Bonds to finance future project improvements.

(4) Principal and interest on these bonds (Special Revenue Bonds) will be payable principally from interest earnings received from the investments in the escrow account which will consist of obligations issued by, or otherwise supported by the full faith and credit of, the United States, and from other funds including proceeds from the sale of the bonds. The interest earnings together with the other funds are required to be sufficient to provide for the timely payment of all principal and interest on the bonds. These bonds will thus be supported by obligations of the United States.

(c) *Ruling.* It is our conclusion that the $4,430,000 Missoula County, Montana Special Revenue Bonds, 1976, are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (letter dated Feb. 6, 1976.)

§ 1.414 Hillsborough County Port District Special Refunding Revenue Bonds (Florida).

(a) *Request.* Ruling on the eligibility of not to exceed $35,000,000 Hillsborough County Port District Special Refunding Revenue Bonds, 1976A, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Hillsborough County Port District, a political subdivision of the State of Florida, and its governing body, Tampa Port Authority, exist pursuant to special acts of the State. The District is authorized to issue bonds to finance the acquisition of port facilities, and to refinance bonds issued for that purpose.

(2) The District is issuing these bonds and not to exceed $15,500,000 in Revenue Refunding Bonds, 1976, to provide funds for the payment of principal, interest, and redemption premiums on outstanding revenue bonds and notes in the total amount of $17,085,000 issued by the District in 1967 and 1973.

(3) The refunding program is being undertaken to restructure the District's indebtedness, generate additional working capital and facilitate the issuance of additional parity bonds to finance future project improvements.

(4) Principal and interest on these bonds (Special Refunding Revenue Bonds, 1976A) will be payable principally from interest earnings received from the investments in the escrow account which will consist of obligations issued by, or otherwise supported by the full faith and credit of, the United States, and from other funds including proceeds from the sale of the bonds. The interest earnings together with the other funds are required to be sufficient to provide for the timely payment of all principal and interest on the bonds. These bonds will thus be supported by obligations of the United States.

(c) *Ruling.* It is our conclusion that the not to exceed $35,000,000 Hillsborough County Port District Special Refunding Revenue Bonds, 1976A, are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (letter dated March 11, 1976.)

§ 1.415 Gilroy Unified School District School Building Corporation (California).

(a) *Request.* Ruling on the eligibility of the $10,000,000 Gilroy Unified School District School Building Corporation Bonds, Series of 1976, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Gilroy School District School Building Corporation, a California non-profit corporation acting for the Gilroy Unified School District was created to render financial assistance to the District by financing and constructing public school buildings and facilities. The Corporation is issuing these bonds to finance the construction of a comprehensive high school and related facilities for 1800 students on a 61 acre site. The completed high school will be leased to and operated by the District.

(2) The District has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The District, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $10,000,000 Gilroy Unified School District School Building Corporation Bonds, Series of 1976, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated April 6, 1976.)

§ 1.416 Pajaro Valley Unified School District School Building Corporation (California).

(a) *Request.* Ruling on the eligibility of the $4,050,000 Pajaro Valley Unified School District School Building Corporation Bonds, Series of 1976, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Pajaro Valley Unified School District School Building Corporation, a California non-profit corporation acting for the Pajaro Valley Unified School District was created to render financial assistance to the District by financing and constructing public school buildings and facilities. The Corporation is issuing these bonds to finance the construction of a services and instructional materials center and additions at three elementary schools, one junior high school, and one high school, for leasing to the District.

(2) The District has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The District, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $4,050,000 Pajaro Valley Unified School District School Building Corporation Bonds, Series of 1976, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated April 26, 1976.)

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§ 1.417 Los Angeles County Health Facilities Authority.

(a) *Request.* Ruling on the eligibility of the $7,625,000 Los Angeles County Health Facilities Authority Comprehensive Health Center Leasehold Revenue Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Los Angeles County Health Authority is a public entity created under the laws of California by an agreement between the County of Los Angeles and the City of Los Angeles. Under this agreement, the Authority is authorized to acquire, construct, remodel, replace, equip and lease health care facilities within Los Angeles County and to issue bonds to finance the East Los Angeles Comprehensive Health Center.

(2) The County has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The County which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $7,625,000 Los Angeles County Health Facilities Authority Comprehensive Health Center Leasehold Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated April 30, 1976.)

§ 1.418 Ventura County Public Facilities Corporation (California).

(a) *Request.* Ruling on the eligibility of the $31,000,000 Ventura County Public Facilities Corporation Leasehold Mortgage Bonds, Issue of 1976, Series B, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Ventura County Public Facilities Corporation, a California non-profit corporation acting for the County of Ventura, was created to assist the County by financing the acquisition, construction, and improvement of certain public facilities including an administrative complex and justice center. The Corporation is issuing these bonds to finance the construction of a hall of justice building and related facilities, to be leased to and operated by the County.

(2) The County has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The County, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $31,000,000 Ventura County Public Facilities Corporation Leasehold Mortgage Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated June 4, 1976.)

§ 1.419 Livermore Valley Joint Unified School District Educational Facilities Corporation (California).

(a) *Request.* Ruling on the eligibility of the $1,800,000 Livermore Valley Joint Unified School District Educational Facilities Corporation Bonds of Series A, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Livermore Valley Joint Unified School District Educational Facilities Corporation, a California nonprofit corporation acting for the Livermore Valley Joint Unified School District was created to provide financial assistance to the District by financing and constructing public school buildings and facilities. The Corporation is issuing these bonds to finance the construction and alteration of public school facilities including class room, library, transportation, warehouse, administration and other related facilities which will be leased to and operated by the District.

(2) The District has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The District, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1,800,000 Livermore Valley Joint Unified School District Educational Facilities Corporation Bonds of Series A, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated June 4, 1975.)

§ 1.420 Linden Roselle Sewerage Authority (New Jersey).

(a) *Request.* Ruling on the eligibility of the $8,700,000 The Linden Roselle Sewerage Authority, 1975 Revenue Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Linden Roselle Sewerage Authority, created under the laws of the State of New Jersey by parallel ordinances of the City of Linden and the Borough of Roselle, is a public body politic and corporate and a political subdivision of the State. The Authority has power under New Jersey law to finance, acquire, construct and operate a sewer system within its District. It is issuing these bonds for that purpose.

(2) The Authority has entered into service contracts with the City and the Borough. These service contracts, as authorized by New Jersey law, provide for payment to the Authority of annual charges calculated to provide such amounts (in addition to other available funds) as will be required by the Authority for payments of principal and interest on any of its bonds or other obligations, operating expenses, maintenance of reserves and to provide for deficits. The annual charges payable by the municipalities are general obligations of the municipalities and are payable from unlimited property taxes.

(c) *Ruling.* It is our conclusion that the $8,700,000 The Linden Roselle Sewerage Authority, 1975 Revenue Bonds, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated July 16, 1976.)

§ 1.421 San Ramon Valley Unified School District Educational Facilities Corporation (California).

(a) *Request.* Ruling on the eligibility of the $11,000,000 San Ramon Valley Unified School District Educational Facilities Corporation Bonds, Series of 1976, for purchases, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) San Ramon Valley Unified School District Educational Facilities Corporation, a California nonprofit corporation acting for the San Ramon Valley Unified School District was created to provide financial assistance to the District by financing and constructing public school buildings and facilities. The Corporation is issuing these bonds to finance the construction of a new intermediate school, a classroom addition to a high school and classroom additions and remodeling at another high school all of which will be leased to and operated by the District.

(2) The District has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The District, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $11,000,000 San Ramon Valley Unified School District Educational Facilities Corporation Bonds, Series of 1976, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated July 21, 1976.)

§ 1.422 New Jersey Sports and Exposition Authority.

(a) *Request.* Ruling on the eligibility of the $15,000,000 New Jersey Sports and Exposition Authority, Sports Complex Completion Bonds, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The New Jersey Sports and Exposition Authority is a public body corporate and politic, an instrumentality of the State exercising public and essential governmental functions, created in 1971 by an act of the New Jersey State Legislature. The Authority is authorized to develop, construct, and operate a sports complex in the Hackensack Meadowland. It is also authorized to issue its bonds to finance the construction of the project and additional parity bonds for the completion of the project. It has issued and outstanding $302 million of construction bonds. It is issuing these bonds to complete the project.

(2) The sports complex is nearing completion on a 568 acre site and will include a race track for thoroughbred and harness racing which will accommodate 35,000 spectators, a 76,500 seat stadium to be leased by the New York Football Giants Inc., and related facilities.

(3) These bonds like the construction bonds will be secured by a debt service reserve fund which will be established and maintained in an amount not less than the maximum annual debt service, including principal, interest and sinking fund requirements, for any succeeding year on all outstanding bonds of the Authority. In order to secure the maintenance of this fund, the Act provides that there "shall be appropriated and paid" for deposit to the fund of such sum as is annually certified to be necessary to restore the fund to the required level. The State, which possesses general powers of taxation, has thus committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion, in accordance with our ruling of December 16, 1973 (12 CFR 1.387) relating to the construction bonds, that the $15,000,000 New Jersey Sports and Exposition Authority, Sports Complex Completion Bonds, are obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated July 29, 1976.)

§ 1.423 Maryland Consolidated Transportation Bonds.

(a) *Request.* Ruling on the eligibility of the $50,000,000 Department of Transportation of Maryland Consolidated Transportation Bonds, Series 1976, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Department of Transportation is authorized by Article 94A of the Maryland Code to issue on behalf of the State of Maryland its bonds to finance the cost of transportation facilities. It is issuing these bonds to finance construction of state highway facilities, to pay capital costs related to a 7.6 mile rail rapid transit line for Baltimore, to pay the State's share of the capital costs of the Washington Metropolitan Area Transit Authority program and construction of improvements by the Port of Baltimore and Baltimore Washington International Airport.

(2) Section 9(a) of Article 94A levies and imposes an "annual tax", consisting of excise taxes on motor vehicle fuel and certificates of title and certain corporate taxes, for the payment of the principal of and interest on the bonds; section 9(c) irrevocably pledges to that purpose the taxes so imposed and section 9(d) provides that the bonds do not constitute a debt or pledge of the State's faith and credit.

(3) The Court of Appeals of Maryland has considered these provisions of the Maryland Code and the provisions of section 34 of Article III of the Maryland Constitution in "Secretary of Transportation of Maryland v. James R. Mancuso, Jr.," No. 7, (Adv.), (Ct. of App. Md. June 24, 1976). In its opinion the Court rejected the argument that the limitation of source of debt service payment to exclude a pledge of the State's faith and credit removed the bonds from the ambit of section 34 and concluded that "the use of the taxing authority for debt service payment for the Maryland Consolidated Transportation Bonds creates a constitutional 'debt' of the State."

(4) Section 34 of Article III of the Constitution provides in pertinent part: "No debt shall be hereafter contracted by the General Assembly unless such debt shall be authorized by a law providing for the collection of an annual tax or taxes sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof within fifteen years from the time of contracting the same; and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt and interest thereon shall be fully discharged." The Constitution also provides (section 52 of Article III) for an Executive Budget Bill to include appropriations "to pay and discharge the principal and interest of the debt of the State in conformity with Section 34 of Article III of the Constitution, and all laws enacted in pursuance thereof" and that "the General Assembly shall not amend the Budget Bill so as to affect * * * the obligations of the State under Section 34 of Article III of the Constitution * * *."

(c) *Ruling.* On the basis of the Court's decision that the bonds are a constitutional debt of the State and the constitutional provisions for the payment of such debt, it is our conclusion that the $50,000,000 Department of Transportation of Maryland Consolidated Transportation Bonds, Series 1976, are general obligations of a State under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Aug. 6, 1976.)

§ 1.424 University of South Alabama.

(a) *Request.* Ruling on the eligibility of the $6,500,000 University of South Alabama, University Extension Tuition Fee and Facilities Revenue Bonds, Series F, for purchase, dealing in, underwriting and holding by national banks under paragraph Seventh of 12 U.S.C. 24, subject to the ten percent limitation thereof.

(b) *Opinion.* (1) The Board of Trustees of the University of South Alabama is a public body corporate under the name of University of South Alabama with authority to establish and provide for the maintenance and operation of a state university in Mobile County. The Board is authorized to issue bonds to finance the acquisition and construction of buildings and other facilities for use by the University.

(2) The University of South Alabama is comprised of a College of Arts and Sciences, a College of Business and Management Studies, a College of Education, a College of Engineering, a College of Medicine, a Coordinate College for Health Professions, a Graduate School and a School of Continuing Education.

(3) The proceeds of the bond issue will be used to finance ten two-story resident homes, each to accommodate 48 students and an associated residence center with dining, laundry and recreational facilities at an approximate cost of $4,000,000. Also to be financed in part is a new building for general student use and various additions and capital improvements at an approximate cost of $3,500,000, of which it is presently anticipated that $900,000 will be paid from funds provided by the Alabama Public School and College Authority and $10,000 from funds on hand.

(c) *Ruling.* It is our conclusion that the $6,500,000 University of South Alabama University Extension Tuition Fee and Facilities Revenue Bonds, Series F, are issued by an agency of a State for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings and obligations issued by the University of South Alabama. (letter dated Aug. 9, 1976.)

§ 1.425 Jackson Redevelopment Authority (Mississippi).

(a) *Request.* Ruling on the eligibility of $7,500,000 Urban Renewal Town Creek Tube Project Bonds and $1,600,000 Urban Renewal 1976 Parking Facilities Project Bonds both issued by the Jackson Redevelopment Authority, Jackson, Mississippi, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Jackson Redevelopment Authority is a public body corporate and politic created and authorized to exercise its powers as the urban renewal agency of the City of Jackson, Mississippi pursuant to the laws of the State of Mississippi including the Urban Renewal Law.

(2) The Authority is issuing these bonds to finance (1) a creek diversion project and (2) the acquisition of and clearing of land as a site for a municipal parking facility. Both projects are in the central business district of Jackson.

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(3) With respect to each project the City has agreed to grant and contribute to the Authority from the general fund of the City, semi-annually, amounts which together with other available funds will be sufficient to pay the principal of and interest on bonds as they mature and become due. The City which possesses power to grant or contribute funds to the Authority and to levy taxes for such purposes has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $7,500,000 Urban Renewal Town Creek Tube Project Bonds and $1,600,000 Urban Renewal 1976 Parking Facilities Project Bonds of the Jackson Redevelopment Authority are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated Aug. 9, 1976.)

§ 1.426 Connecticut Resources Recovery Authority Greater Bridgeport System Bonds.

(a) *Request.* Ruling on the eligibility of the $53,000,000 Greater Bridgeport System Bonds, Series A, of the Connecticut Resources Recovery Authority for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Connecticut Resources Recovery Authority is a body politic and corporate constituting a public instrumentality and political subdivision of the State of Connecticut created in 1973 by an Act of the General Assembly of the State. The Authority has the responsibility for establishing solid waste disposal and resource recovery systems, facilities and services where necessary and desirable throughout the State, may contract with municipalities for solid waste disposal services and may charge and collect fees for such services. The Authority is authorized to borrow money for such projects and to issue its bonds and notes from time to time.

(2) It is issuing these bonds for a project to serve the City of Bridgeport and the Towns of Darien, Easton, Fairfield, Greenwich, Monroe, Stratford, Trumbull and Westport. These municipalities have entered into service contracts with the Authority. The service contracts provide for payment to the Authority of amounts which together with other available funds will be sufficient to pay the costs of operating the project and the debt service on the bonds. The municipalities, which possess general powers of taxation, have pledged their full faith and credit for the payments required by their respective service contracts.

(3) The Authority will establish and maintain a capital reserve fund sufficient to meet the maximum payments required in any succeeding calendar year for principal and interest on these bonds. The Act provides that on or before December 1 of each year there is deemed to be appropriated from the State general fund such sums as shall be certified by the chairman of the Authority as necessary to restore the fund to an amount equal to the required minimum capital reserve and such amounts shall be allotted and paid to the Authority. The State of Connecticut which possesses general powers of taxation has thus committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion that the $53,000,000 Greater Bridgeport System Bonds, Series A, of the Connecticut Resources Recovery Authority are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated Aug. 31, 1976.)

§ 1.427 New Courthouse Corporation, Madison County, Nebraska.

(a) *Request.* Ruling on the eligibility of $650,000 New Courthouse Corporation, Madison County, Nebraska, Building Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) New Courthouse Corporation is a non-profit corporation created under the laws of Nebraska to assist Madison County in financing the construction of a new courthouse building for the County. The cost of the building is estimated to be $1,278,625. The County will pay the cost in excess of that being financed by the bonds. The completed building will be leased to and operated by the County.

(2) The laws of Nebraska require a county board to provide a suitable courthouse. They also authorize a county board to lease real property for authorized purposes and provide that such leases shall not be restricted to a single year and may provide for the purchase of the property in installment payments.

(3) The County has unconditionally promised in the lease purchase agreement to pay annual rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds. The County will provide for payment of all insurance, taxes and operating expenses. The County, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $650,000 New Courthouse Corporation, Madison County, Nebraska, Building Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated Oct. 1, 1976.)

§ 1.428 City of Memphis, Tennessee, Electric System Special Obligation Refunding Bonds.

(a) *Request.* Ruling on the eligibility of the $77,725,000 City of Memphis, Tennessee, Electric System Special Obligation Refunding Bonds of 1976 for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Ruling.* These bonds will be supported by obligations of the United States. In accordance with the Comptroller's ruling of June 13, 1975, (12 CFR 1.403) these bonds are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (letter dated Oct. 8, 1976.)

§ 1.429 Louisiana Stadium and Exposition District, Refunding Bonds.

(a) *Request.* Ruling on the eligibility of the $135,225,000 Louisiana Stadium and Exposition District, Refunding Bonds Series 1976, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Ruling.* These bonds have the same legal basis and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks to the same extent as the 1971 and 1974 bonds of the District which were the subject of the Comptroller's rulings of April 1, 1971, and March 1, 1974, (12 CFR 1.300 and 1.389). (Letter dated Nov. 3, 1986.)

§ 1.430 Municipal Assistance Corporation for the City of New York, Refunding Bonds.

(a) *Request.* Ruling on the eligibility of the $253,000,000 Municipal Assistance Corporation for the City of New York, 1976 Series CC Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Municipal Assistance Corporation for the City of New York is issuing these refunding bonds to the State of New York in exchange for 1975 bonds held by the State. The 1975 bonds received by the Corporation from the State will be cancelled and will thereupon no longer be outstanding. The State is offering the refunding bonds to underwriters for resale to the public.

(c) *Ruling.* The refunding bonds have the same legal basis and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks in the same manner as the 1975 Series A Bonds of the Corporation which were the subject of the Comptroller's ruling of June 26, 1976 (12 CFR § 1.404). (letter dated Nov. 5, 1976.)

§ 1.431 Arizona State University.

(a) *Request.* Ruling on the eligibility of $13,700,000 Arizona State University System Improvement and Refunding Revenue Bonds Series of 1976 for purchase, dealing in, underwriting and holding by national banks under paragraph Seventh of 12 U.S.C. 24 subject to the ten percent limitation thereof.

(b) *Opinion.* (1) The Arizona Board of Regents is issuing these bonds to make improvements and additions to Sun Devil Stadium at Arizona State University and to refund outstanding bonds of the University the proceeds of which were used to finance the construction and improvement of educational facilities, a student union, and a stadium.

(c) *Ruling.* It is our conclusion that the $13,700,000 Arizona State University System Improvement and Refunding Revenue Bonds Series of 1976 are issued by an agency of a State for University purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by the Arizona Board of Regents. (letter dated Nov. 10, 1976.)

Dated: December 15, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76-37244 Filed 12-17-76;8:45 am]

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; Docket No. R-0067]

PART 226—TRUTH IN LENDING

Supplement V

This supplement to Regulation Z prescribes the criteria and procedures under which a State may apply for an exemption from the provisions of Chapter 4 (Credit Billing) of the Truth in Lending Act or for a ruling regarding whether a provision of State law is inconsistent with a provision of Chapter 4 of the Act. The Fair Credit Billing Act added Chapter 4 to the Truth in Lending Act. Section 171 of Chapter 4 authorizes the Board to grant exemptions from Chapter 4 to States, if the Board determines that the State's law imposes requirements substantially similar to those of Chapter 4 or that the State's law provides greater protection to consumers than is provided by Chapter 4. Additionally, the Board must determine that there is adequate provision for enforcement of the State's law. Section I of the supplement sets out the criteria and procedures under which a State may secure such an exemption.

Section 171 also authorizes the Board to make determinations as to whether a State's law is inconsistent with Chapter 4 of the Federal law in any respect. The Board is prohibited from determining that a State's law is inconsistent with any provision of Chapter 4 when the State's law provides greater protection to consumers than does Chapter 4. Section II of the supplement prescribes the criteria and procedures under which a State may secure such a determination.

The provisions of section 553 of Title 5, United States Code, relating to notice, public participation, and deferred effective dates are not followed in connection with the adoption of the action because the rules relate to agency procedures and, accordingly, do not constitute substantive rules subject to the requirements of such section.

Pursuant to section 171 of Chapter 4 of the Truth in Lending Act, as amended in Pub. L. 93-495, the Board hereby amends 12 CFR Part 226, effective immediately, by the addition of Supplement V as follows:

SUPPLEMENT V TO REGULATION Z

TRUTH IN LENDING

[Sections 226.12 & 226.6(b) (2)—Supplement]

SECTION I

Procedures and criteria under which any State may apply for exemption from the provisions of Chapter 4 of the Truth in Lending Act pursuant to paragraph (a) of § 226.12.

(a) *Application.* Any State may make application to the Board, pursuant to the terms of Section I of this supplement and the Board's Rules of Procedure (12 CFR Part 262), for a determination that under the laws of that State,[1] transactions under open end credit plans, including credit card plans, as provided in section 103 (f) and (i) of the Act and § 226.2(x) of this part, within that State are subject to requirements which are substantially similar to those imposed under Chapter 4 of the Act[2] or which provide greater protection to customers than those provided under Chapter 4 of the Act, and that there is adequate provision for enforcement of such requirements. Such application shall be made by letter addressed to the Board signed by the Governor, the Attorney General, or any official of the State having responsibilities under the State laws which are applicable to the relevant class of transactions. The application shall be supported by the documents specified in paragraph (b) of Section I of this supplement.

(b) *Supporting documents.* The application shall be accompanied by:

(1) A copy of the full text of the laws of the State which are claimed by the applicant to impose requirements substantially similar to those imposed under Chapter 4 of the Act or to provide greater protection to customers than does Chapter 4 of the Act with respect to open end credit and credit card transactions as defined in § 226.2(x) of Regulation Z, including credit other than open end extended by use of a credit card.

(2) A comparison of each requirement of State law with the corresponding requirement of Chapter 4 of the Act, together with reasons to support the claim that the requirements of State law are substantially similar to or provide greater protection to customers than requirements imposed under Chapter 4 of the Act with respect to the class of credit transactions, and to demonstrate that any differences are not inconsistent with and do not result in a diminution in the protection otherwise afforded customers by the requirements of Chapter 4 of the Act and a statement that there are no other State laws which are related to or would have an effect upon the State law which is being considered for exemption and which should be considered by the Board in making its determination.

(3) A copy of the full text of the laws of the State which provide for enforcement of the State laws referred to in subparagraph (1) of this paragraph.

(4) A comparison of the provisions of State law with the provisions of sections 108, 112, 130, 131, and 161(e) of the Act, together with reasons to support the claim that such State laws provide for:

(i) Administrative enforcement of the State laws referred to in subparagraph (1) of this paragraph which is equivalent to the enforcement provided under section 108 of the Act;

(ii) Criminal liability for willful and knowing violation of the State law with penalties substantially similar to those prescribed under section 112 of the Act, except that more severe penalties may be provided;

(iii) Civil liability for failure to comply with the requirements of the State law, including class action liability, which is substantially similar to that provided under sections 130 and 131 of the Act, except that more severe penalties may be provided;

(iv) A forfeiture penalty substantially similar to that provided by section 161(e) of the Act, except that a more severe forfeiture penalty may be provided;

(v) A statute of limitations that prescribes a period with respect to civil liability actions of substantially similar duration as that provided under paragraph (e) of section 130 of the Act, except that a longer period may be provided.

(5) A statement identifying the office designated or to be designated to administer the State laws referred to in subparagraph (1) of this paragraph, together with complete information regarding the fiscal arrangements for administrative enforcement (including the amount of funds available or to be provided), the number and qualifications of personnel engaged therein, and a description of the procedures under which such State laws are to be administratively enforced, including administrative enforcement with respect to Federally chartered creditors.[3] The foregoing statement should include reasons to support the claim that there is adequate provision for enforcement of such State laws.

(c) *Criteria for determination.* The Board will consider the following criteria along with any other relevant information in making a determination of whether the laws of a State impose requirements substantially similar to or provide greater protection to customers than those requirements imposed under Chapter 4 of the Act with respect to open end credit and credit card transactions including credit other than open end extended by use of a credit card, and whether there is adequate provision for enforcement of such laws:

(1) In order for provisions of State law to be substantially similar to or provide greater protection to customers than the provisions of Chapter 4 of the Act, the provisions of State law[4] shall require that:

(i) Definitions and rules of construction, as applicable, import the same meaning and

[1] Any reference to State law in Supplement V includes a reference to any regulations which implement State law and formal interpretations thereof by a court of competent jurisdiction or a duly authorized agency of that State.

[2] Any reference in Supplement V to Chapter 4 of the Act or any section thereof includes a reference to the implementing provisions of this part and the Board's formal interpretations thereof. Additionally, any reference to Chapter 4 of the Act includes a reference to sections 127(a)(8), 127(b)(11), and 127(c) of Chapter 2 of the Act (and any implementing provisions in this Part) which, though technically a part of Chapter 2, implement and relate to substantive requirements of Chapter 4.

[3] Transactions within a State in which a Federally chartered institution is a creditor shall not be subject to the exemption, and such Federally chartered creditors shall remain subject to the requirements of the Act and administrative enforcement by the appropriate Federal authority under section 108 of the Act, unless it is established to the satisfaction of the Board that appropriate arrangements have been made with such Federal authorities to assure effective enforcement of the requirements of State laws with respect to such creditors.

[4] This paragraph is not to be construed as indicating that the Board would consider adversely any additional requirements of State law which are not inconsistent with the purpose of the Act or the requirements imposed under Chapter 4 of the Act.

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have the same application as those prescribed under § 226.2 of this part;

(ii) Creditors make all of the applicable disclosures required by this part and deliver required notices in the form, content, terminology, and time periods as prescribed by this part: *Provided*, That references to Federal law in the statement required under §§ 226.7 (a)(9), 226.7(d), and 226.7(i) may be changed so as to refer to State law. The text of the statements required by State law which correspond to those required by §§ 226.7(a)(9), 226.7(d), and 226.7(i) of this part must be varied to accurately reflect the State law if there are any differences between the State law and Chapter 4 which are determined by the Board not to be inconsistent with Chapter 4 when granting any exemption and which would affect the accuracy of the statement as provided in this part;

(iii) Creditors take all affirmative actions and abide by obligations substantially similar to those prescribed by Chapter 4 of the Act, under substantially similar conditions and within the same (or more stringent) time periods as are prescribed in Chapter 4 of the Act;

(iv) Creditors abide by the same (or more stringent) prohibitions as are provided by Chapter 4 of the Act;

(v) Customers need comply with no obligations or responsibilities which are more costly, lengthy, or burdensome as a condition of exercising any of the rights or gaining the benefits of the protections in the State law which correspond to those afforded by Chapter 4 of the Act, than those obligations or responsibilities imposed upon customers in Chapter 4 of the Act;

(vi) Substantially similar or more favorable rights and protections are provided to customers under conditions substantially similar or more favorable to customers than those afforded by Chapter 4 of the Act.

(2) In determining whether the provisions for enforcement of the State law referred to in paragraph (b)(1) are adequate, consideration will be given to the extent to which, under the laws of the State, provision is made for:

(i) Administrative enforcement, including necessary facilities, personnel, and funding;

(ii) Criminal liability for willful and knowing violation with penalties substantially similar to or more severe than those prescribed under section 112 of the Act;

(iii) Civil liability for failure to comply with the provisions of State law substantially similar to that provided under sections 130 and 131 and a forfeiture penalty substantially similar to that provided in section 161(e) of the Act, except that more severe civil liability and forfeiture penalties may be prescribed; and

(iv) A statute of limitations with respect to civil liability of substantially similar duration as that provided under § 130 of the Act, except that a longer duration may be provided.

(d) *Public notice of filing and proposed rulemaking.* In connection with any application which has been filed in accordance with the requirements of paragraphs (a) and (b) of Section I, following initial review of said application, notice of such filing and proposed rulemaking will be published by the Board in the FEDERAL REGISTER, and a copy of such application will be made available for examination by interested persons during business hours at the Board and at the Federal Reserve Bank of each Federal Reserve District in which any part of the State of the applicant is situated. A reasonable period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons with respect to that application.

(e) *Exemption from requirements of Chapter 4.* If the Board determines on the basis of the information before it that under the law of a State open end credit and credit card transactions, including credit transactions other than open end extended by use of a credit card are subject to requirements which are substantially similar to or which provide greater protection to customers than those imposed under Chapter 4 of the Act and that there is adequate provision for enforcement, the Board will exempt such class of transactions in that State from the requirements of Chapter 4 of the Act in the following manner and subject to the following conditions:

(1) Notice of the exemption will be published in the FEDERAL REGISTER, and the Board will furnish a copy of such notice to the official who made application for such exemption and to each Federal authority responsible for administrative enforcement of the requirements of Chapter 4 of the Act.

(2) The appropriate official of any State which receives an exemption shall inform the Board within 30 days of the occurrence of any change in its related law (including regulations). The report of any such change shall contain copies of the full text of that change together with statements setting forth the information and opinions with respect to that change as specified in subparagraphs (2) and (4) of paragraph (b). The appropriate official of any State which has received an exemption shall file with the Board from time to time such reports as the Board may require.

(3) The Board will inform the appropriate official of any State which receives an exemption of any subsequent amendments of Chapter 4 of the Act (including the implementing provisions of this part and the Board's formal interpretations) which might call for amendment of State law, regulations or formal interpretation thereof.

(f) *Adverse Determination.* (1) after publication of notice in the FEDERAL REGISTER as provided under paragraph (d) the Board finds on the basis of the information before it that it cannot make a favorable determination in connection with the application, the Board will notify the appropriate State official of the facts upon which such finding is based and shall afford that State a reasonable opportunity to demonstrate or achieve compliance.

(2) If, after having afforded the State such opportunity to demonstrate or achieve compliance, the Board finds on the basis of the information before it that it still cannot make any favorable determination in connection with the application, the Board will publish in the FEDERAL REGISTER a notice of its decision with respect to such application and will furnish a copy of such notice to the official who made application for such exemption.

(g) *Revocation of Exemption.* (1) The Board reserves the right to revoke any exemption if at any time it determines that the State law does not, in fact, impose requirements which are substantially similar to or provide greater protection to customers than those imposed under Chapter 4 of the Act or that there is not, in fact, adequate provision for enforcement.

(2) Before revoking any State exemption, the Board will notify the appropriate State official of the facts or conduct which in the opinion of the Board warrant such revocation and shall afford that State such opportunity as the Board deems appropriate in the circumstances to demonstrate or achieve compliance.

(3) If, after having been afforded the opportunity to demonstrate or achieve compliance, the Board determines that the State has not done so, notice of the Board's intention to revoke such exemption shall be published as a notice of proposed rulemaking in the FEDERAL REGISTER. A period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons with respect to the proposed rulemaking.

(4) In the event of revocation of such exemption, notice of such revocation shall be published by the Board in the FEDERAL REGISTER, and a copy of such notice shall also be furnished to the appropriate State official and to the Federal authorities responsible for enforcement of requirements of Chapter 4 of the Act, and the class of transactions affected within that State shall then be subject to the requirements of Chapter 4 of the Act and subject to administrative enforcement as provided under section 108 of the Act.

SECTION II

Procedures and criteria under which any State may apply for a determination that a State law is not inconsistent with and not preempted by a provision of Chapter 4 of the Act pursuant to § 226.6(b)(2) of this part.

(a) *Application.* Any State may make application to the Board pursuant to the terms of Section II of this supplement and the Board's rules of procedure (12 CFR Part 262), for a determination that a law of such State is consistent[4] with a provision of Chapter 4 of the Act, because such State law provides greater protection to customers than does the provision of Chapter 4 of the Act, that such law is consistent with a provision of Chapter 4 for any other reasons, or for a determination of any issue not clearly covered by § 226.6(b) with regard to the relationship of the Federal law to the State's law. Such application shall be made by letter addressed to the Board signed by the Governor, Attorney General, or any official of the State having responsibilities under the State law put forward for consideration and supported by the documents specified in paragraph (b) of Section II of this supplement.

(b) *Supporting Documents.* The application shall be accompanied by:

(1) A copy of the full text of the laws of the State which are claimed by the applicant to be consistent with a provision of Chapter 4 of the Act or whose relationship (with regard to consistency or inconsistency) to a provision of Chapter 4 of the Act is claimed by the applicant to be not clearly covered by the standards and criteria for comparison set forth in § 226.6(b) of this part.

(2) A comparison of each requirement of the State law with the corresponding requirement of Chapter 4 of the Act, together with reasons to support the claim that the State law is consistent with a provision of Chapter 4 of the Act or that the relationship (with regard to consistency or inconsistency) between the State law and a provision of Chapter 4 of the Act is not clearly covered by the standards and criteria set forth in § 226.6(b) of this part.

(3) A copy of the full text of any provisions of State law corresponding to sections 112, 130, 131, and 161(e) (if applicable) together with reasons for applicant's claim that such State provisions are not inconsistent (because they provide greater protection to customers or for other reasons) with the Act.

(4) A statement that there are no State laws (including administrative or judicial interpretations) other than those submitted to the Board which have any bearing on whether or not the State law is consistent with a provision of Chapter 4 of the Act.

[4] For purposes of this supplement the terms "consistent" and "not inconsistent" shall convey the same meaning and shall involve the same evidentiary showing.

(5) A statement identifying the office designated or to be designated to administer the State laws referred to in subparagraph (1) of this paragraph. If no such administrative office exists, then a statement identifying the office to which the Board can address any correspondence regarding the request for such determination shall accompany the application.

(c) *Criteria for determination.* The Board will consider the following criteria along with any other relevant information, in addition to the criteria set forth in § 226.6(b) of this part, in making a determination of whether or not State law is inconsistent with a provision of Chapter 4 of the Act. In order for provisions of State law to be determined to be consistent with a provision of Chapter 4 of the Act, the provisions of State law[4] shall, to the extent relevant to the determination, require that:

(1) Definitions and rules of construction, as applicable, import the same meaning and have the same application as those prescribed by this part;

(2) Creditors make all of the applicable disclosures required by the corresponding provision of Chapter 4 of the Act and this Part and deliver required notices with the content and in the terminology, form, and time periods prescribed by this part; however, variations in form, content, and terminology from the disclosures required by this part will be permitted in order to accurately reflect a State law which is different from the Federal law but determined to be consistent therewith, and more frequent disclosures which do not frustrate any of the purposes of the Act may be determined to be consistent with the Act;

(3) Creditors take all affirmative actions and abide by obligations substantially similar to those prescribed by a provision of Chapter 4 of the Act under substantially similar (or more stringent) conditions and within the same (or more stringent) time periods as are prescribed in Chapter 4 of the Act;

(4) Creditors abide by the same (or more stringent) prohibitions as are prescribed by the corresponding provision of Chapter 4 of the Act;

(5) Customers need comply with obligations or responsibilities which are not more costly, lengthy, or burdensome as a condition of exercising any of the rights or gaining the benefits of the protections provided in the State law, which correspond to those afforded by Chapter 4 of the Act, than those obligations or responsibilities imposed on customers in Chapter 4 of the Act;

(6) Customers are to have rights and protections substantially similar to or more favorable than those provided by the corresponding provision of Chapter 4 of the Act under conditions and within time periods which are substantially similar to or more favorable to customers than those prescribed by Chapter 4 of the Act.[5]

[4] This paragraph is not to be construed as indicating that the Board would consider adversely any additional requirements of State law which are not inconsistent with the purposes of the Act or the requirements imposed under Chapter 4 of the Act.

[5] A State may make a showing that in certain limited readily identifiable circumstances a law which may otherwise be inconsistent with a provision of Chapter 4 of the Act is not inconsistent under the criteria set forth in paragraph (c) of Section II of this supplement. The Board may determine such State law to be consistent only under those circumstances but will make no such determination if doing so would mislead or confuse customers.

(d) *Public notice of filing and proposed rulemaking.* In connection with any application which has been filed in accordance with the requirements of paragraphs (a) and (b) of Section II of this supplement, notice of such filing and proposed rulemaking will be published by the Board in the FEDERAL REGISTER, and a copy of such application will be made available for examination by interested persons during business hours at the Board and at the Federal Reserve Bank of each Federal Reserve District in which any part of the State of the applicant is situated. A period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons with respect to that application.

(e) *Determination that a State law is consistent with chapter 4.* If the Board determines on the basis of the information before it that the law of a State is consistent with a provision of chapter 4 of the Act, notice of such determination shall be published in the following manner and shall be subject to the following conditions:

(1) Notice of the determination will be published in the FEDERAL REGISTER, and the Board will furnish a copy of such notice to the official who made application for such exemption and to each Federal authority responsible for administrative enforcement of the requirements of Chapter 4 of the Act.

(2) The appropriate official of any State which receives such a determination shall inform the Board within 30 days of the occurrence of any change in its related law (or regulations). The report of any such change shall contain copies of the full text of the law, as changed, together with statements setting forth the information and opinions with respect to that change as specified in subparagraphs (2) and (4) of paragraph (b) of Section II. The appropriate official of any State which has received such a determination shall file with the Board from time to time such reports as the Board may require.

(3) The Board will inform the appropriate official of any State which receives such a determination of any subsequent amendments of Chapter 4 of the Act (including the implementing provisions of this Part and the Board's formal interpretations) which might call for amendment of State law, regulations, or formal interpretations.

(f) *Adverse Determination.* (1) If after publication of notice in the FEDERAL REGISTER as provided under paragraph (d) the Board finds on the basis of the information before it that such State law is inconsistent with a provision of Chapter 4 of the Act, the Board will notify the appropriate State official of the facts upon which such finding is based and shall afford that State authority a reasonable opportunity to demonstrate further that such State law is not inconsistent with the corresponding provision of Chapter 4 of the Act. If such State authority desires to do so,

(2) If, after having afforded the State authority such further opportunity to demonstrate that the State law is consistent with a provision of Chapter 4 of the Act, the Board finds on the basis of the information before it that the State law is inconsistent, the Board will publish in the FEDERAL REGISTER a notice of its decision with respect to such application and will furnish a copy of such notice to the official who made application for the determination.

(g) *Reversal of determination.* (1) The Board reserves the right to reverse any determination made under Section II of this supplement to the effect that a State law is consistent with a provision of Chapter 4 of the Act, if at any time it determines that the State law is in fact inconsistent with a provision of Chapter 4 of the Act because of subsequently discovered facts, a change in the State or Federal law (by amendment or administrative or judicial interpretation or otherwise) or for any other reason bearing on the coverage or impact of the State or Federal law.

(2) Before reversing any such determination, the Board will notify the appropriate State official of the facts or conduct which, in the opinion of the Board, warrant such reversal and shall afford that State such opportunity as the Board deems appropriate in the circumstances to demonstrate that the determination should not be reversed.

(3) If, after having been afforded the opportunity to demonstrate that its law is consistent with a provision of Chapter 4 of the Act, the Board determines that the State has not done so, notice of the Board's intention to reverse such determination shall be published as a notice of proposed rulemaking in the FEDERAL REGISTER. A reasonable period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons with respect to the proposed rulemaking.

(4) In the event of reversal of such determination, notice of such reversal shall be published by the Board in the FEDERAL REGISTER, and a copy of such notice shall also be furnished to the appropriate State official and to the Federal authorities responsible for enforcement of the requirements of Chapter 4 of the Act and the State law affected shall then be considered inconsistent with and preempted by Chapter 4 of the Act within the meaning of section 171(a) of the Act.

By order of the Board of Governors, December 10, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-37243 Filed 12-17-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-CE-29-AD; Amdt. 39-2789]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 19, 23 and 24 Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive (AD) applicable to Beech Model 19, 23 and 24 airplanes (also commonly known as Beech Musketeer series airplanes) was published in the FEDERAL REGISTER on November 1, 1976, (41 FR 47946). This proposal would require modification of the wing trailing edge on these aircraft in accordance with Beechcraft Service Instructions No. 0510-032 to prevent interchanging left and right ailerons during reinstallation.

Interested persons were afforded an opportunity to participate in the making of the amendment. One adverse comment was received. The commentator objected to the proposal because he believed that competent licensed mechanics, authorized inspectors and pilots should provide sufficient protection to assure that ailerons are properly installed on these aircraft. He further stated that only one accident resulting from improper aileron installation in the last few years does not warrant AD action. In response to these comments, the Federal Aviation Administration states that even after the agency's publication of a General Aviation Inspection Aid and the manufac-

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turer's issuance of a service instruction, both relative to this problem, one accident, which involved a fatality, occurred because of improper aileron installation. Accordingly, in the interest of safety, the FAA is proceeding with the issuance of an AD.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 C.F.R. 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Models A23-19, 19A, M19A and B19 (Serial Numbers MB-1 thru MB-545 and MB-547), Models 23, A23, A23A, B23 and C23 (Serial Numbers M-2 thru M-1415), Models A-23-24 and A24 (Serial Numbers MA-1 thru MA-368), and Model A24R (Serial Numbers MC-2 thru MC-127) airplanes.

Compliance: Required as indicated, unless already accomplished.

To prevent interchanging left and right ailerons during reinstallation and resulting reversed aileron control response, accomplish the following:

(A) Within the next 100 hours' time in service after the effective date of this AD or at the next removal of the ailerons or within one year after the effective date of this AD, whichever occurs first, install one each Beech P/N 169-110000-481 strap in the left and right wing trailing edge in accordance with Beechcraft Service Instruction 0510-032 or later approved revisions.

(B) Any alternate method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective January 24, 1977.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Missouri, on December 10, 1976.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc.76-37061 Filed 12-17-76;8:45 am]

[Docket No. 16372; Amdt. 39-2790]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls-Royce RB.211-22B Engines

There has been a report of an in-flight high pressure turbine disc failure on a Rolls-Royce RB.211-22B engine and another high pressure disc failure during cyclic rig testing at the manufacturer's plant. Since this condition is likely to exist or develop in other engines of the same type design, an airworthiness directive is being issued to require inspection of the H.P. turbine disc bore on RB.211-22B engines in service.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

ROLLS-ROYCE (1971) LTD. Applies to RB.211-22B engines.

Compliance is required as indicated, unless already accomplished.

To prevent hazards of H.P. turbine disc failure from cracks in the disc bore surface, accomplish the following:

(a) For engines not incorporating Rolls-Royce Service Bulletin RB.211-72-3225—with H.P. disc serial numbers CQDY 779, 794, 802, 824, 829, 840, 851, 933 and 952 installed—inspect the H.P. disc bore in accordance with Rolls-Royce Alert Service Bulletin RB.211-72-A4303 dated December 3, 1976, or an FAA-approved equivalent, as follows:

(1) For engines that have accumulated in excess of 2,400 flight cycles, inspect within 10 flight cycles after the effective date of this AD.

(2) For engines that have accumulated in excess of 1,000 flight cycles but less than 2,401 cycles, inspect within 80 flight cycles after the effective date of this AD.

(3) For other engines, inspect within the next 250 flight cycles after the effective date of this AD.

(b) For engines not incorporating Rolls-Royce Service Bulletin RB.211-72-3225—with H.P. disc serial numbers CQDY 750 and higher, and serial numbers CQDY 577, 624 and 742 (but excluding the serial numbers listed in paragraph (a) of this AD) installed—that have accumulated in excess of 2,300 flight cycles, inspect the H.P. disc bore in accordance with Rolls-Royce Alert Service Bulletin RB.211-72-A4303 dated December 3, 1976, or an FAA-approved equivalent, within the next 100 flight cycles after the effective date of this AD.

(c) For engines incorporating Rolls-Royce Service Bulletin RB.211-72-3225—with H.P. disc serial numbers CQDY 790, 791, 867, 972, 1002, 1016, 1030, 1073 and CQDY 1106 and higher installed—inspect the H.P. disc bore in accordance with Rolls-Royce Alert Service Bulletin RB.211-72-A4303 dated December 3, 1976, or an FAA-approved equivalent, as follows:

(1) For engines that have accumulated in excess of 1,000 flight cycles, inspect within the next 10 flight cycles after the effective date of this AD.

(2) For engines that have accumulated in excess of 700 flight cycles but less than 1,001 flight cycles, inspect within the next 50 flight cycles after the effective date of this AD.

(3) For engines that have accumulated in excess of 400 flight cycles but less than 701 flight cycles, inspect within the next 80 flight cycles after the effective date of this AD.

(4) For all other engines inspect within the next 250 flight cycles after the effective date of this AD.

(d) For engines incorporating Rolls-Royce Service Bulletin RB.211-72-3225—with serial numbers CQDY 750 and higher (except those covered in paragraph (c) of this AD) installed—that have accumulated in excess of 900 flight cycles, inspect the H.P. disc bore in accordance with Rolls-Royce Alert Service Bulletin RB.211-72-A4303 dated December 3, 1976, or an FAA-approved equivalent, within the next 100 flight cycles after the effective date of this AD.

(e) For engines inspected under paragraphs (a) and (b) of this AD which are found to be serviceable in accordance with the acceptance standards of Rolls-Royce Alert Service Bulletin RB.211-72-A4303 dated December 3, 1976, or an FAA approved equivalent, either—

(1) Continue to inspect the H.P. disc bore in accordance with Rolls-Royce Alert Service Bulletin RB.211-72-A4303 dated December 3, 1976, or an FAA-approved equivalent, at intervals not to exceed 2,800 flight cycles; or

(2) Rework the H.P. discs in accordance with Rolls-Royce Service Bulletin RB.211-72-4447 dated October 7, 1976, or an FAA-approved equivalent.

(f) For engines inspected under paragraphs (c) and (d) of this AD which are found serviceable in accordance with the acceptance standards of Rolls-Royce Alert Service Bulletin RB.211-72-A4303 dated December 3, 1976, or an FAA-approved equivalent, either—

(1) Continue to inspect the H.P. disc bore in accordance with Rolls-Royce Alert Service Bulletin RB.211-72-A4303 dated December 3, 1976, or an FAA-approved equivalent, at intervals not to exceed 1,500 flight cycles; or

(2) Rework the H.P. discs in accordance with Rolls-Royce Service Bulletin RB.211-72-4447 dated October 7, 1976, or an FAA-approved equivalent.

(g) Replace those discs found not to be serviceable during any inspection required by this AD before further flight with—

(1) A serviceable FAA-approved disc that has been reworked in accordance with Rolls-Royce Service Bulletin RB.211-72-4447 dated October 7, 1976, or an FAA-approved equivalent; or

(2) A serviceable FAA-approved disc that has not been reworked in accordance with Rolls-Royce Service Bulletin RB.211-72-4447 dated October 7, 1976, or an FAA-approved equivalent. If the disc installed pursuant to this subparagraph has a serial number specified in paragraph (a), (b), (c), or (d) of this AD, continue to inspect the disc at the interval specified in paragraph (e)(1) or (f)(1) of this AD, as appropriate.

(h) For the purpose of this AD, the number of flight cycles equals the number of flights that involve an engine operating sequence consisting of engine starting, takeoff operation, landing, and engine shutdown.

This amendment becomes effective January 3, 1977.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C. on December 10, 1976.

J. A. FERRARESE,
Acting Director, Flight Standards Service.

[FR Doc.76-37060 Filed 12-17-76;8:45 am]

[Airspace Docket No. 76-SW-37]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of V-198 east of Hobby, Tex., by one degree. This alteration is required because of the relocation of the Hobby VORTAC from one side of the William P. Hobby Airport to the other. Additional routes which will automatically move slightly without redesignation are V-15, V-20, V-76, V-198, J-37, J-177 and J-138. The bearing and distance to the Humble waypoint will be changed. However, none of the Area High Routes will be moved.

Since this amendment is a minor matter on which the public would have no particular desire to comment and since no substantive change in the regulations is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t. April 21, 1977, as hereinafter set forth.

§ 71.123 (41 307) is amended as follows:

In V-198 "Hobby, Tex.; INT Hobby 090°" is deleted and "Hobby, Tex.; INT Hobby 091°" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on November 26, 1976.

WRAY R. MCCLUNG,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-37063 Filed 12-17-76;8:45 am]

[Docket No. 16311; Amdt. No. 1051]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, *effective January 27, 1977.*

Lihue, HI—Lihue Arpt., VORTAC Rwy 21, Amdt. 3
Fort Huachuca, AZ—Libby AAF/Sierra Vista, VOR-A, Original
Ocala, FL—Ocala Muni (Jim Taylor Field), VOR Rwy 36, Amdt. 9
Lihue, HI—Lihue Arpt., VOR-A (TAC), Amdt. 3
Lihue, HI—Lihue Arpt., VOR-B (TAC) Original
Mattoon-Charleston, IL—Coles County Memorial, VOR Rwy 6, Amdt. 9
Mason City, IA—Mason City Municipal, VOR Rwy 35, Amdt. 11, cancelled
Mason City, IA—Mason City Muni., VOR Rwy 35 (TAC), Original
Mason City, IA—Mason City Muni., VORTAC Rwy 17, Amdt. 7
Mason City, IA—Mason City Municipal, VORTAC Rwy 35, Amdt. 2, cancelled
Alpena, MI—Phelps-Collins Arpt., VOR Rwy 12, Amdt. 5
Alpena, MI—Phelps-Collins Arpt., VOR Rwy 18, Amdt. 6
Alpena, MI—Phelps-Collins Arpt., VOR Rwy 36, Amdt. 7
Hillsdale, MI—Hillsdale Municipal Arpt., VOR-A, Amdt. 3
Albany, NY—Albany County, VOR Rwy 19, Amdt. 14
New York, NY—John F. Kennedy Int'l Arpt., VOR Rwy 13L/13R, Amdt. 13
Lumberton, NC—Lumberton Muni Arpt., VOR Rwy 5, Amdt. 2
Lumberton, NC—Lumberton Muni Arpt., VOR Rwy 13, Amdt. 2
McAlester, OK—McAlester Muni Arpt., VOR-A, Amdt. 10
Tullahoma, TN—William Northern Field, VOR Rwy 32, Amdt. 4
Tullahoma, TN—William Northern Field, VOR/DME Rwy 14, Orig
Marlin, TX—Marlin Arpt., VOR/DME-A, Amdt. 2

• • • *effective January 6, 1977.*

Bemidji, MN—Bemidji Muni Arpt., VOR Rwy 13, Amdt. 9
Bemidji, MN—Bemidji Muni Arpt., VORTAC Rwy 31, Amdt. 5

• • • *effective December 8, 1976.*

Honolulu, HI—Honolulu Int'l Arpt., VOR Rwy 8L(TAC) Amdt. 12

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, *effective January 27, 1977.*

Mason City, IA—Mason City Muni Arpt., LOC (BC)/DME Rwy 17, Amdt. 1
Albuquerque, NM—Albuquerque Int'l Arpt., LOC(BC) Rwy 17, Amdt. 12, cancelled
Tyler, TX—Pounds Field, LOC (BC) Rwy 31, Amdt. 12

• • • *effective January 13, 1977.*

Merced, CA—Merced Muni Arpt., LOC (BC) Rwy 12, Amdt. 2
Dallas, TX—Redbird Arpt., LOC Rwy 31, Original

• • • *effective January 6, 1977.*

Glasgow, KY—Glasgow Muni Arpt., SDF Rwy 7, Original

• • • *effective December 23, 1976.*

Binghamton, NY—Broome County, LOC Rwy 16, Original

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, *effective January 27, 1977.*

Fort Huachuca, AZ—Libby AAF/Sierra Vista Arpt., NDB-B, Original
Tifton, GA—Henry Tift Myers Arpt., NDB Rwy 33, Amdt. 6
Mason City, IA—Mason City Municipal Arpt., NDB Rwy 35, Amdt. 1
Staples, MN—Staples Municipal Arpt., NDB Rwy 14, Amdt. 1
Albuquerque, NM—Albuquerque Int'l Arpt., NDB Rwy 35, Amdt. 5
Lumberton, NC—Lumberton Muni Arpt., NDB Rwy 13, Amdt. 3
Greeneville, TN—Greeneville Muni Arpt., NDB Rwy 5, Amdt. 1
Greeneville, TN—Greeneville Muni Arpt., NDB Rwy 23, Original, cancelled
Paris, TN—Henry County, NDB Rwy 1, Amdt. 5
Paris, TN—Henry County, NDB Rwy 19, Amdt. 4

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective January 27, 1977.

Mason City, IA—Mason City Muni Arpt., ILS Rwy 35, Amdt. 1
New Orleans, LA—Lakefront Arpt., ILS Rwy 17, Amdt. 2
Albuquerque, NM—Albuquerque Int'l Arpt., ILS Rwy 8, Original
Albuquerque, NM—Albuquerque Int'l Arpt., ILS Rwy 35, Amdt. 31, cancelled
Albany, NY—Albany County, ILS Rwy 1, Amdt. 3
Albany, NY—Albany County, ILS Rwy 19, Amdt. 13
Billings, MT—Billings Logan Int'l Arpt., ILS Rwy 9, Amdt. 21

• • • *effective December 23, 1976.*

Washington, DC—Dulles Int'l Arpt., ILS Rwy 12, Original

• • • *effective December 8, 1976.*

Honolulu, HI—Honolulu Int'l Arpt., ILS Rwy 8L, Amdt. 12

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective January 27, 1977.

Fort Huachuca, AZ—Libby AAF/Sierra Vista, RADAR-1 Original
Albany, NY—Albany County, RADAR-1, Amdt. 9

• • • *effective December 30, 1976.*

Biddeford, ME—Biddeford Municipal Arpt., RADAR-1, Original

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Portland, ME—Portland Int'l Jetport, RADAR-1, Original

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective January 27, 1977.

Mason City, IA—Mason City Muni Arpt., RNAV Rwy 30, Amdt. 2

Correction: In Docket No. 16259, Amdt No. 1047, to Part 97 of the Federal Aviation Regulations, Published in the FEDERAL REGISTER dated Thursday, November 18, 1976 on page 50806, under § 97.23 effective December 30, 1976 * * * Manhattan, Ks—Manhattan Muni Arpt., VOR/NDB RWY 3, Amdt 8 Redesignated as VOR RWY 3, Amdt 8 * * * and on page 50807, under § 97.27, effective December 30, 1976 * * * Manhattan, Ks—Manhattan Muni Arpt., NDB/VOR–A, Amdt 11 Redesignated as NDB–A, Amdt 11.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on December 9, 1976.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the FEDERAL REGISTER on May 12, 1969, (35 FR 5610).

JAMES M. VINES,
Chief,
Aircraft Programs Division.

[FR Doc.76-37062 Filed 12-17-76;8:45 am]

[Docket No. 15855; Amdt. Nos. 1–25; 107–2; 121–131]

AIRCRAFT SECURITY

Release of Information

Correction

In FR Doc. 36128, appearing on page 53776, in the issue of Thursday, December 9, 1976, on page 53777, in § 191.7, the heading should read: "Records containing both available and unavailable information.".

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–5782, 34–13068, 35–19806, 39–449, IC–9567, and IA–561]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Duties of the Secretary of the Commission and of the Director of the Office of Public Affairs

The Securities and Exchange Commission announced today that, effective on December 20, 1976, 17 CFR Part 200 is amended to revise the description of the duties of the Secretary of the Commission and add the description of the duties of the Director of the Office of Public Affairs. Section 200.13 redesignated as § 200.13a and revised and § 200.13b is added to read as follows:

§ 200.13a The Secretary of the Commission.

(a) The Secretary of the Commission is responsible to the Commission for the preparation and maintenance of the Minute Record of all official actions of the Commission. He is custodian of the official seal of the Commission and also has the responsibility for authenticating documents. In addition, he is responsible for the preparation of official releases announcing the various actions of the Commission.

(b) In addition, the Secretary has been delegated responsibilities relating to the Commission's rules of practice and other areas.

§ 200.13b Director of the Office of Public Affairs.

The Director of the Office of Public Affairs is the public information officer and the legislative officer of the Commission. He is the Commission's principal liaison with the news media and with the Congress and his responsibilities include establishing and maintaining effective lines of communication with the news media and with Members of Congress and their staffs. He is also responsible for disseminating information to the news media; responding to requests for information and assistance from the Congress, the news media, and the general public; and advising the Office of the General Counsel and the operating Divisions with respect to legislative proposals and coordinating the preparation of the Commission's comments on such proposals. In addition, he is responsible for coordinating the production of, and exercising editorial supervision over, publications and audio-visual materials explaining the work of the Commission, including the Annual Report to Congress.

The Commission finds that the foregoing amendment relates solely to agency organization, procedure or practice and that notice and procedures under 5 U.S.C. 533 are unnecessary. Accordingly, it is adopted, effective forthwith.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 14, 1976.

[FR Doc.76-37220 Filed 12-17-76;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket Nos. CP 75–96, etc.; RM 77–6]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Order No. 558; Order Prescribing Procedures Pursuant to the Provisions of the Alaska Natural Gas Transportation Act of 1976

DECEMBER 14, 1976.

The Federal Power Commission (FPC) pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976 ("Act"), Sections 3 and 5 (90 Stat. 2903, 2904, 2905, 2906; 15 U.S.C. 719a and 15 U.S.C. 719c) will add a new Section 2.100 to Part 2 (General Policy & Interpretation) of Subchapter A (General Rules) of Chapter 1 of Title 18 of the Code of Federal Regulations.[1] The purpose of this Act is to enable the President and the Congress to participate in the selection process of a transportation system for the delivery of Alaska natural gas to the lower forty-eight states and to expedite its construction and operation by limiting the jurisdiction of Court review of the transportation system selected pursuant to this Act and by imposing limitations upon administrative procedures that could also cause delay in the construction and operation of such a system.

Section 5 of the Act directs the Commission to suspend these proceedings at a time it determines to be practical after the enactment date of the Act. The Commission is also authorized thereunder to establish procedures to enable it to make a recommendation to the President, on or before May 1, 1977, with respect to its selection of the transportation system, if any, it finds best suited to meet the national interest. The Commission's recommendation to the President is to be accompanied by a report explaining the basis for its recommendation. The report is to be made available to the public.

The Commission believes that it can best serve all of its statutory obligations by permitting the above-styled proceedings to continue as prescribed by its Rules of Practice and Procedure and the Regulations under the Natural Gas Act (18 C.F.R. § 1, et seq.) until an Initial Decision is filed by the Judge. In order to assure that the Commission will have the benefit of an Initial Decision in ample time to prepare its report and recommendations to the President, the Commission will require in this order that the Judge file his Initial Decision on or before February 1, 1977. On February 1, 1977, or on such earlier date as the Initial Decision may issue, the normal proceedings will be suspended in order that the Commission may proceed to prepare its report and recommendations. The provisions of the Administrative Procedure Act, 5 U.S.C. 551, et seq., and the Commission's Rules and Regulations under the Natural Gas Act are to be fully observed at all times during the interim period of time prior to the suspension date provided for herein. The Commission believes that the aforementioned course of action will enable it to preserve the formal record developed in these proceedings.

The Commission further believes that the filing of exceptions in these proceedings is important and necessary. It will, therefore, require the Commission Staff and all of the parties to the aforementioned proceeding, who so desire, to file their brief on exceptions to the Initial Decision on or before March 1, 1977, in

[1] The Act was passed by the Congress of the United States on October 1, 1976, and officially enacted into law on October 22, 1976, when signed by the President.

the form and manner prescribed in Section 1.31 of the Rules. Section 1.31(b)(2) of the Commission's General Rules are hereby waived to permit the filing of briefs on exceptions in excess of fifty pages. The Commission will, however, due to the exigencies of the situation and the time constraints involved, make no provision for the filing of replies to exceptions. It specifically notes this here, so that all parties are fully apprised that their brief on exception will be the final filing.

Subsequent to February 1, 1977, the Commission will undertake the task of preparing the recommendation and report to the President required under this Act. During this interval of time the Commission may prescribe such additional procedures as it deems necessary to meet its statutory obligations under the law. The Commission may later provide for oral argument.

The Commission, in order to satisfy the requirements of this Act, will request assistance from Federal agencies and others in order to base its recommendation to the President on all of the factors specified in Section 5 of the Act.

It may become necessary and in the public interest to waive the rules concerning ex parte communications, 18 CFR 1.4(d), in order to implement the procedures required by the Alaska Natural Gas Transportation Act of 1976. If, subsequent to the issuance of the Judge's Initial Decision, the ex parte rules do have to be waived, the Commission will issue a further order notifying all parties of that occurrence.

The El Paso Alaska, et al. proceedings have been in formal hearing since April 7, 1975. The record was formally closed on November 12, 1976. The final briefs required by the Presiding Administrative Law Judge from staff and the parties in these proceedings are scheduled to be filed on December 15, 1976.

The procedural schedule provided for herein provides for a progression in the course of events to implement the Act which is as follows:

(1) On or before February 1, 1977, the filing with the Commission of an Initial Decision by the Administrative Law Judge;

(2) On February 1, 1977, or on such earlier date as the Presiding Administrative Law Judge may file his Initial Decision with the Commission, the suspension of the proceedings entitled El Paso Alaska Company, Docket Nos. CP75–96, et al. pursuant to the provisions of the Act;

(3) On or before March 1, 1977, the filing of briefs on exception by the Commission Staff and the parties to the currently pending El Paso Alaska Company proceedings, supra; and

(4) On or before May 1, 1977, the filing by the Commission of its recommendation and report to the President.

The Commission finds: (1) Prior notice and opportunity for public participation is not necessary in order to permit the Commission to implement the provisions of the Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, et seq. and to suspend the above-styled proceeding thereunder, either under the provisions of the Natural Gas Act, 15 U.S.C. 717(a) et seq., or the provisions of the Administrative Procedure Act, 5 U.S.C. 551, et seq.

(2) The provisions of the Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, et seq., direct the Commission to suspend the above-styled proceedings in order to enable it to fulfill its obligations under the latter Act.

(3) It is necessary and appropriate for purposes of the implementation of the provisions of the Alaska Natural Gas Transportation Act, 15 U.S.C. 719, et seq., and also necessary and appropriate pursuant to the provisions of the Natural Gas Act, 15 U.S.C. 717(a), et seq., to amend Part 2, General Policy and Interpretations, Subchapter A, General Rules, Chapter I, Title 18, Code of Federal Regulations, by the inclusion therein of Section 2.100, Statement of Procedures necessary for the implementation of the provisions of the Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, et seq.

The Commission, acting pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, et seq., particularly Sections 3 and 5 thereof (90 Stat. 2903, 2904, 2905, 2906; 15 U.S.C. 719a and 719c) and pursuant to the provisions of the Natural Gas Act particularly Sections 4, 5, 7, 8, 10, 14, 15, 16 and 23 thereof (52 Stat. 822, 823, 824, 825, 826, 828, 829, 830; 56 Stat. 83, 84; 61 Stat. 459, 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, 717g, 717i, 717m, 717n, 717o and 717w), orders:

(A) Part 2, General Policy and Interpretations, Subchapter A, General Rules, Chapter I, Title 18, Code of Federal Regulations, is hereby amended by adding a new Section 2.100 to read as follows:

§ 2.100 STATEMENT OF PROCEDURES PRESCRIBED FOR THE IMPLEMENTATION OF THE ALASKA NATURAL GAS ACT OF 1976, 15 U.S.C. 719, ET SEQ.

(a) The proceedings entitled El Paso Alaska Company, et al., in Docket Nos. CP75–96, et al. are hereby suspended effective February 1, 1977, or such earlier date as the Presiding Administrative Law Judge may file his Initial Decision as hereinafter provided, pursuant to the provisions of the Natural Gas Act, 15 U.S.C. 717, et seq., and the provisions of the Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, et seq., until further order of this Commission.

(b) The Presiding Administrative Law Judge designated to preside over the proceedings more fully described in paragraph (a) of this Section shall on or before February 1, 1977, file his Initial Decision with the Commission.

(c) The Commission Staff and Parties to the proceedings described in paragraph (a) of this Section, if they so desire, will be permitted to file briefs on exceptions to the Initial Decision of the Presiding Administrative Law Judge provided for in paragraph (b) of this Section on or before March 1, 1977. Section 1.31(b)(2) of the Commission's General Rules is hereby waived in order to permit the Commission Staff and the parties the right to file briefs on exception in excess of fifty pages if they so desire.

(B) The amendment provided for herein shall be effective as of February 1, 1977, or on such earlier date as the Presiding Administrative Law Judge files his Initial Decision with the Commission. Such amendment shall expire upon the selection of a transportation system by the Congress, or upon the termination of the Alaskan Natural Gas Transportation Act of 1976 pursuant to Section 20 thereof, or as otherwise provided by law.

(C) The procedures promulgated herein are subject to further Commission order as may be necessary and appropriate.

(D) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37256 Filed 12-17-76;8:45 am]

SUBCHAPTER A—GENERAL RULES

[Docket No. RM77–5; Order No. 557]

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS; MISCELLANEOUS CHARGES; ETHICAL STANDARDS

Delegation of Final Authority

DECEMBER 10, 1976.

By this order, the Commission amends its rules to delegate to the Commission's Secretary final authority to act on certain matters which often require expeditious treatment. These delegations are being made pursuant to the Commission's broad administrative authority under Sections 2 and 309 of the Federal Power Act and Section 16 of the Natural Gas Act. The added delegations authorize the Secretary to issue temporary natural gas certificates to independent producers, grant petitions to intervene, accept for filing rate schedules requiring waiver of statutory notice periods, and increase authority to grant extension of time requests from six to nine months.

The delegations of authority will result in a significant reduction of Commission and Staff time in preparation for the Commission's weekly meetings as well as expedition of administrative processing of such matters. The authority delegated involves essentially administrative matters which can be performed effectively by the Secretary without diminishing the effectiveness of the Commission's administration of the Federal Power Act and the Natural Gas Act. The Secretary in his judgment and upon recommendations of the Staff will refer to the Commission those items which should be considered by the Commission. We note that, under § 1.7(d) of the Commission's rules, any action taken pursuant to authority delegated by the Commission may be appealed to the Commission by filing a petition within 15 days after such actions.

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Section 3.5(a) of the Commission's rules is, therefore, amended by this order to delegate the following functions to the Secretary:

(1) Temporary natural gas certificates for independent producers. Temporary certificates under Section 7(c) of the Natural Gas Act may be issued "in cases of emergency, to assure maintenance of adequate service or to serve particular customers, without notice or hearing, pending the determination of an application for a certificate." The independent producer, filing under § 157.28 of the Commission's regulations, sets forth facts which constitute the emergency requiring the issuance of the temporary certificate. Delegation of this function to the Secretary will assist in the expedition of processing temporary certificates in order to assure maintenance of adequate service in an emergency.

(2) Petitions to intervene. Section 1.8 of the Commission's rules sets forth the requirements for petitions to intervene. Given the large number of intervention petitions which are determined to meet the requirements of § 1.8, the delegation of this function to the Secretary will significantly assist the Commission in the processing of such petitions. The delegation applies only to timely filed petitions to which no answer in opposition has been filed. The Secretary shall refer to the Commission for its consideration those petitions which do not appear to meet the requirements of § 1.8.

(3) Accept for filing rate schedules requiring waiver of the statutory notice period. A significant number of rate filings request waiver of the statutory notice period so that the effective date assigned may be less than thirty days after the filing. The delegation of authority to the Secretary to accept such filings is granted here where no rate increase other than for state gathering, production or similar tax is involved. Under Commission procedure, these filings are given public notice allowing time for protests, comments or interventions. After the expiration of the protest date and if no protests or interventions are received, the acceptance of the filing would be made along with waiver of the statutory notice requirement and designation of the rate schedule and effective date.

(4) Increase in authority to grant extension of time requests from six to nine months. The Secretary previously has had delegated authority to grant extensions of time of up to six months without referring them to the Commission. The increase in the Secretary's authority to grant extensions of nine months is for purposes of administrative expedition in the processing of such requests and does not represent a change in the Commission's standards for granting extensions. Under Section 1.13 of our rules, such extensions shall continue to be granted only when good cause can be shown to justify the extension.

(5) Specified reasonable rate of return in hydroelectric project license articles. This delegation of authority was approved by Order No. 550, issued June 24, 1976, which added § 2.15 to the Commission's policy statements. This order merely conforms § 3.5(a) to the policy statement of Order No. 550.

The Commission finds. (1) The amendments prescribed herein concern matters of agency organization and procedure which do not require notice or hearing under 5 U.S.C. 553.

(2) In view of the purpose, intent and effect of the amendments herein ordered, good cause exists for making them effective upon issuance of this order.

(3) It is appropriate and in the public interest in administering the Federal Power Act and the Natural Gas Act to adopt the amendments hereinafter set forth. *The Commission,* acting pursuant to the provisions of the Federal Power Act, as amended, particularly Sections 2 and 309 (46 Stat. 798, 49 Stat. 858–859, 63 Stat. 792; 16 U.S.C. 793, 825h), and the provisions of the Natural Gas Act, as amended, particularly Section 16 (52 Stat. 830; 15 U.S.C.. 717o), *orders:*

(A) Paragraph (a) of § 3.5 in Part 3, Subchapter A of Chapter I, Title 18 of the Code of Federal Regulations is amended by revising paragraphs (a)(10), (a)(17), and by adding paragraphs (a)(28), (a)(29), and (a)(30) to read as follows:

§ 3.5 Delegations of final authority.

The Commission has authorized:

(a) The Secretary, or in his absence, the Acting Secretary, to:

* * * * *

(10) Pass upon questions of extending time for electric public utilities, licensees, natural gas companies, and other persons to file required reports, data, and information and to do other acts required to be done at or within a specific time by any rule, regulation, license, permit, certificate, or order of the Commission, not to exceed in any event an extension of nine months beyond the time or period originally prescribed: *Provided* That the Secretary may refer such requests for extension of time to the Commission when, in his judgment, such requests should be considered by the Commission.

* * * * *

(17) Accept for filing all initial rate schedules and rate schedule changes submitted by natural gas companies, public utilities and licensees, waive the requirement of statutory notice for good cause shown, advise the filing party of such acceptance, the designation of the rate schedule and the effective date thereof: *Provided, however,* That this authorization shall not apply to rate increases except where the rate increase is for state gathering, production or similar tax: *Provided further,* That this authorization shall not apply where protests or interventions are received upon the expiration of the date set for such protests or interventions by the Commission's public notice of such filings.

* * * * *

(28) Change the appropriate hydroelectric project license article upon application by the licensee to reflect the specified reasonable rate of return as provided in § 2.15 of this chapter.

(29) Issue temporary certificates to independent producers pursuant to Section 7 of the Natural Gas Act upon the finding that an emergency exists and based upon allegations presented in requests for temporary authorization to initiate the sale or transportation of natural gas in interstate commerce pursuant to § 157.28 of this chapter.

(30) Grant timely filed petitions to intervene if found to be in compliance with § 1.8 of this chapter and if no answer objecting to the granting of such intervention has been filed under § 1.8(e) of this chapter.

(B) The Amendments adopted herein shall be effective upon issuance of this order.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37257 Filed 12-17-76;8:45 am]

Title 26—Internal Revenue

[T.D. 7446]

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Fifty-Percent Maximum Rate On Earned Income

By a notice of proposed rule making appearing in the FEDERAL REGISTER for Wednesday, December 15, 1971 (36 FR 23814), an amendment to the Income Tax Regulations (26 CFR Part 1) was proposed in order to provide regulations under section 1348 of the Internal Revenue Code of 1954, relating to maximum tax on earned income.

Section 1348 provides for a maximum marginal tax rate on earned taxable income of 50 percent. This maximum rate is applied to certain taxpayers who have earned taxable income of such an amount that they would pay tax on such income at a marginal rate in excess of 50 percent on such income. These taxpayers are eligible to use an alternative tax computation provided in section 1348.

Earned income is defined in section 1348 by reference to sections 911 and 401 of the Internal Revenue Code of 1954 and by specific exclusion of deferred compensation and certain other types of income. Earned taxable income, which is subject to section 1348, is determined by reducing earned income by the total of tax preference items which exceed $30,000.

These final regulations contain a number of changes from the notice of proposed rule making. One of the changes concerns the treatment of amounts realized on the exercise of nonstatutory stock options by a deceased employee's executor or beneficiary. Amounts so realized upon the exercise of such an option are to be treated under these final regulations as earned income if the exercise occurs within one year after the decedent's death.

The proposed regulations limited an individual's earned taxable income to the excess of taxable income over 50 percent of the individual's net section 1201 gain. This limitation has been retained but is applicable only to those taxpayers who actually utilize both the section 1201 alternative tax and the section 1348 maximum tax.

Excess interest was included as a tax preference item under the proposed regulations. The final regulations limit such inclusion to only the excess investment interest for taxable years beginning before January 1, 1972.

The general definition of "earned income" has been expanded in these final regulations to deal with certain specific types of compensatory arrangements which were not covered by the proposed regulations. These arrangements include advance payments for personal services under certain circumstances.

Adoption of amendments to the regulations. By a notice of proposed rule making appearing in the FEDERAL REGISTER for Wednesday, December 15, 1971 (36 FR 23814), an amendment to the Income Tax Regulations (26 CFR Part 1) was proposed in order to provide regulations under section 1348 of the Internal Revenue Code of 1954, as added thereto by section 804 of the Tax Reform Act of 1969 (83 Stat 685). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following regulations are hereby adopted:

The Income Tax Regulations (36 CFR Part 1) are amended by adding the following new sections immediately after § 1.1347–1:

§ 1.1348 Statutory provisions; fifty-percent maximum rate on earned income.

Sec. 1348. *Fifty-percent maximum rate on earned income.*—(a) *General rule.* If for any taxable year an individual has earned taxable income which exceeds the amount of taxable income specified in paragraph (1), the tax imposed by section 1 for such year shall, unless the taxpayer chooses the benefits of part I (relating to income averaging), be the sum of—

(1) The tax imposed by section 1 on the lowest amount of taxable income on which the rate of tax under section 1 exceeds 50 percent,

(2) 50 percent of the amount by which his earned taxable income exceeds the lowest amount of taxable income on which the rate of tax under section 1 exceeds 50 percent, and

(3) The excess of the tax computed under section 1 without regard to this section over the tax so computed with reference solely to his earned taxable income.

In applying this subsection to a taxable year beginning after December 31, 1970, and before January 1, 1972, "60 percent" shall be substituted for "50 percent" each place it appears in paragraphs (1) and (2).

(b) *Definitions.* For purposes of this section—

(1) *Earned income.* The term "earned income" means any income which is earned income within the meaning of section 401(c)(2)(C) or section 911(b), except that such term does not include any distribution to which section 72(m)(5), 402(a)(2), 402(e), or 403(a)(2)(A) applies or any deferred compensation within the meaning of section 404. For purposes of this paragraph, deferred compensation does not include any amount received before the end of the taxable year following the first taxable year of the recipient in which his right to receive such amount is not subject to a substantial risk of forfeiture (within the meaning of section 83(c)(1)).

(2) *Earned taxable income.* The earned taxable income of an individual is the excess of—

(A) The amount which bears the same ratio (but not in excess of 100 percent) to his taxable income as his earned net income bears to his adjusted gross income, over

(B) The amount by which the greater of—

(i) One-fifth of the sum of the taxpayer's items of tax preference referred to in section 57 for the taxable year and the 4 preceding taxable years, or

(ii) The sum of the items of tax preference for the taxable year, exceeds $30,000.

For purposes of subparagraph (A), the term "earned net income" means earned income reduced by any deductions allowable under section 62 which are properly allocable to or chargeable against such earned income.

(c) *Married individuals.* This section shall apply to a married individual only if such individual and his spouse make a single return jointly for the taxable year.

(Sec. 1348 as added by sec. 804 (a), Tax Reform Act 1969 (83 Stat. 685).)

§ 1.1348–1 Fifty-percent maximum tax on earned income.

Section 1348 provides generally that for taxable years beginning after December 31, 1971, the maximum tax rate applicable to the earned taxable income of an individual, estate, or trust is not to exceed 50 percent. In the case of an estate or trust, earned income includes only amounts which constitute income in respect of a decedent within § 1.1348–3(a)(4). For taxable years beginning after December 31, 1970, and before January 1, 1972, the maximum rate is 60 percent. Section 1348 does not apply if the taxpayer chooses the benefits of income averaging under sections 1301 through 1305. Section 1348 does not apply to a married individual who does not file a joint return with his spouse for the taxable year. For purposes of section 1348, an individual's marital status shall be determined under section 153 and the regulations thereunder.

§ 1.1348–2 Computation of the fifty-percent maximum tax on earned income.

(a) *Computation of tax for taxable years beginning after 1971.* If, for a taxable year beginning after December 31, 1971, an individual has earned taxable income (as defined in paragraph (d) of this section) which exceeds the applicable amount in column (1) of Table A, the tax imposed by section 1 for such year shall be the sum of—

(1) The applicable amount in column (2) of Table A,

(2) 50 percent of the amount by which earned taxable income exceeds the applicable amount in column (1) of Table A, and

(3) The amount by which the tax imposed by chapter 1 on the entire taxable income exceeds a tax so computed on earned taxable income, such computations to be made without regard to section 1348 or 1301.

Table A

Status	(1)	(2)
Married individuals filing joint returns and surviving spouses	$52,000	$18,066
Heads of households	38,000	12,249
Unmarried individuals other than surviving spouses and heads of households	28,000	13,290
Trusts and estates	26,000	9,030

(b) *Computation of tax for taxable years beginning in 1971.* If, for a taxable year beginning after December 31, 1970, and before January 1, 1972, an individual has earned taxable income (as defined in paragraph (d) of this section) which exceeds the applicable amount in column (1) of Table B, the tax imposed by section 1 for such year shall be the sum of—

(1) The applicable amount in column (2) of Table B,

(2) 60 percent of the amount by which earned taxable income exceeds the applicable amount in column (1) of Table B, and

(3) The amount by which the tax imposed by chapter 1 on the entire taxable income exceeds a tax so computed on earned taxable income, such computations to be made without regard to section 1348 or 1301.

Table B

Status	(1)	(2)
Married individuals filing joint returns and surviving spouses	$100,000	$45,180
Heads of households	70,000	30,200
Unmarried individuals other than surviving spouses and heads of households	50,000	29,190
Trusts and estates	50,000	22,500

(c) *Short taxable periods.* If a taxpayer is required under section 443(a)(1) to make a return for a period of less than 12 months, the tax under section 1348 and this section shall be determined by placing his taxable income, earned net income, adjusted gross income, and items of tax preference on an annual basis in accordance with section 443 and the regulations thereunder. If a taxable year referred to in paragraph (d)(3)(i)(*a*) of this section is a period of less than 12 months for which a return is required under section 443(a)(1), the average described in such paragraph shall also be determined by placing the items of tax preference for such period on an annual basis in accordance with section 443 and the regulations thereunder. If a return for a period of less than 12 months is required under section 443(a)(3) for any taxable year referred to in paragraph (d)(3)(i)(*a*) of this section, section 1348 and this section shall not apply unless such period is reopened by the taxpayer as provided by section 6851(b).

(d) *Earned taxable income.*—(1) *In general.* For purposes of section 1348 and this section, the term "earned tax-

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able income" means the excess of (i) the portion of taxable income which, under subparagraph (2) of this paragraph, is attributable to earned net income over (ii) the tax preference offset (as defined in subparagraph (3) of this paragraph). For purposes of computing the alternative tax under section 1201, earned taxable income shall not exceed the excess of taxable income over 50 percent of the net section 1201 gain.

(2) *Taxable income attributable to earned net income.* The portion of taxable income which is attributable to earned net income shall be determined by multiplying taxable income by a fraction (not exceeding one), the numerator of which is earned net income, and the denominator of which is adjusted gross income. For purposes of this subparagraph the term "earned net income" means the excess of the total of earned income (as defined in § 1.1348–3(a)) over the total of any deductions which are required to be taken into account under section 62 in determining adjusted gross income and are properly allocable to or chargeable against earned income. Deductions are properly allocable to or chargeable against earned income if, and to the extent that, they are allowable in respect of expenses paid or incurred in connection with the production of earned income and have not been taken into account in determining the net profits of a trade or business in which both personal services and capital are material income producing factors (as defined in § 1.1348–3(a)(3)). Except as otherwise provided, deductions properly allocable to or chargeable against earned income include—

(i) Deductions attributable to a trade or business from which earned income is derived, except that if less than all the gross income from a trade or business constitutes earned income, only a ratable portion of the deductions attributable to such trade or business is allowable in respect of expenses paid or incurred in connection with the production of earned income,

(ii) Deductions consisting of expenses paid or incurred in connection with the performance of services as an employee,

(iii) The deductions described in section 62(7) and allowable by sections 404 and 405(c),

(iv) The deduction allowable by section 217,

(v) The deduction allowable by section 1379(b)(3), and

(vi) A net operating loss deduction to the extent that the net operating losses carried to the taxable year are properly allocable to or chargeable against earned income.

A net operating loss carried to the taxable year is properly allocable to or chargeable against earned income in such year to the extent of the excess (if any) of the deductions for the loss year which are properly allocable to or chargeable against earned income and which are allowable under section 172(d) in determining a net operating loss, over the earned income for the loss year. If the excess described in the preceding sentence is less than the entire net operating loss, such excess and the balance of such loss shall be deemed to reduce taxable income ratably for any taxable year to which such loss may be carried. See Examples (3) and (4) in subparagraph (4) of this paragraph.

(3) *Tax preference offset.* (i) For purposes of subparagraph (1) of this paragraph, the "tax preference offset" is the amount by which the greater of—

(A) The average of the taxpayer's items of tax preference for the taxable year and the four preceding taxable years, or

(B) The taxpayer's items of tax preference for the taxable year,

exceeds $30,000.

(ii) The items of tax preference to be taken into account under subdivision (i) of this subparagraph for any taxable year shall be those items of tax preference referred to in section 57(a) and the regulations thereunder for the taxable year, but excluding any amount not taken into account in computing the tax under section 56(a) and the regulations thereunder for such taxable year. The items of tax preference to be taken into account by an individual for any taxable year in which such individual is or was a nonresident alien shall not include items of tax preference which are not effectively connected with the conduct of a trade or business within the United States.

(iii) Taxable years ending before January 1, 1970 shall not be included in computing the average described in subdivision (i)(A) of this subparagraph. Thus, for example, the tax preference offset for a taxable year ending on December 31, 1973, is the amount by which the average of the taxpayer's items of tax preference for 1970, 1971, 1972, and 1973, or the taxpayer's items of tax preference for 1973, whichever is greater, exceeds $30,000. Taxable years during which the taxpayer was not in existence shall not be included in computing the average described in subdivision (i)(A) of this subparagraph. A fractional part of a year which is treated as a taxable year under sections 441(b) and 7701(a)(23) shall be treated as a taxable year for purposes of this subparagraph. See paragraph (c) of this section for special rules if a taxable year referred to in subdivision (i)(A) of this subparagraph is a period of less than 12 months for which a return is required under section 443(a)(1).

(iv) If for the current taxable year the taxpayer and his spouse (or the estate of such spouse) file a joint return together, the items of tax preference for a preceding taxable year taken into account under subdivision (i)(A) of this subparagraph shall be the sum of the items of tax preference of the taxpayer and his spouse for such preceding year even though a joint return was not, or could not have been, filed by the taxpayer and such spouse for such preceding taxable year. If for the current taxable year the taxpayer (A) is no longer married to a spouse to whom he was married for a preceding taxable year taken into account under subdivision (i)(A) of this subparagraph and files a return as a single person, head of household, or surviving spouse for such current taxable year, or (B) is married to a spouse other than the spouse to whom he was married for a preceding taxable year taken into account under subdivision (i)(A) of this subparagraph, his items of tax preference shall be computed as if he were not married during such preceding taxable year.

(v) The sum of the items of tax preference of an estate or trust shall, for purposes of this paragraph, be apportioned between the estate or trust and the beneficiary in the manner and to the extent provided by section 58(c)(1) and the regulations thereunder.

(vi) If an item of gross income in respect of a decedent is includible in the gross income of a taxpayer and is treated as earned income in the hands of the taxpayer by reason of § 1.1348–3(a)(4), the items of tax preference for a taxable year taken into account under subdivision (i) of this subparagraph shall be the sum of the taxpayer's items of tax preference for such taxable year and the decedent's items of tax preference for any taxable year of the decedent (including a short taxable year described in section 441(b)(3)) which ends with or within such taxable year of the taxpayer. For purposes of this subdivision, if a taxpayer (such as the estate of the decedent or a testamentary trust created by the decedent) has not been in existence for the number of preceding taxable years specified in subdivision (i)(A) or (iii) of this subparagraph, the items of tax preference for preceding taxable years taken into account shall be the taxpayer's items of tax preference for each of its preceding taxable years plus the decedent's items of tax preference for that number of the most recent taxable years of the decedent ending prior to the taxpayer's earliest taxable year which, when added to the taxpayer's preceding taxable years, equals such number of preceding taxable years specified in subdivision (i)(A), or (iii). The increase, if any, in the taxpayer's tax preference offset computed under this subdivision shall not exceed the amount by which the taxpayer's taxable income attributable to earned net income, computed as provided in § 1.1348–2(d)(2) and including the item of gross income in respect of a decedent, exceeds the taxpayer's taxable income attributable to earned net income computed without regard to such item of gross income.

(4) *Illustrations.* The provisions of this section may be illustrated by the following examples:

Example (1). (i) H and W, married calendar-year taxpayers filing a joint return, have the following items of income, deductions, and tax preference for 1976:

(a) Salary	$155,000	
(b) Dividends and interest	60,000	
Total	215,000	
(c) Deductible travel expenses of employee allocable to earned income	5,000	
(d) Adjusted gross income		$210,000
(e) Exemptions and itemized deductions		38,000
(f) Taxable income		172,000

In addition, the taxpayers have tax preference items for 1976 of $80,000 attributable to the exercise of a qualified stock option and total tax preference items of $300,000 for the years 1972 through 1975. Since the items of tax preference for 1976 exceed the average of the items of tax preference for the years 1972 through 1976, the tax preference offset for 1976 is $50,000 ($80,000 − $30,000).

(ii) H and W have earned taxable income of $72,857 determined in the following manner:

(a) Earned income		$155,000
(b) Earned net income ($155,000 − $5,000)		150,000
(c) Taxable income		172,000
(d) Adjusted gross income		210,000
(e) Taxable income attributable to earned net income: $172,000(e) × $\frac{\$150,000(b)}{\$210,000(d)}$ =	$122,857	
(f) Tax preference offset	50,000	
(g) Earned taxable income		72,857

(iii) The tax imposed by section 1 is $90,938, determined pursuant to section 1348 in the following manner:

(a) Applicable amount from col. (2) of table A, sec. 1.1348–2(a)		$18,060
(b) 50 pct of amount by which $72,857 (earned taxable income) exceeds $52,000 (applicable amount from col. (1) of table A, sec. 1.1348–2(a))		10,429
(c) Tax computed under sec. 1 on $172,000 (taxable income)	$91,740	
(d) Tax computed under sec. 1 on $72,857 (earned taxable income)	29,291	
(e) Item (c) minus item (d)		62,449
(f) Tax (total of items (a), (b), and (e))		90,938

Example (2). (i) H and W, married calendar-year taxpayers filing a joint return, have the following items of income, deductions, and tax preference for 1976:

(a) Salary	$210,000	
(b) Dividends and interest	20,000	
(c) Net long-term capital gains	100,000	
Total	330,000	
(d) Sec. 1202 deduction (½ of net long-term capital gains)	50,000	
(e) Adjusted gross income		$280,000
(f) Exemptions and itemized deductions		40,000
(g) Taxable income		240,000

The taxpayers' tax preference item for 1976 is one-half of the net long-term capital gains of $100,000, or $50,000. The taxpayers have no items of tax preference for the years 1972 through 1975. Accordingly, their tax preference offset for 1976 is $20,000 ($50,000 − $30,000).

(ii) H and W have earned taxable income of $160,000, determined in the following manner:

(a) Earned net income		$210,000
(b) Taxable income		240,000
(c) Adjusted gross income		280,000
(d) Taxable income attributable to earned net income: $240,000(b) × $\frac{\$210,000(a)}{\$280,000(c)}$ =	$180,000	
(e) Tax preference offset	20,000	
(f) Earned taxable income		160,000

(iii) The tax imposed by section 1 is $122,560, determined pursuant to section 1348 in the following manner:

(a) Applicable amount from col. (2) of table A, sec. 1.1348–2(a)		$18,060
(b) 50 pct of amount by which $160,000 (earned taxable income) exceeds $52,000 (applicable amount from col. (1) of table A, sec. 1.1348–2(a))		54,000
(c) Tax computed under sec. 1201(b) on $240,000 (taxable income):		
(1) Tax under sec. 1201(b)(1) (tax under sec. 1 on $190,000 (taxable income excluding capital gains))	$104,080	
(2) Tax under sec. 1201(b)(2) (25 pct of subsec. (d) gain of $50,000)	12,500	
(3) Tax under sec. 1201(b)(3) (tax under sec. 1 on $240,000 (taxable income) less tax under sec. 1 on $215,000 (amount subject to tax under sec. 1201(b)(1) plus 50 pct of subsec. (d) gain)) ($138,080−$121,480)	17,500	
Total	134,080	
(d) Tax computed under sec. 1 on $160,000 (earned taxable income)	83,580	
(e) Item (c) − item (d)		50,500
(f) Tax (total of items (a), (b), and (e))		122,560

Example (3). (i) A, an unmarried calendar year taxpayer engaged in the practice of law, has the following items of income and deductions for 1973 and 1976:

	1973	1976
Gross income from law practice	$240,000	$100,000
Dividends	60,000	20,000
Expense paid in law practice	50,000	160,000
Investment interest	30,000	10,000
Casualty loss on personal residence (amount in excess of $100)		50,000

(ii) For 1976, A's deductions exceed his gross income, and his taxable income is therefore zero. In addition, A has a net operating loss of $100,000 (i.e., the excess of his deductions of $220,000 over his gross income of $120,000), which may be carried back to 1973. In computing his taxable income and earned taxable income for 1973, $60,000 (i.e., the excess of the expenses paid in A's law practice of $160,000, over his gross income from his law practice of $100,000) of the net operating loss deduction is properly allocable to or chargeable against earned income.

(ii) A's recomputed taxable income and earned taxable income for 1973 are $119,250 and $103,350 respectively, determined in the following manner:

Gross income ($240,000+$60,000)	$300,000
Adjusted gross income ($300,000−$50,000−$100,000)	150,000
Taxable income ($150,000−$30,000−$750)	119,250
Earned net income ($240,000−$50,000−$60,000)	130,000
Earned taxable income $130,000 × $\frac{\$150,000}{\$119,250}$	103,350

Example (4). The facts are the same as in example (3) except that A's gross income from his law practice for 1973 is $40,000. Thus, for 1973, A's deductions (including the net operating loss deduction) exceed his gross income, and his recomputed taxable income is therefore zero. The taxable income subtracted from the net operating loss to determine the carryback to 1974 is $20,000 (i.e., $40,000+$60,000−$50,000−$30,000), and thus the net operating loss carryback from 1976 to 1974 is $80,000 (i.e., $100,000−$20,000). Of this amount, $48,000 ($80,000×$60,000 (the excess of the expenses paid in 1976 in A's law practice over his gross income from his law practice)÷$100,000 (A's net operating loss for 1976)) is properly allocable to or chargeable against earned income, and must be taken into account in recomputing A's taxable income and earned taxable income for 1974.

Example (5). A, an unmarried calendar year taxpayer, receives a salary of $80,000 from Corporation X in 1976 and also owns and operates a laundry in which both his capital and services are material income producing factors. A incurs no section 62 expenses with respect to the salary income. In 1976 the laundry, a sole proprietorship, has gross income of $100,000 and business expenses deductible under section 62 of $80,000. A reasonable allowance as compensation for A's personal services rendered by him in his laundry business would be $12,000. The net profits of the laundry business were $20,000.

A's earned income from the laundry business is limited to $6,000 (30 percent of $20,000). A's total earned income is $86,000 ($80,000+$6,000). Since the section 62 deductions of the laundry business have already been taken into account in computing net profits, they are not again taken into account in computing earned net income. Accordingly, A's earned net income for 1976 is $86,000.

Example (6). The facts are the same as example (5) except that the gross income of the laundry is $130,000 and the net profits from the laundry are $50,000. A's earned income from the laundry is $12,000. Even though the 30-percent-of-net profits limitation has not resulted in a reduction of A's earned income from the laundry, the expenses deducted in computing net profits do not reduce earned income. Accordingly, both the earned income and the earned net income of A for 1976 are $92,000.

Example (7). The facts are the same as example (5) except that the gross income of the laundry is $60,000 and the laundry has a net loss of $20,000. A's earned income from the laundry is $12,000. Since the laundry does not have net profits, the expenses of the laundry have not been taken into account in computing the net profits limitation. Accordingly, a ratable portion of deductible expenses of the laundry must be allocated to the earned income from the laundry in accordance with § 1.1348–2(d)(2); $16,000 of the expenses are allocated to the earned income ($12,000/$60,000)×$80,000). A's total earned income for 1976 is $92,000, and his earned net income is $76,000 ($92,000 minus $16,000).

§ 1.1348–3 Definitions.

(a) *Earned income*—(1) *In general.* (i) For purposes of section 1348 and the regulations thereunder, the term "earned income" means any item of gross income which is earned income within the meaning of section 401(c)(2)(C) or section 911(b) unless the item constitutes deferred compensation as defined in paragraph (b) of this section or is otherwise excluded by application of this paragraph. Thus, subject to such exceptions, the term includes—

(A) Wages, salaries, professional fees, bonuses, amounts includible in gross income under section 83, commissions on sales or on insurance premiums, tips, and other amounts received, actually or constructively, as compensation for personal services actually rendered regardless of the medium or basis of payment.

(B) Compensatory payments for personal services made prior to the time such services are actually rendered, provided such advance payments are not made for a purpose of minimizing Federal income taxes by reason of the application of section 1348, and are either customary in the particular profession, trade, or business, or are made for a bona fide business purpose.

(C) Prizes and awards in recognition of personal services includible in gross income under section 74, amounts includible in gross income under section 79 (relating to group-term life insurance purchased for employees), and amounts includible in gross income under section 1379(b) (relating to contributions to qualified pension plans in the case of certain shareholder-employees); and

(D) Gains (other than gain which is treated as capital gain under any pro-

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vision of chapter 1) and net earnings derived from the sale or other disposition of, the transfer of any interest in, or the licensing of the use of property (other than good will) by an individual whose personal efforts created such property.

The term does not include such income as dividends (including an amount treated as a dividend by reason of section 1373(b) and § 1.1373–1), other distributions of corporate earnings and profits, gambling gains, or gains which are treated as capital gains under any provision of chapter 1. The term also does not include amounts received for refraining from rendering personal services or engaging in competitive activity or amounts received as consideration for the cancellation of an employment contract.

(ii) In the case of a nonresident alien individual, earned income includes only earned income from sources within the United States which is effectively connected with the conduct of a trade or business within the United States.

(2) *Earned income and employed assistants.* The entire amount received as professional fees shall be treated as earned income if the taxpayer is engaged in a professional occupation, such as a doctor, dentist, lawyer, architect, or accountant, even though he employs assistants to perform part or all of the services, provided the patients or clients are those of the taxpayer and look to the taxpayer as the person responsible for the services performed.

(3) *Earned income from business in which capital is material.* (i) If an individual is engaged in a trade or business (other than in corporate form) in which both personal services and capital are material income-producing factors, a reasonable allowance as compensation for the personal services actually rendered by the individual shall be considered earned income, but the total amount which shall be treated as the earned income of the individual from such a trade or business shall in no case exceed 30 percent of his share of the net profits of such trade or business (which share shall include any guaranteed payment (as defined by § 1.707–1(c)) received from a partnership). For purposes of the preceding sentence, the term "net profits of the trade or business" means the excess of gross income from such trade or business (including income from all sources, whether or not subject to Federal income tax, and without taking into account any deductions which may be allowable under section 1202) over the deductions attributable to such trade or business.

(ii) Whether capital is a material income-producing factor must be determined by reference to all the facts of each case. Capital is a material income-producing factor if a substantial portion of the gross income of the business is attributable to the employment of capital in the business, as reflected, for example, by a substantial investment in inventories, plant, machinery, or other equipment. In general, capital is not a material income-producing factor where gross income of the business consists principally of fees, commissions, or other compensation for personal services performed by an individual. Thus, the practice of his profession by a doctor, dentist, lawyer, architect, or accountant will not, as such, be treated as a trade or business in which capital is a material income-producing factor even though the practitioner may have a substantial capital investment in professional equipment or in the physical plant constituting the office from which he conducts his practice since his capital investment is regarded as only incidental to his professional practice.

(iii) This subparagraph does not apply to gains and net earnings derived from the sale or other disposition of, the transfer of any interest in, or the licensing of the use of property by an individual whose personal efforts created such property which are, by reason of subparagraph (1)(i) of this paragraph, treated as earned income. Thus, for example, a research chemist's substantial capital investment in laboratory facilities which he uses to produce patentable chemical processes from which he derives gains within the meaning of this subdivision would not be considered a material income-producing factor.

(4) *Income in respect of a decedent.* An item of gross income in respect of a decedent includible in the gross income of a person described in section 691(a)(1) shall be treated as earned income in the hands of such person for purposes of subparagraph (1) of this paragraph if such item of gross income would have constituted earned income of the decedent had he lived and received such amount. See § 1.1348–2(d)(3)(vi) for rules relating to attribution of tax preferences by reason of an item of income in respect of a decedent.

(5) *Exceptions to definition of earned income.* For purposes of section 1348 and the regulations thereunder, the term "earned income" does not include:

(i) Any distribution to which section 72(m)(5), relating to certain amounts received by owner-employees from a trust described in section 401(a) or under a plan described in section 403(a), applies,

(ii) Any distribution to which section 402(e), relating to the treatment of certain total distributions from a trust described in section 401(a) or under a plan described in section 403(a), applies,

(iii) Any distribution to which section 402(a)(2), relating to capital gains treatment of certain total distributions from a trust described in section 401(a), applies,

(iv) Any distribution to which section 403(a)(2)(A), relating to capital gains treatment for certain distributions under a plan described in section 404(a)(2), applies, or

(v) Any deferred compensation within the meaning of paragraph (b) of this section.

(6) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A owns and operates an unincorporated laundering and dry cleaning business. A, assisted by his employees, devotes his entire time and attention to this business. Substantial capital is invested in the plant and equipment utilized in the laundering and dry cleaning of clothing for A's customers. Although personal services performed by A and his employees are a material income-producing factor in A's business, the capital investment in plant and equipment is not merely incidental to the performance of such services but is, as such, material to the production of business income. Therefore, A's laundering and dry cleaning business is one in which both personal services and capital are material income-producing factors within the meaning of paragraph (a)(3) of this section. A may treat as earned income for a taxable year a reasonable allowance as compensation for the personal services rendered by him in his business, but the amount so treated shall not exceed 30% of the net profits of his business for such year.

Example (2). In his unincorporated business as a real estate broker, which he conducts on a full-time basis, A performs substantial personal services, including solicitation of home buyers and sellers, escorting prospective buyers on house visits, arranging appraisal, financing, and legal services, and other related tasks. In the course of conducting such business, A often finances sales of real estate with his own capital, makes all the necessary arrangements incident to such financing, and a substantial portion of the gross income of the business consists of interest income from such financing. Under these facts and circumstances, both personal services and capital are material income-producing factors in A's real estate business within the meaning of paragraph (a)(3) of this section since the financing of real estate sales is an integral part of the entire business. Accordingly, A's earned income from his real estate business is limited to a reasonable allowance as compensation for the personal services A actually renders, but not in excess of 30% of the net profits from the business, including the interest income derived from financing sales of real estate.

Example (3). For his taxable year ending on December 31, 1973, A, a radiologist, reports fees of $100x for professional services rendered to his own patients during 1973. Since 1970, A has maintained his own office in a small building that he purchased for $60x. In addition, A owns X-ray equipment with an original cost of $300x which he uses in his professional practice. The entire $100x of professional fees earned by A during 1973 is treated as earned income, notwithstanding that A has a substantial capital investment in professional equipment and the office from which he conducts his medical practice, because such capital investment is only incidental to the rendition of personal services in A's professional practice.

(b) *Deferred compensation.*—(1) *In general.* For purposes of section 1348 and the regulations thereunder, the term "deferred compensation" means, except as otherwise provided in subparagraph (2) of this paragraph, any compensation which is deferred within the meaning of that concept in section 404, including any deferred compensation to which the provisions of section 404 and the regulations thereunder apply and any other compensation taxation of which is deferred in a manner similar to the treatment applicable to deferred compensation to which such provisions apply. Thus, the term includes any amounts includable in gross income as compensation for personal services pursuant to a plan, or method having the effect of a plan, deferring the taxation of such payment to a taxable year later than that in which such services were rendered. For purposes of section 1348, the term "deferred compensation" is not limited to payments to common-law employees but also includes payments to self-employed individuals; nor is it material that no deduction is allowable in respect of all or part of such payments or that a deduction in respect thereof is allowable under some provision of the Code other than section 404. For example, amounts received by a retired partner pursuant to a written plan of the partnership of the kind described in section 1402(a)(10) constitute deferred compensation except as otherwise provided in subparagraph (2) of this paragraph. The term "deferred compensation," as defined in this paragraph, shall have no application to a determination of the deductibility of any amount under section 162, section 404, or any other provision of the Code.

(2) *Amounts not treated as deferred compensation.* Notwithstanding the provisions of subparagraph (1) of this paragraph, any amount includible in gross income as compensation before the end of the taxable year following the first taxable year of the taxpayer in which his right to receive such amount is not subject to any requirement or condition which would be treated as resulting in a substantial risk of forfeiture within the meaning of section 83 and the regulations thereunder does not constitute deferred compensation for purposes of section 1348 and the regulations thereunder. For purposes of this subparagraph, a fractional part of a year which is a taxable year under sections 441(b) and 7701(a)(23) shall be treated as a taxable year.

(3) *Application to certain compensation.*—(i) *In general.* This subparagraph provides rules for the application of the principles of subparagraphs (1) and (2) of this paragraph to certain types of compensation.

(ii) *Pension, etc., plans.* (A) In accordance with subparagraph (1) of this paragraph, the taxable portion of distributions under a pension, annuity, profit-sharing, or stock bonus plan, whether or not such plan meets the requirements of section 401(a), or pursuant to a method having the effect of such a plan, generally constitutes deferred compensation. However, under subparagraph (2) of this paragraph, such portion constitutes earned income if includible in gross income before the end of the taxable year following the first taxable year of the taxpayer in which his right to receive such amount is not subject to a substantial risk of forfeiture. In the case of a distribution under a contributory plan, the preceding sentence applies only to that part of the taxable portion of the distribution which is attributable to employer contributions to the plan. For purposes of the preceding sentence, that part of the taxable portion of a distribution which is attributable to employer contributions is the amount of such part, multiplied by a fraction, the numerator of which is the employer contributions to the plan on behalf of the employee (determined in accordance with the principles of § 1.402(a)–2), and the denominator of which is the sum of such employer contributions and the net employee contributions to the plan (as defined in paragraph (a)(2) of § 1.402(a)–2). Thus, if the employer does not contribute to the plan, no part of any distribution thereunder constitutes earned income. Amounts included in gross income under section 402(b), 403(c), or 1379(b)(1) in respect of employer contributions to a plan described in this subdivision do not constitute deferred compensation.

(B) If a recipient's rights to receive amounts pursuant to a plan cease to be subject to a substantial risk of forfeiture in more than one of his taxable years, each payment pursuant to such plan shall be considered to consist of a ratable portion of all of the amounts which are not subject to a substantial risk of forfeiture at the time of such payment. Thus, for example, if an employment contract provides in part that an employee or his estate is to receive in each of the fifteen years after the year in which he attains or would have attained age 65 an amount equal to $2,000 times his years of service with the employer and if he had eighteen years of service with the employer, each $36,000 payment would be considered to consist of 18 payments of $2,000, his right to receive one of which ceased to be subject to a substantial risk of forfeiture upon completing his first year of service with the employer, his right to receive another of which ceased to be subject to a substantial risk of forfeiture upon completing his second year of service with the employer, etc. Therefore, if the employee's last year of service with the employer was completed in the year in which he attained age 65, $2,000 of the first payment in the next year would not be deferred compensation under subparagraph (2) of this paragraph, and the remaining $34,000 of that payment and all of the other fourteen payments of $36,000 would be deferred compensation. If the employee's last year of service was completed in an earlier year, all fifteen payments would constitute deferred compensation in full.

(iii) *Income attributable to options.* (A) Ordinary income realized by a taxpayer upon a disqualifying disposition of stock acquired pursuant to the exercise of a statutory option (as defined in § 1.421–7(b)) is not deferred compensation for purposes of subparagraph (1) of this paragraph and, therefore, constitutes earned income.

(B) Ordinary income realized by a taxpayer upon the transfer of property pursuant to the exercise, or sale or other disposition, of an option which is not a statutory option (as defined in § 1.421–7(b)) and which was granted on or before December 15, 1971, is not deferred compensation for purposes of subparagraph (1) of this paragraph and, therefore, constitutes earned income. Ordinary income realized by a taxpayer upon the transfer of property pursuant to the exercise, or sale or other disposition, of an option which is not a statutory option (as defined in § 1.421–7(b)) and which is granted after December 15, 1971 constitutes earned income rather than deferred compensation if such option cannot, by its terms, be exercised more than three months after termination (for any reason other than death) of the grantee's employment by the grantor of the option. If the terms of such an option granted after December 15, 1971 permit the exercise of the option more than three months after termination (for any reason other than death) of the grantee's employment by the grantor, ordinary income realized by a taxpayer upon the transfer of property pursuant to exercise, or sale or other disposition, of the option constitutes earned income rather than deferred compensation only if such income is realized in a taxable year no later than that following the taxable year in which the option was granted. In the case of the grantee's death within a period during which ordinary income realized upon the transfer of property pursuant to his exercise, or sale or other disposition, of an option described in this subdivision would have constituted earned income as provided in this subdivision had the grantee lived, ordinary income realized subsequently upon the transfer of property pursuant to exercise, or sale or other disposition, of an option described in this subdivision, by the grantee's legal representatives or beneficiary constitutes earned income only if such exercise, or sale or other disposition, occurs on a date no later than the date twelve months following that of the grantee's death. For purposes of this subdivision, the term "employment by the grantor" includes employment by a related corporation as defined in § 1.421–7(i), and by a corporation which is considered a related corporation under § 1.421–7(h)(3). Therefore, the transfer of an employee from the grantor corporation to such a related corporation or from one related corporation to another related corporation or to the grantor corporation will not be treated as a termination of employment by the grantor.

(C) For purposes of (B) of this subdivision, if an option described therein and granted after December 15, 1971 is exercisable only following completion of a specified period of employment, the taxable year in which such period of employment is completed shall be treated as the taxable year in which the option was granted. Further, if the terms of an option described in (B) of this subdivision and granted after December 15, 1971 are modified, such modification shall not be considered as the granting of a new option for purposes of (B) in determining the taxable year in which such option was granted.

(D) For purposes of (B) of this subdivision, an option will not be considered

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exercisable by its terms more than three months following termination (for any reason other than death) of the grantee's employment by the grantor solely because the terms of such option permit, in the event of such grantee's death within three months following termination of such employment, exercise of the option by the grantee's legal representative or beneficiary during or following such three-month period.

(4) *Examples.* The application of this paragraph may be illustrated by the following examples, in each of which it is assumed that any amounts paid as described therein constitute salaries or other compensation for personal services actually rendered rather than a distribution of earnings and profits:

Example (1). (i) On January 1, 1965, Corporation X and E, an individual, execute an employment contract under which E is to be employed by X for a period of 10 years. Under the contract, E is entitled to a stated annual salary and to additional compensation of $10x for each year. This additional compensation is to be credited as of December 31 of each year to a bookkeeping reserve account and will be deferred, accumulated, and paid only upon termination of the employment contract, E's becoming a part-time employee of X, or E's becoming partially or totally incapacitated. Under the terms of the contract, X is merely under a contractual obligation to make the payments when due, and neither X nor E intends that the amounts in the reserve be held by X in trust for E. The contract provides that if E shall fail or refuse to perform his duties, X will be relieved of any obligation to make further credits to the reserve but not of the obligation to distribute amounts previously credited to the reserve. In the event E should die prior to his receipt in full of the balance in the account, the remaining balance is distributed to his personal representative.

(ii) Having completed the terms of his employment contract, E retires from the employment of X on December 31, 1974, and on January 15, 1975, receives a total distribution of $100x from his reserve account. Of this distribution of $100x to E, only $10x, representing the credit made to E's reserve account in 1974, constitutes earned income. No other credits to E's reserve account are taken into account for this purpose because they were made to the reserve account and became nonforfeitable in a year earlier than the year preceding that in which the $100x distribution was made to E.

Example (2). (i) Corporation X follows a policy of permitting employees to elect before the beginning of any calendar year to defer the receipt of either 5 percent or 10 percent of their stated annual salary to be earned in that year. E, an employee, elects for each of 10 years of employment to defer receipt of $5x of his stated annual salary. The total so deferred, or $50x, is paid to E on January 15, 1974.

(ii) Since the salary which E elects to defer is includible in his gross income only in the taxable year in which actually received by him, then to the extent E receives any such deferred salary payment after the end of the taxable year following the taxable year from which such payment was deferred, such payment does not constitute earned income since such payment is deferred compensation under this paragraph (b). Accordingly, of the $50x distribution to E, only $5x, representing the salary deferral from 1973, constitutes earned income.

Example (3). (i) E is an officer of Corporation X, which has a plan for making future payments of additional compensation for current services to certain employees. The plan provides that a fixed percentage of the annual net earnings in excess of $400x is to be designated for division among the participants. This amount is not currently paid to the participants; but X has set up on its books a separate account for each participant, including E, and each year it credits thereto the dollar amount of his participation for the year. Distributions are to be made from the account when the employee reaches the age of 60, is no longer employed by X, including cessation of employment due to death, or becomes totally unable to perform his duties, whichever occurs first. X's liability to make these distributions is contingent upon the employee's refraining from engaging in any business competitive to that of X, making himself available to X for consultation and advice after retirement or termination of his services, unless disabled, and retaining unencumbered any interest or benefit under the plan. In the event of his death, either before or after the beginning of payments, amounts in an employee's account are distributable to his designated beneficiaries of heirs-at-law. Under the facts and circumstances, E's rights to distributions from his account pursuant to the terms of the plan are not subject to a substantial risk of forfeiture within the meaning of section 83(c)(1). Under the terms of the compensation plan, X is under a merely contractual obligation to make the payments when due, and the parties did not intend that the amounts in each account be held by X in trust for the participants.

(ii) Cash or property includable in gross income by E which is attributable to a credit to his account in a taxable year earlier than the year immediately preceding the year of inclusion does not constitute earned income since it is deferred compensation within the meaning of this paragraph (b). See subparagraph (3) of this paragraph (b) for rules for determining that portion of distributions from E's account which are attributable to credits to his account in a taxable year earlier than the year immediately preceding the year in which such distributions are made.

Example (4). (i) Corporation X has an annual incentive bonus plan for its employess. Under this plan, X has the sole discretion to defer all or any part of any employee's incentive bonus award. In addition, no employee has any right to receive any incentive bonus for any year (whether to be paid currently or to be deferred) until such time, if any, as X makes an award to him. No employee has any election as to the amount or time of payment of his award for any year. Furthermore, the last of any payments under an award must be paid no later than 10 years from the normal retirement date of the employee. In addition, the obligations of X under the plan are merely contractual and are not funded or secured. The awards are nonassignable. However, in the case of death the awards are payable to the employee's designated beneficiary. Once made, a bonus award under the plan is not subject to any substantial risk of forfeiture.

(ii) In each of the years 1967, 1968, 1969, and 1970, X awards E a deferred bonus of $100x. E retires on June 30, 1971. Beginning in 1971, X pays to E the total of $400x of deferred bonus awards in 5 annual installments of $80x each. With respect to the $80x payment made to E in 1971, $20x, representing the ratable portion of the payment ($100x/$400x x $80x) allocable to the 1970 bonus award, is earned income because it was received in a year no later than the year following that (1970) in which E's right to receive such amount was no longer subject to a substantial risk of forfeiture. The balance of the $80x payment made in 1971 and all payments made subsequently constitute deferred compensation.

Example (5). (i) Under the terms of a nonqualified bonus plan for its executive employees, Corporation M contributes each year to a bonus reserve a given percentage of its net earnings for the year. M makes bonus awards each year from the reserve in cash or stock of M, or a combination of both, to such executive employees, and in such amounts, as M may determine. The bonus award so determined to be made to a beneficiary is paid to him in installments: 20 percent of the award at the time that the award is made and the remaining installments in January of each succeeding year (until the full amount of the award is paid). Such amounts are payable in succeeding years but only if earned out by the employee by continuing service to M, at the rate of 1/12th of the amount of the first installment for each complete month of service beginning with the year of determination. If the beneficiary voluntarily terminates his employment, is discharged for cause, or conducts himself in a manner inimical to the best interests of M, he forfeits the rights to receive any portion of his bonus award previously earned out but undelivered to him and to continue earning out his bonus award. Upon retirement a beneficiary retains the right to earn out an unearned bonus award but forfeits the right to continue earning out the award if he conducts himself in a manner inimical to M's best interests or engages in an activity which is in competition with an activity of M. If a beneficiary dies while earning out a bonus award, any unpaid and undelivered portion of his award is paid and delivered to his estate or heirs at such time and in such manner as if the beneficiary were living.

(ii) On January 1, 1971, M makes a cash bonus award to A of $100x. On January 15, 1971, $20x, representing the first installment of the award, is paid to A. On January 15, 1972, $20x, representing the portion of the award earned out by A during the calendar year 1971 is paid to him. On January 1, 1972, A retires from employment with M and, having satisfied the conditions to continue earning out his bonus award, receives $20x on January 15, 1973, $20x on January 15, 1974, and $20x on January 15, 1975.

(iii) Under the facts and circumstances, the conditions that A not conduct himself in a manner inimical to the best interests of M and refrain from activity competitive to that of M are not considered to result in a substantial risk of forfeiture of the bonus award. The total installments of $40x paid to A in 1971 and 1972 constitute earned income. The installment of $20x earned out by A in 1972 and paid to him in 1973 also constitutes earned income for the taxable year 1973 because it was includible in gross income by A before the end of the taxable year of A following the first taxable year (the year of his retirement, i.e., 1972) in which his right to receive the installment was not subject to a substantial risk of forfeiture. The installments paid to A in 1974 and 1975, however, do not constitute earned income because they were paid in a year later than the year following the year of A's retirement. Had the conditions that A not conduct himself in a manner inimical to the best interests of M and refrain from activity competitive to that of M constituted a substantial risk of forfeiture, the installments paid to A in 1974 and 1975 would have constituted earned income.

Example (6). On January 15, 1968, Corporation M, under the terms of a nonqualified bonus plan for its employees, grants to A, an employee, 5,000 "dividend units", which entitle A to receive, for the period during which the award remains in effect, a cash payment equal to the dividends declared and

paid by M on the equivalent of 5,000 shares of its capital stock. The award remains in effect for A's lifetime but is subject to forfeiture if A is dismissed or leaves the service of M for any reason other than his death or retirement, or if A, following his retirement, engages in any activity which is harmful to the interests of M. Under the particular facts and circumstances, the condition that A not engage in any harmful activity is not considered to amount to a substantial risk of forfeiture within the meaning of section 83(c)(1). A retires on January 1, 1971. In each of the calendar years 1971, 1972, 1973, and 1974, A receives cash payments of $5x under his bonus award. The payments totaling $10x to A in the years 1971 and 1972 constitute earned income because A received them before the end of the taxable year following the first taxable year (i.e., 1971, the year in which A retired) in which his right to receive such payments was not subject to a substantial risk of forfeiture. Payments totaling $10x to A in 1973 and 1974, however, constitute deferred compensation under paragraph (b) of this section.

Example (7). Corporation M maintains an employees' profit sharing trust which is not exempt from tax under section 501(a). Under the terms of the trust agreement, the interest of the trust beneficiaries in each contribution made to the trust by M is subject to a substantial risk of forfeiture for a period of 2 years from the date on which the particular contribution is made, except that upon a beneficiary's retirement, his entire interest in the trust vests immediately. Contributions are made on December 30 of each year. As of August 1, 1969, the total interest, forfeitable and nonforfeitable, of A, an employee of M, in the trust is $320x. On December 30 in each of the years 1969, 1970, and 1971, M makes a further contribution to the trust allocable to A's account equal to $60x. A retires on December 31, 1971, and becomes entitled to a total distribution from the trust of $500x, of which $320x represents M's contributions made prior to August 1, 1969, and $180x represents contributions made subsequent to such date. Beginning in 1972, the trust distributes to A $500x in 5 equal annual installments. Because M's contributions to A's account for the years subsequent to August 1, 1969, totaling $180x vested as of his retirement date, such contributions of $180x constitute earned income of A for the year 1971 by reason of § 1.402(b)-1(b). No portion of any annual installment of $100x which is includible in A's gross income constitutes earned income since it is attributable to the $320x, in all of which A's rights became nonforfeitable no later than December 30, 1970.

Example (8). Corporation M maintains a qualified noncontributory pension plan for the benefit of its employees. Under the terms of the plan, no employee has a vested right to receive any distribution under the plan prior to his retirement from the employment of M upon reaching the age of 65. A, an employee of M, reaches age 65 on June 15, 1972, and retires on June 30, 1972. Under the terms of the pension plan, A becomes entitled to receive a monthly pension of $5x, beginning on July 1, 1972. A receives pension payments totalling $30x in 1972, $60x in 1973, $60x in 1974, $60x in 1975, and $60x in 1976. The pension payments received by A in 1972 and 1973 constitute earned income within paragraph (b)(3)(ii) of this section. The pension payments received by A in 1974, 1975, and 1976 constitute deferred compensation.

Example (9). (i) A is a participant in X Corporation's noncontributory qualified pension plan. The plan provides an annual benefit upon attaining age 65 of 2 percent of average compensation for each calendar year of participation in the plan. Average compensation is defined as the average of an employee's annual compensation over the last 5 calendar years of service. The plan provides that an employee's rights in his accrued benefit are nonforfeitable after 15 years of participation in the plan. A attains age 65 on June 20, 1975, and begins to receive a pension on July 1, 1975. A's pension is based upon 30 years of participation in the plan. A's annual compensation for the period 1969 through 1974, is as follows:

Year:	Annual compensation
1969	$75,000
1970	80,000
1971	80,000
1972	85,000
1973	85,000
1974	90,000

(ii) Under the terms of the plan, A's accrued benefit as of December 31, 1974, and his pension are $50,400 (0.02 × 30 × 1/5 ($80,000 + $80,000 + $85,000 + $85,000 + $90,000)). A's accrued benefit as of December 31, 1973, is $46,980 (0.02 × 29 × 1/5 $75,000 +$80,000 + $80,000 + $85,000 + $85,000)). Since A's rights in $46,980 of his accrued benefit had ceased to be subject to a substantial risk of forfeiture before 1974, only $285 (1/12 × ($50,400–$46,980)) of each payment received during 1975 does not constitute deferred compensation. The balance of the amounts received during 1975 and all amounts received in 1976 constitute deferred compensation since they are paid after the end of the taxable year following A's first taxable year in which his right to receive any such amount was not subject to a substantial risk of forfeiture.

Example (10). On January 15, 1971, Corporation M grants to A, an employee, an option to purchase 100 shares of stock of M at a price of $10x per share. Such option constitutes a qualified stock option as defined in section 422(b). On August 1, 1971, A exercises his option, at which time the fair market value of the 100 shares of M stock is $15x per share. On April 24, 1972, A sells the 100 shares of M stock acquired pursuant to exercise of his option at a price of $25x per share. Because the sale constitutes a disqualifying disposition within the meaning of section 421(b), A realizes ordinary income of $500x and a capital gain of $1,000x in the taxable year 1972. The $500x of ordinary income so realized by A constitutes earned income.

Example (11). On November 30, 1972, Corporation M grants to A, an employee, a nonqualified stock option to which section 421 does not apply and which has no readily ascertainable fair market value on that date. The option may, by its terms, be exercised by A at any time during, or following termination of, his employment. On March 30, 1974, A, while still employed by M, exercises his option and realizes compensation income at that time. Such compensation does not constitute earned income because the option is exercisable within a period that may extend beyond three months after A's termination of employment (other than by reason of death). See paragraph (b)(3)(iii)(B) of this section. Had A exercised his option at any time prior to January 1, 1974, the compensation realized by him by reason of such exercise would have constituted earned income.

Example (12). On November 30, 1972, Corporation N grants to B, an employee, a nonqualified stock option to which section 421 does not apply and which has no readily ascertainable fair market value on that date. The option may by its terms, be exercised only within the period during which B is employed by N or within three months thereafter. On March 30, 1974, B exercises his option and realizes compensation at that time. Such compensation so realized by B constitutes earned income. See paragraph (b)(3)(iii)(B) of this section.

Example (13). On May 9, 1973, and in connection with the performance of services by E, an employee, Corporation X transfers to E 100 shares of X stock. Under the terms of the transfer, E is subject to a binding commitment to return the stock to X if E leaves X's employment for any reason prior to the expiration of a 3-year period beginning on the date of transfer. Since E must perform substantial services for X before he may keep the X stock, E's rights in the stock are subject to a substantial risk of forfeiture under section 83(c)(1). Consequently, if such restriction lapses on May 9, 1976, the compensation realized at such time constitutes earned income. Had E elected to include an amount in his gross income in 1973 pursuant to section 83(b) and the regulations thereunder, the amount so included would also have constituted earned income.

Example (14). On October 1, 1971, A, an author, and Corporation M, a publisher, executed an agreement under which A granted to M the exclusive right to print, publish and sell a book he had written. The agreement provides that M will pay to A specified royalties based on the actual cash received from the sale of the published work, render semiannual statements of the sales, and at the time of rendering each statement make settlement for the amount due. On the same day, another agreement was signed by A and M, mutually agreeing that, in consideration of, and notwithstanding, any contrary provisions contained in the first contract, M shall not pay A more than $100x in any one calendar year. Under this supplemental contract, sums in excess of $100x accruing in any one calendar year are to be carried over by M into succeeding years. For the calendar year 1971, royalties payable to A under the basic agreement amount to $100x and this sum is paid to A. For the calendar year 1972, royalties of $120x are payable to A under the basic agreement, but by reason of the supplemental agreement, only $100x of this sum is actually paid to A. For each of the calendar years 1973 and 1974, royalties of $100x are payable to A under the basic agreement, and this sum is paid to A. For the calendar year 1975, royalties of $80x are payable to A under the basic agreement, and this sum, plus $20x carried over from 1972, or $100x, is paid to A. The $100x paid to A in each of the years 1971, 1972, 1973, and 1974, and $80x of the $100x paid to A in 1975 constitute earned income. The additional $20x carried over from 1972 and paid to A in 1975 constitutes deferred compensation under this paragraph (b) because it was paid to A later than the end of the year following the year (i.e., 1972) in which A's right to receive the amount was not subject to a substantial risk of forfeiture.

Example (15). Corporation M is the producer and owner of a feature length motion picture which is distributed to exhibitors by Corporation N pursuant to a distribution agreement between M and N providing for current payments to M of a given percentage of the current net profits derived by N from the exhibition and exploitation of the picture. A was employed by M as the leading actor in the picture for fixed compensation payable at the rate of $10x per week during the production period plus additional compensation equal to a given percentage of the net profits derived from the exhibition and exploitation of the picture. A's additional compensation is payable at the time that M receives payments from N under the terms of the distribution agreement. The additional compensation paid to A does not constitute deferred compensation since it is attributable

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to and measured by current net profits derived from the use of property created in part by A's efforts.

Example (16). A, a boxer entered into an agreement with M boxing club to fight a particular opponent on June 19, 1971. The agreement provided in part, that for his performance A was to receive 16 percent of the gross receipts derived from the match. Simultaneously, A and M executed a separate agreement providing for payment of A's share of the receipts from the match as follows: 25 percent thereof not later than August 15, 1971, and 25 percent thereof during each of the years 1972, 1973, and 1974 in equal semi-annual installments. A's share of the gross receipts derived from the match was $100x, of which 25 percent was paid to him in 1971 and a total of $25x in each of the years 1972 1973, and 1974. Under the particular facts and circumstances, A and M are not acting as partners or joint venturers. Thus, A is taxable upon his share of such gross receipts only in the years in which such share is actually paid to him under the terms of the separate agreement. The payments of $25x in each of the years 1971 and 1972 constitute earned income. The payments of $25x in each of the years 1973 and 1974 would not constitute earned income because they constitute deferred compensation received later than the end of the first taxable year (i.e., 1972) following the year in which A's right to receive such amounts was not subject to a substantial risk of forfeiture.

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 14, 1976.

WILLIAM M. GOLDSTEIN,
Deputy Assistant Secretary of the Treasury.

[FR Doc.76-37203 Filed 12-17-76;8:45 am]

[T.D. 7445]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Loss Deductions of Corporate Partners in a Partnership

This document contains Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) relating to loss deductions of corporate partners in a partnership.

Section 213(e) of the Tax Reform Act of 1976 (90 Stat. 1548) amended section 704(d) of the Code to provide that in certain cases, for the purpose of deducting losses, a partner's adjusted basis will not include any portion of the partnership's liability with respect to which the partner has no personal liability. This regulation sets forth the effect of this provision with respect to corporate partners.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

In order to provide immediate guidance with respect to the amendment of section 704(d), Temporary Income Tax regulations under the Tax Reform Act of 1976 (26 CFR Part 7) are added as follows:

The following section is inserted in the appropriate place:

§ 7.704–1 Partner's distributive share.

(a) [Reserved]
(b) [Reserved]
(c) [Reserved]
(d) *Limitation on allowance of losses.*
(1) [Reserved]
(2) [Reserved]
(3) (i) Section 213(e) of the Tax Reform Act of 1976 amended section 704(d) of the Internal Revenue Code relating to the deductions by partners of losses incurred by a partnership. A partner is entitled to deduct the share of partnership loss to the extent of the adjusted basis of the partner's interest in the partnership. As amended, section 704(d) provides, in general, that the adjusted basis of a partner's interest in the partnership for the purpose of deducting partnership losses shall not include any portion of a partnership liability for which the partner has no personal liability. This restriction, however, does not apply to any activity to the extent that section 465 of the Code applies nor to any partnership whose principal activity is investing in real property, other than mineral property. Section 465 does not apply to corporations other than a subchapter S corporation or a personal holding company.

(ii) The restrictions in the amendment to section 704(d) will not apply to any corporate partner with respect to liabilities incurred in an activity described in section 465(c)(1). In all other respects the restrictions in the amendment will apply to all corporate partners unless the partnership's principal activity is investment in real property, other than mineral property.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impractical to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitations of subsection (d) of that section.

(Section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 14, 1976.

WILLIAM M. GOLDSTEIN,
Deputy Assistant Secretary of the Treasury.

[FR Doc.76-37202 Filed 12-17-76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-37]

PART 110—ANCHORAGE REGULATIONS

Establishment of an Anchorage Ground—Hampton Roads, Va.

On July 8, 1976, there was published in the FEDERAL REGISTER (41 FR 27974), a notice of proposed rulemaking to establish an Anchorage Ground west of Craney Island Reach, Hampton Roads, Virginia. This anchorage is for the exclusive use of floating equipment used in the construction of Pier 25 at the Naval Station, Norfolk, Virginia. The establishment of this anchorage would locate all construction equipment in one area, thereby enhancing safety.

No written objections have been received and the proposed regulations are hereby adopted without change as set forth below. Effective date: These regulations are effective January 20, 1977.

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 8, 1976.

D. J. RILEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

In consideration of the foregoing, a new paragraph (13) is added to §110.168 (a) of Title 33 of the Code of Federal Regulations to read as follows:

§ 110.168 Hampton Roads, VA and adjacent waters.

(a) • • •

(13) *Anchorage for construction equipment, T–6.* Anchorage T–6 is a circular area of radius 300 yards whose center is located at latitude 36°54'16" N., longitude 76°20'40" W. This anchorage is for the exclusive use of floating equipment used in the construction of Pier 25 at the Naval Station, Norfolk, Virginia.

• • • • • • •

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1)(A), 80 Stat. 937; (33 U.S.C. 471), (49 U.S.C. 1655(g)(1)(A); 49 CFR 1.46(c)(1), 33 CFR 1.05–1(c)(1).)

[FR Doc.76-37231 Filed 12-17-76;8:45 am]

[CGD 76-176]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Curtis Creek, Maryland

This amendment establishes regulations for the I–695 drawbridge across Curtis Creek, Baltimore, Maryland, to provide that the draws shall open on signal if at least one hour notice is given. This amendment was circulated as a public notice dated September 10, 1976, by the Commander, Fifth Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rulemaking (CGD 76–176) on September 2, 1976 (41 FR 37119). One comment was received which suggested closing the draws to the passage of vessels from 7–9 a.m. and 4–6 p.m. This was considered but was rejected at this time because of the projected limited openings for this bridge. If conditions warrant, these times may be included at a later date.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.245(f)(6) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

• • • • • •

(f) • • •

(6) Curtis Creek, Md.; I–695 drawbridge. The draws shall open on signal if at least one hour notice is given to the Maryland Transportation Authority.

• • • • • •

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4).)

Effective date: This revision shall become effective on January 21, 1977.

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 10, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-37232 Filed 12-17-76;8:45 am]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 659–2]

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Control of Lead Additives In Gasoline; Correction

In FR Doc. 76–28541 appearing at page 42675 in the FEDERAL REGISTER of September 28, 1976, the following changes should be made:

1. The amendatory language to § 80.20 on page 42677 is corrected in the fourth line of that paragraph by adding the words, "and (b);" immediately following the words, "revoking paragraphs (a)(1)(i), (ii) and (iii)" and immediately before the word, "redesignating."

2. Paragraph (a)(4)(ii) of § 80.20 appearing on page 42677 is corrected in the seventh line of that paragraph by adding the words, "feedstock or blending component," immediately following the words, "or entering into," and immediately before the word, "process."

3. Paragraph (a)(4)(iv) of § 80.20 appearing on page 42677 is corrected in the fourth line of that paragraph by adding the words, "feedstock or blending component," immediately following the words, "and implementing," and immediately before the word, "process."

Dated: December 14, 1976.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement (EN–329).

[FR Doc.76-37193 Filed 12-17-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114–35—TELECOMMUNICATIONS

Submission of Changes In New Installation

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c), Subpart 114–35.2 of Chapter 114, Title 41 of the Code of Federal Regulations, is amended as set forth below.

This amendment relates only to matters of internal Department practice. It is, therefore, determined that the public rulemaking procedure is unnecessary and this amendment shall become effective December 20, 1976.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

DECEMBER 10, 1976.

Subpart 114–35.2—Major Changes and New Installations

§ 114–35.204 Submission of changes.

(a) All requests for major changes or new installations of telecommunications services, except radio services, shall be submitted through the Bureau Telecommunications Coordinator to the Chief, Division of Wire Communications Management, Office of ADP and Telecommunications Management, Department of the Interior, Washington, D.C. 20240, for transmittal to the General Services Administration as appropriate. In addition to the items listed in the Federal Property Management Regulations (FPMR 101–35.2), the following shall also be deemed major changes or new installations of telecommunications which shall be submitted to the Chief, Division of Wire Communications Management for review and approval prior to installation:

(1) Automatic Call Distributing Systems or any communication device which automatically distributes incoming calls.

(2) 20–40 Dial Paks or any automatic dial intercommunications system with more than one communicating path.

(3) Addition of switch or line capacity to any switchboard system, manual or dial, operated by a Bureau, Office or Service.

(4) Touch-tone service.

(5) Long Distance Xerography or similar graphic transmission systems or equipment.

(6) Requests for connection to the long distance voice network portion of the FTS where such service cannot be provided locally by the GSA Regional Office, or where provision of such service incurs consolidated switchboard common distributable charges.

(7) Installation of any wire telecommunication service, facility or equipment involving a minimum contract period of one year or more.

(8) Installation of any dictation system or equipment, e.g. MTST or MCST, which utilizes telephone facilities, services, or equipment, regardless of cost, contract period or supplier.

(9) Installation of any telephone station equipment which deviates from the standards provided in FPMR 101–35.308.

(10) Any key, button, or multiline telephone system consisting of more than 12 telephone instruments, served by more than four lines, and any intercommunicating line with more than one talking path, when all stations have access to all services.

(11) Installation of any telephone instrument having more than six buttons, or any special type of instrument carrying an additional monthly or one-time charge.

(12) The installation of any key, button, or multiline telephone equipment to a PBX or Centrex dial system that is equipped with dial station transfer, consultation hold and add-on.

The Chief, Division of Wire Communications Management will provide, upon request, assistance in any area of wire telecommunication services. Requests for such assistance should be submitted through the Bureau Telecommunications Coordinator, to the Director, Office of ADP and Telecommunications Management.

(b) Installations involving an extension or major change to existing radiocommunication systems, or the implementation of a new radiocommunication system, shall be submitted to the Chief, Division of Radiocommunications and Frequency Management, Office of ADP and Telecommunications Management, Department of the Interior, Washington, D.C. 20240, for review, frequency assignments, and coordination with other agencies, as appropriate.

[FR Doc.76-37289 Filed 12-17-76;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAM

Penalty for Failure To Have an Effective Child Support Enforcement Program

• The purpose of this regulation is to implement the penalty provisions of sections 403(h) and 404(d) of the Social Security Act. The basis for this is the requirement in those sections for a reduction of 5 percent in the amount payable under title IV–A to any State found to

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have failed to have an effective Child Support Enforcement program meeting the requirements of section 402(a)(27) of the Act after January 1, 1977.●

Part 305, published today (41 FR 55348) describes the audit to be conducted to determine program effectiveness, defines an effective program for purposes of this penalty, and establishes audit criteria for determining program effectiveness.

PUBLIC PARTICIPATION

Interested persons have been afforded an opportunity to participate in the making of these amendments. A Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER on October 1, 1976 (41 FR 43420), inviting written comment, suggestions, or objections from interested persons. In addition, OCSE conducted four workshops to discuss this NPRM, as well as the companion amendments to Part 305. Specifics about the input from this public participation are detailed in the preamble to Part 305 published today. Comments relevant to the imposition of the penalty are discussed below.

Two legal services organizations requested that the Department impose a requirement that a State may not pass through to the recipient any penalty imposed under this regulation. They fear that because the States are unable or unwilling to absorb the additional financial burden, any reduction in IV–A reimbursement to a State will result in a reduction of public assistance payments to recipients of Aid to Families with Dependent Children (AFDC). The Department recognizes that this unfortunate result is a possible consequence should the statutorily required penalty be imposed. However, the Department lacks the authority to prevent a pass-through of the penalty. Under the AFDC program, the States have discretion to raise or lower assistance levels (except for the floor established by Section 402(a)(23)), or to impose ratable reductions or maximums. Absent very clear statutory authority, the Department cannot mandate how the States must respond to the reduction in Federal reimbursement resulting from the imposition of any penalty.

Several comments questioned the correctness of the Department's interpretation that the statute requires that the penalty be imposed for the entire fiscal year during which the State is found by the Secretary not to have an effective child support program. The Department's interpretation is based on Section 403(h) of the Act which calls for imposition of the penalty if a State "is found by the Secretary as the result of the annual audit to have failed to have an effective program * * * in any fiscal year * * *" (emphasis added). After a careful reevaluation of its position, the Department continues to believe that its position is correct; and the final regulation makes it clear that the penalty will be imposed for an entire fiscal year.

One comment suggested that the 5 percent reduction should not be imposed against the entire AFDC reimbursement, but rather only the reimbursement for that part of the caseload which is not receiving the benefits of an effective child support program. This suggestion is not compatible with Section 403(h) of the Act, which specifies that the penalty shall be 5 percent of "the amount payable to any State under this part * * *".

Accordingly, after giving due consideration to all comments, the proposed regulations, as modified, are adopted.

Section 205.146 of Part 205, Chapter II, Title 45 of the Code of Federal Regulations is amended by recodifying paragraph (d) to (e), and adding a new paragraph (d) to read as follows:

§ 205.146 Specific limitations on Federal financial participation under title IV–A.

* * * * *

(d) *Penalty for failure to have an effective child support enforcement program.*—(1) *General.* Pursuant to section 403(h) of the Act, notwithstanding any other provision of this chapter, total payments to a State under title IV–A of the Act for any quarters in any fiscal year, shall be reduced by 5 percent of such payments (calculated without regard to any other reduction under this section), if for such fiscal year a State is found by the Secretary to have failed to have an effective child support enforcement program meeting the requirements of section 402(a)(27), as implemented by Parts 302 and 305 of this title.

(2) *Application of penalty.* (i) The penalty will be imposed for each fiscal year, beginning with F.Y. 77 (but in the case of F.Y. 77, only considering the second, third and fourth quarters thereof).

(ii) The penalty will be imposed on the basis of the results of the audit conducted pursuant to Part 305 of this title.

(iii) Any penalty imposed under this paragraph will be imposed for the entire fiscal year for which the State was found not to have an effective child support enforcement program.

(Section 1102, 49 Stat. 647 (42 U.S.C. 1302).)

Effective date: January 1, 1977.

(Catalog of Federal Domestic Assistance Program No. 13.761 Public Assistance—Maintenance Assistance (State Aid).)

NOTE.—The Social and Rehabilitation Service has determined that this document does not require preparation of an inflationary impact statement under Executive Order 11821 and OMB Circular A–107.

Answers to specific questions may be obtained by calling Steve Henigson at (202) 472–4510.

Dated: November 15, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

Approved: December 10, 1976.

MARJORIE LYNCH,
Acting Secretary.

[FR Doc.76–37249 Filed 12–17–76;8:45 am]

CHAPTER III—OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT ENFORCEMENT PROGRAM), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

CHILD-SUPPORT ENFORCEMENT PROGRAM

Audit and Penalty

● *Purpose.* The purpose of this amendment is to implement several sections of the Social Security Act added by Pub. L. 93–647 relating to the requirement for an annual audit of each State's child support program and a possible penalty of 5 percent of a State's title IV–A reimbursement. Its basis is the statutory provisions and the Department's view of the optimum way of implementing these provisions in a manner which both fulfills the statutory requirements and recognizes that overly stringent audit standards would be unreasonable for a new program. ●

SUMMARY

Under the amendment, the Office of Child Support Enforcement (OCSE) will audit each State's child support program annually to determine its effectiveness. If a State's program is found to be ineffective, the State's title IV–A reimbursement will be reduced by 5 percent for the period audited. The initial audits will examine the procedures which the State has developed to meet the various requirements of the Child Support Enforcement program and determine if the State is utilizing those procedures. Future audits could be based on more stringent standards of program effectiveness, based upon empirical data gathered through prior audit experiences.

STATUTORY BASIS

Section 452(a)(4) of the Act requires that, not less often than annually, the Office of Child Support Enforcement must "* * * conduct a complete audit of the program established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part, * * *."

Section 403(h) of the Act provides as follows:

(h) Notwithstanding any other provision of this Act, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters beginning after December 21, 1976, be reduced by 5 per centum of such amount if such State is found by the Secretary as the result of the annual audit to have failed to have an effective program meeting the requirements of section 402(a)(27) in any fiscal year beginning after September 30, 1976 (but, in the case of the fiscal year beginning October 1, 1976, only considering the second, third, and fourth quarters thereof).

This amendment provides a regulatory basis for carrying out these statutory provisions and provides notice to the States, prior to the audit, of the standards and criteria to be used in auditing the State programs and if necessary, imposing the mandated penalty.

PUBLIC PARTICIPATION

Interested persons have been afforded extensive opportunity to participate in the adoption of this regulation.

On July 9, 1976, A Notice of Intent to Propose Regulations was published in the FEDERAL REGISTER (41 FR 28344) presenting the statutory requirements, discussing possible approaches to implementing the provisions and inviting comments and suggestions from interested States, organizations, and individuals.

On August 13, 1976, OCSE published a Notice in the FEDERAL REGISTER (41 F.R. 34346) announcing the availability to the public of a preliminary draft proposed regulation and over 100 copies were distributed.

On August 16, 1976, OCSE met with the Work Group on Child Support Enforcement of the National Council of State Public Welfare Administrators, American Public Welfare Association, at their request, to discuss the audit and penalty requirements and the draft proposed regulations.

On October 1, 1976, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (41 F.R. 43414) inviting written comments, suggestions, or objections from interested persons.

On October 18, 20, 21, and November 1, 1976, OCSE conducted workshops in San Francisco, Columbus, Atlanta, and Philadelphia, respectively, to discuss the NPRM and to receive comments and recommendations from interested persons. These workshops were announced in a notice published in the FEDERAL REGISTER on October 12, 1976 (41 F.R. 44726).

These workshops were attended by 176 individuals, representing 34 State IV–D agencies, District attorneys, State Attorneys General, Federal agencies, private citizens, business concerns and Congressional staff. In addition, written comments were received from 9 States, 2 legal services organizations, the City of New York, a public assistance advocate group, a District attorney and a private citizen.

Due consideration has been given to all comments received in response to the NPRM and the workshops as well as all workshop discussion. Many technical and editorial improvements in the regulation have been made as the result of this input. The substantive comments, and changes in the regulation are discussed below.

EFFECTIVE PROGRAM

One concerned private citizen suggested that the regulations and definition of an effective program be made more stringent. Her suggestions included multiple audits instead of one annual audit; changing the emphasis of the audit period to the first and second quarters of 1977 to force States into faster compliance with the Law; and, defining an effective program in terms of success in collection of child support. The Department carefully considered each of these approaches in drafting the proposed regulations, and they were not adopted because of the need to balance several factors. Title IV–D has been in effect slightly over one year and in a number of States is still in the initiation phase. Very stringent audit regulations could result in the majority of States being penalized, particularly those that did not have child support enforcement programs in operation prior to the enactment of title IV–D. This result would be counter-productive. On the other hand, Congress's intent is clearly that the States be held accountable for any failure to implement and conduct effective child support programs. HEW therefore adopted an approach reflected by these regulations that the audit and penalty regulations be less demanding at the beginning of the program and become more stringent as the program progresses.

DEFINITION OF PERSONNEL

Many comments and objections to the proposed regulation concerned the proposed definitions of "personnel" and "attorney or prosecutor" at § 305.1. The proposed regulations required, for each audited child support enforcement activity, that the State have "personnel" and, where appropriate, "attorneys or prosecutors" performing the function. The proposal defined those terms to make clear that these individuals were not required to be IV–D agency employees, but might also be court employees or law enforcement officials performing IV-D functions under a cooperative agreement or persons performing IV–D functions under a purchase of service agreement.

Several States objected to this definition as being too restrictive. In these States, certain title IV–D functions, such as establishment of paternity, are being carried out by public officials, such as District Attorneys, as part of their State statutory duties. Cooperative agreements have not been entered into in all cases, and the officials are not being reimbursed under the IV–D program. Also, in some instances, IV–D functions are being performed by a branch or agency of State or local government other than the IV–D agency without a cooperative agreement or purchase of service agreement. Examples of such activities are systems support and accounting and financial management services. In many instances, these activities would be reimbursed pursuant to the State's approved cost allocation plan. Under the proposed definition, States in either of these situations would not be able to meet the "personnel" requirement to be audited under the proposed rule.

The final regulations delete the proposed definitions of "personnel" and "attorney or prosecutor." The audit, under the final regulation, will examine whether there are individuals performing the required IV–D function. The audit will not examine the relationship of those individuals to the IV–D agency. Thus, the personnel performing the function could be IV–D agency staff, performing under cooperative agreement or purchase of service; or, have no direct relationship with the IV–D agency, but merely be carrying out a IV–D function under a statutory or other obligation.

This change is being made because the Department believes it would be counterproductive to penalize a State that is successfully carrying out the required title IV–D functions, but fails the audit due to organizational problems. However, this change in the final regulation in no way alters the State plan requirements of Part 302 concerning cooperative agreements and incentive payments, the standards for Program Operation of Part 303, or the requirements for Federal financial participation of Part 304.

AUDIT STANDARDS

Many comments recommended that the GAO standards for Audit of Governmental Organizations, Programs, Activities, and Functions would be more appropriate than the standards of the American Institute of Certified Public Accountants adopted by the proposed rule at § 305.10(b). Commenters felt the GAO standards were more appropriate for an effectiveness type audit and that the States and counties were more familiar with them. The final regulation adopts these GAO standards in lieu of the C.P.A. standards.

ENTRANCE CONFERENCE

Several comments suggested that the Office conduct an audit entrance conference prior to beginning the actual audit of a State's program. The purpose of the conference is to clarify with IV–D agency officials the procedures to be used in conducting the audit, the political subdivisions to be audited, and the types of information that will be requested by the auditors. This is a standard auditing practice, which the Office had planned to use. The final regulation at § 305.12(a) now specifically includes a provision for such a conference.

IV–D AGENCY

One written comment and much workshop discussion was concerned with the use in the regulation of the terms "IV–D agency" and "State". "IV–D agency" is defined (at § 301.1, incorporated by § 305.1) as the single and separate organizational unit in the State that has responsibility for administration of the State plan under title IV–D of the Act. The term "State," however, includes all political subdivisions and is not used in the sense of State versus county, unless otherwise specified such as "State-level." The audit regulations generally impose requirements by detailing what the State must do or have to be found in compliance. These requirements are equally applicable to all political subdivisions.

AUDIT SCOPE

One comment suggested that the fiscal policies and accountability (§ 305.36) and safeguarding information (§ 305.37) requirements should not be audited. While admitting their importance to the IV–D program, the comment indicated that because those State plan requirements were not statutory requirements, the Department lacked authority to impose the

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5 percent fiscal penalty for failure to comply with them.

Several other comments questioned the Department's authority to audit whether the IV–D agency receives notice from the IV–A agency as required by 45 CFR 235.70 and whether the State obtains assignments of rights to support as required by 45 CFR 232.11, 305.38 and 305.39, respectively, of the audit regulation.

The Act gives the Department wide discretion to define "effective program" for the purposes of the audit. The Act specifically authorizes the Secretary to establish standards for an effective program. The definition of effectiveness adopted by this regulation is a program that is in compliance with each of the IV–D plan requirements including fiscal policies and accountability, safeguarding information, and the two IV–A requirements mentioned. The importance of protecting the confidentiality of title IV–D case records from unauthorized disclosure justifies inclusion of the safeguarding requirement in the audit. Auditing compliance with the fiscal policies and accountability requirement is justified by the importance of this requirement in assuring proper and efficient administration of the State's program. Audit of the two IV–A requirements, prompt notice and assignments, is justified by the importance of these two requirements to the effectiveness of a State's child support program. If the IV–D agency does not receive prompt notice, it would have no AFDC cases upon which to act; and if the State fails to obtain assignment, the IV–D agency would have no support rights to enforce. The Department believes that the importance of these requirements provides an adequate basis upon which to include the penalty if a State is found not to be in compliance with any of these criteria.

INTERSTATE COOPERATION IN ESTABLISHING PATERNITY

The audit criteria for interstate cooperation (§ 305.32) requires that a State have established and be utilizing procedures for establishing paternity or assisting in establishing paternity when requested by another State. Several comments objected to this provision. The commenters indicated that they lacked the authority under their State statutes to accomplish interstate paternity establishment and requested that the Department delete this requirement. The Act at Section 454(9)(A) establishes interstate cooperation in paternity establishment as a State plan requirement. This statutory requirement is implemented at 45 CFR 302.36(a). While some States are unable to obtain a judicial order of paternity in an interstate case, every State can accept interstate requests for assistance in paternity cases and if nothing else, contact the alleged father and make an effort to establish paternity by acknowledgment. The audit criteria specifies that the State must have a procedure and that the State must be using it. Even if, under State law, the State is able to do nothing more than seek an acknowledgement, the Department's position is that they must take this minimal step to meet the audit criteria. No change has been made to the proposed audit criteria.

ASSIGNMENTS

One comment suggested that assignment of right to support (§ 305.39) does not recognize assignments by operation of law. This suggestion is incorrect. The requirement is that the "State must obtain assignments of support rights * * * as required by 45 CFR 232.11, * * *" 45 CFR 232.11(b) specifically recognizes assignment by operation of law. Thus, a State that receives an effective assignment by operation of law would meet the criteria of § 305.39.

PENALTY

An amendment to § 205.146 of Chapter II, Title 45 of the Code of Federal Regulations (published as FR Doc. 76– in the Rules section of this issue) provides that a State's reimbursement under title IV–A will be reduced by 5 percent if the State is found, as a result of the audit, not to have an effective program. Several comments dealing with this aspect of the regulation are discussed in the preamble of that regulation.

REGULATION MONITORING

It is the policy of the Department that all regulations be monitored after enactment for their impact and effectiveness. These regulations will be monitored and assessed in two major ways: By conducting audits in all States and reviewing the results of those audits; and by Regional Office program staff assessment of States' ability to conform to the regulations both prior to and after the audit. The Department intends to use the knowledge gained through this process to improve the regulations in future rulemaking. Actual audit experience will be used to determine what other criteria the States can reasonably be expected to meet in operating an effective IV–D program.

Accordingly, after giving due consideration to all comments, the proposed regulations, as modified, are adopted.

PART 302—STATE PLAN REQUIREMENTS

1. Part 302, Chapter III, Title 45 of the Code of Federal Regulations is amended by revising § 302.39 to read as follows:

§ 302.39 Standards for program operation.

The State plan shall provide that the IV–D agency will comply with the standards for program operation and the organizational and staffing requirements prescribed by Part 303 of this chapter.

PART 303—STANDARDS FOR PROGRAM OPERATION

2. Part 303, Chapter III, Title 45 of the Code of Federal Regulations is amended by revising the heading and § 303.0 to read as follows:

§ 303.0 Scope and applicability of this part.

This part prescribes:

(a) The minimum organizational and staffing requirements the State IV–D agency must meet in carrying out the IV–D program effective July 1, 1975; and

(b) The standards for program operation which the IV–D agency must meet.

PART 305—AUDIT AND PENALTY

3. Chapter III, Title 45 of Code of Federal Regulations is amended by adding a new Part 305, reading as follows:

Sec.
305.0 Scope.
305.1 Definitions.
305.10 Audit.
305.11 Audit period.
305.12 State comments.
305.13 State cooperation in annual audit.
305.20 Audit criteria.
305.21 Statewide operation.
305.22 State financial participation.
305.23 Single and separate organizational unit.
305.24 Establishing paternity.
305.25 Support obligations.
305.26 Enforcement of support obligation.
305.27 Child support payments to the IV–D agency.
305.28 Distribution of child support payagency.
305.29 Payments to the family.
305.30 Incentive payments.
305.31 Individuals not otherwise eligible.
305.32 Cooperation with other States.
305.33 State parent locator service.
305.34 Cooperative agreements.
305.35 Reports and maintenance of records.
305.36 Fiscal policies and accountability.
305.37 Safeguarding information.
305.38 Prompt notice to child support agency.
305.39 Assignment of rights to support.
305.50 Penalty for failure to have an effective child support enforcement program.

§ 305.0 Scope.

This part implements the requirements in sections 452(a)(4) and 403(h) of the Social Security Act for an annual audit of the effectiveness of the State Child Support Enforcement Programs under title IV–D and for a possible reduction in Federal reimbursement for the States' title IV–A program pursuant to sections 403(h) and 404(d) of the Act. Sections 305.10 through 305.13 describe the annual audit. Sections 305.20 through 305.39 define an effective program for the purposes of this part, and establish audit criteria for determining program effectiveness. Section 305.50 provides for imposition of the penalty if a State is found by the Secretary not to have had an effective program.

§ 305.1 Definitions.

(a) The definitions found in § 301.1 of this chapter also are applicable to this part.

(b) As used in this part "procedures" means a written set of instructions which describe in detail the step by step actions to be taken by child support enforcement personnel in the performance of a specific function under the State's IV–D plan. The IV–D agency may issue general instructions on one or more functions, and delegate responsibility for the detailed procedures to the office, agency, or political subdivision actually performing the function.

§ 305.10 Audit.

The Office of Child Support Enforcement will conduct an annual audit of each State as required by Sections 452(a)(4) and 403(h) of the Act for the purpose of determining whether the State has an effective IV–D program meeting the requirements of Section 402(a)(27) of the Act. The audit of each State's program will be a comprehensive review to determine that the State's program meets the criteria specified in §§ 305.20 through 305.39 of this part. During the course of the audit, the Office will:

(a) Make a critical investigation of the State's IV–D program through inspection, inquiries, observation, and confirmation; and

(b) Use the audit standards promulgated by the Comptroller General of the United States in the "Standards For Audit of Governmental Organizations, Programs, Activities, and Functions".

§ 305.11 Audit period.

The first period to be audited will be from January 1, 1977, through September 30, 1977. The second and following audits will be for the period October 1 through September 30 of each fiscal year.

§ 305.12 State comments.

(a) Prior to the start of the actual audit, the Office will hold an audit entrance conference with the IV–D agency. At that conference the Office will explain how the audit will be performed, inform the IV–D agency which political subdivisions of the State will be audited, and make preliminary arrangements for personnel and information to be made available.

(b) Prior to concluding the audit fieldwork, the Office will afford the State IV–D agency an opportunity for an audit exit conference at which time preliminary audit findings will be discussed and the IV–D agency may present any additional matter it believes should be considered in the audit findings.

(c) At the conclusion of the audit fieldwork, the Office will prepare and send to the IV–D agency a copy of its interim report on the results of the audit. Within 45 days from the date the report was sent by certified mail, the IV–D agency may submit written comments on any part of the report which the IV–D agency believes to be in error. The Office will incorporate such comments, if any, into the final audit report.

§ 305.13 State cooperation in annual audit.

(a) Each State shall make available to the Office such records or other supporting documentation as the Office's audit staff may request. The State shall also make available personnel associated with the State's IV–D program to provide answers which the audit staff may find necessary in order to conduct or complete the audit.

(b) Failure to comply with the requirements of this section may necessitate a finding that the State has failed to comply with the particular criteria being audited.

§ 305.20 Audit criteria.

For the purposes of this part and Section 403(h) of the Act, in order to be found to have an effective program meeting the requirements of section 402(a)(27) of the Act;

(a) A State must be in compliance with each of the following title IV–D State plan requirements:

Statewide operation. (45 CFR 302.10)
State financial participation. (45 CFR 302.11)
Single and separate organizational unit. (45 CFR 302.12)
Establishing paternity. (45 CFR 302.31(a))
Support obligations. (45 CFR 302.50)
Enforcement of support obligation. (45 CFR 302.31(b))
Child support payments to the IV–D agency. (45 CFR 302.32)
Distribution of child support payments. (45 CFR 302.51)
Payments to the family. (45 CFR 302.38)
Incentive payments. (45 CFR 302.52)
Individuals not otherwise eligible. (45 CFR 302.38)
Cooperation with other States. (45 CFR 302.36)
State parent locator service. (45 CFR 302.35)
Cooperative arrangements. (45 CFR 302.34)
Reports and maintenance of records. (45 CFR 302.15)
Fiscal policies and accountability. (45 CFR 302.14)
Safeguarding information (45 CFR 302.18); and

(b) The IV–D agency must be receiving notice from the IV–A agency for cases in which AFDC is furnished with respect to a child who has been abandoned or deserted by a parent (45 CFR 235.70), and the State must be obtaining assignments of rights to support (45 CFR 232.11).

§ 305.21 Statewide operation.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement of Statewide operation (45 CFR 302.10), a State must have a IV–D agency that:

(a) Administers the plan uniformly throughout the State, or supervises the administration of the plan by its political subdivisions;

(b) Has established and is utilizing methods of informing staff of State policies, standards, procedures, and instructions;

(c) Has assigned IV–D staff at the State level to conduct regular, planned examination and evaluation of operation in local offices; and

(d) Makes available the services and functions as required by the approved State plan throughout the State.

§ 305.22 State financial participation.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement for State financial participation (45 CFR 302.11):

(a) A State must participate financially by incurring 25 percent of the cost of the program; and

(b) The funds representing the State's share must be appropriated to the IV–D Agency or transferred to the IV–D Agency, or certified by the contributing public agency as representing expenditures under the State's IV–D plan.

§ 305.23 Single and separate organizational unit.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement for a single and separate organizational unit to administer the IV–D plan (45 CFR 302.12), a State must have such a unit which:

(a) Is responsible and accountable for the operation of the IV–D plan and for no other program or activity;

(b) Is responsible for securing compliance with requirements of the IV–D plan delegated to any other State or local agency or official, performed under cooperative agreement or purchase of service agreement; and

(c) Has staff assigned to perform all of the required State level functions listed in § 303.20(b) of this chapter.

§ 305.24 Establishing paternity.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement that the State undertake the establishment of paternity (45 CFR 302.31(a) and 302.33), a State must:

(a) Have established and be utilizing written procedures for obtaining the identity of the putative father from the applicant or recipient;

(b) Have written procedures for establishing paternity:

(1) By court order or other legal process established by State law; and,

(2) By acknowledgment, if under State law such acknowledgment has the same legal effect as court ordered paternity, including the rights to benefits other than child support;

(c) Be utilizing such written procedures to establish the paternity of any child born out of wedlock whose paternity has not previously been established and with respect to whom there is an assignment in effect pursuant to § 232.11 of this title or with respect to whom there is an application for child support services pursuant to § 302.33 of this chapter;

(d) Have identified and made a list of all laboratories within the State which, in the opinion of the IV–D agency, per-

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form legally and medically acceptable tests, including blood tests, which tend to confirm or refute the alleged paternity, and have made such list available to appropriate court and law enforcement officials, and to the public upon request;

(e) Have identified all State statutes and regulations that provide procedures to be used in determining the paternity of a child born out of wedlock as required by § 302.17 of this chapter;

(f) Have available attorneys or prosecutors to represent the State in court or administrative proceedings when necessary with respect to the establishment of paternity; and

(g) Have personnel, such as interviewers, investigators, clerical and other support staff performing paternity establishment functions.

§ 305.25 Support obligations.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement to establish support obligations (45 CFR 302.50 and 302.53), a State must:

(a) Have established and be utilizing written procedures for the establishment of a child support obligation for any child;

(1) With respect to whom there is an assignment in effect pursuant to § 232.11 of this title or with respect to whom there is an application for child support services pursuant to § 302.33 of this chapter; and

(2) Who has not previously had a child support obligation established by court order or by other legal process established under State law;

(b) If the support obligation is established by means other than a court order, utilize the State's formula, pursuant to § 302.53 of this chapter, for determining the amount of the support obligation;

(c) Have available attorneys or prosecutors to represent the State in court or administrative proceedings when necessary to establish the support obligation; and

(d) Have personnel, such as interviewers, investigators, clerical, and other support staff, establishing support obligations.

§ 305.26 Enforcement of support obligation.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement to enforce support obligations (45 CFR 302.31(b)), a State must:

(a) Have established and be utilizing written procedures for identifying as delinquent those cases in which there is a failure to comply with the support obligation;

(b) Have established and be utilizing written procedures for contacting delinquent obligors for the purpose of collecting the support obligation;

(c) Have identified and established the appropriate written procedures, including but not limited to those specified in § 303.6 of this chapter, to enforce child support obligations under the State's statutes or regulations;

(d) Have established written procedures for using reciprocal support enforcement arrangements that have been adopted with other States;

(e) Take appropriate action, using the procedures the State has established, to enforce support obligations;

(f) Have attorneys or prosecutors to represent the State in court or administrative proceedings when necessary to enforce delinquent support obligations; and

(g) Have personnel, such as interviewers, investigators, clerks and other support staff performing support obligation enforcement functions.

§ 305.27 Child support payments to the IV–D agency.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement of child support payments to the IV–D Agency (45 CFR 302.32) a State must:

(a) Have established and be utilizing written procedures for the receipt of child support payments by the IV–D agency with respect to cases in which there is an assignment of support rights pursuant to § 232.11 of this title;

(b) Have established and be utilizing written procedures for the receipt of child support payments by the IV–D agency with respect to cases in which there is an application for child support services pursuant to § 302.33 of this chapter; unless, receipt of such payment is not necessary because:

(1) The State, under its approved title IV–D plan, does not recover costs in excess of the application fee; and

(2) The IV–D agency has established a system, approved by the Regional Office, for insuring that the IV–D agency can accurately make collections reports as required by the Office;

(c) Have established and be utilizing written procedures to identify child support payments that are not being received by the IV–D agency and to take corrective action;

(d) Have established and be utilizing written procedures that meet the requirements of § 302.32(b) of this chapter for informing the State's IV–A agency of the amounts of collection so that the family's continued eligibility for assistance payments can be determined; and,

(e) Have personnel performing the activities described in this section.

§ 305.28 Distribution of child support payment.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement for distribution of child support collections (45 CFR 302.51 and 302.32), a State must:

(a) Have written procedures which, if properly applied, would result in a distribution of child support collections which is in accordance with §§ 302.51 and 302.32 of this chapter;

(b) Be making the distribution of child support collections pursuant to the procedures it has established; and

(c) Have personnel distributing child support collections.

§ 305.29 Payments to the family.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement for payment to the family (45 CFR 302.38), a State must distribute any payments required to be made to the family under §§ 302.32 and 302.51 of this chapter to the resident parent, legal guardian, or caretaker relative having custody of, or responsibility for, the child or children.

§ 305.30 Incentive payments.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement to make incentive payments (45 CFR 302.52), a State must:

(a) Have established and be utilizing written procedures for making incentive payments in the proper amounts to other States and, if appropriate, to political subdivisions within the State;

(b) Have established and be utilizing written procedures to account for child support collections received so the "amount retained by the State to reduce or repay assistance payments" can be properly determined;

(c) Have established and be utilizing written procedures for determining that the collection was made by a State or political subdivision operating pursuant to an approved IV–D plan and was made on behalf of an individual with respect to whom there is an assignment in effect pursuant to § 232.11 of this title;

(d) Have established and be utilizing written procedures for determining which collections represent payments on the first 12 months of support obligations;

(e) Have established and be utilizing written procedures for ensuring that the incentive payments are made as soon as administratively feasible;

(f) Have established and be utilizing written procedures (in accordance with instruction issued by the Office) for allocating the incentive payment among jurisdictions when more than one jurisdiction is involved in the enforcement or collection; and

(g) Have personnel performing the functions specified in this section.

§ 305.31 Individuals not otherwise eligible.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement for providing child support enforcement services to individuals not otherwise eligible (45 CFR 302.33), a State must:

(a) Have established and be utilizing written procedures for accepting signed, written applications on a Statewide basis for child support services from individuals not otherwise eligible under § 302.31 of this chapter.

(b) Have established and be utilizing written procedures for providing to applicants on a Statewide basis, all appropriate child support services available under the State's plan, including locating absent parents, establishing paternity and securing child support;

(c) Have established and be utilizing written procedures for collection of any fees and recovery of any costs authorized by the State's plan; and

(d) Have personnel performing child support enforcement services for applicants.

§ 305.32 Cooperation with other States.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement for interstate cooperation (45 CFR 302.36), a State must:

(a) Have established and be utilizing written procedures for accepting and processing requests for assistance from other States;

(b) Have established and be utilizing written procedures for using the State's PLS (both State and local locate sources) in an attempt to locate an absent parent upon request of another State;

(c) Have established and be utilizing written procedures for establishing paternity or assisting in establishing paternity when requested by another State;

(d) Have established and be utilizing written procedures for establishing court orders for support upon request by another State, including procedures for responding to a complaint under the Uniform Reciprocal Enforcement of Support Act (URESA);

(e) Have established and be utilizing written procedures for collecting support payments from an absent parent and forwarding such payments to the State where the obligation is owed;

(f) Have established and be utilizing written procedures for monitoring the status of cases upon which the State is taking action on behalf of another State;

(g) Have established and be utilizing written procedures that comply with the requirements for providing sufficient information to other States as specified in § 303.7 of this chapter;

(h) Have personnel at the State level coordinating activities pursuant to, and assuring compliance with, the requirements of the State's URESA; and

(i) Have personnel performing the functions specified in this section.

§ 305.33 State parent locator service.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement for a parent locator service (45 CFR 302.35), a State must:

(a) Have established and be utilizing a central State PLS office as required by § 302.35(a) of this chapter;

(b) Have identified and be utilizing major local locate data sources within the State such as those listed in § 303.3 (a) of this chapter;

(c) Have identified and be utilizing major State locate data sources such as those listed in § 303.3(c) of this chapter;

(d) Be utilizing the Federal PLS when necessary pursuant to § 302.35(a) (2) and (d) of this chapter;

(e) Have established written procedures for accepting from a person authorized under § 302.35(c) of this chapter, an application to use the PLS;

(f) Have established and be utilizing written procedures for collecting any fees required by § 302.35(e) of this chapter and the State's plan;

(g) Be using the names and other identifying information of absent parents, the State and local locate data sources and the Federal PLS, in an attempt to determine the actual whereabouts of the absent parent, or determine that the whereabouts of the absent parent cannot be ascertained;

(h) Have developed and be using the protective measures to safeguard information transmitted and received through use of the Federal PLS as required by § 302.70(e) (2) and (3) of this chapter and instructions issued by the Office; and

(i) Have personnel, such as interviewers, investigators, clerks and other support staff performing the functions described in this section.

§ 305.34 Cooperative arrangements.

(a) For the purposes of this part, in order to be found to be in compliance with the State plan requirement for cooperative arrangements (45 CFR 302.34), a State must utilize written cooperative agreements between the IV–D agency and appropriate courts and law enforcement officials to the extent necessary to establish paternity, establish and enforce child support obligations, collect child support, and cooperate with other States in these functions.

(b) This requirement will not be audited separately. However, cooperative agreements may be necessary in order for a State to meet the requirements of Part 302 of this chapter, if the IV–D agency does not have sufficient personnel and administrative procedures to accomplish these functions.

§ 305.35 Reports and maintenance of records.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement for reports and maintenance of records (45 CFR 302.15), a State must:

(a) Have established and be utilizing written procedures for maintaining the records necessary for proper and efficient operation of the plan including those listed in § 302.15(a) (1) (i) through (vii) of this chapter;

(b) Have established and be utilizing a system for insuring that reports required by the Secretary are provided when due, and are accurate and complete; and

(c) Have personnel performing the functions specified in this section.

§ 305.36 Fiscal policies and accountability.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement for fiscal policies and accountability (45 CFR 302.14), a State must:

(a) Have established and be maintaining and utilizing an accounting system and supporting fiscal records that assure that claims for Federal funds are in accord with applicable Federal regulations and instructions issued by the Office; and

(b) Have personnel performing the functions specified in this section.

§ 305.37 Safeguarding information.

For the purposes of this part, in order to be found to be in compliance with the State plan requirement for safeguarding information (45 CFR 302.18), a State must have established and be utilizing written procedures that restrict the use or disclosure of information concerning applicants or recipients of child support enforcement services to purposes listed in § 302.18(a) of this chapter.

§ 305.38 Notice to child support agency.

For the purposes of this part, the IV–D agency must be receiving notice from the IV–A agency (45 CFR 235.70) for cases in which AFDC is furnished with respect to a child who has been deserted or abandoned by a parent.

§ 305.39 Assignment of rights to support.

For the purposes of this part, a State must obtain assignments of support rights for AFDC applicants and have an assignment in effect for AFDC cases as required by 45 CFR 232.11, except where there has been a refusal to assign and the appropriate action under § 232.11 of this title was taken.

§ 305.50 Penalty for failure to have an effective child support enforcement program.

(a) Pursuant to sections 403(h) and 404(d) of the Act, if a State is found by the Secretary, on the basis of the results of the audit described in this part, to have failed to have an effective child support enforcement program meeting the requirements of Section 402(a)(27) of the Act, as implemented by Part 302 of this chapter and this part, total payment to the State under title IV–A of the Act shall be reduced by 5 percent of such payments.

(b) Any reduction required to be made under this section shall be made pursuant to § 205.146(d) of this title.

(c) The reconsideration of penalty imposition provided for by § 205.146(e) of this title shall be applicable to any reduction made pursuant to this section.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Effective date: January 1, 1977.

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

NOTE: The Office of Child Support Enforcement has determined that this document does not require preparation of an inflationary impact statement under Executive Order 11821 and OMB Circular A–107.

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Answers to specific questions may be obtained by calling Steve Henigson at (202) 472-4510.

Dated: November 15, 1976.

ROBERT FULTON,
Director, Office of Child Support Enforcement.

Approved: December 10, 1976.

MARJORIE LYNCH,
Acting Secretary.

[FR Doc.76-37250 Filed 12-17-76;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

(CGD 76-207)

PART 148—CARRIAGE OF SOLID HAZARDOUS MATERIAL IN BULK

Table for Permitted Cargoes; Correction

This amendment corrects the amendment published in the FEDERAL REGISTER (41 FR 23401) of June 10, 1976, by revising the Table for Permitted Cargoes in § 148.01-7(a) which listed ferrosilicon containing 30 percent or more but not more than 70 percent silicon as a solid hazardous material permitted to be carried on a vessel. Ferrosilicon with a silicon content of 45-70 percent liberates poisonous gases that are dangerous. The table is corrected to allow the carriage of ferrosilicon with a silicon content of less than 45 percent or greater than 70 percent.

Because there is an immediate need for this amendment to protect the health and safety of the crew and other persons on board a vessel, the Coast Guard finds that notice and hearing are contrary to the public interest under 5 U.S.C. 553(b)(3)(B) and this amendment is effective immediately under 5 U.S.C. 553(d)(3).

In consideration of the foregoing Part 148 of Title 46 Code of Federal Regulations is amended as follows:

In the first column of the table in § 148.01-7, by striking the entry "Ferrosilicon, containing 30 percent or more but not more than 70 percent silicon.", and inserting the entry "Ferrosilicon containing less than 45 percent or more than 70 percent silicon."

(49 U.S.C. 1804(a); 49 CFR 1.46(t).)

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Effective date: This amendment is effective on December 20, 1976.

Dated: December 10, 1976.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.76-37233 Filed 12-17-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-905]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Adoption of FCC Form 409

Adopted: September 28, 1976.

Released: December 17, 1976.

Order. In the matter of amendment of Part 21, Domestic Public Radio Services (Other than Maritime Mobile) and adoption of FCC Form 409.

1. Pursuant to the Commission's policy of reregulation and simplification of its application procedures, Part 21, Domestic Public Radio Services (other than Maritime Mobile) is herewith amended to require the use of new FCC Form 409 by applicants applying for individual mobile licenses in place of FCC Form 401. The new form will also be used for modification and renewal of individual mobile subscriber licenses, in place of FCC Forms 403 and 405, respectively. Specifically, § 21.9(c) of the rules is amended to substitute references to FCC Forms 401, 403 and 405 when applied to individual mobile applicants or licensees. Also §§ 21.15(i)(3) and 21.15(i)(3)(iii) are amended.

2. We think that the proposed Form 409 represents a significant improvement over forms currently in use. F.C.C. Forms 401, 403, and 405 are principally used for fixed base stations and therefore request information extraneous to individual mobile applicants. For example F.C.C. Form 401 solicits 53 items of information, collecting considerable technical data pertinent to the construction and operation of fixed base stations, and not individual mobile stations. More important the Form 401 does not clearly request information that is required for an Individual License. Consequently, the use of the Form 401 causes 30 percent of all Individual Mobile applications to be returned to the applicants for clarification or more information. This represents an undue burden on the public and unproductive work effort for the Common Carrier Bureau.

3. The basic intent of the new form is to eliminate the aforementioned difficulties and substantially reduce or eliminate defective applications resulting in greater efficiency in processing and better service to the public.

4. We conclude that for the reasons set forth above, adoption of the new Form and the proposed amendments will serve the public interest and convenience. In as much as the adoption of FCC Form 409 and the amendment of Part 21 involved matters of procedure, impose no additional burdens, and raise no issue upon which comments would serve any useful purpose, compliance with the prior notice and effective date provisions of U.S.C. 553 is unnecessary.

5. *Therefore, it is ordered,* That, pursuant to section 4(i) and 303 (g) and (r) of the Communications Act of 1934, as amended, Part 21 of the Commission's rules and regulations is amended as set forth below, effective December 20, 1976. The reporting requirement included herein is adopted subject to General Accounting Office clearance and, unless advised to the contrary, will be effective December 20, 1976.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

Part 21 of Chapter I, Title 47, of the code of Federal Regulations is amended to read as follows:

1. Section 21.9(c)(2) is amended to read as follows:

§ 21.9 Standard application forms for Domestic Public Land Mobile Radio, Rural Radio and Offshore Radio Telecommunications Services.

* * * * *

(c) License for mobile station—Since no construction permits are issued for mobile stations, applications shall be filed directly for license, subject to the following:

(1) * * *

(2) Applications for a license for land mobile or airborne stations submitted by persons who propose to become subscribers to a common carrier service for public correspondence shall be filed for on FCC Form 409. This form will also be used for the modification and renewal of such licenses. Such applications shall also be accompanied by the supplemental showing set forth in §§ 21.15(i)-(2) and 21.15(i)(3).

* * * * *

2. Section 21.15(i)(3) and 21.15(i)(3)(iii) are amended to read as follows:

§ 21.15 Technical content of applications.

* * * * *

(i) * * *

* * * * *

(3) An application for land or airborne mobile units to be licensed in the name of a person who is not the licensee of the base station with the mobile units will be associated in the Domestic Public Land Mobile Radio Service shall be accompanied by an affirmative showing that:

(i) * * *

(ii) * * *

(iii) Specific arrangements have been made for installation, technical service and maintenance of the mobile units by licensed first- or second-class radio operators and

* * * * *

[1] Commissioners Fogarty and White not participating.

FCC Form 409
July 1976

Approved by GAO
B-180227 (R0415)

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

APPLICATION FOR INDIVIDUAL MOBILE RADIO TELEPHONE LICENSE IN THE DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

GENERAL INFORMATION

1. FCC Form 409 is to be used in applying for authority to operate a mobile radio telephone by individual users who intend to become subscribers to a common carrier service. Form 409 is also used as application for modification, or renewal, to an existing license.

2. The Form consists of two (2) pages of covering instructions and two (2) pages which comprise the application. Read and remove the covering instructions before completing the application.

3. Submit one (1) copy of the completed application to the Federal Communications Commission, Washington, D. C. 20554. PLEASE TYPE OR PRINT.

4. Enclose appropriate fee with application. DO NOT SUBMIT CASH. Make check or money order payable to Federal Communications Commission. (See Part I of FCC Rules to determine amount of fee to file with this application.) A fee is not required for applications filed by government entities.

INSTRUCTIONS

Item 1: A license may be issued to an individual or organization. Individual applicants enter name on 1st line. If applicant is a business (i.e., company, corporation, or partnership), association or government entity, enter organizational name on 2nd line. An individual doing business under a company name may list both names (e.g., James R. Brown; D/B/A Brown Aviation Co.).

Item 2: The use of a P.O. Box number is permissible only when no street address exists. In such cases give complete P.O. Box address and a geographical description of the actual location (e.g., 2 miles east of intersection of Main and Elm Streets.).

Item 3: Self-explanatory.

Item 4: If you now hold a current mobile telephone license, indicate if this application is for either a "Modification" or a "Renewal" by checking the appropriate box in part (a) and completing part (b). Complete remaining items as required, and item 12 (signature block).

Items 5 & 6: Self-explanatory.

Item 7: For land mobile users, the location specified in this item is the primary geographic area in which operations will be conducted.

Item 8 - 11: Self-explanatory.

Item 12: The application must be signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer or duly authorized employee, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association.

DO NOT RETURN THESE INSTRUCTIONS

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FCC Form 409

SUMMARY OF APPLICABLE RULES *(PART 21)*

1. This section contains a summary of rules applicable to Mobile Radio Telephone users. For more detailed and comprehensive information refer to Part 21 of the FCC's rules.

2. License period for mobile stations is five (5) years from date of issue.

3. Licensees are responsible for maintaining effective operational control over stations operating under their license.

4. Every operator of a mobile station is required to identify himself by use of call sign, telephone number or FAA registration number, at least once during the duration of each call.

5. Messages concerning the safety of life, or property which is in imminent danger, shall be afforded priority over other messages.

6. No person shall knowingly cause to be transmitted any false or fraudulent message concerning the safety of life or property, or refuse upon demand immediately to relinquish the use of a radio circuit to enable the transmission of messages concerning the safety of life or property which is in imminent danger, or knowingly interfere or otherwise obstruct the transmission of such messages.

7. All transmitters used in this service must be type accepted by the F.C.C. for use under Part 21 of the Commission's Rules. An executed transmitter identification card (F.C.C. Form 452-C), or a plate of metal or other durable substance, legibly indicating the station call sign and licensee's name and address, shall be affixed to the control equipment of the transmitter at the operating position, or posted adjacent thereto.

8. It is encumbent upon the licensed operator of the mobile radio telephone to have it maintained in proper working order to prevent interference with other radio transmission. Transmitters must be checked when initially installed and at intervals not to exceed one year. FCC rules require that specific arrangements be made for the installation, technical service, and maintenance of mobile transmitters by a person holding a valid FCC 1st or 2nd class radio operators license.

9. For each authorized station the licensee shall maintain a technical log of the station showing the results and dates of transmitter measurements and the identity of the person making or authenticating such measurements.

10. The mobile station license need not be posted, but shall be retained as a permanent part of the station records.

11. Any person receiving notice of violation of the Commission's rules or other applicable regulations shall respond in writing to the Office originating the notice within ten days.

12. For reference purposes, the licensee shall maintain and have available at the transmitter location, or maintenance center for the station, a current copy Part 21 (available at the Superintendent of Documents, Government Printing Office, Washington, D. C. 20554).

13. A transmitter may consist of an exciter plus a radio frequency power amplifier provided that such a combination is type accepted by the Commission. The power output of land mobile station transmitters shall not exceed 60 watts. The power output of airborne station transmitters shall not exceed 25 watts.

RETAIN THIS SUMMARY OF THE RULES FOR YOUR FILES

FCC Form 409
November 1976

Approved by GAO
B-180227 (R0415)

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

APPLICATION FOR INDIVIDUAL MOBILE RADIO TELEPHONE LICENSE
DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

(Please print or type)

1. APPLICANT'S NAME (Last) (First) (MI)

ORGANIZATIONAL NAME – IF OTHER THAN INDIVIDUAL

2.(a) APPLICANT'S ADDRESS *(Number and Street)*

(b) CITY (c) STATE (d) ZIP

(e) LOCATION DESCRIPTION *(If required)*

THIS BLOCK FOR FCC USE

FILE NUMBER

CALL SIGN

FEE CODE

3. TELEPHONE NUMBER (AREA CODE)

( )

4.(a) THIS APPLICATION IS FOR: *(Check only one box)*

☐ A new license
☐ A modification of or an addition to an existing license
☐ Renewal of License

(b) For an existing license, indicate the following:

FILE NUMBER | CALL SIGN

5.(a) Will the licensed radio telephone be installed in an aircraft?

☐ YES ☐ NO

(b) If "Yes," give FAA Registration Number

6.(a) Name of communication common carrier who will provide applicant with service.

(b) Attach as Exhibit A the original letter provided to you by the carrier offering to render service. (Name & address on letter must be identical with information provided in items 1 & 2 above.)

7. Location of Base Station or City of Registry (as shown in Exhibit A).

8.(a) Has the applicant or any party to this application had a Federal Communications Commission radio license or permit revoked, renewal denied, or is there any such action pending?

☐ YES ☐ NO

(b) If "Yes," submit as an Exhibit a statement giving call sign and all other details.

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FCC Form 409 page 2

9.(a) Number of transmitters on this application	(b) If more than one transmitter, submit as an Exhibit, statement which describes the need for multiple units.
☐ ENTER NUMBER	

10. Transmitter Data:

(a) Unit Number	(b) Manufacturer	(c) FCC Type Acceptance No.	(d) Power Output (Watts)	(e) Frequency Band (MHZ)
1				
2				
3				
4				
5				

Use continuation sheet for additional transmitters

11. Exhibits (List all required exhibits which are attached to this application)
A – Letter from Common Carrier (see item 6(b))
B –
C –
D –

12. CERTIFICATION

The undersigned hereby certifies that the statements made in this application are true, complete and correct to the best of his knowledge and belief, and are made in good faith. Willful false statements made on the application are punishable by law under 18 U.S.C. 1001.

The undersigned further affirms that:

(a) The authorization is sought for applicant's own use;

(b) The unit(s) will be operated primarily in the geographical area shown in item 7 above;

(c) Specific arrangements have been made for the installation and maintenance of the mobile units by licensed First or Second-class radio operators.

(d) The applicant is not a foreign government or a representative of a foreign government.

Dated _____

Applicant _____
(must correspond with that shown in Item 1.)

By _____
(Signature, See Instruction 12)

Title _____
(position held by person signing for applicant)

NOTIFICATION TO INDIVIDUALS UNDER PRIVACY ACT OF 1974

The information requested by this form will be used by Federal Communications Commission staff to determine eligibility for issuing authorizations in the use of frequency spectrum and to effect the provisions of regulatory responsibilities rendered the Commission by the Communications Act of 1934, as amended. Information requested by this form will be available to the public.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974.

[FR Doc.76-37246 Filed 12-17-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Bombay Hook National Wildlife Refuge; Dela.

The following special regulation is issued and is effective during the period January 1, 1977 through December 31, 1977.

§ 26.34 Special regulations concerning public access, use and recreation for individual wildlife refuges.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Travel by motor vehicle, bicycle, or on foot, is permitted from sunrise to sunset on designated routes unless prohibited by posting, for the purpose of nature study, photography, hiking, and sightseeing. Pets are permitted if on a leash not over 10 feet in length.

The refuge area, comprising 15,135 acres, is delineated on maps at refuge headquarters or from the Regional Director, U.S. Fish and Wildlife Service. One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1977

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 10, 1976.

[FR Doc. 76-37281 Filed 12-17-76;8:45 am]

PART 26—PUBLIC ENTRY AND USE

Pond Island National Wildlife Refuge; Maine

The following special regulations are issued and are effective during the period January 1, 1977 through December 31, 1977.

§ 26.34 Special regulations concerning public access, use, and recreation for individual wildlife refuges.

MAINE

POND ISLAND NATIONAL WILDLIFE REFUGE

Pond Island National Wildlife Refuge is closed to the general public during the nesting season from March 1 through July 31, 1977; however, it is open during daylight hours for environmental education, nature study, and photography from August 1 through February 28, 1977. Camping is prohibited. Pets are permitted if on a leash not over 10 feet in length.

Information about the refuge is available from the Refuge Manager, Parker River National Wildlife Refuge, Northern Boulevard, Plum Island, Newburyport, Massachusetts 01950 or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations governing public use on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 10, 1976.

[FR Doc.76-37282 Filed 12-17-76;8:45 am]

PART 26—PUBLIC ENTRY AND USE

Barnegat National Wildlife Refuge; NJ

The following special regulations are issued and are effective during the period January 1, 1977 through December 31, 1977.

§ 26.34 Special regulations concerning public access, use, and recreation for individual wildlife refuges.

NEW JERSEY

BARNEGAT NATIONAL WILDLIFE REFUGE

Foot and vehicular access is permitted on designated travel routes during daylight hours, for the purposes of nature study, wildlife observation, photography and hiking. Pets are allowed if on a leash not exceeding 10 feet in length.

Refuge public use areas, comprising more than 7,500 acres, and respective permissible activities, are designated on maps available at refuge headquarters, Oceanville, New Jersey or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations governing recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 10, 1976.

[FR Doc.76-37283 Filed 12-17-76;8:45 am]

PART 26—PUBLIC ENTRY AND USE

Brigantine National Wildlife Refuge, N.J.

The following special regulations are issued and are effective during the period January 1, 1977 through December 31, 1977.

§ 26.34 Special regulations concerning public access, use, and recreation for individual wildlife refuges.

NEW JERSEY

BRIGANTINE NATIONAL WILDLIFE REFUGE

Foot and vehicular access is permitted on designated travel routes during daylight hours, for the purposes of nature study, wildlife observation, photography and hiking. The refuge beach has no lifeguards. Swimming will be at the visitor's own risk. Pets are allowed if on a leash not exceeding 10 feet in length.

Refuge public use areas, comprising more than 20,200 acres, and permitted activities, are designated on maps available at refuge headquarters, Oceanville, New Jersey or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations governing recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife.

DECEMBER 10, 1976.

[FR Doc.76-37284 Filed 12-17-76;8:45 am]

PART 26—PUBLIC ENTRY AND USE

Tinicum National Environmental Center

The following special regulation is issued and is effective during the period January 1, 1977 through December 31, 1977.

§ 26.34 Special regulations concerning public access, use, and recreation for individual wildlife refuges.

PENNSYLVANIA

TINICUM NATIONAL ENVIRONMENTAL CENTER

Public access into the center is permitted from the 86th Street and Lindbergh Blvd. entrance gate for the purpose of bicycling, hiking, nature study, sightseeing, and photography from dawn to dusk. Registered motor vehicles are permitted on the center entrance road and the parking lot at the visitor contact station. School groups, college and university groups may enter certain areas with registered motor vehicles to transport students and equipment for the purpose of conducting environmental exercises and using the center as an outdoor-classroom by obtaining a vehicle permit from the center manager. Trail bikes, dirt bikes, threewheel bikes, snowmobiles, all-terrain vehicles and all other motorized recreational vehicles are prohibited from entering any lands owned or controlled by the center. Visitors are prohibited from entering any center impoundment or pond waters by foot or by boat unless involved in an organized environmental education group which has obtained a permit from the center manager.

Pets and alcoholic beverages are prohibited on the center.

A map of the center is available from the Center Manager, Tinicum National Environmental Center, Suite 104, Scott Plaza 2, Philadelphia, Pennsylvania 19113 and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations which

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govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 13, 1976.

[FR Doc.76-37285 Filed 12-17-76;8:45 am]

PART 33—SPORT FISHING

Mackay Island National Wildlife Refuge; NC & Va.

The following special regulations are issued and are effective during the period January 1, 1977 through December 31, 1977.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

NORTH CAROLINA AND VIRGINIA

MACKAY ISLAND NATIONAL WILDLIFE REFUGE

Sport fishing on the Mackay Island National Wildlife Refuge is permitted only on the areas designated by signs as open to fishing. Sport fishing shall be in accordance with State regulations subject to the following special conditions:

(1) Fishing is permitted in Corey's Ditch and in the canal adjacent to the Knotts Island Causeway, on a year-round basis, for bank fishing only. The remainder of the Refuge is open to sport fishing from March 15 to October 15.

(2) Fishing is permitted during daylight hours only.

(3) No limitations in size of motors used on boats. Airboats are prohibited.

The refuge, comprising 7,024 acres, is delineated on a map available from the Refuge Manager, Back Bay National Wildlife Refuge, Pembroke Office Park, Pembroke Two Bldg., Suite 218, Virginia Beach, Virginia 23462, or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 13, 1976.

[FR Doc.76-37286 Filed 12-17-76;8:45 am]

PART 33—SPORT FISHING

Erie National Wildlife Refuge, Pa.

The following special regulations are issued and are effective during the period January 1, 1977 through December 31, 1977.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

PENNSYLVANIA

ERIE NATIONAL WILDLIFE REFUGE

Sport fishing on the Erie National Wildlife Refuge, Pennsylvania, is permitted on areas designated by signs as open to fishing in accordance with State regulations. Boats are permitted in Lake Creek above Sugar Lake and above the Pool 9 dike where designated by signs. Fishing in Pools 9 and K is permitted from July 1 to September 15 only. Pools 9 and K will be open to ice fishing at the discretion of the refuge manager by daily permit. All fishing areas are shown on maps available from the Refuge Manager, Erie National Wildlife Refuge, RD 2, Box 191, Guy Mills, Pennsylvania 16327 or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 10, 1976.

[FR Doc.76-37287 Filed 12-17-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Proposed Qualification Requirements and Nomination Procedure for Public Members of Commodity Committees

Notice is given of a proposal to establish qualification requirements and nomination procedures for public members of the Pear, Plum, and Peach Commodity Committees.

The Pear, Plum, and Peach Commodity Committees are established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917; 41 FR 17528). The order regulates the handling of fresh pears, plums, and peaches grown in California and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

A recent amendment of the marketing order provided that each Commodity Committee may be increased by one public member nominated by the respective committee and selected by the Secretary. The recommended decision in that amendatory proceeding concluded that it would be appropriate for the Control Committee (the agency established under the order to administer its terms and provisions) to submit such rules and regulations to the Secretary for approval which would specify qualification requirements and nominating procedures for public members for the respective Commodity Committees. The Control Committee, at its November 10, 1976, meeting recommended such requirements and procedures contained in the proposal hereinafter set forth.

All persons who desire to submit written data, views, or arguments in connection with this proposal should file them, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than December 31, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is to amend Subpart—Rules and Regulations (7 CFR 917.100–917.179) by adding a new § 917.122 reading as follows:

§ 917.122 Qualification requirements and nomination procedure for public members of Commodity Committees.

(a) Public members shall not have a direct financial interest or be closely associated with the production, processing, financing, or marketing (except as consumers) of California agricultural commodities.

(b) Public members should be able to devote sufficient time and express a willingness to attend committee activities regularly, and to familiarize themselves with the background and economics of the industry.

(c) Public members must be residents of California.

(d) Public members should be nominated by each Commodity Committee and should serve a two-year term which coincides with the term of office of grower members of Commodity Committees.

Dated: December 14, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-37268 Filed 12-17-76;8:45 am]

Farmers Home Administration

[7 CFR Parts 1803, 1821, 1822, and 1832]

Proposed Amendments Miscellaneous

On October 23, 1975, the Farmers Home Administration (FmHA) published a Notice of Proposed Rulemaking (40 FR 49577) which announced that it was considering the implementation of a new method of disbursing loan and grant funds. This new method is referred to as the Loan Disbursement System (LDS). This Notice, supplemented by a Supplemental Notice of Proposed Rulemaking published on November 13, 1975, (40 FR 52854), indicated that a multiple advance feature of LDS for certain loan types would be field tested before its nationwide implementation.

Notice is hereby given that FmHA is considering revising 7 CFR Part 1803 and numerous miscellaneous amendments to various Parts 1821, 1822, and 1832 of Title 7, Chapter XVIII to implement the multiple advance feature of LDS nationwide. As proposed, this multiple advance feature will apply to the following loan types: Sections 502 and 504 Rural Housing loans for construction and repair work, Farm Ownership, Individual Soil and Water, Recreation, and Emergency.

Adoption of the multiple advance feature will enable FmHA to disburse loan funds as they are needed rather than disbursing them in a lump sum and allowing them to remain idle in a supervised bank account.

The multiple advance feature will greatly reduce the need for supervised bank accounts now required by 7 CFR Part 1803. However, supervised bank accounts may still be used when needed.

Interested persons may submit written comments, suggestions, data, or arguments to the Office of the Director, Program Evaluation Staff, Farmers Home Administration, United States Department of Agriculture, Room 5319, South Building, Washington, DC 20250, on or before January 19, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Program Evaluation Staff, during regular business hours (8:15 a.m. to 4:45 p.m.).

As proposed, Part 1803 and various sections of Parts 1821, 1822, and 1832 read as follows:

1. As proposed, Part 1803 is revised to read as follows:

PART 1803—LOAN AND GRANT DISBURSEMENT

Sec.
1803.1 General.
1803.2 Policies governing disbursement of funds.
1803.3 Procedures to follow in fund disbursement.
1803.4 Establishing supervised bank accounts.
1803.5 Pledging collateral for deposit of funds in supervised bank account.
1803.6 Authority to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions.
1803.7 Deposits.
1803.8 Withdrawals.
1803.9 County office records.
1803.10 Reconciliation of accounts.
1803.11 Closing accounts.
1803.12 Request for withdrawals by State Director.

AUTHORITY: 7 U.S.C. 1989, 42 U.S.C. 1480, 42 U.S.C. 2942, 5 U.S.C. 301, sec. 10 Pub. L. 92-357, 88 Stat. 392, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70, delegations of authority by Director, OEO 29 FR 14764, 33 FR 9850.

§ 1803.1 General.

This Part prescribes the policies and procedures of the Farmers Home Administration (FmHA) to be followed in the disbursement of funds under the Loan Disbursement System (LDS) and in establishing and using supervised bank accounts. The LDS system provides for funds on an as needed basis to substantially reduce interest costs to FMHA borrowers, U.S. Treasury, and FmHA.

(a) *Form FMHA 440-1,* "Request for obligation of Funds," provides for: (1)

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The obligation only, (2) obligation and check request for the full amount of the loan or grant, and (3) obligation and check request for a partial amount of the loan or grant. The instructions on when and how to use this form are contained in the Forms Manual Insert (FMI) for this form.

(b) *Form FMHA 440–57*, "Acknowledgement of obligated Funds/Check Request," provides for: (1) The inital loan amount check, (2) all subsequent loan checks, (3) making corrections on the data in the loan account as reflected on the form, (4) notifying the Finance Office of the loan closing date and the loan amortization effective date, and (5) providing requested information from the Finance Office. The instructions on when and how to use this form are contained in the Forms Manual Insert for this form.

(c) See applicable regulations for procedures to follow if checks are lost or destroyed.

(d) Borrowers as referred to in this Part include both loan and grant recipients. They are referred to as depositors in the deposit agreements hereinafter described. References herein and in deposit agreements to "other lenders" include lenders and grantors other than FmHA.

(e) Banks referred to in this Part are those in which deposits are insured by the Federal Deposit Insurance Corporation (FDIC).

(f) Supervised bank accounts referred to in this Part are bank accounts established through deposit agreements entered into between either (1) the borrower, the United States of America acting through the FmHA, and the bank on Form FmHA 402–1, "Deposit Agreement," or (2) the borrower, FmHA, other lenders, and the bank on Form FmHA 402–5, "Deposit Agreement (Non-FmHA Funds)."

(g) Form FmHA 402–1 provides for the deposit of funds in a supervised bank account as security for payment of the borrower's indebtedness to FHA and to assure the performance of the borrower's obligations to FHA in connection with a loan and grant.

(h) Form FmHA 402–5 provides for the deposit of funds advanced by other lenders as security for payments of the indebtedness to them and to assure the performance of the borrower's obligation to them in connection with a loan and grant are made in a separate supervised bank account.

(i) "Interest-Bearing Deposit Agreement," available in all FmHA offices provides for the deposit of loan or grant funds that are not required for immediate disbursement in specified interest-bearing deposits, and it is executed in conjunction with Form FmHA 402–1 or Form FmHA 402–5.

§ 1803.2 Policies governing disbursement of funds.

(a) The partial advance feature of the LDS will be utilized whenever possible in accordance with the specific program procedures, except where prohibited by State statutes. The capability to request Treasury Checks on an as needed basis reduces the need for supervised bank accounts. Therefore, supervised bank accounts will be used only in rare instances, e.g.: (1) When a construction loan is made and the construction is substantially complete, but a small amount is being withheld pending completion of landscaping or some similar item, or a small amount of funds usually not to exceed $2,000, is not disbursed at loan closing. In this case, the amount of funds not disbursed will be requested from the Finance Office using Form FmHA 440–57, or issued by the Finance Office when the predetermined amortization effective date occurs, and placed in a supervised bank account for future disbursement as appropriate.

(2) When a large number of checks will be issued in the construction of a dwelling or other development, as for example under the "borrower method" of construction or in Operation (OL) loans and Emergency (EM) loans. In such cases, installment checks will continue to be requested from the Finance Office as necessary and deposited in a supervised bank account and disbursed to suppliers, sub-contractors, etc. as necessary. When the construction process requires several checks to be issued at one time the LDS system can still be utilized. Those County Offices authorized to request checks by telephone may request more than one check at a time. The offices not authorized to use the telephone method for requesting checks will use Form FmHA 440–57 to request one check at a time. If more than one check is required, a Form FmHA 440–57 will be prepared for each check.

(3) Association loan and grant funds made on a multiple advance basis need not be deposited in a supervised bank account unless required by State statutes or otherwise determined necessary by the State Director.

(4) Supervised bank accounts will be used only when necessary to assure the correct expenditure of all or a part of loan and grant funds, borrower contributions, and borrower income. Such accounts will be limited in amount and duration to the extent feasible through the prudent disbursement of funds and the prompt termination of the interests of FmHA funds and other lenders when the accounts are no longer required.

(5) Income from the sale of security property or Economic Opportunity (EO) property or the proceeds from insurance on such property will be deposited in a supervised bank account under Form FmHA 402–1 when the County Supervisor determines that it is necessary to do so to assure that the funds will be available for replacement of the property.

(6) When a borrower has clearly demonstrated inability to handle his financial affairs, all or part of his income or other funds may be deposited in the supervised bank account under Form FmHA 402–1 or Form FmHA 402–5 if the County Supervisor determines that such an arrangement is necessary to provide guidance in major financial management practices essential to the borrower's success, subject to the following requirements.

(i) This supervisory technique will be used for a temporary period to help the borrower learn to properly manage his financial affairs. Such a period will not exceed one year unless extended by the District Director; and

(ii) The borrower is agreeable to such an arrangement.

(7) In exceptional cases when the unincorporated EO cooperative or association borrower cannot obtain a position fidelity bond, its income may be deposited as provided for in §§ 1803.5 and 1803.2(f) if another lender is involved.

(b) For all construction loans, and those loans to be advanced in increments, only the actual amount to be disbursed at loan closing will be requested either through the initial submission of Form FmHA 440–1 or through Form FmHA 440–57. Subsequent checks will be ordered as needed by submitting Form FmHA 440–57 to the Finance Office.

(c) Program instructions and FMI's provide information as to the type of note to be utilized and the method of handling advances and the interest accrued thereon. For individual loan programs, interest will accure from date of the check or date of loan closing whichever occurs later. For association type loans, interest will accrue from date of check delivery.

(d) For all loan accounts, when the total amount has not been advanced at the amortization effective date, as defined in the forward the remaining balance to the County Supervisor for appropriate action, unless the County Supervisor notifies the Finance Office of other arrangements.

(e) When a check cannot be negotiated within 20 working days from the date of the check, the County Supervisor will return the check(s) with Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," in accordance with applicable regulations.

(f) Funds provided to an FmHA borrower by another lender (through subordination agreements by the FmHA or under other arrangements between the borrower, FmHA, and other lender) that are not used immediately after the loan or grant closing will be deposited in a supervised bank account under Form FmHA 402–5, provided: (1) The County Supervisor determines such action is necessary to protect FmHA's interest and to assure that the funds will be used for the purposes planned,

(2) The other lender is unwilling to control the use of such funds, and

(3) The other lender is agreeable to the use of the FHA supervised bank account.

§ 1803.3 Procedures to follow in fund disbursement.

(a) The County Supervisor will determine during loan approval the amount(s) of loan check(s)—full or partial—and forward such request to the Finance Office by complying with the FMI for Form FmHA 440–1 and Form FmHA 440–57.

(b) *Counties using the telephone to request subsequent advances* will call the designated telephone number provided by the Finance Office and request all subsequent checks by providing the information required on a Form FmHA 440–57.

(c) When check(s) are delivered to the County Office, the County Supervisor will assure himself that the name of the borrower and the amount(s) of check(s) coincide with the request on file. The County Supervisor should assure himself that the check is properly endorsed to insure payment to the intended recipient. An example of such a restrictive endorsement is:

Pay to the order of (3rd party payee)—(Contractor, Developer, Sub-Contractor, Building Supply House, etc.) for the purpose of ----------

(d) *When necessary and only under the circumstances* as listed in paragraph II the County Supervisor will establish or cause to be established a supervised bank account.

§ 1803.4 Establishment supervised bank accounts.

(a) Each borrower will be given an opportunity to choose the bank in which his supervised bank account will be established, provided the bank is a member of the FDIC.

(b) When accounts are established, it should be determined that: (1) The bank is fully informed concerning the provisions of Form FmHA 402–1 and/or Form FmHA 402–5, and

(2) Agreements are reached with respect to the services to be provided by the bank including the frequency and method of transmittal of bank statements, and

(3) Agreement is reached with the bank regarding the place where the counter-signature will be on checks, particularly those drawn on banks under electronic checking systems.

(c) When possible, County Supervisors will make arrangements with banks which are members of the FDIC under which they will waive service charges in connection with supervised bank accounts established in such banks. However, there is no objection to the payment by the borrower of a reasonable charge for such service.

(d) If the amount of Association, Watershed (WS), Rural Rental Housing (RRH), Rural Renewal (RN), Resource Conservation and Development (RCD), EO loans to a Cooperative Association, Rural Cooperative Housing (RCH), or Labor Housing (LH) loan funds and grant funds plus any borrower contributions and funds from other sources to be deposited in the supervised bank account will exceed $40,000 the bank will be required to pledge collateral for the excess over $40,000 before the deposit is made (see § 1803.5 of this Chapter). In addition, a pledge of collateral for any excess over $40,000 in a supervised bank account may be required for other types of loans or grants in amounts in excess of the State Director's approval authorization when determined necessary by the National Office on an individual case basis.

(e) Only one supervised bank account will be established for any borrower regardless of the amount or source of funds, except for RRH loans separate accounts will be established for each project.

(f) When a supervised bank account is established, an original and two copies of Form FmHA 402–1 or Form FmHA 402–5, and the Interest-Bearing Deposit Agreement available in all FmHA offices, when applicable, will be executed by the borrower, the bank, and a County Office employee. The original will be retained in the borrower's case file, one executed copy will be delivered to the bank, and one executed copy to the borrower. An extra copy of the Interest-Bearing Deposit Agreement will be prepared and attached to the certificate passbook, or other evidence of deposit representing the interest-bearing deposit.

(1) If an agreement on Form FmHA 402–1 or Form FmHA 402–5 has previously been executed and Form FmHA 402–6, "Termination of Interest in Supervised Bank Account," has not been executed with respect to it, a new agreement is not required when additional funds are to be deposited unless requested by the bank.

(2) When the note and security instrument are signed by two joint borrowers or by both husband and wife, a joint survivorship supervised bank account will be established from which either can withdraw funds if State laws permit such accounts. In such cases both parties will sign the Deposit Agreement(s).

§ 1803.5 Pledging collateral for deposit of funds in supervised bank account.

(a) Funds in excess of $40,000 for borrowers referred to in § 1803.4(d) deposited in supervised bank accounts, must be secured by pledging acceptable collateral with the Federal Reserve Bank in an amount not less than the excess.

(b) As soon as it is determined that the loan will be approved and the applicant has selected or tentatively selected a bank for the supervised bank account, the County Supervisor will contact the bank to determine: (1) That the bank selected is a bank that is insured by the FDIC.

(2) Whether the bank is willing to pledge collateral with the Federal Reserve Bank under Treasury Circular No. 176 to the extent necessary to secure the amount of funds being deposited in excess of $40,000.

(c) If the bank is agreeable to pledging collateral, the County Supervisor should complete a form letter available in all FmHA offices in an original and three copies, the original and one copy for the National Office, the second copy for the State Office, and the third copy for the County Office. The form letter should be forwarded to the National Office at least 30 days before the date of loan closing.

(d) The National Office will arrange for the Treasury Department have the bank designated as a depositary unless already designated, and to have collateral pledged.

(e) If, two days before loan closing, the State Director has not received a copy of the Treasury Department's letter to the bank confirming the pledge of collateral, he should contact the National Office, Attention: Financial Support Division.

(f) When the amount of the deposit in the supervised bank account has been reduced to a point where the bank desires part or all of its collateral released, it should write to the Treasury Department, Domestic Banking Staff Bureau of Government Operations, Washington, D.C. 20226, requesting the release and stating the balance in the supervised bank account.

§ 1803.6 Authority to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions.

County Supervisors are authorized to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions and redelegate this authority to authorized collection officers under their supervision who are considered capable of exercising such authority. State Directors will make written demand upon the bank for withdrawals as outlined in § 1803.12 of this Chapter.

§ 1803.7 Deposits.

(a) *Deposits by FmHA Personnel.* (1) Checks made payable solely to the Federal Government, or any agency thereof, and a joint check when the Treasurer of the United States is a joint payee, may not be deposited in a supervised bank account.

(2) FmHA personnel will accept funds for deposit in a borrower's supervised bank account ONLY in the form of a check or money order endorsed by the borrower "For Deposit Only," or a check drawn to the order of the bank in which the funds are to be deposited or a loan check drawn on the U.S. Treasury.

(i) A joint check that is payable to the borrower and FmHA will be endorsed by the County Supervisor as provided in Part 1862 of this Chapter.

(ii) Ordinarily, when deposits are to be made from funds which are received as the result of consent or subordination agreements or asignments of income, the check should be drawn to the order of the bank in which the supervised bank account is established or jointly to the order of the borrower and the FmHA.

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All such checks should be delivered or mailed to the County Office.

(iii) If direct or insured loan funds (other than OL, EM, or EO loan funds) or borrower contributions are to be deposited in a supervised bank account, such funds will be deposited on the date of loan closing after it has been determined that the loan can be closed. However, if it is impossible to deposit the funds on the day the loan is closed due to reasons such as distance from the bank or banking hours, the funds will be deposited on the first banking day following the date of loan closing.

(iv) Grant funds will be deposited when such funds are delivered.

(vi) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account without endorsement by the borrower when it will facilitate delivery of the check and is acceptable to the bank. The borrower will be notified immediately of any deposit made and will be furnished a copy of the deposit slip. When a deposit of this nature is made, the following endorsement will be used:

For deposit only in the supervised bank account of _____ in the
(name of borrower)
_____
(name of bank and address when necessary for identification)
pursuant to Deposit Agreement dated _____
_____

(vii) Accounts established through the use of an Interest-Bearing Deposit Agreement will be in the name of the depositor and the Government.

(b) *Deposits by borrowers.* Funds in any form may be deposited in the supervised bank account by the borrower if authorized by the FmHA *provided the bank has agreed* that when a deposit is made to the account by other than FmHA personnel, the bank will promptly deliver or mail a copy of the deposit slip to the FmHA County Office.

(1) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account by a borrower, provided the following endorsement is used and is inserted thereon prior to delivery to the borrower for signature:

For deposit only in my supervised bank account in the _____
(name of bank and address when necessary for identification)
pursuant to Deposit agreement dated _____
_____

(2) Funds other than loan or grant funds may be deposited by the borrower in those exceptional instances where an agreement is reached between the County Supervisor and the borrower whereby the borrower will make deposits of income from any source directly into the supervised bank account. In such instances the borrower will be instructed to prepare the deposit slip in the manner described in § 1803.6(a)(v) of this Chapter.

§ 1803.8 Withdrawals.

(a) The County Supervisor will not countersign checks on the supervised bank account for the use of funds unless the funds deposited by the borrower from other sources were cash deposits or checks which the County Supervisor knows to be good or until he knows that the deposited checks have cleared.

(b) Withdrawals of funds deposited under Form FmHA 402–1 or Form FmHA 402–5 are permitted only by order of the borrower and countersignature of authorized FmHA personnel or upon written demand on the bank by the State Director of the FmHA.

(c) Upon withdrawal or maturity of interest-bearing accounts established through the use of an Interest-Bearing Deposit Agreement, such funds will be credited to the supervised bank account established through the use of Form FmHA 402–1 or Form FmHA 402–5.

(d) The issuance of checks on the supervised bank account will be kept to the minimum possible without defeating the purpose of such accounts. When major items of capital goods are being purchased, or a limited number of relatively costly items of operating expenses are being paid, or when debts are being refinanced, the checks will be drawn to the vendors or creditors. If minor capital items are being purchased or numerous items of operating and family living expenses are involved as in connection with a monthly budget, a check may be drawn to the borrower to provide the funds to meet such costs.

(1) A check will be issued payable to the appropriate payee but will never be issued to "cash". The purpose of the expenditure will be clearly shown on Form FmHA 402–2, "Statement of Deposits and Withdrawals," and indicated on the face of the check. When checks are drawn in favor of the borrower to cover items too numerous to identify, the expenditure will be identified on the check if space permits as "miscellaneous."

(2) Normally, OL and EM loan funds will not be withdrawn from the supervised bank account until the lien search has been made and the determination reached that the required security has been obtained. This applies also to withdrawal of funds in secured individual loan cases. However, in those instances when the applicant is unable to pay for the lien search and filing fees from his own funds, a check for this purpose may be drawn on the supervised bank account to meet these loan making requirements.

(3) Ordinarily, a check will be countersigned before it is delivered to the payee. However, in justifiable circumstances such as when excessive travel on the part of the borrower or the County Supervisor would be involved or purchases would be prevented, and the borrower can be relied upon to select goods and services in accordance with the plans, a check may be delivered to the payee by the borrower before being countersigned.

(i) When a check is to be delivered to the payee before being countersigned, the County Supervisor must make it clear to the borrower and to the payee, if possible, that the checks will be countersigned only if the quantity and quality of items purchased are in accordance with approved plans.

(ii) Checks delivered to the payee before countersignature will bear the following legend in addition to the legend for countersignature: "Valid only upon Countersignature of Farmers Home Administration."

(iii) The check must be presented by the payee or his representative to the County Office of the FHA servicing the account for the required countersignature.

(iv) Such check must be accompanied by a bill of sale, invoice, or receipt signed by the borrower identifying the nature and cost of the goods or services purchased or similar information must be indicated on the check.

(4) For real estate loans or grants, whether the check is delivered to the payee before or after countersignature, the number and date of the check will be inserted on all bills of sale, invoices, receipts, and itemized statements for materials, equipment, and services.

(5) Bills of sale, and so forth, may be returned to the borrower together with the canceled check for the payment of the bill.

(6) Checks to be drawn on a supervised bank account will bear the legend:

Countersigned, not as co-maker or endorser.

_____
_____
(Title)

FARMERS HOME ADMINISTRATION.

§ 1803.9 County Office Records.

A record of funds deposited in a supervised bank account will be maintained on Form FHA 402–2 in accordance with instructions for its preparation available at all FmHA Offices. The record of funds provided for operating purposes by another creditor or grantor will be on a separate Form FHA 402–2 so that they can be clearly identified.

§ 1803.10 Reconciliation of accounts.

(a) A bank statement will be obtained periodically in accordance with established banking practices in the area. If requested by the bank, a supply of addressed, franked envelopes will be provided for use in mailing bank statements and canceled checks for supervised bank accounts to the County Office. Bank statements will be reconciled promptly with County Office records. The persons making the reconciliation will initial the record and indicate the date of the action.

(b) All bank statements and canceled checks will be forwarded immediately to the borrower when bank statements and County Office records are in agreement. If a transmittal is used, Form FHA 140–4, "Transmittal of Documents," is prescribed for that purpose.

§ 1803.11 Closing accounts.

When FmHA loan or grant funds or those of another lender have all been properly expended or withdrawn, Form FmHA 402–6 may be used to give the consent of FmHA (and of another lender, if involved) to close the supervised bank account in the following situations:

(a) When FHA loan funds in the supervised bank account of a borrower have been reduced to $100 or less, and a check for the unexpended balance has been issued to the borrower to be used for authorized purposes.

(b) For all loan accounts, except association loans, after completion of authorized loan fund expenditures, and after promptly refunding any remaining unexpended loan funds on the borrower's loan account with FmHA or another lender, as appropriate.

(c) For association loan and grant accounts, when the funds have been expended in accordance with the requirements of Subparts A and I of Part 1823 of this Chapter the supervised bank account will be closed within 90 days following completion of development unless an extension of time is authorized in writing by the District Supervisor. If the borrower will not agree to closing the account, the County Supervisor will request the State Director to make demand upon the bank in accordance with § 1803.12 of this Chapter.

(d) Promptly (1) upon the death of a borrower, except when the loan is being continued with a joint debtor, or (2) when a borrower is in default and it is determined that no further assistance will be given, or (3) when a borrower is no longer classified as "active."

(1) *Deceased borrowers.* (i) Ordinarily, upon notice of the death of a borrower, the County Supervisor will request the State Director to make demand upon the bank for the balance of deposit and apply all of the balance after payment on any bank charges to the borrower's FmHA indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of a deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(A) The account is a joint survivorship supervised bank account, or

(B) If not a joint survivorship account, the bank will agree to permit the addition of the surviving joint debtor's name to the existing signature card and Form FmHA 402–1 and/or Form FmHA 402–5 and continue to disburse checks out of the existing account upon FmHA's countersignature and the joint debtor's signature in place of the deceased borrower, or

(C) The bank will permit the State Director to withdraw the balance from the existing supervised bank account with a check jointly payable to the FHA and the surviving joint debtor and deposit the money in a new supervised bank account with the surviving joint debtor, and will disburse checks from this new account upon the signature of such survivor and the countersignature of an authorized FHA official.

(ii) The State Director, before applying the balance remaining in the supervised bank account to the FmHA indebtedness, is authorized upon approval by the Office of the General Counsel (OGC) to release any unobligated balances thereof made by other lenders to the FmHA borrower for specific operating purposes in accordance with subordination agreements or other arrangements between the FmHA, the lender, and the borrower.

(iii) The State Director, upon the recommendation of an authorized representative of the estate of the deceased borrower and the approval of the OGC, is authorized to approve the use of deposited funds for the payment of commitments for goods delivered or services performed in accordance with the deceased borrower's plans approved by FmHA.

(2) *Borrowers in Default.* Whenever it is impossible or impractical to obtain a signed check from a borrower whose supervised bank account is to be closed, the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit in the borrower's supervised bank account for application as appropriate:

(i) To the borrower's FHA indebtedness, or

(ii) As refunds of any unobligated advances provided by other lenders which were deposited in the account, or

(iii) For the return of FmHA grant funds to the FmHA Finance Office, or

(iv) For the return of grant funds to other grantors.

(3) *Reclassified Borrowers.* When a borrower's loan has not been paid in full, but the borrower is no longer classified as "active."

(4) *Paid up Borrowers.* A paid up borrower is one who has a balance remaining in the supervised bank account and has repaid his entire indebtedness to FmHA and has properly expended all funds advanced by other lenders. In such cases the County Supervisor will (a) notify the borrower in writing that the interests of in the account FmHA and the other lender, if any, in the account have been terminated, and (b) inform the borrower of the balance remaining in the bank account.

§ 1803.12 Request for withdrawals by State Directors.

When the State Director is requested to make written demand upon the bank for the balance on deposit in the supervised bank account, or any part thereof, the request will be accompanied by the following information:

(a) Name of borrower as it appears on Form FHA 402–1 and/or Form FHA 402–5.

(b) Name and location of the bank.

(c) Amount to be withdrawn for refund to another lender of any balance that may remain of funds received by the borrower from such lender as a loan or grant or under a subordination agreement or other arrangement between the FmHA, the other lender, and the borrower.

(d) The amount to be withdrawn, excluding any bank charges, for a refund of FmHA's or other lender's loans or grants.

(e) Other pertinent information including reasons for the withdrawal.

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

2. As proposed, the introductory paragraph to § 1821.16 paragraph (b) are revised to read as follows:

§ 1821.16 Deferred payments.

Payments may be deferred when income is not available to meet regular installments. Deferment may be up to the end of the second full crop year from the date of the loan providing there is:

* * * * * *

(b) A new system of farming or nonfarm enterprise is being established that will require substantial improvements, such as land clearing, draining, leveling, irrigating, basic fertilizing, seeding, other land development, soil improvement, and extensive nonfarm facilities. Deferred payment alternates I or III on Form FmHA 440–16, "Promissory Note," are authorized for FO loans. Refer to the Forms Manual insert for preparing the form.

3. As proposed in § 1821.22, paragraph (a) is revised and paragraphs (a)(1) and (a)(2) are added and read as follows:

§ 1821.22 Actions subsequent to loan approval.

(a) *Requesting check.* If real estate will not be taken as security or if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval, or when the County Supervisor is reasonably certain that satisfactory title evidence can be obtained so the loan can be closed within 15 days from the date of the check request, loan funds may be requested at the time of loan approval by entering the amount needed in block 21 of Form FmHA 440–1. If funds are not requested when the loan is approved, advances in the amount needed will be requested by using Form FmHA 440–57 in accordance with the FMI. The original 440–57 will be retained in the County Office and a copy sent to the Finance Office. The initial loan advance will be requested when loan approval conditions can be met, satisfactory title to real estate security can be provided, and a date has been set for loan closing.

(1) When all loan funds can be disbursed at or within 15 days after loan closing or if the amount of funds that cannot be disbursed does not exceed $2,000, the total amount of the loan will be requested in a single advance.

(2) When loan funds cannot be disbursed as outlined in subparagraph 1 above, the amount needed to meet the needs of the borrower will be requested by submitting a copy of Form FmHA 440–57 to the Finance Office. The amount of the advances should be as near as possible to meet the needs of borrowers so that the amount in the supervised bank account will be kept at a minimum. The Finance Office will continue to supply Form FmHA 440–57 until the entire loan has been disbursed. The County Supervisor should inform borrowers of their responsibility of notifying the County

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Office of amounts needed on a timely basis.

* * * * *

PART 1822—RURAL HOUSING LOANS AND GRANTS

4. As proposed § 1822.7, paragraph (n) is revised to read as follows:

§ 1822.7 Special requirements.

* * * * *

(n) *Mutual self-help housing loans.* Applicants who are unable to build modest dwellings by customary methods, because of limited income and repayment ability, may build their homes by participating in a mutual self-help housing project. The County Supervisor will not approve RH loans or proceed in the development of a self-help project without prior approval of the State Director. He will, therefore, submit complete information about each family in the proposed self-help project to the State Office for review and request authority to proceed. Information submitted will include items such as the family's size, income, age or family members who will work on the dwelling, the size and cost of the planned dwelling, estimated savings, and the amount of the needed loan. Exhibit A, "Mutual Self-Help Housing Guidelines," will be used as a guide for developing self-help projects and counseling with participating families. The County Supervisor, in counseling with families participating in self-help housing projects, will determine the anticipated time required for construction and the extent to which the borrower will be able to meet loan payments during this period. If the applicants will not have enough income to meet payments of interest accruing at the note rate of interest, or regular amortized loan payments during the construction period, interest and principal payments will be deferred and interest accruing during the construction period will be added to the principal and scheduled for repayment in regular amortized installments over the remaining term of the loan.

* * * * *

5. As proposed § 1822.13, paragraphs (c) (3) (i) (A) and (c) (3) (ii) are revised to read as follows:

§ 1822.13 Loan approval.

* * * * *

(c) * * *
(3) * * *
(i) * * *
(A) *Form FmHA 440–1.* (copy)

* * * * *

(ii) *To the State Office.* If the loan is approved by the County Supervisor, an unsigned copy of form FmHA 440–1 will be sent to the State Office unless exempted by State instructions, and a copy of Form FmHA 444–2 will be sent to the State Office. If the loan is approved in the State Office, an unsigned copy of Form FmHA 440–1 and a copy of Form FmHA 444–2 will be retained in the State Office.

* * * * *

6. As proposed in § 1822.14, paragraph (a) is revised and paragraphs (a) (1) and (a) (2) are added to read as follows:

§ 1822.14 Actions subsequent to loan approval.

(a) *Requesting check.* When the loan has been approved, approval conditions can be met, any necessary curative actions have been taken to provide a satisfactory title to any real estate security, and a tentative date has been set for loan closing, the County Supervisor or his delegate will complete the original and copy of Form FmHA 440–57 in accordance with the Forms Manual Insert (FMI) and send the copy to the Finance Office. If real estate will not be taken as security or if real estate is taken as security and satisfactory title of evidence is obtained prior to loan approval, or when the County Supervisor is reasonably certain that satisfactory title evidence can be obtained so the loan can be closed within 15 days from the date of the check request, the loan check may be requested at the time of loan approval by entering the amount of the check requested in block 21 of Form FmHA 440–1.

(1) If all the loan funds will be disbursed at or within 15 days after loan closing or in cases where the amount of funds that cannot be disbursed at loan closing does not exceed $2,000, the total amount of the loan will be requested in a single advance.

(2) If loan funds cannot be disbursed in accordance with time frame in paragraph (a) (1) above, the County Supervisor will enter in block 21 of Form FmHA 440–1 the amount of the loan funds to be disbursed at loan closing. Additional loan funds will be requested when and in amounts needed by submitting a completed copy of Form FmHA 440–57 to the Finance Office. The County Supervisor should work with developers and others to be sure that funds will be available when needed and, at the same time, to keep the future advances to a reasonable minimum. Any loan funds not requested by the date reported to the Finance Office as the "amortization effective date" for the loan will be disbursed by the Finance Office to the County Office by check dated on the amortization effective date. The check will be deposited in the borrower's supervised bank account if it cannot be endorsed directly to a payee within 20 working days from the date of the check.

* * * * *

7. As proposed, § 1822.15, paragraphs (b) (2) and (b) (3) are revised and completey restructured to read as follows:

§ 1822.15 Loan closing actions.

* * * * *

(b) * * *

* * * * *

(2) *Promisory note.* Form FmHA 440–16, "Promissory Note," will be used for loans made under this Instruction. The note will be prepared and signed in accordance with Part 1807 of this chapter, concerning cosigners, § 1822.10(b) (5) of this subpart, and the FMI.

(i) The payment alternatives of the note will be completed in accordance with the FMI and the following:

(A) Payments of principal and interest or principal only may be deferred during the period the dwelling is not expected to be suitable for occupancy as a residence because of construction or repairs to be made. Such deferments are authorized provided the County Supervisor determines, based upon the family's repayment ability that the borrower cannot meet installments that would otherwise be due during the deferment period and also meet his other necessary obligations without experiencing an undue hardship or impairing his standards of living. Both principal and interest payments should be deferred and accrued interest added to principal and repaid in regular amortized installments (payment alternative II) unless the borrower clearly will have funds available to repay accrued interest when due, in installments or by lump sum payment.

(B) Payments will not be deferred if the dwelling is or will be occupied as the borrower's residence when the loan is closed or if the borrower has sufficient available income to make regular amortized payments as they become due without deferment.

(ii) The payment provision of the note will be completed in accordance with the FMI and the following:

(A) The monthly payment provision will be used for all borrowers who regularly receive monthly income and who can repay the loan in 12 equal monthly payments.

(B) The annual payment provision will be used only for borrowers who do not regularly receive monthly income. If interest and/or principal installments are not to be deferred, the following provisions apply.

(*1*) The amount of the first installment will be determined by the County Supervisor after considering the immediate debt-paying ability of the borrower. The amount of the first installment may be less, but not more, than a regular annual installment.

(*2*) The amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to January 1 of the calendar year following the calendar year in which the loan is closed.

(*3*) Form FmHA 440–9 should be used to supplement this payment provision to facilitate servicing of loans for borrowers who pay more than one time a year.

(*3*) *Collection of first installment.* If the annual payment provision of the note is used and payments are not deferred, the first installment of a loan closed during December will be collected at the time of loan closing.

* * * * *

8. As proposed § 1822.74, paragraph (b) (1) is revised to read as follows:

§ 1822.74 Actions subsequent to loan approval.

* * * * *

(b) *Handling the loan check.* (1) Any loan check to be deposited in the supervised bank account will be deposited in accordance with Part 1803 of this chapter.

* * * * *

9. As proposed § 1822.75, paragraphs (c) (1), (2), (3), (4), and (5) are revised to read as follows:

§ 1822.75 Loan closing.

* * * * *

(c) *Promissory note and insurance endorsement.* (1) The total amount to be shown in the note will be the amount of the loan appearing on Form FmHA 440–1.

(2) Payments on LH loans will be scheduled in accordance with the FMI for Form FmHA 440–16, "Promissory Note." Any funds included in the loan for the payment of interest will be collected and applied as a regular payment at the time of loan closing. Scheduled principal installments during the first or first and second years after loan closing may be deferred. Interest payments may not be deferred.

(3) Form FmHA 440–16, "Promissory Note," will be used. Preparation will be in accordance with the FMI.

(4) For a loan to a public body whose obligations bear interest exempt from Federal income taxation, the forms of obligation and insurance endorsement will be determined in accordance with Part 1811 of this chapter.

(5) The note will be signed in accordance with Part 1807 of this chapter.

* * * * *

10. As proposed § 1822.88, paragraph (b) is revised to read as follows:

§ 1822.88 Special conditions.

* * * * *

(b) *Deferred principal payments.* When necessary and advisable, smaller than regular payments of principal or no payments of principal may be provided for the first and second year after loan closing. However, accrued interest must be paid according to the regular installment schedule.

* * * * *

11. As proposed § 1822.95, paragraphs (c) (1), (2), (3), (4), and (5) are revised to read as follows:

§ 1822.95 Loan closing.

* * * * *

(c) *Promissory note.* (1) The total amount to be shown in the note will be shown on Form FmHA 440–1. The note will be dated the date of loan closing except as authorized in § 1807.2(f) (8) of Part 1807 of this chapter.

(2) Payments on RRH loans will be scheduled on the note in accordance with the Forms Manual Insert (FMI). Monthly payments wil be implemented. As provided in § 1822.88(b) of this chapter, the monthly principal installments during the first or the first and second years after loan closing may be deferred. Interest payments may not be deferred.

(3) Form FmHA 440–16, "Promissory Note," will be used. Instructions for preparation for monthly installments in the FMI will be followed.

(4) The note(s) will be signed in accordance with the FMI and Part 1807 of this chapter.

(5) Any funds included in the loan for the payment of interest will be collected and applied as a regular payment at the time of loan closing.

* * * * *

12. As proposed, § 1822.272, paragraph (a) (1) is revised to read as follows:

§ 1822.272 Approval or disapproval of a loan.

(a) * * *

(1) Sign the original and one copy of completed Form FmHA 440–1 and insert his title in the space provided.

* * * * *

13. As proposed, § 1822.274, paragraph (c) is revised and restructured to read as follows:

§ 1822.274 Loan closing.

* * * * *

(c) *Promissory note.* Form FmHA 440–16, "Promissory Note," will be used. Instructions for preparation will be in accordance with the FMI and the following: (1) The total amount to be shown in the note will be the amount of the loan shown on Form FmHA 440–1. The note will be dated the date of the loan closing. Items (1) through (6b) will be completed in accordance with the FMI for the note. Immediately after the item (6b) following the words "PER ANNUM" delete the period and type, "SHALL BE PAID AT THE END OF TWO YEARS FROM DATE OF THIS NOTE," except that prepayments may be made as provided herein below.

(2) The note will be signed in accordance with Part 1807 of this chapter and the FMI for the Form FmHA 440–16.

(3) The note will be signed in accordance with Part 1807 of this chapter and the FMI Form FmHA 440–16, FMI.

(4) Payments shall not be deferred.

* * * * *

14. As proposed, § 1822.278, paragraphs (e) and (f) are revised to read as follows:

§ 1822.278 Special requirements for RHS section 523 loans (loans to organizations providing sites for self-help housing).

* * * * *

(e) *Mulptiple advances.* These loans may be disbursed over a period not to exceed 18 months from the date of the first advance.

(f) *Note forms.* Form FmHA 440–16, "Promissory Note" will be used. See § 1822.274(c).

* * * * *

PART 1832—EMERGENCY LOANS

15. As proposed, § 1832.36, paragraph (c) is revised to read as follows:

§ 1832.36 Loan closing.

* * * * *

(c) *Supervised bank accounts.* EM loan funds will only be deposited in a supervised bank account as provided in Part 1803 of this chapter.

(7 U.S.C. 1989, 42 U.S.C. 1480, 42 U.S.C. 2942, 5 U.S.C. 301, sec. 10 Pub. L. 93–357, 88 Stat. 392, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70, delegations of authority by Director, OEO 29 FR 14764, 33 FR 9850.)

Date: December 14, 1976.

FRANK W. NAYLOR, JR.,
Administrator,
Farmers Home Administration.

[FR Doc.76–37195 Filed 12–17–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 76–SW–58]

AIRWORTHINESS DIRECTIVE

Bell Model 205A–1 Helicopters

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Bell Model 205A–1 helicopters to improve the alignment of the engine-to-transmission drive shaft.

Failures of this shaft have been reported which resulted in complete loss of power to the rotor drive system and a subsequent emergency landing. These failures have been determined to be caused by excessive misalignment between the engine and the main transmission during operations with high rotor loads. Since this condition is likely to exist or develop in other helicopters of the same design, this proposed airworthiness directive would require readjustment of the position of the engine to improve the capability of the engine-to-transmission drive shaft to transmit power under maximum rotor loading conditions, including external load operations.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or comments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

All communications received on or before January 28, 1977, will be considered by the Director before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the office of the Regional Counsel for examination by interested persons.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

This notice has been reviewed and does not require an inflation impact statement.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by add-

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ing the following new airworthiness directive:

BELL: Applies to Model 205A–1 helicopters, Serial Numbers 30001 through 30232, certificated in all categories.

For helicopters certificated and operated pursuant to Part 133 of the FAR's (Class B rotorcraft load combination or Class C rotorcraft load combinations as defined by Part 1 of the FAR's), compliance is required within the next 100 hours cumulative time in service involving external load combinations as defined above, or 300 hours total time in service, whichever occurs first, after the effective date of this airworthiness directive, unless previously accomplished.

For Standard Category helicopters not approved for external load operations as defined above, compliance is required within the next 300 hours time in service after the effective date of this airworthiness directive, unless previously accomplished.

To prevent failure of the engine-to-transmission drive couplings due to excessive angularity under high loading conditions, adjust the engine-to-transmission alignment as described below:

(a) Remove the engine-to-transmission drive shaft assembly, P/N's 205–040–004–3, –11, or –17, in accordance with instructions in the appropriate maintenance and overhaul manuals.

(b) Using instructions and special tools prescribed by the maintenance and overhaul manuals, establish the engine-to-transmission alignment prescribed by the manual except as follows:

(1) Index the target plate inner scale to 8.0 (instead of 3.5) and index the target plate outer scale to 35.6 (instead of 1.75).

NOTE.—Transmission position must be adjusted and leveled to Maintenance Manual specifications. Engine position adjustment procedures must follow Maintenance Manual instructions.

(2) Establish angularity as follows: Install dial indicator in accordance with instructions in the Maintenance Manual at 2.5 inch radius. Read zero at 12 o'clock position; read $+0.030 \pm 0.004$ at 6 o'clock position. Reset dial indicator to zero at the 3 o'clock position; read $+0.006 \pm 0.004$ at 9 o'clock position. Plus reading on dial indicator means that flange on transmission is closer to flange on engine.

(c) Shim engine support fittings to obtain required alignment. If total laminated shim thickness (P/N 205–060–137–1 or 205–060–138–1), required under any engine support fittings, exceeds 0.188 inches, fabricate a plate of 2024–T4 aluminum alloy 0.100 thick, same outside dimensions as shim stock, and structurally bond the plate to the engine service deck with EC 934. Total thickness of shims and plate under any engine mount fitting must not exceed 0.288 inches. Verify that the engine support fittings are reinstalled with the same fore and aft orientation as before.

(d) Interference between the engine and the aft upper firewall at the 9 o'clock position (looking forward) may result with this realignment. If this condition occurs, accomplish the following:

Remove the aft upper firewall assembly P/N 205–060–909–27 and disassemble by removing the sixteen (16) screws.

Remove the aft section of the firewall web P/N 204–060–909–13 and enlarge the sixteen holes by drilling to 5/16 inch.

Deburr the drilled holes. Reassemble the firewall assembly using P/N AN970–3 washers over the enlarged holes and under the 16 screw heads.

(e) Check engine deck fitting screws and bolts for proper length and thread engagement.

(f) Check fuel control and governor linkage for proper rigging and cushion.

(g) Reinstall the drive shaft assembly. Reinstall transmission 5th mount assembly. Follow Maintenance Manual instructions for details of reinstallation of access panels, firewall attachments, and related cleanup, as required.

(h) Bell Helicopter Textron Service Bulletin No. 205–76–9 pertains to this subject and provides approved instructions for this activity.

Issued in Fort Worth, Texas on December 7, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.76–37064 Filed 12–17–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 239, 240, 270, 275]

[Release Nos. 33–5772, 34–13024, IC–9547, IA–554; File No. S7–660]

DISCLOSURE OF BROKERAGE PLACEMENT PRACTICES BY INVESTMENT MANAGERS

Proposed Rulemaking

Correction

In FR Doc. 76–35719 appearing at page 53356 in the issue for Monday, December 6, 1976, on page 53359, the last line of § 240.28c2–1(d)(4), should read as follows: "dollar amount of transactions into the total dollar amount of commissions paid."

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1601]

PROPOSED DESIGNATION OF 706 AGENCIES

Deferrals to State and Local Authorities

Pursuant to § 1601.12(l), Title 29, Chapter 14 of the Code of Federal Regulations as revised and published in the FEDERAL REGISTER (40 FR 3210M, January 20, 1975), the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) proposes that the agencies listed below be designated as "706 Agencies" (§ 160.12(c)). There are three (3) purposes for such designation: First, that the agencies receive charges deferred by the Commission pursuant to section 706 (c) and (d) of Title VII of the Civil Rights Act of 1964, as amended; second, that the Commission accord "substantial weight" to the final findings and orders of those agencies pursuant to § 1601.19b(e); and third, to commence the 15-day period within which any person or organization may file written comments as provided for under § 1601.12(l)(1). At the expiration of the 15-day period, the Commission may effect designation of each of the agencies by publishing them as an amendment to § 1601.12(m).

The proposed "706 Agencies" are as follows:

§ 1601.12 Deferrals to State and local authorities.

• • • • • •

(m) • • •

Fort Worth (Texas) Human Relations Commission.
Lexington—Fayette Urban County Human Rights Commission.

Written comments pursuant to this notice must be filed with the Commission on or before January 5, 1977.

Signed at Washington, D.C. this 14th day of December 1976.

ETHEL BENT WALSH,
Vice Chairman, Equal Employment Opportunity Commission.

[FR Doc.76–37206 Filed 12–17–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 76–45]

SPECIAL ANCHORAGE AREA, MONTEREY HARBOR, CALIFORNIA

Proposed Special Anchorage

The Coast Guard is considering amending the anchorage regulations by changing the width and orientation of the fairway passing through the special anchorage in Monterey Harbor, California. The need for the proposed amendment has developed over the years as a result of increased boat traffic and an increase in the number of vessels regularly using and mooring in the harbor. The widening and realignment of the fairway and subsequent establishment of fairway markers will provide for safer, more direct passage from the breakwater to the marine entrance inside the harbor. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to the Commander, Twelfth Coast Guard District, 630 Sansome St., San Francisco, California 94126. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 76–45), and give reasons for any recommended changes in the proposal. Copies of all written comments will be available for examination by interested persons at the office of the Commander, Twelfth Coast Guard District.

The Commander, Twelfth Coast Guard District will forward all comments received before February 3, 1977, and his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that section 110.126 of part 110 of Title 33 of the Code of Federal Regulations be revised to read as follows:

§ 110.126 Monterey Harbor, California.

The waters of Monterey Harbor between the shoreline and the following coordinates: Beginning at point on the Coast Guard Wharf at latitude 36°36' 33.2'' N, longitude 121°53'29.8'' W, thence to latitude 36°36'32.4'' N, longitude 121°53'31'' W, thence in an easterly direction to latitude 36°36'27.8'' N, longitude 121°53'16'' W, thence to latitude 36°36'20'' N, longitude 121°52'58'' W, thence to the shoreline at latitude 36°36'04'' N, longitude 121°52'54'' W, excluding from this area a fairway 125 feet wide whose centerline begins at latitude 36°36'27.8'' N, longitude 121°53'16'' W, and extend 205°, approximately 405 feet to latitude 36°36'24'' N, longitude 121°53'18.2'' W, thence 225° approximately 850 feet to the Monterey Marina entrance. Also excluded are the waters between this fairway and the north end of Municipal Wharf No. 2 and the eastern most part of Municipal Wharf No. 1.

(Sec. 1, 30 Stat. 98, as amended, sec. 6(g)(1)(B), 80 Stat. 937; 33 U.S.C. 180, 49 U.S.C. 1655(g)(1)(B), 49 CFR 1.46(c)(2)).

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 10, 1976.

A. F. FUGARO,
Rear Admiral U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76–37234 Filed 12–17–76;8:45 am]

[33 CFR Part 117]

[CGD 76–228]

DRAWBRIDGE OPERATION REGULATIONS

AIWW, New Smyrna Beach, Florida

At the request of the City of New Smyrna Beach, the Coast Guard is considering revising the regulations for the Harris Saxon bridge, AIWW, New Smyrna Beach, Florida, to provide that from March 15 through October 15, from 3 p.m. to 6 p.m., on Saturdays, Sundays, and holidays, the draw need open only on the hour and half-hour. At all other times the draw would open on signal. The draw is presently required to open on signal at all times. This change is being considered because of a significant increase in vehicular traffic during the proposed periods of closure.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Seventh Coast Guard District, Room 1018, Federal Building, 51 S. W. 1st Avenue, Miami, Florida 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons of any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before January 25, 1977, with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new § 117.433a immediately after § 117.433 to read as follows:

§ 117.433a Harris Saxon bridge, AIWW, New Smyrna Beach, Florida.

(a) On Saturdays, Sundays, and national holidays, from March 15 through October 15, from 3 p.m. to 6 p.m., the draw need not open for the passage of vessels except on the hour and half-hour. At all other times the draw shall open on signal.

(b) The draw shall open at any time for passage of public vessels of the United States, tugs with tows, and vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(c) The owner of or agency controlling this bridge shall conspicuously post notices containing the substance of these regulations, both upstream and downstream, in such a manner that they may be easily read from an approaching vessel.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05(c)(4)).

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 14, 1976.

D. J. RILEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.76–37235 Filed 12–17–76;8:45 am]

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[37 CFR Part 1]

INTERFERENCE PRACTICE

Extension of Deadline for Comments

The deadline for comments on the proposed rules relating to interference practice announced in the notice published November 30, 1976 (41 FR 52488) is hereby extended through March 4, 1977.

Dated: December 13, 1976.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved:
BETSY ANCKER-JOHNSON, Ph. D.,
Assistant Secretary for Science and Technology.

Dated: December 15, 1976.

[FR Doc.76–37245 Filed 12–17–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 151]

[CGD 73–271PH]

INSPECTION OF BARGES

Withdrawal of Notice of Proposed Rulemaking

The purpose of this notice is to announce that the Coast Guard is closing Docket No. CGD 73–271PH without further action.

On March 11, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 9455) to amend 46 CFR 151.01–25(c) by requiring barges constructed in conformance with 46 CFR Parts 36, 38, 39, 40 and 98, at the time of their construction or conversion, to meet the inspection requirements of Subparts 151.04 and 151.05 of Title 46. Specifically, the proposal would have required that the below listed items on these barges be examined or tested every two years instead of every four years:

(a) Safety relief valves.
(b) Tank externals (visual examination).
(c) Cargo hose visual examination and 1½ hydrostatic test).
(d) Quick closing valves (operating the emergency shutoff).
(e) Excess flow valves (visual examination or testing).
(f) Pressure vacuum relief valves (visual examination).

All comments received before the closing date for comments, April 30, 1974, were evaluated.

A total of 6 comments were received. All of these comments questioned the need and justification for the proposed change. One comment indicated that if it is the desire of the Coast Guard to make inspection requirements for the above items (a) through (f) uniform, a four year inspection interval should be allowed. The Coast Guard will gather data to determine which of the two inspection intervals is more consistent with the goal of promoting safety without unnecessary burden. When the results have been evaluated, the inspection requirements will be made uniform for barges carrying dangerous cargoes regardless of the age of the barge.

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In the interim, Docket No. (CGD 73-271PH) is closed.

Dated: December 8, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.76-37236 Filed 12-17-76;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 523]

[Docket No. FE 76-05; Notice 1]

AUTOMOTIVE FUEL ECONOMY

Vehicle Classification

The purpose of this notice is to propose determination of the vehicles that will be subject to Title V of the Motor Vehicle Information and Cost Savings Act, as amended, 15 U.S.C. 2001 et seq. Title V already specifies which vehicles with a gross vehicle weight rating (GVWR) of not more than 6,000 lbs. are automobiles. Those vehicles are passenger cars, multipurpose passenger vehicles, and trucks. The proposal would add passenger cars with a GVWR of more than 6,000 pounds and less than 10,000 pounds to the automobile category. The notice would then divide the automobile category into two subcategories; i.e., passenger automobiles and nonpassenger automobiles. Passenger cars would be placed in the passenger automobile category, and multipurpose passenger vehicles and trucks in the nonpassenger automobile category.

Statutory background. Title V was added to the Cost Savings Act by the Energy Policy and Conservation Act, Pub. L. 94-163. The Title directs the Administrator of the National Highway Traffic Safety Administration (delegation of authority at 41 FR 25015, June 22, 1976) to establish a program for requiring automobile manufacturers to improve the average fuel economy of their automobiles. The Title also directs the Environmental Protection Agency (EPA) to promulgate regulations requiring manufacturers to provide fuel economy information to consumers. Section 501 (1) of the Title defines an "automobile" as:

> Any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and
>
> (A) which is rated at 6,000 pounds gross vehicle weight or less, or
>
> (B) which—(i) is rated at more than 6,000 pounds gross vehicle weight but less than 10,000 pounds gross vehicle weight,
>
> (ii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards under this part are feasible, and
>
> (iii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards will result in significant energy conservation, or is a type of vehicle which the Secretary determines is substantially used for the same purposes as vehicles described in subparagraph (A) of this paragraph.

The Title divides automobiles into two categories, "passenger automobiles," and automobiles other than passenger automobiles (hereafter referred to as "nonpassenger automobiles"). Section 501(2) defines "passenger automobile" as "any automobile (other than an automobile capable of off-highway operation) which the Secretary determines by rule is manufactured primarily for use in the transportation of not more than 10 individuals." There is no statutory definition of the nonpassenger automobile class, other than language in section 502(b) stating that it is a residual category. However, section 501(3) does define one type of nonpassenger automobile, the "automobile capable of off-highway operation." Such an automobile must have a significant feature (other than 4-wheel drive) that is designed to equip the automobile for off-highway operation and have either 4-wheel drive or a GVWR greater than 6,000 pounds.

Passenger automobile standards for model years 1978–1980 are specified in section 502(a) of the Title. The Administrator is required to establish standards for subsequent model years by rule. An advance notice of proposed rulemaking on passenger automobile standards was published on September 23, 1976, at 41 FR 41713. Section 502(b) requires the Administrator to promulgate nonpassenger automobile standards for model years 1979 and thereafter. A standard for model year 1979 was proposed on November 26, 1976, at 41 FR 52087. Fuel economy testing, labeling and information disclosure procedures and requirements for model year 1977 and thereafter were published by EPA pursuant to sections 503 and 506 of the Title on November 10, 1976, at 41 FR 49752.

Some vehicles will be automatically subject to the standards and other requirements. Other vehicles will be subject to them only upon the making of certain determinations by the Administrator.

> Any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and * * * which is rated at 6,000 lbs. gross vehicle weight or less * * *

is automatically an automobile under the terms of the Title. For vehicles with a GVWR of more than 6,000 and less than 10,000 pounds to be treated as automobiles, the Administrator must first determine that standards are feasible for those vehicles and either that the standards will result in significant energy savings or that the vehicles are used for substantially the same purposes as vehicles with a GVWR of 6,000 pounds or less. Then the Administrator must determine whether the automobiles, both those that are automatically automobiles and those that were determined to be automobiles, are passenger automobiles or nonpassenger automobiles.

Automobiles. To be classified as an automobile, section 501(1) requires that a vehicle must (1) be 4-wheeled, (2) be propelled by fuel, (3) be manufactured primarily for use on public streets, roads, and highways, (4) not be operated exclusively on a rail or rails, and (5) have a GVWR of less than 10,000 pounds. Vehicles with a GVWR greater than 6,000 pounds and less than 10,000 pounds must meet certain additional statutory criteria that will be discussed later in this preamble.

The first four automobile criteria exclude a wide variety of vehicles from the class. The 4-wheel criterion excludes, for example, 2-wheeled vehicles such as motorcycles, 3-wheeled vehicles such as the Harley-Davidson GE Servi-car, and 6-wheeled vehicles such as pickup trucks with dual rear wheels. Trailers are excluded from the automobile category because they are not propelled by fuel; i.e., they do not have motive power that relies upon the combustion of gasoline, diesel oil, or other type of fuel. The House report excludes "agricultural and construction equipment and vehicles manufactured primarily for off-road use rather than highway use" as not satisfying the third criterion. H.R. Rep. No. 340, 94th Cong., 1st Sess. 90 (1975). Thus, vehicles such as tractors and loaders are not automobiles. Trolley cars are excluded by the fourth criterion.

Vehicles that satisfy the first four automobile criteria and have a GVWR of not more than 6,000 pounds are automobiles. These vehicles include passenger cars, multipurpose passenger vehicles, and trucks (as defined in 49 CFR Part 571 pursuant to the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1381 et seq.) with such a GVWR.

To determine whether vehicles that meet the four criteria and have a GVWR greater than 6,000 pounds and less than 10,000 pounds would be automobiles, the Administrator must determine that setting standards for such vehicles is feasible and either that the standards will result in significant energy conservation or that the vehicles are used for substantially the same purpose as automobiles having a GVWR of 6,000 pounds or less.

This notice sets forth the Administrator's proposed determination that passenger cars with a GVWR greater than 6,000 pounds and less than 10,000 pounds be included in the automobile class since they are vehicles for which average fuel economy standards are feasible and which are used for substantially the same purposes as passenger automobiles with a GVWR of 6,000 pounds or less. The Administrator's determination regarding multipurpose passenger vehicles and trucks in that weight class will be contained in a subsequent notice.

In model year 1976, there were approximately 600,000 passenger cars produced that had a GVWR greater than 6,000 pounds and less than 10,000 pounds. These passenger cars included the larger station wagons (e.g., Buick Estate Wagon V-8, Chevrolet V-8 Wagon, and Plymouth Gran Fury Wagon) and larger sedans (e.g., Cadillac (except the Seville), Chrysler New Yorker, and Lincoln Continental). The agency proposes to determine that these heavy (i.e., having a GVWR greater than 6,000 pounds and less than 10,000 pounds) passenger cars are automobiles.

It has been tentatively determined that the heavy passenger car is a type of vehicle for which average fuel economy standards are feasible. The feasibility of standards for light (i.e., having a GVWR of 6,000 pounds or less) passenger cars is evidenced by the Congress' establishment of fuel economy standards to which they are automatically subject. The correctness of Congress' judgment in that matter is confirmed by the availability of a variety of means, including reducing engine size, use of lighter weight materials, and changing axle ratios, for improving the fuel economy of those passenger cars. Since the designs and techniques of the heavy passenger cars, are similar to those of the light passenger cars, the fuel economy of the heavy passenger cars can be improved by the same means used to improve the fuel economy of light passenger cars. Therefore, standards for the heavy passenger cars are also considered feasible.

Further, the passenger automobile standards specified in the statute for model years 1978–1980 and for model year 1985 and thereafter were based upon figures in the DOT–EPA study, "Potential for Motor Vehicle Fuel Economy Improvement," concerning the potential for improving the fuel economy of all passenger cars, not just the light ones. H.R. Rep. No. 340, 94th Cong., 1st Sess. 88 (1975). Congress' reliance on those figures indicates its expectation that the heavier passenger cars would be regulated under Title V.

Both the heavy and the light passenger cars are designed and advertised for substantially the same purpose; i.e., primarily transporting people.

The effect of the determination regarding heavy passenger cars, if finally adopted, may be shortlived. One of the methods by which the manufacturers will be improving the fuel economy of the heavy passenger cars is through downsizing to reduce their weight. General Motors has begun taking this step in the 1977 model year. As a result, the number of passenger cars with a GVWR greater than 6,000 pounds is likely to be approximately 300,000 this model year as compared to 600,000 in model year 1976. By the 1979 model year, General Motors plans to have reduced the weight of all of its passenger cars to under 6,000 pounds GVWR. The other major producers of the heavy passenger cars appear to be moving in the same direction.

Passenger automobiles and nonpassenger automobiles. This notice proposes to define "passenger automobile" as an automobile manufactured primarily for use in the transportation of not more than 10 individuals that is not an automobile capable of off-highway operation. "Nonpassenger automobile" would be defined as an automobile designed either for off-highway operation or to perform any of a list of functions considered characteristic of nonpassenger automobiles.

The requirement that a passenger automobile must be manufactured primarily for use in transporting 10 or fewer people is clearly met by some automobiles and failed by others. By definition (49 CFR 571.1), passenger cars meet the requirement. Typical examples of passenger cars are station wagons that are built on a passenger car chassis, sedans, coupes and sports cars.

Examples of automobiles that fail the requirement appear in the House and Conference reports on Pub. L. 94-163. In discussing the categories of automobiles, the House report states that:

> The passenger automobile category would exclude vehicles not manufactured primarily for transportation of individuals—such as light duty trucks, mobile homes (probably meaning motor homes), and multipurpose vehicles not manufactured primarily for transportation of individuals. H.R. Rep. No. 340, 94th Cong., 1st Sess. 90 (1975).

The Conference report supports the House view by stating that examples of automobiles that are not considered passenger automobiles include "certain light duty trucks, recreational vehicles, and other multipurpose vehicles." S. Rep. No. 516, 94th Cong., 1st Sess. 153 (1975).

More specifically, the automobiles that fail to satisfy the definition of "passenger automobile" include a variety of vehicles that, although designed to transport people, are not manufactured primarily for that purpose. Some of these automobiles are manufactured primarily for transporting property and, as such, possess certain distinct design characteristics. For example, automobiles designed to transport property on an open cargo bed (e.g., pickup trucks) and automobiles designed to provide greater cargo-carrying than passenger-carrying volume (e.g., cargo vans and multistop vehicles) would be excluded from the passenger automobile category since these design characteristics are commonly associated with the function of carrying cargo as a primary purpose. The NHTSA selected the characteristic of greater cargo-carrying than passenger-carrying space as one of the criteria identifying automobile as a nonpassenger automobile since this was considered a convenient and objective way to discriminate between automobiles that should be classified as nonpassenger automobiles and automobiles that should be classified as passenger automobiles.

The cargo-carrying volume of an automobile is defined in the regulation as the volume of that portion of a vehicle intended primarily for carrying cargo. Specifically, the regulation describes that area as either an enclosed space not accessible from the passenger compartment (e.g., trunk) or an enclosed space that is accessible from the passenger compartment whose boundaries are typically the vehicle's rearmost seat (including the third seat in a station wagon) and its floor, roof, sides, and rearmost interior surface. This latter type of cargo-carrying space is found in the rear of station wagons and cargo vans. There may be situations in which the cargo-carrying space is not bounded in the way described. In such cases, the volume of the space specifically designed by the manufacturer to carry cargo would be computed, using as boundaries those interior surfaces that define the space.

Passenger-carrying volume is defined in the regulation as the sum of a vehicle's front and rear seating volumes. Passenger-carrying volume of a seating area is determined by calculating the product of head room, shoulder room, and leg room dimensions.

The proposed cargo volume and passenger volume have definitions differing in several instances from those that have been defined by EPA in its fuel economy labeling regulation (41 FR 39752) as factors to be used in determining vehicle comparability for labeling purposes. The proposed cargo volume definition differs from EPA's definition in that EPA prescribes different cargo volume dimensions for station wagons and hatchbacks. In measuring the cargo volume of station wagons, EPA uses the rear of the second seat as the forward boundary, while NHTSA proposes to use the rear of the rearmost seat. In some cases, the rearmost seat in a station wagon is the third seat. In those station wagons, the NHTSA method would yield almost no cargo volume. In measuring the cargo volume of hatchbacks, EPA uses the top of the second seat as the upper boundary of the cargo volume. NHTSA proposes to use the ceiling as the upper boundary. Thus, the NHTSA method would yield more cargo volume than the EPA method.

Despite these differences in the NHTSA and EPA measurement techniques, the existence of both cargo space definitions would not necessarily mean that an automobile's cargo volume would have to be measured twice, once under each definition. In the case of a station wagon with a third seat, it would be so obvious that the passenger-carrying volume that the automobile manufacturer would not actually have to measure the interior volume to determine whether the automobile falls into the passenger or nonpassenger category.

The proposed passenger volume definition differs from the EPA definition with respect to large station wagons with front, middle, and rear seats. Although the proposed definition would provide for measuring the passenger volume of all three seats; the EPA definition would provide for measuring only the front and middle seats.

The differences in the EPA and NHTSA definitions arise largely from the different purposes of those definitions and the different constraints placed on the specification of the definitions. The NHTSA must have a single definition that applies to all automobiles in order to distinguish passenger automobiles from nonpassenger automobiles. Thus, the definition must be suited to measuring the cargo and passenger volumes of a wide range of vehicle configurations; e.g. station wagons, hatchbacks, and vans. The EPA definitions apply only to passenger automobiles.

The NHTSA invites comments on the use of cargo and passenger volume defi-

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nitions that differ slightly from those used by the EPA. The agency is especially interested in information regarding the possible consequences of using the different definitions and regarding methods, including use of the EPA definitions, for reducing those differences while serving NHTSA's broader purposes.

Other types of automobiles not manufactured primarily to transport individuals are those manufactured for a specific recreational purpose and those equipped with sleeping surfaces, such as beds, and household conveniences, such as a sink, stove, refrigerator, or toilet to provide temporary living quarters. Vehicles designed for these purposes include motor homes, campers, and other recreational vehicles. Such vehicle types would be specifically excluded from the passenger automobile category. Many of these vehicles, such as campers and utility vehicles, would qualify as automobiles capable of off-highway operation and on that basis too would be excluded from the passenger automobile category.

More difficult to categorize are the hybrid vehicles that are derived from another vehicle type. The most common example is the van equipped with rear seats of which there are approximately 12,000 with a GVWR of 6,000 pounds or less manufactured and sold each model year (this figure is based upon information furnished by manufacturers and presently in this docket, in addition to data contained in *Wards' Automotive Yearbook*, 1976). It is derived from the cargo van. Other examples are the El Camino/Sprint, which is derived from the Chevelle, and the Ranchero, which is derived from the Torino. About 58,000 of these vehicles were manufactured in model year 1975.

The purposes for which these, or any other automobiles, are manufactured are not solely dependent upon the manufacturer's subjective state of mind. The purpose for which an automobile is manufactured may be discerned from the manufacturer's conduct in light of the surrounding circumstances. The surrounding circumstances include the design capabilities of the automobile, the uses for which it is advertised, and the uses to which it is actually put. The two most important circumstances are the design capabilities and actual uses of an automobile. In the case of passenger vans, El Caminos/Sprint, and Rancheros, the agency possesses definitive information on their designed capabilities and advertised uses only. Based on this information, the agency proposes these automobiles be categorized as nonpassenger automobiles and subjected to the fuel economy standard(s) applicable to that vehicle type.

Thus, the proposed categorization scheme would parallel the scheme used under the Vehicle Safety Act. Further, the differences between the proposed scheme and the Clean Air Act scheme are minor. The passenger automobile category would be slightly less inclusive than the light duty vehicle category and the nonpassenger automobile category would be slightly more inclusive than the light duty truck category. The difference lies in the treatment of passenger car derivatives; i.e., the El Camino/Sprint and Ranchero. The proposed scheme would place those derivatives with multipurpose passenger vehicles and trucks in the nonpassenger automobile category; while the Clean Air Act scheme places the derivatives with passenger cars in the light duty vehicle category.

The NHTSA published an NPRM (41 FR 52087) on November 26, 1976, proposing that nonpassenger automobiles be required to meet and average fuel economy level of 18.5 mpg during model year 1978. Although all nonpassenger automobiles manufactured during that model year would, under the proposal, be required to meet a single fuel economy level, the agency has the authority under section 502(b) of Title V to establish classes of nonpassenger automobiles and to set separate standards for each class. The November 26, 1976, NPRM asks that comments be submitted concerning the benefits and other effects of establishing multiple classes of nonpassenger automobiles. Depending upon the information acquired by the agency in response to its request, vans and other types of nonpassenger automobiles could at some future date be regulated as individual vehicle classes with individual average fuel economy standards.

Vans equipped with rear seats are designed for the purpose of transporting property as well as for transporting people. They are generally equipped with strong suspension components that enable them to carry heavy loads, loads significantly heavier than those carried by even large station wagons built on a passenger car chassis. Vans with a single row of rear seats have cargo-carrying space very similar in size to that of a standard pickup truck. Further, the rear seats in a van can be fairly easily removed to increase the cargo-carrying space. General Motors equips the rear seats of its vans with quick-release mechanisms that allow instant removal. Other manufacturers install rear seats either with quick-release mechanisms or in a manner that permits their removal with simple home tools.

Removal of the rear seats from these vans would also enable them to serve a recreational purpose. With the rear seats removed, users may place sleeping bags and other camping equipment in the available space.

Vehicles whose design permits easy conversion to accommodate more than one primary function, as in the case of vans with rear seats, are not manufactured primarily to transport individuals. The single feature that enables a vehicle to be converted so that it can be primarily used for more than one purpose is removable seats. Vehicles whose rear seats can be removed by means installed for that purpose by the manufacturer or with simple home tools, creating a flat, floor level, cargo area, have the capability of satisfying transportation needs when the seats are in place, and recreational and cargo-carrying needs when the seats are removed. Automobiles with such a feature are therefore excluded from the passenger automobile category.

Although station wagons built on passenger car chassis have a convertibility feature, fold-down rear seats, somewhat similar to the removable van seat, this characteristic would not be sufficient to exclude them from the passenger automobile category. In contrast to vans, station wagons are designed so that their seats are not removable. Since the basic seat structure is permanently installed, the additional cargo space made available when the rear seat backs are collapsed is significantly smaller than the additional space made available by the removal of van seats. Station wagons built on passenger car chassis have a limited amount of available cargo area and are not equipped to carry heavy loads. Vans, which are constructed on truck chassis, have far greater cargo space at their disposal and are designed to carry heavier weight. For these reasons, station wagons built on passenger car chassis are considered to be most properly classified as passenger automobiles.

For similar reasons, the agency proposes to treat pickup vehicles constructed on passenger car frames as nonpassenger automobiles. From a design standpoint, El Caminos/Sprints and Rancheros appear to be manufactured at least as much for the carrying of property as for the carrying of people. Their similarity to pickup trucks built on truck chassis is indicated by their classification in the EPA/FEA 1977 Gas Mileage Guide as standard pickup trucks. These vehicles differ from their passenger car counterparts in that the former provide seating space for 3 persons while the later provide space for 6 persons. They differ also in that their property carrying capacity is substantially greater than that of their counterparts.

The procedures prescribed by the EPA for testing the fuel economy of passenger automobiles are the procedures used for testing light duty vehicle emissions under the Clean Air Act, 42 U.S.C. 1857f. The EPA appears likely to use the light truck emissions test procedures for testing the fuel economy of nonpassenger automobiles. If that approach is adopted, simultaneous testing of El Caminos/Sprints and Rancheros for emissions and fuel economy purposes may not be feasible. These vehicles are placed in the same category, light duty vehicles, as passenger cars and thus are tested as light duty vehicles for emissions purposes. This notice proposes, however, to place the El Caminos/Sprints and Rancheros with multipurpose passenger vehicles and trucks; vehicles which EPA classifies as light trucks. If extra testing tasks are required, the effort, time, and cost should be minimal.

The agency wishes to reemphasize that the proposal to place vans with rear seats and the El Camino/Sprint and Ranchero in the nonpassenger automobile category is primarily based upon the design capabilities of those automobiles. If those capabilities change or if information is received showing that these vehicles are used for substantially different purposes than those suggested by their design, the agency will reconsider its categorization.

Implementation of the requirement that passenger automobiles not be capable of off-highway operation is dependent upon identification of a feature or features, other than 4-wheel drive, that equips automobiles for off-highway operation. Such a feature must distinguish the automobile with off-highway capability from automobiles lacking that capability. The NHTSA examined data from a large number of automobiles to identify characteristics that enable some automobiles to negotiate and withstand off-highway terrain. The agency was able to identify a variety of these characteristics.

The most common characteristic was high ground clearance. This characteristic enables automobiles to be operated over uneven terrain without their undercarriage or bumpers becoming grounded. The agency proposes to establish high ground clearance as a feature design to enable automobiles to operate off highways. After comparing the ground clearance of automobiles used on highways only with automobiles used off as well as on the highway, the agency derived a list of dimensions that comprise high ground clearance. Any automobile that has at least 4 of the following 5 dimensions would be considered to have high ground clearance:

(1) Approach angle of not less than 28 degrees;

(2) Breakover angle of not less than 14 degrees;

(3) Departure angle of not less than 20 degrees;

(4) Running clearance of not less than 8 inches; and

(5) Axle clearance of not less than 7 inches.

Automobile approach and departure angles represent the steepest grades a vehicle is capable of entering and traveling up from a flat surface without the portion of the automobile forward of the front tires, or rearward of the rear tires, respectively, contacting the ground. The breakover angle of an automobile describes the steepest incline which an automobile can travel up, then move onto a flat surface without its undercarriage between the front and rear wheels contacting the ground. An automobile's running clearance and axle clearance describe the distance between the ground and the two points on the automobile, other than its wheel and suspension assemblies, that are closest to the ground. The running and axle clearances dictate the height of ground obstacles an automobile is capable of passing over.

High ground clearance is the only feature proposed as being designed to equip an automobile for off-highway operation. Treating other characteristics that might enable a vehicle to operate off-road as off-highway features does not appear necessary since automobiles possessing one or more of them generally have high ground clearance as well. The agency specifically invites comments on the sufficiency of that single feature for identifying off-highway automobiles. If treating other design characteristics as off-highway features appears appropriate, the agency will consider initiating further rulemaking.

In consideration of the foregoing, it is proposed that Title 49, Code of Federal Regulations, be amended by adding a new Part 523, *Vehicle Classification*, to read as set forth below.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

In accordance with Executive Order 11821, a review of this action was undertaken to determine whether it met the criteria for a "major action" requiring preparation of an Inflationary Impact Statement. The review indicated that the costs and economic impacts of this action are less than a "major" action and that therefore no IIS is needed.

Comment closing date: January 19, 1977.

Proposed effective date: Date of publication of the final rule.

(Sec. 301, Pub. L. 94–163, 80 Stat. 901 (15 U.S.C. 2001))

Issued on December 15, 1976.

JOHN W. SNOW,
Administrator.

Part 523 is added to Title 49 as follows:

PART 523—VEHICLE CLASSIFICATION

Sec.
523.1 Scope.
523.2 Definitions.
523.3 Automobiles.
523.4 Passenger automobiles.
523.5 Nonpassenger automobiles.

AUTHORITY: Sec. 301, Pub. L. 94–163, 80 Stat. 901 (15 U.S.C. 2001).

§ 523.1 Scope.

This part establishes categories of vehicles that are subject to Title V of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2001 et seq.

§ 523.2 Definitions.

"Approach angle" means the smallest angle, in a plan side view of an automobile, formed by the level surface on which the automobile is standing and a line tangent to the front tire static loaded radius arc and touching the underside of the automobile forward of the front tire.

"Axle clearance" means the distance from the level surface on which an automobile is standing to the lowest point on the axle differential of the automobile.

"Breakover angle" means the supplement of the largest angle, in the plan side view of an automobile, that can be formed by two lines tangent to the front and rear static loaded radii arcs and intersecting at a point on the underside of the automobile.

"Cargo-carrying volume" means the total volume in cubic feet rounded to the nearest 0.1 cubic feet of either an automobile's enclosed nonseating space that is intended primarily for carrying cargo and is not accessible from the passenger compartment, or the space intended primarily for carrying cargo bounded in the front, in the typical configuration, by a vertical plane that is perpendicular to the longitudinal centerline of the automobile and passes through the rearmost point on the rearmost seat and elsewhere by the automobile's interior surfaces.

"Curb weight" is defined the same as "vehicle curb weight" in 40 CFR Part 86.

"Departure angle" means the smallest angle, in a plan side-view of an automobile, formed by the level surface on which the automobile is standing and a line tangent to the rear tire static loaded radius arc and touching the underside of the automobile rearward of the rear tire.

"Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Passenger-carrying volume" means the sum in cubic feet, rounded to the nearest 0.1 cubic feet, of a vehicle's front and rear seat volumes, calculated as follows, with the head room, shoulder room, and leg room dimensions determined in accordance with the procedures outlined in Society of Automotive Engineers Recommended Practice J1100a, Motor Vehicle Dimensions (Report of Human Factors Engineering Committee, Society of Automotive Engineers, approved September 1973 and last revised September 1975.)

(a) For front seat volume, divide 1,728 into the product of the following SAE dimensions, measured in inches to the nearest 0.1 inches, and round the quotient to the nearest 0.001 cubic feet.

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(1) H61—Effective head room—front.
(2) W3—Shoulder room—front.
(3) L34—Maximum effective leg room—accelerator.

(b) For the volume of rear seats, divide 1,728 into the product of the following SAE dimensions, measured in inches to the nearest 0.1 inches, and round the quotient to the nearest 0.001 cubic feet.
(1) H63—Effective head room—second.
(2) W4—Shoulder room—second.
(3) L51—Minimum effective leg room—second.

"Running clearance" means the distance from the level surface on which an automobile is standing to the lowest point on the automobile, excluding unsprung weight.

"Static loaded radius arc" means a portion of a circle whose center is the center of a standard tire-rim combination of an automobile and whose radius is the distance from that center to the level surface on which the automobile is standing, measured with the automobile at curb weight, the wheel parallel to the vehicle's longitudinal centerline, and the tire inflated to the manufacture's recommended pressure.

"Temporary living quarters" means a space in the interior of an automobile in which people may temporarily live and which includes sleeping surfaces, such as beds, and household conveniences, such as a sink, stove, refrigerator, or toilet.

§ 523.3 Automobile.

(a) An automobile is any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and that either—

(1) Is rated at 6,000 pounds gross vehicle weight or less; or
(2) Which—
(i) Is rated more than 6,000 pounds gross vehicle weight but less than 10,000 pounds gross vehicle weight,
(ii) Is a type of vehicle for which the Administrator determines, under Paragraph (b) of this section, average fuel economy standards are feasible, and
(iii) Is a type of vehicle for which the Administrator determines, under Paragraph (b) of this section, average fuel economy standards will result in significant energy conservation, or is a type of vehicle which the Administrator determines, under Paragraph (b) of this section, is substantially used for the same purposes as vehicles described in paragraph (a) (1) of this section.

(b) A vehicle that is rated at more than 6,000 pounds and less than 10,000 pounds gross vehicle weight, is manufactured primarily for use in the transportation of not more than 10 individuals, and does not meet the criteria in § 523.5(b) (1) for automobiles capable of off-highway operation is a type of vehicle—
(1) For which average fuel economy standards are feasible, and
(2) Which is substantially used for the same purposes as vehicles described in paragraph (a) (1) of this section.

§ 523.4 Passenger automobile.

A passenger automobile is any automobile (other than an automobile capable of off-highway operation) manufactured primarily for use in the transportation of not more than 10 individuals.

§ 523.5 Nonpassenger automobile.

(a) A nonpassenger automobile is an automobile either designed for off-highway operation, as described in paragraph (b) of this section, or primarily designed to perform at least one of the following functions:
(1) Transport more than 10 persons;
(2) Provide temporary living quarters;
(3) Transport property on an open bed;
(4) Provide greater cargo-carrying than passenger-carrying volume; or
(5) Permit expanded use of the automobile for cargo-carrying or other nonpassenger-carrying purposes through removal of seats by means installed for that purpose by the automobile's manufacturer or with simple tools, such as screwdrivers and wrenches, so as to create a flat, floor level, surface extending from the forwardmost point of installation of those seats to the rear of the automobile's interior.

(b) An automobile capable of off-highway operation is an automobile—
(1) That either—
(i) Has 4-wheel drive; or
(ii) Is rated at more than 6,000 pounds gross vehicle weight; and
(2) That has at least four of the following characteristics (see Figure 1) calculated when the automobile is at curb weight, on a level surface, with the front wheels parallel to the automobile's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure—
(i) Approach angle of not less than 28 degrees.
(ii) Breakover angle of not less than 14 degrees.
(iii) Departure angle of not less than 20 degrees.
(iv) Running clearance of not less than 8 inches.
(v) Axle clearance of not less than 7 inches.

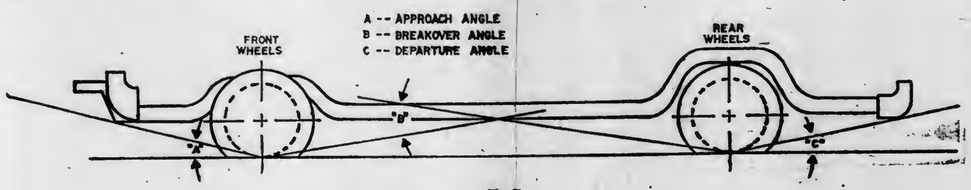


Fig. I

[FR Doc.76-37389 Filed 12-17-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket 29198; Order 76-12-78]

ALASKA FARES INVESTIGATION

Supplemental Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of December, 1976.

By Order 76-9-38, adopted September 8, 1976, the Board made Wien Air Alaska, Inc. (Wien) a party to the *Alaska Fares Investigation*, instituted by Orders 76-4-180, April 30, 1976, and 76-8-17, August 3, 1976. This action was taken to insure a complete record in the proceedings, since Wien competes with Alaska Airlines, Inc. (Alaska) in the Anchorage-Fairbanks and Fairbanks-Juneau markets. The proceeding as currently constituted comprehends an investigation of the pertinent fares of Alaska, Northwest Airlines, Inc., Western Air Lines, Inc., and Pan American World Airways, Inc., and it is appropriate that Wien's fares in the Anchorage-Fairbanks, Fairbanks-Juneau, and Anchorage-Juneau markets also be investigated herein.

Through inadvertence, the ordering paragraph of Order 76-8-17, which instituted an investigation of Pan American's fares between Fairbanks and New York, failed to include that carrier's Fairbanks-Seattle and Fairbanks-Portland fares, and we will herein order an investigation of such fares and consolidate it into Docket 29198. In addition, we are correcting the ordering paragraph to cure certain technical errors.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered that: 1. An investigation be instituted to determine whether the rates, charges, and provisions applicable to Wien Air Alaska, Inc., between Anchorage and Fairbanks and between Fairbanks and Juneau, shown on 6th Revised Pages 184 and 189, and between Anchorage and Juneau, shown on 8th Revised Page 185, of Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 258, and the rules, regulations, and practices affecting such rates, charges, and provisions, including subsequent revisions or reissues thereof, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, or otherwise unlawful, and, if found unlawful, to determine and prescribe the lawful rates, charges, and provisions, and rules, regulations, and practices affecting such provisions;

2. An investigation be instituted to determine whether the rates, charges, and provisions applicable to Pan American World Airways, Inc., between Fairbanks, on the one hand, and New York, Seattle, and Portland, Ore., on the other, shown on 5th Revised Page 141 of Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 258, and the rules, regulations, and practices affecting such rates, charges, and provisions, including subsequent revisions or reissues thereof, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful rates, charges, and provisions, and rules, regulations, and practices affecting such provisions;

3. The investigations ordered in paragraphs 1 and 2 be consolidated into Docket 29198; and

4. Copies of this order be served upon Alaska Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Western Air Lines, Inc., and Wien Air Alaska, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc.70—37296 Filed 12-17-78;8:45 am]

[Docket 23080-2; Order 76-12-60]

PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES—PHASE 2

Order Fixing Temporary Mail Rates

Issued under delegated authority December 10, 1976.

By Order 76-11-129, dated November 24, 1976, the Board directed the parties to show cause why the Board should not fix temporary fuel surcharges to the line-haul element of the several temporary domestic service mail rates, effective for the annual periods beginning June 22, 1974, and June 21, 1975, and on and after June 19, 1976. The proposed surcharges reflect the estimated impact of escalating fuel costs on the overall domestic mail transportation costs.

The time designated for filing notice of objection has elapsed and no notice of objection or answer to the order has been filed by any party. All parties have therefore waived the right to a hearing and all other procedural steps short of a decision by the Board fixing the proposed service mail rates.

In the absence of objections to the rates proposed, the findings and conclusions set forth in Order 76-11-129 are hereby reaffirmed and adopted.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, the Board's Regulations 14 CFR Part 302 and the authority delegated by the Board in 14 CFR 385.16(g);

It is ordered that: 1. Subparagraph (b) of ordering paragraph 1 of Order 74-10-94, October 18, 1974, be and it hereby is amended so as to fix the following line-haul charges per nonstop great-circle ton-mile to be paid by the Postmaster General:

(a) From April 27, 1974, through June 21, 1974, 18.75 cents for sack mail and standard container mail, 10.65 cents for daylight container mail and 13.67 cents for parcel air lift (PAL) mail;

(b) From June 22, 1974, through June 20, 1975, 19.61 cents for sack mail and standard container mail, 11.14 cents for daylight container mail and 14.30 cents for parcel air lift (PAL) mail;

(c) From June 21, 1975, through June 18, 1976, 20.01 cents for sack mail and standard container mail, 11.37 cents for daylight container mail and 14.59 cents for parcel air lift (PAL) mail; and

(d) On and after June 19, 1976, 19.89 cents for sack mail and standard container mail, 11.30 cents for daylight container mail and 14.50 cents for parcel air lift (PAL) mail;

2. The temporary service mail rates established herein shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment to March 28, 1973, as may be required by the order establishing final service mail rates in Docket 23080-2; and

3. This order shall be served upon Airlift International, Inc., Air New England, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Frontier Airlines, Inc., Hughes Air Corp., National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Seaboard World Airlines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and the Postmaster General.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations 14 CFR 385.50, may do so within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the

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Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-37295 Filed 12-17-76;8:45 am]

[Docket 30170]

WEST COAST-ALASKA INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 24, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Alexander N. Argerakis.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before January 27, 1977, and the other parties on or before February 11, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., December 13, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76-37294 Filed 12-17-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held on Friday, January 14, 1977, at 10:00 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to telecommunications equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Presentation of preliminary Volume I Findings by Committee members.
(4) Nomination and election of a new Chairman.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formerly determined on January 28, 1976, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on April 30, 1976 (41 FR 18129).

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, Department of Commerce.

[FR Doc.76-37197 Filed 12-17-76;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COTTON TEXTILE PRODUCTS FROM INDIA

Additional Officials of the Government of India Authorized to Issue Export Visas a Certifications for Exemption

DECEMBER 14, 1976.

On March 22, 1976, there was published in the FEDERAL REGISTER (41 FR 11869) a notice dated March 16, 1976 which announced amendments to the certification procedure for certain cotton textile products which are exempt from the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India. The notice stated that the names of officials authorized by the Government of India to issue both export visas and certifications for exemption would be published.

The Government of India has designated Messrs. R. K. Bhagotra and G. K. Bhatnagar to issue export visas and certifications for exempt cotton textile products, in addition to officials named previously. (See 41 FR 15441 and 24623.)

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.76-37360 Filed 12-17-76;8:45 am]

SOCIALIST REPUBLIC OF ROMANIA

Announcing Import Restraint Levels for Certain Wool and Man-Made Fiber Textile Products

DECEMBER 16, 1976.

On October 21, 1976, there was published in the FEDERAL REGISTER (41 FR 46512) a notice dated October 18, 1976, announcing forthcoming consultations concerning textile trade with the Governments of Japan, Romania and the Republic of China and soliciting public comment thereon.

On November 1-3, 1976, the United States Government held consultations with the Government of the Socialist Republic of Romania concerning the rapidly increasing level of exports to the United States of men's and boys' suits of wool and man-made fibers in Categories 120 and 237. No agreement was reached on a solution to this problem. Recent data confirm that imports have continued to accelerate, causing disruption to the U.S. market. A market statement is available for inspection in the Office of Textiles, Room 2815, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

Under the terms of Article 3.6 of the GATT Arrangement Regarding International Trade in Textiles, the Committee for the Implementation of Textile Agreements has informed the Government of the Socialist Republic of Romania that, effective on December 23, 1976 and for the twelve-month period extending through December 22, 1977, imports of wool textile products in Category 120 will be limited to 82,500 units and man-made fiber textile products in Category 237, to 101,000 units unless this order is modified or withdrawn as a result of agreement between the Governments of the United States and the Socialist Republic of Romania on other measures to avoid further market disruption in these categories.

Further consultations with the Government of the Socialist Republic of Romania are anticipated. The letter published below is subject to termination or revision as a result of those consultations.

Accordingly, there is published below a letter of December 16, 1976, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that, effective on December 23, 1976 and extending through December 22, 1977, the amounts of wool textile products in Category 120 and man-made fiber textile products in Category 237, produced or manufactured in Romania, which may be entered or withdrawn from warehouse for consumption in the United States, be limited to the designated levels.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

DECEMBER 16, 1976.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangment Regarding International Trade in Textiles done at Geneva on December 20, 1973, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on December 23, 1976 and for the twelve-month period extending through December 22, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 120 and man-made fiber textile products in Category 237, produced or manufactured in Romania, in excess of the following levels of restraint, regardless of the date of export:

Category:	Twelve-Month Level of Restraint, units
120	82,500
237	101,000

Wool textile products in Category 120 and man-made fiber textile products in Category 237 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 8, 1975 (40 F.R. 5010), as amended on December 31, 1975 (40 F.R. 60220).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Romania and with respect to imports of man-made fiber textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.76-37415 Filed 12-17-76;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

REGISTRATION AS COMMODITY TRADING ADVISORS, COMMODITY POOL OPERATORS

Changes in Forms 5-R and 6-R

The Commodity Futures Trading Commission has amended an existing instruction to, and made certain minor changes in the language and format of, Forms 5-R and 6-R for the registration of Commodity Trading Advisors and Commodity Pool Operators under section 4n(1) of the Commodity Exchange Act, as amended.

Changes include amendment to the instructions on each form to provide the new address of the Commission's Eastern Regional Office (to which a completed application must be sent), changes in reference to the registration period and other technical changes.

Copies of the amended Forms 5-R and 6-R are available for immediate use from any office of the Commodity Futures Trading Commission.

Issued in Washington, D.C., on December 15, 1976.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-37205 Filed 12-17-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

DECEMBER 10, 1976.

The USAF Scientific Advisory Board Ad Hoc Committee on Advanced ICBM Technology will hold a meeting on January 18 and 19, 1977 in the Space and Missile Systems Organization facilities at Norton Air Force Base and Los Angeles Air Force Station from 8:30 a.m. to 5:00 p.m. both days.

The Committee will receive classified briefings and conduct classified discussions concerning an in-depth review of the technical aspects of the advanced ICBM program.

The meeting concerns matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-37270 Filed 12-17-76;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

DECEMBER 10, 1976.

The USAF Scientific Advisory Board Munitions-Armament Panel wil hold a meeting on January 20 and 21, 1977 at the Space and Missile Systems Organization, Los Angeles, from 8:30 a.m. to 5:00 p.m. both days.

The Panel will receive classified briefings and conduct classified discussions concerning issues surrounding the reentry vehicle for the advanced ICBM program.

The meeting concerns matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the scientific Advisory Board Secretariat at (202) 697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-37271 Filed12-17-76; 8:45 am]

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee will hold a closed meeting on January 6, 1977 at Pan Heuristics Division, Science Applications, Inc., 1801 Avenue of the Stars, Los Angeles, California. The session will commence at 8:30 a.m. and terminate at 5:30 p.m.

The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense, including a comprehensive discussion of the Navy's strategic nuclear capabilities.

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Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

Dated: December 15, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76-37211 Filed 12-17-76;8:45 am]

SECRETARY OF THE NAVY'S ADVISORY BOARD ON EDUCATION AND TRAINING (SABET)

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training (the Board) will meet on January 6-7, 1977, at the Management Information Center, Chief of Naval Education and Training, Pensacola, Florida. The January 6 session will commence at 8:45 a.m. and terminate at 4:30 p.m. and the January 7 session will commence at 8:45 a.m. and terminate at 2 p.m.

The Board will receive a series of informal briefings on matters of continuing interest to the Board, including the Navy Campus for Achievement, women at the Naval Academy, the use of satellites for transmission of training to remote sites, and the impact of the "new GI Bill." The Board will then review studies concerning the military/civilian faculty mix at the Naval Academy; the status of implementation of Instructional Systems Development procedures in the training command; the future of the education specialist civilian work force in the training command; trends for predicting academic success as emerging in the civilian post-secondary education community; and trends in voluntary education, such as the Community College of the Air Force and the Education Commission of the States Task Force on Voluntary Education. Based on these briefings and discussions, the Board will then develop recommendations and comments to be provided to the Secretary of the Navy.

Dated: December 15, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76-37210 Filed 12-17-76;8:45 am]

Department of the Navy

REGIONAL DISCHARGE REVIEW SYSTEM

Hearing Locations

In FEDERAL REGISTER Document 75-27207, published on October 9, 1975, 40 FR 47524, the Department of the Navy published notice that, beginning in November 1975, the Navy Discharge Review Board will convene and conduct hearings for a number of days each quarter in each of the following locations: Chicago, Illinois; New Orleans, Louisiana; and San Francisco, California. In FEDERAL REGISTER Document 76-20384, published on July 15, 1976, 41 FR 29190, the Department of the Navy published notice that approval had been granted for the Navy Discharge Review Board to conduct hearings, within assigned resources, on a noncontinuing basis, in cities other than Chicago, New Orleans, and San Francisco, when the concentration of petitioners in a geographical area so warrants. This expanded availability is to facilitate the opportunity for personal appearances before the Board.

The following itinerary for the first six months of calendar year 1977 has been approved, but remains subject to modification if necessary:

January—Atlanta, Georgia, Dallas, Texas, New Orleans, Louisiana.
February—Denver, Colorado, San Diego, California, San Francisco, California.
March—Chicago, Illinois, Kansas City, Kansas.
April—Boston, Massachusetts.
May—San Diego, California, San Francisco, California, Seattle, Washington.
June—Chicago, Illinois, St. Paul, Minnesota.

Any former member of the Navy or Marine Corps who desires to obtain a review of his or her discharge, either in Washington, D.C. or in one of the other cities in which the Board will conduct hearings, should file an application with the Board using DD Form 293. If a personal appearance is requested, the petitioner should indicate which scheduled location is preferred. Application forms (DD 293) can be obtained from, and the completed applications should be mailed to, the following address:

Navy Discharge Review Board, Suite 905, 801 North Randolph Street, Arlington, Va. 22203.

Notice is hereby given that, since the foregoing itinerary is subject to modification and since, following receipt of a new application, the Navy Discharge Review Board must obtain the petitioner's military records before a hearing may be scheduled, the receipt of an application by the Navy Discharge Review Board is not tantamount to scheduling such hearing. Petitioners and/or their counsel will be notified by mail of the date and place of their scheduled hearing when personal appearance is requested.

Dated: December 10, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76-37340 Filed 12-17-76;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

IDAHO HUMAN RIGHTS COMMISSION

Retention of Designation as a 706 Agency

The Equal Employment Opportunity Commission published notice on September 8, 1976, at 41 FEDERAL REGISTER 37844, that it proposed to withdraw the designation of the Idaho Human Rights Commission as a 706 agency in accordance with its procedural regulation 29 CFR 1601.12(k). Notice is hereby given that on November 23, 1976, the Equal Employment Opportunity Commission voted to retain the designation of the Idaho Human Rights Commission as a 706 agency. The Commission's determination to retain the designation appears below as Appendix A.

Signed at Washington, D.C., this 6th day of December 1976.

ETHEL BENT WALSH,
Vice Chairman.

APPENDIX A

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Washington, D.C., Dec. 2nd, 1976.

Mr. George R. Kibbe, Director, Human Rights Commission, Capital Annex No. 3 506 N. 5th, Boise, Idaho 83720.

DEAR MR. KIBBE: This letter is to inform you that on November 23, 1976, at a duly constituted Commission meeting, the Commission voted to retain the designation of the Idaho Human Rights Commission as a 706 agency.

Pursuant to Commission regulation 1601.12(k), 29 CFR 1601 12(k), the Commission evaluated the comments received from the agency and other interested persons concerning the proposed withdrawal of designation which was published in the FEDERAL REGISTER on September 8, 1976. 41 FR 37844. Our recent evaluation indicates that the proposed withdrawal was based on a consideration of the Idaho Fair Employment Practices Act prior to amendment. The Commission is of the opinion that since the current Act provides the agency with the power to issue orders and seek enforcement of those orders in court, the agency appears to have the authority to grant and seek enforcement of backpay awards. This authority meets the requirement of 29 CFR 1601.12 (f)(5) (ii), to wit: That the fair employment law authorizes the agency to "grant or seek relief from the employment practices found to be illegal."

Continued designation of the Idaho Commission as a 706 agency is, of course, subject to the provisions of our regulations at 29 CFR 1601.12.

We thank you for your cooperation in this matter. A notice of the Commission's decision to continue the designation of your agency as a 706 agency is being published in the FEDERAL REGISTER.

Sincerely,

ETHEL BENT WALSH,
Vice Chairman.

[FR Doc.76-37272 Filed 12-17-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[RM-2621; FCC 76-1075]

FILING OF PUBLIC COMMENT ON APPLICATIONS FOR CERTIFICATES OF COMPLIANCE

Memorandum Opinion and Order; Denying Petition for Rulemaking

Adopted: November 17, 1976.
Released: November 26, 1976.

In the Matter of: Amendment of Part 76 of the Commission's Rules and Regulations relative to the filing of public comments on applications for certificates of compliance Petition for Rulemaking filed by The Committee for Open Media.

1. On September 16, 1975, the Committee for Open Media (COM), a public interest group composed of residents of Northern California, filed with the Commission a "Petition for Amendment of the Rules" (RM-2621) seeking changes to § 76.25 and § 76.27 of the Commission's Rules. No other comments have been received in this proceeding.

2. Petitioner asks that the rules be changed to allow more time for public comment on applications for certificates of compliance. Specifically, it is suggested that the present 30-day public notice period be extended to 120 days, and that provision be made for filing reply-to-reply comments. COM believes that under the current limitations a "superhuman" effort is required to file meaningful, well-prepared comments and/or objections due to the confusion and multiplicity of issues associated with cable television regulation particularly with respect to the local franchise. In contrast, COM notes that the filing period for comments regarding broadcast license applications is longer than for certificate applications even though the procedures are more routine and the licenses are granted for a shorter period of time.

3. The Commission believes its present filing requirements do not constitute an unnecessary burden on interested persons seeking to participate in the certificating process. First, we note that the majority of applications processed by the Commission are unopposed,[1] and in these instances an extended filing period would serve only to delay certification and, quite often, initiation of cable service to the community. And, when objections are forthcoming the Commission's experience has been that the present rules provide ample time for the preparation and presentation of thoughtful comments. Occasionally, additional time or comments are required for appropriate consideration of an application, and in those cases, the Commission will continue, upon proper request, to waive its filing rules. Lastly, we note the local nature of certificate applications i.e., they must include a franchise negotiated with the local authorities. Thus, objections and comments may in many instances be discussed and resolved prior to filing the application with the Commission.

4. In view of the foregoing, *it is ordered*, That the "Petition for Amendment of the Rules," filed by the Committee for Open Media, is denied.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37247 Filed 12-17-76;8:45 am]

[1] Nor is there any indication, such as great numbers of requests for acceptance of late filing, that the reason for the relative lack of opposition is the shortness of the filing period.

[Docket Nos. 21003; 21004; File No. BPH-9436; BPH-9563]

TRI-CITIES BROADCASTING CO. AND RADIO SOUTH, INC.

Memorandum Opinion and Order; Designating Applications for Consolidated Hearing on Stated Issues

For Construction Permits:
Adopted: December 8, 1976.
Released: December 15, 1976.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned applications of Tri-Cities Broadcasting Co. [Tri-Cities], licensee of standard broadcast Station WTUG, Tuscaloosa, Alabama; and Radio South, Inc., requesting a construction permit for a new FM broadcast station in Tuscaloosa, Alabama.

2. Tri-Cities has failed to comply with the requirements of the Primer on the Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971). In its demographic study, Tri-Cities indicated that Tuscaloosa is the focal point of the economic and commercial activities in the area, and that the city's economy is diversified with expanding industrial and manufacturing growth. However, Tri-Cities interviewed only several small businessmen, and our review finds no one who can be considered as a leader of the general business community at large, or a representative of any of the major employers within Tuscaloosa. Voice of Dixie, Inc., 45 FCC 2d 1027, 29 RR 2d 1127 (1974), *recon. den.* 47 FCC 2d 526, 30 RR 2d 851 (1974). Therefore, a limited Suburban issue will be specified.[1]

3. Since Tri-Cities proposes predominately Black-oriented programming, while Radio South, Inc., proposes general market programming, the relative need for these different types of programming will be considered under the standard comparative issue. Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Bradcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965).

4. Radio South proposes to locate its main studio and transmitter site at the transmitter site of station WCFT-TV. The site is located within 100 feet of the Tuscaloosa city boundary, and is virtually surrounded by the boundary. In light of the above, the applicant has demonstrated sufficient good cause, as required by § 73.210(a)(3), to locate the main studio outside Tuscaloosa.

5. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of other primary aural services in the area will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

6. Except as indicated by the issues specified below, applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. *It is ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the efforts made by Tri-Cities to ascertain the needs and problems of business in the area to be served and the means by which the applicant proposes to meet those needs and problems.

(2) To determine which of the proposals would, on a comparative basis better serve the public interest.

(3) To determine in light of the evidence adduced pursuant to the foregoing issues which of the applications should be granted.

8. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's Rules, in person, or by an attorney shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. *It is further ordered*, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's Rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, shall advise the Commission of the publication of such notice as required by § 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 76-37248 Filed 12-17-76; 8:45 am]

[1] Suburban Broadcasters, 30 FCC 1021, 20 RR 951 (1961).

PERSONAL USE RADIO ADVISORY COMMITTEE

Meeting

The next meeting of the Personal Use Radio Advisory Committee (PURAC) will be held Thursday, January 27, 1977 at 10 A.M. at the Sheraton-National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia 22204.

The agenda for this meeting, the purpose of which is to discuss the Commit-

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tee's progress towards formulation of its Task area reports, will be as follows:

Chairman's remarks and introductions.
Reports on action items from last meeting.
Reports from task area coordinators.
Other business, to be determined.
Review of action item list.
Adjournment.

Meetings of PURAC are open to the public, subject to available meeting space. Observers desiring to make oral presentations at this meeting should coordinate their presentations with the Chairman. The following information should be submitted: Name, mailing address, and telephone number of the person wishing to make the presentation, an outline of the material to be presented, the estimated duration of the presentation, and the audio/visual aids, if any, required. Written statements may also be submitted to the Committee and should be addressed to the Chairman, Mr. John B. Johnston, Personal Use Radio Advisory Committee, Room 5114, Federal Communications Commission, Washington, D.C. 20554. Further information concerning this meeting of PURAC may also be obtained from Mr. Gregory M. Jones, Room 5114, Federal Communications Commission, Washington, D.C. 20554 (202–634–6619).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–37299 Filed 12–17–76;8:45 am]

PURAC TASK AREA GROUP ON TECHNICAL STANDARDS

Meeting

In preparation for the next meeting of the Personal Use Radio Advisory Committee (PURAC), the PURAC Task Area group investigating technical standards will meet January 11, 1977 at 9 A.M. in Room 8210 of the offices of the Federal Communications Commission at 2025 "M" Street, N.W., Washington, D.C. 20554 to discuss its fact finding progress for presentation to the full PURAC. The agenda for this meeting will be as follows:

I. Opening remarks of the task coordinator.
II. Task area progress report and discussion.
III. Adjournment.

This meeting is open to the public. Individuals wishing to make oral or written presentations should contact the Task Area Coordinator, Mr. Lee Bergren, 5460 Buena Vista Drive, Mission, Kansas 66205 (913–262–6565), prior to the meeting.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–37298 Filed 12–17–76;8:45 am]

FEDERAL MARITIME COMMISSION

CITY OF OAKLAND AND JAPAN LINE, LTD., ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearings, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 30, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

In the matter of: City of Oakland and Japan Line, Ltd. Kawasaki Kisen Kaisha, Ltd. Mitsui O.S.K. Lines, Ltd. Yamashita-Shinnihon Steamship Co., Ltd.

Notice of Agreement Filed by:

J. Kerwin Rooney, Port Attorney, Port of Oakland, P.O. Box 2064, 66 Jack London Square, Oakland, Calif. 94604.

Agreement No. T–3040–2, between city of Oakland (City) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ytd., Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd., (the Lines), modifies the basic agreement which provides for the 10-year nonexclusive preferential assignment of certain marine terminal facilities located in the City's Outer Harbor Terminal, which the Lines will use primarily for handling containerized traffic. The purpose of the modification is to provide for the delay in construction of Petroleum Street from Ferry Street to Maritime Street and make other related changes.

By Order of the Federal Maritime Commission.

Dated: December 15, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–37297 Filed 12–17–76;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP76–15, RP76–98 and OP69–41 et al.]

ALGONQUIN GAS TRANSMISSION CO.

Order Denying Application for Rehearing

DECEMBER 10, 1976.

By order dated October 15, 1976, the Commission rejected a proposed First Revised Sheet No. 10–A and a portion of Substitute First Revised Sheet No. 10–A to Algonquin Gas Transmission Company's (Algonquin) FPC Gas Tariff, First Revised Volume No. 1 and ordered Algonquin to file within 15 days of the issuance of the order new tariff sheets in compliance with the requirements stated. By letter filed October 29, 1976, Algonquin tendered for a refiling Substitute First Revised Sheet No. 10–A and requested a stay of the Commission order pending action on its Application for Rehearing. The Commission rejected the refiled sheet and granted the stay by order issued November 26, 1976. Algonquin filed an Applictaion for Rehearing of the Otcober 15 order on November 12, 1976. For the reasons stated herein, the Commission shall deny the Application for Rehearing.

The single issue presented for the Commission's review in the October 15, 1976, order was whether the amount overcollected by operation of Algonquin's purchased feedstock adjustment Clause (PFAC) during the 1975–76 winter heating season should be refunded with interest. The Commission ruled that refunds should be made with interest. This ruling was based upon the regulatory rate principle that revenues should match costs. The revenues received by Algonquin through operation of its proposed PFAC during the 1975–76 winter heating season were in excess by $6,923,784 of the costs incurred by Algonquin under the PFAC. Such overcollections are per se unjustified. Section 154.67 of the Commission's Regulations as amended by Order Nos. 513 and 513–A provides:

> The pipeline company shall refund at such time and in such manner as may be required by final order of the Commission, the portion of any increased rates and charges found by the Commission to be not justified, together with interest at the rate of . . . nine percent per annum for all rate filings tendered on or after October 10, 1974 . . .

Because the overcollections received by Algonquin are unjustified, they must be refunded with interest in accordance with the Commission's Regulations.

Algonquin states in its Application for Rehearing that it has agreed upon a basis for settling the matters raised by this proceeding with its customers and that a settlement would be certified to the Commission in the near future. Algonquin contends that the Commission's action carved out a single issue from the PFAC proceeding and disposed of it without a record or supported findings. Algonquin contends further that it was denied procedural due process and required to file revised tariff sheets without a finding being made that the present rates are unjust or unreasonable.

Finally, Algonquin challenges the Commission's method of interest calculation for its off-system customers because they are to receive refunds by lump sum payment.

The October 15, 1976, order addressed solely the question of refunding with interest the amount of overcollections received by Algonquin by operation of its PFAC during the 1975–76 winter heating season. This does not prejudge the reasonableness of Algonquin's PFAC itself. The reasonableness of the PFAC and its continued use is the subject of hearings which were conducted in accordance with the orders of September 24, 1975, and May 28, 1976, in these dockets. This matter is presently before the Presiding Administrative Law Judge. The instant situation involving refunding with interest is separate and distinct from the issue in hearing because it relates only to overcollections already received under the PFAC, not to the reasonableness of the PFAC itself. Algonquin has alluded to possible settlement provisions that may occur in this case. Any statement by the Commission regarding such possibilities would be premature and could affect the settlement position of parties. In view of this, the Commission declines to comment on such possibilities.

The Commission does not believe the October 15 order denied Algonquin due process. That order does not prejudge the reasonableness of the PFAC. The overcollections received by Algonquin were unjustified and, therefore, under the Regulations, they must be refunded with interest. Algonquin retains still its full rights to pursue litigation of the reasonableness of the PFAC, including the right to seek settlement. At such times as other questions concerning the PFAC or its operation arise, the Commission shall decide them at that time.

Algonquin states that the method of interest calculation which the Commission adopted in the October 15 order is unjustified and inequitable for repayment to its SNG off-system customers who are to receive their refunds in a lump sum payment because the total amount of overcollections for these customers "were received by Algonquin Gas on an incremental, monthly basis, and under the terms of the PFAC are to be returned on a lump-sum basis well short of the equivalent of a full year." In light of the fact that this refund will be in the form of a lump sum payment, the Commission believes that the interest calculation for Algonquin's off-system customers should be different from that ordered for the SNG on-system customers. Algonquin shall calculate interest at the rate of 9% per annum for its off-system customers from the date each portion of overcollection was received through the date on which the lump sum refund is made. The method of interest calculation for Algonquin's SNG on-system customers shall remain the same as set forth in the October 15, 1976, order.

The Commission orders: (A) Algonquin's Application for Rehearing is hereby denied.

(B) The calculation of the interest for refunds to Algonquin's SNG off-system customers shall be in the manner set forth in this order. The calculation of interest for Algonquin's on-system customer refunds shall be made in the manner set forth in the October 15, 1976, order in this proceeding.

(C) Algonquin shall make immediate refunds with interest to its customers in accordance with the requirements of this order and the October 15 order in this proceeding. Algonquin shall submit within 15 days of the issuance of this order a report of refunds any any necessary tariff revisions.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.[1]

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37261 Filed 12–17–76;8:45 am]

[Docket No. ER77–91]

ARKANSAS-MISSOURI POWER CO.

Filing of Agreement

DECEMBER 10, 1976.

Take notice that on December 1, 1976, Arkansas-Missouri Power Company (Ark-Mo) tendered for filing a Supplemental Agreement for Power Interchange Between Ark-Mo and Associated Electric Cooperative, Inc. (Associated) dated October 20, 1976, providing for service under the following service schedules:

Service Schedule A—Economy Energy Transactions.
Service Schedule B—Replacement Energy Service.
Service Schedule C—Participation Power Service.
Service Schedule D—Firm Power Service.

Ark-Mo has stated that the rates in Service Schedules A and B were established on the basis of arms-length negotiations between Ark-Mo and Associated, and are similar to rates for similar services charged by other utilities. Ark-Mo requests that this agreement be permitted to become effective on January 1, 1977, in order to improve the coordination and enhance the reliability of the two systems.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 28, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–37266 Filed 12–17–76;8:45 am]

[Docket No. RP77–15]

CAROLINA PIPELINE COMPANY, COMPLAINT VS. SOUTHERN NATURAL GAS COMPANY, RESPONDENT

Filing of Complaint

DECEMBER 14, 1976.

Take notice that on November 12, 1976, Carolina Pipeline Company (Carolina) filed a complaint against Southern Natural Gas Company (Southern), pursuant to Sections 5(a) and (13) of the Natural Gas Act and Section 1.6 of the Commission's Rules of Practice and Procedure. Carolina alleges that Southern is violating Sections 9.3(1), 9.4(1), and 9.4(2) of the General Terms and Conditions of its FPC Gas Tariff, Sixth Revised Volume No. 1. Carolina requests the Commission to issue an order requiring Southern to cease and desist from its violations of these sections and to comply fully with them.

Carolina states that on days when a gas supply deficiency is experienced, Southern is required by Section 9.4(2) to notify each and every one of its customers as to how much gas they can take on that day. Carolina alleges that Southern's current practice is to only notify customers of their maximum gas quantities if that customer has requirements in the priority of service being curtailed on the particular day in question.

Carolina states that since some customers were not notified of the maximum quantity of gas they were permitted to take, they took gas in excess of the Index of Requirements limitation. Carolina states that these excess volumes can be used for any purpose the customer desires.

Carolina states that Southern's refusal to adhere to Section 9.3(2) leads to violation of Section 9.3(1) which requires full curtailment of lower priorities before curtailment of higher priorities is commenced. Carolina also states that Southern's refusal to adhere to Section 9.4(2) leads to violation of Section 9.4(1) which requires all gas taken in excess of curtailment orders to be deemed unauthorized overrun gas.

Any person desiring to be heard or to respond with reference to said notice should on or before January 14, 1977, file with the Federal Power Commission a petition to intervene or a response in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.6 or 1.8). All responses filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in ac-

[1] Commissioner Watt's dissent filed as part of the original.

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cordance with the Commission's Rules. All parties who have previously filed protests or petitions to intervene need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37259 Filed 12-17-76;8:45 am]

[Docket No. ER77-95]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Filing of Rate Schedule

DECEMBER 10, 1976.

Take notice that Central Hudson Gas & Electric Corporation (Central Hudson) on December 6, 1976 tendered for filing as a supplement to its Rate Schedule FPC No. 22 a letter of notification dated November 19, 1976, from Central Hudson to New York State Electric & Gas Corporation. Central Hudson states that this letter provides for an increase in the monthly operation and maintenance charge from $1,603.80 to $1,746.54 in accordance with Article IV.2. of its Rate Schedule FPC No. 22. The increase is proposed to become effective January 1, 1977.

Copies of the filing by Central Hudson were served upon:

New York State Electric & Gas Corporation,
4500 Vestal Parkway, East
Binghamton, New York 13902.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this petition are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-37265 Filed 12-17-76;8:45 am]

[Docket No. ER77-52]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Extension of Time

DECEMBER 13, 1976.

On December 7, 1976, the Port Authority of New York and New Jersey filed a request for an extension of time to file protests or petitions to intervene in the above-styled proceeding. By Notice issued November 22, 1976, protests and petitions to intervene were to be filed by December 7, 1976.

Upon consideration, notice is hereby given that an extension of time is granted to and including December 21, 1976, within which interested persons may file protests or petitions to intervene in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37262 Filed 12-17-76;8:45 am]

[Docket No. ER77-1]

MISSISSIPPI POWER CO.

Order Granting Intervention and Establishing Hearing Procedures

DECEMBER 14, 1976.

On October 1, 1976, Mississippi Power Company (MPCO) tendered for filing proposed changes in its FPC Electric Tariff, Original Volume No. 1. The proposed changes increase revenues from jurisdictional sales and service by $4,536,000 based on the 12-month period ending October 31, 1977.

Notice of the filing was issued on October 18, 1976, with comments due on or before November 1, 1976.

On October 29, 1976, this Commission issued an Order Accepting For Filing And Suspending Proposed Rate Filing to insure that all parties would have an adequate opportunity to comment upon the proposed filing. MPCO's proposed rate filing was accepted for filing and suspended for one day, becoming effective November 2, 1976. In the abovementioned order, we indicated that upon receipt of comments, we would issue such further orders as may be appropriate in this proceeding.

On October 27, 1976, Coast Electric Power Association, East River Power Association, and Singing River Electric Power Association (hereinafter referred to as EPAs) filed a protest and petition to intervene in this proceeding. The EPAs purchase electric power and energy from MPCO pursuant to Rate Schedule MRA-12. That Rate Schedule is superseded by Rate Schedule MRA-13. They maintain that the increased rates are excessive.

The EPAs allege that the cost of service study on which MPCO bases its filing substantially overstates the actual cost of MPCO of providing service to the EPAs. They assert that MPCO's requested rate of return on common equity of 14.1 percent results in an excessively high overall return of 9.25 percent. Furthermore, they state that errors contained in MPCO's cost of service study mask a greatly higher overall rate of return of 9.40 percent.

In calculating allowance for Funds Used During Construction (AFUDC), the EPAs assert that MPCO's 7.5 percent capitalization rate is too high. They maintain that if the funds actually used for construction were accurately determined, the capitalization rate would be approximately 4 percent.

The EPAs additionally allege that MPCO's increased rates to them are discriminatory and anticompetitive, representing a "price squeeze" in violation of antitrust laws.

They request that the Commission suspend MPCO's proposed rates for five months, conduct a hearing on the lawfulness of the rates, and permit them to intervene in this proceeding.

After careful consideration of the allegations contained inthe EPAs' petition, we find that they do not warrant lengthening the suspension period from one day to five months. However, since MPCO's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful, we will establish hearing procedures.

The Commission finds: (1) The participation of Coast Electric Power Association, East Mississippi Electric Power Association, and Singing River Electric Power Association in this proceeding may be in the public interest.

(2) The allegations contained in the EPAs' petition do not set forth any facts or legal issues which would warrant Commission lengthening of the suspension period.

The Commission orders: (A) Coast Electric Power Association, East Mississippi Electric Power Association, and Singing River Electric Power Association are hereby permitted to intervene in this proceeding and to participate as parties subject to the Commission's Rules and Regulations; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their Petitions to Intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) Pending a hearing and decision thereon, MPCO's proposed rates will remain effective subject to refund.

(C) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a hearing shall be held concerning the justness and reasonableness of MPCO's proposed rate increases.

(D) Commission Staff shall prepare and serve top sheets on all parties for purposes of settlement on or before April 29, 1977. (See Administrative Order No. 157.)

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and

sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(F) MPCO shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by Section 35.19a of the Commission's Regulations, 18 CFR Section 35.19a.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37258 Filed 12-17-76;8:45 am]

[Docket No. RP75-89]

NORTHERN NATURAL GAS CO.

Order Approving Settlement Agreement and Terminating Proceeding

DECEMBER 10, 1976.

On July 15, 1976, Northern Natural Gas Company (Northern) filed a Stipulation and Agreement (Agreement), together with a motion for its approval, intended to dispose of all issues in the captioned proceeding. This proceeding originated when Northern filed revised tariff sheets on April 11, 1975, seeking increased annual jurisdictional revenues of $69.8 million. The tariff sheets were suspended for five months, or until October 27, 1975, by Commission order issued May 16, 1975. For the reasons hereinafter stated, the Commission will approve the Agreement and terminate the proceeding.

Notice of the filing of the Agreement was issued July 27, 1976. Comments in support of the Agreement were filed by Iowa Public Service Company, The Northern Distribution Group, the Public Utilities Commission of South Dakota (PUCSW), and the Commission Staff. Northern filed a reply to the comments of PUCSW. All parties filing comments support the Agreement and recommend its approval. PUCSW, which supports the Agreement, nonetheless argues that, insofar as the allowance for Federal income taxes is computed on the basis of the 48% statutory tax rate instead of an alleged lesser actual tax rate through the use of a consolidated tax return, the return on equity permitted by the settlement rates will exceed the agreed upon amount. Northern's reply contests PUCSW's conclusion. Since PUCSW nevertheless recommends approval of the Agreement, we do not pass on the merits of its argument.

Section I of the Agreement provides for refunds of approximately $12,234,000 for Northern's market area sales and refunds of approximately $8,900 for field sales, both with interest at 9% per annum. In addition it provides for a reduction in jurisdictional revenues from the rates effective October 27, 1975 (filed in Docket No. RP75-89) of approximately $12,100,000. Section II of the Agreement recites that $287,000 is included in the cost of services as a result of inclusion in rate base of certain Research and Development expenditures, the propriety of which is to be determined in Texas Eastern Transmission Corporation's proceeding in Docket No. RP75-73. In the event rate base treatment is denied therein by final and non-appealable Commission order, Northern will refund the principal amount for its jurisdictional customers, with interest at 9% per annum.

Section III of the Agreement states that 5 BcF of natural gas will be delivered, not sold, to Michigan Consolidated Gas Company. In the event deliveries are less than the 5 Bcf, Northern will make refund to its customers. Section IV of the Agreement recites a reserved issue relating to cost of service treatment for company production.[1] Section V requests the Commission to confirm that the reserve for deferred income taxes deducted in determining rate case is not in excess of the book amount of such reserve. Our order approving this Agreement shall constitute such confirmation.

The jurisdictional cost of service of $400,509,558, contained in Appendix C of the Agreement, is a reduction from the filed jurisdictional cost of service of $445,-810,710, and is based on an overall rate of return of 9.8% including an allowance for common equity of 12.5%, all as contained in Appendix D of the Agreement. The Commission finds that the settlement agreement represents a reasonable resolution of the issues in this proceeding and will therefore approve the Agreement and terminate the proceedings herein.

The Commission orders: (A) The Stipulation and Agreement filed on July 15, 1976, is incorporated herein by reference, and is approved and adopted.

(B) This order is without prejudice to any findings or order which have been made or which may hereafter be made by the Commission and is without prejudice to any claims or contentions which may be made by the Commission, its staff or any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against Northern or any other person or party.

(C) The proceedings in the instant docket are hereby terminated.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37267 Filed 12-17-76;8:45 am]

[Docket No. RP 77-20]

RATON NATURAL GAS CO.

Change In Rates

DECEMBER 14, 1976.

Take notice that Raton Natural Gas Company (Raton) on November 30, 1976, tendered for filing, proposed changes in its FPC Gas Tariff, Volume No. 1, consisting of Fourteenth Revised Sheet No. 3a. The change in rate is for jurisdictional sales and service. The proposed effective date is January 1, 1977.

Raton states that the instant change in rates is designed to enable Raton to recover increases in operating costs, increased return and related income tax requirements. The proposed rates would increase revenues by $11,122, which is less than one percent of annual revenues.

Copies of Raton's filing are on file with the Commission and are available for public inspection. In addition, copies have been served on Raton's Jurisdictional Customer and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37260 Filed 12-17-76;8:45 am]

[Docket No. ER77-86]

SOUTHERN COMPANY SERVICES, INC.

Proposed Tariff Change

DECEMBER 10, 1976.

Take notice that Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company on December 1, 1976, tendered for filing The Southern Company System Intercompany Interchange Contract proposed to be effective for the calendar year 1977.

The Southern Company System Intercompany Interchange Contract constitutes a coordination and interchange agreement between the operating companies of The Southern Company system and provides for certain power pooling transactions, including the exchange of interchange energy and the pricing thereof, the purchase and sale of capacity and the rates and charges therefor as well as other interchange arrangements between the operating companies.

Copies of the filing were served upon the parties of record in *Southern Services, Inc.*, Docket No. E-8514.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8

[1] This issue was resolved by approval of a settlement agreement in Docket Nos. RP74-75 and RP71-89, order issued July 27, 1976.

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and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10): All such petitions or protests should be filed on or before December 29, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37264 Filed 12-17-76;8:45 am]

[Docket No. ER77-100]

TUCSON GAS & ELECTRIC CO.

Filing of Amendment to Agreement

DECEMBER 13, 1976.

Take notice that Tucson Gas & Electric Company ("Tucson") on December 6, 1976 tendered for filing an Amendment No. 1 to the 1976–1978 Energy Sale Agreement between Tucson and Southern California Edison Company ("Edison"). The purpose of the amendment is to increase the maximum amount of energy available to Edison under the contract. Tucson states that copies of the filing were served upon Edison.

Any person desiring to be heard or to make any application with reference to said Amendment No. 1 should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Amendment No. 1 are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37263 Filed 12-17-76;8:45 am]

FEDERAL RESERVE SYSTEM

BOYDEN BANCORP

Order Approving Formation of Bank Holding Company

Boyden Bancorp, Boyden, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act ("Act") (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company through acquisition of 81.7 percent of the voting shares of Farmers Savings Bank, Boyden, Iowa ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was formed for the purpose of becoming a bank holding company through the acquisition of shares of Bank. Upon consummation of the proposed transaction, Applicant would control the 320th largest banking organization in Iowa with total deposits of $10.9 million representing approximately .09 percent of total deposits held by commercial banks in the States.[1] Bank ranks 11th out of the 16 banking organizations operating in the Sioux County banking market (approximated by Sioux County plus western O'Brien County and northeastern Plymouth County) and controls 4.8 percent of total market deposits. Since the purpose of the proposed transaction is to transfer the ownership of shares of Bank from individuals to a corporation owned by the same individuals, consummation of the proposal would have no adverse effect on existing or potential competition nor would it increase the concentration of banking resources in any relevant area. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which are dependent upon those of Bank, are regarded as satisfactory. Applicant proposes to service the debt it will incur as a result of the proposed transaction through dividends from Bank as well as cash payments made by Bank to Applicant and retained by Applicant to the extent that they represent savings from filing consolidated tax returns, without adversely affecting Bank's capital position. Thus, considerations relating to banking factors are consistent with approval of the application.

Although there will be no immediate increase in the services offered by Bank upon consummation of the proposal, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Accordingly, it is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

[1] All banking data are as of December 31, 1975.

By order of the Board of Governors,[2] effective December 13, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37238 Filed 12-17-76;8:45 am]

DAKOTA BANCORP

Order Approving Acquisition of Bank

Dakota Bancorporation, Rapid City, South Dakota, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to acquire 80 per cent of the voting shares of First National Bank of Crosby ("Crosby Bank"), Crosby, North Dakota, a proposed new bank.[1]

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received, including those of Farmers State Bank of Crosby, Crosby, North Dakota, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant controls one bank in North Dakota with deposits of $3.0 million, representing 0.1 per cent of the total commercial bank deposits in the State, and is the 138th largest banking organization in North Dakota.[2] Since Crosby Bank is a proposed new bank, consummation of the proposed transaction would not immediately increase Applicant's share of commercial bank deposits in North Dakota.

Applicant, a one-bank holding company, presently controls Columbus National Bank ("Columbus Bank"), Columbus, North Dakota. The proposal envisions Crosby Bank purchasing the assets and assuming the liabilities of Columbus Bank. Columbus Bank will then be liquidated with its capital accounts distributed to its shareholders. The Columbus Bank facility and its paying and receiving station in Lignite, North Dakota, will then become paying and receiving stations of Crosby Bank. Columbus Bank, the only bank in Columbus, represents 8.7 per cent of the deposits within the relevant market which contains both Columbus and Crosby.[3] Applicant is the smallest of the four banking organizations in the market. Since the proposal would essentially transfer present accounts from Columbus Bank to Crosby Bank, consummation of the proposal would not eliminate any significant existing competition, increase the concentration of banking resources, or have an adverse effect on the development of future competition in the relevant market. Therefore, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its existing subsidiary bank are regarded as satisfactory. Crosby Bank, as a proposed new bank, has no financial or operating history; however, its prospects as a subsidiary of Applicant appear favorable. Considerations relating to the banking factors are consistent with approval of the application. The addition of a second banking alternative in Crosby should enhance banking competition and increase services to residents of the area. In addition, a paying and receiving station would remain available in Columbus. Furthermore, the relocation of Applicant's subsidiary bank from Columbus to the larger town of Crosby would appear to present the opportunity for Crosby Bank to increase the deposit base assumed from Columbus Bank and, thus, enable it to offer improved services to the market as a whole. Accordingly, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application.

Comments were filed in opposition to this proposal by the Farmers State Bank of Crosby ("Protestant"), the only bank presently located in Crosby. The Board has reviewed Protestant's submission and has concluded that it does not present a basis for denial of this application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) First National Bank of Crosby, Crosby, North Dakota, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[4] effective December 13, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37239 Filed 12-17-76;8:45 am]

[2] Voting for this action: Chairman Burns and Governors Gardner, Coldwell, Jackson and Partee. Absent and not voting: Governors Wallich and Lilly.

[1] This application was filed under § 3(a)(3) of the Bank Holding Company Act since the proposal involves the acquisition by Applicant of shares of an additional bank. However, the end result of the proposed transaction is that Applicant will continue to own only one bank whose main office will be simply relocated from Columbus to Crosby, North Dakota.

[2] Unless otherwise indicated, all banking data are as of December 31, 1975.

[3] The relevant market is approximated by Divide and Burke Counties.

[4] Voting for this action: Chairman Burns and Governors Gardner, Coldwell, Jackson, and Partee. Absent and not voting: Governors Wallich and Lilly.

GAYLORD BANKSHARES, INC.

Order Denying Formation of Bank Holding Company

Gaylord Bankshares, Inc., Gaylord, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company through acquisition of 80 per cent or more of the voting shares of The First National Bank of Gaylord, Gaylord, Kansas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by the Comptroller of the Currency and Applicant's responses thereto, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).[1]

Applicant is a nonoperating corporation organized under the laws of Kansas for the purpose of becoming a bank holding company through acquisition of Bank ($2.8 million in deposits).[2] Upon acquisition of Bank, Applicant would control the 536th largest bank in Kansas, holding approximately .03 of one per cent of the total deposits in commercial banks in the State.

Bank is the seventh largest of eight commercial banks in the relevant market,[3] and holds approximately 4.2 per cent of the total deposits in commercial banks in the market The principal owner of Applicant is also the principal owner of Osborne Bankshares, Inc., a registered one-bank holding company controlling 80 per cent of The First State Bank & Trust Company, Osborne, Kansas ("First"), which is located 18 miles south of Bank in the same banking market. Given the size of the banks involved and the structure of the market, it is the Board's view that the combination of these two banks in the market would have no significant adverse effects on competition. Accordingly, based on the facts of record, the Board concludes that consummation of the proposed transaction would have no significant adverse effect upon either existing or potential competition.

The Board has indicated on previous occasions that it believes that a bank holding company should be a source of financial and managerial strength to its subsidiary bank(s) and that the Board will closely examine the condition of an applicant in each case with this consideration in mind. As part of this proposal, Applicant would assume $120,000 of the debt originally incurred by Applicant's principal in acquiring shares of Bank. Applicant proposes to service this debt over a 12-year period through dividends to be declared by Bank and the tax benefits to be derived from filing consolidated tax returns. In the Board's view, the projected earnings of Applicant over the debt-retirement period appear to be somewhat optimistic in view of Bank's previous earnings record and, even if actually realized, would not provide Applican with the financial flexibility necessary to meet its annual debt service requirements while maintaining adequate capital at Bank. While there has been some improvement in earnings of Bank since its acquisition by Applicant's principal, this improvement has occurred over only one year and does not provide Applicant with a proven record of earnings to support its projections.

The Board is of the opinion that in analyzing the managerial resources of a bank that is part of a chain of one-bank holding companies it should look beyond the subject bank involved in an application to the other banks that are part of that chain. In assessing the managerial resources of Applicant, the Board notes that the overall financial resources of First, the subsidiary bank of the affiliated one-bank holding company, have declined somewhat since First was placed in the holding company. The decline of the financial resources of First does not reflect favorably on Applicant's management capabilities and weighs against approval of this application.

On the basis of the above banking factors and other factors of record, the Board is of the view that it would not be in the public interest to approve the formation of a bank holding company with an initial debt structure that could result in the weakening of Bank's overall financial condition, and the Board concludes that the considerations relating to financial and managerial resources weigh against approval of the application.

As indicated above, the proposed formation essentially involves the reorganization of the ownership interests of Bank. No significant changes in Bank's operations or in the services offered to customers of Bank are anticipated. Consequently, considerations relating to the convenience and needs of the community to be served lend no weight toward approval of the application.

On the basis of all of the circumstances concerning this application, the Board concludes that the financial and managerial considerations involved in this proposal present adverse circumstances bearing upon the financial resources and future prospects of both Applicant and Bank. Such adverse factors are not outweighed by any procompetitive effects or by benefits that would result in serving the convenience and needs of the community. Accordingly, it is the Board's judgment that approval of the application would not be

[1] In letters dated August 27, 1976 and October 21, 1976, the Comptroller of the Currency recommended denial of the subject application. Applicant responded to the Comptroller in letters dated September 14, 1976 and November 4, 1976.

[2] All banking data are as of December 31, 1975.

[3] The relevant market is approximated by Smith and northern Osborne counties.

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in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[4] effective December 13, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-37240 Filed 12-17-76;8:45 am]

MICHIGAN FINANCIAL CORP.

Order Approving Acquisition of Bank

Michigan Financial Corporation, Marquette, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to The Iron River National Bank, Iron River, Michigan ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired. The Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 22nd largest commercial banking organization in Michigan, controls seven banks with aggregate deposits of $184.4 million, representing 0.64 percent of total deposits held by commercial banks in the State.[2] Acquisition of Bank (deposits of $13.4 million as of June 30, 1976) would increase Applicant's share of commercial bank deposits in the State by less than one-tenth of one percentage point and would not result in any significant increase in the concentration of banking resources in Michigan.

Bank, the fourth largest of eight commercial banks located in the relevant banking market[2] holds about 10.5 percent of the total commercial bank deposits in the market. Applicant's nearest subsidiary banks are located in Hermansville and Ishpeming, 73 and 78 road miles respectively, from Iron River. Minimal competition exists between Bank and any of Applicant's subsidiary banks and, due to the distances involved and the fact that the intervening areas are sparsely populated, it is unlikely that any will develop in the near future. The present economic character of the market and Michigan's restrictive branching laws make conditions for *de novo* entry appear unfavorable. The Federal Reserve Bank of Minneapolis concludes, therefore, that consummation of the proposed acquisition would not have significant adverse effects on existing or potential competition.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks and Bank are regarded as satisfactory, particularly in view of Applicant's commitment to inject equity capital into one of its present subsidiary banks. Applicant's affiliation with Bank should enable Bank to expand the range of banking services offered. Therefore, considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application.

For the reasons summarized, the Federal Reserve Bank of Minneapolis hereby approves the application.

The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Federal Reserve Bank of Minneapolis, acting pursuant to delegated authority for the Board of Governors, effective December 10, 1976.

L. G. GABLE,
Vice President.

[FR Doc.76-37241 Filed 12-17-76;8:45 am]

UNITED MICHIGAN CORP.

Order Approving Acquisition of Bank

United Michigan Corporation, Flint, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire all of the voting shares (less directors' qualifying shares) of the successor by consolidation to the Peoples State Bank of Caro, Caro, Michigan ("Bank"). The bank into which Bank is to be consolidated has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the Federal Reserve Bank of Chicago has considered the application and all comments received in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls one bank subsidiary holding about $512.9 million in deposits,[1] representing about 1.7 percent of the total commercial bank deposits in Michigan. In addition, Applicant controls one nonbank subsidiary, a mortgage company. Applicant is the tenth largest of all banking organizations in Michigan and upon acquisition of Bank, Applicant's share of State deposits would increase slightly to 1.8 percent, but its rank would not change. Consummation of this proposal would not materially increase the concentration of banking resources in the State.

Bank (deposits $19.7 million) is the largest of ten banking organizations in the relevant market.[2] Although Bank is the largest, Bank is not dominant in the market; Bank holds only about 15.4 percent of the total commercial bank deposits in the market and the second and third leading banking organizations are nearly the same size as Bank. Applicant's sole bank subsidiary is the second largest banking organization competing in the adjacent Flint banking market to the southwest. There is no significant existing of potential competition between the two banks. Moreover, the possibility that any direct competition would develop between them in the future is remote. In addition, Applicant's entry *de novo* into the market is unlikely because of the low population per banking office ratio. Any adverse competitive effects resulting from this proposal would be very slight and inconsequential; thus, competitive effects are consistent with approval.

The financial and managerial resources and future prospects of Applicant, its subsidiary Bank, and Bank are considered to be generally satisfactory and consistent with approval of subject application.

While most of Bank's services would be unchanged upon consummation of this proposal, Applicant would cause Bank to provide new trust services and restructure the loan portfolio in an attempt to provide more loan services to the community. Considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application. It is this Reserve Bank's judgment that the proposed acquisition is in the public interest and that the application should be approved.

[4] Voting for this action: Chairman Burns and Governors Gardner, Coldwell, Jackson, and Partee. Absent and not voting: Governors Wallich and Lilly.

[1] Banking data, unless indicated otherwise, are as of June, 1975.

[2] The relevant market is approximated by the southeastern half of Iron County, the southwestern half of Dickinson County and the northwestern corner of Menominee County in Michigan and the northeastern two-thirds of Florence County in Wisconsin.

[1] Deposits are as of December 31, 1975.

[2] The relevant market is approximated by Tuscola County, excluding the Gagetown branch of the Farmers and Merchants State Bank of Sebawaing, Mich., Sebawaing, Michigan, and the Millington branch of Frankenmuth Bank & Trust, Frankenmuth, Michigan, but includes the Clifford branch of The Kingston State Bank, Kingston, Michigan, on the Tuscola-Lapeer County line and the Munger branch of Frankenmuth Bank & Trust in eastern Bay County.

On the basis of the record as summarized above, the Federal Reserve Bank of Chicago approves the application, provided the transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective December 8, 1976.

ROBERT P. MAYO,
President.

[FR Doc.76-37242 Filed 12-17-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-405]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, to consumer interests of the executive agencies of the Federal Government in an investigation before the Pennsylvania Public Utility Commission involving a proposed rulemaking proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Pennsylvania Public Utility Commission in a proceeding involving the concurrent resolution (Resolution No. 228) of the House of Representatives and the Senate of the Commonwealth of Pennsylvania to undertake a thorough investigation of alternative rate structures. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

WALLACE H. ROBINSON, Jr.,
Acting Administrator of General Services.

DECEMBER 9, 1976.

[FR Doc.76-37273 Filed 12-17-76;8:45 am]

NANTAHALA NATIONAL FOREST

Order Transferring From Department of Agriculture to Tennessee Valley Authority Possession and Control of Certain Lands and Land Rights

By virtue of the authority vested in the President of the United States by section 7(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831f(b)), and delegated to the Administrator of General Services by Section 1 (17) of Executive Order 11609 of July 22, 1971, and further delegated to the Commissioner, Public Buildings Service, by GSA Order ADM 5450.39A of November 5, 1974, and further delegated to the Assistant Commissioner for Real Property, Public Buildings Service, by GSA Order PBS P 5450.9A CHGE 19 of April 1, 1975:

It is ordered, That the full possession and control of lands and land rights hereinafter described and all rights of use and access appurtenant thereto in other lands existing under Contract TV-54350 and Contract TV-21679A between the Department of Agriculture ("Department") and the Tennessee Valley Authority ("TVA") be and they are hereby transferred from Department to TVA, such transfer being deemed necessary and proper for the purposes of TVA as stated in the Tennessee Valley Act of 1933, as amended:

The lands and appurtenances identified and described in Exhibit "A" of Supplement No. 2 to Contract TV-54350 (containing 121 acres, more or less) and Appendix C of Contract TV-21679A (containing 166 acres, more or less).

Dated: December 1, 1976, Washington, D.C.

ROY MARKON,
Assistant Commissioner for Real Property Public Buildings Service.

[CONTRACT TV-21679A SUPPLEMENT 1]

SUPPLEMENT TO AGREEMENT OF TRANSFER BETWEEN TENNESSEE VALLEY AUTHORITY AND UNITED STATES DEPARTMENT OF AGRICULTURE

THIS SUPPLEMENTARY AGREEMENT, made and entered into this 2nd day of November, 1976, by and between TENNESSEE VALLEY AUTHORITY, a corporation organized and existing under and by virtue of an Act of Congress known as the Tennessee Valley Authority Act of 1933, as amended (hereinafter called "TVA"), and the UNITED STATES DEPARTMENT OF AGRICULTURE for the use and benefit of the Forest Service of the Department of Agriculture (hereinafter called "Department"):

WITNESSETH:

WHEREAS, TVA has heretofore assigned and transferred to Department possession and control of certain lands for inclusion in Nantahala National Forest by the Agreement of Transfer between TVA and Department dated June 26, 1962 (Contract TV-21679A), which lands were included in such Forest by Executive Order 11067 of November 27, 1962; and

WHEREAS, the parties deem it desirable in the interest of the public that possession and control of a part of these lands so transferred by the aforesaid Agreement of Transfer, which were included in the Nantahala National Forest by said Executive Order, be returned to TVA;

Now, therefore, in consideration of the premises and the mutual covenants herein contained, TVA and Department covenant and agree as follows:

1. The Department hereby consents to the retransfer to TVA by the Administrator of General Services, or his designated representative, pursuant to Section 7(b) of the Tennessee Valley Authority Act of 1933 under the authority delegated to him by Section 1(17) of Executive Order 11609 of July 22, 1971, all of the use, possession, custody, and control of those lands identified and described as Parcels No. 1 and 2 in Appendix C to TV-21679A and all use and access rights appurtenant thereto in lands now in the custody, possession, and control of TVA.

2. Upon execution by the Administrator of General Services, or his designated representative, of a transfer order as consented to by Department in article 1 above, Parcels No. 1 and 2 identified above and their appurtenances shall cease to be a part of the Nantahala National Forest under the administration of the Department and shall be administered thenceforth by TVA for the purposes of the Tennessee Valley Authority Act of 1933, as amended, as fully as though the original agreement of transfer (Contract TV-21679A) had never included said Parcels No. 1 and 2.

3. The remaining lands and rights transferred by Contract TV-21679A and not included in those lands described in article 1 above are in no way affected by this supplement.

In witness whereof, the parties hereto have caused this instrument to be executed by their respective representatives thereunto duly authorized, as of the day and year first above written.

ATTEST:

MADGE EVANS,
Assistant Secretary.

TENNESSEE VALLEY AUTHORITY,
LYNN SEEBER,
General Manager.

U.S. DEPARTMENT OF AGRICULTURE,
ROBERT W. LONG,
Assistant Secretary of Agriculture.

PARCELS NOS. 1 AND 2

APPENDIX C
TO
TV-21679A

Land lying in the Beaverdam and Shoal Creek Townships of Cherokee County, State of North Carolina, on both shores of Apalachia Lake, approximately ¼ mile west of Hiwassee Dam, the said land being comprised of two separate parcels and being more particularly described as follows:

PARCEL NO. 1

Beginning at a point in the 1,280-foot contour on the north shore of Apalachia Lake and in the boundary of the land previously conveyed in fee by the Tennessee Valley Authority to the U.S. Forest Service designated as Tract No. XTFBR-3 from which a bronze plate (Coordinates: N. 548,779; E. 449,905) set in a flat rock and stamped "73-3A RM" bears N. 5°35' W. at a distance of 14 feet.

From the initial point,

With the boundary between the lands of the United States of America (TVA) and the U.S. Forest Service by bearings and distances as follows:

N. 5°35' W., 1183 feet, passing the bronze plate set in a flat rock and stamped "73-3A RM" at 14 feet, to a large boulder in which is set a bronze plate stamped 72-9;

N. 52°17' E., 1865 feet to a metal marker in the southwest line of the right-of-way for the Hiwassee-Chickamauga Transmission Line;

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Leaving the boundary between the lands of the United States of America (TVA) and the U.S. Forest Service and with the southwest line of the right of way for the Hiwassee-Chickamauga Transmission Line, a line 75 feet southwest of and parallel to the center line of the said transmission line, S. 39°41' E., 1,020 feet to a metal marker;

Leaving the line parallel to the transmission line, S. 20°14'W., 1,580 feet to a metal marker;

S. 45°09'E., approximately 350 feet to a point in the 1,280-foot contour on the north shore of Apalachia Lake;

With the 1,280-foot contour as it meanders in a westerly direction to the point of beginning.

The land described above as Parcel No. 1 contains 82.5 acres, more or less.

PARCEL NO. 2

Beginning at a point in the 1,280-foot contour on the south shore of Apalachia Lake and in the boundary of the land previously conveyed in fee by the Tennessee Valley Authority to the U.S. Forest Service designated as Tract No. XTFBR-3 from which the bronze plate (Coordinates: N. 548,779; E. 449,905) set in a flat rock and stamped "73-3A RM" in the boundary of the above described Parcel No. 1 bears N. 5°35'W. at a distance of 574 feet.

From the initial point,

With the 1,280-foot contour as it meanders in an easterly direction to a point in the southeasterly prolongation of that course identified in the above metes and bounds description of Parcel No. 1 by a bearing and distance of S. 45°09'E., approximately 350 feet;

S. 45°09'E., approximately 500 feet to a metal marker from which the metal marker at the northwest end of the above mentioned course of Parcel No. 1 (S. 45°09'E., approximately 350 feet) bears N. 45°09'W. at a distance of 1,158 feet;

N. 76°50'E., 1,299 feet to a metal marker in the boundary of the United States of America's land;

With the United States of America's boundary line by bearings and distances as follows,

S. 5°12' E., 714 feet, passing a metal-marker at 137 feet, to a metal marker;

S. 47°15' W., 897 feet to a metal marker;

N. 83°53' W., 745 feet to a 20-inch chestnut tree;

N. 83°48' W., 666 feet to US-TVA Monument HDR-84;

N. 84°03' W., 954 feet to US-TVA Monument HDR-85;

N. 83°54' W., 207 feet to US-TVA Monument 26-3;

N. 84°03' W., 954 feet to US-TVA Monument 26-1;

With the boundary line between the lands of the United States of America (TVA) and the U.S. Forest Service N. 5°35' W., 932 feet, passing US-TVA Monument 27-1 RM at 917 feet, to the point of beginning. The land described above as Parcel No. 2 contains 83.5 acres, more or less.

All of the above described land comprising Parcels 1 and 2 contains a total of 166 acres, more or less.

NOTE No. 1.—The positions of corners and directions of lines are referred to the North Carolina Coordinate System. The contour elevation is based on MSL Datum as established by the USC&GS Southeastern Supplementary Adjustment of 1936. The boundary markers designated "US-TVA Monument" are concrete monuments capped by bronze tablets imprinted with the given numbers.

[Contract TV-54350 Supplement 2]

SUPPLEMENT TO AGREEMENT OF TRANSFER BETWEEN TENNESSEE VALLEY AUTHORITY AND UNITED STATES DEPARTMENT OF AGRICULTURE

This Supplementary Agreement, made and entered into this 2nd day of November, 1976, by and between Tennessee Valley Authority, a corporation organized and existing under and by virtue of an Act of Congress known as the Tennessee Valley Authority Act of 1933, as amended, (hereinafter called "TVA"), and the United States Department of Agriculture for the use and benefit of the Forest Service of the Department of Agriculture (hereinafter called "Department");

WITNESSETH

Whereas, TVA, by virtue of the Agreement of Transfer between TVA and Department dated June 20, 1940 (Contract TV-54350), has heretofore assigned and transferred to Department the possession and control of certain lands for inclusion in Nantahala National Forest, which lands were included in such Forest by Presidential Order of November 16, 1940; and

Whereas, the parties deem it desirable in the interest of the public that possession and control of a part of these lands so transferred by the aforesaid Agreement of Transfer, which are included in the Nantahala National Forest by said Presidential Order, be returned to TVA;

Now, therefore, in consideration of the premises and the mutual covenants herein contained, TVA and Department covenant and agree as follows:

1. The Department hereby consents to the retransfer to TVA by the Administrator of General Services, or his designated representative, pursuant to Section 7(b) of the Tennessee Valley Authority Act of 1933 under the authority delegated to him by Section 1(17) of Executive Order 11609 of July 22, 1971, all of the use, possession, custody, and control of certain of those lands identified and described in Contract TV-54350 and all use and access rights appurtenant thereto in lands now in the custody, possession, and control of TVA. A description of said lands is attached hereto and hereby made a part hereof as Exhibit "A."

2. Upon execution by the Administrator of General Services, or his designated representative, of a transfer order as consented to by Department in Article 1 above, the lands described in Exhibit "A" shall cease to be a part of the Nantahala National Forest under the administration of the Department and shall be administered thenceforth by TVA for the purposes of the Tennessee Valley Authority Act of 1933, as amended, as fully as though the original agreement of transfer (Contract TV-54350) had never included said lands.

3. The remaining lands described in Contract TV-54350 and in Supplement 1 thereto and not included in Exhibit "A" are in no way affected by this supplement.

In witness whereof, the parties hereto have caused this instrument to be executed by their respective representatives thereunto duly authorized, as of the day and year first above written.

TENNESSEE VALLEY AUTHORITY,
LYNN SEEBER,
General Manager.

UNITED STATES DEPARTMENT OF AGRICULTURE,
ROBERT W. LONG,
Assistant Secretary of Agriculture.

ATTEST:

MADGE EVANS,
Assistant Secretary.

EXHIBIT "A"

PORTIONS OF ACQUISITION TRACTS FBR-59, FBR-60, FBR-61, FBR-62, FBR-64, FBR-71, AND FBR-202

All that certain tract or parcel of land lying and being in Shoal Creek Township, 8th Civil District, Cherokee County, North Carolina, located on Hiwassee Lake and more particularly described as follows:

Being portions of tracts of land identified in TVA's land records as acquisition tracts FBR-59, FBR-60, FBR-61, FBR-62, FBR-64, FBR-71, and FBR-202. Being also a portion of that certain tract of land transferred to the United States Department of Agriculture, Forest Service by the Tennessee Valley Authority by an Agreement of Transfer—Contract No. TV-54350, dated June 20, 1940.

Beginning at a point located within Tract FBR-59, in the 1,528 foot (M.S.L.) contour, on the north shore of the Bearpaw Creek embayment of Hiwassee Lake, marked by a 2" x 30" aluminum pipe with an aluminum survey marker, (Coordinates: N=538,221 4 feet and E=453,361.2 feet);

Thence with a line of severance through Tract FBR-59, N. 56°05' W., 383.58 feet to a point located in the old boundary between US-TVA Monuments 59-1 and 59-2, common to Tract FBR-59 and the E. W. Burger (now or formerly) parcel, said point bearing N. 26°39' E., 722.12 feet from US-TVA Monument 59-1;

Thence with the boundary of Tract FBR-59, common to the said Burger parcel, N. 26°39' E., 818.48 feet to US-TVA Monument 59-2;

Thence with a line of severance through Tract FBR-59, N. 12°21'50" W., 569.81 feet to a point located in the 1,528 foot (M.S.L.) contour on the south shore of the Micken Branch embayment of Hiwassee Lake marked by a 2" x 30" aluminum survey marker. (Coordinates: N=539,723.6 feet and E=453,-268.0 feet);

Thence with the 1,528 foot contour (M.S.L.), as it meanders along the shore of Hiwassee Lake, passing through Tracts FBR-59, FBR-60, FBR-71, FBR-64, FBR-61, FBR-202, FBR-62, respectively, and again into Tract FBR-59 to the point of beginning and containing 121 acres, more or less.

NOTE.—The positions of corners and directives of lines are referred to the North Carolina Coordinate System. The contour elevation is based on M.S.L. Datum as established by the USC&GS Southeastern Supplementary Adjustment of 1936. The boundary markers designated "US-TVA Monument" are concrete monuments capped by bronze tablets imprinted with the given numbers.

The preceding description was prepared from surveys conducted by James H. Price, Registered Land Surveyor No. 812, during January and February, 1975. The surveys, which are recorded in field book TUSQ-P2 on file in Asheville, North Carolina at the Office of the Forest Supervisor for the National Forests in North Carolina, are made a part of the preceding description.

[FR Doc.76-37274 Filed 12-17-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

JEPTHA E. CAMPBELL AND JAMES E. GILCHRIST

Proposed Issuance of Exclusive License

Pursuant to § 6.3, 45 CFR, Part 6, notice is hereby given of intent to issue a limited-term, revocable, exclusive, patent license in and to an invention of Jeptha E. Campbell and James E. Gilchrist entitled "Method and Apparatus for Plating and Counting Aerobic Bacteria."

Any objection thereto, together with request for opportunity to be heard, if desired, should be directed to Theodore Cooper, M.D., the Assistant Secretary for Health, Department of Health, Education, and Welfare, 330 Independence Avenue, SW., Washington, D.C. 20201, within thirty (30) days of the date of publication of this notice. Interested parties may obtain a copy of the patents directed to this invention upon request in writing to the party hereinabove named.

(45 CFR 6.3)

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Dated December 13, 1976.

[FR Doc.76-37251 Filed 12-17-76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the National Advisory Council on Adult Education will meet on January 24, 1977, from 10:00 a.m. to 4:30 p.m., and on January 25-26, 1977, from 9:00 a.m. to 5:00 p.m. at the Hotel Washington, 15th at Pennsylvania Avenue, N.W., Washington, D.C.

The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Orientation for new members.

Reports of the Chairman, Vice Chairman, Executive Director, and the Council's standing committees.

Imperatives for Policy and Action in Lifelong Learning.

1977 Annual Report.

Right to Read Program.

Futures and Amendments meetings.

NAPCAE/AEA/NACAE on Legislation.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Adult Education located in Room 323, Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004).

Signed at Washington, D.C. on December 13, 1976.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc.76-37275 Filed 12-17-76;8:45 am]

Office of Education

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT, COLLEGE WORK-STUDY, AND NATIONAL DIRECT STUDENT LOAN PROGRAMS

Closing Dates for Receipt of Requests for Regional and National Reviews of Applications

1. Notice is hereby given that pursuant to the authority contained in sections 413D(b), 446, and 462(b) of the Higher Education Act of 1965 (20 U.S.C. 1070b-3, 42 U.S.C. 2756, and 20 U.S.C. 1087bb), institutions which have filed an application for fiscal year 1977 funds, for use in the award period 1977-78, for the Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan Programs (Part A Subpart 2, Part C and Part E of Title IV of the Higher Education Act of 1965, respectively), and area vocational schools for the College Work-Study Program, and which desire to request a reevaluation of the review panel's funding recommendation, may request a review by the Regional Office. Institutions which then wish to request a review of the funding recommendation of the Regional Office may request a review by a national review panel. In order to be assured of consideration, requests for Regional Office review must be received on or before December 23, 1976, and requests for national review must be received on or before January 14, 1977. (In view of the large number of requests for review by the Regional Office, the closing date for such requests is extended from the date of December 10, 1976, which was shown on the Notification of Regional Review Action on Application for Federal Student Financial Aid Programs for the Award Period 1977-78, to the date of December 23, 1976.) The establishment of these closing dates is in accordance with program regulations, §§ 176.7(c) and (d), 175.7(c) and (d), and 144.7(c) and (d), respectively. All requests shall be submitted in writing to the Regional Office of the Office of Education serving the area in which the institution is located. The addresses of the Regional Offices are as follows:

Office of Education, Region I, John F. Kennedy Federal Building, Boston, Massachusetts.
Office of Education, Region II, 26 Federal Plaza, New York, New York 10007.
Office of Education, Region III, P.O. Box 13716 (3535 Market Street), Philadelphia, Pennsylvania 19101.
Office of Education, Region IV, 50 Seventh Street, N.E., Room 555, Atlanta, Georgia 30323.
Office of Education, Region V, 300 South Wacker Drive, Chicago, Illinois 60606.
Office of Education, Region VI, 1200 Main Tower, Dallas, Texas 75202.
Office of Education, Region VII, 601 East 12th Street, Kansas City, Missouri 64106.
Office of Education, Region VIII, 11037 Federal Office Building, 19th and Stout Streets, Denver, Colorado 80202.
Office of Education, Region IX, 50 United Nations Plaza, San Francisco, California 94102.
Office of Education, Region X, Arcade Plaza Building, 1321 Second Avenue—M.S. 1511, Seattle, Washington 98101.

(20 U.S.C. 1070b-3; 42 U.S.C. 2756; 20 U.S.C. 1087bb)

a. *Requests for Regional Office and national reviews.* A request sent by mail will be considered to be received on time in the Regional Office of the Office of Education serving the area in which the institution is located if:

(1) The request was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The request is received on or before the closing date in the mail room of the Regional Office of the Office of Education serving the area in which the institution is located. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail room or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.)

b. *Hand delivered requests for Regional Office and national reviews.* A request to be hand delivered must be taken to the Regional Office of the Office of Education serving the area in which the institution is located. Hand delivered requests will be accepted daily between the hours of 9:00 a.m. and 4:00 p.m. in the appropriate Regional Office except Saturdays, Sundays, or Federal holidays.

3. Requests will be accepted for Regional Office and national reviews from institutions of higher education that have not qualified as eligible institutions

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of higher education under section 435(b) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1085(b), 1141(a)). Such requests will also be processed and reviewed. However, in order for such institutions to receive an allocation of fiscal year 1977 funds, the Division of Eligibility and Agency Evaluation of the Bureau of Postsecondary Education of the Office of Education must have received by January 31, 1977 all materials and documents necessary to determine whether such an institution is an eligible institution of higher education. Similarly with regard to the College Work-Study Program, requests for Regional Office and national reviews will be accepted from area vocational schools that have not had their eligibility to participate in the College Work-Study Program established; however, in order for such schools to receive an allocation of fiscal year 1977 funds, the Division of Eligibility and Agency Evaluation of the Bureau of Postsecondary Education of the Office of Education must have received by January 31, 1977 all materials and documents necessary to determine whether such a school is an eligible area vocational school.

(20 U.S.C. 1070b–3; 42 U.S.C. 2756; 20 U.S.C. 1087aa–ff)

(Catalog of Federal Domestic Assistance Programs: 13.416 Supplemental Educational Opportunity Grant Program; 13.463 College Work-Study Program; and 13.471 National Direct Student Loan Program)

Dated: December 15, 1976.

EDWARD AGUIRRE,
United States Commissioner of Education.

[FR Doc.76–37377 Filed 12–17–76;8:45 am]

Office of Human Development

COMPLIANCE WITH PROVISIONS OF OMB CIRCULAR A–90

Prior OHD Approval for ADP Equipment and Services

Pursuant to Office of Management and Budget (OMB) Circular No. A–90, Transmittal Memorandum, No. 1, the Office of Human Development has published regulations and procedures which are consistent with the provisions of the OMB transmittal. These requirements have been administratively established in 45 CFR, Subtitle A, Part 74, Administration of Grants and include approval by the Rehabilitation Services Administration, Office of Human Development, prior to the acquisition of ADP equipment or services and system operations which result in increased system operational costs, etc.

Dated: December 14, 1976.

STANLEY B. THOMAS, Jr.,
Assistant Secretary for Human Development.

[FR Doc.76–37209 Filed 12–17–76;8:45 am]

Public Health Service

HEALTH MAINTENANCE ORGANIZATIONS

Delegation of Authority

Notice is hereby given that relative to Health Maintenance Organizations the following delegation was made, effective November 23, 1976, pursuant to the authority delegated (39 F.R. 32171) on July 29, 1974, by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health:

Delegation from the Assistant Secretary for Health to the Director, Office of Quality Standards, Office of the Assistant Secretary for Health, without authority to redelegate, of authority under Title XIII of the Public Health Service Act to determine whether an entity is a qualified Health Maintenance Organization within the meaning of Title XIII.

The May 1, 1975, delegation (40 F.R. 23508) by the Assistant Secretary for Health to the Administrator, Health Services Administration, has been superseded insofar as it relates to the authority delegated to the Director, Office of Quality Standards.

Dated: November 23, 1976.

RUPERT MOURE,
Executive Officer, Public Health Service.

[FR Doc.76–37276 Filed 12–17–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

[Docket No. M 77–36]

CLINCH VALLEY COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Clinch Valley Coal Corp. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine located in Tazewell County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with Section 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches.

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner's haulage equipment consists of the following:

Type	Model No.	Name	Serial No.
(1) Scoop	CX–2	S. & S. Machinery.	CX2–105
(2) Scoop	CX–2	do	CX2–209
(3) Roof bolter.	2Ci–300	Galis	92273
(4) Roof bolter.	10409	Paul's Repair Shop.	177

2. The height, length, and width of each piece of equipment is as follows:

	Height (inches)	Length (feet)	Width (feet)
(1) Scoop	32	29	9½
(2) Scoop	32	29	9½
(3) Roof bolter	30	16	7½
(4) Roof bolter	26	10	6

3. The No. 1 Mine is in the Upper Split of Horsepen Seam which ranges from 35 to 48 inches in height. Due to irregularity of height of coal seam, a sufficient height could not be maintained to provide clearance for canopies. Batteries are changed for the scoops on the surface and the haulway height runs down to 33 to 34 inches in a few places. Placing canopies on its equipment would lessen safety due to operators' limited vision and operating discomfort, as well as creating a danger of shearing roof bolts.

4. An approved full bolting roof control plan is utilized at Petitioner's mine. Employees are trained daily by the foreman in safe roof control techniques.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 19, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 9, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76–37277 Filed 12–17–76;8:45 am]

[Docket No. M 77–14]

LAUREL BRANCH COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Laurel Branch Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 8 Mine located in Lee County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with Section 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches.

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner is subject to the requirements of regulations dated September 19, 1975, supplemented October 30, 1975, issued by the Commonwealth of Virginia, Department of Labor and Industry, Division of Mines and Quarries, pertaining to the installation of canopy equipment utilized by Petitioner in the mine involved in this petition. Virginia regulations require a minimum 6-inch clearance between the top of the canopy and the lowest projection of the roof or roof supports, and prohibits the design of a canopy which obstructs the vision of the operator to the extent that he must lean out of the canopy to see where he is going.[1]

2. Petitioner states that it went to the manufacturer of its equipment (its miner being a Lee-Norse) and had the canopies for these specific items of equipment made by the manufacturer with the belief that such standard equipment would better serve the equipment as required under 30 CFR 75.1710, but that Petitioner's mine is uneven and has variation in mining height ranging from 36 to 55 inches and as a result of the attempts to use the canopies on the miner scoop, shuttler cars, etc., it has drastically reduced the vision of the operator, it has caused dislodgement of roof bolts and has caused continuous complaints from both the operators of the equipment and other employees in close proximity to the operation of the equipment. It is, therefore, the belief of Petitioner that to continue to attempt to use such canopies is contrary to the intent of the particular code section in question which Petitioner believes Congress intended to promote rather than to reduce the safety of the miner and mine equipment operators where such rules are being enforced in an inflexible manner.

3. Petitioner and his employees believe that vision is drastically reduced as to the operator such that he is forced to lean from his canopy position in order to be able to see, placing himself and those in close proximity to him in a dangerous position causing a diminution of safety both to the operator and other employees which creates a hazard much more dangerous to the operator and his fellow employees than the danger sought to be eliminated by the installation of the canopies under the code section in question.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 19, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 8, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.76–37278 Filed 12–17–76;8:45 am]

[1] A copy of the Virginia Regulations is available for inspection at the address shown in the last paragraph of the notice.

[Docket No. M 77–40]

McCOY ALMA COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), McCoy Alma Coal Co. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 3 Mine, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with Section 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches.

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. The first underground mining commenced in October of 1976 by Petitioner as a one section mine with plans for additional sections when mine development and equipment availability would permit.

2. The mining machinery was placed on order with the Joy Manufacturing Company in late 1973, being the lowest profile equipment available at this time and the lowest profile equipment available to the mining industry to the Petitioner's knowledge to date. The equipment currently employed in the coal mine operation consists of 16 RB cutting machines; 14 BU–10 loading machines; 21 SC shuttle cars; Joy coal drills; Gales and Long-Airdox roof bolters and scoops

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for general mine cleanup work. The coal is conveyed from the discharge point near the mine face to the mine portal by conveyor belt equipment.

3. So as to insure that the appropriate machinery was procured for use in the mining operation, extensive work was completed such as core drilling and outcrop prospecting prior to placing orders for such equipment. These efforts indicated the coal heights to be 42 to 48 inches.

4. The first section of machinery arrived from the vendor in May of 1975, with factory provided canopies for same. These canopies were installed on each piece of machinery prior to its employment underground. The coal heights at the mine entrance averaged 48 inches which included a rock binder ranging from 2 to 4 inches in thickness. The mine's main projections are projected to drive a distance of 5,000 feet picking up an additional section to the right and to the left then continuing on for an additional distance of 5,000 feet with a mine projected life of 20 years at an average annual yield of 250,000 tons. As the mine operation progressed underground some 500 to 600 feet the coal height reached to an average of 42 inches and very uncommon rolls and dips in the coal seam were being encountered which caused the machinery canopies to come in contact with the roof causing severe damage to the roof bolts which ultimately resulted in a hazardous roof condition. The canopies were lowered to the lowest position possible; however, this did not solve the problem but tended to create an additional problem in that some of the equipment operators complained of limb numbness, severe headaches, dizziness and severe stomach cramps from being cramped into such a small space.

5. On or about August 1, 1975, the canopies were removed on all machinery, except roof bolters, as these canopies were considered by the mine operators and machinery operators as well to be a great safety hazard in having them employed on the machinery.

6. The Petitioner points out that canopies were not a requirement until January 1, 1976, as the average coal height of the coalbed was 42 inches. At present, Petitioner is in the process of procuring new canopies, installing and re-installing canopies on all machinery in the working mine in order to comply with the requirements of 30 CFR 75.1710–1 knowing that the same hazards will be encountered as before.

7. Petitioner states that the application of the above requirements will result in a diminution of safety to its miners for reasons which are set out below.

8. The main or first line of safety in Petitioner's mine and in all underground coal mines is the use of adequate roof bolting. The individual safety of all underground miners is being endangered by the use of canopies in that the top of the canopy is sheering or catching the roof bolts and, therefore, weakening the overhead arch which solid torque roof bolts provide, therefore, increasing the likelihood of roof falls.

9. When the canopy can be used it puts the operator in a cramped and awkward position and on several occasions, as a result of this position, has caused dizziness, headaches and stomach cramps thereby causing an increased risk, not only to the operator but also to his fellow workers. Because of this awkward and cramped position the operators are required to leave their machinery more frequently creating a hazardous condition not only to himself but to his fellow workers.

10. To the Petitioner's knowledge and through his repeated consultations with mining machinery manufacturing companies, there is no known machinery available which would decrease or alleviate the above hazards.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 19, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 9, 1976.

JAMES R. RICHARDS,
Director, Hearings and Appeals.

[FR Doc.76-37279 Filed 12-17-76;8:45 am]

[Docket No. M 77-15]

WOLF CREEK COLLIERIES CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Wolf Creek Collieries Co. has filed a petition to modify the application of 30 CFR 75.1710 to its No. 6 Mine, located in Martin County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with Section 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner's self-propelled electric face equipment currently has canopies. Petitioner, however, requests permission to remove the canopies from its equipment because maintaining canopies on safety to the machine operator and other workers in the area of the equipment.

2. Petitioner feels that by providing room for the canopies on the equipment, the workers must mine a portion of the roof, thereby disturbing the roof rock and creating a less than ideal roof control plan. This creates a greater hazard of roof falls.

3. The canopy impairs the vision of the worker operating the equipment thereby decreasing his maximum ability to maneuver the equipment. This increases the likelihood of accidents causing injury to the worker-operator and others in the area of the equipment.

4. A removal of part of the roof to provide room for the canopies would result in prohibitive costs for Petitioner in mining coal which is less than 60 inches in height. Petitioner therefore requests modification of 30 CFR 75.1710.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 19, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

DECEMBER 8, 1976.

[FR Doc.76-37280 Filed 12-17-76;8:45 am]

Bureau of Outdoor Recreation

[INT FES 76-62]

LEWIS AND CLARK TRAIL

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a final environmental impact statement for the proposed Lewis and Clark Trail, a potential addition to the National Trails System.

The proposal involves inclusion of the 3,700 mile route in the National Trails System and development of recreation facilities along 22 selected segments of the route.

Copies are available for inspection at the Bureau of Outdoor Recreation, Mid-Continent Regional Office, 603 Miller Court, Lakewood, Colorado, and the Bureau of Outdoor Recreation, Office of Communications, Room 237, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

A limited number of copies are also available and may be obtained by writing to the Regional Director, Mid-Continent Regional Office, Denver Federal Center, P.O. Box 25387, Denver, Colorado 80225.

Dated: December 14, 1976.

STANLEY D. DOREMUS,
Deputy Assistant
Secretary of the Interior.

[FR Doc.76-37288 Filed 12-17-76; 8:45 am]

INTERNATIONAL TRADE COMMISSION

[USITC SE-76-3]

Government In the Sunshine Commission Meeting

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on December 23, 1976, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436. The Commission plans to consider the following agenda items in open session:

1. Agenda for future meetings;
2. Minutes of December 10 and 13, 1976;
3. Reorganization;
4. Footwear (Inv. TA-201-18)—vote on the question of injury;
5. Mushrooms (Inv. TA-201-17)—vote on a remedy (if necessary);
6. Stoves and motors (Inv. 332-79)—approval of report;
7. Briefing by Mr. Will on the history report;
8. Television sets (Inv. 337-TA-23)—see action jackets GC-76-144 and GC-76-146;
9. Recommendation from the investigative staff with respect to a complaint filed under section 337 of the Tariff Act of 1930, as amended, relating to stainless steel pipe—see memorandum dated December 6, 1976.
10. Any items left over from previous agenda.

If you have any questions concerning the agenda for the December 23, 1976, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Public access to any documents considered by the Commission at the meeting may be obtained under the provisions of Subpart C of the Commission's rules (19 C.F.R. 201.17-201.21).

Issued: December 15, 1976.

By order of the Commission,

KENNETH R. MASON,
Secretary.

[FR Doc.76-37290 Filed 12-17-76;8:45 am]

[USITC SE-76-2A]

MEETING

Additional Agenda Item

In deliberations held on December 16, 1976, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 in conformity with proposed 19 C.F.R. 201.38, voted to add the following item to its agenda for the meeting of December 21, 1976:

11. Consideration of an appeal filed pursuant to the Freedom of Information Act (see memorandum from the General Counsel of December 13, 1976).

Commissioners Leonard, Minchew, Moore, Parker, and Ablondi voted, by unanimous consent, that Commission business requires the change in subject matter by addition of the agenda item, affirmed that no earlier announcement of the addition to this agenda was possible, and directed the issuance of this notice at the earliest practicable time. (Commissioner Bedell was not present for the vote.)

Pursuant to the specific exemption of 5 U.S.C. 552b(c)(6), on the authority of 19 U.S.C. 1335, and in conformity with proposed 19 C.F.R. 201.37(b)(6), Commissioners Leonard, Minchew, Moore, and Parker voted to hold this porton of the December 21, 1976, meeting in closed session. Commissioner Ablondi voted against closing this portion to the public and Commissioner Bedell was not present for the vote.

A majority of the entire membership of the Commission felt that this portion of the meeting should be closed to the public since information to be discussed in such portion is likely to disclose information of a personal nature which could constitute a clearly unwarranted invasion of personal privacy.

Those persons expected to be present at this closed portion, and their corresponding affiliations, are listed as follows:

Daniel Minchew, Chairman
Joseph O. Parker, Vice Chairman
Will E. Leonard, Commissioner
George M. Moore, Commissioner
Catherine Bedell, Commissioner
Italo H. Ablondi, Commissioner
Kenneth R. Mason, Secretary
E. Bernice Morris, Staff Assistant

The General Counsel to the Commission certified that it is his opinion that the Commission's action in closing this portion of its meeting of December 21, 1976, was properly taken by a vote of a majority of the entire membership of the Commission pursuant to 5 U.S.C. 552b(d)(1) and in conformity with proposed 19 C.F.R. 201.37(d). The discussion to be held in closed session is within the specific exemption of 5 U.S.C. 552b(c)(6) and proposed 19 C.F.R. 201.37(b)(6).

By order of the Commission:

RUSSELL N. SHEWMAKER,
General Counsel.

Issued: December 17, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-37527 Filed 12-17-76;11:41 am]

[USITC SE-76-4]

MEETING

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on December 20, 1976, beginning at 10:00 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436. The Commission plans to consider the following agenda items in open session:

1. Color television receivers (Inv. 337-TA-23)—see action jackets GC-76-144, GC-76-146, and GC-76-156, and motion 23-37.

A majority of the entire membership of the Commission determined by recorded vote that Commission business requires that the meeting of December 20, 1976, be called with less than one week's prior notice and directed the issuance of this notice at the earliest practicable time.

If you have any questions concerning the agenda for the December 20, 1976, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Public access to any documents considered by the Commission at the meeting may be obtained under the provisions of Subpart C of the Commission's rules (19 C.F.R. 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 C.F.R. 201.39(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Issued: December 17, 1976.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc.76-37526 Filed 12-17-76;11:41 am]

V 41 245 DEC 20 76 UMI

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

Meeting

DECEMBER 13, 1976.

A meeting of the National Commission on New Technological Uses of Copyrighted Works will be held at 10 a.m. on January 13 and 9 a.m. on January 14, 1977, at the offices of the Commission, located in Room 910, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia. The proceedings will be devoted to the presentation of testimony providing information relating to the problems of photocopying of copyrighted materials. A preliminary agenda for the meeting is attached.

Various invited witnesses will testify on their ongoing activities relating to this subject. This is the second in a number of fact-finding hearings which will be held on the photocopying issue. The hearings will be open to the public.

All members of the public, including representatives of groups concerned, are invited to submit requests to present testimony in future hearings on this subject. Such request should be accompanied by brief written statements identifying the individual or group requesting to testify on the issue of photocopying of copyrighted materials and the evidence desired to be given.

All such requests should be addressed to Robert W. Frase, Assistant Executive Director, National Commission on New Technological Uses of Copyrighted Works, Washington, D.C. 20558.

ROBERT W. FRASE,
Assistant Executive Director,
CONTU..

PRELIMINARY AGENDA—ELEVENTH MEETING, JANUARY 13–14, 1977, ROOM 910, CONTU CONFERENCE ROOM, 1921 JEFFERSON DAVIS HIGHWAY, ARLINGTON, VIRGINIA

Thursday, Jan. 13, 1977 (Convene 10 a.m.)

10 a.m. to 11 a.m.--	Director or Deputy Director, National Agricultural Library—on provision of photocopies by the National Agricultural Library and its affiliated libraries.
11 a.m. to 12 noon-	Gerald Sophar, coauthor of the Halperin-Sophar 1967 study on photocopying.
12 noon to 2 p.m.--	Lunch (a group arrangement has been made).
2 p.m. to 3 p.m.----	Dr. Edward C. McIrvine; manager, technological assessment, Xerox Corp.—On the present and future technology of photocopying.
3 p.m. to 4 p.m.--	Ben Weil of the Exxon Corp.—The operations and requirements for access to scientific and technical materials of a large industrial research library.
4 p.m. to 5 p.m.----	Commission discussion.
5 p.m----------	Adjournment.

Friday, Jan. 14, 1977 (Convene 9 a.m.)

9 a.m. to 10:30 a.m.	William Knox, Director of the National Technical Information Service (NTIS)—The NTIS program for the supplying of authorized photocopies of journal articles.
10:30 a.m. to 11:30 a.m.	Charles Lieb, Esq., copyright attorney, Association of American Publishers—Views of the AAP on the supplying of authorized photocopies and the licensing of photocopying.
11:30 a.m. to 12:30 p.m.	Paul Zurkowski, Information Industry Association—Views of the IIA on the supplying of authorized photocopies and the licensing of photocopying.
12:30 p.m. to 2 p.m.	Lunch (no group arrangements have been made).
2 p.m. to 3 p.m----	Irwin Karp, Esq., attorney, Authors League of America—Recommendations of the Authors League on photocopying.
3 p.m. to 4 p.m.---	Commission discussion.
4 p.m----------	Adjournment.

[FR Doc.76–37291 Filed 12–17–76;8:45 am]

NATIONAL SCIENCE FOUNDATION

SCIENCE FOR CITIZENS

Availability of Draft Program Announcements

The National Science Foundation (NSF) announces the availability for review and comment of draft Program Announcements for Public Service Science Residencies and Public Service Science Internships. These Announcements have been prepared by the Science for Citizens program, in the Office of Science and Society, and are intended to facilitate the participation of experienced scientists and engineers as well as graduate and undergraduate students in helping the public understand science, engineering and technology and their impact on public policies..

All interested individuals are invited to present written comments to the Foundation. To be most useful, comments should be received by NSF by January 12, 1977, and should be addressed to:

Public Service Science, Residencies and Internships, Office of Science and Society, National Science Foundation, Washington, D.C. 20550.

The draft Program Announcements are included immediately following this notice.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

ANNOUNCEMENT OF PUBLIC SERVICE SCIENCE RESIDENCIES FOR SCIENTISTS AND ENGINEERS

As a means of improving the public understanding of science, engineering, and technology and their impact on public policies, the Science for Citizens program (SFC) will award approximately 15 "residencies" to facilitate the participation of experienced scientists and engineers in public service science activities.

General Description. "Public service science" is construed for the purposes of this program to mean participation in activities that contribute to the development and dissemination of facts, issues, and arguments relevant to public policy issues having significant scientific and technological aspects. These activities should be directed toward enabling citizens to reach informed decisions in matters of public policy affecting their daily lives, as consumers, workers, family members, and community residents, as well as matters of policy in broader social and political contexts.

In this experimental program, the Foundation hopes to encourage scientists and engineers to consider a wide range of alternative uses of their professional knowledge and skills. Appropriate projects may include (but are not limited to) research, writing, expert advice and other activities addressed to the needs of citizens, and informal educational activities for adults such as seminars, workshops, and public lectures. Residents may associate themselves with any of a similarly wide range of host organizations, including (for example) educational institutions, state and local government agencies and offices, professional associations and societies, trade unions and trade associations, and other groups that serve important public purposes.

The broadly educational and public service objectives of this program should be emphasized. In presenting their proposals, applicants are required to state clearly the contributions they expect to make to the improvement of public understanding. Proposals will not be considered whose primary purpose is the advocacy or support of particular positions in matters of public debate and controversy, or for which the principal purpose is private study, the development of formal curricular materials, or the preparation of publications for which payment will be received.

Applicants are responsible for making their own arrangements with an appropriate host institution. Applications must be accompanied by a letter of confirmation and endorsement from the proposed host which clearly indicates how the proposed project will coincide with those aspects of the institution's program that are specifically directed toward the stated goals of the SFC program.

Eligibility. Public Service Science Residencies will be offered only to persons who (1) are or will be citizens or nationals [1] of the United States as of August 15, 1977, and (2) will have earned by the beginning of their tenure a doctoral degree in the mathematical, physical, biological, medical (but not clinical), engineering, or social sciences, or have acquired equivalent professional experience and qualifications.

Persons who are required to comply with the registration requirements of section 308 (a) of the Federal Regulation of Lobbying Act (2 U.S.C. 267(a) are not eligible for awards under this announcement, nor may applicants serve their residencies with a host organization that is required to register under this Act, nor may Residents use funds granted under this Announcement for any activities that would be defined as lobbying under the terms of the Act.

[1] The term "national of the United States" designates a citizen of the United States or a native resident of a possession of the United States such as American Samoa. It does not refer to a citizen of another country who has applied for United States citizenship.

Tenure. The normal tenure of a Public Service Science Residency is 12 months. The residency may be interrupted provided that no single period of tenure is less than 3 months and that the entire residency is served within a 24-month period. Recipients of awards must begin their tenure within 18 months after the award is made. Exception to these policies may be made by the Foundation if sufficient reason can be shown.

Stipends. The stipend rate for Residents is $18,000 per year, prorated at $1,500 per month. This stipend is intended to allow full-time participation in the program during the tenure period, but not to provide an increase in pay above the Resident's regular salary. No travel or dependency allowances or other payments in addition to the basic stipend will be provided by the Foundation. The host institution or home institution of the Resident at its discretion may supplement the basic stipend up to a maximum of $25,000 per year, subject to prior approval by the Foundation. Except for this supplementation, a Resident may not accept additional remuneration from another fellowship or similar award.

Reports. Residents are required to submit both quarterly reports and a final report to the Foundation. The quarterly reports, which must be submitted within 15 days of completion of each 90-day period of time, may be brief summaries of activities and accomplishments. The final report, which must be submitted within 30 days of completion of tenure, is intended to help the Foundation evaluate the success of the residency program as a whole, and should be a full and reflective summary of the Resident's experience. The host institution will also be asked to submit a final report, and to indicate its willingness to do so in its letter of confirmation.

Conditions of Appointment. Residents are expected to devote their full time to the public service science activities on the basis of which they received their award. Any reduction of these activities to a less-than-full-time basis will result in termination of the award, and any major change in the activities program or tenure must receive prior approval from the Foundation. The award is also subject to termination if the Resident or the host institution discontinues an approved program prior to the end of the specified period of tenure.

This Announcement sets forth the basic conditions of appointment. In addition, residency awards are made subject to the provisions in the publication entitled Information for Public Service Science Residents (and any subsequent amendments thereto), which will be mailed to successful applicants.

Evaluation and Selection. The evaluation of applicants will be based on (1) the applicant's professional abilities, as evidenced by a curriculum vitae, letters of reference, and other indications of scientific and public service activities and competence, and (2) the potential contributions of the proposed activities to the public understanding of science, engineering and technology, as evidenced in the proposal itself and in its confirmation by the host institution.

In keeping with the experimental nature of the Science for Citizens program, awards will be balanced and diversified insofar as possible by type of activity, type of host institution, geographical location, and disciplinary specialty.

Applications will be screened initially by SFC program staff for conformity with program objectives and then submitted to peer review. Membership of each review panel will have balanced representation from the scientific and nonscientific communities and the public and private sectors, and will consist of scientists, experts on informal science education, and experts on the use of scientific information in the resolution of public policy issues.

Application Materials. To be eligible for consideration an application must be submitted on standard forms provided by the Foundation. Application forms and instructions may be obtained from:

Public Service Science Residencies, Office of Science and Society, National Science Foundation, Washington, D.C. 20550.

The deadline for filing applications is May 31, 1977. All applicants will be notified by letter of the disposition of their applications no later than September 15, 1977.

ANNOUNCEMENT OF PUBLIC SERVICE SCIENCE INTERNSHIPS

This Announcement is identical to the Residency Announcement with the following changes:

For each occurence of the words "resident" and "residency" substitute the "Intern" and "internship".

Introductory paragraph. Change to read:

• • • (SFC) will award approximately 20 internships to facilitate the participation of undergraduate and graduate students of science and engineering in public service science activities.

General Description. Change paragraph 2, line 1 to read:

In this experimental program, the Foundation hopes to encourage science and engineering students to consider a wide range of alternative applications of their educational skills and interests.

Eligibility. Change criterion (2) to read:

(2) Are enrolled in undergraduate or graduate-level programs in the mathematical, physical, biological, medical (but not clinical), engineering, or social sciences. Applicants must have completed three years of undergraduate study with a major in science or engineering by the time they expect to begin their internships, and must be enrolled in an accredited educational institution at the time of aplication.

Tenure. Change first two sentences to read:

The tenure of a Public Service Science Interim may range between 6 months and 12 months. The internship may be interrupted provided that no single period of tenure is less than 6 months and that the entire internship is served within a 24-month period.

Stipends. Change first paragraph to read:

The stipend rate for Interns is $5,000 per year, prorated at $420 per month.

Evaluation and Selection. Change criterion (1) to read:

(1) the applicant's academic record, curriculum vitae, and letters of reference.

[FR Doc.76–37213 Filed 12–17–76;8:45 am]

NATIONAL SCIENCE FOUNDATION

SUBPANEL FOR STUDENT-ORIGINATED STUDIES PROGRAM ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel for Student-Originated Studies Program.
Date and time: January 6–8, 1977, 9:00 a.m. to 5:00 p.m. each day.
Place: Sheraton Park Hotel, 2660 Woodley Road, N.W., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Max Ward, Program Manager, Student-Originated Studies Program, Room 400, National Science Foundation, 5225 Wisconsin Avenue, N.W., Washington, D.C. 20550, telephone (202) 282–7150.
Purpose of panel: To provide advice and recommendations concerning support for science education.
Agenda: To review and evaluate science education proposals and projects as part of the selection process for awards.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals, associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

[FR Doc.76–37253 Filed 12–17–76;8:45 am]

SUBPANEL FOR WOMEN IN SCIENCE PROGRAM ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel for Women in Science Program.
Date and time: January 12–14, 1977—Jan. 12, 7–10 p.m.; Jan. 13–14, 8:30 a.m. to 5 p.m.
Place: Quality Inn—Downtown, Massachusetts Avenue and Thomas Circle, NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Miss M. Joan Callanan, Program Manager, Women in Science, Room 406, National Science Foundation, 5225 Wisconsin Ave., NW., Washington, D.C. telephone (202) 282–7150.
Purpose of panel: To provide advice and recommendations concerning support for science education.
Agenda: To review and evaluate science education proposals and projects as part of the selection process for awards.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552 (b). Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.

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Authority to close meeting: This determination was made by the Committee Management Office pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.76-37254 Filed 12-17-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; REACTOR SAFETY STUDY WORKING GROUP

Meeting

As announced in the FEDERAL REGISTER (41 FR 52922, December 2, 1976), the ACRS Reactor Safety Study Working Group will meet on January 4, 1977, in Room 1046, 1717 H Street, N.W., Washington, DC 20555. The agenda will be the same as published in the FEDERAL REGISTER (41 FR 51482; November 22, 1976).

This meeting, originally scheduled to be held on December 8, 1976, was postponed to accommodate schedules of invited participants.

Dated: December 14, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-37198 Filed 12-17-76;8:45 am]

[Docket Nos. STN 50-556; STN 50-557]

PUBLIC SERVICE CO. OF OKLAHOMA AND ASSOCIATED ELECTRIC COOPERATIVE, INC.; BLACK FOX STATIONS, UNITS 1 AND 2

Second Prehearing Conference

Notice is hereby given, pursuant to § 2.751(a) of the U.S. Nuclear Regulatory Commission's Rules of Practice, 10 CFR Part 2, that a prehearing conference will be held in the above-identified proceeding at 10:00 a.m., in Bankruptcy Courtroom No. 2 on Thursday, January 6, 1977, at the U.S. District Courthouse, 333 West Fourth Street, Tulsa, Oklahoma 74103.

This prehearing conference will be conducted by the Atomic Safety and Licensing Board (the Board) established by the Commission to conduct this licensing proceeding which involves an application for construction permits for two (2) nuclear reactors in Oklahoma. This proposed facility has been designated as the Black Fox Station, Units 1 and 2.

The prehearing conference will deal with the following matters:

1. Oral argument on all outstanding petitions to intervene;
2. Oral argument on all outstanding motions;
3. Discussion of the status of discovery;
4. Discussion of the status of the established schedule for the proceeding;
5. Such other matters as it may aid in the orderly disposition of the proceeding.

Members of the public are invited to attend this prehearing conference as well as the evidentiary hearing which will be held at a later date to be fixed by the Board. Members of the public wishing to make limited appearances pursuant to § 2.715(a) of the Commission's Rules of Practice may identify themselves at this prehearing conference but oral or written statements to be presented by limited appearance will not be received at this conference. The Board will receive such limited appearances at the beginning of the evidentiary hearing, however.

Issued this 13th day of December, 1976, at Bethesda, Maryland.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.76-37199 Filed 12-17-76;8:45 am]

REGULATORY GUIDE 1.90, "INSERVICE INSPECTION OF PRESTRESSED CONCRETE CONTAINMENT STRUCTURES WITH GROUTED TENDONS"

Public Meeting

The Nuclear Regulatory Commission staff will conduct a public meeting to discuss the proposed Revision 1 of Regulatory Guide 1.90, "Inservice Inspection of Prestressed Concrete Containment Structures with Grouted Tendons." The guide is one of a series of guides developed for the implementation of the Commission's regulation 10 CFR Part 50, Appendix A—"General Design Criteria for Nuclear Power Plants."

Regulatory Guide 1.90 provides guidelines for developing acceptable programs for inspecting prestressed concrete containment structures with grouted tendons. The version of the guide to be discussed at the meeting will be Draft 9 of Revision 1, which has been placed in the Public Document Room. This includes a number of changes from both the November 1974, "For Comment" issue and Draft 6, dated June 4, 1976 which was discussed at an open meeting of the ACRS Subcommittee on Regulatory Guides on July 7, 1976. Draft 9 of the guide is available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Single copies (which may be reproduced) may be obtained upon written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The meeting will be held on January 25, 1977, in Room P-118 of the Commission's Offices at 7920 Norfolk Avenue, Bethesda, Maryland, from 9:30 a.m. to 4:00 p.m. Representatives of the Offices of Standards Development, Nuclear Reactor Regulation, and Inspection and Enforcement will be present.

The meeting is intended to provide opportunities for the NRC staff and other interested persons to discuss the content of the guide. Written comments may be submitted to the Commission staff at the meeting or may be sent (at any time) to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Interested persons are invited to attend the meeting and provide comments and suggestions on specific provisions of the guide. Opportunity will also be provided for any person who would like to make oral statements on the content of the guide. Any person who intends to make an oral statement should notify Mr. Hans Ashar, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-6927, by January 18, 1977. It is expected that oral statements will be limited to ten minutes. Persons desiring additional information or the meeting agenda should also contact Mr. Ashar.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 13th day of December 1976.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director,
Office of Standards Development.

[FR Doc. 76-87200 Filed 12-17-76;8:45 am]

PRIVACY ACT OF 1974

Notices of Systems of Records; Exemptions

On August 19, 1976, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (41 FR 35073) a notice proposing to amend 10 CFR Part 9 of its regulations to exempt from certain requirements of the Privacy Act portions of the NRC systems of records NRC-1, "Appointment and Promotion Certificate Records." The exemptions are intended to protect investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under a promise of confidentiality, as provided by 5 U.S.C. 552a (k) (5).

The notice included a statement that an appropriate exemption, pursuant to 5 U.S.C. 552a(k)(5), of the NRC system of records NRC-1 to conform with the amendment of 10 CFR 9.95 will be published when final action is taken on the proposed amendment of 10 CFR 9.95. The amendment of NRC-1 also amends the categories of records in the system to describe more precisely the particular types of records therein and amends the paragraph on retrievability to clarify that records are accessed by name as well as by numbers associated with names.

By separate notice the Commission is publishing in effective form the amendment to 10 CFR 9.95. (See the Rules section of todays FEDERAL REGISTER).

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552, 552a, and 553 of Title 5 of the United States Code, as amended, the following amendments to the Notices of Systems of Records are published as a document subject to publication in the annual compilation of Privacy Act documents.

1. In NRC-1, the following paragraph is added following the paragraph entitled "System name", and the paragraphs entitled "Categories of records in the system" and "Retrievability" are revised to read as follows:

NRC-1

System Name:

Appointment and Promotion Certificate Records—NRC

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G); (H), and (I), and (f). The exemption rule is contained in Section 9.95 of the NRC regulation (10 CFR 9.95).

* * * * *

Categories of records in the system:

This system of records contains career opportunity announcements, applications for vacancies, supervisory evaluation forms, performance appraisals, the results of reference checks, candidate evaluation certification and selection forms and related correspondence.

* * * * *

Retrievability:

Information accessed by name and numbers associated with names.

* * * * *

Effective date: These amendments to the Notices of Systems of Records become effective on December 20, 1976.

Dated at Bethesda, Maryland this 11th day of November 1976.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.76-37336 Filed 12-17-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Proposed Meetings

In order to provide advance information regarding proposed meetings of ACRS Subcommittees and Working Groups and of the full Committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published in FR Vol. 41, November 22, 1976, page 51482. Those meetings that are definitely scheduled have had, or will have, an individual notice published in the FR approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. Information as to whether a meeting has been firmly scheduled, cancelled or rescheduled, or whether changes have been made in the agenda for the January 6-8, 1977 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EST.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Emergency Core Cooling System*, December 21, 1976, Washington, DC (rescheduled from November 6, 1976) to review Exxon Nuclear Company, Inc. analytical models formulated to meet current ECCS criteria for fuel fabricated by Exxon for pressurized water reactors with ice condensers and for non-jet-pump boiling water reactors, and to review the application of these models to the Donald C. Cook, Unit No. 1 and the Oyster Creek, Unit No. 1, Nuclear Power Plants. Notice of this meeting was published in FR Vol. 41, December 6, 1976, page 53377.

**Davis-Besse Nuclear Power Station, Unit 1*, December 21, 1976, Washington, DC to review the application of the Toledo Edison Company for an operating license. Notice of this meeting was published in FR Vol. 41, December 6, 1976, page 53376.

**Donald C. Cook Nuclear Power Plant, Unit No. 1*, December 22, 1976, Washington, DC to continue the review of the Exxon Nuclear Company, Inc., fuel reload, the related emergency core cooling system analysis, and other items to determine if the plant should be allowed to operate at a 100% power level following refueling. Notice of this meeting was published in FR Vol. 41, December 6, 1976, page 53377.

**Reactor Safety Study*, January 4, 1976 (rescheduled from December 8, 1976) Washington, D.C. to continue the review of WASH-1400 (NUREG-75/014), "An Assessment of Accident Risks in U.S. Commercial Nuclear Power Plants." Notices of this meeting were published in FR Vol. 41, November 22, 1976, page 51482 and December 2, 1976, page 52922.

**Regulatory Activities* (previously titled Regulatory Guides), January 5, 1977, Washington, D.C. to review working papers regarding future Regulatory Guides and proposed changes to existing Guides. Also, to discuss activities which affect the current licensing process or reactor operations including matters relating to the Babcock and Wilcox reactor surveillance program and to steam generator operational problems.

**North Anna Power Station, Units 1 and 2*, January 5, 1977, Washington, D.C. to develop information for consideration by the ACRS in its continuing review of the application of the Virginia Electric and Power Company for a license to operate North Anna Power Station, Units 1 and 2.

**Clinch River Breeder Reactor*, January 12-13, 1977, New Stanton, Pa. An Ad Hoc Working Group of this Subcommittee will meet to gather factual information on the thermal hydraulic design of the nuclear power plant to aid the ACRS in its review of the application of the U.S. Energy Research and Development Administration, the Tennessee Valley Authority, and the Project Management Corporation for a permit to construct the Clinch River Breeder Reactor.

**Cherokee Nuclear Station, Units 1, 2, and 3, and Perkins Nuclear Station, Units 1, 2, and 3*, January 19, 1977, Charlotte, N.C. to review the application of the Duke Power Company for a permit to construct these Units.

**Transportation of Radioactive Materials*, January 25, 1977, Chicago, Ill. (rescheduled from November 4, 1976) to review public comments on NUREG-0034, "Draft Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes."

**Enrico Fermi Atomic Power Plant, Unit No. 2*, January 27, 1977, Detroit, MI to review the application of the Detroit Edison Company for an operating license for Enrico Fermi Atomic Power Plant, Unit No. 2.

**Blue Hills Station, Units 1 and 2*, January 28, 1977, Beaumont, TX to review the application of Gulf States Utility Company for an early site review.

**Seismic Activity*, February 8-9, 1977, Washington, DC to discuss Appendix A to 10 CFR 100 and the derivation of earthquake response spectra.

**Regulatory Activities*, February 9, 1977, Washington, D.C. to review working papers regarding future Regulatory Guides and proposed changes to existing Guides. Also, to discuss pertinent activities which affect the current licensing process and/or reactor operations.

FULL COMMITTEE MEETINGS

JANUARY 6-8, 1977

A. *Davis-Besse Nuclear Power Station, Unit No. 1—Operating License Review
B. *North Anna Power Station, Units No. 1 and No. 2—Operating License Review
C. *Donald C. Cook Nuclear Power Plant, Unit No. 1—Full Power Operation Approval
D. *Exxon Nuclear Company, Inc.—Review of ECCS Evaluation Model.

FEBRUARY 10-12, 1977

Agenda to be announced.

Dated December 15, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-37362 Filed 12-17-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS AD HOC WORKING GROUP OF THE SUBCOMMITTEE ON THE CLINCH RIVER BREEDER REACTOR

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), an Ad Hoc Working Group of the ACRS Subcommittee on the Clinch River Breeder Reactor will hold a meeting on January 12-13, 1977 at the Inn America, I-70 and 119, New Stanton, PA 15672. The Advisory Committee on Reactor Safeguards will review the application of the U.S. Energy Research and Development Administration, the Tennessee Valley Authority, and the Project Management Corporation (hereafter referred to as the CRBR Project Office) for a permit to construct the Clinch River Breeder Reactor. The purpose of this meeting of the Ad Hoc Working Group will be to gather factual information on thermal hydraulic design of the nuclear power plant to aid the Committee in its review.

The agenda for subject meeting shall be as follows:

Wednesday, January 12, 1977—8 a.m. until approximately 5 p.m.

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Thursday, January 13, 1977—8 a.m. until conclusion of business.

The Ad Hoc Working Group will meet in open session to discuss with representatives of the NRC Staff and the CRBR Project Office and its consultants the thermal hydraulic aspects of the CRBR design.

It may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring with the NRC Staff and Applicant matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that it is necessary to conduct the above closed sessions to protect confidential proprietary information (5 U.S.C. 552 (b)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than January 5, 1977 to Mr. Thomas G. McCreless, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555; at the Oak Ridge Public Library, Civic Center, Oak Ridge, TN 37830; and at the Lawson McGhee Public Library, 500 W. Church St., Knoxville, TN 37902.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Working Group.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on January 11, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. Thomas G. McCreless) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Thomas G. McCreless of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection on or after January 21, 1977 at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555; at the Oak Ridge Public Library, Civic Center, Oak Ridge, TN 37830; and at the Lawson McGhee Public Library, 500 W. Church St., Knoxville, TN 37902.

A copy of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555 after April 13, 1977.

Copies may be obtained upon payment of appropriate charges.

Dated: December 15, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-37363 Filed 12-17-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE NORTH ANNA POWER STATION UNITS 1 AND 2

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the North Anna Power Station, Units 1 and 2, will hold a meeting on January 5, 1977 in Room 1046, 1717 H Street NW., Washington, D.C. 20555. The purpose of this meeting is to continue the review of the application of the Virginia Electric and Power Company for a license to operate Units 1 and 2.

The agenda for subject meeting shall be as follows:

WEDNESDAY, JANUARY 5, 1977

8:30 a.m.–9:00 a.m. The Subcommittee will meet in open Executive Session, with any of its consultants who may be present, to explore their preliminary opinions, based upon their independent review of safety reports, regarding matters which should be considered in order to formulate a Subcommittee report and recommendations to the full Committee.

9:00 a.m. until the conclusion of business. The Subcommittee will meet in open session to hear presentations by representatives of the NRC Staff, the Virginia Electric and Power Company, and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee. Upon conclusion of this caucus, the Subcommittee will announce its determination.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and Applicant matters involving proprietary information, particularly with regard to specific features of the plant design and plans related to plant security.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that it is necessary to conduct the above closed sessions to protect confidential proprietary information (5 U.S.C. 552 (b)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in

a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than December 29, 1976, to Mr. R. Muller, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, D.C. 20555; at the Office of the County Administrator, Board of Supervisors, Louisa County Courthouse, Louisa, VA 23093; and at the Manuscripts Department, University of Virginia, Charlottesville, VA 22901.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on January 4, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. R. Muller) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. R. Muller of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection on or after January 12, 1977 at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555; at the Office of the County Administrator, Board of Supervisors, Louisa County Courthouse, Louisa, VA 20393; and at the Manuscripts Department, University of Virginia, Charlottesville, VA 22901.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, D.C. 20555 after April 5, 1977.

Copies may be obtained upon payment of appropriate charges.

Dated: December 15, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 76-37364 Filed 12-17-76; 8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on January 6-8, 1977, in Room 1046, 1717 H Street, NW, Washington, DC.

The agenda for the subject meeting will be as follows:

THURSDAY, JANUARY 6, 1977

8:30 A.M.–9 A.M.: EXECUTIVE SESSION (OPEN)

The Committee will discuss the status of its activities with respect to several generic matters including safeguards provisions related to nuclear facilities; environmental effects of the light water reactor fuel cycle; and review of proposed NRC siting policy. The Committee will discuss the disciplines required to conduct an ACRS review.

9 A.M.–9:15 A.M.: EXECUTIVE SESSION (CLOSED)

The Committee will meet in closed executive session to exchange and discuss the personal opinions of individual members leading to the formulation of advice and recommendations regarding selection of candidates for appointment to the ACRS and the classification of safeguards information related to nuclear facilities.

9:15 A.M.–9:45 A.M.: EXECUTIVE SESSION (OPEN)

The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present regarding the request for an Operating License for the Davis Besse Nuclear Power Station. Portions of this session will be closed if required to discuss Proprietary Information related to this plant and safeguards provisions for this Station.

9:45 A.M.–12:30 P.M.: DAVIS BESSE NUCLEAR POWER STATION (OPEN)

The Committee will hear presentations of the NRC Staff and the Applicant related to the request for an Operating License for this Station. Portions of this session will be closed if required to discuss Proprietary Information related to this Station and to discuss safeguards provisions for this plant.

1:30 P.M.–2:30 P.M.: ACRS MEETING WITH NRC COMMISSIONERS (OPEN/CLOSED)

The Committee will meet with the Commissioners in open session to discuss the status of ACRS activities with respect to several generic matters including safeguards provisions for nuclear facilities, the environmental effects of the LWR fuel cycle and review of NRC siting policy.

The Committee will meet with the Commissioners in closed session to discuss the classification of safeguards information related to nuclear facilities and the basis for selection of ACRS members.

2:30 P.M.–3 P.M.: EXECUTIVE SESSION (OPEN)

The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present regarding the request for an Operating License for the North Anna Power Station Units 1 and 2. Portions of this session will be closed if required to discuss Proprietary Information related to this plant and safeguards provisions for this Station.

3 P.M.–7:15 P.M.: NORTH ANNA POWER STATION UNITS 1 AND 2

The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and the Applicant related to the request for an Operating License for this Station. Portions of this session will be closed if required to discuss Proprietary Information related to this plant and safeguards provisions for this Station.

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FRIDAY, JANUARY 7, 1977

8:30 A.M.–9:30 A.M.: EXECUTIVE SESSION (OPEN)

The Committee will hear and discuss the report of the ACRS Subcommittee on Regulatory Activities. This will include discussion of proposed Regulatory Guides and regulatory activities such as evaluation of steam generator tube integrity for pressurized water reactors; radiation surveillance programs in Babcock and Wilcox Company pressurized water reactors, and proposed review of the seismic design basis for the San Onofre Nuclear Generating Station Unit 1 and the Humboldt Bay Nuclear Plant Unit 3.

9:30 A.M.–12 NOON: MEETING WITH REPRESENTATIVES OF THE NRC STAFF (OPEN)

The Committee will meet with representatives of the NRC Staff to hear presentations and to discuss matters related to resolution of selected safety issues related to light water reactors, the NRC–ACRS decisionmaking process, recent reactor operating experience and licensing actions, and the future schedule for ACRS activities. Members of the Staff will report to the ACRS regarding safety research in the Federal Republic of Germany related to reactor containment.

1 P.M.–1:45 P.M.: EXECUTIVE SESSION (OPEN)

The Committee will hear and discuss the reports of its Subcommittees and consultants who may be present regarding the request for approval of Exxon Nuclear Company reload fuel for pressurized water reactors and for operation of the Donald C. Cook Nuclear Plant Unit 1 with Exxon Nuclear Company reload fuel. Portions of this session will be closed if required to discuss Proprietary Information regarding these matters and safeguards provisions related to the Donald C. Cook Nuclear Plant.

1:45 P.M.–3 P.M.: EXXON NUCLEAR COMPANY RELOAD FUEL FOR PRESSURIZED WATER REACTORS (OPEN)

The Committee will hear presentations by and hold discusions with representatives of the NRC Staff and the Exxon Nuclear Company regarding proposed reload fuel for use in pressurized water reactors. Portions of this session will be closed if required to review Proprietary Information related to the design, fabrication or operation of this type fuel.

3 P.M.–5:30 P.M.: DONALD C. COOK NUCLEAR PLANT UNIT 1 (OPEN)

The Committee will hear presentations by and hold discusions with representatives of the NRC Staff and the Applicant regarding the operation of the Donald C. Cook Nuclear Plant at full power with reload fuel provided by the Exxon Nuclear Company. Portions of this session will be closed if necessary to discuss Proprietary Information related to this plant and safeguards provisions for this Station.

5:30 P.M.–6:30 P.M.: EXECUTIVE SESSION (CLOSED)

This portion of the meeting will be closed to discuss prospective candidates for appointment to the Committee.

SATURDAY, JANUARY 8, 1977

8:30 A.M.–4 P.M.: EXECUTIVE SESSION (CLOSED)

The Committee will meet in closed executive session to exchange and discuss personal opinions and recommendations leading to the formulation of advice with respect to items considered at this meeting. Proposed ACRS activities and reports on generic matters such as the environmental effects of the LWR fuel cycle and selected safety issues related to LWR reactors will be discussed.

I have determined in accordance with Subsection 10(d) of Public Law 92–463 that it is necessary to close portions of the meeting as noted above to protect material, which has been designated national security information and is classified unded E.O. No. 11652 (5 U.S.C 552 (b)(1)), and to protect proprietary data (5 U.S.C. 552(b)(4)), to protect the free exchange of opinion during the Committee's deliberative process (5 U.S.C. 552 (b)(5)), and discussion of information which, if written, would fall within the provisions of exemption 5 of 5 U.S.C. 552 (b) (5 U.S.C. 552(b)(5)), to preserve the confidentiality of procedures for the protection of information related to safeguarding of special nuclear material and the basis for appointment of ACRS members which is intra-agency and/or personnel policy information (5 U.S.C. 552 (b)(2) and (5)), and to protect information which, if released, would represent an undue invasion of privacy (5 U.S.C. 552(b)(6)). These closed sessions will consist primarily of deliberative discussion among the Committee members leading to the formulation of advice and recommendations to the Nuclear Regulatory Commission. Separation of factual information and information considered exempt from disclosure under exemption (1), exemption (2), exemption (4), exemption (5), and exemption (6) of 5 U.S.C. 552(b) from the individual advice, opinion or recommendations of ACRS members and consultants during this discussion is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than December 22, 1976, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, DC 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the following Public Document Rooms:

DAVIS BESSE NUCLEAR POWER STATION

Ida Rupp Public Library, 310 Madison Street, Port Clinton, OH 43452.

NORTH ANNA STATIONS UNITS 1 AND 2

1. Louisa County Courthouse, Louisa, VA 23093.
2. Alderman Library, University of Vigrinia, Charlottesville, VA 22901.

D.C. COOK UNIT 1

Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on January 5, 1977, to the Office of the Executive Director of the Committee (Telephone: 202–634–1371) between 8:15 a.m. and 5 p.m., Eastern Time. It should be noted that the above schedule is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on January 5, 1977.

(d) Questions may be propounded only by members of the Committee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC, on or after April 10, 1977. Copies may be obtained upon payment of appropriate charges.

SAMUEL J. CHILK,
Secretary of the Commission.

DECEMBER 17, 1976.

[FR Doc.76–37493 Filed 12–17–76;10:03 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY ACTIVITIES

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards Subcommittee on Regulatory Activities will hold a meeting on January 5, 1977 in Room 1062, 1717 H Street, N.W., Washington, DC 20555.

The agenda for the above meeting will be as follows:

WEDNESDAY, JANUARY 5, 1977

(A) 8:45 A.M. UNTIL ABOUT 10:30 A.M. (OPEN)

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following items:

(1) Regulatory Guide 1.89, "Qualification of Class 1E Equipment for Nuclear Power Plants."

(2) A Working Paper, Regulatory Guide 1.XX, "Physical Models for Design and Operation of Hydraulic Structures and Systems for Nuclear Power Plants."

(B) 10:30 A.M. UNTIL THE CLOSE OF BUSINESS. (OPEN)

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to activities which affect the current licensing process or reactor operations, including those relating to the following:

(1) Babcock and Wilcox reactor surveillance program.

(2) Steam generator operational problems.

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed during this session.

Portions of this session may be closed if required to discuss proprietary material related to the design, construction, or operation of specific equipment.

I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that it may be necessary to close portions of the meeting as noted above to protect proprietary data under 5 U.S.C. 552(b)(4).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(A) Persons wishing to submit written statements regarding Regulatory Guide 1.89 may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than December 29, 1976 to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

(B) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(C) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5 p.m., EST.

(D) Questions may be propounded only by members of the Subcommittee and its consultants.

(E) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(F) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmaton that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. G. R. Quittschreiber of the ACRS Office, prior to the beginning of the meeting.

(G) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection at the NRC Public Document Room, 1717 H St., NW., Washington, DC 20555 on or after January 12, 1977, and April 5, 1977, respectively.

Copies may be obtained upon payment of appropriate charges.

Dated: December 16, 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76–37492 Filed 12–17–76;10:03 am]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

ACQUISITION OF COMMERCIAL PRODUCTS POLICY

Implementation Guidelines

Notice is given that the Office of Federal Procurement Policy, OMB, has issued guidance to the Secretary of Defense, Administrator of Veterans Affairs, and Administrator of General Services for implementing commercial products acquisition policy (planning and analysis phase).

In the FEDERAL REGISTER Vol. 41, No. 143, July 23, 1976 41 FR 30405, stated that the Office of Federal Procurement

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Policy, OMB, on a broader scale than envisioned by Commission on Government Procurement Recommendation D–6 (procurement, storage and distribution of commercial products used by Federal agencies), "is thoroughly examining the procurement and supply processes to effect appropriate revisions thereto, with the objective of implementing the policy set forth below."

"The Government will purchase commercial, off-the-shelf, products when such products will adequately serve the Government's requirements, provided such products have an established commercial market acceptability. The Government will utilize commercial distribution channels in supplying commercial products to its users.

A full text copy of the document setting forth referenced guidance is included in this notice for those interested.

Dated: December 9, 1976.

HUGH E. WITT,
Administrator.

MEMORANDUM FOR: SECRETARY OF DEFENSE, ADMINISTRATOR OF VETERANS AFFAIRS, ADMINISTRATOR OF GENERAL SERVICES

SUBJECTS: INCREMENTAL IMPLEMENTATION OF POLICY ON PROCUREMENT AND SUPPLY OF COMMERCIAL PRODUCTS—PLANNING AND ANALYSIS PHASE

My memorandum of May 24, 1976 to you announced a fundamental change in direction in the procurement and supply of commercial products. In this correspondence, I concluded that the procurement and supply processes of the executive branch must be thoroughly examined and necessary revisions made to effectively implement the following policy:

The Government will purchase commercial, off-the-shelf, products when such products will adequately serve the Government's requirements, provided such products have an established commercial market acceptability. The Government will utilize commercial distribution channels in supplying commercial products to its users.

The attached guidance initiates the planning and analysis vital to the implementation of this policy. The document contains directions for accomplishing this phase and includes the first increment of items selected for action. We understand that the Department of Defense is developing another list of items for analysis under the aegis of this policy as a part of its Commercial Commodity Acquisition Program (CCAP).

Good communication is indispensible to the success of the program on which we are embarking. Accordingly, I have asked the Interagency Steering Group (ISG) to work closely with the participants to facilitate the prompt and effective solution of problems which may emerge. Mr. Daniel S. Wilson (telephone 202/395–4946), my Special Assistant and Chairman of the ISG, is available for any assistance required for either this program or CCAP.

I am convinced that we are on the right track. Your support will enable us to achieve the favorable results that are anticipated when the policy on the procurement and supply of commercial products is fully implemented.

HUGH E. WITT,
Administrator.

ATTACHMENT

GUIDANCE FOR INCREMENTAL IMPLEMENTATION OF POLICY ON PROCUREMENT AND SUPPLY OF COMMERCIAL PRODUCTS—PLANNING AND ANALYSIS PHASE

1. *Purpose.* This document furnishes information and guidance for the planning and analysis necessary to implement the executive branch policy on the procurement and supply of commercial products.

2. *Background.* By memo, May 24, 1976, to the Secretary of Defense, Administrator of Veterans Affairs, and Administrator of General Services, the Administrator for Federal Procurement Policy established a commercial product acquisition policy and an interagency steering group (ISG) to develop implementation procedures. Membership of the ISG follows:

Mr. Daniel S. Wilson, Chairman, Special Assistant to the Administrator for Federal Procurement Policy (OFPP), Office of Management and Budget.

CDR O. E. Mandel, Standardization and Support Directorate, Office of Deputy Assistant Secretary of Defense (Materiel Acquisition), Installations and Logistics, Department of Defense.

Mr. R. F. Rozycki, Staff Director, Supply Policy and Programs Division, Office of Deputy Assistant Secretary of Defense, (Supply, Maintenance and Services), Installations and Logistics, Department of Defense.

Mr. Robert Dinnerville, Senior Contracting Specialist, Supply Service, Department of Medicine and Surgery, Veterans Administration.

Mr. John A. Battan, Director, Federal Supply Schedule Management Division, Federal Supply Services, General Services Administration.

The mandate to the ISG specifies that the procurement and supply process of the executive branch must be thoroughly examined and appropriate revisions made with the objective of implementing the following policy stipulated by the May 24, 1976 memorandum:

The Government will purchase commercial, off-the-shelf, products when such products will adequately serve the Government's requirements, provided such products have an established commercial market acceptability. The Government will utilize commercial distribution channels in supplying commercial products to its users.

3. *Policy Objectives.*—a. Maximum use of commercial distribution channels.

b. Reduction in the number of Government stocked commercial items.

c. Elimination of all unnecessary Government specifications for commercial products or the packaging of these items.

d. Where Government specifications cannot be eliminated, tailor such specifications to reflect commercial practices to the maximum extent possible.

4. *Definitions.*—a. "Commercial, off-the-shelf, product" (hereinafter referred to as "commercial product") means a commercially developed product in regular production sold in substantial quantities to the general public and/or industry at an established market or catalog price.

b. "Commercial-type product" means a Government peculiar product which, though appearing to be a commercial product, is produced in accordance with a Government specification. The product is subjected to some physicial change or addition and/or packaged and identified differently than its normal commercial product counterpart. It is usually stocked centrally by the Government because its unique nature precludes production for regular commercial distribution and supply.

c. "Established commercial market acceptability" relates to commercial products that are currently marketed in substantial quantities for the general public and/or industry. These marketed items involve commercial sales that predominate over Government purchases. To have become acceptable in the market place, products must have been priced competitively and performed acceptably, as judged by a wide range of users.

d. "Government specification" means a Federal, military or departmental document used to describe the design and/or the performance of a product.

e. "Commercial specification and standard" describes a product, a family of products, or a process used by a broad section of the public and industry. These documents are developed by non-Government bodies such as nationally recognized industry associations, standards associations and professional technical societies.

5. *Procedure—Planning and Analysis Phase.*—a. The responsible agency will develop a general plan for procuring and supporting commercial items. Completed plans will be submitted to the Administrator for Federal Procurement Policy. Necessary coordination will be performed by the ISG.

b. In performing the analysis of the attached list of items, agencies will thoroughly examine the procurement and supply processes to identify any constraints to the effective purchase and distribution of commercial products in accordance with the policy. This examination will cover the following:

(1) Requirements forecast planning.
(2) Commercial distribution channels (through what channel could the user get his requirement, what has to be accomplished with commercial distribution channels to tie-in with the Government requisitioning system, how is demand data accurately gathered for maximum fill?).
(3) Marketing research requirements to develop appropriate sources for procurement, distribution and support.
(4) Transition and draw down of inventory.
(5) Optimum procurement methodology (simplicity, flexibility, reduced paperwork, improved management of supply schedules, maximum discounts on bulk buys, decision to centralize or decentralize purchases).
(6) Specifications.
(7) Management of warranties.
(8) Socioeconomic impact (small business, Federal Prison Industries, Inc., Blind Made and Other Severely Handicapped, etc.).
(9) Constraints (specifications, regulations, procedures, statutes, etc.).
(10) Billing/payment.
(11) Stock Fund/Supply Fund considerations.
(12) Procurement data.
(13) Standardization program impact.
(14) Training.
(15) Product inspection, testing and evaluation.
(16) Capability to determine effectiveness of commercial products procurement and supply support.
(17) Exceptions for war planning and military readiness.
(18) Other areas deemed vital to implementation, such as lead-time, economic considerations that may support distribution through the depot system, etc.

c. Participating activities will submit to their ISG member a concise narrative outlining the results of their planning and analysis of items as frequently as is necessary to produce a decision at the appropriate level. For example:

(1) In those situations where there are no impediments to the procurement and distribution of the commercial product, a description of actions in process will be helpful in solving problems experienced by other participants or in arriving at a decision to proceed with implementation.

(2) If there is a procedural barrier to implementation, a complete evaluation will be made, with appropriate recommendations to the ISG member as to what is needed to make a decision. In other words, if a regulation, procedure, statute, or decision prevents buying and distributing the product commercially, changes necessary to enable the activity to proceed shall be identified.

d. The ISG will review agency planning and analysis activities so that problems can be evaluated and resolved expeditiously.

e. Six months after the analysis starts (or sooner if trends develop), changes to regulations or statutes should be initiated, and revised guidelines, as appropriate, issued by the OFPP. As progress permits, additional groups of products will be prepared, and the process of implementation will be continuous.

6. *General Guidance—Planning and Analysis Phase.*—a. Regulations concerning the procurement and supply of commercial products should not be changed until sufficient experience has been gained during the incremental implementation (planning and analysis phase) of the policy to provide a sound basis for making such changes.

b. Centrally managed supply systems will continue to function as they do today but with increased management attention to the commercial product policy. For example, some indicated management actions are:

(1) Warehouse inventories of commercial products under this program will be drawn down in favor of direct commercial distribution and support to the user. A progressive but nondisruptive phaseout must be accomplished when converting from Government to commercial distribution channels.

(2) Large volume procurements may require improved mechanisms for obtaining volume discounts.

(3) The Government will coordinate its forecasted demands with industry to insure maximum fill consistently.

(4) Commercial delivery systems should be compatible with Government requisitioning procedures.

(5) Marketing research techniques will be required to gather data on products, including quality, prices, producers, distribution channels, and equitable formulas for the selection of qualified products.

(6) Improved management of warranties.

c. Commercial products will be preferred, without embellishments or changes that result in a commercial-type item.

d. Specifications.

(1) Eliminate overly stringent Government specifications and build a system of purchase item descriptions with an update system to simplify the competitive purchases of commercial products. There is a need for a closer interface of requirements developers, specification writers, and industry to accomplish this task.

(2) Government specifications which unnecessarily fragment features of market-accepted commercial products, and thereby create a commercial-type item, are not acceptable.

e. As appropriate, representatives from the private sector will be invited to exchange views and/or recommendations upon selection and initiation of action on classes or groups of items in their areas of interest.

7. *Administrative support.*—a. Administrative support for the Interagency Steering Group, including conference rooms, document preparation, and records will be provided by the OFPP.

b. Administrative support for individual ISG members and subsequent flow down will be by the appropriate agency. Pay and travel expenses for all individuals concerned will be paid by the employing agency.

MEMORANDUM FOR: SECRETARY OF DEFENSE, ADMINISTRATOR OF VETERANS AFFAIRS, ADMINISTRATOR OF GENERAL SERVICES

SUBJECT: PROCUREMENT AND SUPPLY OF COMMERCIAL PRODUCTS

MAY 24, 1976.

Over the years, the trend in development of Government procurement and supply processes has been toward more explicit preferences for the use of Government specifications to acquire commercial-type products even when commercial, off-the-shelf, products have been available to fulfill agency requirements. I am convinced of the need for a fundamental change in this direction. The Government must now emphasize the acquisition of commercial, off-the-shelf, products in order to achieve optimal effectiveness in supply support operations.

Federal Government expenditures for commercial and commercial-type products will command a sizeable portion of over $66 billion estimated for Federal procurement in FY 1977. In addition to these expenditures, there are extensive costs associated with requirement and specification development, purchasing and contracting, warehouse operations, transportation, distribution, administrative handling and inventory investment. Because of the magnitude and dollar volume of the Government's requirements for commercial products, it is essential that the task of providing supply support reflects an approach that conforms to basic policy objectives of the Government.

Most commercial products have a low unit cost, but they number in the millions, are repetitively purchased, and their procurement and supply involve every agency of the Government as well as broad interface between the public and private sectors of the economy. The Commission on Government Procurement recognized the need for new direction in this area, devoting a major portion of its study efforts to the Government's acquisition of commercial products. A number of significant recommendations were included in the Commission's final report. These reflected the application of the Commission's conclusion that there was a "need for a shift in fundamental philosophy relative to commercial product procurement • • • ." The attached paper, which confirms the Commission's conclusion, discusses the background and current practices of the Government in its procurement and supply of commercial products, identifies the direction for a shift in philosophy, and points to the potential benefits available to the Government from playing a less structured role in the commercial marketplace.

The paper points to a need to distinguish between the acquisition of commercial, off-the-shelf products, and the acquisition of commercial-type products which, being tailored to meet Government specifications, are not available through commercial distribution channels. The importance attached to this need stems from a recognition that the acquisition of commercial-type products normally carries with it the burdensome obligations of Government storage, handling and distribution which duplicate available commercial warehousing and delivery systems. Not only are such duplications costly, but the competition with private industry is contrary to established policy that the Government should rely on the private enterprise system for the commercial/industrial type products and services it requires.

New direction is also needed in procurement to enable the Government to take fullest advantage of manufacturers' quality assurance, warranties and repair services, where these have established reliability in the commercial market, and to enable contracting officers to purchase commercial products competitively, with quantity discounts, relying upon commercial rather than Government specifications.

After thorough consideration of these matters, I have concluded that the procurement and supply processes of the executive branch must be thoroughly examined and appropriate revisions made with the objective of implementing the following policy:

The Government will purchase commercial, off-the-shelf, products when such products will adequately serve the Government's requirements, provided such products have an established commercial market acceptability. The Government will utilize commercial distribution channels in supplying commercial products to its users.

The application of this policy will require innovative management, calling for the development of administrative and, in some instances, legal mechanisms to ensure its timely and viable implementation. Essentially, however, all that stands between the policy, as a concept, and its realization is the necessary commitment on the part of professional logisticians to seek out and apply imaginative mechanisms which will permit the Federal Government to realize the benefits available from this shift in philosophy.

We fully recognize the size and complexity of this task, and that a uniform approach to implementation is essential to assure a high probability of success. Therefore, it is requested that you designate a representative to participate with an OFPP sponsored interagency steering group to develop implementation procedures which, ultimately, will be coordinated with all concerned agencies prior to finalization. Please furnish the name, title, organization and telephone number of your designee by June 7, 1976. I have appointed, as chairman of the interagency steering group, Mr. Daniel S. Wilson, Special Assistant to the Administrator (OFPP), telephone (202) 395–4946 or Code 103–4946.

HUGH E. WITT.
Administrator.

NEW DIRECTION FOR THE PROCUREMENT AND SUPPLY OF COMMERCIAL PRODUCTS

Over the past two hundred years, the procurement and supply of goods and services to satisfy the day-to-day needs of the Federal Government have undergone many transitions. Each transition was motivated, undoubtedly, by the need to improve the effectiveness of existing supply capabilities and by the recognition that, to be effective, the procuurment and supply system must continuously adapt to an ever-changing logistics environment. In retrospect, these transitions can be seen as a two hundred year, incremental process of progressive refinements and adjustments in the manner in which the Government procures and distributes the products it requires. Since each transition introduced new concepts and methods which called for the discarding of "proven" and familiar policies and practices, it is unlikely that any of these changes escaped criticism

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or the resistance of some who were convinced that the old ways were better.

Today, it is apparent that the nature of the logistics environment, again, has altered and that opportunities for significant advancement in supply management effectiveness are being offered. Specifically, the development of sophisticated data processing equipment and systems for requisitioning and inventory management, and the existence of an extensive and expanding network of commercial distribution systems are highly significant logistics factors. When considered in tandem they make possible the management of the Government's procurement and supply of commercially available products on a scale never before possible. These developments permit, for the first time in the modern era, the full and active utilization by the Federal Government of all aspects of the commercial marketplace. Equally important, they present the opportunity for scaling down the time and expense of developing Government specifications, for orderly reduction in the Government's burdensome investment in inventories, and for savings in Government warehouse operations. Auspiciously, these developments occur at a time when the Government has modified its management structure to permit the exploitation of such opportunities. The Office of Federal Procurement Policy was created in 1974 with the statutory authority and responsibility to bring about precisely such Government-wide improvements.

Over the years, the Federal Government has developed a huge and complex organization devoted to the acquisition and distribution of supplies and equipment needed to provide a broad range of services. Many of these supplies and equipments are of the same nature as those used in the private sector; some are identical and some are slight but unique variations of the commercial product. The Federal Government invests great sums for such products, plus additional sums for their storage and distribution prior to use. Yet much of the effort and expense dedicated to this program is, at best, of questionable benefit in terms of results obtained and, at worst, a wasteful duplication of existing commercial distribution systems.

Government specifications are costly to develop and maintain. In many instances, such costs are justified in that specifications help to assure that the Government receives products which meet its requirements. In other instances, however, the Government's specifications merely add embellishments to commercial products for the purpose of establishing a competitive base. In such cases the Government is unable to acquire these unique items through commercial distribution channels and must establish and maintain its own costly supply network. Government specifications in these instances add to the complexity and, thus, the cost of the procurement process by requiring separate production runs for Government unique requirements. Too often, moreover, they discourage the submission of bids by established commercial suppliers, and foster the creation of suppliers whose products have not been tested in the marketplace and whose only customer is the Government.

Cost, however, is not the only consideration nor, indeed, the primary one. Fundamental to the Nation's economic and political philosophy and basic to the relationship between Government and private industry is the commitment by the Federal Government to rely for its needs upon the private sector. The value of the inventive and innovative spirit of the private enterprise system cannot be measured in a simple dollar for dollar cost comparison.

The report of the Commission on Government Procurement emphasized the need for a change in the fundamental philosophy relative to the procurement of commercial items. Momentum is already gathering toward a change in the way we procure commercial items. For example, the Defense Science Board recently completed a study which showed that the acquisition of off-the-shelf electronic test equipment would produce savings of $80 million annually. Further opportunities for savings are obvious since commercial products acquisition represents a sizeable portion of over $66 billion estimated for Federal procurement during FY 77.

To provide new direction for the Government's management of its procurement and supply of commercial products and to exploit the opportunities presented by the current logistics environment, there is need to establish policy objectives that will enable the Government to purchase commercial, off-the-shelf, products when such products will adequately serve the Government's requirement. It is also important that such products have an established commercial market acceptability. In addition, the Government should, in supplying commercial products to its users, utilize commercial distribution channels wherever possible.

These approaches will require major changes in current practices. Administrative, and, perhaps in some instances legal, mechanisms must be developed to ensure viability in implementation. Commercial warranty provisions must be more definitive; equitable formulas must be developed for determining the selection of qualified products; mechanisms must be refined for identifying and recouping volume discounts; and means must be found to interface Government requisitioning procedures with commercial delivery systems. These and related tasks will require the commitment of skilled procurement and supply management executives from the principal agencies, supported by the Government's best professional logisticians.

INCREMENTAL IMPLEMENTATION OF POLICY ON PROCUREMENT AND SUPPLY OF COMMERCIAL PRODUCTS PLANNING AND ANALYSIS PHASE

ITEMS SELECTED FOR ANALYSIS [1]

DEPARTMENT OF DEFENSE

Commodity	Specification
Electrical supplies:	
Connector, receptacle	W-C-596/12-2
Connector, receptacle	W-C-596/13-1
Connector, cable outlet	W-C-596/14-1
Connector, plug	W-C-596/17-1
Semiconductor device	MIL - S-19500/371A, MIL-S-19500E, QPL-19500-62
Subsistence:	
Soup, dehydrated tomato vegetable	MIL-F-35051C
Soup, dehydrated chicken noodle	MIL-S-1049E
Clothing & textiles:	
Towel, bath, white	DDD-T-551J
Drawer, cotton brief	MIL-D-43783B
Hardware supplies:	
Pin, cotter	FF-P-386D
Padlock; key operated	MIL-P-17802D
Screw cap, hex head	FF-S-85C, MS-90725-64
Screw cap, hex head	FF-S-85C, MS-90725-64
Electrode, welding	MIL-E-00022200/2B
Plumbing supplies:	
Drain, multiple, waste	MIL-F-18930
Double faucet	WW-P-Type 39
Photographic supplies:	
Film, photographic	L-F-00336A

STOCKED COMMERCIAL SPECIFICATION PRODUCTS

Linear microcircuit	Signetics P/N SE555T
Dual-line receiver amplifier.	National Semiconductor P/N, DM 78206AD-883
Variable transformer	Staco Inc. P/N 220B or Gen. Radio P/N CN-169 or 5MT
Handle spray can	Red Devil Inc. P/N 3991 DG
Mount, resilient	U.S. Rubber Co. P/N 323B, VLN Corp. P/N 21655
Bumper, rubber	Atlantic India Rubber Co. P/N 713
Rubber sheet, solid	Firestone Tire & Rubber Co., P/N PS384
Paper, photographic, instrument recording.	Dupont Co. P/N LINO - WRIT, 5 W MRK 010
Tip soldering iron	Ungar Div. of Elden Industries, P/N 533S
Laboratory fixture	Eljer P/N E9346A, Kohler P/N K-6960 or K7401, Crane P/N 8-2045A or 8-2040A, Universal Rundel Corp. P/N 82350

VETERANS ADMINISTRATION

Textiles:	
Stretch socks	[1] X-600G
Hospital equipment:	
Wheel chairs	[1] X-1529
Hospital beds	[1] X-554G
Individual supplies:	
Gloves, examining	[1] X-990
Gloves, surgeons	[1] 1123
Subsistence:	
Sugar, white, refined, granulated	JJJ-S-791L
Flour, wheat, general purpose	N-F-00481L
Drugs:	
Codine sulfate tablets	[1] X-1201A
Cefazolin	[1] X-2160

[1] Veterans Administration Specification.

[1] These items are centrally managed; i.e., centrally purchased using Government specifications and centrally stocked and distributed. They may be equipment requiring support and/or consumables.

GENERAL SERVICES ADMINISTRATION

Commodity	Specification(s)	
Appliances:		
Dispenser, water	OO-D-566	
Washers and dryers	OO-W-860D OO-W-0020B	
Refrigerator	AA-R-211	
Automotive supplies:		
Spark plugs	W-S-506	
Windshield wiper blade	RR-A-1147	
Antifreeze	O-A-548	
Tire chain	RR-C-00281	
Tires and tubes	ZZ-T-381-M ZZ-T-1083D	ZZ-T-410A ZZ-I-550E
Building materials:		
Lumber	NN-D-570	NN-S-730
Plywood	NN-P-530	
Tile, vinyl	MIL-T-18630A	
Steel, reinforcing bar	QQ-S-632	
Metal lath	GG-L-101	
Expanded metal	MIL-17194C	
Hardboard, pressed	LLL-B-810	
Board, asbestos	SS-B-758	
Insulation, sleeving	MIL-I-2781D MIL-I-22344B MIL-I-13042A HH-I-554	HH-I-551 HH-I-561 HH-I-573 HH-I-558
Cleaning equipment:		
Bucket, mop	RR-B-600	
Wringer and bucket	RR-M-1078	
Wringer mop	RR-W-670	
Containers:		
Bags, grocer	UU-B-36	
Bags, plastic, waste	PPP-B-26	
Boxes, carton, crate	PPP-B-566 PPP-C-509 PPP-B-621 PPP-B-636 PPP-B-640 PPP-B-650 PPP-B-665 PPP-B-676 PPP-B-00680 PPP-B-1163 PPP-B-001606 PPP-B-1364 PPP-B-001672	MIL-B-233C MIL-B-38721 MIL-B-3589 MIL-B-6111 MIL-B-19880A MIL-B-43666 MIL-C-43369 MIL-K-28714 L-P-396 UU-C-225 MIL-B-43341
Cushioning material	PPP-C-795 PPP-C-843 PPP-C-850 PPP-C-1120	PPP-C-1752 PPP-C-1797 MIL-P-13607 MIL-P-26514A KK-O-71
Electrical supplies:		
Lampholder adapter	W-L-142 W-B-30	
Junction box cover	W-J-800	
Cable, power	J-C-30 J-C-580	
Conduit, rigid	WW-C-563 WW-C-581	
Conduit, flexible	WW-C-566	
Food preparation equipment:		
Kitchen utensils	W-H-636 W-T-590 OO-R-35 OO-V-199 MIL-B-2056C LLL-B-568 RR-B-600 MIL-B-2064D RR-C-1039 RR-B-001242 RR-B-623 MIL-B-1905B GGG-S-60 GGG-C-746 MIL-C-22756A MIL-C-17536B RR-C-531 RR-K-260 GGG-C-743 MIL-C-40115B RR-B-500 MIL-P-1735 MIL-P-1735E MIL-P-467C MIL-P-40636 MIL-P-40096B MIL-R-40141B LLL-R-530	MIL-C-17519B RR-D-400 RR-D-450 RR-P-54 RR-B-600 RR-E-300 RR-W-456 MIL-E-2063C MIL-F-43392A RR-F-675 MIL-F-10670D MIL-G-22786 RR-G-681 OO-G-667 RR-J-600 RR-J-810 MIL-J-25718B MIL-J-23049B RR-L-30 RR-L-1829 MIL-S-40044B MIL-S-10897C RR-S-131 RR-K-260 ZZ-S-70 MIL-S-17531B RR-S-810 RR-S-345	MIL-L-2851A MIL-M-40122B MIL-O-40155 FF-O-601 FF-O-606 RR-P-1818 MIL-P-13044D MIL-P-1747D MIL-P-12851C MIL-P-17440C MIL-P-3852B RR-P-58 RR-P-62 RR-P-83 RR-P-89 RR-P-54 RR-P-90 MIL-P-20558C GGG-P-323 UU-P-665 RR-S-410 GGG-C-746 MIL-S-196-D MIL-S-40104B MIL-T-40097A MIL-V-10816F

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Commodity	Specification(s)	
Cutlery	RR-T-51	MIL-K-3662D
	RR-F-450	
	GGG-C-746	L-F-360
	MIL-U-10815F	RR-F-00455
	LLL-F-00550	MIL-P-1680C
	RR-F-00455	
Cups, plastic	L-C-770	
	L-C-001129	
Toothpicks	LLL-T-1332	
Furniture, rotary chair	AA-C-001771B	
Handtools:	W-S-564	
Soldering gun	GGG-T-00570	
Propane torch	GGG-S-66	
Blade, hole saw	GGG-B-451	
Blade, hacksaw	GGG-W-631	
Wrench, adjustable	GGG-D-751	
Drill, twist	GGG-A-151	
Ax, double bit	GGG-H-131	
Hatchet, half	GGG-K-481	
Knife, craftman's	GGG-B-00550	
Blowtorch, gasoline	GGG-H-86	
Hammer, blacksmith	GGG-H-86	
Hammer, carpenter	GGG-H-86	
Hammer, machinist	GGG-H-33	
Mallet	GGG-N-71	
Nail set assortment	GGG-T-00671	
Trowels	GGG-G-00690	
	W-D-661	
Drill, electric, light	GGG-C-291	
Chalk line		
Hardware:	FF-S-85	FF-S-107
Screws	FF-S-88	FF-S-111
	FF-S-92	
	FF-B-561	FF-B-684
Bolts		FF-B-588
	FF-B-575	
Nuts and washers	FF-N-836	FF-W-84
	FF-N-92	
Filter, air-condition	F-F-310	
Measuring tools:	GGG-L-211	
Level, carpenter	GGG-L-211	
Level, mason	GGG-R-791	
Rule, folding	GGG-S-656	
Square, carpenter	GGG-S-656	
Square, try		
Mill goods:	CCC-C-417	CCC-C-467
Fabrics	CCC-C-425	CCC-C-446
	CCC-C-437	CCC-C-00422
	CCC-C-439	CCC-C-00455
	CCC-C-440	CCC-C-447
	DDD-C-301	CCC-C-430
	DDD-T-00501	CCC-C-435
	DDD-T-511	MIL-C-1164C
	DDD-T-531	CCC-C-001375
	CCC-C-421	CCC-C-452
	CCC-C-460	MIL-C-43619
	CCC-C-458	L-S-125
	CCC-C-444	DDD-W-101
	V-T-276	V-T-285
Thread	GGG-M-00550	
Moustrap and rattrap		
Office supplies:	UU-C-128	UU-C-95
Card, index and guide	G-C-116	
	UU-F-1206	UU-F-1762
Folders, file	VA-X-1067	
	DDD-R-311	
Typewriter ribbons	G-D-00331	
Dictionaries	L-T-90	
Tape, adhesive		
Paints:	TT-E-489	TT-E-491
Exterior enamel	TT-E-529	
	TT-P-96	TT-P-29
Interior latex	MIL-P-9503	
Paper:	UU-P-536	
Tissue, toilet	UU-T-450	
Tissue, facial	UU-N-1660	
Napkins	UU-T-491	UU-T-1790
Towels	VA-X-1185	
	UU-C-806	
Cups	UU-P-670	
Plates		
Plumbing supplies:	WW-F-25	WW-P-541
Faucet	WW-P-541	
Pipe, cast iron	L-P-315	
Pipe, plastic	WW-P-406	
Pipe, steel	WW-P-541	
Trap, drain	WW-T-799	WW-T-775
Tube, copper	MIL-W-19016	WW-V-44
Valves	WW-V-51	WW-P-541
	WW-V-35	
Rope, twine, and cord	T-C-571	MIL-R-24048
	DDD-S-251	T-T-871
	MIL-C-5040B	T-T-881
	T-R-571	T-T-911
	T-R-605	MIL-C-2320
	MIL-R-17343	

[FR Doc.76-37079 Filed 12-17-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release 34—13047; File No. SR-NASD-76-14]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(B)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on December 3, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NASD's STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

TEXT OF PROPOSED RULE CHANGE

The following is the full text of the proposed amendments to Schedule D under Article XVI of the By-Laws. A new Part III of Schedule D will be added and existing Part III will be redesignated Part V. Existing Parts V through X will be redesignated Parts VI through XI.

New Part III follows (entire text is new).

III—CONSOLIDATED QUOTATIONS SERVICE

A. DESCRIPTION OF SERVICE

The Consolidated Quotations Service (CQS) will provide the subscriber with access to bid/ask quotations for securities listed on national stock exchanges. Initially, the CQS will include approximately 2,000 common stocks, preferred stocks, warrants and rights registered or admitted to unlisted trading privileges on the New York Stock Exchange. The Subscriber will have access to quotations in such securities from all registered CQS Third Market Makers and the Boston, Midwest, New York, Pacific and Philadelphia Stock Exchanges. Quotations entered and displayed by registered Third Market Makers are required to be firm for at least a normal unit of trading.

The CQS will operate between 9:00 a.m. and 6:30 p.m. Eastern Time. All quotations for marketplaces that are open will be listed according to the best bid quotation or the best ask quotation following the quotations of the open marketplaces. If a stock exchange suspends trading in a security, a "HALT" notation will be displayed along with the last quotation. During any such suspension, quotations from marketplaces remaining open will continue to be displayed.

B. INITIATING SERVICE

Any member who desires to enter and display bid/ask quotations for CQS securities may apply for registration as a Third Market Maker. If accepted for registration, and a terminal is in place, a Third Market Maker's registration shall be effective at the start of business on the second business day following receipt of its application by the Corporation. Otherwise registration shall be effective at the start of business on the second business day following installation of the terminal.

C. CHARACTER OF QUOTATIONS ENTERED INTO THE CQS

A registered Third Market Maker which receives a buy or sell order must execute a trade for at least a normal unit of trading at its quotations as they appear on the CQS CRT screens at the time of receipt of any buy or sell order. Each quotation entered and displayed by a registered Third Market Maker must be reasonably related to the prevailing market.

D. BUSINESS HOURS

A registered Third Market Maker shall be open and active as of 10:00 a.m. Eastern Time and no Third Market Maker shall close sooner than 4:00 p.m. Eastern Time. A registered Third Market Maker shall designate a closing time for each security from 4:00 p.m. to 6:30 p.m. Eastern Time, and the closed symbol will be appended to the quotation at the designated time. The designated closing time may only be on the hour or the half hour. A registered Third Market Maker may reopen its market in a security up to 6:30 p.m. Eastern Time upon appropriate notification to the Corporation.

E. WITHDRAWAL PROCEDURE

1. With the approval of the Corporation upon a showing that it is seriously impaired in its ability to enter quotations, a registered Third Market Maker may suspend its quotations for a specified period of time in the case of contemplated financing in the security, the presence of statutory prohibitions or restrictions, or such other reason acceptable to the Corporation.

2. A Third Market Maker who withdraws and then reenters quotations during the day may do so only with the prior approval of the Corporation.

A. A Third Market Maker whose quotations in an issue are withdrawn without the approval of the Corporation at the time CQS closed for the day shall cause its registration in such issue to be terminated subject, however, to re-registration.

4. A Third Market Maker may, by making application to the Corporation, pursuant to paragraph B re-register as a market maker in any security in which its registration is terminated pursuant to subparagraph 3. above.

F. VOLUNTARY TERMINATION

A registered Third Market Maker may voluntarily terminate its registration as to a given security by withdrawing its quotations from the System.

G. SUSPENSION AND TERMINATION OF QUOTATIONS BY ACTION OF THE CORPORATION

The Corporation may, pursuant to the procedures set out in Parts VII, VIII, or IX below, suspend, condition, limit, prohibit, or terminate a registered Third Market Maker's authority to enter quotations on one or more authorized securities for violations of the applicable standards of this Schedule "D" or if the Corporation makes a determination as provided in Part IX A.

* * * * *

Part IV of Schedule D will be amended to add a new Section D. Existing Sections D and E will be redesignated E and F. The text of new Section D is as follows:

D. CONSOLIDATED QUOTATIONS SERVICE (CQS)

1. *Adding CQS to Existing NASDAQ Terminals.*

One-Time Charges. The one-time charge for adding CQS to installed NASDAQ terminals is $210 per location, irrespective of the number of terminals involved. The charge for removal of CQS is $70 per location.

Additional monthly charges for CQS based on basic NASDAQ usage plans[1]

NASDAQ usage plan[2]	Basic charges for CQS on terminals			Free combined CQS/NASDAQ quote requests per terminal per day[3]
	1st	2d	3d and subsequent	
Standard	$50	$45	$40	100
High[4]	50	45	40	650
Unlimited[5]	50	45	40	(6)

[1] The NYSE has established monthly charges for receiving bid-asked quotations from the NYSE through retrieval devices as follows: NYSE members, $35 1st unit, $3.50 each additional unit; non-NYSE members, $57 1st unit, $5.70 each additional unit. Only 1 1st unit charge applies in an office subscribing to units from 2 or more vendors.

[2] All terminals, both CQS and NASDAQ, located on the same premises must be under the same usage plan.

[3] Quote requests for CQS securities will be included in the same count made for quote requests for NASDAQ/OTC securities. The combined count will be measured against the number of free quote requests provided in the basic charge and excess quote requests will be billed at the rate of $0.10 each. There are no charges for entering or changing quotations for NASDAQ or CQS securities in the system.

[4] The total monthly basic and excess quote charges under the high usage plan for offices within 5 or fewer NASDAQ terminals located on the same premises shall not exceed $2,655, plus the monthly basic charges for receiving CQS.

[5] Unlimited service is restricted to offices with 6 or more terminals of the same level of NASDAQ service.

[6] Unlimited.

2. *CQS without NASDAQ on Additional Terminals at Existing NASDAQ Locations.*

NASDAQ subscribers may receive CQS without NASDAQ Service on additional terminals at existing NASDAQ locations.

One-Time Charges. The new installation or complete removal charge is $175/terminal for 1–5 additional terminals, $150/terminal for 6–10 terminals and $125/terminal for 11 terminals and above.

Additional monthly charges for CQS based on basic NASDAQ usage plans[1]

NASDAQ usage plan[2]	Basic charges for terminals			Free quote requests per terminal per day	Quote requests in excess of free requests
	1st	2d	3d and subsequent		
Standard	$300	$100	$100	100	$0.10
High[3]	500	100	100	65	.10
Unlimited[4]	700	100	100	(5)	(5)

[1] The NYSE has established monthly charges for receiving bid-asked quotations from the NYSE through retrieval devices as follows: NYSE members, $35 1st unit, $3.50 each additional unit; non-NYSE members, $57 1st unit, $5.70 each additional unit. Only 1 1st unit charge applies in an office subscribing to units from 2 or more vendors.

[2] The total monthly basic and excess quote charges under the high usage plan for offices with 5 or fewer CQS only terminals located on the same premises shall not exceed $1,200.

[3] Unlimited service is restricted to offices with 6 or more terminals.

[4] Unlimited.

[5] Not available.

3. *CQS without NASDAQ at New Locations.*

Organizations not subscribing to NASDAQ may have a terminal or terminals with CQS installed, without subscribing to NASDAQ service.

One-Time Charges. The new installation or complete removal charge is $250 for a control unit plus $175/terminal for 1–5 terminals, $150/terminal for 6–10 terminals and $125/terminal for 11 terminals and above.

The following table of rates applies to locations with CQS only.

Monthly charges[1]

Usage plan	Basic charges for terminals			Free quote requests per terminal per day	Quote requests in excess of free requests
	1st	2d	3d and subsequent		
Standard	$300	$100	$100	100	$0.10
High[2]	500	100	100	65	.10
Unlimited[3]	700	100	100	(4)	(4)

[1] The NYSE has established monthly charges for receiving bid-asked quotations from the NYSE through retrieval devices as follows: NYSE members, $35 1st unit, $3.50 each additional unit; non-NYSE members, $57 1st unit, $5.70 each additional unit. Only 1 1st unit charge applies in an office subscribing to units from 2 or more vendors.

[2] The total monthly basic and excess quote charges under the high usage plan for offices with 5 or fewer CQS only terminals located on the same premises shall not exceed $1,200.

[3] Unlimited service is restricted to offices with 6 or more terminals.

[4] Unlimited.

[5] Not available.

4. *CQS and NASDAQ Service at New Locations.*

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Organizations not subscribing to NASDAQ may subscribe to both CQS and NASDAQ Level 2 or Level 3 service. Level 3 service is restricted to NASD members.

One-Time Charges. The charge for new installation or complete removal is $250 for a control unit plus $175/terminal for 1–5 terminals, $150/terminal for 6–10 terminals and $125/terminal for 11 terminals and above.

If CQS and NASDAQ Service are ordered at the same time, there is no additional charge for providing the CQS capability on terminals. There is a charge of $70 per location for removal of CQS.

CQS and NASDAQ level 2 or level 3 monthly charges[1]

CQS/NASDAQ plan[2]	Basic charges for terminals			Free combined CQS/NASDAQ quote requests per usage terminal per day[3]
	1st	2d	3d and subsequent	
Standard	$525	$425	$390	100
High[4]	725	425	390	650
Unlimited[5]	925	425	390	(6)

[1] The NYSE has established monthly charges for receiving bid-asked quotations from the NYSE through retrieval divides as follows: NYSE members, $35 1st unit, $3.50 each additional unit; non-NYSE members, $97 1st unit, $5.70 each additional unit. Only 1 1st unit charge applies in an office subscribing to units from 2 or more vendors.

[2] All terminals, both CQS and NASDAQ, located on the same premises, must be under the same usage plan.

[3] Quote requests for CQS securities will be included in the same count made for quote requests for NASDAQ/OTC securities. The combined count will be measured against the number of free quote requests provided in the basic charge and excess quote requests will be billed at the rate of $0.10 each. There are no charges for entering or changing quotations for NASDAQ or CQS securities in the system.

[4] The total monthly basic and excess quote under the high usage plan for offices with 5 or fewer NASDAQ terminals located on the same premises shall not exceed $2,655, plus the monthly basic charges for receiving CQS.

[5] Unlimited service is restricted to offices with 6 or more terminals.

[6] Unlimited.

STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULE CHANGE

The United States Congress and the Securities and Exchange Commission have repeatedly stated that an essential element in the creation of a national market system for listed securities is a nationwide information system containing quotations from all marketplaces. In recognition of the importance of such a quotation system the NASD Board of Governors appointed, in mid-1975, a committee of industry members to study and make recommendations to the Association's Board on the feasibility of utilizing the NASDAQ System to provide a consolidated quotations service. The Consolidated Quotations Committee and the Association's Board of Governors concluded that a consolidated quotations service for listed securities utilizing NASDAQ could be implemented.

Under the rules, quotations entered and displayed by registered Third Market Makers are required to be reasonably related to the prevailing market for that security and are required to be firm for at least a normal unit of trading. The proposal also contains rules and procedures for registered Third Market Makers relating to hours of operation; opening of closing markets; initiating service; and withdrawal, termination and suspension of quotations. These provisions are similar to those currently in effect for NASDAQ market makers.

The proposal also contains a schedule of charges for CQS.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 15A(b)(11) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations and to promote orderly procedures for collecting, distributing and publishing quotations.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

Although Article XVI of the By-Laws authorizes the Board of Governors alone to adopt or modify provisions of Schedule D, comments of the membership were solicited in Notice to Members 76–29.

BURDEN ON COMPETITION

It is believed that no burden on competition arises from the proposal.

On or before January 24, 1977, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 8, 1976.

[FR Doc.76-37147 Filed 12-17-76;8:45 am]

[Release No. 13066; SR-MSE-76-22]

MIDWEST STOCK EXCHANGE

Order Approving Proposed Rule Change

DECEMBER 14, 1976.

On October 15, 1976, the Midwest Stock Exchange, 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change rescinded a prohibition against a specialist from executing orders out of the primary market range.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the publication of a Commission Release (Securities Exchange Act Release No. 12917, (October 22, 1976)) and by publication in the FEDERAL REGISTER (41 FR 48008, (November 1, 1976)).

The Commission finds that the proposed rule change is inconsistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on October 15, 1976, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37219 Filed 12-17-76;8:45 am]

[Rel. No. 9565; 812-4044]

MUNICIPAL FUND SERIES CO., INC.

Filing of Application Pursuant to Section 6(c) of the Act for An Order of Exemption From Sections 15(a) and 16(a) of the Act

DECEMBER 10, 1976.

In the matter of the Municipal Fund Series Company, Inc. (The Municipal Investment Trust Fund Investment Accumulation Program), c/o Merrill Lynch, Pierce, Fenner & Smith, Incorporated, One Liberty Plaza, 165 Broadway, New York, New York 10006.

Notice is hereby given that The Municipal Fund Series Company, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end management investment company, filed an application on October 18, 1976 with regard to its Investment Accumulation Program (Long Term) and its Investment Accumulation Program (Intermediate Term) and subsequent Investment Accumulation Programs (hereinafter collectively referred to as the "Programs") for an order of exemption from sections 15(a) and 16(a) of the Act to the extent necessary to permit Applicant's investment advisers and directors to serve without prior shareholder approval until a meeting of each Program's shareholders to be held within 180 days after the effectiveness of each of Applicant's Registration Statements filed under the Securities Act of 1933. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

The Applicant is a corporation formed under Maryland law. It proposes to issue its shares in various series, each of which represents a separate portfolio of securities. The initial two series of shares to be issued are: (A) shares of The Municipal Investment Trust Fund Investment Accumulation Program (Long-Term) which will represent a separate portfolio of long-term municipal obligations; and (B) shares of The Municipal Investment Trust Fund Investment Accumulation Program (Intermediate Term) which will represent a separate portfolio of intermediate term municipal obligations. Such shares will be offered without sales load to the holders of the corresponding series of The Muncipal Investment Trust Fund, which consists of a number of different unit investment trusts, as a means for the automatic reinvestment of distributions on such series. It is contemplated that, as additional types of series of The Municipal Investment Trust Fund unit trust offerings are developed, additional Investment Accumulation Programs following the same pattern as the Programs listed above will be created as new series of capital stock of Applicant.

The investment advisers (the "Advisers") of the Applicant with respect to the Programs will be (i) an affiliate of Merrill Lynch, Pierce, Fenner & Smith Incorporated, (ii) Bache Halsey Stuart Inc. and (iii) an affiliate of Reynolds Securities Inc. Merrill Lynch, Pierce, Fenner & Smith Incorporated, Bache Halsey Stuart Inc. and Reynolds Securities, are the current sponsors of The Municipal Investment Trust Fund. The three directors of Applicant at the date of filing of the application are "interested persons" of one of the Advisers. Two unaffiliated directors will replace two affiliated directors and will take office prior to the effectiveness of the Registration Statements covering the shares in the Programs under the Securities Act of 1933.

Section 15(a) of the Act provides, in part, that a person may not serve as an investment adviser of a registered investment company except pursuant to a written contract which has been approved by a vote of a majority of the outstanding voting securities of such registered investment company, and Section 16(a) of the Act provides, with limited exceptions not here relevant, that no person shall serve as a director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company.

Applicant asserts that the proposed investment advisory agreements will comply with the provisions of the Act in all respects except that they may not satisfy the requirement of advance shareholder approval provided in section 15(a) of the Act. Prior to effectiveness under the Securities Act of 1933, the persons serving as directors of the Applicant will meet all of the requirements of the Act except that they may not satisfy the requirements of section 16(a) that they be elected to that office by holders of the outstanding voting securities of the Applicant.

All of the directors will stand for election, and the investment advisory agreements will be presented for approval by the holders of a majority of the outstanding voting securities of the Applicant and of a majority of the outstanding shares of each Program at the meeting of each Program's shareholders to be held within 180 days of effectiveness of each of Applicant's Registration Statements under the Securities Act of 1933. During the period prior to such meeting, the prospectuses used by the Applicant in connection with the sale of its shares will contain full appropriate information concerning the directors and the investment advisory agreements.

The Applicant believes that the exemptions requested above should be granted because (1) the initial public shareholders of each Program of the Applicant will have full knowledge as to the identity of the directors of the Applicant, the initial investment advisers and the terms of the investment advisory agreements prior to their purchase of the shares of the Applicant and, (2) the public shareholders of each Program of the Applicant will have an opportunity, voting as a separate Program consistent with Rule 18f-2 under the Act, to pass on the election of the directors and the investment advisory agreements within 180 days of effectiveness of Applicant's Registration Statements under the Securities Act of 1933.

Section 6(c) authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant submits that the exemptions here requested are appropriate in the public interest, consistent with the protection of investors and the purposes of the Act.

Notice is further given that any interested person may, not later than January 5, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37217 Filed 12-17-76;8:45 am]

[File No. 500-1]

PENN CENTRAL CO., ET AL.

Suspension of Trading

DECEMBER 13, 1976.

In the matter of trading in securities of Penn Central Company, Penn Central Transportation Company, New York Central Railroad Company, Beech Creek Railroad Company, Cleveland and Pittsburgh Railroad Company, Cleveland-Cincinnati-Chicago & St. Louis Railway Company, Connecting Railway Company, Delaware Railroad Company, Detroit Manufacturers Railroad, Elmira and Williamsport Railroad Company, Erie and Pittsburgh Railroad Company, Little Miami Railroad Company, Mahoning Coal Railroad Company, Michigan Central Railroad Company, New York and Harlem Railroad Company, New York Connecting Railroad Company, New York-New Haven & Hartford Railroad Company, Northern Central Railway Company, Peoria and Eastern Railway Company, Philadelphia and Trenton Railroad Company, Philadelphia, Baltimore and Washington Railroad Company, Pittsburgh-Cincinnati-Chicago and St. Louis Railroad Company, Pittsburgh-Ft. Wayne and Chicago Railway Company, Pittsburgh-Youngstown and Ashtabula Railway Company, United New Jersey Railroad and Canal Company.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of

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the above named issuers being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10:00 a.m. (EST) on December 13, 1976 through December 22, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37218 Filed 12-17-76;8:45 am]

DEPARTMENT OF STATE

[CM-7/6]

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES WORKING GROUP ON ILLICIT PAYMENTS

Meeting

A Working Group on Illicit Payments of the Department of State Advisory Committee on Transnational Enterprises will meet on Wednesday, January 5, 1977 at 2:00 p.m. in room 1205 of the Department of State, 2201 C Street, N.W., Washington, D.C. The meeting will be open to the public.

The purpose of the group's meeting will be to discuss the matter of an international agreement to combat illicit payments.

Requests for further information on the meeting should be directed to Stuart Benson, Department of State, Office of the Legal Adviser, 2201 C Street, N.W., Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-1989.

Members of the public wishing to attend the meeting must contact Mr. Benson's office in order to arrange entrance to the State Department building.

As time permits, oral comments from members of the public attending the meeting will be entertained.

Dated: December 16, 1976.

STEPHEN R. BOND,
Executive Secretary, Committee on Transnational Enterprises.

[FR Doc.76-37292 Filed 12-17-76;8:45 am]

[CM-7/7]

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES WORKING GROUP ON TRANSFER OF TECHNOLOGY

Meeting

The Working Group on Transfer of Technology of the Department of State Advisory Committee on Transnational Enterprises will hold its first meeting on Friday, January 7, 1977, at 10:00 a.m. in Room 1205 of the Department of State, 2201 C Street, N.W., Washington, D.C. The meeting will be open to the public.

The purpose of the working group's meeting will be to discuss work within UNCTAD on a Code of Conduct for the Transfer of Technology.

Among the items on the agenda are:

(1) Organization of the Working Group.

(2) Organization of work program.

(3) Discussion of UNCTAD exercise on Technology Transfer Code of Conduct.

Requests for further information on the meeting should be directed to Walter Lockwood, or Stephen Bond, Department of State, 2201 C Street, N.W., Washington, D.C. 20520. Mr. Lockwood may be reached by telephone at (area code 202) 632-0266, Mr. Bond at (area code 202) 632-0349.

Members of the public wishing to attend the meeting must contact the office of either Mr. Lockwood or Mr. Bond in order to arrange entrance to the State Department building.

The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: December 14, 1976.

STEPHEN R. BOND,
Executive Secretary, Committee on Transnational Enterprises.

[FR Doc.76-37293 Filed 12-17-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[OGD 76-225]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Subcommittee on Liquefied Gas Vessels to be held January 10 and 11, 1977, 9:00 a.m., Room 8334, Nassif Building, 400 7th St. S.W., Washington, D.C. 20590. The agenda for this meeting is as follows:

January 10th—Discussion of public comments on proposed rules for gas ships, 46 CFR Part 154.

January 11th—Discussion of papers submitted for IMCO's second session of the Subcommittee on Bulk Chemicals.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. W. E. McConnaughey, Commandant (G-MHM), U.S. Coast Guard, Washington, D.C. 20590 (202-426-2306). Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on December 6, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc.76-37186 Filed 12-17-76;8:45 am]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 125—MLS IMPLEMENTATION

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Special Committee 125—MLS Implementation to be held January 11-12-13, 1977, Conference Room 3201, FAA Trans Point Building, 2100 Second Street, S.W., Washington, D.C. commencing at 9:30 a.m. The agenda for this meeting is as follows: 1) Approval of Minutes of Fourteenth Meeting held December 7-8-9, 1976, and 2) Review Remaining Chapters and Appendices of the Committee Report to Finalize content.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on December 9, 1976.

KARL F. BIERACH,
Designated Officer.

[FR Doc.76-37187 Filed 12-17-76;8:45 am]

National Highway Traffic Safety Administration

FORD MOTOR CO.

Denials of Petitions To Commence Rulemaking

This notice sets forth the reasons for denial of three petitions for rulemaking to initiate or amend Federal motor vehicle safety standards promulgated under authority of section 103 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391 et seq.). This notice is published in accordance with section 124 of the Act, which provides that the National Highway Traffic Safety Administration must grant or deny such petitions within 120 days, and "If the Secretary denies such petition he shall publish in the Federal Register his reasons for such denial" (§ 124(d)).

Ford Motor Company (July 2, 1976). Petition to amend Standard No. 219, Windshield Zone Intrusion, to specify the radio antenna as one of the excepted vehicle components in paragraph S5 of the standard. Ford's petition was denied because most antennas are fabricated with steel tubing that is capable of sustaining substantial axial loads, and the antenna could therefore easily impale a vehicle occupant if it intrudes into and through the windshield zone set forth in the standard.

Rubber Manufacturers Association (RMA) (February 19, 1976). Petition to amend Standard No. 110, Tire Selection and Rims, to include rim dimension requirements and to extend the applicability of the standard to rims as well as passenger cars. The RMA petition was denied because the NHTSA has no evidence that rims being marketed currently and designated for use with specified tires are dimensionally incompatible with those tires.

R. E. Thomas Errectors (undated petition). Petition to amend Standard No. 121, Air Brake Systems, to exclude certain trailers used in logging from the standard's requirements. R. E. Thomas' petition for exclusion from requirements other than the "no lockup" requirement of S5.3.2 was denied, because no information was provided that would demonstrate that these requirements are inappropriate for the trailers.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 106, Pub. L. 93-492, 88 Stat. 1482 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on December 13, 1976.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.76-37117 Filed 12-17-76;8:45 am]

National Highway Traffic Safety Administration

[Docket No. EX77-1; Notice 1]

MODULAR AMBULANCE CORP.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Modular Ambulance Corporation of Grand Prairie, Texas, has petitioned for a temporary exemption from 49 CFR 571.301-75, Motor Vehicle Safety Standard No. 301-75, *Fuel System Integrity*, on the basis that compliance would cause it substantial economic hardship.

Petitioner is a final-stage manufacturer which mounts ambulance bodies on chassis manufactured by Chevrolet, Ford, and Dodge. In its last fiscal year ending April 30, 1976, it assembled 480 such vehicles. Apparently the incomplete vehicle manufacturers concerned have been unable to provide petitioner with sufficient information to enable it to certify the completed vehicle with assurances that it will comply with fuel system integrity requirements. The company "does not feel that any of the ambulances that we modify or convert would have to be modified to achieve compliance because we do not alter the fuel system at all other than to attach the fuel filler hoses provided by the chassis manufacturer." But it believes the only way to assure compliance with confidence is to submit its vehicles to testing and "we do not have the test facilities or equipment" necessary. It estimated that testing costs to meet September 1, 1976, requirements are

are $218,500 and for those of September 1, 1977, almost $700,000. These estimates are based upon the presumed necessity of actually crash testing many different vehicles. The NHTSA advised the company that it may base its certification on computer simulations, mathematical calculations, and engineering judgment in lieu of crash testing but the company has not provided a written response. The company had a net loss of $278,000 in its 1976 fiscal year, and a net income of $228,000 in its 1975 fiscal year. A 3-year exemption is sought. Petitioner argued that the exemption is consistent with traffic safety objectives and in the public interest since it will allow cities and States to purchase ambulances in establishing "their Emergency Medical Services Systems as provided for by the Department of Transportation and Health, Education, and Welfare."

This notice of receipt of a petition for temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of Modular Ambulance Corporation, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. If the petition is granted, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: January 19, 1977.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410) delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on December 15, 1976.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.76-37237 Filed 12-17-76;8:45 am]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1976 Rev., Supp. No. 6]

IGF INSURANCE CO.

Surety Companies Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $100,000 has been established for the company.

NAME OF COMPANY, LOCATION OF PRINCIPAL EXECUTIVE OFFICE, AND STATE IN WHICH INCORPORATED

IGF INSURANCE COMPANY
DES MOINES, IOWA
IOWA

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: December 14, 1976.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc.76-37252 Filed 12-17-76;8:45 am]

Internal Revenue Service

[Order No. 81 (Rev. 9)]

DIRECTOR, PERSONNEL DIVISION, ET AL.

Authority Delegation; Personnel Matters

Date of issue: December 15, 1976.

Effective Date: January 12, 1977.

The authority vested in the Commissioner of Internal Revenue by Treasury Department Order 177-19, Revision No. 1; Administrative Circular No. 46, Supplement 1, and Chapter 250, Treasury Personnel Manual, to approve personnel actions, including making decisions and taking final action for the Internal Revenue Service in grievances, appeals, and suitability and disciplinary cases; to approve outstanding performance ratings and incentive awards; to approve within-grade step increases for acceptable level of competence and within-grade step increases for high quality performance; and to classify General Schedule and Wage Board positions, is hereby delegated as follows:

A. The Director, Personnel Division, is authorized: 1. To approve personnel actions, and to take final action for the Internal Revenue Service for centralized positions as defined in Internal Revenue Manual 0250 and positions in the National Office, subject to the limitations specified in paragraphs A-2 and C below. This authority may be redelegated to National Office Branch employees but not lower than Section Chiefs in that Branch.

2. To approve personnel actions, including final determinations for the Internal Revenue Service of whether resignations or retirement applications were

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voluntarily submitted, for positions of: Deputy Commissioner, Assistant Commissioner, Assistant to the Commissioner (Public Affairs), Division Director (National Office), Assistant Division Director (National Office), Regional Commissioner, Regional Inspector, Assistant Regional Commissioner, District Director, Service Center Director, Assistant District Director, Assistant Service Center Director, Director and Assistant Director, Data Center, and Director and Assistant Director, National Computer Center, except for accessions, reassignments, promotions, demotions, removals, suspensions, reductions in rank, and any other actions which involve a material change in duties or changes in post of duty. This authority may not be redelegated.

3. Except to the extent that authority is delegated in D.2., to classify all General Schedule and Wage Board positions in the National Office; to classify such regional positions when they are listed as requiring National Office classification action in Internal Revenue Manual 0511, when the operations of the positions are standardized in several regions, or when authorized regional officials request National Office action; and to put into effect wage schedules for Wage Board positions in the National Office as authorized by the Treasury Department Wage Board. This authority may be redelegated only to Chief, National Office Branch, Chief, Position Management Branch, Chief, Classification Section, and designated Position Classifiers.

4. To act as appellate official and take final action for the IRS on appeals of (a) adverse actions and suspensions of 30 days or less effected by officials of the Offices of the Regional Commissioners, and by Assistant Commissioners (except the Assistant Commissioner (Administration)), the Assistant to the Commissioner (Public Affairs) and Assistant Commissioners' authorized subordinates, including the delegates of the Assistant Commissioner (Administration) and the Assistant to the Commissioner (Public Affairs); and (b) oral admonishments confirmed in writing and written reprimands issued by Regional Commissioners, and by Assistant Commissioners (except those issued by the Assistant Commissioner (Administration)), and the Assistant to the Commissioner (Public Affairs). This authority may not be redelegated.

5. To take final action for the IRS as the second-level appellate official on grievance appeals on which the first-level appeal decisions were made by Regional Commissioners, Assistant Commissioners, and the Assistant to the Commissioner (Public Affairs), except decisions of the Assistant Commissioner (Administration). This authority may not be redelegated.

6. To review any personnel, classification, incentive award or outstanding performance action, or any action with regard to suitability and disciplinary cases, taken or approved under authority delegated by this Delegation Order, except actions taken or approved by the Deputy Commissioner and the Assistant Commissioner (Administration), and to take, direct, or recommend corrective action when determined to be required. This authority may not be redelegated.

7. To take final action on and make awards up to $1,000 for each individual or group contribution for Division Directors (National Office), Assistant Division Directors (National Office), Director and Assistant Director, Data Center, Director and Assistant Director, National Computer Center, Regional Commissioners, Assistant Regional Commissioners, District Directors, Service Center Directors, Assistant District Directors, Assistant Service Center Directors, Regional Inspectors and Assistant Regional Inspectors, in accordance with award scales set forth in Treasury Incentive Awards Regulations and in Internal Revenue Manual 0451. This authority may not be redelegated.

8. For positions listed in A–7, to take final action on requests for exceptions to standard award scales in accordance with Treasury Department Incentive Awards Regulations, subject to the monetary limitation in A–7. This authority may not be redelegated.

9. To approve details of 30 days or less to or from the Internal Revenue Service and another Federal Agency or Treasury Bureau. This authority may be redelegated only to Chief, National Office Branch.

10. To exercise the special personnel authorities to facilitate redeployment of personnel, including temporary and term appointments and waivers of qualification requirements, granted to the Service by the Civil Service Commission. This authority may not be redelegated.

B. Regional Commissioners are authorized: 1. To approve personnel actions, or to take final action for the IRS, for positions under their jurisdiction except actions involving centralized positions and personnel actions requiring prior approval of the Department of the Treasury as defined in Internal Revenue Manual 0250. This authority may be redelegated only to Chiefs, Personnel Branches, and Section Chiefs in those Branches. The authority to make suitability decisions, to take final disciplinary actions (other than oral admonishments) and to approve adverse actions, suspensions of 30 days or less, and Separations (Disqualification) may be delegated only to (a) Assistant Regional Commissioners for employees of the Regional Office and (b) District and Service Center Directors for District and Service Center employees.

2. To approve personnel actions for positions in Grade GS–13 and below in Regional Inspectors' offices. This authority may be redelegated only to Chiefs and Section Chiefs, Personnel Branches, in the regional headquarters organization.

3. To classify all General Schedule and Wage Board positions within their region, except those listed as requiring National Office classification action in Internal Revenue Manual 0511; and, to put into effect wage schedules for Wage Board positions within their regions as authorized by the Treasury Department Wage Board. This authority may be redelegated only to Chiefs, Personnel Branches, and Personnel Specialists in these Branches assigned position classification responsibilities.

4. To act as appellate official and take final action for the IRS on appeals of (a) adverse actions and suspensions of 30 days or less effected by District and Service Center Directors; and (b) oral admonishments confirmed in writing and written reprimands issued by District and Service Center Directors and Assistant Regional Commissioners. This authority may not be redelegated.

5. To take final action for the IRS as the second-level appellate official on grievance appeals on which the first-level appeal decisions were made by officials under their jurisdiction. This authority may not be redelegated.

6. To approve outstanding performance ratings and additional within-grade increases for high-quality performance for all employees under their jurisdiction, except Assistant Regional Commissioners, District Directors, and Service Center Directors. This authority may be redelegated only to (a) Assistant Regional Commissioners for employees of the Regional Office, and (b) District and Service Center Directors for District and Service Center employees.

7. (a) To determine for all employees under their jurisdiction that work is of an acceptable level of competence for within-grade step increases; this authority may be redelegated only to those supervisors who evaluate the work being performed.

(b) To process approved step increases for employees under their jurisdiction who occupy positions centralized to the National Office, and for Regional Inspectors and Counsel and their employees whose posts of duty are located within the region. This authority may be redelegated only to Chiefs and Section Chiefs, Personnel Branches.

8. Except for positions listed in A–7, to take final action on and make awards up to $1,000 for each individual or group contribution which can be adopted locally, in accordance with award scales set forth in Treasury Incentive Awards Regulations and in Internal Revenue Manual 0451. This authority may be redelegated but not below Branch Chiefs in the regional headquarters organization and Division Chiefs in the Districts and Service Centers.

9. To authorize payment of awards for employee contributions national in scope which the National Office has accepted for use. This authority may be redelegated but not below Branch Chiefs in the regional headquarters organization and Division Chiefs in the Districts and Service Centers.

10. Except for positions listed in A–7, to take final action on requests for exceptions to standard award scales in accordance with Treasury Department Incentive Awards Regulations, subject to the monetary limitations in B–8. This authority may be redelegated only to Assistant Regional Commissioners, District Directors and Service Center Directors.

11. To approve details of 30 days or less to or from offices under their jurisdiction and another Federal agency or Treasury bureau. This authority may be redelegated only to Chiefs, Personnel Branches, in the regional headquarters organization.

C. The Deputy Commissioner, Assistant Commissioners, and the Assistant to the Commissioner (Public Affairs) are authorized: 1. After obtaining technical assistance from the Personnel Division, to make decisions and take action on grievances, to make suitability decisions, and to take final disciplinary actions and effect adverse actions, suspensions of 30 days or less and separations (disqualification), with respect to National Office employees under their jurisdiction except that the Deputy Commissioner may not take final action on cases involving Assistant Commissioners, the Assistant to the Commissioner (Public Affairs), Division Directors, Directors and Assistant Directors, Data Center and National Computer Center, and Assistant Division Directors; and Assistant Commissioners, and the Assistant to the Commissioner (Public Affairs) may not take final action on cases involving Division Directors, Directors and Assistant Directors, Data Center and Natonal Computer Center and Assistant Division Directors. This authority (other than oral admonishment) may be delegated only to Deputy Assistant Commissioners, to Division Directors, to the Director, National Computer Center, and Director, Data Center. Technical assistance for the National Computer Center and the Data Center will be provided by the National Computer Center and the Data Center personnel offices respectively.

2. To approve outstanding performance ratings and additional within-grade increases for high-quality performance with respect to National Office employees under their jurisdiction. This authority may be redelegated only to Deputy Assistant Commissioners, to Division Directors, to the Director, Data Center, and the Director, National Computer Center.

3. To determine that work is of an acceptable level of competence for within-grade step increase with respect to National Office employees under their jurisdiction and to effect these increases. The authority to make determinations may be redelegated only to those supervisors who evaluate the work being performed.

4. Except for positions listed in A–7, to take final action and make awards up to $1,000 for each individual or group contribution, in accordance with award scales set forth in Treasury Incentive Awards Regulations and Internal Revenue Manual 0451. This delegation includes authority to take final action on awards for field employees engaged in National Office projects (except for positions listed in A–7). This authority may be redelegated only to Deputy Assistant Commissioners, to Division Directors, to the Director, Data Center, and to the Director, National Computer Center.

5. Except for positions listed in A–7, to take final action on requests for exceptions to standard award scales in accordance with Treasury Department Incentive Awards Regulations, subject to the monetary limitation in C–4. This authority may be redelegated only to Deputy Assistant Commissioners, to Division Directors, to the Director, Data Center, and to the Director, National Computer Center.

6. As the second-level appellate official, to take final action for the Internal Revenue Service on grievance appeals on which the first-level appeal decisions were made by National Office officials under their jurisdiction. This authority may not be redelegated.

7. The authority delegated to the Assistant Commissioner (Inspection) in C–1 through C–6, with respect to National Office employees under his jurisdiction, is also delegated to the Assistant Commissioner (Inspection) for Regional Inspection employees, except that the technical assistance cited in C–1 shall be obtained from the Personnel Division or the appropriate IRS field personnel office, and the authority in C–1 and C–2 (other than oral admonishments) may be delegated only to Regional Inspectors.

D. The Directors, Data Center and National Computer Center, are authorized: 1. To approve personnel actions for positions under their jurisdiction except actions involving centralized positions and personnel actions requiring prior approval of the Department of the Treasury as defined in Internal Revenue Manual 0250. This authority may be redelegated only to Chiefs, and Section Chiefs, Personnel Branches.

2. To classify all General Schedule and Wage Board positions under their jurisdiction, except those listed as requiring National Office classification action in Internal Revenue Manual 0511; and, to put into effect wage schedules for Wage Board positions in the Data Center and the National Computer Center as authorized by the Treasury Department Wage Board. This authority may be redelegated only to Chief, and Section Chiefs, Personnel Branches and Position Classifiers, in these Branches assigned position classification responsibilities.

3. To approve details of 30 days or less, to or from positions in the Data Center and the National-Computer Center, and another Federal agency or Treasury bureau. This authority may not be redelegated.

E. Authorities delegated herein relating to positions and employees of the Office of the Chief Counsel and Office of Regional Counsel are based on and subject to specific agreements with the Office of the General Counsel of the Treasury Department and the Office of the Chief Counsel.

F. The Director of International Operations is authorized to approve all personnel actions for positions under his jurisdiction except actions involving centralized positions, removals, suspensions, reductions in rank or grade, furloughs without pay, retirements, and personnel actions requiring prior approval of the Department of the Treasury as defined in Internal Revenue Manual 0250. This authority may be redelegated only to the IOI Employment Officer.

G. This order supersedes Delegation Order No. 81 (Rev. 8), issued March 8, 1976.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.76–37201 Filed 12–17–76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 215]

ASSIGNMENT OF HEARINGS

DECEMBER 15, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 123407 (Sub-304), Sawyer Transport, Inc., now assigned February 1, 1977 at Chicago, Illinois; will be held in Room 286 Everett McKinley Dirksen Building, 219 South Dearborn Street. MC 111302 (Sub-93), Highway Transport, Inc.; MC 112801 (Sub-186), Transport Service, Co. and MC 134477 (Sub-112), Scanno Transportation, Inc., now assigned February 3, 1977 at Chicago, Illinois, will be held in Room 286 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 1931 (Sub-No. 16), Vonder Ahe Van Lines, Inc., MC 15735 (Sub-No. 27), Allied Van Lines, Inc., and MC 52793 (Sub-No. 21), Bekins Van Lines Co., now assigned January 24, 1977, at Chicago, Ill. will be held in Room 350, 230 South Dearborn Street. MC 95540 (Sub-No. 952), Watkins Motor Lines, Inc., now assigned January 31, 1977, at Chicago, Ill. will be held in Room 350, 230 South Dearborn Street.

MC 141853, C–B–C Transport Company, now assigned January 18, 1977, at Jackson, Miss., is postponed to January 25, 1977 (9 days), at Jackson, Miss., Grand Jury Room, U.S. Courthouse & Post Office Building, Corner of Capitol & South West Streets.

I&S M–29277, General Increase on Meats, December 1976, R.M.M.T.B. now being assigned February 1, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

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MC 35835 (Sub-31), Jensen Transport, Inc.; MC 67450 (Sub-53), Peterlin Cartage Co.; MC 107496 (Sub-1027), Ruan Transport Corporation; MC 112801 (Sub-180), Transport Service Co.; MC 114194 (Sub-182), Kreider Truck Service, Inc.; MC 115331 (Sub-404), Truck Transport Incorporated; MC 119974 (Sub-52), L.C.L. Transit Company; MC 124078 (Sub-684), Schwerman Trucking Co.; MC 127840 (Sub-44), Montgomery Tank Lines, Inc. and MC 136774 (Sub-5), Mc-Mor-Han Trucking Co., Inc., has been continued to January 4, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-8959, Kraftours Corporation, DBA Kraftours and Allan S. Kraft, DBA Universal Travel Service Investigation of Operations and Revocation of Certificate and License and MC 120781 (Sub-No. 5) Kraftours Corporation Extension-Special Operation, now being assigned for continued hearing on January 13, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C. MC 141675 (Sub-1), Economy Trucking Service, Inc., application dismissed.

MC 136899 (Sub-No. 17), Higgins Transportation LTD., now assigned February 1, 1977, at Chicago, Ill. will be held in Room 350, 230 South Dearborn Street.

MC 138824 (Sub-No. 4), Redway Carriers, Inc., now assigned February 2, 1977, at Chicago, Ill. will be held in Room 350, 230 South Dearborn Street.

MC 119619 (Sub-No. 87), Distributors Service Co., now assigned February 3, 1977, at Chicago, Ill. will be held in Room 350, 230 South Dearborn Street.

MC-F-11025, Virginia Carolina Freight Lines, Inc.—Purchase—Merit Transport Corporation (Joseph Keane, Statutory Receiver), now being assigned January 24, 1976, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 121664 (Sub-2), Orlando Transit Company, now assigned continued hearing February 15, 1977 at Washington, D.C., has been postponed to March 22, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 59856 Sub 64, Salt Creek Freightways, A Corp., now being assigned March 7, 1977 (1 week), at Boise, Idaho, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37303 Filed 12-17-76;8:45 am]

[EX PARTE NO. 334]

CAR SERVICE COMPENSATION; BASIC PER DIEM CHARGES

Formula Revision in Accordance With the Railroad Revitalization and Regulatory Reform Act of 1976

DECEMBER 14, 1976.

NOTICE TO THE PARTIES

A request for an informal conference has been received from the Association of American Railroads. Since the Commission by order served December 14, 1976, has extended the date for filing initial statements to February 9, 1977, an informal conference may be of substantial benefit to the parties in clarifying any technical problems that may have arisen.

The informal conference will take place at the Offices of the Interstate Commerce Commission, Washington, D.C., on December 21, 1976, at 2:00 p.m.

Notice of this informal conference shall be given to the general public by depositing a copy of this notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by delivering a copy of the notice to the Director, Office of the Federal Register for publication therein as notice to interested persons.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37300 Filed 12-17-76;8:45 am]

[Notice No. 90]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before January 19, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76820, filed November 9, 1976. Transferee: South Tahoe Shell, a partnership, P.O. Box 9697, South Lake Tahoe, CA 95731. Transferor: Thornton's Incorporated, P.O. Box 1258, Truckee, CA 95734. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-118625 Sub 1 issued by the Commission September 9, 1960, and acquired by transferor herein pursuant to approval and consummation of No. MC-FC-75745 on August 19, 1975, as follows: Wrecked or disabled automobiles, trucks, tractors, semi-trailers, and full trailers, and wrecked or disabled house trailers, using wrecker type tow trucks, in truckaway service, between points in a described part of California and points in a described part of Nevada.

Transferee presently holds no authority from this Commission.

Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-76835, filed November 22, 1976. Transferee: American Pacific Forwarders, 7914 7th St., Downey, Calif. 90241. Transferor: S & M Freight Lines, 2017 Violet St., Los Angeles, Calif. 90021. Applicants' representative: R. Y. Schureman, Attorney at law, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-10381 and a portion of Sub 3, issued September 13, 1957, and March 18, 1964, as follows: General commodities, with exceptions, over irregular routes, (1) between Redondo Beach, Calif., on the one hand, and, on the other, Los Angeles, Hyde Park, Inglewood, Lennox, Hawthorne, Hermosa Beach, and Manhattan Beach, Calif. and (2) between points in the Los Angeles, Calif., Commercial Zone, on the one hand, and, on the other, points in the Los Angeles Harbor, Calif., Commercial Zone, as those zones are defined in Los Angeles, Calif., Commercial Zone, 3 M.C.C. 248. Also *fireworks* and *materials, supplies and equipment* incidental to, and used in, the manufacture of fireworks, from Los Angeles Harbor, Calif., to Redondo Beach, Calif. Also general commodities, with specified exceptions between points in the specified Los Angeles Basin Area. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76853, filed December 2, 1976. Transferee: Raiders Express, Inc., 6 Senate Place, Jersey City, N.J. 07306. Transferor: Chandler Transportation, Inc., One Penn Plaza, New York, N.Y. 10001. Applicants representative: M. F. Rolla, attorney-at-law, One Penn Plaza, New York, N.Y. 10001. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-106010, issued January 17, 1973, as follows: General commodities, with the usual exceptions, between New York, N.Y., on the one hand, and, on the other, points in New Jersey (with specified exceptions); between points in New Jersey within 30 miles of City Hall, New York, N.Y., on the one hand, and, on the other, Camden County, N.J.; between points in Philadelphia County, Pa., between points in Philadelphia County, Pa., on the one hand, and, on the other, Camden, N.J.; and furniture, radios, refrigerators, washing machines, vending machines, and confectionary, pool and billiard tables and radiators and boilers, from, to and between specified points in Pennsylvania, Delaware, New Jersey, Maryland, and the District of Columbia. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76855, filed December 2, 1976. Transferee: Direct Van Lines, Inc., 6121 Lincolnia Road, Alexandria, Va. 22314. Transferor: Regent Van & Storage, Inc., 1327 Wilkes St., Alexandria, Va. 22314. Applicants' representative: Martin R. Martino, attorney-at-law, 475 L'Enfant Plaza, S.W., Suite 4400, Washington, D.C. 20024. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 134924, issued December 8, 1970, as follows: Household goods as defined by the Commission, between Washington, D.C., on the one hand, and, on the other, points in Maryland, Delaware, New Jersey, Pennsylvania, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, Virginia, Kentucky, North Carolina, South Carolina, Georgia, New York, Connecticut, Rhode Island, and Massachusetts; and between Washington, D.C., on the one hand, and, on the other, points in Maryland and Virginia within 40 miles of Washington, D.C. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37304 Filed 12-17-76;8:45 am]

[Notice No. 168]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 14, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than January 4, 1977. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1641 (Sub-No. 104TA) filed December 6, 1976. Applicant: PEAKE TRANSPORT SERVICE, INC., P.O. Box 1050, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Residual fuel oil*, from the storage site of N and W Electric Cooperative, Inc., at or near Missouri City, Mo., to points in Nebraska, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carter-Waters Corporation, P.O. Box 19676, Kansas City, Mo. 64141. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 13087 (Sub-No. 4TA) filed December 6, 1976. Applicant: STOCKBERGER TRANSFER & STORAGE, INC., 524 Second St., S.W., Mason City, Iowa 50401. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Peoria, Ill., to Mason City, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Blue Ribbon, Inc., 640 19th St., S.E., Mason City, Iowa 50401. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 29079 (Sub-No. 90TA), filed December 6, 1976. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 S. Union, P.O. Box 935, Kokomo, Ind. 46901. Applicant's representative: Richard H. Streeter, 704 Southern Bldg., 15th & H Streets N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers, herbicides and pesticides* (except in bulk), from the plantsite of Knox Fertilizer, at or near Knox, Ind., to points in Illinois, Kentucky, Lower Peninsula of Michigan, Missouri, New York, Ohio, Pennsylvania, West Virginia, Wisconsin, Minnesota, Kansas, Iowa and Nebraska, for 180 days. Supporting shipper: Knox Fertilizer & Chemical Co., Inc., P.O. Box 116, Knox, Ind. 46534. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 38921 (Sub-No. 8TA), filed December 6, 1976. Applicant: WM. H. P., INC., 1342 N. Howard St., Philadelphia, Pa. 19122. Applicant's representative: A. Davis Millner, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite of Anchor Hocking Corporation, at Salem, N.J., to the plantsite of C. Schmidt & Sons Brewery, in Philadelphia, Pa., for 180 days. Supporting shippers: Anchor Hocking Corporation, Lancaster, Ohio 43130. C. Schmidt & Sons Brewery, 127 Edward St., Philadelphia, Pa. 19123. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 66531 (Sub-No. 6TA) filed November 30, 1976. Applicant: INTERSTATE GROCERY DISTRIBUTION SYSTEM, INC., 2200 48th St., North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, chemicals, pharmaceuticals, cleaning, scouring or washing compounds, NOI, paper impregnated with cleansing agent, corn syrup* not medicated, *dental instruments*, NOI: *needles*, NOI: *glassware*, O/T cut NOI: actual value not exceeding $1.50 per pound, vermin exterminators, NOI: insecticides O/T agricultural, NOI: petroleum naphtha; coal tar dyes O/T indigo; coal tar colors O/T synthetic indigo; bathroom or lavatory fixtures, NOI; O/T china; flour enriching compound; flavouring compounds NOI, dry; advertising matter; bottles, glass or plastic; caps, bottles, steel aluminum or plastic, paper or paperboard, NOI, KD; tubes cellulose film, in straight or mixed shipments, between East Brunswick, Clifton, Lodi and East Rutherford, N.J., on the one hand, and, on the other, Piers in New York Harbor, N.Y., as defined by the Commission, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Winthrop Products Inc., 90 Park Ave., New York, N.Y. 10016. Send protests to: Julia M. Papp, Transportation Assistant, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 98952 (Sub-No. 40TA) filed December 6, 1976. Applicant: GENERAL TRANSFER, INC., 2880 N. Woodford St., Decatur, Ill. 62525. Applicant's representative: John E. Harvey, P.O. Box 1470, 4666 Faries Parkway, Decatur, Ill. 62525. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol, liquid*, in bulk, from the plant and storage facilities of Archer Daniels Midland Company, Decatur, Ill., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at and destined to named points, for 180 days. Supporting shipper: Jerry C. Slaughter, General Traffic Manager, Archer Daniels Midland Company, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

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No. MC 103051 (Sub-No. 382TA) filed December 7, 1976. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard*, in bulk, in tank vehicles, from Nashville, Tenn., to Bradley, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Swift Fresh Meats Company, A Division of Swift & Company, Chicago, Ill. 60604. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 121489 (Sub-No. 11TA) filed December 10, 1976. Applicant: NEBRASKA-IOWA XPRESS, INC., 3219 Nebraska Ave., Council Bluffs, Iowa 51501. Applicant's representative: William S. Rosen, 630 Osborn Bldg., St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Denver, Colo., and Chappell, Nebr., from Denver, over Interstate Highway 80 to Chappell, and return over the same route, serving intermediate and off-route points in Sedgwick County, Colo. Applicant intends to tack its existing authority with MC 121489 Sub-No. 2. Applicant also intends to interline at Denver, Omaha, Kansas City, St. Joseph, Sioux City, Iowa and any other convenient tack points in applicant's system, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 12 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 129326 (Sub-No. 25TA) filed December 6, 1976. Applicant: CHEMICAL TANK LINES, INC., P.O. Drawer 437, Highway 60 West, Mulberry, Fla. 33860. Applicant's representative: L. Agnew Myers, Jr., 734 15th St., N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Amines*, in bulk, in tank vehicles, from Mulberry, Fla., to Aurora, N.C., for 180 days. Supporting shipper: Westvaco Corporation, P.O. Box 237, Mulberry, Fla. 33860. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Monterey Bldg., Suite 101, 8410 N. W. 53rd Terrace, Miami, Fla. 33166.

No. MC 129537 (Sub.-No. 16TA) (Correction) filed October 13, 1976, published in the FEDERAL REGISTER issue of October 26, 1976, and republished as corrected this issue. Applicant: REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhoun, Ga. 30701. Applicant's representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, Fla. 33602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and rugs*, from points in Floyd, Bartow, Chatooga, Muscogee, Gordon, Whitfield, Murray, Walker, Catoosa and Troup Counties, Ga., to points in Duval County, Fla., for 180 days. Supporting shippers: There are approximately 36 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309. The purpose of this republication is to state that there are more than one supporting shippers in this proceeding.

No. MC 135410 (Sub-No. 6 TA) (Correction) filed November 12, 1976, published in the FEDERAL REGISTER issue of November 24, 1976, and republished as corrected this issue. Applicant: COURTNEY J. MUNSON, doing business as MUNSON TRUCKING, 700 S. Main St., Monmouth, Ill. 61462. Applicant's representative: Courtney J. Munson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard, tallow, shortening, vegetable oil shortening, margarine, and cooking oils*, in packages, from the facilities of Swift Edible Oil Company, located at or near Bradley, Ill., to points in New Jersey, New York, Maryland, Pennsylvania, Massachusetts and the District of Columbia, and the specified points on Manassas, Williamsburg, Richmond and Newport News, Va.; Dover, Rehoboth Beach and Wilmington, Del.; Levitt City, New Haven, New London, Hartford, Meriden, Colchester and Stamford, Conn.; Burlington, Brattleboro, Rutland and White River Jct., Vt.; Doven, Concord and Manchester, N.H.; Fairfield, Lewiston, Portland and Augusta, Maine, and Providence and Cranston, R.I., and the Commercial Zones of the respectively named cities, for 180 days. Supporting shipper: Swift Edible Oil Company, Division of Swift & Company, Arnold A. Johnson, Distribution Manager, 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 135640 (Sub-No. 5TA) filed December 6, 1976. Applicant: STALEY EXPRESS, INC., 2501 N. Brush College Road, Decatur, Ill. 62526. Applicant's representative: Courtney J. Munson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol, liquid*, in bulk, from the plant and storage facilities of Archer Daniels Midland Company, Decatur, Ill., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at and destined to named points, for 180 days. Supporting shipper: Jerry C. Slaughter, General Traffic Manager, Archer Daniels Midland Company, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705

No. MC 139967 (Sub-No. 2TA), filed December 6, 1976. Applicant: S.P.S. TRANSPORT CO., 837 W. State St., Ontario, Calif. 91761. Applicant's representative: Bruce A. Bullock, 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pressure sensitive tape;* (a) from Beacon, N.Y., to Carbondale, Ill., and points in California and Nevada; and (b) from Carbondale, Ill., to points in California and Nevada, under a continuing contract with Tuck Industries, Inc., for 180 days. Supporting shipper: Tuck Industries, Inc., 248 Tioranda Ave., Beacon, N.Y. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321, Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 141156 (Sub-No. 4TA), filed December 7, 1976. Applicant: SWIFT-O CARRIER, INC., 2053 St. Deville, N.E., Atlanta, Ga. 30345. Applicant's representative: Kim G. Meyer, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as marketed by Home Products Distributors for the account of Amway Corporation, from the plantsite and storage facilities of Amway Corporation in Fulton County, Ga., to points in Louisiana and Arkansas, under a continuing contract with Amway Corporation, for 180 days. Supporting shipper: Amway Corporation, 300 Villanova Drive, Atlanta, Ga. 30336. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 142603TA (Correction), filed November 5, 1976, published in the FEDERAL REGISTER issue of November 22, 1976, and republished as corrected this issue. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, Mass. 01101. Applicant's representative: S. Michael Richards, 44 North Ave., P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Abrasives*, from Chester and Westfield, Mass., to Fort Smith, Ark.; Compton, Los Angeles, Oakland, San Leandro, Whittier, Calif.; Hartford, Conn.; Coral Gables, Fla.; Atlanta, Ga.; Chicago, Moline, Morton Grove, Skokie, Ill.; Fortville, LaPorte, North Manchester, Ind.; Ottumwa, Iowa; Kansas City, Kans.; Louisville, Ky.; Frederick, Md.; Methuen, Mass.; Chelsea, Detroit, Grand Rapids, Jackson, Kalamazoo, Owosso, Oxford, Whitehall, Mich.; Minneapolis, St. Paul, Minn.; Liberty, Mo.; Belvidere, Cinnaminson, Dover, Glen Ridge, Irvington, Linden, Matawan, Paterson, Riverton, N.J.; Fruitland, N. Mex.; Brooklyn, N. Tonawanda, Tonawanda, N.Y.; Aberdeen, N.C.; Barberton, Cincinnati, Columbus, Evendale, Newcomerstown, Oakley, Tiffin, Wooster, Ohio; Midwest City, Oklahoma City, Tulsa, Okla.; Altoona, Bridesburg, Lock Haven, Montgomery, Montgomeryville, Morgan, Pennsburg, Philadelphia, Sproul, Worcester, Zelienople, Pa.; Charleston, S.C.; Arlington, Dallas, Ft. Worth, Highland, Houston, Laredo, Marshall, Tex.; Hampden, Hampton, Norfolk, Petersburg, Richmond, Va.; Brookfield, Sun Prairie, Wis., under a continuing contract with Bendix-Abrasives Division, for 180 days. Supporting shipper: Bendix-Abrasives Division, Jackson, Mich. 49204. Send protests to: J. D. Perry, Jr., District Supervisor, 436 Dwight St., Room 338, Springfield, Mass. 01103. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 142693TA, filed November 30, 1976. Applicant: CUSTOM DELIVERIES, INC., 24680 Mound Road, Warren, Mich. 48091. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts and accessories, and related publications, advertising material and packaging and shipping supplies*, between points in Cook County, Ill., on the one hand, and, on the other, points in Indiana, Illinois, Wisconsin and Michigan, under a continuing contract with Chrysler Corporation, Parts Supply Division, for 180 days. Supporting shipper: Chrysler Corporation, Parts Supply Division, Manager, Traffic & Distribution Dept., Daniel F. McNamara, 26311 Lawrence Ave., Center Line, Mich. 48015. Send protests to: James A. Augustyn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37302 Filed 12-17-76;8:45 am]

[Notice No. 169]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 15, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than January 4, 1977. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1380 (Sub-No. 20TA), filed December 7, 1976. Applicant: COLONIAL MOTOR FREIGHT LINE, INC., P.O. Box 7027, High Point, N.C. 27262. Applicant's representative: Max H. Towery (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina, in and east of Macon and Swain Counties, points in South Carolina; and points in Virginia on and south of a line beginning at Cape Henry, Va., and extending along U.S. Highway 60 to Richmond, Va., thence along U.S. Highway 250 to Staunton, Va., thence along U.S. Highway 11 to Bristol, Va., to points in Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 17 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 20783 (Sub-No. 109TA), filed December 6, 1976. Applicant: TOMPKINS MOTOR LINES, INC., P.O. Box 1830, Highway 77, Gadsden, Ala. 35902. Applicant's representative: Larry Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in *Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities of Stark Wetzel Foods, at Indianapolis, Ind., to points in Alabama, Georgia, Kentucky, North Carolina, South Carolina and Tennessee, for 180 days. Supporting shipper: The Rath Packing Company, Sycamore & Elm St., Waterloo, Iowa 50704. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 35807 (Sub-No. 64TA), filed December 7, 1976. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, 210 Baker St., N.W., Atlanta, Ga. 30302. Applicant's representative: D. E. Wells (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Unique (currency) paper*, between Dalton, Mass., and Washington, D.C., under a continuing contract with General Services Administration, for 180 days. Supporting shipper: General Services Administration, Crystal Mall Bldg., No. 4, Washington, D.C. 20406. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga., 30309.

No. MC 110525 (Sub-No. 1175TA), filed December 8, 1976. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., P.O. Box 200. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrochloric acid (Muriatic acid)*, in bulk, in tank vehicles, from Freeport, Tex., to points in Louisiana and Mississippi, for 180 days. Supporting shipper: Dow Chemical, U.S.A., Texas Division, Drawer K, Freeport, Tex. 77541. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 114274 (Sub-No. 37TA), filed December 8, 1976. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St., Place, Des Moines, Iowa 50313. Applicant's representative: William H. Towle, 180 N. LaSalle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions In Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Spencer and Hartley, Iowa, and Schuyler, Nebr., to points in New Jersey, New York, Massachusetts, Pennsylvania, Maryland, and the District of Columbia, restricted to the transportation of traffic originating at the origins and destined to the named destinations, for 180 days. Supporting shipper: Spen-

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cer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 114632 (Sub-No. 87TA), filed December 7, 1976. Applicant: APPLE LINES, INC., 212 S.W. Second, P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Robert A. Applewick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the facilities of Flavorland Industries, Sioux City, Iowa, to points in Illinois, Indiana, in the Chicago Commercial Zone, points in Ohio and Michigan, for 180 days. Supporting shipper: Flavorland Industries, Inc., 1911 Cunningham Drive, Sioux City, Iowa 51107. Send Protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 114632 (Sub-No. 88TA), filed December 8, 1976. Applicant: APPLE LINES, INC., 212 S.W. Second St., P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Robert A. Applewick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in Nebraska, Iowa, Missouri, Kansas, Minnesota, South Dakota, North Dakota, to the plantsite of Landy of Wisconsin, at Eau Claire, Wis.; and from the plantsite of Landy of Wisconsin, at Eau Claire, Wis., to points in Iowa, Missouri, Kansas, Nebraska, South Dakota, North Dakota, Illinois, Minnesota, and Indiana, for 180 days. Supporting shipper: Landy of Wisconsin, Inc., 2411 3rd St., Eau Claire, Wis. 54701. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 118159 (Sub-No. 191TA), filed December 6, 1976. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366-Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products and related advertising materials and supplies*, from Tyngsboro and Lawrence, Mass., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Family Products Corporation, P.O. Box 1800, Lowell, Mass. 01836. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 118159 (Sub-No. 192TA), filed December 8, 1976. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366-Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured and distributed by manufacturers and distributors of office supplies; and equipment, materials and supplies used in the manufacture and distribution of the above-described commodities, between the plantsites and warehouse facilities of National Blank Book Company, Inc., at Holyoke and Springfield, Mass., and Meridian, Miss., and points in Alabama, Arkansas, Florida, Georgia, Louisiana, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Mississippi, and Texas. Restriction: The operations authorized above are restricted to the transportation of traffic originating at the named origins and destined to the named destinations, for 180 days. Supporting shipper: National Blank Book Co., 655 Page Blvd., Springfield, Mass. 01104. Send protests to: Joe Green, District Supervisor, Room 240 Old P.O. Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 123407 (Sub-No. 344TA), filed December 6, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square. U.S. 6, Valparaiso, Ind. 46383. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and wood products*, from points in Oregon and Washington, to points in Illinois, Indiana, Iowa, Michigan and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Northern Pacific Lumber Co., P.O. Box 2915, Portland, Oreg. 97208. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 123407 (Sub-No. 345TA), filed December 7, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. 6, Valparaiso, Ind. 46383. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of Louisiana-Pacific Corporation, at or near Riverton, Wyo., to points in Illinois, Iowa, Kansas, Missouri, Nebraska and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Louisiana-Pacific Corporation, 1300 S.W. 5th Ave., Portland, Oreg. 97201. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 113, 343 W. Wayne St., Fort Wayne, Ind. 46802.

No. MC 124979 (Sub-No. 4TA), filed December 7, 1976. Applicant: CONRAD BERG, doing business as C. BERG CO., Route 1, Box 185A, Saginaw, Minn. 55779. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in vehicles other than tank or hopper type, from Duluth, Minn., to points in Wisconsin and the Upper Peninsula of Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Sifto Salt Division, Domtar Chemicals, Inc., Suite 406, 9950 W. Lawrence Ave., Shiller Park, Ill. 60176. Morton Salt Company, 110 N. Wacker Drive, Chicago, Ill. 60606. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 125433 (Sub-No. 90TA), filed December 6, 1976. Applicant: F-B TRUCK LINE COMPANY, 1945 S. Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, treated or untreated, from Whitewood, S. Dak., to points in Utah and Nevada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Whitewood Post and Pole, P.O. Box 97, Whitewood, S. Dak. 57793. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 134872 (Sub-No. 9TA), filed December 7, 1976. Applicant: GOSSELIN EXPRESS LTD., 141 Smith Boulevard, Thetford Mines, Quebec, Canada. Applicant's representative: Mr. Cahill, 1111 Twin Towers, 99 Washington Ave., Albany, N.Y. 12210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asbestos*, in bags, from ports of entry on the International Boundary line between the United States and Canada, located at Champlain, N.Y., and Detroit and Sault Ste. Marie, Mich., to Paulding, Lockland, Dayton, Cincinnati, and Canton, Ohio; Warsaw, Ft. Wayne, Gary, Huntington, Newcastle, and East Chicago, Ind.; Kankakee and Chicago, Ill.; Detroit, Kalamazoo, Trenton, and Warren, Mich.; Milwaukee and Green Bay, Wis.; and Danville, Ky.; and (2) Lawnmowers, tractors (garden or lawn) and attachments, snowblowers, hand-operated rotary tillers, self-propelled machinery parts, from Brillion, Wis., to the ports of entry on the International Boundary line between the United States and Canada, located at Champlain, N.Y., and Detroit and Sault Ste. Marie, Mich., for 180 days. Supporting shippers: Asbestos Corporation Limited; Bell Asbestos Mines Ltd.; Thetford Mines, Quebec, and Morin Equipment Co., Ltd., 2075 Branly St., Ste Foy, Quebec. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 208 Federal Bldg., 55 Pleasant St., Concord, N.H. 03301.

No. MC 135874 (Sub-No. 61TA), filed December 7, 1976. Applicant: LTL PERISHABLES, INC., 550 E. 5th St., South, S. St. Paul, Minn. 55075. Applicant's representative: Paul Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Whitehall Packing Company, Inc., at or near Whitehall and Eau Claire, Wis., to points in Connecticut, for 180 days. Supporting shipper: Whitehall Packing Company, Inc., P.O. Box 215, Whitehall, Wis. 54773. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 138274 (Sub-No. 39TA), filed December 8, 1976. Applicant: SHIPPERS BEST EXPRESS, INC., 2151 N. Redwood Road, Salt Lake City, Utah 84116. Applicant's representative: Chester Zyblut, 266 Executive Bldg., 1030 Fifteenth St., N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible meat and return with empty drums*, from Gooding, Idaho, to Midvale, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chase Products, P.O. Box 1, Hagerman, Idaho 83332. Send protests to: Lyle D. Helfer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 125 S. State St., Salt Lake City, Utah 84138.

No. MC 139112 (Sub-No. 9TA), filed December 3, 1976. Applicant: CALEX EXPRESS, INC., 149 Warden Ave., Trucksville, Pa. 18708. Applicant's representative: Joseph F. Hoary, 121 S. Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts, supplies and accessories, and commodities* exempt from economy regulation pursuant to Section 203(b)(6) of the Act when transported in mixed loads with automotive parts, supplies and accessories, from Los Angeles, Calif., to Exeter, Pa.; Automotive parts, supplies, and accessories, from Exeter, Pa., to Los Angeles, Calif.; from Flint, Mich., to Exeter, Pa.; from Pulaski, Tenn., to Exeter, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Keystone Automotive Warehouse Company, 44 Tunkhannock Ave., Exeter, Pa. 18643. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 139112 (Sub-No. 10TA), filed December 2, 1976. Applicant: CALEX EXPRESS, INC., 149 Warden Ave., Trucksville, Pa. 18708. Applicant's representative: Joseph F. Hoary, 121 S. Maine St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General merchandise*, mainly *electronic scrap and salvage materials*, from Government Depots and outlets at San Diego, Los Angeles, Barstow, Tracy, Oakland, Sacramento, Fresno, and San Jose, Calif., area, to Wilkes-Barre Pa., and from Wilkes-Barre, Pa., to San Diego, Los Angeles, Barstow, Tracy, Oakland, Sacramento, Fresno, and San Jose, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Anker Electronics, 1617 S. Main St., and Anker Road, Wilkes-Barre, Pa. 18702. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 139261 (Sub-No. 5TA) filed December 6, 1976. Applicant: BUCKEY EXPRESS, INC., 1st and H Streets, P.O. Box 368, Perrysburg, Ohio 43551. Applicant's representative: Michael M. Bailey, 300 Madison Ave., Toledo, Ohio 43603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in bottles or cans restricted to service to be performed under a continuing contract with New England Apple Products Co., Inc., from the plantsites and facilities of New England Apple Products Co., Inc., at or near Perrysburg, Ohio and Littleton, Mass., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: New England Apple Products Co., Inc., Narvard Road, Littleton, Mass. 01460. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 139379 (Sub-No. 3TA), filed December 7, 1976. Applicant: LES MATHRE TRUCKING, INC., 417 8th St., Story City, Iowa 50248. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and in connection therewith, equipment, materials, and supplies used in the conduct of packinghouses (except commodities in bulk), between the facilities of Farmland Foods, Inc., at or near Crete, Nebr., and Denison, Carroll, and Iowa Falls, Iowa, and between such facilities on the one hand, and on the other, points in North Dakota, South Dakota, Minnesota, Wisconsin, Illinois, Missouri, Iowa, Nebraska and Kansas, for 180 days. Supporting shipper: Farmland Foods, Inc., 435 Charles St., Denison, Iowa 51442. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 139379 (Sub-No. 4TA), filed December 7, 1976. Applicant: LES MATHRE TRUCKING, INC., 417 8th St., Story City, Iowa 50248. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Farmland Foods, Inc., at or near Crete, Nebr., and Denison, Carroll and Iowa Falls, Iowa, to points in Washington, Oregon, California, Arizona, New Mexico, Nevada, Utah, Colorado, Idaho, Wyoming and Montana, for 180 days. Supporting shipper: Farmland Foods, Inc., 435 Charles St., Denison, Iowa 51442. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 141921 (Sub-No. 2TA), filed December 7, 1976. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, N.H. 03101. Applicant's representative: Daniel McCoy (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and pieces thereof and commodities in bulk), from the plantsite and storage facilities of the Great Plains Beef Company, at or near Council Bluffs, Iowa, to points in Alabama, Florida, Georgia, North Carolina and South Carolina, for 180 days. Applicant has also filed an

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underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Plains Beef Packers, Inc., 2700 23rd Ave., P.O. Box 527, Council Bluffs, Iowa 51501. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 208 Federal Bldg., 55 Pleasant St., Concord, N.H. 03301.

No. MC 142649 (Sub-No. 1TA) filed December 8, 1976. Applicant: H. O. SMESTAD CO., P.O. Box 2904, Great Falls, Mont. 59403. Applicant's representative: G. Robert Crotty, Jr., 400 First National Bank Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt and carbonated beverages and related advertising materials, equipment and supplies*, from Minneapolis-St. Paul, Minn., to points in Colorado and Wyoming; *empty containers on return*, for 180 days. Supporting shipper: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 142705 (Sub-No. 1TA), filed December 3, 1976. Applicant: LADY-TRUCKERS LTD., 325 8th St., Coronado, Calif. 92118. Applicant's representative: William R. Daly, 8135 Binney Place, La Mesa, Calif. 92041. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stage properties, sound equipment, lighting equipment*, both crated and uncrated; plus personal properties of Touring Companies including but not limited to musical instruments, costumes, etc., crated and uncrated, between the United States (except Alaska and Hawaii), under a continuing contract with See Factor Pacific; and Sundance Lighting, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: See Factor Pacific; and Sundance Lighting, 1420 N. Beechwood Drive, Hollywood, Calif. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142707 (Sub-No. 1TA), filed December 6, 1976. Applicant: CENTRAL VIRGINIA TRUCKING CO., INC., 3719 Old Forest Road, Lynchburg, Va. 24501. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal castings*, between the facilities of Lynchburg Foundry, a Mead Company, at Archer Creek, Va., on U.S. Highway 460, eight miles east of Lynchburg, on the one hand, and, on the other, the facilities of Carolina Commercial Heat Treat Corp., Reidsville, N.C., under a continuing contract with Lynchburg Foundry, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lynchburg Foundry, Lynchburg, Va. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 142718TA, filed December 7, 1976. Applicant: LEO A. BRIDEAU, Beech Hill Road, Mount Vernon, N.H. 03057. Applicant's representative: Leo A. Brideau (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from Brookline, N.H., to Jay and Westbrook, Maine, and from Milford, N.H., to Jay, Rumford and Westbrook, Maine, and Providence, R.I., for 180 days. Supporting shippers: Riley Bros. Lumber, Inc., Christmas Tree Lane, Milford, N.H. 03055. William R. Tapply & Son Lumber Co., Inc., Quimby Road, Brookline, N.H. 03033. Send protests to: Ross J. Srymour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 208 Federal Bldg., 55 Pleasant St., Concord, N.H. 03301.

No. MC 142719 TA, filed December 7, 1976. Applicant: ROBERT J. KIRKPATRICK, doing business as KIRK'S TOWING SERVICE, 411 Seventh St., La Grange, Ill. 60525. Applicant's representative: Richard A. Kerwin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repaired, used, stolen, repossessed, and replacement motor vehicles*, in tow away service, between points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin, for 180 days. Supporting shippers: There are approximately 6 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 142721 TA, filed December 8, 1976. Applicant: JOHN B. DOTSON, doing business as DOT TRUCKING COMPANY, 1220 Murphy Ave., S.W., Atlanta, Ga. 30310. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel pilings, structural steel, reinforcing steel, construction equipment and materials, including structural pipe*, from points in the United States on and east of the Mississippi River, to the job sites and storage facilities of Metropolitan Atlanta Transit Authority in Cobb, Clayton, Gwinnett, DeKalb, and Fulton Counties, Ga., for 180 days. Supporting shippers: Underground Construction Co., Inc., 191 E. Howard Ave., Decatur, Ga. 30030. J. A. Jones Construction Co., 805 Lambert Dr., N.E., Atlanta, Ga. 30324. Hensel Phelps Construction Co., 250 Arizona Ave., P.O. Box 27296. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37301 Filed 12-17-76;8:45 am]

[Notice No. 92]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312 (b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 C.F.R. Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 10, 1977. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–76436. By order of December 1, 1976, the Motor Carrier Board approved the transfer to TCI, Inc., Cincinnati, Ohio, of that portion of Certificate No. MC 108449 Sub 397 issued by the Commission, November 11, 1976, to Indianhead Truck Line, Inc., St. Paul, Minn., authorizing the transportation of general commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities which, because of size or weight, require the use of special equipment, commodities in bulk, and automobiles as defined by Section 203(a)(13) of Part 2 of the Interstate Commerce Act, between Cincinnati, Ohio, on the one hand, and, on the other, points in Ohio, restricted to traffic having an immediately prior or subsequent movement by rail or water. Paul F. Beery, Esquire, 8 East Broad Street, Columbus, Ohio 43215. Paul C. Gartzke, Esquire, 121 W. Doty Street, Madison, Wis. 53703.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37480 Filed 12-17-76;8:45 am]

federal register

MONDAY, DECEMBER 20, 1976



PART II:

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

Compliance With Standards for Access to and Use of Buildings by Handicapped

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Title 36—Parks, Forests, Public Property

CHAPTER XI—ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

PART 1150—PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

Compliance With Standards for Access to and Use of Buildings by Handicapped

The Architectural and Transportation Barriers Compliance Board (hereinafter referred to as A&TBCB) was established under § 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391. Section 502(d) (29 U.S.C. 792(d)) provides that the A&TBCB shall hold hearings and issue orders it deems necessary to ensure compliance with the standards of buildings and facilities issued under the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended (42 U.S.C. 4151 et seq.). The provisions of Subchapter II of Chapter 5 and Chapter 7 of Title 5, U.S.C., apply to the A&TBCB procedures. An order of compliance issued by the A&TBCB is a final order for purposes of judicial review. Pub. L. 93–516, 88 Stat. 1621, the Rehabilitation Act Amendments of 1974, provides that an order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with applicable standards.

The A&TBCB is concerned that ready access to and use of buildings be effective through voluntary compliance with applicable standards. Nevertheless, the A&TBCB has received and is processing numerous complaints of alleged noncompliance.

The A&TBCB on June 10, 1976, 41 FR 23598 et seq., published proposed rules for a formal system for disposition of those complaints which cannot be amicably resolved to ensure accessibility by means of compliance with the applicable standards. The A&TBCB received a total of twenty-seven (27) comments, many of which were very detailed. The agencies of three (3) members of the A&TBCB, the Department of Transportation, Department of Housing and Urban Development, and the United States Postal Service, were among the Federal commentors. Significant input was also received from concerned individuals, public interest law centers, handicapped interested organizations, as well as state and local governments. Those comments are discussed at length in the next part of this preamble. The A&TBCB feels that soliciting public comments concerning the regulations was most helpful to the A&TBCB and is grateful for the constructive suggestions and support expressed by all who participated.

The A&TBCB is continuing development of additional parts of Chapter XI, Part 1150, to fully implement section 502 of the Rehabilitation Act, as amended. This will include guidelines for voluntary compliance for agencies and programs subject to the jurisdiction of the A&TBCB. A more elaborate Guidance for Compliance System Development was published on July 1, 1976, 41 FR 27191 et seq.

PUBLIC COMMENTS

The A&TBCB now turns to the substance of the comments received, addressing them in the sequential order of the regulations.

A. PURPOSE AND APPLICATION OF THE REGULATIONS

A Federal agency proposed adding a new paragraph to § 1150.1 to the effect that these regulations apply only to complaints which have been considered through the full administrative processes of agencies involved. The A&TBCB believes the spirit of this comment has been adopted into the expanded section on informal resolution, § 1150.41. The A&TBCB strongly favors informal resolution of complaints by the agencies involved to provide compliance with the applicable standards and has revised § 1150.1 to that effect.

The A&TBCB wishes to note that as part of the overall Federal compliance program, agencies will be developing inquiry and response systems which will serve to receive and resolve complaints. Such an informal resolution process achieves the same objectives as the above referenced agency proposal.

B. DEFINITIONS

Several of the definitions in § 1150.1 were the subject of comments. The intent of the A&TBCB in preparing the proposed rules was to draw upon the statutory and regulatory terms being commonly used by public and private agencies.

One Federal agency commented that several terms, including "building," "construction," "handicapped individual," and "privately owned residential structure" were inappropriate and should be deleted. The definitions form the basic rubrics for implementation of the A&TBCB compliance function. It is the objective of the regulations to provide in one part of the Code of Federal Regulations a complete document, including a glossary of all pertinent terms. Thus, the above-noted terms have been retained in the regulations.

Other comments addressing specific definitions are taken in the sequence of the terms in § 1150.2. It should be noted that the definitions herein are similarly identical to those of the standard issuing agencies.

The A&TBCB has revised the definition of "building" to implement the 1976 Amendments to the Architectural Barriers Act, Pub. L. 94–541. This affects application of the Architectural Barriers Act to various privately owned residential buildings and leased facilities. The expansion of coverage of the Architectural Barriers Act to buildings and facilities of the United States Postal Service does not require any further special elaboration of the definition of "building." USPS buildings and facilities are within the ambit of the definition set out.

This should not be construed as hereby covering USPS facilities. USPS must issue its standards after consultation with the Secretary of Health, Education, and Welfare. These regulations will apply to USPS buildings and facilities as soon as standards are issued.

The term "building," § 1150.2(d), has also been revised by deleting the phrase "may be" in (iii) and substituting the word "is" in lieu thereof. One Federal commentor felt that the proposed language might be construed as a substantive change. That was not intended and the change has been made to more closely follow the definition of "building" in Pub. L. 90–480. This does not effect any change in interpreting the statute. See Opinion of General Counsel, General Services Administration, "First Report of the Architectural and Transportation Barriers Compliance Board" at pages 49–50.

The exclusion of certain military facilities from the definition of the statute follows the statutory language. The issue to be resolved in applying the exception is whether the building is intended primarily for use by able-bodied military personnel, not whether the building is intended for military operations. Consumers cautioned that the statutory exclusion may be difficult to apply. The Department of Defense has embarked upon a program to ensure that all of its facilities are accessible unless they are intended for use exclusively by the able-bodied military personnel. The criterion of "exclusive use" goes beyond the requirement of the statute which establishes "primary use" as the measure of when a facility is covered and when it is not. Thus, while under the statute a new facility intended as a work place for fifty-one (51) able-bodied military personnel and forty-nine (49) civilian workers could be interpreted as not being covered, the Defense Department policy will assure that it is accessible. This exclusive use criterion has, as additional advantages, ease of definition and application.

Including "acquisition" within the definition of "construction," § 1150.2(f), was objected to by two (2) Federal commentors. The definition of construction is taken directly from the Rehabilitation Act which places no limitation on "acquisition" as the commentors proposed.

The definition of "physically handicapped," § 1150.2(i), is the definition in Pub. L. 93–516, the Rehabilitation Amendments of 1974. If an individual has a mental disability which has a physical manifestation, such an individual is an intended beneficiary of the Rehabilitation Act. Thus there has been no deletion of references to mentally handicapped as proposed by Federal agency comments.

A Federal commentor suggested broadening the coverage of the term "privately owned residential structure," § 1150.2(l), to be more consistent with intent under Pub. L. 90–480 and the Housing Act, 42 U.S.C. 1401 et seq. One commentor made a similar type recommendation and the revisions reflect these helpful suggestions.

Several commentors called the A&TBCB's attention to the fact that the A&TBCB enforces all standards issued

under the Architectural Barriers Act, not only ANSI 117.1 cited in the proposed rules. Appropriate revision has been made.

There appears to be some slight confusion as to the role of the A&TBCB in the standard-making process. The statutes do not grant the A&TBCB standard-making authority. The Secretary of Health, Education, and Welfare, in his capacity as Chairman of the A&TBCB, consults with GSA, HUD, DoD, and USPS, the standard issuing agencies. While revisions to the current American National Standard Institute Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped, ANSI 117.1 are now under consideration and nearing completion, such revisions will be for the standard-making agencies in the first instance. The A&TBCB does not currently have authority to compel their use or the use of higher standards. Such matters are, of course, within the policy making ambit of the A&TBCB. At such time as new standards are available, the A&TBCB may consider making such policy recommendations or taking other appropriate actions.

C. SCOPE OF RULES

In § 1150.3, Scope of Rules, the references to the Administrative Procedure Act and Federal Rules of Civil Procedure are included to provide the statutory and procedural background for the enforcement proceedings.

D. SUSPENSION OF RULES

Some concern has been expressed about § 1150.5, Suspension of Rules. That section is commonly found in rules for other administrative proceedings, e.g. 45 CFR 81.4. To the knowledge of the A&TBCB this section has never been the source of any difficulty. Should problems be encountered, appropriate revision will be considered.

E. PARTIES-PARTICIPATION

The subject of the parties to the proceeding elicited significant comments from consumer organizations and Federal agencies. The issue raised by two of the Federal agencies was that the physically handicapped have a right to a hearing. One commenter notes, without specific citation of any authority, that while it does not believe that every complaining handicapped person must necessarily be afforded a hearing either under the statute (presumably the Rehabilitation Act) or constitutional due process (again, presumably the 5th and 14th Amendments) requirements, the exclusion of such persons from participation in a hearing involving the subject of their complaint might be vulnerable to court challenge.

The other Federal agency comment expressed concern about the limited role proposed for complainants, many of whom will be physically handicapped, whom the commentor characterizes as the intended beneficiaries of the Rehabilitation Act of 1973. A local government agency expressed a desire that the Board seek legislative change to permit the participation of complainants as a matter of right. This issue is one with wide ranging implications. The test is not merely one of who is the intended beneficiary of the Act. Moreover, it is not always the case that an intended beneficiary of a statute is entitled to an administrative hearing. The intended beneficiaries may well be intended to have a direct right of court action. See *Cort v Ash*, 422 U.S. 66 (1975) and authorities cited therein.

This issue of the individual's right to bring a private law suit under the Architectural Barriers Act, Pub. L. 90–480, as affected by the enactment of subsequent social-welfare legislation, including Pub. L. 93–112, is now pending before the Court in *Washington Urban League v. WMATA*, Civil No. 776–72, United States District Court, District of Columbia. The A&TBCB does not wish to prejudice the Court's decision in any way and, therefore, is expressly stating that its revision to § 1150.13, Participation on Petition, is based solely on policy grounds. The section creates a presumption that the interest of a person as a complainant is sufficient to permit participation in compliance proceedings. The A&TBCB expects and intends this provision to lead to participation in compliance proceedings by all complainants who so desire.

Adoption of this policy has several benefits. It permits a complainant to participate if it so elects. Yet, at the same time, the onus of initiating compliance remains on the Executive Director so that there must not be enforcement proceedings in every instance, particularly if the Executive Director can effect informal resolution. The A&TBCB recognizes that many disabled individuals are first beginning to come into contact with Federally occupied or funded buildings. The A&TBCB also recognizes that some disabled individuals would prefer not to participate out of a fear of possible recriminations against them. The instant revision will permit full participation as intervenor or in the more limited role as amicus curiae by those who so elect. The A&TBCB believes this policy is responsive to the public comment received on the issue. Whether or not a complainant participates in proceedings, he will be kept apprised by A&TBCB staff of all developments in the proceedings.

Before passing from this area, it must be observed that ablebodied, as well as disabled, individuals benefit from accessible and usable buildings. A barrier-free environment permits the meaningful contribution of all individuals to society.

A consumer group felt that there should be a document in lay terms explaining the procedures to be followed. It is the A&TBCB practice to prepare pertinent informational materials readily understandable by lay people. These enforcement procedures will assuredly be incorporated into that effort. In this connection, it must be observed that copies of the proposed rules were made available in braille and cassettes. Copies of the finalized rules will similarly be available.

There were some comments to the effect that the distinction between intervenors and amicus curiae, §§ 1150.13 and 1150.14, was somewhat blurred. The proposed distinctions did not serve any purpose in an administrative process, which should lean towards informality and permissiveness. Much discretion in this area has been provided the administrative law judge in the revised consolidated § 1150.13, Participation on Petition.

One of the public interest law centers suggested regarding § 1150.14, Appearance, (formerly numbered § 1150.15), that there should be provision allowing for appointment of counsel for prospective intervenors and amici that the Board feels would be more effectively represented if counsel were speaking for them. The commenter realizes the limits of the A&TBCB to pay for attorneys and suggests that a volunteer pool be assembled for service. The A&TBCB does not want to raise the spectre of offering assistance which in fact it may not be able to provide. The compliance hearings will undoubtedly be held all across the country, commensurate with the Federal physical and financial presence. Establishment of a volunteer pool may prove quite difficult and, before changing its regulations in a manner which would encourage such volunteer participation, the A&TBCB will have to ascertain the extent of commitment of such aid.

F. SIGNATURE OF DOCUMENTS

The need for the last sentence of § 1150.22 was questioned by one Federal agency. It was included to discourage the imposition of unnecessary documents. Cf. 45 CFR 81.32.

G. INFORMAL RESOLUTION

By far the most significant dialogue produced by the comments pertained to the initiation of compliance proceedings and the informal resolution process.

The A&TBCB will be looking to the affected agencies in the first instance to informally resolve complaints of alleged noncompliance with the standards. Section 1150.41 has been expanded to reflect this. The regulations provide for the immediate forwarding to all concerned parties of complaints. All complaints received by the A&TBCB will be treated in a manner so as to preserve the confidentiality of complainants noted under § 1150.12.

The A&TBCB recognizes that the enforcement process may have a profound impact if Federal funds are withheld or suspended as the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, do indeed authorize. Enforcement proceedings do not suddenly arise. Invariably there is an adequate prelude to litigation.

In § 1150.41, Informal Resolution, the A&TBCB is providing an opportunity for the parties to amicably resolve their differences. The parties, during this initial period, will have the opportunity, as one of the Federal commentors noted, to gather pertinent information thereby alleviating any problems in connection with the timing of the litigation. In seek-

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ing to informally resolve complaints, the A&TBCB is mindful of the August 31, 1976, decision in *Washington Urban League* v *WMATA*, Civil No. 776–72, D.D.C., in which the Court held that for a building to be in compliance with the Architectural Barriers Act it must have operational facilities for the disabled. It is not enough for such facilities to be planning to or in the process of installation. Thus informal resolution by the A&TBCB will be with a view, consistent with consumer comment, to providing full compliance with applicable standards.

The objective of the informal resolution process is to amicably achieve compliance with the prescribed standards, not to satisfy individual complainants. The A&TBCB recognizes that the physical changes may not be completed within the voluntary compliance period. The Executive Director in determining whether to issue a citation will consider the totality of the compliance situation.

As a necessary adjunct to the informal resolution, the A&TBCB realizes it will be necessary for it to interpret the accessibility standards it is enforcing, cognizant, of course, of the significant expertise of the standard issuing agencies who consult with the Secretary of Health, Education, and Welfare in his statutory capacity of Chairman, A&TBCB. Accordingly, the suggestion of a Federal agency that the A&TBCB delete "standard interpretation" has not been incorporated. The A&TBCB trusts that this preamble mirrors its views on the primacy of interpretation of the agencies issuing the Architectural Barriers Act standards.

Several comments were received from consumers and affected agencies about the informal resolution under § 1150.41 and the commencement of formal proceedings under § 1150.42. The A&TBCB is mindful that the President issued Executive Order 11914 on April 28, 1976, Nondiscrimination With Respect to the Handicapped in Federally assisted Programs. Under E.O. 11914, the Secretary of Health, Education, and Welfare is authorized to adopt rules and regulations and issue orders implementing section 504 of the Rehabilitation Act, 29 U.S.C. 794. The Secretary is to ensure that such rules, regulations, and orders are not inconsistent with, or duplicative of, other Federal government policies relating to the handicapped, including those policies adopted in accordance with section 502 of the Rehabilitation Act and the Architectural Barriers Act. Subsequent to the issuance of the A&TBCB proposed rules, the Secretary of Health, Education, and Welfare issued proposed rules under which a complaint involving a facility of a recipient subject to section 504, as well as section 502, will be deferred for a period not to exceed sixty (60) days pending review by the A& TBCB, proposed 45 CFR 84.23, 41 FR 29564 (July 16, 1976). While the referenced regulations apply only to HEW programs and only affect the A&TBCB jurisdiction over HEW buildings and facilities receiving financial assistance from HEW, it is the A&TBCB's understanding that the HEW issuance will become the model for future regulations implementing section 504 to be issued by other governmental departments and agencies. In this respect, the A&TBCB will execute a Memorandum of Understanding, formalizing its arrangements with the Secretary of HEW once regulations under sections 502 and 504 are finalized.

Accordingly, the A&TBCB has imposed a maximum sixty-day (60) period on the informal resolution process. At the end of the time period, a citation or a determination not to proceed will be issued and served upon all interested parties, including the complainant. Failure of the A&TBCB to act upon a citation within (60) days will be deemed a determination not to proceed thereon. Thus, the delay in processing a complaint will not preclude exhaustion of the administrative remedy of the A&TBCB. Sections 1150.41 and 1150.42 have been appropriately revised, thereby providing a timely mechanism for both the agencies and consumers. A similar approach is currently used in connection with equal employment opportunity actions under Title VII of the Civil Rights Act, 42 U.S.C. 2000e et seq.

The A&TBCB hastens to add that the sixty (60) day period is the maximum period allowed because of the nature of the work, i.e., construction, involved. The A&TBCB also hastens to reiterate its previous urgings of a prompt, voluntary compliance with all standards.

H. INITIATION OF COMPLIANCE PROCEEDINGS

Federal agencies expressed concern about the Executive Director issuing citations. One Federal commentor suggested that the citation should be issued by the Executive Director only after approval by the Board, or if time does not permit, after approval by a subcommittee.

The A&TBCB complaint initiation process is not unique. The National Labor Relations Board has successfully utilized a process similar to the procedures here. See 29 CFR Part 101. The Department of Labor implements enforcement of the Occupational Safety and Health Act construction standards, as well as the Longshoremen's and Harbor Workers' Compensation Act in similar federally initiated processes, 29 CFR Parts 1926 and 1921, respectively. For an illustrative implementation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (employment discrimination) providing a similar process, see 45 CFR Part 80 et seq.

The Rehabilitation Act Amendments of 1974, Pub. L. 93–516, authorized the A&TBCB to order the suspension or withholding of funds for a building found not to be in compliance with accessibility standards. The Congressional intent in 1974 was to augment the A&TBCB as an enforcing body. In that context, the Congress authorized the Board to have permanent staff under the direction of the Executive Director, thereby providing basic continuity and consistency in compliance and other A&TBCB matters, Sen. Reps. 93–1139, 93–1297, 94th Cong., 2nd Sess. (1974).

In establishing the system of reliance on the permanent staff and administrative law judges at the trial level, the A&TBCB recognizes that the Board member should primarily be functioning at a high level as a policymaker. Also, by insulating the Board from the initial stages of the process while providing judicial safeguards, there can be no question, as one consumer group implied, about the integrity of the A&TBCB proceedings.

The Federal comment to have A&TBCB approve the issuance of a citation would have precluded further Board participation at the more policy oriented appellate level as a clear conflict of interest would exist. The trial and appellate functions must be carefully separated. Further, A&TBCB, at its March 1976 meeting, has decided not to establish committees commensurate with A&TBCB staffing functions, including compliance.

The A&TBCB deems it advisable that all Federal agencies designate liaison persons upon whom the citation may be served. This will facilitate the agencies' participation in the formal proceedings.

Minor technical clarifying changes have also been made.

I. PER (PROVISIONAL EXPEDITED RELIEF)

The subject of PER, particularly §§ 1150.42 and 1150.82, elicited strong comments from consumers advocating its retention as essential. The Federal agencies objecting to PER did so principally on the basis of the inadequacy of time frames for the process, including for an appeal. These comments overlook the informal resolution process of § 1150.41 during which all potential litigants will be apprised of the potential charges of noncompliance that may be lodged. Also, the time periods in the appeal of PER have been extended in the revised § 1150.103. Moreover, since the Federal Rules of Civil Procedure are applicable here, § 1150.3, all motions permitted thereunder, such as for extension of time to file a pleading, will be available. It is not necessary to specify, as one commentor suggested, precisely all the motions, including summary judgments, which are available under the Federal Rules of Civil Procedure.

All too often the delays attendant to processing valid complaints may make any subsequent victory pyrrhic at most. Justice must not be denied by delaying it. PER is designed to ensure that does not occur here. By providing an expeditious determination, at least preliminarily, the nominal cost impact of a situation may be minimized. The costs of redoing and remodeling a completed structure to make it accessible far exceeds the .1% (one tenth of one percent) the Comptroller General found to be the net cost of incorporating barrier-free-design in the initial design. See GAO Report, "Further Action Needed to Make Public Buildings Accessible," B–182030—, July 15, 1975.

There was concern by a Federal agency over the possible amendment of the initial PER pleading. Section 1150.44 provides for amendment of such pleadings only with permission of the judge to preclude any undue hardship.

J. JUDGES

Section 1150.51 relating to who presides at hearings was of some concern. A Federal agency felt that the Chairman or Board members should not exercise the responsibilities of a judge since it would be inconsistent with the separate judicial function intended by the Congress. The A&TBCB shares the agency's concern. However, at present, the active caseload of the A&TBCB is not sufficient to permit the A&TBCB to retain an administrative law judge on its staff. Arrangements have been made with the Civil Service Commission to have such judges designated and available to hear A&TBCB cases on a reimbursable basis. This is the standard operating procedure for new adjudicatory bodies.

As the caseload rises and a permanent judge is employed by the A&TBCB, neither the Chairman nor members of the A&TBCB will be involved at the trial level. At present, the Vice Chairman and other members may have to participate since the Chairman may be disqualified because of a conflict of interest if, for example, an HEW facility were involved. To preclude any possible conflict of function between the trial and appellate levels, while recognizing the abbreviated nature of the member's participation of the trial level, an additional section (b) has been added to § 1150.114 regarding conflict of interests. This is responsive to suggestions by state government agencies.

The Chairman of the A&TBCB on behalf of the A&TBCB is to delegate the assignment of the judge. At such time as the A&TBCB employs more than one judge then § 1150.52 may require further revision. In the interim, while using the system of reimbursing judges made available through the Civil Service Commission, the Chairman or, in the event of his unavailability another member of the A&TBCB will designate the judge made available by the Civil Service Commission and eventually the A&TBCB's judge.

K. DISCOVERY

Discovery should be of little difficulty as the procedures here are patterned after other like provisions. The discretion of the judge in § 1150.62 is patterned in part on the experience of the Interior Board of Contract Appeals, an administrative tribunal well versed in construction cases. See 43 CFR Part 4. The prehearing order under §1150.61 could include agreements reached in the informal resolution period. It has not been included in § 1150.61 as one consumer group suggested since the parties may well elect to include it in either the citation or the answer.

L. WITNESS FEES

It was commented that the A&TBCB pay for aides attending witnesses to A&TBCB proceedings. The A&TBCB recognizes this problem and pays for travel expenses of attendants consistent with Federal travel guidelines. Section 1150.-73(d) is consistent with this.

M. TRIAL TRANSCRIPT

The A&TBCB received several clarifying suggestions concerning the trial transcript and the appeal process. There is currently no provision for third parties proceeding "in forma pauperis" receiving free transcripts. Should such a situation arise, the A&TBCB will make such a transcript available should the judge in granting a third party's motion to appear not make such a ruling.

N. APPEALS IN GENERAL AND TIMING THEREOF

To correct an inconsistency concerning the decision process in §§ 1150.101(a) and § 1150.102(a), § 1150.102(a) has been revised to reflect that the judge's decision is to be issued within twenty (20) days after the close of the adversarial phase of the trial, whether or not briefs and findings are required.

Under the A&TBCB procedure the administrative law judge issues a recommended decision which becomes final if no appeal is taken. The judge, in his discretion and as the record warrants, may make specific recommendations as to corrective actions and sanctions to be taken to effectuate compliance. If a record does not warrant it, the judge will not make any recommendations.

Some concern was expressed by Federal agencies, as well as one of the public interest law organizations, about the times for appealing the judge's decision. To avoid any possible suggestion that the appeal times and other time frames in the Part are so short as to be a denial of due process and violative of the Administrative Procedure Act, the previously proposed time frames in § 1150.103 have been extended for both the regular and PER proceedings.

There have been further changes to make clear that an intervening party has standing to take an administrative appeal and to avoid confusion with § 1150.-76 regarding exceptions. Consistent corrective changes have been made in §§ 1150.104 and 1150.105.

Section 1150.104 provides that the record for the A&TBCB decision includes the record for the decision of the judge. Under § 1150.91, this will include the transcript of the proceedings before the judge.

There was considerable consumer comment that there should be some time limit for the totality of the compliance process and the time for the A&TBCB decision. No Federal agency expressed any view on this aspect of the regulations. It is the current A&TBCB expectation that appeals will be acted upon within the context of the A&TBCB's present bimonthly meetings. The A&TBCB organizational procedures for its public meetings do permit special meetings to be convened. The A&TBCB decision will be on the basis of the standard Administrative Procedure Act criteria which provide the overall framework, § 1150.3, for these proceedings. Constitutional error, as one consumer organization noted, may be also a basis for A&TBCB decision. In this light, the A&TBCB, while not delineating any specific decisional criteria, will strive to make its decisions within a maximum of sixty (60) days after filing of the appeal and one hundred eighty (180) days after filing the complaint. However, the potential complexity of a large construction project precludes the imposition of any more definite time. A policy statement to this effect is included in § 1150.105(e). The stated time objectives will not automatically give rise to court review, but are strictly goals to provide an effective administrative process. The one hundred eighty (180) day limitation is similar to that found in Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–5(f)(1). The overall limitation is the maximum period feasible in light of the nature of the subject matter, construction, and the need to provide a timely solution for all interested parties.

The A&TBCB is aware that other statutes such as the Education Act Amendments of 1976, Pub. L. 94–482, may necessitate a different time period for the totality of the administrative process to run its course. The aforementioned Pub. L. 94–482 provides a maximum period of one hundred fifty (150) days to terminate financial assistance to a local educational agency on a basis of noncompliance with civil rights statutes. Therefore, the A&TBCB has added the qualifying "or other time period applicable by law" to the Board's time frame objectives.

The word "recommended" in § 1150.-105(d) has been deleted as superfluous.

O. JUDICIAL REVIEW

Section 1150.106 restates the provision for judicial review of the Federal Act. The A&TBCB believes it is sufficiently clear at this point.

P. EX PARTE COMMUNICATIONS AND CONFLICT OF INTERESTS

The Conflict of Interests and Ex Parte Communication provisions have been made into separate sections with appropriate renumbering. The staff of the A&TBCB, as well as the Board, must seek to avoid any conflict of interest or the appearance of one. Staff will be expected to perform separate functions in the compliance network. Thus, those individuals involved in the initiation of the enforcement function, in an administrative, investigatory, or legal role, shall not and will not be similarly involved advising on an appeal of such a matter.

The A&TBCB policy has been and continues to be to hold all of its meetings open to the public. Should the A&TBCB elect to consider the initiation, conduct, or disposition of a particular case of formal agency adjudication in executive session, it will do so as authorized by the Sunshine Law, Pub. L. 94–409, after a vote by a majority of the entire membership of the Board. The A&TBCB will be consulting with the Office of the Chairman of the Administrative Conference and will duly publish necessary regulations implementing the Sunshine Law.

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CONCLUSION

This Part 1150 is issued under the authority of section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 792, 87 Stat. 391, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 88 Stat. 162.

The Architectural and Transportation Barriers Compliance Board has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A–107.

In consideration of the foregoing, Part 1150 is added to Title 36 of the Code of Federal Regulations to read as set forth below and as approved at the December 7, 1976, special meeting of the A&TBCB.

Effective: These procedures are effective December 7, 1976.

Dated: December 14, 1976.

STANLEY B. THOMAS, Jr.,
Chairman, Architectural and Transportation Barriers Compliance Board.

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Subpart A—General Information

§ 1150.1 Purpose and application.

The purpose of the regulations in this part is to implement section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391, 29 U.S.C. 792, as amended, to provide procedures for public hearings to require compliance with the standards issued pursuant to the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended, 42 U.S.C. 4151 et seq. It is the policy of the Architectural and Transportation Barriers Compliance Board to ensure maximum compliance through amicable resolution of compliance related matters. To this end, the Architectural and Transportation Barriers Compliance Board encourages the voluntary informal resolution of compliance related matters.

These regulations apply to all buildings designed, constructed, or altered after the effective date of a standard issued under the Architectural Barriers Act of 1968 applicable to such buildings.

§ 1150.2 Definitions.

(a) "A&TBCB" means the Architectural and Transportation Barriers Compliance Board.

(b) "Agency" means Federal department, agency or instrumentality as defined in Subchapter II and Chapter 7 of Title 5 of the United States Code or an official thereof.

(c) "Architectural Barriers Act" means the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended, 42 U.S.C. 4151 et seq.

(d) "Building" means any building or facility, including the site thereof and structures appurtenant thereto (other than (1) A privately owned structure not leased by the government on or after January 1, 1977, for subsidized housing programs including any renewal of a lease entered before January 1, 1977, which renewal is on or after such date, and (2) any building or facility on a military installation designed and constructed primarily for use by able-bodied military personnel) the intended use of which either will require that such building or facility be accessible to the public, or may result in the employment or residence therein of physically handicapped persons, which building or facility is (i) To be constructed or altered by or on behalf of the United States; or (ii) to be leased in whole or in part by the United States (a) After August 12, 1968, and before January 1, 1977, after construction or alteration in accordance with plans and specifications of the United States, or (b) on or after January 1, 1977, including any renewal of a lease entered into before January 1, 1977, which renewal is on or after such date; or (iii) to be financed in whole or in part by a contract, grant or loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design, construction or alteration issued under the law authorizing the grant or loan; or (iv) to be constructed under the authority of the National Capital Transportation Act of 1965 or Title III of the Washington Metropolitan Area Transit Regulation Compact.

(e) "Chairman" means the Chairman of A&TBCB.

(f) "Construction" means the construction of a new building, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings.

(g) "Day" means calendar day.

(h) "Executive Director" means the A&TBCB Executive Director.

(i) "Handicapped Individual" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such impairment, or (3) is regarded as having such an impairment.

(j) "Judge" means the Administrative Law Judge appointed or designated by the A&TBCB pursuant to Section 502 (e) of the Rehabilitation Act.

(k) "PER" means Provisional Expedited Relief.

(l) "Privately Owned Residential Structure" means a residential building or facility not owned by a Federal agency or instrumentality, a state, county, municipal or other governmental entity, or a political subdivision thereof, or an instrumentality of a state, county, municipal or other governmental entity or of a political subdivision thereof.

(m) "Rehabilitation Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391, 29 U.S.C. 792, as amended.

(n) "Respondent" means a party answering the citation, including PER citation.

(o) "Standard" means any standard for accessibility and usability prescribed pursuant to the Architectural Barriers Act.

§ 1150.3 Scope of rules.

(a) These rules shall govern all compliance proceedings before the A&TBCB and judges.

(b) In the absence of a specific provision in these rules, procedure shall be in accordance with the Administrative Procedure Act, Subchapter II of Chapter 5 and Chapter 7, of Title 5, United States Code, and the Federal Rules of Civil Procedure, in that order.

§ 1150.4 Use of gender and number.

(a) Words importing the singular number may extend and be applied to a plural and vice versa.

(b) Words importing the masculine gender may be applied to feminine gender.

§ 1150.5 Suspension of rules.

Upon notice to all parties, the Chairman or the judge, with respect to matters pending before them, may modify or waive any rule in these regulations upon determination that no party will be unduly prejudiced and that the ends of justice will thereby be served.

Subpart B—Parties

§ 1150.11 Parties.

(a) The term party shall include any agency, state body, or other person to whom a notice of hearing or opportunity for hearing has been mailed naming them as respondent.

(b) The Executive Director shall be the party initiating proceedings hereunder by the issuance of a citation under § 1150.42.

§ 1150.12 Complainants.

(a) A person submitting a written complaint alleging noncompliance with the standards issued pursuant to the Architectural Barriers Act is not a party as a matter of course to the proceedings governed by these regulations, but may petition to participate under § 1150.13. Whether or not the petition to participate is granted, the complainant shall receive a copy of the final order issued by the judge and the A&TBCB.

(b) The identity of all persons submitting complaints shall be held in confidence unless such person requests otherwise in writing.

(c) All persons submitting written complaints shall be given or mailed, by certified mail, return receipt requested, a copy of these regulations.

§ 1150.13 Participation on petition.

(a) Any interested person may petition the judge to participate in the proceedings upon showing that such a person has an interest in the proceedings and may contribute materially to their proper disposition. It shall be presumed that the interest of a person as a complainant is a sufficient interest to permit participation in the proceedings.

(b) The judge may, in his discretion, determine the extent of participation of petitioners, including as an intervening party or participant. The judge may, in his discretion, limit participation to submitting documents and briefs, or permit the introduction of evidence and questioning of witnesses.

§ 1150.14 Appearance.

(a) A party may appear in person or by counsel or other representative and participate fully in any proceedings. An agency, state body, or corporation may appear by any of its officers or by any employee it authorizes to appear on its behalf.

(b) A representative of a party or participant shall be deemed to control all matters respecting the interest of such party or participant in the proceedings.

(c) Nothing contained herein shall be construed to require any representative to be an attorney-at-law.

(d) Withdrawal of appearance of any representative will be effective by filing a written notice of withdrawal and by serving a copy thereof on all parties and participants.

Subpart C—Form, Execution, Service and Filing of Documents

§ 1150.21 Form of documents to be filed.

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding and shall show the title, if any, and address of the signatory. Copies need not be signed but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 12 inches long.

§ 1150.22 Signature of documents.

The signature of a party, authorized officer, employee or attorney constitutes a certification that he has read the document, that to the best of his knowledge, information, and belief there is a good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed.

§ 1150.23 Filing and service.

All notices by a member of the A&TBCB or A&TBCB staff, and all written motions, requests, petitions, memoranda, pleadings, appeals, briefs, decisions, and correspondence to the judge, or an A&TBCB member or A&TBCB staff from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties and participants. Parties shall submit for filing the original and two copies of documents, exhibits, and transcripts of testimony. Filings shall be made with the hearing clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (Federal legal holidays excepted) from 9 a.m. to 5:30 p.m., Eastern Standard or Daylight Savings Time, whichever is effective in the District of Columbia at the time. Filing may be in person or by mail.

§ 1150.24 Service—how made.

Service of one copy shall be made on each party and participant by personal delivery or by certified mail, return receipt requested, properly addressed with postage prepaid. When a party or participant has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party or participant.

§ 1150.25 Date of Service.

The date of service shall be the day when the matter is deposited in United States mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or the date that its attempted delivery is refused.

Subpart D—Time

§ 1150.31 Computation.

In computing any period of time under the rules in this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, in which event it includes the next following business day. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computation.

§ 1150.32 Extension of time or postponement.

Requests for extension of time shall be served on all parties and participants, and should set forth the reasons for the application. Applications may be granted by the judge upon a showing of good cause by the applicant. From the designation of a judge until the issuance of his decision, such requests should be addressed to him. Answers to such requests are permitted if made promptly.

Subpart E—Proceedings Prior to Hearings; Pleadings and Motions

§ 1150.41 Informal resolution.

(a) The A&TBCB immediately shall serve copies of complaints on all relevant agencies and interested parties.

(b) All such complaints should be resolved informally and expeditiously, if possible, by the responsible parties. Should compliance with the applicable standards not be achieved informally or an impasse concerning the allegations of compliance or noncompliance be reached, the A&TBCB will review the matter and take such actions including, but not limited to, surveying and investigating buildings, monitoring compliance programs of agencies, furnishing technical assistance, including standard interpretation, to agencies, and obtaining such assurances, certifications, and plans of action as may be necessary to ensure compliance.

(c) To the extent practicable, in the course of informally resolving allegations of noncompliance, any person who might be a party to compliance proceedings should be apprised of the alleged instances of noncompliance and afforded the opportunity to respond or submit pertinent documents.

(d) All actions under this § 1150.41 shall be completed within sixty (60) days after receipt of the complaint by the A&TBCB and all affected agencies either by the issuance of a citation under § 1150.42 or by the issuance by the Executive Director of a written determina-

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tion that a citation will not be issued stating the reasons therefor.

(e) A determination not to issue a citation shall be served in accordance with § 1150.24 on all interested parties upon whom a citation would have been served if a citation had been issued.

§ 1150.42 Citations.

(a) If there appears to be a failure or threatened failure to comply with the standards issued pursuant to the Architectural Barriers Act, and if the noncompliance or threatened noncompliance cannot be corrected or resolved by informal means under § 1150.41 within sixty (60) days after receipt of the complaint by the A&TBCB, all affected agencies, and interested parties, the Executive Director shall issue a written citation requesting the A&TBCB to order such relief as is necessary to ensure compliance with the standards issued pursuant to the Architectural Barriers Act, which relief may include the suspension or withholding of funds. The citation shall be served upon all interested parties, including the complainant, the agency having custody or control of, and the agency funding by contract, grant, or loan, the allegedly noncomplying building. The citation shall contain a concise jurisdictional statement reciting the provisions of the Rehabilitation Act and Architectural Barriers Act pursuant to which the requested action may be taken, as well as a short and plain basis for requesting the imposition of the sanctions. The citation shall also (1) (a) advise the agency and interested parties that a hearing concerning the matter in question will be scheduled within fifteen (15) days at which time they will be advised of the time and place of hearing or (b) fix a date, not less than fifteen (15) days after the date of citation within which the agency or affected parties may request a hearing, and (2) contain a list of all pertinent documents necessary for the judge to make a decision on the alleged noncompliance, including, but not limited to, contracts, invitations for bids, specifications, contract or grant drawings, and correspondence.

(b) In addition to all other forms of relief requested, the citation shall request PER when it appears to the Executive Director that immediate and irreparable harm from noncompliance with the standards issued pursuant to the Architectural Barriers Act is occurring or is about to occur. Citations requesting PER shall recite specific facts and the affidavit or the notarized complaint upon which the PER request is based. Citations requesting PER shall recite that a hearing regarding PER has been scheduled eight (8) days after receipt of the citation. Citations requesting PER may be filed without prejudice to proceedings in which PER is not requested. The time and place of hearing fixed in the citation shall be reasonable and shall be subject to change for cause.

(c) The Executive Director shall file copies of all pertinent documents listed in the citation simultaneously with filing the citation.

§ 1150.43 Answers.

(a) Answers shall be filed by respondents within fifteen (15) days after receipt of a citation. The answer shall admit or deny specifically and in detail, matters set forth in each allegation of the citation, unless the respondent is without knowledge, in which case the answer shall so state and such statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Failure to file an answer shall constitute an admission of all facts recited in the citation. Answers shall contain a list of additional pertinent documents not listed in the citation which documents, respondent believes, are necessary for the Board or the judge to make a decision in the proceedings herein. Copies of the listed documents shall be filed with the answer.

(b) Answers to citations requesting PER shall be in the form of all answers, as set forth in subparagraph (a) above, shall be filed within four (4) days after receipt of the citation, and shall recite in detail by affidavit or by notarized answer why the PER requested should not be granted.

(c) When a citation contains a request for relief to ensure compliance with standards issued pursuant to the Architectural Barriers Act, as well as PER, an answer to the PER request shall be filed in accordance with subparagraph (a) above.

§ 1150.44 Amendments.

(a) The Executive Director may amend the citation as a matter of course before an answer is filed. A respondent may amend its answer once as a matter of course, not later than five (5) days after the filing of the original answer. Other amendments of the citation or the answer shall be made only by leave of judge. An amended citation shall be answered within five (5) days of its service, or within the time for filing an answer to original notice, whichever is longer.

(b) Citations and answers in PER proceedings may not be amended prior to hearing. However, citations and answers in such proceedings may be amended at the hearing with the permission of the judge.

§ 1150.45 Request for hearing.

Within fifteen (15) days from service of a citation which does not fix a date for a hearing, the respondent, either in its answer in a separate paragraph thereof, or in a separate document, may request a hearing. Failure of a respondent to request a hearing shall be deemed a waiver of the right to a hearing and to constitute consent to the making of a decision on the basis of such information as is available.

§ 1150.46 Motions.

Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally or the judge may require that they be reduced in writing and filed and served on all parties. Except as otherwise ordered by the judge, responses to a written motion or petition shall be filed within ten (10) days after the motion or petition is served. An immediate oral response may be made to an oral motion. All arguments on motions will be at the discretion of the judge.

§ 1150.47 Disposition of motions and petitions.

The A&TBCB or the judge may not sustain or grant a written motion or petition prior to expiration or the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response; providing, however, that prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. All motions and petitions may be ruled upon immediately after response. Motions and petitions not disposed of in separate rulings or in decisions will be deemed denied.

Subpart F—Responsibilities and Duties of Judge

§ 1150.51 Who presides.

(a) A judge assigned under 5 U.S.C. 3105 or 3344 (formerly section 11 of the Administrative Procedure Act) shall preside over the taking of evidence in any hearing to which these rules of procedure apply.

(b) Pending designation of a judge, the responsibilities, duties and authorities of the judge under these regulations shall be executed by the A&TBCB through the Chairman or other member of the A&TBCB designated by the Chairman.

(c) The Chairman, or other member of the A&TBCB designated by the Chairman, shall preside over proceedings before the A&TBCB.

§ 1150.52 Designation of judge.

The Chairman or other member of the A&TBCB designated by the Chairman shall designate a judge as presiding. Such designation shall be in writing and may also fix the time and place of hearing. A copy of such designation order shall be served upon all parties. Motions and petitions shall be submitted to the designated judge. In the case of the death, illness, disqualification or unavailability of the designated judge, a replacement shall be designated in accordance with this paragraph.

§ 1150.53 Authority of judge.

The judge shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and maintain order. He shall have all powers necessary to effect these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings, or, on due notice to the parties, to change the date, time, and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in proceedings, or to consider other matters that may aid

in the expeditious disposition of the proceedings.

(c) Require parties and participants to state their position with respect to the various issues in the proceedings.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and conduct of counsel therein.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) Issue decisions.

(k) Take any action authorized by the rules in this part or the provisions of 5 U.S.C. 551–559 (the Administrative Procedure Act).

§ 1150.54 Disqualification of judge.

(a) A judge may withdraw from a proceeding whenever he deems himself disqualified.

(b) Any party may request the judge, at any time following his designation and before the filing of his decision, to withdraw on ground of personal bias or disqualification, by promptly filing with him an affidavit setting forth in detail the matters alleged to constitute grounds for disqualification.

(c) If, in the opinion of the judge, the affidavit referred to in paragraph (b) of this section is filed with due diligence and is sufficient on its face, the judge shall forthwith disqualify himself and withdraw from the proceeding.

(d) If the judge does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and shall proceed with the hearing, or, if the hearing has closed, he shall proceed with the issuance of his decision, and the provisions of § 1150.102 shall thereupon apply.

Subpart G—Prehearing Conferences and Discovery

§ 1150.61 Prehearing conference.

(a) At any time before a hearing, the judge, on his own motion or on motion of a party, may direct the parties or their representatives to exchange information or to participate in a prehearing conference for the purpose of considering matters which tend to simplify the issues or expedite the proceedings.

(b) The judge may issue a prehearing order which includes the agreements reached by the parties. Such order shall be served upon all parties and participants and shall be a part of the record.

§ 1150.62 Discovery.

(a) Parties are encouraged to engage in voluntary discovery procedures. For good cause shown under appropriate circumstances, but not as a matter of course, the judge will entertain motions for permission for discovery, issue orders including orders for the taking of testimony upon oral examination or written interrogatories before an officer authorized to administer oaths, to permit service of written interrogatories upon the opposing party, to produce and permit inspection of designated documents, and to permit service upon the opposing party a request for the admission of specified facts.

(b) Motions for discovery shall be granted only to the extent and upon such terms as the judge in his discretion considers to be consistent with and essential to the objective of securing a just and inexpensive determination of the merits of the citation without unnecessary delay.

(c) In connection with any discovery procedure, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, including limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents. If any party fails to comply with a discovery order of the judge under these rules, without an excuse or explanation satisfactory to the judge for such failure, the judge may decide the fact or issue relating to the material requested to be produced, or the subject matter of the probable testimony, in accordance with claims of the other party in interest or in accordance with the other evidence available to the judge, or make such other ruling as he determines just and proper.

Subpart H—Hearing Procedures

§ 1150.71 Briefs.

The judge may require parties and participants to file written statements of position prior to the beginning of a hearing. The judge may also require the parties to submit trial briefs.

§ 1150.72 Evidentiary purpose.

Hearings for the receipt of evidence will be held only in cases where issues of fact must be resolved. Where it appears from the citation, the answer, stipulations, or other documents in the record, that there are no matters of material fact in dispute, the judge may enter an order so finding, vacating the hearing date, if one has been set, and fixing the time for filing briefs.

§ 1150.73 Testimony.

(a) Formal rules of evidence shall not apply, but rules or principles designed to assure production of the most probative evidence available will be applied. Testimony shall be given orally under oath or affirmation; but the judge, in his discretion, may require or permit the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing, and filed as part of the record.

(b) All witnesses shall be available for cross-examination and, at the discretion of the judge, may be cross-examined without regard to the scope of direct examination as to any matter which is relevant and material to the proceeding.

(c) When testimony is taken by deposition, an opportunity shall be given, with appropriate notice, for all parties to cross-examine the witness. Objections to any testimony or evidence presented therein shall be deemed waived unless raised at the time of the deposition.

(d) Witnesses appearing before the judge shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witness appears, and the person taking a deposition shall be paid by the party at whose instance the deposition is taken.

§ 1150.74 Exclusion of evidence.

The judge may exclude evidence which is immaterial, irrelevant or unduly repetitious.

§ 1150.75 Objections.

Objections to evidence or testimony shall be timely and shall briefly state the grounds.

§ 1150.76 Exceptions.

Exceptions to rulings of the judge are unnecessary. It is sufficient that a party, at the time the ruling of the judge is sought, makes known the action which he desires the judge to take, or his objection to an action taken, and his grounds therefor.

§ 1150.77 Official Notice.

Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.

§ 1150.78 Public document items.

Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees or administrative agencies of the Federal government (including government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

§ 1150.79 Offer of proof.

An offer of proof made in connection with an objection taken to a ruling of the judge rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such

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evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 1150.80 Appeals from ruling of judge.

(a) Rulings of the judge may not be appealed to the A&TBCB prior to his consideration of the entire proceeding except with the consent of the judge and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the A&TBCB within such period as the judge directs.

(b) There shall be no oral argument or appearances on any appeal or any motion unless the A&TBCB directs otherwise.

§ 1150.81 Consolidated or joint hearing.

In cases in which the same or related facts are asserted to constitute noncompliance with standards issued pursuant to the Architectural Barriers Act, the judge may order all such related cases consolidated and may make such other orders concerning proceedings therein as will be consistent with the objective of securing a just and inexpensive determination of the case without unnecessary delay.

§ 1150.82 PER proceedings.

(a) In proceedings in which a citation, or part thereof, seeking PER has been filed, the judge shall make necessary rulings with respect to time for filing of pleadings, the conduct of the hearing and with respect to all other matters, and shall do all other things necessary to complete the proceeding in the minimum time consistent with the objective of securing an expeditious, just and inexpensive determination of the case. The times for actions set forth in these rules shall be followed unless otherwise ordered by the judge.

(b) Orders of PER shall be on such terms and conditions as the judge directs, consistent with preserving the rights of all parties so as to permit the timely processing of the citation, or part thereof, not requesting PER, as well as the provisions and objectives of the Architectural Barriers Act and the Rehabilitation Act. In issuing an order for PER, the judge shall make specific findings of fact and conclusions of law that the Executive Director or another party, or participant, has shown:

(i) Likelihood of succeeding on the merits of a proceeding; and

(ii) That the threatened injury or violation outweighs the threatened harm to the respondent if PER is granted; and

(iii) Granting PER is in the public interest.

(c) The judge may order dismissed any citation or part thereof seeking PER when the judge finds that the timely processing of a citation not requesting PER will adequately ensure the objective of section 502 of the Rehabilitation Act and that immediate and irreparable noncompliance with the standards issued pursuant to the Architectural Barriers Act is not occurring or about to occur.

Subpart I—The Record

§ 1150.91 Record for decision.

The transcript of testimony, exhibits, and all papers, documents and requests filed in the proceeding, including briefs and proposed findings and conclusions, shall constitute the record for decision.

§ 1150.92 Official transcript.

The A&TBCB will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith, shall be filed with the judge. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the A&TBCB and the reporter. Upon notice to all parties, the judge may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

Subpart J—Posthearing Procedures; Decisions

§ 1150.101 Posthearing briefs; proposed findings.

(a) The judge shall fix the terms, including time for filing post-hearing statements of position or briefs, which may contain proposed findings of fact and conclusions of law. The judge may fix a reasonable time for such filing, but such period shall not exceed thirty (30) days from the receipt by the party of the transcript of the hearing.

(b) No briefs or statements shall be required in proceeding seeking PER unless specifically ordered by the judge.

§ 1150.102 Decision.

(a) The judge shall issue a decision within twenty (20) days after the close of the hearing, or within twenty (20) days after the filing of briefs of proposed findings, if required. The decision shall state findings of fact, conclusions of law, and the reasons therefor, upon all material issues of fact or law presented on the record, and may recommend action be taken. The decision shall contain such terms, conditions and other provisions as are consistent with, and will effectuate the purposes of the Architectural Barriers Act and the Rehabilitation Act, and may provide for the suspension or withholding of Federal funds with respect to any building found not to be in compliance with the standards issued pursuant to the Architectural Barriers Act.

(b) In proceedings seeking PER the decision may be given orally at the close of the hearing and shall be made in writing within three (3) days after the hearing.

(c) The findings, conclusion and decision shall be served on all parties and participants to the proceedings.

§ 1150.103 Appeal of decisions.

(a) Within fourteen (14) days after receipt of the judge's decision any party or participant may appeal to the A&TBCB by filing an appeal from the decision with the Chairman. The appeal shall briefly state the reasons for the appeal. The parties and participants shall have ten (10) days from receipt of the appeal to respond.

(b) In proceedings seeking PER, any party or participant may appeal to the A&TBCB by filing an appeal from the decision with the Chairman within four (4) days after receipt of the decision, if written, or four (4) days after announcement of the judge's decision, if oral, whichever occurs first. The appeal shall be responded to by the other parties and participants within four (4) days after receipt of the appeal.

§ 1150.104 Record for final A&TBCB decision.

The record for the A&TBCB's final decision shall consist of the record for the decision, the rulings, and decision of the judge, and the appeals and briefs filed subsequent to the judge's decision.

§ 1150.105 Final A&TBCB decision.

(a) If no appeal to the decision of the judge is filed within the period specified in § 1150.103 above, such decision shall become the final decision of the A&TBCB under section 502 of the Rehabilitation Act.

(b) Upon the filing of an appeal of the judge's decision, the A&TBCB shall review the judge's decision and issue its own decision thereon, which shall constitute the final decision of the A&TBCB under section 502 of the Rehabilitation Act.

(c) The decisions of the A&TBCB shall contain findings of fact, conclusions of law, and the reasons therefor. The decision of the A&TBCB shall contain such terms, conditions, and other provisions as are consistent with, and will effectuate the purposes of the Architectural Barriers Act and the Rehabilitation Act, and may provide for the suspension or withholding of Federal funds with respect to any building found not to be in compliance with the standards issued pursuant to the Architectural Barriers Act.

(d) The decision of the A&TBCB may affirm, modify, set aside, or remand to the judge, in whole or in part, the findings, conclusions and decision of the judge, and shall be based upon the record for the decision.

(e) All final decisions shall be promptly served on all parties and participants. The A&TBCB has the objectives of issuing its decision on any matter hereto within sixty (60) days after filing of an appeal and within a total of one hundred eighty (180) days after the filing of the complaint, or other time period applicable by law.

§ 1150.106 Judicial review.

Action taken pursuant to section 502 of the Rehabilitation Act is subject to judicial review as provided therein. A final order of compliance affecting any

Federal department, agency or instrumentality of the United States shall be final and binding on such department, agency or instrumentality.

Subpart K—Miscellaneous Provisions

§ 1150.111 Ex parte communications.

No person having an interest in such case shall make or cause to be made an ex parte communication to the judge or the A&TBCB with respect to such case. In the event an ex parte communication occurs, the judge or the A&TBCB shall issue such orders and take such action as fairness requires.

§ 1150.112 Post order proceedings.

(a) Any party adversely affected by an order issued by a judge or the A&TBCB may make a motion to the judge or the A&TBCB, whichever issued the order the party seeks to vacate, to have such order vacated upon a showing that the building complies with the standards issued pursuant to the Architectural Barriers Act.

(b) Notice of motion and copies of all pleadings shall be served on all parties and participants to the original proceeding. Responses to the motion to vacate shall be filed within ten (10) days after receipt of the motion unless the judge or the A&TBCB for good cause shown grants additional time to respond.

(c) Oral argument on the motion may be ordered by the judge under such terms as he may direct, consistent with the objective of securing a prompt, just, and inexpensive determination of the motion.

(d) Within ten (10) days after receipt of all answers to the motion, the judge shall issue his decision in accordance with § 1150.102.

(e) The judge's decision shall be subject to finality and reviewable by the A&TBCB in accordance with § 1150.105.

(f) Exceptions to the decision on the motion to vacate shall be filed within three (3) days after receipt of the judge's decision.

(g) By service of an order on all parties and participants, the A&TBCB may remand motions to vacate filed with the A&TBCB to the judge.

(h) Decisions of the judge not appealed to the A&TBCB for decision under § 1150.105 shall be considered decisions of the judge for purposes of this section.

§ 1150.113 Amicable resolution.

(a) Amicable resolution is encouraged at any stage of proceedings where such resolution is consistent with the provisions and objectives of the Architectural Barriers Act and Rehabilitation Act.

(b) Agreements to amicably resolve pending proceedings shall be submitted by the parties and shall be accompanied by an appropriate proposed order.

(c) The Executive Director shall be authorized to resolve any proceeding on behalf of the A&TBCB unless otherwise specifically directed by the A&TBCB and may file appropriate stipulations or notices of discontinuance.

§ 1150.114 Conflict of interests.

(a) No member of the A&TBCB shall participate in any decision of the A&TBCB concerning a building in any proceeding to which such member's agency is a party or otherwise participates.

(b) No member of the A&TBCB shall participate in the consideration of an appeal of a matter in which member participated or over which such member presided as a judge, provided, however, the mere designation of a judge by any member or the Chairman or the designation of the Chairman or member as presiding judge shall not be a basis for disqualification from participation in the consideration of any subsequent appeal.

§ 1150.115 Effect of partial invalidity.

If any section, subsection, paragraph, sentence, clause or phrase of these regulations shall be declared invalid for any reason whatever, the remaining portions of these regulations that are severable from the invalid part shall remain in full force and effect. If a part of these regulations is invalid in one or more of its applications, the part shall remain in effect in all valid applications that are severable from the invalid applications.

[FR Doc.76-37216 Filed 12-17-76;8:45 am]

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federal register

MONDAY, DECEMBER 20, 1976



PART III:

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

AIRWORTHINESS REVIEW PROGRAM

Amendments

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Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 14324; Amendment Nos. 21-44; 23-17; 25-38; 27-11; 29-12; 31-3; 33-7; 35-3; 91-135; 121-132; 127-33; 133-5; and 135-43]

AIRWORTHINESS REVIEW PROGRAM

Amendment No. 3: Miscellaneous Amendments

The purpose of these amendments is to update and improve—(1) the aircraft, engine, and propeller certification regulations; (2) the operating regulations containing airworthiness standards; and (3) related procedural requirements.

These amendments are based on a notice of proposed rule making (Notice 75-10) published in the FEDERAL REGISTER on March 7, 1975 (40 FR 10802) and are the third in a series of amendments to be issued as part of the First Biennial Airworthiness Review Program. The following series of amendments have previously been issued as part of this Airworthiness Review Program:

Title	Federal Register citation
Form number and clarifying revisions	(40 F.R. 2576; Jan. 14, 1975)
Rotorcraft anticollision light standards	(41 F.R. 5290; Feb. 5, 1976)

Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all matter presented. A number of substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon the relevant comments received and upon further review within the FAA. Except for the minor editorial and clarifying changes and the substantive changes discussed hereinafter, these amendments and the reasons therefore are the same as those contained in Notice 75-10.

After issuing Notice 75-10, the following six additional notices of proposed rule making were issued as part of the First Biennial Airworthiness Review Program.

Notice No.	Federal Register citation	Title
75-19	40 F.R. 21866; May 19, 1975.	Notice No. 3: Powerplant Proposals.
75-20	40 F.R. 22110; May 20, 1975.	Notice No. 4: Equipment Deviation List.
75-23	40 F.R. 23048; May 29, 1975.	Notice No. 5: Equipment and Systems Proposals.
75-25	40 F.R. 24664; June 9, 1975.	Notice No. 6: Flight Proposals.
75-26	40 F.R. 24802; June 10, 1975.	Notice No. 7: Airframe Proposals.
75-31	40 F.R. 29410; July 11, 1975.	Notice No. 8: Aircraft, Engine, and Propeller Airworthiness, and Procedural Proposals.

Based upon further review by the FAA, a number of proposals which were contained in Notice 75-10 are not being dealt with herein but will be considered in conjunction with other proposals contained in one of the later Airworthiness Review Program Notices of proposed rule making.

The following discussion is keyed to the like-numbered proposals contained in Notice 75-10:

Proposal 2-1. One commentator suggested that the proposed change to § 21.33(a) be revised to limit the new aircraft engine and propeller inspection and test provisions to prototypes only. The FAA does not agree. The intent of the proposal was to make the inspection and test requirements in § 21.33(a) compatible for aircraft, aircraft engines, and propellers. The provision applies to the item presented for type certification tests irrespective of whether or not the item is considered a prototype by the applicant for the type certificate. The proposal is therefore, adopted without substantive change.

Proposal 2-2. No unfavorable comments were received on the proposal to amend § 23.23. Accordingly, the proposal is adopted without substantive change.

Proposal 2-3. No unfavorable comments were received on the proposal to amend § 23.141. Accordingly, the proposal is adopted without substantive change.

Proposal 2-4. No unfavorable comments were received on the proposal to amend § 23.143(b). Accordingly, the proposal is adopted without substantive change.

Proposal 2-5. No unfavorable comments were received on the proposal to amend § 23.145. Accordingly, the proposal is adopted without substantive change.

Proposal 2-6. The proposed change to § 23.149(b) concerning the language "without exceptional piloting skill, alertness, or strength" is related to a proposed amendment to § 23.149 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75-25; 40 FR 24664; June 9, 1975). The proposed amendment to § 23.149(b) contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75-25. Comments submitted for Proposal 2-6 will be considered at that time.

Proposal 2-7. Although no unfavorable comment was received on the proposal to amend § 23.175(c), the FAA believes that clarification is necessary. The term "or thrust" has been added to the end of the language "maximum cruising power" in proposed § 23.175(c)(3). Proposed § 23.175(c)(4) was intended to clarify the requirement concerning trim speed, but the FAA believes the conflict in language with a similar provision in § 23.175(b)(2)(iii) may cause confusion. Therefore, proposed § 23.175(c)(4) is withdrawn.

Proposal 2-8. The proposed change to § 23.253(b) is related to a proposed amendment to § 23.253(b)(3) that is contained in Airworthiness Review Program, Notice No. 8: Aircraft, Engine, and Propeller Airworthiness, and Procedural Proposals (Notice 75-31; 40 FR 29410; July 11, 1975). The proposed amendment to § 23.253(b) contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75-31. Comments submitted for Proposal 2-8 will be considered at that time.

Proposal 2-9. No unfavorable comments were received on the proposal to amend § 23.397. Accordingly, the proposal is adopted without substantive change.

Proposal 2-10. No unfavorable comments were received on the proposal to add a new § 23.479(d). Accordingly, the proposal is adopted without substantive change.

Proposal 2-11. One commentator objected to the proposed use of the language "materials used for parts, the failure of which could adversely affect safety" in place of the language "materials used in the structure" in §§ 23.603 (a) and 25.603. The FAA does not agree with the commentator's suggestion that all parts of the airplane should, unless specifically excluded, be considered structure. The FAA believes that consideration of the suitability and durability of materials used should be broadened to include parts not normally considered airplane structure.

Proposal 2-12. No unfavorable comments were received on the proposal to amend § 23.607. Accordingly, the proposal is adopted without substantive change.

Proposal 2-13. A commentator questioned whether proposed § 23.675 would require that stops provided to limit the range of motion of an aerodynamic surface be located only on the aerodynamic surface or whether the stop could be located adjacent to the surface. Section 23.675, as proposed and as adopted herein, without change, requires that stops positively limit the range of motion of moveable aerodynamic surfaces. This can be accomplished by locating the stop on structure adjacent to the surface.

Proposal 2-14. No unfavorable comments were received on the proposal to amend § 23.685(a). Accordingly, the proposal is adopted without substantive change. See proposal 2-109.

Proposal 2-15. No unfavorable comments were received on the proposal to add a new § 23.733(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2-16. No unfavorable comments were received on the proposed new § 23.787(f). However, one commentator pointed out that the word "contract" in the proposal as printed in the Federal Register should be "contact." The proposal has been corrected to eliminate the printing error. The proposal has also been clarified based on a comment received on Proposal 2-111, to avoid any implication that lamps will be required in cargo compartments.

Proposal 2-17. One commentator questioned the need in proposed § 23.841(b)(6) for a warning indicator at the pilot station to indicate when a cabin pressure altitude of 10,000 feet is exceeded. But as noted by the commentator it is a general industry practice to provide this

warning at a cabin altitude of 10,000 feet. The FAA believes that due to the larger number of small airplanes having such a warning many pilots may come to rely on the warning at this cabin altitude. The proposal is therefore adopted without substantive change.

Proposal 2-18. The proposed changes to §§ 23.853, 27.853, and 29.853 concerning the certification requirements necessary to permit smoking in certain aircraft categories are related to proposed standards for § 25.853. The amendments proposed for § 25.853 are contained in Airworthiness Review Program Notice No. 2: Miscellaneous Proposals (Notice 75-10; 40 FR 10802; March 7, 1975) and in Airworthiness Review Program Notice No. 8: Aircraft, Engine, and Propeller Airworthiness, and Procedural Proposals (Notice 75-31; 40 FR 29410; July 11, 1975). The proposal for § 25.853 in Notice 75-10 is being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75-31. The proposed amendments to §§ 23.853, 27.853 and 29.853 contained in Notice 75-10 are therefore being deferred until final rulemaking action is taken with respect to the related proposal for § 25.853. Comments submitted for Proposals 2-18, 2-114, and 2-160 will be considered at that time.

Proposal 2-19. One commentator suggested a clarification of proposed new § 23.903(b) noting that the language, "must be designed to give reasonable assurance" would be subject to divergent application. The same language is now used in § 25.903(d)(2), and the FAA believes that experience with this provision in transport category type certification has been satisfactory.

One commentator suggested that a provision similar to § 25.903(d)(1) concerning design precautions to minimize hazards to the airplane in the event of an engine rotor failure be included in proposed §§ 23.903(b), 27.903(c), and 29.903(f). Although several airworthiness directives have been issued to prevent the failure of engine rotors in one engine type, the FAA does not believe that a general requirement for §§ 23.903 (b), 27.903(c), or 29.903(f) that is identical to § 25.903(d)(1) is necessary at this time.

Proposal 2-20. No unfavorable comments were received on the proposal to amend § 23.933(b). Accordingly, the proposal is adopted without substantive change.

Proposal 2-21. One commentator objected to proposed new § 23.941 concerning airplanes with variable inlet or exhaust system geometry as being unnecessary and unjustified in Part 23. The FAA agrees that this provision should not be added to Part 23 at this time and is therefore withdrawing the proposal.

Proposal 2-22. One commentator suggested that the proposed changes to §§ 23.971 and 23.999 be revised to require a quick actuation drain valve on each fuel tank. The proposal, however, was not to require new drainage outlets but to establish standards for the drains set forth in proposed § 23.971(b) and present § 23.999(a). The FAA does not have sufficient information to indicate that a need exists for a quick actuation drain valve on each fuel tank considering the large number of different types of fuel tanks which are included on Part 23 airplanes and the use of sediment bowls and chambers. The proposal is therefore adopted without substantive change.

Proposal 2-23. One commentator questioned the proposed requirement in § 23.977(a)(2) that a turbine engine fuel strainer prevent the passage of any object that could restrict fuel flow or damage any fuel system component. The commentator asserted that a strainer which met this requirement would have an opening so small that ice accumulation with the use of turbine fuels would be a problem. The FAA does not agree. This is identical to the provision in § 25.977(a)(2). Experience with fuel strainers that would meet the proposed standards in § 23.977(a)(2) has shown that a strainer can prevent the passage of the noted objects and also prevent ice accumulation.

One commentator noted that the clear area of each fuel tank outlet strainer should be at least six times the area of the outlet line instead of five times as proposed in § 23.977(b). This provision is identical to § 25.977(c) and the FAA considers that experience with this requirement in Part 25 has been satisfactory.

Proposal 2-24. The intent of the proposal to add a new § 23.979(e) was to provide strength requirements including load factors, applicable to the airplane defueling system to cover surge pressure during defueling. Upon further review the FAA believes that the proposed amendment is premature. Therefore, the proposal is withdrawn.

Proposal 2-25. No unfavorable comments were received on the proposal to amend § 23.995(d). Accordingly, the proposal is adopted without substantive change.

Proposal 2-26. One commentator suggested that there should be sufficient clearance between the quick actuation drain and other parts of the airplane to allow the fuel sample to be drained into a typical, small container. The FAA believes fuel system drains which meet the proposed requirements of paragraphs (b)(1) and (b)(3) of § 23.999, that the drain discharge clear of all parts of the airplane and that it be readily accessible, will have sufficient clearance to allow a fuel sample to be drained into a small container.

One commentator suggested that the requirement in § 23.999(b)(1) that the drain must discharge clear of all parts of the airplane, would create unnecessary design and construction restraints. The FAA believes that by coating some airplane surfaces with fuel or by trapping quantities of fuel in certain locations a fire hazard exists. This fire hazard should be limited by this proposal. Further, the FAA believes this requirement can be met without an undue restraint on airplane design.

A commentator asserted that the proposed requirement in § 23.999(b)(3), that the drain valve be either located or protected so that it will not be damaged in the event of a landing with landing gear retracted cannot be justified. The commentator noted that the fuel tanks would be ruptured in such a landing and nothing would be gained if the drain was protected. The FAA disagrees, similar fuel tank installation requirements are set forth in § 23.967 and experience indicates that the fuel system can and should be either located or protected to prevent fuel leakage in such a landing. The FAA does agree that the proposal needs to be clarified to more specifically provide a design specification and has so modified paragraph (b)(3). Also see Proposal 2-70.

Proposal 2-27. No unfavorable comments were received on the proposal to add a new § 23.1093(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2-28. Proposed § 23.1111(c) was misunderstood by one commentator who asserted that it is not possible to assure the impossibility of failure of the engine lubricating system. The proposal, however, was directed toward the elimination of hazardous contamination of the cabin air assuming a failure of the engine lubricating system. In consideration of the misunderstanding, the language has been revised to emphasize the prevention of hazardous contamination of cabin air system.

Proposal 2-29. Although no unfavorable comment was received on the proposed § 23.1125, the FAA believes that the proposal could be misunderstood as to whether use of the heat exchanger would permit or prohibit the passage of exhaust gases through the exchanger when hot air was not being directed to the area where it was intended to be used. The FAA's intention was to require cooling of the exchanger wherever it was in contact with exhaust gases, regardless of its usage status. The proposal is revised to make this clear using the language of §§ 25.1125(a)(3) and 29.1125(a)(3). The FAA believes that the exhaust heat exchange requirements should be paralleled in Parts 23, 25 and 29. Therefore the proposed changes to §§ 25.1125(a)(3) and 29.1125(a)(3) are withdrawn.

Proposal 2-30. No unfavorable comments were received on the proposal to amend § 23.1143. Accordingly, the proposal is adopted without substantive change.

Proposal 2-31. One commentator believed that proposed § 23.1165(e) was unnecessarily restrictive in requiring all ignition systems to be independent of all other electrical systems. The FAA agrees with respect to reciprocating engines since § 33.37 requires a dual ignition system or an ignition system of equivalent inflight reliability for reciprocating engines and § 23.903 requires each engine installed on small airplanes to be type certificated under Part 33. However, the FAA disagrees with respect to turbine engines since two separate primary electrical circuits are not required in § 33.69. The rule as adopted is applicable to turbine engines installed on small airplanes only.

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Proposal 2–32. One commentator objected to the proposal to add a speed warning device for turbopropeller powered airplanes. The FAA believes that due to the characteristics of turbopropeller powered airplanes that make it desirable to operate at the maximum operating limit speed (V_{MO}/M_{MO}), and the increasing preoccupation of pilots with air traffic and other duties which distract them from continuous monitoring of airspeed instruments overspeed conditions can be a problem. Therefore, to insure early warning and thus to make a major portion of the speed margin available for pilot reaction and recovery maneuvers, the amendment requires that the speed warning device must give effective aural warning (differing distinctively from aural warnings used for other purposes) to the pilots whenever the speed exceeds V_{MO} plus 6 knots or $M_{MO}+0.01$.

It should also be noted that the proposal for § 23.1303(d) has been revised to make it like § 25.1303(a)(1) to allow for an air temperature indicator which provides indications that are convertible to free-air temperature.

Proposal 2–33. No unfavorable comments were received on the proposal to amend § 23.1309. Accordingly, the proposal is adopted without substantive change.

Proposal 2–34. One commentator suggested that proposed §§ 23.1322 and 25.1322 concerning warning, caution, and advisory lights be revised. The commentator noted that requiring a blue light for position indication was not always appropriate since blue was difficult to see in direct sunlight but was readily distinguishable in heavily shaded installations. The FAA agrees that blue should not be an established standard applicable to all installations. Therefore proposed §§ 23.1322(d), 25.1322(d), 27.1322(d) and 29.1322(d), concerning blue lights, are withdrawn. Also see Proposal 2–82.

Proposal 2–35. The proposed amendments to §§ 23.1325, 25.1325, and 29.1325 concerning the static pressure sources are related to proposed amendments to § 27.1325 that are contained in Airworthiness Review Program, Notice No. 2: Miscellaneous Proposals (Notice 75–10; 40 FR 10812; March 7, 1975) and in Airworthiness Review Program, Notice No. 5: Equipment and System Proposals (Notice 75–23; 40 FR 23048; May 27, 1975). The proposed amendment to § 27.1325 in Notice 75–10 is being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–23. The proposed amendments to §§ 23.1325, 25.1325, and 29.1325 contained in Notice 75–10 are therefore being deferred until final rulemaking action is taken with respect to the related proposed amendments to § 27.1325. Comments submitted for Proposals 2–35, 2–83, and 2–183 will be considered at that time.

Proposal 2–36. One commentator questioned the proposed lead-in for § 23.1331(b). The commentator interpreted the proposal to mean that each instrument must have independent power sources and noted that the explanation did not indicate this to be intended. The FAA agrees that the proposal is not clear, and the proposal is withdrawn.

Proposal 2–37. The proposed change to § 23.1335 concerning the deletion of the section is related to a proposed amendment to § 23.1335 that is contained in Airworthiness Review Program, Notice No. 5: Equipment and Systems Proposals (Notice 75–23; 40 FR 23048; May 27, 1975). The proposed amendment to § 23.1335 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposals in Notice 75–23. Comments submitted for Proposal 2–37 will be considered at that time.

Proposal 2–38. No unfavorable comments were received on the proposal to amend § 23.1351. Accordingly, the proposal is adopted without substantive change.

Proposal 2–39. Proposed § 23.1353(f) concerning nickel-cadmium batteries is related to a proposed amendment to § 23.1581 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 23.1353 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–39 will be considered at that time.

Proposal 2–40. For comments related to the proposed amendment of § 23.1385, see Proposal 2–89.

Proposal 2–41. One commentator suggested that proposed § 23.1411(b)(2) be revised to conform to the language in § 25.1411(b)(2). The FAA, however, believes a more specific standard is appropriate for §§ 23.1411 and 27.1411. Therefore, the proposed amendments to §§ 23.1411 and 27.1411 are adopted without substantive change.

Proposal 2–42. One commenator suggested that the proposed change to § 23.1549 be revised to accommodate horizontal scale powerplant instruments. The FAA agrees, and §§ 23.1549, 27.1549 and 29.1549, as adopted, will provide marking standards appropriate to circular, horizontal and vertical scale powerplant instruments.

Proposal 2–43. The proposed change to § 23.1555 concerning the information requirements of usable fuel in a restricted use fuel tank is related to a proposed amendment to § 23.1581 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 23.1555 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–43 will be considered at that time.

Proposal 2–44. The proposed change to § 23.1557 concerning the system voltage marking requirement adjacent to its external power connection is related to a proposed amendment to § 23.1557 that is contained in Airworthiness Review Program, Notice No. 3: Powerplant Proposals (Notice 75–19; 40 FR 21866; May 19, 1975). The proposed amendment to § 23.1557 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–19. Comments submitted for Proposal 2–44 will be considered at that time.

Proposal 2–45. The proposed change to § 23.1581 concerning the Airplane Flight Manual is related to a proposed amendment to § 23.1581 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 23.1581 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related Proposal in Notice 75–25. Comments submitted for Proposal 2–45 will be considered at that time.

Proposal 2–46. The proposed change to § 23.1587(a)(2) is related to proposed amendments to § 23.1587 that were contained in Airworthiness Review Program, Notice 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 23.1587 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–46 will be considered at that time.

Proposal 2–47. One commentator suggested that considering the proposed deletion of §§ 25.45 through 25.75, current § 25.161(e) will need to be amended to replace the reference to § 25.69. The FAA agrees, and § 25.161(e)(1) is amended by striking the reference to § 25.69 and inserting in place thereof a reference to § 25.123(a). In addition, the FAA has found that § 25.201(c)(1) refers to § 25.49(c)(2)(i) that would also be deleted. Therefore, § 25.201(c)(1) as amended strikes the phrase "§ 25.49(c)(2)(i) for reciprocating engine powered airplanes, or in" and the phrase "for turbine engine powered airplanes".

Proposal 2–48. No unfavorable comments were received on the proposed change to strike the words "turbine powered" from § 25.101(a). Accordingly, proposed § 25.101(a) is adopted without substantive change.

No unfavorable comments were received on proposed § 25.101(b) and it is adopted as proposed except that it is clarified to indicate that the 80% relative humidity for reciprocating engines is based on standard atmospheric temperature (the vapor pressure values in the table in proposed § 25.101(b)(2) correspond to 80% relative humidity with a standard atmosphere).

Proposal 2–49. Based on comments received on the proposal to amend § 25.105 and on the related proposals to §§ 25.125, 25.241 and 25.1533(c), and upon further review by the FAA, Proposals 2–49, 2–51, 2–52 and the portion of 2–93 dealing with the new operating limitation requirements for transport category airplanes intended to be used in operations on unpaved runways are withdrawn.

Proposal 2–50. No unfavorable comments were received on the proposal to amend § 25.107. Accordingly, the proposal is adopted without substantive change.

Proposal 2–51. For comments related to the withdrawal of the proposed amendment of § 25.125, see Proposal 2–49.

Proposal 2–52. For comments related to the withdrawal of the proposal to add a new § 25.241, see Proposal 2–49.

Proposal 2–53. No unfavorable comments were received on the proposal to amend § 25.397. Accordingly, the proposal is adopted without substantive change.

Proposal 2–54. For comments related to the proposed amendment of the lead-in of § 25.603, see Proposal 2–11.

Proposal 2–55. No unfavorable comments were received on the proposal to amend § 25.675. Accordingly, the proposal is adopted without substantive change. Also see Proposal 2–13.

Proposal 2–56. No unfavorable comments were received on the proposal to amend § 25.685(a). Accordingly, the proposal is adopted without substantive change. See Proposal 2–109.

Proposal 2–57. No unfavorable comments were received on the proposal to add a new § 25.733(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–58. One commentator questioned whether the proposed § 25.775(e) would require that there be at least two windshield panels in the windshield for each pilot. The intent of the proposal, however, is to provide at least one windshield panel through which at least one pilot could see if vision was lost through another panel.

Proposal 2–59. Proposed § 25.783(g) concerning integral stairs installed in passenger entry doors that qualify as passenger exits is related to a proposed amendment to § 25.783 that is contained in Airworthiness Review Program, Notice No. 8: Aircraft, Engine, and Propeller Airworthiness, and Procedural Proposals (Notice 75–31; 40 FR 29410; July 11, 1975). The proposed amendment to § 25.783(g) contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–31. Comments submitted for Proposal 2–59 will be considered at that time.

Proposal 2–60. The proposed change to § 25.785 is related to a proposed amendment to § 25.785 that is contained in Airworthiness Review Program, Notice No. 8: Aircraft, Engine, and Propeller Airworthiness, and Procedural Proposals (Notice 75–31; 40 FR 29410; July 11, 1975). The proposed amendment to § 25.785 contained in Notice No. 2 is, therefore, being deferred until final rulemaking action is taken with respect to the related proposals in Notice 75–31. Comments submitted for Proposal 2–60 will be considered at that time.

Proposal 2–61. No unfavorable comments were received on the proposed new § 25.787(c). However, based on a comment received on Proposal 2–111, this proposal has been revised to avoid any implication that lamps will be required in cargo compartments.

Proposal 2–62. Four of the five comments received were in favor of the proposal for § 25.815 that would provide for the approval of an aisle width of less than 12 inches, but not less than 9 inches, in transport airplanes with a passenger seating capacity of 10 or less if the aisle width is substantiated by necessary tests. One commentator requested that the proposal be withdrawn because it would result in a reduction in the margin of passenger safety. The FAA disagrees. Service experience with aircraft certificated with less than a 12 inch aisle width in the past has been satisfactory.

Moreover, the FAA will not certificate transport category aircraft with less than a 12 inch aisle width unless the Administrator finds by necessary test that the narrower aisle is safe.

The proposal is adopted without change.

Proposal 2–63. The proposed change to § 25.831 concerning the temperature and ventilation controls for the crew compartment is related to a proposed amendment to § 25.831 that is contained in Airworthiness Review Program Notice No. 5: Equipment and Systems Proposals (Notice 75–23; 40 FR 23048, May 27, 1975). The proposed amendment to § 25.831 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–23. Comments submitted for Proposal 2–63 will be considered at that time.

Proposal 2–64. One commentator recommended that proposed § 25.841(b)(1) be revised to make it clear that the pressure relief function may be combined with the regulating valve. The proposal would delete the requirement that one of the pressure relief valves be a pressure regulating valve, but it would still allow such a design. This was specifically covered in Notice 75–10.

One commentator suggested that the language "passenger or crew compartment" in proposed § 25.841(b)(8) be changed to read "occupiable area in the cabin" to ensure that a pressure sensor is located in the lower deck service compartment. The FAA believes the language "occupiable area in the cabin" does not clarify the proposed requirements. The language "passenger and crew compartment" is not limited to the main deck of the airplane, but includes a lower deck service compartment even though this lower deck service compartment may not be occupied during takeoff and landing. For clarification, the parenthetical "(including upper and lower lobe galleys)" has been added to § 25.841(b)(8) as adopted.

Proposal 2–65. The proposed change to § 25.853 concerning the certification requirements necessary to permit smoking in transport category airplanes is related to a proposed amendment to § 25.853 that is contained in Airworthiness Review Program, Notice No. 8: Aircraft, Engine, and Propeller Airworthiness, and Procedural Proposals (Notice 75–31, 40 FR 29410; July 11, 1975). The proposed amendment to § 25.853 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–31. Comments submitted for Proposal 2–65 will be considered at that time.

Proposal 2–66. No unfavorable comments were received on the proposal to amend § 25.933(b). Accordingly, the proposal is adoped without substantive change.

Proposal 2–67. A commentator suggested that a cross-reference to § 25.143 should be added to proposed § 25.941. The FAA agrees that the pilot strength limits now set forth in § 25.143 should be referenced in § 25.941 in order to define appropriately what constitutes "exceptional strength on the part of the pilot". Accordingly, a paragraph (c) has been added to proposed § 25.941 for that purpose.

Proposal 2–68. Two commentators agreed with the intent of the proposed § 25.951(a) concerning fuel system design and operation of the auxiliary power unit (APU) but requested that it be withdrawn to allow time to review other Part 25 provisions for applicability to APU installations. The FAA does not believe that a further review of Part 25 should in this case, delay completion of this rulemaking action. However, if the FAA determines that the language "auxiliary power unit" should be specifically set forth in other provisions to avoid misinterpretation, the FAA will take action to clarify these provisions.

One commentator stated that the fuel system for an APU operated on the ground would be unnecessarily subject to the same requirement as the engine fuel system. The FAA does not agree that this is unnecessary. If certain operating conditions are the same for both the engine fuel system and the APU fuel system, the FAA believes that the requirements during such periods should be the same. The proposal is therefore adopted without substantive change.

Proposal 2–69. One commentator suggested that the language "proof and ultimate factors" in the proposal for new paragraphs (d) and (e) of § 25.979 be revised to be consistent with § 25.301. The FAA agrees that the terminology should be consistent and the section as adopted is reworded to use the term ultimate load.

One commentator questioned whether the design criteria for the pressure fueling system was applicable to fuel tanks and fuel tank vents. The proposed amendment to § 25.979 was not intended to apply to fuel tanks and vents. The section as adopted has been revised to make this clear.

Proposal 2–70. Several commentators questioned the meaning of the term "quick actuation drain valve" in proposed § 25.999(b)(3). The FAA agrees that the term may be subject to misinterpretation and that the provision is complete without the words "quick actuation".

One commentator asserted that the proposed requirement in § 25.999(b)(3) that the drain valve not be damaged in

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the event of a landing with landing gear retracted was not a proper design specification since damage was beyond the control of the manufacturer. The FAA agrees that the language "so that it will not be damaged" is not proper for this requirement, but the FAA believes that the valve, the location of the valve, or both, can be designed to prevent fuel spillage, assuming that a landing is made with the landing gear retracted. The section as adopted has been revised to clarify this intent.

Proposal 2–71. One commentator suggested that proposed § 25.1027(d) be revised to limit the design consideration to sludge or other foreign matter entering the feathering system from the oil tank. The FAA disagrees. Design consideration and flexibility should not be limited to preventing entry of material into the feathering system. All sources of sludge and foreign matter must be considered since the purpose of the regulation is the safe operation of the propeller feathering system. The proposal, therefore is adopted without substantive change.

Proposal 2–72. One commentator suggested that the word "critical" be added before the language "ground, water, and flight operating conditions" in the proposal for § 25.1041, but no reason was given. As noted in the explanation to this proposal, § 25.1041 contains a general cooling requirement, while §§ 25.1043 and 25.1045 are more specific with respect to the type of operating conditions which must be considered during tests. Critical conditions are included in the test requirements of §§ 25.1043 and 25.1045. However, the FAA believes that cooling provisions must be adequate under all ground, water, and flight operating conditions.

Proposal 2–73. No unfavorable comments were received on the proposal to amend § 25.1091(c)(2). Accordingly, the proposal is adopted without substantive change.

Proposal 2–74. One commentator agreed with the proposal for § 25.1093 but suggested that the proposal be changed to agree with the format of the previous paragraphs. The FAA agrees, and the proposal as adopted has been structured the same as the previous paragraphs.

Proposal 2–75. One commentator objected to the proposed lead-in for § 25.1125 that limited the applicability of the section to reciprocating engines. The FAA does not believe that the requirements of this section are applicable to other than reciprocating engine powered airplanes. While some early turbine powered airplanes have had an ejector installation in the exhaust stream to pull cooling air through the nacelle, the FAA does not consider this to be an exhaust heat exchanger within the meaning of the language of § 25.1125. Therefore, the proposed lead-in for § 25.1125 is adopted without substantive change.

Proposed § 25.1125(a)(3) is withdrawn. For a discussion of the withdrawal, see Proposal 2–29.

Proposal 2–76. A commentator stated that the phrase "automatically controlled with relation to the amount of power produced by the engine" in proposed § 25.1143(d) is not appropriate for all fluid injection systems. The FAA agrees that the phrase is not appropriate for certain turbine engine powered airplanes and that further revision of § 25.1143(d) should be considered. Proposed § 25.1143(d) has therefore been withdrawn for further study.

No unfavorable comment was received concerning proposed § 25.1143(e) and this paragraph has been adopted without substantive change.

Proposal 2–77. No unfavorable comments were received on the proposal to add a new § 25.1167. Accordingly, the proposal is adopted without substantive change.

Proposal 2–78. No unfavorable comments were received on the proposal to amend § 25.1197(a). Accordingly, the proposal is adopted without substantive change.

Proposal 2–79. One commentator suggested that proposed § 25.1303(a)(2) be revised to clarify the method of clock indication which would be permitted under the regulation. The FAA agrees that the intent of the proposal was only to recognize the development of accurate digital clocks and that the minimum information presented should be the same. Proposed §§ 25.1303(a)(2) and 29.1303(d) as adopted are revised to make this clear.

Proposal 2–80. Several commentators suggested that the proposed change to § 25.1305 be revised to except antidetonant injection (ADI) systems from the powerplant instrument proposal for fluid augmentation systems. The commentators expressed the opinion that the proposal for § 25.1143(d) concerning automatic controls for fluid injection systems (other than fuel) eliminated the need for a powerplant instrument for the ADI system. The FAA believes that the flight crew should be able to monitor the proper functioning of any fluid system that is used for thrust or power augmentation and the section as adopted is applicable to ADI systems. However, the section has been clarified to ensure application only to fluids systems that are used for thrust or power augmentation.

Proposal 2–81. No unfavorable comments were received on the proposal to amend § 25.1309. Accordingly, the proposal is adopted without substantive change.

Proposal 2–82. One commentator questioned the proposed color standardization of warning, caution, and advisory lights in new § 25.1322. The commentator stated "arbitrary standards for specific light colors cannot always be stated" because of the design objective to minimize red lights that require immediate crew action and of the need to consider past experience, test, crew acceptance, and the specific application. The FAA agrees that considerations other than the need for standardization of light colors may dominate in special circumstances, and the section as adopted provides for approval by the Administrator of light colors that are different than the standard. As stated by the commentator and in the section as adopted, a design objective is to have red warning lights only if a hazard is to be indicated which may require immediate corrective action.

One commentator noted that the language "warning light" is used in other sections of the regulations, such as § 25.812(e)(2), and a hazard which may require immediate corrective action will not be indicated. The FAA does not agree; the light noted in § 25.812(e)(2) should be red in future designs unless otherwise approved by the Administrator. The FAA believes that in other sections, if the language "warning light" is used, it is consistent with proposed new § 25.1322. However, if the language "warning light" is determined to be not generally applicable, later rulemaking action can be instituted.

One commentator suggested a clarification of the lead-in of the proposal to limit its applicability to lights installed in the cockpit as indicated in the explanation to the proposal. The FAA agrees, and the lead-ins of §§ 23.1322, 25.1322, 27.1322, and 29.1322 have been clarified.

Also see Proposal 2–34 for a discussion of the withdrawal of the blue light proposal.

Proposal 2–83. For comments related to the deferral of proposal § 25.1325(g), see Proposal 2–35.

Proposal 2–84. The proposed change to § 25.1329 concerning the redesignation of § 25.1329 as § 25.1311 and the addition of provisions for automatic flight control systems is related to a proposed amendment to § 25.1329 that is contained in Airworthiness Review Program, Notice No. 5: Equipment and Systems Proposals (Notice 75–23; 40 FR 23048, May 27, 1975). The proposed amendment to § 25.1329 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–23. Comments submitted for Proposal 2–84 will be considered at that time.

Proposal 2–85. Proposed § 25.1331(a)(2) concerning instruments using a power supply is related to proposed amendments to §§ 25.1331 and 25.1333 that are contained in Airworthiness Review Program, Notice No. 5: Equipment and Systems Proposals (Notice 75–23; 40 FR 23048; May 27, 1975). The proposed amendment to § 25.1331(a)(2) contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposals in Notice 75–23. Comments submitted for Proposal 2–85 will be considered at that time.

Proposal 2–86. Proposed § 25.1337(a) concerning auxiliary power unit instrument lines is related to a proposed amendment to § 25.1337(a) that is contained in Airworthiness Review Program, Notice No. 3: Powerplant Proposals (Notice 75–19; 40 FR 21866; May 19, 1975). The proposed amendment to § 25.1337(a) contained in Notice No. 2 is therefore deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–19. Comments submitted for Proposal 2–86 will be considered at that time.

Proposal 2–87. Proposed § 25.1353(c)(5) is related to a proposed amendment to § 25.1585 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 25.1353(c)(5) contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–87 will be considered at that time.

Proposal 2–88. No unfavorable comments were received on the proposal to amend § 25.1355(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–89. Several commentators suggested that the list of factors to consider for locating forward and rear position lights in proposed §§ 23.1385, 25.1385, 27.1385, and 29.1385 was incomplete.

Two commentators, also suggested that proposed §§ 23.1385(c) and 25.1385(c) be revised to permit a new position light to be installed on each wing tip. The FAA agrees that further study is necessary to develop factors of general applicability for position lights on all aircraft but that a rear position light as far aft as practical on each wing tip of an airplane is a reasonable alternative location. Accordingly, proposed §§ 23.1385(c) and 25.1385(c) have been revised. The proposals concerning the list of factors to be considered for locating forward and rear position lights in § 25.1385 and paralleled in proposed §§ 23.1385, 27.1385, and 29.1385 are withdrawn. However, the deletion of the passing light requirement from current § 25.1385(e) will be made.

Proposal 2–90. One commentator asserted that proposed new § 25.1403 was an operating requirement, not an airworthiness requirement and therefore was not appropriate for Part 25. Although a similar requirement currently exists in § 121.341(b), the FAA believes that such a requirement should be applicable to all newly certificated transport category airplanes.

Two commentators pointed out that the proposal differs from § 121.341(b) in that the proposal was not limited to the area of the wings that are critical from the standpoint of ice accumulation. The FAA agrees, and the section as adopted has been revised accordingly.

A comment was also received that expressed the belief that under the proposal, illumination or other means of ice detection would not be necessary if the wing was shown to have acceptable ice accumulation characteristics. The FAA does not agree. Unless an operating limitation prohibits operations at night in known or forecast icing conditions, the means set forth are required.

Proposal 2–91. Several commentators said that the proposed change to § 25.1439(b)(2)(ii) concerning standards for masks and eye coverings was premature in view of the current testing being conducted on this type of equipment by the FAA. The FAA agrees that this proposed amendment is premature, and new standards are being considered for a later rulemaking action. The proposed change to § 25.1439(b)(2)(ii) is therefore withdrawn.

No unfavorable coments were received on the proposal to amend paragraph (a) of § 25.1439. Accordingly, the proposal is adopted without substantive change.

Proposal 2–92. No unfavorable comments were received on the proposal to amend § 25.1515. Accordingly, the proposal is adopted without substantive change.

Proposal 2–93. No unfavorable comments were received on the proposal to amend the heading of § 25.1533 and on the proposal to amend § 25.1533(a). Accordingly, this amendment is adopted without substantive change. For comments related to the withdrawal of the proposed new § 25.1533(c), see Proposal 2–49.

Proposal 2–94. The proposed change to § 25.1549 concerning the marking requirements for powerplant instruments is related to a proposed amendment to § 25.1549 that is contained in Airworthiness Review Program, Notice No. 3: Powerplant Proposals (Notice 75–19; 40 FR 21866; May 19, 1975). The proposed amendment to § 25.1549 contained in Notice No. 2 is therefore deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–19. Comments submitted for Proposal 2–94 will be considered at that time.

Proposal 2–95. One commentator took exception to the proposed deletion of the requirement for marking fuel and oil tank capacities at the filler openings in § 25.1557(b). The FAA believes this method of providing the usable fuel tank capacity and the oil tank capacity is no longer necessary. The pilot has the fuel quantity gage and the Airplane Flight Manual, and the servicing personnel usually have no interest in the usable fuel tank capacity. The determination of oil level in oil tanks is usually accomplished with the dipstick. Accordingly, the proposal is adopted without substantive change.

Proposal 2–96. The proposed change to § 25.1581 concerning the Airplane Flight Manual is related to a proposed amendment to § 25.1581 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 25.1581 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–96 will be considered at that time.

Proposal 2–97. No unfavorable comments were received on the proposal to amend § 25.1583. Accordingly, the proposal is adopted without substantive change.

Proposal 2–98. The proposed change to § 25.1587 concerning performance information is related to a proposed amendment to § 25.1587 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 25.1587 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–98 will be considered at that time.

Proposal 2–99. Two commentators questioned the applicability of proposed § 27.25(c) concerning a total weight that was greater than the maximum weight established under § 27.25(a) and noted that a clarification of the applicable flight requirements was needed. The FAA agrees that proposed § 27.25(c) should be clarified. Proposed §§ 27.25(c) and 29.25(c) are intended to provide only a total weight standard for approving the rotorcraft structure for rotorcraft that will be operated under Part 133. Proposed §§ 27.25(c) and 29.25(c) as adopted have been revised to clarify this intent.

Proposal 2–100. Proposed § 27.65(a)(2)(i) concerning climb gradients for rotorcraft other than helicopters is related to a proposed new § 27.1587(b)(3) that is contained in Airworthiness Review Program, Notice No. 2: Miscellaneous Proposals (Notice 75–10; 40 FR 10802; March 7, 1975). The proposed amendment to § 27.1587 contained in Notice 75–10 is being deferred; see Proposal 2–140. Therefore, the proposed amendment to § 27.65 contained in Notice 75–10 is also deferred until final rulemaking action is taken with respect to the related proposal for § 27.1587. Comments submitted for Proposal 2–100 will be considered at that time.

Proposal 2–101. No unfavorable comments were received on the proposal to amend § 27.141. Accordingly, the proposal is adopted without substantive change.

Proposal 2–102. No unfavorable comments were received on the proposal to amend § 27.173(a). Accordingly, the proposal is adopted without substantive change.

Proposal 2–103. No unfavorable comments were received on the proposal to amend § 27.175(d)(2)(iv). Accordingly, the proposal is adopted without substantive change.

Proposal 2–104. No unfavorable comments were received on the proposal to amend § 27.321(a). Accordingly, the proposal is adopted without substantive change.

Proposal 2–105. No unfavorable comments were received on the proposal to amend § 27.339. Accordingly, the proposal is adopted without substantive change.

Proposal 2–106. Two commentators suggested that the limit pilot torque for rotorcraft twist controls in proposed §§ 27.397(b)(2), and 29.397(b)(2) should be 80 times the radius (R) in inches instead of 133 inch-pounds, as proposed. The FAA agrees that the pilot torque load requirements should be a function of the radius (R). Also the FAA does not expect the radius (R) of any twist control installed on any rotorcraft type certificated in the future to be greater than 133/80 inches. Therefore, the proposals

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as adopted revise the limit pilot torque load to 80R inch-pounds.

Proposal 2–107. No unfavorable comments were received on the proposal to add a new § 27.563. Accordingly, the proposal is adopted without substantive change.

Proposal 2–108. No unfavorable comments were received on the proposal to amend § 27.603. Accordingly, the proposal is adopted without substantive change.

Proposal 2–109. One commentator disagreed with proposed §§ 27.685(a) and 29.685(a) that would require the consideration of the effects of the freezing of moisture on control systems since §§ 27.685(a) and 29.685(a) currently require that control systems be designed to prevent jamming. While the explanation for this proposal indicated that the freezing of moisture was a common cause of control jamming, the proposal is also directed at preventing chafing and interference caused by the freezing of moisture. Accordingly, the proposals are adopted without substantive change.

Proposal 2–110. No unfavorable comments were received on the proposal to add a new § 27.733(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–111. Based on a comment received, the proposed change to § 27.787 has been revised to avoid any implication that lamps will be required in cargo compartments.

Proposal 2–112. No unfavorable comments were received on the proposal to add a new § 27.801. Accordingly, the proposal is adopted without substantive change.

Proposal 2–113. Several commentators stated that the ditching emergency exit standards proposed for §§ 27.807(d) and 29.807 should not be applicable to all rotorcraft. The commentators noted that the new standards would unnecessarily penalize rotorcraft that would never be involved in a ditching situation. The FAA agrees that certain rotorcraft may not operate in areas where ditching is a concern. Compliance with the ditching emergency exit standards should not be required for all rotorcraft during type certification. Therefore, the proposals as adopted have been revised to make it applicable only to rotorcraft for which ditching certification is requested. The overhead hatch requirements proposed in new §§ 27.807(d)(2) and 29.807(d)(3) are withdrawn because of the possible hazards associated with a turning main rotor. In addition, the reference in proposed § 27.807(d) to § 27.807(a) has been deleted as unnecessary, and the reference in proposed § 29.807(d) to § 29.807(c) has been deleted as inappropriate.

Proposal 2–114. For comments related to the proposed amendment of § 27.853, see Proposal 2–18.

Proposal 2–115. Upon further FAA review proposed §§ 27.865(a) and 29.865(a) concerning external load attaching means have been revised to preclude the necessity of considering the application of an external load at angles that will not be obtained in service. One commentator objected to the requirement for a manual mechanical control for the quick-release device. The commentator stated that this requirement was too restrictive due to the other standby electrical systems available. The FAA does not agree. Contrary to the commentator's contention the reliability of controls other than manual mechanical controls have not been sufficiently substantiated to permit their use in place of a manual mechanical control.

Proposal 2–116. One commentator objected to the proposals to add new standards concerning turbine engine installations to §§ 27.903 and 29.903 that would be substantively identical to proposed § 23.903(b). The commentator requested that the proposals be withdrawn since helicopter service experience does not indicate that such a standard is necessary and due consideration has not been given to the differences between helicopter and airplane engine control systems. The FAA disagrees. While there are differences between helicopter and airplane engine installations, the FAA believes that the proposals would provide general design requirements relating to engine operating limitations and engine installation requirements and that these engine installation requirements should be paralleled in Parts 23, 27, and 29. Also see Proposal 2–19.

Proposal 2–117. For comments concerning proposed § 27.917(d), see Proposal 2–163.

Proposal 2–118. The proposed change to § 27.927 concerning the torque transmission test is related to a proposed amendment to § 27.927 that is contained in Airworthiness Review Program, Notice No. 3: Powerplant Proposals (Notice 75–19; 40 FR 21866; May 19, 1975). The proposed amendment to § 27.927 contained in Notice No. 2 is therefore deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–19. Comments submitted for Proposal 2–118 will be considered at that time.

Proposal 2–119. No unfavorable comments were received on the proposal to add a new § 27.939(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–120. No unfavorable comments were received on the proposal to amend § 27.977. Accordingly, the proposal is adopted without substantive change.

Proposal 2–121. Two commentators objected to the proposals to amend §§ 27.999(b) and 29.999(b) to require the installation of quick actuation type drain valves that are readily accessible, which can be easily opened and closed, and is either located or protected so that it will not be damaged in the event of a landing with landing gear retracted. The commentators stated that the requirement to include crash landing consideration is not considered appropriate since there are a great number of other areas which must be covered in crash landing conditions.

The proposals, however, would require that the fuel system drain valves be either located or protected so that it will not be damaged in the event of a landing with landing gear retracted. There are no requirements in the proposal for consideration of crash landing conditions.

In consideration of comments discussed under Proposals 2–26, and 2–70, §§ 27.999(b)(3)(ii) and 29.999(b)(3)(ii), as adopted, have been clarified to more specifically provide a design consideration.

See Proposals 2–26 and 2–70.

Proposal 2–122. No unfavorable comments were received on the proposal to amend § 27.1043(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–123. No unfavorable comments were received on the proposal to add a new § 27.1093(c). The proposal as adopted has been editorially changed to agree with the format of the current section.

Proposal 2–124. No unfavorable comments were received on the proposal to add a new § 27.1123. Accordingly, the proposal is adopted without substantive change.

Proposal 2–125. No unfavorable comments were received on the proposal to add a new § 27.1143(d), and the proposal is adopted without substantive change. However, the heading of § 27.1143 has been amended to reflect the contents of the section after the adoption of a new paragraph (d).

Proposal 2–126. No unfavorable comments were received on the proposal to amend § 27.1185. Accordingly, the proposal is adopted without substantive change.

Proposal 2–127. For comments related to proposed amendment of § 27.1322, see Proposals 2–34 and 2–82.

Proposal 2–128. The proposed change to § 27.1325 concerning the static pressure sources is related to a proposed amendment to § 27.1325 that is contained in Airworthiness Review Program, Notice No. 5: Equipment and Systems Proposals (Notice 75–23; 40 FR 23048; May 27, 1975). The proposed amendment to § 27.1325 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–23. Comments submitted for Proposal 2–128 will be considered at that time.

Proposal 2–129. The proposal for a new § 27.1329 concerning the standards for automatic pilot systems is related to a proposed new § 27.1311 that is contained in Airworthiness Review Program, Notice No. 5: Equipment and Systems Proposals (Notice 75–23; 40 FR 23048; May 27, 1975). The proposal for § 27.1329 contained in Notice No. 2 is therefore being deferred until final rulemaking is taken with respect to the related proposal in Notice 75–23. Comments for Proposal 2–129 will be considered at that time.

Proposal 2–130. No unfavorable comments were received on the proposal to amend § 27.1351. Accordingly, the proposal is adopted without substantive change.

Proposal 2–131. Proposed § 27.1353(f) concerning nickel-cadmium batteries is related to a proposed amendment to § 27.1581 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 27.1353(f) contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–131 will be considered at that time.

Proposal 2–132. For comments related to the proposed amendment of § 27.1385 and the withdrawal of the proposal, see Proposal 2–89.

Proposal 2–133. No unfavorable comments were received on the proposal to amend § 27.1411. Accordingly, the proposal is adopted without substantive change.

Proposal 2–134. No unfavorable comments were received on the proposal to amend § 27.1415(b). Accordingly, the proposal is adopted without substantive change.

Proposal 2–135. The proposed change to § 27.1545 concerning the V_{so} requirements is related to a proposed amendment to § 27.1505 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 27.1545 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–135 will be considered at that time.

Proposal 2–136. For comments related to the proposed amendment of § 27.1549, see Proposal 2–42.

Proposal 2–137. No unfavorable comments were received on the proposal to amend § 27.1555(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–138. No unfavorable comments were received on the proposal to amend § 27.1557(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–139. The proposed change to § 27.1581 concerning the Airplane Flight Manual is related to a proposed amendment to § 27.1581 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 27.1581 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–139 will be considered at that time.

Proposal 2–140. The proposed change to § 27.1587 is related to a proposed amendment to § 27.1581 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 27.1587 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–140 will be considered at that time.

Proposal 2–141. One commentator suggested that the proposed new § 29.25(c) provisions be limited to category B rotorcraft. However no reason for the suggestion was stated. The FAA knows of no reason why the proposed provisions should be limited to category B rotorcraft. One commentator questioned the applicability of proposed new § 29.25(c) and noted that a clarification of the applicable flight requirements was needed. For discussion of this and other comments related to the proposed new § 29.25(c), see Proposal 2–99.

Proposal 2–142. No unfavorable comments were received on the proposal to amend § 29.63. Accordingly, the proposal is adopted without substantive change.

Proposal 2–143. Several commentators recommended that § 29.67(a)(1) be revised by adding the term "at V_{TOSS}" following the words "feet per minute", and by deleting the phrase "without ground effect". Although paragraph (a)(1)(iv) of § 29.67 as proposed defines the speed to be used in meeting the climb requirements of § 29.67(a)(1) as the takeoff safety speed, the FAA does not believe that the term "V_{TOSS}" is appropriate. Also the FAA does not agree that the phrase "without ground effect" should be deleted from § 29.67(a)(1). The FAA requires that all climb performance be conducted outside the influence of ground effect. Accordingly, the proposal is adopted without substantive change.

Proposal 2–144. No unfavorable comments were received on the proposal to amend § 29.71. Accordingly, the proposal is adopted without substantive change.

Proposal 2–145. No unfavorable comments were received on the proposal to amend § 29.75(b)(2). Accordingly, the proposal is adopted without substantive change.

Proposal 2–146. No unfavorable comments were received on the proposal to amend § 29.141. Accordingly, the proposal is adopted without substantive change.

Proposal 2–147. No unfavorable comments were received on the proposal to amend § 29.173(a). Accordingly, the proposal is adopted without substantive change.

Proposal 2–148. No unfavorable comments were received on the proposal to amend § 29.175(d)(2)(iv). Accordingly, the proposal is adopted without substantive change.

Proposal 2–149. For comments related to the proposed amendment of § 29.397, see Proposal 2–106.

Proposal 2–150. No unfavorable comments were received on the proposal to add a new § 29.563. Accordingly, the proposal is adopted without substantive change.

Proposal 2–151. No unfavorable comments were received on the proposal to amend § 29.603. Accordingly, the proposal is adopted without substantive change.

Proposal 2–152. For comments related to the proposed amendment of § 29.685(a), see Proposal 2–109.

Proposal 2–153. No unfavorable comments were received on the proposal to add a new § 29.733(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–154. The proposed change to § 29.783 concerning the requirements applicable to "airstair doors" in transport category rotorcraft is related to proposed amendments to § 25.783 that are contained in Airworthiness Review Program, Notice No. 2: Miscellaneous Proposals (Notice 75–10; 40 FR 10802; March 7, 1975) and in Airworthiness Review Program, Notice No. 8: Aircraft, Engine, and Propeller Airworthiness, and Procedural Proposals (Notice 75–31; 40 FR 29410; July 11, 1975). The proposed amendment to § 25.783 contained in Notice 75–10 is being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–31. The proposed amendment to § 29.783 contained in Notice 75–10 is therefore being deferred until final rulemaking action is taken with respect to the related proposal for § 25.783. Comments submitted for Proposal 2–154 will be considered at that time.

Proposal 2–155. No unfavorable comments were received on the proposed new § 29.787(d). However, based on a comment received on Proposal 2–111, this proposal has been revised to avoid any implication that lamps will be required in cargo compartments.

Proposal 2–156. No unfavorable comments were received on the proposal to add a new § 29.801. Accordingly, the proposal is adopted without substantive change.

Proposal 2–157. For comments related to the proposed amendment of § 29.807, see Proposal 2–113.

Proposal 2–158. No unfavorable comments were received on the proposal to add a new § 29.813(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–159. One commentator objected to the proposed change to § 29.815 for the same reasons as presented for the proposed change to § 25.815. The discussion of § 25.815 in Proposal 2–62 deals with this comment.

Proposal 2–160. For comments related to the proposed amendment of § 29.853, see Proposal 2–18.

Proposal 2–161. For comments related to the proposed new § 29.865, see Proposal 2–115.

Proposal 2–162. No unfavorable comments were received on the proposal to amend § 29.903(c)(1). Accordingly, the proposal is adopted without substantive change. For comments related to the proposal to add new standards concerning turbine engine installation, see Proposals 2–19 and 2–116.

Proposal 2–163. The only public comment received in response to proposed §§ 27.917(d) and 29.917(a) recommended that the present language in § 29.917(a) be used but gave no reason for the recommendation. The FAA believes that there should be a positive description of the cooling fans that must be considered as part of the rotor drive system. Accordingly, the proposals are adopted without substantive change.

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Proposal 2–164. The proposed change to § 29.927 concerning the torque transmission test time is related to a proposed amendment to § 29.927 that is contained in Airworthiness Review Program, Notice No. 8: Aircraft, Engine, and Propeller Airworthiness, and Procedural Proposals (Notice 75–31; 40 FR 29410, July 11, 1975). The proposed amendment to § 29.927 contained in Notice No. 2 is therefore deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–31. Comments submitted for Proposal 2–164 will be considered at that time.

Proposal 2–165. No unfavorable comments were received on the proposal to amend § 29.931. Accordingly, the proposal is adopted without substantive change.

Proposal 2–166. No unfavorable comments were received on the proposal to add a new § 29.939(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–167. No unfavorable comment was received on the proposal to amend § 29.951(a). Accordingly, the proposal is adopted without substantive change. Also see proposal 2–68.

Proposal 2–168. No unfavorable comments were received on the proposal to amend § 29.977. Accordingly, the proposal is adopted without substantive change.

Proposal 2–169. Based on comments concerning proposed changes to § 25.979, proposed new paragraphs (d) and (e) of § 29.979 have also been revised. See Proposal 2–69 for a discussion of the amendment to § 25.979.

Proposal 2–170. One commentator objected to the proposal to § 29.999 on the basis that the helicopter accident records do not show "any great number due to operators not draining fuel sumps." The FAA believes that this low accident rate due to water contamination in the fuel exists because most helicopters already use quick actuation drain valves.

One commentator questioned the need for proposed § 29.999(b) noting that current § 29.971(d) appears to have the same requirement. The FAA agrees that current § 29.971(d) would be redundant for fuel tank sump drains and has therefore deleted the standards for the fuel tank sump drain in § 29.971(d).

The fuel drain standards in § 29.999 (b) as proposed are applicable to each drain required by § 29.999(a) including the drains prescribed in § 29.971, but to avoid misinterpretation the section as adopted is clarified to specifically note the fuel tank sump drains prescribed in § 29.971.

Also see Proposals 2–26, 2–70, and 2–121.

Proposal 2–171. One commentator stated that proposed § 29.1041(a) should be revised to except "ground use only" auxiliary power units (APU's). The FAA disagrees. APU's that are permitted to operate only on the ground have inadvertently continued to operate in flight. Safe operation of APU's requires consideration of ground, water, and flight operating conditions. The proposal is therefore, adopted without substantive change.

Proposal 2–172. No unfavorable comments were received on the proposal to amend § 29.1043(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–173. No unfavorable comments were received on the proposal to add a new § 29.1093(c). The proposal as adopted has been editorially changed to agree with the format of the current section.

Proposal 2–174. For comments related to the proposed amendment of § 29.1125, see Proposals 2–29 and 2–75.

Proposal 2–175. No unfavorable comment was received on the proposal to amend § 29.1143 and the proposal is adopted without substantive change. However, the heading of § 29.1143 has been amended to reflect the contents of the section after the addition of a new paragraph (e).

Proposal 2–176. No unfavorable comments were received on the proposal to amend § 29.1165(f). Accordingly, the proposal is adopted without substantive change.

Proposal 2–177. Two commentators objected to the selective use of Part 33 requirements in the proposal for a new § 29.1167 that would provide substantiation requirements for accessory gearboxes that are not certificated as part of an engine. The FAA proposed to amend Part 29 like Part 25 for consistency. The FAA now believes that the proposed new § 29.1167 is inappropriate in view of the requirements to substantiate the rotor drive system including gear boxes under the rotor drive system endurance test requirements. Therefore, proposed new § 29.1167 is withdrawn.

Proposal 2–178. No unfavorable comments were received on the proposal to amend § 29.1189(a). Accordingly, the proposal is adopted without substantive change.

Proposal 2–179. No unfavorable comments were received on the proposal to amend § 29.1197(a). Accordingly, the proposal is adopted without substantive change.

Proposal 2–180. For comments related to the proposed amendment of § 29.1303 (d), see Proposal 2–79.

Proposal 2–181. No unfavorable comments were received on the proposal to amend § 29.1307. Accordingly, the proposal is adopted without substantive change.

Proposal 2–182. For comments related to proposed amendment of § 29.1322, see Proposals 2–34 and 2–82.

Proposal 2–183. For comments related to the deferral of proposed § 29.1325, see Proposal 2–35.

Proposal 2–184. The proposed change to § 29.1329 concerning automatic pilot systems is related to a proposed new § 29.1311 that is contained in Airworthiness Review Program, Notice No. 5: Equipment and Systems Proposals (Notice 75–23; 40 FR 23048; May 27, 1975). The proposal for § 29.1329 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–23. Comments submitted for Proposal 2–184 will be considered at that time.

Proposal 2–185. The proposed change to § 29.1337 concerning the auxiliary power unit instrument lines is related to a proposed amendment to § 29.1337 that is contained in Airworthiness Review Program, Notice No. 3: Powerplant Proposals (Notice 75–19; 40 FR 21866, May 19, 1975). The proposed amendments to § 29.1337 contained in Notice No. 2 is therefore deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–19. Comments submitted for Proposal 2–185 will be considered at that time.

Proposal 2–186. Proposed § 29.1353(c)(5) concerning nickel-cadmium batteries is related to a proposed amendment to § 29.1585 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 29.1353(c)(5) contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–186 will be considered at that time.

Proposal 2–187. For comments related to the proposed amendment of § 29.1385 and the withdrawal of the proposal, see Proposal 2–89.

Proposal 2–188. The proposal for § 29.1545 concerning the V.. requirements is related to a proposed amendment to § 29.1505 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 29.1545 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–188 will be considered at that time.

Proposal 2–189. For comments related to the proposed amendment of § 29.1549, see Proposal 2–42.

Proposal 2–190. No unfavorable comments were received on the proposal to amend § 29.1555(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–191. No unfavorable comments were received on the proposal to amend § 29.1557(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–192. The proposed change to § 29.1581 concerning the Airplane Flight Manual is related to a proposed amendment to § 29.1581 that is contained in Airworthiness Review Program, Notice No. 6: Flight Proposals (Notice 75–25; 40 FR 24664; June 9, 1975). The proposed amendment to § 29.1581 contained in Notice No. 2 is therefore being deferred until final rulemaking action is taken with respect to the related proposal in Notice 75–25. Comments submitted for Proposal 2–192 will be considered at that time.

Proposal 2–193. No unfavorable comments were received on the proposal to amend § 31.1. Accordingly, the proposal is adopted without substantive change.

Proposal 2–194. No unfavorable comments were received on the proposal to amend §§ 31.11 and 31.20. Accordingly, the proposal is adopted without substantive change.

Proposal 2–195. No unfavorable comment was received on the proposal to add a new § 31.14 concerning weight limits of manned free balloons. Therefore, the section is adopted without substantive change.

Proposal 2–196. No unfavorable comments were received on the proposal to amend § 31.45. Accordingly, the proposal is adopted without substantive change.

Proposal 2–197. No unfavorable comments were received on the proposal to add a new § 31.46. Accordingly, the proposal is adopted without substantive change.

Proposal 2–198. No unfavorable comments were received on the proposal to amend § 31.63. Accordingly, the proposal is adopted without substantive change.

Proposal 2–199. No unfavorable comments were received on the proposal to amend § 31.85. Accordingly, the proposal is adopted without substantive change.

Proposal 2–200. No unfavorable comments were received on the proposal to amend § 33.1. Accordingly, the proposal is adopted without substantive change.

Proposal 2–201. No unfavorable comments were received on the proposal to amend § 35.1. Accordingly, the proposal is adopted without substantive change.

Proposal 2–202. No unfavorable comments were received on the proposal to amend § 35.39. Accordingly, the proposal is adopted without substantive change.

Proposal 2–203. No unfavorable comments were received on the proposal to amend § 35.41(e). Accordingly, the proposal is adopted without substantive change.

Proposal 2–204. No unfavorable comments were received on the proposal to amend § 35.45(a). Accordingly, the proposal is adopted without substantive change.

Proposal 2–205. No unfavorable comments were received on the proposal to amend § 91.14. Accordingly, the proposal is adopted without substantive change.

Proposal 2–206. No unfavorable comments were received on the proposal to amend § 91.21(a). Accordingly, the proposal is adopted without substantive change.

Proposal 2–207. One commentator suggested that the proposed change to § 91.33(d)(6) concerning clock requirements should use the language of § 121.305. The FAA believes that a standard should be specified in § 91.33(d)(6) for digital clocks and the proposal as adopted provides a specific standard. See Proposal 2–79.

Proposal 2–208. The intent of the proposed new § 91.193(g) is to require protective breathing equipment that would meet the standards proposed for § 25.1439(b) on certain airplanes operated under Part 91 Subpart D. Based on the current testing being conducted on this type of equipment, the FAA is developing new standards for a later rulemaking action. The proposal for § 25.1439(b)(2)(ii) is being withdrawn (See Proposal 2–91). Therefore, the FAA believes that the proposal for § 91.193 is premature, and the proposal is withdrawn.

Proposal 2–209. Although no unfavorable comment was received on the proposed revision of § 91.209, the FAA believes that revision of similar ice protection provision in § 135.85 may be necessary. Amendments to §§ 91.209 and 135.85 should be considered together. Therefore, the proposed change to § 91.209 is withdrawn.

Proposal 2–210. No unfavorable comments were received on the proposal to amend § 121.171(b). Accordingly, the proposal is adopted without substantive change.

Proposal 2–211. No unfavorable comments were received on the proposal to amend § 121.199. Accordingly, the proposal is adopted without substantive change.

Proposal 2–212. No unfavorable comments were received on the proposal to amend §§ 121.331(b) and 121.333(b). Accordingly, the proposal is adopted without substantive change.

Proposal 2–213. The intent of proposed § 121.337(d) is to require protective breathing equipment that would meet the proposed requirements of § 25.1439 (b) installed in certain airplanes operated under Part 121. However, proposed § 25.1439(b)(2)(ii) is withdrawn in this notice. Based on the current testing being conducted on this type of equipment, the FAA is developing new standards for a later rulemaking action. The FAA therefore believes that the proposed change to § 121.337 is premature and the proposal is withdrawn. Also see Proposal 2–91.

Proposal 2–214. No unfavorable comments were received on the proposal to amend § 127.105. Accordingly, the proposal is adopted without substantive change.

Proposal 2–215. No unfavorable comments were received on the proposal to add a new § 127.106. Accordingly, the proposal is adopted without substantive change.

Proposal 2–216. One commentator objected to the proposed amendment to § 133.1. The commentator stated that the proposal specifically eliminates the reference to airworthiness certification rules when, in fact, Subpart D is retained intact except for the standards for external-load attaching means and quick-release devices. The FAA agrees that reference to airworthiness requirements should not be deleted without other changes to Part 133, and the proposal is withdrawn.

Proposal 2–217. One commentator objected to the proposed amendment to § 133.41(c)(6). However no reason for the objection was stated. The proposal is therefore adopted herein without substantive change.

Proposal 2–218. One commentator requested that proposed § 133.43(a) be revised to provide for the use of external-load attaching means previously approved under Part 133. The FAA agrees and proposed § 133.43 is revised accordingly.

Proposal 2–219. No unfavorable comments were received on the proposal to amend § 133.45(c). Accordingly, the proposal is adopted without substantive change.

Proposal 2–220. No unfavorable comments were received on the proposal to amend § 135.71(a)(5). Accordingly, the proposal is adopted without substantive change.

Proposal 2–221. Based upon further review by the FAA proposed § 135.165(b)(2) is being withdrawn because, contrary to the explanation for the proposal in Notice 75–10, the proposal would result in unjustifiably different standards for transport category airplanes operated under Part 135 and those operated under Part 121.

(Secs. 313(a), 601, 603, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424, and 1425); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

In consideration of the foregoing, and for the reasons stated in Notice 75–10, Parts 21, 23, 25, 27, 29, 31, 33, 35, 91, 121, 127, 133, and 135 of the Federal Aviation Regulations are amended as follows, effective February 1, 1977.

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. By revising § 21.33(a) to read as follows:

§ 21.33 Inspection and tests.

(a) Each applicant must allow the Administrator to make any inspection and any flight and ground test necessary to determine compliance with the applicable requirements of the Federal Aviation Regulations. However, unless otherwise authorized by the Administrator—

(1) No aircraft, aircraft engine, propeller, or part thereof may be presented to the Administrator for test unless compliance with paragraphs (b)(2) through (b)(4) of this section has been shown for that aircraft, aircraft engine, propeller, or part thereof; and

(2) No change may be made to an aircraft, aircraft engine, propeller, or part thereof between the time that compliance with paragraphs (b)(2) through (b)(4) of this section is shown for that aircraft, aircraft engine, propeller, or part thereof and the time that it is presented to the Administrator for test.

• • • • •

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

2. By revising the first sentence of § 23.23 to read as follows:

§ 23.23 Load distribution limits.

Ranges of weight and centers of gravity within which the airplane may be safely operated must be established and must include the range for lateral cen-

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ters of gravity if possible loading conditions can result in significant variation of their positions. • • •

3. By revising § 23.141 to read as follows:

§ 23.141 General.

The airplane must meet the requirements of §§ 23.143 through 23.253 at the normally expected operating altitudes without exceptional piloting skill, alertness, or strength.

4. By revising § 23.143(b) to read as follows:

§ 23.143 General.

• • • • • •

(b) It must be possible to make a smooth transition from one flight condition to another (including turns and slips) without danger of exceeding the limit load factor, under any probable operating condition (including, for multiengine airplanes, those conditions normally encountered in the sudden failure of any engine).

• • • • • •

5. By amending § 23.145(c) by striking the words "without exceptional piloting skill", and the commas preceding and following those words; and by revising § 23.145(e) to read as follows:

§ 23.145 Longitudinal control.

• • • • • •

(e) By using normal flight and power controls, except as otherwise noted in paragraphs (e)(1) and (e)(2), it must be possible in the following airplanes to establish a zero rate of descent at an attitude suitable for a controlled landing without exceeding the operational and structural limitations of the airplane:

(1) For single engine and multiengine airplanes, without the use of the primary longitudinal control system.

(2) For multiengine airplanes—

(i) Without the use of the primary directional control; and

(ii) If a single failure of any one connecting or transmitting link would affect both the longitudinal and directional primary control system, without the primary longitudinal and directional control system.

6. By revising § 23.175(c)(3) to read as follows:

§ 23.175 Demonstration of static longitudinal stability.

• • • • • •

(c) • • •

(3) 75 percent of maximum continuous power for reciprocating engines, or for turbine engines, the maximum cruising power or thrust selected by the applicant as an operating limitation, except that the power need not exceed that required for level flight at V_{LE}; and

• • • • • •

7. By amending the heading of § 23.397, revising the lead-in, table and footnotes 2 and 4 of § 23.397(b), and adding footnote 5 to § 23.397(b) to read as follows:

§ 23.397 Limit control forces and torques.

• • • • • •

(b) The limit pilot forces and torques are as follows:

Control	Maximum forces or torques for design weight, weight equal to or less than 5,000 pounds [1]	Minimum forces or torques [3]
Aileron:		
Stick	67 lbs.	40 lbs.
Wheel [5]	50 D in.-lbs. [4]	40 D in.-lbs. [4]
Elevator:		
Stick	167 lbs.	100 lbs.
Wheel (symmetrical)	200 lbs.	100 lbs.
Wheel (unsymmetrical). [2]		100 lbs.
Rudder	200 lbs.	130 lbs.

[1] • • •

[2] If the design of any individual set of control systems or surfaces makes these specified minimum forces or torques inapplicable, values corresponding to the present hinge moments obtained under sec. 23.415, but not less than 0.6 of the specified minimum forces or torques, may be used.

[3] • • •

[4] D = wheel diameter (inches).

[5] The unsymmetrical force must be applied at one of the normal handgrip points on the control wheel.

8. By adding a new § 23.479(d) to read as follows:

§ 23.479 Level landing conditions.

• • • • • •

(d) For airplanes with tip tanks or large overhung masses (such as turbopropeller or jet engines) supported by the wing, the tip tanks and the structure supporting the tanks or overhung masses must be designed for the effects of dynamic responses under the level landing conditions of either paragraph (a)(1) or (a)(2)(ii) of this section. In evaluating the effects of dynamic response, an airplane lift equal to the weight of the airplane may be assumed.

9. By revising the lead-in of § 23.603(a) to read as follows:

§ 23.603 Materials and workmanship.

(a) The suitability and durability of materials used for parts, the failure of which could adversely affect safety, must be—

• • • • • •

10. By revising § 23.607 to read as follows:

§ 23.607 Self-locking nuts.

No self-locking nut may be used on any bolt subject to rotation in operation unless a nonfriction locking device is used in addition to the self-locking device.

11. By revising § 23.675 to read as follows:

§ 23.675 Stops.

(a) Each control system must have stops that positively limit the range of motion of each movable aerodynamic surface controlled by the system.

(b) Each stop must be located so that wear, slackness, or takeup adjustments will not adversely affect the control characteristics of the airplane because of a change in the range of surface travel.

(c) Each stop must be able to withstand any loads corresponding to the design conditions for the control system.

§ 23.685 [Amended]

12. By amending § 23.685(a) by striking the word "or" after "passengers", by striking the period after the word "objects" and inserting a comma in its place, followed by the words "or the freezing of moisture."

13. By adding a new § 23.733(c) to read as follows:

§ 23.733 Tires.

• • • • • •

(c) Each tire installed on a retractable landing gear system must, at the maximum size of the tire type expected in service, have a clearance to surrounding structure and systems that is adequate to prevent contact between the tire and any part of the structure or systems.

14. By adding a new § 23.787(f) to read as follows:

§ 23.787 Cargo compartments.

• • • • • •

(f) If cargo compartment lamps are installed, each lamp must be installed so as to prevent contact between lamp bulb and cargo.

15. By amending the first sentence of § 23.841(b)(1) and revising (b)(5) and (b)(6) to read as follows:

§ 23.841 Pressurized cabins.

• • • • • •

(b) • • •

(1) Two pressure relief valves to automatically limit the positive pressure differential to a predetermined value at the maximum rate of flow delivered by the pressure source. • • •

• • • • • •

(5) Instruments to indicate to the pilot the pressure differential, the cabin pressure altitude, and the rate of change of cabin pressure altitude.

(6) Warning indication at the pilot station to indicate when the safe or preset pressure differential is exceeded and when a cabin pressure altitude of 10,000 feet is exceeded.

• • • • • •

16. By adding a new § 23.903(b) to read as follows:

§ 23.903 Engines.

• • • • • •

(b) *Turbine engine installation.* For turbine engine installations, the powerplant systems associated with engine control devices, systems, and instrumentation must be designed to give reasonable assurance that those engine operating limitations that adversely affect turbine rotor structural integrity will not be exceeded in service.

• • • • • •

§ 23.933 [Amended]

17. By adding at the end of the first sentence of § 23.933(b) the phrase, "including ground operation".

18. By redesignating the lead-in of § 23.971 and §§ 23.971(a) and 23.971(b) as § 23.971(a) and §§ 23.971(a)(1), and 23.971(a)(2), respectively, and by adding a new § 23.971(b) to read as follows:

§ 23.971 Fuel tank sump.

• • • • • •

(b) Each sump, sediment bowl, and sediment chamber drain required by paragraph (a) of this section must comply with the drain provisions of § 23.999(b)(1), (2), and (3).

19. By revising § 23.977 to read as follows:

§ 23.977 Fuel tank outlet.

(a) There must be a fuel strainer for the fuel tank outlet or for the booster pump. This strainer must—

(1) For reciprocating engine powered airplanes, have 8 to 16 meshes per inch; and

(2) For turbine engine powered airplanes, prevent the passage of any object that could restrict fuel flow or damage any fuel system component.

(b) The clear area of each fuel tank outlet strainer must be at least five times the area of the outlet line.

(c) The diameter of each strainer must be at least that of the fuel tank outlet.

(d) Each finger strainer must be accessible for inspection and cleaning.

20. By revising § 23.995(d) to read as follows:

§ 23.995 Fuel valves and controls.

• • • • • •

(d) Each valve and fuel system control must be installed so that gravity and vibration will not affect the selected position.

• • • • • •

21. By revising § 23.999(b) to read as follows:

§ 23.999 Fuel system drains.

• • • • • •

(b) Each drain required by paragraph (a) of this section and § 23.971 must—

(1) Discharge clear of all parts of the airplane;

(2) Have manual or automatic means for positive locking in the closed position; and

(3) Have a drain valve—

(i) That is readily accessible and which can be easily opened and closed; and

(ii) That is either located or protected to prevent fuel spillage in the event of a landing with landing gear retracted.

22. By adding a new § 23.1093(c) to read as follows:

§ 23.1093 Induction system icing protection.

• • • • • •

(c) For airplanes with reciprocating engines having superchargers to pressurize the air before it enters the carburetor, the heat rise in the air caused by that supercharging at any altitude may be utilized in determining compliance with paragraph (a) of this section if the heat rise utilized is that which will be available, automatically, for the applicable altitudes and operating condition because of supercharging.

23. By revising § 23.1111(c) to read as follows:

§ 23.1111 Turbine engine bleed air systems.

• • • • • •

(c) Hazardous contamination of cabin air systems may not result from failures of the engine lubricating system.

24. By adding a new lead-in to § 23.1125 and by revising § 23.1125(a)(3) to read as follows:

§ 23.1125 Exhaust heat exchangers.

For reciprocating engine powered airplanes the following apply:

(a) • • •

(3) Each exchanger must have cooling provisions wherever it is subject to contact with exhaust gases.

• • • • • •

25. By revising the heading of § 23.1143 and by adding a new § 23.1143(e) to read as follows:

§ 23.1143 Engine controls.

• • • • • •

(e) If a power or thrust control incorporates a fuel shutoff feature, the control must have a means to prevent the inadvertent movement of the control into the shutoff position. The means must—

(1) Have a positive lock or stop at the idle position; and

(2) Require a separate and distinct operation to place the control in the shutoff position.

26. By adding a new § 23.1165(e) to read as follows:

§ 23.1165 Engine ignition systems.

• • • • • •

(e) Each turbine engine ignition system must be independent of any electrical circuit that is not used for assisting, controlling, or analyzing the operation of that system.

27. By adding new § 23.1303 (d) and (e) to read as follows:

§ 23.1303 Flight and navigation instruments.

• • • • • •

(d) For turbine engine powered airplanes, a free air temperature indicator or an air-temperature indicator which provides indications that are convertible to free-air.

(e) A speed warning device for—

(1) Turbine engine powered airplanes; and

(2) Other airplanes for which V_{MO}/M_{MO} and V_D/M_D are established under §§ 23.335(b)(4) and 23.1505(c) if V_{MO}/M_{MO} is greater than 0.8 V_D/M_D.

The speed warning device must give effective aural warning (differing distinctively from aural warnings used for other purposes) to the pilots whenever the speed exceeds V_{MO} plus 6 knots or $M_{MO}+0.01$. The upper limit of the production tolerance for the warning device may not exceed the prescribed warning speed.

§ 23.1309 [Amended]

28. By inserting a comma between the words "Equipment" and "systems," and between the words "systems" and "and", in the heading of § 23.1309.

29. By adding a new § 23.1322 to read as follows:

§ 23.1322 Warning, caution, and advisory lights.

If warning, caution, or advisory lights are installed in the cockpit, they must, unless otherwise approved by the Administrator, be—

(a) Red, for warning lights (lights indicating a hazard which may require immediate corrective action);

(b) Amber, for caution lights (lights indicating the possible need for future corrective action);

(c) Green, for safe operation lights; and

(d) Any other color, including white, for lights not described in paragraphs (a) through (c) of this section, provided the color differs sufficiently from the colors prescribed in paragraphs (a) through (c) of this section to avoid possible confusion.

30. By deleting the word "and" following the semicolon in § 23.1351(c)(3); by adding a semicolon and the word "and" at the end of § 23.1351(c)(4); and by adding a new § 23.1351(c)(5) to read as follows:

§ 23.1351 General.

• • • • • •

(c) • • •

(5) Each generator must have an overvoltage control designed and installed to prevent damage to the electrical system, or to equipment supplied by the electrical system, that could result if that generator were to develop an overvoltage condition.

• • • • • •

31. By revising § 23.1385(c) to read as follows:

§ 23.1385 Position light system installation.

• • • • • •

(c) *Rear position light.* The rear position light must be a white light mounted as far aft as practicable on the tail or on each wing tip, and must be approved.

• • • • • •

32. By revising § 23.1411 including the section heading to read as follows:

§ 23.1411 General.

(a) Required safety equipment to be used by the flight crew in an emergency, such as automatic liferaft releases, must be readily accessible.

(b) Stowage provisions for required safety equipment must be furnished and must—

(1) Be arranged so that the equipment is directly accessible and its location is obvious; and

(2) Protect the safety equipment from damage caused by being subjected to the inertia loads specified in § 23.561.

33. By revising § 23.1549 to read as follows:

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§ 23.1549 Powerplant instruments.

For each required powerplant instrument, as appropriate to the type of instruments—

(a) Each maximum and, if applicable, minimum safe operating limit must be marked with a red radial or a red line;

(b) Each normal operating range must be marked with a green arc or green line, not extending beyond the maximum and minimum safe limits;

(c) Each takeoff and precautionary range must be marked with a yellow arc or a yellow line; and

(d) Each engine or propeller range that is restricted because of excessive vibration stresses must be marked with arcs or red lines.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

§§ 25.45–25.75 [Deleted]

34. By striking the center heading, "PERFORMANCE: RECIPROCATING ENGINE POWERED AIRPLANES," following § 25.33, by deleting § 25.45 through and including § 25.75, and by striking the center heading, "PERFORMANCE: TURBINE ENGINE POWERED AIRPLANES," following § 25.75 and inserting in its place the center heading, "PERFORMANCE."

35. By revising § 25.101 (a) and (b) to read as follows:

§ 25.101 General.

(a) Unless otherwise prescribed, airplanes must meet the applicable performance requirements of this subpart for ambient atmospheric conditions and still air.

(b) The performance, as affected by engine power or thrust, must be based on the following relative humidities:

(1) For turbine engine powered airplanes, a relative humidity of—

(i) 80 percent, at and below standard temperatures; and

(ii) 34 percent, at and above standard temperatures plus 50 degrees F.

Between these two temperatures, the relative humidity must vary linearly.

(2) For reciprocating engine powered airplanes, a relative humidity of 80 percent in a standard atmosphere. Engine power corrections for vapor pressure must be made in accordance with the following table:

Altitude H (ft.)	Vapor pressure e (In. Hg.)	Specific humidity w (Lb. moisture per lb. dry air)	Density ratio $\sigma = \rho/0.0023769$
0	0.403	0.00849	0.99506
1,000	.354	.00773	.96672
2,000	.311	.00703	.93895
3,000	.272	.00638	.91178
4,000	.238	.00578	.88514
5,000	.207	.00523	.85910
6,000	.1806	.00472	.83361
7,000	.1566	.00425	.80870
8,000	.1356	.00382	.78434
9,000	.1172	.00343	.76053
10,000	.1010	.00307	.73726
15,000	.0463	.001710	.62608
20,000	.01978	.000896	.50263
25,000	.00778	.000436	.44806

§ 25.107 [Amended]

36. By amending § 25.107(b) (1) (i) and (b) (2) (i) by inserting the words "and reciprocating engine" between the words "turbopropeller" and "powered" in both subdivisions.

§ 25.161 [Amended]

37. By amending § 25.161(e) (1) by striking the reference "§ 25.69" and inserting in place thereof the reference "§ 25.123 (a)".

38. By amending the first sentence of § 25.201(c) (1) to read as follows:

§ 25.201 Stall demonstration.

(c) • • •

(1) With the airplane trimmed for straight flight at the speed prescribed in § 25.103(b) (1), reduce the speed with the elevator control until it is steady at slightly above stalling speed. • • •

39. By revising § 25.397(c) to read as follows:

§ 25.397 Control system loads.

(c) *Limit pilot forces and torques.* The limit pilot forces and torques are as follows:

Control	Maximum forces or torques	Minimum forces or torques
Aileron:		
Stick	100 lbs	40 lbs.
Wheel [1]	80 D in.-lbs.**	40 D in.-lbs.
Elevator:		
Stick	250 lbs	100 lbs.
Wheel (symmetrical)	300 lbs	100 lbs.
Wheel (unsymmetrical) [1]		100 lbs.
Rudder	300 lbs	130 lbs.

[1] The unsymmetrical forces must applied at one of the normal handgrip points on the periphery of the control wheel.

40. By revising the lead-in of § 25.603 to read as follows:

§ 25.603 Materials.

The suitability and durability of materials used for parts, the failure of which could adversely affect safety, must—

41. By revising § 25.675(a) to read as follows:

§ 25.675 Stops.

(a) Each control system must have stops that positively limit the range of motion of each movable aerodynamic surface controlled by the system.

§ 25.685 [Amended]

42. By amending § 25.685(a) by striking the word "or" after "passengers", and by striking the period after the word "objects" and inserting a comma in its place, followed by the words "or the freezing of moisture."

43. By adding a new § 25.733(c) to read as follows:

§ 25.733 Tires.

(c) Each tire installed on a retractable landing gear system must, at the maximum size of the tire type expected in service, have a clearance to surrounding structure and systems that is adequate to prevent contact between the tire and any part of the structure or systems.

44. By adding a new § 25.775(e) to read as follows:

§ 25.775 Windshields and windows.

(e) The windshield panels in front of the pilots must be arranged so that, assuming the loss of vision through any one panel, one or more panels remain available for use by a pilot seated at a pilot station to permit continued safe flight and landing.

45. By adding a new § 25.787(c) to read as follows:

§ 25.787 Stowage compartments.

(c) If cargo compartment lamps are installed, each lamp must be installed so as to prevent contact between lamp bulb and cargo.

§ 25.815 [Amended]

46. By amending the table in § 25.815 by placing an asterisk after the number "12" on the first line of the table, and adding a footnote to the table to read, "*A narrower width not less than 9 inches may be approved when substantiated by tests found necessary by the Administrator."

47. By amending § 25.841 by inserting the words "cabin pressure altitude" in place of the words "absolute pressure", "cabin absolute pressure", or "absolute pressure in the cabin" wherever those words appear in paragraphs (b) (5) and (b) (6); by inserting the word "exceeds" in place of the words, "is below that equivalent to", in paragraphs (b) (6); and by revising the first sentence of paragraph (b) (1) and by adding a new paragraph (b) (8) to read as follows:

§ 25.841 Pressurized cabins.

(b) • • •

(1) Two pressure relief valves to automatically limit the positive pressure differential to a predetermined value at the maximum rate of flow delivered by the pressure source. • • •

(8) The pressure sensors necessary to meet the requirements of paragraphs (b) (5) and (b) (6) of this section and § 25.1447(c), must be located and the sensing system designed so that, in the event of loss of cabin pressure in any passenger or crew compartment (including upper and lower lobe galleys), the warning and automatic presentation devices, required by those provisions, will be actuated without any delay that would significantly increase the hazards resulting from decompression.

§ 25.933 [Amended]

48. By adding at the end of the first sentence of § 25.933(b) the phrase, "including ground operation".

49. By adding a new § 25.941 following § 25.939 to read as follows:

§ 25.941 Inlet, engine, and exhaust compatibility.

For airplanes using variable inlet or exhaust system geometry, or both—

(a) The system comprised of the inlet, engine (including thrust augmentation systems, if incorporated), and exhaust must be shown to function properly under all operating conditions for which approval is sought, including all engine rotating speeds and power settings, and engine inlet and exhaust configurations;

(b) The dynamic effects of the operation of these (including consideration of probable malfunctions) upon the aerodynamic control of the airplane may not result in any condition that would require exceptional skill, alertness, or strength on the part of the pilot to avoid exceeding an operational or structural limitation of the airplane; and

(c) In showing compliance with paragraph (b) of this section, the pilot strength required may not exceed the limits set forth in § 25.143(c), subject to the conditions set forth in paragraphs (d) and (e) of § 25.143.

§ 25.951 [Amended]

50. By amending § 25.951(a) by inserting the phrase "and auxiliary power unit" between the words "engine" and "functioning" and by adding the phrase "and during which the engine or auxiliary power unit is permitted to be in operation" at the end of the paragraph.

51. By adding new §§ 25.979(d) and (e) to read as follows:

§ 25.979 Pressure fueling system.

(d) The airplane pressure fueling system (not including fuel tanks and fuel tank vents) must withstand an ultimate load that is 2.0 times the load arising from the maximum pressures, including surge, that is likely to occur during fueling. The maximum surge pressure must be established with any combination of tank valves being either intentionally or inadvertently closed.

(e) The airplane defueling system (not including fuel tanks and fuel tank vents) must withstand an ultimate load that is 2.0 times the load arising from the maximum permissible defueling pressure (positive or negative) at the airplane fueling connection.

52. By revising § 25.999(b) to read as follows:

§ 25.999 Fuel system drains.

(b) Each drain required by paragraph (a) of this section must—

(1) Discharge clear of all parts of the airplane;

(2) Have manual or automatic means for positive locking in the closed position; and

(3) Have a drain valve—

(i) That is readily accessible and which can be easily opened and closed; and

(ii) That is either located or protected to prevent fuel spillage in the event of a landing with landing gear retracted.

53. By adding a new § 25.1027(d) to read as follows:

§ 25.1027 Propeller feathering system.

(d) Provision must be made to prevent sludge or other foreign matter from affecting the safe operation of the propeller feathering system.

54. By revising § 25.1041 to read as follows:

§ 25.1041 General.

The powerplant and auxiliary power unit cooling provisions must be able to maintain the temperatures of powerplant components, engine fluids, and auxiliary power unit components and fluids within the temperature limits established for these components and fluids, under ground, water, and flight operating conditions, and after normal engine or auxiliary power unit shutdown, or both.

55. By revising § 25.1091(c) (2) to read as follows:

§ 25.1091 Air induction.

(c) • • •

(2) For reciprocating engines, there are means to prevent the emergence of backfire flames.

56. By adding a new § 25.1093(c) to read as follows:

§ 25.1093 Induction system deicing and anti-icing provisions.

(c) *Supercharged reciprocating engines.* For each engine having a supercharger to pressurize the air before it enters the carburetor, the heat rise in the air caused by that supercharging at any altitude may be utilized in determining compliance with paragraph (a) of this section if the heat rise utilized is that which will be available, automatically, for the applicable altitude and operating condition because of supercharging.

57. By adding a new lead-in sentence in § 25.1125 to read as follows:

§ 25.1125 Exhaust heat exchangers.

For reciprocating engine powered airplanes, the following apply:

58. By revising the heading of § 25.1143 and by revising § 25.1143(e) to read as follows:

§ 25.1143 Engine controls.

(e) If a power or thrust control incorporates a fuel shutoff feature, the control must have a means to prevent the inadvertent movement of the control into the shutoff position. The means must—

(1) Have a positive lock or stop at the idle position; and

(2) Require a separate and distinct operation to place the control in the shutoff position.

59. By adding a new § 25.1167 following § 25.1165 to read as follows:

§ 25.1167 Accessory gearboxes.

For airplanes equipped with an accessory gearbox that is not certificated as part of an engine—

(a) The engine with gearbox and connecting transmissions and shafts attached must be subjected to the tests specified in §§ 33.49 or 33.87 of this chapter, as applicable;

(b) The accessory gearbox must meet the requirements of §§ 33.25 and 33.53 or 33.91 of this chapter, as applicable; and

(c) Possible misalignments and torsional loadings of the gearbox, transmission, and shaft system, expected to result under normal operating conditions must be evaluated.

60. By revising § 25.1197(a) to read as follows:

§ 25.1197 Fire extinguishing agents.

(a) Fire extinguishing agents must—

(1) Be capable of extinguishing flames emanating from any burning of fluids or other combustible materials in the area protected by the fire extinguishing system; and

(2) Have thermal stability over the temperature range likely to be experienced in the compartment in which they are stored.

61. By revising § 25.1303(a) (2) to read as follows:

§ 25.1303 Flight and navigation instruments.

(a) • • •

(2) A clock displaying hours, minutes, and seconds with a sweep-second pointer or digital presentation.

62. By adding a new § 25.1305(f) to read as follows:

§ 25.1305 Powerplant instruments.

(f) For airplanes equipped with fluid systems (other than fuel) for thrust or power augmentation, an approved means must be provided to indicate the proper functioning of that system to the flight crew.

§ 25.1309 [Amended]

63. By inserting a comma between the words "Equipment" and "systems" and between the words "systems" and "and", in the heading of § 25.1309.

64. By adding a new § 25.1322 to read as follows:

§ 25.1322 Warning, caution, and advisory lights.

If warning, caution, or advisory lights are installed in the cockpit, they must, unless otherwise approved by the Administrator, be—

(a) Red, for warning lights (lights indicating a hazard which may require immediate corrective action);

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(b) Amber, for caution lights (lights indicating the possible need for future corrective action);

(c) Green, for safe operation lights; and

(d) Any other color, including white, for lights not described in paragraphs (a) through (c) of this section, provided the color differs sufficiently from the colors prescribed in paragraphs (a) through (c) of this section to avoid possible confusion.

65. By revising § 25.1355(c) to read as follows:

§ 25.1355 Distribution system.

* * * * *

(c) If two independent sources of electrical power for particular equipment or systems are required by this chapter, in the event of the failure of one power source for such equipment or system, another power source (including its separate feeder) must be automatically provided or be manually selectable to maintain equipment or system operation.

66. By deleting § 25.1385(e); and by revising § 25.1385(c) to read as follows:

§ 25.1385 Position light system installation.

* * * * *

(c) *Rear position light.* The rear position light must be a white light mounted as far aft as practicable on the tail or on each wing tip, and must be approved.

* * * * *

67. By adding a new § 25.1403 to read as follows:

§ 25.1403 Wing icing detection lights.

Unless operations at night in known or forecast icing conditions are prohibited by an operating limitation, a means must be provided for illuminating or otherwise determining the formation of ice on the parts of the wings that are critical from the standpoint of ice accumulation. Any illumination that is used must be of a type that will not cause glare or reflection that would handicap crewmembers in the performance of their duties.

68. By adding a sentence to the end of § 25.1439(a) to read as follows:

§ 25.1439 Protective breathing equipment.

(a) * * * In addition, protective breathing equipment must be installed in each isolated separate compartment in the airplane, including upper and lower lobe galleys, in which crewmember occupancy is permitted during flight for the maximum number of crewmembers expected to be in the area during any operation.

69. By revising § 25.1515(a) to read as follows:

§ 25.1515 Landing gear speeds.

(a) The established landing gear operating speed or speeds, V_{LO}, may not exceed the speed at which it is safe both to extend and to retract the landing gear, as determined under § 25.729 or by flight characteristics. If the extension speed is not the same as the retraction speed, the two speeds must be designated as $V_{LO(EXT)}$ and $V_{LO(RET)}$, respectively.

* * * * *

70. By amending the heading of § 25.1533, and revising the lead-in of paragraph (a) to read as follows:

§ 25.1533 Additional operating limitations.

(a) Additional operating limitations must be established as follows:

* * * * *

71. By revising § 25.1557(b) to read as follows:

§ 25.1557 Miscellaneous markings and placards.

* * * * *

(b) *Fuel and oil filler openings.* The following apply:

(1) Fuel filler openings must be marked at or near the filler cover with—

(i) The word "fuel";

(ii) For reciprocating engine powered airplanes, the minimum fuel grade;

(iii) For turbine engine powered airplanes, the permissible fuel designations; and

(iv) For pressure fueling systems, the maximum permissible fueling supply pressure and the maximum permissible defueling pressure.

(2) Oil filler openings must be marked at or near the filler cover with the word "oil".

* * * * *

72. By revising the lead-in of § 25.1583 (a) and §§ 25.1583 (a)(5) and (h) to read as follows:

§ 25.1583 Operating limitations.

(a) *Airspeed limitations.* The following airspeed limitations and any other airspeed limitations necessary for safe operation must be furnished:

* * * * *

(5) The landing gear operating speed or speeds, and a statement explaining the speeds as defined in § 25.1515(a).

* * * * *

(h) *Additional operating limitations.* The operating limitations established under § 25.1533 must be furnished.

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

73. By adding a new § 27.25(c) to read as follows:

§ 27.25 Weight limits.

* * * * *

(c) *Total weight with jettisonable external load.* A total weight for the rotorcraft with jettisonable external load attached that is greater than the maximum weight established under paragraph (a) of this section may be established if structural component approval for external load operations under Part 133 of this chapter is requested and the following conditions are met:

(1) The portion of the total weight that is greater than the maximum weight established under paragraph (a) of this section is made up only of the weight of all or part of the jettisonable external load.

(2) Structural components of the rotorcraft are shown to comply with the applicable structural requirements of this part under the increased loads and stresses caused by the weight increase over that established under paragraph (a) of this section.

(3) Operation of the rotorcraft at a total weight greater than the maximum certificated weight established under paragraph (a) of this section is limited by appropriate operating limitations to rotorcraft external load operations under Part 133 of this chapter.

74. By revising the lead-in of § 27.141 (a) and §§ 27.141 (a)(3) and (a)(4), to read as follows:

§ 27.141 General.

* * * * *

(a) Except as specifically required in the applicable section, meet the requirements of this section and of §§ 27.143, 27.161, and 27.171 through 27.175—

* * * * *

(3) For power-on operations, under any condition of speed, power, and rotor r.p.m. for which certification is requested; and,

(4) For power-off operations, under any condition of speed and rotor r.p.m. for which certification is requested that is attainable with the controls rigged in accordance with the approved rigging instructions and tolerances;

* * * * *

75. By revising § 27.173(a) to read as follows:

§ 27.173 Static longitudinal stability.

(a) The longitudinal cyclic control must be designed so that, with the throttle and collective pitch held constant, during the maneuvers specified in § 27.175 a rearward movement of the control is necessary to obtain a speed less than the trim speed, and a forward movement of the control is necessary to obtain a speed more than the trim speed—

(1) For power-on operations, over the full range of altitude and rotor r.p.m. for which certification is requested; and

(2) For power-off operations, over the range of altitude and rotor r.p.m. for which certification is requested that is attainable with the controls rigged in accordance with the approved rigging instructions and tolerances.

* * * * *

76. By revising § 27.175(d)(2)(iv) to read as follows:

§ 27.175 Demonstration of static longitudinal stability.

* * * * *

(d) * * *

(2) * * *

(iv) The landing gear extended; and

* * * * *

77. By revising § 27.321(a) to read as follows:

§ 27.321 General.

(a) The flight load factor must be assumed to act normal to the longitudinal axis of the rotorcraft, and to be equal in magnitude and opposite in direction to the rotorcraft inertia load factor at the center of gravity.

* * * * *

§ 27.339 [Amended]

78. By inserting between the words "hub" and "and" in the first sentence of § 27.339, the phrase "and at each auxiliary lifting surface,".

79. By revising § 27.397, including its heading, to read as follows:

§ 27.397 Limit pilot forces and torques.

(a) Except as provided in paragraph (b) of this section, the limit pilot forces are as follows:

(1) For foot controls, 130 pounds.

(2) For stick controls, 100 pounds fore and aft, and 67 pounds laterally.

(b) For flap, tab, stabilizer, rotor brake, and landing gear operating controls, the follows apply (R=radius in inches):

(1) Crank, wheel, and lever controls, $\frac{[.1+R]}{3} \times 50$ pounds, but not less than 50 pounds nor more than 100 pounds for hand operated controls or 130 pounds for foot operated controls, applied at any angle within 20 degrees of the plane of motion of the control.

(2) Twist controls, 80R pounds.

80. By adding a new § 27.563 to read as follows:

§ 27.563 Structural ditching provisions.

Structural strength considerations of ditching must be in accordance with § 27.801(e).

81. By revising the lead-in of § 27.603 to read as follows:

§ 27.603 Materials.

The suitability and durability of materials used for parts, the failure of which could adversely affect safety, must—

* * * * *

§ 27.685 [Amended]

82. By amending § 27.685(a) by striking the word "or" after "passengers", and by striking the period after the word "objects" and inserting a comma in its place, followed by the words "or the freezing of moisture."

83. By adding a new § 27.733(c) to read as follows:

§ 27.733 Tires.

* * * * *

(c) Each tire installed on a retractable landing gear system must, at the maximum size of the tire type expected in service, have a clearance to surrounding structure and systems that is adequate to prevent contact between the tire and any part of the structure or systems.

84. By adding a new § 27.787(d) to read as follows:

§ 27.787 Cargo compartments.

* * * * *

(d) If cargo compartment lamps are installed, each lamp must be installed so as to prevent contact between lamp bulb and cargo.

85. By adding a new § 27.801 to read as follows:

§ 27.801 Ditching.

(a) If certification with ditching provisions is requested, the rotorcraft must meet the requirements of this section and §§ 27.807(d), 27.1411 and 27.1415.

(b) Each practicable design measure, compatible with the general characteristics of the rotorcraft, must be taken to minimize the probability that in an emergency landing on water, the behavior of the rotorcraft would cause immediate injury to the occupants or would make it impossible for them to escape.

(c) The probable behavior of the rotorcraft in a water landing must be investigated by model tests or by comparison with rotorcraft of similar configuration for which the ditching characteristics are known. Scoops, flaps, projections, and any other factor likely to affect the hydrodynamic characteristics of the rotorcraft must be considered.

(d) It must be shown that, under reasonably probable water conditions, the flotation time and trim of the rotorcraft will allow the occupants to leave the rotorcraft and enter the life rafts required by § 27.1415. If compliance with this provision is shown by buoyancy and trim computations, appropriate allowances must be made for probable structural damage and leakage. If the rotorcraft has fuel tanks (with fuel jettisoning provisions) that can reasonably be expected to withstand a ditching without leakage, the jettisonable volume of fuel may be considered as buoyancy volume.

(e) Unless the effects of the collapse of external doors and windows are accounted for in the investigation of the probable behavior of the rotorcraft in a water landing (as prescribed in paragraphs (c) and (d) of this section), the external doors and windows must be designed to withstand the probable maximum local pressures.

86. By adding a new § 27.807(d) to read as follows:

§ 27.807 Emergency exits.

* * * * *

(d) *Ditching emergency exits for passengers.* If certification with ditching provisions is requested, one emergency exit on each side of the fuselage must—

(1) Be above the waterline; and

(2) Have at least the dimensions specified in paragraph (b) of this section.

87. By adding a new center heading and a new § 27.865 following § 27.861 to read as follows:

EXTERNAL LOAD ATTACHING MEANS

§ 27.865 External load attaching means.

(a) It must be shown by analysis or test, or both, that the rotorcraft external-load attaching means can withstand a limit static load equal to 2.5 times the maximum external load for which authorization is requested, applied in the vertical direction and in any direction making an angle of 30 degrees with the vertical, except for those directions having a forward component. However, the 30-degree angle may be reduced to a lesser angle if—

(1) An operating limitation is established limiting external load operations to such angles for which compliance with this paragraph has been shown; or

(2) It is shown that the lesser angle can not be exceeded in service.

(b) The external load attaching means for Class B and Class C rotorcraft-load combinations must include a device to enable the pilot to release the external load quickly during flight. This quick-release device, and the means by which it is controlled, must comply with the following:

(1) A control for the quick-release device must be installed on one of the pilot's primary controls and must be designed and located so that it may be operated by the pilot without hazardously limiting his ability to control the rotorcraft during an emergency situation.

(2) In addition a manual mechanical control for the quick-release device, readily accessible either to the pilot or to another crewmember, must be provided.

(3) The quick-release device must function properly with all external loads up to and including the maximum external load for which authorization is requested.

(c) A placard or marking must be installed next to the external-load attaching means stating the maximum authorized external load as demonstrated under § 27.25 and this section.

88. By adding a new § 27.903(c) to read as follows:

§ 27.903 Engines.

* * * * *

(c) *Turbine engine installation.* For turbine engine installations, the powerplant systems associated with engine control devices, systems, and instrumentation must be designed to give reasonable assurance that those engine operating limitations that adversely affect turbine rotor structural integrity will not be exceeded in service.

89. By adding a new § 27.917(d) to read as follows:

§ 27.917 Design.

* * * * *

(d) The rotor drive system includes any part necessary to transmit power from the engines to the rotor hubs. This includes gear boxes, shafting, universal joints, couplings, rotor brake assemblies, clutches, supporting bearings for shafting, any attendant accessory pads or drives, and any cooling fans that are a part of, attached to, or mounted on the rotor drive system.

90. By adding a new § 27.939(c) to read as follows:

§ 27.939 Turbine engine operating characteristics.

* * * * *

(c) For governor-controlled engines, it must be shown that there exists no hazardous torsional instability of the drive system associated with critical combinations of power, rotational speed, and control displacement.

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91. By revising § 27.977 to read as follows:

§ 27.977 Fuel tank outlet.

(a) There must be a fuel strainer for the fuel tank outlet or for the booster pump. This strainer must—

(1) For reciprocating engine powered rotorcraft, have 8 to 16 meshes per inch; and

(2) For turbine engine powered rotorcraft, prevent the passage of any object that could restrict fuel flow or damage any fuel system component.

(b) The clear area of each fuel tank outlet strainer must be at least five times the area of the outlet line.

(c) The diameter of each strainer must be at least that of the fuel tank outlet.

(d) Each finger strainer must be accessible for inspection and cleaning.

92. By revising § 27.999(b) to read as follows:

§ 27.999 Fuel system drains.

* * * * *

(b) Each drain required by paragraph (a) of this section must—

(1) Discharge clear of all parts of the rotorcraft;

(2) Have manual or automatic means for positive locking in the closed position; and

(3) Have a drain valve—

(i) That is readily accessible and which can be easily opened and closed; and

(ii) That is either located or protected to prevent fuel spillage in the event of a landing with landing gear retracted.

93. By revising § 27.1043(c) to read as follows:

§ 27.1043 Cooling tests.

* * * * *

(c) *Correction factor (except cylinder barrels).* Unless a more rational correction applies, temperatures of engine fluids and power-plant components (except cylinder barrels) for which temperature limits are established, must be corrected by adding to them the difference between the maximum ambient atmospheric temperature and the temperature of the ambient air at the time of the first occurrence of the maximum component or fluid temperature recorded during the cooling test.

* * * * *

94. By adding a new § 27.1093(c) to read as follows:

§ 27.1093 Induction system icing protection.

* * * * *

(c) *Supercharged reciprocating engines.* For each engine having superchargers to pressurize the air before it enters the carburetor, the heat rise in the air caused by that supercharging at any altitude may be utilized in determining compliance with paragraph (a) of this section if the heat rise utilized is that which will be available, automatically, for the applicable altitude and operating condition because of supercharging.

95. By adding a new § 27.1123 following § 27.1121 and before the heading "Power Plant Controls and Accessories" to read as follows:

§ 27.1123 Exhaust piping.

(a) Exhaust piping must be heat and corrosion resistant, and must have provisions to prevent failure due to expansion by operating temperatures.

(b) Exhaust piping must be supported to withstand any vibration and inertia loads to which it would be subjected in operations.

(c) Exhaust piping connected to components between which relative motion could exist must have provisions for flexibility.

96. By revising the heading of § 27.1143 and by adding a new § 27.1143(d) to read as follows:

§ 27.1143 Engine controls.

* * * * *

(d) If a power or thrust control incorporates a fuel shutoff feature, the control must have a means to prevent the inadvertent movement of the control into the shutoff position. The means must—

(1) Have a positive lock or stop at the idle position; and

(2) Require a separate and distinct operation to place the control in the shutoff position.

97. By revising § 27.1185 (a) and (b) to read as follows:

§ 27.1185 Flammable fluids.

(a) Each fuel tank must be isolated from the engines by a firewall or shroud.

(b) Each tank or reservoir, other than a fuel tank, that is part of a system containing flammable fluids or gases must be isolated from the engine by a firewall or shroud, unless the design of the system, the materials used in the tank and its supports, the shutoff means, and the connections, lines and controls provide a degree of safety equal to that which would exist if the tank or reservoir were isolated from the engines.

* * * * *

98. By revising § 27.1322 to read as follows:

§ 27.1322 Warning, caution, and advisory lights.

If warning, caution or advisory lights are installed in the cockpit, they must, unless otherwise approved by the Administrator, be—

(a) Red, for warning lights (lights indicating a hazard which may require immediate corrective action);

(b) Amber, for caution lights (lights indicating the possible need for future corrective action);

(c) Green, for safe operation lights; and

(d) Any other color, including white, for lights not described in paragraphs (a) through (c) of this section, provided the color differs sufficiently from the colors prescribed in paragraphs (a) through (c) of this section to avoid possible confusion.

99. By deleting the word "and" following the semicolon in § 27.1351(c)(2); by adding a semicolon and the word "and" at the end of § 27.1351(c)(3); and by adding a new § 27.1351(c)(4) to read as follows:

§ 27.1351 General.

* * * * *

(c) * * *

(4) Each generator must have an overvoltage control designed and installed to prevent damage to the electrical system, or to equipment supplied by the electrical system, that could result if that generator were to develop an overvoltage condition.

100. By redesignating current § 27.1411 as § 27.1411(a) and adding a new § 27.1411(b) to read as follows:

§ 27.1411 General.

* * * * *

(b) Stowage provisions for required safety equipment must be furnished and must—

(1) Be arranged so that the equipment is directly accessible and its location is obvious; and

(2) Protect the safety equipment from damage caused by being subjected to the inertia loads specified in § 27.561.

101. By adding a sentence to the end of § 27.1415(b) to read as follows:

§ 27.1415 Ditching equipment.

* * * * *

(b) * * * The storage provisions for life preservers must accommodate one life preserver for each occupant for which certification for ditching is requested.

* * * * *

102. By revising § 27.1549 to read as follows:

§ 27.1549 Powerplant instruments.

For each required powerplant instrument, as appropriate to the type of instrument—

(a) Each maximum and, if applicable, minimum safe operating limit must be marked with a red radial or a red line;

(b) Each normal operating range must be marked with a green arc or green line, not extending beyond the maximum and minimum safe limits;

(c) Each takeoff and precautionary range must be marked with a yellow arc or yellow line; and

(d) Each engine or propeller range that is restricted because of excessive vibration stresses must be marked with red arcs or red lines.

103. By revising § 27.1555(c) to read as follows:

§ 27.1555 Control markings.

* * * * *

(c) Usable fuel capacity must be marked as follows:

(1) For fuel systems having no selector controls, the usable fuel capacity of the system must be indicated at the fuel quantity indicator.

(2) For fuel systems having selector controls, the usable fuel capacity available at each selector control position must be indicated near the selector control.

* * * * *

104. By revising § 27.1557(c) to read as follows:

§ 27.1557 Miscellaneous markings and placards.

* * * * *

(c) *Fuel and oil filler openings.* The following apply:

(1) Fuel filler openings must be marked at or near the filler cover with—

(i) The word "fuel";

(ii) For reciprocating engine powered rotorcraft, the minimum fuel grade;

(iii) For turbine engine powered rotorcraft, the permissible fuel designations; and

(iv) For pressure fueling systems, the maximum permissible fueling supply pressure and the maximum permissible defueling pressure.

(2) Oil filler openings must be marked at or near the filler cover with the word "oil".

* * * * *

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

105. By adding a new § 29.25(c) to read as follows:

§ 29.25 Weight limits.

* * * * *

(c) *Total weight with jettisonable external load.* A total weight for the rotorcraft with jettisonable external load attached that is greater than the maximum weight established under paragraph (a) of this section may be established if structural component approval for external load operations under Part 133 of this chapter is requested and the following conditions are met:

(1) The portion of the total weight that is greater than the maximum weight established under paragraph (a) of this section is made up only of the weight of all or part of the jettisonable external load.

(2) Structural components of the rotorcraft are shown to comply with the applicable structural requirements of this part under the increased loads and stresses caused by the weight increase over that established under paragraph (a) of this section.

(3) Operation of the rotorcraft at a total weight greater than the maximum certificated weight established under paragraph (a) of this section is limited by approriate operating limitations to rotorcraft external load operations under Part 133 of this chapter.

106. By revising the lead-in of § 29.63 to read as follows:

§ 29.63 Takeoff: category B.

The horizontal distance required to take off and climb over a 50-foot obstacle must be established with the most unfavorable center of gravity. The takeoff may be begun in any manner if—

* * * * *

107. By revising § 29.67(a)(1)(iv) and (a)(2)(iv) to read as follows:

§ 29.67 Climb: one engine inoperative.

(a) * * *

(1) * * *

(iv) The takeoff safety speed selected by the applicant; and

(2) * * *

(iv) A speed selected by the applicant; and

* * * * *

108. By revising § 29.71 to read as follows:

§ 29.71 Helicopter angle of glide: category B.

For each category B helicopter, except multiengine helicopters meeting the requirements of § 29.67(b) and the powerplant installation requirements of category A, the steady angle of glide must be determined in autorotation—

(a) At the forward speed for minimum rate of descent as selected by the applicant;

(b) At the forward speed for best glide angle;

(c) At maximum weight; and

(d) At the rotor speed or speeds selected by the applicant.

§ 29.75 [Amended]

109. By amending § 29.75(b)(2) by deleting the words "balked landing" and the commas preceding and following those words.

110. By revising the lead-in of § 29.141(a) and § 29.141(a)(3), and adding a new § 29.141(a)(4) to read as follows:

§ 29.141 General.

* * * * *

(a) Except as specifically required in the applicable section, meet the requirements of this section and of §§ 29.143, 29.161, and 29.171 through 29.175—

* * * * *

(3) For power-on operations, under any condition of speed, power, and rotor r.p.m. for which certification is requested; and

(4) For power-off operations, under any condition of speed and rotor r.p.m. for which certification is requested that is attainable with the controls rigged in accordance with the approved rigging instructions and tolerances;

* * * * *

111. By revising § 29.173(a) to read as follows:

§ 29.173 Static longitudinal stability.

(a) The longitudinal cyclic control must be designed so that, with the throttle and collective pitch held constant, during the maneuvers specified in § 29.175 a rearward movement of the control is necessary to obtain a speed less than the trim speed, and a forward movement of the control is necessary to obtain a speed more than the trim speed—

(1) For power-on operations, over the full range of altitude and rotor r.p.m. for which certification is requested; and

(2) For power-off operations, over the range of altitude and rotor r.p.m. for which certification is requested that is attainable with the controls rigged in accordance with the approved rigging instructions and tolerances.

* * * * *

112. By revising § 29.175(d)(2)(iv) to read as follows:

§ 29.175 Demonstration of static longitudinal stability.

* * * * *

(d) * * *

(2) * * *

(iv) The landing gear extended; and

* * * * *

113. By revising § 29.397, including its heading, to read as follows:

§ 29.397 Limit pilot forces and torques.

(a) Except as provided in paragraph (b) of this section, the limit pilot forces are as follows:

(1) For foot controls, 130 pounds.

(2) For stick controls, 100 pounds fore and aft, and 67 pounds laterally.

(b) For flap, tab, stabilizer, rotor brake, and landing gear operating controls, the following apply (R=radius in inches):

(1) Crank, wheel, and lever controls, $\frac{[1+R]}{3} \times 50$ pounds, but not less than 50 pounds nor more than 100 pounds for hand operated controls or 130 pounds for foot operated controls, applied at any angle within 20 degrees of the plane of motion of the control.

(2) Twist controls, 80R pounds.

114. By adding a new § 29.563 to read as follows:

§ 29.563 Structural ditching provisions.

Structural strength considerations of ditching must be in accordance with § 29.801(e).

115. By revising the lead-in of § 29.603 to read as follows:

§ 29.603 Materials.

The suitability and durability of materials used for parts, the failure of which could adversely affect safety, must—

* * * * *

§ 29.685 [Amended]

116. By amending § 29.685(a) by striking the word "or" after "passengers", and by striking the period after the word "objects" and inserting a comma in its place, followed by the words "or the freezing of moisture."

117. By adding a new § 29.733(c) to read as follows:

§ 29.733 Tires.

* * * * *

(c) Each tire installed on a retractable landing gear system must, at the maximum size of the tire type expected in service, have a clearance to surrounding structure and systems that is adequate to prevent contact between the tire and any part of the structure or systems.

118. By adding a new § 29.787(d) to read as follows:

§ 29.787 Cargo compartments.

* * * * *

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(d) If cargo compartment lamps are installed, each lamp must be installed so as to prevent contact between lamp bulb and cargo.

119. By adding a new § 29.801 to read as follows:

§ 29.801 Ditching.

(a) If certification with ditching provisions is requested, the rotorcraft must meet the requirements of this section and §§ 29.807(d), 29.1411 and 29.1415.

(b) Each practicable design measure, compatible with the general characteristics of the rotorcraft, must be taken to minimize the probability that in an emergency landing on water, the behavior of the rotorcraft would cause immediate injury to the occupants or would make it impossible for them to escape.

(c) The probable behavior of the rotorcraft in a water landing must be investigated by model tests or by comparison with rotorcraft of similar configuration for which the ditching characteristics are known. Scoops, flaps, projections, and any other factors likely to affect the hydrodynamic characteristics of the rotorcraft must be considered.

(d) It must be shown that, under reasonably probable water conditions, the flotation time and trim of the rotorcraft will allow the occupants to leave the rotorcraft and enter the liferafts required by § 29.1415. If compliance with this provision is shown by buoyancy and trim computations, appropriate allowances must be made for probable structural damage and leakage. If the rotorcraft has fuel tanks (with fuel jettisoning provisions) that can reasonably be expected to withstand a ditching without leakage, the jettisonable volume of fuel may be considered as buoyancy volume.

(e) Unless the effects of the collapse of external doors and windows are accounted for in the investigation of the probable behavior of the rotorcraft in a water landing (as prescribed in paragraphs (c) and (d) of this section), the external doors and windows must be designed to withstand the probable maximum local pressures.

120. By redesignating § 29.807 (d) and (e) as (e) and (f) respectively, and adding a new § 29.807(d) to read as follows:

§ 29.807 Passenger emergency exits.

• • • • •

(d) *Ditching emergency exits for passengers.* If certification with ditching provisions is requested, ditching emergency exits must be provided in accordance with the following requirements, unless the emergency exits required by paragraph (b) of this section already meet them:

(1) For rotorcraft that have a passenger seating configuration, excluding pilots seats, of nine seats or less, one exit above the waterline in each side of the rotorcraft, meeting at least the dimensions of a Type IV exit.

(2) For rotorcraft that have a passenger seating configuration, excluding pilots seats, of 10 seats or more, one exit above the waterline in a side of the rotorcraft meeting at least the dimensions of a Type III exit, for each unit (or part of a unit) of 35 passenger seats, but no less than two such exits in the passenger cabin, with one on each side of the rotorcraft. However, where it has been shown through analysis, ditching demonstrations, or any other tests found necessary by the Administrator, that the evacuation capability of the rotorcraft during ditching is improved by the use of larger exits, or by other means, the passenger seat to exit ratio may be increased.

121. By adding a new § 29.813(c) to read as follows:

§ 29.813 Emergency exit access.

• • • • •

(c) There must be access from each aisle to each Type III and Type IV exit, and

(1) For rotorcraft that have a passenger seating configuration, excluding pilot seats, of 20 or more, the projected opening of the exit provided must not be obstructed by seats, berths, or other protrusions (including seatbacks in any position) for a distance from that exit of not less than the width of the narrowest passenger seat installed on the rotorcraft;

(2) For rotorcraft that have a passenger seating configuration, excluding pilot seats, of 19 or less, there may be minor obstructions in the region described in subparagraph (1) of this paragraph, if there are compensating factors to maintain the effectiveness of the exit.

§ 29.815 [Amended]

122. By amending the table in § 29.815 by adding an asterisk after the number "12" in the first line of the table; by striking the number "18" (incorrectly specified as "81" in the Code of Federal Regulations) in the first line of the table and inserting the number "15" in its place; and by adding a footnote to the table to read, "* A narrower width not less than 9 inches may be approved when substantiated by tests found necessary by the Administrator."

123. By adding a new center heading a new § 29.865 following § 29.863 to read as follows:

EXTERNAL LOAD ATTACHING MEANS

§ 29.865 External load attaching means.

(a) It must be shown by analysis or test, or both, that the rotorcraft external-load attaching means can withstand a limit static load equal to 2.5 times the maximum external load for which authorization is requested, applied in the vertical direction and in any direction making an angle of 30 degrees with the vertical, except for those directions having a forward component. However, the 30-degree angle may be reduced to a lesser angle if—

(1) An operating limitation is established limiting external load operations to such angles for which compliance with this paragraph has been shown; or

(2) It is shown that the lesser angle can not be exceeded in service.

(b) The external load attaching means for Class B and Class C rotorcraft-load combinations must include a device to enable the pilot to release the external load quickly during flight. This quick-release device, and the means by which it is controlled, must comply with the following:

(1) A control for the quick-release device must be installed on one of the pilot's primary controls and must be designed and located so that it may be operated by the pilot without hazardously limiting his ability to control the rotorcraft during an emergency situation.

(2) In addition a manual mechanical control for the quick-release device, readily accessible either to the pilot or to another crew member, must be provided.

(3) The quick-release device must function properly with all external loads up to and including the maximum external load for which authorization is requested.

(c) A placard or marking must be installed next to the external-load attaching means stating the maximum authorized external load as demonstrated under § 29.25 and this section.

124. By revising § 29.903(c) (1) and (f) to read as follows:

§ 29.903 Engines.

• • • • • • •

(c) • • •

(1) Each component of the engine stopping system that is located on the engine side of the firewall, and that might be exposed to fire, must be at least fire resistant; or

• • • • •

(f) *Turbine engine installation.* For turbine engine installations, the powerplant systems associated with engine control devices, systems, and instrumentation must be designed to give reasonable assurance that those engine operating limitations that adversely affect turbine rotor structural integrity will not be exceeded in service.

125. By revising the second sentence of § 29.917(a) to read as follows:

§ 29.917 Design.

(a) • • • This includes gear boxes, shafting, universal joints, couplings, rotor brake assemblies, clutches, supporting bearings for shafting, any attendant accessory pads or drives, and any cooling fans that are a part of, attached to, or mounted on the rotor drive system.

• • • • • • •

126. By revising § 29.931 to read as follows:

§ 29.931 Shafting critical speed.

(a) The critical speeds of any shafting must be determined by demonstration except that analytical methods may be used if reliable methods of analysis are available for the particular design.

(b) If any critical speed lies within, or close to, the operating ranges for idling, power-on, and autorotative conditions, the stresses occurring at that speed must be within safe limits. This must be shown by tests.

(c) If analytical methods are used and show that no critical speed lies within the permissible operating ranges, the margins between the calculated critical speeds and the limits of the allowable operating ranges must be adequate to allow for possible variations between the computed and actual values.

127. By adding a new § 29.939(c) to read as follows:

§ 29.939 Turbine engine operating characteristics.

• • • • •

(c) For governor-controlled engines, it must be shown that there exists no hazardous torsional instability of the drive system associated with critical combinations of power, rotational speed, and control displacement.

§ 29.951 [Amended]

128. By amending § 29.951(a) by inserting the phrase "and auxiliary power unit" between the words "engine" and "functioning" and by adding the phrase "and during which the engine or auxiliary power unit is permitted to be in operation" at the end of the paragraph.

129. By revising § 29.971(d) to read as follows:

§ 29.971 Fuel tank sump.

• • • • • • •

(d) Each fuel tank sump must have a drain that allows complete drainage of the sump on the ground.

130. By revising § 29.977 to read as follows:

§ 29.977 Fuel tank outlet.

(a) There must be a fuel strainer for the fuel tank outlet or for the booster pump. This strainer must—

(1) For reciprocating engine powered airplanes, have 8 to 16 meshes per inch; and

(2) For turbine engine powered airplanes, prevent the passage of any object that could restrict fuel flow or damage any fuel system component.

(b) The clear area of each fuel tank outlet strainer must be at least five times the area of the outlet line.

(c) The diameter of each strainer must be at least that of the fuel tank outlet.

(d) Each finger strainer must be accessible for inspection and cleaning.

131. By adding new §§ 29.979 (c) and (d) to read as follows:

§ 29.979 Pressure refueling and fueling provisions below fuel level.

• • • • • • •

(c) The rotorcraft pressure fueling system (not fuel tanks and fuel tank vents) must withstand an ultimate load that is 2.0 times the load arising from the maximum pressure, including surge, that is likely to occur during fueling. The maximum surge pressure must be established with any combination of tank valves being either intentionally or inadvertently closed.

(d) The rotorcraft defueling system (not including fuel tanks and fuel tank vents) must withstand an ultimate load that is 2.0 times the load arising from the maximum permissible defueling pressure (positive or negative) at the rotorcraft fueling connection.

132. By revising § 29.999(b) to read as follows:

§ 29.999 Fuel system drains.

• • • • • • •

(b) Each drain required by paragraph (a) of this section including the drains prescribed in § 29.971 must—

(1) Discharge clear of all parts of the rotorcraft;

(2) Have manual or automatic means for positive locking in the closed position; and

(3) Have a drain valve—

(i) That is readily accessible and which can be easily opened and closed; and

(ii) That is either located or protected to prevent fuel spillage in the event of a landing with landing gear retracted.

133. By revising § 29.1041(a) to read as follows:

§ 29.1041 General.

(a) The powerplant and auxiliary power unit cooling provisions must be able to maintain the temperatures of power plant components, engine fluids, and auxiliary power unit components and fluids within the temperature limits established for these components and fluids, under ground, water, and flight operating conditions, and after normal engine or auxiliary power unit shutdown, or both.

• • • • • • •

134. By revising § 29.1043(c) to read as follows:

§ 29.1043 Cooling tests.

• • • • • • •

(c) *Correction factor (except cylinder barrels).* Unless a more rational correction applies, temperatures of engine fluids and power-plant components (except cylinder barrels) for which temperature limits are established, must be corrected by adding to them the difference between the maximum ambient atmospheric temperature and the temperature of the ambient air at the time of the first occurrence of the maximum component or fluid temperature recorded during the cooling test.

• • • • • • •

135. By adding a new § 29.1093(c) to read as follows:

§ 29.1093 Induction system icing protection.

• • • • • • •

(c) *Supercharged reciprocating engines.* For each engine having a supercharger to pressurize the air before it enters the carburetor, the heat rise in the air caused by that supercharging at any altitude may be utilized in determining compliance with paragraph (a) of this section if the heat rise utilized is that which will be available, automatically, for the applicable altitude and operation condition because of supercharging.

136. By adding a new lead-in sentence to § 29.1125 to read as follows:

§ 29.1125 Exhaust heat exchangers.

For reciprocating engine powered rotorcraft the following apply:

• • • • • • •

137. By amending § 29.1143(d) by striking the words "antidetonant injection" in the first and second sentences and inserting in place thereof, in the first sentence, the words "fluid injection (other than fuel)" and, in the second sentence, the words "injection system"; and by revising the heading of § 29.1143 and by adding a new § 29.1143(e) to read as follows:

§ 29.1143 Engine controls.

• • • • • • •

(e) If a power or thrust control incorporates a fuel shutoff feature, the control must have a means to prevent the inadvertent movement of the control into the shutoff position. The means must—

(1) Have a positive lock or stop at the idle position; and

(2) Require a separate and distinct operation to place the control in the shutoff position.

138. By revising § 29.1165(f) to read as follows:

§ 29.1165 Engine ignition systems.

• • • • • • •

(f) Each ignition system must be independent of any electrical circuit that is not used for assisting, controlling, or analyzing the operation of that system.

• • • • • • •

139. By revising § 29.1189(a) to read as follows:

§ 29.1189 Shutoff means.

(a) There must be means to shut off or otherwise prevent hazardous quantities of fuel, oil, de-icing fluid, and other flammable fluids from flowing into, within, or through any designated fire zone, except that this means need not be provided—

(1) For lines and fittings forming an integral part of an engine;

(2) For oil systems for turbine engine installations in which all external components of the oil system, including oil tanks, are fireproof; or

(3) For engine oil systems in category B rotorcraft using reciprocating engines of less than 500 cubic inches displacement.

• • • • • • •

140. By revising § 29.1197(a) to read as follows:

§ 29.1197 Fire extinguishing agents.

(a) Fire extinguishing agents must—

(1) Be capable of extinguishing flames emanating from any burning of fluids or other combustible materials in the area protected by the fire extinguishing system; and

(2) Have thermal stability over the temperature range likely to be experienced in the compartment in which they are stored.

• • • • • • •

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141. By revising § 29.1303(d) to read as follows:

§ 29.1303 Flight and navigation instruments.

• • • • •

(d) A clock displaying hours, minutes, and seconds with a sweep-second pointer or digital presentation.

• • • • •

142. By revising § 29.1307 to read as follows:

§ 29.1307 Miscellaneous equipment.

The following is required miscellaneous equipment:

(a) An approved seat for each occupant.

(b) A master switch arrangement for electrical circuits other than ignition.

(c) Hand fire extinguishers.

(d) A windshield wiper or equivalent device for each pilot station.

(e) A two-way radio communication system.

143. By revising § 29.1322 to read as follows:

§ 29.1322 Warning, caution, and advisory lights.

If warning, caution or advisory lights are installed in the cockpit they must, unless otherwise approved by the Administrator, be—

(a) Red, for warning lights (lights indicating a hazard which may require immediate corrective action);

(b) Amber, for caution lights (lights indicating the possible need for future corrective action);

(c) Green, for safe operation lights; and

(d) Any other color, including white, for lights not described in paragraphs (a) through (c) of this section, provided the color differs sufficiently from the colors prescribed in paragraphs (a) through (c) of this section to avoid possible confusion.

144. By revising § 29.1549 to read as follows:

§ 29.1549 Powerplant instruments.

For each required powerplant instrument, as appropriate to the type of instruments—

(a) Each maximum and, if applicable, minimum safe operating limit must be marked with a red radial or a red line;

(b) Each normal operating range must be marked with a green arc or green line, not extending beyond the maximum and minimum safe limits;

(c) Each takeoff and precautionary range must be marked with a yellow arc or yellow line; and

(d) Each engine or propeller range that is restricted because of excessive vibration stresses must be marked with red arcs or red lines.

145. By revising § 29.1555(c) to read as follows:

§ 29.1555 Control markings.

• • • • • •

(c) Usable fuel capacity must be marked as follows:

(1) For fuel systems having no selector controls, the usable fuel capacity of the system must be indicated at the fuel quantity indicator.

(2) For fuel systems having selector controls, the usable fuel capacity available at each selector control position must be indicated near the selector control.

• • • • • •

146. By revising § 29.1557(c) to read as follows:

§ 29.1557 Miscellaneous marking and placards.

• • • • • •

(c) *Fuel and oil filler openings.* The following apply:

(1) Fuel filler openings must be marked at or near the filler cover with—

(i) The word "fuel";

(ii) For reciprocating engine powered rotorcraft, the minimum fuel grade;

(iii) For turbine engine powered rotorcraft, the permissible fuel designations; and

(iv) For pressure fueling systems, the maximum permissible fueling supply pressure and the maximum permissible defueling pressure.

(2) Oil filler openings must be marked at or near the filler cover with the word "oil".

• • • • • •

PART 31—AIRWORTHINESS STANDARDS: MANNED FREE BALLOONS

147. By revising § 31.1(a), redesignating § 31.1(b) as § 31.1(c), and adding a new §31.1(b) to read as follows:

§ 31.1 Applicability.

(a) This part prescribes airworthiness standards for the issue of type certificates and changes to those certificates, for manned free balloons.

(b) Each person who applies under Part 21 for such a certificate or change must show compliance with the applicable requirements of this part.

• • • • • • •

§ 31.11 [Reserved]

148. By deleting § 31.11 and marking it "[Reserved]".

149. By adding a new § 31.14 to read as follows:

§ 31.14 Weight limits.

(a) The range of weights over which the balloon may be safely operated must be established.

(b) *Maximum weight.* The maximum weight is the highest weight at which compliance with each applicable requirement of this part is shown. The maximum weight must be established so that it is not more than—

(i) The highest weight selected by the applicant;

(ii) The design maximum weight which is the highest weight at which compliance with each applicable structural loading condition of this part is shown; or

(iii) The highest weight at which compliance with each applicable flight requirement of this part is shown.

(c) The information established under paragraphs (a) and (b) of this section must be made available to the pilot in accordance with § 31.81.

150. By adding a new § 31.20 in Subpart B to read as follows:

§ 31.20 Controllability.

The applicant must show that the balloon is safely controllable and maneuverable during takeoff, ascent, descent, and landing without requiring exceptional piloting skill.

151. By revising § 31.45 to read as follows:

§ 31.45 Fuel cells.

If fuel cells are used, the fuel cells, their attachments, and related supporting structure must be shown by tests to be capable of withstanding, without detrimental distortion or failure, any inertia loads to which the installation may be subjected, including the drop tests prescribed in § 31.27(c). In the tests, the fuel cells must be loaded to the weight and pressure equivalent to the full fuel quantity condition.

152. By adding a new § 31.46 to read as follows:

§ 31.46 Pressurized fuel systems.

For pressurized fuel systems, each element and its connecting fittings and lines must be tested to an ultimate pressure of at least twice the maximum pressure to which the system will be subjected in normal operation. No part of the system may fail or malfunction during the test. The test configuration must be representative of the normal fuel system installation and balloon configuration.

153. By redesignating the current § 31.63 as § 31.63(a) and by adding a new § 31.63(b) to read as follows:

§ 31.63 Safety belts.

• • • • • •

(b) This section does not apply to balloons that incorporate a basket or gondola.

154. By deleting § 31.85(a)(1) and marking it "[Reserved]" and by adding a new § 31.85(c) to read as follows:

§ 31.85 Required basic equipment.

• • • • • •

(c) For captive gas balloons, a compass.

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

155. By revising § 33.1 to read as follows:

§ 33.1 Applicability.

(a) This part prescribes airworthiness standards for the issue of type certificates and changes to those certificates, for aircraft engines.

(b) Each person who applies under Part 21 for such a certificate or change must show compliance with the applicable requirements of this part.

PART 35—AIRWORTHINESS STANDARDS: PROPELLERS

156. By revising § 35.1 to read as follows:

§ 35.1 Applicability.

(a) This part prescribes airworthiness standards for the issue of type certificates, for propellers.

(b) Each person who applies under Part 21 for such a certificate or change must show compliance with the applicable requirements of this part.

157. By revising the first sentence of § 35.39(c)(1) to read as follows:

§ 35.39 Endurance test.

• • • • • •

(c) • • •

(1) A 100-hour test on a representative engine with the same or higher power and rotational speed and the same or more severe vibration characteristics as the engine with which the propeller is to be used. • • •

• • • • • •

158. By revising § 35.41(e) to read as follows:

§ 35.41 Functional tests.

• • • • • •

(e) *Reversible-pitch propellers.* Two hundred complete cycles of control must be made from lowest normal pitch to maximum reverse pitch, and, while in maximum reverse pitch, during each cycle, the propeller must be run for 30 seconds at the maximum power and rotational speed selected by the applicant for maximum reverse pitch.

159. By revising § 35.45(a) to read as follows:

§ 35.45 Teardown inspection.

(a) After completion of the tests prescribed in this subpart, the propeller must be completely disassembled and a detailed inspection must be made of the propeller parts for cracks, wear, distortion, and any other unusual conditions.

• • • • • •

PART 91—GENERAL OPERATING AND FLIGHT RULES

§ 91.14 [Amended]

160. By amending the parenthetical expressions contained in §§ 91.14(a)(1) and (a)(2) to read "(except free balloons that incorporate baskets or gondolas and airships)."

§ 91.21 [Amended]

161. By inserting the parenthetical expression "(except a manned free balloon)" between the words "aircraft" and "that" in § 91.21(a).

162. By revising § 91.33(d)(6) to read as follows:

§ 91.33 Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements.

• • • • • •

(d) • • •

(6) A clock displaying hours, minutes, and seconds with a sweep-second pointer or digital presentation.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

163. By revising § 121.171(b) to read as follows:

§ 121.171 Applicability.

• • • • • •

(b) For purposes of this part, "effective length of the runway" for landing means the distance from the point at which the obstruction clearance plane associated with the approach end of the runway intersects the centerline of the runway to the far end thereof.

• • • • • •

164. By striking the word "and" at the end of § 121.199(b)(3); by inserting a semicolon and the word "and" at the end of § 121.199(b)(4); and by adding a new § 121.199(b)(5) to read as follows:

§ 121.199 Nontransport category airplanes: takeoff limitations.

• • • • • •

(b) • • •

(5) The "effective length of the runway" for takeoff means the distance from the end of the runway at which the takeoff is started to a point at which the obstruction clearance plane associated with the other end of the runway intersects the runway centerline.

§ 121.331 [Amended]

165. By inserting between the first and second sentences of § 121.331(b), a sentence that reads—"The required two hours supply is that quantity of oxygen necessary for a constant rate of descent from the airplane's maximum certificated operating altitude to 10,000 feet in ten minutes and followed by 110 minutes at 10,000 feet."

§ 121.333 [Amended]

166. By inserting between the first and second sentences of § 121.333(b), a sentence that reads—"The required two hours supply is that quantity of oxygen necessary for a constant rate of descent from the airplane's maximum certificated operating altitude to 10,000 feet in ten minutes and followed by 110 minutes at 10,000 feet.

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

167. By amending the heading and lead-in of § 127.105 to read as follows:

§ 127.105 Engine instruments and equipment—reciprocating engine powered helicopters.

No person may operate a reciprocating engine powered helicopter unless it is equipped with the following engine instruments and equipment:

• • • • • •

168. By adding a new § 127.106 to read as follows:

§ 127.106 Engine instruments and equipment—turbine engine powered helicopters.

No person may operate a turbine engine powered helicopter unless it is equipped with the following engine instruments and equipment:

(a) A fuel pressure indicator and warning light for each engine.

(b) A means of indicating fuel quantity in each fuel tank to be used, and for helicopters with more than one fuel tank, a warning device indicating when the fuel in any independent fuel tank is low.

(c) An oil pressure indicator and warning light for each engine.

(d) An oil temperature indicator for each engine.

(e) An oil temperature indicator and warning light for each main rotor drive gearbox including those gearboxes essential to rotor phasing, having an oil system independent of the engine oil system.

(f) An oil temperature indicator and warning light for each transmission using a separate oil pump.

(g) A gas temperature indicator for each engine.

(h) An output torque indicator for each engine.

(i) A tachometer (to indicate the speed of the engine rotors with established limiting speeds) for each engine.

(j) A tachometer for the main rotor or for each main rotor the speed of which may vary appreciably with respect to another main rotor.

The tachometers required by paragraphs (i) and (j) of this section may be combined in a single instrument, but that instrument must indicate rotor RPM during autorotation.

PART 133—ROTORCRAFT EXTERNAL-LOAD OPERATIONS

169. By revising § 133.41(c)(6) to read as follows:

§ 133.41 Flight characteristics requirements.

• • • • • •

(c) • • •

(6) Maneuvering of the external load into release position and its release, under probable flight operation conditions, by means of each of the quick-release controls installed on the rotorcraft.

• • • • • •

170. By revising § 133.43 to read as follows:

§ 133.43 Structures and design.

(a) *External-load attaching means.* Each external-load attaching means must have been approved under—

(1) Part 8 of the Civil Air Regulations on or before January 17, 1964;

(2) Part 133, before February 1, 1977; or

(3) Part 27 or 29 of this chapter, as applicable, irrespective of the date of approval.

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(b) *Quick release devices.* Each quick release device must have been approved under—

(1) Part 27 or 29 of this chapter, as applicable; or

(2) Part 133, before February 1, 1977.

(c) *Weight and center of gravity*—

(1) *Weight.* The total weight of the rotorcraft-load combination must not exceed the total weight approved for the rotorcraft during its type certification.

(2) *Center of gravity.* The location of the center of gravity must, for all loading conditions, be within the range established for the rotorcraft during its type certification. For Class C rotorcraft-load combinations, the magnitude and direction of the loading force must be established at those values for which the effective location of the center of gravity remains within its established range.

171. By revising § 133.45(c) to read as follows:

§ 133.45 Operating limitations.

• • • • •

(c) The rotorcraft-load combination may not be operated with an external load weight exceeding that used in showing compliance with §§ 133.41 and 133.43.

• • • • •

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

172. By revising § 135.71(a)(5) to read as follows:

§ 135.71 Operating information required.

(a) • • •

(5) In the case of multiengine aircraft, one-engine-inoperative climb performance data, and if the aircraft is approved for use in IFR or over the top operations, that data must be sufficient to enable the pilot to determine compliance with § 135.145(a)(2).

• • • • •

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C. on December 13, 1976.

J. W. COCHRAN,
Acting Administrator.

[FR Doc.76-37215 Filed 12-17-76;8:45 am]

federal register

MONDAY, DECEMBER 20, 1976

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

PART IV:

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

PERSONAL FLOTATION DEVICES

Information Pamphlet and Label Rewording

V 41 I 245 DEC 20 76 UMI

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 181]

[CGD 75-008a]

PERSONAL FLOTATION DEVICES

Proposed Information Pamphlet

The Coast Guard is considering an amendment to the regulations for boats and associated equipment in Part 181 of Title 33, the Code of Federal Regulations, that requires a manufacturer of personal flotation devices (PFD's) to provide an information pamphlet for recreational boat owners. Proposed amendments to the PFD marking requirements in Part 160 of Title 46, Code of Federal Regulations, appear on page 55480 of this issue of the FEDERAL REGISTER (CGD 75-008).

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments to the Executive Secretary, Marine Safety Council, U.S. Coast Guard, Room 8117, 400 7th Street, SW., Washington, D.C. 20590. Each person submitting a comment should include his name and address, identify this notice (CGD 75-008a) and the specific section of the proposal to which his comment applies, and give the reasons for his comments. The proposal may be changed in light of the comments received.

The National Boating Safety Advisory Council has been consulted on this proposal at a meeting held on May 29, 1975, the minutes of which are available from the Commandant (G-BA), U.S. Coast Guard, Washington, D.C. 20590 or in room 4244, 2100 Second Street, SW., Washington, D.C.

All comments received before February 3, 1977, will be considered before final action is taken on the proposal. Copies of all written comments received will be available for examination by interested persons in Room 8117, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

No public hearing is planned, but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Part 160 Title 46 Code of Federal Regulations contains construction specifications and approval requirements for personal flotation devices (PFD's). These specifications include requirements for the wording of the label, nameplate, and other markings of PFD's. The present marking requirements include instruction for use, care and performance of the PFD.

The Coast Guard has determined that at least 10 deaths may have involved improper selection, use, or care of PFD's or misinterpretation of the wording on the PFD. Much more information on selection, care, use, and performance of a PFD is necessary. Furthermore, the information must be available to the consumer at time of purchase because this is when the consumer must select what type PFD is best for the intended use.

Therefore, the Coast Guard proposes to add a new subpart to the boating safety regulations that requires each manufacturer of PFD's that are for use on recreational boats to provide, for the purchaser of each device, a pamphlet containing instructions and information on the selection, use, and care of the device. The proposed new subpart includes requirements for the contents of the pamphlet, including an illustrated description of each type of PFD that will help a prospective purchaser to select a suitable device for his use, information on why additional buoyancy is necessary, information on the performance characteristics of each device, information on hypothermia, and instructions for the care, maintenance, and proper use of the device. The wording would be mandatory and is the same for every PFD intended for use on recreational boats. The proposed pamphlet is not required for devices that are for use on commercial vessels. Care instructions of primary importance would be retained on the label.

Since the proposed pamphlet would include better information on selection, use, and care, there should be fewer instances of misuse, misinterpretation of performance characteristics, or use of a device which is no longer in good and serviceable condition. If the consumer does not understand the performance characteristics of a PFD, care for it properly, or use it properly, it may not provide the level of safety necessary for or expected by the consumer. Educational information on the importance of buoyancy and information on hypothermia have been included under recommendation 7 of the National Transportation Safety Board resulting from the investigation of the foundering of the Motor Vessel *Comet* on May 19, 1973.

Since the proposed changes would require revising the labels on all PFD's, if they are adoped, they would be made effective as follows:

Manufacturers of PFD's that have approval numbers issued before (effective date of final rule) may continue to mark the devices under the terms of that approval until (12 months after the effective date of the final rule). Those manufacturers that have approval numbers issued after (effective date of final rule) shall meet the requirements of this subpart.

This would minimize the cost to a manufacturer, allow enough time for printing pamphlets and changing labels, and thus not unduly burden the manufacturer.

This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). The proposed amendments should result in a cost to industry of approximately one hundred thousand dollars per year, or one cent per PFD. This cost should result in an increase of less than two-tenths of one percent for the least expensive PFD. The benefit of the proposed amendments is the prevention of casualties, including loss of life.

In consideration of the foregoing, it is proposed to amend Part 181 of Title 33 of the Code of Federal Regulations by reserving Subparts D, E, F, and adding a new Subpart G to read as follows:

Subparts D, E, and F—[Reserved]

Subpart G—Instruction Pamphlet for Personal Flotation Devices

Sec.
181.701 Applicability.
181.703 PFD information pamphlet; manufacturer requirements.
181.705 PFD information pamphlet; contents.

AUTHORITY: 46 U.S.C. 1454, 1488; 49 CFR 1.46(n)(1).

Subparts D, E and F—[Reserved]

Subpart G—Instruction Pamphlet for Personal Flotation Devices

§ 181.701 Applicability.

This subpart applies to all personal flotation devices that are sold or offered for sale for use on recreational boats.

§ 181.703 PFD information pamphlet; manufacturer requirements.

Each manufacturer of a Type I, II, III, IV, or V personal flotation device that is sold or offered for sale for use on a recreational boat shall furnish the information required by § 181.705 with each device by meeting one of the following:

(a) If the personal flotation device package is not transparent—

(1) The information in paragraph (a) of §181.705 must be printed on the outside of the package; and

(2) The information in paragraph (b) of § 181.705 must be printed in a pamphlet and the pamphlet must be enclosed in each package.

(b) If the personal flotation device package is transparent—

(1) The information in paragraph (a) of § 181.705 must be printed on the front page of a pamphlet and the pamphlet must be enclosed in each package so that the front page can be read through the package; and

(2) The information in paragraph (b) of § 181.705 must be printed on the remaining pages of the pamphlet.

(c) If the personal flotation device is not in a package, a pamphlet that meets paragraph (b) of this section must be attached to each personal flotation device so that a purchaser can remove it.

§ 181.705 PFD information pamphlet; contents.

Each manufacturer of a Type I, II, III, IV, or V personal flotation device shall furnish, under the requirements of § 181.703, the information in this section with each PFD that is sold or offered for sale for use on a recreational boat and may include additional information, instructions or illustrations:[1]

[1] The illustrations required by paragraph (a) of § 181.705 may be photographs or drawings. Each manufacturer should use illustrations of his own products. If this is not possible, illustrations of other Coast Guard approved PFD's may be used.

(a) PERSONAL FLOTATION DEVICES FOR RECREATIONAL BOATS; FEDERAL REGULATIONS REQUIRE[2]

(a) No person may use a recreational boat less than 16 feet in length or a canoe or kayak unless at least one personal flotation device of the following types is on board for each person:
(1) Type I PFD.
(2) Type II PFD.
(3) Type III PFD.
(4) Type IV PFD.

(b) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one personal flotation device of the following types is on board for each person:
(1) Type I PFD.
(2) Type II PFD.
(3) Type III PFD.

(c) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one Type IV PFD is on board in addition to the PFDs required in paragraph (b) of this section.

THERE ARE FIVE TYPES OF PERSONAL FLOTATION DEVICE

This is a Type (I, II, III, IV, or V) PFD

(Illustration of Type I PED)

Type I—A Type I PFD has the greatest buoyancy and is designed to turn an unconscious person in the water from a face down position to a vertical or slightly backward position and to maintain the person in the vertical or slightly backward position. The Type I PFD is recommended for all waters, especially for cruising on waters where there is a probability of delayed rescue, such as large bodies of water where it is not likely that a significant number of boats will be in close proximity. This type PFD is the most effective of all the types in rough water. The Type I PFD is available in two sizes—Adult (90 lbs. or more) and child (less than 90 lbs.).

(Illustration of Type II PFD)

Type II—A Type II PFD is designed to maintain the wearer in a vertical or slightly backward position in the water. The Type II PFD is usually more comfortable to wear than the Type I. The Type II is recommended for use where there is a probability of quick rescue, such as areas where boating, fishing, and other water activities are likely to occur. The Type II PFD is available in three sizes—Adult (more than 90 lbs.), Medium Child (50 lbs. to 90 lbs.), and Small Child (less than 50 lbs.).

(Illustration of Type III PFD)

Type III—The Type III PFD is designed so that the wearer can place him or herself in a vertical or slightly backward position, and can maintain that position with a minimum of effort. A Type III is the most comfortable, comes in several sizes, and is usually the best choice for water sports, such as skiing. The Type III is recommended for use where there is a probability of quick rescue, such as areas where boating, fishing and other water activities are likely to occur.

(Illustration of Type IV PFD)

Type IV—A Type IV PFD is designed to be thrown to a person who has fallen overboard and to be grasped and held by him until he is rescued.

(Illustration of Type V PFD)

Type V—A Type V PFD is a PFD approved for restricted uses. No Type V PFD is currently approved for use on recreational boats.

(b) YOUR PERSONAL FLOTATION DEVICE

You are required by Federal Regulation to have at least one Coast Guard approved personal flotation device (PFD) for each person in your recreational boat. You may not use your recreational boat unless all your PFD's are in serviceable condition, are readily accessible, are legibly marked with the Coast Guard approval number, and are of an appropriate size for each person on board.

WHY DO YOU NEED A PFD?

Your PFD provides buoyancy to help keep your head above the water and to help you remain in a satisfactory position in the water. The average weight of an adult is only 10 to 12 pounds in the water and the buoyancy provided by the PFD is necessary to support that weight in water. Unfortunately, your body weight does not determine how much you will weigh in water. In fact, your weight in water changes slightly throughout the day. There is no simple method of determining your weight in water. You should try the device in the water to make sure it supports your mouth out of the water. Remember, all straps, zippers, and tie tapes must be used and of course the PFD must be the proper size (size limitations are on the label).

HYPOTHERMIA

Hypothermia, the loss of body heat to the water, is probably the greatest cause of deaths. Often the cause of death is listed as drowning; but, most often the primary cause is hypothermia and the secondary cause is drowning. After an individual has succumbed to hypothermia, he will lose consciousness and then drown. The following chart shows the effects of hypothermia:

Water temperature (degrees Fahrenheit)	Exhaustion or unconsciousness	Expected time of survival
32.5	Under 15 min.	Under 15 to 45 min.
32.5 to 40	15 to 30 min.	30 to 90 min.
40 to 50	30 to 60 min.	1 to 3 hr.
50 to 60	1 to 2 hr.	1 to 6 hr.
60 to 70	2 to 7 hr.	2 to 40 hr.
70 to 80	3 to 12 hr.	3 hr to Indef.
Over 80	Indef.	Indef.

PFD's can increase survival time because of the insulation they provide. Naturally, the warmer the water, the less insulation one will require. When operating in cold waters (below 40 F) consideration should be given to using a coat or jacket style PFD as they cover more of the body than the vest style PFD's.

Some points to remember about hypothermia protection:

1. While afloat in the water, do not attempt to swim unless it is to reach a nearby craft, fellow survivor, or a floating object on which you can learn or climb. Unnecessary swimming increases the rate of body heat loss.

2. Keep a positive attitude about your survival and rescue. This will improve your chances of extending your survival time until rescue. Your will-to-live does make a difference!

3. If there is more than one person in the water, huddling is recommended while waiting to be rescued. This action tends to reduce the rate of heat loss and thus increase the survival time.

4. Always wear your PFD, it won't help you fight off the effects of hypothermia if you don't have it on when you go into the water.

EACH OF THESE DEVICES IS INTENDED TO HELP YOU SAVE YOUR OWN LIFE

For your PFD to function properly, follow these suggestions to insure that it fits, floats, and remains in good condition:

(1) Try your wearable PFD on and adjust it until it fits comfortably in and out of the water.

(2) Mark your PFD with your name if you are the only wearer.

(3) Try your PFD out in the water. This will show you how it works, and will give you confidence when you use it.

(4) Do not alter your PFD. If it doesn't fit properly, get one that does. An altered device is no longer Coast Guard approved.

(5) Use your PFD only for the purpose for which it is intended. Do not use it as a boat fender or kneeling pad.

(6) Inspect your PFD periodically to ensure that it is free of rips, tears, or holes, that the flotation pads have no leaks, and that all seams and joints are securely sewn.

(7) Keep your PFD away from sharp objects which may rip the fabric or puncture the flotation pads.

(8) If your PFD contains kapok, the kapok fibers may become waterlogged and lose their buoyancy after the vinyl inserts are split or punctured. When the kapok becomes hard or if the device is soaked with water, it is no longer serviceable. It may not work when you need it and must be replaced.

(9) If your PFD is wet, allow it to dry thoroughly before storing it.

(10) Store your PFD in a well ventilated area.

PFD'S AND CHILDREN

A child is difficult to float in a safe position because of the distribution of body weight and because a child tends to panic when suddenly in an unfamiliar environment. The violent movement of the arms and legs in an attempt to "climb out" of the water tends to nullify the stability of the PFD. An approved device will keep a child afloat, but not always in a face-up position. A child should be taught how to put on the device and should be allowed to try it out in the water. It is important that the child feels comfortable and knows what the PFD is for and how it functions. Parents should note, however, that PFD's are not a substitute for adult supervision.

WEAR YOUR PFD

Your personal flotation device won't help you if you don't have it on. If you don't choose to wear it at all times, you should keep it handy and put it on when heavy weather threatens, or when danger is imminent. Don't wait until it is too late. Non-swimmers and children especially should wear their PFD's at all times when on or near the water.

REMEMBER—SAFE BOATING IS NO ACCIDENT

If you need more information about PFD's and safe recreational boating, contact your State boating authority, U.S. Coast Guard Auxiliary, U.S. Power Squadron, Red Cross, or your nearest unit of the U.S. Coast Guard. (46 U.S.C. 1454, 1488; 49 CFR 1.46(n)(1))

NOTE: The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 9, 1976.

D. F. LAUTH,
Rear Admiral, United States Coast Guard, Chief, Office of Boating Safety.

[FR Doc.76-37229 Filed 12-17-76;8:45 am]

[2] Coast Guard regulations and special exceptions of these regulations are in Part 175 of Title 33, Code of Federal Regulations.

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[46 CFR Part 160]

[CGD 75-008]

PERSONAL FLOTATION DEVICES

Proposed Label Rewording

The Coast Guard is considering amendments to the regulations for life preservers, ring life buoys, buoyant vests, buoyant cushions, work vests, and marine buoyant devices in Part 160 of Title 46 of the Code of Federal Regulations that revise the wording of the labels or markings of these personal flotation devices.

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments to the Executive Secretary, Marine Safety Council (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting a comment should include his name and address, identify this notice (CGD 75-008) and the specific section of the proposal to which his comment applies, and give the reasons for his comments. The proposal may be changed in light of the comments received.

All comments received before February 3, 1977, will be considered before final action is taken on the proposal. Copies of all written comments received will be available for examination by interested persons in Room 8117, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

No public hearing is planned, but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Part 160 contains the construction specifications and approval requirements for personal floatation devices (PFD's), such as life preservers, ring life buoys, buoyant vests, buoyant cushions, work vests, and marine buoyant devices. This part includes requirements for the wording of the label, nameplate, and other markings of PFD's. Much more information on selection, use, care, and performance of the PFD is necessary for the recreational boating public at the time of purchase. On page 55478 of this issue of the FEDERAL REGISTER, the Coast Guard is proposing an amendment to Part 181 of Title 33, Code of Federal Regulations, that would require that a manufacturer of a PFD that is for use on recreational boats provide for each purchaser a pamphlet with information on selection, use, care, and performance.

The Coast Guard has determined that this information is unnecessary for commercial mariners because most of them are required to use the Type I PFD by Coast Guard regulations. For those few who have a choice, the Coast Guard's experience is that they are very knowledgeable about PFD selection, use, care, and performance because boating is their daily business.

Therefore, because the information presently on the label would be included in the pamphlet, the Coast Guard proposes a revision of the marking requirements for PFD's that deletes from each specification the description of the device, such as "life preserver", "buoyant vest", or "buoyant cushion" and performance characteristics, such as "Designed to turn an unconscious wearer face up in the water."

Wording would be added to describe the flotation material and minimum buoyant force provided by the device. For PFD's that use foam as the buoyant material, there would be a blank for insertion of the name of the type of foam used. This provides an accurate description of the buoyant material and helps consumers select the proper PFD, especially those persons engaging in special activities, such as white water canoeing and kayaking.

Furthermore, the words "Inspected and tested in accordance with U.S. Coast Guard Regulations" would be added so that the consumer would know that the device was manufactured under the inspection and testing program of the Coast Guard approval system.

The proposed amendments also include editorial changes in the requirements for PFD labels and markings. These changes are for consistency among the labeling and marking requirements and with other PFD requirements in Part 160. The level of safety of any device is not affected.

Since the proposed changes would require revising the labels on all PFD's, if they are adopted, they would be made effective as follows:

Manufacturers of PFD's that have approval numbers issued before (effective date of final rule) may continue to mark the devices under the terms of that approval until (12 months after the effective date of the final rule). Those manufacturers that have approval numbers issued after (effective date of final rule) shall meet the requirements of this subpart.

This would minimize the cost to a manufacturer, allow enough time to have the labels changed, and thus not unduly burden the manufacturer.

This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). Because of the 12-month grace period during which a manufacturer could exhaust his stock of labels, this proposal should result in little or no cost increases. With the proposal for a PFD information pamphlet, published on page 55478 of this issue of the FEDERAL REGISTER, the benefit of this proposal will be the prevention of casualties, including loss of life.

In consideration of the foregoing, it is proposed to amend Part 160 of Title 46 of the Code of Federal Regulations as follows:

1. By revising paragraph (b) of § 160.002-6 to read as follows:

§ 160.002-6 Marking.

• • • • • •

(b) In letters that can be read at a distance of 2 feet:

Type I Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
Kapok buoyant material provides a minimum buoyant force of (25 lb. or 16½ lb.)
Do not snag or puncture inner plastic cover.
Approved for use on all vessels by persons weighing (90 lb. or more, or less than 90 lb.).
U.S. Coast Guard Approval No. 160.002/(assigned manufacturer's No.)/(Revision No.); (Model No.). (Name and address of manufacturer or distributor). (Lot No.).

2. By revising paragraph (b) of § 160.005-6 to read as follows:

§ 160.005-6 Marking.

• • • • • •

(b) In letters that can be read at a distance of 2 feet:

Type I Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
Fibrous glass buoyant material provides a minimum buoyant force of (25 lb. or 16½ lb.).
Approved for use on all vessels by persons weighing (90 lb. or more, or less than 90 lb.).
U.S. Coast Guard Approval No. 160.005/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.).
(Lot No.).

3. By revising paragraph (b) of § 160.009-6 to read as follows:

§ 160.009-6 Marking.

• • • • • •

(b) On the cover:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Cork or Balsa wood) buoyant material provides a minimum buoyant force of (32 lb. or 16½ lb.).
Approved for use on recreational boats less than 16 feet in length and only as a throwable device on all other vessels.
Approved, U.S. Coast Guard (inspection date) (Marine Inspection Office identification letters).
(Name and address of manufacturer or distributor).
(Coast Guard Approval No. 160.009/(assigned manufacturer's No.)/(Revision No.)).
(Size).
(Lot No.).

4. By revising paragraph (a) of § 160.047-6 to read as follows:

§ 160.047-6 Marking.

(a) Each buoyant vest must have the following information clearly marked in waterproof lettering:

Type II Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Kapok or Fibrous glass) buoyant material provides a minimum buoyant force of (16 lb., 11 lb., or 7½ lb.).
Dry out thoroughly when wet.
Do not snag or puncture inner plastic cover.
If pads become waterlogged, replace device.
Approved for all recreational boats and for use on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (over 90 lb., 50 to 90 lb., or less than 50 lb.).

U.S. Coast Guard Approval No. 160.047/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot. No.).

• • • • • •

5. By revising paragraph (a) of § 160.048-6 to read as follows:

§ 160.048-6 Marking.

(a) Each buoyant cushion must have the following information clearly marked in waterproof lettering:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
Dry out thoroughly when wet.
(Kapok or Fibrous glass) buoyant material provides a minimum buoyant force of 20 lb.
Warning: Do not wear on back.
Do not snag or puncture inner plastic cover.
If pads become waterlogged, replace device.
Approved for use on recreational boats less than 16 feet in length and only as a throwable device on all other recreational boats.
U.S. Coast Guard Approval No. 160.048/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).
(Size; width, thickness, and length, including both top and bottom for trapezoidal cushions).

• • • • • •

6. By revising paragraph (a) of § 160.049-6 to read as follows:

§ 160.049-6 Marking.

(a) Each buoyant cushion must have the following information clearly marked in waterproof lettering:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of 20 lb.
Warning: Do not wear on back.
Dry out thoroughly when wet.
Approved for use on recreational boats less than 16 feet in length and only as a throwable device on all other recreational boats.
U.S. Coast Guard Approval No. 160.049/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).
(Size; width, thickness, and length, including both top and bottom for trapezoidal cushions).

• • • • • •

7. By revising paragraph (a) of § 160.050-6 to read as follows:

§ 160.050-6 Marking.

(a) Each ring buoy must have the following information in waterproof lettering:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (32 lb. or 16½ lb.).
Approved for use on recreational boats less than 16 feet in length, and only as a throwable device on all other vessels.
U.S. Coast Guard Approval No. 160.050/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Size).
USCG (Marine Inspection Office identification letters).
(Lot No.).

• • • • • •

8. By revising the heading and paragraph (a) of § 160.052-8 to read as follows:

§ 160.052-8 Marking.

(a) Each buoyant vest must have the following information clearly marked in waterproof lettering:

Type II Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) provides a minimum buoyant force of (15½ lb., 11 lb., or 7 lb.).
Dry out thoroughly when wet.
Approved for all recreational boats and for use on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (over 90 lb., 50 to 90 lb., or less than 50 lb.).
U.S. Coast Guard Approval No. 160.052/(assigned manufacturer's No.) (Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).

9. By revising paragraph (a) of § 160.053-5 to read as follows:

§ 160.053-5 Marking.

(a) Each work vest must have the following information clearly printed in waterproof ink on a cloth tag attached to the envelope by stitching along the edges of the tag:

Type V Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of 17½ lbs.
Approved for use on Merchant Vessels as a work vest.
U.S. Coast Guard Approval No. 160.053/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).
This vest is filled with (name of buoyant material), which will not be harmed by repeated wetting. Hang up and dry thoroughly when vest is wet.

• • • • • •

10. By revising the heading and paragraph (b) of § 160.055-8 to read as follows:

§ 160.055-8 Marking.

• • • • • •

(b) In letters that can be read at a distance of 2 feet:

Type I Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (22 lb. or 11 lb.).
Approved for use on all vessels by persons weighing (90 lb. or more, or less than 90 lb.).
U.S. Coast Guard Approval No. 160.055/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Not No.).

11. By revising the heading and paragraph (a) of § 160.060-8 to read as follows:

§ 160.060-8 Marking.

(a) Each buoyant vest must have the following information clearly marked in waterproof lettering:

Type II Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
Polyethylene foam buoyant material provides a minimum buoyant force of (15½ lb., 11 lb., or 7 lb.).
Dry out thoroughly when wet.
Approved for all recreational boats, and for use on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (more than 90 lb., 50 to 90 lb., or less than 50 lb.).
U.S. Coast Guard Approval No. 160.060/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).

12. By revising paragraph (a)(1) of § 160.064-4 to read as follows:

§ 160.064-4 Marking.

(a) • • •

(1) For devices to be worn:

(Type II or Type III) Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (15½ lb., 11 lb., or 7 lb.).
(Special purpose intended.).
Approved for all recreational boats and for use on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (more than 90 lb., 50 to 90 lb., or less than 50 lb.).
U.S. Coast Guard Approval No. 160.064/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).

(2) For devices to be thrown:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard test procedures.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (16½ lb., 18 lb., or 20 lb.).
(Special purpose intended).
Approved for use on all recreational boats less than 16 feet in length and only as a throwable device on all other recreational boats.
U.S. Coast Guard Approval No. 160.064/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).

• • • • • •

13. By adding the following footnote to §§ 160.002-5, 160.005-5, 160.009-5, 160.-

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047–5, 160.047–5, 160.048–5, 160.050–5, 160.052–7 160.055–7, 160.060–7, and 160.064–13:

[1] The manufacturer of a personal flotation device must meet 33 CFR 175.41 through 33 CFR 175.45 which require an instruction pamphlet for each device that is sold or offered for sale for use on recreational boats.

(46 U.S.C. 375, 416, 5260, 1454, 1488; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b), (n)(1).)

NOTE: The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 9, 1976.

W. M. BENKERT,
Rear Admiral U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

[FR Doc.76–37228 Filed 12–17–76;8:45 am]

federal register

MONDAY, DECEMBER 20, 1976



PART V:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

■

MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Proposed Rulemaking

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 235]

[Docket No. R–76–358]

MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Proposed Rulemaking

Notice is hereby given that the Department proposes to amend Chapter II of Title 24 of the Code of Federal Regulations by amending §§ 235.5, 235.10, 235.350 and 235.375, previously published at 41 FR 1168, Jan. 6, 1976, and by adding a new § 235.361.

The amendment to § 235.5 would change the definition of income to exclude the earnings of each minor in the family. Currently, the regulations exclude the income of each minor. The Department believes that this revision is more in conformity with the statutory intent.

The proposed changes to §§ 235.10 and 235.350 would clarify the language used in determining when recertification is required.

The new provision at § 235.361, regarding the recovery of assistance payments, would change current Department policy. Currently, when assistance payments are made to a mortgagee on the account of a mortgagor under Section 235 of the National Housing Act and it is subsequently determined that the mortgagor was unentitled to such payments or that overpayments were made, collection action is taken against the mortgagee. The mortgagee, with whom the Government has contracted, in turn proceeds against the mortgagor and, if necessary, can declare a default under the mortgage when appropriate reimbursement is not made within a reasonable time.

When attempts are made to collect such sums from the mortgagee after the mortgagor has transferred the mortgaged property to an assumptor or the mortgage has been paid in full, and the mortgagee was without knowledge or control over the circumstances which led to the payments, it is unfair to the mortgagee to proceed against the mortgagee who may not be able to collect from the former mortgagor. If the mortgagee does pay and elects to declare a default in the mortgage in an effort to recover the sum of money involved, the innocent assumptor is improperly hurt.

It is proposed that a rule be established which regularizes the current practice of proceeding against the mortgagee. However, if the mortgagor has transferred the property to an assumptor or the mortgage has been paid in full and HUD finds the mortgagee was without knowledge of or control over the circumstances which led to the payments which must be recovered, the proposed rule would require HUD to proceed against the mortgagor on whose behalf the payments were made and not against the mortgagee. The new rule would only be applied prospectively. The proposed rule would also allow the mortgagee to retain the handling charges except in the case of fraud, misrepresentation or error on the part of the mortgagee. The amendment to § 235.375 is necessitated by the current conflict between § 235.375 and 24 CFR 420.7. The Department believes that the provisions regarding suspension, termination and reinstatement of mortgage assistance payments currently contained in Section 420.7 are the better rules. This amendment, therefore, would eliminate the inconsistency by adopting the language of § 420.7.

Interested persons are invited to submit written comments, suggestions, or data regarding the proposed regulations to the Rules Docket Clerk, Room 10141, Office of the Secretary, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Communications should have reference to the above docket number and title. All relevant material received on or before January 19, 1977, will be considered before adoption of the final rule. A copy of each communication submitted will be available for public inspection during business hours at the above address.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection at the above address.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A–107.

Accordingly, the Department proposes to amend Chapter II of Title 24 CFR and add a new § 235.361 as follows:

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

1. Section 235.5 would be amended by revising paragraph (a)(3) as follows:

§ 235.5 Definitions used in this subpart.

* * *

(a) * * *

(3) The earnings of each minor in the family who is living with such family, plus the sum of $300 for each such minor.

* * * * *

2. Section 235.10 would be amended by revising paragraph (c)(2)(ii) as follows:

§ 235.10 Eligible mortgagors.

* * * * *

(c) * * *

(2) * * *

(ii) The family income (except income of minors increases at least $50 per month.

* * * * *

3. Section 235.350 would be amended by revising paragraphs (a)(2), (a)(2)(ii) and (b) to read as follows:

§ 235.350 Mortgagors required recertification.

(a) * * *

(2) No more than 30 days after the mortgagee is notified by the mortgagor or learns from any identifiable source:

* * * * *

(ii) That the family income (excluding income of minors) has increased at least $50 per month (except in the case of a mortgagor under a mortgage insured before January 5, 1976).

* * * * *

(b) With respect to mortgages insured under Part 235 on or after January 5, 1976, the mortgagee shall obtain from the applicant-homeowner at the time application is made for assistance and at the time of annual recertification required under paragraph (a)(1) of this section, on a form provided by the Secretary, a statement of the aggregate amounts of total income prior to adjustments reported for all family members (other than minors) by the applicant-homeowner in his most recent Federal income tax return. If separate returns are filed by separate members of the family, the total income prior to adjustments included in all such returns (except returns of minors) shall be reported. If the income so reported is more than 25 percent above the income reported on the recertification, the mortgagee shall obtain from the homeowner a new recertification or a written explanation of the difference in income reported on the two forms.

* * * * *

4. Section 235.361 would be added to read as follows:

§ 235.361 Recovery of assistance payments.

If it is determined that assistance payments have been paid on behalf of a mortgagor in excess of the amount of benefits to which the mortgagor was entitled, the mortgagee shall reduce its next billing to the Secretary in the amount of overpaid assistance payments. The mortgagee may increase the mortgagor's required monthly payments in an amount which will reimburse the mortgagee within a reasonable time without causing undue hardship to the mortgagor. If the mortgagee has filed a claim for mortgage insurance benefits, whether or not that claim has been paid, or if the mortgage has been paid in full or the mortgagor has sold the property to an assumptor before the determination is made, and the mortgagee did not contribute to the overpayment through fraud, misrepresentation or error (including failure to meet contractual obligations), the mortgagee will not be required to reduce its billings or increase the assumptor's monthly payments. In such cases, HUD will require payment by the mortgagor on whose behalf assistance has been overpaid. If fraud, misrepresentation or error on the part of the mortgagee resulted in assistance payments being made on behalf of a mortgagor when no assistance payment should have been made, the mortgagee

shall reduce the next billing to the Secretary in the amount of the handling charges for the period during which the assistance was not warranted.

5. Section 235.375 would be revised to read as follows:

§ 235.375 Termination, suspension, or reinstatement of the assistance payments contract.

(a) *Termination.* The assistance payments contract shall be terminated when any of the following events occur:

(1) The contract of mortgage insurance is terminated, except when the mortgage has been assigned to the Secretary.

(2) The property is purchased by a homeowner not qualified to receive assistance payments.

(3) The cooperative member transfers his membership and occupancy rights to a new cooperative member not qualified to receive assistance payments.

(4) With respect to mortgages approved for insurance on or after January 5, 1976, the homeowner sells the property or the cooperative member transfers his membership.

(5) When the assistance payments contract has been suspended for a period of three years without reinstatement.

(b) *Suspension.* The assistance payments contract shall be suspended when any one of the following events occur:

(1) The homeowner or cooperative member ceases to occupy the property, except in the following instances:

(i) The property is purchased by a homeowner who immediately assumes the mortgage obligation under a mortgage approved for insurance prior to January 5, 1976, with respect to which assistance payments have been made on behalf of the previous owner, and who meets the income and asset requirements prescribed by the Secretary.

(ii) The cooperative member transfers his membership and occupancy rights to a new member who assumes the mortgage obligation under a mortgage approved for insurance prior to January 5, 1976, and meets the income and asset requirements prescribed by the Secretary.

(2) The mortgagee determines that the mortgagor or cooperative member ceases to qualify for the benefits of assistance payments by reason of his income increasing to an amount enabling him to pay the full monthly mortgage payment by using 20 percent of the family income.

(3) Foreclosure is instituted.

(4) The mortgagee is unable to obtain from the homeowner (or from the cooperative association on behalf of the cooperative member) a required recertification of occupancy, employment, income, and family composition as prescribed in Section 235.350.

(5) At such other times as the Secretary may require.

(c) *Effect of termination or suspension.* Upon termination or suspension of the assistance payments contract, the payment due on the first day of the month in which the termination or suspension occurs shall be the last payment to which the mortgagee shall be entitled; except that, in the case of a suspended contract, payment may be resumed after the contract is reinstated pursuant to paragraph (e) of this section.

(d) *Noneffect on mortgage insurance contract.* The termination or suspension of the assistance payments contract, where the mortgage insurance contract is not simultaneously terminated, shall have no effect on the mortgage insurance contract.

(e) *Reinstatement.* Where the assistance payments contract is suspended, it may be reinstated by the Secretary at his discretion and on such conditions as he may prescribe.

(Sec. 7(d) of the Dept. of HUD Act, (42 U.S.C. 3535(d)))

Issued at Washington, D.C., on December 13, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.76–37255 Filed 12–17–76;8:45 am]

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MONDAY, DECEMBER 20, 1976



PART VI:

FEDERAL TRADE COMMISSION

■

MERGERS AND ACQUISITION

Proposed Rulemaking

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FEDERAL TRADE COMMISSION

[16 CFR Part 801]

MERGERS AND ACQUISITIONS

Proposed Rulemaking

The Clayton Act, 15 U.S.C. Sec. 12 et seq., as amended by Sections 201 and 202 of the "Hart-Scott-Rodino Antitrust Improvements Act of 1976," Pub. L. 94-435, 15 U.S.C. Sec. 18A (hereafter the "Antitrust Improvements Act"), requires persons contemplating certain direct or indirect mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter the "Assistant Attorney General") advance notice and to wait certain designated periods before consummation of such plans. The transactions to which the advance notice requirement is applicable and the length of the waiting periods required are set out in the Antitrust Improvements Act, the complete text of which is set out below. The amendment to the Clayton Act does not change the standards to be used in determining the legality of mergers and acquisitions.

Subsection 7A(d)(1) of the amended Clayton Act, 15 U.S.C. Sec. 18A(d)(1), directs the Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with 5 U.S.C. Sec. 553, to require that the notification be in such form and contain such information and documentary material as may be necessary and appropriate to determine whether the proposed transaction may, if consummated, violate the antitrust laws. Subsections 7A(d)(2)(A)-(C) of the amended Act, 15 U.S.C. 18A(d)(2)(A)-(C), grant the Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with 5 U.S.C. 553, the authority (1) to define the terms used in the amendment; (2) to exempt additional persons from the Act's notice and waiting period requirements; and (3) to prescribe such other rules as may be necessary and appropriate to carry out the purposes of Section 7A.

Section 7A of the amended Clayton Act, 15 U.S.C. Section 18A, provides:

TITLE II—PREMERGER NOTIFICATION

NOTIFICATION AND WAITING PERIOD

Sec. 201. The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after section 7 of such Act the following new section:

"Sec. 7A. (a) Except as exempted pursuant to subsection (c), no person shall acquire, directly or indirectly, any voting securities or assets of any other person, unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules under subsection (d)(1) and the waiting period described in subsection (b)(1) has expired, if—

"(1) the acquiring person, or the person whose voting securities or assets are being acquired, is engaged in commerce or in any activity affecting commerce;

"(2)(A) any voting securities or assets of a person engaged in manufacturing which has annual net sales or total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more; or

"(B) any voting securities or assets of a person not engaged in manufacturing which has total assets of $10,000,000 or more are being acquired by any person which has total assets or annual net sales of $100,000,000 or more; or

"(C) any voting securities or assets of a person with annual net sales or total assets of $100,000,000 or more are being acquired by any person with total assets or annual net sales of $10,000,000 or more; and

"(3) as a result of such acquisition, the acquiring person would hold—

"(A) 15 per centum or more of the voting securities or assets of the acquired person, or

"(B) an aggregate total amount of the voting securities and assets of the acquired person in excess of $15,000,000.

In the case of a tender offer, the person whose voting securities are sought to be acquired by a person required to file notification under this subsection shall file notification pursuant to rules under subsection (d).

"(b)(1) The waiting period required under subsection (a) shall—

"(A) begin on the date of the receipt by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereinafter referred to in this section as the 'Assistant Attorney General') of—

"(i) the completed notification required under subsection (a), or

"(ii) if such notification is not completed, the notification to the extent completed and a statement of the reasons for such noncompliance,

from both persons, or, in the case of a tender offer, the acquiring person; and

"(B) end on the thirtieth day after the date of such receipt (or in the case of a cash tender offer, the fifteenth day), or on such later date as may be set under subsection (e)(2) or (g)(2).

"(2) The Federal Trade Commission and the Assistant Attorney General may, in individual cases, terminate the waiting period specified in paragraph (1) and allow any person to proceed with any acquisition subject to this section, and promptly shall cause to be published in the FEDERAL REGISTER a notice that neither intends to take any action within such period with respect to such acquisition.

"(3) As used in this section—

"(A) The term 'voting securities' means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.

"(B) The amount or percentage of voting securities or assets of a person which are acquired or held by another person shall be determined by aggregating the amount or percentage of such voting securities or assets held or acquired by such other person and each affiliate thereof.

"(c) The following classes of transactions are exempt from the requirements of this section—

"(1) acquisitions of goods or realty transferred in the ordinary course of business;

"(2) acquisitions of bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(3) acquisitions of voting securities of an issuer at least 50 per centum of the voting securities of which are owned by the acquiring person prior to such acquisitions;

"(4) transfers to or from a Federal agency or a State or political subdivision thereof;

"(5) transactions specifically exempted from the antitrust laws by Federal statute;

"(6) transactions specifically exempted from the antitrust laws by Federal statute if approved by a Federal agency, if copies of all information and documentary material filed with such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(7) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828 (c)), or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842);

"(8) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), section 403 and 408(e) of the National Housing Act 12 U.S.C. 1726 and 1730a), or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), if copies of all information and documentary material filed with any such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least 30 days prior to consummation of the proposed transaction;

"(9) acquisitions, solely for the purpose of investment, of voting securities, if, as a result of such acquisition, the securities acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

"(10) acquisitions of voting securities, if, as a result of such acquisition, the voting securities acquired do not increase, directly or indirectly, the acquiring person's per centum share of outstanding voting securities of the issuer;

"(11) acquisitions, solely for the purpose of investment, by any bank, banking association, trust company, investment company, or insurance company, of (A) voting securities pursuant to a plan of reorganization or dissolution; or (B) assets in the ordinary course of its business; and

"(12) such other acquisitions, transfers, or transactions, as may be exempted under subsection (d)(2)(B).

"(d) The Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5, United States Code, consistent with the purposes of this section—

"(1) shall require that the notification required under subsection (a) be in such form and contain such documentary material and information relevant to a proposed acquisition as is necessary and appropriate to enable the Federal Trade Commission and the Assistant Attorney General to determine whether such acquisitions may, if consummated, violate the antitrust laws; and

"(2) may—

"(A) define the terms used in this section;

"(B) exempt, from the requirements of this section, classes of persons, acquisitions, transfers, or transactions which are not likely to violate the antitrust laws; and

"(C) prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section.

"(e)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b)(1) of this section, require the submission of additional information or documentary material relevant to the proposed acquisition, from a person required to file notification with respect to such acquisition under subsection (a) of this section prior to the expiration of the waiting period specified in subsection (b)(1) of this section, or from any officer, director, partner, agent, or employee of such person.

"(2) The Federal Trade Commission or the Assistant Attorney General, in its or his discretion, may extend the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b)(1) of this section for an additional period of not more than 20 days (or in the case of a cash tender offer, 10 days) after the date on which the Federal Trade Commission or the Assistant Attorney General, as the case may be, receives from any person to whom a request is made under paragraph (1), or in the case of tender offers, the acquiring person, (A) all the information and documentary material required to be submitted pursuant to such a request, or (B) if such request is not fully complied with, the information and documentary material submitted and a statement of the reasons for such noncompliance. Such additional period may be further extended only by the United States district court, upon an application by the Federal Trade Commission or the Assistant Attorney General pursuant to subsection (g)(2).

"(f) If a proceeding is instituted or an action is filed by the Federal Trade Commission, alleging that a proposed acquisition violates section 7 of this Act or section 5 of the Federal Trade Commission Act, or an action is filed by the United States, alleging that a proposed acquisition violates such section 7 or section 1 or 2 of the Sherman Act, and the Federal Trade Commission or the Assistant Attorney General (1) files a motion for a preliminary injunction against consummation of such acquisition pendente lite, and (2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

"(A) upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(B) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited.

"(g)(1) Any person, or any officer, director, or partner thereof, who fails to comply with any provision of this section shall be liable to the United States for a civil penalty of not more than $10,000 for each day during which such person is in violation of this section. Such penalty may be recovered in a civil action brought by the United States.

"(2) If any person, or any officer, director, partner, agent, or employee thereof, fails substantially to comply with the notification requirement under subsection (a) or any request for the submission of additional information or documentary material under subsection (e)(1) of this section within the waiting period specified in subsection (b)(1) and as may be extended under subsection (e)(2), the United States district court—

"(A) may order compliance;

"(B) shall extend the waiting period specified in subsection (b)(1) and as may have been extended under subsection (e)(2) until there has been substantial compliance, except that, in the case of a tender offer, the court may not extend such waiting period on the basis of a failure, by the person whose stock is sought to be acquired, to comply substantially with such notification requirement or any such request; and

"(C) may grant such other equitable relief as the court in its discretion determines necessary or appropriate,

upon application of the Federal Trade Commission or the Assistant Attorney General.

"(h) Any information or documentary material filed with the Assistant Attorney General or the Federal Trade Commission pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

"(i)(1) Any action taken by the Federal Trade Commission or the Assistant Attorney General or any failure of the Federal Trade Commission or the Assistant Attorney General to take any action under this section shall not bar any proceeding or any action with respect to such acquisition at any time under any other section of this Act or any other provision of law.

"(2) Nothing contained in this section shall limit the authority of the Assistant Attorney General or the Federal Trade Commission to secure at any time from any person documentary material, oral testimony, or other information under the Antitrust Civil Process Act, the Federal Trade Commission Act, or any other provision of law.

"(j) Beginning not later than January 1, 1978, the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall annually report to the Congress on the operation of this section. Such report shall include an assessment of the effects of this section, of the effects, purpose, and need for any rules promulgated pursuant thereto, and any recommendations for revisions of this secttion.".

EFFECTIVE DATES

Sec. 202. (a) The amendment made by section 201 of this Act shall take effect 150 days after the date of enactment of this Act, except that subsection (d) of section 7A of the Clayton Act (as added by section 201 of this Act) shall take effect on the date of enactment of this Act.

Pursuant to subsections 7A(d)(1) and 7A(d)(2)(A)-(C) the Commission hereby proposes and offers for comment the following notification requirement: The notification required by section 201 of the Antitrust Improvements Act shall consist of complete and correct answers to the items and instructions set forth in the following form, except as otherwise provided in the rules.

The notification form here proposed implements the Antitrust Improvements Act, which becomes effective on February 27, 1977. The current Federal Trade Commission pre-merger notification program [1] will be in effect until the effective date of the notification and relevant rules, the complete text of which follows:

STATEMENT OF TRANSITIONAL POLICY WITH RESPECT TO EFFECTIVE DATE OF PRE-MERGER NOTIFICATION PROGRAM

Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 becomes effective on February 27, 1977. The Act may be interpreted to require, absent specific termination of the statutory waiting period for particular transactions, the imposition of a moratorium of thirty days on all qualifying acquisitions and mergers, and of fifteen days on all qualifying cash tender offers, after that date. The Federal Trade Commission and the Assistant Attorney General do not believe it was the intention of Congress to impose such a moratorium. Accordingly, the Commission proposes the following Transitional Rule relating to mergers, acquisitions and cash tender offers scheduled to occur on or soon after February 27, 1977. The Transitional Rule also encompasses the possibility that the effective date of the notification form and rules (other than the Transitional Rule) may be later than February 27, 1977.

TRANSITIONAL RULE

(a) This rule is promulgated under the authority of subsection (d)(2)(C) of section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94-435, 15 U.S.C. Sec. 18A, hereinafter referred to as "this section." References to specific subsections refer to subsections thereof.

(b) An acquisition shall be exempt from all requirements of this section if made on or after February 27, 1977, and before the effective date of the Notification and Report Form and rules promulgated by the Federal Trade Commission under the authority of this section (hereinafter referred to as the "Form" and "rules" respectively). Such date shall be identified in the FEDERAL REGISTER at least thirty days in advance.

(c)(1) An acquisition made on or after the effective date of the Form and rules shall be exempt from the wating period required by subsection (b), except as provided by subparagraph (2) of this paragraph, if:

(A) All persons required by this section and the rules to file notification with respect to such acquisition, file notification with both the Federal Trade Commission and the Assistant Attorney General, in the manner prescribed by the rules, on the effective date of the Form and rules. Notification received by the Federal Trade Commission and Assistant Attorney General prior to the effective date of the rules shall be deemed to be filed on the effective date of the Form and rules;

(B) Neither the Federal Trade Commission nor the Assistant Attorney General requests additional information or documentary material, pursuant to subsection (e) and rule 3.30, from any person filing notification with respect to such acquisition, prior to the consummation of the acquisition; and

[1] Federal Trade Commission, Corporate Mergers or Acquisitions, Notification and Special Reports, published in the FEDERAL REGISTER, page 35717, Vol. 39, No. 193, October 3, 1974.

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(C) The acquisition is consummated no later than thirty (or, in the case of cash tender offers, as defined in the rules, fifteen) calendar days after the effective date of the Form and rules.

(2) In the event of a request for additional information or documentary material, the waiting period normally deriving from such a request, pursuant to subsection (e) and rule 3.30, shall take effect at the time of such request, and shall expire or be terminated or extended thereafter in accordance with this section and the rules.

(d) All acquisitions otherwise subject to the requirements of this section, and not falling within paragraphs (b) or (c) of this rule, shall be subject to the requirements of this section and the rules.

STATEMENT WITH RESPECT TO CERTAIN FINANCIAL TRANSACTIONS AND INSTITUTIONS

The Federal Trade Commission and Assistant Attorney General are uncertain of the proper role to assign subsection (c)(11). Specifically, the agencies wish to learn with what frequency, and under what circumstances, do banks, banking associations, trust companies, investment companies, and insurance companies acquire voting securities pursuant to a plan of reorganization or dissolution, or assets (as distinguished from securities) in the normal course of business. Likewise, the agencies wish to know to what extent the reporting and waiting requirements of this section may impede normal business practices by such companies. During the period for public comment, statements to this end will be particularly welcome. In the interim, no rule has been proposed.

The Federal Trade Commission and the Assistant Attorney General also are uncertain as to whether the proposed Notification and Report Form is appropriate for the reporting of any mergers, acquisitions, or joint ventures, other than those undertaken in the ordinary course of business, involving financial institutions, which may not be exempt from the requirements of this section under subsection (c)(6), (c)(8), or any other relevant exemption. During the period for public comment, statements to this end, or suggestions as to an appropriate form, will also be particularly welcome.

The Commission proposes the following amendment to Title 16, Chapter I, by adding a new Subchapter H—Rules, Regulations, Statements and Interpretations under the Hart-Scott-Rodino Antitrust Improvements Act of 1976—and new Parts 801, 802, and 803 under that subchapter (Part 800 would be reserved).

SUBCHAPTER H—RULES, REGULATIONS, STATEMENTS AND INTERPRETATIONS UNDER THE HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT OF 1976

PART 800—[RESERVED]

PART 801—DEFINITIONS AND COVERAGE RULES

Sec.
801.05 Definitions.
801.10 Mergers and consolidations.
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801.20 Value of securities and assets.
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801.30 Calculating percentage of securities or assets acquired.
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801.40 Aggregate total amount of voting securities and assets.
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801.50 Acquisitions subsequent to exceeding threshold.
801.55 Joint ventures.
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§ 801.05 Definitions.

When used in this section and these rules—

(a) *Person.* The term "person" includes any individual, corporation, company, partnership, association, joint stock company, trust, foundation, fund, institution, society, union, club or other group of individuals organized for any purpose, whether incorporated or not, wherever located and of whatever citizenship; or any receiver, trustee in bankruptcy or similar official or any liquidating agent for any of the foregoing, in his capacity as such; together with any and all of the foregoing controlled by, controlling, or under common control with, such person. *Provided however,* That the term "person" shall not include any foreign state, government, or agency thereof (other than a corporation engaged in commerce or in any activity affecting commerce): *And provided further,* That the word "controlling" in this paragraph shall not act to include individuals in their capacities as directors or officers of corporations, or in the case of unincorporated persons, individuals exercising similar functions.

Example: In the case of corporations, this definition includes the entire corporate structure instead of, all parent corporations, subsidiaries and divisions (whether consolidated or unconsolidated, whether incorporated or unincorporated), and all sister corporations under common control with any of the foregoing. It includes controlling shareholders but excludes officers and directors who are not controlling shareholders.

(b) *Control.* The term "control" (as used in the terms "control," "controlling," "controlled by," and "under common control with") means either (1) the ownership of 50 percent or more of the outstanding voting securities of an issuer; or (2) the power, whether or not exercised, to formulate, determine, direct, cause or veto the direction of the management, policy or decisions of a person, whether through the ownership of a dominant minority of the total outstanding voting securities of an issuer or person controlling the issuer, proxy voting, contractual arrangements, agents, or other means: *Provided however,* That control shall not include any such power arising exclusively from contractual conditions in a contract relating to financing by a bank, banking association, trust company, investment company, or insurance company.

(c) *Hold.* The term "hold" (as used in the terms "hold," "holds," "holding" and "held") means the possession of either (1) ownership, whether effected directly or indirectly through agents, brokers, nominees, or other means; or (2) control.

(d) *Affiliate.* A person is an "affiliate" of another person if either (1) such person holds 5 per centum or more of the outstanding voting securities of the other person; (2) 5 per centum or more of the outstanding voting securities of such person are held by the other person; or (3) such person is an officer, director, or partner of the other person.

(e) *Security.* The term "security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or to purchase, any of the foregoing.

(f) *Tender Offer.* The term "tender offer" means an offer published, sent, or given to security holders of the issuer whose voting securities are sought to be acquired, requesting that all or a portion of a class of an issuer's voting securities be deposited during a fixed period of time so that the acquiring person may acquire such securities at a specified price (whether cash, securities, or a combination thereof), subject to specified conditions.

(g) *Cash Tender Offer.* The term "cash tender offer" means a tender offer in which cash is the only consideration offered to the holders of the securities sought to be acquired.

(h) *Engaged in manufacturing.* A person shall be deemed to be "engaged in manufacturing" if it produces and derives sales or revenues from any product within industries 2000–3999 as coded in Appendix B to the Standard Industrial Classification Manual (1972 edition) published by the Executive Office of the President, Office of Management and Budget.

(i) *United States.* The term "United States" shall include the United States, commonwealths and territories thereof, and the District of Columbia.

(j) *This Section.* References to "this section" refer to section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94–435, 15 U.S.C. 18A. References to specific subsections refer to subsections thereof.

§ 801.10 Mergers and consolidations.

(a) A merger, consolidation, or other equivalent transaction combining the business of two or more persons wherein the several parties to the transaction may not be readily identifiable as an "acquiring person" or an "acquired person" shall be deemed to be an acquisition subject to this section.

(b) References in this section and these rules to the "aquiring person" or the "acquired person" shall be considered references to either or any party to such a transaction.

§ 801.15 Activities in or affecting commerce.

Subsection (a)(1) is satisfied if the acquiring person, as defined in § 801.05, or the person, as defined in § 801.05, whose voting securities or assets are being acquired, is engaged in commerce or in any activity affecting commerce, as commerce is defined in the Clayton Act, 15 U.S.C. 12, or the Federal Trade Commission Act, 15 U.S.C. 44

Example: A foreign subsidiary of a United States corporation seeks to acquire a foreign business. The acquiring person is the United States parent corporation. Because the United States corporation is engaged in commerce, the acquisition falls within the language of subsection (a)(1). Note, however, that § 802.35 may exempt certain transactions otherwise within subsection (a)(1).

§ 801.20 Value of securities and assets.

(a) *Securities.* For the purposes of this section, the value of securities shall be determined as follows:

(1) If market quotations are readily available, the value shall be the market quotation on any day within fifteen calendar days before the filing of the notification required by this section, or the acquisition price, whichever is greater.

(2) If market quotations are not readily available, the value shall be the fair market value on any day within fifteen calendar days before the filing of the notification required by this section, as determined in good faith by the board of directors of the acquiring person, or in the case of acquiring persons lacking directors, other officials exercising similar functions; or the acquisition price, whichever is greater.

(b) *Assets.* For purposes of this section, the value of assets which are to be acquired shall be the fair market value on any day within a fifteen calendar days before the filing of the notification required by this section, as determined in good faith by the board of directors, or in the case of acquiring persons lacking directors, other officials exercising similar functions; or the book value; or the acquisition price, whichever is greatest.

(c) *Securities as consideration.* When securities constitute all or part of the consideration for the acquisition, the securities shall be valued according to paragraph (a) of this section.

§ 801.25 Annual net sales and total assets.

For the purposes of subsections (a)(2) and (a)(3):

(a) The annual net sales and total assets of a person shall be as stated on the latest certified financial statement(s) of the person, prepared in accordance with Regulation S–X of the United States Securities and Exchange Commission, which shall be as of a date not more than one year prior to the date of notification under this section.

(b) If a material change has occurred in net sales or total assets of the person subsequent to the date of the last certified financial statement(s), which change could reasonably be expected to increase the amounts stated thereon to in excess of the criteria of subsection (a)(2), the person must either prepare a new statement(s) in accordance with Regulation S–X or must observe the requirements of this section as though such a new statement(s) had been prepared and the net sales or total assets shown thereon had exceeded such criteria.

(c) The annual net sales or total assets of a person include the annual net sales or non-duplicative total assets of any and all persons controlling, controlled by, or under common control with, such person, whether such sales or assets are foreign or domestic, except as provided in paragraph (d) of this section.

Example: A United States subsidiary of a foreign corporation seeks to acquire a United States business. The annual net sales and total assets of the acquiring person include the annual net sales and total assets of the parent foreign corporation as well as of the United States subsidiary.

(d) No assets of any natural person (other than assets of a partnership which is a person subject to the requirements of this section) shall be included in determining the total assets of a person.

§ 801.30 Calculating percentage of securities or assets acquired.

(a) *Voting securities.* Any issuer whose voting securities are being acquired shall be deemed an "acquired person" in calculating the percentage of voting securities acquired for purposes of subsection (a)(3)(A).

Example: Corporation A proposes to acquire 100 percent of the stock of corporation S, a wholly-owned subsidiary of the larger corporation B. A is considered to be acquiring 100 percent of the voting stock of S, and not merely some lesser percentage of the assets of the larger parent B, and the acquisition would exceed the 15 percent criterion in subsection (a)(3)(A).

(b) *Assets.* Any separately identifiable person, as defined in § 801.05(a), and excluding all persons controlled by, controlling, or under common control with such person, whose assets are being acquired, shall be deemed to be an "acquired person" in calculating the percentage of assets acquired for purposes of subsection (a)(3)(A).

Example: Corporation A proposes to acquire 100 percent of the assets of corporation S, a wholly-owned subsidiary of the larger corporation B. A is considered to be acquiring 100 percent of the assets of S, and not merely some lesser percentage of the assets of the larger parent B, and the acquisition would exceed the 15 percent criterion in subsection (a)(3)(A).

§ 801.35 Accumulation of assets.

(a) For purposes of subsection (a)(3)(B) but not for purposes of subsection (a)(3)(A), assets previously acquired by the acquiring person from the acquired person shall be deemed assets of the acquired person, if acquired by the acquiring person within 180 calendar days of the date of filing of the notification required by this section.

(b) The value of such assets shall be calculated in accordance with § 801.20(b), as of the time of their acquisition.

§ 801.40 Aggregate total amount of voting securities and assets.

For the purposes of subsection (a)(3)(B), the aggregate total amount of voting securities and assets shall be the sum of:

(a) The value, calculated in accordance with § 801.20(a), of all voting securities of the acquired person which the acquiring person would hold as a result of the acquisition; and

(b) the value of all assets of the acquired person, calculated in accordance with §§ 801.20(b) and 801.35, which the acquiring person would hold as a result of the acquisition.

Example: Corporation B possessed assets valued at $100-million in January. Corporation A, engaged in commerce and possessing assets of $200-million, acquired $7-million of B's assets in February, and intends to acquire voting securities of B valued at $9-million in March. The March acquisition would be subject to the requirements of this section since, as its result, A would hold an aggregate total amount of the voting securities and assets of B in excess of $15-million.

§ 801.45 Incremental acquisitions.

Only an acquisition "as a result of which" the acquiring person's holdings actually would meet or exceed the threshold levels of subsection (a)(3) shall be subject to the requirements of the section. Any particular acquisition, even though part of a sequence eventually attaining the threshold levels of subsection (a)(3), need not observe the requirements of the section if as a result of the acquisition the acquiring person's holdings fall short of the threshold levels of subsection (a)(3):

Example: If corporation A acquires 14.99 percent of the outstanding voting securities of corporation B at a cost of $12-million, and the requirements of subsections (a)(1) and (a)(2) are otherwise satisfied, the section is inapplicable. But if A's subsequent acquisition of one additional share of B, at a cost of $100, would increase A's holdings of B shares to 15.00 percent of the outstanding shares of B, then A may not acquire the one share without observing the requirements of the section.

§ 801.50 Acquisitions subsequent to exceeding threshold.

Since subsection (a)(3)(A) includes acquisitions as a result of which the acquiring person would hold 15 percent or more of the outstanding voting securities or assets of the acquired person, and since subsection (a)(3)(B) includes acquisitions as a result of which the acquiring person would hold voting securities or assets of the acquired person in excess of $15-million, acquisitions as a result of which the acquiring person's holdings meet these criteria, and which are not otherwise exempted by subsection (c) or these rules, are subject to the requirements of the section. This is true even though:

(a) Earlier acquisitions of identical assets or securities may have been subject to the requirements of the section;

(b) The acquiring person's holdings initially may have passed the threshold levels of subsection (a)(3) before the effective date of the section; or

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(c) The acquiring person's holdings may have initially passed the threshold levels of subsection (a)(3) by increases in market values or other events other than acquisitions.

Acquisitions will not be subject to the requirements of the section, even though meeting the criteria of subsection (a)(3), if they qualify for one of the exemptions in subsection (c) or these rules.

Example: In the example of § 801.45 all purchases of B's shares by A subsequent to the purchase of the one share also would be subject to the requirements of the section, unless A had disposed of some of its holdings so that the criteria of subsection (a)(3) were not satisfied, or unless the subsequent transactions qualified for one of the exemptions in subsection (c) or these rules.

§ 801.55 Joint ventures.

Joint ventures which are transactions of acquisition are subject to the requirements of this section if the statutory criteria are met. Joint ventures shall be evaluated for the purposes of this section as follows:

(a) Persons contributing to the formation of a joint venture shall be deemed acquiring persons. All such persons meeting the statutory criteria are subject to the requirements of the section.

Example: Corporation A, engaged in commerce and possessing net assets over $100-million, contributes assets of $6-million for a one-half interest in a joint venture, firm V. Firm V is intended to have assets exceeding $10-million within one year. Corporation A may not acquire its 50% of the shares of V without filing notification and otherwise complying with this section, unless the joint venture is exempted from the requirements of this section under rule 802.30.

(b) The joint venture to be created shall be deemed the acquired person for purposes of subsection (a). Pursuant to subsection (d)(2)(B), such persons otherwise meeting the criteria of this section need not file the notification required by this section.

Example: Corporation A and other joint venturers intend to contribute to joint venture V total assets of $8-million within one year. The criteria of subsection (a) are not met, and the requirements of the section are not applicable.

(c) The joint venture shall be deemed to be engaged in commerce or an activity affecting commerce if it is the intention of the persons contributing to its formation that it shall be so engaged thereafter within one year following consummation of the proposed transaction.

(d) The assets of the joint venture shall include all assets intended to be contributed to the acquired person by the acquiring persons within one year following consummation of the proposed transaction.

§ 801.60 Target of tender offer must report.

In the case of tender offers, a person whose voting securities are sought to be acquired by a person subject to the requirements of this section must file the notification required by this section, in accordance with these rules, no later than 5 p.m. Eastern Time on the fifteenth (or, in the case of cash tender offers, the tenth) calendar day following the date of receipt by the Federal Trade Commission and Assistant Attorney General, as defined by § 803.15(a), of the notification filed by the acquiring person. Should the fifteenth (or, in the case of cash tender offers, the tenth) calendar day fall on a weekend day or holiday, the notification shall be filed no later than 10 a.m. Eastern Time on the next following business day.

PART 802—EXEMPTION RULES

Sec.

802.05 Clearance by FTC or Antitrust Division.
802.10 Brokers and dealers in securities.
802.15 Acquisitions in escrow.
802.20 Repurchase of own voting securities.
802.25 Intra-Enterprise transactions.
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802.85 Acquisitions for investment purposes.
802.90 Stock Splits and dividends.
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§ 802.05 Clearance by FTC or Antitrust Division.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition shall be exempt from the requirements of this section if:

(a) The voting securities or assets are to be acquired from a person ordered to divest such voting securities or assets by order of the Federal Trade Commission or of any federal court;

(b) The acquiring person is subject to an order of the Federal Trade Commission or of any federal court requiring prior approval by the Federal Trade Commission, the court, or the Department of Justice, of acquisitions, and such approval has been obtained;

(c) The acquiring person has obtained a favorable Advisory Opinion with respect to the acquisition from the Federal Trade Commission, 16 CFR 1.1; or

(d) The acquiring person has obtained a favorable opinion with respect to the acquisition under the Business Review Procedure of the Department of Justice's Antitrust Division, 28 CFR 50.6.

§ 802.10 Brokers and dealers in securities.

(a) *Acquisitions for own account.* Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition of voting securities by a broker or dealer in securities for its own account, or in the process of underwriting, shall be exempt from the requirements of this section; *Provided however,* That no acquisition by such broker or dealer of voting securities of another broker or dealer in securities, for its own account, shall be exempt under this paragraph.

(b) *Acquisition not for own account.* An acquisition of voting securities by a broker or dealer in securities, to be held for the account or benefit of another person, shall be deemed an acquisition by such other person. Pursuant to subsections (c)(12) and (d)(2)(B), such broker or dealer shall be exempt from the requirements of this section as to such acquisition. Nothing in this paragraph shall exempt the person for whose benefit the acquisition is made from any requirement under this section, with respect to any acquisition attributed to such person by this section and this paragraph.

§ 802.15 Acquisitions in escrow.

Pursuant to subsections (c)(12) and (d)(2)(B):

(a) An acquisition in escrow shall be exempt from the requirements of this section. Except as provided in paragraph (b) of this section, nothing in this paragraph shall exempt any person who under the escrow agreement may acquire the voting securities or assets from the escrowee, from any requirement under this section, with respect to any such acquisition.

(b) If the same voting securities or assets revert from the escrowee to the original owner, such acquisition shall be exempt from the requirements of this section.

§ 802.20 Repurchase of own voting securities.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition by a corporation of its own voting securities shall be exempt from the requirements of this section.

§ 802.25 Intra-enterprise transactions.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition to which but one person is party shall be exempt from the requirements of this section.

Examples:

(1) Corporation A transfers some of its assets to its wholly-owned subsidiary corporation S, in return for additional voting securities of S. The acquisitions are exempt from the requirements of this section.

(2) Corporation A creates a new subsidiary, corporation S, and intends to transfer assets to S in return for 100 percent of the voting securities of S (less any directors' qualifying shares). Since corporation A controls the nascent corporation S, only one "person" as defined in § 801.05 will be party to the transaction. The acquisitions are exempt from the requirements of this section.

(3) Corporations S1 and S2, both wholly-owned subsidiaries of corporation A, merge. Since both S1 and S2 are controlled by the same person, only one "person" as defined in § 801.05 is party to the transaction, which is exempt from the requirements of this section.

§ 802.30 Joint ventures excluded.

Pursuant to subsections (c)(12) and (d)(2)(B), a joint venture shall be exempt from the requirements of this section unless:

(a) At least one acquiring person possesses net sales or total assets of $100-million or more; and

(b) At least one other acquiring person possesses net sales or total assets of $10-million or more.

§ 802.35 Insufficient involvement in United States Commerce.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition of securities of an issuer, not substantially involved in the domestic, import or export commerce of the United States, or of assets to which no such substantial involvement of any person is attributable, shall be exempt from the requirements of this section. For purposes of this rule, such substantial involvement means sales in, imports to or exports from the United States in excess of an aggregate annual average of $10-million over the past three years, or the possession of assets (other than deposits in financial institutions, and instruments evidencing government obligations) in the United States the value of which exceeds $10-million.

Examples:

(1) A foreign subsidiary of a United States corporation seeks to acquire all of the stock of an issuer which is a subsidiary of a major foreign conglomerate. Unless the average annual aggregate sales in, imports to, or exports from the United States of the issuer whose stock is to be acquired exceeds $10-million, or unless the issuer holds assets in the United States of a value exceeding $10-million, the transaction is exempt from this section.

(2) A foreign subsidiary of a United States corporation decides to dispose of manufacturing plants located in a foreign country. Products produced at these plants are sold exclusively in the foreign country, and raw materials consumed by these plants which are exported from the United States do not exceed $10-million in value annually. Acquisition of these plants by any person is exempt from this section.

(3) A United States corporation possesses substantial productive capacity overseas and sells all its output overseas. Its assets in, average annual volume of imports to and exports from, the United States, do not exceed $10-million. The acquisition of this corporation by any (United States or foreign) corporation is exempt from this section.

§ 802.40 Minimum Dollar Value.

Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition which would be subject to the requirements of this section because it satisfies subsection (a)(3)(A), and which does not satisfy subsection (a)(3)(B), shall be exempt from the requirements of this section if as a result of the acquisition the acquiring person would not hold:

(a) Assets of the acquired person valued at more than $10-million; or

(b) Voting securities of the issuer valued at more than $10-million, or any lesser amount which confers control of the issuer.

Example: Corporation A is acquiring a non-controlling 16 percent of the voting securities of corporation B for $7-million; the acquisition meets the criteria of subsection (a)(3)(A) but not of subsection (a)(3)(B). Despite the fact that after the acquisition A would hold 15 percent or more of B's voting securities or assets, the acquisition need not be reported since neither of the two criteria set out in this rule is exceeded. Note that this exemption is not applicable to acquisitions which also satisfy subsection (a)(3)(B). Assuming no other exemptions are applicable, if A acquires $9-million of B's voting securities and had within the preceding 180 calendar days acquired assets of B for $7-million, A would hold in excess of $15-million of B's aggregate voting securities and assets, and A must comply with the requirements of this section.

Example: Corporation A owns a non-controlling 16 per cent of the stock of corporation B on the effective date of the statute, and is otherwise subject to the requirements of this section. Before it acquires any more stock in corporation B, corporation A must observe the notification and waiting-period requirements of the section. After reporting, A may further acquire up to five per cent of the stock of B and need not observe the notification and waiting-period requirements of the section, so long as such further acquisitions would not give it control of B.

§ 802.45 Inconsequential incremental acquisitions.

(a) Pursuant to subsections (c)(12) and (d)(2)(B), an acquisition of voting securities, not falling within paragraph (b) of this rule, shall be exempt from the requirements of this section if:

(1) The acquiring person previously acquired voting securities of the same class of the same issuer;

(2) The acquiring person filed the Notification and Report Form required by this section and § 803.05 with respect to the earlier acquisition; and

(3) As a result of the acquisition, the holdings of the acquiring person would not increase by more than five percent of the total outstanding voting securities of the issuer the holdings of the acquiring person as a result of the acquisition which was the subject of the earlier notification.

(b) Notwithstanding paragraph (a) of this section, no acquisition otherwise subject to the requirements of this section shall be exempt from the requirements of this section if the acquisition would confer control upon the acquiring person.

§ 802.50 Short report after prior report.

(a) The Notification and Report Form required by this section and § 803.05 need not be completed by the acquiring person or the acquired person if:

(1) The acquiring person previously acquired assets or voting securities of the acquired person;

(2) In connection with such previous acquisition, both the acquiring person and the acquired person filed the Notification and Report Form required by this section and § 803.05;

(3) Both persons file statements, certified by their submission together with the completed certification page from the Notification and Report required by this section and § 803.05, and otherwise filed in accordance with these rules, describing the proposed transaction and providing a response to every item on the Notification and Report Form to which the response materially differs from the earlier response;

(4) Such statements are filed within one year of the date of filing of the earlier Notification and Report Form; and

(5) The acquisition is consummated within 180 calendar days of the date of receipt of such statements, as defined in § 803.10.

(b) Nothing in this rule shall exempt any person from any requirement under this section. Sufficient statements filed in accordance with paragraph (a) of this section shall constitute notification under this section.

§ 802.75 Federal Agency approval.

For the purposes of subsections (c)(6) and (c)(8), the term "information and documentary material" includes all documents, application forms, and all written submissions of any type whatsoever. In lieu of providing all such information and documentary material, or any portion thereof, an index describing such information and documentary material may be provided, together with a certification that any such information or documentary material not provided will be provided upon request by the Federal Trade Commission or Assistant Attorney General, or a delegated official, thereof.

§ 802.85 Acquisitions for investment purposes.

(a) Acquiring persons making an acquisition which is exempt from the requirements of this section only under subsection (c)(9), other than persons excepted by paragraph (b) of this rule, must submit to the Federal Trade Commission and Assistant Attorney General, contemporaneously with the transaction, a statement containing the following information:

(1) The identity of the acquiring person;

(2) The identity of the issuer whose voting securities are to be acquired;

(3) The percentage of the outstanding voting securities of the issuer held by the acquiring person before and after the acquisition;

(4) A declaration that the voting securities are to be held solely for investment purposes.

The statement is to be certified by its submission together with the completed certification page from the Notification and Report Form required by this section and § 803.05.

(b) The statement required by paragraph (a) of this section need not be filed by any bank, banking association, trust company, investment company, or insurance company.

(c) No acquisition of voting securities shall be exempt under subsection (c)(9) as "solely for investment purposes" if, as a result of the acquisition, the acquiring person would control the issuer.

§ 802.90 Stock splits and dividends.

The acquisition of voting securities, pursuant to a stock split or pro rata stock dividend, shall be exempt from the requirements of this section under subsection (c)(10).

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§ 802.95 Certain bank, investment or insurance company acquisitions. [Reserved]

PART 803—TRANSMITTAL RULES

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§ 803.05 Notification and report form.

Except as otherwise provided under § 802.50 of this chapter, the notification required by this section shall be the Notification and Report Form promulgated by the Federal Trade Commission, as amended from time to time. All persons required to file notification by this section and these rules shall do so by completing and filing the Notification and Report Form, or a photostatic or other equivalent reproduction thereof, in accordance with the instructions thereon and these rules, except as otherwise provided under § 802.50. Copies of the Notification and Report Form may be obtained from the Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C., or by writing to the Premerger Notification Office, Room 301, Federal Trade Commission, Washington, D.C. 20580.

§ 803.10 Running of time.

(a) *Beginning of waiting period.* (1) The waiting period required by this section shall begin on the date of receipt by both designated offices (Premerger Notification Office, Room 301, Federal Trade Commission, Washington, D.C. 20580, and Director of Operations, Antitrust Division, Department of Justice, Washington, D.C. 20530) of the notification required by this section, as provided in these rules, from:

(i) In the case of tender offers, the acquiring person;

(ii) In the case of acquisitions other than tender offers, from all persons required by this section and these rules to file notification.

If the notifications are not delivered to the two offices on the same date, the date of receipt shall be the latest of the dates of delivery. Delivery should be effected directly to the designated offices, either by hand or by certified or registered mail.

(2) Any additional waiting period, pursuant to subsection (e) and § 803.30 (b)(2), shall begin on the date of receipt by the Federal Trade Commission or Assistant Attorney General, whichever requested additional information or documentary material, at the office designated in subparagraph (1) of this paragraph, of the additional information or documentary material requested.

(b) *Expiration of waiting period.* (1) Pursuant to subsection (b)(1)(B), the waiting period shall expire at 5:00 p.m. Eastern Time on the thirtieth (or, in the case of a cash tender offer, the fifteenth) calendar day after the date of receipt as defined in this rule, unless extended pursuant to subsection (e) and § 803.30, or subsection (g)(2), or terminated pursuant to subsection (b)(2) and § 803.35.

(2) Any additional waiting period, pursuant to subsection (e)(2) and § 803.30, shall expire at 5:00 p.m. Eastern Time on the twentieth (or, in the case of a cash tender offer, the tenth) calendar day after the date of receipt of the additional information or documentary material, unless extended pursuant to subsection (g)(2), or terminated pursuant to subsection (e) and § 803.35.

§ 803.15 Affidavits required.

(a) *Tender offers.* The notification required by this section must contain an affidavit, attached to the front of the notification, attesting that:

(1) The tender offer has been published, sent, or given to security holders of the issuer whose voting securities are sought to be acquired; and

(2) The issuer whose voting securities are sought to be acquired has been informed, or is being contemporaneously informed, at its principal executive offices, of the filing and the date of receipt, as defined in § 803.10, of the Notification and Report Form by the Federal Trade Commission and Assistant Attorney General.

(b) *Acquisitions, mergers, and joint ventures other than tender offers.* The notification required by this section must contain an affidavit, attached to the front of the notification, attesting that a contract, or an agreement in principle, to merge or acquire has been executed.

§ 803.20 Certification.

The notification required by this section must be certified by an officer of the person filing notification, or, in the case of a person lacking officers, an individual exercising similar functions. In either case, the certifying individual must possess actual authority to make the certification on behalf of the person filing notification.

§ 803.25 Incomplete responses.

(a) *Omission of redundant responses.* For acquisitions other than tender offers, a person filing the Notification and Report Form need not respond to any item on the Form which would call for a response identical to a response provided by another person required to file and filing the Form with respect to the same acquisition. For each such omitted response, the person must indicate which such Form, and which response, provides the requested information.

(b) *Statement of reasons for noncompliance.* In each instance, other than pursuant to paragraph (a) of this section, in which less than a complete response has been supplied on the Notification and Report Form, or other notification under § 802.50 of this chapter, the person filing notification must indicate the following:

(1) Why a complete response has not been given;

(2) What information would have been required for a complete response;

(3) Who, if anyone, has the required information;

(4) What additional work would be required to furnish a complete response;

(5) Whether a complete response is being prepared, and if so, when it will be supplied.

§ 803.30 Requests for additional information or documentary material.

(a) *When request effective.* A request for additional information or documentary material, pursuant to subsection (e)(1), shall be made by a delegated official of the Federal Trade Commission or Assistant Attorney General, and shall be effective:

(1) Upon receipt of a written request by the person to which the request is directed within the thirty-day (or, in the case of cash tender offers, fifteen-day) waiting period; or

(2) When communicated by telephone or in person, and a written request is mailed, within the thirty-day (or, in the case of cash tender offers, fifteen-day) waiting period. The person filing notification shall be obliged to keep a suitably delegated individual reasonably available throughout the waiting period through the telephone number supplied on the certification page of the Notification and Report Form. A request for additional information or documentary material, or for clarification, need only be communicated by telephone to that individual.

The additional information or documentary material requested should be supplied to either the Federal Trade Commission or Assistant Attorney General, whichever requested the information, and to both.

(b) *Waiting period extended.* (1) During the time period when a request for additional information or documentary materail remains outstanding, the waiting period shall remain in effect, even though the original thirty days (or, in the case of cash tender offers, fifteen days) have elapsed from the date of receipt of the original notification.

(2) A request for additional information or documentary material shall in every instance act to extend the waiting period for an additional period of twenty (or, in the case of cash tender offers, ten) days from the date of receipt of the response to such a request, pursuant to subsection (e)(2), except that such waiting period may be terminated by either the Federal Trade Commission and Assistant Attorney General, whichever requested the information, or a delegated official thereof, at its discretion, in the manner prescribed by § 803.35.

(c) *Request for clarification.* No request for clarification or amplification of any response to any item on the Notification and Report Form, whether communication in writing, in person, or by telephone, shall be considered a request for additional information or documentary material with the meaning of subsection (e), unless specifically so identified and transmitted in accordance with paragraph (a) of this section.

§ 803.35 Termination of waiting period.

(a) The waiting period required by this section, and any extension thereof pursuant to subsection (e) and rule 803.30, shall not be terminated before its expiration date pursuant to subsection (b)(2), unless at least one person required to file notification under this section submits the following documents to both designated offices listed in § 803.10(a), or, in the case of an extension of the waiting period pursuant to subsection (e) and § 803.30, only to the designated office of the Federal Trade Commission or Assistant Attorney General, which ever requested additional information or documentary material:

(1) A written request for termination of the waiting period, signed by an individual suitably authorized to do so by the requesting person; and

(2) An affidavit, attesting that copies of the request have been or are being contemporaneously served upon all other persons required to file notification under this section, including, in the case of tender offers, the issuer whose voting securities are sought to be acquired, and in addition, in the case of joint ventures, all other acquiring persons, whether or not filing notification. The request shall be served upon such persons at their principal executive offices, and the affidavit shall list all such persons and the address at which each was served.

A request for termination of the waiting period and its accompanying affidavit may be filed with the notification or at any time during the waiting period.

(b) In any case in which the Federal Trade Commission and Assistant Attorney General terminate the waiting period before its expiration date, the Federal Trade Commission and Assistant Attorney General, or a delegated official thereof, in addition to publishing a notice in the FEDERAL REGISTER in accordance with subsection (B)(2), shall notify in writing each person listed in the affidavit required by paragraph (a)(2) of this section, at the address listed in the affidavit, of the termination of the waiting period.

ANTITRUST IMPROVEMENTS ACT NOTIFICATION AND REPORT FORM
RELATING TO MERGERS OR ACQUISITIONS

THIS REPORT IS REQUIRED BY LAW and must be filed separately by the acquiring and acquired companies. It is mandatory under the authority of Section 201 of P.L. 94-435, 15 U.S.C. §18A. The statute and relevant rules and definitions are set forth in the Federal Register at page _____. Complete and return two notarized copies (with one set of attachments) of this Notification and Report Form to Pre-merger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C 20580, and three notarized copies (with one set of attachments) to Director of Operations, Antitrust Division, Department of Justice, Washington, D.C. 20530. The central office for information and assistance with respect to matters in connection with this Notification and Report Form is Room 301, Federal Trade Commission, Washington, D.C. 20580, phone (202) _____.

Failure to file this Notification and Report Form in accordance with the applicable provisions of P.L. 94-435 and the relevant rules subjects the company and those individuals responsible for non-compliance to liability for a penalty of not more than $10,000 for each day during which such company is in violation of Sec. 201, P.L. 94-435, 15 U.S.C. §18A.

DEFINITIONS

"Company," as used herein, means the pre-transaction "person" as defined in the relevant rules.

"Dollar Revenues," as used herein, means value of shipments for manufacturing companies and sales, receipts, revenues or other appropriate dollar value measure for non-manufacturing companies, f.o.b. the plant or establishment less returns, after discounts and allowances and excluding freight charges and excise taxes. Dollar revenues including delivery may be reported if delivery is an integral part of the sales price as in such products as milk and bakery products. Dollar revenues include interplant transfers. Finance companies (2-Digit SIC Codes 61; 62 and 67) and Real Estate Companies (2-Digit SIC Code 65) in response to item 5(a) are to identify or explain the dollar revenues reported.

Additional definitions are set forth as part of the relevant rules.

CASH TENDER OFFERS

If this transaction is a cash tender offer, check: ☐

SPECIAL INSTRUCTION FOR CERTAIN PARTIAL ACQUISITIONS

For certain partial acquisitions, more limited reporting requirements may be appropriate. Although the "persons" subject to this section and required to furnish this report are broadly defined by the relevant rules, it is the intention of the Federal Trade Commission and the Assistant Attorney General to require the reporting of only such information as may be relevant to assessment of the competitive consequences of the reported transaction. Thus, in responding to items 1(b), 2(h), 3 through 9, and the Appendix herein, the Notification and Report Forms must provide information on the total operations of the acquiring person but may be limited, when the acquisition is for cash or consideration other than securities, to information relevant to those assets actually being transferred, or to the operation of the issuer whose voting securities are actually being transferred. In those instances in which a partial acquisition of assets is to be made but it is necessary to report information relevant to all of the assets of the acquired company, information must be provided separately in response to items 5 and 6 as to both the particular assets to be acquired and the entire acquired company.

Examples for Special Instruction

For example: (1) A subsidiary of company A acquires, for cash, assets of Company B. Company A is the acquiring person, and any required notification must provide information on A's entire operation. Company B is the acquired person, but any required notification may be limited to information relevant to those assets of B actually being transferred.

(2) Company A acquires, for cash, all of the voting securities of Company S, a wholly-owned subsidiary of Company B. Company A is the acquiring company, and any required notification must provide information on A's entire operation. Company B is the acquired person, but any required notification may be limited to information relevant to Company S and S's subsidiaries. (Note also that Company S is an "acquired person" for purposes of calculating the percentage of voting securities acquired. See rule 801.30.)

(3) Company A acquires assets of Company B, which receives in return voting securities of Company A. Any required notification must provide information on the entire operation of both Company A and Company B. The notification must contain separate information in response to items 5 and 6 as to both the particular assets to be acquired and the entire companies involved.

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INSTRUCTIONS

Each answer should identify the item to which it is addressed. Attach additional sheets as necessary in answering the item. Additional sheets should identify the item to which they are addressed. If you are unable to answer any item fully, give such information as is available to you and explain why your answer is incomplete, as provided by rule 803.25(b). If books and records which provide accurate answers are not available, enter your best estimates and indicate the sources or bases of your estimates. Estimated data should be followed by the notation "est."

Except where stated otherwise, all inquiries refer to the operations conducted within the United States (including the District of Columbia, commonwealths and territories) by the company. All references to "year" refer to calendar year. If the data is not available on a calendar year basis, supply the requested data for the company's fiscal year reporting period which most nearly corresponds to the calendar year specified. In addition specify the months of the fiscal year of the company: _____(month) to _____(month).

Companies engaged in insurance activities need not supply information with respect to item 5, but must provide the information described in the Appendix to this Notification and Report Form.

This Notification and Report Form requests information essentially at two levels—at the 4-digit (SIC code) industry level, and at the 7-digit (SIC-based code) product level.

In reporting by "4-digit (SIC code) industry," you should refer to the 1972 Edition of the Standard Industrial Classification Manual (Appendix B) as published by the Executive Office of the President - Office of Management and Budget.

In reporting information by "7-digit (SIC -based code) product", you should refer to one or more of the following reference publications published by the U.S. Bureau of the Census: (a) Numerical List of Manufactured Products, 1972 Census of Manufactures (MC72-1.2) (New 1972 SIC Basis), (b) Volume II, "Industry Statistics," 1972 Census of Manufactures, (c) Applicable "Product Reference Lists" appearing in the Instruction Manual of the various Current Industrial Reports surveys (monthly, quarterly, or annual) conducted by the U.S. Bureau of Census.

Do not use the 6-digit SIC codes that appear on the MA-100 census form.

All financial information should be rounded to the nearest thousand dollars.

Items denoted with an asterisk (*) need not be answered by a company if it certifies, in response to the item, that the required information has been or will be supplied by another company required to file notification with respect to the transaction. This instruction shall not apply to the acquiring company in a tender offer situation. See rule 803.25 of the relevant rules.

If the transaction being reported is a merger, consolidation, or other similar combination, references to "acquiring company" and "acquired company" in this Form shall be considered references to the several parties to the transactions.

1. (a) Reporting Company

(1) Check if:

acquiring company ☐

acquired company ☐

Name: _____

Mailing Address: _____
(Headquarters Office)

(2) Nature of reporting company:

Check if: Corporation ☐ Partnership ☐ Other ☐ Specify _____

(3) If Corporation:

State of incorporation _____

Date of incorporation _____

(4) If partnership or other: Jurisdiction under which formed: _____

Date of formation: _____

(b) Active entities included within the reporting company (See the Special Instruction for Certain Partial Acquisitions.)

	Name	Mailing Address	Date and State of Incorporation (if applicable)
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			

2. Information on the transaction:

(a) List the name(s) and mailing address(es) of the other company (or companies) involved in the transaction.

Name _____

Mailing Address _____
Headquarters Office

Identify with an asterisk each company that is required to file a Notification and Report Form.

2. (b)* State the scheduled consummation date of the transaction.

(c)* Describe the manner in which the transaction is to be carried out, including each necessary step and its scheduled date.

(d)* Describe all securities or assets to be transferred in the transaction and the consideration, with approximate dollar value thereof, to be received by each party.

2.(e)* To the extent that the transaction involves the transfer of assets other than securities, furnish the following information:

(1) DESCRIPTION OF ASSETS TO BE TRANSFERRED	(2) VALUE OF THE ASSETS	(3) METHOD OF VALUATION	(4) DATE OF VALUATION	(5) DOLLAR SALES OR REVENUES ATTRIBUTABLE TO THE ASSETS IN THE MOST RECENT YEAR	(6) TIME PERIOD COVERED FOR SALES OR REVENUES

2.(f)* To the extent that the transaction involves the transfer of securities, furnish the following information:

(1) CLASS OF SECURITIES TO BE TRANSFERRED	(2) TOTAL NUMBER OF SHARES OF CLASS OUT-STANDING	(3) MARK "X" IF CLASS IS VOTING SECURITY	(4) NUMBER OF SHARES OF CLASS TO BE ACQUIRED	(5) TOTAL NUMBER OF SHARES OF CLASS TO BE HELD BY ACQUIRING COMPANY AFTER CON-SUMMATION OF TRANS-ACTION	RATIO OF COLUMN (4) TO COLUMN (2), EXPRESSED AS PER-CENTAGE	RATIO OF COLUMN (5) TO COLUMN (2), EXPRESSED AS PERCENTAGE

2.(g)* Furnish copies of all contracts, options and agreements relating to the proposed transaction.

(h) Furnish copies of studies, surveys, analyses, and/or reports prepared by or for the company in the three years prior to the filing of this report, which discuss the reasons for or analyze the proposed transaction, or contain information regarding market shares, competition, competitors, markets, potential for sales growth or the expansion into geographic and/or product areas in relation to any product or service currently manufactured or sold by the other reporting company. (See the Special Instruction for Certain Partial Acquisitions.)

3.(a) (i) State the percentage of all voting securities of the acquired company to be held by the acquiring company as a result of the transaction:

(ii) State the percentage of all assets of the acquired company to be held by the acquiring company as a result of the transaction:

(b) State the value of the aggregate total amount of the voting securities and assets of the acquired company to be held by the acquiring company as a result of the transaction:

4.(a) Furnish copies of the most recent annual report, proxy statement, 10K report, and registration statement filed with the S.E.C. or any other security offering statement and stock listing statement issued by the company. If the company issued no annual reports, provide the latest annual balance sheets and profit and loss statements.

(b) Furnish copies of all such documents issued during the three years prior to the filing of this report which contain information directly pertaining to the reported transaction.

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5.(a) For 1972 and for the most recent year for each 4-digit (SIC code) industry in which the company was engaged, provide the following information on the company's operations in the United States: (See the Special Instruction for Certain Partial Acquisitions.)

(1) 4-DIGIT (SIC CODE) INDUSTRY		(2) TOTAL DOLLAR REVENUES	
(1a) CODE	(1b) DESCRIPTION	(2a) 1972	(2b) MOST RECENT YEAR (19)

5.(b) For 1972 and for the most recent year for each 7-digit (SIC-based code) product of the company, provide the following information on the company's operations in the United States: (See the Special Instruction for Certain Partial Acquisitions.)

(1) 7-DIGIT (SIC-BASED CODE)		(2) TOTAL DOLLAR REVENUES		(3) PERCENT OF REVENUES DERIVED FROM EXPORTS	
(1a) PRODUCT	(1b) DESCRIPTION	(2a) 1972	(2b) MOST RECENT YEAR (19)	(3a) 1972	(3b) MOST RECENT YEAR (19)

5.(c) For 1972 and for the most recent year for each 7-digit (SIC-based code) product which is imported into the United States and resold as such by the company, provide the following information: (See the Special Instruction for Certain Partial Acquisitions.)

(1) EQUIVALENT 7-DIGIT (SIC-BASED CODE)		(2) DOLLAR VALUE OF IMPORTS AT PORT OF ENTRY	
(1a) PRODUCT	(1b) DESCRIPTION	(2a) (1972)	(2b) MOST RECENT YEAR (19)

6.(a) Did two or more of the parties to the transaction derive sales or revenues from operations in, imports to or exports from the United States in the same 4-digit (SIC code) industry in the most recent year? yes___;no___.

6.(b) If the transaction is a joint venture, did two or more of the acquiring companies derive sales or revenues from operations in, imports to or exports from the United States in the same 4-digit (SIC Code) industry in the most recent year? yes ____; no ____.

If the answer to either 6(a) or 6(b) is "yes", items 6(c), 6(d), 6(e) and 7 must be answered. If the "yes" answer to 6(a) or 6(b) involves more than two companies, respond to items 6(c), 6(d), 6(e) and 7 with regard to each appropriate two-party combination. (See the Special Instruction for Certain Partial Acquisitions.)

6.(c)* Identify each 4-digit (SIC Code) industry in which both the acquiring company and the acquired company derived sales or revenues in the most recent year from operations in, imports to or exports from the United States (identify year: 19). For manufacturing industries, list all States to which shipments were made. For non-manufacturing industries, list all States where sales were made or revenues were derived. (See the Special Instruction for Certain Partial Acquisitions.)

(1)	(2)	(3) STATES TO WHICH SHIPMENTS WERE MADE OR FROM WHICH REVENUES WERE DERIVED	
		(3a)	(3b)
4-DIGIT INDUSTRY	INDUSTRY DESCRIPTION	ACQUIRING COMPANY (LIST STATES)	ACQUIRED COMPANY (LIST STATES)
(1)			
(2)			
(3)			
(4)			

6.(d)* For products in the manufacturing industries (SIC 20-39), list the 7-digit (SIC-based code) products, if any, in which both the acquiring company and the acquired company derived sales or revenues in the most recent year from operations in, imports to or exports from the United States (identify year: 19). List all States to which shipments were made. (See the Special Instruction for Certain Partial Acquisitions.)

(1)	(2)	(3) STATES TO WHICH SHIPMENTS WERE MADE	
		(3a)	(3b)
7-DIGIT PRODUCT	PRODUCT DESCRIPTION	ACQUIRING COMPANY (LIST STATES)	ACQUIRED COMPANY (LIST STATES)
(1)			
(2)			
(3)			
(4)			

6.(e) List the ten (10) industries or products (4-digit (SIC code) industries within SIC 10-14 and 7-digit (SIC-based code) products between SIC 2000 and SIC 3999) identified in items 6(c) and 6(d), in which the company had the largest sales or generated the largest revenues in the most recent year. For each such industry or product, name the five (5) most significant competitors of the company.

(1) TEN LARGEST OF THE 4-DIGIT (SIC CODE) INDUSTRIES WITHIN SIC 10-14 AND 7-DIGIT (SIC-BASED CODE) PRODUCT BETWEEN SIC 2000 AND SIC 3999	(2) FIVE MOST SIGNIFICANT COMPETITORS FOR EACH INDUSTRY OR PRODUCT IDENTIFIED In COLUMN(1)				
1.	1.	2.	3.	4.	5.
2.	1.	2.	3.	4.	5.
3.	1.	2.	3.	4.	5.
4.	1.	2.	3.	4.	5.
5.	1.	2.	3.	4.	5.
6.	1.	2.	3.	4.	5.
7.	1.	2.	3.	4.	5.
8.	1.	2.	3.	4.	5.
9.	1.	2.	3.	4.	5.
10.	1.	2.	3.	4.	5.

7. List the domestic and foreign mergers and acquisitions made by the company in the ten years prior to the filing of this report of companies engaged at the time of acquisition in any 4-digit (SIC code) industry in which both the acquired and acquiring companies in this transaction are currently engaged. Report only those mergers or acquisitions of more than 50 percent of the voting securities or assets of a company with sales or assets greater than $10-million. (See the Special Instruction for Certain Partial Acquisitions.)

(1) COMPANY NAME	(2) ADDRESS OF HEADQUARTERS PRIOR TO ACQUISITION	(3) INDICATE WHETHER SECURITIES OR ASSETS WERE ACQUIRED	(4) CONSUMMATION DATE	(5) TOTAL COMPANY SALES OR REVENUES FOR YEAR PRIOR TO ACQUISITION	(6) TOTAL ASSETS FOR YEAR PRIOR TO ACQUISITION	(7) 4-DIGIT INDUSTRIES IN WHICH COMPANY ENGAGED
(1)						
(2)						
(3)						
(4)						
(5)						

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8.(a) Identify each product or service, by its 7-digit (SIC-based code) for manufacturing industries or 4-digit (SIC code) industry for non-manufacturing industries, and the product or industry description, which was manufactured or sold by the acquired company and which was used or consumed in manufacturing or resold in any form by the acquiring company, and which the acquiring company purchased in the amount of one million dollars or more in the most recent year. In the alternative, if determination of the threshold amount is unduly burdensome, each product or service may be reported. (See the Special Instruction for Certain Partial Acquisitions.)

	(1) 4-DIGIT OR 7-DIGIT CODE	(2) INDUSTRY OR PRODUCT DESCRIPTION	(3) DID THE ACQUIRING COMPANY PURCHASE THE PRODUCT OR SERVICE FROM THE ACQUIRED COMPANY DURING THE MOST RECENT YEAR? "YES" OR "NO"
(1)			
(2)			
(3)			
(4)			

8 (b) Identify each product or service, by its 7-digit (SIC-based code) for manufacturing industries or 4-digit (SIC code) industry for non-manufacturing industries, and the product or industry description, which was manufactured or sold by the acquiring company and which was used or consumed in manufacturing or resold in any form by the acquired company, and which the acquired company purchased in the amount of one million dollars or more in the most recent year. In the alternative, if determination of the threshold amount is unduly burdensome, each product or service may be reported. (See the Special Instruction for Certain Partial Acquisitions.)

	(1) 4-DIGIT OR 7-DIGIT CODE	(2) INDUSTRY OR PRODUCT DESCRIPTION	(3) DID THE ACQUIRED COMPANY PURCHASE THE PRODUCT OR SERVICE FROM THE ACQUIRING COMPANY DURING THE MOST RECENT YEAR? "YES" OR "NO"
(1)			
(2)			
(3)			

CERTIFICATION

This notification was prepared under my supervision in accordance with instructions issued by the Federal Trade Commission. Subject to the recognition that reasonable estimates have been made when company accounts do not provide the requested data, the information is, to the best of my knowledge, true, correct, and complete in accordance with the statute and rules.

(TYPE OR PRINT NAME AND TITLE)

(Signature) (Date)

Subscribed and sworn to before me at the City of, State of

this day of, 19, (Notary Public)

My Commission Expires

Print or type the name, address, and telephone number of the person to contact regarding this notification.

(Name)

(Business Address)

(Business Telephone Number)

APPENDIX TO NOTIFICATION AND REPORT FORM: INSURANCE, FINANCE, AND REAL ESTATE

1. Insurance Companies:
This category includes carriers of all types of insurance, insurance agents, and brokers (2-digit SIC codes 63 and 64).

Life Insurance

A. Provide for the most recent year the amount of premium receipts (calculated on an accrual basis) for each of the following lines:
1. Life Insurance:
   a. Ordinary life insurance;
   b. Group life insurance (including Federal Employees' Group Life Insurance and Servicemen's Group Life Insurance, but excluding credit life insurance);
   c. Industrial life insurance;
   d. Credit life insurance;
2. Annuity Considerations:
   a. Individual annuity considerations;
   b. Group annuity considerations;
3. Health Insurance:
   a. Individual health insurance;
   b. Group health insurance.

B. Provide for the most recent year the amount of new life insurance business issued in the United States during the calendar year (exclusive of revivals, increases, dividend additions and reinsurance ceded) for each of the following lines:
1. Ordinary life insurance;
2. Group Life insurance (including Federal Employees' Group Life Insurance and Servicemen's Group Life Insurance, but excluding credit life insurance);
3. Industrial life insurance;
4. Credit life insurance.

Property Liability Insurance

A. Provide for the most recent year the amount of direct premiums written during the calendar year in the United States each line of insurance specified in Part 2 of the Underwriting and Investment Exhibit of your company's annual convention statement.

B. Provide for the most recent year the amount of net premiums written during the calendar year in the United States for each line of insurance specified in Part 2 of the Underwriting and Investment Exhibit of your company's annual convention statement.

Title Insurance

A. Provide for the most recent year the amount of net direct title insurance premiums written in the United States during the calendar year.

B. Provide for the most recent year the amount of direct title insurance premiums earned in the United States during the calendar year.

See the Special Instruction for Certain Partial Acquisitions.

The Federal Trade Commission and the Assistant Attorney General invite and encourage the filing of written comments upon the proposed notification form and relevant proposed rules in order to assure that the final forms thereof will satisfy the law enforcement concerns of the two agencies while, at the same time, not be unduly cumbersome or burdensome. Written comments on the proposal by any interested person should carry the subject, "Title II—Premerger Notification." Written comments should be submitted to (1) the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580, Room 172, and (2) Assistant Attorney General, Antitrust Division, Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530, Room 3224. All written comments received on or before January 19, 1977, will be considered. Comments and other written materials with respect to the proposed notification form and proposed rules will be available for examination by interested persons in Room 130 of the Public Reference Branch, Federal Trade Commission, Washington, D.C., and will be considered by the Federal Trade Commission and the Assistant Attorney General in their determination to issue a final version of the proposed notification form and proposed rules. All interested persons are urged to express their approval or disapproval of the proposed notification form and proposed rules, or to recommend revisions, and to give a full statement of their views.

Issued: December 15, 1976.

By the direction of the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.76-37343 Filed 12-17-76;8:45 am]

MONDAY, DECEMBER 20, 1976

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federal register

MONDAY, DECEMBER 20, 1976



PART VII:

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

■

PRIVACY ACT OF 1974

Systems of Records

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GENERAL SERVICES ADMINISTRATION/NATIONAL ARCHIVES AND RECORDS SERVICE

PRIVACY ACT OF 1974

Notice of Systems of Records

The following notices describing records accessioned into the National Archives of the United States on or after September 27, 1975, are published in accordance with 5 U.S.C. 552a(l)(3).

Dated: December 1, 1976.

James B. Rhoads
Archivist of the United States.

NN-376-56/1,2,3,4,5

System name: National Archives Record Group 65, Records of the Federal Bureau of Investigation, (1) General Investigative Records, (2) Investigative Records Transferred From the Dept. of Justice, (3) Investigative Records Relating to Mexican Neutrality Violations, (4) Investigative Records Relating to German Aliens.

System location: The National Archives Building (NN), 8th & Pennsylvania Avenue, N.W., Washington, D.C. 20408.

Categories of individuals covered by the system: Individuals suspected of violating a Federal law, persons believed to be operating against U.S. interests during the Mexican civil wars, individuals considered as 'radicals', sympathetic to German causes.

Categories of records in the system: Investigative reports and related correspondence and memoranda. Dates of the files listed above are: (1) 1908-1921, (2) 1920-1921, (3) 1909-1921, (4) 1915-1920.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference by Government officials, scholars, students, and members of the general public. The National Archives of the United States are exempt from the Privacy Act of 1974 except for the public notice required by 5 U.S.C. 552a (l) (3). Further information about uses and restrictions may be found in 41 CFR 105-61.1 and in the General Notice published by the National Archives and Records Service in 40 FR 45786.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfilm.

Retrievability: Indexed alphabetically by surname of investigated person.

Safeguards: Records are kept in locked stack areas accessible only to authorized personnel of the National Archives. Building employs security guards.

Retention and disposal: Records are retained permanently.

System manager(s) and address: The system manager is the Assistant Archivist for the National Archives, National Archives Building, 8th and Pennsylvania Avenue, N.W., Washington, D.C. Mailing address: General Services Administration (NN), Washington, D.C. 20408.

Notification procedure: Individuals desiring information from or about these records should direct inquiries to the system location.

Record access procedures: Upon request, the National Archives will attempt to locate specific records about individuals and will make these records available to the individual subject to the restrictions set forth in 41 CFR 105-61.53. Individuals must provide information to permit the National Archives to locate the records in reasonable time. Records in the NationalArchives may not be amended and requests for amendment will not be considered. More information regarding access procedures is available in the Guide to the National Archives of the United States' which is sold by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, and may be consulted at the NARS research facilities listed in 41 CFR 105-61.5101 and the GSA Business Service Center reading rooms listed in 41 CFR 105-60.303.

NN-375-108/1

System name: National Archives Record Group 19, Records of the Bureau of Ships (Department of the Navy), Preliminary Design Branch, Patent Infringement Case Files.

System location: The National Archives Building (NN), 8th & Pennsylvania Avenue, N.W., Washington, D.C. 20408.

Categories of individuals covered by the system: Plaintiffs in legal cases against the U.S. Government for infringement of patents in ship design features.

Categories of records in the system: Copies of letters, depositions, and transcripts from suits brought against the government, 1929-1938.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference by Government officials, scholars, students, and members of the general public. The National Archives of the United States are exempt from the Privacy Act of 1974 except for the public notice required by 5 U.S.C. 552a (l) (3). Further information about uses and restrictions may be found in 41 CFR 105-61.1 and in the General Notice published by the National Archives and Records Service in 40 FR 45786.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in boxes or drawers.

Retrievability: Arranged alphabetically by name of plaintiff.

Safeguards: Records are kept in locked stack areas accessible only to authorized personnel of the National Archives. Building employs security guards.

Retention and disposal: Records are retained permanently.

System manager(s) and address: The system manager is the Assistant Archivist for the National Archives, National Archives Building, 8th and Pennsylvania Avenue, N.W., Washington, D.C. Mailing address: General Services Administration (NN), Washington, D.C. 20408.

Notification procedure: Individuals desiring information from or about these records should direct inquiries to the system location.

Record access procedures: Upon request, the National Archives will attempt to locate specific records about individuals and will make these records available to the individual subject to the restrictions set forth in 41 CFR 105-61.53. Individuals must provide information to permit the National Archives to locate the records in reasonable time. Records in the NationalArchives may not be amended and requests for amendment will not be considered. More information regarding access procedures is available in the Guide to the National Archives of the United States' which is sold by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, and may be consulted at the NARS research facilities listed in 41 CFR 105-61.5101 and the GSA Business Service Center reading rooms listed in 41 CFR 105-60.303.

NNG-376-5/1

System name: National Archives Record Group 153, Records of the Office of the Judge Advocate General (Department of the Army), Litigation Division, Records of Exclusion Cases.

System location: The National Archives Building (NN), 8th & Pennsylvania Avenue, N.W., Washington, D.C. 20408.

Categories of individuals covered by the system: Citizens and aliens who were ordered excluded from West Coast defense areas during World War II under Public Law No. 503 and Executive Order 9066 and who brought suit to have the exclusion orders overturned.

Categories of records in the system: Correspondence, investigative and intelligence reports, transcripts of court proceedings and exclusion hearings, and individual exclusion orders providing information regarding birth, marital, family, and occupational status.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference by Government officials, scholars, students, and members of the general public. The National Archives of the United States are exempt from the Privacy Act of 1974 except for the public notice required by 5 U.S.C. 552a (l) (3). Further information about uses and restrictions may be found in 41 CFR 105-61.1 and in the General Notice published by the National Archives and Records Service in 40 FR 45786.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in boxes or drawers.

Retrievability: Arranged alphabetically by surname of individual bringing suit.

Safeguards: Records are kept in locked stack areas accessible only to authorized personnel of the National Archives. Building employs security guards.

Retention and disposal: Records are retained permanently.

System manager(s) and address: The system manager is the Assistant Archivist for the National Archives, National Archives Building, 8th and Pennsylvania Avenue, N.W., Washington, D.C. Mailing address: General Services Administration (NN), Washington, D.C. 20408.

Notification procedure: Individuals desiring information from or about these records should direct inquiries to the system location.

Record access procedures: Upon request, the National Archives will attempt to locate specific records about individuals and will make these records available to the individual subject to the restrictions set forth in 41 CFR 105-61.53. Individuals must provide information to permit the National Archives to locate the records in reasonable time. Records in the NationalArchives may not be amended and requests for amendment will not be considered. More information regarding access procedures is available in the Guide to the National Archives of the United States' which is sold by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, and may be consulted at the NARS research facilities listed in 41 CFR 105-61.5101 and the GSA Business Service Center reading rooms listed in 41 CFR 105-60.303.

NN-375-60/1

System name: National Archives Record Group 60, Records of the Department of Justice, Personnel Records, Appointment Files of Supreme Court Justices.

System location: The National Archives Building (NN), 8th & Pennsylvania Avenue, N.W., Washington, D.C. 20408.

Categories of individuals covered by the system: Supreme Court Justices.

Categories of records in the system: Correspondence, 1930-1971, relating to nominations and performances. No one may have access to these records or information from them except by permission of the Records Management Officer for the Offices, Boards, and Divisions of the Department of Justice. The Justice Department will grant access to a Justice's file for the purposes of legitimate research 25 years after his death.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference by Government officials, scholars, students, and members of the general public. The National Archives of the United States are exempt from the Privacy Act of 1974 except for the public notice required by 5 U.S.C. 552a (l) (3). Further information about uses and restrictions may be found in 41 CFR 105-61.1 and in the General Notice published by the National Archives and Records Service in 40 FR 45786.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in boxes or drawers.

Retrievability: Arranged alphabetically by name of Justice.

Safeguards: Records are kept in locked stack areas accessible only to authorized personnel of the National Archives. Building employs security guards.

Retention and disposal: Records are retained permanently.

System manager(s) and address: The system manager is the Assistant Archivist for the National Archives, National Archives Building, 8th and Pennsylvania Avenue, N.W., Washington, D.C. Mailing address: General Services Administration (NN), Washington, D.C. 20408.

Notification procedure: Individuals desiring information from or about these records should direct inquiries to the system location.

Record access procedures: Upon request, the National Archives will attempt to locate specific records about individuals and will make these records available to the individual subject to the restrictions set forth in 41 CFR 105-61.53. Individuals must provide information to permit the National Archives to locate the records in reasonable time. Records in the NationalArchives may not be amended and requests for amendment will not be considered. More information regarding access procedures is available in the Guide to the National Archives of the United States' which is sold by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, and may be consulted at the NARS research facilities listed in 41 CFR 105-61.5101 and the GSA Business Service Center reading rooms listed in 41 CFR 105-60.303.

[FR Doc.76-36938 Filed 12-17-76;8:45 am]

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12-21-76
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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 46527, Oct. 21, 1976)

RESERVATIONS: DEAN L. SMITH, 523-5282

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Revocation of Exceptions

Section 213.3301b is temporarily amended to show that until May 1, 1977, each Schedule C position at grade GS–15 and below in the executive branch is revoked when the position has been vacant for 120 calendar days or more and cannot be extended. (After May 1, 1977, the Commission will revert back to the limitation of 60 calendar days.)

Effective on December 21, 1976, §§ 213.3301b (a) and (b) are amended as set forth below:

§ 213.3301b Revocation of exceptions.

(a) Until May 1, 1977, the exception from the competitive service for each position at GS–15 and below in the executive branch listed in Schedule C is revoked when the position has been vacant for 120 calendar days or more; After May 1, 1977, the Commission will revert to the automatic revocation provisions which provide that a Schedule C position is revoked when vacant 60 calendar days or more.

(b) Until May 1, 1977, the Commission will not delay the revocation action for an additional period of time. After May 1, 1977, the Commission will revert to the provisions for extending Schedule C positions for an additional 60 calendar days.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76–37207 Filed 12–20–76;8:45 am]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 & 52), AND CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, & 55) TOBACCO

Proclamations, Determinations and Announcements of National Marketing Quotas and Referendum Results; Marketing Quota Referendum Results; Corrections

In FR Docket 76–10240 appearing on page 15023 in the issue for Friday, April 9, 1976, in the second column under "Basis and Purpose" in the third paragraph "§ 724.27" should be "§ 724.24". In the center-head beginning the third column "§ 724.27" should be "§ 724.24".

Effective date: December 21, 1976.

Signed at Washington, D.C. on December 10, 1976.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76–37224 Filed 12–20–76;8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 339—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Lending Prohibition; Expansion of Exemption

Section 339.2 of the Federal Deposit Insurance Corporation's (the Corporation's) rules and regulations (12 CFR 339.2) implements section 202(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106(b)). On August 3, 1976, section 202(b) of the Flood Disaster Protection Act was amended by Pub. L. 94–375 to expand the exemption to the lending prohibition contained in the section. In order to conform the Corporation's rules and regulations to the provisions of this amendment, § 339.2 of the Corporation's rules and regulations is hereby revised to read as follows:

§ 339.2 Prohibition as to loans in nonparticipating communities.

On and after July 1, 1975, or on and after one year following the date of official notification to the chief executive officer of a community [1] by the Secretary of Housing and Urban Development that the community is one containing special flood hazard areas, whichever is later, no insured State nonmember bank shall make, increase, extend or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards, unless the community in which such area is situated is then participating [2] in the national flood insurance program. *Provided*, That the prohibition contained in this section shall not apply to: (a) any loan made to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling; (b) any loan, which does not exceed an amount prescribed by the Secretary, to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976; (c) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976; or (d) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

Since the amendment relates solely to a change necessitated by Pub. L. 94–375, the provisions of section 553 of Title 5, United States Code (5 U.S.C. 553) and Part 302 of the rules and regulations of the Corporation (12 CFR § 302), which pertain to notice, public participation, and deferred effective date, were not followed in connection herewith.

Effective Date: This amendment is effective on December 21, 1976.

(Sec. 202, Pub. L. 93–234, 87 Stat. 962 (42 U.S.C. 4106); sec. 34, Pub. L. 94–375, 90 Stat. 1075 (42 U.S.C 4106))

By order of the Board of Directors, December 16, 1976.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

EMERGENCY HOUSING

Sec. 13. (a) Section 109(b) of the Emergency Homeowners' Relief Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1977".

(b) The first sentence of section 110(a) of such Act is amended—

(1) by striking out "Until one year from the date of enactment of this title, each" and inserting in lieu thereof "Each";

(2) by inserting "prior to October 1, 1977," immediately after "(1)"; and

[1] For the purposes of this Part 339, a community is a State or a political subdivision thereof which has building code jurisdiction over a particular area having special flood hazards.

[2] For the purposes of this Part 339, a community participating in the national flood insurance program is a community which has complied with the requirements for participation as set forth in § 1909.22 of the regulations of the Federal Insurance Administration of the Department of Housing and Urban Development (24 CFR § 1909.22) and in which flood insurance is currently being sold.

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(3) by inserting "until one year from the date of enactment of this title," immediately after "(2)".

(c) Section 111 of such Act is amended by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1977".

(d) Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1977".

(e)(1) Section 313(b) of the National Housing Act is amended by striking out the period at the end thereof and inserting in lieu thereof "; and", and by inserting the following at the end thereof:

"(D) such mortgage involves a principal residence the sales price of which does not exceed $48,000 ($52,000 in high-cost areas as determined by the Secretary) per family residence or dwelling unit, except that such sales price in Alaska, Hawaii, and Guam may not exceed $65,000."

(2) The amendment made by paragraph (1) shall apply only with respect to mortgages purchased pursuant to commitments made after the date of the enactment of this Act.

FLOOD INSURANCE

Sec. 14. (a) Section 202(b) of the Flood Disaster Protection Act of 1973 is amended by striking out all that follows "shall not apply to" and inserting in lieu thereof the following: "(1) any loan made to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) any loan, which does not exceed an amount prescribed by the Secretary, to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.".

(b) Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1977".

(c) Section 1376 of the National Flood Insurance Act of 1968 is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated for studies under this title not to exceed $100,000,000 for the fiscal year 1977.".

[FR Doc.76-37471 Filed 12-20-76;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 6, Amdt. 12]

PART 120—BUSINESS LOAN POLICY

Amendment of "Media" Policy

On page 23731 of the FEDERAL REGISTER of June 11, 1976, SBA published a proposal to amend, for the purpose of clarification, the regulation setting forth its policy of denying financial assistance to enterprises engaged in the creation, origination, expression, dissemination, propagation, or distribution of ideas, values, thoughts, opinions or similar intellectual property.

On the basis of information admitted in response to its request for public comment, SBA has concluded that the exception to the above mentioned policy, in favor of certain cable TV operations, (set forth in § 120.2(d)(4)(v)) is excessively narrow; and that financial assistance could be extended to Cable TV operations having the capacity for program origination in conformity with the purpose underlying § 120.2(d)(4), provided the cable TV operation agrees to function only as a passive and contemporaneous retransmitter of programs originating elsewhere and the Federal Communications Commission agrees that the operator will not be required, so long as SBA financial assistance is outstanding, to make its facilities available for any other use. Proposed § 120.2(d)(4)(v) has accordingly been changed.

To the extent that the proposed regulation is changed, the change is less restrictive than the language it replaces, and will benefit a class of small business concerns heretofore ineligible for SBA financial assistance; and since no submissions have been received favoring retention or narrowing of the existing exception, it is not necessary to invite public comment prior to its adoption.

Except as stated, the proposed regulation is adopted without change, as set forth below, effective December 21, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

(72 Stat. 337, as amended, 15 U.S.C. 636, sec. 5, 72 Stat. 385, 15 U.S.C. 634.)

§ 120.2 Business Loans and Guarantees.

Basic principles governing the granting and denial of applications for financial assistance:

. . . . . .

(d) Financial assistance will not be granted by SBA:

. . . . . .

(4) If the applicant is engaged in the creation, origination, expression, dissemination, propagation or distribution of ideas, values, thoughts, opinions or similar intellectual property, regardless of medium, form, or content. Financial assistance to such applicants is barred in order to avoid Government interference, or the appearance thereof, with the constitutionally protected freedoms of speech and press. *Provided, however,* That nothing herein shall preclude finance to any otherwise eligible applicant engaged in one or more of the following activities:

(i) Printing: A firm solely engaged in commercial or job printing, if there is no common ownership with any concern ineligible under this subparagraph (4) and the printer has no direct financial interest in the commercial success of the material so produced.

(ii) Publishing, etc.: Publishers of shoppers' newspapers or circulars consisting of advertising material only, without editorial, narrative or filler material. All other publishers, including so-called "vanity" publishers, as well as producers, importers, exporters or distributors of communications, including newspapers, magazines, books, greeting cards, sheet music, pictures, posters, film, tape, live broadcasts, recordings or reproductions of sight, sound or musical programs or products, or theatrical productions, are ineligible. For an exception to the foregoing rule, see paragraph (d)(v) of this section.

(iii) Advertising and technical material: Firms producing advertisements and promotional material for a client's goods or services, or of technical or instructional material relating to such goods or services.

(iv) Reproduction: Firms providing motion picture, videotape, sound recording or theatrical technical production facilities, or the technical reproduction of motion picture, videotape or sound recordings without editorial or artistic interest in the commercial success of material so produced, and without common ownership between the concern providing such services and the concern interested in such success.

(v) Cable TV: Cable TV operations only where operators are solely engaged in the passive and contemporaneous retransmission of programs originating elsewhere even though such operator may have the capacity to originate live or taped programs as required by other Federal regulations. A Cable TV operation required by the Federal Communications Commission to maintain a public access channel is eligible to receive SBA financial assistance provided it first (1) obtains a waiver from the Federal Communications Commission of the requirement that the access channel be available to the public so long as SBA financial assistance is outstanding; and (2) agrees that so long as SBA financial assistance is outstanding, it will limit its operations to the passive and contemporaneous retransmission of programs originating elsewhere, without any use of its program origination capacity.

(vi) Education: Vocational, technical and other nonacademic schools which do not also teach academic subjects; and nursery and pregrade schools if they are not primarily engaged in teaching academic subjects.

(vii) Distributors of books, etc. General merchandise stores also selling books, newspapers, magazines, records, etc., and general book or music (record) stores. Specialty stores primarily selling products that promote or advocate ideas, including ideological, political or philosophical viewpoints, and specialized delivery, distribution or transportation concerns limited to the distribution of ineligible material (such as books, newspapers, etc.), are ineligible.

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans.)

[FR Doc.76-37455 Filed 12-20-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 76N-0475]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Redelegations of Authority From the Commissioner of Food and Drugs

REGULATORY HEARINGS

The Food and Drug Administration (FDA) is amending its delegations of authority regulation relating to holding hearings and appointing review boards by adding a new delegation; effective December 21, 1976.

This new delegation is being added as a result of promulgation of new FDA procedural regulations for regulatory hearings published in the FEDERAL REGISTER of November 2, 1976 (41 FR 48262). The new delegation will encompass all regulatory hearings held by the agency, including informal hearings, under sections 304 as amended (21 U.S.C. 334) and 514, 515, 516, 518, and 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360d, 360e, 360f, 360h and 360j) as added by the Medical Device Amendments of 1976.

Further redelegation of the authority delegated by this amendment is not authorized. Authority redelegated by this amendment to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

An official delegated the authority to serve as the presiding officer may serve in that capacity in a particular hearing only if his service would not conflict with § 2.505(b) of Subpart F. Thus, he may be the presiding officer only if he is not biased or prejudiced and has not participated in the investigation or action. If he is disqualified under § 2.505(b), he may designate another official who meets the requirements of § 2.505(b) to be the presiding officer.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 5.21 is amended by adding new § 5.21(d) to read as follows:

§ 5.21 Delegations regarding hearings and review boards.

. . . . . .

(d) The Directors and Deputy Directors of Bureaus, Regional Food and Drug Directors, and District Directors are authorized to serve as the presiding officer, and to designate other Food and Drug Administration employees to serve as the presiding officer, at a regulatory hearing and to conduct such a hearing pursuant to the provisions of Subpart F of Part 2 of this chapter. An official can serve as the presiding officer in a particular hearing only if he satisfies the requirements of Paragraph (b) of § 2.505 with respect to the action that is the subject of the hearing. Such officials are delegated authority vested in the Secretary of Agriculture by 7 U.S.C. 2217 (43 Stat. 803) to administer or to take from any person an oath, affirmation, or deposition for use in any prosecution or proceeding under, or in enforcement of, any law as cited in this part.

Effective date: This amendment shall be effective December 21, 1976.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: December 14, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-37216 Filed 12-20-76;8:45 am]

[Docket No. 76C-0427]

PART 8—COLOR ADDITIVES

Listing of D&C Green No. 8 for Use In Externally Applied Drugs and Cosmetics; Correction

In FR Doc. 76-33995 appearing at page 51006 in the FEDERAL REGISTER of Friday, November 19, 1976, paragraphs (a)(1) and (b) of § 8.4072 are corrected to read as follows:

§ 8.4072 D&C Green No. 8.

(a) *Identity.* (1) The color additive D&C Green No. 8 is principally the trisodium salt of 8-hydroxy-1,3,6-pyrenetrisulfonic acid.

. . . . . .

(b) *Specifications.* D&C Green No. 8 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practices:

Volatile matter (at 135° C), not more than 15 percent.
Water-insoluble matter, not more than 0.2 percent.
Chlorides and sulfates (calculated as sodium salt), not more than 20 percent.
The trisodium salt of 1,3,6-pyrenetrisulfonic acid, not more than 6 percent.
The tetrasodium salt of 1,3,6,8-pyrenetetrasulfonic acid, not more than 1 percent.
Pyrene, not more than 0.2 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 65 percent.

. . . . . .

Dated: December 15, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc76-37367 Filed 12-20-76;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 76F-0023]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SLIMICIDES

The Food and Drug Administration is amending the food additive regulations to provide for safe use of 1,2-benzisothiazolin-3-one as a component of slimicides in the manufacture of paper and paperboard that contact food; effective December 21, 1976; objections by January 21, 1977.

Notice was given by publication in the FEDERAL REGISTER of February 10, 1976 (41 FR 5862), that a food additive petition (FAP 3H2927) had been filed by ICI United States, Inc., Wilmington, DE 19897, proposing that § 121.2505 *Slimicides* (21 CFR 121.2505) be amended to provide for the safe use of 1,2-benzisothiazolin-3-one as a slimicide in the manufacture of paper and paperboard that contact food.

The Commissioner of Food and Drugs, having evaluated the data in the food additive petition and other relevant material, concludes that § 121.2505 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976, (41 FR 24262)), § 121.2505 (c) is amended by alphabetically adding a new item in the list of substances as follows:

§ 121.2505 Slimicides.

. . . . . .

(c) . . .

List of substances:	Limitations
. . .	. . .
1,2-benzisothiazolin-3-one	At a level of 0.06 pound per ton of dry weight fiber.
. . .	. . .

Any person who will be adversely affected by the foregoing regulation may at any time on or before January 21, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Five copies of all

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documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This amendment is effective December 21, 1976.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: December 15, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76-37386 Filed 12-20-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7448]

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Temporary Regulations Relating to Nonbank Trustees of Pension and Profit-sharing Trusts Benefiting Owner-Employees

This document amends § 11.401(d)(1)-1 of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11), relating to nonbank trustees of pension and profit-sharing trusts benefiting owner-employees.

Section 401(d)(1) of the Internal Revenue Code permits a person which is not a bank to be the trustee of a qualified pension or profit-sharing trust benefitting owner-employees if such person demonstrates to the satisfaction of the Commissioner that such person will administer the trust in a manner consistent with the requirements of section 401. Such a demonstration must be made by filing a written application.

Under § 11.401(d)(1)-1, the applicant is generally required to demonstrate its ability to act within the accepted rules of fiduciary conduct, experience and competence with respect to accounting for the interests of a large number of individuals, and familiarity with other activities normally associated with the handling of retirement funds. Thus, the applicant must be prepared to comply with specified rules of fiduciary conduct. In addition, it must possess such attributes as continuity, permanent location, financial reponsibility, and fiduciary experience.

Section 11.401(d)(1)-1(g)(3) contains a special rule that applies to certain credit unions, savings and loan associations and similar financial institutions. This special rule was designed to expedite the approval of well-qualified credit unions and other financial institutions. However, it has not had the desired effect. Therefore, the special rule is now revised.

As revised, the special rule provides that an applicant will be approved to act as the trustee of qualified pension and profit-sharing trusts benefiting owner-employees ("Keogh Plans") if three requirements are satisfied:

(1) The applicant must be a credit union, industrial loan company, or savings and loan association. (Other financial institutions may be designated later by the Commissioner.)

(2) The trust assets must be invested solely in deposits in the applicant.

(3) Deposits in the applicant must be insured (up to the dollar limit prescribed by applicable law) by an agency or instrumentality of the United States or a State.

Credit unions and other financial institutions that satisfy the revised special rule will be automatically approved on December 22, 1976. They will then be permitted to act as the trustee of Keogh Plans and individual retirement accounts and as the custodian of custodial accounts described in section 401(f) of the Internal Revenue Code. They will not be required to submit a written application. However, this automatic approval does not apply to a financial institution that fails to satisfy any one of the three requirements set out above.

ADOPTION OF REGULATIONS

To provide new rules for approving credit unions and other financial institutions to act as trustees of qualified pension and profit-sharing trusts benefiting owner-employees, the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 are amended as follows:

Section 11.401(d)(1)-1(g)(3) is revised to read as follows:

§ 11.401(d)(1)-1 Nonbank trustees of trusts benefiting owner-employees.

. . . . . .

(g) *Special rules.* . . .

(3) *Savings account.* (i) An applicant will be approved to act as trustee under this subparagraph if the following requirements are satisfied:

(A) The applicant is a credit union, industrial loan company, savings and loan association, or other financial institution designated by the Commissioner;

(B) The investment of the trust assets will be solely in deposits in the applicant;

(C) Deposits in the applicant are insured (up to the dollar limit prescribed by applicable law) by an agency or instrumentality of the United States or a State.

(ii) Any applicant who satisfies the requirements of this subparagraph is hereby approved, and (notwithstanding paragraph (b) of this section) is not required to submit a written application. This approval takes effect on the first day after December 22, 1976, on which the applicant satisfies the requirements of this subparagraph, and continues in effect for so long as the applicant continues to satisfy those requirements.

. . . . . .

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found to be impracticable to issue this Treasury decision with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Secs. 401(d)(1) and 7805 of the Internal Revenue Code of 1954 (88 Stat. 939 and 68A Stat. 917; 26 U.S.C. 401 and 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 16, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.76-37613 Filed 12-17-76;4:56 pm]

Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS

Amendment of Chapter Heading

Under the authority of section 505 of the Employee Retirement Income Security Act of 1974 ("the Act"), Pub. L. 93-406, 88 Stat. 894 (29 U.S.C. 1135), and Secretary's Order No. 13-76 (May 17, 1976), 29 CFR Chapter XXV is amended as follows:

The chapter heading of Chapter XXV is changed to read "CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS."

By Secretary's Order No. 13-76 the Secretary of Labor cancelled Secretary's Order No. 27-74, and, with certain exceptions, delegated authority and assigned responsibilities for carrying out the programs and related activities to be performed by the Secretary of Labor under the Act to the Administrator of Pension and Welfare Benefit Programs. The amendment of the heading of 29 CFR Chapter XXV reflects the new delegation.

It is the general policy of the Department of Labor to allow time for interested parties to take part in the rule-making process. This amendment, however, is entirely administrative in nature. The public rulemaking process, therefore, is waived and this amendment is effective on December 21, 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs.

DECEMBER 14, 1976.

[FR Doc.76-37469 Filed 12-20-76;8:45 am]

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Reporting and Disclosure Requirements; Correction

In FR Doc. 76-11859 appearing at page 16957 in the FEDERAL REGISTER of April 23, 1976, paragraph (c)(4)(ii) of § 2530.-104-5 on page 16962 is corrected to read as follows:

§ 2520.104-5 Deferral of certain reporting and disclosure requirements relating to the summary plan description for welfare funds.

. . . . . .

(c) . . .

(4) . . .

(ii) The provisions of sections 104(a)(1)(D) and 104(b)(1) of the Act that require filing with the Secretary and furnishing to participants and beneficiaries receiving benefits a summary description of material modifications to the plan and changes in information required to be included in the summary plan description except that no summary description is required to be furnished for material modifications and changes in the information required to be included in the summary plan description if any such modification or change has been incorporated in the initial summary plan description furnished on or before March 31, 1977.

Issued in Washington, D.C., this 9th day of December 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.76-37470 Filed 12-20-76;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 737—NAVAL PROCUREMENT DIRECTIVES, 1974 EDITION

Miscellaneous Amendments

Pursuant to the authority conferred in 5 U.S.C. 301, 10 U.S.C. 2202, 2301-2314, 32 CFR § 1-108, and Secretary of the Navy Instruction 4200.29, the Chief of Naval Material, in accordance with the policies and directions of the Assistant Secretary of the Navy (Installations and Logistics), amends 32 CFR Part 737. Part 737 is a codification of the Navy Procurement Directives, 1974 Edition (NAVMAT P-4202), which implement within the Department of the Navy the provisions of the Armed Service Procurement Regulations (32 CFR, Subchapter A).

The Navy Procurement Directives have since been revised by revisions No. 3 of December 20, 1974; No. 4 of April 15, 1975; and No. 5 of July 30, 1976. The amendments to Part 737, which are nonoriginative in nature, reflect these revisions and relate entirely to internal naval management practices and policies. It has been determined that invitation of public comment on these changes prior to adoption would be unnecessary and is therefore not required under the public rule-making provisions in Parts 296 and 701 of 32 CFR.

32 CFR Part 737 is therefore amended as follows:

1. § 737.1-101 is revised as follows:

§ 737.1-101 Purpose of Navy Procurement Directives (NPD).

The Navy Procurement Directive (NPD) (NAVMAT P-4202) is published by the Chief of Naval Material in accordance with the policies and direction of the Assistant Secretary of the Navy (Installations and Logistics) pursuant to the authority contained in SECNAVINST 4200.29 of August 3, 1973. In accordance with § 1-108 of this title, it serves to (a) Supplement the ASPR (Armed Services Procurement Regulations) [Subchapter A (Parts 1 through 33) of this title 32] and other Department of Defense publications concerned with procurement, and to (b) promulgate at the departmental level policies and procedures concerned primarily with procurement which are not covered by ASPR or other DOD publications.

§ 737.105-2 [Amended]

2. In § 737.105-2, fifth and sixth lines, the words "Chief of Naval Operations and the Commandant of the Marine Corps" are changed to "Chief of Naval Operations, the Chief of Naval Research, and the Commandant of the Marine Corps."

§ 737.108 [Amended]

3. In paragraph (d) of § 737.108, 12th and 13th lines, the words "the Navy Stock List of Publications and Forms, section 12," are changed to "the microfiche edition of NAVSUP Publication 2002, Navy Stock List of Publications and Forms, Section III, under Stock Numbers beginning with 0528."

4. Section 737.1-111-50 is revised as follows:

§ 737.1-111-50 Fraud in connection with procurement and property disposal.

(a) Where management is alert to its responsibilities in maintaining appropriate safeguards against the commission of fraud in the procurement and disposal of government property, it can more effectively protect the government property, it can more effectively protect the government against the type of fraudulent actions described in SECNAVINST 4385.1 series.

(b) Heads of procuring activities (§ 1-201.14 of this title) shall assure that the procedures set forth below to assure integrity in procurement operations and disposal of government property are followed by activities reporting to them:

(1) Perform periodic, selective reviews of procurement and property disposal operations and related areas to determine that an adequate system of checks and balances has been provided. Reviews shall include, but not be limited to, such areas as determination of requirements, preparation and adoption of procurement specifications and standards, qualification approval, solicitation and evaluation of bids and proposals, cost/price analysis and negotiations, award of contract, ordering under open-end procurements, contract administration, contract termination, receipt control, administration of payments, transportation, inventory control and sale and disposal of government property.

(2) Conduct frequent spot-checks to determine:

(i) compliance with existing safeguards by all military and civilian personnel, and

(ii) the need for possible modification of existing procedures as a result of changed conditions.

(3) Assure that all personnel fully understand the distinctions that have been drawn between proper and improper modes of conduct as defined in SECNAVINST 5370.2 series (Part 721 of this title). Provide opportunities for meaningful discussion, placing special emphasis on conflict of interest matters and the issues involved.

(4) Identify for special management attention those positions requiring continued, close association with the contractor or his representatives and involving duties or decisions which strongly affect the contractor's interest.

(5) Consider adherence to high standards of integrity in selecting personnel for promotion and in making assignments to key positions.

(6) Take prompt administrative steps or assist appropriate authorities in criminal or civil actions against military and civilian personnel involved in fraudulent activities. Similarly, provide necessary assistance and information in reply to inquiries concerning suspected wrongdoing or abuse of authority. In this regard, forthright cooperation with the Federal Bureau of Investigation and the Naval Investigative Services is essential.

5. Paragraph (c)(8) of § 737.1-201 is revised as follows:

§ 737.1-201 Definitions.

. . . . . .

(c) . . .

(8) "Administrative Contracting Officer (ACO)," insofar as Navy field contract administration offices are concerned, is the commanding officer or officer-in-charge who is currently a contracting officer (§ 1.202.3 of this title). The term also includes any authorized representative of the commanding officer or officer-in-charge acting within the limits of his contracting officer authority.

6. Section 737.1-363 is revised as follows:

§ 737.1-363 Participation by contract administration officers in RFP preparation evaluation of proposals and source selection.

(a) When feasible, contract administration offices shall be requested to review, prior to completion of drafting, the RFP (Request for Proposal), Schedule, General Provisions, Specifications, or other provisions of proposed major weapon systems contracts for the purpose of planning for contract administration and for determining the adequacy of such contractual requirements for contract administration purposes. In addition, contract administration offices may be requested to participate in the technical evaluation of proposals and in source selection, in order to provide guidance to the purchasing activity on contract administration matters and on the ability of the contractor to perform the type of work contemplated. Contract administration offices may also be requested to participate in negotiation. Such participation is in addition to field pricing support provided the PCO (Procuring Con-

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tracting Officer) as required by § 3–801 of this Title 32.

(b) The selection of one or more contract administration offices to participate in procurement document preparation, evaluation of proposals and source selection, should be based on the familiarity of their personnel with the kind of weapon system to be procured and/or the likelihood of award to a contractor under their cognizance. Contract administration offices may be requested to participate similarly in procurements for items other than weapon systems when considered necessary by the procuring activity, purchasing office, project manager or requiring activity.

§ 737.1–401–55 [Amended]

7. Paragraph (c) (2) of § 737.1–401–55 is revised as follows:

• • • • •

(c) • • •

(2) *Formal and constructive changes.* (i) In those cases where Navy actions (or inactions) alleged by the contractor, after appropriate evaluation, constitute a change, the Contracting Officer should promptly formalize such constructive change(s) in writing, irrespective of whether the contract contains the "Notification of Changes" clause, § 7–104.86 of this title. Negotiation and settlement of such changes should be handled in the normal fashion—i.e., in accordance with § 1–406(c) (ix) of this title and the contract's provisions. The procedures outlined in paragraph (c) (2) (iii) of this section are for use on an exception basis where the contractor has not presented a full disclosure of pertinent facts or a timely determination of Navy responsibility is not feasible.

(ii) With respect to those formal written changes as to which the contractor alleges a factual or other interrelationship with a claim, activities should exert every effort to equitably adjust such changes coupled with allowance for any disruption or delay impact determined to be appropriate by the procuring agency.

(iii) In exceptional cases where disruption, delay or other claimed impacts are known to exist and cannot be currently resolved, the procuring activity may proceed with equitable adjustments covering the inter-related formal changes coupled with usage of qualified release. The qualified release should specifically identify the inter-relationship with the contractor's claim such as delay or disruption impacts reserving to the contractor the right to pursue and demonstrate support for a separate equitable adjustment therefor under the contract.

8. In paragraph (c) (4) (v) of § 737.2–401–55, eighth line, the words "hereby depose and say that: (i) the facts" are changed to "hereby depose and say that, to the best of my knowledge and belief: (i) the facts • • •."

9. In paragraph (e) (3) (i) of § 737.1–401–55, after the fifth line and before the sixth line, the following phrase is added: "and the Deputy Chief of Staff for Installations and Logistics, Headquarters, Marine Corps."

10. In paragraph (e) (3) (iii) of § 737.1–401–55, lines ten to fifteen, the following sentence is deleted: "In the event such review cannot be completed within ten (10) working days, the NMC Claims Board shall notify the NMC General Board of the reasons for the delay and the anticipated date of completion of review."

Further, in paragraph (e) (3) (iii), lines 29 through 34 are deleted and the following is substituted therefor: "Board designated executive shall fully brief his SYSCOM Commander and the Deputy Chief of Staff, Headquarters, U.S. Marine Corps, as appropriate, on each proposed claim settlement or final decision prior to NMC General Board action. To facilitate the above-mentioned briefings, the SYSCOM and MARCORPS Claims Board • • •."

11. A new section, § 737.1–401–58 is added to Part 737 after § 737.1–401–57 and before § 737.1–403, and it provides as follows:

§ 737.1–401–58. Assignment of purchase actions by systems commands to field activities within the Navy Field Procurement Systems (NFPS).

(a) *Definition.* The Navy Field Procurement System (NFPS) consists of those field activities of the Department of the Navy, including offices and branch offices, which make purchases under the delegated authority of the Commander, Naval Supply Systems Command NAVSUP Publication 467, "Field Purchasing," identifies those field activities within the NFPS with delegated procurement authority in excess of $250.

(b) *Authority to assign purchase actions.* In obtaining the material and services required for the performance of its assigned mission, each of the systems commands within the Naval Material Command is authorized to request other activities to carry out requisite purchase functions. This authority should not be used for the purpose of assigning to field activities within the NFPS purchase actions that should properly be handled at the Systems Command Headquarters level, e.g., where the contracts directorate of the command may have available capacity or may be in the process of making related purchases.

(c) *Considerations.* The following considerations shall be taken into account in assigning purchase actions:

(1) That the purchase organization at each field activity of the Naval Air, Sea, and Electronic Systems Command has been established to support the research, production, or other technical mission of the particular field activity;

(2) That the central area buying activities of the NFPS are responsible for providing purchase support to the naval activities located in the given area served;

(3) That the Naval Regional Procurement Offices (NRPOs) and Naval Supply Centers assigned regional procurement functions furnish overall procurement and procurement management support for the geographic area served; and

(4) That the activities in paragraphs (c) (2) and (3) of this section, in that order, are responsible for making those purchases which are in excess of either the purchase authority or capability of the activities of the NFPS located within the geographic regions served.

(d) *Procedures.* To establish uniform and more effective methods of assigning purchase actions and task or work orders involving procurement generated by the systems commands named in paragraph (c) (1) of this section, the following procedures shall be followed:

(1) Purchase actions, including purchase requests, purchase requisitions, Military Interdepartmental Purchase Requests (DD Form 448), task/work orders involving procurement, and other procurement requirements originated at the Systems Command Headquarters level, shall be reviewed by the contracts directorate. The review shall be conducted to assure the retention by the command of requirements which, because of high dollar value, complexity, or other considerations warrant purchase action at the headquarters level.

(2) The Naval Supply Systems Command (Deputy Commander, Procurement Management) shall be advised in writing at the time a decision is made by a systems command to assign to Navy field purchasing activities new procurement actions that will require business clearances in excess of $1,000,000 or the responsibility for ASPR 3–408, 3–409, or 3–410 type contracts (§§ 3–408, 3–409, and 3–410 of this title) whose total cumulative value is expected to exceed $1,000,000.

(3) When a field purchasing activity receives a purchase action which originated from a systems command and has reason to believe that procurement should be effected at the systems command level, the field activity shall coordinate the matter with the Naval Supply Systems Command (Deputy Commander, Procurement Management) before proceeding with the procurement.

§ 737.1–403–51 [Amended]

12. In paragraph (b) (1) (iv) of § 737.1–403–51, sixth and seventh lines, the words "and the Naval Regional Procurement Office, Los Angeles: 2,000,000" are changed to "the Naval Regional Procurement Office, Long Beach, and the Naval Regional Procurement Office, Philadelphia; $2,000,000."

13. Paragraph (b) (2) (viii) (A) of § 737.1–403–51 is revised to provide as follows:

(A) For the Naval Air Systems Command, Naval Electronic Systems Command, Naval Sea Systems Command: $2,000,000."

14. Paragraph (b) (2) of § 737.1–403–51 is amended by adding a paragraph (b) (2) (xvii) after paragraph (b) (2) (xvi), which provides as follows:

(xvii) *Nonpersonal services contracts.* See § 737.22–102.

§ 737.1–403–53 [Amended]

15. In paragraph (b) (1) of § 737.1–403–53, lines 19 and 20, the symbol "SH–SR(s)–SS" is changed to "SEA"; after line 28 which says, "Office, Naples------ NAP," add the following:

"Naval Regional Procurement Office, Philadelphia, Newport Division	NPT
Naval Supply Center, Puget Sound, Bremerton	NSC, BR
Naval Air Station, Patuxent River, MD	PAX";

in lines 72, 73, and 74, delete the following:

"Naval Ordnance Laboratory, White Oaks, Silver Spring, MD	NOL"

and substitute:

"Naval Surface Weapons Center, White Oak Laboratory, White Oak, Silver Spring, MD	WOL";

and, in lines 98 and 99 delete the following:

"Naval Weapons Laboratory, Dahlgren, VA	DL"

and substitute:

"Naval Surface Weapons Center, Dahlgren Laboratory, Dahlgren, VA	DL."

16. Part 737 is amended by adding §§ 737.1–406–51 and 737.1–406–52 after § 737.1–406–50, which provide as follows:

§ 737.1–406–51 Negotiating complex requests or claims for equitable adjustments pursuant to contract clauses.

Circumstances may arise where a contractor's assertions involve difficult or complex legal, factual, or fiscal issues requiring extensive fact-finding and analysis of government liability. Examples include late or defective government furnished property or information, complex delay and disruption issues under formal change orders, and formal suspensions of work or stop work orders. In such circumstances, the request or claim for equitable adjustment shall be subject to the requirements of § 737.1–401–55 applicable to claims.

§ 737.1–406–52 Contractor employee compensation and insurance/pension reviews.

(a) NAVPROs (Naval Plant Representative Offices) and SUPSHIPs (Supervisors of Shipbuilding, Conversion and Repair) are responsible for determining the final allowability of contractor costs, including costs for contractor employee compensation, insurance, and pensions. As part of the effort necessary to make determinations applicable to employee compensation, insurance, and pensions costs, NAVPROs/SUPSHIPs may use the services of the cognizant DCASR (Defense Contract Administration Service Region) to conduct the reviews required by § 1–406(c), (1) and (2) of this title.

(b) Reviews conducted by DCAS shall be conducted in accordance with DCAS regulations. NAVPRO/SUPSHIP personnel may serve on DCAS/DCAA review teams. Such reviews will not duplicate review areas covered by reviews made by NAVPROs/SUPSHIPs, or by the Navy Material Command Insurance Examiner, unless specifically requested.

(c) DCAS reports of compensation and insurance/pension reviews shall be distributed only to the NAVPRO or SUPSHIP, and the cognizant DCAA auditor, except for copies used by DCAS for internal use. Action on recommendations in reports is the prerogative of the NAV PRO or SUPSHIP served. A copy of each report shall be provided the cognizant systems command and the Chief of Naval Material by the NAVPRO or SUPSHIP.

(d) Requests for DCAS services should be confirmed in writing to Defense Contract Administration Services, DCAS–AF, Room 8A489, Cameron Station, Alexandria, VA 22314. A copy should be sent to the Chief of Naval Material (MAT 024), Washington, DC 20360 and higher headquarters of the NAVPRO/SUPSHIP.

(e) When the services of the DCASR are used, the Navy will pay for the cost of travel and per diem, and, subject to prior approval of the Navy, for costs of the services of an independent actuary.

17. Section 737.1–407 is amended by adding a paragraph (j) which provides as follows:

§ 737.1–407 Functions of Defense Contract Audit Agency (DCAA) offices.

• • • • •

(j) Defense Contract Audit Manual (DCAAM 7640.1), also referred to as "CAM" includes the policies, procedures, standards and techniques governing Defense Contract Audit Agency personnel in the execution of the contract audit mission. This manual and revisions are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The cost is $27.75 for an indefinite subscription which will include the manual and future revisions.

§ 737.1–702–50 [Amended]

18. In paragraph (b) of § 737.1–702–50, lines 19, 20, and 21, the following is deleted:

Naval Ship Systems Command, Department of the Navy, Washington, D.C. 20360.

§ 737.1–950 [Deleted]

19. Section 737.1–950, *Navy Contractor Experience List*, is deleted.

20. Paragraph (b) (1) of § 737.1–1004 is amended by adding paragraphs (b) (1) (iii) and (b) (1) (iv), which provide as follows:

§ 737.1–1004 Announcement of contracts valued at $1,000,000 or more.

• • • • • •

(b) • • •

(1) • • •

(iii) That the proposed announcement has been coordinated with appropriate offices of the Chief of Naval Operations (OPNAV), the Commandant of the Marine Corps, as appropriate, cognizant program managers or sponsors to insure the accuracy of the wording and data to be released; and

(iv) The OPNAV codes or other identifications of the persons with whom the staffing was conducted.

§ 737.1–1007 [Amended]

21. Section 737.1–1007 [Amended] Paragraph (b) of § 737.1–1007, which provides "A copy of each release shall be forwarded to the Chief of Naval Material (MAT 02E)" is deleted.

22. Paragraph (a) of § 737.1–2100–2 is amended by adding paragraph (a) (6), which provide as follows:

§ 737.1–2100–2 Applicability.

(a) • • •

(6) Foreign Military Sales (FMS) requirements where the FMS requirement is:

(i) to be included under a contract for Navy requirements for the same or similar item, or

(ii) under a separate FMS contract and where the period of performance thereunder either overlaps or is consecutive with performance under a Navy contract for the same or similar items. The ASPR threshold for APP preparation shall be applicable to the combined estimate of the Navy/FMS requirements. At a minimum, the APP must include sufficient information to clearly show, by text and milestone chart, the FMS requirement's impact on the Navy's requirements in the areas of contractor performance, cost and delivery.

§ 737.3–201–50 [Amended]

23. In paragraph (a) of § 737.3–201–50, lines 14 and 15, the following words are deleted: "For disaster areas see § 737.1–850."

§ 737.3–210–3 [Amended]

24. In paragraph (e) 4., lines 58 and 59, the name "Ling-Temco-Vought" is changed to "Vought Corporation;" in lines 64, 65, 66, and 67, the words "This Class Determination and Findings shall be effective from date of execution through "[insert expiration date]" are changed to "This Class Determination and Findings shall be effective for one (1) year from the effective date of the Basic Ordering Agreement, and shall apply to all orders issued during the effective period unless such authorization is suspended or cancelled by the purchasing office;" lines 68 through 74 are deleted; and, line 76, the number "(xxvi)" is deleted.

• • • • • •

25. A paragraph (d) is added to § 737.3–217–2, after line 15, which provide as follows:

§ 737.3–217–2 Applicability.

(d) contracts awarded to the Small Business Administration in accordance with Section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

§ 737.3–306–52 [Amended]

26. In paragraph (b) of § 737.3–306–52, in lines 11, 12, and 13, delete the following words, "See § 737.3–306–56 for sample format of RAN's for exceptions (11) through (16)."

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27. In paragraph (d)(2) of § 737.3-206-52, line 6, the word "Assistant" is changed to "Assistant Deputy Chief of Staff."

28. Paragraph (c) of § 737.3-306-53 is revised as follows:

§ 737.2-306-53 Class Determinations and Findings (CDF's).

• • • • •

(c) *Delegation of authority to make certain CDFs.* With respect to Basic Ordering Agreements (BOAs) for the overhaul, repair or modification of existing equipment under Exemption (10) (10 U.S.C. 2304(a)(10) and § 3-210 of this title) (See § 737.3-410-2), the authority to make CDFs is delegated to the Commanders, Naval Air, Electronics, Sea and Supply Systems Commands with a power of redelegation to a level no lower than the Director of a purchasing office as defined in § 1.201-24 of this title.

(1) *Limitations.* This authority shall be, in every case, subject to the following express limitations:

(i) Such CDFs shall only support the overhaul, repair or modification of equipment or weapon systems to be procured on a selected or specified source (sole source) basis through orders placed under BOAs;

(ii) They shall be limited to the overhaul, repair, or modification of existing equipment or systems;

(iii) They shall exclude the performance of any research and development effort;

(iv) They shall exclude the procurement of any parts, components or materials not an integral part of the work to be performed.

(v) They shall specifically list the items or equipment upon which the work will be performed, together with the proposed sources for such work;

year; and shall include a statement identifying the specific expiration date.

(2) *Format.* The suggested format incorporating the conditions listed in (1) above is illustrated in § 737.3-210-3.

(3) *Preparation and submission.* (i) ARAN and the CDF shall be prepared in the same manner as they would be for submission to the Assistant Secretary of the Navy (I&L).

(ii) Each such CDF shall be numbered consecutively by the activity.

(iii) One copy of each such CDF, together with the associated RAN, shall be forwarded to the Chief of Naval Material (MAT 023) promptly after execution.

• • • • •

29. Paragraph (b) of § 737.3-408 is revised as follows:

§ 737.3-408 Letter contracts.

• • • • • •

(b) *Reporting Letter Contract Status.* See § 737.21-103-1.

30. Section 737.3-410-2 is revised as follows:

§ 737.3-410-2 Basic ordering agreement.

(a) *General.* (1) Basic Ordering Agreements (BOAs) are normally written to provide for the procurement of authorized supplies and services covering as wide a range as is practicable. However, separate BOAs may be negotiated when it is considered necessary to restrict the use of a BOA to the procurement of specific supplies or services or when it is considered necessary to authorize the Contract Administration Office (CAO) to issue orders. Such BOAs are referred to as specialized BOAs.

(2) Specialized BOAs providing for the placement of orders by the CAO shall contain a provision substantially as follows:

Each order issued hereunder shall cite (insert applicable negotiation authority and class determination and findings (CDF) number), unless earlier suspended or cancelled by notice from the purchasing office. Orders for items not identified in the CDF and basic ordering agreement are considered unauthorized.

(3) The requirement of § 3-410.2(c)(2)(i) of this title for a determination at the time each order is placed that it is impracticable to obtain competition is satisfied when there is a selected or specified source (sole source) CDF.

(4) The Basic Ordering Agreement shall provide a time frame for the furnishing of contractor price quotations for unpriced orders issued. The period should be as short as practicable, usually 30 days, and normally should not exceed 60 days from receipt of the order. When the Contracting Officer, upon notification by the contractor that pricing cannot be established within the specified period, determines that a longer period is necessary, he shall document the contract file indicating the basis for the determination.

§ 737.3-507-50 [Amended]

31. In § 737.3-507-50, second line, the sum "$2,500" is changed to "$10,000."

32. New §§ 737.3-805, 737.3-805-1, and 737.3-805-2 are added to Part 737 after § 737.3-803 and before § 737.3-807, and they provide as follows:

§ 737.3-805 Written and oral discussions.

§ 737.3-805-1 General.

This part provides guidance for the conduct of technical discussions and price negotiations in negotiated procurements.

§ 737.3-805-2 Competitive negotiation.

(a) *Background.* Unrealistically priced contracts have caused budgetary and contract performance problems; underpriced contracts inevitably lead to either (1) disruption of other programs in order to provide the necessary funding, or (2) reduction within the program of efforts needed to ensure an optimal product. These result in widespread present and future cost excesses which are intolerable in an era of increasingly austere budgets. Therefore, it is necessary to ensure that negotiations are conducted in a manner that promotes realism.

(b) *Applicability.* The provisions of this part are applicable to cost type, research and development, and other complex contracts where factors other than price serve as the primary basis for award. In less complex contracts where price is the predominant basis for award, the two-step negotiation procedures described in § 3-805.2 of this title regarding price negotiation will be followed to avoid unnecessary repetition and loss of credibility through the improper use of best and final offers.

(c) *Action.* Contract negotiations will be conducted in accordance with the following:

(1) Technical discussions are intended to ensure that the provisions of the solicitation are clearly understood by offerors and that the government evaluators fully understand the proposals and their strengths and weaknesses in order to adequately discriminate for purposes of source selection. Accordingly, those aspects of proposals which are unclear, improperly substantiated or fail to meet the requirements of the solicitation must be discussed with offerors. All offerors selected for discussions must be afforded adequate opportunity to meet the requirements of the solicitation. However, the strengths, weaknesses, or overall evaluation of any offeror's proposal with respect to the other proposals must not be divulged either directly or indirectly. The conduct of discussions must avoid leveling proposals to the point where the technical discrimination necessary for source selection is destroyed and cost, however, weighted, assumes disproportionate importance. This requires the exercise of sound judgment based upon such factors as the degree of effective competition and the selection criteria given the solicitation.

(2) During the conduct of price negotiations, the need for realism should continually be stressed to offerors. The solicitation criteria and the evaluation of cost proposals should emphasize realism and the proper substantiation of proposed costs. This can be accomplished best by comparison with independent government cost estimates. Offerors must be afforded the opportunity, following discussions, to submit revisions to their proposals. However, to ensure the realism of initial proposals and to avoid the need for successive rounds of best and final offers, offerors should continually be advised that changes to initial proposals made in adjusted offers will be evaluated against the realism criteria and appropriate justification in terms of the discussions and negotiations which have transpired. Under no circumstances will a best and final offer be solicited for purposes of driving offerors to an unreasonably low price or for the sole purpose of attempting to lower an otherwise reasonable price.

(3) The planning and conduct of source selections and negotiations must stress the need for the necessary security to ensure that cost proposals and/or the standings of offerors with respect to cost are not divulged to any person beyond those whose duties require that knowledge. The proper control of negotiations and the achievement of realistic initial cost proposals require that unauthorized disclosures be precluded.

§ 737.3-807-53 [Amended]

33. In § 737.3-807-53, second through fifth lines, the words "data on DD Form 1107 (Change Order Price Analysis) or DD Form 784 (Cost Analysis for Contract Price Redetermination)," are changed to "data on DD Form 633-5 (Contract Pricing Proposal (Change Orders)) or DD Form 633-6 (Contract Pricing Proposal (Price Redetermination))."

34. Part 737 is amended by deleting the following sections:

§ 737.3-1000 [Deleted]
§ 737.3-1000-1 [Deleted]
§ 737.3-1004 [Deleted]
§ 737.3-1005 [Deleted]
§ 737.3-1006 [Deleted]
§ 737.3-1007 [Deleted]
§ 737.3-1008 [Deleted]
§ 737.3-1050 [Deleted]
§ 737.3-1051 [Deleted]
§ 737.3-1100 [Deleted]
§ 737.3-1100-1 [Deleted]
§ 737.3-1100-2 [Deleted]

35. Section 737.6-103-2 is revised as follows:

§ 737.6-103-2 Nonavailability in the United States.

(a) Each request for approval to purchase a foreign end product as provided in § 6-103.2(d)(4) shall be submitted to the Chief of Material (MAT 02) in the form of a determination. The determination shall include:

(1) A reference to the Buy American Act (41 U.S.C. 10a-d);

(2) Identification of the contracting activity;

(3) Identification of contractor;

(4) Description of item being procured;

(5) The unit and quantity;

(6) The unit price and estimated delivery cost of the foreign end product;

(7) The unit price and estimated delivery cost of the unavailable domestic end product;

(8) A brief statement indicating the earliest practicable date the domestic end item can be made available, if not immediately available to meet requirements;

(9) Location of project (for construction only);

(10) A brief statement establishing the necessity for the procurement and indicating considerations which have been given to the feasibility of foregoing the requirement;

(11) A statement establishing the nonavailability of any similar or substitute domestic end items, indicating both the required characteristics available only in the foreign end item and the deficiencies of the domestic items; and

(12) A statement describing the relationship of the requirement to the production of any item on the Master Urgency Planning List.

§ 737.6-103-5 [Amended]

36. In § 737.6-103-5, after line 52, (Group/Class No. 39), add

"4010---------- Chain and Wire Rope."

in lines 106 through 109, delete the following:

"7440---------- Automatic Data Processing Systems: Industrial, Scientific, and Office Types";

and add the following:

"70---------- General Purpose Automatic Data Processing Equipment."

37. Section 737.6-203-1 is revised as follows:

§ 737.6-203-1 Nonavailability in the United States.

Each request for approval to purchase a nondomestic construction material on the basis of "nonavailability" as provided in § 18-508.1(b)(1) of this title shall be submitted to the Chief of Material (MAT 02) in the manner, and subject to the requirements, prescribed in § 737.6-103-2.

38. Part 737 is amended by adding § 737.6-203-2, after § 737.6-203-1, which provides as follows:

§ 737.6-203-2 Evaluation of bids and proposals.

(a) Proposed awards requiring a determination in accordance with § 18-508.1 and § 18-508.2 of this title shall be submitted to the Chief of Naval Material (MAT 02) and shall contain the following information:

(1) Description of the materials, including unit and quantity;

(2) Estimated costs;

(3) Location of the construction project;

(4) Name and address of the proposed contractor; and

(5) Detailed justification of the impracticability of using domestic materials.

§§ 737.6-204 and 737.6-204-3 [Deleted]

39. Part 737 is amended by deleting §§ 737.6-204 and 737.6-204-3.

40. Part 737 is amended by adding § 737.6-706, after § 737.6-705-3, which provides as follows:

§ 737.6-706 Determination of contractor responsibility for the purpose of Foreign Military Sales (FMS) contracts.

(a) *Background.* Under the Foreign Military Sales Act, the United States may enter into contracts for the procurement of defense articles or defense services for sale to friendly foreign countries. In awarding contracts for FMS requirements, the United States, as in satisfying its own requirements, must assure itself that the contractor is responsible and has the wherewithal to meet its contractual commitment. There may be serious diplomatic and military consequences when a contractor fails to perform an FMS contract in accordance with its terms. In view of the importance of the timely delivery of a quality FMS item, within cost, the cognizant contracting officer must, in making a determination of responsibility under § 1-904 of this title, have every assurance that the contractor will in fact perform as he promises.

(b) *Action.* (1) Under § 1-903.3 of this title, special standards of responsibility may be developed when necessary to ensure adequate contract performance. The use of such standards, as may be appropriate, is encouraged with respect to FMS contracts. Any special criteria shall be set forth in the solicitation. In addition, the solicitation shall inform the offerors that due to the nature of the procurement all doubts as to responsibility shall be resolved against the offeror.

(2) When a Foreign Military Sales (FMS) contract requires that a product be obtained from a particular firm, the Navy procuring activities shall advise the foreign government of any contractor deficiencies that may adversely affect contract performance. In such event, a recommendation shall be made either to forego the requirement or provide a qualified United States contractor substitute.

41. Part 737 is amended by adding § 737.7-104-1, after § 737.7-104, which provides as follows:

§ 737.7-104-1 Equitable adjustments covering material and energy-related shortages.

(a) *Discussion.* The current material and energy-related shortage conditions introduce additional risk factors and contingencies into on-going current procurement negotiations. In order to eliminate or substantially reduce certain of these contingencies which are near-term in nature and which can be specifically identified as to type prior to contract award (or prior to definitization of contract prices), it will be necessary and prudent to provide protection covering such specific near-term contingency(s) in lieu of accepting contingencies in contract pricing therefor.

(b) *Policy.* The clause as prescribed in paragraph (c) of this section may be used in Navy fixed-price-type contracts (including both FFP and FPI). The contractor's certificate as to contract price contingencies shall be made part of the contract file. Use of the clause is also encouraged in contracts with small business concerns.

(c) *Clause.*

EQUITABLE ADJUSTMENT CLAUSE

(MATERIAL AND ENERGY-RELATED SHORTAGES)

a. The prices agreed to under this contract contain no provision for the certain specific contingencies specified in subparagraph b. below. The contractor represents that these contingent items represent near-term financial exposures under this contract for which provision was requested in contract prices negotiated under this contract. In lieu of such provision, the Contracting officer agrees that, in the event the specific contingencies

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outlined in subparagraph b. below occur, the prices under this contract will be equitably adjusted.

b. The following specific contingencies are identified:

c. The contractor shall notify the Contracting Officer within thirty (30) days of the occurrence of the above contingencies. Such notice shall include (i) the Contractor's proposal for equitable adjustment in the contract prices and (ii) support data, demonstrating the actual occurrence of the identified contingencies in such form as the Contracting Officer may require.

d. The aggregate of the increases in the contract prices made under this clause shall not exceed $_____.

e. The price equitable adjustment shall not include material handling charges, overhead, general and administrative expenses, and profit.

42. Part 737 is amended by adding §§ 737.7–303 and 737.7–303–1 after § 737.7–300, and they provide as follows:

§ 737.7–303 Clauses to be used when applicable.

§ 737.7–303–1 Equitable adjustments covering material and energy-related shortages.

See § 737.7–104–1.

43. Part 737 is amended by adding §§ 737.7–601 and 737.7–601–1, after § 737.7–600, which provide as follows:

§ 737.7–601 Clauses to be used when applicable.

§ 737.7–601–1 Equitable adjustments covering material and energy-related shortages.

See § 737.7–104–1.

§ 737.7–602 [Amended]

44. The section heading in § 737.7–602 is changed from "Clause to be used when applicable" to "Civil Works," and after the fourth line and before the fifth the following is added:

CIVIL WORKS

DELEGATION TO NAVAL FACILITIES ENGINEERING COMMAND

45. Part 737 is amended by adding §§ 737.7–607 and 737.7–607–1 before § 737.7–800, which provides as follows:

§ 737.7–607 Clause to be used when applicable.

§ 737.7–607–1 Equitable adjustments covering material and energy-related shortages.

See § 737.7–104–1.

§ 737.7–802–5 [Amended]

46. In § 737.7–805–5, lines six and seven, the words "contracts § 3–405)" are changed to "contracts § 3–405 and other types of contracts § 3–406)."

47. Part 737 is amended by adding §§ 737.7–803 and 737.7–803–1 after § 737.7–802–5.

§ 737.7–803 Clause to be used when applicable.

§ 737.7–803–1 Equitable adjustments covering material and energy-related shortages.

See § 737.7–104–1.

§ 737.10–301–50 [Amended]

48. In paragraph (b) of § 737.10–301–50, in lines 17 and 26, the term "(MAT 0212H)" is changed to "(MAT 024N)."

49. Section 737.10–351 is revised as follows:

§ 737.10–351 Authority of the Insurance Examiner, Procurement and Production Management Division, Headquarters Naval Material Command.

(a) The Insurance Examiner (MAT 024N) shall formulate insurance, bonding and indemnification policies and procedures for application in Department of the Navy procurements and shall supervise their execution pursuant to such administrative instruction as may be issued by the Chief of Naval Material. The Insurance Examiner is designated as the duly authorized representative of the Chief of Naval Material for the performance of the functions described in paragraph (c) below.

(b) The Insurance Examiner is available to procurement activities to provide guidance on insurance, bonding and indemnification matters. His telephone number is 202–692–8657/8/9 (commercial) or 222–8657/8/9 (autovon).

(c) The Chief of Naval Material or his duly authorized representative, is authorized to act by direction of the Secretary of the Navy, or as the duly authorized representative of the Head of a Procuring Activity, the contracting officer, or any other naval official designated in such a contract:

(1) To require or approve insurance whenever a contract provides that a contractor shall procure such insurance as may be required or approved by the Department, by the Secretary of the Navy, the Head of a Procuring Activity, the contracting officer, or by any other official of the Department;

(2) To execute, sign or endorse in the name of and by direction of the Secretary of the Navy any and all (i) lost policy releases; (ii) proofs of loss; (iii) subrogation agreements; (iv) endorsements of policies for claims and/or return premiums; (v) payment orders; and (vi) insurance drafts made payable to the Secretary of the Navy and not affecting the obligating of appropriations; and

(3) To advise and recommend to the Secretary of the Navy or other authorized interested officials of the Navy Department regarding

(i) Insurance drafts affecting the obligating or appropriations; and

(ii) Assignment to assume payment of premiums found to be due after the completion of a contract.

§§ 737.10–501–50 and 737.10–552 [Amended]

50. The term "(MAT 0212H)" is changed to "(MAT 024N)" at the following places. § 737.10–501–50, lines 12–13; § 737.10–552, paragraph (a), line nine, paragraph (b), lines 12 and 25, and paragraph (e), lines three and four; § 737.10–700–1, paragraph (b), line three; and § 737.10–702, lines nine and ten.

51. Paragraph (a) (2) of § 737.16–812–51 is amended by adding the following after line three:

4. In the event the contractor obtains or receives any refund or rebate of, or credit for, taxes paid to the State of California or any political subdivision thereof, in connection with the performance of this contract, and for which the contractor was paid or reimbursed by the Government, the contractor agrees to pay over to the Government an amount equal to such refund or credit (including interest paid or credited to the contractor incident to such refund or credit to the extent that such interest was earned after the contractor was paid or reimbursed by the Government for such taxes). In the event the contractor receives any benefit in lieu of or in addition to such a refund or credit, the contractor agrees to pay over to the Government an amount equal to such benefit.

52. Paragraphs (a) (1) and (2) of § 737.17–208–1 are revised as follows:

§ 737.17–208–1 Investigations.

(a) • • •

(1) Obtain a formal advisory audit report from the cognizant Defense Contract Audit Agency (DCAA) Office;

(2) Clearly identify with audit request the areas which should be verified and any specific accounting information needed; a copy of the pertinent financial or cost data submitted by the contractor should accompany the request; and

• • • • • •

53. Section 737.17–208–3 is revised as follows:

§ 737.17–208–3 Cases referred to the Navy Contract Adjustment Board.

Procuring activities shall provide the Navy Contract Adjustment Board with six (6) copies of any case referred to the Board for decision under the provisions of Public Law 85–804. In addition, one (1) copy shall be forwarded directly to the Director of Contract Financing (NCD–4), Office of the Comptroller General.

§ 737.17–208–5 [Amended]

54. In paragraph (b) (3) of § 737.17–208–5, line three, the numbers "(i), (ii), and (iii)" are changed to "(1), (2), and (3)," and in line five, the word "subparagraph (b)" is changed to "paragraph (a)".

§ 737.10–702–4 [Amended]

55. Section 737.20–702–4 is amended by adding a paragraph (c), which provide as follows:

§ 737.20–702–4 Project manager or procuring activity.

• • • • • •

(c) The guidance in paragraphs (a) and (b) of this section is also applicable for use as appropriate with non-Navy CAO's.

56. Section 737.20–702–5 is revised as follows:

§ 737.20–702–5 Monitoring contractor's costs.

(a) *Introduction.* The complexities of weapons systems procurement require a high degree of competence in contract management. The objective is to assure that the items purchased by the Government are delivered on schedule for fair and reasonable prices. Because of the cost and technical risks involved, the administration of weapons systems contracts usually require more knowledge and surveillance of a contractor's operation than would be required under less critical contracts. In order to insure the most efficient and economical performance of major contracts, Naval Plant Representatives (NAVPROs) and Supervisors of Shipbuilding, Conversion and Repair (SUPSHIPs) will monitor contractor direct and indirect costs related to Government business.

(b) *Responsibility for cost monitoring.* Within each NAVPRO and SUPSHIP administering contracts with contractors who are not CWAS qualified (§ 3–10 of this title), and who are expected to have sales to the Government in excess of $25,000,000 during the next 12 months on other than firm fixed-price and fixed-price with escalation contracts an individual or organizational element shall be designated as "cost monitor." The cost monitor shall be responsible to the Head of the NAVPRO/SUPSHIP for:

(1) Preparing and maintaining an annual consolidated written plan and schedule for performing reviews of contractor operations from the coordinated long range plans established by each of the team members (see paragraph (c) of this section). The purpose of this composite plan and schedule is to assure that the cost monitoring responsibilities summarized in § 737.1–406–50 are being fully implemented, and that the technical and professional expertise of the various organizational units of the NAVPRO/SUPSHIP and the Defense Contract Audit Agency (DCAA) auditor are used without duplication of effort or skills;

(2) Coordinating the performance of the cost monitoring efforts of the NAVPRO/SUPSHIP;

(3) Coordinating the cost monitoring efforts of the NAVPRO/SUPSHIP with those of the DCAA auditor;

(4) Advising the Head of the NAVPRO/SUPSHIP of situations where the contractor should correct conditions, policies, or practices which are not considered the most economical and efficient for the performance of government contracts, and recommending corrective action, including issuance of formal written notices to the contractor advising of specific costs that will not be allowed if incurred;

(5) Coordinating NAVPRO/SUPSHIP actions to assure that the procuring contracting officer, project manager, the head of a procuring activity, DCAA, and other responsible officials are informed of relevant matters significantly affecting the most economical and effective performance of government contracts;

(6) Coordinating actions to assist NAVPRO/SUPSHIP, DCAA, and other government personnel in obtaining access to pertinent contractor policies, procedures, and related financial data, and obtaining the assistance of the Head of the NAVPRO/SUPSHIP when such access is being denied or impaired;

(7) Maintaining an inventory of NAVPRO/SUPSHIP, DCAA, and other government reports on significant issues relating to monitoring costs;

(8) Continuously monitoring the status of recommendations made to the contractor concerning cost performance; and

(9) Maintaining current organizational charts of the contractor's operations compatible with the contractor's budgetary system.

The plan required by paragraph (b) (1) above must be tailored to the contractor, taking into account the extent of competition in awarded contracts, the contractor's operating methods, the nature of work being done, procurement cycle stage, business and industry practices, types of contracts involved, degree of technical and financial risk, ratio of government/commercial work and extent that performance efficiencies have been previously demonstrated. The plan should stress the importance of anticipating potential problems and provide a means of calling them to the attention of the contractor at a stage early enough to enable preventive action to be taken. Reviews required by ASPR and the contracting officer must be included in the plan.

(c) *Contractor operations review.*—(1) *Selecting operations for review.* It is not possible to review all elements of a contractor's entire operation each year. Therefore, the next best alternative is to select for review those operations that have the greatest potential for charging government contracts with significant amounts of unacceptable costs such as those resulting from inefficient and uneconomical operations. To select these cost-risk areas on a sound and orderly basis, it is first necessary that an overview be obtained of the contractor's entire operation. Prior to the beginning of each government fiscal year, the NAVPRO/SUPSHIP cost monitor should arrange for a joint meeting between NAVPRO/SUPSHIP personnel, the DCAA auditor and other directly interested government representatives to coordinate selection of the areas to be subject to the review during the coming year. Documentation and other data to be obtained for use in the selection process will include:

(i) Contractor's total budget package broken down by functions for the coming year and latest survey of the budgetary system. (DCAA auditor responsibility.)

(ii) Detailed organizational charts for the contractor's entire operation. (NAVPRO/SUPSHIP responsibility.)

(iii) An outline of the contractor's accounting system to understand the flow of costs by function. (DCAA auditor responsibility.)

(iv) The extent of government participation in the dollars attributable to the operations and cost accounts under consideration. (DCAA auditor responsibility.)

(v) A complete list of recent reviews and audits performed by the NAVPRO/SUPSHIP, the DCAA auditor, and other government representatives that would impact upon the selection of areas to be reviewed in the current year. This listing should show outstanding weaknesses and deficiencies in the contractor's operations (NAVPRO/SUPSHIP responsibility.)

(vi) Evidence of under and overstaffing. (NAVPRO/SUPSHIP—DCAA auditor responsibility.)

(vii) Significant departures from established productivity standards, (NAVPRO/SUPSHIP responsibility.)

(viii) Major financial variances from budgets in prior years. (DCAA auditor responsibility.)

(ix) Evidences of idle or underused capacity. (NAVPRO/SHIP DCAA auditor responsibility.)

(2) *Planning for reviews.* The purpose of the meeting described in paragraph (c) (1) of this section is to consider all of the data identified and develop a mutually acceptable annual plan for reviews of the contractor's operation. The plan shall provide coverage for each significant operational area of the contractor over a period of 2–3 years and shall be modified during subsequent meetings as necessary to reflect current conditions. The schedule and resource limitations of the participating organizations will be considered during preparation of the annual plan. The plan will identify the organizations having the primary responsibilities for performing the review, i.e.; the NAVPRO/SUPSHIP, DCAA, or jointly by NAVPRO/SUPSHIP and DCAA. When appropriate, the participating organizational units of the NAVPRO/SUPSHIP shall also be identified in the plan:

(i) Reviews of contractor operations involving minimal or no financial and accounting considerations will be performed by the NAVPRO/SUPSHIP and the NAVPRO/SUPSHIP will sign reports on these reviews.

(ii) Accounting and financial reviews of contractors' operations involving minimal or no technical considerations will be performed by the DCAA auditor, and the auditor will sign reports on these reviews.

(iii) Other reviews involving significant technical and financial/accounting aspects will be performed jointly by the NAVPRO/SUPSHIP and DCAA and the reports on these reviews will be signed by the heads of the respective organizations.

Some operations reviews such as the purchasing and estimating system reviews are assigned to the responsible reviewing organization by ASPR. These assignments will continue to be recognized. All others will be performed in accordance with the above criteria. The plan shall be formally approved by both the head of

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the NAVPRO/SUPSHIP and the head of the local DCAA Resident Office.

(d) *Joint reviews.*—(1) *Objective.* The objectives of Joint NAVPRO/SUPSHIP DCAA auditor reviews of contractor operations are:

(i) To optimize the utilization of DCAA NAVPRO/SUPSHIP personnel in the performance of selected operations reviews; and

(ii) To generate joint reports of the reviews that contain findings, conclusions, and recommendations mutually agreed upon by the DCAA auditor and the NAVPRO/SUPSHIP to improve the effectiveness and economy of contractor operations.

(2) *DCAA auditor responsibility.* Organizationally, the DCAA is separate from, and independent of purchase and contract administration offices. DCAA auditors are professionals trained in accounting, auditing, and financial matters. DCAA functions and relationships are set forth in §§ 737.1–407 and 737.1–408. Briefly, DCAA audit offices are responsible for performing all necessary contract audit for DoD and providing accounting and financial advisory services regarding contracts and subcontracts to all DoD components responsible for procurement and contract administration. Section 3–801.5 of this title, Responsibility of Field Pricing Support Personnel, provides that the auditor is responsible for submission of information and advice based on his analysis of the contractor's books and accounting records or other related data as to the acceptability of the contractor's incurred and estimated costs. It also states that the auditor is responsible for performing that part of reviews and cost analysis which requires access to the contractor's books and financial records supporting proposed costs or pricing costs or pricing data regardless of the dollar amount involved. Finally, it provides that only the auditor shall have general access to the contractor's financial books and records for this purpose. The NAVPRO/SUPSHIP will utilize the auditor's services whenever such expertise is needed; particularly in regard to the contractor's financial management reports, books, and records. The auditor will be responsible for reviewing the financial and accounting aspects of the contractors' budgetary system.

(3) *Differences.* The finding, conclusions, and recommendations resulting from joint reviews shall be mutually agreed upon by the NAVPRO or SUPSHIP and the Resident Auditor. In those instances where Navy and DCAA field personnel are unable to resolve, among themselves, differences of opinion on significant joint report findings, conclusions, and recommendations, report copies with pertinent explanation shall be forwarded simultaneously to NAVMAT and DCAA Headquarters, via channels, for advice.

(4) *Exit conference with contractor.* During the course of the review there may be several information briefings with contractor management personnel to exchange information. Every opportunity should be afforded each party, to either update the information provided or to conduct additional reviews to preclude misconception that could develop as a result of obtaining incomplete or inaccurate data. An exit conference with contractor management personnel provides the opportunity to explain NAVPRO/SUPSHIP and DCAA findings, conclusions, and recommendations.

(5) *Reports on joint reviews.* Reports on joint reviews of contractor's operations shall be prepared for submission to the contractor by the DCAA auditor and the NAVPRO or SUPSHIP and signed by the heads of both offices. Joint review reports shall be submitted to the contractor by an accompanying transmittal letter signed by the Head of the NAVPRO/SUPSHIP. To the maximum practical extent, the report will be prepared in the following format:

Cover page.
Table of contents.
Summary (see (A) below).
- Background of operational area reviewed.
- Purpose of review.
- Scope of review.
- Summary evaluation.

Statement of conditions and recommendations (see (B) below).
Status of corrective action taken regarding prior recommendations (see (C) below).
Concluding remarks (see (D)).
Exhibits and schedules (see (E) below).

(a) *Summary*—(i) *Background of operational area reviewed.* The background paragraph should provide information regarding the area under review. It should indicate the overall significance of the area and sion statement where appropriate, and any other background data which may impact the review, such as recent contractor reorganizations in the area being reviewed, major changes in operating procedures, major changes in volume or mix of business, major contract awards or terminations affecting the area, observations or disclosures from other reviews, and other similar background data as appropriate.

(ii) *Purpose of review.* The purpose paragraph will clearly identify the particular area reviewed, the purpose, and the period reviewed. This paragraph will also include the following restriction on report release: "This report may not be released to any Federal agency outside the Department of Defense without prior approval of the signatories except where an agency requests the report in connection with the negotiation or administration of a contract by the agency."

(iii) *Scope of review.* The scope paragraph should normally include a standard phrase such as the following: "The financial aspects of this joint review were performed in accordance with generally accepted auditing standards and included such tests of accounting records and other auditing procedures as were considered necessary in the circumstances. In addition, the scope of the technical review should also be stated. Where pertinent, the paragraph may also identify any relevant contractor records, documents, policies, and procedures examined, and special techniques used such as: statistical sampling, regression analysis, ration delay, etc. Any factors which restricted the scope of the review should also be clearly stated.

(iv) *Summary evaluation.* One of the principal objectives of the report is to adequately expose any significant adverse conditions found during the review to insure that necessary corrective action is taken. Accordingly, the summary evaluation should include a brief, pointed statement on the overall results of the evaluation. Specific favorable internal controls or contractor procedures should be recognized but particular emphasis should be placed on those conditions where improvement is needed. This paragraph should also include a brief summary of the effect (dollar or other) of the conditions and their underlying causes. The summary conclusions should relate to and be consistent to have, at the same time, a long list of significant deficiencies and an overall favorable conclusion. The summary evaluation should be presented in clear, concise, and specific terms so that the reader will not have to make arbitrary, possibly erroneous, deductions or assumptions, about the conclusions.

(B) *Statement of conditions and recommendations.* A comprehensive statement of conditions and recommendations for corrective action is required for each deficiency or weakness found and should be presented as follows:

TITLE OF SUBJECT/AREA TO BE DISCUSSED

(i) *Statement of condition.* The conditions found during the review should be clearly described. Specific examples of adverse conditions should be included. The scope of the examination and the result of any tests made should be described in sufficiently precise terms. Time periods of the tests should be highlighted if deficiencies are more prevalent during certain time frames. The criteria that the receiver used as a basis for comparison with the actual condition should be described sufficiently to permit the reader to grasp the significance of finding. The cause or the underlying reasons for the conditions should be explained as specifically as possible.

(ii) *Cost impact.* The effect of the adverse conditions on government contracts in terms of dollar amounts should be shown whenever possible. It is recognized that there may be times when dollar impacts are not discernible. When actual dollar amounts are not available, the reasons for such unavailability should be explained, and reasonable estimates should be used wherever possible. In brief, the report should indicate clearly and specifically what the reviewer considers the effect to be in the circumstances.

(iii) *Recommendations addressed to the contractor.* The recommendations should be a natural and logical fallout of the preceding paragraphs. Recommendations should be constructive in nature and as definitive as the situation warrants. The reviewer need not solve all procedural or functional problems but should indicate at least the framework for resolving the deficiency. It may be appropriate in certain complex situations to recommend that the contractor, with its resources, undertake a study directed toward remedying the deficiency.

(iv) *Contractor's reaction.* The contractor's reaction, as obtained during interim discussions or the exit conference (d)(4), should be noted as well as whether the contractor has agreed to undertake appropriate corrective measures. If the contractor is not prepared to furnish authoritative comments on the review findings at the time of the exit conference, it is considered appropriate to furnish a preliminary draft copy of the report to the contractor in order for him to fully understand the findings and recommendations. A reasonable timeframe (usually 2 weeks to 30 days) should be established for the contractor's reply. Reports should not be

held beyond the agreed-to deadline for receipt of the contractor's reaction.

(v) *Reviewer's rejoinder.* Any factual matters raised by the contractor's comments or reply should be included in the statement of condition. The extent to which the contractor concurs with the findings and recommendations and the contractors proposed action should also be discussed.

(C) *Status of corrective action taken on prior recommendations.* This paragraph should show the status of corrective action taken by the contractor on recommendations made in prior reports on the same functional area. The paragraph should include a determination by the reviewer as to whether the corrective action taken is adequate. If corrective action is inadequate or has not been taken, the recommendation should be restated or a reference made to the updated discussion of the matter in the present report.

(D) *Concluding remarks.* This paragraph should be used to suggest specific time periods for corrective action on any report recommendations or other comments as appropriate. The report should be signed at the end of the narrative section of the report by both the Head of the NAVPRO/SUPSHIP and the head of the local DCAA Resident Office.

(E) *Exhibits and schedules.* Reports should contain any exhibits and supporting schedules necessary for adequate support of the review findings and a clear understanding of the recommendations. The contractor's operating and financial statements and pertinent excerpts from the contractor's policies and procedures may be included as exhibits in those circumstances where they will contribute to an understanding of the report.

(e) *Reports issued by NAVPROS or SUPSHIPS.* Reports issued solely by the NAVPRO/SUPSHIP will be prepared generally in accordance with paragraph (d)(5) above except when regulations provide otherwise.

(f) *Recommendations to Government activities.* NAVPRO/SUPSHIP findings resulting in recommendations to named government activities will be the subject of a separate report signed by the Head of the NAVPRO/SUPSHIP and forwarded through channels to the activities addressed in the recommendation.

57. Part 737 is amended adding §§ 737.20–702–7 and 737.20–702–8, after § 737.20–702–6, which provide as follows:

§ 737.20–702–7 Review of contractor's ADP (Automatic Data Processing) operations.

(a) *NAVPRO/SUPSHIP responsibility.* Each NAVPRO (Naval Plant Representative Office) and SUPSHIP (Supervisor of Shipbuilding, Conversion and Repair) administering contracts with contractors expected to have sales to the Government in excess of $5,000,000 during the next 12 months on other than firm fixed-price and fixed-price with escalation contracts shall review the contractors ADP operations periodically to assure that they are effective and economical. This review should be combined with a review required by § 3–1100.2 of this title and shall include a review of the end products of contractors' ADP equipment, and the data that might be produced by such equipment. The plan and schedule for the review must be tailored to the contractor concerned, taking into account the requirements of § 3–1100 of this title, the extent of competition in contracts being performed, the contractor's operating methods, the nature of the work being done, procurement cycle states, types of contracts involved, degree of technical and financial risk, ration of Government/commercial work, and extent that performance efficiencies have been previously demonstrated. The plan should stress the importance of anticipating potential problems and provide a means of calling them to the attention of the contractor at a stage early enough to enable preventive action to be taken. Review teams shall be headed by a representative of the NAVPRO/SUPSHIP and shall include as necessary one or more ADPE specialists provided by the Systems Command, one or more DCAA auditors, and appropriate NAVPRO/SUPSHIP personnel.

(b) *NAVAIR/NAVSEA responsibility.* The Commander, Naval Air Systems Command (NAVAIR) and the Commander, Naval Sea Systems Command (NAVSEA) shall provide necessary technical assistance to NAVPROS and/or SUPSHIPS managed by them, to conduct the reviews required by paragraph (a) of this section as well as the review required by § 3–1100.2 of this title applicable to contractor acquisition of ADPE. NAVAIR or NAVSEA shall also provide necessary technical assistance required by § 3–1100.2(c) of this title to Defense Contract Administration Services activities cognizant of contractors having a preponderance of Navy unexpended contract dollars. The selection of NAVAIR or NAVSEA to provide this service will be determined on the basis of preponderance of unexpended NAVAIR or NAVSEA contract dollars in contracts held by the contractor.

§ 737.20–802–8 Responsibilities of NAVPROs and SUPSHIPs for deobligation of unexpended dollar balances considered excess to known contractor requirements.

(a) *Responsibility.* NAVPROs (Naval Plant Representative Office) and SUPSHIPS (Supervisors of Shipbuilding, Conversion and Repair) shall monitor contract funding in order to determine when excess funds are available for deobligation.

(b) *Procedures.* (1) Contractually required reports, including Contract Funds Status Report (DD Form 1556) and the report required by the Limitation of Cost clauses, shall be examined to determine if there are excess contract funds. Also, when work under a contract or contract line item is physically completed, or has lapsed, a review shall be made to determine if there are any excess funds.

(2) When the determination has been made that unexpended dollar balances are excess to known contract requirements, the NAVPRO/SUPSHIP shall obtain a statement from the contractor as to the exact amount available for deobligation.

(3) When authorized by § 737.26–102 or the purchasing office (see § 1–406(c)(lviii) of this title) the NAVPRO/SUPSHIP will execute a bilateral contract modification releasing excess funds. Otherwise the NAVPRO/SUPSHIP shall provide a report of excess funds to the purchasing office, which may either modify the contract or authorize the NAVPRO/SUPSHIP to do so.

(4) In preparing modifications deobligating funds under contracts involving multiple accounting classifications, NAVPRO/SUPSHIPS may find it necessary to obtain a record of Navy payments by accounting classifications in order to determine which accounting classifications to credit. This information is available on a specific request basis from the AAA (Authorized Accounting Activity), which can be identified by the six digit code in the accounting classification and reference to the index of these codes in the NAVCOMPT Manual, Volume II, Chapter 5.

(5) Should a deobligation by a NAVPRO/SUPSHIP be later determined to have been excessive, the NAVPRO/SUPSHIP shall obtain the required funds from or through the purchasing office and modify the contract accordingly.

§ 737.20–706–50 [Deleted]

58. Part 737 is amended by deleting § 737.20–706–50 in its entirety.

§ 737.20–706–52 [Amended]

59. In paragraph (a) of § 737.20–706–52, line six under "Disbursing office" chart, the words "NRFC Pearl Harbor, Hawaii" are changed to "NFO Pearl Harbor, Hawaii."

60. Paragraph (c)(2)(ii) of § 737.20–706–52 is revised as follows: "The ordering activity will designate NRFC Washington as the paying office for all other deliveries. Contracts for into-plane deliveries will designate payment by Defense Supply Agency Administrative Support Center, DCASC–MF, Cameron Station, Alexandria, VA 22314."

61. In paragraph (e) of § 737.20–706–52, line six, the words "NRFC Brooklyn" are changed to "NRFC Norfolk."

62. In paragraph (g) of § 737.20–706–52, lines two, three, and four, the following sentence is deleted: "Invoices for into-plane deliveries under contracts will be forwarded directly to NRFC Washington."

63. Part 737 is amended by adding the following sections: § 737.21–101–1; § 737.21–102, § 737.21–102–1, § 737.21–102–2, § 737.21–102–3, § 737.21–102–4, § 737.21–103, § 737.21–103–1, and § 737.21–501, which provide as follows:

§ 737.21–102 Preparation of reports of undefinitized change orders.

§ 737.21–102–1 General.

The backlog of undefinitized changes and unpriced orders constitutes a blank check to contractors and is a contingent liability against the government. In order to maintain the integrity of the basic contract agreement, as well as to minimize government risk, timely definitization is required. Reports of Undefinitized Change Orders and Unpriced Orders are designed to provide the Chief of Naval Material with a dollar and action profile of each of the systems commands in summary form. However, Heads of Procuring Activities are expected to have information from the activities reporting to them in much greater

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depth than the summary reports so they can readily furnish the Chief of Naval Material pertinent details in such areas as backlogs in individual activities, their goals for reducing the backlogs, reasons for fluctuations, pricing/definitization progress for outstanding actions and other data of similar import, should the need arise.

§ 737.21–102–2 Head of procuring activity action.

(a) *Reporting responsibility.* Heads of Procuring Activities, with the exception of the U.S. Marine Corps which submits reports directly to ASD(I&L), shall prepare and forward consolidated reports on Undefinitized Change Orders and Unpriced Order backlogs for Department of the Navy purchasing office and contract administration offices under their cognizance. The Commander, Naval Supply Systems Command will report on the Navy Inventory Control Points and other activities of the Navy Field Procurement System. Only those procurement actions estimated to exceed $10,000 are to be reported.

(b) *Treatment of procurement actions for which DCAS, U.S. Air Force and others have responsibility for executing priced supplemental agreements.* These procurement actions will be included in the Report of Undefinitized Change Orders; they will be excluded from the Unpriced Order Report.

(c) *Reporting procedures and submission schedules.* Report shall cover the periods ending June 30, September 30, December 31, and March 31, respectively. They shall be submitted to the Chief of Naval Material (MAT 0214) within 20 calendar days after the end of each reporting period.

(d) *Report format.* Quarterly reports shall be submitted on Exhibit A which is contained in § 737.21–102–3. When Exhibit A is reproduced, the notes may be deleted.

(e) *Report control symbol.* RCS DD–I&L(Q)1119(5200) applies.

§ 737.21–102–3 Preparation of reports of Undefinitized Change Order, DD–I&L(Q)1119(5200) Format A.

(a) *Definition—Undefinitized change order.* For the purpose of this report, an Undefinitized Change Order is any of the following modification for which a final equitable adjustment in contract price or cost remains to be negotiated:

(1) Change Orders § 1–201.1 of this title) issued pursuant to the Changes clause, or to other clauses of the contract invoking the Changes clause procedures:

(2) Supplemental Agreements used in preference to a change order when the authority to accomplish the modification is the Change clause; or

(3) Other Supplemental Agreements used to reflect other agreements of the parties modifying the terms of the contract.

(4) *Exceptions.* Changes and other modifications to letter contracts; contract modifications for provisioned and other items; Orders under Basic Ordering Agreements (BOA's); and Job Orders under Master Contracts for the Repair and Alteration of Vessels. None of these will be reported as Undefinitized Change Orders.

(b) *Applicability and coverage.* Quarterly reports of Undefinitized Change Orders shall be prepared for all undefinitized change orders over $10,000 issued by each Department of the Navy purchasing and contract administration office, and by DCAS, U.S. Air Force or U.S. Army administration office acting on behalf of Navy purchasing offices.

(c) *Dollar values reported.* The dollar value of an Undefinitized Change Order is the amount obligated, or deobligated.

(d) *Aging.* The age of an Undefinitized Change Order is calculated from the first of the month following the month the order was issued by the contracting office. Example: Order issued April 10; aging begins May 1.

§ 737.21–102–4 Preparation of report of Unpriced Orders, DD–I&L(Q) 1119(5200).

(a) *Definition—Unpriced order.* For the purpose of this report, an Unpriced Order is any of the following procurement actions in which the provisioning or other terms of the contract or agreement authorize the contracting officer/ordering activity to place orders for which firm prices will be negotiated at a subsequent date:

(1) Orders under Basic Ordering Agreement (BOA's)

(2) Job Orders under Master Contracts for the Repair and Alteration of Vessels; or

(3) Contract modifications requiring the contractor to furnish such items as spare parts, support equipment, technical manuals, supplies, repairs, services, etc.

(4) Exceptions. No letter contracts, or modifications under letter contracts, shall be included in the Report of Unpriced Orders.

(b) *Applicability and coverage.* Quarterly Reports of Unpriced Orders shall be prepared on each action over $10,000 and summarized for Navy purchasing and contract administration offices. Actions under the cognizance of DCAS, U.S. Air Force or U.S. Army administration offices shall be excluded from this report.

(c) *Dollar values reported.* Paragraph (c) of § 737.21–102–3 applies.

(d) *Aging.* Paragraph (d) of § 737.21–102–3 applies.

(e) *Format for report of undefinitized change orders and unpriced orders for the period ending.*

EXHIBIT A

(SYSCOM) REPORT OF UNDEFINITIZED CHANGE ORDERS AND UNPRICED ORDERS FOR THE PERIOD ENDING _____

RCS DD–I&L(Q)1119(5200)

*UNDEFINITIZED CHANGE ORDERS		(1) ON HAND BEGINNING OF PERIOD		(2) ISSUED DURING PERIOD		(3) ON HAND END OF PERIOD		(4) LESS THAN SIX MONTHS		(5) SIX MONTHS TO TWELVE MONTHS		(6) MORE THAN TWELVE MONTHS	
		ACTIONS	DOLLARS	ACTIONS	DOLLARS	ACTIONS	DOLLARS	ACTIONS	DOLLARS	ACTIONS	DOLLARS	ACTIONS	DOLLARS
N	SUPSHIPS (SEA use only)												
A	NAVPROS (AIR & SEA use only)												
V	HDQSYSCOM 02 (AIR, SEA & ELEX use only)												
Y	TOTAL (For use of all SYSCOMS)												
DCAS													
AIR FORCE													
ARMY													
TOTAL													
**UNPRICED ORDERS													
N	SUPSHIPS (SEA use only)												
A	NAVPROS (AIR & SEA use only)												
V	HDQSYSCOM 02 (AIR, SEA & ELEX use only)												
Y	TOTAL (For use of All SYSCOMS)												

*Notes on Preparing Report on Undefinitized Change Orders: (Notes may be omitted when form is reproduced)

(a) Balances appearing in columns (1), On Hand Beginning of Period, in this report shall agree with those appearing in column (3), On Hand End of Period, for the previous period.

(b) The sums of actions and dollars in columns (1) and (2) shall not be less than the actions and dollar totals in column (3).

(c) The sums of actions and dollars in columns (4), (5) and (6) shall equal the actions and dollar totals in column (3).

(d) The dollar value of undefinitized change orders shall be the amount obligated.

(e) Exceptions noted in NPD 21–102.3(a)(4) shall not be included in this report.

(f) All dollar values shall be treated as additions, whether they are increases or decreases, e.g.:

Order No. 1 plus	$100
Order No. 2 minus	50
Order No. 3 plus	50
Total	$100

**Notes on Preparing Report on Unpriced Orders:

Notes (a) through (e) for reporting undefinitized Change Orders likewise apply to Unpriced Orders, except that the NPD reference in Note (e) is NPD 21–102.4(a)(4).

§ 737.21–103 Preparation of letter contract report.

§ 737.21–103–1 Reporting letter contract status.

(a) A quarterly Letter Contract Report shall be submitted to the Chief of Naval Material (MAT 0214) not later than the 10th working day after the end of the quarter. The Commander, Naval Supply System Command will report on the Navy Inventory Control Points and other activities of the Navy Field Procurement System. The report consists of three parts:

(1) Part 1, NAVMAT Form 4330/2 (Rev. 5–66), is the basic report listing all outstanding letter contracts and those that have been definitized during the reporting quarter. Preparation requires that appropriate information be shown in columns 1 through 10 for each letter contract. The dollar value of a letter contract shall include all modifications. Such modifications shall be treated as additions to the initial award and shall not be reported as separate line item entries on NAVMAT Form 4330/2. Data appearing in columns 1, 2, 3, and 6 shall remain the same for the life of the letter contract; information in columns 4, 5, 7, 8, and 9 shall be updated, when appropriate. Column 10 shall not be filled until the definitive contract has been signed by both parties. Once the definitization date has been entered in column 10, the item shall no longer be reported. Letter contracts that have been definitized during the quarter should appear last on the report. NAVMAT Form 4330/2 need be submitted in original only.

(2) Part 2, NAVMAT Form 4330/3 (9–68), serves the dual purpose of reporting current status of definitization of letter contracts aged 6 months or more and stating what has transpired in the past affecting definitization progress. In the space entitled "Detailed Reasons Why Contract Has Not Been Definitized," the explanation should be given in chronological form so that there is a clear outline of sequential actions. In the space entitled "Present Status," a one-line statement of status as of the end of the reporting quarter will be sufficient. NAVMAT Form 4330/3 need be submitted in original only.

(3) Part 3, NAVMAT Form 4330/27(2–70), is a one-time report that shall be submitted on each newly awarded letter contract the first time the award is listed on NAVMAT Form 4330/2. The report is required in an original only, except where clearance must be obtained from the Chief of Naval Material (MAT 022). In such instances, the original of NAVMAT Form 4330/27 shall be furnished MAT 022 and a copy shall be included in the quarterly report to MAT 0214. The negotiation authority for the letter contract shall be indicated in parenthesis in Part II of this Form near the right-hand margin on the line provided for the Letter Contract Number. Also, on awards of $1 million or more, the SYSCOM 02 or his designated representative shall state briefly on the reverse of NAVMAT Form 4330/27(2–70) the reason for determining that a letter contract was the proper contractual instrument for the procurement.

(b) NAVMAT Forms 4330/2(Rev. 5–66), 4330/3(9–68), and 4330/27(2–70) are available through the Navy Supply System as "Cog I" items.

(c) Report Control Symbol DD–I&L (Q)1119 applies.

§ 737.21–501 Miscellaneous procurement reports.

(a) *Purpose.* This Part 737 prescribes recurring reports covering contractual actions to fulfill statutory and managerial data requirements, and are not based on the reporting requirements of § 21 of this title.

(b) *Reports required.* The following annual reports will be submitted to the Assistant Secretary of Defense (Comptroller), Attn: Directorate for Information Operations. A copy of each annual report shall be provided to the Director of Banking and Contract Financing (NCD–4), Office of the Navy Comptroller.

(1) *Extraordinary contractual actions to facilitate the National Defense (PL 85–804)* will be submitted in duplicate within forty-five (45) days after the close of each calendar year in accordance with specific instructions and format provided in paragraph (e) of this section.

(2) *Grants for basic scientific research and transfer of title to Government equipment (PL 85–934)* will be submitted in duplicate within sixty (60) days after the close of each calendar year in accordance with specific instructions and format provided in paragraph (e) of this section.

(c) *Responsibilities for submission.* (1) The Chief of Naval Material is responsible for submitting the annual report required in paragraph (b)(1) of this section.

(2) The Chief of Naval Research is responsible for submitting the annual report required in paragraph (b)(2) of this section.

(d) *Feeder reports.* Navy procuring activities shall prepare feeder reports of contractual actions occurring during the calendar year in the format prescribed in paragraph (e) of this section and shall submit them to the Chief of Naval Material (MAT 02) or Chief of Naval Research (ONR 600), as appropriate.

(e) *Instructions for preparation and formats.* (1) See Exhibits A and B for reports under Pub. L. 85–804.

(2) See Exhibits C and D for reports under Pub. L. 85–934.

(f) *Reports symbols.* (1) Report Control Symbol DD–I&L(a) 597 applies to the report required in paragraph (b)(1) of this section.

(2) Report Control Symbol DD–I&L (A) 598 applies to the report required in paragraph (b)(2) of this section.

(g) *Instructions and forms for preparing reports.*

EXHIBIT A—INSTRUCTIONS FOR PREPARING REPORT ON EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE (PUBLIC LAW 85–804)

1. A summary of all actions approved or denied under PL 85–804 as implemented by Section XVII of the Armed Services Procurement Regulation (ASPR) will be prepared in accordance with Exhibit B. Source data for the summary will be obtained from Final Records of Request for Adjustment supported by Memoranda of Decision (ASPR, Section XVII, Parts 2 and 4) and Memoranda of Approval covering the exercise of residual powers (ASPR, Section XVII, Part 3).

2. *Column a.* Data will be shown separately for actions involving a specific dollar cost (lines 1a through 1f) and those not involving such cost (lines 2a through 2f). The titles for types of actions shown in lines 1a, b, and c are mandatory. Titles shown for other lines are illustrative only and may be modified as desired. An example of a contingent liability is a contract containing an indemnity clause insuring the contractors from loss due to radiation hazards.

3. *Columns b, c, and d.* These columns will be used to report data for actions which are approved in whole or in part.

4. *Columns e and f.* These columns will be used to report data for action which are denied in their entirety.

5. *Approved actions for more than $50,000* To comply with the statutory reporting requirement, additional information is needed on approved actions of more than $50,000 Each contingent liability or advance payment approved under authority of PL 85–804 will be considered to be in excess of $50,000 for reporting purposes. For actions of more than $50,000, one copy of each Final Record of Request for Adjustment supported by a copy of the Memorandum of Decision, and each Memorandum of Approval will be submitted with the summary report. Each Final Record and Memorandum of Approval will be annotated to indicate the line number of the summary on which the action is reported.

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EXHIBIT B

Extraordinary Contractual Actions To Facilitate The National Defense (PL 85–804)	Department			Period From To	
	Actions Approved			Actions Denied	
Type of Action (a)	No. (b)	Amount Claimed or Requested (c)	Amount Approved (d)	No. (e)	Amount Claimed or Requested (f)
1. Actions Involving Specific Dollar Cost	XXX	XXXXXXXXX	XXXXXXXXX	XXX	XXXXXXXXXXX
a. Amendments Without Consideration					
b. Correction of Mistakes					
c. Formalization of Informal Commitments					
d. (Other-Specify by type)					
e.					
f.					
2. Actions Not Involving Specific Dollar Cost	XXX	XXXXXXXXX	XXXXXXXXX	XXX	XXXXXXXXXXX
a. Amendments Without Consideration		XXXXXXXXX	XXXXXXXXX		XXXXXXXXXXX
b. Contingent Liabilities		XXXXXXXXX	XXXXXXXXX		XXXXXXXXXXX
c. Advance Payments		XXXXXXXXX	XXXXXXXXX		XXXXXXXXXXX
d. (Other-Specify by Type)		XXXXXXXXX	XXXXXXXXX		XXXXXXXXXXX
e.		XXXXXXXXX	XXXXXXXXX		XXXXXXXXXXX
f.		XXXXXXXXX	XXXXXXXXX		XXXXXXXXXXX
Remarks					

EXHIBIT C—INSTRUCTIONS FOR PREPARING REPORT ON GRANTS FOR BASIC SCIENTIFIC RESEARCH AND TRANSFER OF TITLE TO GOVERNMENT EQUIPMENT (PUBLIC LAW 85–934)

1. Data will be reported in accordance with Exhibit D for each nonprofit education institution and each other non-profit institution to which (1) a grant was given during the report period for the conduct of basic scientific research, or (2) title to government equipment was vested or transferred either by grant or by contract. Definitions, policy, and administrative responsibilities are specified in Department of Defense Directive 3210.2.

2. Institutions will be listed in alphabetical order in column (a) of the format. The number and value of grants will be entered in columns (b) and (c) and will be based on fully approved grant documents. No entry will be made in these columns where only contracts are involved. A total of the number and value of such grants will be shown at the end of the list.

3. If the grant document provides for vesting of title to equipment in the grantee agency, the estimated cost of such equipment will be entered in column (d); otherwise this column will be left blank.

4. If title to equipment is transferred by contract, as provided in ASPR, Section IV, Paragraph 116, the acquisition cost will be entered in column (e). Contractual transfers of equipment with a value of less than $1,000 per item will be totalled and reported as footnote 2.

EXHIBIT D

Department _____
Grants for Basic Scientific Research
and
Transfer of Title to Government Equipment
(Public Law 85–934)

January-December _____

Name and Location of Institution (a)	Grants Approved		Title to Equipment Transferred by	
	Number (b)	Value in Dollars (c)	Grant[1] (d)	Contract[2] (e)
1. ABC Institute Akron, Ohio	1	$50,000	$1,000	–
2. LMN College Jersey City, N.J.	–	–	–	$2,500
3. STV University Los Angeles, Cal.	2	38,500	–	–
4. XYZ Hospital Battle Creek, Mich.	1	10,000	500	1,500
Total	4	$98,500	$1,500	$4,000

[1] Included in total of Column (c).

[2] Value of Transfers of Equipment with a Value of Less Than $1,000. $ _____

63. Part 737 is amended by adding § 737.22–102, after "Subpart V—Service Contracts" and before § 737.22–200, which provides as follows:

§ 737.22–102 Procurement of nonpersonal services.

(a) *Scope.* This part applies to the procurement of all services where the determination required by the contracting officer, as set forth in § 22–102.4(a) of this title, is required and the procurement action will exceed $10,000.

(b) *Policy.* As provided in § 22–102.1 (b) of this title, contracts for nonpersonal services, when properly issued and administered, represent an approved resource in the accomplishment of Navy programs. There are no firm rules for characterizing particular services as "personal" or "nonpersonal." However, the criteria set forth in § 22–102 of this title, for recognizing that a contract may be written so as to satisfy the requirements of a "nonpersonal" services contract, but may be administered, after ward, in such a way as to make it "personal" services. For instance, this can occur when a greater amount of supervision and control is exercised over the contractor or his employees than originally set forth in the statement of work. This must be avoided, and the potential for such misuse shall be considered when making the nonpersonal services determination.

(c) *Review and approval.* All determinations of nonpersonal services within the scope of paragraph (a) of this section shall be reviewed by counsel and approved at a level higher than the contracting officer prior to the issuance of the solicitation. This review and approval procedure applies to determinations in support of new procurement, the proposed exercise of an option, placement of orders under task type contracts or BOA's, and to proposed modifications which are simply funding actions or of a strictly administrative nature. The review and approval of proposed exercise of options, etc., shall focus on whether the determination of nonpersonal services incident to the execution of the original contract is still current and valid for the new effort. With respect to annually recurring service contracts in support of base operations (i.e., repair, maintenance, and overhaul of base equipment, movement and storage of household goods, janitorial services, mess attendant services, base transportation services, etc.), follow-on annual review and approval will not be mandatory, provided, (1) There has been an initial review and approval at a level higher than the contracting officer, (2) the contracting officer makes the determination required by § 22–102.4 of this title, and (3) the contractual requirements, terms and conditions are essentially unchanged. All doubtful cases will be referred to counsel in accordance with § 22–102.4 of this title.

(d) *Documentation.* The determination of nonpersonal services by the contracting officer shall at a minimum, contain: (1) A copy of the proposed work assignment,

(2) The determination required by § 22–102.4(a) (1) of this title, which shall fully address the criteria set forth in § 22–102.2 of this title, and

(3) If it is proposed to procure the requirement on a sole source basis, a complete justification establishing the impracticability of obtaining competition. This justification shall discuss the extent to which in-house capabilities are available and why they cannot be utilized, and shall also consider the potential for follow-on or added effort and whether or not such effort shall also be sole source.

§ 737.24–205–7 [Amended]

64. The section number of § 737.24–205–7 is changed from "§ 727.24–205–7" to "§ 737.24–205–7."

65. In § 737.24–205–7 the number "$2,500" is changed to "$10,000" at paragraph (a) (1), line one, and paragraph (a) (2), line three.

§ 737.26–101 [Amended]

66. In paragraph (b) § 737.26–101, lines 31 and 32, are changed from "only rarely should more time be required for complete definitization. It may be" to "only rarely should more time be required for complete definitization. When time in excess of 60 days is allowed for submission of price quotations, the 180 day period shall be adjusted accordingly (see § 4–303.3 of this title). It may be * * *."

§ 737.26–102 [Amended]

67. Paragraph (c) of § 737.26–102 is deleted.

68. Paragraph (d) of § 737.26–102 is revised as follows:

§ 737.26–102 Execution of a contract modification releasing excess funds.

* * * * * * *

(d) *Procedures.* (1) The Administrative Contracting Officer shall, subject to limitations prescribed in paragraph (b) of the section, execute a bilateral contract modification reducing the dollar balance of the contract when it is determined that excess funds are available for deobligation. (See § 737.20–702–8.)

* * * * * * *

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy,
Assistant Judge Advocate
General (Civil Law).

DECEMBER 10, 1976.

[FR Doc.76-37341 Filed 12-20-76;8:45 am]

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Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 209—ADMINISTRATIVE PROCEDURES

Permits for Activities in Navigable Waters or Ocean Waters

On 23 April 1976 the Department of the Army acting through the Chief of Engineers published proposed regulations in the FEDERAL REGISTER to amend 33 CFR 209.120, paragraph (h) (2) (ii) with respect to the establishment of fees for processing applications for Department of the Army permits submitted in accordance with sections 9 and 10 of the River and Harbor Act of 1899, section 404 of the Federal Water Pollution Control Act Amendments of 1972 and the Marine Protection, Research and Sanctuaries Act of 1972. We have received comments from Senator Thomas F. Eagleton, The U.S. Department of Agriculture, Mr. J. Sydney Boone and the following industrial concerns:

Florida Power Corporation, Columbia Gas System Service Corporation, Ketchikan Pulp Company, Northern States Power Company.

Our final regulation has been modified to reflect the needed improvements that surfaced as a result of the public review as follows:

(a) Removal of the fee provisions from paragraph (h) (2) (ii) of 33 CFR 209.120 and redesignation of them as paragraph (h) (5). The opening of paragraph (h) (2) (ii) begins; "if the activity includes the discharge of dredged or fill material * * *." which tends to suggest that fees are required for section 404 activities only.

(b) Clarification of the terms "commercial versus non-commercial." A fee of $100.00 will be charged for permit applications when the planned or ultimate purpose of the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution or sale of goods or services. A $10.00 fee will be charged for permit applications when the work is non-commercial in nature and provides personal benefits that have no connection with a commercial enterprise.

(c) Payment of fees. If the District Engineer determines after his review that the issuance of a permit is in the public interest, he will require payment of the applicable fee ($10/$100) prior to issuing the permit. No fees are required when the permit application is either withdrawn or the permit denied. This method of fee collections will eliminate the need for the applicant to submit a refundable fee with his permit application and the subsequent administrative burden associated with the handling of suspense fund accounts.

Pursuant to The Independent Offices Appropriation Act (31 U.S.C. 483a) and the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1414 (b)) the Department of the Army, acting through the Chief of Engineers is publishing the final regulations as follows:

§ 209.120 Permits for Activities in Navigable Waters or Ocean Waters.

* * * * *

(h) Applications for Authorizations.

(1) * * *

(2) * * *

(i) * * *

(ii) If the activity includes the discharge of dredged or fill material in the navigable waters of the transportation of dredged material for the purpose of dumping it in the ocean waters, the applications must include the source of the material, a description of the type, composition and quantity of the material, the method of transportation and disposal of the material, and the locations of the disposal site. Certification under section 401 of the Federal Water Pollution Control Act is required for such discharges into navigable waters.

(iii) * * *

* * * * *

(5) Fees are required for permit application under section 404 of the Federal Water Pollution Control Act Amendments of 1972, section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 and sections 9 and 10 of the River and Harbor Act of 1899. A fee of $100.00 will be charged when the planned or ultimate purpose of the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution or sale of goods or services. A $10.00 fee will be charged for permit applications when the work is non-commercial in nature and provides personal benefits that have no connection with a commercial enterprise. The final decision as to basis for fee (commercial vs. non-commercial) shall be solely the responsibility of the District Engineer. No fee will be charged if the applicant withdraws his application at any time prior to issuance of the permit and/or if his application is denied. Collection of the fee will be deferred until the applicant is notified by the District Engineer that a public interest review has been completed and that the proposed activity has been determined to be in the public interest. Upon receipt of this notification the applicant will forward a check or money order to the District Engineer, made payable to the Treasurer of the United States. The permit will then be issued upon receipt of the application fee. Multiple fees are not to be charged if more than one law is applicable. Any modification significant enough to require a permit will also require a fee. No fee will be assessed when a permit is transferred from one property owner to another. No fees will be charged for time extensions or general permits. Agencies or instrumentalities of Federal, State or local governments will not be required to pay any fee in connection with the applications for permits. This fee structure will be reviewed from time to time.

* * * * *

Dated: November 30, 1976.

Approved:

VICTOR V. VEYSEY,
Assistant Secretary of the Army (Civil Works).

[FR Doc.76-37438 Filed 12-20-76;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART III—GENERAL INFORMATION ON POSTAL SERVICE

Loose and Undeliverable Mail; Proposed Changes in Handling Procedures; Corrections; Effective Dates

In FR Doc. 76-36054 appearing at page 53677 in the FEDERAL REGISTER of Wednesday, December 8, 1976 the following changes should be made:

1. On page 53678, in the right hand column, in paragraph .442b, the words "item and show the" in the fifth line should be deleted.

2. On page 53679, in the left hand column, in item 3, the number "158.41" in the first line should be changed to "159.41".

In the FEDERAL REGISTER Document, referred to above the Postal Service indicated in the middle column on page 53678 that, except for dead parcel service area realignments, which are scheduled to become effective on January 29, 1977, all the proposed changes in handling procedures for loose and undeliverable mail would be made effective immediately on an interim basis. This was inaccurate in two respects: (1) The Postal Service did not intend to make effective immediately the proposed amendment of 159.721 b and g, under which the retention period for loose matter and for third- and fourth-class dead mail at bulk mail centers and the last office of address would be reduced from 60 to 30 days. No change will be made in this provision until all comments have been received and analyzed. (2) The Postal Service did not make the other proposed changes effective immediately upon publication in the FEDERAL REGISTER. These changes were put into effect on an interim basis on December 16, 1976.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.76-37422 Filed 12-20-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 660-7]

PART 51—REQUIREMENTS FOR PREPARATION, ADAPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Air Quality Standards; Interpretative Ruling

The Interpretative Ruling appearing below addresses the issue of whether and

to what extent national air quality standards established under the Clean Air Act may restrict or prohibit growth of major new or expanded stationary air pollution sources. The ruling provides in general that a major new source may locate in an area with air quality worse than a national standard only if stringent conditions can be met. These conditions are designed to insure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions ("emission offsets") will be obtained from existing sources; and that there will be progress toward achievement of the standards. While the ruling is effective now, EPA is actively soliciting public comment on the ruling's basic policies and detailed provisions.

BACKGROUND

Section 110 of the Clean Air Act requires State Implementation Plans (SIP's) to insure that primary (health-related) national ambient air quality standards be attained as expeditiously as practicable, but not later than mid-1975 (except in those relatively few areas where an extension to mid-1977, at the latest, has been granted pursuant to § 110(e)). Secondary (welfare-related) ambient standards are to be met within a "reasonable time." Most SIP's have specified secondary standard attainment dates which are the same as the primary standard attainment dates.

Once the ambient standards have been attained, they must be maintained [section 110(a)(2)(B)]. By virtue of the Act's attainment and maintenance requirements and EPA's regulations appearing at 40 CFR 51.18, promulgated in August 1971, all SIP's must contain regulations requiring preconstruction review and disapproval of new or modified air pollution sources which would "interfere with" the attainment or maintenance of a national ambient air quality standard (NAAQS). Since the NAAQS attainment dates have already passed (or will soon pass) and the ambient standards have not been attained in many areas of the country, questions have arisen as to whether, and to what extent, new stationary sources may legally be permitted to construct in such areas. In response to these questions, EPA's interpretative ruling on the preconstruction review requirements of 40 CFR 51.18 is set forth below.

PUBLIC PARTICIPATION AND REVIEW OF RULING

A draft of the ruling was sent to all State air pollution control agencies in April, 1976, for review and comment. Their comments are available for public inspection at the EPA Public Information Reference Unit, 401 M Street, SW, Washington, D.C. 20460. In addition, EPA officials have discussed various drafts of the ruling in meetings with representatives of the State and Territorial Air Pollution Program Administrators, Association of Local Air Pollution Control Officials, National Governors Conference, National Conference of State Legislatures, U.S. Conference of Mayors/National League of Cities, National Association of Counties, AFL-CIO, industrial groups, and environmental groups.

EPA recognizes that the ruling has profound national policy implications and that even more extensive public debate is needed on the issues of whether (and how) economic growth may be accommodated where ambient air quality standards are being exceeded. EPA therefore is actively soliciting public comment on the ruling, in regard to both its basic policies and its detailed provisions. EPA may make adjustments to the ruling as warranted by the public comment. (Information regarding the nature and timing of the public comment is provided below.) EPA believes that these important national issues must ultimately be resolved by Congress through more explicit guidance in the Clean Air Act; hopefully, the publication of the ruling and the resulting public comments will provide a useful focus for legislative deliberations.

IMPLEMENTATION AND ENFORCEMENT OF INTERPRETATIVE RULING

In all but six SIP's, EPA has approved the State's own preconstruction review regulation adopted in conformance with 40 CFR 51.18. The ruling is therefore largely for the benefit of State and/or local reviewing authorities.[1] Only in the six States where EPA has been required to promulgate its own preconstruction review regulation in place of deficient State regulations will the provisions of the ruling be implemented directly by EPA (through its Regional Offices).

The ruling in no way requires a State or local reviewing authority to approve a source that meets the requirements set forth therein, since the authority to go beyond minimum Federal requirements is clearly protected by Section 116 of the Act. Available options, such as emission offsets, are allowable only at the discretion of local and State government. There are many reasons why a State or local authority might decide to prohibit a new source in addition to the criteria set forth in the ruling. Examples are the availability of alternative sites that are more environmentally acceptable, a decision that a proposed emission offset would not be in the best interest of the community, or a determination that allowing the new source would not in any case be in the best interest of the community.

Because interested parties in the public and private sector have (as noted above) been informally apprised of the basic provisions of the ruling and have had the opportunity to provide informal comments, and because the preconstruction review process is already being carried out under 40 CFR 51.18 (with continually-arising issues needing resolution), in EPA's judgment it is in the public interest to make the ruling immediately effective upon publication in the FEDERAL REGISTER. It would be highly impracticable merely to propose the ruling and defer its effectiveness, since both reviewing authorities and applicants for permits would be presented with even greater uncertainty in the interim period. As an articulation of the minimum requirements for preconstruction review of new sources pursuant to 40 CFR 51.18, the ruling's effect is to declare that any permits which are more lenient than allowed by the ruling fail to comply with the requirements of the Clean Air Act. Where a State issues (or has issued) a permit contrary to the Act's requirements, EPA can take legal action to invalidate the permit and/or proceed against the affected source owner to prevent construction.

RESPONSES TO PRELIMINARY COMMENTS

In response to preliminary informal comments (discussed above), it would be helpful to briefly clarify or highlight certain important points about the ruling. In some instances, new provisions have been added to earlier drafts in response to such comments.

1. *"Major" sources (Part II.B.).* The ruling provides that while all sources subject to SIP review requirements should be reviewed for emission limitation compliance, only "major" new sources must be subject to an ambient air quality analysis and the stringent requirements for lowest achievable emission rate, more than equivalent emission reductions, and assurance of reasonable progress toward NAAQS achievement. This is in recognition of the fact that reviewing authorities have limited resources and that smaller air pollution sources may individually have an insignificant impact on air quality. For the present, the ruling defines a "major" source as having an allowable emission rate of 100 or more tons per year (1000 for carbon monoxide).

In the notice set forth at 41 FR 55558 in today's FEDERAL REGISTER, however, EPA has tentatively proposed a definition of 50 or more tons per year (500 for carbon monoxide) to be incorporated into 40 CFR 51.18. It should thus be apparent that EPA has not finally determined that the 100-ton figure is the most

[1] Since the SIP regulations were adopted to comply with 40 CFR 51.18 and this ruling articulates what 40 CFR 51.18 requires at a minimum, EPA feels that States should generally be able to implement the ruling's requirements without regulatory SIP amendments. Where a State desires to use the maximum flexibility provided in the ruling (States retain the right to impose stricter conditions), it will be up to the State to determine whether regulatory changes and/or a State "interpretative" ruling may be needed as a matter of State law. It should be noted that EPA is publishing advance notice of proposed amendments to 40 CFR 51.18 elsewhere in today's *Federal Register* (41 FR 55558) which, when finalized, will in all probability require amendments to SIP preconstruction review regulations. States may therefore wish to defer any regulatory amendments until the EPA rulemaking process is completed.

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appropriate, and States are strongly encouraged wherever resources permit to utilize a lower cut-off number. For the present, however, EPA will not legally require sources smaller than the 100-ton cut-off to undergo an air quality analysis.

2. *Lowest achievable emission rate (Part IV.A.1.)*. The ruling provides that a major new source seeking to locate in an area violating a NAAQS must meet an emission limitation which reflects the "lowest achievable emission rate" for such type of source. At a minimum, the lowest rate achieved in practice would have to be specified unless the applicant can demonstrate that it cannot achieve such a rate. In no event could the rate exceed any applicable new source performance standard (NSPS) set under section 111 of the Act.

This stringent requirement reflects EPA's judgment that a new source should be allowed to emit pollutants into an area violating a NAAQS only if its contribution to the violation is reduced to the greatest degree possible. While cost of achievement may be an important factor in determining an NSPS applicable to all areas of the country (clean as well as dirty) as a minimum, the cost factor must be accorded far less weight in determining an appropriate emission limitation for a source locating in an area violating statutorily-mandated health and welfare standards.

3. *Emission offset "Baseline" where EPA has called for a SIP revision or study (Part IV.C.4.)*. The principle behind the emission offset concept is that new sources should be allowed offset credit only for emission reductions from existing sources which would not otherwise be accomplished as a result of the Clean Air Act. Therefore, where EPA has found that a SIP is substantially inadequate to attain a NAAQS and has formally requested a SIP revision pursuant to Section 110(a)(2)(H)(ii) (or has called for a study to determine the need for such a revision), the existing SIP emission limitations could not be used as the "baseline" for determining offset credits (as would normally be the case). Emission limitations representing reasonably available control measures, which most revised SIP's should soon require, should be used instead.

4. *No construction after January 1, 1979 without SIP revision (Part IV.A.5.)*. The ruling provides that in those areas (discussed in paragraph 3 immediately above) where EPA has called for a SIP revision or study, no permit issued on or after January 1, 1979, may allow the source to commence construction until EPA has approved or promulgated a SIP revision. This condition merely recognizes the fact that the new source review requirements of 40 CFR 51.18 are carried out as an integral part of a SIP, the purpose of which is to attain the health-related NAAQS as expeditiously as practicable. Where a SIP is so inadequate that EPA has identified the need to have it revised, it is EPA's judgment that new major source growth must be deferred if the SIP revision is not accomplished in a timely manner.

The January, 1979, date is relevant since in most SIP revisions which EPA requested in July, 1976, States were given until July 1, 1978, to submit all necessary SIP revision measures. Under the framework of the Clean Air Act, EPA would then have six months either to approve the State's revision or promulgate its own revision. In some areas, EPA may have called for a study of the need for a SIP revision but has not requested a revision on a specified schedule. If EPA calls for such a revision with a submission deadline of later than July 1, 1978, the ruling provides that the January 1, 1979, date would be correspondingly extended.

It can thus be seen that this condition provides a useful link between the 40 CFR 51.18 preconstruction review procedures and the SIP revision process. Where States are delayed in their efforts to revise their SIP's, the effect will be to delay the construction of any new major polluting sources in the affected areas.

5. *More than "One-for-One" emission offsets (Part IV.A.3.)*. It should be stressed that this ruling is not a "status quo" or "one-for-one" emission offset rule for areas violating the Act's health and welfare standards. The ruling makes clear that the emission offset reductions must exceed the new source's emissions so as to represent reasonable progress toward attainment of the NAAQS.

6. *No "Banking" of emission offset credit (Part IV.C.6.)*. The ruling allows no leftover emission offset credit to be "banked" for future pollution growth once an emission offset has been executed for a particular new source. To allow such "banking" would be inconsistent with a basic policy of the Act and the ruling—namely, that at a minimum, no new source should be allowed to make existing NAAQS violations any worse.

7. *"External" emission offsets (Part V)*. Several commenting States were concerned over possible administrative and legal problems associated with "external" emission offsets (provided by sources not owned by the new source owner). There were questions as to whether (1) States could legally tighten emission limits for existing sources in order to permit the construction of a new, possibly competing, source; (2) a source could reasonably persuade a competing source to further control its emission in order to permit the new source to be built; and (3) States would be required to develop a new regulation for each emission offset situation.

In response to these concerns, it should be noted that a State is not required to investigate emission offset possibilities as a result of each request to construct a new source. States may leave such arrangements to the proposed new source. It should be noted that in many cases the additional emission reduction can be obtained by improvements in a facility already owned by the developer of the new source. This would be particularly true in cases where the new emissions would come from expansion of an existing source. Where such intracompany emission offsets are not possible, the new source may be required to look elsewhere.

The State need not revise its regulations for each emission offset situation, but may use any available mechanism to obtain the necessary legally binding commitment (enforceable by EPA and private parties under the Clean Air Act) from the source providing the emission offsets. Finally, it should be noted that the ruling generally reflects the maximum flexibility permitted under the Clean Air Act, and the allowance for external emission offsets is an example of the flexibility that EPA has sought to provide. Although some States may find the provision for external emission offsets unworkable for various reasons, such flexibility should be available to those States that wish to use it.

8. *Sources in "Clean" areas which could impact on areas exceeding a NAAQS.* Several States requested specific quantification as to the incremental level of pollution that would be considered an exacerbation of an existing violation of a national standard. This question is only applicable when a major source is to be located in a "clean" area, but might impact an area that exceeds a NAAQS some distance away (i.e., a major source locating in the middle of an area that exceeds standards clearly will exacerbate the existing violations).

Over the next several months, EPA intends to develop regulatory guidance for standardizing the modeling procedures to be used in evaluating control strategies and in conducting new source reviews (with respect to both the NAAQS and regulations for preventing significant deterioration of air quality (see 40 CFR 52.21)). As part of this guidance, the issue of the "significance" of a source's air quality impact will be addressed. Until such guidance is available, reviewing agencies must make a reasonable cutoff on the geographic extent of the air quality calculations, based on a case-by-case analysis of such factors as the size of the source, the validity of the air quality predictions at long distances, and other relevant factors.

9. *"Fugitive Dust" problems.* Several States have expressed concern over the potential disapprovals of particulate matter sources planning to locate in rural areas that violate a particulate NAAQS due primarily to natural fugitive dust. The Agency has set forth a tentative proposal on this issue in the advance notice of proposed rulemaking appearing in today's FEDERAL REGISTER at 41 FR 55558. The intent at this time is to focus on urban areas and other areas that exceed the national standards for particulate matter as a result of man's activities. For the present, a State should consult the appropriate EPA Regional Office for guidance if the State is considering whether and to what extent the terms of the ruling should apply to particulate sources seeking to locate in rural areas. Where emission offsets are necessary, the Administrator finds no reason for not allowing credit from controlling existing fugitive emission sources, as long as all other requirements set forth in the ruling are met.

It should be noted that especially for particulate matter, the geographical representativeness of a given monitor is often somewhat limited; that is, just because a monitor records high concentrations, it is not necessary to assume that such concentrations occur over a wide geographical area. Where a monitor is not located close to the proposed new source, it may be more appropriate (provided accurate emission inventories are available) to estimate existing air quality using a model than to use data from a remote monitoring location.

10. *Geographic applicability of ruling for hydrocarbon sources.* Because widespread violations of the NAAQS for photochemical oxidants have been found even in remote rural areas, some commentors have assumed that hydrocarbon control programs (including emission offset requirements) are necessary in all areas where there are violations of the photochemical oxidant standard. Based on the data available at this time, EPA believes that the rural oxidant problem is largely due to transport of oxidant or its precursors from major urban areas. Consequently a distinction can reasonably be made for control purposes between the extensive areas where an oxidant problem exists and the areas where much of the problem is created. As described in more detail in the notice appearing in today's FEDERAL REGISTER at 41 FR 55558, investigations are underway to determine the areas where hydrocarbon control programs will be most effective in reducing the highest oxidant concentrations. It is expected that the resulting guidance will focus on major metropolitan areas (larger than 200,000 population) extending as much as 85 miles from the largest urban centers. For the present, all of the provisions of the ruling must be applied to hydrocarbon sources seeking to locate within such areas that violate the oxidant NAAQS. The appropriate EPA Regional Office should be consulted if additional guidance is needed.

11. *No accommodation of new sources merely because primary NAAQS will eventually be achieved.* Some commenting States have argued that the Clean Air Act does not authorize EPA to adopt the stringent conditions of this ruling. The argument appears to be that even if a State has not achieved a primary NAAQS by the Congressionally-mandated deadline, the State may permit major new pollution sources to worsen present air quality so long as NAAQS achievement is projected for some time in the future.

EPA finds this argument totally untenable in light of the words of the Act, its legislative history, and Court decisions. The Act demands that each primary (health-related) NAAQS be achieved "as expeditiously as practicable," but in no event (if all extensions are allowed) later than mid-1977.

The Courts have continually emphasized that the Act demands primary NAAQS achievement by a date certain. EPA simply cannot interpret the Act to allow a major new source to make an existing primary NAAQS violation worse after the Congressional date certain has passed, and therefore even further delay the overdue NAAQS achievement. The only plausible interpretation of the Act other than that reflected in the ruling is that no new sources should be allowed in a violating area.

It should be noted that the Act is more flexible with regard to the secondary (welfare-related) NAAQS's. This point is dealt with in Part VI of the ruling.

12. *No accommodation of new sources based on cost-balancing approach.* Some have argued that a new source should be allowed to worsen existing NAAQS violations if a "cost-benefit" analysis indicates that the economic costs of necessary emission controls or offsets are excessive in relation to the resulting air quality benefits. For much the same reason discussed in section 11 immediately above, the Clean Air Act simply does not allow such an approach. Application of such a policy could allow further delay in achieving already-overdue standards.

Particularly with regard to the primary NAAQS's, Congress and the Courts have made clear that economic considerations must be subordinated to NAAQS achievement and maintenance. While the ruling allows for some growth in areas violating a NAAQS if the net effect is to insure further progress toward NAAQS achievement, the Act does not allow economic growth to be accommodated at the expense of the public health.

While EPA cannot allow cost considerations to override public health concerns, EPA is sensitive to the cost impacts of the Clean Air Act, EPA plans to assess the economic impact of the ruling as it is implemented to determine whether adjustments can be made consistent with the law, and/or whether legislative amendments would be prudent.

Again, the Act is more flexible with regard to the secondary NAAQS's. A cost-benefit analysis may convince a state of the need to defer its SIP attainment date for the secondary NAAQS's. (See part VI of the ruling.)

Relationship to Other Preconstruction Reviews and SIP Requirements

Preconstruction review is also being implemented under EPA's regulations for preventing significant deterioration of air quality (40 CFR 52.21) and the national emission standards for hazardous air pollutants (40 CFR Part 61). In addition, voluntary reviews are being conducted for new sources subject to EPA's new source performance standards (40 CFR Part 60). In cases where States have been delegated the responsibility to implement these various programs, the reviews are being implemented at the State level. Where States have not accepted delegation, EPA retains the new source review responsibility. Certain types of sources may be subject to more than one of these regulations, and where the program responsibility rests with a single agency, the preconstruction reviews are normally carried out simultaneously. Even though a source may undergo simultaneous review under several of the above mentioned regulations, the provisions of this ruling are applicable only to the review required under 40 CFR 51.18. Thus a source may meet the requirements of the ruling, yet be disapproved because it does not meet the requirements of one of the other applicable regulations.

The ruling is not intended to replace the requirement for a SIP control strategy to attain and maintain standards. An individual emission offset must always result in reasonable progress toward attainment, but does not need to demonstrate that the NAAQS will be attained.

Since SIP control strategies must account for anticipated source growth, some questions may arise as to how new sources that are allowed to construct under the ruling should be dealt with in the revised SIP control strategies that EPA has recently requested. The projection and allocation of new sources and emissions should be carried out in the normal manner (see EPA's Air Quality Maintenance Guidelines, Vols. 7 and 13), although additional information on the size distribution of the new sources may be necessary. Where it is clear that a certain portion of the new sources and emissions will be subject to the terms of the ruling, the SIP control strategy does not need to account for such emissions (since the emission offset requirements will ensure that such sources will not increase emissions in the area).

Public Comments

EPA strongly encourages all interested parties and the general public to comment on both the general policies and the detailed provisions of the ruling appearing below. EPA may make adjustments to the ruling as warranted by the public comment. Written comments should be submitted (preferably in triplicate) no later than February 15, 1977, to: Environmental Protection Agency, Control Programs Development Division (MD–15), Research Triangle Park, N.C. 27711.

EPA plans to conduct informal public hearings on this ruling in several cities throughout the country in the next few weeks. Notice of the time, place, and format of such hearings will appear shortly in the FEDERAL REGISTER.

Finally, it is important to note that a notice appears in today's FEDERAL REGISTER at 41 FR 55558 which sets forth EPA's advance notice of certain proposed changes to 40 CFR 51.18. The issues discussed there bear upon some of the issues addressed in this ruling, and persons commenting on both notices are urged to prepare a single set of comments.

Dated: December 15, 1976.

RUSSELL E. TRAIN,
Administrator.

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Interpretative Ruling for Implementation of the Requirements of 40 CFR 51.18

I. Introduction

This notice sets forth EPA's Interpretative Ruling on the preconstruction review requirements for stationary sources of air pollution under 40 CFR 51.18. This ruling reflects EPA's judgment that the Clean Air Act allows a major new or modified source[1] to locate in an area that exceeds a national ambient air quality standard (NAAQS) only if stringent conditions can be met. These conditions are designed to insure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions ("emission offsets") will be obtained from existing sources; and that these will be progress toward achievement of the NAAQS.

II. Initial Analysis and Applicable Requirements

A. *Review of all sources for emission limitation compliance.* The reviewing authority must examine each proposed new source subject to the SIP preconstruction review requirements approved or promulgated pursuant to 40 CFR 51.18 to determine if such a source will meet all applicable emission requirements in the SIP. If the reviewing authority determines that the proposed new source cannot meet the applicable emission requirements, the permit to construct must be denied.

B. Review of major sources for air quality impact. In addition, for each proposed "major" new source or "major" modification, the reviewing authority must perform an air quality analysis[2] to determine if the source will cause or exacerbate a violation of a NAAQS. A proposed source which would not be a "major" source may be approved without further analysis, provided such a source meets the requirement of Part II.A.

The term "major source" shall, as a minimum, cover any structure, building, facility, installation or operation (or combination thereof) for which the allowable emission rate is equal to or greater than the following:

	tons per year
Particulate matter	100
Sulfur oxides	100
Nitrogen oxides	100
Non-methane hydrocarbons (organics)	100
Carbon monoxide	1,000

Similarly a "major modification" shall include a modification to any structure, building, facility, installation or operation (or combination thereof) which increases the allowable emission rate by the amounts set forth above. A proposed new source with an allowable emission rate exceeding the above amounts is considered a major source under this ruling, even though such a source may replace an existing source with the result that the net additional emissions are increased by less than the above amounts.

Where a source is constructed or modified in increments which individually do not meet the above criteria, and which are not a part of a program of construction or modification in planned incremental phases previously approved by the reviewing authority, all such increments commenced after the date this ruling appears in the Federal Register or after the latest approval issued by the reviewing authority, whichever is most recent, shall be added together for determining applicability under this ruling. Moreover, where there is a group of proposed sources which individually do not meet the above criteria, but which would be constructed in substitution for a major source, the group should be collectively reviewed as a major source.

Allowable annual emissions shall be based on the applicable New Source Performance Standard (NSPS) set forth in 40 CFR Part 60 or the applicable SIP emission limitation, whichever is less, and the maximum annual rated capacity of the source. If the source is not subject to either a NSPS or SIP emission limitation, annual emissions shall be based on (1) the maximum annual rated capacity, and (2) the emission rate agreed to by the source as a permit condition.

The following shall not, by themselves, be considered modifications under this ruling:

(1) Maintenance, repair, and replacement which the reviewing authority determines to be routine for a source category;

(2) An increase in the hours of operation, unless limited by previous permit conditions;

(3) Use of an alternative fuel or raw material (unless limited by previous permit conditions), if prior to the publication of this ruling in the Federal Register, the source is designed to accommodate such alternative use; or

(4) Change in ownership of a source.

C. Air quality impact analysis. For "stable" air pollutants (i.e., SO_2, particulate matter and CO), the determination of whether a source will cause or exacerbate a violation of a NAAQS generally should be made on a case-by-case basis as of the proposed new source's operation date using the best information and analytical techniques available (i.e., atmospheric simulation modeling, unless a source will clearly impact on a receptor which exceeds a NAAQS). This determination should be independent of any general determination of nonattainment or judgment that the SIP is substantially inadequate to attain or maintain the NAAQS. This is because the area affected by a determination of SIP inadequacy usually conforms to established administrative boundaries such as Air Quality Control Regions (AQCR's) rather than a precisely-defined area where air quality problems exist. For example, a SIP revision may be required for an AQCR on the basis of a localized violation of standards in a small portion of the AQCR. If a source seeks to locate in the "clean" portion of the AQCR and would not affect the area presently exceeding standards or cause a new violation of the NAAQS, such a source may be approved. For major sources of nitrogen opides, the initial determination of whether a source would cause or exacerbate a violation of the NAAQS for NO_2 should be made using an atmospheric simulation model assuming all the nitrogen oxide emitted is oxidized to NO_2 by the time the plume reaches ground level. The initial concentration estimates may be adjusted if adequate data are available to account for the expected oxidation rate. For major sources of hydrocarbons, see the discussion entitled "Geographic Applicability of Emission Offset Requirements for Hydrocarbon Sources" in the Notice appearing in today's Federal Register at 41 FR 55558.

III. Sources Locating in "Clean" Areas, but Would Cause a New Violation of a NAAQS

If the reviewing authority finds that the allowable emissions[3] from a proposed major source would cause a new violation of a NAAQS, but would not exacerbate an existing violation, approval may be granted only if both of the following conditions are met:

Condition 1. The new source is required to meet a more stringent emission limitation[4] and/or the control of existing sources below allowable levels is required so that the source will not cause a violation of any NAAQS.

Condition 2. The new emission limitations for the new source as well as any existing sources affected must be enforceable[5] in accordance with the mechanisms set forth in Part V below.

IV. Sources That Would Exacerbate an Existing Violation of a NAAQS

A. *Conditions for approval.* If the reviewing authority finds that the allowable emissions[3] from a proposed source would exacerbate an "existing" violation (i.e., as of the source's proposed start-up date) of a NAAQS, approval may be granted only if all the following conditions are met:

Condition 1. The new source is required to meet an emission limitation which specifies the lowest achievable emission rate for such type of source.[6] In determining the applicable emission limitation, the reviewing authority must consider the most stringent emission limitation in any SIP and the lowest emission rate which is achieved in practice for such type of source. At a minimum, the lowest emission rate achieved in practice must be specified unless the applicant can sustain the burden of demonstrating that it cannot achieve such a rate. In no event could the specified rate exceed any applicable NSPS. Even where the applicant, demonstrates that it cannot achieve the lowest emission rate achieved in practice, this in itself would not operate to raise the required emission limitation to the applicable NSPS. The "lowest achievable emission rate" requirement must still apply, and the applicant would retain the burden of demonstrating that it cannot achieve any rate more stringent than the NSPS rate.

Condition 2. The applicant must certify that all existing sources owned or controlled by the owner or operator of the proposed source in the same AQCR as the proposed source are in compliance with all applicable SIP requirements or are in compliance with an approved schedule and timetable for compliance under a SIP or an enforcement order issued under Section 113. The reviewing authority must examine all enforcement orders for sources owned or operated by the applicant in the AQCR to determine if more expeditious compliance is practicable. Where practicable, a more expeditious compliance schedule for such sources must be required as an enforceable condition of the new source permit.

Condition 3. Emission reductions ("offsets") from existing sources in the area of the proposed source (whether or not under the same ownership) are required such that the total emissions from the existing and proposed sources are sufficiently less than the total allowable emissions from the existing sources under the SIP[7] prior to the request to construct or modify so as to represent reasonable progress toward attainment of the applicable NAAQS.[8] Only intrapollutant emission offsets will be acceptable (e.g., hydrocarbon increases may not be offset against SO_2 reductions).

Condition 4. The emission offsets will provide a positive net air quality benefit in the affected area (see Part IV.D. below).[9]

Condition 5. For a source which would be located in an area where EPA has found that a SIP is substantially inadequate to attain a NAAQS and has formally requested a SIP revision pursuant to Section 110(a)(2)(H)(ii) (or an area where EPA has called for a study to determine the need for such a revision), permits granted on or after January 1, 1979[4] must specify that the source may not commence construction until EPA has approved or promulgated a SIP revision for the area (if the source is a major source of the pollutant subject to the call for revision or study).

B. *Exemptions from certain conditions.* The reviewing authority may exempt a source from Condition 1 under Part III or Conditions 3 and 4 under Part IV.A., in cases where the source must switch fuels due to lack of adequate fuel supplies or where the source is required as a result of EPA regulations (i.e., lead-in-fuel requirements) to install additional process equipment and no exception from such an EPA regulation is available to the source. Such an exemption may be granted only if: (i) the applicant demonstrates that it made its best efforts to obtain sufficient emission offsets to comply with Condition 1 under Part III or Conditions 3 and 4 under Part IV.A. and that such efforts were unsuccessful; (ii) the applicant has secured all available emission offsets; and (iii) the applicant will continue to seek the necessary emission offsets and apply them when they become available. Such an exemption may result in the need to revise the SIP to provide additional control of existing sources.

C. *Baseline for determining credit for emission offsets.* Except as provided below, the baseline for determining credit for emission and air quality offsets will be the SIP emission limitations in effect at the time the application to construct or modify a source is filed. Thus, credit for emission offset purposes may be allowable for existing control that goes beyond that required by the SIP.

1. *No applicable SIP requirement.* Where the applicable SIP does not contain an emission limitation for a source or source category, the emission offset baseline involving such sources shall be the actual emissions at the time the permit request is filed (determined by source test or other appropriate means).

2. *Combustion of fuels.* Generally, the emissions for determining emission offset credit involving an existing fuel combustion source will be the allowable emissions under the SIP for the type of fuel being burned at the time the new source application is filed (i.e., if the existing source has switched to a different type of fuel at some earlier date, any resulting emission reduction [either actual or allowable] shall not be used for emission offset credit). If the existing source commits to switch to a cleaner fuel at some future date, emission offset credit, based on the allowable emissions for the fuels involved, is acceptable; provided, that the permit must be conditioned to require the use of a specified alternative control measure which would achieve the same degree of emission reduction should the source switch back to a dirtier fuel at some later date. The reviewing authority should ensure that adequate long-term supplies of the new fuel are available before granting emission offset credit for fuel switches.

Where the particulate emission limit for fuel combustion exceeds the appropriate uncontrolled emission factor in "Compilation of Air Pollutant Emission Factors" (AP-42) (as when a State has a single emission limit for all fuels), emission offset credit will only be allowed for control below the appropriate uncontrolled emission factor in AP-42. (Actual emissions determined by a source test may be used in place of the uncontrolled emission factor in AP-42 in the above situation.)

3. *Operating hours and source shutdown.* Emission offsets generally should be made on a pounds-per-hour basis when all facilities involved in the emission offset calculations are operating at their maximum expected production rate. The reviewing agency should specify other averaging periods (e.g., tons per year) in addition to the pounds-per-hour basis if necessary to carry out the intent of this ruling. A source may be credited with emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below that which existed at the time the new source application was submitted; provided, that the work force to be affected has been notified of the proposed shutdown or curtailment. Emission offsets that involve reducing operating hours or production or source shutdowns must be legally enforceable, as is the case for all emission offset situations.[7]

D. *Geographic area of concern.* In the case of emission offsets involving hydrocarbons or NO_2, the offsets may be obtained from sources located anywhere in the broad vicinity of the proposed new source (within the area of nonattainment, and usually within the same air quality control region). This is because area-wide oxidant and NO_2 levels are generally not as dependent on specific hydrocarbon or NO_2 source location as they are on overall area emissions. However, since the air quality impact of SO_2, particulate and carbon monoxide sources is site dependent, simple areawide mass emission offsets are not appropriate. For these pollutants, the reviewing authority should require atmospheric simulation modeling to ensure that the emission offsets provide a positive net air quality benefit. However, to avoid unnecessary consumption of limited, costly and time consuming modeling resources, in most cases it can be assumed that if the emission offsets are obtained from an existing source on the same premises or in the immediate vicinity of the new source, and the pollutants disperse from substantially the same effective stack height, the air quality test under Condition 4 in Part IV.A. above will be met. Thus, when stack emissions are offset against a ground level source at the same site, modeling would be required.

E. *Reasonable progress towards attainment.* As long as the emission offset is greater than one-for-one, and the other criteria set forth in Part IV.C. above are met, the reasonable progress requirement will be satisfied. Nothing contained in this ruling is intended to alter EPA's interpretation of the Clean Air Act with regard to the use of "supplemental control systems" or "stack height increases" as set forth at 41 FR 7450 (February 18, 1976).

4. *EPA has requested a SIP revision* (or *study*). Where EPA has found that a SIP is substantially inadequate to attain a NAAQS and has formally requested a SIP revision pursuant to Section 110(a)(2)(H)(ii) (or EPA has called for a study to determine the need for such a revision) the baseline for emission offset credit involving sources of the relevant pollutant will be the emissions resulting from the application of reasonably available control measures. The intent of this requirement is to prevent sources from receiving emission offset credit against an inadequate SIP and nullifying the gains that will be achieved through the required SIP revision. In effect, States should use the anticipated SIP revision as the baseline for emission offset credit until such time as the SIP is formally revised.

5. *Credit for hydrocarbon substitution.* EPA has found that almost all non-methane hydrocarbons are photochemically reactive and that low reactivity hydrocarbons eventually form as much photochemical oxidant as the highly-reactive hydrocarbons. Therefore, no emission offset credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity.

6. *No "banking" of emission offset credit.* Once an emission offset has been executed for a particular new source, there can be no left-over credit to "bank" for additional new source growth in the future. This "no banking" rule would not prohibit, however, the issuance of a single permit to cover more than one phase of a phased-construciton project.[9] Similarly, for State-initiated emission offsets (see Part V.B.), several different sources may be allowed to construct as part of a general SIP revision, so long as the plans for each source are definite and such source are specifically identified as the recipient of the emission offset credits in the SIP revision.

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[1] Hereafter the term "new source" will be used to denote both new and modified sources.

[2] Required only for those pollutants causing the proposed source to be defined as a "major" source, although the reviewing authority may address other pollutants if deemed appropriate.

[3] Where a new source will result in specific and well defined indirect or secondary emissions which can be accurately quantified, the reviewing authority should consider such secondary emissions in determining whether the source would cause or exacerbate a violation of the NAAQS. However, since EPA's authority to perform indirect source review relating to parking-type facilities has been restricted by statute, consideration of parking-type indirect impacts is not required.

[4] If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the authority may instead prescribe a design, operational or equipment standard. In such cases, the reviewing authority shall make its best estimate as to the emission rate that will be achieved and must specify that rate in the required submission to EPA (see Part V). Any permits issued without an enforceable numerical emission standard must contain enforceable conditions which assure that the design characteristics or equipment will be properly maintained (or that the operational conditions will be properly performed) so as to continuously achieve the assumed degree of control. Such conditions shall be enforceable as emission limitations by private parties under Section 304. Hereafter, the term "emission limitations" shall also include such design, operational, or equipment standards.

[5] Subject to the provisions of Part IV.C. below.

[6] Or, if later, the date which is six months after the deadline for submittal of the revision.

[7] Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed generally may not be used for emission offset credit. However, where an applicant can establish that it shut down or curtailed production after SIP approval as a result of enforcement action providing for a new source as a replacement for the shut down or curtailment, credit for such shut down or curtailment may be applied to offset emissions from the new source.

[8] If any phase covered by the permit is for any reason not constructed, there would be no resulting credit to "bank."

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forth above are met, EPA does not intend to question a reviewing authority's judgment as to what constitutes reasonable progress towards attainment as required under Condition 3 in Part IV.A. above. Reviewing authorities should bear in mind, however, that the control achieved through emission offsets can significantly assist the authorities in developing legally acceptable SIP's.

V. ADMINISTRATIVE PROCEDURES

The necessary emission offsets may be proposed either by the owner of the proposed source or by the local community or the State. The emission reduction committed to must be enforceable by authorized State and/or local agencies and under the Clean Air Act, and must be accomplished by the new source's start-up date.

A. *Source initiated emission offsets.* A source may propose emission offsets which involve (1) reductions from sources controlled by the source owner (internal emission offsets); and/or (2) reductions from neighboring sources (external emission offsets). The source does not have to investigate all possible emission offsets. As long as the emission offsets obtained represent reasonable progress toward attainment, they will be acceptable. It is the reviewing authority's responsibility to assure that the emission offsets will be as effective as proposed by the source. An internal emission offset will be considered enforceable if it is made a SIP requirement by inclusion as a condition of the new source permit and the permit is forwarded to the appropriate EPA Regional Office.[9] An external emission offset will not be accepted unless the affected source(s) is subject to a new SIP requirement to ensure that its emissions will be reduced by a specified amount in a specified time. Thus, if the source(s) does not obtain the necessary reduction, it will be in violation of a SIP requirement and subject to enforcement action by EPA, the State and/or private parties. The form of the SIP revision may be a State or local regulation, operating permit condition, consent or enforcement order, or any other legally enforceable mechanism available to the State. If a SIP revision is required, the public hearing on the revision may be substituted for the normal public comment procedure required for all major sources under 40 CFR 51.18. The formal publication of the SIP revision approval in the FEDERAL REGISTER need not appear before the source may proceed with construction. To minimize uncertainty that may be caused by these procedures, EPA will, if requested by the State, propose a SIP revision for public comment in the FEDERAL REGISTER concurrently with the State public hearing process. Of course, any major change in the final permit/SIP revision submitted by the State may require a reproposal by EPA.

B. *State or community initiated emission offsets.* A State or community which desires that a source locate in its area may commit to reducing emissions from existing sources to sufficiently outweigh the impact of the new source and thus open the way for the new source. As with source-initiated emission offsets, the commitment must be something more than one-for-one. This commitment must be submitted as a SIP revision by the State.

The provisions of Part IV.C.4. above remain applicable to State or community initiated emission offsets. Therefore, where EPA has found that a SIP is substantially inadequate to attain an NAAQS and has formally requested a SIP revision pursuant to Section 110(a)(2)(H)(ii) (or has called for a study to determine the need for such a revision), the resulting emission reduction may not be used as an emission offset.

VI. POLICY WITH RESPECT TO SECONDARY STANDARDS

The statutory attainment dates for the primary NAAQS have now passed or will pass very soon and cannot be administratively extended. Therefore, this ruling does not allow a new source to cause or exacerbate a primary NAAQS violation on the grounds that the SIP will eventually achieve the NAAQS (as may have been permitted in some cases before the statutory attainment dates).

The Act provides more flexibility with respect to secondary NAAQS's. Rather than setting specific deadlines, Section 110 requires secondary NAAQS's to be achieved within a "reasonable time." Under 40 CFR 51.13(b), a State may revise its SIP to provide extensions from its present secondary NAAQS deadlines. If, therefore, a State submits (and EPA approves) such a revision, a new source which would cause or exacerbate a secondary NAAQS violation may be exempt from the Conditions of Part IV.A. so long as the new source meets the applicable SIP emission limitations and will not interfere with attainment by the newly-specified date.

[FR Doc.76-37346 Filed 12-20-76;8:45 am]

[FRL 656-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Alabama: Approval of Plan Revision

On October 7, 1976 (41 FR 44194), the Agency announced as a proposed rulemaking, an implementation plan change which the State of Alabama had adopted and submitted for EPA's approval. Copies of the materials submitted by Alabama were made available for public inspection and written comments on the proposed revision were solicited. The purpose of the present notice is to announce the Administrator's approval of this revision. An evaluation of them may be obtained by consulting the personnel of the Agency's Region IV Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30308, or telephone 404/881-3286.

On August 20, 1975, the Administrator revised 40 CFR Part 51 by changing the emergency level for photochemical oxidants from 1200 $\mu g/m^3$ to 1000 $\mu g/m^3$, one-hour average. The Alabama Air Pollution Control Commission, on March 30, 1976, amended its regulation to reflect this change. The amendment was submitted for EPA's approval on April 23, 1976.

This revised emergency level for photochemical oxidants is hereby approved. These actions are effective immediately since they serve only to notify implementation plan changes already in effect under Alabama law and impose no additional burden to anyone.

Copies of the information submitted by the State are available for public inspection during normal business hours at the following locations:

Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30306.
Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36104.
Public Information Reference Unit, Library Systems Branch PM-213, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

(Section 110(a), Clean Air Act (42 U.S.C. 1857c-5(a)))

Dated: December 14, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart B—Alabama

Section 52.50 is amended by adding paragraph (c)(15) as follows:

§ 52.50 Identification of plan.

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(c) • • •

(15) Revised emergency level for photochemical oxidants (emergency episode control plan) submitted by the Alabama Air Pollution Control Commission on April 23, 1976.

[FR Doc.76-37347 Filed 12-20-76;8:45 am]

[FRL 657-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the Virgin Islands Implementation Plan

This notice announces approval by the Environmental Protection Agency (EPA) of a revision to the Virgin Islands Implementation Plan.

As requested by the Virgin Islands on August 16, 1976, the EPA has reconsidered its disapproval of the revised 12 V.I.R. & R. 9:204-26, "Sulfur Compounds Emission Control," subsections (a)(1), (a)(3), (b), (c) and (d) as they apply to the island of St. Croix. Receipt of this request was announced in the October 1, 1976 FEDERAL REGISTER at 41 FR 43421 which contains a full description of the proposed revision.

In the October 1, 1976 notice, EPA established a 30-day period for receipt of comments from the public on whether or not the proposed revision to the Virgin Islands Implementation Plan shhould be approved. No comments were received.

EPA has determined that approval of this proposed revision to the Virgin Islands Implementation Plan would not result in the contravention of any applicable ambient air quality standard. The proposed revision has been found to be consistent with current EPA policies and goals set forth by the requirements of section 110(a)(2)(A)-(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51 and, therefore, is approved.

Effective date: This revision to the Virgin Islands Implementation Plan becomes effective January 21, 1977.

(Secs. 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g))

JOHN QUARLES,
Acting Administrator,
Environmental Protection Agency.

Dated: December 14, 1976.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart CCC—Virgin Islands

1. Section 52.2770 is amended by adding new paragraph (c)(8) as follows:

§ 52.277 Identification of plan.

• • • • • •

(c) Supplemental information was submitted on: • • •

(8) As it applies to the island of St. Croix, per an August 16, 1976 request from the Virgin Islands, revised 12 V.I.R. & R. 9:204-26 (Sulfur Compounds Emission Control) excluding subsection (a)(2), as submitted on January 21, 1976 by the Governor of the Virgin Islands.

2. In § 52.2780, paragraph (b) is revised and paragraph (c) is added as follows:

§ 52.2780 Control strategy for sulfur oxides.

• • • • • •

(b) 12 V.I.R. & R. 9:204-26, as submitted to EPA on January 21, 1976 and as amended and resubmitted to EPA on June 3, 1976, is approved as it applies to the islands of St. Thomas and St. John. Subsection (a)(2) of the said regulation is not approved as it applies to the island of St. Croix because of the inadequacy of the control strategy demonstration noted in paragraph (a) of this section. The remaining subsections of the regulation are approved as they apply to the island of St. Croix. Consequently, all sources on St. Croix are required to conform to the sulfur-in-fuel limitations contained in 12 V.I.R. & R. 9:204-26 as originally submitted to EPA on January 31, 1972 and approved by EPA on May 31, 1972.

(c) Reference to "Section (a)(2)" in subsection (d) of 12 V.I.R. & R. 9:204-26, as submitted to EPA on January 21, 1976 and as amended and resubmitted to EPA on June 3, 1976, refers to the following approved limitations: (1) For the islands of St. Thomas and St. John, subsection (a)(2) of section 204-26 as submitted to EPA on January 21, 1976 and as amended and resubmitted to EPA on June 3, 1976; (2) for the island of St. Croix, subsection (a)(2) of section 204-26 as originally submitted to EPA on January 31, 1972 and approved by EPA on May 31, 1972.

[FR Doc.76-37348 Filed 12-20-76;8:45 am]

[FRL 661-6]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to the State of Ohio

Pursuant to the delegation of authority to implement the standards of performance for new stationary sources (NSPS) to the State of Ohio on August 4, 1976, EPA is today amending 40 CFR 60.4, Address to reflect this delegation. A Notice announcing this delegation is published in the Notices section of this issue of the FEDERAL REGISTER (FR Doc. 76-37487). The amended § 60.4 is set forth below which adds the addresses of the Agencies in Ohio which assist the State in the delegated authority to that list of addresses to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must be sent.

The Administrator finds good cause for foregoing prior notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on August 4, 1976, and it serves no purpose to delay the technical change of this addition of the addresses to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of section 111 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-6.)

Dated: December 10, 1976.

GEORGE R. ALEXANDER, JR.,
Regional Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4, paragraph (b) is amended by revising subparagraph KK, to read as follows:

§ 60.4 Address.

• • • • • •

(b) • • •

(A)-(JJ) • • •

(KK) Ohio—

Medina, Summit and Portage Counties; Director, Air Pollution Control, 177 South Broadway, Akron, Ohio, 44308.

Stark County; Director, Air Pollution Control Division, Canton City Health Department, City Hall, 218 Cleveland Avenue SW, Canton, Ohio, 44702.

Butler, Clermont, Hamilton and Warren Counties; Superintendent, Division of Air Pollution Control, 2400 Beekman Street, Cincinnati, Ohio, 45214.

Cuyahoga County; Commissioner, Division of Air Pollution Control, Department of Public Health and Welfare, 2735 Broadway Avenue, Cleveland, Ohio, 44115.

Lorain County; Control Officer, Division of Air Pollution Control, 200 West Erie Avenue, 7th Floor, Lorain, Ohio, 44052.

Belmont, Carroll, Columbiana, Harrison, Jefferson, and Monroe Counties; Director, North Ohio Valley Air Authority (NOVAA), 814 Adams Street, Steubenville, Ohio, 43952.

Clark, Darke, Greene, Miami, Montgomery, and Preble Counties; Supervisor, Regional Air Pollution Control Agency (RAPCA), Montgomery County Health Department, 451 West Third Street, Dayton, Ohio, 45402.

Lucas County and the City of Rossford (in Wood County); Director, Toledo Pollution Control Agency, 26 Main Street, Toledo, Ohio, 43605.

Adams, Brown, Lawrence, and Scioto Counties; Engineer-Director, Air Division, Portsmouth City Health Department, 740 Second Street, Portsmouth, Ohio, 45662.

Allen, Ashland, Auglaize, Crawford, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Knox, Marion, Mercer, Morrow, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert, Williams, Wood (except City of Bossford), and Wyandot Counties; Ohio Environmental Protection Agency, Northwest District Office, 111 West Washington Street, Bowling Green, Ohio, 43402.

Ashtabula, Geauga, Lake, Mahoning, Trumbull, and Wayne Counties; Ohio Environmental Protection Agency, Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio, 44087.

Athens, Coshocton, Gallia, Guernsey, Highland, Hocking, Holmes, Jackson, Meigs, Morgan, Muskingum, Noble, Perry, Pike, Ross, Tuscarawas, Vinton, and Washington Counties; Ohio Environmental Protection Agency, Southeast District Office, Route 3, Box 603, Logan, Ohio, 43138.

Champaign, Clinton, Logan, and Shelby Counties; Ohio Environmental Protection Agency, Southwest District Office, 7 East Fourth Street, Dayton, Ohio, 45402.

Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Pickaway, and Union Counties; Ohio Environmental Protection Agency, Central District Office, 369 East Broad Street, Columbus, Ohio, 43215.

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[FR Doc.76-37488 Filed 12-20-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-1062]

PART 1—PRACTICE AND PROCEDURE
PART 73—RADIO BROADCAST SERVICES

Regulation of Radio and Television Broadcasting

Correction

In FR Doc. 76-35673 appearing on page 53022 in the issue for Friday, December 3, 1976, in the third column of page 53025 after the 6th line of § 1.544 (a), the following line was omitted: "monitor point field strength measurements and antenna proof of perform-".

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE
PART 33—SPORT FISHING

The following special regulations are issued and are effective on January 1, 1977.

§ 26.34 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

OKLAHOMA

WICHITA MOUNTAINS WILDLIFE REFUGE

The Wichita Mountains Wildlife Refuge, Oklahoma, is open to public access, use, and recreational activity from January 1 through December 31, 1977, inclusive, subject to the provisions of Title 50, Code of Federal Regulations,

[9] The emission offset will therefore be enforceable by EPA under Section 113 as an applicable SIP requirement and will be enforceable by private parties under Section 304 as an emission limitations. EPA will publish notice of such emission offsets in the FEDERAL REGISTER.

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and all applicable Federal and State laws and regulations and all official signs posted in the area. The public use area totals approximately 22,400 acres and is delineated on maps available at refuge headquarters, Cache, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, and subject to the following special conditions:

(1) Sightseeing, nature observation, photography and hiking are permitted.

(2) Camping is permitted only in recreation areas designated for that use, at the entrance, by signs. Exceeding posted unit capacities is prohibited. A written permit is required for stays exceeding 7 days.

(3) Picnicking is permitted only in recreation areas designated for that use, at the entrance, by sign. Exceeding posted visiting hours or posted unit capacities is prohibited.

(4) Fires are permitted only in recreation areas where camping or picnicking is allowed and only at such times or hours that the areas are open to these uses. Dead, fallen timber may be used.

(5) Boating is permitted only on Elmer Thomas Lake. All other floating devices are prohibited on all refuge waters unless permitted by other Federal regulations. Boating is prohibited in marked scuba diving and swimming areas.

(6) Swimming, wading, snorkeling and skin diving are permitted only at swimming beaches designated by sign, and only when these beaches are manned by refuge supervised lifeguards. Lifejackets and buoyant vests may be worn while swimming. Food, beverages and pets are prohibited on swimming beaches. Beach users must comply with all official beach signs posted on the area and with the directions of authorized lifeguards.

(7) Scuba diving is permitted only on Elmer Thomas Lake. Diving areas must be marked with appropriate warning flags when outside of marked swimming areas. Flags must be removed before leaving the area. Inflatable vests may be worn while diving.

(8) Pets are permitted only if they are confined or kept on a leash not to exceed 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

(9) Vehicles found parked in any closed area, any "no parking" area, or in any area after posted visiting hours may be removed from the area. Any charges or expenses incurred by such removal, including storage fees, shall be borne by the owner of the vehicle.

(10) Possession or use of any alcoholic beverage by persons under 21 years of age is prohibited.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1977.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ARIZONA AND CALIFORNIA

CIBOLA NATIONAL WILDLIFE REFUGE

Sport fishing and the taking of bullfrogs on the Cibola National Wildlife Refuge, Arizona and California, is permitted on waters designated by signs as open to fishing. These waters are delineated on maps available at refuge headquarters, Blythe, California, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) Cibola Lake and associated waters are closed to fishing and boating from January 1 through March 1, 1977, inclusive and from October 1 through December 31, 1977, inclusive. The use of boats, rafts, or floating devices is prohibited on Cibola Lake during this period. This closure is necessary to protect migratory waterfowl wintering on Cibola Lake from disturance.

(2) Bullfrogs may be taken from July 1 through November 30, 1977, inclusive. Frogs may be taken by spear, gig, hook and line, bow and arrow, fishing tackle, or by hand with the aid of artificial light. Cibola Lake is closed to taking of bullfrogs from October 1 through November 30, 1977, inclusive.

(3) The possession of trotlines on the refuge is prohibited. A trotline is any unattended hook and line arrangement that, when used, constitutes a violation of the "angling" laws of both Arizona and California.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

HAVASU NATIONAL WILDLIFE REFUGE

Sport fishing on the Havasu National Wildlife Refuge, Arizona and California, is permitted on waters designated by signs as open to fishing. These waters, comprising 12,388 acres, are delineated on maps available at refuge headquarters, Needles, California, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1977, inclusive, except that the closed area, as posted, in Topock Marsh is closed to fishing and entry from January 1 through January 31, 1977, inclusive, and from October 1 through December 31, 1977, inclusive.

(2) The possession of trotlines or limblines on the refuge is prohibited. A trotline or limbline is any unattended hook and line arrangement that, when used, constitutes a violation of the "angling" laws of both Arizona or California.

(3) The taking of fish with bow and arrow is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

IMPERIAL NATIONAL WILDLIFE REFUGE

Sport fishing and the taking of bullfrogs, crustaceans and mollusks on the Imperial National Wildlife Refuge, Arizona and California, is permitted in all areas except in those areas closed to public entry. These open areas, comprising 8,100 acres, are delineated on maps available at refuge headquarters, Martinez Lake, Arizona, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing and the taking of bullfrogs, crustaceans and mollusks shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1977, inclusive; except for an area of approximately 165 acres in Martinez Lake, Arizona, as posted, to be closed during the periods January 1 through March 1, 1977, inclusive, and from October 1 through December 31, 1977, inclusive, and an area of approximately 60 acres in Ferguson Lake, California, as posted, to be closed during the same periods.

(2) The use of bow and arrow for the taking of carp, buffalo, mullet, suckers, and bullfrogs is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Bitter Lake National Wildlife Refuge, New Mexico, is permitted only on pool Units 5, 6, 7, 15 and 16. These open areas, comprising approximately 550 acres, are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, New Mexico, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from April 1 through October 15, 1977, inclusive.

(2) The use of boats or floating devices is prohibited.

(3) Fishing hours are from one hour before sunrise until one hour after sunset daily.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through October 15, 1977.

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

Sport fishing on the Bosque del Apache National Wildlife Refuge, New Mexico, is permitted only on areas designated by signs as open to fishing. These open areas, comprising 1,800 acres, are delineated on maps available at refuge headquarters, 8 miles south of San Antonio, New Mexico, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on all areas on the refuge extends from May 30 through September 30, 1977, inclusive.

(2) Fishing hours are from one-half hour before sunrise to one-half hour after sunset.

(3) Trotlines and bows and arrows are prohibited.

(4) The use of boats or other floating devices is prohibited.

(5) Fires are prohibited.

(6) Frogging is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1977.

OKLAHOMA

SALT PLAINS NATIONAL WILDLIFE REFUGE

Sport fishing on the Salt Plains National Wildlife Refuge, Oklahoma, is permitted only on areas designated by signs as open to fishing. These open areas, comprising 7,800 acres, are delineated on maps available at refuge headquarters, Jet, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from April 15 through October 15, 1977, inclusive, in Great Salt Plains Lake as posted, in Sand Creek, the three main channels of Salt Fork River, and north of the right-of-way of Oklahoma State Highway 11 as posted.

(2) It is illegal to take game fish by any means other than hook and line. Trotlines must be removed from waters at the close of the fishing season.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

SEQUOYAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Sequoyah National Wildlife Refuge, Oklahoma, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising approximately 10,100 acres, are delineated on maps available at refuge headquarters, Sallisaw, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1977, inclusive, except for an area of approximately 2,200 acres south of Vian Creek and east of the refuge tour road as posted to be closed during the periods from January 1 through March 31, 1977, inclusive, and from October 1 through December 31, 1977, inclusive.

(2) Some refuge roads leading to waters open to fishing may be closed as posted from January 1 through March 31, 1977, inclusive, and from October 1 through December 31, 1977, inclusive.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

WASHITA NATIONAL WILDLIFE REFUGE

Sport fishing on the Washita National Wildlife Refuge, Oklahoma, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 3,367 acres, are delineated on maps available at refuge headquarters, Butler, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from April 1 through October 14, 1977, inclusive, except that the eastern shoreline of Foss Reservoir from the Lakeview Recreation Area to the Pitts Creek Recreation Area and the eastern bank of Pitts Creek, itself, shall be open to year-round bank fishing.

(2) Seining is prohibited in all refuge waters.

(3) Trotlines must be removed on or before October 14, 1977 in all refuge waters, except those listed in (1) above as open to year-round bank fishing.

(4) Boats and other floatation devices are prohibited in all refuge waters from October 15 through March 31.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 31, 1978.

WICHITA MOUNTAINS WILDLIFE REFUGE

Sport fishing on the Wichita Mountains Wildlife Refuge, Oklahoma, is permitted from January 1 through December 31, 1977, inclusive, in all waters of that portion of the refuge open for recreational uses by the general public, except buoyed swimming areas and areas closed by appropriate signs. These open waters, comprising approximately 550 acres of lakes and one mile of intermittent stream, are delineated on maps available at refuge headquarters, Cache, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Fishing with closely attended poles and lines, including rods and reels, is permitted. The taking of any fish by any other means is prohibited, except the taking of nongame fish from Elmer Thomas Lake by the use of gigs, spears, or other similar devices (but not including bows and arrows) containing not more than three points with no more than two barbs on each point, is permitted.

(2) Fishermen may use one-man inner tube type "fishing floaters" while fishing. Wading while fishing is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

TEXAS

ANAHUAC NATIONAL WILDLIFE REFUGE

Sport fishing and crabbing on the Anahuac National Wildlife Refuge, Texas, is permitted from January 1 through December 31, 1977, inclusive, but only on the areas designated by signs as open to fishing. These open areas, comprising 2¾ miles of roadside drain and pond edge and 7 miles of East Bay and Oyster Bayou shoreline, are delineated on maps available at refuge headquarters, Anahuac, Texas, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) Boats and floating devices may not be used for fishing on inland waters.

(2) Fishing in inland waters is permitted only by ordinary pole and line, rod and reel, or hand-held line. Trotlines, throw lines, set lines, bow and arrows, gigs and spears may not be used in inland waters.

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The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulation, Part 33, and are effective through December 31, 1977.

BRAZORIA NATIONAL WILDLIFE REFUGE

Sport fishing on the Brazoria National Wildlife Refuge, Texas, is permitted from January 1 through December 31, 1977, inclusive, but only on the areas designated by signs as open to fishing. These open areas, comprising 900 acres of inland salt lakes and 18 miles of shoreline, are delineated on maps available at refuge headquarters, Angleton, Texas, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) Fishing is not permitted on interior waters except Nicks Lake, Salt Lake and Lost Lake.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

BUFFALO LAKE NATIONAL WILDLIFE REFUGE

Due to the lack of water in Buffalo Lake, the Buffalo Lake National Wildlife Refuge, Texas, is closed to fishing for Calendar Year 1977.

HAGERMAN NATIONAL WILDLIFE REFUGE

Sport fishing and frogging on the Hagerman National Wildlife Refuge, Texas, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 3,000 acres, are delineated on maps available at refuge headquarters, 6 miles west of Pottsboro, Texas, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing and frogging on the refuge extends from April 1 through September 30, 1977, inclusive.

(2) Fishing is not permitted from Harris Creek Bridge.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1977.

LAGUNA ATASCOSA NATIONAL WILDLIFE REFUGE

Sport fishing on the Laguna Atascosa National Wildlife Refuge, Texas, is permitted from January 1 through December 31, 1977, inclusive, but only on the area designated by signs as open to fishing. This open area, comprising 140 acres, is limited to the Arroyo Colorado Navigation District (Harlingen) Ship Channel and the banks of the channel as it extends through the refuge. Maps, delineating the area, are available at refuge headquarters, Harlingen, Texas, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) Fishing with trotlines is not permitted.

(2) The refuge officer in charge may at his discretion close the fishing area for public safety, to protect wildlife, or to protect government property.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

MULESHOE NATIONAL WILDLIFE REFUGE

Due to the lack of water in fishing lakes, Muleshoe National Wildlife Refuge, Texas, is closed to fishing for Calendar Year 1977.

W. O. NELSON, Jr.,
Regional Director,
Albuquerque, New Mexico.

DECEMBER 13, 1976.

[FR Doc.76-37443 Filed 12-20-76;8:45 am]

PART 33—SPORT FISHING

Arapaho National Wildlife Refuge, Colorado

The following special regulation is issued and is effective on December 21, 1976.

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

COLORADO

ARAPAHO NATIONAL WILDLIFE REFUGE

Sport fishing on the Arapaho National Wildlife Refuge, Colorado, is permitted from January 1 through May 31 and August 1 through December 31, 1977, inclusive, on the areas designated by signs as open to fishing. These open areas are delineated on maps available at refuge headquarters, Walden, Colorado 80480, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 1426, Salt Lake City, Utah 84111. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

V. CARROL DONNER,
Refuge Manager,
Arapaho National Wildlife Refuge.

DECEMBER 13, 1976.

[FR Doc.76-37444 Filed 12-20-76;8:45 am]

PART 33—SPORT FISHING

Pathfinder National Wildlife Refuge; Wyo.

The following special regulation is issued and is effective on December 21, 1976.

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

WYOMING

PATHFINDER NATIONAL WILDLIFE REFUGE

Sport fishing on all areas of the Pathfinder National Wildlife Refuge, Wyoming, is permitted from January 1 through December 31, 1977, inclusive. These areas, comprising 16,807 acres, are delineated on maps available at refuge headquarters, Walden, Colorado 80480, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 1426, Salt Lake City, Utah 84111. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1977.

V. CARROL DONNER,
Refuge Manager,
Pathfinder National Wildlife Refuge.

DECEMBER 13, 1976.

[FR Doc.76-37445 Filed 12-20-76;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER F—AID TO FISHERIES

PART 253—COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT

Grant-in-Aid Program Changes

Title 50 of the Code of Federal Regulations is amended to conform with the statutory provisions of Pub. L. 94-485, 90 Stat. 2326, which amends the Commercial Fisheries Research and Development Act of 1964, as amended (Pub. L. 88-309, 16 U.S.C. 779-779f), and with Federal Management Circular 74-7.

The purpose of Pub. L. 94-485 is to extend the coverage of the Commercial Fisheries Research and Development Act of 1964, as amended, to enable the Trust Territory of the Pacific Islands to receive Federal financial assistance in carrying out commercial fisheries research and development projects. This law also provides for more efficient management of the grant-in-aid program by modifying some of the administrative procedures involved with the apportionment of the Federal funds. Specifically, it authorizes, upon request, advance payments to the States for approved projects; makes States receiving the six percent maximum apportionment which is prescribed in the Act eligible for any funds voluntarily released by another State; and requires any unused funds appropriated for this program to remain available until

expended to carry out the purposes of the Act as determined by the Secretary.

It is the general policy of the Department of Commerce to allow time for interested parties to take part in the rulemaking process. However, these amendments are administrative in nature. Therefore, the public rulemaking process is waived.

Accordingly, Part 253, Subchapter F, Chapter II of Title 50 of the Code of Federal Regulations is revised to read as set forth below:

Sec.
253.1 Definitions.
253.2 Interpretation of the authorization.
253.3 General provisions.
253.4 Use of funds.
253.5 Environment.
253.6 Assurances.

AUTHORITY: Sec. 8, Commercial Fisheries Research and Development Act of 1964, 78 Stat. (16 U.S.C. 779a-779f), as modified by Reorganization Plan No. 4 of 1970, effective October 3, 1970 (35 FR 15627).

§ 253.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Secretary.* The Secretary of Commerce or his authorized representatives.

(b) *Act.* The Commercial Fisheries Research and Development Act of 1964, Pub. L. 88-309, 78 Stat. 197, as amended by Pub. L. 90-551, 87 Stat. 957, Pub. L. 92-590, 86 Stat. 1303, and Pub. L. 94-485, 90 Stat. 2326 (16 U.S.C. 779 et seq.).

(c) *Grantee.* A State agency participating in a grant-in-aid award with the Secretary.

(d) *Application SF-424.* A description of the work to be accomplished, including plans, specification, and estimates, and such other information as may be required by the Secretary.

(e) *Grant-in-aid award.* A written agreement for research and development activities to be carried on as provided by the Act and these regulations. Such award shall set forth the terms and conditions binding upon the grantee and the Secretary, including the objectives, procedures, costs, the award period, and such other provisions as may be appropriate.

(f) *Aquatic plants and animals.* All animals and plants growing or living in or upon water, including finfish, shellfish, and other marine invertebrates, fur seals, whales and other marine mammals, frogs, turtles, and algae.

(g) *Commercial fisheries resources.* Any aquatic plant or animal available or potentially available for harvesting with the primary intent of commercial use as either raw or manufactured products.

§ 253.2 Interpretation of the authorization.

The terms used in the Act to describe the authorization to the Secretary for program and apportionment purposes are construed to be limited to the meanings ascribed in this section.

(a) *Research and development.* The words "research and development" mean program of work, including construction and acquisition, designed to acquire knowledge of commercial fisheries resources and their environment, and to develop and apply methods and techniques to enhance such commercial fisheries resources including their harvest, conservation and utilization.

(b) *Raw fish harvested by domestic commercial fishermen and received within a State.* The words "raw fish harvested by domestic commercial fishermen and received within a State" mean living aquatic plants and animals harvested by individuals, associations, partnerships or corporations resident in and authorized to do business in any State and engaged in harvesting of commercial fisheries resources or the processing and manufacturing of products therefrom. Aquatic plants and animals are received within a State when transferred from a catcher vessel within the jurisdiction of a State or permanently removed from a fish production facility.

(c) *Manufactured and processed fishery merchandise.* The words "manufactured and processed fishery mehchandise" mean commercial fisheries resources or parts thereof after undergoing a change(s) contributing to or achieving a condition of readiness for sale.

(d) *Developing a new commercial fishery.* The words "developing a new commercial fishery" mean activities designed to assist the commercial fishing industry by developing and evaluating methods for the harvest, utilization, and conservation of commercial fisheries resources not commonly utilized.

(e) *Commercial fishery failure due to a resource disaster arising from natural or undetermined causes.* The words "commercial fishery failure to a resource disaster arising from natural or undetermined causes" mean a serious disruption of a commercial fisheries resource affecting present or future productivity. It does not include inability to sell raw fish or manufactured and processed fishery merchandise or compensation for economic loss suffered by any segment of the fishing industry as the result of a resource disaster.

(f) *State.* The word "State" means the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

§ 253.3 General provisions.

(a) *Designation of State agency.* The Governor of each State shall notify the Secretary which agency of the State government is authorized under its laws to regulate commercial fisheries and is designated to submit applications and to enter into grant-in-aid awards. An official of such agency shall certify as to the official(s) authorized in accordance with State law to commit the State to participation under the Act, to sign project documents, and to receive payments. The Secretary shall be advised promptly of any changes made in such authorizations.

(b) *Application.* (1) An application (SF-424) for Federal assistance may be submitted for a State's overall program or for each proposed project for approval by the Secretary. An approved application is the obligating document for Federal funds.

(2) Applications utilizing an allocation of State funds additional to amounts previously allocated by the State for commercial fishery research and development activities shall be preferred over applications utilizing an allocation of State funds which does not involve an increase of State funds dedicated to commercial fishery research and development programs. No application which involves a reduction of State funds previously dedicated to commercial fishery research development will be approved.

(c) *Grant-in-aid award.* (1) After the Secretary has approved an application, activities to be undertaken by the grantee shall be evidenced by a grant-in-aid award (NOAA Form 36-16) executed by the grantee and the Secretary. Such awards may be amended by mutual consent of the parties.

(2) The grant-in-aid award shall contain applicable provisions as required by Federal law and regulations. These provisions are identified in the Grant-in-Aid Handbook, NOAA Handbook No. 22, the most recent version of which may be obtained from the Director, National Marine Fisheries Service.

(d) *Prosecution of work.* (1) The prosecution of work by the grantee shall be performed in a manner acceptable to the Secretary. Unsatisfactory performance shall be cause for the Secretary to withhold payments. Grant-in-aid awards may be terminated or suspended upon determination by the Secretary that satisfactory progress has not been maintained.

(2) All work shall be performed in accordance with applicable State laws except when such laws are in conflict with Federal laws or regulations in which case such Federal law or regulations shall prevail.

(e) *Economy and efficiency of operation.* No grant-in-aid award shall be executed until the grantee has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to achieve economy and efficiency, including the avoidance of undesirable duplication, in the completion of a project.

§ 253.4 Use of funds.

(a) *Apportionment of subsection 4(a) funds.* (1) On October 1 of each year, or as soon thereafter as practicable, the Secretary shall notify the respective States of the amount of funds authorized under subsection 4(a) of the Act and apportioned to each State under subsection 5(a) of the Act. Funds appropriated under the Act shall remain available until expended to carry out the purposes of this authorization as determined by the Secretary.

(2) Any State which is unable to use any or all of the funds apportioned to it may voluntarily release all or any part of such apportioned funds. Such release

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must be in writing and signed by the State official in charge of the agency designated under § 253.3(a) of these regulations or some other appropriate State official. Any apportioned funds released by a State may be made available by the Secretary to any other State, to supplement the funds apportioned to such other State in the fiscal year in which the released funds were apportioned, when the Secretary determines that such State is able to make prompt and effective use of such funds to carry out the purpose of the Act.

(b) *Use of authorized funds for commercial fisheries resource disaster.* (1) The Secretary shall cause to be published in the FEDERAL REGISTER a notice that a commercial fisheries resource disaster exists at the time such a finding is made.

(2) After such publication, Federal funds may be used for 100 percent of the cost of restoration of commercial fisheries resources if all the funds are obtained from appropriations authorized under subsection 4(b) of the Act.

(c) *Use of funds for developing a new commercial fishery.* (1) Applications related to the development of a new commercial fishery may be approved only after the Secretary determines that such applications will reasonably accomplish the purpose of developing a new commercial fishery.

(2) The Secretary may finance up to 100 percent of the cost of developing a new commercial fishery.

(38 FR 26116, Sept. 18, 1973, as amended at 39 FR 13882, Apr. 18, 1974.)

§ 253.5 Environment.

Projects shall be performed in such manner as to be consistent with the policies set forth in the National Environmental Policy Act of 1969, as amended by Pub. L. 94–83 (89 Stat. 424).

§ 253.6 Assurances.

The State must assure and certify that it will comply with all applicable Federal laws, regulations, and requirements as they relate to the application, acceptance, and use of Federal funds for projects under the Act in accordance with Federal Management Circular 74–7.

Dated: December 16, 1976.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.76–37376 Filed 12–20–76;8:45 am]

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Marine Mammal Protection Act of 1972; Definition of "Optimum Sustainable Population"

The National Marine Fisheries Service recently completed extensive consultations with persons knowledgeable in the field of population dynamics and, as a result of such consultation, proposed in the FEDERAL REGISTER on October 6, 1976 (41 FR 44049) to clarify the term "optimum sustainable population" which appears in Section 3(9) of the Marine Mammal Protection Act.

The Act states that "The term 'optimum sustainable population' means, with respect to any any population stock, the number of animals which will result in the maximum productivity of the population or species, keeping in mind the optimum carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element."

Comments on the proposed clarification were received from six respondents. The Marine Mammal Commission's paper entitled, "The concept of Optimum Sustainable Population" and the "Report of the Workshop on Stock Assessment of Porpoises Involved in the Eastern Pacific Yellowfin Tuna Fishery" (Workshop Report) were also reviewed and considered.

The comments received proposed widely varying levels which broadly described optimum sustainable population as being somewhere from an equilibrium unexploited population level to the level of population that results in maximum productivity. Comments further highlighted the difficulties involved in defining optimum sustainable population as a single value to be used as a basis for all management decisions under the provision of the Act.

Management and protection actions required to maintain optimum sustainable populations will require consideration of factors such as change in the age or sex composition of a population, rate of reproduction, changes in the ecosystem itself, or a limited information base, on an individual case-by-case basis. In cases where sufficient information is unavailable, a conservative approach utilizing an appropriate safety factor may be warranted to ensure that management actions do not disadvantage the populations or species.

A single definition cannot adequately incorporate the wide range of considerations and concepts of Optimum Sustainable Population represented by the comments. The Director, National Marine Fisheries Service, considers it essential to clarify the concept of optimum sustainable population so that this basic element for assessment of management decisions can be uniformly applied. However, in adopting the following definition, the Director expects that modification might be necessary as knowledge and understanding of the concept of optimum sustainable population evolve.

Dated: December 16, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

Section 216.3 of 50 CFR, Chapter II is amended by addition, after definition of "native village or town" and before the definition of "pregnant," of the following:

§ 216.3 Definitions.

* * * * *

Optimum sustainable population is a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or growth less losses due to natural mortality.

* * * * *

[FR Doc.76–37416 Filed 12–20–76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CIVIL SERVICE COMMISSION

[5 CFR Part 295]

COMMISSION MEETINGS

Public Observation

To implement "The Government in the Sunshine Act," Public Law 94–409, the Civil Service Commission is proposing for public comment the following regulations under Part 295. It is the policy of the United States Civil Service Commission that the public is entitled to the fullest practicable information regarding the Commission's decision-making process. In keeping with the letter and spirit of the Act, all Commission meetings will be open to the public as long as such is consistent with protecting the rights of individuals and the ability of the Commission to carry out its responsibilities.

Persons interested in commenting on the proposed regulations may submit written statements to William C. Duffey, room 7F10, U.S. Civil Service Commission, 1900 E Street, NW., Washington, D.C. 20415, no later than January 21, 1977.

Dated: December 21, 1976.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

Part 295 is added to Title 5 as follows:

PART 295—PUBLIC OBSERVATION OF COMMISSION MEETINGS

Subpart A—General Provisions

Sec.
295.101 Purpose.
295.102 Definitions.
295.103 Applicability and scope.
295.104 Open meeting policy.

Subpart B—Procedures Governing Decisions About Meetings

295.201 Decision to hold meeting.
295.202 Provisions under which a meeting may be closed.
295.203 Decision to close meeting.
295.204 Public availability of recorded vote to close meeting.
295.205 Public announcement of meeting.
295.206 Providing information to the public.
295.207 Change in meeting plans after public announcement.
295.208 Meetings for extraordinary agency business.
295.209 Notice of meeting in FEDERAL REGISTER.

Subpart C—Conduct of Meetings

295.301 Meeting place.
295.302 Role of observers.

Subpart D—Maintenance of Meeting Records

295.401 Requirements for maintaining records of closed meetings.
295.402 Availability of records to the public.
295.403 Requests for records under Freedom of Information and Privacy Acts.
295.404 Copying and transcription charges.

Subpart E—Administrative Review [Reserved]

Subpart F—Judicial Review [Reserved]

Subpart A—General Provisions

§ 295.101 Purpose.

This part sets forth the regulations under which the Commission shall engage in public decisionmaking processes, make public announcement of meetings at which a quorum of or all Commission members consider and determine official Commission actions, and inform the public of which meetings they are entitled to observe.

§ 295.102 Definitions.

In this part:

(a) "Meeting" means the deliberations of at least two Commission members where such deliberations determine or result in the joint conduct of official Commission business.

(b) "Member" means one of the Commissioners of the Civil Service Commission who is appointed to that position by the President with the advice and consent of the Senate.

§ 295.103 Applicability and scope.

This part applies to deliberations of at least two Commission members. Excluded from coverage of this part are meetings of interagency committees whose composition includes Commission members and deliberations of Commission officials who are not members.

§ 295.104 Open meeting policy.

The public is entitled to the fullest practicable information regarding the decisionmaking processes of the Commission. Commission meetings involving deliberations which determine or result in the joint conduct or disposition of official Commission business are presumptively open to the public. It is the intent of these regulations to open such meetings to public observation while protecting individuals' rights and the Commission's ability to carry out its responsibilities. Meetings or portions of meetings may be closed to public observation only if closure can be justified under one of the provisions set forth in § 295.202 of this part.

Subpart B—Procedures Governing Decisions About Meetings

§ 295.201 Decision to hold meeting.

When Commission members make a decision to hold a meeting, the proposed meeting will ordinarily be scheduled for a date no earlier than eight days after the decision to allow sufficient time to give appropriate public notice. At the time a decision is made to hold a meeting, the time, place, and subject matter of the meeting will be determined, as well as whether the meeting is to be open or closed to the public.

§ 295.202 Provisions under which a meeting may be closed.

(a) A meeting or portion thereof may be closed to public observation, and information pertaining to such meeting may be withheld from the public, where the Commission determines that such portion or portions of its meeting or disclosure of such information is likely to:

(1) disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) relate solely to the internal personnel rules and practices of an agency;

(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) involve accusing any person of a crime, or formally censuring any person;

(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) disclose information contained in or related to examination, operating, or

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condition reports prepared by, on behalf of, or for the use of an agency repsonsible for the regulation or supervision of financial institutions;

(9) disclose information the premature disclosure of which would—

(i) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action.

except that subparagraph (ii) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

(b) The Commission may exercise its authority to open to public observation a meeting which could be closed under one of the provisions of § 295.202(a), if it would be in the public interest to do so.

§ 295.203 Decision to close meeting.

(a) Commission members may decide to close to public observation a meeting or a portion or portions thereof, or to withhold information pertaining to such meeting, only if at least two members vote on the record to take such action. No proxy votes shall be allowed. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. If a decision is made to close a portion or portions of a meeting or a series of meetings, the Commission shall prepare a full written explanation of the closure action together with a list naming all persons expected to attend the meeting and identifying their affiliation.

(b) For every meeting or portion thereof which Commission members have voted to close, the General Counsel of the Civil Service Commission shall publicly certify that, in his or her opinion, the meeting may properly be closed to the public. In addition, the General Counsel shall state each relevant exemptive provision as set forth in § 295.202(a). A copy of the General Counsel's certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and listing the persons present, shall be retained by the Commission.

(c) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in § 295.202(a)(5), (6), or (7), the Commission members, upon request of any of the Commissioners, shall decide by recorded vote whether to close such portion. If a closure decision is made, the Commission shall prepare a full written explanation of the closure action together with a list naming all persons expected to attend the meeting and identifying their affiliation.

§ 295.204 Public availability of recorded vote to close meeting.

Within one day of any vote taken on a proposal to close a meeting, the Commission shall make publicly available a record reflecting the vote of each member on the question. In addition, within one day of any vote which closes a portion or portions of a meeting to the public, the Commission shall make publicly available a full written explanation of its closure action together with a list naming all persons expected to attend and identifying their affiliation, unless such disclosure would reveal the information that the meeting itself was closed to protect.

§ 295.205 Public announcement of meeting.

(a) Except as provided in §§ 295.207 and 295.208, the Commission shall make a public announcement at least one week before the scheduled meeting, to include the following:

(1) Time, place, and subject matter of the meeting;

(2) Whether the meeting is to be open or closed; and

(3) Name and telephone number of agency official who will respond to requests for information about the meeting.

(b) If announcement of the subject matter of a closed meeting would reveal the information that the meeting itself was closed to protect, the subject matter shall not be announced.

§ 295.206 Providing information to the public.

Information available to the public in accordance with §§ 295.204 and 295.205 shall be posted in the lobby of the Civil Service Commission Building, 1900 E Street, N.W., Washington, D.C. Individuals or organizations interested in obtaining copies of information available under § 295.204 may request same under provisions set forth in §§ 295.402 and 295.404. Individuals or organizations having a special interest in activities of the Commission may request the Executive Assistant to the Commissioners to place them on a mailing list for receipt of information available under § 295.205.

§ 295.207 Change in meeting plans after public announcement.

(a) Following public announcement of a meeting, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time.

(b) Following public announcement of a meeting, the subject matter of a meeting or the determination to open or close a meeting may be changed only if both of the following conditions are met:

(1) There must be a majority, recorded vote of the Commission members that Commission business requires the change and that no earlier announcement of such changes was possible; and

(2) There must be a public announcement of the change and of the individual Commission members' votes at the earliest practicable time.

§ 295.208 Meetings for extraordinary agency business.

Where agency business so requires, Commission members may decide by majority, recorded vote to schedule a meeting for a date earlier than eight days after the decision. Such a decision would obviate the general requirement for a public announcement at least one week before the scheduled meeting. At the earliest practicable time, however, the Commission will announce publicly the time, place, and subject matter of the meeting, whether the meeting is to be open or closed, and the name and telephone number of an agency official who will respond to requests for information about the meeting.

§ 295.209 Notice of meeting in Federal Register.

Immediately following each public announcement required by this subpart, the following information, as applicable, shall be submitted for publication in the FEDERAL REGISTER:

(a) Notice of the time, place, and subject matter of a meeting;

(b) Whether the meeting is open or closed;

(c) Any change in one of the preceding; and

(d) The name and telephone number of an agency official who will respond to requests for information about the meeting.

Subpart C—Conduct of Meetings

§ 295.301 Meeting place.

Meetings will be held in meeting rooms designated in the public announcement. Whenever the number of observers is greater than can be accommodated in the meeting room designated, alternative facilities will be made available.

§ 295.302 Role of observers.

The public may attend open meetings for the sole purpose of observation. Observers may not participate in meetings unless expressly invited or create distractions to interfere with the conduct and disposition of Commission business. When meetings are partially closed, observers will leave the meeting room upon request so that discussion of matters exempt under provisions of Subpart B, § 295.202, may take place.

Subpart D—Maintenance of Meeting Records

§ 295.401 Requirements for maintaining records of closed meetings.

(a) A record of each meeting or portion thereof which is closed to the public must be made and retained for two years or for one year after the conclusion of the Commission proceeding involved in the meeting. The record of any portion of a meeting closed to the public shall be a verbatim transcript or electronic recording. In lieu of a transcript or recording, a comprehensive set of minutes may be produced if the closure decision was made pursuant to § 295.202(a)(8), (a)(9)(i), or (a)(10).

(b) If minutes are produced, such minutes shall fully and clearly describe all matters discussed, provide a full and accurate summary of any actions taken and the reasons expressed therefor, and include a description of each of the views expressed on any item. The minutes must also reflect the vote of each member on any roll call vote taken during the proceedings and identify all documents produced at the meeting.

(c) The following documents produced under provisions of § 295.203(b) shall be retained by the agency as part of the transcript, recording, or minutes of the meeting:

(1) Certification by the General Counsel that the meeting may properly be closed; and

(2) Statement from the presiding officer of the meeting setting forth the date, time, and place of the meeting and listing the persons present.

§ 295.402 Availability of records to the public.

(a) The Commission shall make promptly available to the public the transcript, electronic recording, or minutes maintained as a record of a closed meeting, except for such information as may be withheld under one of the provisions of § 295.202(a). Copies of such transcript, minutes, or transcription of an electronic recording, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(b) The nonexempt parts of transcripts, minutes, and electronic recordings shall be in the official custody of the Executive Assistant to the Commissioners. Appropriate facilities and equipment will be made available to any person who makes a request to review these records.

(c) Requests for copies of nonexempt parts of transcripts, minutes, or transcriptions of electronic recordings shall be directed to the Executive Assistant to the Commissioners. Such requests shall identify the records being sought and include a statement that whatever costs are involved in furnishing the records will be acceptable or, alternatively, that costs will be acceptable up to a specified amount.

§ 295.403 Requests for records under Freedom of Information and Privacy Acts.

Requests to review or obtain copies of records other than transcripts, electronic recordings or minutes of a meeting will be processed under the Freedom of Information Act (5 U.S.C. 552) or, where applicable, the Privacy Act (5 U.S.C. 552a).

§ 295.404 Copying and transcription charges.

(a) The Commission will charge fees for furnishing records at the rate of ten cents per page for photocopies and at the actual cost of transcription. When the anticipated charges exceed $50, a deposit of 20 percent of the amount anticipated must be made within 30 days. Requested information will not be released until the deposit is received. Fees shall be paid by check or money order made payable to the United States Civil Service Commission.

(b) The Executive Assistant to the Commissioners has the discretion to waive charges whenever release of the copies is determined to be in the public interest.

Subpart E—Administrative Review

§ 295.

Any person who believes a Commission action governed by this part to be contrary to the provisions of this part may file an objection in writing with the Executive Assistant to the Commissioners. Wherever possible, the Executive Assistant will respond within two working days to objections concerning decisions to close meetings or portions thereof. Responses to objections concerning matters other than closed meetings will be made within ten working days.

Subpart F—Judicial Review

§ 295.

Any person may bring an action in a United States District Court to challenge or enforce the provisions of this part or the manner of their implementation. Such action may be brought prior to or within 60 days after the meeting in question, except that if proper public announcement of the meeting is not made, the action may be instituted at any time within 60 days after such announcement is made. An action may be brought where the Commission meeting was or is to be held or in the District of Columbia.

[FR Doc.76-37565 Filed 12-20-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 225]

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Proposed Revised Regulations

The Food and Nutrition Service (FNS) hereby publishes proposed regulations for the Summer Food Service Program for Children as required by section 13(f) of the National School Lunch Act, as amended. These proposed regulations are essentially a revision of the regulations published March 3, 1976 (41 FR 9533). They represent the results of an evaluation of the administration at all levels of the Summer Food Service Program for Children during fiscal year 1976. The following is an enumeration of the major changes which would be effected if this proposal is adopted.

(1) Program experience has demonstrated that sponsors who draw attendance from widespread areas have had difficulty establishing Program eligibility based on the requirement that sponsors must serve children from areas of economic need, defined as geographic areas in which one-third of the children are eligible for free or reduced price meals under the National School Lunch or School Breakfast Programs. Although these sponsors serve children from areas of economic need, the fact that attendance is drawn from widespread areas makes it difficult to demonstrate eligibility. In recognition of this problem and in an effort to ensure that Program benefits are not denied eligible children FNS proposes that sponsors which provide a regularly scheduled organized cultural or recreational activity for enrolled children for whom a daily attendance register is maintained shall be permitted to demonstrate eligibility by family-size and income data on individual children which indicates that one-third of the children enrolled at the site are eligible for free and reduced price meals.

(2) State agencies and FNS Regional Offices (FNSROs), have been given discretionary authority in the amount of advance funds to be made available to sponsors but in no case shall the amount made available to sponsors participating in the prior fiscal year exceed 65 percent of the Program funds actually expended by that sponsor in the same calendar month in the prior year. The proposed dates for making the second and third payments of advance funds to sponsors have been changed to July 15 and August 15 and sponsors will be required to request each advance payment from the State agency, or FNSRO where applicable, at least 30 days prior to such payments. Proposed changes with respect to advance funding are intended to provide for proper administrative control of such funds. It has been demonstrated that State agencies, FNSROs and sponsors have had difficulty in projecting the size of the Program at all levels. Under the circumstances, the advance of Program funds based on other than known factors is felt to be inconsistent with responsible administration.

(3) It is proposed that each participating sponsor be limited to a maximum number of 200 food service sites and a total average daily attendance at all sites of 50,000 children. In addition, State agencies and FNSROs shall not allow a sponsor to operate any site which expects to serve more than 300 children on an average day, until the administering agency visits each such site and evalu-

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ates it as to its capability for serving the projected number of children. Experience dictates that there is a point beyond which even a capable administrative organization cannot hope to exercise proper control. The Summer Program by its very nature presents more than the average number of administrative pitfalls and requires a concentrated administrative effort.

(4) In an effort to implement more effective and necessary controls at all administrative levels, FNS is proposing a limit on the length of meal service, by meal type. Two hours shall be alloted for lunches and suppers; one hour for breakfasts and supplements. Meals served outside the approved time periods will not be eligible for reimbursement. Additionally, sponsors will be prohibited from beginning the supper meal any later than 6:00 p.m. These restrictions permit adequate supervisory control and at the same time should not interfere with a well organized food service operation.

(5) Several additions to the section of the regulations dealing with sponsor/food service management company activities are proposed. Of primary significance is the requirement that State agencies develop and require the use of a standard sponsor/food service management company contract. Other provisions relate to the bid procedure and are geared to ensuring the propriety of the competitive bid process. Numerous violations of both the spirit and the letter of previous regulatory provisions dealing with this area of Program operations dictate that considerable administrative attention needs to be paid here. These proposed changes are intended to assist administering agencies in this regard.

(6) It is proposed that all service institutions applying for the Program must demonstrate financial and administrative capability for Program operations and must provide an ongoing year-round service to the community which they propose to serve. It is recognized that sponsors who have operated successful programs in the past have been not only capable and experienced but also committed to the area and the people for whom a food service is provided. State agencies may require bonding of service institutions desiring to participate in the Program.

(7) Sponsors approved for participation in the Program must agree to visit all of their sites during the first week of Program operations and thereafter to review all sites at least once during the first four weeks of operation. FNS believes that the nature of the Program is such that communication with and monitoring of food service sites by sponsors is essential to successful Program operations. It has been observed that many problems at the site level could have been avoided or resolved by conscientious sponsor monitoring.

(8) Sponsors which expect to receive more than $50,000 in Program payments must contract with a CPA audit firm or individual CPA to perform a fiscal audit on their Program operations and must submit a copy of that audit with their final Claim for Reimbursement. Formerly, this requirement applied to sponsors which expected to earn more than $30,000. The increase to $50,000 is based on preliminary data from the fiscal year 1976 Program which indicate that the average size program is somewhat larger than had been expected.

(9) The donation of USDA commodities will be limited to sponsors which either prepare the meals to be served at their sites or enter into an agreement with a school or school district for the preparation of their meals. Experience shows that information regarding the amount and types of commodities available under the Program cannot be disseminated in sufficient time to be considered by sponsors as they contract with food service management companies. In addition, the kinds of commodities frequently made available are not compatible with the type of meal usually prepared by food service management companies.

(10) FNS proposes to eliminate startup funds. Preliminary information indicates that only a fraction more than one percent of sponsors made use of these funds during fiscal year 1976. FNS recognizes the fact that this small percentage is partially due to the discretionary authority given to administering agencies over these funds. The majority of State agencies and FNSROs who have stated their opinions concerning these funds feel that the Summer Program by its less than stable nature does not lend itself to this type of funding.

(11) Finally, FNS proposes to offer guidelines for use by State agencies and FNSROs to assist them in evaluating potential sponsors. Specifically, criteria have been set forth over and above basic eligibility standards by which an administering agency might determine a potential sponsor to be unfit for Program operations. These guidelines are minimum and are related to prior performance in the Program. It is expected that administering agencies will use these guidelines as a base on which to scrutinize more closely potential sponsors and to refuse participation to those potential sponsors which appear to be unable to perform at an acceptable level.

In a related area it is apparent that there has been some confusion in the past as to the proper role of administering agencies in the selection of Program sponsors. FNS is suggesting that potential sponsors be evaluated on past performance and/or on a demonstrated capability for administration and fiscal responsibility. A definition of "eligible" including these criteria should assist administering agences in their evaluaton process.

Interested persons are invited to comment on the proposed regulations. Written views, arguments and data submitted or postmarked no later than January 14, 1977 will be assured of consideration in the promulgation of final Summer Food Service Program for Children regulations. Comments should be submitted to William G. Boling, Manager, Child Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. Copies of all written comments received will be available for inspection by the public during normal business hours in room 3405 Auditors Building, 14th and Independence Avenues, S.W., Washington, D.C.

FNS proposes to revise 7 CFR Part 225 to read as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Subpart A—General

Sec.
225.1 General purpose and scope.
225.2 Definitions.
225.3 Administration.

Subpart B—State Agency and Regional Office Provisions

225.4 Criteria for approval of service institutions as sponsors.
225.5 Responsibilities of State agencies and FNSROs.
225.6 Payments to State agencies and use of Program funds.
225.7 Distribution and use of State administrative funds.
225.8 Program management and administration plan.

Subpart C—Sponsor Provisions

225.9 Requirements for participation.
225.10 Food service requirements.
225.11 Food service management companies.
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225.14 Claims against sponsors.

Subpart D—Miscellaneous Provisions

225.15 Procurement provisions.
225.16 Prohibitions.
225.17 Other provisions.
225.18 Program information.

AUTHORITY: Sec. 13, Pub. L. 94-105, 89 Stat. 515 (42 U.S.C. 1761). Sec. 7, Pub. L. 91-248, 84 Stat. 207 (42 U.S.C. 1751). Sec. 8, Pub. L. 91-248, 84 Stat. 207 (42 U.S.C. 1773).

Subpart A—General

§ 225.1 General purpose and scope.

This part announces the policies and prescribes the regulations under which the Secretary will carry out a program to assist States through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions, as defined herein, during the summer months and at other approved times. Payments will be made by States to service institutions in connection with the cost of operating a food service program, or if any State is unable to disburse funds to any service institution in the State, payments will be made by the Department to all service institutions in the State.

§ 225.2 Definitions.

(a) "Act" means the National School Lunch Act, as amended.

(b) "Administrative costs" means Program costs incurred by a sponsor related to planning, organizing, and managing a food service under the Program (excluding interest costs).

(c) "Area" means the geographic area from which a site draws its attendance.

(d) "Areas in which poor economic conditions exist" means areas in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program.

(e) "CND" means the Child Nutrition Division of the Food and Nutrition Service of the Department.

(f) "Children" means persons 18 years of age or under.

(g) "Cost of obtaining food" means costs related to obtaining agricultural commodities and other food for consumption by children. Such costs may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

(h) "Continuous school calendar" means a situation in which all or part of the student body of a school or school district are on a vacation for periods of 15 continuous school days or more during the period October through April.

(i) "Department" means the U.S. Department of Agriculture.

(j) "Fiscal year" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

(k) "FNS" means the Food and Nutrition Service of the Department.

(l) "FNSRO" means the appropriate FNS Regional Office.

(m) "Food service management company" means a commercial enterprise which is or may be contracted with, by a sponsor to manage, or to prepare, or to deliver, or to serve, or any combination thereof, utilized meals for children.

(n) "Income accruing to the Program" means all monies (other than Program payments) received from Federal, State, intermediate, or local governments; income from food sales to adults; and any other income, including cash or in-kind donations or grants.

(o) "Meals" means food which is served to children during their attendance at a food service site and which meets the nutritional requirements set out in this part.

(p) "Milk" means fluid types of flavored or unflavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands, if a sufficient supply of such types of fluid milk cannot be obtained, reconstituted or recombined milk may be used.

(q) "Needy children" means children from families whose income is not above the Secretary's income poverty guideline.

(r) "Net program costs" means the cost incurred by a sponsor in connection with the operation of a food service under the Program, including (1) cost of obtaining food, (2) labor directly involved in the preparation and service of food, (3) the cost of nonfood supplies, (4) rental and use allowances of equipment and space, and (5) administrative costs but excludes costs of the purchase of land, acquisition or construction of buildings, or alterations of existing buildings and excludes interest costs, less income accruing to the program.

(s) "OA" means the Office of Audit of the Department.

(t) "OI" means the Office of Investigation of the Department.

(u) "Private nonprofit" means tax exempt under the Internal Revenue Code of 1954, as amended.

(v) "Program" means the Summer Food Service Program for Children authorized by section 13 of the Act.

(w) "Program funds" means financial assistance made available to State agencies and FNSROs for the purpose of making Program payments.

(x) "Program payments" means financial assistance in the form of advance payments or reimbursement paid or payable to sponsors for Program costs as defined in paragraph (r) of this section.

(y) "Secretary" means the Secretary of Agriculture.

(z) "Service institution" means a nonresidential public or private nonprofit institution or a residential public or private nonprofit summer camp that conducts, during the months of May through September, a regularly scheduled program for children at site locations where organized recreational activity or food service are provided.

(aa) "Site" means a physical location at which a service institution provides or will provide a food service for children.

(bb) "Sponsor" means a service institution which has entered into an agreement with a State agency or FNSRO to conduct a food service under this part.

(cc) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(dd) "State agency" means the State educational agency or any other State agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program.

(ee) "State educational agency" means, as the State legislature may determine, the chief State school officer (such as the State superintendent of public instruction, Commissioner of Education, or similar officer) or a board of education controlling the State department of education.

§ 225.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program. Within FNS, CND shall be responsible for Program administration.

(b) Within the States, responsibility for the administration of the Program shall be in the State agency, except that FNSRO shall administer the Program in any State where the State agency is not permitted by law or is otherwise unable to disburse Federal funds paid to it under the Program to any sponsor in the State. References in this part to "FNSRO where applicable" are to FNSRO as the agency administering the Program within a State.

(c) Each State agency desiring to take part in the Porgram shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part. Such agreement shall cover the operation of the Program during the period specified therein and may be extended by consent of the parties.

Subpart B—State Agency and Regional Office Provisions

§ 225.4 Criteria for approval of service institutions as sponsors.

(a) The State agency, or FNSRO where applicable, shall establish minimum criteria for approval of service institutions to become sponsors under the Program, and shall determine the eligibility of service institutions applying for participation in the program. No service institution shall be approved unless it:

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at which it proposes to conduct a food service;

(2) Has adequate supervisory and operational personnel for overall monitoring and management of each food service site including adequate personnel to visit all food service sites at least once in the first week of operation under the Program and to take promptly such actions as are necessary to correct deficiencies found at the time of the initial visit, and to review food service operations at every site at least once during the first four weeks of Program operations, and thereafter to maintain a reasonable level of site monitoring;

(3) Provides an ongoing year-round service to the community which it proposes to serve under the Program;

(4) Agrees to maintain and has the capability of maintaining children on site while meals are consumed;

(5) Certifies that all sites where it plans to conduct a food service have been visited and have the capability and the facilities for the meal service planned for the number of children anticipated to be served;

(6) Is a private nonprofit entity or a public entity;

(7) Provides documentation that its activity or food service serves an area in which poor economic conditions exist or, if applicable under § 225.9(e), documentation on an individual child basis that at least one-third of the children enrolled in each session of its operation are eligible for free or reduced price school meals;

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(8) Agrees to held training sessions for its own personnel and site personnel with regard to Program duties and responsibilities, and to allow no site to operate until its personnel have attended such training sessions.

(9) Agrees to provide for an audit to be performed on its food service by an independent Certified Public Accountant under any Program agreement for which it will receive over $50,000 in Program payments and to submit a copy of the letter of engagement with an acounting firm or individual which is to conduct the audit.

(b) The State agency, or FNSRO where applicable, shall not approve the application of any service institution, identifiable through its corporate or other organization or otherwise, as a sponsor which participated in the Program during any previous fiscal year and which was found to be seriously deficient in its Program operations. Prior to issuance of a final decision regarding nonapproval, the State agency, or FNSRO where applicable, shall provide applicants the opportunity to refute findings regarding Program deficiencies and to show cause why applications should be approved. Deficiencies which are grounds for nonapproval include, but are not limited to, any of the following:

(1) Non-compliance with the bid procedure and contract requirements are outlined in Program regulations (7 CFR Part 225) dated March 3, 1976;

(2) The knowing submission of false information to the State agency, or FNSRO where applicable;

(3) Failure of the sponsor to return to the State agency, or FNSRO where applicable, any start-up or advance funds which exceed the amount earned by the sponsor for serving eligible meals, or failure to submit all Claims for Reimbursement in any prior year;

(4) Program violations at a majority of the sponsor's food service sites which include, but are not limited to, the following:

(i) Non-compliance with the between-meal time requirements,

(ii) Failure to maintain adequate records,

(iii) Failure to adjust meal orders to conform to variations in the number of participating children,

(iv) The simultaneous service of more than one meal to each child, and

(v) The claiming for Program reimbursement of meals served to adults.

(c) The State agency, or FNSRO where applicable, shall develop, in accordance with the requirements of this part and such other guidance as may be furnished by the Department, a site information sheet, on which service institutions applying to become sponsors under the Program shall provide, for each site at which a food service is proposed, information to demonstrate or describe:

(1) An organized and supervised system for serving meals to attending children;

(2) The types of meals to be served and the times of service;

(3) Arrangements, within acceptable standards prescribed by the State or local health authorities, for delivery and holding of meals until time of service, and if there are excess meals, arrangements for storing them until they are served;

(4) Arrangements for food service during periods of inclement weather;

(5) Access to a means of communication for making adjustments as needed in the number of meals delivered in accordance with the number of children attending daily at each site;

(6) The geographical area to be served by the site;

(7) The extent to which the site draws attendance from an area in which poor economic conditions exist or, if applicable under § 225.9(e), that at least one-third of the children enrolled in each session of operation are eligible for free or reduced price school meals.

(d) The State agency, or FNSRO where applicable, shall when evaluating proposed sites ensure that:

(1) The area served by the proposed site is one in which poor economic conditions exist; or if applicable under § 225.9(e) that at least one-third of the children enrolled are eligible for free or reduced price meals.

(2) The number of meals, by type, proposed to be served to children at the site does not exceed the number of children residing in the area to be served or the number enrolled.

(3) The area which the site proposes to serve is not served in whole or in part by another proposed site: *Provided, however*, That more than one site may be approved to serve the same area if it can be demonstrated to the satisfaction of the State agency, or FNSRO where applicable, that each proposed site will serve children not served by any other site in the area and that the total number of meals, by type, served to children at all sites shall not exceed the number of children residing in the area.

(e) The State agency, or FNSRO where applicable, shall not approve any site with a proposed average daily attendance of more than 300 children until the State agency, or FNSRO where applicable, visits each site to evaluate its capability of serving the number of children expected. No service institution shall be approved to operate more than 200 sites. No service institution shall be approved to serve an average daily attendance of more than 50,000 children. Service institutions which document site eligibility on the basis of enrolled children shall be approved for the service of meals only to children enrolled.

(f) The State agency, or FNSRO where applicable, shall not approve the service of more than one meal per day at any food service site unless each type of meal is delivered separately within one hour of the beginning of the meal service or facilities capable of holding hot or cold meals within the temperatures required by State or local health regulations are available at such site.

(g) The State agency, or FNSRO where applicable, shall use the following order of institutional priority in approving service institutions in the same area for participation in the Program as sponsors:

(1) Public or nonprofit private school with food service facilities;

(2) Public service institutions which utilized local school food facilities for the preparation of meals;

(3) Private service institutions which utilize local school food facilities for the preparation of meals;

(4) Other public service institutions; and

(5) Other private service institutions which have demonstrated ability for successful program operations based on prior Program participation and which provide an organized activity for children.

(h) The State agency, or FNSRO where applicable, in addition to the institutional priorities established in § 225.4 (g) shall consider the following Program factors in approving service institutions in the same area for participation in the Program as sponsors:

(1) Prior service through related programs to needy children in the area to be served.

(2) Preparation of meals at the food service sites.

(3) Percentage of needy children in the area to be served.

§ 225.5 Responsibilities of State agencies and FNSROs.

(a) *Program assistance.* Each State agency shall provide Program assistance as follows:

(1) Each State agency shall provide consultive, technical, and managerial personnel to administer the Program and monitor performance and to measure progress towards achieving Program goals. Such personnel shall be available in sufficient time to properly plan and implement the Program.

(2) Program assistance shall include visits prior to the approval of the application, to all applicants which have not previously participated in the Program and to all applicants which will receive more than $50,000 in Program payments, and reviews, during the first 4 weeks of operation, of all sponsors, and of 15 percent of the sites of such sponsors which operate 10 or more sites, to ensure compliance with Program regulations and with the Department's nondiscrimination regulations (Part 15 of this Title), issued under Title VI of the Civil Rights Act of 1964. In addition, 80 percent of the remaining sponsors and 10 percent of the food service sites of such remaining sponsors shall be reviewed at least once during the period of the Program agreement.

(3) Documentation of Program assistance shall be maintained on file by the State agency.

(b) *Accounting procedures for sponsors.* Each State agency shall establish

accounting practices under which sponsors shall report the information required in this part. The system shall be such as to permit determination of the operating balances available to sponsors.

(c) *Payment of claims.* A State agency may make full or partial reimbursement upon receipt of a Claim for Reimbursement from a sponsor, but shall first make any necessary adjustments in payments.

(d) *Sponsor/food service management company contract.* Each State agency shall develop a standard form of contract for use by sponsors and food service management companies as provided for in § 225.11.

(e) *Advance payment procedure.* Each State agency shall establish a procedure whereby sponsors may apply for advance Program payments as provided for in § 225.13.

(f) *Use of school food service facilities.* State agencies shall make a positive effort to encourage the use of school food service facilities to the maximum extent feasible in the preparation, service and delivery of meals under the Program.

(g) *Application deadline date.* Each State agency shall establish a date by which all service institutions wishing to participate in the Program shall submit a written application.

(h) *Meal service restriction.* State agencies shall immediately restrict to one meal service per day any site determined by it, or by FNSROs to be in violation of § 225.10(a) and all sites under a sponsor if more than 10 percent of the sponsor's sites are determined by it, or FNSRO, to be in violation of § 225.10(a).

(i) *Plentiful foods.* State agencies shall provide sponsors with information on foods available in plentiful supply, including those so designated by the Department.

(j) *Records and reports.* (1) Each State agency shall maintain current accounting records of Program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, outlays, income, and expenditures for operating costs. The records may be kept in their original form or on microfilm, and shall be retained for a period of three years after the date of submission of the final Financial Status Report, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of any issues raised by the audit.

(2) Each State agency shall report information on the use of Program funds and on Program operations to FNS on forms provided by FNS, as instructed by FNS.

(k) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file evidence of such investigations and actions. The Department shall make investigations at the request of the State agency, or where the Department determines investigations are appropriate.

(l) *Commodity distribution information.* If the State agency is other than the agency of the State which handles the distribution of food commodities donated by the Department, a list of sponsors which are to receive food commodities, with accompanying information on the average daily number of meals to be served by such sponsors, shall be prepared not later than June 1 of each year by the State agency. Such a list shall contain only the names of sponsors which will prepare the meals to be served at its sites and the names of sponsors which have entered into an agreement with a school or school district for the preparation of meals to be served under the Program. This information shall be forwarded to the agency of the State which handles the distribution of donated commodities. The State agency shall be responsible for promptly revising the information to reflect additions or deletions of sponsors and for providing such adjustments in participation data as are determined necessary by the State agency. Availability of commodities for use by sponsors shall be summarized and announced by the State agency at an early date prior to the development of menu cycles.

(m) *Training.* The State agency shall provide training for the supervisory personnel of all sponsors, at locations convenient to the areas of operation, prior to the opening of the Program and shall assist sponsors in training site personnel.

(n) *Audit.* The State agency shall provide sponsors whose total Claims for Reimbursement will exceed $50,000 with guidance to enable them to comply with the requirements set out in § 225.9(h).

(o) *Procurement provisions.* State agencies shall require sponsors to adhere to the procurement provision set forth in § 225.15 of this Part.

(p) *Management evaluations and audits.* (1) Each State agency, or FNSRO where applicable, shall ensure that the requirements of § 225.9 are met and shall provide sponsors with an audit guide to be used in the conduct of the audit required by § 225.9(h).

(2) Each State agency, or FNSRO where applicable, shall provide for audits of all sponsors not covered under § 225.9(h) to be made with reasonable frequency. The audits may be made by State agency internal auditors, State Auditors General, State Controllers, or other comparable State audit groups, or by Certified Public Accountants.

(3) Each State agency, or FNSRO where applicable shall coordinate its monitoring review findings under § 225.5(a)(2) and the audit reports provided for under § 225.9(h).

(4) While OA shall rely to the fullest extent feasible upon State sponsored audits, it shall, whenever it considers necessary, (i) make audits on a Statewide basis, (ii) perform on-site test audits, and (iii) review audit reports and related working papers of audits performed by or for State agencies.

(5) State agencies shall provide FNS and OA with full opportunity to conduct management evaluations (including visits to sponsors) and audits of all operations of the State agency under this part. Each State agency shall make available its records, including records of the receipt and expenditure of funds upon a reasonable request by FNS or OA. OA shall also have the right to make audits of the records and operations of any sponsor.

(6) Use of audit guides available from OA is encouraged. When these guides are utilized, OA will coordinate its audits with State-sponsored audits to form a network of intergovernmental audit systems.

(7) In making management evaluations or audits for any fiscal year, the State agency, FNS, or OA, may disregard any overpayment which does not exceed $35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations or procedure as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, where there are unpaid claims for the same fiscal year from which the overpayment can be deducted, or where there is substantial evidence of violation of criminal law or civil fraud statutes.

(q) *Compliance.* State agencies shall require sponsors to comply with applicable provisions of this part.

(r) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional operating requirements which are not inconsistent with the provisions of this part.

(s) *Commercial performance bonds.* The State agency may require service institutions wishing to participate in the Program to obtain commercial performance or fidelity bonds.

(t) *FNSRO responsibilities.* FNSRO shall, in the States in which it administers the Program, assume all of the responsibilities of State agencies set forth in this section.

§ 225.6 Payments to State agencies and use of Program funds.

(a) Not later than May 1, June 1 and July 1 of each fiscal year the Secretary shall make available to each State agency by Letter of Credit an advance payment of Program funds for meals to be served under the Program in the following month in an amount no less than the total payment made to the State agency for meals served in the same calendar month of the preceding calendar year or 65 per centum of the amount estimated by the State agency on the basis of approved applications, to be needed to reimburse service institutions for meals to be served in the following month, whichever is the greater. For sponsors who operate under a continuous school calendar, the Secretary shall make advance payments of Program funds to State agencies in an amount of 65 per centum of the amount estimated to be needed by such sponsor within the State by Letter of Credit on the first day of the month prior to the month during which

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the food service will be conducted. The Secretary shall make available any remaining Program funds due no later than 60 days following receipt of valid claims from sponsors by the State agency.

(b) Program funds shall be used by State agencies, or FNSROs where applicable, to make Program payments to sponsors in connection with meals served to children in accordance with the provisions of this part.

(c) The State agency shall release to FNS any Program funds which are unobligated as of September 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 days following demand by FNS, and shall be accomplished by an adjustment in the State agency's Letter of Credit.

(d) The State agency, or FNSRO where applicable, may with the approval of FNS, use in carrying out special developmental projects an amount up to 1 percent of Program payments made in any fiscal year.

§ 225.7 Distribution and use of State administrative funds.

(a) For each fiscal year, the Secretary shall pay to each State agency for administrative expenses incurred in the Program, an amount equal to 2 percent of the total Program funds disbursed to the State: *Provided, however,* That no State shall receive less than $10,000 for each fiscal year unless the funds distributed to that State for that fiscal year total less than $50,000.

(b) State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which Program funds are made available.

(c) Not later than October 1 of each fiscal year, the Secretary shall make available to each State agency by Letter of Credit an initial allocation of State administrative funds in an amount not to exceed one-third of 2 percent of the Program funds properly payable to such State agency for a summer food service in the prior fiscal year, or one-third of $10,000, whichever is applicable. For States which did not receive any Program funds during the prior fiscal year, the amount to be made available by October 1 of each fiscal year shall be determined by the Department.

(d) An additional amount of State administrative funds shall be made available upon the receipt and approval by FNS of the State's Program management and administration plan provided for in this part. The amount of such funds, plus the initial allocation, shall not exceed three-fourths of 2 percent of the Program funds estimated to be needed for Program payments, or three-fourths of $10,000, whichever is applicable. The balance of the State administrative funds needed by a State, not to exceed 2 percent of the Program funds paid or estimated to be payable to the State for the current fiscal year, or $10,000 whichever is applicable, shall be paid to the State not later than July 15 of each fiscal year.

(e) Each State agency shall report to the Department information on the use of Program funds and State administrative funds on a form provided by FNS, not later than November 30 of each fiscal year. The Department shall then make any adjustments necessary prior to the next payment of State administrative funds.

§ 225.8 Program management and administration plan.

(a) Not later than February 15 of each fiscal year, each State agency shall submit to FNS for approval, a Program management and administration plan for that fiscal year. Approval of the plan by FNS shall be a prerequisite to the payment of Program funds, or to the donation by the Department of any commodities for use in the Program. The plan shall include as a minimum:

(1) How the State plans to use Program funds and funds from within the State to the maximum extent practicable to reach needy children.

(2) Estimated number of service institutions eligible to participate and estimated number of sites and average daily attendance.

(3) Estimated number of service institutions expected to participate and estimated number of sites and average daily attendance.

(4) Estimated number of sponsors which will receive $50,000 in Program payments and average daily attendance.

(5) Estimated amount of Program funds by month needed for Program payments.

(6) Estimated amount of State funds needed to operate the Program.

(7) Number of sponsor training sessions planned and number of reviews planned.

(8) The State agency budget by month on the use of Program and State administrative funds available under the Program including, but not limited to, staffing (part-time and full-time), salaries, travel, and per diem.

(9) The actions to be taken by the State agency to maximize the use of school food service facilities.

(10) The actions to be taken by the State to ensure that sites at which a Program food service is planned serve areas or children of economic need.

(11) The actions to be taken by the State to ensure compliance with the requirements of the Department's regulations respecting nondiscrimination (7 CFR Part 15).

(12) The State's plan for meeting its audit and monitoring responsibilities.

(13) Data for the prior fiscal year's operation on the number of sponsors who participated and number of reviews and audits performed as well as a detailed breakdown of how State administrative funds made available to the State under the Program were spent.

(14) Quantitative description of present service to needy children and future plans for reaching needy children not being served.

(b) The State agency shall give the Governor, or his delegated agency, the opportunity to comment on the relationship of the plan to comprehensive and other State plans and programs and to those of affected areawide or local jurisdictions. A period of 45 days from the date of the receipt of the plan shall be afforded to make such comments.

Subpart C—Sponsor Provisions

§ 225.9 Requirements for participation.

(a) Service institutions shall, not later than the deadline date for applications established under § 225.5, make written application to the State agency, or FNSRO where applicable, for participation in the Program as sponsors.

(b) Each service institution shall submit, as part of the application, a site information sheet, as developed by the State agency, or FNSRO where applicable, for each site where a food service operation is proposed.

(c) Applications shall include information in sufficient detail to enable the State agency, or FNSRO where applicable, to determine whether the service institution meets the minimum criteria for participation in the Program set forth in § 225.4 of this Part, and extent of the need for Program payments. In addition, all applicants planning to operate 10 or more food service sites must include a management plan for review and approval by the State agency, or FNSRO where applicable. Such a plan shall include the service institution's budget and staffing plan.

(d) Each service institution applying for participation in the Program shall submit along with its application to the State agency, or FNSRO where applicable, a plan for and the wording to be used in its invitation to bid for food service, if required under § 225.11, and a copy of its letter of engagement with a certified public accountant, if required under paragraph (h) of this section.

(e) Each service institution shall submit documentation supporting the eligibility of each site based on areas where poor economic conditions exist along with the site information sheet, except that residential summer camps and nonresidential public or nonprofit private institutions which offer a regularly scheduled organized cultural or recreational activity to enrolled children for whom a daily attendance register is maintained may instead submit with each site information sheet family-size income information which documents that at least one-third of all children enrolled in each session are eligible for free or reduced price school meals. Information on each session must be submitted at least 14 calendar days prior to the opening of the session or at such time as specified by the State agency, or FNSRO where applicable.

(f) Service institutions shall submit with each site information sheet a certification by State or local health authorities as to the suitability of that site for food service.

(g) Service institutions selected for participation in the Program as sponsors shall enter into written agreements with the State agency, or in those States in which FNSRO administers the Program, service institutions shall enter into written agreements with the Department. Such agreements shall provide that the sponsor shall:

(1) Operate a nonprofit food service for children on school vacation during the months of May through September or from May through September and at some other times during the year for children on school vacation under a continuous school calendar system;

(2) Serve meals which meet the requirements and provisions set forth in § 225.10 during a period designated as the meal service period by the sponsor;

(3) Serve meals without cost to all children only at sites approved for participation in the Program;

(4) Make no discrimination against any child because of race, color or national origin and make a statement to this effect available to the local news media;

(5) Claim reimbursement only for the type or types of meals specified in the agreement served to children at approved sites during the approved meal service period;

(6) Submit claims for Reimbursement in accordance with procedures established by the State agency, or FNSRO where applicable;

(7) Maintain, in the storage, preparation and service of food, proper sanitation or health standards in conformance with all applicable State and local laws and regulations;

(8) Purchase, in as large quantities as may be efficiently utilized in the Program, foods designated as plentiful by the State agency or the Department;

(9) Accept and use, in as large quantities as may be efficiently utilized in the Program, such foods as may be offered as a donation by the Department;

(10) Have access to facilities necessary for storing, preparing and serving food;

(11) Maintain a financial management system as prescribed by the State agency, or FNSRO were applicable;

(12) Maintain on file documentation of site visits;

(13) Upon request, make all accounts and records pertaining to the Program available to the State agency and to FNS for audit or administrative review, at a reasonable time and place. Such records shall be retained for a period of three years after the end of each fiscal year, except that, if audit findings shall be retained beyond the three-year period as long as required for the resolution of any issues raised by the audit.

(h) Each sponsor whose total Program payments under any Program agreement are expected to exceed $50,000 shall be responsible for providing that an audit be conducted of its Program Claims and the supporting documentation of those Claims by an independent Certified Public Accountant. The sponsor's final Claim for Reimbursement under the agreement shall not be eligible for reimbursement until the audit has been completed and the results have been reviewed by the State agency, or FNSRO where applicable. The costs of the audit may be considered an administrative cost.

(i) Each sponsor participating in any program under Parts 210, 215, 220, 226, 230, or 250 of this chapter, or any other Federally funded program, shall submit separate claims for reimbursement for each program.

(j) Each sponsor shall, to the maximum extent feasible, utilize existing school food service facilities or obtain meals from a school food service facility, and the applicable requirements of this part shall be embodied in a written agreement between the sponsor and the school.

(k) Sponsors shall operate their food service in accordance with the provisions of this part and any Instructions and handbooks issued by FNS or the State agency which are not inconsistent with the provisions of this part.

§ 225.10 Food service requirements.

(a) Meals which may be served under the Program shall be limited to breakfast, lunch, supper and supplemental food served between such other meals, except that supplemental food shall not be approved if the sponsor also participates in the Special Milk Program (7 CFR Part 215). Three hours shall elapse between the beginning of one meal service and the beginning of another, except that four hours shall elapse between the service of a lunch and supper when no other meal is served between lunch and supper. The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals. The service of supper meals shall begin no later than 6:00 p.m. No sponsor shall be approved for more than two supplements a day. Meals served outside of the period of approved meal service shall not be eligible for Program payments. Each sponsor shall serve the type or types of meals provided for in its agreement with the State agency, or FNSRO where applicable.

(b) Except as otherwise provided in this section and any appendices to this part, each meal served in the Program shall contain, as a minimum, the indicated food components:

(1) A breakfast shall contain:

(i) One-half pint (1 cup) of milk as a beverage or on cereal or used in part for each purpose,

(ii) One-half cup serving of fruit or vegetable, or both, or full strength fruit or vegetable juice,

(iii) One slice of whole-grain or enriched bread; or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or three-fourths cup (volume) or one ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(2) Lunch or supper shall contain:

(i) One-half pint (1 cup) of milk as a beverage,

(ii) Two ounces (edible portion as served) of cooked lean meat, poultry or fish; or two ounces of cheese; or one egg; or one-half cup of cooked dry beans or peas; or four tablespoons of peanut butter; or an equivalent quantity of any combination of the above-listed foods,

(iii) A three-fourths cup serving consisting of two or more vegetables or fruit, or both. Full-strength vegetable or fruit juice may be counted to meet not more than one-fourth cup of this requirement,

(iv) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour.

(3) Supplemental food shall include:

(i) One-half pint (1 cup) of milk or 8 fluid ounces of full-strength fruit or vegetable juice or 1 cup of fruit or vegetable, or an equivalent quantity of any combination of these foods,

(ii) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or three-fourths cup (volume) or one ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(c) The quantities of food specified in paragraphs (b) (1) and (2) of this section are approximate amounts of food to serve 10 to 12 year-old boys and girls. Greater or lesser amounts of these foods may be served if participating children are older or younger and if the sponsor has the capability of controlling portion size so as to ensure that variations in portion size are in accordance with the age levels of the children served.

(d) If emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining delivery thereof, the State agency, or FNSRO where applicable, may approve the service of breakfasts, lunches, suppers or supplemental food without milk during the emergency period.

(e) The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases the State agency, or FNSRO where applicable, may approve the service of meals without milk, provided that an equivalent amount of canned, whole dry, or nonfat dry milk is used in the preparation of the components of all meals. In addition, the State agency, or FNSRO where applicable, may approve the use of dry milk by residential summer camps in meals served to children participating in camp sponsored activities which make the service of fluid milk impracticable.

(f) In American Samoa, Guam, Puerto Rico, the Virgin Islands, and the Trust Territory of the Pacific Islands, the fol-

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lowing variations from the meal requirements are authorized: A serving of a starchy vegetable, such as uti, tanniers, yams, plantains, sweet potatoes, or a serving of enriched rice or enriched or whole-grain cereal products such as macaroni, dumplings or noodles may be substituted for the bread requirement.

(g) Substitutions may be made by sponsors in paragraph (b) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such food. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods.

(h) FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(i) The State agency, or FNSRO where applicable, may approve upon request by a sponsor the service of meals under the Program to children under 1 year of age. Sponsors approved for this type of meal service shall be required by the State agency, or FNSRO where applicable, to comply with the applicable meal patterns contained in the Child Care Food Program regulations (7 CFR Part 226).

§ 225.11 Food service management companies.

(a) Any sponsor may contract with a food service management company (or other commercial enterprise) for the preparation of unitized meals, with or without milk. Any sponsor may employ a food service management company to operate its entire food service, *Provided, however,* That a sponsor that so employs a food service management company shall remain responsible for seeing that the food service operation is in conformity with its agreement with the State agency, or FNSRO where applicable. Any sponsor whose contract with a food service management company will exceed $10,000 in value shall use a competitive bid procedure in the selection of the food service management company. All sponsors shall adhere to the procurement standards set forth in § 225.15 and shall follow applicable State or local laws governing bid procedures. In addition, sponsors shall, when advertising for bids for food service, at a minimum, adhere to the following requirements:

(1) The invitation to bid shall not specify a minimum or maximum price;

(2) The invitation to bid shall contain a cycle menu upon which the bids shall be based;

(3) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless it can be demonstrated that such special requirements are required by the children to be served;

(4) The invitation to bid shall not provide for loans to be made to sponsors by food service management companies;

(5) Non-food items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(6) A copy of the health certification required in this section shall be submitted by the food service management company with each bid;

(7) The sponsor shall make available to the State agency, or FNSRO where applicable, the reason for selecting the food service management company chosen.

(b) The sponsor/food service management company contract shall expressly provide that:

(1) The sponsor shall provide the food service management company with a list of approved food service sites and shall update the list as needed;

(2) The food service management company shall maintain such records (supported by invoices, receipts or other evidence) as the sponsor will need to meet its responsibilities under this part, and shall report thereon to the sponsor promptly at the end of each month, at a minimum;

(3) The food service management company shall have State or local health certification for the facility in which it is preparing meals for use in the Program and it shall ensure that all health and sanitation requirements are met at all times;

(4) The books and records of the food service management company pertaining to the sponsor's food service operation shall be available for a period of 3 years from the date of submission of the final Claim for Reimbursement for inspection and audit by representatives of the State agency, of the Department, and of the United States General Accounting Office at any reasonable time and place;

(5) Unitized meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(6) Increases and decreases in the number of meal orders may be made by the sponsor as needed within a period of prior notice mutually agreed upon;

(7) No payment shall be made for meals that do not meet nutritional requirements, are spoiled or unwholesome at time of delivery, or do not otherwise meet the requirements of the contract;

(8) All meals shall meet the requirements of § 225.10;

(9) Remedies for nonperformance shall be stipulated in each contract.

(c) Each request for an exception to the standard contract shall be submitted for consideration to the State agency, or FNSRO where applicable.

(d) Copies of all contracts between sponsors and food service management companies shall be submitted to the State agency, or FNSRO where applicable, prior to the beginning of Program operations.

(e) Each food service management company which enters into a food service contract with a sponsor under the Program shall obtain a performance bond in an amount equal to the value of such contract. Sponsors shall require the food service management company to furnish a copy of the bond.

§ 225.12 Program payments.

(a) Program payments shall be made to sponsor only after execution of and in accordance with the terms of the agreement with the State agency or the Department. No Program payments shall be made for meals served at a food service site before the sponsor has received written notification of approval for said food service site from the State agency, or FNSRO where applicable.

(b) Program payments shall be made to any sponsor in whichever following amount is the lesser: The net program costs or: 87.25 cents for a lunch or supper, of which 6.5 cents may be used only for administrative costs; 46.25 cents for a breakfast, of which 3.25 cents may be used only for administrative costs; and 22.75 cents for supplemental food, of which 1.5 cents may be used only for administrative costs. In no event may Program payments include administrative costs in excess of 6.5 cents for a lunch or supper, 3.25 cents for a breakfast or 1.5 cents for supplemental food. The last Claim for Reimbursement at the end of the sponsor's food service operation may be paid at rates in excess of the aforementioned rates: *Provided, however,* That the total Program payments paid to a sponsor do not exceed the lesser of (1) rates times total meals by type served to children during the Program operation or (2) net program costs

(c) The Secretary shall prescribe by March 1 of each fiscal year, an adjustment to the nearest one-fourth cent in the reimbursement rates set forth in paragraph (b) of this section, to reflect changes for the year ending January 31, in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

(d) Sponsors who wish to claim only for the cost of obtaining food shall maintain accurate records to justify their food costs. In no instance shall Program payments for the cost of obtaining food exceed the per meal Program payment rates, minus the amount set aside for administrative costs.

§ 225.13 Program payment procedures.

(a) To be entitled to reimbursement under this part, each sponsor shall submit to the State agency, or FNSRO where applicable, a monthly Claim for Reimbursement as specified in paragraph (d) of this section. Claims for Reimbursement may be submitted more frequently, at the discretion of the State agency, or FNSRO where applicable. Any Claim for Reimbursement not received by the State agency, or FNSRO where applicable, within 90 days after the close of the sponsor's food service operations may be disqualified from payment, except where the State agency, or FNSRO where applicable, considers that a Claim for Reimbursement has been filed late because of circumstances beyond the control of each sponsor. This paragraph

shall not affect the obligation of each sponsor to comply with the requirements of paragraph (d) of this section.

(b) No later than June 1, July 15, and August 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency, or FNSRO where applicable, shall forward advance Program payments to each participating sponsor based upon receipt of a request for an advance Program payment from that sponsor no later than 30 days prior to the date for each advance payment: *Provided, however,* That (1) the State agency, or FNSRO where applicable, shall not release the first month's advance Program payment to any sponsor which has not certified that it has held training sessions for its own personnel and the site personnel with regard to Program duties and responsibilities; and (2) no advance Program payment shall be made for any month in which the sponsor operates for less than 10 Program days. Requests by sponsors for advance Program payments not received within 30 days of the applicable payment date shall be honored by the State agency, or FNSRO where applicable, within 30 days of receipt.

(c) Each month's advance Program payment to a sponsor shall be in an amount to be determined by the State agency, or FNSRO where applicable, but in any case to any sponsor which participated in the prior year not more than 65 percent of the total Program payment, excluding any payments which may be part of a demand for recovery under § 225.14(a) or § 225.14(d), for meals served by that sponsor in the same calendar month of the preceding calendar year. If the State agency, or FNSRO where applicable, has reason to believe that a sponsor will not be able to submit a valid Claim for Reimbursement in an amount sufficient to cover outstanding advance Program payments, the subsequent month's advance Program payment shall be withheld until such time as the State agency, or FNSRO where applicable, has received a valid Claim. Sponsors may elect not to receive advance Program payments. Any interest earned on advance Program payments shall be returned to FNS.

(d) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the required information for Program reports. Claims for Reimbursement shall be filed with the State agency, or FNSRO where applicable, by the 10th of the month following the month covered. Not more than 10 days of the beginning or ending month of the sponsor's food service operation in a fiscal year may be combined on a Claim for Reimbursement with the operations of the month immediately following the beginning month, or preceding ending month. Claims for Reimbursement may not be combined for months from different fiscal years.

(e) Sponsors whose final month of Program operations is less than 10 days in duration shall submit a combined Claim for Reimbursement covering the final month and the entire month immediately preceding the final month. Such combined Claims shall be filed with the State agency, or FNSRO where applicable, not later than 10 days following the final day of Program operations.

(f) Failure by a sponsor to file a claim within the time limits specified in paragraphs (d) and (e) of this section shall be sufficient basis for the State agency, or FNSRO where applicable, to make a determination that the sponsor's claim is $0.00. Under such circumstances the sponsor shall be obligated to make immediate payment to the State agency, or FNSRO where applicable, of any amount of reimbursement demanded by it. Subject to paragraph (a) of this section, appropriate adjustments may be made if a claim is subsequently submitted by the sponsor. The audit requirements of § 225.9(h) shall not be construed as permitting delay in submission of claims pending completion of the audit requirements.

(g) In submitting a Claim for Reimbursement, each sponsor shall certify that the Claim is true and correct and that records are available to support the Claim.

(h) Program payments advanced to sponsors which are not subsequently deducted from a valid Claim for Reimbursement must be repaid upon demand to the State agency, or FNSRO where applicable.

§ 225.14 Claims against sponsors.

(a) State agencies shall disallow any portion of a Claim for Reimbursement and promptly recover any Program payment made to a sponsor that was not properly payable under this part. State agencies shall use their own procedures to disallow claims and recover overpayments already made. This shall include court actions, where appropriate. However, the State agency shall notify the sponsor of the reasons for any disallowance or demand, and allow the sponsor full opportunity to submit evidence. If, in the determination of CND, a State agency has acted in conformity with the provisions of this Part and has made every reasonable effort to recover any overpayment, the State agency shall not be liable for failure to collect such overpayment.

(b) The State agency shall maintain all records pertaining to action taken under this section. Such records shall be retained for a period of three years after the date of the submission of a final Financial Status Report, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of any issues raised in the audit.

(c) The amounts recovered by the State agency from sponsors may be utilized, first to make Program payments to sponsors for the period for which the funds were initially available, and second, to repay any State funds expended in the payment of Claims for Reimbursement under the Program not otherwise repaid. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this Part.

(d) When FNSRO administers the Program with respect to sponsors and disallows a Claim for Reimbursement or a portion of a Claim, or makes a demand for refund of an alleged overpayment, it shall notify the sponsor of the reasons for such disallowance or demand, and the sponsor shall have full opportunity to submit evidence or to resubmit a claim for any amount disallowed or demanded.

Subpart D—Miscellaneous Provisions

§ 225.15 Procurement provisions.

(a) All sponsors shall adhere to the following standards when procuring goods and services with Program payments for use in the Program.

(1) The Sponsor shall maintain a code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts using Program funds. No employee, officer or agent shall participate in the selection, award or administration of a contract in which Program funds are used, where, to his knowledge, he or his immediate family, partners, or organization in which he or his immediate family or partner has a financial interest or with whom he is negotiating or has any arrangement concerning prospective employment, has an interest. The sponsor, its officers, employees and agents, shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. Such standards shall provide for disciplinary actions to be applied by the sponsor for violations of such standards by the sponsor's officers, employees or agent.

(2) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The sponsor should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals should be excluded from competing for such procurements. Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the sponsor, price and other factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the sponsor. Any and all bids/offers may be rejected when it is in the sponsor's interest to do so.

(3) All sponsors shall establish procurement procedures that provide for, at a minimum, the following procedural requirements.

(i) Proposed procurement actions shall follow a procedure to assure the avoid-

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ance of purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(ii) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(iii) Positive efforts shall be made by the sponsor to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing Program funds.

(iv) The type of ppocuring instruments used, e.g., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, shall be determined by sponsors but must be appropriate for the particular procurement and for promoting the best interest of the program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(v) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(vi) All proposed sole source contracts or where only one bid or proposal is received in which the aggregate expenditure is expected to exceed $5,000 shall be subject to prior approval at the discretion of the State agency, or FNSRO where applicable.

(vii) Some form of price or cost analysis should be made in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

(viii) Procurement records and files for purchases in excess of $10,000 shall include the following:

(a) Basis for contractor selection;

(b) Justification for lack of competition when competitive bids or offers are not obtained;

(c) Basis for award cost or price.

(ix) A system for contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract, and to ensure adequate and timely followup of all purchases.

(4) The sponsor shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. These provisions shall also be applied to subcontracts.

(i) Contracts in excess of $10,000 shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as may be appropriate.

(ii) All contracts in excess of $10,000 shall contain suitable provisions for termination by the sponsor including the manner by which termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(iii) All contracts awarded by sponsors and their contractors having a value of more than $10,000, shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

(iv) Where applicable, all contracts awarded by sponsors in excess of $2,500 that involve the employment of mechanics or laborers, shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(v) Contracts or agreements, the principal purpose of which is to create, develop or improve products, processes or methods; or for exploration into fields that directly concern public health, safety or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to invention and materials generated under the contract or agreement are subject to the regulations issued by the Department and the sponsor. The contractor shall be advised as to the source of additional information regarding these matters.

(vi) All negotiated contracts (except those of $10,000 or less) awarded by sponsors shall include a provision to the effect that the sponsor, the Department, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(vii) Contracts for amounts in excess of $100,000 shall contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended. Violations shall be reported to the Department and the Regional Office of the Environmental Protection Agency.

(5) For proposed contracts subject to a competitive bidding procedure sponsors shall also ensure that:

(i) All proposed contracts shall be publicly announced at least 14 days prior to the opening of bids;

(ii) The bids shall be publicly opened; and

(iii) All bidders shall be notified at least five days prior to the opening of the bids of the time and place of the bid opening.

(6) These standards do not relieve the sponsor of the contractual responsibilities arising under its contracts. The sponsor is the responsible authority without recourse to the State agency, or FNSRO where applicable, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, under the Program. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

§ 225.16 Prohibitions.

(a) As provided by the Act, the value of assistance to children under the Program shall not be considered to be income or resources for any purposes under any Federal or State laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

(b) As provided by the Act, expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act.

§ 225.17 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachment K of Office of Management and Budget Circular A–110 (41 FR 32016, July 30, 1976).

(b) *Termination for cause.* FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency in writing of the termination and reasons for the termination, together with the effective date. A State agency, or FNSRO where applicable, shall terminate a sponsor's participation in the Program by written notice whenever it is determined by FNS or the State agency that the sponsor has failed to comply with the conditions of the Program. When participation in a program has been terminated for cause, any funds paid to the State agency or any recoveries by FNS from the State agency shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS and the State agency may terminate the State agency's participation in the Program in whole, or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, properly incurred by the State agency prior to termination. A State agency, or FNSRO where applicable, may terminate a sponsor's participation in accordance with these provisions.

§ 225.18 Program information.

Service institutions desiring information concerning the Program should write to the appropriate Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 34 Third Avenue, Burlington, Massachusetts 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, 729 Alexander Road, Princeton, New Jersey 08540.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, N.W., Atlanta, Georgia 30309.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Illinois 60605.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 1823 Stout Street, Denver, Colorado 80202.

(f) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5–C–30, Dallas, Texas 75242.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, California 94108.

(Catalog of Federal Domestic Assistance Program No. 10.559 National Archives References Services.)

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: December 15, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-37338 Filed 12-20-76;8:45 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 723]

TOBACCO

Proposed Determinations of Marketing Quotas for the 1977–78, 1978–79 and 1979–80 Marketing Years

Pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq., hereinafter referred to as the "Act"), consideration is being given to proclaiming national marketing quotas for Maryland (type 32) and cigar-filler (type 41) tobacco for the 1977–78, 1978–79 and 1979–80 marketing years. Within 30 days after the proclamation of such national marketing quotas referenda will be conducted of farmers engaged in the 1976 production of each of such kinds of tobacco to determine whether they favor or oppose marketing quotas for such years. A national marketing quota, national acreage allotment, national factor for apportioning the national acreage allotment (less reserve) to old farms, and the amount of the national reserve and parts thereof available for new farms and for making corrections and adjusting inequities in old farm allotments will be determined and announced for each of these kinds of tobacco for the 1977–78 marketing year.

The Act (7 U.S.C. 1312(a)) provides that the Secretary shall proclaim not later than February 1 of any marketing year with respect to these kinds of tobacco, a national marketing quota for each of the next three succeeding marketing years whenever he determines with respect to such kinds of tobacco:

(1) That a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefore;

(2) That such marketing years is the least year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) That amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) That a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers: *Provided*, That if such producers have disapproved national marketing quotas for three successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed hereunder which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as he may prescribe, to proclaim a national marketing quota for each of the next three succeeding marketing years.

Producers of both Maryland (type 32) and cigar-filler (type 41) tobacco have disapproved national marketing quotas for three successive years subsequent to 1952. Quotas for these kinds of tobacco were last proclaimed for the 1974–75, 1975–76 and 1976–77 marketing years (39 FR 4558). Producers of both Maryland (type 32) and cigar-filler (type 41) tobacco disapproved marketing quotas in separate referenda held during the period February 25–March 1, 1974 (39 FR 4678).

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13 and 14; Fire-cured tobacco, comprising type 21; Fire-cured tobacco, comprising types 22, 23, and 24; Dark air-cured tobacco, comprising types 35 and 36; Virginia sun-cured tobacco, comprising type 37; Burley tobacco, comprising type 31; Maryland tobacco, comprising type 32; Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54 and 55; and Cigar-filler tobacco, comprising type 41.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later

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than the first day of February 1977 with respect to the kinds of tobacco covered by this notice, the amount of the national marketing quota which will be in effect for the 1977–78 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of the 1977–78 national marketing quota (determined pursuant to such section) may, not later than March 1, 1977, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The Act (7 U.S.C. 1301(b)) defines the "total supply" of tobacco for any marketing year as the carry-over at the beginning of the marketing year (on January 1 of such marketing year in the case of Maryland tobacco), plus the estimated production in the United States during the calendar year in which such marketing year begins. "Reserve supply level" is defined as the normal supply plus 5 percent thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 percent of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The Act (7 U.S.C. 1312(c)) requires that within 30 days after national marketing quotas are proclaimed under section 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kind of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but results shall in no way affect or limit the subsequent proclamation and submisison to a referendum, as otherwise provided in § 312 of the Act (7 U.S.C. 1312), of national marketing quotas.

The Act (7 U.S.C. 1313(g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment on the basis of the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed, and to apportion the national acreage allotment (less a reserve of not to exceed 1 percent thereof for new farms and for making corrections and adjusting inequities in old farm allotments) among old farms.

The Act (7 U.S.C. 1313(g)) also provides that any acreage of tobacco harvested in excess of the farm acreage allotment for the year 1955 or any subsequent crop shall not be taken into account in establishing * * * farm acreage allotments.

The subjects and issues involved in making the determinations described in this notice are:

1. The amount of the national marketing quota for each kind of tobacco for the 1977–78 marketing year.

2. The conversion of the national marketing quotas into national acreage allotments and apportionment of same, less reserve of not to exceed 1 percent, among old farms.

3. The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments.

4. The date(s) or period(s) of the two referenda on quotas for the 1977–78, 1978–79 and 1979–80 marketing years for Maryland (type 32) and cigar-filler (type 41) tobacco, and whether either or both of the referenda should be conducted at polling places rather than by mail ballot (31 FR 12011).

Consideration will be given to data, views and recommendations, pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250. All submissions must, in order to be sure of consideration, be postmarked not later than January 21, 1977. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 5752, U.S.D.A. South Building, 14th and Independence Avenue, S.W., Washington, D.C.

Signed at Washington, D.C., on December 10, 1976.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-37226 Filed 12-20-76;8:45 am]

[7 CFR Part 724]

OTHER TOBACCO

Proposed Determinations of Marketing Quotas for the 1977–78, 1978–79 and 1979–80 Marketing Years

Pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq., hereinafter referred to as the "Act"), the Secretary is preparing (1) with respect to Virginia sun-cured tobacco (type 37) to proclaim national marketing quotas for the 1977–78, 1978–79, and 1979–80 marketing years and to conduct, within 30 days after the proclamation of such national marketing quotas, a referendum of farmers engaged in the 1976 production of such kind of tobacco to determine whether they favor or oppose marketing quotas for such years; and (2) with respect to fire-cured (type 21), fire-cured (types 22–24), dark air-cured, Virginia sun-cured, cigar-binder (types 51 & 52), and cigar filler and binder (types 42–44 and 53–55) tobacco, to determine and announce the amounts of the national marketing quotas for each of such kinds of tobacco for the 1977–78 marketing year; to convert such marketing quotas into national acreage allotments and announce the allotments; to apportion such allotments, less reserves of not to exceed 1 per centum of each respectively, through the local ASCS county committees among old farms and to apportion the reserves for use in (a) establishing acreage allotments for new farms and (b) making corrections and adjusting inequities in old farm allotments.

Sec. 312(a) of the Act (7 U.S.C. 1312(a)) requires the Secretary to proclaim marketing quotas, not later than February 1, 1977, for Virginia sun-cured tobacco for the three marketing years beginning October 1, 1977, because the 1976–77 marketing year is the last year of the three consecutive years for which marketing quotas previously proclaimed will be in effect.

Quotas were previously proclaimed, referendums conducted, and quotas approved by growers as follows: fire-cured and dark air-cured tobacco for the 1976–77, 1977–78, and 1978–79 marketing years (41 FR 4881); Virginia sun-cured tobacco for the 1974–75, 1975–76, and 1976–77 marketing years (39 FR 23985); and cigar binder tobacco (types 51 and 52) and cigar-filler and binder tobacco (types 42–44 and 53–55) for the 1975–76, 1976–77, and 1977–78 marketing years (40 FR 14737).

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13, & 14; Fire-cured tobacco, comprising type 21; Fire-cured tobacco, comprising types 22, 23, & 24; Dark air-cured tobacco, comprising types 35 & 36; Virginia sun-cured tobacco, comprising type 37; Burley tobacco, comprising type 31; Maryland tobacco, comprising type 32; Cigar- filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, & 55; and Cigar-filler tobacco, comprising type 41.

Section 301(b)(15) also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has determined (15 FR 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Pursuant to such authority, the Secretary has also determined (22 FR 367) that cigar-binder (types 51 and 52) tobacco, beginning with the 1957–58 marketing year, shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Type 45 tobacco is no longer grown. No further action under this section is contemplated at this time.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1977 with respect to kinds other than flue-cured tobacco, the amount of the national marketing quota which will be in effect for the 1977–78 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) of the Act provides further that the amount of the 1977–78 national marketing quota so announced may, not later than March 1, 1977, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

Section 301(b) of the Act (7 U.S.C. 1301(b)) defines the "total supply" of any kind of tobacco (except type 46 for any marketing year as the carry-over at the beginning of the marketing year (or on January 1 of such marketing year in the case of Maryland tobacco) plus the estimated production in the United States during the calendar year in which such marketing begins. "Reserve supply level" is defined as the normal supply plus 5 per centum thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

Section 312(c) of the Act (7 U.S.C. 1312(c)) requires that within 30 days after a national marketing quota is proclaimed under § 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kind of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no way affect or limit the subsequent proclamation and submissior to a referendum, as otherwise provided in section 312, of a national marketing quota.

Section 313(g) of the Act (7 U.S.C. 1313(g) authorizes the Secretary to convert the national marketing quota into a national acreage allotment on the basis of the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed and to apportion the national acreage allotment (less a reserve of not to exceed 1 per centum thereof for new farms and for making corrections and adjusting inequities in old farm allotments) among old farms.

The subjects and issues involved in making the determinations described in this notice are:

1. The amount of the reserve supply level for fire-cured (type 21), fire-cured (types 22–24), dark air-cured, Virginia sun-cured, cigar binder (types 51 & 52) and cigar filler and binder (types 42–44 & 53–55) tobaccos.

2. The amount of the national marketing quota for each of these kinds of tobacco for the 1977–78 marketing year.

3. The national factors for apportioning national acreage allotments to old farms.

4. The amounts of the national acreage allotments to be reserved for new farms and for making corrections and adjusting inequities in old farm allotments.

5. The date(s) or period(s) of the referendum on quotas for the 1977–78, 1978–79, and 1979–80 marketing years for Virginia sun-cured tobacco, and whether the referendum should be conducted at polling places rather than by mail ballot (31 FR 12011).

Consideration will be given to data, views and recommendations pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250. All submissions must, in order to be sure of consideration, be received no later than January 21, 1977.

All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5752-South Building, 14th and Independence Avenue, S.W., Washington, D.C.

Signed at Washington, D.C. on December 10, 1976.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-37223 Filed 12-20-76;8:45 am]

[7 CFR Part 726]

BURLEY TOBACCO

Proposed Determinations of Marketing Quotas for the 1977–78, 1978–79 and 1979–80 Marketing Years

Pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq., hereinafter referred to as the "Act"), the Secretary is preparing to proclaim national marketing quotas for burley tobacco for the 1977–78, 1978–79 and 1979–80 marketing years and to determine and announce for the 1977–78 marketing year the amount of the national marketing quota, the national reserve, and the national factor. A marketing quota referendum will be held within 30 days after the proclamation.

Section 319(b) of the Act requires marketing quotas on a poundage basis be proclaimed and the amount of the national marketing quota for the 1977–78 marketing year be determined an announced not later than February 1, 1977.

Section 319(c) of the Act provides that the national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 per centum of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established). A reserve of 1,000,000 pounds was established for the 1976–77 marketing year (41 FR 4539).

Section 301(b) of the Act defines "Reserve supply level" as normal supply plus 5 percent. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for a normal carry-over. A

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"Normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "Normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the ten marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports. The reserve supply level used in determining the national marketing quota for the 1976–77 marketing year was 1,701 million pounds, calculated from a normal year's domestic consumption of 525 million pounds and a normal year's exports of 75 million pounds (41 FR 4539). The proposed reserve supply level for use in determining the national marketing quota for the 1977–78 marketing year is 1,718 million pounds, calculated from a normal year's domestic consumption of 535 million pounds and a normal year's exports of 100 million pounds.

The amount of the national marketing quota for the 1976–77 marketing year is 630 million pounds based upon total utilization of 630 million pounds with no adjusments necessary to maintain or reduce supplies (41 FR 4539). For the 1977–78 marketing year, utilization in the United States is estimated to be about 537 million pounds and exports are estimated to be about 100 million pounds. The total supply for the 1976–77 marketing year is 47 million pounds greater than the proposed reserve supply level, but the amount of the downward adjusment, if any, desirable for an orderly reduction in the total supply is still being considered.

Section 319(e) of the Act provides, in part, that each farm marketing quota shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection 319(c) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined: *Provided*, That such national factor shall not be less than 95 per centum.

Section 319(i) of the Act provides, in part, that if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of burley tobacco during any marketing year to insure traditional market patterns to meet the normal demands of extent of 5 per centum of the farm marthorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 percentum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

Section 319(h) of the Act provides that effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

The subjects and issues involved in the proposed determinations with respect to burley tobacco for the 1977–78 marketing year are:

1. The amount of the national marketing quota.
2. The amount of the reserve supply level.
3. The amount of the national reserve.
4. Whether the Secretary should implement the provision in section 319(i) of the Act to encourage additional marketings of any grades to insure traditional market patterns.
5. The date or period of the referendum on quotas for the 1977–78, 1978–79, and 1979–80 marketing years for burley tobacco and whether the referendum should be conducted at polling places rather than by mail ballot (31 FR 12011).

The national factor is not considered an issue in these determinations because it results from a mathematical computation under section 319(e) of the Act.

Consideration will be given to data, views and recommendations pertaining to the proposed determination which are submitted in writing to the Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250. All submissions must, in order to be sure of consideration, be received not later than January 21, 1977. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in room 5752–U.S.D.A. South Building, 14th and Independence Avenue, S.W., Washington, D.C.

Signed at Washington, D.C. on: December 10, 1976.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-37225 Filed 12-20-76;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 220]

[Reg. T; Docket No. R-0054]

CREDIT BY BROKERS AND DEALERS

Credit to Exchange Specialists in Options

The Board of Governors of the Federal Reserve System, pursuant to authority contained in sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and w), proposes for comment an amendment to the provisions in Regulation T which govern credit which a broker or dealer extends to exchange specialists. The purpose of this amendment it to provide appropriate relief to option specialists who, in furtherance of their obligation to promote an orderly and efficient market, are required to assume certain security positions.

The amendment would permit a specialist in options, in certain limited circumstances, to purchase or sell short in the specialist's account with a broker or dealer, securities underlying the options in which the specialist is registered. It would also provide a reduced margin requirement for such underlying securities at any time when they serve as a hedge against a short option position which is not offset by a corollary long option position. The proposed amendment would also provide an alternative method of calculating the adjusted debit balance in a specialist's account in order to provide relief for specialists with short security positions comparable to that presently provided to specialists with long security positions. The existing rule for specialist credit was written before the advent of exchange-traded options and, therefore, the concessions which it grants are not specifically structured for the mechanics of the options markets.

The proposed amendment is a response to a request for rulemaking made by the Chicago Board Options Exchange as well as a recognition by the Board of Governors that option specialists might need certain specific relief from the Board's uniform margin rule for the writing of options which is scheduled to go into effect on January 1, 1977. The uniform rule was published in the FEDERAL REGISTER on October 5, 1976 (41 FR 43895).

The Board's proposal would allow the purchase and short sale of a security underlying an option in a specialist's account when the account has a short option position which is susceptible to exercise and the account does not hold an offsetting position in a comparable "in-or-at-the-money" option on the same underlying security. While the underlying stock which has been purchased or sold short in the account serves as such a hedge, a margin of 25 per cent (instead of the current margin requirement of 50 per cent) will be required. If the underlying stock or short position is not liquidated when it no longer serves as an allowable hedge, the current margin requirements will be operative. Any account which carries positions in underlying stock which were purchased or sold short under the terms of the proposed rule must be maintained on a daily basis with no excess of the adjusted debit balance over the maximum loan value of the securities in the account.

The amendment is not intended to affect specialists who are not option specialists.

The proposed amended paragraph is set forth below:

§ 220.4 Special Accounts.

* * * * * *

(g) *Specialist's account.* (1) In a special account designated as a specialist's account, a creditor may effect and finance, for any member of a national securities exchange who is registered and acts as a specialist in securities on the exchange, such member's transactions as a specialist in such securities, or effect and finance, for any joint venture in which the creditor participates, any transactions in any securities of an issue with respect to which all participants, or all participants other than the creditor, are registered and act on a national securities exchange as specialists.

(2) Such specialist's account shall be subject to the same conditions to which it would be subject if it were a general account unless the specialist's exchange is a national securities exchange which requires and submits to the Board of Governors of the Federal Reserve System reports suitable for supplying current information regarding specialist's use of credit pursuant to this paragraph (g), in which case, the following modifications of and exceptions to the general rule will apply:

(i) The required calculations of § 220.3(b)(1)(ii) to determine if an account is an "account subject to § 220.8(g)" and the requirements of § 220.6(b) regarding joint ventures shall not apply.

(ii) The maximum loan value of registered securities in such account shall be:

(*a*) Such maximum loan value as the Board shall prescribe from time to time in § 220.8 (the Supplement to Regulation T) where (*1*) the security is identified as held for investment pursuant to a rule of the Commissioner of Internal Revenue (Regs. section 1-1236-1(d)), or (*2*) the security is an underlying security acquired in the account as permitted under paragraph (g)(3) of this section and held in the account on any day when it is not eligible to be held pursuant to paragraph (g)(3)(i) of this section.

(*b*) 75 per cent of the current market value of an underlying security that is purchased in the account under the terms of paragraph (g)(3) of this section and held in the account on any day when it is eligible to be held pursuant to paragraph (g)(3)(i) of this section.

(*c*) The maximum loan value as determined by the creditor in good faith for any other registered security.

(iii) The amount to be included in the adjusted debit balance of the account shall be:

(*a*) The margin required for the writing of options may be either the amount required by § 220.3(i) and 220.8 (the Supplement to Regulation T) or 130 per cent of the current market value of each option held in a short position in the account which is not offset by one of the positions which may be used in lieu of margin under § 220.3(i)(1).

(*b*) The margin required in connection with the sale of a security sold short in conformity with this paragraph shall be the current market value of the security sold short plus either 25 per cent of such current market value on any day when the position is eligible to be held pursuant to the conditions provided in paragraph (g)(3)(i) of this section or such margin as the Board shall prescribe for short sales in § 220.8 (the Supplement to Regulation T) for positions not so held.

(iv) At any time when a position in an underlying security which was purchased or sold short in the account under the terms of paragraph (g)(3) of this section is held in the account, the account shall be maintained on a daily basis with no excess of the adjusted debit balance over the maximum loan value of the securities in the account.

(3) In this account, a specialist in options on a national securities exchange is permitted to purchase or sell short the securities underlying the options in which such member is registered and acts as a specialist only under one or more of the following conditions:

(i) The account holds short positions in call options in which the member is registered and acts as a specialist which are "in or at the money" but only to the extent the positions are not offset in the account by long positions in call options for an equal or greater number of shares of the same underlying securities which are "in or at the money" and do not expire before the short positions in call options;

* * * * * *

(ii) the account holds short positions in put options in which the member is registered and acts as a specialist which are "in or at the money" but only to the extent the positions are not offset in the account by long positions in put options for an equal or greater number of shares of the same underlying securities which are "in or at the money" and do not expire before the short positions in put options;

(iii) The account held a short position in an option against which an exercise notice was tendered; or

(iv) The account held a long position in an option which was exercised.

(4) For the purpose of this paragraph:

(i) The term "underlying security" means the security which will be delivered upon exercise of the option.

(ii) The term "joint venture" does not include any account which, by written agreement with a creditor, permits the commingling of the security positions of a specialist or a specialist unit with those of other specialists or specialist units unless such agreement provides for a sharing of profits and losses from the account on some predetermined ratio.

(iii) The term "in or at the money" means, with respect to a call, that the current market pirce of the underlying security is not more than 5 per cent below the exercise price of the option, and, with respect to a put, the current market price of the underlying security is not more than 5 per cent above the exercise price of the option.

To aid in the consideration of this matter by the Board interested persons are invited to submit relevant data, views, comments, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 17, 1977. All material should include the docket number R-0054. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information (12 CFR 261.6(a)).

This notice is published pursuant to section 553(b) of Title 5 of the United States Code and § 262.2(a) of the Board's Rules of Procedure (12 CFR 262.2(a)).

By order of the Board of Governors, December 15, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-37414 Filed 12-16-76;1:53 pm]

REGIONAL ACTION PLANNING COMMISSION

[13 CFR Parts 500, 520, 551, 552, 553, 554, 555, and 560]

ECONOMIC DEVELOPMENT REGIONS

Puerto Rico, Virgin Islands, California and Texas

Notice is hereby given of a proposal to amend Title 13, Chapter V, of the Code of Federal Regulations by amending Parts 500, 520, and 560, and adding new Parts 551, 552, and 555.

The purpose of these amendments and additions is to implement program authorities and amendments to Title V of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3181 et seq.), contained in Public Law 94-188 and Public Law 94-487 and to clarify existing procedures.

The amendments:

Authorize the Secretary of Commerce to include the Commonwealth of Puerto Rico, the Virgin Islands, the States of California and Texas within a designated "economic development region" without requiring that they be contiguous to another State.

Authorize the Secretary of Commerce to establish a single State regional commission for Texas and California if requirements in the Act are met and the States agree to such establishment.

Require that each State member of a regional commission shall be the Governor, with a single alternate appointed by the Governor from his cabinet or personal staff. State members shall elect a cochairman from among their number to serve for one year.

Redefine the term "Federal grant-in-aid programs" to allow the Commissions to supplement those Federal programs enacted before September 30, 1979.

Part 551 describes procedures by which a regional commission, with the assistance of the Secretary of Transportation, may conduct studies and investigations of the transportation needs of the region. Authorized activities include planning, construction, purchase of equipment and operation of transportation demonstration projects.

Part 552 describes procedures by which the regional commissions may carry out energy-related demonstration projects and programs.

Part 553 is reserved for all regulations pertaining to health and nutrition demonstration projects.

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Part 554 is reserved for all regulations pertaining to education demonstration projects.

Part 555 describes a program for carrying out demonstration projects in connection with the development and stimulation of indigenous arts and crafts of the regions established under the Act.

Comments on or objections to these proposed regulations may be made in writing to the Acting Special Assistant for Regional Economic Coordination, Room 2092, U.S. Department of Commerce, Washington, D.C. 20230, no later than January 31, 1977. Final regulations will be published as soon as possible thereafter.

PART 500—ECONOMIC DEVELOPMENT REGIONS

1. Section 500.3 is amended by revising paragraph (b) to read as follows:

§ 500.3 Criteria for designation.

• • • • •

(b) With the exception of Alaska and Hawaii and the Commonwealth of Puerto Rico and the Virgin Islands and the States of California and Texas, the region is within contiguous States, and

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PART 520—REGIONAL COMMISSIONS

2. Section 520.1 is amended by designating the existing paragraph as "(a)" and by adding a new paragraph "(b)" to read as follows:

§ 520.1 Establishment.

(a) • • •

(b) If the Secretary finds that the State of Alaska or the State of Hawaii or the State of California or the State of Texas meets the requirements for an economic development region, he may at the request of the Governor of the affected State establish a Commission for such State.

3. Section 520.2 is amended by revising paragraph (b) as follows:

§ 520.2 Membership.

• • • • •

(b) The Federal Cochairman is appointed by the President, by and with the advice and consent of the Senate, and may have an alternate who is similarly appointed. The State member shall be the Governor. Each State member may have a single alternate appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff.

4. Section 520.3 is amended to read as follows:

§ 520.3 Initial meeting.

The Federal Cochairman, after appointment by the President and confirmation by the Senate, is authorized to call the initial organizational meeting of the regional commission at which time, among other things, the State members of the commission shall elect a State Cochairman from among their number for a term of not less than one year, and the commission may declare its establishment, adopt a charter listing its functions, and adopt resolutions governing the internal administration of the commission.

5. Section 520.4 is revised to read as follows:

§ 520.4 Voting.

(a) Decisions by a regional commission require the affirmative vote of the Federal Cochairman and a majority, or at least one if only one of two, of the State members.

(b) No decision involving commission policy, approval of regional development plans, implementing investment programs or allocating funds among the States may be made without a quorum of State members present.

(c) A State alternate shall not be counted toward the establishment of a quorum of the commission in any instance in which a quorum of the State members is required to be present. No commission power or responsibility specified in paragraph (b) of this section, nor the vote of any commission member, may be delegated to any person not a commission member or who is not entitled to vote in commission meetings.

(d) A State's single designated alternate may vote in the absence of the Governor at a meeting at which a quorum of Governors is required, but the alternate does not count toward establishing a quorum.

(e) An alternate may vote in the event of the absence, death, disability, removal, or resignation of the State member or Federal Cochairman for which he is an alternate.

(f) The Federal Cochairman shall not vote in the election of a State Cochairman or on the determination of the share of administrative expenses to be contributed by each State.

6. New Parts 551 and 552 are added to read as follows:

PART 551—REGIONAL TRANSPORTATION

Sec.
551.1 Authority and purpose.
551.2 Studies and investigations.
551.3 Regional transportation networks.
551.4 Transportation demonstration projects.
551.5 Grants for planning, construction, purchase of equipment and operation of demonstration projects.
551.6 Construction or equipment of any component of a regional transportation demonstration projects.
551.7 Project financing.
551.8 Limitation on funds.
551.9 Eligible grant applicants.
551.10 Transfer of funds.
551.11 Records retention.

AUTHORITY: 42 U.S.C. 3192; 42 U.S.C. 3211; Executive Order 11386 (December 26, 1967); and Department of Commerce Organization Order 15-5 (August 30, 1975).

§ 551.1 Authority and purpose.

Section 513 of the Act (42 U.S.C. 3192) authorizes each regional commission, with the assistance of the Secretary of Transportation, to conduct investigations and studies of the region's transportation needs, to make grants for the planning of regional transportation networks, and to make grants for the construction, purchase of equipment, and operation of transportation demonstration projects.

§ 551.2 Studies and investigations.

(a) Each regional commission, with the assistance of the Secretary of Transportation, is authorized to conduct and facilitate full and complete investigations and studies of the transportation needs of its economic development region established under section 501 (42 U.S.C. 3181) of the Act.

(b) Such studies and investigations should analyze the effectiveness of regional transportation systems for meeting purposes of the Act.

(c) Information gathered from such studies and investigations should determine the types of transportation facilities needed in the region and be of value in planning for such transportation facilities.

§ 551.3 Regional transportation networks.

Each regional commission, with the assistance of the Secretary of Transportation, is authorized to make grants for the planning of regional transportation networks.

(a) The plans for these transportation networks should develop the proper mix of all transportation modes so as to best serve the economic, social, and environmental interests of the region.

(b) As the regional commissions study and plan their transportation systems, they should not only plan new systems but should study existing transportation programs and attempt to integrate their plans with these ongoing transportation programs.

§ 551.4 Transportation demonstration projects.

A regional transportation demonstration project should meet the following requirements:

(a) Responds to an identified transportation need or problem in the region.

(b) Possesses innovative characteristics for the area or region.

(c) Has objectives which are realistically attainable.

(d) May provide a useful model for others to emulate.

(e) Attracts other resources to assist in meeting a part of the cost and the total costs shall be reasonable in relation to the need for the project and the benefits to be gained.

§ 551.5 Grants for planning, construction, purchase of equipment and operation of demonstration projects.

Each regional commission, with the assistance of the Secretary of Transportation, is authorized to make grants for the construction, purchase of equipment, and operation of transportation demonstration projects. Such funds:

(a) Should be used for projects which possess new or refined organizational, operational, or technical approaches to meet regional transportation needs.

(b) May be used for payment of operating deficits.

(c) Should not be used in lieu of private capital particularly to construct facilities although useful to the development of a particular resource of the various regions.

§ 551.6 Construction or equipment of any component of a regional transportation demonstration project.

(a) No grant for the construction or equipment for any component of a demonstration transportation project shall exceed 80 percent of such cost.

(b) The Federal contribution may be provided entirely from funds authorized under section 513 of the Act (42 U.S.C. 3192) or in combination with funds authorized under other Federal grant-in-aid programs for the construction of transportation facilities.

(c) The Federal portion of project costs shall not exceed 80 percent of project costs and funds authorized under section 513 of the Act may be used to increase the Federal share of any such project to 80 percent of the cost of such facilities.

§ 551.7 Project financing.

Grants under this part shall be made solely out of funds specifically appropriated for the purpose of carrying out Title V of the Act and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provisions of law.

§ 551.8 Limitation on funds.

In carrying out this part no regional commission shall expend more than $5,000,000 in any one fiscal year.

§ 551.9 Eligible grant applicants.

(a) States in the region, alone or with another member State, as well as any political subdivision of the States.

(b) Agencies of State and local governments.

(c) Local multijurisdictional or State public transportation authorities.

(d) State or Federally licensed or certificated common carriers that the commission may approve.

(e) Such other institutions or organizations permitted by law and approved by the commission.

§ 551.10 Transfer of funds.

When the contribution is supplied by the commission and is provided in combination with funds available under other Federal grant-in-aid programs, the Federal Cochairman will, where appropriate, transfer funds for the construction, purchase of equipment, and operation (including payment of operation deficits) of such projects to the basic Federal grant agency administering the grant program or project being supplemented pursuant to a grant agreement between the Federal Cochairman and the appropriate official of the basic agency.

§ 551.11 Records retention.

(a) The commission shall keep, and shall require its grantees and contractors to keep, such records as will fully disclose the amount and disposition of the total budgeted funds, the purpose of the undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as may be necessary. Records pertaining to the expenditures of Federal funds should be preserved for a period of not less than three (3) years following disbursement of funds.

(b) The Secretary of Commerce and the Comptroller General of the United States or their duly authorized representatives shall have access for the purpose of audit and examination to any books, and documents, papers, and records of the commission pertaining to the expenditure of Federal funds that will facilitate an effective audit.

PART 552—ENERGY DEMONSTRATION PROJECTS AND PROGRAMS

Sec.
552.1 Authority and purpose.
552.2 Regional energy policy.
552.3 Energy-related demonstration programs and projects.
552.4 Grants for demonstration programs and projects.
552.5 Limitation on funds.
552.6 Transfer of funds.
552.7 Eligible grant applicants.
552.8 Records retention.

AUTHORITY: 42 U.S.C. 3194; 42 U.S.C. 3211; Executive Order 11386 (December 26, 1967); and Department of Commerce Organization Order 15-5 (August 30, 1975).

§ 552.1 Authority and purpose.

Section 515 of the Act (42 U.S.C. 3194) authorizes each regional commission to carry out energy-related demonstration projects and programs. Each regional commission should develop a regionwide strategy for (a) anticipating the effects of alternative energy policies, and practices, (b) planning for accompanying growth and change so as to maximize social and economic benefits and minimize the social and environmental costs, and (c) implementing programs and projects to be carried out in the region by Federal, State and local government agencies in a coordinated way so as to better meet the special problems generated in the region by the Nation's energy needs and policies. Such special problems include those related to transportation, housing, community facilities and human services.

§ 552.2 Regional energy policy.

To formulate regional energy policies, the Federal Cochairmen and the regional commissions shall work closely with those Federal and State agencies having primary responsibility for developing national energy policy and basic enegy research and development.

§ 552.3 Energy-related demonstration programs and projects.

Each regional commission is authorized to carry out energy-related demonstration projects and programs within its region, including programs and projects addressing the social, economic, and environmental impact of energy development, requirements, and utilization. An energy-related demonstration project should meet the following requirements:

(a) Responds to an identified energy impact or problem in the region.

(b) Possesses innovative characteristics for the area or region.

(c) Has objectives which are realistically attainable.

(d) May provide a useful model for others to emulate.

(e) Attracts other resources to assist in meeting a part of the cost and the total costs should be reasonable in relation to the need for the project and the benefits to be gained.

§ 552.4 Grants for demonstration programs and projects.

(a) Grants shall be made only to those projects which are developed through regional planning designed to identify the effects of regional resource development, requirements, utilization, and impact.

(b) The Federal contribution may be approved entirely from funds authorized under section 515 of the Act (42 U.S.C. 3194) or in combination with funds authorized under other Federal grant-in-aid programs.

§ 552.5 Limitation on funds.

In carrying out this part no regional commission shall expend more than $5,000,000 in any one fiscal year.

§ 552.6 Transfer of funds.

When the contribution is supplied by the commission and is provided in combination with funds available under other Federal grant-in-aid programs, the Federal Cochairman will, where appropriate, transfer funds for such projects to the basic Federal grant agency administering the grant program or project being supplemented pursuant to a grant agreement between the Federal Cochairman and the appropriate official of the basic agency.

§ 552.7 Eligible grant applicants.

(a) States in the region alone or with another member State as well as any political subdivision of the States.

(b) Agencies of State and local governments.

(c) Such other institutions or organizations permitted by law and approved by the commission.

§ 552.8 Records retention.

(a) The commission shall keep, and shall require its grantees and contractors to keep, such records as will fully disclose the amount and disposition of the total budgeted funds, the purpose of the undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as may be necessary. Records pertaining to the expenditures of Federal funds should be preserved for a period of not less than three (3) years following disbursement of funds.

(b) The Secretary of Commerce and the Comptroller General of the United

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States or their duly authorized representatives shall have access for the purpose of audit and examination to any books, and documents, papers, and records of the commission pertaining to the expenditure of Federal funds that will facilitate an effective audit.

8. Two new Parts, Part 553 and Part 554, are reserved as follows:

PART 553—HEALTH AND NUTRITION DEMONSTRATION PROJECTS [Reserved]

PART 554—EDUCATION DEMONSTRATION PROJECTS [Reserved]

9. A new Part 555 is added to read as follows:

PART 555—INDIGENOUS ARTS AND CRAFTS DEMONSTRATION PROJECTS

Sec.
555.1 Authority and purpose.
555.2 Eligible grant applicants.
555.3 Limitation on funds.
555.4 Records retention.

AUTHORITY: 42 U.S.C. 3194; 42 U.S.C. 3211; Executive Order 11886 (December 28, 1967); and Department of Commerce Organization Order 15-5 (August 30, 1975).

§ 555.1 Authority and purpose.

Pursuant to section 515 of the Act (42 U.S.C. 3194), each regional commission is authorized to carry out demonstration projects within its region in connection with the development and stimulation of indigenous arts and crafts of the region.

§ 555.2 Eligible grant applicants.

(a) States in the region, alone or with another member State, as well as any political subdivision of the States.

(b) Agencies of State and local governments.

(c) Indian tribe, band, group, pueblo recognized by the Federal Government or by the States of the region in which the tribe, band, group, or pueblo is located.

(d) Nonprofit or tax supported organizations established to foster and encourage development of indigenous arts and crafts.

§ 555.3 Limitation on funds.

In carrying out this part no regional commission shall expend more than $2,500,000 in any one fiscal year.

§ 555.4 Records retention.

(a) The commission shall keep, and shall require its grantees and contractors to keep, such records as will fully disclose the amount and disposition of the total budgeted funds, the purpose of the undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as may be necessary. Records pertaining to the expenditures of Federal funds should be preserved for a period of not less than three (3) years following disbursement of funds.

(b) The Secretary of Commerce and the Comptroller General of the United States or their duly authorized representatives shall have access for the purpose of audit and examination to any books, and documents, papers, and records of the commission pertaining to the expenditure of Federal funds that will facilitate an effective audit.

PART 560—SUPPLEMENTS TO FEDERAL GRANTS-IN-AID

10. Section 560.7 is revised to read as follows:

§ 560.7 Definition of Federal grant-in-aid programs.

The term "Federal grant-in-aid programs" as used in this subpart means all Federal grant-in-aid programs in existence on or before September 30, 1979, assisting in the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; titles VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; and titles I and IX of the Public Works and Economic Development Act.

Dated: December 14, 1976.

JOHN W. EDEN,
Acting Special Assistant for Regional Economic Coordination.

[FR Doc.76-37413 Filed 12-20-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Parts 401, 422]

[Regs. No. 1, 22]

DISCLOSURE OF CERTAIN MEDICARE REPORTS AND RECORDS

Proposed Rulemaking

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments would revise the requirement for consultation, prior to disclosure of the name of a provider of services, a physician, or other person furnishing services to beneficiaries under title XVIII of the Social Security Act who has been found by a carrier or intermediary to have been engaged in a pattern of furnishing services to such beneficiaries which are substantially in excess of their medical needs. The proposed amendments provide for consultation with an appropriate program review team appointed by the Secretary pursuant to section 1862(d)(4) of the Social Security Act, or with a Professional Standards Review Organization where it has been authorized to assume the responsibilities of a program review team, as an alternative to prior consultation with a professional medical association functioning external to program administration or with a State medical authority.

Regulation No. 1 and Regulation No. 22 of the Social Security Administration currently provide in § 401.3(v)(2) and in § 422.435(b), respectively, for the release of the names of physicians, suppliers, and other providers of services who the Social Security Administration determines, after consultation with a professional medical association functioning external to program administration, to have provided services substantially in excess of beneficiaries' needs.

The regulations do not require that we disclose the names of the providers, physicians, etc., in every case in which there is found excessive rendering of services. Only in those situations where overutilization represents a pattern of furnishing services substantially in excess of the beneficiaries' medical needs may names be disclosed and, of course, in such cases, there must be consultation with professional medical associations prior to disclosure. A finding against a physician, supplier, or other provider of services in the context of this provision of the law is based on a pattern of furnishing services substantially in excess of beneficiaries' medical needs; a one-time case or occasional situation involving overutilization is not the basis for release of the name of the physician, practitioner, or other provider, or supplier involved. The right of that individual to the protection of constitutional due process is built into the procedure. Such individual is given appropriate and timely advance notice of the issues under scrutiny, and is afforded the opportunity to respond to the issues by having personal and direct input into the evaluation and decision-making process. The current regulations were developed because of a belief that the public has an interest in knowing the identity of those found to have furnished excessive services under the Medicare program, as well as those found actually to have engaged in fraudulent practices. This approach is consistent with the medical profession's generally acknowledged position on the public's right to pertinent information about the professional conduct of its members, and is a logical and pragmatic application of the self-policing principles traditionally espoused by the medical community. The proposed amendments to the regulations will include program review teams including Professional Standards Review Organizations when so authorized as one mechanism for providing professional input as well as allowing the use of professional medical groups that have arrangements with Medicare contractors to provide "peer review."

The current requirement that consultation be with a professional medical association functioning external to program administration was incorporated into the regulation to secure a professional medical opinion independent of the Medicare carrier's own medical staff or consultants before any name is disclosed. The requirement takes no cognizance of any medical group involved in any way in program administration. The program review teams provided for by section 1862(d) of the Social Security Act, which was added to the Act by section 229 of Pub. L. 92-603, determine whether physicians, other practitioners, providers, and suppliers of services have been engaged in conduct for which they may be excluded or terminated from participation in the Medicare program, i.e., furnishing services to beneficiaries substantially in excess of their medical needs and other types of program abuse such as overchargng, furnishing inferior or harmful services, or making false statements to obtain payment. A determination of substantial overutilization is a common ingredient of both disclosure and termination of providers and exclusion from coverage under the Medicare program of items provided and services rendered by physicians, providers, and suppliers of services. It would, therefore, be more efficient administratively to combine these determinations. It is necessary, therefore, to amend Regulation No. 1 and Regulations No. 22, Subpart E to permit the use of program review teams appointed by the Secretary pursuant to section 1862(d)(4) of the Social Security Act, or of Professional Standards Review Organizations when so authorized, to review material pertinent either to disclosure or termination.

The amendments add § 401.3(v)(3) to Regulation No. 1 and § 422.435(b)(3) to Regulations No. 22 to provide for disclosure to the public of the names of providers, physicians, or other suppliers of services who have been given a written notice of a determination of exclusion or termination pursuant to § 405.315a(e) or §405.614(b) of Regulations No. 5 which implements sections 1862(d)(2) and 1866(b)(2) of the Act. In addition, the language of §§ 401.3(v)(1) and 422.435(b)(1) is being revised to allow disclosure of the identity of any provider, physician, or other supplier of services under title XVIII found civilly liable for presenting to the Federal Government false, fictitious, or fraudulent claims, bills, certificates, etc., in connection with the Medicare program and to take into account the expanded criminal sanctions available for prosecution of frauds perpetrated in connection with the Medicare program. The individuals, suppliers, and providers whose identities are disclosed under these provisions are guilty of more serious, though sometimes similar, violations than those indicated under §§ 401.3(v)(2) and 422.435(b)(2). We feel that the public should continue to be notified of lesser violations even though they are not serious enough to warrant exclusion or termination from the program.

Prior to the final adoption of the proposed amendment, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203 on or before February 4, 1977.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 205, 1102, 1106, 1862(d), 1866(b), and 1871; 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 53 Stat. 1398, as amended, 86 Stat. 1452, as amended, 79 Stat. 327, and 79 Stat. 331; 42 U.S.C. 405, 1302, 1306, 1395y(d), 1395cc(b), and 1395hh.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance; No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: September 2, 1976.

JAROLD A. KIEFFER,
Acting Commissioner of Social Security.

Approved: December 10, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Parts 401 and 422 of Chapter III of Title 20 of the Code of Federal Regulations are amended as set forth below:

1. Section 401.3(v) is revised to read as follows:

§ 401.3 Disclosure of information relating to individuals.

Disclosure of information relating to individuals is hereby authorized in the following cases and for the following purposes:

* * * * *

(v) To the public: The name of any physician, or other individual furnishing services to beneficiaries under title XVIII of the act who—

(1) Has been found guilty by a Federal court of a criminal offense described in 42 U.S.C. 1395mn or a criminal offense involving conduct in connection with submitting claims for payment pursuant to title XVIII under any other provision of Federal law, or has been adjudged civilly liable for damages by a Federal court for conduct in connection with submitting false claims pursuant to title XVIII; or

(2) Has been found by a carrier or intermediary, after consultation with a professional medical association functioning external to program administration, or an appropriate program review team appointed by the Secretary pursuant to section 1862(d)(4) of the Social Security Act, or a Professional Standards Review Organization where the Professional Standards Review Organization has been authorized, pursuant to § 405.315b(f), to assume for its area the responsibilities of §§ 405.315a(b)(3) and 405.614(a)(5)(iii), or, if appropriate, the State medical authority, to have been engaged in a pattern of furnishing services to such beneficiaries which are substantially in excess of their medical needs; except that the name of any such individual shall not be disclosed pursuant to a finding under this paragraph (v)(2) of this section unless such individual has first been afforded a reasonable opportunity to offer evidence on his behalf; or

(3) Has been given a written notice of a determination of exclusion or termination under § 405.315a(e) or § 405.614(b) of this chapter.

2. Paragraph (b) of § 422.435 is revised to read as follows:

§ 422.435 Release of title XVIII information to the public.

The following shall be made available to the public under the conditions specified:

* * * * *

(b) The name of any provider of services, physician, or other person furnishing services to beneficiaries under title to title XVIII of the Act who—

(1) Has been found guilty by a Federal court of a criminal offense described in 42 U.S.C. 1395nn or a crimnal offense involving conduct in connection with submitting claims for payment pursuant to title XVIII under any other provision of Federal law, or has been adjudged civilly liable for damages by a Federal court for conduct in connection with submitting false claims pursuant to title XVIII; or

(2) Has been found by a carrier or intermediary, after consultation with a professional medical association functioning external to program administration, or an appropriate program review team appointed by the Secretary pursuant to section 1862(d)(4) of the Social Security Act, or a Professional Standards Review Organization where the Professional Standards Review Organization has been authorized, pursuant to § 405.315b(f), to assume for its area the responsibilities of §§ 405.315a(b)(3) and 405.614(a)(5)(iii), or, if appropriate, the State medical authority, to have been engaged in a pattern of furnishing services to such beneficiaries which are substantially in excess of their medical needs; except that the name of any such person shall not be disclosed pursuant to a finding under this paragraph (b)(2) of this section unless such person has first been afforded a reasonable opportunity to offer evidence on his behalf; or

(3) Has been given a written notice of a determination of exclusion or termina-

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tion under § 405.315a(e) or § 405.614(b) of this chapter.

* * * * *

[FR Doc.76-37382 Filed 12-20-76;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Part 1309]

PAPAVER BRACTEATUM

Extension of Time for Comments and Hearing

On November 19, 1976, a notice of proposed production and control of Papever Bracteatum was published in the FEDERAL REGISTER (41 FR 51036). All interested parties were invited to comment or object to the proposal on or before December 21, 1976.

Pursuant to the authority under sections 301 and 501(b) of the Controlled Substances Act (21 U.S.C. 821 and 871 (b)) and by § 0.100 of Title 28, Code of Federal Regulations, to promulgate and enforce rules, regulations and procedures relating to drug abuse and drug trafficking, the Administrator of the Drug Enforcement Administration has decided to extend the time for submissions of comments to January 28, 1977. Further, public hearings will be held on January 27 and 28, 1977, for the purpose of hearing comments on the notice of proposed production and control of Papaver Bracteatum in the United States. The hearings will be held before Administrative Law Judge Francis L. Young in the DEA Hearing Room, 12th Floor, 1405 "I" Street NW., Washington, D.C., from 9:30 a.m. through 12:30 p.m. and 2:00 p.m. through 5:00 p.m. All persons desiring to furnish comments at the hearing shall provide written notice of intent to the Administrative Law Judge, Drug Enforcement Administration, United States Department of Justice, 1405 "I" Street NW., Washington, D.C. 20537, on or before January 14, 1977. All requests to present testimony shall include a brief summary as to the position to be taken and the approximate time needed to present the testimony.

The following procedures will be followed during the hearings. Speakers will be limited to 30 minutes. Written statements in addition to or in lieu of oral presentations will be accepted. There will be no relinquishing of time by one speaker to another. The hearings will not be adversary proceedings, and will be conducted in an informal but orderly manner in accordance with the directions of the Administrative Law Judge. The Administrative Law Judge, the Administrator and the Administrator's counsel may ask questions of speakers in order to clarify positions and to elicit particulars as are peculiarly within the pleader's knowledge.

Testimony at the hearing shall be reported verbatim. As soon as practicable after the hearings, the Administrative Law Judge shall prepare a report containing a synopsis of the testimony, his recommended findings of fact, and his recommended decision on the proposed production and control of Papaver Bracteatum in the United States.

All written comments on the notice of November 19, 1976, that are received prior to the public hearings shall be submitted for the record at the beginning of the hearings by the Administrative Law Judge. Testimony presented at the hearing shall relate to whether or not the production of Papaver Bracteatum in the United States is consistent with the public interest and with United States obligations under international treaties, conventions and protocols. If during the hearing, a dispute should develop as to the legal authority of the Administrator to issue a final order to accomplish a development of Papaver Bracteatum production in the United States, the Administrative Law Judge shall not hear such arguments, but shall direct that the matter be set for a separate hearing under the regular hearings procedures in Subpart D of Part 1316, Title 21, Code of Federal Regulations.

Dated: December 16, 1976.

PETER B. BENSINGER,
Administrator.

[FR Doc. 76-37494 Filed 12-20-76; 8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 1]

RELEASE OF INFORMATION FROM VA RECORDS OTHER THAN CLAIMANT RECORDS

Schedule of Fees

Notice is hereby given that the Veterans Administration is considering amending Part 1, Title 38 of the Code of Federal Regulations to change the schedule of fees indicated in § 1.555(h)(2), pertaining to charges for records search. The proposed amendment is issued to increase the search charge for the release of information from other than claimant records. This increase will reflect more correctly the cost to the Veterans Administration of performing document searches for release of information from other than claimant records.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before January 20, 1977, will be considered. All written comments received will be available for inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any Veterans Administration field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is hereby given that it is proposed to make this regulation effective on the date of final approval.

The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Approved: December 15, 1976.

By direction of the Administrator.

A. J. SCHULTZ, Jr.,
Associate Deputy Administrator.

In § 1.555, paragraph (h)(2) is revised to read as follows:

§ 1.555 Fees.

* * * * *

(h) Schedule of fees: * * *

(2) Searching, per hour $4.45
(No charge for the first hour or fraction thereof.)

* * * * *

[FR Doc.76-37489 Filed 12-20-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 660-6]

REVIEW OF NEW SOURCES AND MODIFICATIONS

Preparation, Adoption and Submittal of Implementation Plans; Requirements

The Environmental Protection Agency intends to amend 40 CFR Part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans) to modify and clarify the requirements for preconstruction review of new or modified air pollution sources (40 CFR 51.18). The current version of 40 CFR 51.18 requires that each State Implementation Plan (SIP) under the Clean Air Act contain a regulation requiring preconstruction review and disapproval of all new or modified air pollution sources which would "interfere with" the attainment or maintenance of a national ambient air quality standard (NAAQS).

The tentative proposals outlined below are closely related to the Interpretative Ruling published elsewhere in today's FEDERAL REGISTER (at 41 FR 55524). The ruling provides in general that, under 40 CFR 51.18, a major new source may locate in an area violating a NAAQS only if stringent conditions can be met. These conditions are designed to insure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions will be obtained from existing sources; and that there will be progress toward achievement of the NAAQS. (The conditions of the ruling are hereinafter collectively referred to as the "emission offset requirements.")

Interested persons are invited to participate in the development of the proposed rules by submitting written comments on the points raised in this notice (preferably in triplicate) to: Environmental Protection Agency, Control Programs Development Division (MD-15), Research Triangle Park, N.C. 27711. Persons commenting on this advance notice are also encouraged to comment on the basic policies and detailed provisions of the above-referenced Interpretative Ruling, and to prepare a single set of comments addressing both this notice and the ruling. All comments received on or before February 15, 1977, will be considered as EPA develops proposed modifications or clarifications. All comments submitted will be available for public inspection at EPA's Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

DEFINITION OF "MAJOR" SOURCE AND EFFECT OF DEFINITION

EPA is contemplating a modification to 40 CFR 51.18 which would provide States with more explicit guidance on how they may focus their preconstruction review program resources on sources which have the greatest impact on air quality. The contemplated change would allow States to establish a two-level system for reviewing new sources. The complexity of the review would depend on the size of the proposed source.

States have always been allowed to exempt significant sources from review altogether, although firm national guidance has not been provided as to what constitutes an insignificant source. To remedy this, EPA proposed on July 8, 1975 (40 FR 28629) a list of such insignificant sources. Further action on this proposal has been deferred pending the more comprehensive amendments to § 51.18 outlined in this notice. Any additional comments on the July 8, 1975, proposals are solicited; comments previously submitted have been retained for consideration and need not be reimbursed.

Once the sources exempt from review altogether have been defined, the contemplated changes to § 51.18 would allow the remaining sources to be separated into two categories for review purposes. Those sources defined as "major" sources would be subject to an air quality analysis, and it found to exacerbate a violation of a NAAQS, would be subject to the emission offset requirements discussed above. In addition, only major sources would be subject to the public comment requirements set forth in 40 CFR 51.18.

Smaller sources would be reviewed to ensure compliance with applicable SIP emission limitations but would not be subject to the air quality analysis, public comment, and emission offset requirements. Another option would be to require the use of the lowest achievable emission rate (as defined in Part IV.A.1 of the ruling) for these smaller sources if they would be located in an area that exceeds a NAAQS.

Comments on the over-all approach outlined above are solicited, including an appropriate definition of "major" source. Of particular interest to the Agency are comments on the resource requirements related to any recommended definition of major source (i.e., number and kinds of sources subject to the emission offset requirements, man-hours required per review, etc.), and the percent of total new emissions which would be emitted by major sources under the recommended definition. To provide a basis for comment, the following tentative definition is offered:

"Major source" shall, as a minimum, cover any structure, building, facility, installation or operation (or combination thereof) for which the allowable emission rate is equal to or greater than the following:

Tons per year	
Particulate matter	50
Sulfur oxides	50
Nitrogen oxides	50
Non-methane hydrocarbons (organics)	50
Carbon monoxide	500

Similarly a "major modification" shall include a modification to any structure, building, facility, installation or operation (or combination thereof) which increases the allowable emission rate by the amounts set forth above. A proposed new source with an allowable emission rate exceeding the above amounts is considered a major source, even though such a source may replace an existing source with the result that the net additional emissions are increased by less than the above amounts.

Where a source is constructed or modified in increments which individually do not meet the above criteria, and which are not a part of a program of construction or modification in planned incremental phases previously approved by the reviewing authority, all such increments shall be added together for determining applicability under this definition. Moreover, where there is a group of proposed sources which individually do not meet the above criteria, but which would be constructed in substitution for a major source, the group should be collectively reviewed as a major source.

Allowable annual emissions shall be based on the applicable New Source Performance Standard (NSPS) set forth in 40 CFR Part 60 or the applicable SIP emission limitation, whichever is less, and the maximum annual rated capacity of the source. If the source is not subject to either a NSPS or SIP emission limitation, annual emissions shall be based on (1) the maximum annual rated capacity, and (2) the emission rate agreed to by the source as a permit condition.

The following shall not, by themselves, be considered modifications:

(1) Maintenance, repair, and replacement which the reviewing authority determines to be routine for a source category.

(2) An increase in the hours of operation, unless limited by previous permit conditions.

(3) Use of an alternative fuel or raw material, if the source is designed to accommodate such alternative use (unless limited by previous permit conditions).[1]

(4) Change in ownership of a stationary source.

Regardless of how "major source" is defined in a nationwide context, the applicability of the emission offset requirements may need to be extended to smaller sources in certain areas, depending on the magnitude of the air quality problem, growth rate and source mix, resources and technical expertise available to the reviewing authority, etc. Comments on whether more comprehensive reviews should be required in certain areas and the specific criteria for selecting these areas are also requested.

It should be noted that the above proposals relate only to reviews under 40 CFR 51.18; EPA is not in this notice suggesting the need for changes to its regulations for prevention of significant deterioration (40 CFR 52.21), new source performance standards (40 CFR part 60), or hazardous emission standards (40 CFR part 61). These regulations are already sufficiently precise as to their scope of coverage.

GEOGRAPHIC APPLICABILITY OF EMISSION OFFSET REQUIREMENTS FOR HYDROCARBON SOURCES

Because widespread violations of the NAAQS for photochemical oxidants have been found even in remote rural areas, some have assumed that hydrocarbon control programs (including emission offset requirements) are necessary in all areas where there are violations of the photochemical oxidant NAAQS. Since photochemical oxidants or their precursors can be transported long distances, the focus for regulatory action must be on areas where the precursors and photochemical oxidants originate, not on areas where the photochemical oxidant levels are measured. In addition, it appears that in areas where there are considerably more hydrocarbons present than nitrogen oxides (high ratio of hydrocarbon-to-nitrogen oxides), changes in the levels of hydrocarbons present may result in relatively insignificant changes in the level of photochemical oxidants locally produced. Generally, such areas are found where the local emissions of nitrogen oxides are small, such as in rural areas.

The above findings, along with other studies, present convincing evidence that most of the rural photochemical oxidant problem results from the transport of both photochemical oxidant and its precursors from urbanized areas. Therefore, the photochemical oxidant reduction benefits to be gained from implementing the emission offset requirements for hydrocarbon sources locating in rural areas may be insignificant when compared to the benefits of focusing on the urbanized areas where most of the rural area problem originates.

[1] Preliminary comment indicates that although this exemption is already codified in general EPA regulations regarding modifications (40 CFR 52.01(d)(2)(iii)), it should not apply in areas which are in violation of a NAAQS. The argument is that the exemption would allow major pollution increases in non-attainment areas to go unchecked. The Administrator agrees that this is a problem that should be reviewed and specifically invites comments on the issue.

[2] Hydrocarbons are precursors to photochemical oxidants.

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In urban areas, the ratio of hydrocarbons-to-nitrogen oxides tend to be low so that changes in levels of photochemical oxidants locally generated are quite sensitive to changes in the levels of hydrocarbon present. Thus, hydrocarbon emission control programs (including the emission offset requirements) wold be expected to be effective in reducing the amount of photochemical oxidants locally generated in the urban area, thus also reducing the amount transported to neighboring rural areas.

An investigation is underway to determine the extent of the geographical area around urbanized locations where hydrocarbon emission control programs will be most effective in reducing photochemical oxidant levels. Early findings of this investigation indicate that these areas may be proportional to city size and may extend up to 85 miles from major metropolitan areas. In addition, upwind-downwind measurements around smaller urban areas and isolated point sources of hydrocarbons and nitrogen oxides indicate that there is little if any increase in observed photochemical oxidant concentrations as a result of the emissions from such smaller urban areas and isolated point sources. Although very limited data are available, it appears that urban areas with a population less than 200,000 produce little, if any, measurable increase in photochemical oxidant levels.

If these findings are confirmed, the policy evolving from such data might indicate that only major hydrocarbon sources locating within a specified distance of urban areas larger than 200,000 population would be subject to the emission offset requirements. Sources providing the offset would have to be located within the same specified area.

Comments on this and other possible criteria for determining the geographic applicability of the emission offset requirements for hydrocarbon sources are solicited. Comments are particularly desired on the need for obtaining emission offsets in remote rural areas that are, in most cases, exceeding the photochemical oxidant NAAQS and on the availability of emission offsets in such areas.

A preliminary draft of a report has been prepared which sets forth in more detail the basis for the tentative conclusions outlined above. This draft has been reviewed for its technical content by a limited number of scientific experts outside the Agency. Comments have been received and the report is being revised based on these comments. The revised report will be made available shortly for public inspection at EPA's Public Information Reference Unit, 401 M Street, S.W., Washington D.C. 20460. A notice of availability will be published in the FEDERAL REGISTER. Persons preparing comments on this notice may wish to refer to the report and comment on it.

"FUGITIVE DUST" ISSUES

There has been considerable concern about the location of major stationary sources of particulate matter in NAAQS non-attainment areas where fugitive dust has been determined to be the major cause of non-attainment. This concern has lead to several questions regarding the impact of fugitive dust sources (i.e., traffic on unpaved roads, construction, farming) upon existing air quality levels in both urban and rural areas.[3] This is due in part to the particle size distribution within fugitive dust areas. While data are relatively limited, they indicate that within fugitive dust areas a large portion of the total suspended particulate (TSP) collected upon the hi-volume air sampler is comprised of larger sized particles. In addition, there is a preponderance of larger sized particles associated with these fugitive dust sources. There is some question as to whether these larger sized particles by themselves cause any significant health or welfare related problems since both health and welfare criteria (especially visibility) are closely related to smaller sized particulate material.

The Agency currently believes that the fugitive dust problem within urban areas is more critical and should receive higher attention than similar type problems within rural areas. This lower priority of rural areas is based upon the belief that the toxic fraction of fugitive dust in areas without the impact of man-made pollutants is likely to be small. Fugitive dust sources in such areas include dust from deserts, arid lands, sparsely vegetated land, exposed but vacant lots in rural communities, dust from sparsely traveled unpaved roads and unpaved residential driveways, and other such conditions common in rural America. Fugitive dust in these areas is typically native soil that for various reasons becomes airborne. It is generally not exposed to potential contamination of industrial fallout or subject to adsorption of gaseous pollutants, which commonly occur in urban atmospheres. This analysis is supported by the belief that in rural areas relatively free from point emission sources, such as many areas of the Southwest, the TSP may be composed largely of non-toxic substances, such as silicates; although certain organic material, such as fungi and aeroallergenes, may be present in specific areas. No epidemiological studies have been conducted in sparsely populated areas where the TSP concentration may be high due to fugitive dust. In general, the population is too small to provide a statistically significant sample. Detailed information on the chemical composition of the TSP in these areas is not available; however, the toxic fraction is likely to be small.

Fugitive dust in urban areas, on the other hand, is a relatively different phenomenon. While mineral matter is still the primary ingredient, it can no longer be considered as native soil. In urban areas, it is contaminated to a measurable degree by various components highly suspect in health impairment. Urban fugitive dust contains fallout from industrial and combustion related processes, lead from automotive exhaust, measurable rubber tire particles, and other components associated with an advanced technologically-dependent community. Further contamination may result in urban areas from adsorption of harmful gases or adhesion of urban fine particulate matter on fugitive dust particles, making fugitive dust particles carriers of potentially more harmful and potent ingredients. In summary, while there is a need to be concerned with some aspects of the native dust problem itself within urban areas, the major concern is the potential for that native dust to be contaminated by more harmful substances than the dust itself, thereby causing the fugitive dust sources to contribute significantly to the level of harmful particulates found within urban areas.

The Agency is therefore considering a new source review policy which would recognize the differences between fugitive dust in urban and rural areas. Consequently, for new sources of particulate matter proposing to construct in rural areas that exceeding the TSP NAAQS, it is contemplated that they be allowed to construct without being subject to the emission offset requirements so long as they meet new source performance standards (NSPS) set forth in 40 CFR Part 60 or best available control technology, if no NSPS is applicable, and so long as their own emissions, plus consideration of "non-urban background"[4] and emissions from other stationary sources in the vicinity of the proposed location, do not cause violations of the NAAQS.

For new source review in NAAQS non-attainment urban areas, the emission offset requirements would be applicable. Since fugitive dust is recognized as a legitimate air pollution problem in urban areas, it would seem appropriate to allow emission offset credit to come from existing fugitive emission sources.

Comments on all aspects of the tentative approach outlined above are solicited. Comments are specifically solicited on the definition of "urban" and "rural" areas, on the issue of how large new sources of fugitive dust (i.e., strip mines, tailings operations) are to be considered when locating in rural areas, and whether (and to what extent) emission offsets of conventional stack emissions against fugitive dust-type sources should be permitted.

This advance notice of proposed rulemaking is issued under the authority of sections 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-5 and g).

Dated: December 15, 1976.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.76-37345 Filed 12-20-76;8:45 am]

[3] The term "fugitive dust" should be distinguished from the term—"fugitive emissions." The latter term generally refers to industrial process emissions which do not pass through a stack or chimney.

[4] Usually based upon the lowest measured annual average TSP air quality concentration in the broad area where the new source will be located, approximately 30 ug/m³.

[40 CFR Part 52]
[FRL 661-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS

Sulfur Content of Fuel Burned In Central Massachusetts Air Quality Control Region; Comments Closing Date

On November 17, 1976, the Regional Administrator published notice in the FEDERAL REGISTER (41 FR 50700) of a proposed rulemaking concerning a change in the sulfur content of fuel burned in the Central Massachusetts Intrastate Air Quality Control Region. That notice inadvertently omitted to state when the period for submission of comments would end. This notice is being published in order to notify the public of the date by which all comments must be submitted.

Accordingly, notice is hereby given that the period for submitting comments on such proposed rulemaking will end on December 28, 1976.

Dated: December 13, 1976.

LESTER C. SUTTON,
Acting Regional Administrator.

[FR Doc.76-37485 Filed 12-20-76;8:45 am]

[40 CFR Part 52]
[FRL 661-4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—NORTH CAROLINA

Proposed Plan Revisions

On May 31, 1972 (37 FR 10884), the Administrator approved the North Carolina plan to attain and maintain the national ambient air quality standards in that State. The State subsequently made a number of revisions in the plan's regulations to improve its effectiveness. On May 10 and May 13, 1976, after notice and public hearing, the North Carolina Environmental Management Commission adopted additional changes in its air pollution control regulations. These include adoption of Federal New Source Performance Standards; Revisions to Air Contaminants—Monitoring, Reporting; and Extension of Visible Emissions Regulation, respectively.

These changes were submitted as proposed implementation plan revisions to the Agency's Region IV office in Atlanta. The purpose of this notice is to describe the proposed changes in the North Carolina plan and to invite public comment on them.

The adopted Federal New Source Performance Standards would supersede current analogous State regulations on applicable pollutant-source combination.

The Revised Air Contaminants—Monitoring, Reporting regulations would bring present monitoring and reporting requirements in line with current air quality data needs and would conform to legislative mandate and federal requirements for state air quality implementation programs. These regulations would supersede 15 NCAC 2D .0600 (former Regulation 8). The proposed Revised Air Contaminants—Monitoring, Reporting regulation is a further revision of the amendments which were the subject of a public hearing September 17, 1975, but which were not adopted.

The present Regulation 15 NCAC 2D .0521 (former Regulation 2) requires that by July 1, 1976, all installations existing as of July 1, 1971, must meet a more stringent visible emissions standard (essentially Ringelmann No. 1 or equivalent capacity). It is proposed that the July 1, 1976 date be extended until April 1, 1977, in order to give the North Carolina Air Quality Council sufficient time to study and make recommendations on possible amendments to this Regulation.

The State of North Carolina has requested Delegation of Authority from EPA to enforce Federal New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.

The Regional Office has approved the State's requests for Delegation of Authority and a Notice of Delegation will be published in the FEDERAL REGISTER in the near future.

Copies of the information submitted by North Carolina may be examined by the public during normal business hours at the following locations:

Air Programs Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IV, 345 Courtland Street, Atlanta, Georgia 30308.

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

North Carolina Environmental, Management Commission, P.O. Box 27687, Raleigh, North Carolina 27611.

Interested persons are encouraged to submit written comments on the North Carolina plan revisions. To be considered, such comments must be received on or before January 21, 1977, and should be addressed to D. Randall Mayfield of the Agency's Region IV Air Programs Branch in Atlanta (see address abuve). After carefully weighing relevant comments received and all other information available to him, the Administrator will take approval/disapproval action on these changes in the North Carolina plan.

(Section 110 of the Clean Air Act (42 U.S.C. 1857c-5)).

Dated: December 14, 1976.

JOHN A. LITTLE,
Acting Regional Administrator.

[FR Doc.76-37486 Filed 12-20-76;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Meeting

The Deschutes National Forest Advisory Committee will meet at Tony's Poco Toro, 221 NE Burnside, Bend, Oregon 97701, at 8:00 p.m. on Thursday, January 20, 1977.

The subject of this meeting will be, "Recent National Legislation Affecting the Management of the National Forest."

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor or Sandy Fergerson at 211 NE Revere, Bend, Oregon 97701, telephone (503) 382-6922. Written statements may be filed with the Committee before or after the meeting.

Dated: December 12, 1976.

EARL E. NICHOLS,
Forest Supervisor.

[FR Doc.76-37437 Filed 12-20-76;8:45 am]

KETTLE RANGE LAND USE PLAN

Availability of Draft Environmental Statement

The Notice of Availability for the Kettle Range Planning Unit, Colville National Forest, Washington, USDA-FS-R6-DES-(Adm.)-77-4, that appeared in the FEDERAL REGISTER Volume 41, Number 210, Friday, October 29, 1976, is corrected to extend the review period to February 18, 1977.

Dated: December 13, 1976.

ROBERT B. TERRILL,
Forest Supervisor.

[FR Doc.76-37436 Filed 12-20-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30215, Order 76-12-92]

AIRBORNE FREIGHT CORP.

Order of Suspension and Investigation Regarding Nonacceptance of Poisonous Spiders, Reptiles and Insects

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of December, 1976.

By tariff revisions[1] issued November 17 and marked to become effective December 17, 1976, Airborne Freight Corporation (Airborne), an air freight forwarder, proposes to refuse to accept for carriage "(p)oisonous lizards, poisonous snakes, poisonous spiders and other poisonous reptiles and poisonous insects, excluding honeybees."

The forwarder claims that the proposed rule meets those in effect for United Air Lines, Inc., Delta Air Lines, Inc., Ozark Air Lines, Inc., and Southern Airways, Inc.; that although it is unable to determine the number of shipments of poisonous animals received over the past year, it believes none have been tendered in the last four months; and that no change in costs or revenues is anticipated.

In view of all relevant factors, the Board concludes that the proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, and should be investigated. The Board further concludes that it should be suspended pending investigation.

We believe that the proposed provisions will represent a significant decrease in the forwarder's common carrier obligations to carry upon reasonable request. Airborne makes no showing whatsoever that these poisonous creatures cannot be safely transported with proper packaging and handling, or that they constitute an undue threat to passengers or crew.

The forwarder claims that its proposed rule is the same as those in effect for several direct carriers; however, the rules of these carriers were suspended by the Board when filed and became effective only after the expiration of the 180-day suspension periods. Their lawfulness is pending in rules and practices relating to the Acceptance and Carriage of Live Animals in Domestic Air Freight Transportation, Docket 26310. In any event other direct carriers transport poisonous creatures and are available to carry Airborne's shipments.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. An investigation is instituted to determine whether the provisions described in the Appendix attached hereto, and rules, regulations, or practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulation, and practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions described in the Appendix hereto, are suspended and their use deferred to and including March 16, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 30215 be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon Airborne Freight Corporation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX

TARIFF C.A.B. No. 21, ISSUED BY AIRBORNE FREIGHT CORPORATION

Rule No. 20(D)(2) on 50th Revised Page 10. The suspension of Rule No. 20(D)(2) does not stay the cancellation of 48th Revised Page 10.

TARIFF C.A.B. No. 42, ISSUED BY AIRBORNE FREIGHT CORPORATION

Rule No. 10(I)(2) on 6th Revised Page 9. The suspension of Rule No. 10(I)(2) does not stay the cancellation of 4th Revised Page 9.

[FR Doc.76-37468 Filed 12-20-76;8:45 am]

AIR TRANSPORT ASSOCIATION

[Docket 29949; Order 76-1288]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of December, 1976.

Multiple revisions to Restricted Articles Tariff No. 6-D, C.A.B. No. 82, proposed by Members of the Air Transport Association and Other Participating Carriers.

By tariff revisions[1] bearing a posting date of October 8, and marked to become effective December 21, 1976, members of the Air Transport Association (ATA) and other participating carriers propose, inter alia, the following revisions to the restricted articles tariff governing carriage of hazardous materials:

1. Revision of the required shipper's certificates forms for radioactive and nonradioactive restricted articles shipments. Both the old and the new shipper's certifications rules provide for separate forms for radioactive and nonradioactive materials. The proposed certification for nonradioactive shipments include: declaration (required by DOT) that the shipment conforms with DOT regulations, and (for international shipments) IATA regulations; designation of the shipment as suitable either for passenger and all-cargo aircraft or all-cargo aircraft only; headings for number of packages of each commodity, name of each commodity, class, packaging note, net quantity per package, and flash point; and space for special handling instructions.

[1] Revisions to Airborne Freight Corporation, Tariffs C.A.B. Nos. 21 and 42.

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 82.

The certification for radioactive articles contains, in addition to most of those required for nonradioactive shipments, the following items: declaration that the shipment is intended for use in, or incident to, research, or medical diagnosis or treatment (applicable only to shipments moving by passenger aircraft); name of principal radioactive element; specific radioactivity (in curies or millicuries); transport index; and, in the case of fissile materials, other certificates attached to shipment.[2]

2. Addition of provisions for gallium metal (pursuant to amendments to 49 CFR 172.101, 173.881, and 173.862, issued by DOT August 30, and effective September 4, 1976), which: classify this commodity as ORA.C (Other Regulated Article, Group C); prohibit transportation of liquid gallium; and add certain other limitations on acceptance of solid gallium metal.

A complaint requesting rejection or, alternatively, suspension and investigation of the proposal has been submited by the Council for Safe Transportation of Hazardous Articles (COSTHA). The complaint alleges inter alia, that (1) ATA's proposed designation of gallium metal as "ORA.C" conflicts with DOT classification of this commodity as "ORM-B" (Other Regulated Material, Class B), and as such is a "patent nullity" as a matter of law, and should therefore be rejected; (2) ATA's proposed shipper's certifications are inconsistent with documentation used for all other modes of transpotration, and would increase inefficiency through duplication of effort, time and paper; and (3) DOT has exclusive jurisdiction over safety regulation of air transportation, and the Board should thus not permit any deviation from DOT regulations.

COSTHA further objects to ATA's failure to revise the tariff thoroughly to reflect DOT's new hazardous materials regulations, and particularly to ATA's continued use of "ORA" designations instead of DOT's "ORM" classifications.[3]

In support of the proposal, and in answer to the complaint, ATA asserts, inter alia, that the instant filing is part of an ongoing "good faith" effort to bring the tariff into conformity with DOT's new regulations, which become effective for mandatory compliance January 1, 1977; that none of the proposed changes conflict with DOT regulations; that the Board has, therefore, no power to reject such revisions; and that COSTHA has not submitted facts warranting suspension and investigation of the proposal.

ATA further claims that its designation of gallium metal as "ORA.C" is justified since (1) it conforms with current tariff specifications, and (2) DOT's ORM-B classification incorrectly imputes corrosive properties to gallium metal, which is degenerative; that the reclassification to "ORM" will be completed as soon as possible before January 1; and that, due to the special hazards inherent therein, radioactive materials require separate certification to identify them readily.

In view of the foregoing, and all other relevant factors, the Board concludes that the proposed provisions for gallium metal should be rejected. The Board further concludes that the complaint does not set forth facts warranting investigation of the remaining revisions, and the request therefor, and consequently the request for suspension, will be denied.

ATA's gallium metal provisions were originally filed without any justification for the differences between DOT's regulations for gallium metal and the proposed tariff provisions. ATA does attempt to justify the classification of gallium as ORA.C in its answer on the grounds that it conforms with current tariff classifications, and that DOT has misclassified gallium as ORM-B. The latter argument appears false. DOT's class ORM-B is defined as a material "capable of causing significant damage to a transport vehicle or vessel from leakage during transportation * * *" (49 CFR 173.500). Gallium metal, in its liquid form, can cause severe embrittlement of sheet aluminum, and thus comes within the definitions. ATA fails to make any attempt at showing why DOT's classification ORM-B could not have been added to its tariff. Indeed, ATA merely proposes to use its old classification, ORA.C, without producing any economic justification as required by our regulation in section 221.165. Thus the Board believes these provisions to be in violation of the tariff justification requirements of this section. Moreover, the Board notes that there is a question of whether the provisions comply with DOT regulations. DOT's gallium metal regulations were issued for September 4, 1976, effectiveness on an emergency basis, with no provision for voluntary compliance. Thus, under the law, shippers must mark and identify gallium metal shipments as ORM-B material. The proposed tariff revision would also require marking and identification as ORA.C. This may well result in confusion that could vitiate DOT's purposes in issuing the hazardous materials regulations (and that of the carriers in publishing the tariff).

The Board will, however, permit the proposed shipper's certifications to become effective. While DOT does not require any specific format for shipper's certification, it does require such certification to include certain language verbatim. ATA's proposed forms include this language. Although ATA also requires a statement to the effect that in-international shipments comply with IATA regulations as well as DOT regulations and although DOT does not require separate certification forms for radioactive and non-radioactive shipments as long as the applicable language is included, we do not believe these provisions place an undue burden upon shippers.

The Board will also permit the remainder of the proposed revisions to become effective, since they do not conflict with DOT regulations effective between December 21, 1976, and January 1, 1977. Subsequent to January 1, however, many of the tariff provisions, unless revised, will not be in conformity with DOT regulations. Nevertheless, both carriers and shippers will be subject to the latter regulations.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Sections 204(a), 403, 404, and 1002 thereof.

It is ordered, That:

1. The 30th Revised Page 51, and 17th Revised Page 126-B of Tariff C.A.B. No. 82 issued by Airline Tariff Publishing Company, Agent, are rejected;

2. Except to the extent granted herein, the complaint of the Council for Saft Transportation of Hazardous Articles in Docket 29949 is dismissed; and

3. Copies of this order shall be served upon Airline Tariff Publishing Company, the Air Transport Association of America, and the Council for Safe Transportation of Hazardous Articles.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-37465 Filed 12-20-76;8:45 am]

[Docket 29943, Order 76-12-91]

ALM DUTCH ANTILLEAN AIRLINES

Statement of Tentative Findings and Conclusions and Order To Show Cause Regarding Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of December 1976.

ALM Dutch Antillean Airlines (ALM) is the holder of a foreign air carrier permit[1] authorizing: (a) foreign air transportation with respect to persons, property, and mail between a point or points in the Netherlands Antilles, the intermediate points Santo Domingo, Dominican Republic, Port-au-Prince, Haiti, Kingston and Montego Bay, Jamaica, and Camaguey and Havana, Cuba, and the terminal point Miami, Florida; and between a point or points in the Nether-

[2] Specific radioactivity—level of spontaneously emitted ionizing radiation of a substance, measured in curies per gram.

Transport index—the level of radiation penetrating the packaging of a radioactive shipment.

Fissile material—a material capable in sufficient amounts of sustaining a nuclear fission chair reaction. Fissile materials include: plutonium 238, 239, and 241; and uranium 233 and 235.

[3] COSTHA further protests against a proposed revision in "Consumer commodities," DOT classification ORM-D. Since this provision has already been rejected by the Board's staff under delegated authority, thus continuing in effect the currently effective provision, against which COSTHA has not complained, the Board will dismiss COSTHA's complaint against this revision as moot.

[1] Issued pursuant to Order 70-3-144, approved March 26, 1970.

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lands Antilles and the terminal point New York, New York; and between a point or points in the Netherlands Antilles and the terminal point San Juan, Puerto Rico; and (b) the performance of charter trips in foreign air transportation pursuant to Part 212 of the Board's Economic Regulations.

By application filed on October 19, 1976,[2] ALM requests a show cause order to amend its permit so as to authorize it to engage in foreign air transportation with respect to persons, property, and mail between Port-au-Prince, Haiti, and San Juan, Puerto Rico. ALM requests that this additional authority be granted for a temporary period until such time as a U.S. air carrier inaugurates frequent and regular scheduled services between Port-au-Pdince and San Juan pursuant to authority from the Civil Aeronautics Board.

At the present time no U.S. air carrier serves the Port-au-Prince-San Juan market.[3] In the absence of such service by a U.S. air carrier, the Government of Haiti supports ALM's application. The Government of the Netherlands Antilles also supports ALM's application for Port-au-Prince-San Juan authority,[4] as does the U.S. Department of State.[5]

It appears that ALM possesses the necessary fitness to provide the additional services for which authority is sought. ALM has regularly and successfully provided service between those points for which it presently holds authority from the Board.

On the basis of the record before us, it appears that the temporary amendment of ALM's foreign air carrier permit to include Port-au-Prince, Haiti, as a point beyond San Juan on Route 3 pending inauguration of scheduled service between San Juan and Port-au-Prince by a U.S. air carrier is in the public interest, and that ALM possesses the necessary fitness, willingness, and ability to provide these services and to conform to the provisions and requirements of the Act and the Board's Regulations.[6]

In view of the foregoing and all the facts of record, the Board tentatively finds and concludes:

1. That in view of the absence of air service betwen Port-au-Prince and San Juan, by any U.S. carrier, it is in the public interest to amend the foreign air carrier permit held by ALM Dutch Antillean Airlines to temporarily authorize scheduled foreign air transportation with respect to persons, property, and mail to Port-au-Prince, Haiti, as a point beyond San Juan, Puerto Rico, on Route 3;

2. That the temporary authority to provide service to Port-au-Prince beyond San Juan shall expire upon the date that any U.S. air carrier commences scheduled service between Port-au-Prince and San Juan, and that service to Port-au-Prince under the temporary authority granted herein should *not* be considered to be an activity of a continuing nature as that term is used in 5 U.S.C. 558(c) and will not be automatically extended by the timely filing of a renewal application;

3. That the public interest requires that the exercise of the privileges granted by said permit shall be subject to the terms, conditions, and limitations contained in Order 70-3-144, those contained in the specimen form of permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

4. That ALM Dutch Antillean Airlines is fit, willing, and able properly to perform the above-described foreign air transportation, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

5. That except to the extent granted, the application of ALM Dutch Antillean Airlines in Docket 29943 should be denied;

6. That an evidentiary hearing is not required in the public interest; and

7. That the amendment of ALM's foreign air carrier permit is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Quality Act of 1969.[7]

Accordingly, it is ordered, That: 1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions stated herein, and why an amended foreign air carrier permit in the form of the specimen permit attached to this order should not, subject to the approval of the President pursuant to section 801 of the Act, be issued to ALM Dutch Antillean Airlines;

2. Any interested person having objection to the issuance, without hearing, of an order making final the tentative findings and conclusions stated herein shall file a statement of objections supported by evidence within 21 days after the adoption of this order. If an evidentiary hearing is requested, the objection should state in detail why such hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matter and issues raised by the objections before further action is taken by the Board;[8]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon ALM Dutch Antillean Airlines, Pan American World Airways, Inc., Eastern Air Lines, Inc., and the Ambassador of the Kingdom of the Netherlands in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN PERMIT

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER

(AS AMENDED)

ALM Dutch Antillean Airlines is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows:

1. Between a point or points in the Netherlands Antilles; the intermediate points Santo Domingo, Dominican Republic; Port-au-Prince, Haiti; Kingston and Montego Bay, Jamaica; and Camaguey and Havana, Cuba; and the terminal point Miami, Florida.

2. Between a point or points in the Netherlands Antilles and the terminal point New York, New York.

3. Between a point or points in the Netherlands Antilles; the intermediate point San Juan, Puerto Rico; and the terminal point Port-au-Prince, Haiti.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of the Netherlands Antilles, a constituent part of the Kingdom of the Netherlands, for international air service of the Kingdom of the Netherlands.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the Kingdom of the Netherlands shall be parties.

This permit shall be subject to the condition that in the event any practice develops which the Board regards as inimical to sound economic conditions, the holder and the Board will consult with respect thereto and will use their best efforts to agree upon modifications thereof satisfactory to the Board and the holder.

By accepting this permit the holder waives any rights it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendment to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third party liability insurance provided and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The holder shall not commence any service authorized herein, except pursuant to an initial tariff setting forth rates, fares, and charges no lower than the lowest rates, fares or charges that are then in effect for any U.S. carrier engaged in the same foreign air transportation.

The exercise of the privileges granted hereby shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on ----------

Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effecive date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the routes hereby authorized from the routes which may be operated by airlines designated by the Government of the Kingdom of the Netherlands, or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the Kingdom of the Netherlands in lieu of the holder hereof, or (3) upon the termination or expiration of the Air Transport Agreement between the Government of the United States and the Government of the Kingdom of the Netherlands, effective April 3, 1957, as amended by an exchange of notes effective November 25, 1969: *Provided, however,* That clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention or agreement to which the United States and the Kingdom of the Netherlands are or shall become parties: *Provided further,* that, with respect to service to Port-au-Prince, Haiti on Route 3, the authority granted herein shall expire whenever a United States carrier inaugurates scheduled service between Port-au-Prince and San Juan.[1]

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ----------

Secretary.

Issuance of this permit to the holder approved by the President of the United States on ---------- in Order ----------.

[FR Doc.76-37467 Filed 12-20-76;8:45 am]

[2] A copy of the application has been transmitted to the President of the United States in accordance with the requirements of section 801 of the Act.

[3] Eastern Air Lines, Inc. and Pan American World Airways, Inc. are both certificated to serve Port-au-Prince-San Juan, but neither carrier currently does so. Eastern was authorized to suspend service between these two points until September 8, 1976, by Order 76-9-29 of September 7, 1976. Pan American serves both Port-au-Prince and San Juan in connection with other points on Route 136, but does not currently provide schedule service between these two particular points.

[4] By diplomatic note dated October 8, 1976, from the Embassy of the Kingdom of the Netherlands.

[5] By letter of November 24, 1976, to the Board.

[6] In approving the amendment of ALM's authority to provide service between the Netherlands Antilles and San Juan, Puerto Rico, the Board found that the carrier met the fitness standards of the Act and that the services proposed were in the public interest. Order 70-3-144, approved March 26, 1970. ALM has had no history of formal violations of Board Regulations since the issuance of Order 70-3-144.

[7] Our tentative finding herein is based upon the fact that the amendment of ALM's permit is not likely to result in an increase in operations over those conducted by Eastern Air Lines prior to its September 8, 1976, suspension of service in this market.

[8] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[Docket 28918, Order 76-12-89]

THOMAS COOK, OVERSEAS, LTD. (GREAT BRITAIN) d/b/a THOMAS COOK, INC. (U.S.)

Order To Show Cause Regarding Foreign Air Carrier Permit

Adopted by the Civil Aeronatics Board at its office in Washington, D.C. on the 15th day of December, 1976.

By application filed on February 25, 1976, Thomas Cook Overseas, Ltd. (Great Britain) d.b.a. Thomas Cook, Inc. (U.S.) (hereinafter referred to as Cook) requests renewal of its foreign air carrier permit to engage indirectly in the foreign air transportation of persons and their accompanying baggage from any point or points in the United States to any point or points outside the United States, and return. On March 18, 1976, Cook filed a motion for entry of a Board order directing all persons interested in the proceeding to show cause why the Board should not, without hearing, grant the aforesaid application.

No answers to the application and motion have been filed.

BACKGROUND

Thomas Cook Overseas, Ltd. (Great Britain) is a British corporation, the principal place of business of which is located at 45 Berkeley Street, W1A 1EB, England. Cook does business in the United States through its American subsidiary, Thomas Cook, Inc., a New York corporation, the principal place of business of which is located at 587 Fifth Avenue, New York, New York 10017. Cook is not a direct air carrier. It is neither owned nor controlled by a direct air carrier, nor is it affiliated in any way with a direct air carrier. It operates no aircraft of its own and does not propose to do so. Cook requests the Board to renew its foreign indirect air carrier permit so as to permit it to continue to engage in indirect air transportation through the operation of travel group charters, inclusive tour charters, and one-stop inclusive tour charters in foreign air transportation.

OWNERSHIP AND CONTROL

Thomas Cook Overseas, Ltd. (Great Britain), incorporated in England in 1947 under the name "Thos. Cook & Son (Continental and Overseas), Limited," functions as a holding company for the Cook subsidiary companies located in various countries outside of the United Kingdom. The United States subsidiary, which will continue to conduct the indirect foreign air transportation for which renewed authority is sought, is Thomas Cook, Inc. (U.S.), incorporated in the State of New York in 1931 under the name of "Thos. Cook & Son, Inc." Thomas Cook, Inc. (U.S.) is wholly owned by Thomas Cook Overseas, Ltd. (Great Britain). Thomas Cook Overseas, Ltd. (Great Britain) is 25 percent owned by Compagnie Internationale des Wagon Lits et du Tourisme, a publicly held Belgium corporation and 75 percent owned by Thos. Cook & Son, Ltd., a British corporation. Thos. Cook & Son, Ltd., is, in turn, entirely owned by a consortium of three private British corporations: The Midland Bank Ltd., Trusts Houses Forte and the Automobile Association of Great Britain.[1] The officers, directors and key management personnel of Thomas Cook Overseas, Ltd. (Great Britain) are predominantly United Kingdom citizens. Thus it is tentatively concluded that Cook is substantially owned and effectively controlled by citizens of the United Kingdom.

FINANCIAL AND OPERATIONAL FITNESS

After five years of extensive operations pursuant to its existing permit, there has been no instance brought to the attention of the Board of Cook failing to meet all financial obligations. The Board notes that Cook is part of a structure of corporations, subsidiaries, and affiliated companies which have become well known throughout the world for their successful business operations. In adition to its apparently sound financial status, the traveling public is protected from fiscal irresponsibility by Part 372a, 378 and 378a of the Board's Special Regulations providing for surety bond and escrow arrangements. Thus, it is tentatively concluded that all of the fitness requirements of section 402 of the Act are met by the applicant.

PUBLIC INTEREST

On the basis of comity and reciprocity, it is tentatively concluded that it is in the public interest to grant Cook a permit. The United Kingdom Civil Aviation Au-

[1] The amendment authorizing service between Port-au-Prince and San Juan is a temporary authorization and does not refer to an activity of a continuing nature within the meaning of 5 U.S.C. 558(c).

[1] See letter from Thos. Cook & Son, Ltd. to the Board, dated August 21, 1972, incorporated by attachment to Cook's motion for order to show cause filed March 18, 1976.

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thority has granted, with dispatch, the only application by a U.S. indirect air carrier for an Air Travel Organizer's license and has no known rule or policy that would bar additional grants if sought. Indeed, on April 28, 1976, the United States and the United Kingdom concluded a Memorandum of Understanding on Passenger Charter Air Services under which each government will, with some exceptions, accept as charterworthy transatlantic charter traffic originating in the territory of the other and organized and operated in accordance with the other's charterworthiness criteria.

On the basis of the foregoing, it is tentatively found and concluded that:

1. Thomas Cook Overseas, Ltd. (Great Britain) d.b.a. Thomas Cook, Inc. (U.S.) is fit, willing, and able properly to perform the indirect foreign air transportation proposed in its Application and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

2. Thomas Cook Overseas, Ltd. (Great Britain) d.b.a. Thomas Cook, Inc. (U.S.) is substantially owned and effectively controlled by citizens of the United Kingdom of Great Britain and Northern Ireland;

3. Since no issues on this application appear to be contested, a hearing on the application is not required in the public interest;

4. It is in the public interest to issue a foreign indirect air carrier permit in the form of the specimen permit attached hereto to Thomas Cook Overseas, Ltd. (Great Britain) d.b.a. Thomas Cook, Inc. (U.S.) authorizing the carrier, for a period of five years, to engage indirectly in foreign air transportation of persons from any point or points in the United States to any point or points outside the United States, and return; and

5. The public interest requires that the exercise of the privileges granted by the said permit should be subject to the terms, conditions, and limitations prescribed therein, the conditions set forth in paragraphs (a) and (b) below, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board:

a. With respect to the operations conducted pursuant to the authority granted herein, the holder shall be subject to the provisions of Parts 372a, 378, and 378a of the Board's Special Regulations, as now or hereafter amended;

b. In using the authority granted herein (1) the name Thomas Cook Overseas, Ltd. (Great Britain) d.b.a. Thomas Cook, Inc. (U.S.) shall appear on all of the holder's advertising, tickets, stationery, and the like; (2) the above name shall always be used in its entirety; and (3) the name Thomas Cook Overseas, Ltd. (Great Britain) shall be displayed at least as prominently as the name Thomas Cook, Inc. (U.S.).

All interested persons will be given 21 days following the adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific issues and to support such objections with detailed analysis. If an evidentiary hearing is requested, the objector should state the issue with respect to which a hearing is requested, and should state in detail why such a hearing is necessary and what relevant and material facts they would expect to establish through such a hearing. Vague, general, or unsupported objections will be entertained.

Accordingly, it is ordered, That:

1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein, and why an order should not be issued subject to approval by the President pursuant to Section 801(a) of the Act, issuing an indirect foreign air carrier permit to Thomas Cook Overseas, Ltd. (Great Britain) d/b/a Thomas Cook, Inc. (U.S.), in the form attached hereto;

2. Any interested persons having objections to the issuance of an order making final the tentative findings and conclusions herein, or to the issuance of the proposed indirect foreign air carrier permit, shall, within 21 days after adoption of this order, file with the Board and serve on the persons named in paragraph 5 below, a statement of objections, together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the statement of objections;

3. If timely and properly supported objections hereto are filed, full consideration will be accorded the matters or issues raised therein before further action is taken by the Board: *Provided however,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

4. In the event no objections are filed hereto, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein; and

5. This order shall be served upon the Ambassador of the United Kingdom of Great Britain and Ireland and the Departments of State and Transportation.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN INDIRECT AIR CARRIER

Thomas Cook Overseas, Ltd. (Great Britain) doing business as Thomas Cook, Inc. (U.S.), is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage indirectly in foreign air transportation of persons from any point or points in the United States to any point or points outside the United States, and return.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting the right to engage in indirect air transportation of persons now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the United Kingdom shall be parties.

This permit shall be subject to the condition that in the event any practice develops which the Board regards as inimical to sound economic conditions, the holder and the Board will consult with respect thereto, and will use their best efforts to agree upon modifications thereof satisfactory to the Board and the holder.

The exercise of the privileges granted hereby shall be subject to the terms, conditions, and limitations set forth in Order ---------- dated ---------- and to such other reasonable terms, conditions and limitations requried by the public interest as may from time to time be prescribed by the Board.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

This permit shall be effective on ---------- ----------, and shall terminate five years thereafter: *Provided, however,* That if during said period the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and the United Kingdom are or shall become parties, then and in that event this permit is continued in effect during the period provided in said treaty, convention, or agreement.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ----------

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Secretary.

Issuance of this permit to the holder approved by the President of the United States on ---------- In Order ----------

[FR Doc.76-37466 Filed 12-20-76;8:45 am]

COMMISSION ON CIVIL RIGHTS

KANSAS ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kansas Advisory Committee (SAC) of the Commission wil convene at 10:00 a.m. and end at 2:00 p.m. on January 8, 1977, at the Holiday Inn, Regency West Room, 2700 West 18th, Emporia, Kansas 66801.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Bldg., Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to continue planning for followup monitoring activities of Kansas SAC projects and discuss project development for the calendar year 1977.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 13, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-37428 Filed 12-20-76;8:45 am]

MINNESOTA ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and end at 9:00 p.m. on January 14, 1977, at the Roady Inn, 1321 E. 78th Street, Bloomington, Minnesota 55420.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to review and analyze material received from agencies and design questions and prepare for March hearing.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 15, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-37429 Filed 12-20-76;8:45 am]

MINNESOTA ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and end of 12:00 noon on January 15, 1977, at the Roadway Inn, 1321 E. 78th Street, Bloomington, Minnesota 55420.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to review format for February Police-Community Mini-conference; plan participation and topics to be covered; report on American Indian followup and action on inactive members.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 15, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-37430 Filed 12-20-76;8:45 am]

OKLAHOMA ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oklahoma Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and end at 10:00 p.m. on January 24, 1977, at the Hilton Inn West, Room 101, Interstate 40 at Meridian, Oklahoma City, Oklahoma 73108.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Southwestern Regional Office of the Commission, New Moore Building, Room 231, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting is to prepare for the Oklahoma SAC open meeting of February 10–11, 1977, on State Employment.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 14, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-37431 Filed 12-20-76;8:45 am]

PENNSYLVANIA ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and end at 2:00 p.m. on January 26, 1977, at the Federal Building, 600 Arch Street, 10th Floor, Room 10320, Philadelphia, Pennsylvania 19126.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss civil rights issues within that State.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 13, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-37432 Filed 12-20-76;8:45 am]

RHODE ISLAND ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Rhode Island Advisory Committee (SAC) of the Commission will convene at 4:00 p.m. and end at 6:00 p.m. on February 22, 1977, at the Central Congregational Church, 296 Angell Street, Providence, Rhode Island.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss project proposal for the coming year.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 14, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-37403 Filed 12-20-76;8:45 am]

SOUTH CAROLINA ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Carolina Advisory Committee (SAC) of the Commission will convene at 10:30 am. and end at 3:30 pm. on January 28, 1977, at the Mark I Motel, Private Dining Room, 515 South Main, Marion, South Carolina 29571.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of this meeting is to make decision on target city of project on Public Facilities. Tour of city, briefing on data of city; outline of additional data required, adoption of schedule for project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 13, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-37434 Filed 12-20-76;8:45 am]

TENNESSEE ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations

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of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. and end at 5:30 p.m. on January 14, 1977, at the Ramada Inn, 160 Union Avenue, Levee Room, Memphis, Tennessee 38103.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Bldg., Room 362, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of this meeting is follow-up activity to the Tennessee SAC's open meeting of October 8–9, 1976, and request for Commission Hearing in support of and request of Tennessee SAC.

This meeting will be conducted pursuant to the provisions of the Commission.

Dated at Washington, D.C., December 15, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76–37435 Filed 12–20–76;8:45 am]

CIVIL SERVICE COMMISSION

PRIVACY ACT OF 1974

Notice of Adoption of Routine Uses and Proposal for Additional Routine Use of Information in Systems of Records

The Civil Service Commission published in the FEDERAL REGISTER on March 16, 1976, (41 FR 11075), notice of a proposal to establish additional routine uses of information contained in two systems of records. The Commission invited public comment on all of the proposed routine uses.

This notice includes an analysis of comments received, discusses revisions to certain of the previously proposed routine uses, presents the routine uses as revised or adopted or both, and publishes a newly proposed routine use. The full texts of the notices to which these routine use statements pertain were published in the FEDERAL REGISTER on September 24, 1976, (41 FR 42158–42168). The Commission invites comments on routine use statements which are proposed to become effective thirty days after the date of this notice. Comments may be submitted to the Director, Bureau of Manpower Information Systems; U.S. Civil Service Commission, 1900 E Street, N.W., Washington, D.C. 20415 and should be received on or before the proposed effective date of the subject routine use.

No comments were submitted about the two proposed routine uses for the system of Pay, Leave, and Travel Records, which contains information only on individuals employed by the Civil Service Commission. Routine use "g", which provides for disclosure of certain information on dues withholding to labor officials, therefore is adopted as proposed and is effective December 21, 1976. Routine use "h", however, has been revised to provide for furnishing information about compensation paid to Federal employees to state and local taxing authorities regardless of whether agreements for withholding of taxes have been negotiated between the authorities and the Secretary of the Treasury. This revision was made after consideration of the views of the Office of Legal Counsel, Department of Justice, to the effect that disclosure of tax information is compatible with the purpose of collecting payroll information even though no withholding agreement exists pursuant to 5 U.S.C. 5516, 5517, or 5520. Routine use "h" will be effective January 21, 1977. However, any person may comment on revised routine use "h" during the next thirty days, and any comments received will be considered in terms of the need for further revision.

Comments were received on each of the three proposed routine uses for the Government-wide system of General Personnel Records. One agency questioned whether routine use "s" was intended to describe disclosure only to an official of the employing agency. Since that was not the intention, the language of that routine use has been changed to clarify that it covers disclosure to an official of another Federal agency. Routine use "s" is effective December 21, 1976.

One comment was received about routine use "u," describing the disclosure of information about incentive awards and other honors. The comment questioned the right of an agency to disclose such information, even though positive in nature, without specific approval by the employee involved. The Commission believes that it is in the interest of both the Government and the public to disclose information about awards and other honors granted to Federal employees. However, this routine use, as with any other routine use, is permissive and does not mandate disclosure. Therefore, an agency can decide to accommodate an employee's specific request that the honor granted to him or her not be announced publicly. Routine use "u" is adopted as proposed and is effective December 21, 1976.

This notice also contains a proposal for an additional routine use to be added to each of the Commission's five Government-wide systems of records. The newly proposed routine use will permit a Federal agency to disclose information to another Federal agency or to a court when the Government is party to a suit before the court. This routine use will be effective January 21, 1977. However, any person may comment on the newly proposed routine use during the next thirty days, and any comments received will be reviewed for indications of a need for revision.

With respect to proposed routine use "t" for the General Personnel Records system concerning disclosure of information from that system to recognized labor organizations, final Commission action on that proposed routine use is completed, published, and effective December 14, 1976.

The adopted and proposed routine uses applicable to the Commission's systems of records are indicated below.

CSC–7, Pay Leave, and Travel Records—CSC.

* * * * *

g. To provide officials of labor organizations recognized under Executive Order 11491, as amended, with information as to the identity of Civil Service Commission employees contributing dues each pay period and the amount of dues withheld from each contributor.

h. To disclose information to state and local tax authorities, except that social security account numbers will not be furnished to State and local governments not satisfying the requirements set forth in section 7(a) (2) (B) of the Privacy Act.

* * * * *

CSC/GOVT–1. Appeals, Grievances, and Complaints Records—CSC

* * * * *

j. To disclose information to another Federal agency or to a court when the Government is party to a suit before the court.

CSC/GOVT–2. Confidential Employment and Financial Interest Statements—CSC

e. To disclose information to another Federal agency or to a court when the Government is party to a suit before the court.

* * * * *

CSC/GOVT–3. General Personnel Records—CSC

* * * * *

s. Used to provide an official of another Federal agency any information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the personnel functions for which the records were collected and are maintained.

* * * * *

u. Used to select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

v. Disclosed to another Federal agency or to a court when the Government is party to a suit before the court.

CSC/GOVT–4. Personnel Investigations Records—CSC

* * * * *

j. To disclose information to another Federal agency or to a court when the Government is party to a suit before the court.

CSC/GOVT–5. Recruiting, Examining, and Placement Records—CSC

* * * * *

k. To disclose information to another Federal agency or to a court when the Government is party to a suit before the court.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76–37337 Filed 12–20–76;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

FANCY INDUSTRIES, INC.

Eligibility To Apply for Trade Adjustment Assistance, Petition for Determination

A petition under Section 251 of the Trade Act of 1974 (P.L. 93–618), initially submitted on June 15, 1976, and accepted on June 17, 1976, from Fancy Industries, Inc., Building 5, Brooklyn Navy Yard, Brooklyn, New York 11205, was subsequently withdrawn and resubmitted. The amended petition submitted on December 9, 1976, by the producer of handbags and purses, was accepted for filing on December 15, 1976. Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this (Jan. 3, 1977) notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76–37512 Filed 12–21–76;8:45 am]

MRS. DAY'S IDEAL BABY SHOE CO., INC.

Eligibility To Apply for Trade Adjustment Assistance, Petition for Determination

A petition by Mrs. Day's Ideal Baby Shoe Company, Inc., 20 Locust Street, Danvers, Massachusetts 01923, a producer of footwear for infants, was accepted for filing on December 15, 1976, pursuant to Section 251 of the Trade Act of 1974 (P.L. 93–618).

Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76–37511 Filed 12–21–76;8:45 am]

National Oceanic and Atmospheric Administration

KAHALA HILTON

Issuance of Permit To Take Marine Mammals

On July 12, 1976, notice was published in the FEDERAL REGISTER (41 FR 28565) that an application had been filed with the National Marine Fisheries Servict by Kahala Hilton, 5000 Kahala Avenue, Honolulu, Hawaii 96816, for a permit to take four (4) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that, on December 15, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit to take two (2) Atlantic bottlenosed dolphins to Kahala Hilton, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: December 15, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76–37418 Filed 12–20–76;8:45 am]

LOUIS SCARPUZZI ENTERPRISES, INC.

Issuance of Permit To Take Marine Mammals

On September 3, 1976, notice was published in the FEDERAL REGISTER (41 FR 37384) that an application had been filed with the National Marine Fisheries Service by Louis Scarpuzzi Enterprises, Inc., 339 Riverside Drive, Fort Myers, Florida 33905, for a permit to take one (1) Atlantic bottlenosed dolphin (*Tursiops truncatus*) for public display.

Notice is hereby given that on December 10, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Louis Scarpuzzi Enterprises, Inc., subject to certain conditions set forth herein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington D.C.; and
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: December 10, 1976.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.76–37419 Filed 12–20–76;8:45 am]

STEVEN L. SWARTZ

Issuance of Marine Mammal Permit

On October 6, 1976, notice was published in the FEDERAL REGISTER (41 FR 44063) that an application had been filed with the National Marine Fisheries Service by Mr. Steven L. Swartz, Field Associate, San Diego Society of Natural History, 1592 Sunset Cliffs, San Diego, California 92107, for a Scientific Research Permit to conduct studies on gray whales (*Eschrichtius robustus*).

Notice is hereby given that on December 14, 1976, the National Marine Fisheries Service issued a Scentific Research Permit, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), to Steven L. Swartz, subject to certain conditions set forth therein.

The Permit authorizes the Holder to conduct studies on gray whales in the San Ignacio Lagoon, Baja, California, Mexico, by means of the following activities, which may involve harassment of individual cetaceans within the population stocks: (1) observations from towers located near the mouth of the lagoon; (2) observations from motor boats; and (3) observations from shore stations.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 14, 1976.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.76–37420 Filed 12–20–76;8:45 am]

ZOOLOGICAL SOCIETY OF BUFFALO

Issuance of Permit to Take Marine Mammals

On October 14, 1976, notice was published in the FEDERAL REGISTER (41 FR 45037), that an application had been filed with the National Marine Fisheries

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Service by the Zoological Society of Buffalo, Inc., Buffalo Zoological Gardens, Delaware Park, Buffalo, New York 14214, for a permit to take two (2) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on December 14, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Buffalo Zoological Gardens subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 14, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-37417 Filed 12-20-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DDR&E HIGH ENERGY LASER REVIEW GROUP (HELRG)

Meeting

Pursuant to the provisions of Section 10 of Appendix I, Title 5, United States Code, notice is hereby given that closed meetings of the DDR&E High Energy Laser Review Group will be held at 0830 on Wednesday, Thursday and Friday, January 26, 27 and 28, 1977 in Albuquerque, New Mexico. The purpose is to review matters pertaining to the Department of Defense high energy laser program.

The entire meeting will be devoted to a discussion of classified information as defined in subparagraph (1) of Section 552(b) of Title 5 of the U.S. Code, and therefore will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence
and Directives, OASD (Comptroller).

DECEMBER 16, 1976.

[FR Doc.76-37383 Filed 12-20-76;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON NET TECHNICAL ASSESSMENT

Meeting

The Defense Science Board Task Force on "Net Technical Assessment" will meet in closed session on January 18–19, 1977 at the Pentagon, Washington, D.C.

The overall mission of this Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering on U.S./USSR overall research and engineering technology programs and to provide guidance for U.S. technology exploitation in these areas to the Department of Defense.

The Task Force will examine in detail the important problem of determining critical intelligence technical requirements of the Department of Defense, the ways in which answers to these requirements would influence future U.S. R&D/operational actions, any time urgency associated with the requirements and collection methods for satisfying these requirements.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director Correspondence
and Directives, OASD (Comptroller).

DECEMBER 16, 1976.

[FR Doc.76-37384 Filed 12-20-76;8:45 am]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, NY 10014 on January 12, 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The microwave area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Groups meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

Dated: December 20, 1976.

MAURICE W. ROCHE,
Director, Correspondence and
Directives OASD (Comptroller).

[FR Doc.76-37623 Filed 12-20-76;10:02 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 660-2; PF120]

CIBA-GEIGY CORP.

Filing Food Additive Petition

Ciba-Geigy Corp. Agricultural Div. PO Box 11422, Greensboro NC 27409, has submitted a petition (FAP 7H5156) to the Environmental Protection Agency which proposes to amend 21 CFR 561 by establishing a food additive regulation permitting the use of the insecticide *O*-(4-bromo-2-chlorophenol) *O*-ethyl *S*-propyl phosphorothioate in a proposed experimental program involving application of the insecticide to growing cotton with a tolerance limitation of 9.0 parts per million (ppm) in soapstock hulls and 3.0 ppm in cottonseed hulls for residues of the insecticide and its metabolites converted to 4-bromo-2-chlorophenol and calculated as *O*-(4-bromo-2-chlorophenyl) *O*-ethyl *S*-propyl phosphorothioate.

Notice of this submission is given pursuant to the provisions of Section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act. Interested persons are invited to submit written comments on the petition referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, East Tower, Rm. 401, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments should be submitted as soon as possible and should bear a notation indicating the petition number "FAP 7H5156". Comments may be made at any time while a petition is pending before the Agency. All written comments will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: December 15, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76-37350 Filed 12-20-76; 8:45 am]

[FRL 660-3; OPP-30124]

PESTICIDE PROGRAMS

Receipt of Applications To Register Pesticide Products Containing New Active Ingredients

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751, 7 U.S.C. 136 (a) *et seq*), and the regulations thereunder (40 CFR 162). Notice of receipt of these applications is made in accordance with the provisions of section 3(c)(4) of FIFRA (40 CFR 162.6(b)(6)) and does not indicate a decision by the Agency on the applications.

Any Federal agency or other interested persons are invited to submit written comments on any applications referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW, Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before January 21, 1977 and should bear a notation indicating the EPA File Symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending applications. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning any application contained in this notice should be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at the number provided. Notice of approval or denial of the applications to register pesticide products listed will be announced in the FEDERAL REGISTER. The labels furnished by each applicant as well as all written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8 a.m. to 4:30 p.m. Monday through Friday.

Dated: December 8, 1976.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

EPA File Symbol 100-LAA. Ciba-Geigy, Agricultural Div., Box 11422, Greensboro NC 27409. CYCLE 80W. Active Ingredients: Procyazine [2-[[4-chloro-6-(cyclopropylamino) - s-triazin-2-yl]amino]-2-methylpropionitrile] 80%. Application proposes that this product be classified for general use for weed control in corn. PM24 (202/755-2196)

EPA File Symbol 7182-T. 3M Company, 3M Center Building, 22365E, St. Paul MN 55101. EMBARK 2-S PLANT GROWTH REGULATOR. Active Ingredients: Diethanolamine salt of mefluidide [N-[2,4-dimethyl - 5 - [[(trifluoromethyl)sulfonyl] amino]phenyl]acetamide] 28%. Application proposes that this product be classified for general use on turf, noncrop areas, airports, cemeteries, etc. PM25 (202/426-2632)

EPA File Symbol 20954-T. Zoecon Corp., 975 California Ave., Palo Alto CA 94304. YOUR BRAND INSECT AND MITE HOUSEPLANT MIST. Active Ingredients: Methoprene [isopropyl (E,E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate 0.100%; hexadecyl cyclopropanecarboxylate 0.075%; resmethrin [(5-benzyl-3-furyl)-methyl 2,2-dimethyl-3-(2 - methylpropenyl)cyclopropanecarboxylate] Min. 70% (+) trans. Max. 30% (+) cis isomers 0.050%; related compounds. 0.007%. Application proposes that this product be classified for general use as a houseplant insecticide. PM17 (202/426-9425)

[FR Doc.76-37351 Filed 12-20-76;8:45 am]

(FRL 660-4); OPP—33000/465

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315
PM 21 & 22—202/426-2454
PM 24—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16 & 17—202/426-9425
PM 23—202/755-1397
PM 25—202/426-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before February 22, 1977. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before January 21, 1977.

Dated: December 9, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

—APPLICATIONS RECEIVED (OPP—33000/485)

EPA Reg. No. 1016-43. Union Carbide Corp., Agricultural Products, PO Box 1906, Salinas CA 93901. SEVIN SPRAYABLE CARBARYL INSECTICIDE. Active Ingredients: Carbaryl (1-naphthyl methylcarbamate) 80%. Method of Support: Application proceeds under 2(a) of interim policy. PM12

EPA File Symbol 1459-LO. Bullen Chemical Co., Hook Rd., Folcroft PA 19032. BULLEN FORTIFIED PINE ODOR DISINFECTANT. Active Ingredients: Pine oil 12.0%; o-Benzyl-p-chlorophenol 3.5%; Isopropyl alcohol 10.0%; Soap 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 1629-1. The Weevil-Cide Co., A Subsidiary of Research Products Co., 411 N. 7th St., PO Box 1057, Salina KS 67401. WEEVIL-CIDE. Active Ingredients: Carbon Tetrachloride 81.54%; Carbon Disulfide 16.16%; Sulfur Dioxide 1.54%. Method of Support: Application proceeds under 2(a) of interim policy. PM11

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EPA File Symbol 1776–0. Hexol, Inc., 1500 17th St., San Francisco CA 94107. PINE KLEEN. Active Ingredients: Pine oil 30.0%; Isopropyl alcohol 12.0%; Soap 10.3%; 4&6-chloro-2-phenylphenol 0.1%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA Reg. No. 1839–46. Onyx Chemical Co., Div. of Millmaster Onyx Corp., 190 Warren St., Jersey City NJ 07302. BTC 2125M. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 25%; n-Alkyl (68% C12, 32% C14 dimethyl ethylbenzyl ammonium chlorides 25%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA Reg. No. 2155–71. I. Schneid, Inc., PO Box 93188, Martech Station, Atlanta GA 30318. LEMONENE DISINFECTANT—CLEANER—SANITIZER FUNGICIDE—DEODORANT. Active Ingredients: Isopropyl Alcohol 5.45%; Essential Oils 5.12%; Soap 4.68%; Sodium salt of o-phenyl phenol 2.16%; Sodium salt of orthobenzlepara chlorophenol 1.65%; Sodium salt of para-tertiaryamyl phenol 1.09%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Amendment. PM32

EPA Reg. No. 2290–37. The Terre Co., One Samspin St., Saddlebrook NJ 07662. DURSBAN GRANULES. Active Ingredients: Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 0.46%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 2437–ER. Elkhorn Chemical Co., Inc., 1 Elk Ln., Elkhorn WI 53121. ELKO HEAVY DUTY DISINFECTANT CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 2724–178. Thuron Industries, Inc., 12200 Denton Dr., Dallas TX 75234. STARBAR INSECT STRIP. Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 18.5%; Related compounds 1.4%. Method of Support: Application proceeds under 2(a) of interim policy. PM13

EPA Reg. No. 2829–89. Ventron Corp., Congress St., Beverly MA 01915. DUROTEX 7599. Active Ingredients: 10, 10'-oxybisphenoxarsine 2.0% (Total arsenic as elemental As—0.60%) (Water soluble arsenic as elemental As—Less than 0.02%). Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA Reg. No. 2829–91. Ventron Corp. DUROTEX 7604. Active Ingredients: 10, 10'-oxybis-phenovarsin 2.0% (Total arsenic as elemental As—0.60%) (Water soluble arsenic as elemental As—Less than 0.02%). Method of Support: Application proceeds under 2 (b) of interim policy. PM22

EPA Reg. No. 2900–0. Shepard Chemical Works, Inc., PO Box 473, Wilmington NC 28401. SHEPARD'S ROACH KILLER. Active Ingredients: Boric Acid 60.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 2935–353. Wilbur-Ellis Co., PO Box 1286, Fresno CA 93715. RED-TOP CONTACT WEED KILLER. Active Ingredients: Dinoseb (2-sec-butyl-4,6-dinitrophenol) 30%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Add uses. PM23

EPA Reg. No. 3125–121. Chemagro Agricultural Div., Mobay Chemical Corp., Box 4913, Kansas City MO 64120. BAYGON 2% BAIT INSECTICIDE. Active Ingredients: o-Isopropoxyphenyl methylcarbamate 2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Amendment. PM12

EPA Reg. No. 3125–210. Chemagro Agricultural Div. DYLOX 4 INSECTICIDE. Active Ingredients: Dimethyl (2,2,2-tricholoro-1-hydroxyethyl) phosphonate 39%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised directions. PM16

EPA Reg. No. 3125–234. Chemagro Agricultural Div. MESUROL 2% BAIT. Active Ingredients: 4-(Methylthio)-3,5-xylyl methylcarbamate 2%. Method of Support: Application proceeds under 2(a) of interim policy. PM12

EPA Reg. No. 3125–234. Chemagro Agricultural Div. MESUROL 2% BAIT MOLLUSCICIDE. Active Ingredients: 3,5-Dimethyl-4-(methylthio)phenol methylcarbamate 2%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA Reg. No. 3125–278. Chemagro Agricultural Div. DYLOX 1.5 OIL INSECTICIDE. Active Ingredients: Dimethyl (2,2,2-trichloro-hydroxyethyl) phosphonate 18.5%; Refined petroleum distillates 76.2%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added insect claims. PM16

EPA File Symbol 3125–GNA. Chemagro Agricultural Div. BAYGON MOS INSECTICIDE. Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 12.8%; Xylene 33.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Amendment. PM12

EPA Reg. No. 3467–15. Bacon Products Co., Inc., PO Box 6127, Chattanooga, TN 37421. FLIPO SPECIAL FLEA POWDER. Active Indgredients: Malathion (0,0-Dimethyl Dithiophosphate of Diethyl Mercaptosuccinate) 4.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA File Symbol 4313–AR. Carroll Co., 2900 W. Kingsley Rd., Garland TX 75041. PINE OIL DISINFECTANT. Active Ingredients: Pine Oil 60.0%; Soap 9.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 5481–121. Amvac Chemical Corp., 4100 E. Washington Blvd., Los Angeles CA 90023. DURHAM DURSBAN GRANULES 1. Active Ingredients: Chlorpyrifos [O,O-Diethyl O-(3,5,6-trichloro-2-pyridyl) Phosphorothioate] 1.0%. Method of Support: Application proceeds under 2 (c) of interim policy. PM12

EPA File Symbol 5905–UUR. Helena Chemical Co., Clark Tower, 5100 Poplar Ave., Suite 29, Memphis TN 38137. HELENA OMNIDIAZINON. Active Ingredients: Petroleum Oil 92.50%; O,O-diethyl O-(2-isopropyl-6-methyl-4-Pyrimidinyl) phosphorotrioate 5.27%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15.

EPA Reg. No. 6659–6. Knight Oil Corp., 251 N. Comrie Ave., Johnstown NY 12095. BACT–X. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Essential Oils 0.20%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA Reg. No. 6720–206. Southern Mill Creek Products Co., PO Box 1096, Tampa FL 33601. DURSBAN 4E. Active Ingredients: Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate 40.8%; Aromatic petroleum derivative solvent 47.9%. Method of Support: Application proceeds under 2(b) of interim policy. PM12.

EPA Reg. No. 6754–37. Bettelbach Pesticide Corp. 4111 Peachtree Rd., NE, Atlanta GA 30319. PROFESSIONAL ORKINBAN 2E. Active Ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 22.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPO File Symbol 7404–RR. NuLife Fertilizers, PO Box 883, Tacoma WA 98421. NULIFE WEED & FEED WITH TRIMEC. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 0.36%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.15%; Dicamba (3,6-Dichloro-o-anisic acid) 0.03%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA Reg. No. 7764–14. Heritage House Products Corp., 300 Lake Rd., Medina OH 44256. HERITAGE HOUSE DACAMINE BROADLEAF WEED KILLER. Active Ingredients: N- Oleyl 1,3-propylenediamine salt of 2,4-Dichlorophenoxyacetic acid 33.9%. Method of Support: Application proceeds under 2 (b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 8591–17. The Mogul Corp., PO Box 200, Chagrin Falls OH 44022. MOGUL AG–452. Active Ingredients: 2,2-Dibromo-3 nitrilopropionamide 20%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Additional use. PM34

EPA Reg. No. 8730–4. Herculite Protective Fabrics Corp., A Subsidiary of Health-Chem. Corp., 1107 Broadway, New York NY 10010. INSECTAPE. Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 10.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Amendment. PM12

EPA Reg. No. 8730–5. Herculite Protective Fabrics Corp. INSECTAPE ROACH KILLER. Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 10.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Amendment. PM12

EPA File Symbol 8959–EG. Applied Biochemists, Inc., PO Box 25, Mequon WS 53092. STOCKTRINE II. Active Ingredients: copper as elemental 0.53%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 9852–45. Rite-Off Corp., 163 Dupont St., Plainview NY 11803. RITE-OFF ROACH & ANT KILLER. Active Ingredients: 0,0-Diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 0.500%; Pyrethrins 0.052%; Piperonyl Butoxide, Technical 0.261%; Petroleum Distillate 95.606%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

Corrections

EPA Reg. No. 538–117. O.M. Scott & Sons, Marysville OH 43040. SUPER TURF BUILDER PLUS HALTS CRABGRASS PREVENTER PLUS LAWN FERTILIZER. PM25 (Originally published with incorrect reg. no.) 41 FR 51063 11/19/76.

EPA Reg. No. 3125–146. Chemagro Corp., PO Box 4913, Kansas City MO 64120. BAYGON 70% WETTABLE POWDER INSECTICIDE. PM12 (Originally published with incorrect reg. no. and without PM) 41 FR 51062 11/19/76.

EPA File Symbol 6730–RR. Herculite Protective Fabrics Corporation, 1107 Broadway, New York NY 10010. HERCON INSECTAPE ROACH KILLER. PM12 (Originally published with incorrect product name) 41 FR 51062 11/19/76.

[FR Doc.76–37352 Filed 12–20–76;8:45 am]

(FRL 660–5); [OPP–33000/486]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94–140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington, D.C. 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or reference by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(a)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12 & 13—202/755–9315.
PM 21 & 22—202/426–2454.
PM 24—202/755–2196.
PM 31—202/426–2635.
PM 33—202/755–9041.
PM 15, 16 & 17—202/426–9426.
PM 23—202/755–1397.
PM 25—202/426–2632.
PM 32—202/426–9486.
PM 34—202/426–9490.

The Interim Policy Statement requires that claims for compensation be filed on or before February 22, 1977. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before January 21, 1977.

Dated: December 8, 1976.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP—33000/486)

EPA Reg. No. 239–2262. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO ROSE & FLOWER WEED AND FEED GRANULES 8–24–8. Active Ingredients: trifluralin (a,a,a-trifluoro-2,6-dinitro - N,N - dipropyl-p-toluidine) 0.37%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 264–267. Amchem Products, Inc., Brookside Ave., Ambler PA 19002. ETHREL. Active Ingredients: Ethephon (2-chloroethy) phosphonic acid 21.6%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA Reg. No. 264–267. Amchem Products, Inc. ETHREL PLANT REGULATOR. Active Ingredients: Ethephon (2-chloroethyl) phosphonic acid 21.6%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA Reg. No. 279–1599. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. KOLODUST EXTRA DICHLONE 1 DUST. Active Ingredients: Dichlone 1.0%; Sulfur 71.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 279–1624. FMC Corp. PHOSDRIN 2 DUST INSECTICIDE. Active Ingredients: Alpha isomer of 2-carbomethoxyl-1-methylvinyl dimethyl phosphate 1.20%; Related Compounds 0.80%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA File Symbol 352–GIG. E. I. Du Pont De Nemours & Co., Inc., Biochemicals Dept., Wilmington DE. DUPONT FUNGICIDE BLP. Active Ingredients: Methyl 2-benzimidazolecarbamate phosphate 0.7%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA Reg. No. 829–61. Southern Agricultural Insecticides, Inc., Box 218, Palmetto FL 33561. SA BRAND 50 5% MALATHION DUST. Active Ingredients: Malathion (0,0-dimethyl dithiophosphate of diethyl mercaptosuccinate) 5.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 1029–88. Aldex Corp., PO Box 7848, Omaha NB 68107. MALEX DUST. Active Ingredients: Malathion 4.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA File Symbol 1904–AL. Furst-McNess Company, Freeport IL 61032. MCNESS FOR-TIFIED PINE ODOR DISINFECTANT. Active Ingredients: Pine Oil 12.0%; O-Benzyl-p-Chlorophenol 3.5%; Isopropyl Alcohol 10.0%; Soap 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 1386–88. Universal Cooperatives, Inc., 111 Glamorgan St., Alliance OH 44601. UNICO MALATHION WETTABLE POWDER. Active Ingredients: Malathion 25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 2491–320. Koos, Inc., 4500 13th Ct., Kenosha WI 53140. HWI LAWN FERTILIZER WITH CRABGRASS CONTROL 12–2–4. Active Ingredients: N-butyl-N-ethyl-,a,a,a-trifluoro-2,6 dinitro-p-toluidine 0.48%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 4887–110. Stephenson Chemical Co., Inc., PO Box 87188, College Park GA 30337. PREMIUM GRADE 25% MALATHION WETTABLE POWDER. Active Ingredients: Malathion 25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 4887–11. Stephenson Chemical Co., Inc. 25% MALATHION WETTABLE POWDER. Active Ingredients: Malathion 25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 6836–29. Octagon Process, Inc., 596 River Rd., Edgewater NJ 07020. INSECTICIDE, MALATHION-POWDER DUSTING. Active Ingredients: Malathion (O,O-dimethyl phosphorodithioate of diethyl mercaptosuccinate) 1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 8660–7. Sta-Green Plant Food Co., PO Box 540, Sylacauga, AL 35150. STA-GREEN WEED & FEED FOR BAHIA, BERMUDA, CENTIPEDE, FESCUE, AND ST. AUGUSTINE GRASSES. Active Ingredients: Dimethylamine Salt of 2,4-dichlorophenoxyacetic acid 0.159%; Dimethylamine Salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 0.508%; Dimethylamine Salt of Dicamba (3,6-dichloro-o-anisic acid) 0.062%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 11613–RL. Southeastern Sanitary Supply, Montgomery AL 36102. SESSCO SUPER LEMON DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.0%; Isopropanol 2.0%; Essential oils 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

[FR Doc.76–37353 Filed 12–20–76;8:45 am]

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[FRL 660-1; Region IX]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to State of California for Del Norte, Humboldt, Mendocino, Northern Sonoma and Trinity County Air Pollution Control Districts

On December 23, 1971 (36 FR 24876), March 8, 1974 (30 FR 9308), August 6, 1975 (40 FR 33152), September 23, 1975 (40 FR 43850), January 15, 1976 (41 FR 2231, 2332), January 26, 1976 (41 FR 3825), and May 4, 1976 (41 FR 18498) pursuant to Section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations in 40 CFR Part 60 establishing standards of performance for 24 categories of new stationary sources (NSPS). In addition, on April 6, 1973 (38 FR 8820) and October 14, 1975 (40 FR 48292) pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated in 40 CFR Part 61 national emission standards for three hazardous air pollutants (NESHAPS). These regulations have been amended in certain instances. Sections 111(c) and 112(d) require the Administrator to delegate authority to implement and enforce the standards to any State which submits an adequate procedure. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to a State.

On August 19, 1973, the Regional Administrator, Region IX forwarded to the States in his Region information setting forth the requirements for an adequate procedure for implementing and enforcing the NSPS and NESHAPS. On March 27, June 12 and July 10, 1975, Mr. William Simmons, then executive officer of the California Air Resources Board, requested delegation of authority to implement and enforce the NSPS and NESHAPS on behalf of Humboldt-Del Norte, Trinity and Northern Sonoma County Air Pollution Control Districts, respectively. On December 11, 1975, Mr. William H. Lewis, Jr., Executive Officer of the California Air Resources Board, requested delegation of authority to implement and enforce the NSPS and NESHAPS on behalf of Mendocino County Air Pollution Control District. After thorough reviews of the requests for delegation, the Administrator delegated authority to Humboldt-Del Norte, Trinity, Northern Sonoma and Mendocino County Air Pollution Control Districts on July 10, August 18, 1975, February 2, and March 29, 1976, respectively. The public was notified of these delegations on September 11, 1975 (40 FR 42237), October 1, 1975 (40 FR 45277), May 26, 1976 (41 FR 21516) and July 8, 1976 (41 FR 28006), respectively. Then on October 6, 1976, Mr. Lewis requested delegation of authority on behalf of these districts for additional categories, revisions, and amendments to the NSPS and NESHAPS which occurred after the original requests for delegation.

After a thorough review of the request for delegation, the Regional Administrator has determined that for the source categories set forth in paragraphs (A), (B) and (C) of the following official letter to Mr. Lewis, Executive Officer of the California Air Resources Board, delegation is appropriate subject to the conditions set forth in paragraphs (1) through (2) of that letter dated November 9, 1976.

In Reply: E-4-3.
Refer to: ENF 3-5-3.
WILLIAM H. LEWIS, Jr.,
Executive Officer,
California Air Resources Board,
1709-11th Street,
Sacramento Calif. 95814.

DEAR MR. LEWIS: This is in response to your letter of October 6, 1976, requesting delegation of the authority on behalf of the Del Norte, Humboldt, Mendocino, Northern Sonoma, and Trinity County Air Pollution Control Districts to implement and enforce Standards of Performance for New Stationary Sources (NSPS) for the following categories of sources:

PHOSPHATE FERTILIZER INDUSTRY

STEEL PLANTS—ELECTRIC ARC FURNACES

In addition you requested delegation of authority to implement and enforce revisions to 40 CFR Part 60 for continuous monitoring requirements (40 FR 46250, October 6, 1975), for modification, notification, and reconstruction (40 FR 58416, December 16, 1975) and the amendments to 40 CFR 61, the National Emission Standards for Hazardous Air Pollutants (NESHAPS) contained in 40 FR 48292, October 14, 1975.

We have reviewed the pertinent laws of the State of California and the rules and regulations of the Del Norte, Humboldt, Mendocino, Northern Sonoma, and Trinity County Air Pollution Control Districts, and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS by the Air Pollution Control Districts (APCDs) and the State of California. Therefore, we hereby delegate our authority, pursuant to §§ 111(c) and 112(d)(1) of the Clean Air Act, as amended, for implementation and enforcement of the NSPS and NESHAPS to the State of California on behalf of the Del Norte, Humboldt, Mendocino, Northern Sonoma, and Trinity County APCDs as follows:

A. Authority for all sources located in the Del Norte, Humboldt, Mendocino, Northern Sonoma, and Trinity County APCDs subject to the standards of performance for new stationary sources in the following six categories:
Phosphate Fertilizer Industry:
Wet Process Phosphoric Acid Plants
Superphosphoric Acid Plants
Diammonium Phosphate Plants
Triple Superphosphate Plants
Granular Triple Superphosphate Storage Facilities
Steel Plants: Electric Arc Furnaces

B. Authority for all requirements of 40 CFR Part 60 for continuous monitoring, and 40 CFR Part 60 for modification, notification, and reconstruction.

C. Authority for all sources located in Del Norte, Humboldt, Mendocino, Northern Sonoma, and Trinity County APCDs and subject to the national emission standards for three hazardous air pollutants promulgated in 40 CFR Part 61 up to and including the amendments of October 14, 1975 (40 FR 46292).

The hazardous air pollutants covered by the delegation are asbestos; berryllium; and mercury.

This delgation is based upon the following conditions:

1. All conditions contained in the letters of delegation for:
a. Humboldt and Del Norte County APCDs, dated July 10, 1975.
b. Mendocino County APCD, dated March 29, 1976.
c. Northern Sonoma County APCD, dated February 2, 1976.
d. Trinity County APCD, dated August 18, 1975.

2. Condition 10 of 1a. and 1d. above is hereby modified for Humboldt, Del Norte and Trinity County APCDs as follows:

10. As of the date of this delegation, sources subject to the NSPS and NESHAPS located within the Humboldt, Del Norte, and Trinity County APCDs are required to submit all reports pursuant to the NSPS and NESHAPS to the appropriate Air Pollution Control District and to EPA, Region IX.

A notice announcing this delegation will be published in the FEDERAL REGISTER. All reports required in 40 CFR Part 60 and 61 will be required to be sent to the Del Norte, Humboldt, Mendocino, Northern Sonoma, and Trinity County APCDs, as well as to EPA, Region IX.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives written notice of any objections within 10 days of receipt of this letter, the State and Districts will be deemed to have accepted all of the terms of this delegation.

Sincerely,

PAUL DE FALCO, Jr.
Regional Administrator.

Del Norte APCD
Humboldt APCD
Mendocino APCD
Northern Sonoma APCD
Trinity APCD

Therefore, pursuant to authority delegated to him by the Administrator, the Regional Administrator notified Mr. Lewis on November 9, 1976 that authority to implement and enforce the NSPS/NESHAPS was delegated to the State of California on behalf of the Del Norte, Humboldt, Mendocino, Northern Sonoma, and Trinity County and Air Pollution Control Districts.

Copies of the request for delegation of authority and the Regional Administrator's letter of delegation are available for public inspection at the following addresses:

California Air Resources Board, 1709-11th Street, Sacramento CA 95814.
Environmental Protection Agency, Region IX, Enforcement Division, 100 California Street, San Francisco, CA 94111.

Dated: December 8, 1976.

PAUL DE FALCO, Jr.,
Regional Administrator,
EPA, Region IX.

[FR Doc.76-37349 Filed 12-20-76;8:45 am]

[FRL 661-2; OPP-00039]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel will be held from 9:30 a.m. to 4:30 p.m.

daily on Thursday, January 6, 1977, and Friday, January 7, 1977. The meeting will be held in Room 1112 A, Crystal Mall, Building Number 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The Scientific Advisory Panel is authorized in accordance with section 25(d) of FIFRA as amended [86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.]. In accordance with Section 25(d), the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under Sections 6(b) and 25(a) prior to implementation. The purpose of the meeting is to discuss the following topics:

1. Organizational activities of the Panel.
2. Recommendation of the Office of Special Pesticide Review, Office of Pesticide Programs, with respect to intent to cancel registrations of Kepone products under Section 6(a)(1) of FIFRA.
3. Review of an Amendment to the Regulations and Procedures which relate to Section 19(a) of FIFRA.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-567), Room E315, Environmental Protection Agency, 401 M Street S.W., Washington D.C. 20460 (telephone: 202/755-4851). Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit four copies of a summary no later than January 4, 1977. Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

Dated: December 16, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.76-37483 Filed 12-20-76;8:45 am]

[FRL 661-5]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to the State of Ohio

Pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of the U.S. Environmental Protection Agency (EPA) promulgated regulations establishing standards of performance for twenty-four categories of new stationary sources (NSPS). Section 111(c) directs the Administrator to delegate his authority to implement and enforce NSPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On July 23, 1973, the Regional Administrator, Region V, EPA forwarded to the State of Ohio information setting forth the requirements for an adequate procedure for implementing and enforcing the standards for NSPS. After preliminary negotiation, on June 3, 1976, the Governor of Ohio submitted a request to the EPA, Region V office for delegation of authority to the State of Ohio. Included in the request was a description of the procedures to be utilized by the State in exercising the delegated authority. Also included were copies of the State law and regulations which provide the State with the requisite authority to implement and enforce the NSPS. Additionally, the Governor has authorized the Director of the Ohio Environmental Protection Agency (OEPA) to act for him on all subsequent issues related to the delegation requests. After a thorough review of that request, the Regional Administrator has determined that delegation is appropriate for the source categories set forth in the following official letter to the Director of the OEPA subject to the terms set forth in conditions 1 through 10 of that letter:

MR. NED WILLIAM,
Director, Ohio Environmental Protection Agency, P.O. Box 1049, Columbus, Ohio 43216.

DEAR MR. WILLIAMS: This office has reviewed your June 3, 1976, request for delegation of authority to the State of Ohio for the implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS). Included in the review were pertinent laws and regulations of the State of Ohio. It has been determined that the State of Ohio has adequate and effective procedures and resources for implementation and enforcement of NSPS. Therefore, subject to the specific conditions and exceptions set forth below, we hereby delegate authority to implement and enforce the NSPS to the State of Ohio as follows:

Authority for all sources located in the State of Ohio subject to the Standards of Performance for New Stationary Sources promulgated in 40 CFR Part 60, Subparts D through Z and Subpart AA as amended (Reference to 40 CFR Part 60 as amended includes the Code of Federal Regulations revised as of July 1, 1975, as amended by 40 FR 33152, August 6, 1975; 40 FR 42028, September 10, 1975; 40 FR 43250, September 23, 1975; 40 FR 46250, October 6, 1975; 40 FR 58416, December 16, 1975; 41 FR 2232, January 15, 1976; 41 FR 2332, January 15, 1976; 41 FR 3826, January 26, 1976; 41 FR 18498, May 4, 1976). The 24 categories of new sources covered by this delegation are fossil fuel-fired steam generator units greater than 250 million BTUs per hour, incinerator units greater than 50 tons per day, portland cement plants, nitric acid plants, sulfuric acid plants, asphalt concrete plants, petroleum refineries, storage vessels for petroleum liquids, secondary brass and bronze ingot production plants, iron and steel plants, secondary lead smelters, sewage treatment plants, primary copper smelters, primary zinc smelters, primary lead smelters, primary aluminum reduction plants, coal preparation plants, electric arc furnaces, ferroalloy production facilities and the following five processes in the phosphate fertilizer industry: wet process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants and granular triple superphosphate storage facilities.

This delegation is based upon the following conditions:

1. Acceptance of this delegation of the presently promulgated NSPS does not commit the State of Ohio to request or accept delegation of future standards and requirements for other source categories. A new request for delegation will be required for such standards not included in the State's request of June 3, 1976.

2. Upon approval of the Regional Administrator of Region V, the Director of the Ohio Environmental Protection Agency may subdelegate his authority to implement and enforce the NSPS to other air pollution control agencies in the State when such agencies have demonstrated that they have equivalent or more stringent programs in force.

3. This delegation to the State of Ohio does not include the authority to implement and enforce NSPS for sources owned or operated by the United States which are located in the State. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Part 60 as amended.

4. The Federal NSPS regulations 40 CFR Part 60, as amended, do not have provisions for granting a variance or waivers of testing requirements by class, hence this delegation does not convey to the State of Ohio authority to grant a variance from the NSPS regulations or waivers of testing requirements on a class basis.

5. The Ohio Environmental Protection Agency and U.S. Environmental Protection Agency, Region V will develop a system of communication for the purpose of insuring that each office is informed on (a) the current compliance status of subject sources in the State of Ohio (b) the interpretation of applicable regulations and (c) the description of sources and source inventory data.

6. At no time shall the State of Ohio enforce a State regulation less stringent than the Federal NSPS requirements as published in 40 CFR Part 60 as amended. For example, the definition for "new source" in the Ohio EP-30-01 shall not be used for the purposes of determining those sources subject to NSPS.

7. Enforcement of NSPS in the State of Ohio will be the primary responsibility of the State of Ohio. If, after appropriate discussion with the Ohio Environmental Protection Agency, the Regional Administrator determines that a State procedure for implementing and enforcing the NSPS is inadequate, or is not being effectively carried out, this delegation will be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Governor of the State of Ohio.

8. If the State of Ohio determines that a violation of a delegated NSPS exists, the Ohio Environmental Protection Agency shall immediately notify EPA, Region V, of the nature of the violation together with a brief description of State's efforts or strategy to secure compliance. EPA may exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with regard to any violations of the NSPS regulations.

9. At no time shall the Ohio Environmental Protection Agency enforce a reporting, monitoring or any other requirement less stringent than the Federal NSPS requirements. Ohio Environmental Protection Agency will utilize the methods specified in 40 CFR Part 60 as amended by 40 FR 46250 October 6, 1975, in performing source tests pursuant to the regulations.

10. All State permits issued to new sources subject to Federal NSPS shall be conditioned

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to require notice of anticipated and actual start-up dates as required in 40 CFR 60.7.

A Notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the Federal NSPS from sources located in the State of Ohio shall be submitted to the Ohio Environmental Protection Agency, P.O. Box 1049, Columbus, Ohio 43216, as well as the EPA Region V Office. However, reports required pursuant to 40 CFR Section 60.7(c) (excess emissions and malfunctions) will be submitted to the State Agency only. Any such reports which have been or may be received by EPA, Region V, will be promptly transmitted to the Ohio Environmental Protection Agency.

Although this delegation is effective immediately, and although there is no requirement that the State notify EPA of its acceptance, we would appreciate written notice of acceptance or objection to the above conditions within 15 days of the date of receipt of this letter. Should no notice be received, we will proceed with public notice of the delegation in the FEDERAL REGISTER.

Sincerely yours,
GEORGE R. ALEXANDER, Jr.,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified the Director of the Ohio Environmental Protection Agency on August 4, 1976, that authority to implement and enforce the standards of performance for new stationary sources was delegated to the State of Ohio.

Copies of the request for delegation of authority are available for public inspection at the U.S. Environmental Protection Agency, Region V Office, 230 South Dearborn, Chicago, Illinois 60604.

The Ohio Environmental Protection Agency will administer those delegated NSPS functions through its new source review program which incorporates the assistance of five State district offices and nine municipal or county air pollution control agencies which have a state implementation agreement with the State to perform new source reviews. All required reports or notices which must be sent to the State pursuant to this delegation must be mailed to (1) EPA, Region V and (2) the respective district office or municipal/county agency according to the following list. However, reports required pursuant to 40 CFR Section 60.7(c) (excess emissions and malfunctions) should be sent to the respective State district office or municipal/county agency only.

Jurisdiction	*Agency or office name and address*
Medina, Summit and Portage Counties.	Director, Air Pollution Control, 177 South Broadway, Akron, Ohio 44308.
Stark County	Director, Air Pollution Control Division, Canton City Health Department, City Hall, 218 Cleveland Avenue SW, Canton, Ohio 44702.
Butler, Clermont Hamilton and Warren Counties.	Superintendent, Division of Air Pollution Control, 2400 Beekman Street, Cincinnati, Ohio 45214.
Cuyahoga County	Commissioner, Division of Air Pollution Con-Department of Public Health and Welfare, 2735 Broadway Avenue, Cleveland, Ohio 44115.
Lorain County	Control Officer, Division of Air Pollution Control, 200 West Erie Avenue, 7th Floor, Lorain, Ohio 44052.
Belmont, Carroll, Columbiana, Harrison, Jefferson, Monroe, Counties.	Director, North Ohio Valley Air Authority (NOVAA), 814 Adams Street, Steubenville, Ohio 43952.
Clark, Darke Greene, Miami, Montgomery and Preble Counties.	Supervisor, Regional Air Pollution Control Agency (RAPCA), Montgomery County Health Department, 451 West Third Street, Dayton, Ohio 45402.
Lucas County and the City of Rossford (in Wood County).	Director, Toledo Pollution Control Agency, 26 Main Street, Toledo, Ohio 43605.
Adams, Brown, Lawrence and Scioto Counties.	Engineer-Director, Air Division, Portsmouth City Health Department, 740 Second Street, Portsmouth, Ohio 45662.
Allen, Ashland, Auglaize, Crawford, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Knox, Marion, Mercer, Morrow, Ottawa, Paulding, Putman, Richland, Sandusky, Seneca, Van Wert, Williams, Wood (except City of Rossford), and Wyandot Counties.	Ohio Environmenetal Protection Agency, Northwest District Office, 111 West Washington Street, Bowling Green, Ohio 43402.
Ashtabula, Geauga, Lake, Mahoning, Trumbull, and Wayne Counties.	Ohio Environmental Protection Agency, Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio 44087.
Athens, Coshocton, Gallia, Guernsey, Highland, Hocking, Holmes, Jackson, Meigs, Morgan, Muskingum, Noble, Perry, Pike, Ross, Tuscarawas, Vinton, and Washington Counties.	Ohio Environmental Protection Agency, Southeast District Office, Rt. #3 Box 603, Logan, Ohio 43138.
Champaign, Clinton, Logan Shelby Counties.	Ohio Enviromnental Protection Agency, Southwest District Office, 7 East Fourth Street, Dayton, Ohio 45402.
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Pickaway, and Union Counties.	Ohio Environmental Protection Agency, Central District Office, 369 East Broad Street, Columbus, Ohio 43215.

(Sec. 111 of the Clean Air Act, as amended; (42 U.S.C. 1857 c-6))

Dated: December 10, 1976.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator.

[FR Doc.76-37487 Filed 12-20-76;8:45 am]

FEDERAL MARITIME COMMISSION

CITY OF OAKLAND AND JAPAN LINE, LTD., ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 10, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

CITY OF OAKLAND
and
JAPAN LINE, LTD.
KAWASAKI KISEN KAISHA, LTD.
MITSUI O.S.K. LINES, LTD.
YAMASHITA-SHINNIHON STEAMSHIP CO., LTD.

Notice of Agreement Filed by:

J. Kerwin Rooney, Port Attorney, Port of Oakland, P.O. Box 2064, 66 Jack London Square, Oakland, California 94604.

Agreement No. T-3040-1, between City of Oakland (City) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd. (the Lines), modifies the basic agreement which provides for the 10-year nonexclusive preferential assignment of certain marine terminal facilities located in the City's Outer Harbor Terminal Area, which the Lines will use primarily for handling containerized traffic. The purpose of this modification is to: (1) redefine the basic premises by reducing the gross area; (2) change the boundaries of Parcel "D" by increasing the gross area; (3) reduce compensation paid to City for land rental; and (4) make relative changes to the text of the basic agreement.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

Dated: December 16, 1976.

[FR Doc.76-37440 Filed 12-20-76;8:45 am]

FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and Section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01014---	Robert Bornhofen Reederei: *Rapid Bridge.*
01194---	A/S Berat: *Pancaribe.*
01272---	Cardenosa Compania Naviera S.A.: *Neptune.*
01306---	Shaw Savill & Albion Co. Ltd.: *Limpsfield.*
01330---	Shell Tankers (United Kingdom) Ltd.: *Donacilla, Megara.*
01459---	Palm Line Ltd.: *Andoni Palm.*
01466---	Common Bros. (Management) Ltd.: *Ria Jean McMurty.*
01595---	Probity Co. Naviera S.A.: *Probity.*
01858---	Transatlantica De Navegacion S.A.: *Calais.*
01869---	Compagnia Maritima Italiana, S.R.L. Genova: *Auriga.*
02151---	Anchor Line Ltd.: *Glenmoor.*
02181---	James L. Bryan: *PO-1202.*
02330---	Oriental Shipping Corp.: *Pinksky, Redsky, Eurymedon, Bluesky, Amvrosios, Euryalus, Eastern Anna, Edelweiss, Eveline, Regent Lilac, First Venture, Ocean Venture, Shinsho, Silver Dolphin, Zenlin Glory, Globtik Saturn, Eastern Honor, Shinkyo.*
02475---	Houston Barge Line, Inc.: *Parker 102-25, Parker 103-25.*
02644---	Alma Shipping Corp.: *Ioannis Carras.*
02864---	Refineria De Petroleos De Escombreras S.A. (Repesa): *Escatron, Montesa, Alcazar, Calatrava.*
02961---	Koke Kisen Kabushiki Kaisha: *Hikawa Maru.*
03004---	Rederi Ab Soya: *Rigoletto.*
03317---	Belgulf Tankers S.A.: *Belgulf Enterprise.*
03332---	Compania Naviera Romano, S.A.: *Verona.*
03357---	Kirno Hill Corp.: *Selene.*
03492---	Sawayama Kisen K.K.: *Hoeisan Maru.*
03501---	Osaka Shosen Mitsui Senpaku K. K.: *Takagisan Maru.*
03514---	Terukuni Kaiun Kaisha, Ltd.: *Izumo Maru.*
03529---	Yamaichi Kisen K.K.: *Sanwo Maru, Sankou Maru.*
03548---	Matsuoka Kisen Kabushiki Kaisha: *Hakonesan Maru.*
03971---	Korea Shipping Corp.: *Ulsan.*
04150---	Jan C. Uiterwyk Co. Inc.: *Susie U, Maria U, Vera U.*
04152---	Seamaster Corp.: *Bertie Michaels.*
04173---	Foss Launch & Tug Co.: *Foss 241, Foss 303.*
04299---	Erie Navigation Co.: *Peerless.*
04751---	Fame Shipping Co., Ltd.: *Aegis Fame.*
04752---	Banner Shipping Co., Ltd.: *Aegis Banner.*
05041---	Transatlantic Bulk Carriers Inc.: *Rhine Ore.*
05044---	Sider Line Compania De Navegacion S.A.: *Splendor.*
05068---	Pyla Shipping Co. Ltd., Nicosia: *Pati.*
05471---	Belcher Oil Co.: *Belcher No. 32, Ceco 2501, Belcher No. 31, Belcher No. 30, Belcher No. 29, Belcher No. 28, Belcher No. 27, Belcher No. 24, Belcher No. 16, Belcher Port Manatee No. 23.*
05499---	Sitia Compania Naviera S.A.: *Cositia.*
05567---	Midatlantic Steamship Corp.: *Sounion.*
05578---	Baltic Shipping Co.: *Semyon Kosinov.*
05855---	Lyra Shipping Co. Ltd.: *Galaxy Faith.*
06042---	Luzon Stevedoring Corp.: *L-1910, Lsco Tabangao, Stanford, L-1911.*
06315---	Leyenda Oceanico Navegacion S.A.: *Santa Vassiliki,*
06675---	Universal Enterprise Inc.: *Oriental Charger.*
07176---	Great Fortune Navigation Co. S.A., Hong Kong: *Great Peace.*
07179---	Tulip Shipping Co., Ltd.: *Kyrarini.*
07374---	Ocean Tramping Co., Ltd.: *Nankuo.*
07554---	Rosa Shipping Co., Ltd.: *Kyravthia.*
07561---	Gulf Atlantic Transport Corp.: *UM 93.*
07669---	Marine Leasing Corp.: *MPE 107.*
07775---	Tropica Ultramar S.A.: *Togo.*
07817---	Yick Fung Shipping & Enterprises Co., Ltd.: *Sapphire.*
08369---	Windtides Tankers Inc.: *Windtides.*
08479---	Delta Maritime Enterprises, Inc.: *Corona Delta.*
08496---	Gies Shipping Co. S.A. of Panama: *Maria.*
08498---	Kareas Shipping Co. S.A. of Panama: *Aghios Nikolaos.*
08804---	Redhill Shipping Co. Ltd.: *Pacific Century.*
08617---	Fairmont Enterprises Ltd.: *Stella Prima.*
08625---	United States Metals Refining Co.: *Copper Queen.*
08925---	Seagull Maritime Enterprises Inc.: *Pennsylvania.*
08948---	Veb Deutfracht/Seereederei: *Ferdinand Freiligrath, Georg Weerth.*
08955---	Lonborg Shipping A/S: *Nina Lonborg.*
08974---	Chariot Maritime Co. Ltd.: *Queen of Ampelos.*
09015---	Kingsland Maritime Corp.: *Scol Eminent.*
09018---	Sigurd Heriofson & Co. A/S: *Amax Trader.*
09100---	Bride Shipping Co. Ltd.: *Aegis Storm.*
09102---	Ariel Maritime Ltd.: *Aegis Thunder.*
09137---	Arne Teigens Rederi A/S: *Ryttervik.*
09206---	Societe Navale Chargeurs Delmas-vieljeux: *Delchim Dauphine.*
09402---	Stephen & Stephen S.A.: *Zaida.*
09850---	Inter Wave Shipping Co. S.A.: *Queen of Cephalonia.*
10115---	Carga Atlantica Navegacion S.A.: *Aegis Diligence.*
10143---	Compagnie Maritime Zairoise: *Joseph Okito, Maurice M Polo.*
10198---	Fair Lady Navigation S.A.: *Subaru Maru.*
10354---	Flipper Shipping Co., Ltd.: *Hippo Sailor.*
10386---	Frendo Alesund A/S: *Frendo Partnership.*
10434---	Chelsea Navigation Co., Inc.: *Chiqui, Thais.*
10569---	Peavey Co.: *CC 207, CC 211.*
10705---	Et Interessentskab Bestaende AF Dampskibsselskabet AF 1912 Aktieselskab, Aktieselskabet Dampskibsselskabet Svendborg OG Dampskibsselskabet AF 1960 Aktieselskab: *Leise Maersk.*
10971---	Luria Brothers & Co., Inc.: *DD 655, Enoree, DD 672.*
11286---	Binion Marine Service, Inc.: *Star JD II.*
11384---	Frendo A/S: *Frendo Carib.*
11419---	Schareff Inc.: *Concord I.*
11441---	Government of Barbados: *North Point.*
11573---	Grace Marine Co. S.A.: *Grace Marine.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 76-37441 Filed 12-20-76;8:45 am]

NONCONTAINER CARRIERS DISCUSSION AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before January 10, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

David C. Jordan, Esquire, Billig, Sher & Jones, P.C., 2033 K Street, N.W., Washington, D.C. 20006.

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Agreement No. 10109–2, among the forty-two member lines of said agreement, is an agreement to extend the approval of the basic agreement indefinitely.

By Order of the Federal Maritime Commission.

Dated: December 16, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–37439 Filed 12–20–76;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP77–23, RP73–77 and RP74–42 (PGA77–3) (DCA77–1)]

ALABAMA-TENNESSEE NATURAL GAS CO.

Proposed PGA Rate Adjustment

DECEMBER 14, 1976.

Take notice that on December 6, 1976, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35630, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, Nineteenth Revised Sheet No. 3–A. This revised tariff sheet is proposed to become effective as of January 1, 1977.

Alabama-Tennessee states that the sole purpose of such revised tariff sheet is to adjust Alabama-Tennessee's rates pursuant to the PGA provisions of Section 20 of the General Terms and Conditions of its tariff to reflect increased rates to become effective on January 1, 1977, to be charged by its sole supplier, Tennessee Gas Pipeline.

The revised tariff sheet provides for the following rates:

Rate schedule:	*19th revised sheet No. 3–A*
G–1:	
Demand	$1.63
Commodity (cents)	105.60
SG–1: Commodity (cents)	117.51
I–1: Commodity (cents)	110.96

Alabama-Tennessee also requests, pursuant to Section 154.51 of the Commission's Regulations, a waiver of the thirty days notice requirement because it did not receive Tennessee's increased rate filing, upon which Alabama-Tennessee's filing is based, until several days after the filing for increased rates was made by Tennessee Gas Pipeline.

Alabama-Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37441 Filed 12–20–76;8:45 am]

[Docket No. CP73–329 (PGA 77–2)]

CHATTANOOGA GAS CO.

Proposed PGA Rate Adjustment

DECEMBER 14, 1976.

Take notice that on December 2, 1976, Chattanooga Gas Company, A Division of Jupiter Industries, Inc., (Chattanooga) tendered for filing proposed changes to Original Volume No. 1 of its FPC Gas Tariff to be effective on December 1, 1976, consisting of the following revised tariff sheets:

Substitute Twentieth Revised Sheet No. 6.

Chattanooga states that the sole purpose of this Revised Tariff Sheet is to adjust Chattanooga's LNG rates pursuant to the PGA provision in Section 5 of the General Terms and Conditions of its FPC Tariff to reflect increased purchased gas costs resulting from PGA rate increases by one of its suppliers, East Tennessee Natural Gas Company, (East Tennessee) in Docket No. RP71–15, Opinion No. 770–A Special PGA Increase and Docket Nos. RP75–114, *et al.*

The proposed change in rates by East Tennessee reflect the effect of Settlement Agreement Rates in Docket Nos. RP75–114, *et al.* East Tennessee's commodity rates also reflect an increase of 21.52¢ per MCF as a result of producer increases made pursuant to FPC Opinion No. 770–A.

This substitute filing is necessary due to the revision of Opinion No. 770 as set forth in Opinion No. 770–A. For this reason, Chattanooga hereby withdraws its Twentieth Revised Tariff Sheet No. 6 filed with the Commission on October 1, 1976. The rates contained in Chattanooga's October 1, 1976 filing were never placed into effect.

Chattanooga requests that its Substitute Twentieth Revised Sheet No. 6 be made effective on December 1, 1976, the proposed eff ctive date of the underlying increase by East Tennessee.

Chattanooga states that copies of the filing have been mailed to all of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37407 Filed 12–20–76;8:45 am]

[Docket No. CP77–74]

COLORADO INTERSTATE GAS CO.

Application

DECEMBER 14, 1976.

Take notice that on November 29, 1976, Colorado Interstate Gas Company (Applicant), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP77–74, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for authority to construct and operate a meter station for deliveries of natural gas to Natural Gas Pipeline Company of America (NGPL) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes a meter station to be located at a point of interconnection between its pipeline system and the NGPL system in Moore County, Texas. It states that the new delivery point will consist of two 8-inch meter runs with appurtenant piping and metering equipment at a total estimated cost of $44,222. It further states that maximum delivery volumes through the proposed station will be 50,000 Mcf per day (at 14.65 psia) and that these deliveries will be used to supplement deliveries now made to NGPL through the Forgan Sales Meter Station located in Beaver County, Oklahoma. No increase in total peak or annual delivery obligations to NGPL will result, it asserts.

Applicant states that it is obligated under FPC Rate Schedule H–1 to deliver 18,025,000 Mcf per year of natural gas with a minimum heat content of 950 Btu's per cubic foot to NGPL. It indicates that other current obligations require minimum gas Btu content of either 963 Btu's or 950 Btu's per cubic foot. Applicant states that one of its fields, Keyes Field, produces low Btu content gas of about 835 Btu's per cubic foot which must be mixed with appreciable quantities of high Btu gas from other stations or fields, principally with gas from its Mocane-Laverne Field. Mocane-Laverne produces gas containing about 1,045 Btu's per cubic foot, it is asserted. Applicant estimates the volume of Mocane-Laverne gas available for blending purposes will drop 48% through 1979 to 14,200 Mcf as compared to a projected 1979 production level of 15,844 Mcf from Keyes. It also projects that peak day production through 1979 will decline only 13 percent at Keyes but 48 percent at Mocane-Laverne. Applicant indicates that the proposed metering station is not intended for use on a regular basis, rather, it will allow Applicant to supplement deliveries to NGPL when large volumes of high Btu Mocane-Laverne gas are required to offset low Btu Keyes gas.

Applicant also states that NGPL has agreed to accept deliveries at the proposed station; that NGPL has advised it that such deliveries will not affect NGPL's present transmission operations; and that NGPL has advised the Applicant that an application for authority to install the pipeline tap required to effectuate the gas deliveries from the proposed meter station would be sought by NGPL.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37410 Filed 12–20–76;8:45 am]

[Docket No. RP75–8 (PGA77–1)]

COMMERCIAL PIPELINE COMPANY, INC.

PGA Filing

DECEMBER 14, 1976.

Take notice that on December 3, 1976 Commercial Pipeline Company, Inc. (Commercial) tendered for filing Revised Substitute 15th Revised Sheets No. 3A reflecting Purchased Gas Adjustments and effective dates as set out below:

Sheet No.: Revised Substitute 15th Revised 3A.
Current adjustments: 0.1062.
Cumulative adjustments: 0.4262.
Effective date: December 1, 1976.

Commercial states that these revisions track precisely similar revisions in the tariff of Cities Service Gas Company, its sole supplier. Commercial requests waiver of notice to the extent required to permit said tariff sheets to become effective as proposed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) all such petitions or protest should be filed on or before December 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.70–37404 Filed 12–20–76;8:45 am]

[Docket No. E–9566]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Request for Confirmation and Approval of Rates

DECEMBER 14, 1976.

Take notice that on August 18, 1976, and December 2, 1976, the Secretary of the Interior (Interior) on behalf of the Bureau of Reclamation (Bureau), filed a request seeking Commission confirmation and approval of rates for the sale of power and energy generated at the Amistad and Falcon Dam Projects to the South Texas Electric Cooperative, Inc., and the Medina Electric Cooperative, Inc.

The electric powerplant of the Falcon Dam Project is operated by the United States Section of the International Boundary and Water Commission (IBWC). The Bureau of Reclamation (Bureau) has been marketing Falcon Dam power and energy to the Central Power and Light Company pursuant to the terms of a contract which expires December 31, 1977.

Although the dam at the Amistad site has been constructed, Interior asserts that the power plant was never built due to the inability to execute a suitable sales contract. Interior maintains that the proposed contract, since it guarantees a repayment within 50 years, would afford the United States the opportunity to construct the Amistad hydroelectric power plant in accordance with the 1944 Water Treaty between the United States and Mexico (59 Stat. 1219) and various acts of Congress.

Under Article 9 of the proposed contract, the contractors would be billed for electric service in annual installments (payable in 12 equal monthly installments) composed of:

1. The amount necessary to amortize the total investment costs of the hydroelectric power facilities at Amistad over a 50–year period.
2. The amount necessary to amortize the remaining investment costs of the hydroelectric power facilities at Falcon.
3. The annual operation, maintenance, replacement, and administrative costs of the IBWC and the Bureau of Reclamation.

Such annual installments will not be dependent upon the power and energy made available for sale in any year.

The following is a breakdown of the costs of both projects:

Falcon: Remaining financial obligation (June 30, 1976)	$7,136,246
Amistad:	
Cost of previous construction	2,887,751
Estimated cost of new power facilities	27,686,000
Amistad total	30,573,751
Annual costs:	
Falcon:	
50–yr amortization at 2½ pct.	251,610
O.M. & R.	250,000
Subtotal	501,610
Amistad:	
50–yr amortization (previous costs) at 2⅝ pct.	104,175
50–yr amortization (new facilities) at 6⅝ pct.	1,942,948
O.M. & R.	250,000
Subtotal	2,297,323
Total	2,798,933

The estimated average annual generation from both projects is about 244 million kilowatthours. At an estimated annual cost of $2,800,000, this would amount to about 11.5 mills per kilowatthour which will assure repayment of the power facilities over a 50–year period.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed by January 14, 1977. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37403 Filed 12–20–76;8:45 am]

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DORCHESTER GAS PRODUCING CO.

[Docket No. G-4907]

Application for Amendment of Certificate

DECEMBER 14, 1976.

Take notice that on November 9, 1976, Dorchester Gas Producing Company (Applicant), 1122 Southwest Tower, Houston, Texas, 77002, filed in Docket No. G-4907 an application for amendment of certificate of public convenience and necessity pursuant to §§ 157.23-157.27 of the Commission's Regulations under the Natural Gas Act requesting the Commission to amend the certificate of public convenience and necessity issued on June 22, 1955, in Docket No. G-4907, all as more fully set forth in its application on file with the Commission and open to public inspection.

Applicant states that it is now engaged in modernizing and installing new equipment in its gasoline and dehydration plants in which gas produced from wells on its leasehold estates has been processed and the reserved hydrocarbons removed for more than 25 years. When the modernization program is completed the gasoline and dehydration plants will be more efficient in extracting reserved hydrocarbons and less gas will be required for plant fuel.

Applicant also states that by installing additional modern facilities in the gasoline plant it will be able to extract its reserved nitrogen, the extraction of which will then permit Applicant to extract a greater percent of its reserved hydrocarbons, without reducing the heating value of the residue gas delivered to Natural below the contract level of 950 Btu's per cubic foot.

However, because approximately 33% of the Btu's in the gas stream entering the gasoline plant would be removed by Applicant were it to extract its reserved nitrogen and a larger percent of its reserved hydrocarbons, as it would have a right to do under the gas purhase contract of December 1, 1946, Applicant and Natural Gas Pipeline Company of America have agreed to amend their gas purchase contract by limiting the Btu's that Applicant may remove as plant process fuel and remove in extracting its reserved hydrocarbons to 25% of the Btu's in the gas stream entering the gasoline plant.

Applicant requests that the Commission amend its certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act, if an amendment by necessary for Applicant to continue selling and delivering gas to Natural under Applicant's FPC Gas Rate Schedule No. 2 as that rate schedule was amended on May 6, 1976, by a supplement filed on June 9, 1976.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 27, 1976, file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time herein, if the Commission on its own review of the matter finds that an abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37405 Filed 12-20-76;8:45 am]

[Docket No. RP76-114]

MIDWESTERN GAS TRANSMISSION CO.

Filing of Substitute Tariff Sheets

DECEMBER 14, 1976.

Take notice that on December 1, 1976, Midwestern Gas Transmission Company (Midwestern) tendered for filing the following tariff sheets to Third Revised Volume No. 1 of its FPC Gas Tariff, to be effective on January 1, 1977:

Seventeenth Revised Sheet No. 5.
Substitute Original Sheet No. 5A.
First Revised Sheet Nos. 39, 44, 49, 53, 56, 83 and 95F.
Third Revised Sheet No. 80.
Substitute Second Revised Sheet No. 85.
Second Revised Sheet No. 87.

Midwestern states that the purpose of these tariff sheets is: (1) to make certain revisions in the rates proposed in Midwestern's June 30, 1976, Section 4 rate filing, which rates were suspended to January 1, 1977, in Docket No. RP76-114, and (2) to make certain minor conforming tariff changes inadvertently overlooked in its June 30, 1976, filing. Midwestern states that such revisions reflect the current cost of purchased gas reflected in Midwestern's PGA filings of October 29, 1976 and November 22, 1976, resulting from changes in the rates of the suppliers of Midwestern's Northern and Southern systems, respectively.

Midwestern states that copies of the filing have been mailed to all affected customers, the regulatory commissions of each state in which any such customer distributes gas, and the parties in Docket No. RP76-114.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37409 Filed 12-20-76;8:45 am]

[Docket No. CP63-32]

PANHANDLE EASTERN PIPE LINE CO.

Petition To Amend

DECEMBER 14, 1976.

Take notice that on November 24, 1976, Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP63-32 a petition to amend the Commission's order issued pursuant to Section 7(c) of the Natural Gas Act on October 5, 1976 (56 FPC —), in the instant docket so as to authorize a two-year extension of time from May 1, 1977, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is indicated that the Commission's order of October 5, 1976, authorized the extension of the term of the certificate issued in Docket No. CP63-32 for an additional two-year period from May 1, 1975, and increased the maximum expenditure limitations to a total of $6,500,000. Petitioner proposes to extend the time provided for testing and development of the Montezuma-South Alta Field in Vermillion and Park Counties, Indiana, for an additional two-year period from May 1, 1977. Petitioner states that in order to determine whether the Montezuma-South Alta Field is a potentially operational storage field, it is necessary to study data collected during the coming 1976-77 winter season and this cannot be done by May 1, 1977.

It is stated that Petitioner does not, at this time, request authorization for the expenditure of any additional money in connection with the continued testing and development of the Montezuma-South Alta Field.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37408 Filed 12-20-76;8:45 am]

[Docket No. RP72-121 (PGA77-1)]

SOUTHWEST GAS CORP.

Proposed PGA Rate Increase

DECEMBER 14, 1976.

Take notice that on November 22, 1976, Southwest Gas Corporation (Southwest) filed in the above docket a proposed PGA rate increase. In its letter of transmittal to the Commission, Southwest states as follows:

Southwest Gas Corporation respectfully requests that the enclosed six (6) copies of Substitute Eighteenth Revised Sheet No. 3A, constituting Original PGA-1, and the schedule, attached hereto, be substituted for Amended Eighteenth Revised Sheet No. 2A and supporting schedule of the filing by letter dated October 14, 1976.

The reason for this filing is to replace Amended Eighteenth Revised Sheet No. 3A to reflect an overall decrease in rates of .058 cents per therm due to the filing by Northwest Pipeline Corporation to reduce the ODL-1 and increase the SGS-1 commodity charges pursuant to FPC Opinion Nos. 770 and 770-A.

This filing is to change the rates of Southwest under its Purchased Gas Adjustment Clause in Section 9 of its General Terms and Conditions contained in its FPC Volume No. 1.

Southwest respectfully requests the Commission to permit the reduction noted herein and to allow the enclosed substitute tariff sheet to become effective on December 1, 1976, concurrently with Northwest Pipeline Corporation's rate change.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37406 Filed 12-20-76;8:45 am]

[Docket No. CP77-75]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

DECEMBER 14, 1976.

Take notice that on November 14, 1976, Transcontinental Gas Pipe Line Corporation (Applicant), Post Office Box 1396, Houston, Texas 77001, filed in Docket No. CP77-75 an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Fibers Division, Allied Chemical Corporation (Fiber), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Fiber up to 8,000 Mcf [1] of natural gas per day and an estimated average of 6,000 Mcf per day for a period of two years from the date of the first delivery on an interruptible basis. It is stated that said gas will be purchased by Fiber from production in Southeast Black Bayou and Bancker Fields, Cameron and Vermillion Parishes, Louisiana, respectively, will be received at mutually agreeable points on Applicant's system in Cameron and Vermilion Parishes and will be redelivered at existing points of delivery to Commonwealth Natural Gas Corporation for the account of Fiber. Applicant indicates that said gas is for use in Fiber's Hopewell, Virginia plant and that Fiber is an existing customer of Commonwealth Natural Gas Corporation.

It is indicated that pursuant to a gas sales contract between Fiber (Buyer) and Amerada Hess Corporation and Ethyl Development Corporation (Sellers), dated November 12, 1976, Sellers agreed, contingent upon regulatory approvals, to supply up to 3,000 Mcf per day of natural gas from the Bancker Field at a price of $1.60 per Mcf at the point of delivery in the first year of the contract, and $1.70 per Mcf in the second year. It is also indicated that Fiber (Buyer) and McLain J. Forman (dba Forman Exploration Company) (Seller) entered into a contract on November 12, 1976 for the sale of up to 5,000 Mcf of natural gas produced in the Southeast Black Bayou Field at a price of $1.65 and $1.75 per Mcf in the first and second years of the contract, respectively.

Applicant states that it will retain 3.8 percent of the volume received for transportation as make-up for compressor fuel and line loss and that the initial transportation charge will be 22 cents per Mcf (at 14.7 psia). Applicant asserts that the proposed transportation service will have no effect on its ability to deliver to Priority I markets. It contends that the gas purchased by Fiber would otherwise have been sold in intrastate markets.

[1] All volumes at 15.025 psia unless indicated.

It is indicated that Fiber uses natural gas in the process of producing ammonia, carbon dioxide and hydrogen at its Hopewell, Virginia plant. It is further stated that substantial Priority II curtailments would reduce production of these products and have a significant impact on nationwide fertilizer and fiber production. At Fiber's plants in Chesterfield, Virginia, Pottsville, Pennsylvania, Columbia, South Carolina, and Hopewell, Virginia a total of 5,000 employees could be affected by any substantial curtailment, it is asserted. Applicant further claims that Fiber has reduced natural gas consumption at its Hopwell ammonia plant by 30 percent in the past three years.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 7, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37412 Filed 12-20-76;8:45 am]

FEDERAL RESERVE SYSTEM

CALIFORNIA SAVINGS AND LOAN LEAGUE, ET AL.

Orders Approving Exemption Application

[Docket No. R-0057]

The California Savings and Loan League, on behalf of all California-chartered savings and loan associations, has applied to the Board for an exemption from the disclosure requirements of

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the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801–2809), as implemented by Regulation C (12 CFR 203). The League's application was filed pursuant to section 306(b) of the Act (12 U.S.C. 2805(b)) and section 203.3(a)(3) and the Supplement to Regulation C (12 CFR 203.3(a)(3)), and is based upon the requirements of the California Administrative Code (Subchapter 20) and the implementing directives of the California Department of Savings and Loan. In its application, the League claims that the applicable State disclosure regulations and directives contain requirements that are substantially similar to those imposed under the Federal Act and that State law contains adequate provisions for the enforcement of the State disclosure requirements.

Notice of the application, affording opportunity for interested persons to submit comments, was published in the FEDERAL REGISTER on October 1, 1976 (41 FR 43470). The time for filing comments has expired, and the Board has considered the application and the comments received in view of the requirements set forth in section 306(b) of the Act and section 203.3(a)(3) and the Supplement of Regulation C.

In acting upon exemption applications under the Home Mortgage Disclosure Act, the Board considers whether State law (including the regulations and directives of State agencies) imposes mortgage and home improvement loan disclosure requirements that, in substance, are similar in purpose and operation to the requirements of the Federal Act. In that regard, the principal concern is whether State law provides depositors, citizens, and public officials

with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

(Section 302(b) of the Home Mortgage Disclosure Act, 12 U.S.C. 2801(b).) In addition, the Board considers whether State law contains adequate provisions for enforcement of the State disclosure requirements.

On the basis of the record, the Board has determined that the regulations and directives of the California Department of Savings and Loan impose disclosure requirements that are substantially similar to those imposed under the Federal Act and that applicable California law contains adequate provisions for the enforcement of the Department's disclosure requirements. Accordingly, the application is hereby approved, and all California-chartered savings and loan associations that are subject to the Loan Register and Fair Lending regulations and directives of the California Department of Savings and Loan are hereby exempted from the data compilation and disclosure requirements of the Home Mortgage Disclosure Act, as implemented by §§ 203.4 and 203.5 of Regulation C (12 CFR 203.4 and 203.5). This determination is subject to the conditions set forth below and to the provisions of paragraph (e) of the Supplement to Regulation C regarding the Board's right to revoke any exemption if at any time it determines that applicable State law in fact does not impose requirements that are substantially similar to those imposed under the Home Mortgage Disclosure Act or that such law does not contain adequate provisions for enforcement.

The continuation of the exemption granted to each California-chartered savings and loan association by this Order is subject to the fulfillment of the following three conditions: (1) That separate disclosure statements for each such association's last full fiscal year prior to July 1, 1976 and for the month of July 1976, containing information supplied by the California Department of Savings and Loan and information on home improvement loans originated and purchased during the applicable periods, be made publicly available at such association's offices by December 31, 1976; (2) that a disclosure statement for at least the period from August 1 through December 31, 1976, containing information supplied by the Department, be made publicly available at such association's offices by March 31, 1977; and (3) that those and all future disclosure statements issued prior to June 28, 1980 be retained for public inspection for a period of five years from the date that they are initially disclosed.

By order of the Board of Governors, effective December 8, 1976.

ILLINOIS

[Docket No. R–0058]

The State of Illinois, through the Savings and Loan Commissioner, and the Illinois Savings and Loan League have applied to the Board for exemptions from the disclosure requirements of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801–2809), as implemented by Regulation C (12 CFR 203). The applications of the Commissioner and the League were filed pursuant to section 306(b) of the Act (12 U.S.C. 2805(b)) and section 203.3(a)(3) and the Supplement to Regulation C (12 CFR 203.3(a)(3)), and are based upon the requirements of the Illinois Financial Institutions Disclosure Act (95 Ill. Rev. Stat. 201–208) and the implementing directives of the Illinois Department of Financial Institutions. In their applications, the Commissioner and the League claim that the State disclosure act and directives contain requirements that are substantially similar to those imposed under the Federal Act and that State law contains adequate provisions for the enforcement of the State disclosure requirements.

Notice of the applications, affording opportunity for interested persons to submit comments, was published in the FEDERAL REGISTER on October 1, 1976 (41 FR 43470). The time for filing comments has expired, and the Board has considered the applications and the comments received in view of the requirements set forth in section 306(b) of the Act and section 203.3(a)(3) and the Supplement of Regulation C.

In accordance with the disclosure forms prescribed by the Director of the Illinois Department of Financial Institutions, the Board interprets section 3 of the Illinois Financial Institutions Disclosure Act (95 Ill. Rev. Stat. 203) as requiring the disclosure by ZIP code area and census tract of the outstanding portfolio of purchased as well as originated mortgage and home improvement loans, without differentiation between purchases and originations. On the basis of that interpretation and the record, the Board has determined that the Illinois Financial Institutions Disclosure Act and implementing directives of the Illinois Department of Financial Institutions impose disclosure requirements that are substantially similar to those imposed under the Federal Act and that applicable Illinois law contains adequate provisions for the enforcement of the State's disclosure requirements.

Accordingly, the applications are hereby approved, and all Illinois-chartered commercial banks, savings banks, and savings and loan associations that are subject to the Illinois Financial Institutions Disclosure Act are hereby exempted from the data compilation and disclosure requirements of the Home Mortgage Disclosure Act, as implemented by §§ 203.4 and 203.5 of Regulation C (12 CFR 203.4 and 203.5). This determination is subject to the conditions set forth below and to the provisions of paragraph (e) of the Supplement to Regulation C regarding the Board's right to revoke any exemption if at any time it determines that applicable State law in fact does not impose requirements that are substantially similar to those imposed under the Home Mortgage Disclosure Act or that such law does not contain adequate provisions for enforcement.

Notwithstanding the exemption granted by this Order, any Illinois-chartered depository institution that is subject to the disclosure requirements of the Home Mortgage Disclosure Act, as implemented by Regulation C, shall not be exempt from such requirements to the extent that it has an "office" in any "standard metropolitan statistical area" located wholly or partially within Illinois that contains an Illinois county having a current population of 100,000 or fewer persons if that institution originates or purchases "mortgage loans" relating to "residential real property" located in any such county (as the relevant terms are defined in Regulation C). Any such loans shall be disclosed as provided in §§ 203.4 and 203.5 of Regulation C.

The continuation of the exemption granted to each Illinois-chartered bank and savings and loan association by this Order is subject to the fulfillment of the following two conditions: (1) That the Board be informed in a timely fashion of any developments in the litigation styled Glen Ellyn Savings and Loan Association, et al. v. Tsoumas, in the Circuit Court for the Seventh Judicial Circuit of Illinois (Law No. 124–76); and (2) that all disclosure statements issued prior to June 28, 1980 under the Illinois Financial Institutions Disclosure Act be retained for public inspection for a period of five years from the date that they are initially disclosed.

By order of the Board of Governors, effective December 8, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

MASSACHUSETTS

[Docket No. R–0052]

The Commonwealth of Massachusetts, through the Commissioner of Banks, and the Savings Banks Association of Massachusetts have applied to the Board for exemptions from the disclosure requirements of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801–2809), as implemented by Regulation C (12 CFR 203). The applications of the Commissioner and the Association were filed pursuant to section 306(b) of the Act (12 U.S.C. 2805(b)) and section 203.3(a)(3) and the Supplement to Regulation C (12 CFR 203.3(a)(3)), and are based upon directives issued on June 14 and July 27, 1976 by the Commissioner. In their applications, the Commissioner and the Association claim that the Commissioner's directives contain requirements that are substantially similar to those imposed under the Federal Act and that State law contains adequate provisions for the enforcement of the State disclosure requirements.

Notice of the Commissioner's application, affording opportunity for interested persons to submit comments, was published in the FEDERAL REGISTER on August 16, 1976 (41 FR 34701). The time for filing comments has expired, and no comments have been submitted. The Board has considered the applications in view of the requirements set forth in section 306(b) of the Act and section 203.3(a)(3) and the Supplement of Regulation C.

In accordance with the disclosure forms prescribed by the Commissioner, the Board interprets the Commissioner's directives as requiring the disclosure by ZIP code area or census tract, as appropriate, of the outstanding portfolio of purchased as well as originated mortgage and home improvement loans, without differentiation between purchases and originations. On the basis of that interpretation and the record, the Board has determined that the directives of the Commissioner impose disclosure requirements that are substantially similar to those imposed under the Federal Act and that applicable Massachusetts law contains adequate provisions for the enforcement of the Commissioner's disclosure requirements.

Accordingly, the applications are hereby approved, and all Massachusetts-chartered depository institutions that are subject to the Commissioner's directive are hereby exempted from the data compilation and disclosure requirements of the Home Mortgage Disclosure Act, as implemented by §§ 203.4 and 203.5 of Regulation C (12 CFR 203.4 and 203.5). This determination is subject to the conditions set forth below and to the provisions of paragraph (e) of the Supplement to Regulation C regarding the Board's right to revoke any exemption if at any time it determines that applicable State law in fact does not impose requirements that are substantially similar to those imposed under the Home Mortgage Disclosure Act or that such law does not contain adequate provisions for enforcement.

Notwithstanding the exemption granted by this Order, any Massachusetts-chartered depository institution that is subject to the disclosure requirements of the Home Mortgage Disclosure Act, as implemented by Regulation C, shall not be exempt from such requirements to the extent that it has an "office" in any "standard metropolitan statistical area" located wholly or partially within Massachusetts that is not covered by a disclosure directive of the Commissioner if that institution originates or purchases "mortgage loans" relating to "residential real property" located in any such area (as the relevant terms are defined in Regulation C). Any such loans shall be disclosed as provided in §§ 203.4 and 203.5 of Regulation C.

The continuation of the exemption granted to certain Massachusetts-chartered depository institutions by this Order is subject to the fulfillment of the following two conditions: (1) That any subsequent disclosure directives of the Commissioner contain reporting requirements that are identical to those set forth in the Commissioner's June 14 and July 27, 1976 directives (except that other areas within Massachusetts may be covered); and (2) that all disclosure statements issued prior to June 28, 1980 under a directive of the Commissioner be retained for public inspection for a period of five years from the date that they are initially disclosed.

By order of the Board of Governors, effective December 8, 1976.

NEW YORK

[Docket No. R–0047]

The State of New York, through the Banking Department, has applied to the Board for an exemption from the disclosure requirements of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801–2809), as implemented by Regulation C (12 CFR 203). The Department's application was filed pursuant to section 306(b) of the Act (12 U.S.C. 2805(b)) and section 203.3(a)(3) and the Supplement to Regulation C (12 CFR 202.3(a)(3)), and is based upon the requirements of the Department's Supervisory Procedure G 107. In its application, the Department claims that its disclosure regulations contain requirements that are substantially similar to those imposed under the Federal Act and that State law contains adequate provisions for the enforcement of the State disclosure requirements.

Notice of the application, affording opportunity for interested persons to submit comments, was published in the FEDERAL REGISTER on July 20, 1976 (41 FR 29917). The time for filing comments has expired, and the Board has considered the application and the comments received in view of the requirements set forth in section 306(b) of the Act and section 203.3(a)(3) and the Supplement of Regulation C.

On the basis of the record and the condition specified in this Order, the Board has determined that the regulations of the Banking Department impose disclosure requirements that are substantially similar to those imposed under the Federal Act and that applicable New York law contains adequate provisions for the enforcement of the Department's disclosure requirements. Accordingly, the application is herbey approved, and all New York-chartered commercial banks, mutual savings banks, and savings and loan associations that are subject to the Department's Supervisory Procedure G 107 are hereby exempted from the data compilation and disclosure requirements of the Home Mortgage Disclosure Act, as implemented by §§ 203.4 and 203.5 of Regulation C. This determination is subject to the condition set forth below and to the provisions of paragraph (e) of the Supplement to Regulation C regarding the Board's right to revoke any exemption if at any time it determines that applicable State law in fact does not impose requirements that are substantially similar to those imposed under the Home Mortgage Disclosure Act or that such law does not contain adequate provision for enforcement.

The continuation of the exemption granted by this Order is subject to the fulfillment of the following condition: that the New York State Banking Department promulgate an amendment to the provisions of its Supervisory Procedure G 107 to require depository institutions subject to that Procedure to disclose all mortgage loans acquired by any means during each fiscal year, commencing with the last full fiscal year ending prior to July 1, 1976, in at least the detail required pursuant to Section I of Appendix 8 of the Procedure. Any amendments to comply with this condition must become effective by June 1, 1977, and a copy of the amendments must be filed with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, by April 1, 1977.

By order of the Board of Governors, effective December 8, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76–37461 Filed 12–20–76;8:45 am]

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GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collection information from the public were received by the Regulatory Reports Review Staff, GAO, on December 13, 1976 (FCC), and December 14, 1976 (SEC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and SEC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before January 10, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5216, 425 I Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL COMMUNICATIONS COMMISSION

FCC requests clearance of a revision of FCC Form 808, Application for and Certificate of Overtime Service Involving Inspection of Ship Radio Equipment. The Commission has adopted and prescribed in its Rules and Regulations (Section 83.48(a)(12)) the use of this form. FCC Form 808 has been revised under delegation of authority to the Chief, Field Operations Bureau, to include "official number", "port of registry", "gross tonnage" and whether "passenger or cargo" vessel. FCC estimates respondent burden to average 5 minutes per response. The FCC receives approximately 100 applications per year.

SECURITIES AND EXCHANGE COMMISSION

The Directorate of Economic and Policy Research of the Securities and Exchange Commission proposes to survey the users of SEC statistics—to ascertain the extent to which SEC data are used; the uses made of the data; where the users obtain the data; and user comments on the periodicity; amount of detail and timeliness of the data. The new single time survey will go to those type of individuals most likely to need and use financial data, e.g., economists, financial analysts, finance professors and financial writers. SEC estimates burden to average 12 minutes per response and potential respondents to number 15,000.

NORMAN F. HEYL,
Regulatory Reports,
Review Officer.

[FR Doc.76-37482 Filed 12-20-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Notice of Meeting

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and the FDA regulations, 21 CFR Part 2, Subpart D, relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Neurologic Drugs Advisory Committee; ad hoc panel on Reye Syndrome.	Jan. 10, 9:30 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9:30 a.m. to 10:30 a.m.; open committee discussion 10:30 a.m. to 4:30 p.m.; Eileen F. Barker, (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3870.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in neurologic diseases.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion on the review of epidemiologic surveillance of Reye Syndrome; review of adverse reaction reports for antiemetics; review of labeling for antiemetics; review and discussion of indications for antiemetic use in children; review of metabolic changes in Reye Syndrome; and review of clinical management of Reye Syndrome.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 2, Subpart D, published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52148).

The Commissioner approves the scheduling of meetings at locations outside of the Washington, DC, area on the basis of the criteria of § 2.307 (21 CFR 2.307) of FDA's regulations relating to public advisory committees.

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner
for Compliance.

[FR Doc.76-37505 Filed 12-20-76;8:45 am]

ADVISORY COMMITTEES

Notice of Meetings

This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and the FDA regulations, 21 CFR Part 2, Subpart D, relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Obstetrical and Gynecological Panel.	Jan. 10, 9 a.m., Room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; Lillian Yin, Ph. D., (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to obstetrical and gynecological devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by December 30, 1976, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will review the draft obstetrical and gynecological device classification report.

Committee name	Date, time, and place	Type of meeting and contact person
2. Endoscopic and Electrosurgical Devices Subcommittee of the Obstetrical and Gynecological Panel.	Jan. 11, 9 a.m., Room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m. open committee discussion 10 a.m. to 4 p.m.; Lillian Yin, Ph. D., (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to endoscopic and electrosurgical devices to the executives secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by December 31, 1976, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussions. The subcommittee will discuss the safety and effectiveness of endoscopic and electrosurgical devices. The subcommittee will draft guidelines for a product development protocol for laparoscopic bipolar coagulators.

Committee name	Date, time, and place	Type of meeting and contact person
3. Oncologic Drugs Advisory Committee.	Jan. 13 and 14, Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Jan. 13, 9 a.m. to 10 a.m.; open committee discussion Jan. 13, 10 a.m. to 4 p.m.; closed committee deliberations Jan. 14, 9 a.m. to 9:15 a.m.; open committee discussion Jan. 14, 9:15 a.m. to 2:30 p.m.; C. H. Manwell, M.D. (HFD-230), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5197.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cancer.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the history of the Federal Food, Drug, and Cosmetic Act, definition of a new drug, combination chemotherapy policy, conflict of interest in oncologic drugs, policy effectiveness standards for new drug applications (NDA's), Tamoxifen (NDA17-970), action report, new NDA's, previous minutes, and other committee business.

Closed committee deliberations. Review and dicussion of new investigational new drugs (IND's) in the Division of Oncology and Radiopharmaceuticals. This portion of the meeting will be closed to protect trade secret data (5 U.S.C. 552 (b) (4)).

Committee name	Date, time, and place	Type of meeting and contact person
4. Cardiovascular and Renal Advisory Committee.	Jan. 17 and 18, Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Jan. 17, 9 a.m. to 10 a.m.; open committee discussion Jan. 17, 10 a.m. to 4 p.m., Jan. 18, 9 a.m. to 12:30 p.m.; Joan C. Standaert, (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested person may present data, information or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of new drug application for Norpace (NDA 17-447); of new guidelines for advisory committees; and action report on previous committee recommendations.

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Committee name	Date, time, and place	Type of meeting and contact person
5. Pulmonary Functions and Respiratory Therapy Subcommittee of the Anesthesiology Panel.	Jan. 26, 9 a.m., Room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; Franklyn K. Coombs, P.E., (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of pulmonary function devices as listed below to the executive secretary.

The subcommittee will continue to modify the device list in order to have generic terms which are descriptive of the devices used in this specialty area. Public comments on the device list are welcome.

Open committee discussion. The subcommittee will continue to complete the supplementary data sheets for the following devices: spirometer: respirometer; peak flow meter; inspiratory force motor; incentive post-operative spirometer radioisotopic pulmonary function systems; body plethysmograph; gas analyzer, O_2; gas analyzer, CO_2; gas analyzer, CO; gas analyzer, N_2; gas chromatograph, CO_2; gas chromatograph, CO; gas chromatograph, O_2; gas chromatograph, H_2; gas chromatograph, He; mass spectrograph, N_2; mass spectrograph, CO; mass spectrograph, O_2; mass spectrograph, CO_2; blood gas analyzer, O_2; blood gas analyzer, CO_2; blood gas analyzer, CO; blood pH analyzer; flow transducer; pressure transducer; flow calibrator; pressure calibrator; volume calibrator; barometer; humidity monitor; collecting systems; esophageal balloon; predicted value calculator; pulmonary functions calculator; interpretive pulmonary functions calculator; CO_2 adsorbers; nose clips; calibration gas mixing pump; treadmill; ergometer; biopsy needle; biopsy brush; biopsy forceps; biopsy curette.

Committee name	Date, time, and place	Type of meeting and contact person
6. Dental Panel	Jan. 27 and 28, 9 a.m., Room 4131, HEW-N, 330 Independence Ave. SW., Washington, D.C.	Open public hearing Jan. 27, 9 a.m. to 10 a.m.; open committee discussion Jan. 27, 10 a.m. to 4 p.m., Jan. 28, 9 a.m. to 4 p.m.; D. Gregory Singleton, D.D.S., (HFK-400), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to those devices listed below to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by January 15, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. Review of classification and completion of supplementary data sheets for the following devices: hand instruments; calculus removal devices; diamond instruments; hand pieces and accessories; ultrasonic prophylaxis unit; denture reliners, pads, and cushions; denture repair kits; pulp canal filling materials and accessories; denture base relining material; sealant, pit and fissure conditioner.

Committee name	Date, time, and place	Type of meeting and contact person
7. Orthopedic Panel	Jan. 28, 9 a.m., Room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; James G. Dillon, Ph. D., (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to classification of orthopedic devices to James G. Dillon, Ph.D., Executive Secretary. Submission of data relative to tentative classification findings is also invited.

Open committee discussion. In accordance with the Medical Device Amendments of 1976 (Pub. L. 94-295), the panel will review the available information and classify the following devices: finger, toe, elbow, carpal, total wrist, knee, shoulder, upper humerus, ankle, hip, interpositional, tendon (passive) prostheses; clamps, curettes, cutting instruments, drills, burrs, guides, mallets, rasps, broaches, files, reamers, retractors, elevators, extractors and impactors, forceps, pliers, wrenches, calipers, depth gauges, goniometers, dynamometers, cement mixers, orthopedic fasteners, fixation devices, arthroscopes, implants for total bone replacement, spinal fixation devices, and hemiarthroplasties.

Any organization or person interested in presenting scientific data or information pertinent to the panel's classification activities should contact the panel's executive secretary.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 2, Subpart D, published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52148).

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, DC, area on the basis of the criteria of § 2.307 (21 CFR 2.307) of FDA's regulations relating to public advisory committees.

Dated: December 16, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76-37506 Filed 12-20-76;8:45 am]

ADVISORY COMMITTEES

Notice of Meetings

This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and the FDA regulations, 21 CFR Part 2, Subpart D, relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Obstetrics and Gynecology Advisory Committee.	Jan. 6, 9 a.m. Conference Rooms G and H, Parklawn Bldg., 5600 Fishers Lane Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; A. T. Gregoire, Ph. D., (HFD-130), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3510.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Any interested persons may present data, information or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the concepts of revision of clinical guidelines for testing of systematic contraceptive products.

Committee name	Date, time, and place	Type of meeting and contact person
2. Antimicrobial Panel	Jan. 7 and 8, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Jan. 7, 9 a.m. to 10 a.m.; open committee discussion Jan. 7, 10 a.m. to 4:30 p.m; Jan. 8, 9 a.m. to 4:30 p.m.; Armond M. Welch, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
3. Dentifrice and Dental Care Panel.	Jan. 12 and 13, 9 a.m., Conference Room L, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Jan. 12, 9 a.m. to 10 a.m.; open committee discussion Jan. 12, 10 a.m. to 4:30 p.m., Jan. 13, 9 a.m. to 4:30 p.m.; Michael D. Kennedy, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
4. Ophthalmic Panel	Jan. 13 and 14, 9 a.m., Room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing Jan. 13, 9 a.m. to 10 a.m.; open committee discussion Jan. 13, 10 a.m. to 5 p.m.; open public hearing Jan. 14, 9 a.m. to 10 a.m.; open committee discussion Jan. 14, 10 a.m. to 5 p.m.; James G. Dillon, (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to classification of ophthalmic devices to James G. Dillon, Ph. D., Executive Secretary. Submission of data relative to tentative classification findings is also invited.

Open committee discussion. In accordance with the Medical Device Amendments of 1976, the Ophthalmic Device Classification Panel will review the available information and classify the following devices: cornea measuring devices, diagnostic lenses, electrodiagnostic equipment, diagnostic devices, entopic phenomena testing devices, glare threshold testing devices, haploscopes, steroscopes,

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diploscopes, refraction measuring devices, visual acuity testing devices, visual field testing devices, surgical devices, therapeutic lenses and accessories, and visual aids.

Any organization or person interested in presenting scientific data or other information pertinent to the panel's classification activities should contact the panel's executive secretary.

Committee name	Date, time, and place	Type of meeting and contact person
5. Cardiovascular Panel.....	Jan. 14, 9 a.m., Room 5169, HEW-N, 330 Independence Ave. SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; Glenn A. Rahmoller, (HFK-450), 8757 Georgia Ave., Silver Spring, Md 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of cardiovascular devices to Glenn A. Rahmoeller, Executive Secretary.

Open committee discussion. The panel members will review the supplementary data sheets for the following devices: densitometers, fiberoptic oximeter catheters, flowmeters, intracavitary phono catheter systems, guide holders, steerable catheters, vessel dilators, isolation transformers, line isolation monitors, signal isolation systems, biopotential amplifiers (e.g., ECG), patient transducer and electrode cables, plethysmographs (impedance), transducer amplifiers (e.g., blood pressure), medical oscilloscopes, biopotential signal conditioners (ECG signal conditioners), blood pressure alarms, blood pressure computers, leakage current alarms, external transcutaneous cardiac pacemakers (noninvasive), pacemaker electrode testers, pacemaker function analyzers, pacemaker lead adapters, pacemaker service kits, pacemaker test magnets, valve holders, valve sizers, adapters, arterial bypass catheters, blood reservoirs, coronary perfusion pressure monitors, coronary pressure gauges, deformers, fittings, heat exchangers, intracardiac suckers, intracardiac suction controls, level sensing controls, oxygen controllers, oxygen sensors, pump speed controls, pumps, temperature controllers, tubing, vascular catheters and cannulae, saws, pacemaker dacron mesh bags, hyperthermia devices, hypothermia devices, intraluminal artery strippers, vascular clamps, external cardiac compressors (electrically powered), external cardiac compressors (manually powered), fogarty catheters (embolectomy catheters).

Committee name	Date, time, and place	Type of meeting and contact person
6. Blood and Blood Derivatives Panel.	Jan. 14 and 15, 9 a.m., Room 130, 6110 Executive Blvd., Rockville, Md.	Open public hearing Jan. 14, 9 a.m. to 10 a.m.; open committee discussion Jan. 14, 10 a.m. to 12 m.; closed committee deliberations Jan. 14, 1 p.m. to 4 p.m.; open committee discussion Jan. 14, 4 p.m. to 5:30 p.m., Jan. 15, 8:30 a.m. to adjournment; Clay Sisk, (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of previous meeting's minutes; plasma fractionation, generic issues; letters or other communications received; generic reviews of plasma fractionation products; and generic reviews of stored red blood cell products.

Closed committee deliberations. Review of data submissions of producers of plasma fractionation products including Fibrinogen (human), Antihemophilic Factor (human), Factor IX Complex (human), Rh$_o$ (D) Immune Globulin (human), Plasma Protein Fraction (human), and Normal Serum Albumin (human). This portion of the meeting will be closed to permit discussion of trade secret manufacturing processes (5 U.S.C. 552(b)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
7. Contraceptive and Other Vaginal Drug Products Panel.	Jan. 14 and 15, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Jan. 14, 9 a.m., to 10 a.m.; open committee discussion Jan. 14, 10 a.m. to 4:30 p.m.; Jan. 15, 9 a.m. to 4:30 p.m.; Armond M. Welch, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
8. Miscellaneous External Drug Products Panel.	Jan. 14 and 15, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Jan. 14, 9 a.m. to 10 a.m.; open committee discussion Jan. 14, 10 a.m. to 4:30 p.m., Jan. 15, 9 a.m. to 4:30 p.m.; Michael D. Kennedy, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
9. Hemorrhoidal Panel.....	Jan. 22 and 23, 9 a.m., Holiday Inn, Bethesda, Md.	Open public hearing Jan. 22, 9 a.m. to 10 a.m.; open committee discussion Jan. 22, 10 a.m. to 4:30 p.m., Jan. 23, 9 a.m. to 4:30 p.m.; Thomas D. DeCillis, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
10. Microbiology Subcommittee of the Diagnostic Products Advisory Committee.	Jan. 24 and 25, 9 a.m., Room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing Jan. 24, 9 a.m. to 10 a.m.; open committee discussion Jan. 24, 10 a.m. to 5 p.m.; Jan. 25, 10 a.m. to 5 p.m.; Thomas M. Tsakeris, (HFK-200), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to data relative to tentative classification findings to Thomas M. Tsakeris, Head of Classification.

Open committee discussion. The Microbiology Subcommittee will discuss the classification of microbiological culture media products.

Committee name	Date, time, and place	Type of meeting and contact person
11. National Advisory Food and Drug Committee.	Jan. 24 and 25, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Jan. 24, 9 a.m. to 10 a.m.; open committee discussion Jan. 24, 10 a.m. to 4 p.m., Jan. 25, 9 a.m. to 1 p.m.; William V. Whiteborn, M.D., (HFG-1), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1547.

General function of the committee. Reviews and evaluates agency programs and advises on policy matters of national significance as they relate to the statutory mission of the Food and Drug Administration in the areas of foods, drugs, cosmetics, medical devices, biological products, and electronic products. Reviews and makes recommendations on applications for grants-in-aid for research projects relevant to the mission of the Food and Drug Administration as required by law.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Agenda items to be announced.

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Committee name	Date, time, and place	Type of meeting and contact person
12. Viral Vaccines and Rickettsial Vaccines Panel.	Jan. 24 and 25, 9 a.m., Room 130, 6110 Executive Blvd., Rockville, Md.	Open public hearing Jan. 24, 9 a.m. to 10 a.m.; open committee discussion Jan. 24, 10 a.m. to 4 p.m., Jan. 25, 9 a.m. to 4 .m.; Jack Gertzog, (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested person may present data, information or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of communications received and presentation by staff members on the Cell Substrate Program of the Bureau of Biologics.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman't discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 2, Subpart D, published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52148).

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, DC, area on the basis of the criteria of § 2.307 (21 CFR 2.307) of FDA's regulations relating to public advisory committees.

Dated: December 16, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76-37507 Filed 12-20-76;8:45 am]

National Institutes of Health

ARTERIOSCLEROSIS AND HYPERTENSION ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis and Hypertension Advisory Committee, National Heart, Lung, and Blood Institute, February 10-11, 1977, Holiday Inn of Chevy Chase, 5520 Wisconsin Avenue, Lobby Room, Chevy Chase, Maryland.

The entire meeting will be open to the public from 9:00 am to 6:00 pm on Thursday, February 10 and from 9:00 am to 3:00 pm on Friday, February 11, to evaluate program support in Arteriosclerosis and Hypertension. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, Room 5A-03, Building 31, National Institutes of Health, Bethesda, Maryland 20014, Phone (301) 496-4236, will provide summaries of the meeting and rosters of committee members.

Dr. Gardner C. McMillan, Associate Director for Etiology of Arteriosclerosis and Hypertension Program, NHLBI, Room C803, Landow Building, National Institutes of Health, Bethesda, Maryland 20014, Phone (301) 496-1613, will furnish substantive program information.

Dated: December 15, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-37396 Filed 12-20-76;8:45 am]

BLOOD DISEASES AND RESOURCES ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, January 24 and 25, 1977, Holiday Inn of Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20014.

The entire meeting will be open to the public from 9 am-5 pm, January 24, and from 8:30 am-4:30 pm, January 25, 1977, to discuss the status of the Blood Diseases and Resources program, needs and opportunities. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone: (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Fann Harding, Special Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Building 31, Room 5A04, National Institutes of Health, Bethesda, Maryland, 20014, phone: (301) 496-5913, will furnish substantive program information.

Dated: December 15, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-37394 Filed 12-20-76;8:45 am]

CARDIOLOGY ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, February 8-9, 1977, National Institutes of Health, Building 31, Conference Room 8.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. The agenda will include a review of the report on the Artificial Heart Program as well as a preliminary discussion of possible initiatives for 1978. Attendance by the public will be limited to space available.

Mr. Hugh Lee, Acting Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Peter L. Frommer, M.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Landow Building, Room A922, Bethesda, Maryland 20014, phone (301) 496-5421, will furnish substantive program information.

Dated: December 15, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-37395 Filed 12-20-76;8:45 am]

MAMMALIAN DNA FRAGMENTS

Solicitation of Comments on Creation of a Bank

On July 7, 1976, the National Institutes of Health published guidelines for recombinant DNA research. The guidelines were adopted after much discussion and debate within both the scientific and the law communities. They are intended to facilitate the pursuit of research while at the same time minimizing the risk to the public. Certain types of experiments, particularly those involving the creation of DNA chimeras between bacterial and mammalian genes, can only be performed under the most restrictive conditions. Despite these concerns, there are likely to be very significant uses of such materials for biomedical research and diagnostic purposes.

Since the complex large genomes of man and other mammals are now amenable to more detailed study as a consequence of advances in recombinant DNA technology, it is important that a safe, uniform, and reproducible method be developed for replicating and storing their fragments. It has been suggested to the NIGMS by members of the scientific community that a repository or bank of mammalian DNA fragments might provide a useful means for achieving these objectives. A bank of DNA fragments containing reference portions of the human and other mammalian genomes, could help keep order in this rapidly growing field and provide an invaluable national resource for investigators. Use of this bank to replicate the reference material for distribution in a safe form would foster full utilization of this new technology while maintaining compliance with the guidelines, and minimizing risk.

The National Institute of General Medical Sciences is therefore specifically interested in receiving comments on the desirability of establishing a repository of mammalian DNA fragments. Suggestions as to its operation and maintenance will also be welcome. For example, such a repository might solicit and accept defined fragments of DNA in an appropriate form. It is conceivable that the bank might also produce DNA fragments *de novo*, if this proved desirable. These fragments would then be stored, replicated, characterized, and distributed with strict attention to safety.

The National Institute of General Medical Sciences, although interested in the possibility of establishing a repository for mammalian DNA fragments, has come to no conclusion as to its advisability. A decision to proceed will, in part, be based on an evaluation of responses to this notice.

Comments should be sent to Dr. Fred H. Bergmann, Program Director, Genetics Program, National Institute of General Medical Sciences, Bethesda, Maryland 20014 within six weeks of date of publication of this notice.

This notice will also be published in SCIENCE, the "NIH Guide for Grants and Contracts," and the "Nucleic Acid Recombinant Scientific Memoranda."

(Catalog of Federal Domestic Assistance Program Number, 13.862.)

Dated: December 7, 1976.

DONALD S. FREDERICKSON,
Director, National Institutes of Health.

[FR Doc.76-37390 Filed 12-20-76;8:45 am]

NATIONAL ADVISORY CHILD HEALTH AND HUMAN DEVELOPMENT COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, January 31, February 1, 1977, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on January 31 from 9:00 a.m. to 5:00 p.m. with current status reports and scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 1 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual initial pending, supplemental, and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Council Secretary, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Maryland, Area Code 301—396-1848, will provide summaries of meetings and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864 and 13.865, National Institutes of Health.)

Dated: December 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-37400 Filed 12-20-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON AGING

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Council on Aging, January 31-February 1, 1977, at the National Institutes of Health, Bethesda, Maryland, Building 1, Conference Room 8. The meeting will be open to the public from 9:00 to 11:00 a.m. on January 31 and from 9:00 a.m. on February 1 until adjournment for remarks, status reports, and discussion of matters relating to program.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 31, from 11:00 a.m. to adjournment

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for review, discussion and evaluation of individual initial pending, supplemental, and renewal grant applications. The closed portion of the meeting will involve solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Suzanna Porter, Council Secretary, National Institute on Aging, Building 31, Room 4B–63, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5345, will provide summaries of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated: December 15, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–37398 Filed 12–20–76;8:45 am]

NATIONAL ADVISORY EYE COUNCIL

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, on January 24, 25, and 26, 1977, in Building 31, Conference Room No. 7, National Institutes of Health, Bethesda, Maryland. This meeting will convene at 9 a.m. on all three days, and be open to the public for opening remarks, discussion of procedural matters and reports on various Institute and Council-related activities until approximately 3:30 p.m. on both Monday and Tuesday, January 24 and 25. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 3:30 p.m. on Monday and Tuesday, and for the entire day until adjournment on Wednesday, January 26, for the review, discussion, and evaluation of individual initial pending, supplemental and renewal grant applications. The closed portions of the meeting involve solely the internal expression of views and judgements of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data such as salaries; and personal information concerning individuals associated with the applications.

Mr. Julian Morris, Head, Office of Scientific Reports and Program Planning, National Eye Institute, National Institutes of Health, Building 31, Room 6A–27, Bethesda, Maryland 20014, telephone (301) 496–5248, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. William F. Raub, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–04, National Institutes of Health, Bethesda, Maryland 20014, telephone (301) 496–4903.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health)

Dated: December 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–37393 Filed 12–20–76;8:45 am]

NATIONAL ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES ADVISORY COUNCIL

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and its subcommittees on January 26–28, 1977 in Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 8:30 a.m. to 10 a.m. on January 26 and from 9 a.m. to 11 a.m. on January 27 to discuss administrative reports. Attendance by the public will be limited to space available.

In addition, the below listed subcommittees of the above Council will have meetings from 10:30 a.m. to 5 p.m. on January 26, 1977: the Digestive Diseases Subcommittee will be held in Room 9A51, Building 31, NIH; the Arthritis, Bone, and Skin Diseases Subcommittee will be held in Room 9A52, Building 31, NIH; the Diabetes, Endocrine, and Metabolic Diseases Subcommittee will be held in Conference Room 10, Building 31, NIH; the Kidney, Urologic and Blood Diseases Subcommittee will be held in Room 7A24, Building 31, NIH.

In accordance with the provisions set forth in sections 522(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Council and its subcommittees will be closed to the public on January 26, 1977, from 10:30 a.m. to 5 p.m., on January 27, 1977, from 11:00 a.m. to 5 p.m., and on January 28, 1977, from 8:30 a.m. to 12:30 p.m., for the review, discussion and evaluation of individual initial pending, supplemental and renewal grant applications. The closed portions of the meetings involve solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Messrs. James N. Fordham or Lee E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496–3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13–846 through 13.850, National Institutes of Health.)

Dated: December 15, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–37399 Filed 12–20–76;8:45 am]

PRIMATE RESEARCH CENTERS ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Primate Research Centers Advisory Committee, Division of Research Resources, January 27, 1977, National Institutes of Health, Bldg. 14G, Room 104, Bethesda, Maryland 20014. The meeting will be open to the public from 9 a.m. to 4 p.m., during which time the report, "Assuring the Resources for Biomedical Research, An Evaluation of the Scientific Mission of the Division of Research Resources (DRR), NIH," conducted by the Research Resources Evaluation Panel and coordinated by Bolt, Beranek and Newman, Inc., Cambridge, MA, will be discussed. The Committee will focus its deliberations on Appendix C, Report of the Subpanel on the Animal Resources Programs of DRR, NIH, with particular reference to the evaluation of the role of the Primate Centers Program in the scientific mission of the Division of Research Resources. Responses to recommendations in the report will be developed. Attendance by the public will be limited to space available.

Mr. James Augustine, Information Officer, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, 301/496–5545, will provide summaries of the meeting and rosters of Committee members. Dr. Dennis Johnsen, Executive Secretary, Primate Research Centers Advisory Committee, Building 31, Room 5B33, Bethesda, Maryland 20014, 301/496–5507 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.306, National Institutes of Health.)

Dated: December 15, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–37391 Filed 12–20–76;8:45 am]

REVIEW OF RESEARCH CONTRACT PROPOSALS

Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6) of Title 5, U.S. Code and section 10(d) of Pub. L. 92–463 for the review, discussion and evaluation of individual research contract proposals as indicated. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the meetings and rosters of committee members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings are at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

COMMITTEE ON CANCER IMMUNODIAGNOSIS

Date: January 10, 1977; 1:00 p.m.
Place: Building 10, Conference Room 4B14, National Institutes of Health.
Times—Open: January 10, 1:00 p.m.–1:30 p.m.; Closed: January 10, 1:30 p.m.—adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Mrs. Judith M. Whalen.
Address: Building 10, Room 4B17, National Institutes of Health.
Phone: 301/496–1791.
(Catalog of Federal Domestic Assistance Number 13.394 National Institutes of Health.)

COMMITTEE ON CYTOLOGY AUTOMATION

Date: January 12–14, 1977; 9:00 a.m.
Place: Building 31A, Conference Room 4, National Institutes of Health.
Times: Open: January 12, 9:00 a.m.–10:00 a.m.; Closed: January 12, 10:00 a.m.–5:00 p.m., closed: January 13, 9:00 am.m.–5:00 p.m., closed: January 14, 9:00 a.m.–5:00 p.m.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Bill Bunnag.
Address: Building 10, Room 1A21, National Institutes of Health.
Phone: 301/496–5282.
(Catalog of Federal Domestic Assistance Number 13.394 National Institutes of Health.)

BREAST CANCER TREATMENT COMMITTEE

Date: January 13, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 9, National Institutes of Health.
Times: Open: January 13, 8:30 a.m.–12:00 noon; Closed: January 13, 1:00 p.m.–adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Mary E. Sears.
Address: Landow Building, Room A404, National Institutes of Health.
Phone: 301/496–6773.
(Catalog of Federal Domestic Assistance Number 13.395 National Institutes of Health.)

BREAST CANCER EPIDEMIOLOGY COMMITTEE

Dates: January 13–14, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open: January 13, 8:30 a.m.–10:30 a.m.; Closed: January 13, 10:30 a.m.–5:00 p.m., Closed: January 14, 8:30 a.m.–5:00 p.m.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Elizabeth P. Anderson.
Address: Landow Building, Room A406, National Institutes of Health.
Phone: 301/496–6716.
(Catalog of Federal Domestic Assistance Number 13.394 National Institutes of Health.)

DRUG DEVELOPMENT COMMITTEE

Date: January 13–14, 1977; 9:00 a.m.
Place: Arthur D. Little, Inc., 30 Memorial Drive, Cambridge Mass. 02142.
Times: Open: January 13, 9:00 a.m.—adjournment.
Agenda/Open Portion: To discuss and review (1) progress to date and projected studies under contract with Arthur D. Little for Screening and Detailed Evaluation of Antitumor-Agents and Combined Chemotherapy and Modality Studies; and (2) progress to date and projected studies under contract with Radiobiological Institute, Organization for Health Research for Studies on the Combination of Radiation and Chemotherapy.
Closed: January 15, 9:00 a.m.-adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Mrs. Naomi T. FitzGibbon. Address: Blair Building, Room 5A09, National Institutes of Health.
Phone: 301/427–7263.
(Catalog of Federal Domestic Assistance Number 13.395 National Institutes of Health.)

BREAST CANCER DIAGNOSIS COMMITTEE

Date: January 13–14, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 6. National Institutes of Health.
Times: Open: January 13, 8:30 a.m.–9 a.m. Open: January 14, 8:30 a.m.–9:30 a.m.; Closed: January 13, 9 a.m.–5 p.m. Closed: January 14, 9:30 a.m.–adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Bernice T. Radovich.
Address: Landow Building, Room B404, National Institutes of Health.
Phone: 301/496–6773.
(Catalog of Federal Domestic Assistance Number 13.394 National Institutes of Health.)

BREAST CANCER EXPERIMENTAL BIOLOGY COMMITTEE

Dates: January 13–14, 1977; 8:30 a.m.
Place: Landow Building, Room C418, 7910 Woodmont Avenue, Bethesda, Maryland 20014.
Times: Open: January 13, 8:30 a.m.–9:30 a.m.; Closed: January 13, 9:30 a.m.–5:00 p.m., Closed: January 14, 8:30 a.m.–adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. D. Jane Taylor.
Address: Landow Building, Room A422, National Institutes of Health.
Phone: 301/496–6718.
(Catalog of Federal Domestic Assistance Number 13.396 National Institutes of Health.)

CANCER CONTROL-COMMUNITY ACTIVITIES REVIEW COMMITTEE

Date: January 20–21, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 8, National Institutes of Health.
Times: Open: January 20, 8:30 a.m.–10:30 a.m.; Closed: January 20, 10:30 a.m.–5:00 p.m., Closed: January 21, 8:30 a.m.–adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Robert Browning.
Address: Blair Building, Room 7A07, National Institutes of Health.
Phone: 301/427–7945.
(Catalog of Federal Domestic Assistance Number 13.399 National Institutes of Health.)

VIRUS CANCER PROGRAM SCIENTIFIC REVIEW COMMITTEE A

Date: January 24–25, 1977; 9:00 am.
Place: Landow Building, Room C418, 7910 Woodmont Avenue, Bethesda, Maryland 20014.
Time: Open: January 24, 9:00 a.m.–9:30 a.m.; Closed: January 24, 9:30 a.m.–5:00 p.m., Closed: January 25, 9:00 a.m.–adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Clarice Gaylord.
Address: Landow Building, Room C306, National Institutes of Health.
Phone: 301/496–6085.
(Catalog of Federal Domestic Assistance Number 13.393 National Institutes of Health.)

COMMITTEE ON CANCER IMMUNOTHERAPY

Dates: January 27, 1977; 1:00 p.m.
Place: Building 10, Conference Room 4B14, National Institutes of Health.
Times: Open: January 27, 1:00–1:30 p.m. Closed: January 27, 1:30 p.m.–adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. George M. Steinberg.
Address: Building 10, Room 4B09, National Institutes of Health.
Phone: 301/496–1791.
(Catalog of Federal Domestic Assistance Number 13.395 National Institutes of Health.)

CANCER CONTROL INTERVIEW PROGRAMS A REVIEW COMMITTEE

Dates: January 28–29, 1977; 8:30 a.m.
Place: Building 31A, Conference Room 4, National Institutes of Health.
Times: Open: January 28, 8:30 a.m.–11:30 a.m.; Closed: January 28, 11:30 a.m.–5:00 p.m., Closed: January 29, 8:30 a.m.–adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Carlos E. Caban.
Address: Blair Building Room 7A07, National Institutes of Health.
Phone: 301/427–7945.
(Catalog of Federal Domestic Assistance Number 13.399 National Institutes of Health.)

Dated: December 13, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–37392 Filed 12–20–76;8:45 am]

WORKSHOP ON BIOCHEMISTRY AND PHYSIOLOGY OF FACTOR VIII

Meeting

The Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, National Institutes of Health, in cooperation with the Scripps Clinic and Research Foundation of La Jolla, California and the National Hemophilia Foundation, New York, is sponsoring a

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workshop on the biochemistry and physiology of Factor VIII. The meeting will be held at the Sea Lodge Resort Hotel, La Jolla, California. Meeting times will be:

February 21, 1977, 8:30 a.m. to 6:30 p.m.
February 22, 1977, 8:30 a.m. to 9:00 p.m.
February 23, 1977, 8:30 a.m. to 4:00 p.m.

The purpose of this workshop will be to provide an opportunity for active investigation in this area, to exchange information and to review the current state of knowledge concerning the biochemistry and physiology of Factor VIII. Participants will also assess the direction future research activities should take so that better and more effective means for the treatment of hemophilia will become available through research in this subject.

For additional information, please contact: Dr. Gary J. Nelson, Building 31, Room 4A05, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, Maryland 20014, (301) 496–5911.

Attendance will be limited to available space only.

Dated: December 15, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–37397 Filed 12–20–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 29296, 29298, 29299, 29300, 29301 and 29302]

NEW MEXICO

Applications

DECEMBER 10, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for five 4½-inch and one 6⅝-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 8 W.,
Sec. 12, E½NW¼.
T. 30 N., R. 9 W.,
Sec. 27, W½SE¼.
T. 30 N., R. 10 W.,
Sec. 24, lots 4 and 5.
T. 31 N., R. 10 W.,
Sec. 5, lot 5.
T. 32 N., R. 10 W.,
Sec. 32, lot 2.
T. 28 N., R. 12 W.,
Sec. 24, E½NW¼.
T. 29 N., R. 13 W.,
Sec. 35, N½NW¼ and SE¼NW¼.

These pipelines will convey natural gas across 1.078 miles of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76–37442 Filed 12–20–76;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 10, 1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by January 3, 1976.

JERRY L. ROGERS,
Acting Chief, Office of Archeology and Historic Preservation.

ALABAMA

Jefferson County

Birmingham, *Lakeview School*, 2800 Clairmont Ave.

Marengo County

Demopolis, *Curtis House*, 510 N. Main.

ARIZONA

Yavapai County

Prescott, *Yavapai County Courthouse*, Courthouse Sq.

MINNESOTA

Cottonwood County

Windom, *Cottonwood County Courthouse*, 10th St.

Douglas County

Osakis, *Johnson, J. B. House*, U.S. 52.

Hennepin County

Excelsior, *Wyer-Pearce House*, 201 Mill St.

Jackson County

Jackson, *Jackson County Courthouse*, Sherman, W. Ashley, 4th, and 5th Sts.

Kanabec County

Mora, *Kanabec County Courthouse*, Maple and Vine Sts.

Lincoln County

Lake Benton, *Lake Benton Opera House*, Benton St. between Fremont and Center St.

Mille Lacs County

Milaca, *Mille Lacs County Courthouse*, 5th Ave., SE. and 2nd St. SE.

Murray County

Currie, *Currie Railroad Turntable*, SR 38.
Slayton, *Murray County Courthouse*, Main and 7th Sts.

Nobles County

Worthington, *Kilbridge, Dr. E. A., Clinic*, 701 11th St.

Ramsey County

St. Paul, *C.S.P.S. Hall*, 381–383 Michigan St.
St. Paul, *Ramsey County Poor Farm Barn*, 2020 White Bear Ave.

Rock County

Jasper, *Jasper Stone Company and Quarry*, off MN 23.
Luverne, *Rock County Courthouse and Jail*, Cedar St., N. and Luverne St., E.

MONTANA

Jefferson County

East Helena vicinity, *Child, W. C., Ranch*, S. of East Helena on SR 518.

Lake County

St. Ignatius vicinity, *Ft. Connah Site*, N of St. Ignatius off U.S. 93.

Meagher County

White Sulphur Springs, *Sherman, Byron R., House (The Castle)*, 310 2nd Ave. NE.

Yellowstone County

Billings, *North, Austin, House (The Castle)*, 622 N. 29th St.
Billings, *O'Donnell, I. D., House*, 105 Clark Ave.

NEW YORK

Kings County

Brooklyn, *Brooklyn Museum*, Eastern Parkway and Washington Ave.

NORTH CAROLINA

Pasquotank County

Elizabeth City, *Elizabeth City Historic District*, irregular pattern along Main St.

PENNSYLVANIA

Berks County

Reading, *Astor Theatre*, 730–742 Penn St.

Centre County

Bellefonte, *Bellefonte Historic District*, roughly bounded by Stony Batte Ardell Alley, Thomas, Armor, Penn, Ridge, and Logan Sts.

Chester County

West Chester, *Chester County Horticultural Hall*, 225 N. High St.

Delaware County

Concordville, *Concord Friends Meetinghouse*, Old Concord Rd.

Erie County

Waterford, *Eagle Hotel*, 32 High St.

Philadelphia County

Philadelphia, *Oakley, Violet, Studio*, 627 St. George's Rd.
Philadelphia, *Strickland, William, House Row*, 215–227 S. 9th St.

Wayne County

South Canaan vicinity, *Octagon Stone Schoolhouse*, 1 mi. SW of South Canaan.

RHODE ISLAND

Providence County

Providence, *Mason, Israel B., House*, 571 Broad St.

Washington County

Hopkinton vicinity, *Tomaquag Rock Shelters*, S of Hopkinton.

WASHINGTON

Island County

Oak Harbor, *Loers, Benjamin, House*, 2046 Swantown Rd.

Jefferson County

Aulicene vicinity, *Quilcene–Quinault Battleground Site*, S of Quilcene.
Port Townsend, *Saunders, James C., House*, Sims Way.

King County

Seattle, *Cornish School*, 710 E. Roy St.

Pierce County

Dupont vicinity, *Sequalitchew Archeological Site*, N of Dupont.
Tacoma, *Drum, Henry, House*, 9 St. Helens.
Tacoma, *Salmon Beach Historic District*, S of Joint Defiance Park on The Narrows.

San Juan County

San Juan Island, *Roche Harbor*, northern San Juan Island.

Skagit County

Anacortes, *Anacortes Public Library*, 1305 8th St.
Mt. Vernon vicinity, *Skagit City School*, 3.5 mi. S of Mt. Vernon on Moore Rd.

Snohomish County

Everett, *McCabe Building*, 3120 Hewitt Ave.

Whatcom County

Bellingham, *Morse, Robert I., House*, 1014 N. Garden St.
Bellingham, *Old Main, Western Washington State College*, 516 High St.
Bellingham, *Roeder, Victor A., House*, 2600 Sunset Dr.
Bellingham, *Young Women's Christian Association*, 1026 N. Forest St.

[FR Doc.76–37091 Filed 12–20–76;8:45 am]

GENERAL MANAGEMENT PLAN, CUYAHOGA VALLEY NATIONAL RECREATION AREA, OHIO

Negative Declaration Regarding Environmental Assessment

After conducting a review of the environmental assessment for the general management plan of the Cuyahoga Valley National Recreation Area, Ohio, the National Park Service has decided not to prepare an environmental impact statement.

In the environmental assessment, the National Park Service examines the effects of three alternative courses of action which address the preservation, development and management of the National Recreation Area. The preferred alternative and the reasons for the selection are announced in the environmental review.

The environmental assessment and the environmental review are on file and will be available for inspection upon request at the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska 68102; and at Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264. Anyone wishing to comment on these documents should put them in writing and send the comments to the Regional Director at the Omaha address on or before January 21, 1977.

The National Park Service intends to proceed with implementation of the plan at the end of January 21, 1977.

Dated: November 2, 1976.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.76–37380 Filed 12–20–76;8:45 am]

GATEWAY NATIONAL RECREATION AREA

Deadline for Submitting Written Comments on Draft of General Management Plan Extended

In reference to the Federal notice dated September 22, 1976 concerning public meetings and submission of public comments on the Draft General Management Plan, the period for submission of written comments has been extended from December 20, 1976 to January 19, 1977. Statements may be sent to:

Superintendent, Gateway National Recreation Area, Floyd Bennett Field, Building No. 69, Brooklyn, New York 11234.

Dated: December 3, 1976.

JOE ANTOSCA,
Superintendent, Gateway National Recreation Area.

[FR Doc.76–37379 Filed 12–20–76;8:45 am]

SIVERTSON BROS. FISHERIES

Intention To Issue Concession Permit

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Grand Portage National Monument, proposes to issue a concession permit to Silvertson Bros. Fisheries, authorizing them to operate boat transportation service for the public and use certain Government owned docks located in Grand Portage National Monument and Isle Royale National Park for a period of four years from January 1, 1977 through December 31, 1980.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska 68102, and in the Office of the Superintendent, Grand Portage National Monument, P.O. Box 666, Grand Marais, Minnesota 55604.

The foregoing concessioner has performed its obligations under an existing permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the issuance of a new permit.

The foregoing concessioner has two concession permits with the National Park Service. One issued by Grand Portage National Monument, which authorizes pick-up and discharge of passengers from a Government owned dock in Grand Portage. This permit expires by limitation of time December 31, 1980. The second permit, which is the subject of this Notice, was issued by Isle Royale National Park to authorize boat transportation and use of Government owned docks within Isle Royale. This permit expires by limitation of time December 31, 1976.

It is the intention of the National Park Service to provide continuation of the services authorized in the existing Isle Royale permit by amendment of the existing permit issued by Grand Portage National Monument to include the provisions of the Isle Royale permit, thereby eliminating the necessity of two permits.

However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this Notice. Any proposal to be considered and evaluated must be submitted on or before January 21, 1977.

Interested parties should contact the Superintendent, Grand Portage National Monument, P.O. Box 666, Grand Marais, Minnesota 55604.

Dated: October 29, 1976.

JOHN M. MOREHEAD,
Superintendent.

[FR Doc.76–37401 Filed 12–20–76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77–37]

CLINCH VALLEY COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Clinch Valley Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2 Mine located in Tazewell County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially

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constructed caponies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner's equipment consists of three S&S scoops which are 34 to 37 inches in height with a length of 25 feet and 6 inches, and a width of 9 feet to 10 feet 7 inches; one Galis 300 roof bolter; one Paul's roof bolter which is 24 inches in height, 9 feet in length and 56 incres wide; and one cutter 11 RY Joy which is 43 inches in height, 32 feet long and 7 feet 3 inches wide.

2. Petitioner's mine is 2 years old and has a projected life of 5 to 7 years. Petitioner's mine is located in the lower split of the Upper Horsepen coal seam. The thickness of the coal seam varies from 50 to 56 inches. The average height of the coal seam in those locations where equipment, which is subject to cabs and canopy regulations, is being used is 52 inches. The danger in utilizing cabs and canopies on equipment at each working section stems from the irregularity of height of the coal seam, *i.e.*, undulations up and down.

3. Petitioner has a canopy on its roof bolting machine which stays in the face at all times. Petitioner's scoops must come to the surface to change batteries and the height on the haulway ranges downward to 40 inches. The scoops are 34 to 37 inches high. The cutting machine is 43 inches high and 32 feet long and it gets into the roof at times, even without a canopy installed.

4. An approved full bolting roof control plan is utilized at Petitioner's mine. Employees have been and will continue to be trained in roof and rib control.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 21, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

DECEMBER 13, 1976.

[FR Doc.76-37446 Filed 12-20-76;8:45 am]

[Docket No. M 77-34]

H. & T. COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), H. & T. Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Underground Mine located in Hays, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner's equipment consists of one roof bolter, one cutting machine, and one spinner loader.

2. Petitioner requests exemption from 30 CFR 75.1710 because the roof at its mine is uneven and because collars are set in place. The height to be cleared at Petitioner's mine ranges from 37 to 44 inches and the installation of canopies would create a danger to Petitioner's employees. The vision of equipment operators would be lessened and consequently would hamper them. In the near future, Petitioner will reach low coal which will go down to about 36 inches.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 21, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

DECEMBER 13, 1976.

[FR Doc.76-37447 Filed 12-20-76;8:45 am]

[Docket No. M 77-38]

PIGEON BRANCH COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pigeon Branch Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 7 Mine located in Tazewell County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section; all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner's equipment consists of two S&S scoops which are 34 to 37 inches in height with a length of 25 feet and 6 inches, and a width of 9 feet to 10 feet 7 inches; one Paul's roof bolter; one Paul's pinner which is 24 inches in height, 9 feet in length and 56 inches wide; and one cutter 12 RB Joy which is 43 inches in height, 32 feet long and 7 feet 3 inches wide.

2. Petitioner's mine is 5 years old and has a projected life of 5 years. Petitioner's mine is located in the lower split of the Upper Horsepen coal seam. The thickness of the coal seam varies from 35 to 48 inches. The average height of the coal seam in those locations where equipment, which is subject to cabs and canopy regulations, is being used is 36 inches. The danger in utilizing cabs and canopies on equipment at each working section stems from the irregularity of height of the coal seam, i.e., undulations up and down.

3. Petitioner has a canopy on its roof bolting machine which stays in the face at all times. Petitioner's scoops must come to the surface to change batteries, and the height on the haulway ranges downward to 36 inches. The scoops are 34 to 37 inches high. The cutting machine is 43 inches high and 32 feet long, and it gets into the roof at times, even without a canopy installed.

4. An approved full bolting roof control plan is utilized at Petitioner's mine. Employees have been and will continue to be trained in roof and rib control.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 21, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

DECEMBER 13, 1976.

[FR Doc.76-37448 Filed 12-20-76;8:45 am]

[Docket No. M 77-48]

QUARTO MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Quarto Mining Company has filed a petition to modify the application of 30 CFR 75.1700 to its Powhatan No. 4 Mine, located in Monroe County, Ohio.

30 CFR 75.1700 provides:

Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than 300 feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

The substance of Petitioner's statement is as follows:

1. Petitioner's Powhatan No. 4 Mine has four wells located in its coal holdings as follows:

Mine No.	State of Ohio	Location in mine
(1) SA 20–5	678A–No. 2	3d set gate entries in South.
(2) SA 20–6	678A–No. 1	2d panel in south.
(3) SA 20–1	646A	Do.
(4) SW 22–6	No record	3d set gate entries in north.

2. The surface locations of the wells are in Section 20, Salem Township and Section 22, Switzerland Township, Monroe County, Ohio. The boreholes of these wells penetrate the Pittsburgh No. 8 coal seam where Petitioner intends to mine. In wells Numbers SA 20–4, SA 20–6, SW 22–6, the casing was pulled and the wells plugged several years ago. Well Number SA 20–1 has the casing and tubing still in the wellbore and is open to the oil sand. The casing and tubing will be pulled prior to beginning plugging operations.

3. The barrier around these wells, required by 30 CFR 75.1700, interferes with Petitioner's (a) maintenance of effective roof control by requiring a hazardous and time-consuming relocation of the longwall shield supports to avoid the barrier, (b) simplification of the mine ventilation system by requiring unnecessary air course changes, and (c) improvement of mining safety and conservation by requiring a barrier of coal when more efficient and secure methods to prevent well gas leaks are available.

4. Extensive research conducted by the U.S. Bureau of Mines and U.S. Energy Research and Development Administration (ERDA) has developed feasible and safe methods to plug abandoned oil wells and eliminate the need for coal barriers around such wells. Reports of this research[1] have concluded that certain plugging methods can effectively prevent explosive well gases from entering the mine during regular mining operations and allow additional safety and operational benefits that are not possible under 30 CFR 75.1700. These methods, which Petitioner proposes to follow, guarantee no less than the same measure of protection afforded miners as 30 CFR 75.1700.

5. In lieu of 30 CFR 75.1700, Petitioner proposes to plug these wells by one of the techniques described in Attachments 2 and 3,[1] depending upon conditions discovered, and then to mine through part of the plugged borehole in a normal mining cycle. Petitioner will notify the Mining Enforcement and Safety Administration (MESA) and Morgantown Energy Research Center, ERDA, before any plugging activity is conducted and prior to mining within 300 feet of the well. At MESA's option, such activity will be conducted in the presence and under the supervision of its personnel. MESA may order Petitioner to suspend or delay all or any part of a mining through project for cause if the duly authorized representative of the Secretary determines that a hazardous condition has been encountered. Such conditions could relate to the failure of the well plug to seal as evidenced by the detection of the tracer gas in the air samples or failure to adequately plug the well as specified. Any changes in the procedures set forth in Attachments 2 and 3 will be made only on approval of MESA's District Manager or his delegate. A copy of the decision on this petition shall be maintained at the mine office and shall be available to the employees of the mine.

6. The following procedures, as more specifically set forth in Attachments 2 and 3, will be followed for plugging the wells: Petitioner will attempt to reopen wells SA 20–5, SA 20–6, and SW 22–6 to their total depth. Well No. SA 20–1 will be opened to its total depth. Gamma ray, neutron, and caliper logs will be taken in each well to determine respectively the depth of all coal beds, the most competent formation for the placement of certain plugs, and the wellbore diameter. A tracer unit of sulfur hexafluoride (an inert, permeable and easily detectable gas) will be placed in the wells, if required by MESA, and a mechanical bridge plug or other device set above it to provide a secure base for subsequent plugs. Expanding cement, flyash cement, and/or gel-water slurry will be injected to various depths in the remainder of the borehole, depending on geologic conditions.

7. The following procedures will be followed for mining through the plug: All mining operations within one hundred and fifty (150) feet of the well will be conducted with the utmost caution and in a nonexplosive atmosphere. In addition to the methane testing procedures in 30 CFR Part 75, a fireboss date-board will be established in the affected area and methane examinations made and recorded at least once per shift by a qualified examiner. Petitioner will take air samples immediately before, during, and after mining through the concrete

[1] The enclosed reports are available for inspection at the address listed in the last paragraph of this notice.

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section of the plug between the mine floor and roof. Mining operations will be conducted during Petitioner's normal mining cycle, and at MESA's option, in the presence and under the supervision of MESA personnel. In cooperation with MESA, Petitioner will monitor the mine atmosphere for traces of sulfur hexafluoride for 6 months after mining through the plug.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 21, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

DECEMBER 13, 1970.

[FR Doc.76-37449 Filed 12-20-76;8:45 am]

[Docket No. M 77-29]

RELIABLE COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Reliable Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its Kanes Creek Mine located in Preston County, West Virginia.

30 CFR 75.1710 provides:

An authorized represenative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or tabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner believes that canopies on its haulage equipment are more of a hazard than a protective device for its personnel. Due to undulations of the top and bottom in its mine, it is technically impossible for Petitioner to keep canopies on its machines. The canopies strike the top of the mine, which varies 38 to 50 inches in height, dislodging roof bolts, and the canopies are so low that the operators cannot see the opposite rib. Petitioner tried canopies on its shuttle cars, which are Joy 16SC, and the cars were not able to progress 10 feet without striking the top.

2. Petitioner believes for humanitarian reasons that these devices, given the conditions in Petitioner's mine, are a hazard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 21, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

DECEMBER 13, 1976.

[FR Doc.76-37450 Filed 12-20-76;8:45 am]

[Docket No. M 77-26]

T & C COAL CO., INC.

Petiiton for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), T & C Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its Jane Ann No. 10–A Mine, located in Logan County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner has had approved canopies installed on its roof bolter and Elkhorn scoops. These canopies have been the subject of examination by the operators who are responsible for the safe operation of this equipment and Petitioner has received criticism from these operators as to the safety of canopies.

2. Petitioner is of the opinion that the canopy diminishes the safety conditions within the mine for reasons set forth below:

(a) The canopy tends to reduce the vision of the operator.

(b) The canopy limits the ability of the operator to remove himself from the machine in the event of an emergency.

(c) The canopy on the roof bolter prevents the placement of roof bolts at crosscuts and corners in accordance with the approved roof control plan.

(d) Because of variance in the height of the roof within the mine, the canopy collides with and loosens roof bolts.

3. Petitioner feels that modification of the safety standard will not diminish safety in its mine because of conditions practiced by Petitioner and set forth below:

(a) The company's roof bolt plan requires that four safety jacks or timbers be placed in the face area promptly after completion of the loading cycle, and if additonal support is needed, they are required to be set. This timbering affords adequate protection.

(b) No one is permitted under unsupported top except to set safety posts or jacks.

(c) All brows that overhang 12 inches or more are taken down or secured.

(d) With this roof control plan, the people at this mine have a minimum exposure to falls of room and rib.

4. Because of the foregoing reasons, Petitioner requests relief from the mandatory provisions applicable to canopies on all its equipment that is utilized in seams of under 54 inches.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 21, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

DECEMBER 13, 1976.

[FR Doc.76-37451 Filed 12-20-76;8:45 am]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

ADVISORY COMMITTEE ON JOINT BOARD ACTUARIAL EXAMINATIONS

Meeting

Notice is hereby given that the Advisory Committee on Joint Board Actuarial Examinations will meet in Room 1425 of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. on January 7, 1977 at 9:30 a.m.

The purposes of the meeting are to discuss topics which may be covered by the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B), to prepare recommended questions for such examinations and to review other actuarial examinations in order to make recommendations regarding such examinations' adequacy to demonstrate the education and training in actuarial mathematics and methodology required for enrollment by Title 29 U.S. Code, section 1242(a)(1).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in Title U.S. Code, section 552(b)(5), and that the public interest requires such meeting be closed to public participation.

LESLIE S. SHAPIRO,
Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc.76-37385 Filed 12-20-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Proposed Allocation of Funds

Notice is hereby given that the Employment and Training Administration has made the following proposed allocation of funds for Fiscal Year 1977 under Title VI of the Comprehensive Employment and Training Act of 1973, P.L. 93–203, as amended:

RATIONALE FOR FORMULA USED IN ALLOCATING FY 1977 CETA TITLE VI DISCRETIONARY FUNDS

The Secretary is proposing to distribute $118.4 million of Title VI discretionary funds to prime sponsors using a formula which meets, to the extent of the funds available, each prime sponsor's requirements for maintaining PSE programs at June, 1976, levels through September of 1977. This decision is made in accordance with provisions of House Joint Resolution number 1105, which stipulated that PSE programs were to be maintained at a level of 310,000.

The determination of the amount to be allocated to each prime sponsor was a three-step procedure. The first step was to determine the total amount required by each prime sponsor in order to continue Titles II and VI programs through September. The second step involved subtraction, from this total need, funds available to the prime sponsor as of June 30, and amounts allocated to each prime sponsor since June 30 for operation of Title II and VI programs. Finally each prime sponsor was allocated a portion of the total discretionary amount equal to the sponsor's net need (as determined in steps one and two) as a percentage of all sponsors' net need.

Data for the computation of the total requirement for each prime sponsor were current enrollment and accrued expenditures as certified by that prime sponsor on quarterly reports to the Department of Labor. All data were combined for Titles II and VI before completing the computations below:

1. Average cost per enrollee for operating these programs for one year was computed for each prime sponsor by dividing accrued expenditures for the twelve month period from July 1, 1975 to June 30, 1976, by the average number of enrollees in the programs at the end of each quarter during that period.

2. Where necessary, annualized costs per enrollee were adjusted to account for changes in the geographic composition of prime sponsor areas during FY 1977, using data provided by affected prime sponsors to ETA regional offices. All rates were also incremented by two percent to offset expected normal increases in the cost of operating these programs in FY 1977.

3. This expected annual enrollee cost was then multiplied by the sponsor's June enrollment level (adjusted for prime sponsor changes, if necessary) and the resultant annualized total need was multiplied by a factor of 1.25 to obtain each prime sponsor's need for a fifteen month period (July, 1976 through September 1977).

The total requirement determined above for each prime sponsor was reduced by:

1. The remaining funds available to each prime sponsor as of June 30, 1976; i.e., the difference between and previously allocated and reported accrued expenditures, in Titles II and VI combined. Where necessary this figure was also adjusted for changes in prime sponsor areas.

2. The prime sponsor's transition quarter (TQ), Title II allocation.

3. The prime sponsor's FY 1977 Title II base allocation (i.e., for the period from October 1 through September 30).

4. The prime sponsor's FY 1977 Title VI base allocation.

The result of these subtractions, if positive, represents each prime sponsor's unfunded need which is to be partially met by this allocation of discretionary funds.

The sponsor's unfunded needs were then summed to obtain a national total. This amount was divided into the 118.4 million dollars available for allocation to determine the proportion the total need which could be funded, and this factor was applied to each sponsor's need to obtain the amounts shown in the accompanying table.

The procedures described closely adhere to the explicit intent of the joint resolution. Every effort was made to ensure that the data used were as certified by prime sponsors and that extenuating circumstances admissible under the intent of the joint resolution were taken into account prior to allocating these funds.

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION PUBLIC SERVICE JOBS PROGRAM TITLE VI—DISCRETIONARY—FISCAL YEAR 1977 CONTINUING RESOLUTION

	Proposed Distribution
Bridgeport Consortium	683,616
Hartford Consortium	531,276
New Haven Consortium	171,581
Waterbury City	25,652
Connecticut total	1,412,125
Penobscot/Hancock CSRT	15,493
Cumberland County	570,175
Maine total	585,608
Worcester Consortium	98,924
Lowell Consortium	136,136
Massachusetts total	235,060
Hillsborough County	98,364
New Hampshire total	98,364
Balance of Rhode Island	775,523
Rhode Island total	775,523
Vermont Statewide CSRT	201,022
Vermont total	201,022
Region I grand total	3,307,702
Atlantic County	441,473
Burlington County	347,023
Hudson County CRST	1,134,457
Newark City	446,068
Ocean County	298,184
Balance of Passaic County	161,098
Somerset County	46,178
Trenton City	221,079
New Jersey total	3,095,560
Buffalo City	1,554,703
Oneida County	310,317
Orange County	342,022
Saratoga County	127,059
Steuben County	78,761
Syracuse City	30,520

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	Proposed Distribution
Westchester Consortium	37,181
New York City	4,051,838
New York total	6,527,401
Bayamon Municipio	388,119
Caguas Municipio	243,611
Carolina Municipio	23,145
Mayaguez Municipio	613,920
Ponce Municipio	454,629
Balance of Puerto Rico	5,156,847
Puerto Rico total	6,880,271
Region II grand total	16,503,232
Delaware Manpower CSRT	377,858
Wilmington City	396,278
Delaware total	774,136
District of Columbia	1,897,625
District of Columbia total	1,897,625
Balance of Maryland	357,475
Western Maryland CSRT	161,972
Maryland total	519,447
Lehigh Valley Consortium	371,624
Philadelphia City/County	4,752,332
Berks County	25,778
Balance of Lackawanna County	154,728
Scranton City	85,977
Luzerne County	451,661
Pittsburgh City	727,336
Washington County	58,165
Westmoreland County	133,789
Southern Allegheny CSRT	352,242
Centre County	2,402
Pennsylvania total	7,116,034
Roanoke Consortium	93,452
Balance of Virginia	519,266
Virginia total	612,718
West Virginia St. wide CSRT	3,742,008
West Virginia total	3,742,008
Region III grand total	14,661,968
Mobile Consortium	62,209
Montgomery Consortium	47,243
Alabama total	109,452
Balance of Florida	680,645
Brevard County	689,209
Escambia County	68,516
Heartland Manpower CSRT	608,135
Palm Beach County	536,668
Tampa Consortium	191,691
Florida total	2,774,864
CSRA Consortium	296,397
Atlanta City	1,536,747
Cobb County	39,221
Columbus Area Consortium	177,598
Mid Georgia Consortium	204,507
Savannah/Chatham CSRT	75,267
Georgia total	2,329,737
Balance of Kentucky	990,407
Kentucky total	990,407
Balance of Mississippi	1,046,779
Mississippi total	1,046,779
Alamance County	33,623
Buncombe County	13,013
Charlotte City	228,090
Durham Consortium	137,146
Greensboro Consortium	25,985
Onslow County	15,870
Raleigh Consortium	135,874
Winston Salem Consortium	614,140
Davidson County	50,066
North Carolina total	1,253,807
South Carolina Statewide	5,064,584
South Carolina total	5,064,584
Chattanooga City	76,403
Memphis Consortium	136,561
Balance of Hamilton County	84,274
Balance of Hamilton County	36,074
Tennessee total	333,312
Region IV grand total	13,902,942
La Salle County	44,259
Madison County Consortium	505,721
St. Clair Consortium	152,073
East St. Louis City	857,093
Shawnee Consortium	650,550
Illinois total	2,209,696
Elkhart County	72,584
Indiana total	72,584
Flint/Genessee Consortium	1,049,546
Jackson Consortium	432,732
Kent Consortium	1,116,388
Calhoun County	188,262
Balance of Macomb County	311,705
Oakland County	1,251,236
Ottawa County	163,281
Saginaw County	349,271
St. Clair County	1,612,600
Ann Arbor City	297,081
Michigan total	6,772,102
Dakota County	217,173
St. Paul City	840,563
Quad Counties CSRT	400,740
Region III Consortium	214,925
Balance of Minnesota	1,254,515
Rural Minnesota CEP	1,175,461
Balance of Hennepin County	714,006
Minneapolis City	335,022
Minnesota total	5,152,405
Butler County	69,802
Lorain County	124,577
Lake/Ashtabula CSRT	542,363
Portage County	200,708
Richland/Morrow CSRT	57,124
Ohio total	994,574
Rock County	193,871
Milwaukee County	988,926
Madison/Dane Consortium	84,716
Balance of Wisconsin	1,372,435
Wisconsin total	2,639,948
Region V grand total	17,841,309
Central Arkansas Consortium	288,217
Texarkana	[1] 437,811
Balance of Arkansas	742,690
Arkansas total	1,468,718
Rapides Parish	106,696
Baton Rouge City	140,807
Calcasieu/Jeff Consortium	174,439
New Orleans City	2,629,136
Jefferson Parish	380,846
Balance of Louisiana	3,186,589
Louisiana total	6,618,313
Albuquerque Consortium	1,165,624
Balance of New Mexico	1,400,666
New Mexico total	2,566,290
Balance of Cleveland County	365,234
Oklahoma total	365,234
Texas Panhandle Manpower	59,048
Southeast Texas Comprehsnsive	58,087
Pasadena City	14,242
Cameron County	358,699
Balance of Dallas County	229,770
Lubbock City	103,337
West Central Texas CSRT	223,973
Galveston County	85,414
Balance of Harris County	130,424
Central Texas Manpower County	82,104
Hidalgo County Consortium	464,143
Alamo Consortium	7,655
Region XI Consortium	41,230
Webb County	325,510
Brazoria Consortium	189,847
Balance of Texas	1,080,737
Texas total	3,434,220
Region VI grand total	14,452,775
Balance of Iowa	967,248
Iowa total	967,248
Balance of Kansas	799,151
Kansas City Consortium	308,248
Johnson/Leavenworth Consortium	4,079
Kansas total	1,111,478
Balance of Missouri	359,080
Balance of Jackson County	29,461
Kansas City Consortium	582,018
Independence City	122,918
Missouri total	1,093,457
Lincoln City	26,805
Nebraska total	26,805
Region VII grand total	3,198,988
Denver City/County	25,372
Weld County	8,784
Colorado total	34,156
Balance of Montana	[1] 1,555,021
Montana total	1,555,021
North Dakota Statewide	1,403,107
North Dakota total	1,403,107
Wyoming Statewide Consortium	295,785
Wyoming total	295,785
Region VIII grand total	3,288,069
Balance of Arizona	378,848
Phoenix City	1,347,759
Maricopa County	522,247
Arizona total	2,248,854
Berkeley City	65,685
Oakland City	880,878
San Francisco City/County	2,235,884
Sonoma County	166,780
Balance of Los Angeles County	5,485,469
Los Angeles City	2,471,866
Torrance City	32,240
Balance of California	2,146,994
Humboldt County	212,161
Solano County	95,870
Sacramento/Yolo CSRT	379,959
Stockton/San Joaquin Manpower	168,376
Stanislaus County	439,469
Fresno City/County	1,033,787
Kern County	53,765
San Diego RETC	2,689,260
California total	18,559,443
Hawaii Balance of State	533,538
Honolulu City/County	601,539
Hawaii total	1,135,077

[1] The Arkansas Texarkana discretionary includes moneys for Texarkana, Tex.

[1] The Balance of Montana discretionary includes moneys for the Butte rural CEP.

	Proposed Distribution
Las Vegas Consortium	465,454
Washoe County	414,986
Nevada total	880,440
Region IX grand total	22,823,814
Balance of Alaska	500,297
Alaska total	500,297
Idaho Statewide CSRT	959,674
Idaho total	959,674
Jackson County Consortium	236,617
Balance of Oregon	698,128
Oregon total	934,745
King/Snohomish Consortium	1,985,831
Kitsap County	426,225
Tacoma City	10,922
Balance of Pierce County	107,563
Yakima County	535,513
Balance of Washington	2,958,421
Washington total	6,024,475
Region X grand total	8,418,191
National grand total	118,399,990

Signed at Washington, D.C. this 17th day of December, 1976.

ALBERT J. ANGEBRANNDT,
Administrator, Administration and Management.

[FR Doc.76-37612 Filed 12-20-76;8:45 am]

Office of the Secretary

[TA-W-1,303]

ARCTIC DISTRIBUTORS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 29, 1976 the Department of Labor received a petition dated November 16, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Arctic Distributors, Inc., Neenah, Wisconsin, a wholly owned subsidiary of Arctic Enterprises, Inc., Thief River Falls, Minn. (TA-W-1,303). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the distribution of snowmobiles provided by Arctic Distributors, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37306 Filed 12-20-76;8:45 am]

[TA-W-1,344]

B.I.F.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of B.I.F., West Warwick, Rhode Island, a division of General Signal Corporation, Stanford, Connecticut (TA-W-1,344). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with carbon & Stainless steel elbows, flanges, welding flanges, specialty components of rolled & welded pipes produced by Chemtron Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37307 Filed 12-20-76;8:45 am]

[TA-W-1,335]

CHEMTRON CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 30, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Louisville, Kentucky, Tube Turns Div. of Chemtron Corporation, Chicago, Ill. (TA-W-1,335) Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with carbon & Stainless steel elbows, flanges, welding flanges, specialty components of rolled & welded pipes produced by Chemtron Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter

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of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 30th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37308 Filed 12-20-76;8:45 am]

[TA-W-1,336]

CHEMTRON CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 30, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Philadelphia, Pa. plant of Chemtron Corporation, Chicago, Illinois (TA-W-1,336). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with carbon and stainless steel elbows, flanges, welding flanges, specialty components of rolled and welded pipes produced by Chemtron Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37309 Filed 12-20-76;8:45 am]

[TA-W-1137]

CONVERSE RUBBER CO. MALDEN, MASSACHUSETTS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1137: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 5, 1976 in response to a worker petition received on that date which was filed by the United Rubber Workers on behalf of workers and former workers producing canvas and athletic footwear at the Malden, Massachusetts plant of Converse Rubber Company.

The notice of investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47620). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of Converse Rubber Company, its customers, the Department of Commerce, the International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Malden plant of Converse Rubber Company decreased 22 percent in 1975 compared to 1974 and 33 percent in the first nine months of 1976 compared to the first 9 months of 1975.

Employment of salaried workers at the Malden plant decreased 22 percent in the first 9 months of 1976 compared to the first 9 months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of canvas and athletic footwear by Converse Rubber Company declined 12 percent in quantity and 8 percent in value in 1975 compared to 1974 and 12 percent in quantity and 8 percent in value in the first 9 months of 1976 compared to the first 9 months of 1975.

Production at the Malden, Massachusetts plant of Converse Rubber Company declined 37 percent in 1975 compared to 1974 and 42 percent in the first 9 months of 1976 compared to the first 9 months of 1975.

INCREASED IMPORTS

Imports of canvas and athletic footwear by Converse Rubber Company increased 1,011 percent in quantity and 1,012 percent in value in 1975 compared to 1974 and declined 7 percent in quantity and 7 percent in value in the first 9 months of 1976 compared to the first 9 months of 1975.

Imports of athletic footwear increased in absolute terms and relative to domestic production each year from 1971 through 1975, except for 1973 when imports increased absolutely but decreased relative to domestic production. In 1975 imports increased 102 percent in absolute terms. The ratio of imports to domestic production increased from 84.3 percent in 1974, to 146.0 percent in 1975. In the first half of 1976, imports increased 107 percent in absolute terms. The ratio of imports to domestic production increased from 137.1 percent in the first half of 1975 to 201.6 percent in the first half of 1976.

Imports of rubber/canvas footwear increased in absolute terms and relative to domestic production each year from 1972 through 1974. The ratio of imports to domestic production remained stable from 1974 to 1975, then increased from 18.0 percent in the first half of 1975 to 19.9 percent in the first half of 1976.

CONTRIBUTED IMPORTANTLY

Customers of Converse Rubber Company indicated they have decreased their purchases of canvas and athletic footwear from Converse Rubber Company and have increased their purchase of imported footwear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with canvas and athletic footwear produced at the Malden, Massachusetts plant of Converse Rubber Company, contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Maden, Massachusetts pant of Converse Rubber Company who became totally or partially separated from employment on or after September 22, 1975 are eligible to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37310 Filed 12-20-76;8:45 am]

[TA-W-1,331]

CRANE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 30, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Ambridge Valve Repair Division, Ambridge, Pennsylvania, a division of Crane Company, New York, New York (TA-W-1,331). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with repairing valves provided by Crane Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the Petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 76-37311 Filed 12-20-76; 8:45 am]

[TA-W-1,332]

CRANE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 30, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Chattanooga Valve Plant, Chattanooga, Tennessee, a division of Crane Company, New York, New York (TA-W-1,332). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with industrial type steel valves produced by Crane Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 28 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37312 Filed 12-20-76;8:45 am]

[TA-W-1,342]

DIXON VALVE & COUPLING CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Philadelphia, Pennsylvania plant of Dixon Valve & Coupling Co., Chestertown, Md. (TA-W-1,342). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has inistituted an investigation as provide in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with steel valves and couplings produced by Dixon Valve & Coupling Co. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is

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filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37313 Filed 12-20-76;8:45 am]

[TA-W-1,322]

FLODAR CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 30, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Flodar Corporation, Cleveland, Ohio, a division of Alco Standard Corp., Valley Forge, Pennsylvania (TA-W-1,322). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with hydraulic fittings for machine tools produced by Flodar Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37314 Filed 12-20-76;8:45 am]

[TA-W-1,337]

GALLAND HENNING NOPAK, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Galland Henning Nopak, Inc., Milwaukee, Wisconsin (TA-W-1,337). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with scrap steel processing equipment, metal cutting shears, pneumatic and fluid drive equipment & valves produced by Galland Henning Nopak, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37315 Filed 12-20-76;8:45 am]

[TA-W-1251]

GENERAL ELECTRIC CO. SYRACUSE, NEW YORK

Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 9, 1976 in response to a worker petition received on that date which was filed by Local 320 of the International Union of Electrical, Radio and Machine Workers on behalf of workers and former workers producing transistors, diodes and other semiconductors at the Semiconductor Products Department of the General Electric Company, Syracuse, New York.

Notice of the investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53089). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of the Semiconductor Products Department were previously certified eligible to apply for adjustment assistance on March 11, 1975 under the Trade Expansion Act of 1962 (See TEA-W-255). This certification was automatically continued under the Trade Reform Act of 1974 beginning on April 3, 1975, in accordance with Section 246 of the Trade Reform Act.

The existing certification will expire on March 11, 1977 unless terminated by the Secretary of Labor. Since workers newly separated, totally or partially, are covered by the existing certification provided such separations occurred on or after the impact date (July 14, 1974) and before the certification expiration date (March 11, 1977), a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 8th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37316 Filed 12-20-76;8:45 am]

GROVE VALVE & REGULATOR CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Grove Valve & Regulator Company, Emeryville, California (TA-W-1,340). Accordingly, the Director Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with valves and regulators produced by Grove Valve and Regulator Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37317 Filed 12-20-76;8:45 am]

[TA-W-1,348]

GULF & WESTERN INDUSTRIES, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Ackerman, Mississippi plant of Gulf & Western Industries, Inc., Oak Brook, Ill. (TA-W-1,348). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with pipe flange connectors produced by Gulf & Western Industries, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37318 Filed 12-20-76;8:45 am]

[TA-W-1,349]

GULF & WESTERN INDUSTRIES, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Somerville, New Jersey plant of Gulf & Western Industries, Inc., Oak Brook, Ill. (TA-W-1,349). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of Interriational Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with pipes and piping components produced by Gulf & Western Industries, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37319 Filed 12-20-76;8:45 am]

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[TA W-1345]

HAMMOND VALVE DIVISION

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Hammond Valve, Hammond, Indiana, a division of Condec Corporation, Greenwich, Connecticut (TA-W-1345). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brass valves produced by Hammond Valve Division or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37320 Filed 12-20-76;8:45 am]

[TA-W-1333]

ITT CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 30, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Warren, Ohio plant of ITT Grinnell Corporation, Providence, Rhode Island, a division of ITT Corporation, New York, New York (TA-W-1333). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with steel pipe hangers produced by ITT Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37321 Filed 12-20-76;8:45 am]

[TA-W-1090]

JONES AND LAUGHLIN STEEL CORP.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1090: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 24, 1976 in response to a worker petition received on September 24, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing electro-mechanical tubing at the Niles, Ohio plant of Jones and Laughlin Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on October 5, 1976 (41 FR 43975). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jones and Laughlin Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that the third and fourth criteria have not been met. The Niles, Ohio plant is part of the Conduit Division of Jones and Laughlin Steel Corporation and produces tubing. The raw material for this plant is steel strip. The strip is cut and rolled into a tubular shape and welded along its seam and given a coating of zinc. The end use of this product is to hold electrical wiring in buildings. One variation of this product that is made at the Niles, Ohio plant is transformer tubing. Transformer tubing is made by rolling the tubing to give it an oval rather than round cross section. Transformer tubing is used to carry the coolant in large electrical transformers.

INCREASED IMPORTS

More than 90 percent of the output of the Niles, Ohio plant consists of electro-mechanical tubing. U.S. imports of electro-mechanical tubing declined in each year from 11,042 tons in 1971 to 11 tons in 1975. The ratio of imports to domestic production declined from 4.4 percent in 1971 to 0.1 percent in 1973. The ratio of imports to domestic production remained at 0.1 percent in 1974 and 1975.

CONTRIBUTED IMPORTANTLY

Customers of electro-mechanical tubing from Jones and Laughlin reported that they purchase no imported electro-mechanical tubing. Those customers who reduced purchases indicated that a reduction in non-residential construction had reduced demand for electro-mechanical tubing.

Transformer tubing accounts for about six percent of the sales of the Niles, Ohio plant. Jones and Laughlin's customer of this product reported that it had no imported sources of transformer tubing. This customer attributed its reduced purchases from Jones and Laughlin to the decline in sales of large transformers because of reduced construction of generating plants and substations by electric utility companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with electro-mechanical tubing produced at the Niles, Ohio plant of Jones and Laughlin Steel Corporation did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 30th day of November 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37322 Filed 12-20-76;8:45 am]

[TA-W-1302]

JOSEPH P. CONROY, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 24, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing and Textile Workers Union on behalf of the workers and former workers of Joseph P. Conroy, Inc., Johnstown, New York (TA-W-1302). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with ski gloves, mittens and dress gloves produced by Joseph P. Conroy, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.70-37323 Filed 12-20-76;8:45 am]

[TA-W-1339]

KEROTEST MANUFACTURING CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Kerotest Manufacturing Corp., Pittsburgh, Pennsylvania, a subsidiary of Control Data Corp., Pittsburgh, Pennsylvania (TA-W-1339). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brass and steel values produced by Kerotest Manufacturing Corp. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37324 Filed 12-20-76;8:45 am]

[TA-W-1346]

MARSH INSTRUMENTS

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Marsh Instruments, Skokie, Illinois, a division of General Signal Corporation, Stamford, Connecticut (TA-W-1346). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

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The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with bourdon tube pressure gauges produced by Marsh Instruments or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than Dec. 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than Dec. 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37325 Filed 12-20-76;8:45 am]

[TA-W-1300]

S & S CHILDREN'S APPAREL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 22, 1976 the Department of Labor received a petition dated November 11, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of S & S Children's Apparel Corp., Brooklyn, New York (TA-W-1300). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with children's and ladies' sportswear and dresses produced by S & S Children's Apparel Corp. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of November 1976.

MARVIN M. FOOKS,
Director, Office of Adjustment Assistance.

[FR Doc.76-37327 Filed 12-20-76;8:45 am]

[TA-W-1341]

SETTE PRODUCTS CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Oakland, California plant of Sette Products Company, Sparks, Nevada (TA-W-1341). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like are directly competitive with barrel faucets for steel drums and zinc produced by Sette Products Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than Dec. 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than Dec. 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37326 Filed 12-20-76;8:45 am]

[TA-W-1061]

STM CORP.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1061: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 31, 1976 in response to a worker petition received on August 31, 1976, which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing aluminum electrolytic capacitors at the Hicksville, Ohio plant of STM Corporation, a subsidiary of North American Philips Corporation, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on September 14, 1976 (41 FR 39115). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of STM Corporation, customers of the Hicksville, Ohio plant, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criteria (1), (2), and (3) have been met, criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment at the Hicksville plant declined 72 percent in 1975 from 1974. Layoffs and partial separations occurred at the plant during the third and fourth quarters of 1974 and throughout 1975.

The official closing date for the Hicksville facility was November 14, 1975. Some employees remained at the plant until the end of December 1975 for maintenance and security purposes. All employees had left the plant as of January 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Annual sales by the Hicksville plant declined 5 percent in 1974 from 1973 and declined 75 percent in 1975 from 1974. Total sales by STM Corporation declined 51 percent in 1975 from 1974.

The three plants of the STM subsidiary were consolidated late in 1975. Total sales by STM Corporation increased 9 percent during the first eight months of 1976 compared to the first eight months of 1975. Sales by the Roxboro, North Carolina facility (the location chosen for the consolidation) increased 301 percent during the same period.

INCREASED IMPORTS

Imports of aluminum electrolytic fixed capacitors increased from 156.9 million units valued at 9.3 million dollars in 1971 to 445.8 million units valued at 36.2 million dollars in 1974 and declined to 217.6 million units valued at 20.1 million dollars in 1975.

CONTRIBUTED IMPORTANTLY

Imported capacitors did not contribute importantly to declines in sales, production, and employment at the Hicksville, Ohio plant. The plant closed on account of a management decision to consolidate the three separate facilities of STM Corporation into one location.

Total sales of capacitors by STM increased in the first eight months of 1976, following the consolidation, compared to sales in the first eight months of 1975, when STM was operating three plants.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with aluminum electrolytic fixed capacitors produced by the Hicksville, Ohio facility of STM Corporation did not contribute importantly to a decline in sales or production or to the separation of workers at that facility.

Signed at Washington, D.C. this 9th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37328 Filed 12-20-76;8:45 am]

[TA-W-1,338]

STOCKHAM VALVES & FITTINGS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Stockham Valves & Fittings, Inc., Birmingham, Alabama (TA-W-1,338). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel industrial valves and pipe fittings produced by Stockham Valves & Fittings, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation still further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37329 Filed 12-20-76;8:45 am]

[TA-W-1,343]

U-BRAND CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Vernon, California plant of U-Brand Corporation, Ashland, Ohio (TA-W-1,343). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the storing of iron pipe fittings for the U-Brand Corporation's Ashland, Ohio plant provided by U-Brand Corp. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37329 Filed 12-20-76;8:45 am]

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the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37330 Filed 12-20-76;8:45 am]

[TA-W-1,308]

WARNER GEAR CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 29, 1976, the Department of Labor received a petition dated October 29, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Automobile, Aerospace & Agriculture Implement Workers of America on behalf of the workers and former workers of Warner Gear Corporation, Muncie, Indiana (TA-W-1,308). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the secretarial services provided by Warner Gear Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37331 Filed 12-20-76;8:45 am]

[TA-W-1,347]

WHEELING MACHINE PRODUCTS CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976, the Department of Labor received a petition dated November 1, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Wheeling Machine Products Company, Wheeling, West Virginia (TA-W-1,347). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with steel couplings produced by Wheeling Machine Products Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuan tto 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37332 Filed 12-20-76;8:45 am]

[TA-W-1,317]

WILLIAM POWELL CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 30, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of William Powell Company, Cincinnati, Ohio (TA-W-1,317). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with stainless steel, carbon steel, bronze & iron valves produced by William Powell Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37333 Filed 12-20-76;8:45 am]

[TA-W-1,350]

ZURN INDUSTRIES

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Zurn Industries, Hydromechanics Division, Erie, Pennsylvania (TA-W-1,350). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with plumbing fixture and components produced by Zurn Industries or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 1976.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-37334 Filed 12-20-76;8:45 am]

[TA-W-1134]

BAGATELLE HANDBAG CO. AND CAPRICE HANDBAG CO., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1134: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 30, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers manufacturing, marketing and selling women's handbags at the New York, New York plant of Caprice and Bagatelle Handbag Companies.

The notice of investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47617). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Caprice and Bagatelle Handbag Companies, Caprice's customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met by workers of Bagatelle and Caprice Handbag Companies.

The Bagatelle Handbag Company produces handbags and the sole function of the Caprice Handbag Company is to market and sell the handbags produced by Bagatelle. Caprice only sells handbags manufactured by Bagatelle.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Bagatelle Handbag decreased 5.1 percent from 1973 to 1974, increased 10.8 percent from 1974 to 1975 and decreased 11.1 percent for the first ten months of 1976 compared to the first ten months of 1975. Employment of sales personnel at Caprice Handbag Company declined 12 percent from 1974 to 1975 and declined 14 percent in the first 10 months of 1976 compared to the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales in value by Caprice Handbag Company decreased 7.9 percent from 1973 to 1974 and increased 27.7 percent from 1974 to 1975. Sales in value decreased 8.7 percent in the first ten months of 1976 compared to the first ten months of 1975.

Production in quantity by Bagatelle Handbag Company decreased 25.6 percent from 1973 to 1974, 7.5 percent from 1974 to 1975 and 3.7 percent for the first ten months of 1976 compared to the first ten months of 1975.

INCREASED IMPORTS

Imports of handbags increased absolutely from 1971 to 1972, decreased absolutely from 1972 to 1973 and from 1973 to 1974 before increasing to 57.9 million units in 1975 from 54.4 million units in 1974. For the first ten months of 1976 imports increased 66.7 percent compared to the first ten months of 1975 as they rose from 41.1 million units to 68.5 million units.

CONTRIBUTED IMPORTANTLY

A representative sample of Caprice Handbag Company's customers, indicated that they had increased their purchases of imported handbags such as those manufactured by Bagatelle, while decreasing their purchase from Caprice Handbag Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's handbags

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manufactured by Bagatelle Handbag Company and sold by Caprice Handbag Company, New York, New York contributed importantly to the total or partial separations of the workers of those companies. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production, marketing and selling of women's handbags at the New York, New York plant of Bagatelle Handbag Company and Caprice Handbag Company who became totally or partially separated from employment on or after September 15, 1975 are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of December 1976.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.76-37473 Filed 12-20-76;8:45 am]

[TA-W-1146]

FAMOUS MAID BRASSIERE CORP., BROOKLYN, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1146; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 7, 1976 in response to a worker petition received on October 7, 1976 which was filed on behalf of workers and former workers producing brassieres at the Brooklyn, New York plant of Famous Maid Brassiere Corporation.

The notice of investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47622). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Famous Maid Brassiere Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the plant declined 5.7 percent in the first three quarters of 1976 compared to the same period in 1975.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Company sales of brassieres declined 8.7 percent in the first three quarters of 1976 compared to the same period in 1975.

INCREASED IMPORTS

Imports of Brassieres, Bra-lettes and Bandaux increased each year, from 4.995 million dozens in 1971, to 6.921 million dozens in 1975 and increased from 4.988 million dozens in the first three quarters of 1975, to 6.405 million dozens in the same period of 1976.

Imports of brassieres by the company increased 4.4 percent in the first three quarters of 1976 compared to the same period in 1975.

CONTRIBUTED IMPORTANTLY

A representative sample of Famous Maid's major customers in 1975 and 1976 indicated that several of these customers have increased imports of brassieres, while decreasing their purchases from Famous Maid.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with brassieres produced at the Brooklyn, New York plant of Famous Maid Brassiere Corporation, contributed importantly to the total or partial separation of the workers engaged in the production of such brassieres at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Brooklyn, New York plant of Famous Maid Brassiere Corporation, who became totally or partially separated from employment on or after January 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December 1976.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.76-37474 Filed 12-20-76;8:45 am]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1142) a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:00 a.m. on Tuesday, January 11, 1977, in the Federal Ballroom North, Quality Inn—Capitol Hill, 415 New Jersey Avenue, N.W., Washington, D.C.

The meeting will be open to the public. The purpose of the meeting is to discuss the items listed in the following agenda:

1. Administration of oath to new member.
2. Schedule of advisory council meetings for 1977.
3. Election of advisory council coordinator.
4. Advisory council recommendations—status report.
5. Department of Labor progress report since last advisory council meeting.
6. Investment work group position paper—responsibilities and potential liabilities of fiduciaries and co-fiduciaries employed by employee benefit plans.
7. Small plans impact work group report.
8. Legislative amendments.
9. Minimum standards work group.

Any member of the public may file a written statement concerning the topics under this agenda by submitting 30 copies on or before the close of business Monday, January 10, 1977, to William J. Chadwick, Administrator of Pension and Welfare Benefit Programs, New Department of Labor Building, Third Street and Constitution Avenue, N.W., Room N4629, Washington, D.C., 20216.

Persons desiring to attend should notify Mr. Edward F. Lysczek, Executive Secretary of the Advisory Council, New Department of Labor Building, Third Street and Constitution Avenue, N.W., Room N4629, Washington, D.C., 20216, or may call Area Code 202-523-8753.

Signed at Washington, D.C. This 17th day of December 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.76-37590 Filed 12-17-76;3:12 pm]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

MEETING

Notice is hereby given, pursuant to the Federal Advisory Committee Act, P.L. 92-463, that a meeting of the National Advisory Council on Extension and Continuing Education will be held on January 9, 1977, at the Xerox Center for Training and Management Development in Leesburg, Virginia, and again on Tuesday, January 11, and Wednesday, January 12.

The meeting on January 9 will begin at 7:30 p.m. and end no later than 9:00 p.m. The agenda will consist of the swearing in of new members to the Council and a final planning session by the Council for its Invitational Conference on Continuing Education, Manpower Policy, and Lifelong Learning, which will take place at the Xerox Center on Monday and Tuesday morning, January 10 and 11.

The Council will meet again at the conclusion of the conference, beginning at about 3:00 p.m. on January 10 until 5:30 p.m.; and on Wednesday morning, from 9:00 a.m. to noon. The agenda for these sessions of the Council will include meetings of the standing committees of the Council; discussion of recommendations to be submitted by the Council to the President and Congress on March 31, 1977; and discussion of the annual report.

The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89-329. The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Title I, and to report annually to the President on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

The meeting of the Council is open to the public. Anyone wishing to attend should inform the Council office no later than January 4, by calling (202) 376-8888. The Conference is by invitation only. Anyone wishing information or reports of the Conference or the Council meeting should send requests to the Council office at 425 Thirteenth Street, N.W., Suite 529, Washington, D.C. 20004.

Dated: December 13, 1976.

JAMES A. TURMAN,
Executive Director.

[FR Doc.76-37454 Filed 12-20-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEE EDUCATION PANEL

Meeting

DECEMBER 10, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Education Panel will convene at 9:00 a.m. each day in Room 1023 at 806 Fifteenth Street N.W., Washington, D.C., on January 13-14, 1977.

The purpose of the meeting is to review Pilot applications submitted to the National Endowment for the Humanities for grants to educational institutions and non-profit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operations of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John Jordan, 806 Fifteenth Street N.W., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-37344 Filed 12-20-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

SCIENCE INFORMATION ACTIVITIES TASK FORCE

Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

SCIENCE INFORMATION ACTIVITIES TASK FORCE

Date: January 13 and 14, 1977. Time: 9:00 am thru 4:00 pm, both days. Place: Room 543, National Science Foundation, 1800 G Street, NW, Washington, DC 20550. Type of Meeting: Open. Contact: Mr. Robert S. Cutler, Executive Officer (DFO), Science Information Activities Task Force, Room 1201, National Science Foundation, Washington, DC, 20550, telephone: (202) 632-5826. Persons planning to attend should notify Mr. Cutler prior to the meeting.

Summary Minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, DC 20550.

Purpose of Task Force: To provide advice and recommendations concerning the appropriate roes and responsibilities of the National Science Foundation regarding the communication and use of scientific and technical information.

JANUARY 13, 1977

9:00	Welcome by Acting Director, NSF.
9:10	Introductory Remarks on Science Information and the Foundation's Scientific Technological and International Activities, Acting Assistant Director, Scientific, Technological and International Affairs.
9:20	Introductory Remarks on Task Force Charter, Tentative Work Plans, Organization, and Schedule, Chairman.
9:45	Discussion, Chairman.
10:45	Coffee Break.
11:00	Further Discussion on Task Force Charter, Schedule, and Organization, Chairman.
Noon	Recess.
1:30	Overview of NSF Science Information Activities, Division Director, Division of Science Information.
2:45	Coffee Break.
3:00	Open Public Participation, Chairman.
4:00	Adjourn.

JANUARY 14, 1977

9:00	Summary of Discussion from January 13, Chairman.
9:30	Identification of Initial Issues, Priorities, and Approach for the Task Force, Chairman.
10:45	Coffee Break.
11:00	Discussion, Chairman.
Noon	Recess.
1:30	Discussion of Requirements, Resources and Schedules, Chairman.
2:45	Coffee Break.
3:00	Tentative Agenda for Second Task Force Meeting, Chairman.
4:00	Adjourn.

M. REBECCA WINKLER,
Acting Committee Management Officer.

DECEMBER 13, 1976.

[FR Doc.76-37452 Filed 12-20-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 15, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

Occupational Health Reporter Readership Survey, single time, professionals in the field of occupational health, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Bureau of Census, 1977 National Travel Survey, NTS 1-7, other (see SF-83), national sample of persons in households, Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, positive beam limitation—effectiveness evaluation, FD-2969, single time, X-ray equipment operators, Warren Topelius, 395-5872.

Alcohol, Drug Abuse and Mental Health Administration, Treatment Outcome Prospective Study (TOPS), other (see SF-83) clients in federally funded drug abuse treatment programs, Richard Eisenger, 395-6140.

V41246 DEC 21 76 UMI

Social Security Administration, Disability Report and Vocational Report, SSA–3368, SSA–3369, on occasion, worker filing on his own behalf and in SSI disability claims, Caywood, D. P., 395–3443.

REVISIONS

VETERANS ADMINISTRATION

Application for change of permanent plan (medical), 29–1549, on occasion, insured veteran, Caywood, D. P., 395–3443.

ENVIRONMENTAL PROTECTION AGENCY

Health Questionnaire Survey, single time, Households within 1 mile radius of sewage treatment plan, Ellett, C. A., Richard Eisenger, 395–5867.

TENNESSEE VALLEY AUTHORITY

U.S. Fertilizer Port Study, single time, ports handling export or import of fertilizers, Lowry, R. L., 395–3772.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Farm Production Expenditure Survey, annually, sample of farmers, Hulett, D. T., 395–4730.

Animal and Plant Health Inspection Service, record of animals on hand (other than dogs and cats), VS 18–19 other (see SF–83), animal dealers, Tracey Cole, 395–5670.

Extension Service, Evaluation of Food and Nutrition Education Program, ES–255, ES–256, semi-annually, selected sample of participant in EFNEP, C. Louis Kincannon, 395–5211.

Agricultural Marketing Service, warehouseman's statement, TW 308, on occasion, grain elevators, Marsha Traynham, 395–4529.

DEPARTMENT OF DEFENSE

Defense Civil Preparedness Agency, DCPA Program Status Report, semi-annually, State Civil Preparedness Offices, Warren Topelius, 395–5672.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration, Social Issues (for nationwide drug abuse survey), NIDA 0620, single time, individuals in households, Richard Eisinger, 395–6140.

Public Health Service, Health Services Funding Financial Plan Summary Sheet, annually, PHS grantees, Lowry, R. L., Budget Review Division, 395–3772.

Health Resources Administration, Clinic Visit Record for Family Planning Services, IBM H97934, on occasion, sample of family planning service sites, Richard Eisinger, 395–6140.

Health Services Administration, Testing of a Curriculum for Natural Family Planning, single time, instructors, counselors, college students, Richard Eisinger, 395–6140.

DEPARTMENT OF THE INTERIOR

Departmental and Other Ecological Impact of Small Structures on the Coastal Environment, single time, government and university institutions, Ellett, C. A., 395–5867.

DEPARTMENT OF THE TREASURY

Departmental and other:

Long-term liabilities to, and claims on, foreigners, B–3, monthly, banks, Hulett, D. T., 395–4730.

Short-term Liabilities to Foreigners, B–1, B–1(supp) monthly, banks, Hulett, D. T., 395–4730.

Liabilities to, and Claims on, Foreigners, C–1/2, quarterly, nonbanking business concerns, Hulett, D. T., 395–4730.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, assessment of Vehicle Safety Problems for Special Driving Populations, single time, handicapped and elderly drivers, Strasser, A., 395–5867.

48–R0092, Departmental and other Short-Term Claims on Foreigners, B–2, Monthly, Banks, Hulett, D. T., 395–4730.

EXTENSIONS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cash Request and Fiscal Report Form, NEA–7, on occasion, charitable and educational institutions, Tracey Cole, 395–5870.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration, Uniform System of Accounts Prescribed for Rural Electric Utilities, financed by REA, REA 181–1, on occasion, REA electric borrowers, Caywood, D. P., 395–3448.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration, Check List for Review of Plans and Specifications (telephone), REA 553, on occasion, consulting engineers of REA telephone borrowers, Tracey Cole, 395–5870.

DEPARTMENT OF COMMERCE

Bureau of Census, National Longitudinal Study Residual Sample, Address Maintenance Survey, Address Correction Forms PMS–20, PMS–21, single time, national sample of scientists, Strasser, A., George Hall, 395–5867.

Bureau of Economic Analysis:

Plant and Equipment Expenditures Survey, BE–452, quarterly, manufacturing and utilities, Laverne V. Collins, 395–5867.

Plant and Equipment Expenditures Survey (Expansion Industries), BE–456, quarterly, medical, legal, educational and religious social service organization, Laverne V. Collins, 395–5867.

Plant and Equipment Expenditures Survey Annual Supplement, (Facturers Only), BE–452A, annually, manufacturing and utilities, Laverne V. Collins, 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, The Conference of Radiation Control Programs, Directors Nationwide Evaluation of X-Ray Trends, Survey Form, FD 2578, FDA0909, on occasion owners and operators of X-ray equipment, Caywood, D. P., 395–3443.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76–37584 Filed 12–20–76;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 10, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

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Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Data requirements for the Gemlup II study, Single time, Regional planning agencies, Ellett, C. A., 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Study of incidence, prevalence, economic impact of stroke, Single time, persons with diagnosis of stroke or close relatives, Richard Eisinger, 395–6140.

REVISIONS

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service:

Application for registration, VS 18–11, on occasion, research facilities, Warren Topelius, 395–5872.

Inspection of animal dealers premises, research facilities, and holding facilities, VS 18–8, monthly, animal dealers and research facilities, Lowry, R. L., 395–3772.

Record of dogs and cats on hand, VS 18–5, other (see SF–83), dealers and research facilities, Tracey Cole, 395–5870.

DEPARTMENT OF COMMERCE

Bureau of Census, survey of housing starts, sales and completions, SOC 900AX, monthly, builders of residential construction, Sunderhauf, M. B., 395–6140.

EXTENSIONS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Artists-in-schools program/dance component; 1977–78 school year—guidelines for dance, movement specialists, annually, dance movement specialist, Marsha Traynham, 395–4529.

ENVIRONMENTAL PROTECTION AGENCY

Discharge monitoring report, on occasion, NPDES permittees discharging pollutants to waters of U.S., Marsha Traynham, 395–4529.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary):

Termite soil treatment guarantee, FHA 2052, on occasion, registered surveyors, Housing, Veterans and Labor Division, 395–3532.

Borrower's statement regarding its financial condition, HUD 4302, on occasion, educational institutions, Housing, Veterans and Labor Division, 395–3532.

Calculation of net amount due for bond purchase, HUD 4301, on occasion, educational institutions, Housing, Veterans and Labor Division, 395–3532.

Requisition for Government advance, HUD 4300–A, on occasion, educational institutions, Housing, Veterans and Labor Division, 395–3532.

Requisition and voucher for bond payment or advance, HUD 4300, on occasion, educational institutions, Housing, Veterans and Labor Division, 395–3532.

DEPARTMENT OF LABOR

Bureau of International Labor Affairs, application for a special individual rate, WH–249, annually, sheltered workshops, Strasser, A., 395–5867.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Basic rules of the defense materials and priority systems between Canada and U.S., DMS–1, on occasion, Marsha Traynham, 395–4529.

FOOD AND NUTRITION SERVICE

Certification of household transfer (food stamp program), FNS–286, on occasion, Housing, Veterans and Labor Division, 395–3532.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration:

Franchising in the economy, 1974–1976, DIB–910, annually, franchisors, Marsha Traynham, 395–4529.

Franchisor participation agreement for franchise company data book, DIB 908, annually, franchisors, Marsha Traynham, 395–4529.

DEPARTMENT OF DEFENSE

Departmental and other application for correction of military or naval record, DD 149, on occasion, individuals requesting change in military records, Caywood, D. P., 395–3443.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary), certificate of financial settlement, HUD 6282, annually, loc. pub. agencies w/ Neigh. development progr. being closed, Housing, Veterans and Labor Division, 395–3532.

DEPARTMENT OF LABOR

Bureau of International Labor Affairs:

Application for a certificate for a training or evaluation, WH–247, annually, sheltered workshops, Strasser, A., 395–5867.

Initial application for sheltered workshop certificate, WH–373, on occasion, sheltered workshops, Strasser, A., 395–5867.

Application for sheltered workshop certificate, WH–226, on occasion, sheltered workshops, Strasser, A., 395–5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76–37585 Filed 12–20–76;8:45 am]

PRIVACY ACT OF 1974

Reports On New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period November 29, through December 10, 1976 the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

System Names:

(1) Epidemiology Studies, National Institute of Environmental Health Sciences.

(2) Medical Health Surveillance of Grain Handlers.

Report Date:

November 24, 1976.

Point of Contact:

John Ottina, Assistant Secretary for Administration and Management, Department of Health, Education, and Welfare, Washington, D.C. 20201.

UNITED STATES INFORMATION AGENCY

System Name:

Director's Secretariat Staff Files.

Report Date:

December 2, 1976.

Point of Contact:

Mr. Alan Carter, Assistant Director (Public Information), U.S. Information Agency, Washington, D.C. 20547.

FEDERAL ELECTION COMMISSION

System Names:

(1) Requests for opinions and response.

(2) Compliance actions.

(3) Public information mailing list.

(4) Personnel and travel.

(5) Candidate reports and designations.

(6) Payroll records.

Report Date:

December 3, 1976.

Point of Contact:

Daniel Swillinger, Assistant General Counsel, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

System Name:

ERDA Headquarters Online Travel System.

Report Date:

December 2, 1976.

Point of Contact:

Walter A. Kee, Energy Research and Development Administration, Washington, D.C. 20545.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.76–37453 Filed 12–20–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 193]

QUESTIONS RAISED IN ACCOUNTING SERIES

Meeting

The Securities and Exchange Commission today announced that it will hold a public meeting to explore certain questions which relate to a Petition filed by the public accounting firm of Arthur Andersen & Co. on June 15, 1976. In accounting Series Release No. 193 [41 FR 32810 and 34374] the Commission described the Andersen Petition and solicited public comment on three questions which the Commission believed were raised by the Andersen Petition. Those questions were:

1. Should the Commission continue its policy of recognizing the pronouncements of the Financial Accounting Standards Board as providing a frame of reference for publicly held companies to satisfy their statutory disclosure obligations?

2. Should the Commission further define the phrase "substantial authoritative support?"

3. Should the Commission further define the phrase "accounting principles and practices" used in Rule 2–02(c) of Regulation S–X [17 CFR 210.2–02(c)]?

The meeting will be held in Room 776 of the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. at 2:30 p.m. on January 3, 1977. The format for the meeting will involve a roundtable discussion among the Commission and certain invited persons who are knowledgeable in the area. Because of the importance of the questions raised by the Andersen Petition, the Commission is holding this meeting to supplement the public comment received in response to its request for comment in ASR 193. The following persons have accepted the Commission's invitation to participate in this meeting:

Marshall S. Armstong	Ralph E. Kent
John C. Biegler	Herbert C. Knortz
Manuel F. Cohen	Theodore R. Lilley
Sidney Davidson	Archibald E. MacKay
Charles C. Hornbostel	Wallace E. Olson
John W. Ingraham	Lewis Young

The meeting will be open to the public.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 15, 1976.

[FR Doc.76–37427 Filed 12–20–76;8:45 am]

SMALL BUSINESS ADMINISTRATION

BOSTON DISTRICT ADVISORY COUNCIL

Meeting

The Small Business Administration Boston District Advisory Council will hold a public meeting at 10:00 a.m. Fri-

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day, January 28, 1977, in the Mandarin Room of the Sheraton Lincoln Motor Inn, Worcester, Massachusetts, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Dr. A. J. Prendergast, 150 Causeway Street, Boston, Massachusetts 02114, (617) 223-4074.

Dated: December 13, 1976.

HENRY V.Z. HYDE, JR.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-37458 Filed 12-20-76;8:45 am]

[License No. 02/02-0321]

IRVING SMALL BUSINESS INVESTMENT CO., INC.

Issuance of a License To Operate as a Small Business Investment Company

On November 9, 1976, a notice was published in the FEDERAL REGISTER (40 FR 49559) stating that Irving Small Business Investment Company, Inc., One Wall Street, New York, New York 10005, had filed an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Rules and Regulations governing small business investment companies (13 CFR 107.102 (1976)) for a license to operate as a small business investment company (SBIC).

Interested parties were given to the close of business November 24, 1976, to submit their written comments. None were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on December 6, 1976, issued License No. 02/02-0321 to Irving Small Business Investment Company, Inc., pursuant to Section 301 (c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: December 9, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-37456 Filed 12-20-76;8:45 am]

[Proposed License No. 02/02-0324]

PIONEER INVESTORS CORP.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a Small Business Investment Company under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et. seq.) has been filed by Pioneer Investors Corp. (the Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102.

The applicant, with its principal place of business at One Battery Park Plaza, New York, New York 10004, will begin operations with $2,510,000 paid-in capital and surplus.

The officers and directors of the applicant will be as follows:

Name	Title
Neil A. McConnell, 12 Sutton Square, New York, N.Y.	Chairman of the board and director.
James G. Niven, 160 East 72nd Street, New York, N.Y. 10021.	President, treasurer and director.
Sharon J. Gabriel, 20-06 Seagirt Blvd., Far Rockaway, N.Y. 11691.	Assistant secretary.
Niven Management Corp., 160 East 72nd Street, New York, N.Y. 10021.	Investment advisor — owned 100 percent by Mr. James G. Niven.

Mr. Neil A. McConnell will be the sole beneficial owner of the applicant's common stock. He also owns all of the common stock and Mr. Niven is a director of Pioneer Capital Corporation, 1440 Broadway, Room 1967, New York, New York 10018, a Section 301(d) small business investment company, License No. 02/02-5274.

The applicant will conduct its operations principally in the State of New York. The applicant expects to be equity rather than collateral oriented in its investment decisions with particular attention to investments with growth potential.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Any person may, on or before January 5, 1977, submit to SBA written comments on the proposed License. Any such communications should be addressed to the Deputy Associate Administrator for Investment, 1441 "L" Street, N.W. Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Date: December 9, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-37457 Filed 12-20-76;8:45 am]

DEPARTMENT OF STATE

[CM-7/5]

STUDY GROUP 5 OF THE U.S. NATIONAL COMMITTEE OF THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that Study Group 5 of the U.S. CCITT National Committee will meet on January 13, 1977, at 10:30 a.m. in Room 5611 of the Department of Commerce, 14th Street, N.W., (between E and Constitution Avenue), Washington, D.C. This Study Group deals with matters in telecommunications relating to the development of the international digital date transmission services.

The agenda for the January 13 meeting will include consideration of the following:

1. Final review of proposed contributions to the next meeting of CCITT Study Groups VII and XVII;
2. Other business.

Members of the general public who desire to attend the meeting on January 13 will be admitted up to the limit of the meeting room.

GORDON L. HUFFCUTT,
Acting Director, Office of International Communications Policy.

DECEMBER 13, 1976.

[FR Doc.76-37459 Filed 12-20-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

INTERSTATE RESURFACING, RESTORATION AND REHABILITATION STUDY

Extension of Comment Period

This notice extends the period for comments to the Notice published November 8, 1976 (41 FR 49208 and 49209), on the need to provide Federal financial assistance for resurfacing, restoration, and rehabilitation of routes on the Interstate Highway System. Additional time is needed for all interested parties to comment. Accordingly, the comment period is extended through January 14, 1977.

Issued on: December 14, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.76-37460 Filed 12-20-76;8:45 am]

Federal Railroad Administration

[FRA Waiver Petition Number PB-76-2]

DULUTH, WINNIPEG AND PACIFIC RAILWAY CO.

Petition for Waiver of Power Brake Requirements

Notice is hereby given that the Duluth, Winnipeg and Pacific Railway Company (DW&P) has petitioned the Federal Railroad Administration for a permanent waiver of compliance with the air brake testing requirements of 49 CFR 232.19. The permanent waiver being requested by DW&P would be applicable only to run-through trains that operate directly between Symington Yard in Winnipeg, Canada and Duluth, Minnesota.

The current provision of the regulation, in general terms, defines a "run-through train" as one which passes from one carrier to another with no change in the equipment which comprises that train (49 CFR 19(a)(1). Specific inspection and testing of the air brake systems are applicable to the operation of each "run-through train" (49 CFR 232.19 (c)). A carrier that is operating a "run-through train" (49 CFR 232.19 (c)). A carrier that is operating a "run-through train" is not allowed to change the locomotive or locomotives of that train at the point of interchange unless the train is given an initial terminal air brake test at that precise location.

DW&P, in its run-through train operation between Winnipeg, Canada and Duluth, Minnesota, currently changes the locomotive consist used to haul this train at a location known as Fort Francis, Canada. The change in locomotives involves the addition of one locomotive unit to trains destined for Duluth, Minnesota and the removal of one locomotive unit from trains destined for Winnipeg, Canada. DW&P currently performs the required initial terminal air brake test at Fort Francis, Canada when the locomotive consist is altered.

DW&P operational changes will eliminate this locomotive consist change at Fort Francis, Canada. DW&P proposes, to make this locomotive consist change at Rainer, Minnesota. DW&P seeks relief from the requirement that an initial terminal air brake test be performed at Rainer, Minnesota. At the time the locomotive consist is changed, DW&P requests permission to utilize the intermediate terminal air brake test prescribed by the regulation (49 CFR 232.12(c)-(j)) in lieu of the initial terminal air brake test.

DW&P indicates that, in its view, safety will not be impaired by this proposed method of operation and that it will not change the controlling unit when the locomotive consist is altered. DW&P also indicates that significant savings will be realized if the requested waiver is granted and this method of operation is utilized.

DW&P states in the petition that it has explored several alternatives prior to requesting this waiver of compliance. These alternatives included adding the locomotive unit at Symington, Canada and isolating the unit until it was needed and selecting a site between Rainer, Minnesota, and Duluth, Minnesota where the locomotive consist change could be made in conformity with the current regulatory provisions. These alternatives are not feasible in the judgement of the DW&P and, therefore, DW&P has requested this waiver which will permit DW&P to achieve significant savings in fuel and operating expenses without reducing the safety of the operation.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided however, if requested by any interested party prior to December 24, 1976. All communication concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number PB-76-2) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before January 10, 1977 will be considered by the Federal Railroad Administration before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

This notice is issued under the authority of 45 USC 9; 49 USC 1655(e); and section 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on December 14, 1976.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.76-37389 Filed 12-20-76;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 76-13]

ADVISORY COMMITTEE ON DISTILLED SPIRITS PLANT SUPERVISION

Meeting

A meeting of the Advisory Committee on Distilled Spirits Plan Supervision will be held on January 12 and 13, 1977, in Room 5041, 1200 Pennsylvania Avenue, NW., Washington, DC. The meeting will begin at 10:00 a.m. on January 12, and at 9:30 a.m. on January 13.

The Committee will first receive and discuss reports from members on the findings of industry surveys of the feasibility of the Bureau's plan for a phased withdrawal of government officers presently assigned to distilled spirits plants. The Committee will then formulate its recommendations to the Director (a) as to the desirability of changing the present form of supervision of distilled spirits plants, and (b) as to the method of overcoming or minimizing problems anticipated in the transition if a change should be considered feasible.

The meeting will be open to the public. Anyone wishing to speak before the Committee should include, in a written request, a statement of the purpose of the presentation, the subject matter to be covered, and the amount of time needed.

Written material for the Committee's consideration and requests to appear before the Committee should be sent to the Manager, Advisory Committee on Distilled Spirits Plant Supervision, Room 6233, Bureau of Alcohol, Tobacco and Firearms, Washington, DC. 20226.

Dated December 16, 1976.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.76-37463 Filed 12-20-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 216]

ASSIGNMENT OF HEARINGS

DECEMBER 16, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 128663 (Sub 2), Metals Transport, Inc. now being assigned March 8, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

FF 486, Gulf Forwarding, Inc. now being assigned March 15, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 125533 (Sub 15), George W. Kugler, Inc. now being assigned March 16, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 103066 Sub 62, Stone Trucking Company, now being assigned February 24, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC-F 12282, Gould Bulk Transport, Inc.—Purchase—Thaddeus A. Gorski, Dba Gorski Bulk Transport, Continental Transport, Inc., and MC 142366 Sub 1, Gorski Bulk Transport, Inc., now being assigned March 1, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 103066 Sub 39, Stone Trucking Company, now being assigned February 9, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 103066 Sub 48, Stone Trucking Company, now being assigned March 10, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 103066 Sub 45, Stone Trucking Company, now being assigned March 24, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107295 (Sub-624), Pre-Fab Transit Co., now being assigned February 7, 1977 (1 day), at Memphis, Tennessee; in a hearing room to be later designated.

MC 139193 (Sub-40), Roberts & Oake, Inc., now being assigned February 8, 1977 (1 day), at Memphis, Tennessee; in a hearing room to be later designated.

MC 140800 (Sub-1), Colonial Transportation, Inc., now being assigned February 9, 1977 (1 day), at Memphis, Tennessee, in a hearing room to be later designated.

MC 115654 (Sub-58), Tennessee Cartage Company, Inc., now being assigned February 10, 1977 (2 days), at Memphis, Tennessee; in a hearing room to be later designated.

AB-21, Abilene & Southern Railway Company Abandonment Between Abilene & Winters in Taylor & Runnels Counties, Texas and FD-27929, Texas & Pacific Railway Company—Acquistion & operation—A Line of Railroad at Abilene, Taylor County, Texas, now being assigned continued hearing February 14, 1977 (2 days), at Winters, Texas; in a hearing room to be later designated.

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MC 124947 (Sub-47), Machinery Transports, Inc., now being assigned February 16, 1977 (1 day), at Dallas, Texas; in a hearing room to be later designated.
MC 83835 (Sub-134), Wales Transportation, Inc., now being assigned February 17, 1977 (2 days), at Dallas, Texas; in a hearing room to be later designated.
MC 129032 (Sub-No. 21), Tom Inman Trucking, Inc., now assigned January 17, 1977, at Seattle, Wash., is canceled and reassigned for January 17, 1977, at Portland, Oreg. Room 103, Pioneer Courthouse, 555 Yamhill Street.
MC 66571 (Sub-No. 7), Red Line, Inc., now assigned January 24, 1977, at Washington, D.C. is canceled and reassigned for hearing on January 24, 1977 (1 week), at Roanoke, Va.; in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–37476 Filed 12–20–76;8:45 am]

[Notice No. 217]

ASSIGNMENT OF HEARINGS

DECEMBER 16, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction

MC 142012, Osborne West Limited now assigned January 17, 1977 at San Francisco, California, Room 510, 5th Floor, 211 Main Street instead of 210 Main Street.
MC 134068 (Sub 28), Kodiak Refrigerated Lines, Inc., now assigned January 13, 1977 at San Francisco, California and will be held in Room 510, 5th Floor, 211 Main Street instead of 210 Main Street.
MC 113855 (Sub 357), International Transport, Inc. now assigned January 12, 1977 at San Francisco, California and will be held in Room 510, 5th Floor, 211 Main Street instead of 210 Main Street.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–37477 Filed 12–20–76;8:45 am]

[Notice No. 91]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 21, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 10, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–75682. By order of December 7, 1976 the Motor Carrier Board, on reconsideration, approved the transfer to Me Transport Co., Inc., Binghamton, N.Y., of the operating rights in Certificate No. MC 140695 issued November 3, 1976, to Edward T. Walsh, doing business as Walsh Carriage, Johnson City, N.Y., authorizing the transportation of canned food products, from Johnson City and Binghamton, N.Y., to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the Western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the United States Canadian Boundary Line, restricted against the transportation of shipments to points in Florida and New York (except points in Putnam, Westchester, Nassau, and Suffolk Counties, N.Y., and New York, N.Y. and to points in Missouri, Arkansas, Minnesota, and Louisiana; and foodstuffs, not frozen (except in bulk), used in the manufacture of food products, frozen meats, in boxes, and returned canned food products, and cartons, labels and empty cans, from the above-named destination points except Missouri, Arkansas, Minnesota, and Louisiana, to Johnson City and Binghamton, N.Y., restricted against the transportation of shipments from points in Florida (except Jacksonville), and Madison and Cudahy, Wis., to Johnson City and Binghamton, N.Y.; such merchandise as it dealt in by wholesale and retail food business houses (except in bulk), from points in Maryland, Maine, and Massachusetts, to Binghamton, N.Y.; and foodstuffs, not frozen (except in bulk), used in the manufacture of food products, and cartons, labels, and empty cans, from Providence, R.I., and points in Connecticut, Delaware, New Jersey, Pennsylvania, Virginia, and Georgia, to Binghamton, N.Y. Herbert M. Canter, 315 Seitz Building, 201 East Jefferson Street, Syracuse, N.Y. 13202 Attorney for transferee. Donald C. Carmien, 50–61 Court Street, Binghamton, N.Y. 13901 Attorney for transferor.

No. MC 76075 By order entered December 7, 1976 the Motor Carrier Board approved the transfer to Fleming-Babcock, Inc., Platte City, Mo. of the operating rights set forth in Certificate No. MC 117124, issued September 6, 1972, to A & J Trucking Corporation, Forest City, Mo., authorizing the transportation of sand, gravel, dirt, and rock between points in North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri, Tom B. Kretsinger, Esq., Suite 910 Fairfax Bldg., 101 W. 11th St., Kansas City, Mo. 64105.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–37478 Filed 12–20–76;8:45 am]

JOEL E. BURNS AND LEWIS R. TEEPLE

Delegation of Authority

In the matter of specification of type of rerouting cases in respect of which determinations may be made by Joel E. Burns and/or Lewis R. Teeple, Agents.

At a Session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 10th day of December, 1976.

It appearing, That Item 4.4(z) of the Organization Minutes of the Commission, 36 F.R. 6468, April 3, 1971, assigns to Division 3 the responsibilities pertaining to the use by the National Railroad Passenger Corporation (AMTRAK) of the tracks and other facilities of other railroads, including the power to deal with emergency requirements, as set forth in section 402(c) of the Rail Passenger Service Act of 1970, 45 U.S.C. § 562(c); and

It further appearing, That the exigencies of the situation may be such as to require determination and action by a single official and preclude the convening of the Division to receive and act on the application of AMTRAK, and good cause appearing therefor:

It is ordered, That Joel E. Burns and/or Lewis R. Teeple, Agents, shall be delegated authority to make the determination as to whether an emergency requiring such action exists and to require a railroad immediately to make available tracks and other facilities to facilitate operations by AMTRAK for the duration of such emergency; and

It is further ordered, That this order shall be effective as of the date thereof.

By the Commission, Division 3, Commissioners Brown, MacFarland and Clapp.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–37479 Filed 12–20–76;8:45 am]

federal register

TUESDAY, DECEMBER 21, 1976



PART II:

ENVIRONMENTAL PROTECTION AGENCY

LEAD ADDITIVES IN GASOLINE: CONTROLS ON REFINERS

Clarification and Response to Public Comments

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Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 659-3]

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Lead Additives In Gasoline; Controls On Refiners; Response to Comments

On December 6, 1973 (38 FR 33734), the Environmental Protection Agency published in the FEDERAL REGISTER regulations controlling the amount of lead additives used in gasoline. Enforcement of the regulations is based upon quarterly reports required to be submitted by refiners and lead additive manufacturers. Refiners are required to report lead usage and gasoline production at each refinery. Lead additive manufacturers must provide information regarding the quantity of lead additives shipped to each refinery.

These regulations were the subject of court challenges until June of this year. Because of the ongoing litigation, EPA suspended enforcement on February 20, 1975 (40 FR 7480). The D.C. Circuit issued its opinion upholding the regulations on March 19, 1976, but the industry litigants indicated their intention to seek Supreme Court review. On April 1, 1976 (41 FR 13984), EPA continued the suspension of enforcement but reinstated the reporting requirements. The Supreme Court denied certiorari on June 14, 1976.

On September 28, 1976 (41 FR 42675), based on studies indicating that gasoline shortages would result if the original lead phase-down schedule were enforced, EPA amended the regulations. The amended regulations retain the original 0.5 gram per gallon (gpg) standard, but extend the period for compliance with that standard from January 1 to October 1, 1979, in order to permit sufficient time for refiners to install the equipment necessary to meet the reduced lead level without causing a gasoline shortage. The January 1, 1978, standard of 0.8 gpg also remains in effect but will be suspended if a refiner can show that he has taken, and is continuing to take, sufficient actions to insure the achievement of the 0.8 gpg standard at the earliest practicable date after January 1, 1978, and the 0.5 gpg standard by October 1979 or before.

The September 28, 1976, amendments provided opportunity for public comment within 30 days after the date of publication of the amendments. The purpose of this public notice is to clarify certain aspects of the information requirements under the December 6, 1973, regulations and to respond to the public comments regarding the September 28, 1976, amendments and clarify portions of the amendments where the comments have indicated there may exist some uncertainty as to their meaning.

LEAD USAGE AND GASOLINE PRODUCTION REPORTING REQUIREMENTS

Lead usage and gasoline production reports from refiners and lead additive manufacturers have been required for the 1976 April–June and July–September calendar year quarters. As a result of these reporting requirements, a number of questions have arisen regarding how to report lead usage and gasoline production under certain circumstances which occur in petroleum manufacturing and marketing operations. This notice will provide guidance with respect to how the reporting requirements impact these situations.

The provisions of 40 CFR 80.20(a)(1) setting forth maximum allowable lead content, and 40 CFR 80.20(a)(3) setting forth reporting requirements, apply to any gasoline refiner with respect to any refinery. Refiner is defined at 40 CFR 80.2(i) as "any person who owns, leases, operates, controls, or supervises a refinery." A refinery is defined as 40 CFR 80.2(h) as "a plant at which gasoline is produced." For the purpose of these regulations, "a plant at which gasoline is produced" includes any plant where any operation or process is performed such that the output of the plant is gasoline, except that a plant whose sole operation is to transfer gasoline or to blend nonlead additives (e.g. rust inhibiting compounds) into gasoline is not a refinery for these purposes. Plants which blend feedstocks to produce gasoline or blend feedstocks and gasoline and lead, or any combination thereof, are included within the definition of refinery.

A certain quantity of product may be processed into gasoline at one refinery, and then further processed into gasoline at another refinery. That is, there exist situations in the petroleum industry where a refinery receives a product that is already a substance comercially known as gasoline and further processes or blends that product. It is essential that production of a gallon of gasoline is reported only once in calculating average lead content; otherwise a dilution of lead averages will result.

Generally, a refinery can only count as part of its gasoline production total that gasoline actually produced or blended from a product that is not commonly or commercially known or sold as gasoline. That is, in computing the average lead content per gallon at a refinery pursuant to 40 CFR 80.20(a)(2), and reporting gasoline produced pursuant to 40 CFR 80.20(a)(3), a refinery can only count as "gasoline produced" the difference between the total output of what is commonly or commercially known as gasoline, and the initial input of gasoline (as distinguished from blending components). Thus, for example, absent the type of arrangement discussed below, a blending plant which obtains high octane gasoline from others and blends it with lead and low octane blending components may not report its total gasoline output as "gasoline produced." That is, if refinery "A" produces 100 gallons of gasoline and sells it to refinery "B," which further blends or processes that gasoline and sells it to refinery "B," count that 100 gallons as part of its production total; "B" may not. However, as a matter of enforcement policy, refineries will be permitted to shift reporting in gallonage of gasoline produced under narrow circumstances where further processing of that gasoline takes place. Thus, it will be permissible for "B" to report that 100 gallons as gasoline produced by "B," so long as "A" has not counted that 100 gallons. In this narrow situation where refinery "B" further processes gasoline supplied by refinery "A" a reporting shifting arrangement is permissible.

Process and exchange agreements for products which are commonly or commercially known as gasoline (as contrasted with feedstock or blending components) do not alter the requirement that such products must be reported by the refinery which manufactures the gasoline. For example, if refinery "A" produces 100 gallons of gasoline for the account of refinery "B," refinery "A" must count that volume as gasoline produced. Where refinery "A" produces a product which is clearly not gasoline and sells it to "B" which processes it into gasoline, only "B" may count the volume produced.

There may be cases where it is not clear whether the product refinery "A" has produced and sold to refinery "B" for further processing is gasoline. So long as the determination of whether a product is gasoline is reasonable and the volume is reported only once, it will be accepted by EPA. In all cases of reporting shifting, it will be the responsibility of the subsequent processor of the gasoline (refinery B) to assure that double reporting does not occur. In any case of double reporting EPA will exclude the subject gasoline gallonage from the output of the subsequent refiner for determining compliance with the lead content standards.

The following table summarizes the system for reporting volume of gasoline produced:[1]

[1] This table only applies to reporting volume of gasoline, not to lead usage reporting.

Case 1	Reprocessing of gasoline: Refinery "A" produces gasoline, sells it to refinery "B" which further processes it.	"A" reports volume, but O.K. to arrange for "B" to report if "A" does not.
Case 2	Processing feedstock: Refinery "A" produces feedstock clearly not gasoline, sells to refinery "B" which processes it into gasoline.	"B" reports volume, "A" does not.
Case 3	Processing of product which may be feedstock or gasoline: Refinery "A" produces a product which may or may not be gasoline, sells to "B" which further processes it into gasoline.	"B" must determine if "A" has reported volume, if so, "B" may not report volume.

Questions have also arisen as to who must report lead usage for the purpose of calculating average lead content pursuant to 40 CFR 80.20(a)(2) and 80.20(a)(3)(v). In all cases, the lead usage is to be reported by the refinery actually using the lead in its operations. In most cases, the quantity of lead used will be the same amount as the change in lead inventory reflected on the lead report form. However, in some cases the lead inventory may be depleted through the shipping of lead from one refinery to another refinery where it is actually used. In those cases, it is still the figure for lead actually used which must be used in determining average lead content. EPA Form #3520–2 will be changed to account for this (at present the form does not provide for the possibility of lead being shipped out of a refinery). The form will also be amended so that when the change in lead inventory differs from the quantity of lead actually used, an explanation of the reason for the difference must be provided. For example, refinery "A" may have a change in lead inventory equal to 200,000 kilograms of lead during a particular quarter. However, refinery "A" may have used 150,000 kilograms of lead in the production of gasoline, and shipped 50,000 kilograms of lead to refinery "B." In that situation, average lead content for refinery "A" will be determined on the basis of 150,000 kilograms of lead, and refinery "A" must also explain the 50,000 kilogram difference. Refinery "B" must report the 50,000 kilograms of lead shipped to it by refinery "A" as part of its lead additive inventory computations.

RESPONSES TO COMMENTS RECEIVED PURSUANT TO THE SEPTEMBER 28, 1976 AMENDMENTS

In response to the amendments promulgated in the September 28, 1976 FEDERAL REGISTER (41 FR 42675), twenty-nine written comments were received. Other comments were discussed during meetings with refiner representatives and EPA staff and during numerous telephone discussions between refiners and EPA staff.

Comments were received concerning the suspension provision in general. There were a number of inquiries about the criteria to be used in granting a suspension of the 0.8 gpg standard. The criteria are those set forth in the September 28, 1976 FEDERAL REGISTER notice (41 FR 42675), and as clarified in this notice.

1. *Construction compliance schedules.* Section 80.20(a)(4)(ii) establishes requirements for the submission of construction compliance schedules by refiners who intend to achieve compliance, in whole or in part, through construction of additional octane processing facilities. A number of comments exhibited concern that insufficient time was provided to formulate a detailed plan and to complete advance planning and scheduling required by the compliance schedule due January 31, 1977. Given the facts that the industry was put on notice as to the phase-down requirements of these regulations at the time of their promulgation in December 1973, that the regulations were upheld by the D.C. Court of Appeals on March 19, 1976, and that the United States Supreme Court refused certiorari in June 1976, EPA believes that the additional four month period provided by the September 28, 1976, amendments to establish a compliance plan is ample. In order to obtain a suspenison of the January 1978, 0.8 gpg standard, a sufficiently detailed schedule of milestone activities must be submitted by January 31, 1977, to indicate to EPA the actions which will be taken to achieve compliance. A recommended format for the submitted plan is outlined in the Format Section of this notice.

In a similar comment, the Agency was asked whether a refiner would lose its right to request a suspension if all the details and specific dates of the compliance schedule are not firm by January 31, 1977. The key events of the compliance schedule should be firm by January 31, 1977. A company will not be granted a suspension if the plan submitted by January 31, 1977, does not contain sufficient specificity regarding the key milestone activities and the time at which they are scheduled to occur to adequately demonstrate timely compliance with the standards.

Other questions were raised regarding how EPA will treat cases where construction permits cannot be obtained or there are delays in construction because a refinery is in a non-attainment area. EPA will announce the policy which it will follow in such cases in a separate FEDERAL REGISTER notice regarding an interpretive ruling on the preconstruction review requirements of 40 CFR 51.18.

Several comments referred to potential delays in construction and procuring equipment. The Agency believes sufficient time has been provided to purchase and install the necessary octane processing facilities to achieve the standard in a timely fashion. It is expected that all necessary actions (including the implementation of overtime construction schedules and purchasing equipment from alternate suppliers, if necessary) will be undertaken to achieve compliance. The October 1, 1979, date is firm. In those instances where construction is delayed such that a scheduled milestone is not met, the Agency must be notified. Upon such notification, EPA will take enforcement action appropriate under the circumstances.

2. *Feedstock or blending component process or exchange agreements.* When a refiner intends to achieve compliance with the 0.8 gpg or the 0.5 gpg standard either wholly or partially through entering and implementing feedstock or blending component process or exchange agreements, § 80.20(a)(4)(iv) requires that the compliance schedule contain a general description of such agreements. The description must include dates for entering and implementing each such agreement and should identify the parties involved.

Several commenters asked how suspensions will be determined in the case of feedstock or blending component exchanges or processing agreements as regards to type of agreement and timing. Agreements will be reviewed on the basis of timeliness with respect to meeting the 0.8 gpg and 0.5 gpg standards. In the event a refiner cannot enter into an appropriate agreement to obtain 0.8 gpg until, for example, September 1, 1979, this will not preclude suspension if this is the earliest practicable date at which 0.8 gpg could be achieved. The agreement is included in a submitted plan that is otherwise complete, and the 0.5 gpg standard is to be achieved after October 1, 1979.

Clarification was also sought on whether § 80.20(a)(4)(iv) applies to both inter-company and intra-company arrangements. Submittals under this section apply to inter- and intra-company transfers, sales, exchanges, and processing arrangements on a refinery by refinery basis.

One commenter asked whether or not a refinery which intended to meet the 0.8 gpg and 0.5 gpg standards through feedstock or blending component processing or exchange agreements, without seeking a suspension, must notify the Agency. No notification is necessary unless there is a reduction in gasoline production or a significant change in product mix.

3. *Reduction in gasoline production or a significant change in product mix.* Section 80.20(a)(4)(v) requires EPA to be notified by December 31, 1976, by any refiner intending to achieve compliance by any reduction in gasoline production at any refinery or by a significant change in product mix at any refinery. Several commenters have sought clarification as to what is to be considered a reduction for notification purposes. In measuring a reduction in gasoline production or change in product mix the production level under these regulations is to be compared to the production level in the absence of these regulations for the period January 1, 1978, through December 31, 1979. The rate basis to be used is quarterly calendar production. For purposes of these submittals, a change in production or a significant change in product mix is a measurable change.

Some comments suggested limiting submissions of gasoline production changes or product mix changes to those of 5% or more. Other comments inquired as to whether a change in the grade of motor gasoline would constitute a product mix change. The Agency does not believe it would be useful to arbitrarily establish a threshold level of change to trigger the submission of information. The petroleum marketing industry is capable of making marketing projections of future demand for petroleum products and plant production levels required to satisfy demand. If in order to comply with the lead phase-down regulations a measurable reduction in gasoline production (by grade) is projected or a measurable change is projected in the mix of products (at a refinery) which compete for the higher octane blending components used in the production of gasoline as lead content is reduced, EPA must be notified of that change. For the

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purpose of accounting for product mix changes, only changes in the mix of products which compete for high octane blending components is considered significant. A change in the mix of grades of motor gasoline is considered significant. Changes in product mix or reductions in gasoline production which would occur in the absence of the lead phase-down regulations should not be submitted. Likewise, changes in the octane quality of any grade of gasoline are not considered significant for these purposes and should not be submitted.

Several commenters asked EPA to clarify whether gasoline "production" was intended to mean the amount of "gasoline planned to be manufactured" after January 1, 1978, or whether it was intended to mean the amount of "gasoline manufacturing capacity planned" after 1978. Gasoline production as used in § 80.20(a)(4)(v) is intended to mean the amount of gasoline which is planned to be actually produced on a quarterly basis after January 1, 1978, and before December 31, 1979. It is to be measured in terms of barrels of output product per calendar quarter, not barrels of output per unit of input. A reduction in output per unit of input should only be reported if it is accompanied by a reduction in absolute output (barrels per quarter) from that which would occur in the absence of the phase-down regulations.

4. *Small refiners.* Comments were received regarding the Agency's treatment of small refiners (less than 30,000 barrels per day (bbl/d) crude capacity). Several commenters suggested that additional time be granted to small refiners to submit information required by the December 31, 1976, and January 31, 1977, reporting requirements since EPA will not have made a decision regarding small refiner relief before the latter part of December. EPA agrees that extensions of these dates are warranted for small refiners. By means of this notice, enforcement against small refiners for failure to comply with § 80.20(a)(4)(v) will be suspended until March 31, 1977, by which time the information must be submitted. EPA will not enforce the 0.8 gpg January 1, 1978, standard for those small refiners whose plan pursuant to § 80.20(a)(4)(ii) is submitted after January 31, 1977, so long as the information is submitted by April 31, 1977, and all other suspension criteria are met.

Other comments sought a change in the definition of "small refiner," suggesting a definition of 50,000 bbl/d or less, accounting for age and type of refinery, or changing from a "small refiner" to "a small refinery" basis. An additional comment suggested that the standard for small refiners should be changed to the California Air Resources Board schedule of 1.4 gpg or be eliminated completely. A number of commenters (mostly, major oil companies) recommended against providing any special relief for small refiners.

EPA is currently considering all of these comments in conjunction with its ongoing evaluation of the small refiner issue. An Agency decision regarding the treatment of small refiners under the lead phase-down regulations will be forthcoming.

5. General comments. Several commenters stated that the failure to grant a blanket exemption if industry in general could not meet the 0.8 gpg standard would penalize the provident refiner who moved forward to install octane processing equipment during the litigation of the regulations. If this comment is accurate, it is an unfortunate and undesirable result of the court challenges to these regulations. Such a result is contrary to that intended by EPA. Nevertheless, because many delays have already occurred regarding the Agency's original timetable for phasing down the lead content of gasoline, EPA deems it of primary importance that the lead content of gasoline be phased down as rapidly as feasible in order to minimize the health risks associated with the lead emissions from automobiles. In order to accomplish this objective, those refineries that can achieve the 0.8 gpg standard without cutting back on gasoline production must do so as early as practicably feasible.

A number of commenters asked whether force majeur or other problems which preclude achieving the submitted milestone activities after a suspension has been granted will cause revocation of the suspension. As indicated in the preamble to the September 28, 1976, amendments, a refiner must meet the dates on any schedule submitted to make a satisfactory showing that sufficient actions are being taken to warrant suspension of the 0.8 gpg standard. As a general rule, failure to achieve the submitted milestone activity dates will constitute sufficient cause for revocation of the suspension. If situations arise in which circumstances beyond the control of the refiner cause a delay in meeting the submitted milestones (or subsequently cause the refiner to exceed the lead phase-down standard at a particular refinery), EPA will evaluate such situations on a case by case basis. If the schedule is not met, notification to the EPA is required regardless of the reason for the delay, and in all such cases the refiner will be expected to have taken all reasonable steps to have avoided the delay and to compensate for it in the future.

One comment raised the question of extending phase-down controls to imported gasoline to prevent advantage to foreign refiners and domestic refiners using foreign gasoline. EPA is currently evaluating this issue. If controls over imported gasoline are subsequently deemed advisable, appropriate regulatory changes will be made.

Several commenters asked whether periodic updating of submissions was required. No periodic updating is required under the promulgated amendments. However, if a key event of the compliance plan does not occur on the submitted date, the refiner must notify EPA in accordance with § 80.20(a)(4)(vii). It should be noted that under § 80.20(a)(4)(vi) the Administrator may require the submission of additional information, upon thirty days written notice, if he deems such information relevant to a determination of compliance with the regulations. If a refiner does not file for a suspension of the 0.8 gpg limitation and will not have a gasoline volume reduction or a significant change in product mix at a refinery, then no new information need be submitted.

Suggested Format

The September 28, 1976, Federal Register announcement made suspension of the 0.8 gpg requirement for any refinery conditional on submission by January 31, 1977, of a schedule for achieving compliance with § 80.20(a)(1). A number of refiners have requested guidance as to what would constitute an acceptable submission.

In general, an acceptable submission would meet three criteria:

1. It would demonstrate that the refinery has made and is making good faith efforts to achieve compliance with the 0.8 gpg requirement as early as practicable, and compliance with the 0.5 gpg requirement no later than October 1, 1979.

2. It would include a compliance schedule containing specific and readily verifiable milestones of key events which, if implemented as scheduled, will lead to the timely achievement of compliance.

3. It would be short, direct and no more detailed than necessary to convey the information identified above.

Recommended formats for information submitted pursuant to §§ 80.20(a)(4)(ii), (iii), (iv), and (v) are illustrated in this notice. These formats should be followed to the greatest extent practicable. Only information regarding key milestone events in the compliance plan should be submitted, and all such information should be submitted in a concise, summary form. If any refiner deems it important to submit supplementary information which is outside the scope of the formats illustrated in this notice in order to convey to EPA the essential elements of the compliance plan for any refinery, such information should be submitted as an attachment to the formats described herein.

Four separate formats should be utilized, as appropriate, in submitting the relevant information: (1) List of Key Events of Compliance Plan, (2) List of Key Construction or Modification Contracts Necessary to Carry Out Compliance Plan, (3) List of Feedstock or Blending Component Process or Exchange Agreements Necessary to Carry Out Compliance Plan, and (4) Reduction in Gasoline Production or Significant Change in Product Mix. Format (1), the List of Key Events of Compliance Plan for each refinery, is the basic submission which will be reviewed to evaluate whether any application for suspension of the 0.8 gpg standard will be granted. As shown in the sample format, the List of Key Events must summarize all key events regarding facility construction or modification and feedstock or blending

component process or exchange agreements which, if implemented as scheduled, will result in timely compliance. In addition, the List of Key Events must specifically identify the date at which the refinery for which the suspension is requested will comply with the 0.8 gpg and the 0.5 gpg standards. If the date for compliance with each standard is the same, it should be so indicated.

Formats (2) and (3) are intended to supplement the information supplied in the List of Key Events. Format (4) should be used to submit information pursuant to § 80.20(a)(4)(v). The formats are straightforward and easy to follow. The summary descriptions and other information that are called for by each of the formats should be concise and to the point.

Separate plans must be submitted by each refinery for which a suspension of the 0.8 gpg standard is requested. Each submission should contain the name and signature of the responsible official requesting the suspension. If there are any questions regarding the information which should be submitted pursuant to each format, telephone Mark S. Siegler, Chief, Fuels Section, Mobile Source Enforcement Division at (202) 755-2816.

Date: December 14, 1976.

Stanley W. Legro,
Assistant Administrator for Enforcement (EN-329).

Format 1.—List of Key Events of Compliance Plan

Name of refinery _____
Location of refinery _____
Name of refiner _____
Name of person to contact _____
Telephone _____

	Implementation date[1]
I. *Key construction or modification events*	
A. Construction or modification of facility (A)[2]	
1. Completion of plans and engineering drawings	
2. Ordering of equipment	
3. Receipt of equipment	
4. Signing of construction contracts	
5. Commencement of construction	
6. Completion of construction	
7. Commencement of testing	
8. Completion of testing	
9. Operational status	
B. Construction or modification of facility (B)[2]	
1. Completion of plans and engineering drawings	
2. Ordering of equipment	
3. Receipt of equipment	
4. Signing of construction contracts	
5. Commencement of construction	
6. Completion of construction	
7. Commencement of testing	
8. Completion of testing	
9. Operational status	
C.	
•	
•	
•	
II. *Key feedstock or blending component process or exchange agreements*	
A. Exchange agreement No. 1 for (type of feedstock or blending component)	
B. Exchange agreement No. 2 for (type of feedstock or blending component)	
•	
•	
•	
C. Process agreement No. 1 to (summary description of agreement)	
D. Process agreement No. 2 to (summary description of agreement)	
•	
•	
•	
III. *Compliance dates*	
A. Achieve compliance with 0.8 gpg standard	
B. Achieve compliance with 0.5 gpg standard	

Name of responsible official _____
Signature of responsible official _____
Date _____

[1] For each construction or modification event the implementation date shall be that date corresponding to that element of the event having the longest leadtime.

[2] Facility refers to any operational unit of the refinery such as a reformer, catalytic cracker, or any other unit constructed or modified to achieve compliance with the lead phase-down standards.

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FORMAT 2.—LIST OF KEY CONSTRUCTION OR MODIFICATION CONTRACTS NECESSARY TO CARRY OUT COMPLIANCE PLAN

Name of refinery ..... Name of refiner .....
Location of refinery ..... Name of person to contact .....
Telephone .....

Summary description of contract [1]	*Name and address of prime contractor*	*Prime contractor personnel to contact*
Contract No. 1	Name: Address:	Name: Telephone:
Contract No. 2	Name: Address:	Name: Telephone:

Name of responsible official .....
Signature of responsible official .....
Date .....

[1] The summary description shall include a reference to the facility and key event to which the contract in question pertains.

FORMAT 3.—LIST OF KEY FEEDSTOCK OR BLENDING COMPONENT PROCESS OR EXCHANGE AGREEMENTS NECESSARY TO CARRY OUT COMPLIANCE PLAN

Name of refinery ..... Name or refiner .....
Location of refinery ..... Name of person to contact .....
Telephone .....

	Date of entering agreement	*Date of implementing agreement and duration*	*Name and address of other party to agreement*	*Person to contact representing other party*
I. Summary description of exchange agreement(s):				
A. Exchange agreement No. 1			Name: Address:	Name: Telephone:
B. Exchange agreement No. 2				
II. Summary description of process agreement(s):				
A. Process agreement No. 1			Name: Address:	Name: Telephone:
B. Process agreement No. 2				

Name of responsible official .....
Signature of responsible official .....
Date .....

FORMAT 4.—REDUCTION IN GASOLINE PRODUCTION OR SIGNIFICANT CHANGE IN PRODUCT MIX

Name of refinery ..... Name of refiner .....
Location of refinery ..... Name of person to contact .....
Telephone .....

	January–March 1978	*April–June 1978*	*July–September 1978*	*October–December 1978*	*January–March 1979*	*April–June 1979*	*July–September 1979*	*October–December 1979*
I. Reduction in gasoline production:								
A. Grade A production (barrels)								
1. Without lead phase down								
2. With lead phase down								
3. Net change								
B. Grade B production (barrels)								
1. Without lead phase down								
2. With lead phase down								
3. Net change								
II. Significant change in product mix:								
A. Product A production (barrels)								
1. Without lead phase down								
2. With lead phase down								
3. Net change								
B. Product B production (barrels)								
1. Without lead phase down								
2. With lead phase down								
3. Net change								

Name of responsible official .....
Signature of responsible official .....
Date .....

[FR Doc.76-37194 Filed 12-20-76;8:45 am]

federal register

TUESDAY, DECEMBER 21, 1976

PART III:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI–2517]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Wenatchee, Chelan County, Washington

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Wenatchee, Chelan County, Washington.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall in the main lobby, 129 South Chelan Avenue, Wenatchee, Washington.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Jack Grover, 129 South Chelan Avenue, Wenatchee, Washington. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

AREAS FLOODED

Flooding in Wenatchee is mainly caused by drainage from Canyons No. 1 and 2, and Dry Gulch. For the 100-year flood, shallow sheet flooding occurs in the western part of the City to an estimated depth of one foot. The flood insurance Zone A0 is located north of Cherry Street. The eastern boundary is formed by the following streets: Pearl Street, Charles Street, Princeton Street, Pear Lane, Elliott Avenue and Berg Avenue. The rest of the City, except for a small section in the southwest, is subject to shallow flooding with depth less than one foot.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76–37155 Filed 12–20–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2516]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Brewster, Okanogan County, Washington

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Town of Brewster, Okanogan County, Washington.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the bulletin board in the foyer of the City Hall, Brewster, Washington.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Howard M. Pamble, Town of Brewster, Washington 98812. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Swamp Creek	Bridge St.	797
	NW. of U.S. 97	821
	NW. of R.R.	860
	4th St. NW.	880
	North corporate limits.	890

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR, 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76–37156 Filed 12–20–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2515]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Emporia, Virginia

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Emporia, Virginia.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building on the bulletin board, 201 South Main Street, Emporia, Virginia.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor William H. Ligon, 201 South Main Street, Emporia, Virginia 23847. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Meherrin River	Hicksford Ave.	98
	Seaboard Coast R.R. Bridge.	99
	Main St.	100
	Interstate 95	104
	Vepco Dam	105

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76–37157 Filed 12–20–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2514]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Borough of Emmaus, Lehigh County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Emmaus, Lehigh County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the bulletin board in Town Hall, 24 South Fourth Street, Emmaus, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Pierce Randall, Emmaus Town Hall, 24 South Fourth Street, Emmaus, Pennsylvania 18049. The period for comment will be 90 days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Leibert Creek	1st driveway upstream from corporate limits.	358
	2d driveway upstream corporate limits.	365
	Chestnut St.	380
	Upstream edge of ConRail tracks.	387
	Service Rd in Community Park.	392
	Shimerville Rd.	403
	Pennsylvania Ave.	432
Little Lehigh Creek.	Downstream corporate limit.	324
	500 ft downstream of Cedar Creek Blvd.	325
	Cedar Crest Blvd.	328

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: Novemebr 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76–37158 Filed 12–20–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2513]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Wayne, Steuben County, New York

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Town of Wayne, Steuben County, New York.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Wayne Town Hall, Wayne, New York.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Charles Morris, Town Supervisor, 1320 East Lake Road, Hammondsport, New York 14840. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Keuka Lake	Hyatt Hill Rd.	721
	Hines Rd.	721
Waneta Lake	Bubbling Spring Rd. (extension).	1,105
	Plaisted Rd (extension).	1,105

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1969), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76–37159 Filed 12–20–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2512]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Village of Naples, Ontario County, New York

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Village of Naples, Ontario County, New York.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Village must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the bulletin board, Village Office, 106 South Main Street, Naples, New York.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Duane G. Schultz, 17 Elizabeth Street, Naples, New York 14512. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Naples Creek	Downstream corporate limits.	725
	Toby St. extended	733
	Ontario St.	750
	Monier St. extended	757
	Mechanic St. extended.	765
	Sprague St. extended	777
	Weld St. extended	786
	Confluence with Grimes Creek.	797

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Source of flooding	Location	Elevation in feet above mean sea level
Grimes Creek	Confluence with Naples Creek.	797
	Main St.	807
	James St.	812
	1,300 ft upstream of Main St.	834
	Upstream corporate limits.	
Eelpot Creek	Confluence with Tannery Creek.	797
	South Main St.	812
	Corporate limits.	820.5
Tannery Creek	Confluence with Eelpot Creek.	797
	Southern corporate limits.	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37160 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2511]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Village of Amityville, Suffolk County, New York

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Village of Amityville, Suffolk County, New York.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Village must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Village Hall, 21 Greene Avenue, Amityville.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Humbert O. Martin, Jr., 21 Greene Avenue, Amityville, New York 11701. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Great South Bay	Western corporate limits.	5
	Richmond Ave.	5
	Ocean Ave.	5
	Grand Central Ave.	5
	Eastern corporate limits.	5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37161 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2510]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Village of Randolph, Missouri

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the village of Randolph, Missouri.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Village of Randolph must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Village Offices, Route 13, Kansas City, Missouri 64117.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Joe Vanendaele, Jr., Route 13, Kansas City, Missouri 64117. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Unnamed creek (east branch).	100 ft east of Randolph Rd.	750	25	25
Unnamed creek (north branch).	6th St. (extended)	751	25	15
Missouri River	I-435 (upstream side)	742	(1)	(1)

[1] 190 ft from corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 22, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37162 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2509]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Houston, Missouri

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Houston, Missouri.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Houston must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 111 West Main Street, Houston, Missouri 65483.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor David Impey, City Hall, 111 West Main Street, Houston, Missouri 65483. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Brushy Creek	U.S. Highway 63 (upstream side)	1,075	200	80
	U.S. Highway 63 (downstream side)	1,075	300	50
	Walnut St.	1,072	100	400
Ceyle Branch	East Main St.	1,074	60	100
	U.S. Highway 63 (upstream side)	1,082	50	70

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 22, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37163 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2508]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Eminence, Missouri

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Eminence, Missouri.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Eminence must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, Eminence, Missouri 65466.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Paul Faulkenberry, City Hall, P.O. Box 387, Eminence, Missouri 65466. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Jacks Fork River	Missouri Highway 19 (upstream side)	635	1,020	(1)
French Hollow	Old Highway 19	643	100	30
Town Branch	Missouri Ave. (extended)	635	130	60
Town Branch Tributary.	6th St.	678	50	60

[1] Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 22, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37164 Filed 12-20-76;8:45 am]

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[24 CFR Part 1917]

[Docket No. FI-2507]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Robbinsdale, Minnesota

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Robbinsdale, Minnesota.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Robbinsdale must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Municipal Building, Robbinsdale, Minnesota 55422.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor James H. McDonald, Municipal Building, 4221 Lake Road, Robbinsdale, Minnesota 55422. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width—approximate width of the 100-yr flood boundary in feet
Rice Lake (northern part).	Burlington Northern R.R.	838	1,230
Grimes Ave. Pond	Burlington Northern R.R.	838	1,200

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974)

Issued: November 22, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37165 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2506]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Cold Spring, Minnesota

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Cold Spring, Minnesota.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Cold Spring must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 27 Red River Street, Cold Spring, Minnesota 56320.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Pat Cheeley, City Hall, 27 Red River Street, Cold Spring, Minnesota 56320. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Sauk River	Minnesota Highway 23 (upstream side).	1,001	10	380

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: November 22, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37166 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2505]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Township of Muskegon, Michigan

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Township of Muskegon, Michigan.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township of Muskegon must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Township Hall, 1990 Apple Avenue, Muskegon, Michigan 49442.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. William Farwig, Supervisor, Township Hall, 1990 Apple Avenue, Muskegon, Michigan 49442. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Bear Creek Drain	Witham	585	1,040	(1)

[1] To corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 22, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37167 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2504]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Dartmouth, Massachusetts

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Town of Dartmouth, Massachusetts.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town of Dartmouth must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, 249 Russells Mill Road, Dartmouth, Massachusetts 02748.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. James Almeida, Chairman, Board of Selectmen, 249 Russells Mill Road, Dartmouth, Massachusetts 02748. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Paskamanset River.	Kempton St.	43.0
Buttonwood Brook.	Elm St.	12.5
	Russells Mill Rd.	36.0
	Milton St.	53.0
	Sharp St.	71.0
	Allen St.	81.0
	Hawthorne St.	84.0
	Lexington	106.0
	Sharp St.	71.0
Buttonwood Brook (branch C).	Cypress St.	60.0
Buttonwood Brook (branch D).		
Buzzards Bay	Hetty Green St.	12.5
	Round Hill Point	12.5
	Mishaum Point	12.5
	Salters Point	12.5
	Hicketaens Point	12.5
	Mosbers Point	12.5
	Rogers St.	12.5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37168 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2503]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Barnstable, Massachusetts

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Town of Barnstable, Massachusetts.

Due to recent engineering analysis, this notice revises the proposed determinations of base flood elevations published in the FEDERAL REGISTER at 41 FR 24394 on June 16, 1976, and in "the Cape Cod Times" published on June 14, 1976 and June 15, 1976, and hence supersedes those notices. Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information show-

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ing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, 397 Main Street, Hyannis, Massachusetts 02601.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. William H. Eshbaugh, Chairman, Board of Selectmen, Town of Barnstable, 397 Main Street, Hyannis, Massachusetts 02601. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or ninety days from publication of this notice in the FEDERAL REGISTER, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width [1]
Cape Cod Bay	Bone Hill Rd	10.5	460
	Indian Trail	10.5	460
	Rendezvous Lane	10.5	640
	Crocker Lane	10.5	1,290
Hyannis Harbor	Sea St	10.0	280
	Lighthouse Lane	10.0	420
Centerville Harbor	Irving St	10.0	160
	South Main St	10.0	(3)
West Bay	Bay View Dr	11	(4)
Cotuit Bay	Oyster Rd	11	380

[1] Approximate distance in feet from shoreline to boundary of 100-yr flood.
[2] To 300-ft north of intersection with Hornbeam Lane.
[3] To intersection with Bridge St.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

J. ROBERT HUNTER,
Federal Insurance Administrator.

NOVEMBER 19, 1976.

[FR Doc.76-37169 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2502]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Sykesville, Carroll County, Maryland

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Town of Sykesville, Carroll County, Maryland.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Bulletin Board in the Town Hall, 7547 Main Street, Box 3, Sykesville.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor William Brandenburg, Sr., 7547 Main Street, Box 3, Sykesville, Maryland 21784. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Piney Branch	B&O RR Bridge	410
	Oklahoma Hill Rd	475
Tributary No. 1	Church St	391

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR. 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR. 2680, February 27, 1969, as amended by 39 FR. 2787, January 24, 1974.)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.37170 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2501]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Dyersville, Dubuque and Delaware Counties, Iowa

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Dyersville, Dubuque and Delaware Counties, Iowa.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Bulletin Board, City Hall, 340 First Avenue, East Dyersville, Iowa.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Jerome Koch, 340 First Avenue, East Dyersville, Iowa 52040. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
North Fork of Maquoketa River.	Upstream corporate limits.	949
	Hewitt Creek confluence.	946
	C. & G.W. RR	944
	3d Ave	940
	Downstream corporate limits.	939
Bear Creek	Upstream corporate limits.	947
	1st Ave. West	941
	3d St. SW	939
	North Fork of Maquoketa River confluence.	939
Hewitt Creek	Upstream corporate limits.	948
	State Highway 136	946
Unnamed Creek	Upstream corporate limits.	958
	County Rd	948
	Hewitt Creek confluence.	947

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37171 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2500]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Madison, Jefferson County, Indiana

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Madison, Jefferson County, Indiana.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Mayor's Office, City Hall, 416 West Street, Madison.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Warren R. Rucker, M.D., City Hall, 416 West Street, Madison, Indiana 47250. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Ohio River	West corporate limits	462
	Confluence with Big Clifty Creek.	463
	Confluence with Crooked Creek.	463
	McIntire St. (extended).	464
	West St. (extended)	464
	Harrison St. (extended).	465
	East corporate limits	465
Crooked Creek	Main St	462
	Penn Central RR	462
	Plum St. (extended)	465
	West 5th St	470
	Jefferson St	479
	East corporate limits	484

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37172 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2499]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Chamblee, Georgia

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Chamblee, Georgia.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Chamblee must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at 5468 Peachtree Boulevard, Chamblee, Georgia 30341.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor W. B. Malone, 5468 Peachtree Boulevard, Chamblee, Georgia 30341. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Nancy Creek tributary No. 1.	Keswick Dr.[1]	943
	Keswick Dr.[2]	947
Nancy Creek tributary No. 1.1	Cold Spring Lane	941
Nancy Creek tributary No. 1.2.	Confluence with tributary 1.	933
Nancy Creek tributary No. 2.	Longview Dr	950
North Fork Peachtree Creek tributary No. 1.	Hickory Rd.[2]	944
North Fork Peachtree Creek tributary No. 2.	Canfield Dr	945
	Carroll Ave	955
	Old Stone Mountain Rd.	975
North Fork Peachtree Creek tributary No. 2.1.	Munday Dr.[2]	994
	Blackburn Way [2]	977
	Catalina Dr.[2]	990

[1] Downstream.
[2] Upstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR. 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37173 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2496]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the County of Escambia, Florida

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Public L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed de-

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terminations of flood elevations for the County of Escambia, Florida.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the County of Escambia must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Escambia County Courthouse, P.O. Drawer 1591, Pensacola, Florida 32597.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Jack Kennedy, Chairman, Board of Commissioners, Escambia County Courthouse, P.O. Drawer 1591, Pensacola, Florida 32597. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Gulf of Mexico	Seaward of State Route 292 at county line.	11
	Seaward of State Route 292 at Gulf Beach.	11
	Gulf Beach waterfront.	10
Old River	County line, Perdido Key.	8
	Kees Bayou	8
	Holiday Harbor Marina.	8
Perdido Bay	Ramsey Beach	6
	Paradise Beach	6
	Perdido Heights (south of Cummings Point).	7
	Tarkiln Bay	7
Perdido River	Hurst Landing	6
Bayou Grande	State Route 292	7
	End of Waycross Ave.	7
	Navy Point	8
	Jones Point	9
Santa Rosa Sound.	Fishing Bend	8
Pensacola Bay	Star Lake	9
	St. Louis & San Francisco R.R.	9
Bayou Chico	Garden St. (U.S. 98)	7
	End of Alba Plena Street.	8
Carpenter Creek	City line (Pensacola)	7
Escambia Bay	State Route 8	10
Escambia River	U.S. 90/State Route 10.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17604, November 26, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37174 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2497]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Alamosa, Colorado

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Alamosa, Colorado.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Alamosa must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, P.O. Box 419, Alamosa, Colorado.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor M. J. Husung, City Hall, P.O. Box 419, Alamosa, Colorado 81101. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Rio Grande	D. & R.G.W. R.R. bridge.	7,537
	State Street Bridge	7,541
Rio Grande left overbank.	North River Road Bridge.	7,541
Rio Grande right overbank.	State Ave.	7,537
	Main St	7,540
	Murphy Dr.	7,542

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37175 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2496]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Marysville, California

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Marysville, California.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Marysville must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, P.O. Box 150, Marysville, California 95901.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Francis W. Comarsh, City Hall, P.O. Box 150, Marysville, California 95901. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Feather River	10th St	71
	5th St	70
Yuba River	Simpson Lane	72
	Southern Pacific R.R.	71
	E St	70
Jack Slough	Highway 70	71
	Southern Pacific R.R.	71

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 26, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37176 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2495]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of El Cajon, California

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of El Cajon, California.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of El Cajon must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 200 East Main Street, El Cajon, California 92020.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Robert L. Cornett, City Hall, 200 East Main Street, El Cajon, California 92020. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Forester Creek	Bradley Ave	383
	Vernon Ave	390
	Fletcher Parkway	402
	Arnelle Ave	404
	Johnson Ave	405
	Ballantyne Ave	427
	Mollison Ave	442
	1st St	458
	2d St	479
	Interstate Route 8	498
	Main St	498
County Ditch Creek	Interstate Route 8	405
	Johnson Ave	416
	Main St	424
	El Cajon Blvd. (downstream)	425
	El Cajon Blvd. (upstream)	426
County Ditch Creek	Lexington Ave	429
	Washington Ave	438
	Patricia Lane	438
	Grant Ave	442
	Renette Ave	445
Washington Creek	Interstate Route 8	412
	Madison Ave	423
	Wisconsin Ave	425
	Park Ave	430
	Cypress Ave	433
	Julian Ave	437
	Main St	438
	Claydella Ave	440
	Arcadio Ave	442
	Taft Ave	444
	Lincoln Ave	448
	Lexington Ave	448
	Mollison Ave	453
	Anza St	461
	1st St	467
	Ballard St	734
	2d St	481
	Washington Ave	488
	Dorothy St	491
	Jamacha Rd	502
Broadway Creek	Cypress Ave	393
	Mollison Ave	435
	Anza St	451
	1st St	459
	Oro St	474

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 26, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, February 27, 1969), as amended by 39 FR 2787, January 24, 1974)

Issued: November 19, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37177 Filed 12-20-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2494]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Warren, Vermont

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Town of Warren, Vermont.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town of Warren must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Municipal Building, RFD, Warren, Vermont.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. David DeFreest, Chairman, Board of Selectmen, Municipal Building, RFD, Warren, Vermont 05674. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Mad River	State Route 100 bridge [1]	788	(2)	(2)
	Warren Road Bridge [1]	855	(2)	(2)
	State Route 100 bridge [1]	915	10	(2)
	Warren Road Bridge [1]	883	(2)	(2)
Freeman Brook	Freeman Brook Road Bridge [1]	901	(2)	150
	do	915	(2)	10

[1] Downstream side of road.
[2] At bank.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 12, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-37178 Filed 12-20-76;8:45 am]

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federal register

TUESDAY, DECEMBER 21, 1976

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

PART IV:

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

■

NORTH PENN EMPLOYEES' SAVINGS PLAN AND PENCO SAVINGS AND PROFIT SHARING PLAN

Exemption from Prohibitions

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

NORTH PENN EMPLOYEES' SAVINGS PLAN AND PENCO SAVINGS AND PROFIT SHARING PLAN

Exemption From Prohibitions

Notice is hereby given of the pendency before the Internal Revenue Service (the Service) and the Department of Labor (the Department) of a proposed exemption from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1)(A) through (E) of the Code, and from the restrictions of sections 604(a), 604(b)(1) and (2), and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) related to the exchange of certain assets between a party in interest and disqualified person and the North Penn Employees' Savings Plan (North Penn Plan Application No. D-150) and the Penco Savings and Profit Sharing Plan (Penco Plan Application No. D-381). The pending exemption was requested in applications filed by the trustee of the North Penn Plan and the trustees of the Penco Plan pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act, and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722 and ERISA Procedure 75-1 (40 FR 18741, April 28, 1975).

Summary of Facts and Representations. The applications contain representations with regard to the pending exemption which are summarized below. Interested persons are referred to the applications on file with the Service and the Department for the complete representations of the trustees of the North Penn Plan and the Penco Plan.

1. North Penn Gas Company (North Penn) is a Pennsylvania corporation engaged in business as a gas utility company in northern Pennsylvania. John H. Ware (Ware) is chairman of the board of North Penn. The North Penn Plan is a profit-sharing plan which was established on June 1, 1956, and covers employees of North Penn. Under the terms of the plan, the trustee invests employee contributions and North Penn contributions in accordance with the employee's investment direction in an unsegregated fund invested solely in North Penn capital stock ($5 par value), an unsegregated fund invested in United States government securities, or an unsegregated fund of diversified corporate securities. The trustee for the North Penn Plan is Mellon Bank, N. A., of Pittsburgh, Pennsylvania. The North Penn Plan currently holds 85,171 shares (approximately 19 percent of the total number of shares) of North Penn stock. There are approximately 197 employees currently participating in the North Penn Plan, and 125 of these would be affected by the transaction for which the proposed exemption is pending.

2. On April 3, 1969, Ware, members of his family, and other persons associated with Ware acquired from the Kewanee Oil Company (Kewanee) in the aggregate 257,478 shares of the 450,000 outstanding shares of North Penn stock. The acquisition was approved by the Securities and Exchange Commission (SEC) in an order dated March 20, 1969, In the Matter of John H. Ware, File No. 70-4709, Holding Company Act Release No. 16319 (hereinafter referred to as the "1969 Order"). The 1969 Order stated that in the event Ware and his associates did purchase the North Penn stock from Kewanee, Ware would eliminate the publicly-held minority interest in North Penn within two years after the date of such purchase unless the SEC should order an extension of time upon application for good cause.

3. Ware is also the president, a director and the majority shareholder of Penn Fuel Gas, Inc. (Penn Fuel Gas), a Pennsylvania corporation which is a holding company exempt from the provisions of the Public Utility Holding Company Act of 1935 by reason of section 3(a)(1) of that Act. The Penco Plan is a profit-sharing plan covering employees of Penn Fuel Gas. The Penco Plan was established on January 1, 1961, and its present terms have been effective since January 1, 1971. The trustees of the plan have sole discretion in investing the sum of the employee contributions and Penn Fuel's contributions. The trustees of the Penco Plan are John H. Van Dorpe, Edward P. Farber, and Ware. The Penco Plan holds 8,637 shares (approximately 1.9 percent) of the total number of shares of North Penn stock. There are approximately 170 employees currently participating in the Penco Plan who would be affected by the transaction for which the proposed exemption is pending.

4. On December 30, 1971, Penn Fuel Gas and Ware filed an application with the SEC setting forth a reorganization plan under section 11(e) of the Public Utility Holding Company Act of 1935 designed to comply with the requirements of the 1969 Order. Under this plan, a new public utility holding company, Penn Fuel System, Inc., would be formed to satisfy the 1969 Order to acquire 100 percent of the outstanding stock in North Penn, thereby eliminating all outstanding minority interests in North Penn. Penn Fuel System would also acquire 88-93 percent of the outstanding common shares of Penn Fuel Gas.

5. According to the reorganization plan, Penn Fuel System is to acquire 207,000 shares of common stock of North Penn held by Ware and his associates in exchange for 227,700 shares of common stock in Penn Fuel System. Penn Fuel System is also to acquire all other outstanding shares of North Penn stock for cash and 5 year installment notes of Penn Fuel System, bearing interest at the rate of 10 percent per annum, on the basis of $3.10 in cash and $15.40 principal amount of Penn Fuel System notes for each share of North Penn stock. Penn Fuel System will also acquire between 304,237 and 336,731 shares of Penn Fuel Gas common stock from Ware and his associates by issuing to them Penn Fuel System stock for their Penn Fuel Gas common stock on a share-for-share basis.

6. The acquisition price for the outstanding North Penn stock held by the plans was arrived at in arm's-length negotiations between Ware and Penn Fuel Gas on the one hand and representatives of certain of the minority interests in North Penn stock on the other. These representatives included independent counsel for the Administrative Committee of the North Penn Plan, counsel for a New York investment banking firm that had been principal market-maker for the North Penn stock and holds approximately 2,900 shares, and counsel for individual holders of approximately 2,300 additional shares.

7. Notice of the reorganization plan was given to interested parties by the SEC and the U.S. District Court for the Eastern District of Pennsylvania, and all interested persons had an opportunity to present their views before both the SEC and the Court. In addition, hearings with respect to the reorganization plan were held before the SEC and the U.S. District Court.

In an order dated November 20, 1975 (Holding Company Act Release No. 19254), the SEC found that the reorganization plan described in the application filed with the SEC, as amended, was fair and equitable to all parties affected thereby. The United States District Court for the Eastern District of Pennsylvania approved the SEC order on February 2, 1976.

9. According to the terms of the reorganization plan, it is to become effective on the tenth full business day following the later of (1) its approval by the U.S. District Court for the Eastern District of Pennsylvania and (2) the first date on which all of four enumerated conditions have been fulfilled. One of these conditions precedent is the receipt of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code. Having received approval for the reorganization plan from the U.S. District Court for the Eastern District of Pennsylvania, the applicants now seek an exemption to permit the exchange of stock and notes between the two plans and Penn Fuel System. The exemption is requested to permit the parties to comply with the order of the SEC to eliminate the minority shareholders of North Penn stock.

10. If the reorganization plan is approved, the North Penn Plan will be amended so that contributions would be invested only in the unsegregated investment funds of U.S. government securities or diversified corporate securities, and the fund for investment in North Penn capital stock will be liquidated as the Penn Fuel System notes mature.

11. In order to obtain a price for the purpose of market evaluation of North Penn stock, the trustee of the North Penn Plan contacted Tweedy, Brown & Knapp, a brokerage firm which specializes in certain traded utilities stocks, including North Penn stock. On September 16, 1975, the trustee of the North Penn Plan was informed by Tweedy, Brown & Knapp that, in their opinion, a fair market value for the North Penn stock would be $14 per share.

12. The trustees of the Penco Plan have no information as to the present market value of North Penn stock. Moody's Public Utility Manual for 1975 gives a price range of 10½ to 12 for 1974, the year in which the exchange price of $18.50 per share, which was subsequently approved by the SEC, was negotiated.

13. Approximately 33 percent of the total aggregate principal amount of the notes will be held by the North Penn Plan for the accounts of individuals. The notes will represent approximately 56.57 percent of the assets of the North Penn Plan.

14. Approximately 3.55 percent of the total aggregate principal amount of the notes will be issued to the Penco Plan. The notes will represent approximately 21 percent of the assets of the Penco Plan.

15. The Administrative Committee of the North Penn Plan will send a letter by first class mail within 10 days of the date of publication of this notice of pendency to the approximately 125 participants affected by the transaction informing them of the pending application before the Service and the Department. This notice of pendency will be included in such letter, and the recipients of such letter will be informed of their right to comment on the pending exemption. A copy of the letter and this notice of pendency will also be mailed to the AFL-CIO Brotherhood of Natural Gas Workers Maintenance Mill-Wright Local Union No. 2999, which represents 75 out of the 125 participants who will be affected.

16. The Administrative Committee of the Penco Plan will send a letter by first class mail within 10 days of the date of publication of this notice of pendency to the approximately 170 participants affected by the transaction informing them of the pending application before the Service and the Department. This notice of pendency will be included in such letter, and the recipients of such letter will be informed of their right to comment on the pending exemption.

General information. The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code and the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with subsection (a)(1)(B) of section 404 of the Act, nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The pending exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code or section 406(b)(3) of the Act;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code and section 408(a) of the Act, the Service and the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is the subject of an exemption is not dispositive of whether the transaction would have been a prohibited transaction in the absence of such exemption or, though it would have been a prohibited transaction, is exempt by operation of a statutory or other exemption or a transitional rule.

Pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act, the Service and the Department are required to offer an opportunity for a public hearing where a pending exemption relates to section 4975(c)(1)(E) or (F) of the Code and section 406(b) of the Act. Any interested person may submit a written request that a hearing be held relating to the requested exemption. Such written request must be received by the Service on or before January 31, 1977, and should state the reasons for such person's request for a hearing and the nature of such person's interest in the pending exemption.

All interested persons are also invited to submit written comments on the requested exemption contained herein. In order to receive consideration, such comments must be received by the Service on or before January 31, 1977.

All written comments and all requests for a hearing (preferably six copies) should be addressed to Internal Revenue Service, 111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: E:EP:PT (D-150; D-381). The application for exemption referred to herein, all comments relating thereto, and all requests for a hearing will be open to public inspection at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, and at the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Pending exemption. Based upon the applications hereinabove described, the Service and the Department have under consideration the granting of the requested exemption under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) so that the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code and the restrictions of sections 406(a), 406(b)(1) and (2), and 407(a) of the Act shall not apply to the exchange by the North Penn and Penco Plans of North Penn stock for cash and notes of Penn Fuel System pursuant to the reorganization plan approved by the SEC on November 20, 1975 (Holding Company Act Release No. 19254) and by the U.S. District Court for the Eastern District of Pennsylvania on February 2, 1976.

The pending exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 13th day of December 1976.

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.
WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.76-37227 Filed 12-20-76;8:45 am]

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federal register

TUESDAY, DECEMBER 21, 1976



PART V:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

■

SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES

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Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 228—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES

Waiver of Federal Child Day Care Staffing Standards: Family Planning Services; Comprehensive Services to Drug and Alcohol Abusers; Group Determination of Eligibility; and Additional Allotments to States

The Administrator of the Social and Rehabilitation Service, with the approval of the Secretary of the Department of Health, Education, and Welfare, hereby amends the title XX social services regulations which were published in the FEDERAL REGISTER (40 FR 27352), on June 27, 1975. When the title XX proposed amendments, issued August 26, 1976 (41 FR 36156), are published in final form, they will incorporate these amendments. If subsequent public comments on these amendments indicate that modification of them is desirable, the changes will be issued as amendments to the regulation.

The bases for the present amendments are: (1) The provisions of Pub. L. 94–401 which was signed by the President on September 7, 1976; and (2) the desire of the Department to give the States maximum flexibility where the law is silent or non-specific.

The purpose is to codify in the Code of Federal Regulations the statutory requirements of the law. Most of the codification is a literal reflection of these requirements. Where the law is silent or non-specific, States are given the maximum flexibility—for example: (1) States may establish their own criteria for not finding it feasible to use a child day care facility which meets Federal staffing standards (§ 228.42(c)(2)); and (2) States are not required to take applications from persons whose eligibility has been determined on a group basis (§ 228.60(e)(2)).

PUBLIC LAW 94–401:

1. Makes Federal financial participation available in expenditures for day care services provided to children from 6 weeks to 6 years of age in out-of-home facilities even if such facilities do not meet Federal staffing standards, provided they do meet other specified staffing standards;

2. Requires States, in applying Federal staffing standards to family day care homes, to count the operator's own children only when they are under 6 years of age;

3. Exempts comprehensive rehabilitation services (including initial detoxification) provided to drug and alcohol abusers from certain limitations applicable to services provided to other individuals. These limitations pertain to medical services, room and board, and provision of services by institutional staff. The law also imposes special confidentiality requirements for services provided to drug and alcohol abusers.

4. Makes family planning a "universal" service, that is, one which States may provide to individuals regardless of their income;

5. Allows States to determine eligibility on a group basis for any service except day care services for non-migrant children; and

6. Permits States, under certain conditions, to waive Federal staffing standards in day care centers and group day care homes which serve few title XX children.

The first five provisions are effective on October 1, 1975, the begining date of the title XX services program. The sixth provision is effective on September 7, 1976, the date of enactment of Pub. L. 94–401.

The first three changes are effective only through September 30, 1977; the last three are permanent. (The first and third changes were previously temporarily in effect from October 1, 1975 through January 31, 1976, under Pub. L. 94–120.)

The law also provides for:

7. Additional allotments of funds to States: $40 million for the transition quarter (July 1, 1976 through September 30, 1976), and $200 million for Fiscal Year 1977; and

8. One hundred percent Federal funding for child day care services provided from October 1, 1976 through September 30, 1977, and for State grants to public, nonprofit private, and proprietary child day care providers to help them employ welfare recipients in jobs related to child day care services (from September 7, 1976 through September 30, 1977).

The changes in the regulations to codify all the provisions of Pub. L. 94–401 are summarized as follows:

Section 228.24 "Individuals to be served" is revised to add a paragraph requiring that if States are determining eligibility on a group basis they must describe in their services plans any specific conditions or characteristics, other than income, that must be met or that individuals must have in order to establish membership in a target group. The purpose of this requirement is to enable individuals to know if they might qualify for the particular service for which eligibility is to be established on a group basis.

Section 228.26 "Services" is revised to require inclusion in the services plan of the same information on the particular services available to individuals whose eligibility is determined on a group basis as is required on other services in the plan. This revision serves as a reminder to States to include in their services plans the necessary information about services available to individuals on the basis of group eligibility determinations.

A new paragraph (f) in § 228.26 requires the State to identify in its services plan where in its organizational structure it has placed authority: (1) to determine that it is not feasible for the State to furnish child day care in a day care center or group day care home which complies with Federal staffing standards; and (2) to furnish child day care by granting a waiver of otherwise applicable Federal staffing standards in a day care center or group day care home which serves few title XX funded children and meets applicable State staffing standards (see § 228.42(c)(2)).

Section 228.29 "Program coordination and utilization" is revised to require that the annual services plan describe the extent to which the State utilizes grants and otherwise encourages child day care providers under contract to employ AFDC recipients. This serves to tie the new provision for grants to employ AFDC recipients with the existing requirement that the State describe how the planning and the provision of services will be coordinated with title IV–A (AFDC). It also emphasizes the intent of the legislation that to the maximum extent feasible States utilize funds available under the additional allotments to increase the employment of welfare recipients in jobs related to child day care.

Section 228.35 "Amendments to final services plan" is revised to add instructions to the States on how to amend their services plans to benefit from the provisions which allow FFP (retroactive to October 1, 1975) in expenditures for the provision of family planning services without regard to income and for a service provided on the basis of group determination of eligibility.

Sections 228.40 "Minor medical and remedial care" and 228.41 "Room or board" are revised to specify how some of the limitations on medical and remedial care and room or board are not applicable to services for drug and alcohol abusers between October 1, 1975 and October 1, 1977. There is FFP: (1) When these components are used in the initial detoxification of such individuals for up to 7 days and the detoxification is integral (but not necessarily subordinate) to the further provision of other title XX services to them; and (2) when the entire rehabilitation process (rather than a particular service) is the basis for making the test for integral but subordinate.

Section 228.42 "Child care standards" is revised to implement the three policies on child day care staffing standards set forth in the statute. The two policies temporarily in effect between October 1, 1975 and October 1, 1977 are: (1) FFP is available in expenditures for child day care services for children 6 weeks of age to 6 years of age in day care centers and group day care homes which do not meet Federal staffing standards but do meet State or other specified standards; and (2) in applying Federal staffing standards, States are not to count the children of the operator of a family day care home unless such children are under 6 years of age.

The third, and permanent, policy specifies that when States do not find it feasible to furnish child day care in out-of-home facilities which comply with Federal staffing standards, they may furnish such care in day care centers or group day care homes which (1) provide day care for few title XX children of any age (not more than 20 percent of the total in a group day care home; not more than 5 children or 20 percent, whichever is lower, of the children in a center); and (2) meet applicable State staffing standards.

Section 228.44 "Services to individuals in institutions" is revised to add a paragraph noting that there is FFP for initial detoxification of drug and alcohol abusers for up to 7 days when the detoxification is integral (but not subordinate) to further provision of other title XX services even though: (1) Hospital or other institutional staff provide the detoxification services to resident drug and alcohol abusers; and (2) such detoxification services include inherent or intrinsic responsibilities of the facility where they are provided. (Ordinarily, there would be no FFP for title XX services provided by hospital or institutional staff, or for services which are considered inherent or intrinsic responsibilities of a hospital or institution.)

A new § 228.48, entitled "Confidentiality regarding services to drug and alcohol abusers," has been added to make clear that the regulations in 42 CFR Part 2 are applicable to these services. This carries out the directive in Pub. L. 94–401 that the confidentiality provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended, are to be applied in providing services to drug and alcohol abusers under title XX. These confidentiality provisions are implemented by 42 CFR Part 2.

Section 228.51 "Matching rates" is revised to specify that FFP is available at 100 percent for expenditures during fiscal year 1977 for up to the State's share of its allocation of $200 million for the provision of child day care services and for grants to qualified child day care providers to employ welfare recipients (employed on or after September 7, 1976 through September 30, 1977). These additional funds, as well as $40 million made available during the transition period, are also available for grants at 100 percent matching. The purpose of the additional funds is to encourage States to the maximum extent feasible to promote the employment of AFDC recipients in jobs related to child care services. The section also specifies the kinds of expenditures relative to child day care services which are subject to 100 percent FFP: (1) In-home and out-of-home child day care services which meet certain conditions; and (2) staff activities in direct support of title XX child day care services, such as licensing, monitoring, and staff training. States and provider agencies have requested that the regulation be explicit on this point.

Section 228.52 "Allotments to States" is revised to specify: (1) How the additional amount of $240 million is allotted to the States (on the basis of population); and (2) how the State's additional allotment will be paid (the lesser of the amount of the State's additional allotment or the amount of actual expenditures incurred by the State for the provision of child day care services and for grants to child day care providers for the employment of welfare recipients).

Section 228.55 has been vacated and its contents, a description of family planning services under title XX, moved to § 228.63, newly titled "Family planning services." The new section also notes that States may provide family planning services without regard to income. This shift brings together all the services that may be provided without regard to income. The cross-reference in § 228.26(c) is corrected accordingly.

Pub. L. 93–647 required that an amount equal to one-half of the Federal funds paid a State to reimburse it for expenses incurred in its title XX program must be spent for services to recipients of AFDC, SSI or Medicaid and to other specified individuals. This is known as the "Fifty Percent Rule." Section 228.56 is revised to specify that in meeting the requirements of the "Fifty Percent Rule": (1) States may, in lieu of accounting for the status of each person receiving a service on the basis of group eligibility, use generally accepted statistical sampling procedures; (2) regarding services to persons who receive any of the three services which may be provided without regard to income, States may use any appropriate method, including generally accepted statistical sampling procedures or allocation of costs to the services provided these persons in the same ratio as the known cost of all other services distributed under the 50 percent rule; and (3) States shall deem that grants to child day care providers (to employ welfare recipients) are expenditures for child day care services made on behalf of AFDC recipients.

Section 228.60 "Persons eligible" is revised and expanded: (1) To include family planning as a service available without regard to income; and (2) to eliminate the need for written applications from persons whose eligibility is determined on a group basis. When the State has set conditions to be met or characteristics which an individual must have to receive a service on the basis of group determination of eligibility, the State must, through its intake process, elicit the information necessary to determine if the individual meets the conditions or has the characteristics specified for membership in the group. But when it is solely the nature of the service and/or the location where it is provided that has led the State to conclude that substantially all of the persons who would apply for that service in that location are members of families with gross monthly incomes of 90 percent or less of the State's median income, adjusted for family size, no specific inquiry need be made of those who come for service.

Section 228.61 "Determination and redetermination of eligibility" is expanded:

(1) To list the factors States must consider in determining eligibility on a group basis (nature of the service provided, where it is provided, characteristics of community where it is provided conditions, other than income, of eligibility for the service) and which lead it to conclude that substantially all the persons who receive the service are members of families with monthly gross income of no more than 90 percent of the State's median income, adjusted for family size;

(2) To define "substantially all" as no less than 75 percent of the persons receiving a service on the basis of group eligibility;

(3) To state that a mandatory fee is not applicable to persons whose eligibility is determined on a group basis; and

(4) To convey that the group method of determining eligibility may be used for any service except child day care services for non-migrant children.

Section 228.61 also specifies that redetermination of eligibility of persons receiving a service on a group eligibility basis is necessary only when the State has set conditions or characteristics (which are apt to change over time) as a condition precedent to the receipt of a service on a group eligibility basis.

When these conditions or characteristics are of a changeable nature (place of residence, marital status, presence of children), the State must ascertain not less frequently than every 6 months that individuals in the group still meet the conditions or have the characteristics for membership in the group. However, when the specified conditions or characteristics established by the State for membership in the group are not apt to change substantially (for instance, a physical disability), the State need ascertain only once a year whether these individuals still meet the conditions or have the characteristics for membership in the group.

A new paragraph in § 228.61 is addressed to validating the "substantially all" basis which the State has used in establishing a group for the provision of a service. All such groups are subject to the test of whether at least 75 percent of those receiving a service on the basis of group eligibility are members of families with gross monthly incomes of no more than 90 percent of the State's median income, adjusted for family size. The State must conduct the test within 6 months after beginning provision of a service to a group, and thereafter shall apply the test not less frequently than once a year for the same group. Validations may be conducted on a sample basis. If the State is retroactively claiming expenditures for services on a group determination of eligibility basis, as permitted back to October 1, 1975, it must make the validation within 3 months of the promulgation of these regulations in the FEDERAL REGISTER.

When the State finds that less than 75 percent of the persons in the State receiving a particular service on the basis of group eligibility are members of families with monthly gross incomes of 90 percent or less of the State's median income, adjusted for family size, the State shall, within 75 days of the finding:

(1) Discontinue claiming FFP in the costs of services provided on a group eligibility basis for the group which did not meet the "substantially all" test; and

(2) Amend the State's services plan to either delete the service, or provide it on the basis of individual determination of eligibility, or on the basis of group determination of eligibility if the State by modifying the group in some way, has

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a reasonable basis on which to conclude that, with such modification of the group, at least 75 percent of the individuals served would then be members of families whose gross monthly incomes would be no higher than the specified level. FFP would again be available in accordance with how the plan was amended.

The content of paragraph (c) ("Eligibility phase-in (IV–A and VI)),"" is deleted as obsolete because States now have the option to use the group method of determining eligibility. Five paragraphs in § 228.61 are recoded because of the insertion or deletion of material.

"Substantially all" is defined in § 228.61 as no less than 75 percent of the persons provided a service on the basis of group eligibility. SRS felt an obligation to define the term "substantially all" because (1) it is too vague to have operational utility, and (2) in the past, States have indicated difficulties in operating their programs when such imprecise terms have been used. Based on past experience and informal conversations with States, SRS concluded that the States need a fixed numerical guideline. Since there is no realistic basis for a scientific determination, SRS made a judgment about the intent of Congress in this regard and decided that 75 percent is a reasonable figure. Arbitrary as it may seem, the percentage chosen was decided upon because it is near enough to 100 percent to qualify as "substantially all" in the minds of many people, and because it is close to one of the percent figures mentioned by members of Congress when the "substantially all" aspect of H.R. 12455 (later Pub. L. 94–401) was under discussion. SRS considers that 75 percent is reasonable because it is not so high as to make group eligibility infeasible but yet high enough to carry out what SRS believes is the intent of the law. However, SRS welcomes reaction to its definition of "substantially all."

Subpart J has been added to describe the conditions under which States may make grants to "qualified" public and private child day care providers to employ "eligible" welfare recipients.

Section 228.100 provides definitions of "qualified" day care providers and "eligible" welfare recipients. These definitions derive directly from the statute which (1) specifies that a "qualified" provider is one who provides care for title XX partly or totally funded children who regularly constitute at least 20 percent of the total number of children served in his facility, and (2) requires that "eligible" welfare recipients be defined in accordance with the Internal Revenue Code of 1954.

Section 228.101 sets forth the conditions for Federal funding at 100 percent: (1) FFP is available for salaries paid under grants which States make to qualified public and private child day care providers under contract for the employment of eligible welfare recipients from September 7, 1976 through September 30, 1977; (2) grants may not exceed $5,000 per year to public and non-profit private child day care providers for each welfare recipient employed per year, and may not exceed $4,000 per year to proprietary providers for each welfare recipient employed per year (the Internal Revenue Code of 1954 provides a tax credit of up to $1,000 per year per recipient. The tax credit equals 20 percent of the wages to a recipient to the extent that a provider is not specifically reimbursed for such wages.); (3) The grants which States make are subject to the letter of credit procedure established by the U.S. Treasury; and (4) States must submit statistical and financial reports to the Department on the recipients hired under the grants.

Even with 100 percent funding available for grants and child day care services, SRS assumes that States will continue to exercise their responsibility to negotiate reasonable rates for child day care services.

Section 228.102 specifies that: (1) States may include payment for the salaries paid by providers to recipients for the 30-day full-time, continuous employment period needed to make recipients "eligible" for hire under the grants; (2) if, within the transition quarter, States pay for salaries for any part of such 30-day, full-time continuous employment period which occurs after September 7, 1976 but within the transition quarter, such salary expenditures may be charged to the State's new allotment for the transition quarter; and (3) any such salary expenditures made on or after October 1, 1976 and through September 30, 1977 are chargeable to the State's new allotment for the Federal 1977 fiscal year.

Various groups interested in the administration of the title XX program have communicated to the Department their interest in rapidly adjusting the State and local operation of that program to take advantage of the increased availability of Federal matching under Pub. L. 94–401. In view of this, the Department believes that there is a need to quickly establish a final Federal interpretation of that law. Most of the changes herein are simply restatements of the statute. In those cases where the Department has made policy choices, the choices made are believed to correspond to the wishes expressed by most interested parties. In addition, as indicated above, the Department believes it is important to establish legally effective regulations as quickly as possible so that the States will know what adjustments are necessary to qualify for the increased Federal matching. Accordingly, the Department believes there exists good cause to dispense with notice of proposed rule making. However, consideration will be given to any written comments, suggestions or objection received by the Administrator, Social and Rehabilitation Service, P.O. Box 2382, Washington, D.C. 20013, on or before February 4, 1977. If changes are necessitated by these comments, they will be issued promptly as amendments to the regulation.

In commenting, please refer to PSA-66. Organizations and agencies are requested to send comments in duplicate. Comments will be available for public inspection in Room 5225 of the Department's offices at 330 C Street, S.W., Washington, D.C., beginning approximately two weeks after publication of this regulation in the FEDERAL REGISTER, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (area code 202–245–2960).

Answers to specific questions may be obtained by calling Mrs. Johnnie U. Brooks (area code 202–245–0415).

Part 228, Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below:

1. The Table of Contents is revised to amend Subparts D, E, and F, and to add a new Subpart J as follows:

* * * * *

Subpart D—Limitations: Services

228.39 General.
228.40 Minor medical and remedial care.
228.41 Room or board.
228.42 Child care standards.
228.43 Educational services.
228.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including hospitals or facilities for mental diseases or for the mentally retarded), or prisons.
228.45 Special services provided by foster family homes.
228.46 Emergency shelter.
228.47 Cash payments for a service.
228.48 Confidentiality regarding services to drug and alcohol abusers.

Subpart E—Limitations: Financial

228.50 Services and individuals covered in the services plan.
228.51 Matching rates.
228.52 Allotments to States.
228.53 Public sources of State's share.
228.54 Private sources of State's share.
228.55 [Reserved]
228.56 Fifty Percent Rule.

Subpart F—Limitations; Individuals Served, Eligibility and Fees

228.60 Persons eligible.
228.61 Determination of eligibility.
228.62 Fees for services.
228.63 Family planning services.
228.64 Information and referral services.
228.65 Services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interests.
228.66 Monthly gross income.

* * * * *

Subpart J—Grants to Child Day Care Providers To Employ Welfare Recipients

228.100 Definitions.
228.101 Conditions for Federal financial participation.
228.102 Claims for Federal financial participation.

Authority: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

2. Section 228.24 is amended by revising paragraph (a) (3) and adding a new paragraph (b) to read as follows:

§ 228.24 Individuals to be served.

(a) The services plan shall: * * *

(3) Specify if the State plans to offer any service defined in § 228.63, § 228.64 or § 228.65.

(b) If the State is determining eligibility on a group basis in accordance with § 228.61, the services plan shall so state and describe any specific conditions or characteristics (other than income), that must be met or that individuals must have so that they will know if they might qualify to receive a particular service for which eligibility is determined on a group basis. Conditions or characteristics that may be used by the State as a basis for determining that a service is to be offered on a group eligibility basis may include one or more of the following: the nature of the service, characteristics of persons to receive the service (such as age, physical or mental condition, place of residence, single parenthood, common problems, etc.), location of the service site(s), nature of the community where the service will be provided, or other factors which lead the State to reasonably conclude that substantially all the persons to whom the services will be offered are members of families which have a monthly gross income of no more than 90 percent of the State's median income, adjusted for family size.

3. In § 228.26, paragraphs (a), and (c) are amended and (f) is added to read as follows:

§ 228.26 Services.

(a) Each service offered under the services plan, including the service which is available to individuals on the basis of group determination of eligibility, shall:

* * * * *

(c) Family planning services as described in § 228.63 to all AFDC recipients (including minors who can be considered sexually active) who request them shall be provided in the services plan if the State has an AFDC program. Failure to provide these services will reduce and jeopardize FFP to the State for its AFDC program.

* * * * *

(f) The State agency shall identify in its services plan the point in its organizational structure or the level of staff where it has placed authority:

(1) To make the decision for the State that it is not feasible to furnish child day care in a day care center or group day care home which complies with Federal staffing standards; and

(2) To furnish child day care by granting a waiver of otherwise applicable Federal staffing standards in a day care center or group day care home which serves few title XX funded children (see § 228.42(c)(2)) and meets applicable State staffing standards.

§ 228.29 Program coordination and utilization.

4. Section 228.29 is revised to add paragraph (c) to read as follows:

* * * * *

(c) The description shall also include the extent to which the title XX agency utilizes grants and otherwise encourages child day care providers under contract to employ AFDC recipients.

5. Section 228.35 is revised to add paragraph (c) to read as follows:

§ 228.35 Amendments to final services plan.

* * * * *

(c)(1) Notwithstanding paragraph (b), of this section, when a State amends its services plan so that it may provide family planning services without regard to income, or determine eligibility on a group basis for the provision of a service, the final amendment to the services plan may have a retroactive effective date of October 1, 1975 (or later, depending on when the State began providing the particular service specified in the amendment). FFP is available for a service which is the subject of an amendment made in accordance with this paragraph (c)(1), *Provided*, That the service was in the State's services plan when the service was delivered.

(2) The State shall publish the proposed and final amendments to the services plan, in accordance with paragraph (a) of this section, and specify therein the relevant retroactive dates.

6. Section 228.40 is revised to add paragraph (c) to read as follows:

§ 228.40 Minor medical and remedial care.

* * * * *

(c) Notwithstanding the requirement of paragraph (a) of this section, that medical or remedial care must be integral but subordinate to a particular service, FFP is available for medical or remedial care provided between October 1, 1975 and October 1, 1977 in a program of rehabilitative services to drug and alcohol abusers, under the following conditions:

(1) When provided in the initial detoxification of such persons for up to 7 days, so long as such detoxification is integral (but not necessarily subordinate) to the further provision of other title XX services to drug and alcohol abusers; and

(2) When integral but subordinate to the entire rehabilitative process (rather than a particular service), including but not limited to initial detoxification, short-term residential services, and subsequent outpatient counseling and rehabilitative services, whether or not such a process involves more than one provider of services.

7. Section 228.41 is revised to add paragraph (d) to read as follows:

§ 228.41 Room or board.

* * * * *

(d) Notwithstanding the requirement of paragraph (a) of this section, that room or board must be integral but subordinate to a particular service, FFP is available for room or board provided between October 1, 1975 and October 1, 1977 in a program of rehabilitative services to drug and alcohol abusers, under the following conditions:

(1) When provided in the initial detoxification of such persons for up to 7 days, so long as detoxification is integral (but not necessarily subordinate) to the further provision of other title XX services to drug and alcohol abusers; and

(2) When integral but subordinate to the entire rehabilitative process (rather than a particular service), including but not limited to initial detoxification, short-term residential services, and subsequent outpatient counseling and rehabilitative services, whether or not such a process involves more than one provider of services.

8. Section 228.42 is revised to add paragraphs (c) and (d) to read as follows:

§ 228.42 Child care standards.

* * * * *

(c) Notwithstanding the Federal staffing requirements for out-of-home child day care services set forth in paragraph (a)(2) of this section:

(1) FFP is available between October 1, 1975 and October 1, 1977 for title XX child day care services so long as day care centers and group day care homes providing day care services to children 6 weeks of age to 6 years of age apply staffing standards which:

(i) Are the State staffing standards which are in effect at the time the child day care services are provided;

(ii) Are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975; and

(iii) Are no lower, in the case of a particular day care center or group day care home, than the corresponding standards actually being met in such center or home on September 15, 1975.

(2)(i) When States find that it is not feasible to furnish day care (partly or totally funded under title XX) for children of any age in a day care center or group day care home that complies with Federal staffing standards, they may waive such standards otherwise applicable, and furnish day care services, if:

(A) A day care center or group day care home serves few title XX children (of the total number of children served at any given time in each such facility, not more than 5 of the children in a center, or 20 percent of them, whichever is lower; not more than 20 percent of the children in a group day care home); and

(B) Such day care center or group day care home complies with applicable State staffing standards.

(ii) States shall establish criteria against which to assess the non-feasibility of their use of a day care center or group day care home which complies with Federal staffing standards; and they shall maintain a record of the waiver for each facility in terms of these criteria.

(d) Between October 1, 1975 and October 1, 1977, in applying Federal staffing standards, States shall not count the children of the operator of a family day care home unless such children are under 6 years of age.

9. Section 228.44 is amended to add paragraph (b) to read as follows:

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§ 228.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including hospitals or facilities for mental diseases or for the mentally retarded), or prisons.

• • • • •

(b) Nothwithstanding the requirements of paragraph (a) (2) and (4) of this section, FFP is available between October 1, 1975 and October 1, 1977 for the cost of providing initial detoxification services for up to 7 days for drug and alcohol abusers when such detoxification is integral to the further provision of other title XX services, even though:

(1) Hospital or other institutional staff provide detoxification services to resident drug and alcohol abusers; and

(2) Such detoxification services include inherent or intrinsic responsibilities of the facility where they are provided.

10. A new section, § 228.48, is added to read as follows:

§ 228.48 Confidentiality regarding services to drug and alcohol abusers.

States providing services to drug and alcohol abusers shall safeguard information about such services and recipients by applying the provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (as amended by section 122(a) of Pub. L. 93–282), as implemented by regulations at 42 CFR Part 2.

11. Section 228.51 is amended to add paragraph (c) to read as follows:

§ 228.51 Matching rates.

• • • • •

(c) *One hundred percent FFP.* Notwithstanding paragraph (a) of this section, FFP is available at the 100 percent rate up to the State's share of the additional allotments described in § 228.52(c)(3). The purpose of the additional funds is to encourage States to the maximum extent they determine to be feasible to promote the employment of AFDC recipients in jobs related to day care services.

(1) During fiscal year 1977, 100 percent FFP is available for:

(i) Day care services provided to children in day care centers, group day care homes, and family day care homes, which are licensed by the State for child day care services and otherwise meet the requirements of § 228.42(a)(2) as modified by the provisions of § 228.42(c) and (d).

(ii) Day care services provided to children in their own homes in accordance with § 228.42(a)(1); and

(iii) Staff activities in direct support of the child day care services such as: licensing homes or facilities used by title XX children, monitoring title XX child care services delivery, and training staff in accordance with Subpart H of this Part.

(2) During the transition quarter (July 1, 1976 through September 30, 1976) and the 1977 fiscal year, 100 percent FFP is available for grants by States to child day care providers to employ welfare recipients, in accordance with Subpart J.

12. Section 228.52 is amended to add a paragraph (c)(3) to read as follows:

§ 228.52 Allotments to States.

• • • • •

(c) • • •

(3) (i) The basic allotment described in paragraph (c)(1) of this section shall be increased by an amount which bears the same ratio to $40 million for the transition quarter (July 1, 1976 through September 30, 1976) and to $200 million in the 1977 fiscal year as the population for such State bears to the population of all States. The amount of these additional allotments payable to each State shall be the lesser of:

(A) The amount of each additional allotment; or

(B) The amount of actual expenditures incurred for the provision of child day care services and for grants by States to child day care providers for the employment of welfare recipients.

§ 228.55 [Reserved]

13. Section 228.55 is deleted and reserved.

14. In § 228.56, paragraph (b), is revised to read as follows:

§ 228.56 Fifty Percent Rule.

• • • • •

(b) In accounting for costs of services to meet the requirements of paragraph (a) of this section:

(1) In lieu of accounting for the status of each person receiving a service on the basis of group determination of eligibility, States may use generally accepted statistical sampling procedures.

(2) Regarding services to persons who receive services without regard to income (family planning services, services to prevent or remedy abuse, neglect or exploitation of children and adults, and information and referral services), States may use any appropriate method, including generally accepted sampling procedures or allocation of costs to the services provided these persons in the same ratio as the known cost of all other services distributed for the 50 percent rule.

(3) States shall deem grants made by them to child day care providers for the employment of welfare recipients, to be expenditures for child day care services made on behalf of AFDC recipients.

15. In § 228.60, paragraph (d) is revised and paragraph (e)(2) is amended by adding subdivision (ii) as shown below. Subdivision (i) is published for clarity.

§ 228.60 Persons eligible.

• • • • •

(d) *Services without regard to income.* Notwithstanding paragraphs (a) and (b) of this section, family planning services under § 228.63, information or referral services under § 226.64 or services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults under § 228.65 may, if provided under the services plan, be provided to all individuals who need them.

(e) • • •

(2) • • •

(i) When protective services are provided without regard to income under conditions specified in § 228.65, a dated agency record that documents the circumstances of actual or potential abuse, neglect, or exploitation of a child or adult, may be considered an acceptable alternative to the written application for that individual.

(ii) When eligibility is determined on a group basis in accordance with § 228.61, no written application is necessary.

(A) However, if the State has established specific conditions (other than income) or characteristics as a condition precedent to the receipt of a service on the basis of group eligibility, the State shall, in the intake process, elicit information necessary to determine whether an individual meets the specified conditions or has the characteristics for membership in the group (e.g.—if eligibility for homemaker services to teenage parents maintaining their own homes in public housing is determined on a group basis, the intake process shall elicit a statement regarding age, parenthood, address, and maintenance of one's own home).

(B) If the State has concluded solely on the basis of the nature of a service and/or the location where it will be provided (e.g.—recreational services in specified senior centers or day care services for migrant children), that substantially all of the individuals who would apply for the service are members of families with gross monthly incomes of 90 percent or less of the State's median income, adjusted for family size, no information need be elicited at intake.

16. § 228.61 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 228.61 Determination and redetermination of eligibility.

(a) *Methods of determining (or redetermining) eligibility.* (1) States may establish any method or methods, including a declaration method, for determining eligibility in accordance with § 228.60 and § 228.66.

(2) (i) States may determine eligibility on a group basis if, upon consideration of one or more of the following factors, with respect to a particular service, they can reasonably conclude without individual determination that substantially all members of the group who receive the particular service are members of families with monthly gross incomes of not more than 90 percent of the State's median income, adjusted for family size:

(A) The geographic area in which a particular service is provided;

(B) The characteristics of the community in which the service is provided;

(C) The nature of the service provided;

(D) The conditions, other than income, of eligibility to receive the service; or

(E) Other factors surrounding provision of the service.

(ii) "Substantially all" means that no less than 75 percent of the persons provided a service on the basis of group eligibility determination shall be members of families whose gross monthly incomes are no more than 90 percent of the State's median income, adjusted for family size.

(iii) There are no mandatory fees for persons whose eligibility is determined on a group basis.

(iv) Group determination of eligibility may be used for any service except, that for child day care, it is limited to the children of migratory workers.

(3) States may use one method for determining eligibility for all services, categories of individuals and geographic areas, or they may use different methods for different services, different categories of individuals and different geographic areas.

(4) States shall have available for Federal review a written description of the method(s) they have established for determining and redetermining eligibility.

• • • • •

(c) *When redetermination shall be made.*

(1) Redetermination of eligibility shall be made for persons whose eligibility is determined on an individual basis:

(i) When required on the basis of information the agency has obtained about anticipated changes in the individual's situation;

(ii) Promptly, not to exceed 30 days, after information is obtained about changes which have occurred in the individual's circumstances that may make him ineligible; and

(iii) Periodically, but not less frequently than every 6 months.

(2) If the State has established specific conditions or characteristics as a condition precedent to the receipt of a service on the basis of group eligibility (and, in accordance with § 228.60(e)(2)(ii)(A), has elicited information at intake that individuals applying for the service meet the conditions or have the characteristics for membership in the group), it shall, unless the characteristic is irreversible (such as being above a certain age), redetermine the eligibility of these individuals as follows:

(i) When the conditions or characteristics established by the State are apt to change in regard to an individual (such as place of residence, marital status, children living in the home), the State shall ascertain not less frequently than every 6 months whether persons receiving the service on a group eligibility basis still meet the conditions or have the characteristics which made them members of the group; or

(ii) When the conditions or characteristics established by the State are not apt, to change substantially in regard to an individual (such as a physical disability), the State shall ascertain not less frequently than once a year whether persons receiving the service on a group eligibility basis still meet the conditions or have the characteristics which made them members of the group.

(iii) The State shall discontinue providing the service on the basis of group eligibility determination by the end of the month in which it finds persons who no longer meet the conditions or have the characteristics required for group membership.

(d) Validation of "substantially all" basis for establishing a group:

(1) Each group of persons receiving a service on the basis of group determination of eligibility shall be subject to a validation check of whether at least 75 percent of those receiving the service are members of families with gross monthly incomes of no more than 90 percent of the State's median income, adjusted for family size.

(2) States shall conduct their initial validation check not later than 6 months after they have started providing a service to individuals on the basis of group eligibility. (If a State claims expenditures for services on a group determination of eligibility basis retroactively, as permitted to October 1, 1975, the validation shall be made within 3 months of promulgation of these regulations in the FEDERAL REGISTER.)

(3) After the initial validation, States shall thereafter conduct such validations for the same group no less frequently than once a year.

(4) The validations may be conducted on a sample basis. States shall maintain a record of how the test was conducted, and document the process used and the findings.

(5) In order to determine whether at least 75 percent of the persons who receive a particular service on the basis of group eligibility are in families with the specified income level, States shall take into account the findings made on members of all groups that receive each particular service wherever provided in the State on the basis of group eligibility.

(6) If a State finds that *less* than 75 percent of the persons receiving a particular service on the basis of group eligibility meet the specified income standard, the State shall, within 75 days following such a finding:

(i) Discontinue claiming FFP for expenditures incurred for the service provided to persons in that particular group whose eligibility has been determined on a group basis;

(ii) Amend the State's services plan to either delete the service, or to provide a new basis for determination of eligibility to continue the service.

(iii) If the State decides to continue the service, FFP is available, in accordance with the amended services plan, for providing the service:

(A) On the basis of individual eligibility; or

(B) On the basis of group eligibility if the State changes the conditions or characteristics relative to the group and has a reasonable basis on which to conclude that with such modification, at least 75 percent of the individuals served would then be members of families with the specified monthly gross income.

• • • • • •

17. Section 228.63 has been removed from "reserved" and newly titled. Paragraph (a) is new; paragraphs (b) and (c) are transferred from § 228.55.

§ 228.63 Family planning services.

(a) FFP is available in the cost of family planning services provided without regard to income.

(b) For purposes of this Part, family planning services means counseling, educational and medical services (including diagnosis, treatment, drugs, supplies, devices and related counseling furnished, prescribed by, or under the supervision of, a physician) to enable individuals of childbearing age (including minors) voluntarily to limit their family size or to space their children.

(c) Where a State authorizes sterilization as a family planning service, it must comply with the provisions of 45 CFR 205.35.

18. A new Subpart J is added to read as follows:

Subpart J—Grants to Child Day Care Providers To Employ Welfare Recipients

§ 228.100 Definitions.

For purposes of this Subpart:

(a) A "qualified" child day care provider is one in whose facility at least 20 percent of the total number of children regularly served are partly or totally funded under title XX.

(b) An "eligible" welfare recipient is, as defined in section 50B(g) of the Internal Revenue Code of 1954, one who meets all the following requirements:

(1) Has been certified by the State or local welfare department as being eligible for financial assistance for aid to families with dependent children (AFDC) and as having continuously received AFDC during the 90-day period which immediately precedes the date on which the employee is hired;

(2) Has been a full-time employee of the provider for a period in excess of 30 consecutive days;

(3) Has not displaced any other individual from employment by the provider; and

(4) Is not a migrant worker. (The Internal Revenue Code of 1954 defines a migrant worker as one who is employed in a job for which the customary period of employment by one employer is less than 30 days if the nature of the job requires the worker to travel from place to place over a short period of time.)

§ 228.101 Conditions for FFP.

From September 1, 1976 until October 1, 1977, FFP is available from additional allotments specified in § 228.52(c)(3) for salaries paid under grants which States make in accordance with this Subpart to qualified public, nonprofit private, and proprietary child day care providers under contract to the State agency, to employ eligible welfare recipients, as defined in § 228.100, *Provided*, That:

(a) The grants do not exceed:

(1) $5,000 to public and non-profit private providers for each recipient per year; and

(2) $4,000 to proprietary providers for each recipient per year. (The Internal Revenue Code of 1954 provides a tax credit of up to $1,000 per year per welfare recipient employed by proprietary

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child day care providers (section 50A(a)(6)(B) of the Code) under an extension until October 1, 1977 of the credit for Federal welfare recipient employment incentive expenses to proprietary child day care providers (section 50B(a)(2)(B)). The tax credit, to a maximum of $1,000, equals 20 percent of the wages to a recipient to the extent that a provider is not specifically reimbursed for such wages. There is no aggregate tax credit limit for such child day care employers of recipients.)

(b) States make such grants on a time schedule that minimizes balances of Federal funds and in a manner consistent with Treasury Department Circular #1075 (revised) which promulgated the Letter of Credit system and was published in the FEDERAL REGISTER (38 FR 5242) on February 27, 1973.

(c) Pursuant to § 228.17, States submit statistical and financial reports on the AFDC recipients hired under these grants, in accordance with instructions issued by the Secretary.

§ 228.102 Claims for FFP.

(a) States may claim for salaries paid by child day care providers for the 30 days of full-time, continuous employment needed to make a recipient eligible, as defined in § 228.100(b).

(b) If a recipient starts employment with a provider on or after September 7, 1976, expenditures incurred for salaries for any part of the continuous 30-day employment which occurs after September 7, but within the transition quarter, are chargeable to the State's new allotment for the transition quarter.

(c) Any expenditures incurred on or after October 1, 1976 through September 30, 1977 for salaries under the grants for employment of welfare recipients are chargeable to the State's new allotment for the 1977 fiscal year.

Effective dates: These amendments are effective October 1, 1975 except as follows: additional allotments to States (§ 228.52) are available from July 1, 1976 through September 30, 1977; State grants to child day care providers (Subpart J) may be made on or after September 7, 1976 for use through September 30, 1977; and the option to waive Federal staffing Standards in out-of-home facilities with few title XX children (§ 228.42(c)(2)) is effective no earlier than September 7, 1976.

(Catalog of Federal Domestic Assistance Programs, No. 13.771, Social Services for Low-Income and Public Assistance Recipients.)

NOTE: The Social and Rehabilitation Service has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 14, 1976.

NICHOLAS NORTON,
Acting Administrator,
Social and Rehabilitation Service.

Approved: December 16, 1976.

MARJORIE LYNCH,
Acting Secretary.

[FR Doc.76-37462 Filed 12-20-76;8:45 am]

federal register

TUESDAY, DECEMBER 21, 1976

PART VI:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

LOW INCOME HOUSING

Operating Subsidy; Performance Funding System

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Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-325]

PART 890—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

Subpart A—Performance Funding System

The Department gave notice on January 15, 1976, at 41 FR 2344 of certain amendments to the Interim Rule published April 16, 1975, at 40 FR 17008, and of its determination that the requirements, procedures and rules set forth in the Interim Rule should continue in effect for at least one full year prior to further revision to provide actual experience upon which to base decisions on the comments received regarding the Interim Rule.

The Department received more than 30 comments from interested parties both within and outside the Department in response to the Interim Rule. All comments were subsequently considered in light of the experience gained during the first full year of experience under the Performance Funding System (PFS). A discussion of the principal changes and of the more recurrent and significant comments is set forth below.

1. Sections 890.104 and 890.108(a) have been revised to establish the cost of a required biennial Independent Public Accountant (IPA) audit as a separate factor in the calculation of the amount of operating subsidy for which each PHA qualifies.

2. Section 890.105(a) has been revised to include two additional operating expenditure exclusions from the Base Year Expense Level so that the Base Year Expense Level will be more representative of a normal year's operational level.

3. Section 890.105(b) has revised the Formula for the computation of the Formula Expense Level. The Urban Institute, after analyzing the results of the first year's experience under PFS, has developed this revised Formula, which has superior statistical properties over those of the original Formula (i.e., the accuracy of predicting actual expenses is greater with the revised Formula). One of the factors used in the revised Formula is the HUD approved Fair Market Rent for an existing nonelevator two-bedroom unit developed for use in the Section 8 Housing Assistance Payments Program. Many of the public comments suggested that the inclusion of such a factor would strengthen the Formula, therefore, it was tested in the Formula, and adopted after it was proven that it did increase the accuracy of the computation of the Formula Expense Level. Another significant change has been implemented by the revised Formula in the method of calculating the average bedroom size. A value of one has been assigned to efficiency units, which is the same as the value assigned to one-bedroom units. In addition, the area served is to be measured by the population of the Standard Metropolitan Statistical Area (SMSA) rather than the population of the city.

4. Section 890.105(b) has also been revised to establish the new weights of the Formula which PHAs shall use to compute their Formula Expense Level for PHA fiscal years beginning October 1, 1976, January 1, 1977, April 1, 1977, and July 1, 1977.

5. Section 890.105(e) has been revised to establish a procedure by which PHA's eligible for Transition Funding (over range PHAs) in the PHA fiscal years beginning October 1, 1975, January 1, 1976, April 1, 1976 or July 1, 1976, may calculate a revised Allowable Expense Level for these years as a basis for calculation of subsidy eligibility for subsequent fiscal years. The revised Allowable Expense Level is calculated by computing a revised Formula Expense Level using the new Formula described in § 890.105(b). The revised Allowable Expense Level will be applicable to the above mentioned PHAs for fiscal years beginning April 1, 1976, July 1, 1976, October 1, 1976, and January 1, 1977, and then updated for all fiscal years thereafter. PHAs with fiscal years beginning April 1, 1976, and July 1, 1976, may be entitled to additional operating subsidy, and, if so, this additional subsidy will not be paid until HUD has established the total operating subsidy requirement for Federal fiscal year 1977, and has determined that there is sufficient funds available to the Department in 1977 to first pay 1977 obligations for subsidy. The justification for revising the Formula is discussed in paragraph 3 above.

6. Section 890.107 has been revised to redefine a "new project" for computation of the Utilities Expense Level. The definition of a "new project" has been expanded to cover any project, where there is utility consumption or a specific type of delivery for only a part of the Utilities Base Consumption Period (Base Period). This has been done in order to prevent distortion of the Base Period.

7. Section 890.108(b) has been revised to delete the category of non-dwelling units as a specific group to be considered under this section. Costs attributable to nondwelling units are considered in the amount established as the Allowable Expense Level by virtue of their inclusion in the Base Year Expense Level.

8. Section 890.108(d) has been added, which sets forth the provisions governing payments of operating subsidy in addition to that amount approvable under § 890.104 of these regulations. The additional operating subsidy, payable at the discretion of the Secretary, is limited to costs beyond the control of the PHA after the PHA has utilized all reasonably available resources of its own, and must be within the funds available to the Department.

9. Section 890.109(b)(1) has been revised to require the PHA to use the most current data available at the time of the submission of the requested operating budget to compute the estimated monthly dwelling rental charge instead of the monthly dwelling rental charge as shown on the rent roll prepared for the month which is six months before the beginning of the Requested Budget Year.

10. Section 890.109(b)(3) has been revised to permit the calculation of the average percentage of occupancy to reflect the removal of dwelling units from the Rent Roll which have been vacated for modernization purposes.

11. Section 890.110(c) has been revised to require each PHA that received operating subsidy, except those PHAs that received operating subsidy solely for IPA audits, to submit a year-end adjustment regarding the Utility Expense Level approved for operating subsidy eligibility purposes. This adjustment, which will be based upon the difference between actual utility expense and consumption and the estimates for each, will be submitted on the PHA's fiscal year basis.

12. Section 890.110(e) has been modified to permit the HUD Field Office to schedule the recovery of overpayments of operating subsidies in those cases where lump-sum recovery would cause a severe financial hardship on the PHA.

13. Section 890.111 has been expanded to clarify the use of operating subsidy payable under the PFS to augment the operating reserve. The title of the Section has been changed.

14. Section 890.114 has been added to set forth the requirement of the U.S. Housing Act of 1937 (USH Act), as amended by the Housing and Community Development Act of 1974, which provides that as a condition of eligibility for a PHA to receive operating subsidy, the aggregate rentals required to be paid in any year by families residing in the dwelling units shall not be less than an amount equal to one-fifth of the sum of the incomes of all such families.

15. Section 890.115 has been added to set forth the requirement that PHAs receiving operating subsidy pursuant to the provisions of PFS, must be in compliance with section 207(A), Part II, of the Annual Contributions Contract, regarding the reexamination of tenants in occupancy.

The Department of Housing and Urban Development has determined that an Environmental Impact Statement is not required with respect to this Final Rule. The Finding of Inapplicability is available for inspection with the Rules Docket Clerk, Office of the Secretary, Department of Housing and Urban Development, Room 10141, 451 Seventh Street, SW., Washington, D.C.

Accordingly, Title 24, Part 890, Annual Contributions for Operating Subsidy, Subpart A, Performance Funding System is amended to read as follows:

Subpart A—Performance Funding System

Sec.
890.101 Purpose—General policy of Performance Funding System.
890.102 Definitions.
890.103 Applicability of Performance Funding System.
890.104 Determination of amount of Operating Subsidy under PFS.
890.105 Computation of Allowable Expense Level.
890.106 Transition Funding for excessively high-cost PHAs.

Sec.
890.107 Computation of Utilities Expense Level.
890.108 Other Costs.
890.109 Projected Operating Income Level.
890.110 Bequests for adjustments.
890.111 Operating Reserves.
890.112 Operating Budget submission and approval.
890.113 Payments procedure for Operating Subsidy under PFS.
890.114 Payments of Operating Subsidy conditioned upon Certification of Rent-Income Ratio.
890.115 Payments of Operating Subsidy conditioned upon reexamination of Incomes of Families in Occupancy.

AUTHORITY: Sec. 9, United States Housing Act of 1937, (42 U.S.C. 1437g); sec. 201(b), Housing and Community Development Act of 1974, (42 U.S.C. 1437 note); sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)).

Subpart A—Performance Funding System

§ 890.101 Purpose—General policy of Performance Funding System.

(a) *Implementation of section 9(a).* The purpose of this subpart is to establish standards and policies for the distribution of operating subsidy in accordance with section 9(a) of the United States Housing Act of 1937, 42 U.S.C. 1437g. Section 9(a) authorizes the Secretary of Housing and Urban Development (HUD) to make annual contributions for the operation of low-income housing projects (operating subsidy). Section 9(a) further provides:

> For the purposes of making payments under this section, the Secretary shall establish standards for costs of operation and reasonable projections of income, taking into account the character and location of the project and characteristics of the families served, or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed project.

Pursuant to section 9(a), this subpart establishes standards for costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed project. These standards, policies and procedures are called the Performance Funding System (PFS). The provisions of PFS are intended to recognize and give an incentive for efficient and economical management and to avoid the expenditure of Federal funds to compensate for excessive costs attributable to poor or inefficient management. PFS is intended to provide the incentive and financial discipline for excessively high-cost PHAs to improve their management efficiency. PFS includes provision for transition funding of additional operating subsidy for such PHAs to assist them in the transition to improved performance.

(b) *Background.* The HUD Act of 1969 initially authorized the payment of operating subsidy. The Conference Report (No. 91-740) submitted with the HUD Act of 1969 made it clear that Congress was "* * * deeply concerned over cases of lax management in many public housing projects which have led to high operating costs, deterioration of property and an intolerable environment for families who live there." The Senate Report on the HUD Appropriations Bill for 1972 expressed Congress' concern over "spiraling contributions payments." On November 22, 1972, the Department issued Circular HM 7475.12, "Subsidies for Operations: Low-Rent Public Housing Program." That Circular set forth the Interim Formula System for determination of the amount of operating subsidy payments. PFS replaced the Interim Formula System for PHA fiscal years commencing on and after April 1, 1975. PFS is the result of an extensive study and effort by HUD to develop a long-range system for the distribution of operating subsidy in accordance with section 9(a) of the United States Housing Act of 1937, as amended.

(c) *Overview of PFS.* (1) The Performance Funding System for the calculation of operating subsidy is designed to provide the amount of operating subsidy which would be needed for well-managed projects. That amount is determined by the difference between the projected expenses and projected operating income of the PHA, both computed in accordance with this Subpart A.

(2) Projected expenses, other than utilities and the expenses allowed under § 890.108 are determined in accordance with § 890.105 which provides for computation of the PHA's "Allowable Expense Level." The Allowable Expense Level is based upon the PHA's approved budget expense level during the year prior to its entering the PFS system. A PHA whose "Base Year Expense Level" is above the Allowable Expense Level will qualify for Transition Funding as provided in § 890.106.

(3) The projected Utilities Expense Level is computed separately, as provided in § 890.107, based upon the PHA's actual past level of consumption of utilities and based upon current rates.

(4) Projected operating income (primarily dwelling rental income) is computed in accordance with § 890.109. Dwelling rental income is projected based upon the rental charges shown in the PHA's rent rolls, increased by a trend factor (subject to updating) of three percent (3%), and multiplied by the PHA's estimated percentage of occupancy. In accordance with section 9(b) of the USH Act, a condition to receiving operating subsidy is that the aggregate rental as required to be charged in any year to families residing in dwelling units administered by a PHA receiving operating subsidy shall not be less than an amount equal to one-fifth of the sum of the incomes of such families. (See § 890.114.) Other operating income is estimated by the PHA subject to adjustment by HUD.

(5) Operating subsidy is then computed by subtracting projected income from projected expenses, and may be increased to include Transition Funding for qualifying PHAs.

§ 890.102 Definitions.

(a) *Allowable expense level.* The per unit per month dollar amount of expenses (excluding Utilities and expenses allowed under § 890.108) computed in accordance with § 890.105, which is used to compute the amount of operating subsidy.

(b) *Base year.* The PHA's fiscal year immediately preceding its first fiscal year under PFS.

(c) *Base year expense level.* The expense level (excluding Utilities, biennial audits and certain other items) for the Base Year, computed as provided in § 890.105(a).

(d) *Current budget year.* The fiscal year in which the PHA is currently operating.

(e) *Formula.* The revised formula derived from the actual expenses of high-performance PHAs which is used in PFS, as provided for in § 890.105, to determine the Formula Expense Level and the range of each PHA. HUD plans to update the Formula each year to reflect actual costs experienced by high-performance PHAs.

(f) *Formula expense level.* The per unit per month dollar amount of expenses (excluding utilities and audits) computed under the Formula, in accordance with § 890.105(b).

(g) *Interim formula.* The HUD system, which has been replaced by PFS, for determining the amount of operating subsidy which applied to PHA fiscal years which commenced on or after October 1, 1972, and prior to April 1, 1975.

(h) *HUD field office.* The HUD Area or Insuring Office which has been delegated authority under the United States Housing Act of 1937 to perform functions pertaining to this subpart for the area in which the PHA is located. The Denver Regional Office has been delegated authority to function as an Area Office for PHAs within its regional boundaries.

(i) *Local government wages inflation factor.* The percentage increase in local government wages and salaries for the area in which the PHA is located. This percentage will be supplied by HUD. HUD will compute the percentage amount on the basis of information furnished by the Department of Commerce. HUD anticipates that it will update the figures for the Local Government Wages Inflation Factor each year.

(j) *Operating budget.* The PHA's operating budget and all related documents, as required by HUD, to be submitted pursuant to the Annual Contributions Contract.

(k) *Project.* Each project under an Annual Contributions Contract to which PFS is applicable as provided in § 890.103(b).

(l) *Project units.* All dwelling units of a PHA's Projects.

(m) *Projected operating income level.* The per unit per month dollar amount of dwelling rental income plus nondwelling income, computed as provided in § 890.109.

(n) *Range.* $10.31 below to $10.31 above the PHA's Formula Expense Level for the

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Base Year. The dollar amount is subject to change from time to time by HUD in connection with updating of the Formula. The Range is used in connection with determination of Allowable Expense Level, as provided in § 890.105, qualification for transition funding, as provided in § 890.106, and requests for adjustments of the Base Year Expense Level under § 890.110 (a) and (b).

(o) *Requested budget year.* The budget year (fiscal year) of a PHA following the Current Budget Year.

(p) *Transition funding.* Funding for excessively high-cost PHAs as provided in § 890.106.

(q) *Unit months available.* Project Units multiplied by the number of months the Project Units are expected to be available for occupancy during a given PHA fiscal year. A unit is considered available for occupancy from the time the Project reaches the End of the Initial Operating Period (EIOP) until the time it is approved by HUD for nondwelling use or deprogrammed with HUD approval.

(r) *Utilities.* Electricity, gas, heating fuel, water and sewerage service.

(s) *Utilities expense level.* The per unit per month dollar amount of Utilities expense, computed as provided in § 890.107.

§ 890.103 Applicability of PFS.

(a) *Commencement of PFS.* PFS has been and will be utilized in determining the amounts of operating subsidy payable to PHAs starting with budget years commencing on or after April 1, 1975.

(b) *Projects covered.* PFS is applicable to all PHA-owned rental units under Annual Contributions Contracts. PFS applies to PHAs which have not received operating subsidy payments previously, but are eligible for such payments under PFS. PFS is not applicable to the section 23 Leased Housing Program, the section 23 Housing Assistance Payments Program, the section 8 Housing Assistance Payments Program, the Mutual-Help Program, or the Turnkey III or Turnkey IV Homeownership Opportunity Programs. PFS is not applicable to housing owned by the PHAs of the Virgin Islands, Puerto Rico, Guam and Alaska. Operating subsidy payments to these PHAs will be based upon Operating Budgets approved by HUD on a case-by-case basis.

§ 890.104 Determination of amount of operating subsidy under PFS.

The amount of operating subsidy for which each PHA is eligible shall be determined as follows: The Projected Operating Income Level is subtracted from the total expense level (Allowable Expense Level plus Utilities Expense Level). These amounts are per unit per month dollar amounts, and must be multiplied by the Unit Months Available. Transition Funding, if applicable, and other costs as specified in § 890.108 are then added to this total in order to determine the total amount of operating subsidy for the Requested Budget Year, exclusive of consideration of the costs of biennial Independent Public Accountant (IPA) audits. As an independent operating subsidy eligibility factor, a PHA may receive operating subsidy in an amount, approved by HUD, equal to the actual or estimated cost of the IPA audit to be prorated to operations of the low-income housing program. See § 890.110 regarding adjustments.

§ 890.105 Computation of allowable expense level.

The PHA shall compute its Allowable Expense Level using forms prescribed by HUD, as follows:

(a) *Computation of base year expense level.* The Base Year Expense Level includes Payments in Lieu of Taxes (PILOT) required by a cooperation Agreement even if PILOT is not included in the approved Operating Budget for the Base Year due to waiver of the requirements by the local taxing jurisdiction(s). The Base Year Expense Level includes all other operating expenditures as reflected in the PHA's Operating Budget for the Base Year approved by HUD except the following: (1) Utilities expense; (2) cost of biennial IPA audits; (3) adjustments applicable to budget years prior to the Base Year; (4) expenditures supported by supplemental subsidy payments applicable to budget years prior to the Base Year; (5) all other expenditures which are not normal fiscal year expenditures as to amount or as to the purpose for which expended; and (6) expenditures which were funded from a nonrecurring source of income.

In compliance with the above six exclusions, the PHA shall adjust the Allowable Expense Level by excluding any of these items from the Base Year Expense Level if this has not already been accomplished. If such adjustment is made in the second or some subsequent fiscal year of the PFS, the Allowable Expense Level shall be adjusted in the year in which the adjustment is made, but the adjustment shall not be applied retroactively. If the PHA does not effect these adjustments, the HUD Field Office shall.

(b) *Computation of formula expense level.* The PHA shall compute its Formula Expense Level in accordance with this subsection. The weights of the Formula and the Formula published in the Interim Rule on April 16, 1975, at 40 FR 17008 apply to PHA fiscal years beginning April 1, 1975, and July 1, 1975. The weights of the Formula published in the Final Rule on January 15, 1976, at 41 FR 2344 superseded the weights published in the Interim Rule and were applicable to PHA fiscal years beginning October 1, 1975, January 1, 1976, April 1, 1976 and July 1, 1976. The weights of the Formula and the Formula itself are subject to updating by HUD annually or at any other time. This updating will be accomplished by publication in the FEDERAL REGISTER, or by notification given directly to PHAs, whichever is considered appropriate. The Formula applicable to PHA budget years commencing October 1, 1976, and subsequent budget years; and PHA budget years which commenced April 1, 1976, and July 1, 1976; if these PHAs are eligible for Transition Funding for these two PHA fiscal years, subject to updating at any time, is as follows: (1) The population (in thousands) of the Standard Metropolitan Statistical Area (SMSA) of the PHA, multiplied by the weight .00228 (if the PHA exists outside of an SMSA, the population of the area served shall be used); (2) the logarithm to the base 10 of the average number of bedrooms per Project Unit, multiplied by the weight 54.93844; (3) the logarithm to the base 10 of the weighted average age of the ages of all the Projects (weighted by relative proportion of Project Units); multiplied by the weight 11.97794; (4) the logarithm to the base 10 of the HUD-supplied Fair Market Rent (March 29, 1976) for existing nonelevator two-bedroom units computed for the county in which the PHA is located, multiplied by the weight 32.47978; (5) the logarithm to the base 10 of the average height of the tallest building of each Project (weighted by relative proportion of Project Units in each Project) in stories, including only stories containing dwelling units or any space utilized by the PHA for project use which are not in a basement, multiplied by the weight 16.73764; (6) the HUD-supplied index figure for the relative operation costs of a sample of PHAs in the HUD Region, multiplied by the weight .46105. The Formula constant of $102.93610 is subtracted from the sum of subparagraphs (1) through (6) of this paragraph. The resulting amount is increased by the Local Government Wages Inflation Factor supplied by HUD. (Such increase is required under the current Formula to adjust for inflation between the Base Year and the previous year.)

(c) *Range.* The PHA's Range is the spread from $10.31 below to $10.31 above its Formula Expense Level for its Base Year. The figure $10.31 applies to PHAs until revised by HUD.

(d) *Computation of allowable expense level.* The PHA shall compute its Allowable Expense Level as follows:

(1) *Allowable expense level.* First Budget Year under PFS where Base Year Expense Level does not exceed top limit of Range. Every PHA whose Base Year Expense Level is below the top limit of the Range shall compute its Allowable Expense Level for the first Budget Year under PFS by adding the following to its Base Year Expense Level (prior to adjustment under § 890.110 (a) or (b);

(i) Any increase approved by HUD in accordance with § 890.110 (a) or (b);

(ii) The increase (decrease) between the Formula Expense Level for the Base Year and the Formula Expense Level for the first budget year under PFS; and

(iii) The sum of the Base Year Expense Level, and subdivisions (i) and (ii) of this subparagraph multiplied by the Local Government Wages Inflation Factor supplied by HUD.

(2) *Allowable expense level.* First budget year under PFS where Base Year Expense Level is above the top of the Range. Every PHA whose Base Year Expense Level is above the top of the Range shall compute its Allowable Expense Level for the first budget year under PFS by adding the following to its top limit of the Range (not to its Base Year Expense Level, as in subparagraph (1), of this paragraph):

(i) The increase (decrease) between the Formula Expense Level for the Base Year and the Formula Expense Level for the first budget year under PFS.

(ii) The sum of the figure equal to the top limit of its Range and subdivision (i) of this subparagraph, multiplied by the Local Government Wages Inflation Factor supplied by HUD. (If the Base Year Expense Level is above the Allowable Expense Level, computed as provided above, the PHA may be eligible for Transition Funding under § 890.106.)

(3) *Allowable expense level.* Computation for budget years subsequent to first budget year under PFS. For each budget year subsequent to the first budget year under PFS, the Allowable Expense Level for the previous budget year, which includes the amount of the HUD-approved Increase of Base Year Expense Level, (reference: § 890.110), increased (or decreased) by the following:

(i) The increase (decrease) between the Formula Expense Level for the previous budget year and the Formula Expense Level for the Requested Budget Year.

(ii) The sum of the Allowable Expense Level for the previous budget year plus subdivision (i) of this subparagraph, multiplied by the Local Government Wages Inflation Factor supplied by HUD.

Example 1. Assume that the Allowable Expense Level for the first budget year under PFS (year 1) is $43.20.

Year 2. Assume that the Formula Expense Level of the PHA for the second budget year under PFS (Year 2) is $1.50 higher than the Formula Expense Level for Year 1. (NOTE that the weights or other aspects of the Formula may have been revised, in which case the revised Formula would be applied to both the Year 1 data and the Year 2 data to obtain difference; the $1.50 assumed difference would be due to changes in PHA data as to the Formula variables between Year 1 and Year 2). Assume that the applicable Local Government Wages Inflation Factor is 9 percent. The Allowable Expense Level for Year 2 is $46.72, computed as follows: $43.20 (Allowable Expense Level for Year 1, which is not changed regardless of any changes by HUD to the Formula used for the Year 2 computation) plus $1.50 (increase in Formula Expense Level between Year 1 and Year 2) plus $4.02 (9% Local Government Wages Inflation Factor times $44.70).

Year 3. Assume that the Formula Expense Level for Year 3 decreases $1.00 from that for Year 2 (due to changes in the PHA's data as to the Formula variables) and the applicable Local Government Wages Inflation Factor is 8%. The Allowable Expense Level for Year 3 is $51.54, computed as follows: $46.72 (Allowable Expense Level for Year 2) minus $1.00 (decrease in Formula Expense Level) plus $3.72 (8% × $47.72).

Year 4. Assume that the Formula Expense Level for Year 4 is $.50 above the Formula Expense Level for Year 3. Assume the applicable Local Government Wages Inflation Factor is 7%. The Allowable Expense Level for Year 4 is $55.68, computed as follows: $51.54 (Allowable Expense Level for Year 3) plus $.50 (increase in Formula Expense Level) plus $3.64 (7% × $52.04).

(4) *Adjustment of Allowable Expense Level.* For budget years subsequent to the first budget year under PFS, HUD may adjust the Allowable Expense Level of budget years subsequent to the first year under PFS pursuant to the provisions of § 890.105(a).

(e) *Reapplication of the Range Test for PHAs Eligible for Transition Funding.* Each PHA which is eligible for Transition Funding (over-range PHAs) in a PHA fiscal year beginning October 1, 1975, January 1, 1976, April 1, 1976, and July 1, 1976, may calculate a revised Formula Expense Level Range (Range) using the form prescribed by HUD. The purpose of revised Range test is to determine a revised Allowable Expense Level for PHA fiscal years beginning April 1, 1975, July 1, 1975, October 1, 1975 and January 1, 1976. The PHA may calculate a revised Formula Expense Level Range for the PHA fiscal years beginning April 1, 1975, July 1, 1975, October 1, 1975, and January 1, 1976, using the form prescribed by HUD. The PHA shall compute its revised Formula Expense Level in accordance with § 890.105(b), except that PHAs with fiscal years beginning April 1, 1975, and July 1, 1975, shall not apply the Local Government Wages Inflation Factor to arrive at the Formula Expense Level since the effect of the Factor has already been considered in the variable weights of the new Formula. To establish a revised Upper Limit of the Range, the PHA shall add $10.31 to the calculated revised Formula Expense Level. The revised Upper Limit of the Range is to be compared to the PHA's Base Year Expense Level, which was approved by HUD in conjunction with the PFS calculation applicable to the first year the PHA was under PFS. If the Base Year Expense Level is less than the revised Upper Limit of the Range, the Base Year Expense Level will be the revised Allowable Expense Level. If the Base Year Expense Level is greater than the revised Upper Limit of the Range, then the revised Allowable Expense Level will be the greater of (1) the previous Allowable Expense Level, or (2) the revised Upper Limit of the Range. The revised Allowable Expense Level, which in no case will be less than the previously approved Allowable Expense Level, will be used to compute the Allowable Expense Level for the PHA fiscal years beginning April 1, 1976, July 1, 1976, October 1, 1976, and January 1, 1977. To this Allowable Expense Level HUD may at its discretion add Transition Funding pursuant to § 890.106. The New Allowable Expense Level, plus Transition Funding, if applicable, will be used to calculate the PHA's operating subsidy eligibility under the PFS pursuant to § 890.104.

Example 2. Reapplication of the Range test and calculation of a revised Allowable Expense Level for a PHA with a fiscal year beginning April 1, 1976, or July 1, 1976. Assume that a PHA during the PHA fiscal year beginning April 1, 1975, or July 1, 1975, (i) served an area which had a population for the Standard Metropolitan Statistical Area of 157,550 people; (ii) had Project Units with an average of 3 bedrooms; (iii) had Project buildings whose age, weighted by relative number of units, was 11.5 years old; (iv) had a Fair Market Rent (March 29, 1976) for existing nonelevator two-bedroom units computed for the county in which the PHA is located of $175.00; (v) had Project buildings whose average height, weighted by relative proportion of Project Units in each Project, was 6 stories, and (vi) is in a HUD Region having a relative regional operating cost figure (supplied by HUD) of 98.80928. Assume the Local Government Wages Inflation Factor supplied by HUD is 7 percent.

The calculation of the revised Formula Expense Level for the PHA with the above characteristics for the fiscal year beginning April 1, 1975, or July 1, 1975, is computed as follows:

Operating factor	Hypothetical PHA data	Multiplier	Additive constant	Equation products
Population of SMSA (thousands)	158	0.00228		0.3602
Average number of bedrooms [1]	3.00	7.93863	2.43152	26.2120
Average age of project buildings [1]	11.50	.45099	7.51824	12.7046
Fair market rent [1]	175.00			72.8534
Average height of project buildings [1]	6.00	1.22275	5.86796	13.0245
Relative regional operating cost	98.80928	.46105		45.5975
Sum of equation products				170.7523
Less: Formula expense level equation constant				−102.9361
Formula expense level without inflation				67.8162
Increase by local government wages inflation factor (not used for retroactive application for April and July PHA's)				1.07
Formula expense level				72.5632

[1] Applying a predetermined multiplier and additive constant (which are supplied by HUD) to a PHA data value results in a convenient simplified method of determining the log base 10 of the data value multiplied by the equation weight. These calculations may be verified by determining the log base 10 of the data value and then multiplying by the weight given for the specific element in sec. 890.105(b).

Three examples showing the possible relationships of the Base Year Expense Level, the previous Allowable Expense Level, and the upper limit of the revised Formula Expense Level, and the determination of the revised Allowable Expense Level for a PHA with a fiscal year beginning (FYB) April 1, 1975, or July 1, 1975, are shown below:

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Description	Example— A	B	C
1. Base year expense level for FYB Apr. 1, 1975, or July 1, 1975	$75.00	$85.00	$84.00
2. Previous allowable expense level for FYB Apr. 1, 1975, or July 1, 1975	72.00	76.00	80.00
3. Formula expense level without inflation computed above using revised PFS formula and PHA characteristics for FYB Apr. 1, 1975, or July 1, 1975	67.82	67.82	67.82
4. Formula expense level range factor	10.31	10.31	10.31
5. Upper limit of revised formula expense level range (3 plus 4)	78.13	78.13	78.13
6. Revised allowable expense level for FYB Apr. 1, 1975, or July 1, 1975:[1]			
(a) If base year expense level is less than the upper limit of the revised formula expense level range, enter the base year expense level[2]	75.00		
(b) If the base year expense level is greater than the upper limit of the revised formula expense level range, enter the previous allowable expense level or the revised allowable expense level, whichever is greater		[3] 78.13	[3] 80.00

[1] The revised allowable expense level computed for FYB Apr. 1, 1975, or July 1, 1975, shall be used to compute the allowable expense level for FYB Apr. 1, 1976, or July 1, 1976, pursuant to the provisions and example of sec. 890.105 (d)(3).
[2] In example A, although the upper limit of the revised formula expense level is greater than the base year expense level, the revised allowable expense level is limited to the base year expense level since no adjustment to the base year expense level is permitted under the provisions of sec. 890.105(e).
[3] Transition funding, if applicable, may be approved in addition, by HUD.

Example 3. Reapplication of the Range test and calculation of a revised Allowable Expense Level for a PHA with a fiscal year beginning (FYB) October 1, 1976, and January 1, 1977. Assume the same operating characteristics as in Example 2. The calculation of the revised Formula Expense Level for the fiscal year is the same as in Example 2. Three examples showing the possible relationships of the Base Year Expense Level, the previous Allowable Expense Level, and the upper limit of the revised Formula Expense Level, and the determination of the revised Allowable Expense Level for a PHA with a FYB October 1, 1975, or January 1, 1976, are shown below:

Description	Example— A	B	C
1. Base year expense level for FYB Oct. 1, 1975, or Jan. 1, 1976	$78.00	$86.00	$86.00
2. Previous allowable expense level for FYB Oct. 1, 1975, or Jan. 1, 1976	74.00	80.00	84.00
3. Formula expense level with inflation computed above using revised PFS formula and PHA characteristics for FYB Oct. 1, 1975, or Jan. 1, 1976	72.56	72.56	72.56
4. Formula expense level range factor	10.31	10.31	10.31
5. Upper limit of revised formula expense level range (3 plus 4)	82.87	82.87	82.87
6. Revised allowable expense level for FYB Oct. 1, 1975, or Jan. 1, 1976:[1]			
(a) If the base year expense level is less than the upper limit of the revised formula expense level range, enter the base year expense level	[2] 78.00		
(b) If the base year expense level is greater than the upper limit of the revised formula expense level, enter the previous allowable expense level or the revised allowable expense level, whichever is greater		[3] 82.87	[3] 84.00

[1] The revised allowable expense level computed for FYB Oct. 1, 1975, or Jan. 1, 1976, shall be used to compute the allowable expense level for FYB Oct. 1, 1976, or Jan. 1, 1977, pursuant to the provisions and example of sec. 890.105 (d)(3).
[2] Same as footnote 2 of example 2.
[3] Same as footnote 3 of example 2.

§ 890.106 Transition Funding for Excessively High-cost PHAs.

If a PHA's Base Year Expense Level exceeds its Allowable Expense Level, computed as provided in § 890.105, for any budget year under PFS, the PHA may be eligible for Transition Funding. Transition Funding shall be an amount not to exceed the difference between the Base Year Expense Level and the Allowable Expense Level for the Requested Budget Year, multiplied by the number of Unit Months Available. HUD shall have the right to discontinue payment of all or part of the Transition Funding in the event HUD at any time determines that the PHA has not achieved a satisfactory level of management efficiency, or is not making efforts satisfactory to HUD to improve its management performance.

§ 890.107 Computation of Utilities Expense Level.

(a) *Policy.* In recognition of the rapid rises which occur in Utilities costs and the wide diversity among PHAs as to types of Utilities services used as well as allocation of Utilities costs between PHAs and tenants, and the fact that Utilities rates charged by suppliers are beyond the control of the PHA, PFS treats Utilities expenses separately. Utilities expenses are excluded from the PHA's Allowable Expense Level. PFS computes the amount of operating subsidy based upon a calculated Utilities expense of each PHA. The allowable expense of Utilities is computed by multiplying current or approved future utilities rates by the amounts of average consumption (e.g., gallons of oil, kilowatts of electricity, etc.,) of the projects during a previous period. This method is intended to place a financial control on increases in consumption of utilities and thereby provide an incentive to conserve energy.

(b) *Utilities rates.* The current applicable rates in effect at the time the Operating Budget is submitted to HUD will be used as the Utilities rates for the Requested Budget Year, except that, when the appropriate utility commission has, as of the date of submission of the Operating Budget to HUD, approved and published rate increases for future implementation the future approved rates may be used as the Utilities rates for the entire Requested Budget Year. The use of these rates will simplify the calculation, and any operating subsidy funds advanced in excess of the actual Utilities cost will be recaptured by HUD pursuant to the required year-end Utilities adjustment. See § 890.110(c).

(c) *Computation of level of utilities consumption.* The amount of Utilities expected to be consumed per unit per month by the PHA during the Requested Budget Year shall be equal to the average amount consumed per unit per month during a past period, computed as follows:

(1) Utilities Base Consumption Period (Base Period) method. The PHA shall determine the average amount of each of the Utilities consumed per unit per month during the Utilities Base Consumption Period (Base Period) which is the 36-month period ending six months prior to the first day of the Requested Budget Year.

(2) Temporary alternative method where data is not available for Utilities Base Consumption Period. If the PHA has not maintained or cannot recapture consumption data regarding a particular Utility or Utilities from its records for the 36-month Base Period, it shall submit to the HUD Field Office for approval consumption data for the twenty-four month period ending six months prior to the beginning of the Requested Budget Year, or, if this is not possible, the twelve-month period ending six months prior to the beginning of the Requested Budget Year. The PHA also shall submit a written explanation of the reasons why data for the Base Period is unavailable. If a PHA has not maintained or cannot recapture rate consumption data for the said twelve-month period, the dollar amount stated in paragraph (c) of this section, shall be used. Appropriate utility consumption records, satisfactory to HUD, shall be created and maintained by all PHAs so that a 36-month moving average utility consumption per unit per month under subparagraph (1) of this paragraph can be determined.

(3) Computation of utilities consumption levels for "new Projects."

(i) A "new Project" for the purpose of establishing the Base Period and the allowable Utilities Expense Level, is defined as either: A project of a new PHA or a project of an existing PHA which had not been in operation during the entire Base Period, or will enter management during the Requested Budget Year, or a project which, during the Base Period, has experienced: A conversion from one energy source to another; interruptible service; deprogrammed units; a switch from tenant-supplied to PHA-supplied utilities; or a switch from PHA-supplied to tenant-supplied utilities.

(ii) The actual consumption of projects having the unique situations described in subparagraph (3) (i) of this paragraph shall be adjusted so as not to distort the Base Period. Where there is consumption of a particular energy source for only a part of the Base Period or where there is a change in the allowance for tenant-supplied utilities during the Base Period, the consumption data related to these conditions either shall be eliminated or the total Base Period shall be adjusted to show a comparable situation. If the consumption is eliminated from the Base Period or the new Project will enter management during the Requested Budget Year, recognition of a reasonable level of consumption will be considered as a separate element of the calculation of the allowable Utilities Expense Level. Specific instructions for each of the situations mentioned in subparagraphs (3).(i) and (3) (ii) of this paragraph will be a part of the HUD form prescribed to calculate the allowable Utilities Expense Level. Documentation supporting the adjustment(s) shall be submitted to the HUD Field Office along with the calculation of the allowable Utilities Expense Level.

(d) Computation of utilities expense level. The PHA's Utilities Expense Level for the Requested Budget Year shall be computed by multiplying the average utility consumption per unit per month for each Utility, determined as provided in paragraph (c) of this section, by the projected Utility rate determined as provided in paragraph (b) of this section.

(e) Utilities Expense Level where consumption data is unavailable. If a PHA has not maintained or cannot recapture data for the twelve-month period provided in paragraph (c) (2) of this section it shall request HUD Field Office approval to use the dollar amounts per unit per month, excluding Utilities Labor and Other Utilities Expenses shown on the latest year-end Statement of Operating Receipts and Expenditures, Form HUD-52599, but no subsequent adjustments regarding such Utility or Utilities will be approved for a budget year for which consumption is established based upon the said form.

(f) Adjustments. PHAs may request adjustments of Utilities in accordance with § 890.110.

§ 890.108 Other costs.

(a) Costs of Independent Public Accountant (IPA) audits. HUD requirements provide that the cost of the required biennial IPA audit shall be budgeted in either the PHA's Development Cost Budget or its annual Operating Budget, as appropriate. The Allowable Expense Level excludes the cost of IPA audits. However, the estimated cost of such audits, applicable to the operations of the low-income public housing program, is allowed in full in computing the amount of operating subsidy under § 890.104, above. Even though the PHA is not eligible to receive operating subsidy pursuant to the provisions of the PFS, it may be eligible to receive operating subsidy to offset the cost of the IPA audit chargeable to operations (the period after the Initial Operating Period). The eligibility to receive operating subsidy for IPA audits is considered independently of the PFS. However, the PHA shall not request, nor will HUD approve, an operating subsidy for the cost of an IPA audit if such funds have been previously provided to the PHA in a prior fiscal year, nor to the extent that such funds will create residual receipts after provision for the operating reserve. Prior to engaging an IPA, the PHA must obtain the approval of the HUD Field Office. The PHA's estimate of cost of the IPA audit is subject to adjustment by HUD. If the PHA requires assistance in determining the amount of cost to be estimated, the HUD Field Office should be contacted.

(b) Units deprogrammed pursuant to HUD approval, but not yet disposed of. A deprogrammed unit is one which is permanently removed from the rent roll. This does not include units temporarily unavailable for occupancy because they are utilized for PHA related activities. Costs attributable to the deprogrammed units, as approved by HUD, may be eligible for inclusion, but must be limited to the minimum services and protection necessary to protect and preserve the units until appropriate further action is taken. In the determination of the PFS operating subsidy, no Unit Months Available shall be included for the deprogrammed units. Deprogrammed units shall be listed by the PHA and supporting documentation regarding direct costs attributable to such units shall be included as a part of the operating budget in which the PHA requests operating subsidy for these units. If the PHA requires assistance in this matter, the HUD Field Office should be contacted.

(c) Costs attributable to changes in Federal law or regulation. In the event that HUD determines that enactment of a Federal law or revision in HUD or other Federal regulation has caused or will cause a significant increase in expenditures of a continuing nature above the Allowable Expense Level and Utilities Expense Level, and upon a determination that sufficient other funds are not available to cover the required expenditures, HUD may in HUD's sole discretion decide to prescribe a procedure under which the PHA may apply for or may receive an increase in operating subsidy.

(d) Costs beyond the control of the PHA. Costs attributable to unique circumstances which are beyond the control of the PHA and were not reflected in the PHA's Base Year Expense Level may be considered for supplemental operating subsidy funding. Where costs were reflected in the PHA's Base Year Expense Level, but the rate of increase for such costs is greater than the prescribed PFS inflation rate(s), then the increase in excess of that provided by the inflation rate may be considered for supplemental operating subsidy funding. The PHA must submit to the HUD Field Office complete documentation relating to those cost items which it claims to be beyond its control. Such documentation shall not be submitted as a part of the requested operating budget, but shall be submitted separately as an addendum to the budget. The PHA also must show that these additional costs cannot be funded from its own resources. In the event that excess funds are available after making all payments approvable under § 890.104 of these regulations, HUD may, in HUD's sole discretion, solicit, evaluate and approve or disapprove, in full or in part, these requests for additional operating subsidy for costs beyond the control of the PHAs.

§ 890.109 Projected operating income level.

(a) *Policy.* PFS determines the amount of operating subsidy for a particular PHA based in part upon a projection of the actual dwelling rental income and other income for the particular PHA. The projection of dwelling rental income is obtained by computing the average monthly dwelling rental charge per unit for the PHA, and projecting this amount for the Requested Budget Year by applying an upward trend factor (subject to updating) of 3 percent, and multiplying this amount by the average number of Project Units expected to be occupied during the Requested Budget Year. Nondwelling income is projected by the PHA subject to adjustment by HUD. There are special provisions for projection of dwelling rental income for new projects.

(b) *Computation of projected average monthly dwelling rental income.* The projected average monthly dwelling rental income per unit for the PHA is computed as follows:

(1) *Average monthly dwelling rental charge per unit.* The dollar amount of the average monthly dwelling rental charge per unit shall be computed on the basis of the total dwelling rental charges (total of the adjusted rent roll amounts) for all Project Units, as shown on the Rent Roll Control and Analysis of Dwelling Rent Charges, which the PHA is required to maintain, for the first day of the month which is six months prior to the first day of the Requested Budget Year, except that if a change in the total of the Rent Rolls has occurred in a subsequent month which is prior to the beginning of the Requested Budget Year and prior to the submission of the Requested Budget Year Operating Budget, the PHA shall use the latest changed Rent Roll for the purpose of the computation. This aggregate dollar amount shall be divided by the number of occupied dwelling units as of the same date.

(2) *3 percent increase.* The average monthly dwelling rental charge per unit, computed under subparagraph (1) of this paragraph, is increased by 3 percent to obtain the projected average monthly dwelling rental charge per unit of the PHA for the Requested Budget year.

(3) *Average percentage of occupancy.* The PHA shall estimate, based upon prior occupancy experience and the current physical condition of the dwelling units, the projected percentage of occupancy for all Project Units for the Requested Budget Year. Such estimate shall be not less than ninety-seven percent (97 percent) of the Project Units unless the PHA establishes to HUD's satisfaction that a lower projected occupancy percentage is justified based upon the number of units which reasonably cannot be expected to be occupied because (i) they are unmarketable due to lack of demand; (ii) they cannot be occupied because they will be temporarily removed from the Rent Roll for all or a part of

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the year while being rehabilitated; (iii) they are not inhabitable due to the lack of funds for rehabilitation, or (iv) they have been removed from the Rent Roll pending approval for deprogramming. If the units are to be removed from the Rent Roll for only a part of the fiscal year, those months which the units will be occupied shall be included in the computation of the average percentage of occupancy.

(4) Projected average monthly dwelling rental income. The estimated average percentage of occupancy under subparagraph (3) of this paragraph shall be multiplied by the projected average monthly dwelling rental charge under subparagraph (2) of this paragraph to obtain the projected monthly dwelling rental income per unit.

(c) *Projected average monthly dwelling rental charge per unit for new Projects.* The projected average monthly dwelling rental charge for new Projects which were not available for occupancy during the budget year prior to the Requested Budget Year and which will reach the End of the Initial Operating Period (EIOP) within the first nine months of the Requested Budget Year, shall be calculated as follows:

(1) If the PHA has another Project or Projects under management which are comparable in terms of elderly and nonelderly tenant composition, the PHA shall use the projected average monthly dwelling rental charge for such Project or Projects.

(2) If the PHA has no other Projects which are comparable in terms of elderly and nonelderly tenant composition, the HUD Field Office will provide the projected average monthly dwelling rental charge for such Project or Projects, based on comparable Projects located in the area.

(d) *Estimate of additional dwelling rental income.* After implementation of the provisions of any legislation enacted or any HUD administrative action taken subsequent to the effective date of these regulations, which affects rents paid by tenants of Projects, each PHA shall submit a revision of its annual operating budget showing an estimate of any change in rental income which it anticipates as the result of the implementation of said provisions. HUD shall have complete discretion to adjust the projected average monthly dwelling rental charge per unit to reflect such change or in the absence of this submission, if HUD has knowledge of such change. HUD also shall have complete discretion to reduce or increase the operating subsidy approved for the PHA current fiscal year in an amount equivalent to the change in the rental income.

(e) *PHA's estimate of income other than dwelling rental income.* The PHA shall estimate anticipated interest on general fund investments, surcharges for excess utilities, and all other anticipated nondwelling income. These estimates shall be based on the judgment of the PHA which will reflect past experience and a future projection for the Requested Budget Year, and shall be subject to HUD approval. The estimated amount, as approved, shall be divided by the number of Unit Months Available to obtain a per unit per month amount. Such amount shall be added to the projected average dwelling rental income per unit to obtain the Projected Operating Income Level.

(f) *Adjustments.* PHAs may request adjustments in accordance with § 890.110.

§ 890.110 Requests for adjustments.

Requests by PHAs for adjustments under PFS may only be submitted to HUD as provided in this section.

(a) *Request for increase of base year expense level.* During the first budget year under PFS, a PHA may request HUD to increase its Base Year Expense Level, not to exceed the top limit of the Range, as follows:

(1) *Criteria for granting an increase to bottom limit range.* A request for an increase of the Base Year Expense Level, to an amount equal to or less than the bottom limit of the PHA's Range may be granted in whole or in part by HUD, in its discretion, only where the PHA establishes to HUD's satisfaction that the Base Year Expense Level of the PHA is unduly depressed, considering the amount of operating subsidy (or lack of any operating subsidy) made available to the PHA under the Interim Formula.

(2) *Criteria for granting increase above bottom limit of range (not to exceed top limit).* A request for an increase of the Base Year Expense Level to an amount above the bottom limit (but not to exceed the top limit) of the PHA's Range may be granted in whole or in part by HUD in its discretion only where the PHA establishes to HUD's satisfaction, the following:

(i) That the Base Year Expense Level of the PHA is unduly depressed because of the elimination or curtailment of essential services in light of the amount of operating subsidy (or lack of any operating subsidy) made available to the PHA under the Interim Formula; and

(ii) That the PHA without such increase would be unable to restore such curtailed or eliminated services, considering the amount of operating subsidy that would be paid under PFS in the light of such unduly depressed Base Year Expense Level, but also considering the method of separately determining Utilities Expense Level under § 890.107 and the method of determining Projected Operating Income under § 890.109. Anticipated costs of work items deferred from previous years or of a one-time nature may not be used to establish the above. Work items of a cyclical and continuing nature, not eligible for Modernization funds, shall be considered on an annualized basis.

(3) *Procedure.* A request under this paragraph (a) of this section may only be made once by a PHA. Such request shall be submitted to the HUD Field Office, which will review, modify and approve or disapprove the request. A request under this subsection must include a calculation of the amount per unit per month of requested increase in the Base Year Expense Level, and must show the requested increase as a percentage of the Base Year Expense Level.

(b) *Requests for adjustments of base year expense level new PHAs, or new projects.* A new PHA or a Project of an existing PHA which did not have a sufficient number of units available for occupancy in the Base Year to incur a level of operations that is representative of an entire fiscal year of operation, is required to use its Formula Expense Level as its Base Year Expense Level in order to determine its Allowable Expense Level for the first budget year under PFS. Such PHA may request an increase in its Base Year Expense Level (not to exceed the top limit of its Range). A request under this subsection may be granted by the HUD Field Office, in its discretion, only where the PHA establishes to HUD's satisfaction that the Base Year Expense Level computed as provided above, without adjustments, will result in operating subsidy at a level insufficient to support a reasonable level of essential services. Such a request shall be submitted at the time of submission of the Operating Budget for the first budget year under PFS.

(c) *Adjustments of Utilities Expense Level.* A PHA receiving operating subsidy pursuant to the provision of § 890.104, excluding those PHAs that receive operating subsidy solely for IPA audit (§ 890.108(a)), must submit a year-end adjustment regarding the Utility Expense Level approved for operating subsidy eligibility purposes. This adjustment which will compare the actual utility expense and consumption for the PHA fiscal year to the estimates used for subsidy eligibility purposes, shall be submitted on forms prescribed by HUD. A narrative explanation of the reasons for the differences shall be a part of the submission. This request and the required narrative shall be submitted to the HUD Field Office by a deadline established by HUD, which will be during the PHA fiscal year following the PHA fiscal year for which an operating subsidy was received by the PHA, exclusive of a subsidy solely for IPA audit costs. Failure to submit the required adjustment of the Utilities Expense Level by the date due may, in the discretion of HUD, result in withholding of further operating subsidy payments until it is received. Adjustments under this subsection normally will be made in the PHA fiscal year following the year for which adjustment is applicable, except as provided in subparagraph (5) of this paragraph or unless a repayment plan is necessary as noted in paragraph (e) of this section, as follows:

(1) A decrease in Utilities Expense Level due to decreased utility rates to the extent funded by operating subsidy will be deducted by HUD against future operating subsidy payments.

(2) An increase in Utilities Expense Level due to increased utility rates will be fully funded by residual receipts, if available during that fiscal year, or by increased operating subsidy, subject to availability of funds.

(3) Twenty-five percent of any decrease in Utilities Expense Level due to decreased consumption will be retained by the PHA; seventy-five percent will be offset by HUD against subsequent payments of operating subsidy.

(4) An increase in Utilities Expense Level due to increased consumption will be fully funded by residual receipts after provision for reserves, if available; if not available and if the increase would result in a reduction of the operating reserve below the authorized maximum, seventy-five percent of the amount of the reduction below such maximum will be funded by increased operating subsidy payments, subject to the availability of funds, if such excess utility consumption was due to causes which were beyond the control of the PHA.

(5) In emergency cases, where a PHA establishes to HUD's satisfaction that a severe financial crisis would result from a utility rate increase, an adjustment covering only the rate increase may be submitted to HUD at any time during the PHA Current Budget Year. Unlike the adjustments mentioned in paragraphs (c)(1) through (c)(4) of this section, this adjustment shall be submitted to the HUD Field Office by revision of the original submission of the estimated Utility Expense Level for the fiscal year to be adjusted.

(6) Supporting documentation substantiating the requested adjustments shall be retained by the PHA pending HUD audit.

(d) *Requests for adjustments to projected average monthly dwelling rental income.* Requests for adjustments to projected average monthly dwelling rental income may be made as follows:

(1) *Criteria for granting request.* A PHA may request an adjustment to projected average monthly dwelling rental income under PFS if the PHA can establish to HUD's satisfaction that the projected amount computed pursuant to § 890.109 was not attained because of circumstances beyond the control of the PHA, such as a substantial increase in general unemployment in the locality, or because of a revision of the PHA's rent schedule which has been approved by HUD. The PHA must also demonstrate to HUD's satisfaction that it has established and is effectively implementing tenant selection criteria in compliance with HUD requirements. HUD shall have complete discretion to approve completely, approve in part or deny any requested adjustment to projected average monthly dwelling rental income.

(2) *Procedure.* A request for an adjustment under this subsection shall be submitted to the HUD Field Office by a deadline established by HUD, which will be within twelve months following the PHA's fiscal year being adjusted. In emergency cases, however, where a PHA establishes to HUD's satisfaction that decreased rental income would result in a severe financial crisis, a request for adjustments may be submitted to HUD at an earlier time.

(e) *HUD-initiated adjustments.* Notwithstanding any other provisions of this Subpart, HUD may at any time make downward adjustments in the amount of the PHA's operating subsidy as a result of data subsequently available to HUD which alters any of the components, data and projections upon which the approved operating subsidy was based. Normally, this adjustment shall be made in total in the PHA fiscal year in which the needed adjustment is determined; however, if this adjustment would cause a severe financial hardship on the PHA, the HUD Field Office may establish a recovery schedule, which represents the minimum number of years needed for repayment.

§ 890.111 Operating reserves.

(a) *Utilization of operating reserves.* HUD will not approve an operating budget or budget revision which proposes to utilize operating reserve funds that would cause the reserve balance to fall below 40 percent of the maximum operating reserve for the requested budget year, unless the PHA fully documents that such lesser reserve level will be sufficient to meet the working capital needs of the PHA. If operating reserves are utilized in excess of the amount approved by HUD in the operating budget, HUD is not obligated to provide additional operating subsidy to restore such funds.

(b) *Augmentation of the operating reserve.* The PFS does not specifically provide operating subsidy to augment the PHA's operating reserve. However, the full amount of the PHA's operating subsidy eligibility may be provided to the PHA, and some part or all of this amount may be used to augment the operating reserve as long as the estimated year-end reserve balance, as shown in the approved operating budget for the year for which the funds are requested, does not exceed the Maximum Operating Reserve amount as shown in the same operating budget.

§ 890.112 Operating Budget submission and approval.

(a) *Required board resolution.* In addition to other budget documentation required by HUD, each Operating Budget or Operating Budget revision submitted to HUD pursuant to the provisions of PFS shall include a certified copy of a Resolution of the Board of Commissioners stating that the Board has reviewed and approved the Operating Budget or Operating Budget revision and has found:

(1) That the proposed expenditures are necessary in the efficient and economical operation of the housing for the purpose of serving low-income families.

(2) That the financial plan is reasonable in that:

(i) It indicates a source of funding adequate to cover all proposed expenditures.

(ii) It does not provide for use of Federal funding in excess of that payable under the provisions of these regulations.

(3) That all proposed rental charges and expenditures will be consistent with provisions of law and the Annual Contributions Contract.

(b) *HUD limited Operating Budget review.* Detailed HUD review of the Operating Budgets or Operating Budget revisions normally will be limited to the prescribed PFS forms. Under this procedure, although the Operating Budget normally will not be reviewed in depth, the operating reserve calculation in all cases will be examined and budget modifications will be made where the operating reserve provisions are not in accordance with HUD requirements. In addition, if the HUD Field Office finds that an Operating Budget is incomplete, includes illegal or ineligible expenditures, mathematical errors or errors in the application of accounting procedures, or is otherwise unacceptable, the HUD Field Office shall modify or disapprove the Operating Budget. The HUD Field Office may at any time require the submission by the PHA of further information regarding an Operating Budget or Operating Budget revision.

(c) *Withdrawal by HUD of limited Operating Budget review.* HUD reserves the right at any time to deviate from the limited Operating Budget review provided in paragraph (b) of this section if HUD finds that the PHA is operating its program in a manner which threatens the future serviceability, efficiency, economy, or stability of the housing which it operates. If such action is deemed necessary, the HUD Field Office will normally notify the PHA prior to its submission of the Operating Budget that HUD will subject the Operating Budget to a detailed review. The PHA will be notified when its operation no longer threatens the future serviceability, efficiency, economy or stability of the housing and that the limited review as provided in paragraph (b) of this section is being reinstated.

§ 890.113 Payments procedure for Operating Subsidy under PFS.

(a) *General.* Payments of operating subsidy to each PHA under PFS shall be made in advance pro rata (in accordance with approved payments schedules) at the beginning of each year, or each month or each quarter, as determined by HUD, subject to the availability of funds.

(b) *Payments procedure.* In the event that the amount of operating subsidy has not been determined by HUD as of the beginning of a PHA's budget year under these PFS regulations, annual or monthly or quarterly payments of operating subsidy shall be made, as provided in paragraph (a) of this section, based upon the amount of the PHA's operating subsidy for the previous budget year or such other amount as HUD may determine to be appropriate.

(c) *Availability of funds.* In the event that insufficient funds are available to make payments approvable under PFS for operating subsidy payable by HUD, HUD shall have complete discretion to revise, on a pro rata basis or other basis established by HUD, the amounts of operating subsidy to be paid to PHAs.

§ 890.114 Payments of Operating Subsidy Conditioned Upon Certification of Rent-Income Ratio.

Section 9(b) of the USH Act provides that as a condition of eligibility for a PHA to receive operating subsidy, the

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"aggregate rentals required to be paid in any year by families residing in the dwelling units administered by a Public Housing Agency * * * shall not be less than an amount equal to one-fifth of the sum of the incomes of all such families." These provisions were implemented by the publication of an Interim Rule, Part 860 Subpart D—Minimum and Maximum Rent-Income Ratios and Minimum Rent Requirements, published in the FEDERAL REGISTER on September 26, 1975, 40 FR 44323–44326. Each submission of an Operating Budget or revision thereof, shall be accompanied by a certification by the PHA that it is in compliance with the requirements of Section 9(b) of the U.S. Housing Act and of § 860.407 of 24 CFR Part 860, including any amendments thereto.

§ 890.115 Payments of Operating Subsidy Conditioned upon Reexamination of Incomes of Families in Occupancy.

(a) *Policy.* Section 207, Continued Occupancy, Subsection (A) of Part II of the Annual Contributions Contract, which sets forth HUD policy regarding the provision of the United States Housing Act of 1937, as amended, for the reexamination of families, requires that "the PHA shall at least once a year reexamine the incomes of families living in the Project except that families whose heads (or their spouses) or whose sole members are 62 years of age or over may be reexamined only once every two years: Provided, that the length of time between the admission of a family subject to yearly reexamination and the first reexamination of such family may be extended to not more than 18 months if necessary to fit a reexamination schedule established by the PHA." PHAs must be in compliance with the requirement of Section 207(A) to be eligible to receive full operating subsidy payments.

(b) *PHAs in compliance with requirement.* Each submission of an Operating Budget or revision thereof, shall be accompanied by a certification by the PHA that it is in compliance with the requirement of Section 207(A), Part II, of the Annual Contributions Contract, and that rents have been, or will be adjusted in accordance with the PHA's rent schedule. PHAs for which Operating Budgets for fiscal years beginning on or after October 1, 1976, have already been submitted, shall submit the required certification within 60 days after the effective date of Part 890 Subpart A.

(c) *PHAs not in compliance with requirement.* PHAs not in compliance with the above mentioned requirement of Section 207(A) as of the effective date of Part 890 Subpart A, must submit a procedure and a time schedule to the HUD Field Office within 60 days after the effective date which indicates that all reexaminations that are delinquent pursuant to the time schedule established in Section 207(A) will have been conducted by June 30, 1977, and that all appropriate rent adjustments will be made.

(d) *PHAs not in compliance by June 30, 1977 or thereafter.* Any PHA not in compliance with Section 207(A) as of June 30, 1977, or at the time of subsequent Operating Budget submissions or submissions of revisions thereof, shall furnish to the HUD Field Office, a copy of the procedure implementing the requirement of Section 207(A) and a statement of the number of elderly and non-elderly families that have undergone reexamination during the twelve months preceding June 30, 1977, or the twelve months preceding the date of the Operating Budget submissions, or the revision thereof. If, on the basis of such submission, or any other information, the Field Office Director determines that the PHA is not substantially in compliance with the requirement of Section 207(A), he shall withhold payments to which the PHA may be otherwise entitled under Part 890 Subpart A, equal to his estimate of the loss of rental income to the PHA resulting from its failure to comply with the requirement of Section 207(A).

NOTE: It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

Effective date: This revision to Part 890, Subpart A, is effective January 20, 1977.

JAMES L. YOUNG,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc.76–37381 Filed 12–20–76;8:45 am]

federal register

TUESDAY, DECEMBER 21, 1976

PART VII:

INTERSTATE COMMERCE COMMISSION

STANDARD FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

Report and Order

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Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293; Sub. No. 2]

PART 1125—STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

Report and Order

Section 205(d)(6) of the Regional Rail Reorganization Act of 1973 (the RRR Act), 45 U.S.C. 715(d)(6), as amended by Section 309 of the Railroad Revitalization and Regulatory Reform Act of 1976 (the Rail Act), Pub. L. 94–210, directs the Rail Services Planning Office (the Office) of the Interstate Commerce Commission (the Commission) to:

Determine and publish, and from time to time revise and reissue, standards for determining (A) the "revenue attributable to the rail properties", (B) the "avoidable costs of providing service", (C) a "reasonable return on the value", and (D) a "reasonable management fee", as those phrases are used in section 304 of this Act (as amended by Section 804 of the Rail Act), after a proceeding in accordance with the provisions of section 553 of title 5, United States Code.

The Office first issued standards on July 1, 1974, for computing subsidies for the continuation of rail freight service in the Northeast-Midwest Region (39 FR 2429). After field testing, revised standards were published January 8, 1975 (40 FR 1624). They have since been amended on March 28, 1975 (40 FR 14186); January 22, 1976 (41 FR 3402); and March 26, 1976 (41 FR 12836).

Discussion

On August 19, 1976, the Office reopened this proceeding and invited comment on a number of proposed modifications in the standards, some suggested by interested parties and some put forth by the Office itself (41 FR 35731). The Office received 20 statements in response to its invitation. The parties were afforded the opportunity to file reply comments, and, to facilitate that process, the Office served all parties filing initial statements by the pleading deadline with a full set of the statements received. Six reply comments were filed. (The parties are listed at the end of this report.) After careful consideration of the views of the parties, the regional standards have been revised as set forth in the Order which accompanies this report.

Reasonable variations from the standards. In the Notice, which reopened this rulemaking proceeding, the Office indicated that the parties are or should be free to negotiate reasonable compensation arrangements which vary from the standards in four areas: revenues from bridge traffic, termination of service costs, management fee, and alternative compensation for use of property. U.S. DOT asserts that although ordinarily it would "strongly support" the negotiation of such items, it nonetheless believes that the "peculiar circumstances" pertaining to the Federal financial assistance program require clear, definite and predictable standards. DOT argues that providing for negotiation at the present time would place subsidizers in an "impossible bargaining position." It believes that if subsidizers are forced to make higher payments, "the result will be a substantial and unnecessary increase in Federal financial assistance."

The Commonwealth of Massachusetts sharply disagrees with DOT's position. It asserts that rigidly inflexible standards have two important faults: they "only apply to a hypothetical situation envisioned in the standards", while the subsidizer must deal with "real world" situations, and they deprive the parties of the opportunity to experiment with different approaches to the overall problems of preserving light-density freight service. Massachusetts strongly feels "that the existing philosophy in the standards [should] be maintained and extended to include areas where flexibility is necessary." It believes that the subsidizer's bargaining position will be preserved since the standards will apply when the parties cannot mutually agree on different compensation terms. It, too, subscribes to providing subsidies at the "lowest possible cost", but not at the expense of other statutory goals, e.g., preserving existing patterns of service, promoting competition, conserving energy and minimizing job losses.

The Office agrees with DOT that the standards should be clear, definite and predictable. It disagrees that only slavish adherence to these principles will achieve Congressional goals. As a practical matter, the subsidizers and carriers have concluded compensation arrangements for the first subsidy year which closely conform to the standards. We anticipate that this will be the case for the second subsidy year. However, we believe it important to afford the parties the opportunity to apply their initial experience with the subsidy program and to negotiate mutually acceptable compensation arrangements which differ from the standards. Such flexibility is not likely to result in substantially higher Federal assistance. The subsidizers will share the cost of the subsidies in the second year and may be expected to bargain in good faith with the operators.

Consequently, the standards have been amended to affirm that the parties are free to negotiate compensation terms which vary from the standards, subject to their review by the Office. The variances must be the product of arm's-length negotiations and must not be designed to disadvantage third parties, e.g., FRA. The revised procedures require the parties to serve any renewal or modification of their subsidy agreements on the Office. The Office would not expect to disapprove terms at variance from the standards which appear to be reasonable in light of the pertinent facts and circumstances.

Passenger train revenues and costs. The Office received no adverse comment on its proposal to amend the standards to provide that revenues, costs, and return on the value of properties covered by the commuter rail service continuation subsidy standards (41 FR 32545) will be excluded from the regional freight standards. The standards have been amended accordingly.

Revenues from bridge and interchange traffic. With regard to bridge traffic, the Office stressed in its Notice that the parties are not bound by the mileage apportionment in the present standards but are free to negotiate a mutually acceptable usage charge. With regard to interchange traffic, the Office stated its intention to consider such traffic as if it originated or terminated on the branch. The comments support RSPO's positions. However, the State of Michigan Department of Highways and Transportation suggests that there should be an alternative in the standards to allow the use of divisions in determining attributable interchange revenues. The Office believes it would not be unreasonable for parties to mutually agree to compute the revenue attributable to such traffic from the divisions in effect on or subsequent to March 31, 1976. The Massachusetts Executive Office of Transportation and Construction suggests that the subsidizer should have authority to approve or establish guidelines for interchange traffic. The negotiation of such arrangements may be undertaken by the parties to the operating agreement but will not be provided for specifically in the standards.

Off-branch costs—Class II railroads. As pointed out in the Notice, the annual report of Class II railroads (Form R–2) does not contain expense categories and service units in sufficient detail to compute off-branch costs in the manner presently prescribed in the standards. The Office proposed new procedures using ton-miles of revenue freight as the basis for assigning Class II off-branch costs. Under this method, the total of operating expenses, rents and taxes, excluding federal income taxes, is multiplied by a 3-year composite variability factor (currently .78) for all Class I railroads, and this amount is divided by the system total revenue ton-miles. This unit cost is applied to the total revenue ton-miles accumulated by branch line traffic moving over other portions of the Class II carrier's system.

Review of the comments on this proposed change in the standards has not persuaded the Office to revise its proposal. If the Class II road is relatively short, terminal costs will represent a high proportion of the total costs for all movements. If it has substantial line-haul mileage, terminal costs will have a lesser influence than mileage on the total. In either case, the use of a single factor, such as revenue ton-miles, best reflects the cost of performing transportation on that railroad. The parties of course are free to negotiate an alternate approach, including an agreement to conduct special studies of the carrier's actual costs for particular movements. In the event of disagreement, the Office would entertain a request from either the subsidizer or the railroad that it order such special studies to be conducted.

New Jersey DOT submitted a formula for determining Class II railroad off-branch costs employing a separate Class I railroad terminal factor (obtained from the most recent ICC cost studies) and a carrier-related line-haul factor. The difficulty with this approach is that: the terminal cost data would not be current; the costs would be regional, rather than individual carrier costs; the terminal costs represent Class I railroads; and the line-haul costs would not be accurate because they are residual in nature. The Office believes that its proposed method would yield more current and more accurate results and would be less costly to apply.

Pennsylvania DOT asserts that RSPO's Class II approach is unlawful because it calls for allocated instead of avoidable costs. Pennsylvania is incorrect; only variable Class II costs are used in the RSPO approach and they are applied on the same basic theory as for Class I railroads under the present standards. U.S. DOT favors a method based on the operating ratio times the carrier's system-wide variable cost percentage times attributable revenues. If all rates were cost based and there were a constant profit margin, this method might have limited application. The major flaw with this method is that it assumes a static relationship between revenue and costs for all commodities and all lengths of haul.

Revenues from shipments with transit privileges. The Office intends that all revenues generated by traffic originated or terminated on a branch, including transit revenues, be attributed to that branch; we see no reason for excluding any revenues from proportional-rated traffic. The responses of Agway, Inc., Baker/Beech-Nut Corporation, and the Consolidated Rail Corporation (Conrail) indicate that this intention is not being fully implemented in the reporting of revenues and that there are some practical difficulties arising out of the increasing dependence of rail managements on computerized recordkeeping, e.g., revenues on light-density line shipments afforded certain types of transit privileges could be subject to adjustment up to two years after original submission of the registration on the car. Conrail asserts that the administrative cost of precise attribution of transit revenue to branch lines would far outweigh the slight refinement in revenue reporting which would result. Agway, however, notes that Conrail's tariffs normally include separate charges for transit privileges which it believes are at a level sufficiently high to more than cover the extra costs associated with the transit service. New York DOT believes that waybills can be used to credit transit revenues to branch lines.

Although the Office recognizes the problems raised by Conrail, and has no desire to impose undue accounting or recordkeeping burdens, it cannot concur that the exclusion of any revenues properly attributable to a branch is acceptable. Therefore, the standard has been revised to specifically require the inclusion of transit revenues.

Where a branch is used for the movement of transit traffic, the movements are likely to be repetitive. For the purposes of subsidy agreements, the railroad and the subsidizer may agree to a revenue adjustment based on sampling studies or other appropriate procedures in lieu of the recording of actual detailed full transit revenues.

New Jersey DOT has suggested that the operating carrier should be allowed to charge $6.50 as an additional administrative expense for each transit movement involving a light-density line. While no data has been submitted to support this approach, the parties may negotiate reasonable unit charges if they so desire.

After the period for filing reply comments had closed, Conrail requested a further opportunity to describe the difficulties which it would expect to encounter in accounting for the actual revenues and costs arising from transit shipments. In response to Conrail's request, the Office extended invitations to all participants in this proceeding to attend a meeting on Monday, December 13, 1976; representatives of Conrail, Chessie, Hillsdale County Railway, FRA, NITL, Public Counsel and the States of Illinois, Maryland, Michigan, Pennsylvania, and New York attended the meeting. The participants generally subscribed to the proposition that costs and revenues from transit shipments should be included in subsidy calculations. However, there was no consensus as to how such costs and revenues should be determined. Hence, the participants intend to conduct two special studies, one focusing on transit shipments originating on a subsidized line and the other focusing on transit shipments terminating on a subsidized line. Any agreements worked out by the operating railroads and the subsidizers as a result of, or independent from, these studies, must be submitted to the Office for its review. The Office would not expect to disapprove special methods for attributing transit revenues and costs which are the product of arm's-length negotiations and are shown to be reasonable in light of the pertinent facts and circumstances.

Income from property over which subsidized service is performed. The Notice requested the views of the parties with respect to the treatment of non-transport income generated by rail properties over which subsidized service is operated. It also proposed to amend the standards to provide for alternative compensation for the use of the properties, not necessarily based directly on their net liquidation values. Thirteen of the responses address one or both of these inter-related questions, which are discussed here together.

Section 1125.4(d) as amended herein provides for inclusion in revenues attributable to the branch of amounts accruing under Accounts 110, 113, 131, 132, 133, 135, 137, 138, 139, 141, 142, 143, 151, and 152. New Jersey DOT points out that some income would accrue to the owners of the properties under Accounts 510, 511, 519 and 543 from power, sewer, water, or other crossings or occupations of the right-of-way; from parking lot rentals; and from other non-transport uses. It recommends that the standards be amended to: (1) Include income from the properties leased under the standards; (2) capitalize the income as an offset against the value of the properties; or (3) permit use of a "tunnel," or limited easement, lease. Other subsidizing entities express similar, although not identical, views on this point. Conrail disagrees with New Jersey DOT's proposal, but requests that if the Office intends to rule favorably upon it, the language be clarified to insure that any credits apply only as an offset to lease and real estate tax payments made to the owner of the line, and not as an offset to the operating subsidy. The Penn Central Trustees note that it is they, and not the subsidizers, who have created the values of these non-rail rentals; they could conceive of New Jersey's DOT's position being justified only if the underlying values from which the capitalized rentals were to be deducted were increased to reflect the enhanced nature of the rail properties resulting from existing non-rail income.

Section 1125.6(b) of the standards provides that the value of the properties "shall be their net liquidation value * * * determined by computing their current market value *for other than rail transportation purposes* * * *." Such value would include the capitalized value which any prospective purchaser would place upon the income being received from non-transport leases or easements. If the return element of the subsidy is based on the value so computed, it should be offset by the income so capitalized. The positions of the Penn Central Trustees and of New Jersey DOT could thus be harmonized by this treatment of the non-transport income; by an approach which excludes the capitalized value of the nontransport income from the value of the properties; or by the New Jersey DOT "tunnel" lease approach. The first method would be the simplest to apply; however, the Office believes the present standard will accommodate any one of the three approaches.

Conrail's view that non-rail income should not be offset against payments to the operator is correct. The need for offsetting such income against the compensation for use of the properties would also be obviated were the parties to resort to the alternative compensation discussed below.

The National Industrial Traffic League (NITL) proposes that § 1125.6(b) be amended to limit the value of the properties to the lesser of either net liquidation value or the carrier's net book investment. This proposal has not been adopted. Whether the users of the services operated over these properties in the past have in fact collectively paid sufficient amounts in rates and fares to retire the investment and pay an adequate return is beyond the scope of this proceeding. In any event, it would be unreasonable to simultaneously impose limits of net liquidation value for non-rail purposes and of net book value computed under the Uniform System of Accounts for rail purposes.

New Jersey DOT, the Lehigh Valley Trustee, and a number of other parties favor making provision for alternative compensation for use of the properties

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based on arm's-length negotiations. New York DOT believes it imperative that the new rule exclude a determination of the value of the property from the base for computing compensation to the owners. DOT recommends that the Office not amend the standards. It believes that the parties can and will reach agreement based on the present standard; that to use any principle other than net liquidation value would presumably result in a higher value and occasion an unwarranted windfall to the estates; and that this would contravene the Congressional goal to provide rail service continuation assistance at the least possible cost to the general taxpayers (section 101(b)(6) of the RRR Act).

This problem has been addressed by section 205(a) of the Rail Transportation Improvement Act, Pub. L. 94–555, which adds a new section 304(d)(4) to the Regional Rail Reorganization Act of 1973 reading as follows:

> (4) No determination of reasonable payment for the use of rail properties of a railroad in reorganization in the region, and no determination of value of rail properties of such a railroad (including supporting or related documents or reports of any kind) which is made in connection with any lease agreement, contract of sale, or other agreement or understanding which is entered into after the date of enactment of the Rail Amendments of 1976—
>
> (A) pursuant to this section; or
>
> (B) pursuant to section 402 of this Act or section 17 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(3)), shall be admitted as evidence, or used for any other purpose, in any civil action, or any other proceeding for damages or compensation, arising under this Act.

This amendment eliminates a principal impediment to agreements with regard to valuation, and possibly such agreements can now be reached, as DOT believes. Nonetheless, the responses of the parties other than DOT indicate a consensus favoring some flexibility to agree upon reasonable compensation for the use of the properties without the necessity for valuation of individual properties or resort to the arbitration procedures of §§ 1125.6(c)—(f). The Office believes such flexibility is desirable and that the interests of all parties, including those of the general taxpayers, will be best served by prompt, negotiated resolution of the impasse which has arisen, without the expense and delay of arbitration, litigation, or other compulsion.

The Office also is mindful that section 304(d)(3) of the Act intends the trustees to receive a reasonable return on the value of their properties, as determined in accordance with the standards. Therefore, determination of the compensation for use cannot, as New York DOT's response might suggest, completely exclude consideration of the values or of reasonableness. However, this does not mean that each individual line must be separately valued, as long as the over-all compensation received by the owners for use of their properties is not unreasonably related to the total values. The terms of compensation for individual properties may be incorporated in trackage rights agreements, leases, or any other appropriate contracts reached by the parties in good faith, arm's-length negotiations. The value of each line need not be specified in such agreements, although it is expected that the negotiating parties will take it into consideration.

The Office therefore interprets § 1125.7 as not only providing for offset of non-transport income against the return to be paid the owners if the capitalized value of such income has been included in the value of the properties, but also as permitting alternative compensation based on arm's-length negotiations. To protect the interests of the general taxpayers, agreements embodying such alternative compensation must be submitted for the Office's approval. The Office does not expect to disapprove agreements produced by arm's-length negotiations unless in its view the overall compensation to the owners is unreasonable.

Superintendence cost. In its notice, the Office asked the parties to comment on whether superintendence costs should be included in the standards, and, if so, what would be the fairest way of assigning such costs to individual branch lines. The comments were overwhelmingly in agreement that some superintendence costs should be allowed; however, there was no general agreement as to the fairest method of assigning such costs. Some parties contended that only actual costs should be assigned. Conrail asserts that it is almost impossible to keep track of the time of high level supervisors and requests that superintendence costs be allowed as a labor additive. The Virginia Department of Highways and Transportation suggests that if a superintendent spends the majority of his time on a subsidized line, the cost could be prorated based on the crew time spent on the subsidized line as it relates to crew time spent on other lines. New Jersey DOT would allow superintendence costs only when a supervisor is assigned directly to a subsidized line. Public Counsel stresses that if superintendence costs are to be assigned directly to a branch, the operating carrier must be able to document such costs soundly.

The Office has concluded that the fairest approach is to provide that actual, direct superintendence costs be included in the standards, based on the number of hours actually devoted to the branch line. These costs will be subject to audit. The parties are free, of course, to negotiate any other reasonable basis for the inclusion of superintendence costs acceptable to them.

Engineering costs. The Office has indicated its tentative opinion that engineering costs should be negotiated separately from the operating agreement and should be included as part of the rehabilitation costs. The parties are generally in agreement, and Conrail notes that it has already implemented this approach. Since the desired result can be achieved under the present standards, no change has been made.

Maintenance of way equipment repair costs. The Office proposed in its Notice that such repair costs, if incurred solely on the branch, should be included as direct costs; however, it expressed a fear that such an approach might lead to some degree of cross-subsidization by the subsidizer of the upkeep of the carrier's maintenance of way equipment. The Office requested suggestions from the parties as to how to avoid this result. The comments mostly support RSPO's approach but echo its apprehensions. Conrail contends that keeping track of actual expenses would place too great a recordkeeping burden on it and requests that the Office apportion the equipment repair accounts on the basis of some relevant statistic, preferably related to labor and materials. New York DOT contends that Conrail's approach would inflate the costs for branch lines; that average repair costs are readily available; and that average repair costs should be assigned on the number of days the machine is actually used on the branch. New Jersey DOT supports Conrail's approach provided that Conrail's handling of the costs of rehabilitation and capital projects does not result in overstatement of branch line costs. Massachusetts agrees with the New York DOT approach but stresses that for Account 269 the cost should be based on the lowest cost alternative rather than average repair cost.

The Office has concluded that the fairest approach is to assign roadway and machine and small tool maintenance costs to the branch in proportion to roadway maintenance costs (Accounts 202–220). This approach should fairly apportion costs while minimizing recordkeeping and clerical time.

Running overhead from yard to branch, deadheading, taxi and hotel costs. In its Notice, the Office indicated its belief that these costs should be included in the standards but at the same time expressed apprehension that their inclusion might reward or encourage inefficiency on the part of the operator. The parties were encouraged to propose a standard which would promote efficient operations. The Office did not find any of the suggested approaches to be totally satisfactory. It has concluded that the fairest way to handle these costs is to allow them to be included on an actual basis. Although this approach will not provide the desired incentive to efficiency, the carrier is already obligated to provide efficient service and the subsidizer can enforce this obligation through intensive auditing. With regard to costs included for running overhead to provide service to a branch, it should be noted that the off-branch costs per car-mile must be adjusted to exclude the overhead mileage. Deadheading, taxi and hotel costs, which ordinarily would be included in wage accounts, are to be maintained separately to facilitate auditing.

Specialized equipment costs. RSPO did not receive any unfavorable comment on its proposal to amend the standards to provide that the actual repair and other costs of specialized equipment assigned to the branch should be allowed.

Termination of service costs. Since the publication of the August 19, 1976 Notice, the Office has formally requested the views of the Railroad Retirement Board as to whether employees assigned by Conrail to work on branch lines operated under subsidy would be protected by the provisions of Title V of the RRR Act should the subsidy not be renewed. In its response of October 5, 1976, the Board concluded that it lacks authority to make any decision with respect to an employee's rights under Title V, citing an opinion of the Comptroller General, dated August 2, 1976 (No. B–114817). That opinion states that "• • • questions which arise as to the types of payments to be made under section 509 were not intended by Congress to be resolved by the Railroad Retirement Board." The Comptroller General cites the arbitration procedures set up by section 507 of the RRR Act; notes that the Railroad Retirement Board is not given a role in the arbitration process; and concludes that "• • • the entity charged with actually disbursing the appropriated funds • • • (e.g., the Consolidated Rail Corporation) must be considered the entity with the responsibility to assure that those funds are lawfully and properly applied • • •". In view of this opinion, it seems clear that Conrail or the designated operator is afforded sole discretion to administer the termination rights of employees under Title V. The Retirement Board's response and the Comptroller General's opinion are included in the record in this proceeding and copies will be made available to interested parties upon request.

With regard to other termination costs, such as the cost of removing equipment after stopping service on a subsidized line, the Office has chosen to follow its initial course. The standards have been amended to provide that termination costs, to the extent that they can be shown to be validly incurred as a direct and sole result of termination of the subsidy, will be considered avoidable costs of providing service. Alternatively, the parties can include in the operating agreement a mutually acceptable amount to cover the reasonable costs of termination, although Conrail and others indicate that it will be difficult to determine termination costs in advance.

Administrative fee. In its Notice, the Office stated that it did not believe that there was a need to revise the administrative fee of 0.5 percent of the total annual revenues attributable to a branch line but indicated that it would reconsider if operating experience should demonstrate that the actual cost of administering subsidized service substantially exceeds the fee as determined by the 0.5 percent standard. All of the State comments support this position. The Ocotoraro Railway, noting that it will receive an estimated $500 administrative fee under the 0.5 percent standard, states that it should have the option to have its actual costs allowed. Conrail estimates that its administrative costs for the first year subsidy program will be $710,000. (The Office presently estimates that under the 0.5 percent standard, Conrail will receive an administrative fee the first year of $230,000.) In its reply brief, Conrail stated its willingness to undergo an audit. An auditor from the Commission and a cost analyst from RSPO audited Conrail's estimated administrative expenses and concluded that the total estimated administrative cost for the first year would be a minimum of $595,000. (The audit was observed by a representative of several state agencies.) In view of these findings, the Office believes that in fairness the operating carrier's administrative fee should be increased from 0.5 percent to one percent of annual revenues.

Management fee. The Notice stressed that the 4.5 percent management fee contained in the standards is not a ceiling, and, for the most part, the comments do not dispute this statement; however, the Maryland and New Jersey DOT's suggest that the Office stress the 4.5 percent fee is also not intended to be a floor. We disagree; in our view, Conrail and other "designated railroads" (Section 304(d)(1) of the RRR Act) are entitled to receive a minimum of 4.5 percent return for providing subsidized service. Moreover, "responsible persons", including short line operators designated by a subsidizer, are in a preferred position, since unlike Conrail or other designated railroads, they are under no legal compulsion to continue service on the subsidized light-density lines. For this reason, we would not expect to disapprove a short line operator's fee, which exceeded 4.5 percent, even though it was not tied to incentive provisions.

Traffic and general expenses. In its Notice, the Office proposed a test to be used in determining whether a railroad would be eligible to include traffic and general expenses. In response to the comments, the Office has modified the wording of the test to read as follows:

> The costs assigned under these accounts shall be the actual branch costs assigned on a direct basis and will be assignable only if the size of the railroad's operation (measured in total mileage, gross revenues, gross ton-miles or car-miles) is increased by more than 25 percent as a result of operating the subsidized service, or the individual line being operated under a subsidy agreement generates $10 million or more in gross revenues per annum.

In response to the comments of both the Octoraro and Hillsdale Railways, the Office wishes to make clear that a new carrier, formed to operate a subsidized line, will qualify under this test since the size of its operation, which did not exist at the start of the subsidy program, will be increased by more than the prerequisite 25 percent. Expenses includable under this section are to be direct expenses, not apportioned. They should be covered in the operating agreement between the parties and subject to audit by the subsidizer. This approach should alleviate the strong objection of the Office of Public Counsel, which contends that the inclusion of traffic and general expenses as an avoidable cost will lead to a loosening of the standards whereby virtually any cost could be viewed as avoidable.

It should also be emphasized that where the railroad qualifies for reimbursement for traffic expenses the Office would expect it to make a conscientious effort to maximize branch line traffic in consideration for reimbursement of its net avoidable costs, including traffic expenses, plus payment of a management fee. We believe the subsidizer may properly insist that the railroad solicit branch line traffic, e.g., include the branch line on maps which are published for traffic solicitation purposes. The failure to perform this service would in our view constitute grounds for refusing Federal reimbursement of traffic expenses.

Determination of revenue attributable. The Office stated in its Notice that it would consider suggestions from the parties on alternative methods of defining "revenue attributable" which would permit elimination of off-branch costs. Pennsylvania DOT contends that the Office is limited to the present approach or to the application of Rail Form A standard costing to branch line revenue, specifying $80 per car plus $1 per mile (or whatever Rail Form A studies determine). New York DOT argues that the revenue properly attributable to the rail properties is the actual revenue that would be lost if the line were abandoned. It advocates a precise traffic retention factor for each branch line. The Chessie System is unalterably opposed to any attempt to develop procedures for allocating revenues between on- and off-branch segments, and thereby excluding the use of off-branch costs as an element of total avoidable cost. The more valid approach, in the opinion of the Chessie, is to concentrate attention on refining measurements of avoidable off-branch costs. Conrail states that it is open to further discussion of New York's suggestion for use of a "revenue retention factor" but is not presently able to devote the necessary time to research alternative methods of defining revenues. DOT believes the present standard represents probably the least arbitrary approach and suggests that the adoption of a cost-center based uniform system of accounts could make it more accurate. Public Counsel asserts that in the absence of a proper system of accounts, the existing standards, "though essentially an application of average variable costs by commodity, represents the 'best' method to determine off-branch costs."

In view of these comments, the Office is retaining its present method for determining revenues attributable. As noted by the Commission in its report concerning the national standards for abandonment of lines and discontinuance of service (41 FR 48520) several studies and experiments are underway, the results of which, when available, may be expected to shed some new light on the problem. The principal advantage of developing an alternative to the present method of attributing revenues for originated and terminated traffic would be

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to eliminate off-branch costing. The Office will be receptive to future proposals which would achieve this result. Generally, such proposals should meet the same tests of justness and reasonableness as would be required of divisions of joint rates under section 15(6)(a) of the Interstate Commerce Act.

Alternative compensation for use of property over which subsidized service is performed. This subject is discussed above under the heading "Income from property over which the subsidized service is performed."

Technical amendment. The Office proposed to revise § 1125.1(d) to read in pertinent part:

> The final payment will be adjusted based on data related to the subsidy period. Where an adjustment results in an increase in the estimated subsidy payment, the amount of such increase in excess of 15 percent of the estimated payment shall be treated as a carryover avoidable cost in the subsequent subsidy year unless the railroad notifies the subsidizer that the estimate will be exceeded by more than 15 percent *based on the data contained in one of the Financial Status Reports issued during the first 10 months of the subsidy year as* required by § 1125.9(f) or the increase results from an expense preapproved by the subsidizer.

The only objection to this amendment came from the Maryland DOT which interpreted its effect as being to release an operating carrier from its obligation to submit timely financial reports, thus placing an unreasonable burden on the subsidizer. The amendment has been adopted as proposed. In its reply brief, Conrail stated that its goal is to issue monthly status reports with the intention of closing the preparation time to a period not to exceed 110 days from the end of the operating month.

The Office has made other editorial revisions and added miscellaneous accounts to conform, as appropriate, the regional standards with the recently adopted national abandonment and subsidy standards (41 FR 48520).

Additional points raised by the comments. Conrail suggests that the Office amend § 1125.5 *Avoidable cost of providing service* specifically to include costs of arbitraries, vacation, holiday and sick pay. The Office does not believe that such an amendment is necessary since these costs are included in the section. However, the section has been amended to provide that these items must be identified separately for audit purposes when they are included in the carrier's labor costs.

Section 1125.5(g) of the standards presently uses miles of track as the sole basis for the apportionment to a Branch of property taxes levied on a state-wide basis. Conrail suggests that when a statewide valuation formula is used in the evaluation of rail properties for tax purposes, the tax cost for an individual branch should be based on the distribution of the assessment by the State to that branch and the application of the appropriate tax rate. In addition, Conrail suggests a separate procedure for determining the tax applicable to rolling stock attributable to each branch. The New Jersey DOT concurs with both of these proposals. The Office has concluded that their implementation will result in a more accurate determination of property taxes attributable to branch lines and has amended the standards accordingly.

The Office of Public Counsel stresses the need for a system of accounts which will allow an accurate determination necessity of calculating off-branch costs. Public Counsel argues that as long as such a system of accounts is unavailable, any assignment of costs and revenues must be arbitrary and the Office will continue to receive modification requests from parties who perceive an individual benefit to be gained by the requested modification. Public Counsel recommends that the Office conduct studies to identify the appropriate generalized cost and rail operations based on the functions which a railroad performs; the level of specificity necessary for an accurate determination of the costs associated with a particular rail service; the segments of a railroad for which data should be collected; and the cost and feasibility of implementing such a system. Furthermore, Public Counsel recommends that the Office seek legislation giving it clear authority to require that the necessary data be developed and costing systems be implemented.

The Office agrees with Public Counsel that a more accurate system of accounts is desirable. Toward that end, the Office is working with the Commission on the formulation of a new uniform system of accounts. The Commission has been assigned the responsibility under the Rail Act to promulgate such a system by June 30, 1977. A proposed system of accounts, based on cost-centers, was issued August 2, 1976, 41 FR 33016, and the Commission is currently reviewing public comment on its proposals. It is not certain that the system of accounts which is finally adopted will prove a panacea, but it is anticipated that the accuracy of cost and revenue determinations under the standards will be improved, and, therefore, the standards will be amended to conform to the new system when it is adopted.

Retroactivity. The Office received widely divergent comments on the question of which, if any, of the proposed amendments should be made retroactive to the date branch lines were first operated under the freight service subsidy program: The Michigan Department of Highways and Transportation argues that all of the amendments should be retroactive on the grounds that otherwise there will not be a proper base on which to compare various years of operations; furthermore, unless some of the amendments are made retroactive, some operators will be not be able to recover their costs in the first year of operations and may decline to continue operations for the second subsidy year. On the other hand, the Maryland DOT is unwilling to allow any retroactivity and argues that the standards in effect at the time the operating contract was executed should remain in force for the life of the contract. Maryland DOT points out that it may be impossible for States to increase amounts budgeted for the subsidy program during the middle of the contractual and fiscal year. Pennsylvania DOT also points out that it is not legal for many governmental agencies to pay retroactively determined costs. Most governments are required to set a ceiling on contracts before they can be approved. By law, retroactivity would thus be limited in its effectiveness to the ceiling set by State on the individual contracts. Conrail counters these arguments by noting that most of the cost items being considered in this proceeding were pointed out to all parties during the negotiation period. However, Conrail also states that it may not be feasible to make some of the amendments retroactive since the necessary data for the period involved may not be available. The Hillsdale Railway, a short line carrier, states that the proposed amendments should be made retroactive as long as no adverse economic impact will result for short line carriers.

Only two of the comments, those of the New Jersey and the Virginia transportation departments, specify those proposed amendments which the departments believe should be made retroactive. New Jersey DOT recommends that only the following amendments be retroactive: revenues from bridge and overhead traffic; off-branch costs—Class II railroads; income from property over which subsidized service is performed; maintenance of way equipment repair costs; and taxi, meals and hotel costs (Account 402 prorated on miles, not hours). It would make the amendments concerning supervision costs, management fee and traffic and general expenses effective at the start of the second subsidy year. The Virginia Department of Highways and Transportation recommends that the following amendments be made retroactive: superintendence costs; maintenance of way equipment repair costs; administrative fee; management fee; and traffic and general expenses.

As a general principle, the Office believes that it would be inappropriate to disrupt the existing contractual relationships between the railroads and the subsidizers by applying the standards retroactively in the first subsidy year. Therefore, the following changes in the standards will apply prospectively to contracts executed subsequent to the effective date of this order, unless the parties mutually agree (or have mutually agreed) to their retroactive application: revenues from interchange traffic; off-branch costs—Class II railroads; superintendence costs; maintenance of way equipment repair costs; running overhead from yard to branch, deadheading, taxi and hotel costs; termination of service costs; administrative fee; traffic and general expenses; and property taxes.

The Office has clarified the intent or application of the standards in several areas, and these clarifications should apply retroactively and govern the existing contractual relationships of the parties. These areas include: passenger train revenues and costs; revenues from bridge traffic; revenues from shipments with transit privileges; engineering costs; management fee; income from and alternative compensation for use of property over which subsidized service is performed; and specialized equipment costs.

The procedural amendments apply prospectively upon the effective date of this order.

Interpretations of the standards. The Office has considered some matters in this rulemaking, e.g., revenues from bridge traffic and engineering costs, which have resulted in clarification rather than amendment of the standards. It believes it may be beneficial to establish a procedure for issuing interpretation of the standards without resorting to formal rulemaking. New § 1125.1(e) provides that the Office will entertain petitions to interpret the intent or application of the standards. Where a request for a ruling arises from a dispute with other parties, the petitioner should identify the other parties and serve them with a copy of the petition. The other parties may support or oppose the petition by filing (and serving) a reply within ten days of receipt of the petition. Where the issue raised is of general interest, the Office may also issue a notice inviting public comment. The Office will issue an interpretation, unless it concludes that the matter raised requires amendment of the standards, in which case the Office will institute a rulemaking proceeding.

PARTIES FILING COMMENTS

Government. U.S. Department of Transportation; Office of Public Counsel; Delaware Transportation Authority; Maryland Department of Transportation; Commonwealth of Massachusetts, Executive Office of Transportation and Construction; State of Michigan, Department of Highways and Transportation; New Jersey Department of Transportation; New York Department of Transportation; Commonwealth of Pennsylvania, Department of Transportation; Commonwealth of Virginia Department of Highways and Transportation; Public Service Commission of Wisconsin.

Business. Agway, Inc.; Baker/Beech-Nut Corporation; Penn Central Transportation Company.

Railroad. Chessie System; Consolidated Rail Corporation; Hillsdale County Railway Company, Inc.; Lehigh Valley Railroad Company; Octoraro Railway, Inc.

Organization. National Industrial Traffic League.

ORDER

In light of the foregoing:

It is ordered, That Part 1125 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations be amended by making the changes set forth below to the standards adopted on January 8, 1975 and amended on March 28, 1975, January 22, 1976 and March 26, 1976.

And it is further ordered, That this order shall become effective December 16, 1976.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Issued December 16, 1976 by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

ROBERT L. OSWALD,
Secretary.

1. Section 1125.1 is amended by revising paragraph (d) and by adding a new paragraph (e) to read as follows:

§ 1125.1 Purpose and scope.

* * * * *

(d) The standards set forth herein employ an interim formula for establishing an estimated first year subsidy payment. This estimate will serve as a basis for the subsidy offer within the context of section 304(c)(2) of the Act, as amended, and provide a framework for the negotiation of a subsidy agreement. In subsequent years the estimated subsidy payment will be based on the railroad's Financial Status Reports as specified in § 1125.9(f). The parties may agree in arm's-length negotiations to provisions which modify these standards, subject to review of such modifications by the Office. The Office would not expect to disapprove variations from the standards which are the product of arm's-length negotiations and which are shown to be reasonable in the light of the pertinent facts and circumstances. When an agreement has been reached, a copy shall be filed promptly with the Office for its review. The amount a subsidizer must offer under section 304(c)(2)(A), as amended, is the amount computed in accordance with the interim formula, or $1.00, whichever is the greater amount. The final payment will be adjusted based on data related to the subsidy period. Where an adjustment results in an increase in the estimated subsidy payment, the amount of such increase in excess of 15 percent of the estimated payment shall be treated as a carryover avoidable cost in the subsequent subsidy year unless the railroad notifies the subsidizer that the estimate will be exceeded by more than 15 percent based on the data contained in one of the Financial Status Reports issued during the first 10 months of the subsidy year as required by § 1125.9(f) or the increase results from an expense preapproved by the subsidizer.

(e) Parties desiring an interpretation of the standards should file a written petition citing the section involved and setting forth their position and rationale. If the request arises from a dispute with other parties, the petitioner should identify those parties and serve each of them with a copy of the petition. Parties desiring to file a reply must do so within 10 days of their receipt of the petition. The Office will issue an interpretation, unless it concludes that the matter raised requires amendment of the standards, in which case the Office will institute a rulemaking proceeding.

2. Section 1125.3 is amended by revising the second sentence of the introductory paragraph and by revising paragraph (c)(4) to read as follows:

§ 1125.3 Interim subsidy payment.

* * * * *

The interim payment may be adjusted, by agreement of the parties, to take into account factors, such as rate increases and changes in traffic levels, which would make the sole use of base year data an inappropriate means of estimating the payment for the subsidy year or to conform to amendments to the standards made subsequent to the original agreement. * * *

* * * * *

(c) * * *

(4) Transportation costs shall be estimated, based on system average costs. The number of trips per year shall be based on the frequency of service performed at the time the notice is filed unless the parties agree to a different level. Labor costs for train crews shall be based on system average costs for each type of crew applied to the hours of service on the branch. The crew costs shall be classified into three major categories: yard, local/way and through. The straight time average cost per hour for each yard, local/way or through train crew member shall be calculated for Class I railroads by using the railroad's Employees, Service, and Compensation Report (Form B) for the base year. The calculation is made by adding together the straight time compensation, col. (9), and the constructive allowances, col. (11), and dividing this total by the straight time hours actually worked, col. (4). This process would be repeated for each yard, local/way and through train class of employee. For Class II railroads, the straight time average cost per hour for each yard, local/way or through train crew member shall be calculated in the same manner, using the railroad's payroll records for the base year. After the hourly rate is determined for each member, the cost per crew hour shall be calculated based on the exact size and consist of the crew currently serving the branch. The crew cost per hour is multiplied by the estimated hours that will be incurred in serving the branch during the subsidy period. The estimated direct crew costs must be increased to cover fringe benefits using the procedure described in § 1125.5(e). The railroad shall also furnish estimates of costs for the remaining transportation accounts using the final standards as a guide to their includability and basis of calculation.

§ 1125.4 [Amended]

3. Section 1125.4(a) is amended as follows:

* * * * *

(a) *Account 101—Freight.* The revenues assigned under this account shall be the actual revenues, including transit revenues, accruing * * *

* * * * *

4. The closing text of § 1125.4(a) is revised to read as follows:

All traffic that is received or forwarded through interchange at a point on the branch, including ferry operations, shall be considered as originating or terminating on the branch. The revenues of all

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other bridge or overhead traffic shall be attributed to the branch on the ratio of miles moved on the branch to miles moved on the system, *Provided, however,* That the parties may agree on a mutually acceptable usage charge for bridge traffic in lieu of the mileage apportionment.

5. Paragraph (b) of § 1125.4 is deleted.

6. Paragraph (c) of § 1125.4 is revised to read as follows:

• • • • • •

(c) *Account 106—Mail; Account 107—Express.* The revenues assigned under these accounts shall be apportioned to the branch on the ratio of the miles that the shipment moved on the branch to the miles it moved on the system of the railroad but only if such revenues are earned by freight trains operating on the branch line.

• • • • • •

7. Paragraph (d) of § 1125.4 is amended as follows:

(d) *Account 110—Switching; Account 113—Water transfers; Account 131—Dining and Buffet; Account 132—Hotel and restaurant* • • •

8. The Introductory paragraph of § 1125.5 is revised to read as follows:

§ 1125.5 Avoidable costs of providing service.

The avoidable costs of providing service on a branch are the total of the costs assigned or apportioned to the branch in accordance with this section. Costs apportioned under this section shall be derived from the latest Form R–1 or Form R–2 of the railroad filed with the Commission prior to the conclusion of the subsidy year. Labor costs must be identified separately for all accounts when costs are assigned on a direct basis. Amounts included for arbitraries, vacation, holiday and sick pay must also be identified separately.

• • • • • •

9. Section 1125.5(a)(1) is amended as follows:

(a) • • •

(1) *Account 201—Superintendence; Account 202—Roadway maintenance* • • •

• • • • • •

10. Section 1125.5(a)(2) is amended as follows:

(a) • • •

(2) • • • *Account 257—Power—transmission systems; Account 265—Miscellaneous structures; and Account 266—Depreciation.*

• • • • • •

11. Section 1125.5(a)(3) is amended as follows:

(a) • • •

(3) • • • *Account 273—Public Improvements—Maintenance; Account 274—Injuries to persons; Account 275—Insurance; Account 276—Stationery and printing; Account 278* • • •

• • • • • •

12. Section 1125.5 is amended by adding a new paragraph (a)(5), reading as follows:

• • • • • •

(a) • • •

(5) *Account 269—Roadway machines; and Account 271—Small tools and supplies.* The costs under these accounts shall be assigned to the branch on the basis of the ratio that the branch amounts in Accounts 202–220 bear to the carrier's system total for the same accounts.

• • • • • •

13. Section 1125.5(b)(1) is amended by adding at the end thereof the following new sentence:

• • • • • •

(b) *Maintenance of Equipment*—(1) • • • The costs assigned under this account for specialized equipment devoted exclusively to branch line service shall be the actual costs assigned on a direct basis.

• • • • • •

14. Section 1125.5(b)(2) is deleted.

15. Section 1125.5(b)(5) is amended by adding at the end of both the first and second paragraphs thereof, the following new sentence:

(b) • • •

(5) The costs assigned under this account for specialized equipment devoted exclusively to branch line service shall be the actual costs assigned on a direct basis.

16. Section 1125.5(b)(5)(54) is deleted.

17. Section 1125.5(b)(6) is amended as follows:

(b) • • •

(6) *Account 301—Superintendence; Account 302—Shop machinery; Account 304—Power plant machinery; Account 305—Shop and power plant machinery; Account 332—Injuries to persons; Account 333—Insurance; Account 334—Stationery and printing; Account 336—Joint maintenance of equipment expenses-Dr* • • •

• • • • • •

18. Section 1125.5(c)(1) is amended as follows:

• • • • • •

(c) • • •

(1) *Account 371—Superintendence; Account 372—Dispatching trains* • • •

• • • • • •

19. Section 1125.5(c)(14) is amended to read as follows:

• • • • • •

(c) • • •

(14) *Account 410—Stationery and printing; Account 411—Other expenses* • • •

• • • • • •

20. Section 1125.5(e)(1) is amended by revising the second sentence and, by adding a new sentenee at the end thereof, reading as follows:

• • • • • •

(e) • • •

(1) • • • The percentage shall be developed for Class I railroads by using data from the railroad's latest Form R–1. • • •

The percentage shall be developed for Class II railroads in the same manner prescribed for Class I railroads, using the latest data available.

21. Section 1125.5(g) is revised to read as follows:

• • • • • •

(g) *Property taxes.* (1) The amount of property taxes shall be the amount levied against the property on the branch, in those States where a true ad valorem tax is levied, based on the value of certain kinds of railroad property, such as track, land, buildings and other facilities.

(2) In States where property taxes are assessed on the basis of a formula of a State-wide valuation of property and the branch or branches are included in the valuation of the railroad operating the service, the tax on each branch shall be based on the distribution of the assessment by the State to that branch and the application of the appropriate tax rate or rates.

(3) In States where the real property taxes are assessed and levied against the owner of the property but the rolling stock is assessed to the railroad operating the service on the basis of a formula of a State-wide valuation of property, the tax on rolling stock attributable to each branch shall be determined as follows:

(i) Find the percent which the cost of equipment as used in the formula is to the total of all property cost as used in the formula;

(ii) Apply that percentage to the total State assessment to determine the portion of the assessment attributable to rolling stock;

(iii) Allocate the rolling stock assessment thus determined to each branch on the basis of car and locomotive unit miles on the branch to total car and locomotive unit miles in the state;

(iv) Apply appropriate tax rate or rates to the allocated assessment thus determined.

• • • • • •

22. Section 1125.5(h)(2) is amended to read as follows:

• • • • • •

(h) • • •

(2) *Account 504—Rent from locomotives; Account 506—Rent from floating equipment; Account 507—Rent from work equipment; and Account 509—Income from lease of road and equipment* • • •

• • • • • •

23. Section 1125.5(i)(2) is amended to read as follows:

• • • • • •

(i) • • •

(2) *Account 537—Rent for locomotives; Account 539—Rent for floating equipment; and Account 542—Rent for leased roads and equipment.* If the equipment is used exclusively for branch traffic, the costs assigned under these accounts shall be the actual branch costs assigned on a direct basis. Common rents shall be apportioned to the branch on the basis of the ratio of applicable locomotive or floating equipment days or miles, as used for billing purposes on the branch, to the total of those days or miles on other lines of the railroad.

• • • • • •

24. Section 1125.5(j) is amended by revising the first full sentence of the first paragraph to read:

• • • • • •

(j) • • • For Class I railroads, the on-branch costs for time-mileage freight-train cars shall be calculated on the basis of the railroad's average costs per day and per mile. • • •

• • • • • •

and by adding at the end thereof, following subsection (5), a new paragraph, reading as follows:

For Class II railroads, the on-branch costs for time-mileage freight-train cars shall be calculated in the same manner prescribed for Class I railroads, using the latest data available.

25. Paragraphs (k)(2) through (4) of section 1125.5 are revised to read as follows:

• • • • • •

(k) • • •

(2) The following through-train, single-line, variable unit costs shall be developed by a Class I railroad by applying Rail Form A to data contained in its latest Form R–1 filed with the Commission:

(i) Normal Rail Form A carload terminal cost per carload by car type.

(ii) Modified Rail Form A, carload terminal cost per carload by car type (i.e., (1) substitute an intertrain switching cost separated between mileage and other than mileage cars, in place of a roadtrain to industry switching cost; (2) substitute modified car ownership costs per car day for two days developed in accordance with Section 1125.5(j) above, for the standard Rail Form A day ownership cost).

(iii) Rail Form A per hundredweight terminal cost.

(iv) Rail Form A cost per car-mile by car type.

(v) Rail Form A cost per ton-mile.

(vi) Rail Form A cost per car interchanged, separated between mileage and other than mileage cars.

These costs shall be applied by Class I railroads in accordance with the procedure set forth below in § 1125.5(k)(3).

(3) Calculations by car type.

(i) The sum of all terminal costs incurred off the branch line shall be calculated by multiplying the modified terminal cost per carload by car type, subsection (2)(ii) above, by the total number of carloads originated or terminated on the branch line during the subsidy year. To this amount add the normal terminal cost per carload by car type, subsection (2)(i) above, times the number of carloads which originated or terminated on the branch that are local to the railroad serving the branch.

(ii) The sum of the hundredweight terminal costs incurred off the branch line shall be calculated by multiplying the hundredweight terminal cost, subsection (2)(iii) above, by the number of hundredweight of freight originated or terminated on the branch that are local to the railroad serving the branch.

(iii) The sum of the line-haul car-mile costs incurred off the branch line shall be calculated by multiplying the car-mile cost by car type, subsection (2)(iv) above, by the loaded car-miles generated off the branch line by cars originated or terminated on the branch during the subsidy year. Where overhead movements to and from the branch have been included in the on-branch cost calculation under other sections of § 1125.5, the related loaded car-miles shall be excluded from this calculation.

(iv) The sum of the line-haul ton-mile costs shall be determined by multiplying the ton-mile cost, subsection (2)(v) above, by the total ton-miles of revenue-freight incurred by the railroad on its lines, other than the branch lines, for revenue freight originated or terminated on the branch during the subsidy year.

(v) The interchange cost shall be calculated by multiplying the cost per car interchanged, subsection (2)(vi) above, by the number of carloads of traffic interchanged at a point off the branch line and originated or terminated on the branch.

(4) Class II line-haul railroads shall calculate off-branch costs as follows:

(i) The estimated system variable expenses are calculated by multiplying the sum of the total operating expenses (Schedule 2002, Pub. L. 54, col. (b)), net rents (Schedule 300, L. 21, col. (b)), and tax accruals, less federal income taxes (Schedule 350, L. 18, col. (b) less Pub. L. 13, col. (b)) in the carrier's latest Annual Report (Form R–2) by .78, the three-year composite variability ratio for all Class I railroads.

(ii) The cost per ton-mile of revenue freight is calculated by dividing the amount developed in step (i) by the system total ton-miles of revenue freight (Schedule 2601, L. 25, col. (d)) in the carrier's latest Annual Report (Form R–2).

(iii) The cost developed in step (ii) shall be applied to the total revenue ton-miles of traffic which is attributable to the branch and which moves over other portions of the railroad's system.

• • • • • •

26. Section 1125.5(k)(5) is deleted.

27. Section 1125.5(l) is amended to read as follows:

• • • • • •

(l) *Administrative costs.* One percent of total annual revenues attributed to the branch shall be allowable as an avoidable cost to the railroad to cover all costs of administering the subsidy program.

• • • • • •

28. Section 1125.5 is amended by adding new paragraphs (o), (p), (q), (r) and (s), reading as follows:

• • • • • •

(o) *Traffic—Account 351—Superintendence; Account 352 — Outside agencies; Account 353—Advertising; Account 354—Traffic associations; Account 355—Fast freight lines; Account 356—Industrial and immigration bureaus; Account 357—Insurance; Account 358—Stationery and printing and Account 360—Other expenses.* The costs assigned under these accounts shall be the actual branch costs assigned on a direct basis and will be assignable only if the size of the railroad's operation (measured in total mileage, gross revenues, gross ton-miles or car-miles) is increased by more than 25 percent, as a result of operating the subsidized service, or the individual line being operated under a subsidy agreement generates $10,000,000 or more in gross revenues per annum.

(p) *General—Account 451—Salaries and expenses of general officers; Account 452—Salaries and expenses of clerks and attendants; Account 453—General Office supplies and expenses; Account 454—Law expenses; Account 455—Insurance; Account 457—Pensions; Account 458—Stationery and printing; Account 460—Other expenses; Account 461—General joint facilities-Dr.; and Account 462—General joint facilities-Cr.* The costs assigned under these accounts shall be the actual branch costs assigned on a direct basis and will be assignable only if the size of the railroad's operation (measured in total mileage, gross revenues, gross ton-miles or car-miles) is increased by more than 25 percent, as a result of operating the subsidized service, or the individual line being operated under a subsidy agreement generates $10,000,000 or more in gross revenues per annum.

(q) *Deadheading, taxi and hotel costs.* The costs assigned under this section shall be the actual costs incurred as a result of providing service to the branch line for deadheading, taxi and hotel costs. The amounts under this section shall not be included under the wage accounts in paragraphs (c)(3) and (7) of § 1125.5.

(r) *Overhead movement costs.* The costs assigned under this section shall be the actual costs incurred in moving overhead in order to provide service to the branch. The amounts shown shall be limited to transportation (§ 1125.5(c)); equipment (§§ 1125.5(b)(1) and (5)); and freight train cars (§ 1125.5(j)). The amounts shown under this section shall not be included under other sections of these regulations.

(s) *Termination costs.* The costs assigned under this section shall be the actual costs reasonably and necessarily incurred as a result of terminating service to the subsidized branch. These costs shall not include any costs which the railroad would have incurred had the branch not been operated under the subsidy program. The 15 percent ceiling contained in § 1125.1(d) is not applicable to these costs unless such costs were included in the estimated subsidy payment.

31. Section 1125.9(f) is amended by revising the third sentence to read as follows:

• • • • • •

(f) • • • Unless the parties agree otherwise, the last Financial Status Report filed in the first ten months of the subsidy year will be the basis for negotiating the estimated subsidy payment for the subsequent year's agreement. The estimated payment may be adjusted, by agreement of the parties, to take into account factors, such as rate increases and changes in traffic levels, which would make the sole use of base year data an inappropriate means of estimating the

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payment for the subsidy year or to conform to amendments to the standards made subsequent to the original agreement.

Appendices I and II [Amended]

32. Both Appendix I and Appendix II to the standards are amended by deleting item number 4, "Passenger", in each and substituting the following:

[Deleted.]

[FR Doc.76-37481 Filed 12-20-76;8:45 am]

federal register

TUESDAY, DECEMBER 21, 1976

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

PART VIII:

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

SAFETY AND HEALTH STANDARDS AND REGULATIONS FOR CONSTRUCTION

Ground-Fault Protection

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Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

[Docket No. S–102]

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Ground-Fault Protection

Pursuant to sections 6(b) and 8(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657) (the Act), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (83 Stat. 96, 40 U.S.C. 333), Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911, Parts 1910 and 1926 of Title 29, Code of Federal Regulations, are hereby amended by revising §§ 1910.309(c) and 1926.400(h) to require either the use of ground-fault circuit interrupters or the implementation of an assured equipment grounding conductor program on construction sites.

I. BACKGROUND

Each year many workers on construction sites suffer electric shock using portable electric tools and equipment. The nature of the injuries, including those caused by ground faults, ranges from electrocutions to minor and serious secondary injuries. A secondary injury occurs when a worker recoils from an electric shock and, as a result of this recoil, sustains an injury. Depending largely on the surrounding physical conditions, such an accident can result in a bruise or a broken bone or a fatal fall. An electrocution occurs when the shock current is in excess of about 70 milliamperes causing ventricular fibrillation and death. Typically, these injuries occur when employees contact electrically energized parts. It is usually the frame of the tool that becomes accidentally energized due to an electrical fault which provides a conductive path to the tool casing. This conductive path can occur instantaneously or can develop gradually over a relatively long period of time. When the worker contacts the energized tool, a fault to ground may occur. This means an unwanted path or circuit of electricity develops from the tool through the man to ground. The amount of current that flows through the worker depends, primarily, upon the resistance of the fault within the tool, the resistance of the worker, and the resistance of the path from the worker back to the electrical supply.

Moisture in the atmosphere may contribute to the electrical fault by intensifying both the conductive path within the tool and the external path back to the electrical supply. Moisture may also increase the severity of the shock by decreasing the worker's contact resistance. Consequently, the extent of the hazard increases with an increase in the amount of moisture at the jobsite.

One method of protection against injury caused by this electrical fault is the use of an equipment grounding conductor. This equipment grounding conductor grounds the exposed noncurrent-carrying, metal parts of tools or equipment and carries off the leakage current thus limiting the voltage on the tool frame by providing a low resistance path to ground. When the leakage current increases beyond the setting of the overcurrent device protecting the circuit (usually 15 or 20 amperes), the device trips and interrupts the current.

Another method of protection is the utilization of a ground-fault circuit interrupter (GFCI). This device continually monitors the current and detects current leaking to ground via a path outside of the circuit conductors. If the leakage current to ground (either through the equipment grounding conductor or through a person) exceeds the trip level, the circuit is interrupted quickly enough to prevent electrocution.

II. HISTORY OF THE REGULATIONS

In accordance with section 6(a) of the Act, the Occupational Safety and Health Administration (OSHA) adopted by reference in §§ 1910.309 and 1926.400 of its general industry and construction regulations the 1971 National Electrical Code, NFPA 70–1971, ANSI C1–1971 (NEC), 37 FR 3431 (1972). In addition to requiring proper grounding of electrical tools, the NEC contains, in section 210–7, the following provision:

> All 15- and 20-ampere receptacle outlets on single-phase circuits for construction sites shall have approved ground-fault circuit protection for personnel. This requirement shall become effective on January 1, 1974.

On November 8, 1973, the Advisory Committee on Construction Safety and Health, established under the Construction Safety Act, recommended to the Assistant Secretary of Labor for Occupational Safety and Health that the effective date of the GFCI requirement be suspended pending further study. A request for postponement was also made by the National Constructors Association on November 19, 1973. Accordingly, on December 4, 1973, a notice was published in the FEDERAL REGISTER (38 FR 33397) amending §§ 1910.309 and 1926.400, to defer the January 1, 1974 effective date pending reconsideration of the requirement for GFCI's.

In order to obtain the information necessary for such reconsideration, a notice of public hearing was published in the FEDERAL REGISTER on December 10, 1973 (38 FR 33963), and the issues subject to comment were listed on December 26, 1973 (38 FR 35235). A public hearing was held on February 26, 1974.

An issue on the scope of the requirement was raised in several comments and in the course of the hearing. Specifically, the issue was whether the GFCI requirement should be expanded from temporary wiring on construction sites to include any workplace that was "wet, damp, or conductive" and where electrical tools were used. In response to this, OSHA published an Advance Notice of Proposed Rulemaking on June 11, 1974, (39 FR 20499) requesting information regarding this expansion of scope.

After evaluating all the comments and evidence received in response to the various FEDERAL REGISTER notices, OSHA concluded that a requirement for GFCI's on any wet, damp, or conductive location, rather than only on construction sites, was not necessary. This conclusion was based on the permanent nature of the electrical installations and the condition and maintenance of electrical tools and equipment used in general industry, as contrasted with the temporary wiring, which is frequently moved, and the rough use, abuse, and the relatively poorer condition and maintenance of electrical tools and equipment found on construction sites. Accordingly, OSHA prepared and submitted a draft of a proposed ground-fault circuit protection standard to the Advisory Committee on Construction Safety and Health at its October 30, 1974 meeting. This draft standard would have required ground-fault circuit interrupters for all 120-volt receptacle outlets on the temporary wiring of construction sites, which were used by employees. The Advisory Committee recommended to continue to hold the ground-fault circuit protection standard in abeyance, pending independent study of the need and efficacy of GFCI's.

On April 7, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 15390; correction notice, 40 FR 18468). In this notice, OSHA proposed to amend Title 29, Code of Federal Regulations, §§ 1910.309(c) and 1926.400(h) by revoking the requirements for GFCI's on construction sites, on the view that sufficient data had not been received showing such a requirement to be necessary to the safety and health of employees. The proposal notice indicated that the revocation could be changed if there were a later determination that complete and accurate information was available which warranted mandatory utilization of GFCI's on construction sites.

In response to this notice, OSHA received 131 comments, including six requests for a public hearing. Thereupon, a notice of public hearing was published on September 2, 1975 (40 FR 40170). In this notice, OSHA requested public comment on numerous issues which would enable OSHA to determine which of the following actions to take for protection of personnel on construction sites: (a) revocation of the existing requirement for GFCI's; (b) retention of the existing requirement for GFCI's; or (c) a requirement for GFCI's or an alternate grounding maintenance program, which would require scheduled and recorded equipment inspection and maintenance, covering all tools, cords, and wiring on the jobsite. The public hearing on the proposal was held on December 9 and 10, 1975, in Washington, D.C., and the hearing record was certified on March 26, 1976.

In accordance with section 6(b) of the Act, Executive Order 11821 (39 FR 41501), OMB Circular No. A–107 (January 28, 1975), and Secretary's Order No. 15–75 (40 FR 54484) and administrative instructions thereto (U.S. Department of Labor Temporary Directive No. 1, November 24, 1975), OSHA assessed the technical feasibility and economic and inflationary impacts of its proposal, including the impacts of each of the alternatives mentioned in the September 2, 1975, hearing notice. On April 27, 1976, OSHA published, in the FEDERAL REGISTER (41 FR 17576), a notice certifying that none of the alternatives would be a major action which would necessitate further inflationary impact evaluation or the preparation of an inflationary impact statement. This certification was based on the economic identification criteria specified in section 5(c) of Secretary's Order No. 15–75. In addition, the notice announced the availability of the technological feasibility and economic assessment, and interested persons were given until May 27, 1976, to submit written comments on these matters.

The record of this rulemaking proceeding includes all of the evidence before the Advisory Committee in making its recommendations and all the evidence presented to the Assistant Secretary in developing the standard including comments and evidence in response to all of the aforementioned FEDERAL REGISTER notices, as well as all evidence adduced at two informal hearings. Also included in the record is the technological feasibility and economic impact assessments, and the public comment thereto. This entire record was thoroughly reviewed and evaluated in reaching the determinations set forth below and in developing this final standard.

III. PRINCIPAL ISSUES INVOLVED

The evidence submitted into the record is summarized and evaluated in the following discussions of each issue. The numbers in brackets refer to specific references in the December 9 and 10, 1975, hearing exhibits (Ex.) which included the entire record to date, hearing transcript page numbers (Tr.), and post-hearing comments (PH). The following are the principal issues involved in this rulemaking proceeding:

1. *Whether 120-volt, ground-fault accidents are occurring on construction sites in sufficient quantity to warrant regulatory attention.* The record contains descriptions of hundreds of electrocutions [Ex. 2, 5, 13, 14, 31]. Although many of the reports did not contain sufficiently detailed information to accurately determine the specifics of each electrocution, enough information was available to make a determination that approximately 70 of these fatalities were 120-volt, ground-fault electrocutions that occurred on construction sites. These accidents were reported during the years of 1970 to 1975. A review of the evidence indicates a substantial probability of greater occurrence of death, due to poor reporting and the possibility of some deaths going unreported as electrocutions because of the mistaken belief that they were caused by heart failure.

Several estimates were made of the annual number of 120-volt, ground-fault electrocutions occurring on construction sites. One commenter, using two different extrapolations of accident data, estimated the number to be 34 deaths each year [Ex. 35]. Additionally, an extrapolation of the 41 deaths found in the OSHA State Survey [Ex. 5] indicates that about 30 of these fatalities occur nationally per year.

One witness introduced data concerning electrocutions in Dade County, Florida [Tr. 112–113]. During the last 19 years, Dade County experienced a total of 105 on-the-job electrocutions which corresponds to a yearly average of 5.5. Also, the data included six ground-fault electrocutions (120-volt) on construction sites over the last 5 years, which is an average of 1.2 per year. These two averages give a 0.218 ratio. From the *Vital Statistics of the United States*, a different witness [Ex. 18 of the February 26, 1974 hearing] calculated the national average of all on-the-job industrial electrocutions to be 208. Multiplying this national average of 208 by the 0.218 ratio yields an estimate of about 45 ground-fault electrocutions on construction sites per year.

Thus four extrapolations of different data have been performed with each yielding an estimate of 30 to 45 electrocutions per year. Therefore, it appears that at least 30 such electrocutions are occurring each year on construction sites.

The accident data discussed here are those electrical accidents resulting in death, which is, of course, the most severe accident caused by 120-volt ground faults. It is abundantly clear that these deaths are occurring in sufficient numbers to warrant regulatory protection. There is evidence in the record, furthermore, that indicates the occurrence of a substantial number of nonfatal injuries for every fatality [Ex. 18 of the February 26, 1974 hearing]. These injuries, some of which are serious, also warrant regulatory action.

2. *Whether proper equipment grounding can prevent such accident on construction sites.* Present regulations in the NEC and adopted by OSHA require equipment grounding conductors for most 120-volt tools and circuits on construction sites. Essentially all of the witnesses who addressed this issue agreed that equipment grounding conductors, if used and maintained properly, are effective in preventing electrical accidents [Ex. 1, 12, 15, 26, 28, 37; Tr. 21–22, 302, 370, 429; PH 2, 51. However, a review of the evidence strongly indicates that the equipment grounding conductor is not always properly maintained, even by the most elementary precautionary procedures [Ex. 5, 14]. In addition, there is evidence that the equipment grounding conductor is often intentionally circumvented, such as by clipping the third prong or attaching a three prong plug to a two wire extension cord. Furthermore, as noted by some witnesses, tools and cords on construction sites are exposed to rough use and abuse, and the equipment grounding conductor can accidentally become discontinuous by the rough handling [Ex. 14, 35]. As a result, the effectiveness of the equipment grounding conductor can be defeated without the knowledge of the employee it is supposed to protect.

A review of the accidents also shows that many employees are not fully aware of the hazards involved in using electric tools. For example, at least three of the reports showed that employees had received shocks from equipment they were using, but continued using them until someone was electrocuted [Ex. 5, 13].

A few of the electrocutions on which evidence was submitted apparently occurred with the use of tools which were properly grounded; however, the overwhelming majority of the ones which allowed a specific determination to be made were caused by a malfunction of a part of the equipment grounding conductor [Ex. 5]. Frequently, for example, a defect in the grounding conductor, such as a break, allowed it to come into direct contact with the ungrounded conductor. However, an equipment grounding conductor alone cannot provide complete protection under all circumstances. For example, if a fault current of about 3 or 4 times the rating of the circuit breaker occurs during the use of the tool, sufficient fault current may flow through the person holding the tool and cause his electrocution before the circuit breaker could open.

Based on the evidence, including the occurrence of a significant number of ground-fault accidents and the evidence that equipment grounding conductors are, in many cases, not adequately and effectively maintained, it appears that although proper equipment grounding conductors can prevent such accidents, the existing equipment grounding conductor regulations are inadequate to provide the necessary protection. Accordingly, OSHA concludes that there is a need to supplement the existing equipment grounding conductor requirements to adequately protect employees from ground-fault accidents resulting in injuries and fatalities.

3. *Whether GFCI's can supplement the present equipment grounding conductor requirements to prevent such accidents on construction sites.* The ground-fault circuit interrupter is a fast-acting device which senses small current leakage to ground and, in a fraction of a second, shuts off the electricity and "interrupts" its faulty flow to ground. Placed between the electrical service and the tool it serves, the GFCI continually matches the amount of current going to and from the tool along the normal path of the circuit conductors. Whenever the amount "going" differs from the amount "returning" by a set trip level, 5mA ± 1mA on currently approved GFCI's, the GFCI interrupts the electric power within 1/40 of a second. This difference in current is called leakage current to ground and the path it takes to ground could be through a person—in which case, the rapid response of the GFCI is fast enough to prevent electrocution. This protection provided by the GFCI is independent of the condition of the equipment grounding conductor. Thus, the GFCI can provide protection even where

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the equipment grounding conductor has become ineffective.

By relating the capability of a GFCI to the facts reported concerning the accidents described in the record [Ex. 2, 5, 13, 14, 31], it can be shown that GFCI's could have prevented nearly all of the 120-volt, ground-fault electrocutions. For example, one construction site fatality occurred after the victim had mistakenly connected the "hot" conductor to a cord connector's equipment grounding conductor terminal in trying to repair an extension cord. Upon plugging the portable saw into the cord, he was electrocuted [Ex. 5]. If a GFCI had been in use, it would have detected and interrupted the current flow from the energized tool through the man to ground. Another construction worker was electrocuted when he picked up a new electric hand tool [Ex. 5]. All the cords were properly wired, but an altered plug on one of the extension cords he was using was inserted into a receptacle with the plug's grounding prong in contact with the "hot" conductor's terminal. The use of a GFCI could have similarly prevented this accident. Still another construction worker was electrocuted as he was helping a coworker install metal studs [Ex. 5]. The extension cord that the coworker was using had portions where bare conductors were exposed by insulation damage. When the coworker pulled on the extension cord, one of the bare spots hit the metal stud on which the victim was leaning. A ground-fault current then flowed from the exposed conductor through the metal stud (which was in contact with it), through the worker (who was leaning on the stud), and back to ground through the properly grounded screw gun he was holding. The use of a GFCI could also have prevented this electrocution.

Some witnesses stated that GFCI's do not provide the same degree of protection against ground faults as equipment grounding [Ex. 12, 28; PH 5]. These witnesses pointed out that, since GFCI's allow a fault current to pass to ground for 1/40 of a second before tripping, GFCI's do not prevent electric shock and the secondary injuries which can result from such shock [Ex. 12; PH 5]. They also contended that equipment grounding prevents electric shock and provides greater protection to employees against ground fault [Ex. 28; PH 5]. However, a requirement for GFCI's would be in addition to, not in lieu of, the equipment grounding conductor requirements and would serve as backup protection in circumstances when the equipment grounding conductor does not provide protection.

4. *Whether GFCI's can be successfully used on construction sites.* Experience using GFCI's under varying weather and jobsite conditions was reported into the record by State and local electrical inspectors [Ex. 3, 7, 8, 9, 10, 11], various contractors and contractor associations [Ex. 2, 3, 4, 12, 28; Tr. 274–276, 283–284, 287–289, 293], Federal agencies [Ex. 2, 3], an electric utility [Ex. 27], and others [Ex. 14]. In general, the contractors claimed that GFCI's were unsuitable for use on construction sites due to "nuisance tripping," which resulted in downtime. Others, including Federal and local government authorities who have enforced the GFCI requirement on a local level based on their adoption of the NEC, reported that the devices could be used successfully with proper installation and maintenance of electrical tools and circuits.

The term "nuisance tripping," as used throughout the rulemaking proceeding, connoted two categories of GFCI tripping: (1) "false trips," i.e., trips due to such causes as malfunctioning GFCI's or electromagnetic interference; and (2) "intended trips" caused by leakages in excess of the trip level. This distinction should be clearly understood. The term "nuisance tripping" by itself is imprecise and often misleading, since all tripping may, in fact, be considered a nuisance. Yet, with this distinction in mind, "intended tripping" reflects the proper operation of the GFCI and indicates either a hazard to employees or misapplication of the GFCI which can be remedied.

The aggregate experience of the hearing witnesses and commenters demonstrates that tripping is caused by: (1) Wet cord connectors and tools; (2) Tools and cords in poor condition (especially in wet environments) or faulty tools and cords; (3) Extremely long circuits (over 500 ft.); (4) Too many tools on one GFCI; (5) Improper installation of a GFCI (such as a single pole GFCI on a multiwire circuit); (6) Faulty GFCI's; (7) Electromagnetic interferences; and (8) Power line transients.

The first two pose a serious hazard to the employee and the next three are misapplications of the GFCI. Trips due to these five causes are therefore "intended tripping." Therefore, with the elimination of improper GFCI usage, all intended trips would result from and be indications of hazardous conditions. Only the tripping caused by the last three, on the other hand, are "false tripping." The problems of "false tripping" caused by the last two items have apparently been overcome by the affected manufacturers [Ex. 1, 14; Tr. 338; PH 3]. (Some makes were not susceptible to either type of tripping [Tr. 443].)

Some commenters suggested that a trip level of 5mA was too low and contributed to the "nuisance tripping." These commenters suggested that trip levels of 15 or 20mA, or even 30mA, would be more appropriate. However, there is uncontroverted evidence in the record showing the "let-go" current threshold for construction workers to be 9mA [Ex. 2; Tr. 77]. (This "let-go" threshold is the current at which some of the people could not let go of an energized object held in the hand, possibly resulting in an injury or fatality in the absence of some form of protection.) Increasing the trip level would therefore increase the probability of a worker's being injured in spite of the use of a GFCI, because a hazardous ground-fault current which is less than the "higher" trip level but greater the "let-go" threshold can, in fact, occur. Furthermore, the trip level has a negligible effect on the sensitivity of a GFCI to "false tripping," and there is evidence in the record that increasing the trip level to 10 or 15mA (both of which are beyond the "let-go" threshold) would have a minor effect on the incidence of "intended tripping" [Ex. 27; Tr. 178, 197, 355]. Therefore, since increasing the trip level would not significantly reduce the incidence of tripping but would expose a worker to an increased probability of being injured, OSHA has concluded that a trip level of 5mA (with a tolerance of ±1mA) is feasible and necessary for the protection of employees.

Much of the evidence submitted on the frequent tripping of GFCI's was based on the use of earlier models with trip levels from 2.2mA to 5mA. However, the trip level of currently manufactured GFCI's is now 5mA ± 1mA, which will eliminate nonhazardous tripping from leakages less than 4mA [Tr. 16–17, 211]. Furthermore, the evidence submitted by the Puget Sound Power & Light Company indicated that all the trips experienced in their latest study were "intended" trips, because the leakages were, in fact, greater than 4mA [Ex. 27].

Some hearing witnesses claimed that tripping from wet tools and connectors caused serious downtime problems and called this "nuisance tripping." They also claimed that wet tools and connectors posed no hazard [Ex. 28; Tr. 311, 317–319, 371–378]. However, with a cord connector in water, hazardous leakages can develop not only to the equipment grounding conductor but to anyone who picks up that connector and provides a path to ground. This leakage is not limited to the face of the connector but also develops to any wetted portion of it.

Additionally, tools with high leakage currents (greater than 5mA), which might be caused, for example, by a build up of carbon or other conductive particles inside the tool, also represent hazards. If the leakage is below approximately one ampere and the equipment grounding conductor is of a low resistance, no shock should be perceived. However, since the body provides a parallel path to ground through which leakage current passes, the current flow through the body increases with increasing grounding conductor resistance. Thus, if the resistance of the equipment grounding conductor is significantly greater than 1 ohm or is intermittent, even tools with small leakages become hazardous.

The evidence also showed that the amount of tripping can be reduced by certain practices and procedures which in many cases also help reduce the hazard. Triping caused by wet connectors and tools can be reduced by not exposing them to excessive moisture [Ex. 7, 12, 14] and by using waterproof or sealable connectors [Ex. 7, 14; Tr. 310–311]. Tools and connectors can also be cleaned, replaced, or repaired, if necessary, to reduce tripping [Ex. 7, 12, 14; Tr. 200]. Providing more GFCI's can prevent tripping caused by the cumulative leakage of several tools, and locating them closer to the workmen can prevent tripping caused by leakages from extremely long

circuits [Ex. 14; Tr. 467–468]. In addition, many jurisdictions reported that after initial problems of excessive tripping, utilization of the above procedures eliminated the difficulties. In light of the above, OSHA believes that GFCI's can be successfully used on construction sites without excessive tripping, if certain practices and procedures are utilized. Furthermore, OSHA concludes that the use of GFCI's on construction sites will work to significantly reduce the amount of ground-fault accidents, and that it is technologically feasible to use them without interference with the normal safe operation of the jobsite.

5. *What is the estimated cost of implementing the requirement for GFCI's on construction sites?* The commenters used various methods of estimating either their own costs or those of the entire industry. Two large companies gave estimates of their own projected installation expenditures if GFCI's were required on construction sites [Ex. 12, 15]. Using these estimates and 1974 construction values (all the estimates in this section are based on 1974 construction values which were the latest figures available), an installation cost of 30 to 40 million dollars can be extrapolated for the construction industry. An electrical contractor's association estimated an installation cost of $34.5 million based on the increase in the cost of temporary wiring [Ex. 28]. These commenters estimated an additional cost of 1 to 2 times the cost of installation for annual maintenance expenses. These include the costs of lost production due to tripping, "extra" maintenance of tools, cords, and connectors, and replacement costs. However, among contractors, maintenance costs would vary in inverse proportion to the effort expended to reduce "intended" tripping from improper electrical installations and defective tools.

Another trade association estimated an initial cost of complying with a standard requiring GFCI's to be $10.3 million for approximately 70 percent of its membership [Tr. 299]. Based on 70 percent of the association's 1975 construction receipts [PH 5], this can be extrapolated to about $40 million for the entire construction industry.

By using a hypothetical building project as a model, a witness estimated that installing GFCI's would add approximately 0.05 percent to 0.06 percent to the cost of non-residential construction [Ex. 13]. Using 0.06 percent as a basis for projecting the cost for the entire construction industry, the initial cost for installing GFCI's is $80.9 million. However, the witness' assumptions lead to an over-estimation of the cost. For example, his assumptions call for a one-to-one relationship of GFCI's to employees using handtools, but other witnesses were assuming a more realistic ratio of at least two employees per GFCI [Ex. 12; Tr. 282]. Dividing the estimate of $80.9 million by a factor of two brings it into line with the other estimates of initial cost.

All of these cost estimates are, therefore, in the range of 30 to 40 million dollars for the installation of GFCI's and an additional expense of 1 to 2 times this amount for maintenance. The total cost would then average $87.5 million for the first year. However, some of the costs included in the maintenance expenses are those needed to bring tools and cords into compliance with current safety standards. Therefore, some of these maintenance costs are not attributable to the requirement for GFCI's. Furthermore, as experience is gained, these maintenance costs would be further reduced by using improved techniques and equipment.

The "Ground-Fault Circuit Protection, Preliminary Assessment of Technological Feasibility and Economic Impacts" prepared for OSHA by Arthur Young and Company estimated the annualized cost (annual cost plus 20% of the initial cost) to be as high as $73.5 million. This estimate generally agrees with the previous extrapolations of the witnesses' data.

In response to the request for comments on this assessment, one of the hearing participants submitted (comment 8) an estimated annual cost of about $600 million for GFCI's. This estimate included seven component factors, one of which was an annual "spurious" tripping cost of $540 million, based on a trip rate of 18.57 trips per GFCI per year and a cost of $30 per trip for a total of 1 million GFCI's. However, it appears that the trip rate of 18.57 is based on an unrepresentative installation, which experienced excessive tripping from electromagnetic interference—a problem which has since been corrected in newer-model GFCI's. Furthermore, this same company on a different construction site, which utilized a different type GFCI that protects two circuits and that was not subject to "false" tripping, experienced only 10.2 trips per GFCI per year [Tr. 283]. This is equivalent to a 5.1 trip rate for GFCI's which protect only one circuit, and is consistent with the 5.2 trip rate which was experienced by another witness' company [Ex. 12] and which was utilized in the preliminary assessment. Additionally, the $30 per trip cost submitted in comment 8 is a substantial over-estimate. This commenter claimed that 10 workers would be idled for each trip at a cost of $12 per hour per worker. This estimate appears to be too high. We think that a better estimate of the cost of idling workers would be based on the evidence that in 1974, the average construction worker earned about $6.77 per hour (Statistical Abstract of the U.S., 1974), and assuming a 25 percent add-on for increases and fringe benefits, his total compensation would be about $8.50 per hour. Normally, only two or three power tools can be accommodated by a 15- or 20-ampere circuit without overload; and, therefore, only two to three employees would thus be $91 million, and not $600 Using this commenter's estimate of 15 minutes of downtime per trip, the tripping cost would be about $5 per trip. These more representative numbers (a 5.2 trip rate and $5 per trip cost) would then yield an annual spurious tripping cost of $26 million rather than $540 million. Without correcting the other six component factors, in comment 8, which were also high, the annual cost of GFCI's would thus be $91 million, and not $600 million, for the construction industry.

Additionally, the hearing testimony and comments indicated that a significant number of jurisdictions already require GFCI's on construction sites [Ex. 7; Tr. 47]. In these jurisdictions, the contractors have presumably installed GFCI's, and no further expense would be incurred by an OSHA ground-fault protection requirement. This factor was not considered in any of the estimates and would also tend to reduce the expenditures needed to comply with an OSHA standard requiring GFCI's. However, though it would appear to have a significant effect, this factor cannot be precisely calculated.

6. *Whether there is a method other than GFCI's of supplementing the present equipment grounding conductor requirements to prevent 120-volt, ground-fault accidents on construction sites.* The notice of hearing discussed alternatives to GFCI's and indicated that OSHA was considering the possibility of requiring, as an alternative to GFCI's, a scheduled and recorded equipment inspection and maintenance program. Much evidence was received on this possibility.

Some of the witnesses stated that their safety records demonstrated that GFCI's were not needed to protect their employees from electrical hazards [Ex. 12, 15; Tr. 300–302]. These companies, however, maintain their electrical equipment with regular inspections and tests and have training programs to educate their employees in electrical safety [Ex. 12, 15; Tr. 276–277, 307]. Therefore, the witnesses claimed that an alternative means of protection from 120-volt, ground-fault hazards could be provided by an assured equipment grounding conductor program [Ex. 1, 12, 15].

Several companies and contractor associations submitted statistics on their experiences on construction sites using similar programs. For example, one association reported over 1.3 billion man-hours of construction work (which is equivalent to about ¼ of one year's total construction man-hours) with only 69 incidents involving contact with 120 volts [Tr. 300–301]. These 69 contacts resulted in four lost-time injuries and one fatality, which they claimed could not have been prevented by the use of a GFCI. One company reported a construction experience of 500 million man-hours with one lost-time injury and no fatalities [Ex. 12]. In both examples, the companies involved regularly check their tools and cords for compliance with OSHA's standards for proper equipment grounding [Ex. 12; Tr. 307]. The experience of these companies is that an assured equipment grounding conductor program is effective in preventing 120-volt, ground-fault accidents. Additionally, the chairman of an NEC technical subcommittee on the requirements for ground-fault circuit protection for personnel presented his recommendation that an assured equipment grounding

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conductor program be accepted as an alternative to GFCI's [Tr. 430–433, 440–441].

Some witnesses claimed that an assured equipment grounding conductor program does not provide the same measure of safety as the use of GFCI's [Ex. 14]. The argument presented in support of this view is that an assured equipment grounding conductor program would include only periodic checks of the condition of the equipment, whereas a GFCI affords continuous monitoring of the equipment [Ex. 14; Tr. 133–134]. Therefore, it is argued that an assured equipment grounding conductor program might not protect employees when the equipment grounding conductor malfunctions subsequent to testing of the equipment. While it may be technically true that defects in the equipment grounding conductor can develop after the equipment has been tested, nearly all defects can be spotted as they develop through inspection and testing. In addition, there has been no showing that a greater incidence of accidents has been experienced when an assured equipment grounding conductor program has been implemented than with the use of GFCI's.

An analysis of the accident data leads OSHA to the conclusion that most of the 120-volt, ground-fault accidents which have occurred could have been prevented either by the use of GFCI's or by the implementation of an assured equipment grounding conductor program. For example, one construction site fatality occurred after the victim had mistakenly connected the "hot" conductor to a cord connector's equipment grounding conductor terminal in trying to repair an extension cord. Upon plugging the portable saw into the cord, he was electrocuted [Ex. 5]. If an assured equipment grounding conductor program had been implemented, the extension cord would have been tested after its "repair." In testing the cord, the defect would have been detected and the accident would have been prevented. Another construction worker was electrocuted when he picked up a new electric hand tool [Ex. 5]. All the cords were properly wired, but an altered plus on one of the extension cords he was using was inserted into a receptacle with the plug's grounding prong in contact with the "hot" conductor's terminal. Still another construction worker was electrocuted as he was helping a coworker install metal studs [Ex. 5]. The extension cord that the coworker was using had portions where bare conductors were exposed by insulation damage. When the coworker pulled on the extension cord, one of the bare spots hit the metal stud on which the victim was leaning. A ground-fault current then flowed from the exposed conductor through the metal stud (which was in contact with it), through the worker (who was leaning on the stud), and back to ground through the properly grounded screw gun he was holding. If an assured equipment grounding conductor program had been implemented on the construction sites where these last two workers were killed, the daily inspections would have readily detected these defects (the altered plug in one case and the insulation damage in the other), before the accidents occurred.

Although enabling us to reach the conclusion that either method of protection, GFCI's or assured equipment grounding conductor programs, is highly effective, the accident data does not allow a determination of whether either method is more effective in protecting against ground-fault hazards. What the record does show is that the accident experience of companies, which have implemented assured equipment grounding conductor programs for a number of years, has been that very few accidents have actually occurred on their construction sites. Moreover, since proper equipment grounding could prevent nearly all of the 30 to 45 ground-fault electrocutions occurring annually, and since assured equipment grounding conductor programs have been shown to actually result in the proper maintenance of the equipment grounding conductor, OSHA concludes that these electrocutions can be prevented by the use of an assured equipment grounding conductor program.

7. What are the appropriate elements of an assured equipment grounding conductor program? The recommended type of assured equipment grounding conductor programs necessary to provide safety to the employee did not vary substantively among the majority of the witnesses. They generally agreed that the equipment grounding conductor had to be tested [Ex. 1, 12, 14, 15, 26, 34, 36, 37] and that the program did not have to be lengthy or complex [Ex. 15, 37; Tr. 432, 435]. Some witnesses recommended more tests than others. Among the tests recommended were:

1. A continuity test of the equipment grounding conductor;
2. A test for short circuits;
3. A test to determine the adequacy of the equipment grounding conductor, by passing a high current through it;
4. A resistance test of the equipment grounding conductor; and
5. A leakage test (for tools only).

Of these OSHA feels that to ensure the safe condition of the equipment grounding conductor for tools, extension cords, or power supplies only the continuity test is necessary. The presence of the equipment grounding conductor is the parameter which is essential in providing the intended safety of the assured equipment grounding conductor program. The remaining tests evaluate properties of the equipment other than the presence of the equipment grounding conductor. Additionally, a test ascertaining that the equipment grounding conductor is connected to its proper terminal should be conducted. These two tests would assure that the equipment grounding conductor is present.

Other factors these witnesses considered necessary in an assured equipment grounding conductor program included:

1. The procedure for the program should be in writing;
2. A person responsible for carrying out the program should be designated;
3. Tests should be performed on receptacles, cord sets, and equipment connected by cord and plug (which is required to be grounded);
4. The testing should be recorded;
5. The testing should be performed before first use, after repairs are made, after suspected damage has occurred, and at regular intervals (generally three months); and
6. Visual inspections for damage should be performed before each day's use of a tool or cord.

OSHA concludes that an assured equipment grounding conductor program, in order to be effective, must include all of these elements. Those employers who have successfully used a program of this nature have incorporated most or all of these elements into their programs. Testing of receptacles, cord sets, and equipment connected by cord and plug is necessary since this equipment, on construction sites, is subject to abuse and the equipment grounding conductor may become inoperative. Since the equipment grounding conductor could be inoperative in a new tool, an improperly repaired tool, or a damaged tool, testing is essential before first use, after repair, and after damage is suspected. Since ordinary usage of a tool may affect the integrity of the equipment grounding conductor, OSHA believes that periodic testing is necessary. Several witnesses recommended that this testing take place every three months, and every six months for cord sets and receptacles which are essentially fixed [Ex. 12; Tr. 14, 432]. This evidence was uncontroverted. The visual inspection, which will usually be conducted by the user of the tool, is designed to detect the obvious type of damage such as missing pins, frayed wires, or damaged insulation. This daily inspection will not only detect obvious defects, thus preventing accidents, but will also hopefully raise the awareness of the employees toward the hazards associated with their electrical tools. The written procedure, designation of responsibility, and recording of the tests are necessary administrative requirements which ensure the effective implementation of the assured equipment grounding conductor program.

Some commenters also indicated that training of employees is an important aspect of alerting employees to the hazards associated with the use of electricity. We agree that training in the hazards of electricity and the safe use of electrical connectors and tools is necessary for the protection of employees. We have not, however, included a specific requirement for a training program as part of the assured equipment grounding conductor program since the general training requirements in § 1926.21(b)(2), which requires employers to instruct employees in the recognition and avoidance of unsafe conditions, were considered to be applicable to the subject of electrical hazards and adequate to impose an obligation for the requisite training.

8. Whether it is feasible to implement an assured equipment grounding conductor program on construction sites. Some witnesses asserted that an assured equipment grounding conductor program was impractical and unworkable on construction sites [Tr. 277–278, 391; PH 5]. One witness based his assertion on his company's experience with a similar program implemented on a large industrial construction site [Tr. 277–278]. Due to the size of the site, the large number of employees, and the variety of color bands simultaneously displayed on different tools (color bands being one method of recording tests), this witness seriously questioned whether this program, which was required by Federal contract, was actually in compliance with the contract.

In contrast, considerable evidence has been submitted of successful application of assured equipment grounding conductor programs. Representing a large company, one witness indicated successful use of a system of assured equipment grounding since 1935 [Ex. 12]. This company has found a three-month test interval and a system of colored banding (as a test record) to be satisfactory. A large chemical company uses a program that includes "checking tools on leaving and coming back to the tool bins" [Tr. 260]. Still another large chemical company, in its construction activities, devotes its resources to installing and maintaining effective equipment grounding conductors [Ex. 37]. Additionally, representatives from two large industrial associations state that many of their member companies also have programs to assure proper equipment grounding [Ex. 26, 36]. In light of the overwhelming evidence of actual experience, OSHA concludes that it is feasible to implement such a program on construction sites.

9. What is the estimated cost of implementing an assured equipment grounding conductor program? One witness, whose company's construction volume was $1 billion, estimated the cost of an assured equipment grounding conductor program to his company to be $120,000 [Ex. 12; PH 2]. In the 1975 Statistical Abstract of the United States, the value of all U.S. construction was $135 billion for 1974. Extrapolating this witness' estimate to the entire construction industry, the cost to perform the tests for tools and cords would be $16.2 million. In addition, the cost of the equipment to perform the tests varies between 19.8 and 27.6 million dollars. This range is based on the use of either a specialized tester or the use of standard testers. Based on the estimate that one specialized tester, costing approximately $500, would be used for every 100 tools and that there is one tool for each of the 4,000,000 construction employees, the total initial procurement cost for this tester would be approximately $19.8 million. However, use of standard testers (with a cost of $10 for a receptacle tester and $20 for an ohmmeter) by each of the 920,000 contractors in the U.S. would result in an initial cost of about $27.6 million. Therefore, the total first year cost (of testing and test equipment) could range from 36.0 to 43.8 million dollars.

IV. Conclusions

OSHA is faced with three alternatives in making its decision on ground-fault protection for personnel on construction sites—revoking the requirements for GFCI's entirely, requiring GFCI's or requiring either GFCI's or an assured equipment grounding conductor program. The evidence submitted on the subject of ground-fault circuit interrupters is sufficient to provide a basis for this determination to be made. The record has clearly demonstrated that 120-volt, ground-fault accidents are occurring on construction sites in sufficient quantity to deserve attention. OSHA feels that the 30 to 45 deaths per year, and the numerous secondary accidents, that are attributible to ground-faults strongly indicate a definite need for regulatory action to provide employee protection. Clearly, the record demonstrates that the use of GFCI's can feasibly and effectively supplement the present equipment grounding conductor requirements in preventing these accidents. Furthermore, the evidence shows that GFCI's can be used successfully on construction sites, if certain practices and procedures are utilized. These include not exposing cord connectors or tools to water and providing a sufficient number of GFCI's.

The evidence also indicates that proper equipment grounding can prevent such accidents. However, unless they are properly maintained and regularly checked, equipment grounding conductors may become discontinuous or ineffective, without this condition becoming readily apparent to the employee using the equipment. Based on the record, we have concluded that the proper maintenance and checking can be provided by an assured equipment grounding conductor program, and that such a program can be an effective and feasible method of preventing electrical accidents from cord- and plug-connected equipment. These programs include regularly testing the equipment grounding conductors of receptacles, cord sets, and equipment.

Our decision to permit employers to select either GFCI's or the assured equipment grounding conductor program as the means of providing the necessary protection for employees is based on our conclusion from the evidence that both means provide approximately the same margins of safety. Both methods work in the sense that they are technically sound ways of preventing ground-fault accidents and could have prevented nearly all of the electrocutions discussed in the record. Both procedures, however, also have their technical or practical deficiencies. For example, GFCI's do not prevent electric shock and, while they will trip before the employee is electrocuted, the employee experiencing the shock may still suffer a serious, even fatal, secondary injury as a result of the recoil from the shock. GFCI's are also subject to failure and to being by-passed. The assured equipment grounding conductor program also has deficiencies. For example, it requires careful attention of the person(s) responsible for its implementation, and it cannot totally eliminate the possibility that the equipment grounding conductor may suddenly fail or be bypassed. Additionally, in a small number of cases, the equipment grounding conductor may not provide adequate safety. The evidence in the record is not sufficiently detailed, nor do we think evidence could presently be obtained, to permit a precise calculation of the greater effectiveness of one method over the other; however, based on the evidence and the foregoing discussion, we conclude that the difference in effectiveness, if it exists at all, is very small. Furthermore, while the proposal and notice of hearing did not specifically raise the possibility of requiring the use of both GFCI's and an assured equipment grounding conductor program, this option is viewed as providing a speculative and, at most, marginal improvement in safety while imposing a substantially greater burden on employers.

It is clear that the overriding purpose of the Act is to protect employee safety and health even if such protection results in the expenditure of large sums of money, increased production costs or reduced profit margins. On the other hand, the Act is not intended to impose unnecessary financial or other burdens upon affected employers. In light of the total value of construction (which exceeds $135,000,000,000 per year), however, the standard will not have a major economic or inflationary impact. Furthermore, in view of the number of 120-volt, ground-fault electrocutions occurring on construction sites (which is estimated to be between 30 and 45 per year) and other injuries incurred, the cost of compliance is justified.

As noted, OSHA has determined that the use of assured equipment grounding conductor programs on construction sites can be as effective in preventing 120-volt, ground-fault accidents as the use of GFCI's. Since an equivalent margin of safety can be afforded by the use of either method of protection, OSHA believes that it is appropriate to permit the employer to select either GFCI's or an assured equipment grounding conductor program on construction sites. In our view, permitting the employer this alternative, where safety is not being sacrificed, better effectuates the purposes of the Act within the meaning of section 6(b)(8) than would a requirement that all employers install GFCI's as required by the 1971 NEC. Several reasons lead to this conclusion. OSHA believes that, to the extent possible, its regulations should not inhibit technological development by mandating the implementation of specific devices or means of achieving safety where other means are available which are equally effective. Providing employers with a choice also encourages employer compliance with the standard and thereby eases enforcement as well. Many employers who already have an assured equipment grounding conductor program in effect or who already use GFCI's will

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be able to comply with this standard with only minor adjustments in their methods of operation. This will give appropriate consideration to those who have taken steps to protect their employees and will encourage such action by other employers in the future. Even as to employers who do not now have an assured equipment grounding conductor program or do not use GFCI's, providing a choice of methods of protection will encourage compliance by easing the burden on employers without sacrificing safety. Thus, an employer may choose one method of protection or the other on the basis of several factors. The individual employer may choose on the basis of cost; if his local jurisdiction already requires GFCI's, he may choose GFCI's; if he is one employer of many on a construction site, the availability of alternatives gives him a flexibility to coordinate compliance. Another factor considered by an employer could be the size of his operation—a smaller employer may opt for the purchase of one or more portable GFCI's while a larger employer might pick the assured equipment grounding conductor program. OSHA believes that offering such a choice will encourage compliance by employers and therefore result in greater safety.

Finally, there is evidence which indicates that the code making authorities responsible for the revision of the NEC are currently considering amending the pertinent consensus standard to permit the same alternative means of protection as the ones being permitted in the standard promulgated herein.

Based on the record as a whole, OSHA has determined that a ground-fault protection standard is necessary and appropriate for the safety and health of employees. Therefore, OSHA is promulgating a rule requiring employers to provide either: (a) Ground-fault circuit interrupters on construction sites, or (b) a scheduled and recorded, assured equipment grounding conductor program covering receptacles, cord sets, and cord- and plug-connected equipment used on construction sites.

V. Discussion of the Final Standard

Following is a discussion of the major aspects of the final standard. Employers are required by the final standard to provide at least one of two ground-fault protection methods on construction sites, in addition to complying with the applicable equipment grounding conductor requirement contained in the OSHA regulations. Each method is discussed separately as follows:

1. *Ground-fault Circuit Interrupters (§ 1910.309(c)(2); § 1926.400(h)(2)).* If the employer selects this option, the employer must provide ground-fault circuit interrupter protection for all 120-volt, 15- and 20-ampere, single-phase receptacles on construction sites, which are not a part of the permanent wiring of the building or structure and which are in use by employees. As noted, this protection is required in addition to, not in lieu of, the equipment grounding conductor requirements of Parts 1910 and 1926.

The GFCI's used must be "approved," as that term is defined in §§ 1910.308(d) and 1926.405(a). Various types of approved GFCI's suitable for use on construction sites are available, including circuit-breaker, receptacle, and portable types. Most of today's approved GFCI's have trip levels of 5mA ± 1mA. Portable GFCI's are acceptable, if they are connected to the receptacle outlet in use.

On generators whose supply wires are not required to be grounded, and are in fact not grounded, the return path for a ground-fault current to flow is not completed and the hazard which a GFCI would protect against is not present. Consequently, the rule as promulgated in § 1910.309(c)(2) and § 1926.400(h)(2) does not require the use of GFCI's on portable or vehicle-mounted generators of 5kW capacity or less if its output is a two-wire, single-phase system and its circuit conductors are insulated from the generator frame and all other grounded surfaces. This section is similar to the provisions of the 1975 NEC, section 210-8(b). It should be noted that receptacles on all small portable generators are not exempt from the GFCI requirement. The standard clearly states that receptacles on such generators, to be exempt, must have the circuit conductors insulated from the generator frames and all grounded surfaces. The requirements of section 445-8 of the 1971 NEC (adopted by reference in § 1910.309 and § 1926.400(a)) also, of course, apply to such generators.

2. *Assured Equipment Grounding Conductor Program (§ 1910.309(c)(3) and § 1926.400(h)(3)).* If the employer selects this option, the employer must provide an assured equipment grounding conductor program covering all cord sets, receptacles which are not a part of the permanent wiring of the building or structure, and equipment connected by cord and plug which are available for use by employees. The requirements which the program must meet are set forth in §§ 1910.309(c)(3) and 1926.400(h)(3), but employers may provide additional tests or procedures. Though it is not required to be posted, a written procedure for the program shall be kept at the jobsite and made available to OSHA and any affected employee.

The employer must designate one or more competent persons to implement the program: A competent person is defined in § 1926.32(f) as one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them. This person may be the employer, an employee of the employer, or another person.

Inspections. Equipment, except cord sets and receptacles which are fixed and not exposed to damage, must be inspected, before each day's use, for visible damage or defects. Any equipment found on inspection to be damaged or defective may not be made available for use or used by employees.

Periodic Tests. Two tests are required to be performed to assure the safe condition of the equipment grounding conductor. The first test is a continuity test—the equipment grounding conductor must be electrically continuous. This test is required to be performed on all cord sets, receptacles which are not a part of the permanent wiring of the building or structure, and cord- and plug-connected equipment which are required to be grounded. It may be performed by an ohmmeter for cord sets and cord- and plug-connected equipment, and by a receptacle tester for receptacles or by any other testing device which can ascertain electrical continuity.

In addition to the continuity test, a test must be performed on receptacles and attachment caps and plugs to ascertain that the equipment grounding conductor is connected to its proper terminal. This test can be performed by the same equipment used to perform the first test.

Both of these tests are required to be performed: (1) Before first use; (2) after any repairs; (3) after damage can be reasonably suspected to have occurred; and (4) at 3 month intervals. For cord sets and receptacles which are fixed and not exposed to damage which rough handling or abuse is most likely to cause, the testing frequency may be reduced to once every six months. The basis for the different testing interval is that this type of equipment, once it is in place, is not subject to the same abuse, and the hazards thereby created, as equipment that is constantly moved around on construction sites. Therefore, cord sets which we would consider fixed would only be those which, once they are put in place, remain stationary and not those cord sets which are being constantly moved around on construction sites.

Recording of testing. The standard requires that the testing be recorded. To record the tests, color coding, logs, or other effective means may be used. The record must indicate which equipment passed the test and the date it was tested or the interval for which it was tested. Any equipment which fails to pass the required tests may not be made available for use by employees until the defect has been repaired and the equipment successfully retested.

3. *Effective Date.* In order to allow a period for employers and employees to be informed of the existence and requirements of this standard, the effective date of the standard is February 22, 1977.

VI. The Final Standard

Accordingly, upon consideration of the whole record of this proceeding, and pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96; 40 U.S.C. 333), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, Parts 1910 and

1926 of Title 29, Code of Federal Regulations, are hereby amended as follows:

1. In 29 CFR Part 1910, paragraph (c) of § 1910.309 is revised to read as follows:

§ 1910.309 National Electrical Code.

* * * * * *

(c) *Ground-fault protection*—(1) *General.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, the requirement in section 210-7 of the 1971 National Electrical Code (NFPA 70-1971; ANSI C1-1971) that all 15- and 20-ampere receptacle outlets on single-phase circuits for construction sites have approved ground-fault circuit protection for personnel does not apply. In lieu thereof, the employer shall use either ground-fault circuit interrupters as specified in paragraph (c)(2) of this section or an assured equipment grounding conductor program as specified in paragraph (c)(3) of this section, to protect employees on construction sites. These requirements are in addition to any other requirements for equipment grounding conductors.

(2) *Ground-fault circuit interrupters.* All 120-volt, single-phase, 15- and 20-ampere receptacle outlets on construction sites, which are not a part of the permanent wiring of the building or structure and which are in use by employees, shall have approved ground-fault circuit interrupters for personnel protection. Receptacles on a two-wire, single-phase portable or vehicle-mounted generator rated not more than 5kW, where the circuit conductors of the generator are insulated from the generator frame and all other grounded surfaces, need not be protected with ground-fault circuit interrupters.

(3) *Assured equipment grounding conductor program.* The employer shall establish and implement an assured equipment grounding conductor program on construction sites covering all cord sets, receptacles which are not a part of the permanent wiring of the building or structure, and equipment connected by cord and plug, which are available for use or used by employees. This program shall comply with the following minimum requirements:

(i) A written description of the program, including the specific procedures adopted by the employer, shall be available at the jobsite for inspection and copying by the Assistant Secretary and any affected employee.

(ii) The employer shall designate one or more competent persons (as defined in 29 CFR 1926.32(f)) to implement the program.

(iii) Each cord set, attachment cap, plug and receptacle of cord sets, and any equipment connected by cord and plug, except cord sets and receptacles which are fixed and not exposed to damage, shall be visually inspected before each day's use for external defects, such as deformed or missing pins or insulation damage, and for indication of possible internal damage. Equipment found damaged or defective may not be used until repaired.

(iv) The following tests shall be performed on all cord sets, receptacles which are not a part of the permanent wiring of the building or structure, and cord- and plug-connected equipment required to be grounded:

(A) All equipment grounding conductors shall be tested for continuity and shall be electrically continuous.

(B) Each receptacle and attachment cap or plug shall be tested for correct attachment of the equipment grounding conductor. The equipment grounding conductor shall be connected to its proper terminal.

(v) All required tests shall be performed:

(A) Before first use;

(B) Before equipment is returned to service following any repairs;

(C) Before equipment is used after any incident which can be reasonably suspected to have caused damage (for example, when a cord set is run over); and

(D) At intervals not to exceed 3 months, except that cord sets and receptacles which are fixed and not exposed to damage shall be tested at intervals not exceeding 6 months.

(vi) The employer may not make available or permit the use by employees of any equipment which has not met the requirements of this paragraph (c)(3) of this section.

(vii) Tests performed as required in this paragraph shall be recorded. This test record shall identify each receptacle, cord set, and cord- and plug-connected equipment that passed the test, and shall indicate the last date it was tested or the interval for which it was tested. This record shall be kept by means of logs, color coding, or other effective means, and shall be maintained until replaced by a more current record. The record shall be made available on the jobsite for inspection by the Assistant Secretary and any affected employee.

2. In 29 CFR Part 1926, paragraph (h) of § 1926.400 is revised to read as follows:

§ 1926.400 General requirements.

* * * * * *

(h) *Ground-fault protection.*—(1) *General.* Notwithstanding any other provision of this part, the requirement in section 210-7 of the 1971 National Electrical Code (NFPA 70-1971; ANSI C1-1971) that all 15- and 20-ampere receptacle outlets on single-phase circuits for construction sites have approved ground-fault circuit protection for personnel does not apply. In lieu thereof, the employer shall use either ground-fault circuit interrupters as specified in paragraph (h)(2) of this section or an assured equipment grounding conductor program as specified in paragraph (h)(3) of this section, to protect employees on construction sites. These requirements are in addition to any other requirements for equipment grounding conductors.

(2) *Ground-fault circuit interrupters.* All 120-volt, single-phase, 15- and 20-ampere receptacle outlets on construction sites, which are not a part of the permanent wiring of the building or structure and which are in use by employees, shall have approved ground-fault circuit interrupters for personnel protection. Receptacles on a two-wire, single-phase portable or vehicle-mounted generator rated not more than 5kW, where the circuit conductors of the generator are insulated from the generator frame and all other grounded surfaces, need not be protected with ground-fault circuit interrupters.

(3) *Assured equipment grounding conductor program.* The employer shall establish and implement an assured equipment grounding conductor program on construction sites covering all cord sets, receptacles which are not a part of the permanent wiring of the building or structure, and equipment connected by cord and plug which are available for use or used by employees. This program shall comply with the following minimum requirements:

(i) A written description of the program, including the specific procedures adopted by the employer, shall be available at the jobsite for inspection and copying by the Assistant Secretary and any affected employee.

(ii) The employer shall designate one or more competent persons (as defined in § 1926.32(f)) to implement the program.

(iii) Each cord set, attachment cap, plug and receptacle of cord sets, and any equipment connected by cord and plug, except cord sets and receptacles which are fixed and not exposed to damage, shall be visually inspected before each day's use for external defects, such as deformed or missing pins or insulation damage, and for indication of possible internal damage. Equipment found damaged or defective may not be used until repaired.

(iv) The following tests shall be performed on all cord sets, receptacles which are not a part of the permanent wiring of the building or structure, and cord- and plug-connected equipment required to be grounded:

(A) All equipment grounding conductors shall be tested for continuity and shall be electrically continuous.

(B) Each receptacle and attachment cap or plug shall be tested for correct attachment of the equipment grounding conductor. The equipment grounding conductor shall be connected to its proper terminal.

(v) All required tests shall be performed:

(A) Before first use;

(B) Before equipment is returned to service following any repairs;

(C) Before equipment is used after any incident which can be reasonably suspected to have caused damage (for example, when a cord set is run over); and

(D) At intervals not to exceed 3 months, except that cord sets and receptacles which are fixed and not exposed to damage shall be tested at intervals not exceeding 6 months.

(vi) The employer may not make available or permit the use by employees of any equipment which has not met the requirements of this paragraph (h)(3) of this section.

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(vii) Tests performed as required in this paragraph shall be recorded. This test record shall identify each receptacle, cord set, and cord- and plug-connected equipment that passed the test, and shall indicate the last date it was tested or the interval for which it was tested. This record shall be kept by means of logs, color coding, or other effective means, and shall be maintained until replaced by a more current record. The record shall be made available on the jobsite for inspection by the Assistant Secretary and any affected employee.

Effective date: These amendments of Parts 1910 and 1926 become effective on February 22, 1977.

(Secs. 6(b) and 8(c), Pub. L. 91-596, 84 Stat. 1593, 1599 (29 U.S.C. 655, 657); sec. 107, Pub. L. 91-54, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order No. 8-76 (41 FR 25059); 29 CFR Part 1911).

Signed at Washington, D.C., this 15th day of December, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37472 Filed 12-17-76;8:45 am]

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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(For Details, See 41 FR 46527, Oct. 21, 1976)

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OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
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Uniform net capital rule; comments by 12–31–76..... 53037; 12–3–76

TRANSPORTATION DEPARTMENT
Coast Guard—
Drawbridge operations; Lake Washington Ship Canal, Washington; comments by 12–28–76..... 52307; 11–29–76
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Aircraft noise measurement and evaluation specifications; comments by 12–30–76..... 47342; 10–28–76
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TREASURY DEPARTMENT
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Income Taxes; unpaid taxes shown on amended returns; comments by 12–30–76..... 49178; 11–8–76

Next Week's Meetings

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
Shippers Advisory Committee, Lakeland, Florida (open), 12–28–76. 52330; 11–29–76

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Fellowships Panel Advisory Committee, Washington, D.C. (closed), 12–28–76. 49201; 11–8–76

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
New England Regional Fishery Management Council, Peabody, Mass. (open), 12–28 thru 12–30–76. 54211; 12–13–76

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Silver and red hake, herring, mackerel, long and short-finned squid and other finfish; draft environmental impact statements, Peabody, Mass. (open), 12–28–76..... 54210; 12–13–76

DEFENSE DEPARTMENT
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Next Week's Public Hearings

NOTE: There were no items eligible for inclusion in the list of hearings for next week.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

presidential documents

Title 3—The President

Executive Order 11948 • **December 20, 1976**

Continuance of Certain Federal Advisory Committees

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

SECTION 1. Each advisory committee listed below is hereby continued until December 31, 1978:

(a) Citizens' Advisory Council on the Status of Women—Executive Order No. 11126, as amended (Department of Labor).

(b) Committee for the Preservation of the White House—Executive Order No. 11145, as amended (Department of the Interior).

(c) President's Commission on White House Fellowships—Executive Order No. 11183, as amended (United States Civil Service Commission).

(d) President's Committee on the National Medal of Science—Executive Order No. 11287, as amended (National Science Foundation).

(e) Quetico-Superior Committee—Executive Order No. 11342, as amended (Department of Agriculture).

(f) National Health Resources Advisory Committee—Executive Order No. 11415, as amended (General Services Administration).

(g) Citizens' Advisory Committee on Environmental Quality—Executive Order No. 11472, as amended (Council on Environmental Quality).

(h) President's Council on Physical Fitness and Sports—Executive Order No. 11562, as amended (Department of Health, Education, and Welfare).

(i) Consumer Advisory Council—Executive Order No. 11583, as amended (Department of Health, Education, and Welfare).

(j) Advisory Council for Minority Enterprise—Executive Order No. 11625 of October 13, 1971 (Department of Commerce).

(k) President's Export Council—Executive Order No. 11753 of December 20, 1973 (Department of Commerce).

(l) President's Committee on Mental Retardation—Executive Order No. 11776 of March 28, 1974 (Department of Health, Education, and Welfare).

(m) Federal Advisory Council on Occupational Safety and Health—Executive Order No. 11807 of September 28, 1974 (Department of Labor).

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SEC. 2. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act which are applicable to the committees listed in Section 1 of this order, except that of reporting annually to Congress, shall be performed by the head of the department or agency designated after each committee in accordance with guidelines and procedures established by the Director of the Office of Management and Budget.

SEC. 3. Executive Order No. 11868, as amended, establishing the President's Commission on Olympic Sports, is revoked effective January 16, 1977.

SEC. 4. (a) The following Executive orders are revoked:

(1) Executive Order No. 11667 of April 19, 1972, establishing the President's Advisory Committee on the Environmental Awards Merit Program.

(2) Executive Order No. 11809 of September 30, 1974, establishing the President's Labor-Management Committee.

(3) Executive Order No. 11860 of May 19, 1975, establishing the President's Advisory Committee on Refugees.

(b) Executive Order No. 11827, as amended, is superseded.

SEC. 5. This order shall be effective December 31, 1976.

Gerald R. Ford

THE WHITE HOUSE,
December 20, 1976.

[FR Doc. 76-37802 Filed 12-21-76; 11:29 am]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. RM76-8; Order No. 539-B]

PART 2—GENERAL POLICY AND INTERPRETATIONS

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Enforcement of Deliverability and Rendition of Natural Gas Service Under Certificated Arrangements

Correction in FEDERAL REGISTER Document 76-22744, Filed August 5, 1976; 8:45 a.m.; appearing on pages 32883-32885 in the issue of August 6, 1976.

In ordering paragraph (B) amending Title 18 of the CFR by adding a new § 157.41: Change the first line of new § 157.41 from: "On and after July ____, 1976, * * *." to read: "On and after July 30, 1976, * * *."

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37508 Filed 12-21-76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76-340, 76-341, 76-342, 76-343]

PART 159—LIQUIDATION OF DUTIES

Footwear From Taiwan and Republic of Korea; Countervailing Duties; Amendments of Final Determination and Waiver; Correction

The documents listed below were previously published in the Notices section of the FEDERAL REGISTER. The documents should have been published in the rules section of the FEDERAL REGISTER as Treasury Decisions. On September 27, 1976, the Office of the Federal Register initiated an action to place these documents in the rules section of the FEDERAL REGISTER (41 FR 42184). Treasury Decision (T.D.) numbers are hereby assigned to the documents, as follows:

1. FR Doc. 76-323, appearing at page 1298 of the FEDERAL REGISTER for Wednesday, January 7, 1976, titled "Final Countervailing Duty Determination on Footwear from Taiwan," is hereby designated T.D. 76-340. This T.D. number should also be noted in connection with the amendment made by this document to the table set forth in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)).

2. FR Doc. 76-323 was amended by FR Doc. 76-18386, appearing at page 26035 of the FEDERAL REGISTER for Thursday, June 24, 1976, titled "Amendment to Final Countervailing Duty Determination on Footwear from Taiwan." FR Doc. 76-18386 is hereby designated T.D. 76-343.

3. FR Doc. 76-18384, appearing at page 26035 of the FEDERAL REGISTER on Thursday, June 24, 1976, titled "Amendment to Final Countervailing Duty Determination on Footwear from Korea," is hereby designated T.D. 76-341.

4. FR Doc. 76-18385, appearing at page 26035 of the FEDERAL REGISTER for Thursday, June 24, 1976, titled "Amendment to Waiver of Countervailing Duty Determination on Footwear from Korea," is hereby designated T.D. 76-342.

VERNON D. ACREE,
Commissioner of Customs.

Approved: December 15, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76-37402 Filed 12-21-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-398]

PART 275—LOW RENT PUBLIC HOUSING

Prototype Cost Limits; New Mexico Indian Housing—Region VI

In the FEDERAL REGISTER issued June 9, 1976, (41 FR 23302), prototype per unit cost schedules were published pursuant to section 6(b) of the United States Housing Act of 1937. Consideration of subsequent factual cost data and other information was received from field staff relating to New Mexico prototype costs for Indian Reservations. The cost data and other information submitted indicates that the prototype per unit cost schedule for Jemez, New Mexico be deleted, Zuni, New Mexico prototype cost schedule be added and revised prototype per unit cost schedules for six other Indian Reservations to be revised.

Written data, views or statements may be filed with the Director, Office of Technical Support, HUD Central Office, 451 7th Street, S.W., Room 6152, Washington, D.C. 20410, and a copy should be sent to the HUD Area Office, 1 Embarcadero Center, Suite 1600, San Francisco, California 94111, concerning recommended changes in the schedules.

Section 6(b) of the U.S. Housing Act of 1937, as amended, provides that prototype costs shall be effective on the date of publication. However, comments received will be considered in preparing future revisions.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C.

Accordingly, 24 CFR, Part 275 is amended as follows:

1. At 41 FR 23342, delete the prototype per unit cost schedule for Jemez, since the Jemez prototype cost area has been combined with the Isleta area.

2. At 41 FR 23342, add the prototype per unit cost schedule for Zuni, shown on the table set forth hereinafter entitled "Prototype Per Unit Cost Schedule—Region VI".

3. At 41 FR 23342, substitute the revised prototype per unit cost schedules for Dulce, Isleta, Laguna, Mescalero, Penasco and Pojoaque shown on the table set forth hereinafter, entitled "Prototype Per Unit Cost Schedule—Region VI."

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

It is hereby certified that the economic and inflationary impacts of the amendment to Part 275 have been carefully evaluated in accordance with OMB Circular A-107.

Effective date: This amendment is effective on December 16, 1976.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

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PROTOTYPE PER UNIT COST SCHEDULE

REGION VI

POJOAQUE	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	18,100	21,800	24,300	28,950	34,800	38,900	40,400
Row Dwellings	17,200	20,700	23,000	27,450	32,800	36,500	38,350
Walk-Up	15,000	18,500	21,050	24,900	28,900	31,700	33,200
Elevator-Structure	27,100	31,700	40,050	-	-	-	-

ZUNI	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	17,250	20,750	25,650	30,550	36,800	40,900	42,900
Row Dwellings	16,050	19,400	24,100	28,650	34,300	38,350	39,950
Walk-Up	14,250	17,800	22,500	26,700	30,750	33,900	35,700
Elevator-Structure	23,200	26,850	33,950	-	-	-	-

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

REGION VI

DULCE	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	19,400	23,250	25,900	30,900	37,150	41,550	43,300
Row Dwellings	18,450	22,100	24,650	29,350	35,100	39,100	40,900
Walk-Up	16,000	19,700	22,400	26,500	30,800	33,850	35,500
Elevator-Structure	29,000	33,800	42,650	-	-	-	-

ISLETA	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	17,450	20,900	23,350	27,800	33,600	37,500	39,050
Row Dwellings	14,450	17,300	19,250	23,050	27,450	30,700	32,050
Walk-Up	12,600	15,500	17,600	20,800	24,150	26,450	27,900
Elevator-Structure	22,700	26,450	33,450	-	-	-	-

LAGUNA	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	17,450	21,000	23,400	27,900	33,700	37,500	39,100
Row Dwellings	16,700	19,900	22,200	26,550	31,700	35,300	40,350
Walk-Up	14,350	17,800	20,250	24,000	27,800	30,550	32,050
Elevator-Structure	26,100	30,550	38,550	-	-	-	-

MESCALERO	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	18,250	22,000	24,500	29,200	35,200	39,250	40,800
Row Dwellings	17,400	20,950	23,300	27,750	33,150	36,900	38,800
Walk-Up	15,100	18,650	21,200	25,150	29,150	32,000	32,400
Elevator-Structure	27,350	32,000	40,400	-	-	-	

PENASCO	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	18,800	22,650	25,250	30,100	36,300	40,550	42,150
Row Dwellings	19,950	21,550	24,000	28,600	34,200	38,050	39,900
Walk-Up	15,550	19,300	21,850	25,900	29,900	33,000	34,600
Elevator-Structure	28,300	33,000	41,650	-	-	-	-

[FR Doc.76-37660 Filed 12-21-76;8:45 am]

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Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[Income Tax Regulations (T.D. 74474)]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Tax Treatment Upon Demolition of Buildings On Leased Property

By a notice of proposed rule making appearing in the FEDERAL REGISTER for April 21, 1972 (37 FR 7891), an amendment to the Income Tax Regulations (26 CFR Part 1) under section 165 of the Internal Revenue Code of 1954 (relating to losses) was proposed. The purpose of the proposed amendment was to clarify the present regulations with respect to the proper income tax treatment of the remaining adjusted basis in a building which is demolished pursuant to a lease. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is adopted by this document with slight modification.

The amendment to the regulations provides that where a lease agreement requires the lessee or lessor, or gives the lessee the option, to demolish any building on the leased property the lessor's remaining adjusted basis in the demolished building cannot be deducted by him under section 165 as a demolition loss. Rather, it is to be adjusted to reflect the net cost of or proceeds from demolition and amortized over the remaining term of the lease. The modification to the amendment of the regulations as proposed makes clear that a loss deduction is not precluded by this regulation when the lessor at his sole option demolishes a bulding on leased property.

Adoption of amendments to the regulations. On April 21, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 7891) to amend the Income Tax Regulations (26 CFR Part 1) under section 165 of the Internal Revenue Code of 1954 (relating to losses) to clarify the income tax treatment of the demolition of a building pursuant to a lease. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, paragraph (b)(2) of § 1.165–3 is amended to read as follows:

§ 1.165–3 Demolition of buildings.

* * * * *

(b) *Intent to demolish formed subsequent to the time of acquisition.* * * *

(2) If a lessor or lessee of real property demolishes the buildings situated thereon pursuant to a lease or an agreement which resulted in a lease, under which either the lessor was required or the lessee was required or permitted to demolish such buildings, no deduction shall be allowed to the lessor under section 165 (a) on account of the demolition of the old buildings. However, the adjusted basis of the demolished buildings, increased by the net cost of demolition or decreased by the net proceeds from demolition, shall be considered as a part of the cost of the lease to be amortized over the remaining term thereof.

* * * * * *

(Sec. 7805, Internal Revenue Code of 1954 (68 Stat. 917; 26 U.S.C. 7805))

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 14, 1976.

WILLIAM M. GOLDSTEIN,
Deputy Assistant Secretary of the Treasury.

[FR Doc.76-37491 Filed 12-21-76;8:45 am]

Title 28—Judicial Administration

CHAPTER III—FEDERAL PRISON INDUSTRIES, DEPARTMENT OF JUSTICE

PART 301—INMATE ACCIDENT COMPENSATION

Hearing and Review Process

By virtue of the authority vested in the Attorney General by 18 U.S.C. 4126 and delegated by the Attorney General by 28 CFR 0.99 and by the Board of Directors of Federal Prison Industries, Inc., Part 301 of Chapter III of Title 28, Code of Federal Regulations, is hereby amended by adding nine new sections (§§ 301.12–301.20) and renumbering seven other sections (§§ 301.12–301.18 are renumbered §§ 301.21–301.27 respectively), as set forth below.

In that the material contained herein enlarges rather than restricts the hearing and review process afforded claimants of Inmate Accident Compensation, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

Under the new provisions, claims for inmate accident compensation are determined by a four member Inmate Accident Compensation Committee. Any claimant dissatisfied with the Committee's initial determination shall, upon the filing of a timely request, have the right to either an in-person hearing before the Committee or to a Committee reconsideration of the claim. In addition, if claimant exercises his right to either review procedure, he or she has the right to make a final appeal to the Associate Commissioner, Federal Prison Industries, Inc.

In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments, suggestions, data or arguments to the Associate Commissioner, Federal Prison Industries, Inc., 320 First Street, N.W., Washington, D.C. 20534. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as further changes are made, however, as set forth 28 CFR 301.12–301.20 shall remain in effect, thus permitting the public business to proceed more expeditiously.

These regulations are effective December 22, 1976.

The Table of Contents for 28 CFR Part 301 is amended to read as follows:

Sec.
301.1 Purpose and scope.
301.2 Medical attention.
301.3 Record of injury and initial claim.
301.4 Report of injury.
301.5 Prerelease claim for compensation.
301.6 Report of death.
301.7 Report of repetitious accidents.
301.8 Inmate work assignments.
301.9 Noncompensable injuries.
301.10 Compensation for lost time.
301.11 Compensation awards.
301.12 Processing of claims.
301.13 Request for hearing or reconsideration, disclosure.
301.14 Committee reconsideration.
301.15 Notice, time, place of hearing and postponement.
301.16 Witnesses.
301.17 Conduct of hearing.
301.18 Expenses.
301.19 Representation of claimant.
301.20 Review by the Associate Commissioner of Federal Prison Industries, Inc.
301.21 Establishing the amount of the award.
301.22 Time and method of payment of compensation claim.
301.23 Compensation suspended by misconduct.
301.24 Medical treatment required following discharge.
301.25 Civilian Compensation laws distinguished.
301.26 Employment of attorneys.
301.27 Exclusive remedy.

The following new §§ 301.12—301.20 are added to Part 301 of Title 28 of the Code of Federal Regulations:

§ 301.12 Processing of claims.

(a) A claim for inmate accident compensation shall be determined by an Inmate Accident Compensation Committee (hereinafter referred to as the "Committee") appointed by the Director of the Bureau of Prisons under authority delegated to him by the Board of Directors of Federal Prison Industries pursuant to § 0.99 of this title. The Committee shall consist of four members and four alternates, with any combination of three thereof required to form a quorum for decision making purposes.

(b) In determining the claim the Committee will consider all available evidence. Written notice of the decision, including the reasons therefore, together with information as to the right to a hearing before the Committee or Committee reconsideration of the decision and to an appeal to the Associate Commissioner of Federal Prison Industries, shall be mailed to the claimant at his or her last known address.

§ 301.13 Request for hearing or reconsideration, disclosure.

(a) Any claimant not satisfied with the decision of the Committee shall, upon written request made within 30 days after the date of issuance of such decision or thereafter, upon a showing of good cause, be afforded an opportunity for either a hearing before the Committee, or Committee reconsideration of the decision. A claimant may request a hearing or reconsideration by writing to the Inmate Accident Compensation Committee, Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534.

(b) Upon receipt of claimant's request, a copy of the information upon which the Committee's initial determination was based shall be mailed to the claimant at his or her last known address. Where the Committee determines the release of information to the claimant or to the claimant's beneficiary is not in the best interest of the claimant or his beneficiary, the Committee may release the information to the claimant's or beneficiary's representative or personal physician upon receipt of both a written authorization from the claimant or beneficiary and a written request from the representative or personal physician. If the individual concerned is mentally incompetent, insane or deceased, the next of kin or legal representative must authorize in writing the release of records to the representative or personal physician.

§ 301.14 Committee reconsideration.

If the claimant elects to have the Committee reconsider the initial determination, he or she may submit documentary evidence which the Committee shall consider in addition to the original record. The Committee shall fix the time in which it will receive evidence, and may request additional documented evidence from the claimant or other source. A copy of the Committee's reconsidered decision shall be mailed to the claimant at his or her last known address.

§ 301.15 Notice, time, place of hearing and postponement.

(a) The hearing or reconsideration shall be held within 60 days of the Committee's receipt of claimant's request, except as provided in paragraph (b) of this section. Notice of the date set for Committee action shall be mailed to the claimant at his or her last known address. When practical, the hearing shall be set at a time convenient for claimant, and all hearings shall be conducted at the Central Office of the Bureau of Prisons, 320 First Street, N.W., Washington, D.C.

(b) A hearing or reconsideration may be postponed at the option of the Committee, or, if good cause is shown, upon request of claimant. A claimant shall be considered to have abandoned his or her request for a hearing if he or she fails to appear at the time and place set for hearing and does not, within 10 days after the time set for the hearing, show good cause for his or her failure to appear. A claimant may change his or her request from either hearing to reconsideration or reconsideration to hearing, but must give the Committee notice of such change at least 10 days prior to the previously scheduled action.

§ 301.16 Witnesses.

(a) If a claimant plans to present witnesses at the hearing, he or she must provide the Committee with a list of the witnesses' names and addresses and an outline of their proposed testimony at least 10 days prior to the scheduled hearing date. The Bureau of Prisons has no authority to compel the attendance of witnesses.

(b) Any person incarcerated at the time of the hearing in a Federal, State or local penal or correctional institution may not appear as a witness, but his or her testimony may be received in the form of a written statement.

§ 301.17 Conduct of hearing.

(a) In conducting the hearing, the Committee is not bound by common law or statutory rules of evidence, or by technical or formal rules of procedure, but may conduct the hearing in such manner as to best ascertain the rights of the claimant and the obligations of the government. At such hearing, the claimant shall be afforded an opportunity to present evidence in further support of his or her claim.

(b) The Committee shall receive such relevant evidence as may be adduced by the claimant and shall, in addition, receive such other evidence as the Committee may determine to be necessary and useful in evaluating the claim. Evidence may be presented orally or in the form of written statements and exhibits.

(c) In order to fully evaluate the claim, the Committee may question the claimant and any witnesses appearing before the Committee at the hearing on behalf of the claimant or government.

(d) A claimant, or his or her representative, may question the Committee or any witness appearing before the Committee on behalf of the government, but only on matters which the Committee determines are relevant to its evaluation of the claim.

(e) The hearing shall be recorded, and a copy of the recording, or, in the discretion of the Committee, a transcript thereof, shall be made available to the claimant upon request, provided such request is made not later than 90 days following the date of the hearing.

(f) The Committee shall mail a written notice of its determination to affirm or amend its original decision with the reasons therefore to the claimant at his or her last known address not later than 30 days after the date of the hearing, unless the Committee needs to make a further investigation as a result of information received at the hearing.

§ 301.18 Expenses.

The Bureau of Prisons may not assume any expenses incurred by the claimant, his or her representative, or any witnesses appearing on behalf of the claimant in connection with attendance at the hearing.

§ 301.19 Representation of claimant.

(a) A claimant may appoint any person to represent his or her interest in any proceeding for determination of a claim under this part so long as that person is not incarcerated in any Federal, State or local penal or correctional institution. Claimant's appointment of a representative must be in writing with a copy filed with the Committee or on the record at the hearing.

(b) A claimant shall be responsible for any costs related to the services of his or her representative.

(c) A representative appointed in accordance with paragraph (a) of this section may make or give, on behalf of the claimant he or she represents, any request or notice relative to any proceeding before the Committee or Associate Commissioner. A representative shall be entitled to present or elicit evidence or make allegations as to facts and law in any proceeding affecting the claimant he or she represents and to obtain information with respect to the claim of such claimant to the same extent as such party. Notice to any claimant of any administrative action, determination, or decision, may be sent to the representative of such claimant, and such notice or request shall have the same force and effect as if it has been sent to the claimant.

§ 301.20 Review by the Associate Commissioner of Federal Prison Industries, Inc.

Any claimant not satisfied with the Committee's reconsidered decision or decision after a hearing may appeal such decision to the Associate Commissioner of Federal Prison Industries, 320 First Street, N.W., Washington, D.C. 20534. Written notice of the appeal must be mailed within 90 days from the date of the reconsidered decision or the decision after a hearing. For good cause shown, the Associate Commissioner may waive the failure to appeal within this time limitation. The Associate Commissioner shall review the record and must act to affirm or amend the appealed decision not later than 90 days after receipt of claimant's notice of appeal. Written notice of the Associate Commissioner's decision shall be mailed to the claimant at his or her last known address.

§§ 301.12–301.18 [Redesignated]

Sections 301.12–301.18 of Title 28 CFR Part 301 are renumbered and now appear as §§ 301.21–301.27.

Dated: December 17, 1976.

NORMAN A. CARLSON,
Commissioner, Federal Prison Industries, Inc.

[FR Doc.76-37586 Filed 12-21-76;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

SUBCHAPTER D—PROCUREMENT, PROPERTY, PATENTS, AND CONTRACTS

PART 746—LICENSING OF GOVERNMENT INVENTIONS IN THE CUSTODY OF THE DEPARTMENT OF THE NAVY

Pursuant to the authority conferred in 5 U.S.C. 301, 10 U.S.C. 5031, and 41 CFR 101–4.1, the Secretary of the Navy, on October 21, 1976, adopted Secretary of the Navy Instruction 5870.2C (SECNAVINST 5870.2C) entitled "Licensing of the government inventions in the custody of the Navy." Accordingly, the Secretary of the Navy establishes a new Part 746, which codifies SECNAVINST 5870.2C. This new part prescribes the policies, administrative requirements, procedures,

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terms, and conditions for licensing of rights in government-owned domestic patents and patent applications vested in the United States of America which are in the custody of the Department of the Navy. This part, promulgated in accordance with Department of Defense (DOD) Directive 5535.3 of November 2, 1973, merely implements within the Navy the policies, requirements, procedures, rules, and guidelines, contained in the General Services Administration's regulation on "Licensing of Government Owned Inventions" at 41 CFR 101–4.1.

Since Part 746 does not originate any rules, but merely implements Department of Defense and General Services Administration regulations, it has been determined that invitation of public comment on this part prior to adoption would be impracticable and unnecessary and is therefore not required under the public rule-making provisions in Parts 296 and 701 of 32 CFR.

Accordingly, title 32 CFR is hereby amended by adding a new Part 746, providing as follows:

Sec.

746.1 Purpose.
746.2 Policy.
746.3 Delegation of authority.
746.4 Definitions.
746.5 Government inventions available for licensing.
746.6 Nonexclusive license.
746.7 Limited exclusive license.
746.8 Additional licenses.
746.9 Royalties.
746.10 Reports.
746.11 Procedures.
746.12 Litigation.
746.13 Transfer of custody of government inventions.

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 5031; 40 U.S.C. 486(c); and 41 CFR 101–4.1.

§ 746.1 Purpose.

This part implements Department of Defense Directive 5535.3 of November 2, 1973 and 41 CFR Subpart 101–4.1, and sets forth the policy, terms, conditions, and procedures for the licensing of rights in domestic patents and patent applications vested in the United States of America and in the custody of the Department of the Navy.

§ 746.2 Policy.

(a) A major premise of the Presidential Statement of Government Patent Policy, August 23, 1971 (36 FR 16887, August 26, 1971), is that government inventions normally will best serve the public interest when they are developed to the point of practical application and made available to the public in the shortest possible time. The granting of express nonexclusive or exclusive licenses for the practice of these inventions may assist in the accomplishment of the national objective to achieve a dynamic and efficient economy.

(b) The granting of nonexclusive licenses generally is preferable, since the invention is thereby laid open to all interested parties and serves to promote competition in industry, if the invention is in fact promoted commercially. However, to obtain commercial utilization of the invention, it may be necessary to grant an exclusive license for a limited period of time as an incentive for the investment of risk capital to achieve practical application of an invention.

(c) Whenever the grant of an exclusive license is deemed appropriate, it shall be negotiated on terms and conditions most favorable to the public interest. In selecting an exclusive licensee, consideration shall be given to the capabilities of the prospective licensee to further the technical and market development of the invention, his plan to undertake the development, the projected impact on competition, and the benefit to the Government and the public. Consideration shall be given also to assisting small business and minority business enterprises, as well as economically depressed, low income, and labor surplus areas, and whether each or any applicant is a United States citizen or corporation. Where there is more than one applicant for an exclusive license, that applicant shall be selected who is determined to be most capable of satisfying the criteria and achieving the goals set forth in this part.

(d) Subject to the following:

(1) Any existing or future treaty or agreement between the United States and any foreign government or intergovernmental organization, or

(2) Licenses under or other rights to inventions made or conceived in the course of or under Department of the Navy research and development contracts where such licenses or other rights to such inventions are provided for in the contract and retained by the party contracting with the Department of the Navy,

no license shall be granted or implied in a government invention, except as provided for in this part.

(e) No grant of a license under this part shall be construed to confer upon any licensee any immunity from the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this part shall not be immunized from the operation of state or federal law by reason of the source of the grant.

§ 746.3 Delegation of authority.

The Chief of Naval Research is delegated the authority to administer the patent licensing program, with the authority to redelegate such authority.

§ 746.4 Definitions.

(a) "Government invention" means an invention covered by a domestic patent or patent application that is vested in the United States and in the custody of the Department of the Navy, and is designated by the Chief of Naval Research as appropriate for the grant of an express non-exclusive or exclusive license.

(b) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine, under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

§ 746.5 Government inventions available for licensing.

Government inventions normally will be made available for the granting of express nonexclusive or limited exclusive licenses to responsible applicants according to the factors and conditions set forth in §§ 746.6 and 746.7, subject to the applicable procedures of § 746.11. The Chief of Naval Research may remove a prior designation of availability for licensing of any patent(s) or patent application(s), provided that no outstanding licenses to that invention are in effect.

§ 746.6 Nonexclusive license.

(a) *Availability of licenses.* Each government invention normally shall be made available for the granting of nonexclusive revocable licenses, subject to the provisions of any other licenses, including those under § 746.8.

(b) *Terms of grant.* (1) The duration of the license shall be for a period as specified in the license agreement, provided that the licensee complies with all the terms of the license.

(2) The license shall require the licenses to bring the invention to the point of practical application within a period specified in the license, or such extended period as may be agreed upon, and to continue to make the benefits of the invention reasonably accessible to the public.

(3) The license may be granted for all or less than all fields of use of the invention, and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(4) After termination of a period specified in the license agreement, the Chief of Naval Research may restrict the license to the fields of use and/or geographic areas in which the licensee has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public.

(5) The license may extend to subsidiaries and affiliates of the licensee but shall be nonassignable without approval of the Chief of Naval Research, except to the successor of that part of the licensee's business to which the invention pertains.

(6) The Government shall make no representation or warranty as to the validity of any licensed application(s) or patent(s), or of the scope of any of the claims contained therein, or that the exercise of the license will not result in the infringement of any other patent(s), nor shall the Government assume any liability whatsoever resulting from the exercise of the license.

§ 746.7 Limited exclusive license.

(a) *Availability of licenses.* Each government invention may be made available for the granting of a limited exclusive license, provided that:

(1) The invention has been published as available for licensing pursuant to paragraph (a) of § 746.11 for a period of at least 6 months;

(2) The Chief of Naval Research has determined that:

(i) The invention may be brought to the point of practical application in certain fields of use and/or in certain geographical locations by exclusive licensing;

(ii) The desired practical application has not been achieved under any nonexclusive license granted on the invention; and

(iii) The desired practical application is not likely to be achieved expeditiously in the public interest under a nonexclusive license or as a result of further government-funded research or development;

(3) The notice of the prospective licensee has been published, pursuant to paragraph (d) of § 746.11 for at least 60 days; and

(4) After termination of the period set forth in paragraph (a) (3) of § 746.7 the Chief of Naval Research has determined that no applicant for a nonexclusive license has brought or will bring, within a reasonable period, the invention to the point of practical application, as specified in the exclusive license, and that to grant the exclusive license would be in the public interest.

(b) *Selection of exclusive licensee.* An exclusive licensee will be selected on bases consistent with the policy set forth in § 746.2 and in accordance with the procedures set forth in § 746.11

(c) *Terms of grant.* (1) The license may be granted for all or less than all fields of use of the government invention, and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(2) Subject to the rights reserved to the Government in paragraphs (c) (6) and (c) (7) of § 746.7, the licensee shall be granted the exclusive right to practice the invention in accordance with the terms and conditions specified in the license.

(3) The duration of the license shall be negotiated but shall be for a period less than the terminal portion of the patent, the period remaining being sufficient to make the invention reasonably available for the grant of a nonexclusive license; and such period of exclusivity shall not exceed 5 years unless the Chief of Naval Research determines, on the basis of a written submission supported by a factual showing, that a longer period is reasonably necessary to permit the licensee to enter the market and recoup his reasonable costs in so doing.

(4) The license shall require the licensee to bring the invention to the point of practical application within a period specified in the license, or within a longer period as approved by the Chief of Naval Research, and to continue to make the benefits of the invention reasonably accessible to the public.

(5) The license shall require the licensee to expend a specified minimum amount of money and/or take other specified actions, within a specified period of time after the effective date of the license, in an effort to bring the invention to the point of practical application.

(6) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention throughout the world, by or on behalf of the Government of the United States, and by or on behalf of any foreign government or intergovernmental organization pursuant to any existing or future treaty or agreement with the United States. If the Chief of Naval Research finds it to be in the public interest, this license may also be expressly subject to this same royalty-free right by or on behalf of state and municipal governments.

(7) The license shall reserve to the Chief of Naval Research the right to require the licensee to grant sublicenses to responsible applicants on terms that are reasonable in the circumstances:

(i) To the extent that the invention is required for public use by government regulations, or

(ii) As may be necessary to fulfill health or safety needs, or

(iii) For other public purposes stipulated in the license.

(8) The license may extend to subsidiaries and affiliates of the licensee but shall be nonassignable without approval of the Chief of Naval Research, except to successors of that part of the licensee's business to which the invention pertains.

(9) An exclusive licensee may grant sublicenses under his license, subject to the approval of the Chief of Naval Research. Each sublicense granted by an exclusive licensee shall make reference to the exclusive license, including the rights retained by the Government under the exclusive license, and a copy of such sublicense shall be furnished to the Chief of Naval Research.

(10) The license may be subject to such other terms as may be in the public interest.

(11) The Government shall make no representation or warranty as to validity of any licensed application(s) or patent(s), or of the scope of any of the claims contained therein, or that the exercise of the license will not result in the infringement of any other patent(s), nor shall the Government assume any liability whatsoever resulting from the exercise of the license.

§ 746.8 Additional licenses.

Subject to any outstanding licenses, nothing in this part shall preclude the Chief of Naval Research from granting additional nonexclusive or limited exclusive licenses for government inventions when he determines that to do so would provide for an equitable exchange of patent rights. The following exemplify circumstances wherein such licenses may be granted:

(a) In consideration of the settlement of an interference;

(b) In consideration of a release of a claim of infringement; or

(c) In exchange for, or as part of, the consideration for a license under adversely held patents.

§ 746.9 Royalties.

(a) *Nonexclusive license.* Normally, royalties shall not be changed under nonexclusive licenses granted to United States citizens and United States corporations on government inventions; however, the Chief of Naval Research may require other consideration.

(b) *Limited exclusive license.* A limited exclusive license on a government invention shall contain a royalty provision and/or other consideration flowing to the Government.

§ 746.10 Reports.

A license shall require the licensee to submit periodic reports on his efforts to achieve practical application of the invention. The reports shall contain information within his knowledge, or which he may acquire under normal business practices, pertaining to the commercial use being made of the invention, and other information which the Chief of Naval Research may determine is pertinent to its licensing activities and is specified in the license.

§ 746.11 Procedures.

(a) *Publication requirements.* The Chief of Naval Research shall cause to be published in the FEDERAL REGISTER, the Official Gazette of the United States Patent and Trademark Office, and at least one other publication that the Chief of Naval Research deems would best serve the public interest, a list of the government inventions available for licensing under the conditions specified in this part. The list shall be revised periodically to include directly, or by reference to a previously published list, all inventions currently available for licensing. Other publications on inventions available for licensing are encouraged, and may include abstracts, when appropriate, as well as information on the design, construction, use, and potential market for the inventions.

(b) *Contents of a nonexclusive license application.* An application for a nonexclusive license under a government invention should be addressed to the Chief of Naval Research (Code 300), Arlington, VA 22217, and shall include:

(1) Identification of the invention for which the license is desired, including the patent application serial number or patent number, title, and date, if known, and any other identification of the invention;

(2) Name and address of the person, company, or organization applying for the license, and whether the applicant is a United States citizen or a United States corporation;

(3) Name and address of the representative of applicant to whom correspondence should be sent;

(4) Nature and type of applicant's business;

(5) Source of information concerning the availability of a license on this invention;

(6) Purpose for which the license is desired and a brief description of applicant's plan to achieve that purpose;

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(7) A statement of the fields of use for which applicant intends to practice the invention; and

(8) A statement as to the geographic areas in which the applicant would practice the invention.

(c) *Contents of an exclusive license application.* An application for an exclusive license should be addressed to the Chief of Naval Research (Code 300), Arlington, VA 22217, and, in addition to the information indicated in paragraph (b) of § 746.11, an application for an exclusive license shall include:

(1) Applicant's status, if any, in any one or more of the following categories:

(i) Small business firm;

(ii) Minority business enterprise;

(iii) Location in a surplus labor area;

(iv) Location in a low-income area; and

(v) Location in an economically depressed area;

(2) A statement of applicant's capability to undertake the development and marketing required to achieve the practical application of the invention;

(3) A statement describing the time, expenditure, and other acts which the applicant considers necessary to achieve practical application of the invention and the applicant's offer to invest that sum to perform such acts if the license is granted;

(4) A statement that contains the applicant's best knowledge of the extent to which the government invention is being practiced by private industry and the Government;

(5) Identification of other exclusive licenses granted to applicant under inventions in the custody of other government agencies; and

(6) Any other facts which the applicant believes are evidence that it is in the public interest for the Chief of Naval Research to grant an exclusive license rather than a nonexclusive license, and that such exclusive license should be granted to the applicant.

(d) *Published notices.* (1) A notice that a prospective exclusive licensee has been selected shall be published in the FEDERAL REGISTER, and a copy of the notice shall be sent to the Attorney General. The notice shall include:

(i) Identification of the invention;

(ii) Identification of the selected licensee;

(iii) Duration and scope of the contemplated license; and

(iv) A statement to the effect that the license will be granted unless:

(A) An application for a nonexclusive license, submitted by a responsible applicant pursuant to paragraph (b) of § 746.11, is received by the Chief of Naval Research within 60 days from the publication of the notice in the FEDERAL REGISTER, and the Chief of Naval Research determines in accordance with his prescribed procedures, under which procedures the Chief of Naval Research shall record and make available for public inspection all decisions made pursuant thereto and the basis therefore, that the applicant has established that he has already achieved or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or

(B) The Chief of Naval Research determines that a third party has presented evidence and argument which has established that it would not be in the public interest to grant the exclusive license.

(2) If an exclusive license has been granted pursuant to this part, notice thereof shall be published in the FEDERAL REGISTER. Such notice shall include:

(i) Identification of the invention;

(ii) Identification of the licensee; and

(iii) Duration and scope of the license.

(3) If an exclusive license has been modified or revoked pursuant to paragraph (e) of § 746.11, notice thereof shall be published in the FEDERAL REGISTER. Such notice shall include:

(i) Identification of the invention;

(ii) Identification of the licensee; and

(iii) Effective date of the modification or revocation.

(e) *Modification or revocation.* (1) Any license granted pursuant to this part may be modified or revoked by the Chief of Naval Research if the licensee at any time defaults in making any report required by the license or commits any breach of covenant or agreement therein contained.

(2) A license may also be revoked by the Chief of Naval Research if the licensee willfully makes a false statement of a material fact or willfully omits a material fact in the license application or any report required in the license agreement.

(3) Before modifying or revoking any license granted pursuant to this part for any cause, the Chief of Naval Research shall furnish the licensee and any sublicensee of record a written notice of intention to modify or revoke the license, and the licensee and any sublicensee shall be allowed 30 days after such notice to remedy any breach of any covenant or agreement as referred to in paragraph (e) (1) of § 746.11, or to show cause why the license should not be modified or revoked.

(f) *Appeals.* An applicant for a license, a licensee, or such other third party who has participated under paragraph (d) (1) (iv) (B) of § 746.11 shall have the right to appeal, in accordance with procedures prescribed by the Chief of Naval Research, any decision concerning the granting, denial, interpretation, modification, or revocation of a license.

§ 746.12 Litigation.

The property interest in a patent is the right to exclude. It is not the intent of the Government to transfer the property right in a patent when a license is issued pursuant to this part. Accordingly, the right to sue for infringement shall be retained with respect to all licenses so issued by the Government.

§ 746.13 Transfer of custody of government inventions.

The Chief of Naval Research may enter into an agreement to transfer custody of a government invention to another government agency for purposes of administration, including the granting of licenses pursuant to this part.

Dated: December 15, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76-37569 Filed 12-21-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 658-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the New Jersey State Implementation Plan

The purpose of this notice is to announce the approval of a revision to the New Jersey State Implementation Plan affecting the sulfur content of fuel oil permitted for use at the Owens Illinois, Inc. facility in Bridgeton City, Cumberland County, New Jersey. Notice of receipt of this revision request and the establishment of a 30-day period for public comment were published in the October 28, 1976 FEDERAL REGISTER (41 FR 47283). This action will permit the use, until January 12, 1977, of fuel oil with a sulfur content of 1.5 percent, by weight, at the Owens Illinois facility. Currently, this facility is permitted to use fuel oil with a sulfur content of 1.0 percent.

On September 15, 1976, the Environmental Protection Agency (EPA) announced (41 FR 39329) its disapproval of an earlier proposal submitted by the State of New Jersey which would have allowed the use of 2.5 percent sulfur in fuel oil at the Owens Illinois facility.

The technical material submitted by the State in support of this earlier proposal consisted of a dispersion modeling analysis which used an uncalibrated modified version of an aerodynamic downwash model proposed in the literature in draft form. EPA determined that this analysis was inadequate to justify the use of 2.5 percent sulfur in fuel oil at the Owens Illinois facility and at the same time assure protection of ambient air quality standards in the vicinity of the facility. In the absence of model calibration there was considerable doubt whether the air quality predictions were based on sufficiently conservative assumptions to provide the necessary margin of safety for the protection of ambient air quality standards.

On September 17, 1976, the Region II Office of EPA received another proposed revision to the New Jersey State Implementation Plan which would allow the temporary use of 1.5 percent sulfur in fuel oil at the Owens Illinois, Bridgeton City facility. This revision request was submitted in accordance with all applicable EPA requirements as contained in 40 CFR Part 51 and consists, in part, of an administrative order signed by the Commissioner of the New Jersey Department of Environmental Protection (DEP). The administrative order was issued pursuant to N.J.A.C. 7:27-9.5(a), Temporary Variances, and revises the allowable sulfur in fuel content contained in 7:27-9.2 of Subchapter 9, Sulfur in Fuels, of the New Jersey Administrative Code.

In response to the October 28, 1976 FEDERAL REGISTER notice EPA received only one comment. This was from the New Jersey DEP informing EPA that building and stack downwash problems persist in the vicinity of the Owens Illinois facility despite recent increases in stack height. In the technical review performed by EPA no credit was given to any stack height increases. The downwash problems were observed in the field by personnel of the New Jersey DEP and confirmed by a survey of local area residents. The problems might be more chronic and severe than provided for in the assumptions used in the aerodynamic downwash model.

Because of the continued concern about stack and building downwash, the State's administrative order requires that Owens Illinois install and operate, under State supervision, an air quality monitoring network consisting of sulfur dioxide and particulate matter monitors in the vicinity of the facility prior to and during the use of 1.5 percent sulfur in fuel oil. The implementation of this order is a condition of EPA's approval of this revision. The State's administrative order and EPA's approval of the use of 1.5 percent sulfur in fuel oil may be revoked at any time evidence is obtained indicating that ambient air quality standards are threatened. Ambient air quality monitoring for particulate matter is being required because of previously demonstrated adverse synergistic effects of sulfur oxides and particulate matter, and also in response to a June 24, 1976 EPA guidance memorandum which cautions against the increase in sulfur oxide emissions in areas affected by high particulate levels. This collection of data should also prove critical to the consideration of any future proposal of a permanent revision to the New Jersey State Implementation Plan.

After review of all relevant material, the Administrator has determined that the proposed revision is consistent with current EPA policies and goals set forth in the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51 in that the proposed revision will not result in the contravention of any applicable ambient air quality standard. Therefore, the Administrator is approving this proposed New Jersey revision.

This revision will become effective immediately upon publication since it does not result in the imposition of additional substantive burdens on the affected source and can be implemented without delay if the source so desires.

(42 U.S.C. 1857c-5 and 1857g)

Dated: December 15, 1976.

JOHN QUARLES,
Acting Administrator, Environmental Protection Agency.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart FF—New Jersey

1. Section 52.1570 is amended by adding a new paragraph (c) (15) as follows:

§ 52.1570 Identification of plan.

* * * * * *

(c) Supplemental information was submitted on:

* * * * * *

(15) Revision consisting of an administrative order issued on September 14, 1976 to Owens Illinois, Inc., Cumberland County, New Jersey pursuant to the New Jersey Administrative Code (N.J.A.C.) 7:27-9.5(a) and submitted on September 17, 1976 by the New Jersey Department of Environmental Protection.

[FR Doc.76-37600 Filed 12-21-76;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER H—TRAINING

PART 310—MERCHANT MARINE TRAINING

Subpart C—Admission and Training of Midshipmen at the United States Merchant Marine Academy

Part 310 of Title 46 of the Code of Federal Regulations is hereby amended. This amendment increases the pay that midshipmen of the United States Merchant Marine Academy receive while assigned to merchant vessels for sea year training.

The purpose of this amendment is to implement the Maritime Administration policy that midshipmen shall receive the same rate of pay from their steamship company employers for the sea year training as cadets receive at the Federal academies.

Since the rate of pay received by midshipmen while assigned to subsidized merchant vessels is a matter of public contract with the owners of such vessels, this amendment to the Merchant Marine Training regulations is adopted without notice of proposed rulemaking.

Part 310 of Title 46 of the Code of Federal Regulations is amended by revising the first sentence of paragraph (c) of § 310.58 to read as follows:

§ 310.58 Training on subsidized vessels.

* * * * * *

(c) *Pay*—Midshipmen shall receive pay, while attached to merchant vessels, at the rate of $345.00 per month from their steamship company employers. * * *

Effective date: This amendment shall become effective January 17, 1977.

(Section 204(b), Merchant Marine Act, 1936, as amended (49 Stat. 1987, 46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 842) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Order 10-8 (38 F.R. 19707, July 23, 1973)

(Catalog of Federal Domestic Assistance Program No. 11-507 U.S. Merchant Marine Academy (Kings Point).)

Dated: DECEMBER 14, 1976.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-37557 Filed 12-21-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-1042]

PART 73—RADIO BROADCAST SERVICES

Alphabetical Index of Rule Titles

Correction

In FR Doc. 76-35192 appearing on page 52677 in the issue of Wednesday, December 1, 1976, in the middle column of page 52685, in the last line of the codified material designated "§ 73._____" paragraph (a)(4), "(§§ 1.50 to 1.621)" should have read "(§§ 1.501 to 1.621)."

[Docket No. 20894]

PART 73—RADIO BROADCAST SERVICES

Report and Order; Proceeding Terminated

Adopted: December 14, 1976.
Released: December 16, 1976.

In the matter of Amendment of § 73.202(b), *Table of Assignments, FM Broadcast Stations.* (San Manuel, Arizona).

1. The Commission has under consideration its *Notice of Proposed Rule Making*, adopted August 19, 1976, 41 Fed. Reg. 36219, in the above-captioned proceeding which was instituted on the Commission's own motion. The *Notice* proposed the substitution of Channel 288A for Channel 269A at San Manuel, Arizona, in order to correct a short-spacing situation.

2. San Manuel, an unincorporated community of 4,332 persons, is located in Pinal County (pop. 67,916). Channel 269A, the only FM assignment at San Manuel, is unoccupied and unapplied for.

3. Channel 269A is short-spaced 11 kilometers (7) miles to the first adjacent channel (268) on which Class C Station KHEP, Phoenix, Arizona, operates. Assignment of Channel 288A to San Manuel, Arizona, would conform to the minimum distance separation requirements of the Commission's rules. The Commission believes the substitution of Channel 288A for Channel 269A at that community, thereby ending the existing short-spacing, would be in the public interest.

4. Mexican concurrence has been obtained for the assignment of Channel 288A to San Manuel, Arizona.

5. Authority for the adoption of the amendment contained herein appears in Section 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of

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1934, as amended, and in Section 0.281 of the Commission's Rules and Regulations.

6. In view of the foregoing, *it is ordered*, That effective January 27, 1977, § 73.202 (b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows:

City:	Channel No.
San Manuel, Ariz.	288A

7. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-37572 Filed 12-21-76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Docket No. 35867][1]

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, ON CLASSIFICATIONS OF MOTOR CARRIERS

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

Revision of Regulations for the Construction, Filing, and Posting of Tariffs of Common Carriers of Property by Motor Vehicle and Tariffs of Certain Common Carriers by Water

Correction

In FR Doc. 76-21147, appearing on page 30590 in the issue for Monday, July 26, 1976 make the following changes:

1. On page 30605, third column, in § 1310.9(a)(5), the notations should read:

"(Except as otherwise provided herein.)
(Except as otherwise provided herein. See • • •)"

2. On page 30623, third column, the footnote,

"• (Richard Roe, doing business as Roe's trucking, series)"

should appear after the fourth line of the form in § 1310.25(g)(1).

3. On page 30632, the first column, in § 1310.28(h)(4), the example should read:

"Amendment to Item 100 (Sup. 50)"	The effective date is hereby postponed from ---------- to ----------

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 9]

FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Authority to Invest Trust Funds In A Variable Amount Notes

The Comptroller of the Currency, pursuant to the authority contained in the Act of September 28, 1962, 12 U.S.C. 92a, is considering a revision of 12 CFR 9.18 (c)(2)(ii) which authorizes the investment of trust funds held by a bank in a variable amount note maintained by the bank. The proposed revision would (a) establish a limitation on the amount of the note in which investment is authorized and (b) authorize investment in the note of trust funds held by a bank affiliated with the bank maintaining the note.

The establishment of a limitation on the amount of the note to an amount not in excess of 10 percent of the capital and surplus of the bank would be in accord with the policy established by Congress with respect to loans made by the bank to a single borrower and with the principles of diversification of risk. Perhaps more important is the need to direct attention to the purpose for the establishment of variable amount notes which is to provide a completely flexible short-term investment for trust funds.

The authorization for the investment of trust funds held by a bank affiliated with the bank maintaining the note corresponds with the recent amendments to 12 CFR 9.1 and 9.18(a)(1) (41 FR 47937, Nov. 1, 1976) which permit affiliated banks to invest trust funds in a common trust fund operated by one or more of their number which in turn resulted from a recent similar amendment (Sec. 1, Pub. L. 94-414, Approved September 17, 1976) to section 584(a) of the Internal Revenue Code of 1954, (26 U.S.C. 584(a)).

12 CFR 9.18(c)(2)(ii) would be revised to read as follows:

§ 9.18 Collective investment.

• • • • • •

(c) • • •

(2) • • •

(ii) On a short-term basis in a variable amount note of a borrower of prime credit in an amount not in excess of 10 percent of the capital and surplus of the bank: *Provided*, That such note is being maintained by the bank on its premises and may be utilized by it only for investment of moneys held in its trust department accounts or the trust department accounts of banks which are affiliated with the bank: *Provided further*, That the bank or any bank affiliated with it owns no participation in the loans or obligations authorized under paragraph (c)(2)(i) or (ii) of this section and has no interest in any investment therein except in its capacity as fiduciary.

• • • • • •

Persons desiring to comment on the proposed amendment should submit their comments to Dean E. Miller, Deputy Comptroller for Trusts, Office of the Comptroller of the Currency, Washington, D.C. 20219 to be received no later than February 17, 1977.

Such material will be made available for inspection and copying upon request pursuant to the Comptroller's rules regarding availability of information.

Dated: December 17, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76-37532 Filed 12-21-76;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 310]

PRIVACY ACT OF 1974

Safeguarding Personal Information

On October 6, 1975, the Federal Deposit Insurance Corporation ("FDIC"), in accordance with the requirements of section 3(f) of the Privacy Act of 1974, 5 U.S.C. 552a(f), 88 Stat. 1896, 1900-01, published, on pages 46274-46276 in the FEDERAL REGISTER, notice of the final adoption of Part 310 to the FDIC's rules and regulations. 12 CFR 310. These regulations provided procedures permitting individuals to gain access to certain FDIC records pertaining to themselves. During the period in which the FDIC has operated under these regulations certain changes have been found to be necessary in order to facilitate public access to such personally identifiable records.

In accordance with these determinations, the Board of Directors of the FDIC is publishing for notice and comment, proposed amendments to Part 310 of its Rules and Regulations. These proposed changes would minimize the identification verification procedures required of individuals for a majority of the requests under the Privacy Act of 1974 and would provide an agency-level appellate process to individuals whose requests for access to individually identifiable records have been initially denied. Further, to more readily identify those systems of records which have been exempted from the disclosure provisions of the Privacy Act, the proposed changes would add a listing of the exempt systems to the regulations.

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Each person submitting a comment should include his name and address, and give reasons for any recommendations. All comments received before January 31, 1977, will be considered before final action is taken on the proposal. The proposal may be changed in the light of the comments received.

These amendments are proposed under the authority of section 3(f) of the Privacy Act of 1974 (5 U.S.C. 552a(f)).

In consideration of the foregoing, it is proposed to amend Part 310 of 12 CFR Chapter III as follows:

1. Section 310.2 is amended by adding paragraph (l), to read as follows:

§ 310.2 Definitions.

• • • • • •

(l) The term "system manager" means the agency official responsible for a designated system of records, as denominated in the FEDERAL REGISTER publication of "Systems of Records Maintained by the Federal Deposit Insurance Corporation."

• • • • • •

§ 310.3 [Amended]

2. In § 310.3(b) the last sentence reading, "Except as provided in § 310.4, each such request should also include a notarized statement attesting to the identity of the individual making the request." is deleted.

3. Section 310.4 is amended by revising paragraph (c) to read as follows:

§ 310.4 Times, places, and requirements for identification of individuals making requests.

• • • • • •

(c) Except for records that must be publicly disclosed pursuant to the Freedom of Information Act, 5 U.S.C. 552, where the Corporation determines it to be necessary for the individual's protection, a certification of a duly commissioned notary public, of any state or territory, attesting to the requesting individual's identity may be required before a written request seeking access to or amendment of a record will be honored.

4. Section 310.5 is amended by revising paragraph (b) to read as follows:

§ 310.5 Disclosure of requested information to individuals.

• • • • • •

(b) The Executive Secretary will notify, in writing, the individual making

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a request, whenever practicable within ten business days following receipt of the request, whether any specified designated system of records maintained by the Corporation contains a record pertaining to the individual. Where such a record does exist, the Executive Secretary also will inform the individual of the system manager's decision whether to grant or deny the request for access. In the event existing records are determined not to be disclosable, the notification will inform the individual of the reasons for which disclosure will not be made and will provide a description of the individual's right to appeal the denial, as more fully set forth in § 310.9. Where access is to be granted, the notification will specify the procedures for verifying the individual's identity, as set forth in § 310.4.

* * * * *

§ 310.8 [Amended]

5. In § 310.8 the first sentence of paragraph (a) is amended by inserting the word "system" between the words "the" and "manager" and by deleting the phrase "(or as designated in the Corporation's FEDERAL REGISTER 'Notice of Systems of Records')."

6. Section 310.9 is amended by retitling the heading and by revising paragraphs (a) and (c) as follows:

§ 310.9 Appeal of adverse initial agency determination on access or amendment.

(a) A system manager's denial of an individual's request for access to or amendment of a record pertaining to him/her may be appealed in writing to the Board of Directors of the Corporation within 30 business days following receipt of notification of the denial. Such an appeal should be forwarded to the Office of the Executive Secretary, Records Unit, and contain all the information specified for requests for access in § 310.3 or for initial requests to amend in § 310.7, as well as any other additional information the individual deems relevant for the Board of Directors' consideration of the appeal.

* * * * *

(c) If the Corporation's Board of Directors affirms the initial denial of a request for access or to amend, it will inform the individual affected of the decision, the reason therefor and the right of judicial review of the decision. In addition, as pertains to a request for amendment, the individual may at that point submit to the Corporation a concise statement setting forth his or her reasons for disagreeing with the Corporation's refusal to amend.

7. Section 310.13 is revised to read as follows:

§ 310.13 Exemptions.

(a) Investigatory material compiled for law enforcement purposes in the following systems of records is exempt from §§ 310.3–310.9 and § 310.10(d)(2) of these rules; provided, however, that if any individual is denied any right, privilege or benefit to which he/she would otherwise be entitled under Federal law, or for which he/she would otherwise be eligible, as a result of the maintenance of such material, such material shall be disclosed to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence:

FDIC/2—Bank and proposed bank irregularity record system.

FDIC/11—Legal compliance and enforcement records.

(b) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Corporation employment to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Corporation under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, in the following system of records, is exempt from §§ 310.3–310.9 and § 310.10(d)(2) of these rules:

FDIC/1—Attorney-legal internal applicant system.

(c) Testing or examination material used solely to determine or assess individual qualifications for appointment or promotion in the Corporations' service, the disclosure of which would compromise the objectivity or fairness of the testing, evaluation, or examination process, in the following system of records, is exempt from §§ 310.3–310.9 and § 310.10(d)(2) of these rules:

FDIC/9—Examiner training and education records.

By order of the Board of Directors, December 16, 1976.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.76-37490 Filed 12-21-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230, 239, 240 and 249]

[Release Nos. 33-5783; 34-13072; 35-19810; IC-9570; File No. S7-658]

DISCLOSURE OF MANAGEMENT BACKGROUND; UNIFORM REPORTING REQUIREMENTS

Extension of Comment Period

The Securities and Exchange Commission today announced extension of the period of comment on its proposals, published November 9, 1976 (41 CFR 49493), relating to disclosure of management background in various corporate registration and reporting forms and proxy schedules.

The period for submitting comments on these proposals was due to expire December 15, 1976. However, the Commission has received requests for additional time within which to prepare and submit such comments. Accordingly, the comment period has been extended to January 31, 1977.

In the release announcing the proposals, the Commission indicated its intent to have the amended disclosure requirements effective by early 1977. It should be noted however, that extension of the comment period will necessarily lengthen the rulemaking proceeding and, therefore, delay the effective date of any proposals set forth in that release. Therefore, it is not contemplated that the proposals will be adopted in time to be applicable to the coming proxy season.

Comments should be in writing in triplicate, and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All such communications will be placed in the public files of the Commission and should refer to File No. S7-658.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 15, 1976.

[FR Doc.76-37544 Filed 12-21-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 405]

[Regs. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Requirements of Contract Between the Secretary and a Health Maintenance Organization (HMO)

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to Subpart T of Regulations No. 5 set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposal, which has been in process for many months and does not have major program significance, implements, in part, section 1876 of the Social Security Act (42 U.S.C. 1395mm) by setting forth requirements related to the contract between the Secretary and a health maintenance organization (HMO) under Medicare, which are not specifically described elsewhere in Subpart T of Regulations No. 5. (That Subpart deals with HMO's which qualify under title XVIII of the Social Security Act.) Included in the proposal are requirements on eligibility to contract as a cost- or risk-basis HMO, effective dates and renewals of the contract and contract terminations, and change of ownership of the HMO. The proposed regulations are expected to benefit Medicare beneficiaries who are enrollees of HMO's since these regulations include

procedures providing for the return to such beneficiaries of monies which may have been incorrectly collected from them by the HMO or other amounts which the HMO may owe such enrollees. Additional beneficiary safeguards are contained in provisions assuring the Secretary's right to inspect and evaluate the quality, appropriateness, and timeliness of services rendered under the contract, as provided by the Act. At the same time, the proposed regulations are not expected to result in an increase in expense to HMO's or to their enrollees who are Medicare beneficiaries. Discussions have been held with organizations which are interested in contracting with the Secretary as HMO's and will be affected by the amendments. Two contracts have been negotiated and signed, and are to become effective October 1976. In keeping with the spirit and intent of the Secretary's policies regarding the development of regulations, announced July 25, 1976, the publication of this notice will provide ample and adequate notice to all interested individuals and organizations. Consideration will be given to any data, views, or arguments pertaining thereto which are properly submitted on or before February 7, 1977.

Section 1876 of the Social Security Act, which was added to title XVIII by section 226 of Pub. L. 92-603, provides that a HMO wishing to receive reimbursement on a per capita prepayment basis in return for providing covered items and services to its enrollees who are title XVIII beneficiaries must enter into a contract with the Secretary. These proposed regulations implement certain provisions of sections 1876 (a), (i), and (j) of the Act by describing requirements related to such contracts.

Sections 1876 (a)(3) and (i) of the Social Security Act enumerate provisions which are required to be included in the contract between the Secretary and an HMO wishing to participate in the Medicare program. Among these provisions are requirements on contract terminations; effective dates and renewals of the contracts; and the Secretary's right to audit and inspect the services and financial records of an HMO, and evaluate the quality, appropriateness, and timeliness of services performed under the contract. In addition, sections 1876 (i)(3) and (j) of the Act authorize the Secretary to include in the contract any other terms and conditions not inconsistent with section 1876 which he feels are necessary. Pursuant to this authority, and because they are necessary for the effective and efficient administration of section 1876, the following matters are also dealt with in the proposed regulations: contract application procedures, including the denial by the Secretary of an organization's application to contract; refund of over-collections and other amounts due enrollees; the HMO's Part A intermediary and Part B carrier responsibilities; and changes in HMO ownership with respect to the contract.

The proposed regulations provide that an organization will be eligible to contract with the Secretary as an HMO under title XVIII if the Secretary is satisfied that the organization meets the qualifying conditions for such organizations as described in 20 CFR 405.2002—405.2012 (Regulations No. 5), and other applicable requirements in § 405.2028 of the proposed regulations, and that such a contract would be in the best interest of the health insurance program. It should be noted here that the recently-enacted HMO Amendments of 1976 (Pub. L. 94-460) provide for changes in the care's definition of an HMO and those changes will necessitate changes in the Medicare HMO qualifying conditions. In brief, Pub. L. 94-460 modifies section 1876(b) of the Social Security Act to require that, with certain exceptions, an entity wishing to become an HMO under Medicare must provide covered services to its enrollees who are also Medicare beneficiaries in the manner prescribed by section 1301(b) of the Public Health Service Act, and be organized and operated as provided in section 1301(c) of that act. The existing Medicare qualifying conditions are being revised to reflect the above-mentioned provisions of Pub. L. 94-460, and a revised version of such regulations will be published later under a separate Notice of Proposed Rule Making. Pub. L. 94-460 also provides for the Secretary to delegate to the Assistant Secretary for Health, the responsibility for making determinations as to whether an organization is an HMO within the meaning of section 1876(b) of the Social Security Act, as amended.

Under the regulations the effective period of an initial contract for a cost-basis or risk-basis HMO may be for a period of at least 12 months and no more than 23 months; thereafter, if it is renewed, it must be renewed for 12 months. Flexibility has been allowed in determining the initial contract period so that the succeeding contract periods may be made to coincide with the HMO's fiscal year.

The proposed regulations describe in § 405.2030 procedures providing for the returning to its enrollees who are Medicare beneficiaries any amounts which may be incorrectly collected from them by the HMO or other amounts which the HMO may owe such enrollees. These procedures are patterned closely after the requirements for Medicare providers of services specified in §§ 405.618–405.622 of Subpart F of Regulations No. 5; however, there are certain differences because of special requirements of the law and regulations applicable to HMO's, such as the requirement in section 1876(g)(1) of the Act that the HMO not charge its enrollees who are Medicare beneficiaries an amount in excess of the actuarial value of the deductible and coinsurance amounts which would otherwise be applicable to such enrollees under Medicare if they had not enrolled in a qualified HMO. Also, the period of time permitted an HMO under certain circumstances to make refund of an amount incorrectly collected from enrollees who are Medicare beneficiaries is longer than is allowed providers of services under the program because the proposed regulations permit the HMO, as one alternative, to repay such enrollees through an offset payment against future years' premiums. (The HMO must generally repay the enrollee within 60 days of the date on which the HMO is notified of the "other amount due" or an amount incorrectly collected other than that which was paid by the enrollee in the form of premiums or other charges which are not on the basis of frequency or extent of services furnished to any particular enrollee. This period of time allowed an HMO to make the refund is similar to the requirement applied to Medicare providers of services.) Section 405.2031 of the proposed regulations describes the medical, financial, and other information which the HMO must make available to the Secretary for evalution, audit, and inspection. For example, § 405.2031(b)(2)(viii) provides that the HMO must maintain and make available to the Secretary records on matters pertaining to the costs of its operation. The purpose of this requirement is to assure that there are sufficient financial records and statistical data on the HMO's cost of operation for proper determination to be made of costs payable by Medicare (see the "Principles of Reimbursement for Cost-Basis and Risk-Basis Health Maintenance Organizations" in §§ 405.2040–405.2054 of 20 CFR) to the HMO for the covered services furnished by the HMO to its enrollees who are title XVIII beneficiaries. Section 405.2044 of 20 CFR, published in the FEDERAL REGISTER of November 9, 1976 (41 FR 49600), should be consulted for more detailed information on reporting requirements pertaining to the costs of HMO operations.

Under the proposed regulations the Secretary may terminate a contract at any time during a contract period or choose not to renew a contract if he finds that the HMO is failing to carry out the terms of the contract or that it is carrying out the contract in a manner inconsistent with the efficient and effective administration of section 1876 of the Social Security Act, or no longer meets the applicable requirements in regulations to qualify as an HMO. The proposed regulations also set forth the HMO's right to terminate a contract, and provide for termination by mutual consent.

The proposed regulations described in § 405.2033 the procedures that must be followed when the HMO anticipates a change of ownership. They discuss what constitutes a change of ownership, the requirements that must be met if the Social Security Administration is to recognize a successor in interest to the contract, and the steps that must be taken if a change of ownership occurs and the new owner wishes to sign a new contract under section 1876. Although these procedures are modeled after the requirements for Medicare providers of services as provided in §§ 405.625–405.626 of Subpart F of Regulations No. 5, they differ in their definition of what constitutes a change of ownership in recognition of certain unique aspects of HMO's. Under the proposed regulations, a transfer of ownership of an HMO which has en-

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tered into a contract with the Secretary under section 1876 will invalidate the contract with respect to the new owner unless the Secretary, the transferor (old owner), and the transferee (new owner) enter into a novation agreement whereby the Secretary recognizes the transferee as the successor in interest to the contract. Under such an agreement the transferee assumes all the obligations and liabilities under the contract of the transferor vis-a-vis the Secretary. Further, under such an agreement the transferor waives all rights as of the effective date of the agreement. For example, any underpayments or overpayments determined during the final settlement to have been made by the Social Security Administration during the contract period, which includes the period prior to the transfer of ownership, are charged, under the terms of the novation agreement to the account of the transferee; the transferor cannot claim reimbursement from the Social Security Administration for any underpayments made during such period nor can the transferee disclaim liability for any overpayments made by the Social Security Administration during such period. Such an arrangement provides flexibility where a change of ownership is involved in the HMO setting and permits the Social Security Administration to conduct only one settlement at the end of the complete contract period.

Regulations on the appeal procedures which will be available to organizations which have been denied a contract or have had their contract terminated by the Secretary were published separately in the FEDERAL REGISTER under Notice of Proposed Rulemaking on November 3, 1975, (40 FR 51055).

If there are any questions concerning these regulations, you may contact Mr. Marty Svolos, Branch Chief, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone—(301) 594–9315. Mr. Svolos will respond to questions but will not accept comments on these regulations.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203 on or before February 7, 1977.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146 330 Independence Avenue, SW Washington, D.C. 20201.

(Secs. 1102, 1871, and 1876 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 331, and 86 Stat. 1396 (42 U.S.C. 1302, 1395hh and 1395mm))

(Catalogue of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance; No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

It is hereby certified that this proposal has been screened pursuant to Executive Order 11821, and does not require an Inflation Impact Evaluation.

Dated: August 25, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 1, 1976.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. The table of sections for Subpart T is amended by adding section numbers 405.2028–405.2034 and section headings reading as follows:

• • • • • •

Subpart T—Health Maintenance Organizations

405.2028 Contracts; general.
405.2029 Approval and denial of contract application.
405.2030 Refund of monies incorrectly collected or other amounts due enrollees.
405.2031 Right to inspect, evaluate, and audit.
405.2032 HMO Part A intermediary and Part B carrier responsibilities.
405.2033 Transfer of HMO ownership.
405.2034 Terminations.

• • • • • •

2. Subpart T is amended by adding §§ 405.2028–405.2034, reading as follows:

§ 405.2028 Contracts; general.

(a) *General.* The provisions of this section and § 405.2029 through § 405.2034 discuss the requirements of the contract which an organization must enter into with the Secretary to participate as a health maintenance organization (HMO) under the program of health insurance for the aged and disabled ("Medicare"). Under section 1876 of the Social Security Act the Secretary may enter into a contract with an organization which qualifies as either a risk-basis HMO or cost-basis HMO, as described in § 405.2001(b), and which agrees to comply with all other statutory and regulatory requirements of this Subpart T. The Secretary, however, may decline to enter into a contract with such an organization if, in his judgment, entering into such a contract would be inconsistent with the efficient and effective administration of section 1876 of the Act or would otherwise be inconsistent with the furtherance of the purposes of title XVIII. Examples of situations where the Secretary may decline to enter into (or renew) a contract with an otherwise qualified organization as an HMO under section 1876 of the Act include, but are not limited to cases:

(1) Where the Secretary finds that there is already a sufficient number of qualified HMO's under contract with the Secretary pursuant to this subpart in the organization's geographic area; or

(2) Where the organization or its principal officers are involved in civil or criminal litigation which could potentially interfere with the organization's ability to participate in the Medicare program as an HMO; or

(3) Where the Secretary determines (see § 405.2032) that the organization does not have the capability to process its title XVIII provider bills for covered services, and the organization does not agree to have such bills processed through the Medicare intermediary system; or

(4) Where he determines that entering into a contract with the organization under section 1876 of the Act would result in a conflict of interest on the part of such organization as a result of another agreement between the organization and the Secretary, e.g., pursuant to sections 1816 or 1842 of the Social Security Act.

(b) *Eligibility requirements.* An organization which properly files an application for an HMO contract under section 1876 of the Act as described in § 405.2029(a) and submits a duly executed contract in such form and manner as the Secretary may prescribe will be eligible to enter into a contract with the Secretary and to receive reimbursement from the health insurance program pursuant to the requirements of this subpart if:

(1) The Secretary finds that the organization meets the qualifying conditions described in § 405.2002 through § 405.2012 of this Subpart T;

(2) The Secretary finds such organization to be in compliance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; Pub. L. 88–352);

(3) The Secretary finds that entering into such a contract would not be inconsistent with the efficient and effective administration of section 1876 of the Act; and

(4) The organization agrees to comply with all other requirements of this Subpart T.

(c) *Waivers.* (1) Each waiver of a standard, or part thereof, in this subpart (see §§ 405.2002–405.2012) which has been granted an HMO by the Secretary, shall be specifically enumerated in the contract. Such enumeration shall include the specific terms of the waiver, the expiration date of the waiver, and any other information which the Secretary considers pertinent.

(2) The Secretary, pursuant to section 1876(j) of the Social Security Act may contract with an HMO without regard to such provisions of law or of other regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of title XVIII of the Social Security Act. Pursuant to this authority, the provisions of the Federal Procurement Regulations and HEW Procurement Regulations (see 41 CFR) shall not apply to contracts entered into under this subpart except as the Secretary may otherwise specify in regulations or general instructions.

(d) *Term of contract.* Where the Secretary enters into a contract with an organization under section 1876 of the Social Security Act, the term of such contract (unless the contract is terminated as described in § 405.2034) shall be determined as follows:

(1) The initial term of the contract for an HMO under section 1876 shall be for a period of at least 12 months, but not more than 23 months, beginning with the effective date of the contract, which shall not be earlier than the date of the execution of the contract. Any subsequent term of the contract shall be for a period of 12 months.

(2) A contract between the HMO and the Secretary (see paragraph (b) of this section) shall be automatically renewable from contract period to contract period unless either party notifies the other of its intention to terminate (or not to renew) the contract and follows the procedures specified in § 405.2034.

(e) *Limitation on risk-basis HMO's eligibility to contract.* An organization which has entered into a contract with the Secretary as a risk-basis HMO (as described in § 405.2001(b)) and has voluntarily terminated such contract, may not again enter into a risk-basis contract as an HMO under title XVIII. Such an organization, however, may enter into a contract with the Secretary as a cost-basis HMO if it meets the qualifying conditions for such an organization as described in § 405.2002–§ 405.2012 and if the Secretary approves such contract as described in this section and § 405.2029. In addition, where there is a transfer of ownership from such an organization to a successor HMO as provided in § 405.2033(f), the successor HMO will not be precluded from entering into a risk-basis contract as an HMO under title XVIII if it otherwise qualifies for such a contract as described in this section and § 405.2029, and was not previously precluded from entering into such a contract by this paragraph.

(f) *Disclosure of official records and information.* Under the terms of the contract, the HMO agrees to adopt and abide by policies and procedures which will insure that information contained in its records and obtained from the Social Security Administration or from others in carrying out its functions and duties under the contract shall be used by it and disclosed solely as provided in section 1106 of the Social Security Act (42 U.S.C. 1306) and Regulation No. 1 of the Social Security Administration (Part 401 of this Chapter).

(g) *Advance approval of special title XVIII program costs.* Under the terms of the contract, costs incurred by an HMO which are solely for the benefit of the health insurance program and unique to the health insurance program's HMO provision and which are reimbursable in full as specified in § 405.2042(i) shall be separated budgeted by the HMO and approved in advance of the contract period by the Secretary as may be specified in regulations and General Instructions. Such costs include, for example, the total reasonable cost of special data required by the health insurance program solely for program evaluation and planning purposes and shall be reimbursed in full by the health insurance program pursuant to § 405.2042(i).

(h) *Data for administration and evaluation.* In addition to all other information and data that the HMO is required to provide the Secretary under this subpart, the HMO shall furnish any other information or data to the Secretary that he determines to be necessary for the administration or evaluation of the health insurance program.

§ 405.2029 Approval and denial of contract application.

(a) *Application procedures.* An organization which wishes to enter into a contract with the Secretary under section 1876 of the Act must submit an application and supporting information and documents in such form and detail as the Secretary may require. When an organization makes such an application, the Secretary shall:

(1) Review the application forms and supporting documents on the qualifications (see §§ 405.2002–405.2012) of the organization;

(2) Make a site inspection of the organization (including a review of appropriate medical, financial, and other records as described in § 405.2031) to assure that it meets the qualification requirements (see §§ 405.2002–405.2012);

(3) Take any other review action which he considers appropriate to determine whether the organization has the capability of entering into a contract under section 1876 of the Act and of carrying out such contract in an efficient and effective manner.

(b) *Approval of application.* If the Secretary determines that an organization, which has submitted an application in accordance with paragraph (a) of this section, meets the qualifying conditions described in §§ 405.2002–405.2012 and the other eligibility requirements specified in § 405.2028 the Secretary shall furnish the organization with a written notice of his determination (see § 405.2067), which shall inform the organization:

(1) That it is eligible to enter into a contract with the Secretary under section 1876 of the Act; and

(2) That, if dissatisfied with such initial determination, the organization may request a review of the initial determination by following the applicable procedures for reconsiderations and hearings of initial determinations pursuant to the requirements of this subpart.

(c) *Denial of application.* If the Secretary determines that an organization, which has submitted an application in accordance with paragraph (a) of this section, does not meet the qualifying conditions described in §§ 405.2002–405.2012 or the other eligibility requirements specified in § 405.2028 the Secretary shall furnish the organization with a written notice of his determination, (see § 405.2067), which shall inform the organization:

(1) That it is not eligible to enter into a contract with the Secretary under section 1876 of the Act;

(2) The reasons why the organization is ineligible to enter into such contract; and

(3) That, if dissatisfied with such initial determination, the organization may request a review of the initial determination by following the applicable procedures for reconsiderations and hearings of initial determinations pursuant to the requirements of this subpart.

§ 405.2030 Refund of monies incorrectly collected or other amounts due enrollees.

(a) *General.* (1) Under the terms of the contract between the HMO and the Secretary (see § 405.2028) the HMO must make adequate provision for the return (or other disposition) of any monies incorrectly collected from or other amounts due its enrollees, who are title XVIII beneficiaries, or someone on behalf of such enrollees.

(2) The term "monies incorrectly collected" means, for purposes of this subpart, amounts collected (other than those amounts collected in one contract period to offset under-collections in a previous contract period) by the HMO from enrollees who are title XVIII beneficiaries in excess of the amounts for which they are liable pursuant to § 405.2022. For purposes of this subpart, a payment by an enrollee to an HMO which was proper when made is an "incorrect collection" for which refund or other disposition must be made where the individual is retroactively entitled to title XVIII benefits and such entitlement period begins during the term of an HMO's contract period as described in § 405.2028(d).

(3) The term "other amounts due" means, for purposes of this subpart, amounts due enrollees for items and services covered under title XVIII which they obtain from physicians, suppliers, or providers of services outside the HMO for which they are eligible to receive reasonable payment from the HMO as provided in § 405.2021(a)(2) and which are determined to be due enrollees as described in §§ 405.2058–405.2063.

(b) *Determination of monies incorrectly collected.* (1) Under the terms of the contract (see § 405.2028) the HMO agrees to submit to the Social Security Administration no later than 60 days after the end of the contract period (in such form and detail as may be specified by the Social Security Administration in General Instructions) a summary statement of premiums, membership fees, or other charges made without regard to frequency or extent of services furnished to any particular enrollee and collected by the organization from its enrollees who are title XVIII beneficiaries for the previous contract period. On the basis of this information, data obtained from the HMO's certified financial statement and supporting documents (see §§ 405.2047 and 405.2054), and other documented information recovered from title XVIII beneficiaries, the Social Security

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Administration shall determine whether any monies have been incorrectly collected from enrollees who are title XVIII beneficiaries and shall notify the HMO, at the time of final settlement (see §§ 405.2047 and 405.2054) if such monies have been identified.

(2) Under the terms of the contract (see § 405.2028) the HMO agrees to identify situations which may arise in individual cases where other amounts are due enrollees who are Medicare beneficiaries (§ 405.2030(a)(3)) or where monies incorrectly collected are amounts other than those collected from such enrollees, without regard to frequency or extent of services furnished to any particular enrollee, as premiums or other charges and to make appropriate refund as specified in paragraphs (c) and (d) of this section.

(c) *Return or other disposition of monies incorrectly collected or other amounts due.* (1) *General.* An HMO in possession of monies incorrectly collected or other amounts due enrollees who are title XVIII beneficiaries (see paragraphs (a) and (b) of this section) is required to refund or set aside such monies. Until such time as the HMO returns or sets aside the incorrectly collected funds or other amounts due, the Social Security Administration may offset against any amount otherwise due the HMO an amount equal to such incorrect collections or other amounts due.

(2) *Method of refund.* Refund of monies incorrectly collected from or amounts due an enrollee of the HMO who is a title XVIII beneficiary is to be made by the HMO (i) through an offset payment against the enrollee's future years' premiums, membership fees, or other charges levied against such enrollee, (ii) by a lump sum payment to the enrollee, or (iii) through a combination of methods in paragraphs (c)(2)(i) and (c)(2)(ii) of this section. However, where an individual who is due a refund from an HMO is no longer an enrollee of such organization (see § 405.2025) and the amount of the refund is more than a nominal amount, as defined in General Instructions, the HMO must use the lump sum method of refund. If such an individual cannot be located, after a reasonable effort on the part of the HMO to do so, or is determined to have died, the HMO shall dispose of such refund in accordance with the applicable State law.

(3) *Monies set aside.* Where it appears that a refund as specified in paragraph (c)(2) of this section will be delayed indefinitely, the HMO will notify the Social Security Administration and will then set aside, in a separate account identified as to the individual to whom the payment is due, an amount equal to the amount incorrectly collected. This amount incorrectly collected will be carried on the organization's records in this manner until final disposition is made in accordance with the applicable State law.

(d) *Time limits within which refund must be made.* Refunds as specified in paragraph (c)(2) of this section shall be made in accordance with the following time limits:

(1) An amount incorrectly collected (see paragraph (a)(2) of this section) which was paid to the HMO, without regard to frequency or extent of services furnished to any particular enrollee, as premiums, membership fees, or other charges levied against such enrollee, shall be refunded no later than the end of the fiscal year following the fiscal year in which the HMO received notice of such amount due to enrollee as described in paragraph (b) of this section. If refund cannot be made in such manner, an amount of money equal to the amount incorrectly collected must be set aside as described in paragraph (c)(3) of this section.

(2) Other amounts due enrollees (see paragraph (a)(3) of this section) or "monies incorrectly collected" other than amounts paid without regard to frequency or extent of services furnished to any particular enrollee, as premiums, membership fees, or other charges levied against such enrollees, shall be refunded as promptly as possible. If refund cannot be made within 60 days after the date on which the title XVIII beneficiary notified the HMO of an other amount due, an amount of money equal to the other amount due must be set aside as described in paragraph (c)(3) of this section.

(e) *Payment of offset; amounts to enrollee or other person.* (1) In order to carry out the HMO's contractual commitment to refund amounts incorrectly collected or other amounts due (see paragraph (a) of this section) the Social Security Administration may determine that amounts offset in accordance with the provisions of paragraphs (c) and (d) of this section be paid directly by the Social Security Administration to the enrollee or other person from whom the organization received the amount incorrectly collected or to whom the amount is due, if:

(i) The Social Security Administration finds that such HMO has failed to respond to a written request (see paragraph (e)(2) of this section), to refund the amount incorrectly collected or other amount due the enrollee or other person from whom such HMO collected the monies or to whom the other amount is due; and

(ii) The contract between the HMO and the Social Security Administration has been terminated in accordance with the provisions of §§ 405.2034 and 405.2066 (b) or the HMO has undergone as transfer of ownership as described in § 405.2033.

(2) Before making a determination to make payment as described in this paragraph, the Social Security Administration shall give written notice to the HMO:

(i) Explaining that monies have been incorrectly collected or other amounts are due the enrollee and the amounts thereof;

(ii) Requesting that refund of the amounts incorrectly collected or other amounts due be made by the HMO to the appropriate individuals in the manner described in paragraph (c)(2) of this section;

(iii) Advising the HMO that it intends to make a determination under paragraph (e)(1) of this section; and

(iv) Notifying the HMO that an authorized official of the HMO may, within 30 days from receipt of the notice, submit such written statement or evidence as the HMO may wish to make with respect to such amount incorrectly collected or other amount due. The Social Security Administration shall consider any such written statement or evidence in making a determination on the disposition of the amounts incorrectly collected or other amounts due.

(3) Payment to an enrollee, or other person as described in paragraph (e)(1) of this section, shall not exceed the amount incorrectly collected or other amounts due and, when made, shall be considered as having been made on behalf of the HMO.

§ 405.2031 Right to inspect, evaluate, and audit.

Under the terms of the contract (see § 405.2028) such organization agrees to make its premises, books, and medical and financial records which pertain to the HMO's contract with the Secretary available for evaluation, audit, and inspection. Any subcontracts pertaining to the contract with the Secretary which the HMO enters into are also subject to evaluation, inspection, and audit as explained in paragraph (c) of this section. In the case of a novation agreement (see § 405.2033(f)), the right to inspect, evaluate, and audit applies to both the transferee and the transferor.

(a) *Provision of care.* The Secretary shall have the right to inspect, or otherwise evaluate the quality, appropriateness, and timeliness of services (§§ 405.2004—405.2011) provided by an HMO under contract to furnish services to enrollees who are title XVIII beneficiaries. This shall include the right to inspect the medical records specified in § 405.2009(d) and all physical facilities and equipment used in providing covered services to such enrollees, and to require the HMO to furnish such information as may be required to evaluate the quality, appropriateness, and timeliness of such services.

(b) *Financial records.* (1) *Right to audit.* The Secretary and the Comptroller General of the United States (or any person or organization designated by either of them) shall have the right to audit, examine, or inspect any data, including pertinent books, records, papers, or documents (including pertinent medical records) of the HMO, which pertain to the amount of reimbursement and services provided (either directly or through arrangements) under the HMO's contract with the Secretary.

(2) *Maintenance of financial records.* The HMO is required to have an accounting system (see § 405.2012(a)) and maintain books, records, documents, and other evidence of accounting procedures and practices, sufficient to assure an audit trial and to reflect properly all direct and indirect costs claimed to have been incurred under the contract. Such records and information shall be maintained by the HMO and made available to the Secretary for a period of 3 years or longer as specified in paragraph (d) of this section and shall include, but not be limited to:

(i) Matters of ownership, organization, and operation of the HMO's financial, medical, and other recordkeeping systems;

(ii) Financial statements for current and prior years;

(iii) Federal income tax or information returns for current and prior years;

(iv) Asset acquisition, lease, sale, or other action;

(v) Agreements, contracts, and subcontracts;

(vi) Franchise, marketing, and management arrangements;

(vii) Schedule of charges for the HMO's fee-for-service patients;

(viii) Matters pertaining to costs of operations;

(ix) Amounts of income received by source and purpose;

(x) Cash flow statement; and

(xi) Any financial reports filed with other Federal programs or State authorities.

(c) *Related organizations.* If an HMO is related to another organization by common ownership or control, and such organization furnishes services, facilities, or supplies to the HMO, the HMO shall submit to the Social Security Administration such information about the related organization as may be described in General Instructions. The related organization's records shall be subject to audit, evaluation, and inspection by the Social Security Administration to the extent necessary to permit verification of cost and statistical data submitted by the HMO pursuant to this subpart.

(d) *Limitation of authority.* The authority and rights of the Secretary described in paragraphs (b) and (c) of this section with respect to any contract period, shall cease 3 years from the date of the final settlement with the HMO for such contract period, except:

(1) Where the Secretary determines that a special need exists for a particular record or group of records, he may extend the 3-year retention period by notifying the HMO at least 30 days in advance of the normal disposition date;

(2) In the case of termination or disputes or of fraud (or smilar fault) by the HMO, in which case the retention period may be extended to a period of 3 years from the date of any resulting final settlement; and

(3) Where the Secretary finds that State or Federal law requires a longer retention period, the longer retention period shall be applicable; or

(4) Where the Secretary determines that there is a possibility of fraud, he may reopen a final settlement at any time.

(e) *Subcontracts.* The HMO shall in all of its subcontracts for the purpose of furnishing covered items and services to enrollees who are title XVIII beneficiaries, including leases of real property, purchase orders, and the arrangements specified in § 405.2006 (including oral as well as written agreements between the HMO and individual practice or group practice physicians) require that the subcontractor agree that the Secretary and the Comptroller General of the United States shall have access to, and the right to inspect, evaluate, and audit any pertinent books, documents, papers, and records of such subcontractors involving transactions related to the subcontract. Leases or purchase orders for amounts not exceeding $2,500 are excluded from the provisions of this paragraph. Such right to information for any particular contract period shall exist until 3 years have elapsed after the date of the final cost settlement (see section 1876(a) of the Act) with the HMO for such contract period, or for a longer period as the Secretary may prescribe as specified in paragraph (d) of this section.

§ 405.2032 HMO Part A intermediary and Part B carrier responsibilities.

(a) Under the terms of the contract between the Secretary and the HMO (see § 405.2028) the HMO shall elect to reimburse qualified providers of services for covered Medicare services furnished its enrollees who are title XVIII beneficiaries under one of the two following approaches or a combination of these approaches approved by the Secretary: (1) the HMO may request that the Secretary pay qualified providers of services on behalf of the HMO for reimbursable services furnished such enrollees as specified in § 405.2041(d); or (2) the HMO may elect to pay qualified providers of services directly for reimbursable services furnished such enrollees.

(b) Under the terms of the contract between the Secretary and the HMO (see § 405.2028), an HMO which elects to pay qualified providers of services directly for reimbursable services as specified in paragraph (a)(2) of this section shall be responsible for:

(1) Determining eligibility of individuals to receive items and services through the HMO as title XVIII beneficiaries and making proper coverage decisions and appropriate payment, in accordance with the requirements of this part, for items and services for which enrollees who are entitled title XVIII beneficiaries are eligible under this subpart;

(2) Assuring that providers of services maintain and furnish appropriate documentation of physician certification (and recertification where appropriate) of services provided its Medicare enrollees to the extent that such certification and recertification are required under Subpart P of this part; and

(3) Performing other procedures that may be specified by the Secretary from time to time as described in Regulations and General Instructions.

(c) Where the HMO has elected under its contract with the Secretary to pay qualified providers of services as provided in paragraph (b) of this section, the Social Security Administration will review the HMO in order to determine whether it has the experience and capability necessary to carry out efficiently and effectively the responsibilities, described in paragraph (b) of this section and to determine in the case of those HMO's which have already undertaken such responsibilities, whether they have, in fact, been carrying out such responsibilities in an efficient and effective manner. If the Social Security Administration determines that the HMO is not carrying out its bill processing operations properly, it may require the HMO to have its provider bills paid in accordance with § 405.2041(d) (i.e., elect to have the Secretary pay qualified providers of services on behalf of the HMO for reimbursable services furnished to title XVIII beneficiaries who are enrolled with such HMO).

(d) Under the terms of the contract between the Secretary and the HMO (see § 405.2028) an HMO which reimburses a physician, qualified suppliers of services, or other qualified individuals or organizations (other than a provider of services) directly for covered Medicare services furnished its enrollees who are title XVIII beneficiaries as specified elsewhere in this part shall be responsible for:

(1) Determining eligibility of individuals to receive such items and services through the HMO and making proper coverage decisions and appropriate payment, in accordance with the requirements of this part, for such items and services for which enrollees who are entitled title XVIII beneficiaries are eligible under this subpart; and

(2) Performing other procedures that may be specified by the Secretary from time to time as described in Regulations and General Instructions.

§ 405.2033 Transfer of HMO ownership.

(a) *General.* (1) A transfer of ownership of an HMO which is under a contract with the Secretary under title XVIII will, under the conditions discussed in paragraphs (b), (c), (d), and (e) of this section, render such contract invalid as between the Secretary and the transferee unless the Social Security Administration recognizes a third party as the successor in interest to the contract. A novation agreement, as described in paragraph (f) of this section, is the legal instrument executed by the previously qualified HMO (transferor), the proposed HMO successor (transferee), and the Social Security Administration by which the Social Security Administration recognizes the transferee as the successor in interest to the existing contract.

(2) An HMO which is contemplating or negotiating a change of ownership, must notify the Social Security Administration at least 60 days in advance of the anticipated date of the change of ownership. In addition, the HMO must notify the Social Security Administration of the names and positions (if appropriate) of the new owners, including all parties of a partnership and, at a minimum (but not by way of limitation) all stockholders of a corporation who own 25 percent or more of the corporate stock.

(3) Where there has been a transfer of ownership of an HMO and the new

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ownership has not entered into a novation agreement in accordance with paragraph (f) of this section, the entity under new ownership, if it wishes to participate as an HMO under section 1876 of the Act, must promptly notify the Social Security Administration. In addition, the entity under new ownership will only be eligible to participate as an HMO under the health insurance program if it establishes that it meets the requirements described in § 405.2028 and enters into a contract which has been approved by the Secretary as described in § 405.2029.

(4) Where there has been a transfer of ownership as described in paragraph (a)(1) of this section and the HMO (transferor) has not notified the Social Security Administration as provided in paragraph (a)(2) of this section, the transferor shall be liable to the Social Security Administration for per capita payments made to it by the Social Security Administration on behalf of its title XVIII enrollees beginning with the effective date of the transfer of ownership.

(b) *Partnership.* In the case of a partnership which is a party to a contract with the Secretary, the removal, addition, or substitution of an individual for a partner in the association generally, in the absence of an express statement to the contrary, dissolves the old partnership and creates a new partnership which is not a party to the previously executed contract with the HMO. Thus, for the purposes of section 1876 of the Social Security Act, a change of ownership has occurred and the provisions of this section will apply.

(c) *Sole proprietorship.* Where an HMO is a sole proprietorship not incorporated under applicable State law, a transfer of title and property of the HMO to another party constitutes a change of ownership for the purpose of section 1876 of the Social Security Act.

(d) *Corporation.* If an HMO is a corporate body, a transfer of ship for the purpose of section 1876 of the Social Security Act, corporate stock, does not, in itself, constitute a change of ownership for the purpose of section 1876 of the Social Security Act. Similarly, a merger of one or more corporations, with the HMO corporation surviving, does not generally constitute a change of ownership. However, a merger where the HMO corporation which is a party to the contract with the Secretary is not the surviving corporation or a consolidation of two or more corporations resulting in the creation of a new corporate entity does constitute a change in ownership.

(e) *Leasing.* (1) When an HMO leases its facilities, in whole or in part, to another entity the lessee does not assume HMO status under section 1876 of the Social Security Act. If the participating HMO leases all of its facilities to another organization, the Secretary's contract with the lessor organization terminates unless he has approved the transaction in advance. If, however, the participating HMO leases only part of its facilities to another organization, such participating HMO's contract remains in effect, but a survey must be conducted to determine whether the HMO continues to be in compliance with the qualifying conditions for such organizations, as described in § 405.2002 through § 405.2012.

(2) If the lessee of the facilities requests approval to participate as an HMO under the health insurance program, it may enter into a contract with the Secretary if it meets the requirements described in § 405.2028 and if such contract is approved by the Secretary in accordance with § 405.2029.

(f) *Novation agreement.* (1) In order for a proposed transferee to be recognized by the Social Security Administration as a successor in interest to the contract, (see paragraph (a)(1) of this section) the HMO (transferor) which is under a contract with the Secretary under title XVIII must notify the Social Security Administration at least 60 days in advance of the proposed change of ownership and submit at least 30 days in advance of the anticipated date of the change of ownership (see paragraph (a)(1) of this section) three signed copies of a proposed novation agreement to the Secretary together with one copy of such documents as may be specified by the Social Security Administration in General Instructions.

(2) The Social Security Administration may execute a novation agreement with the transferor and the transferee (see paragraph (a)(1) of this section) where it is determined that:

(i) The proposed transferee is, in fact, a successor in interest to the contract;

(ii) Recognition of the new party as a successor in interest to the contract with the HMO is in the best interest of the health insurance program; and

(iii) The successor organization will meet the requirements of this subpart in order to qualify as an HMO.

(3) The novation agreement executed in accordance with paragraph (f)(2) of this section shall provide, at a minimum, that:

(i) The transferee assumes all obligations under the contract;

(ii) The transferor waives its rights under the contract to obtain from the Secretary reimbursement for covered services furnished during the current contract period; and

(iii) The transferor guarantees performance of the contract by the transferee or the transferor posts a satisfactory performance bond in lieu of such guarantee which is approved by the Social Security Administration.

§ 405.2034 Terminations.

Under the terms of the contract (see § 405.2028) the HMO and the Secretary have certain specified rights and responsibilities regarding the termination of such contract.

(a) *Health maintenance organization.* An HMO may terminate its contract to provide services to its enrollees who are title XVIII beneficiaries by filing with the Social Security Administration at least 90 days before the end of the contract period, a written notice of its intention not to renew such contract. The Secretary may, at his discretion, accept a delinquent Notice of Intention Not to Renew filed by an HMO (i.e., when such notice is filed less than 90 days before the end of the contract period) where such acceptance would not jeopardize the effective and efficient administration of the program. In addition to giving notice to the Social Security Administration, the HMO shall notify its enrollees who are title XVIII beneficiaries and the public of the proposed termination of such contract. Whether or not the Secretary has approved a delinquent notice, such enrollees shall be notified by mail at least 60 days prior to the end of the contract period and the public shall be notified by publishing at least 30 days before the date of termination a statement of the effective date for termination of the contract with the Secretary. Publication shall be in one or more newspapers of general circulation which serve each community (or county) located in the HMO's enrollment area.

(b) *Secretary.* The Secretary may terminate or choose to not renew the contract with an HMO in accordance with the procedures prescribed in §§ 405.2065–405.2086, provided it notifies the HMO's enrollees who are title XVIII beneficiaries and the public at least 30 days prior to the effective date of such action.

(c) *Mutual consent.* The contract between the Secretary and the HMO may be modified or terminated at any time by written mutual consent of the two parties. The HMO will notify its enrollees who are title XVIII beneficiaries of any modification of the contract between the HMO and the Secretary where the Secretary determines such notification to be appropriate. In the case of termination of the contract, the public and the HMO's enrollees who are title XVIII beneficiaries are notified in the following manner:

(1) The HMO shall notify its enrollees who are title XVIII beneficiaries and the public prior to the effective date of such action in the manner specified in paragraph (a) of this section; and

(2) The Social Security Administration shall notify the public at least 30 days prior to the effective date of such action.

[FR Doc.76-37543 Filed 12-21-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 242a]

BOARD OF REGENTS OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Public Meeting Procedures

The Board of Regents of the Uniformed Services University of the Health Sciences proposes to adopt procedures for its public meetings. The procedures are designed to implement section 3 (a) of the Government in the Sunshine Act, Public Law 94–409.

Interested persons are invited to submit written views on the proposed procedures to the Board of Regents, Uniformed Services University of the Health Sciences, 6917 Arlington Road, Bethesda, Md. 20014 on or before January 21, 1976. Copies of comments received will be available for public inspection at the Office of the President, Room 300 during regular business hours. The Board will consider all such written submittals before acting on the matters proposed herein. An original and 9 conformed copies should be filed with the Board.

The proposed procedures of Part 242a are as follows:

PART 242a—PUBLIC MEETING PROCEDURES OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sec.

242a.1 Applicability.
242a.2 Definitions.
242a.3 Open meetings.
242a.4 Grounds on which meetings may be closed, or information may be withheld.
242a.5 Procedure for announcing meetings.
242a.6 Procedure for closing meetings.
242a.7 Transcripts, recordings and minutes of closed meetings.

AUTHORITY: 5 U.S.C. 552b(g); Pub. L. 94–409.

§ 242a.1 Applicability.

These procedures apply to meetings of the Board of Regents, Uniformed Services University of Health Sciences (USUHS), including committees of the Board of Regents.

§ 242a.2 Definitions.

(a) "Board" or "Board of Regents" means the collegial body that conducts the business of the Uniformed Services University of the Health Sciences as specified in Title 10, United States Code, Section 2113, consisting of:

(1) Nine persons outstanding in the fields of health and health education appointed from civilian life by the President, by and with the advice and consent of the Senate;

(2) The Secretary of Defense, or his designee, an ex officio member;

(3) The surgeons general of the uniformed services, ex officio members; and

(4) The Dean (President) of the University, an ex officio nonvoting member.

(b) "Board Representative" means the individual named as Executive Secretary by the Board, or any person officially designated by the Board.

(c) "Chairman" means the presiding officer of the Board, designated by the President, as specified in Title 10, United States Code, Section 2113.

(d) "Committee" means any formally designated subdivision of the Board, consisting of at least two Board members, authorized to act on behalf of the Board, including, the Board's standing committees (the Executive, Administrative Affairs, Educational Affairs, Fine Arts and Gifts, and Nominating Committees) and any ad hoc committees appointed by the Board for special purposes.

(e) "Meeting" means the deliberations of eight voting members of the Board, or for committees, the deliberations of at least the number of individual voting members of the Board required to take action on behalf of the Board, where such deliberations determine or result in the joint conduct or disposition of official business of the Board, but does not include:

(1) Deliberations to open or close a meeting, or to release or withhold information, required or permitted by §§ 242a.5 or 242a.6;

(2) Notation voting or similar consideration of matters whether by circulation of material to members individually in writing, or polling of members individually by telephone or telegram; and

(3) Instances where individual members, authorized to conduct business on behalf of the Board or to take action on behalf of the Board, meet with members of the public or staff. Conference telephone calls that involve the requisite number of members, and otherwise come within the definition, are included.

(f) "Member" means a member of the Board of Regents.

(g) "Public Announcement" means posting notices on the Board's public notice bulletin board, and mailing announcements to persons on a mailing list maintained for those who desire to receive notices of Board meetings, and who pay such fee as may be determined by the Executive Secretary, not to exceed $10.00 per year, to cover the costs involved in such distribution.

(h) "Staff" includes the employees of the USUHS, other than the members of the Board.

§ 242a.3 Open meetings.

(a) Members shall not jointly conduct or dispose of business of the Board of Regents other than in accordance with these procedures. Every portion of every meeting of the Board of Regents or any committee of the Board shall be open to public observation subject to the exceptions provided in § 242a.4.

(b) Open meetings will be attended by members of the Board, certain staff, and any other individual or group desiring to observe the meeting. The public will be invited to observe and listen to the meeting but not to participate or to record any of the discussions by means of electronic or other devices or cameras.

(c) The Executive Secretary shall be responsible for making physical arrangements that provide ample space, sufficient visibility, and adequate acoustics for public observation of meetings.

§ 242a.4 Grounds on which meetings may be closed, or information may be withheld.

Except in a case where the Board or a committee finds that the public interest requires otherwise, the open meeting requirement set forth in the second sentence of § 242a.3(a) shall not apply to any portion of a Board or committee meeting, and the informational disclosure requirements of §§ 242a.5 and 242a.6 shall not apply to any information pertaining to such meeting otherwise required by this part to be disclosed to the public, where the Board or committee, as applicable, properly determines that such portion or portions of its meetings or the disclosure of such information is likely to:

(a) Disclose matters that are:

(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy; and

(2) Properly classified pursuant to such executive order;

(b) Relate solely to the internal personnel rules and practices of the USUHS;

(c) Disclose matters specifically exempted from disclosure by statute (other than Title 5, United States Code, Section 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would:

(1) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to:

(i) Lead to significant financial speculation in currencies, securities, or commodities, or

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(ii) Significantly endanger the stability of any financial institution; or

(2) In the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that this subsection shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the issuance of a subpoena, or USUHS participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the USUHS of a particular case of formal adjudication pursuant to the procedures in Title 5, United States Code, Section 554, or otherwise involving a determination on the record after opportunity for a hearing.

§ 242a.5 Procedure for announcing meetings.

(a) Except to the extent that such information is exempt from disclosure under the provisions of § 242a.4, in the case of each Board or committee meeting, the Board representative, shall make public announcement, at least 7 days before the meeting, of the following:

(1) Time of the meeting;

(2) Place of the meeting;

(3) Subject matter of the meeting;

(4) Whether the meeting or parts thereof are to be open or closed to the public; and

(5) The name and telephone number of the person designated by the Board or committee to respond to requests for information about the meeting.

(b) The 7 day period for the public announcement required by paragraph (a) of this section may be reduced if a majority of the members of the Board or committee, as applicable, determine by a recorded vote that Board or committee, as applicable, determine by a recorded vote that Board or committee business requires that such expedited meeting be called at an earlier date. The Board or committee shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(c) The time or place of a meeting may be changed following the public announcement required by paragraph (a) of this section only if the Board representative publicly announces such change at the earliest practicable time. Such change need not be voted on by the members.

(d) The subject matter of a meeting or the determination of the Board or committee, as applicable, to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by paragraph (a) only if:

(1) A majority of the entire voting membership of the Board or a majority of the entire voting membership of a committee, determines by a recorded vote that Board or committee business so requires and that no earlier announcement of the change was possible; and

(2) The Board or committee publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(e) Items that have been announced for Board consideration may be deleted without notice.

(f) The "earliest practicable time" as used in this section, means as soon as possible, which should in few, if any, instances be no later than commencement of the meeting or portion in question.

(g) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and telephone number of the person designated by the Board or committee to respond to requests for information about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

§ 242a.6 Procedure for closing meetings.

(a) Action to close a meeting or portion thereof, pursuant to the exemptions set forth in § 242a.4 shall be taken only when a majority of the entire voting membership of the Board or a majority of the entire voting membership of a committee, as applicable, vote to take such action.

(b) A separate vote of the Board or committee members shall be taken with respect to each Board or committee meeting a portion or portions of which are proposed to be closed to the public pursuant to § 242a.4 or with respect to any information which is proposed to be withheld under § 242a.4.

(c) A single vote of the Board or committee may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series.

(d) The vote of each member shall be recorded, and may be by notation voting, telephone polling or similar consideration.

(e) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Board or a committee close such portion to the public under any of the exemptions relating to personal privacy, criminal accusation, or law enforcement information referred to in § 242a.4(e), (f), and (g), the Board or committee, as applicable, upon request of any one of its members, shall vote by recorded vote whether to close such meeting. Where the Board receives such a request prior to a meeting, the Board's representative may ascertain by notation voting, or similar consideration, the vote of each member of the Board, or committee, as applicable, as to the following:

(1) Whether the business of the Board or committee permits consideration of the request at the next meeting, and delay of the matter in issue until the meeting, or

(2) Whether the members wish to close such meeting.

(f) Within 1 day any vote taken pursuant to paragraphs (a), (b), (c), or (e), of this section, the Board or committee shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Board or committee shall, within 1 day of the vote taken pursuant to paragraphs (a), (b), (c), or (e) of this section, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this paragraph shall be disclosed except to the extent it is exempt from disclosure under the provisions of § 242a.4.

(g) For every meeting closed pursuant to paragraphs (a) through (j) of § 242a.4, the General Counsel or chief legal officer of the USUHS shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Board as part of the transcript, recording or minutes required by § 242a.7.

§ 242a.7 Transcripts, recordings, & minutes of closed meetings.

(a) The Board of Regents shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, closed to the public pursuant to § 242a.4(j), the Board shall maintain either such a transcript or recording, or a set of minutes.

(b) Where minutes are maintained they shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any action taken, and the reasons for such actions, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) The Board shall maintain a complete, verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting or portion of a meeting, closed to the public, for a period of at least 2 years after such meeting, or until 1 year after the conclusion of any Board proceeding with respect to which the meeting or portion was held, whichever occurs later.

(d) Public availability of records shall be as follows:

(1) Within 10 days of receipt of a request for information (excluding Saturdays, Sundays, and legal public holidays), the Board shall make available to the public, in the offices of the Board of Regents, USUHS, Bethesda, Maryland, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Executive Secretary determines to contain information which may be withheld under § 242a.4.

(2) Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be available at the actual cost of duplication or transcription.

(3) The determination of the Executive Secretary to withhold information pursuant to subsection (1) of this paragraph, may be appealed to the Board. The appeal shall be circulated to individual Board members. The Board shall make a determination to withhold or release the requested information within 20 days from the date of receipt of a written request for review (excluding Saturdays, Sundays, and legal public holidays).

(4) A written request for review shall be deemed received by the Board when it has arrived at the offices of the Board in a form that describes in reasonable detail the material sought.

MEREL P. GLAUBIGER,
Legal Counsel, Uniformed Services University of the Health Sciences.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 16, 1976.

[FR Doc.76-37531 Filed 12-21-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Parts 205 and 250]

QUALITY CONTROL—FINANCIAL AND MEDICAL ASSISTANCE PROGAMS

Review of Negative Case Actions

Notice is hereby given that the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of the Department of Health, Education, and Welfare, proposes to amend Quality Control (QC) regulations applicable to the administration of the Aid to Families with Dependent Children (AFDC) and Medicaid programs. The purpose of the proposed amendments set forth below is to require States to review the correctness of negative case actions, that is, actions taken to deny applications for financial or medical assistance, to otherwise dispose of such applications without a determination of eligibility, or to terminate financial or medical assistance.

Negative case action review would supplement currently required QC reviews of active AFDC cases and paid claims for medical assistance.

The basis of this proposed change, to be discussed in greater detail below, is the Service's belief that negative case action review under QC would promote proper administration by the States of their AFDC and Medicaid programs by helping to assure that each individual who meets the conditions of eligibility for AFDC or Medicaid benefits is provided with such assistance.

The AFDC and Medicaid programs are cooperative Federal-State programs. Under AFDC, the Federal and State governments share the costs of providing financial assistance to needy families with dependent children. Similarly, under Medicaid, the Federal government participates in the cost of providing medical care and services to eligible individuals.

In order to qualify for the Federal share of its AFDC or Medicaid expenditures, a State must operate each program in accordance with a State plan approved by the Secretary of HEW as meeting all applicable requirements set forth by Congress in the Act as well as those contained in implementing Federal regulations and policies. Among the State plan requirements imposed by the Act is the requirement to "provide such methods of administration . . . as are found by the Secretary to be necessary for the proper and efficient operation of the plan;". This requirement is the basis for the QC system.

Prior to April 6, 1973, the Department used the QC system to monitor negative case actions as well as active AFDC cases and active Medicaid cases. As of that date, in order to facilitate a concerted effort by States to assure the completeness and validity of the AFDC active case review samples, States were relieved of responsibility for:

1. AFDC negative case action reviews; and

2. All Medicaid QC reviews.

Following the 1973 decision, the Department developed a new Medicaid QC system for review of paid claims, which went into effect on July 1, 1975.

In 1973 the Department chose to review AFDC negative case actions outside the QC system through a federally-conducted system of management reviews. Regional SRS staff, responsible for the monitoring and enforcement of a wide range of AFDC State plan requirements, were assigned to review negative case actions. The Department believed that the Federal reviews would accurately evaluate State performance in denying and terminating benefits and would be useful in identifying specific areas where corrective action might be needed.

However, SRS has recently studied the results of the management review system and found them unsatisfactory. There also has been litigation in connection with the review of State negative case actions and negotiations concerning the scope of an acceptable quality control system with representatives of both State and local government and of public interest organizations who make up the New Coalition. The Department has concluded that federally-conducted management studies have not provided accurate and complete information on the number of improper State denials or terminations of AFDC and Medicaid benefits. In proposing the reinclusion of negative case action review in the QC system, the Department is seeking a more reliable, cost-effective mechanism for assessing the States' performance in the denial or termination of AFDC or Medicaid benefits.

The issuance of these proposed regulations at this time does not in any way alter the Department's commitment to continue good faith negotiations with the New Coalition. The Department, of course, would welcome comments on this specific proposal from the New Coalition, or from any other source, and will consider and respond to all such comments and suggestions before the issuance of final regulations.

Before making this proposal the Department considered (and ultimately rejected) alternatives to the present management review system which would not have required the direct use of State personnel. Under one such alternative Federal staff would have relied on an analysis of the results of the fair hearings States are required to provide to AFDC and Medicaid applicants or recipients who wish to contest a denial or termination of assistance. An examination of hearing decisions either sustaining or overturning negative case actions would, it was believed, give some indication of the agency's performance in denying or terminating assistance. However the number of individuals who appeal adverse agency eligibility determinations in any State, at any given time, may constitute only a small percentage of the total number of those whose benefits were denied or terminated by the agency. Furthermore, those cases may not represent a true cross-section of negative case actions. The conclusion was that hearing results would have only limited usefulness in monitoring State negative case actions.

A method involving federally conducted surveys (which would necessarily be done on a smaller scale than those conducted by the States) was considered and rejected because it would have imposed considerable burden on States (e.g., for collecting and making available to Federal reviewers the records of denials and terminations), and would still have been less effective than inclusion in the State QC system.

In view of the substantial advantages of State QC negative case action review over all the alternatives considered, the Department believes that the additional Federal and State costs are fully justified.

The current QC system, into which the proposed negative case action review component would be incorporated, requires:

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A. For AFDC:

1. Selection of a statistically valid sample of the active caseload for each month.

2. Review of the sample cases to determine the eligibility of the recipient and the correctness of the amount of the assistance payment.

3. Projection of review results to the entire caseload to determine error rates for ineligibility, overpayment, and underpayment for each 6-month reporting period.

4. Submission of corrective action plans for reducing case error rates.

Current regulations also provide for denial of the Federal share of erroneous AFDC payments which are in excess of 3% for payments to ineligibles; and 5% for overpayments. However, on May 14, 1976, in the case of *State of Maryland et. al.* v. *Weinberger*, the United States District Court for the District of Columbia issued an order which now bars the Department from denying Federal funds, on the basis of the 3% and 5% tolerance levels, to the 14 plaintiff States in that action.

B. For Medicaid:

1. Selection of a sample of claims paid to providers of medical care or services.

2. Review of sample claims to determine whether the recipient was eligible for the medical care and services received.

3. Submission of the results of review, for each 6-month sampling period, along with a plan for analysis of, and corrective action on, the review findings.

The proposed requirements for negative case action reviews are very similar to those currently in effect for active cases with three exceptions:

1. Samples will be selected from the records of applicants for whom assistance was never initiated and former recipients whose assistance has been terminated;

2. Full field investigations will be conducted only when the reason given for the negative action has been determined to be incorrect; and

3. The Department has not chosen at this time to establish tolerance levels for negative case action errors in AFDC or Medicaid.

The Department intends to make the requirement for negative case action review effective on July 1, 1977 for AFDC–QC and on April 1, 1977 for MEQC.

The Department realizes that States may experience some difficulty in making necessary adjustment in their QC programs by the effective dates specified above and would welcome comments on this aspect. It is also interested in comments regarding the need for a tolerance level for errors in negative case actions.

Prior to the adoption of the proposed amendments, consideration will be given to those and any other written comments, suggestions, or objections received by the Administrator, Social and Rehabilitation Service, P.O. Box 2366, Washington, D.C. 20013, on or before February 7, 1977. Comments received will be available for public inspection in Room 5225 of the Department's office at 330 C Street, S.W., Washington, D.C., beginning approximately two weeks after publication of this Notice in the FEDERAL REGISTER, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (area code 202–245–0950). It is hereby certified that the economic and inflationary effects of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

Date: September 16, 1976.

M. KEITH WEIKEL,
Acting Administrator, Social and Rehabilitation Service.

Approved: December 10, 1976.

MARJORIE LYNCH,
Acting Secretary.

Chapter II, Title 45 of the Code of Federal Regulations is amended by revising §§ 205.40 and 250.25 to read as follows:

§ 205.40 Quality control system.

(a) *Definitions.* For purposes of this section and § 205.41, notwithstanding any other regulations in this chapter:

(1) *"Assistance unit"* means all individuals whose needs, income, and resources are to be considered in determining eligibility for the amount of an assistance payment for which Federal financial participation is claimed under this chapter.

(2) *"Case error"* means an overpayment, underpayment or payment for ineligibility, as defined in this section. However, where an overpayment, under payment or payment for ineligibility is occasioned solely by the failure of the assistance payment to reflect changes in an assistance unit's circumstances which occurred in the review month or the month (calendar or fiscal) immediately preceding the review month, no case error will exist (unless the assistance payment was, in fact, adjusted inaccurately as a result of such a change). For purposes of this definition, a hearing decision which required adjustment or termination of the assistance payment is considered a change in circumstances. The determination as to whether an assistance payment constitutes a case error will be made in accordance with procedures specified in the Quality Control Manual. There is no case error where payment is required to be continued unadjusted because a hearing has been requested.

(3) *"Ineligibility"* refers to a financial assistance payment received by or for an assistance unit, for the review month, when no amount of such payment should have been paid to such assistance unit under permissible State practice (as defined herein) in effect on the first day of the review month, notwithstanding the State agency's failure to make a finding under § 206.10(a)(5) of this chapter.

(4) *"Overpayment"* means a financial assistance payment received by or for an assistance unit, for the review month, which is in excess by at least $5.00 of the amount that should have been paid, to such assistance unit under permissible State practice (as defined herein) in effect on the first day of the review month.

(5) *"Underpayment"* means a financial assistance payment received by or for an assistance unit for the review month which is at least $5.00 less than the amount that should have been paid, to such assistance unit under permissible State practice (as defined herein) in effect on the first day of the review month.

(6) *"Review month"* means the specific period of time for which a particular financial assistance payment (or two successive payments where the State pays on a semi-monthly basis) under view is received, regardless of whether that period is a calendar month or a fiscal month.

(7) *"Permissible State practice"* means all written policy instructions issued by the State for administering the AFDC program so long as those written instructions are consistent with either the State plan or proposed amendments thereto which have been submitted to, but have not been acted upon by the Social and Rehabilitation Service. In all instances where such written instructions are not consistent with the State plan or such amendments thereto, permissible State practice means the provisions of the State plan.

(8) *"Negative case action"* means an action to deny an application for assistance, or to otherwise dispose of an application for assistance without a determination of eligibility, or to terminate assistance.

(b) *State plan requirements.*—A State plan under title IV–A or I, X, XIV or XVI of the Social Security Act must provide for a continuing system of quality control for assuring that assistance is furnished in accordance with permissible State practice (as defined herein). Under this requirement:

(1) The State agency's system of quality control shall:

(i) Apply the sampling methods and schedules in accordance with instructions prescribed by the Social and Rehabilitation Service;

(ii) Conduct field investigations, including a personal interview in all cases which fall within the sample of active cases; and, as necessary, for cases in the negative case action sample of active cases, and, as necessary, for cases in the negative case action sample;

(iii) Provide for the necessary resources, organizational structure and systems for the analysis of the findings of the system;

(iv) Take appropriate corrective action on improperly authorized assistance, improper negative case actions and system weakness; and

(v) Assure access by DHEW staff to State and local records relating to public assistance, to recipients, and to third parties.

(2) Notwithstanding the provisions of § 206.10(a)(9) of this Chapter, the State agency shall count as a case error in its Quality Control sample, any case in which a change in circumstances which affects eligibility or the amount of the assistance payment is not correctly reflected in a terminated or adjusted payment by the second month following the month in which the change of circumstances occurred, unless assistance is continued unadjusted because a hearing has been requested; except that where the change in circumstances is improperly reflected in an assistance payment prior to the second month following the month in which the change of circumstances occurred, the State agency shall consider that a case error exists. Under this requirement, a hearing decision which affects eligibility or the amount of the assistance payment is a change in circumstances.

(3) The State agency shall submit to the Social and Rehabilitation Service, in such form and at such times as it prescribes:

(i) A description of the State's sampling plan;

(ii) On a monthly basis during the 6-month sampling period, for each active sample case in the State Quality Control review, the original finding on the amount of the assistance payment and, where a case error has been determined to exist in such payment, the amount by which the payment was in error, and the type of error, i.e. whether the error was an overpayment, underpayment, or payment to an ineligible;

(iii) Data required by Forms SRS QC 341.1, 341.1A and 343.1, within 60 days of the close of the 6-month sampling period to which such data apply;

(iv) A corrective action plan for reducing the case error rates of ineligibility, overpayments, and underpayments, and negative case actions, within 90 days of the close of the 6-month sampling period to which they apply;

(v) Data required by Forms SRS–QC 341.2, 341.3, 341.4, 343.2, and 343.3 are to be submitted at the same time the corrective action plan is submitted.

§ 250.25 Medicaid eligibility quality control.

State plan requirements. A State plan for medical assistance under title XIX of the Social Security Act must provide for a system of eligibility quality control, which meets Federal specifications, for assuring that medical assistance is furnished in accordance with State plan provisions. Under this requirement:

(a) The State agency, or at the option of the State, the agency responsible for determining eligibility for medical assistance, shall:

(1) Apply the sampling methods, schedules, and instructions prescribed by the Social and Rehabilitation Service (SRS);

(2) Conduct field investigations, including a personal interview with all recipients who fail within the sample of active cases and, as necessary, with individuals in the negative case action sample. "Negative case action" means an action to deny an application for medical assistance or to otherwise dispose of such application without a determination of eligibility, or to terminate medical assistance;

(3) Take appropriate corrective action on improperly authorized medical assistance, improper negative case actions,

(4) Report to the Federal Government as prescribed; and

(5) Assure access by Federal staff to State and local records, recipients, and third parties.

(b) The State agency (or agency responsible for eligibility) shall submit to SRS in accordance with Federal instructions:

(1) A description of the State's sampling plan for active cases and negative case actions;

(2) Data concerning all individuals who fall within the active case sample or the negative case action sample;

(3) Data concerning payments for medical assistance on behalf of recipients in the active case sample; and

(4) A comprehensive plan for analysis of and corrective action on the findings of each sampling period provided for in paragraph (c) of this section, no later than 135 days after the end of each sampling period.

(c) There shall be a sampling period from July 1, 1975 to September 30, 1975, and sampling periods of 6 months each thereafter commencing October 1, 1975, to collect the data referred to in paragraph (b)(2) and (3) of this section. Such data shall be submitted to SRS no later than 120 days after the end of each sampling period.

[FR Doc.76–37582 Filed 12–21–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE

Denial of Request for Public Hearing; Proposed Critical Habitat for Peregrine Falcon

Section 4(f)(2)(A)(ii) of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) states that if any person, who feels that he may be adversely affected by a regulation proposed pursuant to the Act, requests a public hearing thereon, the Secretary may grant such request, but shall, if he denies such request, publish his reasons therefor in the FEDERAL REGISTER.

On October 8, 1976, Mr. Kermit R. Kubitz, attorney for the Pacific Gas and Electric Company, requested that a public hearing be held on the Proposed Determination of Critical Habitat for the American Peregrine Falcon, published by the Fish and Wildlife Service in the FEDERAL REGISTER of August 30, 1976 (41 FR 36516–36517). As the reason for this request, Mr. Kubitz stated that the proposal could potentially adversely affect several hundred megawatts of geothermal generating capacity, equivalent to over 5,000,000 barrels of oil per year. No further explanation was provided.

A Critical Habitat designation does not in itself restrict any particular kinds of activity. Such designations merely notify Federal agencies that they are required to insure that any of their actions impacting a particular area do not adversely affect an Endangered or Threatened species. Questions of whether these conditions would apply to a certain action, and whether the action would be detrimental to a species, would best be considered after, rather than before designation of Critical Habitat. Such questions are not factors in actually delineating the Critical Habitat. Moreover, the allotted public comment period on this proposal provided sufficient time for interested parties to submit pertinent statements, especially considering the relatively limited areas involved. The Fish and Wildlife Service sees no meaningful purpose that would be served by holding a public hearing, and therefore, denies this request.

Dated: December 17, 1976.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.76–37559 Filed 12–21–76;8:45 am]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the Palila

The Director, United States Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) Hereby issues a Proposed Rulemaking which would determine Critical Habitat for the Palila (*Psittirostra bailleui*), an Endangered Hawaiian bird. This Proposal is issued pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act).

BACKGROUND

The Palila, a small bird of the Hawaiian Honeycreeper Family, is now restricted to a relatively small area on the Island of Hawaii, and has been officially listed as Endangered since 1967. Hope for the survival and recovery of this species centers on maintenance of its forest habitat on the slopes of Mauna Kea.

A notice of intent to determine Critical Habitat for the Palila was published by the Service in the FEDERAL REGISTER of May 16, 1975 (40 FR 21499–21500). Subsequently, the Director received several comments indicating that Critical Habitat for the Palila consisted of the Mamane-Naio Forests around Mauna Kea. On June 18, 1976, the Service's Region 1 in Portland submitted a precise delineation of a recommended Critical Habitat zone in this area. After evaluating this recommendation and supporting data, the Director determined to proceed with this Proposed Rulemaking.

The area delineated below consists primarily of Mamane (*Sophora chrysophylla*)-Naio (*Myoporum sandwicense*) forest, and extends from about

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7,000 to 10,000 feet in elevation. The Palila depends on the Mamane and Naio trees for food, shelter, and nesting sites; it cannot survive without these tree species. Moreover, the delineated area apparently contains the world's entire known population of Palila, and supports most of the large and intermediate-sized Mamane and Naio trees on Mauna Kea. This area is large enough to allow space for the population to expend, and includes a full range of altitudinal and geographical sites needed by the Palila for normal life cycle movement. Such movement is the response of the species to shifting seasonal and annual patterns of flowering, seed set, and ensuing pod development of the Mamane vegetation.

EFFECTS OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical."

An interpretation of the term "Critical Habitat" was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) Actions by a Federal agency affecting Critical Habitat of a species would not conform with section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) There may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under Section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat.

REORGANIZATION OF REGULATIONS

It is also proposed in this rulemaking to reorganize the location of the present list of Critical Habitat designations. Presently, each Critical Habitat final rulemaking is assigned a separate section number in Subpart F of Part 17. Starting with the Critical Habitat designation for the snail darter at § 17.61, sequential numbers have been assigned for the Critical Habitats of the American crocodile (§ 17.62), the California condor (§ 17.64), the Indiana bat (§ 17.65) and the Florida manatee (§ 17.66). This procedural method is inefficient because of the rapid consumption of available section numbers in Subpart F. It is therefore proposed that the present Subpart F, "Critical Habitat" be deleted, and a new Subpart I, "Interagency Cooperation," be added. Within the new Subpart I, it is proposed that all Critical Habitat designations for fish or wildlife be listed under § 17.95. It is anticipated that §§ 17.90 through 17.94 will eventually be used to set forth the procedural regulations implementing Section 7 of the Endangered Species Act of 1973. The following sequence would be utilized in § 17.95: § 17.95(a)—mammals; § 17.95(b)—birds; § 17.95(c)—reptiles; § 17.95(d)—amphibians (Reserved); § 17.95(e)—fishes; § 17.95(f)—claims (reserved); § 17.95(g)—snails (reserved); § 17.95(h) crustacea (reserved); § 17.95(i)—insecta (reserved); § 17.95(j)—other (reserved). Critical Habitat designations for plants would be located at § 17.96.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted be as accurate as possible in delineating the Critical Habitat of the Palila. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these Proposed Rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this Proposal.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this Rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All relevant comments received no later than April 18, 1977, will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street, NW., Washington, D.C.

Dated: December 12, 1976.

GEORGE W. MILIAS,
Acting Director, Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend 50 CFR Part 17:

1. By deleting Subpart F of Part 17; by adding a new Table of Sections for Subpart I and by adding a new Subpart I of Part 17 to read as follows:

Subpart I—Interagency Cooperation

Sec.
17.90—17.94 [Reserved]
17.95 Critical habitat—fish and wildlife.
17.96 Critical habitat—plants. [Reserved]

AUTHORITY: Sec. 7, Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

Subpart I—Interagency Cooperation

§ 17.90 [Reserved]
§ 17.91 [Reserved]
§ 17.92 [Reserved]
§ 17.93 [Reserved]
§ 17.94 [Reserved]
§ 17.95 Critical Habitat—Fish and Wildlife.

(a) *Mammals*—(1) *Florida Manatee.* (i) The following areas (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species) in Florida are critical habitat for the Florida manatee (*Trichechus manatus*): Crystal River and its headwaters known as King's Bay, Citrus County; the Little Manatee River downstream from the U.S. Highway 301 bridge, Hillsborough County; the Manatee River downstream from the Lake Manatee Dam, Manatee County; the Myakka River downstream from Myakka River State Park, Sarasota and Charlotte Counties; the Peace River downstream from the Florida State Highway 760 bridge, De Soto and Charlotte Counties; Charlotte Harbor north of the Charlotte-Lee county line. Charlotte County; Caloosahatchee River downstream from the Florida State Highway 31 bridge, Lee County; all U.S. territorial waters adjoining the coast and islands of Lee County; all U.S. territorial waters adjoining the coast and islands and all connected bays, estuaries, and rivers from Gordon's Pass, near Naples, Collier County, southward to and including Whitewater Bay, Monroe County; all waters of Card, Barnes, Blackwater, Little Blackwater, Manatee, and Buttonwood sounds between Key Largo, Monroe County, and the mainland of Dade County; Biscayne Bay, and all adjoining and connected lakes, rivers, canals, and waterways from the southern tip of Key Biscayne northward to and including Maule Lake, Dade County; all of Lake Worth, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway A1A southward to its southernmost point immeditately north of the town of Boynton Beach, Palm Beach County; the Loxahatchee River and its headwaters, Martin and West Palm Beach Counties; that section of the intracoastal waterway from the town of Sewalls Point, Martin County to Jupiter Inlet, Palm Beach County; the entire inland section of water known as the Indian River, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway 3, Volusia County, southward to its southernmost point near the town of Sewalls Point, Martin County, and the entire inland section of water known as the Banana River and all waterways between the Indian and Banana rivers, Brevard County; the St. Johns River, including Lake George, and including Blue Springs and Silver Glen Springs from their points of origin to their confluences with the St. Johns River; that section of the Intracoastal Waterway from its confluence with the St. Marys River on the Georgia-Florida border to the Florida State Highway A1A bridge south of Coastal City, Nassau and Duval Counties.

(ii) Pursuant to section 7 of the act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the critical habitat area.

(2) *Indiana Bat.* (i) The following areas (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species) are critical habitat for the Indiana bat (*Myotis sodalis*):

(A) *Illinois.* The Blackball Mine, La Salle County.

(B) *Indiana.* Big Wyandotte Cave, Crawford County; Ray's Cabe, Greene County.

(C) *Kentucky.* Bat Cave, Carter County; Coach Cave, Edmonson County.

(D) *Missouri.* Cave 021, Crawford County; Cave 009, Franklin County; Cave 017, Franklin County; Pilot Knob Mine, Iron County; Bat Cave, Shannon County; Cave 029, Washington County [numbers assigned by Division of Ecological Services, U.S. Fish and Wildlife Service, Region 6].

(E) *Tennessee.* White Oak Blowhole Cave, Blount County.

(F) *West Virginia.* Hellrole Cave, Pendleton County.

(ii) Pursuant to section 7 of the act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of these critical habitat areas.

(b) *Birds*—(1) *California Condor.* (i) The following areas (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species) in California are critical habitat for the California condor (*Gymnogyps californianus*).

(A) *Sespe-Piru Condor Area:* an area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Los Angeles Counties, with the following components (San Bernardino Meridian): Sespe Condor Sanctuary, as delineated by Public Land Order 695 (January 1951); T4N R20W Sec. 2, 5–10, N½ Sec. 11; T4N R21W Sec. 1–3, 10–12, N¼ Sec. 13, N¼ Sec. 14, N¼ Sec. 15; 75N R18W Sec. 4–9, 18, 19, 30, 31, N½ Sec. 3, N½ Sec. 17; T5N R21W Sec. 1–4, 9–16, 21–28, 33–36; T6N R18W Sec. 7–11, 14–23, 26–35; T6N R19W Sec. 7–36; T6N R20W Sec. 8–36; T6N R21W Sec. 13–36; T6N R22W Sec. 3–26, 35, 36; T6N R23W Sec. 1–3, 10–14, 24, N½ Sec. 23; T7N R22W Sec. 31; T7N R23W Sec. 34–36.

(B) *Matilija Condor Area:* an area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Santa Barbara Counties, with the following components (San Bernardino Meridian): T5N, R24W W½ Sec. 3, Sec. 4–11, 14, 15, N½ Sec. 16, N¼ Sec. 17; T5N R25W E½ Sec. 1, NE¼ Sec. 12; T5½N R24W Sec. 31–34; T6N R24W S½ Sec. 32, S½ Sec. 3, S½ Sec. 34.

(C) *Sisquoc-San Rafael Condor Area:* an area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, Santa Barbara County, with the following components (San Bernardino Meridian): T6N R26W Sec. 5, 6; T6N R27W Sec. 1, 2; T7N R26W Sec. 5–8, 17–20, 29–32; T7N R26W Sec. 1–14, 23–26, 35, 36; T7N R26W Sec. 1, 2, 11, 12; T8N R26W Sec. 19–22, 27–34; T8N R27W Sec. 19–36.

(D) *Hi Mountain-Beartrap Condor Areas:* areas of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R16E Sec. 13, 14, 23–26, SE¼ Sec. 11, S½ Sec. 12; T30S R17E Sec. 17–20, 29, 30; T31S R14E Sec. 1, 2, 11, 12, E½ Sec. 3, E½ Sec. 10, N½ Sec. 14, N½ Sec. 13; T31S R15E W½ Sec. 6, W½ Sec. 7, NW¼ Sec. 18.

(E) *Mt. Pinos Condor Area:* An area of land, water, and airspace in Ventura and Kern Counties, with the following components (San Bernardino Meridian): T8N R21W½ Sec. 5, Sec. 6 N½ Sec. 7, NW¼ Sec. 8; T8N R22W Sec. 1, 2, E½ Sec. 3, NE¼ Sec. 10, N½ Sec. 11, N½ Sec. 12; T9N R21W Sec. 31, 32, W½ Sec. 33; T9N R22 W E½ Sec. 35, Sec. 36.

(F) *Blue Ridge Condor Area:* An area of land, water, and airspace in Tulare County, with the following components (Mt. Diablo Meridian): T19S R29E Sec. 5–9, 15–22, 27–30.

(G) *Tejon Ranch:* an area of land, water, and airspace in Kern County, with the following components (San Bernardino Meridian): R16W T10N, R17W T10N, R17W, T11N, R18W, T9N, R18W T10N, R19W, T10N.

(H) *Kern County rangelands:* an area of land, water, and airspace in Kern County between California State Highway 65 and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R29E T25S, R29E T26S, R30E T25S, R30E T26S.

(I) *Tulare County rangelands:* an area of land, water, and airspace in Tulare County between California State Highway 65, State Highway 198, and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R28E T18S (all sections); R28E T19S (all sections); R28E T20S (all sections); R28E T21S Sec. 1–18; R29E T20S (all sections); R29E T21S Sec. 1–18.

(ii) Pursuant to section 7 of the act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of these critical habitat areas.

(2) *Palila.* The following areas (exclusive of those existing man-made structures or settlements which are not necessary to the survival or recovery of the species are Critical Habitat for the Palila (*Psittirostra bailleui*).

Hawaii. An area of land, water, and airspace on the Island of Hawaii, Hawaii County, with the following components: (1) the State of Hawaii Mauna Kea Forest Reserve, except (a) that portion south of the Saddle Road (State Highway 20), (b) lands owned by the United States in the Pohakuloa Training Area north of the Saddle Road (State Highway 20) established by Executive Order 1719 (Parcel 6, State of Hawaii Tax Map Key 4–4–16, Third Division), (c) that portion (Parcel 10, Kaohe IV, State of Hawaii Tax Map Key 4–4–16, Third Division) lying north of the Saddle Road (State Highway 20) and south of the Power Line Road; (2) that portion of the State of Hawaii Kaohe Game Management Area (Parcel 4, State of Hawaii Tax Map Key 4–4–15, Third Division) to the north and east of the Saddle Road (State Highway 20); (3) that portion of the Upper Waikii Paddock (Parcel 2, State of Hawaii Tax Map Key 4–4–15, Third Division) northeast of the Saddle Road (State Highway 20); (4) that portion of the lands of Humuula between Puu Kahinahina and Kole lying southeast of the Mauna Kea Forest Reserve fence (portions of Parcels 2, 3, and 7, State of Hawaii Tax Map 3–8–1, Third Division) which are included in the State conservation district; (b) Pursuant to section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions author-

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ized, funded, or carried out by them do not result in the destruction or modification of this Critical Habitat area.

(c) *Reptiles* (1) *American Crocodile.* (i) The following area (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species) is critical habitat for the American crocodile (*Crocodylus acutus*): All land and water within the following boundary in Florida; beginning at the easternmost tip of Turkey Point, Dade County, on the coast of Biscayne Bay; thence southeastward along a straight line to Christmas Point at the southernmost tip of Elliott Key; thence southwestward along a line following the shores of the Atlantic Ocean side of Old Rhodes Key, Palo Alto Key, Anglefish Key, Key Largo, Plantation Key, Windley Key, Upper Matecumbe Key, Lower Matecumbe Key, and Long Key, to the westernmost tip of Long Key; thence northwestward along a straight line to the westernmost tip of Middle Cape; thence northward along the shore of the Gulf of Mexico to the north side of the mouth of Little Sable Creek; thence eastward along a straight line to the northernmost point of Nine-Mile Pond; thence northeastward along a straight line to the point of beginning.

(ii) Pursuant to section 7 of the act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of this critical habitat area.

(d) [Reserved]

(e) *Fishes*—(1) *Snail Darter.* (i) The following area is critical habitat for the snail darter (*Percina* (*Imostoma*) sp.): From river mile 0.5 to river mile 17 of the Little Tennessee River, Loudon County, Tennessee, as shown on a map entitled "Tellico Project," prepared by Tennessee Valley Authority, Bureau of Water Control Planning, August 1965 (map 65–MS–453 K 501). (ii) Pursuant to section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of this critical habitat area.

[FR Doc.76–37558 Filed 12–21–76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation Number A411]

IDAHO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected Owyhee County, Idaho, as a result of hailstorms July 20, 1976, and August 1, 1976, and heavy rains August 15 to September 15, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Cecil D. Andrus that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 8, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–37549 Filed 12–21–76;8:45 am]

[Designation Number A416]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Louisiana Parishes as a result of drought from June 1, 1976 through October 31, 1976, for Franklin Parish; and drought from July 4 through September 4, 1976, for Morehouse Parish.

FRANKLIN MOREHOUSE

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Edwin W. Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 9, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 15th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–37550 Filed 12–21–76;8:45 am]

[Designation Number A413]

NORTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Nelson County, North Dakota, as a result of drought during the 1976 crop year beginning May 1 and ending December 31, 1976, and hail June 12 and August 9, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Arthur A. Link that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 8, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–37551 Filed 12–21–76;8:45 am]

[Designation Number A417]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought October 1, 1975 through August 31, 1976, hail August 27 and September 27, 1976, and early freeze October 8, 1976, in Cochran County; high winds and severe hail September 27, 1976, in Coleman County; and high winds and severe hail September 25, 1976, in Sherman County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 9, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–37553 Filed 12–21–76;8:45 am]

[Designation Number A414]

WEST VIRGINIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain West Virginia Counties as a result of various adverse weather conditions shown in the following chart:

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WEST VIRGINIA

County	Disaster(s)	Incidence dates
Berkeley	Killing frosts	Apr. 1 through May 15, 1976.
	Drought	Jan. 1, 1976 through Nov. 19, 1976.
Grant	Killing frost	Apr. 15, 1976.
	Drought	Jan. 1, 1976 through Nov. 19, 1976.
Hampshire	Killing frosts	Apr. 3, 1976 through May 5, 1976.
	Drought	Jan. 31, 1976 through Nov. 5, 1976.
Hardy	Freeze and frost	Apr. 12, 1976 through May 5, 1976.
	Drought	Jan. 31, 1976 through Nov. 19, 1976.
Jefferson	Hot weather	Feb. 17, 1976 through Feb. 29, 1976.
	Drought	Mar. 1, 1976 through Nov. 19, 1976.
Mineral	Freeze and frost	Apr. 12, 1976.
	Drought	Jan. 3, 1976 through Nov. 19, 1976.
Pendleton	Killing frosts	May 5, 1976 through May 13, 1976.
	Drought	Jan. 1, 1976 through Nov. 19, 1976.
Morgan	Killing frost	Apr. 12, 1976.
	Drought	Jan. 31, 1976 through Nov. 19, 1976.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Arch A. Moore, Jr. that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 8, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 15th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-37552 Filed 12-21-76;8:45 am]

Soil Conservation Service

RICHLAND CREEK WATERSHED PROJECT, TEX.

Availability of Negative Declaration of Environmental Impacts

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Richland Creek Watershed project, Navarro, Ellis, Hill, Limestone, and Freestone Counties, Texas.

The environmental assessment of this Federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. George C. Marks, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include the installation of two single purpose floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

USDA, Soil Conservation Service, W. R. Poage, Federal Building, 101 South Main Street, Temple, Texas 76501.

Requests for the negative declaration should be sent to:

P.O. Box 648, Temple, Texas 76501.

No administrative action on implementation of the proposal will be taken until January 5, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Flood Control Act—Public Law 78–534, 58 Stat. 905.)

Dated: December 10, 1976.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76-37510 Filed 12-21-76;8:45 am]

ARMS CONTROL AND DISARMAMENT AGENCY

PRIVACY ACT OF 1974

Proposed Additional Routine Uses

This notice describes five proposed additional routine uses for some or all of the systems of records maintained by the U.S. Arms Control and Disarmament Agency as published on August 28, 1975 (40 FR 39665–39669) and amended on May 26, 1976 (41 FR 21624–21626). These additional routine uses relate to disclosure of records in connection with (1) a grievance, complaint, or appeal filed by an employee; (2) exercise by the Civil Service Commission of its responsibility for evaluation and oversight of Federal personnel management; (3) audit by another Federal agency; [4] administrative services provided by the General Services Administration; and (5) release of information to state and local taxing jurisdictions. More detailed descriptions of these routine uses and identification of the systems of records to which they apply are set forth below.

Pursuant to 5 U.S.C. 552a(c)(11) the proposed additional routine uses of this notice are hereby set out for public comment. Interested persons are invited to submit written data, views, or arguments with respect to such routine uses, in duplicate, to the General Counsel, United States Arms Control and Disarmament Agency, 320 21st St., N.W., Washington, D.C. 20451, on or before January 21, 1977.

Dated: December 1, 1976.

JOHN LEHMAN,
Acting Director.

1. In the descriptions of each of the systems of records designated ACDA–1 (Official Personnel Records—ACDA), ACDA–3 (Security Records—ACDA), ACDA–5 (Top Secret Document Control File—ACDA), ACDA–6 (Document Classifier Data Index—ACDA), ACDA–8 (External Contracts (Other Than Small Purchases)—ACDA), ACDA–13 (Travel Authorization File—ACDA), and ACDA–14 (Confidential Statement of Employment and Financial Interests Records—ACDA), add the following paragraph at the end of the section on routine uses as previously amended:

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

2. In the descriptions of each of the systems of records designated ACDA–1 (Official Personnel Records—ACDA), ACDA–2 (Pending Personnel Files—ACDA), ACDA–3 (Security Records—ACDA), ACDA–8 (External Contracts (Other Than Small Purchases)—ACDA), ACDA–13 (Travel Authorization File—ACDA), and ACDA–14 (Confidential Statement of Employment and Financial Interests Records—ACDA), add the following paragraph at the end of the section on routine uses as previously amended:

A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with that agency's responsibility for evaluation and oversight of Federal personnel management.

3. In the descriptions of each of the systems of records designated ACDA–1 through ACDA–14 inclusive, add the following paragraph at the end of the section on routine uses as previously amended:

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

4. In the descriptions of each of the systems of records designated ACDA–1 through ACDA–14 inclusive, add the following paragraph at the end of the section on routine uses as previously amended:

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

5. In the description of the systems of records designated ACDA–1 (Official Personnel Records—ACDA),

and ACDA–13 (Travel Authorization—ACDA), add the following paragraph at the end of the section on routine uses as previously amended:

Routine uses of records maintained in this system shall include providing a copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Officer, U.S. Arms Control and Disarmament Agency, 320 21st St., N.W., Washington, D.C. 20451. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both. Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Executive Officer of the Agency. In the absence of a withholding agreement, the social security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the social security number, in accordance with Section 7 of the Privacy Act, Public Law 93–579.

[FR Doc.76-85798 Filed 12-21-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30151; Order 76–12–102]

AMERICAN AIRLINES, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3rd day of December, 1976.

By tariff revisions filed September 13, 1976, for effectiveness October 13, 1976, American Airlines, Inc. (American) proposes new "assembly" group inclusive tour (GIT) fares from numerous U.S. points to Mexico City and Acapulco. A complaint requesting suspension pending investigation has been submitted by Eastern Air Lines, Inc. (Eastern).

The fares include a 3/30-day minimum/maximum stay requirement, a minimum ground-arrangement purchase of $45 ($15 per night), 15-day advance reservations, and would be available all year except during the periods December 17–January 9 (southbound) and December 25–January 9 (northbound). While the fares are limited to groups of at least 40 passengers, each passenger may travel individually from his origin city to the "assembly point" of Chicago or Dallas, whereafter all travel would be with the group.

In its justification submitted in support of the proposed fares, American alleges that while group fares to Mexico from nongateway cities have been available since February 1976, they have been utilized infrequently since travel agents have been unable to assemble groups of at least 40 passengers from "feeder" cities; and that by allowing individual travel from nongateway cities to the assembly points of Chicago or Dallas, significant new traffic will be generated even though the proposed assembly group fares are somewhat higher than the existing, regular GIT fares which require group travel for the entire itinerary. American has submitted a profit impact analysis which shows a net annual profit of $420,000 on these fares based on a 40/60 percent generation/diversion ratio. Finally, the carrier states that in order to control the proliferation of group fares, it intends to replace its current GIT fares, except where competition otherwise requires that they be retained, with the new assembly group fares.

In its complaint, Eastern alleges that the proposed "group assembly" fares are in reality individual inclusive tour (IIT) fares, since the group requirement applies only to the Chicago and Dallas gateways; that an assembly fare of this nature would be difficult if not impossible to control since each group would have passengers originating at many different points, and there is no assurance that the group requirement has been fulfilled at either Chicago or Dallas; that the proposed fares represent reductions of 5 to 10 percent from existing IIT fares as well as a liberalization of the ticket validity from 5/21 days to 3/31 days; and that American's' generation estimate of 40 percent, based on in-flight surveys of group passengers, is faulty due to the unreliable nature of the survey as well as the use of a discount factor of 21.25 percent, which represents the discount from normal economy and excursion fares rather than the discount from the next higher fare, the IIT.

American, in an answer to Eastern's complaint, alleges that the proposed fares are, in fact, group not individual fares, and that similar fares have been in effect in the mainland-Hawaii market since 1968; that the new fares will not be impossible to control since the carrier will receive, at least 15 days before departure, advance payment for all 40 passengers as well as certain control information;[1] that American's generation/diversion estimate is valid inasmuch as the question used in the survey has remained virtually unchanged for 10 years, and was recently found to give valid results in the initial decision in Docket 27671, *"No Frills" Fares Investigation,*[2] and that a generation factor of 40 percent is entirely reasonable since individual and group travel appeal to different segments of the public and the sale of group travel is enhanced by the promotional efforts of travel agents.

Upon consideration of the tariff filing, the complaint and answer thereto, and all other relevant matters, the Board has concluded that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the fares should be suspended pending investigation.

The Board does not doubt that there may be some difficulty in developing regular GIT travel to Mexico from relatively small, nongateway points, despite American's own citation of the developmental benefits for group sales by travel agents' promotional activities. On the other hand, we note that among the 26 so-called "feeder" cities which are allegedly incapable of generating much group travel are the large metropolitan areas of Baltimore, Boston, Cincinnati, Cleveland, Detroit, Indianapolis, New York, Philadelphia, Pittsburgh, St. Louis, and Washington, D.C. Further, as Eastern notes in its complaint, there are already available in the U.S.-Mexico market IIT fares from numerous U.S. points.[3] Except for the group travel requirement, the conditions on the IIT fare are quite similar to those on the GIT fare, and we see no reason why the existing IIT fares should not adequately accommodate individual travel requirements from those cities to Mexico.[4] Indeed, American has not even addressed this question, and in light of the fact that the proposed group assembly fares represent significant reductions from the existing IIT fares, and appear to incur equal or greater ticketing and reservations costs, American has failed to demonstrate that the proposed fares are economically justified.

American's generation/diversion estimate, which is based on a recent systemwide in-flight survey of domestic as well as international passengers traveling on a wide variety of group fares is particularly unimpressive.[4] American has failed to make a *prima facie* showing of a positive profit impact, and it appears likely

[1] Briefly, the agent must submit the group control number assigned by the carrier, the name and ticket number of each passenger as well as his origin city, the fare applicable to each ticket and full payment, and the name of the agency issuing each ticket.

[2] Of the 30 U.S. points where American has proposed introduction of assembly group fares, IIT fares are currently unavailable only at Buffalo.

[3] This conclusion is supported by recent U.S.-Mexico traffic distribution data submitted to the Board, which showed 38.7 and 17.3 percent, respectively, of American's passengers traveling under the individual excursion and IIT fares, versus only 6.1 percent under the GIT fare.

[4] The survey question, "If a 'special discount' fare were not available for your trip today, would you personally still have taken this trip by air" implies a choice between the regular coach fare and the particular group fare, and ignores the existence of other discount fares such as the U.S.-Mexico excursion and IIT fares.

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that the proposed fares would seriously dilute revenue from traffic already moving on existing, higher fares without offering a serious potential for generating new traffic.[4] In addition, it is not unlikely that efficient administration and control of the Chicago and Dallas assembly groups consisting of passengers from several different origin cities would involve additional costs to the carrier.

The Board has long encouraged the carriers to reduce reliance on group travel as opposed to individually ticketed service. By Order 75–3–97, March 26, 1975, the Board approved portions of a U.S.-Mexico fare agreement among the members of the International Air Transport Association (IATA) which, in line with the Board's policies, essentially replaced then-existing GIT fares with IIT fares at levels approximately 10 percent higher. However, due to the Board's disapproval in concurrent Order 75–3–96 of general increases in other U.S.-Mexico fares, the agreement never became effective and U.S.-Mexico fares have been in an open-rate situation since that time. Thus, although IIT fares were introduced in most U.S.-Mexico markets, GIT fares remained in effect, and in many markets the contemplated increases in inclusive tour fare levels did not materialize. The "assembly group" inclusive tour fares now proposed by American represent, in effect, a reduction in the IIT fare levels approved by the Board over 18 months ago. American has submitted no data to show that the existing IIT fares have been incapable of accommodating the demand for inclusive tour travel in the relevant markets. Thus, there is no showing that the proposed assembly-group fares would generate enough new traffic to offset the diversion from the higher-rated IIT fare.[5]

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 801 and 1002(j) thereof,

It is ordered That: 1. An investigation be instituted to determine whether the fares and provisions set forth in the Appendix hereof, and rules, regulations or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to take appropriate action to prevent the use of such fares and provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the fares and provisions specified in the Appendix hereof are suspended and their use deferred from December 17, 1976, to and including December 17, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[7] and shall become effective on December 17, 1976;

4. The investigation ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated;

5. Except to the extent granted herein, the complaint of Eastern Air Lines, Inc., in Docket 29803 be and hereby is dismissed; and

6. American Airlines, Inc., Eastern Air Lines, Inc., and Braniff Airways, Inc., be and hereby are exempted from section 403 of the Federal Aviation Act of 1958 and from Part 221 of the Board's Economic Regulations to the extent necessary to permit them to transport passengers holding confirmed reservations as of the effective date of this order, at the fares specified in ordering paragraph 1 above, at no additional collection;[8] and

7. Copies of this order be filed in the aforesaid tariffs and be served upon American Airlines, Inc., Braniff Airways, Inc., and Eastern Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

JAMES R. DERSTINE,
Acting Secretary.

[5] The assembly group fares would not only divert passengers from the IIT fares; due to the liberalization of the ticket validity, a serious possibility also exists for diversion of excursion fare traffic. Most of the proposed fares would produce per-mile yields well below American's experienced cost of 7.50 cents per revenue passenger mile (RPM) in U.S.-Mexico passenger service during the year ended March 31, 1976, and range as low as 4.3 cents/RPM in the case of Chicago-Mexico.

[6] The fact that "assembly" fares exist in the U.S. mainland-Hawaii market does not support American's proposal. Historically, mainland-Hawaii assembly group inclusive tour fares were introduced when virtually all service from interior U.S. points to Hawaii required a west coast connection, consistent with operational patterns and aircraft capabilities of the time. Even at the present time, there is an overwhelming concentration of mainland-Hawaii service at the west coast gateways. However, these particular circumstances do not obtain in the U.S.-Mexico markets where direct services are widely available and do not depend upon connections at Chicago or Dallas. Further, as set forth in the Board's recent Opinion and Order[7] in the *Hawaii Fares Investigation* (Order 76–10–37, October 8, 1976), carriers have been granted relatively wide latitude in offering discount fares; however, the Board indicated that normal fares would be established as if discount fares were not part of the fare structure in order to protect the normal fare passenger from the dilutionary impact of discount fares. There is no corresponding discount fare adjustment in international markets where the Board has no power to prescribe fares. In any event, regardless of the existence of assembly group fares in the Hawaii market, American has failed to make a showing that such fares would be economic in the U.S.-Mexico market.

[7] This order was submitted to the President on December 6, 1976.

[8] The Board is concerned about possible hardships and disruptions to the travel plans of passengers who have already purchased tickets under these fares, particularly at this season. In these circumstances, it is found that the enforcement of section 403 of the Act, and Part 221 of the Economic Regulations, would be an undue burden upon the carriers in this instance by reason of the limited extent of and unusual circumstances affecting operations and is not in the public interest.

APPENDIX

PASSENGER FARES TARIFF NO. P–NS–3, C.A.B. NO. 84 ISSUED BY AIR TARIFFS CORPORATION, AGENT

Rule 102 on 2nd Revised Pages 34–A and 34–B;
Table 22 on 2nd Revised Pages 102–A and 102–B.

INTERNATIONAL PASSENGER FARES TARIFF C.A.B. NO. 415 ISSUED BY EASTERN AIR LINES, INC.

Rule 130 on Original Pages 40–K and 40–L;
The Fare Class "YWAGV40" and Application thereof on 20th Revised Page 51;
The Fare Class "YXAGV40" and Application thereof on 18th Revised Page 53;
All "YWAGV40" and "YXAGV40" Round-Trip Fares and provisions and reference marks applicable thereto on the following pages:
21st Revised Pages 55 and 56, 19th Revised Pages 57 and 58, 3rd Revised Page 58–A, 25th Revised Pages 93 and 94, 23rd Revised Pages 95 and 96, 3rd Revised Page 96–A, 19th Revised Page 135, 16th Revised Page 136.

The suspension herein does not stay the cancellation of:

(a) Original and 1st Revised Pages 34–A, 34–B, 102–A and 102–B to Passenger Fares Tariff No. P–NS–3, C.A.B. No. 54 issued by Air Tariffs Corporation, Agent *and*

(b) 19th Revised Page 51, 17th Revised Page 53, 20th Revised Pages 55 and 56, 18th Revised Pages 57 and 58, 2nd Revised Page 58–A, 24th Revised Pages 93 and 94, 22nd Revised Pages 95 and 96, 2nd Revised Page 96–A and 18th Revised Page 135 to International Passenger Fares Tariff C.A.B. No. 415 issued by Eastern Air Lines, Inc.

[FR Doc.76–37598 Filed 12–20–76;8:45 am]

[Docket 28738]

EUGENE HORBACH AND GAC CORP./ MODERN AIR TRANSPORT PURCHASE AGREEMENT

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on January 5, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., December 15, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76–37596 Filed 12–21–76;8:45 am]

[Docket 24647]

TRANSAVIA HOLLAND N. V.

Postponement of Prehearing Conference and Hearing

Upon consideration of the request of Transavia Holland, N.V., by letter dated December 10, 1976, which includes a statement that Bureau Counsel has no objection, the prehearing conference and hearing in this proceeding, heretofore set for January 13, 1977 (41 FR 50849, dated November 18, 1976), are postponed until further notice.

Dated at Washington, D.C., December 15, 1976.

RALPH L. WISER,
Administrative Law Judge.

[FR Doc.76–37597 Filed 12–21–76;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S–529]

PRUDENTIAL LINES, INC.

Application

Notice is hereby given that Prudential Lines, Inc. has applied to amend its present Operating-Differential Subsidy Agreement, Contract No. FMB–49 to modify its Line A (Trade Route No. 2) Freight Service to include the carriage of outbound cargo from U.S. Atlantic ports (Maine to but not including Key West, Florida) to Puerto Cabello and La Guaira, Venezuela, on a privilege basis en route to other ports of call on the West Coast of South America.

Any person, firm, or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1175), should, by the close of business on December 30, 1976 notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service served by citizens of the United States, which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry and such essential service is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petitions for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistant Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Maritime Subsidy Board.

Date: December 16, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76–37556 Filed 12–21–76;8:45 am]

National Oceanic and Atmospheric Administration

NANTUCKET CANDLE SHOP, INC.

Notice of Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due form for a Certificate of Exemption under Pub. L. 94–359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant: Nantucket Candle Shop, Inc., Old South Road, Nantucket, Massachusetts 02554.

Period of Exemption: The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted: The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted: Approximately 66,000 candles to be made from approximately 8,500 pounds of spermaceti wax.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before January 21, 1976.

Dated: December 15, 1976.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.76–37513 Filed 12–21–76;8:45 am]

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN TEXTILE PRODUCTS FROM INDIA

Reduction of Import Level

DECEMBER 16, 1976.

On September 30, 1976, there was published in the FEDERAL REGISTER (41 FR 43235) a letter dated September 29, 1976 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, implementing those provisions of the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India, which establish specific export limitations on certain categories for the agreement year which began on October 1, 1976. As set forth in that letter, the levels of restraint are subject to adjustment.

Paragraph 7(b) of the bilateral agreement provides that carryforward up to 5 percent may be applied to current-year levels of categories subject to specific ceiling and charged against the applicable level of the category in the succeeding agreement year. Such an increase, amounting to 500,000 square yards equivalent, was applied to cotton textile products in Categories 28–38 and 64, as a group, during the agreement year which began on October 1, 1975 (see 41 FR 18705). The purpose of this notice is to advise that 500,000 square yards equivalent are being deducted from the level of restraint of 10,700,000 square yards equivalent established for Categories 28–38 and 64, as a group, for the agreement year which began on October 1, 1976.

Accordingly, there is published below a letter of December 16, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements, directing that entry into the United States for consumption in Categories 28–38 and 64, as a group, be limited to 10,200,000 square yards equivalent during the twelve-month period which began on October 1, 1976 and extends through September 30, 1977.

Effective date: December 20, 1976.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

UNITED STATES DEPARTMENT OF COMMERCE, THE ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS,
Washington, D.C., December 16, 1976.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on September 29, 1976 which directed you to prohibit entry during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977, of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in India, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 7(b) of the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to reduce, effective on December 20, 1976, the group level of restraint established for Categories 28–38 and 64 in the directive of September 29, 1976, to 10,300,000 square yards equivalent.[2]

The actions taken with respect to the Government of India and with respect to imports of cotton textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the direc-

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India, which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) exports may be increased for carryover and carryforward up to 10 percent of the current-year's applicable limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any entries made after September 30, 1976.

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tions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.76-37564 Filed 12-21-76;8:45 am]

COMMISSION ON POSTAL SERVICE

PUBLIC SERVICE COSTS OF POSTAL SERVICE

Hearings To Be Conducted in Washington, D.C., and in Cities Throughout the United States

Under section 7(c)(1) of the Postal Reorganization Act Amendments of 1976, Pub. L. 94-421, 90 Stat. 1309, the Commission on Postal Service gives notice of its intention to hold hearings in Washington, D.C., and several cities throughout the United States. Members of the public are invited to appear before the Commission to address the five issues of postal policy enumerated in the FEDERAL REGISTER notice of November 22, 1976 (41 FR 51435-51436). Generally, these issues concern the definition and quantification of the public service costs of postal service to the American public, postal rates and classifications, and the impact of new and developing electronic communication systems upon the Postal Service.

Persons wishing to testify should notify the Commission as soon as possible at the following address:

Commission on Postal Service, 1750 K Street, N.W.—Suite 801, Washington, D.C. 20006.

Individuals testifying for themselves are to bring three copies of their testimony with them to the hearing. Organizations and businesses will be required to file 15 advance copies of their testimony at least 10 days before the hearing. Those copies should be mailed to the above address.

Following is the schedule for the hearings:

January 18, 1977: Atlanta, Ga.; Portland, Maine; and New York, N.Y.
January 19, 1977: Charleston, S.C.; Boston, Mass.; and New York, N.Y.
January 20, 1977: Chicago, Ill.; and Cleveland, Ohio.
January 21, 1977: Philadelphia, Pa.
January 24-28, 1977: Washington, D.C.
January 31, 1977: Charleston, W. Va.
February 1, 1977: Nashville, Tenn.; and Los Angeles, Calif.
February 2, 1977: Little Rock, Ark.; San Francisco, Calif.; and Oklahoma City, Okla.
February 3, 1977: Seattle, Wash.; Albuquerque, N. Mex.; and Dallas, Tex.

Each person notifying the Commission of his intent to testify will be informed by the Commission of the time and place of the hearing at which the person intends to testify.

The Commission was established by Congress this fall to study postal problems and report to Congress and the President with recommendations by March 15, 1977. The Commission has nine members, seven voting members appointed by the President and Congressional officials and two ex-officio.

The seven appointed members are: Gaylord Freeman, Chicago banker, the chairman; James H. Rademacher, president of the National Association of Letter Carriers; Kent Rhodes, Chairman of the Board of Reader's Digest; Hobart Taylor, Jr., Washington, D.C. attorney; Paul J. Krebs, former New Jersey Congressman; Rose Blakely, Washington businesswoman; and David Johnson, general executive vice-president of the American Postal Workers Union. Ex-officio members are Postmaster General Benjamin Bailar and Clyde S. DuPont, Chairman of the Postal Rate Commission.

By the Commission.

Dated: December 17, 1976.

DAVID MINTON,
Executive Director.

[FR Doc.76-37611 Filed 12-21-76;8:45 am]

DEPARTMENT OF THE ARMY

COMMAND AND GENERAL STAFF COLLEGE ADVISORY COMMITTEE

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name: Command and General Staff College (CGSC) Advisory Committee.
Date: 12-14 January 1977.
Place: Command Conference Room, Bell Hall, Fort Leavenworth, Kansas 66027.
Time: 2000-2200, 12 January 1977; 0900-1630, 13 January 1977; 0900-1130, 14 January 1977.

PROPOSED AGENDA

2000-2200, 12 January 1977: Review of CGSC Educational Program, especially the Master of Military Art and Science (MMAS) Degree Program.
0900-1630, 13 January 1977: Continuation of review.
0900-1000, 14 January 1977: Continuation of review.
1000-1130, 14 January 1977: Executive Session.

The purpose of the meeting is for the Advisory Committee to examine the entire range of college operations and, where appropriate, to provide advice and recommendations to the College Commandant and faculty.

The meeting will be open to the public to the extent that space limitations of the meeting space permit. Because of these limitations, interested parties are requested to reserve space by contacting the Committee's Executive Secretary.

Dated: December 2, 1976.

By authority of the Secretary of the Army:

R. S. SEEBERG,
LTC, U.S. Army, Acting Director, Administrative Management Director, TAGCEN.

[FR Doc.76-36140 Filed 12-21-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21026, File No. 4607-CM-P-72; Docket No. 21027, File No. 6966-CM-P-72]

EASTERN MICROWAVE, INC. AND WHP, INC.

Notice of Applications; Correction

In Re Applications of Eastern Microwave, Inc., Docket No. 21026, File No. 4607-CM-P-72; and WHP, Inc., Docket No. 21027, File No. 6966-CM-P-72; for construction permits in the multipoint distribution service for a new station at Harrisburg, Pennsylvania.

Released: December 3, 1976. In FR Doc. 76-36065 (41 FR 53696, Dec. 8, 1976) the Docket Number for "WHP, INC., 21026" is corrected to read "WHP, INC., 21027".

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37577 Filed 12-21-76;8:45 am]

[Docket No. 20996, etc.]

FLORIDA GOSPEL NETWORK, ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: December 2, 1976; Released: December 10, 1976.

In re Applications of Robert A. Jones, Raymond A. Kassis & Paul J. Lewis, db/a Florida Gospel Network, Jensen Beach, Florida, Docket No. 20996, File No. BPH-9077, Req: 107.1 MHz, Ch. No. 296; 3kw (H&V); 300 feet (H&V);

Jensen Beach Broadcasting Company, Inc., Jensen Beach, Florida, Docket No. 20997, File No. BPH-9258, Req: 107.1 MHz, Ch. No. 296; 3kw (H&V); 268 feet (H&V);

Robert L. Lord & Marshall W. Rowland, db/a Lord & Rowland Radio, Jensen Beach, Florida, Docket No. 20998, File No. BPH-9350, Req: 107.1 MHz, Ch. No. 296; 3 kw (H&V); 293 feet (H&V); and

HLG, Inc., Jensen Beach, Florida, Docket No. 20999, File No. BPH-9561, Req: 107.1 MHz, Ch. No. 296; 3kw (H&V); 300 feet (H&V), For Construction Permit.

1. The Commission, by the Chief, Broadcast Bureau, has before it the above-captioned applications of Robert A. Jones, Raymond A. Kassis and Paul J. Lewis, db/a Florida Gospel Network (hereinafter "Gospel"); Jensen Beach Broadcasting Company ("Beach"); Robert L. Lord and Marshall W. Rowland, db/a Lord and Rowland Radio ("Lord"); and HLG, Inc. ("HLG"), all seeking a construction permit for a new FM broadcast station to serve Jensen Beach, Florida. Requesting the same channel, these applications are mutually exclusive.

2. Although the Commission has sent two letters to Gospel indicating defects in its random survey of the general public, there is still a question as to whether Gospel has complied with the Commission's *Primer on the Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650 (1971), in this respect. As amended in July, Gospel's application gives no indication who conducted the general public survey, stating only that telephone calls were placed "by the applicant", which is a Florida partnership. Consequently, the Commission cannot tell whether Gospel's survey was conducted in accordance with answer 11(b) of the *Primer*, which specifies who should interview members of the general public. An appropriate issue will therefore be specified.

3. According to its application, Beach would require $111,592 to construct its station and operate it without revenues for one year. To meet this requirement, Beach proposes to rely upon cash on hand or in banks totaling $1,500 and five loans aggregating $105,250. The total of the funds available to Beach is therefore $106,750, an amount $4,842 less than that required. A financial issue will therefore be specified.

4. Lord's description of the composition of Jensen Beach contained several indications that labor constitutes a significant community group. According to Lord, Jensen Beach has "some small construction companies and one operating industrial park consisting of a steel fabricating plant, warehouses and lumber yard". Lord also asserts that another industrial park is proposed, that many residents work at Grumman Aerospace Corp. and Ebasco, Inc., "now involved in constructing a nuclear power plant . . .": that "most union memberships are held in West Palm Beach locals"; and, that "Jensen Beach is considered to operate on an open shop basis . . .". In letters dated July 10, 1975 and May 25, 1976, the Commission advised Lord, *inter alia*, of the necessity of interviewing labor leaders in connection with the community leader survey. In its amendment of August 9, 1976, Lord contended that Jensen Beach "does not have union officials", but its supplemental community leader survey included one person identified as "steel worker AFL-CIO", and another described as "pipe fitter, AFL-CIO". As identified, neither may be considered a labor leader, because neither appears to be a union official. The net result is that Lord apparently does regard labor as a significant group in the community of Jensen Beach, but has failed to consult any leaders of that group. Lord's ascertainment is therefore defective in accordance with question and answer 16 of the *Primer*. The same conclusion is impelled by Lord's failure to consult leaders of students, another significant community group. Included in the supplemental survey are two persons identified as students at Florida Institute of Technology. Neither is a community leader by virtue of his student status alone, and neither is described as holding any official position with a student organization.

5. By Commission letter, HLG was asked to furnish the dates when all its community ascertainment consultations were conducted. HLG replied in its amendment of July 19, 1976, by stating that "the interviews took place in September of 1975 as well as June of 1976." HLG filed its application in June of 1975, three months before it alleges it conducted its original surveys. Because the original surveys were reported in the application filed in June, they could not have been conducted in September, and the Commission still does not know when HLG held its consultations. As a consequence, compliance with question and answer 15 of the *Primer* cannot be determined, and an appropriate ascertainment issue will be included.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1 mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

7. Moreover, it appears from the application that the boundaries of Jensen Beach are in dispute, and that Gospel, Beach and HLG would not provide city-grade coverage (3.16 mV/m) to the whole community. An issue will therefore be included to determine the boundaries of the proposed community of license, and to discern which of the applicants would serve that community with a city-grade signal.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Because they are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

9. Accordingly, IT IS ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by Gospel, Lord and HLG to ascertain the community needs and problems of the proposed service area, in the following respects:

(a) Whether Gospel's random survey of the general public was conducted in compliance with question and answer 11(b) of the *Primer*.

(b) Whether Lord's showing omits consultations with leaders of labor and students, two significant groups in the community.

(c) Whether HLG conducted its surveys in compliance with question and answer 15 of the *Primer*.

2. To determine with respect to Beach:

(a) The source and availability of funds in excess of $105,250;

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified to construct and operate as proposed.

3. To determine:

(a) The boundaries of Jensen Beach; and

(b) Whether Gospel, Beach and HLG would provide city-grade coverage (3.16 mV/m) to the entire community as required by Section 73.315(a) of the Commission's Rules, and, if not, whether circumstances exist which warrant a waiver of said Section.

4. To determine which of the proposals would best serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

10. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and parties respondent herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall, within twenty days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

11. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, give notice of the hearing, (either individually or, if feasible and consistent with the Rules, jointly), within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-37578 Filed 12-21-76;8:45 am]

FRAUDULENT BILLING

Licensee's Responsibility to Indicate On Cooperative Ad Invoices That "Bonus" or Rebate Has Been Given to Dealers

DECEMBER 17, 1976.

The Commission's fraudulent billing rule (Section 73.1205) has been in existence since 1965 (*Applicability of the Fraudulent Billing Rule*, 1 FCC 2d 1068), and since that time we have issued several Public Notices which offered interpretations of that rule based upon billing practices currently utilized by the industry. See 1 FCC 2d 1075 (1965); 23 FCC 2d 70 (1970); 56 FCC 2d 371 (1975); 59 FCC 2d 1268 (1976).

It has recently come to the Commission's attention that yet another commercial practice already somewhat established in the industry could, in certain circumstances, violate our fraudulent billing rule. The particular commercial practice involved concerns the sale of "packages" of a fixed number of commercial announcements to be broadcast over an established period of time for a set price which includes a bonus of an all-expense paid vacation. Such a sales "package" can apparently be an effective sales incentive since the entire

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"package" is often offered at approximately rate card prices for the type and quantity of commercial announcements purchased. However, licensees utilizing such sales incentives violate the Commission's fraudulent billing rule if they issue invoices to local advertisers that involve cooperatively advertised products and which omit any reference to the bonus received by the local advertiser. In essence, the value of the bonus vacation trip is a form of rebate provided to local advertisers, and the existence of the bonus is often not reflected on invoices the licensee issues for cooperative advertising purposes. Such an invoice violates the fraudulent billing rule since the invoice, by not reflecting the fact that a bonus was provided to the local advertiser, contains false information concerning the amount actually charged by the licensee for the broadcast advertising involved, fails to represent the true nature of the local advertiser's contract with the licensee, and thus deceives or defrauds cooperative manufacturers, jobbers, distributors, or advertising agencies involved.

Since the Commission considers violation of the fraudulent billing rule to be particularly serious, future situations concerning such cooperative advertising contracts or "packages" in which the invoices fail to indicate the existence of the bonus or the nature of the contract between the local advertiser and the licensee, may raise questions as to the licensee's qualifications.

Action by the Commission December 15, 1976. Commissioners Wiley (Chairman), Hooks, Quello, Washburn, Fogarty and White.

Sent to all broadcast licensees.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37574 Filed 12-21-76;8:45 am]

RADIO ASTRONOMY SERVICE WORKING GROUP FOR 1979 ITU-WORLD ADMINISTRATIVE RADIO CONFERENCE

Notice of Meeting

DECEMBER 16, 1976.

A meeting of the Radio Astronomy Service Working Group for the 1979 General World Administrative Radio Conference is scheduled to be held on Monday, January 24, 1977, at 9:30 A.M. in Room 8210 of the Commission's offices located at 2025 M Street, N.W., Washington, D.C.

This meeting will be held to examine and discuss the Third Notice of Inquiry, Docket No. 20271 and formulate a final draft of comments of the Radio Astronomy Service Working Group.

The advisory committee meeting is open to the general public and any written comments will be accepted before or after the meeting.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37575 Filed 12-21-76;8:45 am]

WARC ADVISORY COMMITTEE FOR DOMESTIC LAND MOBILE

Notice of Meeting

The next meeting of the Common Carrier World Administrative Radio Conference Advisory Committee for Domestic Land Mobile will be held on Tuesday, January 11, 1977 at 9:30 a.m. in room 847, 1919 M Street, N.W., Washington, D.C.

The purpose of the meeting will be to discuss and prepare a response to the Commission's Third Notice of Inquiry regarding preparation for the 1979 World Administrative Radio Conference.

The meeting will be open to the public and any member of the public is invited to participate and present oral or written statements of relevance upon recognition by the Chairman.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37576 Filed 12-21-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[RM-2570; FCC 76-1135]

OVER-THE-COUNTER DRUGS

Television Advertising; Memorandum Opinion and Order Denying Petition for Rulemaking

Adopted: December 8, 1976. Released: December 10, 1976.

By the Commission: Commissioners Hooks and Washburn concurring and issuing statements.

In the matters of petition to promulgate a rule restricting the advertising of over-the-counter drugs on television.

1. The Commission has before it a petition for rulemaking[1] filed on behalf of Francis X. Bellotti, Attorney General of the Commonwealth of Massachusetts (hereinafter "Bellotti"), and thirteen other state Attorneys General. This petition requests that the Commission promulgate the following rule:

> There shall be no drug advertising broadcast on television between the hours of 6:00 A.M. and 9:00 P.M. The term "drug" as used in the rule means all substances so defined under the Food, Drug and Cosmetic Act, as amend.

The petition also requests that the Commission hold a hearing on the proposed rule.

2. Petitioners and respondents filing in support of the petition argue that repeated exposure to over-the-counter drug advertisements can be harmful to children. Specifically, they suggest that such exposure to commercials causes (1) the poisoning of children through accidental drug ingestion and (2) the development of a "pop-a-pill" society which often involves the misuse of licit drugs or the illicit use of restricted drugs. Opponents of the petition reject these allegations and argue that there is no empirical evidence to support the claim of a causal connection between advertising and the misuse or abuse of drugs. These parties further argue that removal of over-the-counter drug advertising from television would be adverse to the public interest since this advertising serves a legitimate and valuable purpose by informing viewers of both the nature of various symptoms and the availability of products to treat those symptoms.

3. In an effort to gather information relevant to the issues raised in this petition, the Federal Communications Commission and the Federal Trade Commission jointly sponsored a series of panel discussions involving leading representatives of the research community as well as other interested parties. Representatives from a variety of disciplines and vocations participated and discussed research findings. The panel participants included specialists in early childhood education and developmental psychology as well as professors of education, social psychology, psychology, psychiatry, pediatric psychiatry, communications, marketing, advertising, and business administration. Also present were research personnel from two of the major networks, a representative from a large proprietary drug manufacturer, directors of two industry self-regulatory organizations, a representative from a research firm involved in a review of scientific literature on the causes of drug abuse, the director of a national consumers' organization, a research director associated with an educational children's television program, the principal officers of two citizens' groups seeking changes in the area of children's television and the petitioner, Francis X. Bellotti. Representatives from the Federal Trade Commission, the Food and Drug Administration, the National Institute of Mental Health, the Consumer Product Safety Commission, the National Science Foundation, and this agency also participated in the discussion.[2]

4. The information and views provided through these panels have been of great value in acquainting the Commission with scientific research pertinent to this petition. Clearly, in the absence of such information, we would be in a poor position to assess the validity of Mr. Bellotti's allegations. We simply do not know, as a matter of intuition or "in-dwelling administrative expertise," whether the hypothesis of a causal connection between advertising and drug abuse or misuse should be accorded any degree of credence or credibility. It would be irresponsible in the extreme for an administrative agency to ban otherwise lawful advertising on the basis of sheer speculation.

5. From the information provided by our panelists and other interested parties, it appears that there is little scientific research which specifically addresses the question of a cause and effect relationship between over-the-counter drug advertising and the accidental ingestion or other misuse of drugs by young children. The National Center for Vital Statistics indicates that, with regard to children under the age of five, deaths resulting from the ingestion of drugs declined from 142 in 1972 to 81 in 1974.[3] This decline followed the adoption of safety packaging regulations by the Consumer Product Safety Commission. Figures for 1975 and 1976 are not yet available, and we are, therefore, not in a position to determine the minimum level to which these deaths may fall as a result of packaging regulations. In any event, there is no empirical evidence that television advertising has contributed to accidental ingestions, or that reduction in this advertising would result in a reduction in the number of cases involving the poisoning of young children.

6. In contrast to this almost total lack of research concerning advertising and poisonings, there are a number of serious studies which have examined the question of a possible relationship between television advertising and the illicit use of restricted drugs. The first of these studies, conducted by Dr. Richard Jessor of the Institute of Behavioral Science of the University of Colorado, concluded the available evidence indicates that, among adolescents, "involvement with the television is negatively related to involvement with marijuana."[4] A year later, in 1974, Dr. James M. Hulbert of Columbia University released a survey of 990 college students which concluded that "• • • television and television advertising of proprietary drugs do not appear to be important influences on drug abuse."[5] Similar results were reported this year in a study of illicit drug use among teenage boys.[6] In discussing this report, Dr. J. Ronald Milavsky stated:

> "• • • we found that there was no evidence to support the proposition that drug advertising led to illicit drug use; • • • no evidence of a direct link between exposure to proproprietary drug advertising and use of illicit drugs. In fact, the relationship between the two was inverse: the greater the cumulative exposure to drug ads over the three year data collection period, the less the use of illicit drugs.[7]

Dr. Milavsky's conclusions are generally supported by a study of high school seniors conducted by Dr. Lloyd Johnston of the Institute for Social Research at the University of Michigan. Dr. Johnston found that:

> "• • • the average number of hours of TV watched per day correlates negatively with the usage rates of each of ten illicit drugs or drug classes. • • • [In addition,] TV viewing and presumably advertising exposure correlates negatively with these young people's use of each of the four classes of over-the-counter drugs.[8]

7. The general thrust of these findings is reinforced by studies filed in connection with our panel discussions. Professor Charles K. Atkin of Michigan State University reported on a survey of fifth, sixth and seventh grade students which found "• • • no evidence that proprietary drug commercials contribute to positive attitudes toward illicit drugs. • • •"[9] A second paper, submitted by Dr. Ronald E. Ostman of Southern Illinois University concluded that "• • • there was no correlation between exposure to television drug ads and use of O-T-C drugs" and in, addition, that "exposure to television and drug commercial announcements has a negligible effect on drug use. • • •"[10]

8. It appears that there is no relevant research supporting Mr. Bellotti's hypothesis that drug advertising is an identifiable and measurable cause of drugs abuse or misuse, or that repeated exposure of children to televised OTC advertisements creates a favorable attitude toward the inappropriate use of drugs by young people. Existing studies suggest that the correlation between exposure to advertising and drug abuse is neutral—or even negative. Some in the research community may choose to pursue this matter further and employ methods of data collection and analysis which differ from those found in the studies we now have. At present, however, there does not appear to be any basis for this agency to conclude that the result of such efforts would differ in any material respect from the results we already have.[11]

9. In the absence of a truly compelling showing to the contrary, we must conclude that the public interest would be served by a free flow of information regarding proprietary drugs. This conclusion is strongly reinforced by the fact that any action we might take with regard to this petition would have to be measured against the standards of the First Amendment and against the prohibition on censorship which is contained in Section 326 of our Act. It is no longer possible to conclude that advertising is outside of the protection of the First Amendment simply because it is "commercial" speech. See *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Counsel*, 44 U.S.L.W. 4686 (U.S. May 24, 1976); *Bigelow* v. *Virginia*, 421 U.S. 809 (1975). As the Supreme Court has recently stated:

> Advertising, however tasteless and excessive it sometimes may seem, is nonetheless dissemination of information as to who is producing and selling what product, for what reason, and at what price. So long as we preserve a predominantly free enterprise economy, the allocation of our resources in large measure will be made through numerous private decisions. It is a matter of public interest that those decisions, in the aggregate, be intelligent and well informed. To this end, the free flow of commercial information is indispensable. *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council, Inc., supra*, p. 4691.

10. We do not reach the question of whether we would be empowered to adopt the proposed regulations if current research findings supported the hypothesis of a causal connection between advertising and drug abuse. It may well be that such restrictive regulations are beyond the power of this agency regardless of the evidence. The Supreme Court stated that "[i]t is precisely this kind of choice, between the dangers of suppressing information, and dangers of its misuse if it is freely available, that the First Amendment makes for us." Id. at 4692. While the Court has yet to apply this standard to special problems which may exist in the field of broadcasting, we need not resolve such matters in order to observe that, on the basis of the present record, we cannot find that the proposed regulation would serve the public interest.

11. We wish to make it clear, however, that we fully agree with petitioners' position that, in the United States today, drug abuse and misuse are very serious problems warranting a high degree of governmental attention. In this regard, we would like to express our appreciation to Attorney General Bellotti and others who supported his efforts for taking the time to bring about a complete public airing of the issues relating to advertising and the inappropriate use of

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[1] Public Notice of the filing of thet petition was issued on July 26, 1975 (Rept. No. 948).

[2] A list of the participating panelists is found in Appendix A.

[3] From a statistical point of view, it does not appear that drug ingestion is a major cause of death among children under five. In 1974, 5,335 of the children in this age group (i.e., 0.03% of all children under 5) suffered accidental death. Of these, the vast majority of the deaths were caused by automobile accidents, drowning, fire, suffocation or other factors unrelated to the ingestion of drugs. Only two percent of all accidental deaths among children under five were caused by drug ingestion. National Center for Health Statistics, Vital Statistics of the U.S., Vol. II, Washington, D.C.: U.S. Government Printing Office, 1974.

[4] Richard Jessor, "Panel on Televised Over-the-Counter Advertising," May 20–21, 1976, Vol. 1 (Arlington, Va.: National Reporting Co., Inc.) p. 124. [Hereinafter referred to as "Transcript."]

[5] James Hulbert, "Applying Buyer Behavior Analysis to Social Problems: The Case of Drug Use," Proceeding of the American Marketing Association, 1974, p. 289.

[6] J. Ronald Milvasky, et al., "TV Drug Advertising and Proprietary and Illicit Drug Use Among Teenage Boys," Public Opinion Quarterly, Vol. XXXIX, No. 4 (Winter 1975–1976), 457–481.

[7] J. Ronald Milvasky, Transcript, pp. 137 and 138.

[8] Lloyd Johnston, Transcript, p. 129.

[9] Letter dated April 15, 1976, from Dr. Charles K. Atkin to Dr. Karen S. Hartenberger, Director, Children's Television Task Force. For entire study see: Charles K. Atkin, "Effects of Television Advertising on Children," Vol. I–VIII, Department of Communication, Michigan State University (East Lansing, 1975), 196 pages plus Figures and Tables.

[10] Ronald E. Ostman, et al, "Influences Upon Over-the-Counter Drug Use and Public Perception of Non-Prescription Drug Advertising Regulation," School of Journalism, Southern Illinois University (Carbondale: By the author, 1976), pp. 31 and 38.

[11] For this reason, and because our agency has no particular claim to expertise in the field of behavioral research, we cannot agree with suggestions that we should sponsor further research. In addition, we believe that research focusing on emotionally and politically charged issues relating to the supposed effects of television on social attitudes and human behavior should best be left to independent organizations which are expert in such matters and which have no direct responsibility for the regulation of the broadcast industry.

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drugs. While we do not believe that a cause and effect relationship has been demonstrated, we are nevertheless convinced that a thorough debate and discussion of this matter has been informative and helpful. We are hopeful that state and local governmental officials will continue to bring to our attention matters which are of concern and which appear to them to warrant some regulatory action. We also wish to express our gratitude to the panelists, governmental participants, and other experts who took the time to share their views, studies, and information with us.

12. In the present case, of course, we believe that the problems of drug misuse and abuse should more properly be addressed through remedies which are demonstrably relevant to their solution, more likely to be effective, and less likely to infringe upon important values relating to the free flow of information and ideas. In this regard, it should be noted that the Food and Drug Administration is currently examining the safety and efficacy of all OTC drug products, 37 F.R. 85, January 5, 1972, and that the Federal Trade Commission is considering the incorporation of the FDA labeling standards in advertising claims for all OTC products, 40 F.R. 52631, November 11, 1975. At present, the problem of poisonings is being addressed through educational efforts and through regulations of the Consumer Product Safety Commission.[11] The serious problems relating to the use of illicit drugs are, of course, being addressed through comprehensive government programs involving education, rehabilitation, and the enforcement of the criminal laws. It is true that the problems of drug abuse and misuse persist in spite of the existence of these programs, but there is no evidence that the proposed restrictions on drug advertising would bring about any improvement in this situation and such regulations would clearly have negative impact on the availability of information concerning over-the-counter drugs.

13. Accordingly, It is ordered, That the petition is denied and that this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,[12]

VINCENT J. MULLINS,
Secretary.

APPENDIX A—TELEVISED OVER-THE-COUNTER DRUG ADVERTISING PANELS

MODERATORS

Dr. Eli A. Rubinstein, Medical School Health Sciences Center, State University of New York at Stony Brook.

Dr. Eric Josephson, Center for Sociocultural Research on Drug Use, New York.
Dr. Stephen A. Greyser, Professor, Harvard Business School.

PANELISTS

Dr. F. Earle Barcus,* Professor of Communications, School of Public Communications, Boston University.
Dr. Barbara R. Fowles, Acting Director of Research, The Electric Company, Children's Television Workshop.
Dr. Beatrix Hamburg, National Institute of Mental Health.
Mr. Philip A. Harding, CBS Inc., Office of Social Research.
Dr. Gerald S. Lesser, Director, Center for Research in Children's Television, Harvard University.
Ms. Mary Ann Lewis, University of California—Los Angeles.
Dr. Chester M. Pierce, Harvard University, College of Education.
Dr. Helen Rodriguez,* Lincoln Medical Center, Department of Pediatrics.
Mr. Henry L. Verhulst, Consultant, Poison Control Program.
Dr. Scott Ward, Graduate School of Business Administration, Harvard University.
Dr. Mariann Pezzella Winick, Associate Professor of Education, Lehman College, CUNY, New York.
Dr. Ira Cisin, George Washington University, Department of Sociology.
Dr. Gerhard J. Hanneman, Director, Center for Communications Policy Research, Annenberg School of Communications, University of Southern California.
Dr. James Hulbert, Columbia University, Graduate School of Business.
Dr. Richard Jessor, Professor, Institute of Behavioral Science, University of Colorado.
Dr. Lloyd Johnston, Survey Research Center, Institute for Social Research, The University of Michigan.
Anthony Kales, M.D.,* Department of Psychiatry, Hershey Medical Center.
Dr. William McGuire, Department of Psychology, Yale University.
Dr. Glen Mellinger, Associate Director, Institute for Research in Social Behavior.
Dr. Ronald Milavsky, Director of Social Research, National Broadcasting Company, Inc., New York.
Dr. Jaime Salazar,* President, Health Research Services and Analysis, Inc., Los Angeles, California.
Dr. Robert H. Sharpley, The Solomon Fuller Institute, Cambridge, Massachusetts.
Honorable Francis X. Bellotti, Attorney General, Commonwealth of Massachusetts.
Mr. Warren Braren, Associate Director, Consumers Union.
Ms. Peggy Charren, President, Action for Children's Television.
Mr. Robert B. Choate, Council on Children, Media and Merchandising.
Mr. George E. Davy, President, Consumer Product Division, Miles Laboratories, Inc.
Ms. Emilie Griffin, Director of Children's Advertising Review, National Advertising Division, Council of Better Business Bureaus, Inc.
Mr. Stockton Helffrich, Director, The Code Authority, National Association of Broadcasters.
Dr. Donald L. Kanter, Professor and Chairman, School of Business Administration, University of Southern California.
Dr. Donald E. Payne, Vice President and Director of Research, Oxtoby-Smith, Inc.
Dr. Ithiel de Sola Pool, Center for International Studies, Massachusetts Institute of Technology.

PARTICIPATING GOVERNMENT AGENCIES

Consumer Product Safety Commission
Federal Communications Commission
Federal Trade Commission
Food and Drug Administration
National Institute of Mental Health
National Science Foundation

[FR Doc.76-37573 Filed 12-21-76;8:45 am]

[11] The Consumer Product Safety Commission has required the use of child-resistant packaging on specified medicines and other household products, 16 CFR § 1700 et seq. (1975). In addition to the "safety closures," the aspirin manufacturers voluntarily agreed to limit the quantity of baby aspirin per container to reduce ingestion dangers, 21 CFR § 201.314.

[12] Joint concurring statement of Commissioners Hooks and Washburn filed as part of the original document.

*Unable to attend.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 16, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FPC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 10, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5216, 425 I Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–376–5425.

FEDERAL POWER COMMISSION

FPC requests an extension no change clearance of Form 15. Total Gas Supply of Natural Gas Pipeline Companies—Annual Report, beyond its current OMB/GAO clearance expiration date of January 31, 1977. Form No. 15 is filed annually by 93 interstate natural gas pipeline companies. The data allows the Commission to determine reserves and deliverability estimates. There are approximately 93 respondents and it is estimated that an average of 1,219 hours will be required per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 76-37525 Filed 12-21-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of December 3 through December 10, 1976

Notice is hereby given that during the week of December 3 through December 10, 1976, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

MICHAEL F. BUTLER,
General Counsel.

DECEMBER 15, 1976.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals,* Dec. 3 to Dec. 10, 1976

Date	Name and location of applicant	Case No.	Type of submission
Dec. 3, 1976	TOSCO Corp. and Lion Oil Co. (If granted: TOSCO Corp. would be granted an exception which would permit it to recalculate the passthrough of increased nonproduct costs by its subsidiary, Lion Oil Co., on a proportional basis for 1975.)	FEE-3467	Exception to nonproduct cost passthrough.
Dec. 6, 1976	Consumers Power Co., Washington, D.C. (If granted: Consumers Power Co. would earn entitlements with respect to its runs of lease condensate at its SNG plant at Marysville.)	FEA-1063	Appeal of FEA's failure to act.
Do	Continental Oil Co., Houston, Tex. (If granted: Continental Oil Co. would receive an extension of the relief granted in FEA's Sept. 28, 1976, decision and order which would permit the firm to increase prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products at its Elk City, Medford, and South Hampton processing plants.)	FXE-3472 through FXE-3474	Extension of exception relief in *Continental Oil Co.*, 4 FEA par. 83,120 (Sept. 28, 1976).
Do	Dasher-Harris Gas Co., Jesup, Ga. (If granted: Dasher-Harris Gas Co. would receive an extension of the exception relief which resulted in the assignment of a lower priced supplier of propane to replace the firm's base period supplier, Wanda Petroleum Co.)	FXE-3475	Extension of exception relief in *Dasher-Harris Gas Co.*, 4 FEA par. — (Oct. 15, 1976).
Do	Delta Refining Co., Memphis, Tenn. (If granted: The FEA's Nov. 5, 1976, decision and order would be rescinded and Delta Refining Co. would not be required to purchase entitlements during the period November 1976 through October 1977 to offset the excessive exception relief which it received in 1975.)	FXA-1062	Appeal of decision and order in *Beacon Oil Co., et al.*, 4 FEA par. — (Nov. 5, 1976).
Do	Eagle Oil Co., Columbus, Ohio (If granted: Eagle Oil Co. would receive an extension of the exception relief which resulted in the assignment of a lower priced supplier to replace the firm's base period supplier, Tresler Oil Co.)	FXE-3469	Extension of exception relief in *Eagle Oil Co.*, 1 FEA par. 20,057 (Oct. 25, 1974).
Do	Haynes Oil Co., Russell, Kans. (If granted: Haynes Oil Co. would be permitted, retroactively, to sell crude oil produced from its Mai and Frecich leases at upper tier ceiling prices.)	FEE-3468	Price exception (sec. 212.74).
Do	Northwest Propane, Inc., Farmington, Mich. (If granted: Northwest Propane would receive an extension of the exception relief which resulted in the assignment of a lower priced supplier of propane to replace the firm's base period supplier, Petrolane Gas Co.)	FXE-3470	Extension of exception relief in *Northwest Propane, Inc.*, 4 FEA par. — (Oct. 15, 1976).
Do	Sabre Refining, Inc., Bakersfield, Calif., (If granted: Sabre Refining, Inc., would receive an extension of the exception relief from the purchase requirements of 10 CFR 211.67 (old oil entitlements program) granted in FEA's July 16, 1976, decision and order).	FXE-3471	Extension of exception relief in *Sabre Refining, Inc.*, 4 FEA par. 83,016 (July) 16, 1976).
Do	Texaco, Inc., Atlanta, Ga. (If granted: FEA's Nov. 9, 1976, remedial order would be revoked and Texaco, Inc., would not be required to make available to David Morgan d.b.a. Spring Hope Grocery, Spring Hope, N.C. a 4th quarter allocation of 63,188 gallons of propane.)	FRA-1064	Appeal of FEA's Nov. 9 1976 remedial order.
Do	Varibus Corp. and Gulf States Utilities Co., Beaumont, Tex. (If granted: FEA's Nov. 8, 1976, decision and order would be rescinded and Varibus would be retroactively relieved of the requirement that the prices which it charged Gulf States for fuel oil sold during the period October 1973 through November 1974 be established in accordance with the Mandatory Petroleum Price Regulations.)	FEX-0102	Supplemental order to *Varibus Corp.; Gulf States Utilities Co.*, 4 FEA par.—(Nov. 8, 1976).
Do	Fuller, James B., Liberty, Tex. (If granted: The FEA's Oct. 15, 1976, decision and order would be rescinded and James B. Fuller would be permitted to sell at upper tier ceiling prices the crude oil produced from the C.V. Collins Lease No. 2 well located in Hardin County, Tex., for the benefit of both the working interest owners and the royalty interest owners.)	FXA-1065	Appeal of decision and order in *James B. Fuller*, 4 FEA par.—(Oct. 15, 1976).

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Date	Name and location of applicant	Case No.	Type of submission
Dec. 7, 1976	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The Standard Oil Co. (Indiana) would be granted an exception from 10 CFR 212.83 which would permit it to reduce the price of Amoco Super Premium motor gasoline to account for a proposed octane reduction.)	FEE-3476	Price exception (sec. 212 83).
Do	Standard Oil Co. (Indiana) (Prestice and South Jennings). (If granted: The Standard Oil Co. (Indiana) would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Prentice Gasoline Plant and South Jennings Recycling Plant.)	FXE-3477 and FXE-3478	Extension of relief granted in *Standard Oil Co. (Indiana)*, 4 FEA par. — (Nov. 12, 1976).
Do	USA Petroleum Corp., Washington, D.C. (If granted: the FEA's Nov. 4, 1976, interpretation would be rescinded and the crude oil processing and product exchange agreement previously in effect between Trans World Oil Corp. and Macmillan Ring-Free Oil Co., Inc., would be reinstated.)	FIA-1064	Appeal of FEA interpretation dated Nov. 4, 1976 (secs. 211.63 and 212.82).
Dec. 8, 1976	Moncrief, W.A., et al., Houston, Tex. (If granted: Crude oil produced from the McElmo Creek Unit, San Juan County, Utah, would be sold at upper tier ceiling prices.)	FEE-5304	Price exception (sec. 212.74).
Do	National Marine Engineer's Beneficial Association, Washington, D.C. (If granted: FEA's information request denial would be rescinded and the National Marine Engineer's Beneficial Association would receive access to certain documents containing cost and environmental information concerning the early storage reserve program.)	FFA-1069	Appeal of FEA's information request denial.
Do	Pasco, Inc., Englewood, Colo. (If granted: FEA's Nov. 5, 1976, decision and order would be rescinded and Pasco, Inc., would not be required to purchase entitlements during the period November 1976 through October 1977 to offset the excessive exception relief which it received in 1975.)	FXA-1068	Appeal of FEA's decision and order in *Beacon Oil Co., et al.*, 4 FEA par. — (Nov. 5, 1976).
Do	Phillips Petroleum Co., Bartlesville, Okla. (If granted: Phillips Petroleum Co. would be permitted to increase prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following plants: Andrews, Benedum, Bradley, Canadian, Cimarron, Crane, Douglas, Dumas, Edmond, Gray, Hansford, Henderson, Hobbs, Lee, Lovington, McDamie, North, Okla, Pantex, Puckett, Sooner No. 1, Spraberry, Tunstill, Vermillion, and Winkler.)	FEE-3479 through FEE-3503	Price exception (sec. 212.-165).
Do	Southland Oil Co./VGS Corp., Jackson, Miss. (If granted: FEA's Nov. 5, 1976, decision and order would be rescinded and Southland Oil Co. would not be required to purchase entitlements during the period November 1976 through October 1977 ito offset the excessive exception relief which it received in 1975.)	FXA-1066	Appeal of FEA's decision and order in *Beacon Oil Co., et al.*, 4 FEA par. — (Nov. 5, 1976).
Do	Warrior Asphalt Co. of Alabama, Inc., Tuscaloosa, Ala.. (If granted: FEA's Nov. 5, 1976, decision and order would be rescinded and Warrior Asphalt Co. of Alabama would not be required to purchase entitlements during the period November 1976 through October 1977 to offset the excessive exception relief which it received in 1975.)	FXA-1067	Appeal o f's deconFEAisf and order in *Beaconr—l Co., et al.*, 4 FEA pa.Of (Nov. 5, 1976).
Dec. 9, 1976	BTA Oil Producers, Midland, Tex. (If granted: Crude oil produced from the JV–D Teeters No. 1 well located at Hockley County, Tex., would be sold at upper tier ceiling prices.)	FEE-3508	Price exception (sec. 212.74).
Do	Continental Oil Co., Houston, Tex. (If granted: Continental Oil Co. would be permitted to increase prices to reflect nonprodnct cost increases in excess of $0.005 per gallon for natural gas liquids produced at the firm's Chittum and Edmond processing plants.)	FEE-3505 and FEE-3506	Price exception (sec. 212.165).
Do	Dorchester Gas Producing Co., Midland, Tex. (If granted: The FEA's Nov. 10, 1976, determination would be rescinded and Dorchester Gas Producing Co. would not be considered a crude oil refiner under the Mandatory Petroleum Price Regulations.)	FEA-1070	Appeal of FEA's Nov. 10, 1976 determination.
Do	Fletcher Oil & Refining Co., Wilmington, Calif. (If granted: The FEA would review the entitlement exception relief granted to Fletcher Oil & Refining Co. during its 1976 fiscal year in order to determine whether the level of exception relief was appropriate.)	FEX-0104	Supplemental order in *Fletcher Oil & Refining Co.*, 4 FEA par. — (Nov. 12, 1976).
Do	H. S. "Gus" Edwards, Abilene, Texas. (If granted: Condensate produced from the Providence Atoka Field would be sold at $1.00 per barrel above the maximum allowable price established pursuant to the Mandatory Petroleum Price Regulations.)	FEE-3507	Price exception (sec. 212.74).
Do	Linden's Propane, Inc., Elyria, Ohio. (If granted: Linden's Propane would receive a stay of the requirements of FEA's July 7, 1976 remedial order pending a final determination of its appeal.)	FES-0046	Stay request.
Do	Marsio, Inc., Round Mountain, Tex. (If granted: The Edgar E. Jones "A" well and the Hays-Albritton Estate "A" wells would be classified as stripper well properties.)	FEE-3509	Price exception (sec. 212.72)
Do	Minnesota Gas Co., Minneapolis, Minn. (If granted: The FEA's Nov. 24, 1976, remedial order issued to Minnesota Gas Co. would be rescinded.)	FRA-1071 FES-1071	Appeal of FEA's remedial order. Stay request.
Do	Weir Oil Co., Huntington Beach, Calif. (If granted: Weir Oil Co.'s Fee No. 2 well would be classified as a stripper well property.)	FEE-3510	Price exception (sec. 212.72)

[FR Doc.76-37342 Filed 12-20-76;8:45 am]

STRATEGIC PETROLEUM RESERVE PROGRAM

Availability of Final Programmatic Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C) et seq., the Federal Energy Administration (FEA) has prepared a final programmatic environmental impact statement (EIS) concerning the creation of a system of Strategic Petroleum Reserve. The Reserve is mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C., Sections 6231–6246. The Reserve will be created for the storage of approximately 500 million barrels of crude oil and/or petroleum products for use in the event of a Presidential finding of severe energy supply interruption or a finding that implementation is required by obligations of the United States under the international energy program.

The final programmatic EIS addresses program-wide environmetnal impacts; individual site-specific EIS's will be prepared for candidate sites prior to their selection as a part of the Reserve.

The final EIS includes comments received by FEA on the draft EIS for the Strategic Petroleum Reserve Program (DES–76–2) and FEA analyses and responses to these comments.

Single copies of the final EIS for the Strategic Petroleum Reserve Program including the comments received by FEA on the draft EIS may be obtained from the FEA Office of Communications and Public Affairs, Room 3136, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Copies of the final EIS and comments received will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th Street and Pennsylvania Aveune, N.W., Washington, D.C. 20461.

Issued in Washington, D.C., December 16, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-37497 Filed 12-17-76;10:03 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01058	States Steamship Co.: *Nevada.*
01150	Chevron Transport Corp.: *Chevron South America.*
01267	Agdesidens Rederi A/S Morlands Rederi A/S, Morland Shipping Co. A/S, Morlands Tankrederi A/S: *Tromaas.*
01306	Shaw Savill & Albion Co., Ltd.: *Lindfield.*
01343	Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft Eggert & Amsinck: *Columbus Victoria.*
01351	The Hadley Shipping Co., Ltd.: *Cotinga.*
01423	Charente Steamship Co., Ltd.: *Astronomer.*
01466	Common Bros. (Management) Ltd: *City of Pretoria.*
01857	OHG. I. Fa Bernhard Schulte: *Johanna Schulte, Helen Schulte.*
01935	Partnership Between Steamship Co. Svendborg Ltd., and Steamship Co. of 1912, Ltd.: *Maersk Blazer, Maersk Beater, Maersk Battler.*
02041	Dalmor Przedsiebiorstwo Polowow Dalekomorskich I Uslug Rybackich: *Regulus.*
02090	Drummond Shipping Co.: *World Kindness.*
02092	Leander Tanker Corp.: *Maria Isabella.*
02110	Priam Shipping Co.: *Northern Joy.*
02153	Vale Do Rio Doce Navegacao S.A.: *Docecoral.*
02198	Peninsular & Oriental Steam Navigation Co.: *Strathduns, Strathdyce.*
02603	Empresa Hondurena de Vapores, S.A.: *Orica.*
02676	Lauter Elbe Reederei GMBH: *Seevetal.*
02836	The Scindia Steam Navigation Co., Ltd.: *Jalavihar.*
02864	Empresa Nacional Del Petroleo S.A.: *Calatrava.*
02956	Ashland Oil, Inc.: *City of Memphis, City of Pittsburgh, City of Louisville,* E–2121, LRL–111, RV–53, *Tenneco 160, Tenneco 161.*
03055	Upper Lakes Shipping Ltd.: *Canadian Olympic.*
03216	Salenrederierna AB: *Celtic Wasa.*
03321	Marunouchi Kisen Kabushiki Kaisha: *Florida Maru.*
03436	Iino Kaiun K.K.: *Shoho Maru No. 2.*
03458	Matsuoka Kisen Kabushiki Kaisha: *Takagisan Maru.*
03492	Sawayama Kisen K.K.: *Fuohsan Maru.*
03727	Continental Oil Co.: UM–901.
04037	C. F. Bean Corp.: *Barge No. 617.*
04061	Jugoslavenska Oceanska Plovidba Kotor: *Sutjeska.*
04114	Italcarbo Societa di Navigazione S.P.A.: *Oscar Sinigaglia.*
04170	Dillingham Corp.: *Cee Bee 24.*
04356	Pacific Far East Line, Inc.: *Gulf Bear.*
04623	Seaspan International, Ltd.: *Seaspan 250.*
04793	Snam S.P.A.: *Agip Marche.*
04834	Tidewater Barge Lines, Inc.; 2.
05180	Navagazione Arenella: *Punta Verde.*
05549	Polska Zegluga Morska: *Belchatow, Huta Katowice, Huta Lenina, Pieniny 2, Zaglebie Starkowe.*
05579	Black Sea Shipping Co.: *Gruziya, Belorussiya, Azerbaydzan.*
05607	Hannah Inland Waterways Corp.: *Mary Page Hannah.*
05804	Yutana Barge Lines, Inc.: OB 11.
06877	Societe Francaise de Transports Maritimes: *Limousin.*
07580	Chinese Maritime Transport, Ltd.: *Oriental Amiga.*
07607	Takebayashi Kisen Co., Ltd.: *Kurushima Maru.*
08175	Gunther Schulz Schulaner Schiffahrtskontor: *Seeland.*
06230	Ed Broussard Marine Service, Inc.: *REB 2502, Bridget B.*
08889	Companhia Portuguesa De Transportes Maritimos E.P.: *Rio Cuanza, Rio Zaire, Rio Zambeze.*
09004	Berman Enterprises Inc.: *Peter Frank, Pat Kip.*
09074	Zuito Shipping Co. Ltd.: *Ranko Maru.*
09137	Arne Teigens Rederi A/S: *Hai Hing.*
09206	Societe Navale Chargeurs Delmas-Vieljeux: *Emmanuel Delmas.*
09440	Barge Leasing Corp.: *Deepwater.*
09478	Compagnia Siciliana Transporti Mare Co. St. Mar. S.P.A.: *Betacruz.*
09902	Tacamar Panamena S.A.: *Tacamar III.*
10577	Tokai Shipping Co., Ltd.: *Fresh Ocean.*
10684	Northern Star Shipping Co. Ltd.: *Carnelian I.*
10931	Hansung Shipping Co., Ltd.: *Blue Kobe, Blue Shimonoseki.*
11005	Reederei E. Jacob K.G.: *Vigrafjord.*
11065	D & M Shipping Co. S.A.: *Glory Pioneer, Glory Reliance.*
11094	Compangie de Navigation Mixte: *Pagnol, Raimu.*
11095	Dong-A General Industrial Co., Ltd.: *No. 501 Haeng Bok, No. 506 Haeng Bok.*
11272	Corriente Navegacion Panama, S.A.: *Pacific Reefer.*
11277	Caribe Tugboat Corp.: *St. Kitts.*
11614	Chung Gai Ship Management Co., Ltd.: *Vesta, Valeria.*
11663	United Transporter, Inc.: *Eagle Transporter.*
11667	Ingram Transportation Co.: *IB 2007 L, IB 2008 T, IB 2304 B, IB 1104 B, IB 2009 L, IB 2010 T, IB 2305 B, IB 1105 B.*
11697	Continental Capital Corp., Ltd.: *Wild Catter.*
11714	Global Transport Organisation: *420, Barge Cordova, Barge PS 204.*
11716	Nueva Sevilla Compania Naviera, S.A.: *Lamyra.*
11751	Tanjong Shipping Inc.: *Belem.*
11772	Atlas Marine Co.: *American Heritage.*
11787	Inlet Marine, Inc.: *S.T. 21.*
11792	Prometheus Maritime Corp.: *Rea, Antaios, Dias, Hydrohos, Leon, Krios, Tauros, Toxotis, Triton, Venthisikimi, Didymi, Zygos, Scorpios, Ihthis.*
11804	Beker Industries Corp.: *Beker 101, Beker 102, Beker 103, Beker 104.*
11805	Atlantic-Rhederei F. & W. Joch: *Dakota, Mandan.*
11825	Lineas Maritimas De Guatemala, S.A.: *Lago Isabal.*
11859	Aegean Sunbean Inc.: *Rio De Jeneiro.*
11868	Olympia Maritime Enterprises S.A.: *Adelfotis.*
11885	I/S Foldstar: *Foldstar.*
11890	Levant Clippers Navigation, Inc.: *Levant Clipper.*
11013	Telfair Pioneer Ltd.: *Telfair Pioneer.*
11930	Leitch Transport (A Division of Port Weller Dry Docks Ltd.): *Canadian Transport, Cape Breton Highlader, St. Lawrence Navigator, St. Lawrence Prospector.*
11951	I/S Rederiet Erik B. Kromann: *Aage Andreasen.*
11953	Viking Asia Inc.: *Tropigas Far East.*
11954	Deepsea Ventures, Inc.: *Deepsea Miner II.*
11980	Partrederiet for T/T Sea Saga: *Sea Saga.*
11984	Vienna Woods Shipping, Inc.: *Vienna Woods.*
11985	Mobil Overseas Shipping Co.: *Mobil Brilliant, Mobil Osprey, Mobil Radiant.*
11986	Keydril Co.: *Aleutian Key.*
11987	Carigulf, Ltd.: *Carigulf Venture.*
11991	Bark - Transport Corp.: *Svend Maersk.*
11993	Illisos Shipping Corp.: *Iris.*
11994	Artemis Carriers, Ltd.: *Agnes Venture.*
11995	Athenic Shipping Corp. Ltd.: *Aegis Athenic.*
11996	Kaikata Fisheries Productive Association: *Mifuhachi Kaikata Maru.*
11997	Neobulk Carriers Ltd.: *Hemlock, Holly.*
11998	Pearl Maritime Ltd.: *North Sea.*
11999	Companhia Maritima Nacional: *Roes Maria, Rios, Heyea, Edith, Regina Celi, Semiramis.*
12001	Compania Sydenam S.A.: *Dapo Wave.*
12002	Irina Shipping Corp.: *Tulip B.*
12003	Anangel Honour Com. Nav. S.A.: *Anangel Honour.*
12005	Cleveland Compania Maritima S.A. Panama: *Sao Paulo.*
12008	Noronha Shipping S.A. Panama: *Star Supreme.*
12012	Ooyashima Enyo Gyogyo Kyodo Kumai: *Jyuhachi Kaikata Maru, Hachi Kaikata Maru, Hachijyu Kaikata Maru.*
12013	Cyuichi Kanazawa: *Shoun Maru No. 11.*
12014	K/S A/S Scorpio & Co.; *Morgedal.*
12015	Wistaria Shipping Co. Pte., Ltd.: *Wistaria Coral.*
12016	Titan Shipping Co., Ltd.: *Titan.*
12017	Silver Navigation S.A.: *Silver Peak.*
12019	Partrederiet Atlantic Coast: *Atlantic Coast.*
12020	Ever Mercy Line, S.A.: *Ever Mercy.*
12022	Fidelity Ocean Navigation, Ltd.: *Ocean Victory.*
12023	Kokusai Shipping K.K.: *Sanko Maru.*
12024	Venezolana De Buques-Venebuques, C.A.: *Thais, Chiqui.*
12031	Navisud S.P.A.: *Ninfea.*
12032	Golden City Maritime Corp., S.A.: *Nantao.*
12033	Brilliance Steamship Corp., S.A.: *Nankuo.*
12034	Interessentskapet Bantry: *Bantry.*
12035	Valcos Shipping and Investment Co., S.A., Panama: *Kriti.*
12037	Nantucket Shipping Co. Ltd., Liberia: *Venus.*
12038	Pancaribe, Inc.: *Pancaribe.*
12042	Incandesce Carriers, Inc.: *First Venture.*
12043	Elegance Carriers, Inc.: *Ocean Venture.*

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Certificate No.	Owner/operator and vessels
12045	Guardian Tankers Corp.: *Andros Georgios.*
12046	Efmar Compania Naviera S.A.: *Marigoula.*
12049	Meteor Reederei & Schiffahrts GMBH KG: *Meteor I.*
12050	Rederij Spray M.S. Frisian: *Frisian.*
12051	Asahi Gyogyo Kabushiki Kaisha: *Asahi Maru No. 11.*
12052	Divine Valley Tankers Inc.: *Divine Valley.*
12053	Zenuemon Watanabe: *Kyowa Maru No. 23.*
12054	Grandview Bulk Carriers, Corp., S.A.: *Menina Alice.*
12057	Sea Pearl Navigation Enterprises Corp.: *Petopidas.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37594 Filed 12-21-76;8:45 am]

FINANCIAL RESPONSIBILITY TO MEET LIABILITY INCURRED FOR DEATH OR INJURY TO PASSENGERS OR OTHER PERSONS ON VOYAGES

Issuance of Casualty Certificate

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Monarch Cruise Lines, Inc., 1428 Brickell Avenue, Miami, Florida 33131.

Date: December 17, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37595 Filed 12-21-76;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 2565]

AMERICAN THREAD CO.

Notice of Application for Withdrawal of Application for Minor License

DECEMBER 15, 1976.

Public notice is hereby given that an application was filed on April 13, 1972, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by the American Thread Company (Correspondence to: Mr. Harold E. Williams, Vice President, The American Thread Company, 90 Park Avenue, New York, New York 10016) for Commission approval to withdraw its application for minor license for the American Thread Project FPC No. 2565. The constructed project is located on the Willimantic River in the City of Willimantic, Windham County, Connecticut.

Project No. 2565 consists of four developments: Projects No. 1, 2, and 3, and Dam No. 1;

Project No. 1 development consists of:

(1) a quarry stone dam (Spool Shop) about 13 feet high and 275 feet long with a spillway about 188.5 feet long and a section 86.5 feet long containing flood and control gates;

(2) a reservoir at elevation 207.4 feet having a surface area of about 2.6 acres;

(3) a canal whose entry section converges from 48 feet wide to 24 feet wide in a length of 92 feet, thence continues 24 feet wide for 440 feet;

(4) a steel penstock about 299 feet long whose diameter varies from 14 to 12.5 feet; and

(5) a corner of No. 1 mill basement which houses a double 48-inch runner turbine connected to a 630 kw generator.

No. 1 dam development consists of:

(1) a quarry stone dam 11 feet high and about 125 feet long with a spillway 114.5 feet long and flood gate section 10.5 feet long; and

(2) a reservoir at elevation 194.1 feet having a surface area of about 2.22 acres;

Project No. 2 development consists of:

(1) a quarry stone dam about 22 feet high and 318 feet long with a spillway 250.25 feet long and a control gate section 68 feet long;

(2) a reservoir at elevation 182.5 feet having a surface area of about 3.4 acres; and

(3) No. 2 mill which houses two horizontal turbines driving a 500 kw generator.

Project No. 3 consists of:

(1) a stone, oak-timbered and concrete-faced overflow dam 5.67 feet high and about 236.7 feet long;

(2) a reservoir at elevation 158.2 feet having a surface area of about 3.87 acres;

(3) a canal 25 feet wide and 525 feet long leading to trash racks, thence into a circular steel flume 12 feet in diameter and about 43.8 feet long;

(4) a concrete and brick powerhouse one story high and 33.5 x 22.75 feet housing a vertical turbine direct-connected to a 400 kw generator; and

(5) a transmission line about 1,154 feet long to No. 4 Mill.

Approval of the application would allow American Thread (Applicant) to withdraw its application for minor license. Applicant states that the dams were built between 1820 and 1850 and two water wheels were installed in 1870. The third waterwheel was installed in 1925. In 1969 the Applicant ceased operation of the project waterwheels, concluding that it could more economically obtain power through purchase from a public utility in addition to power derived from its own steam turbine generator. If the application is granted, Applicant states that the project generators may be sold but the water wheels will remain in place. The dams will be maintained by the Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 29, 1977, file with the Federal Power Commission, 825 North Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1975). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37524 Filed 12-21-76;8:45 am]

[Power No. 2452]

CONSUMERS POWER CO.

Notice of Filing of Application for Approval of Easement Over Project Lands

DECEMBER 15, 1976.

Public notice is hereby given that Consumers Power Company (Licensee) on September 7, 1976, filed an application for approval of an easement over lands included in Project No. 2452, Hardy Plant. Licensee states that the purpose of the easement is to enable the Board of County Road Commissioners of Mecosta County, Michigan, to reconstruct the Davis Bridge over the Muskegon River and to widen the highway approaches at either end of the bridge. (Correspondence to: Mr. A. H. Aymond, Chairman of the Board, Consumers Power Company, 212 West Michigan Ave., Jackson, Michigan 49201). The project is located in Mecosta and Newaygo Counties, Michigan and on the Muskegon River.

Licensee states that the increased traffic has rendered the existing single-lane two-ton limitation, Davis Bridge obsolete. Licensee seeks to grant a 38-foot easement to the Mecosta County Road Commission, so that it may widen the bridge to two lanes and upgrade it for present traffic conditions. The Road Commission would widen the approaches to both ends of the bridge, and would grade the slopes on either side of the road. The proposed reconstruction would allow all lawful vehicle loads to use the Davis Bridge.

Licensee has requested the shortened procedure provided for under Section 1.32 (b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32(b) (1976).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 CFR § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37523 Filed 12-21-76;8:45 am]

[Docket No. CS77-131, et al.]

"SMALL PRODUCER" CERTIFICATES[1]

Notice of Applications

DECEMBER 15, 1976.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS77-131	Dec. 1, 1976	Roger C. Chapman, 2406 Nola Esperson Bldg., Houston, Tex. 77002.
CS77-132	do	Eugene R. Maple, 107 North Stout St., Harrisville, W. Va. 26362.
CS77-133	Nov. 30, 1976	Terra Aux Boeuf program, Box 1941, Corpus Christi, Tex. 78403.
CS77-134	Dec. 1, 1976	Yost & Yost, Inc., Route 2, Fairview, W. Va. 26570.
CS77-135	Dec. 2, 1976	John C. Lopez, 1710 Ordway Bldg., 2150 Valdez St., Oakland, Calif. 94612.
CS77-136	do	Charles B. Sullivan, One Main St., Wilton, N.H. 03086.
CS77-137	do	Marcia Lee Schneider, 201 Cameron Bldg., Oklahoma City, Okla. 73106.
CS77-138	do	George Hix, Route No. 5, Box 21, Cameron, W. Va. 26033.
CS77-139	do	Cedar Creek Oil & Gas Co., 7A Third St. NE., Faribault, Minn. 55021.
CS77-140	Dec. 3, 1976	Western Avenue Properties, 8100 Electric Ave., Stanton, Calif. 90680.
CS77-141	do	Harry Haddox, Route 1, Box 55, Harrisville, W. Va. 26362.
CS77-142	do	Sierra Exploration Co., 900 Northeast Loop 410, San Antonio, Tex. 78209.
CS77-143	Dec. 6, 1976	Robert C. Becherer, 750 Sheridan Rd., Winnetka, Ill. 60093.
CS77-144	do	J. Marcus Hardin, 2150 Valdes St., suite 1710, Oakland, Calif. 94612.
CS77-145	do	Ward L. Quasl, suite 370 O'Hare Plaza, 5725 East River Rd., Chicago, Ill. 60631.
CS77-146	do	E. M. Buttner, Scott-Buttner Corp., 896 Isabella St., Oakland, Calif. 94607.
CS77-147	do	Reeves Lewenthal, et al., 2100 South Ocean Lane, Fort Lauderdale, Fla. 33316.
CS77-148	do	Coffman and Morris Oil & Gas Co., P.O. Box 4, Glenville, W. Va. 26351.
CS77-149	do	Thomas E. Collins, Box 116, West Union, W. Va. 26456.
CS77-150	do	Reeves Lewenthal, et al., 2100 South Ocean Lane, Fort Lauderdale, Fla. 33316.
CS77-151	do	Stonestreet Lands Co., P.O. Box 350, Spencer, W. Va. 25276.
CS77-152	do	Frank M. Brooks, 125 North Market St., suite 1725, Wichita, Kans. 67202.
CS77-153	do	Morris and Perrill, P.O. Box 4, Glenville, W. Va. 26351.
CS77-154	do	I. L. Morris, P.O. Box 4, Glenville, W. Va. 26351.
CS77-155	do	Waco Oil & Gas Co., Inc., P.O. Box 4, Glenville, W. Va. 26351.
CS77-156	do	Edward J. Duncan, P.O. Box 2540, Midland, Tex. 79701.
CS77-157	do	W. Mason Isminger, Rural Delivery No. 1, Orchard Dr., Moundsville, W. Va. 26041.
CS77-158	do	Sparco Producing, Inc., 507 North Marienfeld, suite 208, Midland, Tex. 79701.
CS77-159	do	Knapp Oil & Gas, 147 Fairview Dr., New Martinsville, W. Va. 26155.
CS77-160	do	R. & S. Gas Co., Route 4, Box 35-13, Weston, W. Va. 26452.
CS77-161	Dec. 2, 1976	George Davis, 717 Union Trust Bldg., Parkersburg, W. Va. 26101.
CS77-162	Dec. 7, 1976	Zinn Petroleum Co. (Operator), et al.,[1] 1100 Milam Bldg., suite 2690, Houston, Tex. 77002.
CS77-163	Dec. 8, 1976	D. L. Dorland, Inc., P.O. Box 2127, Andrews, Tex. 79714.

[1] Zinn Petroleum Co. is the operating name for Robert L. Zinn, acting as trustee for the beneficiaries.

[FR Doc.76-37522 Filed 12-21-76;8:45 am]

[Docket No. CI64-26]

GULF OIL CORP.

Filing of Computation of Refunds

DECEMBER 17, 1976.

Take notice that on December 15, 1976, Gulf Oil Corporation (Gulf), P.O. Box 3725, Houston, Texas filed a computation of refunds required by Ordering Paragraph (B) of Opinion No. 780 in the above-captioned docket.

Schedule (A) of their computation reflects calculations of refunds and interest pursuant to the Commission's formula stated in Opinion No. 780, mimeo at 10 for the period August 1, 1971 through October 31, 1976. Although Ordering Paragraph (B) of Opinion No. 780 requested the data from November 1, 1964 to December 1, 1976, the applicable area rate did not exceed the contract rate until August 1, 1971 and the data necessary to calculate refunds for November, 1976, is not yet available.

Gulf submitted two additional schedules (B and C) computing refunds based upon adjusted deliveries that they claim would have been made had the Department of Interior held regular offshore Louisiana lease sales from 1962 to 1972. which Gulf maintains is force majeure under the terms of its 1964 contract. Gulf claims that had the lease sales been resumed prior to 1972 and if Gulf had been able to purchase the same tracts that it acquired between 1972 and 1976, there would be no contract deficiency. Schedules (B) and (C) respectively reflect adjusted volumes that Gulf submits would have been delivered to Texas Eastern if Federal Offshore Louisiana sales had resumed one year and four years earlier. Deliveries to Texas Eastern Transmission Corporation (TETCO) and the resultant computation of refunds, Gulf avers, would be as shown on those schedules. Both schedule (B) and schedule (C) are also predicated upon the 13 month moratorium upon offshore lease sales imposed by the United States Geological Survey due to the oil spill in the Santa Barbara, California Channel. This moratorium, Gulf believes, delayed the offshore Louisiana November 19, 1968 lease sale until December 16, 1969 thereby delaying for one year the commencement of general offshore lease sales. Gulf holds that the absence of such sales is a major factor affecting Gulf's efforts to maintain deliverability to Texas Eastern.

Any interested party who wishes to comment on Gulf's report should file with the Federal Power Commission, Washington, D.C. 20426, written comments on on before December 29, 1976 pursuant to § 1.14 of the Commission Rules of Practice and Procedure (18 CFR 1.14) in order that the Commission may consider this matter as expeditiously as possible.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37625 Filed 12-20-76;10:41 am]

DEC 22 76 V41 247 D UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

MINORITY ADVISORY COMMITTEE, ADAMHA

Notice of Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of January 1977:

MINORITY ADVISORY COMMITTEE, ADAMHA

January 12–14—Open Meeting.
January 12, 1:00 p.m., Conference Room 14–105, Parklawn Building; January 13, 9:00 a.m., Conference Room 17–09B, Parklawn Building; January 14, 9:00 a.m., Conference Room 14–105, Parklawn Building; 5600 Fishers Lane, Rockville, Maryland 20857
Contact Ernest F. Hurst, Room 13C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3838
Purpose: The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health.
Agenda: This meeting will be open to the public. Agenda items include reports by committee members on followup to prior regional meetings and agency visits, reports by members on liaison activities with ADAMHA Institutes and with national organizations, a discussion of accreditation/certification issues, and a planning session. Agenda items are subject to change as priorities dictate.

Substantive program information may be obtained from the contact person listed above.

Mr. James C. Helsing, Deputy Director, Office of Public Affairs, ADAMHA, will furnish, on request, summaries of the meeting and a roster of the committee members. Mr. Helsing is located in Room 16–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3783.

Dated: December 16, 1976.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-37498 Filed 12-21-76;8:45 am]

Office of Education

COLLEGE LIBRARY RESOURCES PROGRAM

Notice of Closing Date for Receipt of Applications for Fiscal Year 1977

Notice is hereby given that according to the authority contained in Part A of Title II of the Higher Education Act of 1965 (20 U.S.C. 1021–1028) to assist institutions of higher education in the acquisition of library materials, applications for Basic grants are being accepted from institutions of higher education, combinations of such institutions, and other public and private nonprofit library agencies whose primary function is to provide library and information services to institutions of higher education on a formal cooperative basis. Processing of these applications will be subject to the availability of funds. Applications must be received by the U.S. Office of Education Application Control Center on or before February 28, 1976.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows U.S. Office of Education, Application Control Center, Grants and Procurement Management Division, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.406. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than February 23, 1976 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Application instructions and forms.* Instructions and application forms will be sent to all institutions which have participated in the program in the last fiscal year. Other institutions desiring to participate may obtain instructions and application forms from the Division of Library Programs, Office of Libraries and Learning Resources, Bureau of Elementary and Secondary Education, U.S. Office of Education, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. 20202, Attention: 13.406.

D. *Program information.* Basic grants, equal to the amount expended by each applicant during the fiscal year the grant is awarded, not to exceed $5,000, are made to eligible applicants under the College Library Resources Program. There are no funding criteria as such. It is anticipated that the total amount of the awards for the Basic grant category specified in 45 CFR 131 will be $9,975,000. It is also expected that approximately 2,500 awards will be made in this category and that the average amount per award will be approximately $3,900. All of these will be new awards; no funds are reserved for continuation awards. Grant funds must be expended within the fiscal year (October 1, 1977–September 30, 1978) following the fiscal year of the grant award (October 1, 1976–September 30, 1977). In light of the number of Basic grant applications expected, it is anticipated that grant funds will not be available in Fiscal Year 1977 for supplemental and Special Purpose grants which are also specified in 45 CFR 131.

E. *Applicable regulations.* The regulations applicable to the College Library Resources Program are:

(1) The Office of Education's General Provisions Regulations which were published in the FEDERAL REGISTER on November 6, 1973, as amended (45 CFR Parts 100, 100a, and appendices).

(2) The regulation for the College Library Resources Program which was published in the FEDERAL REGISTER on November 18, 1974 (45 CFR 131).

(20 U.S.C. 1021–1028.)

(Catalog of Federal Domestic Assistance Number 13.406; College Library Resources Program.)

Dated: December 16, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

[FR Doc.76-37581 Filed 12-21-76;8:45 am]

NATIONAL ADVISORY COMMITTEE ON THE HANDICAPPED

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the next meeting of the National Advisory Committee on the Handicapped will be held on January 17–19, 1977, 8:15 a.m.–4:30 p.m. at the Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, Virginia.

The National Advisory Committee on the Handicapped is established under (20 U.S.C. 1233g) Section 448(b) of the General Education Provisions Act. The Committee is established to review the administration and operation of programs for the handicapped in the Office of Education, and make recommendations for their improvement.

The meeting of the Committee will be open to the public. The proposed agenda includes a tour of the Model Secondary School for the Deaf on the morning of January 17, discussions of the Committee's 1977 annual report, discussions of the Committee's functions and

purposes, and a report by the Director of the Bureau of Education for the Handicapped on the status of the Committee's recommendations for 1976. Records will be kept of all Committee proceedings and will be available for public inspection at the Office of the Deputy Commissioner, Bureau of Education for the Handicapped located in Room 2100, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on December 17, 1976.

LEROY V. GOODMAN,
Executive Secretary, National Advisory Committee on the Handicapped.

[FR Doc.76-37555 Filed 12-21-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Notice of Meeting

Notice is hereby given, pursuant to P.L. 92–463, that the National Advisory Council on Vocational Education will hold a meeting open to the public on January 13, 1976, from 9:00 a.m. to 12:00 noon, local time, on January 14, 19, from 9:00 a.m. to 12:00 noon, local time, at the Hyatt Regency Hotel, Washington, D.C.

On January 13, 1976 from 1:30 p.m. to 5:00 p.m., local time, the National Advisory Council on Vocational Education meeting will be closed to the public. This portion of the meeting will be closed to the public in accordance with the provisions of Section 10(d), Federal Advisory Committee Act, P.L. 463 and Title V, U.S. Code, Section 552(d)(2). The purpose of the closed meeting is to discuss internal personnel, rules and procedures, and documents may be presented which, if open to the public would constitute a clearly unwarranted invasion of personal privacy.

The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of, preparation of general regulations for, and operation of vocational education programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The agenda shall include:

JANUARY 13, 1976

AM: Report of the Chairperson and Executive Director; Report from the U.S. Office of Education; Task Force Reports.

PM: Closed Session.

JANUARY 14, 1976

Budget Report; Discussion of Council Procedures.

Records of the meeting proceedings shall be kept and made available for public inspection at the Office of the Council's Executive Director, located in Suite 412, 425–13th Street, NW., Washington, D.C. 20004.

Signed at Washington, D.C., on December 14, 1976.

REGINALD PETTY,
Executive Director.

[FR Doc.76-37495 Filed 12-21-76;8:45 am]

POSTSECONDARY EDUCATION AMENDMENTS OF 1976

Intent to Issue Regulations: Corrections

The Notice of Intent to Issue Regulations for Postsecondary Education programs was published in the FEDERAL REGISTER, Vol. 41, No. 230 on page 52410, Monday, November 29, 1976. The following corrections are being made in the Notice of Intent.

1. On page 52410 in the chart, "Provisions in the Education Amendments of 1976 covered by this notice include," the following should be inserted after "Section 162(1)—Reconstruction and Renovation—Division of Training and Facilities":

171 (a) and (b) Graduate Programs—Division of Training and Facilities

2. On page 52410, in the Instructions for Comments, the following should be added to the list of programs and program contact persons:

Special Services for Disadvantaged Students: Mr. David D. Johnson, Room 4662, Regional, Office Building 3, Telephone 202–245–0423.
Graduate Programs: Mr. Richard J. Rowe, Room 3053, Regional, Office Building 3, Telephone 202–245–2715.

3. On page 52412 under "A. Administrative Procedures and Technical Changes for the Basic Grants Program," paragraphs (6), (7), and (8) are corrected to read as follows:

(6) How may procedures governing the calculation and payment of awards for students enrolled in programs of study by correspondence be improved?

(7) How may procedures designed to verify institutional certification of student enrollment, enrollment status, etc., be strengthened for institutions which do not act as disbursement agents for Basic Grant funds?

(8) How can funding and reporting procedures for institutions who lose eligibility for program participation or who change ownership be strengthened to protect Federal and student interests? In this context, what liabilities and responsibilities should be assumed by the institution and current or prevous owners for Federal funds advanced to the institution?

4. On page 52413 under "C. Family Contribution Schedules," the first sentence of the fourth paragraph is corrected to read as follows:

In addition, the Commissioner proposed a provision to exclude any funds or property received by Indians or Native American students as a result of judgment claims in the determination of the Family Contribution for those students.

5. On page 52415, the heading "D. Personal Training Authority (Section 124(c)" is revised to read as follows:

D. Personnel Training Authority (Section 124(c)).

6. On page 52417 under "Criteria for Recognition of National Accrediting Agencies and State Approval Agencies (Section 133(a))" paragraph (B) in the second column should be revised to read as follows:

(B) Criteria for Recognition of State Agencies for the Approval of Public Postsecondary Vocational Education:

7. On page 52417 under the heading "Eligibility and Agency Evaluation," the first sentence in the second paragraph should be revised to read as follows:

A. Fiscal Audit of Eligible Institutions; Standards of Financial Responsibility and Institutional Capability. • • •

8. On page 52418, immediately before the heading, "Community Colleges (Section 176–178)," the following section should be inserted:

GRADUATE PROGRAMS

(Section 171 (a) and (b))

Title IX, Part A, of the Higher Education Act of 1965, as amended, provides for grants to institutions of higher education to strengthen, improve and expand graduate and professional programs. Part B provides for graduate fellowships for careers in postsecondary education. Fellowships are awarded to qualified students nominated by institutions which have approved programs. The fellowships provide a stipend for the student and an educational allowance for the institution.

The Education Amendments of 1976 make several changes in these programs. Applications for grants under Part A must provide assurances that the appropriate State Commission has been given the opportunity to make recommendations on the application. The scope of the authorized activities is expanded to include grants for the development of proposed graduate and professional programs and for needed innovation in existing programs.

Under Part B, the program is expanded to provide fellowships for graduate and professional study in career fields of importance to the national interest, as determined by the Commissioner. The Commissioner may award fellowships only for studies leading to a doctor of philosophy, doctor of arts, or equivalent degree. In making awards the Commissioner must take into account several factors, including the need for highly trained individuals in career fields of high national priority and the need to prepare a larger number of individuals from minority groups.

Before developing regulations to implement these changes the Commissioner seeks public comment on the issues listed below and on any other issues that may be raised by the amendments relative to implementation of these programs. (Written comments on these issues

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should be submitted by January 1977 in order to receive full consideration.)

(1) How shall the Commissioner implement Sec. 902(b)(2) of the Higher Education Act of 1965, as amended, which requires assurances that the State Commission will have an opportunity to comment on an application for a grant?

(2) How shall the Commissioner assure that an application gives consideration to the degree to which a program will be consistent with State, regional, or national priorities, as required by Sec. 902(c)?

(3) How shall the Commissioner implement Sec. 903(b)(6) and (7), which authorize grants for development of proposed graduate and professional programs and for innovation in existing programs?

(4) Sec. 923 requires that fellowships be awarded to individuals who are enrolled in a course of study leading to a degree of doctor of philosophy, doctor of arts, or equivalent degree. How should the Commissioner define such "equivalent degree" programs in professional fields of study?

(5) Sec. 923(a) authorizes the Commissioner to award fellowships "on such basis as he may determine," provided the recipients are enrolled in degree programs approved by him. In awarding such fellowships, should the Commissioner:

(a) Allocate fellowships to institutions with approved programs, which will nominate qualified candidates to the Commissioner;

(b) Conduct a national competition for students who may use their fellowships to study at an institution having approved programs; or

(c) Use some other approach?

(6) Sec. 923(b)(1) requires the Commissioner to take into account present and projected needs for highly trained individuals in all areas of education beyond the high school. How may the Commissioner best determine these present and projected personnel needs?

(7) Sec. 923(b)(2) requires the Commissioner to take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority. How may the Commissioner best determine these present and projected needs?

(8) Sec. 923(b)(3) requires the Commissioner to consider the need to prepare a larger number of individuals from minority groups, especially from among groups who have been traditionally underrepresented in colleges and universities, with the provision that no institution shall be required to grant them preference or disparate treatment in the award of fellowships. This raises several issues:

(a) How are these minority groups to be defined?

(b) How may the Commissioner best administer this requirement?

(9) Sec. 924(a) requires the Commissioner to pay to fellowship recipients stipends (including such allowances for subsistence and other expenses for such persons and their dependents) that he determines to be consistent with prevailing practices under comparable Federally-supported programs. Which other Federal programs should be examined to determine comparable rates?

(10) Sec. 924(b) requires the Commissioner to pay to the institution of higher education at which a fellowship recipient is studying an educational allowance consistent with prevailing practices under comparable Federally-supported programs. The Federal payment is to be reduced by any tuition or other required fees charged to the fellowship recipient. What other Federal programs should be examined to determine comparable rates?

9. On page 52425 (Appendix A) immediately before the heading, "Part—I Community Colleges and State Postsecondary Planning," the following should be inserted:

PART H. GRADUATE PROGRAMS

EXTENSION AND REVISION OF GRADUATE FELLOWSHIPS AND ASSISTANCE

Sec. 171. (a)(1) Section 901(a)(3) is amended by striking out "clauses (2), (3), and (4)" and inserting in lieu thereof "clauses (1) and (2)".

(2) Section 901(c) of the Act is amended to read as follows:

"(c) There are authorized to be appropriated $50,000,000 for each of the fiscal years ending prior to October 1, 1979, for the purpose of this part.".

(3)(A) Section 902(b) of the Act is amended by inserting "(1)" before "sets forth", and by inserting before the period a comma and the following: "and (2) provides assurances that the institution has notified the appropriate State commission (established or designated under section 1202 of this Act) and that the State commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner".

(B) Section 902 of the Act is amended by adding at the end thereof the following new subsection:

"(c) In considering an application under this part for a program of activities from an institution of higher education within a State, the Commissioner shall assure that consideration is given to the degree to which such program will be consistent with State, regional, or national priorities.".

(4) Section 903(b) of the Act is amended by striking out the word "and" at the end of clause (4), by striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and the word "and" and by adding at the end thereof the following new clauses:

"(6) the development of proposed graduate and professional programs; and

"(7) needed innovation in graduate and professional programs.".

(b) Part B of title IX of the Act is amended to read as follows:

"PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

"APPROPRIATIONS AUTHORIZED

"SEC. 921. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

"NUMBER OF FELLOWSHIPS

"SEC. 922. (a) During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1979, the Commissioner is authorized to award not to exceed seven thousand five hundred fellowships to be used for study in graduate programs at institutions of higher education. Such fellowships may be awarded for such period of study as the Commissioner may determine but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

"(c) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.

"AWARDS OF FELLOWSHIPS AND APPROVAL OF GRADUATE PROGRAMS

"SEC. 923. (a) The total number of fellowships authorized by section 922(a) to be awarded during a fiscal year shall be awarded by the Commissioner on such bases as he may determine, except that recipients of such fellowships shall be individuals who have been admitted or who are enrolled in graduate or professional programs approved by the Commissioner and who are pursuing, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree. The Commissioner shall approve a graduate program of an institution of higher education only upon his finding that the application contains satisfactory assurance that the institution will provide special orientations and practical experiences designed to prepare its fellowship recipients (1) for academic careers at some level of education beyond the high school, or (2) for other than academic careers in professional career fields of importance to the national interest, as determined by the Commissioner.

"(b) In determining priorities and procedures for the award of fellowships under this section the Commissioner shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond highschool,

"(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority,

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups who have been traditionally underrepresented in colleges and universities, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of individuals of that group in any community, State, section, or other area,

"(4) assure that consideration in awarding fellowships under this part is given (A) to individuals who have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies, or (B) to individuals with varied backgrounds and experiences who have acquired such backgrounds and experiences in other than academic settings,

"(5) seek to achieve a reasonable geographical distribution of graduate programs approved under this section, based upon such factors as student enrollments in institutions of higher education and population.

"(c) No fellowship shall be awarded under this part for study at a school or departure of divinity.

"FELLOWSHIP STIPENDS

"SEC. 924. (a) The Commissioner shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(b) The Commissioner shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 925. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 924 only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

"(b) The Commissioner is authorized to require reports containing such information in such form and to file at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.".

Dated: December 16, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

[FR Doc.76-37592 Filed 12-21-76;8:45 am]

TASK FORCE ON NATIVE AMERICAN VOCATIONAL EDUCATION OF THE NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Notice of Public Hearing

Notice is hereby given, pursuant to P.L. 92-463, that the Task Force on Native American Vocational Education of the National Advisory Council on Vocational Education will hold a hearing open to the public on January 12, 1976, from 9:00 a.m. to 5:00 p.m., local time, in Room 2010, New Executive Office Bldg., 17th & Penna. Ave., N.W., Wash., D.C. The purpose of the hearing is to receive the testimony of invited witnesses regarding the effectiveness and status of Indian vocational education in the Eastern half of the United States. This hearing is being held in preparation for developing recommendations regarding the administration of the Education Amendments of 1976, P.L. 94-482.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of preparation of general regulations for, and operation of vocational education programs, supported with assistance under the act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meeting of the Task Force shall be open to the public. Records shall be kept of all Task Force proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 412, 425-13th Street, N.W., Washington, D.C. 20004.

Signed at Washington, D.C. on December 14, 1976.

REGINALD E. PETTY,
Executive Director.

[FR Doc.76-37496 Filed 12-21-76;8:45 am]

TITLE I AUDIT APPEAL

Notice of Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972, as amended by 41 FR 28568, July 12, 1976), an application for an appeal before the Board has been received from the State of Idaho and it has met the jurisdictional requirements of Section 5 of the Notice establishing the Board.

The appeal involves the allowability of specified expenditures of funds for programs under Title I of the ESEA during the period July 1, 1973, through June 30, 1974. The U.S. Office of Education seeks recovery of $159,431 based on audit exceptions taken to expenditures in the Boise, Pocatello and Blackfoot local education agencies. A basic issue is whether certain Title I funds were expended on properly targeted school populations. The Audit Control Number is 50000-10, Docket 2-(17)-76.

The prehearing conference will be held at 10:30 a.m. on February 17, 1977, in Room 4173, 400 Maryland Avenue, S.W., Washington, D.C.

Section 7 (c) of the Notice setting up the board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before February 2, 1977.

(20 U.S.C. 241a, 1232c)

(Catalog of Federal Domestic Assistance Number 13,428, Educationally Deprived Children—Local Educational Agencies).

Dated: December 16, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

[FR Doc.76-37682 Filed 12-21-76;8:45 am]

Office of the Secretary

SUPPLEMENTARY MEDICAL INSURANCE FOR THE AGED AND DISABLED

Monthly Actuarial Rates and Monthly Premium Rate

Pursuant to authority contained in sections 1839(c)(1) and (4) of the Social Security Act (42 U.S.C. 1395r(c)(1) and (4)), the Secretary of Health, Education, and Welfare is required to promulgate two monthly adequate actuarial rates for the Medicare Supplementary Medical Insurance (SMI) program for the period July 1977 through June 1978. One rate is

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equivalent to one-half of the estimated incurred cost of the program per aged enrollee, and the other is equivalent to one-half of the estimated incurred cost for each disabled enrollee. Pursuant to authority contained in section 1839(c)(3) of the Social Security Act (42 U.S.C. 1395r(c)(3)), the Secretary is also required to promulgate a single monthly premium rate for both aged and disabled enrollees which is derived from the monthly adequate actuarial rate for the aged enrollees. The difference between the premium paid by enrollees and total incurred per capita costs is met from the general revenues of the Federal government. The notices of these promulgations for the period July 1977 through June 1978 are as follows:

NOTICE OF MONTHLY ADEQUATE ACTUARIAL RATES

On the basis of the accompanying statement of actuarial assumptions and bases pursuant to section 1839(c) (1) and (4) of the Social Security Act (42 U.S.C. 1395r(c) (1) and (4)), I hereby determine that the monthly adequate actuarial rates which shall be applicable for the 12-month period commencing July 1, 1977, are $12.30 for enrollees age 65 and over and $25.00 for disabled enrollees under age 65.

NOTICE OF MONTHLY PREMIUM RATE

Pursuant to authority contained in section 1839(c)(3) of the Social Security Act (42 U.S.C. 1395r(c)(3)), I hereby determine and announce that the dollar amount which shall be applicable for premiums for purposes of section 1839(c)(3) of the Act shall be $7.70 monthly in the 12-month period beginning July 1977 and ending June 1978.

STATEMENT OF ACTUARIAL ASSUMPTIONS AND BASES EMPLOYED IN DETERMINING THE MONTHLY ADEQUATE ACTUARIAL RATES AND THE STANDARD MONTHLY PREMIUM RATE FOR THE SUPPLEMENTARY MEDICAL INSURANCE PROGRAM BEGINNING JULY 1977

This is a statement of actuarial assumptions and bases employed in determining the adequate actuarial rates and the standard monthly premium rate for the Supplementary Medical Insurance Program (SMI) for the period July 1977 through June 1978. The monthly adequate actuarial rate for enrollees age 65 and over is $12.30. The monthly adequate actuarial rate for disabled enrollees is $25.00. The standard monthly premium rate for both types of enrollees is $7.70.

I. *Actuarial status of the supplementary medical insurance trust fund.* The law requires that the SMI program be financed on an incurred basis. That is, the income to the program during the 12-month period for which adequate rates are effective must be sufficent to pay for services (including associated administrative costs) rendered during that period even though payment for some of these services will not be made until after the close of the period. The portion of income required to cover those benefits not paid until after the close of the year is added to the trust fund until needed. Thus, the trust fund at any time should be equal to the cost of the benefits and administration incurred but not yet paid. Because the adequate rates are established prospectively, they are subject to projection error. As a result, the income to the program may not be equal to incurred costs and therefore the trust fund may not be equal to the value of incurred but unpaid expenses. Modest deficiences in the trust fund balance do not interfere with the operation of the program if the fund is large relative to outlays and if future financing is established to correct the deficiencies. Table I summarizes the estimated actuarial status of the trust fund as of June 30, 1975, 1976, and 1977.

TABLE I

Year ending June 30	Assets at end of period (in millions)	Liability for incurred but unpaid services (in millions)	Assets and liabilities (in millions)
1975	$1,484	$1,399	$85
1976	1,308	1,732	−424
1977	1,945	2,055	−110

The sizeable deficit shown at the end of fiscal year 1976 results from program cost increases substantially in excess of those anticipated in setting the adequate rates for 1976. The adequate rates for the year ending June 30, 1977 contain a margin which is expected to decrease the program deficit by about $300 million at the end of that year. This remaining deficiency must be considered in establishing the financing for subsequent years.

II. *Monthly adequate actuarial rates for enrollees age 65 and older.* The monthly adequate actuarial rate is one-half the monthly projected per capita cost for benefits and administrative expenses adjusted to allow for interest earnings on the fund, to allow for a contingency margin, and to allow for amortization of the program surplus or deficit.

The monthly adequate actuarial rate for enrollees age 65 and older for the year ending June 30, 1978, was determined by projecting the fiscal year 1975 per capita cost by type of service. The projected costs for the years ending June 30, 1976, 1976, 1977, and 1978 are shown in Table II. The 1976 values were established from program data. Subsequent years were projected using a combination of program data and data from external sources. The projection factors used are shown in Table III.

TABLE II.—*Derivation of SMI aged monthly rate required for years ending June 30, 1975–78*

	1975	1976	1977	1978
Covered services (at level recognized):				
Physicians' reasonable charges	$8.20	$9.34	$10.41	$12.25
Radiology and pathology	.36	.43	.49	.57
Group practice plan	.17	.21	.25	.28
Independent lab	.07	.07	.08	.09
Home health agencies	.14	.18	.24	.31
Outpatient hospital and other institutions	.98	1.28	1.66	2.16
Total services	9.92	11.51	13.13	15.66
Cost sharing:				
Deductible	−1.67	−1.70	−1.72	−1.73
Coinsurance	−1.55	−1.85	−2.14	−2.62
Total benefits	6.70	7.96	9.27	11.31
Administrative expenses	.72	.90	.90	.97
Incurred expenditures	7.42	8.86	10.17	12.28
Value of interest on fund	−.19	−.18	−.16	−.27
Margin for contingencies and to amortize unfunded liabilities	−.53	−1.18	.69	.29
Promulgated rate	6.70	7.50	10.70	12.30

TABLE III

	Year ending June 30		
	1976	1977	1978
Physicians' services:			
Fees [1]	Percent 8.5	Percent [2] 10.8	Percent 9.5
Number and mix [2]	5.0	4.0	4.0
Outpatient hospital and home health agencies	30.0	30.0	30.0
Group practice plans	25.0	15.0	15.0
Other	20.0	15.0	15.0

[1] As paid by the program.
[2] Increase in the number of services received per capita and greater relative use of more expensive services.
[3] Reasonable charges were updated later than July 1, 1976, in most areas so the average cost increase shown in table II is less than 10.8 pct.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for the year ending June 30, 1978, net of interest is $12.01. The monthly actuarially adequate rate of $12.30 will eliminate the remaining deficit if the assumptions used in this projection are realized.

III. *Adequate actuarial rate for the disabled.* The monthly adequate actuarial rate for disabled enrollees applies to persons eligible because they have been entitled to disability insurance benefits for not less than 24 consecutive months or because they are suffering from end stage renal disease. Projections for disabled beneficiaries (other than those suffering from end stage renal disease) are prepared in an exactly parallel fashion as projections for the aged using the same actuarial assumptions. Costs for the end stage renal disease program are projected using a computer model because of the complex demographic problems involved. The combined results for all disabled beneficiaries are shown in table IV. The monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled beneficiaries for the year ending June 30, 1978, net of interest earnings is projected to be $24.41. The monthly actuarially adequate rate of $25.00 provides a small margin for contingencies.

TABLE IV.—*Derivation of SMI disabled monthly rate required for year ending June 30, 1975–78*

	1975	1976	1977	1978
Total benefits	$12.15	$15.53	$18.88	$22.97
Administrative expenses	1.30	1.76	1.83	1.98
Incurred expenditures	13.45	17.29	20.71	24.95
Value of interest on fund	−.34	−.35	−.32	−.54
Margin for contingencies and to amortize unfunded liabilities	4.89	1.56	−1.39	.59
Promulgated monthly rate	18.00	18.50	19.00	25.00

IV. *Sensitivity testing.* Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy under alternate assumptions of the rates promulgated here. The most unpredictable factors which contribute significantly to future costs are outpatient hospital costs, physician utilization, and the increase in physician fees as constrained by the reasonable charge screens and the newly implemented economic index. (Utilization here, is measured indirectly and refers to increased costs per capita due to added visits, the use of more expensive services, and other factors not explained by simple price per service increases). Two alternative sets of assumptions and the results of those assumptions are shown in Table V. All assumptions not shown in Table V are the same as in Table III.

Table V indicates that under fairly optimistic assumptions the monthly rates promulgated will result in a surplus of $523 million by the end of June 1978. Under fairly pessimistic assumptions the deficit increases to $994 million but the trust fund remains positive allowing the program to continue paying claims as presented.

TABLE V.—*Actuarial status of the SMI trust fund under 3 sets of assumptions*

	This projection		Low assumption		High assumption	
	1977	1978	1977	1978	1977	1978
Per enrollee increases in:	Percent	Percent	Percent	Percent	Percent	Percent
Physician fees	10.8	9.5	10.0	9.0	12.0	10.5
Physician utilization [1]	4.0	4.0	3.0	3.0	6.0	6.0
Outpatient hospital and home health agencies	30.0	30.0	25.0	25.0	50.0	50.0
Assets as of June 30 (in millions)	$1,945	$2,645	$2,029	$2,970	$1,741	$1,778
Liabilities as of June 30 (in millions)	2,055	2,533	2,021	2,447	2,140	2,767
Trust fund—liabilities	−110	112	8	523	−399	−994

[1] Increase in the number of services received per capita and greater relative use of more expensive services.

V. *Standard premium rate.* The law provides that the standard monthly premium rate, promulgated in December to apply for both aged and disabled enrollees under the supplementary medical insurance program, shall be the lesser of:

(1) The actuarial rate for enrollees age 65 and older; or

(11) The standard monthly premium currently being charged, increased by the same percentage that old-age, survivors, and disability insurance benefits were increased since the May preceding the promulgation (and rounded to the nearer dime).

The standard monthly premium currently being charged is $7.20. The OASDI benefit table was increased 6.4 percent in June 1976. The $7.20 rate increased by 6.4 percent is $7.70 rounded to the nearer ten cent multiple. Since this is less than the $12.30 actuarial rate, the standard premium rate is $7.70 for the twelve months ending with June 1978.

Dated: December 13, 1976.

MARJORIE LYNCH,
Acting Secretary.

[FR Doc.76-37106 Filed 12-21-76;8:45 am]

FAMILY MEDIAN INCOME BY STATE

Eligibility for Social Services Under Title XX of the Social Security Act, as Amended

Promulgation is made of the median income of a family of four for each State and for the States as a whole, applicable to the period October 1, 1977 through September 30, 1978, for the purpose of determining the extent of Federal financial participation (FFP) in State expenditures under Title XX of the Social Security Act, under the provision of sections 2002(a)(5)(B), 2002(a)(6)(A) and (B), and 2002(a)(14)(A) of that Act. These sections impose certain limitations with respect to the availability of FFP based upon the relationship of the income of the family of a service recipient to the median income of a family of four in the State, adjusted in accordance with regulations prescribed by the Secretary to take into account the size of the family.

Estimates of the median incomes of families of four persons for each State and the District of Columbia were developed by the Bureau of the Census. In developing the median income scale, the Bureau of the Census used three sources of data: (1) The 1976 Current Population Survey, (2) the 1970 Census of Population, and (3) per capita personal income estimates from the Bureau of Economic Analysis.

The methodology for adjusting median income for families of different size is specified in 45 CFR 228.60.

The median income for a family of four, by State, for fiscal year 1978—with calculations at the 80 percent, 90 percent, and 115 percent levels—are set forth below for use by States in establishing income ceilings and fee schedules under Title XX of the Social Security Act:

Median income for families of 4

State	Median income	80 pct of median income	90 pct of median income	115 pct of median income
Alabama	$14,018	$11,214	$12,616	$16,121
Alaska	25,638	20,510	23,074	29,484
Arizona	15,829	12,663	14,246	18,203
Arkansas	12,999	10,375	11,672	14,014
California	17,393	13,914	15,654	20,002
Colorado	16,928	13,542	15,235	19,467
Connecticut	17,781	14,225	16,003	20,448
Delaware	16,243	12,994	14,619	18,679
District of Columbia	16,554	13,243	14,899	19,037
Florida	15,303	12,242	13,773	17,596
Georgia	14,538	11,630	13,084	16,719
Hawaii	18,825	15,060	16,943	21,649
Idaho	14,664	11,731	13,198	16,864
Illinois	17,793	14,234	16,014	20,462
Indiana	15,731	12,585	14,158	18,091
Iowa	16,536	13,229	14,882	19,016
Kansas	15,709	12,567	14,138	18,065
Kentucky	13,625	10,900	12,263	15,669
Louisiana	13,992	11,194	12,593	16,091
Maine	12,948	10,358	11,653	14,890
Maryland	18,132	14,506	16,319	20,852
Massachusetts	16,546	13,237	14,891	19,028
Michigan	16,919	13,535	15,227	19,457
Minnesota	16,871	13,497	15,184	19,402
Mississippi	12,174	9,739	10,957	14,000
Missouri	14,996	11,997	13,496	17,245
Montana	14,900	11,920	13,410	17,135
Nebraska	15,381	12,305	13,843	17,688
Nevada	16,945	13,556	15,251	19,487
New Hampshire	14,954	11,963	13,459	17,197
New Jersey	17,984	14,387	16,186	20,682
New Mexico	13,954	11,163	12,559	16,047
New York	16,105	12,884	14,495	18,521
North Carolina	13,883	11,106	12,495	15,965
North Dakota	13,321	12,257	13,789	17,619
Ohio	15,848	12,678	14,263	18,225
Oklahoma	14,436	11,549	12,992	16,601
Oregon	16,349	13,079	14,714	18,801
Pennsylvania	15,753	12,602	14,178	18,116
Rhode Island	15,691	12,553	14,122	18,045
South Carolina	13,879	11,102	12,491	15,961
South Dakota	13,351	10,681	12,016	15,354
Tennessee	13,646	10,917	12,281	15,693
Texas	15,802	12,642	14,222	18,172
Utah	15,352	12,282	13,817	17,655
Vermont	14,294	11,435	12,865	16,438
Virginia	16,348	13,078	14,713	18,800
Washington	16,818	13,454	15,136	19,341
West Virginia	14,004	11,251	12,638	16,174
Wisconsin	16,593	13,274	14,934	19,082
Wyoming	16,818	13,454	15,136	19,341

NOTE: The median income for a family of 4 in the 50 States and the District of Columbia, applicable to the period Oct. 1, 1977, through Sept. 30, 1978, is $15,848.

Dated: December 16, 1976.

ROBERT FULTON,
Administrator,
Social and Rehabilitation Service.

[FR Doc.76-37464 Filed 12-21-76;8:45 am]

WORK INCENTIVE PROGRAM; SOCIAL AND SUPPORTIVE SERVICES

Distribution of Funds

On September 30, 1976, the Social and Rehabilitation Service published in the FEDERAL REGISTER (41 FR 43221) and transmitted by SRS-AT-76-150, dated September 30, 1976, a proposed formula for distribution of funds under Section 403(d) of the Social Security Act for States' social and supportive service program costs in the Work Incentive (WIN) program under Section 402(a)(19)(G) of the Act during Fiscal Year 1977. This action was necessary to assure that States operate their programs within the amount available under this Department's appropriation.

Two comments, both from State agencies, pertaining to the proposed Fiscal Year 1977 allocation formula were received during the prescribed comment period. One State agency objected to the proposed formula because no consideration was given to constantly increasing AFDC and AFDC-UF caseloads. The number of WIN registrants is a direct factor in the computation of the WIN manpower agency allocations and therefore a factor in the computation of the WIN limits of entitlement. As the AFDC and AFDC-UF caseloads affect the number of WIN registrants the change is reflected in the State's limit of entitlement through the formula. However, it is entirely possible for the AFDC and AFDC-UF caseloads to change without a corresponding change in the number of WIN registrants. Another State agency expressed the belief that the assumed consistent ratio between Separate Administrative Unit (SAU) expenditures and Labor Department allocations could not be supported by facts. While a statistical validation of the linkage of SAU expenditures to manpower agencies allocation cannot be made, it is believed that there is a valid direct relationship between the activity of the manpower agencies in job placement and training and the necessity for child care and other support services. It should be noted that the ratio of available resources for employment and training activities and for child care and supportive services was established by the Congress in the annual appropriation.

The Service feels the proposed formula is the most equitable that can be developed under the circumstances. Therefore, after consideration of the comments received, no changes are being made in the proposed formula. Annual limits of entitlement for Fiscal Year 1977 of State expenditures for social and support services under the Work Incentive (WIN) program under Sections 402(a)(19)(G) and 403(d) of the Social Security Act will be calculated on the basis of the following formula:

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1. Twenty-five percent of the total funds available for all the States will be distributed on the basis of the ratio of each State's total program costs claimed and allowed for Federal financial participation under Sections 402(a)(19)(G) and 403(d) of the Social Security Act, 42 U.S.C. 602(a)(19)(G) and 603(d), for Fiscal Year 1976 to the total of such program costs for all States during Fiscal Year 1976.

2. Seventy-five percent of the total funds available for all the States will be distributed on the basis of the ratio of the amount of funds allocated by the Secretary of Labor in support of the WIN sponsor for employment and training for each State in Fiscal Year 1977 to the total amount of funds allocated by the Secretary of Labor in support of the WIN sponsor for employment and training for all States for Fiscal Year 1977. The limits of entitlement shall be based upon the most recent information available at the time of promulgation.

Requests for Federal financial participation in expenditures incurred pursuant to section 402(a)(19)(G) during Fiscal Year 1977 will not be honored to the extent they exceed limits promulgated on this basis.

On September 1, 1977, the Service will reallocate any funds which a survey of all States indicates will not be expended during Fiscal Year 1977. This reallocation will be computed using the same methodology as that described in the notice which established the revised limits of entitlement for Fiscal Year 1975 for Social and Supportive Service under the Work Incentives (WIN) Program which was published on October 16, 1975 (45 FR 68544).

Dated: December 14, 1976.

M. KEITH WEIKEL,
Acting Administrator, Social and Rehabilitation Service.

[FR Doc.76-37545 Filed 12-21-76;8:45 am]

WORK INCENTIVE PROGRAM—SOCIAL AND SUPPORTIVE SERVICES

Limits of Entitlement

Notice is hereby given of annual limits of entitlement for States for Federal financial participation in expenditures for child care and supportive services under the Work Incentive (WIN) Program pursuant to sections 402(a)(19)(G) and 403(d) of the Social Security Act, 42 U.S.C. 602(a)(19)(G) and 603(d), for Fiscal Year 1977, October 1, 1976 through September 30, 1977. Pub. L. 94-439, the joint resolution making continuing appropriations for the Fiscal Year 1977, and for other purposes, makes available such amounts as are necessary to continue activities under Title IV, part C of the Social Security Act, including child care and supportive services pursuant to § 402(a)(19)(G), at a rate of $127,000,000 per year.

Accordingly, limits of entitlement have been calculated on the basis of the allocation formula published as FR Doc. 76-37545 in this issue of the FEDERAL REGISTER, and the amount made available under Pub. L. 94-439, except that the limit of entitlement for Guam is $90,000 and the limit of entitlement for the Virgin Islands is $65,000, in compliance with the limitation imposed by Section 1108 of the Social Security Act. The limits of entitlement for States for child care, other supportive services and administration under section 402(a)(19)(G) for the period from October 1, 1976 through September 30, 1977, are as follows:

Alabama	$1,365,566
Alaska	452,820
Arizona	1,406,394
Arkansas	955,900
California	16,412,649
Colorado	2,183,383
Connecticut	1,385,848
Delaware	381,575
District of Columbia	1,716,365
Florida	2,160,946
Georgia	2,933,786
Hawaii	688,185
Idaho	606,715
Illinois	6,435,222
Indiana	1,556,056
Iowa	1,325,134
Kansas	1,116,417
Kentucky	1,258,384
Louisiana	1,110,819
Maine	624,992
Maryland	2,663,915
Massachusetts	3,711,049
Michigan	5,249,142
Minnesota	2,744,392
Mississippi	1,212,736
Missouri	2,707,803
Montana	637,610
Nebraska	521,658
Nevada	322,250
New Hampshire	388,854
New Jersey	4,524,796
New Mexico	647,345
New York	12,726,430
North Carolina	1,500,500
North Dakota	377,117
Ohio	5,759,228
Oklahoma	917,662
Oregon	3,029,806
Pennsylvania	5,338,350
Rhode Island	573,014
South Carolina	987,418
South Dakota	633,262
Tennessee	1,336,013
Texas	3,215,666
Utah	1,867,840
Vermont	340,107
Virginia	1,624,010
Washington	3,571,768
West Virginia	2,394,995
Wisconsin	4,149,330
Wyoming	227,223
Guam	90,000
Puerto Rico	1,196,156
Virgin Islands	65,000
Total	$127,000,000

Dated: December 2, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

[FR Doc.76-37546 Filed 12-21-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAMS

Notice of Approval

DECEMBER 7, 1976.

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams approved on the date indicated, are available, for information only, in the Pacific Outer Continental Shelf Office, Bureau of Land Management, Los Angeles, CA. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic areas they represent.

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAMS

Description:		Approval date
NK 9-9	Escanaba Ridge	Nov. 2, 1976.
NK 10-1	Coos Bay	Do.
NK 10-10	Cape Mendocino	Do.
NL 10-1	Copalis Beach	Do.
NL 10-4	Cape Disappointment	Do.
NL 10-7	Tillamook Bay	Do.
NK 10-7	Crescent City	Nov. 5, 1976.
NL 10-10	Cape Foulweather	Do.

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 300 N. Los Angeles St., Rm. 7127, Los Angeles, CA. 90012. Checks or Money Orders should be made payable to the Bureau of Land Management.

HAROLD R. MARTIN,
Acting Manager, Pacific Outer Continental Shelf Office.

[FR Doc.76-37570 Filed 12-21-76;8:45 am]

[NM 29135]

NEW MEXICO

Notice of Application

DECEMBER 13, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Tuco, Inc. has applied for a compressor plant site right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 13 S., R. 30 E.,
Sec. 34, NW¼SW¼.

The compressor plant site will be used in connection with natural gas operations and will occupy .44 acres of national resource land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-37516 Filed 12-21-76;8:45 am]

[NM 29134]

NEW MEXICO

Notice of Application

DECEMBER 13, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Tuco, Inc. has applied for a two 6&8-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 13 S., R. 30 E.,
Sec. 24, W½SW¼.
T. 14 S., R. 30 E.,
Sec. 3, lot 4;
Sec. 4, lot 1, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 9, W½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 16, W½W½;
Sec. 21, W½W½;
Sec. 28, W½W½;
Sec. 33, W½W½.
T. 15 W., R. 30 E.,
Sec. 4, lot 4, SW¼NW¼, W½SW¼.
T. 12 S., R. 31 E.,
Sec. 17, SW¼NE¼, SE¼NW¼, E½SW¼, SW¼SW¼;
Sec. 20, W½NW¼, NE¼NW¼, NW¼SW¼;
Sec. 30, W½NE¼, NE¼SW¼, NW¼SE¼;
Sec. 31, lots 1, 2, NE¼NW¼.

These pipelines will convey natural gas across 10.114 miles of national resource lands in Chaves County, New Mexico.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-37517 Filed 12-21-76;8:45 am]

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 24 E.,
Sec. 1, lots 2, 3, S½NE¼;
Sec. 12, S½SE¼;
Sec. 14, NE¼NE¼.
T. 17 S., R. 25 E.,
Sec. 21, SE¼SW¼;
Sec. 32, NW¼SE¼, S½SE¼.
T. 18 S., R. 25 E.,
Sec. 2, NW¼SW¼;
Sec. 3, S½S½;
Sec. 5, lot 4, SW¼NW¼;
Sec. 7, lot 3, N½NE¼, SW¼NE¼, NE¼SW¼;
Sec. 8, N½NE¼, E½NW¼, SW¼NW¼.

These pipelines will convey natural gas across 5.474 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-37518 Filed 12-21-76;8:45 am]

[Oregon 016990 (Wash.)]

WASHINGTON

Termination of Proposed Withdrawal and Reservation of Lands

DECEMBER 15, 1976.

Notice of an application filed by the Corps of Engineers, U.S. Department of the Army, Oregon 016990, for withdrawal and reservation of lands for use in connection with project planning and the construction of the Asotin Dam and Reservoir Project was published in the FEDERAL REGISTER Document No. 65-13160 on page 15238 of the issue of December 9, 1965. The Asotin Dam and Reservoir Project was deauthorized by Public Law 94-199 of December 31, 1975 (89 Stat. 1117) and the applicant agency has canceled its application involving the lands described in the FEDERAL REGISTER publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1) such lands will be at 10:00 a.m. on January 20, 1977, relieved of the segregative effect of the above-mentioned application.

LELAND D. MORRISON,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc.76-37515 Filed 12-21-76;8:45 am]

[Wyoming 55677]

WYOMING

Notice of Application

DECEMBER 14, 1976.

Notice is hereby given that pursuant to the Act of May 24, 1928, 49 U.S.C. 211-214, Trans Mountain Air, Ltd., has applied for an airport lease for the following national resource land:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 27 N., R. 78 W.,
A tract of land 60 feet wide, the centerline of which is described as follows:
Beginning at the northwest corner of sec. 29, T. 27 N., R. 78 W.; thence on a southerly direction along the west boundary of said sec. 29 for a distance of 558.0 feet to a point; thence on a bearing of N. 61°E. for a distance of 16.8 feet to the true point of beginning of the above said survey center line; thence on a bearing of N. 61°E. more or less for a distance of 3,060 feet more or less to the end of said center line at the east boundary of the SE¼SW¼ sec. 20, T. 27 N., R. 78 W.

The tract described contains 4.2 acres.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their comments together with their name and address to the District Manager, Bureau of Land Management, 1300—Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

DELMAR D. VAIL,
Acting State Director.

[FR Doc.76-37519 Filed 12-21-76;8:45 am]

Office of the Secretary

ADVISORY COMMITTEES

Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Public Law 92-463), I have determined that renewal of the advisory committees listed below is necessary and in the public interest.

Advisory Committee on Water Data for Public Use
Committee on Minority Participation in Earth Science and Mineral Engineering
Earthquake Studies Advisory Panel

The Office of Management and Budget has concurred in the renewal of these committees.

Further information regarding these renewals may be obtained from the Department Committee Management Officer, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-8401.

Dated: December 14, 1976.

THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.76-37520 Filed 12-21-76;8:45 am]

V41247 DEC 22 76 UMI

NATIONAL SCIENCE FOUNDATION

SUBPANEL ON OPTICAL AND INFRARED ASTRONOMY

Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Optical and Infrared Astronomy of the Advisory Panel for Astronomy.
Date: January 10–11, 1977.
Time: 9 a.m.
Place: Steward Observatory, Room 108, University of Arizona, Tucson, Arizona 85721.
Type of meeting: Open—January 10 (9 a.m. to 5 p.m.) January 11 (9 a.m. to 3 p.m.)
Contact: Dr. Peter A. Strittmatter, Steward Observatory, University of Arizona, Tucson, Arizona 85721, 602/884–1784 or, Dr. Peter B. Boyce, National Science Foundation, Division of Astronomical Sciences, Washington, D.C. 20550, 202/632–4187.
Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose: To review NSF programs in optical and infrared astronomy.
Agenda: Will include the following discussion and presentations:

JANUARY 10, 1977

9 a.m. Discussion of scientific opportunities.
11 a.m. Discussion of instrumental or technique problems.
12 m. Lunch.
1 p.m. Continuation of discussion on instrumental or technique problems.
3:30 p.m. Discussion of draft report.
5:00 p.m. Adjourn.

JANUARY 11, 1977

9 a.m. Discussion of priorities within O/IR program and assignment of writing tasks for final report.
11 a.m. Review of further questions for Working Group discussion.
3 p.m. Adjourn.

M. R. WINKLER,
Acting Committee Management Officer.

DECEMBER 17, 1976.

[FR Doc.76–37526 Filed 12–21–76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of request for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 9, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

ENVIRONMENT PROTECTION AGENCY

Questionnaire to Farmers, ASCS Personnel, single-time, 6–8 farmers from 2 counties in 17 regions of corn belt, Eliett, C. A., 395–5867.

U.S. CIVIL SERVICE COMMISSION

Application for Federal Employment, 1200, 1201, 1202, 1203, 1281, on occasion, applicant for Federal employment, Caywood, D. P., 395–3443.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Questionnaire for National Endowment for the Humanities, journalism fellows, annually, fellows, Tracey Cole, 395–5870.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education, A Study of the Use of Education and Training Funds in the Private Sector, NIE–171, single-time, universe of company/union contracts having tuition air provision, Strasser, A., 395–5867.
Office of Human Development, Day Care Stability and Rural Supply Study, single-time, family day care providers, Sunderhauf, M. B., 395–6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary), Depository Bank Acceptance and Confirmation Statement, HUD–4304, on occasion, borrower, Housing, Veterans and Labor Division, 395–3532.

DEPARTMENT OF LABOR

Bureau of International Labor Affairs, Recordkeeping Requirements for Employers With Less Than Eleven Employees, other (see SF–83), employers with less than eleven employees, Strasser, A., 395–5867.

REVISIONS

FEDERAL RESERVE SYSTEM

Receipt and Shipment of United States and Mexican Currency Between U.S. Banks and Foreigners, FR465, monthly, banks in Federal Reserve Districts 11 and 12 dealing in Mexican currency, Hulett, D. T., 395–4730.

VETERANS ADMINISTRATION

State Approving Agency Check Sheet (Correspondence Courses), 22–8670, on occasion, State approving agencies, Caywood, D. P., 395–3443.

DEPARTMENT OF COMMERCE

Bureau of Census:
Privacy and Confidentiality Opinion Survey, Privacy and Confidentiality Objective Survey, PCS–100, PCS–200, single-time, households previously contacted in census and University of Michigan, Maria Gonzalez, 395–6132.
Iron and Steel Foundries, M33A, monthly, manufacturers of iron and steel castings, Cynthia Wiggins, 395–5631.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Military Service Questionnaire, SSA 2512, on occasion, veterans, Caywood, D. P., 395–3443.

EXTENSIONS

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Request for Guest Speaker, NASA/201, weekly, civic, professional, and educational organizations, Tracey Cole, 395–5870.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis, Plant and Equipment Expenditures Survey Annual Supplement, BE 456A, annually, nonmanufacturing, Laverne V. Collins, 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Longitudinal Evaluation of the Nutrition Program, annually, elderly persons not participating in nutrition program, Maraha Traynham, 395–4529.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit Survey Instructions and Certificate (Land Survey), FHA–2457, on occasion, registered surveyor, Housing, Veterans and Labor Division, 395–3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc. 76–37642 Filed 12–21–76;8:45 am]

POSTAL RATE COMMISSION

MAIL CLASSIFICATION SCHEDULE, 1976

[Docket Nos. MC76–1—4]

Resumption of Hearings and Revised Procedural Schedule

DECEMBER 16, 1976.

Notice is hereby given that the Administrative Law Judge has established January 18, 1977, as the date to resume hearings in Docket No. MC76–2, at 9:30 a.m., in the Commission's Hearing Room, Suite 500, 2000 L Street, N.W., Washington, D.C.

Pursuant to Commission Order No. 146, a revised procedural schedule has been adopted in Docket Nos. MC76–1, 2, 3, and 4, and is available to all interested parties in the Commission's Docket Room at the above-listed address or by calling the Docket Room, at Area Code 202–254–3804.

JAMES R. LINDSAY,
Secretary of the Commission.

[FR Doc.76–37671 Filed 12–21–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–13063; File No. SR–CBOE–1976–23]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on December 6, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

(Brackets indicate deletions; *italics*, new material.)

CBOE's STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

MATTERS SUBJECT TO ARBITRATION

Rule 18.1. (a) Any controversy between parties who are members,[1] or [Approved Persons] *persons associated with a member* which arises out of the Exchange business of such parties shall, at the request of any such party, be submitted for arbitration in accordance with these rules.

(b) Any controversy between a non-member and a member or [an Approved Person] *persons associated with a member* which arises out of the Exchange business of such member, or [Approved Person] a person associated with a member shall, at the request of such non-member, be submitted for arbitration in accordance with these rules.

(c) *Any controversy between a member and an employee of such member which is related to such employment shall, at the request of any such party, be submitted for arbitration in accordance with these rules.*

[(c)](d) The arbitration provisions of this Chapter shall not constitute a prospective waiver of any right of action that may arise under the federal securities laws.

• • • *Interpretations and Policies:*

.01 For purposes of this Chapter, the terms member, a person associated with a member and an employee of a member shall be deemed to encompass those persons who were former Exchange members, persons associated with a member or employees of members.

.02 It may be deemed conduct inconsistent with just and equitable principles of trade for a member, a person associated with a member or employee of a member to fail to submit a dispute for arbitration under the provisions of this Chapter, or to fail to appear or to provide any document in his possession or control as directed pursuant to the provisions of this Chapter or to fail to honor an award of arbitrators properly rendered pursuant to the provisions of this Chapter where a timely motion has not been made to vacate or modify such award pursuant to applicable law.

INITIATION OF ARBITRATION PROCEEDINGS

Rule 18.2 A member, [Approved Person], *a person associated with a member* [or] a non-member, *or employee of a member* who wishes to initiate arbitration proceedings in accordance with Rule 18.1 shall, within a reasonable time after the event giving rise to the controversy, file with the Secretary of the Exchange a written statement requesting arbitration. Such statement shall include (a) a concise description of the controversy; (b) the matters to be arbitrated, and if possible, the amount in dispute; (c) the names of the parties involved; (d) the names and addresses of counsel, if any, for the person requesting arbitration. The Secretary shall promptly furnish a copy of this statement to the responding party for reply.

• • • Interpretations and Policies:

.01 For purposes of this Chapter an arbitration proceeding will be deemed to be initiated within a "reasonable time," if it is filed no later than one year from the date of the event giving rise to the controversy; provided however, that the Committee may in the exercise of its discretion hear cases filed after the one-year period.

REPLY

Rule 18.3 [No Change]

SUBMISSION FOR ARBITRATION

Rule 18.4. Copies of the statement requesting arbitration, the reply, and any counterclaim and reply to the counterclaim shall be attached to a form of Submission prescribed by the Exchange, which shall be sent to the parties who shall execute their respective copies of the Submission. The copies of said Submission shall be returned within [ten] *10 business* days of their receipt to the Secretary who shall, forthwith upon their receipt, submit the copies to the Arbitration Committee. The Arbitration Committee may decline in any case to accept a Submission for arbitration. If jurisdiction is not so declined, upon receipt of the executed Submission(s) for arbitration, the Arbitration Committee shall assign the matter to [an arbitrator or] a panel of arbitrators selected in accordance with Rule 18.5.

SELECTION OF ARBITRATORS

Rule 18.5 (a) Member Controversies. Any controversy between parties who are members, *persons associated with a member, or employees of members* shall be submitted for arbitration to a panel consisting of three members of the Arbitration Committee chosen by lot. [The parties] *Any party* to the controversy may petition the Arbitration Committee for permission to arbitrate the controversy [in] *at* an alternate [agreed upon forum] *situs* for arbitration. Upon *agreement of the other parties and* Committee approval the parties may proceed with arbitration [in] *at* such alternative [forum] *situs*.

(b) Non-Member Controversies. If one of the parties to a controversy is a non-member, unless the parties elect to have the panel of arbitrators selected in accordance with paragraph (a) of this Rule, [the panel shall be selected in the following manner: (i) where the amount involved in a controversy (exclusive of interest and costs) is more than $500 or where the non-member does not make the election provided for by section (ii) of this subparagraph,] the controversy shall be submitted for arbitration to a panel consisting of three arbitrators, one member of the Arbitration Committee and two non-members selected by lot from the non-member panel provided for by Rule 2.8. [(ii) where the amount involved in the controversy (exclusive of interest and costs) is more than $500, the non-member may elect to submit the dispute to a single arbitrator selected by lot from the non-member panel provided for by Rule 2.8.] *Any party to the controversy may petition the Arbitration Committee for permission to arbitrate the controversy at an alternate situs for arbitration. Upon agreement by the other parties and Committee approval the parties may proceed with arbitration at such alternate situs.*

(c) *Optional Procedure. An initiating non-member party may at the discretion of the Arbitration Committee have any dispute of $1,000 or less determined solely upon documentary evidence submitted by the parties; provided however, that any explanations or arguments accompanying the documents submitted by any party under this procedure must be notarized.*

• • • *Interpretations and Policies:*

.01 The Arbitration Committee may either establish Exchange arbitration facilities outside the Chicago area or refer arbitration cases to other securities industry arbitration organizations where the parties have requested an alternate situs. In the event a panel chosen in accordance with the provisions of this Chapter conducts the arbitration, such panel shall follow the procedures contained in this Chapter.

AMENDMENTS

Rule 18.6. [No Change]

TIME AND PLACE OF HEARING

Rule 18.7. (a) The [arbitrator] *Chairman of the panel* assigned to a particular matter shall appoint a time and place for the hearing and shall cause notice thereof to be given to each of the parties as provided in Rule 18.12. Notice of the initial hearing shall be given at least 10 business days prior to the date fixed for the hearing, and notice shall be given of each subsequent hearing as determined by the arbitrator[s]. Attendance at a hearing waives notice thereof.

(b) The arbitration panel may require the parties to post in advance with the *Secretary of the* Exchange a bond or other security in such amount as it deems necessary to defray expenses of the arbitration proceeding. Such bond or security shall promptly be returned to the parties upon the payment of fees or other costs assessed in compliance with Rule 18.11.

REPRESENTATION BY COUNSEL

Rule 18.8. Any party may elect to be represented by counsel at any stage of the arbitration proceedings. A party who is represented by counsel shall provide the Arbitration Committee with the name and address of his counsel, and thereafter, papers in the proceeding to be served upon such [parties] *party* shall be served upon his counsel.

ATTENDANCE AT HEARINGS

Rule 18.9. [No Change]

CONDUCT OF HEARINGS

Rule 18.10. [No Change]

AWARD OF ARBITRATORS

Rule 18.11 *(a)* Within 30 business days from the date that an arbitration hearing shall have been declared closed (unless the hearings are re-opened by the arbitrators upon a showing of good cause as permitted by law), the arbitrators shall file with the Secretary of the Exchange a written award signed by a majority of the arbitrators, and such award shall be served upon the parties by the Secretary of the Exchange in accordance with Rule 18.12. The arbitrators shall be empowered to assess any costs or fees in connection with the arbitration upon the parties in such manner as they deem to be appropriate. Except as otherwise directed by law, all awards rendered under this Chapter shall

[1] The term "member" as defined in the Constitution and used in the Rules includes a nominee of a member organization unless the context otherwise requires.

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be deemed final and not subject to review or appeal.

(b) *The arbitrators may fix in the award the amount of costs chargeable to the parties to cover the expense of the hearing(s) and shall determine the manner in which and by whom such costs shall be borne.*

NOTICE

Rule 18.12. [No Change]

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

RULE 18.1

A new provision has been added which allows controversies between members and their employees relating to employment matters to be submitted to arbitration pursuant to the rules of the Exchange. It is felt that this is a necessary adjunct to the types of matters which are properly subject to Exchange arbitration.

Interpretation and Policy .01 has been added to Rule 18.1 to provide that the jurisdiction under this Chapter extend to resolve controversies involving former Exchange members, persons associated with a member, or employees of members provided that such controversies arose while the parties were members of the Exchange. The Exchange desires to preclude former Exchange members from ignoring petitions to arbitrate thereby enabling the existing Exchange member to utilize the Exchange arbitration procedures and forego resorting to the costly and time consuming process of litigating his claim in the courts. This revision reflects the holding in *MUH v. Newberger, Loeb & Co., Inc.* 540 F.2d 970 (9th Cir. 1976) wherein the circuit stated that it "would seem strange indeed that with such a significant integrated method of dispute settlement one party could frustrate the purpose of the Exchange rules and the federal policy favoring arbitration by the mere expediency of resignation from the Exchange." (at 973.)

Interpretation .02 to Rule 18.1 proposes that failure to abide by the provisions of this Chapter can be deemed conduct inconsistent with just and equitable principles of trade. This is in accordance with other securities industry arbitration codes and consistent with the Securities and Exchange Commission's opinion *In the Matter of the Application of Stix & Co.*, Exchange Act Release No. 34-12760 (September 2, 1976). The Exchange believes that this provision will dissuade Exchange members from defaulting in the payment of arbitration awards.

RULE 18.2

Interpretation .01 has been added to Rule 18.2 which interprets the term "reasonable time" in the rule. Under this interpretation, an arbitration proceeding will be deemed to be initiated within a reasonable time if it is filed no later than one year from the date of the event giving rise to the controversy. This provision is a "statute of limitations" and is necessary to assure that the Arbitration Committee will not be required to hear aged claims where witnesses will be difficult to locate and the recollection of events hazy. Also, it is believed that in fairness to the responding party he should not be subject to arbitration on a matter for time immemorial.

RULE 18.5

A new provision is proposed to be added to Rule 18.5 (a) and (b) which recognizes a party's right to petition the Arbitration Committee for permission to arbitrate the controversy at an alternate situs. This provision recognizes the establishment of arbitration facilities in Los Angeles, California and New York, New York by the Exchange. We believe that in order for the Exchange to be responsive to the public investor and to the Exchange member community, such alternate locations for arbitrating controversies are necessary.

A proposed short form arbitration procedure has also been added wherein, in subparagraph (c) of the rule, any dispute under $1,000 may, at the request of the initiating non-member party, and upon approval of the Arbitration Committee be determined solely upon documentary evidence. This is believed to be a necessary procedure since the Exchange's experience reflects that many prior non-member claims are for comparatively small amounts of money and the cost involved in obtaining counsel, preparing for a hearing, etc. may in some instances exceed the amount of the claim.

New Interpretation .01 to Rule 18.5 proposes to give the Arbitration Committee the authority to establish arbitration facilities outside of Chicago and to refer cases to other securities industry arbitration organizations. This interpretation will enable the Committee to continue to cooperate with the National Association of Securities Dealers ("NASD") in establishing additional locations for arbitration facilities to resolve options related disputes.

RULE 18.11

Subparagraph (b) is proposed to be added to Rule 18.11 to make it clear that arbitrators may allocate the cost and expenses involved in a particular hearing among the parties thereto. This is a common provision in federal and state arbitration law and it is believed that an explicit statement on this point will eliminate additional questions.

Section 6(b)(5) of the Securities Exchange Act of 1934, as amended provides the basis for the above described proposed rule changes insofar as arbitration procedures and facilities promote the efficient resolution of disputes among members and among public customers of members in furtherance of the public interest and the protection of investors.

Comments were not received or solicited from Exchange members.

The Exchange does not believe that the proposed rules changes will impose any burden upon competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER (1-26-77), or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 12, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 13, 1976.

[FR Doc.76-37542 Filed 12-21-76;8:45 am]

[Release No. 34-13071; File No. SR-PHLX 76-18]

PHILADELPHIA STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 29, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Pursuant to Rule 19b-4A, the Philadelphia Stock Exchange (PHLX) proposes to expand its Option Program by increasing the number of listed option classes traded on underlying stocks from forty (40) option classes to seventy (70) option classes.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to increase competition with other options exchanges and to accommodate the business needs of firms who have committed or desire to commit capital in the options specialist area.

On May 15, 1975, the SEC declared effective the Exchange's Plan and Rules for regulating transactions in options. The addition of options trading in 30

underlying securities will not materially alter the original Plan as approved by the SEC of significantly increase the PHLX's capacity to carry out the purposes of the Act and to enforce compliance by our members and persons associated with our members.

Comments were not solicited nor were comments received.

The Exchange does not believe that the proposed rule will impose any burden on competition.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 21, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 14, 1976.

[FR Doc.76-37543 Filed 12-21-76;8:45 am]

[811-2293; Release No. 9573]

ADVANCE INVESTORS CORP.

Filing of Application

DECEMBER 15, 1976.

In the matter of Advance Investors Corporation, 626 Lexington Avenue, New York, New York 10022.

Notice is hereby given that an application has been filed on October 20, 1976 on behalf of Advance Investors Corporation ("Applicant"), a Delaware corporation registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified management company, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that, pursuant to Articles of Merger ("Articles") approved by shareholders on July 26, 1976, between Applicant and Advance Investors Corporation ("Advance Maryland"), a Maryland corporation registered under the Act as an open-end, diversified management company, Applicant was merged with and into Advance Maryland. Applicant represents that the merger occurred in accordance with the laws of the states of Delaware and Maryland; that the merger became effective on August 30, 1976; that on such date the former shareholders of Applicant became shareholders of Advance Maryland by operation of law, each share of common stock of Applicant having been converted into one share of common stock of Advance Maryland; that Advance Maryland succeeded to all of the assets and liabilities of Applicant; that the corporate existence of Applicant ceased by operation of law; and that Applicant now has no assets and no shareholders.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 10, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37535 Filed 12-21-76;8:45 am]

[SR-Amex-76-25; Release No. 13075]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

DECEMBER 15, 1976.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006.

On October 21, 1976, the American Stock Exchange, Inc. filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The rule change requires specialists to disclose in certain situations the names of buying and selling member organizations in completed Exchange transactions in their specialist securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 12936, (October 29, 1976)) and by publication in the FEDERAL REGISTER (41 Fed. Reg. 48822 (November 5, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on October 21, 1976, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37475 Filed 12-21-76;8:45 am]

[Release No. 13070]

BANK OF NORTH DAKOTA

Notice of Application

DECEMBER 14, 1976.

In the matter of State of North Dakota, doing business as the Bank of North Dakota, 700 East Main, Bismark, North Dakota 58505.

Notice is hereby given that the State of North Dakota, doing business as the Bank of North Dakota (the "Bank") has applied, pursuant to Section 15B(a)(4) of the Securities Exchange Act of 1934 (the "Act"), for an exemption from Section 15B and the rules and regulations thereunder.

Section 15B(a)(4) of the Act provides that the Commission may exempt conditionally or unconditionally any broker, dealer, or municipal securities dealer from any provision of Section 15B or the rules or regulations thereunder if it finds that such exemption is consistent with the public interest, the protection of investors and the purposes of the section.

The Bank engages in the business of buying and selling municipal securities for its own account, other than in a fiduciary capacity, and is, therefore, a municipal securities dealer within the meaning of Section 3(a)(30) of the Act. The Bank is, however, entirely state-owned and purchases small issues of North Dakota municipal securities, which it then resells substantially without profit.

Notice is further given that any interested person may submit to the Commission not later than January 30, 1977 in writing any views or substantial facts bearing on this application. Any such communication should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street,

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N.W., Washington, D.C. 20549 and should refer to File No. S7-664. Copies of the application and of all written submissions will be available for inspection and copying in the Public Reference Room of the Securities and Exchange Commission, 1100 L Street N.W., Washington, D.C. An order granting the application may be issued any time after January 30, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37541 Filed 12-21-76;8:45 am]

[70-5948; Release No. 19811]

CENTRAL AND SOUTH WEST CORP.

Proposed Issue and Sale of Common Stock and Request for Exception From Competitive Bidding

DECEMBER 15, 1976.

In the matter of Central and South West Corporation, P.O. Box 1631, Wilmington, Delaware 19899.

Notice is hereby given that Central and South West Corporation ("CSW"), a registered holding company, has filed an application-declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a) and 7 of the Act and Rules 50 and 100(a) as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

CSW proposes to issue and sell not to exceed 282,108 shares of its authorized and unissued common stock, par value $3.50 per share (the "additional shares") pursuant to an automatic dividend reinvestment and stock purchase plan ("plan"). CSW intends to establish the plan to be effective on or before February 28, 1977. CSW requests authority to sell the additional shares pursuant to the plan through April 30, 1978.

The plan provides that holders of CSW's common stock may automatically reinvest their cash dividends on their stock in the additional shares and, at their option, may make cash payments of not less than $10 nor more than $3,000 per quarter for the same purpose. The additional shares will be purchased from CSW each quarter by the First National Bank of Chicago (the "plan administrator"), which will administer the plan and act as agent for the participants in the plan. The price per share of the additional shares will be equal to the average of the high and low prices of CSW's common stock reported as New York Stock Exchange Composite Transactions on the cash dividend payment date or on the next preceding trading day if the dividend payment date is not a trading day or no trades in CSW's common stock occurred on the dividend payment date.

Any holder of CSW's common stock may join the plan at any time. Participation in the plan will be effective as of the first dividend payment date following receipt by the plan administrator of an authorization from the stockholder, subject to the requirement that such authorization must be received by the plan administrator on or before the 15th day of the month in which a cash dividend is paid. Participants may make optional cash payments in any quarter. Participants will be permitted to withdraw from the plan at any time, but if the plan administrator receives the request to withdraw on or after the cash dividend payment date, the amount of the cash dividend and any optional cash payments scheduled to be invested on such date will be so invested, but all subsequent dividends will be paid to the shareholder unless he re-enrolls in the plan. Upon withdrawing from the plan, a participant may have the whole shares credited to his account under the plan delivered to him, along with cash payments for fractional shares, or he may elect to have all his shares sold by the plan administrator.

It is stated that the additional shares constitute all of the remaining authorized but unissued shares of CSW's common stock excluding 6,250,000 shares scheduled for public offering on December 23, 1976 and 304,790 shares reserved for issuance order CSW's employee stock ownership plan (previously authorized by this Commission). Proceeds derived by CSW from the sale of the additional shares will be applied toward construction programs of CSW's subsidiary companies through loans or equity contributions. Such loans or equity contributions are now or will be the subject of further filings with this Commission.

CSW requests an exception from the competitive bidding requirements of Rule 50 under the Act for the sale of the additional shares pursuant to paragraph (a) (5) of that Rule.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than January 11, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37536 Filed 12-21-76;8:45 am]

[812-4039; Release No. 9572]

CONNECTICUT MUTUAL LIFE INSURANCE CO.

Application for Exemption

DECEMBER 15, 1976.

In the matter of Connecticut Mutual Life Insurance Company, CML Variable Annuity Account A, and CML Accumulation Annuity Account E, 140 Garden Street, Hartford, Connecticut 06115.

Notice is hereby given that Connecticut Mutual Life Insurance Company ("CML"), a Connecticut mutual life insurance company, CML Variable Annuity A ("Account A") and CML Accumulation Annuity Account E ("Account E"), separate accounts of CML registered under the Investment Company Act of 1940 ("Act") as diversified open-end management investment companies (hereinafter collectively referred to as "Applicants"), filed an application on October 4, 1976 and an amendment thereto on November 19, 1976, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

CML established Account A on July 30, 1968 and Account E on July 20, 1975 pursuant to authorization by the Board of Directors of CML. Both separate accounts are facilities through which CML sets aside and invests assets attributable to certain variable annuity contracts issued in conjunction with plans qualified under Sections 401(a) or 403(a) of the Internal Revenue Code of 1954, as amended, ("Code") including plans establishd by persons entitled to the benefits of the Self-Employed Individuals Tax Retirement Act of 1962, as amended, and for annuity purchase plans adopted pursuant to Sections 403(b) or 408 of the Code.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available

to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits or such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Sections 27(c)(1), 22(e) and 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit redemption values under variable annuity contracts issued after the effective date of the order of exemption requested herein to participants in the Texas Program to be made available in accordance with the abovementioned Texas Attorney General's opinion only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant.

Applicants assert that if such exemptions are not granted, persons participating in the Texas Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Participants will be unable to obtain the state's matching contributions for the purchase of an equity-based retirement vehicle. The purpose of the State of Texas is to provide such retirement benefits with its matching contributions, and unrestricted withdrawals prior to retirement apparently were deemed detrimental to such purpose. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, CML will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market to specifically bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 10, 1976, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following January 10, 1976, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37537 Filed 12-21-76;8:45 am]

[76-5937; Release No. 19804]

NEW ENGLAND POWER CO.

Proposed Execution and Delivery of General and Refunding Mortgage Indenture, Proposed Issue and Sale of General and Refunding Bonds at Competitive Bidding and Pledge of First Mortgage Bonds to General and Refunding Mortgage Trustee

DECEMBER 10, 1976.

In the matter of New England Power Company, 20 Turnpike Road, Westborough, Massachusetts 01581.

Notice is hereby given that New England Power Company ("NEPCO"), an electric utility subsidiary company of New England Electric System, a registered holding company, has filed an application-declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(b), 9(a), 10 and 12 of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

NEPCO proposes to execute and deliver to New England Merchants National Bank, as Trustee ("Trustee"), a General and Refunding Mortgage Indenture and Deed of Trust to be dated as of January 1,

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1977 ("G&R Indenture") and to issue and sell $50,000,000 principal amount of general and refunding bonds, Series A ("Series A bonds") under the G&R Indenture. The Series A bonds will bear interest at such rate and will be sold at such price as will be determined by competitive bidding. Bids will specify the interest rate (which shall be a multiple of ⅛ of 1%) and the price (which shall be not less than 100% nor more than 102¾% of the principal amount of the Series A bonds). It is stated that if the winning bid's interest rate specified exceeds 10¼% per annum, further orders of state commissions having jurisdiction will be necessary for NEPCO to accept the bid. NEPCO will notify prospective bidders not later than two business days prior to the time designated for submission of bids (i) the date the Series A bonds shall mature and (ii) whether or not the Series A bonds will be redeemable during the first five years of their term, or some lesser portion thereof, in connection with a refunding at a lesser effective interest cost to NEPCO.

The Series A Bonds will be secured, together with all other G&R bonds hereafter issued, by a lien on the assets of NEPCO. This lien will be subordinate to the lien of the Indenture of Trust and First Mortgage dated as of November 15, 1936 ("first mortgage indenture"), (ii) liens permitted by the G&R Indenture and (iii) property excepted by the G&R Indenture. G&R bonds will be further secured by first mortgage bonds which NEPCO is obligated to issue and pledge with the G&R Trustee. First mortgage bonds will no longer be issued and sold to the public.

G&R Indenture provisions relating to issuance of additional G&R bonds provide, among other things, that when issuing G&R bonds against property additions or deposit of money, NEPCO must demonstrate that its net earnings for any 12 consecutive calendar months within the preceding 15 calendar months are at least twice the annual interest charges on all G&R bonds outstanding and applied for and on all equal or prior lien indebtedness. Except in certain instances, no earnings test is required in connection with the refunding of a like amount of bonds.

In connection with issue and sale of the Series A Bonds, NEPCO proposes to issue up to $50,000,000 principal amount of additional first mortgage bonds, Series V. The Series V bonds will be issued under the first mortgage indenture, will be pledged to the G&R Indenture Trustee and will have the same interest rate and maturity as the Series A Bonds. The exact principal amount of the Series V bonds to be issued and pledged cannot be determined until the time the Series A Bonds are issued. This is because the G&R Indenture requires that Series V Bonds be issued and pledged to the maximum amount permissible under the first mortgage indenture which has more restrictive requirements on the issuance of bonds than the G&R indenture.

NEPCO states that it proposes to execute the G&R Indenture because it wishes to eliminate certain outmoded provisions in its present first mortgage indenture. One such provision restricts bondable property to property which has obtained all licenses and permits necessary for the operation of the property, thereby preventing the bonding of most new facilities during construction. NEPCO states that this restriction restricts the construction of new facilities and increases the cost of their financing. To change this provision would require the approval of 80% of the present holders of NEPCO's first mortgage bonds, and NEPCO states that it does not believe there is sufficient chance of success to incur the cost and time involved in seeking such approval. NEPCO further states that it wished to make other revisions to its old first mortgage indenture, such as modernizing the definition of additional property, net earnings and other provisions and making changes to reduce paperwork.

In computing net earnings for purpose of interest coverage, the G&R Indenture (i) permits inclusion of equity in earnings of subsidiaries, (ii) excludes interest on other than bonded indebtedness and (iii) permits inclusion of non-operating income up to 10% of operating income. It is estimated that pro forma interest coverage computed under the first mortgage indenture for the 12 months ended December 31, 1976, would have been 3.55 and under the G&R Indenture calculation the coverage would have been 4.03.

Based on property additions through September 30, 1976, the approximate net amount of additional property against which first mortgage bonds could be issued would be $9,300,000. As of the same date, the approximate amount of available net additional property against which G&R Bonds might be issued was $117,000,000.

Proceeds from the sale of the Series A Bonds will be used to reduce outstanding short-term notes to NEPCO issued to pay for capitalizable expenditures and the refunding of NEPCO Series Q first mortgage bonds maturing on December 1, 1976, or to reimburse its treasury therefore. It is expected that NEPCO will have approximately $86,000,000 in short-term notes outstanding at the time of the sale of the Series A Bonds.

It is stated that the Massachusetts Department of Public Utilities, the New Hampshire Public Utilities Commission, the Vermont Public Service Board and the Connecticut Public Utilities Control Authority have jurisdiction over various aspects of the proposed transactions and that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are estimated at $165,000, including services provided at cost by New England Power Service Company of $45,000, printing costs of $48,000 and accountants' fees of $10,000.

Notice is further given that any interested person may, not later than January 5, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37538 Filed 12-21-76;8:45 am]

[812-4041; Release No. 9576]

PARAMOUNT MUTUAL FUND, INC. AND UNIFUND, INC.

Application for Exemption

DECEMBER 16, 1976.

In the matter of Paramount Mutual Fund, Inc., and Unifund, Inc., 2441 Honolulu Avenue, Montrose, California 91020.

Notice is hereby given that Paramount Mutual Fund, Inc. ("Paramount"), a Delaware corporation, and Unifund, Inc. ("Unifund"), a California corporation, (hereinafter referred to collectively as "Applicants"), both registered as diversified, open-end mangement investment companies under the Investment Company Act of 1940 ("Act"), filed an application on October 14, 1976, and amendments thereto on December 6, 1976, and December 13, 1976, for an order pursant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act a proposed merger of Unifund into Paramount. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Unifund was incorporated on October 13, 1964, and, as of September 30, 1976, had 220,974 shares outstanding and net assets of $1,931,250; Paramount was incorporated on September 8, 1958, and, as of September 30, 1976, had 838,523 shares outstanding and net assets of $6,845,857. Applicants further state that TCA Management Corporation ("TCA Management") currently acts as investment adviser to both of the Funds and that the Applicants currently have common officers and a common Board of Directors, with the exception that Joseph Lowitz, a Director of Paramount, is not a Director of Unifund, and Grant Brimhall, a Director of Unifund, is not a Director of Paramount.

Applicants represent that they propose to enter into an Agreement and Plan of Merger ("Agreement"), pursuant to which Unifund will be merged into Paramount and the separate existence of Unifund will cease. Applicants further state that Paramount shall be the surviving corporation and shall possess all the rights, privileges, and powers, and be subject to all of the restrictions, disabilities and duties of Paramount and Unifund; that all assets of Unifund shall be vested in Paramount; and that all debts, liabilities and duties of Unifund shall attach to Paramount as the surviving corporation. Applicants also submit that, in order for the merger to become effective, the Agreement requires (1) the affirmative vote of at least a majority of the outstanding shares of each of the Applicants; (2) an opinion of Applicants' legal counsel to the effect that the merger will constitute a tax free reorganization; and (3) the issuance of the order requested herein and of any other orders of federal and state regulatory authorities as may be necessary. According to the application, the Agreement also contains customary representations and warranties by each of the Funds, the truth and correctness of which are to be conditions precedent to the consummation of the merger.

Applicants state that the Agreement was submitted to the Boards of Directors of each of the Funds and approved by a majority of the Directors of each such Board on November 24, 1976. According to the application, the proposed merger plan will be submitted to the shareholders of each of the Funds at their annual meetings to be held January 12, 1977.

Applicants state that the proposed effective date of the merger shall be January 31, 1977, and that, shortly before the effective date of the merger, each of the Applicants shall distribute to its shareholders substantially all of its net taxable income for the fiscal year through the effective date of the merger.

If the merger is consummated, it is proposed that the outstanding shares of Unifund held of record by each shareholder of Unifund will be converted into and become that number of full and/or fractional shares of Paramount which, when multiplied by the net asset value per share of such shares of Paramount, shall have an aggregate net asset value equal to the aggregate net asset value of such shareholder's interest in Unifund. The net asset value of the shares of common stock of Unifund and Paramount at the effective date of the merger shall be the net asset values of each of the Applicants determined in the manner described in their current prospectuses as of the close of the New York Exchange on the day of the effective time of the merger.

Applicants represent that their respective tax positions, as of September 30, 1976, are as follows: Paramount had a capital loss carryover of $352,344, of which $80,802 and $271,542 may be used to offset capital gains realized during the five year periods ending September 30, 1982 and 1983, respectively; Unifund had a capital loss carryover of $202, which expires on September 30, 1982. On September 30, 1976, Paramount had net unrealized gains of $711,135 and Unifund has no net unrealized gains.

The Applicants have agreed that no adjustment need be made in the computation of the Applicants' respective net asset values to reflect any potential income tax impact on their shareholders which might result from differences in amounts of the realized and unrealized capital gains or losses. Applicants are of the opinion that the actual impact of capital loss carryovers and current net unrealized gains or losses is not readily determinable and would be largely a matter of speculation, and that any such impact would depend on many different factors, including each individual shareholder's personal tax status.

Applicants represent that the primary investment objective of each of them is growth of capital; that each of the Applicants normally invest in equity securities with a major portion of their investments in common stocks; and that their investment restrictions are substantially similar in content. Applicants state, however, that Unifund may not borrow except for temporary or emergency purposes from banks, in an amount up to 5% of the value of its assets, but that it may not borrow money to purchase investment securities. Applicants further state that Paramount, whose investment restrictions will be those of the surviving company, has no such restriction on borrowing, but that Paramount is not presently in debt for any sums borrowed for the purchase of securities.

Applicants state that the portfolio of Unifund will continually be reviewed to ascertain that all securities held by Unifund are compatible with Paramount's investment objective, and that, should any security held by Unifund be deemed to be incompatible with that objective, it will be sold prior to the merger.

The application also states that in addition to voting on the merger agreement at the annual meeting of January 12, 1977, the shareholders of each of the Applicants will be asked to approve proposed investment advisory agreements with Paramount Mutual Fund Management Corporation ("Paramount Management"), to replace the existing advisory agreements between each of the Applicants and TCA Management, said proposed agreements to become effective as of February 1, 1977. As described in the application, the nature of the services provided by the adviser and the terms of the advisory fee schedule are identical in both the existing and proposed advisory agreements.

Section 17(a) of the Act provides, in part, that it shall be unlawful for any affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, knowingly to sell or purchase from such registered investment company any security or other property. Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Section 2(a)(3) of the Act, in part, defines "affiliated person" of another person to include any person directly or indirectly under common control with such other person. Applicants recognize that, on the basis of the foregoing facts, they might be deemed to be "affiliated persons" of each other and state that they have filed this application to avoid any question being raised under Section 17(a) of the Act with respect to the transaction described herein.

Applicants represent that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, in that shares of Paramount are proposed to be issued for shares of Unifund on the basis of their respective net asset values. Applicants represent further that the transaction is consistent with the policies of each of them. Applicants are of the opinion that their shareholders will benefit from the spreading over their combined assets of certain relatively fixed expenses, which currently constitute a potential duplication of expense in (1) auditing, accounting, and legal areas; (2) the qualification of shares for sale in the various jurisdictions where shares are sold; (3) preparation and printing of shareholder reports, prospectuses and proxy material; and (4) possible further savings in custodial fees and other expenses. It is estimated by Applicants that their combined expenses in the twelve months ended September 30, 1976, assuming that the Applicants' current investment advisory agreements had been in effect throughout the period, would have been reduced by more than $17,400 had the Funds been combined during that period. Applicants further assert that the increased size of the combined fund also would provide it with certain other strengths and flexibilities including somewhat greater investment flexibility with respect to portfolio transactions.

According to the Application, each of the Applicants will bear its own expenses in connection with the merger. Such expenses are estimated by Applicants to be $15,000 in the aggregate, of which Uni-

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fund will bear $5,000 and the remainder of approximately $10,000 will be borne by Paramount.

Notice is further given that any interested person may, not later than January 10, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–37539 Filed 12–21–76;8:45 am]

[812–4029; Release No. 9568]

PUTNAM TAX EXEMPT INCOME FUND

Application for Exemption

DECEMBER 13, 1976.

In the matter of Putnam Tax Exempt Income Fund (formerly Putnam Municipal Bond Fund), 265 Franklin Street, Boston, Massachusetts 02110.

On November 10, 1976, a notice was issued (Investment Company Act Release No. 9519) ("Notice") of an application filed on September 17, 1976, by Putnam Municipal Bond Fund ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end investment company, for an order, pursuant to Section 6(c) of the Act, declaring that Mr. Avery Rockefeller, Jr. ("Rockefeller"), Mr. Donald J. Hurley ("Hurley"), and Mr. Hans H. Estin ("Estin"), proposed trustees of Applicant, each shall not be deemed to be an "interested person" of the Applicant, or The Putnam Management Company, Inc. ("Adviser"), the investment adviser to the Applicant, or Putnam Fund Distributors, Inc. ("PFD"), principal underwriter of the Applicant, within the meaning of Section 2(a)(19) of the Act, by reason of their being directors of, with respect to Rockefeller, The Home Insurance Company and, with respect to Hurley and Estin, The Boston Company, Inc. and/or Boston Safe Deposit and Trust Company. On December 6, 1976, Applicant filed an amendment to the application. All interested persons are referred to amendment No. 1 to the application on file with the Commission for a statement of the additional representations contained therein, which are summarized below.

Notice is hereby given that the following changes should be made in the Notice:

1. Applicant's name has been changed from Putnam Municipal Bond Fund to Putnam Tax Exempt Income Fund, effective October 29, 1976.

2. It is stated that Applicant's initial public offering of its shares will be underwritten by Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Bache Halsey Stuart, Inc., and Reynolds Securities, Inc. ("Underwriters") instead of by PFD, which will act as principal underwriter in the continuous offering of Applicant's shares to commence not less than 30 days following the closing of the initial public offering (expected to be December 22, 1976). Applicant states that the Underwriters are not expected to act as principal underwriters of shares of Applicant following the initial offering.

3. It is represented that, if Rockefeller, Hurley, and Estin are each deemed not to be an "interested person" of Applicant, the Adviser, and PFD within the meaning of Section 2(a)(19) of the Act, they may be proposed for election to Applicant's Board of Trustees at a meeting of Applicant's shareholders in 1977. Applicant anticipates that they will not be proposed for election until after the commencement of the continuous offering of Applicant's shares. The Notice stated that Applicant anticipated adding Rockefeller, Hurley, and Estin to the Board of Trustees prior to the initial public offering.

4. Applicant states that the reference to Estin serving as Chairman of the Board of Trustees of Boston University should be deleted; Estin is, however, a member of the Board of Trustees of the Boston University Medical Center.

The Notice erroneously stated that the file number of the original application was 812–4026. The correct file number is 812–4029.

Notice is further given that the notice period during which any interested person may submit to the Commission a request for a hearing on this matter, in accordance with the procedures set forth in Investment Company Act Release No. 9519, is hereby extended until January 7, 1977 at 5:30 p.m.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–37540 Filed 12–21–76;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM–7/4]

ADVISORY PANEL ON ACADEMIC MUSIC

Notice of Meeting

Pursuant to Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Academic Music has scheduled a meeting to be held on Monday, January 17, in Room 507 at State Annex 2, Department of State, 515 22nd Street, N.W., Washington, D.C. The meeting hours will be from 9:45 a.m. to 12:30 p.m. and from 2:00 p.m. to 5:30 p.m.

The sessions will be open to the public. The agenda is:

(1) Review of program policies and guidelines;

(2) Review of recent overseas tours in the music field sponsored by the Department of State;

(3) Evaluation of tapes and records of College/University performing arts groups planning tours abroad, and academic groups which wish to be considered as candidates for grants, sponsorship or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

For the purpose of fulfilling building security requirements, it is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before January 13; the telephone number is (area code 202) 632–2846.

The meeting room has a seating capacity of 30, so the public will be admitted on a first-come, first-served basis.

Dated: December 14, 1976.

PAUL E. WHEELER,
Director, Office of International Arts Affairs.

[FR Doc.76–37521 Filed 12–21–76;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 77–1; Customs Delegation Order No. 1 (Revision 1) amended]

DIRECTOR, CLASSIFICATION AND VALUES DIVISION, ET AL.

Delegation of Authority

DECEMBER 16, 1976.

1. By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, Customs Delegation Order No. 1 (Revision 1) (T.D. 69–126, 34 FR 8208) is hereby amended as follows:

Paragraph A. is amended to read as follows:

A. Assistant Commissioner of Customs, Office of Regulations and Rulings:

Decisions with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) now delegated to the Commissioner of Customs by paragraph (h) of Treasury Department Order No. 165, Revised, as amended, (supra), decisions denying or approving requests for information under 5 U.S.C. 552, decisions denying or approving requests for extension of the time for the submission of comments on proposed amendments to the Customs Regulations, and decisions and functions relating to all matters in which authority also is delegated by this Order to the Director, Classification and Value Division, the Director, Entry Procedures and Penalties Division, and the Director, Carriers, Drawback and Bonds Division.

2. This order shall take effect on December 22, 1976.

VERNON D. ACREE,
Commissioner of Customs.

[FR Doc.76–37563 Filed 12–21–76;8:45 am]

Fiscal Service

[Dept. Circ. 570, 1976 Rev., Supp. No. 7]

HALLMARK INSURANCE CO., INC.

Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Hallmark Insurance Company, Inc., Madison, Wisconsin, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective this date.

The company was last listed as an acceptable surety on Federal bonds at 41 FR 28243 July 8, 1976.

Bond-approving officers of the Government should, in instances where such action is necessary, secure new bonds in lieu of bonds executed by Hallmark Insurance Company, Inc.

Dated: December 17, 1976.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc.76–37583 Filed 12–21–76;8:45 am]

[Administrative Ruling 76–5]

Office of Revenue Sharing

ANTIRECESSION FISCAL ASSISTANCE

Modification of Waiver Procedures

Section 52.26(a) of the interim regulations (31 CFR 52.26(a); 41 F.R. 44842) promulgated pursuant to Title II of the Public Works Employment Act of 1976 (Pub. L. 94–369), provides that any recipient government may waive antirecession fiscal assistance payments provided the chief executive officer of that government notifies the Director of the Office of Revenue Sharing in writing of its intention to waive such payment and returns the waived payment to the Director. Section 52.26(a) of the regulations also provides, in pertinent part, that the waiver shall be accompanied by a resolution of the governing body of the government requesting the waiver.

The Director of the Office of Revenue Sharing has determined that the resolution requirement of Section 52.26(a) has resulted in unnecessary confusion among recipient governments because it is unlike the Revenue Sharing regulation (31 CFR 51.25(a)) which does not require a resolution in order to waive general revenue sharing funds. Accordingly, the Office of Revenue Sharing will hereafter give effect to requests for a waiver of antirecession fiscal assistance payments made by the chief executive officer of a recipient government, with the consent of the governing body of that government, whenever such request is accompanied by the return to the Director of the Office of Revenue Sharing of any waived payments. Requests for waivers which comply with these requirements need not be accompanied by a resolution of the governing body of the recipient government waiving the antirecession fiscal assistance payments.

Dated: December 17, 1976.

JEANNA D. TULLY,
Director, Office of Revenue Sharing.

[FR Doc.76–37529 Filed 12–17–76;10:03 am]

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Notice of Meetings and Determination Under Public Law 92–463

Notice is hereby given, pursuant to Section 10 of Public Law 92–463, that meetings will be held in Washington on January 25 and 26, 1977, of the following debt management advisory committees:

American Bankers Association, Government Borrowing Committee
Securities Industry Association, Government Securities and Federal Agencies Committee

The agenda for the meetings provides for working sessions by two committees on January 25, a report to the Secretary of the Treasury and Treasury staff by the American Bankers Association Government Borrowing Committee on January 25 and a report to the Secretary of the Treasury and Treasury staff by the Securities Industry Association Government Securities and Federal Agencies Committee on January 26.

Pursuant to the authority placed in Heads of Departments by Section 10(d) of Public Law 92–463, and vested in me by Treasury Department Order 190, revised, I hereby determine that these meetings are concerned with information exempt from disclosure under Section 552(b)(4) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of this office. When so utilized they are recognized to be advisory committees under Public Law 92–463. The advice provided consists of commercial and financial information given and received in confidence in order to avoid adverse effects of premature disclosure on the financial markets and the economy. As such these debt management advisory committee activities concern matters which fall within the exemption covered by Section 552(b)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential".

The Assistant Secretary (Capital Markets and Debt Management) shall be responsible for maintaining records of the meetings of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the provisions of 5 U.S.C. 552(b)(4).

Dated: December 17, 1976.

EDWIN H. YEO, III,
Under Secretary for Monetary Affairs.

[FR Doc.76–37509 Filed 12–21–76;8:45 am]

UNWROUGHT ZINC FROM SPAIN

Preliminary Countervailing Duty Determination

On August 2, 1976, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (41 FR 32249). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Spain upon the manufacture, production, or exportation of unwrought zinc constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47 (c)), it has been determined preliminarily that benefits have been paid or bestowed, directly or indirectly, under the Spanish Government tax remission system known as the desgravacion fiscal.

Benefits derived from the desgravacion fiscal, in some instances, constitute bounties or grants within the meaning of the Act. Accordingly, it has been determined preliminarily that imports of unwrought zinc from Spain benefit from payments of bounties or grants, directly or indirectly, within the meaning of the Act by reason of this program.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, DC. 20229, in time to be re-

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ceived by his office not later than on or before January 21, 1977.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

DECEMBER 17, 1976.

VERNON D. ACREE,
Commissioner of Customs.

Approved.

PETER O. SUCHMAN,
Acting Assistant Secretary of the Treasury.

[FR Doc.76-37591 Filed 12-21-76;8:45 am]

URBAN REINVESTMENT TASK FORCE

NEIGHBORHOOD PRESERVATION PROJECTS

Application Procedures

The Urban Reinvestment Task Force is a joint effort of the heads of the Federal financial regulatory agencies and the Secretary of the U.S. Department of Housing and Urban Development to stimulate the development of local partnerships committed to a coordinated neighborhood reinvestment strategy. The members of the Urban Reinvestment Task Force are:

The Secretary, U.S. Department of Housing and Urban Development; the Chairman, Federal Home Loan Bank Board; a member, Board of Governors, Federal Reserve System; the Chairman, Federal Deposit Insurance Corporation; and the Comptroller of the Currency.

The Task Force is involved in two separate programs, Neighborhood Housing Services (NHS) and Neighborhood Preservation Projects (NPP). Both programs involve the creation of a local partnership bringing together neighborhood residents, the private sector and local goverment. Task Force staff plays an active role in seeking out resources for neighborhoods from a broad range of public and private entities.

NEIGHBORHOOD PRESERVATION PROJECTS

The Urban Reinvestment Task Force is participating in the developmental funding of a limited number of selected demonstrations involving a partnership of neighborhood residents, the private sector, and local government, called Neighborhood Preservation Projects. The Task Force is identifying, monitoring, and evaluating locally developed neighborhood preservation programs which show promise of potential replicability in other cities. Those programs selected receive modest demonstration grants and technical assistance from Task Force staff.

Projects may be supportive of the Neighborhood Housing Services programs or they may offer other innovative approaches to stabilizing and improving the neighborhood environment. Those preservation programs that are successful will be offered to other cities as models which they can use to treat specific problems in their neighborhoods.

PROGRAM AREAS FOR NEIGHBORHOOD PRESERVATION PROJECTS

In addition to programs which affect the physical environment, the Task Force is seeking innovative preservation strategies that deal with broader issues related to the social and economic fabric of urban neighborhoods. The Task Force will consider for selection as a Neighborhood Preservation Project applications which include (but are not limited to) one or more of the following areas:

1. Innovative financing or economic incentives to rehabilitate and stabilize apartment buildings;
2. Innovative education strategies;
3. Innovative crime prevention strategies; and
4. Mechanisms which provide for equitable treatment for current residents of neighborhoods experiencing rapidly increasing housing costs.

SELECTION CRITERIA FOR NEIGHBORHOOD PRESERVATION PROJECTS

1. The project should involve a partnership of neighborhood residents, the private sector, and local government.
2. Preference will be given to projects that are operational or at the point of starting operations.
3. The project should be specific to a neighborhood or neighborhoods, and should either have demonstrated success or show a strong probability of success in upgrading that/those neighborhood(s).
4. Local government should be willing to allocate financial resources and technical assistance to the project.
5. Those responsible for the implementation of the project should have a demonstrated capability to perform successfully in the area of neighborhood preservation.
6. The project sponsors should be willing to provide information which can be analyzed by the Task Force or its participating agencies to judge the effectiveness of the project. Sponsors should also be willing to cooperate with the Task Force in assisting others who may wish to replicate their project.

APPLICATION PROCEDURE

Application forms are available upon request. Cities or other governmental jurisdictions or non-public entities wishing to be considered for selection as a Neighborhood Preservation Project should submit a formal application to the Urban Reinvestment Task Force by March 1, 1977.

The Task Force will review materials submitted and select promising submissions for field review. Following the field review, applications will be ranked according to their promise as demonstrations, and agreements will be entered into with the top ranking applicants, subject to the availability of Task Force resources.

Inquiries should be addressed to:

Associate Director for Neighborhood Preservation Programs, 1120 19th Street, N.W., Suite 600, Washington, D.C. 20036.

WM. A. WHITESIDE,
Staff Director.

[FR Doc.76-37530 Filed 12-21-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 218]

ASSIGNMENT OF HEARINGS

DECEMBER 17, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135732 Sub 25, Aubrey Freight Lines, Inc., MC 123048 Sub 343, Diamond Transportation System, Inc., MC 118989 Sub 141, Container Transit, Inc., MC 116763 Sub 348, Carl Subler Trucking, Inc., MC 115331 Sub 413, Truck Transport, Inc., and MC 113678 Sub 631, Curtis, Inc. now being assigned March 28, 1977 (2 weeks), at Milwaukee, Wisconsin in a hearing room to be later designated.

MC 67866 (Sub-No. 31), Flim Transit, Inc., now assigned January 18, 1977, at Memphis, Tenn. will be held in Room 396, Federal Building, 167 North Main Street.

MC 13250 (Sub-133), J. H. Rose Truck Line, Inc.; MC 100666 (Sub-335), Melton Truck Lines, Inc.; MC 107678 (Sub-60), Hill & Hill Truck Line, Inc.; MC 107743 (Sub-40), System Transport, Inc. and MC 114211 (Sub-283), Warren Transport, Inc., now being assigned February 22, 1977 (9 days), at Houston, Texas, in White Hall Hotel, 1700 Smith and continued to March 7, 1977 (1 week), at Portland, Oregon, in the Benson Hotel, 309 S. W. Broadway.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37610 Filed 12-21-76;8:45 am]

[Rule 19; Ex Parte No. 241; Second Revised Exemption No. 129]

ATCHISON, TOPEKA AND SANTA FE RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 401 issued by W. J. Trezise, or successive issues thereof; as having mechanical designation "XM", with inside length 44-ft. 6 in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

The Atchison, Topeka and Santa Fe Railway Company.
Reporting marks: ATSF.[1]
The Baltimore and Ohio Railroad Company.
Reporting marks: BO.
Burlington Northern Inc.
Reporting marks: BN–CBQ–GN–NP–SPS.
The Chesapeake and Ohio Railway Company.
Reporting marks: CO–PM.
Chicago Rock Island and Pacific Railroad Company.
Reporting marks: RI–ROCK.
Chicago, West Pullman & Southern Railroad Company.
Reporting marks: CWP.
The Denver and Rio Grande Western Railroad Company.
Reporting marks: DRGW.
Detroit and Mackinac Railway Company.
Reporting marks: D&M–DM.
Elgin, Joliet and Eastern Railway Company.
Reporting marks: EJE.
Illinois Terminal Railroad Company.
Reporting marks: ITC.
Louisville and Nashville Railroad Company.
Reporting marks: CIL–L&N–MON–NC.
Louisville, New Albany & Corydon Railroad Company.
Reporting marks: LNAC.
Missouri-Kansas-Texas Railroad Company.
Reporting marks: MKT.
Missouri Pacific Railroad Company.
Reporting marks: CEI–MI–MP–TP.
Southern Railway Company.
Reporting marks: CG–NS–SA–SOU.
St. Louis-San Francisco Railway Company.
Reporting marks: SLSF.
Soo Line Railroad Company.[2]
Reporting marks: SOO.
Reporting marks: UP.
Western Maryland Railway Company.
Reporting marks: WM.

Effective 12:01 a.m., December 15, 1976, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 8, 1976.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.76-37605 Filed 12-21-76;8:45 am]

[1] Delete: Atlanta & Saint Andrews Bay Railway Company.
[2] Addition: Soo Line Railroad Company. Union Pacific Railroad Company.

[Rule 19; Ex Parte No. 241; Twenty-First Revised Exemption No. 90]

BALTIMORE AND OHIO RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

To all railroads: It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 401, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1, 2(a), and 2(b).

The Baltimore and Ohio Railroad Company.[1]
Reporting marks: BO.
The Chesapeake and Ohio Railway Company.
Reporting marks: CO–PM.
Elgin, Joliet and Eastern Railway Company.
Reporting marks: EJE.
Green Mountain Railroad Corporation.
Reporting marks: GMRC.
Greenville and Northern Railway Company.
Reporting marks: GRN.
Louisville and Wadley Railway Company.
Reporting marks: LW.
Louisville, New Albany & Corydon Railroad Company.
Reporting marks: LNAC.
Missouri-Kansas-Texas Railroad Company.
Reporting marks: MKT.
New Jersey, Indiana & Illinois Railroad Company.
Reporting marks: NJII.
Norfolk and Western Railway Company.
Reporting marks: N&W-ACY-NKP-P&WV-WAB.
Ogdensburg Bridge and Port Authority.
Reporting marks: NSL.
Pearl River Valley Railroad Company.
Reporting marks: PRV.
The Pittsburgh and Lake Erie Railroad Company.
Reporting marks: P&LE.
Raritan River Rail Road Company.
Reporting marks: RR.
Sacramento Northern Railway.
Reporting marks: SN.
St. Johnsbury & Lamoille County Railroad.
Reporting marks: SJL.
Sierra Railroad Company.
Reporting marks: SERA.
Tidewater Southern Railway Company.
Reporting marks: TS.
Toledo, Peoria & Western Railroad Company.
Reporting marks: TPW.
Vermont Railway, Inc.
Reporting marks: VTR.
WCTU Railway Company.
Reporting marks: WCTR.
Western Maryland Railway Company.
Reporting marks: WM.
Yreka Western Railroad Company.
Reporting marks: YW.

Effective December 15, 1976, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 8, 1976.

INTERSTATE COMMERCE COMMISSION
JOEL E. BURNS,
Agent.

[1] Deleted: Atlanta & Saint Andrews Bay Railway Company.

[FR Doc.76-37060 Filed 12-21-76;8:45 am]

[Notice No. AB 7 (Sub-No. 27); Finance Docket No. 28218]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Trackage Rights—Over Chicago and North Western Transportation Co. in Fond du Lac, County of Fond du Lac, Wisconsin

DECEMBER 10, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of a 2.5 mile segment of its line and related track in Fond du Lac, County of Fond du Lac, Wisc., and the proposed trackage rights acquisition by the applicant over a 2.7 mile segment of Chicago and North Western Transportation Company line in Fond du Lac, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that service would continue to the only shipper on the subject line via acquisition of trackage rights over the nearby C&NW line. The rerouting of traffic over the new route is not anticipated to cause any additional significant impacts due to the low volume of traffic and short distances involved. An environmental benefit would be accrued by the elimination of 19 grade crossings on the subject line. The city of Fond du Lac has also expressed interest in acquiring the right-of-way for public use should the abandonment be approved.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements

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in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 14, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37609 Filed 12-21-76;8:45 am]

[Rule 19; Ex Parte No. 241; Exemption No. 111]

DETROIT, TOLEDO AND IRONTON RAILROAD CO. AND NORFOLK AND WESTERN RAILWAY CO.

Exemption Under Mandatory Car Service Rules

It appearing, That The Detroit, Toledo and Ironton Railroad Company (DTI) and the Norfolk and Western Railway Company (N&W) have each agreed to the unrestricted use by the other of its plain gondola cars less than 61 ft. in length; and that such mutual use of gondola cars will increase car utilization by reductions in switching and movements of empty gondola cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 401, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "GA", "GB", "GD", "GH", "GS", and "GW", which are less than 61 ft. 0 in. long, and which bear the reporting marks listed herein, may be used by the DTI and the N&W without regard to the requirements of Car Service Rules 1 and 2.

REPORTING MARKS

DTI	N&W
DTI	[1] ACY
DT&I	NKP
	N&W
	P&WV
	VGN
	WAB

[1] Addition.

Effective December 15, 1976.

Expires March 15, 1977.

Issued at Washington, D.C., December 9, 1976.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.76-37606 Filed 12-21-76;8:45 am]

[Notice No. 93]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 22, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212a(b) in connection with transfer application under section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 76863. By application filed December 9, 1976, Zellmer Truck Lines, P.O. Box 996, Granville, IL 61326, seeks temporary authority to transfer the operating rights of Henry Zellmer, an individual, doing business as Zellmer Truck Lines, P.O. Box 996, Granville, IL 61326, under Section 210a(b). The transfer to Zellman Truck Lines, of the operating rights of Henry Zellmer, an individual, doing business as Zellmer Truck Lines, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37604 Filed 12-21-76;8:45 am]

[Notice No. 94]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 22, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under section 212a(b) in connection with transfer application under section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 76875. By application filed December 14, 1976, Mustang Transportation Incorporated, 3804 Jensen Drive, P.O. Box 21201, Houston, TX 77026, seeks temporary authority to transfer the operating rights of Ramsey Truck Lines, Inc., P.O. Box 1031, Houston, TX 77001, under Section 210a(b). The transfer to Mustang Transportation Incorporated, of the operating rights of Ramsey Truck Lines, Inc., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37603 Filed 12-21-76;8:45 am]

[Notice No. AB 12 (Sub-No. 42)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment of Portion of Railroad Services

DECEMBER 9, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of a portion of its Clovis Branch Line between Copper Ave. and Rockfield, a distance of 2.62 miles, all in Fresno County, Ca., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the absence of commercial rail traffic over the line would result in no increase in motor carrier use over the highways of the affected area if the abandonment were approved. Accordingly, there should be no changes in ambient environmental conditions, safety, or traffic patterns. Approval of the abandonment would not affect any endangered or threatened species, historic structures, or archeological sites. Due to the lack of definitive industrial plans for the area, authorization of the abandonment would not seriously affect rural and community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37607 Filed 12-21-76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 17, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before January 6, 1977.

FSA No. 43286—*Rice and Rice Products from Arkansas, Louisiana and Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B-648), for interested rail carriers. Rates on rice, clean, whole or broken, in carloads, as described in the application, from Bayport, Baytown, and Houston, Texas, to Boston, Mass., Carlstadt and Elizabeth, N.J., and Hanover, Pa.

Grounds for relief—Water competition.

Tariff—Supplement 63 to Southwestern Freight Bureau, Agent, tariff 326-C, ICC 5155. Rates are published to become effective on January 12, 1977.

FSA No. 43287—*Annual Volume Rates-Chemicals-Between Points in the United States.* Filed by Southwestern Freight Bureau, Agent, (No. B-649), for interested rail carriers. Rates on chlorine, liquid caustic soda, and specified solvents, in tank-car loads, as described in the application, from Plaquemine, Louisiana, and Freeport, Texas, to Doctortown, Rosser, and Savannah, Georgia.

Grounds for relief—Market competition.

Tariff—Supplement 6 to Southwestern Freight Bureau, Agent, tariff 11-H, ICC 5242. Rates are published to become effective on January 15, 1977.

FSA No. 43288—*Beet or Cane Sugar from Montana and Washington.* Filed by Trans-Continental Freight Bureau, Agent, (No. 512), for interested rail carriers. Rates on sugar, beet or cane, in carloads, as described in the application, from points in Montana and Washington to points in Illinois, Indiana, Iowa, Kentucky, Missouri, and Wisconsin.

Grounds for relief—Returned shipments and rate relationship.

Tariffs—Supplements 423 and 29 to Trans-Continental Freight Bureau, Agent, tariffs 14-P and 2-N, ICC 1785 and 1935, respectively. Rates are published to become effective on January 15, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37602 Filed 12-21-76;8:45 am]

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federal register

WEDNESDAY, DECEMBER 22, 1976

PART II:

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

COASTAL ZONE MANAGEMENT

Interstate Grants

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 932]

COASTAL ZONE MANAGEMENT

Interstate Grants

The National Oceanic and Atmospheric Administration (NOAA) hereby proposes to adopt regulations pursuant to section 309 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), hereinafter refered to as the "Act," for the purpose of defining procedures by which interstate entities can apply for and receive grants for interstate coordination of coastal management issues affecting two or more States in a region.

Section 309 of the Act provides that:

(a) The coastal states are encouraged to give high priority—

(1) To coordinating state coastal zone planning, policies, and programs with respect to contiguous areas of such states; and

(2) To studying, planning, and implementing unified coastal zone policies with respect to such areas. Such coordination, study, planning, and implementation may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 per centum of the cost of such coordination, study, or implementation, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

(b) The consent of the Congress is hereby given to two or more coastal states to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

(1) Developing and administering coordinated coastal zone planning, policies, and programs pursuant to sectiosn 305 and 306; and

(2) Establishing executive instrumentalities or agencies which such states deem desirable for the effective implementation of such agreements or compacts. Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by the Congress.

(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to adopt a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Administrator of the Federal Energy Administration, or their designated representatives, shall participate ex officio on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal states to create coordinating entity to—

(1) Coordinate state coastal zone planning, policies, and programs with respect to contiguous areas of the states involved;

(2) Study, plan, and implement unified coastal zone policies with respect to such areas; and

(3) Establish an effective mechanism, and adopt a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity.

To implement this new section 309, contained in Pub. L. 94–370, NOAA proposes a new Part 932.

Part 932 will implement the authority which enables coastal States to address in a cooperative manner issues of coastal management which are interstate in nature. By awarding grants for such purposes, it is felt that States will be better able to anticipate, study and resolve such interstate coastal management matters.

The basic purposes for which interstate grants may be used include the continuation of interstate and regional cooperative efforts on the part of coastal States begun during the program development phase pursuant to section 305 of the Act, and the extension of cooperative efforts into the program administration phase pursuant to section 306 of the Act. These cooperative efforts may consist of studies, planning, coordination and/or implementation of unified coastal zone policies. These cooperative efforts may also consist of establishment of effective mechanisms, including especially State-Federal consultation procedures, for resolving mutual problems with respect to marine and coastal areas affecting the applicable coastal zone.

In order to insure that activities funded by section 309 interstate grants support State coastal management needs, the designated State development or management agencies shall play the primary role in determining the appropriate interstate entity to receive such grants.

Subpart A of Part 932, entitled General, discusses the basic intent of providing interstate grants, defines the terms "Secretary," "contiguous areas," "marine areas," and "temporary," and discusses the appropriate uses of section 309 grants. Eligible items for funding pursuant to this section include:

(1) The coordination of State coastal planning, policies and programs with respect to contiguous areas of coastal States;

(2) The study, planning and/or implementation of unified coastal policies with respect to such areas; and/or

(3) The establishment of effective mechanisms for the identification, examination and/or cooperative resolution of mutual problems with respect to marine and coastal areas, including the establishment of permanent interstate coastal management compacts or agreements.

Subpart B, entitled Eligible Entities, contain a discussion of entities eligible for funding pursuant to section 309 of the Act, and a discussion of priorities to be assigned eligible entities with respect to funding. Any of the following will be considered eligible entities:

(1) An executive instrumentality or agency established by interstate compact or agreement pursuant to subsection 309 (b) of the Act;

(2) A temporary planning or coordinating entity created by two or more States, pursuant to subsection 309(d) of the Act, in a region as defined in section 932.2;

(3) An existing regional, interstate entity designated by the affected States.

Among these entities, higher priority for funding will be given to an instrumentality or agency established by interstate compact or agreement, where such are created pursuant to subsection 309(b) of the Act. However, creation of such instrumentalities or agencies is not necessary in order to be eligible for interstate grants.

Applications may be funded from more than one interstate or bistate entity in a particular region.

Subpart C, entitled Review/Approval Procedures, contains a discussion of presubmission consultation, and formal submission and review. The primary purpose of presubmission consultation with the Office of Coastal Zone Management (OCZM) will be to determine whether the proposed interstate cooperative effort is consistent with the purposes of sections 305 and 306 of the Act and to determine the degree of support for the proposed effort on the part of affected coastal States. Review of a formal submission will involve evaluation of the application in terms of both programmatic and budgetary considerations. Where an application calls for the involvement of one or more Federal agencies, said application will be forwarded to the affected agencies for their review and comment.

Subpart D, entitled permanent Interstate Coastal Management Compacts or Agreements, contains a discussion of the procedure NOAA will follow to review interstate compacts or agreements, established pursuant to subsection 309(b) of the Act, to determine that these compacts or agreements do not conflict with any law or treaty of the United States. This subpart also contains a discussion of funding priorities assigned to entities created pursuant to subsection 309(b). Where applications are received from such entities, higher funding priority will be given where a procedure for State-Federal consultation is a part of the entity's function. This subpart also contains a discussion of the Federal agencies that must and should be included where a State-Federal consultation procedure is established in entities created by compact or agreement.

Subpart E, entitled Application for Interstate Grants, contains a discussion of a grantee's administrative and fiscal responsibilities, application procedures including the content of the program narrative, procedures for approving applications, and procedures for amending approved applications.

Prior to issuance of these proposed regulations, NOAA distributed widely a draft paper on implementing section 309 of the Act. Comments were received questioning the need to comply with provisions of OMB Circular A–95 (revised), as now proposed in § 932.42; questioning the rationale in the funding priorities proposed for permanent interstate entities established by compact or agreement, as now proposed in § 932.32; and questioning the procedure (in the draft paper) for insuring newly created compacts or agreements do not conflict with existing United States laws and treaties.

While grants under section 309 of the Act are not presently listed in OMB Circular A–95 (revised), they are sufficiently similar to other grants listed in the circular as being subject to its provisions that it seems appropriate to require review by State A–95 Clearinghouses of those States involved in or affected by an interstate grant application.

The reason for assigning higher funding priority to interstate entities (established pursuant to subsection 309(b) of the Act) that contain a State-Federal consultation mechanism is the emphasis in the language of the Act and legislative history on the establishment of such consultation procedure as a function of such entities.

The draft paper on section 309 proposed that determination of conflict with existing laws and treaties of the United States for entities created pursuant to subsection 309(b) would be made at the time such entities applied for a section 309 grant.

In response to comments that few States would want to go through the effort of ratifying an interstate compact or agreement only to discover a conflict afterwards, the present proposed § 932.31 provides for NOAA review for conflict with existing laws and treaties of the United States prior to ratification by States of a compact or agreement pursuant to subsection 309(b) of the Act.

NOAA has reviewed these proposed regulations pursuant to the National Environmental Policy Act of 1969 and has determined that promulgation of these regulations will have no significant impact on the environment.

Compliance with Executive Order 11821. The economic and inflationary impact of these proposed regulations has been evaluated in accordance with OMB Circular A–107, and it has been determined that no major inflationary impact will result.

NOAA invites public comment on these proposed regulations so that they may be modified, where necessary and legally permissible, to reflect fully the needs of the public and parties affected by the provisions. Written comments should be submitted to the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Page Building 1, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, on or before January 24, 1977. Following the close of the comment period, and after review of comments, the Associate Administrator for Coastal Zone Management, NOAA, may amend these proposed regulations to reflect necessary and permissible changes. The Associate Administrator shall then have final regulations published in the FEDERAL REGISTER.

Dated December 16, 1976.

ROBERT L. CARNAHAN,
Deputy, Assistant Administrator for Administration.

In consideration of the foregoing, Part 932 is proposed as follows:

PART 932—INTERSTATE GRANTS

Subpart A—General

Sec.
932.1 Basic purposes.
932.2 Definitions.
932.3 Use of grants.

Subpart B—Eligible Entities
932.10 General.
932.11 Eligible entities.
932.12 Funding priorities among entities.

Subpart C—Review/Approval Procedures
932.20 General.
932.21 Presubmission consultation.
932.22 Formal submission and review.

Subpart D—Permanent Interstate Coastal Management Compacts or Agreements
932.30 General.
932.31 Review by NOAA for non-conflict with laws and treaties of the United States.
932.32 Funding priorities among permanent compacts or agreements.
932.33 Federal consultation procedures.

Subpart E—Application for Interstate Grants
932.40 General.
932.41 Applicant responsibility.
932.42 Application procedures.
932.43 Approval of applications.
932.44 Amendments.

AUTHORITY: Sec. 309, Coastal Zone Management Act of 1972, (Pub. L. 92–583, 86 Stat. 1280, as amended by Pub. L. 94–370, 90 Stat. 1013).

Subpart A—General

§ 932.1 Basic purposes.

(a) This section establishes the basic purposes for which interstate grants pursuant to subsections 309(a) and 309(d) of the Act may be awarded. The basic intent of interstate grants under these subsections is to provide for the continuation of interstate and regional efforts on the part of coastal States begun during the program development phase pursuant to section 305 of the Act, and the extension of cooperative efforts into the program administration phase pursuant to section 306 of the Act. Cooperative efforts may consist of studies, planning, coordination and/or implementation of unified coastal policies, plans or programs. These cooperative efforts may also consist of establishment of effective mechanisms, including especially State-Federal consultation procedures for the identification, examination and cooperative resolution of mutual problems with respect to marine and coastal areas affecting the applicable coastal zone.

(b) *Comment.* Statutory Citation, subsection 309(a):

The Coastal States are encouraged to give high priority—

(1) To coordinating state coastal zone planning, policies, and programs with respect to contiguous areas of such states and

(2) To studying, planning, and implementing unified coastal zone policies with respect to such areas • • •

(c) *Comment.* Statutory Citation, subsection 309(b):

The consent of the Congress is hereby given two or more coastal states to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

(1) Developing and administering coordinated coastal zone planning, policies and programs pursuant to sections 305 and 306; and

(2) Establishing executive instrumentalities or agencies which such states deem desirable for the effective implementation of such agreements or compacts • • •

(d) *Comment.* Statutory Citation, subsection 309(d):

If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal states to create and maintain a temporary planning and coordinating entity to—

(1) Coordinate state coastal zone planning, policies, and programs with respect to contiguous areas of the states involved;

(2) Study, plan, and implement unified coastal zone policies with respect to such areas; and

(3) Establish an effective mechanism, and adopt a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone • • •

§ 932.2 Definitions.

(a) The term "Act" means the Coastal Zone Management Act of 1972, as amended.

(b) The term "Secretary" means the Secretary of Commerce or his/her designee. Delegations of authority from the Secretary to the Administrator, National Oceanic Atmospheric Administration, have been duly executed by Amendment 5 of Department of Commerce Organization Order 25–5A, dated October 13, 1976; and from the Administrator to the Associate Administrator for Coastal Zone Management, by NOAA Circular 76–82, effective October 13, 1976.

(c) The term "Associate Administrator" means the Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "contiguous areas" means those land or water areas in or affecting the coastal zone of two or more States which collectively constitute an interrelated ecological, economic, social or administrative unit for the purposes for which an interstate grant is sought. Areas will be considered contiguous if they involve or affect the coastal zones of any of the following groups of States, or any subgroups thereof:

(1) Pacific States including California, Oregon, Washington, Alaska, Hawaii, Guam and/or American Samoa;

(2) Great Lakes States including Michigan, Minnesota, Wisconsin, Ohio, Illinois, Indiana, New York and/or Pennsylvania;

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(3) New England States including Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and/or New York;

(4) Mid-Atlantic States including New York, New Jersey, Pennsylvania, Delaware, Maryland and/or Virginia;

(5) South Atlantic States including Virginia, North Carolina, South Carolina, Georgia, and/or Florida; and

(6) Gulf States including Florida, Alabama, Mississippi, Louisiana, Texas, Puerto Rico and/or the U.S. Virgin Islands.

(e) The term "marine and coastal areas" means the State's defined coastal zone including waters (and lands thereunder) within a State's territorial limits as well as waters (and lands thereunder) beyond this territorial limit but within the extended lateral seaward boundaries of States as determined pursuant to subsection 308(b)(3)(B) of the Act.

(f) The term "temporary" means either the duration of a particular project in which case "temporary" means one year, or the life of a particular entity which may be created for purposes of receiving grants under section 309 of the Act, in which case "temporary" means no longer than September 30, 1980, which is the expiration date for authorizations under this section, pursuant to subsection 318(a)(4) of the Act.

§ 932.3 Use of grants.

(a) Pursuant to subsections 309(a) and 309(d) of the Act, the Associate Administrator will consider for funding any cooperative effort involving continguous areas of two or more States if the purposes of such cooperative effort are consistent with sections 305 or 306 of the Act and are designed specifically to:

(1) Coordinate State coastal zone planning, policies and programs with respect to contiguous areas of such States; and/or

(2) Study, plan and/or implement unified coastal zone policies with respect to such contiguous areas; and/or

(3) Establish effective mechanisms for the identification, examination and/or cooperative resolution of mutual problems with respect to marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

(b) The Associate Administrator will deem an interstate cooperative effort to be consistent with sections 305 or 306 of the Act if the activities proposed are related to or derived from goals, objectives, mutual issues, problems and/or needs identified by two or more States in their approved section 306 management programs or their program development or program implementation work programs funded pursuant to section 305 or section 306 respectively.

(c) Specific work activities in any interstate cooperative effort funded pursuant to section 309 of the Act may include:

(1) Collection and analysis of data;

(2) Preparation and dissemination of reports and position papers;

(3) Development of agreements with individual Federal agencies, including regional offices of these agencies;

(4) Establishment of interstate agreements or compacts pursuant to subsection 309(b) of the Act; and

(5) Holding of workshops and similar, necessary meetings or conferences.

(d) The Associate Administrator will not consider funding activities which entail only technical research and studies which will not have a definite relationship to or will not result in development of specific, unified coastal zone policies and/or consultation mechanisms for the States involved, or which could be funded more appropriately under section 306 or section 310 of the Act.

(e) The Associate Administrator will not consider funding under section 309 of the Act any work activity which will be performed by an interstate entity on behalf of only a single coastal State. This prohibition on the use of section 309 grants does not preclude a State from exercising its option pursuant to subsections 305(g) and 306(f) of the Act to allocate, with the approval of the Associate Administrator, portions of their grant to any interstate agency for carrying out approved work program activities.

Subpart B—Eligible Entities

§ 932.10 General.

(a) The Associate Administrator will consider an applicant eligible for a grant under section 309 of the Act if the applicant meets the criteria listed in § 932.11 and if the applicant and the proposed grant activities have the explicit, written support of the designated state management agencies (pursuant to 15 CFR 920.52 or 15 CFR 923.23). The content of what must be in this written support is contained in § 932.42.

(b) Applications will be considered from more than a single interstate or bistate entity in a particular region (as listed in § 932.2(d), depending on the nature of the issues to be addressed, the qualifications of entities to address those issues, and the nature and number of States affected by the applications.

§ 932.11 Eligible entities.

(a) The Associate Administrator will consider any of the following to be eligible entities for the purpose of applying for grants pursuant to subsections 309(a) or 309(d) of the Act:

(1) An executive instrumentality or agency established by an interstate agreement or compact pursuant to subsection 309(b);

(2) A temporary planning and coordinating entity created by two or more States with contiguous areas, with the concurrence of the Associate Administrator, to serve the purposes of subsection 309(d); or

(3) An existing regional, interstate entity designated by the States involved, and with the concurrence of the Associate Administrator, to address issues identified in § 932.3.

(b) For the purpose of creating and maintaining temporary entities pursuant to subsection 309(d) of the Act, the Associate Administrator does not encourage the formation of entities consisting of new regional groupings of States that are duplicative of existing regional entities where such existing entities can be demonstrated to have the capability or working experience necessary to accomplish the proposed purpose(s) for which the temporary entity would be created.

§ 932.12 Funding priorities among entities.

(a) For any grouping of States, the Associate Administrator will give higher funding priority to an entity established pursuant to subsection 309(b) of the Act. However, the establishment of such a permanent executive instrumentality or agency will not automatically terminate funding eligibility of a pre-existing permanent or temporary interstate entity (supported by the same States involved in the compact or agreement) if it can be demonstrated by the applicant that the entity created pursuant to subsection 309(b) of the Act is not capable of accomplishing the particular task for which the interstate grant is sought and if the applicant is better qualified to handle such task.

(b) States are not required to establish interstate entities pursuant to subsection 309(b) of the Act to be eligible for interstate grants. However, where such entities, at the option of States are created, the priority contained in § 932.12(a) will be applied.

Subpart C—Review/Approval Procedures

§ 932.20 General.

(a) This section establishes the procedures by which the Associate Administrator will accept and review grant applications pursuant to subsections 309(a) or 309(d) of the Act. These procedures will include presubmission consultation on the part of the applicant with the Associate Administrator followed by a formal submission by the applicant and a formal review by the Associate Administrator.

§ 932.21 Presubmission consultation.

(a) States or interstate entities which have identified problems or needs requiring interstate coordination are expected to consult with the Associate Administrator prior to the formulation of a formal application for a section 309 grant. The purpose of such consultation will be to determine whether the proposed interstate effort will be consistent with the purposes of sections 305 or 306 of the Act, and with the affected States' developing or approved coastal management programs. Such consultation also will facilitate the early determination of the eligibility of the proposed entity and proposed work items. Further, if Federal agencies are to be involved, such consultation also will enable the Associate Administrator to assist States in securing early participation by these Federal agencies in defining mutual problems to be resolved and in determining the procedure to be used for State-Federal consultation.

(1) Where presubmission consultation is initiated by an entity other than the States, that entity should demonstrate evidence of support by the designated coastal management agencies of those States which may be expected to be involved in or affected by the proposed application. At the presubmission consultation stage, evidence of support need not consist of the written documentation, pursuant to § 932.42, required for a formal application.

§ 932.22 Formal submission and review.

(a) After presubmission consultation, a formal application may be submitted by any entity which has been deemed by the Associate Administrator to be an eligible applicant.

(1) A formal submission will contain the information required pursuant to § 932.42. In no case will the Associate Administrator consider an application unless it contains the documentation specified in § 932.42 with respect to States' review and concurrence.

(b) Upon receipt of a formal grant application, the Associate Administrator will initiate an evaluation of the proposal in terms of both programmatic and budgetary considerations.

(1) If the proposal requires the involvement of one or a number of Federal agencies, that proposal will be forwarded to the referenced agency (agencies) for their review and comment within thirty days from receipt of the proposal from the Associate Administrator.

(c) The Associate Administrator will award a grant pursuant to section 309 of the Act assuming availability of funds if he/she finds the application:

(1) is consistent with the purposes and uses of section 309 grants contained in §§ 932.1 and 932.3;

(2) Meets the financial and budgetary requirements contained in § 932.42; and

(3) If appropriate, is concurred with by affected Federal agencies.

Subpart D—Permanent Interstate Coastal Management Compacts or Agreements

§ 932.30 General.

(a) Subsection 309(b) of the Act establishes prior Congressional consent for two or more coastal states to negotiate and enter into agreements or compacts for certain purposes related to coastal management, provided these compacts or agreements do not conflict with any law or treaty of the United States. This subpart establishes the procedure by which the Associate Administrator will review such compacts or agreements, prior to their ratification, to insure that there is no conflict with U.S. laws or treaties.

(b) This subpart also establishes funding priorities for section 309 grants to entities created pursuant to the interstate compacts or agreements allowed under subsection 309(b).

§ 932.31 Review by NOAA for non-conflict with laws or treaties of the United States.

(a) Pursuant to subsection 309(b) of the Act, two or more coastal States may enter into agreements or compacts for the following two broad purposes:

(1) development and administration of coordinated coastal zone planning, policies and programs pursuant to sections 305 and 306 of the Act (i.e., supportive of State coastal management program development or implementation); and

(2) establishment of executive instrumentalities or agencies which two or more States deem desirable for effective implementation of such agreements or compacts.

(b) Prior Congressional approval is given for such compacts or agreements provided they do not conflict with laws and treaties of the United States. To insure that States do not expend time and money unnecessarily in negotiating and entering into compacts or agreements that may conflict with existing United States laws or treaties, it is recommended that, prior to final ratification of a subject compact or agreement, the States that will be party to such compact or agreement submit the relevant documents to the Associate Administrator. The Associate Administrator will undertake a review of the proposed agreement or compact, in consultation with the Department of Justice and with other Federal agencies as appropriate. In order to expedite this review, States are advised to submit relevant documents to the Associate Administrator as early in the negotiation process as is reasonably possible.

(c) *Comment.* Statutory Citation, subsection 309(b):

> The consent of Congress is hereby given to two or more coastal states to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States • • • . Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by Congress.

§ 932.32 Funding priorities among permanent compacts or agreements.

(a) In light of the encouragement given to the adoption of a State-Federal consultation procedure by any executive instrumentality or agency established by interstate agreement or compact pursuant to subsection 309(b) of the Act, higher funding priority will be given to such entities which contain a State-Federal consultation procedure for the identification, examination and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

(b) *Comment.* Statutory Citation, subsection 309(c):

> Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to adopt a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

§ 932.33 Federal consultation procedures.

(a) Where a State-Federal consultation procedure is adopted pursuant to subsection 309(c) of the Act, the participation of the following, ex officio, shall be included:

(1) The Secretary of the Interior;

(2) The Chairman of the Council on Environmental Quality;

(3) The Administrator of the Environmental Protection Agency;

(4) The Secretary of the department in which the Coast Guard is operating;

(5) The Administrator of the Federal Agency Administration; or

(6) Their designated representatives.

(b) The associate Administrator encourages the inclusion and participation of other Federal agencies, as appropriate, in this consultation procedure.

(c) *Comment.* Statutory Citation, subsection 309(c):

> • • • (T)he Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Administrator of the Federal Energy Administration or their designated representatives shall participate ex officio on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

Subpart E—Application for Interstate Grants

§ 932.40 General.

(a) The purpose of this section is to define the procedures by which grantees apply for and administer grants under section 309 of the Act and to provide guidelines regarding the content of applications for interstate grants. These procedures shall be used and interpreted in conjunction with the Grants Management Manual for Grants under the Coastal Zone Management Act, hereinafter referred to as the "Manual." The Manual incorporates a wide range of Federal requirements, including those established by the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office, and the Department of Commerce.

(b) Grants shall not exceed ninety per cent of the total cost of the interstate project proposed in the grant request. Federal funds received from other sources cannot be used to match section 309 grants. Match provided by the applicant may consist of cash or in-kind services as provided in the Manual.

(c) Cost claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. As used herein the terms costs and grant project pertain to both the Federal grant and the matching share. The allowability of costs will be determined in accordance with the provision of the

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General Services Administration Federal Management Circular 74-4: Cost Principles Applicable to Grants and Contracts with State and Local Governments.

§ 932.41 Applicant responsibility.

(a) The application will designate the entity to receive and administer grants pursuant to section 309 of the Act. The applicant must be legally and administratively capable of receiving and administering such grants.

(b) The grantee will be administratively and fiscally responsible for all aspects of the grant, including any subcontracts made by the grantee.

§ 932.42 Application procedure.

(a) All applications are subject to the provisions of OMB Circular A-95 (revised), with respect to notification of State Clearinghouses of the States involved in or affected by the grant application. A statement to the effect that the application is determined to be statewide or broader in nature shall be attached to an application submitted to the Associate Administrator. Such a determination does not preclude State clearinghouses from involving areawide clearinghouses in the review.

(b) All applications shall contain documentation signed by the head of the designated State agencies for coastal management program development or program administration (designated pursuant to 15 CFR 920.52 and 15 CFR 923.23, respectively) of the affected States and, where required by State law or interstate agreement, by the Governors of those States, that the designated State agency:

(1) has reviewed the application and finds the purposes for which the grant will be used are consistent with developing or approved coastal management programs;

(2) has reviewed the application and supports the proposed work program; and

(3) has reviewed the capabilities and functions of the applicant entity and supports that entity for purposes of carrying out the activities described in the application.

(4) Where the applicant is an entity established pursuant to subsection 309 (b) of the Act, the application will contain a copy of the compact or agreement pursuant to which the entity was created, and documentation that the compact or agreement does not conflict with any law or treaty of the United States. The copy of the compact or agreement and the documentation shall be required only upon initial application for a section 309 grant and will not be required for subsequent applications from the same entity.

(c) The form SF-424, Application for Federal Assistance (Non-Construction Programs), constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with requirements of OMB Circular A-95, including the resolution of any problems raised about the proposed project. The Associate Administrator will not accept applications that are substantially deficient in adherence to either A-95 requirements or the documentation required pursuant to § 932.41(b).

(d) In Part IV, the Program Narrative, the applicant shall respond to the following requirements:

(1) A clear description of the contiguous areas on which the cooperative effort, will focus, including a listing of the State involved in and/or affected by the cooperative effort;

(2) A general discussion of the purposes for which the interstate grant will be used, including the relationship of grant activities to the developing or approved coastal management programs of affected States;

(3) A discussion of the anticipated results of the proposed cooperative effort, including how these results may be expected to affect or be integrated into the coastal management program of affected States;

(4) A description of the work program to be undertaken during the grant period. This work program will include:

(i) A precise description of each major task to be undertaken, how it will be accomplished, and by whom it will be accomplished;

(ii) For each task, identify any "Other Entities," as defined in the Manual, that will be allocated responsibility for carrying out all or portions of the task, and indicate the estimated cost of any subcontract for each allocation. Identify, if any, that portion of the task that will be carried out under contract with consultants and indicate the estimated cost of such contract(s); and

(iii) For each task indicate the estimated total cost. Also indicate the estimated total months of effort, if any, allocated to the task from the applicant's task.

(e) The sum of all task in subparagraph (4) above should equal the total estimated grant project cost.

(f) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's staff that will be assigned to the grant project. Also, indicate the number assigned full-time and the number assigned less that full-time in the two categories. Additionally, indicate the number of new positions created in the two categories as a result of the grant project. Indicate total personnel costs.

§ 932.43 Approval of applications.

(a) An application for an interstate grant which complies with the policies and requirments of the Act and the guidance contained in this subpart shall be subject to approval by the Associate Administrator, assuming available funding.

(b) Should an application be found deficient, the Associate Administrator will notify the applicant in writing as to the manner in which the application fails to conform to the requirements of the Act or this subpart. Conferences may be held on these matters. Corrections or adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) The Associate Administrator may, upon finding extenuating circumstances relating to applications for interstate grants, waive appropriate administrative requirements contained herein.

§ 932.44 Amendments.

(a) Amendments to an approved application must be submitted to and approved by the Associate Administrator prior to initiation of the contemplated change. Requests for substantial changes should be discussed with the Associate Administrator well in advance. While all amendments must be approved in writing by the Associate Administrator, approval may be presumed for minor amendments if the grantee has not been notified of objections within 30 working days of date of postmark of the request.

[FR Doc.76-37361 Filed 12-21-76;8:45 am]

federal register

WEDNESDAY, DECEMBER 22, 1976



PART III:

ENVIRONMENTAL PROTECTION AGENCY

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Lignite-Fired Steam Generators

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 650-8]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Lignite-Fired Steam Generators

The Environmental Protection Agency (EPA) is considering amendments to Subpart D of 40 CFR Part 60 (Fossil Fuel-Fired Steam Generators) to establish standards of performance for emissions of nitrogen oxides from new lignite-fired steam generators of greater than 73 megawatts heat input (250 million Btu per hour) and to incorporate the International System of Units (modernized metric system), as applicable.

On December 23, 1971 (36 FR 24877), EPA promulgated standards of performance for fossil fuel-fired steam generators. Included were standards for particulate matter, sulfur divide, and nitrogen oxides applicable to gaseous, liquid, and solid fossil fuel-fired facilities. However, because of a lack of information on nitrogen oxides emissions, lignite-fired facilities were exempted from the nitrogen oxides standard for solid fossil fuels, although they are subject to the standards for particulate matter and sulfur dioxide.

EPA has gathered additional information on lignite-fired facilities and the background materials on the proposed amendment to Subpart D have been published in a report entitled "Standards Support and Environmental Impact Statement, Volume 1: Proposed Standards of Performance for Lignite-Fired Steam Generators", hereafter referred to as SSEIS. Copies are available on request from the EPA Public Information Center (PM-215), Environmental Protection Agency, Washington, D.C. 20460 (specify: Standards Support and Environmental Impact Statement, Volume 1: Proposed Standards of Performance for Lignite-Fired Steam Generators). The information contained in the SSEIS is briefly discussed in this preamble to the proposed standard of performance.

International System of Units

In accordance with the objective to implement national use of the metric system, EPA presents numerical values in both metric units and English units in its regulations and technical publications. In an effort to simplify use of the metric units of measurement, EPA now uses the International System of Units (SI) as set forth in a publication by the American Society for Testing and Materials entitled "Standard for Metric Practice" (Designation: E 380-76). Therefore, EPA is proposing to revise the appropriate sections of Subpart D to reflect use of SI units.

Proposed Standard

The proposed standard of performance limits emissions of nitrogen oxides to 260 nanograms per joule of heat input (0.6 pound per million Btu) from lignite-fired steam generators having a capacity greater than 73 megawatts heat input rate (250 million Btu per hour). The proposed standard reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) has been adequately demonstrated. The best system is considered to be a combination of staged combustion and low excess air.

Economic and Environmental Impacts

Based on historical growth rates, it is estimated that 25 new lignite-fired steam generators would be subject to the proposed standard by 1985. The proposed standard would reduce NO_x emissions by 128,000 Mg/yr (141,000 T/yr). Controlling NO_x emissions to the level of the proposed standard would result in insignificant increases in capital and annualized costs for the utility.

Since approximately 90 percent of lignite-fired steam generators of rated capacity greater than 73 MW heat input are owned by electric utilities, the cost of complying with the proposed standard was analyzed for the lignite utility industry. The cost to the utilities appears to be negligible relative to the capital investment costs. Available information indicates that, at most, nitrogen oxides control would increase capital investment costs by only 0.5 percent for a new lignite-fired utility boiler and ancillary equipment. This cost increase for NO_x control represents an estimated increase of two dollars per installed kilowatt relative to an estimated typical cost of about 400 dollars per installed kilowatt capacity based on costs for a bituminous coal-fired boiler island. The costs for NO_x control would have negligible effect on power costs to consumers. The review of the economic impact has shown that the proposal is not a major action under the Inflationary Impact Statement (IIS) program, and no IIS is needed.

The environmental impact of the proposed standard is beneficial since the increase in emissions due to growth of lignite-fired steam generators would be minimized. The proposed standard should result in a 20 percent reduction in the mass of nitrogen oxide emissions from new lignite-fired boilers. It would reduce the atmospheric burden of nitrogen oxides and would help prevent increased ambient oxidant concentrations in areas where lignite-fired steam generators will be located (primarily North Dakota and Texas). There are no adverse environmental impacts associated with the proposed standard. Control techniques required to comply with the proposed standard do not cause boiler efficiency losses, and thus there are no incremental energy demands associated with the proposed standard. A complete analysis of the economic and environmental impacts may be found in Chapters VI and VIII of the SSEIS.

Control Systems

Nitrogen oxides from fossil-fuel combustion are formed via two mechanisms: (1) Thermal fixation (oxidation) of atmospheric nitrogen (N_2) in the combustion air, and (2) oxidation of organic nitrogen in the fuel. Oxidation of N_2 can be prevented by reducing the level of thermal excitation in the flame by means of (a) flue gas recirculation, (b) staged combustion, (c) water injection, (d) reduced air preheat, or (e) combinations of these techniques. Nitrogen oxides emissions due to the oxidation of organic nitrogen in the fuel can be controlled by using fuels with small amounts of organic nitrogen and by removing oxygen from the volatilization zone by means of (a) low excess air, (b) staged combustion, and/or (c) fuel/air mixing pattern adjustment (burner design). Fuels such as coal, residual oil, and lignite contain 0.2 to 1.5 percent organic nitrogen, and oxidation of this fuel-nitrogen may be responsible for as much as 80-90 percent of the total nitrogen oxides emissions from pulverized coal combustion. Therefore, the organic nitrogen content of fuel may be a limiting factor in controlling nitrogen oxides emissions. The fact that the organic nitrogen content of the U.S. lignites does not vary appreciably precludes nitrogen oxides control by switching to lignite with a lower organic nitrogen content.

Water injection and reduced air preheat significantly reduce the efficiency of a steam generator, and consequently are not practical nitrogen oxides control methods. Flue gas recirculation does not reduce nitrogen oxides emissions caused by the oxidation of the organic nitrogen in the lignite and it adversely affects the efficiency of a steam generator. Therefore, low excess air (LEA), staged combustion (SC), low emission burners, and combined LEA and SC are considered the most feasible control systems.

In addition to the control systems just discussed, the fuel burning equipment design parameters can affect the amount of nitrogen oxides emitted and the degree to which the control systems are effective. Lignite-firing has been demonstrated in pulverized-fired, cyclone-fired, and stoker-fired steam generating units. Stoker-fired units have the lowest heat release rate and thus have lower nitrogen oxides emissions than the other type units but are limited in physical size and are not expected to be of importance in future lignite-fired steam generating units. Cyclone-fired units have the highest heat release rate and the highest nitrogen oxides emissions. Pulverized-fired units have a lower heat release rate than cyclone-fired units, but a higher release rate than stoker-fired units.

EPA Test Program

Of the 15 lignite-fired units in domestic operation in 1974, four utility sized units were chosen for EPA's test program. Included were three pulverized-fired units (two tangentially-fired and one horizontally opposed-fired), and one cyclone-fired unit.

Operating with low excess air and/or staged combustion, all types of fuel burning equipment exhibited reduced nitrogen oxides emissions over baseline conditions. The horizontally opposed- and cyclone-fired units are more responsive to nitrogen oxides control techniques on a percentage basis, but the tangentially-fired units using staged combustion yielded the lowest nitrogen oxides emissions. Cyclone-fired units cannot be dependably operated with low excess air firing or staged combustion because of flame instability problems; however, staged combustion of cyclone-fired units can be achieved by firing auxiliary fuel.

On the basis of the test data, it appears that the cyclone-fired units cannot consistently meet a nitrogen oxides standard more stringent than 340 nanograms per joule (0.8 pound per million Btu). The test data also indicate that horizontally opposed-fired units would have difficulty consistently achieving a nitrogen oxides standard of 260 nanograms per joule (0.6 pound million Btu) over a long time period. However, development of low emission burners appears promising for application to horizontally opposed-fired units, and such units should be able to attain a standard of 260 nanograms per joule. Tangentially-fired units should have no difficulty meeting a standard of 260 nanograms per joule.

Rationale for Proposed Standards

In deciding the nitrogen oxides limit for the proposed standard, EPA considered proposing the same standard for lignite-fired steam generators as the present standard for coal-fired steam generators, 300 nanograms per joule (0.7 pound per million Btu). In the study on control of nitrogen oxides emissions from lignite-fired steam generators, staged combustion and low excess air were found to reduce emissions significantly below 300 nanograms per joule input (0.7 pound per million Btu). The measured emission levels of 172 to 220 nanograms per joule heat input (0.4 to 0.5 pound per million Btu) indicated that the present standard for coal-fired units would not require use of best demonstrated control technology, considering costs, for lignite-fired units. Studies on control of nitrogen oxides emissions by combustion modification techniques have shown emission levels for modern bituminous and subbituminous coal-fired utility sized units to be similar to those observed for lignite-fired units. The lower emission levels observed for the lignite and bituminous fired units reflect an improvement in combustion modification techniques and in the design of the burners and of boilers between 1970 and 1974.

Tangentially-fired units could most likely meet a standard of 220 nanograms per joule (0.5 pound per million Btu). This standard, however may not be consistently achievable by the horizontally-opposed fired boilers. Since the manufacturers of those units do not make tangentially-fired boilers, a standard of 220 nanograms per joule could leave only one manufacturer of complying boilers, which would remove the option of power companies to obtain competitive bids. EPA requests comments on the following issues: (1) Whether horizontally-opposed fired boilers could meet a standard of 220 nanograms per joule; (2) if not, what would be the effect on the competitive balance of the equipment manufacturing industry; (3) what would be the effects on the power industry; and (4) whether EPA can consider these factors in setting standards based on the best system of emission reduction which has been adequately demonstrated.

The proposed standard of 260 nanograms per joule for lignite-fired steam generators is based on emission and cost data currently available to the Administrator. The proposed standard, while numerically more stringent than the present standard for coal-fired units, will require lignite-fired units to apply the same type of combustion modifications as coal-fired units. EPA recognizes that lignite-fired cyclone units cannot achieve the proposed standard of 260 nanograms per joule (0.6 pound per million Btu); therefore, EPA has considered the impact such a standard would have on boiler manufacturers and on the lignite-fired steam generating industry. EPA determined that the impact on boiler manufacturers of indirectly prohibiting cyclone-fired units would be negligible. Only one boiler manufacturer markets cyclone-fired units and that manufacturer also markets pulverized-fired units. Effective prohibition of cyclone-fired units is expected to have little effect on this manufacturer because these units represent a minor percentage of the total annual sales for the manufacturer.

The impact of the proposed standard on the lignite-fired steam generating industry is not well defined. EPA has attempted to determine whether units other than cyclone-fired units are available that will meet the proposed standard and if any cost or operating reliability advantages exist between these units and the cyclone-fired units. For large lignite-fired steam generators an alternative to cyclone-fired units is pulverized-fired units. From consultations with the major boiler manufacturers EPA concluded that cyclone-fired units do not have any significant investment cost advantages over an equivalent pulverized-fired unit. Thus, the impact of the prohibition of cyclone-fired units is dependent on the relative operational advantages of cyclone-fired units over pulverized-fired units.

Almost all of the large lignite-fired units in North Dakota have experienced severe operational difficulties as a result of ash fouling of the boiler tube surfaces. Utility boilers firing Texas lignites have not experienced ash fouling problems to the same degree. Research conducted by the Energy Research and Development Administration (ERDA) in Grand Forks, North Dakota, has shown that the sodium content of the lignite is highly correlated with the degree of ash fouling. Lignite ash with three to five percent sodium is considered to have a moderate to high fouling potential, and a sodium content greater than five percent has a severe fouling potential. In EPA's judgment, the ash fouling problem can be minimized by designing the boiler with more soot blowers in the convective passes than normal, with larger spacing between boiler tubes, and with design of the furnace temperature profile to control tube metal temperatures.

Some of the lignite utilities have claimed that cyclone-fired units can burn lignites with the higher sodium content more reliably than pulverized-fired units because a smaller proportion of the ash enters the boiler. The utilities cited the Minnkota Power Cooperative's cyclone-fired unit at Young-Center station as a successful example. This cyclone-fired, 235 MW boiler was selected and designed based on a cooperative study to develop a better method for firing high sodium lignite. The unit has an excellent record of operating availability since its startup in 1970. However, the unit has not fired the high sodium lignites for which it was designed. In addition, the operating reliability of this unit may be attributed to furnace design features other than the cyclone burner. Since startup of the Minnkota cyclone-fired unit, two additional cyclone-fired units have been placed in commercial operation by power companies and cooperatives in the area. Each of these units has been in operation for less than a year. Both units have been firing lignites of approximately 4 to 6 percent sodium and have been experiencing problems with ash fouling of the boiler tubes and with furnace slagging to different degrees. Since numerous operating problems typically occur in the first year of operation of a steam generator, more operating experience is needed before the performance and reliability of these units on high sodium lignite is evaluated.

Experience with pulverized-fired units is presently limited to two units designed in the early 1960's. At that time problems with plugging in the convective passages because of ash fouling associated with firing high sodium lignite were not fully appreciated. Consequently, these two units were retrofitted with an increased number of sootblowers and the tube spacings were increased in order to obtain reliable operation of the units. Redesign of this nature was implemented to different degrees on the units. The more extensively retrofitted unit has operated reliably for six years on lignite with four to six percent sodium in the ash and on eight to nine percent sodium lignite for the past year. The less extensively retrofitted unit can be reliably operated by maintaining the sodium content of the fuel below five percent. Based on this experience, new cyclone or pulverized lignite-fired units are designed with greater furnace surface area, increased superheater tube spacing, and increased number of sootblowers. This early experience with pulverized firing apparently has not convinced the utilities that pulverized firing of high sodium lignite is impractical. In the early 1970's, the United Power Association (UPA) purchased two pulverized-fired units, after evaluating bids on both cyclone and pulverized-fired units. These tangentially-fired 500 MW boilers were guaranteed to reliably fire a lignite with a design range of 0.1 to 4.8 percent sodium.

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This selection of a pulverized-fired unit for a North Dakota lignite with high fouling potential indicates that pulverized-fired units are price competitive with cyclone-fired units and that at least one utility believes that cyclone-fired units are not required for use of a lignite with high fouling potential.

In addition to this limited experience with firing high sodium lignite, preliminary results from a study conducted by ERDA showed that cyclone-fired units have a statistically significant lower ash deposition rate than pulverized-fired units. The test was conducted while the units were firing 3.5 to 4.5 percent sodium lignite and insufficient information is available to allow comparison at higher sodium levels. One possible interpretation of these data is that cyclone-fired units can operate on high sodium lignite (greater than six percent) more reliably than pulverized-fired units. However, the study's results are not consistent with the experience of operating commercial units and the data may not warrant drawing this conclusion.

EPA has concluded from evaluation of the available information that (1) while there are differences in operational characteristics of pulverized and cyclone-fired units, both types can reliably operate on high sodium lignite and (2) cyclone-fired units do not have significant operation maintenance, or cost advantages over pulverized-fired units. The manufacturers of pulverized-fired units believe that these units can be as effective as cyclone-fired units for burning lignites, including those with high sodium. Combustion Engineering, which is installing the units for UPA, is confident that pulverized-fired units can be properly designed to handle the ash fouling and slagging problems of high sodium lignite. Babcock and Wilcox, the other major supplier of lignite-fired units, also believes that a pulverized-fired unit can be designed to reliably burn high sodium lignite. Due to the limited information available at this time and different possible interpretations of the information, EPA realizes that the assessment of relative reliability of pulverized and cyclone-fired units for firing high sodium lignite is debatable. Therefore, EPA is requesting that all interested persons submit factual information on this issue during the comment period. Factual information is specifically requested on the following areas of interest:

1. Investment costs and operation and maintenance costs for either pulverized-fired or cyclone-fired large steam generators designed for moderate or high sodium lignite.

2. The differences, if any, in the design of the convection section or the gas temperature profile between cyclone and pulverized-fuel fired steam generators. The comparison should discuss any differences in the number, type or location of sootblowers installed, frequency of operation of soot blowers, comparison of tube spacings or depth of tube banks and other relevant factors.

3. Relative importance of factors considered in selecting a cyclone- or pulverized-fired unit.

It is expected that the above information will allow EPA an opportunity to assess the relative costs of cyclone and pulverized fuel fired lignite steam generators as well as to assess the need for cyclone-fired units for use of high sodium lignite. The final standard will reflect the conclusions drawn from evaluation of all available factual information. EPA will limit the scope of coverage of the final standard if the data submitted during the comment period justify such a change. The scope of coverage could be limited by applying the standard to lignites having a specified sodium content, by establishing a separate standard for cyclone-fired units, or exempting cyclone-fired units.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect emission limits achievable with the best adequately demonstrated systems of emission reduction considering the cost of such systems. State implementation plans (SIP's) approved or promulgated under section 110 of the Act, on the other hand, must provide for the attainment and maintenance of national ambient air quality standards (NAAQS) designed to protect public health and welfare. For that purpose SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources. In addition, States are free under section 116 of the Act to establish more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Thus, new and existing sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111.

PUBLIC PARTICIPATION

In accordance with section 117(f) of the Act, publication of these proposed amendments to 40 CFR Part 60 was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. Interested persons may participate in this rulemaking by submitting written comments (in triplicate) to the Emission Standards and Engineering Division, Environmental Protection Agency (MD–13), Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin. All comments received not later than 60 days from (date of proposal) will be considered. Copies of comments received wil be available for inspection and copying during normal business hours at the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C.

(Secs. 111, 114 and 301(a) of the Clean Air Act, as amended by sec. 4(a) of Pub. L. 91–604, 84 Stat. 1678 and by sec. 15(c)(2) of Pub. L. 91–604, 84 Stat. 1713 (42 U.S.C. 1857c–6, 1857c–9, and 1857g(a)))

The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 15, 1976.

RUSSELL E. TRAIN,
Administrator.

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations by revising Subparts A and D as follows:

Subpart A—General Provisions

1. Section 60.2 is amended by substituting the International System of Units (SI) in paragraph (1) as follows:

§ 60.2 Definitions.

• • • • • •

(1) "Standard conditions" means a temperature of 293 K (68°F) and a pressure of 101.3 kilopascals (29.92 in. Hg).

• • • • • •

Subpart D—Standards of Performance for Fossil Fuel-Fired Steam Generators

2. Section 60.41 is amended by adding paragraph (f) as follows:

§ 60.41 Definitions.

• • • • • •

(f) "Coal" means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by A.S.T.M. Designation D 388–66.

3. Section 60.44 is amended by adding paragraph (a)(4) and by revising paragraph (b) as follows:

§ 60.44 Standard for nitrogen oxides.

(a) • • •

(4) 260 nanograms per joule heat input (0.60 pound per million Btu) derived from lignite.

(b) When different fossil fuels are burned simultaneously in any combination, the applicable standards (in ng/J) shall be determined by proration. Compliance shall be determined by using the following formula:

$$PS_{NO} = \frac{w(260)+x(86)+y(130)+z(300)}{w+x+y+z}$$

where:

PS_{NO_X} is the prorated standard for nitrogen oxides when burning different fuels simultaneously, in nanograms per joule heat input derived from all fossil fuels fired or from all fossil fuel and wood residue fired;

w is the percentage of total heat input derived from lignite;

x is the percentage of total heat input derived from gaseous fossil fuel;

y is the percentage of total heat input derived from liquid fossil fuel;

z is the percentage of total heat input derived from solid fossil fuel (except lignite or a solid fossil fuel containing 25 pct, by weight, or more of coal refuse).

When a solid fossil fuel containing 25 percent, by weight, or more of coal refuse is burned in combination with gaseous, liquid or other solid fossil fuel, or wood residue, the standard for nitrogen oxides does not apply.

4. Section 60.45 is amended by adding paragraph (f)(4)(vi) as follows:

§ 60.45 Emission and fuel monitoring.

• • • • • •

(f) • • •

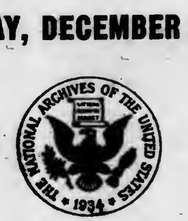
(4) • • •

(vi) For lignite coal as classified according to A.S.T.M. D 388–66, $F = 2.659 \times 10^{-7}$ dscm/J (9900 dscf/million Btu) and $F_c = 0.516 \times 10^{-7}$ scm CO_2/J (1920 scf CO_2/million Btu).

[FR Doc.76–37484 Filed 12–21–76;8:45 am]

federal register

WEDNESDAY, DECEMBER 22, 1976



PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PROCUREMENT REGULATIONS

Revision

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Title 41—Public Contracts and Property Management

CHAPTER 24—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-368]

HUD PROCUREMENT REGULATIONS

Revision

On January 21, 1976, the Department published at 41 FR 3220, a proposed rule which revised existing provisions of Chapter 24, deleting various outdated parts, subparts and sections, revising other various parts, subparts and sections and adding still other parts, subparts and sections.

These regulations supplement the Federal Procurement Regulations (FPR) in those areas intended to be implemented by individual agencies by elaborating in detail, the general requirements of the FPR and by including provisions with respect to matters on which the FPR is silent.

Although no public comments were received, comments from personnel within the Department suggested the necessity for certain refinements. Therefore, the proposed rule is published in final with the following changes:

Section 24–1.5002 has been revised to reflect that the criteria set forth in this section will generally be applied when determining the type of instrument to be used to accomplish the Department's research efforts.

Section 24–2.205–3(d) has been amended by adding language that will allow Procuring Activities to determine the appropriate format for reinstating potential contractors to the mailing list.

Section 24–3.101–51(b) has been revised to reflect the Department's position toward the acceptance of unsolicited proposals.

Section 24–4.101 has been revised to reflect the correct regulations where the procedures are contained relative to the obtaining of GSA approval for ADP procurement.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C.

It is hereby certified that the economic and inflationary impacts of this proposed rule have been carefully evaluated in accordance with OMB Circular A–107.

Accordingly, Chapter 24 of Title 41 Code of Federal Regulations is revised to read as follows:

Part

24–1 General.
24–2 Procurement by formal advertising.
24–3 Procurement by negotiation.
24–4 Special types and methods of procurement.
24–7 Contract clauses.
24–11 Federal, State and local taxes.
24–13 Government property.
24–16 Procurement forms.
24–30 Contract financing.
24–50 Contract administration.

PART 24–1—GENERAL

Sec.
24–1.000 Scope of part.

Subpart 24–1.1—Regulation System
24–1.101 Scope of subpart.
24–1.102 Purpose.
24–1.103 Authority.
24–1.104 Applicability.
24–1.105 Exclusions.
24–1.106 Arrangement.
24–1.106–1 General plan.
24–1.106–2 Numbering.
24–1.106–3 Citation.
24–1.107 Implementation.
24–1.108 Deviation.
24–1.108–1 Description.
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Subpart 24–1.2—Definition of Terms
24–1.201 Scope of subpart.
24–1.202 Definitions.
24–1.202–1 Department.
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24–1.202–3 Chief officer responsible for procurement.
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24–1.202–6 Contractor.
24–1.202–7 Subcontractor.
24–1.202–8 Supplies and property.
24–1.202–9 Personal services.
24–1.202–10 Nonpersonal services.
24–1.202–11 Ratification.
24–1.202–12 Primary organization heads.

Subpart 24–1.3—General Policies
24–1.301 Scope of subpart.
24–1.302 Procurement sources.
24–1.302–1 General.
24–1.302–3 Contracts between the Department and Government Employees.
24–1.313 Records of contract actions.
24–1.318 Disputes.
24–1.318–1 Disputes clause.
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24–1.318–3 HUD Board of Contract appeals.

Subpart 24–1.4—Procurement Responsibility and Authority
24–1.400 Scope of subpart.
24–1.402 Responsibility of the Chief Officer responsible for procurement.
24–1.404 Selection, designation and termination of designation of contracting officers.
24–1.404–1 Selection.
24–1.404–2 Designation.
24–1.404–3 Termination of designation.
24–1.405 Ratification of unauthorized contract awards.
24–1.450 Contracting officers representatives.
24–1.451 HUD procuring activities.
24–1.451–1 Office of Procurement and Contracts.
24–1.451–2 Office of Housing.
24–1.451–3 General services Divisions.
24–1.451–4 Disaster field Offices.
24–1.452 Unauthorized actions in the administration of contracts.
24–1.453 Contracting officers responsibilities to examine validity of procurement request.

Subpart 24–1.6—Debarred, Ineligible and Suspended Bidders
24–1.600 Scope of subpart.

Subpart 24–1.7—Small Business and Minority Business Concerns
24–1.700 General.
24–1.702 Small business policies.
24–1.705 Small business advisor.
24–1.706 Small business specialist.
24–1.707 Procedures for initiating set-asides by the small business specialist(s).
24–1.708 Review of set-aside recommendations by the small business specialist(s).
24–1.709 Withdrawal or modification of set-asides.
24–1.709–50 Small business class set-aside for construction, including repair and reconditioning.
24–1.709–51 Review of class set-aside program for construction, including repair and reconditioning.
24–1.713 HUD contracts with the small business administration.
24–1.714 HUD responsibilities and functions pursuant to section 8(a) of the Small Business Act.
24–1.715 HUD contracts with minority business firms.
24–1.715–1 Applicability and scope.
24–1.715–2 Authority.
24–1.715–3 Policy.
24–1.715–4 Certification of status as a minority business.

Subpart 24–1.50—Criteria for Establishing the Use of Grants or Contracts for Research
Sec.
24–1.5000 Scope of subpart.
24–1.5001 Policy.
24–1.5002 Criteria of use of grants and contracts.

AUTHORITY: Sec. 7(d), Dept. of HUD Act, (42 U.S.C. 3535(d)).

§ 24–1.000 Scope of part.

This part describes the method by which the Department of Housing and Urban Development (HUD) implements, supplements and deviates from the Federal Procurement Regulations (FPR) through the establishment of the HUD Procurement Regulations (HUDPR), which prescribes the Department's procurement policies and procedures under the FPR System, in terms of authority, applicability, issuance and arrangement.

Subpart 24–1.1—Regulation System

§ 24–1.101 Scope of subpart.

This subpart describes the Department of Housing and Urban Development Procurement Regulations (HUDPR) and states their relationship to the FPR System. It also provides the explanation of their purpose and the authorities under which they are issued.

§ 24–1.102 Purpose.

The Department of Housing and Urban Development Procurement Regulations (HUDPR) are hereby established as Chapter 24 of the Federal Procurement Regulations System (41 CFR Chapter 24) and are issued to provide uniform Departmental policies and procedures for the procurement of supplies, personal property and non-personal services as defined in HUDPR 24–1.202 by the Department's procuring activities and to make these policies and procedures readily available to Departmental personnel and to the public.

§ 24–1.103 Authority.

The HUDPR are prescribed by the Assistant Secretary for Administration under section 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)), section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)) and under the Secretary's delegation effective January 19, 1976, 41 FR 2665.

§ 24–1.104 Applicability.

All procurement of personal property and non-personal services (including construction) on behalf of the Secretary, except as may be otherwise authorized by law, must be accomplished in accordance with the HUDPR and the FPR:

(a) HUDPR implement, supplement, and in some instances may deviate from the FPR. Except as necessary to assure continuity or understanding, FPR material will not be repeated, paraphrased, or otherwise restated in HUDPR.

(b) Where HUDPR contain no material implementing the FPR, the FPR will govern.

(c) Except as specifically provided for herein, the HUDPR does not apply to the placement and administration of grants.

§ 24–1.105 Exclusions.

Certain HUD policies and procedures which come within the scope of this chapter nevertheless may be excluded from HUD Procurement Regulations. The exclusions are categorized as follows:

(a) Policy or procedure which is expected to be effective for a period of less than six (6) months.

(b) Policy or procedure of an internal nature which shall be issued as either a HUD Notice or a HUD Handbook.

§ 24–1.106 Arrangement.

§ 24–1.106–1 General plan.

Chapter 24 is divided in Parts, Subparts, Sections, Paragraphs and further subdivisions as necessary.

§ 24–1.106–2 Numbering.

Generally, the numbering system and part, subpart, and section titles used in HUDPR conform with those used in FPR or as follows:

(a) When HUDPR implement or deviate from a part, subpart, section, or paragraph of the FPR, that implementation or deviation will be numbered and captioned where possible to correspond to the FPR part, subpart, section or paragraph.

(b) Supplementary material published in the HUDPR will be assigned numbers from the number 50 onward which shall be used to denote the new appropriate part, subpart, section or paragraph of the HUDPR.

(c) Where material in the FPR required no implementation or deviation, there is no corresponding numbering in the HUDPR. Therefore, there may be gaps in the HUDPR sequence of numbers where the FPR, as written, are applicable to HUDPR and require no further implementation.

§ 24–1.106–3 Citation.

HUDPR will be cited in accordance with FEDERAL REGISTER standards approved for the FPR. Thus, this section when referred to in HUDPR should be cited as "Sec. 24–1.106–3 of this Chapter." When this section is referred to formally in official documents, such as legal briefs, it should be cited as "41 CFR 24–1.106–3." Any section of the HUDPR may be informally identified by the section number, e.g., "HUDPR 24–1.106–3."

§ 24–1.107 Implementation.

HUDPR implement and supplement the FPR. Implementing material is that which expands upon related FPR material. Supplementing material is that for which there is no counterpart in the FPR.

§ 24–1.108 Deviation.

§ 24–1.108–1 Description.

The term deviation, which includes deviations from FPR as well as HUDPR, means:

(a) When a prescribed contract clause is set forth verbatim, use of a contract clause covering the same subject matter which varies from that set forth;

(b) When a standard or other form is prescribed, use of any other form for the same purpose;

(c) Alteration of a prescribed standard or other form, except as may be authorized in the Regulations;

(d) The imposition of lesser or, where the regulation expressly prohibits, greater limitations than are imposed upon the use of a contract clause, form, procedure, type of contract, or upon any other procurement action, including but not limited to, the making or amendment of a contract, or actions taken in connection with the solicitation of bids or proposals, award, administration, or settlement of contracts; and

(e) When a policy or procedure is prescribed, use of any inconsistent policy or procedure.

§ 24–1.108–2 Procedure.

In the interests of establishing and maintaining uniformity to the greatest extent feasible, deviations from the FPR or HUDPR shall be kept to a minimum and controlled as follows:

(a) In individual cases, deviations from the FPR or HUDPR may be submitted to the Assistant Secretary for Administration or the Director, Office of Procurement and Contracts for approval or other necessary or appropriate action. A supporting statement shall be submitted with the proposed deviation indicating briefly the nature of the deviation and the reason the deviation is necessary and in the best interest of the Government. The contract file shall include a copy of the request submitted and the approval. In emergency situations involving individual cases, deviation approvals may be processed by telephone and later confirmed in writing.

(b) In classes of cases, deviations from the FPR or HUDPR shall be submitted to the Assistant Secretary for Administration for his approval or other necessary or appropriate action. Requests for deviations shall be supporting by statements adequate to disclose fully the nature of the deviation and the need therefor. The Assistant Secretary for Administration will consider on an expedited basis jointly with GSA requests involving the FPR unless he determines, after due consideration of the objective of uniformity and the proper responsibilities of HUD, circumstances preclude such joint effort. In such cases, the Assistant Secretary for Administration will approve such class deviations as he determines necessary and GSA will be notified. Authorized class deviations will be reflected in HUDPR.

Subpart 24–1.2—Definition of Terms

§ 24–1.201 Scope of subpart.

This subpart contains definitions of terms used generally throughout HUDPR, in addition to those set forth in 41 CFR Subpart 1–1.2. Additional definitions will be found in individual subparts of the FPR and HUDPR covering terms used in these subparts only.

§ 24–1.202 Definitions.

§ 24–1.202–1 Department.

"Department" means the Department of Housing and Urban Development, which may also be designated as "HUD."

§ 24–1.202–2 Secretary.

"Secretary" means the Secretary of Housing and Urban Development.

§ 24–1.203–3 Chief officer responsible for procurement.

The Director, Office of Procurement and Contracts is the Chief Officer responsible for procurement within the Department.

§ 24–1.202–4 Procuring activity.

"Procuring Activity" means those offices identified under § 24–1.451 which have authority delegated by the Secretary and redelegated by the cognizant official to purchase or contract for supplies, services and/or construction.

§ 24–1.202–5 Head of procuring activity.

"Head of Procuring Activity" as used in the HUDPR has the following meaning:

(a) *Director, Office of Procurement and Contracts* for HUD headquarters procurement;

(b) *The Assistant Regional Administrators for Administration* for regional office procurement;

(c) *The Director, Office of Property Disposition* for national contracts on acquired properties;

(d) *The Directors, Area and Insuring Offices* for decentralized procurement on acquired properties;

(e) *The Directors, Strategic Storage Centers* for procurement in support of the requirements for disaster temporary housing, storage, maintenance, repair and transport;

(f) *The Directors, Disaster Field Offices* for procurement of supplies and services in support of temporary housing for Presidentially-declared disaster areas; and

(g) *The Director, Office of Housing Programs* for contracts for the Consolidated Supply Program.

§ 24–1.202–6 Contractor.

"Contractor" means any person, firm, association, or corporation entering into a contract with the Government.

§ 24–1.202–7 Subcontractor.

"Subcontractor" means any person, firm, association, or corporation entering into a subcontract with a contractor or higher-tier subcontractor.

§ 24–1.202–8 Supplies and property.

"Supplies and Property" means materials and goods to be delivered to the Department under contracts or purchase orders.

§ 24–1.202–9 Personal services.

"Personal services" means the services of an officially appointed or employed individual engaged in the performance of authorized Federal func-

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tions under the supervision and direction of a Federal officer and paid for on a time or contract price basis. Personal services are acquired by HUD through consulting agreements which may only be executed by the HUD Headquarters Office of Personnel.

§ 24–1.202–10 Nonpersonal services.

"Nonpersonal services" means those services rendered by non-Government firms, institutions or persons through contract or agreement with the Department of Housing and Urban Development wherein no employee-employer relationship exists.

§ 24–1.202–11 Ratification.

"Ratification" means a subsequent confirmation in writing by an authorized HUD official of the placement of the type of order referred to in HUDPR 24–1.405 by a HUD official not authorized to do so.

§ 24–1.202–12 Primary organization heads.

"Primary Organization Heads" are those officials of the Department who are responsible for the major organizational components of HUD and who report directly to the Secretary or Under Secretary. The Primary Organization Heads of HUD are: Assistant Secretary(ies), the General Counsel, the Deputy Under Secretary(ies), Federal Insurance Administrator, New Communities Administrator, Federal Disaster Assistance Administrator, Inspector General and Regional Administrator(s).

Subpart 24–1.3—General Policies

§ 24–1.301 Scope of subpart.

This subpart sets forth Departmental policies which are applicable to all procurements and provides general guidance on matters which include but are not limited to public information and disputes procedures.

§ 24–1.302 Procurement sources.

§ 24–1.302–1 General.

The procurement of supplies and services may be obtained from the following:

(a) *Government sources.* Procurement of certain supplies and services may be effected by orders on Government sources referred to in 41 CFR 1–1.302–1. It is the policy of the Department that the following methods of procurement be utilized to the maximum extent practicable, in accordance with applicable laws and regulations:

(1) Excess and surplus stocks in the hands of any Government agency;

(2) Federal Supply Schedules;

(3) General Services Administration Stores Stock;

(4) Federal Supply Service Consolidated Purchase Programs;

(5) Federal Prison Industries, Inc.; and

(6) National Industries for the Blind.

(b) *Sources outside the Government.* Irrespective of whether the procurement of supplies or services from sources outside the Government is to be effected by formal advertising or by negotiation, competitive proposals ("bids" in the case of procurement by formal advertising, "proposals" in the case of procurement by negotiation) shall be solicited from all such qualified sources as are deemed necessary by the Contracting Officer to assure such full and free competition as is consistent with the procurement of the types of supplies and services necessary to meet the Department's requirements.

(c) *Other Federal Agencies as sources.* The Department may enter into agreements (called Interagency Agreements) with other Departments or Agencies of the Federal Government to acquire supplies or services that are available from such other Agencies.

§ 24–1.302–3 Contracts between the department and government employees.

Both prime contracts between the Government and its employees or business organizations substantially owned or controlled by Government employees, as well as any and all subcontracts thereunder, will not knowingly be entered into, except in those cases in which the needs of the Government cannot reasonably be otherwise supplied. The specific approval of the Assistant Secretary for Administration must be obtained for any such contract or subcontract.

§ 24–1.313 Records of contract actions.

Each procuring activity within HUD shall maintain an official record for each contract and purchase order issued. Each official procurement record shall constitute an independent history, documented to provide a complete chronology of all actions taken and shall contain all preaward and postaward actions in sufficient detail to explain and support the judgments of the Contracting Officer. In addition, official procurement records shall contain written documentation of all understandings, oral agreements and any other information pertinent to the transaction in the manner prescribed by each procuring activity.

§ 24–1.318 Disputes.

§ 24–1.318–1 Disputes clause.

Every contract awarded by the Department shall contain a Disputes Clause, as set forth in 41 CFR 1–7.102–12.

§ 24–1.318–2 Contracting officer's decision under a disputes clause.

When a disagreement of fact arising under the contract cannot be settled by agreement between the contractor and the Contracting Officer, the Contracting Officer shall then review all pertinent facts and issue a written final decision under the Disputes Clause. Such final decision must represent the independent judgment of the Contracting Officer and shall contain language substantially in accord with that set forth in 41 CFR 1–1.318–1. A copy of each Contracting Officer's decision under the disputes Clause shall be furnished to the contractor by certified mail, return receipt requested, or in person, obtaining a receipt therefor.

§ 24–1.318–3 HUD Board of Contract Appeals.

The HUD Board of Contract Appeals has been established to hear, consider, and determine appeals from decisions of Contracting Officers pursuant to the clause entitled, "Disputes" of the contract. The HUD contract appeal procedure is set forth in 24 CFR Part 20.

Subpart 24–1.4—Procurement Responsibility and Authority

§ 24–1.400 Scope of subpart.

This subpart deals with the placement of procurement authorities and responsibilities within the Department, the selection and designation of Contracting Officers and the authorization of procuring activities.

§ 24–1.402 Responsibility of the Chief Officer Responsible for Procurement.

The chief officer responsible for procurement shall establish procurement policy throughout the Department and monitor the overall effectiveness and efficiency of the Department's procuring activities. The person exercising this authority shall establish adequate controls to assure compliance with applicable laws, regulations and procedures.

§ 24–1.404 Selection, designation and termination of designation of contracting officers.

§ 24–1.404–1 Selection.

In addition to the requirements set forth in 41 CFR 1–1.404–1, the appropriate delegating or redelegating authority shall assure that the delegation of Contracting Officer's authority includes clear statements of such authority, responsibilities and limitations.

§ 24–1.404–2 Designation.

Except for disaster-related activities and unusual circumstances as determined by the appropriate delegating and redelegating authority, it is the Department's policy to delegate Contracting Officer authority by position rather than on an individual basis. For those delegations of Contracting Officer authority issued by name under the unusual circumstances mentioned in the exception above, a time limitation of one year shall be made a part of the delegation of authority. All designations of Contracting Officers shall be made in writing and published in the FEDERAL REGISTER. Except in those instances where the re-delegation of authority specifically includes the authority for further re-delegation to subordinate positions, no other delegations or re-delegations may be made.

§ 24–1.404–3 Termination of designation.

The established Contracting Officer authority exists as follows:

(a) *Automatic termination.* Unless the delegation of authority of a Contracting Officer contains provision for automatic termination, the delegation shall remain effective, unless revoked by the appropriate delegating authority. The authority of individuals designated as Contracting Officers by virtue of their position will be terminated upon their reassignment to another position in the Department or upon termination of their employment;

(b) *Revocation.* The delegation of authority for a Contracting Officer may be revoked in writing at any time by the delegating authority but no such revocation shall operate retroactively. Revocation of the delegation shall be published in the FEDERAL REGISTER.

(c) *Succession of authority.* Persons who succeed to a position designated as a Contracting Officer shall assume responsibility for the administration of all contracts entered into by their predecessors.

§ 24–1.405 Ratification of unauthorized contract awards.

Except as provided for under 41 CFR 1–1.405, no liability shall be incurred by the Government as a result of the actions of Departmental employees (other than Contracting Officers) which lead to unauthorized arrangements for the reimbursement of a contractor's pre-contract costs. Contracting Officers shall not ratify contractual commitments made by other personnel of HUD without the prior approval of the Head of the Procuring Activity.

§ 24–1.450 Contracting officer's representatives.

Contracting Officers may designate other Government employees to act as their authorized representatives for certain specific purposes of contract administration. Such designation shall be in writing and shall contain specific instructions as to the extent to which the representative has been given authority to take action for the Contracting Officer. A designation to act as a Contracting Officer may contain authority to sign contractual documents and approve invoices or vouchers. It may not include functions related to the procurement which are of a technical nature including review and approval of work or research plans, techniques, and reports and which would normally be performed by the Government Technical Representative. Designations shall be effective only on a contract-by-contract basis. Designations which may be construed to apply to more than one contract must be approved by the Head of The Procuring Activity.

§ 24–1.451 HUD procuring activities.

HUD procures supplies and services (including construction) through the organizational elements specified in §§ 24–1.451–1—24–1.451–4.

§ 24–1.451–1 Office of procurement and contracts.

The Office of Procurement and Contracts, Assistant Secretary for Administration, is responsible for all Departmental procurement except as specified below.

§ 24–1.451–2 Housing.

The Assistant Secretary for Housing—Federal Housing Commissioner has overall responsibility for the following procuring activities:

(a) *Property disposition program.* Through the Property Disposition program, the Assistant Secretary for Housing—Federal Housing Commissioner is responsible for entering into and administering all procurement contracts with respect to all procurements of goods and services for the management, repair, improvement, alteration, demolition, maintenance, operation, rental, and sale or other disposition of all real and related property conveyed to or otherwise in the custody of the Secretary, including properties held by HUD as mortgagee-in-possession, and the publication of notices and advertisements in newspapers, magazines, and periodicals. This procurement operation is decentralized to specific positions at the Area and Insuring Office level. In addition, the Office of Property Disposition performs contracting functions through its Central Office Staff on all requirements having national applicability such as the acquisition of lock boxes and "for sale" signs.

(b) *Emergency preparedness—disaster relief program.* Through the Disaster Relief Program and mission assignment through the Administrator, Federal Disaster Assistance Administration, the Assistant Secretary for Housing—Federal Housing Commissioner is responsible for entering into and administering contracts within disaster areas relating to disaster temporary housing including the sale of emergency housing acquired pursuant thereto to occupants.

(c) *Emergency preparedness—strategic storage centers.* The procurement of supplies and services in support of the requirements to store, maintain, repair and transport disaster temporary housing (mobile homes and travel trailers) is conducted through the Strategic Storage Centers.

(d) *Consolidated supply program.* Through its consolidated supply program, the Assistant Secretary for Housing—Federal Housing Commissioner is responsible for entering into and administering contracts for voluntary use by public housing agencies in their purchase of certain supplies and equipment necessary in the operation and maintenance of low-income housing.

§ 24–1.451–3 General services divisions.

Procurement of supplies and services not exceeding $10,000 for HUD Regional requirements including support of the Federal Disaster Assistance Administrator, Regional Office, is accomplished at each Regional Office in the Administrative Services Division, Assistant Regional Administrator for Administration. In addition, the Regional Administrator may delegate authority to the Administrative Officers of the Area and Insuring Offices to execute FEDSTRIP and Imprest Fund transactions.

§ 24–1.451–4 Disaster field offices.

Each Disaster Field Office is responsible for the procurement of supplies and services to assist disaster areas through mission assignments by the Administrator, Federal Disaster Assistance Administration.

§ 24–1.452 Unauthorized actions in the administration of contracts.

Only Contracting Officers or duly authorized Contracting Officers representatives acting within the scope of their authority may impose on a contractor any requirement which will affect price, period of performance or any other provisions of the contract. All contract changes must be directed in writing by a Contracting Officer or such Contracting Officer's representative.

§ 24–1.453 Contracting officers responsibilities to examine validity of procurement request.

Contracting Officers are charged with the responsibility of ascertaining that procurement actions do not violate any statues, regulations or Department policies.

Subpart 24–1.6—Debarred, Ineligible and Suspended Bidders

§ 24–1.600 Scope of subpart.

Contractors and Grantees who have been debarred, suspended or made ineligible pursuant to 24 CFR Part 24 shall not be eligible for HUD contracts and will not receive solicitations therefor, subject to the requirements of 41 CFR 1–1.605–5.

Subpart 24–1.7—Small Business and Minority Business Concerns

§ 24–1.700 General.

This subpart implements and supplements general policies and procedures set forth in 41 CFR Subpart 1–1.7.

§ 24–1.702 Small business policies.

In addition to the policies prescribed in 41 CFR 1–1.702, HUD procuring activities shall cooperate with the Small Business Administration through the Department's small business advisor in the implementation of policies and procedures in 41 CFR Subpart 1–1.7 and this subpart.

§ 24–1.705 Small business advisor.

The Director, Office of Procurement and Contracts is hereby designated as the Department's Small Business Advisor for all procurement matters. The Small Business Advisor is responsible for the establishment, implementation, and execution of the Small Business program. He is the central point of contact for inquiries concerning the Small Business program from industry, the Small Business Administration (SBA), the Congress, the Office of the Secretary, and others. His duties include developing a plan of operation to increase the share of contracts awarded to small business by the Department.

§ 24–1.706 Small business specialist.

The Director, Office of Procurement and Contracts, Director, Office of Property Disposition, Director, Office of Assisted Housing Management, Director, Strategic Storage Centers and each Assistant Regional Administrator for Administration for regional General Services Procurement shall each designate by name and in writing a Supervisory

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Small Business Specialist who shall either perform and/or supervise, and coordinate the duties of the Small Business Specialist(s) and act as the focal point for contact with the Small Business Advisor within their appropriate areas of assignment. Each head of a procuring activity shall designate by name or title and in writing a Small Business Specialist or Specialists for each procuring activity over which he exercises control to perform the duties set forth in this section. The Small Business Specialist appointed pursuant to HUDPR 24–1.706 shall perform such of the following duties as are appropriate for his procuring activity:

(a) Maintain a program designed to locate capable small business sources for current and future procurements;

(b) Coordinate inquiries and requests for advice from small business concerns on procurement matters;

(c) Review proposed solicitations for supplies and services, assure that small business concerns will be afforded an equitable opportunity to compete, and, as appropriate, initiate recommendations for small business set-asides;

(d) Take action to assure the availability of adequate specifications and drawings, when necessary, to obtain small business participation in a procurement;

(e) Review proposed procurements for possible breakout of items suitable for procurement from small business concerns;

(f) Advise small business concerns with respect to the financial assistance available under existing laws and regulations and assist such concerns in applying for financial assistance;

(g) Participate in determinations concerning the responsibility of a prospective small business contractor;

(h) Participate in the evaluation of a prime contractor's small business subcontracting programs;

(i) Assure that adequate records are maintained, and accurate reports prepared, concerning small business participation in the procurement program;

(j) Make available to SBA copies of solicitations, when so requested; and

(k) Act as liaison between the Contracting Officer and the appropriate SBA office in connection with set-asides, certificates of competency, size classification, and any other matter in which the small business program may be involved.

§ 24–1.707 Procedures for initiating set-asids by the small business specialist(s).

All proposed procurements estimated to exceed $2,500 shall be reviewed by a Small Business Specialist for purposes of identifying those procurements which should be set aside in part or in total to small business, unless the Head of the Procuring Activity determines in accordance with 41 CFR 1–1.705–3(a) that such review would unduly delay the procurement process. The Small Business Specialist shall initiate recommendations to the Contracting Officer for small business set-asides with respect to identifying individual procurements or classes of procurements or portions thereof.

§ 24–1.708 Review of set-aside recommendations initiated by small business specialist(s).

The Small Business Specialist may recommend that all, or a portion, of an individual procurement or class of procurements be set aside for small business and the Contracting Officer shall promptly either (a) Concur in the recommendation, or (b) Disapprove the recommendation, stating in writing his reasons for disapproval. If the Contracting Officer disapproves the recommendation of a Small Business Specialist, the Small Business Specialist may appeal to the Head of The Procuring Activity whose decision shall be final.

§ 24–1.709 Withdrawal or modification of set-asides.

A withdrawal or modification of an individual or class set-aside which was originally established upon the recommendation of the Small Business Specialist may be proposed by the Contracting Officer by giving notice, containing the reason for the proposed withdrawal or modification, to the Small Business Specialist. If the Small Business Specialist does not agree to a withdrawal or modification, he may appeal to the Head of the Procuring Activity whose decision shall be final.

§ 24–1.709–50 Small business class set-aside for construction, including repair and reconditioning.

A class set-aside is hereby made for each proposed procurement for construction in an amount ranging from estimates of $10,000 to $500,000. Accordingly, Contracting Officers shall set aside for small business each such proposed procurement. If a Contracting Officer determines that any individual procurement falling within the class set-aside requirements of this Section is unsuitable for such a set-aside in part or in total, the set-aside may be withdrawn as modified in accordance with HUDPR 24–1.709. Proposed procurements for construction which exceed an estimate of $500,000 shall be considered for set-aside on a case-by-case basis.

§ 24–1.709–51 Review of class set-aside program for construction, including repair and reconditioning.

The head of each procuring activity shall forward a semi-annual report on class set-aside withdrawals to the Director, Office of Procurement and Contracts (OPC) as a part of the required Standard Form 37, Report on Procurement by Civilian Executive Agencies. The Director, OPC, acting as the Small Business Advisor, through the Supervisory Small Business Specialist, shall direct actions to be taken to improve small business participation under the class set-aside in 24–1.709–50.

§ 24–1.713 HUD contracts with the Small Business Administration.

It is the policy of the Department to increase small business participation in its procurement program by awarding procurement contracts, whenever feasible, to the Small Business Administration (SBA) as authorized by section 8(a) of the Small Business Act (15 U.S.C. 637 (a)).

§ 24–1.714 HUD responsibilities and functions pursuant to section 8(a) of the Small Business Act.

The HUD responsibilities and functions pursuant to section 8(a) of the Small Business Act are as follows:

(a) *8(a) program responsibility.* The HUD Assistant Secretary for Fair Housing and Equal Opportunity is responsible for development and review of goals to be achieved under the 8(a) program and shall coordinate with each Primary Organization Head in establishing the level of HUD's participation in the 8(a) program and coordination with the Small Business Advisor to definitize HUD's plan for implementation of the 8(a) established goal(s). In conjunction with this responsibility for establishing 8(a) goals, the Assistant Secretary for Fair Housing and Equal Opportunity shall make available to the Small Business Advisor 8(a) program guides for use by the Small Business Specialist and Contracting Officers in making determinations on individual procurements that should be processed as an 8(a) contract to be awarded to SBA.

(b) *8(a) procurement responsibility.* The procurement and contracting aspects of this program shall be the responsibility of the Small Business Advisor who shall assure that 8(a) procurement requirements are implemented through the Supervisory Small Business Specialist in each of their appropriate area of assignment.

(c) *8(a) functions of the small business specialist.* The Small Business Specialist and/or Supervisory Small Business Specialists, acting on behalf of the Small Business Advisor, shall screen proposed solicitations to determine the feasibility of placement under the 8(a) program as part of the performance of those duties set forth under HUDPR 24–1.706. The Small Business Specialist, after consideration of the goals and guidance established pursuant to paragraph (a) of this section, shall make recommendations for 8(a) procurement to the Contracting Officer, who may, in his discretion, contract with the Small Business Administration in accordance with 41 CFR 1–1.705–7 and 1–1.713.

(d) *8(a) reporting requirements.* The Small Business Advisor shall report to the Assistant Secretary for Fair Housing and Equal Opportunity on a semiannual basis covering the activities of the 8(a) program which shall include the following:

(1) A narrative statement regarding the operation of the program during the 6-month period; and

(2) The number and dollar amount of awards made to small business under the 8(a) program.

In addition to the semiannual report to the Assistant Secretary for Fair Housing and Equal Opportunity, the Small Business Advisor shall also report annually to the General Services Administration on the current Standard Form 37 (SF–37), the number and dollar amount of awards made to small business under the 8(a) program. The SF–37 may be obtained from the Government Printing Office, Washington, D.C. or local Government supply outlets.

§ 24–1.715 HUD contracts with minority business firms.

§ 24–1.715–1 Applicability and scope.

This section sets forth the policy and procedures for contracting with minority business enterprises. A "minority business enterprise" is defined under 41 CFR 1–1.1310–2(b) as "a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American Eskimos, and American Aleuts."

§ 24–1.715–2 Authority.

Executive Order 11625 dated October 13, 1971, clarifies the authority of the Secretary of Commerce with respect to the development and coordination of a national program for minority business enterprise. In addition, the Executive Order requires each Federal department or agency to cooperate with the Secretary of Commerce in achieving the goals of the minority business program including the collection and furnishing of data and reports as required.

§ 24–1.715–3 Policy.

It is the policy of HUD to foster and promote the participation of minority business firms in the Department's procurement program and to offer guidance to such firms to the maximum extent practicable in order to enhance their ability to compete for the placement of HUD procurement contracts.

§ 24–1.715–4 Certification of status as a minority business enterprise.

All procuring activities shall request all interested Contractors, bidders or offerors and sources utilized through small purchase procedures to complete on a voluntary basis a certification as to whether they are a minority business enterprise as defined under HUDPR 24–1.715–1. Completion of this certification is not a condition of eligibility for contract award.

RFQ/IFB/RFP No._____
Purchase Order/Contract No._____

U.S. Department of Housing and Urban Development additional certification of Status as a Minority Business Enterprise.

Offerors, bidders or suppliers are requested to complete, sign and attach this page, in single copy, to any bid, proposal or quote submitted under the Solicitation identified above. Completion of this certification is not a condition of eligibility for contract award.

The Bidder/Offeror/Supplier certifies that he (is) is not a minority business enterprise which is defined as a business, at least 50 percent of which is owned by minority group members or, in the case of publicly owned business, at least 51 percent of the stock of which is owned by minority group members. For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American Eskimos, and American Aleuts.

(Name and title of person signing.)

Signature _____
Date _____

Subpart 24–1.50—Criteria for the Use of Grants or Contracts for Research

§ 24–1.5000 Scope of subpart.

This subpart establishes policies relating to the basic difference for using either a grant or contract in Departmental research efforts.

§ 24–1.5001 Policy.

Research grants may be made to support research at non-profit organizations and educational institutions, State and local governments, and selected other organizations and persons when it is advantageous to the Government. FPR and HUDPR provisions relating to contract award are not applicable to awards of grants.

§ 24–1.5002 Criteria for use of grants and contracts.

The criteria set forth below provide guidelines to determine the appropriate type of instrument for use with grants and contracts.

(a) *Use of grants.* The factors that indicate the use of grants rather than contracts are:

(1) The primary purpose is to aid or support the acquisition of knowledge or understanding of the subject under study;

(2) The exact course of the work and its outcome are not precisely definable and specific points in time for achievement of significant results are not precisely specifiable; and

(3) The nature of the proposed investigation is such that the grantee will bear prime responsibility for the conduct of the research, and exercise judgment and original thought toward attaining the goals within broad parameters of the research areas proposed and the related resources provided.

(b) *Use of contracts.* The factors that indicate the use of contracts rather than grants are:

(1) The primary purpose is to buy or procure well-defined research or development in direct support of a HUD program;

(2) The end product is a specific service, piece of hardware or improved performance of a specific service or piece of hardware;

(3) HUD considers it necessary to exercise a more stringent control over the objectives, direction, specifications, costs or methods of the research, and such control is desirable and feasible; and

(4) The end result is clearly defined and "specifications" are prepared in advance of the work.

PART 24–2—PROCUREMENT BY FORMAL ADVERTISING

Sec.
24–2.000 Scope of part.

Subpart 24–2.1—Use of Formal Advertising
24–2.150 Specification requirements.
24–2.150–1 General.

Subpart 24–2.2—Solicitation of Bids
24–2.2–1 Preparation of invitation for bids.
24–2.202 Miscellaneous rules for solicitation of bids.
24–2.202–1 Bidding time.
24–2.202–2 Telegraphic bids.
24–2.202–3 Place and method of delivery of supplies.
24–2.202–4 Bid samples.
24–2.202–50 Extension of time for bid opening.
24–2.202–51 Incorporation by reference.
24–2.202–52 Pre-bid conference.
24–2.202–53 Bid envelopes.
24–2.202–54 Alternate bids.
24–2.203–3 Publicity in newspapers and trade journals.
24–2.205 Bidders mailing list.
24–2.205–1 General.
24–2.205–2 Establishment of lists.
24–2.205–3 Removal and reinstatement of names on bidders lists.

Subpart 24–2.3—Submission of Bids
24–2.301 Responsiveness of bids.
24–2.303 Late bids.
24–2.303–1 General.
24–2.303–6 Notification to late bidders.
24–2.303–7 Disposition of late bids.

Subpart 24–2.4—Opening of Bids and Award of Contract
24–2.401 Receipt and safeguarding of bids.
24–2.402 Opening of bids.
24–2.402–50 Marking of bids.
24–2.402–51 Timing of acceptance and withdrawal.
24–2.404 Rejection of bids.
24–2.404–50 Rejection of bids in multiple bidding situations.
24–2.406 Mistakes in bids.
24–2.406–3 Other mistakes disclosed before award.
24–2.406–4 Disclosure of mistakes after award.
24–2.407 Award.
24–2.407–1 General.
24–2.407–7 Statement and certificate of award.
24–2.407–8 Protest against award.
24–2.407–50 Award when only one bid is received.
24–2.408 Information to bidders.

AUTHORITY: Sec. 7(d), Housing and Urban Development Act, (42 U.S.C. 3535(d)).

§ 24–2.000 Scope of part.

This part implements and supplements the basic requirements for procurement of personal property and nonpersonal services (including construction) by formal advertising, and establishes policies with respect to solicitation of bids, submission of bids and opening and evaluation of bids and, the awarding of contracts as set forth in 41 CFR Part 1–2.

Subpart 24–2.1—Use of Formal Advertising

§ 24–2.150 Specification requirements.

§ 24–2.150–1 General.

In addition to the requirements stipulated in 41 CFR 1–1.305, the specification

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shall be specific as to the objectives and the tasks to be performed, time of performance, Government-furnished materials and information, reporting requirements, measurements of progress, publications, and time periods for Government review. Generally the specifications shall be stated in detail and contain the following elements but shall always be written to meet the minimum that will also be acceptable:

(a) Objective.
(b) Scope of work.
(c) Specific tasks.
(d) Performance.
(e) Products/deliverables and schedules.
(f) Reports.
(g) Government obligations.

The adequacy of specifications is a critical factor in the use of formal advertising procedures. They must be defined well enough to permit all bidders to bid on the same basis. The Contracting Officer is responsible for determining when formal advertising is impractical or otherwise unsuitable and for documenting the file accordingly in the form of a determination and finding.

Subpart 24–2.2—Solicitation of Bids

§ 24–2.201 Preparation of invitations for bids.

Forms used in the preparation of invitations for bids are prescribed in 41 CFR Subpart 1–16.1 and 1–16.4 and in 24–16 of this Chapter.

§ 24–2.202 Miscellaneous rules for solicitation of bids.

§ 24–2.202–1 Bidding time.

In the procurement of supplies and services, the following shall be observed:

(a) Procurement action which does not provide for the minimum bidding time required by 41 CFR 1–2.202–1(c) shall be justified by the Contracting Officer prior to releasing the invitation for bids. This justification shall take the form of a finding of fact which establishes the Contracting Officer's basis for the exception to the minimum bidding time.

(b) The minimum bidding time stipulated in 41 CFR 1–2.202–1(c) shall not be construed as a maximum. Each prospective procurement shall be examined on its own merits to determine the bidding time that will facilitate competition on reasonable and equal terms. As a general rule, procurement of a less complicated nature for which no extensive bid preparation by the prospective bidder is required in development of his bid may contain a bidding time of 20 calendar days. Where the specification may require prospective bidders to develop drawings or samples, or to do extensive preparation in developing a meaningful bid, 30 calendar days or more of bidding time may be required. When similar types of requirements necessitate a quick turnaround time, the appropriate Procuring Activity may request a class exception to the minimum bidding time relating to the urgency for the supplies or services. If this situation exists, the Contracting Officer will make a request to the Head of the Procuring Activity for approval of the class exception or where internal Departmental regulations exist regarding exceptions to the minimum bidding time these regulations are construed as an exception under this Section.

§ 24–2.202–2 Telegraphic bids.

Telegraphic bids will be authorized only by the Contracting Officer who shall document the official procurement file as to the necessity of telegraphic bids. Conditions under which telegraphic bids may be authorized are set forth in 41 CFR 1–2.202–2. When telegraphic bids are authorized by the Contracting Officer, the following clause shall be incorporated in the Invitation for Bids:

Telegraphic bids may be submitted in response to this Invitation for Bids (IFB). Telegraphic bids must be received in this Office prior to the time specified for opening of bids. Such bids must specifically refer to this IFB; must include the items or subitems, quantities and unit prices for which the bid is submitted and the time and place of delivery; and must contain all the representations and other information required by the IFB together with a statement that the bidder agrees to all the terms, conditions and provisions of the invitation. Failure to furnish, in the telegraphic bid, the representations and information required by the IFBs may necessitate rejection of the bid. Signed copies of the IFBs must be furnished in confirmation of the telegraphic bids. The bidder shall confirm the telegraphic bid on the required forms contained in the IFB and shall submit it to the Contracting Officer within five (5) calendar days after the time and date set forth in the IFB for receipt of all bid responses.

§ 24–2.202–3 Place and method of delivery of supplies.

To the maximum extent practical, invitations for bids issued by HUD shall stipulate "f.o.b. destination." Only where the Contracting Officer determines it to be in the Government's best interest may he deviate from this policy.

§ 24–2.202–4 Bid samples.

Bid samples submitted by bidders as required by an invitation for bids or as unsolicited samples, if not returned in accordance with 41 CFR 1–2.202–4(h), shall be disposed of by the Contracting Officer who shall document the contract file as to the method of disposition.

§ 24–2.202–50 Extension of time for bid opening.

Whenever such action is determined by the Contracting Officer to be in the best interest of the Government, bid openings may be rescheduled for a later date by issuance and distribution of an amendment (see 41 CFR 1–2.207) to the invitation for bids. Notices of change in bid opening date shall specify the exact time and date for the new opening and will be issued by mail or telegram as soon as possible, but in any event prior to the time specified for the opening of bids.

§ 24–2.202–51 Incorporation by reference.

There shall be shown on the face of the invitation for bids or, if that sheet is not the primary one provided for the bidder's signature, on the primary sheet that is so provided, a listing of attachments which are to form a part of the bid invitation and resulting contract, as follows:

"The following attachments hereto form a part of this Invitation for Bids and any resulting contract:"

§ 24–2.202–52 Prebid conference.

Whenever a prebid conference is proposed for a procurement the following will be applicable:

(a) *General.* One of the essential elements of formal advertising is that all bidders are afforded an equal opportunity to compete. For this reason, discussions with prospective bidders will only be conducted by or with the knowledge and approval of the Contracting Officer. It is incumbent upon the Contracting Officer to afford to all prospective bidders the same information so as not to give one advantage over the others, if issued to only one potential bidder. The need for prebid conferences in advertised procurements should be infrequent and such conferences shall not be used as a substitute for formally amending defective or ambiguous solicitation or to disseminate additional specification requirements. The prebid conference is a procedure generally reserved for complex procurements to provide for discussion of unusual aspects. A prebid conference is only authorized when it is deemed by the Contracting Officer to be in the best interest of the Government and approved by the Head of the Procuring Activity or when written internal program policy requires it under certain specified circumstances.

(b) *Format.* The typical format of a prebid conference is a formal presentation by the Contracting Officer or his representative followed by a question and answer period. All prospective bidders and their subcontractors shall be invited to the meeting in a manner deemed appropriate by the Contracting Officer. When held, a prebid conference shall be scheduled sufficiently in advance of the date set for bid opening to permit prospective bidders to use the information. A written record of the prebid conference shall be made and maintained in the procurement file as the official record of what was presented at the conference.

(c) *Purpose.* A prebid conference is held to accomplish two primary objectives:

(1) To impart information that removes areas of performance uncertainties which, unless removed, result in higher price to the Government, i.e., inclusion in the bid of an amount for the uncertainty or contingency.

(2) To avoid post-award performance problems which firms could have been made aware of at the time of bid preparation.

(d) *Conclusion.* As a result of the prebid conference, it may become necessary to change or substantially clarify the solicitation. This action shall be transmitted to all those receiving IFB in the form of an official amendment to the solicitation, taking into consideration any

extension of the closing date for the receipt of bids.

§ 24–2.202–53 Bid envelopes.

Mailing labels, tags, or envelopes, bearing "Postage and Fees Paid" indicia shall not be distributed with the invitation for bids or otherwise supplied to prospective bidders. To provide for ready identification and proper handling of bids, the Optional Form 17, "Sealed Bid Label" may be furnished with each bid set to inform the bidder as to what will be required on the bid envelope. 41 CFR 1–16.902–OF17 illustrates the referenced form and copies of same can be obtained from the General Services Administration.

§ 24–2.202–54 Alternate bids.

An alternate bid is one that offers a suitable substitute for the requirements set forth in the invitation or which goes to the substance of the bid which affects price, quality, quantity or delivery. Where alternate bids are not provided for in the invitation, the Government shall consider any alternate bid to be non-responsive. The alternate bid method shall only be used in selected cases where flexibility may be desirable in selection of a product. The Contracting Officer shall weigh the advantage of the flexibility against the difficulties in the evaluation of bids that results from the alternate bid technique in determining to utilize this method.

§ 24–2.203–3 Publicity in newspapers and trade journals.

When it is deemed necessary by the procuring activity to use paid advertising the following must be observed:

(a) When it is deemed necessary to use paid advertisements in newspapers and trade Journals and similar advertising media in conjunction with competitive solicitation, where HUD would not otherwise obtain the full benefit of available competition, written authority for such publication shall be obtained from the Head of the Procuring Activity.

(b) The prices paid for advertising shall not exceed commercial rates charged to private individuals. In placing advertising orders, the Standard Form 1143 "Public Voucher for Advertising Order" shall be utilized. The only considerations required in placing an advertising order are (1) Has the use of such medium been authorized and (2) Is the medium able to achieve the objective of the advertising.

§ 24–2.205 Bidders mailing list.

§ 24–2.205–1 General.

Each procuring activity within the Department will establish in accordance with 41 CFR 1–2.205 bidders mailing lists to assure adequate sources of supplies and services. The Head of the Procuring Activity shall have the responsibility for establishing such mailing lists to enable all sources interested in contracting with the Department for specific types of programs to be utilized to the fullest extent possible.

§ 24–2.205–2 Establishment of lists.

All eligible Contractors who have submitted the Bidders Mailing List Application (Standard Form 129) or other forms as may be approved by the Department for this express purpose, shall be placed on the appropriate bidders mailing list unless a contrary determination is made in accordance with 41 CFR 2.205–1. The following procuring activities maintain mailing lists to support their particular procurement function:

(a) The Office of Procurement and Contracts maintains a list of all sources interested in contracting with all Departmental programs except as set forth in Items (b) and (c) of this section.

(b) To assist the Property Disposition Acquired-Property Program, the Department's Area and Insuring Offices each maintains a mailing list of interested sources appropriate for the jurisdiction over which it has authority.

(c) The General Services Division of each HUD Regional Office maintains, appropriate for the jurisdiction over which it has authority, a mailing list of sources interested in contracting with the Department for general service types of procurement.

§ 24–2.205–3 Removal and reinstatement of names on bidders mailing lists.

Each procuring activity shall observe the following requirements for the removal and reinstatement of names on a mailing list.

(a) Contractors who have been suspended, debarred or otherwise determined to be ineligible in accordance with 24 CFR Part 24 to receive an award of a Government contract shall immediately be removed from the bidders mailing lists.

(b) Potential Contractors who have failed to respond to a solicitation, shall be removed unless retention is considered in the best interest of the Government.

(c) At least once every twelve (12) months potential Contractors on inactive bidders mailing lists shall be contacted to determine their continuing interest, and all who fail to respond to this inquiry may be removed from the mailing list.

(d) Potential Contractors, except for those who have been debarred or found ineligible, who have been removed from the mailing list, may be reinstated upon request or by filing a new mailing list application.

Subpart 24–2.3—Submission of Bids

§ 24–2.301 Responsiveness of bids.

Any bid which is not signed by the bidder or his authorized representative shall be disregarded, except when it is accompanied by other evidence which demonstrates the bidder's intention to be bound by the unsigned bid document. Examples of such evidence are a bid guarantee or a letter (which does not qualify or otherwise render the bid nonresponsive) signed by the bidder referring to and clearly identifying the bid itself. In such a case, the Contracting Officer may waive the deficiency as a minor informality or irregularity (see 41 CFR 1–2.405) and shall document the file to so indicate.

§ 24–2.303 Late bids.

§ 24–2.303–1 General.

The late bid regulations and procedures of 41 CFR 1–2.303 shall not be waived, even if a bid is only slightly late (e.g., several minutes) or none of the other bidders will be prejudiced by consideration of the late bid.

§ 24–2.303–6 Notification to late bidders.

In setting the date to be inserted in the notice to late bidders contained in 41 CFR 1–2.303–6, consideration should be given to the time required by the bidder to develop and prepare the required evidence in relation to the acceptance period specified by the otherwise apparent low bidder, avoidance of undue delay in the procurement cycle, and other pertinent factors. As a general rule, the bidder should be allowed a minimum of three (3) working days in addition to a time allowance for transmitting the notice to, and receipt of the evidence by, the Contracting Officer. The bidder shall be notified immediately in writing if his bid cannot be considered for award because of lateness.

§ 24–2.303–7 Disposition of late bids.

A late bid which is not for consideration shall be held unopened until after award and then returned to the bidder (unless other disposition is requested or agreed to by the bidder). The return of a late bid which cannot be considered for award shall be accompanied by a statement from the Contracting Officer that the bid was not considered because of its late receipt. If the late bid had to be opened for identification purposes or was opened by mistake, this fact shall be included in the statement from the Contracting Officer accompanying the returned bid. In all cases where a late bid is not considered and returned to the bidder, the file shall be documented with all information relating to the determination of late receipt which shall include a copy of the late bid envelope.

Subpart 24–2.4—Opening of Bids and Award of Contract

§ 24–2.401 Receipt and safeguarding of bids.

Envelopes, or other outer coverings, containing identified bids, shall be stamped to show the Office of receipt, time and date. The bids shall immediately be turned over to the Contracting Officer who will be responsible for their safe keeping until the official opening. Each procuring activity shall be responsible for establishing procedures for the safeguarding of bids. Unidentified bids and bids that are opened by mistake shall be handled in accordance with 41 CFR 1–2.401(b). The Contracting Officer shall retain in the file a copy of the envelope, wrapper, or other container (bearing the

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required documentation) of a bid which was opened by mistake or which was opened for purpose of identification.

§ 24–2.402 Opening of bids.

The bid opening will be conducted by the Contracting Officer or his duly authorized representative designated as the bid opening officer. At the bid opening, the relative merits of any bids shall not be discussed by the person opening the bids, or the Contracting Officer, with the bidders, their representatives, casual observers, or Department personnel. No statement shall be made by the person opening the bid or the Contracting Officer at a bid opening bearing on the award, the possibility of a readvertisement, mistakes in bids, the responsiveness or responsibility of any bidder, etc. Oral instructions shall not be given to bidders at any time during the opening. Protests of bidders and inquiries regarding the award of the contract shall be referred to the Contracting Officer after the completion of the bid opening. Bidders are cautioned that information obtained at bid opening from other than the Contracting Officer may only be relied upon by the bidder at the bidder's own risk. After all bids have been opened, read aloud and recorded, the bid opening officer shall state that opening of bids has been completed.

§ 24–2.402–50 Marking of bids.

Under no circumstances will any individual make any marks or notations on the bid or its accompanying documents. Erasures and any other changes to the bid must be initialed by the individual executing the bid document. If such erasures or changes are not initiated, it shall be handled in accordance with 41 CFR 1–2.405. If through error or for some other reason marks are made on a bid or its accompanying documents by a Government employee, the markings should not be erased or eradicated; instead, the individual so marking the bid shall prepare a signed explanation of the marking for insertion in the file for future reference, showing when, how, and why the notations or markings were made. If the marked bid is accepted, explanation with regard thereto should be made on the statement of award.

§ 24–2.402–51 Timing of acceptance and withdrawal.

Bidders may not withdraw their bids after bid opening unless the notice of withdrawal was mailed prior to the time set for bid opening and handled in accordance with 41 CFR 1–2.305. The Contracting Officer's letter accepting the bid, when written acceptance is required, is effective when mailed. Therefore, a binding contract is effected where acceptance has been mailed by the Contracting Officer before the letter from the bidder advising of withdrawal of bid is received.

§ 24–2.404 Rejection of bids.

§ 24–2.404–50 Rejection of bids in multiple bidding situations.

When more than one bid is received from a person or firm, or affiliates thereof, in response to an invitation for bids, such bids shall be considered for award if responsive and otherwise acceptable. If the Contracting Officer determines that these bids would give a bidder an unfair advantage over other bidders or would otherwise be prejudicial to the best interest of the Government, these bids will be rejected. When a tie situation occurs in which the requirement stipulated in 41 CFR 1–2.407–6 has to be applied, only one of the multiple bids shall be considered.

§ 24–2.406 Mistakes in bids.

§ 24–2.406–3 Other mistakes disclosed before award.

Mistakes in bid discovered prior to award (other than obvious clerical errors) shall be submitted to the following authorities for determinations in accordance with 41 CFR 1–2.406–3:

(a) Director, Office of Procurement and Contracts for all Departmental Programs, except as set forth in Item (b) below.

(b) Director of the appropriate Departmental Area or Insuring Office for the Property Disposition Acquired-Property Program.

Each determination made hereunder will be coordinated with the Office of General Counsel prior to notification to the bidder. The Contracting Officer shall be notified promptly of the course of action to be taken.

§ 24–2.406–4 Disclosure of mistakes after award.

Pursuant to 41 CFR 1–2.406–4(d), the Director, Office of Procurement and Contracts is delegated authority to make determinations under 41 CFR 1–2.406–4. Mistakes in bids discovered after award shall be submitted to the Director, Office of Procurement and Contracts accompanied by the data set forth in 41 CFR 1–2.406–4(f). Each determination made hereunder will be coordinated with the Office of General Counsel prior to notification to bidder.

§ 24–2.407 Award.

§ 24–2.407–1 General.

Pursuant to 41 CFR 1–2.407–1, awards shall be made by mailing or otherwise furnishing to the successful bidder a properly executed award document or notice of award. A notice of award may be approved by the Contracting Officer for administrative reasons when the urgency for the contractor's immediate effort is required, e.g., the reproduction and distribution of the contract document may be delayed.

§ 24–2.407–7 Statement and certificate of award.

For each contract made by formal advertising, Standard Form 1036, Statement and Certificate of Award, or other appropriate document, shall be prepared and executed by the Contracting Officer and a copy retained in the contract file.

§ 24–2.407–8 Protest against award.

The following identifies the responsible agents and sets forth procedural requirements for handling protests, except for protests against awards under National Housing Act contracts. For the purpose of definition, as used in this section "working days" means the working days of the Agencies of the Federal Government, excluding Saturdays, Sundays and Federal holidays, as specified in 5 U.S.C. 6103.

(a) *Protest before award:*

(1) *Resolution by procuring office.* Interested parties are urged to seek resolution of their complaints initially with the procuring activity. The Contracting Officer shall act on any protest filed with the procuring activity (see 41 CFR 1–2.407–8(a)) unless it is known that a protest has been filed concurrently with the General Accounting Office (GAO). Where a written protest is filed directly with the procuring activity, full consideration shall be given to the protest with the protestant notified in writing of the final decision on the protest within thirty (30) working days from the date of receipt by the Agency excpt where GAO views are required, in which case the time for rendering a decision shall be ten (10) working days from receipt of GAO views: Where the Contracting Officer makes a determination to award a contract notwithstanding a protest as authorized by 41 CFR 1–2.407–8(b)(4), the Head of the Procuring Activity shall approve such a determination prior to award. The appropriate official mentioned above shall notify the Office of General Counsel of intent to make award. Pursuant to 41 CFR 1–2.407–8(b)(3), the Office of General Counsel shall notify the GAO of such proposed action. Parties interested in protesting directly to GAO, shall do so in accordance with the General Accounting Office Regulations 4 CFR Part 20.

(2) *Responsibility.* The Office of General Counsel has the responsibility for handling matters relating to protests against award of contracts within the Department of Housing and Urban Development and for liaison with the GAO. All communications concerning a protest written or otherwise directed to GAO shall be coordinated with the Office of General Counsel. All written communications from the Department to GAO shall be by the Office of General Counsel. The Contracting Officer has the responsibility for furnishing the Office of General Counsel with all information relating to the protest.

(3) *Times for filing.* The times for filing are as follows:

(i) Protests based on alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for the receipt of proposals shall be filed prior to the dates established in paragraph (a)(1) of this section. In other cases, protests shall be filed to be received in the Department of HUD or GAO not later than five (5) working days after the basis for protest is known or should have been known, whichever is earlier. Where such protest has been filed initially with the HUD's procuring activity any subsequent protest to the GAO must be delivered to the GAO within five (5) working days after notification of adverse action by HUD's procuring activity. GAO will consider the protest only if the initial protest was timely filed with the procuring activity.

(ii) Any additional statements by the protester in support of the protest to the GAO shall be mailed or otherwise furnished to the GAO, and two (2) copies sent to the procuring activity, no later than five (5) working days after filing of the initial protest.

(4) *Notice of protest and submission of report.*

(i) Upon being advised by GAO of the receipt of a protest, the Office of General Counsel will inform the procuring activity immediately. The Contracting Officer shall promptly notify in writing the Contractor or all bidders or offerors who, in the opinion of the Contracting Officer, appear to have a reasonable prospect of receiving an award if the protest is denied. Upon receipt by the Department of a written request for a formal report from the GAO relating to a protest, the Office of General Counsel shall make the complete formal report, or a written statement setting forth the reasons for any delay and the expected date of submission to GAO within twenty-five (25) working days, unless a different time is stipulated by GAO, after receipt of the GAO request. Except to the extent that withholding of information is permitted or required by law or regulations, copies of the protest and any supplemental information later filed by the protester may be furnished to the parties previously notified of the protest. These parties shall be advised to communicate directly with GAO if they desire to comment on the protest.

(ii) The report shall include the documents and statements required by 41 CFR 1–2.407–8(a)(2), identify the GAO file number assigned to the protest and shall be concurred in by the Contracting Officer. If appropriate, the report shall state the urgency of the procurement and the extent to which a delay in award may result in significant performance difficulties or additional expense to the Government. Where the statement of urgency is not appropriate, the report shall state the length of time an award may be delayed without significant expense or difficulty in performance. The report shall be transmitted by a covering letter addressed to the individual in GAO who signed the request and shall state that copies thereof have been sent to the protestant and any other named parties who have been given notice of the protest. The external distribution shall be shown on the original of the letter to GAO. In addition, letters shall be sent to the protestant and other interested parties enclosing a copy of the completed report and shall advise recipients that any comments shall be filed with the Office of General Counsel, General Accounting Office within ten (10) working days after receipt with copies to the procuring activity and Office of General Counsel, Department of HUD.

(iii) If GAO requests additional information, a supplementary report shall be transmitted to GAO within five (5) working days after the Department receives the request and shall follow the procedures set forth in 24 CFR 2.407–8(a)(4).

(b) *Protest after award.* Protests initially received after contract award are subject to the procedure in this 24 CFR 2.407–8 and 41 CFR 1–2.407–8(c).

(c) *Responsibility for data.* The Office of General Counsel shall maintain records relating to all protests received. The records shall contain adequate data to show the number and nature of formal protests received (whether filed directly with the Department or with GAO), their disposition and the time for resolution. These records will be reviewed annually in order to update protest procedures.

§ 24–2.407–50 Award when only one bid is received.

When only one bid is received in response to an invitation for bids, such bid may be considered and accepted if the Contracting Officer makes a written determination that (a) The specifications were clear and not unduly restrictive, (b) Adequate competition was solicited and it could have been reasonably assumed that more than one bid would have been submitted, (c) The price is reasonable, and (d) The bid is otherwise in accordance with the invitation for bids. Such a determination shall be placed in the file.

§ 24–2.408 Information to bidders.

On all procurements in excess of $5,000, except for the conditions stipulated in 41 CFR 1–2.408(a)(1)&(2), the unsuccessful bidders shall be given a notification of rejection by one of the methods set forth in 41 CFR 1–2.408(b).

PART 24–3—PROCUREMENT BY NEGOTIATION

Subpart 24–3.101—Exceptions to Normal Negotiation Procedures

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Subpart 24–3.51—Protests Against Award

24–3.5101 Negotiated procurement protests.

tests.

AUTHORITY: Sec. 7(d), Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 24–3.101—Exceptions to Normal Negotiation Procedures

§ 24–3.101–50 Noncompetitive procurements.

(a) *General:* All departmental procurement shall be accomplished on a competitive basis to the maximum practical extent. Procurement without competition shall be limited to those circumstances where only one firm, organization or individual can provide the required supplies or services within the time required and at a reasonable price. Program offices recommending procurement on a noncompetitive basis shall submit a detailed summary of the factual circumstances supporting sole source procurement to the Contracting Officer. The Contracting Officer shall review the summary in accordance with the criteria outlined in paragraph (c) of this section. If, in the judgment of the Contracting Officer, the noncompetitive procurement is adequately supported, he shall prepare a document entitled "Justification for Noncompetitive Procurement." The document shall comply in all respects with the requirements of paragraph (c) of this section and be signed and inserted in the procurement file by the Contracting Officer.

(b) *Exclusions:* The provisions of this § 3.101–50 do not apply to: (1) Procurements of architect-engineer services; (2) Procurement of utility services where the services are available from only one source; (3) 8(a) procurements with the Small Business Administration; or (4) Purchases from mandatory Federal Supply Schedule contracts which list only one source.

(c) *Justification for noncompetitive procurement.* The document entitled "Justification for Noncompetitive Procurement" shall completely discuss the circumstances which render competitive negotiation impractical or not feasible and identify the exclusive capabilities which the proposed contractor possesses and which meet the requirements of the procurement.

(1) Factors which shall be considered in preparing the "Justification" include, but are not limited to, the following:

(i) The unique capability, highly specialized experience or facilities the proposed contractor possesses which is essential to provide the required supplies or services.

(ii) If time is of the essence, the experience, capabilities, or facilities the proposed contractor possesses which would enable him to complete the requirement within the time frame while all others would fail.

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(iii) Whether the proposed contractor is the only one which can fulfill a requirement that the desired item be compatible with existing equipment or systems.

(iv) Whether the proposed contractor has a substantial investment of some nature which would have to be duplicated at excessive Government expense by another source entering the field.

(2) The Contracting Officer shall make the final determination as to the adequacy of the proposed sole source based upon consideration of all appropriate factors including any or all of those listed in § 24–3.101–50(c)(1).

§ 24–3.101–51 Unsolicited proposals.

(a) *Definition.* An unsolicited proposal is a written offer to perform work which is made to the Department by a prospective contractor without prior formal or informal solicitation. Such proposals are considered to be a means whereby sources outside the Government may propose pertinent and creative activities to the Department.

(b) *Policy.* It is the policy of the Department to accept the submission of unsolicited proposals.

(c) *Submission.* All unsolicited proposals for research shall be submitted in an original and five (5) copies to the Assistant Secretary for Policy Development and Research, Office of Program Planning and Administration, 451—7th Street, S.W., Washington, D.C. 20410. Unsolicited proposals for other than research shall be submitted in an original and five (5) copies to the Director, Office of Procurement and Contracts, 451—7th Street, S.W., Washington, D.C. 20410. Each proposal should contain a cover page with a one paragraph abstract and a statement as to where else in HUD or any other Federal Government agency the proposal has been sent. If the proposal contains technical data which the offeror wishes to restrict for evaluation purposes only, he shall mark the title page of the proposal with a legend stating substantially the following:

"Technical data contained in pages of this proposal shall not be used or disclosed, except for evaluation purposes, provided that if a contract or grant is awarded to this offeror as a result of or in connection with the submission of this proposal, the Government shall have the right to use or disclose this technical data to the extent provided in the contract or grant. This restriction does not limit the Government's right to use or disclose any data obtained from another source without restrictions."

The unsolicited proposal must include the following minimum information:

(1) A statement of the problem the proposal addresses including the need for the research.

(2) A brief outline of the work to be done in carrying out the project including a statement of objectives.

(3) An explanation of why, in terms of the proposed products, it is both important and urgent that the problem be addressed.

(4) A description of the approach selected and rationale for selection over other possible approaches.

(5) A brief itemization of relevant work known to have been undertaken in this area; either in process or completed, including references to any existing experience and data that could be used.

(6) A description of how the program results are anticipated to be translated into practice in terms of (i) The organization(s) involved and/or responsible and (ii) The steps remaining between program completion and implementation.

(7) The proposed starting and completion date and significant milestone dates.

(8) A proposed budget, including separate cost estimates for labor, materials, overhead, travel, subcontracts and other direct or indirect costs as appropriate.

(9) A commitment to provide cost-sharing and a statement as to the share to be borne by the contractor.

(10) Background descriptions of the persons expected to assume professional and administrative responsibility respectively for the project throughout its duration. Identification, to the extent possible, of the principal persons who would supervise and perform the project work; and explanation of how their experience and competence are related to the proposed activities.

(11) Current financial statement (certified through independent audit).

(12) Signature of a responsible official authorized to obligate the organization; and the time limit of the offer.

(d) *Evaluation.* The appropriate office designated in § 24–3.101–51(c) shall acknowledge receipt of the proposal and forward all but one (1) Copy to the appropriate program office for evaluation. If the offeror did not mark the proposal with the legend specified in paragraph (b) of this section, the appropriate receiving office shall place a cover sheet on the proposal and mark it as shown below, unless the offeror gives a clear written indication that he does not wish to impose any restrictions on the disclosure or use of the data contained in the proposal.

All Government personnel handling this proposal shall exercise extreme care to insure that the information contained herein is not disclosed outside the Government and is not duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the proposal, without the written permission of the offeror. However, if a contract is awarded on the basis of this proposal, the terms of the contract shall control disclosure and use.

The appropriate program office shall conduct a thorough evaluation of the unsolicited proposal and furnish its comments and recommendations to the appropriate office designated in paragraph (c) of this section.

(e) *Procurement procedure.* The modes of procurement are identified as follows:

(1) *Competitive procurement.* A favorable technical evaluation of an unsolicited proposal is not, in itself, sufficient justification for negotiations on a noncompetitive basis with the offeror. If the substance of the proposal is available without restriction from another source, or its substance closely resembles that of a pending competitive solicitation or otherwise is not sufficiently unique to justify acceptance, HUD's policy of obtaining competition applies. When procurement is intended and competition is feasible, the unsolicited proposal shall be rejected by a letter from the appropriate office specified in § 24–3.101–51(c). A copy of such letter and associated unsolicited proposal shall be retained in the files of the appropriate receiving office. All other copies of the proposal shall be returned to the Contractor.

(2) *Noncompetitive procurement.* When an unsolicited proposal has received a favorable technical evaluation and it is determined that the substance thereof is not available to HUD without restriction from another source, contains an original concept or idea, or competition is otherwise precluded, the subject matter of such unsolicited proposal may be procured from the offeror on a noncompetitive basis. The program office sponsoring the procurement shall support its recommendation with a summary of the circumstances warranting procurement on a noncompetitive basis. If, in the judgment of the Office of Procurement and Contracts, acceptance of the unsolicited proposal is adequately supported, the appropriate Contracting Officer shall prepare a document entitled: "Justification for Acceptance of an Unsolicited Proposal." The "Justification" shall include the findings set forth in paragraphs (e)(2)(i) or (ii) of this section.

(i) The procurement is for basic scientific or engineering research; and the unsolicited proposal was selected on the basis of its overall merit, cost and contribution to HUD's program objective, after a thorough evaluation and comparison with other proposals, solicited or unsolicited, in the same or related fields; or

(ii) The procurement is for services other than basic research (e.g., development, feasibility studies, etc.); the unsolicited proposal contains technical data or offers unique capabilities that are not available from another source or contains an original concept or idea; and it is not feasible or practical to define the Government's requirement in such a way as to avoid the necessity of using the technical data contained in the unsolicited proposal.

In addition, the "Justification" shall include the facts and circumstances that support the recommendation and operate to preclude competitive procurement. The "Justification" shall be signed by the Contracting Officer and inserted in the procurement file.

(f) An unsolicited proposal shall be returned to the offeror if, for any reason, the Government decides not to enter into a contract based on such proposal with the offeror. Return of the proposal shall be done in the same manner provided for return set forth in paragraph (e) of this section.

(g) Program offices receiving unsolicited proposals directly from offerors shall forward them to the appropriate office designated in paragraph (c) of this section for initial processing.

Subpart 24–3.103—Dissemination of Procurement Information

§ 24–3.103–1 Publicizing procurement actions.

The Department shall continually search for and develop information on sources (including minority and small business concerns) competent to provide supplies or services. Advance publicity, including use of the Commerce Business Daily to the fullest extent practicable, shall be given for this purpose. The search should include (a) a review of relevant data or brochures furnished by sources seeking to do business with the Department and (b) a cooperative effort by program personnel, small business specialists, and contracting officers to obtain information and recommendations with respect to potential sources and to consider the desirability of seeking other sources by publication of proposed procurements, in addition to the synopsis requirement. It is the responsibility of each procuring activity to use to the maximum extent practical its bidders' mailing list for soliciting competition. Applications for inclusion on the bidders mailing list may be obtained from the appropriate procurement activity identified in HUDPR 24–1.451.

§ 24–3.103–2 Release of information during the solicitation phase.

No information shall be released during the solicitation phase of a procurement unless through the following methods:

(a) Each solicitation for a negotiated procurement shall specify an individual within the procuring activity who shall be responsible for responding to inquiries concerning the solicitation and evaluation of proposals resulting from the solicitation. All questions concerning the solicitation, whether of a procedural or substantive nature, shall be directed to the above individual. All other personnel will avoid exchange of comments with all offerors or potential offerors. Answers to questions requiring clarification of the substantive portion of the solicitation shall be provided by amendment to the solicitation, a copy of which shall be furnished to each recipient of the solicitation.

(b) Each procuring activity shall, in accordance with 41 CFR 1–1.1003–4, publish in the Commerce Business Daily the names and addresses of firms to whom solicitations will be issued when substantial subcontracting opportunities exist and it is not contrary to the Government's interest to publish them. The furnishing of this information in any other manner shall be at the discretion of the Contracting Officer.

§ 24–3.103–3 Release of information during the evaluation phase.

No information shall be released during the evaluation phase of a procurement unless through the following methods:

(a) During the course of evaluating proposals, personnel involved in this activity shall not reveal any information concerning the evaluation of proposals to anyone who is not also participating in the same evaluation proceedings, except as may be required for internal clearances.

(b) *Preaward notice of unacceptable offers.* In any procurement in which it appears that the period of evaluation of proposals is likely to exceed sixty (60) days, the Contracting Officer, upon determination that a proposal is unacceptable, shall provide prompt notice of the fact to the offeror submitting the proposal. In addition to stating that the proposal has been determined to be unacceptable, the notice to the offeror shall indicate, in general terms, the basis for such determination and shall advise that, since further negotiation with him concerning this procurement is not contemplated, a revision of his proposal will not be considered. Such notice need not be given if (1) In the judgment of the Contracting Officer, the disclosure will prejudice the Government's interest; (the possibility of protest shall not be considered prejudicial) or (2) if the proposed contract is to be awarded within a few days and notice pursuant to 41 CFR 1–3.103 would suffice.

(c) *Preaward notice—small business set-asides.* In any procurement involving a small business set-aside to be placed through conventional negotiation, upon final completion of negotiations and determinations of responsibility but prior to award, the Contracting Officer shall inform each unsuccessful offeror by written notice of the name and location of the apparently successful offeror(s). Each apparently unsuccessful offeror should be advised that any subsequent revisions of his proposal will not be considered, since no further negotiations are contemplated, and further pre-award contact with the Contracting Officer shall not be made with regard to the instant procurement unless the unsuccessful offeror has grounds to challenge the small business size status of the apparently successful offeror(s). This notification procedure shall not apply to procurements negotiated pursuant to 41 USC 252(c)(4), (5) or (6); negotiated with a foreign supplier when only foreign sources or supplies or services have been solicited; or urgent procurement actions which the Contracting Officer determines in writing must be awarded without delay to protect the public interest. The Contracting Officer's determination shall be placed in the contract file.

§ 24–3.103–4 Postaward release of procurement information.

Promptly after making award of any procurement in excess of $10,000, the Contracting Officer shall, if he has not done so pursuant to § 24–3.103–3(c) of this Chapter, give written notice to the unsuccessful offerors that their proposals were not accepted. The notice should name the successful contractor and state the amount of the award and the number of proposals received. Where additional information is requested by the offeror, debriefing will be conducted as follows:

(a) It is the policy of the Department to provide a debriefing to any unsuccessful offeror who makes a written request to the Contracting Officer within two (2) months after contract award.

(b) A debriefing is intended to:

(1) Tell an unsuccessful offeror which areas of his proposal were judged to be weak and deficient and whether the weaknesses or deficiencies were factors in his not having been selected.

(2) Identify the factors which were the basis for selection of the successful contractor. If the quality of the successful offeror's proposal to satisfy the mission requirement was the basis, the unsuccessful offeror should be so informed and given a general comparison of significant areas, but not a point by point comparison of all the elements considered in the evaluation criteria.

(c) A debriefing should not reveal:

(1) Confidential business information, trade secrets, techniques, or processes of the other offerors; and

(2) The relative merits or technical standing of the unsuccessful offerors or the scoring by the Source Evaluation Board or Technical Evaluation Panel.

(d) Any HUD official who receives from an unsuccessful offeror a request, written or oral, for a debriefing shall immediately refer the request to the appropriate procuring activity which shall make the necessary arrangements for the debriefing.

(e) It is essential that the debriefing be conducted in a scrupulously fair, objective and impartial manner, and that the information given be factual and consistent with the findings of the evaluation and the basis on which the source selection official made his decision.

(f) It is most important that all HUD personnel engaged in the evaluation and selection process be aware of the foregoing policies and procedures. Detailed and complete records will be maintained by key technical and business participants in a manner which will facilitate either a written or oral debriefing of any unsuccessful offeror's proposal.

§ 24–3.106 Preproposal conferences.

In cases of complex procurement, preproposal conferences may be used to explain complicated specifications and requirements to prospective offerors so as to permit them to submit proposals without undue expenditure of effort, time and money. The preproposal conference shall not be used as a method for prequalification of offerors, and may only be used when approved by the head of the procuring activity. The preproposal conference shall be arranged and conducted by the Contracting Officer or his representative, with participation by technical and legal personnel as appropriate. All prospective offerors shall be furnished identical information in connection with the proposed procurement. Remarks and explanations at the conference shall not qualify the terms of the solicitation and specifications. All conferees shall be advised that unless the solicitation is amended in writing it will remain unchanged and that if an amendment is issued, normal procedures relating to the acknowledgment and receipt of solicitation amendments shall be applied. A

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complete record shall be made of the conference.

Subpart 24–3.150—Treatment of Proposal Information

§ 24–3.150–1 General.

It is the general policy of HUD to use information contained in proposals only for evaluation purposes except to the extent such information is generally available to the public, is already the property of the Government or the Government already has unrestricted use rights, or it is or has been made available to the Government from other sources, including the offeror, without restriction.

§ 24–3.150–2 Disposition of unsuccessful proposals.

Unsuccessful proposals shall be disposed of as follows:

(a) *By the procuring activity.* Unsuccessful cost and technical proposals shall be retained in the procuring activity for a period of two (2) months subsequent to contract award as reference material for debriefings in accordance with HUDPR 24–3.103. Upon expiration of the two (2) month period, the procurement office shall destroy each unsuccessful proposal unless (1) a debriefing has been requested but not held or (2) a protest is pending concerning the procurement.

(b) *By the program office.* Unsuccessful proposals shall be retained on file in the program office which conducted the technical evaluation for a period of two (2) months subsequent to contract award. Upon expiration of the two (2) month period, the program office shall return all copies of each unsuccessful proposal not required for Departmental use to the procuring activity for destruction.

(c) Unsuccessful proposals shall not be used for other than internal reference unless (1) Written permission has been obtained from the offeror or (2) The proposal expressly states that unrestricted use of the proposal is given to the Government regardless of its success in the competition or (3) Any of the conditions described in HUDPR 24–3.150–1 exist.

§ 24–3.150–3 Use of successful proposals.

Successful proposals will be accorded unrestricted use by the Government unless the offeror places restrictions on the use of the proposal and the proposal is not incorporated in the resulting contract.

Subpart 24–3.4—Type of Contracts

§ 24–3.405–3 Cost-sharing contract.

(a) *Purpose.* This section implements Federal Management Circular No. 73–3 with repsect to HUD contracts and sets forth basic guidelines governing cost sharing on research contracts with non-Federal organizations.

(b) *Basic guidelines.* (1) Cost sharing with non-Federal organizations shall be required or encouraged as provided below for the following contracts for basic or applied research:

(i) **Cost-sharing shall be required for any contract which results from an unsolicited proposal.**

(ii) **A contract which does not result from an unsolicited proposal but in which the parties have nevertheless considerable mutual interest in the research (e.g., when it is probable that the performing organization or institution will receive significant future benefits from the research such as: increased technical knowledge useful in future operations; additional technical or scientific expertise or training for its personnel; opportunity to benefit through patent rights; and the use of background knowledge in future production contracts).**

(2) Cost sharing ordinarily shall not be applied to the following contracts:

(i) When the Contracting Officer has determined that:

(a) The research effort has only minor relevance to the non-Federal activities of the performing organization, which is proposing to undertake the research primarily as a service to the Government; or

(b) The performing organization has little or no non-Federal sources of funds from which to make a cost contribution; or

(c) The performing organization is predominately engaged in research and development and has little or no production or other service activities and is, therefore, not in a favorable position to make a cost contribution; or

(d) Payment of the full cost of the project is necessary in order to obtain the services of the particular organization.

(ii) The Contracting Officer shall include the substance of his determination in the negotiation summary. Contracts, except when cost-sharing is specifically directed by the Director, Office of Procurement and Contracts or voluntarily offered by the performing organization, for projects:

(a) Where a particular research objective or scope of effort is specified by HUD rather than proposed by the performing organization. This will usually include any formal solicitation for a specific contractual requirement.

(b) The principal purpose of which is the production of, or design, testing or improving of products, materials, devices, systems or methods.

(3) Guidelines for determining the amount of cost sharing:

(i) For educational institutions and other not-for-profit or non-profit organizations, cost sharing normally may vary from 1 percent to as much as 50 percent of the costs of the project. In some cases it may be appropriate for educational institutions to provide a higher degree of cost sharing, such as when the cost of the research consists primarily of the academic year salary of faculty members, or when the equipment acquired by the institution for the project will be of significant value to the institution in its educational activities.

(ii) The amount of cost participation by commercial or industrial organizations may vary from as little as 1 percent or less of the total project cost to more than 50 percent of total project cost, depending upon the extent to which the research effort is likely to enhance the performing organization's capability, expertise or competitive position and the value of such enhancement to the performing organization. It should be recognized that those organizations which are predominately engaged in research and development and have little or no production or other service activities may not be in a favorable position to derive a monetary benefit from the research under Federal agreements.

(iii) A fee or profit will usually not be paid to the performing organization if the organization is to contribute to the cost of the research effort, but the amount of cost sharing may be reduced to reflect the fact that the organization is foregoing its normal fee or profit on the research. However, if the research is expected to be of only minor value to the performing organization and if cost sharing is not required by statute, it may be appropriate for the performer to make a contribution in the form of a reduced fee or profit, rather than sharing the costs of the project.

(iv) Each cost-sharing contract negotiated by the Department shall contain the clause included in HUDPR 24–7.5011.

§ 24–3.408 Letter contract.

A letter contract is a written preliminary contractual instrument which authorizes immediate commencement of performance. Where this action is determined to be necessary, the following will be observed:

(a) *Application.* A letter contract may be entered into when (1) The interests of the Department demand that the contractor be given a binding commitment so that work can commence immediately, and (2) Negotiation of a definitive contract in sufficient time to meet the procurement need is not possible as, for example, when the nature of the work involved prevents the timely preparation of definitive requirements, specifications, or cost data.

(b) *Limitations.* (1) A letter contract shall be used only after a written determination is made by the head of the procuring activity that the factors described in paragraph (a) of this section exist and that no other type of contract is suitable.

(2) A letter contract shall not be entered into without competition when competition is practicable. Where a letter contract award is based on price competition, an overall price ceiling representing the maximum amount of the definitized contract shall be included in the letter contract.

(3) A letter contract shall be superseded by a definitive contract at the earliest practicable date, but in no event beyond 90 calendar days after the date of the letter contract, unless the head of the procuring activity authorizes extension of the date for definitization.

(4) The maximum liability of the Government stated in the letter contract shall be limited to an amount determined

to be essential to cover the contractor's requirements for funds up to the time the contract is definitized, but in no event shall exceed 50 percent of the estimated cost of the definitive contract.

(c) *Content.* Letter contracts shall be specifically negotiated and, as a minimum, shall include agreement as to the following:

(1) The immediate commencement of performance of the contract by the contractor, including procurement of necessary materials;

(2) The extent and method of payments in the event of termination either for the convenience of the Government or for default;

(3) That the contractor is not authorized to expend monies or incur obligations in excess of the maximum liability of the Government as stated in the letter contract;

(4) The type of definitive contract anticipated;

(5) As many definitive contract provisions as possible;

(6) The contractor's obligation to provide such price and cost information as may reasonably be required by the Contracting Officer; and

(7) The prompt entry into good faith negotiations by the contractor and the Government to reach agreement upon and execute a definitive contract.

Subpart 24–3.6—Small Purchases

§ 24–3.601 Non-construction contracts.

The Department may use small purchase procedures in non-construction contracts when the aggregate amount involved in any one transaction does not exceed $10,000. Procedures used shall be in accordance with 41 CFR Subpart 1–3.6.

Subpart 24–3.7—Negotiated Overhead Rates

§ 24–3.702 General.

(a) When a contractor performs work in the same period under several contracts for one or more procurement activities or agencies, it may be desirable and appropriate, when mutually agreed to by the Department and the contractor, to negotiate uniform overhead rates for application to all such contracts in order to: (1) Effect uniformity of approach, (2) Effect economy in administrative effort, and (3) Promote timely settlement of reimbursement claims.

(b) When the Contracting Officer determines that the above conditions exist, he shall include the negotiated overhead rate clause set forth in HUDPR 24–7.5008.

(c) If the prospective cost reimbursement contract is the only contract to be performed by the contractor for the Government during the same period or if the Contracting Officer determines that it is not appropriate to include the clause specified in HUDPR 24–3.702(b), determination of the reimbursable amount of the overhead under the contract shall be based upon final audit of the actual costs incurred during the period of performance and the clause set forth in HUDPR 24–7.5009 shall be included.

§ 24–3.707 Overhead ceilings.

When the Contracting Officer determines in accordance with 41 CFR 1–3.707 that it is appropriate to place an overhead ceiling in the contract, he shall include the clause set forth in HUDPR 24–7.5010.

Subpart 24–3.8—Price Negotiation Policy and Techniques

§ 24–3.801–2 Responsibility of contracting officer.

In the event a contractor insists on a price or demands a profit or fee which the Contracting Officer considers unreasonable and, if the Contracting Officer is unable to obtain a satisfactory solution after exhausting the courses of action set forth in 41 CFR 1–3.801–2(c), the matter shall be referred for resolution to the head of the procuring activity with a statement of facts and the Contracting Officer's recommendations.

§ 24–3.802 Preparation for negotiation.

(a) *Requests for proposals.* This section is not applicable to solicitations issued on Standard Form 33.

(1) Careful drafting of the Request for Proposals (RFP) is essential to the success of the competitive process. The program and procurement offices shall coordinate their efforts to develop a solicitation package which is free of ambiguities and which will allow all offerors to propose on an equal basis.

(2) The RFP shall require that a proposal be submitted in two parts: A "Technical Proposal" and a "Business Proposal." Each of the parts shall be separate and complete in itself so that evaluation of one may be accomplished independently of and concurrently with evaluation of the other. The RFP shall provide that the technical proposal shall not contain any reference to cost. Resource information, such as data concerning labor hours and categories, materials, subcontracts, travel, computer time, etc., shall be included in the technical proposal so that the offeror's understanding of the scope of work may be evaluated.

(3) The instructions to the offerors concerning the business proposal shall require cost information in sufficient detail to allow a complete cost analysis. Categories and amounts of labor, materials, travel, computer time, as well as information with regard to contractor past performance, financial capacity, certifications and representations, and other pertinent administrative and business information should also be requested.

(4) The RFP shall contain factors for award which are tailored to the requirements of the particular procurement. Each technical factor and subfactor shall be assigned a numerical weight which shall appear in the RFP. These factors will serve as the standard against which all proposals will be evaluated.

(b) *Selection of prospective sources.* Proposals shall be invited from a sufficient number of competent potential sources to insure adequate competition. Sources solicited should include those individuals and organizations (1) On the source list provided by the program office; (2) On the procurement office's bidders' mailing list; and (3) requesting RFPs as a result of publication of the requirement in the Commerce Business Daily. Each RFP shall be made available to all prospective offerors at the same time and no offeror shall be given the advantage of advance detailed information concerning the proposed procurement.

(c) *Proposal preparation time.* HUDPR 24–2.202–1 Bidding Time is applicable to negotiated procurement under this subpart.

§ 24–3.805 Selection of offerors for negotiation and award.

§ 24–3.805–1 Policy.

Those competitively negotiated procurements not expected to exceed $250,000 or those procurements over $250,000 which the head of the procuring activity approves for less formal negotiation procedures, shall be processed in accordance with HUDPR 24–3.805–2. All other competitively negotiated procurements expected to exceed $250,000 shall be processed in accordance with HUDPR 24–3.805–3. This section is not applicable to procurement of Architect-Engineer Services.

§ 24–3.805–2 Procurements not expected to exceed $250,000.

On procurements where the expected dollar amount will not exceed $250,000 the following will be observed:

(a) *Forwarding proposals.* After the deadline for receipt of offers, the Contracting Officer will forward five (5) copies of the technical portion of each proposal to the Technical Evaluation Panel (TEP) for evaluation. The TEP will be composed of one or more technical personnel designated by the program or initiating office prior to issuance of the solicitation. The business portions of each proposal will be retained by the Contracting Officer for subsequent evaluation. The Contracting Officer shall inform the TEP of proposals which contain major business deficiencies, including out-of-line cost proposals, which discussion with the offeror could not reasonably be expected to cure.

(b) *Evaluation.* The TEP will evaluate each proposal in strict conformity with the factors for award set forth in the RFP, and will assign each proposal a score on the basis of the factors for award. The TEP shall identify each proposal as being either acceptable or unacceptable. A proposal shall be considered unacceptable if it is so clearly deficient that it cannot be corrected through written or oral discussions. Predetermined cutoff scores designed for determining the threshold level of acceptability of proposals shall not be employed.

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(c) *Report.* A TEP report shall be prepared and signed by the technical evaluator(s), furnished to the Contracting Officer, and maintained as a permanent record in the official procurement file. The report shall reflect the scoring of each proposal and the rankings of the proposals, and shall identify each proposal as acceptable or unacceptable. The report shall also include a narrative evaluation specifying the strengths and weaknesses of each proposal, and any reservations or qualifications that may bear upon the selection of sources for negotiation and award. Specific technical reasons supporting a determination of unacceptability with regard to any proposal shall be included. Score sheets of all panel members shall be appended to the report.

(d) *Review of report.* After submission of the TEP report, the Contracting Officer and the TEP will evaluate the business portion of each proposal.

(e) *Competitive range.* Unless it is determined pursuant to 41 CFR 1–3.805–1 (a) (5) that award shall be made on the basis of the most favorable initial proposal, the Contracting Officer will determine which offers are within the competitive range. A determination of the limits of the competitive range requires a comparison of the evaluation of each proposal against the evaluations of other proposals and therefore cannot be predetermined on the basis of a given number of or percentage of proposals. The competitive range shall include all proposals which have a reasonable chance of being selected for award.

(f) *Conduct of discussions.* The Contracting Officer, with the Technical Evaluation Panel, will conduct written or oral discussions of the work to be performed, the cost/price of the work, and other relevant points, with all those offerors within the competitive range. Discussions are not required if the conditions of 41 CFR 1–3.805–1(a)(5) are applicable. The Contracting Officer shall point out to each offeror the ambiguities, uncertainties, and deficiencies, if any, in his proposal which can be corrected without major changes to the proposal. He shall give each offeror a reasonable opportunity (with a common cutoff date for all) to support, clarify, correct, improve, or revise his proposal. Discussions with an offeror should disclose deficiencies in the proposal but should not identify approaches or ideas through which another offeror has achieved a higher evaluation. No information will be revealed by the Government which could give one offeror an unfair competitive advantage over another. Cost estimates made by the Government will not be disclosed.

(g) *Extent of discussions.* Careful judgment will be exercised in determining the extent of discussions. In some cases, good business practice may require more than one round of discussions with proposers within the competitive range depending upon the time constraints, the expense, administrative limitations, and the overall significance of the procurement.

(h) *Selection of contractor.* (1) After the close of discussions and receipt of any revisions to proposals, the TEP shall perform a final evaluation and prepare its selection recommendation(s). The TEP shall then forward the recommendation(s) through the appropriate officials having a need to know, as designated by the Funding Assistant Secretary, to the Contracting Officer who shall select for final contract negotiation the offer containing the proposal which promises the greatest value to the Government in terms of cost or price, technical and other factors, including equal opportunity compliance.

(2) Cost and price shall be considered in the selection of a contractor. This is particularly true where more than one acceptable offer from technically qualified sources remains for consideration after conduct of negotiations. If a lower priced, lower scored offer meets the Government's needs, acceptance of a higher priced, higher scored offer shall be supported by a specific determination by the Contracting Officer that the technical superiority of the higher priced offer warrants the additional cost involved in the award of a contract to that offeror. Offers exceeding the Government's needs are not a basis for technical superiority.

(i) *Final negotiation and award.* Under a negotiated procurement, selection of the source or sources marks only the first phase of negotiating a definitive contract. Final contract negotiation entails: (1) Reaching agreement with the selected source on the costing/pricing, technical, equal opportunity and other provisions that will condition his performance under the contract; (2) Setting forth these terms in a mutually acceptable contractual document; and (3) Having sound rationale and basis for results negotiated.

(1) *Pre-negotiation conference.* Prior to negotiations with the selected offeror, the Contracting Officer shall conduct a meeting with those members of the Government's team who will participate. The purpose of this meeting is to present the objectives to be sought and to establish negotiating positions.

(2) *Negotiation and award.* The Contracting Officer will make arrangements for negotiations with the successful offeror. Negotiations may be held at the contractor's site, at a HUD facility, or by telephone, depending upon the complexity and magnitude of the proposed contract, economic and time considerations and past experience. The Contracting Officer in coordination with assisted and supported by technical, audit, and other personnel as needed, making up the Government's negotiation team. It is the responsibility of the Contracting Officer in coordination with the Office of General Counsel to ensure the integrity of the negotiation process and to see to it that suitable mutual understandings between the parties have been reached. After negotiation is completed, the Contracting Officer will effect appropriate coordinations and execute the contract with a negotiation memorandum prepared in conformance with 41 CFR 1–3.811 and Office requirements.

§ 24–3.805–3 Procurements expected to exceed $250,000.

On those procurements where the expected dollar amount will exceed $250,000 the following will apply:

(a) Selection of the source or sources for final contract negotiations shall be made by the Contracting Officer, pursuant to his responsibilities under HUDPR 24–1.453, based upon the findings and recommendations of the Source Selection Official (SSO) who is the head of the funding office or his designee. To assist the SSO in evaluating proposals and making recommendations for selection, the SSO shall designate a Source Evaluation Board (SEB) composed of a chairman, voting members, and advisors.

(b) After the deadline for receipt of offers, the Contracting Officer will forward five (5) copies of the technical portion of each proposal to the SEB chairman or his designee, who shall be responsible for their custody throughout the evaluation process. The business portions of each proposal will be retained by the Contracting Officer pending initial technical evaluation by the SEB. The Contracting Officer shall inform the SEB of proposals which contain major business deficiencies, including out of line cost proposals, which discussion with the offeror could not reasonably be expected to cure.

(c) The SEB will evaluate each proposal in strict conformance with the factors for award of the RFP, and will assign each proposal a score on the basis of the factors for award. The SEB shall identify each proposal as being either acceptable or unacceptable. A proposal should be considered unacceptable if its deficiencies cannot be corrected through written and oral discussions to the point of having a reasonable chance of being selected for award. Predetermined cutoff scores designed for determining the threshold level of acceptability of proposals shall not be employed.

(d) After the initial technical evaluation, the Contracting Officer and the SEB will evaluate the business portion of each proposal.

(e) Unless the SEB is prepared to recommend pursuant to 41 CFR 1–3.805–1 (a) (5) that award be made on basis of the most favorable initial proposal, the SEB shall establish a competitive range based upon the evaluation of all the factors for award including cost or price.

(f) The SEB shall conduct written or oral discussions with all proposers within the competitive range as outlined in HUDPR 24–3.805–2(f).

(g) After the close of discussions, receipt of any revisions to proposals and any final adjustments to proposal scores, the SEB shall prepare a written report of its findings and recommendations and submit it to the SSO for action. The report shall summarize all significant SEB actions in the solicitation and evaluation phases and include;

(1) *Statement of findings.* Each acceptable proposal shall be discussed in descending order of scores/rankings. The statement shall identify the strengths and weaknesses of each proposal and any appropriate information for the consideration of the SSO.

(2) *Recommendations.* The SEB shall provide recommendations to the SSO as to selection in terms of: (i) A single source; (ii) A number of equal sources; (iii) A number of sources in descending order; or (iv) Options to be considered in arriving at the final decision. In making its recommendation the SEB shall consider the requirements set forth in HUDPR 24–3.805–2(h).

(h) Based upon the SEB report and his review of the matter, the SSO will recommend a source or sources and document the basis for his recommendation. The SSO will communicate his findings and recommendation in a memorandum to the Contracting Officer. The memorandum will request the Contracting Officer to negotiate with the recommended source(s), and may include specific instructions and an alternate source or sources in the event the conduct of final negotiations so warrant.

(i) After receipt of the SSO's recommendation, the Contracting Officer shall select a source, based upon the findings and recommendations of the SSO for final negotiations in accordance with HUDPR 24–3.805(2)(h). Final negotiations and award will be effected in accordance with HUDPR 24–3.805–2(i).

Subpart 24–3.51—Protests Against Award

§ 24–3.5101 Negotiated procurement protests.

Protests against awards of negotiated procurement shall be processed in accordance with HUDPR 24–2.407–8.

PART 24–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 24–4.1—Automatic Data Processing Equipment and Services

Sec.
24–4.101 Clearance procedures.

Subpart 24–4.10—Architect-Engineer Services

24–4.1000 Scope of subpart.
24–4.1004–1 Establishment of architect-engineer evaluation boards.
24–4.1004–2 Conflict of interest.
24–4.1004–3 Privity of information.
24–4.1004–4 Maintenance and furnishing of source lists.
24–4.1004–5 Selection policy.
24–4.1005–6 Selection procedures.

AUTHORITY: Sec. 7(d), Dept. of HUD Act, (42 U.S.C. 3535(d)).

Subpart 24–4.1—Automatic Data Processing Equipment and Services

§ 24–4.101 Clearance procedures.

No IFB, RFP, RFQ or amendment to an existing contract, when related in whole or in part to the procurement of ADP equipment or services, shall be issued until GSA approval is obtained pursuant to the FPMR.

Subpart 24–4.10—Architect-Engineer Services

§ 24–4.1000 Scope of subpart.

This subpart sets forth the policy and procedures to be followed for the establishment of architect-engineer evaluation boards and sets forth policy and procedures for the deliberations of the Board.

§ 24–4.1004–1 Establishment of Architect-Engineer evaluation boards.

Each architect-engineer evaluation board, whether permanent or ad hoc, shall consist of at least five (5) voting members who are Federal employees from the appropriate program area or from Federal offices outside the program area as appropriate. One member of each board shall be appointed Chairman. Five (5) alternate members who are Federal employees shall also be appointed, but at any given time the majority of voting members shall be from the program area concerned. The members of a permanent board shall be appointed for a period of two (2) years. Appointment shall be made by the following authorities with copies of appointment memoranda furnished to the appropriate procuring activity:

(a) Primary Organizational Heads for Boards appointed at the Headquarters level;

(b) Head of the Procuring Activity for Boards appointed at the Field Office level.

§ 24–4.1004–2 Conflict of interest.

Each board member, whether voting or nonvoting, shall familiarize himself with those provisions of Title 24, Housing and Housing Credit, Subtitle A, Part O, of the Code of Federal Regulations regarding conflicts of interest. If at any time during the selection process a Board member encounters a situation with one or more of the firms being considered that might be or might appear to be a conflict of interest, he will disqualify himself and call it to the attention of the Chairman for resolution and proper action. The Chairman will refer the matter to the Office of General Counsel.

§ 24–4.1004–3 Privity of information.

The Evaluation Board is to be insulated from outside pressures to the extent practical. No person having knowledge of the activities of the Board shall divulge information concerning the deliberations of the Board to any other persons not having a need to know such information.

§ 24–4.1004–4 Maintenance and furnishing of source lists.

The appropriate office utilizing architect-engineer services shall maintain a source list consisting of the current "U.S. Government Architect-Engineer Questionnaire," Standard Form 254 (SF–254), submitted by firms as defined in 41 CFR 1–4.1002 interested in performing work in the program area. For each procurement or group of related procurements the Board shall prepare from its source list a preselection list of ten (10) firms considered likely to be capable of meeting the requirements of the procurement. Every SF–254 shall be read and evaluated by at least two (2) Board members to determine which of the firms on the source list should be included on the preselection list. When a list of ten (10) firms is not available, fewer firms may be considered. SF–254's may be obtained from the General Services Administration.

§ 24–4.1004–5 Selection policy.

The selection of architect-engineering firms for professional service contracts shall be accomplished in accordance with the procedures set forth in this section. Such selection shall be based upon competitive evaluation procedures to determine which firm(s) is/are the most qualified. Qualification considerations include but are not limited to:

(a) Demonstrated specialized experience of the firm and key personnel in the area of expertise needed for the procurement.

(b) Capability and capacity of the firm to accomplish the work in the required period of time.

(c) Past experience of the firm with respect to performance of Federal contracts.

(d) Geographical location of the firm having working offices, capacity, and personnel to respond to the requirements of the procurement if geographical location is an important factor to the procurement.

§ 24–4.1005–6 Selection procedures.

The following procedures shall be used in the selection of architect-engineering firms for all engineering contracts:

(a) For each requirement or group of requirements intended to result in a single contract, the Board shall review the qualifications and performance data for each of the firms on the preselection list, in accordance with the selection policy, including input from the program staff and shall select a minimum of three firms determined to have the highest qualifications. The procuring activity shall then mail letters of inquiry to those highest qualified firms regarding capability to perform the work, anticipated concepts, and the relative utility of alternate methods of approach.

(b) The replies to these letters shall be evaluated by the Board with each response being evaluated by at least three Board members. The SF–254's from the responding firms may also be reevaluated as necessary by three or more Board members. The firms queried will be reranked as necessary in accordance with the Board's evaluation.

(c) After the reranking, a Request for Contract Services shall be forwarded to the procuring activity. The authorities identified in HUDPR 24–4.1004–1 or his designee shall be the Source Selection Official. The SSO shall indicate the order of qualification, including capability, of the selected firms.

(d) The procuring activity shall send a Request for Proposal to the firm ranked highest on the list and if the proposal is acceptable shall initiate negotiations with that firm. If such negotiations are unsuccessful, contract negotiations shall then be commenced with the second most qualified firm. Failing accord with the second firm, contract negotiations shall be commenced with the third firm.

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(e) All selection and negotiation proceedings shall be documented. All screening and evaluation sheets and meeting records are a part of the official record of the Board.

PART 24–7—CONTRACT CLAUSES

Sec.
24–7.000 Scope of part.

Subpart 24–7.5—Special Clauses

24–7.5007 Letter of credit.
24–7.5008 Negotiated overhead rates.
24–7.5009 Indirect costs (actual).
24–7.5010 Indirect costs (ceiling).
24–7.5011 Consideration and payment (cost-sharing).
24–7.5012 Reproduction of reports.
24–7.5013 Warranty.
24–7.5014 Coordination of Federal reporting requirements.
24–7.5015 U.S.-flag vessel provision.
24–7.5016 Lead based paint proscription.

AUTHORITY: Sec. 7(d), Housing and Urban Development Act, (42 U.S.C. 3535(d)).

§ 24–7.000 Scope of part.

This part sets forth special contract clauses which are in addition to clauses set forth in 41 CFR Part 1–7 for use in connection with the procurement of personal property and nonpersonal services (including construction).

Subpart 24–7.5—Special Clauses

§ 24–7.5007 Letter of credit.

When advance payments are authorized and a letter of credit is to be used, insert the following clause:

LETTER OF CREDIT

a. The advance funds will be provided in accordance with the letter of credit procedure set forth in HUD Handbook 1900.4B or Handbook 1900.23 as appropriate. The Contractor shall use these procedures to obtain advance funds for allowable costs under this contract.

b. In accordance with those procedures, a Letter of Credit will be issued in an amount determined by the Contracting Officer based on the needs of the Contractor. Subsequent amendments to the Letter of Credit will be on the basis of an amendment to the contract. In no instance will advance funds provided by the letter of credit procedure exceed the amount of the contract as from time to time amended, less the amount of withholding provided therein.

c. The funds provided by the letter of credit procedure shall be solely for the purposes of making payments for items of allowable cost as defined in this contract, or to reimburse the Contractor for such items of allowable cost and for making payments for such other costs as the Contracting Officer otherwise has authority to approve, and does approve in writing.

d. The Contractor may draw on the Letter of Credit using payment vouchers as follows:

1. Payment vouchers may be executed only for the purpose of obtaining funds in the minimum amount necessary for the following purposes:

(a) Making payments for items of allowable costs as defined in this contract; (b) reimbursing the Contractor for such items of allowable costs; and (c) for making payments for such other costs as the Contracting Officer otherwise has authority to approve, and does approve in writing; and the funds so obtained may be used only for such purposes.

2. Payment vouchers drawn shall be timed to be in accordance with the actual cash requirements of the Contractor in carrying out the purpose of the contract.

e. The Contractor may at any time repay all or any part of the funds or credit obtained under the Letter of Credit. When so requested in writing by the Contracting Officer, the Contractor shall repay to the Government such part of the balance of advance payments as shall, in the opinion of the Contracting Officer, be in excess of the Contractor's current needs.

f. If upon completion or termination of this contract all amounts obtained by the Letter of Credit have not been fully liquidated by authorized charges under the contract, the balance thereof shall be deducted from any sums otherwise due or which may be due to the Contractor from the Government, and any excess funds shall be repaid by the Contractor to the Government upon demand.

g. Notwithstanding any other provisions of this contract, the Contractor shall not transfer, pledge, or otherwise assign this contract or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

h. Any and all advance payments made under this contract shall be secured by a lien in favor of the Government, paramount to all other liens, upon the supplies or other things covered by this contract and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other provision of this contract, or otherwise, shall have valid title to such supplies, materials, or other property as against other creditors of the Contractor. The Contractor shall identify by marking or segregation all property which is subject to a lien in favor of the Government by virtue of any provision of this contract in such a way as to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this contract. If for any reason such supplies, materials, or other property are not identified by marking or segregation, the Government shall be deemed to have a lien to the extent of the Government's interest under this contract on any mass of property with which such supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over such property on his books and records. If at any time during the progress of the work on the contract it becomes necessary to deliver any item or items and materials upon which the Government has a lien as aforesaid to a third person, the Contractor shall notify such third person of the lien herein provided and shall obtain from such third person a receipt, in duplicate, acknowledging, inter alia, the existence of such lien. A copy of each receipt shall be delivered by the Contractor to the Contracting Officer. If this contract is terminated in whole or in part and the Contractor is authorized to sell or retain termination inventory acquired for or allocated to this contract, such sale or retention shall be made only if approved by the Contracting Officer, which approval shall constitute a release of the Government's lien hereunder to the extent that such termination inventory is sold or retained, and to the extent that the proceeds of the sale, or the credit allowed for such retention on the Contractor's termination claim, is applied in reduction of advance payments then outstanding hereunder.

§ 24–7.5008 Negotiated overhead rates.

When it has been determined pursuant to HUDPR 24–3.702(a) that negotiated overhead rates should be used, insert the following clause:

NEGOTIATED OVERHEAD RATES

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost, Fixed Fee, and Payment," the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible but not later than ninety (90) days after the expiration of his fiscal year, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with a copy to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with applicable Part 1–15 of Federal Procurement Regulations (41 CFR Part 1–15) as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed final rates, (2) the bases to which the rates apply, and (3) the periods for which rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the contract, or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, and to apply either retroactively or prospectively: (1) Provisional rates may, at the request of either party, be revised by mutual agreement, and (2) billing rates may be adjusted at any time by the Contracting Officer. Any such revision of negotiated provisional rates provided in the contract shall be set forth in a modification to this contract.

(f) Any failure by the parties to agree on any final rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

§ 24–7.5009 Indirect costs (actual).

When it has been determined pursuant to HUDPR 24–3.702(c) that it is not appropriate to include the Negotiated Overhead Rates Clause, insert the following:

INDIRECT COSTS (ACTUAL)

In accordance with the "Allowable Cost, Fixed Fee, and Payment" clause of the contract, the Contractor shall be paid his actual overhead cost. Allowable overhead cost will be determined by the Contracting Officer in accordance with the principles set forth in 41 CFR Part 1–15. Any failure of the parties hereto to agree as to what constitutes actual overhead costs shall be considered a dispute covering a question of fact within the meaning of the clause of this contract entitled "Disputes."

§ 24–7.5010 Indirect costs (ceiling).

When it has been determined in accordance with 41 CFR 1–3–707 that it is appropriate to place an overhead ceiling in the contracts, insert the following clause:

INDIRECT COSTS (WITH CEILING)

(a) Pursuant to the provisions of the clause of this contract entitled, "Indirect Costs (Actual)", the following rates are established:

Period	Cost Center	Type	Rate	Base

(b) In addition to the principles for determination of costs set forth in the clause of this contract entitled "Indirect Costs (Actual)", the following special provision shall be applicable to this contract.

Final overhead rates shall not exceed ----% of the allowable direct labor dollars; provided, however, that in the event overhead rates developed by the cognizant audit activity on the basis of actual allowable costs are less than the ceiling overhead rate agreed to herein then the rates based upon those established by such cognizant auditor shall apply. The Government will not be obligated to pay any additional amounts on account of overhead above the ceiling overhead rate set forth above.

§ 24–7.5011 Consideration and payment (cost-sharing).

The following clause shall be inserted in each cost-sharing contract:

CONSIDERATION AND PAYMENTS (COST-SHARING)

(a) The estimated cost for the performance of this contract is $----. The Contractor agrees to bear without reimbursement by the Government ----% of the cost for performance hereunder. Such cost sharing shall be effected as set forth in Paragraph (b) below.

(b) Public vouchers or invoices shall be submitted to the Contracting Officer in an original and five (5) copies and shall show the total cost incurred for the period for which the voucher or invoice is submitted, the cumulative total of costs incurred through the billing period, and the percentage of costs to be reimbursed by the Government. However, the Government is not obligated to reimburse the Contractor in excess of ----% of such amount. The Government shall not be obligated to reimburse the Contractor for the Government's share of the costs in excess of $---- nor is the Contractor obligated by this contract to expend his own funds in excess of $----.

§ 24–7.5012 Reproduction of reports.

Insert the following clause when the product of the contract is a report, data or other written material.

REPRODUCTION OF REPORTS

Reproduction of reports, data or other written material, if required herein, is authorized provided that the material produced does not exceed 5,000 production units of any page and that items consisting of multiple pages do not exceed 25,000 production units in the aggregate. The aggregate number of production units is to be determined by multiplying pages times copies. A production unit is one sheet, size 8 by 10½ inches or less, printed on one side only and in one color. All copy preparation to produce camera ready copy for reproduction must be set by methods other than hot metal typesetting. The reports should be produced by methods employing stenotis, masters and plates which are to be used on single unit duplicating equipment no larger than 11 by 17 inches with a maximum image of 10¾ by 14¼ inches and are prepared by methods or devices that do not utilize reusable contact negatives and/or positives prepared with a camera requiring a darkroom. All reproducibles (camera ready copies of reproduction by photo offset methods) shall become the property of the Government and shall be delivered to the Government with the report, data or other written material.

§ 24–7.5013 Warranty.

When it has been determined that it is appropriate to place a warranty on equipment or services furnished under a contract, insert the following clause set forth below. Each construction contract shall incorporate an appropriate clause.

WARRANTY

The Contractor agrees that the supplies or services furnished by the Contractor under this contract shall be covered by warranties which are either standard or customary in the trade or are substantially similar to, and not in excess of, a standard or customary trade warranty. The Contractor shall furnish any warranty description at time of delivery. Supply packages shall be simply marked to show existence of the warranty, its expiration date and the company official to be notified.

§ 24–7.5014 Coordination of Federal reporting requirements.

The following clause shall be used when appropriate:

COORDINATION OF FEDERAL REPORTING REQUIREMENTS

In the event that it is a contractual requirement to collect information from ten or more public respondents the provisions of (44 U.S.C. Ch. 35, Coordination of Federal Reporting Requirements) shall apply to this contract. The Contractor shall obtain through the Government Technical Representative (GTR) the required Office of Management and Budget clearance before making public contact for the collection of data from public respondents or expending any funds for such collection. The authority to proceed with the collection of data and expenditure of funds therefore shall be in writing signed by the Contracting Officer.

§ 24–7.5015 Ocean freight shipments—use of American-flag vessels—reports.

The following clause shall be used when appropriate with the required report filed as set forth in paragraph (b) of this section.

(a) It is the policy of HUD to encourage and foster the American Merchant Marine. Pursuant to the provisions of section 901(b) of the Merchant Marine Act of 1936 (46 U.S.C. 1241) invitations for bids and requests for proposals shall in appropriate cases contain the following clause:

U.S.-FLAG VESSEL PROVISION

The Contractor agrees to ship on privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of any equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels. Pursuant to section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. sec. 1241(b)), the Secretary or his duly authorized representative may permit shipment in a manner other than that required by this provision upon the basis of evidence furnished by the contractor that U.S.-flag commercial vessels are not available at fair and reasonable rates for U.S.-flag commercial vessels. The Contractor will be required to certify compliance with this requirement prior to final payment. For purposes of this section, the term "privately owned U.S.-flag commercial vessels" shall not be deemed to include any vessels which, subsequent to September 21, 1961, shall have been either: (a) built outside the United States, (b) rebuilt outside the United States, or (c) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of 3 years.

(b) Each affected office shall submit to the Chief, Office of Market Development, Cargo Preference Control Center, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20235, a report as follows: Within 20 working days of the date of loading for each shipment originating in the United States, or within 30 working days for each shipment originating outside the United States, a report consisting, where obtainable, of a properly notated and legible copy in English of the ocean bill of lading. If a copy of the bill of lading is unobtainable or not in English, the report shall be made in the following format.

U.S. Department of Housing and Urban Development:
Office ----
Date ----
Cargo preference shipment report:
Vessel name----
Vessel flag----
Date of loading----
Port of loading----
Port of final discharge----
Commodity description----
Gross weight in pounds----
Total ocean freight revenue in U.S. dollars----

§ 24–7.5016 Lead based paint proscription.

In accordance with the requirements of the Lead Based Paint Poisoning Prevention Act of July 1, 1973, and 24 CFR, Part 35, every construction or rehabilitation contract and subcontract which includes painting shall contain the following provisions for the restricted use of lead based paints:

The Contractor agrees that exterior and/or interior paints, enamels, and/or primers used on any surface in residential structures constructed or rehabilitated under this contract shall not contain more than ½ of one (1) percent lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints.

PART 24–11—FEDERAL, STATE, AND LOCAL TAXES

Subpart 24–11.1—State and Local Taxes

Sec.
24–11.105 Resolution of tax problems.

Subpart 24–11.4—Contract Clauses

24–11.401–4 Matters requiring special consideration.

AUTHORITY: Sec. 7(d), Housing and Urban Development Act, (42 U.S.C. 3535(d)).

Subpart 24–11.1 State and Local Taxes

§ 24–11.105 Resolution of tax problems.

In order to have uniformity in HUD's treatment of the tax aspects of a contract and to insure effective cooperation with other Government agencies on tax matters of mutual interest, the Office of General Counsel has the responsibility

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within HUD for handling all tax problems. Therefore, the procuring activity will not engage in negotiation with any taxing authority for the purpose of determining the validity or applicability of, or obtaining exemptions from or refund of, any tax. When a problem exists, the Contracting Officer shall request in writing the Office of General Counsel's assistance. The request shall detail the problem and be accompanied by appropriate backup data. The Office of General Counsel shall report to the Contracting Officer as to the necessary disposition of the tax problem. The Contracting Officer will notify the contractor of the outcome of the tax problem. The Office of General Counsel shall have the responsibility for communications with the Department of Justice for representation or intervention in proceedings concerning taxes.

Subpart 24–11.4 Contract Clauses

§ 24–11.401–4 Matters requiring special consideration.

When Government-furnished property is involved in a proposed contract, it is the Department's policy to follow the requirements set forth in 41 CFR 1–11.401–4 (a), (b), (e) and (f) and insert the clause set forth in 41 CFR 1–11.401–4 (c) in all proposed contracts.

PART 24–13—GOVERNMENT PROPERTY

Sec.
24–13.000 Scope of part.

Subpart 24–13.1—General

24–13.100 Scope of subpart.
24–13.101 Relationship of Federal Property Management Regulations (FPMR) to HUDPR.
24–13.102 Definitions.
24–13.103 Responsibility and liability for Government property.
24–13.103–1 Prime contractors.
24–13.103–2 Subcontractors.
24–13.104 Profits and fees.
24–13.105 Use for or by contractors of property owned and operated by the Government.

Subpart 24–13.2—Material

24–13.200 Scope of subpart.
24–13.201 Policy.
24–13.202 Procedure.
24–13.203 Disposal.

Subpart 24–13.3—Providing Government Property to Contractors

24–13.300 Scope of subpart.
24–13.301 Providing property.
24–13.301–1 Special and general purpose property.
24–13.301–2 Providing property when disposal is limited.
24–13.301–3 Changing Government property to be provided.

Subpart 24–13.4—Use and Charges

24–13.400 Scope of subpart.
24–13.401 General.
24–13.402 Use without charge.
24–13.403 Charges.

Subpart 24–13.5—Competition

24–13.500 Scope of subpart.
24–13.501 General.
24–13.502 Solicitation documents.
24–13.503 Evaluation of bids and proposals.

AUTHORITY: Sec. 7(d), Housing and Urban Development Act, (42 U.S.C. 3535(d)).

§ 24–13.000 Scope of part.

This part sets forth policies and procedures with respect to providing Government property for use by HUD contractors in connection with the procurement of personal property and nonpersonal services (including construction), and prescribes applicable contract clauses.

Subpart 24–13.1—General

§ 24–13.100 Scope of subpart.

This subpart sets forth material concerning the definitions of HUD property, its use under prime and subcontracts, and its relationship to Federal Property Management Regulations (FPMR).

§ 24–13.101 Relationship of Federal Property Management Regulations (FPMR) to HUDPR.

This Part 24–13 of the HUDPR establishes policy for the control, use and maintenance of Government property under prime and subcontracts and is intended to implement and supplement the FPMR 41–CFR Part 101, to the extent that is necessary to carry out the requirements of public policy relating to Government property. This part does not apply to the repair, rehabilitation, management or sale of Secretary-acquired property.

§ 24–13.102 Definitions.

For the purpose of this part, the following terms have the meanings set forth in this section.

(a) *Property.* Property includes all property except Secretary-acquired property, both real and personal, severable and nonseverable, and expendable material and nonexpendable equipment. Secretary-acquired property means all real and personal property under legal custody of the Secretary whether or not title to the property vests in the Secretary.

(b) *Government property.* Government property includes all property as to which title is vested in the Government.

(c) *Government-furnished property.* Government-furnished property is Government owned or leased property in the possession of the contractor.

(d) *Contractor-acquired property.* Contractor-acquired property is property procured or otherwise obtained by the contractor through sources other than the Government for performance of a HUD contract.

(e) *Contractor inventory.* Contractor inventory is (1) Any property acquired by and in the possession of a contractor or subcontractor (including Government-furnished property) under a contract pursuant to the terms of which title is vested in the Government; and (2) Any property which the Government by contract clause is obligated or has the option to take over under any type of contract.

(f) *Provide.* "Provide" means to furnish Government-owned property or to allow a contractor to acquire property at Government expense.

(g) *Nonseverable.* "Nonseverable" means that such property cannot be removed after erection or installation without substantial loss of value or damage thereto, or to the premises where installed.

(h) *Dollar value.* "Dollar value" is the amount determined by the Government and recorded by the Department in its inventory records as the acquisition cost of an item of Government-owned property.

(i) *Material.* "Material" means property which may be consumed or expended in the performance of a contract or which may be incorporated into or attached to an end item to be delivered under a contract. It includes, but is not limited to raw and processed material, parts, components, assemblies, small tools and supplies which may be consumed in normal use during performance of a contract.

(j) *Nonprofit organization.* "Nonprofit organization" means any firm organized not-for-profit which represents that no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(k) *Equipment.* The term "equipment" means any item of mechanical, electronic, medical, technical, or scientific property as well as office furniture and machines having a useful life expectancy of 1 year or more.

(l) *Facilities contract.* "Facilities contract" means a contract for the use of Government real and/or personal property which is provided to a contractor or subcontractor for use in connection with a separate contract or contracts for supplies, research, training, or other articles or services.

§ 24–13.103 Responsibility and liability for Government property.

§ 24–13.103–1 Prime contractors.

It is the policy of the Government, with the exception of advertised fixed price contracts, not to hold a contractor responsible for loss of property except for loss, destruction, or damage resulting from willful misconduct or lack of good faith of any of the contractor's personnel to maintain and administer the program for maintenance, repair, protection and preservation of the property.

§ 24–13.103–2 Subcontractors.

If Government property is provided to a subcontractor directly by the Government or by the prime contractor, the policy set forth in HUDPR 24–13.103–1 shall apply. Prior to the Contracting Officer approving the inclusion of the provisions allowing the prime contractor to provide Government property to a subcontractor, he shall balance the need for the protection and care of Government property against the cost thereof. A prime contractor who provides Government property to a subcontractor shall not be relieved of any responsibility to the Government that he may have under the terms of his contract.

§ 24–13.104 Profits and fees.

No fee is to be provided or allowed a contractor under a facilities contract. Where Government property is provided under a facilities contract, profit or fee terms shall be considered in the negotiation of the related procurement contract or contracts for products or services consistent with the profit guidelines set forth in 41 CFR 1–3.806.

§ 24–13.105 Use for or by contractors of property owned and operated by the Government.

The on-site use for or by contractors of existing Government-owned property (such as test and other facilities) located at installations owned and operated by the Government may be authorized in connection with the performance of Government contracts only when:

(a) There is no commercial capability adequate for the needs; or

(b) Substantial cost savings will result from use of the Government-owned property.

Whenever any such use is authorized, adequate consideration comparable to commercial charges, if any, shall be obtained under any affected contract.

Subpart 24–13.2—Material

§ 24–13.200 Scope of subpart.

This subpart sets forth policy and procedure for furnishing material (see HUDPR 24–13.102(i)) to contractors for performance of HUD formally advertised and negotiated contracts.

§ 24–13.201 Policy.

Contractors normally are expected to furnish all material for performance of HUD contracts. However, it may be in the Government's interest to furnish such material when justified by reason of economy, to expedite contract performance, to achieve standardization, or under other appropriate conditions.

§ 24–13.202 Procedure.

Solicitation documents shall describe material to be furnished by the Government in detail sufficient for evaluation by prospective contractors. Further, whenever material is to be furnished by the Government, the contract shall specify whether the contracting activity or the contractor is to prepare requisitioning documents. If the contractor is to be responsible for preparing requisitioning documents, the contractor shall prepare such documents in accordance with the Federal Standard Requisitioning and Issue Procedure (FEDSTRIP) system, prescribed by 41 CFR Subpart 101–26.2. (See 41 CFR Subpart 1–5.9, *Use of GSA Supply Services by Contractors Performing Cost-Reimbursement Type Contracts.*) The appropriate clause for Cost-Reimbursement and Fixed Price contracts shall be incorporated.

§ 24–13.203 Disposal.

Residual Government material (including scrap and salvage) shall be disposed of in accordance with instructions of the Contracting Officer.

Subpart 24–13.3—Providing Government Property to Contractors

§ 24–13.300 Scope of subpart.

This subpart sets forth policy to guide the decision-making process when property (other than material) is to be provided a contractor for performance of a HUD contract and to insure that such decisions are properly documented.

§ 24–13.301—Providing property.

§ 24–13.301–1 Special and general purpose property.

Generally, only special purpose property (i.e., equipment and facilities items whose usefulness, without need for substantial modification, is limited to a particular operation or project) may be provided to a contractor. Standard or general purpose items of administrative equipment (e.g., office furniture and equipment, cafeteria equipment, lockers, shelving, etc.), and technical equipment (e.g., laboratory furniture and fixtures, microscopes, oscilloscopes, guages, etc.), shall be provided only when justified under the most exceptional circumstances. Items of property having a unit cost of less than $1,000 shall not be provided contractors except as authorized under contracts with:

(a) Nonprofit institutions of higher education or other nonprofit organizations whose primary purpose is the conduct of scientific research;

(b) State and local Government agencies; or

(c) Contractors operating a Government-owned plant or performing on-site at Government installations.

§ 24–13.301–2 Providing property when disposal is limited.

Whenever nonseverable property is to be provided, the following will be applicable:

(a) *Nonseverable property.* Nonseverable property, other than foundations and similar improvements necessary for the installation of equipment, shall not be installed or constructed on land not owned by the Government in such fashion as to be nonseverable, unless approved by the Head of the Procuring Activity. The determination to locate such nonseverable property on land not owned by the Government shall be made only when all of the conditions in paragraph (a) (1) through (4) of this section have been met:

(1) Consideration has been given to any nonrecoverable costs involved, including transportation and installation.

(2) Consideration has been given to (i) locating the Government property where it can be segregated from existing contractor-owned and Government-owned property and where it is readily accessible from public thoroughfares and (ii) obtaining a written agreement by the contractor on whose land the property is to be placed that either the Government or another Government contractor will have a right to use and operate the property upon termination or completion of the work for which it was provided. (In cases where such an agreement is not obtained, the negotiation effort shall be documented accordingly.)

(3) The contractor agrees that the Government (i) will have the right to abandon in place all nonseverable Government property provided and (ii) will not have any obligation to disassemble or remove the property or to restore or rehabilitate the premises on which the property is located, unless otherwise provided in the contract and approved by the Head of the Procuring Activity.

(4) One of the circumstances in paragraphs (a) (4) (i)–(v) of this section has been met—

(i) The Government obtains an option to acquire the underlying land;

(ii) The property is disposable, after the Government's need therefore has ceased, to parties other than the contractor and the Government acquires from the owner a right to retain title and to dispose of all facilities it has constructed, without regard to the laws of real property in the jurisdiction in which the facility is located. Such right of disposition must be unencumbered, and will be evidenced by written agreement or other legal instrument signed by the contractor or other owner of the real property;

(iii) The contractor agrees in writing that he will purchase the property upon the termination or completion of the contract under which the property is provided, or within a specified reasonable time thereafter, at a price to be determined by appraisal, or at a price equal to the acquisition cost of the property less depreciation at the rate or rates specified in the contract (which rate or rates shall take into account the estimated useful life of the property) or for the scrap and salvage value of the property if it is determined that the estimated useful life of the property will not extend beyond the completion of the work for which the property was provided. Any such purchase agreement must permit the Government to credit any amounts due the contractor under the contract against the purchase price; or

(iv) The Head of the Procuring Activity specifically approves other provisions which he considers adequate to protect the interests of the Government in regard to the property.

(b) *Property subject to patent or other proprietary rights.* If patent or other proprietary rights of a contractor may restrict the disposal of Government property, the condition in either paragraph (a) (4) (ii) or (iii) of this section shall be satisfied before such property is provided.

§ 24–13.301–3 Changing Government property to be provided.

Increases in the amount of Government property specified in a contract shall be made under the contract "Changes" clause by issuance of an appropriate Change Order or Supplemental Agreement. Such increases shall be made only when approved in accordance with the policies prescribed in this Subpart 24–13.3 and when the Government receives adequate consideration therefor. Unilateral decreases in or substitutions for the Government property specified in a

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contract to be provided by the Government may be ordered by the Contracting Officer.

Subpart 24–13.4—Use and charges

§ 24–13.400 Scope of subpart.

This subpart deals with the authority for a contractor or subcontractor to use Government property and the method for determining the charge, if any, for such use.

§ 24–13.401 General.

Authority for a contractor to use Government property must be granted by the Contracting Officer responsible for the contract under which the property is accountable and the contract file must be documented accordingly. If use without charge is granted, the contract file must be documented with a description of the consideration to the Government for such "no-charge" use.

§ 24–13.402 Use without charge.

(a) A contractor may use Government property without charge in the concurrent performance of contracts for more than one Government agency.

(b) A prime contractor may authorize subcontractors to use Government property which is in the possession of a subcontractor on a no-charge basis, when the price or fee of the prime contract is negotiated with the specific understanding that the use of property by subcontractors on a no-charge basis will be permitted in the performance of specific subcontracts with specific subcontractors.

§ 24–13.403 Charges.

The following charges shall be made or used as an evaluation factor:

(a) For land and land preparation, buildings, building installations, and land installations, a fair and reasonable rental based on sound commercial practice.

(b) For personal property (equipment and facilities) not covered in (a) of this section not less than the prevailing commercial rate for like property.

(c) For concurrent commercial usage of property an amount equal to at least 10% of the fair market value of such usage.

Subpart 24–13.5—Competition

§ 24–13.500 Scope of subpart.

This subpart sets forth guidance designed to preclude one prospective contractor from receiving an unfair competitive advantage over others when Government property is provided.

§ 24–13.501 General.

It is incumbent upon the Contracting Officer to insure that genuine competition prevails and that adequate consideration flows to the Government whenever and however Government property is to be provided a contractor for contract performance. It is also incumbent upon the Contracting Officer to insure that no unfair advantage inures to a contractor in possession of Government property.

§ 24–13.502 Solicitation documents.

Contracting Officers shall make certain that solicitation documents:

(a) Require each prospective contractor to state whether the use of Government property, additional facilities and equipment which must be acquired for contract performance, the estimated cost of individual items, and whether acquisition of such property will be financed by the prospective contractor or whether the Government will be requested to provide the required items.

(b) Explain whether it is the Government's intention to provide property, when it is known prior to solicitation that contract performance will require additional facilities or equipment.

(c) Require prospective contractors to:

(1) List items (including dollar value) of Government-owned property in their possession which they propose to use in performance of the prospective contract;

(2) Identify the contract or other instrument under which the property is accountable; and

(3) Present written permission to use such property in the performance of the prospective HUD contract from the Government Contracting Officer having cognizance of the property.

(d) Include a statement that the user will assume all costs related to making the property available for use (e.g., transportation, installation, rehabilitation, modification, etc.), unless the Government is to assume such costs.

(e) Include a statement which extion, modification, etc.), unless the Government property during evaluation of bids and proposals. This is to insure that all prospective bidders and offerors understand that Government property will be an important consideration in evaluating their bids and proposals.

§ 24–13.503 Evaluation of bids and proposals.

The following policy shall be considered during evaluation of bids and proposals:

(a) In a competitive procurement, a prospective contractor provided Government property or authorized to use Government-owned property in his possession receives some degree of competitive advantage. When the degree of competitive advantage is so substantial as to be viewed as unfair by the Contracting Officer, then the Contracting Officer shall utilize an equitable equalizing factor, such as increasing the bid price by an evaluation factor equivalent to:

(1) The cost to be reimbursed by the Government for property acquired at Government expense.

(2) The current dollar value (cost less depreciation) of Government-furnished property.

PART 24–16—PROCUREMENT FORMS

Subpart 24–16.2—Forms for Negotiated Supply Contracts

Sec.

24–16.201 Form for fixed price contracts.
24–16.201–1 Fixed price supply contracts—general provisions.
24–16.201–2 Fixed price contracts—general provisions other than supply.

Subpart 24–16.3—Purchase and Delivery Order Forms

24–16.350 Form for purchase orders.

Subpart 24–16.8—Miscellaneous Forms

24–16.807 Cost-reimbursement forms—general provisions.
24–16.808 Additional general provisions—small business subcontracting.
24–16.853 Contractor's request for progress payments.
24–16.854 Report of inventions.

AUTHORITY: Sec. 7(d), Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 24–16.2—Forms for Negotiated Supply Contracts

§ 24–16.201 Forms for fixed price contracts.

§ 24–16.201–1 Fixed price supply contracts—general provisions.

Standard Form 32 and HUD Form 752 shall be used for all fixed price supply contracts in excess of $10,000. In lieu of HUD Form 752, another appropriate form designed for this specific purpose and approved through the Departmental clearance procedures may be utilized.

§ 24–16.201–2 Fixed price contracts—general provisions (other than supply).

HUD Form 736 shall be used for all fixed price contracts over $10,000 other than supply, construction or property management contracts. In lieu of HUD–736, another appropriate form designed for this specific purpose and approved through the Departmental clearance procedures may be utilized.

Subpart 24–16.3—Purchase and Delivery Order Forms

§ 24–16.350 Form for purchase orders.

All HUD purchase orders shall be executed on HUD Form 35 or on any other appropriate form designed for this specific purpose and approved through the Departmental clearance procedures.

Subpart 24–16.8—Miscellaneous Forms

§ 24–16.807 Cost-reimbursement forms—general provisions.

HUD Form 747 shall be used for all cost-reimbursement contracts over $10,000.

§ 24–16.808 Additional general provisions—small business subcontracting.

HUD Form 751 shall be used for all contracts over $500,000.

§ 24–16.853 Contractor's request for progress payment.

HUD Form 771, entitled "Contractor's Request for Progress Payment" shall be used as prescribed in HUDPR 24–30.519.

§ 24–16.854 Reports of inventions.

Contractors shall provide interim and final reports pursuant to the Patents clause on HUD Form 770.

PART 24–30—CONTRACT FINANCING

Subpart 24–30.1—Forms of Financing

Sec.

24–30.103 Advance payments—authority.
24–30.104–1 Letters of credit.

Subpart 24–30.4—Advance Payments

24–30.406 Responsibility—delegation of authority.
24–30.410 Findings, determinations and authorizations.
24–30.414 Contract provisions for advance payments.

Subpart 24–30.5—Progress Payments Based On Cost

24–30.519 Contractor's request.

AUTHORITY: Sec. 7(d), Housing and Urban Development Act, (42 U.S.C. 3535(d)).

Subpart 24–30.1—Forms of Financing

§ 24–30.103 Advance payments—authority.

This section sets forth policy relating to advance payments:

(a) In considering whether cash advances are appropriate in a particular situation, and to determine the requirements for implementing advances, the Contracting Officer shall be guided by this section, the 41 CFR subparts 1–30.1 and 1–30.4, Department of the Treasury Circular 1075 and part VI of the Department of the Treasury Fiscal Requirements Manual.

(b) Cash advances by HUD shall be limited to the minimum amounts needed by the contractor for the performance of the contract. The advance shall be timed in accord with the contractor's actual cash requirements.

(c) Department of the Treasury Circular 1075 (revised April 6, 1969) authorizes two methods for making cash advances: the letter of credit and the Treasury check. Normally, the method to be used will be chosen as follows:

(1) If HUD does not expect to have a continuing relationship with the contractor for at least one (1) year, advances will be made by Treasury check.

(2) If HUD expects to have a continuing relationship with the contractor for at least one (1) year involving total annual advances of less than $250,000, advances will be made by Treasury check.

(3) If HUD expects to have a continuing relationship with the contractor for at least one (1) year involving total annual advances of $250,000 or more and disbursements will not be made on a reimbursable basis, advances will be made by use of a letter of credit.

§ 24–30.104–1 Letters of credit.

No letter of credit will be issued unless the statutory requirements specified in 41 CFR 1–30.405 are fulfilled. If the Contracting Officer determines that advance payment by letter of credit is appropriate, he shall insert the clause provided in HUDPR 24–7.5007.

Subpart 24–30.4—Advance Payments

§ 24–30.406 Responsibility—Delegation authority.

The determinations and findings required by 41 CFR 1–30.405 shall be made by the Head of the Procuring Activity only in those instances where specific delegation of authority has been issued in writing giving the HPA such authority to approve advances.

§ 24–30.410 Findings, determinations and authorizations.

Section 305 of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 255), should be cited in the determinations and findings as authority for making advance payments.

§ 24–30.414–2 Contract provision for advance payments.

When the Contracting Officer determines that advance payments are appropriate, he shall insert the clause provided in 41 CFR 1–30.414–2.

Subpart 24–30.5—Progress Payments Based On Cost

§ 24–30.519 Contractor's request.

Each contract containing a Progress Payments clause shall provide that all invoices for progress payments be supported by HUD Form 771 entitled "Contractor's Request for Progress Payments," with any other information that may be reasonably required.

PART 24–50—CONTRACT ADMINISTRATION

Sec.

24–50.000 Scope of part.

Subpart 24–50.1—Processing Payments Under Cost-Reimbursement Contracts

24–50.100 Scope of Subpart.
24–50.101 Definitions.
24–50.102 Submission of vouchers.
24–50.103 Processing vouchers.

Subpart 24–50.2—Processing Payment Under Fixed Price Contracts

24–50.200 Scope of subpart.
24–50.201 Definitions.
24–50.202 Submission of invoices.
24–50.203 Processing invoices.

Subpart 24–50.3—Closing Completed Contracts and Grants

24–50.300 Scope of subpart.
24–50.301 General.
24–50.302 Definitions.
24–50.303 Retention of contract and grant files.

Subpart 24–50.4—Administration of Government Property While Under Government Contract

24–50.400 Scope of subpart.
24–50.401 General.
24–50.402 Property administration.

Subpart 24–50.5—Guaranty and Subordination Agreement

24–50.500 Scope of subpart.
24–50.501 Policy.
24–50.502 Definitions.
24–50.503 Processing.
24–50.504 Format for guaranty agreement.
24–50.505 Format for subordination agreement.

AUTHORITY: Sec. 7(d), Housing and Urban Development Act, (42 U.S.C. 3535(d)).

§ 24–50.000 Scope of part.

This part sets forth policies concerning management and administration of contracts.

Subpart 24–50.1—Processing Payments Under Cost-Reimbursement Contracts

§ 24–50.100 Scope of subpart.

This subpart prescribes policy pertaining to the processing of vouchers under cost-reimbursement type contracts.

§ 24–50.101 Definitions.

As used in this subpart, the following terms have the meaning as stated:

(a) "Cost-reimbursement type contracts" includes cost-plus-a-fixed-fee, cost-plus-an-incentive-fee, cost-sharing, labor hour, and time and material contracts.

(b) "Voucher" is used to identify claims by the contractor for reimbursement of costs incurred or for fee earned and relate to either interim request or final cost or fee remaining under the contract.

§ 24–50.102 Submission of vouchers.

Submission of vouchers shall be in accordance with the following:

(a) Interim vouchers shall be submitted directly to the HUD Official and at the location stipulated in the contract for approval and payment processing. The frequency for submission will be specified in the contract. In the absence of a contract provision to the contrary, the contractor may submit a voucher once each month. The Contracting Officer will request the contractor to consolidate vouchers under one contract as much as possible to reduce the number of vouchers. Vouchers shall not contain claims pertaining to more than one contract.

(b) The Contracting Officer shall require the contractor to provide, as a part of each voucher submission, an analysis of the total vouchered charges. Where data is readily available from the contractor's records, a limited analysis may be placed on the face of Public Voucher for Purchases and Services Other Than Personal (Standard Form 1034), provided the reliability of the contractor has otherwise been established. As a minimum, the analysis shall include cumulative and current costs broken down by cost elements. When a more detailed analysis is required, the Continuation Sheet (Standard Form 1035) or an attachment may be used.

(c) Contractors shall be required to submit separate invoices for fee and, where the amount of fee claimed depends on a computation based on physical progress or rate of delivery of the completed item, the Contracting Officer shall require the contractor to show the basis for computing the fee installment on the voucher (face or reverse of Standard Form 1034) or on an attachment.

§ 24–50.103 Processing vouchers.

Processing vouchers shall be in accordance with the following:

(a) Prior to approving vouchers for payment, the Contracting Officer may, as appropriate, verify the status of the contract by consulting with other Government personnel (i.e., technical, audit,

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and financial personnel) concerned with administration of the contract.

(b) *Provisional vouchers.* (1) The eligibility for reimbursement of claims submitted by a contractor for costs or payment of fee shall be determined pursuant to the terms of the contract. Authority for payment must be established before any reimbursements under the contract are approved. In no event will a reimbursement claim be processed by the Contracting Officer for payment which would result in cumulative payment in excess of the maximum amount payable as limited by the contract.

(2) The contractor shall submit reimbursement vouchers under cost-type contracts directly to the HUD official and at the location stipulated in the contract for approval prior to payment. All vouchers, with the exception of the final voucher, shall be marked "Approved for provisional payment in the amount of $_____ subject to audit prior to final payment," signed by the appropriate HUD official, and processed for payment. Questionable costs, determined through periodic audit, lack of adequate documentation, or otherwise, shall be suspended or disapproved prior to approval of the voucher. In those situations where (i) there is reason to question the reliability or accuracy of the contractor's claim, (ii) there is an indication of cost overrun, or (iii) the submission is the contractor's initial claim, the recommendations of the cognizant auditor should be requested prior to approval.

(3) If the contractor has not deducted from his claims amounts required to be withheld pursuant to the provisions of the contract, the Contracting Officer shall make the deduction. Such deductions shall be treated as suspensions. Amounts deducted may be resubmitted by the contractor at such time as the contractor has evidenced compliance with the requirements necessary to permit payment and may, in any event, be claimed on the final voucher.

(4) Vouchers which have not been properly prepared by the contractor shall be returned for revision. No erasures are permitted on a voucher or a continuation sheet. A voucher and/or continuation sheet or its equivalent, which requires alteration, may be changed by striking out the incorrect item and inserting the correct item. An alteration made by the contractor must be initialed by the contractor. An alteration made by the Contracting Officer must be initialed by the Contracting Officer and may be made only in accordance with 36 Comp. Gen. 769 (1957) which provides that when errors in computations or extensions are detected, where the payee has clearly made claim for the full quantity of materials or services and at the proper unit price, the claim may be altered upward or downward prior to approval provided the adjustment does not exceed $10.

Vouchers may be adjusted by the Contracting Officer, provided that costs have not been suspended or disapproved and the errors are not too numerous to correct. The incorrect computation or extension may be altered by drawing a line through the incorrect amount and inserting the corrected amount on the original and all copies of the voucher. Each alteration must be initialed. The amount of the error will be deducted from or added to the total of the voucher. If Standard Form 1034 is used, the amount of the error will also be deducted from or added to the total by use of the "Difference" block on Standard Form 1034. Contractors will be notified, in writing, of mathematical errors which overstate the total amount claimed in excess of $10. If an underclaim is in excess of $10, the actual amount claimed, if otherwise proper, may be processed for payment. Contractors should be notified of any errors detected or of any adjustments made according to this policy.

(c) *Final voucher.* Upon receipt of a final voucher for contracts in excess of $50,000, the Contracting Officer shall furnish a copy to the cognizant auditor for final audit prior to payment. The final voucher shall be supported by contractor's (or assignee's) release and assignment forms, and the final schedule of cumulative cost under the contract. Final vouchers shall not be approved until the results of the final audit have been received by the Contracting Officer and all deliverable products have been received and accepted by the Government.

Subpart 24–50.2—Processing Payment Under Fixed-Price Contracts

§ 24–50.200 Scope of subpart.

This subpart prescribes policy pertaining to the processing of invoices under fixed-price type contracts.

§ 24–50.201 Definitions.

As used in this subpart, the following terms have the meaning as stated:

(a) "Fixed-price type contracts" include firm fixed-price, fixed-price with escalation, fixed-price incentive, indefinite delivery and small purchases.

(b) "Invoice" is used to request payment under an established payment schedule specifically identified in the contract.

§ 24–50.202 Submission of invoices.

Invoices shall be submitted to the HUD Official and at the location stipulated in the contract for approval and payment processing.

§ 24–50.203 Processing invoices.

The processing of invoices shall be accomplished in accordance with the following:

(a) Prior to approving invoices for payment, the appropriate HUD official may, as appropriate, verify the status of the contract by consulting with cognizant Government personnel (i.e., technical, audit and financial personnel) concerned with administration of the contract.

(b) Withholdings pursuant to the contract will be handled in accordance with HUDPR 24–50.103(b)(3).

(c) Invoices which have not been properly prepared by the contractor shall be returned for revision. No erasures are permitted on an invoice or a continuation sheet. However, alterations may be made by a contractor by striking out the incorrect item and writing in the correct item. Any alteration made by the contractor must be initialed by the contractor.

(d) *Final invoice.* The final invoice shall be supported by contractor's release and assignment forms, as appropriate. Final invoice shall not be approved until final acceptance of the contractor's performance is received by the Contracting Officer or his duly authorized representative.

Subpart 24–50.3—Closing Completed Contracts and Research Grants

§ 24–50.300 Scope of subpart.

This subpart establishes policy governing the closing of completed contracts and is applicable to all contracts and research grants.

§ 24–50.301 General.

The procedures for closing completed contracts are a primary tool of contract management and contract administration. Each procuring activity shall establish adequate procedure to insure proper closing of files and conduct contract/grant closing reviews in order that the file is completely documented. The comprehensive closing review serves the following purposes:

(a) Facilitates orderly segregation and disposition of records, and ensures efficient use of filing equipment and space;

(b) Identifies all uncompleted actions;

(c) Ensures that all contractual obligations have been fulfilled, that the interests of the Government have been protected; and, that sound business practices have been followed.

§ 24–50.302 Definition — completed contract or grant.

A completed contract or grant is one which is both physically and administratively complete and in which all aspects of performance by the contractor have been either accomplished or formally waived. A contract is physically complete only after articles and services called for under the contract have been delivered to and formally accepted by the Government. A contract is administratively complete when all administrative actions are accomplished and all payments made.

§ 24–50.303 Retention of contract and grant files.

Each procuring activity shall ensure that contract and grant files are properly forwarded to the appropriate Federal Records Center for retention of a minimum of six (6) years from the date of closing completed files. In connection with contracts where 41 CFR Part 1–3 requires a finding and determinations, these files shall be maintained in accordance with 41 CFR 1–3.308.

The procuring activity shall maintain a listing of all contracts and grants closed and forwarded to the retention center.

Subpart 24–50.4—Administration of Government Property While Under Government Contract

§ 24–50.400 Scope of subpart.

This subpart sets forth policy and procedures governing administration of Government-furnished property and property acquired by contractors at Government expense for performance of HUD contracts.

§ 24–50.401 General.

Responsibility within HUD for administering Government property rests with the Contracting Officer.

§ 24–50.402 Property administration.

The duties of the responsible officer are identified below:

(a) The Contracting Officer is the HUD "Accountable Officer" for Government property and maintains the official records of such property.

(b) The Contracting Officer performs all transactions and handles all matters concerning Government property, including use charges as prescribed in HUDPR 24–13.4, determinations of liability for lost, damage, or destroyed Government property, and resolving disputes with contractors with regard to property.

(c) The Contracting Officer will review and determine the adequacy of contractor's property policy and procedures concerning: (1) Receiving and inspection; (2) accounting, control, and reports; (3) utilization, including reporting excess property; (4) maintenance; i.e., protection, preservation, service, repair, warranties and guaranties, etc.; (5) scrap and salvage of material, parts, etc.; and (6) disposal, including preparation for shipment and shipping procedures.

Subpart 24–50.5—Guaranty and Subordination Agreements

§ 24–50.500 Scope of subpart.

This subpart sets forth policy and procedures for processing guaranty and subordination agreements.

§ 24–50.501 Policy.

Guaranty and subordination agreements may be used when it is determined as the result of a pre-award survey that the financial condition of a proposed contractor warrants such protection for the Government or when, during the course of the work, the Government determines that such protection is necessary to its interest.

§ 24–50.502 Definitions.

As used in this subpart, the following terms have the meaning as stated:

(a) *Guaranty agreement.* An agreement wherein the guarantor guarantees the performance of a bidder (contractor).

(b) *Subordination agreement.* An agreement wherein a creditor agrees to subordinate debts due it from the bidder (contractor) to the rights of Government.

§ 24–50.503 Processing.

The requirements for processing a guaranty or subordination agreement are stated below:

(a) When, in the judgment of the Contracting Officer, the financial condition of the prospective contractor warrants, he shall obtain a guaranty or subordination agreement, as appropriate. Formats for guaranty and subordination agreements are provided in HUDPR 24–50.504 and 24–50.505, respectively. The Contracting Officer shall obtain the review of the Office of General Counsel before executing an agreement in any other format.

(b) All corporate guarantors will be required to obtain a statement from the corporate counsel indicating whether the corporate guarantor has the authority under the laws of the State in which the company is incorporated and pursuant to its charter, to enter into such an agreement. This statement will be attached to the agreement, in addition to the current financial statement.

(c) If a contract results from the proposal, the Contracting Officer shall acknowledge receipt of the agreement provided for under the form illustrated in HUDPR 24–50.504 and 24–50.505. If no contract award results from the proposal, all copies of the agreement shall be destroyed.

§ 24–50.504 Guaranty agreement.

Whenever a Guaranty Agreement is required as set forth in HUDPR 24–50.5, it shall be developed substantially as shown below:

GUARANTY AGREEMENT FOR CORPORATE GUARANTOR

(Applicable to One Government Contract)

_____, a corporation organized under the laws of the State of _____, having its principal place of business at _____ in the City and State of _____, hereinafter called the Offeror is under consideration by the United States of America (_____) hereinafter called the Government, for the award of a certain contract, _____ (IFB, RFP or RFQ) hereinafter referred to as such contract. Such contract will call for the furnishing of approximately for the contract price of approximately $_____. The Government is willing to award such contract to _____ only upon condition that _____

(Insert Offeror's Name)
(Insert Department)
(Insert Quantity and General Description of Supplies or Services to be Procured)
(Insert Offeror's Name)
(Insert Guarantor's Name, Description and Address)

for itself, its successors and assigns, hereinafter referred to as the Guarantor, will, in the event such contract is awarded by the Government to the Offeror, gurantee absolutely to the Government the full, complete and faithful performance of the Offeror of such contract according to the terms and conditions thereof and at the time and in the manner provided therein.

In consideration of the award of such contract to the Offeror the undersigned Guarantor agrees as follows:

1. Guaranty. The Guarantor absolutely guarantees the full, complete and faithful performance by the Offeror of such contract, as such contract may be from time to time amended as authorized by its terms, according to the terms and conditions of such contract as so amended, and at the time and in the manner provided therein. The Guarantor agrees to provide the Offeror all necessary and required resources including financing, which are necessary to assure the full, complete and satisfactory performance of such contract.

2. Extension of Time of Performance. Any extension of the time of performance of such contract as so amended shall not release the undersigned Guarantor from liability hereon.

3. Assignment. This instrument shall bind the undersigned Guarantor, its successor and assigns. If any person, firm, corporation or entity other than _____ (Insert Offeror's Name) becomes obligated to perform the contract or any part thereof, whether by operation or law or otherwise, any and all rights of the Government against the Guarantor shall remain in full force.

4. Default. In the event of termination for default under the terms of such contract, or in the event of failure, insolvency, default, bankruptcy, arrangement, appointment of receiver for _____ (Insert Offeror's Name) or other liquidation of the Offeror, the Guaranty herein shall become absolute.

5. Waiver of Notice. The Guarantor waives notice of default on the part of the Offeror and agrees that its Guaranty shall become absolute without necessity for the giving of such notice.

6. Continuation of Guaranty. The Guaranty herein shall continue until full, complete and faithful performance of such contract as it may be from time to time amended as authorized by its terms.

7. Default Liability. In addition to all other guarantees contained in this agreement, in the event that the Government terminates such contract for default and awards the uncompleted portion of such contract to another source at a fair and reasonable price, the Guarantor shall be liable for any excess costs incurred by the Government as a result of such reprocurement and for the repayment of any unrecoupled Partial Payments, Progress Payments or Advanced Payments paid to the Offeror by the Government. In addition, the Guarantor shall be liable for all costs and expenses paid or incurred by the Government in enforcing this Guaranty. The Contracting Officer representing the Government in connection with such contract shall determine the total costs and expenses, if any, incurred by the Government.

8. Enforcement. This Guaranty Agreement shall inure to the benefit of and may be enforced by the Government.

9. Construction. Nothing in this Guaranty Agreement shall be construed to obligate the Government to award any contract to _____ Executed the _____ (Insert Offeror's Name) day of _____ 197__.

Two Witnesses:

_____
(Guarantor)
_____ By _____
(Title)
_____
(Business Address)

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I, _____, certify that I am the _____ Secretary of the Corporation named as Guarantor herein; that _____ who signed this Agreement on behalf of the Guarantor, was then _____ of said Corporation; that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

_____ Corporate Seal

(Secretary

Receipt of a copy of the above Guaranty Agreement is acknowledged.

Contracting Officer Address:

THE UNITED STATES OF AMERICA

_____ By _____

_____

(Contracting Officer)

§ 24–50.505 Subordination agreement.

Whenever a Subordination Agreement is required as set forth in HUDPR 24–50.5, it shall be developed substantially as shown below:

SUBORDINATION AGREEMENT

(Applicable to One Government Contract)

_____, a corporation *organized
(Insert Debtor's Name)
under the laws of _____, having its principal place of business at _____ in the City and State of _____, a partnership *doing business as _____ at _____ County of _____ City of _____ State of _____ an individual, *having its principal place of business at _____ in the City and State of _____, hereinafter called the Debtor, is under consideration by the United States of America (_____),
(Insert Department)
hereinafter called the Government, for the award of a certain contract. Such contract will call for the furnishing of approximately

_____
(Insert Quantity and General Description of Items or Services to be Procured)
for the contract price of approximately _____ dollars ($_____). The Government is willing to award such contract to the Debtor only upon condition that

_____
(Insert Creditor's Name, Description, Address, etc.)
hereinafter referred to as the Creditor, will agree to subordinate any and all present and future rights with respect to payments due or to become due from the Debtor to the undersigned Creditor to the rights of the Government under or arising out of the contract. As of the date of execution of this agreement recited at the end thereof, _____ is owing or is due and
(Insert the Amount)
owing from the Debtor to the Creditor.

In consideration of the award of the contract to the Debtor the undersigned agrees as follows:

1. Payments and Debts. Any and all present and future rights of the undersigned Creditor with respect to payments due or to become due by reason of the above cited indebtedness and including any additional future indebtedness incurred as advances by the Creditor for working capital purposes and/or acquisition of capital assets owed by the Debtor to the Creditor, are fully subordinated to the rights of the Government under or arising out of the contract. The undersigned Creditor will make no demand for payment from the Debtor and will forbear to sue on said indebtedness, or to attempt to collect the same by legal process until the contract is fully performed. (Purchases of raw materials, fabricated subassemblies, component parts and/or subcontractor services supplied by the Creditor to the Debtor under usual trade terms in the normal course of the Creditor's business will not be construed as being advances for working capital purposes.)

2. Property of the Debtor. Any and anll present and future rights of the undersigned Creditor against the Debtor or any property of the Debtor are fully subordinated to the prior performance of the contract and the liquidation of all obligations of the Debtor under or arising out of the contract.

3. Collateral. So long as the rights of the Government under or arising out of the contract remain unsatisfied, any and all sums obtained by the Creditor from the Debtor or from any property of the Debtor received by the Creditor whether or not incident to any assignment, mortgage, pledge or other hypothecation of property of the Debtor shall be held for the use and benefit of the Government, and no such sums or property shall belong to or be retained by the Creditor.

4. Assignment of Contract. If any person, firm, corporation or entity other than the Debtor becomes obligated to perform the contract or any part thereof, whether by operation by law or otherwise, any and all present and future rights of the Creditor shall remain fully subordinated to the rights of the Government.

5. Default. In the event of failure, insolvency, default, bankruptcy, arrangement, appointment of received for the Debtor or other liquidation of the Debtor, any claim due from the Debtor, its successors and assigns, to the undersigned Creditor shall be subordinated to any claim of the Government against the Debtor under or arising out of the contract; and in such event the undersigned Creditor hereby assigns to the Government (and this agreement shall constitute the assignment to it) all claims of any kind or sort the Creditor may now or hereafter have against the Debtor and all dividends and other distributions which the Creditor may receive or to which it may be entitled by reason of any claim filed, claimed or asserted against the Debtor. The undersigned Creditor consents to and waives notice of all extensions or renewals of said indebtedness, release of security and any arrangements that may be made in the event control of the business of the Debtor is assumed by a court or by creditors. The undersigned Creditor irrevocably authorizes and empowers the Government to demand, sue for, collect and receive every such dividend or distribution and give acquittance and to file claims and take such other proceedings in the Government's own name or in the name of the undersigned Creditor or otherwise, as the Government may deem necessary or advisable for the enforcement of this agreement and the undersigned Creditor agrees to execute and deliver to the Government such powers of attorney, assignments or other instruments as may be requested by the Government in order to enable the Government to enforce any and all claims upon or with respect to any or all indebtedness of the Debtor to the undersigned Creditor, and to collect and receive any and all dividends or distributions which may be payable or deliverable at any time upon or with respect to any such indebtedness of the Debtor to the undersigned Creditor.

6. Modification. This Subordination Agreement shall not be affected by any action extending the time of performance of the contract or by the making of any amendment or modification authorized by the terms of the contract.

7. Certification. The Creditor hereby certifies that he has not given or executed any prior Subordination Agreement with respect to its claims against the Debtor except as follows: _____
(Insert to Whom, or if None, so state)

8. Records. The Creditor hereby agrees to direct the Debtor(s) to mark its records in accordance with this Subordination Agreement and (b) to confirm receipt of notice by signing in the place indicated below. The Creditor also agrees to permit audits by the Government and to furnish reports to the Government at its request, to aid it in determining the Creditor's conformity with this agreement.

9. Enforcement. This agreement shall inure to the benefit of and may be enforced by the United States. It is recognized and agreed by the Creditor that any breach or failure to perform or comply with the terms of this Agreement will be considered as a performance default in the contract awarded the Debtor and the Government may proceed as provided for in these cases in such contract. In the event that the Government terminates the contract with the Debtor for such default and awards the uncompleted portion of such contract to another source at a fair and reasonable price, the Creditor shall be liable for any excess costs incurred by the Government as a result of such re-procurement. In addition, the Creditor shall be liable for all costs and expenses incurred by the Government in enforcing this provision. The rights and remedies of the Government provided herein shall not be exclusive and are in addition to the other rights and remedies provided by law.

10. Construction. Nothing in this Agreement shall be construed to obligate the Government to award any contract to the Debtor.

Executed the _____ day of _____ 196--
Two Witnesses:

_____ _____
(Creditor)

_____ By _____

_____
(Title)

_____
(Business Address)

I, _____, certify that I am the _____ Secretary of the Corporation named as Creditor herein; that _____ who signed this agreement on behalf of the Creditor, was then _____ of said Corporation; and said Agreement was duly signed for and in behalf of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

_____Corporate Seal

Receipt of a copy of the above agreement is acknowledged. The Debtor agrees to comply with all terms and provisions of this agreement affecting it and to withhold payment or distribution to the subordinating Creditor and to the Debtor's stockholders, officers, and directors in conformity with this agreement. It is further agreed that its failure to carry out any of the terms of this agreement constitutes a default in performance of the contract awarded it and the Government may proceed in accordance with the terms of said contract making provisions for default.

_____

_____ By _____

_____
(Title)

*Strike out inapplicable language.

Receipt of a copy of the above Subordination Agreement is acknowledged.

THE UNITED STATES OF AMERICA

By _____

_____

(Contracting Officer)

Address: _____

_____

Effective date. This regulation shall be effective on December 22, 1976.

VINCENT J. HEARING,
Acting Assistant Secretary for Administration, Department of Housing and Urban Development.

[FR Doc.76–37554 Filed 12–21–76;8:45 am]

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federal register

WEDNESDAY, DECEMBER 22, 1976



PART V:

FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

V41247 DEC 22 76 UMI

FEDERAL ELECTION COMMISSION

[Notice 1976-70 AOR 1976-107 through AOR 1976-109]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's Notice of Proposed Rulemaking, published on May 26, 1976 (41 FR 21590), advisory opinion requests 1976-107 through 1976-109 have been made public at the Commission. Copies of AOR 1976-107, AOR 1976-108, and AOR 1976-109 were made available on December 7, December 8, and December 13, 1976, respectively. These copies of advisory opinion requests were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, N.W., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A descriptive listing of each of the requests recently made public as well as the identification of the requesting party follows hereafter:

AOR 1976-107: Whether proposed use of excess campaign funds to finance production costs and purchase of television time for a Member of Congress to make periodic reports to his constituency during the next two years constitutes use for a "lawful purpose" under 2 U.S.C. § 439a.—Requested by John W. Kerr, Jr., Treasurer, Whitehurst for Congress Committee, Norfolk, Virginia.

AOR 1976-108: Whether expenditures by National Republican Congressional Committee on behalf of congressional candidate in general election may be regarded as expenditures by national committee of political party under 2 U.S.C. § 441a(d)(3).—Requested by James C. Cleveland, House of Representatives.

AOR 1976-109: Whether political committee operated as separate segregated fund of a national bank, its holding corporation, and subsidiary State and national banks is organized pursuant to the requirements of the Federal Election Campaign Act of 1971, as amended, and may be supported by the sponsoring corporation under 2 U.S.C. 441b.—Requested by Richard L. Reppert of Thompson, Hine and Flory on behalf of the Society Political Action Committee, Cleveland, Ohio.

Dated: December 15, 1976.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.76-37547 Filed 12-21-76;8:45 am]

[Notice 1976-71, AOR 1976-110 and AOR 1976-111]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's Notice of Proposed Rulemaking, published on May 26, 1976 (41 FR 21590), advisory opinion requests 1976-110 and 1976-111 have been made public at the Commission. Copies of AOR 1976-110 and AOR 1976-111 were made available on December 15, 1976. These copies of advisory opinion requests were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, N.W., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request with ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A descriptive listing of each of the requests recently made public as well as the identification of the requesting party follows hereafter:

AOR 1976-110: Whether the principal campaign committee of a congressional candidate may retain a contribution received from a candidate for local office who utilized his own campaign funds containing commingled corporate and noncorporate funds to make the contribution.—Requested by Arlene Sumimoto for the Akaka for Congress Committee, Hanapepe, Hawaii.

AOR 1976-111: Whether disbursements by the political committee of a labor organization for expenses which, under 2 U.S.C. § 441b, could have been defrayed initially by the sponsoring labor organization may be reimbursed to the committee by the sponsoring labor organization.—Requested by E. L. Abercrombie, Secretary-Treasurer, League of Voter Education (a political committee formed by Local 218 of the Laundry, Dry Cleaning and Dye House Workers Union), Atlanta, Georgia.

Dated: December 16, 1976.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.76-37548 Filed 12-21-76;8:45 am]

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federal register

WEDNESDAY, DECEMBER 22, 1976

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

PART VI:

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

■

LIVESTOCK AND LIVE POULTRY

Proposed Policy and Procedures

V41247 DEC 22 76 V UMI

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

[9 CFR Parts 201 and 203]

INVENTORY AND FUNDS TO BE HELD IN TRUST BY MEAT PACKERS FOR UNPAID SELLERS OF LIVESTOCK

Proposed Rulemaking

Notice is hereby given in accordance with the administrative procedure provisions of 5 U.S.C. 553, that pursuant to the authority conferred by sections 407 (a) and 409(b) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 228(a) and 228b(b), Pub. L. 94–410), the Administrator of the Packers and Stockyards Administration is considering the amendment of the regulations under the Act (9 CFR Part 201) by adding a new § 201.200 to prescribe terms and conditions under which parties to the purchase and sale of livestock may expressly agree in writing to effect payment in a manner other than as required in the prompt payment provisions of the Act, and to clarify the responsibilities of the industry with respect to the requirement that packers whose average annual livestock purchases exceed $500,000, hold certain inventory and funds in trust for the benefit of unpaid cash sellers of livestock. It is also proposed to issue a Statement of General Policy (9 CFR Part 203) with respect to the trust provisions of the Act.

Statement of consideration. On September 13, 1976, the Packers and Stockyards Act, 1921, as amended, was further amended. A new section 206 was added which requires that packers whose average annual livestock purchases exceed $500,000, hold certain inventory and funds in trust for unpaid cash sellers of livestock. That section is as follows:

Sec. 206(a) It is hereby found that a burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventores of or receivables or proceeds from meat, meat food product, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in livestock and protect the public interest.

(b) All livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers: *Provided*, That any packer whose average annual purchases do not exceed $500,000 will be exempt from the provisions of this section. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored: *Provided*, That the unpaid seller shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within thirty days of the final date for making a payment under section 409, or within fifteen business days after the seller has received notice that the payment instrument promptly presented for payment has been dishonored, the seller has not preserved his trust under this subsection. The trust shall be preserved by giving written notice to the packer and by filing such notice with the Secretary.

(c) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

At the same time a new section 409 was also added which requires prompt payment for livestock purchased and requires that any extension of credit in such a purchase be in writing. That section is as follows:

Sec. 409(a) Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized representative the full amount of the purchase price: *Provided*, That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a purchase on a carcass or "grade and yield" basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: *Provided further*, That if the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

(b) Notwithstanding the provisions of subsection (a) of this section and *subject to such terms and conditions as the Secretary may prescribe*, the parties to the purchase and sale of livestock may *expressly agree in writing*, before such purchase or sale, to effect payment in a manner other than that required in subsection (a). *Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.*

(c) Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered and "unfair practice" in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term "unfair practice" as used in this Act. (Emphasis supplied.)

For purposes of clarification as to the need for this amendment to the Act and to further justify the Administrator's proposal to add § 201.200 to the regulations, excerpts from pages 4, 5, 6, 7, 8 and 13 of Report No. 94–932, of the Committee on Agriculture and Forestry, Senate on H.R. 8410, as issued on June 4 (legislative day June 3), 1976, are made a part of this statement of consideration, as follows:

BACKGROUND AND NEED FOR LEGISLATION

I.

The Packers and Stockyards Act, 1921, was enacted at a time when well over 80 percent of all livestock was sold through large terminal markets. The Act provided for close supervision by the Secretary of Agriculture of transactions involving the purchase and sale of livestock at such markets.

The Act served its purpose well, and, in 1935, was amended to bring the purchase and sale of poultry at major markets within the Secretary's regulatory jurisdiction.

The failure by Congress to include in the Act a provision requiring bonds of market agencies and dealers was early recognized, and discretionary authority to require such bonds was granted to the Secretary in the annual Department of Agriculture Appropriation Act from 1924 until 1942. This authority was made permanent by the Act of July 12, 1943 (57 Stat. 422, 7 U.S.C. 204).

II.

However, in the decades following enactment of the basic statute in 1921, and especially in the decade following World War II, the pattern of livestock marketing in the United States changed drastically. Fewer and fewer livestock moved to slaughter through the great terminal markets. By the mid-1950's, it had become clear that packers were purchasing a large percentage of their slaughter livestock through country auction markets. In 1958, Congress amended the Act to subject such markets to supervision by the Secretary.

National livestock marketing patterns continued to change as packers continued to push to acquire slaughter livestock at its source. In 1973, the 10 major meat packers (including American Beef Packers) purchased more than 75 percent of their slaughter cattle, hogs, sheep and lambs from country sources (direct). Today the Department of Agriculture estimates that well over 80 percent of all slaughter livestock is purchased by packers directly from producers and custom feedlots.

The consequences of these changes in livestock marketing patterns are perhaps best reflected in statistics of the Packers and Stockyards Administration, which picture the results of the increased exposure of livestock producers to the risks created by certain business practices engaged in by members of the packing industry. Between 1958 and early 1975, 167 packers failed, leaving livestock producers unpaid for over $43 million worth of livestock.

Year	Packers	Original amount owed for livestock	Amount paid [1]	Amount still owed [1]
1958	7	$568,679	$95,726	$472,953
1959	10	1,370,328	158,266	1,212,062
1960	7	508,853	335,335	173,518
1961	7	494,082	173,537	320,545
1962	17	1,612,163	6,783	1,605,480
1963	6	826,423	90,000	636,423
1964	3	115,098	33,007	82,091
1965	13	1,992,851	73,000	1,919,351
1966	9	2,189,099	363,582	1,825,517
1967	9	1,907,748	18,907	1,978,841
1968	10	1,042,371		1,041,371
1969	12	670,664	5,900	864,764
1970	14	2,021,342	450,000	1,571,342
1971	12	1,666,505	525,394	1,141,111
1972	11	843,544	110,251	733,293
1973	8	704,360	5,990	998,370
1974	9	2,357,744	20,000	2,337,744
1975 (1st 3 mo)	3	24,314,127		24,314,127
Total	167	45,393,831	2,365,128	43,028,703

[1] Additional payments could have been made without the knowledge of the USDA.

Source: Packers and Stockyards Administration, USDA.

III.

By far the largest of the failures was that of American Beef Packers (ABP), which went bankrupt in January 1975, leaving producers in 13 States unpaid for a total of over $20 million in livestock sales. Of particular concern to the livestock producers in this instance was the fact that ABP's principal source of financing, General Electric Acceptance Corporation, stood ahead of them among the bankrupt's creditors by virtue of its duly protected security interest in ABP's inventory, i.e., livestock and derivative products which the producers had sold on a cash basis and for which they had not been paid.

Under present law, a packer is able to offer as security for a loan the livestock, meat, meat food products, or receivables or proceeds therefrom, which he has not paid for. The producer, who was responsible for raising, feeding, and caring for the livestock is left unpaid, while secured creditors reap the reward of his labors.

As of July 1, 1975, 23 States had responded to the ominous trend of packer failures by enacting laws requiring bonds of packers. In the wake of the ABP bankruptcy, several States, including Kansas, Oklahoma, and Texas, have enacted laws subjecting packers to strict prompt payment requirements. At the present time, 26 States have enacted bonding requirements for packers. These requirements vary widely from $1,000 to two full days' average purchases. Nineteen States currently have prompt payment statutes of some kind, which affect packer payment practices.

IV.

USDA figures show that in 1973 some $31 billion worth of livestock and $4 billion worth of poultry were marketed in the United States, representing approximately one-third of all farm income. Livestock is probably the single most important source of protein in the American diet. Thus, livestock producers occupy a position of unique national importance. No individual is engaged in a riskier endeavor or one more vital to the national interest than the producer. And no entrepreneur is so completely at the mercy of the marketplace. The livestock producer, if he successfully combats the vicissitudes of weather, financing and skyrocketing costs, must sell when his cattle are ready irrespective of the market. His livestock may represent his entire year's output. If he is not paid, he faces ruin.

The meat packing industry is, of course, an integral part of our Nation's agricultural marketing system. What is needed to prevent future producer tragedies, as occurred following the ABP bankruptcy, is legislation that will afford a measure of protection to the livestock producer and feeder and yet not be so restrictive as to reduce competition in the livestock slaughtering business. H.R. 8410 accomplishes this dual objective.

* * * * *

STATUTORY TRUST

Section 8 of H.R. 8410 creates a statutory trust for unpaid sellers of livestock to packers.

Under this provision, no specific identification of the livestock or the carcasses, meats, proceeds or receivables derived therefrom is required. Instead, they are held in a pool in trust for the benefit of all unpaid cash sellers. Each cash seller would be entitled to a pro rata share in settlement of his account.

It is the Committee's belief that the trust provision offers producers the best protection against packer bankruptcies. They would now receive their money, the money they expected to receive when they sold their livestock, before secured creditors. This provision, together with the bill's provisions on packer prompt payment practices and packer bonding, should avoid the recurrence of the effects of the American Beef Packers' bankruptcy.

The Committee further believes that it would be most beneficial if the Secretary, through the Packers and Stockyards Administration, would formulate some means of notifying producers of a packer bankruptcy. This notification would not affect the time periods established in section 8 for an unpaid seller to notify the packer and the Secretary to order to preserve his right to the trust. Such notification should spur unpaid cash sellers to file their notices and thereby preserve their right to the trust, while also allowing more rapid determination of the scope of the bankrupt packer's estate.

The Committee increased the time limits on the period during which an unpaid producer can preserve his rights under the trust. The extension should help avoid an exceptional situation of long delays due to the actions of the Postal Service or individual banks while still allowing for prompt determination of the producers who would share in the corpus of the trust.

Excerpts from page 7 of Report No. 94–1043, of the Committee on Agriculture, House, on H.R. 8410, as issued on April 14, 1976, are also made a part of this statement of consideration, as follows:

Section 8. This section adds to title II of the Act a new section 206 which applies to any packer whose average annual purchases exceed $500,000. The new section requires that all livestock purchased by a packer in cash sales, and all interventories of, or receivables or proceeds from meat, meat food products or livestock products derived therefrom be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored. However, an unpaid seller loses the benefit of the trust unless he gives written notice to the packer and to the Secretary (1) within 15 days of the final date for making payment under section 409, or (2) within five days after he has received notice that the payment instrument, promptly presented for payment, has been dishonored.[1] A cash sale is defined as a sale in which the seller does not expressly extend credit to the buyer.

No specific identification of the livestock from which carcasses, meats, proceeds or receivables were derived is required. Instead they are held in a pool in trust for the benefit of all unpaid cash sellers. Each seller would be entitled to a pro rata share in settlement of his account. The trust does not extend to livestock, meats, etc., which have been purchased from the packer in good faith transactions. The provisions of this section would prevail over State law.

Both committee reports, the Senate Committee Report of June 4, 1976, at page 8, and House Committee Report of April 14, 1976, at page 7, state that the delivery of a draft would not satisfy the requirements of new section 409 for prompt payment to the seller of livestock.

In the debates on the amendment, Mr. Hightower made the following statement which appears in the Congressional Record of May 6, 1976, on page H 4018.

Mr. Chairman, if the gentleman will yield so I may respond, as I interpret the Jones amendment that has nothing to do with the situation if both are at the scene. My amendment provides that from the seller the producer can demand payment right then and there. My amendment provides if the seller is not at the scene, then the buyer or purchaser may drop a check in the mail. The Jones amendment makes no reference to a check and even would imply and I believe would provide or make it *possible for the purchaser to pay by draft, which is one of the abuses that we seek to do away with in this legislation.* (Emphasis added.)

Also in those debates Mr. Thone made the following statement which appears on page H 4008 of the May 6, 1976 Congressional Record:

At this point I wish to insert in the Record for purposes of legislative history a letter I received in response to my inquiry from Marvin L. McLain, administrator of the Packers and Stockyards Administration * * *.

Questions and answers contained in that letter, which relate to the trust fund provisions of the amendment to the Act, follow:

1. Section 8 of the bill impresses a trust on all "livestock purchased by a packer in cash sales and all inventories of or receivables or proceeds from meat, meat food products, or

[1] Note. The amendment was enacted with 30 days and 15 business days as a time limit.

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livestock derived therefrom" for the benefit of all unpaid cash sellers until full payment has been made. It was not intended by the Committee that any on-going segregation of funds (custodial account) would be required by this provision. Do you see any necessity for segregation of such current assets?

Answer: No. There would be no need for any special segregation of such current assets, since under the bill the trust attaches on such livestock, inventories, receivables and proceeds to the extent of the amount owed the unpaid cash sellers and there would be no necessity for a determination of the amount of that trust except in situations, such as bankruptcy, where the interests of various claimants must be specifically determined. The amount of the trust could be determined from the packer's records at any time by an audit. Although the livestock, inventories, receivables and proceeds derived from the livestock purchased by the packer in cash sales would be commingled with all other assets in the normal operations of the business, such an audit would reveal the extent of the interest of the unpaid cash sellers in such commingled assets and therefore subject to the trust.

2. The Committee did not intend that the trust provisions, section 8, extend to the meats or meat food products purchased (and held) by retailers from the packer in good faith transactions; but rather, that the trust would attach to the accounts receivable, cash (or equivalent) or proceeds received by the packer in payment for such products. For pupposes of conveying the practical effects of such a procedure to the Membership on the Floor, could you explain how this would work and whether or not you believe this would work a hardship on the packers or the retail purchasers?

Answer: The Committee Report 94-1043 states at page 7 that: "The trust does not extend to livestock, meats, etc., which have been purchased from the packer in good faith transactions". Upon the purchase by a retailer in the ordinary course of his business, the packer would then have an account receivable from the retailer for the purchase price of the product and that account receivable would be subject to the trust. When the retailer pays the purchase price, the trust would then attach to that payment. In the event of bankruptcy of the packer after the purchase in the ordinary course of business and prior to payment by the retailer to the packer, the relationship of the retailer and the packer would not change in any respect by virtue of the trust. The retailer would still owe the packer the purchase price of the product and when he pays for the product, the payment would be subject to the trust to the extent of the amounts owed to the unpaid cash sellers of the livestock. The packer or the livestock seller would not be adversely affected by the fact that the trust would be applicable only with respect to the meat, meat food products, and livestock products in the possession of the packer, and then to the packer's account receivable for the sale of the products, and then to the proceeds paid by the retailer to the packer to satisfy the account receivable.

3. The Committee intended that the trust established by section 8 to be a constructive statutory trust arising by operation of law and that it need no specifically identity the livestock, accounts receivable, meat or meat products to which it attaches until the event (insolvency or bankruptcy) occurs which, as a result of its occurrence (marshalling of assets, etc.)., results in the identification of certain assets to which it is attached.

As a practical matter, based on the experience of the Packers and Stockyards Administration, should such identification of assets to which the trust would attach, in the event of bankruptcy, cause any difficulty in the administration of this program as outlined above?

Answer: No. There should be no problem encountered in identifying the livestock, accounts receivable, and proceeds from the meat, meat food products, or livestock products subject to the trust for the unpaid cash sellers of the livestock. Under section 401 of the Packers and Stockyards Act, every packer is required to keep such accounts, records and memoranda as fully and correctly disclose all transactions involved in his business. Insofar as we are aware, every packer keeps books and records from which the amount of the inventories, receivables and proceeds and the amount owed to each unpaid cash seller of the livestock to the packer can be determined by an audit of those books and records. Upon bankruptcy, for example, an audit would reveal the amount of the commingled inventories, accounts receivable and proceeds, the amount owed to the unpaid cash sellers of livestock to the packer, and thus the extent of the application of the trust. The audit would reveal the amount which must be paid to the unpaid cash sellers before the commingled inventories, accounts receivable, and proceeds are freed from the trust. Accordingly, we foresee no problem in the administration of this program as contemplated by the Committee.

4. The Committee intended that existing secured credit transactions entered into between packers and their banks or other financing agents become subject to the trust provisions of this bill upon the date of enactment. Could the Packers and Stockyards Administration generally give publicity to the prospective enactment of this legislation so that packers would be on notice of its provisions? Further, do you believe such an effective date provision would work a hardship on the industry?

Answer: Yes. The Packers and Stockyards Administration would be glad to cooperate with the Committee in advising affected packers of action by the Congress with respect to this provision. It is our understanding that the various packer associations have been keeping currently abreast of developments in connection with the bill and they are no doubt keeping their membership currently advised. Also, various financial organizations have been following the developments in connection with the trust provisions. Accordingly, we would anticipate that all affected packers will receive timely notice of action by the Congress with respect to the trust provision and we would not anticipate any hardship on the industry in this regard.

5. Based on your experience with packers and their credit arrangements, need a "floating lien creditor" arrangement between a packer and his banker or other financing entity be in any way adversely affected by a trust provision such as that contained in Section 8? Explain.

Answer: The Section 8 trust provision would have an effect upon the credit arrangements between a packer and his banker or other financial entity since the lender would no longer have the livestock of the unpaid cash sellers and the products therefrom available as a source of additional security for his loan to the packer, until the livestock sellers have been paid. However, we would not anticipate that this result will have any adverse long term impact upon the credit arrangements of the packing industry.

6. Based on information you provided me, the states of Texas, Oklahoma and Oregon have laws relating to liens on livestock and products therefrom. A suggestion has been made that the Congress pass a bill containing a provision establishing a lien on behalf of the sellers of livestock. Based on your experience, would the cost of a trust provision such as we have in H.R. 6410 cost any more than a federal lien provision?

Answer: Currently three states—Texas, Oklahoma and Oregon—have laws relating to liens on livestock and products therefrom. There is also legislation pending in the states of Florida and California which would provide for liens on livestock sold to packers until payment is received by the seller.

There would not appear to be any material difference in the cost between the trust provision contained in this bill and a federal lien provision. The trust provision is largely self enforcing and would only become effective in the event of bankruptcy or inability of the packer to pay.

In any sale of livestock to a packer, any extension of credit by the seller results in excluding the seller from participating in the benefits of a trust created by Section 206. Thus, it would be a serious injustice if a packer, or a dealer or market agency buying for a packer, purchased livestock on credit without the seller being fully informed of any rights he may be waiving when credit is extended. Misunderstandings about this on the part of livestock sellers agreeing to extend credit, could result in undue financial burdens on livestock sellers and lead to lengthy litigation. Further, effective administration of the Act by the Secretary and the Courts requires that it be possible to determine from a packer's records who is entitled to the benefits of such a trust and who is not, in the event such a trust is created, and whether appropriate information is possessed by those who sell on credit and thus will not be entitled to the benefits of such a trust.

Accordingly, it is proposed that a new regulation, violation of which would constitute an unfair or unjust practice within the meaning of the Act, be issued as follows:

§ 201.200 Sale of livestock to a packer on credit.

(a) No packer whose average annual purchases of livestock exceed $500,000 shall purchase livestock on credit, and no dealer or market agency acting as an agent for such a packer shall purchase livestock on credit, unless:

(1) before purchasing such livestock the packer obtains from the seller a written acknowledgment as follows:

On this date, shown below, I am selling livestock on credit to a packer, and I understand that in doing so I will have no rights under the trust provision of section 206 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 196, Pub. L. 94-410), with respect to this transaction.

Date ----------

Signature ----------

(2) such packer retains such acknowledgment, and such dealer or market agency retains a copy thereof, in his records for two years; and

(3) such seller receives a copy of such acknowledgment.

(b) Purchasing livestock for which payment is to be made by a draft which is not a check, shall constitute purchasing such livestock on credit within the meaning of paragraph (a) of this section.

(c) The provisions of this section shall not be construed to permit any transaction prohibited by § 201.61(a) relating to

financing by market agencies selling on a commission basis, or by § 201.66 relating to financing packers by dealers or vice versa.

It is also proposed that a new Statement of General Policy be issued as follows:

§ 203.15 Trust benefits under section 206.

Within the times specified under section 206(b), the seller, to preserve his interest in the statutory trust, must give written notice to the packer and file such notice with the Secretary. One of the ways to satisfy the notification requirement under this provision, is to make certain that notice is given to the packer within the prescribed time by letter, mailgram, or telegram stating:

(1) Notification to preserve trust benefits;

(2) Identification of packer;

(3) Identification of seller;

(4) Date of the transaction;

(5) Date of seller's receipt of notice that payment instrument has been dishonored (if applicable); and

(6) Amount of money due,

and to make certain that a copy of such letter, mailgram, or telegram is filed with a P&SA area office or with P&SA, USDA, Washington, D.C. 20250, within the prescribed time.

While the above information is desirable, any written notice which informs the packer and the Secretary that the packer has failed to pay for livestock, is sufficient to meet the above-mentioned statutory requirement if it is given within the prescribed time.

Any interested person who wishes to submit written data, views or arguments concerning the proposed amendments may do so by filing them in duplicate, and any interested person who desires an oral hearing on the proposed amendments may file a written request stating the reasons therefor, in duplicate, with the Hearing Clerk, Department of Agriculture, Washington, D.C. 20250, on or before February 22, 1977.

All written submissions made, and a transcript of any hearing which may be held, pursuant to this notice, will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Done at Washington, D.C. this 17th day of December, 1976.

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

[FR Doc.76-37587 Filed 12-21-76;8:45 am]

[9 CFR Parts 201 and 203]

PAYMENT AND ACCOUNTING FOR LIVESTOCK AND LIVE POULTRY

Proposed Rulemaking

Notice is hereby given in accordance with the administrative procedure provisions of 5 U.S.C. 553, that pursuant to the authority conferred by sections 407 (a) and 409(b) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 228(a) and 228b(b), Pub. L. 94-410), the Administrator of the Packers and Stockyards Administration is considering the amendment of the regulations under the Act (9 CFR Part 201) to prescribe terms and conditions under which drafts may be used in payment for livestock, to clarify the responsibilities of the industry when checks are mailed to the seller in payment for livestock, and to require packers, market agencies, and dealers who purchase livestock through agents to promptly reimburse such agents in accordance with the prompt payment provisions of the 1976 amendment to the Packers and Stockyards Act. The Administrator is also considering a new Statement of General Policy regarding agreements for the mailing of checks in payment for livestock.

Statement of consideration. The current § 201.43 was promulgated before the 1976 amendment of the Act. It was intended to establish a uniform rule regarding payment for livestock purchased by packers, market agencies, and dealers consistent with the established custom of the industry that sales of livestock are on a cash basis. On September 13, 1976, the Packers and Stockyards Act, 1921, as amended, was further amended. A new section 409 was added which reads as follows:

Sec. 409(a) Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized representative the full amount of the purchase price: *Provided*, That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a purchase on a carcass or "grade and yield" basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: *Provided further*, That if the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

(b) Notwithstanding the provisions of subsection (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a). Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other accounts issued by the purchaser relating to the transaction.

(c) Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an "unfair practice" in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term "unfair practice" as used in this Act.

For purposes of clarification as to the need for the amendment to the regulations, excerpts from pages 7, 8, 11 and 12 of Report No. 94-932, of the Committee on Agriculture and Forestry, Senate 94th Congress, Second Session, on H.R. 6410, as issued on June 4 (legislative day June 3), 1976, are made a part of this statement of consideration as follows:

SECTION 7. PROMPT PAYMENT

Section 7 of the bill adds to title IV of the Packers and Stockyards Act a new section 409 which, absent an express prior agreement in writing between the buyer and seller, requires each packer, market agency, or dealer purchasing livestock, before the close of the next business day following the purchase of livestock and transfer of possession thereof, to wire transfer funds to the seller's account or to deliver to the seller or his duly authorized agent, at the point of transfer of possession of the livestock, a check for the full amount of the purchase price. The delivery of a draft would not satisfy this requirement. In the case of a purchase on a carcass or "grade and yield" basis, the check or wire transfer of funds would be due not later than the close of the first business day following determination of purchase price. If the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, the packer, market agency or dealer, is required to wire transfer or mail the full amount of the purchase price to the seller within the time limits of this section. Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the appropriate or prompt collection of funds shall be considered an "unfair practice" in violation of the Act.

* * * * *

PROMPT PAYMENT

Section 7 of H.R. 6410, as reported by the Committee, would basically require each packer, market agency, and dealer purchasing livestock to pay for the livestock by the close of the next business day, following transfer of possession of the livestock, or in the case of purchases on a carcass or "grade and yield" basis, to pay for such livestock before the close of the next business day following the determination of the purchase price, as now required in the regulations.

This section superimposes on this basic requirement a slaughter proviso which gives the buyer two alternatives: (1) To wire transfer funds, or (2) to deliver payment at the point of transfer. If the buyer does not wire transfer funds, he is required to deliver payment to the seller at the point of transfer of possession of the livestock. If the seller or his authorized representative is not present at the point of transfer of the livestock to accept payment, the buyer must wire transfer or place payment in the mail within the prescribed time limits.

In practice, with respect to a packer, this provision would operate in the following manner. In areas where small feedlots predominate, the points of transfer of possession are usually the packing plants in cases of direct sales, and the public markets. This means that the packer in those instances would be obligated to make payment available at the packing plant or at the market where the transfer of possession took place. Since this is currently the manner in which payment is being made, there would

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be no appreciable change in practice. If the producer did not pick up payment at the packing plant or if the selling agency at the market is not available to receive the payment at the market within the prescribed time, the packer then would wire transfer the funds or place the check in the mail by the close of the next business day.

In the Southwest and West where larger lots with scales predominate, the point of transfer is usually at the feedlot where the livestock is weighed. In this instance the packer would be obligated to wire transfer funds or to deliver payment to feedlot. Under the latter alternative, if the seller or his representative is not present to receive payment, the packer would then wire transfer funds or place the check in the mail by the close of the next business day.

Nothing in section 7 would preclude a packer and a producer from agreeing in writing that the packer may transmit through the mails, by the close of the next business day, payment for livestock purchased. Such action would not result in the producer being considered a credit seller. If, however, the agreement is for payment beyond the close of the next business day, the producer would be considered a credit seller and as such would forfeit his rights under the trust.

In the case of sales at public markets, the market would make payment available to the sellers at the market since that would be the point of transfer of possession of the livestock. If the seller is not present at the market to receive payment, the market would wire transfer payment or place payment in the mail before the close of the business day following the sale.

Excerpts from page 7, 11, and 12 of Report No. 94–1043 of the Committee on Agriculture, House, 94th Congress, Second Session, on H.R. 8410, as issued on April 14, 1976, are also made a part of the statement of consideration, as follows:

Section 7.—This section adds to title IV of the Packers and Stockyards Act a new section 409 which, absent an express prior agreement in writing between the buyer and seller, requires each packer, market agency, or dealer purchasing livestock before the close of the next business day following the purchase of livestock and transfer of possession thereof to wire transfer funds to the seller's account or to deliver to the seller or his duly authorized agent, at the point of transfer of possession of the livestock, a check for the full amount of the purchase price. The delivery of a draft would not satisfy this requirement. In the case of a purchase on a carcass or "grade and yield" basis, the check or wire transfer of funds would be due not later than the close of the first business day following determination of purchase price. Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as provided pursuant to subsection (a) or (b) or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an "unfair practice" in violation of the Act.

* * * * *

Considerable discussion ensued on an amendment to section 7 (prompt pay) proposed by Mr. Hightower. The amendment restructures the prompt payment provision to require payment solely by delivery of a check or wire transfer of funds to the seller's account eliminating payment by mail. It also provides that in the case of a purchase on a carcass or "grade and yield" basis, payment is required not later than the close of the first business day following determination of the purchase price. It was pointed out that, if a producer made a sale to a packer and contracted for the hauling of the cattle to the packer, the transfer of possession would occur at the packing plant, and that the packer would have the obligation to make payment to the seller or his agent at that point. If the buyer stands ready, willing, and able to tender a check at the point of transfer of possession at the time transfer takes place and for 24 hours thereafter, but no representative of the seller appeared to accept the check, the buyer would have satisfied his obligation under this provision. The buyer would, however, still have an obligation to make payment within a reasonable period of time.

The seller could pick up the check himself or constitute a commission agent or trucker as his agent to pick up the check. He could also agree in writing to other payment arrangements. The Committee agreed to an amendment to provide that such other arrangements would be subject to such terms and conditions as the Secretary might prescribe to protect either party from being forced into an arrangement to which he otherwise might not wish to agree or to cover other unforseen circumstances. The Committee deleted from the amendment any reference to "transmittal" of payment to make clear that, absent a prior written agreement between seller and buyer, the payment requirement could not be satisfied by transmitting it by mail. The Committee then agreed to the Hightower amendment by voice vote.

Both committee reports, the Senate Committee Report of June 4, 1976, on page 8, and the House Committee Report of April 14, 1976, on page 7, state that delivery of a draft would not satisfy the requirements of new Section 409 for prompt payment to the seller of livestock.

The House report on page 12 also states that absent a prior written agreement between buyer and seller, the payment requirement could not be satisfied by transmitting it by mail. The Senate report on page 12 also states, "Nothing in [the prompt payment requirement] would preclude a packer and a producer from agreeing in writing that the packer may transmit through the mails, by the close of the next business day, payment for livestock purchased. Such action would not result in the producer being considered a credit seller."

The proposed change in paragraph (c) of regulation 201.43 covers purchases through agents who use their own funds to pay for livestock purchased on order. It requires the person who places the order for livestock, to pay such an agent in the same manner as required of buyers in Section 409 of the Act.

Accordingly, it is proposed that § 201.43 of the regulations under the Packers and Stockyards Act be amended by revising paragraphs (b) and (c) thereof and adding a new paragraph (d) to read as follows:

§ 201.43 Payment and accounting for livestock and live poultry.

* * * * *

(b) *Prompt payment for livestock—terms and conditions.*

(1) No packer, market agency, or dealer shall purchase livestock for which payment is made by a draft which is not a check, unless the seller expressly agrees in writing before the transaction that payment may be made by such a draft.

(2) No packer, market agency, or dealer shall mail a check in payment for livestock purchased for cash unless:

(i) (*a*) the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession of such livestock, on or before the close of the next business day, following the purchase of livestock and transfer of possession thereof, or in the case of a purchase on a "carcass" or "grade and yield" basis, the close of the first business day following determination of the purchase price; or

(*b*) the seller expressly agrees in writing before the transaction that payment may be made by such mailing of a check; and

(ii) such check is placed with proper postage prepaid and properly addressed to the seller in a post office, letter box, or other receptacle regularly used for the deposit of mail for delivery, from which the mail is scheduled to be collected before the close of the next business day following the purchase of livestock and transfer of possession thereof, or in the case of a purchase on a "carcass" or "grade and yield" basis, the close of the first business day following determination of the purchase price.

(3) Any agreement referred to in this paragraph (b) of this section shall be disclosed in the records of any market agency or dealer selling such livestock, and in the records of the packer, market agency or dealer purchasing such livestock, and retained by such persons for two calendar years.

(4) No packer, market agency, or dealer shall, as a condition of purchase by him of livestock, impose, demand, compel or dictate the terms or manner of payment.

(c) *Purchasers to promptly reimburse agents.*

(1) Each packer, market agency, or dealer who utilizes or employs an agent to purchase livestock for him, shall, in transactions where such agent advances his own funds to pay for such livestock purchased on order, deliver a check or wire transfer funds to such agent in the full amount advanced, before the close of the next business day following purchase and transer of possession thereof unless otherwise expressly agreed in writing between the principal and agent before the purchase of the livestock. Any such agreement shal be disclosed in the records of the principal and in the records of any market agency or dealer acting as such agent, and retained by the principal for two calendar years.

(2) Any agent using his own funds to pay for livestock purchased for a packer, market agency, or dealer on order, shall, for the purpose of obtaining reimbursement, be deemed to be a seller to such packer, market agency, or dealer within the meaning of paragraph (b) of this section, above.

(d) The provisions of paragraphs (b) (1) and (c) of this section shall not be construed to permit any transaction prohibited by § 201.61(a) relating to financing by market agencies selling on a commission basis, or by § 201.68 relating to financing packers by dealers or vice versa.

It is further proposed that violation of § 201.43(b) or (c), as set forth above, would constitute an unfair or unjust practice within the meaning of the Act, excluding a violation of § 201.43(b)(3) not accompanied by any other violation of these provisions. A violation of § 201.43(b)(3), whether or not accompanied by any other violation of these provisions, would constitute a violation of Section 401 of the Act.

It is also proposed that a new Statement of General Policy under the Act be issued with respect to the manner in which sellers may authorize purchasers to mail checks in payment for livestock purchases.

Section 206 of the Act (7 U.S.C. 196), added by Pub. L. 94–410 provides for the holding of certain livestock, inventories, proceeds and receivables by a packer in trust for the benefit of unpaid cash sellers. Subsection (c) thereof provides, "For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer." (Emphasis added)

Section 409 of the Act (7 U.S.C. 228b), also added by Pub. L. 94–410, requires each packer, market agency, or dealer purchasing livestock to deliver to the seller or his duly authorized representative the full amount of the purchase price within time limits specified therein. This requirement is subject to a proviso that if livestock is purchased for slaughter and if payment is made by check rather than wire transfer, such check must, within time limits specified therein, be actually delivered at the point of transfer of possession to the seller or his duly authorized representative. There is a second proviso that if the seller or his duly authorized representative is not present at the point of transfer of possession to receive such check, then such check must, within the same time limits, be mailed to the seller.

The Packers and Stockyards Administration believes that if a seller or his duly authorized representative is not present at the point of transfer of possession to receive such a check, whether or not he so informs the purchaser in advance, that fact alone would not constitute an express extension of credit within the meaning of section 206(c) because it would not give the purchaser any more time to issue such check, than is provided in section 409(a).

The Packers and Stockyards Administration further believes that if a seller of livestock agrees that payment may be made by mailing a check within the time limit as provided in section 409(a), whether or not such seller is present at the point of transfer of possession to receive such check, that fact alone likewise would not constitute an express extension of credit within the meaning of section 206(c), because it would not give the purchaser any more time to issue such check, than is provided in section 409(a).

Such an agreement would constitute an agreement "to effect payment in a *manner* other than that required in subsection (a)," (emphasis added) within the meaning of section 409(b) of the Act, and would also be subject to § 201.43 (b) and (c), of the regulations issued under the Act.

The Packers and Stockyards Administration believes that it is an unfair or unjust practice in violation of the Act, for packers, market agencies, or dealers to buy livestock and issue worthless checks in purported payment therefor. The fact that it is possible for such a purchaser so to violate the Act, should not give rise to a presumption that an agreement for payment by mailing a check within the time limit as provided in section 409(a), is an extension of credit by the seller to the purchaser. It would be absurd to presume that a seller consents to the issuance to him of a worthless check.

The Packers and Stockyards Administration believes to be pertinent to this matter, that section 206 and section 409 were both added to the Act by the same amendment, Pub. L. 94–410, and that Report No. 94–932 of the Committee on Agriculture and Forestry, Senate, on the Bill which later became Pub. L. 94–410, recited at page 12, "Nothing in (section 409 of the Act) would preclude a packer and a producer from agreeing in writing that the packer may transmit through the mails, by the close of the next business day, payment for livestock purchased. Such action would not result in the producer being considered a credit seller."

The Packers and Stockyards Administration also believes to be pertinent to this matter, that § 201.43(b) of the regulations issued under the Act, for more than ten years prior to the enactment of Pub. L. 94–410, required "Each packer, market agency or dealer purchasing livestock * * * before the close of the next business day following the purchase of livestock and the determination of the amount of the purchase price, [to] transmit or deliver to the seller or his duly authorized agent the full amount of the purchase price, unless otherwise expressly agreed between the parties before the purchase of the livestock." As recited when that provision was first issued, 29 FR 1796, its purpose was to establish, a uniform rule regarding payment for livestock purchased by packers, market agencies, and dealers "consistent with (1) the established custom that sales of livestock are on a cash basis. * * *"

It is a well-established custom of the industry that a sale of livestock in which payment is to be made by a check mailed the next business day following purchase and determination of the amount of the price, is a cash transaction involving no extension of credit by the seller to the purchaser.

Therefore, the following Statement of General Policy is proposed:

§ 203.16 Mailing of checks in payment for livestock purchased for cash and not on credit.

The Packers and Stockyards Administration recognizes that one who sells livestock to a packer, market agency, or dealer, may not intend to be present at the point of transfer of possession of the livestock, to receive payment, at the time a check in payment for such livestock may be delivered by the purchaser, and may not wish to authorize a representative to receive such a check; or for other reasons such a seller may prefer that such a purchaser make payment by mailing a check within the time limit as prescribed in section 409(a). In cases when the seller does not intend to be present, he may use the following form of notification to the purchaser:

I do not intend to be present at the point of transfer of possession of livestock sold by me to (name of packer, market agency, or dealer) for the purpose of receiving a check in payment for such livestock. I hereby direct (name of packer, market agency, or dealer) to make payment for livestock purchased from me, by mailing a check for the full amount of the purchase price within the time limit as provided in Section 409(a) of the Packers and Stockyards Act, 1921, as amended, and in accordance with the provisions of Section 201.43(b) of the regulations thereunder.

This does not constitute an extension of credit to (name of packer, market agency, or dealer). This is subject to cancellation by me at any time, and if not cancelled by (date), it shall terminate on that date.

If the seller for reasons other than not being present to receive payment prefers to have the packer, market agency, or dealer make payment by mailing a check within the time limit as provided in section 409(a), he may use the above form but should not include the statement in the first sentence that he does not intend to be present.

Any interested person who wishes to submit written data, views or arguments concerning the proposed amendment and Statement may do so by filing them, and any interested person who desires an oral hearing thereon may file a written request stating the reasons therefor, in duplicate, with the Hearing Clerk, Department of Agriculture, Washington, D.C. 20250, on or before February 22, 1977.

All written submissions made, and a transcript of any hearing which may be held, pursuant to this notice, will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR § 1.27 (b)).

Done at Washington, D.C. on this 17th day of December 1976.

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

[FR Doc.76–37589 Filed 12–21–76;8:45 am]

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federal register

WEDNESDAY, DECEMBER 22, 1976

PART VII:

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for October 1976

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FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for October 1976

In accordance with the provisions of 10 CFR 211.67 relating to FEA's domestic crude oil allocation program the monthly notice specified in § 211.67(i) is hereby published.

Based on reports submitted to FEA by refiners and other firms as to crude oil receipts, crude oil runs to stills and eligible product imports for October 1976, imported naphtha utilized as a petrochemical feedstock in Puerto Rico, application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67 (d)(4), and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for October 1976 is calculated to be .292905.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of October 1976, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .167604 of a barrel of deemed old oil.

The issuance of entitlements for the month of October 1976 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner and other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR § 211.61(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of October 1976 at $7.84, which is the exact differential as reported for the month of October between the weighted average per barrel costs to refiners of old oil and of imported crude oil, less the sum of 21 cents.

In accordance with 10 CFR § 211.67 (b), each refiner that has been issued fewer entitlements for the month of October 1976 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of October 1976 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of October 1976 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through September 1976 pursuant to 10 CFR § 211.67(j)(1).

Pursuant to § 211.67(j)(2), the October 1976 installments of the amounts representing corrections for reporting errors for months prior to September 1975 are shown in a separate column in the listing and these installments will continue to be shown in entitlement notices through the notice for February 1977. As set forth in the revised special correction notice issued on September 21, 1976, the total dollar amounts of the special corrections have been divided into eight substantially equal installments for reflection in each firm's entitlement position for each of the months July 1976 through February 1977, based on the particular month's entitlement price.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by FEA's Office of Exceptions and Appeals. Also set forth in this column are the adjustments for relief granted by the Office of Exceptions and Appeals for 1975, which adjustments are being reflected in monthly installments commencing with the September 1976 entitlement notice. The number of installaments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, *see* Beacon Oil Company, *et al*, 4 FEA par. —— (November 5, 1976).

The listing in the Appendix does not reflect an entitlement obligation of $379,965.42 (or 48,465 entitlements) of Delta Refining Company for the month October 1976 that is attributable to adjustments for exception relief received by Delta in 1975. This obligation has been temporarily stayed by the United States District Court for the District of Columbia. If this lawsuit is ultimately resolved in FEA's favor, FEA will reflect this entitlement obligation in the calculation of Delta's entitlement position in the entitlement notice to be published in the first month following such resolution, and the amount so reflected will, in accordance with the Court's order, include interest at the rate prescribed by the Court.

For purposes of the adjustments to refiners' crude run volumes under § 211.67 (d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 12,960,362 barrels for October 1976. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 29,191,825 barrels.

The total number of entitlements required to be purchased and sold under this notice is 22,424,862.

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for October 1976 must be made by December 31, 1976.

On or prior to January 10, 1977, each firm which is required to purchase or sell entitlements for the month of October 1976 shall file with FEA the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of October. FEA has mailed the monthly transaction report forms for the month of October to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by December 31, 1976 contact FEA at 202–254–6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to December 31, 1976, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR § 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before January 21, 1977.

Issued in Washington, D.C. on December 17, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-37621 Filed 12-20-76;8:45 am]

ENTITLEMENTS FOR DOMESTIC CRUDE OIL

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	********** REQUIRED TO BUY	REQUIRED TO SELL
A-JOHNSON	0	166,808	0	16,249	-6,034	0	166,808
AGWAY	0	-23	0	0	-23	23	0
ALLIED	48,090	130,080	0	0	-67	0	81,990
AMER-PETROFINA	1,326,315	1,035,307	0	62,543	61,749	291,008	0
AMERADA-HESS	1,908,761	4,412,784	0	10,495	-29,969	0	2,504,023
AMOCO	12,030,193	8,945,394	0	0	-16,901	3,084,799	0
APCO	420,852	509,049	0	0	-1,366	0	88,197
APEX	0	-9	0	0	-9	9	0
ARCO	6,407,787	5,971,501	4,821 *	0	-142,259	436,286	0
ARIZONA	62,942	45,004	11,883	0	346	17,938	0
ASAMERA	104,628	155,713	0	0	264	0	51,085
ASHLAND	1,629,606	3,203,862	0	190,866	-23,553	0	1,574,256
ASIATIC	0	193,972	0	0	-2,894	0	193,972
ATLANTIC-CEMENT	0	197	0	0	197	0	197
AUGSBURY	0	-4	0	0	-4	4	0
BAYOU	49,235	55,050	0	0	58	0	5,815
BEACON	223,349	180,534	6,673	0	-5,216	42,815	0
BELCHER	0	208,345	0	208,821	-476	0	208,345
BLUE-RIDGE	0	-309	0	0	-309	309	0
C&H	115	377	0	0	-13	0	262
CALUMET	31,412	35,936	0	0	-212	0	4,524
CANAL	60,532	54,100	0	0	-1,352	6,432	0
CARIBOU	91,333	103,758	0	0	104	0	12,425
CASTLE	0	2,979	0	3,243	-264	0	2,979
CENTRAL	0	-189	0	0	-189	189	0
CF-PETROLEUM	0	548,672	0	0	0	0	548,672
CHAMPLIN	2,016,956	1,490,534	28,778	0	12,789	526,422	0
CHARTER	542,234	656,080	0	0	12,357	0	113,846
CIRILLO	0	32,053	0	33,083	-1,030	0	32,053
CITGO	3,380,256	2,389,265	0	0	-4,201	990,991	0
CLAIBORNE	26,690	40,327	0	0	17,717	0	13,637
CLARK	289,878	674,375	0	0	-2,407	0	384,497
COASTAL	433,830	1,181,123	0	0	26,769	0	747,293
COLONIAL	0	-379	0	0	-379	379	0

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
COLONIAL-OIL	0	29,073	0	29,073	0	0	29,073
CON-ED	0	-2,200	0	0	-2,200	2,200	0
CON-REF	0	55	0	0	55	0	55
CONOCO	3,606,015	3,154,397	0	49,159	8,582	451,618	0
CONSUMERS-POWER	0	-449	0	0	-449	449	0
CORCO	0	1,308,665	0	154,516	-3,885	0	1,308,665
CRA-FARMLAND	439,060	663,923	0	0	-2,405	0	224,863
CROSS	12,661	61,552	0	0	2,953	0	48,891
CROWN	385,475	531,107	0	0	-2,136	0	145,632
CRYSTAL-OIL	130,832	161,296	0	0	-12,379	0	30,464
CRYSTAL-REF	604	49,267	0	0	-540	0	48,663
DEEPWATER	0	-91	0	0	-91	91	0
DELTA	225,940	345,499	0	0	806	0	119,559
DETROIT-ED	0	739	0	0	739	0	739
DIAMOND	658,612	424,562	0	0	4,125	234,050	0
DORCHESTER	9,906	12,409	0	0	-56	0	2,503
DOW	45,735	179,919	0	0	135	0	134,184
E-SEABOARD	0	119,669	0	120,654	-985	0	119,669
EDDY	35,231	43,281	0	0	68	0	8,050
EDGINGTON-OIL	0	-10,411	-10,941	0	530	10,411	0
EDGINGTON-OXN	0	-5	0	0	-5	5	0
ELM	0	-324	0	0	-324	324	0
ENTERPRISE	0	-38	0	0	-38	38	0
EVANGELINE	69,671	34,785	0	0	51	34,886	0
EXXON	13,346,486	11,660,833	0	523,946	-4,037	1,685,653	0
F-FLETCHER	0	1	0	0	1	0	1
FAMARISS	231,993	379,784	476	0	-41	0	147,791
FARMERS-UN	179,316	419,730	0	0	-226	0	240,414
FLETCHER	7,383	177,230	-9,918	0	13,413	0	169,847
FLINT	10,259	13,524	0	0	-8	0	3,265
FLORIDA-POWER	0	675	0	0	675	0	675
GARY	37,540	94,621	0	0	-71	0	57,081
GEN-PORTLAND	0	-16	0	0	-16	16	0
GETTY	988,900	899,308	0	0	-4,330	89,592	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
GIANT	9,544	152,094	0	0	-185	0	142,550
GIBBS	0	-373	0	0	-373	373	0
GIBSON	26	0	0	0	0	26	0
GLACIER-PARK	62,627	51,737	0	0	0	10,890	0
GLADIEUX	39,963	167,698	0	0	254	0	127,735
GOLDEN-EAGLE	-404**	174,272***	0	0	-2,610	0	174,676
GOLDEN-EAGLE-NY	0	18,820	0	16,649	2,171	0	18,820
GOOD-HOPE	113,696	413,580	-579	0	-443	0	299,884
GREAT-NORTHERN	0	-126	0	0	-126	126	0
GUAM	0	403,595	0	0	-2,247	0	403,595
GULF	10,465,995	7,791,156	0	48,254	-12,417	2,674,839	0
GULF-STS	101,399	141,616	0	0	72	0	40,217
HIRI	0	536,225	0	0	2,026	0	536,225
HOWARD	0	88,723	0	90,185	-1,462	0	88,723
HOWELL	769,311	417,293	0	0	1,156	352,018	0
HUNT	304,366	348,167	0	0	-504	0	43,801
HUSKY	561,072	561,519	111,139	0	447	0	447
INDEPENDENT-REF	114,044	118,166	0	0	0	0	4,122
INDIANA-FARM	48,133	265,834	0	0	-467	0	217,701
INTL-PAPER	0	74	0	0	74	0	74
IRVING	0	4,962	0	5,024	-62	0	4,962
J&W	182,668	181,348	71,952	0	-1,320	1,320	0
K-H-WHITE	0	-35	0	0	-35	35	0
KENTUCKY	2,060	4,702	0	0	-29	0	2,642
KERN	355,811	355,811	160,556	0	0	0	0
KERR-MCGEE	1,077,930	1,234,993	0	0	27,657	0	157,063
KOCH	298,194	922,052	0	0	-2,184	0	623,858
LA-WATER	0	7,344	0	0	7,344	0	7,344
LAGLORIA	475,715	201,592	0	0	-73,800	274,123	0
LAKESIDE	27,010	17,277	0	0	-241	9,733	0
LAKETON	125,287	133,536	2,188	0	-6,403	0	8,249
LITTLE-AMER	1,288,684	1,066,133	473,980	0	325	222,551	0
LOUISIANA-LAND	173,922	403,807	0	0	0	0	229,885
MACMILLAN	46,614	187,519	0	0	-3,515	0	140,905

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
MARATHON	3,681,600	3,452,031	0	0	-5,680	229,569	0
MARION	122,871	271,248	0	0	-798	0	148,377
MID-AMER	3,449	46,263	0	0	-324	0	42,814
MID-TEX	1,411	137,118	0	0	176	0	135,707
MIDLAND	24,763	236,172	-11,244	0	-116	0	211,409
MOBIL	8,338,689	6,537,851	0	70,887	-200,999	1,800,838	0
MOHAWK	478,863	474,242	144,272	0	852	4,621	0
MONSANTO	482,732	371,093	0	0	-632	111,639	0
MORRISON	6,330	127,880	0	0	2	0	121,550
MOUNTAINEER	4,862	4,881	0	0	4	0	19
MURPHY	877,806	905,431	0	0	211	0	27,625
N-AMER-PETRO	161,285	171,791	13,391	0	-2,123	0	10,506
NARRAGANSETT	0	-116	0	0	-116	116	0
NATL-COOP	310,285	467,625	0	0	371	0	157,340
NAVAJO	392,540	419,089	57,343*	0	-1,831	0	26,549
NEW-EDGINGTON	432,548	438,086	158,194	0	0	0	5,538
NEW-ENGL-PETRO	0	284,445	0	288,149	-3,704	0	284,445
NEW-ENGL-POWER	0	-72	0	0	-72	-72	0
NEWHALL	153,849	153,104	-6,684	0	95	745	0
NEWMAN	0	-64	0	0	-64	64	0
NORCO	0	62	0	0	62	0	62
NORTHEAST-PETRO	0	51,519	0	52,435	-916	0	51,519
NORTHLAND	44,475	158,921	0	0	-51	0	114,446
NORTHVILLE	0	3,612	0	4,395	-783	0	3,612
OIL-SHALE	2,629,272	1,426,615	1,019	0	-2,556	1,202,657	0
OKC	71,838	165,186	22,980	0	2,009	0	93,348
ORANGE&ROCKLAND	0	65	0	0	65	0	65
OXNARD	22,665	106,315	0	0	0	0	83,650
PASCO	0	-44,044	-48,765	0	4,721	44,044	0
PATCHOGUE	0	3,614	0	3,908	-294	0	3,614
PENNZOIL	606,498	502,464	0	0	-453	104,034	0
PEPCO	0	-969	0	0	-969	969	0
PETRO-HEAT-CT	0	12,596	0	13,181	-585	0	12,596
PETRO-HEAT-PA	0	16,275	0	16,604	-329	0	16,275

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
PG&E	0	-475	0	0	-475	475	0
PHILLIPS	2,783,635	2,418,030	0	0	101,178	365,605	0
PHILLIPS-PR	0	289,569	0	289,569	0	0	289,569
PIONEER	40,591	460,203	0	0	-5	0	119,612
PITTSTON	0	81,422	0	82,539	-1,117	0	81,422
PLACID	257,912	412,481	0	0	-1,306	0	154,569
PLATEAU	111,820	173,191	0	0	-484	0	61,371
POWERINE	338,072	441,421	0	0	274	0	103,349
PRIDE	87,682	305,405	0	0	-336	0	217,723
PRINCETON	0	28,694	0	0	0	0	28,694
PRULEASE	0	-879	0	0	-879	879	0
QUAKER-ST	28,820	261,714	0	0	-1,831	0	232,894
REMINGTON	0	-90	0	0	-90	90	0
RICO	0	-48	0	0	-48	48	0
ROAD-OIL	963	44,406	0	0	-7	0	43,443
ROCK-ISLAND	386,632	347,189	-28,083	0	546	39,443	0
ROYAL	0	-139	0	0	-139	139	0
SABER-TEX	-77,669 **	163,816 ***	0	0	-7,674	0	241,485
SABNE-CAL	47,633	47,510	24,604	0	-123	123	0
SAGE-CREEK	2,265	3,606	0	0	-7	0	1,341
SAN-JOAQUIN	273,924	234,447	66,200	0	-1,539	39,477	0
SEARS	0	29,736	0	29,767	-31	0	29,736
SEMINOLE	0	155,434	0	0	-3,006	0	155,434
SHELL	11,541,880	9,567,728	0	3,244	345,368	1,974,152	0
SIGNOR	49,740	157,315	0	0	1,812	0	107,575
SKELLY	1,248,634	582,875	0	0	800	665,759	0
SO-HAMPTON	96,469	246,173	0	0	975	0	149,704
SOCAL	7,931,509	9,542,423	0	17,713	-5,805	0	1,610,914
SOCALEDISON	0	-87	0	0	-87	87	0
SOHIO	1,402,706	3,302,398	0	0	19,842	0	1,899,692
SOMERSET	45,475	70,879	0	0	-310	0	25,404
SOUND	160,885	138,028	1,020	0	-152	22,857	0
SOUTHLAND	443,870	341,392	90,040	0	200	102,478	0
SOUTHWESTERN	4,835	3,622	0	0	0	1,213	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	REQUIRED TO SELL
		**********	ENTITLEMENT POSITION				**********
SPRAGUE	0	65,628	0	65,628	0	0	65,628
STEUART	0	41,768	0	42,661	-893	0	41,768
SUNLAND	387,545	287,668	101,809	0	6,278	99,877	0
SUNOCO	5,429,663	4,423,127	0	0	-74,649	1,006,536	0
SWANN	0	75,861	0	76,330	-469	0	75,861
TARRICONE	0	-120	0	0	-120	120	0
TAUBER	0	-83	0	0	-83	83	0
TENNECO	804,904	696,571	0	0	-51,541	108,333	0
TESORO	1,217,492	828,879	0	0	3,465	388,613	0
TEXACO	10,066,363	8,331,711	0	320,117	40,670	1,734,652	0
TEXAS-AMERICAN	24,314	149,442	0	0	0	0	125,128
TEXAS-ASPH	42,497	179,784	21,356*	0	-7,120	0	137,287
TEXAS-CITY	500,284	650,895	0	0	-29,104	0	150,611
THAGARD	177,995	173,285	80,229	0	-4	4,710	0
THE-REFINERY	0	-2,628	0	0	-2,628	2,628	0
THRIFTWAY	23,760	40,955	0	0	-107	0	17,195
THUNDERBIRD	84,537	157,580	0	0	-295	0	73,043
TONKAWA	36,417	80,810	0	0	-193	0	44,393
TOTAL-LEONARD	186,692	384,659	0	0	-1,906	0	197,967
TRANS-OCEAN	0	14,622	0	0	0	0	14,622
UCC-CARIBE	0	133,593	0	133,593	0	0	133,593
UNION-OIL	5,156,851	4,267,320	0	0	79,624	889,531	0
UNION-TEXAS	1,744	227	0	0	227	1,517	0
UNTD-IND	10,480	117,476	0	0	54	0	106,996
UNTD-REF	181,662	388,807	0	0	-14,553	0	207,145
US-OIL	20,768	183,096	0	0	-487	0	162,328
USA-PETROCHEM	34,301	166,003	0	0	0	0	131,702
VEN-FUEL	0	-89	0	0	-89	89	0
VICKERS	233,094	545,934	0	0	673	0	312,840
VULCAN	39,592	153,691	0	0	-124	0	114,099
WALLACE	0	12,904	0	12,904	0	0	12,904
WALLER	0	8,648	0	8,799	-151	0	8,648
WARRIOR	51,956	29,099	993	0	-5,081	22,857	0
WEBBER	0	178	0	0	178	0	178

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	REQUIRED TO SELL
		**********	ENTITLEMENT POSITION				**********
WELLEN	0	-115	0	0	-115	115	0
WEST-COAST	31,506	45,934	-1,256	0	-2,519	0	14,428
WESTERN	53,529	131,150	0	0	7,096	0	77,621
WHALECO	0	-37	0	0	-37	37	0
WICKETT	0	3,345	3,350	0	-5	0	3,345
WINSTON	80,265	212,612	0	0	-10	0	132,347
WIREBACK	0	879	0	0	32	0	879
WITCO	114,045	178,498	0	0	-247	0	64,453
WYATT	0	40,915	0	41,624	-709	0	40,915
YETTER	0	729	0	0	-7	0	729
YOUNG	113,278	116,052	51,727	0	-5	0	2,774
TOTAL	139,312,728	139,312,728	1,593,503	3,142,807	0	22,424,862	22,424,862

*Also includes entitlements issued to correct an error in this firm's special correction amount.

**Reflects a correction to a prior month's report.

***Does not include entitlements issued by virtue of the negative volume of adjusted receipts shown.

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THURSDAY, DECEMBER 23, 1976

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 393]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period December 24–30, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.693 Navel Orange Regulation 393.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges is very soft. Prices f.o.b. averaged $4.14 a carton on a reported sales volume of 1,441 carlots last week, compared with $4.28 per carton on sales of 889 carlots a week earlier. Track and rolling supplies at 574 cars were up 97 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 21, 1976.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 24, 1976, through December 30, 1976, are hereby fixed as follows:

(i) District 1: 615,000 cartons;

(ii) District 2: 52,000 cartons;

(iii) District 3: 83,000 cartons."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: December 22, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-37961 Filed 12-22-76;11:48 am]

[Lemon Reg. 72]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period December 26, 1976–January 1, 1977. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.372 Lemon Regulation 72.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons has improved slight-

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ly early this week. Average f.o.b. price was $4.82 per carton the week ended December 18, 1976 compared to $4.81 per carton the previous week. Track and rolling supplies at 100 cars were down 45 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 21, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period December 26, 1976, through January 1, 1977, is hereby fixed at 195,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: December 22, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–37960 Filed 12–22–76;11:48 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 426.1]

PART 1806—INSURANCE

Subpart A—Real Property Insurance

Section 1806.6 of Subpart A of Part 1806, Title 7, Code of Federal Regulations (41 FR 34571) is amended. The purpose of this amendment is to add paragraph (d) to this section in order to establish reporting requirements on insured and uninsured real property losses. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This revision, however, is not published for proposed rulemaking because the addition of internal Agency reporting requirements is a procedural change, and for that reason notice and public procedure thereon are unnecessary.

Section 1806.6 is amended by adding paragraph (d) to read as set forth below:

§ 1860.6 Failure of Borrower To Provide Insurance.

* * * * * * *

(d) *Reporting.* The County Supervisor will complete Form FmHA 426–8, "Uninsured Real Property Loss Report," for each FP and Section 502 RH uninsured loss. This report will be completed within 30 days of the date the property was damaged. If information required by Form FmHA 426–8 is not available within 30 days, the County Supervisor should use his best judgment in completing all form sections.

(2) On the last business day of each month, the County Supervisor will transmit to the State Office:

(i) All completed Forms FmHA 426–8.

(ii) A transmittal memorandum that includes the following tabulation:

Real Property Insurance Report for

Month _____ *Year* ____

Loan program	Caseload (number)	Insurance cancellations	
		Number of losses covered by insurance	Amount of losses covered by insurance (dollars)
Incidence of borrower failure to maintain insurance in force:			
Farmer programs			
Rural housing sec. 502			
Insured losses:			
Farmer programs			
Rural housing sec. 502			

(3) The State Director is responsible for reviewing Forms FmHA 426–8 received for reasonableness; computing a State summary of insurance cancellations and insured losses; and transmitting the State summary and Forms FmHA 426–8 to the National Office, ATTN: Program Evaluation Staff, by the 10th of the following month.

* * * * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480, 42 U.S.C 2942, 5 U.S.C. 301, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70, delegations of authority by Director, Office of Economic Opportunity, 29 FR 14764, 33 FR 9850.)

Effective date: This revision shall become effective December 28, 1976.

Dated: December 6, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76–37683 Filed 12–22–76;8:45 am]

SUBCHAPTER E—ACCOUNT SERVICING

PART 1861—ROUTINE

Subpart F—Servicing of Community Program Loans and Grants

On page 27851 of the FEDERAL REGISTER dated July 7, 1976, there was published a notice of proposed rulemaking to § 1861.81, and various paragraphs of § 1861.82, § 1861.85, and § 1861.93 of Subpart F of Part 1861, Title 7, Code of Federal Regulations (37 FR 15502). These amendments proposed to do the following:

(1) Section 1861.81 is amended to include Community Facility Loans and Industrial Development Grants.

(2) Section 1861.82, paragraph (e) (1) (v) is amended to update the cross-reference to Part 1823 of this chapter pertaining to proposed development work.

(3) Section 1861.85, paragraph (b) (2) is amended to permit loans to be transferred to public bodies at the same interest rate as the original loan.

(4) Section 1861.93, paragraph (a), is amended to require the State Director to determine the value of security when facilities are to be merged.

Interested persons were given until August 6, 1976, to submit written comments, suggestions, or objections regarding the proposed amendments.

No unfavorable comments, suggestions or objections have been received and therefore the amendments are adopted as originally proposed and are set forth below:

§ 1861.81 Purpose.

This Subpart prescribes the policies, authorizations, and procedures for servicing the following: Community water and waste disposal system loans and grants, community facility loans, comprehensive water and sewer planning grants, industrial development grants, loans for grazing and other shift-inland use projects, association recreation loans, association irrigation and drainage loans, watershed loans and advances, resource conservation and development loans, economic opportunity

cooperative loans, loans to Indian tribes and tribal corporations, and loans to timber development organizations. Servicing will be directed toward assisting the borrower to meet the objectives of the loan, repaying loans on schedule, complying with agreements, and protecting the Farmers Home Administration's (FmHA) financial interest.

§ 1861.82 Loan servicing.

* * * * * * *

(e) * * *

(l) * * *

(v) Any proposed development work will be planned and performed in accordance with §§ 1823.21 through 1823.33 of this Chapter or in a manner which reasonably attains the objectives of Subpart A, Part 1823 of this Chapter.

* * * * * * *

§ 1861.85 Transfer of security and assumption of loans.

* * * * * * *

(b) * * *

(2) If the interest rate or terms of the loan are changed, Form FmHA 460–5, "Assumption Agreement (New Terms)," will be executed by the transferee. The new repayment period may not exceed the repayment period for a new loan of the type involved. If the current interest rate for such loans is higher than the rate specified in the note(s) being assumed, the current rate will apply, except in cases of transfers to public bodies and mergers.

* * * * * * *

§ 1861.93 Determining present market value.

(a) The value of security to be subordinated, sold, merged, transferred, voluntarily conveyed, or foreclosed under this Subpart will be determined by the State Director as follows:

* * * * * * *

(7 U.S.C. 1989, 42 U.S.C. 2942, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70 delegations of authority by Director, OEO, 29 FR 14764, 33 FR 9850.)

Effective date: This amendment is effective December 28, 1976.

Dated: December 8, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76–37684 Filed 12–22–76;8:45 am]

[FmHA Instruction 455.1]

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

PART 1871—CHATTEL SECURITY

Subpart B—Liquidation of Chattel Property and Related Actions

Amendments

On pages 45576–45577 of the FEDERAL REGISTER dated October 15, 1976, there was published a notice of proposed rulemaking to revise § 1871.40 of Subpart B, Part 1871, Title 7, Code of Federal Regulations (36 FR 1118) by amending paragraphs (b) (3) and (c) (3). The amendment of paragraph (b) (3) clarifies the eligibility requirements for transfer of an Emergency loan to an eligible applicant; the amendment of (c) (3) provides the interest rates to be paid by an ineligible transferee for Operating, Economic Opportunity, and Emergency loans.

Interested persons were invited to submit written comments, suggestions, or arguments. No unfavorable comments have been received, therefore, as proposed § 1871.40 (b) (3) and (c) (3) are hereby adopted without change and are set forth below.

§ 1871.40 Transfer of chattel security and EO property and assumption of debts not provided for in § 1871.39 and release of liability.

* * * * * * *

(b) *Transfer to eligible.* * * *

(3) Transfer of Emergency (EM) actual loss loans, or EM loans made before September 12, 1975, can only be made as provided under paragraph (c) of this section for transfers to ineligibles. Except that a transfer to a remaining borrower(s) or partner(s) may be made as to an eligible transferee when one or more of the joint borrowers or jointly obligated partners withdraw from the operation and the remaining borrower(s) or partner(s) desire to assume the total indebtedness and continue the operation.

(c) *Transfer to ineligibles.* * * *

(3) FmHA debts assumed will be scheduled for repayment in amortized installments not to exceed five years using Form FmHA 460–5. The transferred property (including EO property) will be made subject to any existing FmHA lien. In the absence of an existing FmHA lien a new lien instrument will be executed. Interest rates to the transferee will be as follows:

(i) Interest rates for Operating loans will be the current interest rate in effect at the time of approval of the transfer or the rate specified in the note(s) evidencing the loan(s) being assumed, whichever is the greater.

(ii) Interest rate for EO loans will be 6 percent.

(iii) Interest rate for EM loans will be the current prevailing market rate, as established by the Secretary, in effect at the time of the transfer or the rate specified in the note(s) evidencing the loan(s) being assumed, whichever is the greater.

* * * * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 P.L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

Effective date: This amendment is effective December 28, 1976.

Dated: December 9, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76–37685 Filed 12–22–76;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

IMMIGRANT AND NONIMMIGRANT STATUS; PETITIONS AND WAIVERS

Implementation of the Immigration and Nationality Act Amendments of 1976 (Pub. L. 94–571 Enacted October 20, 1976; 90 Stat. 2703)

Reference is made to the Notice of Proposed Rule Making which was published in the FEDERAL REGISTER on November 12, 1976, (41 FR 49994) pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383) and in which theer were set forth proposed amendments to Parts 204, 205, 211, 212, and 245 of Chapter I of Title 8 of the Code of Federal Regulations implementing the Immigration and Nationality Act Amendments of 1976 enacted October 20, 1976, as Pub. L. 94–571 (90 Stat. 2703).

The representations received in response to the Notice of Proposed Rule Making of November 12, 1976, have been considered.

In addition to nonsubstantive clarifying and editorial changes, the proposed rules have been modified in the following respects:

Proposed § 204.6(a) would require the filing of a new petition where an approved third preference visa petition is deemed invalid because the beneficiary thereof no longer intends to accept employment with the prospective employer or the offer of employment is withdrawn. Proposed §204.6(a) is modified to eliminate the requirement for the filing of a new petition in such a case and to provide for the reinstatement of the invalidated petition with the original priority date upon submission of a new Job Offer for Alien Employment, and an individual labor certification under section 212(a)(14) in the case of an occupation not listed in Schedule A. In light of this modification, proposed § 205.1(b)(5) which provides for the automatic revocation of a third or sixth preference visa petition "upon termination of the employer's business" is modified to provide for such revocation only "upon termination of the employer's business in a sixth preference case".

A new amendment is made to § 245.2 (a)(2) to provide that where a visa petition and adjustment of status application are simultaneously filed, the adjustment of status application shall be retained for processing only if the petition, if later approved, would make a visa immediately available.

The proposed rules, as modified and set forth below, are hereby adopted:

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. In Part 204, § 204.1 (a) and (c) are revised.

§ 204.1 Petition.

(a) *Relative.* A petition to accord preference classification under section 203 (a)(1), (2), (4), or (5) of the Act or classification as an immediate relative

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under section 201(b) of the Act, other than a child as defined in section 101(b)(1)(F) of the Act, shall be filed on a separate Form I–130 for each beneficiary and shall be accompanied by the fee required under § 103.7(b) of this Chapter. The petition shall be filed in the office of the Service having jurisdiction over the place where the petitioner is residing in the United States. When the petitioner resides outside of the United States, the petition shall be filed with the foreign office of the Service designated to act on the petition which can be ascertained by consulting an American consul. American consular officers assigned to visa-issuing posts abroad, except those in Austria, Germany, Greece, Italy, Japan, the Philippines, Hong Kong, and Mexico are also authorized to approve any petition on Form I–130 when the petitioner and beneficiary are physically present in the area over which the consular officers have jurisdiction. While such consular officers are authorized to approve such petitions, they shall refer any petition which is not clearly approvable to the appropriate Service office outside the United States for decision. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefor and of his right to appeal to the Board within 15 days after mailing of the notification of the decision in accordance with the provisions of Part 3 of this chapter. Without the approval of a separate petition in his behalf, an alien spouse or a child defined in section 101(b)(1)(A), (B), (C), (D), or (E) of the Act, may be accorded the same preference classification under section 203(a) as his spouse or parent whom he is accompanying or following to join, if the immediate issuance of a visa or conditional entry is not otherwise available under the provisions of section 203(a)(1) through (8) of the Act. However, the alien spouse or child of an alien parent who has been classified as an immediate relative is not within the purview of section 203(a)(9) of the Act and may not be accorded derivative immediate relative status. No alien may be classified as an immediate relative unless he himself is entitled to such status and is the beneficiary of an approved visa petition according him such classification.

• • • • • •

(c) *Petition under section 203(a)(3) or (6)*—(1) *General.* A petition to classify the status of an alien under section 203(a)(3) or (6) of the Act shall be filed on Form I–140. For each beneficiary a separate Form I–140 must be submitted, accompanied by the fee required under § 103.7(b) of this chapter. The petition shall be made under oath administered by any individual having authority to administer oaths, if executed in the United States, but, if executed outside the United States, administered by a consular officer or an immigration officer. Before it may be accepted and considered properly filed, the petition must be accompanied by Labor Department forms entitled "Statement of Qualifications of Alien" and "Job Offer for Alien Employment" to which the certification under section 212(a)(14) of the Act has been affixed by the Secretary of Labor or his designated representative, except that such certification may be omitted if the beneficiary is qualified for and will be engaged in an occupation currently listed in the Department of Labor's Schedule A (20 CFR Part 656). The petition shall be filed in the office of the Service having jurisdiction over the place of intended employment.

(2) *Filing date.* In the case of a third or sixth preference petition (except for an occupation listed in Schedule A), the filing date of the petition within the meaning of section 203(c) of the Act shall be the date the request for certification was accepted for processing by any office within the employment service system of the Department of Labor. In the case of a third or sixth preference petition for an occupation listed in Schedule A the filing date of the petition shall be the date it was properly filed with the appropriate Service office.

(3) *Sixth-preference petition for member of the professions or person having exceptional ability in the sciences or arts.* Nothing contained in this Part shall preclude an employer who desires and intends to employ an alien who is a member of the professions or a person having exceptional ability in the sciences or the arts from filing a petition for a sixth-preference classification; however, any such petition shall be subject to the requirements of this Part governing sixth-preference petitions.

(4) *Interview and decision.* Prior to decision by the district director, the beneficiary and the petitioner may be required as a matter of discretion to appear in person before an immigration or consular officer and be interrogated under oath concerning the allegations in the petition. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefore and of his right to appeal in accordance with the provisions of Part 103 of this chapter. However, no appeal shall lie from a decision denying a petition for lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act.

2. In Part 204, § 204.2(e)(1) is amended, (e)(4) is revised, and (e–1)–(e–5) are revoked.

§ 204.2 Documents.

• • • • • •

(e) *Evidence of eligibility for third- or sixth-preference classification*—

(1) *General.* The documentary evidence which the petitioner must submit to establish the beneficiary's eligibility under section 203(a)(3) or (6) of the Act shall include the Statement of Qualifications of Alien and the Job Offer for Alien Employment forms as provided in § 204.-1(c), and any documents required to be presented with those forms. • • •

• • • • • •

(4) *Certification under section 212(a)(14).* No third or sixth preference petition shall be approvable unless it is supported by a valid labor certification issued under section 212(a)(14) of the Act. An alien whose occupation is currently listed in Schedule A (20 CFR Part 656) will be considered as having obtained a certification under section 212(a)(14) of the Act upon determination by the district director that the alien is qualified for and will be engaged in such occupation. In the case of an alien whose occupation is currently listed in Schedule B, the Secretary of Labor has announced that the determination and certification required by section 212(a)(14) of the Act cannot now be made (20 CFR Part 656). In the case of any other alien, his employer or prospective employer may apply for certification under section 212(a)(14) of the Act by submitting properly executed Statement of Qualifications of Alien and the Job Offer for Alien Employment forms together with the documentary evidence required by the instructions for completion of the forms, to the local office of the State Employment Service serving the area of intended employment. Information concerning the categories of employment listed in Labor Department Schedules (20 CFR Part 656) may be obtained from principal offices of the Service, from State Employment Services offices and from United States consular offices.

• • • • • •

(e–1) [Revoked]
(1) [Revoked]
(2) [Revoked]
(3) [Revoked]
(4) [Revoked]
(5) [Revoked]

• • • • • •

3. In Part 204, § 204.4(a), (b), and (c) are revised.

§ 204.4 Validity of approved petitions.

(a) *Relative petitions.* Unless revoked pursuant to section 203(e) of the Act or Part 205 of this chapter, the approval of a petition to classify an alien as a preference immigrant under section 203(a)(1), (2), (4), or (5) of the Act, or as an immediate relative under section 201(b) of the Act, shall remain valid for the duration of the relationship to the petitioner, and status, as established in the petition.

(b) *Petitions under sections 203(a)(3) and (6).* Unless revoked pursuant to section 203(e) of the Act or Part 205 of this chapter, the approval of a petition to classify an alien as a preference immigrant under section 203(a)(3) or (6) of the Act shall remain valid for as long as the supporting labor certification is valid and unexpired and provided there is no change in the respective intentions of the prospective employer and the beneficiary that the beneficiary will be employed by the employer in the capacity indicated in the supporting job offer. The approval of a petition to classify an alien under section 203(a)(3) or (6) of the Act which had heretofore become invalid solely because of expiration of the period of validity, is hereby

reinstated provided the conditions of this paragraph are met.

(c) *Subsequent petition by same petitioner for same beneficiary.* When a visa petition has been approved, and subsequently a new petition by the same petitioner is approved for the same preference classification in behalf of the same beneficiary, the latter approval shall be regarded as a reaffirmation or reinstatement of the validity of the original petition, except when the original petition has been revoked under section 203(e) of the Act.

• • • • • •

4. In Part 204, § 204.5(a)(1) and (b) are revised.

§ 204.5 Automatic conversion of classification of beneficiary.

(a) *By change in beneficiary's marital status.* (1) A currently valid petition previously approved to classify the beneficiary as the unmarried son or daughter of a United States citizen under section 203(a)(1) of the Act shall be regarded as approved for preference status under section 203(a)(4) of the Act as of the date the beneficiary marries. A currently valid petition previously approved to classify the child of a United States citizen as an immediate relative under section 201(b) of the Act shall also be regarded as approved for preference status under section 203(a)(4) of the Act as of the date the beneficiary marries.

• • • • • •

(b) *By beneficiary's attainment of the age of 21 years.* A currently valid petition classifying the child of a United States citizen as an immediate relative under section 201(b) of the Act shall be regarded as approved for preference status under section 203(a)(1) of the Act as of the beneficiary's attainment of his twenty-first birthday if he is still unmarried.

• • • • • •

5. In Part 204, § 204.6 is revised.

§ 204.6 Effect of changed employment on priority date.

(a) *Petition for third preference classification.* When the beneficiary of an approved third preference petition no longer intends to accept employment with the prospective employer or the offer of employment is withdrawn, the petition shall be deemed invalid and the beneficiary shall no longer be entitled to a priority date as of the date of filing of the petition. However, upon submission of a new Job Offer for Alien Employment form, and an individual labor certification under section 212(a)(14) in the case of an occupation not listed in Schedule A, the petition shall be deemed reinstated with the original priority date. The provisions of this paragraph shall not apply when the original petition has been revoked under section 203(e) of the Act.

(b) *Petition for sixth preference classification.* When a new petition by another employer is approved in behalf of the beneficiary of a previously approved sixth-preference petition, and the beneficiary has accepted or intends to accept employment with the new petitioner, the beneficiary shall no longer be entitled to a priority date as of the date of filing of the original petition and that petition shall be deemed invalid. Instead, his priority date shall be the date of filing of the subsequently approved petition for sixth-preference classification. However, the original petition shall be deemed reinstated and the original priority date shall be restored if the beneficiary returns to the original petitioner's employment or establishes that he intends upon arrival in the United States to be employed by the original employed as specified in the original petition. The provisions of this paragraph shall not apply when the original petition has been revoked under section 203(e) of the Act.

6. In Part 204, § 204.7 is added to read as follows:

§ 204.7 Preservation of benefits contained in savings clause of Immigration and Nationality Act Amendments of 1976.

In order to be considered eligible for the benefits of the savings clause contained in section 9 of the Immigration and Nationality Act Amendments of 1976, an alien must show that the facts established prior to January 1, 1977 upon which the entitlement to such benefits was based continue to exist.

PART 205—REVOCATION OF APPROVAL OF PETITIONS

In Part 205, § 205.1 (a) and (b) are revised to read as follows, and § 205.1(d) is redesignated as § 205.1(c).

§ 205.1 Automatic revocation.

The approval of a petition made under section 204 of the Act and in accordance with Part 204 of this chapter is revoked as of the date of approval if the Secretary of State shall terminate the registration of any beneficiary pursuant to the provisions of section 203(e) of the Act or if any of the following circumstances occur before the beneficiary's journey to the United States commences or, if the beneficiary is an applicant for adjustment of status to that of a permanent resident, before the decision on his application becomes final:

(a) *Relative petitions.* (1) Upon formal notice of withdrawal filed by the petitioner with the officer who approved the petition.

(2) Upon the death of the beneficiary.

(3) Upon the death of the petitioner unless the Attorney General in his discretion determines that for humanitarian reasons revocation would be inappropriate.

(4) Upon the legal termination of the relationship of husband and wife when a petition has accorded status as the spouse of a citizen or lawful resident alien, respectively, under section 201(b), or section 203(a)(2) of the Act.

(5) Upon a child beneficiary reaching the age of 21, when he has been accorded immediate relative status under section 201(b) of the Act; however, such petition is valid for the duration of the relationship to accord preference status under section 203(a)(1) of the Act if the beneficiary remains unmarried, or to accord preference status under section 203(a)(4) of the Act if he marries.

(6) Upon the marriage of a beneficiary accorded status as the child of a United States citizen under section 201(b) of the Act; however, such petition is valid for the duration of the relationship to accord preference status under section 203(a)(4) of the Act.

(7) Upon the marriage of a beneficiary accorded preference status as a son or daughter of a United States citizen under section 203(a)(1) of the Act; however, such petition is valid for the duration of the relationship to accord preference status under section 203(a)(4) of the Act.

(8) Upon the marriage of a beneficiary accorded a status as a son or daughter of a lawful resident alien under section 203(a)(2) of the Act.

(9) [Revoked]

(b) *Petitions under section 203(a)(3) or (6).* (1) Upon invalidation pursuant to 20 CFR Part 656 of the labor certification in support of the petition.

(2) Upon the death of the petitioner or beneficiary.

(3) Upon formal notice of withdrawal filed by the petitioner or the beneficiary with the officer who approved the petition in a third-preference case.

(4) Upon formal notice of withdrawal filed by the petitioner with the officer who approved the petition in a sixth-preference case.

(5) Upon termination of the employer's business in a sixth-preference case.

(c) *Notice.* When it shall appear to the district director that the approval of a petition has been automatically revoked, he shall cause a notice of such revocation to be sent promptly to the consular office having jurisdiction over the visa application and a copy of such notice to be mailed to the petitioner's last known address.

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PART 211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

In Part 211 existing § 211.4, "Inapplicability of section 212(a)(24) to certain immigrants" is revoked, and existing §§ 211.5 and 211.6 are redesignated as §§ 211.4 and 211.5. Section 211.5(a) is revised to read as follows:

§ 211.4 Recording the entry of certain immigrant children admitted without immigrant visas. • • •

§ 211.5 Alien commuters.

(a) *General.* Notwithstanding any other provision of this part, an alien lawfully admitted for permanent residence may commence or continue to reside in foreign contiguous territory and commute as a special immigrant defined in section 101(a)(27)(A) of the Act to

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his place of employment in the United States to engage in daily or seasonal work which, on the whole, is regular and stable: *Provided*, That at the time of each reentry he presents a valid Form I–151 in lieu of an immigrant visa and passport. An alien commuter engaged in seasonal work would be presumed to have taken up residence in the United States if he is present in this country for more than six months, in the aggregate, during any continuous 12-month period. An alien commuter's address report under section 265 of the Act must show his actual residence address even though it is not in the United States.

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PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

In Part 212, § 212.8, paragraph (a) is revised to read as follows:

§ 212.8 Certification requirement of section 212(a)(14).

(a) *General.* The certification requirement of section 212(a)(14) of the Act applies to aliens seeking admission to the United States or adjustment of status under section 245 of the Act for the purpose of performing skilled or unskilled labor, who are preference immigrants as described in section 203(a)(3) or (6) of the Act, or who are nonpreference immigrants as described in section 203(a)(8). The certification requirement shall not be applicable to a nonpreference applicant for admission to the United States or to a nonpreference applicant for adjustment of status under section 245 who establishes that he will not perform skilled or unskilled labor. A native of the Western Hemisphere who established a priority date with a consular officer prior to January 1, 1977 and who was found to be entitled to an exemption from the labor certification requirement of section 212(a)(14) of the Act under the law in effect prior to January 1, 1977 as the parent, spouse or child of a United States citizen or lawful permanent resident alien shall continue to be exempt from that requirement for so long as the relationship upon which the exemption is based continues to exist.

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PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

In Part 245, §§ 245.1 (a), (e), (g)(1) and (g)(2), 245.2 (a)(2), (b), and 245.7 are revised to read as follows:

§ 245.1 Eligibility.

(a) *General.* An alien who entered the United States in transit without visa; or who, on arrival in the United States was serving in any capacity on board a vessel or aircraft, or was destined to join a vessel or aircraft in the United States to serve in any capacity thereon; or who was not admitted or paroled following inspection by an immigration officer is not eligible for the benefits of section 245 of the Act. Any alien (other than an immediate relative as defined in section 201(b) of the Act) who continues in or accepts any unauthorized employment after January 1, 1977 and prior to filing an application for adjustment of status is not eligible for the benefits of section 245 of the Act. An alien who has been allocated an immigrant visa number and who entered the United States conditionally pursuant to section 203(a)(7) of the Act, is not eligible for the benefits of section 245 of the Act unless he qualifies as an immediate relative pursuant to section 201(b) of the Act on the basis of a visa petition approved in his behalf.

• • • • •

(e) *Nonpreference aliens.* An applicant who is a nonpreference alien seeking adjustment of status for the purpose of engaging in gainful employment in the United States, and who is not exempted under § 212.8(b) of this chapter from the labor certification requirement of section 212(a)(14) of the Act, is ineligible for the benefits of section 245 of the Act unless an individual labor certification is issued by the Secretary of Labor or his designated representative, or unless the applicant establishes that he is within Schedule A (20 CFR Part 656).

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(g) *Availability of immigrant visas under section 245 and priority dates.*—(1) *Availability of immigrant visas under section 245.* An alien is ineligible for the benefits of section 245 of the Act unless an immigrant visa is immediately available to him at the time the application is filed. If the applicant is a preference or nonpreference alien, the current Department of State Visa Office Bulletin on Availability of Immigrant Visa Numbers will be consulted to determine whether an immigrant visa is immediately available. An immigrant visa is considered available for accepting and processing the application Form I–485 if the preference or nonpreference category applicant has a priority date on the waiting list which is no later than the date shown in the Bulletin or the Bulletin shows that numbers for visa applicants in his category are current. Information as to the immediate availability of an immigrant visa may be obtained at any Service office.

(2) *Priority dates.* The priority date of an applicant who is seeking the allotment of an immigrant visa number under one of the first six preference classes specified in section 203(a) of the Act by virtue of a valid visa petition approved in his behalf shall be fixed by the date on which such approved petition was filed. The priority date of an applicant who is seeking the allotment of a nonpreference immigrant visa number shall be fixed by the following factors, whichever is the earliest: (i) the priority date accorded the applicant by the consular officer as a nonpreference immigrant; (ii) the date on which Form I–485 is filed if the applicant establishes that he is qualified for and will be engaged in an occupation currently listed in Schedule A (20 CFR Part 656), or that the provisions of section 212(a)(14) of the Act do not apply to him; or (iii) the date on which an approved valid third or sixth preference visa petition in his behalf was filed; or (iv) the date an applicantion for certification based on a job offer was accepted for processing by any office within the employment service system of the Department of Labor, provided the certification applied for was issued. A nonpreference priority date, onec established, is retained by the alien even though at the time a visa number becomes available and he is allotted a nonpreference visa number he meets the provisions of section 212(a)(14) of the Act by some means other than that by which he originally established entitlement to the nonpreference priority date.

§ 245.2 Application.

(a) *General.*—(1) • • •

(2) *Filing application.* Before an application for adjustment of status under section 245 of the Act may be considered properly filed, a visa must be immediately available. If a visa would be immediately available only upon approval of a visa petition, the application will not be considered properly filed unless such petition has first been approved. If a visa petition is submitted simultaneously with the adjustment application, the adjustment application shall be retained for processing only if approval of the petition when reached for adjudication would make a visa immediately available at the time of filing of the adjustment application. If such petition is subsequently approved, the date of filling the adjustment application shall be deemed the date on which the accompanying petition was filed. If the applicant is claiming that the provisions of section 212(a)(14) of the Act do not apply to him because he is within the exemption described in § 212.8(b)(4) of this chapter, the application shall not be considered properly filed unless it is accompanied by Form I–526. An application for adjustment of status under section 245 of the Act as a nonpreference alien shall not be considered properly filed unless the applicant establishes that he is entitled to a priority date for allotment of a nonpreference visa number in accordance with § 245.1(g)(2) and that a visa is immediately available within the contemplation of § 245.1(g)(1). A nonpreference alien for whom a visa is not immediately available may not file an application for adjustment of status, but may seek to establish a nonpreference priority date through an application for an immigrant visa at a United States consular office. The application under section 245 of the Act shall be made on Form I–485, while the application under section 1 of the Act of November 2, 1966, shall be made on Form I–485A. Each application shall be accompanied by executed Form C–325A, if

the applicant has reached his 14th birthday, which shall be considered as part of the application. An application under this subparagraph shall be accompanied by the documents specified in the instructions which are attached to the application.

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(b) *Application by nonpreference alien seeking adjustment of status for purpose of engaging in gainful employment.*—(1) *Alien whose occupation is included in Schedule A (20 CFR Part 656).* An applicant for adjustment of status as a nonpreference alien under section 245 of the Act who is subject to the labor certification requirement of section 212(a)(14) of the Act must submit Statement of Qualifications of Alien form with his application, if he is qualified for and will be engaged in an occupation currently listed in Schedule A (20 CFR Part 656). The Statement of Qualifications of Alien form must be executed in accordance with the instructions for completion of that form, and must be accompanied by the evidence of the applicant's qualifications specified in the instructions attached to the application for adjustment of status. The other documents specified in § 245.2(a) must also be submitted in support of the application for adjustment of status. Determination concerning certification under section 212(a)(14) of the Act will be made in accordance with the pertinent provisions of § 204.2(e)(4) of this chapter.

(2) *Other nonpreference aliens who will engage in gainful employment.* An applicant for adjustment of status as a nonpreference alien under section 245 of the Act, who is subject to the labor certification requirement of section 212(a)(14) of the Act and whose occupation is not listed in Schedule A, must submit the certification with his application. In such case the applicant's employer or prospective employer makes the application for the certification to the local State Employment Service.

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§ 245.7 Interview.

Each applicant for adjustment of status under this part shall be interviewed by an immigration officer. The interview may be waived in the case of a child under the age of 14, or when the applicant is clearly ineligible under section 245(c) of the Act or § 245.1.

(Pub. L. 94–571 enacted October 20, 1976, (90 Stat. 2703) and sec. 103 of the Immigration and Nationality Act (8 U.S.C. 1103). Interpret or apply secs. 101, 201, 202, 203, 204, 205, 211, 212, and 245. (8 U.S.C. 1101, 1151, 1152, 1153, 1154, 1155, 1181, 1182, and 1255).)

The basis and purpose of the rules prescribed in this order is to implement the Immigration and Nationality Act Amendments of 1976 (Pub. L. 94–571; 90 Stat. 2703).

Effective date: The effective date of the rules prescribed in this order will be January 1, 1977. It is necessary that these rules be made effective on less than 30 days notice because Pub. L. 94–571 (90 Stat. 2703) which these rules implement becomes effective January 1, 1977.

Dated: December 17, 1976.

L. F. CHAPMAN, JR.,
Commissioner of Immigration and Naturalization.

[FR Doc.76–37630 Filed 12–22–76;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

Advisory Committees; Standards for Protection Against Radiation; Physical Protection of Plants and Materials

The amendments of Appendix D of 10 CFR Part 20 and Appendix A of 10 CFR Part 73 set forth below change the telephone number for daytime and nights and holidays of the Region II Inspection and Enforcement Office and change the suite number from 818 to 1217.

Section 7.13 of 10 CFR Part 7 currently refers to "the actual cost of duplication prescribed in § 9.9 of this chapter." The amendment of § 7.13 set forth below changes this reference to "the actual cost of duplication prescribed in Part 9 of this chapter."

Because these amendments relate solely to corrections and minor matters the Commission has found that good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary and for making the amendments effective on December 23, 1976.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments of Title 10, Chapter I, Code of Federal Regulations, Parts 7, 20, and 73 are published as a document subject to codification.

PART 7—ADVISORY COMMITTEES

1. Section 7.13 of 10 CFR Part 7 is amended by deleting "at the actual cost of duplication prescribed in § 9.9 of this chapter." and substituting therefor "at the actual cost of duplication prescribed in Part 9 of this chapter.".

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

2. Appendix D of 10 CFR Part 20 is amended by changing the telephone number for daytime and nights and holidays of the Region II Inspection and Enforcement Office to "(404) 221–4503" and changing the Suite number in the address of the Region II Inspection and Enforcement Office to "Suite 1217".

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

3. Appendix A of 10 CFR Part 73 is amended by changing the telephone number for daytime and nights and holidays of the Region II Inspection and Enforcement Office to "(404) 221–4503" and changing the Suite number in the address of the Region II Inspection and Enforcement Office to "Suite 1217".

Effective date: These amendments become effective on December 23, 1976.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Maryland this 17th day of December 1976.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.76–37760 Filed 12–22–76;8:45 am]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Computation of Landed Costs: Transportation; Interim Regulations

On August 27, 1976, the Federal Energy Administration (FEA) issued a notice of proposed rulemaking to amend Part 212 of Chapter II of Title 10 of the Code of Federal Regulations, to establish standard measures of the cost of transportation of crude oil as a component of the landed cost of that crude oil (41 FR 37131, September 2, 1976). This proposal was a further elaboration of an earlier proposal designed to provide a simply audited standard for all companies (41 FR 10075, March 9, 1976), and was intended to more nearly accommodate the varying accounting practices utilized by the industry. FEA has now evaluated the comments received in connection with this later, modified proposal, and hereby adopts such proposal on an interim basis with further revisions as explained below. Although the revisions fall within the scope of previous proposals, some changes are significant and consequently further public comment is being sought before final regulations are promulgated.

SUMMARY OF COMMENTS AND REVISIONS

Under the proposal as modified, firms were permitted to use either of two methods to compute transportation costs, depending upon which method more closely resembled their current accounting practices. The "AFRA Method," which was intended to reflect nominal costs, utilized the London Tanker Broker's Panel average freight rate assessment, an index derived from market transactions. The AFRA Method allowed the rate implied by the AFRA assessment for the class of vessel used times the Worldscale rate between the two ports, plus demurrage, lightering and transshipment costs. The "Net Cost Method," which was intended to reflect the actual expenditures for crude oil transportation, was based upon the difference between the firm's gross transportation costs, calculated according to

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the ownership status of the vessel, and certain exclusions for income from unaffiliated entities and costs not related to crude oil transportation. In lieu of the "Net Cost Method," persons were permitted to use their customary accounting procedures, provided that FEA determined that such procedures were not materially different from those proposed, or were able adequately to reflect long-term transportation costs.

The comments received demonstrated that the AFRA Method was generally acceptable to most persons, except to the extent that it excluded costs for such items as cargo insurance, tonnage dues, and tug charges, not included in Worldscale. Some persons also suggested that FEA permit firms required to adopt the AFRA Method to continue to use their customary accounting procedures, subject to FEA approval. The Net Cost Method was also generally acceptable, except that several persons objected to FEA's exclusion of costs relating to land-based personnel, and proposed, in response to FEA's request for views on the matter, that an accounting procedure based on the costs of vessel financing be adopted for costs incurred by vessels actually owned by a firm. Certain general comments, such as those requesting an allowance for deadfreight, and suggesting that the proposal did not permit complete dollar-for-dollar passthrough of costs, were also received.

In response to these comments, FEA has further revised proposed Section 212.85. In general, several costs which had been excluded from the previously proposed methods of computation have now been included, and a greater flexibility has been provided both with respect to firms' continued use of their customary accounting practices, and with respect to the number of prescribed procedures which are available. The section dealing with "equity-status" vessels under the Net Cost Method has also been significantly revised and expanded. In the following section, each comment will be analyzed in detail, together with an explanation of the revisions, if any, which have been made to the text of the proposal.

ANALYSIS OF COMMENTS AND REVISIONS

I. GENERAL

1. *Dollar-for-dollar passthrough of costs.* Some comments suggested that to the extent that the proposed regulations provided a notional basis for computing costs, they would deny the dollar-for-dollar passthrough of increased product costs required by the Emergency Petroleum Allocation Act of 1973, as amended. FEA believes that this suggestion reflects a misunderstanding of the statute, which permits dollar-for-dollar passthrough of the "cost" of crude oil to refiners. This "cost" for domestic crude oil is the market price subject to the applicable price ceilings established by Congress and administered by FEA. It is not measured on the basis of the actual costs of finding, producing, and lifting crude. Similarly the "landed cost" of imported crude is determined by reference to world market prices.

By these regulations, FEA is establishing only a method to determine the transportation component of "landed cost." For this purpose FEA has generally attempted to provide measures which would approximate those occurring in market transactions entered into at arms-length. To this extent firms obtaining transport through arms-length transactions are ordinarily allowed to recover fully their "costs," but where affiliate transactions or equity investments are involved, reference has had to be made to standards based upon arms-length transactions by third parties, e.g., AFRA. These measures may be above or below the "transfer-price" charged one affiliated entity to another or the "cost" incurred in a particular investment.

2. *Recomputation of transportation element of landed cost for May, 1973.* Some comments pointed out that since it is the purpose of the price rules to measure changes in cost between May, 1973 and the month of measurement, the transportation component of a firm's landed costs must be recalculated in accordance with accounting procedures required to be adopted under § 212.85. This comment misunderstands the nature of the proposed regulation. The standards established in this regulation are expected to more accurately reflect transportation cost for future months, but FEA is not now attempting to prescribe measures in the precontrolled period of May 1973. More generally, the comment suggests the mistaken notion that only relative prices are important. FEA's concern cannot be solely with relative prices in May 1973 and current months since these prices are weighted by the quantities imported at the two respective dates. Thus, any systematic error in FEA's determination of landed costs in current months would artificially increase or decrease a company's landed costs to the extent that imports have increased over the base period even if the May 1973 prices were adjusted accordingly. Consequently, FEA in these regulations has attempted to define what it considers an appropriate measure of these costs without regard to the May 1973 practices which individual companies may have employed. If a company now believes that it priced its imports in May 1973 (when controls were not in effect) at excessive levels, it has available to it the exceptions process for any necessary adjustment.

3. *Resale Rule.* Some firms objected to the proposed extension to these regulations of the "resale rule," § 212.84(g). Under the resale rule, the treatment of oil purchased from third parties by affiliates differs, depending upon whether the affiliated entities have concessionary related crude in the country of origin. FEA intends to reevaluate the resale rule in the near future, but until that time a workable program requires that the transportation regulations be consistent with the resale rule. This has been accomplished by treating all purchases of crude oil from countries where a company has a concessionary-derived interest as composed of the same two parts, an f.o.b. cost of crude determined pursuant to § 212.84, and a transportation component based upon § 212.85. This rule will apply even where delivery is made at a point other than the country of origin. In such instances, the transportation cost is set equal to the firm's average cost experience with direct shipments from the country of origin. It will no longer be necessary in such cases to impute a transportation component between the country of origin and the country of loading.

4. *Deadfreight.* Several firms suggested that in light of the utility of using larger light-loaded ships in the many shallow ports of the United States, deadfreight should be recognized as an element of cost. Although recognition of deadfreight may be appropriate in some cases, FEA believes that recognition of such costs on an unlimited basis could be abused, especially in light of the current tanker surplus. Accordingly, FEA has determined to allow deadfreight as an element of cost, but only to the extent that the cost per barrel thereby incurred does not exceed the cost per barrel for the vessel class of the largest vessel which can make the voyage between the ports of loading and unloading under normal operating conditions. Although explicit authority to recognize deadfreight is being made effective now, FEA invites further public views on this question, since the particular form is new. Views should be submitted in accordance with the procedure specified at the end of this notice.

5. *Parity Calculation.* Some comments objected to specification in proposed section 212.84(e)(6)(i), of the LR–1 class of vessels for the purpose of calculating the transportation adjustment in connection with FEA's determination of maximum and representative prices for crude oil from a country where there is no reference crude. FEA believes that specification of this commonly-used class of vessel, where a hypothetical voyage is necessary to impute landed cost, will simplify its audit procedures. Where its use is inappropriate firms may seek a different transportation adjustment in accordance with § 212.84(e)(7). Therefore, the parity calculation will remain as proposed.

6. *Delivered Sales.* As in the parity calculation, some firms objected to specification of the LR–1 class of vessel in connection with FEA's determination, at § 212.84(e)(3), of representative and maximum prices for delivered sales of a reference crude oil. Since in this case it is possible to identify the actual vessel used, FEA has amended the provision on delivered sales to provide that the calculation may be made on an actual vessel basis (or vessels and imputed transshipment fee where transshipment is used) where the class of the relevant vessels are known; where the relevant figures are not known the cost of the voyage will not be reflected in the calculation of the reference price. Since the elimination of such sales does reduce the data base

available for calculating reference prices, FEA intends to monitor this situation and may reimpose a hypothetical standard if the data base is too limited.

7. *Change in Accounting Methods.* Some firms commented that the restriction in § 212.85(b)(1) that changes in accounting method may be made only within ninety days of the issuance of § 212.85 was unnecessarily restrictive. FEA has reflected further on the circumstances which would justify a change in accounting methods between the AFRA and the Net Cost Methods. Because results under the two methods may differ somewhat, FEA in general believes that firms should continue to use whatever method moré closely approximates their existing practice. Consequently there is no need for an unrestricted election. There may, however, be limited circumstances when a change from the Net Cost to the AFRA Method should be permitted. In particular, a firm whose marketing activities become diversified so that it is shipping substantial quantities of crude oil to markets other than the U.S. might appropriately shift to AFRA in order to avoid the allocation problems inherent in the Net Cost Method. To this limited extent, FEA has provided general authority to change accounting methods. Any other changes would have to be made through the exceptions process pursuant to the standards there applicable.

8. *Scope of § 212.85.* One firm suggested that § 212.85 is overly broad, since it applies to all oil transported to the United States. The firm argued that as drafted, the section requires a firm which owns a shipping company to deduct from its costs the profits of that company resulting from transportation from an unrelated producer to an unrelated refiner. It was suggested that this is unjustified, and that in order to prevent this result § 212.85 should cover only shipments "to the firm or any domestic affiliate." However, the operations of a shipping subsidiary not connected to crude shipments to the U.S. would not enter into calculations under either the AFRA or the Net Cost Methods; under the former, only actual voyages with respect to a firm's own imports are reflected, and, under the latter, offsetting revenues must be recognized only with respect to vessels used to transport oil for the firm. Therefore, the suggestion was not adopted.

9. *Affiliated Entities.* In the development of the regulations some persons have pointed out that there may be special difficulties for firms controlled by a foreign entity. Although the principles which should apply ought not to differ where transactions between affiliated entities are involved, there are special jurisdictional questions where a foreign parent is involved. In particular, a U.S. subsidiary may not have access to information in the possession of the foreign parent which may be necessary to calculate transportation costs.

FEA has modified the proposed rule in several ways to handle these problems. First, § 212.85(a) has been amended to make clear that a foreign parent is part of a firm for the purposes of calculating transportation costs. Foreign parents may, however, be treated as an unaffiliated entity if the U.S. affiliate can demonstrate that transactions with regard to transportation have been at arms-length. Such demonstration shall be made by showing that prices in such transactions are equivalent to those in other comparable arms-length transactions. Showings would have to be made on a transaction-by-transaction basis.

If the necessary showing is not made, § 212.85(c) has been modified to allow calculation of the cost of transport on a voyage basis using AFRA, where the cost information necessary to apply alternative accounting procedures is not available to the U.S. subsidiary. This approach, the same as used in the AFRA Method, can be applied without any information from the foreign parent and avoids the assertion by FEA of jurisdiction over the foreign parent.

II. AFRA METHOD

1. *Customary accounting procedures in lieu of prescribed AFRA Method.* Some companies requested that they be permitted to use their customary accounting practices in lieu of the prescribed AFRA Method, where those practices accomplish similar results or reflect accurately the company's long-term transportation costs. Such an option had been proposed with respect to companies required to use the Net Cost Method. FEA agrees that in light of the differing AFRA-based accounting practices utilized in the industry, such an option would be appropriate in order to avoid the unnecessary establishment of separate transportation accounting for FEA purposes. Accordingly, FEA has revised § 212.85 as proposed to provide that firms required to use either the Net Cost or AFRA Method may, with FEA's approval, continue to use their customary accounting procedures. To assure, however, that this degree of flexibility will not result in abuse, FEA has strengthened the standards for authorizing firms to retain their customary accounting procedures, so that now a firm may do so only where those procedures result in transportation costs less than or not materially different from costs determined by application of FEA's procedures. To assist in this determination, firms seeking to retain their customary accounting procedures are asked to submit comparative data for an 18-month test period. FEA has included the "materially different" standard to allow for cases in which during the test period costs may exceed the FEA standard but would not be expected to exceed the standard in the future. In seeking to use their own procedures, firms can request use in whole or in part. For instance, a firm may prefer to use its existing accounting system to determine allocation of annual charges to particular months.

2. *Actual cost not included in AFRA and Worldscale.* Several firms urged FEA to allow costs that are not included in published AFRA and Worldscale rates (such as deadfreight, discussed above), but which are actually incurred on a given voyage. FEA recognizes the equity of this request, notwithstanding that adoption of the approach diminishes the simplicity of the proposed AFRA Method. Accordingly, § 212.85(d) has been revised to permit firms to recognize those items not included in AFRA. These include cargo inspection charges; cargo, war risk, and marine insurance on hull and machinery where purchased for routes to or from ports outside normal trading warranties; canal tolls and expenses if not incorporated in the rates; freight and similar ad valorem taxes; standby tug charges exceeding those incorporated in the rates; shifting charges; and those items enumerated in Section 7 of the Notes and Conditions of the Worldscale schedule for the Charterers' Account.

3. *AFRA rate relative to higher-cost U.S.-flag vessels.* Some companies stated that the AFRA Method proposed should include an adjustment for U.S.-flag vessels, which are not taken into account in the calculation of the AFRA rate and which are generally costlier to operate than foreign vessels. However, since the Merchant Marine Act of 1920 (the "Jones Act") does not require that U.S.-flag vessels be used except between United States ports, FEA does not believe that the proposed AFRA Method, applicable only to international transportation, should be modified to compensate companies using U.S. ships. If use of U.S.-flag ships is subsequently required for certain shipments, FEA will then consider appropriate modifications of this rule.

4. *Long-term charter factor in composite AFRA rate.* One party suggested that the AFRA index should be modified to include company-owned tonnage at the same rate used for long-term charters. The proposal has considerable merit on economic grounds since long-term charters would seem to be the alternative most nearly equivalent to direct ownership. Because of the proprietary nature of the AFRA index, however, the figures necessary to make that adjustment are not readily available. More importantly, over time the adjustment would tend to make little difference in permitted rates since long-term charters compose the vast majority of the non-company-owned tonnage included in the AFRA index and since spot rates may move either above or below the long-term rate. On the basis of these reasons, the suggestion was not adopted.

5. *Credit for unused laytime.* As proposed, § 212.85(d) requires companies to credit against their costs any credit for allowed laytime not actually used. Some comments pointed out that it is not industry practice to grant such credits. However, where the vessel is owned by the firm, or on long-term charter to it, unused laytime accrues to the firm's benefit by permitting greater utilization of the vessel. This is not true where the vessel is on a spot or voyage charter, but such charters account for a relatively small percentage of voyages. Accordingly, the credit against costs for unused laytime has been retained.

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6. *Calculation of cost.* One comment noted that as drafted, § 212.85(d)(1) contained an oversight, in that while it specified a rate of calculation (AFRA times Worldscale), it failed to specify that this rate must be multiplied by a loaded volume. FEA has corrected this oversight, and § 212.85(d)(1) now provides that the loaded volume shall be "the gross long tons of cargo loaded." FEA has also further elaborated the method of arriving at the rate of calculation.

7. *Backhauls.* In response to FEA's request for information concerning revenue received by firms for use of the vessel on the return leg of the voyage, several comments indicated that such backhauls are very infrequent, and provide relatively insignificant income. Moreover, FEA believes that most backhauling occurs on vessels specifically designed to carry other bulk cargoes as well as crude oil. These vessels may require significantly greater capital investment than regular crude carriers, and companies employing them may have higher operating costs than those associated with ordinary tankers. Therefore, FEA has tentatively determined that under the AFRA Method no credit should be required for backhauls in this connection. FEA believes, however, that more detail is required before this question is permanently resolved, and has issued informational orders to several large firms for this purpose. These orders ask the companies to provide the following information:

(1) For each "backhaul" of cargo originating in the United States and shipped on a vessel making delivery of crude oil or petroleum products to the United States from a foreign country during the months October 1973 to July 1976, the following information:

(a) Month of backhaul;

(b) Transportation revenues attributable to such backhaul;

(c) Incremental expenditures attributable to such backhaul (show items separately);

(d) Destination port;

(e) Cargo;

(f) Ton-miles of cargo carried on backhaul;

(g) Type of vessel used, e.g., oil bulk ore carrier;

(h) Special features, e.g., carriage pursuant to long term contracts.

(2) Total transportation charges with respect to all crude oil and petroleum products landed in the U.S. for any month in which a backhaul is listed pursuant to item (1) above.

(3) If specialized vessels were used for backhaul trade:

(a) What, if any, additional capital charges were incurred for the purchases, construction, or lease of such vessels as compared with the purchase, construction, or lease of conventional tankers of similar capacity.

(b) Any incremental expenses (or savings) experienced in the operation of such vessels with respect to oil shipments as compared to ordinary tankers. (Do not include here expenditures listed in item (1) above.)

(c) The incremental per barrel cost (savings) for shipments over the routes in which these vessels are typically used equivalent to the amounts listed in item 3(a) and 3(b).

(4) The basis of the computations provided in response to item (3).

FEA also hereby requests pertinent information from other interested persons. This information should be furnished in accordance with the procedures set forth below. Once FEA has evaluated all of the data received, it will determine whether any further amendment of the regulation is required.

III. NET COST METHOD

1. *Alternative method of treating equity-status vessels.* In response to FEA's request for views on this matter, several comments were received proposing an alternative method of treating company-owned or certain sale/leaseback vessels. In § 212.85(c)(2)(ii), FEA had proposed that for this ("equity status") class of vessels, the allowed transportation charges would be the sum of the annual-hire rate plus certain actual payments to unaffiliated entities. Most firms proposing an alternative method, suggested that it be based on amortization and an appropriate measure, such as the prime rate, of the cost of invested capital.

FEA has adopted such an approach, for use as an alternative to that originally proposed. Under the amortization method adopted today, the allowed transportation cost will be equal to the sum of a firm's operating expenses as paid to unaffiliated entities, the cost of bunkers, and depreciation as determined for general financial accounting purposes. FEA has not, however, included a cost of capital component, even though such is arguably appropriate in a market measure. A cost of capital allowance would raise difficult regulatory questions which to this point have not been addressed elsewhere in FEA regulations. Moreover, such an approach is unnecessary here when firms have available to them an alternative AFRA measure based directly on market transactions. In this respect the amortization option for equity-status vessels simply provided a form of recovery for firms of their capital costs when those expenditures turn out, in aggregate, to be in excess of recovery rates actually permitted in the market. In this context an additional recovery for return on capital appears inappropriate.

The regulation makes clear that depreciation for these purposes must be based upon the firm's accounting in its financial reports to stockholders, i.e., reports filed with the SEC when a firm is subject to the SEC's jurisdiction. To avoid any possible ambiguity in this regard, FEA has amplified its usual language relating to the use of a firm's customary accounting procedures.

For equity-status vessels, firms may choose this amortization alternative or the modified AFRA approach set out below. The election must, however, apply overall and may not be exercised on a vessel-by-vessel basis.

Although comments were earlier requested on this alternative the specific form is new and comments from interested persons are specifically invited pursuant to the procedures set out below.

2. *Allowed transportation costs.* Also some comments stated that the method proposed for calculating costs relating to equity status vessels only vaguely described the "annual-hire rate", and that it was likely to produce economic distortion by relying on the AFRA rate in effect when the vessel first went into service. Accordingly, FEA has revised the rule to provide that where the amortization method discussed above is not adopted, the allowed transportation costs relating to equity-status vessels shall be calculated on a voyage basis, by applying the AFRA rate effective for the month in which the vessel is being used by the firm as determined in accordance with the AFRA Method in § 212.85(d). This will greatly simplify the calculation and audit, and provide greater parity between the AFRA and Net-Cost Methods.

3. *Land-based personnel.* Several comments were received objecting to FEA's exclusion of costs relating to overhead and land-based personnel. With respect to overhead, FEA does not believe that it should be considered as an element of product costs, and therefore § 212.85(c)(1) has not been revised in this regard. On the other hand, the regulation has been revised to permit inclusion of salaries relating to land-based personnel where such personnel are directly and solely engaged in marine transportation of crude oil. Such personnel may include those responsible for chartering vessels, discharging cargo, compliance with safety and registration requirements, and other similar activities but not those who, for example, have managerial responsibilities in several areas including marine transportation. FEA believes that it is appropriate to include as a product cost these limited land-based costs, since conceptually "landed costs" should include all of the costs directly attributable to actually landing the product in the U.S. More extensive costs have not been allowed in order to minimize enforcement problems.

4. *Bunker fuel costs for charter status vessels.* Some firms pointed out that under the proposed § 212.85(c)(2)(iii), allowed costs for charter status vessels did not include the cost of bunker fuel supplied to the vessel by the chartering firm. FEA has determined that such costs should be allowed, and has therefore revised the regulation to include the cost of bunker fuel, which is supplied by the firm to the vessel for the purpose of transporting crude oil to the United States. For these purposes bunker fuel should be priced as it is to other similar customers at the particular location.

5. *Tonnage exchanges.* One firm commented that § 212.85(c)(2) failed to deal with costs relating to vessels obtained by a firm under a tonnage exchange agreement. FEA agrees that such agreements should be dealt with by the regulations. Section 212.85(c)(2) has therefore been revised to provide that the costs relating to vessels obtained from unaffiliated entities under exchange agreements, shall be the costs relative to vessels given by the firm in exchange, subject to adjustment for payments made and received. The section has also been revised to require that non-monthly charges be adjusted to a monthly basis.

6. *Application of allocation to charter status vessels.* One firm commented that while the cost allocation provisions in § 212.85(c)(3) appeared to be designed only for application to equity status vessels, there was no specific exclusion of vessels in which a firm did not hold any equity. In order to clarify this issue, FEA has revised the regulations so that cost allocation is not required for single voyage charters. Such allocation is also not required for equity status vessels where the AFRA option is used.

7. *Credit against costs for income received for use of the vessel.* One firm objected to the provision that income received by a firm for use of the vessel by other persons be credited against allowable costs. FEA believes such credit to be fair and appropriate since under the Net-Cost Method (unlike the AFRA method) firms are allowed to recover all of their expenditures, and therefore the provision remains as proposed.

COMMENT PROCEDURE

These regulations will become effective January 1, 1977. Nevertheless, FEA will receive comments on the regulations, and the rulemaking is kept open for that purpose. In particular FEA will receive comments on those portions of the regulations issued today affecting the deadweight allowance, the treatment of backhauls, and the capital amortization method for equity-status vessels. FEA also recognizes that the regulations issued today may raise other questions concerning which comments may be appropriate. Interested persons are invited to submit written data, views, or arguments with respect to these issues to Executive Communications, Room 3309, Federal Energy Administration, Box JX, the Federal Building, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to the Federal Energy Administration with the designation "Computation of Landed Costs: Transportation II". Fifteen (15) copies should be submitted. All comments received by 4:30 p.m., January 17, 1976, will be considered by the Federal Energy Administration in determining whether any further rulemaking is required with respect to these issues.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

(Federal Energy Administration Act of 1974, P.L. 93-275, as amended by P.L. 94-385; E.O. 11790, 39 FR 23185; Emergency Petroleum Allocation Act of 1973, P.L. 93-159, as amended by P.L. 94-163.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective January 1, 1977.

Issued in Washington, D.C., December 20, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

1. Section 212.82 is amended by amending paragraphs (1), (2), (5), and (6) of the definition of "Landed Cost", by adding definitions of "AFRA" and "Class" immediately preceding "Cost of crude oil", and a definition of "World-scale" immediately following "Transactions between affiliated entities," to read as follows:

§ 212.82 Definitions.

* * * * *

"AFRA" means the London Tanker Broker's Panel's average freight rate assessment.

"Class" of a vessel means the designation of a vessel based on its capacity in deadweight tons, according to the schedule set forth by the London Tanker Broker's Panel.

* * * * *

"Landed cost" means:

(1) For purposes of covered products other than crude oil, both purchased and shipped pursuant to arms-length transactions, the purchase price at the point of origin plus the actual transportation cost to the refinery, plus import fees and duties incurred.

(2) For purposes of covered products other than crude oil, purchased in an arms-length transaction and shipped pursuant to a transaction between affiliated entities, the purchase price at the point of origin plus the transportation cost computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned, plus import fees and duties incurred.

* * * * *

(5) For purposes of crude oil purchased in an arms-length transaction or purchased in a transaction to which § 212.84(g) is applicable, the purchase price (or the cost if § 212.84(g) is applicable) plus the cost of transportation, if any, computed pursuant to § 212.85, from the point of delivery to the firm to the U.S. port of entry (or the actual cost of transportation to the U.S. border in the case of crude oil not transported by sea), plus the cost of domestic transportation to the refinery, plus import fees and duties incurred.

(6) For purposes of crude oil purchased in a transaction between affiliated entities (other than crude oil to which § 212.84(g) is applicable), the cost of crude oil f.o.b. the port of loading in the country of origin computed pursuant to § 212.84 plus the cost of transportation computed pursuant to § 212.85 from the port of loading in the country of origin to the U.S. port of entry (or the actual cost of transportation to the U.S. border in the case of crude oil not transported by sea), plus the cost of domestic transportation to the refinery, plus import fees and duties incurred.

When delivery is taken at a point other than in the country of loading and § 212.84(g) is not applicable, the crude oil shall be treated as though the crude oil has been shipped to the U.S. port of entry from the country of origin of the crude oil, on the route and in the class of vessels most commonly used by the firm and its affiliated entities for shipments between the country of origin and the U.S. port.

* * * * *

"Worldscale" means the Worldwide Tanker Nominal Freight Scale, jointly sponsored and issued by the Association of Ship Brokers and Agents (Worldscale) Inc. and the International Tanker Nominal Freight Scale Association Limited.

2. Section 212.84 is amended in paragraph (c), and in subparagraph (3), subparagraph (4) and clause (i) of subparagraph (6) of paragraph (e) to read as follows:

§ 212.84 Disallowance of costs.

* * * * *

(c) *Cost of crude oil.* Except as provided in paragraph (g) of this section, the cost of crude oil allowed in transactions between affiliated entities shall be equal to the price which would prevail if the affiliated entities consistently and continuously dealt with each other at arms-length. A refiner purchasing crude oil from an affiliated entity shall initially set the cost of crude oil at the f.o.b. price at the port of loading in the country of origin which is representative of those prices prevailing in arms-length transactions according to the best information available to the refiner.

* * * * *

(e) * * *

(3) In determining the representative and maximum prices for a reference crude oil, FEA will consider all transactions reported to FEA for the reference and related crude oils loaded during the month of measurement, except as provided in paragraph (e)(4) of this section. For purposes of determining representative and maximum prices for a reference crude oil, the prices of a related crude oil shall be adjusted to the equivalent price of the related reference crude oil on the basis of the difference in the posted prices, tax-reference prices or other official selling prices, as established by the host government for those two crude oils. For delivered sales, the price shall be adjusted to an f.o.b. price at the port of loading in the country of origin by using the actual transportation cost, if stipulated, or by subtracting the imputed cost of transportation calculated

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as provided in § 212.85(d)(1) (the reference loading date being the month of loading and the vessel class being that actually used). If there is insufficient information to calculate the transportation cost as provided in § 212.85(d)(1), and the actual transportation cost is not stipulated, the sale shall not be used in determining the representative and maximum prices.

(4) * * *

(viii) delivered sales to the extent provided in paragraph (3) of this section.

* * * * * *

(6) * * *

(i) The transportation adjustment shall be equal to the difference in the cost of shipping from the points of loading, to the appropriate points of landing, calculated in accordance with § 212.85(d)(1) with the reference loading date being the month for which the adjustment is made, and the vessel class being LR–1.

* * * * * *

3. Part 212 is amended by adding a new § 212.85 to read as follows:

§ 212.85 Transportation costs.

(a) *Purpose and scope.* This section prescribes the standards which refiners shall use to establish the cost of transportation by sea to the United States of imported crude oil, for the purpose of determining the landed cost of that crude oil. For purposes of this section "firm" means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, whether or not the parent is a U.S. entity, provided that a U.S. entity controlled directly or indirectly by a foreign entity may request permission from FEA to treat the foreign entity as not part of the same firm. FEA shall allow such treatment only if it finds that all transactions with the foreign entity regarding transportation are conducted at arms-length as evidenced by comparable arms-length transactions.

(b)(1) *Selection of method.* For the purpose of this section, a firm shall utilize either the Net-Cost Method specified in paragraph (c) of this section, or the AFRA Method specified in paragraph (d) of this section, depending on that firm's historical accounting procedures, for the determination of its crude-oil transportation costs. A firm shall utilize the net-cost method if those procedures, have been based predominantly on actual costs; it shall utilize the AFRA method if they have been based predominantly on a nominal-cost approach such as AFRA-Worldscale. Each reporting firm shall notify FEA within 30 days of the effective date of this regulation as to which method it is required to utilize, and where applicable shall specify which of the two methods permitted to be utilized under paragraph (c)(2)(ii), it has adopted. A firm using the Net-Cost Method may at any time request permission to make a one-time-only change to the AFRA Method. FEA will allow that change where a firm demonstrates that due to changes in its distribution patterns use of the Net-Cost Method is no longer practicable. Any change permitted under this section may be conditioned on a recalculation of transportation costs for earlier months pursuant to the new method adopted.

(2) Within 30 days of the effective date of this regulation firms may request approval to use their customary accounting procedures in lieu of those specified in paragraph (c) or (d) of this section provided that those procedures are generally accepted and have been consistently and historically applied. FEA will grant approval for such use to the extent that it finds that such use results in transportation costs less than or not materially different from those resulting from application of the procedures prescribed in paragraph (c) or (d). Firms requesting such approval may retain their current accounting procedures for 90 days after the effective date of this regulation, unless such time period is extended by FEA. Applications pursuant to this subparagraph must set out in detail the accounting procedures used and the authority for their use and to the extent possible shall include a comparison of the cost of transportation calculated using such procedures and those prescribed by FEA for a period of 18 months preceding the month of application. Applications must also be accompanied by an opinion from the firm's independent auditors that such procedures are generally accepted and have been consistently and historically applied by the firm.

(c)(1) *The Net-Cost Method.* A firm using the Net Cost Method for determination of its transportation costs shall establish its net transportation cost by (i) determining its allowed transportation costs, as specified in subparagraph (2), and (ii) subtracting therefrom, the sum of: (A) Any income received by the firm from unaffiliated entities for the use of vessels (other than "equity" status vessels where transportation costs are calculated in accordance with paragraph (c)(2)(ii)(A)) whose costs are included in the total allowed transportation costs, plus (B) the product of that firm's cost per ton mile for the fiscal year, determined according to subparagraph (3) of this paragraph, times the total ton-miles of shipping during the fiscal year which does not produce income from unaffiliated companies, does not involve crude oil imported into the United States, and uses vessels (other than "equity" status vessels where transportation costs are calculated in accordance with paragraph (c)(2)(ii)(A)) whose costs are included in its allowed transportation costs. Transportation costs not otherwise allocated to particular shipments shall be allocated according to subparagraph (3) of this paragraph. The cost of general overhead may not be included, except that a firm may include the salaries of land-based personnel directly and solely engaged in marine transportation of crude oil from foreign ports to the United States.

(2)(i) With regard to all vessels used in whole or in part by the firm for shipment of its crude oil to the United States, allowed transportation costs relating to a particular vessel shall be calculated in a manner dependent on whether the ownership of the vessel is characterized as "equity" status or "charter" status. A vessel has equity status if it is owned by the firm or leased by the firm under terms of a lease in which title reverts to the firm at the end of the lease period without additional payment, or upon the additional payment of a sum which does not approximate the then-current market value of the vessel. A vessel has charter status if it does not have equity status.

(ii) Allowed transportation cost relating to an equity status vessel shall be either:

(A) on a voyage basis as provided in paragraph (d), or

(B) the sum of (aa) all payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel, (bb) the cost of bunker fuel which is supplied by the firm to the vessel for the purpose of transporting crude oil to the United States, priced at the current market price at the location where supplied, and (cc) annual depreciation as determined in accordance with the customary accounting procedures generally accepted and consistently and historically applied by the firm in financial reports to stockholders.

(iii)(A) Allowed transportation costs for a charter-status vessel shall be the sum of all payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel, plus the cost of any bunker fuel which is supplied by the firm to the vessel for the purpose of transporting crude oil to the United States, priced at the current market price at the location where supplied.

(B) Where the U.S. entities of a firm do not have adequate information, subject to FEA audit, to determine the allowed transportation costs for a charter-status vessel due to the control of such information by a foreign entity not subject to control by the U.S. entities, the allowed transportation costs shall be calculated in accordance with paragraph (d), provided that in such cases FEA may require that all allowed transportation costs of the firm be computed in accordance with paragraph (d).

(iv) Allowed transportation costs of a vessel received by a firm from another firm under the terms of a tonnage exchange agreement shall be the costs relating to the equity or charter-status vessel given to the other firm under the terms of that tonnage exchange agreement, increased by any payments to be made to the other firm and reduced by any payments to be received from the other firm in connection with such exchange.

(3) Non-monthly charges shall be adjusted to a monthly basis. Except for single voyage charters, or when costs for equity status vessels are calculated as provided in 2(ii)(A), allocation of transportation costs to a shipment of crude oil shall be determined as the product of the number of cargo ton-miles of crude oil transported in that shipment times that firm's "cost per ton mile" (CTM) estimate for that month. The CTM estimate of a firm for a given month shall be the ratio of:

(i) The firm's best estimate of its net transportation cost for the fiscal year, minus the transportation costs the firm has allocated to shipping for all previous months of the fiscal year, to:

(ii) The firm's best estimate of its total shipping quantity in ton-miles for the fiscal year using vessels whose costs are included in that firm's gross transportation cost, minus the number of ton-miles of such shipping for which the firm has allocated costs in all previous months of the fiscal year. Upon determination of its actual net transportation cost for a fiscal year, but not later than 60 days beyond the end of that fiscal year, each firm shall report as an adjustment to its cost the difference between the actual value of its net transportation cost for that fiscal year and the total transportation costs allocated by the firm for the fiscal year. The ratio of the firm's net transportation costs for a fiscal year to the total amount of that firm's shipping in ton-miles for that fiscal year, is that firm's CTM for that fiscal year.

(d)(1) *The AFRA method.* A firm using the AFRA Method for determination of its transportation costs, or subject to paragraph (c)(2)(ii)(A) or (c)(2)(iii)(B), shall establish as its cost for the shipment of crude oil between two ports in a particular vessel, given either a reference or actual loading date and class of vessel, the sum of:

(i) Voyage freight, determined by multiplying the AFRA rate applicable (A) to the month in which notice of readiness to load is tendered and (B) to the class of vessel, by the Worldscale rate for the voyage, and by the gross long tons of cargo loaded;

(ii) deadfreight, determined by multiplying the product of the AFRA rate and the Worldscale rate determined as in (i) by the difference between the deadweight available to cargo and the gross long tons of cargo loaded, provided that the cost per barrel thereby incurred does not exceed the cost per barrel for the vessel class of the largest fully loaded vessel which can make the voyage between the ports of loading and unloading under normal operating conditions;

(iii) demurrage costs above the laytime allowed in the Worldscale rate, calculated as the product of the applicable AFRA and Worldscale rates, provided that if demurrage is claimed under this item, an equivalent credit on other voyages for allowed but unused laytime must be made;

(iv) actual lightering and transhipment costs; and

(v) other costs actually incurred, which are not included in published or Worldscale rates, including to that extent cargo inspection charges; cargo, war risk, and marine insurance on hull and machinery where purchased for routes outside normal trading warranties; canal tolls and expenses if not incorporated in the rates; freight and ad valorem taxes; standby tug charges exceeding those incorporated in the rates; shifting charges; and those items enumerated in Section 7 of the Notes and Conditions of the Worldscale Schedule for the Charterers' Account.

(2) The Worldscale rate to be used for shipments in which a particular vessel loads and/or unloads at more than one port shall be the multiport Worldscale rate for that combination of ports, if it is listed; if not, the value to be used shall be calculated in a manner consistent with the calculation of Worldscale multi-port rates. Allocation of costs for multi-port deliveries shall be on a ton-mile basis. Transportation costs for shipments in which more than one vessel is used shall be the sum of the costs of transportation in each vessel used.

(e) No item of cost shall enter into any calculation under this section such that the landed cost computed under § 212.82 reflects more than a single entry of that item. In no case shall any transportation cost be allowed for a period when a vessel is not in active use.

(f) All requests or required notices pursuant to this section shall be directed to the Assistant Administrator, Office of Regulatory Programs, "Attention: Transportation Costs." Requests or required notices shall be submitted in accordance with Subpart A of Part 205.

[FR Doc.76–37732 Filed 12–20–76;4:29 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Reg. Z; FC–0029]

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 226—TRUTH IN LENDING

Official Staff Interpretations

In accordance with 12 CFR Part 226.1(d), the Board is publishing the following official staff interpreations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

Official staff interpretations may be reconsidered by the Board upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

This interpretation shall be effective as of December 20, 1976.

[FC–0029]

§ 226.8(c) Statutory "base finance charge" and "service charge" may not be combined and disclosed as a single type of finance charge; it is proper to use the statutory terms as descriptions.

§ 226.4(a) Statutory "base finance charge" and "service charge" may not be combined and disclosed as a single type of finance charge; it is proper to use the statutory terms as descriptions.

DECEMBER 6, 1976.

This is in reply to your letter of . . . , requesting an official staff interpretation of the requirements of recently amended § 226.8(c)(8) of Regulation Z with regard to retail installment sales contracts typically in use in the State of Ohio.

Ohio Revised Code § 1317.06, which regulates the finance charge in retail sales, provides for a "base finance charge" at the rate of $8 per $100 of principal per year and a "service charge" of 50 cents per month for the first $50 of the principal and an additional 25 cents per month for each of the next five $50 units of principal. You point out that these two rates are defined in § 1317.01 O.R.C. as follows:

"(N) 'Finance Charge' means the amount which the retail buyer pays or contracts to pay the retail seller for the privilege of paying the principal balance in installments over a period of time. . . .

"(O) 'Service Charge' means the amount which the retail buyer pays or contracts to pay the retail seller for the privilege of paying the principal balance in installments over a period of time in addition to the finance charge for the same privilege."

You contend that the "service charge" is not a service charge in the true sense of the term, but rather is interest or a time price differential. You stressed in a telephone conversation with a member of this staff that it was essentially an accident of history that the finance charge was divided into two segments with different names. You argue that since the "base finance charge" and the "service charge" are actually the same type of finance charge, there should be no itemization of the finance charge under § 226.8(c)(8)(i).

Staff's review of this matter does not lead it to concur with your contention that the base finance charge and the service charge are the same type of finance charge and therefore need not be itemized under § 226.8(c)(8)(i). The fact that the charges are dealt with separately in the Ohio statute and that they are computed in different manners is the basis for our differing view. Accordingly, it is staff's opinion that it would be proper to make the disclosure under § 226.8(c)(8)(i) by using the statutory terms of "base finance charge" and "service charge" to describe the two types of charges.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the Regulation, and I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Assistant Director.

Board of Governors of the Federal Reserve System, December 16, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76–37636 Filed 12–22–76;8:45 am]

[Docket No. R–0068]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Approval of Amendments

The Board of Governors of the Federal Reserve System has amended its Rules Regarding Delegation of Authority to

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delegate to any member of the Board designated by the Chairman the authority to approve amendments to notices of charges, proposed orders to cease and desist, and temporary cease-and-desist orders, previously approved by the Board pursuant to the Financial Institutions Supervisory Act, 12 U.S.C. 1818 (b) and (c) (sections 8(b) and (c) of the Federal Deposit Insurance Act).

The provisions of 5 U.S.C. 553, relating to notice and public participation and deferred effective date, are not followed in connection with the adoption of these amendments because the rules involved relate solely to matters of agency procedure and practice, and do not constitute substantive rules subject to the requirements of such section.

12 CFR Part 265 is amended by adding thereto a new § 265.1a(b)(2) to read as follows:

§ 265.1a Specific functions delegated to Board members.

* * * * *

(b) Any Board member designated by the Chairman is authorized:

* * * * *

(2) To approve, after receiving the recommendations of the Director of the Division of Banking Supervision and Regulation and the General Counsel, amendments to any notice of charges, proposed order to cease and desist, or temporary cease-and-desist order, previously approved by the Board of Governors pursuant to the Financial Institutions Supervisory Act, 12 U.S.C. 1818(b), (c) (Federal Deposit Insurance Act, Sections 8(b) and (c)).

By order of the Board of Governors, effective December 16, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-37635 Filed 12-22-76;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER A—GENERAL

[No. 76-922]

PART 500—ORGANIZATION AND CHANNELING OF FUNCTIONS

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 522—ORGANIZATION OF BANKS

Amendments Relating to Board Organization

DECEMBER 16, 1976.

The following summary of the amendments adopted by this Resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulations.

I. PRESENT REGULATIONS

(a) Part 500 of the General Regulations describes the organization and channeling of functions of the Board.

(b) Section 522.81 of the Regulations for the Federal Home Loan Bank System describes the functions of the Office of Finance.

II. AMENDED REGULATIONS

(a) Part 500 is updated to reflect current Board organization and channeling of its functions.

(b) Section 522.81 is amended to conform to § 522.87 which prescribes for the Office of Finance additional functions in connection with the Office of Neighborhood Reinvestment.

The Federal Home Loan Bank Board considers it advisable to amend Part 500 of the General Regulations (12 CFR Part 500) and § 522.81 of the Regulations for the Federal Home Loan Bank System (12 CFR 522.81).

Section 500.2, which describes the functions of the Board with respect to the Federal Home Loan Banks, is amended to provide for appointment by the Board of six rather than four directors to the board of directors of each Bank.

Section 500.13, which describes the Office of Management Systems and Administration, is amended to more clearly define the present function of that Office.

Section 500.18, which describes the Office of Examinations and Supervision, is amended by adding the Civil Rights Act of 1968 and the Home Mortgage Disclosure Act of 1975 to the list of acts enforced by the Office.

Section 500.19, which describes the Office of Industry Development, is amended by adding electronic fund transfer systems to the matters concerning which the Director of the Office is responsible for applications.

Section 500.21, which describes the Office of the Federal Home Loan Banks, is amended to more clearly define the present functions of that Office.

Section 500.22, which describes the Office of Housing and Urban Affairs, is amended to describe an additional function of the Office regarding disclosure of records maintained by the Board containing personal information on individuals.

Section 500.31, which lists the forms currently in use, is amended by (1) adding a new Form 107A, (2) deleting five forms—Nos. 167, 457, 551, 638, and HC-F, (3) changing the reference in the description of Form H-(d)(2), and (4) deleting reference to forms in the HC series from paragraph (a)(1) thereof.

Section 522.81, which describes the functions of the Office of Finance, is amended to reflect the additional functions of that Office regarding the Office of Neighborhood Reinvestment.

The Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. 553(b) and 12 CFR 508.11, because the amendments relate to Board organization, procedure, or practice, and (2) publication of said amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to effective date is unnecessary for the same reason.

Accordingly, the Federal Home Loan Bank Board hereby amends §§ 500.2, 500.13, 500.18, 500.19, 500.21, 500.22, 500.31, and 522.81 as set forth below, effective December 22, 1976.

1. Revise §§ 500.2, 500.13, 500.18, 500.19, 500.21, and 500.22 to read as follows:

§ 500.2 The Federal Home Loan Bank System.

The Board supervises the Federal Home Loan Banks created by the Federal Home Loan Bank Act and issues regulations and orders for carrying out the purposes of the provisions of that Act. Savings and loan associations and other institutions specified in section 4 of the Federal Home Loan Bank Act that make long-term home mortgage loans are eligible to become members of a Federal Home Loan Bank. The functions of the Board with respect to the Banks and their members include, but are not limited to, the following: prescribing the conditions upon which a Federal Home Loan Bank is authorized to make advances to its members and to nonmember borrowers; prescribing rules governing the payment and advertisement of interest or dividends on deposits, shares, or withdrawable accounts that may be paid by Bank members, other than those members the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act; prescribing rules and conditions upon which a Federal Home Loan Bank shall be authorized to borrow, to pay interest upon its borrowings, and to issue obligations; issuing upon such conditions as the Board may prescribe consolidated Federal Home Loan Bank bonds, notes, or debentures which are the joint and several obligations of all Federal Home Loan Banks; requiring examination of each Federal Home Loan Bank at least annually; appointing six directors to the board of directors of each Bank and conducting the election of the remaining directors by the members; approving dividends paid by each Federal Home Loan Bank; and acting on applications for Bank membership.

§ 500.13 Director of the Office of Management Systems and Administration.

The Director of the Office of Management Systems and Administration is the Board's Chief Administrative Officer and advisor regarding management and organizational matters, and as such is responsible for all management, organizational and administrative matters affecting Board offices and the Federal Savings and Loan Insurance Corporation. The responsibility includes the supervision and administration of the office which is divided into five divisions: The Financial Management Division, the Administration and Methods Division, the Personnel Management Division, the Information Systems Division, and the Management Systems Division.

* * * * *

(b) The Administration and Methods Division is responsible for contracting and procurement operations; purchasing and supply procedures and implementation; receiving, sorting and distributing mail; safety and security programs; maintenance; transportation; acquisition and allocation of space; and other housekeeping activities for the Board. The Division operates a printing and reproduction plant as authorized by the Congressional Joint Committee on Printing. The Division also has responsibility for the Board's emergency planning program and for assuring relocation and continuity of operations in the event of an emergency.

(c) The Personnel Management Division is responsible for development and execution of the personnel management program of the Board. The program includes position management; recruitment, placement and staffing; position classification and wage administration; employee development, career counseling and training; employee relations; labor-management relations; health insurance, life insurance and retirement benefits; and incentive awards. The Director of the Personnel Management Division is also responsible for carrying out the purposes of Executive Order No. 10450, as amended, as Personnel Security Officer of the Board, and for acting as agency liaison to the Civil Service Commission on all personnel matters of interest to the Commission.

* * * * *

§ 500.18 Director of the Office of Examinations and Supervision.

The Director of the Office of Examinations and Supervision is responsible for the performance of the responsibilities of the Board and the Federal Savings and Loan Insurance corporation with respect to examination and supervision of Federal savings and loan associations under the Home Owners' Loan Act of 1933 and of State-chartered insured institutions, savings and loan holding companies, and subsidiaries of savings and loan holding companies under Title IV of the National Housing Act. The Director is also responsible for advising the Board with respect to matters of policy decision, legislation, and regulation to which his functions of supervision and examination are related. The Director is responsible for management of the examination process and development and improvement of examination techniques and for the direction of supervisory and enforcement activities of the staff and agents of the Board and the Federal Savings and Loan Insurance Corporation. This Office supervises the security programs of insured institutions required by the Bank Protection Act of 1968 and enforcement of the Truth in Lending Act, the Fair Credit Reporting Act, the Currency and Foreign Transactions Reporting Act, the Equal Credit Opportunity Act, the Real Estate Settlement Procedures Act, the Flood Disaster Protection Act, the Civil Rights Act of 1968, and the Home Mortgage Disclosure Act of 1975.

§ 500.19 Director of the Office of Industry Development.

The Director of the Office of Industry Development is responsible for processing, review, and evaluation of certain applications to the Board and the Federal Savings and Loan Insurance Corporation, except for applications which are approved by another agent or officer of the Board pursuant to delegated authority. Applications for which the Director is responsible concern the following matters: permission to organize a Federal savings and loan association; facility offices (including regular branch offices, limited facility branch offices, satellite offices, and mobile facilities) of existing Federal savings and loan associations; insurance of accounts; conversion from Federal to State or from State to Federal charter; membership in the Federal Home Loan Bank System; mergers involving a Federal savings and loan association; voluntary dissolution of a Federal savings and loan association; increase in accounts of an insurable type through merger, consolidation, or purchase of bulk assets; investment in a service corporation by a Federal savings and loan association; change in office location; investment in an office building; waiver or modification of a condition for insurance of accounts or issuance of a Federal charter; release of pledged savings accounts or escrowed stock; extension of a lending area; approval of amendments to charter, bylaws, or security forms; approval or disapproval of marketable certificates of deposits with the concurrence of the Office of the General Counsel; permission to issue subordinated debt securities; electronic fund transfer systems; and other applications for which the Director of this Office may be assigned responsibility. The Director is also responsible for planning and coordinating new programs to stimulate development of the savings and loan industry by encouraging financially sound restructuring. Further, it is the responsibility of the Director to coordinate inter-office programs in regard to development, extension, and reporting of electronic fund transfer systems.

§ 500.21 Director of the Office of the Federal Home Loan Banks.

The Director of the Office of the Federal Home Loan Banks is responsible for reviewing the activities of the Banks, for supervising and co-ordinating their operating procedures to ensure conformity with applicable laws and Board regulations and policies, and for arranging annual audits of each of the Banks. The Director is responsible for establishing standards of accounting, reporting, and financial analysis for the Banks and for providing advice and assistance to the Banks. He is responsible for formulating policy recommendations and regulatory changes affecting the Bank System and for making recommendations concerning such matters as budgets and salary levels. The Director is responsible for conducting elections of elected directors and for identifying and recommending the appointment of appointed directors of each Federal Home Loan Bank. The Director serves on the Credit and Investment Committee and on the Steering Committee of the Conference of Federal Home Loan Bank Presidents.

§ 500.22 Director of the Office of Housing and Urban Affairs.

The Director of the Office of Housing and Urban Affairs is responsible for advising the Board on housing, urban problems, and minority affairs and for recommending policies pertaining thereto. This Office develops, implements, and evaluates programs to encourage housing investment and rehabilitation in older urban neighborhoods, prevent discrimination in lending and employment by the savings and loan industry, and assist minority owned or operated savings and loan associations which have Federal charters or insurance of accounts by the Federal Savings and Loan Insurance Corporation. The Office provides assistance to any individual in preparing a request for review of a refusal to disclose or amend a record maintained by the Board containing personal information pertaining to such individual.

§ 500.31 [Amended]

2. Amend paragraph (a)(1) of § 500.31 by deleting therefrom the words "and HC".

Further amend paragraph (a)(1) of § 500.31 by deleting from the list of forms therein Forms 167, 457, 551, and 638, and adding after Form 107 the following new form:

107A---------- Supplement to Monthly Report (Sample of Insured Associations)

3. Amend paragraph (a)(2) of § 500.31 by deleting from the list of forms therein Form HC-F, and changing the reference "§ 584.3(a)(6)" in the description of Form H(d)(2) to read "§ 584.3(a)(7)."

4. Revise paragraph (a) of § 522.81 to read as follows:

§ 522.81 Functions of Office of Finance.

(a) The Office of Finance shall: (1) conduct all negotiations relating to the public or private offering and sale of consolidated Federal Home Loan Bank obligations, as may be authorized by the Board; (2) conduct all negotiations for the purchase and/or sale of any securities on behalf of a Federal Home Loan Bank, as may be requested by such Bank after receiving the approval of the Board in the event such approval is required or as may be requested by the Board; (3) perform such other related duties as may be requested of such Office by a Federal Home Loan Bank or Banks and/or the Board; and (4) perform such functions for the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Mortgage Corporation, and/or the Office of Neighborhood Reinvestment as may be requested of such Office by the Board. In addition to the foregoing, any

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other function, duty, of authority heretofore vested in or performed by the Fiscal Agent shall be vested in, and may be performed by, the Office of Finance.

* * * * *

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. § 1437. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071).

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.76–37725 Filed 12–22–76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76–NW–3–AD; Amdt. 39–2795]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing 737 Series Airplanes

There have been failures of the forward and aft cargo door lower stop fittings on Boeing Model 737 series airplanes. Failure of a stop fitting results in a significant loss of door strength. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspections of the stop fittings and repair/replacement, as necessary, on affected Boeing Model 737 series airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

An evaluation of the anticipated impacts has been made, and it is expected that the final regulation is neither costly nor controversial. The preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107 is not required.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), Section 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BOEING: Applies to all Model 737 series airplanes certificated in all categories. Compliance required as indicated.

To detect cracks in the forward and aft cargo door lower stop fittings, (4 total) accomplish the following:

A. Upon accumulation of 15,000 flights or within the next 500 flights from the effective date of this AD, whichever occurs later, inspect the aft cargo door lowest side stop fittings per paragraph C.

B. Upon accumulation of 20,000 flights or within the next 500 flights from the effective date of this AD, whichever occurs later, inspect the forward cargo door lowest side stop fittings per paragraph C.

C. Visually or eddy current inspect the lowest side stop fittings in accordance with Boeing Service Bulletin No. 737–52–1065, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Repeat the inspections at intervals not to exceed 500 flights from the last inspection for the visual method and 2,500 flights from the last inspection for the eddy current method.

D. If a cracked fitting is detected: 1. Replace the fitting and visually or eddy current inspect the adjacent fitting prior to further flight in accordance with Boeing Service Bulletin No. 737–52–1065, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region; or

2. Continue service with no more than one cracked fitting for up to 50 flights under the following conditions:

a. Assure the stop fittings adjacent to the cracked fitting are crack-free by visual or eddy current inspection specified in the service bulletin.

b. Within 25 flights repeat the visual or eddy current inspection of the adjacent fitting.

c. Within 50 flights replace the fitting in accordance with the service bulletin.

E. Installation of a new improved fitting in accordance with Boeing Service Bulletin No. 737–52–1065, Revision 1, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, constitutes terminating action for this AD at that fitting.

F. For the purpose of this AD, when conclusive records are not available to show the number of flights accumulated by a particular fitting, the number of flights may be computed by dividing the airplane time-in-service since the fitting was installed in the airplane by the operator's fleet average time per flight for his Model 737 airplanes.

G. Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the repetitive inspection intervals in this AD, if the request contains substantiating data to justify the increase for that operator.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective January 14, 1977.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington, December 16, 1976.

C. B. WALK, Jr.,
Director, Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc.76–37736 Filed 12–22–76;8:45 am]

[Docket No. 16376; Amdt. 39–2794]

PART 39—AIRWORTHINESS DIRECTIVES

Messerschmitt-Bolkow-Blohm (MBB) Model BO–105A and BO–105C Helicopters

There has been a report of the brake blocks of the main rotor brake saddle being found loose or detached on Messerschmitt-Bolkow-Blohm (MBB) Model BO–105A and B105C helicopters that could result in possible rotor damage upon actuation of the main rotor brake or possible engine failure if a brake block becomes detached and ingested into an engine. Since this condition is likely to exist or develop in other helicopters of the same type design, an airworthiness directive is being issued to impose operating limitations on the use of the main rotor brake, to require inspection and replacement of the brake block saddle, and to require inspection of engines for possible damage on certain Messerschmitt-Bolkow-Blohm (MBB) Model BO–105A and BO–105C helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

MESSERSCHMITT-BOLKOW-BLOHM (MBB). Applies to all Model BO–105A and BO–105C helicopters, certificated in all categories, incorporating main rotor brake systems, MBB P/N 105–10501.

Compliance is required as indicated, unless already accomplished.

To prevent possible rotor failure with consequent engine damage, accomplish the following:

(a) Before further flight, except that the helicopter may be flown in accordance with FAR §§ 21.197 and 21.199 to a base where the work can be performed, accomplish the following:

(1) Install an operating limitation placard on the instrument panel in full view of the pilot, setting forth the following limitation: "DO NOT OPERATE ROTOR BRAKE."

(2) Inspect the main rotor brake saddle Goodrich P/N 2–1188, for loose or detached brake blocks, Goodrich P/N 27–516.

(b) If, during the inspection required by paragraph (a)(2) of this AD a loose brake block is found, before further flight, remove the main rotor brake saddle in accordance with the procedures contained in paragraph (c)(2) of this AD.

(c) If, during the inspection required by paragraph (a)(2) of this AD a brake block is found detached, before further flight, accomplish the following:

(1) Inspect the main gearbox compartment for the brake block or brake block debris. If the entire brake block is not recovered, inspect the compressor section of each engine for foreign object damage, and repair, as necessary, in accordance with the Allison Maintenance and Overhaul Manual for the Model 250 engine.

(2) Remove the main rotor brake saddle as follows:

(i) Detach pressure hose, P/N 105–10610, at rotor brake saddle.

(ii) Operate brake lever until flow of fluid from detached hoses ceases.

(iii) Detach hose, P/N 105–10610, from pressure relief valve, P/N 105–10511.

(iv) Seal outlet of pressure relief valve, P/N 105–10511, with nonmetallic blind plug or with tape.

(v) Remove bolts attaching main rotor brake saddle to main gearbox.

(vi) Remove main rotor brake saddle.

(d) If, during the inspection required by paragraph (a)(2) of this AD, the brake block is found not to be loose or detached, within the next 10 hours time in service after the effective date of this AD, remove the brake block saddle in accordance with the procedures contained in paragraph (c)(2) of this AD.

(e) The operating limitation placard required by paragraph (a) of this AD, may be removed upon the installation of an improved main rotor brake saddle, Goodrich P/N 2–1188–J.

NOTE.—The helicopter is approved for operation without the main rotor brake saddle.

This amendment becomes effective January 6, 1977.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued in Washington, D.C. on December 15, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76–37426 Filed 12–22–76;8:45 am]

[Docket No. 16377; Amdt. 39–2792]

PART 39—AIRWORTHINESS DIRECTIVES

Morane Saulnier (Socata) Models MS 892A–150, 892 E–150, 893A, 893E, 894A, and 894E Airplanes

There have been reports of the carburetor heat flap retaining screws found loose or missing on certain Morane Saulnier (Socata) airplanes that could result in loss of carburetor heat control and possible carburetor icing. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection and replacement, as necessary, of the carburetor heat flap retaining screws on certain Morane Saulnier (Socata) Models MS 892A–150, 892E–150, 893A, 893E, 894A, and 894E airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

MORANE SAULNIER (SOCATA). Applies to Models MS 892 A–150, 892E150, 893A, 893E, 894A, and 894E airplanes, equipped with AVCO-Lycoming or Franklin engines, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible carburetor icing, due to loose or missing carburetor heat flap retaining screws, accomplish the following:

(a) Before further flight, inspect the carburetor heat flap retaining screws for loose or lost screws in accordance with Socata Service Bulletin No. 125/1, dated September 1976, or an FAA-approved equivalent.

(b) If, during the inspection required by paragraph (a) of this AD, any carburetor heat flap retaining screw is found loose or missing, replace all the screws and nuts in accordance with Socata Service Bulletin No. 125/1, dated September 1976, or an FAA-approved equivalent.

(c) If, during the inspection required by paragraph (a) of this AD, no screws are found loose or missing, within the next 50 hours time in service after the effective date of this AD, replace all the carburetor heat flap retaining screws and nuts in accordance with Socata Service Bulletin No. 125/1, dated September 1976, or an FAA-approved equivalent.

This amendment becomes effective January 6, 1977.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued in Washington, D.C. on December 15, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76–37425 Filed 12–22–76;8:45 am]

[Docket No. 71–SO–142; Amdt. 39–2788]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Model PA–28–140 Series Airplanes

Amendment 39–1394 (37 FR 3508 and 37 FR 3509), AD 72–4–3, requires inspection and replacement, if necessary, of the flexible oil cooler hose assemblies on certain PA–28–140 airplanes. After issuing Amendment 39–1394, due to service experience, the agency determined that the 100 hour repetitive inspection interval is not effective in removing those hoses that are subject to failure. Therefore, the AD is being superseded by a new AD that requires the replacement of certain oil hose assemblies.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

PIPER AIRCRAFT CORPORATION. Applies to PA–28–140 airplanes serial numbers 28–20000 through 28–7125471 equipped with flexible engine-to-oil radiator hose assemblies Piper Part Numbers 63794–16 or 61413–02 certificated in all categories.

Compliance required as indicated.

To prevent a possible rupture of oil hose assemblies 63794X16 or 61413–02, and subsequent engine stoppage, accomplish the following:

(a) For airplanes with 950 or more hours time in service on the effective date of this AD, comply with paragraphs (c), (d) and (e) within the next 50 hours time in service.

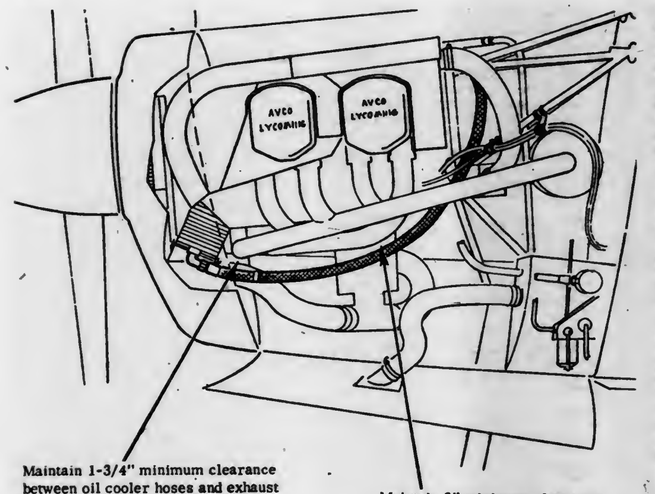
(b) For airplanes with less than 950 hours time in service on the effective date of this AD, comply with paragraphs (c), (d) and (e) before the accumulation of 1000 hours time in service.

(c) Unless already accomplished, remove both oil radiator hose assemblies, Piper Part Number 63794–16 or 61413–02, whichever is installed.

(d) Install two oil radiator hose assemblies, Piper Part Number 63901–72 or equivalent oil hose assemblies approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

Adjust the oil hoses to insure at least a minimum clearance of 1¾" between the oil hoses and the front exhaust stacks. Both oil lines must be tied firmly together where they pass below the exhaust stacks. As the hose is routed to the rear of the engine, it must pass underneath and behind the electrical ground cable in front of the lower of the two engine mount struts. The hose must be tied to the engine mount strut at this location so that a minimum clearance of at least two inches is maintained between the oil hose and exhaust stack (see sketch below).

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Maintain 1-3/4" minimum clearance between oil cooler hoses and exhaust stack in this area

Maintain 2" minimum clearance between oil cooler hose and exhaust stack in this area.

(e) After installing the replacement hose assemblies, run the engine for a few minutes to insure that there are no oil leaks and that required clearance between oil hoses and the exhaust system will be maintained when the engine is warm.

This supersedes Amendment 39-1394 (37 F.R. 3508 and 37 F.R. 3509), AD 72-4-3.

Piper Service Bulletin 531 pertains to this same subject.

This amendment becomes effective December 23, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Georgia, on December 8, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-37356 Filed 12-22-76;8:45 am]

[Docket No. 76-NE-23; Amdt. 39-2791]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney R 2800 B Series Military Engines (R2800-21, -27, -31, -41, -43, -51, -59, -63, -71, -75, -79)

AD 50-22-01 as amended by Amendment 39-2622 and further amended by Amendment 39-2647 (41 FR 24880), requires 40 hour repetitive supercharger impeller shaft end clearance inspections until modified at overhaul on all military Model R2800 B series engines. After issuing Amendment 39-2647, a further evaluation was made of the current service history of these engines. Records available at the manufacturer and the FAA indicate thrust bearing failures are not a current problem. This is attributed to the use of dispersant oils and engine modifications which have been incorporated over the years. Therefore, the need for AD 50-22-01, as amended, is obviated.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by rescinding Amendment 39-2622 as further amended by Amendment 39-2647 (41 FR 24880), AD 50-22-01.

This amendment becomes effective December 31, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Massachusetts on December 13, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-37355 Filed 12-22-76;8:45 am]

[Docket No. 16376; Amdt. 39-2793]

PART 39—AIRWORTHINESS DIRECTIVES

Scottish Aviation Limited Model HP-137 Mk.1 Jetstream Airplanes

Amendment 39-2465 (40 FR 58129), AD-75-26-16, requires repetitive visual inspection, reinforcement, and replacement, as necessary, of the outer flap assembly on Scottish Aviation Ltd. Model HP-137 Mk.1 Jetstream airplanes. After issuing Amendment 39-2465, due to service experience, the FAA determined that repetitive radiographic inspections are necessary in addition to the repetitive visual inspections to detect cracks in the outer flap assembly. The FAA further determined that the repetitive inspections may be discontinued upon the installation of a modified outer flap assembly. Therefore, the AD is being superseded by a new AD that requires repetitive visual and radiographic inspections, and replacement as necessary, of the outer flap assembly. The new AD also provides for the discontinuance of repetitive inspections upon the installation of a modified outer flap assembly.

Since this amendment, in part, provides an alternative means of compliance which imposes no additional burden on any person and, in part, reflects a situation that requires the immediate adoption of this regulation, it is found that notice and public procedure are unnecessary and impracticable and good cause exists for making this amendment effective in less than 30 days.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SCOTTISH AVIATION LIMITED. Applies to Model HP-137 Mk. 1 Jetstream airplanes, certificated in all categories, except those airplanes which incorporate Scottish Aviation Limited Modification No. 5111.

Compliance is required as indicated.

To detect cracks in the outer end of each outer wing flap and to prevent possible flap separation from the airplane and possible loss of airplane control, accomplish the following:

(a) For airplanes with 500 or more total landings on the effective date of this AD:

(1) Comply with paragraph (c) of this AD, before further flight, (except that the airplane may be flown in accordance with FAR §§ 21.197 and 21.199 to a base where the work can be performed, provided that the flaps remain in the fully retracted position for the duration of the flight), unless already accomplished within the last 50 landings and thereafter continue to comply with paragraph (c) of this AD at intervals not to exceed 50 landings.

(2) Comply with paragraph (d) of this AD, within the next 50 landings and thereafter continue to comply with paragraph (d) at intervals not to exceed 500 landings.

(b) For airplanes with less than 500 total landings on the effective date of this AD:

(1) Comply with paragraph (c) of this AD before the accumulation of 500 landings and thereafter continue to comply with paragraph (c) at intervals not to exceed 50 landings.

(2) Comply with paragraph (d) of this AD before the accumulation of 500 landings or within the next 50 landings after the effective date of this AD whichever occurs later, and thereafter continue to comply with paragraph (d) at intervals not to exceed 500 landings.

(c) Visually inspect the outer end of each outer wing flap, Part No. 13760B-405 (left) and 13760B-406 (right), for cracks along the lower flange of the end rib and rib doubler using a magnifying glass with at least 5 power in accordance with the instructions contained in Paragraph 3, Part B of Scottish Aviation Limited Service Bulletin No. 9/5, issue 2, dated August 4, 1976, or an FAA-approved equivalent.

(d) Inspect the outer end of each wing flap, Part No. 13760-B-405 (left) and 13760B-406 (right), for cracks along the lower flange of the end rib and rib doubler using the radiographic technique in accordance with the instructions contained in Paragraph 3, Part C of Scottish Aviation Limited Service Bulletin No. 9/5, issue 2, dated August 4, 1976, or an FAA-approved equivalent.

(e) If, during the inspections required by paragraphs (c) and (d) of this AD, cracks are found, replace the affected part with a serviceable part of the same part number.

NOTE: A "serviceable part" is defined in Note 1, Parts (a) and (b) of Scottish Aviation Limited Service Bulletin, No. 9/5, issue 2, dated August 4, 1976.

(f) Compliance with paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) may be discontinued upon the incorporation of Scottish Aviation Limited Modification 5111.

This amendment supersedes Amendment 39-2465, (40 FR 58129), AD 75-26-16.

This amendment becomes effective January 6, 1977.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C. on December 15, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76-37424 Filed 12-22-76;8:45 am]

[Airspace Docket No. 76-SW-55]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a transition area at Clarksville, Ark.

On November 11, 1976, a notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 49829) stating the Federal Aviation Administration proposed to designate a transition area at Clarksville, Ark.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 Gmt, February 24, 1977, as hereinafter set forth.

In § 71.181 (42 FR 440), the following transition area is added:

CLARKSVILLE, ARK.

That airspace extending upward from 700 feet above the surface within a 7-statute-mile radius of Clarksville Municipal Airport, Clarksville, Ark. (latitude 35°28'15" N., longitude 93°26'00" W.); and within 3.5 statute miles each side of the 136° bearing from Clarksville NDB (latitude 35°28'05" N., longitude 93°25'47" W.), extending from the 7-mile-radius area to 12 statute miles southeast of the NDB.

Issued in Fort Worth, Tex., on December 15, 1976.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.76-37739 Filed 12-22-76;8:45 am]

[Airspace Docket No. 76-SW-48]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Airways, Jet Routes and Area High Routes

On September 30, 1976, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 43186) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would alter several airways, jet routes and area high routes in the vicinity of Greater Southwest, Tex.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. Both comments received were favorable.

In the proposed description of Jet Route J-131 "Dallas-Fort Worth" was inadvertently omitted between the words "radials" and "to Texarkana." The amendment adopted herein includes this point of designation.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 GMT, February 24, 1977, as hereinafter set forth.

§ 71.123 [Amended]

§ 71.123 (42 FR 307) is amended as follows:

1. In V-18, all before "Shreveport, La.," is deleted and "From Millsap, Tex., via Dallas-Fort Worth, Tex; Quitman, Tex.;" is substituted therefor.

2. In V-358 "Greater Southwest, Tex.;" is deleted and "Dallas-Fort Worth, Tex.;" is substituted therefor.

§ 71.203 [Amended]

In § 71.203 (42 FR 626) "Greater Southwest, Tex." is deleted and "Dallas-Fort Worth." is added.

§ 71.207 [Amended]

In § 71.207 (42 FR 633) "Greater Southwest, Tex." is deleted and "Dallas-Fort Worth, Tex." is added.

§ 75.100 [Amended]

§ 75.100 (42 FR 722) is amended as follows:

1. In Jet Route No 4, Jet Route No. 25, Jet Route No. 42, Jet Route No. 52, Jet Route No 58, Jet Route No. 66, Jet Route No 72, Jet Route No. 76 and Jet Route No. 105 "Greater Southwest, Tex." is deleted and "Dallas-Fort Worth, Tex." is substituted therefor.

2. In Jet Route No. 21 "Greater Southwest, Tex.; INT Greater Southwest 356°" is deleted and "Dallas-Fort Worth, Tex.: INT Dallas-Fort Worth 355°" is substituted therefor.

3. Jet Route No 33 is amended to read as follows: "Jet Route No. 33 From Humble, Tex., via INT Humble 347° and Dallas-Fort Worth, Tex., 138° radials to Dallas-Fort Worth."

4. In Jet Route No. 87 all before "Tulsa, Okla.;" is deleted and "From Humble, Tex., via Dallas-Fort Worth, Tex;" is substituted therefor.

5. In Jet Route No. 131 all before "Texarkana, Ark.;" is deleted and "From San Antonio, Tex., via INT San Antonio 007° and Dallas-Fort Worth, Tex., 218° radials; Dallas-Fort Worth;" is substituted therefor.

§ 75.400 [Amended]

§ 75.400 (42 FR 722) is amended as follows:

1. In J-842R the title is deleted and "J-842R Dallas-Fort Worth, Tex, to New York, N.Y." is substituted therefor. Also the first waypoint is deleted and "Dallas-Fort Worth, Tex. 32°51'57"N. 97°01'40" W. Dallas-Fort Worth, Tex." is substituted therefor.

2. In J-843R the title is deleted and "J-843R New York, N.Y., to Dallas-Fort Worth, Tex." is substituted therefor. Also the last waypoint is deleted and "Dallas-Fort Worth, Tex. 32°51'57" N., 97°-01'40" W. Dallas-Fort Worth, Tex." is substituted therefor.

3. In J-912R the title is deleted and "J-912R Dallas-Fort Worth, Tex., to Chicago, Ill." is substituted therefor. Also the first waypoint is deleted and "Dallas-Fort Worth, Tex. 32°51'57" N., 97°-01'40" W. Dallas-Fort Worth, Tex." is substituted therefor.

4. In J-914R the title is deleted and "J-914R Dallas-Fort Worth, Tex., to New Orleans, La." is substituted therefor. Also the first waypoint is deleted and "Dallas-Fort Worth, Tex. 32°51'57" N., 97°-01'40" W. Dallas-Fort Worth, Tex." is substituted therefor.

5. In J-934R the title is deleted and "J-934R Dallas-Fort Worth, Tex., to Atlanta, Ga." is substituted therefor. Also the first waypoint is deleted and "Dallas-Fort Worth, Tex., 32°51'57" N., 97°-01'40" W. Dallas-Fort Worth, Tex." is substituted therefor.

6. In J-941R the title is deleted and "J-941R Dallas-Fort Worth, Tex., to Las Vegas, Nev." is substituted therefor. Also the first waypoint is deleted and "Dallas-Fort Worth, Tex. 32°51'57" N., 97°-01'40" W. Dallas-Fort Worth, Tex." is substituted therefor.

7. In J-942R the title is deleted and "J-942R Dallas-Fort Worth, Tex., to Lubbock, Tex." is substituted therefor. Also the first waypoint is deleted and "Dallas-Fort Worth, Tex. 32°51'57" N.,

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97°01'40" W. Dallas-Fort Worth, Tex." is substituted therefor.

8. In J-949R the second waypoint is deleted and "Dallas-Fort Worth, Tex. 32°51'57" N., 97°01'40" W. Dallas-Fort Worth, Tex." is substituted therefor.

9. In J-950R the second waypoint is deleted and "Scurry, Tex. 32°27'52" N., 96°20'14" W. Dallas-Fort Worth, Tex." is substituted therefor.

10. In J-991R the title is deleted and "J-991R Minneapolis, Minn., to Dallas-Fort Worth, Tex." is substituted therefor. Also the last waypoint is deleted and "Dallas-Fort Worth, Tex. 32°51'57" N., 97°01''40" W. Dallas-Fort Worth, Tex." is substituted therefor.

11. In J-992R the second waypoint is deleted and "YANTI 32°54'39" N., 95°-31'36" W. Dallas-Fort Worth, Tex." is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on December 17, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-37737 Filed 12-22-76;8:45 am]

[Airspace Docket No. 76-WE-11]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of RNAV Routes

On October 21, 1976, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (41 FR 46459) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would realign J-964R, J-967R, J-937R, J-938R, J-965R and J-966R western termination points to coincide with the eastern termination points of Pacific Composite routes R63 and R65.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 Gmt, February 24, 1977, as hereinafter set forth.

§ 75.400 [Amended]

Section 75.400 (42 FR 722) is amended as follows:

a. In J-937R "LEAFS 37°48'13" N., 125°49'57" W." is deleted and "LEAFS 37°50'00" N., 125°50'00" W." is substituted therefor.

b. In J-938R "LEAFS 37°48'13" N., 125°49'57" W." is deleted and "LEAFS 37°50'00" N., 125°50'00" W." is substituted therefor.

c. In J-964R "MERLE 37°11'16" N., 122°-47'08" W", "FRUIT 36°15'00" N., 124°50'00" W." are deleted and "MERLE 37°20'54" N., 122°50'36" W., "FRUIT 36°05'00" N., 124°50'-00" W." are substituted therefor.

d. In J-965R "LEAFS 37°48'13" N., 125°49'-57" W." is deleted and "LEAFS 37°50'00" N., 125°50'00" W." is substituted therefor.

e. In J-966R "LEAFS 37°48'13" N., 125°49'-57" W." is deleted and "LEAFS 37°50'00" N., 125°50'00" W." is substituted therefor.

f. In J-967R "FRUIT 36°15'00" N., 124°-50'00" W.", "MERLE 37°11'16" N., 122°47'08" W." are deleted and "FRUIT 36°05'00" N., 124°50'00" W.", "MERLE 37°20'54" N., 122°50'36" W." are substituted therefor.

(Secs. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a), and 1510), Executive Order 10854 (24 FR 9565) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on December 20, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-37736 Filed 12-22-76;8:45 am]

[Docket No. 16375; Amdt. No. 1063]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

§ 97.23 [Amended]

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective February 24, 1977.

Hawthorne, CA—Hawthorne Municipal, VOR Rwy 7, Amdt. 11.
Durango, CO—Durango-La Plata County, VOR-A, Amdt. 2.
Durango, CO—Durango-La Plata County, VOR Rwy 2, Amdt. 3.
Waco, TX—James Connally Arpt., VOR-A, Amdt. 3.
Waco, TX—Waco-Madison Cooper Arpt., VOR Rwy 14, Amdt. 17.

• • • effective February 10, 1977.

Lodi, CA—Linds Arpt., VOR-A, Amdt. 1.
Tucumcari, NM—Tucumcari Municipal, VOR Rwy 21, Amdt. 4.
Tucumcari, NM—Tucumcari Municipal, VOR Rwy 26, Amdt. 4.
Woodward, OK—West Woodward Arpt., VOR/DME-A, Amdt. 1.
Hanksville, UT—Hanksville (FAA Site 54), VOR-A, Amdt. 6, cancelled.
Jackson, WY—Jackson Hole Arpt., VOR/DME Rwy 36, Original.

• • • effective February 3, 1977.

Wilmington, DE—Greater Wilmington Arpt., VOR Rwy 9, Amdt. 1.
Mt. Carmel, IL—Mt. Carmel Muni., VOR Rwy 22, Amdt. 2.
Spencer, IA—Spencer Muni., VOR Rwy 11, Amdt. 2.
Spencer, IA—Spencer Muni., VOR Rwy 29, Amdt. 2.
Boston, MA—General Edward Lawrence Logan Int'l Arpt., VOR Rwy 27, Amdt. 12, cancelled.
Boston, MA—General Edward Lawrence Logan Int'l Arpt., VOR/DME Rwy 27, Original.
Hancock, MI—Houghton County Memorial, VOR Rwy 13, Amdt. 8.
Hancock, MI—Houghton County Memorial, VOR Rwy 25, Amdt. 10.
Hancock, MI—Houghton County Memorial, VOR Rwy 31, Amdt. 7.
Jackson, MS—Allen C. Thompson Field, VORTAC Rwy 33R, Amdt. 1.
Kansas City, MO—Kansas City Int'l Arpt., VOR Rwy 27, Amdt. 9.
Zanesville, OH—Zanesville Muni., VOR Rwy 4, Amdt. 3.
Zanesville, OH—Zanesville Muni., VOR Rwy 22, Original.
Burlington, WI—Burlington Muni., VOR Rwy 29, Amdt. 2.

• • • effective December 13, 1976.

Mansfield, MA—Mansfield Muni., VOR-A, Amdt. 10.
Gulfport, MS—Gulfport Muni., VOR Rwy 13 (TAC) Amdt. 17.

§ 97.25 [Amended]

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective February 3, 1977.

Kailua-Kona, HI—Ke-Ahole Arpt., LOC Rwy 17, Original.
Kansas City, MO—Kansas City Int'l Arpt., LOC(BC) Rwy 27, Amdt. 7.
Wilkes-Barre/Scranton, PA—Wilkes-Barre/Scranton Int'l Arpt., LOC(BC) Rwy 22, Amdt. 5.

• • • *effective January 6, 1977.*

Youngstown, OH—Youngstown Muni Arpt., LOC Rwy 14, Original.
Youngstown, OH—Youngstown Muni Arpt., LOC(BC) Rwy 14, Amdt. 1, cancelled.

• • • *effective December 10, 1976.*

Milwaukee, WI—General Mitchell Field, LOC Rwy 25L, Amdt. 1.

§ 97.27 [Amended]

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, *effective February 24, 1977.*

Waco, TX—James Connally Arpt., NDB Rwy 17, Amdt. 2.
Waco, TX—James Connally Arpt., NDB Rwy 35, Amdt. 3.
Waco, TX—Waco-Madison Cooper Arpt., NDB Rwy 19, Amdt. 12.

• • • *effective February 3, 1977.*

Spencer, IA—Spencer Muni Arpt., NDB Rwy 29, Amdt. 2.
Phillipsburg, KS—Phillipsburg Muni Arpt., NDB Rwy 31, Amdt. 4.
Louisville, KY—Standiford Field, NDB Rwy 1, Amdt. 1.
Detroit, MI—Willow Run Arpt., NDB Rwy 5R, Amdt. 2.
Oshkosh, NE—Oshkosh Muni Arpt., NDB Rwy 12, Amdt. 2.
Youngstown, OH—Landsdowne Arpt., NDB-B, Amdt. 5.
Zanesville, OH—Zanesville Muni Arpt., NDB Rwy 4, Amdt. 9.

• • • *effective January 13, 1977.*

Sonora, TX—Sonora Municipal Arpt., NDB Rwy 18, Original.

• • • *effective December 13, 1976.*

Gulfport, MS—Gulfport Muni Arpt., NDB Rwy 13, Amdt. 5.

• • • *effective December 9, 1976.*

Muncie, IN—Delaware County-Johnson Field, NDB Rwy 32, Amdt. 2.

§ 97.29 [Amended]

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPS, *effective February 24, 1977.*

Waco, TX—James Connally Arpt., ILS Rwy 17, Amdt. 3.
Waco, TX—Waco-Madison Cooper Arpt., ILS Rwy 19, Amdt. 9.

• • • *effective February 10, 1977.*

Corpus Christi, TX—Corpus Christi Int'l Arpt., ILS Rwy 35, Amdt. 1.

• • • *effective February 3, 1977.*

Detroit, MI—Willow Run Arpt., ILS Rwy 5R, Amdt. 4.
Hancock, MI—Houghton County Memorial, ILS Rwy 31, Amdt. 4.
Columbus, OH—Ohio State University Arpt., ILS Rwy 9R, Amdt. 1.

• • • *effective January 13, 1977.*

Monroe, LA—Monroe Muni Arpt., ILS Rwy 4, Amdt. 14.

• • • *effective January 6, 1977.*

Chicago, IL—Chicago O'Hare Int'l Arpt., ILS Rwy 9L, Amdt. 1.

• • • *effective December 13, 1976.*

Gulfport, MS—Gulfport Muni Arpt., ILS Rwy 13, Amdt. 6.

• • • *effective December 10, 1976.*

Milwaukee, WI—General Mitchell Field, ILS Rwy 19R, Amdt. 2.

§ 97.31 [Amended]

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPS, *effective January 6, 1977.*

Muskegon, MI—Muskegon County, Radar-1, Original.

• • • *effective December 10, 1976.*

Milwaukee, WI—General Mitchell Field, Radar-1, Amdt. 19.

§ 97.33 [Amended]

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, *effective February 3, 1977.*

Wilmington, DE—Greater Wilmington Arpt., RNAV Rwy 9, Amdt. 1.
Joplin, MO—Joplin Muni Arpt., RNAV Rwy 31, Amdt. 1.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on December 17, 1976.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.30 approved by the Director of the Federal Register on May 12, 1969, (35 FR 5610).

[FR Doc.76-37753 Filed 12-22-76;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Docket No. 27769; Reg. ER-979]

PART 221a—FARE SUMMARIES

Issuance of A New Part

DECEMBER 2, 1976.

Effective: June 1, 1977.

Adopted: December 2, 1976.

The Civil Aeronautics Board hereby issues a new Part 221a, *Fare Summaries*, in its Economic Regulations (14 CFR Part 221a). The new regulation requires certificated air carriers to publish and maintain at all their ticket-selling locations simplified summaries of their various fares for scheduled services between selected origin and destination points in interstate and overseas air transportation.

This rulemaking was initiated by a petition from Aviation Consumer Action Project (ACAP), in response to which the Board issued an Advance Notice of Proposed Rulemaking (EDR-285, June 10, 1975, 40 F.R. 24740), inviting comments with respect to the general problem described by ACAP. Following receipt of those comments, the Board then issued a Notice of Proposed Rulemaking (EDR-285C, June 22, 1976, 41 F.R. 25020), in which comments were invited on a specific proposed rule, which was set forth and explained. Comments on the proposed rule were received from Congressmen John E. Moss and Robert F. Drinan, Consumer Federation of America, Consumers Union, ACAP, U.S. Department of Transportation, Administrator of the (U.S.) General Services Administration, Office of Consumer Affairs (HEW), Pennsylvania Public Utility Commission, American Society of Travel Agents (ASTA), and 12 airlines,[1] as well as from some 85 members of the general public.

In addition, United, Delta, and ACAP filed reply comments.

Upon consideration, the Board has decided to adopt the rule as proposed, with two slight modifications in response to comments. The tentative findings and conclusions set forth in EDR-285C are made final, and except to the extent granted herein, all requests contained in the comments are denied. The Board also hereby dismisses the proceeding instituted by EDR-222 (37 F.R. 5964; Docket 24328) and denies the petition by the Airline Charter Tour Operators Association (Docket 27897), both of which concern suggested requirements for carriers to disseminate information concerning prospective tariff changes. Although the subject matter of those proceedings differs somewhat from this one, it appears most appropriate to gain experience with the new fare summaries rule before issuing further requirements for publishing price information.

As proposed, the new regulation would require each certificated scheduled air carrier to maintain fare summaries concerning its routes in interstate or overseas air transportation, but not for foreign routes. They would be kept at each ticket-selling location of the carrier, available at no cost, and in such a manner that they are visible and accessible to the public. They would contain in an easy-to-read form a summary, typically but not necessarily in tabular form, of each of the various fares, including discount fares, of that carrier as offered from a specific origin point, with dollar amounts and the main rules and restrictions applicable to each type of fare. The origin points for which each carrier would have to have summaries would be each city included in the carrier's top 100 city-pairs, ranked on the basis of on-line origin-destination revenue passengers. For each origin-point summary, the destinations for which the information would have to be included would be the 10 cities generating the most traffic to and from the origin point, plus any other destinations that with the origin city are included in the carrier's top 100 city-

[1] American Airlines, a separate comment by M. Sullivan of American Airlines, Eastern Air Lines, Braniff Airways, United Air Lines, Delta Air Lines, Western Air Lines, Allegheny Airlines, Southern Airways, Trans World Airlines, Northwest Airlines, Alaska Airlines, and Continental Air Lines.

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pairs. Any destination, however, that generated less than 10 passengers per day, on the average, between it and the origin point would not have to be covered.

The summaries to be stocked at each ticket-selling location would be those for the nearest origin point of that carrier, plus any other origin points within 100 miles of that location. Carriers would be required to have enough summaries on hand to meet expected demand, and to replenish them when exhausted. Summaries could also be ordered by mail for any origin point for which they are published, by use of forms available at each ticket location, with a maximum response time of 7 days.

Summaries would be required to be corrected within 30 days of any major change, defined as a change in at least one-quarter of the fares shown or the addition or deletion of a fare type, and within 6 months of any other changes in material contained in the summaries. In addition to the actual dollar amount of the fares, the summaries would have to include any of the following rules or restrictions: restrictions as to dates of the year on which the fare applies, such as holidays and peak or off-peak seasons; hour-of-the-day and day-of-the-week limitations; minimum- and maximum-stay periods; round-trip requirements; advance reservation, deposit, and refund or forfeit provisions; children's fares; any rules regarding the identity or number of passengers, such as occupation (military, clergy, etc.) or minimum number in group; and any land-package or other requirements for purchases in addition to the air fare. Fares that are only available to pre-formed groups of 10 or more would not have to be included in the summaries; where a group of any size could be formed by the carrier or a travel agent, however, such a fare would be required to be shown.

Descriptions would be required to be concise and readily understandable by the lay public; abbreviations, symbols, and footnotes would be kept to a minimum, and any abbreviations or symbols not obvious or widely understood would be explained on the same page. In addition to its usual powers of enforcement of its regulations, the Board could issue an order specifying changes to be made in a summary if it found it at variance with the regulation.

The proposal was either supported or not generally objected to by all the formal non-airline commenters except the Office of Consumer Affairs, HEW. Among the airlines, Eastern, Braniff, and United did not generally oppose the proposal, although United in its reply comment reiterated previously expressed doubts concerning the Board's authority in the area. The remaining airlines opposed the issuance, although several offered specific suggestions in the event it was adopted. Among the individual comments, the ratio of support to opposition was about 10 to 1.

Several of the opposing comments argued that the need for such information had not been shown. The Office of Consumer Affairs, HEW, cited a 1974 poll showing that 46% of the persons who flew during the previous 12 months had incomes of $15,000 or more, and claimed that this poll demonstrated that airline passengers were "sophisticated" and could "fend for themselves." If these poll data are valid, they do not appear to support the conclusion suggested, since $15,000 is not far above the median family income. Regardless of their validity, however, the Board does not agree with the underlying premise that only "unsophisticated" travelers can benefit from the information. In fact, the more educated portion of the public may find the summaries most useful; their purpose is to make the entire population of potential airline travelers better informed as to their travel options.

Opposing airlines argued that their computerized reservations systems, the assistance provided by airline ticket-selling personnel, and the efforts being made to clarify the presentation of tariffs, obviate the need for requiring the publication of fare summaries. Some of these arguments had been previously raised in the comments in response to the Advance Notice of Proposed Rulemaking. On the other hand, the comments that have been received, at both stages of this proceeding, from consumer-representative groups, directly from the general public, and from government agencies including the U.S. Department of Transportation and the General Services Administration, indicate the opposite. To some extent, the multitude of fare classes offered between two points and the complexity of the restrictions, speak for themselves. Regardless of whether information given out on the spot by airline or travel agency personnel is often inaccurate or incomplete, as suggested in some comments, the Board finds that a clear and comprehensive view of the many different fares offered can, in most situations, only be practically obtained by consumers in the form of printed material designed to be easily readable.

Delta argued that the record contains "no substantial support," in the form of "empirical evidence," to justify the issuance of the rule, and suggested that the Board hold formal hearings to "find the facts" on the issue. The Board finds that argument to be without merit. As discussed, the record contains very substantial support for the rule. The governing statutes clearly specify that informal notice-and-comment proceedings are appropriate for rulemaking such as this, and there is no reason to believe that evidence adduced at formal hearings is any more valid than that gathered through informal proceedings.

Some of the opposing comments suggested that the summaries would be costly to the airlines and therefore to the traveling public. Many of the airlines submitted cost figures for the summaries. Upon examination of these figures, the Board finds that the summaries would actually be quite low in cost, considering the amount of information provided to the public. The annual cost of issuing the summaries will depend primarily on the frequency with which they must be reissued, which in turn depends primarily on the frequency with which the airlines change their fares. Even on the extreme assumption that fares are changed in a manner which would require the reissuance of summaries around six times per year (as they were during the past 12 months), the cost figures submitted by the airlines indicate that the fare summary program will cost the trunk carriers on the order of one cent per ticket (*i.e.*, per enplaning revenue passenger).[2] This compares with their general advertising expenditures that are on the order of one to five *dollars* per ticket.[3]

Several of the carriers argued that they should be allowed to express the various discount fares offered as a percentage of a basic fare, without providing dollar fares for each fare and each destination. This would eliminate the need for reissuing the fare summaries every time there is a fare change, thereby saving much of the cost of the program. ACAP, on the other hand, declared that dollar fare amounts are essential to carry out the goals of the rule. The Board agrees with ACAP's position. The main impetus for this rule is that carrier restrictions have become complex, many different fares are being offered, and there is presently no convenient way for consumers to view quickly and clearly the whole range of options. The full impact of discounts on a family's travel budget, and the range of fares to different destinations under various fare plans, can be easily appreciated only if the actual fares are provided. Providing actual fares also makes it clear which discounts are available to particular destinations, information that will not be presented where only general percentages were provided. The requirement for actual dollar fares is therefore retained in the rule.

Another issue on which several carriers commented was the requirement that ticket-selling locations be required to stock summaries for the nearest origin point, and for any other origin point within 100 miles of the location. United and Eastern suggested that they only be required to stock the summary for one origin-point city if the ticket-selling location is in that city, arguing that most consumers would not be interested in information for more distant origin points. Alaska Airlines argued that the 100-mile rule is inappropriate for Alaska, since ground travel to an origin other than the closest one is unlikely under

[2] For example United Airlines estimated that four to six issues per year "could cost as much as" $180,000 for printing. Other data submitted suggested additional costs approximating 25% of printing costs, indicating a total cost for United of around $225,000. United enplanes some 30 million revenue passengers per year, indicating a cost for the summaries of approximately three-quarters of a cent per passenger ticket.

[3] Based on carriers' data submitted on CAB Form 41, Schedule P-8, and summarized in ACAP's reply comment in this docket.

Alaskan conditions. Upon consideration, the Board has decided to issue the availability rule as proposed. It is true that many different situations will be encountered in practice, and the usefulness of having more than one summary available may also differ. In general, however, considering that the convenience of using various airports will vary widely among different consumers depending on such factors as where they live and work, that the types of discounts offered may vary among different nearby origin points, and that the usefulness of the summaries will be greatest if consumers can depend on obtaining relevant information about the widest variety of available travel options, the Board finds that the broad rule proposed appears the most desirable.

United and Eastern also argued that they should not be required to stock any summary at all at a ticket-selling location from which the nearest origin point of that carrier is more than 100 miles distant. This argument is also rejected. Even if many travelers may not utilize the origin point whose summary is stocked in that situation, such a summary can be of considerable use to consumers in informing them of the fare types available from the carrier, and simply of the nature of the summary itself, with the inducement to order other summaries through the mail as needed.

Some comments asked that the Board allow fare summaries to be combined with timetables. Alaska Airlines asked for clarification that the fare sections of the summaries could be issued separately, to eliminate waste in reissuances. Alaska Airlines also asked that the Board require a statement to the effect that in the event of conflict between the summary and an official tariff, the tariff would govern. In regard to all of these comments interested persons should note that the rule does not specify in detail the format to be followed. As long as each of the rule's requirements is met, the carriers may include other information, at their discretion, such as in the timetable approach. The rule states explicitly (§ 221a.5(a)) that the fare amounts may either be integrated with the rules and conditions, or may be set forth in a separate table. In the latter case only the table need be reissued if there are no changes in the rules and conditions; the only qualification is that if there are two documents, they must be stocked for public pickup in such a way that it is made clear that a person must take both to obtain a clear summary of the fares.

Allegheny Airlines and Southern Airways argued that fare summaries would be less useful for passengers on local service carriers, since many of their passengers are on interline connecting trips, for which the fare information for their portion, stated separately, would not be applicable. Southern pointed out that some airports that are a short distance apart might have enough traffic to qualify for fare summaries under the rule's tests, but that that traffic would consist mostly of interline connecting passengers. These statements are doubtless correct, but the Board does not agree that they lead to the conclusion that the local service carriers should not be covered by the fare summaries rule. Although local service carriers service many short routes, many of their routes are relatively long, and those carriers are the only ones serving communities in which millions of citizens live. Even if the information for certain short-hop city-pairs is not as useful as that for others, the incremental cost of supplying it, given the existence of the summaries, must be negligible. In this light, the extreme variety of traffic situations throughout the country makes it impracticable to attempt to devise rules to determine whether certain city-pairs should be omitted on the basis of predominantly connecting traffic. For these reasons the application of the rule will remain as proposed, to all certificated carriers serving domestic or overseas routes.

In response to Southern's suggestion that the proposed definition of "origin-destination" was ambiguous, it is being changed slightly to make clear that it means the entire portion of a trip by one carrier ("on-line"), not the separate flights where there are plane changes ("on-flight"). Southern and Allegheny both noted that that meaning might give them difficulty, because they do not presently keep their traffic data on an on-line basis. The only reason in the rule, however, for the use of the phrase "origin-destination" is to ascertain which city-pairs should be covered by the summaries: i.e., which are a carrier's top 100 city-pairs and which are the top 10 destinations from a given origin city. Thus, the consequences of an erroneous determination by a carrier will not be serious. Carriers will be expected simply to use the best data, surveys, or estimates that are available to them in making these rankings, and a good-faith error in such a case will not be considered material by the Board.

Several detailed criticisms and suggestions were made in the comments. Some suggested that the type size for the summaries be specified in points, as is commonly done; ACAP suggested 9-point type. The Board finds that 8-point type is easily readable to the average person, and in the interest of avoiding unnecessary costs, the rule specifies that size as a minimum.

ACAP and ASTA both suggested that the 30-day and 6-month permitted reissuance times for major and minor changes, respectively, are too long. Upon consideration of their arguments, the Board has decided to retain the times as proposed. It should be remembered that these are maximum times, which probably will be undercut by the carriers in the interest of ensuring compliance. They are intended to strike a balance between reasonable accuracy and reasonable cost. If, after the start-up period, it appears from experience that they may be unnecessarily long, the Board will consider changing them.

With respect to the requirement to mail requested summaries within 7 days, United argued that a carrier should not be subjected to this requirement if a change is imminent after the 7-day period. This suggestion is found to be impractical; if a carrier were allowed to delay responding because of some change it considered imminent, the certainty that is intended by the requirement would be lost. In most cases, it would seem that an answer could be mailed within 1 or 2 days, and the 7-day period should provide any needed flexibility. United also asked permission to reject "wasteful" requests, such as for each of a carrier's summaries. The rule as proposed allows a carrier to reasonably limit the number of copies furnished; whether further specificity is needed in this aspect of the rule must be determined on the basis of experience. It would be difficult if not impossible to formulate an objective test, in a regulation, for requests that are wasteful and those that are not. Since the general intent of the rule is widespread availability of the information, it does not appear justified at this time to impose limits such as those suggested by United, and in this respect it will be issued as proposed.

Several requests by the airlines to relax the rule in various ways are rejected on grounds that on consideration of all available information, the Board finds that the provisions in question are justified by the need, and the reasons for their inclusion are not outweighed by the countervailing arguments. Eastern suggested that only cities appearing twice in a carrier's top 100 city-pairs be used as origin points, thus cutting down substantially on the number of different summaries produced; the Board is not inclined to lower the number of communities with summaries, however, since diffusion of fare information to the largest extent is one of the main goals of the regulation. Braniff suggested eliminating group fares altogether and deleting the inclusion of groups "assembled by the carrier or by a travel agent." This suggestion is rejected because group fares on scheduled service, including carrier- or agent-assembled groups, are an important type of travel that can be advantageous to consumers in various situations. Braniff also suggested modifying the enforcement provision in § 221a.8 that empowers the Board to specify changes to be made in a noncomplying summary; this provision, similar to that in 14 CFR 252.5, relating to required company manuals concerning smoking on aircraft, will be retained, however, as a useful supplement to the Board's other enforcement methods that can be used to resolve problems of language and format in an expeditious manner. American suggested that sending three copies to the Board is unnecessary; actually, considering that several different offices and bureaus within the Board will be concerned with the regulation, three copies appear to be barely adequate.

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The comments contained other suggested additions to or strengthening of the requirements. ACAP suggested prohibiting the use of symbols except where they are self-explanatory. It also would require the airlines to mention the summaries to all persons inquiring as to fares, and to send them out in response to telephone requests. Congressman Robert F. Drinan suggested general summaries with types of fares and conditions for lower-traffic routes not otherwise covered, further rulemaking to require summaries applicable to foreign transportation, foreign-language summaries for communities more than 5% bilingual, and prescription of a uniform summary format. The Board has decided not to adopt these suggestions at this time, but to observe how well the fare summary requirement serves its intended purposes, with a view to making modifications that appear desirable on the basis of experience. "Hard" information on the cost and difficulty, or lack of it, in producing and distributing the summaries, after the start-up problems are worked out of the carriers' systems, will be especially valuable in deciding on future changes.

ASTA requested that the summaries be required to be distributed directly to travel agents. The Board recognizes that fare summaries will be particularly useful in the hands of travel agents, both for the agents' own information and for distribution to their customers. In deciding to leave this area unregulated for the present, the Board assumes that the requirement to distribute to any person (including travel agents) on request, along with the commercial interests of both the carriers and the travel agents, will lead to arrangements that accommodate the travel agents' needs satisfactorily. To attempt now to regulate distribution to travel agents would entail devising entirely new formulas, which might not be simple, with respect to the numbers of copies and the coverage of the summaries that should be distributed to each agent.

In light of the foregoing, a new Part 221a, *Fare Summaries*, is added to the Board's Economic Regulations (14 CFR Part 221a), effective June 1, 1976, to read as set forth below.

Sec.
221a.1 Purpose.
221a.2 Applicability.
221a.3 Availability and public notice.
221a.4 Contents.
221a.5 Format.
221a.6 Coverage.
221a.7 Reissuance of summaries.
221a.8 Filing with the Board.

AUTHORITY: Secs. 204, 403, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, as amended, 49 U.S.C. 1324, 1373.

§ 221a.1 Purpose.

The purpose of this part is to require certificated air carriers to make available to the public concise and easily understandable information concerning the various normal and discount passenger fares they offer in scheduled service that they perform in interstate and overseas air transportation, so that persons contemplating air travel can make an informed choice of the alternative fares and select those best suited to their needs. The requirements are stated in general terms in order to allow variation, innovation, and competition by the carriers in designing their summary formats for maximum dissemination and greatest usefulness to the general public. The specific intent is to have each air carrier provide to the public, at each ticket-selling location, information regarding fares from that city, or a reasonably nearby city, to at least a representative selection of destinations served by that carrier, in sufficient detail to enable consumers to make an informed choice of fare plan, upon consideration of the variations in the conditions and rules attached to each such fare.

§ 221a.2 Applicability.

This part applies to each air carrier authorized to provide scheduled passenger service by a certificate issued by the Board under section 401 of the Act (hereafter referred to as "carrier"), with respect to its routes in interstate and overseas air transportation.

§ 221a.3 Availability and public notice.

(a) Each carrier shall provide applicable fare summaries, as specified in § 221a.6(d), conforming to this part, at each of its stations, offices, or other locations that is in the charge of a person employed exclusively by the carrier, or by it jointly with another person, and at which tickets for passenger transportation are sold (hereafter referred to as "locations").

(b) Each carrier shall require the fare summaries to be placed in a spot, such as a ticket counter, that is in plain view of persons utilizing the location's services, and from which such persons can and may take a summary during the location's working hours without the assistance of personnel employed at the location.

(c) No charge shall be made for a fare summary, although a carrier may reasonably limit the number of copies to be given to each person.

(d) Carriers shall provide enough copies of the applicable fare summaries to each location described in paragraph (a) of this section to meet continuously the expected public demand. Each carrier shall have procedures whereby the supply of the applicable summary at any such location will be promptly replenished if it is exhausted.

(e) In the immediate vicinity of the supply of summaries specified in paragraph (b) of this section, the carrier shall post a notice conspicuously and clearly describing the summaries, in general terms, and inviting members of the public to take them. The notice may reasonably limit the number to be taken by each person.

(f) Employees of the carrier shall be required, in response to inquiries or requests by any person, to advise of the fare summaries' availability, and to lend assistance to any persons seeking information from or related to the summaries.

(g) Each fare summary shall provide an address from which any person can obtain by mail a copy of any other fare summary issued by that carrier, and shall contain a statement to that effect. In addition, each carrier shall provide, at each of its locations, forms by which a person may request copies of any summaries issued by the carrier, by filling out the form and submitting it to the carrier's employee in attendance. Any such request shall be satisfied by the carrier by putting the requested summaries in the mail, addressed to the person making the request, not more than 7 days after receipt of the request. This is only a general summary of the rules and conditions that apply to the listed fares as of the date shown above. The official tariffs of current fares for air travel to or from a location where tickets are sold are available for examination at that location. A full statement of all current fares, with their associated rules and conditions, is contained in the official tariffs that are in effect and on file with the Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428.

§ 221a.5 Format.

(a) The fare amounts may be included in the description of rules and conditions, or may be set forth in a separate table.

(b) The description of rules and conditions shall be set forth in a form, such as a table, that allows ready comparison of the various types of fares offered.

(c) Descriptions of rules and conditions shall be concise and readily understandable by the lay public. Abbreviations, symbols, and footnotes shall be kept to a minimum. Any abbreviations or symbols that are not obvious or widely understood by the lay public shall be explained on the page on which they appear.

(d) All information required by this part shall appear in at least 8-point type.

§ 221a.6 Coverage.

(a) *Origin points.* The origin points on which fare summaries are based shall as a minimum include each of the cities in the 100 origin-destination city-pairs between which the carrier carries the largest number of its revenue passengers.

(b) *Destination points.* Except as provided in paragraph (c) of this section, each fare summary shall cover destinations that include as a minimum—

(1) The 10 cities or metropolitan areas to or from which the carrier carries the largest number of revenue passengers from or to the origin point; and

(2) Any other cities or metropolitan areas that, with the origin point, are included in the 100 origin-destination city-pairs between which the carrier carries the largest number of revenue passengers.

(c) *Minimum traffic.* Notwithstanding the provisions of paragraph (b) of this section, a carrier is not required to furnish information for destinations whose traffic carried by that carrier to or from the origin point averages less than 10 passengers per day.

(d) *Applicable summaries.* The fare summary that is stocked at each ticket outlet in accordance with § 220.3(a) shall be the summary for the origin point, included in the group described in paragraph (a) of this section, that is closest to the ticket outlet. However, if a carrier has more than one such origin point within 100 miles of a ticket outlet, it shall make summaries available at that outlet for each such origin point.

(e) For purposes of this section, "origin-destination" refers to the initial and final points between which the carrier in question carries a passenger on a given trip, and not to intermediate stops by that carrier, with or without plane changes, or to points before or after those initial and final points, respectively.

Illustration: A passenger whose trip could be diagrammed as follows:

Carrier X Carrier A Carrier A Carrier Y
A ---------→ B---------→ C---------→ D---------→E

for purposes of this section, would be counted by Carrier A as a passenger carried from point B to point D, even if the passenger changed planes at point C.

§ 221a.7 Reissuance of summaries.

(a) When a major change occurs in a carrier's fares, the carrier shall, within 30 days after the change becomes effective, reissue new summaries reflecting the change and superseding previously issued summaries, and shall withdraw from circulation any superseded summaries. For purposes of this requirement, a "major change" means one or more changes that cumulatively affect at least one-quarter of the fare amounts shown in any one summary, or the addition or deletion of one or more of the types of fares shown in a summary.

(b) In addition to reissuances resulting from major changes, as required by paragraph (a) of this section, a carrier shall reissue its fare summaries so as to correct any information contained in any fare summary not later than 6 months after the information becomes incorrect. The superseded summaries shall promptly be removed from all locations.

§ 221a.8 Filing with the Board.

Each carrier shall send three copies of each of the fare summaries that it is required by this part to issue, or to reissue, to the Civil Aeronautics Board, Tariffs Section, Washington, D.C. 20428, not later than the time at which the carrier is required by this part to make the summary available to the public. If the Board finds that any fare summary is at variance with any provision of this part, the Board may by order specify changes to be made in the fare summary so that it will conform to the provisions of this part.

By the Civil Aeronautics Board,

PHYLLIS T. KAYLOR,
Secretary.

NOTE.—The Civil Aeronautics Board decided to submit this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).

[FR Doc.76-37713 Filed 12-22-76;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES: ADMINISTRATION AND ENFORCEMENT REGULATIONS

Modification or Replacement of Banned Hazardous Substances

In this document the Consumer Product Safety Commission issues a regulation under the Federal Hazardous Substances Act (FHSA) to clarify the fact that modification or replacement of banned hazardous substances under that act is permitted as an alternative to repurchase of those products.

BACKGROUND

Section 15 of the FHSA (15 U.S.C. 1274) provides that manufacturers, distributors, and dealers shall repurchase any product which is a "banned hazardous substance" in accordance with regulations issued by the Commission. Those regulations were published in the FEDERAL REGISTER on February 4, 1974 (39 FR 4472) and appear at 16 CFR 1500.202. They specify the manner in which any manufacturer, distributor, or retailer who has sold a product which is a "banned hazardous substance" shall give notice and repurchase the product. As issued in 1974, these regulations did not indicate that a "banned hazardous substance" which has been introduced into interstate commerce may be modified so that it no longer violates a banning regulation, in lieu of repurchase, if the parties to a transaction involving such a product agree to the modification.

In the FEDERAL REGISTER of April 29, 1976 (41 FR 17936), the Commission proposed to add a new § 1500.203 to the regulations governing repurchase under section 15 of the FHSA to provide that if any product which was a "banned hazardous substance" at the time it was introduced into interstate commerce, or which became a "banned hazardous substance" because of some alteration which occurred after its introduction into interstate commerce (but before its sale to an ultimate consumer), is thereafter modified by agreement of the parties involved in the sale or distribution of the product so that it is no longer a "banned hazardous substance," that product shall not be subject to repurchase under section 15 of the FHSA and 16 CFR 1500.202.

In this proposal, the Commission noted that in the case of certain products which are subject to banning regulations issued under the FHSA, the particular aspect of a given product which results in its classification as a "banned hazardous substance" might be amenable to correction by adjusting or repairing the product, or by adding, removing, or replacing one or more of its component parts. Examples of such products include electrically operated toys, baby cribs, and bicycles. The Commission also stated that in some cases, the interests of manufacturers, distributors, retailers, and consumers would be better served if an article which fails to meet the requirements of an applicable banning regulation were modified to meet all of those requirements rather than repurchased.

RESPONSE TO THE PROPOSAL

In response to this proposal, the Commission received comments from a bicycle manufacturer, a retailer, a manufacturer and importer of bicycles, a member of the public, an association of bicycle manufacturers, an association of toy manufacturers, and an association of newspaper publishers.

Most of the commenters support the proposal and all of them suggest changes.

1. A member of the public expresses the view that, in permitting modification, the proposal indicates that not all banning regulations issued by the Commission under the FHSA will be enforced, and requests modification of the proposal so that it is applicable only to products which were not banned hazardous substances at the time they were sold.

This comment apparently does not take into consideration the fact that the introduction of any product into interstate commerce which is a banned hazardous substance is a violation of section 4 of the FHSA (15 U.S.C. 1263) and is made punishable by fine or imprisonment or both by section 5 of the FHSA (15 U.S.C. 1264). As stated in the preamble of the proposal of April 29, 1976, nothing contained in the regulation issued below would excuse any violation of section 4 of the FHSA which resulted from the introduction of a "banned hazardous substance" into interstate commerce, or would preclude the Commission from seeking any of the criminal penalties authorized by section 5 of the act from any such violation of section 4.

The Commission concludes that the change requested by this comment cannot be adopted because section 15 of the FHSA itself makes repurchase applicable to banned hazardous substances, notwithstanding the fact that such substances were banned prior to their introduction and sale. In considering this comment, however, the Commission realizes that the proposed language would seemingly permit modification only in those cases where the article was banned at the time of its introduction into commerce, or where it became banned through some alteration to the article which occurred before its sale to an ultimate consumer. This result was not intended by the Commission. Nor is there a logical reason why modification should not be permitted in those cases where an article becomes a banned hazardous substance after its introduction into com-

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merce because an applicable FHSA regulation has become effective after its introduction into commerce. Therefore, the language of the regulation issued below has been changed to clarify this point.

2. The comment from the retailer requests addition of language to the proposed regulation to state that replacement of a product which is a "banned hazardous substance" with an equivalent complying product is allowed in addition to repair or modification of the product in lieu of repurchase of the banned product.

The Commission observes that section 15 of the FHSA specifies that each party in the chain of distribution of a banned product "shall repurchase it from the person to whom he sold it" by refunding the purchase price paid for the product. If at the time of the repurchase, the party required to make the repurchase offered an equivalent complying product for sale at exactly the same price as the amount refunded, section 15 would not prohibit the sale of the complying product. The Commission views the offer to replace a banned product with an equivalent complying product to be essentially the same as the transaction described above. For that reason the Commission agrees with the commenter that replacement with an equivalent product as well as modification of the banned product is permissible as an alternative to repurchase of the banned product. Accordingly, § 1500.203 below provides that replacement of a banned product with an equivalent complying product is allowable instead of repurchase if the owner of the banned product will consent to replacement.

3. Comments from the bicycle manufacturer, retailer, the bicycle manufacturer and importer, the association of bicycle manufacturers, and the association of toy manufacturers urge deletion of those provisions of proposed § 1500.203 specifying that modification of a banned product in lieu of repurchase is authorized only when the owner of the banned product will consent to its modification. All of these commenters express concern that a relatively expensive product, such as a bicycle, classified as a banned product by failing to comply with an applicable regulation, could sometimes be corrected for a small fraction of the purchase price of the article. These commenters state that if consumers who own banned products arbitrarily insist on repurchase rather than consent to modification, great economic harm could result to manufacturers and other parties in the chain of distribution, but that no increase in public safety would result. The retailer contends that the economic consequences which might result if all owners insisted on repurchase rather than modification of the product could drive the manufacturer of the product out of business, thereby depriving the consumer of the opportunity for repair or repurchase.

The retailer suggests further that proposed § 1500.203 be changed to permit a manufacturer, distributor, or retailer involved in the sale of a banned product to submit a plan for modification or replacement of the product to the Commission for approval, and if the plan were approved by the Commission, the owner of the product involved would have no right to insist on repurchase. This comment observes that when the Commission makes a determination that a consumer product presents a "substantial product hazard" under provisions of section 15 of the Consumer Product Safety Act (15 U.S.C. 2064), the party involved in the manufacture or sale of the product rather than the owner of the product makes the election of whether to offer to repair, replace, or repurchase the product.

The comments from the bicycle manufacturer and bicycle importer and manufacturer also suggest that Commission approval of the plan to modify or repair the product might be required if the right of the owner of the product to insist on repurchase were removed from the regulation.

The Commission declines to change the proposal in the manner requested by these commenters because section 15 of the FHSA confers the right to demand repurchase of any product which is a "banned hazardous substance" on the owner of that product. The regulation issued below interprets section 15 of the FHSA to allow any party in the chain of distribution to offer to replace it with an equivalent complying product or to repair or modify the product so that it is no longer a "banned hazardous substance" subject to repurchase provided that the owner consents. The Commission concludes that these alternatives to repurchase do not conflict with the rights and duties created by section 15. However, to the extent that the comments under consideration request provisions to remove the right of an owner of a banned product to demand and receive its repurchase, the change requested would cause the regulation to conflict with the statute it is intended to interpret. The proposition that a regulation cannot conflict with the statute under which it is issued is basic to the regulatory process. The Commission observes that if § 1500.203 were changed to allow manufacturers, distributors, or retailers to offer replacement or modification of a banned product instead of repurchase, and to excuse repurchase if such an alternative were offered, the regulation would be restricting private rights granted by the statute.

The Commission also declines to change the proposal to require Commission approval of any plan to offer replacement or modification instead of repurchase. As indicated in the preamble of the proposal of April 29, 1976, the Commission finds that the provisions of § 1500.203 issued below which state that any offer to replace or modify a banned product shall be subject to the approval of the owner of that product, and the authority given to the Commission by section 6 of the FHSA (15 U.S.C. 1265) to institute proceedings to seize banned products and by section 8 of the FHSA (15 U.S.C. 1267) to bring suit for injunctions to enforce the provisions of the act, provide adequate safeguards to insure that any plan for replacement or modification will be effective to eliminate the hazard presented. The Commission also concludes that the absence of any provisions requiring Commission approval of a plan to replace or modify a banned product in lieu of repurchase is desirable to enable any party who elects to offer alternatives to repurchase to do so quickly, without any delay for Commission approval.

4. The bicycle manufacturer suggests that where the manufacturer of a banned article elects to offer repurchase as a remedy, the manufacturer should be permitted to reduce the amount of refund in proportion to the amount of use the consumer has had of the product before the noncompliance became apparent. This revision to existing requirements under 16 CFR 1500.202 is urged to be consistent with a Federal Trade Commission proposal under the Magnuson-Moss Warranty Act (Pub. L. 93-637; 88 Stat. 2183).

The Commission notes that the issue of amount of refund is beyond the scope of the proposal of April 29, 1976, which deals solely with alternatives to repurchase and refund of purchase price. Moreover, reference to the Magnuson-Moss Warranty Act as an example of a scheme to offer partial refunds is not persuasive because that act specifically defines a refund as the purchase price less reasonable depreciation based on actual use and is primarily concerned with economic loss rather than safety. The FHSA, on the other hand, specifically provides that a purchaser has a right to receive a refund of the purchase price paid, with no mention of an allowance for depreciation. Therefore, the Commission declines to adopt the suggestion.

5. A comment from a member of the public objects to that language in the proposal which allows any party in the chain of distribution to offer to modify a banned product as an alternative to repurchase. This commenter expresses the opinion that this language could lead to a situation in which a consumer with a banned product would be told by the retailer, distributor, and manufacturer, in turn, that some other party in the chain of distribution has offered to modify the product as an alternative to repurchase. This commenter requests the Commission to change proposed section 1500.203 to require in all instances that the manufacturer must be the party to offer to modify the product as an alternative to repurchase.

The Commission observes that section 15 of the FHSA confers an absolute right on the owner of a product which is a "banned hazardous substance" to demand a refund of the purchase price from the party who sold the product. In the absence of an acceptable offer to replace or modify the product, the owner of the product may always insist on repurchase from the party who sold the product to the owner and reimbursement of reasonable transportation costs incurred in returning the product in accordance with provisions of § 1500.202.

The Commission concludes that the greatest benefit would result to both consumers and industry if any party in the chain of distribution were allowed to offer replacement or modification as an alternative to repurchase. The Commission can foresee that if a manufacturer went out of business before a defect in the product were discovered which caused that product to be a "banned hazardous substance," the duty to repurchase that product would continue for all other parties in the chain of distribution. Notwithstanding the absence of the manufacturer, section 15 of the FHSA would continue to require retailers to repurchase the banned product from consumers to whom they sold it; similarly, the act would require distributors to repurchase from their retail customers. In these circumstances, some party other than the manufacturer might be able to devise a satisfactory alternative to repurchase. For these reasons, the Commission declines to modify the proposal in the manner requested in this comment.

6. Comments from the association of newspaper publishers and the member of the public request changes in the provisions of 16 CFR 1500.202 and proposed § 1500.203 relating to notification of owners of banned products that repurchase or modification is offered.

The association of newspaper publishers urges a change to require publication of the notice in at least one newspaper of general circulation in each area where the product was distributed, one day a week for three consecutive weeks. A brochure accompanying this comment cites several newspaper readership studies in support of the proposition that the newspaper is the best medium to convey inexpensively a precise and timely message to the general public.

The comment from the member of the public suggests that the notice requirements should be changed to require the notification of defect and the offer to modify or repurchase to be attached to each of the banned products displayed for sale, and mailed to each purchaser of the banned product in question. This comment urges that the notification include a statement regarding the nature of the defect and the hazard presented by the product.

Section 1500.202(f) prescribes a mechanism by which manufacturers and all other parties in the chain of distribution, including retailers, are to notify their customers when a product is subject to repurchase as a "banned hazardous substance." This section requires retailers to post signs at the place of sale to advise consumers of the specific products which the retailer sells or has sold which are subject to repurchase, the nature of the hazard presented by each such product, and the procedures to be followed to obtain repurchase of any banned product.

The Commission is presently unaware of information indicating that the present notification system by the posting of signs required under § 1500.202(f) is inadequate to reach those persons to whom the retailer's duty to repurchase extends. The Commission will, however, investigate the effectiveness of the present notification requirements and propose changes to the regulations if an evaluation indicates that such changes are warranted. Accordingly, the Commission declines to modify the notification requirements as requested by these comments.

Having considered the comments received and other relevant information, the Commission concludes that the proposal, with changes, should be adopted as set forth below (in addition to the changes discussed above, other changes, for purposes of clarification, have been made).

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 10(a), 15, 74 Stat. 378, 380, as amended, 83 Stat. 189-90; 15 U.S.C. 1269(a), 1274), and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), Pub. L. 92-573, 86 Stat. 1231; (15 U.S.C. 2079(a)), a new section is added to 16 CFR Part 1500 as follows:

§ 1500.203 Modification or replacement of banned hazardous substances in lieu of repurchase.

(a) *Scope.* This section clarifies and sets forth the conditions whereby repurchase of a banned hazardous article or substance will not be required under section 15 of the act and section 202 of this Part 1500. Generally, repurchase will not be required whenever, with the consent of the owner, the banned hazardous article or substance is replaced or modified so as to no longer be considered banned.

(b) *Modification.* Any article or substance which is a "banned hazardous substance" as that term is used in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and the regulations issued thereunder in this Subchapter C, (including any article or substance which became a banned hazardous substance because of some alteration which occurred after its introduction into interstate commerce and before its sale to an ultimate consumer) but which is thereafter modified so that it is no longer a banned hazardous substance shall not be subject to repurchase under provisions of section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) and § 1500.202. Provided, however, that if the owner of a particular product which is a banned hazardous substance (for a reason other than an alteration by the owner) will not consent to modification of the product as an alternative to repurchase, the obligation of the party who sold that product to repurchase that product in accordance with section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) and § 1500.202 shall not be affected by the provisions of this § 1500.203.

(c) *Replacement.* Any party who is obligated to repurchase an article which is a banned hazardous substance may replace it with an equivalent product which is not a banned hazardous substance in satisfaction of the requirements of section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) and the provisions of 16 CFR 1500.202. Provided however, that if the owner of the particular product which is a banned hazardous substance (for reasons other than an alteration by the owner) will not consent to replacement with an equivalent product which is not a banned hazardous substance, the obligation of the party who sold the banned hazardous substance to repurchase that product and refund the purchase price in accordance with section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) and § 1500.202 shall not be affected by the provisions of this § 1500.203.

(d) *Notification.* In any case where a manufacturer, distributor, or dealer elects to offer to modify a banned hazardous substance or to replace it with an equivalent product which is not a banned hazardous substance as an alternative to repurchase, the notice provided pursuant to the requirements of section 1500.202(f) may be written to indicate the availability of the alternative of modification or replacement of the banned hazardous substance. Such notice, however, shall indicate that the owner of the banned hazardous substance may insist on repurchase.

(e) *Expenses.* In any case where a manufacturer, distributor, or dealer elects to offer to modify a banned hazardous substance or to replace it with an equivalent product which is not a banned hazardous substance as an alternative to repurchase, all expenses incurred in connection with the modification or replacement, absent any agreement between the parties to the contrary, shall be borne by the party originally offering the modification or replacement.

Effective date. The regulation promulgated above (16 CFR 1500.203) shall become effective January 24, 1977.

(Secs. 10(a), 15, 74 Stat. 378, 380, as amended 83 Stat. 189-90; 15 U.S.C. 1269(a), 1274.)

Dated: December 20, 1976.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.76-37714 Filed 12-22-76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-4]

PART 1—GENERAL PROVISIONS

Grand Rapids, Mich.

On October 14, 1976, there was published in the FEDERAL REGISTER (41 FR 45015) a notice of a proposal to establish a Customs port of entry at Grand Rapids, Michigan, in the Detroit, Michigan, Customs district (Region IX). No comments

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were received in response to this proposal.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 12 (41 FR 47970), Grand Rapids, Michigan, is hereby designated as a Customs port of entry in the Detroit, Michigan, Customs district (Region IX).

The geographical limits of Grand Rapids, Michigan, port of entry shall include all that area beginning at the northwesternmost corner of the City of Walker, Michigan, and extending in an easterly direction along the northern boundaries of the City of Walker, the City of Grand Rapids, Grand Rapids Township, and Ada Township, all in Michigan, to the northeasternmost point of Ada Township, then proceeding in a southerly direction along the eastern boundaries of Ada Township, Cascade Township, and Caledonia Township, Michigan, to 84th Street, then proceeding in a westerly direction along 84th Street to its intersection with the boundary line between Kent County and Ottawa County, Michigan, then proceeding in a northerly direction along the boundary line between Kent County and Ottawa County, Michigan, to the northwesternmost corner of the City of Walker, Michigan.

To reflect this change, the table in § 1.2(c) of the Customs Regulations (19 CFR 1.2(c)) is amended by inserting "Grand Rapids, Michigan (T.D. 77–4)" directly below "Battle Creek, Michigan," in the column headed "Ports of entry" in the Detroit, Michigan, Customs district (Region IX).

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended (19 U.S.C. 1, 2).)

Effective date. This amendement shall become effective January 24, 1977.

Dated: December 16, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76–37723 Filed 12–22–76;8:45 am]

[T.D. 77–5]

PART 1—GENERAL PROVISIONS

Erie, Pennsylvania

On September 14, 1976, a notice of proposal to extend the port limits of Erie, Pennsylvania, in the Cleveland Ohio, Customs district (Region IX) was published in the FEDERAL REGISTER (41 FR 39030). No comments were received regarding the proposal.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949–1953 Comp., Ch. II), and pursuant to the authority provided by Treasury Department Order No. 190, Rev. 12 (41 FR 47970), the port limits of Erie, Pennsylvania, in the Cleveland, Ohio, Customs district (Region IX), are extended to include all the territory within the corporate limits of the City of Erie and all of Mill Creek Township in Erie County, Pennsylvania.

To reflect this change, the table in § 1.2(c) of the Customs Regulations (19 CFR 1.2(c)) is amended by adding the language "(including territory described in T.D. 77–5)." directly after "Erie, Pa." in the column headed "Ports of entry" in the Cleveland, Ohio, Customs district (Region IX).

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended (19 U.S.C. 1, 2).)

Effective date. This amendment shall become effective January 24, 1977.

Dated: December 16, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76–37724 Filed 12–22–76;8:45 am]

[T.D. 77–3]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Special Tonnage Tax and Light Money

Amendment of the listing of countries entitled to suspension and discontinuance of foreign discriminating duties of tonnage and impost with respect to vessels and certain imports; § 4.22 of the Customs Regulations, amended.

Section 4.22 of the Customs Regulations (19 CFR 4.22) lists the nations whose vessels are exempted by treaties, Presidential proclamations, or orders of the Secretary of the Treasury from the payment of higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. On October 7, 1976, the Department of State requested the Department of the Treasury to remove the Republic of Viet-Nam and Palestine from the list. On October 15, 1976, the Department of State requested the Department of the Treasury to change the listing for "China" to "Republic of China".

Accordingly, to reflect these changes, the list set forth in § 4.22 of the Customs Regulations is amended by deleting "Palestine" and "Viet-Nam, Republic of" therefrom and by substituting "China, Republic of" for "China".

(R.S. 251, as amended, R.S. 4219, as amended, R.S. 4225, as amended, R.S. 4228, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 3, 121, 128, 141).)

Since these amendments reflect either the change in name of a country currently on the list or the deletion of names of countries in conformity with the law allowing an exception only as long as reciprocity is possible, notice and public procedure is found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment shall be effective December 23, 1976.

Dated: December 16, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76–37722 Filed 12–22–76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CCGD5–76–08R]

PART 127—SECURITY ZONES

Hampton Roads, James River, Newport News, Virginia

This amendment to the Coast Guard's Security Zone Regulations establishes the waters of the James River in the area of the Newport News Shipbuilding and Drydock Company, Newport News, Virginia as a security zone. This security zone is established to prevent interference with the launching of the USS CINCINNATI at the Newport News Shipbuilding and Drydock Company, Newport News, Virginia.

This amendment is issued without publication of a notice of proposed rule making, because this security zone involves a military function of the United States.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.510 to read as follows: § 127.510 Hampton Roads, James River, Newport News, Virginia.

The waters within the following boundary is a security zone: A line beginning at a point on Newport News Shipbuilding Pier 2 at position 36°58'48" N, 76°26'26" W, to a position at 36°57'53" N, 76°26'42" W, thence to a position at 36°59'07" N, 76°27'57" W, thence to a point on shore at position 36°59'35" N, 76°26'55" W, thence to the point of beginning.

(40 Stat. 220, as amended, (§ 1, 63 Stat. 503), § 6(b), 80 Stat. 937; 50 U.S.C. § 191 (14 U.S.C. § 91), 49 U.S.C. § 1655(b); E.O. 10173, E.O. 10277, .O. 10352, E.O. 11249; 3 CFR 1947–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b).)

Effective date. This amendment is effective from 10:30 a.m. to 2 p.m., Saturday 19 February 1977.

Dated: December 16, 1976.

C. R. THOMPSON,
Captain, U.S. Coast Guard,
Hampton Roads, Captain of the Port.

[FR Doc.76–37705 Filed 12–22–76;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Increased Disability Compensation and Dependency and Indemnity Compensation; Burial Benefits

An page 48747 of the FEDERAL REGISTER of November 5, 1976, there was published a notice of proposed regulatory changes in Part 3 of Title 38, Code of Federal Regulations, to implement provisions of Pub. L. 94–433 (90 Stat. 1374).

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These VA regulations are effective October 1, 1976 except § 3.21 which is effective December 16, 1976.

Approved: December 16, 1976.

R. L. ROUDEBUSH,
Administrator.

1. In § 3.5, paragraphs (e) (3) and (4) are revised to read as follows:

§ 3.5 Dependency and indemnity compensation.

* * * * *

(e) *Widow's or widower's rate.* * * *

(3) If there is a widow or widower with one or more children under the age of 18 (including a child not in the widow's or widower's actual or constructive custody and a child who is in active military, air, or naval service), the total amount payable shall be increased by the amount set forth in 38 U.S.C. 411(b) for each child.

(4) If the widow or widower is determined to be in need of aid and attendance under the criteria in § 3.352 or is a patient in a nursing home, the total amount payable shall be increased by the amount set forth in 38 U.S.C. 411(c).

2. Section 3.21 is added to read as follows:

§ 3.21 Monetary rates.

The rates of compensation, dependency and indemnity compensation, and pension as well as the income limitations applicable to pension and parent's dependency and indemnity compensation as published in tabular form in Appendix B of Department of Veterans Benefits Manual M21–1[1] are to be given the same force and effect as if published in the regulations (Title 38, Code of Federal Regulations).

3. In § 3.309, paragraphs (a) and (b) are revised to read as follows:

§ 3.309 Disease subject to presumptive service connection.

(a) *Chronic diseases.* The following diseases may be considered for service connection although not otherwise established as incurred in service if manifested to a compensable degree within the applicable time limits under § 3.307 following service in a period of war or following peacetime service on or after January 1, 1947.

Anemia, primary.
Arteriosclerosis.
Arthritis.
Atrophy, progressive muscular.
Brain hemorrhage.
Brain thrombosis.
Bronchiectasis.
Calculi of the kidney, bladder, or gallbladder.
Cardiovascular-renal disease, including hypertension. (This term applies to combination involvement of the type of arteriosclerosis, nephritis, and organic heart disease, and since hypertension is an early symptom long preceding the development of those diseases in their more obvious forms, a disabling hypertension within the 1-year period will be given the same benefit of service connection as any of the chronic diseases listed.)
Cirrhosis of the liver.
Coccidioidomycosis.
Diabetes mellitus.
Encephalitis lethargica residuals.
Endocarditis. (This term covers all forms of valvular heart disease.)
Endocrinopathies.
Epilepsies.
Hansen's disease.
Hodgkin's disease.
Leukemia.
Myasthenia gravis.
Myelitis.
Myocarditis.
Nephritis.
Other organic diseases of the nervous system.
Osteitis deformans (Paget's disease).
Osteomalacia.
Palsy, bulbar.
Paralysis agitans.
Psychoses.
Purpura idiopathic, hemorrhagic.
Raynaud's disease.
Sarcoidosis.
Scleroderma.
Sclerosis, amyotrophic lateral.
Sclerosis, multiple.
Syringomyelia.
Thromboangiitis obliterans (Buerger's disease).
Tuberculosis, active.
Tumors, malignant, or of the brain or spinal cord or peripheral nerves.
Ulcers, peptic (gastric or duodenal) (A proper diagnosis of gastric or duodenal ulcer (peptic ulcer) is to be considered established if it represents a medically sound interpretation of sufficient clinical findings warranting such diagnosis and provides an adequate basis for a differential diagnosis from other conditions with like symptomatology; in short, where the preponderance of evidence indicates gastric or duodenal ulcer (peptic ulcer). Whenever possible, of course, laboratory findings should be used in corroboration of the clinical data.).

(b) *Tropical diseases.* The following diseases may be considered for service connection as a result of tropical service, although not otherwise established as incurred in service if manifested to a compensable degree within the applicable time limit under § 3.307 or § 3.308 following service in a period of war or following peacetime service.

Amebiasis.
Blackwater fever.
Cholera.
Dracontiasis.
Dysentery.
Filariasis.
Hansen's disease.
Leishmaniasis, including kala-azar.
Loiasis.
Malaria.
Onchocerciasis.
Oroya fever.
Pinta.
Plague.
Schistosomiasis.
Yaws.
Yellow fever.
Resultant disorders or diseases originating because of therapy administered in connection with such diseases or as a preventative thereof.

* * * * *

4. In § 3.350, the introductory portion of paragraphs (a), (b), (c), (e) and (i) preceding subparagraph (1) and paragraphs (d), (f) (1) and (2) (i) through (iv) and (h) are revised to read as follows:

§ 3.350 Special monthly compensation ratings.

The rates of special monthly compensation stated in this section are those provided under 38 U.S.C. 314.

(a) *Ratings under 38 U.S.C. 314(k).* Special monthly compensation under 38 U.S.C. 314(k) is payable for each anatomical loss or loss of use of one hand, one foot, both buttocks, one or more creative organs, blindness of one eye, having only light perception, deafness of both ears, having absence of air and bone conduction, or complete organic aphonia with constant inability to communicate by speech. This special compensation is payable in addition to the basic rate of compensation otherwise payable on the basis of degree of disability, provided that the combined rate of compensation does not exceed $879 monthly when authorized in conjunction with any of the provisions of 38 U.S.C. 314(a) through (j) or (s). When there is entitlement under 38 U.S.C. 314 (1) through (n) or an intermediate rate under (p) such additional allowance is payable for each such anatomical loss or loss of use existing in addition to the requirements for the basic rates, provided the total does not exceed $1,231 per month. The limitations on the maximum compensation payable under this paragraph are independent of and do not preclude payment of additional compensation for dependents under 38 U.S.C. 315, or the special allowance for aid and attendance provided by 38 U.S.C. 314(r).

* * * * *

(b) *Ratings under 38 U.S.C. 314(l).* The special monthly compensation provided by 38 U.S.C. 314(l) is payable for anatomical loss or loss of use of both hands, both feet, one hand and one foot, blindness in both eyes with visual acuity of 5/200 or less or being permanently bedridden or so helpless as to be in need of regular aid and attendance.

* * * * *

(c) *Ratings under 38 U.S.C. 314(n).* The special monthly compensation provided by 38 U.S.C. 314(m) is payable for anatomical loss or loss of use of two extremities at a level or with complications preventing natural elbow or knee action with prosthesis in place; or for blindness in both eyes having light perception; or for blindness in both eyes rendering the veteran so helpless as to be in need of regular aid and attendance.

* * * * *

[1] Available in VA regional offices and VA centers.

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(d) *Ratings under 38 U.S.C. 314(n).* The special monthly compensation provided by 38 U.S.C. 314(n) is payable for the anatomical loss of two extremities so near the shoulder or hip as to prevent the use of a prosthetic appliance or anatomical loss of both eyes. Amputation is a prerequisite. If a prosthesis cannot be worn at the present level of amputation but could be applied if there were a reamputation at a higher level the requirements of this paragraph are not met; instead, consideration will be given to loss of natural elbow or knee action.

(e) *Ratings under 38 U.S.C. 314(o).* The special monthly compensation provided by 38 U.S.C. 314(o) is payable for conditions entitling to two or more of the rates (no condition being considered twice) provided in 38 U.S.C. 314 (l) through (n) or for bilateral deafness rated at 60 percent or more disabling, and the hearing impairment in one or both ears is service connected, in combination with service-connected blindness with bilateral visual acuity 5/200 or less.

* * * * * * *

(f) *Intermediate or next higher rate; 38 U.S.C. 314(p)—(1) Extremities.* (i) Anatomical loss or loss of use of one extremity with the anatomical loss or loss of use of another extremity at a level or with complications preventing natural elbow or knee action with prosthesis in place will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is $924.

(ii) Anatomical loss or loss of use of one extremity with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate equal to 38 U.S.C. 314(m).

(iii) Anatomical loss or loss of use of extremity at a level preventing natural elbow or knee action with prosthesis in place with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is $1,034.

(2) *Eyes, bilateral, and blindness in connection with deafness.* (i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is $924.

(ii) Blindness of one eye with 5/200 visual acuity or less and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the other eye, will entitle to a rate equal to 38 U.S.C. 314(m).

(iii) Blindness of one eye having only light perception and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the eye, will entitle to a rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is $1034.

(iv) Total blindness of both eyes having no light perception accompanied by phthisis bulbi, evisceration, or other obvious deformity or disfigurement will entitle to a rate equal to 38 U.S.C. 314(n).

* * * * * * *

(h) *Special aid and attendance benefit in maximum monthly compensation cases; 38 U.S.C. 314(r).* A veteran receiving the maximum rate ($1,231) of special monthly compensation under any provision or combination of provisions in 38 U.S.C. 314 who is in need of regular aid and attendance is entitled to an additional allowance during periods he or she is not hospitalized at United States Government expense. (See § 3.552(b)(2) as to continuance following admission for hospitalization.) The rate is $528. Determination of this need is subject to the criteria of § 3.352. This additional allowance is payable whether or not the need for regular aid and attendance was a partial basis for entitlement to the maximum $1,231 rate, or was based on an independent factual determination.

(i) *Total plus 60 percent, or housebound; 38 U.S.C. 314(s).* The special monthly compensation provided by 38 U.S.C. 314(s) is payable where the veteran has a single service-connected disability rated as 100 percent without resort to individual unemployability and,

* * * * * * *

5. In § 3.351, the section heading, paragraph (a) and the introductory portion of paragraph (c) preceding subparagraph (1) are revised to read as follows:

§ 3.351 Special monthly dependency and indemnity compensation, death compensation, pension and spouse's compensation ratings.

(a) *Aid and attendance; general.* Additional pension for veterans in need of regular aid and attendance is provided for Spanish-American War Veterans (38 U.S.C. 512) and for veterans of the Mexican border period, World War I, World War II, the Korean conflict or the Vietnam era (38 U.S.C. 521). Additional pension for widows and widowers in need of regular aid and attendance is provided for widows and widowers of veterans of all periods of war, including those entitled to pension under the law in effect on June 30, 1960, based on service in World War I, World War II or the Korean conflict (38 U.S.C. 544). Additional compensation is provided for a married veteran receiving compensation of the 50 percent rate or greater whose spouse is in need of regular aid and attendance. (38 U.S.C. 315(1)(I)) Additional dependency and indemnity compensation and death compensation for widows and widowers and for parents in need of regular aid and attendance is provided for widows and widowers and for parents of veterans of all periods of service. (38 U.S.C. 322(b); 411(c); 415(h))

* * * * * * *

(c) *Aid and attendance; criteria.* The veteran, spouse, widow, widower, or parent will be considered in need of regular aid and attendance if he or she:

* * * * * * *

6. In § 3.401 the introductory language, paragraphs (a) and (c) are revised to read as follows:

§ 3.401 Veterans.

Awards of pension or compensation payable to or for a veteran will be effective as follows:

(a) *Aid and attendance (§3.552).* (1) Date of receipt of claim or date entitlement arose, whichever is later. (See also § 3.400(b)(2). (2) Date of departure from hospital, institution, or domiciliary, (3) Spouse, additional compensation for aid and attendance: Date of receipt of claim or date entitlement arose, whichever is later. (See also § 3.400(b)(2).)

* * * * * * *

(c) *Divorce (Annulment) of veteran and wife (husband).* See § 3.501(d).

* * * * * * *

7. In § 3.501, the introductory text, paragraph (b)(3) is added and paragraphs (d) and (i)(2) are revised to read as follows:

§ 3.501 Veterans.

The effective date of discontinuance of pension or compensation to or for a veteran will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * * * *

(b) *Aid and attendance.* * * *

(3) *Aid and attendance for spouse.* End of month in which award action is taken if need for aid and attendance has ceased.

* * * * * * *

(d) *Divorce or annulment (38 U.S.C. 3012(b)(2)).* Last day of the calendar year in which divorce or annulment occurred.

* * * * * * *

(i) *Hospitalization.* * * *

(2) *§ 3.551(c).* First day of third calendar month following admission if veteran without spouse or child or, though married, is receiving pension at rate provided by 38 U.S.C. 521(b).

* * * * * * *

8. In § 3.502, the section heading, the introductory portion preceding paragraph (a), and paragraph (c) are revised to read as follows:

§ 3.502 Widows (widowers).

The effective date of discontinuance of pension, compensation, or dependency and indemnity compensation to or for a widow (widower) will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * * * *

(c) *Legal widow (widower) entitled.* Date of last payment on award to another woman (man) as widow (widower). See § 3.657.

* * * * * * *

9. In § 3.503, the introductory portion preceding paragraph (a) and paragraphs (b) and (i) are revised to read as follows:

§ 3.503 Children.

The effective date of discontinuance of pension, compensation, or dependency and indemnity compensation to or for a child, or to or for a veteran or widow (widower) on behalf of such child, will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * * * *

(b) *Enters service (§§ 3.450(b), 3.458(e)).* Date of last payment of apportioned disability benefits for child not in custody of estranged spouse. Full rate payable to veteran. No change where payments are being made for the child to the veteran, his (her) estranged spouse, his widow (her widower), or to the fiduciary of a child not in the widow's (widower's) custody.

* * * * * * *

(i) *Widow (widower) becomes entitled.* Date of last payment. See § 3.657.

* * * * * * *

10. In § 3.552, paragraphs (g) and (h) are revised to read as follows:

§ 3.552 Adjustment of allowance for regular aid and attendance.

* * * * * * *

(g) Where a veteran entitled to one of the rates under 38 U.S.C. 314 (l), (m), or (n) by reason of anatomical losses or losses of use of extremities, blindness (visual acuity 5/200 or less or light perception only), or anatomical loss of both eyes is being paid compensation of $1,231 because of entitlement to another rate under section 314(l) on account of need for aid and attendance the compensation will be reduced while hospitalized to the following:

(1) If entitlement is under section 314 (l) and in addition there is need for regular aid and attendance for another disability, the award during hospitalization will be $968 since the disability requiring aid and attendance is 100 percent disabling. (38 U.S.C. 314(p))

(2) If entitlement is under section 314 (m), $1,099.

(3) If entitlement is under section 314 (n), $1,231 would be continued, since the disability previously causing the need for regular aid and attendance would then be totally disabling entitling the veteran to the maximum rate under 38 U.S.C. 314 (p).

(h) If, because of blindness, a veteran requires regular aid and attendance, but has better vision than "light perception only" the award under 38 U.S.C. 314 (m) will be reduced while hospitalized to the rate payable under 38 U.S.C. 314 (l).

* * * * * * *

11. In § 3.660, paragraph (a)(2) is revised to read as follows:

§ 3.660 Dependency, income and estate.

(a) *Reduction or discontinuance.* * * *

(2) *Contingency.* Where reduction or discontinuance of a running award is required because of an increase in income, which increase could not reasonably have been anticipated based on the amount actually received from that source the year before, or because of an increase in corpus of estate or net worth or because dependency of a parent ceased or because dependency ceased due to the dependent's marriage, annulment, divorce or death the award will be reduced or discontinued effective the last day of the calendar year in which the increase occurred or dependency ceased. (38 U.S.C. 3012)

* * * * * * *

12. In § 3.808, paragraph (a) is revised to read as follows:

§ 3.808 Automobiles or other conveyances; certification.

* * * * * * *

(a) *Service.* The claimant must have had active military, naval or air service on or after September 16, 1940.

* * * * * * *

13. In § 3.810, the introductory portion of paragraph (a) preceding subparagraph (1) is revised to read as follows:

§ 3.810 Clothing allowance.

(a) A veteran whose service-connected disability is compensable under laws administered by the Veterans Administration is entitled, upon application therefor, to an annual clothing allowance as specified in 38 U.S.C. 362 (payable in a lump sum).

* * * * * * *

14. In § 3.1600, paragraph (a) is revised and paragraph (g) is added to read as follows:

§ 3.1600 Payment of burial expenses of deceased veterans.

* * * * * * *

(a) *Wartime veterans.* When a veteran of any war dies, an amount not to exceed $250 ($800 if death is service-connected) (where entitlement is based on § 3.8 (c) or (d), at a rate in Philippine pesos equivalent to $125 or $400 if death is service-connected) is payable on the burial and funeral expenses and transportation of the body to the place of burial, of otherwise entitled within the further provisions of §§ 3.1600 through 3.1611. For this purpose the period of any war is as defined in § 3.2, except that World War I extends only from April 6, 1917, through November 11, 1918, or if the veteran served with the United States military forces in Russia, through April 1, 1920. (38 U.S.C. 902; 907; 107(a).)

* * * * * * *

(g) *Transportation expenses for burial in national cemetery.* Where a veteran dies as the result of a service-connected disability, or at the time of death was in receipt of disability compensation (or but for the receipt of military retired pay or non-service-connected disability pension would have been entitled to disability compensation at time of death) there is payable, in addition to the burial allowance (either $250 or $800 if cause of death was service connected), an additional amount for payment of the cost of transporting the body to a national cemetery for burial. This amount may not exceed the cost of transporting the body from the veteran's place of death to the national cemetery nearest the veteran's last place of residence in which burial space is available. The amounts payable under this paragraph are subject to the limitations set forth in §§ 3.1604 and 3.1606.

15. In § 3.1606, the section heading, the introductory portion preceding paragraph (a) and paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 3.1606 Transportation items.

The transportation costs of those persons who come within the provisions of §§ 3.1600(g) and 3.1605(a), (b), (c) and (d) may include the following:

(a) *Shipment by common carrier.* (1) Charge for pickup of remains from place hospitalized or place of death but not to exceed the usual and customary charge made the general public for the same service.

* * * * * * *

(b) *Transported by hearse.* (1) Charge for pickup of remains from place hospitalized, or place of death, and

* * * * * * *

16. In § 3.1609, paragraph (a) is revised to read as follows:

§ 3.1609 Forfeiture.

(a) Forfeiture of benefits for fraud by a veteran during his or her lifetime will not preclude payment of burial and plot or interment allowance if otherwise in order. No benefits will be paid to a claimant who participated in the fraud which caused the forfeiture by the veteran.

* * * * * * *

[FR Doc.76-37765 Filed 12-22-76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[PUBLIC LAND ORDER 5610]

[ES 12792]

WISCONSIN

Partial Revocation of Executive Order of June 8, 1840

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976, P.L. 94-579, October 21, 1976, it is ordered as follows:

1. The Executive Order of June 8, 1840, withdrawing public lands for lighthouse purposes, is hereby revoked so far as it affects the following described lands:

FOURTH PRINCIPAL MERIDIAN

T. 34 N., R. 30 E.,
Fractional sec. 14, lots 2 and 3;
Fractional sec. 15, all except approximately 0.01 of an acre (400 square feet) more particularly described as follows:
Commencing at the SE corner of fractional sec. 15, T. 34 N., R. 30 E., thence due

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North 1,885 feet, thence due West 130 feet, to the point of beginning, being the SE corner of the parcel, thence due West 20 feet, thence due North 20 feet, thence due East 20 feet, thence due South 20 feet, to the point of beginning; also excepting an easement of visibility over the land lying in an arc between 200° true, measured from the center of the above described excepted parcel, around clockwise to 95° true, with the right of the United States Coast Guard to enter upon the above described land and raze, cut, and/or remove any structure, vegetation, or object of any shape or form which has been determined by the Commander, Ninth Coast Guard District, his designee or successor, to obstruct such visibility of the Pottawatomi Light to mariners at sea.

The areas described aggregate 129.36 acres in Door County, on the Northwestern shore of Rock Island.

2. Subject to valid existing rights, at 10 a.m. on January 20, 1977, the lands revoked in paragraph 1 of this order shall be open to the operation of the public land laws generally, the provisions of existing withdrawals, and the requirements of applicable law. The lands have been and will continue to be open to applications and offers under the mineral leasing laws, but not the mining laws.

3. The revocation made by this order does not alter the jurisdiction of the U.S. Coast Guard over the lands excepted in paragraph 1 above for lighthouse purposes as provided by the Executive Order of June 8, 1840.

Inquiries should be addressed to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland.

Dated: December 15, 1976.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.76-37667 Filed 12-22-76;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-139; Amdt. 173-102]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Conversion of Individual Exemptions to Regulations of General Applicability

The purpose of these amendments to the Hazardous Materials Regulations of the Department of Transportation is to incorporate therein, a number of changes based on data and analysis supplied in selected exemption applications, or from existing special permits and exemptions. Adoption of these exemptions into the regulations provides wider access to the benefits of transportation innovations recognized as being effective and safe.

On September 30, 1976, the Materials Transportation Bureau published a notice of proposed rulemaking, Docket HM-139, Notice 76-7 (41 FR 43188), which proposed these amendments. The background and the basis for incorporating these exemptions into the regulations were discussed in that notice. Interested persons were invited to give their views prior to the closing date of October 30, 1976.

The majority of comments received by the Bureau favored the amendments as proposed. The only comments received which favored modification of the proposed amendments came from the holders of the special permits or exemptions themselves. The holder of Special Permit Number 4354 requested that the proposed amendments of § 173.245(a)(16) and § 173.288 to allow chloroformates in additional packagings be changed to authorize vented closures to prevent accumulation of pressure in the containers. The commenter pointed out that the proposed amendments would not eliminate SP 4354 since vented closures are now authorized in the permit. The Bureau does not believe that vented containers should be authorized for chloroformates in the regulations at this time. Since the proposed change to § 173.245(a)(16) and § 173.288 would not obviate the need for SP 4354 without authorization for vented closures, the Bureau has decided to withdraw these proposed rule changes from this docket. The holders of SP 4354 will be notified of this action and renewal of the permit is being considered to obtain more shipping experience and to allow the Bureau more time to study this proposal.

The holder of Special Permit 4429 endorsed the rule change to § 173.289(a)(2) but suggested a change in the proposed wording. Specifically the commenter suggested that the use of the 103ALW and 111A60ALW tank cars be restricted to concentrations of formic acid of 97 percent or greater and that the reference to the corrosive rate on the aluminum used in the construction of the tank cars be deleted as unnecessary. The Bureau agrees with the change in wording based on test data submitted by the commenter in support of their special permit application and these changes have been incorporated in the amendment to § 173.289(a)(2).

Several commenters, including the National LP-Gas Association, requested that § 173.314(e) be completely rewritten to allow all shippers more latitude in using gauging devices to verify the contents of liquefied gas in tank cars. The proposed change to § 173.314(e) would authorize the use of only a fixed tube gauging device for determining the weight of methyl mercaptan in 105A300W tanks.

The proposed wording offered by the commenters would authorize a variety of gauging devices to be used for any liquefied gas in any tank car. The Bureau maintains that such a rule change is far beyond the scope of the proposed amendment published in Notice 76-7 which was based on Special Permit 1107. Consequently, the amendment to § 173.314(e) remains unchanged from the proposed amendment in Notice 76-7 and the Bureau will consider the comments by the National LP-Gas Association and others at another time.

Notice 76-7 proposed an amendment to § 173.182(a)(1) to authorize DOT Specification 23G cylindrical fiberboard boxes for nitro carbo nitrate based on Special Permit 4271. The notice should have proposed an amendment of paragraph (c) in § 173.182 to authorize this package instead of an amendment of paragraph (a) since paragraph (c) relates specifically to nitro carbo nitrate. Accordingly, paragraph (c)(4) has been added in § 173.182 to more appropriately effect this change.

Analysis of these amendments and comments thereon indicate that the costs of regulatory enforcement will not be significantly affected, nor will additional costs be imposed on the private sector, consumers, or Federal, State, or local governments, since these amendments will authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record or analysis of shipments under the exemptions, identified in Notice 76-7, demonstrate that significant environmental impacts will not result from any of these amendments.

Since these amendments are relaxations of existing rules, and place no additional burden on any person, they are being made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, 49 CFR Part 173 is amended as follows:

1. In § 173.64 paragraph (a)(5) is revised to read as follows:

§ 173.64 High explosives with no liquid explosive ingredient and propellant explosives, Class A.

(a) • • • (5) When such explosives contain over 5 percent moisture, box must have an inside polyethylene bag having a minimum thickness of 6 mils; or the box must be lined with strong paraffined paper or other authorized material, spec. 2L (§ 178.30 of this subchapter). Box hand-holes are not authorized.

• • • • • •

2. In § 173.119 paragraph (a)(26) is added to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

(a) • • • (26) Specification 57 (§ 178.253 of this subchapter). Portable tanks. Not authorized for transportation by water.

• • • • • •

3. In § 173.124 paragraph (a)(3) is revised to read as follows:

§ 173.124 Ethylene oxide.

(a) • • • (3) In addition to specification packagings prescribed in this section, ethylene oxide may be shipped when packed in strong noncombustible outside packagings, with inside containers which must be securely sealed glass ampules or vials, contents not over 100 grams each, or inside aluminum cartridges, contents not over 135 grams each, cushioned in vermiculite or equally efficient noncombustible cushioning material. Not more than 100 grams of ethylene oxide shall be packed in any outside packaging except a maximum of 12 aluminum cartridges may be packed in a DOT Specification 12B (§ 178.205 of this subchapter) fiberboard box having top and bottom pads and an inside perimeter liner. A maximum of 10 such boxes may be overpacked in a master carton under the provisions of § 173.25(a).

• • • • • •

4. In § 173.182 paragraphs (c)(3) and (c)(4) are added to read as follows:

§ 173.182 Nitrates.

• • • • • •

(3) • • • (3) Specification 44P (§ 178.241 of this subchapter). Plastic bag made of film not less than 0.005-inch thick. Authorized net weight not over 51 pounds. Each bag must be capable of withstanding the test requirements of § 178.241-4 of this subchapter.

(4) Specification 23G (§ 178.218 of this subchapter). Cylindrical fiberboard box. Maximum net weight not over 50 pounds.

5. In § 173.224 paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 173.224 Cumene hydroperoxide, dicumyl peroxide, diisopropylbenzene hydroperoxide, paramenthane hydroperoxide, and tertiary butylisopropylbenzene hydroperoxide.

(a) • • • (3) Specification 103,[1] 103W, 103A,[1] 103AW, 111A60F1, 111A60W1, 111A100F2, or 111A100W2, (§§ 179.200, 179.201 of this subchapter). Tank cars. Authorized for 90 percent or less cumene hydroperoxide in a nonvolatile solvent, dicumyl peroxide of strength not exceeding 50 percent in a nonvolatile solvent, paramenthane hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent and diisopropylbenzene hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent only. Specifications 103,[1] 103W, 111A60F1 and 111A60W1 tank cars must have botton outlets effectively sealed from the inside.

(4) Specification MC 310, MC 311 or MC 312 (§ 178.343 of this subchapter). Tank motor vehicles. Authorized for paramenthane hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent only. Authorized for cumene hydroperoxide of strength not exceeding 90 percent in a nonvolatile solvent in MC 311 or MC 312 cargo tanks only.

6. In § 173.247 paragraph (a)(2) is added to read as follows:

§ 173.247 Acetyl bromide, acetyl chloride, acetyl iodide, antimony pentachloride, benzoyl chloride, boron trifluoridecacetic acid complex, chromyl chloride, dischloroacetyl chloride, diphenylmethyl bromide solution, pyro sulfuryl chloride, silicon chloride, sulfur chloride (mono and di), sulfuryl chloride, thionyl chloride, tin tetrachloride (anhydrous), titanium tetrachloride, and trimethyl acetyl chloride.

(a) • • • (2) Specification 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside Specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene packaging. Polyethylene used must be Type III as set forth in Appendix B—Specification for Plastics to Part 178 of this Title. Authorized for acetyl chloride, dichloroacetyl chloride and sulfuryl chloride only.

• • • • • •

7. In § 173.252 paragraph (g)(1) is revised to read as follows:

§ 173.252 Bromine.

• • • • • •

(g) • • • (1) Specification 5K or 5M (§§ 178.88, 178.90 of this subchapter). Specification 5K nickel drums of not over 10 gallons capacity each and containing not more than 225 pounds net weight of bromine or Specification 5M monel drums of not over 25 gallons capacity each and containing not more than 600 pounds net weight of bromine. Drums must be of metal at least 14-gauge United States standard throughout and must have chime reinforcement adequate for their protection. All openings must be in one head and closing parts (plug, cap, flange, etc.) must be of the same metal as the drum. One opening not over 2.3 inch diameter and one opening not over ¾-inch standard pipe size are permitted. Each drum must be completely emptied and dried before reuse and must be equipped with gaskets of a material approved by the Bureau of Explosives.

• • • • • •

8. In § 173.262 paragraph (b)(2) is revised to read as follows:

§ 173.262 Hydrobromic acid.

• • • • • •

(b) • • • (2) Specification 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside Specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene container.

• • • • • •

9. In § 173.271 paragraph (a)(3) is added and paragraph (a)(8)(ii) is revised to read as follows:

§ 173.271 Phosphorus oxybromide, phosphorus oxychloride, phosphorus, trichloride and thiophosphoryl chloride.

(a) • • • (3) Specification 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside Specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene packaging. Polyethylene used must be Type III as set forth in Appendix B—Specifications for Plastics to Part 178 of this Title. Authorized for phosphorus oxychloride and thiophosphoryl chloride only.

• • • • • •

(8) • • • (ii) Tanks fabricated from Type 316 stainless steel or clad with Type 316 stainless steel having a minimum thickness of 0.2 times the design thickness of the parent metal, are authorized only for phosphorus oxychloride, phosphorus trichloride and thiophosphoryl chloride.

• • • • • •

10. In § 173.288 paragraph (e) is added to read as follows:

§ 173.288 Chloroformates.

• • • • • •

(e) Specification 34 (§ 178.19 of this subchapter). Polyethylene container without overpack, not over 5 gallons capacity.

11. In § 173.289 paragraphs (a)(2) and (a)(2)(i) are revised to read as follows:

§ 173.289 Formic acid and formic acid solutions.

(a) • • • (2) Specification 103ALW, 103CW, 103EW or 111A60ALW (§§ 179.200, 179.201 of this subchapter). Tank cars. Specification 103EW tanks must be of Type 316 stainless steel. Specification 103ALW tanks without bottom outlets, and Specification 111A60ALW tanks are authorized only for concentrations of 97 percent or greater and must be equipped with top loading and unloading devices. Specifications 103ALW and 111A60ALW are not authorized for transportation by water.

(i) Each tank car must be marked "FORMIC ACID" in accordance with requirements in § 172.330 of this subchapter.

• • • • • •

12. In § 173.301 paragraph (d)(2) is revised to read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.[1]

• • • • • •

(d) • • • (2) Manifolding is authorized for cylinders of the following nonliquefied gases: Boron trifluoride, carbon monoxide, ethylene, hydrogen, hydrocarbon gases, methane, and nitrogen trifluoride, provided individual cylinders are equipped with approved safety relief devices as required by § 173.34(d) or § 173.315(l): *And provided further,* That each cylinder is equipped with individual shutoff valve, or valves, that must be tightly closed while in transit. Manifold branch lines to these and individual shutoff valves must be sufficiently flexible to prevent injury to the valves which otherwise might result from the use of rigid branch lines. A temperature measuring device may be inserted in one cylinder of a manifold installation in place of the shutoff valve.

• • • • • •

13. In § 173.314 Note 12 to Table in paragraph (c) is revised; and paragraph (e) is revised to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

• • • • • •

(c) • • •

NOTE 12.—For special tank requirements applying to chlorine, see § 179.102-2 of this subchapter. The quantity of chlorine loaded into a single-unit tank car must not exceed

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90 tons. Nominal 16-, 30-, 55-, 85,- or 90-ton tank car tanks must not be loaded in excess of the nominal lading weights. Tank cars built to ICC–105A500 may be stenciled either ICC–105A300 or ICC–105A500; tank cars built to ICC or DOT–105A500W may be stenciled either 105A300W or 105A500W; each tank must be equipped with the safety relief valve required by the stenciled specification. Existing tank cars, not larger than 30-ton chlorine capacity built to ARA–V, or not larger than 55-ton chlorine capacity built to ICC–105A300, or ICC–105A300W may be continued in service if equipped with excess flow valves in accordance with § 179.102–2. ARA–V and ICC–105A cars having forge welded anchors must not be used for the transportation of chlorine.

* * * * *

(e) *Verification of content.* The amount of liquefied gas loaded into each tank may be determined either by measurement or calculation of the weight. If by measurement, the weight must be checked after disconnecting the loading line by the use of proper scales. If by calculation, the weight of liquefied petroleum gas, methylacetylene-propadiene, stabilized, dimethylamine, monomethylamine, or trimethylamine may be calculated using the outage tables supplied by the tank car owners and the specific gravities as determined at the plant, and this computation must be checked by determination of specific gravity of product after loading. Carriers may verify calculated weights by use of proper scales. The use of a fixed tube gauge device is authorized for determining the weight of methyl mercaptan in Specification 105A300W tanks instead of weighing.

* * * * *

14. In § 173.315 Note 11 to Table in paragraph (a) (1) is revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

(1) * * *

NOTE 11: MC-330 or MC 331 cargo tanks must be insulated. Cargo tanks must meet all of the following requirements. Each tank must be designed for a service temperature no higher than minus 100°F. and must comply with the low-temperature requirements of the ASME Code. The maximum allowable transportation distance before venting will occur, must be that normally accomplished within the holding time of the cargo tank as loaded with an added margin of 100 percent of the normal travel time. However, if the normal travel time exceeds 24 hours, the maximum allowable transportation distance before venting will occur may be that normally accomplished within the holding time of the cargo tank with an added margin of 24 hours. Before transportation in an empty condition each cargo tank having previously transported inhibited vinyl fluoride must have been drained and vented or blown down sufficiently so that there will be no venting during movement of the empty tank. Shipments by common motor carrier must be specifically approved by the Office of Hazardous Materials Operations (OHMO).

* * * * *

15. In § 173.346 paragraph (a) (27) is added to read as follows:

§ 173.346 Poison B liquids not specifically provided for.

(a) * * * (27) Specification 51 (§ 178.245 of this subchapter). Portable tank. For rail transportation see § 174.63 of this subchapter.

16. In § 173.358 paragraph (a) (5) is revised and paragraph (a) (13) is added to read as follows:

§ 173.358 Hexaethyl tetraphosphate, methyl parathion, organic phosphate compound, organic phosphorous compound, parathion, tetraethyl dithio pyrophosphate, and tetraethyl pyrophosphate, liquid.

(a) * * * (5) Specification 21C (§ 178.224 of this subchapter). Fiber drums, with inside glass or metal containers not over 1-gallon capacity each.

* * * * *

(13) Specification 51 (§ 178.245 of this subchapter). Portable tanks. Tanks must have no bottom opening except one 3-inch maximum plugged opening for maintenance purposes is authorized. Contents of the tank must be under no gas pressure except its own vapor pressure and the commodity must be loaded into, and unloaded from, the tank while the tank is mounted on the vehicle chassis. Authorized for parathion, methyl parathion, and organic phosphate compound only and by private motor carrier only.

17. In § 173.359 paragraphs (a) (6) and (b) (5) are revised; paragraphs (a) (15) and (b) (11) are added to read as follows:

§ 173.359 Hexaethyl tetraphosphate mixtures; methyl parathion mixtures; organic phosphorus compound mixtures; organic phosphate compound mixtures; parathion mixtures; tetraethyl dithio pyrophosphate mixtures; and tetraethyl pyrophosphate mixtures, liquid (includes solutions, emulsions, or emulsifiable liquids).

(a) * * * (6) Specification 21C (§ 178.224 of this subchapter). Fiber drums, with inside glass on metal containers not over 1-gallon capacity each.

* * * * *

(15) Specification 51 (§ 178.245 of this subchapter). Portable tanks. Tanks must have no bottom opening except one 3-inch maximum plugged opening for maintenance purposes is authorized. Contents of the tank must be under no gas pressure except its own vapor pressure and the commodity must be loaded into, and unloaded from, the tank while the tank is mounted on the vehicle chassis. Authorized for methyl parathion mixtures, organic phosphate compound mixtures, and parathion mixtures only and by private motor carrier only.

(b) * * * (5) Specification 21C (§ 178.224 of this subchapter). Fiber drums, with inside glass or metal containers not over 1-gallon capacity each.

* * * * *

(11) Specification 12B30 (§ 178.205 of this subchapter). Fiberboard boxes of not less than 275-pound test double wall corrugated with a 5-mil one piece polyethylene bag form-fitted to the inner wall: Authorized only for pressure sealed polyethylene capsules containing not over 3 milliliters each.

* * * * *

18. In § 173.360 paragraph (a) (5) is added to read as follows:

§ 173.360 Perchloro-methyl-mercaptan.

(a) * * * (5) Specification 51 (§ 178.245 of this subchapter). Portable tanks, monel-clad. Tanks with bottom discharge outlets are prohibited. For rail transportation see § 174.63 of this subchapter.

19. In § 173.366 paragraph (b) (3) is added to read as follows:

§ 173.366 Arsenic (arsenic trioxide) or arsenic acid (solid).

* * * * *

(b) * * * (3) In tight metal drums of not over 25-gallon capacity and a maximum gross weight of 460 pounds. Drums must be constructed of at least 22-gauge steel.

20. In § 173.635 paragraph (a) (5) is added to read as follows:

§ 173.635 Ferrophosphorus.

(a) * * * (5) Fiber drums having an aluminum foil barrier.

Effective date: This amendment is effective on December 23, 1976.

21. AUTHORITY: (18 U.S.C. 834, 46 U.S.C. 170(7), 49 U.S.C. 1472(h) (1); 49 CFR 1.53(f)–(h)). Under a final rule making (41 FR 381175) on January 3, 1977 the authority citation for this amendment is changed to read: (49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 (e)).

The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued in Washington, D.C., on December 16, 1976.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.76–37421 Filed 12–22–76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Seventh Rev. S.O. No. 1234]

PART 1033—CAR SERVICE

Distribution of Freight Cars

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 17th day of December, 1976.

It appearing, That there is an acute shortage of freight cars for transporting shipments of [1] citrus pulp, [1] citrus pellets, fertilizer, phosphate (dried or ground, treated or untreated), fish meal, grain, grain products, soybeans, soybean products, cottonseed hulls, peanut hulls, or soybean hulls; that certain tariff provisions require the use of cars of specified cubic or weight carrying capacities; that the carriers are unable to furnish sufficient such cars to transport shipments of such weights; that cars of lesser capacity are available; that such cars cannot be used because of certain tariff provisions; that there is immediate need to use every available car for transportation of fertilizer and grain; that the inability of the carriers to furnish sufficient fertilizer and grain cars results in great economic loss; and that present regulations and practices with respect to the use, supply, control, movement, and distribution of fertilizer and grain cars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1234 Seventh revised service order No. 1234.

(a) *Distribution of freight cars.* Subject to the concurrence of the shipper, carriers may substitute a sufficient number of smaller cars for larger cars ordered to transport shipments of [1] citrus pulp, [1] citrus pellets, fertilizer, phosphate (dried or ground, treated or untreated), fish meal, grain, grain products, soybeans, soybean products, cottonseed hulls, peanut hulls or soybean hulls regardless of tariff requirements specifying minimum cubic or weight carrying capacity. (See exceptions (b) and (c).)

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more cars per shipment.

(c) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(d) *Rates and Minimum Weights Applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by Section (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(e) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by Section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

"Car of (_____) cu. ft. and of (_____) lbs. or greater capacity ordered. Smaller cars furnished authority Seventh Revised ICC Service Order No. 1234."

(f) *Concurrence of Shipper Required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(g) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(h) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(j) *Effective date.* This order shall become effective at 12:01 a.m., December 21, 1976.

(k) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15 and 17(2); Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 stat. 101, as amended, 54 stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne. Member Joel E. Burns not participating.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–37728 Filed 12–22–76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Mackay Island National Wildlife Refuge; North Carolina and Virginia

The following special regulations are issued and are effective during the period January 1, 1977 through December 31, 1977.

§ 26.34 Special regulations concerning public access, use, and recreation for individual wildlife refuges.

NORTH CAROLINA AND VIRGINIA

MACKAY ISLAND NATIONAL WILDLIFE REFUGE

Entry to the observation tower from the Knotts Island Causeway is permitted year round during daylight hours. Entry to other portions of the refuge on designated travel routes is permitted from March 15, 1977 through October 15, 1977 for the purpose of nature study, photography, hiking, horseback riding, and bicycling. The landing of boats from navigable waters on designated portions of the refuge is permitted only from March 15, 1977 through October 15, 1977. Pets on a leash not exceeding 10 feet in length are permitted. Boats may be launched from the Knotts Island Causeway throughout the year at the Corey's ditch bridge. Boat launching at other points on the causeway is permitted only from March 15 through October 15, 1977. Airboats are not permitted.

Organized groups of more than ten persons requesting use of the refuge for nature study are required to contact the Refuge Manager for a permit.

The refuge, comprising 7,024 acres, is delineated on a map available from the Refuge Manager, Back Bay National Wildlife Refuge, Pembroke #2 Bldg., Suite 218, Pembroke Office Park, Virginia Beach, Virginia 23462, or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts. 02158.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1977.

DAVID F. RILEY,
Acting Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 16, 1976.

[FR Doc.76–37664 Filed 12–22–76;8:45 am]

PART 26—PUBLIC ENTRY AND USE

Trustom Pond National Wildlife Refuge, Rhode Island

Correction

In FR Doc. 76–35300 appearing in the issue of Thursday, December 2, 1976 on page 52884, "Trustom" was inadvertently misspelled, and that word should be corrected to read as it appears in the heading.

PART 32—HUNTING

Piedmont National Wildlife Refuge, Georgia; Correction

In FR Doc. 76–22697, appearing on page 32753 of the issue for Thursday, August 5, 1976, under item 32.22 there appears the Special Regulations governing hunting of upland game on the refuge. Those regulations are hereby corrected by the addition of item (9) as follows:

(9) Daily bag limits: Quail, 12; Squirrel, 10.

RAY R. VAUGHN,
Deputy Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 17, 1976.

[FR Doc.76–37665 Filed 12–22–76;8:45 am]

[1] Addition.

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 971]

[Amdt. 1]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Notice of Proposed Increase in Rate of Assessment

Consideration is being given to a proposal submitted by the South Texas Lettuce Commitee, established pursuant to Marketing Agreement No. 144 and Marketing Order 971 (7 CFR Part 971). This marketing order program regulates the handling of lettuce grown in the Lower Rio Grande Valley in South Texas and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

It is proposed that the Secretary of Agriculture approve an increase in the rate of assessment to be paid by each handler to 2½ cents ($0.025) per carton of lettuce handled by him as the first handler thereof during said fiscal period, from the 1½ cents ($0.015) published November 10, 1976 (41 F.R. 49625).

Unfavorable weather conditions in the Lower Rio Grande Valley have materialy reduced planted lettuce acreage and yields this season. As a result, the committee will not be able to meet its budgeted expenses unless the assessment rate is increased.

All persons who desire to submit written data, views, or arguments in connection with this proposal shall file the same in duplicate with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than January 7, 1977. All written comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

Revise § 971.216(b) (41 F.R. 49625, Nov. 10, 1976) as follows:

§ 971.216 Expenses and rate of assessment.

• • • • •

(b) The rate of assessment to be paid by each handler in accordance with this part shall be two and one-half cents ($0.025) per carton of assessable lettuce handled by him as the first handler during the fiscal period.

• • • • •

Dated: December 17, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-37688 Filed 12-22-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 9]

RULES GOVERNING PUBLIC ATTENDANCE

Meetings of the Nuclear Regulatory Commission

Pursuant to 5 U.S.C. 553, 5 U.S.C. 552b (g), and section 161 of the Atomic Energy Act of 1954, 42 U.S.C. 2201, the Nuclear Regulatory Commission gives notice that it proposes to amend Part 9 of the Commission's rules by adopting a new subpart C and by making certain conforming amendments to Part 9 and Part 2 of those rules to implement the requirements of the Government in the Sunshine Act of 1976, 5 U.S.C. 552b, Pub. L. No. 94–409.

The purpose of the new subpart C of Part 9 is to implement the open meeting requirements of sections (b) through (f) of the Government in the Sunshine Act, 5 U.S.C. 552(b)–(f) (hereinafter the "Act"). It is proposed to make these regulations effective on March 12, 1977, the effective date for sections (b)–(f) of the Act, Pub. L. No. 94–409 § 6(a). Prior to that date Commission policy on public attendance at its meeting will continue to be governed by Commission determinations on a case by case basis. However, the Commission proposes during the period before the Act becomes effective to employ criteria similar to those in the Act to determine whether to open particular Commission meetings to public observation.

These proposed regulations generally follow the language of the Act, but with some necessary adaption and extension to fit the generalized language of the Act to the specific operations of the Commission and to clarify exactly how certain procedures required by the Act will be carried out.

One area where such adaption was necessary was in § 9.101(c) defining "meeting." It has been Commission practice to hold staff briefings of individual Commissioners or the full Commission not only as part of the decisionmaking process in specific matters, but also purely to inform the Commissioners of matters of interest and general relevance to the performance of their duties. While such staff briefings may well not come with the definition of "meeting" in the Act, 5 U.S.C. 552b(a)(3) ("• • • deliberations [that] determine or result in the joint conduct of disposition of official business • • •"), the Commission has determined to include such briefings of a quorum of the Commissioners within these regulations. This has been done because the Commission believes such briefings of the Commission by the staff are a vital portion of the Commission's supervision of its staff and of Commission business in general, and because of the presumption in favor of opening agency business to public observation established by the Act.

The situation is quite different with regard to other briefings the Commission receives from time to time from sources outside the Commission. Where such briefings concern a specific item of Commission business such as a particular rulemaking or license application, then they properly are "meetings" and are treated as such in these regulations. However, some Commission briefings are by other agencies or by representatives of foreign governments and are not focused on specific items of Commission business, but are intended purely to provide general background information to the Commission. Often such briefings are on such sensitive topics that any application of the Act, even with use of the mitigative procedures of that Act, would prevent the briefing from being held at all.

Accordingly, the proposed definition of meeting in § 9.101(c) specifically excludes "• • • briefings of the Commission by representatives of other agencies or departments of the United States Government or by representatives of foreign governments or international bodies, where such briefings are information in nature and do not relate to any matter pending before the Commission." Public comment on this proposal is specifically sought.

Also excluded from the definition of "meeting" in § 9.101(c), in addition to the gatherings excluded by the Act, are gatherings of a social or ceremonial nature such as luncheons with representatives of other governments or to honor some person, public addresses by one Commissioner attended by two or more other Commissioners, and social gatherings such as Christmas parties. It was not the intent of Congress to impose the notice and scheduling requirements of the Act on these types of gatherings.

In summary, the proposed regulations will provide the procedures, consistent with the Act, governing public attendance at Commission meetings, governing public access to transcripts, recordings or minutes of such meetings and detailing compliance with other provisions of the Act.

Outline of Proposed Regulations. Proposed § 9.100 outlines the scope of the proposed subpart and the relationship between the Freedom of Information Act regulations (subpart A of Part 9) and this subpart.

Proposed § 9.101 gives definitions of "Commission," "Commissioner," "Meeting," "Closed," and "Open" meeting, "Secretary" and "General Counsel." The definition of "meeting" has been discussed above. The definition of Commission is taken from the definition of "agency" in the Act, 5 U.S.C. 552b(a)(1). Subdivisions of the Commission not composed of Commission members such as the Atomic Safety and Licensing Board, or the Advisory Committee on Reactor Safety, are specifically excluded from the definition. This is consistent with the legislative history of the Act. The proviso in § 9.101(g) relating to the offices of the General Counsel is required by the personal responsibility imposed on the General Counsel by the Act and the impracticality of that individual carrying out those responsibilities while his office is located at a distance from the offices of the Commission.

Proposed § 9.102 is based upon the Act, 5 U.S.C. 552b(b) with the substitution of "Commissioners" for "Agency members" and "Commission" for "agency." Similar substitutions are made in other places in these regulations.

Proposed § 9.103 is necessary to carry out the requirement of § 9.102 without unnecessarily disrupting Commission business. The legislative history of the Act makes clear that no additional right to participate in Commission meetings is granted by the Act. The third sentence is intended to emphasize that Commission actions are based on the written justification that accompany them and not on oral discussion at meetings. The experience of the Federal Power Commission has demonstrated that there is a real possibility that unnecessary and potentially dilatory papers and motions may be filed by persons observing Commission meetings. Section 9.103 will prevent this. Of course, the Commission may request papers to be filed with it in connection with an open meeting. For example, the Commission might require counsel in an adjudicatory proceeding to prepare memoranda on a question that arises in the oral argument. The last sentence in the section is intended to allow the Commission to maintain control over meetings.

Proposed § 9.104 is primarily taken from the Act, 5 U.S.C. (b)(c). Exemptions 8 and 9(A) of the Act which deal with an "agency responsible for the regulation or supervision of financial institutions • • •" or an agency "which regulates currencies, securities, commodities or financial institutions" have been deleted as being inapplicable to the Commission. Subsection 8 is derived from exception 9(B) of the Act. Subsection (b) of § 9.104 provides two examples of circumstances in which subsection 9.104(8) would be applicable. The first example reflects considerations similar to those characterized as qualified executive privilege and recognized by courts as exempt from disclosure under the Freedom of Information Act. *Brockway* v. *Department of the Air Force*, 518 F.2d 1184 (10th Cir. 1975). These examples are illustrative only and are not intended to be exhaustive. It is anticipated that § 9.104(a)(8) will be applicable to other situations which are not discussed in § 9.104(b).

Proposed § 9.105 outlines Commission procedures for closing meetings or withholding information for the protection of the considerations set forth in § 9.104. Subsections 9.105 (a) and (b) are derived from the Act, 5 U.S.C. 552b (d)(1) and (d)(3). Subsection 9.105(c) is intended to clarify the procedures necessary for the withholding of information about a meeting as provided by the Act, 5 U.S.C. 552b(c). For example, provision of a list of attendees, or portions thereof, could on occasion compromise the values recognized by subsections (a)(1), (a)(3), (a)(5), (a)(6), (a)(7) or (a)(8) of § 9.104. The legislative history of the Act recognizes the propriety of withholding an attendee list, or parts of it in such cases. Section 9.105(c) provides that the procedures for withholding information shall be the same as those necessary to close a meeting, but that decisions regarding withholding shall be made and justified independently of any decision to close a meeting.

Proposed § 9.106(a) is based directly on the Act. 5 U.S.C. 552b(d)(2). Subsection 9.106(b) is intended to give any person an opportunity to request reconsideration of a decision on whether or not to close a meeting. Subsection 9.106(c) on the form of such a petition for reconsideration is based on the current Commission regulation on reconsideration, 10 CFR 2.771.

Proposed subsections 9.107(a)–(c) are based directly on the Act, 5 U.S.C. 552b(e)(1)–(e)(3). Subsection 9.107(d) is derived from suggestions in the legislative history of the Act and current Commission practice. Comments on alternate or additional means of accomplishing effective and widespread public announcement of Commission meetings are sought. Subsection 9.107(e) is intended to provide some criteria which the Commission shall use in deciding whether to hold short-notice or "emergency" meetings.

Proposed subsections 9.108 (a) and (b) are derived from the Act, 5 U.S.C. 552b(f)(1) and (f)(2). Subsection 9.108(c) is intended to provide a simple and efficient mechanism for the Commission itself to make the determination required by subsection 9.108(b) at a time when the actual discussion is fresh in the minds of the Commissioners and in most cases after receipt of a report prepared by an attorney who observed the meeting specifically for the purpose of preparing such a report. A Commission determination pursant to this subsection is excluded from the definition of "meeting" in subsection 9.101(c) which is consistent with the legislative history of 5 U.S.C. 552b(f).

Proposed § 9.109 is derived directly from the Act, 5 U.S.C. 552b(j), and the Secretary is delegated authority to prepare such a report.

In addition to the new subpart C of Part 9, a number of other amendments to the Commission's regulations are proposed. Most of these are relatively minor conforming amendments. Subsections 2.790(a)(3) and 9.5(a)(3) will be changed to reflect the amendment to exemption 3 of the Freedom of Information Act, 5 U.S.C. 552(b)(3). Three changes will be made to part 7, the regulations governing advisory committees, since the Act substitutes its list of exemptions for those of the Freedom of Information Act, as a basis for closing advisory committee meetings. Changes to the authority section of Part 9, the table of sections, and §§ 9.1 and 9.1a will be necessary to reflect the addition of subpart C.

A new § 9.2a which will apply to each subpart of Part 9 is proposed to insure that only written interpretations of the regulations by the General Counsel will be binding on the Commission. This is designed to eliminate any possibility of confusion or disagreement within the Commission or on the part of the public as to the meaning of these regulations.

The Commission is considering possible revisions to §§ 2.719 and 2.780 of its regulations dealing with separation of functions and ex parte contacts to bring them into harmony with the Administrative Procedure Act as amended by section 4 of the Government in the Sunshine Act, 5 U.S.C. 557(d). Proposed regulations on those subjects will be published soon.

Pursuant to section 161 of the Atomic Energy Act of 1954, as amended, 5 U.S.C. 552b(g) and 5 U.S.C. 553, notice is hereby given that adoption of the following amendments to 10 CFR Parts 2 and 9 are contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Section. Persons who wish to be included on the mailing list to be maintained by the Secretary pursuant to § 9.107(d)(2) should send their names to the same address. All comments must be received by February 1, 1977. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC.

PART 9—PUBLIC RECORDS

1. A new Subpart C is added to 10 CFR Part 9 to read as follows:

Subpart C—Government in the Sunshine Act Regulations

Sec.

9.100 Scope of subpart.
9.101 Definitions.
9.102 General requirement.
9.103 General provisions.
9.104 Closed meetings.
9.105 Commission procedures.
9.106 Persons affected and motions for reconsideration.
9.107 Public announcement of commission meetings.
9.108 Certification, transcripts, recordings and minutes.
9.109 Report to Congress.

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Subpart C—Government in the Sunshine Act Regulations

§ 9.100 Scope of subpart.

This subpart prescribes procedures pursuant to which NRC meetings shall be open to public observation pursuant to the provisions of 5 U.S.C. 552b. This subpart does not affect the procedures pursuant to which NRC records are made available to the public for inspection and copying which remain governed by subpart A, except that the exemptions set forth in § 9.104(a) shall govern in the case of any request made pursuant to § 9.8 to copy or inspect the transcripts, recordings or minutes described in section 9.108. Access to documents considered at NRC meetings shall continue to be governed by subpart A.

§ 9.101 Definitions.

As used in this subpart: (a) "Commission" means the collegial body of five Commissioners or a quorum thereof as provided by § 201 of the Energy Reorganization Act of 1974, or any subdivision of that collegial body authorized to act on its behalf, and shall not mean any body not composed of members of that collegial body.

(b) "Commissioner" means an individual who is a member of the Commission.

(c) "Meeting" means the deliberations of at least a quorum of Commissioners where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by §§ 9.105, 9.106, or 9.108 (c); gatherings of a social or ceremonial nature; or briefings of the Commission by representatives of other agencies or departments of the United States Government or by representatives of foreign governments or international bodies where such briefings are informational in nature and are not received with specific reference to any particular matter then pending before the Commission.

(d) "Closed meeting" means a meeting of the Commission closed to public observation as provided by § 9.104.

(e) "Open meeting" means a meeting of the Commission open to public observation pursuant to this subpart.

(f) "Secretary" means the Secretary to the Commission.

(g) "General Counsel" means the General Counsel of the Commission as provided by section 25(b) of the Atomic Energy Act of 1954 and section 201(f) of the Energy Reorganization Act of 1974, and, until such time as the offices of that officer are in the same location as those of the Commission, any member of his office specially designated in writing by him pursuant to this subsection to carry out his responsibilities under this subpart.

§ 9.102 General requirement.

Commissioners shall not jointly conduct or dispose of Commission business in Commission meetings other than in accordance with this subpart. Except as provided in section 9.104, every portion of every meeting of the Commission shall be open to public observation.

§ 9.103 General provisions.

The Secretary shall ensure that all open Commission meetings are held in a location such that there is reasonable space, and adequate visibility and acoustics, for public observation. No additional right to participate in Commission meetings is granted to any person by this subpart. An open meeting is not part of the formal or informal record of decision of the matters discussed therein except as otherwise required by law and no pleading or other paper may be filed with the Commission in any proceeding as the result of or addressed to any oral argument or discussion of any matter during an open meeting except as the Commission shall direct. No electronic recording devices, cameras, photographic equipment or other similar devices shall be operated during a Commission meeting except such as have been approved in writing in advance by the Secretary.

§ 9.104 Closed meetings.

(a) Except where the Commission finds that the public interest requires otherwise, Commission meetings shall be closed, and the requirements of §§ 9.105, 9.106 and 9.107 shall not apply to any information pertaining to such meeting otherwise required by this subpart to be disclosed to the public, where the Commission determines in accordance with the procedures of § 9.105 that opening such meetings or portions there of or disclosing such information, is likely to:

(1) disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) relate solely to the internal personnel rules and practices of the Commission;

(3) disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. § 552) provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) estblishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) involve accusing any person of a crime, or formally censuring any person;

(6) disclose information of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) disclose investigatory reports compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) disclose information the premature disclosure of which would be likely to significantly frustrate implementation of proposed Commission action, except that this subparagraph shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required to make such disclosure on its own initiative prior to taking final action on such proposal; or

(9) Specifically concern the Commission's issuance of a subpoena, or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition by the Commission of a particular case of formal agency adjudication pursuant to 5 U.S.C. § 554 or otherwise involving a determination on the record after an opportunity for a hearing pursuant to part 2 or similar provisions.

(b) Examples of situations in which Commission action may be deemed to be significantly frustrated are (1) if opening any Commission meeting would be likely to disclose information provided or requests made to the Commission in confidence by persons outside the Commission and which would not have been provided or made otherwise; or (2) if opening a meeting would reveal legal or other policy advice, public knowledge of which could substantially affect the outcome or conduct of pending or reasonably anticipated litigation. The examples in the above sentence are for illustrative purposes only and are not intended to be exhaustive.

§ 9.105 Commission procedures.

(a) Action under § 9.104 shall be taken only when a majority of the entire membership of the Commission votes to take such action. A separate vote of the Commissioners shall be taken with respect to each Commission meeting a portion or portions of which are proposed to be closed to the public pursuant to § 9.104, or with respect to any information which is proposed to be withheld under § 9.105 (c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(b) Within one day of any vote taken pursuant to paragraph (a) of this section, §9.106(a) or § 9.108(c) the Secretary shall make publicly available in the Public Document Room a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Secretary shall, within one day of the vote taken pursuant to paragraph (a) of this section or § 9.108(a), make publicly available in the Public Document Room a full written explanation of its action closing in the portion together with a list of all persons expected to attend the meeting and their affiliation.

(c) The notices and lists required by subsection (b) of this section to be made public may be withheld from the public to the extent that the Commission determines that public disclosure of such information would itself compromise the values recognized by paragraphs (a) (1), (a) (3), (a) (5), (a) (6), (a) (7), or (a) (8) of § 9.104. Any such determinations shall be made independently of the Commission's determination pursuant to paragraph (a) of this section to close a meeting, but in accordance with the procedure of that subsection. Any such determination, including a written explanation for the action, must be made publicly available to the extent permitted by the circumstances.

§ 9.106 Persons affected and motions for reconsideration.

(a) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraph (5), (6), or (7) of § 9.104, the Commission, upon request of any one Commissioner, shall vote by recorded vote whether to close such meeting.

(b) Any person may petition the Commission to reconsider its action under § 9.105(a) or paragraph (a) of this section by filing a petition for reconsideration with the Commission within seven days after the date of such action and before the meeting in question is held.

(c) A petition for reconsideration filed pursuant to paragraph (b) of this section shall state specifically the grounds on which the Commission action is claimed to be erroneous, and shall set forth, if appropriate, the public interest in the closing or opening of the meeting. The filing of such a petition shall not act to stay the effectiveness of the Commission action or to postpone or delay the meeting in question unless the Commission orders otherwise.

§ 9.107 Public announcement of Commission meetings.

(a) In the case of each meeting, the Secretary shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the Commission determines by a recorded vote that Commission business requires that such meeting be called at an earlier date, in which case the Secretary shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(b) The time or place of a meeting may be changed following the public announcement required by subsection (a) of this section only if the Secretary publicly announces such changes at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if (1) a majority of the entire membership of the Commission determines by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and (2) the Secretary publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(c) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

(d) The public announcement required by paragraph (a) of this section shall consist of the Secretary:

(1) Publicly posting a copy of the document in the Public Document Room at 1717 H Street, N.W., Washington, D.C.;

(2) Mailing a copy to all persons whose names are on a mailing list maintained for this purpose;

(3) Submitting a copy for possible publication to at least two newspapers of general circulation in the Washington, D.C. metropolitan area;

(4) Operating a recorded telephone announcement system giving the announcement; and

(5) Any other means which the Secretary believes will serve to further inform any persons who might be interested.

(e) Action under the second sentence of paragraph (a) or (b) of this section shall be taken only when the Commission finds that the public interest in prompt Commission action or the need to protect the common defense or security or to protect the public health or safety overrides the public interest in having full prior notice of Commission meetings.

§ 9.108 Certification, transcripts, recordings and minutes.

(a) For every meeting closed pursuant to paragraphs (1) through (9) of § 9.104(a) and for every determination pursuant to § 9.105(c), the General Counsel shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Commission. The Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (9) of § 9.104(c), the Commission shall maintain such a transcript or recording or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(b) The Commission shall make promptly available to the public, in the Public Document Room, the transcript, electronic recording, or minutes (as required by subsection (a) of this section) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Commission determines pursuant to subsection (c) of this section to contain information which may be withheld under § 9.104 or § 9.105(c). Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person upon payment of the actual cost of duplication or transcription. The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

(c) In the case of any meeting closed pursuant to § 9.104, a member of the Office of the General Counsel shall observe each portion of such meeting unless the Commission determines that the nature of the matter to be discussed precludes such participation. The last item on the agenda of each such closed meeting shall be an oral report from that person to the Commission. The report shall indicate that person's recommendation as to which, if any, portions of the transcript

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electronic recording or minutes and which, if any, items of information withheld pursuant to § 9.105(c) contain information which may not be withheld pursuant to § 9.04. Immediately after receiving such report, or if no report is received, as the last item of business, the Commission shall vote on which, if any, portions of the electronic recording, transcript or minutes and which, if any items of information withheld pursuant to § 9.105(c) contain information which may not be withheld pursuant to § 9.104. Any portions or items determined to contain such information shall be made available pursuant to paragraph (b) of this section, and the Commission's determination shall specify whether it has been made on the advice of an observer. If the Commission determines that further study is required, those questions shall be resubmitted for determination at the first opportunity.

§ 9.109 Report to Congress.

The Secretary shall annually report to the Congress regarding the Commission's compliance with the Government in the Sunshine Act, including a tabulation of the total number of open meetings, the total number of closed meetings, the reasons for closing such meetings and a description of any litigation brought against the Commission pursuant to the Government in the Sunshine Act, including any costs assessed against the Commission in such litigation (whether or not paid by the Commission).

2. Section 2.790 is amended by revising paragraph (a) (3) to read as follows:

§ 2.790 Public inspections, exemptions, requests for withholding.

(a) • • • (3) specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types or matters to be withheld.

§ 7.8 [Amended]

3. In § 7.8(b) the second sentence is changed to read:

It shall also indicate when any part of the meeting will concern matters within the exceptions of the Government in the Sunshine Act, 5 U.S.C. 552b and § 9.104 of this chapter.

§ 7.9 [Amended]

4. In Paragraph 7.9(a) the phrase "listed in 5 U.S.C. 552(b) and § 9.5(a) of this chapter" is changed to read:

listed in 5 U.S.C. 552b(c) and § 9.104 of this chapter.

5. In the first sentence of Paragraph 7.9(e) the phrase "policy of 5 U.S.C. 552 (b) and Part 9 of this chapter" is changed to read: "• • • policy of 5 U.S.C. 552b (c) and Subpart C of Part 9 of this chapter."

6. The authority section of Part 9 is amended by changing the period at the end to a semicolon and adding the following:

Subpart C also issued under 5 U.S.C. 552b.

7. Sections 9.1 and 9.1(a) are revised to read as follows:

§ 9.1 Scope.

The regulations in this part implement: (a) The provisions of the Freedom of Information Act, 5 U.S.C. 552, with respect to the availability to the public of Nuclear Regulatory Commission records for inspection and copying; (b) the provisions of the Privacy Act of 1974, Pub. L. 93-579, with respect to disclosure and availability of certain Nuclear Regulatory Commission records maintained on individuals; and (c) the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, with respect to opening Commission meetings to public observation.

§ 9.1a Subparts.

Subpart A sets forth special rules applicable to matters pertaining to the Freedom of Information Act. Subpart B sets forth special rules applicable to matters pertaining to the Privacy Act of 1974. Subpart C sets forth special rules applicable to matters pertaining to the Government in the Sunshine Act.

8. A new § 9.2a is added to Part 9 to read as follows:

§ 9.2a Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the commission.

9. Paragraph (a) (3) of § 9.5 is revised to read as follows:

§ 9.5 Exemptions.

(a) • • • (3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Dated at Washington, DC, this 20th day of December, 1976.

For the United States Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-37687 Filed 12-22-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

MANDATORY PETROLEUM PRICE REGULATIONS PRICING BY REFINERS OF LEADED AND UNLEADED GASOLINE; EXTENSION OF TIME FOR

Comments and Rescheduling of Public Hearing

On December 13, 1976 the Federal Energy Administration issued a Notice of Proposed Rulemaking and Public Hearing regarding the pricing by refiners of leaded and unleaded gasoline (41 FR 54774, December 15, 1976).

The notice stated that written comments were to be received by December 29, 1976; that requests to participate in the public hearing were to be received by December 21, 1976; that questions to be asked of participants were to be received by December 23, 1976; and that the public hearing was to be held on December 29, 1976 and continued on December 30, 1976, if necessary.

FEA has received several requests for a delay in the foregoing time schedule, based on problems anticipated in preparing comments and testimony and in obtaining travel reservations during the holiday time period. Accordingly, in order to facilitate full participation in this proceeding, FEA hereby gives notice of a one-week extension in the time schedule for this proceeding.

The public hearing will be held at 9:30 a.m. on Wednesday, January 5, 1977, and will be continued, if necessary, on Thursday, January 6, 1977, in Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

Data, views or arguments with respect to the proposal should be submitted to Executive Communications, Room 3309, Federal Energy Administration, Box JU, Washington, D.C., 20461.

Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Pricing of Gasoline." Fifteen copies should be submitted. All comments received by Thursday, January 6, 1977, before 4:30 p.m. will be considered by the Federal Energy Administration before final action is taken on the proposed regulations.

Written requests for an opportunity to make oral presentations should be directed to Executive Communications, FEA, and must be received before 4:30 p.m. on Tuesday, December 28, 1976. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washinton, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should give a concise summary of the proposed oral presentation and a phone number where he may be contacted through Monday, January 3, 1977. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., Thursday, December 30, 1976 and must submit 100 copies of his statement to FEA, Regulations Management, Room 2105, 200 M Street, N.W., Washington, D.C., 20461, before 4:30 p.m. on Tuesday, January 4, 1977.

Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., Thursday, December 30, 1976.

Issued in Washington, D.C., December 20, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-37744 Filed 12-21-76;10:01 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 806b]

PRIVACY ACT OF 1974

Proposed Exemption

On November 28, 1975, there was published in the FEDERAL REGISTER on pages 55580 to 55593 (40 FR 55580 to 55593), the Department of the Air Force notice of adopted rulemaking. An adopted amendment to that rulemaking was subsequently published on April 27, 1976 in the FEDERAL REGISTER on page 17549 (41 FR 17549).

Notice is hereby given that the Secretary of the Air Force proposes to amend § 806b.58 of Subpart H, 40 FR 55592, by proposing as a rule under 5 U.S.C. 552a (k) to exempt an additional system of records within the Department of the Air Force from the specified subsections of 5 U.S.C. 552a. Interested persons may participate in this proposed rulemaking by submitting either in person or through the mail, written data, views, or arguments to the Director of Administration, Headquarters, United States Air Force (HQ USAF/DA), Room 5A266, Pentagon Building, Washington, D.C. 20330, on or before January 15, 1977. All relevant material received will be considered.

This rule is proposed under the authority of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a.

Accordingly, the Department of the Air Force proposes to establish a new paragraph (l) to Section 806b.58 in Subpart H of Part 806b, 32 CFR, as follows:

§ 806b.58 Specific Exemptions.

• • • • •

(l) 16802 Child Advocacy Case Files.

(1) *Exemption.* Portions of this system of records are exempt from the following subsections of Title 5, *United States Code,* section 552a:(c)(3) and (d).

(2) *Authority.* 5 U.S.C. 552a(k)(2) and (5).

(3) *Reasons.* Exemptions are needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information and to protect such sources from embarrassment or recriminations as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Additionally, granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accountings, could interfere with ongoing investigations and the orderly administration of justice in that it could result in the concealment, alteration, destruction or fabrication of information; could hamper the identification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well-being of parents and their children.

THOMAS C. REED,
Secretary of the Air Force.
MAURICE W. ROCHE,
Director, C. & D., OASD (Comptroller).

DECEMBER 15, 1976.

[FR Doc.76-37615 Filed 12-22-76;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Parts 0, 2, 3, 4, 14]

GOVERNMENT IN THE SUNSHINE ACT

Notice of Proposed Rulemaking

Notice is hereby given that the Federal Trade Commission, pursuant to 15 U.S.C. 46(g) and 5 U.S.C. 552b, is proposing to revise its Organization and Rules of Practice to implement the open meeting provisions of the Government in the Sunshine Act, Pub. L. 94-409.

Sections 0.5 and 0.6 of the Commission's Organization would be deleted and their substance incorporated into §§ 4.14 and 4.15.

Section 2.14(c) would be revised to clarify the procedure by which investigations are closed pursuant to delegated authority. Similarly, Section 3.61(b) would be revised to clarify the procedures by which certain actions regarding compliance investigations are taken pursuant to delegated authority.

Section 3.52(f) would be modified to permit the closing of oral arguments before the Commission where appropriate.

Section 4.14 would describe the general methods by which the Commission conducts its business. Section 4.15 would govern the conduct of Commission meetings. In general, Commission meetings would be open to members of the public except for portions that may be closed pursuant to 5 U.S.C. 552b(c). The rule also describes the content and timing of the announcement of meetings. A procedure would also be established whereby persons directly affected by a portion of a scheduled open meeting may request that the Commission close that portion.

The Commission also proposes to employ the procedures of 5 U.S.C. 552b(d)(4) to close portions of Commission meetings pursuant to 5 U.S.C. 552b(c)(10). The Commission has tentatively determined that it qualifies for the 552b(d)(4) exemption because portions of at least a majority of its meetings held over the last three years could have been closed pursuant to 552b(c)(10).

The Commission also proposes revisions in §§ 4.9 and 4.10 to confirm the availability, pursuant to 5 U.S.C. 552b(f)(2), of portions of transcripts of closed meetings, and to provide that the exemptions of 552b(c) govern the availability of such transcripts.

Section 14.10 will be deleted as unnecessary in view of § 4.15.

Interested persons may submit written comments on these proposed rules changes to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580, before January 25, 1977. Such comments will be entered on the public records of the Commission and will be available for public inspection along with the General Counsel's analysis of the Sunshine Act and these proposed rules in Room 130 at the above address during normal business hours. Because of the effective date of Pub. L. 94-409, it is unlikely that the Commission will grant requests for extensions of time to file comments.

In consideration of the foregoing, it is proposed to amend 16 CFR Chapter I as follows:

PART 0—ORGANIZATION

§ 0.5 [Deleted]

§ 0.6 [Deleted]

1. By deleting §§ 0.5 and 0.6.

PART 2—NONADJUDICATIVE PROCEDURES

2. To amend § 2.14 by revising paragraph (c) to read as follows:

§ 2.14 Disposition.

• • • • •

(c) The Commission has delegated to the Directors, Deputy Directors, and Assistant Directors of the Bureaus of Competition and Consumer Protection, with-

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out power of redelegation, limited authority to close investigations. The closing action of a Bureau Director, Deputy Bureau Director or Assistant Bureau Director does not become effective until the files have been sent to the Secretary of the Commission and he shall have advised the Commission of the closing action and, within five (5) working days after receiving the notice to close from the Secretary, no Commissioner has directed that the matter be placed on a meeting agenda or otherwise stayed for further consideration. Thereupon, the Secretary shall enter upon the records of the Commission the closing of the matter and take such other action as is required.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

3. Section 3.52 is amended by adding the following sentence at the beginning of § 3.52(f).

§ 3.52 Appeal from initial decision.

* * * * *

(f) *Oral argument*—All oral arguments shall be public unless otherwise ordered by the Commission. * * *

4. To amending § 3.61 by revising paragraph (b) to read as follows:

§ 3.61 Reports of compliance.

* * * * *

(b) The Commission has delegated to the Directors of the Bureaus of Competition and Consumer Protection, without power of redelegation, the authority to approve compliance reports, reject compliance reports, and to close compliance investigations. This delegation does not apply to compliance with orders involving section 7 of the Clayton Act, to any matter which has received previous Commission consideration as to compliance or in which the Commission or any Commissioner has expressed an interest, any matter proposed to be closed by reason of expense of investigation or testing, or any matter involving substantial questions as to the public interest, Commission policy or statutory construction, in each of which type of case a report with recommendation will be made to the Commission. The approvals, rejections, and closings shall not be effective until the file relating to the subject matter has been transmitted to the Secretary and he shall have advised the Commission of the Bureau Director's determination and, within five (5) working days after receiving notice of the determination from the Secretary, no Commissioner has directed that the matter be placed on a meeting agenda or otherwise stayed for further consideration. Thereupon, the Secretary shall enter upon the records of the Commission the determination of the matter and take such other action as is required.

* * * * *

PART 4—MISCELLANEOUS RULES

5. To amend § 4.9 by revised paragraph (b)(4) and by adding (b)(26) to read as follows:

§ 4.9 Public Records.

* * * * *

(b) * * *

(4) The pleadings and prehearing conferences (to the extent made available under § 3.21(c)), motions, certifications, orders, and the transcripts of hearings, including public conferences, testimony, oral arguments, and other material made a part thereof, and exhibits and all documents received in evidence or made a part of the record in adjudicative proceedings (except matters heard or filed in camera).

* * * * *

(26) Portions of transcripts of closed meetings required to be made available pursuant to 5 U.S.C. 552b(f)(2).

6. To amend § 4.10(a) and to revise paragraph (b) to read as follows:

§ 4.10 Confidential information.

(a) Except as provided in paragraph (b) of this section the following records of the Commission are exempt from availability for public inspection and copying pursuant to 5 U.S.C. 552; however, records exempt from disclosure by the provisions of this section may be made available to a requestor for inspection and copying upon request for records under the procedures set forth in § 4.11 or by the Commission upon its own motion: * * *

* * * * *

(b) With respect to information contained in transcripts of Commission meetings, the exemptions contained in paragraph (a) of this section except for (a)(3) and (a)(7), shall apply; in addition, such information will not be made available if it is likely to have any of the effects described in 5 U.S.C. 552b(c)(5), (c)(9), or (c)(10).

* * * * *

7. By adding § 4.14, to read as follows:

§ 4.14 Conduct of business.

(a) Matters before the Commission for consideration may be resolved either at a meeting under § 4.15 or by written circulation. Any Commissioner may direct that a matter presented for consideration be placed on the agenda of a Commission meeting.

(b) *Quorum.* A majority of the members of the Commission, duly appointed and confirmed, constitutes a quorum for the transaction of business.

(c) Any Commission action, either at a meeting or by written circulation, may be taken only with the affirmative concurrence of a majority of the participating Commissioners, except where a greater majority is required by statute or rule or where the action is taken pursuant to a valid delegation of authority.

8. By adding § 4.15, to read as follows:

§ 4.15 Commission meetings.

(a) *In general:* (1) Meetings of the Commission, as defined in 5 U.S.C. 552b(a)(2), are held at the principal offices of the Commission, unless otherwise directed.

(2) *Initial Announcements of Meetings:* (i) Except as provided in paragraphs (a)(2)(ii) and (iii) of this section, the Commission shall announce, as least one week before each meeting: (A) The time, place and subject matter of the metting, (B) Whether the meeting will be open or closed to the public, and (C) The name and phone number of the official who will respond to requests for information about the meeting.

(ii) If the Commission votes pursuant to 5 U.S.C. 552b(e)(1) to call a meeting on less than one week's notice, it shall make publicly available a copy of such vote and shall make the announcement required by paragraphs (c)(2)(i)(A) and (B) of this section at the earliest practicable time.

(iii) If the Commission votes to close a meeting pursuant to paragraph (c)(2) of this section, the Commission shall make publicly available a copy of such vote and shall announce the time, place, subject matter of the meeting at the earliest practicable time.

(3) *Announcements of Changes in Meetings:* (i) Following the initial announcement of a meeting, any change in the time and place of the meeting shall be announced at the earliest practicable time, and, except as provided in paragraph (a)(2)(ii) of this section, any change in the subject matter or the determination to open or close a meeting shall be made only as provided in 5 U.S.C. 552b(e)(2).

(ii) Changes relating to matters closed pursuant to 5 U.S.C. 552b(c)(10) shall be announced at the earliest practicable time.

(4) *Deletions From Announcements.* The requirements of paragraphs (a)(2) and (a)(3) of this section do not apply to require the disclosure of any information pertaining to a portion of a closed meeting where such disclosure is likely to concern a matter within the scope of 5 U.S.C. 552b(c).

(b) *Open Meetings:* (1). Commission meetings shall be open to public observation except where the Commission determines that portions may be closed pursuant to 5 U.S.C. 552b(c).

(2) Any person whose interest may be directly affected if a portion of a meeting is open, may request that the Commission close that portion for any of the reasons described in 5 U.S.C. 552b(c). The Commission shall vote on such requests if at least one member desires to do so. Such requests shall be in writing, filed promptly after the Commission's announcement of an open meeting, and describe how the matters sought to be discussed will have any of the effects enumerated in 5 U.S.C. 552b(c). Requests shall be addressed as follows:

Closed Meeting Request, Office of the General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

(c) *Closed Meetings*—(1) Except as provided in paragraph (c)(2) of this section when the Commission votes to close a meeting or a series of meetings to the public pursuant to 5 U.S.C. 552b(c), it shall make publicly available within one day a copy of such vote, a full, written explanation of its action, the

certification by the General Counsel required by 5 U.S.C. 552b(f)(1), and a list specifying the names and affiliations of all persons, other than Commission employees or consultants, who are expected to attend.

(2) If a portion of a Commission meeting may be closed pursuant to 5 U.S.C. 552b(c)(10), the Commission may, by vote recorded at the beginning of the meeting, close the portion or portions thereof exempt under that subsection.

(d) The presiding officer shall be responsible for preserving order and decorum at meetings and shall have all powers necessary to that end.

PART 14—ADMINISTRATIVE INTERPRETATIONS, GENERAL POLICY STATEMENTS, AND ENFORCEMENT POLICY STATEMENTS [1]

§ 14.10 [Deleted]

9. Section 14.10 will be deleted.

By direction of the Commission dated December 21, 1976.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.76-37800 Filed 12-22-76;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Parts 1 and 155]

TRADING STANDARDS AND RECORDS OF CASH COMMODITY AND FUTURES TRANSACTIONS

Proposed Amendments

The Commodity Futures Trading Commission ("Commission") today amended § 1.35 of the regulations under the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 1–22 (Supp. V, 1975), and adopted new §§ 155.1–155.3 and 155.10 of those regulations. 41 F.R. See Part V of this issue. The newly adopted rules make certain amendments in the record-keeping requirements imposed upon contract markets under regulation 1.35 and establish certain specific trading standards for floor brokers and those futures commission merchants which are members of a contract market. As a result of its consideration of the issues raised during the course of the rule making procedures which led to the adoption of these regulations, the Commission has determined to propose the adoption of three further rule changes.

Non-member FCM's. Regulation 155.3 establishes certain trading standards which are applicable to futures commission merchants ("FCM's"). In announcing the adoption of regulation 15.3, the Commission noted:

[t]o a large extent, * * * many of the requirements of regulation 155.3 are, in the Commission's view, no more than specific codifications of minimal safeguards which a futures commission merchant must employ to carry out its responsibilities to customers under common-law agency principles. Consequently, while the Commission's original proposal would have imposed specific requirements on only those futures commission merchants which hold memberships on contract markets permitting their FCM members to dual trade, the Commission believes that customers of all futures commission merchants should have the benefit of the specific minimum safeguards set forth in regulation 155.3. However, because regulation 155.3, as originally proposed, would not have extended to non-member FCM's, the newly adopted regulation applies only to those FCM's which are members of a contract market.

The exemption of non-member FCM's from the requirements of regulation 155.3 is embodied in paragraph (e) of the regulation, which provides that the requirements of regulation 155.3 "shall not apply to a futures commission merchant which is not a member of any contract market or to the affiliated persons of such futures commission merchant." The Commission is proposing the revocation of this paragraph from the newly adopted regulation. In the Commission's view, for purposes of this regulation no meaningful distinction can be drawn between non-member FCM's and those FCM's which are members of a contract market. However, the Commission specifically requests comment on the proposed revocation of this exemption for non-member FCM's and on any possible distinction which can be drawn between member and non-member FCM's for purposes of the minimal safeguards provided to customers under regulation 155.3.

Contract Market Members: Record Keeping. Regulation 155.3(a) sets forth a basic "customer first" rule with respect to the transmission of orders to the floor of a contract market by an FCM and its affiliated persons.[1] In response to the proposed rules which preceded the adoption of regulation 155.3(a), the Commission received several comments which suggested that compliance with a customer first rule could best be insured by requiring that all orders of an FCM must be time-stamped upon origination regardless of where they originate and that all orders must be delivered to the pits and rings of a contract market in the order in which they are received by the person or firm operating as an FCM. An alternative suggestion was that each FCM be required to number sequentially all order pads used on the trading floor, the wire room and the branch office. All orders from the first number used to the last on any given day would be required to be accounted for. It was suggested that such a requirement coupled with a requirement for time sequencing would facilitate substantial control by the FCM over the trading activities of its employees.

The Commission does not believe that these suggestions present the most efficient regulatory method of insuring a record of transactions which will enable FCM's to supervise the trading activities of their affiliated persons while at the same time facilitating Commission oversight of such supervision. While the Commission does not intend to preclude FCM's from utilizing the methods and procedures suggested by these comments as part of their internal supervisory program, the Commission believes that the necessary record of transactions can best be insured, in light of the order handling and other procedures currently in use in the industry, by amending regulations 1.35(a–1)(2) to require that

[e]ach member of a contract market who on the floor of such contract market receives an order for the account of another person which is not in the form of a written record including . . . the date and time, to the nearest minute, such order was transmitted or received on the floor of such contract market, shall immediately upon receipt thereof prepare a written record of such order . . . and shall record thereon, by time-stamp or other timing device, the date and time to the nearest minute the order is received.

At present this requirement applies only to orders for a "customer"—as that term is defined in regulation 1.3(k)—where such customer is not another member of the same contract market present on the floor at the time such order is received.

In this connection, the Commission is also considering the deletion of the exemption provided in regulation 1.35(a–1)(3) for orders from other contract market members present on the floor of the contract market at the time such orders are received, because it can see no logical basis for distinguishing between such orders and other orders received by a floor broker. Adequate trading surveillance by the Commission, contract markets and futures commission merchants would appear to necessitate the written record which would be required by regulation 1.35(a–1)(2), as proposed, with respect to all orders received by a floor broker for execution.

Contract Markets: Accuracy of Records. Newly adopted regulation 1.35(g) requires each contract market to show on the record of each futures trade required by regulation 1.35(e) the mechanically or electronically verified time of execution of such futures trade to at least the nearest minute or such other time and sequence of execution indicia as permitted by the Commission. As noted in the FEDERAL REGISTER release announcing the adoption of this regulation, the Com-

[1] 38 FR 20820, Aug. 3, 1973.

[1] The term "affiliated person" of a futures commission merchant is defined in regulation 155.1 as any general partner, officer, director, owner of more than ten percent of the equity interest, correspondent, agent or person associated therewith, associated person or employee of the futures commission merchant, and any relative or spouse of any of the foregoing persons, or any relative of such spouse, who shares the same home as any of the foregoing persons.

For purposes of this definition, the terms "correspondent" and "agent or person associated therewith" of an FCM have the same meaning as they do in the Act. (*See, e.g.*, sections 4b and 4k of the Act, 7 U.S.C. 6b and 6k.) The "relative or spouse * * * or any relative of such spouse" provision includes only those persons who live in the same home as a "general partner, officer . . . associated person or employee" of an FCM.

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mission's task force on bracketing[2] concluded in the course of its study that in order to achieve *accurate* transaction time sequence reconstruction capacity, contract markets must by required to keep "much more accurate records [under regulation 1.35] than currently exist." The task force explained:

> Inaccurate information is an important problem of record keeping for most exchanges. Such inaccuracies require time consuming cross references of data in the course of trade practice investigations and economic studies. Therefore, without concurrent improvements in the accuracy of data, the benefits of bracketing or any other system of time sequencing of trades will be significantly diminished. Steps to identify and improve these other aspects of record keeping are important and should be pursued.[3]

The Commission is considering the adoption of one of two alternative regulations designed to insure the accuracy of the time and sequence of execution indicia required under newly adopted regulation 1.35(g). The first of these alternatives, that set forth in proposed regulation 1.35 (i), is a requirement that contract markets and their clearing organizations require that the opposite sides of each transaction presented for clearing have identical time and sequence of execution indicia as a prerequisite to acceptance for clearance. The second alternative presently being considered by the Commission is a requirement that contract markets or their clearing organizations make a daily computer check, independent of the clearing process, to insure matched time and sequence of execution indicia for the opposite sides of each transaction.[4] Although, under this latter rule, unmatched trades would be allowed to clear, a reconciliation of time and sequence of execution indicia by opposing floor brokers or traders or by opposing clearing members would be required for preparation of the record required by regulation 1.35(e). The Commission encourages interested persons to submit comments on these alternative proposals and on any other method for insuring the accuracy of the time and sequence of execution indicia required by newly adopted regulation 1.35(g).

Authority. The following amendments to regulations 1.35 and 155.3 are proposed under the authority of sections 4b, 4g, 4j, and 8a of the Commodity Exchange Act, as amended (7 U.S.C. 6b, 6g, 6j, and 12a).

In consideration of the foregoing, the Commission hereby proposes to amend 17 CFR Part 1 and 17 CFR Part 155 as follows:

1. By amending 17 CFR 1.35 by revising paragraph (a–1)(2), by revoking paragraph (a–1)(3) and by adding a new paragraph (i) to read as follows:

§ 1.35 Records of cash commodity and futures transactions.

* * * * *

(a–1) * * *

(2) Each member of a contract market who on the floor of such contract market receives an order for the account of another person which is not in the form of a written record including the account identification, order number and the date and time, to the nearest minute, such order was transmitted or received on the floor of such contract market, shall immediately upon receipt thereof prepare a written record of such order, including the account identification and order number and shall record thereon, by time-stamp or other timing device, the date and time to the nearest minute the order is received.

(3) [Reserved]

* * * * *

(i) Each contract market shall adopt and submit to the Commission for approval pursuant to section 5a(12) of the Act a rule which shall require that the time and sequence of execution indicia submitted with respect to each futures trade by the floor broker or floor trader buying and the floor broker or floor trader selling, or by the clearing member buying and the clearing member selling, accurately correspond before such trade will be accepted for clearance by the clearing organization which clears trades for the contract market.

2. By revising 17 CFR 155.3 by revoking paragraph (e).

* * * * *

Interested persons are invited to submit comments on the proposed amendments to regulations 1.35 and 155.3 to Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Secretariat. Comments received on or before January 21, 1977, will be considered by the Commission before taking action on the proposed amendments. Copies of all comments received will be available for inspection in the Commission's offices in Washington, D.C.

Issued in Washington, D.C., on December 20, 1976, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76–37680 Filed 12–22–76;8:45 am]

[2] "Bracketing" of a trade is the identification of the trade as having been executed during a specified time period during the trading day.

[3] Copies of the report of the task force on bracketing are available for inspection at the Commission's offices at 2033 K Street, N.W., Washington, D.C. 20581.

[4] An appropriate alternative procedure would be permissible where a contract market demonstrates the ability to adequately reconcile such indicia other than through the use of a computer.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 36]

[Docket No. 16221; Notice No. 76–21]

AIRCRAFT NOISE MEASUREMENT AND EVALUATION SPECIFICATIONS

Extension of Comment Period

This notice extends the period for receipt of comments on Notice 76–21, published in the FEDERAL REGISTER (41 FR 47342) on October 28, 1976. The comment period is hereby extended from December 30, 1976, to February 28, 1977. In Notice No. 76–21, the Federal Aviation Administration proposed the following amendments to Part 36 of the Federal Aviation Regulations (14 CFR Part 36): revision of the procedures and standards for conducting noise type certification and acoustical change tests presently contained in Appendices A and B; revision of the form by which Part 36 incorporates certain standards and procedures by reference; redesignation of certain provisions; and inclusion of a table of sections in each Part 36 appendix.

The Federal Aviation Administration is extending the comment period in response to a petition from the Aerospace Industries Association of America, Inc. (AIA). AIA stated that it needed the extension because of the complexity of the proposal and because it was necessary for AIA to receive certain information from the International Civil Aviation Organization (ICAO) prior to submitting its comment on the proposed amendment. AIA stated that the information it was waiting for was then being generated at ICAO's Committee on Aircraft Noise's fifth session expected to end on November 11, 1976.

Recognizing the complex nature of the proposed amendment, the benefit to FAA of the best possible input from the industry and the potentially far reaching issues involved, I find that petitioner has shown a substantive interest in the proposed amendment, that good cause exists for an extension of the comment period until February 28, 1977, and that the extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 11.45), the closing date for public comment on Notice No. 76–21 is extended to February 28, 1977.

Issued in Washington, D.C., on December 15, 1976.

JOAN B. BARRIAGE,
Acting Director of Environmental Quality.

[FR Doc.76–37751 Filed 12–22–76;8:45 am]

[14 CFR Part 39]

[Airworthiness Docket No. 76–SW–59]

AIRWORTHINESS DIRECTIVES

Bell Models 206A and 206B Helicopters

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Bell Models 206A and 206B helicopters. This directive would provide for installation of an improved tail rotor drive shaft support bearing arrangement designed to minimize or eliminate bearing failures which have been reported and are likely to recur with the existing bearing design. The proper function of these bearings is essential to the flight control system of these helicopters.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or comments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communicatons received on or before January 28, 1977 will be considered by the Director before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the office of the Regional Counsel for examination by interested persons.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

This notice has been reviewed and does not require an inflation impact statement.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BELL: Applies to Models 206A and 206B helicopters certificated in all categories as indicated below:

Compliance required within the next 100 hours time in service after the effective date of this airworthiness directive, unless already accomplished.

To minimize the possibility of loss of directional control due to failure of the tail rotor drive shaft, remove and replace tail rotor drive shaft bearings, bearing hangers, retaining rings and shaft segments as specified in items 1 through 7 below:

1. Helicopter serial numbers 1 through 413: Tail Rotor Drive Shaft Installation Part Number 206–040–301–1:

a. Remove	*Install*
One (1) hanger, P/N 206–040–336–1.	One (1) hanger, P/N 206–040–346–9.
One (1) hanger, P/N 206–040–335–1.	One (1) hanger, P/N 206–040–345–9.
Five (5) hangers, P/N 206–040–331–1.	Five (5) hangers, P/N 206–040–338–5.
Seven (7) bearings, P/N 206–040–339–1.	Seven (7) bearings, P/N 206–040–339–9.
Twelve (12) retainers, P/N RR216C.	----------
One (1) shaft, P/N 206–040–320–7.	One (1) shaft, P/N 206–040–320–11.

b. To prevent bearing hangers from chafing the drive shaft cover, the cover must be modified in accordance with Bell Helicopter Company Technical Bulletin No. 206–76–2 dated January 7, 1976, (misdated 206–76–2), or later FAA approved revision or FAA approved equivalent.

2. Helicopter serial numbers 414 through 913: Tail Rotor Drive Shaft Installation P/N 206–040–301–7:

Remove	*Install*
Seven (7) bearings, P/N 206–040–339–3 or –5.	Seven (7) bearings, P/N 206–040–339–9.

3. Helicopter serial numbers 414 through 637: Tail Rotor Drive Shaft Installation P/N 206–040–301–7:

Remove	*Install*
One (1) shaft, P/N 206–040–320–7.	One (1) shaft, P/N 206–040–320–11.

Note: Shaft P/N 206–040–320–7 may be reworked to configuration of Shaft P/N 206–040–320–11. See Part V of Bell Helicopter Company Service Bulletin No. 206–76–12.

4. Helicopter serial numbers 914 through 1251: Tail Rotor Drive Shaft Installation P/N 206–040–301–13:

Remove	*Install*
Seven (7) bearings, P/N 206–040–339–3 or –5.	Seven (7) bearings, P/N 206–040–339–9.

5. Helicopter serial numbers 1252 through 1993: Tail Rotor Drive Shaft Installation P/N 206–040–301–19:

Remove	*Install*
Seven (7) bearings, P/N 206–040–339–3 or –5.	Seven (7) bearings, P/N 206–040–339–9.

6. Removal and replacement as prescribed by paragraphs 1 through 5 must be in accordance with the applicable maintenance and overhaul manual instructions.

7. All spring clamp type bearing hangers, P/N 206–040–338–5, must be installed with the spring on the left side of the tail boom.

Bell Helicopter Company Service Bulletin 206–76–12 pertains to and provides instructions for accomplishing the intent of this airworthiness directive.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Service Manager, Bell Helicopter Textron, Box 482, Fort Worth, Texas 76101. These documents may also be ex-

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amined at Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76106, and at FAA headquarters, 800 Independence Avenue S.W., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at Office of Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76106.

Issued in Fort Worth, Texas on December 9, 1976.

HENRY L. NEWMAN,
Director, Southwest Region.

NOTE: The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.76-37359 Filed 12-22-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-NW-26]

ALTERATION OF TRANSITION AREA

Seattle, Washington

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Seattle, Washington, Transition Area.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures, and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108. All communications received on or before January 24, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington, 98108.

A review of the airspace requirements for the localizer back course Runway 1 approach procedure to Kitsap County Airport, Bremerton, Washington, reveals that additional 700' Transition Area airspace is required to provide controlled airspace protection for aircraft executing the procedure.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181, Subpart G, (41 FR 591), the description of the Seattle, Washington, Transition Area is amended to read as follows:

SEATTLE, WASHINGTON

That airspace extending upward from 700 feet above the surface bounded on the east by a line beginning at Latitude 49°00' N, Longitude 122°21' W; to Latitude 48°40' N, Longitude 122°21' W; to Latitude 48°40' N, Longitude 122°05' W; Latitude 47°30' N, Longitude 121°48' W; to Latitude 47°10' N, Longitude 121°48' W, to Latitude 46°48' N, Longitude 122°15' W, on the south by a line extending to Latitude 46°42' N, Longitude 123°17' W, on the west by a line extending to Latitude 47°10' N, Longitude 123°17' W; to Latitude 47°40'00" N, Longitude 123°03' 30" W; to Latitude 48°17' N, Longitude 123°15' W; thence via the Canada/United States boundary to the point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the north by a line beginning at Latitude 48°05' N, Longitude 128°40' W; to Latitude 48°05' N, Longitude 121°35' W, on the east by a line extending to the south via Longitude 121°35' W, to the south edge of V-204, on the south by the south edge of V-204 and Latitude 46°30' N, to the east edge of V-27, on the west by east edge of V-27 to Longitude 123°40' W, to the point of beginning; that airspace east of Seattle extending upward from 9,500 feet MSL bounded on the north by a line beginning at Latitude 48°00' N, Longitude 121°35' W; to Latitude 48°00' N, Longitude 121°00' W, thence south to Latitude 47°42' N, Longitude 121°00' W, thence east to Latitude 47°42' N, Longitude 119°43' W, on the east by a line extending south via Longitude 119°43' W, to the north edge of V-2N, on the south by the north edge of V-2N to Longitude 121°35' W, and on the west by Longitude 121°35' W, to the point of beginning.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

(NOTE: The rules prescribed herein have been reviewed in accordance with Executive Order 11821, titled "Inflationary Impact Statements," (39 FR 41501, November 29, 1974), and it has been determined that the preparation of an Inflationary Impact Statement is not necessary.)

Issued in Seattle, Washington, on December 13, 1976.

E. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.76-37752 Filed 12-22-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SO-103]

CAMILLA, GA.

Designation of Transition Area

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Camilla, Ga., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before February 7, 1977 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, Whipple Street, East Point, Ga.

The rule proposed herein has been reviewed in accordance with Executive Order 11821, titled "Inflationary Impact Statements," (39 FR 41501, November 29, 1974), and it has been determined that the preparation of an inflationary impact statement is not necessary.

The Camilla transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Camilla-Mitchell County Airport (lat. 31°12'45" N., long. 84°14'20" W.); within 3 miles each side of the 253° bearing from the Camilla RBN (lat. 31°12'52" N., long. 84°14'13" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Camilla-Mitchell County Airport. A prescribed instrument approach procedure, utilizing the Camilla (nonfederal) nondirectional radiobeacon, is proposed in conjunction with the designation of this transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Camilla RBN (lat. 31°12'52" N., long. U.S.C. 1655(c)).

Issued in East Point, Ga., on December 8, 1976.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.76-37357 Filed 12-22-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-SO-104]

ANDREWS MUNICIPAL AIRPORT

Designation of Transition Area

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Andrews, S.C., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before February 7, 1977 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The rule proposed herein has been reviewed in accordance with Executive Order 11821, titled "Inflationary Impact Statements," (39 FR 41501, November 29, 1974), and it has been determined that the preparation of an inflationary impact statement is not necessary.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Andrews transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Andrews Municipal Airport (lat. 33°27'30" N., long. 79°31'57" W.); within 3 miles each side of the 171° bearing from the Punch RBN (lat. 33°27'29" N., long. 79°32'00" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Andrews Municipal Airport. A prescribed instrument approach procedure to this airport, utilizing the Punch (nonfederal) nondirectional radio beacon, is proposed in conjunction with the designation of this transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on December 8, 1976.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.76-37358 Filed 12-22-76;8:45 am]

data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The rule proposed herein has been reviewed in accordance with Executive Order 11821, titled "Inflationary Impact Statements," (39 FR 41501, November 29, 1974), and it has been determined that the preparation of an inflationary impact statement is not necessary.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Andrews transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Andrews Municipal Airport (lat. 33°27'30" N., long. 79°31'57" W.); within 3 miles each side of the 171° bearing from the Punch RBN (lat. 33°27'29" N., long. 79°32'00" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Andrews Municipal Airport. A prescribed instrument approach procedure to this airport, utilizing the Punch (nonfederal) nondirectional radio beacon, is proposed in conjunction with the designation of this transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on December 8, 1976.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.76-37358 Filed 12-22-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-CL-36]

UPPER SANDUSKY, OHIO

Designation of Transition Area

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Upper Sandusky, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018. All communications received on or before January 24, 1977 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018.

A standard instrument approach procedure has been developed for the Wyandot County Airport, Upper Sandusky, Ohio. Controlled airspace is required to protect this procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

§ 71.181 [Amended]

In § 71.181 (41 FR 440), the following transition area is added:

UPPER SANDUSKY, OHIO

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Wyandot County Airport (latitude 40°53'00 N., longitude 83°18'52" W.).

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Des Plaines, Illinois, on December 7, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.76-37423 Filed 12-22-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 239]

[EDR-316; Docket No. 30232, Dated: December 17, 1976]

REPORTING DATA PERTAINING TO FREIGHT LOSS AND DAMAGE CLAIMS BY CERTAIN AIR CARRIERS AND FOREIGN ROUTE AIR CARRIERS

Notice of Proposed Rulemaking

Notice is hereby given that the Civil Aeronautics Board has under consideration amendments to Part 239 of its Economic Regulations (14 CFR Part 239) which would modify the definition of "Actual shipper loss," and reduce, as well as improve, the requirements for reporting on CAB Form 239, "Report of Freight Loss and Damage Claims."

The principal features of the proposed amendments are described in the Explanatory Statement and the proposed amendments are set forth in the Proposed Rule. The amendments are proposed under the authority of sections 204(a), 402 and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, 766; 49 U.S.C. 1324, 1372, 1377.

Interested persons may participate in this proceeding through submission of twenty (20) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before January 24, 1977, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., upon receipt thereof.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the address indicated above, without the necessity of filing additional copies thereof.

By the Civil Aeronautics Board:

JAMES R. DERSTINE,
Acting Secretary.

EXPLANATORY STATEMENT

The Principal purposes for the issuance of this Notice of Proposed Rule Making are four-fold. First, it replies to a petition[1] of the Air Transport Association (ATA) for a modification of the definition of "Actual shipper loss" contained in section 239.1 of Part 239 of the Economic Regulations; second, it proposes to reduce the reporting burden on air carriers filing CAB Form 239 by reducing the number of required respondents and eliminating and simplifying certain reported data; third, it would permit an air freight forwarder required to report under Part 239 and who is also subject to certain ICC reporting requirements to consolidate the date accruing from its surface operations with the data accruing from its air operations on Form 239; and fourth, in the interest of maintaining uniformity among all modes of transportation and their reported data, it proposes changes to certain definitions contained in Part 239 so they will conform to the language of similar definitions used by ICC. These matters are discussed below.

1. *Actual shipper loss.* Section 239.1 of Part 239 of the Board's Economic Regulations presently contains a definition of "Actual shipper loss" in terms of the "dollar amount on each claim actually suffered by claimant because of loss, damage, delay, etc.," and states in part: "*Provided, however,* That (1) for claims involving shipments where no invoices exist, such as personal effects and used household goods, the actual shipper loss shall be the negotiated settlement, or the amount claimed less reasonable depreciation based upon prior use and age, whichever is greater; or (2) for

[1] Dated December 12, 1975, Docket 28614.

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claims made by an air freight forwarder, the actual shipper loss to be reported by a direct air carrier shall be the amount claimed by the forwarder."[2]

ATA has petitioned to modify this definition in order to reflect a more accurate figure for actual shipper losses as they may be known by the reporting carrier. The modification requested in the petition would require the reporting of actual shipper loss on claims made by an air freight forwarder to the direct air carrier to be based on the amount actually paid by the forwarder to the shipper. Also, the claimed amount would have to be substantiated by the forwarder when the claim is filed with the direct air carrier. ATA believes its requested modification would:

a. Provide a more realistic basis for reporting actual shipper losses by the direct air carrier, as well as solving some of the existing duplications and multiplications of actual shipper loss statistics reported under Part 239;

b. Require forwarders to reduce the subtotals of claimants' actual shipper loss figures by the amounts which would be reported by the direct air carriers on claims actually paid in whole or in part by the direct air carriers;

c. Preclude the possibility of some forwarders receiving recoveries from direct air carriers while at the same time settling the shippers' claims on the basis of a lesser amount, thereby providing more precise data to the Board's Bureau of Accounts and Statistics for their compilation of an industry Air Freight Loss and Damage Claims Report; and

d. Require the forwarder to either pay or deny the claim prior to making a formal claim on the direct air carrier, thus resulting in a great decrease in duplication of actual shipper loss statistics.

For the reasons stated above, the Board has tentatively decided that ATA's requested modification, in principle, will improve the accuracy and enhance the value of the reports filed pursuant to Part 239. Therefore, we are proposing adoption, in principle, of the ATA's suggested amendment to the current definition of "Actual shipper loss."

We essentially differ from ATA only as to language, as their proposal fails to recognize that the amount paid by a forwarder may, on occasion, be less than or more than the amount paid to the forwarder by the airline,[3] e.g., the direct air carrier may not pay the forwarder's claim in full.

The initial "actual shipper loss" to be computed by the forwarder is intended to be the total dollar amount on each claim actually suffered by the forwarder's claimant, less that amount subrogated to (claimed against) the underlying direct air carrier by the forwarder. In turn, if the amount paid to the forwarder by the direct air carrier is the same as or even less than the amount claimed, the actual shipper loss to be reported by the direct air carrier would always be equal to the amount claimed by the forwarder. Thus, the aggregate actual shipper loss reported by the forwarder and the direct air carrier would equal the true, initial actual shipper loss.

With respect to ATA's proposal that would require the forwarder to "substantiate" the amount paid (to the forwarder's claimant), the Board is of the view that the definition of "actual shipper loss" is an improper vehicle in which to attempt to establish Board requirements as to the proper supporting documentation of claims.

Accordingly, our version of a proposed revised definition of "actual shipper loss" in pertinent part, is: "* * * *Provided, however,* That (1) for claims involving shipments where no invoices exist, such as personal effects and used household goods, the actual shipper loss shall be the negotiated settlement, or the amount claimed less reasonable depreciation based upon the prior use and age, whichever is greater; or (2) for claims involving an air freight forwarder: (a) the actual shipper loss to be reported by an air freight forwarder shall be as in (1) above, less the amount claimed by the forwarder against the direct air carrier; (b) the actual shipper loss to be reported by a direct air carrier shall be the amount claimed by the forwarder; and (c) in the event the direct air carrier does not pay the exact amount claimed by the forwarder, the forwarder shall adjust its reported data to reflect such difference." In the event an open subrogation is denied by a direct carrier, in whole or in part, the forwarder shall adjust his net claim data accordingly. (Denied subrogations during a later quarter may require adjustment of net dollars only, as the number of prior reported claims may not be affected.)

2. *Net and gross claim expenses by forwarders.* As indicated, we believe the foregoing requested modification by ATA is warranted in principle. However, we feel that this modification should go one step further and redefine the basis for reporting the actual net claim expense by air freight forwarders. A distinction should be made between the gross amount of claims, i.e., the amount paid to customers by forwarders and the net amount of claim (i.e., the forwarder's actual out-of-pocket expense, after deducting his subrogated claim against the direct carrier). It is our tentative view that forwarders should report only their net claims expense, with pending subrogations deducted in full, subject to a correction at a later date as may be necessary.[4]

Accordingly, it is proposed that forwarders report only their net claims expense in Schedule A, and exclude those dollars on which subrogations on such claims have been or will be presented to direct carriers. Under the proposal, forwarders and direct carriers would accommodate the above matter in the following fashion:

a. Forwarders would report only net claim expense in Schedule A, and would exclude those dollars on which subrogations on such claims have been or will be presented to direct carriers; in the event of subrogation in full, no net data will be reported on Schedule A.

b. In the event an open subrogation is denied by a direct carrier, in whole or in part, the forwarder would adjust his net claim data accordingly. (Denied subrogations during a later quarter may require adjustment of net dollars only, as the number of prior reported claims may not be affected.)

3. *Elimination and various revisions of form 239 schedules.* As part of our policy of continuous review of recurrent reports and specific data required of air carriers, the Board's staff has made an extensive re-evaluation of the reports filed under Part 239 with a view toward reducing the reporting burden on the carriers and at the same time improving the quality of the reported data. As a result of such review, it is tentatively decided that the reporting burden on the carriers can be considerably reduced and still meet the regulatory needs of the Board by: (a) raising the minimum revenue requirement for filing Schedule A; (b) reducing the number of commodity classifications required to be used in reporting on Schedule A, and other Schedule A revisions; (c) eliminating the requirements for individual claim detail on Schedule B; (d) eliminating Schedule C in its entirety; and (e) eliminating Schedule D and using the Certification Sheet in lieu thereof. We believe these proposed revisions will not only reduce the reporting burden on the carriers but will improve the reported data. These and other proposed revisions are discussed below.

(a) *Raising the minimum revenue requirement for filing Schedule A.* At present, § 239.2(c) requires that Schedule A shall be filed by large ($3,000,000 plus) direct air carriers and forwarders. An analysis of reports by certificated route air carriers and air freight forwarders shows that a change of the minimum annual level of reporting from $3 million to $10 million would relieve 6 route carriers out of the present 24, and 16 air freight forwarders out of the present 35, which are now required to file Schedule A. Since this significant reporting relief would result in the statistical loss of only about 4 percent in claims paid by route carriers and about 14 percent in claims paid for the air freight forwarders, we propose to substitute $10 million for the $3 million as it appears in § 239.2(c).[5]

(b) *Reducing the number of commodity classifications required to be used in reporting on Schedule A and other Schedule A revisions.* At present, Appendix A to Part 239 lists 52 commodity classifications to be used by carriers required to report on Schedule A. Our review of the reported data (for the most recent 7 quarters and calendar year 1974) for claims paid resulting from total shortage, a most significant item, shows that the same top ten commodities consistently represented about 70 or more percent of the total, and the 11th through 20th commodities about an additional 14 percent or more. In addition, the same 10 commodities in every period fell within the top 10, in varying order, and commodities ranked 11th through 20th were also found so grouped in 54 of the 80 occurences, or 67.5 percent of the time. In light of these findings, we are proposing to reduce the current commodity description classifications from 52 to 19[6] with the deleted and less significant commodities thus merged into the commodity classification of "All Other Miscellaneous." (See Exhibit B.)

We find no need for the continued separation between claims data relating to shipments while moving by air and those moving on the ground.[7] We are, therefore, proposing to eliminate this detailed reporting on Schedule A. Likewise, because of the lack of need, we are proposing to combine the headings on Schedule A for "Damage" (columns (12) through (15)) and "Delay" (columns (16) and (17)) into one heading "Damage and Delay"; and to eliminate the line items "Claims presented to direct air carrier by forwarder(s)" and "Claims presented by other than forwarders" at the bottom of Schedule A. Moreover, under the proposal herein, Schedule A will be reported on an "All Services" basis rather than on the presently required "Scheduled" basis. This change will allow for better overall quality control of the data reported on Form 239 which will reflect all operations on an "All Services" basis.

(c) *Eliminating the requirements for individual claim detail on Schedule B.* At present, all carriers are required to furnish on Schedule B information on theft-related claims paid (in the amount of $100 or more) at the lowest level of detail—the individual claim.[8] Our records do not reflect any requests for data at this level. Rather, we find that most users seek the data in overall totals by airport.[9] Accordingly, we are proposing to revise Schedule B on this basis. Under this proposal, the following data currently required on Schedule B would be eliminated: commodity classification code number, carrier claim number, month and year of shipment, and separate reporting by (1) scheduled and nonscheduled services,[10] and (2) domestic and international operations. Furthermore, since only airport data will be reported, we will also propose the elimination of the $100 minimum, thus all theft-related losses will be reported on an "All Services" basis.

(d) *Eliminating Schedule C in its entirety.* Although the Board has required the filing of Schedule C—Analysis of Claims Processed—by each certificated route air carrier and by each air freight forwarder or international air freight forwarder whose annual scheduled system gross air freight revenues exceed three million dollars ($3,000,000), the data has never been summarized and reported out primarily because of the inability of Schedule C to accommodate (a) interline claims between airlines, (b) claims paid only in part, (c) subrogation, (d) initial claims received without firm amount claimed, and (e) the complexity of distinguishing "domestic" from "international" revenue. Thus, innumerable past reports have been extensively footnoted and/or bear sundry explanatory statements under "Remarks," which may properly bear on the reported data, but which are not machine-readable and/or capable of machine processing.

It was the Board's intended objective that Schedule C would provide a moving inventory of claims received and processed, but, because of the foregoing problems, that objective was never completely realized. We have now reassessed the needs of the Board for this inventory and we are of the tentative view that the burdens on the respondents in collecting the data for purposes of reporting on Schedule C outweigh the benefits to be derived by the Board's staff from its use. Accordingly, we are proposing to delete this schedule in its entirety from Form 239.

Some material of the type now filed quarterly in Schedule C may be needed by the Board in connection with the monitoring of carrier experience under Board orders in the Liability and Claim Investigation, Docket 19923.[11] In this connection, the Board may in the future address the question of further refinement of loss and damage reporting requirements.

(e) *Elimination of Schedule D and use of certification sheet in lieu thereof.* Present Schedule D (an annual report) is designed to provide the public, the air industry, and the Board with the minimum necessary data on claim expense/freight revenue/ratio thereof, for all carriers, and particularly those carriers below $3,000,000 supra, e.g., some U.S. route air carriers, most forwarders, air taxis, supplemental carriers, and foreign carriers. The present Schedule D requires separate reporting on the basis of scheduled and nonscheduled operations, which the Board is proposing to abolish, as with the reporting on Schedule A, while retaining the requirement for separate reporting of domestic and international data.

The aforementioned increase in the minimum revenue reporting level (see paragraph 3(a), supra) will increase by 22 the number of route carriers and forwarders which will be exempt from Schedule A, thus also inceasing the reliance on Schedule D. For this reason, the Board proposes to increase the reporting frequency of data presently reported on Schedule D from an annual to quarterly basis for all carriers, but instead of being reported on a separate Schedule D, it will be reported in the Certification sheet, to which there will be added appropriate lines for Claims Paid and Freight Revenue, as hereinafter explained. This Certification sheet will be designated as Schedule A–1.

The Board believes it is desirable to monitor the "domestic' and "international"[12] freight claim experience of the industry. The presently accepted standard benchmark is the ratio of paid claim expense to revenue. Thus, a comparison of two carriers, each with $10 million in freight revenue, with carrier A reporting $100,000 in paid claims (1 percent ratio) and carrier B reporting $175,000 (1.75 percent ratio) provides a meaningful comparison of the two carriers.

Heretofore, the Board has used the same methodology for the classification of international and domestic revenues in Schedule D that is used in Part 241 of the Economic Regulations. However, the proposed amendment would depart from the more conventional approach prescribed in Part 241. It would, instead, relate revenues to the type of shipment, international or domestic, rather than relating them to the separate geographic reporting entities in which transportation is provided. For example, a U.S. carrier originating an international shipment at an inland point, but having no international routes, would presently classify its domestic-leg revenues as "domestic" for both Form 41 and Form 239 (Schedule D) purposes. In contrast, the proposed rule would categorize these domestic-leg revenues as "international" in Part 239, Schedule A–1, while the same revenues would remain categorized as "domestic" in Part 241. This departure would enable the Board to correlate claim subrogations as international or domestic

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[2] As stated in Order 76–3–139 in Docket 19923, Pages 29–30, the Board intends to monitor the carriers' experience in the area of cargo liability. Reporting of "Actual shipper loss" on claims paid in whole or in part thus provides a meaningful and on-going comparison of limited liability versus a full liability regime.

[3] For example, many forwarder tariffs have liability provisions below and above that of the direct air carriers. In other instances, a forwarder customer's "declared value" shipment may not be so declared when subsequently tendered by the forwarder to a direct air carrier. Furthermore, and being cognizant of such restraints as the foregoing, the forwarder may not claim the same amount as it paid.

[4] Forwarders now report net instead of gross, pursuant to an interpretive Memorandum issued by the Board's Director, Bureau of Accounts and Statistics, dated April 11, 1973. Hence the proposal herein would simply codify the existing and established reporting practice.

[5] The foregoing percentages, as well as those in following paragraph 3(c), are based on claim dollars paid.

[6] It is also proposed to revise present commodity code Number 7 "Baggage and personal effects" to read "Baggage and personal effects shipped as freight." This will clarify the intent of this classification which is to exclude claim information on baggage and personal effects accompanying the passenger.

[7] The domestic airlines delegate the reporting of claims data arising from cartage services to Air Cargo, Inc., who thus reports on a consolidated industry basis. The Board contemplates that this will continue, notwithstanding the elimination/separation of air-ground data on Schedule A. (See present and proposed § 239.6(f).)

[8] The generic caption "Shortage" on Schedule B is subdivided into "Robbery, Theft, Pilferage, and Other Shortage," e.g., all non-arrival/non-delivery of freight.

[9] The Board notes that both DOT and the airlines favor a "local committee," i.e., airport city, approach to the general security problem.

[10] Claims data on nonscheduled (e.g., charter) operations do not appear to warrant separate reporting from data on scheduled services, nor (except on Schedule A) does the separation of system data between domestic and international.

[11] Order 76–3–139 in that proceeding is now before the Board on reconsideration.

[12] The Board notes that both DOT and the airlines favor a "local committee," i.e., airport city, approach to the general security problem.

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on a basis which coincides with the liability commitments and the tariffs of the carriers.

In connection with this proposed change in reporting domestic and international revenues, the Board requests comment on the additional burden which would result from using two methods for classifying and reporting revenues. These comments should include quantification of the additional dollar costs and manhour expenditures, if any. Such information will be of assistance in making a determination of whether or not the burdens associated with the change exceed the benefits to be derived.

Since the Board is of the tentative view that such a delineation of revenues is imperative for the purposes of this Part of the Economic Regulations, we are proposing to include in the new Schedule A–1 (replacing Schedule D, supra) a continuation of only some of the current reporting requirement on Schedule D. The reporting of the number of claims paid and the separation between scheduled and nonscheduled services will be eliminated.

4. *Deletion of the applicability of Part 239 to commuter air carriers.* Very little data has been reported in the past by commuter air carriers on Form 239. In fact, a review of Schedule B for the first quarter of 1976 shows that only seven commuter air carriers, out of 271 required to file, reported data on this schedule which calls for theft-related claims paid in the amount of $100 or more. Moreover, only 97 commuter air carriers reported data on Schedule D for the year 1975, which calls for the reporting of total claims paid. The claims paid by all of these carriers for 1975 amounted to $206,000, or only 1.07 percent of the total claims reported by all respondents. Based on the above, we believe that commuter air carriers should be relieved from reporting on Form 239 and the deletion of these carriers from the applicability of Part 239 is proposed herein as amendments to §§ 239.2 (a) and (d).

5. *Additional changes in definitions.* In addition to the proposed change in the definition of "Actual shipper loss," as suggested by ATA, supra, the Board believes it to be desirable to make changes in the present definitions in Part 239 covering, inter alia, "Robbery," "Theft," and "Pilferage." There are minor language differences in these CAB/ICC (air-motor-rail-surface forwarder [12]) definitions. In the interest of uniformity among all modes and their reported data, the Board, therefore, proposes to revise these definitions accordingly. Certain other definitions are being adopted or revised in line with ICC proposed changes in its reporting requirements.

6. *Consolidated reporting by dual air/surface forwarders.* At the present time, many major air freight forwarders also hold Part IV (surface forwarder) authority from the ICC, applicable only to traffic having a prior or subsequent movement in their own air services. Thus, the traffic—and the claims thereon—are essentially shipments moving in, and in connection with, air transportation via a single parent (usually corporate) entity.

Yet, their ICC rights make such air freight forwarders subject to certain ICC reporting requirements (see 49 CFR 1210 and Form No. 60–R0199).

On the understanding that such dual air-surface traffic is a miniscule portion of an air forwarder's total operations—and the claims thereon perhaps even more so—the Board is proposing that any air freight forwarder who holds such ICC prior and subsequent Part IV authority may consolidate the data thereon with its air operations, for purposes of reports under Part 239, provided that it is so certified on the CAB Certification Sheet, Schedule A–1.[13]

7. *Reduction in frequency for filing all schedules of Form 239 or elimination of Part 239 in its entirety.* In addition to the proposed changes, the Board is prepared to reconsider the very need for Part 239; and therefore requests comments as to whether the burdens on the respondents in collecting the data for purposes of reporting on these schedules outweigh the benefits to be derived by the Board's staff or the carriers and the public from their use. Accordingly, we are inviting comments with respect to the elimination of Part 239 in its entirety, or, in the alternative, reduction of the filing frequency for all or any of Schedules A–1, A and B from quarterly reporting to semi-annual or annual reporting. Interested parties submitting comments concerning possible elimination or reduction in frequency for Form 239 schedules should include reasons in support of their positions.

PROPOSED RULE

It is proposed to amend Part 239 of the Economic Regulations (14 CFR Part 239) as follows:

§ 239.1 [Amended]

1. Amend § 239.1 by revising the definitions for "Actual shipper loss," "Operations, domestic," "Operations, international," "Pilferage," "Robbery" and "Theft"; by combining the definitions for "Concealed damage," "Visible damage," and "Delay" into "Damage and delay"; by adding definitions for "All services," "Systems," and "United States"; and by deleting the definitions for "Air movement" and "Other," the revised section to read as follows:

"Actual shipper loss" means the total dollar amount on each claim actually suffered by claimant because of loss, damage, delay, etc., based on the invoice value (per pound, per unit, etc.) at destination, or origin invoice value plus freight charges, and including customs duty paid where such amounts are properly included in the measure of damages: *Provided, however,* That (1) for claims involving shipments where no invoices exist, such as personal effects and used household goods, the actual shipper loss shall be the negotiated settlement, or the amount claimed less reasonable depreciation based upon prior usage and age, whichever is greater; or (2) for claims involving an air freight forwarder: (a) the actual shipper loss to be reported by an air freight forwarder shall be as in (1) above, less the amount claimed by the forwarder against the direct air carrier; (b) the actual shipper loss to be reported by a direct air carrier shall be the amount claimed by the forwarder; and (c) in the event the direct air carrier does not pay the exact amount claimed by the forwarder, the forwarder shall adjust its reported data to reflect such difference. In the event an open subrogation is denied by a direct carrier, in whole or in part, the forwarder shall adjust his net claim data accordingly. (Denied subrogations during a later quarter may require adjustment of net dollars only, as the number of prior reported claims may not be affected.)

"All services" means combined scheduled and nonscheduled services.

"Damage and delay" means (1) physical damage to freight observable at time of delivery, or discovered thereafter, and/or (2) the lack of timely movement which results in monetary loss to the shipper, including but not limited to, consequential or special damages and/or physical deterioration or damage to goods which results from delay.

"Ground movement" means pickup and delivery, and/or connecting or joint motor carrier service pursuant to interline air-surface agreements.

"Operations, domestic" means freight moving wholly between points within the United States.

"Operations, international" means freight moving between a point in the United States and a point outside thereof.

"Other shortage" is the disappearance of cargo for reasons other than pilferage, robbery or theft, as herein defined.

"Pilferage" is the known loss of all or part of the contents of a shipment (but not the entire shipping container) as the result of known stealing, or under circumstances indicating that the probable cause was stealing, without use of force or threat of force against a person or persons, and where the shipping container was broken into, when it is known that such freight was in the carrier's custody. (Note: Claims for physical damage to freight in the same or other shipments resulting directly from pilferage should be reported under Pilferage.)

"Robbery" is the failure to deliver all or part of a shipment as the result of stealing, including hijacking, with the use of force or threat of force against a person or persons. (Note: Claims for physical damage to freight in the same or other shipments resulting directly from robbery should be reported under Robbery.)

[12] While the ICC does not now require freight claim data from surface forwarders, the Board has been provided an "advance draft" of a proposed regulation upon which some of the proposed changes are based.

[13] This would allow ICC to relieve carriers from filing these data in ICC reports.

"System" means combined scheduled and nonscheduled services, and combined domestic and international operations.

"Theft" is the disappearance, without use of force or threat of force against a person or persons, of any whole shipping unit or units of cargo (not necessarily a complete shipment) as the result of known stealing, or under circumstances indicating that the probable cause was stealing, when it is known that such freight was in the carrier's custody. (Note: Claims for physical damage to freight in the same or other shipments resulting directly from theft should be reported under Theft.)

"United States" as defined in the Federal Aviation Act of 1958, means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof.

§ 239.2 [Amended]

2. Amend § 239.2(a) by deleting the words "commuter air carriers under Part 298 of the Board's Economic Regulations (14 CFR Part 298)."

3. Amend the "List of Schedules in CAB Form 239 report" in § 239.2(b) to read as follows:

Schedule No.	Schedule title	Filing frequency	Due dates
A–1	Certification summary of freight loss and damage claims paid.	Quarterly	May 10, Aug. 10, Nov. 10, Feb. 10.
A	Report of freight loss and damage claims paid	do	Do.
B	Analysis of shortage	do	Do.

4. Amend § 239.2(c) by deleting the words "three million dollars ($3,000,000)" and substituting therefor "ten million dollars ($10,000,000)" and by deleting the words "$3 million" and substituting therefor "$10 million."

5. Amend § 239.2(d) by:

a. deleting the words "Schedules B and D" in both the section and the related footnote [2] and substituting therefor the words "Schedules A–1 and B."

b. deleting the words "commuter air carriers."

§ 239.4 [Amended]

6. Amend § 239.4 by deleting the words "cover sheet" and substituting therefor the words "Schedule A–1."

7. Revise § 239.5 by deleting the present section in its entirety and substituting a new § 239.5 to read as follows:

§ 239.5 Schedule A–1—Certification—Summary of freight loss and damage claims paid.

(a) This schedule shall be prepared for each quarter ending March 31, June 30, September 30, and December 31 of each calendar year.

(b) The top part of Schedule A–1 is the certification sheet for CAB Form 239 which shall be executed by the officer in charge of the carier's accounts.

(c) The lower part of Schedule A–1 is a summary of freight loss and damage claims paid by the carrier during the reporting quarter. Data reported in columns (2) and (3) shall be reported on an "All Services" basis broken down between domestic and international operations.

(d) Freight revenue amounts reported in Column (2) of schedule A–1 for domestic and international operations shall reflect a relationship with the nature of shipments transported, e.g., either domestic or international. For direct air carriers, revenues from international freight shipments moving on domestic flight legs shall not be reported as domestic but as international. The system total revenues reported in this Part shall be in agreement with the system total revenues reported in data filed under Part 241.

(e) Claims paid amounts reported in column (3) for domestic and international operations shall agree with the total of amounts reported in column (16) on Schedule A for domestic and international operations, respectively.

(f) Column (4)—Show as a percentage carried to two decimal places.

(g) Any air freight forwarder which is required to file Schedules under this Part, and which holds surface forwarder authority from the Interstate Commerce Commission applicable to traffic having a prior or subsequent movement in its own air services, may incorporate and consolidate the data accruing from such surface operations with the data accruing from its air operations, as befitting the reports required under this Part, provided that such forwarder so certifies on Schedule A–1 hereof.

8. Revise § 239.6 to read as follows:

§ 239.6 Schedule A—Report of freight loss and damage claims paid.

(a) This schedule shall be prepared for each quarter ending March 31, June 30, September 30, and December 31 of each calendar year.

(b) The data reported on this schedule shall be filed on an "All Services" basis.

(c) Separate reports of this schedule shall be filed for domestic and international operations. Check the appropriate box provided on the form.

(d) Both direct air carriers and air freight forwarders should report the details of only those claims made by their customers against them. Show only net claims expense paid, and exclude paid or pending subrogations against the reporting carrier or reporting forwarder, as applicable, subject to correction at a later date. Air freight forwarders may consolidate their claim data attributable to air and ground movements; direct air carriers shall report all claim data on ground movements (cartage) separately from air data on line 59 of Schedule A. See also paragraph (f) of this section for authorization of certain separate reporting by Air Cargo, Inc.

(e) Direct air carrier interline traffic and claim data. Each direct air carrier participating in an interline movement and sharing in the settlement shall separately report as to its own dollar portion of interline claims. For purposes of the "Number" columns in Schedule A, each interline carrier participating and sharing in the claim settlement shall count each claim on a percentage basis (participant prorate) basis.

	Number of carriers participating in settlement			
	2	3	4	5
Claim-paying carrier	.50	.34	.25	.20
2d carrier	.50	.33	.25	.20
3d carrier		.33	.25	.20
4th carrier			.25	.20
5th carrier				.20

NOTE.—If carrier A, for example, participated in an interline movement with carrier B, but carrier B bore the entire claim settlement, only carrier B would report the amount paid, as "1.00" claim.

(f) Upon the authorization of any certificated air carrier, Air Cargo, Inc. (ACI), may file claims-paid data with respect to the ground movement portion of such carrier's air cargo shipments and the filing of such data by ACI will to that extent relieve such air carrier from filing such claims data with the Board: *Provided, however,* That the responsibility for supplying these data to the Board remains with the air carrier. ACI may file a consolidated report for certificated carriers as to ground shipments without a breakout of data by commodity and by carrier. However, ACI must identify the carrier or carriers on whose behalf such consolidated data are filed, and the carrier in turn shall state on its Schedule A that ACI is filing such data on its behalf. To the extent that a certificated air carrier subject to this part pays claims with respect to pickup and delivery services not performed by ACI, such claims-paid data must be reported by the air carrier on Schedule A, under Code 59—Cartage services only.

(g) Columns (1) and (2)—Use reportable numeric codes and commodity descriptions as preprinted in these columns and as prescribed in Appendix A thereto.

(h) Columns (3) through (10) and columns (13) and (14)—For each commodity reported in column (2), show the number of claims paid and related whole-dollar amounts, broken down among the various causal reasons which resulted in the payments. The dollar amounts paid shall reflect only net claim payments made pursuant to the carrier's liability under its tariff or other applicable law, and shall exclude payments made pursuant to nontariff liability, such as under a shipper's all-risk insurance policy.

(i) Columns (11) and (12)—For each commodity reported in column (2), show the total number of claims paid as a result of shortage in column (11)—(add columns (3), (5), (7), and (9)); show the total claims paid in whole-dollars as a

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result of shortage in column (12)—(add columns (4), (6), (8), and (10)).

(j) Columns (15) and (16)—For each commodity reported in column (2), show the total number of claims paid in column (15)—(add columns (11) and (13)); show the total claims paid in whole-dollars in column (16)—(add columns (12) and (14)).

(k) Column (17)—For each commodity reported in column (2), show the whole-dollar amounts of the actual shipper losses. For interline claims, each participating direct air carrier shall report such actual shipper losses in the same ratio to the total actual shipper losses as its share in the interline claim settlement bore to the total settlement, computed in the manner described in paragraph (e) of this section. See definition of "Actual shipper loss" in section 239.1 for explanation on claims reported by air freight forwarders.

(l) Line 59—See paragraph (d) of this section.

(m) Line 99—Following the last entry (line 59) made on this schedule, show the Grand Totals for each of columns (3) through (17).

9. Revise § 239.7 to read as follows:

§ 239.7 Schedule B—Analysis of shortage.

(a) This schedule shall be prepared for the quarters ending March 31, June 30, September 30, and December 31 of each calendar year.

(b) Schedule B shall be filed on a "System" basis.

(c) Column (1)—Identify the airport where the shortage occurred using the three-letter airport codes shown in the *Official Airline Guide* (OAG). If the airport is not known, allocate claim amount in the same proportion as used to allocate revenues to another airport(s) involved in the transportation of the shipment. For example, if John F. Kennedy Airport, New York and O'Hare Airport, Chicago alone were involved, a single commodity entry might show 50 percent of the claim against each under the appropriate cause. For example: $ (50%) JFK, $ (50%) ORD.

(d) Columns (2), (3), (4), and (5)—For each airport reported in column (1), show the net dollar amounts of claims paid by the reporting carrier as a result of Shortage which are separately attributable to "Robbery," "Theft," "Pilferage," and "Other Shortage."

(e) Column (6)—For each airport reported in column (1) show the total net dollar amounts of claims paid as a result of Shortage—(add columns (2), (3), (4), and (5)).

(f) Show the Grand Totals for each of columns (2) through (6).

§ 239.8 [Reserved]

10. Delete and reserve § 239.8.

§ 239.9 [Reserved]

11. Delete and reserve § 239.9.

12. Revise Appendix A to read:

Appendix A

APPENDIX A
Commodity Description

Code No. (1)	(2)
1	Aircraft, engines parts
4	Auto parts and accessories
7	Baggage and personal effects shipped as freight
9	Cosmetics, toiletries, perfumes
13	Electronic/electric equipment and parts including appliances
18	Footwear
25	Instruments, controlling, measuring, medical, optical
26	Jewelry, gold, silver coins
27	Leather products
30	Machinery and parts-NES [1]
31	Machines, electronic data, storage processing
32	Machines, office-NES [1]
39	Phonograph records, tapes, TV, radios, recorders
40	Photographic equipment, parts and film
42	Printed matter
47	Watches, clocks and parts
48	Wearing apparel-NES [1] (except fur or fur trimmed)
49	Wearing apparel (fur or fur trimmed)
51	Mixed shipments
53	All other miscellaneous
59	Cartage services only
99	Grand total

[1] NES—Not elsewhere specified.

13. Amend CAB Form 239 by deleting the Certification Sheet and Schedules C and D, adding new Schedule A–1, and revising Schedules A and B, as shown in Exhibits A, B, C, and D, which are filled as part of the original document.

[FR Doc.76–37686 Filed 12–22–76;8:45 am]

[14 CFR Part 250a]

[EDR–312A; Docket 29410, dated: December 20, 1976]

REMEDIES FOR CHARTER OVERBOOKING BY CARRIERS

Supplemental Advance Notice of Proposed Rulemaking

By Advance Notice of Proposed Rulemaking EDR–312, 41 FR 47494, October 29, 1976, the Civil Aeronautics Board gave notice that it was considering rulemaking action that would require U.S. and foreign direct air carriers to provide a summary remedy, including the payment of liquidated damages, to individuals who have entered into contracts as charter participants, in instances where the carriers have to cancel their "overbooked" flights. The Board requested that interested parties file initial comments on or before December 13, 1976, and reply comments on or before January 3, 1976.

By letter dated December 17, 1976, counsel for the National Air Carrier Association (NACA), which had filed initial comments, requested that the due date for filing reply comments be extended to January 17, 1977. The reason for the request was that the intervening holiday season would cause key NACA carrier personnel to be unavailable for consultation.

No previous extension of time has been granted in this proceeding, and it does not appear that the granting of the requested extension would prejudice and party to this proceeding. In the interest of receiving the views of all interested persons, the undersigned finds that good cause has been shown for an extension of time for filing comments.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the undersigned hereby extends the time for filing comments to January 17, 1977.

(Sec. 204, 401, and 402 of the Federal Aviation Act of 1958, 72 Stat. 743, 754, 757, 49 U.S.C. 1324, 1371, 1372.)

SIMON J. EILENBERG,
Associate General Counsel, Rules Division.

[FR Doc.76–37712 Filed 12–22–76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAXES

Tuition Remission Programs; Change in the Time for Public Hearing on Proposed Regulations

Proposed regulations under section 117 of the Internal Revenue Code of 1954, relating to tuition remission programs, appear in the FEDERAL REGISTER for Tuesday, November 2, 1976 (41 FR 48132).

By a notice appearing in the FEDERAL REGISTER for Wednesday, December 8, 1976 (41 FR 53681), it was announced, among other things, that a public hearing on these proposed regulations would be held on January 7, 1977, beginning at 10 a.m. in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

This is to announce that the hearing will begin at 8:30 a.m. instead of 10 a.m. and will continue throughout January 7 until all scheduled speakers have been heard. In all other respects the details with respect to the hearing will remain the same.

ROBERT A. BLEY,
Acting Director, Legislation and Regulations Division.

[FR Doc.76–37763 Filed 12–22–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 76–105]

SPECIAL ANCHORAGE AREAS, TRINIDAD BAY, CALIFORNIA

Proposed Special Anchorage

The Coast Guard, at the request of the City Council of the City of Trinidad, California, is considering amending the Anchorage Regulations by establishing a special anchorage area in Trinidad Bay, California. The establishment of a specific area for anchoring in Trinidad Bay is needed because the number of vessels regularly using and mooring in the harbor has substantially increased in the past few years. The City of Trinidad, California, will, through establishment of local ordinances, control the movement, anchorage, placement of moorings, and operation of vessels within the area as deemed appropriate. This anchorage would be for the general use of the public. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in the proposed rulemaking by submitting written data, views, or arguments concerning the proposal to Commander, Twelfth Coast Guard District, 630 Sansome Street, San Francisco, California 94126. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 76–105), and give reasons for any recommended change in the proposal. Copies of all written comments will be available for examination by interested persons at the Office of the Commander, Twelfth Coast Guard District.

The Commander, Twelfth Coast Guard District will forward all comments received before February 4, 1977, and his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in lights of comments received.

In consideration of the foregoing, it is proposed that a new § 110.127c be added to Part 110 of Title 33 of the Code of Federal Regulations to read as follows:

§ 110.127c Trinidad Bay, California.

The waters of Trinidad Bay beginning at the southern most point of Trinidad Head at latitude 41°03'04" N., longitude 124°08'56" W., thence east to Prisoner Rock at latitude 41°03'09" N., longitude 124°08'37" W., thence east to latitude 41°03'09" N., longitude 124°03'19" W., thence north to latitude 41°03'26" N., longitude 124°08'21" W., thence following the shoreline of Trinidad Bay in a westerly and southerly direction to the point of beginning.

NOTE.—The area will be principally for use by sport and commercial fishing vessels. Temporary floats and buoys for anchoring will be allowed in the area. Fixed moorings, piles or stakes are prohibited. All moorings shall be placed so that no vessel when anchored or moored shall at any time extend beyond the limits of the area. The anchoring of all vessels and placing of all moorings will be under the supervision of the City of Trinidad or such other authority as may be designated by the City Council of the City of Trinidad, California.

(Sec. 1, 30 Stat. 98, as amended, sec. 6(g)(1)(B); 80 Stat. 937; (33 U.S.C. 180, 49 U.S.C. 1655(g)(1)(B)), 49 CFR 1.46(c)(2).)

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 16, 1976.

D. J. RILEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.76–37706 Filed 12–22–76;8:45 am]

[33 CFR Part 117]

[CGD 76–230]

DRAWBRIDGE OPERATION REGULATIONS, SARASOTA COUNTY, FLORIDA

Proposed Rule Making

At the request of the County Commissioners, Sarasota County, Florida, the Coast Guard is considering amending the regulations for the Hatchett Creek bridge, U.S. Highway 41, Siesta Key bridge, State Road 789, Ringling Causeway bridge, State Road 780, and the New Pass bridge, State Road 789, to allow openings on thirty minute intervals from 7:30 a.m. to 6 p.m. At all other times the draws shall open on signal. The draws of these bridges are presently required to open on signal at all times. This change is being considered because of a significant increase in vehicular traffic.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Seventh Coast Guard District, Room 1018, Federal Building, 51 SW. First Avenue, Miami, Florida 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before January 25, 1977, with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new § 117.462a immediately after § 117.462 to read as follows:

§ 117.462a Sarasota County, bridges.

(a) Hatchett Creek, U.S. Highway 41, Gulf Intracoastal Waterway, Venice, Florida; and Ringling Causeway, State Road 780, Gulf Intracoastal Waterway, Sarasota, Florida. The draws shall open on signal from 6:00 p.m. to 7:30 a.m. From 7:30 a.m. to 6 p.m., the draws need not open except on the hour and half-hour and except as provided in paragraph (c) of this section.

(b) Siesta Key, State Road 789, Gulf Intracoastal Waterway, Sarasota, Florida; and New Pass, State Road 789, Sarasota, Florida. The draws shall open on signal from 6 p.m. to 7:30 a.m. From 7:30 a.m. to 6 p.m., the draws need not open except on the quarter and three-quarter hour and except as provided in paragraph (c) of this section.

(c) The draws of each bridge in this section shall open at any time for the passage of public vessels of the United States, tugs with tows, or vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(d) The owner of or agency controlling each bridge shall post, on both sides of the bridge, signs that state the conditions of this regulation. These signs shall be of such size that they may be easily read from an approaching vessel at any time.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (36 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4).)

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 17, 1976.

D. J. RILEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.76–37707 Filed 12–22–76;8:45 am]

[46 CFR Chapter 1]

[CGD 75–075]

BENZENE CARRIAGE REQUIREMENTS

Advance Notice of Proposed Rulemaking

The Coast Guard is considering proposing regulations to reduce personnel exposure to benzene vapors during benzene related operations onboard tankships and tank barges. These proposed regulations are in response to the National Institute for Occupational Safety and Health (NIOSH) Update Criteria and Recommendations for a Revised Benzene Standard dated 19 August 1976 which recommends that exposure to ben-

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zene vapor be limited to 1 ppm and that for regulatory purposes benzene be considered carcinogenic in man.

Interested persons are invited to submit written data, views, or arguments regarding this notice to the Executive Secretary, Marine Safety Council (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting a written comment should include his or her name and address, identify this notice (CGD 75-075) and the specific subject of the comment. All comments received before February 4, 1977, will be considered before any further action is taken on this notice. Copies of all written comments will be available for examination by interested persons in Room 8117, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

The Coast Guard is issuing this advance notice of proposed rulemaking to provide an early opportunity for public participation. The Coast Guard will consider all comments and information obtained from this notice in the development of any proposed regulations. This notice is not intended to indicate that the Coast Guard has formed any final conclusions on the proposals contained in this notice. The notice proposes concepts in order to provide a starting point for public comment.

Benzene has three serious hazards. Benzene has chronic and acute toxicity hazards and it has a serious flammability hazard. The flammability hazard is well recognized and fairly well controlled. The acute toxicity hazard has claimed lives but is also fairly well recognized. The least respected hazard and the most insidious is the chronic toxicity hazard which claims the health and lives of persons years after the benzene exposure has occurred. Deaths and injuries of persons exposed to high concentrations of benzene generally occur in cargo tanks or other enclosed spaces. These casualties occur because of careless and improper tank entry procedures. A regulation will be proposed to deal generally with the hazards associated with cargo tank entries.

The intent of this advance notice of proposed rulemaking is to invite comments on the means for preventing chronic exposure to benzene vapors during benzene related operations onboard tankships and tank barges.

NIOSH recommended in its August 19, 1976 Update Criteria and Recommendations for a Revised Benzene Standard that the occupational exposure level for benzene should be reduced to not more than one part per million in air. NIOSH reported that evidence from clinical and epidemiological data appears to be "conclusive at this time" that benzene is leukemogenic. NIOSH said that benzene causes progressive, malignant disease of the blood forming organs and for regulatory purposes should be considered carcinogenic in man.

The NIOSH Criteria Documents for Benzene dated 1974 documents numerous instances of chronic benzene poisoning and cases of leukemia.

The regulatory proposals listed below are being considered as measures that should be taken to alleviate the health hazard posed by benzene related operations on tank vessels.

The proposals under consideration include the following:

(1) Requiring cargo tank segregation from the sea.

(2) Changing present gauging requirements from open to closed.

(3) Requiring B/3 vent heights, or 6 meters (20 feet), whichever is greater for tankships.

(4) Requiring 3.6 meter (12 foot) vent heights for tank barges.

(5) Requiring the use of vapor return lines during the transfer of benzene.

(6) Purging cargo lines with water or an inert gas prior to disconnecting.

(7) Requiring personnel to wear properly fitted filter respirators approved by NIOSH as minimum respiratory protection on deck areas during tank cleaning operations.

(8) Requiring personnel to wear pressure-demand, self-contained breathing apparatus when entering any tank which is carrying or has previously carried benzene, and has not been certified "Safe for Man" by a registered Marine Chemist.

(9) Requiring continuous instrument monitoring of all benzene transfer and tank cleaning operations.

The Coast Guard welcomes all relevant comments and suggestions regarding the proposals in this advance notice. Comments are desired regarding each of the proposals, as well as the economic impact that each may have, and alternative means that might be employed to accomplish the intent of the proposals.

Dated: December 20, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.76-37708 Filed 12-22-76;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[General Order 16; Docket No. 76-61]

RULES OF PRACTICE AND PROCEDURE

Notice of Proposed Rulemaking; Enlargement of Time to Comment

DECEMBER 17, 1976.

At the request of Maritime Administrative Bar Association, and good cause appearing, time within which comments may be filed in response to the notice of proposed rulemaking (41 FR 51621; November 23-76) in this proceeding is enlarged to and including December 30, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37717 Filed 12-22-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 267]

[FRA Economic Docket No. 6, Notice No. 2]

ASSISTANCE TO STATES FOR RAIL SERVICE UNDER SECTION 402 OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND SECTION 5 OF THE DEPARTMENT OF TRANSPORTATION ACT

Proposed Standards and Procedures Regarding In-Kind Benefits; Correction

In FR Doc. 76-36291 appearing at page 54007 in the FEDERAL REGISTER of December 10, 1976, the FRA Economic Docket No. appearing on page 54007 is corrected to No. 6.

Dated: December 17, 1976.

ASAPH H. HALL,
Federal Railroad Administrator.

[FR Doc.76-37687 Filed 12-22-76;8:45 am]

Federal Highway Administration

[49 CFR Part 391]

[Docket No. MC-73; Notice No. 76-25]

MOTOR CARRIER SAFETY—PHYSICAL QUALIFICATIONS OF DRIVERS WITH RESPECT TO HEARING

Docket Closing

• *Purpose.* The purpose of this document is to announce the denial of the petition filed by the State of Wisconsin, Department of Health and Social Services to allow deaf drivers to operate in interstate commercial service and to close Docket MC-73. •

On May 6, 1976, an Advance Notice of Proposed Rulemaking (ANPRM) was issued, inviting comments from interested persons on a petition for rulemaking filed by the State of Wisconsin, Department of Health and Social Services. In its petition, the Department of Health and Social Services requested that § 391.41(b)(11) of the Federal Motor Carrier Safety Regulations (FMCSR) be amended to allow deaf drivers to operate commercial motor vehicles in interstate commerce.

The petitioner contends that (1) Safe driving is almost totally dependent on visual acuity and alertness; (2) Safety records of deaf drivers are superior; (3) Noise levels in large over-the-road tractors renders hearing totally insignificant as a safety factor.

Of the 50 comments filed, 34 opposed allowing deaf drivers to operate interstate commercial motor vehicles, 10 supported the petition, and 6 which did not support or refute the petition, but asked for further research.

The observations of those opposing are summarized as follows:

Many opposing commenters believed it important that drivers be able to hear emergency sounds, such as sirens or warnings at railroad grade crossings. Southern Railroad System is totally against any proposal to allow deaf drivers

to operate commercial vehicles, contending that the problem of accidents at crossings of highways and railroads is unfortunately growing. Southern Railroad advised that there were 4,000 grade crossing accidents on their tracks involving motor vehicles. Southern also contends that since most of the crossings in the country have only train whistles and bells for alerting motorists, it would be economically unfeasible to safeguard all grade crossings for the benefit of deaf commercial drivers as a class.

There is contention that high interior noise levels do not permit drivers to hear these emergency sounds. The American Trucking Associations, Inc. (ATA) points out that in low speed operations in city and heavy traffic, a driver would not have high interior noises to contend with and therefore, should have no trouble in hearing sirens or emergency vehicles. These occasions in some areas could be the normal rather than the exception.

Another area which was mentioned by several commenters was the inability of a deaf driver to hear mechanical noises associated with a malfunction or faulty equipment. The sounds a vehicle makes during operation is a significant factor to consider. The ATA as well as several motor carriers stated that a deaf driver could not hear a "low air warning buzzer" if the vehicle was equipped with one, which forecasts a brake malfunction. Continued operation until a brake lock-up occurred would create a hazardous condition on the highway, with the further result of extensive damage to the motor vehicle. The National Association of Motor Bus Owners (NAMBO) also contend that the vehicle noises that the bus driver hears are important. Their preventative maintenance programs rely heavily on a driver's ability to hear.

Other comments covered the communication difficulties that could be encountered. A driver could not easily communicate an emergency to those unfamiliar with sign language. Writing the message could be slow and at nighttime and in adverse weather even more difficult. Problems could occur in providing communication with shippers, consignees and other motor carriers. Drivers would not be able to receive or transmit messages to and from the carrier via telephone. NAMBO also addressed the communication problem to their particular operation. They stated that bus drivers must be able to communicate with the travelling public in order to provide safe, comfortable service for their customers.

Other commenters opposing the petition pointed out that where hazardous materials or petroleum are involved, hearing is crucial, mainly because drivers could not receive warnings or tank shutdown orders, could not receive or transmit telephone or oral emergency information when involved in accidents involving product spill, and could not differentiate the sound of malfunctioning versus proper operation of pumping equipment. Also, it was pointed out that tank truck industries face stiff penalties for spillage of oil or hazardous materials into the environment. It is the contention of the bulk carrier industry, that there is more to truck driving than steering the vehicle.

Several drivers commented that there were times when they heard hazards before seeing them, and in some instances, sound was the only warning of the problem.

With regard to public liability and recovery actions, some commenters felt carriers would be burdened even further.

The comments favoring the petition to allow deaf drivers to operate in interstate commercial service are summarized as follows:

1. All favoring commenters pointed out that handicapped persons compensate for their loss. They contend that deaf individuals were more law-abiding, cautious and aware of the responsibilities.

2. It was also stated by all favoring commenters that safe driving is almost totally dependent on visual acuity and alertness.

3. Several commenters favoring the petition believe that the present rule is discriminatory, and noted that no State prohibits licensing of deaf drivers, although some States do require special testing and equipment.

4. Truck drivers in high noise environments are subject to masking levels which rendered emergency warnings inadequate.

The National Center for Law and the Deaf (a joint venture between Gallaudet College and National Law Center of George Washington University) reported that a study by Judge Finesilver in 1961 demonstrated that deaf persons as a class enjoy better driving records than the hearing. They also reported that a study by Jerome Schein, Washington, D.C., over a 3-year period produced evidence that deaf drivers had less than one-third as many accidents as non-deaf drivers.

Other commenters believed further research to resolve conflicting data should be undertaken before a rule change is made.

HEARING RESEARCH

A research effort regarding the role of vision and audition in truck and bus driving was completed for the Bureau in December 1973 by an independent contractor. (Henderson, R. L., Burg A., "The Role of Vision and Audition in Truck and Bus Driving," Systems Development Corporations, December 1973). One of the reasons this research was undertaken was that the auditory requirements of driving commercial vehicles did not appear to have been studied. There were no general guidelines available to provide assistance in evaluating these requirements. A number of reports had been developed that deal with the problem of hearing and automobile driving and these reports are reviewed in this research effort. These reports have also been quoted by several commenters in this Docket. With regard to other studies done in this area, the research effort reported the following information.

Finesilver (Finesilver, S. G., "They Can't Hear, But They Get the Message," Traffic Safety, 8, 1961) reports that the accident record of deaf drivers are equal to or better than drivers with normal hearing, and that the accident records of deaf drivers showed 54 percent fewer accidents than one group of non-deaf drivers.

It must be pointed out, however, that the non-deaf drivers were selected from individuals in a driver improvement program and may not have been representative of the driving public.

Fisher (Fisher, L. I., "A Preliminary Study on Certain Aspects of the Relationship Between Hearing Acuity and Driving an Automobile," Johnson County, Iowa: Johnson County School, 1966) studied the relationship between hearing acuity and driving by means of a literature search and questionnaire sent to every State driver licensing agency in the United States. The results of the questionnaire summarized that no statistical records exist on the relationship between hearing acuity and driving. Although no State prohibited driving because of deafness, certain States required special mirrors and/or hearing aids for deaf drivers. The respondents considered normal hearing to be important to safe driving.

Comprehensive and well-controlled investigations concerning the relationship between deafness and driving records were reported by Coppin and Peck, (Coppin, R.S., and Peck, R.C., "The Totally Deaf Driver in California, Part I," Report No. 15, Sacramento: California Department of Motor Vehicles, 1963, and Coppin, R.S. and Peck, R.C., "The Totally Deaf Driver in California, Part II," Report No. 16, Sacramento: California Department of Motor Vehicles, 1964). The driving records of a large, representative sample of deaf drivers were compared with a matched group of non-deaf drivers. The result indicated that, contrary to previous reports, deaf drivers do not have better driving records than non-deaf drivers. Conversely, Coppin and Peck found that deaf drivers had 1.8 times as many accidents and 1.3 times as many convictions for traffic violation as non-deaf drivers. It was pointed out that the deaf driver differed from the non-deaf drivers in annual mileage driven, occupation and geographical areas in residence. Since these variables could account for the differences, the researchers conducted a second study utilizing two samples of deaf and non-deaf drivers matched for age, sex, occupation, area of residence and annual mileage. A total of 313 males and 140 females remained in the sample after matching. They found that for females, no significant differences were found with respect to either traffic violations or reported accidents. For males, there were no significant differences with reference to violations, but deaf males were found to have 1.8 times as many accidents as their non-deaf counterparts. The Henderson-Burg research stated that audition was not crucial to the violations, hence no differences between the deaf

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and non-deaf drivers. But, the accident difference does relate to the difference between hearing and not hearing, and, it is not unreasonable to assume that some crucial auditory cues were missed by the deaf driver.

In our analysis of the Coppin and Peck study, we discovered that the deaf drivers used in the samples in Part I of the study were obtained through returned questionnaires and were all members of a State-wide organization, viz., California Association for the Deaf. Questionnaires were mailed to 1,400 members of this Association. A separate study was conducted of the driving records of those who did not return the questionnaire to see if those who did not respond had poorer driving records than those who responded. The statistics showed those who did not return the questionnaire had significantly higher number of convictions, and not as statistically significant, but nevertheless, more accidents.

Coppin and Peck concluded in their first study that deaf drivers as a group do not constitute a special problem, however, there was little doubt that deaf drivers receive more convictions and are involved in more accidents than the non-deaf driving population.

The second study which was conducted in order to match deaf drivers and non-deaf drivers with respect to age, sex, occupation, area of residence, and annual mileage, represented only those drivers who answered questionnaires also. The non-deaf were selected in person at the time of driver's license renewal. More deaf persons failed to respond to the questionnaire than did non-deaf persons to verbal request. Coppin and Peck believed that because the deaf were selected from an organization would, if anything, seem to favor the deaf in any comparison with the non-deaf. They also concluded that in all such studies it is assumed that those who have the most violations or accidents on their records also violate most frequently or, are involved in the greatest number of total accidents since not all accidents are reported.

The authors state that it appears that some type of problem is at least suggested. One suggestion is that there are certain types of driving circumstances in which hearing may be an important sensory modality and the lack of hearing a definite handicap.

The Henderson-Burg study reported that although the findings of Coppin and Peck are in conflict with those of Finesilver and do not support the opinion held by many professionals in traffic safety, they were obtained under rigorously controlled conditions, and must be accepted as the best available scientific estimate of the relationship between deafness and driving safety.

Henderson and Burg conclude that hearing loss values up to the level presently allowed by qualification standards are not related to accident involvement and, therefore, stricter standards are not indicated. The question of whether present standards are too strict, cannot be answered experimentally on the existing population of commercial carrier drivers. Relaxing present standards to permit examination of this question does not appear to be justified in view of the risk that such relaxation might lead to higher accident involvement.

A recent research study (Monograph Series Program Accountability in Special Education Monograph No. 3, Hearing Impaired Survey (HIS) 1974) was conducted by the Wisconsin Department of Public Instruction.

This follow-up study was concerned with the status of a target population of the hearing impaired defined in terms of time and geography. An impetus for the study was an enactment which mandated the Wisconsin Department of Public Instruction to undertake an annual assessment of education performance. Many aspects were studied in this effort. Of concern to the proposed rule was the driving records of a group of hearing impaired drivers compared to a group of hearing subjects, both in the age range of 18–32. The data obtained from the Wisconsin Motor Vehicle Department were handled in several ways. One segment of the study dealt with driving violation points which were charged to hearing impaired and non-hearing impaired groups of the same age range, as Wisconsin has a point scale system for violations. The tests indicated that no statistically significant differences existed between the two groups. However, of the 61 non-deaf drivers who had lost no points, it was established that only 9 had been involved in violations whereas of the 50 hearing impaired who had not lost points fully one-half or 25 had been involved in violations. This discrepancy suggests to the author of this study that there is a certain amount of leniency on the part of law officers when arresting a hearing impaired person for other than major violations.

The other, more important segment of the Wisconsin Department of Public Instruction study involved comparisons of Traffic Violations of Hearing Impaired and Non-Hearing Impaired Drivers. The results showed that the hearing drivers have a higher rate of moving violations which result in point loss, 91.0 versus 76.5. However, the hearing impaired drivers had almost twice as many accidents and other violations by a ratio, 68.0 versus 37.4.

The authors of this report speculate about these differences. Is it that the hearing impaired are basically a very law abiding group on the road, yet because of their impairment are prone to get into more accidents whether points are lost, or not?

The salient findings of the study suggest to the author: (1) That law enforcement officers might be overly lenient with the hearing impaired except in the case of severe violations and, (2) That the hearing impaired driver tends to have an accident rate virtually twice as high as the non-hearing impaired driver.

Noise and Audibility of Warning Signals

The petition contends that "noise levels in large over-the-road tractors render hearing totally insignificant as a safety factor."

The Henderson-Burg research study recognized that the determination of whether or not an individual will perceive an auditory stimulus is dependent upon a number of factors. Foremost among these factors from the standpoint of the commercial vehicle driver is the noise environment in which he must perform and the potential masking this noise provides for auditory stimuli of importance to safe driving. The results of the examination of driving tasks regarding the noise environment and the ability to perceive audible warnings, indicate that hearing is required by drivers in noise environments ranging from relatively quiet to extremely noisy, and that hearing does provide feedback information to the driver concerning his apparent actions as well as in the identification of sounds pertinent to his job.

There was very limited information in the task analysis documentation of this research effort relative to the use of hearing for the purpose of identifying events in the environment, including vehicle sounds, and a lack of information concerning the behaviors requiring the hearing of warning/attention getting signals. However, the drivers interviewed generally believe the auditory sense does provide a margin of safety that would be denied a "deaf driver" because of hearing a malfunction of their vehicle.

Since 1973, when the research contract was completed, an interior noise regulation was promulgated in order to reduce tractor cab interior noises (49 CFR 393.94). The Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) are attempting to reduce the noise exposure even more. The noise Regulation was initiated to control the loss of hearing due to long-term exposure to excessive noise levels.

There are also many times when commercial vehicle drivers are in city and suburban traffic. At these low speeds, noise levels in the cab would not be as significant. Also, if the windows were down, the non-deaf driver could hear outside audible warnings.

Medical Aspects

Ears provide orientation sensing, movement detection, and balance as well as the sense of hearing with implication for traffic safety. There are several pathological diseases or symptoms which are associated with hearing loss which could adversely affect highway safety. As the rule is written now, we have confidence in believing that certain of these diseases or symptoms are being screened out because of the minimum hearing standard. The "Instructions for Examining Physicians to Determine Physical Fitness of Drivers Engaged in Interstate or Foreign Commerce" (49 CFR 391.41)

states that a driver must not only be tested regarding his hearing ability, but also he must be tested for any otological condition that might lead to sudden loss of orientation likely to interfere with the safe operation of a motor vehicle. The physician is requested to note evidence of mastoid or middle ear disease, discharge, symptoms of aural vertigo or Meniere's Syndrome. The integrity of the vestibular apparatus and sense of balance are related to driver safety. High vibration levels with or without physical impairment may induce episodes of disorientation or vertigo. Vertigo is the sensation either of moving around in space or having objects moving about the person, which causes difficulty in maintaining equilibrium. Other disorders associated with hearing loss are:

Otitis Externa (inflammation of middle ear); Mastoiditis (inflammation of the air cells of the mastoid process causing fever, chills, tenderness); labyrinthitis (inflammation of internal ear or labyrinth); and Meniere's syndrome (recurrent and usually progressing group of symptoms including hearing loss, ringing in the ears, dizziness and a sensation of pressure in the ears).

As mentioned earlier, balance maintenance and orientation problems may be aggravated by severe joltings and bouncing when travelling over rough roads.

A deaf driver with symptoms or diseases associated with balance, placed in the environment of a truck driver that could aggravate the problem, could produce a hazardous situation.

Therefore, it is reasonable to believe that if the minimum hearing rule is screening out those drivers with coexisting ear diseases that would interfere with the ability to operate a commercial motor vehicle safely, the rule is further justified.

Establishing Commercial Driver Qualifications

The Department of Transportation (DOT) has responsibility for establishing qualifications for employees of motor carriers who engage in transportation in interstate or foreign commerce, with the objective of eliminating risks to the safety of operations of those carriers.

There can be no doubt that Congress had the power, under the Commerce Clause of the Constitution to authorize the DOT, to take such steps as the minimum physical requirements in order to implement that authority.

With regard to developing Regulations which could possibly be discriminating against a certain group, as in this case deaf drivers, the Bureau has the responsibility of justifying the terms and impacts of its regulatory actions.

Highway safety is the purpose of these Federal Regulations. The greater the safety factor, measured by the likelihood of harm and the probable severity of that harm in the case of an accident, the more stringent the job qualifications must be to ensure safe driving.

We emphasize safety in our decision of minimum qualifications which, if we err at all, should err on the side of preservation of life and limb. And although our research and statistics collected cannot establish to a certainty that hearing is needed to assure safe transportation of property and passengers in interstate commerce, we should not be expected to establish this to a certainty, if certainty would require running the risk until a tragic accident would prove that the original judgment was sound.

The safety factor must be evaluated in terms of the possibility or likelihood of injury or death.

Conclusion

The decision to close this Docket and deny the petition to allow deaf drivers to operate commercial motor vehicles in interstate commerce is based on several considerations.

Many of the justifications for a hearing requirement were pointed out by the commenters who were against the proposal. There are train whistles which have alerted drivers of an on-coming hazard. There are sirens which have alerted drivers of emergency vehicles. There are occasions when a mechanical noise has alerted a malfunction or a warning buzzer that has warned of low air. There most likely would be times when communication would be a crucial problem.

With respect to research efforts in this area, it is concluded that the research effort conducted by Henderson and Burg produced no evidence suggesting that existing auditory standards are in any way inadequate. The commercial drivers interviewed in this study as a group appeared to feel rather strongly that a deaf driver would not be as safe a driver as one who was not deaf. In their analysis of the Finesilver study which showed deaf drivers had 54 percent fewer accidents than one group of non-deaf drivers and 113 percent fewer than a second group of non-deaf drivers they report: "The extent to which his non-deaf drivers were representative of the driving public is not clear, however, in that they were selected from individuals in a driver improvement program."

Coppin and Peck's research effort "The Totally Deaf Driver, Part I and II" found that deaf drivers had 1.8 times as many accidents and 1.3 times as many convictions for traffic violations as non-deaf drivers. Also, statistics showed that those who did not return the questionnaire had a significantly higher number of convictions and higher accidents. Their conclusions and recommendations were: (1) That some type of problem was at least suggested; (2) That there may be certain types of driving circumstances in which hearing may be an important sensory modality and lack of hearing a definite handicap; and (3) That under certain circumstances auditory cues may play a more relevant role in driving than was formerly anticipated.

The research study conducted by the Wisconsin Department of Public Instruction (1974) reported two salient findings, (1) That law enforcement officers might be overly lenient with the hearing impaired except in the case of severe violations, and (2) That the hearing impaired tend to have an accident rate virtually twice as high as the hearing.

Research studies have shown statistics favoring and opposing deaf drivers driving records. While the possibility exists that the current standards are more stringent than required, any relaxation of these standards to permit experimental examination of this possibility is not considered to be in the public interest.

Since it is possible that the minimum hearing rule is screening out drivers who may have a pathological condition or disease associated with loss of balance or consciousness, it is felt that minimum standard is further justified.

With respect to noise and audibility of warning signals, it was concluded in our research effort that hearing is required by drivers in noise environments and that hearing is utilized in providing feedback information to the driver concerning his apparent actions as well as in the identification of sounds pertinent to his job. Also, regulations already promulgated lowering the allowable cab noise makes hearing more conducive to the operation of the vehicle.

For the aforementioned reasons, the petition of the State of Wisconsin, Department of Health and Social Services to allow deaf drivers to operate in interstate commercial service is denied, and Docket MC–73, is hereby closed.

(Sec. 204, Interstate Commerce Act (49 U.S.C. 304); section 6, Department of Transportation Act (49 U.S.C. 1655); Delegations of authority at 49 CFR 1.48 and 391.60).

Issued on December 9, 1976.

Robert A. Kaye,
Director,
Bureau of Motor Carrier Safety.

[FR Doc.76-37766 Filed 12-22-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRDS

Proposed Rulemaking on Areas in Which Steel Shot Will Be Required for Waterfowl Hunting in Hunting Seasons Commencing in 1977

Pursuant to authority contained in the Migratory Bird Treaty Act, 16 U.S.C. 704, and Executive Order 10250 of June 5, 1951, it is proposed to amend Subpart K, § 20.105(e) of Title 50, Code of Federal Regulations. This proposal, if adopted as final rulemaking, would designate specific areas in the Atlantic and Mississippi Flyways where no person may take ducks, geese, and coots with a shotgun containing shells loaded with shot composed of any metal other than such material as may be determined by the Director to be non-toxic to migratory waterfowl, pursuant to procedures set

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forth in § 20.134. This restriction would apply only to the taking of ducks, geese, and coots in the areas described. At the present time, the only non-toxic shot type approved pursuant to the foregoing procedures is steel shot.

PURPOSE OF THE REGULATIONS

The purpose of the proposed regulations is to eliminate further deposition of lead pellets in specific, major waterfowl hunting areas of the Atlantic Flyway and the Mississippi Flyway. Spent lead pellets are known to be consumed by waterfowl causing death to a portion of the resource each year.

BACKGROUND

On March 20, 1976, the Secretary of the Interior announced his intention to issue regulations requiring the use of steel shot for waterfowl hunting in specifically designated areas of the Atlantic Flyway beginning in 1976, in the Mississippi Flyway beginning in 1977, and in the Central and Pacific Flyways beginning in 1978.

On July 28, 1976, the Service published regulations requiring the use of steel shot, or other approved shot types, for hunting of certain waterfowl in areas of the United States to be prescribed by separate regulations arrived at after consultation with the affected States, 41 FR 31386. Those area designations were made for the 1976–77 hunting season in the Atlantic Flyway on September 13, 1976, 41 FR 38722.

At this time, the Service is proposing that certain areas of the Atlantic and Mississippi Flyways be designated as steel shot zones during waterfowl hunting seasons beginning in 1977 and ending in 1978.

METHOD FOR DESIGNATING STEEL SHOT ZONES

Steel shot zones are areas having highest levels of harvest, and consequently they are areas where waterfowl are most likely to eat lead pellets while feeding. Areas in 9 States of the Atlantic Flyway were designated in 1976 as steel shot zones. Areas being proposed for conversion to steel shot in the Atlantic Flyway in 1977 are based on a harvest rate of 10 ducks per square mile throughout a county or 10,000 ducks harvested throughout the county. Production of steel shot ammunition and its distribution limit the proposed conversion to this level. After consultation with officials of individual States the initial plan was modified at some locations to specify more clearly defined units of wetland habitat, recognize areas known to have lead poisoning problems regardless of harvest intensity, to isolate more specifically those hunting areas where lead shot deposition is occurring at highest rates, law enforcement purposes and clarity of boundary descriptions. The proposal as described below for the Atlantic Flyway would convert approximately half of the waterfowl harvest of that Flyway to a non-toxic shot material.

Since 1977 is the initial year for a proposed conversion to a non-toxic shot material in the Mississippi Flyway, the plan for this Flyway differs from that of the Atlantic Flyway. The production and distribution of steel shot shells for an area as large as a flyway places limitations on the level of conversion possible in an initial year. This is further complicated by the fact that the Mississippi Flyway contains twice the number of waterfowl hunters found in the Atlantic Flyway. To provide for a more orderly conversion to steel shot, and to assure hunters in steel shot zones that adequate supplies of ammunition will be available, the initial plan for the Mississippi Flyway identified counties in which records indicate an average duck harvest of 20 or more per square mile or a total harvest of 20,000 or more ducks throughout the county. Further, because of limitations in ammunition supplies, approximately one-third of the duck harvest of a State was considered adequate for conversion to steel shot in this initial year.

As was the case in the Atlantic Flyway, the plan served as a guide for discussions with State officials. The resulting proposal for the Mississippi Flyway is a modification of the plan, and it reflects consideration of topographic features, recognition of areas known to have lead poisoning problems regardless of harvest intensity, ammunition supplies and distribution, intensity of harvest in areas smaller than counties, law enforcement and clarity of boundary descriptions. The proposal, as described below, converts approximately 35 percent of the Mississippi Flyway waterfowl harvest to a non-toxic shot material.

§ 20.105 [Amended]

PROPOSAL FOR STEEL SHOT ZONES IN THE ATLANTIC FLYWAY

It is proposed to amend § 20.105(e) as follows:

ATLANTIC FLYWAY

Non-toxic shot requirements: In the waterfowl hunting seasons commencing in 1977, in areas designated below, no person shall take ducks, geese, or coots with a shotgun loaded with any material other than steel, unless the bore of the shotgun used is smaller than 12 gauge, in which case, shot material other than steel can be used in the zones described below. The use of shot other than steel in any gauge may not be permitted where other Federal or State regulations (such as those for certain National Wildlife Refuges) prohibit the use of all toxic shot material for waterfowl hunting.

CONNECTICUT

Those portions of Middlesex and New Haven Counties south of Interstate Highway 95.

DELAWARE

All waters of the State (including lakes, ponds, marshes, swamps, rivers, streams, and Delaware Bay) and within a 150-yard zone of land adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

FLORIDA

That portion of Brevard County lying east of Interstate Highway 95, and the counties of Leon, Citrus, Seminole and Glades.

MAINE

On the waters of the Kennebec River known as Merrymeeting Bay bounded as follows: from the high tension wires at Chops Point to the first dam on the Androscoggin River, to the first road bridge on the Muddy, Cathance, Abbagadasset, and Eastern Rivers and the Richmond-Dresden bridge on the Kennebec River, and within a 150-yard zone of land adjacent to the margins of these waters being in the counties of Cumberland, Sagadahoc and Lincoln.

MARYLAND

All waters (including lakes, ponds, marshes, swamps, rivers, streams, and Chesapeake Bay) in Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Anne's, Kent and Cecil Counties and those portions of Harford, Baltimore, and Anne Arundel Counties lying south and east of U.S. Route 1, and within a 150-yard zone of land adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

MASSACHUSETTS

That portion of the State lying east of a line commencing at the New Hampshire State line and proceeding southward along U.S. Route 1 to its junction with Route 3, then southeastward along Route 3 to its juncture with U.S. Route 6, then westward on U.S. Route 6 to include all area to the south of this highway to the Rhode Island State line.

NEW JERSEY

The following counties: Atlantic, Cape May, Cumberland, Hudson, Middlesex, Monmouth, Ocean and Salem.

NEW YORK

Nassau and Suffolk Counties and that portion of Upstate New York west of Interstate Highway 81 and north of the New York Thruway (Interstate Highway 90).

NORTH CAROLINA

All waters (including sounds, lakes, ponds, marshes, swamps, rivers, and streams) of Currituck, Dare, and Pamlico Counties and within a 150-yard zone of land adjacent to the margins of such waters in these 3 counties. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement. The waters of the Cape Fear River and its tributaries in New Hanover and Brunswick Counties and a 150-yard zone of land adjacent to the waters of this river and its tributaries in these 2 counties.

PENNSYLVANIA

Crawford County; Middle Creek Wildlife Management Area in Lancaster and Lebanon Counties; and the waters of the Susquehanna River beginning at the confluence of the North and West branches at Northumberland and continuing southward to the Maryland-Pennsylvania State boundary and including a 150-yard zone of land adjacent to the waters of the Susquehanna River that are described above.

RHODE ISLAND

Bristol, Newport, and Washington Counties.

SOUTH CAROLINA

The waters of Lake Marion and Lake Moultrie and a 150-yard zone of land adjacent to these waters; and in Georgetown, Charleston, Colleton and Beaufort Counties.

VIRGINIA

The waters of the James, York, and Rappahannock Rivers and their tributaries and a

150-yard zone of land adjacent to these waters, and the waters of the city of Virginia Beach and a 150-yard zone of land adjacent to these waters.

PROPOSAL FOR STEEL SHOT ZONES IN THE MISSISSIPPI FLYWAY

It is proposed to amend § 20.105(e) as follows:

Non-toxic shot requirements: In the waterfowl hunting seasons commencing in 1977, in areas designated below, no person shall take ducks, geese, or coots with a shotgun loaded with any material other than steel, unless the bore of the shotgun used is smaller than 12 gauge, in which case shot material other than steel can be used in the zones described below. The use of shot other than steel in gauges smaller than 12 gauge is not permitted where local regulations prohibit the use of all toxic shot material for waterfowl hunting.

ARKANSAS

All waters of Poinsett and Arkansas Counties and within a 150-yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement.

ILLINOIS

1. In the Counties of Putnam, Marshall, Calhoun, Jersey, Henderson, and Rock Island.
2. All waters of State-managed waterfowl hunting areas that are not included in 1.

INDIANA

1. On all waters of Newton, Porter, Lake, Jasper, LaPorte, Starke, Pulaski, St. Joseph, Marshall, Fulton, Elkhart, Kosciusko, LaGrange, Noble, Whitley, Steuben and Posey Counties and within a 150-yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement.
2. Within the boundaries of the following State-owned or State-operated properties: Monroe Reservoir in Monroe and Brown Counties, and Glendale Fish and Wildlife Area in Daviess County.

IOWA

In Fremont and Mills Counties on all waters and a 150-yard zone of land adjacent to these waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement.

LOUISIANA

1. In Calcasieu, Cameron, and Vermillion Parishes.
2. In that portion of the State bounded as follows: From Pineville northeast along State Highway 28 to Archie, then northwest along U.S. Highway 84 from Archie to Jena, then southwest along State Highway 8 from Jena to Pollock, then south along U.S. Highway 165 from Pollock to Pineville.
3. The green-tree reservoir located on the Saline Wildlife Management Area.

OHIO

On all waters of Erie, Ottawa, Lucas and Sandusky Counties and within a 150-yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement.

MICHIGAN

Five zones are proposed for this State. Road systems were used to define the boundaries of each. The following descriptions are of a general nature and do not identify road boundaries. More detailed boundary descriptions can be obtained from the Michigan Department of Natural Resources, Wildlife Division.

1. The eastern portions of Monroe, Wayne, Macomb, and St. Clair Counties.
2. Those portions of Iosco, Arenac, Bay, Saginaw, Tuscola, and Huron Counties on or adjacent to Saginaw Bay.
3. The northern half of Roscommon County and adjacent portions of Missaukee, Crawford, and Kalkaska Counties.
4. An area west of a line extending from Kalamazoo to the northern border of Muskegon County and the waters of Lake Michigan associated with these counties.
5. The eastern portions of Chippewa and Mackinac Counties.

Minnesota

1. All waters within the boundaries of all State Wildlife Management Areas and within a 150-yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement.
2. On the waters of Swan and Middle Lakes in Nicollet County, North and South Heron Lakes in Jackson County, Pelican Lake in Wright County, Bear Lake in Freeborn County, and Christina Lake in Douglas and Grant Counties and within a 150-yard zone of land adjacent to the margins of the above lakes.

Missouri

All waters of St. Charles County and within a 150-yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement.

TENNESSEE

All waters of Benton County and within a 150-yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement.

WISCONSIN

1. In that portion of the State lying west of the Burlington Northern Railroad in Buffalo, Trempealeau, LaCrosse, Vernon, Crawford and Grant Counties.
2. On all waters of Dodge, Green Lake, Jefferson and Winnebago Counties, and that portion of Fond du Lac County lying west of a line formed by the Fond du Lac River and Highway 41 and that portion of Lake Winnebago in Calumet and Fond du Lac Counties, and that portion of Lake Poygan in Waushara County; and within a 150-yard zone of land adjacent to the margins of these waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement.
3. On the following State-owned wildlife areas: Mead Wildlife Area in Marathon, Wood and Portage Counties; Mud Lake Wildlife Area in Columbia County; Theresa Marsh Wildlife Area in Dodge and Washington Counties.

PUBLIC COMMENT

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. Accordingly, interested persons may participate in this rulemaking by submitting written comments to the Director (FWS/MBM), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 2249, U.S. Department of the Interior, "C" Street between 18th and 19th, Washington, D.C.

The period of public comment will extend from the dates of this publication until January 31, 1977. This notice of proposed rulemaking is issued under the authority of the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711).

Dated: December 17, 1976.

LYNN A GREENWALT,
Director, U.S. Fish and Wildlife Service.

[FR Doc.76–37619 Filed 12–22–76;8:45 am]

[50 CFR Part 20]

MIGRATORY BIRDS

Proposed Amendment Permitting Waterfowl Hunting With Toxic Shot Material in Certain Shot-Shell Gauges in Areas Designated for Non-Toxic Shot Material

On pages 31386–31389 of the FEDERAL REGISTER of July 28, 1976, there was published a final rulemaking on the use of steel shot ammunition or ammunition containing pellets made of other approved material for waterfowl hunting in certain "steel shot zones" specified elsewhere in Federal regulations. This rulemaking amended Subpart C, of Chapter I, Subchapter B of Title 50 of the Code of Federal Regulations by adding a new paragraph (j), to § 20,21—Hunting Methods. The amendment was worded as follows and became effective on August 27, 1976:

"(j) With a shotgun containing shells loaded with shot composed of any metal other than steel or such material as may be approved by the Director pursuant to the procedures set forth in § 20.134: *Provided*, That this restriction applies only to the taking of ducks, geese, and swans (Anatidae), and coots (Fulica americana) in States designated or in areas within States described in Subpart K of 50 CFR Part 20."

The above regulation assumes that shot-shells loaded with non-toxic shot material will be available to waterfowl hunters in appropriate quantities and

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gauges for use in the zones designated for this type of shot. Based on discussions between the Service and companies that produce and distribute shotgun ammunition in the United States, it has become evident that in the waterfowl hunting seasons commencing in 1977, non-toxic shot will be available for hunting levels anticipated in all proposed zones in 12 gauge shells only. The availability of such shells in other gauges is uncertain, and steel shot shells for some of these other shell gauges simply will not be manufactured. Results of surveys conducted by the U.S. Fish and Wildlife Service indicate that approximately 15 percent of all waterfowl hunters use shotguns bored for shells other than 12 gauge, and most of these guns are bored for 20 or 16 gauge shells. The Service proposes to amend pararaph (j) of § 20.21 to allow the use of toxic shot in guns bored smaller than 12 gauge. This proposed amendment would be an interim measure which would provide additional time for production of steel shot ammunition in smaller gauges. It would apply to the waterfowl hunting seasons beginning in 1977 and continue until these seasons are terminated. Thus, this proposed amendment would permit the use of toxic shot in shell gauges smaller than 12 gauge in those areas designated as "steel shot zones" of the Atlantic and Mississippi Flyways. Other Federal or State regulations, such as those for National Wildlife Refuges, may qualify this exemption.

PUBLIC COMMENT

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. Accordingly interested persons may participate in this rulemaking by submitting written comments to the Director (FWS/MBM), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 2249, U.S. Department of the Interior, "C" Street between 18th and 19th, Washington, D.C.

The period of public comment will extend from the dates of this publication until January 31, 1977. This notice of proposed rulemaking is issued under the authority of the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711).

Dated: December 17, 1976.

LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service.

PROPOSED AMENDMENT

In consideration of the foregoing, it is proposed to revise paragraph (j) of 50 CFR 20.21 to read as follows:

§ 20.21 Hunting methods.

* * * * *

(j) With a shotgun containing shells loaded with shot composed of any metal other than steel or such material as may be approved by the Director pursuant to the procedures set forth in § 20.134: *Provided*, That this restriction applies only to the taking of ducks, geese, and swans (Anatidae), and coots (Fulica americana) in States designated or in areas within States described in Subpart K of this Part 20. In the waterfowl hunting seasons commencing in 1977, for one year only, shot made of metal that is toxic to waterfowl may be used in shotguns with bores smaller than 12 gauge for hunting waterfowl in zones designated for approved non-toxic shot in the Atlantic Flyway and Mississippi Flyway unless otherwise specified by Federal or State regulations applicable to designated areas.

[FR Doc.76-37620 Filed 12-22-76;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

DRAFT FOREIGN FISHING REGULATIONS

Invitation for Public Comment

On April 13, 1976, the President of the United States signed the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), (the "Act") which among other things, authorizes the Secretary of Commerce (Secretary) to implement certain statutory requirements of the Act. In broad summary, the purposes of the Act are:

(1) To take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing (a) a Fishery Conservation Zone (FCZ) within which the United States will exercise exclusive fishery management authority over all fish, except highly migratory species of tuna, and (b) exclusive fishery management authority beyond such zone over such anadromous species and Continental Shelf fishery resources; and

(2) To encourage the negotiation and implementation of international fishery agreements regarding foreign fishing by providing that all foreign nations wishing to fish within the area over which the United States exercises exclusive fishery management authority have an effective international agreement with the United States, and that all of its fishing vessels have permits issued by the Secretary on board.

The act provides under section 201(g) that the Secretary shall prepare Preliminary Management Plans (PMP's) for any fishery for which a foreign application has been submitted if the Secretary determines that no fishery management plan prepared by a Regional Fishery Management Council for that fishery will be implemented before March 1, 1977. The Secretary is also authorized to prepare and promulgate regulations with respect to any such preliminary plan. Such regulations are authorized to remain in effect until regulations implementing the applicable fishery management plan prepared by the Regional Fishery Management Council can be promulgated.

While no foreign application has been filed, in anticipation of such filing, and in accordance with section 102(2)(c) of the National Environmental Policy Act (NEPA), the Secretary has prepared Draft Environmental Impact Statements (DEIS) which contain all of the essential elements of preliminary management plans. These were published by the Council on Environmental Quality (CEQ) on October 29 with respect to Pacific fisheries and November 5, 1976 with respect to Atlantic fisheries. The DEIS's describe the potential environmental impact of the draft PMP's if the PMP's are adopted and implemented by the Secretary. In accordance with the CEQ guidelines the Secretary has provided the public 45 days, within which to comment on the DEIS's. The public comment period for all existing DEIS's terminated on December 20, 1976. The Secretary is now in the process of evaluating the public and Council comments and preparing Final Environmental Impact Statements (FEIS).

Recognizing that the Councils may not be able to prepare and have implemented a fishery management plan before March 1, 1977, the Secretary has prepared the following draft regulations which could be promulgated to implement PMP's which are adopted by the Secretary. These regulations, if promulgated by the Secretary, will only apply to foreign fishing vessels within the area over which the United States exercises exclusive fishery management authority. Only those fisheries for which DEIS's have been prepared are covered. Subpart A of the draft regulations includes general terms and conditions which will be attached to and made part of all foreign fishing permits. Subpart B lists the estimated surplus resources that are projected in each fishery. Each of the remaining subparts (C–G) will only be applicable to foreign vessels fishing in the fishery covered by a particular PMP. Subpart C describes the terms and conditions applicable to foreign vessels fishing in the Atlantic fisheries. Subpart D, covering the South Atlantic and Gulf of Mexico fisheries, is presently "Reserved" because no DEIS for this fishery has been prepared. Subpart E describes the terms and conditions applicable to foreign vessels fishing in the Eastern and parts of the Western Pacific Ocean using trawl gear. Subpart F covers the Seamount trawl fisheries in the Eastern and Central Pacific. Subpart G covers the terms and conditions applicable to foreign vessels fishing in the Bering Sea and parts of the Western Pacific Ocean.

Based essentially on DEIS's not FEIS's these draft regulations will be changed to accommodate the changes that occur when FEIS's are prepared, as well as comments received. These draft regulations are now being published in order to give the public a sufficient opportunity to comment in the event the Secretary has to act expeditiously in adopting and implementing PMP's. Interested persons may participate in the rulemaking process by submitting such written data, views or arguments to the Director, National Marine Fisheries Service, Washington, D.C. 20235. In the event the Secretary adopts and implements PMP's, every effort shall be made to issue permits to foreign vessels by the end of February, 1977. It will, therefore, be necessary for the Secretary to adopt final regulations on or about February 4, 1977. All submissions received on or before January 23, 1977, will be considered prior to the promulgation of final regulations.

Issued in Washington, D.C. on December 20, 1976.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

Subpart A—General

Sec.
611.1 Purpose.
611.2 Definitions.
611.3 Permits for foreign fishing vessels.
611.4 Vessel reporting.
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611.20 Allowable level.

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611.50 Hakes.
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Subpart D—South Atlantic and Gulf of Mexico

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Subpart E—Northeast Pacific

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Subpart F—Western Pacific

611.80 Seamount trawl fishery.

Subpart G—North Pacific Ocean and Bering Sea

611.90 Crabs.
611.91 Gulf of Alaska trawl fishery.
611.92 Bering Sea and Aleutian trawl fishery.
611.93 Sablefish (Blackcod).
611.94 Snails.

AUTHORITY: 16 U.S.C. 1801–1654.

Subpart A—General

§ 611.1 Purpose.

The Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801–1882) provides under section 201, that the Secretary is authorized to prepare PMP for any fishery for which a foreign application has been submitted and if the Secretary has determined that no fishery management plan for that fishery will be prepared and implemented by the Regional Fishery Management Councils. The Secretary may also prepare and promulgate regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations implementing the applicable fishery management plan prepared by the Regional Fishery Management Council are in effect. Pursuant to C.E.Q. guidelines, 40 CFR § 1500, et seq., the Secretary has prepared DEIS's outlining a proposed management plan for foreign fishing and describing the potential environmental consequences of taking such action. These draft regulations are to implement the conditions and restrictions concerning foreign fishing as described in the DEIS's in the area over which the United States exercises exclusive management authority and preliminary fishery management plans prepared by the Secretary. The regulations which are finally promulgated shall be effective on March 1, 1977.

§ 611.2 Definitions.

In addition to definitions contained in the Act, and unless the context otherwise requires, in this part 611, the following definitions apply (some definitions in the Act have been repeated here to aid foreign fishermen in understanding the regulations).

Act means the Fishery Conservation and Management Act of 1976, Public Law 94–265 (16 U.S.C. 1801–1882).

Administrator means the Administrator, National Oceanic and Atmospheric Administration or his designee.

Anadromous species means species of fish beyond the territorial sea which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

Area over which the United States exercises exclusive fishery management authority means:

(1) All fish within the fishery conservation zone;

(2) All anadromous species throughout this migratory range of beyond the fishery conservation zone, except during the time they are within any foreign nation's territorial sea or fishery conservation zone (for the equivalent), as recognized by the United States.

(3) All Continental Shelf fishery resources beyond the fishery conservation zone.

Associate Administrator means the Associate Administrator for Marine Resources, National Oceanic and Atmospheric Administration.

Authorized officer means any commissioned, warrant or petty officer of the Coast Guard and any enforcement agent of the National Marine Fisheries Service and any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary or the Secretary of the Department in which the Coast Guard is operating to enforce the provisions of the Act.

Continental Shelf means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

Director means Director, National Marine Fisheries Service, Washington, D.C. or his designee.

Fish means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life except marine mammals, birds and highly migratory species.

Fishery means:

(1) One or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(2) Any fishing for such stocks.

Fishery conservation zone means the established zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. The inner boundary of the fishery conservation zone is a line coterminous with the seaward boundary of each of the Coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

Fishery product means any fishery product, fresh or which has been preserved by any recognized commercial process, including, but not limited to, canning, freezing, dehydrating, drying or the addition of chemical substances.

Fishery resource means any fishery, any stock of fish, any species of fish, and any habitat of fish.

Fishing means:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described in subparagraphs (1) through (3).

The term fishing, does not include any scientific research activity which is conducted by a scientific research vessel.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(1) Fishing; or

(2) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Foreign fishing means fishing by a vessel other than a vessel of the United States.

Foreign fishing vessel means any vessel other than a vessel of the United States used as a fishing vessel.

Governing International Fishery Agreement (GIFA) means a written

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agreement between the Government of the United States and the government of a forign nation in which the foreign nation acknowledges the exclusive fishery management authority of the United States, as set forth in the Act, and includes a binding commitment on the part of such foreign nation that it will take measures to ensure that the owners or operators of any fishing vessels from that Nation comply with all of its provisions.

Highly migratory species means any species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean.

Existing international fishery agreement means any bilateral of multilateral treaty, convention, agreement which relates to fishing and to which the United States is a party and which was in effect on April 13, 1976.

Permit means a written authorization issued by the Secretary or his designee allowing foreign vessels to engage in fishing in accordance with a governing international fishery agreement and the regulations promulgated under any applicable preliminary management plan, or any applicable fishery management plan.

Secretary means the Secretary of Commerce or his designee.

State means each of the several States, the District of Columbia, the commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

United States, when used in a geographical context, means all the States thereof.

Vessel days on the grounds means the number of catcher-vessels operating in the Washington-California trawl fishery during any day or part of a day, whether or not their nets are actually deployed, except those that are clearly transiting through and not in any respect engaged in that trawl fishery.

Vessel of the United States means any vessel documented under the laws of the United States or registered under the laws of any State.

§ 611.3 Permits for foreign fishing vessels.

After February 28, 1977, no foreign vessel shall engage in fishing for fish over which the United States exercises exclusive fishery management authority unless it has on board a permit issued for it under this section.

(a) Permits for foreign vessels to engage in fishing pursuant to an existing international fishery agreement may be issued or renewed annually by the Secretary of State upon application from the sponsoring country and payment of the administrative fee established by the Secretary of State.

(b) Permits for foreign vessels to engage in fishing pursuant to a governing international fishery agreement may be issued or renewed annually by the Secretary upon:

(1) His approval of an application from the sponsoring country;

(2) The sponsoring country's acceptance of the terms and conditions of the proposed permit; and

(3) The payment of the fee established by the Secretary.

(c) The sponsoring country shall submit a permit application and associated vessel data to the Secretary of State at least 120 days prior to the date on which the foreign vessel desires to commence fishing under the proposed permit.

(d) Permit applications and associated vessel data shall be submitted on forms available from: Office of Fisheries Affairs, Department of State (OES/OFA), Washington, D.C. 20520.

§ 611.4 Vessel reporting.

(a) The operator or agent of every foreign vessel issued a permit shall notify the regional director indicated in the accompanying table of the time and approximate position it intends to commerce the activity authorized by the permit at least 24 hours before beginning that activity. Similar notice shall be given at least 24 hours prior to completion of the activity or departure from the area.

Vessels authorized to fish in this area	*Shall notify the director of the National Marine Fisheries Service at—*
Eastern Pacific Ocean.	Southwest region, Terminal Island, Calif.
Northeast Pacific Ocean.	Northwest region, Seattle, Wash.
North Pacific Ocean and Bearing Sea.	Alaska region, Juneau, Alaska.
Atlantic Ocean north of Cape Hatteras.	Northeast region, Gloucester, Mass.
Atlantic Ocean south of Cape Hatteras, and the Gulf of Mexico.	Southeast region, St. Petersburg, Fla.

(b) The required notice may be delivered via United States Coast Guard communications stations by the means and methods indicated in the accompanying tables using call sign "Any Coast Guard communications station" for voice communications and "NCG" for radiotelegraphy.

[In kilohertz]

Radiotelegraphy 500 kHz	Voice 2182 kHz—Duplex high frequency single sideband	
	Shore transmit	Vessel transmit
Common channels 5 and 6 of the 8 mHz, 12 mHz and 16 mHz bands, ITU radio regulations, app. 15C.	4393.4	4094.8
	6521.8	6207.2
	8760.8	8226.8
	[1] 13144	12365
	[1] 17290	[1] 16495

[1] Available as needed; not guarded continuously.

§ 611.5 Vessel identification.

(a) Each foreign vessel for which a permit has been issued shall display its hull number or international radio call sign amidships on the deck house or hull using contrasting block Roman alphabet letters and Arabic numerals at least one meter in height.

(b) The operator of each vessel shall keep the identifying markings in good repair and illuminate them upon the request of an authorized officer.

(c) The identifying markings shall be displayed so that no part of the vessel, its rigging or its fishing gear obstructs the view of them from an enforcement vessel or aircraft.

§ 611.6 Facilitation of enforcement procedures.

The operator of any vessel subject to the provisions of the Act shall immediately comply with instructions issued by authorized officers to facilitate boarding and inspection of the vessel for purposes of enforcing the Act and these regulations.

(a) Upon being approached by a Coast Guard cutter or aircraft or other vessel or aircraft authorized to enforce the Act, the foreign vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly;" and

(2) "SQ3" meaning "You should stop or heave to; I am going to board you."

(b) A vessel signalled to stop or heave to for boarding shall:

(1) Stop immediately and lay to, or shall maneuver in such a way as to permit the authorized officer and his party to come aboard;

(2) Provide a ladder for the authorized officer and his party; and

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as may facilitate the boarding.

§ 611.8 Observers.

For the purposes of collecting scientific data and carrying out such other management activities as he may authorize, the Secretary may assign an observer to any foreign vessel fishing for fish over which the United States exercises exclusive fishery management authority. The owner or operator of any foreign vessel to which such an observer is assigned shall:

(a) Provide the observer accommodations aboard the vessel which are equivalent to those provided to the officers of that vessel;

(b) Reimburse the United States for the salary of the observer and such other costs which, in the opinion of the Secretary, are directly attributable to the work of the observer aboard the vessel or his transportation to and from the vessel;

(c) Cause the vessel to proceed to such places and at such times as may be designated by the Regional Director of the National Marine Fisheries Service for the purpose of embarking and debarking the observer; and

(d) Allow the observer to use the vessel's communications equipment and personnel as necessary for the transmission and receipt of messages appropriate to the performance of his duties.

§ 611.9 Reports and recordkeeping.

(a) The master or operator of a foreign fishing vessel holding a permit shall maintain on a daily basis an accurate log on which he shall record the following information immediately upon the retrieval of his fishing gear or within six hours of the last set: date, position, depth of water, type of gear in use, depth of gear fished, time of gear in water, and estimated weight or number by species of all fish caught in the previous haul.

(b) The transfer of any fish or fishery product should be recorded in the logbooks including the date, time, position, estimate weight or number, species of all fish transferred and the name, nationality and identification of the vessel receiving the transfer.

(c) In addition to the logbook, the master or operator of a foreign fishing vessel holding a permit shall provide to the Director in such a form and at such times as he may prescribe, such other requested information necessary in order to carry out the purposes and objectives of the Act.

§ 611.7 Prohibitions.

(a) It shall be unlawful for any master or operator in charge of a foreign vessel engaged in fishing to:

(1) violate any provision of the Act, or any applicable regulation or permit issued pursuant to the Act;

(2) violate any provision of or regulation under, any applicable governing international fishery agreement or existing international fishery agreement;

(3) refuse to permit a duly authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act or any regulation, permit, or agreement referred to in subparagraph (1) or (2) above;

(4) forcibly assault, resist, oppose, impede, intimidate, or interfere with any duly authorized officer in the conduct of any search or inspection described in subparagraph (3);

(5) resist a lawful arrest for any act prohibited by this section;

(6) ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in subparagraph (1) or (2); or

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; and

(b) It shall be unlawful for any foreign fishing vessel and for the owner or master of any such vessel to engage in fishing

(1) within the boundaries of any State; or

(2) within the area over which the United States exercises exclusive fishery management authority, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit.

Subpart B—Surpluses

§ 611.20 Allowable level.

(a) The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States.

(b) These surpluses are preliminary estimates essentially based on published "DEIS's and PMP's" and are subject to modification. The surpluses for foreign fishing for 1977 by ocean area are estimated as follows:

Fishery	Ocean area	Quantity metric tons
Silver hake	Atlantic	92,500
Atlantic herring	do	22,000
Atlantic mackerel	do	60,000
Short-finned squid	do	23,500
Long-finned squid	do	19,000
Red hake	do	35,500
Other finfish	do	60,000
Rockfish	Pacific	68,500
Sablefish	do	24,900
Flounders (except halibut)	do	238,400
Pacific cod	do	58,300
Alaska pollock	do	967,000
Atka mackerel	do	22,000
Pacific hake	do	143,200
Other groundfish	do	111,400
Herring	do	20,000
Snails (meats)	do	3,000
Tanner crab	do	10,200
Pelagic armorheads	do	2,000

(c) The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the surpluses identified in paragraph (b).

(d) The foreign nation and the owners or operators of all of the fishing vessels of such nation shall not, in any year, exceed such nation's allocation of the total allowable level of foreign fishing.

Subpart C—Atlantic

§ 611.50 Hake.

(a) *Purpose*—Regulations of this section shall apply to silver hake (*Merluccius bilinearis*) and red hake (*Urophycis chuss*), taken by foreign fishing vessels with a valid permit during the period March 1, 1977 to December 31, 1977 within the Atlantic Ocean area over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this subpart will have the meanings ascribed to them in subpart A of these regulations.

(b) *Catch quota or effort limitation*—Annual catch quotas for silver hake and red hake allocated for 1977 only are as follows:

(1) Silver hake (*Merluccius bilinearis*).

(i) East of 70°00 W. longitude to 67°00 W. longitude in depths from 75 meters to 145 meters shall not exceed 55,000 metric tons.

(ii) West of 70°30' W. longitude (Hudson Canyon) in depths from 75 to 145 meters shall not exceed 37,500 metric tons.

(2) Red hake (*Urophycis chuss*).

(i) East of 70°00 W. longitude to 67°00 W. longitude in depths from 75 meters to 145 meters shall not exceed 14,500 metric tons.

(ii) West of 70°00 W. longitude to 72°30' W. longitude (Hudson Canyon) in depths from 75 meters to 145 meters shall not exceed 21,000 metric tons.

(c) *Open season and areas*—The open season for directed fishing for silver hake and red hake by foreign fishing vessels shall begin on May 1, 1977, and extend through June 30, 1977, in the area from Hudson Canyon 72°30' W. to 67°00 W. longitude in depths between 75 and 145 meters. Specific coordinates of the authorized hake fishing area are as follows:

39°45' N. lat., 72°33' W. long.; 40°36' N. lat., 71°24' W. long.; 40°30' N. lat., 69°29' W. long.; 40°40' N. lat., 68°31' W. long.; 41°17' N. lat., 67°00' W. long.; 40°42' N. lat., 67°00' W. long.; 40°15' N. lat., 68°35' W. long.; 40°07' N. lat., 70°18' W. long.; 40°14' N. lat., 71°22' W. long.; 39°37' N. lat.; 72°16' W. long.; 39°45' N. lat., 72°33' W. long.

(d) *Closed season and areas*—National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of silver hake and red hake, such determination shall be made to the appropriate agent or a government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for silver or red hake in the authorized area, but may continue to take and possess only these amounts of silver or red hake in accordance with the incidental catch provision of paragraph (g).

(e) *Gear restrictions*—None.

(f) *Statistical reporting*—The owner or operator of any foreign fishing vessel shall maintain catch and effort information and shall report such information through its government to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts, U.S.A. 02543.

(1) Three months after the close of each quarter, catch and effort statistics for biweekly time periods for 0°30' square areas shall be reported by vessel for the previous quarter. These will be reported using 0°30' square Statlant 21B Forms or magnetic tape, computer cards, or printouts for all species and gear types.

(2) The owner or operator of any foreign fishing vessel shall be required to obtain scientific samples of fish catches in accordance with established procedures agreed to under the Governing International Fisheries Agreements (GIFAS).

(3) The Secretary may require from time to time additional information concerning the operations of fishing vessels of a foreign country. Such information shall be provided in accordance with the procedures provided to the vessels or country.

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(g) *Incidental catch*—The taking of herring or mackerel is permitted as an incidental catch in the directed silver hake or red hake fishery. The quantity of herring or mackerel shall not exceed the incidental catch allocation provided to the foreign country. When the allocation of herring or mackerel has been reached prior to reaching the allocation of silver or red hake, fishing for silver hake or red hake shall cease. Upon determination that a foreign country has caught its assigned quota of silver or red hake, the directed fishing by that country will be closed for those species as provided in paragraph (d). Subsequently incidental catch of that species shall be limited to no more than 1 percent of the total weight of the catch on board any vessel for which the fishery has been closed.

(h) *River Herring*—Foreign vessels fishing for silver or red hake may not have on board at any time river herring (alewives or blueback) in an amount not to exceed 5,510 pounds (2,500 kg.) or one (1) percent of all other fish on board, whichever is greater.

§ 611.51 Squids.

(a) *Purpose*—Regulations of this section shall apply to short-finned squid (*Illex illecebrosus*) and long-finned squid (*Loligo pealei*), taken by foreign fishing vessels with a valid permit during the period March 1, 1977 to December 31, 1977 within the Atlantic Ocean area over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this subpart will have the meanings ascribed to them in Subpart A of these regulations.

(b) *Catch quota or effort limitation*—Annual catch quotas for short-finned squid and long-finned squid allocated for 1977 only are:

(1) Short-finned squid—23,500 metric tons.

(2) Long-finned squid—19,000 metric tons.

(c) *Open season and areas*—The open season for directed fishery for short-finned squid and long-finned squid by foreign fishing vessels shall begin on July 1, 1977, in the area along the Continental Shelf eastward from 37°00′ N. latitude, 74°40′ W. longitude to 69°00′ W. longitude in depths between 150 and 1000 meters. Specific coordinates of the authorized squid fishing area are as follows:

37°00′ N. lat., 74°49′ W. long.; 38°14′ N. lat., 73°53′ W. long.; 39°42′ N. lat., 72°27′ W. long.; 40°22′ N. lat., 71°02′ W. long.; 40°10′ N. lat., 69°29′ W. long.; 40°17′ N. lat., 69°00′ W. long.; 39°55′ N. lat., 69°00′ W. long.; 39°52′ N. lat., 69°26′ W. long.; 39°47′ N lat., 71°23′ W. long.; 39°05′ N. lat., 72°35′ W. long.; 38°04′ N. lat., 73°45′ W. long.; 37°00′ N. lat., 74°30′ W. long.; 37°00′ N. lat., 74° 49′ W. long.

(d) *Closed season and areas*—National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of short-finned squid and long-finned squid, such determination shall be made to the appropriate agent or a government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for short-finned squid in the authorized area, and may continue to take and possess only those amounts of short-finned or long-finned squid in accordance with the incidental catch provison of paragraph (g).

(e) *Gear restrictions*—None.

(f) *Statistical reporting*—The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts, U.S.A. 02543.

(1) Three months after the close of each quarter, catch and effort statistics for biweekly time periods for 0°30′ square areas shall be reported by vessel for the previous quarter. These will be reported using 0°30′ square Statlant 21B Forms or magnetic tape, computer cards, or printouts for all species and gear types.

(2) The owner or operator of any foreign fishing vessel shall be required to obtain scientific samples of fish catches in accordance with established procedures agreed to under the governing international fisheries agreements (GIFAS).

(3) The Secretary may require from time to time additional information concerning the operations of foreign fishing vessels of a foreign country. Such information shall be provided in accordance with the procedures provided to the vessels or country.

(g) *Incidental catch*—The taking of herring, mackerel or butterfish is permitted as an incidental catch in the directed short-finned squid or long-finned squid fishery. The quantity of herring, mackerel or butterfish shall not exceed the incidental catch allocation provided to the foreign country. When the allocation of herring, mackerel or butterfish has been reached prior to reaching the allocation of short-finned or long-finned squid, fishing for short-finned or long-finned squid shall cease. Upon determination that a foreign country has caught its assigned quota of short-finned or long-finned squid, the directed fishing by that country will be closed as provided in paragraph (d). Subsequently incidental catch of that species shall be limited to no more than 1 percent of the total weight of the catch on board any vessel for which the fishery has been closed.

(h) *River herring*—Foreign vessels fishing for short-finned or long-finned squid may have on board at any time river herring (alewives or blueback) in an amount not to exceed 5,510 pounds (2,500 kg.) or one (1) percent of all other fish on board, whichever is greater.

§ 611.52 Atlantic Mackerel.

(a) *Purpose*—Regulations of this section shall apply to Atlantic mackerel (*Scomber scombrus*) taken by foreign fishing vessels with a valid permit during the period March 1, 1977 to December 31, 1977 within the Atlantic Ocean area over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this subpart will have the meanings ascribed to them in subpart A of these regulations.

(b) *Catch quota*—The 1977 catch quota for Atlantic Mackerel shall not exceed 69,000 metric tons.

(c) *Open season and areas*—The open season for the directed fishery for Atlantic mackerel by foreign fishing vessels shall be from October 1, 1977 to December 31, 1977 in the area along the Continental Shelf bounded by straight lines joining the coordinates specified below:

38°05′ N. lat., 74°20′ W. long.; 37°30′ N. lat., 73°45′ W. long.; 38°50′ N. lat., 72°20′ W. long.; 39°12′ N. lat., 72°49′ W. long.; 39°40′ N. lat., 72°30′ W. long.; 45°05′ N. lat., 71°38′ W. long.; 39°30′ N. lat., 71°20′ W. long.; 40°20′ N. lat., 67°00′ W. long.; 40°50′ N. lat., 67°00′ W. long.; 40°30′ N. lat., 69°00′ W. long.; 40°30′ N. lat., 71°50′ W. long.; 39°52′ N. lat., 72°42′ W. long.; 39°25′ N. lat., 73°05′ W long.; 38°05′ N. lat., 74°20′ W. long.

(d) *Closed season and areas*—National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for Atlantic mackerel under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of Atlantic mackerel, such determination shall be made to the appropriate agent or a government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for Atlantic mackerel in the authorized area, and may continue to take and possess only those amounts of Atlantic herring in accordance with theincidental catch provisions of paragraph (g).

(e) *Gear restrictions*—(1) It shall be unlawful for any foreign vessel fishing for Atlantic mackerel, under this section to use any other gear than pelagic gear (purse seines or true midwater trawls, using midwater trawl doors incapable of being fished on the bottom).

(2) It shall be unlawful for any foreign fishing vessel fishing for Atlantic mackerel to attach any protective device to pelagic gear or to employ any means that would, in effect, make it possible to fish for demersal species in the authorized area described in paragraph (c).

(f) *Statistical reporting*—The owner or operator of any foreign fishing vessel shall maintain catch and effort information andshall report such information through its government to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts, U.S.A. 02543.

(1) Three months after the close of each quarter, catch and effort statistics for biweekly time periods for 0°30′ square areas shall be reported by vessel for the previous quarter. These will be reported

using 0°30′ square Statlant 21B Forms or magnetic tape, computer cards, or printouts for all species and gear types.

(2) The owner or operator of any foreign fishing vessel shall be required to obtain scientific samples of fish catches in accordance with established procedures agreed to under the Governing International Fisheries Agreements (GIFAS).

(3) The Secretary may require from time to time additional information concerning the operations of fishing vessels of a foreign country. Such information shall be provided in accordance with the procedures provided to the vessels or country.

(g) *Incidental catch*—The taking of other allocated species is permitted as an incidental catch in the directed Atlantic mackerel fishing. The quantity of any allocated species shall not exceed the allocation provided to the foreign country. When the allocation of any of the other species has been reached prior to reaching the allocation of Atlantic mackerel, fishing for Atlantic mackerel shall cease. Upon determination that a foreign country has caught its assigned quota of Atlantic mackerel, the directed fishing by that country will be closed as provided in paragraph (d). Subsequently, incidental catch of that species shall be limited to no more than 3 percent of the total weight of the catch on board any vessel for which the fishery has been closed.

§ 611.53 Atlantic herring.

(a) *Purpose*—Regulations of this section shall apply to Atlantic herring (*Clupea harengus*) taken by foreign fishing vessels with a valid permit during the period March 1, 1977 to December 31, 1977 within the Atlantic Ocean area over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this subpart will have the meanings ascribed to them in subpart A of these regulations.

(b) *Catch quota or vessel limitation*—The 1977 catch quota for Atlantic herring shall not exceed 22,000 metric tons.

(c) *Open season and areas*—The open season for the directed fishery for Atlantic herring by foreign fishing vessels shall be from August 15, 1977 to September 30, 1977 in Division 5Z of Subarea 5 of the ICNAF convention area, in adjacent waters to the west and south within Statistical Area 6, and in an area bounded by straight lines joining the following coordinates: 42°10′N.; 69°00′W., 42°10′ N.; 68°35′W., 41°30′N.; 68°35′W., 41°10′ N.; 69°00′W.

(d) *Closed season and areas*—National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for Atlantic herring under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of Atlantic herring, such determination shall be made to the appropriate agent or a government official of the country. Such notification shall not be given to the foreign country less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for Atlantic herring in the authorized area, but may continue to take and possess only those amounts of Atlantic herring in accordance with the incidental catch provision of paragraph (g).

(e) *Gear restrictions*—(1) It shall be unlawful for any foreign vessel fishing for Atlantic herring, under this section, to use any other gear than pelagic gear (purse seines or true midwater trawls, using midwater trawl doors incapable of being fished on the bottom).

(2) It shall be unlawful for any foreign fishing vessel fishing for Atlantic herring to attach any protective device to pelagic gear or to employ any means that would in effect, make it possible to fish for demersal species in the authorized area described in paragraph (c).

(f) *Statistical reporting*—The owner or operator of any foreign fishing vessel shall maintain catch and effort information and shall report such information through its government to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts, U.S.A. 02543.

(1) Three months after the close of each quarter, catch and effort statistics for biweekly time periods for 0°30′ square areas shall be reported by vessel for the previous quarter. These will be reported using 0°30′ square Statlant 21B Forms or magnetic tape, computer cards, or printouts for all species and gear types.

(2) The owner or operator of any foreign fishing vessel shall be required to obtain scientific samples of fish catches in accordance with established procedures agreed to under the Governing International Fisheries Agreements (GIFAS).

(3) The Secretary may require from time to time additional information concerning the operations of fishing vessels of a foreign country. Such information shall be provided in accordance with the procedures provided to the vessels or country.

(g) *Incidental catch*—The taking of other allocated species is permitted as an incidental catch in the directed Atlantic herring fishery. The quantity of any allocated species shall not exceed the incidental catch allocation provided to the foreign country. When the allocation of any of the other species has been reached prior to reaching the allocation of Atlantic herring, fishing for Atlantic herring shall cease. Upon determination that a foreign country has caught its assigned quota of Atlantic herring, the directed fishing by that country will be closed as provided in paragraph (d). Subsequently incidental catch of that species shall be limited to no more than 3 percent of the total weight of the catch on-board any vessel for which the fishery has been closed.

(h) *River herring*—Foreign vessels fishing for Atlantic herring may not have on board at any time river herring (alewives or blueback) in an amount not to exceed 5,510 pounds (2,500 kg.) or one (1) percent of all other fish on board, whichever is greater.

§ 611.54 Other finfish.

(a) *Purpose*—Regulations of this section shall apply to all species except cod, haddock, redfish, silver hake, red hake, pollock, sea herring, mackerel, flounder, swordfish, sharks except dogfish, billfish, and menhaden taken by foreign fishing vessels with a valid permit during the period March 1, 1977 to December 31, 1977 within the Atlantic Ocean area over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this subpart will have the meanings ascribed to them in subpart A of these regulations.

(b) *Catch quota or vessel limitation*—The 1977 catch quota for other finfish taken by foreign fishing vessels shall not exceed 60,000 metric tons. Within the total allocation of 60,000 metric tons, specific limitations are provided for dogfish (40,000 metric tons), butterfish (5,500 metric tons), and argentine (25,000 metric tons).

(c) *Open season and areas*—The taking of other finfish is authorized during the fishing activity for other allocated species in the areas and during the periods prescribed.

(d) *Closed season and areas*—National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of other finfish, such determination shall be made to the appropriate agent or a government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for other finfish in the authorized area, but may continue to take and possess only those amounts of other finfish in accordance with the incidental catch provision of paragraph (g).

(e) *Gear restrictions*—None.

(f) *Statistical reporting*—The owner or operator of any foreign fishing vessel shall maintain catch and effort information and shall report such information through its government to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts, U.S.A. 02543.

(1) Three months after the close of each quarter, catch and effort statistics for biweekly time periods for 0°30′ square areaas shall be reported by vessel for the previous quarter. These will be reported using 0°30′ square Statlant 21B Forms or magnetic tape, computer cards, or printouts for all species and gear types.

(2) The owner or operator of any foreign fishing vessel shall be required to obtain scientific samples of fish catches in accordance with established procedures agreed to under the Governing International Fisheries Agreements (GIFAS).

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(3) The Secretary may require from time to time additional information concerning the operations of fishing vessels of a foreign country. Such information shall be provided in accordance with the procedures provided to the vessels or country.

(g) *Incidental catch*—The taking of other allocated species is permitted as an incidental catch in other directed fisheries. The total quantity of other finfish shall not exceed the allocation provided to the foreign country. When the allocation of the other finfish has been reached prior to reaching the allocation of any directed fishery, fishing for the directed fishery shall cease.

(h) *River herring*—Foreign vessels fishing for other finfish may not have on board at any time river herring (alewives or blueback) in an amount not to exceed 5,510 pounds (2500 kg.) or one (1) percent of all other fish on board, whichever is greater.

Subpart D—South Atlantic and Gulf of Mexico [Reserved]

Subpart E—Northeast Pacific

§ 611.70 Washington, Oregon, California, Trawl fishery.

(a) *Purpose*—Regulations of this section shall apply to all species of fish and invertebrates taken in trawl gear as specified below. Unless otherwise defined herein, all other terms used in this subpart will have the meaning ascribed to them in subpart A of these regulations.

(1) The regulatory area for taking of fish and invertebrates is the area seaward of the States of Washington, Oregon, and California over which the United States exercises exclusive fishery management authority.

(b) *Catch quota and effort limitation.*

(1) The 1977 maximum catch quotas for foreign fishermen in the Washington, Oregon, and California area is as follows:

Species:	*Catch quota (metric tons)*
Hake	143,200.
Pacific Ocean Perch and other Rockfish.	Incidental catch only, not to exceed 2 pct of hake catch.
Flounders	Incidental catch only, not to exceed 1 pct of hake catch.
Sablefish	Incidental catch only, not to exceed 0.5 pct of hake catch.
Jack mackerel	4,000.
Others	Incidental catch only, not to exceed 2 pct of hake catch.

(2) Total foreign effort limitations in vessel days on the grounds are as follows:

(i) Landward of 125°40′W—5,728.
(ii) Seaward of 125°40′W—none at this time.

(c) *Open season*—The open season for directed fishing for Pacific hake shall begin at 0001 hours on 1 June 1977 and terminate at 2400 hours on 31 October 1977, or until that nation's allocation of any species listed in (b) or the vessel-day limitation is reached, whichever is first.

(d) *Closed seasons and areas*—(1) The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of Pacific hake or have achieved their assigned effort limitation notice of such determination shall be given to the appropriate agent or a government official of the country. Such notification shall not be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for Pacific hake as of the specified closure date.

(2) Fishing by foreign vessels is prohibited at all times in the following areas:

(i) 47°30′N latitude to the U.S.-Canada boundary.

(ii) U.S.-Mexico boundary to 39°00′N latitude, landward of the following line: 39°00′N, 125°40′W to 32°30′N 120°00′W.

(iii) "Columbia River Pot and Recreational Fishery Sanctuary" is that area bounded by the following coordinates: 47°00′N, 125°20′ W; 46°00′N, 124°55′ W.

(iv) "Klamath River Pot Sanctuary" is that area bounded by the following coordinates: 41°37′N, 124°34′W; 41°37′N, 124°30′W; 41°20′N, 124°28′W; 41°20′N, 124°32′W; 41°37′N, 124°34′ W.

(e) *Gear restrictions.*

(1) No foreign vessel fishing for Pacific hake, under this subpart, shall use any gear other than a pelagic trawl with a minimum mesh size of 4.33 inches (110mm) stretched measure. No liners will be permitted in the cod end of the trawl.

(2) It shall be unlawful for any foreign fishing vessel fishing under this subpart to attach any protective device to pelagic fishing gear or to employ any means that would, in effect, make it possible to fish for demersal species or any device or method which would, or otherwise, have the effect of diminishing the size of the meshes.

(3) When the total allocation of any species authorized in the Washington, Oregon, California trawl fishery has been exceeded, trawling in that fishery shall cease for the remainder of the calendar year.

(f) *Statistical reporting*—The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Northwest Region, National Marine Fisheries Service, Seattle, Washington, U.S.A. 98019.

(1) Annual—Each nation whose fishermen operate in the Area shall report by May 30 of the following year, annual catch and effort statistics, as follows: Effort in hours trawled, by vessel class, by gear type, by month, by ½° (Lat.) x 1° (Long.) statistical area; Catch in metric tons, by vessel class, by gear type, by month by ½° (lat.) x 1° (Long.) statistical area, by the following species groupings: Pacific hake; jack mackerel; Pacific ocean perch; other rockfishes; sablefish; dover sole; other flounders; anchovies; herring; any other species taken in excess of 1,000 m.t.; other fishes.

(2) Monthly—In addition to the annual statistical report in (1) above, each nation shall report by the end of the following month, provisional monthly fishery information as follows: Effort in vessel-days on the grounds (by vessel-class and gear type); and Catch in metric tons of Pacific hake, jack mackerel, rockfishes, flounders, and others for each of the following areas: Conception; Monterey; Eureka; Columbia; and Vancouver (including that portion off Canada).

Subpart F—Western Pacific

§ 611.80 Seamount trawl fishery.

(a) *Purpose*—Regulations of this section shall apply to Pelagic armorheads (*Pentaceros richardsoni*) and Alfonsins (*Beryx splendens*), and shall also apply to the following species of precious corals taken incidentally to the direct fishing for Pelagic armorheads: Red or Pink Corals (*Corallium* spp.), Gold Corals (*Parazoanthus* spp.), Bamboo Corals (*Acanella* spp.) and Bamboo Corals (*Keratoisis* spp.), during the period March 1, 1977 to December 31, 1977, in the Pacific Ocean over which the United States exercises exclusive fishery management authority.

(b) *Catch and Vessel Day quotas.*

(1) The annual vessel day limit by foreign registered vessels fishing for pelagic armorheads and alfonsins within the Fishery Conservation Zone in the Western Pacific shall not exceed 60 vessel days.

(2) The annual catch quota by foreign registered vessels fishing for pelagic armorheads and alfonsins within the Fishery Conservation Zone in the Western Pacific shall not exceed 2,000 MT (metric tons) of either species or an aggregate of the combined species.

(c) *Open season.* The open season for pelagic armorheads and alfonsins fishing by foreign registered fishing vessels fishing in the Fishery Conservation Zone in the Western Pacific shall begin at 0001 hours March 1, 1977 and terminate at a time and date to be determined.

(d) *Closed season and areas.* The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for pelagic armorheads and alfonsins in the Fishery Conservation Zone seaward of Guam, Hawaii, and American Samoa. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of pelagic armorheads and alfonsins, or have used their allocation of vessel days, notice of such determination shall be given to the appropriate agent or a government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for pelagic armorheads and alfonsins as of the specified closure date.

(2) It shall be unlawful for foreign registered vessels to fish for pelagic armorheads and alfonsins in the Fishery Conservation Zone in the Central and Eastern Pacific east of the 180° meridian.

(e) *Gear restriction.* No gear other than trawl gear shall be used.

(f) *Statistical reporting.* (1) the master or operator of every foreign vessel fishing for pelagic armorheads and alfonsins in the U.S. Fishery Conservation Zone in the Western Pacific shall maintain an accurate log book of fishing operations. The log book shall contain data for each haul as follows:

(i) Catch, by individual species, to the nearest one-tenth (0.1) MT.

(ii) The time at the beginning of the haul and the total durtaion of the haul to the nearest five (5) minutes.

(iii) The location at the midpoint of each haul to the nearest one-tenth (0.1) minute of latitude and longitude.

(iv) The average depth of the seabottom to the nearest fathom.

(v) The average fishing depth of the footrope to the nearest fathom.

(vi) The average fishing speed of the vessel (towing speed) to the nearest one-half (0.5) knot.

(vii) The date.

(viii) The vessel permit number.

(ix) The codend mesh size to the nearest millimeter.

(x) The length of the footrope to the nearest one-tenth (0.1) meter and average distance between footrope and headrope to the nearest one-tenth (0.1) meter.

(2) The records described in (1) above shall be furnished to the U.S. observer at such time as the observer requests the records.

(g) *Reporting incidental take of precious coral.* (1) All incidental catches of precious coral shall be documented as follows:

(i) Permit number of the vessel involved.

(ii) Location, to the nearest one-tenth (0.1) minute of latitude and longitude, where the precious coral was taken incidentally.

(iii) Depth, to the nearest fathom, where the precious coral was taken incidentally.

(iv) The date on which the incidental catch occurred.

(v) The approximate weight, by genus, of the incidental catch.

(2) The above data should be furnished to the NMFS observer on board the vessel. If the vessel does not have an NMFS observer, then the data shall be mailed to the Regional Director (Office of the Regional Director, Southwest Region, National Marine Fisheries Service, NOAA/DOC, 300 South Ferry Street, Terminal Island, California 90731) within one (1) week after the vessel puts into any port.

Subpart G—North Pacific Ocean and Bering Sea

§ 611.90 Crabs.

(a) *Purpose*—Regulations of this section shall apply to: Red king crab (*Paralithodes camtschatica*), Blue king crab (*Paralithodes platypus*), brown king crab (*Lithodes aequispina*), snow (Tanner) crabs (*Chionoecetes bairdi* and *C. opilio*), taken by foreign fishing vessels with a valid permit during the period March 1, 1977 to December 31, 1977 within the North Pacific Ocean and Bering Sea over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this Subpart will have the meanings ascribed to them in Subpart A of these regulation.

(b) *Area quotas*—(1) No more than 10,200 metric tons of snow (Tanner) crab may be taken by foreign fishing vessels from that portion of the Bering Sea area over which the United States exercises fishing jurisdiction north of 55°30′ N. lat. and west of 164° W. long.

(2) No more than 2,500 metric tons of the snow (Tanner) crab quota designated in (b) (1), may be taken by foreign fishing vessels from the area bounded by straight lines connecting the following coordinates in the order listed:

58°09′ N. lat., 164°00′ W. Long.; 57°00′ N. lat., 168°00′ W. long.; 57°40′ N. lat., 169° 50′ W. long.; 57°40′ N. lat., 170°50′ W. long.; 57°00′ N. lat., 170°50′ W. long., 56°20′ N. lat., 169°55′ W. long.; 56°20′ N. lat., 168° 00′ W. long.; 55°30′ N. lat., 168°00′ W. long.; 55°30′ N. lat., 165°00′ W. long.; 58°09′ N. lat., 164°00′ W. long.

(c) *Open season*—The open season for crab fishing by foreign vessels in the Bering Sea area over which the United States exercises fishery management authority shall begin at 0801 GMT on March 1, 1977, and terminate at a time and date to be determined and announced.

(d) *Closed season and areas*—(1) The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of crab, notice of such determination shall be given to the appropriate agent or a government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for crab as of the specified closure date.

(2) It shall be unlawful for any foreign fishing vessel to fish for crabs at any time East of 164° W. Longitude and South of 55°30′ N. Latitude in the Bering Sea, and throughout the Northeastern Pacific Ocean.

(e) *Gear restrictions*—It shall be unlawful for any foreign fishing vessels fishing in the authorized area for crabs to use gear other than pots.

(f) *Statistical reporting*—The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska, U.S.A. 99801.

(1) Annual—Each nation whose fishermen operate in the area shall report by May 30 of the following year, annual catch and effort statistics as follows: Effort in pots hauled and hours pots soaked Catch in metric tons and number of crabs. Each to be supplied by vessel class, by 10-day period, by 1/2° (Lat.) by 1° (Long.) statistical area, by the following species: Snow (Tanner) crab (*Chionoecetes bairdi* and *C. opilio*), and any other crab species.

(2) 10-day Periods—Each country will report within 3 days following each 10-day fishing period, provisional 10-day fishery information as follows: Effort in total pot lifts; and Catch in metric tons and number of crabs of *C. opilio* and *C. bairdi* separated by the area described in (b) (2) and by the area outside that described in (b) (2).

(g) *Prohibitions*—No master or any other person in charge of any foreign vessel engaged in fishing for crabs under this subpart shall:

(1) Conduct a directed fishery for, or retain any species of crab other than snow (tanner) crab.

(2) Engage in crab fishing with any other gear than pot gear.

(3) Process crabs except on designated factory ships.

(4) Retain and process female crabs; female crabs must be discarded immediately after the pots are taken aboard in a manner that will minimize handling mortality.

(5) Take aboard crabs in a manner in which the observer can not verify the total weight of crabs taken aboard.

(6) Conduct any crab fishing within 12 miles of the baseline used to measure the U.S. Territorial Sea.

(7) Engage in fishing in the area unless the vessel has a valid permit from the United States.

(8) Violate any other provision, condition, or restriction of any regulation or permit issued under this part.

§ 611.91 Gulf of Alaska Trawl Fishery.

(a) *Purpose*—Regulations of this section shall apply to all species of fish and invertebrates taken in trawl gear during the period March 1, 1977 to December 31, 1977 in the Gulf of Alaska which includes that portion of the eastern North Pacific Ocean between the eastern end of the Aleutian Island chain (near 170° W.) and Dixon Entrance (near 54°30′ N.) over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this section will have the meanings ascribed to them in subpart A of these regulations.

(b) *Catch quota*—The 1977 maximum catch quotas for foreign fishermen in the Gulf of Alaska are as follows:

Species:	*Catch quota (metric tons)*
Pollock	125,000
Rockfishes (primarily Pacific Ocean perch)	47,000
Flounders	30,500
Sablefish	[1] 4,000
Atka mackerel	22,000
Cod	1,300
Others (combination)	14,900

[1] Incidental catch only in trawl fishery not to exceed 2 pct of total trawl catch.

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(c) *Open season*—The open season for foreign fishing in the Gulf of Alaska shall begin at 0801 GMT hours on March 1, 1977 unless otherwise stated in the time-area closures in section (d).

(d) *Closed season and areas*—(1) The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation, notice of such determination shall be given to the appropriate agent or a government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for those species as of the specified closure date. Fishing by foreign vessels is prohibited in the areas and during the time periods described below:

(i) Six "Kodiak Gear Areas", bounded respectively by straight lines connecting in each of the following groups the coordinates in the order listed, shall be closed to foreign fishing August 10, 1977 to December 31, 1977 inclusive.

(i) 57°15′ N. lat., 154°51′ W. long.; 56°57′ N. lat., 154°34′ W. long.; 56°21′ N. lat., 155°40′ W. long.; 56°26′ N. lat., 155°55′ W. long.

(ii) 56°27′ N. lat., 154°06′ W. long.; 56°46′ N. lat., 155°27′ W. long; 55°40′ N. lat., 155°17′ W. long.; 55°48′ N. lat., 155°00′ W. long.; 55°54′ N. lat., 154°55′ W. long.; 56°03′ N. lat., 154°36′ W. long.; 56°03′ N. lat., 153°45′ W. long.; 56°30′ N. lat., 153°45′ W. long.; 56°30′ N. lat., 153°49′ W. long.; 56°27′ N. lat., 154°06′ W. long.

(iii) 56°30′ N. lat., 153°49′ W. long.; 56°30′ N. lat., 153°00′ W. long.; 56°44′ N. lat., 153°00′ W. long.; 56°57′ N. lat., 153°15′ W. long.; 56°45′ N. lat., 153°45′ W. long.; 56°30′ N. lat., 153°49′ W. long.

(iv) 57°05′ N. lat., 152°52′ W. long.; 56°54′ N. lat., 152°52′ W. long.; 56°46′ N. lat., 152°37′ W. long.; 56°46′ N. lat., 152°20′ W. long.; 57°19′ N. lat., 152°20′ W. long.; 57°05′ N. lat., 152°52′ W. long.

(v) 57°35′ N. lat., 152°03′ W. long.; 57°11′ N. lat., 151°14′ W. long.; 57°19′ N. lat., 150°57′ W. long.; 57°48′ N. lat., 152°00′ W. long.; 57°35′ N. lat., 152°03′ W. long.

(vi) 58°00′ N. lat., 152°00′ W. long.; 58°00′ N. lat., 150°00′ W. long.; 58°12′ N. lat., 150°00′ W. long.; 58°19′ N. lat., 151°29′ W. long.; 58°00′ N. lat., 152°00′ W. long.

(2) 58°30′ N. to 59°30′ N., between 147°40′ W. and 150°20′ W.; 57°40′ N. to 58°05′ N., between 148°50′ W. and 150°-30′ W.; 55°30′ N. to 56°25′ N., between 155°45′ W. and 156°30′ W. closed to foreign trawling from 5 days prior to 5 days after, the opening of U.S. halibut setline fishery.

(3) 163°04′ W. to 166°W. closed to foreign fishing year round.

(4) 147° W. to 157° closed to foreign trawling from February 16 to May 15.

(5) 140° W. to 147° W. closed to foreign trawling from December 1 to February 15.

(6) When the total allocation of any species authorized in the Gulf of Alaska trawl fishery has been exceeded, trawling within the Gulf of Alaska shall cease for the remainder of the calendar year.

(e) *Gear restrictions.*—None.

(f) *Statistical reporting.*—The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska, U.S.A.

(1) Annual—Each nation whose fishermen operate in the area shall report by May 30 of the following year—annual catch and effort statistics as follows: Effort in hours trawled, by vessel class, by gear type, by month, by 1/2° (lat.) x 1° (long.) statistical area; Catch in metric tons, by vessel class, by gear type, by month, by 1/2° (lat.) x 1° (long.) statistical area, by the following species groupings:

Rock sole; Flathead sole; Arrowtooth flounder; Other flounders; Pacific ocean perch; Other rockfish; Pacific cod; Sablefish (blackcod); Walleye (Alaska) pollock; Atka mackeral; any other species taken in excess of 1,000 mt; and other fishes.

(2) Monthly—In addition to the annual statistical report in (1) above, each nation will report by the end of the following month, provisional fishery information for each month as follows: Effort in vessel-days on the grounds by vessel-class and gear-type: and Catch in metric tons of flounders, rockfishes, cod, pollock, sablefish, Atka mackerel, herring and others.

(g) *General restrictions*—

(1) There shall be no fishing for or retention of salmon, halibut, Continental Shelf Fishery resources, shrimp or scallops.

(2) There shall be no foreign fishing within 12 miles of the baseline used to measure the Territorial Sea.

§ 611.92 Bering Sea and Aleutian Islands Trawl Fishery.

(a) *Purpose*—Regulations of this section shall apply to all species of fish and invertebrates taken in trawl gear during the period March 1, 1977 to December 31, 1977, in the area which includes that portion seaward of the territorial sea in the Bering Sea and Aleutian Islands over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this section will have the meanings ascribed to them in subpart A of these regulations.

(b) *Catch quotas.* The 1977 annual catch quotas for foreign fishermen in the Bering Sea and Aleutian Islands are as follows:

Species:	*Catch quota (metric tons and area)*
Pollock	842,000
Yellowfin sole	105,000
Other flounders	100,000
Pacific Ocean perch:	
East Bering Sea	6,500
Aleutians	15,000
Sablefish:	
East Bering Sea	3,500
Aleutians[1]	2,400
Cod	57,000
Herring	20,000
Others:	
East Bering Sea	59,600
Aleutians	34,000

[1] The Aleutian sablefish quota is for trawl, set line and trap gear collectively.

(c) *Open season.*

(1) The open season for foreign fishing in the Bering Sea and Aleutian Islands area shall begin at 0801 GMT hours on March 1, 1977 unless otherwise stated in the time-area closures in paragraph (d).

(2) The open seasons for foreign fishing in the Aleutian Islands area within 12 miles of and beyond 3 miles from the baseline used to measure the territorial sea are as follows:

In the waters off the Bering Sea coast of the Aleutian Islands:

(i) Between 169° and 170° West longitude, dragnet fishing from May 16 to November 30 inclusive, and longline fishing and loading year-round.

(ii) Between 170° and 172° West longitude, dragnet and longline fishing and loading year-round.

(iii) Between 172° and 176° West longitude, longline fishing and loading from April 1 to October 31 inclusive.

(iv) West of 176° West longitude, dragnet fishing from May 1 to December 31 inclusive and longline fishing and loading year-round.

In waters off the Pacific coast of the Aleutian Islands:

(i) Between 169° and 172° West longitude, dragnet and longline fishing and loading year-round.

(ii) Between 172° and 178°30′ West longitude, longline fishing and loading from April 1 to October 31 inclusive.

(iii) Between 176° and 178°30′ West longitude, dragnet fishing from July 1 to October 31 inclusive.

(iv) West of 178°30′ West longitude, dragnet fishing from May 1 to December 31, 1977 inclusive and longline fishing and loading year-round.

(d) *Closed seasons and areas*—(1) The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation, notice of such determination shall be given to the appropriate agent or a government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for those species as of the specified closure date.

(2) Trawling by foreign vessels is prohibited in the following areas and during the time periods shown below:

(i) There shall be no trawling at any time in the Bristol Bay "Pot Sanctuary", which is the area enclosed by straight lines from Cape Sarichef to 55°16′N lat., 166°10′W long., to 56°20′N lat., 163°00′W long., to 57°10′N lat., 163°00′W long., to 58°10′N lat., 160°00′W long., then due south along 160°00′W long. to the Alaska Peninsula.

(3) There shall be no traveling from March 1, 1977 to May 31, 1977 in the following International North Pacific Fishery Commission (IPFC) Conservation Areas:

(i) Area B;

(ii) Area E east of 166° W.long—south of 56°30′N.lat;

(iii) Area E west of 166°W.long—south of 56°N. lat.; and

(iv) Area A—south of 55°30′N.lat.

(4) There shall be no trawling from March 1, 1977 to May 31, 1977 in the area bounded by straight lines connecting the coordinates in the order listed. 56°18′N. lat., 170°24′W.long, 56°20′N.lat., 169°03′ W.long, 56°12′N.lat., 168°46′W.long., 55°56′N.lat., 170°24′W.long.

(5) When the total allocation of any species authorized in the Bering Sea and Aleutian Islands trawl fishery has been exceeded, trawling in that fishery shall cease for the remainder of the calender year.

(e) *Gear restrictions*—Gear restrictions for foreign fishing in the regulatory area are described in paragraph (c) of this section during the open season for specific areas.

(f) *Statistical reporting*—The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska, U.S.A.

(1) Annual—Each nation whose fishermen operate in the area shall report by May 30 of the following year—annual catch and effort statistics, as follows: Effort in hours trawled, by vessel class, by gear type, by month, by ½° (lat.) × 1° (long.) statistical area; Catch in metric tons, by vessel class, by gear type, by month, by ½° (lat.) × 1° (long.) statistical area, by the following species groupings: Yellowfin sole; Rock sole; Flathead sole; Arrowtooth flounder; Greenland turbot; Other flounders; Pacific oecan perch; Pacific cod; Sablefish (blackcod); Walleye (Alaska pollock); Atka mackerel; Pacific herring; Any other species taken in excess of 1,000 mt; and "Other fishes".

(2) Monthly—In addition to the annual statistical report in (1) above, each nation will report by the end of the following month, provisional fishery information for each month as follows: Effort in vessel-days on the grounds, by vessel-class, and gear-type; and Catch in metric tons of flounders, rockfishes, cod, pollock, sablefish, Atka mackerel, herring, and others.

(g) *General restrictions*—(1) There shall be no fishing for or retention of salmon halibut, or Continental Shelf fishery resources, shrimp or scallops.

(2) There shall be no trawling within 12 miles of the baseline used to measure the Territorial Sea, except in the Aleutian Islands as described in paragraph (c) of this section.

§ 611.93 Sablefish (Blackcod).

(a) *Purpose*—Regulations of this section shall apply to sablefish, or blackcod, (*Anoplopoma fibria*) taken by foreign fishing vessels during the period March 1, 1977 to December 31, 1977 in the North Pacific Ocean and the Bering Sea over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this section will have the meanings ascribed to them in subpart A of these regulations.

(b) *Area quotas*—(1) Bering Sea—The 1977 annual catch quota for foreign vessels is limited to 5,000 metric tons of sablefish.

(i) Of the total quota, 1,500 metric tons can be taken by set line and trap gear.

(ii) Of the total quota, 3,500 metric tons can be taken by trawl gear.

(2) Gulf of Alaska (east of 170° W longitude and north of 54°30′ N latitude)—The 1977 annual catch quota in the regulatory area for foreign vessels is limited to 17,500 metric tons of sablefish.

(i) Of the total quota, 4,000 metric tons can be taken by trawl gear.

(ii) Of the total quota, 13,500 metric tons can be taken by set line and trap gear.

(3) Aleutian Islands—The 1977 annual sablefish catch quota for foreign vessels is 2,400 metric tons. The total quota of 2,400 metric tons. The total quota of 2,400 metric tons is to be shared by trawl, set line, and trap gear. Further the quota of 2,400 metric tons is not in addition to the quota allocated in section 611.92(b).

(4) Washington, Oregon, and California—No directed foreign fishery for sablefish permitted.

(c) *Open season*—(1) The open season for sablefish fishing by foreign fishing vessels in the Gulf of Alaska and Bering Sea shall begin at 0801 GMT hours on March 1, 1977, and terminate at a time and date to be determined and announced under paragraph (d).

(2) The open seasons for foreign fishing in the Aleutian Islands area within 12 miles of and beyond 3 miles from the baseline used to measure the territorial sea are as follows:

In the waters off the Bering Sea coast of the Aleutian Islands:

(i) Between 169° and 170° West longitude, dragnet fishing from May 16 to November 30 inclusive, and longline fishing and loading year round.

(ii) Between 170° and 172° West longitude, dragnet and longline fishing and loading year-round.

(iii) Between 172° and 176° West longitude, longline fishing and loading from April 1 to October 31 inclusive.

(iv) West of 176° West longitude, dragnet fishing from May 1 to December 31 inclusive and longline fishing and loading year-round.

In the waters off the Pacific coast of the Aleutian Islands:

(v) Between 169° and 172° West longitude, dragnet and longline fishing and loading year-round.

(vi) Between 172° and 178°30′ West longitude, longline fishing and loading from April 1 to October 31 inclusive.

(vii) Between 176° and 178°30′ West longitude, dragnet fishing and loading from July 1 to October 31 inclusive.

(viii) West of 178°30′ West longitude, dragnet fishing and loading May 1 to December 31, 1977 inclusive and longline fishing and loading year round.

(d) *Closed season and areas.*—(1) National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of sablefish, notice of such determination shall be given to the appropriate agent or government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for sablefish as of the specified closure date.

(2) It shall be unlawful for any foreign fishing vessel to fish for sablefish at anytime with any gear shoreward of the 500 meter depth contour in the Gulf of Alaska.

(e) *Vessel and gear restrictions.*—Foreign fishing vessels are authorized to fish for sablefish with the type of gear specified in paragraph (b) above.

(f) *Statistical reporting.*—The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska, U.S.A. 99801.

(1) Annual.—Each nation whose fishermen operate in the area shall report by May 30 of the following year annual catch and effort statistics as follows: Effort in hours trawled, number of longline units, number of traps, duration of soaking time for longlines and traps and number of days fishing, by vessel class, by gear type, by month, by ½° (lat.) × 1° (long.) statistical area; Catch in metric tons, by vessel class, by gear type, by month, by ½° (lat.) × 1° (long.) statistical area. The characteristic features of gear and vessels are also to be reported.

(2) Monthly—In addition to the annual statistical report in (1) above, each nation will report to the Regional NMFS Director by the end of the following month, provisional monthly fishery information as follows: Catch in metric tons of sablefish and Effort in vessel-days by vessel type and by INPFC large statistical areas—Bering Sea, Aleutian Region, Shumagin, Chirikof, Kodiak, Yakutat, Southeast, Charlotte, Van-

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couver, Columbia, Eureka Montrey, and Conception.

§ 611.94 Snails.

(a) *Purpose*—Regulations in this section shall apply to all species of snails taken by foreign fishing vessels during the period March 1, 1977, to December 31, 1977, in that portion of the Bering Sea over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this section will have the meanings ascribed to them in subpart A of these regulations.

(b) *Catch quota*—The 1977 annual catch quota for all species of snails combined in the Bering Sea shall not exceed 3,000 metric tons of edible meat.

(c) *Open season*—The open season for taking snails by foreign fishing vessels in the Bering Sea shall begin at 0001 hours local time on March 1, 1977, and terminate at a time and date to be announced.

(d) *Closed season and area*—The National Marine Fisheries Service shall maintain records of catches of snails by foreign vessels in the Bering Sea. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of snails, such determination shall be made to the appropriate agent or a government official of the country. Such notification shall not be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for snails as of the specified closure date.

(e) *Gear restrictions*—It shall be unlawful for any foreign fishing vessel fishing for snails to use gear other than pots.

(f) *Statistical reporting*—The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Alaskan Region, National Marine Fisheries Service, Juneau, Alaska, U.S.A.

(1) Annual—Each country whose fishermen take snails in the area shall report by May 30 of the following year, annual catch and effort statistics as follows: Effort in pots hauled, hours pot soaked by month, by ½° (lat.) × 1° (long.) statistical area; Catch in metric tons of recovered edible meat, by month, by ½° (lat.) × 1° (long.) statistical area.

(2) Monthly—In addition to the annual statistical report, each nation will submit monthly reports within 30 days of the end of the month in which the fishing occurred containing provisional fishery information as follows: Effort in vessel days on the grounds; and Catch in metric tons of recovered edible meat.

[FR Doc.76-37651 Filed 12-22-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

CLARKDALE-WILLIAMS HIGHWAY

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Clarkdale-Williams Highway, Arizona, USDA–FS–R3–FES Adm 72–21.

The environmental statement considers probable environmental effects of the proposed project.

The final environmental statement was transmitted to CEQ on December 20, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture, Bldg., Rm. 3230, 14th & Independence Ave., SW, Washington, D.C. 20250.
USDA, Forest Service, Southwestern Region, 517 Gold Avenue, SW, Albuquerque, New Mexico 87102.
Prescott National Forest, 344 South Cortez, Prescott, Arizona 86302.

A limited number of copies are available upon request to Forest Supervisor, Prescott National Forest, P.O. Box 2549, Prescott, Arizona 86302.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

GARY E. CARGILL,
Acting Regional Forester,
Region 3.

DECEMBER 20, 1976.

[FR Doc.76-37654 Filed 12-22-76;8:45 am]

HUSTON PARK SUB-UNIT LAND MANAGEMENT PLAN FOR THE MEDICINE BOW NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement and combined land use plan for the Huston Park Sub-Unit of the Medicine Bow National Forest. The Forest Service report number is USDA–FS–R2–DES(Adm)FY–77–02.

The environmental statement concerns a proposed action to implement a revised land management plan for the 63,560 acre Huston Park Sub-Unit of the South Hayden planning unit area.

This draft environmental statement was transmitted to CEQ on December 17, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW, Washington, DC. 20250.
USDA, Forest Service, 11177 West 8th Street, P.O. Box 25127, Denver, Colo. 80225.
USDA, Forest Service, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyoming 82070.

A limited number of single copies are available upon request to Donald L. Rollens, Forest Supervisor, 605 Skyline Drive, Laramie, Wyoming 82070.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Donald L. Rollens, Forest Supervisor, 605 Skyline Drive, Laramie, Wyoming 82070. Comments must be received by February 15, 1977 in order to be considered in the preparation of the final environmental statement.

DONALD L. ROLLENS,
Forest Supervisor.

DECEMBER 17, 1976.

[FR Doc.76-37655 Filed 12-22-76;8:45 am]

TIAK UNIT

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Tiak Unit, Ouachita National Forest, Arkansas, USDA–FS–R8–DES (Adm.)–77–01.

This environmental statement concerns the proposed management direction and resource allocation for the 43,–133 acre Tiak Unit, Quachita National Forest.

This draft environmental statement was transmitted to CEQ on December 15, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Road, N.W., Room 804, Atlanta, Georgia 30309.
USDA, Forest Service, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901.
Tiak Ranger District, P.O. Box 869, Idabel, Oklahoma 74745.

A limited number of single copies is available upon request to Alvis Z. Owen, Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ Guidelines.

ALVIS Z. OWEN,
Forest Supervisor.

DECEMBER 15, 1976.

[FR Doc.76-37656 Filed 12-22-76;8:45 am]

Office of the Secretary

PERISHABLE AGRICULTURAL COMMODITIES ACT—INDUSTRY ADVISORY COMMITTEE

Renewal; Correction

In FR Doc. 76-35808 appearing at page 53497 in the FEDERAL REGISTER of December 7, 1976, the expiration date appearing in the second line of the fourth paragraph is corrected to read "November 12, 1978".

Dated: December 20, 1976.

J. PAUL BOLDUC,
Assistant Secretary
For Administration.

[FR Doc.76-37727 Filed 12-22-76;8:45 am]

Soil Conservation Service

WASHINGTON MOUNTAIN BROOK WATERSHED PROJECT, MASSACHUSETTS

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the planned works of improvement remaining to be installed in

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the Washington Mountain Brook Watershed Project, Berkshire County, Massachusetts.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Dr. Benjamin Isgur, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection, flood prevention, municipal water supply, and recreation. The remaining planned works of improvement, as described in the negative declaration, include: conservation land treatment; a multiple purpose floodwater retarding and recreation structure; a multiple purpose floodwater retarding, municipal water supply, and recreation structure; channel work; and streambank protection measures.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 29 Cottage Street, Amherst, Massachusetts 01002. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 USC 1001-1008.)

Dated: December 17, 1976.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76-37762 Filed 12-22-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 27330]

DOMESTIC COMMON FARES INVESTIGATION

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on January 19, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C.

Dated at Washington, D.C., December 16, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76-37710 Filed 12-22-76;8:45 am]

[Order 76-12-85; Docket 29123; Agreement C.A.B. 26257 R-1 through R-17]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

North/Central Pacific Passenger Fares

Issued under delegated authority December 15, 1976.

Agreement adopted by the Joint Traffic Conferences of the International Air Transport Association relating to North/Central Pacific passenger fares.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, which establishes North/Central Pacific fares from April 1, 1977 through November 30, 1977, was adopted at a joint meeting of Traffic Conferences 3 and 1 held at Miami during October 1976.

Using as reference the fare levels proposed in Agreement C.A.B. 26064,[1] which is currently pending before the Board, Agreement C.A.B. 26257 would increase one-way Honolulu-Far East normal first-class and economy-class fares by $30 and $15 respectively, and would increase U.S. west coast-Far East one-way normal fares by $40 and $20, respectively. In general, normal fares from Alaska would remain unchanged. Promotional fares would be increased in amounts ranging from $20 to $75, with the higher rated 14/21 day excursion fare taking the lesser increase and the lower-rated affinity-group fares taking the greater increase. Other than discontinuation of the individual inclusive-tour fare, the structure would remain relatively unchanged. However, availability of the westbound 120-day excursion fares, presently proposed in Agreement C.A.B. 26064 for Canadian originations only would be expanded to permit roundtrip travel between San Francisco/Honolulu and Manila at the Vancouver level for San Francisco and at the Vancouver level less $100 for Honolulu. Finally, the agreement would permit the carriers to make available to first-class passengers certain fully-reclinable seats located in the upper deck of B-747 aircraft upon payment of a so-called "sleeper surcharge" ranging from $75 to $125.

The purpose of this order is to establish procedural dates for the submission of carrier justification in support of the agreement and comments from interested persons. The carriers' justification for the agreement should assign costs attributable to scheduled passenger service under both the "space method" stipulated by the Board in its April 2, 1970 decision in Docket 18381, *Nonpriority Mail Rates* (Orders 70-4-9 and 70-4-10), and the "revenue-offset method", adopted April 2, 1971 in Phase 7 of the *Domestic Passenger-Fare Investigation*, Docket 21866-7 (Orders 71-4-69 and 70-4-60).[2] The data should be set out in a tabular format as suggested in Order 75-7-88, July 17, 1975, starting with historical data as reported to the Board in Form 41 reports by functional account for total transpacific services for the year ended September 30, 1976. This should be adjusted to show the exclusion of those market areas not covered by the agreement, e.g., South and intra-Pacific, as well as scheduled all-cargo and charter services within the North/Central Pacific area. The remainder, pertaining to North/Central Pacific scheduled combination services, should be adjusted to show the present economic status of scheduled passenger services in the market area covered by the agreement. Similarly, using the above two methods, the carriers are expected to submit forecast results under the agreement for the year ending March 31, 1978, both including and excluding the increased fares for which approval is sought.

In addition, the carriers will be required to submit detailed traffic data showing revenue passenger-miles and revenue by specific fare category, as well as capacity and load-factor information both for the historical period and for the forecast period, including and excluding the proposed fare increase. Finally, the carriers are requested to include material detailing the need for continued common-faring or U.S. west-coast gateway points with respect to points in Asia, and the potential effect of any de-common-faring.

Northwest Airlines, Inc., a nonIATA carrier, will be required to file data identical to that required of the IATA carriers so that a full economic picture of U.S. carrier operations in the area under consideration may be obtained upon which the Board will be in a position to make a meaningful evaluation in disposing of the agreement.

Accordingly, *it is ordered* THAT:

1. All United States air carrier members of the International Air Transport Association providing service within the area covered by the agreement shall file within 15 calendar days after the date of service of this order, full documentation and economic justification for the fares and related conditions embdied in the subject agreement;

2. Northwest Airlines, Inc. shall file within 15 calendar days after the date of service of this order, data identical to that required of the IATA carriers;

3. Comments and objections from interested persons and parties shall be submitted within 15 calendar days after the date of service of this order;

4. Replies to submissions received in response to ordering paragraphs 1 and 2 above and replies to comments received pursuant to ordering paragraph 3 above shall be submitted within 25 calendar days after the date of service of this order; and

5. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreement should not be filed in advance of Board action on the subject agreement.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-37711 Filed 12-22-76;8:45 am]

[1] See Order 76-8-147, August 27, 1976 which set procedural dates for Agreement C.A.B. 26064.

[2] In furnishing the data requested, each carrier is expected to attach complete explanatory data to describe the methods used in allocating the various cost items.

[Order 76-12-98; Docket 27573; Agreement C.A.B. 26095; R-1 through R-12; Agreement C.A.B. 26176; Agreement C.A.B. 26191]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to North Atlantic Cargo Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of December, 1976.

Order 76-9-94, September 20, 1976, described the principal elements of an agreement among the carrier members of the International Air Transport Association (IATA) to establish North Atlantic cargo rates from October 18, 1976, through September 30, 1977, and established procedural dates for the submission of carrier justification, comments, and replies. The IATA agreement was adopted at a conference held in Miami on August 12-18, 1976, and filed with the Board September 7, 1976.

The subject agreement is similar in many respects to the previous Nice Agreement which was generally approved by the Board in Order 75-12-147, December 30, 1975, but which never became effective.[1] Minimum charges per consignment would be increased by $2.00 to a level of $31. U.S.-Europe general commodity rates (GCR's) at the 100 and 300 kg. weightbreaks would be increased three cents per kg. while the 500 kg. weightbreak rates would be increased by five cents per kg. With some exceptions specific commodity rates (SCR's) would be increased 10 cents per kg.

Present pivot rates and minimum charges for containerized shipments are proposed to be adjusted upwards resulting in rate increases at the pivot point ranging up to five percent, while overpivot rates would be decreased approximately eight percent. The agreement would introduce new high-weightbreak specific commodity rates at weightbreaks of 34,000 kgs. (eastbound only) and 10,000 kgs. (both directions) and would also readopt minimum cargo charter rates based on $7.25 per aircraft mile for standard B-707 or DC-8 freighters, as well as Resolution 045a encompassing the governing rules for cargo charters.[2]

[1] The Board conditioned its approval of general commodity rate increases upon continuation of non-IATA high-weightbreak freight-all-kinds (FAK) rates which the IATA carriers contemplated would be cancelled by foreign government action. Subsequently, British Airways, by a notice to IATA dated January 23, 1976, rescinded its approval of the Nice agreement which was thereby rendered defunct. North Atlantic cargo rates have since been in an open-rate situation.

[2] The charter rules would be amended to permit joint loading by two or more persons or associations shipping bloodstock (live horses).

The Board has received economic justification from Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), and National Airlines, Inc. (National), as well as from Seaboard World Airlines, Inc. (Seaboard), a non-IATA all-cargo carrier.

CARRIER JUSTIFICATION

Pan American, TWA, and Seaboard urge the Board to approve the agreement based on a serious need for revenue improvement, and have provided financial data showing the following returns on investment (ROI) in North Atlantic scheduled cargo operations:

	Historical year ended June 30, 1976 (percent)		
	Freighter	Belly	Total
Pan American	(11.31)	4.45	(3.66)
TWA	(21.4)	23.8	1.2
Seaboard [1]	(6.39)		(6.39)

	Forecast year ending Oct. 31, 1977 (percent)					
	Present rates			Proposed rates		
	Freighter	Belly	Total	Freighter	Belly	Total
Pan American	2.6	3.25	2.97	6.36	5.26	5.80
TWA	(26.28)	15.0	3.4	(18.64	22.6	11.1
Seaboard [1]	(5.16)		(5.16)	(.68)		.68

[1] Includes charter operations. The above figures for Seaboard reflect corrections to Seaboard's methodology to bring it into line with the Board's accepted procedure for determination of regulatory ROI. Seaboard, which has inexplicably departed from the standard methodology in this case, actually indicated ROI's of −17.7, −18.7 and −11.2 percent during the historical period, forecast period-present rates and forecast period-proposed rates, respectively.

The above forecast showing expected results with the proposed rates is premised upon the increased rates becoming effective to/from the U.K. and Ireland, although those countries are presently excluded from the agreement due to the opposition to the agreement of British Airways. The carriers have included the U.K. and Ireland in the hope that the increases will be effected for those countries. In the event rates to/from the U.K. and Ireland remain at *status quo*, forecast revenues and earnings are, of course, overstated.[3]

Pan American, TWA, and Seaboard show load factors of 52.8, 55.4, and 65.0 percent, respectively, in all-cargo operations during the historical period ended June 30, 1976, and forecast load factors of 61.3, 66.4, and 68.7 percent, respectively, during the year ending October 31, 1977.

Pan American and TWA generally state that the proposed rates are consistent with Board policy in that general commodity rates would remain unchanged or increase only up to 3.8 percent, while specific commodity rates would increase up to 13.3 percent, thus narrowing the gap between the two rate categories; that the new container rates, which are simplified by removal of the existing second pivot point, reflect lesser increases at higher densities and, in conjunction with the relatively large increase in SCR's, will help encourage containerization; and that the proposed high weightbreak 10,000 and 34,000 kg. SCR's, with commodity descriptions which are broader in application than the normal IATA descriptions, represent a compromise between those carriers which advocated general commodity application of the highweightbreak rates and those which supported regular specific commodity descriptions. The carriers also assert that the agreement will allay the Board's expressed concern about rates to/from Seattle;[4] and that the agreement

[3] National which operates only between Miami and London, in the Atlantic, states that since the agreement excludes the U.K., it will not affect National's earnings. At the request of the Board's staff, however, National has submitted a statement of financial results of its Miami/London belly-cargo operations during the historical period and a forecast under existing rates, showing ROI's of 26.39 and 39.12 percent, respectively.

[4] In Order 75-12-147, the Board found that SCR's to/from Seattle were significantly higher, on a per-mile basis, than were rates for other west coast cities as well as for New York, and required the carriers to resolve these rate inequities. The instant agreement would put Seattle on an essentially equal per-mile basis with New York except in cases where a combination of local rates would produce a lower total rate, and would apply the same methodology for several other interior U.S. points. For example, the rates for Item 4316 from Seattle to Amsterdam under a mileage formula at 136 percent of the New York-Amsterdam rate would be 249, 196, 165 and 146 cents per kg. at the 100, 200, 500 and 1,000 kg. weightbreaks, respectively; with the agreed proportionals the rates are proposed at 235, 193, 163 and 147 cents per kg., respectively (rates exclude currency surcharges).

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satisfactorily resolves the question of intermediate application.[5]

TWA asserts further that the all-cargo load factors of the combination carriers should not be adjusted upwards to the level experienced by Seaboard because Seaboard's scheduled-service load factor is inflated above that experienced by other carriers due to Seaboard's alleged practice of transporting charter traffic in scheduled service, and in addition Seaboard's average density in the markets it serves is higher than that experienced by Pan American or TWA.

COMMENTS

Comments opposing various aspects of the agreement have been submitted by the Air Freight Forwarders Association (AFFA); by Amerford International Corporation, an individual freight forwarder (Amerford); by Honeywell, Inc. (Honeywell); and by numerous shippers in the Minneapolis-St. Paul area (Minneapolis Parties).

AFFA opposes the substitution of high-weightbreak bulk SCR's for existing non-IATA high-weightbreak FAK rates, noting that in Order 75–12–147 the Board conditioned its approval of the Nice Agreement upon continuation of the FAK rates; alleges that the current IATA proposal would make high volume rates virtually unuseable by all forwarders and most shippers; and contends that the carriers should offer FAK rates at weightbreaks of 10,000, 15,000, 30,000, 34,000, and 42,500 kgs. to encourage the healthy growth of international air freight. AFFA also urges the Board to disapprove the readoption of Resolution 045a which would prohibit forwarder charters, contending that the discrimination inherent in the IATA charter rules would now be compounded by an exception for bloodstock. AFFA also opposes the proposed changes in container rates which it alleges will discourage containerization, contending that the container rate increases would in many cases be higher than those adopted for SCR's; that the elimination of the second pivot weight would remove the existing incentive for high density; and that the proposed container rates, which reflect the same rate per pound for all containers, discriminate against high-volume B–747F containers which are more efficient and should receive a lower rate.

Amerford opposes the high weightbreak SCR's and the readoption of Resolution 045a for the same reasons as AFFA, stating that it has been able to utilize the existing high-weightbreak FAK rates to substantially increase the volume of its traffic from New York to Paris.

Honeywell opposes the proposed 11 percent increase in SCR's at the 1,000 kg. weightbreak, as well as the proposed high-weightbreak bulk SCR's which, it contends, will be much less effective for large shippers than the existing FAK rates.

The Minneapolis Parties allege that the agreement would discriminate against Minneapolis shippers because it is not included in the list of cities for which IATA has proposed new proportionals for SCR's, resulting in increases of 30 percent for Minneapolis compared to increases of 9–20 percent for most interior points and decreases of up to 11 percent for west coast cities.

REPLIES

Seaboard, in its reply comments, submits that although it would prefer continuation of existing eastbound high-weightbreak FAK rates, and introduction of comparable westbound rates, and in this regard concurs in the comments of AFFA and Amerford, it nevertheless supports approval of the IATA agreement based on the critical need for increased freight revenues for all the U.S. flag carriers. In this connection Seaboard asserts that unless high-weightbreak FAK rates can be maintained, the new 10,000 and 34,000 kg. SCR's which include no containerization incentive, will increase reliance on the SCR basket groupings to which these rates are limited; on the other hand, the fact that the rate levels proposed are virtually identical to the new minimum charter rates argues for their approval due to the undeniable cross-elasticity between high-weightbreak scheduled rates and charter rates for the movement of large shipments. Seaboard states with supporting data, that the increased charter rates for DC–8–63F and B–747F aircraft cover fully allocated costs for both its scheduled and charter service; contends that in any event it is hopeful that it can again succeed in introducing high-weightbreak FAK rates between the United States and Europe due to favorable indications from at least one European government; and urges the Board to state in its decision that it would favor FAK rates in both directions and, at the very least, a westbound 34,000 kg. SCR comparable to the eastbound-only rate contained in the pending agreement.

Regarding revenue need, Seaboard asserts that the recent poor results in freighter operations cannot be attributed to inefficiency, particularly in the case of Seaboard which still has lower operating costs per available ton-mile (ATM) and per revenue ton-mile (RTM) than Pan American or TWA, despite spiralling cost increases and a continued depression of overall traffic volumes.

Pan American and TWA have, in separate replies, responded to the comments of AFFA, Amerford, and Honeywell regarding high-weightbreakand container rates, and to the Minneapolis Parties regarding rates to/from that city. The two carriers assert that although the objecting parties contend that high-weightbreak FAK rates are essential to the growth of air freight, no supporting evidence has been submitted, and that in fact during the period of effectiveness of existing FAK rates North Atlantic traffic growth has been practically nonexistent; that such rates do not generate new traffic, but merely divert small shipments to lower rates through consolidation; that the proposed high-weightbreak SCR's are not, in fact, "unusable," since they apply to 14 very broad commodity groupings reflecting all categories of traffic in which there is any experience of high volume shipments;[6] and that these rates represent the best compromise achievable at this time between the Board's position favoring FAK rates and the position of several foreign governments and carriers opposing high-weightbreak rates in general.

Regarding container rates, the two carriers allege that the agreement does, in fact, increase SCR's in greater amounts than container rates, thus encouraging containerization;[7] that the proposed rates increase the density incentive, and that the elimination of the second pivot weight does not actually decrease the density incentive since there are almost no shippers with traffic dense enough to take advantage of the second pivot point; and that equal rates per kg. for all container types is non-discriminatory since it affords all carriers operating different equipment an equal opportunity to compete, and that there is no indication that any cost savings exist for the large containers.[8]

[5] The Board by Order 75–10–113, October 28, 1975, rejected tariff rule provisions which would have restricted intermediate application of North Atlantic SCR's only to cities intermediate to New York or Montreal, whereas such intermediate application had previously been extended to include also cities intermediate to Boston, Philadelphia, Baltimore, Washington, Cleveland, Detroit or Chicago (the "seven cities"), following the Board's decision in Docket 20522, *Agreements Adopted by IATA Relating to North Atlantic Cargo Rates*. In that decision the Board found that the then existing North Atlantic cargo rate structure unduly and unreasonably preferred New York and unduly and unreasonably prejudiced the seven cities, and found that the lawful cargo rates between points in Europe, on the one hand, and the above-named cities, on the other hand, are the New York-European point rates per mile multiplied by the distance in miles between such cities and points in Europe. See Order 73–2–24, February 6, 1973 and subsequent orders in Docket 20522. At that time the IATA definition of intermediate application was based on the under −45 kg. GCR, *i.e.*, if the under −45 kg. GCR for the "intermediate" point was no greater than the under −45 kg. GCR for the specified point, SCR's established to/from the specified point could be applied to/from the intermediate point. The instant agreement would now base intermediate application on shortest operated mileages, using Amsterdam as a base point for comparison purposes.

[6] TWA states that, to the best of its knowledge, the only users of the existing FAK rates have been individual large volume shippers, not forwarders.

[7] Pan American states that SCR yield would increase 9.7 percent while container rate yield would increase only 5.5 percent.

[8] The carriers have also responded to the objections to the ban on forwarder charters in Resolution 045a. TWA cites the pendency of Docket 23287, *Air Freight Forwarder Charter Investigation*, and Pan American alleges that allowance of forwarder charters would destroy scheduled all-cargo operations on the North Atlantic.

In connection with Minneapolis rates, the two carriers state that IATA has adopted a mail vote agreement which establishes proportional rates for Minneapolis, resulting in per-mile rates comparable to those for other U.S. points.

Reply comments have also been filed by AFFA; by Emery Air Freight Corporation (Emery); and jointly by several General Handling Agents (GHA's). AFFA and Emery reiterate the allegations of AFFA's initial comments; and Emery has submitted additional data to support the contention that the proposed container rates would discourage high-density shipments.

The GHA's state that they are agents engaged in handling inbound freight from European forwarders, and oppose the proposed increases in cargo charter rates as well as Resolution 045a which would preclude their European principals from chartering to the United States. The GHA's endorse the comments of AFFA regarding high-weightbreak rates, and allege further that the IATA agreement would retain uneconomic SCR's from Eastern Block countries despite the carriers' self-proclaimed need for improved revenue.[9]

Subsequent to receipt of the carriers' replies, additional comments were submitted by Control Data Corporation (CDC) and 3M, of the Minneapolis Parties, and by Amerford. CDC and 3M allege that the new proportional rates over Chicago for Minneapolis adopted by mail vote are merely a token gesture, and that Minneapolis would still be discriminated against since other cities east of Chicago (Cincinnati, Columbus, Dayton, and Indianapolis) would have much lower arbitraries than Minneapolis; and that since most Minneapolis-Europe cargo is routed via New York, an acceptable rate would be a proportional over New York, which would produce rates 5 cents per kg. lower than those proposed by IATA.

Amerford essentially reiterates its previous comments regarding high-weightbreak rates and forwarder charters, endorses the arguments of Emery pertaining to the proposed container rates, and alleges that, contrary to the carriers' contentions, the "commodity groupings" for the new high-weightbreak areas will be difficult to use, will cut the forwarders out of this market, and will even force large direct shippers now using FAK rates into using two separate commodity classifications at a higher rate.

FINDINGS

Upon full consideration of the agreement, the carriers' justification and the comments and replies, the Board has concluded that the agreement should, in general, be approved. There is no doubt that an increase in revenue is required in the North Atlantic cargo market, and that the rate increases proposed will not place the carriers, on a composite basis, in an excess earnings posture. Only National, which operates only belly-cargo service between Miami and London, would earn an ROI above the Board's 12 percent guideline, and in any event, no increases in rates to/from the U.K. are included in the agreement. Even including National in the computation of composite ROI, the carriers' earnings during the historical period were −3.53 percent, which would improve marginally to 0.13 percent during the forecast period at present rates, and to 4.60 percent during the forecast period at proposed rates. Composite ROI for Pan American, Seaboard and TWA at present and proposed rates is forecast at −0.25 and 4.29 percent, respectively. We note that Pan American, TWA and Seaboard have included increased U.S.-Ireland/U.K. revenues in their forecasts reflecting their hopes that eventually the agreement rates can be extended to include the British Isles, but to the extent this is not the case their earnings forecasts are, of course, overstated. (See Appendix A.)[10]

We will approve the reestablishment of minimum charter rates as well as the proposed increases in scheduled service rates. The proposed charter minimums are only about 7 percent above previous minimum charter rates approved by the Board in 1975, reflect cost increases since that time which have been experienced in charter as well as scheduled service, and appear to bear a much more reasonable relationship to the costs of providing the service.[11]

In general, the structural aspects of the new agreement are not out of line with the Board's expressed policies on international cargo rates, although we do have reservations concerning the proposed high-weightbreak rates. General commodity rates would be increased in amounts ranging from 0 to 3.8 percent, while specific commodity rates would be increased in amounts ranging from 5 to 13 percent consistent with the Board's policy that the spread between the two rates be narrowed.[12] Most commodity rates are being increased in greater amounts than are the general container rates, thus reducing the spread between these two rate categories as well as thus encouraging containerization. The various forwarder parties have not shown that the proposed container rates create a disincentive to high-density shipments. If anything, the incentive to strive for greater shipment density is improved because the discount in terms of the actual rate per kg. increases as density increases as demonstrated in Appendix B.[13]

The Board is disappointed that the carriers did not adopt high-weightbreak FAK rates instead of the proposed high-weightbreaks for general commodity rates consistent with demonstrable cost savings, and the subject agreement represents a step backward in this regard. On the other hand, the reasonableness of the existing FAK rates is under investigation (See Order 75–3–66, March 20, 1975 and Order 75–7–49, July 11, 1975). The proposed high-weightbreak SCR's reject an increase of about 11 percent over the present FAK rate levels which should place the high-weightbreak service on a much sounder economic footing.[14] Further, the existing FAK rates are available only to France and Germany while the proposed high-weightbreak rates would apply to all major European points. Finally, the instant agreement relates only to the rates adopted by IATA and has no direct effect upon the currently effective non-IATA FAK rates to France and Germany. Thus, we cannot agree with the forwarder parties or Honeywell that their position regarding high-weightbreaks would materially worsen under the subject agreement.

The Board accepts the carriers' view that the proposed high-weightbreak SCR's are the best compromise possible within IATA at the present time, and notes that Seaboard, which was active in the initial introduction of high-weightbreak FAK rates, supports approval of the IATA agreement. The Board would support the continuation of high-weightbreak FAK rates at economic levels reflecting demonstrable cost savings, consistent with long-standing Board policy.[15]

[9] The Board has also received correspondence from numerous individual importers and U.S. subsidiaries of European corporations opposing the increased charter rates.

[10] Filed as part of original document.

[11] Board action on Resolution 045a setting forth cargo charter rules will be forthcoming at a later date.

[12] The Board has sometimes disapproved increases in minimum charges as well as GCR's on the basis that the proposed structure as a whole would not narrow the gap between minimum charges and GCR's, on the one hand, and discounted SCR's, on the other hand. In this instance, however, the gap is being reduced and accordingly we will approve the proposed increase in minimum charges as well as GCR's.

[13] Filed as part of original document.

[14] As indicated above, the new high-weightbreak SCR's would be set at levels equivalent to the new minimum charter rates. It is recognized that the board has previously taken the position that rates for scheduled services should generally be priced at higher levels than those for charter services, in view of the lower load factors and higher unit costs associated with scheduled services. However, under many circumstances, such as the critical time requirements of the charterer, the possibility of unusual shipment characteristics, the one-way nature of cargo charter flights, as well as the off-route operations frequently experienced, and in general the difficulty of arranging crews and equipment to satisfy the requirements, it may not be unreasonable to expect that the costs of cargo charter service are somewhat higher than those of scheduled service. We would emphasize that these factors as well as others are the subject of the ongoing *Transatlantic FAK Container and Charter Freight Rates Investigation*, Docket 27557, and will be determined in that proceeding.

[15] In Order 75–12–147, the Board conditioned its approval of GCR increases in the Nice Agreement upon continuation of the high-weightbreak FAK rates. The Nice Agreement, however, contemplated cancellation of all high-weightbreak scheduled-service rates except 10,000 kg. SCR's, as opposed to the instant case where a much higher weightbreak at 34,000 kgs., albeit as an SCR, is also retained.

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Turning to the comments of the Minneapolis Parties, the Board is not persuaded that Minneapolis would suffer unjust discrimination under the proposed agreement, as amended by the mail vote which establishes proportional SCR rates for Minneapolis over Chicago. Minneapolis currently qualifies for intermediate application vis-a-vis Chicago under the existing IATA definition of intermediacy based on the under —45 kg. GCR (See fn. 6 above). Under the proposed intermediate rule based on shortest-operated mileages to/from Amsterdam, which is a more logical and equitable mileage-related system than the old rule, Minneapolis-St. Paul would have a proportional rate over Chicago, the nearest logical gateway city. CDC and 3M, which complain that this mail vote modification is a mere "token gesture", seem to be confusing application of the intermediate rule to nongateway cities intermediate to gateway points, on the one hand, with proportional rates for non-gateway cities *beyond* gateway points, on the other hand. It is true that cities east of Chicago such as Columbus and Dayon would be common-rated with Chicago, but this is due to the application of the intermediate point rule. Cities not intermediate to Chicago based on mileage, whether east or west of that gateway point, would receive rates constructed by an add-on over Chicago which basically reflects their relative mileages to/from Europe. While the straightforward application of the mileage formula established in Docket 20522 for the seven gateway cities in issue in that case, on a percentage basis over New York, might be a simpler and superior rate-making formula for non-gateway points as well, and the Board certainly would not oppose such an approach in the future, nevertheless the IATA proposal now before us produces roughly the same results and does not appear to unduly prejudice any point. In particular we cannot find that Minneapolis would be injured.[16]

We will, however, disapprove subparagraph 13(c) of Resolution 590 and subparagraph 5(c) of Resolution 590z which provide that intermediate point rates constructed in accordance with the new mileage definition of intermediacy shall not be established by an IATA member carrier until 45 days after notification of such rate to all members through the IATA Traffic Conference Secretary. Under this provision, it is possible that cities such as Akron, which qualify as intermediate points under both the under —45 kg. GCR definition and the new mileage definition, but for which no proportional rates are listed, could lose such intermediate application for 45 or more days even though they now enjoy intermediate application in currently effective tariffs.

The Board will also disapprove Attachment C of Resolution 534a, which sets forth recontouring/adjusting and unloading charges for containers. In Order 76–1–17, January 5, 1976, the Board disapproved similar IATA charges in the Nice Agreement, and dismissed complaints against lower charges which had been filed in tariffs by TWA. The lower charges filed by TWA were comparable to U.S. domestic unloading charges, and the Board gave great weight to TWA's argument that the costs of providing such services for international air transportation approximate the costs of such services for domestic air transportation. The Miami agreement now before us would decrease these charges somewhat by adopting a single charge for recontouring/adjusting, unloading, or unloading for single customs clearance. The previous Nice Agreement had a different charge for each service; for example, the charges for recontouring/adjusting, unloading and unloading for customs were previously proposed at $100, $150, and $60, respectively, for Type 3 containers while the current agreement proposes a single charge of $60 for all three services. However, the lower charge filed by TWA and since matched by several other carriers is $18. None of the carriers have attempted to justify the IATA charges, and TWA states that it has no cost data to justify such levels. In these circumstances, we will again disapprove Attachment C of Resolution 534a since no justification for the proposed higher charges has been presented.

The Board, acting pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), and 412 thereof, makes the following findings:

1. It is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
26095:			
R-1	001c	Cargo Tie-In Resolution	1/2 (North Atlantic-Europe).
R-2	001ff	Special Emergency Escape Resolution for JT12 (North Atlantic) Agreement (Readopting and Amending).	1/2 (North Atlantic-Europe).
R-3	C01gg	Special North Atlantic Escape Resolution (new)	1/2 (North Atlantic-Europe).
R-4	001mm	Special Effectiveness Resolution (new)	1/2 (North Atlantic-Europe).
R-5	002c	Special Readoption Resolution	1/2 (North Atlantic-Europe).
R-7	045e	Minimum Rates for Cargo Charters (Readopting and Amending).	1/2 (North Atlantic-Europe).
R-8	115m	Meeting Rates, Charges and Practices—North Atlantic (Readopting and Amending).	1/2 (North Atlantic-Europe).
R-9	534a	Charges for Bulk Unitization—North Atlantic (Readopting and Amending). Except attachment C.	1/2 (North Atlantic-Europe).
R-10	554a	North Atlantic General Cargo Rates	1/2 (North Atlantic-Europe).
R-11	590	Specific Commodity Rates Board (Readopting and Amending). Except subparagraph (13) JT12 only (c).	1/2 (North Atlantic-Europe).
R-12	590z	JT12 North Atlantic High Weightbreak Specific Commodity Rates (new). Except subparagraph (5)(c).	1/2 (North Atlantic-Europe).

Agreement C.A.B.:	*IATA Resolution*
26176	200, JT12, JT23, JT123 (Mail 60) 005ll
26191	JT12 (Mail 68) 590 (N. Atlantic)

2. It is found that the following resolutions, incorporated in Agreement C.A.B. 26095 as indicated, are adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26095:			
R-9	534a	Charges for Bulk Unitization—North Atlantic (Readopting and Amending). Attachment C.	1/2 (North Atlantic-Europe).
R-11	590	Specific Commodity Rates Board (Readopting and Amending). Subparagraph (13) JT12 only (c).	1/2 (North Atlantic-Europe).
R-12	590z	JT12 North Atlantic High Weightbreak Specific Commodity Rates (New). Subparagraph (5)(c).	1/2 (North Atlantic-Europe).

Accordingly, It Is Ordered That:

1. Those portions of Agreements C.A.B. 26095, C.A.B. 26176, and 26191 set forth in finding paragraph 1 above be and hereby are approved subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreement C.A.B. 26095 set forth in finding paragraph 2 above be and hereby are disapproved; and

3. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the approved agreements shall be marked to expire not later than September 30, 1977.

This order will be published in the FEDREAL REGISTER.

By the Civil Aeronautics Board.

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc 76–37599 Filed 12–22–76;8:45 am]

[16] For example, using CDC's example of Item 4316 rates, the IATA agreement proposes Minneapolis-Paris rates of 220, 175, 148, and 131 cents per kg. at weightbreaks of 100, 200, 500, and 1,000 kgs., respectively; using the Docket 20522 mileage formula with Minneapolis at 123 percent of New York, the rates would be 225, 177, 149, and 132 cents per kg., respectively (excluding currency adjustments). Thus in this instance Minneapolis will actually receive rates lower than those which would result from application of the mileage formula.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

GEOLOGICAL SURVEY—DENVER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00506. Applicant: Department of the Interior, U.S.G.S., Br. Electromagnetism and Geomagnetism, P.O. Box 25046, Stop 964, Denver Federal Center, Denver, Colorado 80225. Article: Fluxgate Magnetometers, Model FM 100B (6 each) and 100BR (17 each). Manufacturer: EDA Electronics Ltd., Canada. Intended use of Article: The articles are intended to be used for measuring temperal variations in the earth's magnetic field as part of an international study of the magnetosphere to learn more about the morphology and dynamic processes of the magnetosphere. In particular the magnetometer network will used in a concentrated study of the behavior of substorms. Data from the magnetometers will be used by graduate students in their research.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (December 23, 1975).

Reasons: The foreign article provides a noise level over the specified band width (0 to 60 kilogammas) of less than 0.25 root mean square, a baseline drift not exceeding 5 gamma per week at constant temperature, and a sensitivity of 1 volt per 100 gamma or better. The National Bureau of Standards (NBS) advises in its memorandum dated November 22, 1976 that (1) the specifications described above are pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76–37768 Filed 12–22–76;8:45 am]

Domestic and International Business Administration

IMPORTERS TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V; 1975), notice is hereby given that a meeting of the Importers Textile Advisory Committee will be held on February 10, 1977 at 10:30 a.m. in Room 3105, Federal Office Building, 26 Federal Plaza, New York, New York 10007.

The Committee, which is comprised of 20 members, was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and man-made fiber textile agreements.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the DIBA Freedom of Information Officer, Freedom of Information Control Desk, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–5078.

Dated: December 17, 1976.

ROBERT E. SHEPHERD,
Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.76–37698 Filed 12–22–76; 8:45 am]

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975) notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on February 9, 1977 at 2:00 p.m. in Room 3105, Federal Office Building, 26 Federal Plaza, New York, New York 10007.

The Committee, which is comprised of 37 members, was established by the Secretary of Commerce on April 23, 1962 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the DIBA Freedom of Information Officer, Freedom of Information Control Desk, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–5078.

Dated: December 17, 1976.

ROBERT E. SHEPHERD,
Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.76–37697 Filed 12–22–76;8:45 am]

SANDIA LABORATORIES

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00519. Applicant: Sandia Laboratories, Kirtland AFB, East Albuquerque, NM 87115. Article: Monochromator, Model HR 1000. Manufacturer: J–Y Optical Systems, France. Intended use of article: The article is intended to be used in studies of various inorganic materials such as salts, metals, solutions, etc. for quantitative chemical analysis of major, minor, trace, and ultra-trace levels. Experiments will consist of optical emission analyses using an induction coupled plasma as the excitation source.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 76–00329 which was denied without prejudice to

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resubmission on June 1, 1976 for informational deficiencies. The foreign article provides resolution of 0.08 Angstroms (Å) or better, wavelength accuracy of +0.2Å over the entire spectrum, and light throughput of 50 millimeters/meter with an f/6.8 aperture. The National Bureau of Standards (NBS) advises in its memorandum dated November 30, 1976 that (1) the specifications of the article cited above are pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-37786 Filed 12-22-76;8:45 am]

UNIVERSITY HOSPITALS OF CLEVELAND, INSTITUTE OF PATHOLOGY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00212-33-46040. Applicant: University Hospitals of Cleveland, Institute of Pathology, 2085 Adelbert Road, Cleveland, Ohio 44106. Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronics Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used for research involving specimens obtained during operations and autopsies as well as for studies of material which may not be human but are connected with clinical situations which will include:

(1) Study of endometrioid and papillary serous cystadenocarcinoma of the ovary;

(2) Study of mixed carcinoma of the endometrium;

(3) Electron microscope evaluation of early invasive breast carcinoma; and

(4) Study of erythrocyte changes induced by malaria infection. The article will also be used for educational purposes in the following courses open to physicians, resident physicians, postdoctoral fellows, graduate students, undergraduate medical students, and undergraduate science majors who are interested in electronic microscopy: Introduction to Electron Microscopy, Ultrastructural Aspects of Pathology, and Renal Pathology.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (December 27, 1974).

Reasons: This application is a resubmission of Docket Number 75-00444-33-46040 which was denied without prejudice to resubmission on August 13, 1975, for informational deficiencies. The applicant in his response to Question 8 alleged the foreign article provides the following pertinent features:

(1) Simplicity of operation.

(2) Smaller floor space requirements.

(3) Capability to add on components (such as goniometer stage to be ordered in the future) as the technology for these components becomes available.

(4) Magnification range of 200 to 200,000X without a pole piece change allowing continuous viewing of the specimen and the ability to reproduce magnifications with an error of one per cent or less.

(5) Three cameras (a 35 mm, 70 mm, and plate type) which can be simultaneously loaded into the article. Any camera can be selected in any order for a particular photograph.

(6) An electron gun providing a smaller and brighter virtual electron source and increased beam coherency. Increased beam coherency is a more significant factor in high resolution microscopy because it provides greater visibility of the specimen at high magnifications.

In support of this application, the applicant argues that a large company can put more effort into its research and development than can a very small company, especially if the small firm is having financial problems. In this connection, the applicant believes that the Adam David Company (AD) is having financial difficulty and cites conditions and circumstances encountered on his April 3 and 4, 1975 visit to AD (a time convenient to AD) as well as an alleged lack of major changes in the Model EMU-4 in support of this belief. The applicant further states purchase of the domestic instrument would be financially and technically risky.

We note that the intended use of the article is essentially research oriented with the educational aspect at a relatively sophisticated level. The only domestic electron microscope available at the time the article was ordered was the Model EMU-4C manufactured by AD. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 5, 1976 that this application be denied because the description of research or teaching does not establish a pertinent specification [within the meaning of Subsection 301.2 (n) of the regulations] upon which duty-free entry could be based. In this connection, HEW advises that the applicant's statements on relative size or financial stability of the [foreign and domestic] producers, preparedness, skill in demonstration or results with an EMU-4 (which the applicant viewed in April, 1975 after the article was purchased December 27, 1974) do not provide scientifically relevant features or observations. As to the specific allegations of the applicant in reply to Question 8, in the order listed above, the following is noted:

(1) Inasmuch as the educational aspects of the applicant's program are at a relatively sophisticated level and the applicant indicates, in response to Question 8c(3), that he has an RCA (as well as a Siemens) electron microscope which was used for teaching, we find this feature to be a convenience which is not pertinent. (In this connection, we note that the applicant states that a new type of electron microscope was needed to broaden the experience of students. We, however, find that such an aim provides no basis for duty-free entry in this case since the domestic instrument is scientifically equivalent to the foreign article and the program involved is research oriented. In the past, (Docket No. 74-00466-33-46500) the Department has denied duty-free entry based on the rationale that a difference in design or handling characteristics between a domestic instrument and foreign article of equal capability would broaden the experience of students.) Moreover, in connection with the applicant's initial submission (Docket Number 75-00444-33-46040), which HEW cites as support for its findings on this application, HEW advises that the article is not established as being a simple instrument.

(2) HEW advises that the smaller floor space requirements of the article are not pertinent or scientifically relevant.

(3) Subsection 301.6(a)(3) of the regulations stipulates that only accessories ordered as a part of the article are to be considered in the Department's determination. Thus the ability to add on components (including the eucentric goniometer stage) subsequent to the purchase of the foreign article is not a factor in this decision.

(4) The EMU-4c provides a magnification range of 1400 to 240,000× with 400× or less for scanning without a pole piece change. The article provides a magnification range of 1500 to 200,000× with 200× for scanning without a pole-piece change. HEW advises that the article and the EMU-4C have equivalent magnifications in high and low range and pole-piece change requirements.

In connection with magnetic reproducibility, HEW advises that the one percent difference in magnification setting error is not pertinent for the work.

(5) The three cameras available with the foreign article provide, in combination, over 150 exposures. The EMU-4C can also be provided with a 35 mm, 70 mm and plate system. We note that the plate system of the EMU-4C alone provides 240 exposures. Further the article was ordered with a 70 mm and a plate camera system. Since Subsections 301.2 (d) and 301.6(a)(3) of the regulations limits our deliberations to accessories ordered as a part of the foreign article, any benefits conferred on the article by the 35 mm camera cannot be a factor in our decision. Moreover, we note that in its recommendation relating to Docket Number 76-00132-33-46040 (which is analogous to this application in essential respects), HEW advises that both the article and the EMU-4C have equivalent photographic facilities and, in advice relating to the applicant's initial application (75-00444-33-46040), HEW termed the photographic conveniences of the article not pertinent.

(6) HEW advises that the EMU-4C provides adequate illumination with its high intensity grid cap and plug-in-filament. We note this illumination is sufficient to obtain the 5Å guaranteed resolution of the EMU-4C. Thus, we find that the coherency of the beam is not relevant in view of the guaranteed high resolution and adequate illumination at high magnifications provided by the EMU-4C. In connection with the requirement for adequate illumination, the applicant cites his April 3 and 4, 1975 experience with an EMU-4 at the AD plant. Thus the applicant alleges that focusing at 100,000X or above was very difficult if not impossible whereas with the article illumination was more than sufficient to recognize focus at magnifications of 50-150,000X and bordered between poor and fair at a magnification of 200,000X. As to this, HEW advises that observations during a demonstration of an EMU-4 (Not an EMU-4C) on April 3 and 4, 1975 are not relevant to a purchase made December 27, 1974. We also find it interesting that a demonstration was not sought on the domestic instrument until after the foreign article was purchased. If the domestic supplier was aware that the Institute had no intention to buy its product, little incentive existed for preparing the equipment for the demonstration.

For the foregoing reasons, we find that the Model EMU-4C was of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-37782 Filed 12-22-76;8:45 am]

UNIVERSITY OF IOWA ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00040. Applicant: The University of Iowa—Institute of Hydraulic Research, Iowa City, Iowa 52242. Article: Double-Bragg-Cell Module and accessories. Manufacturer: Opto-Electronische Instrumente GmbH and Co., West Germany. Intended use of article: The article is intended to be used with a laser anemometer composed of the laser, optics, photomultipliers preamplifiers, and frequency trackers for studying velocities in complexed, three-dimensional flow investigations in boundary layers and transitions in both air and water. Application received by Commissioner of Customs: November 15, 1976.

Docket Number: 77-00041. Applicant: University of California, San Francisco, 1438 South Tenth Street, Richmond, CA 94804. Article: Cryokit, Model LKB 14801-1 and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is an accessory to existing equipment which will be used in studies of the biochemical and ultrastructural changes occurring in subcellular organelles of mammalian cells, under normal, experimental and pathological conditions. Cell components are defined, proteins chemically characterized and ultrastructural changes occurring in the nuclei of epidermal cell types during keratinization are investigated. In addition, the article will be used in the training of post and predoctoral candidates for dermatological research. Application received by Commissioner of Customs: November 15, 1976.

Docket Number: 77-00042. Applicant: Rensselaer Polytechnic Institute, Materials Engineering Department, Troy, New York 12181. Article: Electron Microscope, Model JEM 100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in research concerned with the investigation—of the austenite variables of composition, defect structure, stacking fault energy, process history; and properties as coupled phenomena and the relationship of these variables to the structure, transformation kinetics, and properties of the resultant martensite. Studies will be carried out in the area of corrosion fatigue of aluminum alloys and copper alloys requiring extensive transmission electron microscopy to determine changes in deformation substructures which accompany corrosive reactions. It is also planned to study phase separation in glasses and the graphite layer structure at the surface of high performance graphite fibers. In addition, the article will be used as a teaching instrument to expose students to the fundamentals of transmission electron microscopy in the courses: Structure and Properties of Materials II, Chemical Instrumentation, Electron Beam Analysis Techniques. The article will also be used in the course Electron Microscopy of Crystalline Materials to instruct students in the use of the microscope and its accessories. Application received by Commissioner of Customs: November 15, 1976.

Docket Number: 77-00043. Applicant: Wayne State University, Kresge Eye Institute, 540 E. Canfield, Detroit Michigan 48201. Article: Goniometer Stage for Philips 301 Electron Microscope. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in a number of research projects on the eye. Various tissues of the eye from experimental animals as well as some from human sources will be studied. Both normal and pathologic structure will be analyzed. Investigations will be conducted to gain a better understanding of the effects of age and related factors on the normal and cataract lens; the elucidation of membrahe structure and related secretory functions in lens, pigment epithelium and colon; and the implementation of freeze-etch technology and stereo microscopy which will aid in the understanding of ultrastructure in all areas of ongoing eye research. Application received by Commissioner of Customs: November 15, 1976.

Docket Number: 77-00044. Applicant: UCLA/Geophysics & Space Physics, 405 Hilgard Avenue, Los Angeles, California 90024. Article: Recording/Portable Proton Magnetometer, Model MP-2. Manufacturer: Varian Associates of Canada. Intended use of article: The article is intended to be used to record variations of the earth's magnetic field in order that magnetometer survey data can be corrected for this effect. The magnetometer survey will be conducted with a portable magnetometer in the San Andreas fault area, to determine the areas where tectonic stresses may be likely to influence the magnetic properties of rocks. In addition, the article will be used in a course entitled "Field Geophysics", which covers seismic, gravity, and magnetic prospecting. The objectives of the course are to demonstrate the methods employed in such surveys, to enable students to carry out their own surveys, and to explore a region of geological interest. Application received by Commissioner of Customs: November 16, 1976.

Docket Number: 77-00045. Applicant: Auburn University, 103 Textile Building, Auburn, Al 36830. Article: Rothschild Solid-State Tensiometer, Model No. R1192 with High-Speed Recorder, Model No. HE 16 and 100 gram Full Scale

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Measuring Head. Manufacturer: Rothschild, Switzerland. Intended use of article: The article is intended to be used for the study of yarn manufacturing, yarn preparatory and fabric manufacturing systems as to the effect of various parameters, including yarn tensions, on process efficiency and product quality. In addition, the article will be used for educational purposes in the courses: Textured Yarns, Woven Fabric Structures, Knit Fabric Structures, and Warp Preparation all of which have the objectives of providing basic textile knowledge about yarn and fabric processes, the principles of operation of various machines available in the industry and the management and/or technical aspects applicable to the current and future industry related problems. Application recieved by Commissioner of Customs: November 16, 1976.

Docket Number: 77-00046. Applicant: U.S. Environmental Protection Agency, National Enforcement Investigations Center, Building 53, Box 25227, Denver Federal Center, Denver, CO 80225. Article: Ten (10) Thermoelectric Generators. Manufacturer: Global Thermoelectric Power Systems Ltd., Canada. Intended use of article: The article is intended to be used to provide electric power for operation of scientific equipment needed to monitor air and water quality for long periods at locations where this was formerly impossibe or impractical. Application received by Commissioner of Customs: November 16, 1976.

Docket Number: 77-00047. Applicant: United Cerebral Palsy of New York City, Inc., 122 East 23rd Street, New York, New York 10010. Article: Parts for swimming pool hydraulic lift. Manufacturer: Anlagenbau fur Wassertechnik, West Germany. Intended use of article: The article is intended to be used for raising a swimming pool floor to enable multiphysically handicapped students to wheel themselves onto the pool floor and be lowered into the pool for physical therapy. Application received by Commissioner of Customs: November 20, 1976.

Docket Number: 77-00048. Applicant: University of Cincinnati, Dept. of Physics, Cincinnati, Ohio 45221. Article: Makrafoil (partially fabricated). Manufacturer: University of Melbourne, Australia. Intended use of article: The article is intended to be used for the investigation of angular distribution of neutrons produced in nuclear interactions. Application received by Commissioner of Customs: November 20, 1976.

Docket Number: 77-00049. Applicant: Carnegie-Mellon University, 5000 Forbes Avenue, Pittsburgh, Pa. 15213. Article: Phototitus Light Valve. Manufacturer: LEP (Laboratories d' Electronique et de Physique Applique), France. Intended use of article: The article is intended to be used for the study of electro-optical effect in DKDP. The phenomena to be investigated will include cycle time, resolution contrast, wavelengths of write and read same. Application received by Commissioner of Customs: November 20, 1976.

Docket Number: 77-00050. Applicant: Peoria School of Medicine (University of Illinois), 123 S.W. Glendale Ave., Peoria, IL 61605. Article: Electron Microscope, Model JEM 100C (with associated power supply, pump box, and compressor). Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used for the study of biological, both pathogenic and nonpathogenic, microorganisms (e.g., bacteria, fungus and animal viruses), mammalian tissues derived from experimental animals and of human origin to exhibit normal and pathologic structure. The experiments to be conducted include, (1) experiments to study localization and distribution of enzymes in both microbial and mammalian cell membrane; (2) experiments to elucidate the supramolecular architecture of biological membrane system; (3) experiments to study the physiologic and pathologic changes in cell ultrastructure; and (4) the study of molecular organization of cells and their changes in malignancy and other disease states for diagnosis. In addition, the article will be used in teaching undergraduate and graduate level courses with the objective of training both medical and graduate students to study cell ultrastructure and the application of the knowledge of cell fine structure and function in medical and nonmedical problems. Applications received by Commissioner of Customs: November 20, 1976.

Docket Number: 77-00051. Applicant: Georgia Institute of Technology, 225 North Avenue, N.W., Atlanta, Georgia 30332. Article: One (1) each Solar Pilot Plant. Manufacturer: Societa Generale Electro Ansaldo Meccanica SPA, Italy. Intended use of article: The article is intended to be used for studies of direct solar radiation as an energy source. Experiments to be conducted are expected to include steam generation, heliostat characterization, air cycle demonstration, sodium loop application helium cycles, oil cooling, etc. Additional research areas applicable to this facility include thermal storage, high temperature metals, coatings and ceramic technology, etc. The primary objectives of investigation are in the general class of the advancement of technology in central receiver solar energy systems and high temperature materials behavior. Application received by Commissioner of Customs: November 20, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-37781 Filed 12-22-76;8:45 am]

UNIVERSITY OF VIRGINIA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00507. Applicant: University of Virginia, Department of Chemistry, McCormick Road, Charlottesville, VA 22901. Article: Split Coil Superconducting Solenoid and Matrix Isolation Accessory System. Manufacturer: The Oxford Instrument Company, Limited, United Kingdom. Intended use of article: The article is intended to be used to make the following measurements in order to increase fundamental knowledge of the magnetic and electronic structural properties of molecules cited below and related systems:

(1) Matrix isolation magnetic circular dichroism (MIMCD).

(2) Magnetic circularly polarized emission (MCPE).

(3) Magnetic linear dichroism (MLD).

(4) Transverse Zeeman effect.

(5) Magnetic linear polarized emission (MLPE).

(6) Optical double resonance.

Among the systems to be investigated are the following O_2^-, O_3^-, XeF, Xe-Cl, Ca_2, ClO_2, SO_3^-, Cl_2^-, F_2^-, CaO, UF_6, $CS_2GeF_6:Mn^4+$, $CS_2GeF_6:Ir^4+$, OS^4+, Re^4+, Uranocene films, carboranes, UF_6. In addition, the article will be used by graduate students doing research work as part of the requirement for advanced degrees in chemistry (MS, and Ph.D.)

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 76-00359 which was denied without prejudice to resubmission on June 1, 1976 for informational deficiencies. The foreign article provides a six tesla magnet, field homogeneity over one cubic centimeter of 1.5 percent with operation at 40 amperes as well as a continuous flow cryostat which permits sample cooling to 10 kelvin and sample transfer from the unit to the magnet with optical access to the sample through five strain free quartz windows. The National Bureau of Standards (NBS) advises in its memorandum dated November 26, 1976 that the capabilities described above are pertinent to the applicant's intended purposes. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-37784 Filed 12-22-76;8:45 am]

WASHINGTON UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00524. Applicant: Washington University, Physics Department, St. Louis, Mo. 63130. Article: High Field Superconducting Magnet System. Manufacturer: Oxford Instrument Co., Ltd., United Kingdom. Intended use of article: The article is intended to be used for investigations of single crystals of elemental metals, alloys, insulators, and semiconductors employing principally Nuclear Acoustic Resonance, (NAR). Examples of the types of experiments using NAR with the 8.5T superconducting magnet system are:

1. NAR studies of the Transition Metal System with known Hydrogen Impurity Concentrations.

2. NAR Studies of Pure Elemental Metal Single Crystals.

3. NAR Studies of Single Crystals of Semimetals.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a magnetic field sweep over a range of ±500 gauss while maintaining 1/10' homogeneity. The National Bureau of Standards (NBS) advises in its memorandum dated November 30, 1976 that (1) the specification of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-37785 Filed 12-22-76;8:45 am]

National Oceanic and Atmospheric Administration

CARIBBEAN REGIONAL FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Caribbean Regional Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Caribbean Council will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to Puerto Rico and the Virgin Islands. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This is the fourth in a series of organizational meetings of the Council. The meeting will be held Monday through Thursday, January 10 to January 13, 1977, at the Mayaguez Hilton Hotel, Route 2, Mayaguez, Puerto Rico. The meeting will convene at 1:00 p.m. on January 10 and adjourn at about noon on January 13. Daily sessions will normally start at 9:00 a.m. and adjourn at 5:00 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Council Organization and Administration Procedures.

2. Technical Procedures Including Fishery Management Plan Development.

3. Organization of Council's Scientific and Statistical Committee and Advisory Panel.

4. Interview of final candidates for Executive Director position.

This meeting is open to the public, except for that portion dealing with selection of an Executive Director, and there will be seating for a limited number of public members available on a first-come, first-serve basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about January 7, 1977:

Ernest D. Premetz, Special Assistant to the Regional Director, National Marine Fisheries Service, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing the Special Assistant to the Regional Director at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: December 15, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-37678 Filed 12-22-76;8:45 am]

DRAFT FEE SCHEDULE

Fishing by Foreign Vessels in Waters Under the Jurisdiction of the United States of America

The Director, National Marine Fisheries Service (hereinafter the "Director") hereby issues notice of a proposed fee schedule for fishing by foreign vessels in waters under the jurisdiction of the United States of America, pursuant to Section 204(b)(10) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) (hereinafter the "Act"). This proposed schedule establishes fees which must be paid by those foreign nations wishing to utilize allocated surplus resources within the United States Fishery Conservation Zone as authorized by the Act. This proposed fee schedule is based on the preliminary determinations of the Director and the requirements of the Act.

Section 201(d) of the Fishery Conservation and Management Act of 1976 provides that foreign fishermen may take "* * * that portion of the optimum yield of a fishery which will not be harvested by vessels of the United States * * *" The Act also requires that foreign nations be charged reasonable fees for the portion of the surplus that is allocated to them. Guidance for establishing these fees is provided in section 204(b)(10) of the Act:

"Reasonable fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees, which shall apply nondiscriminatorily to each foreign nation. In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement."

The Act does not imply, nor is it interpreted, that the fees are to be used as a management mechanism, either to allocate the optimum yield between domestic and foreign fishermen or to prohibit foreign fishing.

CRITERIA FOR ESTABLISHING FEE SCHEDULE

The following criteria were used to develop the proposed fee schedule for foreign fishing:

Reasonableness—A fee schedule should recover an appropriate part of the management costs related to foreign fishing and the fee should not in itself be so high as to prevent foreign nations from utilizing the allocated surplus.

Equity—The Act requires nondiscrimination among foreign nations in the application of a fee schedule.

Simplicity of implementation and administration—Fees should be simple to compute, collect, and adjust. The collection process should be simplified by requiring that a single consolidated fee be

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collected from each foreign nation prior to the issuance of vessel permits.

Acceptability—The fee schedule should be acceptable to foreign nations and United States interests.

Relationship to conservation and management—The fee collection system should include provisions which facilitate the collection of unbiassed data, encourage the avoidance of non-target species, and make enforcement as easy as possible.

BASES OF FEES

The fee proposed for each country will be based on a combination of the size of vessels and the ex-vessel value of the foreign country's allocation.

Vessel size—Each foreign nation will pay an annual access fee per gross registered ton, for all vessels for which a permit is requested. This approach recognizes differences in size of vessels and takes into account the difference in fishing power between large and small vessels. An upper limit will be established so that large support (non-catching) vessels used by some nations are not charged excessively high fees. This access fee would be nondiscriminatory in that all vessels would be charged the same amount per GRT, up to the maximum.

Value of the foreign nation's allocation—In addition to the access fee, each foreign nation desiring to fish in the United States Fisheries Conservation Zone, will be required to pay an allocation fee based on a percentage of the ex-vessel value of the surplus allocated to that nation. The value will be determined by the ex-vessel price received by U.S. fishermen on species that have a U.S. fishery. For species without a U.S. fishery the average foreign ex-vessel price will be used.

OTHER CHARGES

In addition to the access and allocation fees, reimbursement from foreign nations will be required for United States observers placed aboard their vessels. Also, in the near future, each foreign vessel may be required to purchase and install a transponder system, and be obliged to assume costs for meeting other requirements of the Act.

INCIDENTAL CATCH OF NON-SURPLUS SPECIES

It is proposed that the United States Government not charge foreign nations for the incidental capture of species not identified as surplus. Allowing the retention of non-surplus species would remove the incentive to fish in a manner to reduce the catch of non-surplus species. Any such non-surplus species caught incidentally should not be retained but should be returned to the sea. Foreign users would have an incentive to bias their catch statistics if they were charged a fee for the catch of non-surplus species but were required to return them to the sea. Fees should not be the basis for restricting or prohibiting the taking of these stocks, since management regulations such as area and season closures, can more effectively control their catch.

LEVEL OF FEES

The Act provides that in determining the level of fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement. This does not preclude other factors from being considered, nor does it mean that the amount of the cost must constitute the upper or lower limit of fees. The Act specifies only that fees be reasonable.

A fee schedule could be considered to be reasonable if the following two conditions are met:

That part of a fishery determined to be surplus does not go unutilized because of fee level;

The United States collects revenues sufficient to cover an appropriate part, as determined by the Secretary, of the costs to the United States related to foreign fishing.

Six main points were considered in determining the fee level:

1. It appears that a reasonable upper limit on fees would be five percent of the ex-vessel value. This is based on the analysis of earnings of foreign fishing operations in the U.S. waters. This level of fees would yield $27.7 million and could tax away all the net revenues of the average vessel operation. Higher fees could presumably not be considered reasonable.

2. The fee level established by the United States may be used as a basis by other countries for assessing fees on U.S. fishermen in foreign waters. The fees now charged by other fishing nations are generally 5 percent or less of the value of the product.

3. The United States has a long-term interest in the conservation of fishery resources, for the sake of future generations. Hence, resource investigations and careful management are needed regardless of foreign fishing.

4. The total cost related to extended jurisdiction amounts to $92 million.

5. The value of fish taken by foreign fishermen ($55 million) is estimated to be about 60 per cent of the total value of the combined U.S. and foreign catch ($920 million) hence, 60 per cent or $55 million of the total management costs to the United States ($92 million) may be assigned to foreign fishing.

6. If foreign fishing were totally banned, a large fraction of the costs of extended jurisdiction would still remain. For example, most of the stock assessment work would still be required. Further, the cost of enforcement (except the cost of observers) could not be reduced significantly since the Fishery Conservation Zone would still need to be policed to assure the exclusion of non-authorized fishing vessels. We estimate that $70 million of the $92 million total for management would have to be borne by the United States even in the absence of foreign fishing.

FEE SCHEDULE

It is proposed that permit fees charged each foreign nation for fishing in the Fishery Conservation Zone will be as follows:

1. *Access fee*—a fixed annual fee of $1.00 per gross registered ton (GRT), not to exceed $5,000 for any fishing vessel (as defined in the Act); and

2. *Allocation fee*—For 1977, an allocation fee of 3.5 percent of the ex-vessel value of the surplus allocated to that nation.

EXPECTED REVENUES FROM FEES AND OBSERVER COSTS

About 1,400 foreign fishing vessels with an average size of 1,400 gross registered tons (GRT) are expected to apply for fishing privileges off the U.S. They are expected to catch about 2.0 million metric tons (exclusive of non-surplus species) of fishery resources, with an ex-vessel value of about $553 million. Revenue would amount to $2 million from the $1.00 fee per GRT, and $19 million from the 3.5 percent of the ex-vessel value of target species.

Revenues from reimbursement for the observers on foreign vessels are expected to be $750,000.

Federal Government operating costs for management and enforcement related to foreign fishing are estimated to be slightly over $55 million.

The total charges to be paid by foreign countries will be $22 million, assuming that the projected number of foreign vessels will be permitted to fish and the projected allocations are made. Thus, approximately 40 percent of the Federal Government operating costs would be recovered using this schedule.

PUBLIC COMMENTS SOLICITED

The Director intends that the fee schedule finally adopted be as equitable and effective as possible, within the intent of the Act. Therefore, written comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed fee schedule are solicited.

Written comments, views, and other documents should be submitted, preferably in duplicate, to the Director, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235. All comments and other documents received no later than 21 days from the date of publication in the FEDERAL REGISTER will be considered. Comments and other documents received pertaining to this proposed fee schedule will be available for public review in the Fisheries Management Operations Division, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. or may be obtained by writing the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

NOTE.—The National Marine Fisheries Service has determined that this document does not contain a major proposal requiring preparation of an inflationary impact statement under E. O. 11821, and OMB Circular A-107.

Dated: December 20, 1976.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

[FR Doc.76-37652 Filed 12-22-76;8:45 am]

EDWARD SHALLENBERGER

Receipt of Application for Scientific Research and Scientific Purposes

Notice is hereby given that the following Applicant has applied for permits to take marine mammals for the purpose of scientific research under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and for scientific purposes under the Endangered Species Act of 1973 (16 U.S.C. 1531–1543).

Dr. Edward W. Shallenberger, c/o Sea Life, Inc., Makapuu Point, Waimanalo, Hawaii 96795, to conduct scientific research with the following species, over a three year period:

1. Spinner dolphin (*Stenella longirostris*).
2. Spotted dolphin (*Stenella attenuata*).
3. Rough-toothed dolphin (*Steno bredanensis*).
4. Bottlenose dolphin (*Tursiops truncatus*).
5. Melon headed whale (*Peponocephala electra*).
6. Pygmy killer whale (*Feresa attenuata*).
7. False killer whale (*Psuedorsa crassidens*).
8. Pilot whale (*Globicephala macrorhynchus*).
9. Dense beaked whale (*Mesoplodon densirostris*).
10. Cuvier's beaked whale (*Ziphius cavirostris*).
11. Pygmy sperm whale (*Kogia breviceps*).
12. Dwarf sperm whale (*Kogia simus*).
13. Sperm whale (*Physeter catodon*).
14. Humpback whale (*Megaptera novaeangliae*).

The sperm whale and humpback whale are listed as endangered species under the Endangered Species Act of 1973.

The activities to be conducted will be observations by shore, aircraft, and surface vessels, with some underwater observations. These activities may involve harassment of individual cetaceans within the population stocks. No animals will be captured.

The proposed project is intended to proide information on numbers, species, and distribution of cetaceans inhabiting the waters off the main Hawaiian Island, extending from Niihau to Hawaii.

The basic population data obtained from this project is considered essential in order to solve the problems with cetaceans currently confronting the State of Hawaii.

The application for the Marine Mammal Protection Act permit will be considered under the Regulations Governing the Taking and Importing of Marine Mammals. The application for the Endangered Species Act permit will be considered under the Regulations Governing Endangered Fish and Wildlife Permits.

Documents submitted in connection with these applications are available in the following offices:

Director, National Marine Fisheries Service, Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application for the Marine Mammal Protection Act permit to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before January 24, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: December 17, 1976.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.76-37693 Filed 12-22-76;8:45 am]

PACIFIC FISHERY MANAGEMENT COUNCIL; SCIENTIFIC AND STATISTICAL COMMITTEE; SALMON ADVISORY PANEL AND ANCHOVY ADVISORY PANEL

Public Meetings

Notice is hereby given of meetings of the Pacific Fishery Management Council, established under section 302, and the Council's Scientific and Statistical Committee, Salmon Advisory Panel, and Anchovy Advisory Panel, established under section 302(g), of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265).

The Pacific Council will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of California, Oregon, and Washington. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan.

The Salmon Advisory Panel, composed of persons who are either actually engaged in the harvest of, or are knowledgeable and interested in the conservation and management of the salmon resource, assists the Council in the development or amendment of a salmon fishery plan.

The Anchovy Advisory Panel, composed of persons who are either actually engaged in the harvest of, or are knowledgeable and interested in the conservation and management of the anchovy resource, assists the Council in the development or amendment of an anchovy fishery management plan.

The meetings will be held January 12 and 13, 1977, in the Bahia Motor Hotel, 998 West Mission Bay, San Diego, California. The meetings will convene at 8:00 a.m. and adjourn at 5:00 p.m. each day.

Proposed Agendas:

A. PACIFIC FISHERY MANAGEMENT COUNCIL

1. Organization of Council, including Council staff, fishery advisory panels, Scientific and Statistical Committee, and operational and procedural matters.
2. Council budget.
3. Consideration of development of management plans, including salmon and anchovies.
4. Reports from advisory panels and Scientific and Statistical Committee.
5. Review of communications from other agencies and organizations.

This meeting will be open to the public and there will be seating for approximately 75 public members available on a first-come, first-served basis.

B. SCIENTIFIC AND STATISTICAL COMMITTEE

1. Consideration of development of fishery management plans, including plans for salmon and anchovy fisheries.
2. Consideration of research teams.
3. Consideration of a fishery development program for underutilized species.
4. Consideration of Committee budget.

This meeting will be open to the public and there will be seating for approximately 25 members of the public on a first-come, first-served basis.

C. SALMON ADVISORY PANEL

1. Panel organization.
2. Consideration of development of a salmon fishery management plan.
3. Review of salmon work team documents and reports.

This meeting will be open to the public and there will be seating for approximately 25 members of the public on a first-come, first-served basis.

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D. ANCHOVY ADVISORY PANEL

1. Panel organization.
2. Consideration of development of an anchovy fishery management plan.
3. Review of reports and documents related to anchovy management.

This meeting will be open to the public and there will be seating for approximately 25 members of the public on a first-come, first-served basis.

Members of the public having an interest in specific items for discussion are advised that changes to the agendas are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact by January 6, 1977:

Mr. John T. Gharrett, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North Seattle, Washington 98109. (Telephone (206) 442–1460), or
Mr. Svein Fougner, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731. (Telephone (213) 548–2575).

At the discretion of the Council, Committee, and Panels, interested members of the public may be permitted to speak at times which will allow the orderly conduct of business. Persons who wish to submit written statements should contact Mr. Gharrett or Mr. Fougner at the address given above. To receive due consideration and facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated: DECEMBER 17, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-37679 Filed 12-22-76;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

ALUMINUM WIRE SYSTEM SUBPOENAS

Open Meeting

Notice is hereby given that an open meeting between attorneys from the Commission's Bureau of Compliance and attorneys for Leviton Mfg. Co., General Electric Co., and Kaiser Aluminum and Chemical Sales Inc. will be held on Friday, December 24, 1976 at 9:30 a.m. at the law offices of Wilmer, Cutler and Pickering, 11th Floor, 1666 K Street, N.W., Washington, D.C. 20006, to discuss enforcement of the Commission's aluminum wire and electric device subpoenas.

The meeting is being held at the request of the above manufacturers' attorneys, and the specific date for the meeting was selected by those attorneys. Because the 24th is a legal holiday and federal buildings will be closed, the meeting will take place at the offices of Wilmer, Cutler and Pickering at the above address.

The meeting is open to the public. "Substantial interest" matters will be discussed. Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Consumer Product Safety Commission, Washington, D.C. 20207.

Because the building where the meeting is being held will have been secured for the holiday weekend, it will be helpful to have the names of attendees in advance so that they will be admitted readily. Persons who plan to attend should telephone Enid Rubenstein, Trial Attorney, Bureau of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: 301–492–6632, so that their names may be placed on the attendance list.

Dated at Washington, D.C., December 21, 1976.

SHELDON D. BUTTS,
Acting Secretary.

[FR Doc.76-37868 Filed 12-22-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

PRIVACY ACT OF 1974

Proposed System of Records Amendment

In FR Doc. 75–21075 published in the FEDERAL REGISTER (40 FR 35403) of August 18, 1975; FR Doc. 75–22752 published in the FEDERAL REGISTER (40 FR 39677) of August 28, 1975; FR Doc. 75–22754 published in the FEDERAL REGISTER (40 FR 39711) of August 28, 1975; FR Doc. 75–29296 published in the FEDERAL REGISTER (41 FR 2954) of January 20, 1976; and FR Doc. 76–21185 published in the FEDERAL REGISTER (41 FR 30979) of July 26, 1976, the Department of the Air Force set forth agency systems of records as prescribed by the Privacy Act of 1974. Notice is hereby given that the Department of the Air Force proposes to amend a system of records by making language changes directed at enhancing individual understanding of the system.

Following the brief identification of the record system and the specific changes made therein, the complete revised record system, as amended, is published in its entirety. Any public comments, including written data, views or arguments concerning the changes should be addressed to the system manager identified in the record system notice on or before January 15, 1977.

F16802 SGPC A

System name:

Child Advocacy Case Files (40 FR 35663).

Changes:

Categories of individuals covered by the system:

Delete entire entry and substitute: "All children entitled to care at Air Force medical and dental facilities whose abuse or neglect is brought to the attention of appropriate authorities and all persons suspected of abusing or neglecting such children."

Categories of records in the system:

Delete entire entry and substitute: "Medical records of suspected and established cases of child abuse or neglect, investigative reports, correspondence, child advocacy committee reports, follow-up and evaluative reports, and any other supportive data assembled relevant to individual child advocacy program files."

Authority for maintenance of the system:

Delete entire entry and substitute: "5 U.S.C. 301; 10 U.S.C. 8012; 44 U.S.C. 3101."

Routine uses of records maintained by the system, including categories of users and the purposes of such uses:

"Officials and employees of the Department of the Air Force in the performance of their official duties relating to health and medical treatment of members and former members of the uniformed services, civilians, and dependents receiving medical care under Air Force auspices; performance of research studies and compilation of statistical data. Officials and employees of other components of the Department of Defense and other Departments and agencies of the Executive Branch of government in the performance of their official duties relating to the coordination of child advocacy programs, medical care and research concerning child abuse and neglect. The Attorney General of the United States or his authorized representatives in connection with litigation, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies. Federal, state or local governmental agencies when it is deemed appropriate to utilize civilian resources in the counseling and treatment of individuals or families involved in child abuse or neglect, or when it is deemed appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement. Authorized officials and employees of private organizations and individuals for health research in the interest of the federal government and the public; and authorized surveying bodies for professional certification and accreditation."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Delete entire entry and substitute: "Records may be stored in file folders, microfilm or magentic tape, punched cards, machine lists, discs, and other computerized or machine readable media."

Retrievability:

Delete entire entry and substitute: "Records are retrieved by name of the abused or neglected child and the social security number of the sponsor or guardian."

Safeguards:

Delete entire entry and substitute: "Records are maintained in various kinds of filing equipment in specified monitored or controlled access rooms or areas. Public access is not permitted. Records are accessible only to authorized personnel that are properly screened and trained, and on a need to know basis only. Computer terminals are located in supervised areas with access controlled by password or other user code system."

Record source categories:

Delete entire entry and substitute: "Reports from physicians and other medical department personnel reports and information from other sources including educational institutions, medical institutions, law enforcement agencies, public and private health and welfare agencies, and witnesses."

Systems exempted from certain provisions of the act:

Delete entire entry and substitute: "Parts of this system may be exempt under 5 U.S.C. 552a(k) (2) and (5), as applicable. For additional information contact the System Manager(s)."

F16802 SGPC A

System name:

Child Advocacy Case Files.

System location:

At Headquarters United States Air Force, Office of the Surgeon General, Directorate of Professional Services, Clinical Medicine Division, 1000 Independence Avenue, Washington, DC 20314; Major Command Surgeon's Office; and Air Force Hospitals, medical centers and clinics. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

Categories of individuals covered by the system:

All children entitled to care at Air Force medical and dental facilities whose abuse or neglect is brought to the attention of appropriate authorities and all persons suspected of abusing or neglecting such children.

Categories of records in the system:

Medical records of suspected and established cases of child abuse or neglect, investigative reports, correspondence, child advocacy committee reports, follow-up and evaluative reports, and any other supportive data assembled relevant to individual child advocacy program files.

Authority for maintenance of the system:

5 U.S.C. 301; 10 U.S.C. 8012; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Officials and employees of the Department of the Air Force in the Performance of their official duties relating to health and medical treatment of members and former members of the uniformed services, civilians, and dependents receiving medical care under Air Force auspices; performance of research studies and compilation of statistical data. Officials and employees of other components of the Department of Defense and other Departments and agencies of the Executive Branch of government in the performance of their official duties relating to the coordination of child advocacy programs, medical care and research concerning child abuse and neglect. The Attorney General of the United States or his authorized representatives in connection with litigation, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies. Federal, state or local governmental agencies when it is deemed appropriate to utilize civilian resources in the counseling and treatment of individuals or families involved in child abuse or neglect, or when it is deemed appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement. Authorized officials and employees of private organizations and individuals for health research in the interest of the federal government and the public; and authorized surveying bodies for professional certification and accreditation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records may be stored in file folders, microfilm or magnetic tape, punched cards, machine lists, discs, and other computerized or machine readable media.

Retrievability:

Records are retrieved by name of the abused or neglected child and the social security number of the sponsor or guardian.

Safeguards:

Records are maintained in various kinds of filing equipment in specified monitored or controlled access rooms or areas. Public access is not permitted. Records are accessible only to authorized personnel that are properly screened and trained, and on a need to know basis only. Computer terminals are located in supervised areas with access controlled by password or other user code system.

Retention and disposal:

Retained in office files for five years after the end of year in which case was closed, retired to National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, Missouri 63118.

System manager(s) and address:

The Surgeon General, Headquarters United States Air Force, Major Command Surgeons, commanders of medical centers, hospitals, and clinics.

Notification procedures:

Requests from individuals should be addressed to the Systems Manager at Air Force hospitals, medical centers and clinics. Requests should include name, social security account number of sponsor location, and place of incident.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Reports from physicians and other medical department personnel reports and information from other sources including educational institutions, medical institutions, law enforcement agencies, public and private health and welfare agencies, and witnesses.

System exempted from certain provisions of the act:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(2) and (5), as applicable. For additional information contact the System Manager(s).

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.
MAURICE W. ROCHE, *Director,*
Correspondence and Directives
OASD (Comptroller).

[FR Doc.76-37614 Filed 12-22-76;8:45 am]

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

DECEMBER 2, 1976.

The USAF Scientific Advisory Board Division Advisory Group, Aeronautical Systems Division, will hold meetings on January 20, 1977 from 8:30 a.m. to 5:00 p.m. and January 21, 1977 from 8:30 a.m. to 5:00 p.m., at Wright-Patterson Air Force Base, Ohio, in Room 222, Building 14, Area B.

The Group will receive classified briefings and hold classified discussions on selected programs and projects relating to the missions of the Aeronautical Systems Division and Air Force Wright Aeronautical Laboratories.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202–697–8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-37657 Filed 12-22-76;8:45 am]

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Department of the Army

RDX/HMX EXPANSION FACILITY

Note of Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on November 1975, filed with the council on Environmental Quality, a draft environmental impact statement concerning the establishment of an RDX/HMX Expansion Facility.

Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from the Project Manager Munitions Production Base and Modernization ATTN: Explosives Branch, Dover, NJ 07801 (phone: (201) 328-2603).

In the Washington area inspection copies may be seen, during normal duty hours, in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310 (phone: (202) 694-3434).

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc.76-37658 Filed 12-22-76;8:45 am]

Office of the Secretary of Defense

ADVISORY GROUP ON ELECTRON DEVICES

Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, NY 10014 on 4 February 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The AGED will review programs on microwave devices, night vision devices, lasers, infrared systems and microelectronics. The review will include classified program details throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically, subparagraph (1) thereof, and that accordingly the meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 20, 1976.

[FR Doc.76-37629 Filed 12-22-76;8:45 am]

IMAGING AND DISPLAY ELECTRON DEVICES ADVISORY GROUP

Meeting

Working Group C (Mainly Imaging and Display) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, NY 10014 on 27 January 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The special device area includes such programs as Infrared and Night Vision Sensors. The review will include classified program details throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OSAD (Comptroller).

DECEMBER 20, 1976.

[FR Doc.76-37627 Filed 12-22-76;8:45 am]

LASER ELECTRON DEVICES ADVISORY GROUP

Notice of Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at the Institute for Defense Analysis, 400 Army Navy Drive, Arlington, VA 22202 on 26 and 27 January 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 20, 1976.

[FR Doc.76-37624 Filed 12-22-76;8:45 am]

LOW POWER ELECTRON DEVICES ADVISORY GROUP

Notice of Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, NY 10014, on 3 February 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The low power devices area includes such programs as integrated circuits, charge coupled devices and memories. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 20, 1976.

[FR Doc.76-37628 Filed 12-22-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GENERAL ADVISORY COMMITTEE; SOLAR WORKING GROUP

Meeting

Pursuant to provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) in accordance with the purpose of section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036) and section 104(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5814), notice is hereby given that the General Advisory Committee will hold a meeting of its Solar Working Group on January 13, 1977. The meeting will convene at 9:00 a.m., at ERDA Headquarters, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545.

The meeting, which will be to discuss the status of the GAC's review of ERDA's solar research program, will be open to the public.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 13 copies thereof, postmarked no later than January 3, 1977, to the Secretary, General Advisory Committee, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Questions at the meeting may be propounded only by members of the General Advisory Committee.

(c) Seating to the public will be made available on a first-come, first-served basis.

(d) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(e) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, upon payment of all charges required by law.

(f) Anyone who plans to attend should contact Mr. Fisher Howe, Secretary of the GAC, U.S. E.R.D.A., 20 Massachusetts Avenue, N.W., Washington, D.C. 20545; telephone (202) 376-4678, by January 12, 1977.

HARRY PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.76-37645 Filed 12-22-76;8:45 am]

GEOTHERMAL ENERGY ADVISORY COMMITTEE

Meeting

In accordance with provisions of Pub. L. 92-463 (Federal Advisory Committee Act), the Advisory Committee on Geothermal Energy (ACGE) will hold its second meeting on Monday, January 10, 1977, from 9 a.m. to 5 p.m., Federal Room North, Quality Inn, 415 New Jersey Avenue NW., Washington, D.C. This meeting will be open to the public. The purpose of this meeting is: To review plans and activities of the Division of Geothermal Energy, U.S. Energy Research and Development Administration; to discuss and to provide advice on programs and approaches to effective government-industry cooperation in the development of geothermal energy.

The tentative agenda for the meeting is as follows:

9:00 a.m. Opening Remarks — Chairman ACGE, Carel Otte, and ERDA Representatives: Dr. R. L. Hirsch, Dr. J. C. Bresee.
9:15 a.m. Minutes of September 16, 1976 Meeting—Chairman ACGE.
9:30 a.m. Review of Status of FY 1977 Programs—Dr. J. C. Bresee and Staff.
(a) Engineering Research and Development
(b) Resource Exploration and Assessment
(c) Hydrothermal Technology Applications
(d) Advanced Technology Applications
(e) Utilization Experiments
(f) Environmental Control and Institutional Studies
(g) Loan Guaranty Program
12:00 N Lunch
1:30 p.m. Summary of Meeting of Geothermal Policy Council—Dr. J. C. Bresee
2:00 p.m. Planning for FY '78 and Beyond—Dr. J. C. Bresee and Staff
3:45 p.m. Reorganization of Division of Geothermal Energy—Dr. J. C. Bresee
4:00 p.m. General Discussion—Chairman, Carel Otte
4:45 p.m. Closing Remarks — Chairman, Carel Otte
Date and Location of Next Meeting—Chairman, Carel Otte
5:00 p.m. Adjournment—Chairman, Carel Otte

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than January 5, 1977, to the Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545. Comment shall be directly relevant to the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on January 7, 1977 to the Division of Geothermal Energy, Energy Research and Development Administration, Helen Krupovich on (202) 376-4904 between 8:30 a.m. and 5:00 p.m., e.s.t.

(c) Questions at the meeting may be propounded only by members of the Committee and ERDA officials assigned to participate with the Committee in its deliberations.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during the recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the Chairman in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.76-37644 Filed 12-22-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 661-7]

LIST OF VIOLATING FACILITIES

Pursuant to Section 306 of the Clean Air Act (42 U.S.C. 1857 et seq., as amended by Public Law 91-604), the Federal Water Pollution Control Act, (33 U.S.C. 1251 et seq., as amended by Public Law 92-500), and Executive Order 11738, EPA has been authorized to provide certain prohibitions and requirements concerning the administration of the Clean Air Act and Federal Water Pollution Control Act with respect to Federal contracts, grants or loans. On April 16, 1975, regulations implementing the requirements of the statutes and the Executive Order were promulgated in the FEDERAL REGISTER (see 40 CFR Part 15, 40 F.R. 17124, April 16, 1975). Section 15.20 of the regulations provides for the establishment of a List of Violating Facilities which will reflect those facilities ineligible for use in nonexempt Federal contracts, subcontracts, grants, subgrants, loans, or subloans.

The representatives of any facility under consideration for listing are afforded the opportunity to appear at a Listing Proceeding conducted by the Director, Office of Federal Activities. Listing occurs when the Director determines there is adequate evidence of noncompliance with clean air or water standards. Federal, State, and local criminal convictions, civil adjudications, and administrative findings of noncompliance may serve as a basis for consideration of listing. However, in the case of a State or local civil adjudication or administrative finding, EPA may consider listing only at the request of the Governor.

The List of Violating Facilities is contained in two sublists. Sublist 1 includes those facilities listed on the basis of a conviction under section 113(c) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act. Sublist 2 includes those facilities listed on the basis of any injunction, order, judgment, decree or other form of civil ruling by a Federal, State or local court issued as a result of noncompliance; or a conviction in a State or local court for noncompliance; or on the basis of noncompliance with an order under section 113(a) of the Clean Air Act or section 309(a) of the Federal Water Pollution Control Act, or having been subjected to equivalent State or local proceedings to enforce clean air or water standards.

The purpose of this Notice is to add the Ashland, Kentucky, facility of the Allied Chemical Corporation, Semet-Solvay Division, to Sublist 1 of the List of Violating Facilities.

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No agency in the Executive Branch of Government shall enter into, renew, or extend any nonexempt contract, subcontract, grant, subgrant, loan or subloan where a facility listed would be utilized for the purpose of any such agreement.

Pursuant to this authority, the Director, Office of Federal Activities, U.S. Environmental Protection Agency, certifies that the following facilities have been placed on the List of Violating Facilities as of December 17, 1976. The List of Violating Facilities will be revised periodically as any listings or de-listings occur.

LIST OF VIOLATING FACILITIES

Sublist 1

Allied Chemical Corporation, Semet-Solvay Division, Ashland, Kentucky

Sublist 2

Del Monte de Puerto Rico, Inc., Mayaguez, Puerto Rico
Star-Kist Caribe, Inc., Mayaguez, Puerto Rico

Dated: December 17, 1976.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.76-37749 Filed 12-22-76;8:45 am]

[OPP-42034; FRL 661-8]

NORTH DAKOTA

Approval of State Plan for Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan to EPA for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On November 8, 1976, notice was published in the FEDERAL REGISTER (41 FR 49190) of the intent of the Regional Administrator, EPA Region VIII, to approve the North Dakota State Plan for Certification of Pesticide Applicators (North Dakota State Plan). Complete copies of the North Dakota State Plan, with the exception of examinations, were made available for public inspection at the Agency's Region VIII office in Denver, Colorado, at the office of the North Dakota Department of Agriculture, Bismarck, North Dakota, and at the Agency's Technical Service Division, Federal Register Section, Office of Pesticide Programs, EPA Headquarters, Washington, D.C.

There were no comments received concerning the North Dakota State Plan during the thirty day comment period.

The North Dakota State Plan will remain available for public inspection at the North Dakota Department of Agriculture, State Capitol, Bismarck, North Dakota.

It has been determined that the North Dakota State Plan satisfies the requirements of section 4(a)(2) of the amended FIFRA and of 40 CFR Part 171. Accordingly, the North Dakota State Plan is approved.

EFFECTIVE DATE

Pursuant to section 4(d) of the Administrative Procedures Act, 5 U.S.C. 553 (d), the Agency finds that there is good cause for providing that the approval granted herein to the North Dakota State Plan shall be effective upon signature of this notice. Neither the North Dakota State Plan itself nor this Agency's approval of the Plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of North Dakota. Delays in starting the work necessary to implement the Plan, such as may be occasioned by providing some later effective date for this approval, are inconsistent with the public interest. Accordingly, this approval shall become effective immediately.

Dated: December 14, 1976.

JOHN A. GREEN,
Regional Administrator,
EPA Region VIII.

[FR Doc.76-37750 Filed 12-22-76;8:45 am]

[FRL 662-1; Pesticide Enforcement Policy Statement No. 6]

STRUCTURAL PEST CONTROL

Use and Labeling of Service Containers for the Transportation or Temporary Storage of Pesticides

I. *General Background.*

On May 5, 1975, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER a document entitled "Institution of Enforcement Policy Statements" (40 FR 19526). It was the Agency's purpose in instituting this series of Pesticide Enforcement Policy Statements (PEPS) to inform the general public and persons engaged in the formulation, distribution, sale, application, or other use of pesticides of the policies adopted by the Agency in the exercise of its prosecutorial discretion in the enforcement of the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972 and 1975 (Pub. L. 92-516; 86 Stat. 973; Pub. L. 94-140; 89 Stat. 751; 7 U.S.C. 136 et seq.; hereinafter referred to as FIFRA). PEPS are prepared and published by EPA's Office of Enforcement. Unless otherwise expressly provided, a PEPS indicates how the Agency will exercise its prosecutorial discretion, and does not interpret the law or otherwise define what is and what is not lawful conduct under FIFRA. The Office of Enforcement will revoke or amend any PEPS which is inconsistent with regulations interpreting FIFRA which are subsequently promulgated by the Administrator.[1] A detailed explanation of the purpose and scope of PEPS was set forth in the May 5, 1975, FEDERAL REGISTER notice.

[1] The Agency anticipates that the exemption from enforcement sanctions which is outlined in this PEPS will be superseded by regulations having the same effect, published pursuant to section 25(b) of the Act.

II. *Subject and Scope of This PEPS.*

This PEPS addresses two pesticide transportation and storage practices which are commonly engaged in by professional structural pest control operators. The first practice consists of transferring or repackaging portions of a pesticide concentrate[2] into a service container[3] for the purpose of transporting it to the application site, or of temporarily storing the pesticide prior to application. This practice allows the pest control operator to purchase large quantities of a pesticide concentrate and then mix, store, and transport smaller portions for actual application.

The second practice addressed in this PEPS involves the utilization of service containers for the pre-measure and premixture of quantities of use-dilution preparations[4] of pesticides at a storage site prior to application, and for the transportation of such use-dilution preparations to the application site. These practices lessen the possibility of spillage at the application site, and help to insure that accurate and consistent dosage levels are used with each application.

III. *Jurisdiction to Regulate the Use and Labeling of Service Containers.*[5]

It is the opinion of the Agency that professional pest control operators who supply and apply pesticides for hire engage in the distribution or sale of pesticides within the meaning of FIFRA.[6] FIFRA section 9(a) authorizes the Agency to perform without a warrant the administrative inspection of places where pesticides are "held for distribution or sale." These inspections may be performed for the purpose of obtaining samples of pesticides, including the contents of service containers, of reviewing labeling on pesticides, including the abbreviated labeling on service containers, and of inspecting books and records which the firm may maintain regarding the delivery, movement, or holding of pesticides, as authorized by FIFRA section 8(b).

FIFRA section 12(a)(1)(E) provides that it is unlawful "• • • to distribute, sell, offer for sale, (or) hold for sale • • • any pesticide which is • • • misbranded." The sale or distribution of a pesticide concentrate or of a use-dilution preparation[7] in a container other than the original container bearing the EPA-accepted labeling constitutes a literal violation of FIFRA section 12(a)(1)(E). Thus, it is technically illegal for a structural pest control operator performing pest control services for hire to utilize service containers to store or transport pesticides.[8]

IV. *Summary of Enforcement Policy Regarding the Use and Labeling of Service Containers.*

The Agency finds that the utilization of service containers has generally beneficial effects and need not cause unreasonable risks of harm to man or the environment. However, to require each service container to bear a full end-use label may materially inhibit the utilization of service containers by structural pest control operators. Accordingly, the Office of Enforcement, in the exercise of its prosecutorial discretion, has determined that it will refrain from prosecuting structural pest control operators under FIFRA section 12(a) for the utilization of service containers to transport or temporarily store end-use pesticides, if all of the following conditions and limitations are met:

(A) An abbreviated label, securely attached to the service container, includes the following information:

1. *Pesticide Concentrate.* If the pesticide to be transported or stored in the service container is a pesticide concentrate:

a. The name, address, and telephone number of the pest control firm;

b. Product name;

c. EPA Registration number;

d. Name and percentage of active ingredients; and

e. Signal word from registered label.

2. *Use-dilution Preparation.* If the pesticide to be transported or stored in the service container is a use-dilution preparation of the product an end-use pesticide:

a. The name, address, and telephone number of the pest control firm;

b. Product name, preceded by the word "Diluted";

c. EPA registration number, preceded by the words "Derived from";

d. Name and percentage of active ingredient as diluted; and

e. Signal word from the registered label.

(B) A reference copy of the EPA-accepted labeling for the registered product is in the possession of the firm at its place of business at the time of the application and is made available to an appropriate regulatory official of the Agency upon request; and

(C) The user complies with all use instructions, warnings, precautions, and prohibitions which appear on the EPA accepted label or labeling of the registered product; and

(D) The service container conforms in all respects with any applicable container or packaging requirements for pesticide products; and

(E) The pesticide in the service container is not sold, distributed or given away for application or other use by another person.

The limiting and defining provisions contained in section V of this PEPS are an elaboration of the conditions A through E above. Whether the user has reasonably met the requirements set forth in this PEPS will be determined by the Agency on a case-by-case basis. The burden of showing that the requirements set forth herein have been met rests with the person engaging in the transportation or temporary storage of a registered pesticide in a service container.[9]

V. *Elaboration of the Pesticides Enforcement Policy Regarding Use and Labeling of Service Containers.*

A. *Abbreviated Labeling for Pesticide Concentrates or Use-Dilution Preparations of Pesticides.*

The abbreviated labeling noted above is designed to assure that adequate information regarding the particular formulation and/or dilution of the product can be ascertained in case of medical emergency. The abbreviated label must include the signal word (e.g., "Warning," "Caution," "Poison," together with skull and cross bones) which appears on the accepted label of the end-use product, or which is appropriate to the use-dilution preparation of that product if specified on the accepted label. No other written or graphic material may appear on the service container. This service container labeling is subject to the FIFRA prohibitions against false or misleading statements on product labels.

The abbreviated label must be clearly legible and securely attached to the service container throughout the active life of the container or until the container has been properly disposed of or recycled. The abbreviated label must be replaced as frequently as necessary to meet these requirements.[10]

When several service containers, each containing pesticide concentrates or use-dilution preparations, are stored or contained in a larger compartment or carrying case, each individual service container must bear the abbreviated label described above.

B. *Reference Copy of EPA-Approved Label.*

A reference copy of the EPA-accepted end-use label bearing use instructions, precautionary statements, and medical treatment instructions must be retained by the firm at its place of business. It is the responsibility of the firm as well as of the service technician who performs each pest control application to assure that pesticides are used in the manner specified on the accepted labeling. To

[2] As used in this PEPS, the term "pesticide concentrate" means any formulation of chemicals which has not been diluted or altered as specified on the label or labeling for the purpose of producing the concentration of the pesticide required for a particular purpose or effect provided on its accepted label or labeling.

[3] As used in this PEPS, the term "service container" means any container utilized to hold, store, or transport a pesticide concentrate or a pesticide use-dilution preparation, other than (a) the original labeled container provided by the manufacturer, (b) the measuring device, or (c) the application device. Containers used for the recovery and disposal of pesticides and target pests (e.g., containers used to recover rodent bait apparatuses together with dead rodents) are not deemed to be service containers within the meaning of this PEPS. Pesticides in such containers must be handled and disposed of in a manner consistent with the disposal instructions on the EPA-accepted label or pursuant to the Recommended Procedures for Disposal and Storage issued by the Agency pursuant to FIFRA section 19.

[4] As used in this PEPS, the term "use-dilution preparation" means a pesticidal preparation which is mixed with a diluent and at a rate specified on the label or labeling which produces the concentration of the pesticide for a particular purpose or effect provided on such accepted label or labeling.

[5] This part of PEPS No. 6 represents an outline of the Agency's legal interpretation of the effect of the 1972 amendments and the implementing regulations on the authority of the Agency to regulate the activities of pest control operators with respect to the use of service containers. As indicated above, PEPS generally describe how the Agency will exercise its prosecutorial discretion under FIFRA. As in this instance, any portion of a PEPS which interprets the law will be accompanied by an express indication that the portion is in fact interpretive. All interpretive portions of a PEPS have the concurrence of the Agency's Office of General Counsel. For a more detailed exposition of the Agency's jurisdiction to regulate the use and labeling of service containers, see the Appendix to this PEPS.

[6] This construction of FIFRA (and the regulatory consequences it implies) is consistent with the regulatory scheme of FIFRA which subjects pest control professionals to more regulatory scrutiny than persons who are not in the business of supplying or applying pesticides. Further rationale for this interpretation of FIFRA appears in the Appendix to this PEPS.

This construction of FIFRA is not meant to affect the construction of other Federal, State, or local laws or regulations such as laws or regulations dealing with sales tax, employment licensing, vehicle licensing, liability bonding, or other similar matters.

[7] This policy statement applies only to the utilization of service containers by structural pest control operators for the transportation or temporary storage of "end-use" pesticides which (a) bear on their label directions for use-dilution preparation and for end-use application, or (b) are already prepared in a use-dilution preparation for the control of pests. No pesticide which is intended solely for use in manufacturing may be transferred for transportation or temporary storage into a service container.

[8] FIFRA section 12(a)(1)(E) is generally designed to assure that the formulation of the product (whether in the original unbroken container or transferred into a service container) conforms to the strength, purity or other standards of quality which were accepted by the Agency in the registration process; that labeling adequate to clearly communicate use instructions and necessary warning precautions to persons handling the pesticide accompanies the product in the channels of trade; and that the identity of the person responsible for the integrity of the product and its labeling is always ascertainable.

[9] This PEPS in no way affects the authority of a State, acting pursuant to FIFRA section 24(a), to add further restrictions regarding the sale or use of a Federally-registered product, or in accordance with State law, to prohibit particular activities involving Federally-registered pesticides within that State. The election by a State to impose further restrictions upon the sale or use within that State of a Federally-registered product will not affect the Agency's exercise of prosecutorial discretion under FIFRA. An applicator or other person who complies with the requirements set forth in Sections IV and V of this PEPS but who does not comply with the additional requirements established by a State pursuant to FIFRA section 24(a), may be subject to liability under State law. All persons utilizing service containers pursuant to this PEPS are encouraged to familiarize themselves with applicable State laws or regulations.

[10] The label may be of any appropriate material, such as paper, gummed paper, metal foil imprinted by hand or by typewriter, or a metal tag requiring stamping. As needed to maintain clear legibility, the label may be covered with a clear plastic film or seal, or placed in a cellophane, glassine, or other transparent covering. The labels may be attached by any practical means, such as with wire, chain, plastic latch or cord, as required to withstand the wear, or the corrosive or solvent action of the pesticide in the container.

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achieve this goal, the firm should train the service technician regarding the provisions and precautions which appear on the end-use label, and provide technical application instructions as necessary.

C. *Directions for Use and Other Precautionary Labeling.*

All directions for use and all warning and precautionary statements which appear on the end use label pertain to the use of the pesticide in a service container. This includes, without limitation, those label statements pertaining to application site, target pests, product mixing and preparation procedures, application method and dosage rate, protective clothing or equipment requirements, storage and disposal practices, or other precautionary labeling and warning statements.[11] If a label expressly prohibits the transfer of a product from the original container into a service container, any violation of that prohibition will constitute a violation of FIFRA section 12(a)(2)(G), and may subject the user to enforcement sanctions.

D. *Container Size and Packaging Requirements.*

The service container must conform in all respects with any applicable container and packaging requirements for service containers established by EPA or by any other agency exercising statutory jurisdiction.[12] Containers which have been used for food, feed, beverages, drugs or cosmetics or which are in any significant way (e.g., by shape, size, or markings) identified with food, feed, beverages, drugs or cosmetics may not be used as service containers for pesticides. Service containers and their caps or closures must be of such construction and design as to withstand hazards of normal usage without breaking, rupturing, or leaking. The design must also be such as to facilitate the removal of the pesticide without risk of spillage.

E. *Prohibition Against Further Sale or Distribution.*

The service container holding the pesticides must remain in the sole and actual possession of the firm utilizing the service container. It may neither be sold, distributed, nor given away for use by another person. Any such sale, distribution, or gift of a pesticide for use by another person would require compliance with the registration requirements of FIFRA section 3, and the establishment registration requirement of FIFRA Section 7. Any sale or distribution of a pesticide in a service container for use by another person will subject the seller or distributor to liability under FIFRA sections 12(a)(1)(A) and 12(a)(2)(L).

VI. *Public Comment.*

The Administrative Procedure Act (5 U.S.C. 553(b)) provides that the solicitation of comments is not required of Federal agencies for "interpretative rules, general statements of policy, rules of agency organization, procedure, or practice." EPA has determined that this PEPS falls within this exemption from the requirements to solicit public comment. Accordingly, the Agency is not soliciting public comment regarding matters published in this notice. However, interested persons are invited to submit written comments regarding the policy set forth in this PEPS. These comments should be addressed to the Pesticides and Toxic Substances Enforcement Division (EN-342), Office of Enforcement, U.S. Environmental Protection Agency, 401 M Street, S.W., Room 3624, Washington, D.C. 20460. Three copies of these comments should be submitted to facilitate the work of the EPA and others interested in inspecting such documents.

Dated: December 17, 1976.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement.

APPENDIX REGARDING EPA'S JURISDICTION TO REGULATE THE USE AND LABELING OF SERVICE CONTAINERS

It is the opinion of the Agency that the terms "distribute", "sell", "offer for sale" and "hold for sale" as they are used in FIFRA apply to the typical service work of structural pest control operators who supply and apply Federally registered pesticides for hire.[1] The Agency finds that this construction of FIFRA (and the regulatory consequences which it implies) is consistent with the regulatory scheme of FIFRA and with its legislative history. The Senate Committee on Agriculture and Forestry envisioned that the level of regulatory scrutiny to which people would be subject under FIFRA should be in proportion to their level of knowledge about pesticides. This suggests that persons who supply and apply pesticides for hire were intended to be the objects of more rigorous regulation than were non-professional pesticide users. The Committee noted that because of their "greater knowledge of the dangers of pesticides and greater familiarity with the law regulating their use," higher civil penalties would be assessed "for an offense by *person(s) in the business* of making, or applying pesticides."[2]

I. *FIFRA Section 3—Registration of Pesticides.*

FIFRA section 3(a) [7 U.S.C. 136a(a) provides in pertinent part that

> • • • no person • • • may distribute, sell, offer for sale, hold for sale, • • • to any person any pesticide which is not registered with the Administrator.

Before a pesticide product which is not encompassed within the terms of an existing registration enters the channels of trade, a separate registration must be obtained. Changes in the formulation of a registered product, changes in accepted labeling, as well as any repackaging of a pesticide into another container will activate the registration requirement, unless the purposes of product registration would be fully met by carrying forward the Federal registration of the constituent product.[3]

The Agency finds that a pesticide concentrate or a use-dilution preparation of a registered end-use pesticide which remains within the sole and actual possession of the repackager/reformulator throughout its distribution, sale and use is encompassed within the terms of the registration of the constituent product and is thereby itself a registered pesticide.[4] On the other hand, pest control operators who hold pesticides in inventory and sell pesticides for application by other persons are considered to "distribute," "sell," "offer for sale," or "hold for sale." This activity invariably activates the registration requirements of FIFRA section 3 and section 7. Failure to comply with these requirements will subject such producers to liability under FIFRA section 12(a)(1)(A) and section 12(a)(2)(L).

It is the opinion of the Agency that the transfer into a service container of a pesticide concentrate or a use-dilution preparation of a registered pesticide, (in accordance with its end-use labeling) does not require the separate registration of the new formulation so long as the transferred pesticide concentrate or the use-dilution preparation remains within the sole and actual possession of the pest control operator performing the transfer. In such cases, the transferred quantity of the pesticide concentrate or the use-dilution preparation is encompassed within the terms of the registration of the constituent product; thus, the purposes of FIFRA section 3 have been satisfied by the registration of the original product. It would serve no purpose to require each transferred quantity of the already registered pesticide or each use-dilution preparation to be separately registered.[5]

It is noted that this policy applies only to end-use pesticides. Any reformulation or repackaging of a registered technical grade pesticide approved only for manufacturing uses for the purpose of further distribution or sale, will activate the registration requirement of FIFRA. The sale or distribution of such a product prior to approval of a separate registration is a violation of FIFRA section 12(a)(1)(A).

II. *FIFRA Section 12(a)(1)(E)—Pesticide Labeling.*

Structural pest control operators who supply and apply pesticides in performing pest control services are deemed to "distribute," or "sell," pesticides within the meaning of FIFRA section 12(a)(1). Under section 12(a)(1)(E) [7 U.S.C. 136(a)(1)(E)], it is unlawful for any person in any state to distribute, sell, offer for sale, hold for sale, • • • to any person • • • (E) any pesticide which is • • • misbranded.

A pesticide concentrate or a use-dilution preparation is misbranded if its labeling fails to meet the standards set forth in FIFRA section 2(q). The sale or distribution by a structural pest control operator of pesticides in service containers whose labels do not conform with the requirements of FIFRA section 2(q) constitutes a violation of FIFRA section 12(a)(1)(E) and may subject the violator to civil or criminal penalties under FIFRA, except as otherwise provided in PEPS No. 6.

III. *FIFRA Section 9(a)—Inspection of Establishments.*

FIFRA section 9(a) authorizes the Agency to enter, for the purpose of conducting routine inspections, "any establishment or other place where pesticides • • • are held for distribution or sale." FIFRA section 2(d) defines an establishment as "any place where a pesticide or device is produced, or held for distribution or sale." This provision authorizes warrantless inspections of the business premises (including service vehicles, service containers, or application devices) of pest control operators who supply and apply pesticides for hire.[6]

FIFRA section 9(a) further provides that such inspections may be performed "for the purpose of inspecting and obtaining samples of any pesticides • • • packaged, labeled and released for shipment. • • •" Such inspections may include the product sampling and label review of pesticide products held for distribution or sale by the structural pest control operator, including the sampling of pesticide concentrates or use-dilution preparations in service containers, and the review of the abbreviated labeling which is affixed to such service containers.[7]

IV. *FIFRA Section 12(a)(2)(G)—Pesticide Preparation and Use.*

While the provisions of FIFRA section 12(a)(1) apply to the distribution and sale of the product, the provisions of FIFRA section 12(a)(2) apply to the individuals handling and/or using the product. It has been noted above that the registration of the constituent end-use product which is transferred into a service container carries over to the transferred product. The use (including the mixing, loading, storage, application, or disposal) of the product in the service container in a manner inconsistent with the provisions of the EPA-accepted end-use labeling is, therefore, a violation of FIFRA section 12(a)(2)(G) and may subject the user to civil or criminal sanctions.

It is noted that the act of pre-measuring or pre-mixing a pesticide as provided on the end-use labeling constitutes an act of pesticide use within the meaning of FIFRA section 12(a)(2)(G). Accordingly, such pre-measuring and pre-mixing of end-use pesticides in making use-dilution preparations warnings and precautions will have been provided as necessary to insure that the pesticide when used in accordance with directions will not generally cause unreasonable adverse effects on man or the environment. The directions, warnings and precautions of the accepted label will have been communicated to the ultimate user of the pesticide, since the distributor/seller and applicator of the pesticide remains in actual possession of the pesticide.

[8] It is the opinion of the Agency that FIFRA section 9(a) does not authorize the administrative inspection of places where pesticides are held for use, or are actually being used. The administrative inspection of such places may be performed only upon the knowing and voluntary consent of the property owner, or under the authority of a search warrant issued pursuant to FIFRA section 9(b), upon a showing to a court of competent jurisdiction that the provisions of FIFRA have been violated.

[7] Routine establishment inspections may also include a review of any books and records regarding the formulation, production or repackaging of pesticides which the structural pest control operator may be required to keep pursuant to FIFRA section 8 and the regulations promulgated thereunder at 40 CFR Part 167. Section 8(b) also empowers the Agency to inspect records which the firm may maintain regarding the delivery, movement, or holding of pesticides.

[11] The service container must be disposed of in a manner consistent with the disposal instructions on the EPA-approved product label or pursuant to the Recommended Procedures for Disposal and Storage of Pesticides issued by the Agency pursuant to FIFRA section 19. Furthermore, the service container must be used and re-used in a manner which will avoid the contamination of the pesticide concentrate or use-dilution preparation of the pesticide. Any contamination due to faulty rinsing procedures will be a violation of FIFRA section 12(a)(1)(E) and may subject the user to enforcement sanctions.

[12] FIFRA section 25(c)(3) empowers the Administrator • • • to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91-601)) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this Act as well as to accomplish the other purposes of this Act;

However, no such containering or packaging requirements have yet been promulgated by the Administrator. Compliance with the provisions of this PEPS does not necessarily satisfy applicable requirements of Interim Regulations regarding the transportation of hazardous materials which have been promulgated by the U.S. Department of Transportation at 49 CFR Parts 171.177. [41 FR 42364; September 27, 1976].

[1] In the event that the customer himself supplies the pesticide which is to be used, and the pest control operator is hired *solely* to perform the pesticide application, the pest control operator would not be considered to be distributing, selling, or holding for distribution or sale the pesticide which he applies.

[2] Emphasis added. Supplemental Report to S. Rep. No. 92-838, 92d Cong. 2d Sess. 23 (1972). It is also noted that the pest control operator sells not only the pesticide application service, but also sells the pesticide used in performing the application. The price paid by the customer reflects both the cost of the service and the cost of the pesticide. As such, the pest control operator is engaged in the sale and distribution of a pesticide in the course of (and in addition to) the application of the pesticide.

[3] The broad purposes of the registration process are four fold. First, registration of a product provides a mechanism for the review of information regarding the safety and efficacy of the pesticide as proposed for use (and as likely to be used) under widespread and commonly recognized practice. Second, registration of a product provides EPA with the opportunity to review the proposed label and labeling of the product. To support registration, such labeling must clearly communicate the directions for use for the product and such warnings and precautions as are necessary for the safe and efficacious use of the pesticide. Third, registration of a product identifies the party accountable for its integrity of composition, labeling and effects resulting from use. Fourth, registration of a product is the mechanism which assures that this relevant information is communicated to the ultimate user of the product.

[4] The pesticide concentrate and use-dilution preparation of an end-use pesticide which is transferred into a service container in which it is stored or transported by the structural pest control operator, is itself a pesticide within the meaning of FIFRA. However, the fact that structural pest control operators distribute or sell pesticides does not, standing alone, require the registration of any pesticide product resulting from the reformulation or repackaging by an operator of a currently registered product. The requirement that the product which is formulated by the operator be registered is activated when the new formulation is not encompassed within the terms of an existing registration, and when the purposes of Federal registration are not otherwise satisfied with respect to the operator's formulation.

[5] Where the new pesticide product remains at all times within the sole and actual possession of the pest control operator, he will be the party accountable for the formulation in the service container. The safety and efficacy of the formulation will have been assessed and appropriate label directions, must conform with all applicable label instructions.

[FR Doc.76-37747 Filed 12-22-76;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

ADVISORY COMMITTEE TO THE ADMINISTRATOR ON STANDARDS FOR THE ADMINISTRATION OF JUVENILE JUSTICE

Notice of Meeting

Notice is hereby given that the Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice, a subdivision of the National Advisory Committee on Juvenile Justice and Delinquency Prevention will meet Friday-Sunday, January 14-16, 1977 in Scottsdale, Arizona. The meeting is scheduled to convene at 9:00 a.m. on Friday, January 14, at the Scottsdale Hilton, 6333 N. Scottsdale Road, Scottsdale, Arizona. The meeting is scheduled to run all day Friday and Saturday and until 2:00 p.m. on Sunday, January 16.

Discussion at the meeting will focus on draft standards on juvenile justice planning; the roles and responsibilities of Federal, State and local government; the size and characteristics of, the services available in, and procedures which apply to juvenile correctional and detention facilities; and the circumstances in which it is appropriate to intercede in the life of a juvenile and the procedures and criteria which should apply to such intercession.

The meeting will be open to the public.

For further information, please contact:

Richard Van Duizend, National Institute for Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C. 20531 202—376-3952

J. A. BROZOST,
Attorney Advisor, Office of General Counsel.

[FR Doc.76-37669 Filed 12-22-76;8:45 am]

LEGAL SERVICES CORPORATION

COMMITTEE ON REGULATIONS

Meeting

The next meeting of the Committee on Regulations of the Legal Services Corporation Board of Directors will be held on Tuesday, January 4, 1977, at the offices of the Corporation, 733 Fifteenth Street, N.W., Washington, D.C.

The meeting will begin at 10:00 a.m. and will be for the purpose of considering proposed regulations governing Applications for and Denial of Funding and Client Grievance Procedures. The Committee will also consider issues relating to Congressional extension of the Legal Services Corporation Act, and such other business as may arise.

The meeting is open to the public.

THOMAS EHRLICH,
President.

[FR Doc.76-37755 Filed 12-22-76;8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

NOVEMBER 23, 1976.

[Canadian List No. 360]

CANADIAN BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kilowatts	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		550 kHz							
CHNO (increase in nighttime power, PO 550 kHz, 10 kWD/2.5 kWN, DA-2).	Sudbury, Ontario, N. 46°29'10", W. 80°58'30".	10	DA-2	U	II				E.I.O. Nov. 19, 1977.
		680 kHz							
CHFA (now in operation)	Edmonton, Alberta, N. 53°34'23", W. 113°36'41".	10	DA-1	U	II				
		710 kHz							
CIPC (now in operation)	Port Cartier, Quebec, N. 48°59'28", W. 66°56'59".	1	DA-1	U	II				
		800 kHz							
CKLW (change in nighttime pattern).	Windsor, Ontario, N. 42°03'28", W. 83°00'10".	50	DA-2	U	II				E.I.O. Nov. 19, 1977.
		810 kHz							
CHQR (change in the daytime radiation pattern).	Calgary, Alberta, N. 50°53'50", W. 114°05'38".	50	DA-2	U	II				E.I.O. Nov. 19, 1977.
		980 kHz							
CKGM (now in operation)	Montreal, Quebec, N. 45°29'06", W. 73°37'22".	10	DA-2	U	III				
		1540 kHz							
CKGO (PO 1490 kHz, 0.25 kW, ND-186, U).	Hope, British Columbia, N. 49°23'15", W. 121°25'42."	*1D*/0.25N	ND-186	U	IV	150	120	264 (ave)	E.I.O. Nov. 19, 1977.
		1490 kHz							
CKGO (vide 1240 kHz)	Hope British Columbia, N. 49°23'15", W. 121°25'42".	0.25	ND-186	U	IV	150	120	264 (ave)	
		1490 kHz							
CHPG (now in operation)	Prince George, British Columbia, N. 53°54'10", W. 122°44'30".	0.25	ND-224	U	IV	208	120	200-260	
		1580 kHz							
CBJ (PO N 48°23'53.34", W. 71°08'30.09", 1580 kHz, 10 kW, DA-1, U).	Chicoutimi, Quebec, N. 48°28'56", W. 71°00'33".	50	DA-1	U	I-A				E.I.O. Nov. 19, 1977.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.76-37679 Filed 12-21-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ADVISORY COMMITTEE SUBCOMMITTEES ON CONSERVATION INVESTMENTS BE CONSIDERED GAS SUPPLY OPTION

Combined Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of a combined meeting of the following subcommittees to be held Wednesday, January 12, 1977, at 10 a.m., Room 3000A, FEA Headquarters, 12th & Pennsylvania Avenue, NW., Washington, D.C.

SUBCOMMITTEES OF ENERGY FINANCE ADVISORY COMMITTEE

Electric Utility (Finance)
Natural Gas & SYNGAS
Technology and Conservation

SUBCOMMITTEE OF NATURAL GAS ADVISORY COMMITTEE

Supplemental Gas Supply Including Alaskan Gas

SUBCOMMITTEE OF THE ELECTRIC UTILITIES ADVISORY COMMITTEE

Executive Subcommittee

SUBCOMMITTEES OF THE CONSUMER AFFAIRS/SPECIAL IMPACT ADVISORY COMMITTEE

Home Energy Consumption Problems and Utilities
Energy Efficiency Standards, Conservation, and Ecology

The objectives of these subcommittees are to advise FEA concerning the proposal "Conversation Investments be Considered a Gas Supply Option."

The agenda for the meeting is as follows:

1. Presentation of Proposal "Conservation Investments be Considered a Gas Supply Option"
2. Advisory Committee Reaction to the Idea from the Following Perspectives:
   a. Consumer
   b. Gas Utility
   c. State Regulatory
   d. Financial
3. Implementation Problems
   a. State Regulations
   b. Federal Regulations
   c. Consumer Acceptance
   d. Implementation Plans

The meeting is open to the public. The Chairman of the meeting is empowered to conduct it in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management, (202) 566-7022, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection and copying in the FEA Freedom of Information Office, Room 2107, FEA Headquarters, 12th & Pennsylvania Avenue, N.W., Washington, D.C.

Issued at Washington, D.C., on December 20, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-37733 Filed 12-22-76;8:45 am]

NATURAL GAS TRANSMISSION & DISTRIBUTION ADVISORY COMMITTEE

Charter Amendment

This notice is to advise of revisions in the Charter of the Natural Gas Transmission & Distribution Advisory Committee.

The Charter published in the August 27, 1976, issue of the FEDERAL REGISTER (41 FR 36256) is amended as follows:

1. The name of the Committee has been changed to the Natural Gas Advisory Committee. Effective immediately, the name "Natural Gas Advisory Committee" should be substituted for "Natural Gas Transmission & Distribution Advisory Committee" wherever the latter phrase appears in the Charter.

2. Section B-9 of the Charter is revised to name subcommittees and is hereby changed to read as follows:

"9. Subcommittees—The Natural Gas Advisory Committee shall have five subcommittees as follows:
a. Supplemental Gas Supply Including Alaskan Gas Subcommittee
b. Gas Utilization Subcommittee
c. Natural Gas Reserves Subcommittee
d. Legislation and Regulation Subcommittee
e. National Energy Outlook Subcommittee
The objectives of each subcommittee are to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee. The subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.
All actions of the subcommittees shall be consistent with the provisions of B-1 through B-11."

The above amendment is effective immediately.

Issued at Washington, D.C. on December 20, 1976.

FRANK G. ZARB,
Administrator.

[FR Doc.76-37734 Filed 12-22-76;8:45 am]

STRATEGIC PETROLEUM RESERVE

Availability of Final Site-Specific Environmental Impact Statement for the Bayou Choctaw Salt Dome Storage Site

Pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C) et seq., the Federal Energy Administration (FEA) has prepared a final site-specific environmental impact statement (EIS) for the Bayou Choctaw salt dome site, one of five storage sites that is being considered for the creation of a Strategic Petroleum Reserve. The Reserve is mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C., sections 6231-6246. The Reserve will be created for the storage of approximately 500 million barrels of crude oil and/or petroleum products for use in the event of a Presidential finding of severe energy supply interruption or a finding that implementation is required by obligations of the United States under the international energy program.

The Bayou Choctaw salt dome site is located in Iberville Parish, Louisiana. This site is one of five under consideration for use in the Early Storage Reserve, i.e., for the first 150 million barrels of storage capacity. The final Bayou Choctaw EIS (FES-76-5) includes comments received by FEA on the draft EIS for the Bayou Choctaw site (DES-76-5) and FEA analyses and responses to those comments.

Single copies of the final Bayou Choctaw EIS (FES-76-5) may be obtained from the FEA, Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the final Bayou Choctaw EIS will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., December 17, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-37643 Filed 12-20-76;10:44 am]

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License No. 389; Order of Revocation

ALI-SON INTERNATIONAL CO.

On December 9, 1976, Mr. Joseph L. Alicea, President, Ali-Son International Co., 80-82 Wall Street, New York, NY 10005, voluntarily surrendered his Independent Ocean Freight Forwarder License No. 389 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01 (b), dated June 30, 1975;

It is ordered, that Independent Ocean Freight Forwarder License No. 389 issued to Ali-Son International Co., be and is hereby revoked effective December 13, 1976 without prejudice to reapply for a license in the future.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon Ali-Son International Co.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc.76-37720 Filed 12-22-76;8:45 am]

CALIFORNIA ASSOCIATION OF PORT AUTHORITIES AND NORTHWEST MARINE TERMINAL ASSOCIATION, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before January 3, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

R. L. Henry, Executive Secretary, Northwest Marine Terminal Association, P.O. Box 20394, Portland, Oregon 97220.

Agreement No. T-2206, between the California Association of Port Authorities and the Northwest Marine Terminal Association was originally approved by the Commission by order issued January 15, 1969, for a three-year term and subsequently extended for a five-year term by Commission order of January 13, 1972. The parties to the agreement have now requested the Commission to approve an extension of the agreement and remove the expiration date therefrom. The agreement provides for the formation of a joint conference, known as the Joint Pacific Coast Port Committee, whereby members discuss and make recommendations concerning rates, practices, and other tariff matters and matters of concern to the marine terminal industry. Actions taken pursuant to the agreement are not binding upon the members.

By Order of the Federal Maritime Commission.

Dated: December 20, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37718 Filed 12-22-76;8:45 am]

[Docket No. 76-64]

STATES STEAMSHIP CO. FAR EAST/USA HOUSEHOLD GOODS TARIFF NO. 5 FMC-9

Filing of Petition for Declaratory Order; Enlargement of Time to Respond

DECEMBER 17, 1976.

Upon request of counsel for States Steamship Company, and good cause appearing, time within which response to the petition for declaratory order (41 FR 54026; December 10, 1976) may be filed in this proceeding is enlarged to and including January 17, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37719 Filed 12-22-76;8:45 am]

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FEDERAL POWER COMMISSION

[Docket No. CI64-267]

GULF OIL CORP.

Filing of Computation of Refunds

DECEMBER 17, 1976.

Notice of filing of Gulf's computation of refunds in accordance with ordering paragraph (B) of the Commission's Opinion No. 780.

Take notice that on December 15, 1976, Gulf Oil Corporation (Gulf), P.O. Box 3725, Houston, Texas filed a computation of refunds required by Ordering Paragraph (B) of Opinion No. 780 in the above-captioned docket.

Schedule (A) of their computation reflects calculations of refunds and interest pursuant to the Commission's formula stated in Opinion No. 780, mimeo at 10 for the period August 1, 1971 through October 31, 1976. Although Ordering Paragraph (B) of Opinion No. 780 requested the data from November 1, 1964 to December 1, 1976, the applicable area rate did not exceed the contract rate until August 1, 1971 and the data necessary to calculate refunds for November, 1976, is not yet available.

Gulf submitted two additional schedules (B and C) computing refunds based upon adjusted deliveries that they claim would have been made had the Department of Interior held regular offshore Louisiana lease sales from 1962 to 1972, which Gulf maintains is force majeure under the terms of its 1964 contract. Gulf claims that had the lease sales been resumed prior to 1972 and if Gulf had been able to purchase the same tracts that it acquired between 1972 and 1976, there would be no contract deficiency. Schedules (B) and (C) respectively reflect adjusted volumes that Gulf submits would have been delivered to Texas Eastern if Federal Offshore Louisiana sales had resumed one year and four years earlier. Deliveries to Texas Eastern Transmission Corporation (TETCO) and the resultant computation of refunds, Gulf avers, would be as shown on those schedules. Both schedule (B) and schedule (C) are also predicated upon the 13 month moratorium upon offshore lease sales imposed by the United States Geological Survey due to the oil spill in the Santa Barbara, California Channel. This moratorium, Gulf believes, delayed the offshore Louisiana November 19, 1968 lease sale until December 16, 1969 thereby delaying for one year the commencement of general offshore lease sales. Gulf holds that the absence of such sales is a major factor affecting Gulf's efforts to maintain deliverability to Texas Eastern.

Any interested party who wishes to comment on Gulf's report should file with the Federal Power Commission, Washington, D.C. 20426, written comments on or before December 29, 1976 pursuant to Section 1.14 of the Commission Rules of Practice and Procedure (18 CFR 1.14) in order that the Commission may consider this matter as expeditiously as possible.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37655 Filed 12-22-76;8:45 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1976 No. 48]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending November 27, 1976

Statement by Governor Philip C. Jackson, Jr., before the Senate Committee on Banking, Housing and Urban Affairs on issues relating to the Fair Housing, Equal Credit Opportunity, and Home Mortgage Disclosure Acts.

Second National Bank of Richmond, Richmond, Virginia, proposed merger into Metropolitan National Bank, Richmond, Virginia; report to the Comptroller of the Currency on competitive factors.

Century Financial Corporation of Michigan, Saginaw, Michigan, extension of time to April 4, 1977, within which to acquire all of the shares of Century Life Insurance Company of Michigan, Phoenix, Arizona.[1]

Guaranty Loan and Investment Corporation of Tulsa, Inc., Tulsa, Oklahoma, extensions of time; (1) to December 20, 1977, and (2) to October 31, 1977, within which to divest of real estate acquired in satisfaction of debt.[1]

Boston Overseas Financial Corporation, Boston, Massachusetts, extension of time to January 14, 1978, within which to consummate investment in Compania Financiera de Boston Sociedad Anonima, Santiago de Chile, Chile.[1]

Termination of registration under Regulation G for Amoco Duncan Federal Credit Union, Duncan, Oklahoma and for Western Sun Federal Credit Union, Tulsa, Oklahoma.[1]

Bank of Leakesville, Leakesville, Mississippi, proposed merger with First State Bank, Waynesboro, Mississippi; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Barnett Bank of East Ocala, National Association, Ocala, Florida, proposed merger with Barnett Bank of Ocala, National Association, Ocala, Florida; report to the Comptroller of the Currency on competitive factors.[1]

GBB Bank, Grand Blanc, Michigan, proposed merger with First Security Bank of Grand Blanc, Grand Blanc, Michigan; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Subsidiaries of Barnett Banks of Florida, Inc., Jacksonville, Florida, proposed merger with Barnett Bank of Miami Beach, National Association, Miami Beach, Florida; report to the Comptroller of the Currency on competitive factors.[1]

Subsidiaries of Barnett Banks of Florida, Inc., Jacksonville, Florida, proposed merger with Barnett Bank of Winter Park, National Association, Winter Park, Florida; report to the Comptroller of the Currency on competitive factors.[1]

NOTE: The H.2 release is now published in the FEDERAL REGISTER. It will continue to be sent, upon request, to anyone desiring a copy.

To establish a domestic branch pursuant to section 9 of the Federal Reserve Act.

APPROVED

United Citizens Bank, Winston-Salem, North Carolina. Branch to be established at 3006 Kernersville Road, Winston-Salem, Forsyth County.[2]

Mountain Empire Bank, Johnson City, Tennessee. Branch to be established at 1006 South Roan Street, Johnson City, Tennessee.[2]

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To become a member of the Federal Reserve System pursuant to section 9 of the Federal Reserve Act.

APPROVED

Alexandria Bank Company, Alexandria, Ohio.[2]

• • • • •

To establish an overseas branch of a member bank pursuant to section 25 of the Federal Reserve Act.

APPROVED

United States Trust Company of New York: Branch—George Town, Grand Cayman, Cayman Islands.

Citibank N.A.: Branch—Two in Liberia, one each in Monrovia and Yekepa.

Wells Fargo Bank, N.A.: Branch—Singapore, Republic of Singapore.

International investments and other actions pursuant to sections 25 and 25(a) of the Federal Reserve Act and sections 4(c) (9) and 4(c) (13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Crocker Mid-America International Bank: To change its name to Crocker Bank International (Chicago).

Hawaii Bancorporation, Inc.: Investment—additional in Banque de Tahiti, Papeete, Tahiti.

Security Pacific Overseas Corporation: Investment—to acquire 100 per cent of a de novo finance company in Toronto, Canada.

The following item was omitted from H.2 No. 33.

Philadelphia International Investment Corporation: Investment—Subordinated Loan re: Trinity Bank Limited, Ireland.

• • • • •

To form a bank holding company pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956.

APPROVED

Manly State Bancshares, Inc., Manly, Iowa, for approval to acquire 75.03 per cent of the voting shares of Manly State Bank, Manly, Iowa.[2]

Citizens National Corporation, Wisner, Nebraska, for approval to acquire 80 per-cent or more of the voting shares of The Citizens National Bank of Wisner, Wisner, Nebraska.[2]

Delta Bancorporation, Inc., Denver, Colorado, for approval to acquire 75.30 per cent of the voting shares (less directors' qualifying shares) of The Colorado Bank and Trust Company, of Delta, Colorado, Delta, Colorado.

Erie Bankshares, Inc., Erie, Kansas, for approval to acquire 98.5 per cent of the voting shares of Home State Bank, Erie, Kansas, Erie, Kansas.

Stark Bankshares, Inc., Stark, Kansas, for approval to acquire 92.7 per cent of the voting shares of The Stark State Bank, Stark, Kansas.

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

McLean American Bancshares, Inc., McLean, Texas, for approval to acquire 80 per cent or more of the voting shares (less directors' qualifying shares) of American National Bank in McLean, McLean, Texas.[2]

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To expand a bank holding company pursuant to section 3(a) (3) of the Bank Holding Company Act of 1956.

APPROVED

T.N.B. Financial Corp., Springfield, Massachusetts, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Williamstown National Bank, Williamstown, Massachusetts.[2]

Hawkeye Bancorporation, Des Moines, Iowa, for approval to acquire 80 per cent or more of the voting shares of The Centerville National Bank, Centerville, Iowa.

Peoples Credit Co., Kansas City, Missouri, for approval to acquire an additional 25.4 per cent of the voting shares of The Metropolitan Bank, Kansas City, Missouri.

Peoples Credit Co., Kansas City, Missouri, for approval to acquire an additional 5.4 per cent of the voting shares of The Pleasant Hill Bank, Pleasant Hill, Missouri.

First International Bancshares, Inc., Dallas, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Alamo Heights National Bank, Alamo Heights, Texas.

To expand a bank holding company pursuant to section 4(c) (8) of the Bank Holding Company Act of 1956.

WITHDRAWN

BankAmerica Corporation, San Francisco, California, notification of intent to relocate "de novo" activities (making loans and extending credit and providing of services incident to such loans and extensions of credit such as would be made or provided by a finance company, including but not limited to, purchasing installment sales finance contracts; providing funds and/or credit services in connection with the financing of stock and floor plan inventory of distributors and dealers of consumer products; making available to such dealers at their option and cost, fire, theft, and damage insurance on a monthly basis covering only the outstanding indebtedness on such floor plan inventory) from 1105 Hamilton Street to 1401 Cedar Crest Boulevard, Allentown, Pennsylvania, through its indirect subsidiary, Finance-America Management Service Corporation (11/19/76)[2]

DELAYED

First Pennsylvania Corporation, Philadelphia, Pennsylvania, notification of intent to engage in "de novo" activities (making, acquiring, or servicing for its own account or for the account of others, loans or other extensions of credit in particular commercial lending related to lease transactions and conditional sales financing) at Centre Square West, 16th and Market Streets, Philadelphia, Pennsylvania, through its subsidiary, First Pennsylvania Leasing, Inc. (11/26/76)[2]

Texas American Bancshares, Inc., Fort Worth, Texas, notification of intent to engage in "de novo" activities (agricultural commodity financing, and servicing such financing and related and incidental activities and in general, making, servicing, or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities) at Livestock Exchange Building, 4701 Marion Street, Denver, Colorado, through a subsidiary, American Cattle and Crop Services Corporation (11/24/76)[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in "de novo" activities (acting as broker or agent for the sale of credit-related property and casualty insurance) at 10 South Lake Avenue, Pasadena, California, through its subsidiary, Security Pacific Finance Corp. (11/24/76)[2]

PERMITTED

Manufacturers Hanover Corporation, New York, New York, notification of intent to relocate "de novo" activities (all facets of a mortgage banking business including, without limitations, arranging, making or acquiring, for its own account or for the account of others, loans and other extensions of credit and servicing loans and other extensions of credit; acting as investment adviser and manager to a real estate investment trust; providing bookkeeping or data processing services for Manufacturers Hanover Corporation, its subsidiaries and affiliates and storing and processing other banking, financial, or related economic data such as performing payroll, accounts receivable or billing services) from 9730 South Western Avenue, Evergreen Park, Illinois to 4550 West 103rd Street, Oak Lawn, Illinois, through its subsidiary, Citizens Mortgage Corporation, Southfield, Michigan (11/21/76)[2]

Philadelphia National Corporation, Philadelphia, Pennsylvania, notification of intent to relocate "de novo" activities (making installment loans secured by real and personal property; purchasing sales finance contracts; selling individual and joint credit life insurance, credit accident and health insurance, and casualty insurance in connection with certain installment loans made and sales finance contracts purchased and reinsuring such life insurance and accident and health insurance through Patrick Henry Life Insurance Company and Patrick Henry Insurance Company, indirect subsidiaries of Philadelphia National Corporation and generally acting as a personal property broker as permitted by the California Personal Property Brokers Law) from 1747 Van Ness Avenue, Fresno, California to Suite 192, 1630 East Shaw Avenue, Fresno, California, through its indirect subsidiary, Signal Finance of California, Inc. (11/26/76)[2]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in "de novo" activities (making installment loans to individuals for personal, family, or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family, or household goods or services; acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit and acting as agent in the sale of insurance protecting collateral held against the extensions of credit) at 753 East Main Street, Spartanburg, South Carolina, through a subsidiary, Landmark Finance Corporation of South Carolina (11/26/76)[2]

FBT Bancorp., Inc., South Bend, Indiana, notification of intent to engage in "de novo" activities (making, acquiring, or servicing loans or other extensions of credit for personal, family, household or commercial purposes; the sale of credit life/accident and health insurance in connection with the aforementioned extensions of credit) at 78th and Broadway, Merrillville, Indiana, through its subsidiary, FBT Capital Corporation (11/22/76)[2]

Financial Services Corporation of the Midwest, Rock Island, Illinois, notification of intent to engage in "de novo" activities (making or acquiring, for its own account secured and unsecured installment loans and other extensions of credit including through acceptances of drafts primarily to individuals and selling participations in but not acting as underwriter, agent, or broker with respect thereto; group credit life and credit health and accident insurance coverage directly related to such loans and other extensions of credit) at Gaslight Square, Andalusia Road and 4th Street, Milan, Illinois, through its subsidiary, F.S.C. Money Shops, Inc. (11/26/76)[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate "de novo" activities (acting as agent or broker with respect to the following types of insurance: credit life insurance and credit disability insurance as defined in the Insurance Code of the State of California which is directly related to extensions of credit by SPC and its subsidiaries; mortgage redemption life insurance which is directly related to extensions of credit by SPC and its subsidiaries or is directly related to the provision of other financial services by SPC or its subsidiaries; group mortgage disability insurance which is directly related to extensions of credit by SPC and its subsidiaries or which is directly related to the provision of other financial services by SPC or its subsidiaries; vendors single interest insurance which insures only the interest of SPC and its subsidiaries in motor vehicles and other collateral securing credit extended by SPC and its subsidiaries; any insurance for SPC and its subsidiaries; and dual interest auto and truck physical damage insurance (insurance which insures against risk of loss as a result of collision, fire, theft, and similar casualty, the interest in a motor vehicle of both the owner thereof and a secured party who holds a security interest in said motor vehicle) offered by motor vehicle dealers who are licensed agents to purchasers of automobiles and trucks who finance the unpaid purchase price by means of conditional sales contracts or other similar contractual agreements which are purchased or otherwise financed by SPC and its subsidiaries) from 333 South Hope Street, Los Angeles to 10 South Lake Avenue, Pasadena, California, through its subsidiary, SP Insurance Agency, Inc. (11/25/76)[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in "de novo" activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent only for the sale of credit-related life/accident and health insurance) at 10 South Lake Avenue, Pasadena, California, through its subsidiary, Security Pacific Finance Corp. (11/25/76)[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate "de novo" activities (the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for its own account or for the sale to others and the servicing of such loans for others) from 7255 Irving Street, Westminster, Colorado to 6425 Wadsworth Boulevard, Arvada, Colorado, through its subsidiary, Security Pacific Mortgage Corporation (11/25/76)[2]

[2] 4(c) (8) and 4(c) (12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

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APPROVED

Boatmen's Bancshares, Inc., St. Louis, Missouri, for approval to acquire 100 per cent of the voting shares of Boatmen's Life Insurance Company, Phoenix, Arizona.

Erie Bankshares, Inc., Erie, Kansas, for permission to engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Home State Bank, Erie, Kansas, Erie, Kansas.

Stark Bankshares, Inc., Stark, Kansas, for permission to engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit by The Stark State Bank, Stark, Kansas.

• • • • •

To expand a bank holding company pursuant to section 4(c)(12) of the Bank Holding Company Act of 1956.

PERMITTED

Warner Communications Inc., New York, New York, notification of intent to acquire 90 per cent or more of the capital stock of The Wolper Organization Inc., through its subsidiary, Warner Bros. Inc. (11/26/76) [1]

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to section 9 of the Federal Reserve Act.

Metropolitan Bank, Tampa, Florida. Branch to be established on the West Side of Pebble Beach Boulevard, Sun City Center, Hillsborough County.

• • • • •

To Form a Bank Holding Company Pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956.

Reed Street Company, Inc., Red Oak, Iowa, for approval to acquire 66.6 per cent of the voting shares of The Montgomery County National Bank of Red Oak, Red Oak Iowa.

Peoples Bancshares of Schuyler County, Inc., Lancaster, Missouri, for approval to acquire 90.57 per cent of the total 600 outstanding and issued shares of Bank of Lancaster, Lancaster, Missouri.

FM Co., Milligan, Nebraska, for approval to acquire 88 per cent of the voting shares of Farmers and Merchants Bank, Milligan, Nebraska.

• • • • •

To expand a bank holding company Pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956.

Western Michigan Corporation, Niles, Michigan, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Cassopolis, Cassopolis, Michigan.

Manchester Financial Corp., St. Louis, Missouri, for approval to acquire 99.4 per cent of the voting shares of Manchester Bank West County, Maryland Heights, Missouri, a proposed new bank.

Westland Banks, Inc., Lakewood, Colorado, for approval to acquire 98 per cent of the voting shares of Westland Bank of Lakewood, Lakewood, Colorado, a proposed new bank.

Westland Banks, Inc., Lakewood, Colorado, for approval to acquire 99 percent of the voting shares of Westland National Bank South, Longmont, Colorado, a proposed new bank.

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To Expand a Bank Holding Company Pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956.

Mellon National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in "de novo" activities (leasing real or personal property or acting as agent, broker, or adviser in leasing such property, the lease shall serve as the functional equivalent of an extension of credit to the lessee and the transaction will provide a sufficient return to compensate the lessor for the full investment in the property plus the estimated cost of financing the property over the term of the lease; making or acquiring, for its own account or the account of others, loans or other extensions of credit to be secured by real or personal property; servicing leases on real or personal property and loans secured by real or personal property for its own account or the account of others) at 3714 Mellon Bank Building, Mellon Square, Pittsburgh, Pennsylvania, through a wholly-owned subsidiary, Mellon National Leasing and Management Corporation (11/26/76).[2]

Bank of Virginia Company, Richmond, Virginia, notification of intent to engage in "de novo" activities (leasing of real property or acting as agent, broker, or adviser in leasing such property provided the lease is to serve as the functional equivalent of an extension of credit to the lessee of the property, the property to be leased to be acquired specifically for the leasing transaction or having been acquired specifically for an earlier leasing transaction) at 11011 West Broad Street, Richmond, Virginia, through its subsidiary, BVA Credit Corporation (11/24/76).[3]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to relocate "de novo" activities (making installment loans to individuals for personal, family, or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family, or household goods or services; acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; and acting as agent in the sale of insurance protecting collateral held against the extensions of credit) from 939 Broad Street, Camden, South Carolina to 2612 N. Broad Street, Camden, South Carolina, through its subsidiary, Landmark Financial Services, Inc. (11/26/76).[4]

Banks of Iowa, Inc., Cedar Rapids, Iowa, notification of intent to engage in "de novo" activities (bookkeeping or data processing services for the internal operations of its subsidiaries and other banking institutions and storing and processing other banking, financial, or related economic data such as performing payroll, accounts receivable or payable, or billing services for other businesses) at 1014 Nebraska Street, Sioux City, Iowa, through its subsidiary, Banks of Iowa Computer Services, Inc. (11/22/76).[5]

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To Expand a Bank Holding Company Pursuant to section 4(c)(12) of the Bank Holding Company Act of 1956.

Warner Communications Inc., New York, New York, notification of intent to acquire 25 per cent of the capital stock of SP&S Records Ltd., through its subsidiary, WCI United Kingdom (11/26/76).[5]

• • • • • •

REPORTS RECEIVED

Registration Statement Filed Pursuant to section 12(g) of the Securities Exchange Act.

United States Trust Company of New York, New York, New York.

Current Report Filed Pursuant to section 13 of the Securities Exchange Act.

United Counties Trust Company, Elizabeth, New Jersey.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, December 14, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37632 Filed 12-22-76;8:45 am]

COMMERCIAL NATIONAL CORP.

Proposed Acquisition of Commercial National Management Consulting Company

Commercial National Corporation, Peoria, Illinois, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire "de novo" all of the voting shares of Commercial National Management Consulting Company, Peoria, Illinois. Notice of the application was published on November 20, 1976, in the "Journal Star," a newspaper circulated in Peoria, Illinois.

Applicant states that the proposed "de novo" subsidiary would engage in the activity of providing management consulting advice on an explicit fee and noncontinuing basis to nonaffiliated banks. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 14, 1977.

Board of Governors of the Federal Reserve System, December 16, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37634 Filed 12-22-76;8:45 am]

PAGE BANK HOLDING CO.

Formation of Bank Holding Company

Page Bank Holding Company, Page, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 92.67 per cent or more of the voting shares of Page State Bank, Page, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 12, 1977.

Board of Governors of the Federal Reserve System, December 14, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37633 Filed 12-22-76;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION

Meeting

Notice is hereby given in accordance with § 800.5(c) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 C.F.R., Part 800) that on January 13, 1976, at 7:30 p.m., a public information meeting will be held at the Holy Trinity School (second floor), 6th and Spruce Streets, Philadelphia, Pennsylvania. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the proposed Washington Square East, Unit #3, an undertaking assisted by the Department of Housing and Urban Development as it affects 700–714 Spruce Street, Philadelphia, Pennsylvania, within the Society Hill Historic District, a property included in the National Register of Historic Places.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Advisory Council.

II. An explanation of the undertaking and an evaluation of its effects on the property by the Department of Housing and Urban Development.

III. A statement by the Redevelopment Authority of the City of Philadelphia.

IV. A statement by the Pennsylvania State Historic Preservation Officer.

V. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

VI. A general question period.

Speakers should limit their statements to approximately 10 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005 (202–254–3380).

ROBERT R. GARVEY, JR.,
Executive Director.

[FR Doc.76-37653 Filed 12-22-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

NATIONAL ADVISORY COUNCIL ON DRUG ABUSE

Rechartering

Pursuant to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92–463 (5 U.S.C. Appendix 2), the Alcohol Drug Abuse, and Mental Health Administration announces the rechartering by the Secretary, Department of Health, Education, and Welfare, on December 3, 1976, of the National Advisory Council on Drug Abuse in accordance with section 14(b)(2) of said Act.

Dated: December 17, 1976.

JAMES D. ISBISTER,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-37638 Filed 12-22-76;8:45 am]

NATIONAL ADVISORY COUNCILS

Notice of Rechartering

Pursuant to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92–463 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the rechartering by the Secretary, Department of Health, Education, and Welfare, on December 8, 1976, of the National Advisory Council on Alcohol Abuse and Alcoholism and the National Advisory Mental Health Council in accordance with section 14(b)(2) of said Act.

Dated: December 17, 1976.

JAMES D. ISBISTER,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-37639 Filed 12-22-76;8:45 am]

Center for Disease Control

OCCUPATIONAL SAFETY AND HEALTH

Request for Comments on Certain Chemical/Physical Agents and Industrial Processes

Section 20(a)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(3)) provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the Act authorizes the National Institute for Occupational Safety and Health (NIOSH) to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the Act. NIOSH is proposing to develop criteria documents containing recommended occupational health standards for the following substances and processes for completion in 1980–81.

Acetates
Alcohols (excluding isopropyl, ethyl, furfuryl, and methyl)
Alkali Earth Metal Petroleum Sulfonates
Alkenes
Aluminium and Compounds
Ammonium Nitrate
Arenes (excluding toluene and xylene)
Brominated Aliphatics (excluding ethylene dibromide and brominated fluorocarbons)
Barium and Its Compounds
Dichloropropane
Diphenyl
Dyeing and refinishing textiles
Entering confined spaces
Glycols
Glycol ethers
Heavy metal greases and soaps
Hexachlorobutadiene
Hexachloroethane
Impact Noise
Infra-red light
Lasers
Leather tanning
Lubricant, oil, and grease additives
Manufacturing of non-metallic pigments and dyes
Monochloroethane
Monochloroacetic acid
Napthalene
Organic acids (excluding oxalic)
Organic oxides or epoxy compounds (excluding epoxy resins, epichlorohydrin, and glycidyl ethers)
Organo phosphate compounds (excluding those used primarily as pesticides and fire-retardants)
Paint and allied products manufacturing
Pentachloroethane
Plasticizers
Plastic and resins manufacture, (excluding synthetic fibers and the forming and shaping of plastics and resins)
Primary Aliphatic Amines
Primary Aromatic Amines
Pthalates
Pulp and paper mills
Pyrolysis fuel
Radio frequency
Rubber Processing Chemicals
Secondary Aliphatic Amines
Secondary Aromatic Amines
Secondary non-ferrous metal smelters
Silicon and compounds
Sodium azide
Synthetic rubber manufacturing
Terphenyl
Tertiary Aliphatic Amines
Tertiary Aromatic Amines

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Tetrahydrofuran
Tire manufacturing
Trichloropropane
Tunnelling and caisson workers
Ultrasonics
Vibration (segmental and whole body)
Visible light
Wood preserving
Zinc and Its Compounds (excluding zinc chloride, chromate, and cyanide)

Prior to finalizing plans for the development of these documents, the public is invited to submit comments, including suggestions for additions or deletions, with accompanying documentation to the Director, Division of Criteria Documentation and Standards Development, (FEDERAL REGISTER Notice No. 7) NIOSH, 5600 Fishers Lane, Park Building, Room 3–28, Rockville, MD 20857, on or before February 1, 1977.

NIOSH is anticipating making a final decision in February 1977 on the documents to be developed in 1980–81.

All information received in response to this notice, except that information which is trade secret and protected by section 15 of the Act, will be available for public inspection at the foregoing address.

Date: December 17, 1976.

JOHN F. FINKLEA, M.D.,
Director, National Institute for Occupational Safety and Health.

[FR Doc.76–37640 Filed 12–22–76;8:45 am]

OCCUPATIONAL SAFETY AND HEALTH

Request for Information on Decomposition Products of Fluorocarbon Polymers

Section 20(a)(3) of the Occupational Safety and Health Act of 1970 [29 U.S.C. 669(a)(3)] provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the Act authorizes the National Institute for Occupational Safety and Health (NIOSH) to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the Act. NIOSH is proposing to develop a criteria document containing recommended occupational health standards for decomposition products of fluorocarbon polymers. The criteria document will include among other items an evaluation of available information relative to the areas listed below.

Any person having information or data in any of the areas listed below, or in other areas considered relevant to the establishment of a safe and healthful occupational environment involving decomposition products of fluorocarbon polymers is requested to submit such information, with accompanying documentation to the Director, Division of Criteria Documentation and Standards Development, NIOSH, 5600 Fishers Lane, Park Building, Room 3–28, Rockville, MD 20857 within 90 days.

1. Establishment of safe occupational environmental levels for such agents including levels for acute and chronic exposure to airborne concentrations of the chemical agents as well as safe practices concerning direct contact with such agents.

2. Establishment of biologic standards i.e., the levels of such agents, metabolites, or other effects of exposure which may be present within man without his suffering ill effects taking into consideration (a) the correlation of airborne concentrations of, and extent of exposure to such substances with effects on specific biologic systems of man such as the circulatory, respiratory, urinary, and nervous system, and (b) the analytical methods for determining the amount of the substance which may be present within man.

3. Engineering controls, including ventilation, environmental temperature, humidity, and housekeeping and sanitation procedures, with attention to the technological feasibility of such controls.

4. Specifications for the conditions under which personal protective devices should be required.

5. Methods, including instruments, for air sampling and sample analysis of the chemical agents and methods of measuring levels of exposure to the physical agents.

6. The need for medical examinations for workers exposed to such agents, the frequency of such examinations, and the specific diagnostic tests which should be used and the rationale of their selection.

7. Work practices or procedures which may be instituted for control of the workplace environment in normal operations and those which may be instituted when occupational environmental levels are temporarily exceeded or where peak concentrations of chemical agents in man are reached.

8. The types of records concerning occupational exposure to such agents that employers should be required to maintain.

9. Warning devices and labels which should be required for the prevention of occupational diseases and hazards caused by such agents.

All information received concerning decomposition products of fluorocarbon polymers, except that information which is trade secret and protected by section 15 of the Act, will be available for public inspection at the foregoing address.

Dated: December 17, 1976.

JOHN F. FINKLEA, M.D.,
Director, National Institute for Occupational Safety and Health.

[FR Doc.76–37641 Filed 12–22–76;8:45 am]

National Institutes of Health

ANIMAL RESOURCES ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Animal Resources Advisory Committee, Division of Research Resources, January 5, 1977, National Institutes of Health, Bldg. 31, Conference Room 7, Bethesda, Maryland 20014. The meeting will be open to the public from 9:00 a.m. to 2:00 p.m., during which time the report, "Assuring the Resources for Biomedical Research, An Evaluation of the Scientific Mission of the Division of Research Resources (DRR), NIH," conducted by the Research Resources Evaluation Panel and coordinated by Bolt Beranek and Newman, Inc., Cambridge, MA, will be discussed. The Committee will focus its deliberations on Appendix C, Report of the Subpanel on the Animal Resources Programs of DRR, NIH, with particular reference to the evaluation of the role of the Laboratory Animal Sciences Program in the scientific mission of the Division of Research Resources. Responses to recommendations in the report will be developed. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public from 2:00 p.m. to adjournment. The purpose of the closed session will be to review institutional National Research Service Award grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of Committee members on individual training grant applications containing detailed protocols, designs, and other technical information; financial data such as salaries; and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, 301/496–5545, will provide summaries of the meeting and rosters of Committee members. Dr. Dennis O. Johnsen, Executive Secretary, Animal Resources Advisory Committee, Building 31, Room 5B33, Bethesda, Maryland 20014, 301/496–5507, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.306, National Institutes of Health)

Dated: December 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–37823 Filed 12–22–76;8:45 am]

DIVISION OF RESEARCH RESOURCES AND GENERAL RESEARCH SUPPORT PROGRAM ADVISORY COMMITTEE

Meeting

Notice is hereby given of the meeting of representatives from the General Research Support Program Advisory Committee and of the Division of Research Resources, January 3, 1977, National Institutes of Health, Building 31, Conference Room 9, Bethesda, Maryland 20014. The meeting will be open to the public from 8:30 a.m. to adjournment during which time the report, "Assuring the Resources for Biomedical Research, an Evaluation of the Scientific Mission of the Division of Research Resources (DRR), NIH," conducted by the Research Resources Evaluation Panel and coordinated by Bolt Beranek and Newman, Inc., Cambridge, Massachusetts, will be discussed. The representatives will focus their deliberations on Appendix D, Report of the Subpanel on the Minority Biomedical Support Programs of DRR, NIH, with particular reference to the evaluation of the role of the Minority Biomedical Support Program in the scientific mission of the Division of Research Resources. Responses to recommendations in the report will be developed. Attendance by the public will be limited to space available.

Mr. James Augustine, Information Officer, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, (301) 496–5545, will provide information pertaining to the meeting.

Dr. Dorothy F. Travis, Executive Secretary, General Research Support Program Advisory Committee, Building 31, Room 4B04, Bethesda, Maryland 20014, (301) 496–6743, will furnish substantive information.

(Catalog of Federal Domestic Assistance Program No. 13.337 and 13.375, National Institutes of Health.)

Dated: December 16, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–37824 Filed 12–22–76;8:45 am]

Office of Education

LIBRARY SERVICES AND CONSTRUCTION ACT

Promulgation of Federal Shares

Pursuant to section 7(b)(2) and subject to the limitations of section 7(b)(1) of the Library Services and Construction Act, 70 Stat. 293, as amended and it having been found that the three most recent consecutive years for which satisfactory data are available from the Department of Commerce as to per capita income, are the years 1973, 1974 and 1975, the Federal shares for the purposes of Titles I and II of such Act for the several States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands are hereby promulgated as indicated below to be effective for the fiscal years ending September 30, 1978, and September 30, 1979. (20 U.S.C. 351e)

(20 U.S.C. 351e)

Dated: December 17, 1976.

(Catalog of Federal Domestic Assistance Program Number 13.464, Library Services-Grants for Public Libraries; and 13.406, Construction of Public Libraries)

EDWARD AGUIRRE,
U.S. Commissioner of Education.

State	Federal share (percent)
Alabama	60.97
Alaska	33.69
Arizona	53.34
Arkansas	60.00
California	44.70
Colorado	49.29
Connecticut	41.02
Delaware	42.57
District of Columbia	35.50
Florida	50.97
Georiga	56.42
Hawaii	44.52
Idaho	55.20
Illinois	42.79
Indiana	51.62
Iowa	48.34
Kansas	48.55
Kentucky	58.90
Louisiana	59.46
Maine	59.00
Maryland	45.55
Massachusetts	48.16
Michigan	46.68
Minnesota	50.15
Mississippi	65.11
Missouri	53.25
Montana	53.51
Nebraska	49.15
Nevada	43.58
New Hampshire	54.57
New Jersey	43.17
New Mexico	60.45
New York	44.21
North Carolina	57.71
North Dakota	47.67
Ohio	50.26
Oklahoma	56.17
Oregon	51.29
Pennsylvania	50.06
Rhode Island	51.12
South Carolina	60.51
South Dakota	55.16
Tennessee	58.42
Texas	53.25
Utah	58.49
Vermont	57.85
Virginia	51.18
Washington	48.17
West Virginia	59.28
Wisconsin	52.00
Wyoming	49.14
American Samoa	66.00
Guam	66.00
Puerto Rico	66.00
Trust Territory	100.00
Virgin Islands	66.00

[Fr Doc.76–37721 Filed 12–22–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD–377; FDAA–518–DR]

VERMONT

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Vermont dated August 5, 1976, and amended August 13, 1976, is hereby further amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 5, 1976:

The Counties of:

Addison Rutland

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: DECEMBER 16, 1976.

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.76–37662 Filed 12–22–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 24651]

COLORADO

Proposed Withdrawal and Reservation of Lands

DECEMBER 13, 1976.

The Department of Agriculture, U.S. Forest Service, has filed the above application for the withdrawal of the lands described below, from location and entry under the Mining Laws only, subject to existing valid rights, in accordance with the authority vested in the Federal Land Policy and Management Act of 1976 (90 Stat. 2751; 43 U.S.C. 1714).

The applicant desires the land for an administrative site in connection with the Rio Grande National Forest.

On or before January 24, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202 (CO–943).

The Department's regulations (43 CFR 231) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The lands involved in the application are:

T. 41 N., R. 1 E., N.M.P.M., Sec. 5: NE¼SE¼NW¼;
Secs. 5 & 6: a parcel of land in the N½SW¼, Section 5, and the NE¼NE¼SE¼, Section 6, described as follows:

Beginning at the east quarter of Section 6; thence south 3°03', west, 390.0 feet; thence north 70°27' west, 269.9 feet; thence south 27°34' west, 153.0 feet; thence south 58°01' east, 363.2 feet, at a point on the line common to Sections 5 and 6 thence continuing south 58°01' east, 144.1 feet; thence south 80° east, 223.2 feet; thence north 77°52' east, 842.4 feet; thence north 72°08' east, 1400.7 feet; thence north 1°39' east, 241.0 feet; thence south 87° 12' west, 3602.4 feet, to the point of beginning.

The area described aggregates 84.55 more or less, in Mineral County, Colorado.

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The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party to record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

MERRILL G. ANDERSON,
Acting Chief,
Branch of Land Operations.

[FR Doc.76-37659 Filed 12-22-76;8:45 am]

[M 35740]

MONTANA

Notice of Public Hearing and Coal Lease Offering By Sealed Bid and Oral Auction

DECEMBER 17, 1976.

U.S. Department of the Interior, Bureau of Land Management, Montana State Office, Granite Tower, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107. Notice is hereby given that the lands hereinafter described in Rosebud County, Montana, will be offered for coal lease by sealed bid, followed by oral auction, to the qualified bidder of the highest cash amount per acre, at 2 p.m., M.S.T., February 1, 1977, in the Conference Room on the 6th Floor of the Granite Tower Building. At that time sealed bids will be opened and read. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time, and place set for opening of such bids. Only those bidders who submit sealed bids will be permitted to bid orally.

Public hearing: A public hearing will be held on January 12, 1977, at 2 p.m. at the Colstrip Community Center to obtain public comments on the following items: (1) The method of mining to be employed to obtain maximum economic recovery of the coal, and (2) the impact that mining the coal on the proposed leasehold may have on the area, including but not limited to impacts on the environment, agriculture, other economic activities and on public services. Approximately 7 million tons in the average 22-foot thick Rosebud Coal Seam will be mined from the lands to be leased. This coal contains an average of 8,350 Btu per pound, and has an average content of 0.89% sulfur and 8.0% ash, all determined on the as-received basis.

Written comments: The public is invited to submit written comments on the fair market value of the coal to be leased. Such comments will be held confidential. Written comments on Item (1) above and the fair market value will be received by the Area Mining Supervisor, U.S. Geological Survey, P.O. Box 2550, Billings, Montana 59103, until January 19, 1977.

Lands offered: The lands are located in Rosebud County near the community of Colstrip, Montana. Colstrip is located 29 miles south of Interstate 94 and 36 miles from Forsyth, Montana. The lands are described as follows: Township 2 North, Range 41 East, Principal Meridian, Montana, Section 32, E½E½, SW¼SE¼, containing 200 acres.

Detailed statement: A detailed statement of the terms and conditions of the lease offer, how and where to submit sealed bids and the obligations of the high bidder(s) to pay for publication of this notice may be obtained from Chief, Division of Technical Services, Montana State Office, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107.

ROLAND F. LEE,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.76-37660 Filed 12-22-76;8:45 am]

[NM 29292]

NEW MEXICO

Application

DECEMBER 15, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 10¾-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

Sec. 4, lots 1, 2 and 3.
Sec. 3, lots 1, 2, 3 and 4;
Sec. 4, lots 1, 2 and 3.

This pipeline will convey natural gas across 1.731 miles of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.76-37661 Filed 12-22-76;8:45 am]

[NM 29295]

NEW MEXICO

Application

DECEMBER 15, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for five 4 & 6-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 24 E.,
Sec. 22, S½SE¼;
Sec. 26, NE¼SW¼, S½SW¼, N½SE¼;
Sec. 24, N½S½;
Sec. 27, NW¼NE¼, NE¼NW¼;
Sec. 26, SE¼NW¼.
T. 20 S., R. 24 E.,
Sec. 12, N½NE¼, SE¼SE¼;
Sec. 13, NE¼NE¼.
T. 20 S., R. 25 E.,
Sec. 18, lots 1, 2 and 3;
Sec. 19, NE¼SW¼, W½SE¼.

These pipelines will convey natural gas across 4.913 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.76-37662 Filed 12-22-76;8:45 am]

[Wyoming 57685]

WYOMING

Application

DECEMBER 15, 1976.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Colorado Interstate Gas Company, of Colorado Springs, Colorado, filed an application for a right-of-way to construct a 4 inch pipeline for the purpose of transporting natural gas across the following described National Resource Lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 22 N., R. 94 W.,
Sec. 32, NE¼SW¼.

The pipeline will transport natural gas from the #4 Siberia Ridge Unit 11-32 well in the SW¼, sec. 32, T. 22 N., R. 94 W., to a point of connection with the proposed F25 4 inch line in sec. 32, T. 22 N., R. 94 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

GLENNA M. LANE,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc.76-37663 Filed 12-22-76;8:45 am]

Bureau of Mines

ADVISORY COMMITTEE ON COAL MINE SAFETY RESEARCH

Notice of Ad Hoc Subcommittee Meetings

Notice is hereby given in accordance with Public Law 92-463 that two subcommittee meetings of the Advisory Committee on Coal Mine Safety Research will be held simultaneously on January 10 and 11, 1977, from 9:00 a.m. to 4:00 p.m. at the Howard Johnson's Motor Lodge, 5900 Clairton Boulevard (Route 51 South), Pittsburgh, Pennsylvania. The meetings are open to the public.

Ad hoc committees are used to identify and consider special problems as indicated. The purpose of each subcommittee meeting and a list of members follow:

SUBCOMMITTEE ON INDUSTRIAL TYPE HAZARDS

Louis Hunter, *Chairman.*
Hubert J. Martin — Michael Trbovich
John V. Grimaldi — Ralph C. Beerbower

Purpose: To discuss Industrial Type Hazards research area with Bureau of Mines Mining Research personnel.

SUBCOMMITTEE ON GROUND CONTROL

Harreld N. Kirkpatrick, *Chairman*

Sherman A. White — Charles Babendreier
Malcolm T. Wane — Wayne C. Christensen

Purpose: To discuss Ground Control research area with Bureau of Mines Mining Research personnel.

Further information concerning these meetings may be obtained from Rolland R. Reid, Deputy Assistant Secretary—Minerals, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, telephone: (202) 343-4881. Transcripts of the meetings will be available for public inspection three weeks after the meeting upon written request addressed to the above official.

Dated: December 17, 1976.

T. V. FALKIE,
Director, Bureau of Mines.

[FR Doc.76-37699 Filed 12-22-76;8:45 am]

Geological Survey

OIL AND GAS OPERATIONS

Eastern Region OCS Orders

On July 12, 1976 (41 FR 28553), OCS Orders for the Mid-Atlantic Area were published. These OCS Orders provide requirements for oil and gas drilling activity on any oil and gas leases to be issued as a result of the lease sale scheduled to be held in September 1977. The following OCS Orders for the Mid-Atlantic Area were effective July 1, 1976.

Order No. 1—"Marking of Wells, Platforms, and Structures"
Order No. 2—"Drilling Procedures"
Order No. 3—"Plugging and Abandonment of Wells"
Order No. 4—"Suspensions and Determination of Well Producibility"
Order No. 5—"Subsea Safety Devices"
Order No. 7—"Pollution and Waste Disposal"
Order No. 12—"Public Inspection of Records"

The current lease sales schedule shows a tentative lease sale to be held in the South Atlantic in September of 1977. The Geological Survey is in the process of developing final OCS Orders to cover drilling activities in this area should this lease sale be held.

Interested parties are requested to provide comments on the content of the South Atlantic OCS Orders. The newly issued Mid-Atlantic OCS Orders are being considered as draft OCS Orders for this Area. Commenters are requested to indicate operational changes that may be necessary due to different conditions to be encountered in the South Atlantic Area. For the purpose of these OCS Orders, the South Atlantic Area includes OCS lands from 37° N latitude south to Key West. Comments will be accepted until March 1, 1977, and should be sent to:

Acting Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 600, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

The U.S. Geological Survey has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76-37666 Filed 12-22-76;8:45 am]

National Park Service

GRAND TETON NATIONAL PARK, WYOMING

Designation of Areas and Routes Open to Snowmobiles

In accordance with the requirements of paragraph (c) of § 2.34 of Title 36 of the Code of Federal Regulations, notice is hereby given of areas and routes that will be open to snowmobiles in Grand Teton National Park.

In arriving at the designations of the snowmobile areas and routes, we have been guided by the criteria contained in Sections 3 and 4 of Executive Order 11644 (3A CFR, 1972 Comp. p. 142) and also have considered factors such as other visitor uses, safety, wildlife management, noise, erosion, geography, weather, vegetation, resource protection and other management consideration.

An environmental assessment has been prepared on the designation of the snowmobile areas and routes and is available for public review in the office of the Park Superintendent. A map showing areas and routes that are to be open is also available to the public.

In order to properly designate the snowmobile areas and routes, it is considered necessary to specify the boundaries of the open areas and to define the portions of the Park where snowmobile use will be permitted.

Available Roadway. On roads designated for snowmobile use, only that portion of the road or parking area intended for other motor vehicle use may be used by snowmobiles. Such roadway is available for snowmobile use only when the designated road or parking area is closed to all other motor vehicle use by the public.

Marked Trails. Snowmobile routes other than unplowed public roads are designated by diamond shaped red markers on trees and on poles in the snow along the routes.

1. Designated Routes to be open to snowmobile use:

a. Designated routes for access to the Bridger-Teton National Forest and other areas are: The Spread Creek Road, the Pilgrim Creek Road, the Colter Bay Dump Road, the Baily Creek Road and the Arizona Creek Road from the highway to their terminus, the Elk Ranch Roads south of Uhl Hill, the unplowed portion of the Pacific Creek Road, the unplowed portion of the Ditch Creek Road including the road to the South Fork of Ditch Creek, those portions of the unplowed roads connecting with the Shadow (Antelope) Mountain Forest Service Road at Cunningham Cabin, Lost Creek Road and Antelope Flats Road, the unplowed portion of the Moose-Wilson Road, the Two Ocean Lake Road and the Lizard Creek Campground Road.

b. Designated routes to private lands outside Park boundaries: The Jackson Hole Ranch Road, the Circle EW Ranch Road and the Lost Creek Ranch Road.

c. Marked Trails: Two Ocean Lake Road to the Pacific Creek Road passing through the divide located in Section 1, Township 45 North, Range 114 West.

2. Designated areas that are to be open to snowmobile use:

a. The frozen surface of Jackson Lake and Jenny Lake during the period of adequate ice cover.

b. The area which includes Baseline Flats, Timbered Island, Burned Ridge, the Potholes and Signal Mountain. The boundaries of the area are: Beginning at the Jackson Lake Dam then easterly along the base of the north-facing slope of Signal Mountain to Cattleman's Bridge, then continuing easterly and southerly along the base of the north and east-facing slopes of the hills south and west of the Snake River to the river bench, beginning in the south and central portion of Section 27, Township 45 North, Range 144 West, then continuing southerly along the top of the river bench to below Deadman's Bar in Section 27, Township 44 North, Range 115 West, then continuing southerly along the top of the lower river bench to where it is bisected by Cottonwood Creek in Section 24, Township 43 North, Range 116 West, then northwesterly along the bench north of Cottonwood Creek to the Teton Park Road at the Cottonwood Creek Bridge, then northerly along the Teton Park Road to South Jenny Lake Junction, then continuing northerly along the Jenny Lake Loop Road to the Strink Lake Picnic Area, then northerly and easterly along the Jenny Lake Loop Road to the Spalding Bay Road, then northerly along the Spalding Bay Road

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to Jackson Lake, then southerly, easterly and northerly along the shore line of Jackson Lake to the Jackson Lake Dam, the point of beginning.

c. The Pacific Creek area, excluding the flood plain of Pacific Creek, bounded on the north by the east road right of way of the Pacific Creek Road to the east Park boundary, then southerly along the Park boundary to the northeast corner of the northwest quarter of Section 19, Township 45 North, Range 113 West, then west to the northeast corner of the northwest quarter of Section 24, Township 44 North, Range 114 West, then south to the center of Section 24, Township 44 North, Range 114 West, then west to the southwest corner of the northwest quarter of Section 24, Township 44 North, Range 114 West, then south to Highway 26/287, then westerly along the north road right of way to the Moran Junction, then northerly along the east right of way of Highway 89/287 to the Pacific Creek Road Junction.

d. The Antelope flats area beginning at the junction of the Antelope Flats Road with Highway 26/89/187, easterly along the north road right of way to the Mail Box Corner intersection, then north and east on the west side of the Shadow Mountain Road to the Park boundary, then north along the east boundary to the Lost Creek Ranch Road, then westerly along the Lost Creek Ranch Road to Highway 26/89/187, then southerly along the east road right of way to the Antelop Flats Road, the point of beginning.

e. The Hayfields area including Sections 3, 4, 33, 34 and the portion of Section 27 south of Ditch Creek in Township 43 North, Range 15 West bounded on the west by the Morman Row Road, on the north by markers on the North Section line between Sections 33 and 28 and the trees on Ditch Creek in Section 27 and bounded on the east and south by the Kelly Road.

3. The Superintendent shall determine the opening and closing dates for use of snowmobile areas and designated snowmobile routes each year, taking into consideration snow depth to insure proper protection to the vegetation, the location of wintering wildlife, road plowing schedules and other factors that may relate to public safety and he shall notify the public of such dates through normal news media channels.

4. Snowmobile use outside designated areas or routes is prohibited. This prohibition shall not apply to (1) emergency routes designated by the Superintendent with the appropriate signs and poles and (2) emergency administrative travel by employees of the National Park Service or its contractors and concessioners.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the decision making process. As required by 36 CFR § 2.34(c), prior to making a final decision on these designated areas and routes that are to be open, the public shall be provided a 30-day period to comment. Accordingly, interested persons may submit written comments, suggestions or objections, with respect to the proposed snowmobile area and route designations, to the Park Superintendent, Grand Teton National Park, Post Office Drawer 170, Moose, Wyoming 83012 within 30 days of the date of this Notice.

GLEN T. BEAN,
Acting Regional Director,
Rocky Mountain Region.

[FR Doc.76-37702 Filed 12-22-76;8:45 am]

JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY

Designation of Areas Open to Snowmobiles

In accordance with the requirements of paragraph (c) of § 2.34 of Title 36 of the Code of Federal Regulations, notice is hereby given of the area that will be open to snowmobiles on the John D. Rockefeller, Jr. Memorial Parkway.

In arriving at the designation of the snowmobile area, we have been guided by the criteria contained in Sections 3 and 4 of Executive Order 11644 (3A CFR 1972 Comp. p. 142) and also have considered factors such as other visitor uses, safety, wildlife management, noise, erosion, geography, weather, vegetation, resource protection and other management considerations.

An environmental assessment has been prepared on the designation of the snowmobile area and is available for public review, in the office of the Park Superintendent, Grand Teton National Park. A map showing the area that is to be open is also available to the public.

In order to properly designate the snowmobile area, it is considered necessary to specify the boundaries of the area where snowmobile use will be permitted.

Designated Area. Oversnow vehicle use will be permitted within the area bounded by the Snake River from the Snake River Bridge at Flagg Ranch west along the west bank of the river to the mouth of Polecat Creek, then to the west flood plain bank of the Snake River southerly to the Parkway boundary, then west along the southern Parkway boundary to tht southwest corner, then north on the Parkway boundary to the south boundary of Yellowstone National Park, then east along the south boundary of Yellowstone to Highway 89/287, then south along the east side of Highway 89/287 to the bridge over the Snake River at Flagg Ranch. Periodically, some areas along Polecat Creek may be temporarily closed to oversnow vehicle use to prevent a disturbance to concentrations of wildlife, including waterfowl.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the decision making process. As required by 36 CFR § 2.34(c) prior to making a final decision on the designated area, the public shall be provided a 30-day period to comment. Accordingly, interested persons may submit written comments, suggestions or objections, with respect to the designation of a snowmobile area, to the Superintendent, Grand Teton National Park, Moose, Wyoming 83012, within 30 days of the date of this Notice.

GLEN T. BEAN,
Acting Regional Director,
Rocky Mountain Region.

[FR Doc.76-37701 Filed 12-22-76;8:45 am]

MIDWEST REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Midwest Regional Advisory Committee will be held beginning at 8:30 a.m. (CST), on Thursday, January 27 and continuing until approximately 12:00 noon, Friday, January 28, 1977, in Omaha, Nebraska.

The committee was established pursuant to Public Law 91-383 to provide for the free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Midwest Region of the National Park Service.

The members of the advisory committee are as follows:

Honorable Robert W. Berrey III (Chairman)
Mrs. Mildred Curtis
Mr. Wallace C. Dayton
Mr. Norman G. Duke
Mr. John J. Franke, Jr.
Mr. Glenn C. Gregg
Mr. Fred D. Hartley
Mr. William L. Lieber
Mr. Erwin D. Sias

The committee will meet at 8:30 a.m. (CST) Thursday, January 27, at the Granada Royale Hometel, 72nd Street and Mercy Road, Omaha, Nebraska. On Friday, January 28, it will meet at 8:30 a.m. in the third floor conference room of the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska. Topics for the meeting include the following:

1. Action on the committee's past recommendations.
2. Election of officers.
3. Progress report covering current problems and activities.

The meeting will be open to the public. It is expected that in addition to the committee and staff about 20 persons will be able to attend. Any member of the public may file with the committee a written statement concerning matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Bill W. Dean, Executive Assistant to the Regional Director, Midwest Regional Office at area code 402, 221-3481. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Midwest Region.

1709 Jackson Street, Omaha, Nebraska 68102.

Dated: December 13, 1976.

RANDALL R. POPE,
Acting Regional Director,
Midwest Region.

[FR Doc.76-37700 Filed 12-22-76;8:45 am]

COLORADO RIVER STORAGE PROJECT

Notice of Proposed Allocation of Peaking Power

Pursuant to Public Law 84-485, April 11, 1956 (70 Stat. 105), and by virtue of authority under the Reclamation Project Act of 1939, August 4, 1939 (53 Stat. 1187, 1194, 1196), the Secretary of the Interior proposes to allocate additional power from the Colorado River Storage Project to be marketed by the Bureau of Reclamation.

A notice of the proposed revised allocation was published in the FEDERAL REGISTER, Vol. 41, No. 166, August 25, 1976. It was proposed that, after a review of those comments, a final allocation would be announced and customers would have to place their allocations under contract by December 1, 1976, or they would be rescinded.

Comments have been received from several customers and are now under review. To allow further time for review by both the customers and the Bureau of Reclamation of the proposed allocation and of the proposed contract arrangements, announcement of the final allocation is postponed until no later than January 31, 1977, and the deadline for completion of contracts is extended to March 31, 1977.

Dated: December 13, 1976.

DENNIS N. SACHS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-37601 Filed 12-22-76;8:45 am]

Office of the Secretary

CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE

Establishment

In accordance with sections 309 and 601(g) of the Federal Land Policy and Management Act of 1976, Pub. L. 94-579 (90 Stat. 2743-2794), there is hereby established a California Desert Conservation Area Advisory Committee of not less than 10 nor more than 15 members to advise the Secretary and Department of the Interior with respect to preparation and implementation of a comprehensive, long-range plan for the management, use, development, and protection of lands within the California Desert Conservation Area of southern California. The Committee will function in accordance with the Federal Advisory Committee Act (86 Stat. 770; 5 App. I U.S.C.) and general guidelines and procedures contained in Subpart 1784 of Title 43, Code of Federal Regulations. Specific operating rules, as well as the composition of the Committee with regard to number of members and interests or disciplines to be represented, will be set forth in its charter.

THOMAS S. KLEPPE,
Secretary of the Interior.

DECEMBER 17, 1976.

[FR Doc.76-37668 Filed 12-22-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

Notice of Suspension of Investigation

Notice is hereby given that—

(1) On December 2, 1976, the Commission investigative attorney and certain respondents filed a joint motion for suspension of this investigation, which was docketed by the Office of the Secretary as motion No. 23-57. On December 6, 1976, the presiding officer filed his recommended decision and opinion on motion No. 23-57 for suspension of this investigation.

(2) On the basis of its consideration of the above pleadings, recommended decision and opinion, the Commission hereby orders that, pursuant to section 337(b)(1) of the Tariff Act of 1930, as amended, and section 210.15 of the Commission's Rules of Practice and Procedure, as amended (41 FR 17710, Apr. 27, 1976) this investigation is hereby suspended pending the completion of U.S. International Trade Commission investigation No. TA-201-19, Television Receivers, Color and Monochrome, Assembled or Not Assembled, Finished or Not Finished, and Subassemblies Thereof (41 FR 50076, Nov. 12, 1976).

(3) The suspension is to be effective at the close of business on December 20, 1976, and remain in force and effect only during the pendency of investigation No. TA-201-19 (Television Receivers).

(4) All existing orders, including, but not limited to, outstanding discovery orders, the protective order entered September 17, 1976, and all amendments thereto issued on or prior to December 20, 1976, shall remain in effect, and the pleadings and positions of the parties, whether by motion, objection, or other means, shall be preserved, subject to the suspension of this investigation. The effective dates for compliance with such orders and the dates for responses to such pleadings are tolled pursuant to the suspension.

Issued: December 20, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-37742 Filed 12-22-76;8:45 am]

[337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

Notice Concerning Procedure for Commission Action

Notice is hereby given that—

(1) On September 27, 1976, pursuant to the provisions of section 210.35(c) of the Commission's Rules of Practice and Procedure, as amended (41 FR 17710, Apr. 27, 1976), the respondents in this investigation filed an Application for Subpoena of Non-Party Commission Records, which was docketed by the Office of the Secretary as motion No. 23-27, with the presiding officer. On November 5, 1976, the presiding officer issued his Ruling Granting In Part Respondents' Application for Subpoena of Non-Party Commission Records and an accompanying subpoena. The subpoena requires the production, on or before September 18, 1976, of all papers, books, physical exhibits, and other materials not otherwise available in the public files of the Commission which were obtained by the Commission in connection with the following investigations:

No. AA1921-66----	Television receiving sets from Japan.
No. TEA-W-70----	Television receivers.
No. TEA-W-77----	Television receivers, radios, and phonographs.
No. TEA-W-188---	Television receivers, radio-television-phonograph combinations, and radio-phonograph combinations.
No. TEA-I-21----	Television receivers.
No. 332-65-------	Competitiveness of U.S. industries.

(2) On November 15, 1976, pursuant to section 210.60(a) of the Commission's Rules of Practice and Procedure, as amended, and the discretion vested in it pursuant to that section, the Commission voted to review the presiding officer's Ruling Granting In Part Respondents' Application for Subpoena of Non-Party Commission Records of November 5, 1976. The return date of the presiding officer's subpoena of November 5, 1976, is hereby stayed pending the Commission's review. The Commission will consider, among other issues, three issues pursuant to the instant review, as follows:

(a) Does the Application for Subpoena of Non-Party Commission Records (M. 23-27), filed by the respondents on September 27, 1976, comply with section 210.35(c) of the Commission's rules, to the extent that it was granted by the presiding officer in his ruling of November 5, 1976?

(b) As a matter of law, is the Commission required to produce the information described in the presiding officer's subpoena of November 5, 1976?

(c) Are the rights of the persons who submitted to the Commission the confidential information to be produced pursuant to the subpoena adequately protected by the fact that the disclosure of such information is to be subject to the presiding officer's Protective Order of September 17, 1976?

(3) Any person or party interested in this review may file briefs of no more than 20 pages and in form and number as set forth in section 201.6 of the Commission's Rules of Practice and Procedure, as amended. Such briefs shall be filed no later than 15 days following the date that the suspension of this investigation terminates.

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(4) The Commission will not hold oral argument concerning this review.

Issued: December 20, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-37743 Filed 12-22-76;8:45 am]

[337-TA-23]

CERTAIN COLOR TELEVISION RECEIVING SETS

Notice Concerning Commission Action

Notice is hereby given that—

(1) On August 6, 1976, the presiding officer in this investigation issued his Determination Under Rule 210.60(b) Allowing Application for Review with respect to his Ruling Denying Amended Motions To Terminate and Dismiss of July 12, 1976. On August 16, 1976, the respondents in this investigation filed with the Commission an Application for Review of Denial of Respondents' Motions To Terminate the Proceedings and Dismiss the Complaint, which was docketed by the Office of the Secretary as motion No. 23-20. The complainants in this investigation and the Commission investigative staff filed answers to the respondents' application for review on August 23, 1976, and August 24, 1976, respectively.

(2) The Commission announced its decision to review the presiding officer's ruling of July 12 in its Notice Concerning Procedure for Commission Action, which was published in the FEDERAL REGISTER on September 20, 1976 (41 FR 40569). Pursuant to the terms of its notice, the Commission decided to consider two issues pursuant to its review, as follows:

(a) As a matter of law, does the Commission have subject-matter jurisdiction over the allegations in the Consolidated Amended Complaint, filed with the Commission on May 25, 1976?

(b) Assuming such jurisdiction, as matter of policy, should the Commission continue to exercise its jurisdiction in this case, considering past practice of the Commission under section 337 of the Tariff Act of 1930, as amended?

In separate letters dated September 15, 1976, the Commission requested or acknowledged the advice of the Department of State, the Treasury, Justice, Health, Education, and Welfare; the Federal Trade Commission; and the Office of the Special Representative for Trade Negotiations in its review of the presiding officer's ruling of July 12, 1976. Responses were received from these agencies and departments on September 24, 1976. On September 30, 1976, briefs concerning the Commission's review were filed by the Commission investigative attorney, the complainants, and certain respondents. On October 5, 1976, the Commission granted a motion (M. 23-29) of Mitsubishi Corp. and Mitsubishi International Corp. for permission to file their brief late. Oral argument was held before the Commission on October 6, 1976.

(3) On November 8, 1976, the Commission unanimously affirmed that portion of the presiding officer's ruling of July 12, 1976, denying the amended motion of certain respondents to terminate this investigation and dismiss the complaint (M. 23-3A). The Commission affirmed in part and overruled in part that portion of the presiding officer's ruling denying the amended motion filed by Mitsubishi International Corp. and Mitsubishi Corp. to terminate and dismiss (M. 23-2A), by determining that only Mitsubishi Corp. had demonstrated that it is not a proper party to the Commission's investigation.[1]

(4) It is hereby ordered that motion No. 23-3A is denied, and that motion No. 23-2A is also denied except with regard to Mitsubishi Corp. The status of Mitsubishi Corp. as a party to investigation No. 337-TA-23 is hereby terminated.

(5) The Commission Memorandum Opinion in support of the Commission action is available at the Office of the Secretary, located in the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, and in the New York City office of the Commission, located at 6 World Trade Center.

Issued: December 20, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-37745 Filed 12-22-76;8:45 am]

[332-73]

DRAFT CHAPTER OF THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

Notice of Public Hearing

The United States International Trade Commission hereby gives notice that a public hearing will be held at 10 a.m., e.s.t., on January 27, 1977, in the Hearing Room of the United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436 on a draft of, and draft U.S. comments on, the following chapter of the Harmonized Commodity Description and Coding System:

CHAPTER 84

Boilers, machinery, and mechanical appliances; parts thereof (pts. 2 and 3).

The purpose of this hearing is to obtain the comments and views of interested parties with respect to this draft chapter of the Harmonized Commodity Description and Coding System, and of the draft U.S. comments thereon.

This notice is being issued pursuant to Commission investigation No. 332-73, instituted on January 31, 1975 (40 F.R. 6239), under section 332(g) of the Tariff Act of 1930. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974 which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

(2) full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices • • •.

The Harmonized Commodity Description and Coding System (Harmonized Code) is being developed by the Customs Cooperation Council (CCC), a 79-member intergovernmental organization with headquarters in Brussels, as an international commodity classification system which will be adaptable for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized Code will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature; formerly known as the Brussels Nomenclature or BTN.

Currently, a technical team working under the auspices of the CCC prepares drafts of the various chapters of the Harmonized Code for consideration by the Harmonized Systems Committee which was established in order to develop the code. These drafts are forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee meets three times a year to consider these drafts and the written comments and presentations of the various delegations. The review of a particular chapter or group of chapters may extend to more than one meeting.

In 1971, the Department of the Treasury established an Interagency Advisory Committee on Customs Cooperation Council Matters in order to provide a basis for interested Federal agencies to participate with respect to CCC matters. In order to establish and develop U.S. programs and policies with respect to the Harmonized Code, the interagency committee has instituted procedures which take into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Harmonized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized Code for consideration by the interagency committee in the determination of U.S. positions with respect to the Harmonized Code. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

The draft U.S. comments on chapter 84 of the Harmonized Code released for public comment today relate specifically to parts 2 and 3 of the technical team draft of chapter 84 and should be read in conjunction therewith.

In its public notice issued May 10, 1976, regarding hearings on the chapters of the Harmonized Commodity Description and Coding System (41 F.R. 19781 of May 13, 1976) interested parties were notified regarding the rules governing the conduct of the hearings, and the

[1] The Commission denied Commissioner Ablondi's motion to suspend investigation No. 337-TA-23 pursuant to section 337(b) of the Tariff Act, as amended.

submission of written statements. The Commission's notice of May 10, 1976, applies to the hearing on the chapter being released today to the extent that it is applicable.

In its public notices of May 4, 1976 (41 F.R. 18716 of May 6, 1976) and of August 9, 1976 (41 F.R. 34370 of August 13, 1976), the Commission identified those chapters which have been considered thus far by the Harmonized System Committee, and the chapters for which a technical team draft has been released. Since those notices were issued the Commission has received the following draft chapters prepared by the technical team:

CHAPTER 15

Animal and vegetable fats and oils and their cleavage products; prepared edible fats; animal and vegetable waxes.

CHAPTER 18

Cocoa and cocoa preparations.

CHAPTER 19

Preparations of [milk] cereals, flour or starch; pastrycooks' products.

CHAPTER 20

Preparations of vegetables, fruit or other parts of plants.

CHAPTER 23

Residues and waste from the food industries; prepared animal fodder.

CHAPTER 34

Soap, organic surface active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and "dental waxes".

CHAPTER 73

Articles of iron or steel.

Requests to appear at the hearing on chapter 84 must be filed in writing with the Secretary of the Commission not later than January 20, 1977. Parties who have properly entered an appearance by this date will be individually notified of the date on which they are scheduled to appear. Such notice will be sent as soon as possible after January 20, 1977. Any person who fails to receive such notification by January 25, 1977, should immediately communicate with the Office of the Secretary of the Commission. Parties wishing to submit written comments in lieu of attendance at the hearing should do so by February 7, 1977.

Copies of the foregoing chapters and of the chapter and draft U.S. comments thereon which are the subject of the hearing are available for public inspection at the offices of the Commission at 701 E Street NW., Washington, D.C. 20436 or at 6 World Trade Center, New York, N.Y., 10048. The Commission will also send copies to interested parties who notify the Commission of their interest with respect to any particular chapter of group of chapters.

Issued: December 20, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-37741 Filed 12-22-76;8:45 am]

[USITC SE-76]

GOVERNMENT IN THE SUNSHINE

Notice of Commission Meeting

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on December 28, 1976, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436. The Commission plans to consider the following agenda items in open session:

1. Agenda for future meetings;
2. Minutes of the hearings and meetings of December 14, 16, and 20, 1976;
3. Reorganization;
4. Footwear (Inv. TA-201-18)—vote on remedy, if necessary;
5. Quarterly report on East-West Trade—draft to be distributed;
6. Appeal filed pursuant to the Privacy Act;
7. Work plans for FY 77 and FY 78 budget estimated—see memorandum dated December 8, 1976, from the Chief, Financial Management.

If you have any questions concerning the agenda for the December 28, 1976, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Access to documents to be considered by the Commission at the meeting is provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 CFR 201.39(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Issued: December 20, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-37740 Filed 12-22-76;8:45 am]

[603-TA-1]

TELEVISION RECEIVERS FROM JAPAN

Notice of Suspension of Investigation

Notice is hereby given that the United States International Trade Commission has ordered that this preliminary investigation, notice of which was published in the FEDERAL REGISTER on April 8, 1976 (41 FR 14949), be suspended at the close of business on December 20, 1976.

Accordingly, this preliminary investigation is suspended as of the close of business on December 20, 1976, pending further notice of the Commission.

Issued: December 20, 1976.

By order of the Commission

KENNETH R. MASON,
Secretary.

[FR Doc.76-37746 Filed 12-22-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR HUMAN CELL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Human Cell Biology.
Date and time: January 27-28, 1977—9:00 a.m. to 6:00 p.m. each day.
Place: Room 517, National Science Foundation, 1800 G Street, N.W., Washintgon, D.C.
Type of meeting: Closed.
Contact person: Dr. Herman W. Lewis, Acting Program Director, Human Cell Biol. Program, Rm. 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4200.
Purpose of panel: To provide advice and recommendations concerning support for research in Human Cell Biology.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

DECEMBER 20, 1976.

[FR Doc.76-37716 Filed 12-22-76;8:45 am]

SCIENCE FOR CITIZENS ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the

V41248 DEC 23 76 UMI

National Science Foundation announces the following meeting:

Name: Science for Citizens Advisory Committee.

Date & time: January 14, 1977–9 a.m. to 6 p.m., January 15, 1977–9 a.m. to 1 p.m.

Place: Rm. 651, National Science Foundation, 5225 Wisconsin Avenue NW., Washington, D.C.

Type of meeting: Open.

Contact person: Ms. Rachelle Hollander, Assistant Program Manager, National Science Foundation, Office of Science and Society, Washington, D.C. 20550, telephone 202–282–7770.

Purpose of committee: To provide advice and recommendations concerning the development of the Science for Citizens Program.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Rm. 248, National Science Foundation, Washington, D.C. 20550.

Agenda: Items for discussion will include:

Purposes of the Committee.

Report to the Congress on the implications of NSF assistance to nonprofit citizen organizations.

Public Service Science Internships.

SFC-sponsored forums, conferences, and workshops.

Future meetings and activities.

M. REBECCA WINKLER,
Acting Committee Management Officer.

DECEMBER 20, 1976.

[FR Doc.76-37715 Filed 12-22-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, REACTOR SAFETY STUDY WORKING GROUP

Change of Meeting Agenda

The January 4, 1977 meeting of the ACRS Reactor Safety Study Working Group announced in FR 41, December 20, 1976, page 55394, will begin at 8:30 a.m. with an open (instead of closed) Executive Session. All other matters pertaining to this meeting remain the same.

JOHN C. HOYLE,
Advisory Committee Management Officer.

DECEMBER 21, 1976.

[FR Doc.76-37938 Filed 12-22-76;9:49 am]

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR–51, issued to Arkansas Power & Light Company (the licensee), which revised Technical Specifications for operation of the Arkansas Nuclear One—Unit No. 1 (the facility) located in Pope County, Arkansas. The amendment is effective ninety (90) days following the date of its issuance.

The amendment revised the provisions in the Technical Specifications relating to Administrative Controls for the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated December 10, 1975 and September 30, 1976, (2) Amendment No. 16 to License No. DPR–51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas 72801. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 7th day of December, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-37371 Filed 12-22-76;8:45 am]

[Docket No. 50-318]

BALTIMORE GAS AND ELECTRIC CO.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Baltimore Gas and Electric Company. The relief relates to the inservice inspection (testing) program for the Calvert Cliffs Nuclear Power Plant, Unit 2 (the facility) located in Calvert County, Maryland. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of allowing alternate methods of determining the hydraulic and mechanical characteristics of pumps provided with emergency power sources.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated July 28, 1976 and supplemented by letter dated August 27, 1976, and (2) the Commission's letter to the licensee dated December 10, 1976.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 10th day of December 1976.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc.76-37375 Filed 12-22-76;8:45 am]

[Docket No. 50-293]

BOSTON EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR–35, issued to the Boston Edison Company (the licensee), which revised Technical Specifications for operation of Unit No. 1 of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

This amendment changed Figures 6.2.1 and 6.2.2 of the Technical Specifications which describe the Boston Edison corporate organization and the Pilgrim Station organization, respectively.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 29, 1976, (2) Amendment No. 21 to License No. DPR–35, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of December, 1976.

For the Nuclear Regulatory Commission.

RICHARD D. SILVER,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-37370 Filed 12-22-76;8:45 am]

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR–23, issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) located in Darlington County, Hartsville, South Carolina. The amendment is effective as of its date of issuance.

The amendment revises the limit on the total nuclear peaking factor (F_Q) and terminates the Commission's Order for Modification of License dated August 27, 1976.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 17, 1976, as supplemented December 2, 1976, (2) Amendment No. 25 to License No. DPR–23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of December 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-37373 Filed 12-22-76;8:45 am]

[Docket No. 50-247]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 23 to Facility Operating License No. DPR–26, issued to the Consolidated Edison Company of New York, Inc. (the licensee), for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility), located in Buchanan, Westchester County, New York. The amendment is effective as of its date of issuance.

The amendment requires that the plant be brought to a cold shutdown condition to perform an inspection of steam generators within six equivalent months of operation from the effective date of issuance of the amendment.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittal dated November 18, 1976, (2) Amendment No. 23 to License No. DPR–26 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of December 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-37374 Filed 12-22-76;8:45 am]

[No. 50-247 OL]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. (INDIAN POINT STATION, UNIT NO. 2)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding to consist of the following members:

Jerome E. Sharfman, Chairman, Dr. John H. Buck, Dr. Lawrence R. Quarles.

Dated: December 14, 1976.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.76-37367 Filed 12-22-76;8:45 am]

[Docket Nos. 50-440, 50-441]

DUQUESNE LIGHT CO., ET AL.

Hearing

In the matter of Duquesne Light Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, Pennsylvania Power Company, and The Toledo Edison Company; (Perry Nuclear Power Plant, Units 1 and 2); Docket Nos. 50–440, 50–441.

The hearing in the above-entitled matter previously set for January 5, 1977, will take place at 11:00 a.m., at the Federal Building (Anthony J. Celebreeze Building), 1240 East 9th Street, Cleveland, Ohio 44199, in Room B–1.

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Dated this 14th day of December 1976, at Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

JOHN M. FRYSIAK,
Chairman.

[FR Doc.76-37368 Filed 12-22-76;8:45 am]

[Docket No. 50-302]

CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT

Notice of Issuance of a Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. DPR-72 to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc. and the City of Tallahassee authorizing operation of the Crystal River Unit 3 Nuclear Generating Plant by the Florida Power Corporation, in accordance with the provisions of the license and the Technical Specifications. The Crystal River Unit 3 Nuclear Generating Plant is a pressurized water nuclear reactor located in Citrus County, Florida.

License No. DPR-72 authorizes Florida Power Corporation to load fuel in the Crystal River Unit 3 Nuclear Generating Plant, located in Citrus County, Florida, and to operate the plant in the refueling mode of operation and the cold shutdown mode of operation.

The Commission issued Supplemental General Statement of Policy (41 F.R. 49398, November 11, 1976) which concluded that full-power licensing of light water reactors may be resumed on a conditional basis using existing fuel cycle impact values (Table S-3) for reprocessing and waste management, provided the revised values presented in the Commission's notice of proposed rulemaking of October 8, 1976 (41 F.R. 45849) were also examined to determine the effect on the cost-benefit balance for operating the plant. This examination has been performed by the Commission staff and is set forth in the "Environmental Assessment, Crystal River Unit 3 Nuclear Generating Plant, Fuel Cycle Considerations." The assessment concludes that use of such revised values would not tilt the cost-benefit balance against issuance of even a full power operating license.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license. The Commission has also made appropriate findings which are set forth in the license regarding the environmental impacts associated with operation of the facility. The license also includes the condition that the license is subject to the outcome of the proceedings in *Natural Resource Defense Council v. NRC* (D.C. Circuit) (July 21, 1976), Nos. 74-1385 and 74-1586. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

A copy of (1) Facility Operating License No. DPR-72, complete with Technical Specifications (Appendices "A" and "B"); (2) the report of the Advisory Committee on Reactor Safeguards, dated October 18, 1974; (3) the Office of Nuclear Reactor Regulation's Safety Evaluation and Supplements 1 and 2 dated July 5, 1974, January 13, 1975 and December 1976; (5) the applicant's Environmental Report dated January 4, 1972 and supplements thereto; (6) the Draft Environmental Statement dated September 12, 1972; (7) the Final Environmental Statement dated May 22, 1973; and (8) the Environmental Assessment on Fuel Cycle Considerations are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and the Crystal River Public Library, Crystal River, Florida 32629.

Single copies of items (1), (2), (3), (7) and (8) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 3d day of December 1976.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.76-37757 Filed 12-22-76;8:45 am]

[Docket No. 50-538]

MEMPHIS STATE UNIVERSITY

Issuance of a Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. R-127 to the Memphis State University (the licensee) located in Memphis, Tennessee. The license authorizes operation of an AGN-201 (Serial No. 108) nuclear reactor (the facility) located on the licensee's campus in Shelby County, Tennessee, at steady state power levels not in excess of 100 milliwatts (thermal) for training and research purposes, in accordance with the provisions of the license and the Technical Specifications issued therewith.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license. The application, as amended, for the license complies with the standards and requirements of the Act and the Commission's rules and regulations. Notice of proposed issuance of the facility license was published in the FEDERAL REGISTER on April 1, 1976 (41 FR 14017). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The license is effective as of its date of issuance and shall expire on June 15, 1996.

A copy of (1) the application by the licensee dated April 11, 1975, and amendments thereto dated August 27, 1975, December 5, 1975, February 10, 1976, October 5 and 7 and November 18, 1976, (2) the Facility Operating License No. R-127, complete with Technical Specifications (Appendix A), (3) the Commission's concurrently issued Safety Evaluation, and (4) the Commission's Negative Declaration issued June 14, 1976 (published in the FEDERAL REGISTER on June 28, 1976—41 FR 26620), and associated Environmental Impact Appraisal issued June 14, 1976, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. A single copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 10th day of December, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-37366 Filed 12-22-76; 8:45 am]

[Docket No. 50-320]

METROPOLITAN EDISON CO. ET AL.

Notice of Availability of Final Supplement to the Final Environmental Statement for the Three Mile Island Nuclear Station, Unit 2

In the matter of Metropolitan Edison Company, Jersey Central Power & Light Company, Pennsylvania Electric.

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Supplement to the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed operation of the Three Mile Island Nuclear Station, Unit 2, located in Dauphin County, Pennsylvania, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Government Publications Section, State Library of Pennsylvania, Education Building, Harrisburg, Pennsylvania. The Final Supplemental Statement is also being made available at the Pennsylvania State Clearinghouse, Governor's Budget Office, Intergovernmental Relations Division, Harrisburg, Pennsylvania, and at the Tri-County Regional Planning Commission, 2001 N. Front Street, Harrisburg, Pennsylvania.

The notice of availability of the Draft Supplement to the Final Environmental Statement for the Three Mile Island Nuclear Station, Unit 2, and requests for comments from interested persons was published in the FEDERAL REGISTER on July 29, 1976 (41 F.R. 31623). The comments received from Federal, State, and local agencies and interested members of the public have been included as appendices to the Final Supplement to the Final Environmental Statement.

Copies of the Final Supplement to the Final Environmental Statement (Document No. NUREG 0112) may be purchased at $9.75 for printed copies and $3.00 for microfiche, from the National Technical Information Service, Springfield, Va. 22161.

Dated at Rockville, Maryland, this 17th day of December 1976.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 3, Division of Site Safety and Environmental Analysis.

[FR Doc.76-37758 Filed 12-22-76;8:45 am]

[Dockets Nos. 50-245 and 50-336]

NORTHEAST NUCLEAR ENERGY CO. ET AL.

Notice of Issuance of Amendments To Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Provisional Operating License No. DPR-21 and Amendment No. 19 to Facility Operating License No. DPR-65 to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, the Hartford Electric Light Company, and Western Massachusetts Electric Company, which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Units Nos. 1 and 2, located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

These amendments will change the Administrative Controls Section (Section 6.0) of the Millstone Units Nos. 1 and 2 Technical Specifications. The changes consist of: (1) changes to the offsite and onsite organization, (2) an increase from 7 to 14 days of the allowable time for the Plant Operating Review Committee (PORC) and the Plant Superintendent to approve documented changes to written procedures, (3) adding an additional responsibility for the PORC to review events requiring 24 hour notification to the Commission, and (4) incorporation of a radiation protection program in the Technical Specifications.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated August 18, 1976 and October 15, 1976, (2) Amendments Nos. 33 and 19 to Licenses Nos. DPR-21 and DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13 day of December 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-37759 Filed 12-22-76;8:45 am]

[Docket No. 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-65 issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company and Connecticut Light and Power Company (the licensees) for operation of the Millstone Nuclear Power Station Unit No. 2, located in Waterford, Connecticut.

The amendment would revise the provisions of the Technical Specifications to allow installation of high density spent fuel racks in the spent fuel pool, in accordance with the licensees' application for amendment dated November 22, 1976. The proposed modification would increase the storage capacity of the spent fuel pool from 301 to 667 fuel assemblies.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By January 24, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceedings, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petition must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to William H. Cuddy, Esquire, Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the licensees.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated November 22, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Dated in Bethesda, Maryland, this 15th day of December 1976.

V41248 DEC 23 76 UMI

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-37365 Filed 12-22-76; 8:45 am]

[Docket No. 50-272]

PUBLIC SERVICE ELECTRIC AND GAS COMPANY, ET AL.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company. The relief relates to the inservice inspection (testing) program for Salem Nuclear Generating Station, Unit No. 1 (the facility) located in Lower Alloways Creek Township, Salem County, New Jersey. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of deleting the inservice inspection requirements of the ASME Section XI Code for certain pumps and valves for a period not to exceed March 8, 1977.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensees' request for relief dated July 19, 1976, (2) the Commission's letter to the licensees dated December 7, 1976.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 7th day of December, 1976.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc.76-37372 Filed 12-22-76; 8:45 am]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS AND ELECTRIC CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 23 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (the facility), located near Camp Pendleton, San Diego County, California. The amendment is effective as of its date of issuance.

The amendment adds a respiratory protection program to the Technical Specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 3, 1976, (2) Amendment No. 23 to License No. DPR-13, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the San Clemente Public Library, 233 Granada Street, San Clemente, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 7th day of December 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-37369 Filed 12-22-76; 8:45 am]

NATIONAL TRANSPORTATIION SAFETY BOARD

[N-AR 76-52]

CORRESPONDENCE RELATING TO SAFETY RECOMMENDATIONS

Receipt and Availability

The National Transportation Safety Board has received a further response from the Washington State Highway Commission regarding recommendations H-76-29 and H-76-30, issued following Board investigation of the crash of a gasoline truck and trailer which occurred December 4, 1975, during a heavy rainstorm in Seattle, Washington. (See 41 FR 43255, September 30, 1976.) The Commission, by letter of November 22, seeks reanalysis of accident report No. NTSB-HAR-76-7 and reconsideration of conclusions Nos. 2 and 9 therein, upon which the subject recommendations were based.

After reviewing the Board's October 21 letter (41 FR 52927, December 2, 1976), and again supplying a copy of the friction test results originally furnished to the Board on September 24, the Commission states in its November 22 letter, "The most recent testing of the same lane that the truck in question occupied at the time of the accident indicates that the coefficient of friction of the roadway surface was 36. Conclusions 2 and 9 appear to be based on an assumption that the coefficient of friction was .26. This is not only unsupported by any facts but is directly contrary to the most recent testing of that lane of the roadway."

The Commission further states that the Board's October 21 letter "indicates that the basis of your recommendation was an assumed marginal traction capability of the pavement." The Commission contends, "In view of the tests run on the surface of that lane, we see no basis for making such a statement." The Commission concludes that reconsideration of conclusions 2 and 9 should be "based on the most accurate information relative to the skid resistance of the lane in question where the accident occurred."

The Commandant, U.S. Coast Guard, on December 6 acknowledged receipt of marine casualty report No. USCG/NTSB-MAR-76-1, released November 26 following investigation of the April 2, 1973, sinking of the *SS Silver Dove* in the North Pacific. (See 41 FR 53874, December 9, 1976.) The December 6 letter advises that the Safety Board Action, containing recommendations M-76-11 through M-76-11 through M-76-19 directed to the Coast Guard, has been disseminated to the Coast Guard staff for study. The Commandant promises comment on the recommendations prior to February 25, 1977.

The Safety Board's letter of December 1 is in reply to the Coast Guard's letter of September 14 concerning recommendation M-69-40, which was issued as a result of the Board's 1969 special study, "Recreational Boat Accidents, Boating Safety Programs, and Preventive Recommendations." M-69-40 recommended a new regulation requiring grabrails or handholds for use by boaters in clinging to an upturned boat. As an alternative, the Coast Guard on September 14 proposed using its new level flotation standard which was published on April 29, 1976 (41 FR 18032). (See 41 FR 43255, September 30, 1976.)

While strongly endorsing the proposed regulations, which require level flotation for monohull boats under 20 feet in length, the Safety Board in its December 1 letter states that this new standard does not appear to be a suitable alternative. The Board notes that for those accidents in which the boat floods but does not capsize, the boat occupants' probability of survival will improve greatly if the boat complies with the proposed standard. However, the Board contends, recommendation M-69-40 addressed those accidents in which boats do capsize. Since boats are not required to be self-righting, capsizing accidents will be relatively unaffected by the proposed standard, according to the Board; the problems faced by persons trying to hang on to a smooth capsized hull, particularly in waves, are not diminished by the level flotation requirement.

The Board notes that facilities from capsizing accidents have been averaging in excess of 40 percent of all recreational boating facilities, as shown by Coast Guard statistics. The Board stresses that a strong effort is necessary to reduce capsizing-related deaths.

Copies of letters responding to safety recommendations and Safety Board letters in reply may be obtained at a cost of $4.00 for service and 10c per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.
(Sec. 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2172 (49 U.S.C. 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

DECEMBER 20, 1976.

[FR Doc.76-37726 Filed 12-22-76; 8:45 am]

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

PRIVACY ACT OF 1974

Final Adoption of Systems of Records

On October 26, 1976, in 41 FR 47012, the Pennsylvania Avenue Development Corporation published its annual notice of systems of records, as required by Section 3(e)(4) of the Privacy Act of 1972 (5 U.S.C. 552a(e)(4)). Subsequently, on November 5, 1976, in 41 FR 48821, the Corporation published, for initial comment, a notice setting forth an additional "Routine Use" for records maintained under system PADC-5, Payroll Records. The additional routine use became necessary when the Corporation was advised by the General Services Administration that GSA could not perform its administrative service functions for the Corporation without the reporting of the additional use.

The Corporation requested comments, but received none. Therefore, it adopts without change the notice as it appeared in the previous publication, and as it appears below.

Effective date: November 9, 1976.

Signed at Washington, D.C. on November 8, 1976.

JOHN M. WOODBRIDGE,
Executive Director.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records can be released to the General Accounting Office or audits; to the Internal Revenue Service for investigation; to the General Services Administration for administrative services.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Privacy Protection Officer, Pennsylvania Avenue Development Corporation, 425 13th St., NW., Suite 1148, Washington, D.C. 20004. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the privacy Protection Officer, Pennsylvania Avenue Development Corporation, 425 13th St., NW., Suite 1148, Washington, D.C. 20004.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with section 7 of the Privacy Act, Pub. L. 93-579.

[FR Doc.76-37622 Filed 12-22-76; 8:45 am]

RAILROAD RETIREMENT BOARD

REGIONAL RAIL REORGANIZATION ACT

Notice of Procedure Regarding Reimbursement for Protective Payments

The Regional Rail Reorganization Act of 1973 (45 U.S.C. 701-794) authorizes the Railroad Retirement Board (45 U.S.C. 779) to reimburse the Consolidated Rail Corporation, the United States Railway Association (where applicable) and acquiring railroads for protective payments made to protected employees.

Reimbursable protective payments under the Act are monthly displacement allowances, separation allowances, termination allowances and moving expense benefits (45 U.S.C. 775).

Reimbursement will be made from the Regional Rail Transportation Protective Account maintained in the Treasury of the United States. The Act authorizes annual appropriations to the Protective Account to meet reimbursement obligations and the Board requires information for this purpose.

Provisions of the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq. are applicable to displacement, separation and termination allowances and requires the exchange of information between the Board and employers making such payments.

The Board has delegated the authority to make reimbursements under the Regional Rail Reorganization Act of 1973[1] to the Bureau of Unemployment and Sickness Insurance and has adopted procedures for the performance of the delegated functions. The procedures which are incorporated by reference herein have been furnished to the Consolidated Rail Corporation and known acquiring railroads. Interested parties may examine or obtain a copy of the procedures by contacting the Director of the Bureau of Unemployment and Sickness Insurance whose address appears below.

The adopted procedures include instructions for certifying requests for reimbursements, exchanging information required by the applicable provisions of the Railroad Unemployment Insurance Act, furnishing information for the purposes of budgeting appropriation needs, and furnishing information identifying protected employees and the protective payments paid to them.

The instructions provide for furnishing information by tape for electronic processing or for manual submission of information on the following forms:

Form UI-91, Protected Employee Inventory Record. This form is used to identify the protected employees and furnish information about their protection.

Form UI-92, Claim for Reimbursement of Monthly Displacement Allowance. This form is used to identify the displaced employee, furnish information about the amount of the displacement allowance, the period for which paid and the amount claimed in reimbursement.

[1] Filed as part of original.

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Form UI-93, Claim for Reimbursement of Separation/Termination Allowance. This form is used to identify an employee who has been separated or terminated, furnish information about the date of the action, the amount paid and to claim reimbursement.

Form UI-94, Claim for Reimbursement of Relocation Expenses. This form is used to identify an employee who has been relocated, to furnish information about expenses incurred in connection with relocating and to claim reimbursement for relocation expenses paid the employee.

The Railroad Retirement Board's contact official for the purposes of reimbursement under Title V of the Regional Rail Reorganization Act of 1973 is:

Mr. E. E. Koch, Director, Bureau of Unemployment and Sickness Insurance, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

By Authority of the Board.

Dated: December 17, 1976.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.76-37670 Filed 12-22-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13078; File No. SR-CBOE-1976-22]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 1, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

(New language is in *italics;* deleted language is indicated by brackets)

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

SUPERVISION OF ACCOUNTS

Rule 9.8. Every member organization shall provide for the supervision by a *Senior* Registered Options Principal *who is specifically identified to the Exchange, and* who is an *executive* officer or *general* partner of the member organization, of all its *non-member customer* accounts and all orders in such account, insofar as such accounts and orders relate to option contracts.

* * * Interpretations and Policies:

.01 *The Senior* [A] Registered Options Principal, in meeting his responsibility for supervision of *non-member* customers' accounts and orders, may delegate to qualified employees responsibility and authority for supervision and control of each branch office handling options transactions, provided that the *Senior* Registered Options Principal shall have overall authority and responsibility for establishing appropriate procedures of supervision and control over such employee.

.02 Every member organization shall establish, maintain, and enforce written procedures which detail the specific methods used to supervise all non-member customer accounts, and all orders in such accounts, insofar as such accounts and orders relate to option contracts.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed changes to Rule 9.8 is to strengthen the supervisory capabilities of member firms which conduct a non-member customer option business. This is proposed to be accomplished through the introduction of certain provisions which address potential problem areas. As interest in options trading has grown, many member firms which conduct business with the public have had more than one individual qualify as a Registered Options Principal. While such multiple registration has had the positive effect of qualifying a large number of people who are capable of functioning in a supervisory position vis-a-vis non-Exchange member options activity, it has also had the negative effect of blurring the lines of direct supervisory authority within such firms. Therefore, one of the purposes of the proposed change is to require that all member firms subject to Chapter IX of the Exchange's rules designate an executive officer [1] or general partner as the sole person responsible for supervision of the option activities of that firm's non-member customers and to indicate the identity of such person to the Exchange.

Interpretation .01 to Rule 9.8 has previously recognized that one person within a member organization cannot perform all of the supervisory tasks related to the conduct of a non-member customer options business, and therefore provided that such duties could be delegated to others, at the branch office level. The proposed change to this interpretation merely preserves this ability of the Senior Registered Options Principal to delegate supervisory responsibility to persons responsible for branch office operation.

Proposed Interpretation .02 to Rule 9.8 would require all member organizations, subject to Chapter IX, to set forth written procedures which specify the manner in which all non-member customer accounts will be supervised relative to such accounts' option activities. This provision, therefore, would establish the basis upon which supervisory responsibility could be delegated by the Senior Registered Options Principal to branch office managers. Consequently, the purpose of this proposed interpretation is to require each member organization to create and enforce uniform procedures to be followed by all persons exercising supervisory authority over option transactions for non-member customers.

The basis for the proposed rule change is found in section 6(b)(5) of the Securities Exchange Act of 1934, as amended, which provides, in pertinent part, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest.

Comments were not solicited from nor have any comments been received from the members of the Exchange.

The Exchange does not believe that any burden will be imposed upon competition by the proposed rule change.

On or before January 31, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 13, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 16, 1976.

[FR Doc.76-37616 Filed 12-22-76;8:45 am]

[1] (As such term is defined in Rule 1.1)

[Release No. 34-13079; File No. SR-CBOE-76-24]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 8, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

(*Italics* indicate new material; brackets indicate deletions)

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Obligations of Market-Makers

Rule 8.7 (a) No Change. (b) No Change.

(i) No Change.

(ii) Bidding no more than $1 lower and/or offering no more than $1 higher than the last preceding transaction price for the particular option contract. However, this standard shall not ordinarily apply if the price per share (or other unit of trading) of the underlying security has changed [by more than $1] since the last preceding transaction for the particular option contract[.], *in which event a Market-Maker may then bid no lower than or offer no more than $1 plus the aggregate change in the price per share* (or *other unit of trading*) *of the underlying security since the time of the last preceding transaction for the particular* option contract. *Nothing in this subparagraph* (b) (ii) *shall alter the maximum bid/ask differentials established by subparagraph* (b) (i) *of this Rule.*

(iii) *Whenever in the judgment of two Floor Officials the interest of maintaining a fair and orderly market so requires, those Floor Officials may waive the requirements of section* (ii) *above on a case by case basis.*

Exchange's Statement of Basis and Purpose

Our experience with the provisions of Rule 8.7(b)(ii) has shown that in certain market conditions, a literal application of the rule does not protect market orders to the extent they should be protected in the maintenance of a fair and orderly market.

As the rule presently reads, there is a restriction on trading in options more than one point away from the last option trade unless the underlying security has moved more than one point. This hinders the option price from reflecting with accuracy the price change in the underlying issue. In many cases, a change of less than one point, even that of ¼ of a point, may signal significant market movement. The proposed amendment is designed to eliminate this artificial constraint on trading and allow option contracts to be valued in proper relationship to the price of the underlying security.

This Amendment provides that a Market-Maker may decrease his bid or increase his offer by not more than one dollar ($1.00) plus the aggregate change in the price per share (or other unit of trading) of the underlying security since the last preceding transaction for the particular option contract. Of course, the maximum bid-ask differentials contained in subparagraph (b)(i) of the rules will not be altered.

Also, the new rule provides in new subparagraph (b)(iii) that Floor Officials may waive the limiting provisions of subparagraph (b)(ii), if in their judgment a fair and orderly market will be promoted. Such a waiver of the rule, for example, would be justified in the case of an illiquid series when business or economic news is transmitted to the floor which would significantly affect the price of the underlying security. In case of such a news break, Floor Officials may judge that a revaluing of the price of an option is in order, a revaluing even greater than that allowed by the amended subparagraph (b)(ii). The Exchange believes that these Officials, persons closest to the actual trading and cognizant of the particular market circumstances, should be granted this authority.

The basis for the proposed rule change described above is found in section 6(b)(5) of the Securities Exchange Act of 1934 as amended, which, in pertinent part, states that the rules of the Exchange should be designed to promote just and equitable principles of trade, protect investors and the public and not to permit unfair discrimination between customers, brokers and dealers.

Comments were not, and are not intended to be, solicited with respect to the proposed rule change.

The Exchange believes that its ability to expand the number of securities upon which its trading activity is based is responsive to the Exchange's competitors and will not in any way impost any burdens upon competition.

On or before January 31, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 24, 1977.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

DECEMBER 16, 1976.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37617 Filed 12-22-76;8:45 am]

[Administrative Proceeding File No. 3-4875; Southwest Muskrat Prospect (File No. 20-1998A1)]

DONALD S. CHILDS

Order Permanently Suspending Regulation B Exemption

DECEMBER 15, 1976.

I

On December 30, 1975, the Commission issued an order temporarily suspending the Regulation B exemption in the captioned offering sheet filed by Donald S. Childs stating that it had reasonable cause to believe that:

1. No exemption is available for this offering under Regulation B because the offeror failed to comply with Rule 316(a) [17 CFR 230.316(a)] in that the required Form 1-G was not and has not been filed with the Commission.

2. No exemption is available for this offering under Regulation B because the offeror failed to comply with Rule 316(b) [17 CFR 230.316(b)] in that the required Form 3-G was not and has not been filed with the Commission.

3. No exemption is available for this offering under Regulation B because the offeror failed to comply with Rule 330 (a) and (b) [17 CFR 230.330 (a) and (b)] in that the offeror filed an offering sheet relating to the Southwest Muskrat Prospect with the Commission and delivered copies thereof to prospective investors when such offering sheets made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, including but not limited to the following:

(a) The offeror reported that all monies raised from investors in the Southwest Muskrat Prospect would be promptly refunded by him to such investors in the event that the offeror was not able to raise sufficient monies to drill the proposed well;

(b) The offeror represented that all monies raised from such investors would be promptly refunded by him to such investors in the event that the proposed well was not drilled; and

(c) The offeror failed to disclose that monies raised from such investors would not be segregated and maintained for their benefit but would be and were converted by the offeror.

4. The offering was made in violation of the anti-fraud provisions of section 17(a) of the Securities Act of 1933 and section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 thereunder, in that the offeror, while engaged in the offer and sale of fractional undivided interests in the Southwest Muskrat Prospect, directly and indirectly made use of the mails and means and instruments of transportation and communication in interstate commerce and of the means and instrumentalities of interstate commerce, and in such connection with such offer and sale made to prospective investors and purchasers untrue statements of material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, including but not limited to:

(a) The offeror represented that all monies raised from investors in the Southwest Muskrat Prosepct would be promptly refunded by him to such investors in the event that the offeror was not able to raise sufficient monies to drill the proposed well;

(b) The offeror represented that all monies raised from such investors would be promptly refunded by him to such investors in the event that the proposed well was not drilled; and

(c) The offeror failed to disclose that monies raised from such investors would not be segregated and maintained for their benefit

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but would be and were converted by the offeror.

5. No exemption is available for this offering under Regulation B because the offeror failed to comply with Rule 324 [17 CFR 230.327] in that one interest in the offering was sold on the basis of an offering sheet which was no longer effective.

No hearing having been requested by the issuer within thirty days after the entry of the order temporarily suspending its exemption under Regulation B, the Commission finds that it is in the public interest and for the protection of investors that the exemption be permanently suspended.

Accordingly, It Is Ordered, pursuant to Rules 334 and 336 of Regulation B under the Securities Act of 1933 that the exemption from registration with respect to the Donald Childs Southwest Muskrat Prospect offering be, and hereby is, permamently suspended.

For the Commission, by its Secretary, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37616 Filed 12-22-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 06/10-0152]

BRITTANY CAPITAL CORP.

Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR Section 107.701 (1976)), for transfer of control of Brittany Capital Corporation (Brittany), Room 603, Lakewood Bank & Trust Tower, Dallas, Texas 75214, a Federal Licensee under the Small Business Investment Act of 1958, as amended (The Act), (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

Brittany was licensed on August 4, 1969, and its present capitalization is $325,000. There are 325,000 of its shares issued and outstanding. It is proposed that Mr. Robert E. Clements, Jr. and Booth Creek Investment, Inc. each acquire 120,625 of the outstanding shares of Brittany. The remaining 83,750 shares will continue to be owned by Lakewood Bank and Trust Co. (Dallas, Texas).

Booth Creek Investment, Inc., a Texas corporation, is wholly-owned by Crown Hill Trust, a trust created for the minor children of Mr. Hal R. Pettigrew. Mr. Pettigrew is President of Booth Creek Investment, Inc., the main business of which is real estate.

The proposed transfer of control is subject to the approval of SBA. If such approval is given, the new officers and directors of Brittany will be:

Robert E. Clements, President, Director, 4417 Lorraine Avenue, Dallas, Texas 75205.

Hal R. Pettigrew, Secretary, Director, 1000 Live Oak, Arlington, Texas 76012.

There will be no significant changes in the operations of Brittany nor its charter or bylaws. However, the principal office will be moved to 5153 First International Building, Dallas, Texas 75270.

Matters involved in SBA's consideration of the application include the general business reputation and character of management and shareholders, and the probability of successful operations of Brittany under their management in accordance with the Act and Regulations.

Notice is further given that any person may, not later than on or before January 7, 1977, submit to SBA in writing, comments on the proposed transfer of control of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice will be published by Brittany in a newspaper of general circulation in Dallas, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 15, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-37672 Filed 12-22-76;8:45 am]

[License No. 06/06-0188]

MERCANTILE TEXAS CAPITAL CORP.

Issuance of License To Operate as a Small Business Investment Company

On November 15, 1976, a notice was published in the FEDERAL REGISTER (41 FR 50367) stating that Mercantile Texas Capital Corporation, 1701 Main Street, Dallas, Texas 75201, had filed an application with the Small Business Administration (SBA), pursuant to § 107.102 of the Rules and Regulations governing small business investment companies (13 C.F.R. 107.102 (1976)) for a license to operate as a small business investment company (SBIC).

Interested parties were given to the close of business November 30, 1976, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other information, SBA has issued License No. 06/06-0188 to Mercantile Texas Capital Corporation pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 15, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-37673 Filed 12-22-76;8:45 am]

NATIONAL ADVISORY COUNCIL (EXECUTIVE COMMITTEE)

Public Meeting

The Small Business Administration's National Advisory Council (Executive Committee) will hold a public meeting at 10 a.m., on Tuesday, January 11, 1977, at the Small Business Administration, Administrator's Conference Room, 10th Floor, 1441 L Street NW., Washington, D.C., to discuss such matters as may be discussed by members, staff of the Small Business Administration or others present. For further information, write or call Henry v. Z. Hyde, Jr., Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, (202) 653-6748.

Dated: December 14, 1976.

HENRY V. Z. HYDE, JR.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-37671 Filed 12-22-76;8:45 am]

[Public Notice CM-7/8]

DEPARTMENT OF STATE

SAFETY OF LIFE AT SEA SUBCOMMITTEE OF THE SHIPPING COORDINATING COMMITTEE

Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 2 p.m. on Wednesday, January 19, 1977, in Room 7426 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the Seventeenth Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London February 21-25, 1977. In particular, the working group will discuss the following topics:

Promulgation of navigational warnings to shipping
Operational standards for shipboard radio equipment
Operational requirements for emergency position-indicating radio beacons and portable radio apparatus for survival craft
Matters resulting from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

Requests for further information on the meeting should be directed to Lt. F. N. Wilder, United States Coast Guard. He may be reached by telephone on (area code 202) 426-1345.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

DECEMBER 16, 1976.

[FR Doc.76-37674 Filed 12-22-76;8:45 am]

Agency for International Development

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Public Law 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on January 10, 1977, from 9:30 a.m. to 12:30 p.m., and from 2:00 p.m. to 5:00 p.m., in Room 1309A, Loy Henderson Conference Room, New State Building, 21st and Virginia Avenue, N.W.

The purpose of the meeting will be to reach conclusions and formulate recommendations regarding (1) the conditions for inclusion in and the design of the related mechanisms for the "Registry" of private and voluntary organizations which Congress has requested, and (2) the structure and composition of the Advisory Committee and the nature and extent of its advisory role, and (3) to consider such other matters related to the foreign assistance advisory concerns of the Committee as may be appropriate.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee and to the extent time available for the meeting permits. Written statements may be filed before or after the meeting.

Mr. Allan R. Furman will be the A.I.D. representative at the meeting. Information concerning the meeting may be obtained from Mr. Robert S. McClusky, Telephone: AC202-632-1892. Persons desiring to attend the meeting should enter the New State Building through the Diplomatic Entrance, 22nd and C Streets.

Dated: December 20, 1976.

FRED O. PENKHAM,
Assistant Administrator for Population and Humanitarian Assistance.

[FR Doc.76-37735 Filed 12-22-76;8:45 am]

DIRECTOR, USAID/HONDURAS

Delegation of Authority

Pursuant to the authority vested in me as Assistant Administrator for Latin America, Agency for International Development, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Honduras, authority to negotiate, execute and implement a Productive Credit Guaranty Agreement in accordance with and subject to a guaranty authorization dated March 16, 1976 ("Guaranty Authorization"), authorizing said guaranty agreement.

Dated: November 30, 1976.

DONOR M. LION,
Acting Assistant Administrator for Latin America.

[FR Doc.76-37676 Filed 12-22-76;8:45 am]

DIRECTOR, USAID/NICARAGUA

Delegation of Authority

Pursuant to the authority vested in me as Assistant Administrator, Bureau for Latin America, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Nicaragua, the authority to negotiate and execute an amendment to the Loan Agreement (A.I.D. Loan No. 524-T-031) between the Government of Nicaragua and the United States dated September 27, 1975, in accordance with and subject to the limitations of the Loan Authorization dated June 30, 1975, as amended November 23, 1976, authorizing said Loan.

This delegation of authority shall be effective until December 15, 1976.

Dated: November 24, 1976.

DONOR M. LION,
Acting Assistant Administrator for Latin America.

[FR Doc.76-37677 Filed 12-22-76;8:45 am]

DIRECTOR, OFFICE OF CAPITAL DEVELOPMENT AND DEPUTY DIRECTOR, OFFICE OF CAPITAL DEVELOPMENT, BUREAU FOR NEAR EAST

Redelegation of Authority No. 162-7

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 99, dated April 27, 1973 (38 FR 12834), with respect to Contracting and Related Functions, and No. 113, dated October 15, 1975 (40 FR 49582), I hereby redelegate to each of the individuals listed above, for the countries or areas within the responsibility of this Regional Bureau, authority to exercise any of the following functions assigned to me, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate and execute loan and grant agreements (including project agreements) and amendments thereto, with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the Act) in accordance with the terms of the authorizations of such loans or grants.

2. Authority to implement loan agreements, and grant agreements for capital projects, (including project agreements), in accordance with Regulations, Policies and Procedures now or hereafter established or modified and promulgated within A.I.D. with respect to loan and grants authorized under the Act and loans authorized by the Board of Directors of the corporate Development Loan Fund. This authority shall include the following:

(a) Authority to prepare, negotiate, sign and deliver letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such loan or grant agreements;

(c) Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan and grant agreements;

(d) Authority to sign or approve Project Implementation Orders—Technical Services (PIO/T); and

(e) Authority to approve contractors, review and approve the terms of country contracts, amendments, and modifications thereto, and invitations for bids and requests for proposals with respect to such contracts financed by funds made available under such loan and grant agreements.

3. The authorities enumerated above may be redelegated to Mission Directors or Ambassadors for countries within my area of responsibility (in whole or in part as may be decided necessary or desirable).

4. Authority to provide instructions to the A.I.D. Mission in Egypt with respect to individual loan agreements limiting the authority of the Mission to negotiate and execute loan agreements with respect to loans authorized under the Act and to implement loan agreements with respect to loans authorized under the Act and by the Board of Directors of the Corporate Development Loan Fund: *Provided, however*, That the exercise of this authority shall be subject to instructions otherwise by me or my deputy.

5. The following authorities enumerated above may be redelegated by the individuals listed above to Chiefs of Divisions within the Office of Capital Development, Bureau for Near East:

(a) Authority described above in paragraph 1, with respect to negotiating loan and grant agreements and amendments related thereto;

(b) Authority described above in paragraph 2 to the following extent:

(1) Authority to review and approve documents and other evidence submitted by borrower in satisfaction of conditions precedent to financing under such loan agreements; and

(2) Authority to review and approve the terms of contracts, amendments and modifications thereto and invitations for bids and proposals with respect to such contracts financed by funds made available under such loan agreements; and

(3) Authority to negotiate and implement agreements and other documents ancillary to such loan agreements.

The Redelegation of Authority No. 164-1 from the Assistant Administrator, Bureau for Near East and South Asia, to the Director, Office of Capital Development and Engineering and others dated November 5, 1969 is hereby rescinded.

This Redelegation of Authority is effective immediately.

Dated: November 30, 1976.

ROBERT H. NOOTER.

[FR Doc.76-37675 Filed 12-22-76;8:45 am]

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OFFICE OF TELECOMMUNICATIONS POLICY

ELECTROMAGNETIC RADIATION MANAGEMENT ADVISORY COUNCIL

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972, 5 U.S.C. App. I, the Office of Telecommunications Policy announces the renewal of the Electromagnetic Radiation Management Advisory Council for an additional period of two years beyond December 31, 1976.

Authority for this Council will expire December 31, 1978, unless the Director formally determines that continuation is in the public interest.

THOMAS J. HOUSER,
Director.

[FR Doc.76-37694 Filed 12-22-76;8:45 am]

FREQUENCY MANAGEMENT ADVISORY COUNCIL

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972, 5 U.S.C. App. I, the Office of Telecommunications Policy announces the renewal of the Frequency Management Advisory Council for an additional period of two years beyond December 31, 1976.

Authority for this Council will expire December 31, 1978, unless the Director formally determines that continuation is in the public interest.

THOMAS J. HOUSER,
Director.

[FR Doc.76-37695 Filed 12-22-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76-222]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from October 1, 1976 to October 14, 1976 (List No. 24-76). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE), MODELS 3 AND 5

Approval No. 160.002/70/0, Model 3, adult kapok life preserver, U.S.C.G. Specification Subpart 160.002, dwg. No. 160.002/70 dated October 8, 1976, and U.S.C.G. letter file No. 16714/160.002/70 dated October 8, 1976, Type I PFD, manufactured by The Safegard Corporation, Box 14037, P.O. Annex, Cincinnati, Ohio 45214, effective October 8, 1976. (It supersedes Approval No. 160.002/70/0 dated April 25, 1973 to show minor changes.)

Approval No. 160.002/71/0, Model 5, child kapok life preserver, U.S.C.G. Specification Subpart 160.002, dwg. No. 160.002/70 dated October 8, 1976, and U.S.C.G. letter file No. 16714/160.002/71 dated October 8, 1976, Type I PFD, manufactured by The Safegard Corporation, Box 14037, P.O. Annex, Cincinnati, Ohio 45214, effective October 8, 1976. (It supersedes Approval No. 160.002/70/0 dated April 25, 1973 to show minor changes.)

LIFEBOATS

Approval No. 160.035/288/2, 26.0' × 9.0' × 3.83' steel, oar-propelled lifeboat, 53-person capacity, identified by general arrangement dwg. No. 26-001-04, Rev. C dated December 14, 1971, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=3,800 pounds; Condition "B"=13,649 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, effective October 5, 1976. (It is an extension of Approval No. 160.035/288/2 dated December 14, 1971.)

INFLATABLE LIFE RAFTS

Approval No. 160.051/89/0, 25-person inflatable life raft, MK-5 series with "Ocean Service Equipment"; identified by general arrangement drawing CJH/MN/25 dated September 8, 1976 and drawing list dated September 22, 1976, inflation system requires two(2) aluminum cylinders, raft satisfies temperature-exposure inflation requirements of 46 CFR 160.051-5(a)(11) as per FEDERAL REGISTER of March 13, 1974, manufactured by Patten/Pan Avion Division of American Safety Flight Systems, Inc., P.O. Box 480123, Miami, Florida 33148, for C. J. Hendry Company, 139 Townsend Street, San Francisco, California 94107, effective October 14, 1976.

Approval No. 160.051/93/0, 25-person inflatable life raft, MK-5 series with "Limited Service Equipment"; identified by general arrangement drawing CJH/MN/25 dated September 8, 1976 and drawing list dated September 22, 1976, inflation system can use either steel or aluminum cylinders, raft satisfies temperature-exposure inflation requirements of 46 CFR 160.051-5(e)(11) as per FEDERAL REGISTER dated March 13, 1974, manufactured by Patten/Pan Avion Division of American Safety Flight Systems, Inc., P.O. Box 480213, Miami, Florida 33148, for C. J. Hendry Company, 139 Townsend Street, San Francisco, California 94107, effective October 14, 1976.

WORK VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.053/8/2, unicellular plastic foam work vest, as per Military Specification MIL-L-17653B, U.S.C.G. Specification Subpart 160.053, Safegard Corporation Dwg. No. LP-17 dated May 16, 1967, and U.S.C.G. letter filed No. 16714/160.053/8 dated October 8, 1976, Type V PFD, manufactured by The Safeguard Corporation, Box 14037, P.O. Annex, Cincinnati, Ohio 45214, effective October 8, 1976. (It supersedes Approval No. 160.053/8/2 dated March 24, 1972 to show minor changes.)

Approval No. 160.053/9/0, unicellular plastic foam work vest as per Military Specification MIL-L-17653A, U.S.C.G. Specification Subpart 160.053, and U.S.C.G. letter file No. 16714/160.053/9, Type V PFD, manufactured by The Safegard Corporation, Box 14037, P.O. Annex, Cincinnati, Ohio 45214, for Safety First Supply Corporation, 526 Island Avenue, McKees Rocks, Pennsylvania 15136, effective October 8, 1976. (It supersedes Approval No. 160.053/9/0 dated December 4, 1973 to show minor changes.)

Approval No. 160.053/13/0, Model 641, unicellular plastic foam work vest, dwgs. P-1 dated January 23, 1962, and P-2 dated January 17, 1962, and U.S.C.G. letter file No. 16714/160.053/13 dated October 8, 1976, Type V PFD, manufactured by The Safegard Corporation, Box 14037, P.O. Annex, Cincinnati, Ohio 45214, for Safety First Supply Corporation, 526 Island Avenue, McKees Rocks, Pennsylvania 15136, effective October 8, 1976. (It supersedes Approval No. 160.053/13/0 dated September 9, 1976 to show minor changes.)

LIFE PRESERVERS, UNICELLULAR PLASTIC FOAM ADULT AND CHILD FOR MERCHANT VESSELS

Approval No. 160.055/66/0, Model 63, adult, cloth-covered unicellular plastic foam life preserver, U.S.C.G. Specification Subpart 160.055 and dwg. No. 160.055-1B (sheets 1 & 2), Type I PFD, approved for use on all vessels, manufactured by Billy Boy Products Division, Crotty Corporation, Quincy, Michigan 49082, effective October 5, 1976. (It is an extension of Approval No. 160.055/66/0 dated December 10, 1971.)

Approval No. 160.055/67/0, Model 67, child, cloth-covered unicellular plastic foam life preserver, U.S.C.G. Specification Subpart 160.055 and dwg. No. 160-055-1B (sheets 3 & 4), Type I PFD, approved for use on all vessels, manufactured by Billy Boy Products Division, Crotty Corporation, Quincy, Michigan 49082, effective October 5, 1976. (It is an extension of Approval No. 160.055/67/0 dated December 10, 1971.)

HYDRAULIC AND MANUAL RELEASES FOR LIFESAVING EQUIPMENT

Approval No. 160.062/3/0, Model C-880 hydraulic and manual release for lifesaving equipment, for buoyant loads of 200 to 3,750 pounds; identified by assembly drawing S-880, revision A dated November 1971 and drawing list dated December 28, 1971, to be used in accordance with installation and pretensioning details shown on gripe and release installation drawing SPC-LRC-1044 dated August 1971, manufactured by Switlik Parachute Company, Inc., 1325 East State Street, Trenton, New Jersey 08607, effective October 5, 1976. (It is an extension of Approval No. 160.062/3/0 dated December 29, 1971.)

SAFETY VALVES (AUXILIARY BOILERS)

Approval No. 162.002/80/0, Type 1-M series, Models 1-M-300, 1-M-301, 1-M-302, 1-M-303, cast bronze body with screwed inlet and outlet in sizes ¾, 1, 1¼, 1½, and 2 inches, 150 p.s.i.g. maximum set pressure and 400° F. maximum steam temperature, manufactured by Swendeman, Inc., Division Univel Corporation, 570 East First Street, South Boston, Massachusetts 02127, effective October 1, 1976.

Approval No. 162.002/81/0, Type SO, side outlet cast bronze body, with screwed inlet and outlet in sizes ¾, 1, 1¼, 1½, and 2 inches, 150 p.s.i.g. maximum set pressure and 400° F. maximum steam temperature, manufactured by Swendeman, Inc., Division Univel Corporation, 570 East First Street, South Boston, Massachusetts 02127, effective October 1, 1976.

SAFETY VALVES (STEAM HEATING BOILERS)

Approval No. 162.012/25/0, Type SLP, cast bronze body with screwed inlet and outlet in sizes 1½ and 2 inches, 15 p.s.i.g. maximum set pressure and 400° F. maximum steam temperature, manufactured by Swendeman, Inc., Division Univel Corporation, 570 East First Street, South Boston, Massachusetts 02127, effective October 1, 1976.

Approval No. 162.012/26/0, Type SO, side outlet, cast bronze body, with screwed inlet and outlet in sizes ¾, 1, 1¼, 1½, and 2 inches, 30 p.s.i.g. maximum set pressure and 400° F. maximum steam temperature, manufactured by Swendeman, Inc., Division Univel Corporation, 570 East First Street, South Boston, Massachusetts 02127, effective October 1, 1976.

Approval No. 162.012/27/0, Type 1-M Series, Models 1-M-300, 1-M-301, 1-M-302, 1-M-303, cast bronze body with screwed inlet and outlet in sizes ¾, 1, 1¼, 1½, and 2 inches, 30 p.s.i.g. maximum set pressure and 400° F., maximum steam temperature, manufactured by Swendeman, Inc., Division Univel Corporation, 570 East First Street, South Boston, Massachusetts 02127, effective October 1, 1976.

RELIEF VALVES (HOT WATER HEATING BOILERS)

Approval No. 162.013/39/0, Type SW, cast bronze body with screwed inlet and outlet in sizes ¾, 1, and 1½ inches, 30 p.s.i.g. maximum set pressure and 400° F. maximum hot water temperature, manufactured by Swendeman, Inc., Division Univel Corporation, 570 East First Street, South Boston, Massachusetts 02127, effective October 1, 1976.

Dated: December 13, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.76-37709 Filed 12-22-76;8:45 am]

[CGD 76-227]

RULES OF THE ROAD ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Rules of the Road Advisory Committee to be held at 10:00 a.m. Tuesday, January 25, 1977, in Room 6332 of the Nassif Building, 400 Seventh Street, SW, Washington, D.C.

The agenda for this meeting is as follows:

1. Welcome of new members.
2. Adoption of the agenda.
3. Adoption of the minutes of February 10 and 11, 1976, meeting.
4. Consideration of the draft rules for U.S. waters.
5. Consideration of the 1972 international collision regulations.
6. Any other busines.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from,

Capt. R. A. Bauman, Executive Director, Rules of the Road Advisory Committee, c/o Commandant (G-WLE-4/73), U.S. Coast Guard, Washington, D.C. 20590, telephone: (202 426-4958).

A member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on December 14, 1976.

D. J. RILEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.76-37646 Filed 12-22-76;8:45 am]

National Highway Traffic Safety Administration

TRUCK AND BUS SAFETY SUBCOMMITTEES

Public Meeting; Correction

As announced in the FEDERAL REGISTER on December 16, 1976, the Truck and Bus Safety Subcommittees will be meeting on January 11. A change has been made in the starting time on January 11. The meeting is now scheduled to begin at 9:30 a.m. in Room 2230, DOT Headquarters Building instead of the previously published time of 10:30 a.m.

An additional meeting has also been scheduled for January 12 for the Planning Task Force of the Truck and Bus Safety Subcommittees. This meeing will start at 10:00 a.m. in room 6200 at the DOT Headquarters Building, 400 Seventh Street, S.W., Washington, D.C. The Task Force will meet to formulate recommendations on future activities and direction of the subcommittees.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meetings. Any member of the public may present a written statement to the subcommittee at any time.

This meeting is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on December 17, 1976.

WM. H. MARSH,
Executive Secretary.

[FR Doc.76-37647 Filed 12-22-76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular, Public Debt Series No. 34-76]

TREASURY NOTES OF FEBRUARY 15, 1982, SERIES D-1982

Invitation for Tenders

Washington, December 17, 1976.

1. INVITATION FOR TENDERS

1. 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders for $2,500,000,000, or thereabouts, of securities of the United States, designated Treasury Notes of February 15, 1982, Series D-1982 (CUSIP No. 912827 GH 9). The securities will be sold at auction with bidding on the basis of yield, and with the interest rate and the price equivalent of each accepted bid to be determined as set forth below. Additional amounts of these securities may be issued to Government accounts and to Federal Reserve Banks for their own account in exchange for maturing Treasury securities being held by them, and to Federal Reserve Banks, as agents of foreign and international monetary authorities, for new cash only.

2. DESCRIPTION OF SECURITIES

2. 1. The securities will be dated January 6, 1977, and will bear interest from that date, payable on a semiannual basis on August 15, 1977, and each 6 months thereafter on February 15 and August 15 until the principal amount becomes payable. They will mature February 15, 1982, and will not be subject to call for redemption prior to maturity.

2. 2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

2. 3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2. 4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2. 5. The securities will be subject to the general regulations of the Department of the Treasury governing United States securities, now or hereafter prescribed.

3. SALE PROCEDURES

3. 1. Tenders will be received at Federal Reserve Banks and Branches and

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at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, December 28, 1976. Noncompetitive tenders, as defined below, will be considered timely if postmarked no later than Monday, December 27, 1976.

3. 2. Each tender must state the face amount of securities bid for, which must be $1,000 or a multiple thereof. Competitive tenders must show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bider may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3. 3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers, provided the names of the customers and the amount for each customer are furnished. Others will not be permitted to submit tenders except for their own account.

3. 4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States and political subdivisions or instrumentalities thereof; public pension and retirement and other public funds; international organizations in which the United States holds membership, foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3. 5. Immediately after the closing hour, tenders will be opened, following which public announcement will be made of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be determined at a ⅛ of one percent increment that translates into an average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of yield. Additional tenders received from Government accounts and Federal Reserve Banks will be accepted at the average price of accepted competitive tenders.

3. 6. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. Those submitting noncompetitive tenders will not be notified except when the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4. 1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when he deems it to be in the public interest, and his action in any such respect shall be final.

5. PAYMENT AND DELIVERY

5. 1. Settlement for securities allotted hereunder must be made or completed on or before Thursday, January 6, 1977, at the Federal Reserve Bank or Branch, or the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Monday, January 3, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Monday, January 3, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be deemed to have been completed where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5. 2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5. 3. Registered securities tendered as deposits and in payment for securities allotted hereunder are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. Specific instructions for the issuance and delivery of the new securities, signed by the owner or his authorized representative, must accompany the securities presented. Otherwise, the presented securities should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered herein) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered herein) to be delivered to (name and address)." Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5. 4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for the securities offered herein, when such securities are available, at any Federal Reserve Bank or Branch, or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5. 5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established and the securities have been inscribed.

6. GENERAL PROVISIONS

6. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6. 2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.76-37704 Filed 12-20-76;3:38 pm]

VETERANS ADMINISTRATION

VETERANS ADMINISTRATION WAGE COMMITTEE

Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, January 13, 1977
Thursday, January 27, 1977
Thursday, March 10, 1977

The meetings will convene at 2:30 p.m. and will be held in Room 1144C, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are concerned with matters listed under section 552(b), Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 USC 552(b)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 USC 552(b)(4)).

Accordingly, I hereby determine that the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 USC 552(b)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 USC 552(b)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC.

Dated: December 17, 1976.

RICHARD L. ROUDEBUSH,
Administrator.

[FR Doc.76-37764 Filed 12-22-76;8:45 am]

WATER RESOURCES COUNCIL

PRIVACY ACT OF 1974

Notice of Systems of Records

On August 27, 1975, (39231) there was published in the FEDERAL REGISTER, notices of systems of records pursuant to the provisions of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a, which were subsequently adopted with two revisions as stated in the FEDERAL REGISTER of October 2, 1975 (45678). The Water Resources Council hereby publishes for comment an additional routine use for the system designated "Payroll Records—WRC 4" and an additional routine use applicable to all the Council's systems of records under the "Appendix (WRC)." In addition, there is also published herein for comments a proposed new system of records entitled "Operating Personnel Records—WRC 3." Any person interested in commenting on the additional routine uses or the proposed new system of records contained in this notice may do so by submitting comments in writing to the Acting Director, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037, on or before January 24, 1977. If no comments necessitating revisions are received, these changes will be adopted without further action 30 days after publication of this notice (January 24, 1977), unless the Council publishes a notice to th contrary.

This document also gives notice that the systems of records identified in the notice published in the FEDERAL REGISTER of August 27, 1975, as revised and adopted by the notice published in the FEDERAL REGISTER October 2, 1975, continue in effect with the following exception. The system of records entitled "WRC 1, Confidential Statements of Employment and Financial Interests" has been deleted. This system of records is covered under the Civil Service Commission's notice published in the FEDERAL REGISTER on September 24, 1976. This notice is published in compliance with the requirements of 5 U.S.C. 552(e)(4) as added by section 3 of the Privacy Act of 1974.

Dated at Washington, D.C. on December 17, 1976.

GARY D. COBB,
Acting Director.

WRC 2

System name:

General Financial Records—U.S. Water Resources Council (WRC).

System location:

General Services Administration, Central Office; copies held by the Council at 2120 L Street, N.W., Washington, D.C. 20037. (GSA holds records for the Council under contract.)

Categories of individuals covered by the system:

Council employees.

Categories of records in the system:

SF 1038, application and account for advance of funds; vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other offices and employees of GSA and the Council who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C., generally; 42 U.S.C. 1962a et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix; Records also are released to GAO for adults; to the IRS for investigation; and to private attorneys, purusant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and tape.

Retrievability:

Manual and automated by name.

Safeguards:

Stored in guarded building, released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Administrative Officer, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037.

Notification procedure:

Contact system manager listed above.

Record access procedures:

See Council access regulations in 18 CFR section 701.305.

Contesting record procedures:

See Council access regulations in 18 CFR section 701.307.

Record source categories:

The subject individual; the Council.

WRC 3

System name:

Operating Personnel Records—U.S. Water Resources Council (WRC).

System location:

Office of Program Coordination and Management, U.S. Water Resources

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Council, 2120 L Street, N.W., Washington, D.C. 20037.

Categories of individuals covered by the system:

Council employees.

Categories of records in the system:

These records basically consist of copies of information which is contained in the Official Personnel Folders maintained for the Council by the Agency Liaison Division, General Services Administration. As such, they are generally limited to personal qualifications statements, training records, position descriptions, locator files, performance appraisals, commendations, incentive awards, personnel actions, and adverse actions.

Authority for maintenance of the system:

42 U.S.C. 1962a et seq; Federal Personnel Manual Supplement 293–31, Subchapter S8.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

See Appendix. Information in these records may be used by Council employees having a need to know in connection with a variety of personnel actions including transfers, promotions, qualifications determinations, and selection for training. Information may also be disclosed to educational institutions for training purposes, to other agencies to the extent relevant and necessary, and to prospective employees and other organizations at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper.

Retrievability:

Manual by name.

Safeguards:

Retained in locked file cabinet in secured office; released only to authorized personnel.

Retention and disposal:

Records are maintained during the individual's employment with the Council. When the employee leaves the Council through transfer or other separation, the record is forwarded to the Agency Liaison Division, General Services Administration, which maintains the Official Personnel Folder. There it is screened to insure that it contains no documents that should be permanently filed in the Official Personnel Folder other than exact duplicates of papers already so filed. The record and its contents are then destroyed.

System manager(s) and address:

Administrative Officer, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037.

Notification procedure:

Contact system manager listed above.

Record access procedures:

See Council access regulations in 18 CFR section 701.305.

Contesting record procedures:

See Council access regulations in 18 CFR section 701.307.

Record source categories:

Information in this system of records either comes from the individual to whom it applies or is derived from information the individual supplied, except information provided by GSA or Council officials on pay, leave and allowance records.

WRC 4

System name:

Payroll Records—U.S. Water Resources Council (WRC).

System location:

General Services Administration, Region 3 Office; copies held by the Council at 2120 L Street, N.W., Washington, D.C. 20037. (GSA holds records for the Council under contract.)

Categories of individuals covered by the system:

Past and present Council employees.

Categories of records in the system:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W–2 forms; overtime requests; leave data; retirement records. Records are used by Council and GSA employees to maintain adequate payroll information for Council employees, and otherwise by Council and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C., generally; 42 U.S.C. 1962a et seq.

Routine use of records maintained in the system including categories of users and the purpose of such uses:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation.

The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93–579.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper and microfilm.

Retrievability:

Social Security Number.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records will be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Administrative Officer, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037.

Notification procedures:

Contact system manager listed above.

Record access procedures:

See Council access regulations in 18 CFR section 701.305.

Contesting records procedures:

See Council access regulations in 18 CFR section 701.307.

Record source categories:

The subject individual; the Council.

APPENDIX—(WRC)

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the apropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc.76–35788 Filed 12–17–76;2:55 pm]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

[Notice No. 219]

DECEMBER 20, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 71459 (Sub 55), O.N.C. Freight Systems now being assigned April 12, 1977 (9 days) at San Francisco, California and April 25, 1977 (1 week) at Grand Junction, Colorado in hearing rooms to be later designated and may go to other points, at the discretion of the Administrative Law Judge.

F.D. 28322, Chicago, South Shore and South Bend Railroad Discontinuance of all Passenger Train Service, now being assigned continued hearing January 15, 1977 (1 day) at Chesterton, Indiana; in the Thomas Memorial Library, Bertha Wood Room, 2nd Floor, 200 Indiana Street, West.

AB 18 Sub 14, Chesapeake and Ohio Railway Company Abandonment Portion Paw Paw Subdivision Between Hartford and Paw Paw, All Within Van Buren County, Michigan, now being assigned March 2, 1977, at Paw Paw, Mich., in a hearing room to be later designated.

MC 138274 (Sub 16), Shippers Best Express, Inc., now assigned January 12, 1977 at Salt Lake City, Utah, will be held in the *Tri-Ark Travelodge, 161 West 6th South;* instead of *Room 314 Annex Building, 135 South State Street.*

MC–F–12787, Bowen Trucking Co., Inc.—Control—Dalgarno Transportation, Inc., now assigned January 13, 1977 at Salt Lake City, Utah, will be held in the *Tri-Ark Travelodge, 161 West 6th South,* instead of *Room 314 Annex Building, 135 South State Street.*

MC–F–12312, Whitfield Transportation, Inc.—Purchase (Portion)—Lee Hawkes Transfer; and Whitfield Transportation, Inc.—Control and Merger—Miller Bros. Truck Line and MC 108461 (Sub 123), Whitfield Transportation, Inc., now assigned January 17, 1977 at Salt Lake City, Utah, will be held in the *Tri Ark Travelodge, 161 West 6th South,* instead of *Room 314 Annex Building, 135 South State Street.*

MC 113666 Sub 106, Freeport Transport, Inc., now being assigned March 7, 1977 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC–F–12678, Jenkins Truck Line, Inc.—Control—Larry L. Fenner Transport, Inc., and MC 120298 Sub 2, Larry L. Fenner Transport, Inc., now being assigned March 9, 1977, at Chicago, Ill., in a hearing room to be later designated.

MC 115841 (Sub 522), Colonial Refrigerated Transportation, Inc., now being assigned January 24, 1977 (1 week) at Cincinnati, Ohio; in a hearing room to be later designated.

MC 127834 (Sub 113), Cherokee Hauling & Rigging, Inc., now being assigned January 31, 1977 (1 day) at Memphis, Tennessee; in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–37730 Filed 12–22–76;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 17, 1976.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 3, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 8973 (Sub-No. E94), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such hardware, building materials, equipment, and supplies as is aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Oswego, N.Y., to those points in Virginia on and south of a line beginning at the Virginia-Tennessee State line, and extending east along U.S. Highway 58 through Bristol, Va., to Virginia Highway 89, to junction Virginia Highway 97, thence east on Virginia Highway 97 to the Blue Ridge Parkway, thence east along the Parkway to U.S. Highway 58, thence east along U.S. Highway 58 to Martinsville, Va., thence east on Virginia Highway 57, north on U.S. Highway 29 to junction U.S. Highway 60 to junction U.S. Highway 15, to junction Virginia Highway 6, to junction U.S. Highway 522, thence north on U.S. 522 to Wares Cross Roads, thence east on Virginia Highway 208 to junction Virginia Highway 608 to Brooke, Va., thence east along an unmarked road to the Potomac River and the Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E96), Filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such hardware, building materials, equipment, and supplies as is aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Warren, Ohio, to those points in Vermont on and east of a line beginning on the New York-Vermont State line and extending

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along Vermont Highway 153 to junction Vermont Highway 315 to junction Vermont Highway 30, thence north on Vermont Highway 30 to an unmarked road east to Vermont Highway 133, thence along the unmarked road to Vermont Highway 133, to junction U.S. Highway 4, to junction Vermont Highway 100, thence north on Vermont 100 through Waterbury to Morrisville, thence east on Vermont Highway 15 A to Vermont 15, thence east on Vermont Highway 15 to an unmarked road north through North Wolcott, Vt., thence along the unmarked road to Vermont Highway 14, thence north on Vermont Highway 14 through Albany, Vt., to U.S. Highway 5, thence north on U.S. Highway 5 to Newport, Vt., thence north on an unmarked road along the west bank of Lake Memphrenagog to the Vermont-Canada International Boundary line.

The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E 97), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such hardware, building materials, equipment, and supplies as is aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Warren, Ohio, to those points in New Jersey on and east of a line beginning on the Delaware Bay at Moores Beach, and extending north along an unmarked road to New Jersey Highway 47, thence north on New Jersey Highway 47 to Port Elizabeth, N.J., thence north on New Jersey Highway 55 to New Jersey secondary state highway 555, thence north on New Jersey 555 to U.S. Highway 40, thence west on U.S. Highway 40 to New Jersey Highway 47, thence north on New Jersey Highway 47 through Glassboro, N.J., to U.S. Highway 130, thence north on U.S. Highway 130 to New Jersey Highway 73, thence west on New Jersey 73 to the Delaware River and the Pennsylvania State border, thence follow the Delaware River north to Frenchtown, thence north on New Jersey secondary Highway 513 to an unmarked road just north of Pittstown, N.J., thence north through Hampton to New Jersey Highway 31, thence north on New Jersey Highway 31 to junction New Jersey Highway 57 to junction U.S. Highway 46, thence west on U.S. Highway 46 to Hacketts-town, N.J., thence north on New Jersey secondary Highway 517 to an unmarked to junction U.S. Highway 46, thence road through Brighton, N.J., thence along the unmarked road to U.S. Highway 206, thence north on U.S. Highway 206 to Newton, N.J. thence north on New Jersey secondary Highway 519 to the New York-New Jersey State line.

The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E 99), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Fairmont, W. Va., to that portion of the New York, N.Y. Commercial Zone, as defined in Commercial Zones and Terminal Areas, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(B)(8) of the Interstate Commerce Act (the exempt zone), restricted against Class A and B explosives, commodities in bulk, and those commodities requiring special equipment. The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at South Kearny, N.J., and points in the New York exempt zone that is also in New York, N.Y.

No. MC 46990 (Sub-No. E 47), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Delaware on and north of a line beginning at the Maryland-Delaware State line and extending along Delaware Highway 16 to junction Delaware Highway 36, thence along Delaware Highway 36, to Slaughter Beach, on the one hand, and, on the other, points in Kansas and Kentucky. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 52861 (Sub-No. E 8), filed May 11, 1974. Applicant: WILLS TRUCKING, INC., 2535 Center Street, Cleveland, Ohio 44113. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, in bulk, in dump vehicles, between those points in Wayne and Monroe Counties, Mich., within 40 miles of Monroe, Mich., on the one hand, and on the other, points in Indiana. The purpose of this filing is to eliminate the gateway of Toledo, Ohio.

No. MC 105813 (Sub-E 43), filed December 19, 1975. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible meats, edible meat products, and edible meat by-products*, and *edible articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except in bulk), from the plant site of Aurora Packing Co., Inc., at or near Aurora, Ill., to points in that part of Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along Mississippi Highway 42 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction U.S. Highway 98, thence west along U.S. Highway 98 to junction Mississippi Highway 35, thence south along Mississippi Highway 35 to the Louisiana-Mississippi State line. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 105813 (Sub-E44), filed December 19, 1975. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mushrooms* and *mushroom products*, in vehicles equipped with mechanical refrigeration, except commodities in bulk, (a) from Kennett Square, Pa., to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along Mississippi Highway 14, to junction Mississippi Highway 9, thence north along Mississippi Highway 9 to junction U.S. Highway 82, thence west along U.S. Highway 82 to the Arkansas-Mississippi State line, and to those points in Arkansas on and south of a line beginning at the Arkansas-Mississippi State line, and extending west along U.S. Highway 82 to junction Arkansas Highway 7, thence north along Arkansas Highway 7 to junction Arkansas Highway 24, thence west along Arkansas Highway 24 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Arkansas-Oklahoma State line, and to those points in Oklahoma on and south of a line beginning at the Arkansas-Oklahoma State line and extending west along U.S. Highway 70 to the Oklahoma-Texas State line, and those points in Texas on and south of a line beginning at the Oklahoma-Texas State line and extending south and west along U.S. Highway 70 to junction U.S. Highway 287, thence west along U.S. Highway 287 to junction Interstate Highway 40, thence west along Interstate Highway 40 to the New Mexico-Texas State line. (b) From Evansville, Pa., to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along Mississippi Highway 14 to junction Mississippi Highway 35, thence north along Mississippi Highway 35 to junction U.S. Highway 82, thence west along U.S. Highway 82 to the Arkansas-Mississippi State line, and to those points in Arkansas on and south

of a line beginning at the Arkansas-Mississippi State line and extending west along U.S. Highway 82 to the Arkansas-Texas State line, and those points in Texas beginning at the Oklahoma-Texas State line and extending west along U.S. Highway 82 to junction U.S. Highway 287, to junction Texas Highway 86, thence west along Texas Highway 86 to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 105813 (Sub-E45), filed December 19, 1975. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible meats, edible meat products, and edible meat by-products*, and *edible articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from Allen Township (Hillsdale County), Mich., to those points in Texas on and south of a line beginning at the Louisiana-Texas State line and extending west along Texas Highway 63 to junction U.S. Highway 190, thence west along U.S. Highway 190 to junction U.S. Highway 59, thence south along U.S. Highway 59 to junction Interstate Highway 10 to junction U.S. Highway 90, thence west along Highway 90 to Del Rio, Texas, thence south along unnumbered highway to the International Boundary between United States and Mexico. Restriction: The service authorized herein is restricted to the transportation of shipments originating at the plant site and warehouse facilities of Great Markwestern Packing Company, at Allen Township (Hillsdale County), Mich. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 105813 (Sub-E46), filed December 19, 1976. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Edible meats, edible meat products, and edible meat by-products*, and *edible articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles) and (2) *Foodstuffs* except edible meats, edible meat products, and edible meat by-products, and edible articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles) in mixed loads with commodities described in (1) above, (A) from Austin, Minn., to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along U.S. Highway 84 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction U.S. Highway 98, thence west along U.S. Highway 98 to junction Mississippi Highway 35, thence south along Mississippi Highway 35 to the Louisiana-Mississippi State line. (B) From Fremont, Nebraska, to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along Mississippi Highway 42, to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction Interstate Highway 59, thence south along Interstate Highway 59 to the Louisiana-Mississippi State line. (3) *Foodstuffs* (except meats, meat products, and meat by-products, and articles distributed by meat packinghouses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766) in mixed loads with the commodities described in (1) above (otherwise authorized), from Fort Dodge, Iowa, to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along U.S. Highway 84 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction U.S. Highway 98, thence west along U.S. Highway 98 to junction Mississippi Highway 35, thence south along Mississippi Highway 35 to the Louisiana-Mississippi State line. Restriction: The operations authorized immediately above are restricted to the transportation of traffic originating at said origins. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 105813 (Sub-E47), filed December 19, 1975. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery* and *confectionery products*, except commodities in bulk, (a) from Centralia and Ashley, Ill., to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along Mississippi Highway 594 to junction Mississippi Highway 63, thence west along Mississippi Highway 63 to junction Mississippi Highway 57, thence west along Mississippi Highway 57 to junction Mississippi Highway 26, thence west along Mississippi Highway 26 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction Interstate Highway 59, thence south along Interstate Highway 59 to the Louisiana-Mississippi State line. (b) From Sulphur Springs, Tex., to those points in Virginia on and east of a line beginning at the North Carolina-Virginia State line and extending north along U.S. Highway 220 to junction U.S. Highway 11, thence north along U.S. Highway 11 to the Virginia-West Virginia State line, and to those points in West Virginia on and east of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 11 to the Maryland-West Virginia State line, and to those points in Maryland on and east of a line beginning at the Maryland-West Virginia State line and extending north along U.S. Highway 11 to the Maryland-Pennsylvania State line, and to points in that part of Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending north along U.S. Highway 11 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 220, thence east along U.S. Highway 220 to the New York-Pennsylvania State line, and to those points in New York on and east of a line beginning at the New York-Pennsylvania State line and extending east along New York Highway 17 to junction New York Highway 12, thence north along New York Highway 12 to junction New York Highway 28, thence north along New York Highway 28 to junction New York Highway 30, thence along New York Highway 30 to the International Boundary line between United States and Canada. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 105813 (Sub 48), filed December 19, 1975. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936. Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, except commodities in bulk, from the plant site and warehouse facilities of Breakstone Sugar Creek Foods, Division of Kraftco Corporation, at Elizabeth, N.J., to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along Mississippi Highway 14 to junction Mississippi Highway 12 to junction U.S. Highway 49W, thence north along U.S. Highway 49W to junction U.S. Highway 82, thence west along U.S. Highway 82 to the Arkansas-Mississippi State line, and those points in Arkansas on and south of a line beginning at the Arkansas-Mississippi State line and extending west along U.S. Highway 82 to junction Arkansas Highway 7, thence north along Arkansas Highway 7 to junction Arkansas Highway 4, thence west along Arkansas Highway 4 to junction U.S. Highway 70, thence west along U.S. Highway 70 to the Arkansas-Oklahoma State line, and to those points in Oklahoma on and south of a line beginning at the Arkansas-Oklahoma State line and extending west along U.S. Highway 70 to the Oklahoma-Texas State line, and to those points in Texas on and south of a line beginning at the Oklahoma-Texas State line and extending south to junc-

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tion U.S. Highway 287, thence west along U.S. Highway 287 to junction U.S. Highway 66, thence west along U.S. Highway 66 to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 105813 (Sub-No. 49), filed December 19, 1975. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible meats, edible meat products, and edible meat by-products*, and *edible articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides, and skins, and pieces thereof), from the plant sites and storage facilities utilized by Swift & Co., located at or near St. Charles, Ill., to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along U.S. Highway 84 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction U.S. Highway 98, thence west along U.S. Highway 98 to junction Mississippi Highway 35, thence south along Mississippi Highway 35 to the Louisiana-Mississippi State line, and to those points in Texas on and south of a line beginning at the Louisiana-Texas State line and extending west along U.S. Highway 90 to junction Texas Highway 87, thence west along Texas Highway 87 to the Galveston-Port Bolivar Ferry, thence west to connection with U.S. Highway 75, thence north along U.S. Highway 75 to junction Texas Highway 6, thence west along Texas Highway 6 to junction Texas Highway 35, thence west along Texas Highway 35 to junction Texas Highway 113, thence west along Texas Highway 113 to junction U.S. Highway 77, thence south along U.S. Highway 77 to junction Texas Highway 44 to junction U.S. Highway 59, thence west along U.S. Highway 59 to the International Boundary between United States and Mexico. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the above-described plant site and storage facilities. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 105813 (Sub-50), filed December 19, 1975. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, except commodities in bulk, from Mattoon, Ill., to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along Mississippi Highway 594 to junction Mississippi Highway 63, thence west along Mississippi Highway 63 to junction Mississippi Highway 57, thence west along Mississippi Highway 57 to junction Mississippi Highway 26, thence west along Mississippi Highway 26 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction Interstate Highway 59, thence south along Interstate Highway 59 to the Louisiana-Mississippi State line and to those points in Texas on and south of a line beginning at the Gulf of Mexico and extending west along Texas Highway 4 to junction U.S. Highway 83, thence west along U.S. Highway 83 to Rio Grande City, Texas, at the International Boundary line between United States and Mexico. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the plant site and storage facilities of Kraft Foods Division of Kraftco Corporation at Mattoon, Ill. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 114868 (Sub-No. E 19), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Ohio on and east of a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 23 to junction Ohio Highway 4, thence along Ohio Highway 4 to Lake Erie, on the one hand, and, on the other, points in New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along Interstate Highway 195 to junction Garden State Parkway, thence along Garden State Parkway to junction New Jersey Highway 38, thence along New Jersey Highway 38 to the Atlantic Ocean at Belmar, N.J. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 114868 (Sub-No. E 42), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, from points in Wisconsin, to points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville.

No. MC 114868 (Sub-44), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, from Washington, D.C., to Nashville, Tenn., and points in Tennessee within 125 miles of Nashville. The purpose of this filing is to eliminate the gateway of points in Kentucky.

No. MC 119531 (Hub-No. E279), filed May 22, 1974. Applicant: SUN EXPRESS, INC., 5319 Woster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* (1) from Zanesville, Ohio to points in New York on and east of a line beginning at Oswego, N.Y. and extending along New York Highway 104 to junction New York Highway 38, thence along New York Highway 38 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction New York Highway 14, thence along New York Highway 14 to the New York-Pennsylvania State line and (2) from Zanesville, Ohio, to points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 220 to junction Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Vienna, W. Va.

No. MC 123407 (Sub-No. E247), filed November 30, 1975. Applicant: SAWYER TRANSPORT INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel doors and windows* from Dubuque, Iowa, to points in Florida and points in Georgia in and south of Harris, Talbot, Taylor, Mason, Dooly, Pulaski, Dodge, Telfair, Jeff Davis, Appling, Tatinall, Evans, Bryan, and Chatham Counties. The purpose of this filing is to eliminate the gateway of the plant site and warehouse facilities of Henderson Steel Corporation located in Lauderdale County, Miss.

No. MC 123407 (Sub-No. E248), filed November 30, 1975. Applicant: SAWYER TRANSPORT INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel*, from Bartonville, Ill., to points in Florida, points in Louisiana in and south of Vernon, Rapides, LaSalle, Catahoula, Franklin, and Madison Parishes, La., points in Alabama in and south of Pickens, Greene, Hale, Perry, Dallas, Autauga, Elmore, Mason and Russell Counties, Ala., points in Georgia in and south of Muscogee, Marion, Schley, Sumter, Dooly, Wilcox, Telfair, Jeff Davis, Appling, Wayne, Long, and McIntosh Counties, Ga. The purpose of this filing is to eliminate the gateway of the plant site and warehouse facilities of Henderson Steel Corporation, located in Lauderdale County, Miss.

No. MC 123407 (Sub-No. E249), filed November 30, 1975. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel building materials* from the plantsite and warehouse facilities of Henderson Steel Corporation, located in Lauderdale County, Miss., to points in North Dakota in and north of McKenzie, Dunn, Mercer, Oliver, McLean, Sheridan, Wells, Eddy, Nelson and Grand Forks Counties, N. Dak. The purpose of this filing is to eliminate the gateways of Warren, Ill., and L'Anse, Mich.

No. MC 123407 (Sub-No. E250), filed November 30, 1975. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel building materials* from the plantsite and warehouse facilities of Henderson Steel Corporation, located in Lauderdale County, Miss., to points in Minnesota, South Dakota, the upper Peninsula of Michigan, points in Nebraska in and north of Sioux, Box Butte, Sheridan, Grant, Hooker, Thomas, Cherry, Brown, Rock, Holt, Knox, Cedar, and Dixon Counties, Nebr. The purpose of this filing is to eliminate the gateway of Warren, Ill.

No. MC 123407 (Sub-No. E251), filed November 30, 1975. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel building materials* from the plantsite and warehouse facilities of Henderson Steel Corporation, located in Lauderdale County, Miss., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Freeport, Ill.

No. MC 123407 (Sub-No. E253), filed November 30, 1975. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel pipe and conduit* (except oilfield commodities as described in Mercer Extension—Oil Field Commodities, 74 M.C.C. 459), from Chicago, Ill., to points in Florida (except Nassau County), points in Alabama in and south of Sumter, Green, Hale, Perry, Dallas, Lowndes, Montgomery, Bullock, and Barbour Counties, Ala., points in Georgia in and south of Quitman, Randolph, Terrell, Lee, Worth, Tift, Barrien, Atkinson, and Clinch Counties, Ga. Restriction: Service shall be limited to the transportation of shipments which originate at the plant and warehouse sites of Maneely-Illinois, Inc., at or near Chicago, Ill. The purpose of this filing is to eliminate the gateway of the plant-site and warehouse facilities of Henderson Steel Corporation, located in Lauderdale County, Miss.

No. MC 123407 (Sub-No. E254), filed November 30, 1975. Applicant: SAWYER TRANSPORT INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel doors and windows*, from Columbus, Ohio, to points in Mobile and Washington Counties, Ala. The purpose of this filing is to eliminate the gateway of the plant site and warehouse facilities of Henderson Steel Corporation, located in Lauderdale County, Miss.

No. MC 123407 (Sub-No. E255), filed November 30, 1975. Applicant: Sawyer Transport, Inc., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel* (except in bulk), from the facilities of Continental Steel Corporation at or near Kokomo, Ind., to points in Alabama in and south of Choctaw, Clarke, Monroe, Conecum, Covington, Geneva, and Houston Counties, Ala., and points in Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Jackson, Washington, Bay, Calhoun, Gulf, Liberty, Franklin, Gadsden, Leon, Wakulla, Pinellas, Hillsborough, Manatee, Sarasota, Charlotte, Lee, Hendry, Collier, Monroe, Broward, and Dade Counties, Fla. The purpose of this filing is to eliminate the gateway of the plant site and warehouse facilities of Henderson Steel Corporation, located in Lauderdale County, Miss.

No. MC 123407 (Sub-No. E257), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are building materials, from Granite City, Ill., to points in Minnesota, South Dakota, the Upper Peninsula of Michigan, and Dawes County, Nebr. The purpose of this filing is to eliminate the gateway of Warren, Ill.

No. MC 123407 (Sub-No. E260), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel prefabricated building sections*, from Coatesville, Brackenridge, West Leechburg, and Bagdad, Pa., to points in North Dakota, Montana, and Wyoming. The purpose of this filing is to eliminate the gateways of North Warren, Wis., and Litchfield, Minn.

No. MC 123407 (Sub-No. E263), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel prefabricated building sections*, from New Castle, Ind., to points in North Dakota, Montana, and Wyoming (except Converse, Niobrara, Carbon, Albany, Platte, Goshen, and Laramie Counties). The purpose of this filing is to eliminate the gateways of North Warren, Wis., and Litchfield, Minn.

No. MC 123407 (Sub-No. E264), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are building materials, from Stark County, Ill., to points in Charleston, Georgetown, Marion, and Horry Counties, S.C., and points in Brunswick, New Hanover, Carteret, Tyrrell, Dare, and Pasquotank Counties, N.C. The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E265), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are building materials, from Fulton County, Ill., to points in Brunswick, New Hanover, Pasquotawk, Camden, and Currituck Counties, N.C. The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E269), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are building materials, from Dubuque, Iowa, to points in Georgia, North Carolina, South Carolina, and Alabama (except Lauderdale, Colbert, Franklin, Laurence, Marion, Winston, Lamar, Fayette, and Walker Counties). The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E 278), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind.

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46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel roofing and iron and steel roofing material* from Wilmington, Ill., to points in Alabama, Georgia, North Carolina, South Carolina, Oktibbeha, Lowndes, Winston, Noxubee, Neshoba, Kemper, Scott, Newton, Lauderdale, Smith, Jasper, Clarke, Jefferson, Davis, Covington, Jones, Wayne, Wilkinson, Amite, Pike, Walthall, Marion, Lamar, Forrest, Perry, Greene, Pearl River, Stone, George, Hancock, Harrison, and Jackson Counties, Miss., points in Louisiana in and south of Sabine, Natchitioches, Grant, Rapides, Avoyelles, Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, and Washington Parishes, La., points in Texas in and south of El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Cochran, Hockley, Lubbock, Crosby, Scurry, Nolan, Runnels, Concho, McCulloch, San Saba, Lampasas, Bell, Milam, Burleson, Brazos, Grimes, Walker, San Jacinto, Liberty, Tyler, Jasper, Sabine, and Hardin Counties, Tex. The purpose of this filing is to eliminate the gateway of New Castle, Ind.

No. MC 123407 (Sub-No. E 280), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel used construction forms* from New Castle, Ind., to points in Minnesota, North Dakota, South Dakota, Wyoming, Nebraska (except Gage, Johnson, Nemaha, Pawnee and Richardson Counties, Nebr.), Iowa (except Fremont, Page, Taylor, Ringgold, Decatur, Wayne, Appanoose, Wapello, Jefferson, Henry, David, Van Buren, Des Moines, and Madison Counties, Iowa). The purpose of this filing is to eliminate the gateway of Beloit, Wis.

No. MC 123407 (Sub-No. E 288), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel*, from the plansite and warehouse facilities of Henderson Steel Corporation located in Lauderdale County, Miss., to points in Wisconsin (except Crawford and Grant Counties). The purpose of this filing is to eliminate the gateway of New Castle, Ind.

No. MC 123407 (Sub-No. E 289), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are building materials, from Stephenson County, Ill., to points in Georgia, North Carolina, South Carolina, points in Cameron County, Tex., points in Alabama in and east of Escambia, Monroe, Wilcox, Dallas, Perry, Bibb, Shelby, Jefferson, Blount, Etowah, and DeKalb Counties, Ala. The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E 290), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel*, from Coatesville, Brackenridge, West Leechburg, and Bagdad, Pa., to points in Escambia, Santa Rosa, Okaloosa, Walton, and Bay Counties, Fla., and points in Carter, Love, Marshall, Bryan, and Choctaw Counties, Okla. The purpose of this filing is to eliminate the gateway of the plantsite and warehouse facilities of Henderson Steel Corporation, located in Lauderdale County, Miss.

No. MC 123407 (Sub-No. E 302), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing material* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of their size or weight require the use of special equipment), from Wilmington, Ill., to points in Ohio in and south of Preble, Montgomery, Miami, Champaign, Madison, Franklin, Licking, Knox, Holmes, Tuscarawas, Carroll, and Columbiana Counties. The purpose of this filing is to eliminate the gateway of Brookville, Ind.

No. MC 123407 (Sub-No. E 303), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are building materials, from Henderson County, Ill., to Marlboro, Dillon, Florence, Marion, and Horry Counties, S.C., and Columbus, Brunswick, Pender, New Hanover, Onslow, Jones, Carteret, Craven, Pamlico, Beaufort, Martin, Washington, Tyrrell, Dare, Hyde, Pasquotawk, Camden, and Currituck Counties, N.C. The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E 304), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are building materials, from Jo Davies County, Ill., to points in Alabama, Georgia, North Carolina, South Carolina, Clarke, Jones, Wayne, Marion, Lamar, Forest, Perry, Greene, Pearl River, Stone, George, Hancock, Harrison, and Jackson Counties, Miss., Washington, Iberville, Ascension, St. John the Baptist, St. Charles, Orleans, St. Mary, Assumption, St. James, St. Bernard, Terrebowne, LaFourche, Jefferson, and Plaquemines Parishes, La., Maverick, Dimmit, LaSalle, McMullen, Liveoak, Bee, San Patrico, Repugio, Webb, Duval, Jim Wells, Nueces, Zapata, Jim Hogg, Brooks, Kleberg, Kenedy, Starr, Hidalgo, Willacy, and Cameron Counties, Tex. The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E305), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are building materials, from Winnebago County, Ill., to points in Georgia, North Carolina, South Carolina, Lee, Macon, Russell, Bullock, Pike, Barbour, Coffee, Dale, Henry, Geneva, and Houston Counties, Ala. The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E306), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are building materials, from Whiteside County, Ill., to points in Georgia, North Carolina, South Carolina, Russell, Barbour, Dale, Henry, and Houston Counties, Ala. The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E 307), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind., 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such iron and steel articles as are building materials, from Carroll County, Ill., to points in Georgia, North Carolina, South Carolina, points in Alabama in and east of DeKalb, Etowah, Saint Clair, Jefferson, Shelby, Bibb, Perry, Dallas, Lowndes, Butler, Monroe, and Escambia Counties, Ala. The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E 309), filed February 29, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square Valparaiso, Ind.

46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing material* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of their size or weight require the use of special equipment), from Chicago, Ill., to points in Ohio in and south of Butler, Warren, Greene, Madison, Franklin, Fairfield, Perry, Muskingum, Guernsey, and Belmont Counties, Ohio. The purpose of this filing is to eliminate the gateway of Brookville, Ind.

No. MC 123407 (Sub-No. E 310), filed February 29, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing material* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of their size or weight require the use of special equipment), from Wilmington, Ill., to points in Ohio in and south of Preble, Montgomery, Miami, Champaign, Madison, Franklin, Licking, Knox, Holmes, Tuscarawas, Carroll, and Columbiana Counties, Ohio. The purpose of this filing is to eliminate the gateway of Brookville, Ind.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37729 Filed 12-22-76;8:45 am]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Petitions for Modification, Interpretation or Reinstatement of Operating Rights Authority

DECEMBER 17, 1976.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before January 24, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner in no representative is named.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 10761 (Sub-No. 1) Notice of filing of petition to modify territorial description), filed October 12, 1976. Petitioner: TRANSAMERICAN FREIGHT LINES, INC., 5650 Foremost Dr. SE., Grand Rapids, Mich. 49506. Petitioner's representative: A. David Milner, 167 Fairfield Road, Fairfield, N.J. 07006. Petitioner holds a motor *common carrier* Certificate in No. MC 10761 (Sub-No. 1), issued February 28, 1942, authorizing transportation, as pertinent, over regular routes, of *general commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) between Dunkirk, N.Y. and Buffalo, N.Y., serving all intermediate points: From Dunkirk over New York Highway 5 to Buffalo, and return over the same route; (2) between Silver Creek, N.Y., and Jamestown, N.Y., serving all intermediate points: From Silver Creek over U.S. Highway 20 to Fredonia, N.Y., thence over New York Highway 60 to Jamestown; and return from Jamestown over New York Highway 17 to Conewango Valley, N.Y., thence over New York Highway 83 to junction unnumbered highway, and thence over unnumbered highway via Smith Mills, N.Y., to Silver Creek; and (3) from Conewango Valley, N.Y., to Buffalo, N.Y.: From Conewango Valley over U.S. Highway 62 to Buffalo.

By the instant petition, petitioner seeks to retain authority in (1) above between Silver Creek, N.Y. (an intermediate point) and Buffalo, N.Y. over New York Highway 5 notwithstanding the eventual sale of authority in MC-F-12713. In the alternative, petitioner seeks to modify the territorial description above to be rewritten as follows: As a route authorizing service in both directions between Jamestown, N.Y. and Buffalo, N.Y. over U.S. Highway 62. This petition involves in (1) above authority to be sold to Campbell Sixty-Six Express, Inc. in a finance proceeding docketed in No. MC-F-12713.

No. MC 123159 (Notice of filing of petition to delete restrictions), filed November 5, 1976. Petitioner: DE-PEN LINE, INC., Hollow Road, P.O. Box 486, Phoenixville, Pa. 19460. Petitioner's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, NW., Washington, D.C. 20005. Petitioner holds a motor *common carrier* Certificate in No. MC 123159, issued May 19, 1971, authorizing transportation, as pertinent, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), between Fernwood, Pa., and Wawa, Pa., serving all intermediate points and the off-route points of Wallingford, Rose Valley-Moylan, Elwyn, Williamson School, Glen Riddle, Lenni, Darlington, and Glen Mills, Pa.: From Fernwood over unnumbered highway (Baltimore Pike), to junction U.S. Highway 1, south of Media, Pa., thence over U.S. Highway 1 to Wawa, and return over the same route, restricted as follows (1) said operations shall be limited to the service which is auxiliary to, or supplemental of railway service; (2) shipments transported by said carrier shall be limited to those moving on through bills of lading, and having in addition to a motor-carrier movement by said carrier, a prior or immediately subsequent movement by rail or by motor vehicle in service auxiliary to our supplemental of rail service; and (3) such further specific conditions as the Commission, in the future, may find it necessary to impose in order to restrict said carrier's operations to service which is auxiliary to, or supplemental of, railway service.

By the instant petition, petitioner seeks to delete restrictions (1), (2), and (3) from the authority above.

No. MC 124839 (Sub-No. 19) (Notice of filing of petition to modify permit), filed November 30, 1976. Petitioner: BUILDERS TRANSPORT, INC., 4800 Augusta Road, P.O. Box 7057, Savannah, Ga. 31408. Petitioner's representative: William P. Sullivan, 1819 H Street, N.W., Washington, D.C. 20006. Petitioner holds a motor *contract carrier* Permit in No. MC 124839 (Sub-No. 19), issued October 29, 1973, authorizing transportation over irregular routes, of *Wood chips, paper*, and *paper products*, between Morristown, Tenn., and points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Virginia, under a continuing contract, or contracts with Union Camp Corporation, of Wayne, N.J.

By the instant petition, petitioner seeks to modify its Permit to read as follows: *Wood chips, paper, paper products, chemicals, naval stores, and materials, equipment and supplies* used in their manufacture, between Morristown, Tenn., and points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Ohio, Indiana, Illinois, Michigan and the District of Columbia, restricted (1) against the transportation of commodities in bulk: and (2) to a transportation service to be performed under a continuing contract or contracts with Union Camp Corporation of Wayne, N.J.

No. MC 127784 and MC 127784 (Sub-No. 3) (Notice of filing of petition to add restrictions), filed September 30, 1976. Petitioner: R & G AIRFREIGHT, INC., R. D. No. 4, Allentown, Pa. 18102. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds motor *common carrier* Certificates in No. MC 127784 issued June 25, 1969 and MC 127784 (Sub-No. 3), issued June 6, 1975 authorizing transportation over irregular routes, of (1) MC 127784 *General commodities* (except Classes A and B explo-

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sives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between the Newark Airport, Newark, N.J., the John F. Kennedy International Airport, New York, N.Y., and the La Guardia Airport, New York, N.Y., on the one hand, and, on the other, points in Monroe, Schuylkill, and Cargon Counties, Pa.; and MC 127784 (Sub-No. 3); and (2) *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between La Guardia Airport, N.Y., Kennedy International Airport, N.Y., Newark Airport, N.J., and Teterboro Airport, N.J., on the one hand, and, on the other, points in Northhampton and Lehigh Counties, Pa., and Warren and Hunterdon Counties, N.J., (except Flemington, Frenchtown, Lambertville, and Neshanic, N.J.); and (2) between Teterboro Airport N.J., on the on hand, and, on the other, points in Somerset County, N.J., (except Rocky Hill, N.J.).

By the instant petition, petitioner seeks to (1) add to its commodities in the lead Certificate the restriction that reads as follows: having a prior or subsequent movement in interstate commerce and (2) to add to its (Sub-No. 3) after the origins and destination. Restriction: The authority granted herein is restricted to the transportation of traffic having an immediately prior or subsequent movement in interstate commerce.

No. MC 128375 (Sub-No. 55) (Notice of filing of petition to modify commodity description), filed November 16, 1976. Petitioner: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Petitioner's representative: Duane W. Acklie (same address as petitioner). Petitioner holds a motor *contract carrier* Permit in No. MC 128375 (Sub-No. 55), issued September 21, 1976, authorizing transportation over irregular routes, of *automotive replacement parts, automotive accessories*, and *equipment, materials, and supplies* used in the manufacture of the above-described commodities (except commodities in bulk), between Saco, Maine, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Maremont Corporation, of Chicago, Ill.

By the instant petition, petitioner seeks to modify the commodity description above by deleting the commodity description above and substituting *"those commodities* dealt in and used by manufacturers and distributors of automotive parts, accessories, equipment, materials and supplies (except in bulk)," in lieu thereof.

No. MC 133488 (Sub-No. 2) (Notice of filing of petition to add an additional base point), filed November 23, 1976. Applicant: EMPRISE TRUCKING CO., INC., 140 Federal Street, Boston, Mass. 02110. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C., 20001, Petitioner holds a motor *contract carrier* Permit in No. MC 133488 (Sub-No. 2), issued October 22, 1975, authorizing transportation over irregular routes, of (1) *Iron and steel articles* and *aluminum articles*, and (2) *materials, equipment and supplies* used in the manufacture, installation and distribution of the commodities described in (1) above (except commodities in bulk), between the facilities of Roll Form Products, Inc. located at or near Fairless Hills, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Roll Form Products, Inc.

By the instant petition, petitioner seeks to add the facility of Roll Form Products, Inc. located at or near Tulsa, Okla. as an additional base point to the above authority.

No. MC 136530 (Sub-Nos. 1 and 2) (Notice of filing of petition to modify permits), filed November 30, 1976. Petitioner: NORBET TRUCKING CORPORATION, 100 Nassau Terminal Road, New Hyde Park, N.Y. 11040. Petitioner's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, D.C. 20001. Petitioner holds motor *contract carrier* Permits in No. MC 136530 and (Sub-Nos. 1 and 2), issued February 8, 1973, April 26, 1973, and March 14, 1974, respectively, authorizing transportation (1) in MC 136530 over irregular routes, of *iron and steel articles and materials, equipment, and supplies* (except commodities in bulk) used in the manufacture and distribution of iron and steel articles, between New Hyde Park, N.Y., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Ohio, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, under a continuing contract, or contracts, with American Strip Steel Incorporated of New Hyde Park, N.Y.; (2) in MC 136530 (Sub-No. 1) over irregular routes, transporting *iron and steel articles*, and *materials, equipment and supplies* (except commodities in bulk), used in the manufacture and distribution of iron and steel articles, between Kearny, N.J., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Ohio, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, under a continuing contract, or contracts, with American Strip Steel, Inc. of New Hyde Park, N.Y.; and (3) in MC 136530 (Sub-No. 2) over irregular routes, transporting *iron and steel articles*, and *materials, equipment and supplies* (except commodities in bulk) used in the manufacture and distribution of iron and steel articles, between Baltimore, Md., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Ohio, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Tennessee, Kentucky, and the District of Columbia, under a continuing contract, or contracts, with American Strip Steel, Incorporated of New Hyde Park, N.Y., restricted to the transportation of traffic originating at or destined to the facilities of American Strip Steel, Incorporated located at New Hyde Park, N.Y.

By the instant petition, petitioner seeks (a) to broaden the commodity description in all the above Permits to read: *"Iron and steel articles; iron and steel studding; steel framing; joist hangers and wall ties; metal building materials and products; parts and accessories therefor*, and *materials, equipment and supplies* (except commodities in bulk), used in the manufacture, distribution, and installation of the above-mentioned commodities."; (b) to add Ware Industries Ltd. of New Hyde Park, N.Y. as an additional contracting shipper with respect to all three of the above permits; (c) to add, with respect to its lead Permit, the additional base point of Shelton, Conn.; (d) to modify, with respect to all three Permits, the radial points to read: "points in tre United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; (e) to add, with respect to the lead and the (Sub–1) Permit, the restriction: "restricted to the transportation of traffic originating at or destined to the facilities of American Strip Steel, Inc. and Ware Industries, Ltd.; and (f) to add, with respect to the (Sub–2) Permit, Ware Industries Ltd. to the restriction.

No. MC 136640 (Sub-No. 4), (Notice of filing of petition to modify commodity description) filed November 22, 1976. Petitioner: ROBERT L. ALLEN, doing business as R. ALLEN TRANSPORT, P.O. Box 321, Pocomoke City, Md. 21851. Petitioner's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Petitioner holds a motor *contract carrier* Permit, in No. MC 136640 (Sub-No. 4), issued February 19, 1976, authorizing transportation, as pertinent, over irregular routes, of *frozen onion rings*, when transported in mixed loads with agricultural commodities otherwise exempt from economic regulations under section 203(b)(6) of the Interstate Commerce Act, from Boston, Mass., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana, Maryland, Michigan, North Carolina, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Illinois, Mississippi, Missouri, and New Jersey, under a continuing contract, or contracts, with Boston Bonnie, Inc., of Boston, Mass.

By the instant petition, petitioner seeks to modify its commodity description as follows: *commodities* otherwise exempt from economic regulations under Section 203(b)(6) of the Interstate Commerce Commission Act and *frozen onion rings* when transported in mixed shipments

with commodities otherwise exempt from economic regulations under Section 203 (b) (6) of the Interstate Commerce Act.

No. MC 136931 (Sub-No. 2), (Notice of filing of petition to add contracting shipper) filed November 29, 1976. Petitioner: LOUIS SENSKE and JIM SENSKE, doing business as SENSKE & SONS TRANSFER, a Partnership, 117 Fourth Avenue, North Crookston, Minn. 56716. Applicant's representative: James B. Hovland, 425 Gate City Bldg., Fargo, N. Dak. 58102. Petitioner holds a motor *contract carrier* Permit in No. MC 138931 (Sub-No. 2), issued June 12, 1975, authorizing transportation of (1) *Self-propelled loaders*, from the plantsite and facilities of Hydra-Mac, Inc., at or near Thief River Falls, Minn., to points in the United States (except Alaska, Minnesota and Hawaii); and (2) *equipment, materials, and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to the plantsite and facilities of Hydra-Mac, Inc., at or near Thief River Falls and Red Lake Falls, Minn., and Wahpeton, N. Dak., under a continuing contract or contracts with Hydra-Mac, Inc., of Thief River Falls, Minn.

By the instant petition, petitioner seeks to and International Harvester, Inc., as an additional contracting shipper to the above authority.

No. MC 139106 (Notice of filing of petition to add base points) filed November 15, 1976. Petitioner: A.B.A. TRUCKING CORPORATION, 12–16 Bank St., Summit, N.J., 07901. Petitioner's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park N.J., 08904. Petitioner holds a motor *contract carrier* Permit in No. MC 139106, issued October 17, 1974, authorizing transportation over irregular routes, of *iron and steel articles, metal roof and floor decking*, and *materials, equipment, and supplies* used in the installation, manufacture, sale, or production of all the above specified commodities (except commodities in bulk), between the facilities of United Steel Deck, Inc., located at South Plainfield, N.J., on the one hand, and on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with United Steel Deck, Inc.

By the instant petition, petitioner seeks to modify the territorial description above by adding Allentown, Carbondale, Malvern, and Morrisville, Pa. as additional base points.

No. MC 140617 (Sub-No. 2), (Notice of filing of petition to modify certificate) filed November 8, 1976. Petitioner: KERN COUNTY TRANSFER, INC., P.O. Box 1641, Bakersfield, Calif. 93302. Petitioner's representative: William J. Monheim, P.O. Box 1756, Whittier, Calif. 90609. Petitioner holds a motor *common carrier* Certificate, in No. MC 140617 (Sub-No. 2), issued September 21, 1976, authorizing transportation over irregular routes, of *Grape concentrate and wine* (except in bulk), moving in Sea-Land Service, Inc., containers, from the facilities of California Wine Association at or near Delano, Calif., to the facilities of the Sea-Land Service, Inc., at the port of Long Beach, Calif.

By the instant petition, petitioner seeks to modify its Certificate to read as follows: *Grape concentrate and wine* (except in bulk), moving in ocean containers for subsequent movement by water, from the facilities of California Wine Association at or near Delano, Calif., to points in the Los Angeles Harbor, Calif., Commercial Zone as defined by the Commission.

No. FF 267 (Sub-No. 5), (Notice of filing of petition to modify commodity description) filed December 1, 1976. Petitioner: HONOLULU FREIGHT SERVICE, a Corporation, 2425 Poter Street, Los Angeles, Calif. 20021. Petitioner's representative: Michael P. Beidleman, P.O. Box 21156, Market Station, Los Angeles, Calif. 90021. Petitioner holds a *freight forwarder* Permit in No. FF 267 (Sub-No. 5), issued February 18, 1976, authorizing operations as a freight forwarder, of *General commodities* (except household goods as defined by the Commission, unaccompanied baggage, and used automobiles), in containers equipped with mechanical refrigeration, from points in Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties, Calif., to points Hawaii.

By the instant petition, petitioner seeks to modify the commodity description by deleting "equipped with mechanical refrigeration" in the above authority.

Republications of Grants of Operating Rights Authority Prior to Certification

Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of protests to the granting of the authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 42828 (Sub-No. 11), (Republication) filed May 5, 1976, published in the Federal Register issue of June 24, 1976, and republished this issue. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine Street, Barre, Vt. 05641. Applicant's representative: James W. Connor, 431 Keith Avenue, Akron, Ohio 44313. An Order of the Commission, Review Board Number 2, dated October 26, 1976, and served November 11, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *reclassified silicon carbide* (except in bulk, in tank vehicles), from the facilities of Rock of Ages Corporation, located in Washington, Caledonia, and Orange Counties, Vt., to points in New Jersey, those points in Pennsylvania on and east of a line begin ning at the Pennsylvania-Maryland State line, thence along Interstate Highway 83 to Harrisburg, Pa., and thence along Interstate Highway 81 to the Pennsylvania-New York State line, and those points in New York on and east of Interstate Highway 81; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the broadening of the origin territory in applicant's grant of authority by substituting the origin territory above in lieu of "Barre, Vt., and points within 15 miles thereof."

No. MC 123407 (Sub-No. 244), (Republication) filed June 9, 1975, published in the Federal Register issue of July 3, 1975, and republished this issue. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb, (same address as applicant). An Order of the Commission, Review Board Number 2, dated December 2, 1976, and served December 8, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *wood flooring systems*, from Dollar Bay, Mich., to points in Montana, Wyoming, Utah, Arizona, Nevada, California, Idaho, Oregon, and Washington; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Tre purpose of this republication is to indicate applicant's grant of authority to serve Oregon as a destination state in lieu of Oklahoma.

No. MC 140638 (Republication) filed January 29, 1975, published in the Federal Register issue of March 6, 1975, and republished this issue. Applicant: WELLS TRANSPORT COMPANY, INC., 121 Second Ave. SE., LeMars, Iowa 51031. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. A Decision and Order of the Commission, Review Board Number 1, dated November 9, 1976, and served November 16, 1976, finds that applicant is fit, willing,

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and able to operate in interstate or foreign commerce, as a *contract carrier* by motor vericle, over irregular routes, in the transportation of (1) (a) *dairy products*, as described in Section B of Appendix I of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209; (b) *commodities* which are customarily dealt in by dairies; (c) *materials* used in the display, sale, and distribution of dairy products and commodities which are customarily dealt in by dairies; and (d) *fruit juices, salad dressings, dips, and distilled water*, from LeMars, Iowa, to points in Minnesota, Wisconsin, Illinois, Missouri, Kansas, Colorado, Nebraska, Wyoming, South Dakota, and Iowa; and (2) *materials, equipment, and supplies* used in the manufacturing, production, sale, and distribution of the commodities named in (1) above, from the destination states named in (1) above to LeMars, Iowa, under a continuing contract, or contracts, with Wells Dairy Company, of LeMars, Iowa, restricted in (1) and (2) above to traffic originating at or destined to facilities utilized by Wells Dairy Company, located at LeMars, Iowa; further restricted in (1) above against the transportation of commodities in bulk, in tank vehicles; and further restricted in (2) above against the transportation of petroleum products, in bulk, in tank vehicles; that applicant is fit, willing, and able to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the addition of *fruit juices, salad dressings, dips, and distilled water* to applicant's grant of authority.

No. MC 140912 (Sub-No. 2), (Republication) filed July 22, 1975, published in the FEDERAL REGISTER issue of August 21, 1975, and republished this issue. Applicant: STATES WAREHOUSES, INC., 16000 Heron Ave., LaMirada, Calif. 90638. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. A Supplemental Order of the Commission, Review Board Number 2, dated November 8, 1976, and served November 24, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *liquid sugar and sirups, blends of liquid sugar and sirup, and granulated sugar*, in bulk, from the facilities of Amster Corporation, Spreckels Sugar Division, located at Los Angeles, Calif., to points in Cochise, Coconino, Graham, Maricopa, Navajo, Pima, Pinal, Yavapai, and Yuma Counties, Ariz., and Clark County, Nev., and (2) *returned shipments* of the commodities in (1) above, from the above named destination points to the facilities of Amstar Corporation, Spreckels Sugar Division, located at Los Angeles, Calif.; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate (1) the addition of Monahans, Wink, Kermit, Seminole, Ropesville, Snyder, and Ozona, Tex., and Maljamar, Jal, and Eunice, N. Mex., as additional service points in applicant's grant of authority; and (2) the addition of Gas Comercial de Cuauhatmoc, S. A., and Servi Gas del Norte, S. A., as additional contracting shippers in applicant's grant of authority.

No. W-1304 (Republication) filed March 26, 1976, published in the FEDERAL REGISTER issue of May 6, 1976, and republished this issue. Applicant: SOUTHERN TERMINAL & TRANSPORT CO., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: W. Guy McKenzie, Jr., (Same address as applicant). An Order of the Commission, Review Board Number 2, dated October 13, 1976, and served November 10, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by water, in the transportation of *petroleum products*, in containers, between Mobile, Ala., and Pensacola, Port St. Joe, and St. Marks, Fla.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the grant of additional service points at Pensacola and Port St. Joe, Fla.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirement of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 730 (Sub-No. 399), filed November 22, 1976. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94604. Applicant's representative: Alfred G. Krebs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of Londontown Corporation, located at or near Eldersburg, Md., as an off-route point in connection with applicant presently authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Baltimore, Md.

No. MC 5470 (Sub-No. 117), filed November 22, 1976. Applicant: TAJON, INC., R.D. 5, P.O. Box 146, Mercer, Pa. 16137. Applicant's representative: Don Cross, 700 World Center Bldg., 918 16th St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furnace lining, scrap or refuse*, from points in Alabama, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, and West Virginia, to the plantsites of North American Refractories Co., at or near Ironton, Ohio; White Cloud, Mich.; Mt. Union, Curwensville, Womelsdorf and Little Gap, Pa.; and Farber, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Cleveland, Ohio.

No. MC 11207 (Sub-No. 382), filed November 26, 1976. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, articles of unusual value, Class A and B explosives, frozen foods and commodities which because of size or weight require the use of special equipment), between Yellow Creek Port Terminal and Industrial areas, located in Tishomingo and Alcorn Counties, Miss., on the one hand, and, on the other, points in Arkansas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn., or Birmingham, Ala.

No. MC 13250 (Sub-No. 135), (Correction), filed October 7, 1976, published in FR issue of November 4, 1976, republished as corrected this issue. Applicant: J. H. ROSE TRUCK LINE, INC., 2800 North Loop West, P.O. Box 16190, Houston, Tex. 77022. Applicant's representative: James M. Doherty, 500 W. 16th St., P.O. Box 1945, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors with or without attachments* (except tractors used for pulling highway trailers), *lift trucks, excavators, motor graders, scrapers, engines, generators, generators and engines combined, road rollers, pipe layers, dump trucks with or without bodies designed for off-highway use;* and (2) *parts, attachments, and accessories*, for the commodities described in (1) above, from the plantsites and facilities of Caterpillar Tractor Co., located in Scott County, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington and Wyoming.

NOTE.—The purpose of this republication is to correct the commodity description in part (2) to read "for the commodities described in (1) above" in lieu of "a above." If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 16903 (Sub-No. 44), (Correction), filed September 13, 1976, published in the FR issue of October 15, 1976, and republished as corrected this issue. Applicant: MOON FREIGHT LINES, INC., 120 West Grimes Lane, Bloomington, Ind. 47401. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granite*, from points in Culpeper County, Va., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia.

NOTE.—The purpose of this republication is to correct applicant's territorial description which was published with errors. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Indianapolis, Ind.

No. MC 19945 (Sub-No. 61), filed November 22, 1976. Applicant: BEHNKEN TRUCK SERVICE, INC., Route No. 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from St. Louis, Mo., to points in Indiana on and south of Indiana Highway 14.

NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo. or Washington, D.C.

No. MC 25798 (Sub-No. 284), filed November 15, 1976. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cranberry juice*, in bulk, in tank vehicles, from Middleborough, Mass., to points in Florida.

NOTE: Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Tampa, Fla., or Boston, Mass.

No. MC 26739 (Sub-No. 89), (CORRECTION), filed November 4, 1976, published in the FR issue of December 2, 1976, and republished this issue. Applicant: CROUCH FREIGHT SYSTEMS, a Corporation, P.O. Box 1059, St. Joseph, Mo. 64502. Applicant's representative: Roland Rice, 1111 E Street, N.W., Suite 618, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Topeka, Kans. and junction U.S. Highway 277 (also U.S. Highway 281) and U.S. Highway 62, for the purpose of joinder only, serving no intermediate points: From Topeka over the Kansas Turnpike to junction Interstate Highway 35, thence over Interstate Highway 35 to junction Oklahoma Highway 7, thence over Oklahoma Highway 7 to junction U.S. Highway 277 (also U.S. Highway 281) and U.S. Highway 62, and return over the same route.

NOTE: The purpose of this republication is to correct applicant's territorial description. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 30837 (Sub-No. 477), filed November 24, 1976. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Kenosha, Wis. 53140. Applicant's representative: Charles M. Pieroni, 4000 West Sample Street, South Bend, Ind. 46619. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New trucks, new truck-tractors, and new chassis*, in initial movements, in driveaway service, from Kansas City, Mo. (except from the plant of Ford Motor Company located at or near Claycomo, Mo.), to points in Oklahoma and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 36255 (Sub-No. 1), filed November 22, 1976. Applicant: K & R DELIVERY, INC., 255 W. Oakton Street, Des Plaines, Ill. 60018. Applicant's representative: Carl L. Steiner, 39 S. La Salle, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Illinois, Wisconsin, Indiana and Michigan within 100 miles of Chicago, Ill., including Chicago.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 42011 (Sub-No. 30), filed November 30, 1976. Applicant: D. Q. WISE

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& CO., INC., P.O. Box 15125, Tulsa, Okla. 74115. Applicant's representative: J. Michael Alexander, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Barrel pumps, pump parts, accessories, equipment, valves, nipples, clamps, and couplings*, and (2) *materials and supplies* used in, or in connection with, the transportation, installation, operation, removal, repair, manufacture, and maintenance of the commodities described in (1) above, between Tulsa, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Tulsa, Okla. or Dallas, Tex.

No. MC 42487 (Sub-No. 857), filed November 22, 1976. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Ill. 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, assembled automobiles and heavy machinery requiring special equipment for handling), Between St. Louis, Mo. and Hannibal, Mo.: From St. Louis over Interstate Highway 70 to junction U.S. Highway 61 at or near Wentzville, Mo., thence over U.S. Highway 61 to Hannibal, Mo., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's present authorized regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 47171 (Sub-No. 91), filed December 1, 1976. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4255, 301 Hammett Street, Greenville, S.C. 29608. Applicant's representative: Harris G. Andrews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chewing gum, candy, and cough drops*, from Port Chester, N.Y. and Havertown, Pa., to Morrow, Ga.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 49368 (Sub-No. 98), filed November 18, 1976. Applicant: COMPLETE AUTO TRANSIT, INC., E. 4111 Andover Road, Bloomfield Hills, Mich. 48013. Applicant's representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, in initial movements, in truckaway service, (1) from the plantsite of General Motors Corporation located at Lordstown, Ohio, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee and Virginia; and (2) from the plantsites of General Motors Corporation located at Atlanta and Doraville, Ga., to points in Michigan, under a continuing contract, or contracts, with General Motors Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 51146 (Sub-No. 479), filed November 15, 1976. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, metal, paper or composite, and container closures, container components and materials and supplies*, used in the manufacture or distribution of containers, from the plant and warehouse sites of Continental Can Company U.S.A., a member of the Continental Group, Inc., located at Alsip, Bridgeview, Chicago, Danville, Itasca, and Peoria Heights, Ill.; Burns Harbor, Chesterton, Elwood, and Portage, Ind.; Kansas City and Lenexa, Kans.; Louisville, Ky.; Shoreham, Mich.; Arden Hills, Mankato, and St. Paul, Minn.; St. Joseph and St. Louis, Mo.; Omaha, Nebr.; Bedford Heights, Cincinnati, Cleveland, Columbus, Sharonville, and Worthington, Ohio; Oil City and West Mifflin, Pa.; La Crosse, Milwaukee, and Racine, Wis.; to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52579 (Sub-No. 157), filed November 22, 1976. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Irving Klein, 371 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers, from Arlington, Tex., to Kansas City, Mo., and points in the Kansas City, Kans. Commercial Zones; St. Joseph, Mo., and Lawrence, Leavenworth, Topeka, and Overland Park, Kans.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 61592 (Sub-No. 395), filed November 19, 1976. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: E. A. DeVine, 101 First Avenue, P.O. Box 737, Moline, Ill. 61265. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hand and power lawn mowers and parts, garden cultivators and parts, black boards, and bulletin boards*, from the plantsites and storage facilities of Great States Corporation, located at or near Shelbyville and Muncie, Ind., and affiliated companies, American Lawn Mower Co., and Richmond School Furniture Co., located at Muncie, Ind., to points in California, Oregon, Washington, Utah, Colorado, New Mexico, Arizona and Nevada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 64100 (Sub-No. 9), filed November 19, 1976. Applicant: GEORGE B. UTTER, R.D. No. 2, Oneonta, N.Y. 13820. Applicant's representative: Neil D. Breslin, 99 Washington Avenue, Suite 1111, Albany, N.Y. 12210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, in bulk, (1) from Oneonta, N.Y., to the plantsite of Agway, located Stamford, N.Y., restricted to the transportation of shipments having a prior movement by rail; and (2) from Unadilla, Otsego County, N.Y., to Franklin, Delaware County, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Albany, N.Y.

No. MC 67646 (Sub-No. 75), filed November 22, 1976. Applicant: HALL'S MOTOR TRANSIT COMPANY, a Corporation, 6060 Carlisle Pike, Mechanicsburg, Pa. 17055. Applicant's representative: John E. Fullerton, 407 N. Front St., Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Erie, Pa., and Pittsburgh, Pa.: From Erie over Interstate Highway 79 to Pittsburgh, and return over the same route, serving the junction of Interstate Highway 79 and Interstate Highway 80 for the purpose of joinder only; and (2) Between Pittsburgh, Pa. and Beckley, W. Va.: From Pittsburgh over Interstate Highway 79 to the junction of Interstate Highway 79 and U.S. Highway 119 at or near Clendenin, W. Va., thence over U.S. Highway 119 to Charleston, W. Va., and thence over Interstate Highway 77 to Beckley, and return over the same route, serving all intermediate points between Charleston and Beckley, W. Va., including Charleston, and serving all points south of U.S. Highway 60 in Boone, Fayette, Kanawha, Raleigh and Logan Counties, W. Va., as off-route points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Charleston, W. Va.

No. MC 85850 (Sub-No. 12), filed November 24, 1976. Applicant: NEYLON FREIGHT LINES, INC., 610 East Emma Avenue, Springdale, Ark. 72764. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor

vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, commodities of unusual value, classes A and B explosives, commodities requiring special equipment and commodities in bulk), between Kansas City, Mo., and Omaha, Nebr., as an alternate route for operating convenience only in connection with carrier's authorized regular-route operations, serving no intermediate points, over Interstate Highway 29, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Kansas City, Mo.

No. MC 95540 (Sub-No. 964), filed November 18, 1976. Applicant: WATKINS MOTOR LINES, INC., 114 West Griffin Road, P.O. Box 1636, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products*, from the plantsite of Charms Company, located at or near Covington, Tenn., to Freehold, N.J.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 99695 (Sub-No. 13), filed November 16, 1976. Applicant: ATLAS TRANSIT, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (1) Between El Dorado, and Fordyce, Ark.: From El Dorado, Ark. over U.S. Highway 167 to Fordyce, Ark., and return over the same route serving all intermediate points, and serving points in that part of Arkansas west of U.S. Highway 167, Fordyce to El Dorado, Ark., on and north of Arkansas Highway 7, El Dorado to Camden, Ark. and east of U.S. Highway 79, Camden to Fordyce, Ark., the point of beginning as off-route points in connection with carrier's regular route operations; Alternate routes: (2) Between Jonesboro, and Hoxie, Ark.: From Jonesboro, Ark. over U.S. Highway 63 to Hoxie, Ark., and return over the same route in connection with carrier's authorized regular route operations, serving no intermediate points, (3) Between Jonesboro, and Waldenburg, Ark.: From Jonesboro, Ark. over Arkansas Highway 39 to Waldenburg, Ark., and return over the same route in connection with carrier's authorized regular route operations, serving no intermediate points, (4) Between Fordyce and Warren, Ark.: From Fordyce, Ark. over Arkansas Highway 8 to Warren, Ark., and return over the same route, in connection with carrier's authorized regular route operations, serving no intermediate points, (5) Between Warren and Monticello, Ark.: From Warren, Ark. over Arkansas Highway 4 to Monticello, Ark., and return over the same route, in connection with carrier's authorized regular route operations, serving no intermediate points, (6) Between Monticello and Tillar, Ark.: From Monticello, Ark. over Arkansas Highway 4 to junction Arkansas Highway 277 and thence over Arkansas Highway 277, to Tillar, Ark., and return over the same routes in connection with carrier's authorized regular route operations, serving no intermediate points, (7) Between El Dorado and Crossett, Ark., and return over the same route in connection with carrier's authorized regular route operations, (8) Between Hamburg and Eudora, Ark.: From Hamburg, Ark. over Arkansas Highway 8 to Eudora, Ark., and return over the same route in connection with carrier's authorized regular route operations, serving no intermediate points; and (9) Between Danville and Russellville, Ark.: From Danville, Ark. over Arkansas Highway 27 to Russellville, Ark., and return over the same route in connection with carrier's authorized regular route operations, serving no intermediate points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 102616 (Sub-No. 926), filed November 22, 1976. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, P.O. Box 5555, Akron, Ohio 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, from Lake County, Ohio to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Pennsylvania, West Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Columbus, Ohio.

No. MC 103051 (Sub-No. 380), filed November 17, 1976. Applicant: FLEET TRANSPORT COMPANY, INC, 934 44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup, liquid sugar and blends of corn syrup and liquid sugar*, from Knoxville, Tenn., to points in Kentucky and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Nashville, Tenn.

No. MC 103993 (Sub-No. 876), filed November 24, 1976. Applicant: MORGAN DRIVE AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except recreational vehicles and travel trailers), in initial movements, from points in Minnesota, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 106398 (Sub-No. 762), filed November 22, 1976. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections mounted on wheeled undercarriages, from points in Boulder County, Colo., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the named origins.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 106398 (Sub-No. 763), filed November 22, 1976. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing, gates, fittings, bars, pipe supplies and accessories* from Robertson Fence Company, located at Mount Sterling, Ohio to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Cincinnati, Ohio.

No. MC 106497 (Sub-No. 135), filed November 12, 1976. Applicant: PARKHILL TRUCK COMPANY, a Corporation, P.O. Box 912, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *buildings*, complete, knocked down, or in sections; (b) *building sections and building panels*; (c) *parts and accessories* used in the installation and completion of the commodities named in (a) and (b) above; and (d) *metal prefabricated structural components and panel and accessories* used in the installation and completion thereof, from points in Barbour County, Ala., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and parts* (except commodities in bulk), used in the manufacture, assemble, and servicing of commodities in (1) (a) through (1) (d) above, from points in the United States (except Alaska and Hawaii), to points in Barbour County, Ala.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala. or Memphis, Tenn.

No. MC 106674 (Sub-No. 220), filed November 24, 1976. Applicant: SCHILLI

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MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sheet metal products and pipe and tubing and equipment, materials and supplies* used in the distribution and installation of sheet metal products, pipe and tubing (except commodities in bulk and those which because of size or weight require the use of special handling equipment), between Lithonia, Ga., on the one hand, and, on the other points in Alabama, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Virginia, and the plantsite of Acme Mfg. Co. located at Grand Prairie, Tex., Peoria, Ill., and Philadelphia, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Indianapolis, Ind.

No. MC 107295 (Sub-No. 840) (Correction), filed October 21, 1976, published in the FEDERAL REGISTER issue of November 24, 1976, republished, as corrected this issue. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from North Tonawanda, N.Y., to points in Connecticut, Delaware, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia.

NOTE.—The purpose of this republication is to indicate applicant's correct docket number as 107295 (Sub-No. 840) in lieu of 107295 (Sub-No. 837) previously published in error. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107452 (Sub-No. 7) (Partial correction), filed October 8, 1976, published in the FEDERAL REGISTER issue of November 4, 1976, republished as corrected this issue. Applicant: R. D. BROWN, doing business as DAN BROWN TRUCKING, Greybull Heights, Greybull, Wyo. 82426. Applicant's representative: James B. Hovland, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite*, (c) from the facilities of American Colloid Company at or near Upton, Wyo. to points in Idaho, Montana and Utah. Note: The purpose of this partial correction is to indicate the destination points in part (c) which were previously omitted.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo. or Billings, Mont. The rest of the publication remains the same.

No. MC 108207 (Sub-No. 448), filed November 24, 1976. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint*, liquid (except in bulk), in vehicles equipped with mechanical refrigeration, from Springfield, Mo., to Tulsa, Okla. and Grand Prairie and Fort Worth, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Springfield, Mo. or Dallas, Tex.

No. MC 110988 (Sub-No. 336), filed November 18, 1976. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, Wis. 54956. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, detergents, emulsions, floor finishes, liquid cleaners, and latex*, in bulk, from Merton, Wis., to points in Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, West Virginia and Wisconsin; and (2) *crude tall oil, fatty acids* and *paper by-products*, in bulk, from the destination points named in (1) above, to Merton, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 111302 (Sub-No. 100), filed November 26, 1976. Applicant HIGHWAY TRANSPORT, INC., 1500 Amherst Road, P.O. Box 10470, Knoxville, Tenn. 37949. Applicant's representative: David A. Petersen (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petroleum asphalt), in bulk, in tank vehicles, from Chattanooga, Tenn., to points in that part of Alabama and Georgia on and north of U.S. Highway 78.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

No. MC 111310 (Sub-No. 21), filed November 24, 1976. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, Wis. 54615. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising equipment, premiums, materials and supplies* when shipped therewith (a) from Belleville, Ill., to points in Minnesota; and (b) from St. Paul, Minn., to Loves Park, Ill.; and (2) *used, empty malt beverages containers and rejected shipments* (a) from points in Minnesota to Belleville, Ill.; and (b) from Loves Park, Ill., to St. Paul, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Black River Falls or Madison, Wis.

No. MC 111611 (Sub-No. 33), filed November 22, 1976. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Avenue, P.O. Box 786, Lewistown, Pa. 17044. Applicant's representative: Phillip Robinson, 1806 Rio Grande, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberous glass reinforced plastic pipe, wet wells, man holes and accessories*, from the plantsite and storage facilities of Owens-Corning Fiberglas located at or near Mt. Union, Pa., and Conroe, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Toledo, Ohio or Pittsburgh, Pa., and/or Washington, D.C.

No. MC 111729 (Sub-No. 686), filed November 8, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medical supplies, medical equipment, and sundries*, from Little Rock, Ark., to Memphis, Tenn., restricted against the transportation of commodities in bulk.

NOTE.—Applicant holds contract carrier authority in MC 112750 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112520 (Sub-No. 324), filed November 12, 1976. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Thomas F. Panebianco (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from the plant site and storage facilities of Degussa, Alabama, Inc., located in Mobile County, Ala., to points in Kentucky, Maryland, North Carolina, South Carolina and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 112520 (Sub-No. 325), filed November 17, 1976. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Thomas F. Panebianco (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid*, dry, in bulk, in tank vehicles, from the plantsite of Monsanto Company, located at or near Gonzales and Pensacola, Fla., to points in Alabama, Connecticut, Illinois, Maryland, Massachusetts, New Jersey, Ohio, Pennsylvania and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 113651 (Sub-No. 203), filed November 17, 1976. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. 47302. Applicant's representative Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except commodities in bulk), from Omaha, Nebr., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 113855 (Sub-No. 364), filed November 18, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, Minn. 55901. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg. Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements, industrial and construction machinery and equipment, tree spades, stump cutters, irrigation equipment, drainage systems, log splitters*, and *log chippers*; (2) *attachments, parts and supplies*, used in operation of the commodities named in (1) above, from Pella, Iowa, to points in the United States, including Alaska, but excluding Hawaii; and (3) *materials, equipment and supplies*, used in the manufacture or distribution of the commodities named in (1) and (2) above (except commodities in bulk), from points in the United States, including Alaska but excluding Hawaii, to Pella, Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 113908 (Sub-No. 388), filed November 15, 1976. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grape juice*, fresh, pasteurized, in bulk, from Madera, Calif., and the Commercial Zone thereof, to ports or entry on the International Boundary line between the United States and Canada located in Michigan and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., Chicago, Ill., or Washington, D.C.

No. MC 113908 (Sub-No. 390), filed November 18, 1976. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible animal fats and grease*, in bulk, from points in Arkansas to points in Indiana.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., or Chicago, Ill., or Washington, D.C.

NO. MC 113908 (Sub-No. 391), filed November 29, 1976. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid concrete admixtures*, in bulk, from points in Tarrant County, Tex., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, Wisconsin and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo. or Chicago, Ill.

No. MC 114227 (Sub-No. 11) filed November 15, 1976. Applicant: A & C CARRIERS, INC., 2909 East Laketon Avenue, Muskegon, Mich. 49442. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral seal oil*, in bulk, in tank vehicles, from West Branch, Mich., to points in Illinois and Indiana.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lansing or Detroit, Mich. or Chicago, Ill.

No. MC 114273 (Sub-No. 272), filed November 18, 1976. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicants' representative: Robert E. Konchar, Suite 315 Commerce Exchange Bldg., 2720 First Avenue N.E., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Casting, pipe, couplings, fittings, valves, and materials and supplies*, used in the installation thereof, from Coshocton, Ohio, to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114569 (Sub-No. 154), filed November 11, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, candy, chocolate coatings, edible chocolate compounds, and related chocolate products*, from West Reading, Wyomissing and Bethlehem, Pa., to points in California.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

No. MC 114569 (Sub-No. 157), filed November 18, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, shortening, and salad dressings*, from the plant site and storage facilities of Miami Margarine Company, located at or near Cincinnati, Ohio, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cincinnati, Ohio or Washington, D.C.

No. MC 114897 (Sub-No. 123), filed November 18, 1976. Applicant: WHITFIELD TANK LINES, INC., 821 East Pasadena, P.O. Box 7676, Phoenix, Ariz. 85011. Applicant's representative: J. P. Rose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the facilities of Farmland Industries, Inc., located at or near Farnsworth, Tex., to points in Colorado, Kansas, New Mexico, and Oklahoma.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at El Paso, Tex.

No. MC 115092 (Sub-No. 50), filed November 15, 1976. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: E. L. Kier (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic foam articles* (except in bulk), from Salt Lake City, Utah, to points in the United States in and west of Arkansas, Illinois, Louisiana, Minnesota, Missouri and Wisconsin, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or San Francisco, Calif.

No. MC 115092 (Sub-No. 51), filed November 24, 1976. Applicant: TOMAHAWK TRUCKING INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: E. L. Kier (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *In-*

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sulating material, from Fruita, Colo., to points in the United States in and west of Arkansas, Illinois, Indiana, Louisiana, Michigan, Missouri and Ohio, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 115322 (Sub-No. 124), filed November 22, 1976. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Highway 527, Taft, Fla. 32809. Applicant's representative: J. V. McCoy, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from points in Lancaster County, Pa., to points in Florida and North Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 115557 (Sub-No. 13), filed November 30, 1976. Applicant: CHARLES A. McCAULEY, 308 Leisure Way, New Bethlehem, Pa. 16242. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Max Distribution, Inc. located in Hawthorne, Clarion County, Pa., on the one hand, and, on the other, points in Davis, Morgan, Salt Lake City, Summit, Wasatch, Weber and Utah Counties, Utah, and points in Arizona, California, and Nevada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 115730 (Sub-No. 22), filed November 19, 1976. Applicant: THE MICKOW CORP., 531 S.W. 6th, Des Moines, Iowa 50309. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, fittings, valves, hydrants, and castings*, and *materials*, used in the installation thereof (except Oil Field commodities, as defined in *Mercer Extension Oil Field Commodities*, 74 M.C.C. 459), (1) from the plantsite, warehousing and shipping facilities of the Clow Corporation, at Coshocton, Ohio, to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming; and (2) *refused, rejected or returned shipments*, from the destination points in (1) above, to Coshocton, Ohio, restricted against the transportation of commodities in bulk.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 115730 (Sub-No. 23), filed November 22, 1976. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, Iowa 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies* used in the manufacturing of sprinkling and irrigation systems, and *related equipment and supplies*, from points in the United States, (except Alaska and Hawaii) to the plantsite and facilities of Lockwood Corporation located at or near Wichita Falls, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr., or Washington, D.C.

No. MC 115793 (Sub-No. 22), filed November 19, 1976. Applicant: CALDWELL FREIGHT LINES, INC., U.S. Highway 321 South, P.O. Box 620, Lenoir, N.C. 28645. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave., N.W., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed supplements and feed preparations; food and food seasoning compounds; drugs, chemicals, and advertising and display equipment, materials and supplies* (except in bulk), from Lee's Summit, Mo., to points in Georgia, Kentucky, North Carolina, South Carolina and Tennessee, restricted to traffic originating at the plantsite of Pfizer, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 115904 (Sub-No. 66), filed November 24, 1976. Applicant: GROVER TRUCKING CO., a Corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt, salt products, materials and supplies* used in agriculture, water treatment, food processing, wholesale grocery, and institutional supply industries, in mixed loads with salt and salt products, from points in Utah, to points in Arizona, New Mexico and Clark County, Nev.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Salt Lake City, Utah.

No. MC 116254 (Sub-No. 170), filed November 29, 1976. Applicant: CHEMHAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon scrap*, in bulk, in dump trucks, from Pascagoula, Miss., to points in Lowndes County, Ala., and Birmingham, Ala., Granite City, Ill., Albion, Mich., Columbus, Ohio and Greenup, Ky.; and (2) *carbon scrap, calcined petroleum coke, coke breeze, graphite ore, and artificial graphite*, from Greenup, Ky., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala. or Washington, D.C.

No. MC 117119 (Sub-No. 606), filed November 22, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from the facilities of The Pillsbury Company, at or near Seelyville, Ind., to points in Kansas and Missouri; and (2) *materials and supplies*, used in the manufacture, distribution and sale of the commodities named in (1) above (except commodities in bulk), from the destination territories as named in (1) above, to the plantsite of The Pillsbury Company, at or near Seelyville, Ind.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 117416 (Sub-No. 53), filed November 18, 1976. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue, N.W., Knoxville, Tenn. 37921. Applicant's representative: William J. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, from Columbus, Ohio, to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Columbus, Ohio.

No. MC 117574 (Sub-No. 281), filed November 15, 1976. Applicant: DAILY EXPRESS, INC., 1076 Harrisburg Pike, P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, agricultural equipment, industrial equipment, and lawn and leisure products dealers (except commodities in bulk), between the facilities of Deere & Company, located at or near Baltimore (Timonium), Md., and Syracuse, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia, restricted to the transportation of traffic originating at or destined to the named facilities of Deere & Company located at Baltimore, (Timonium) Md. or Syracuse, N.Y.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 117940 (Sub-No. 200), filed November 24, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by or used in the operation of retail department stores (except foodstuffs, commodities in bulk, and household goods as defined by the Commission), between points in the New York, N.Y. Commercial Zone, on the one hand, and, on the other, points in Indiana, Minnesota, Ohio, Oregon, Texas and Washington.

NOTE.—Applicant holds contract carrier authority in No. MC 114789 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 118831 (Sub-No. 146), filed November 18, 1976. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, N.C. 27264. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid, dry*, in bulk, in tank vehicles, from the plant site of Monsanto Company, located at or near Gonzales and Pensacola, Fla., to points in Alabama, Connecticut, Illinois, Maryland, Massachusetts, New Jersey, Ohio, Pennsylvania and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Atlanta, Ga.

No. MC 119226 (Sub-No. 95), filed November 24, 1976. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, Ind. 46227. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corn syrup and blends* in bulk, in tank vehicles, from Indianapolis, Ind., to points in Illinois, Kentucky, Michigan and Ohio; (2) *crude corn oil*, in bulk, in tank vehicles, from Indianapolis, Ind., to Boston, Mass.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind., or Chicago, Ill., or Washington, D.C.

No. MC 119634 (Sub-No. 22), filed November 19, 1976. Applicant: DICK IRVIN, INC., 218—12th Avenue North, P.O. Box F, Shelby, Mont. 59474. Applicant's representative: Joe Gerbase, 100 Transwestern Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barium Carbonate*, in bags, from Salt Lake City, Utah and Johnstown, Colo., to ports of entry on the International Boundary line between the United States and Canada located in Montana, restricted to traffic destined to points in Alberta, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Billings or Great Falls, Mont.

No. MC 119765 (Sub-No. 38), filed November 15, 1976. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, P.O. Box 7356 So. Omaha Station, Omaha, Nebr. 68107. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Royal Packing Co., located at or near National City, Ill., to points in Connecticut, Maryland, Massachusetts, New York, New Jersey, Pennsylvania and the District of Columbia restricted to traffic originating at the named origins and destined to the named states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or St. Louis, Mo.

No. MC 119789 (Sub-No. 317), filed November 22, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related advertising materials*, from San Antonio, Tex., to points in the United States (except Alaska, Hawaii and California).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Antonio or Dallas, Tex.

No. MC 121066 (Sub-No. 4), filed November 19, 1976. Applicant: NEBRASKA TRANSPORT CO., INC., P.O. Box 621, Scottsbluff, Nebr. 69361. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Lincoln, Nebr. 68506. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Apendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), between points in Scotts Bluff County, Nebr., on the one hand, and, on the other, points in Wyoming; and (2) *general commodities* (except those requiring special equipment), between points in Box Butte, Morrill, Scots Bluff, Dawes, Sioux and Sheridan Counties, Nebr., on the one hand, and, on the other, points in Nebraska.

NOTE.—The purpose of part (2) of the application is to convert applicant's present certificate of registration in MC 121066, to a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Omaha, Nebr.

No. MC 123255 (Sub-No. 94), filed November 19, 1976. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Ave., Newark, Ohio 43055. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives* in mixed shipments with paper and paper products, from Chillicothe, Ohio, to points in Illinois, Indiana, the Lower Peninsula of Michigan, St. Louis, Mo., and Louisville, Ky.

NOTE.—Applicant presently has authority to transport paper and paper products from the above described origin to the requested destination territory. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 123255 (Sub-No. 95), filed November 24, 1976. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Ave., Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber compound, moulded rubber products, and carpet cushion*, from the plantsite and storage facilities of Colonial Rubber Works, Inc., Div. of Dayco Corporation located at or near Dyersburg, Tenn., to points in Connecticut, Illinois, Indiana, Delaware, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at the plantsite and storage facilities of Colonial Rubber Works, Inc., Div. of Dayco Corporation located at or near Dyersburg, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 123361 (Sub-No. 4), filed November 19, 1976. Applicant: CANTWELL MOTOR SERVICE, INC., 1718 Pontiac Road, East St. Louis, Ill. 62203. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products and commodities used by packinghouses*, as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides), between Bloomington, Ill., on the

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one hand, and, on the other, points in Vigo County, Ind., and points in Illinois on and south of U.S. Highway 30, and on and north of Interstate Highway 70.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Washington, D.C.

No. MC 124078 (Sub-No. 707), filed November 15, 1976. Applicant: SCHWERMAN TRUCKING CO., a Corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magnetite*, in bulk, in tank vehicles, from Bristol, Tenn., to points in Alabama, Ohio, Pennsylvania and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis. or Chicago, Ill.

No. MC 124078 (Sub-No. 708), filed November 22, 1976. Applicant: SCHWERMAN TRUCKING CO., a Corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay and clay slurry*, in bulk, in tank vehicles, (a) from points in Wilkinson County, Ga., to Versailles, Conn., and points in Louisiana, Michigan, Mississippi, New York, Ohio, Pennsylvania, Texas, Vermont, Virginia, West Virginia and Wisconsin; (b) from points in Washington County, Ga., to points in Louisiana, Michigan, Mississippi, New York, Ohio, Pennsylvania, Texas, Vermont, Virginia and Wisconsin; and (2) *clay*, in bulk, in tank vehicles, from Bath, S.C., to Waterville, Ohio.

NOTE.—Applicant holds contract carrier authority in MC 113832 Sub 68, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 124211 (Sub-No. 280), filed November 22, 1976. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and food ingredients, including vitamin supplements*, (1) between points in California, Oregon, and Washington; and (2) from points in California, Idaho, Oregon, Utah, and Washington, to points in the United States in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 124813 (Sub-No. 162), filed November 22, 1976. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, feed supplements, trace minerals, animal and poultry health aid products, lime and limestone products* (except salt and liquids in bulk), between points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 113832 Sub 68, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Des Moines, Iowa or St. Paul, Minn., or Omaha, Nebr.

No. MC 124896 (Sub-No. 17), filed November 24, 1976. Applicant: WILLIAMSON TRUCK LINES, INC., Thorne & Ralson Streets, P.O. Box 3485, Wilson, N.C. 27893. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites and warehouse facilities of Wilson Foods Corporation located at or near Albert Lea, Minn., and Cedar Rapids, Iowa, to points in North Carolina, South Carolina and Virginia, restricted to the transportation of traffic originating at the above named origins and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Kansas City, Mo.

No. MC 124947 (Sub-No. 49), filed November 24, 1976. Applicant: MACHINERY TRANSPORTS, INC., P.O. Box 2338, East Peoria, Ill. 61611. Applicant's representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, forest products and wood products*, from points in California, Idaho, Montana, Oregon and Washington, to points in the United States (except Alaska and Hawaii).

NOTE.— Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Portland, Oreg. or Salt Lake City, Utah.

No. MC 126243 (Sub-No. 18), filed November 19, 1976. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, Poteau, Okla. 74953. Applicant's representative: Prentiss Shelley, P.O. Drawer G, Poteau, Okla. 74953. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers*, from the plantsite and storage facilities of Midland Glass Co., located at or near Henryetta, Okla., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment and supplies* used in the manufacture of glass containers (except commodities in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii), to the plantsite and storage facilities of Midland Glass Co., located at or near Henryetta, Okla.

NOTE.— Applicant holds contract carrier authority in MC 140849 Sub-No. 2, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City, Okla, or Little Rock, Ark.

No. MC 126375 (Sub-No. 15), filed November 18, 1976. Applicant: CEL TRANSPORTATION COMPANY, a Corporation, P.O. Box 308, Ligonier, Pa. 15658. Applicant's representative: William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Inedible animal fats, tallow and grease*, in bulk, in tank vehicles, from points in Ohio, Pennsylvania and West Virginia, to Portsmouth, Va., under a continuing contract or contracts with Jacob Stern & Sons, Inc., at Philadelphia, Pa.

NOTE.—Applicant holds common carrier authority in MC 65134, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 126539 (Sub-No. 26), filed November 19, 1976. Applicant: KATUIN BROS. INC., 102 Terminal Street, Dubuque, Iowa 52001. Applicant's represenative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, from Fulton, Ill., to points in Illinois, Iowa, Missouri, Minnesota and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 129135 Sub-No. 2, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Kansas City, Mo.

No. MC 126612 (Sub-No. 7), filed November 23, 1976. Applicant: SALVATORE GIARRAPUTO, doing business as SEMOLINA HAULAGE COMPANY, 86 Kent Avenue, Brooklyn, N.Y. 11211. Applicant's representative: Murray S. Bornstein, 253 Broadway, New York, N.Y. 10007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in specially-equipped tank vehicles, between Brooklyn, N.Y., on the one hand, and, on the other West Haven, Conn., restricted to the transportation of traffic having a prior movement by rail, and under a continuing contract, or contracts, with Lender's Bagel Bakery, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 126899 (Sub-No. 110) (Correction), filed October 17, 1976, published in the FEDERAL REGISTER issue of November 24, 1976, and republished as corrected this issue. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, P.O. Box 3156, Paducah, Ky. 42001. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers, from Milwaukee, Wis., to Cleveland, Ohio; and (2) *empty malt beverage containers* on return, from Cleveland, Ohio to Milwaukee, Wis.

NOTE.—The purpose of this republication is to correct the commodity and territorial description, which was previously published in error. If a hearing is deemed necessary, the applicant requests it be held at Cleveland, Ohio.

No. MC 127115 (Sub-No. 13) (Correction), filed October 18, 1976, published in the Federal Register issue of November 24, 1976, and republished as corrected this issue. Applicant: MILLER'S TRANSPORT, INC., 510 West 4th North, Hyrum, Utah 14319. Applicant's representative: Harry D. Pugsley, Suite 400, 315 East 2nd South, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry cellular expanded plastic foam and rubber in cubes and padding*, from Orange, Calif. to Billings, Bozeman, Butte, Great Falls, Helena and Missoula, Mont.; points in Idaho south of the southern boundary of Idaho County, Idaho; and points in Utah, under a continuing contract, or contracts, with The General Tire Company.

NOTE.—The purpose of this republication is to indicate the correct name of applicant, which was previously published in error. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Los Angeles, Calif.

No. MC 128273 (Sub-No. 241), filed November 26, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., 121 Humboldt St., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Ripon and Anderson, Calif., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif. or Sacramento, Calif.

No. MC 128486 (Sub-No. 6), filed November 18, 1976. Applicant: LILY TRANSPORT LINES, INC., 25 Denby Road, Boston (Allston), Mass. 02134. Applicants representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass bottles*, from Carteret, N.J., to Lawrence, Mass., (2) *cans and lids*, from North Bergen, N.J. and Marion, N.Y., to Lawrence, Mass.; and (3) *fruit juices, fruit drinks and flavoring syrups* (except in bulk), from Dundee, N.Y., to Lawrence, Mass., restricted in (1), (2), and (3) above to a transportation service to be performed under a continuing contract or contracts with Seneca Foods Corporation, of Dundee, N.Y., and S. S. Pierce Company, of Boston, Mass.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 128988 (Sub-No. 91), filed November 22, 1976. Applicant: JO/KEL, INC., 159 South Seventh Avenue, Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pumps and pump motors* for nuclear reactors, and *materials* used in the production of nuclear energy (except commodities which by reason of size or weight require the use of special equipment, and commodities in bulk), from Huntington Park, Orange and El Cajon, Calif., to points in the United States on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada, under a continuing contract, or contracts, with Westinghouse Electric Corporation, located at Pittsburgh, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles, Calif. or Pittsburgh, Pa.

No. MC 129387 (Sub-No. 28), filed November 26, 1976. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, P.O. Box 1271, Hgwy 14E, Huron, S. Dak. 57350. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Huron, S. Dak., to points in Idaho, Montana, Oregon and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 129394 (Sub-No. 4) (Correction), filed November 1, 1976, published in the FEDERAL REGISTER issue of December 2, 1976, republished as corrected this issue. Applicant: RONALD HACKENBERGER, doing business as RON'S TRUCKING SERVICE, Route 250, North, RFD No. 3, Norwalk, Ohio 44857. Applicant's representative: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, Ohio 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from points in Kentucky, West Virginia and that part of Pennsylvania on and west of U.S. Highway 119 and on and south of Interstate highway 80, to that part of Ohio on and north of U.S. Highway 30, under a continuing contract with Chem-Col, Inc.

NOTE.—The purpose of this republication is to indicate applicant correct contracting shipper as Chem-Col, Inc., in lieu of Federal Lime and Stone Company, previously published in error. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 129660 (Sub-No. 6), filed November 24, 1976. Applicant: MALLETTE BROTHERS TRUCK LINE, INC., 3708 Highway 90, Gautier, Miss. 39553. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, in dump vehicles, or in containers, from the facilities of Mississippi Chemical Corporation located at or near Pascagoula, Miss., to points in Alabama, Florida, Georgia and Louisiana.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jackson, Miss., or Washington, D.C.

No. MC 133095 (Sub-No. 120), filed November 19, 1976. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corporation, located at Cedar Rapids, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia, restricted to the transportation of traffic originating at the above-named origin and destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 136032 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Kansas City, Mo.

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No. MC 133097 (Sub-No. 16), filed November 24, 1976. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Avenue, Cypress, Calif. 90630. Applicant's representative: Charles E. Creager, P.O. Box 1417, 1329 Pennsylvania Ave., Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Engines, transmissions, axles, automotive parts, carriers, pallets and skids*, between Hagerstown, Md., and Bridgewater, N.J., on the one hand, and, on the other, Hayward, Calif., under a continuing contract or contracts with Mack Trucks, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 133221 (Sub-No. 25), filed November 19, 1976. Applicant: OVERLAND CO., INC., 1991 Buford Hwy., Lawrenceville, Ga. 30245. Applicant's representative: Alvin Button, 2477 N. Decatur Rd., Decatur, Ga. 30033. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials*, from the plant site of Fibreboard Corporation located at Fruita, Colo., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga., or Washington, or San Francisco, Calif.

No. MC 134142 (Sub-No. 12), filed November 18, 1976. Applicant: BROWN REFRIGERATED EXPRESS, INC., 21st and Sidney, P.O. Box 603, Fort Scott, Kans. 66701. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products, and commodities used by packinghouses* (except hides and commodities in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii), to Lee's Summit, Mo., under a continuing contract or contracts with R. B. Rice Company, Inc., at Lee's Summit, Mo.

NOTE.—Applicant holds common carrier authority in MC 139587 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 134755 (Sub-No. 85), filed November 22, 1976. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner Street, P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Farmland Foods, Inc., located at or near Crete, Nebr., and Denison, Carroll and Iowa Falls, Iowa, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 138398 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Kansas City, Mo.

No. MC 134755 (Sub-No. 86), filed November 23, 1976. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Farmland Foods, Inc., at or near Crete, Nebr., and Denison, Carroll, and Iowa Falls, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 138398 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Kansas City, Mo.

No. MC 134922 (Sub-No. 203), filed October 26, 1976. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk) having a prior or subsequent movement by rail, between Searcy, La., on the one hand, and, on the other, points in the United States in and west of Arkansas, Iowa, Louisiana, Minnesota and Missouri (including Alaska, but excluding Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Little Rock, Ark.

No. MC 135741 (Sub-No. 5), filed November 26, 1976. Applicant: EARL R. MARTIN, P.O. Box 3, East Earl, Pa. 17519. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer ingredients*, in bulk, from points in Prince George County, Va., to points in Delaware, Maryland, New Jersey, Pennsylvania (except Chester and Lancaster Counties, Pa.), and points in Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 136275 (Sub-No. 21), filed November 22, 1976. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 28 San Marcos Drive, El Paso, Tex. 79922. Applicant's representative: H. B. Dudley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size and weight require the use of special equipment and of related machinery parts; and (2) *related contractors materials and supplies* when their transportation is incidental to the transportation of commodities which by reason of size or weight require special equipment, between points in El Paso County, Tex., on the one hand, and, on the other points in New Mexico.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at El Paso, Tex.

No. MC 138018 (Sub-No. 31), filed November 10, 1976. Applicant: REFRIGERATED FOODS, INC., 1420 33rd Street, P.O. Box 1018, Denver, Colo. 80201. Applicant's representative: Joseph W. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), (1) from points in Colorado, to points in Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; (2) from points in Colorado, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia; and (3) from points in Colorado, to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 138126 (Sub-No. 7), filed November 19, 1976. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Old Denton Road, Federalsburg, Md. 21632. Applicant's representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, (a) from the plantsite and storage facilities of the Campbell Soup Company, at or near Salisbury, Md., to points in Michigan; and (b) from the plantsite and storage facilities of Peppridge Farm, Inc., at or near Downington, Pa., to points in Michigan, restricted to traffic originating at and destined to the points named.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138313 (Sub-No. 21), filed November 22, 1976. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street S.W., Great Falls, Mont. 59404. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, millwork and wood products*, from points in Oregon, Washington, and those in Ada, Adams, Benewah, Boise, Bonner, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Nex Perce and Washington Counties, Idaho, to the port of entry on the International Boundary Line between the United States and Canada located at Eastport, Idaho, restricted to commodities destined to points in the Provinces of Alberta and Saskatchewan.

NOTE.—Applicant states that it presently provides the same service in MC 138313 (Sub-No. 5) through ports of entry located in Montana; the purpose of this application is to use the port of entry located at Eastport, Idaho. If a hearing is deemed necessary, the applicant requests it be held at either Billings, Mont. or Portland, Oreg.

No. MC 138858 (Sub-No. 5), filed November 22, 1976. Applicant: CHARLES M. SHIRK, 424 Linden Street, Terre Hill, Pa. 17581. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building brick and concrete block*, from the facilities of Alwine Brick Company, at or near New Oxford, Pa., to points in Maryland, Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 138941 (Sub-No. 19), filed November 24, 1976. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir Street, Pomona, Calif. 91766. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk), from Temple, Tex., to points in Illinois, under a continuing contract or contracts with Mobil Chemical Company, Plastics Division.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 139381 (Sub-No. 5), filed November 24, 1976. Applicant: SPIRIT OF '76 OVERLAND EXPRESS, INC., 5320 Industrial Road, Fort Wayne, Ind. 46825. Applicant's representative: Anthony E. Young, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Oakland, East Modesto, Stockton, Riverbank, Lodi, Treasure Island, San Deigo and Antioch, Calif., to points in Illinois, Indiana, Michigan, Ohio and Wisconsin, under a continuing contract, or contracts, with Shurfine-Central Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 139495 (Sub-No. 180), filed November 11, 1976. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street, N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motors, generators, and controllers* (except those motors, generators, or controllers that because of their size or weight require the use of special equipment), from the facilities of Reliance Electric Company located at or near Cleveland, Ohio to points in California, Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, and Washington.

NOTE.—Applicant holds contract -carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 181), filed November 22, 1976. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning products, drugs, medicines*, and *toilet preparations*, from the facilities of Lehn & Fink Products located at or near Lincoln, Ill., and Toledo, Ohio to points in Arizona, California, Colorado, Idaho, Kansas, Missouri, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139999 (Sub-No. 17), filed November 18, 1976. Applicant: REDFEATHER FAST FREIGHT, INC., 2606 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the facilities of Union Packing Co., Inc., located at Omaha, Nebr., to points in Connecticut, Florida, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 140033 (Sub-No. 19) (correction), filed October 26, 1976, published in the FR issue of November 24, 1976, and republished this issue. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. Applicant's representative: Lawrence A. Winkle, 4645 N. Central Expressway, Dallas, Tex. 75205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionary items, advertising material, display materials and dessert preparations*, from the plantsite and warehouse facilities of Queen Anne Candy Company located at or near Hammond, Ind., to points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington and Wyoming.

NOTE.—The purpose of this republication is to indicate applicant's docket number which was omitted in the previous publication. Applicant holds contract carrier authority in No. MC 142296, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., Chicago, Ill., or Washington, D.C.

No. MC 140829 (Sub-No. 30), filed November 19, 1976. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Milorganite*, from Milwaukee, Wis., to points in Iowa, Nebraska, and points in Adams, Hancock, Henderson, Pike, Brown, Mercer, Rock Island, Warren, Schuyler and McDonough Counties, Ill., restricted to the transportation of traffic originating at the named origin and destined to the named destination points.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140829 (Sub-No. 31), filed November 19, 1976. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Section A

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of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and storage facilities utilized by Whitehall Packing Co., located at Whitehall and Eau Claire, Wis., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia, restricted to the transportation of traffic originating at the named origins and destined to the named destination points.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140842 (Sub-No. 3), filed November 19, 1976. Applicant: B AND P MOTOR LINES, INC., 710 Oakland Road, P.O. Box 741, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville St., P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Amarillo, Tex., Dakota City, Nebr. and Emporia, Kans., to Hickory, N.C., under a continuing contract, or contracts, with Merchants Distributors, Inc.

NOTE.—Applicant holds common carrier authority in MC 106074 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Charlotte or Asheville, N.C.

No. MC 141084 (Sub-No. 5), filed November 24, 1976. Applicant: NATIONAL FREIGHT LINES, INC., 6069 Maywood Avenue, Huntington Park, Calif. 90058. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used by, dealt in, or distributed by wholesale or retail grocery houses (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin, under a continuing contract, or contracts, with Shurfine-Central Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Los Angeles, Calif.

No. MC 141124 (Sub-No. 2), filed November 19, 1976. Applicant: EVANGELIST COMMERCIAL CORPORATION, 229 South State Street, Dover, Del. 19901. Applicant's representative: James W. Muldoon, Suite 1815, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, in mixed shipments with paper and paper products*, from the plantsites and facilities of The Mead Corporation, located at Chillicothe, Ohio, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 141156 (Sub-No. 3), filed November 26, 1976. Applicant: SWIFT-O CARRIER, INC., 2053 St. Devile, N.E., Atlanta, Ga. 33045. Applicant's representative: Kim G. Meyer, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors, for the account of Amway Corporation, from the plantsite and storage facilities of Amway Corporation, in Fulton County, Ga., to points in Louisiana and Arkansas, under contract with Amway Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 141195 (Sub-No. 2), filed November 16, 1976. Applicant: CAL-ARK, INC., Rural Route 2, Prairie Grove, Ark. 72753. Applicant's representative: Don Garrison, 204 Highway 71 North—Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene disposable meat trays*, from Malvern, Ark., to points in Alabama, Colorado, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, Tennessee, Texas and Virginia, under a continuing contract or contracts with Western Foam Pak, Inc., located at or near Malvern, Ark.

NOTE.—If a hearing is necessary, the applicant requests it be held at Little Rock, Ark.

No. MC 141387 (Sub-No. 1), filed November 12, 1976. Applicant: ANDREWS & SONS TRUCKING, INC., 2816 North Galena Street, Simi Valley, Calif. 93065. Applicant's representative: Teaque W. Andrews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquor*, between points in California, on the one hand, and, on the other, Detroit, Mich., Lawrenceburg, Ind., Philadelphia, and Pittsburgh, Pa., Frankfort, Louisville, and Owensboro, Ky., Lynchburg, and Tullahoma, Tenn., and Cincinnati, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 141641 (Sub-No. 5), filed November 19, 1976. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 717, Marshall, Mo. 65340. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, from points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina, to points in Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Ohio and Wisconsin.

NOTE.— Applicant holds contract carrier authority in MC 136168 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 141804 (Sub-No. 34), filed November 24, 1976. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Stanley R. Gustafson, 909 World Trade Center, 333 S. Flower Street, Los Angeles, Calif. 90071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, commodities in bulk, those commodities which, because of size and weight, require specialized equipment for their loading, unloading, or transportation, motor vehicles, and unaccompanied baggage and household goods as defined by the Commission) which are at the time moving under the provisions of bills of lading issued by freight forwarders under Part IV of the Interstate Commerce Act, from the facilities of Coast Carloading Company and Springmeier Shipping Company, Inc. located at Los Angeles, San Diego, San Francisco, Oakland and San Jose, Calif. and points within their respective Commercial Zones, to points in the United States on and east of U.S. Highway 61, restricted to traffic destined to the facilities of Coast Carloading Company or Springmeier Shipping Company, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles or San Francisco, Calif.

No. MC 141804 (Sub-No. 35), filed November 24, 1976. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Stanley R. Gustafson, 909 World Trade Center, 333 S. Flower St., Los Angeles, Calif. 90071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and those requiring specialized equipment for their loading, unloading, or transportation), restricted to those commodities which are at the time moving under the provisions of bills of lading of freight forwarders under Part IV of the Interstate Commerce Act; (1)

from the facilities of Westransco Freight Company located at Newark, N.J.; New York, N.Y.; Philadelphia, Pa.; Boston, Mass.; St. Louis, Mo.; Chicago, Ill.; Charlotte and Greensboro, N.C.; and points located within their respective Commercial Zones, to the facilities of Westransco Freight Company located in Salt Lake City, Utah; Los Angeles, San Diego, San Jose, Oakland, and San Francisco, Calif.; Phoenix, Ariz.; Portland, Oreg.; and Seattle, Wash., and points within their respective Commercial Zones; and (2) from the facilities of Westransco Freight Company located at Newark, N.J.; New York, N.Y.; Philadelphia, Pa.; Charlotte and Greensboro, N.C.; and Boston, Mass.; and points within their respective Commercial Zones, to the facilities of Westransco Freight Company located at Chicago, Ill.; and St. Louis, Mo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 142045 (Sub-No. 1) (amendment), filed October 18, 1976, published in the FEDERAL REGISTER issues of November 18, 1976 and December 9, 1976, and republished as amended this issue. Applicant: McNEIL TRANSPORT LIMITED, 147 North Augusta Road, Brockville, Ontario, Canada K6V 2Y1. Applicant's representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Ogdensburg, N.Y., on the one hand, and, on the other, the port of entry on the International Boundary line between the United States and Canada, located at or near Ogdensburg, N.Y., restricted to the transportation of traffic moving to or from points in the Province of Ontario, Canada, or Montreal, Canada.

NOTE.—The purpose of this republication is to clarify applicant's restriction. If a hearing is deemed necessary, the applicant requests it be held at either Syracuse or Buffalo, N.Y.

No. MC 142282 (Sub-No. 1), filed November 24, 1976. Applicant: FLEET SERVICES CORP., P.O. Box 4112, Whittier, Calif. 90607. Applicant's representative: William J. Lippman, 1819 H Street, NW. No. 550, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber* for use in the manufacture of furniture, from points in Washington and Umatilla County, Oregon, to points in California, under a continuing contract or contracts with Maher Forest Products, Ltd.; and (2) *metal folding mechanisms* for furniture and bedding, bed frames and bed rails, from Whittier, Calif., to points in Arizona, Idaho, Montana, Nevada, Oregon, Utah and Washington, under a continuing contract or contracts with Bedline Mfg. Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 142431 (Sub-No. 2), filed November 18, 1976. Applicant: WAYMAR TRANSPORT CORP., 3200 Scott Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities utilized by Spencer Foods, Inc., at Fremont and Schuyler, Nebr., and Fort Dodge, Hartley, and Spencer, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Omaha, Nebr.

No. MC 142534 (Correction), filed October 12, 1976, published in the FEDERAL REGISTER issue of November 11, 1976, republished as corrected this issue. Applicant: J.C.M. TRUCKING COMPANY, INC., Custer, Ky. 40115. Applicant's representative. Herbert D. Liebman, 403 West Main Street, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid nitrogen fertilizer*, from the plantsite of C. F. Industries, Inc., located at Tyner, Tenn., to Hardinsburg and Irvington (Breckinridge County), Ky., under a continuing contract or contracts with Southern States Breck Coop., Inc.

NOTE.—The purpose of this republication is to correct the requested authority in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at Louisville or Frankfort, Ky.

N. MC 142602 (Sub-No. 1), filed November 19, 1976. Applicant: CONTAINERIZED MOVING SERVICE, INC., 1327 Wilkes Street, Alexandria, Va. 22304. Applicant's representative: Martin R. Martino, 475 L'Enfant Plaza, S.W., Suite 4400, Washington, D.C. 20024. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, in containers, and *empty containers* used in the transportation of household goods, between points in the United States (except Alaska, Hawaii, Idaho, Montana, Wyoming, North Dakota, South Dakota and Minnesota).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C.

No. MC 142649, filed November 15, 1976. Applicant: H. O. SMESTAD CO., a Corporation, P.O. Box 2904, Great Falls, Mont. 59403. Applicant's representative: G. Robert Crotty, Jr., 400 First National Bank Building, Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt and carbonated beverages and related advertising materials, equipment and supplies*, from Jefferson County, Colo., to points in Montana; and (2) *empty containers*, from points in Montana to Jefferson County, Colo.

NOTE.—Applicant holds contract carrier authority in MC 139402, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Great Falls, Billings, or Helena, Mont.

No. MC 142651, filed November 10, 1976. Applicant: MW WAREHOUSE CORP., 56 Enterprise Avenue, Secaucus, N.J. 07094. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wearing apparel*, on hangers, and in cartons, and *accessories*, from the facilities of MW Warehouse Corp., at Secaucus, N.J., to points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y.; Philadelphia, Pa.; and Washington, D.C.; and (2) *returned shipments*, from the destination points named in (1) above, to the facilities of MW Warehouse Corp., at Secaucus, N.J., under contract with Yves Saint Laurent Mens Clothing, Inc.; Yves Saint Laurent Mens Shirts, Inc.; and Don Robbie, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 142664 (Sub-No. 1), filed November 18, 1976. Applicant: IMPORT DEALERS SERVICE CORPORATION, 2222 East Sepulveda, Carson, Calif. 90744. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1287, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, between Oakland, Calif., on the one hand, and, on the other, points in California, restricted to traffic having a prior or subsequent movement by water or rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oakland, Calif.

No. MC 142668, filed November 26, 1976. Applicant: AERO DISTRIBUTING CO., INC., 7259 Delta Circle, Mableton, Ga. 30336. Applicant's representative: Kim G. Meyer, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise*, as is marketed by home products distributors, for the account of Amway Corporation, from the plantsite of Amway Corporation, in Kent County, Mich., to points in Iowa, Ne-

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braska, North Dakota and South Dakota, under contract with Amway Corporation, in Kent County, Mich.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.; Washington, D.C.; or Detroit, Mich.

No. MC 142675 (Sub-No. 1), filed November 26, 1976. Applicant: ANDOVER TRUCKING, INC., P.O. Box 608, Rock Island, Ill. 61201. Applicant's representative: Joseph Winter, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* used in the manufacture, sale or distribution of agricultural machinery, equipment or implements, between the plantsite and facilities utilized by International Harvester Company, located at East Moline and Rock Island, Ill., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Michigan, Missouri and Wisconsin, under a continuing contract, or contracts, with International Harvester Company, restricted against the transportation of shipments weighing in the aggregate more than 5,000 pounds from one consignor to one consignee in any one day.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 142679 (Sub-No. 1), filed November 24, 1976. Applicant: S. H. MITCHELL, doing business as UNITED TRUCK LINES, 2734 Robinwood Road, Winston-Salem, N.C. 27106. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Avenue and 13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic or rubber foam, cellular expanded or sponge pads and padding*, from Cornelius and Greensboro, N.C., to Flint and Port Huron, Mich., under a continuing contract or contracts with Fisher Body Division, General Motors Corp., at Warren, Mich.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Detroit, Mich. or Washington, D.C.

No. MC 142685 filed November 24, 1976. Applicant: JOHN R. VERDINO, doing business as J & S MOTOR SERVICE, 2038 North Keeler Street, Chicago, Ill. 60639. Applicant's representative: Robert W. Loser, II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaging materials and supplies*, used or useful in butcher shops, from the warehouse facilities of Kraft Paper Sales Co., Inc., at Chicago, Ill., to Elkhart, Merrillville, Portage, and Valparaiso, Ind.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 142687, filed November 19, 1976. Applicant: E. L. LIEN & SONS, INC., P.O. Box 40, Aberdeen, S. Dak. 57401. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aggregate, gravel, rock, sand, clay, dirt, hot mix, mineral filler and fly ash and boiler slag*, between points in Wilkin, Traverse, Big Stone and Lac Qui Parle Counties, Minn.; Richland, Sargent, Dickey, McIntosh, and Emmons Counties, N. Dak.; and Campbell, Walworth, McPherson, Edmunds, Brown, Spink, Marshall, Roberts, Day, Clark, Codington and Grant Counties, S. Dak.

NOTE.—If a hearing is deemded necessary, applicant requests it be held at either Aberdeen or Sioux Falls, S. Dak.

No. MC 142689 filed November 26, 1976. Applicant: REM TRANSPORT CO., INC., 25–36 Jackson Avenue, Long Island City, N.Y. 11101. Applicant's representative: Harold Sacks, 19 West 44th Street, New York City, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film* and *sheets* and *chemicals*, (1) from Bound Brook, South Bound Brook, Piscataway, East Brunswick, N.J., to Newton, Upper Falls, Mass.; and (2) from Newton, Upper Falls, Mass., to New York, N.Y., and its Commercial Zone, and points in Passaic, Bergen, Hudson, Morris, Essex, Somerset and Union Counties, N.J., under a continuing contract, or contracts, with Tenneco Chemical, Inc., located at Piscataway, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York City, N.Y. or Washington, D.C.

PASSENGER APPLICATIONS

No. MC 46879 (Sub-No. 9), filed November 24, 1976. Applicant: WALTERS TRANSIT CORP., 525 11th Avenue, New York, N.Y. 10018. Applicant's representative: W. L. McCracken, Greyhound Tower, Phoenix, Ariz. 85077. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special operations, between New York, N.Y. and The Bridgeport, Connecticut Jai-Alai Fronton, located at Bridgeport, Conn., restricted to the transportation of passengers originating at or destined to The Bridgeport Connecticut Jai-Alai Fronton.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 142454 (Sub-No. 2), filed November 18, 1976. Applicant: RODGERS E. JOHNSON, doing business as J & J BUS SERVICE, 10 Regina Drive, Brandywine, Md. 20613. Applicant's representative: Lawrence E. Lindeman, Suite 1032, Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, Between Hughesville, Md., and the Naval Research Laboratory, located in Washington, D.C., serving all intermediate points: From Hughesville over Maryland Highway 5 to junction Maryland Highway 301, thence over Maryland Highway 301 to St. Charles City, thence over Maryland Highway 5 (also portion Maryland Highway 301) to junction Maryland Highway 223, thence over Maryland Highway 223 to the Clinton Shopping Center, located in Clinton, Md., thence return over Maryland Highway 223 to junction Maryland Highway 5, thence over Maryland Highway 5 to junction Interstate Highway 495, thence over Interstate Highway 495 to junction Interstate Highway 295, thence over Interstate Highway 295 to the Naval Research Laboratory, and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

BROKER APPLICATION

No. MC 130425 filed November 12, 1976. Applicant: NANCE TOURS & TRAVEL, INC., 523 East Broadway, Long Beach, Calif. 90802. Applicant's representative: David B. Boller, 2200 Broadway Plaza, 700 S. Flower, Los Angeles, Calif. 90017. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Fountain Valley, Seal Beach, South Gate and Huntington Park, Calif., to sell or offer to sell the transportation of *passengers and their baggage*, in round trip, special and charter tour operations, by motor carriers, from Los Angeles, Orange, San Diego, Ventura and Kern Counties, Calif., to or through the United States, Canada, Alaska and the Republic of Mexico.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles or Long Beach, Calif.

WATER CARRIER APPLICATIONS

No. W–1310 (Sub-No. 1), filed November 24, 1976. Applicant: RIVER EXCURSIONS, INC., 704 South 3rd Street, Stillwater, Minn. 55082. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to engage in operation, in interstate or foreign commerce as a *common carrier by water* in the transportation of *passengers and their baggage*, over inland waterways in special and charter operations, by the use of self-propelled vehicles, between St. Paul-Minneapolis, Minn., Stillwater, Minn., and LaCrosse, Wis., via the Mississippi River and St. Croix serving all intermediate points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. W–1313 filed November 22, 1976. Applicant: GRIFFITH MARINE ENGINEERING AND MANUFACTURING CO., INC., 408 East Chestnut Street, Stillwater, Minn. 55082. Applicant's representative: Alfred A. Albert, 366 Jackson Street, St. Paul, Minn. 55101. Authority sought to engage in operation, in interstate or foreign commerce as a *common carrier by water* in the transportation of *passengers*, in both special and charter operations, by self-propelled vessels, in seasonal operations from about May 1 for open navigation period to close of navigation estimated to be approximately October, between Taylors Falls, Minn. and Prescott, Wis. on the St. Croix River.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Paul or Minneapolis, Minn.

FREIGHT FORWARDER APPLICATION

No. FF 473 (Sub-No. 1), filed November 30, 1976. Applicant: ALLSTATES WORLDWIDE MOVERS, INC., 50–18 97th Place, Corona, N.Y. 11368. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by rail, motor, water and express, in the transportation of (1) *Used household goods and unaccompanied baggage;* and (2) *used automobiles*, between points in the United States, including Alaska and Hawaii, restricted in (2) above to the transportation of import-export traffic.

NOTE.—Applicant states that the purpose of this filing is to add Alaska to its present authority. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC–F–13041. Authority sought for purchase by THURSTON MOTOR LINES, INC., 600 Johnston Road, Charlotte, NC 28206, of portion of the operating rights of EASTERN FREIGHT WAYS, INC., Sidney B. Gluck, Trustee in Bankruptcy, 405 Park Avenue, New York, NY 10022, and for acquisition by D. J. Thurston, Jr., of the Charlotte, NC, address, of control of such rights through the purchase. Applicants' attorneys: Roland Rice, 501 Perpetual Building, 1111 E Street, NW., Washington, D.C. 20004, and William W. Becker, 1819 H Street, NW., Suite 950, Washington, D.C. 20006. Operating rights and property sought to be transferred: *General Commodities*, with exceptions but including household goods as defined by the Commission, as a *common carrier*, over irregular routes; between Athens, Pa., on the one hand, and, on the other, points in Bradford, Cameron, Elk, McKean, Potter, Tioga, Warren, and Lycoming Counties, Pa; *General Commodities*, except Classes A and B explosives, new furniture uncrated, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, as a *common carrier*, over irregular routes; between Athens and Sayre, Pa, and Waverly, NY, on the one hand, and, on the other, Easton and Philadelphia, Pa, and points in New Jersey; *General Commodities* (except Classes A and B explosives, commodities in bulk, and those requiring special equipment), as a *common carrier*, over irregular routes, between points in Bradford, Cameron, Elk, McKean, Potter, Tioga, Warren, and Lycoming Counties, Pa, on the one hand, and, on the other, points in New York. Vendee is authorized to operate as a *common carrier* in Alabama, Connecticut, Delaware, the District of Columbia, Georgia, Kentucky, Maryland, Massachusetts, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, and Virginia. Application has been filed for temporary authority under section 210a(b).

NOTE.—105457 (Sub-No. 89) is directly related matter.

No. MC–F–13050. Authority sought for purchase by J. B. WILLIAMS EXPRESS, INC., 120 Apollo Street, Brooklyn, New York, 11222, of a portion of the operating rights of NATIONAL TRANSPORTATION COMPANY, A corporation acting by the Trustees in bankruptcy of EASTERN FREIGHT WAYS, INC., parent company, dba NATIONAL TRANSPORT 101, c/o Edgar H. Booth, Esquire, 405 Park Avenue, New York, N.Y., 10022, and for acquisition by BERNARD KERNER, 120 Apollo Street, Brooklyn, N.Y., 11222, of control of such rights through the purchase. Applicants' attorneys: Bruce J. Robbins, One LeFrak City Plaza, Suite 1515, Flushing, N.Y., 11368, and William W. Becker, 1819 H Street, N.W. Suite 950, Washington, D.C., 20006. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes, between Perth Amboy, N.J., and Hartford, Conn., serving all intermediate points, and the off-route points of Freeport, Rockville Center, Hempstead, Glen Cove, and White Plains, N.Y., Manchester, Milldale, New Britain, Plainville, Rockville, Rocky Hill, South Beach, Southington, Collinsville, Durham, East Berlin, Elmwood, Forestville, Glenbrook, Old Greenwich; Plantsville, Thompsonville, Walnut Beach, Wethersfield, Windsor, Woodmont, and Woodbridge, Conn., and Chicopee, Chicopee Falls, Holyoke, Longmeadow, Springfield, and Westfield, Mass., Matawan, N.J., and points in Bergen, Essex Hudson, and Union Counties, N.J., those in Passaic County, N.J., south and east of Pompton Lakes, those in Middlesex County, N.J., on and east of New Jersey Highway S–28, and those in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665. between New Haven, Conn., and Hartford, Conn., serving the intermediate and off-route points in Durham, Middletown, and Wethersfield, Conn. between Bridgeport, Conn., and Torrington, Conn., serving all intermediate points, and the off-route points of Bantam, Bristol, Litchfield, Oakville, Plymouth, Terryville, Watertown, and Winsted, Conn. between New Haven, Conn., and Willimantic, Conn., serving all intermediate points, and the off-route points of Baltic, Groton, Jewett City, Lebanon, Mansfield, Montville, Mystick, Niantic, North Branford, Strafford Springs, Taftville, Windham, North Windham, Danielson, East Hampton, Essex, Kensington, Norwichton, Oneco, Pomfret, Putnam, and Stonington, Conn. between Bridgeport, Conn., and New Milford, Conn., serving the intermediate and off-route points of Branchville, Brookfield, Cannondale, Danbury, Georgetown, Long Hill, Newtown, Norwalk, Stepney Depot, Wilton, Bethel, Botsford, Bridgewater, Brookfield Center, Easton, Hawleyville, New Canaan, Redding, Ridgefield, Sandy Hook, Southbury, Weston, Woodbury, Canaan, Morris and Roxybury, Conn. between New Freedom, Pa., and junction U.S. Highways 1 and 9 near Woodbridge, N.J.

Serving all intermediate points in Pennsylvania; between junction Pennsylvania Highway 516 and Unnumbered Highway (formerly U.S. Highway 111), and junction U.S. Highways 1 and 9 near Woodbridge, N.J., serving the intermediate points of Camden, N.J., and Baltimore, Md., with restriction; between Waterbury, Conn., and Albany, N.Y., serving the intermediate points of Waterville, Thomaston, Torrington, Norfolk, and Canaan, Conn., Great Barrington, Mass., and Chatham, Schodack Center, and Rensselaer, N.Y., and the off-route points of Menands, Troy, Watervliet, Green Island, Cohoes, Waterford, Kinderhook, and Castleton, N.Y., Housatonic and West Stockbridge, Mass., and Oakville, Watertown, New Hartford, Winsted, Colebrook, Kent, Cornwall, Terryville, and Plymouth, Conn. between Springfield, Mass., and Schenectady, N.Y., serving the intermediate points of West Springfield, Westfield, Russell, Chester, East Lee, Lenox, and Pittsfield, Mass., and Rensselaer and Albany, N.Y., and the off-route points of Chicopee, Chicopee Falls, Williamsett, Holyoke, East Hampton, Northampton, Deerfield, Greenfield, Millers Falls, Turners Falls, Orange, Adams, North Adams, Williamstown, Dalton, and Stockbridge, Mass., and Scotia, N.Y. between Springfield, Mass., and West Suffield, Conn., serving the intermediate points of Agawam, Mass., and Suffield, Conn., and the off-route point of Feeding Hills, Mass. between Greenfield, Mass., and Boston, Mass., serving all intermediate points,

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between Hartford, Conn., and Greenfield, Mass., serving the intermediate points of Windsor and Thompsonville, Conn., Longmeadow, Springfield, Chicopee, Northampton, and Deerfield, Mass., and the off-route points of Chicopee Falls, Willimansett, Holyoke, Easthampton, Millers Falls, and Turners Falls, Mass. between Hartford, Conn., and Boston, Mass., as an alternate route for operating convenience only, serving no intermediate points, with restrictions; between Boston, Mass., and Framingham, Mass., serving the intermediate and off-route points of Cambridge, Natick, and Wellesley, Mass. between New London, Conn., and Providence, R.I., serving the intermediate and off-route points of Quaker Hill, Uncasville, Norwich, Greenville, Jewett City, Plainfield, Central Village, Waterford, Montville, Oakdale, Norwichtown, Yantic, Gilman, Fitchville, Tafville, Occum, Baltic, Hanover, Versailles, Moosup, and Wauregan, Conn., Pawtucket, Central Falls, and Waverly, R.I. between New London, Conn., and Providence, R.I., serving the intermediate and off-route points of Glasgo, Voluntown, Sterling, Gales Ferry, Oneco, Preston, Leyard, and Poquetanuck, Conn., and Greene, Summit, Coventry, Fiskville, Phenix Natick, River Point, Artic, Centerville, Anthony, Washington, Pine Hill, Clayville, Thronton, and Liberty, R.I. between New London, Conn., and Providence, R.I., serving the intermediate and off-route points of Pawcatuck, Stonington, Mystic, West Mystic, Poquonock Bridge, Groton, North Stonington, and Noank, Conn., and Westerly, Dunn's Corner, Wakefield, Hamilton, East Greenwich, Apponaug, Hills Grove, East Providence, LaFayette, Exeter, Kenyons, Bradford, Shannock, Watch Hill, West Warwick, Arcadia, Carolina, Wood River Junction, Alton, Ashway, White Rock, and Potter Hill, R.I. between Baltimore, Md., and Alexandria, Va.

Serving all intermediate points; and the off route points of Fort Meade, Md., and those in Arlington and Fairfax Counties, Va., with restrictions; serving the plant site of P. H. Glatfelter Company at Spring Grove, Pa., as an off-route points in connection with carrier's otherwise authorized regular route operations between New Freedom Pa., and junction U.S. Highways 1 and 9 near Woodbridge; N.J. ALTERNATE ROUTE FOR OPERATING CONVENIENCE ONLY: between Newark, N.J., and Lancaster, Pa., in connection with carrier's presently authorized regular route operations between Lancaster, Pa., and Newark, N.J., over U.S. Highway 30, 1, and 9, serving no intermediate points; from Newark over U.S. Highway 22 to Allentown, Pa., thence over U.S. highway 222 to Lancaster, and return over the same route, with restrictions; between New Freedom, Pa., and junction U.S. Highways 1 and 9 near Woodbridge, N.J., serving all intermediate points in Pennsylvania; with restrictions; serving the plant site of P. H. Glatfelter Company at Spring Grove, Pa., as an off-route points in connection with carrier's otherwise authorized regular route operations between New Freedom, Pa., and junction U.S. Highways 1 and 9 near Woodbridge, N.J., ALTERNATE ROUTE FOR OPERATING CONVENIENCE ONLY: between Newark, N.J., and Lancaster, Pa., in connection with carrier's presently authorized regular route operations between Lancaster, Pa., and Newark, N.J., over U.S. Highways 30, 1, and 9, serving no intermediate points, with restrictions; *general commodities* with exceptions, as a *common carrier* over irregular routes between Voorheesville, N.Y., on the one hand, and, on the other, Albany and Rensselaer, N.Y. between Boston, Brookline, Newton, Needham, Wellesley, and Dover, Mass. between Boston, Framingham, and Springfield, Mass., on the one hand, and, on the other, points in Massachusetts on and east of U.S. Highway 5 and west of the Cape Cod Canal, between New York, N.Y., Philadelphia, Pa., and Camden, N.J., on the one hand, and, on the other, points in Union, Essex, Hudson, Bergen, Middlesex, Passaic, Mercer, Morris, and Somerset Counties, N.J. between Newark, N.J., on the one hand, and, on the other, points in Middlesex County, N.J. between New York, N.Y., Philadelphia, Pa., and Camden, N.J., on the one hand, and, on the other, points in Union, Essex, Hudson, Bergen, Middlesex, Passaic, Mercer, Morris, and Somerset Counties, N.J. between Newark, N.J., on the one hand, and, on the other, points in Middlesex County, N.J. between points in Middlesex, Somerset, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y., and points in Nassau, Orange, Westchester, Putnam, Dutchess, Rockland, Ulster, Sullivan, and Delaware Counties, N.Y., and those in Fairfield County, Conn., and Berks, Lehigh, and Northampton Counties, Pa., with restrictions; between points in Middlesex, Somerset, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y., and points in Nassau, Orange, Westchester, Putnam, Dutchess, Rockland, Ulster, Sullivan, and Delaware Counties, N.Y., and those in Fairfield County, Conn., and Berks, Lehigh, and Northampton Counties, Pa., with restrictions; castor oil, in bulk, in tank trucks, from Bridgeport, Conn., to Boonton, N.J., New York, N.Y., Philadelphia, Pa. points in Delaware County, Pa., those in Bergen, Passaic, Essex, Hudson, Union, Middlesex, and Monmouth Counties, N.J., and those in Massachusetts and Rhode Island, with no transportation for compensation on return. Vendee is authorized to operate as a *common carrier* in Connecticut, the District of Columbia, Maryland, Massachusetts, New York, New Jersey, Pennsylvania, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-95336 (Sub-No. 8) is a directly related matter.

No. MC-F-13052. Authority sought for purchase by WEST MOTOR FREIGHT, INC., 740 South Reading Avenue, Boyertown, PA., 19512, of a portion of the operating rights of Modern Transfer Co., Inc., an Alleged Bankrupt, Alan M. Black, receiver, 502 Turner Street, Allentown, PA., 18102, and for acquisition by Phillip G. West, and Bruce W. West, both of the Boyertown, PA., 19512 address, of control of such rights through the purchase. Applicants' attorneys: Alan Kahn, Suite 1920, 2 Penn Center Plaza, Philadelphia, PA., 19102, and Alexander N. Rubin, Jr., Receiver, 2717 The Fidelity Building, Philadelphia, PA., 19109. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes between Allentown, Pa., and Philadelphia, Pa., serving all intermediate points, and the off-route points in the Philadelphia, Pa., Commercial Zone as defined by the Commission: between Easton, Pa., and Philadelphia, Pa., serving all intermediate points, and the off-route points in the Philadelphia, Pa., Commercial Zone as defined by the Commission: between Center Valley, Pa., and Bethlehem, Pa., serving all intermediate points: between Quakertown, Pa., and Doylestown, Pa., serving all intermediate points; General commodities, with exceptions, as a common carrier over irregular routes, between Allentown, Pa., on the one hand, and, on the other, points in that part of Pennsylvania bounded by a line beginning at Quakertown, Pa., and extending northeasterly through Kintnersville, Pa., to the Delaware River, thence north along the west bank of the Delaware River to East Stroudsburg, Pa., thence along U.S. Highway 209 to Jim Thorpe, Pa. (formerly known as Mauch Chunk, Pa.), thence southerly through New Tripoli, Pa., to Kutztown, Pa., thence southerly to Lyons (Berks County), Pa., thence northeasterly to Macungie, Pa., and thence southeasterly to Quakertown, Pa., including Jim Thorpe, Pa. (formerly known as East Mauch Chunk, Pa.), the above-named points, and those on the indicated portion of U.S. Highway 209 (See Note A): between points in Pennsylvania within 15 miles of Allentown including Allentown; those in the Townships of Upper Mount Bethel, Lower Mount Bethel, Washington, Plainfield, Bushkill, and Forks (Northampton County), Pa.; those in the Townships of East Rockhill, West Rockhill, and Hilltown (Bucks County), Pa.; and those in the Townships of Franconia, Hatfield, Montgomery, and Upper Gwynedd (Montgomery County), Pa. Vendee is authorized to operate as a *common carrier* in all the States in the United States (except Alaska and Hawaii) including the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13053. Authority sought for control by HENNES ERECTING COMPANY, INC., 388 South 17th Street, Milwaukee, WI., 53201, of Hennes Trucking Co., 338 South 17th Street, Milwaukee, WI., 53201, and for acquisition by Medard Schmitz, 17853 West Nassau Drive, Brookfield, WI., 53005, of control of Hennes Trucking Co., through the acquisition by Hennes Erecting Company, Inc. Applicants' attorney: John L. Bruemmer, 121 West Doty Street, Madison, WI., 53703. Operating rights sought to be controlled: *Cement (portland and mortar)*, in bags or in bulk, as a *contract carrier* over irregular routes, from points and places in Newton Township, Muskingum County, Ohio, to points and places in that portion of West Virginia on and west of a line beginning at the Pennsylvania-West Virginia State line and extending southward along U.S. Highway 119 to junction U.S. Highway 19, and thence along U.S. Highway 19 to the West Virginia-Virginia State line; *cement (portland and mortar)*, in bulk, and in bags, from the plant of PPG Industries, Inc., Hamilton County, Ohio, to points in Indiana and Kentucky, with restrictions; *cement*, dry, in bulk, in tank or hopper-type vehicles, from the plant site of Dundee Cement Company, in Butler County, Ohio, to points in Indiana and Kentucky, with restrictions; *cement (portland and mortar)*, in bulk, from the plant site of PPG Industries, Inc., Nitro, W. Va., to points in Ohio and Kentucky, with restrictions; *cement*, in bulk, between points in Illinois, Indiana, Kentucky, Ohio, and Wisconsin, with restrictions; *cement*, in bulk, from the plant site of the Louisville Cement Company at Cincinnati, Ohio, to points in Indiana and Kentucky, with restrictions; *cement*, from Boardman, Ohio, to points in Pennsylvania and West Virginia, with restrictions; *cement (portland and mortar)*, from the plant site of the PPG Industries, Inc. at or near Newton Township, Muskingum County, Ohio, to points in Greene, Washington, Allegheny, Westmoreland, Armstrong, Butler, Beaver, Fayette, Lawrence, Mercer and Venango Counties, Pa., with restrictions; *cement*, from the plant or distribution terminal sites of Dundee Cement Company, located at or near Clarksville, Mo., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Ohio, Oklahoma, and Tennessee, *cement*, in bulk, from the plant or distribution terminal sites of Dundee Cement Company, located at or near St. Louis, Mo., and Rock Island, Ill., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Ohio, Oklahoma, and Tennessee, with restrictions; *Diammonium phosphate*, in bulk, from Depue, Colfax, and Riverdale, Ill., and Des Moines, Iowa, to points in Illinois, Iowa, Indiana, Michigan, Ohio, Wisconsin, Missouri, Kansas, Nebraska, South Dakota, North Dakota, and Minnesota, with restrictions; *fertilizer* in bulk, from Columbus, Ohio, to points in Illinois, with restrictions; *cement*, between points in West Virginia, with restrictions; *cement and mortar*, from the plant site of PPG Industries, Inc., at or near Newton Township (Muskingum County), Ohio, to points in Kentucky, with restrictions. Hennes Erecting Company, Inc., is authorized to operate as a *common carrier* in Ohio, Indiana, Kentucky, Michigan, Pennsylvania, and West Virginia.

MC-F-13054. Authority sought for purchase by RUSSELL TRANSFER, INC., 444 Glenmore Drive, Salem, VA., 24153, of a portion of the operating rights of Point Express, Inc., 440 Greenlawn Avenue, Columbus, OH., 43221, and for acquisition by Bill B. Bumgarner, Berkeley H. Riley, and Vernon S. Church, all of 444 Glenmore Drive, Salem, VA., 24153, of control of such rights through the purchase. Applicants' attorneys: Daniel B. Johnson, 1123 Munsey Bldg., 1329 E St., N.W. Washington, D.C., 20004, and John S. Fessenden, Suite 1301, 1600 Wilson Blvd., Arlington, VA., 22009. Operating rights sought to be transferred: Malt beverages in truckload lots, empty malt beverage containers, farm products, farm machinery, such bulk commodities as sand, gravel, coal, and coke, and building, construction, mining, and road machinery materials, and equipment, as a common carrier over irregular routes, between points in Meigs, Gallia, and Lawrence Counties, Ohio, and Wayne, Cabell, Mason, Jackson, Putnam, and Kanawha Counties, W. Va., on the one hand, and, on the other, points in Ohio, West Virginia, and those in that part of Kentucky east of a line beginning along thence along U.S. Highway 27 to the Kentucky-Tennesee State line, including points on the indicated portions of the highways specified. Vendee is authorized to operate as a common carrier in Virginia, West Virginia, Ohio, Kentucky, Maryland, the District of Columbia, Tennessee, North Carolina, South Carolina, Pennsylvania, New Jersey, Delaware, and New York. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-68860 (Sub-No. 24) is a directly related matter.

No. MC-F-13055. Authority sought for purchase by CHECKER EXPRESS COMPANY, 6801 South 13th Street, Milwaukee, WI., 53221, of the operating rights and properties of Wiles Transport, Incorporated, 218 West Second South Street, Carlinville, IL., 62626, and for acquisition by Leonard J. Lewensohn, 6801 South 13th St., Milwaukee, WI., 53221, of control of such rights through the purchase. Applicants' attorney: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL., 60603. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular routes between Springfield, Ill., and St. Louis, Mo., serving all intermediate points and the off route points in St. Louis County, Mo., within the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone as defined by the Commission; between Carlinville, Ill., and Eldred, Ill., serving all intermediate points and the off route points of Greenfield and Rockbridge, Ill. Vendee is authorized to operate as a common carrier in Illinois, Indiana, Missouri, and Wisconsin. Application has been filed for temoprary authority under section 210a(b).

No. MC-F-13056. Authority sought for purchase by FRIEDMAN'S EXPRESS, INC., P.O. Box 480, Wilkes Barre (Dorrance), Pa., 18703 of the operating rights of Rudloff Transfer, Inc., South Liberty Street, Orwigsburg, Pa., 19761, and for acquisition by Daniel B. Friedman, P.O. Box 480 Wilkes Barre, Dorrance, Pa., 18703, of control of such rights through the purchase. Applicants' attorney: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J., 07306. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over irregular routes from points in Schuylkill County, Pa., to Reading, Pa., with restrictions; between Orwigsburg, Pa., on the one hand, and, on the other, Landingville, Adamsdale, and Auburn, Pa., and points in Pennsylvania within 10 miles of Orwigsburg; between Landingville, Pa., on the one hand, and, on the other, points within 10 miles of Orwigsburg. Vendee is authorized to operate as a *common carrier* in New Jersey, New York, and Pennsylvania. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-60430 (Sub-No. 23) is a directly related matter.

FINANCE DOCKET NO. 26449

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ABANDONMENT—TOM GREEN COUNTY, TEXAS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on May 19, 1976, a finding, which is administratively final, was made by the Commission, Division 3, acting as an Appellate Division, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Atchison, Topeka and Santa Fe Railway Company of its branch line of railroad which extends from milepost 0 at S.N. Junction, Tom Green County, Texas, to milepost 64 plus 5,048 feet at Sonora, Sutton County, Texas, a total distance of 64.8 miles. A certificate of abandonment will be issued to The Atchison, Topeka and Santa Fe Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will

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be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

NOTICE

Castle Valley Railroad Company, 79 South State Street, Salt Lake City, Utah 84147, represented by Mr. Keith E. Taylor of and for Parsons, Behle & Latimer, 79 South State Street, P.O. Box 11898, Salt Lake City, Utah 84147, hereby give notice that on the 10th day of February, 1976, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the construction and operation of a new line of railroad located in Carbon and Emery Counties, Utah, which application is assigned Finance Docket No. 28117.

The proposed railroad will extend from an operating coal mine South of Emery, Utah, to the terminus of the existing "cv spur" trackage of the Denver & Rio Grande Western Railroad Company near Wellington, Utah, or as an alternate to the D&RGW mainline trackage near Maxwell, Utah, and to the existing trackage of the Utah Railway Company near Wildcat, Utah. The proposed line will pass close by the towns of Emery, Ferron, Castle Dale, and Huntington, Utah.

The proposed new railroad, excluding sidings, will require 93.4 miles of new track. The main line will run in a general northerly direction for 49.6 miles from the South terminus to a wye North of Huntington, Utah and approximately 20 miles South from Price, Utah. From this wye, the new trackage will run in a general northeasterly direction for 15.6 miles to connect with existing "cv spur" trackage of the Denver & Rio Grande Western Railroad Company near Wellington, Utah. Applicant seeks authorization to move traffic over the existing trackage of the Denver & Rio Grande Western Railroad Company from the "cv spur" South terminus to interchange point at Helper, Utah, a distance of approximately 12.6 miles. From the Huntington wye, the new trackage will run 23.4 miles in a general northerly direction to connect with the existing trackage of Utah Railway Company near Wildcat, Utah. Applicant seeks authorization to move traffic over the existing trackage of Utah Railway Company from a point near Wildcat, Utah, to interchange point near Martin, Utah, a distance of approximately 5.4 miles.

The nearest railroad lines are as far as 75 miles remote. The transportation of coal by motor vehicle does not satisfy the existing transportation need. Applicant therefore submits that present or future public convenience and necessity require the proposed construction and operation of a new railroad to make rail haulage available to the shipping public to, from and between points in Carbon and Emery Counties, Utah.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1100. 250) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

CASTLE VALLEY RAILROAD COMPANY

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 41432 (Sub-No. 148) (Partial correction) filed October 14, 1976, published in the FEDERAL REGISTER issue of November 24, 1976 as MC-42432 (Sub-No. 148), and republished to indicate the correct docket number this issue. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207. Applicant's representative: Phineas Stevens, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Miss. 39205.

NOTE.—The purpose of this partial correction is to indicate the correct docket number as MC-41432 (Sub-No. 148) in this proceeding. The rest of the notice remains as previously published. This is a matter directly related to a Purchase (Portion) proceeding in MC-F-12872, noticed in the FEDERAL REGISTER issue of July 15, 1976.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

DOCKET NO. AB-1 (SUB-NO. 16)

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN ST. CHARLES AND SYCAMORE, IN KANE AND DEKALB COUNTIES, ILLINOIS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on October 26, 1976, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of its line of railroad between milepost 38.0 near St. Charles, Kane County, Illinois, and milepost 56.0 near Sycamore, Dekalb County, Illinois, a total distance of 18.0 miles. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that: (1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and (2) it is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

BURLINGTON NORTHERN INC.—ABANDONMENT AT COEUR D'ALENE KOOTENAI COUNTY, IDAHO

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on October 26, 1976, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of that portion of its line of railroad extending from about milepost 12.43 to about milepost 13.37, a distance of about .94 of a mile, at Coeur D'Alene, in Kootenai County, Idaho. A certificate of abandonment will be issued to the Burlington Northern Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that: (1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and (2) it is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC-2202 (Deviation No. 156), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309, filed December 13, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Rock Island, Ill., over U.S. Highway 67 to junction Interstate Highway 55, thence over Interstate Highway 55 to Memphis, Tenn., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Rock Island, Ill., over Illinois Highway 92 to Mendota, Ill., thence over U.S. Highway 34 to Chicago, Ill., thence over U.S. Highway 41 to junction U.S. Highway 52, thence over U.S. Highway 52 to Indianapolis, Ind., thence over U.S. Highway 31 to Columbus, Ind., thence over Alternate U.S. Highway 31 via Seymour, Ind., to junction U.S. Highway 31, thence over U.S. Highway 31 to Sellersburg, Ind., thence over U.S. Highway 31E or 31W to Louisville, Ky., thence over U.S. Highway 31W to Nashville, Tenn., thence over U.S. Highway 70 to Memphis, Tenn., and return over the same route.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PASSENGERS

No. MC-802 (Deviation No. 1); BADGER BUS LINES, INC., 200 West Belt Line Highway, Madison, Wis., 53713, filed November 29, 1976. Carrier's representative: Paul C. Gartzke, 121 W. Doty Street, Madison, Wis. 53703. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Verona, Wis., over Dane County Trunk M to junction Mineral Point Road, thence over Mineral Point Road to Madison, Wis., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Verona, Wis., over U.S. Highway 18 to Madison, Wis., and return over the same route.

No. MC-1515 (Deviation No. 716) (Cancels Deviation No. 681), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed November 11, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (A) From Chicago, Ill., over Interstate Highway 57 to junction Illinois Highway 50 north of Kankakee, Ill., with the following access

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routes: (1) From Harvey, Ill., over 147th Street (also known as Sibley Blvd.) to junction Interstate Highway 57, (2) From Harvey, Ill., over U.S. Highway 6 to junction Interstate Highway 57, (3) From Markham, Ill., over U.S. Highway 6 to junction Interstate Highway 57, (4) From junction Interstate Highway 94 and Interstate Highway 80, east of Thornton, Ill., over Interstate Highway 80 to junction Interstate Highway 57, (5) From Chicago Heights, Ill., over U.S. Highway 30 to junction Interstate Highway 57, (6) From Peotone, Ill., over unnumbered highway to junction Interstate Highway 57, and (7) From Manteno, Ill., over unnumbered highway to junction Interstate Highway 57, (B) From junction Illinois Highway 50 and Interstate Highway 57 north of Kankakee, Ill., over Interstate Highway 57 to junction U.S. Highway 45 south of Kankakee, Ill., with the following access route: (1) From Kankakee, Ill., over city streets to junction Interstate Highway 57, (C) From junction U.S. Highway 45 and Interstate Highway 57 south of Kankakee, Ill., over Interstate Highway 57 to junction U.S. Highway 45 south of Mattoon, Ill., with the following access routes: (1) From Gilman, Ill., over U.S. Highway 24 to junction Interstate Highway 57, (2) From Onarga, Ill., over U.S. Highway 54 to junction Interstate Highway 57, (3) From Paxton, Ill., over Illinois Highway 9 to junction Interstate Highway 57, (4) From Rantoul, Ill., over U.S. Highway 136 to junction Interstate Highway 57 west of Rantoul, Ill., (5) From junction U.S. Highway 45 and Interstate Highway 74 north of Urbana, Ill., over Interstate Highway 74 to the interchange of Interstate Highways 74 and 57 northwest of Champaign, Ill., (6) From Champaign, Ill., over Nell Street to junction Interstate Highway 74 north of Champaign, Ill., thence over Interstate Highway 74 to junction Interstate Highway 57, (7) From Champaign, Ill., over U.S. Highway 150 to junction access road, thence over access road to junction Interstate Highway 74 north of Champaign, Ill., thence over Interstate Highway 74 to junction Interstate Highway 57, (8) From Urbana, Ill., over Lincoln Avenue to junction Interstate Highway 74, thence over Interstate Highway 74 to junction Interstate Highway 57, (9) From Champaign, Ill., over access road to Interstate Highway 57 west of Champaign, Ill.,

(10) From Tuscola, Ill., over U.S. Highway 36 to junction Interstate Highway 57, and (11) From Mattoon, Ill., over Illinois Highway 16 to junction Interstate Highway 57, (D) From junction U.S. Highway 45 and Interstate Highway 57 south of Mattoon, Ill., over Interstate Highway 57 to junction U.S. Highway 45 north of Effingham, Ill., and (E) from junction U.S. Highway 45 and Interstate Highway 57 north of Effingham, Ill., over Interstate Highway 57 to Marion, Ill., with the following access routes: (1) From Effingham, Ill., over access road to junction Interstate Highway 57 west of Effingham, Ill., (2) From junction unnumbered highway and Illinois Highway 37 two miles south of Watson, Ill., over unnumbered highway to junction Interstate Highway 57, (3) From Farina, Ill., over Illinois Highway 185 to junction Interstate Highway 57, (4) From Salem, Ill., over U.S. Highway 50 to junction Interstate Highway 57, (5) From Mt. Vernon, Ill., over U.S. Highway 460 to junction Interstate Highway 57, (6) From Benton, Ill., over Illinois Highway 14 to junction Interstate Highway 57, (7) From West Frankfort, Ill., over Illinois Highway 149 to junction Interstate Highway 57, (8) From Johnston City, Ill., over unnumbered highway to junction Interstate Highway 57, (9) From Herrin, Ill., over Illinois Highway 148 to junction unnumbered highway, thence over unnumbered highway to junction Interstate Highway 57, and (10) From Marion, Ill., over Illinois Highway 13 to junction Interstate Highway 57 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) From Chicago, Ill., over U.S. Highway 41 to Hammond, Ind., thence over Sibley Blvd., to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 17, thence over Illinois Highway 17 to Kankakee, Ill., and (2) From Chicago, Ill., over city streets to junction U.S. Highway 54, thence over U.S. Highway 54 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction Illinois Highway 37, thence over Illinois Highway 37 to Marion, Ill., and return over the same routes.

No. MC-15317 (Deviation No. 2), CROWN TRANSIT LINES, INC., 1650 N. 14th St., Springfield, Ill., filed November 9, 1976. Carrier's representative: Edward McNamara, 907 S. Fourth St., Springfield, Ill. 62703. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Champaign, Ill., over Interstate Highway 72 to Springfield, Ill., with the following access routes: (1) From Champaign, Ill., over city streets to junction Interstate Highway 72, (2) From Monticello, Ill., over city streets to junction Interstate Highway 72, (3) From Decatur, Ill., over city streets to junction Interstate Highway 72, and (4) From Springfield, Ill., over city streets to junction Interstate Highway 72, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Champaign, Ill., over Illinois Highway 10 to junction Illinois Highway 47, thence over Illinois Highway 47 to junction Illinois Highway 105, thence over Illinois Highway 105 to junction U.S. Highway 36, thence over U.S. Highway 36 to Springfield, Ill., and return over the same routes.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Texas Docket No. 002600A3A, filed November 19, 1976. Applicant: RED ARROW FREIGHT LINES, INC., P.O. Box 1897, San Antonio, Tex. 78397. Applicant's representative: James Doherty, P.O. Box 1945, Austin, Tex. 78767. Certificate of Public Convenience and Necessity sought to amend common carrier motor vehicle certificate of Public Convenience and Necessity No. 2600 and to authorize the transportation of *General commodities* as follows: Between Bay City, Tex., and the plantsite known as South Texas Project Houston Lighting and Power Company, Bay City, Tex., located on or adjacent to Farm Road 521 approximately 10.5 highway miles southwest of Wadsworth, Tex., and between the plantsite and the intersection of Farm Road 521 and State Highway 35 over the following routes: (1) From Bay City over State Highway 60 to its intersection with Farm Road 521, thence over Farm Road 521 to the plantsite, thence over Farm Road 521 to its intersection with State Highway 35, serving the plantsite and all intermediate points on Farm Road 521 and serving its junction with State Highway 35 as a point of joinder; and (2) From Bay City over State Highway 60 to its intersection with Farm Road 2668, thence over Farm Road 2668 to its intersection with Farm Road 521, thence over Farm Road 521 to the plantsite. Service in interstate or foreign commerce is proposed pursuant to the provisions of Section 206(a)(6) of the Interstate Commerce Act. Applicant proposes to tack and to coordinate the proposed additional services with all services authorized in intrastate commerce under Texas Certificate No. 2600 and with all service authorized in interstate and foreign commerce under authorities granted in Docket No. MC 2226 and all Subs thereunder. No duplicate authority is sought.

HEARING: Date, time and place will be scheduled January 24, 1977. Requests for procedural information should be addressed to the Texas Railroad Commission, P.O. Drawer 12967, Capitol Station, Austin, Tex. 78711 and should not be directed to the Interstate Commerce Commission.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37601 Filed 12-22-76;8:45 am]

federal register

THURSDAY, DECEMBER 23, 1976

PART II



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

NOISE ABATEMENT OPERATING RESTRICTIONS

Limitations for Certain Turbojets, Propeller-Driven Small Airplanes, and Agricultural-Operation and Fire Fighting Propeller-Driven Aircraft

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Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket Nos. 13582 and 14317; Amdt. 91-136]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Subpart E—Operating Noise Limits [NEW]

PHASED COMPLIANCE WITH PART 36 NOISE LIMITS BY TURBOJETS WITH MAXIMUM WEIGHTS GREATER THAN 75,000 POUNDS

• The purpose of this amendment to Part 91 of the Federal Aviation Regulations (14 CFR Part 91) is to achieve further relief and protection to the public from aircraft noise by requiring certain previously excepted airplanes to meet present Federal noise standards in accordance with a phased time schedule ending on January 1, 1985. This amendment implements a decision, approved by the President on October 21, 1976, and announced in a comprehensive Aviation Noise Abatement Policy Statement issued by the Secretary of Transportation and the Federal Aviation Administrator on November 18, 1976. It extends current Federal noise standards to domestic commercial airplanes in not more than eight years from January 1, 1977. •

This amendment applies to U.S. registered civil subsonic turbojet airplanes with maximum weights greater than 75,000 pounds. It applies to airplanes with standard airworthiness certificates, if those airplanes are not engaged in foreign air commerce. For airplanes operated under Parts 121 and 135 of the Federal Aviation Regulations, dates for progressive fleet compliance with Part 36 are also prescribed in this amendment, as follows:

1. January 1, 1981, for at least one quarter of the four-engine airplanes with low bypass ratio engines.

2. January 1, 1981, for at least one quarter of the four-engine "pure jets."

3. January 1, 1981, for at least one half of all other airplane types.

4. January 1, 1983, for at least one half of the four-engine airplanes with low bypass ratio engines.

5. January 1, 1983, for at least one half of the four engine "pure jets."

6. January 1, 1983, for all other airplane types.

This document also contains a notice of FAA's decision not to prescribe operating noise limits for aircraft engaged in foreign air commerce (including operations under Part 129 of the Federal Aviation Regulations), or for airplanes weighing 75,000 pounds or less, at this time. This amendment is issued pursuant to § 611 of the Federal Aviation Act of 1958 (herein called "the Act").

While this amendment is expected to produce significant improvements in the noise environment at major airports, substantial local action will be necessary to complement the noise reduction actions of the Federal Government and air carriers. The only successful attack that can be launched on the overall problem of aircraft noise is one that involves the cooperative participation of all levels of government, as well as airport operators, air carriers, manufacturers, and airport neighbors. The responsibilities of all of these parties are stated in detail in the "Aviation Noise Abatement Policy," (herein called "the Policy Statement") of November 18, 1976. That document is in the public rules docket for this amendment.

In addition to the Policy Statement, the FAA has issued a final environmental impact statement (EIS), dated November 10, 1976, concerning this amendment. This document (herein called "the EIS") has been placed in the public rules docket for this amendment. It contains detailed analyses concerning the need for this amendment and its estimated costs and benefits. The EIS contains a detailed listing of the affected civil turbojet fleet and fleet forecasts developed by the FAA. These data were used in the environmental and inflationary impact analyses supporting this regulatory action.

As stated below, compliance with this amendment can be achieved by the acoustical modification, or "retrofit," of noncomplying airplanes or through their replacement with complying airplanes. While the cost and benefit analysis in the EIS indicates that prolonged retention of certain aircraft would be uneconomical due to increased maintenance and higher fuel cost differentials, the replacement policy of individual operators will depend on their capital investment plans and financial capability.

It should therefore be stressed, at the outset, that the purpose of this amendment is not to force the retrofit of older airplanes, but rather to encourage each operator to adopt whatever means of achieving compliance is best suited to his individual economic situation. This may involve replacement of older airplanes by new technology airplanes, the retrofitting of his current fleet, or a mixture of these options. However, the FAA recognizes the advancements in energy efficiency, safety, noise reduction, and engine emissions that are offered by new technology airplanes. This amendment is intended to encourage the introduction of the newest generation of airplanes into the fleet as soon as practicable. To maximize the incentive to replace rather than retrofit older airplanes, this amendment provides for a carefully controlled and limited extension of the January 1, 1981, and January 1, 1983, compliance dates for operators who elect to replace these older airplanes with new airplanes that comply with Part 36.

At the direction of the President, the Secretary, on December 1, 1976, conducted a public hearing on the need for special financing measures to assure timely compliance with this amendment, with particular emphasis on the replacement of the older, noisier four-engine airplanes. The Secretary will make a recommendation to the President by December 31, 1976.

I. BACKGROUND: THE NEED FOR THIS AMENDMENT

The current U.S. fleet is comprised of some 2,100 large jet aircraft. Of these, 1,600 (about three-fourths) do not currently comply with Part 36 noise standards. It has been estimated that between 1,300 and 1,600 of these noncomplying aircraft would remain in service throughout the 1970s and possibly some 50 percent would be in service by 1990 if there were no Federal action.

In extending the Part 36 noise standards to airplanes currently in operation, the FAA is acting pursuant to section 611 of the Act, which directs the FAA to afford present and future relief and protection to the public health and welfare by the control and abatement of aircraft noise, after considering whether noise abatement regulations are consistent with the highest degree of safety in air commerce and are economically reasonable, technologically practicable, and appropriate for the particular type of aircraft. This amendment to the Federal Aviation Regulations is the result of several years of study of these factors by the FAA and consultation with the Secretary of Transportation and the Environmental Protection Agency (EPA) in order to assure the fullest possible consideration of the public health and welfare, safety, economic reasonableness, and technological practicability.

The FAA and other Federal agencies have been developing a comprehensive program to reduce public exposure to aircraft noise. In addition to FAA-sponsored research in reduction of turbomachinery noise through the use of sound absorbing materials (SAM), NASA has conducted a parallel program which included SAM, but also focuses on reduction of JT8D jet exhaust noise by redesign of the engine itself by increasing the engine bypass ratio through replacement of the two-stage fan with a larger diameter single-stage fan (refan). Complementing these programs in source noise reduction, FAA and NASA have also been examining the use of operational procedures for further reductions in noise. This amendment does not signify an end to this important research, which, with other related research, will continue in its effort to ensure the broadest possible attack on the aircraft noise problem.

As more fully discussed below in relation to public comments, aircraft noise is a significant annoyance for six to seven million persons in the United States. The problem is particularly serious at some of the major airports. It represents, moreover, a significant or potential problem for residents living near many other airports across the nation. Aircraft noise is a problem of national scope because a significant portion of the American people are affected by it at many locations throughout the country. Airplane noise is also a peculiarly local problem, varying substantially among airport communities depending on the air service provided, the type and frequency of operations, the airport design and geographical arrangement, the mix of equipment and route patterns, the numbers of people who live nearby and their reaction to aircraft noise, and the general compatibility of land use in the surrounding areas.

The aircraft noise issue became increasingly important in the early 1960s as airlines introduced jet aircraft to their fleets. The rapidly increasing number of commercial jet operations in the latter part of the decade further increased the importance of this problem. Because of its adverse effect on people, noise was soon recognized as a major constraint on the further development of commercial aviation. The engine manufacturers and the Federal Government both engaged in extensive research into quieting jet engines. In 1968, Congress gave the FAA the responsibility to regulate aircraft design and equipment for noise reduction purposes, and the FAA then embarked upon a long-term program of controlling aircraft noise at its source.

Of the six to seven million persons subject to significant aircraft noise, approximately 600,000 reside in areas that are severely impacted. Severe noise impacts include disturbances of the normal activities of airport neighbors—their conversation, sleep, and relaxation—and degrades the quality of life. Based on an analysis of citizen and Congressional complaints, the imposition of airport use restrictions, litigation, and the number of persons affected, the FAA has identified many airports where noise is an issue. A 1974 Department of Transportation study of 23 major airports identified eight airports that have neighboring populations of over 25,000 residing within noise contours representing serious noise annoyance, and 13 airports with at least 100,000 persons residing within noise contours representing considerable noise annoyance. For the 23 airports surveyed, five million people live within these noise contours (described in the Policy Statement and EIS as noise exposure forecast (NEF) 30 and 40 contours). In addition, the Air Transport Association has identified many airports as "noise sensitive," including several not treated in the 23-Airports Study. The affected airports are identified in the Policy Statement.

As a result of the impact of aircraft noise on airport neighbors, serious pressures have developed that could threaten the continued growth of a healthy air transportation system. These pressures include restrictions on airport usage such as curfews, restrictions on the use of certain aircraft, opposition to airport development, and serious liability exposure for existing airports. For example, over the past five years, airport proprietors have paid out over twenty-five million dollars in legal judgments and settlements in noise related suits and have spent over three million dollars in legal fees and other legal defense costs. This is in addition to the monies being spent by airport proprietors in acquiring land adjacent to their airports and soundproofing affected buildings such as schools, residences, and public buildings.

The health of the air transportation system is inseparable from the health of the national airport system. There are now over 13,000 public airports operating in the United States. These airports vary widely in their size, closeness to populated areas, and aircraft mix. Some of these airports are among the busiest in the world, with 84 airports having more than 200,000 annual operations, 160 airports having more than 150,000 operations each year, and well over 200 airports having more than 100,000 such operations. The busiest airports are generally located in the vicinity of the larger metropolitan areas, where the population is concentrated.

The critical conclusion coming out of the many years of FAA review of this problem is that, both from the standpoint of the quality of life in airport environments and from the standpoint of the preservation of a strong airport/air transportation system, Federal action is required to ensure that commercial aircraft comply with Part 36 noise levels within the next decade. The normal incentives of the private marketplace are not expected to achieve this. Fleet forecasts through the 1990's bear this out, as more full discussed below. This amendment is essential to provide the catalyst, and the legal framework, for a comprehensive, cooperative effort by Federal, State, and local governments, by air carriers and manufacturers, and by airport neighbors, to achieve meaningful relief from aircraft noise and also preserve the strength of our vital air transportation and airport system.

II. HISTORY OF THIS AMENDMENT

1. Part 36 of the Federal Aviation Regulations "Noise Standards: Aircraft Type Certification" (34 FR 18355; November 18, 1969), which became effective December 1, 1969, originally prescribed noise measurement, noise evaluation, and noise level requirements for the issuance of type certificates, and changes to those certificates, for subsonic transport category airplanes, and for subsonic turbojet engine-powered airplanes, regardless of category. That regulation initiated the noise abatement regulatory program of the FAA under the statutory authority of Pub. L. 90-411 (July 21, 1968) which added section 611 to the Act.

2. On November 4, 1970, the FAA published Notice No. 70-44, an advanced notice of proposed rule making (ANPRM) entitled "Civil Airplane Noise Reduction Retrofit Requirements" (35 FR 16980). That ANPRM proposed the retrofitting of existing subsonic turbojet engine-powered airplanes to achieve compliance with Part 36 noise levels.

3. After considering the comments in response to Notice 70-44, on March 22, 1974, the FAA issued a notice of proposed rule making (Notice 74-14) entitled "Civil Aircraft Fleet Noise Requirements" (39 FR 11302; March 27, 1974). That notice proposed that civil subsonic turbojet engine-powered airplanes with maximum weights of 75,000 pounds or more be required to comply with Part 36 noise standards. Notice 74-14 contained proposals applying to civil subsonic turbojet engine-powered airplanes weighing 75,000 pounds or more, and operated under Parts 91, 121, 123, 129, and 135. Comments received in response to that NPRM have been carefully reviewed (together with comments in response to Notice 75-5, which is discussed below) in the issuance of this amendment.

4. On December 13, 1974 (39 FR 43422), the Council on Environmental Quality (CEQ) published in the FEDERAL REGISTER a notice of availability for public review and comment with respect to a draft environmental impact statement prepared by the FAA regarding the rule proposed in Notice 74-14.

5. On January 28, 1975, pursuant to section 611(c)(1) of the Act, as amended by the Noise Control Act of 1972 (Pub. L. 92-574), the EPA submitted to the FAA its recommended regulation to amend Part 91 to require all civil subsonic turbojet engine-powered airplanes, including those weighing less than 75,000 pounds, to comply with the noise standards of Part 36 before June 30, 1978. Accordingly, under section 611(c)(1) of the Act, the FAA published Notice 75-5, "Civil Subsonic Turbojet Engine-Powered Airplanes: Noise Retrofit Requirements" (40 FR 8218; February 26, 1975). On March 18, 1975, pursuant to a notice of public hearing (40 FR 8243; February 26, 1975), the FAA conducted a public hearing in Washington, D.C., to afford interested persons the opportunity to submit written and oral comments and present views, data, or arguments regarding the EPA-recommended regulation.

6. Pursuant to section 611(b)(1) of the Act, the FAA has consulted with the Secretary of Transportation and EPA prior to adoption of this amendment. Also, submission of this amendment to the EPA for review prior to its adoption was accomplished in accordance with section 309 of the Clean Air Act, as amended (42 U.S.C. 1857 h-7), and the guidelines of CEQ contained in 40 CFR 1500.9(b).

7. As discussed above, a final environmental impact statement, reflecting this amendment and the comments received on the draft EIS was issued on November 10, 1976, in accordance with the National Environmental Policy Act of 1969 and implementing guidelines of the CEQ, the Department of Transportation, and the FAA.

III. RELATIONSHIP TO PRIOR RULE MAKING

This amendment is an important part of the FAA's overall aircraft noise control and abatement program. The adoption of Part 36 in 1969 required new airplane types to be markedly quieter than the generation of turbojets developed in the late 1950's and early 1960's. Since the adoption of Part 36, the FAA has issued a number of notices proposing amendments to its provisions and, subsequent to notice and public procedure, has adopted those amendments which have been found to be consistent with the duties contained in section 611 of the Act. Those amendments have increased the protection of the public health and welfare by providing for the necessary control and abatement of aircraft noise and sonic boom. Further amendments

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are currently under consideration by the FAA for future issuance.

In issuing amendments under the authority of section 611 of the Act, factors which the FAA must consider include the following:

1. Available data relating to aircraft noise, including the results of research, development, testing, and related evaluation activities.

2. The views and positions of other Federal, State, and interstate agencies.

3. Whether the proposed regulations are consistent with the highest degree of safety in air commerce and air transportation in the public interest.

4. Whether proposed regulations are:

a. Economically reasonable;

b. Technologically practicable; and

c. Appropriate for the particular types of aircraft, aircraft engines, applicance, or certificates to which they would apply.

5. The extent to which the proposed regulations contribute to providing protection to the public health and welfare by carrying out the purpose of section 611 of the Act.

Thus, in furtherance of its aircraft noise policy and its responsibility to issue appropriate rules for the control and abatement of aircraft noise and sonic boom, the FAA has adooted the following amendments to the FARs:

1. Amendment 36–1 (34 FR 18815; November 25, 1969) amended Appendix C of Part 36 regarding noise test procedures and standards, to ensure that the approach noise test is conducted with the aircraft in the configuration that is used for safety purposes during type certification and that the test conditions do not contribute to measured noise levels less than those generated in normal operation of the aircraft.

2. On March 28, 1973, the FAA published in the FEDERAL REGISTER an amendment to Part 91 (Amendment 91–112; 38 FR 8051) to prohibit unauthorized operation of civil aircraft at supersonic speeds over the United States.

3. Under Amendment 36–2 (38 FR 29569; October 26, 1973), the number of aircraft subject to Part 36 requirements was increased significantly. All subsonic turbojet-powered airplanes and transport category airplanes produced after January 1, 1974, including those produced under type designs certificated before the original Part 36 compliance dates, were required to comply with the noise level requirements of Part 36, regardless of the date of the type certificate.

4. In 1974, the FAA issued Amendment 36–3 (39 FR 43830; December 19, 1974) to increase the stringency of the conditions under which applicants for an acoustical change approval must show that issuance of authorization of type design changes of affected turbojet-powered airplanes and transport category airplanes would not result in an increase of takeoff or sideline noise levels of those aircraft.

5. Propeller-driven airplanes with maximum certificated weights less than 12,500 pounds were made subject to Part 36 noise requirements in late 1974, when Amendment 36–4 (40 FR 1029; January 6, 1975) was issued. As amended, Part 36 prescribes noise standards and test procedures and conditions for new type designs of normal, utility, acrobatic, transport, and restricted category propeller-driven small airplanes. It also prescribes noise regulations for issuing standard airworthiness and restricted category airworthiness certificates for newly produced propeller-driven small airplanes and prohibits acoustical changes in type designs of those airplanes that would increase their noise level emissions beyond the prescribed limits.

6. Amendment 36–5 (41 FR 35053; August 19, 1976) amended provisions of Part 36 relating to noise type certification and acoustical change approvals in Subpart A and Appendices A, B, and C. Those amendments involved the technical procedures and standards for measuring and evaluating the noise emissions in the noise tests of civil subsonic turbojet-powered airplanes and transport category large airplanes.

7. Recently, based on its consideration of recommended regulations submitted to it by EPA under § 611(c)(1) of the Act, the FAA adopted certain amendments and issued notices of proposed rule making under section 611(b) of the Act. The FAA issued the following regulatory actions:

a. Amendment 36–6 (issued December 17, 1976) amended the noise test provisions applicable to propeller-driven small airplanes. That amendment involved the noise measurement and evaluation provisions and the noise test engine power setting requirements in Appendix F of Part 36.

b. The EPA-proposed rule contained in Notice 74–39 (40 FR 1061; January 6, 1975) also concerned noise test requirements and operating limitations for those propeller-driven small airplanes designed for agricultural or firefighting operation purposes and which do not comply with Part 36 noise limits. After due consideration of that proposal, the FAA concluded that an appropriate regulatory constraint on the operation of those airplanes was beyond the scope of Notice 74–39. Accordingly, the FAA has recently issued an NPRM which proposes to prohibit operation of those airplanes that do not comply with Part 36, except to the extent necessary to (1) accomplish the work activity directly associated with the special purpose for which the airplane is designed and (2) conduct certain other limited operations related to that purpose.

c. Amendment 91–134 (41 FR 52388; November 29, 1976) amended Part 91 for noise abatement purposes to require that a pilot in command of a civil turbojet-powered airplane use the lowest authorized flap setting consistent with safety.

d. After review of the EPA proposed rule contained in Notice 75–35 (40 FR 44256; September 25, 1975) regarding the use of reduced flap settings for noise abatement purposes, the FAA concluded that a regulatory action in addition to the amendment adopted in Amendment 91–134 should be considered for adoption. Accordingly, the FAA issued Notice 76–26 (41 FR 52396; November 29, 1976) proposing an amendment to Part 91 to require that the landing flap setting for turbojet-powered airplanes be delayed until at or below 1,000 feet above the airport elevation, unless a landing flap setting at a higher altitude is necessary in the interest of safety.

IV. COMMENTS ON NOTICE NO. 74–14 AND NOTICE NO. 75–5

Interested persons have been afforded the opportunity to participate in this rule making by submitting comments to the regulatory docket for each notice and by participating in a public hearing on the matters contained in Notice 75–5. The written comments to the dockets and the written and oral presentations made at the public hearing, which were made a part of the docket for Notice 75–5, have been reviewed and all matters contained in those dockets have been considered in the issuance of this amendment.

While there are some significant differences between the proposals in Notice 74–14 and Notice 75–5, the major issues concerning the need for the further reduction of aircraft noise at the source and the means by which that noise reduction should be achieved, including the questions of when it should be accomplished, were raised in response to both notices. Over 800 comments were submitted to the two regulatory dockets. The two notices of proposed rule making attracted comments from a wide range of interests, including individual private citizens; citizen groups; airport operators and operating authorities; environmental interest groups; Federal, State, and local government bodies; foreign governments and entities; aviation trade/industry associations; domestic and foreign aircraft and aircraft engine manufacturers; and domestic and foreign aircraft owners and operators.

The comments focused on the following issues: the options or alternatives to the proposed rule making that might be available; the effects of aircraft noise on the public health and welfare, costs versus benefits, economic reasonableness, technological practicability, compliance dates, the need for tradeoffs, appropriateness to particular aircraft types; safety; impacts of the proposed rule on energy consumption and aircraft emissions; and miscellaneous issues. These comments are discussed below.

A. ALTERNATIVES TO THE PROPOSED REGULATION

Virtually every commenter expressed support for the goal of aircraft noise reduction or, more particularly, the need for appropriate action to abate the impact of noise annoyance in the airport environment. In responding to the issues involved in the proposals contained in the notices, many commenters recognized the broader issues of aircraft noise control going beyond source noise reduction. Some discussed the various methods which may be used to achieve noise relief and reduce noise impact on the community. Thus, the docket contains suggestions of noise control actions that

were alternative or supplemental to those proposed in the notices. Many of these suggestions were beyond the scope of the notices, such as suggestions for specific flight procedures. Other alternatives that were suggested included matters beyond direct FAA control, such as land-use controls.

The FAA agrees with those commenters who recognize that this rule-making action will not eliminate the aircraft noise problem. However, the FAA also agrees with many commenters that this amendment is a necessary step towards achieving appropriate reductions at the noise source and will contribute to making aircraft and airports more compatible with the communities they affect. As many commenters noted, a comprehensive program involving many levels of government and combining numerous noise control and abatement techniques is needed to achieve the necessary protection to the public health and welfare. A discussion of these other noise reduction techniques is contained in the EIS and Policy Statement.

The FAA does not agree with those commenters who believe that the use of specific noise abatement operating/flight procedures, or combination of procedures, would provide the necessary noise control and abatement. Further, some commenters mistakenly believed that using an operational procedure during the flight of a noncomplying aircraft can serve as a substitute for compliance with Part 36. While some procedures help to minimize the generation or the propagation of noise from the aircraft in flight, their benefits to the public health and welfare are most significant when combined with other effective techniques, such as the source noise control that results from compliance with Part 36. Operational procedures are not a substitute for, but complement, limitations on source noise generation.

Some commenters, particularly some aircraft owners and operators, suggested that the FAA should permit the use of noise abatement operating procedures as an alternative to compliance with source noise limits. The FAA notes that it has consistently supported the use of those procedures that are in conformity with the safe and efficient use of the navigable airspace and do not otherwise adversely affect safety. The significance of terminal area procedures and other airport noise abatement techniques is discussed in the Policy Statement. Several commenters recognized that, unless future reductions in aircraft noise emissions at the source completely satisfy the need for protection of the public health and welfare, supplemental action by aircraft and airport operators and state and local governmental entities will continue to be needed. The FAA agrees. However, the FAA believes that the fact that non-Federal action is necessary is not a justification for delaying strong Federal action to bring about that part of the overall solution that is within Federal control. Some commenters opposing adoption of the proposed rules pointed to local airport measures as alternative means of achieving noise control. Since many of these matters are within the authority and control of the local community, the FAA cannot ensure that they will be acted upon. The FAA agrees with those commenters who stress the important role of aggressive local action, including planned airport development, zoning and related land-use controls, and the use of sound suppression materials in certain buildings in achieving the desired reduction of aircraft noise impact on local communities. However, the FAA does not agree with the suggestion by some commenters that the noise impacted communities should bear the full burden of reducing aircraft noise around airports. As previously stated, the cumulative effect of the various components of a comprehensive noise program is, and is expected to continue to be, necessary to achieve the required protection to the public health and welfare. This amendment is a significant Federal contribution to that comprehensive program.

B. IMPACT ON THE PUBLIC

The disruptive effect of aircraft noise on the quality of life, and on the air transportation system, has been outlined above and is discussed in detail in the Policy Statement and EIS. Public comments fully support FAA's conclusions concerning the impact of aircraft noise on the public.

As previously stated, virtually every commenter to the two dockets and each participant at the public hearing expressed support for the goal of aircraft noise control and abatement. Private citizens; citizens groups; Federal, State, and local authorities; and in particular, airport operators and proprietors stressed the need for present, as well as future, aircraft noise reduction requirements. The noise of air carrier aircraft, that is, the heavier turbojet-powered airplanes, was cited as a principal target for such reductions by many commenters. The FAA agrees that available technology must be applied in the further reduction of noise of those aircraft. This amendment accomplishes that result consistent with the considerations listed in section 611(d) of the Act.

More than 500 comments cited the need for significant and immediate relief from aircraft noise. Many commenters furnished graphic descriptions of the annoyance and disruption of their lives caused by unacceptably high levels of aircraft noise. Most of these commenters urged, and many demanded, that the FAA immediately adopt the proposed rules but with compliance sooner than that proposed. Educators, students, nurses, doctors, and others involved in noise-sensitive activities that are routinely affected by the sound of aircraft expressed their personal concern with the disturbance of noisy aircraft. The FAA agrees that the proposed operating noise limits are needed and must be issued at this time. Further the compliance dates for accomplishing those reductions should be set at the earliest date consistent with the statutory duty to consider economic reasonableness, technologically practicability, and flight safety. This amendment achieves that result.

The FAA agrees that since economically reasonable technology is currently available for, and is employed on, new production aircraft of the same basic type designs as certain older aircraft in the existing fleet, there remains no justification for not requiring the use of that noise reduction technology on older models of similar aircraft types if the operators of these older airplanes elect not to replace them with new technology airplanes. However, this has not been shown to be the case for the smaller turbojet types, as discussed below with respect to airplanes weighing 75,000 pounds or less.

The public comments regarding the perceived impacts of aircraft noise have been reviewed and were found to be useful and informative. Those comments have assisted the FAA in determining, after due consideration of all comments, that the economic impacts imposed by this amendment are reasonable and appropriate in relation to the benefits to be achieved. These costs and benefits are discussed below.

C. IMPACT ON THE FLEET: COSTS AND BENEFITS

Many comments were received concerning the economic impacts of the proposed rules on aircraft operators and whether or not these impacts would be justified in terms of the noise reduction benefits to be obtained.

The comments addressing economic impact concentrated on the following issues: costs of retrofit, re-engining or replacement, technological practicability, refan availability, tradeoffs, appropriateness to particular airplane types, and compliance dates.

With respect to cost impacts, comments indicated that "hush kits" have substantial cost elements since (1) they are expensive to manufacture and install, (2) they cause weight and performance penalties leading to increased fuel usage and operating costs, and (3) they deflect expenditure from new, quieter airplanes, which retards the ultimate introduction of appreciably quieter new airplane types. The FAA has fully reviewed these factors and believes that the regulation, as issued herein, adequately accounts for these cost elements. Economically reasonable retrofit hardware is available for many airplane types. While there will necessarily be costs associated with the manufacturing and installation of retrofit hardware, these costs, as discussed more fully below and in the EIS, are considered by the FAA to be reasonable, particularly when considered in relation to the resulting noise reduction benefit which improves the quality of life and provides relief and protection to the public health and welfare from aircraft noise. The compliance dates and replacement plan provisions of this amendment permit adequate fleet plan-

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ning to prevent premature investment in marginally effective retrofit technology and allow the phasing in of the most advanced new airplane types to replace airplanes that are becoming economically obsolete.

One comment highlighted the vulnerability of airplane operators to supply problems involving manufacturers. For example, it was stated that a prime supplier of quiet nacelle kits has ceased all kit production because of poor market conditions and that the production rate will only be known when the size and timing of the market is known. Problems associated with the production of critical forgings and other tooling equipment were also stressed. This planning problem was stated to be further confused by such unknowns as customer order size, time of production, and the inflation rate. The FAA believes that the planning time furnished in this amendment, and the flexibility that it allows, coupled with the certainty of the requirement for Part 36 compliance, will provide a firm planning basis for defining the retrofit market, establishing production schedules, and developing the best compliance options for each operator who elects not to replace older airplanes.

Several comments were received indicating that certain airplane types, such as the older four-engine axial flow turbojets, could not economically be brought into compliance. The issue raised by this objection is whether or not replacement of a noncomplying airplane type by a complying airplane type should be required where the cost of aircraft modification may be great in relation to the value of the airplane being modified. The FAA believes that, since unrestricted use of noncomplying airplanes lessens the public benefit resulting from compliance by other portions of the total fleet, replacement or retirement of these airplanes should be required, within reasonable time limits. Much attention has been given to such factors as airplane useful life, amortization, depreciation, and ultimate replacement. Because of the ample lead times in this amendment, including the replacement plan provisions, economically reasonable options are afforded by this amendment.

A somewhat contradictory pattern of comments emerged. Certain comments argued that no firm dates could be set because of the many variables involving retrofit kit production, and stated that no time limit could be established until the FAA obtains "guaranteed" dates from the manufacturers. Another line of comments stated that, while the dates proposed were too restrictive, the establishment of firm dates is essential to begin the procurement, production, and distribution processes necessary for effective fleet noise reduction. Both of these arguments appear to have merit. This amendment therefore accommodates both the need for maximum industry initiative and the need for a firm compliance schedule. This is done by permitting operators to obtain approval of replacement plans.

This is consistent with the primary goal of this amendment which is to extend the noise standards of Part 36 to the currently operating fleet of heavy turbojet airplanes while at the same time allowing the flexibility necessary to permit operators to purchase new technology airplanes where that option is superior to the modification of older airplanes. A recent NASA study has shown that substantial long-term (through the year 2000) reductions in noise, fuel consumption, and air polluting emissions are achievable through the development and introduction of more advanced technology than that currently available. The FAA believes that the greatest benefit to the public that could flow from this amendment would be the encouragement of aircraft operators and manufacturers, working together, to accelerate the growth and application of this new technology.

Many comments to Notice 75–5 stated that the dates proposed in the notice could not be met and must be relaxed. These comments furnished detailed information on the fleet-by-fleet timing problems involved in retrofit. This information indicated that it was not feasible to comply with the proposed rule by June 30, 1978, even if all retrofit type design changes had already been certificated. It was estimated that up to 30 months would be needed for availability of the first kit after receipt of the purchase order. Two to three months more time was urged as being essential to permit responsible decisions concerning the placing of purchase orders with manufacturers. For aircraft for which retrofit type design certification, production engineering, and tooling have not been accomplished, time frames in the order of three years were estimated before significant kit production rates could be achieved, with more time being estimated for total fleet compliance for these airplane types. Similar timing problems were stressed with respect to the replacement of older airplanes with newer airplane types.

Comments were received concerning the impact of the proposed compliance dates on foreign operators. For reasons discussed in Section IV below, the FAA has determined that a regulation should not be prescribed for foreign operators at this time.

One comment pointed out that the only retrofit kits that might be developed within shortened production schedules would have unacceptable losses in thrust and increases in fuel consumption. The FAA is particularly conscious of the secondary impacts that noise abatement type design decisions may have on safety, performance, and fuel consumption throughout the remaining useful life of an airplane. The dates prescribed in this amendment are selected to permit the development, marketing, and incorporation of hardware that is optimal in all of these respects for operators electing not to replace their older airplanes.

Strong public comment was received urging that there be no slippage in the proposed dates. Concern was expressed that the arguments in favor of further delay had run their course, were no longer valid, and should no longer be controlling. It was stated that the public interest requires that the proposed dates be met regardless of cost to the airlines. Other comments recognized the need to consider economic and technological factors in arriving at these compliance dates, but argued that the proposed dates adequately accounted for those factors and should be preserved.

The great volume of written and oral comment received in the docket and at the hearing has provided a clear perspective on the magnitude of the problems involved in overall fleet compliance with Part 36. The cumulative impacts of the proposed compliance dates on prototype testing—and construction, certification testing, production engineering, materials availability, procurement by operators, delivery, and aircraft modification and downtime scheduling have been reviewed. In the preproduction phase, for example, an engine manufacturer indicated that a critical timing constraint on the production of retrofit kits is the extremely limited forging press capacity of his supplier, and the time (estimated as four years) required for this supplier of aluminum forgings to increase his production capacity. In summary, the information received in response to the notice clearly showed the extent to which the aircraft operator, who is the regulated person, is at the end of a long and complex chain of production stages over which he has no direct control and involving suppliers whose schedules and marketing patterns are beyond FAA regulatory control. The compliance dates in this amendment reflect this.

Each potentially viable option for accelerating total fleet compliance with Part 36 has been considered in its relation to the factors discussed above. Where possible, separate compliance schedules have been established in this amendment to accelerate compliance by different segments of the fleet. However, consistent with the duty specified in section 611(d) of the Act, the FAA does not believe that the total elimination of noncomplying airplanes, by retrofit, replacement, or retirement, can reasonably be mandated in less than the time permitted under this amendment.

Several comments stressed the development of refan technology as a superior alternative to retrofitting with quiet nacelle treatment. These comments urge that the FAA not force the premature incorporation of quiet nacelle treatment and then require a later retrofit to incorporate refan technology. These comments pointed out the wasted resources that would result from such a double retrofit. The FAA agrees in part with these comments. The lead times in this amendment, and its provision for approval of alternate compliance plans, are intended to encourage and facilitate the most flexible compliance programs consistent with the clear public need for a firm schedule of compliance. However, it should be pointed out that the noise

limits in this amendment will be continuously reviewed, and noise reduction technology assessed, to determine whether lower noise limits should be prescribed in the future. Therefore, compliance with this amendment should not be regarded as assuring that no further retrofit or airplane replacement will be required in the future.

Many comments were received concerning the proposal to require all operators to comply with Part 36 without "tradeoffs." (Under the "tradeoff" provisions of Appendix C of Part 36, the applicable noise limit may be exceeded at one or more measuring points (e.g. takeoff or approach) if that exceedence is offset by a noise level at another measuring point, such as sideline, that is sufficiently below the applicable limit.) These comments pointed out that current regulations permit the issuance of standard airworthiness certificates to newly produced airplanes of older type designs that use the tradeoff provisions of Part 36 to show compliance with that part. It was stated that an anomolous situation would be created if an airplane certificated using tradeoffs were not permitted to operate unless recertificated without tradeoffs. This same argument was raised concerning airplanes voluntarily brought into compliance with Part 36 prior to the issuance of operating noise limits. The FAA agrees with these comments. For airplanes that were in compliance with Part 36 prior to January 1, 1977, this amendment does not require recertification to Part 36 requirements without tradeoffs. This is also the case for airplanes that are shown (before or after January 1, 1977) to comply with Part 36 for the original issuance of a standard airworthiness certificate. For both classes of airplanes, the FAA believes that the increment of further noise reduction to be achieved by recertification does not justify the imposition of recertification costs.

Other comments argued that the older class of turbojets that have never been in compliance with Part 36 (i.e., those that were not designed or produced under Part 36 requirements or voluntarily brought into compliance with that part) should not be required to comply with Part 36 without tradeoffs when the newer technology airplanes may use tradeoffs. The FAA disagrees. Unlike the two cases discussed above, which involve airplanes for which a no-tradeoff requirement would involve recertification, it has been determined to be cost effective, for certain airplane types, to apply full acoustical treatment to reduce the high noise levels of previously noncomplying airplanes all the way down to compliance with Part 36 without tradeoffs. In many cases, the technology is already available. In other cases, it is expected to be available in sufficient time to permit compliance within the dates prescribed in this amendment. The degree of noise reduction this technology offers to noncomplying airplanes warrants the cost of a single retrofit requirement that does not permit tradeoffs to be used. The FAA recognizes, however, that certain of these older noncomplying airplanes either cannot comply with Part 36 without tradeoffs under any circumstances, or cannot comply at certain high weights. For those airplanes, this amendment permits the approval of the use of tradeoffs if the operator shows that, after full application of existing retrofit technology, the use of tradeoffs is required for compliance with Part 36.

In addition to the numerous comments addressing the costs that would result from the proposed regulation, many comments concerned the benefits to be expected from the rule. Several comments pointed out that complete resolution of the airport noise problem requires that state and local governments take aggressive action to achieve land-use compatibility around airports. The FAA agrees. The noise limits specified in Part 36 are the lowest noise levels that can be achieved, at the source, through reasonable application of available noise reduction technology. As stated above, the noise levels specified in Part 36 represent a significant improvement in source noise reduction, but complementary action by state and local governments, including airport proprietors, is a vital part of the overall solution to the airport noise problem.

In addition to comments relating the effectiveness of source noise reduction to the effectiveness of land-use controls, several comments addressed the direct benefits of the source noise limits as proposed. One comment stated that, if quiet nacelle treatment were required too early, this would so damage the economic condition of one carrier that it would be forced to leave older, noisier, less efficient airplanes in service and delay the return to service of wide-bodied airplanes that were removed from service because of poor market conditions. The FAA has made every effort to ensure that this amendment will not have the counterproductive effect of extending the life of older airplanes and retarding the entry of new technology airplanes into service. As stated above, the lead times and replacement plan approval provisions in this amendment are intended to permit phased replacement of airplanes and not force the retrofitting of older airplanes to the exclusion of more effective options.

Several commentators stated that the actual perceived noise reduction from quiet nacelle retrofit is minimal and should not be required. The FAA disagrees. In terms of total fleet noise reduction, the FAA believes the requirement to achieve compliance with Part 36 will result in significant source noise reduction, and that the retrofit technology that is available for certain older airplanes will provide an important part of that overall fleet noise reduction. The FAA has given particular attention to detailed comments stating that there is no solid evidence that quiet nacelle retrofitting provides economically justifiable public health and welfare benefits. One of these comments concluded that it would be a misappropriation of financial resources to impose the burden of retrofit for so little benefit. Three conclusions are reached by the FAA in response to this comment. The first is that compliance with Part 36 through retrofit will result in significant noise benefits. Second, a firm noise ceiling, applicable to all heavy turbojets, will greatly assist state and local governments in adapting local land use to firm source noise levels. The third conclusion is that, because it encompasses both replacement and retrofit, this amendment permits the option selected by an operator to be the most cost effective means for bringing his fleet into compliance.

As a result of combined government and industry research, a safe and practicable application of acoustic technology has been developed and tested that will allow turbojet airplanes certificated prior to the adoption of Part 36 to be modified to comply with that part while maintaining full compliance with applicable airworthiness standards. The FAA, through cost-sharing contracts with industry, sponsored development of technology for acoustic treatment of engine nacelles and fan ducts of JT3D engines with sound absorbing materials (SAM), and demonstrated that it is technically feasible to modify engine/nacelle components to comply with Part 36 with airplane configurations that could be approved for air carrier operation. Under one contract, flight testing of a JT3D powered B–707 with quiet nacelles has shown the applicability of this treatment to the JT3D in a manner achieving compliance with Part 36 for these aircraft. Studies comparing the DC–8 with the B–707 indicate the general manner in which the DC–8 could also be modified to comply with Part 36 consistent with the highest degree of safety.

With regard to other aircraft types affected by the regulation, a modification to enable early production B–747's to comply with Part 36 has been approved and is available. Similarly, JT8D powered B–727, B–737, and DC–9 airplanes are being produced in configurations that comply with Part 36. This technology is appropriate for modification of previously manufactured airplanes of these types.

Appendix D of the EIS contains a detailed study of the noise reduction benefits of aircraft modifications under this amendment. It indicates that reductions at the Part 36 measuring points ranging up to 14 EPNdB will be achieved for a number of air carrier airplane types. The technological alternative of airplane modification has been thoroughly examined. The FAA has determined that SAM nacelle treatment will result in a degree of reduction of airplane noise levels that can significantly reduce annoyance. With respect to takeoff noise, for example, the absolute magnitude of the reduction in effective perceived noise decibels (EPNdB) ranges from 13 or 14 for JT3D powered airplanes, 4–6 for JT8D powered airplanes, and 3 for JT9D powered airplanes. Appendix F of the EIS discusses the subjective effects of

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such noise reductions. In a letter to the FAA, referring to the above noise reductions for JT8D powered airplanes, members of The Committee on Hearing and Bioacoustics of The National Research Council of The National Academy of Sciences and The National Academy of Engineering stated:

> We believe that [these] noise reductions in aircraft noise level represent significant and beneficial improvements, which will provide meaningful and perceivable relief to airport neighbors. Recent research has indicated clearly that aircraft noise reductions on the order of 6 EPNdB are quite apparent to residents near airports and result in substantially less annoyance to those residents.

So far as cumulative noise exposure reductions are concerned, the data from the 23–Airport Study have been used by the FAA to model the effect of compliance with this amendment on a national basis. As described above, it is estimated that there are 6 million persons residing on 1,500 square miles exposed to cumulative noise levels of NEF 30 or higher and one-half million persons residing on 150 square miles exposed to NEP 40 or higher. These noise exposure levels range from substantial to very serious in terms of their adverse effect. The FAA estimates that compliance with this amendment will, by 1985, shrink the NEF 30 contours away from approximately 2.5 million persons, and the NEF 40 contours away from approximately 130,000 persons, if replacement of JT3D powered airplanes (i.e., the B–707 and DC–8) is extensive.

Under the regulatory reform policies of the Secretary and the Administrator, a comprehensive analysis of the costs and benefits of this amendment has been completed. The details of this study are shown in the Policy Statement and the appendices of the EIS, particularly Appendix D. Viable combinations of retrofit and replacement are analyzed. This study considered not only the above discussed noise benefits, but also the achievement of other important national objectives. These included the energy conservation benefits of improved fuel efficiency, the increasing importance of aeronautical exports to the national economy, the declining role of aerospace research and development as a percentage of national defense and NASA outlays, the stimulation of employment in the aerospace and related industries, and the advantages to the consumer of more advanced aircraft design and lower operating costs. Based on forecasts of aviation growth, the airport noise problem is expected to increase in the future despite the voluntary introduction of quieter aircraft. Between 1975 and 1990, annual air carrier operations are expected to increase to a degree that would create additional noise exposure which, without Federal action such as this amendment, could more than offset the reduction of noise resulting from the voluntary introduction of quieter airplanes.

The FAA has determined that this amendment is economically reasonable in its impacts. Modification of all affected aircraft would result in an investment cost over the eight-year period of some $700 million and an additional $250 million in operating costs. (This is equivalent to the information in the EIS, in connection with the cost/benefit analysis, which is expressed in terms of discounted values.) On a comparative basis, the increased outlays associated with these capital and operating costs represent less than 2 percent of estimated passenger and cargo revenues over the same timeframe. This is not more than $1.20 on the average 1975 domestic trunk airfare (which was approximately $60.00). Appendix D of the EIS describes the potential costs of this amendment more fully. In addition to the conclusion that the costs of this amendment are not excessive, the FAA also concludes, on the basis of its analysis of costs and benefits, that these costs are amply justified in terms of the significant noise reduction benefits of this amendment as also discussed in Appendix D of the EIS.

An important adjunct of the overall cost/benefit study was the possible impact of this amendment on inflationary forces in the national economy. Appendix C of the EIS contains this study, including unit cost estimates, effects on supplying industries, the economics of aircraft manufacturing, and employment impacts. The conclusion of this study is that, for all viable compliance options, the total cost of compliance will create additional direct and indirect demands on the supplying industries of 1.5 percent or less of projected output in any year, and that the modification and replacement programs will, at most, raise industry output to its peak 1968 levels. It was also concluded that there should not be any pressure on wages in particular professional or labor occupation groups. It is concluded that no identifiable inflationary pressures on wages or prices are expected through the issuance of this amendment.

In summary, after consideration of all of the issues discussed herein and in the Policy Statement and the EIS, the FAA has determined that this amendment is economically reasonable, technologically practicable, and appropriate to the particular airplane types to which it applies.

D. SAFETY

Responding to the EPA proposal, one commenter stated that sufficient research has not been conducted to determine the effects that retrofitting with currently available technology may have on the safety of flight of small business jets. That commenter opposed a requirement to retrofit those airplanes on grounds that adequate research has not been conducted.

Other commenters stated that adequate deicing systems for SAM treated engine nacelles are not available and that retrofit may require a change in fire detection and fire extinguishing procedures.

The FAA agrees that the noise levels in Part 36 should not be made applicable to civil subsonic turbojet engine-powered airplanes with maximum weights of less than 75,000 pounds at this time. Evaluations indicate that technology is not currently available to justify applying such a requirement across the board to all aircraft in this class. However, the FAA will continue to evaluate this matter and may propose, at a later date, that Part 36 noise requirements be made applicable to those airplanes, if appropriate technology becomes available and is shown to be economically reasonable and acoustically effective. This is more fully discussed below.

With regard to the comments concerning deicing systems and fire detecting and extinguishing systems, it should be noted that these matters will be given full consideration during certification tests and that safety will not be compromised.

A question was raised concerning the safety of an inlet ring in some of the SAM designs. The use of inlet rings on the affected aircraft configurations has been investigated from the standpoint of safety, and it has been determined that designs can be developed that will meet applicable airworthiness requirements.

In conclusion, the FAA emphasizes that, for the aircraft covered by this amendment, compliance with the requirements set forth in this amendment can be achieved in a manner consistent with the highest degree of safety.

E. ENERGY AND AIR QUALITY

Although there are several ways to achieve compliance with this amendment, most commenters critical of the proposals discussed problems associated with retrofit. In this connection, nearly all of those commenters asserted that retrofit would result in a substantial increase in fuel consumption. One commenter asserted that retrofit would derogate efforts currently being made to reduce petroleum consumption. Others estimated that the increase in fuel consumption would result in substantially higher operating costs.

The FAA disagrees with these comments. Extensive engine performance tests have been conducted to evaluate the effects of retrofit. These tests indicate that retrofitting the affected airplanes would result in a maximum of one percent increase in fuel consumption for most airplanes. This increase would constitute an 0.67 percent increase in air carrier fuel use, or an overall 0.43 percent increase in use of aviation fuel if the annual fuel consumption of all aircraft is considered. Moreover, aviation fuel consumption amounts to only 13 percent of the total consumption of fuel in the United States for transportation purposes. Energy expended on transportation constitutes approximately 24 percent of the total consumption of energy in the United States each year. Based on these statistics, retrofit would increase total energy consumption in the United States by no more than 0.013 percent annually. Accordingly, the FAA concludes that only minimal fuel consumption increases will result from retrofit modifications.

In addition, based on evaluations conducted, the FAA concludes that emissions from retrofitted airplanes will have a negligible effect on air quality and will comply with emission standards established by the EPA. Since the modifications involved in retrofit would not involve changes to the combustion chambers, no fundamental change in the emission generation process is expected. No changes in thrust are expected during idle and taxi. Therefore, emissions associated with ground operations, which are the most critical with respect to the airport impact on air quality, are not expected to be changed.

By the compliance dates specified, it is reasonable to expect that some attrition will reduce the number of aircraft that might have had to be retrofitted if compliance with Part 36 were required at the present time. Based on such considerations, operators may elect to retire, rather than retrofit, some of those airplanes before the compliance dates, or may choose to replace others with new technology aircraft before that date. One result of such decisions would be smaller energy consumption increases attributable to retrofit.

Therefore, the FAA concludes that requiring the airplanes specified in this amendment to comply with Part 36 noise requirements by the dates prescribed, in addition to being necessary to protect the public from aircraft noise, will have a negligible effect on energy consumption and air quality.

F. MISCELLANEOUS

A number of comments contained observations regarding certain legal aspects of the proposals. In this connection, one commenter stated that the FAA should be concerned with the noise reduction of military aircraft.

Section 611, which sets forth the noise abatement duties of the FAA, is in Title VI of the Act, which title authorizes the regulation of civil rather than public (including military) aircraft. Under that title, the FAA is not authorized to prescribe noise regulations controlling the design of military or other public aircraft.

Another comment stated that it would be arbitrary and discriminatory to apply the requirements of Part 36 only to airplanes with maximum weights greater than 75,000 pounds. This comment stated that such a weight distinction would unfairly burden the operators of the heavier aircraft as compared with the operators of lighter aircraft that are in direct competition with them. This weight distinction has been utilized in this amendment to identify those aircraft for which replacement or modification has been determined to meet the economic and technological considerations specified in section 611(d). For smaller airplane types, an across-the-board noise limit has not been shown to be economically reasonable, or technologically practicable at this time.

Finally, one commenter expressed concern that inspection and routine maintenance may become more difficult if retrofit is used to meet Part 36 requirements. That commenter cited as a particular problem the need for a hoist to remove the heavy nacelle lining of one type of airplane. The FAA notes that the SAM retrofit kit was designed to minimize the difficulties associated with the normal maintenance of aircraft engines. Moreover, it should be further noted that a hoist already is employed for routine engine removal and replacement.

VI. NOTICE OF DECISION NOT TO PRESCRIBE CERTAIN AMENDMENTS

Under section 611(c)(1)(B) of the Act, if the FAA elects not to prescribe an amendment in response to an EPA proposed regulation, the FAA must publish in the FEDERAL REGISTER a notice that it is not prescribing a regulation based on that proposal. In two respects, the FAA has elected, after comprehensive review, not to prescribe part of the regulation as proposed by EPA at this time. These involve the applicability of operating noise limits to airplanes engaged in foreign air commerce and to turbojets with maximum weights of 75,000 pounds or less.

A. AIRPLANES IN FOREIGN AIR COMMERCE

Under proposed § 91.301(b) in Notice 75–6, the noise requirements of Part 36 would be applicable to a civil subsonic turbojet engine-powered airplane having a foreign registration certificate.

Notice 74–14 contained an extensive discussion of the factors that must be considered in determining whether Part 36 noise requirements should be made applicable to foreign registered aircraft. In this connection, the FAA stated that "it is preferable that environmental problems affecting international civil aviation, like other aviation problems affecting more than one nation, be resolved by the International Civil Aviation Organization" (ICAO). On the other hand, the FAA observed that "equal and nondiscriminatory application of economically reasonable noise standards, to all operators, is an appropriate noise regulatory policy." While the notice proposed that Part 36 requirements be made applicable to foreign registered aircraft, the FAA stated that it would carefully review comments received from foreign and U.S. operators before taking any action on that proposal.

Several commentors expressed support for a proposed rule that would make Part 36 requirements applicable to those airplanes. However, comments received from nearly all foreign operators and governments and international airline groups expressed opposition to that proposal.

Most commenters opposing the proposal criticized the taking of unilateral action by the United States. In this connection, many of these commenters expressed their belief that noise standards affecting foreign operators should be developed in the ICAO forum. One commenter stated that the Council of ICAO has emphasized the need for all member states to refrain from unilateral action. The same commenter also observed that the ICAO Committee on Aircraft Noise has recorded the view that states should not apply national regulations to aircraft of other states without a prior bilateral or multilateral agreement. Others recommended negotiations to arrive at such agreements, stating that unilateral action is not in accordance with accepted international practice and not in the best interest of aviation. Noting that technical capabilities and environmental needs vary among nations, another commenter argued that a lack of formal international policy consistent with these considerations will lead to the enactment of conflicting unilateral requirements and perhaps to unmanageable international problems.

Comments cited Annex 16 to the Chicago Convention as the basis for their opposition to unilateral action. One commenter stated that tradeoffs should be allowed for retrofitted aircraft in accordance with Annex 16. That commenter contended that it would be extraordinary and unsatisfactory if an aircraft were not allowed to operate into and out of the United States, even though fully complying with that Annex and allowed to operate into and out of other ICAO member states. While observing that the standards of Part 36 are more severe than those of Annex 16, another commenter objected to the international application of Part 36 stating that the United States was a party to the introduction of Annex 16.

Other commenters based their objections on considerations of basic fairness. Several observed that foreign operators would be compelled to convert their entire fleets to comply with Part 36 requirements even though the modified airplanes would only infrequently serve U.S. airports. One commenter asserted, in essence, that operations into and out of the United States by foreign registered aircraft are minimal when compared to total U.S. operations, and that if foreign aircraft were subjected to Part 36 requirements, the benefit to the U.S. public would be insignificant.

Some commenters addressed the economic and technological considerations that would be involved if foreign registered aircraft were required to comply with Part 36. In this regard, one such commenter stated that certain aircraft operated into the United States can, after being retrofitted, meet current Part 36 requirements if tradeoffs are allowed. However, it was stated that other aircraft could meet ICAO Annex 16 noise levels but could not meet Part 36 noise levels even if Part 36 tradeoffs are permitted. Another contended that "hush kits" do not currently exist for some of its aircraft and that it cannot foresee their availability. That commenter further contended that retrofit for those aircraft could probably never be accomplished economically and that expensive reengining is not a feasible alternative.

Finally, one commenter asserted that foreign registered aircraft should not be affected by the proposal until basic environmental data is presented to show the need for such action.

The FAA believes that these issues are best resolved, in the first instance, at the international level. The importance of

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international negotiation is stressed in the "International Air Transportation Policy of the United States," issued by the President on September 8, 1976. As stated in that document (and in the November 18, 1976, Policy Statement), the United States encourages agreement on international environmental issues through the ICAO forum where consistent with domestic legal requirements. This policy is intended to promote equal treatment for foreign and domestic carriers through international regulations and preclude any unwarranted economic advantages or disadvantages for competing carriers which would be created in a world air transportation environment characterized by diverse national noise requirements.

Under this policy, every effort will be made to obtain ICAO agreement on application of noise standards for existing aircraft in international operations. If it proves impossible to obtain international agreement on adequate aircraft operational noise standards, the United States, as discussed below, will develop U.S. national standards, applicable to airplanes engaged in foreign air commerce, in order to protect public health and welfare.

ICAO currently is studying noise reduction modifications with the aim of achieving an international agreement on that subject. In light of this and the potentially disruptive effect that action by the United States at this time could have on the orderly development of international noise abatement standards, which could benefit many nations, the FAA believes that it would be inappropriate at this time to make Part 36 requirements applicable to foreign registered aircraft. However, as stated in the Policy Statement, the United States will seek early agreement through ICAO on operational noise standards and an international schedule for compliance with Annex 16 or Part 36. If such agreement is not reached by January 1, 1980, the FAA will taken regulatory action to require all airplanes engaged in foreign air commerce to comply with Part 36 or Annex 16, during the period ending on January 1, 1985, at a phase rate of compliance similar to that established for domestic operations. The requirements ultimately applied to U.S. international flag carriers will not be more stringent than those applied to foreign air carriers, since this would place these U.S. air carriers at an economic disadvantage if they had to comply with noise standards more restrictive than those that apply to similar airplanes operated by foreign operators. Where U.S. air carriers serve both domestic and foreign routes, the requirements that are adopted for foreign registered airplanes will also be applied to the portion of the U.S. fleet engaged in foreign air commerce.

In summary, pending the development of international or U.S. operating noise limits for aircraft in foreign air commerce, this amendment does not apply to operators of foreign registered airplanes. In addition, to prevent unjust discrimination against the operators of U.S. registered airplanes that operate over the same routes as foreign registered airplanes, this amendment does not apply to the portion of the fleets of U.S. registered airplanes that are engaged in foreign air commerce. For this purpose, this amendment provides for approval of methods of determining the portion of each operator's fleet that is engaged in foreign air commerce. For example, one such method would be the number of takeoffs and landings, during a representative base period, that were conducted by an operator's fleet in foreign air commerce as a percentage of the total takeoffs and landings of that fleet (in foreign and other air commerce) during that base period. This amendment does not prejudge the method of apportionment that may be most appropriate for each fleet.

B. AIRPLANES WEIGHING 75,000 POUNDS OR LESS

As noted above, the EPA proposal applied to all civil subsonic turbojet engine-powered airplanes regardless of the weight of those airplanes. In Notice 75-5, the EPA expressed its belief that all of those aircraft, which currently do not meet the noise levels of Part 36," * * * are capable of meeting those levels by applications of various retrofit or re-engine options." EPA noted that "[s]ince all newly produced airplanes of that type (less than 75,000 pounds) must comply after January 1, 1975, with the noise levels prescribed in Part 36 (§§ 21.183(e) and 36.1(d)) of the Federal Aviation Regulations, there appears to be no valid justification to permit those airplanes in the existing fleets to be operated indefinitely at their present noise levels."

One commenter stated that retrofit solutions are available for all general aviation aircraft either in the form of noise suppressors, retrofits to the engines and nacelles, or retrofit powerplants. On the other hand, many others asserted that applying the requirements of Part 36 to aircraft weighing less than 75,000 pounds is unrealistic from a technological standpoint. In this connection, a number of commenters stated that "hush kits" have not been developed for their aircraft. One of those observed that, even if such a kit were developed for its aircraft, it would need tradeoffs to achieve compliance with Part 36. Others stated, in essence, that more time is needed for development of appropriate kits, one noting that the kits are in the engineering and development stages and in most cases there is no evidence as yet that they will function properly or be available in time to meet the compliance date. Also questioning the performance of available technology, another comment stated that the only "hush kit" available for small jet aircraft is of questionable value with respect to performance, safety, maintainability, and noise suppression capability.

Some persons based their objections on grounds that large airplanes, rather than those weighing less than 75,000 pounds, are responsible for the noise problem. Contending that large air carrier aircraft are the major cause of the problem, one commenter concluded that aircraft weighing less than 75,000 pounds should be given consideration in a separate notice of proposed rule making. Others argued that, if cumulative noise is the problem, scheduling is more significant than noise levels. In this regard, one commenter observed that business jet operations are sporadic while constant commercial operations at some airports are the cause of the noise problem. Based on this consideration, that commenter asserted that the public health and welfare is not endangered at the airports where jet operations are intermittent.

Some commenters cited operational noise abatement procedures as an alternative to compliance with Part 36 noise levels for aircraft weighing less than 75,000 pounds. Noting that testing of those procedures is going on at the present time and that positive results have been realized, one commenter asserted that more testing should be conducted to determine if there is a realistic alternative to compliance with the stringent regulatory requirements of Part 36. Another commenter contended that noise abatement procedures would be a realistic alternative if appropriate fines were levied on persons failing to observe those procedures. Operating procedures were also advocated by a commenter who argued that noise suppression devices, among other things, reduce engine efficiency and should not be required.

Other comments expressed the view that Part 36 requirements for business aircraft are unnecessary or, at the very least, should be delayed. With regard to necessity, several persons stated that normal attrition will eliminate the need to modify those aircraft. One commenter suggested that, to minimize the burden on industry, noise suppression should be accomplished when engine overhaul or replacement becomes necessary. Several persons suggested that plans to retrofit aircraft should be abandoned and that noise abatement should be focused on the next generation of small aircraft. This argument is based on their belief that, due to the new emission standards soon to become effective, many aircraft may have a useful life of two years or less.

Finally, many comments submitted in response to the proposal addressed the issue of economic reasonableness. In this connection, many persons asserted that the substantial cost of compliance is unreasonable in view of the minimal reduction in noise that would be realized, or asserted that the cost of substantial reductions in noise levels would be excessive. Also focusing on the cost of compliance, others stated that retrofit or re-engining would, in some cases, exceed the value of the airplanes to be modified, and would cause operators to dispose of their aircraft with resulting negative effects on employment and the economy. Still others stated that the proposal is unfair since it would be more restrictive and costly when applied to business and corporate aircraft than when applied to large, commercial aircraft.

As stated above, the FAA does not regard operational noise abatement procedures as a viable alternative to retrofit or related means of noise suppression at the source. On the contrary, retrofit or re-engining are a means to achieve compliance with Part 36 noise requirements at the time of certification. Operational noise abatement procedures are considered an appropriate means to further reduce noise where circumstances warrant.

On the other hand, the FAA believes that the noise reduction benefits, technological practicability, cost effectiveness, and economic impact of applying the proposed requirements, across the board, to all turbojets weighing 75,000 pounds or less have not yet been adequately determined.

As noted above, section 611(d) of the Act requires the FAA to consider whether its noise regulations are economically reasonable, technologically practicable, and appropriate to the particular type of aircraft to which they apply. The FAA has determined that there are noise reduction modifications that can be applied, during the original design and manufacturing of the smaller turbojet types, in a manner that complies with Part 36 consistent with the economic and technological constraints of section 611(d). However, in many cases, these modifications involve re-engining or other substantial redesign efforts that, while reasonable when spread over the production run, appear at this time to be of doubtful cost effectiveness if accomplished by retrofit. Unlike the economics of the mass fleet modification of heavy air carrier aircraft, or the economics of aircraft type design changes incorporated during the original manufacturing process, there is as yet no clear evidence that currently operating business or private jets weighing 75,000 pounds or less can be taken out of operation and retrofitted in an economically reasonable manner. This conclusion also applies with respect to regulatory action that might force the retirement of these aircraft. Unlike the larger aircraft types, for which the replacement or modification options have been shown to be reasonable and practicable under the terms of this amendment, more must be known regarding the economic factors involved in the application of operating noise limits to turbojets weighing 75,000 pounds or less. Many of the smaller turbojets are the major aeronautical investment of the corporations they serve. They are frequently the only airplane, or one of very few airplanes, owned by the operator. These airplanes are extremely varied in their missions. Their operating economics have not yet been summarized, in sufficient depth, to permit an adequate assessment of the probable impact of an across-the-board post-certification retrofit requirement. The supply problems affecting the small engine manufacturers also require further study before the overall impacts of specific compliance dates can be assessed.

In view of the fact that the retrofit of currently operating turbojet airplanes weighing 75,000 pounds or less would in most cases involve new airplane design and development programs, and considering that such major redesign involves the need for further data concerning the effects of such retrofit on safety, fuel consumption, flight performance, operating economics, maintenance, and emission propagation, the FAA concludes that operating noise limits for turbojet airplanes weighing 75,000 pounds or less cannot be adopted at this time in a manner that is fully consistent with the constraints in section 611(d) of the Act. However, the FAA is expanding its comprehensive analysis of the public impact of aircraft noise. This effort is part of a broad FAA review of the national aviation system aimed at determining the environmental benefits and related costs of source noise controls, operating procedures, and land use planning. This study includes investigations of the noise impacts of different aircraft classes (including the smaller business jets), new technology that might be applied in each class, and forecasts of the growth of each class. As the results of this study become available over the next two years, FAA will undertake such further actions as may be appropriate.

(Sec. 307, 313(a), 601, 603, 604, and 611, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1423, and 1424, and 1431 as amended by the Noise Control Act of 1972 (Pub. L. 92-574)); Section 6(c), Department of Transportation Act (49 U.S.C. 4321 et seq.); Executive Order 11514, March 5, 1970.)

In consideration of the foregoing, the Federal Aviation Administration hereby takes the following actions based on Notice 74-14, and in response to the proposed regulation submitted to it under section 611(c)(1) of the Act by the U.S. Environmental Protection Agency which was published as Notice 75-5 (40 FR 8218; February 26, 1975), regarding operating noise requirements for civil subsonic turbojet engine-powered airplanes:

(1) In accordance with section 611(c)(1)(B) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1431(c)(1)(B)), Notice is hereby given that, for the reasons stated in Section VI, above, the Federal Aviation Administration is not prescribing regulations, at this time, in response to the portions of the proposals submitted by EPA and contained in Notice 75-5 regarding the adoption of operating noise limits for turbojet airplanes having maximum weights of 75,000 pounds or less and for airplanes engaged in foreign air commerce.

(2) In accordance with section 611(c)(1)(A) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1431(c)(1)(A)), Part 91 of the Federal Aviation Regulations (14 CFR Part 36) is amended, effective January 24, 1977, by adding a new Subpart E to read as follows:

Subpart E—Operating Noise Limits

Sec.
91.301 Applicability; relation to Part 36.
91.303 Final compliance.
91.305 Phased compliance: Parts 121 and 135.
91.307 Foreign air commerce.
91.309 to 91.399 [Reserved]

AUTHORITY: Secs. 307, 313(a), 601, 603, 604, and 611, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1423, 1424 and 1431 as amended by the Noise Control Act of 1972 (Pub. L. 92-574)); sec. 6(c), Dept. of Transportation Act.

Subpart E—Operating Noise Limits

§ 91.301 Applicability; relation to Part 36.

(a) This subpart prescribes operating noise limits that apply, in the United States, to the operation of U.S. registered civil subsonic turbojet airplanes with maximum weights of more than 75,000 pounds, and having standard airworthiness certificates. It includes operations under this part, and Parts 121, 123, and 135 of this chapter, but does not include operations under Part 129 of this chapter.

(b) Unless otherwise specified, all references in this subpart to Part 36 refer to 14 CFR Part 36, including the noise levels in Appendix C of that part notwithstanding the provisions of that part excepting certain airplanes from those noise levels, and notwithstanding the tradeoff provisions of that part except as provided in paragraph (c) of this section.

(c) Tradeoffs may be used for the following airplanes:

(1) Airplanes shown to comply with Part 36 before January 1, 1977.

(2) Airplanes shown to comply with Part 36 prior to the issuance of an original standard airworthiness certificate on or after January 1, 1977.

(3) Airplanes for which the operator shows that, after full application of existing technology, the use of tradeoffs is required for compliance with Part 36.

§ 91.303 Final compliance.

On and after January 1, 1985, except as provided in § 91.307, no person may operate any airplane covered by this subpart, in the United States, unless that airplane has been shown to comply with Part 36.

§ 91.305 Phased compliance: Parts 121 and 135.

(a) Except as provided in § 91.307, each person operating airplanes covered by this subpart under an operating certificate issued under Parts 121 or 135 of this chapter shall comply with this section with respect to airplanes operated under that certificate.

(b) Unless scheduled for replacement in a plan approved under paragraph (c) of this section, airplanes shall be shown to comply with Part 36, or may not be operated in the United States, in accordance with the following schedule:

(1) By January 1, 1981:

(i) At least one quarter of the airplanes in each airplane type that has four

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engines with no bypass ratio or with a bypass ratio less than two.

(ii) At least one half of the airplanes in each other airplane type.

(2) By January 1, 1983:

(i) At least one half of the airplanes in each airplane type that has four engines with no bypass ratio or with a bypass ratio less than two.

(ii) All other airplanes.

(c) Airplanes may be operated if, under an approved plan, replacement airplanes have been ordered and are scheduled for delivery prior to January 1, 1985, but not after the dates specified in the plan. For the purpose of this paragraph, replacement airplanes are airplanes shown to comply with Part 36 prior to the issuance of an original standard airworthiness certificate.

§ 91.307 Foreign air commerce.

A person may elect not to comply with this subpart with respect to that portion of the airplanes operated by him and shown, under an approved method of apportionment, to be engaged in foreign air commerce.

§§ 91.309—91.399 [Reserved]

NOTE: The FAA has determined that this document contains a major action requiring the preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107 and certifies that an inflation impact statement has been prepared.

Issued in Washington, D.C., on December 17, 1976.

JOHN L. MCLUCAS,
Administrator.

[FR Doc.76-37648 Filed 12-22-76;8:45 am]

[Docket No. 13243; Amdt. 36-6]

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Noise Regulations for Propeller-Driven Small Airplanes Submitted to the FAA By the Environmental Protection Agency; Notice of Decision

This document contains an amendment to Part 36 of the Federal Aviation Regulations (14 CFR Part 36) and a notice of decision not to prescribe certain additional amendments to the current noise certification standards and test procedures applicable to propeller-driven small airplanes. This action is in response to recommended regulations submitted to the Federal Aviation Administration (FAA) on December 6, 1974, by the U.S. Environmental Protection Agency (EPA), under section 611(c) of the Federal Aviation Act of 1958, as amended, which were published in a notice of proposed rule making identified as Notice 74-36. The amendment to the Federal Aviation Regulations (FARs) is based on the EPA proposals and involves (1) an increase in the number of test flights over the measuring point; (2) an increase in the substitute "D_{50}" distances used in the performance correction formula when the actual distance is not listed in the approved performance information; and (3) a revision of the noise test engine power setting. This document also contains the FAA's decision, pursuant to section 611(c) (1) of the Federal Aviation Act of 1958, as amended, not to prescribe further amendments to the Federal Aviation Regulations based upon the remaining proposals contained in the EPA recommended regulation (Notice 74-39) regarding noise standards and procedures for propeller-driven small airplanes. However, as part of its response to the EPA recommended regulation, the FAA is also issuing a separate notice of proposed rule making (NPRM) under section 611(b)(1) of the Federal Aviation Act of 1958, as amended, containing a proposal that is beyond the scope of the EPA recommended regulation in Notice 74-39. That NPRM is published in the "Proposed Rule" portion of today's FEDERAL REGISTER. If adopted, the proposed rule would apply to small propeller-driven airplanes designed for "agricultural airplane operations," or for dispensing fire-fighting materials, which do not comply with the noise limits of FAR Part 36, and would prohibit operation except to the extent necessary to accomplish the work activity directly associated with the purpose for which the airplane is designed.

I. REGULATORY PROCEEDING HISTORY

On December 31, 1974, the FAA issued FAR Amendment 36-4 (40 FR 1029; January 6, 1975) to prescribe noise standards and procedures for propeller-driven small airplanes. FAR Amendment 36-4 was basd upon FAA Notice 73-26 published October 10, 1973 (38 FR 23016).

On December 6, 1974, the EPA submitted to the FAA proposed amendments to the Federal Aviation Regulation for consideration and publication in the FEDERAL REGISTER under section 611(c) of the Federal Aviation Act of 1958, as amended ("the Act"). Accordingly, the FAA issued Notice 74-39 containing EPA's recommended regulations and a notice of publication regarding the notice of proposed rule making. Those notices were published on January 6, 1975 (40 FR 1061), and January 3, 1975 (40 FR 820), respectively.

Pursuant to section 611(c) of the Act and based upon a notice published January 30, 1975 (40 FR 4478), on March 3, 1975, a public hearing was held in Washington, D.C. to receive oral and written presentations on the matters contained in the notices. Interested persons were also afforded the opportunity to submit written comments to the regulatory docket.

After due and careful consideration of the information provided by the EPA and by the written and oral comments presented at the public hearing, or submitted to the regulatory docket, and after consultation with the EPA and with the Secretary of Transportation, the FAA concludes that it should adopt certain amendments to the FARs contained in the EPA recommended regulation but that it should not prescribe regulations based on other EPA proposals.

Forty-four written or oral comments in response to Notice 74-39 were received from private citizens, citizens groups, state and local governments, aviation trade and user associations, and aircraft manufacturers. These comments, including the five oral presentations at the public hearing, address or affect the EPA proposals discussed below.

II. AMENDMENTS TO THE FEDERAL AVIATION REGULATIONS

A. TEST FLIGHT PROCEDURES

FAA Notice 73-26 (38 FR 28016; October 10, 1973) proposed to require a minimum of four horizontal test flights at maximum continuous power 1000 feet over a single noise measuring station to demonstrate compliance with the proposed noise level requirements. The EPA in response to that NPRM recommended that a minimum of six test flights should be required. The EPA contended that at least six flights (as required for turbojet and turbofan powered aircraft under FAR Part 36) are necessary to establish an adequate sample size to properly evaluate the noise emission of an airplane regardless of aircraft size. Based on the EPA recommendation and public comments submitted to the docket, the FAA adopted the EPA's recommendation in FAR Amendments 36-4 (§ F36.111). The FAA believes that the adoption of this recommendation has significantly improved the achievement of the confidence level of the noise data and evaluation in the noise certification test procedure for propeller-driven small airplanes. Since the FAA has already adopted this proposal in a previous amendment, further regulatory action is not needed in this proceeding.

Three commenters addressed the issue of the number of required test flights. Two simply agreed with the proposal without explanation. However, one commenter reported that its experience with noise measurement for German and Swiss noise certification has shown that four measurements are sufficient, if the measured levels difference is 1.5 dB(A) or less. The additional measurements are conducted only if that condition is not satisfied. The FAA is aware of this reported experience and procedure. However, as stated in the preamble to FAR Amendment 36-4, the FAA concluded that the six-flight requirement is necessary to achieve the required confidence level under FAR Part 36 Appendix F.

B. PERFORMANCE CORRECTION

The EPA stated in its recommended regulation (Notice No. 74-39) that it believed that the performance correction concept, which had been proposed (and subsequently adopted) by the FAA, was reasonable, but that it needed minor changes, including an additional factor to account for any difference between the aircraft test speed and the aircraft takeoff speed. (Proposed § F36.201(b)).

The FAA and EPA each recognizes that the measurement of noise levels only during level flight has one deficiency; it does not account for the take-off performance of an aircraft.

The perceived and measured noise levels depend upon both the noise energy

of the source and distance between the noise source and the sound measuring device. Thus, the performance of the aircraft directly affects the level of noise perceived or measured on the ground. While the sound energy generated is constant for a given engine power setting (such as takeoff or maximum continuous), the noise level at the ground is dependent upon the climb path. In demonstrating takeoff noise, the steeper the climb, the higher the airplane above the measuring point, and the lower the measured or perceived noise level.

The level flight noise certification procedure prescribed for propeller-driven small airplanes does not itself provide information on the relationship between airplane performance and noise exposure on the ground. For example, two airplanes with the same power plant would be expected to produce about the same noise level over the measuring station at a height of 1000 feet, even though the total weight of one may be substantially greater than the other. However, for the reasons given above, a higher performance airplane (greater horsepower to weight ratio) would be expected to have the capability of achieving a higher altitude sooner, thus, producing less community noise impact and reduced perceived noise at the noise measuring point. To compensate for this factor in the simple flyover certification procedure, the FAA rule and the EPA proposal provide a "performance correction methodology" which would benefit airplanes with good take-off performance. As stated in the preamble of Notice 73-26, the proposed correction reflects the importance of good performance in removing the airplane as a noise source from the airport environs as rapidly as possible. As adopted by the FAA in Amendment 36-4, the performance correction factor is computed by using the following formula:

$$\Delta dB = 60\text{-}20 \log_{10} [(11430\text{-}D_{50})(R/C)/V_y + 50]$$

Where: Δ dB is the correction that must be added algebraically to the measured values (limited to ±5 dB); D_{50} is the takeoff distance in feet from brake release to a point at which the airplane is at a height of 50 feet at maximum certificated takeoff weight; R/C is the certificated best rate of climb in feet per minute; and V_y is the airplane speed in feet per minute corresponding to the best rate of climb. When D_{50} is not listed in the approved performance information, the FAA correction procedure requires the use of 1,375 feet for a single engine airplane and 1,600 feet for a multi-engine airplane.

The EPA concurred with the concept, but proposed modifying the correction factor formula to read:

$$P = 60\text{-}20 \log [(11,500 - D_{50}) \sin \alpha + 50] - 10 \log (V_h/V_y)$$

Where: $\alpha = \arcsin (R/C)/V$; V_h = maximum speed (expressed in feet per minute) in horizontal flight at maximum continuous power or maximum test speed over the noise measuring station averaged for all test flights, whichever is greater; and V_y = best rate of climb speed at maximum takeoff weights, expressed in feet per minute.

In its recommended regulation, the EPA stated that it was concerned with the FAA substitute D_{50} distance, because it believes that the distances of 1,375 and 1,600 feet are too short and that manufacturers of low performance airplanes might, therefore, choose not to list the actual D_{50} distances. To encourage the manufacturers to determine performance correction factors based upon actual performance characteristics, the EPA proposed to increase those distances to 2,000 feet for single-engine airplanes and 3,000 feet for multi-engine airplanes. The current rule (§ F36.201 (d)) uses approximate average distances for existing airplane types and models.

The FAA agrees with the EPA that the goal of the performance correction procedure is to create a regulatory incentive for increasing the performance of propeller-driven small airplanes. Thus, the substitute D_{50} distance (for use when an actual D_{50} takeoff distance is not listed in the approved performance information) should be more representative of approximately the longest D_{50} distance of current types and models of propeller-driven small airplanes. However, the FAA believes that the 3,000-foot distance (for multi-engine airplanes) recommended by the EPA exceeds the longest actual distance of any current type or model and, therefore, would result in an excessive penalty.

FAA review indicates that the longest D_{50} distances of current single-engine and multi-engine airplanes are approximately 2,000 feet and 2,700 feet, respectively. These distances are adopted in this amendment.

The EPA also noted that aircraft under test conditions (i.e. horizontal flight, maximum continuous power at 1,000 feet height above the test site) can be expected to fly over the test site at a speed greater than the takeoff climb speed. Therefore, the duration of the sound would be less under test conditions than the duration of sound experienced under or alongside an actual takeoff flight path. To better assess the noise measured under the specified test conditions, the EPA proposed to correct the noise level for performance (10 log (V_h/V_y)) to account for the change in speed which results in a change in noise duration. The measurement of duration is a factor in EPNL, also proposed by the EPA, but does not affect noise measurements using A-weighted dB, adopted by the FAA for the reasons discussed in the preamble to Amendment 36-4 and below. The FAA concludes that FAR Part 36 noise levels include consideration of performance and of noise duration and that further correction of measured data is not needed.

Four commenters responding to Notice 74-39 discussed the EPA proposed test performance correction. One commenter stated that while the performance correction contained in the proposed rule acknowledged the superior takeoff performance of turboprop aircraft, it is inadequate when related to the 11,500 feet correction distance point. The commenter felt that the correction should be related to the 21,000 feet (3.5 n.m.) point for better consistency with the FAR Part 36, Appendix C procedure which is applicable to propeller-driven large airplanes.

The FAA disagrees, since the purpose of the correction procedure is to reward those aircraft with good takeoff performance which will result in lower community noise impacts. The 3.5 n.m. point is used in the certification of large and jet powered aircraft but is not representative of noise impact-area at general aviation airports which primarily serve propeller-driven small airplanes.

Another commenter suggested that the certified best rate of climb (R/C) and corresponding airplane speed (V_y) must be determined from data for "aircraft in clean configuration." The FAA notes that these factors are measured during the airworthiness certification of the aircraft where it is also in the applicant's best interests to insure that these values are derived with the aircraft in a clean configuration. Therefore, leaving the choice of configuration to the applicant (as is presently done) will generally achieve the result sought by the commenter. The FAA believes it is not necessary to require noise certification testing in a clean configuration.

One commenter indicated that there is a need for a special factor for a fixed-pitch propeller in the performance correction formula. According to the commenter, this need arises from the fact that while the noise from the propeller rises at a rate almost linearly with the rotational Mach number (tip speed/speed of sound), the aerodynamic performance of a fixed-pitch propeller does not rise as rapidly as it does for a variable-pitch propeller. However, since the purpose of the performance correction is to reward the better noise reduction designs, the FAA does not agree. The commenter's recommendation would, in effect, provide an increased benefit to a noisier aircraft design feature, and thereby negate the intended incentive for employing the better designs.

Another commenter recommended that to obtain the equivalent of EPNL data, the correction should be made to the 1,000-foot altitude horizontal flight measurements, rather than to the takeoff climb data. This commenter felt that if the manufacturer does not choose to use actual takeoff distances in calculating the correction to his EPNL, he should be required to use distances which do not permit rating the airplane quieter than it is. While the commenter may be confusing a decrease in perceived or measured noise levels due to improved climb performance with a decrease in noise produced by an airplane, the FAA agrees that the incentive to develop better performance designs should not be limited to those airplanes which already have better than average performance characteristics. A manufacturer who does not list the actual D_{50} distance in the approved performance information should be required to use the approximate D_{50} distance of the current lowest performance airplane when calculating the performance correction. Thus, the com-

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menter's argument has been essentially accepted in adopting the amendment.

The effect of a longer substitute D_{35} distance than that prescribed in FAR § F36.201 would be an increased incentive for aircraft manufacturers who do not achieve the average takeoff performance. The intent of the Noise Control Act of 1972, upon which the FAA and the EPA actions are based, is in part, to encourage the early and widespread application of the best available noise reduction technology consistent with economic reasonableness. With this objective in mind, the FAA analyzed the effects of the correction procedures proposed by the EPA and those adopted in FAR Amendment 36–4. As the EPA acknowledges, the differences are relatively minor and the precise effects on the takeoff performance of future aircraft types are not completely predictable; however, the FAA's analysis indicates that the procedure adopted in FAR § F36.201 does not create an adequate climb performance incentive, since it does not consistently apply to those airplanes which have less than average takeoff performance and which are not required to include the actual D_{35} distance in approved performance information during certification. Therefore, the FAA agrees that § F36.201 should be amended to create an increased incentive to produce aircraft with improved performance capabilities. The FAA concludes that the EPA proposal, as modified, accomplishes that purpose. Thus, the FAA is adopting the EPA recommended regulation regarding this proposal, as modified.

C. ENGINE POWER SETTING

The EPA proposed rule (§ F36.111(b)) would require that demonstration test overflights be performed at the "highest propeller rotational speed (rpm) corresponding to rated maximum continuous power," and that accelerated flight be measured and reported. Appendix F of FAR Part 36, as adopted in FAR Amendment 36–4, currently prescribes the test requirement in terms of "rated maximum continuous power" which necessarily has a corresponding rotational speed.

The EPA recommended regulation in Notice 74–39 does not discuss the purpose of the proposed redefinition of the required power setting and neither of the commenters on this proposal provided any reason for their positions (one in favor, one opposed) or what, if any, impact the amendment would have. However, the EPA project report submitted to the FAA indicates an intention to delete the current requirement for a specific engine power setting. The EPA reasons that, since the effectiveness of applied noise control techniques would be determined at the highest propeller rotational speed (rpm) corresponding to maximum continuous power, the resulting test data would be valid for other power settings as well. Further, since takeoff power (when available), is used only for takeoff and a relatively short portion of the climb path, after which power is reduced to less than takeoff power, the reduced power is appropriate in the horizontal flight test procedure, if the overflight is performed at the corresponding highest propeller rotation speed.

The FAA agrees, in general, particularly since use of takeoff power is limited to the period of time shown in the approved engine specification, but notes that "rated maximum continuous power" is a term of engine rating generally applicable only to engine certification and not to aircraft certification or operation. The FAA agrees that the current engine power requirement is not realistic since it also relates to engine operating limitations established during engine certification. Since current FAR § F36.111(b) requires noise test flights at rated maximum continuous power, the EPA proposal would, in effect, delete the engine-power component of the requirement and rely solely on propeller rotation speed as the controlling mechanism. While the propeller is the dominant noise source and that propeller tip speed relates directly to the level of noise generated, the FAA believes that to properly account for the noise of the propeller/engine combination, the test procedure must retain an engine power specification no less than the maximum power approved for continuous normal operation (as well as, a propeller speed corresponding to that power).

The FAA notes that, since under certain conditions the highest propeller rotational speed can be achieved or maintained at significantly reduced manifold pressure (engine power) or turbine rpm, high propeller rotational speed does not necessarily have a corresponding high engine power level. Therefore, the FAA agrees with the proposal, except for its redefinition of engine power so as to completely eliminate the engine power requirement. The FAA also concludes that the standard should be prescribed in terms of engine power which has a corresponding propeller rotational speed (rpm).

The EPA also proposed to required measuring and reporting accelerated flight (where it is permitted); however, the FAA believes that the use of accelerated flight does not have a significant effect on the accuracy of measured data under the current rule. The purpose of the EPA proposal regarding accelerated flight is adequately satisfied under FAR § F36.109(g), which requires that aircraft speed and position and engine performance parameters be recorded at an approved sampling rate sufficient to insure compliance with the test procedures and conditions. Further, most propeller-driven small airplanes are not equipped with acceleration measuring instruments or devices and, if adopted, the proposal would require additional test measuring equipment to be installed. The FAA concludes that the measuring and reporting portion of the EPA proposal should not be adopted at this time and consideration of amending the test procedure should focus on the propeller/engine specification.

The FAA believes that the purpose of the noise regulation is to prescribe noise standards and test procedures for propeller-driven small airplanes which reflect the noise levels to which the community is exposed during normal operation of the aircraft, rather than theoretical levels or those generated in abnormal or emergency operation. Thus, the FAA concludes that noise test (engine) power should be prescribed at no less than the power corresponding to the highest normal operating power consistent with airworthiness requirements and safe operating conditions for normal operation. As previously stated, the FAA believes that since propeller/engine noise is a function of power, as well as propeller rotation speed, the engine power specifications should not be deleted entirely but amended to require the highest power in the normal operating range which is provided in an Airplane Flight Manual, or in any combination of approved manual material, approved placard, or approved instrument markings. Thus, the test power requirement must be consistent with airworthiness requirements for normal operation and with safe operating considerations. The FAA concludes that the EPA proposal, as modified, accomplishes that purpose. Thus, the FAA is adopting the EPA recommended regulation regarding this proposal, as modified. This results in a required power level that is not greater than that in the prior rule but greater than that potentially permitted in the EPA proposal.

D. COMPLIANCE/EFFECTIVE DATES

The EPA proposed to apply its recommended regulations to applications for type certificates made after October 10, 1973 (the date of FAA Notice 73–26). Since notice and public procedure regarding the EPA proposals did not begin until January 3, 1975 (the date of the notice of publication regarding Notice 74–39), and since the FAA had issued its own regulations based on FAA Notice 73–26 on December 31, 1974, the FAA believes that it should not adopt the EPA proposed compliance/effective date which related to the prior FAA NPRM.

In considering the date for compliance with the amendments being adopted, the FAA notes that the amendments involve the noise test and noise evaluation procedure and have no significant effect on the noise limits prescribed for propeller-driven airplanes under Appendix F. Thus, there will be little, if any, impact upon applications for type certificates or acoustical change approvals. However, the FAA is aware that some potential burden may result from these changes in the manner of conducting the noise certification test and evaluating the resulting data. In this case, the FAA concludes that, while the necessary adjustments will be minor, a reasonable period must be provided for them to be made. Similarly, those noise tests that are completed prior to the effective date of this amendment should not be required to be repeated under the amended procedure. The FAA believes 30 days is an adequate and reasonable period. Thus, the FAA is adopting a compliance date which requires that noise tests conducted after the effective date of this amendment be performed under the amended procedure. This amendment is effective January 24, 1977.

III. NOTICE OF DECISION NOT TO PRESCRIBE AMENDMENTS

A. AGRICULTURAL OPERATION AND FIRE FIGHTING AIRPLANES

Under the EPA recommended regulation contained in Notice No. 74–39, an airplane designed for agricultural or fire fighting operation would be required to undergo noise measurement testing in accordance with the Appendix F of FAR Part 36, even though that airplane may be excepted from demonstrating compliance with the noise levels prescribed in § 36.301. The EPA proposed exception to compliance would apply only if an operating limitation (proposed § 36.1583 (c)) regarding FAA approved noise abatement flight plans and routes were issued. Similar requirements were originally proposed by the FAA in Notice 73–26; however, in FAR Amendments 36–4, the FAA proposal was modified to make the rule more workable and to eliminate unnecessary restrictions on the continuation of those beneficial operations.

The FAA believes that the cost burden on certification applicants in submitting extensive noise test data and analyses primarily for statistical and informational purposes is not justified. Conducting noise testing solely to establish the noise levels produced by these excepted airplanes without also requiring compliance has not been shown to be needed. Further, as previously stated in the preamble to FAR Amendment 36–4, the FAA concludes that neither agricultural nor fire fighting operations could be continued under the operating limitation as proposed because those operations frequently involve practical exigencies requiring a greater than average performance and the capability of rapid response which is not compatible with flight-by-flight approval of all routes and all flight plans to promote noise abatement. Thus, the current noise limits do not apply to propeller-driven small airplanes "designed for 'agricultural operations' * * * or for dispensing fire fighting materials" (FAR § 36.1(a)(2)).

While the EPA proposal does not discuss the basis of its proposed rule, after analysis of that proposal and the regulatory docket, the FAA agrees that the current exception to the noise certification rules adopted by the FAA for agricultural and fire fighting airplanes should be amended. The FAA believes, however, that the amendment should clearly prohibit those operations which are not necessary to accomplish the work activity directly associated with the purpose for which the airplane is designed. The FAA believes that the exception is still justified as it applies to operations for which the airplane is designed but that it should not be extended to other operations by those airplanes. However, the FAA believes that such an amendment is not within the scope of the notice of the EPA proposal. Thus, while the FAA concludes that it should not adopt any amendment based on the EPA proposal, the FAA is issuing a separate notice of proposed rule making which proposes to amend FAR Part 91 to prohibit operation of an airplane designed for agricultural operations or for dispensing fire fighting materials, which do not comply with the applicable noise limits of Part 36, except to the extent necessary to accomplish the work activity directly associated with the purpose for which the airplane is designed. (That NPRM is being published in the "Proposed Rule" section of Today's FEDERAL REGISTER.)

One commenter to the EPA proposal questioned both whether any small airplane exceeds "high-noise levels" except at full power and why only agricultural and fire fighting airplanes would be excluded under the rule, since safety of all operations involving full power for business and pleasure aircraft are just as important. However, stating that the health and welfare of the rural populace requires protection comparable to that afforded elsewhere, another commenter opposed the exclusion of aircraft used in agricultural operations from the noise standards for propeller-driven small airplanes. The FAA agrees that additional limitations may be needed but concludes that the distinction for agricultural and fire fighting aircraft is justified, in part, because greater than average performance and quick response time are frequently required in these operations. The public interest considerations dictate, as a matter of flight safety, that the small number of these special purpose airplanes should be partially excepted from the normal noise certification standards. A review of the safety and operating issues involved does not reveal a similar need to apply these exceptions to the noise standards to other propeller-driven small airplanes. For the unexcepted airplanes, noise certification testing and compliance is required to assure the protection of the public health and welfare from noise emissions above those noise levels prescribed in Appendix F. Further, the FAA believes that the exception to required compliance with noise emission standards for aircraft designed for agricultural or fire fighting operations should be specifically restricted solely to those operations for which the airplane is designed. Thus, while the FAA concludes that it should not adopt the amendment proposed by the EPA, based on experience in noise type certification under Subpart F of FAR Part 36, and analysis of the proposal and information in the regulatory docket, the FAA concludes that it should propose an amendment to the exception to the noise standards for agricultural operation and fire fighting airplanes which would restrict operations by excepted airplanes to those operations for which they are designed. As previously stated, such a proposal is being issued in a separate notice of proposed rule making.

B. NOISE EVALUATION MEASURING UNIT

The EPA proposed to adopt the Effective Perceived Noise Level (EPNL) in units of EPNdB, rather than the A-weighted noise level (AL) in units of dB(A) as the noise measure for propeller-driven small airplanes in current Appendix F of FAR Part 36 (Proposed § F36.301). In addition, the EPA proposes to require the use of the procedures in Appendix B of FAR Part 36 for converting the measured noise of propeller-driven small airplanes into the EPNdB units. (Proposed § F36.301(a)). According to the EPA, it proposed adopting the more complex noise evaluation unit primarily because future aircraft types may develop potentially obnoxious noise signatures which would not be reflected in the A-weighted noise measure.

In its proposal, the EPA refers to its report to Congress in August 1973, wherein it recommended a cumulative noise exposure measure based upon AL (A-weighted level). The EPA indicated, however, that the "use of an A-weighted sound level precludes the assessment of penalties for the existence of tones in the noise in the interest of simplifying the measure procedure. When appropriate, penalties for tones and other subjective attributes should be made in source regulations such as FAR 36." (Emphasis added).

The FAA believes that, in terms of providing protection to persons from noise annoyance, there is no significant achievable difference between using dB(A) or EPNdB for propeller-driven small airplane noise. Frequency tones and noise duration are not significant factors in perceived noise emissions of propeller-driven small airplanes. However, in terms of the complexity of noise testing, the difference is very significant. Further, it is unlikely that the developing technology of propeller-driven small airplanes will generate noise characteristics significantly different in quality from those currently produced. Thus, the FAA concludes that the use of EPNL would be an unwarranted and an unnecessary burden. There is no currently demonstrated need to apply the more complex unit of measurement to all current and future propeller-driven small airplanes on the assumption that new noise characteristics may emerge from new generation aircraft designs.

Information submitted to the FAA varies widely regarding the cost effectiveness of using EPNL instead of dB(A) measurements. In the EPA's project supporting its proposed regulations, the EPA estimated the cost of complying with the proposed EPA procedures, including EPNdB, to be "between 20 and 30 thousand dollars" for each aircraft manufacturer. The manufacturers' trade association comment to Notice 74–39, however, estimated that the cost of the equipment alone, which is necessary to compute aircraft noise levels in terms of EPNL, would be "$50,000 over that required for dB(A) measurement." The FAA believes that both equipment cost estimates are essentially correct in the specific contexts in

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which they are reported. However, the FAA experience with the implementation of FAR Part 36 indicates that few applicants for type certificates (usually manufacturers) actually purchase a computer or other major cost equipment items solely for noise test compliance purposes. Rather they tend to use existing commercial computation facilities/services or lease the necessary equipment for their own personnel to use. Under these conditions the FAA believes, that for most manufacturers there is not a substantial equipment cost differential incurred in using EPNdB rather than dB(A) as the unit of measurement. However, applicants for acoustic change approvals for propeller-driven small airplanes are usually individual owner/operators who have neither the facilities or equipment nor the technical knowhow to operate rented equipment themselves. The owner/operator may also need to test an acoustic change before submitting it to the official FAA-witnessed tests. The complexity of calculating EPNdB under such circumstances is not as cost effective as the simpler dB(A), which reduces the down time of the airplane and equipment needs, and provides immediate test results. Another commenter correctly observed that "measurements in units of dB(A) can be evaluated and the 90% confidence interval examined in the field, to ascertain if additional noise overflights are required to obtain the required confidence level." Since a computer is required to calculate EPNL, such field determinations are practically impossible. If additional test flights are needed, it would be necessary to reschedule aircraft and acoustic equipment for a subsequent return to the field. Therefore, the FAA concludes that to be appropriate to the type of aircraft to which it applies, the designation of the simpler technique and calculation in using dB(A) for noise compliance tests for propeller-driven small airplanes should be retained.

The EPA also pointed out that "the main consideration is that EPNdB allows a correction for the presence of tone and the duration of sound, neither of which is accounted for in dB(A). As a growing number of propeller-driven planes are powered by turbine engines, it is imperative that a noise measurement standard be used which will most closely recognize that effect." The EPA estimated the current percentage of turbine powered aircraft in the propeller-driven small aircraft fleet to be 1.24 percent; this figure would increase to 1.69 percent in 1980 and reach 2.10 percent by 1985. Even assuming the need for making tonal corrections to measurements of noise from the turbine-powered propeller-driven small airplanes, the FAA concludes that the added cost involved in testing all propeller-driven small airplanes on the EPNL measurement is not justified at this time. The FAA notes, however, that nothing submitted to the rulemaking docket supports a conclusion that such a need for tonal corrections actually exists.

Twelve other persons commented on the issue of the noise measurement unit. Most believe that dB(A) is the appropriate unit, because the use of the dB(A) scale is a more cost-effective and practical standard than EPNdB. They indicate that the character of the sound generated by the propeller-driven small airplane does not warrant the more sophisticated test equipment and the rigorous data reduction required by the EPNdB standard. The FAA agrees in general with the reasoning expressed by these commenters.

Two comments supported the EPA's proposal. One commenter in recommending the use of EPNL stated that "while EPNL measurements and calculations are more complicated than with dB(A), the EPNL system takes into account details regarding the noise spectrum and flyover cycle duration which are not as accurately evaluated or are not evaluated at all using dB(A)." As stated above, the FAA has carefully considered the issues involved and concludes that no real need has been shown for the more complicated measurement unit and that, therefore, the added costs have not been justified at this time.

Another commenter supporting the EPA proposal stated that as an increasing number of propeller-driven planes are powered by turbine engines, the regulatory noise measurement standard should more closely recognize the effect on the human ear. Since the FAA believes the EPA recommended noise measurement unit would not be cost effective and that there is little, if any, preferential value of EPNL to the public health and welfare when applied to propeller-driven small airplanes, it does not accept the commenter's suggestion. A second recommendation by this commenter would require the use of both EPNdB and dB(A) measurements during compliance demonstration tests. While monitoring the aircraft test using dB(A) sound level meters may in some cases reduce the need to schedule retesting at later dates, such measurements would not consistently predict the effectiveness of subsequently analyzed EPNdB data measurements. Further, the FAA considers the dual measuring procedure unnecessary. As previously stated, the current procedure provides adequate and sufficient noise data for determining compliance with noise level standards.

The adequacy of the dB(A) measuring unit to provide protection to the public health is also supported by its adoption by other Federal agencies. The dB(A) unit has been selected by the Department of Labor and the Department of Health, Education and Welfare (HEW) for the critical task of rating and limiting noise hazards. The value of dB(A) is stressed in the document entitled "Criteria for a Recommended Standard for Occupational Exposure to Noise" published by HEW in 1972.

Studies such as NASA's "Community Reaction to Airport Noise" stress the fact that simple weighted sound pressure level values (dB(A) and dB(N)) provide adequate approximations to more complex measures for the purpose of determining community noise exposure.

The FAA believes the use of dB(A) is consistent with the qualifications in EPA's noise measurement recommendations, since the FAA has determined that noise emission characteristics of propeller-driven small airplanes do not need regulatory penalties to account for tone or duration, and EPA's recommendation is linked to a concern for those factors.

The use of dB(A) ensures that reasonably priced meters can give an immediate reading upon which to base a decision for additional test flights. If this decision can be made while aircraft are available and test conditions are established, savings in cost and time are possible. Finally, dB(A) is the unit used in evaluating nonaviation transportation noise sources, and is used in setting noise limits in many industrial and nonindustrial noise standards.

Since there appears to be no clear benefit in a complex measure, the FAA concludes that from an environmental standpoint and in terms of cost effectiveness, dB(A) is the unit of noise measurement that should be applied to the certification testing of propeller-driven small airplanes. Thus, no amendment is adopted based on this EPA proposal.

C. NOISE COMPLIANCE LEVELS AND DATES

The EPA stated in its recommended regulation that it believed that the noise level requirements achieved under FAR Part 36, Appendix F, do not sufficiently represent the maximum safe and economical noise control that can be implemented by applications of current and available technology. Further, the EPA believes that modifications are necessary to properly reflect the achievements that can be anticipated by the application of future technology.

Specifically, the EPA proposed the following noise standards and compliance dates (Proposed § F36.301):

(1) *For T/C applications made between October 10, 1973, and January 1, 1975.* Aircraft weighing up to 1,320 pounds (599 kg) may not exceed 79 EPNdB. That noise level limit increases at a rate of 1 EPNdB for each additional 165 pounds (75 kg) to a maximum of 93 EPNdB at 3,630 pounds (1,647 kg) which limit applies to aircraft up to 12,500 pounds (5,670 kg).

(2) *For T/C applications made between January 2, 1975, and January 1, 1980, and for new production aircraft manufactured on or after January 2, 1977.* The basic limit is the same as in paragraph (1) above, except that the maximum noise level is 91 EPNdB at 3,300 pounds (1,397 kg) and applies to aircraft weighing up to, and including, 12,500 pounds (5,670 kg).

(3) *For T/C applications made after January 2, 1980.* The noise level limit would be prescribed under the formula EPNL=89–15 log (12.5/W); "W" is the aircraft maximum certificated takeoff weight in thousands of pounds.

In its proposal, the EPA compared the FAR Part 36 compliance noise levels with the noise emission levels produced by a wide variety of existing propeller-driven airplanes. In so doing, the EPA stated that "a large number of the small existing propeller airplanes are capable of producing significantly lower noise levels than that being proposed by the FAA for all future types." The FAA recognizes that some current aircraft types have noise emission levels that are lower than those required under FAR Part 36, Appendix F. However, the levels adopted by the FAA in FAR Amendment 36–4 require significant noise reductions affecting approximately 20 percent of the aircraft types and approximately one-half the aircraft type-models of propeller-driven small airplanes currently in production. It was pointed out by several participants at the public hearings held on the EPA proposal that the FAR Part 36 requirement entails significant economic impact on affected aircraft manufacturers and, thus, their customers, and that the imposition of more restrictive standards or earlier compliance dates, such as those proposed by the EPA, would have profound economic implications. For example, if a sound level limit of 5 dB(A) lower than those in FAR Part 36 were adopted (a level which is still somewhat higher than the equivalent EPNdB proposed by the EPA), the FAA estimates that the noise level limits would be exceeded by approximately 90 percent of existing aircraft models. While some models that meet the present FAR Part 36, Appendix F noise standards could, with relatively minor modifications, achieve the initial lower level proposed by the EPA, this is not the case with most current models. Compliance with future noise level limits would be even more questionable. Since the Noise Control Act of 1972 requires the FAA to consider whether proposed noise standards are "economically reasonable," and appropriate for the particular type of aircraft; as well as "technologically practicable," the FAA must carefully weigh the economic consequences of incrementally lower noise level standards, applicable to both current and future airplanes.

Several commenters estimate that the majority of currently produced aircraft models would require extensive modification in order to attain the EPA recommended lower noise levels, and that the increase in cost of most models would be significantly higher than that reflected in the EPA proposal even excluding the additional higher operating costs for those models requiring more powerful engines to maintain the desired levels of performance. The FAA has not received information from which to assess whether the estimates submitted to the docket regarding the anticipated costs of significant noise level reduction are representative of those which would actually occur. It is evident, however, that if design changes such as those cited by commenters would be needed, the EPA proposal would involve a significant design modification and investment by the airframe and engine manufacturers. It would particularly burden this segment of the aviation industry which neither has the research and development resources nor anticipates the market base to amortize the resulting costs.

Testimony at the public hearing and comments submitted to the regulatory docket raise questions regarding the views expressed by the EPA concerning the ready availability of economical technology with which to meet its proposed standards. The EPA believes that a reduction in noise levels, which is larger than those prescribed in FAR Part 36, could be achieved by more effective application of "current technology," "available technology," and "future technology" without imposing a significant economic burden. According to the EPA, the equivalent of 2 or 3 dB(A) further reduction in propeller, engine, or exhaust noise, which EPA identifies as the principal noise sources in propeller-driven small airplanes, is possible and is needed to provide the required protection to the public health and welfare. The EPA states that the use of a more efficient three-bladed propeller rotating at a lower tip-speed by means of reduction gearing and the application of noise muffling materials and exhaust mufflers will achieve economical noise control at the levels it recommends. The FAA notes, however, that the EPA proposal is based upon several assumptions which are not discussed in the recommended regulation. The EPA recommended regulation and the comments received in the docket and at the public hearing do not present specific information or analysis regarding how particular aircraft types or models can achieve significant and economical noise reductions under the EPA proposal. The FAA believes that such information and supportive data is essential to the support of the proposal. Information concerning particular airplanes is needed regarding (1) any incremental noise reduction which can be economically achieved beyond those currently required by FAR Part 36, including the additional benefit, if any, of such reductions on the public health and welfare; (2) any noise control techniques which are, or may be available, but which are not or will not be effectively applied to particular aircraft unless lower noise levels are adopted; (3) any cost increases which would result from applying those techniques; and (4) any reduction in performance, fuel economy, engine emissions, or other factor which affects its use for its intended purposes, its airworthiness, or its acceptance in the marketplace. While the FAA is aware that the noise control techniques suggested by the EPA are, or will be applied in varying degrees to certain aircraft in achieving compliance with FAR Part 36 noise levels, it does not have, and the docket does not contain, information or data that will reasonably support a finding that these techniques can be more effectively applied at this time. In adopting FAR Amendment 36–4, the FAA concluded that the prescribed noise levels provided the protection to the public health and welfare required by section 611(d) of the Act. Further, as stated in the preamble to FAR Amendment 36–4, "the FAA believes that, rather than require specific type design details, this first issuance of a noise rule for propeller-driven small airplanes should set quantitative noise limits and permit any means of compliance that also complies with the applicable airworthiness requirements." Since the docket has not presented information adequate to support a finding that noise control technology is not being effectively utilized or that specific design details should be required under aircraft noise regulations, the FAA concludes that it could not adopt any regulation based on this proposal at this time without ignoring the duty in section 611(d) (4) of the Act to consider economic reasonableness and technological practicability.

The EPA also recommended the use of a ducted fan propulsion system or one of its derivatives. However, several commenters were critical of a ducted fan as a noise abatement technique and the FAA generally agrees with those commenters. The ducted fan is generally not practical for most current single-engine airplanes because it seriously reduces forward visibility for the pilot and significantly affects the aircraft weight/thrust ratio. Thus, for most airplanes to use the ducted fan, they would have to be redesigned into pusher type configurations; that in turn would require extensive modification to the wings, flight control, landing gear, fuselage and seating. Such extensive redesigning virtually produces a new aircraft type. In addition, the thrust efficiency of a ducted fan propulsion system is significantly less than that of a conventional propeller at the altitudes and speeds for which propeller-driven small aircraft are usually designed. The installation of more powerful engines would be required in many cases to compensate for thrust loss and avoid decreased useful load capacity and performance.

Fourteen other comments were submitted to the docket regarding EPA's proposed noise emission levels and compliance dates. One comment expressed the views of several persons who believe "that an aircraft with less than 200 horsepower does not emit offensive noise to the extent that it warrants regulation." Another commenter complained that the limitation of noise emission on airplanes with only 150 horsepower is not justified. Under the Noise Control Act of 1972, the FAA is required to issue noise standards and rules which afford relief and protection to the public health and welfare from aircraft noise. In prescribing these regulations, the FAA must consider whether they would be "consistent with the highest degree of safety in air commerce or air transportation in the public interest" and whether they are "economically reasonable, technologically practicable, and appropriate" for the type of aircraft, engine, appliance, or certificate to which they would apply. The FAA and the EPA have determined that the prescription of rules which af-

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ford relief and protection from the noise emissions of propeller-driven aircraft is appropriate, and find no rational basis for distinguishing among these airplanes, except with regard to aircraft weight which, to some extent, reflects the horsepower of the engines. Thus, lower horsepowered airplanes as a class should not be excluded from the application of appropriate noise standards. However, the noise levels prescribed in the FAA noise standard applicable to propeller-driven small airplanes do reflect consideration of the extent to which their noise emissions impact the community.

Other commenters specifically addressed the need for the EPA proposed regulations and believe the FAA should reject the EPA proposed noise levels and their date of implementation. Some concern was expressed that the EPA proposals, if adopted, would eliminate the substantial equivalence with the accepted international (ICAO) standard for small propeller aircraft. In opposing the EPA's proposal, one commenter at the public hearing argued that the EPA had admittedly used NASA research goals as a basis for their recommendations. The commenter stated his belief that a base of technical data to support EPA's conclusions must have a firmer foundation. While agreeing that the noise standards initially adopted by the FAA may not attain the eventually achievable measure of protection from unwarranted small aircraft noise, the FAA believes that further noise reductions should await a more definitive showing that the required technology can be applied in an economically reasonable manner.

In its proposal, the EPA states that it may be assumed that the least noisy airplanes currently being produced meet applicable airworthiness standards and "are competing economically in the marketplace with other propeller-driven small airplanes with higher noise levels." Thus, the EPA concludes that the application of existing noise reduction technology has not had a detrimental impact on the competitiveness of such airplanes. However, no information or data is presented in the docket by which this conclusion may be assessed. The FAA believes that at least one important aspect of the competitiveness among various airplanes in the marketplace has not been addressed. While for purposes of noise control regulation propeller-driven small airplanes are treated as a class according to aircraft weight, they are designed and flown for a wide range of purposes requiring different flight and performance characteristics. Comparisons of marketplace acceptance among the least noisy airplanes and noisier airplanes should include only those airplanes which actually compete for the same portion of the market. The docket does not provide a basis for such comparisons.

Two commenters fully supported the EPA proposals at the public hearing. One comment questioned whether continued production of noisy aircraft can be justified when aircraft manufacturers can build aircraft that are much quieter than some currently in production. Another comment stated his belief that the FAA rule does not adequately control propeller-driven aircraft noise, but rather removes existing voluntary restraints by eliminating all incentive for the implementation of available noise control technology.

In response to questions seeking to clarify their statements, neither of these commenters offered information regarding any incremental benefits or cost/benefits tradeoffs under the EPA proposal or regarding the degree of detriment to the public health and welfare caused by noise emissions from propeller-driven small airplanes. In the preamble to FAR Amendment 36-4, the FAA responded as follows to a similar comment regarding inclusion of a more specific provision in the rule for progressively reducing the noise level limits as new and more advanced technology is developed: "The FAA agrees that the regulation should be reviewed and amended when justified by new technology. However, this should be accomplished in each case, with notice and public procedure as required by the Administrative Procedure Act." After carefully considering the EPA proposed noise levels and compliance dates in light of all comments to the docket, the FAA concludes that there is not sufficient supporting information or data to permit an informed determination as to whether these EPA proposals are currently either "economically reasonable" or "technologically practicable" within the meaning of section 611 of the Act. The docket contains no information regarding any incremental benefits to the public health and welfare which would be achieved and that would justify adopting the proposed noise level amendments to FAR Part 36.

In its proposal, the EPA states it has not demonstrated any certain or probable increment of benefit to the public health or welfare that would be achieved by imposing lower noise limits. The EPA has stated that data on the magnitude of the health and welfare effects of propeller-driven small airplanes, "are not available; consequently, cost effectiveness and/or cost benefits tradeoff of how much noice reduction is justified cannot be made." The EPA indicates that its objective is the issuance of regulations that "shall be the 'umbrella' type in the sense that those aircraft regulated can all comply by use of available technology but some may be capable of achieving lower noise levels than others by virtue of being able to use the technology more effectively." While the FAA generally agrees with this regulatory philosophy, after reviewing the technology and economics involved, the FAA believes that the statutory requirements are met by the standards in FAR Part 36, which for continued production, require modification of a significant proportion of current aircraft types and of a substantial percentage of current models. Thus, existing regulations provide adequate noise control and abatement by achieving a reduction in noise level that was imposed after consideration of economic and technological impact. The FAA also believes the current standards and regulations achieve the objective of the EPA recommended regulation, i.e., prescribing an "umbrella" or upper limit for aircraft noise levels which can be lowered, according to the development of technologies and to the cost effectiveness of prescribing those noise levels. Further study of the detrimental effects of noise emissions from propeller-driven small airplanes may also reveal the need and justification for lower noise levels in the future. The FAA will continue to assess the noise emission impact of propeller-driven small airplanes to determine when further reductions in noise levels become appropriate and otherwise consistent with the limitations of § 611(d)(4) of the Act.

D. FIELD CALIBRATIONS WITH VOLTAGE INSERT DEVICES

Under the EPA recommended rule, "field calibrations must be supplemented with the use of an insert voltage device to place a known signal at the input of the microphone, just prior to and after recording aircraft noise data." (Proposed § F36.107(c)).

While the FAA would have no objection to the use of such a device either in the laboratory or in the field, the docket does not demonstrate any persuasive technical reason for requiring it in field calibrations. In view of the rapidly changing technology in acoustical measurement, the FAA believes it should not restrict use of future technologies by prescribing the proposed calibration procedure or equipment. Rather, it should afford maximum flexibility in equipment and methodology used while setting specific requirements on the types and quality of data used to demonstrate compliance with prescribed noise level limits. No comment on this proposal was received in the regulatory docket. Thus, the FAA concludes that it should not adopt any regulation based on this EPA proposal but should continue to consider for approval any calibration procedure which yields accurate and reproducible results and which is consistent with International Electrotechnical Commission (IEC) Publication No. 179, dated 1973, entitled "Precision Sound Level Meters."

E. CORRECTIONS FOR WINDSCREEN LOSSES

The EPA also proposed in § F36.105(f) of its recommended regulations to require that when a windscreen is employed with the microphone during compliance testing, "corrections for any insertion loss produced by the windscreen, as a function of frequency, must be applied to the measured data and that the corrections applied must be reported."

While no commenter addressed this proposal, the FAA believes that, as adopted, the current Appendix F provides an adequate means of accounting for correction of windscreen losses without separate treatment under the rule. FAR § F36.103(a) requires that data representing physical measurements or corrections to measured data be recorded in permanent form and appended to the record (however, corrections to measurements for normal equipment response deviations need not be reported). All

other corrections must be approved and estimates must be made of the individual errors inherent in each of the operations employed in obtaining the final data. The FAA concludes, therefore, that amendment of § F36.109, based on this EPA proposal, is not necessary and that the EPA's recommended regulations on this topic should not be adopted.

F. MINOR LANGUAGE DIFFERENCES AND SATISTICAL DATA REQUIREMENTS

The text of the EPA's proposed rule contains several minor provisions which the EPA does not discuss in the preamble to Notice 74-39. Some of these provisions differ from the language in the rule adopted in FAR Amendment 36-4. Most of these differences appear to be minor in nature and the FAA believes that they do not affect the level of protection from aircraft noise afforded by the rule.

The FAA notes, however, that several of the differences would require measuring and reporting some data which would provide only statistical information without any apparent increase in the environmental benefits achieved by the rule. While the materials in the docket do not discuss the purpose of these provisions, the FAA believes that it should not use noise certification rules to obtain data for statistical purposes, unless there is a demonstrated relationship with the need to protect the public health and welfare. Examples of EPA recommendations that the FAA believes would be a requirement to provide statistical data not needed for noise certification or helpful in reducing noise include—(1) the recording and reporting of the "true and indicated airspeed" and engine performance in the specific terms of power, manifold pressure, and blade pitch in every test (proposed § F36.109(e)(4) and (5)); and (2) correcting test data to the additional reference conditions of "sea level pressure of 2116 psf" and "zero wind" (proposed § F36.201(c)). Further, the FAA does not believe that correction to "sea level pressure" is practicable or that correction to "zero wind" is needed for single point measurements such as those prescribed for propeller-driven small airplanes. Thus, the FAA concludes that it should not prescribe regulations based on those EPA proposals.

G. ECONOMIC REASONABLENESS

Section 611(d) of the Federal Aviation Act of 1958, as amended, requires, among other things, that the FAA consider whether proposed aircraft noise standards and regulations are "economically reasonable." The preceding discussions of the respective EPA proposals generally include assessment of their economic reasonableness or cost effectiveness. However, review of the regulatory docket reveals that most commenters speak to the economic implication and adequacy of the EPA recommended regulation-as-a-whole, rather than as separate proposals. Twenty-five of the 44 commenters included written submissions or oral presentations regarding the economic effects of the EPA recommended regulations.

Representative of the general tenor of the comments from small airplane pilot/owners is one which said that the commenter is troubled by an observed trend towards increasing costs of private flying as a result of regulatory amendments. Other commenters address concern for the anticipated economic burden on the aircraft manufacturers and ultimately purchasers and operators of new aircraft if the EPA proposals were adopted. Several commenters stated that they believe the impact of increased cost of aircraft as a result of implementation of the EPA proposals would be inflationary and have a stifling effect on the growth of general aviation. Another commenter stated that "With ever increasing financial demands being placed on the industry, there should be unquestionable justification for adding to the already monumental costs of purchasing and operating a small propeller-driven airplane. We certainly have no qualms about quieter aircraft; however, we do feel that new acoustical standards should be adopted only at a rate that is consistent with advances in technology and without sacrifice to performance of efficiency * * *. Let's have quieter airplanes but let's not do it by forcing them to stay on the ground."

These and similar comments indicate that commenters believe that the costs of complying with EPA's proposed noise limits and other recommended regulations would be significant. The EPA itself estimated the cost of the type certification and the modifications needed for compliance with its proposal would range from $300 to $2,500 per airplane, depending upon the type of airplane and the production run. While the EPA concluded that this increase for an airplane ranging in price from $14,000 to $25,000 appeared to be "economically reasonable for the reduced noise benefits to be derived," the cost data and information submitted to the docket do not discuss what noise benefits would be achieved under the proposal. In addition aircraft manufacturers suggest that the costs would be several times as large as those estimated by the EPA.

Other commenters, while not providing specific cost information, frequently expressed concern for the costs of complying with the EPA proposals. All parties agree that adoption of the EPA proposals would result in increased costs. As previously stated, however, the docket does not contain data or information from which to demonstrate that any certain or probable increment of benefit to the public health and welfare would be achieved by adopting the recommended regulations. Absent such data and information regarding the achievable benefits to the public health and welfare, the FAA concludes that the EPA proposals considered in this section cannot be issued consistent with the requirement in section 611(d) of the Federal Aviation Act of 1958 to consider whether a proposed regulation is economically reasonable and technologically practicable.

H. GENERAL COMMENTS

The regulatory docket for Notice 74-35 received several comments addressing subjects not relevant to the issues involved in the EPA proposals. Thus, many of those comments were beyond the scope of Notice 74-39, and are not discussed in this notice. However, some comments address relevant matters not previously discussed.

One commenter argued that most of the objection to aircraft noise comes from those people in the vicinity of an airport and that most of these people knew the consequences of their decision to live near areas of aircraft noise. This commenter concluded, "we do not believe that the aviation industry should suffer because a minority of the population choose to live in such areas." Another commenter said, "Since I know that I will inevitably be taxed to support aviation, as an aircraft owner, I would prefer that my taxes went toward the support of more essential research. Research toward making aviation more acceptable to the general public, as in quieter engines, is a worthy investment." Several other commenters generally opposed the EPA proposals on various grounds relating to the lack of need for further noise constraints on general aviation airplanes or to commenters' beliefs that the sound of an aircraft engine is not as offensive as other noise sources, including other modes of transportation.

As discussed in the preamble to FAR Amendment 36-4, the FAA has determined that the control and abatement of noise produced by propeller-driven small airplanes is appropriate and necessary under the Noise Control Act of 1972. The scope of Notice 74-39 encompasses the recommended regulations submitted by the EPA which it believes are necessary to protect the public health and welfare. To the extent the commenters suggest that there is an absence of information demonstrating the extent to which the proposals would be cost-effective or benefit the public health and welfare, the FAA agrees. The FAA also agrees that further research on this important matter is essential to determine the need for further noise limit reductions in the future.

The FAA is expanding its comprehensive analysis of the public impact of aircraft noise. This effort is part of a broad FAA review of the national aviation system aimed at determining the environmental benefits and related costs of source noise controls, operating procedures, and land use planning. This study includes investigations of the noise impacts of different aircraft classes (including propeller-driven small airplanes), new technology that might be applied to each class, and forecasts of the growth of each class. As the results of this study become available over the next two years, FAA will undertake such future actions as may be appropriate.

Despite the assurance in the preamble to Notice 74-39 that the proposed rules would not require a retrofit of existing

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propeller-driven small airplanes, several persons commented on that issue. One suggested that before requiring retrofitting of existing airplanes, the FAA should provide earlier notice because "with an advance notice of retrofit requirements, airplane manufacturers will have an opportunity to plan for changes in the power plants at a later date." The FAA is aware of the problem raised by this commenter and will consider that suggestion in any future rule-making proceedings regarding proposals to prescribe retrofit requirements for propeller-driven small airplanes.

Several commenters objected generally to the EPA proposal because the FAA had already adopted noise limitations for propeller-driven small airplanes. The FAA concludes that the airplane noise regulation recommended by the EPA has been carefully considered and that the EPA has provided several significant contributions to the noise certification test procedure in its recommended regulations which contribute to carrying out the purposes of section 611 of the Act. For the reasons discussed above, those proposals are adopted by the FAA in the following amendments to the Federal Aviation Regulations or, as modified, are being proposed for adoption in separate notice of proposed rule making.

IV. AMENDMENT AND NOTICE OF DECISION

AUTHORITY: [Sections 313(a), 601, 603, and 611 of the Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421, 1423, and 1431), as amended by the Noise Control Act of 1972 (Pub. L. 92-574, Oct. 27, 1972); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)); Title I of the National Environmental policy Act of 1969 (42 U.S.C. 4321 et seq.); and Executive Order 11514, dated March 5, 1970.]

In consideration of the foregoing, the Federal Aviation Administration hereby takes the following actions in response to the recommended regulation submitted to it under section 611(c)(1) of the Act by the U.S. Environmental Protection Agency which was published as Notice 74-39 (40 FR 1061; January 6, 1975), regarding noise standards and test procedures applicable to propeller-driven small airplanes:

(1) Notice is hereby given in accordance with section 611(c)(1)(B) of the Federal Aviation Act of 1958, as amended eral Aviation Administration is not pre- (49 U.S.C. 1431(c)(1)(B)) that the Fedscribing regulations in response to the proposals contained in Notice 74-39 regarding (a) agricultural operation and fire fighting airplane exception to required compliance; (b) EPNdB as the noise evaluation measuring unit; (c) noise compliance levels and dates; (d) field calibrations with voltage-insert devices; (e) corrections for windscreen losses; and (f) other minor proposals and statistical data requirements not adopted under item (2).

(2) In accordance with section 611(c)(1)(A) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1431(c)(1)(A)), Appendix F of Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is amended, effective January 24, 1977, as follows:

1. Paragraph (b) of section F36.111 is revised to read as follows:

Section F36.111 Flight procedures.

* * * * *

(b) Each test over flight must be conducted:

(1) At not less than the highest power in thenormal operating range provided in an Airplane Flight Manual, or in any combination of approved manual material, approved placard, or approved instrument markings; and

(2) At stabilized speed with propellers synchronized and with the airplane in cruise configuration, except that if the speed at the normal operating range provided in an graph would exceed the maximum speed authorized in level flight, accelerated flight is acceptable.

§ F36.201 [Amended]

2. Paragraph (d) of section F36.201 is amended by deleting the figure "1375'" and inserting the figure "2000'" in place thereof; and by deleting the figure "1600'" and inserting the figure "2700'" in place thereof.

Issued in Washington, D.C., on December 17, 1976.

JOHN L. MCLUCAS,
Administrator.

[FR Doc.76-37649 Filed 12-22-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 21, 36, and 91]

[Docket No. 16382; Notice No. 76-27]

AGRICULTURAL OPERATION AND FIRE FIGHTING PROPELLER-DRIVEN SMALL AIRPLANES

Noise Abatement Operating Restriction

The Federal Aviation Administration is considering amending Parts 21, 36, and 91 of the Federal Aviation Regulations to prohibit the operation of propeller-driven small airplanes that are designed for agricultural operation, or dispensing fire fighting materials, which do not comply with the noise limits under Appendix F of FAR Part 36, except to the extent necessary to accomplish the work activity directly associated with the purpose for which the airplane is designed (including flight crew training in the special purpose operation of the airplane). These amendments would revise § 2193 and add new §§ 36.1583 and 91.59, and would apply to airplanes that do not have flight time prior to January 1, 1980.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Ave., SW., Washington, D.C. 20591. Comments on the overall environmental aspects of the proposed rule are specifically invited. Information on the economic impact that might result because of the adoption of the proposed rule is also requested. All communications received by the FAA on or before February 28, 1977, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of the comments received. All comments will be available, both before and after the closing date for comments, in the FAA Rules Docket for examination by interested persons.

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW, Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

I. BACKGROUND

On December 31, 1974, the Federal Aviation Administration (FAA) issued Amendments 21-42 and 36-4 to the Federal Aviation Regulations (40 FR 1029; January 6, 1975) which prescribe noise standards and test procedures applicable to propeller-driven small airplanes.

On December 6, 1974, under § 611(c)(1) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. Law 92-574), the U.S. Environmental Protection Agency (EPA) submitted to the FAA its recommended regulation regarding noise standards and test procedures applicable to propeller-driven small airplanes. Accordingly, the FAA published the EPA proposals in a notice of proposed rule making (NPRM) identified as Notice 74-39 (40 FR 1061; January 6, 1975). In accordance with section 611(c)(1) the Federal Aviation Act of 1958, as amended (the "Act"), the FAA conducted public rule-making proceedings regarding the proposed amendments contained in Notice 74-39. Subsequently, in a document entitled: "Noise Regulations for Propeller-Driven Small Airplanes Submitted to the FAA by the Environmental Protection Agency and Notice of Decision" (which is being published in the "Rules" portion of today's FEDERAL REGISTER), the FAA is—(1) adopting certain amendments to FAR Part 36, which are modifications of the proposed regulations submitted by the EPA, and (2) announcing its decision not to prescribe further amendments in response to the remaining EPA proposals contained in Notice 74-39.

As discussed in the Notice of Decision, having considered the EPA proposed rule concerning agricultural operation and fire fighting airplanes, the FAA believes that the scope of the exception currently prescribed in the FARs for those aircraft should be amended. However, the FAA concluded that the appropriate amendment would be beyond the scope of Notice 74-39 and, therefore, should be the subject of further notice and public procedure in considering that amendment for adoption. This notice implements that decision.

Under the EPA recommended regulation contained in Notice No. 74-39, an airplane designed for agricultural or fire fighting operation would be required to undergo noise measurement testing in accordance with the Appendix F of FAR Part 36, even though that airplane may be excepted from required compliance with the noise levels prescribed in § F36.301. The EPA proposed exception to compliance, if adopted, would have applied only if an operating limitation regarding FAA approved noise abatement flight plans and routes were issued.

As stated in the preamble to FAR Amendment 36-4 and the Notice of Decision, the FAA concluded that the cost burden on certification applicants in submitting extensive noise test data and analyses primarily for statistical and informational purposes was not justified. Conducting noise testing solely to establish the noise levels produced by these excepted airplanes without also requiring compliance was not shown to be needed. Further, the FAA concluded that neither agricultural nor fire fighting operations could be continued under the rule as proposed because those operations frequently involve practical exigencies requiring a greater than average performance and the capability of rapid response which are not compatible with flight-by-flight approval of all routes and all flight plans to promote noise abatement. Thus, while the FAA concluded that it should not adopt an amendment based on the EPA proposal, the FAA believes that it should consider amending the scope of the current exception to the noise certification rules for agricultural operation and fire fighting airplanes.

FAR Part 36 currently prescribes noise standards for propeller-driven small airplanes "except airplanes that are designed for 'agricultural aircraft operations' as defined in § 137.3 of this chapter, as effective January 1, 1966, or for dispensing fire fighting materials." (FAR § 36.1(a)(2)). That exception applies without regard to the category in which the aircraft is type certificated. For various reasons, most agricultural operations and fire fighting airplanes are type certificated in the restricted category and thus, are limited under § 91.39(a)(2) to operations associated with the purpose for which the airplane is designed. However, those airplanes may, in some cases, be certificated in the standard classification under applicable airworthiness requirements. While it still believes that the public benefit derived from the agricultural and fire fighting operations justifies retaining the exception to noise limit requirements for the limited number of these special purpose airplanes, the FAA believes that this public benefit does not justify operations by those airplanes which are not necessary to accomplish the agricultural operation or fire fighting purpose. Thus, the FAA proposes adopting a new § 91.59 to prohibit operation of an airplane with a standard airworthiness certificate that is designed for agricultural operations or for dispensing fire fighting materials, which does not comply with the applicable noise limits of Part 36, except to the extent necessary to accomplish the work directly associated with the purpose for which the airplane is designed. The FAA also proposes to include a provision in the proposed § 91.59 to permit conducting an operation for the exclusive purpose of providing flight-crew training in the special purpose operation of the airplane. Agricultural aircraft operated under Part 137 of the Federal Aviation Regulations would also be permitted to conduct "non-dispensing aerial work operations" as described in § 137.29(c) of that Part.

So that pilots will know which airplanes, within a type or model, are within the scope of new § 91.59, a new § 36.1583 would be added requiring a statement, in the Airplane Flight Manual or other approved manual material, marking, or placards, that advises the pilot of this fact. So that approvals of changes to the type design of agricultural or firefighting airplanes do not circumvent the intent of this amendment, it would also apply to acoustical changes to those aircraft. Consistent with this, § 21.93 would be amended to delete the total exclusion of agricultural and firefighting airplanes from the defi-

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nition of "acoustical change," and limit that exclusion to aircraft "for which no requirements are prescribed in Part 36 of this chapter."

As proposed, the cutoff date for first flight time (January 1, 1980) would refer to the first flight time of the aircraft, in the case of applicants for the original issuance of a standard airworthiness certificate, but would refer to the first flight time of the aircraft in the configuration for which approval is requested, in the case of applicants for acoustical change approvals.

The proposed rule would assure that FAR Part 36 noise limits are met by the affected special purpose airplanes which are type certificated in categories other than "restricted" and operated for purposes besides those for which they are designed. The impact of the proposed rule would be to prohibit operations not directly associated with the designed for purpose by these airplanes which do not comply with FAR Part 36. An FAA analysis of the potential impacts under the proposal indicates that aircraft manufacturers have expressed an interest in type certificating in categories other than "restricted" and under the exception in § 36.1(a)(2) only in connection with airplanes manufactured for export. Thus, there should be very limited economic impact on airplane operations. The proposed rule, if adopted, would foreclose the potential operations permitted under the current rule and, thus, provide increased control of future aircraft noise and corresponding protection to the public health and welfare. Further, the proposed rule would not result in an increase in current fuel usage or engine emission and no inflationary or other significant economic impact would result.

The rule proposed in this notice has been reviewed in accordance with Executive Order 11821, entitled "Inflationary Impact Statements" (39 FR 41501; November 29, 1974), and it has been determined that the preparation of an inflationary impact statement is not necessary.

This amendment is proposed under the authority of §§ 307(c), 313(a), 601(a) and 611(b) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(c), 1354(a), 1421, and 1431(b)); § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.); and Executive Order 11514, March 5, 1970.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Parts 21, 36 and 91 of the Federal Aviation Regulations (14 CFR Parts 21, 36, and 91) as hereinafter set forth:

§ 21.93 [Amended]

1. Paragraph (b)(3) of § 21.93 of Part 21 would be amended by adding the following at the end of the first sentence, within the parenthesis, after the words "firefighting materials": "and for which no requirements are prescribed in Part 36 of this chapter."

2. A new § 36.1583 would be added to Part 36 to read as follows:

§ 36.1583 Noncomplying agricultural and fire fighting airplanes.

(a) This section applies to propeller-driven small airplanes:

(1) That are designed for "agricultural aircraft operations" as defined in § 137.3 of this chapter, as effective on January 1, 1966, or for dispensing fire fighting materials;

(2) For which application is made for the original issue of a standard airworthiness certificate, and that have not had any flight time before January 1, 1980; and

(3) For which application is made for an acoustical change, for airplanes that have a standard airworthiness certificate after the change in type design and have not had any flight time, before January 1, 1980, in the changed configuration for which approval is requested.

(b) For airplanes covered by this section and that do not comply with the noise limits prescribed in Subpart F of this part, a statement must be furnished, in the manner prescribed in § 36.1581, reading as follows:

Noise Abatement: This airplane does not comply with the applicable noise limits in Part 36 of the Federal Aviation Regulations and shall be operated in compliance with noise abatement regulations applicable to airplanes that have not had flight time before January 1, 1980.

3. A new § 91.59 would be added to Part 91 to read as follows:

§ 91.59 Agricultural and firefighting airplane noise restrictions.

(a) This section applies to propeller-driven small airplanes, having standard airworthiness certificates, that are designed for "agricultural aircraft operations" as defined in § 137.3 of this chapter, as effective on January 1, 1966, or for dispensing fire fighting materials, and that have not had flight time before January 1, 1980.

(b) If the Airplane Flight Manual, or other approved manual material, markings, or placards for the airplane indicate that the airplane does not comply with the applicable noise limits in Appendix F of Part 36 of this chapter, no person may operate that airplane, other than to the extent necessary for the accomplishment of the work activity directly associated with the purpose for which it is designed, except as provided in paragraph (c) of this section.

(c) The airplane may be operated—

(1) To provide flight crewmember training in the special purpose operation for which the airplane is designed; and

(2) In the conduct of "nondispensing aerial work operations" in accordance with § 137.29(c) of this chapter.

Issued in Washington, D.C., on December 17, 1976.

JOAN B. BARRIAGE,
Acting Director,
Office of Environmental Quality.

[FR Doc.76-37650 Filed 12-22-76;8:45 am]

federal register

THURSDAY, DECEMBER 23, 1976

PART III



FEDERAL COMMUNICATIONS COMMISSION

CLASS D STATIONS IN CITIZENS RADIO SERVICE

Revision of Operating Rules

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Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20120; FCC 76-1138]

CLASS D STATIONS IN CITIZENS RADIO SERVICE

Revision of Operating Rules

Adopted: December 14, 1976.

Released: December 16, 1976.

In the matter of revision of operating rules for Class D stations in the Citizens Radio Service; FCC 76-1138; Dockets 20120; RM-1508, 1592, 1733, 1751, 1841, 1905, 1991, 2053, 2084, 2132, 2300, 2317, 2318; *Third Report and Order*.

1. A Notice of Inquiry and Further Notice of Proposed Rule Making in the above-captioned matter was released March 29, 1976 and published in the FEDERAL REGISTER April 6, 1976, 41 FR 14527 (1976). A Second Report and Order was released July 29, 1976 and published in the FEDERAL REGISTER August 4, 1976, 41 FR 32678 (1976).

2. In our Notice of Inquiry and Further Notice of Proposed Rule Making, we proposed to change the names of the Citizens Radio Service and its subdesignations. We proposed to redesignate the Citizens Radio Service the General Radio Service, and the Class D and Class A Services were to be redesignated the CB Radio Service and the UHF CB Service, respectively. We believed the new names would be more descriptive of the character of the Services and more in keeping with present user references to the Services.

3. The comments we received in response to the proposal to change the name of the Citizens Radio Service were generally favorable. In its Second Report and Order in this proceeding, however, the Commission deferred action on this proposal, stating that it would be implemented at a more appropriate time in the future.

4. We believe that the time is now right for the implementation of the name changes, and we are therefore changing the names of the Citizens Radio Service and its subdesignations, as follows: the Citizens Radio Service is redesignated the *Personal Radio Services;* the Class A Service is redesignated the *General Mobile Radio Service;* the Class C Service is redesignated the *Radio Control (R/C) Service;* and the Class D Service is redesignated the *Citizens Band (CB) Radio Service*.

5. We estimate that the total conversion of all license documents and other printed materials to reflect the various name changes adopted herein will require at least five years. Supplies of application forms and licenses at the Commission bearing the new designations will be put into use as soon as stocks of the present forms are exhausted. Licensees must not attempt to exchange their present licenses for licenses bearing the new Service designations, as this would seriously burden our application processing facilities.

6. Another matter we addressed in our Notice of Inquiry and Further Notice of Proposed Rule Making was a proposal that a copy of Part 95 of the Commission's Rules and Regulations be furnished with each Class D transmitter sold. We adopted this proposal in the Second Report and Order. We believe it to be essential that all licensees have in their possession a set of pertinent rules to aid them in determining the procedures necessary for proper and legal operation in the Service they are using. We do not believe, however, that Part 95 of the Rules must be retained in its entirety by all licensees. Rather, we believe that licensees should possess and be familiar with only those parts of Part 95 directly affecting their operations.

7. We are aware of the difficulty many people encounter reading and understanding Part 95 of the Rules. Much of the material contained therein is of either a legal or technical nature and is not organized in a manner facilitating rapid comprehension. As a first step towards a more comprehensible Part 95, we are therefore reorganizing the rules governing the Personal Radio Services into four subparts. The four new subparts of Part 95 are as follows: Subpart A, encompassing application procedures and operating rules for the General Mobile Radio Service; Subpart C, encompassing application procedures and operating rules for the Radio Control (R/C) Service; Subpart D, encompassing application procedures and operating rules for the Citizens Band (CB) Radio Service; and Subpart E, encompassing all technical requirements and type acceptance standards pertinent to radio equipment used by licensees operating under the provisions of Subparts A, C, and D. We are revising the rules to require that each licensee have in his possession the rule subpart governing the radio service in which he is operating, instead of the complete Part 95. We are also revising the rules to require that only subpart D of Part 95 need be provided with each CB Service transmitter sold. Suppliers wishing to do so may of course continue to supply complete editions of Part 95, however.

8. The rule revisions we are adopting herein are largely of an editorial nature. We expect to make future, more substantive revisions to Part 95 as our resources permit. Our objectives are to clarify the text of Part 95, thereby increasing its readability, and to eliminate altogether those regulations and restrictions found to be unnecessary. Each of the new subparts of Part 95 is considerably shorter and better organized than the present Part 95, and we believe that the increased length of the reorganized rule part is more than offset by its reduced complexity.

9. In view of the foregoing, we believe that the revised rules, as discussed above, are in the public interest. Accordingly, pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, *it is ordered* That Parts 0, 1, 2, 5, 15, 23, 25, 73, 74, 89, 91, 93, 95, and 99 of the Commission's Rules are amended as set forth below effective January 27, 1977. *It is further ordered* That this proceeding is Continued.

FEDERAL COMMUNICATIONS COMMISSION.[1]
VINCENT J. MULLINS,
Secretary.

(Secs. 4, 303, 48 Stat., 1066, 1082; as amended. 47 U.S.C. 154, 303.)

Parts 0, 1, 2, 5, 15, 23, 25, 73, 74, 89, 91, 93 and 99 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended, as follows:

PART 0—COMMISSION ORGANIZATION

1. § 0.241(c) is amended to read as follows:

§ 0.241 Authority delegated to the Chief Engineer.

* * * * * * *

(c) To assign new or modified call signs to stations in all of the radio services except the Personal and Amateur Radio Services. See §§ 0.332(a) and 1.550 of this chapter.

* * * * * * *

2. § 0.242(a) and (c) are amended to read as follows, and § 0.242(c)(14) is amended:

§ 0.242 Additional authority delegated to the Chief Engineer.

* * * * * * *

(a) In accordance with applicable rules, all applications filed in a region for authorizations in the Public Safety, Land Transportation, and Industrial Radio Services (excluding applications in the Industrial Radiolocation Service) and for General Mobile Radio Service station authorizations in the Personal Radio Services.

* * * * * * *

(c) On the following matters insofar as they involve the Public Safety, Industrial, Land Transportation (excluding the Industrial Radiolocation Service), Personal Radio Services (General Mobile Radio Service only) or Remote Pickup Broadcast Service (shared frequencies only).

* * * * * * *

(14) To act on requests for assignment of call signs to new stations in the Personal Radio Services (General Mobile Radio Service only) and for changes in the call signs of existing stations in this service.

* * * * * * *

3. § 0.431 is amended to read as follows:

§ 0.431 The FCC Service Frequency Lists.

Lists of frequency assignments to radio stations authorized by the Commission are recapitulated periodically by means of an automated record system. All stations licensed by the Commission are included, except the following: Aircraft.

[1] Commissioners Lee and Hooks absent; Commissioner White not participating.

amateur, personal (except General Mobile Radio Service), Civil Air Patrol, and disaster. The resulting documents, the FCC service frequency lists, consist of several volumes arranged by nature of service, in frequency order, including station locations, call signs and other technical particulars of each assignment. These documents are available for public inspection at each of the Commission's Field Operations Bureau field offices (see § 0.121) and, in Washington, D.C., in the offices of the Chief Engineer. Copies may be purchased from the Commission's duplicating contractor. See § 0.465(a).

4. § 0.455(h)(1) is amended to read as follows:

§ 0.455 Other locations at which records may be inspected.

* * * * * * *

(h) * * *

(1) Amateur Radio Service and Personal Radio Services application files.

* * * * * * *

5. § 0.481 is amended to read as follows:

§ 0.481 Place of filing of applications for radio authorizations.

Class of station	Method of filing	Number of copies
(a) Alaskan fixed public and Alaskan public coastal.	V1A engineer in charge radio district No. 14 Seattle, Wash. 98104.	2.
(b) Amateur	See secs. 0.483 and 0.485.	As specified in form.
(c) Interim ship station license.	See sec. 0.487	Do.
(d) Personal	To Federal Communications Commission. Gettysburg, Pa. 17325.	Do.
(e) Ship (FCC forms 502 and 405-B).	do	Do.
(f) Aircraft (FCC forms 404 and 405-B).	do	Do.
(g) All others	Directly to the main Washington, D.C., office of the Commission. See sec. 0.401.	Do.

PART 1—PRACTICE AND PROCEDURE

§ 1.912 Where applications are to be filed.

* * * * * * *

(d) All formal applications for Radio control (R/C) or Citizens Band (CB) new, modified, or renewal station authorizations shall be submitted to the Commission's office, Gettysburg, Pennsylvania 17326. All formal applications for ship station licenses (FCC Forms 502 and 405-B) shall be submitted to the Commission's office, Box 1040, Gettysburg, Pennsylvania 17325. All formal applications for aircraft station licenses (FCC Forms 404 and 405-B) shall be submitted to the Commission's office, Box 1030, Gettysburg, Pennsylvania 17325. Any special requests or applications for special temporary authority concerning a Radio Control (R/C) or Citizens Band (CB) station and all applications for General Mobile Radio Service station licenses shall be filed in accordance with paragraph (e) of this section.

* * * * * * *

7. § 1.922 is amended to read as follows:

§ 1.922 Forms to be used.

FCC Form:

* * * * * * *

	Title
505	Application for station license in the R/C or CB service.
* * * *	
555-B	Temporary permit, citizens band (CB) radio service, personal radio service.

* * * * * * *

8. § 1.924 (a)(2) and (c)(3) are amended to read as follows:

§ 1.924 Assignment or transfer of control, voluntary and involuntary.

(a) * * *

(2) Licenses for stations in the Amateur, Aviation (aircraft), Personal, and Maritime (ship) Radio Services cannot be assigned. Whenever there is a change of ownership of one of these latter stations, the new owner must apply for a new license. Upon receipt of the new license, the former license must be surrendered for cancellation.

* * * * * * *

(c) * * *

(3) In the case of stations in the Amateur, Aviation (aircraft), Personal, and Maritime (ship) Radio Services, involuntary assignment of licenses will not be made; such licenses shall be surrendered for cancellation upon the death or legal disability of the licensee.

9. § 1.925(d) is amended to read as follows:

§ 1.925 Application for special temporary authorization or temporary permit.

* * * * * * *

(d) An individual applicant for a Citizens Band (CB) station license in the Personal Radio Services may operate his radio station pending issuance of his CB station authorization by the Commission for a period of 60 days, under a temporary permit, evidenced by a properly executed certification made on FCC Form 555-B.

10. § 1.926 (b)(5), (10) and (11) are amended to read as follows:

§ 1.926 Application for renewal of license.

* * *

(b) * * *

(5) Beginning April 1, 1972, applications for renewal of licenses for base, mobile and fixed stations operating on frequencies below 950 MHz in the Public Safety, Industrial, Land Transportation Radio Services, and for General Mobile Radio Service stations in the Personal Radio Services which are located in the Chicago, Ill., Regional Area (defined in Parts 89, 91, 93, and 95 of this chapter) shall be filed on FCC Form 425. Such applications shall be filed at the Commission's Washington, D.C. office until January 1, 1973. After January 1, 1973, they shall be filed at the Commission's Chicago Regional Office.

* * * * * * *

(10) Application for renewal of Radio Control (R/C) or Citizens Band (CB) station license in the Personal Radio Services shall be submitted on FCC Form 505.

(11) Application for renewal of General Mobile Radio Service station license in the Personal Radio Services shall be submitted on FCC Form 400.

* * * * * * *

11. § 1.931(b) is amended to read as follows:

§ 1.931 Application for extension of construction permit.

* * * * * * *

(b) Application for extension of time within which to construct a station in the Public Safety, Industrial and Land Transportation Radio Services shall be submitted on FCC Form 400 or on FCC Form 402, as appropriate; in the Aviation Services, on FCC Form 406, except Civil Air Patrol applications which shall use FCC Form 480; in the case of General Mobile Radio Service stations in the Personal Radio Services, on FCC Form 400; and in all other services, on FCC Form 701. Such application shall be filed at least 30 days prior to the expiration date. Such applications will be granted upon a specific and detailed showing that the failure to complete was due to causes not under the control of the grantee, or upon a specific and detailed showing of other matters sufficient to justify the extension.

12. § 1.933(b) is amended to read as follows:

§ 1.933 Installation or removal of apparatus.

* * * * * * *

(b) In the Personal Radio Services, replacement of transmitting equipment may be made without prior authorization: *Provided*, The replacement transmitter appears in the Commission's "Radio Equipment List," as designated for use in the Personal Radio Services or, in the case of an R/C station [or a CB station until November 23, 1978 if first licensed prior to November 22, 1974], using crystal control, the substitute equipment is crystal controlled: *Provided, further*, That the substitute equipment employs the same type of emission and does not exceed the frequency tolerance and power limitations prescribed for the particular class of station involved.

13. § 1.951(a) and (d) are amended to read as follows:

§ 1.951 How applications are distributed.

(a) Amateur and Citizens Division: Amateur, Disaster, RACES, and Personal.

* * * * * * *

(d) Chicago, Ill., Regional Office (beginning January 1, 1973); applications for base, mobile and fixed stations to operate on frequencies below 950 MHz with-

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in the Chicago, Ill., Region (defined in Parts 89, 91, 93 and 95 of this chapter) filed in the Public Safety, Land Transportation, and Industrial (excluding Industrial Radiolocation) Services, and for General Mobile Radio Service stations in the Personal Radio Services.

14. § 1.952(b) is amended to read as follows:

§ 1.952 How file numbers are assigned.

• • • • •

(b) File number symbols and service or class of station designators:

• • • • •

PERSONAL RADIO SERVICES

CA—General Mobile Radio Service.
CC—Radio Control (R/C) Service.
CD—Citizens Band (CB) Radio Service.

• • • • •

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

15. In § 2.1 the definition "Citizens radio service" is deleted and the following definition "Personal radio services" added alphabetically to read as follows:

§ 2.1 Definitions.

• • • • • •

Personal radio services. A radiocommunication service of fixed, land, and mobile stations intended for personal or business radiocommunications, radio signaling, control of remote objects or devices by means of radio, and other purposes not specifically prohibited.

• • • • •

16. § 2.106 is amended to read as follows:

§ 2.106 Table of Frequency Allocations.

• • • • •

United States		Federal Communications Commission				
Band (megahertz)	Allocation	Band (megahertz)	Service	Class of Station	Frequency (megahertz)	Nature (of services and stations)
5	6	7	8	9	10	11
•	•	•	•	•	•	•
26.96 to 27.54. NG		26.95 to 26.96.	Fixed	Fixed	26.955	International. Fixed public.
		26.96 to 27.23. (225) (US 1).	Personal	Fixed. Land Mobile.	27.12	Industrial, scientific and medical equipment.
		27.23 to 27.28 (225).	Personal. Fixed. Mobile.	do		Personal. Public safety. Industrial. Land transportation.
		27.28 to 27.41.	Personal. Land mobile.	Base. Land mobile.		Personal. Industrial.
		27.41 to 27.54.	Land mobile	do		Industrial.

Worldwide		Region 2		United States		Federal Communications Commission				
Band (megahertz)	Service	Band (megahertz)	Service	Band (megahertz)	Allocation	Band (megahertz)	Service	Class of station	Frequency (megahertz)	Nature (of services and stations)
1	2	3	4	5	6	7	8	9	10	11
						456 to 459	Land mobile. (NG112).	Land mobile		Public safety. Industrial. Land transportation.
						459 to 460	Land mobile. (NG112).	Base. Land mobile.		Domestic. Public. (12)NG.
460 to 470 (324B).	Fixed. Mobile. Meteorological-satellite (space-to-Earth). (318A).				(US100) (US201) (US209).	460 to 462.5375	Land mobile	do		Public safety. Industrial. Land transportation.
						462.5375 to 462.7375.	do	do		Personal.
						462.7375 to 465.0125.	do	do		Public safety. Industrial. Land transportation.
						465.0125 to 467.5375.	do	Land mobile		Do.
						467.5375 to 467.7375.	do	do		Personal.
						467.7375 to 470.	do	do		Public safety. Industrial. Land transportation.
470 to 890 (332A).		470 to 890 (329A) (332) (332A).	Broadcasting	470 to 902	NG. (NG30) (NG43) (NG83) (US36) (US88) (US100) (US116) (US218).	470 to 512	Broadcasting. Land mobile. (NG66).	Television broadcasting. Land mobile. Base.		Broadcasting. Public safety. Industrial. Land transportation. Domestic Public.
						512 to 806	Broadcasting	Television broadcasting.		
						806 to 821	Land mobile	Land mobile		Conventional and trunked Systems.
						821 to 825	do			Reserve.
						825 to 845	do	Land mobile		Cellular systems.
						845 to 851	do			Reserve.

17. In § 2.106, Note NG56 is amended to read as follows:

• • • • • •

NG FOOTNOTES

• • • • • •

NG56 The frequencies 72.08, 72.16, 72.24, 72.32, 72.40, 72.96, and 75.64 MHz may be authorized for low powered (1-watt input) mobile operations in the Personal Radio Services for radio control of models subject to the condition that interference will not be caused to remote control of industrial equipment operating on the same or adjacent frequencies and to the reception of television stations operating on Channels 4 or 5. TV interference shall be considered to occur whenever reception of regularly used television signals is impaired or destroyed, regardless of the strength of the television signals or the distance to the television station.

• • • • • •

18. § 2.302 is amended to read as follows:

§ 2.302 Call signs.

Class of station	Composition of call sign	Call sign blocks
•	•	•
Personal radio	3 letters, 4 digits, or 4 letters, 4 digits.	KAA0001 through KZZ9999, WAA0001 through WPZ9999, KAAA0001 through KZZZ9999.
Personal radio, temporary permit.	3 letters, 5 digits	KAA00000 through KZZ99999.
Personal radio in trust territories.	1 letter, 4 digits	K0001 through K9999.

PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

19. § 5.69 is amended to read as follows:

§ 5.69 Notification to the National Radio Astronomy Observatory.

In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia, any applicant for a station authorization other than mobile, temporary base, temporary fixed, Personal Radio, Civil Air Patrol, or Amateur seeking a station license for a new station, a construction permit to construct a new station or to modify an existing station license in a manner which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15′ N on the north, 78°30′ W on the east, 37°30′ N on the south and 80°30′ W on the west shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, P.O. Box No. 2, Green Bank, West Virginia, 24944, in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of 20 days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

PART 15—RADIO FREQUENCY DEVICES

20. § 15.59 (a) and (b) are amended to read as follows:

§ 15.59 Interference requirement for a CB receiver.

(a) For the purpose of this regulation a CB receiver is defined as any receiver that operates in the Personal Radio Services on frequencies allocated for CB stations, as well as any receiver provided with a separate band specifically designed to receive the transmissions of CB stations in the Personal Radio Services. The term CB receiver includes the following:

A CB receiver sold as a separate piece of equipment.

The receiver section of a CB transceiver.

A converter to be used with any receiver for the purpose of receiving CB transmissions.

The CB band of a multiband receiver in which such band can be separately selected and is labelled "CB band" or "11 meter band."

(b) • • • *Provided, however,* If the receiver is a part of a CB transceiver for which an application for type acceptance is filed on or after September 10, 1976, an application for certification of the receiver section of such transceiver must be filed simultaneously with the application for type acceptance.

• • • • •

PART 23—INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES

21. § 23.20(b) is amended to read as follows:

§ 23.20 Assignment of frequencies.

• • • • •

(b) In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia, any applicant for a station authorization other than mobile, temporary base, temporary fixed, Personal Radio, Civil Air Patrol, or Amateur seeking a station license for a new station, a construction permit to construct a new station or to modify an existing station license in a manner which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15′ N on the north, 78°30′ W on the east, 37°30′ N on the south and 80°30′ W on the west shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, P.O. Box No. 2, Green Bank, West Virginia, 24944, in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of twenty (20) days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the twenty day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

PART 25—SATELLITE COMMUNICATIONS

22. § 25.203(g) is amended to read as follows:

§ 25.203 Choice of sites and frequencies.

• • • • • •

(g) Notification to the National Radio Astronomy Observatory: In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, W. Va., and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, W. Va., any applicant for a station authorization other than mobile, temporary base, temporary fixed, Personal Radio, Civil Air Patrol, or amateur seeking a station license for a new station, a construction permit to construct a new station or to modify an existing station license in a manner which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15′ N. on the north, 78°30′ W. on the east, 37°30′ N. on the south and 80°30′ W. on the west shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, P.O. Box No. 2, Green Bank, W. Va. 24944,

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in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the observatory. After receipt of such applications, the Commission will allow a period of 20 days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

PART 73—RADIO BROADCAST SERVICES

23. In § 73.1207(c) Note 2(d) is added to read as follows:

§ 73.1207 Rebroadcast.

* * * * *

NOTE 2. * * *

* * * * *

(d) A broadcasting station may not rebroadcast, live or delayed, the transmissions of a Personal Radio Services station.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

24. § 74.405(b) is amended to read as follows:

§ 74.405 Special provisions relating to Land Mobile Spectrum Management Program in Chicago region.

* * * * *

(b) * * *

CATEGORY II

* * * * *

GROUP D

Domestic public land mobile radio service.[1]

GROUP E

Personal radio services (General Mobile Radio Service).

* * * * *

PART 89—PUBLIC SAFETY RADIO SERVICE

25. § 89.81(b) is amended to read as follows:

§ 89.81 Special provisions relating to Land Mobile Spectrum Management Program in Chicago region.

* * * * *

(b) * * *

CATEGORY II

GROUP D

Domestic public land mobile radio service.[1]

GROUP E

Personal radio services (General Mobile Radio Service).

* * * * *

26. § 89.101(d)(3) is amended to read as follows:

§ 89.101 Frequencies.

* * * * *

(d) * * *

(3) Effective September 10, 1976, station authorizations for the use of 27.235, 27.245, 27.255, 27.265, and 27.275 MHz will be issued only to applicants in the Personal Radio Services. Licenses in the Public Safety Radio Services authorizing the use of these frequencies shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 and 27.41 MHz should be modified prior to December 31, 1979 to permit operation on other authorized frequencies.

* * * * *

PART 91—INDUSTRIAL RADIO SERVICES

27. § 91.67(b) is amended to read as follows:

§ 91.67 Special provisions relating to Land Mobile Spectrum Management Program in Chicago region.

* * * * *

(b) * * *

CATEGORY II

GROUP D

Domestic public land mobile radio service.[1]

GROUP E

Personal Radio Services (General Mobile Radio Service).

* * * * *

28. § 91.254(b)(5) is amended to read as follows:

§ 91.254 Frequencies available.

* * * * *

(b) * * *

(5) Effective September 10, 1976, station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Personal Radio Services. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 and 27.41 MHz should be modified prior to December 31, 1979 to permit operation on other authorized frequencies.

* * * * *

29. § 91.304(b)(7) is amended to read as follows:

§ 91.304 Frequencies available.

* * * * *

(b) * * *

(7) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Personal Radio Services. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

30. § 91.354(b)(3) is amended to read as follows:

§ 91.354 Frequencies available.

* * * * *

(b) * * *

(3) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Personal Radio Services. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other frequencies.

* * * * *

31. § 91.404(b)(8) is amended to read as follows:

§ 91.404 Frequencies available.

* * * * *

(b) * * *

(8) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Personal Radio Services. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

32. § 91.454(b)(6) is amended to read as follows:

§ 91.454 Frequencies available.

* * * * *

(b) * * *

(6) Effective September 10, 1976, station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Personal Radio Services. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

[1] These frequencies will not be shared with private systems in the Chicago region at this time.

33. § 91.504(b)(5) is amended to read as follows:

§ 91.504 Frequencies available.

* * * * *

(b) * * *

(5) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Personal Radio Services. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

34. § 91.554(b)(5) is amended to read as follows:

§ 91.554 Frequencies available.

* * * * *

(b) * * *

(5) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Personal Radio Services. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

35. § 91.730 (b)(9) and (b)(13) are amended to read as follows:

§ 91.730 Frequencies available.

* * * * *

(b) * * *

(9) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Personal Radio Services. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

(13) This frequency is shared with Radio Control (R/C) stations in the Personal Radio Services which are used solely for the radio control of models.

* * * * *

36. § 91.754(b)(1) is amended to read as follows:

§ 91.754 Frequencies available.

* * * * *

(b) * * *

(1) Effective September 10, 1976 station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Personal Radio Services. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 29.96 MHz and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

* * * * *

37. In § 91.806 the headnote and text are amended to read as follows:

§ 91.806 Participation of General Mobile Radio Service licensees in the Personal Radio Services.

Industrial entities may utilize their Personal Radio Services (General Mobile Radio Service) facilities, licensed to them under § 95.55 of the Commission's rules, in the operation of their own Detailed Operational Industrial Communications Emergency Plans as developed in accordance with the procedures established in this subpart.

PART 93—LAND TRANSPORTATION RADIO SERVICES

38. § 93.67(b) is amended to read as follows:

§ 93.67 Special provisions relating to Land Mobile Spectrum Management Program in Chicago region.

* * * * *

(b) * * *

CATEGORY II

GROUP D

Domestic public land mobile radio service.[1]

GROUP E

Personal Radio Services (General Mobile Radio Service).

* * * * *

39. §§ 93.254(d), 93.356(d), 93.404(d) and 93.504(d) are amended as follows:

§ 00.000 Frequencies below 952 MHz available for base, mobile, and operational fixed stations.

* * * * *

(d) Effective September 10, 1976, station authorizations for the use of frequencies between 26.96 MHz and 27.41 MHz will be issued only to applicants in the Personal Radio Services. Licenses issued under this subpart shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 MHz and 27.41 MHz should be modified prior to December 31, 1979 to permit operation on authorized frequencies.

PART 99—DISASTER COMMUNICATIONS SERVICE

40. § 99.11(e) is amended to read as follows:

§ 99.11 Applications.

* * * * *

(e) In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory at Sugar Grove, Pendleton County, West Virginia, any applicant for a station authorization other than mobile, temporary base, temporary fixed, Personal Radio, Civil Air Patrol, or Amateur seeking a station license for a new station, or to modify an existing station license in a manner which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15' N on the north, 78°30' W on the east, 37°30' N on the south, and 80°30' W on the west, shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, P.O. Box No. 2, Green Bank, West Virginia 24944, in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity, if any, proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of 20 days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

* * * * *

PART 95—PERSONAL RADIO SERVICE

Part 95 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as set forth below:

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Redesignation table

	Subpt. A	C	D	Former edition
General:				
Basis and purpose	§ 95.1	.201	.401	§ 95.1
Definitions	§ 95.3	.203	.403	§ 95.3
Applications and licenses:				
Eligibility for station license	§ 95.11	.211	.411	§ 95.13
General citizenship requirements	§ 95.13	.213	.413	§ 95.7
Standard forms to be used	§ 95.15	.215	.415	§ 95.19
Filing of applications	§ 95.17	.217	.417	§ 95.15
Mailing address furnished by licensee	§ 95.19	.219	.419	§ 95.14
Who may sign applications	§ 95.21	.221	.421	§ 95.17
Defective applications	§ 95.23	.223	.423	§ 95.29
Amendment or dismissal of application	§ 95.25	.225	.425	§ 95.25
Partial grant	§ 95.27	.227	.427	§ 95.31
License term	§ 95.29	.229	.429	§ 95.33
Types of operation authorized	§ 95.31	.231	.431	§ 95.6
Transfer of license prohibited	§ 95.33	.233	.433	§ 95.27
Changes in terms of license	§ 95.35	.235	.435	§ 95.35
Limitations on antenna structures	§ 95.37	.237	.437	§ 95.37
Station operating requirements:				
Station authorization required	§ 95.51	.251	.451	§ 95.11
Posting station license and transmitter identification cards or plates	§ 95.53	.253	.453	§ 95.101
Authorized frequencies	§ 95.55	.255	.455	§ 95.41
Policy governing the assignment/availability of frequencies	§ 95.57	.257	.457	§ 95.5
Emission types authorized	§ 95.59	.259		§ 95.47
Telephony only			.459	§ 95.47
Permissible communications	§ 95.61		.461	§ 95.81
Emergency and assistance to motorist use	§ 95.63		.463	§ 95.85
Operation by, or on behalf of, persons other than the licensee	§ 95.65	.265	.465	§ 95.87
Telephone answering services	§ 95.67		.467	§ 95.89
Duration of transmissions	§ 95.69	.269	.469	§ 95.91
Station identification	§ 95.71	.271	.471	§ 95.95
Station location	§ 95.73	.273	.473	§ 95.117
Control points, dispatch points and remote control	§ 95.75	.275	.475	§ 95.113
Dispatch points and remote control			.477	§ 95.113
Civil defense communications	§ 95.77			§ 95.121
Station administration requirements:				
Prohibited communications	§ 95.101	.301	.501	§ 95.83
False signals	§ 95.103		.503	§ 95.115
Current copy of rules required	§ 95.105	.305	.505	§ 95.105
Answers to notices of violations	§ 95.107	.307	.507	§ 95.113
External radio frequency power amplifiers prohibited			.509	§ 95.44
Transmitter service and maintenance	§ 95.111	.311	.511	§ 95.97
Modification of transmitters			.513	§ 95.35
Tests and adjustments	§ 95.115	.315	.515	§ 95.93
Inspection and maintenance of tower marking and lighting and associated control equipment	§ 95.117			§ 95.107
Recording of tower light inspections	§ 95.119			§ 95.111
Inspection of stations and station records	§ 95.121	.321	.521	§ 95.103

Technical regulations

	Subpt. E	Former edition
General:		
Basis and purpose	§ 95.601	§ 95.1
Definitions	§ 95.603	§ 95.3
Frequencies, power and emissions:		
Availability of frequencies	§ 95.611	§ 95.41
Transmitter power	§ 95.613	§ 95.43
Frequency tolerance	§ 95.615	§ 95.45
Emission limitations	§ 95.617	§ 95.49
Modulation requirements	§ 95.619	§ 95.51
Compliance with technical requirements	§ 95.621	§ 95.53
Prohibited equipment: External Radio Frequency Power Amplifiers	§ 95.631	§ 95.44
Type acceptance and certification:		
Acceptability of transmitters for licensing	§ 95.641	§ 95.55
Procedure for type acceptance of equipment	§ 95.643	§ 95.57
Additional requirements for type acceptance	§ 95.645	§ 95.58
Submission of noncrystal controlled class C station transmitters for type approval	§ 95.647	§ 95.59
Type approval of receiver-transmitter combinations	§ 95.649	§ 95.61
Minimum equipment specifications	§ 95.651	§ 95.63
Test procedure	§ 95.653	§ 95.65
Certificate of type approval	§ 95.655	§ 95.67

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95.13 General citizenship requirements.
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95.17 Filing of applications.
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95.23 Defective applications.
95.25 Amendment or dismissal of application.
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95.649 Type approval of receiver-transmitter combinations.
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95.655 Certificate of type approval.

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

Subpart A—General Mobile Radio Service

GENERAL

§ 95.1 Basis and purpose.

These rules are designed to provide for private short-distance personal or business radio-communications service for the business or personal activities of licensees, for radio signaling, for the control of remote objects or devices by means of radio; all to the extent that these uses are not specifically prohibited in this part.

§ 95.3 Definitions.

For the purpose of this part, the following definitions shall be applicable. For other definitions, refer to Part 2 of this chapter.

(a) Definitions of stations: *General Mobile Radio Service station.* A station in the Personal Radio Services licensed to be operated on an assigned frequency in the 460–470 MHz band with a transmitter output power of not more than 50 watts.

Base station. A station in the land mobile service not intended for operation while in motion.

Fixed station. A station intended to be operated between specified fixed points.

Mobile station. A station intended to be operated between mobile and land stations or between mobile stations. A mobile station is operated while in motion or during halts at unspecified points.

(b) Miscellaneous definitions: *Antenna structure.* The term "antenna structures" includes the radiating system, its supporting structures and any appurtenances mounted thereon.

Assigned frequency. The frequency appearing on a station authorization from which the carrier frequency may deviate by an amount not to exceed that permitted by the frequency tolerance.

Control point. A control point is an operating position which is under the control and supervision of the licensee, at which a person immediately responsible for the proper operation of the transmitter is stationed, and at which adequate means are available to aurally monitor all transmissions and to render the transmitter inoperative.

Dispatch point. A dispatch point is any position from which messages may be transmitted under the supervision of the person at a control point.

Harmful interference. Any emission, radiation or induction which endangers the functioning of a radio-navigation service or other safety service or seriously degrades, obstructs or repeatedly interrupts a radio-communication service operating in accordance with applicable laws, treaties, and regulations.

Man-made structure. A man-made structure is any construction other than a tower, mast or pole.

Necessary bandwidth. For a given class of emission, the minimum value of the occupied bandwidth sufficient to ensure the transmission of information at the rate and with the quality required for the system employed, under specified conditions. Emissions useful for the good functioning of the receiving equipment, as for example, the emission corresponding to the carrier of reduced carrier systems, shall be included in the necessary bandwidth.

Person. The term "person" includes an individual, partnership, association, joint-stock company, trust or corporation.

Remote control. The term "remote control" when applied to the use or operation of a personal radio services station means control of the transmitting equipment of that station from any place other than the location of the transmitting equipment except that direct mechanical control or direct electrical control by wired connections of transmitting equipment from some other point on the same premises, craft or vehicle shall not be considered to be remote control.

Station authorization. Any construction permit, temporary permit, license or special temporary authorization issued by the Commission.

APPLICATIONS AND LICENSES

§ 95.11 Eligibility for station license.

Subject to the general restrictions of § 95.13, any person is eligible to hold an authorization to operate a station: Provided that if an applicant for a station authorization is an individual or partnership, such individual or each partner is eighteen or more years of age. An unincorporated association, when licensed under the provisions of this paragraph, may upon specific prior approval of the Commission provide radiocommunications for its members.

NOTE: While the basis of eligibility in this service includes any state, territorial, or local governmental entity, or any agency operating by the authority of such governmental entity, including any duly authorized state, territorial, or local civil defense agency, it should be noted that the frequencies available to station in this service are shared without distinction between all licensees and that no protection is afforded to the communications of any station in this service from interference which may be caused by the authorized operation of other licensed stations.

§ 95.13 General citizenship requirements.

A station license shall not be granted to or held by a foreign government or a representative thereof.

§ 95.15 Standard forms to be used.

(a) *FCC Form 400. Application for Radio Station Authorization in the Safety and Special Radio Services.* Except as provided in paragraph (b) of this section, this form shall be used when:

(1) Application is made for a new base station or fixed station authorization. Separate applications shall be submitted for each proposed base or fixed station at different fixed locations: however, all equipment intended to be operated at a single fixed location is considered to be one station which may, if necessary, be classed as both a base station and a fixed station.

(2) Application is made for a new station authorization for any required number of mobile units (including hand-carried and pack-carried units) to be operated as a group in a single radiocommunication system in a particular area. An application for mobile station authorization may be combined with the application for a single base station authorization when such mobile units are to be operated with that base station only.

(3) Application is made for station license of any ——— base station or

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fixed station upon completion of construction or installation in accordance with the terms and conditions set forth in any construction permit required to be issued for that station, or application for extension of time within which to construct such a station.

(4) Application is made for modification of any existing ———— ———— station authorization in those cases where prior Commission approval of certain changes is required (see § 95.35).

(5) Application is made for renewal of an existing ———— station authorization, or for reinstatement of such an expired authorization.

(6) Each applicant in the Safety and Special Radio Services (1) for modification of a station license involving a site change or a substantial increase in tower height or (2) for a license for a new station must, before commencing construction, supply the environmental information, where required, and must follow the procedure prescribed by Subpart I of Part 1 of this chapter (§§ 1.1301 through 1.1319) unless Commission action authorizing such construction would be a minor action within the meaning of Subpart I of Part 1.

(7) Application is made for an authorization for a new ———— base or fixed station to be operated at unspecified or temporary locations. When one or more individual transmitters are each intended to be operated as a base station or as a fixed station at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary location. The application shall specify the general geographic area within which the operation will be confined. Sufficient data must be submitted to show the need for the proposed area of operation.

(b) Applicants for ———— ———— stations located in the Chicago Regional Area (defined to consist of the counties listed below) shall use FCC Form 425 in lieu of FCC Form 400.

ILLINOIS

1. Boone.
2. Bureau.
3. Carroll.
4. Champaign.
5. Christian.
6. Clark.
7. Coles.
8. Cook.
9. Cumberland.
10. De Kalb.
11. De Witt.
12. Douglas.
13. Du Page.
14. Edgar.
15. Ford.
16. Fulton.
17. Grundy.
18. Henry.
19. Iroquois.
20. Jo Daviess.
21. Kane.
22. Kankakee.
23. Kendall.
24. Knox.
25. Lake.
26. La Salle.
27. Lee.
28. Livingston.
29. Logan.
30. Macon.
31. Marshall.
32. Mason.
33. McHenry.
34. McLean.
35. Menard.
36. Mercer.
37. Moultrie.
38. Ogle.
39. Peoria.
40. Piatt.
41. Putnam.
42. Rock Island.
43. Sangamon.
44. Shelby.
45. Stark.
46. Stephenson.
47. Tazewell.
48. Vermillion.
49. Warren.
50. Whiteside.
51. Will.
52. Winnebago.
53. Woodford.

INDIANA

1. Adams.
2. Allen.
3. Benton.
4. Blackford.
5. Boone.
6. Carroll.
7. Cass.
8. Clay.
9. Clinton.
10. De Kalb.
11. Delaware.
12. Elkhart.
13. Fountain.
14. Fulton.
15. Grant.
16. Hamilton.
17. Hancock.
18. Hendricks.
19. Henry.
20. Howard.
21. Huntington.
22. Jasper.
23. Jay.
24. Kosciusko.
25. Lake.
26. Lagrange.
27. La Porte.
28. Madison.
29. Marion.
30. Marshall.
31. Miami.
32. Montgomery.
33. Morgan.
34. Newton.
35. Noble.
36. Owen.
37. Parke.
38. Porter.
39. Pulaski.
40. Putnam.
41. Randolph.
42. St. Joseph.
43. Starke.
44. Steuben.
45. Tippecanoe.
46. Tipton.
47. Vermillion.
48. Vigo.
49. Wabash.
50. Warren.
51. Wells.
52. White.
53. Whitley.

IOWA

1. Cedar.
2. Clinton.
3. Dubuque.
4. Jackson.
5. Jones.
6. Muscatine.
7. Scott.

MICHIGAN

1. Allegan.
2. Barry.
3. Berrien.
4. Branch.
5. Calhoun.
6. Cass.
7. Clinton.
8. Eaton.
9. Hillsdale.
10. Ingham.
11. Ionia.
12. Jackson.
13. Kalamazoo.
14. Kent.
15. Lake.
16. Mason.
17. Mecosta.
18. Montcalm.
19. Muskegon.
20. Newaygo.
21. Oceana.
22. Ottawa.
23. St. Joseph.
24. Van Buren.

OHIO

1. Defiance.
2. Mercer.
3. Paulding.
4. Van Wert.
5. Williams.

WISCONSIN

1. Adams.
2. Brown.
3. Calumet.
4. Columbia.
5. Dane.
6. Dodge.
7. Door.
8. Fond du Lac.
9. Grant.
10. Green.
11. Green Lake.
12. Iowa.
13. Jefferson.
14. Juneau.
15. Kenosha.
16. Kewaunee.
17. Lafayette.
18. Manitowoc.
19. Marquette.
20. Milwaukee.
21. Outagamie.
22. Ozaukee.
23. Racine.
24. Richland.
25. Rock.
26. Sauk.
27. Sheboygan.
28. Walworth.
29. Washington.
30. Waukesha.
31. Waupaca.
32. Waushara.
33. Winnebago.

(c) *FCC Form 703. Application for Consent to Transfer of Control of Corporation Holding Construction Permit or Station License.* This form shall be used when application is made for consent to transfer control of a corporation holding any ———— station authorization.

§ 95.17 Filing of applications.

(a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to this Service are discussed in § 95.15, and may be obtained from the Washington, D.C. 20554, office of the Commission, or from any of its engineering field offices.

(b) Applications for ———— station authorizations, applications for consent to transfer of control of a corporation holding a radio station authorization, requests for special temporary authority or other special requests, and correspondence relating to an application for a ———— radio station authorization shall be submitted to the Commission's Office at Washington, D.C. 20554, and should be directed to the attention of the Secretary. Applicants for stations in the Chicago Regional Area, defined in § 95.15 shall submit their applications to the Commission's Chicago Regional Office.

(c) Unless otherwise specified, an application shall be filed at least 60 days prior to the date on which it is desired that Commission action thereon be completed. In any case where the applicant has made timely and sufficient application for renewal of license, in accordance with the Commission's rules, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

(d) Failure on the part of the applicant to provide all the information required by the application form, or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

(e) Applicants proposing to construct a radio station on a site located on land under the jurisdiction of the U.S. Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior, must supply the information and must follow the procedure prescribed by § 1.70 of this chapter.

§ 95.19 Mailing address furnished by licensee.

Except for applications submitted by Canadian citizens pursuant to agreement between the United States and Canada (TIAS No. 6931), each application shall set forth and each licensee shall furnish the Commission with an address in the United States to be used by the Commission in serving documents or directing correspondence to that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for these purposes.

§ 95.21 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of the fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, Title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communications Act of 1934, as amended.

§ 95.23 Defective applications.

(a) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(b) When an application is considered to be incomplete or defective, such application will be returned to the applicant, unless the Commission may otherwise direct. The reason for return of the applications will be indicated, and if appropriate, necessary additions or corrections will be suggested.

§ 95.25 Amendment or dismissal of application.

(a) Any application may be amended upon request of the applicant as a matter of right prior to the time the application is granted or designated for hearing. Each amendment to an application shall be signed and submitted in the same manner and with the same number of copies as required for the original application.

(b) Any application may, upon written request signed by the applicant or his attorney, be dismissed without prejudice as a matter of right prior to the time the application is granted or designated for hearing.

§ 95.27 Partial grant.

Where the Commission, without a hearing, grants an application in part, or with any privileges, terms, or conditions other than those requested, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made, or from its effective date if a later date is specified, file with the Commission a written rejection of the grant as made. Upon receipt of such rejection, the Commission will vacate its original action upon the application and, if appropriate, set the application for hearing.

§ 95.29 License term.

Licenses ———— will normally be issued for a term of 5 years from the date of original issuance, major modification, or renewal.

§ 95.31 Types of operation authorized.

Stations may be authorized as mobile stations, as base stations, as fixed stations, or as base or fixed stations to be operated at unspecified or temporary locations.

§ 95.33 Transfer of license prohibited.

A ———— station authorization may not be transferred or assigned. In lieu of such transfer or assignment, an application for new station authorization shall be filed in each case, and the previous authorization shall be forwarded to the Commission for cancellation.

§ 95.35 Changes in terms of license.

(a) Proposed changes which will result in operation inconsistent with any of the terms of the current authorization require that an application for modification of license be submitted to the Commission. Application for modification shall be submitted in the same manner as an application for a new station license, and the licensee shall forward his existing authorization to the Commission for cancellation immediately upon receipt of the superseding authorization. Any of the following changes to authorized stations may be made only upon approval by the Commission:

(1) Increase the overall number of transmitters authorized.

(2) Change the presently authorized location of a ———— fixed or base station or control point.

(3) Move, change the height of, or erect a ———— station antenna structure.

(4) Make any change in the type of emission or any increase in bandwidth of emission or power of a ———— station.

(5) Addition or deletion of control point(s) for an authorized transmitter of a ———— station.

(6) Change or increase the area of operation of a ———— mobile station or a ———— base or fixed station authorized to be operated at temporary locations.

(7) Change the operating frequency of a station.

(b) Commission approval is not required to change either of the following terms:

(1) Name of a licensee (without changes in the ownership, control or corporate structure.)

(2) Mailing address of a licensee (without changing the authorized location of the base or fixed ———— station). Although prior approval of the Commission is not required for these changes, prompt written notice must be furnished to the Commission as soon as possible after the change has been implemented. This notice, which may be in letter form, shall contain the name and address of the licensee as they appear in the Commission's records, the new name and/or address, and the call signs and classes of all radio stations authorized to the licensee under this part. This notice shall be sent to (1) Secretary, Federal Communications Commission, Washington, D.C. 20554, and (2) to Engineer in Charge of the Radio District in which the station is located, and a copy shall be maintained with the license of the station until a new license is issued.

(c) Proposed changes which will not depart from any of the terms of the outstanding authorization for the station may be made without prior Commission approval. Included in such changes is the substitution of transmitting equipment at any station, provided that the equipment employed is included in the Commission's "Radio Equipment List," and is listed as acceptable for use in this service.

§ 95.37 Limitations on antenna structures.

(a) Except as provided in paragraph (b) of this section, an antenna for a ———— station which exceeds the following height limitations may not be erected or used unless notice has been filed with both the FAA on FAA Form 7460-1 and with the Commission on Form 714 or on the license application form, and prior approval by the Commission has been obtained for:

(1) Any construction or alteration of more than 200 feet in height above ground level at its site (§ 17.7(a) of this chapter).

(2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes (§ 17.7(b) of this chapter):

(i) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each airport with at least one runway more than 3,200 feet in length, excluding heliports, and seaplane bases without specified boundaries, if that airport is either listed in the Airport Directory of the current Airman's Information Manual or is operated by a Federal military agency.

(ii) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport with its longest runway no more than 3,200 feet in length, excluding heliports, and seaplane bases without specified boundaries, if that airport is either listed in the Airport Directory or is operated by a Federal military agency.

(iii) 25 to 1 for a horizontal distance of 5,000 feet from the nearest point of the

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nearest landing and takeoff area of each heliport listed in the Airport Directory or operated by a Federal military agency.

(3) Any construction or alteration on any airport listed in the Airport Directory of the current Airman's Information Manual (§ 17.7(c) of this chapter).

(b) A notification to the Federal Aviation Administration is not required for any of the following construction or alteration of station antenna structures.

(1) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation. Applicants claiming such exemption shall submit a statement with their application to the Commission explaining the basis in detail for their finding (§ 17.14(a) of this chapter).

(2) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure (§ 17.14(b) of this chapter).

(c) Further details as to whether an aeronautical study and/or obstruction marking and lighting may be required, and specifications for obstruction marking and lighting when required, may be obtained from Part 17 of this chapter, "Construction, Marking, and Lighting of Antenna Structures."

(d) Subpart I of Part 1 of this chapter contains procedures implementing the National Environmental Policy Act of 1969. Applications for authorization of the construction of certain classes of communications facilities defined as "major actions" in § 1.305 thereof, are required to be accompanied by specified statements. Generally these classes are:

(1) Antenna towers or supporting structures which exceed 300 feet in height and are not located in areas devoted to heavy industry or to agriculture.

(2) Communications facilities to be located in the following areas:

(i) Facilities which are to be located in an officially designated wilderness area or in an area whose designation as a wilderness is pending consideration;

(ii) Facilities which are to be located in an officially designated wildlife preserve or in an area whose designation as a wildlife preserve is pending consideration;

(iii) Facilities which will affect districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology or culture, which are listed in the National Register of Historic Places or are eligible for listing (see 36 CFR 800.22 (d) and (f) and 800.10); and

(iv) Facilities to be located in areas which are recognized either nationally or locally for their special scenic or recreational value.

(3) Facilities whose construction will involve extensive change in surface features (e.g. wetland fill, deforestation or water diversion).

NOTE: The provisions of this paragraph do not include the mounting of FM, television or other antennas comparable thereto in size on an existing building or antenna tower. The use of existing routes, buildings and towers is an environmentally desirable alternative to the construction of new routes or towers and is encouraged.

If the required statements do not accompany the application, the pertinent facts may be brought to the attention of the Commission by any interested person during the course of the license term and considered de novo by the Commission.

STATION OPERATING REQUIREMENTS

§ 95.51 Station authorization required.

No radio station shall be operated in this Service except under and in accordance with an authorization granted by the Federal Communications Commission.

§ 95.53 Posting station license and transmitter identification cards or plates.

(a) The current authorization, or a clearly legible photocopy thereof, for each station operated at a fixed location shall be posted at a conspicuous place at the principal fixed location from which such station is controlled, and a photocopy of such authorization shall also be posted at all other fixed locations from which the station is controlled. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy. In addition, an executed Transmitter Identification Card (FCC Form 452–C) or a plate of metal or other durable substance, legibly indicating the call sign and the licensee's name and address, shall be affixed, readily visible for inspection, to each transmitter operated at a fixed location when such transmitter is not in view of, or is not readily accessible to, the operator of at least one of the locations at which the station authorization or a photocopy thereof is required to be posted.

(b) The current authorization for each station operated as a mobile station shall be retained as a permanent part of the station records, but need not be posted. In addition, an executed Transmitter Identification Card (FCC Form 452–C) or a plate of metal or other durable substance, legibly indicating the call sign and the licensee's name and address, shall be affixed, readily visible for inspection, to each of such transmitters: *Provided*, That, if the transmitter is not in view of the location from which it is controlled, or is not readily accessible for inspection, then such card or plate shall be affixed to the control equipment at the transmitter operating position or posted adjacent thereto.

§ 95.55 Authorized frequencies.

(a) Frequencies available for assignment in the General Mobile Radio Service.

BASE AND MOBILE (MHz)

Base and mobile (MHz)	*Mobile only (MHz)*
462.550	467.550
462.575	467.575
462.600	467.600
462.625	467.625
462.650	467.650
462.675	467.675
462.700	467.700
462.725	467.725

(b) Special conditions—(1) Frequency assignment to fixed stations.

(i) Fixed stations which are used to control base stations of a system may be assigned the frequency assigned to the mobile units associated with the base station. Such fixed stations shall comply with the following requirements if they are located with 75 miles of the center of urbanized areas of 200,000 or more population.

(A) If the station is used to control one or more base stations located within 45 degrees of azimuth; a directional antenna having a front-to-back ratio of at least 15 dB shall be used at the fixed station. For other situations where such a directional antenna cannot be used, a cardioid, bidirectional or omnidirectional antenna may be employed. Consistent with reasonable design, the antenna used must, in each case, produce a radiation pattern that provides only the coverage necessary to permit satisfactory control of each base station and limit radiation in other directions to the extent feasible.

(B) The strength of the signal of a fixed station controlling a single base station may not exceed the signal strength produced at the antenna terminal of the base receiver by a unit of the associated mobile station, by more than 6 dB. When the station controls more than one base station, the 6 dB control-to-mobile signal difference need be verified at only one of the base station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location or, if that is not practical, from a location within one-fourth mile of the control station site.

(C) Each application for a control station to be authorized under the provisions of this paragraph shall be accompanied by a statement certifying that the output power of the proposed station transmitter will be adjusted to comply with the foregoing signal level limitation. Records of the measurements used to determine the signal ratio shall be kept with the station records and shall be made available for inspection by Commission personnel upon request.

(D) Urbanized areas of 200,000 or more population are defined in the U.S. Census of Population, 1960, Vol. 1, table 23, page 50. The centers of urbanized areas are determined from the Appendix, page 226 of the U.S. Commerce publication "Air Line Distance Between Cities in the United States."

(ii) Fixed stations, other than those used to control base stations, which are located 75 or more miles from the center

of an urbanized area of 200,000 or more population. The centers of urbanized areas of 200,000 or more population are listed on page 226 of the Appendix to the U.S. Department of Commerce publication "Air Line Distance Between Cities in the United States." When the fixed station is located 100 miles or less from the center of such an urbanized area, the power output may not exceed 15 watts. All fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, separation between transmit-receive frequencies is 5 MHz.

(2) Stations authorized prior to March 18, 1968. Fixed station located 100 or more miles from the center of any urbanized area of 200,000 or more population authorized to operate on frequencies other than those listed in subparagraph (1) of this paragraph will not have to change frequencies provided no interference is caused to the operation of stations in the land mobile service.

§ 95.57 Policy governing the assignment of frequencies.

(a) Each frequency available for assignment to, or use by, stations in this service is available on a shared basis only, and will not be assigned for the exclusive use of any one applicant; however, the use of a particular frequency may be restricted to (or in) one or more specified geographical areas.

(b) In no case will more than one frequency be assigned to stations for the use of a single applicant in any given area until it has been demonstrated conclusively to the Commission that the assignment of an additional frequency is essential to the operation proposed.

(c) All applicants and licensees in this service shall cooperate in the selection and use of the frequencies assigned or authorized, in order to minimize interference and thereby obtain the most effective use of the authorized facilities.

§ 95.59 Emission types authorized.

(a) Transmitters used at stations in this service will normally be authorized to transmit radiotelephony only.

(b) The use of tone signals or signalling devices solely to actuate receiver circuits, such as tone operated squelch or selective calling circuits, the primary function of which is to establish or maintain voice communications, is permitted.

(c) The use of tone signals solely to attract attention is prohibited.

(d) Other types of emission may be authorized for stations in this service, provided that need thereof is demonstrated. An application requesting such authorization shall fully describe the emission desired, shall indicate the bandwidth required for satisfactory communication, and shall state the purpose for which such emission is required. For information regarding the classification of emissions and the calculation of bandwidths, reference should be made to Part 2 of this chapter.

(e) The transmission of audible tone signals or a sequence of tone signals for the operation of the tone operated squelch or selective calling circuits shall not exceed a total of 15 seconds duration. Continuous transmission of a subaudible tone for this purpose is permitted. For the purposes of this section, any tone or combination of tones having no frequency above 150 hertz shall be considered subaudible.

§ 95.61 Permissible communications.

Stations licensed in this Service are authorized to transmit the following types of communications:

(a) Communications to facilitate the personal or business activities of the licensee.

(b) Communication relating to:

(1) The immediate safety of life or the immediate protection of property in accordance with § 95.63.

(2) The rendering of assistance to a motorist, mariner or other traveler.

(3) Civil defense activities in accordance with § 95.77.

(4) Other activities only as specifically authorized pursuant to § 95.65.

(c) Communications with stations authorized in other radio services except as prohibited in § 95.101(a)(3).

§ 95.63 Emergency and assistance to motorist use.

(a) All stations shall give priority to the emergency communications of other stations which involve the immediate safety of life of individuals or the immediate protection of property.

(b) Any station in this service may be utilized during an emergency involving the immediate safety of life of individuals or the immediate protection of property for the transmission of emergency communications. It may also be used to transmit communications necessary to render assistance to a motorist.

(1) When used for transmission of emergency communications certain provisions in this part concerning use of frequencies (§ 95.55); prohibited uses (§ 95.101(a)(3)); operation by or on behalf of persons other than the licensee (§ 95.65) and duration of transmissions (§ 95.69(a)) shall not apply.

(2) The exemptions granted from certain rule provisions in subparagraph (1) of this paragraph may be rescinded by the Commission at its discretion.

(c) If the emergency use under paragraph (b) of this section extends over a period of 12 hours or more, notice shall be sent to the Commission in Washington, D.C., as soon as it is evident that the emergency has or will exceed 12 hours. The notice should include the identity of the stations participating, the nature of the emergency, and the use made of the stations. A single notice covering all participating stations may be submitted.

§ 95.65 Operation by, or on behalf of, persons other than the licensee.

(a) Transmitters authorized in this service must be under the control of the licensee at all times. A licensee shall not transfer, assign, or dispose of, in any manner, directly or indirectly, the operating authority under his station license, and shall be responsible for the proper operation of all units of the station.

(b) Stations may be operated only by the following persons, except as provided in paragraph (c) of this section:

(1) The licensee;

(2) Members of the licensee's immediate family living in the same household;

(3) The partners, if the licensee is a partnership, provided the communications relate to the business of the partnership;

(4) The members, if the licensee is an unincorporated association, provided the communications relate to the business of the association;

(5) Employees of the licensee only while acting within the scope of their employment;

(6) Other persons, upon specific prior approval of the Commission shown on or attached to the station license, under the following circumstances:

(i) Licensee is a corporation and proposes to provide private radiocommunication facilities for the transmission of messages or signals by or on behalf of its parent corporation, another subsidiary of the parent corporation, or its own subsidiary. Any remuneration or compensation received by the licensee for the use of the radiocommunication facilities shall be governed by a contract entered into by the parties concerned and the total of the compensation shall not exceed the cost of providing the facilities. Records which show the cost of service and its nonprofit or cost-sharing basis shall be maintained by the licensee.

(ii) Licensee proposes the shared or cooperative use of a station with one or more other licensees in this service for the purpose of communicating on a regular basis with units of their respective stations, or with units of other stations if the communications transmitted are otherwise permissible. The use of these private radiocommunication facilities shall be conducted pursuant to a written contract which shall provide that contributions to capital and operating expense shall be made on a nonprofit, cost-sharing basis, the cost to be divided on an equitable basis among all parties to the agreement. Records which show the cost of service and its nonprofit, cost-sharing basis shall be maintained by the licensee. In any case, however, licensee must show a separate and independent need for the particular units proposed to be shared to fulfill his own communications requirements.

(iii) Other cases where there is a need for other persons to operate a unit of licensee's radio station. Requests for authority may be made either at the time

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of the filing of the application for station license or thereafter by letter. In either case, the licensee must show the nature of the proposed use and that it relates to an activity of the licensee, how he proposes to maintain control over the transmitters at all times, and why it is not appropriate for such other person to obtain a station license in his own name. The authority, if granted, may be specific with respect to the names of the persons who are permitted to operate, or may authorize operation by unnamed persons for specific purposes. This authority may be revoked by the Commission, in its discretion, at any time.

(c) An individual who was formerly a station licensee shall not be permitted to operate any station of the same class licensed to another person until such time as he again has been issued a valid radio station license , when his license has been:

(1) Revoked by the Commission.

(2) Surrendered for cancellation after the institution of revocation proceedings by the Commission.

(3) Surrendered for cancellation after a notice of apparent liability to forfeiture has been served by the Commission.

§ 95.67 Telephone answering services.

(a) Notwithstanding the provisions of § 95.65, a licensee may install a transmitting unit of his station on the premises of a telephone answering service. The same unit may not be operated under the authorization of more than one licensee. In all cases, the licensee must enter into a written agreement with the answering service. This agreement must be kept with the licensee's station records and must provide, as a minimum, that:

(1) The licensee will have control over the operation of the radio unit at all times;

(2) The licensee will have full and unrestricted access to the transmitter to enable him to carry out his responsibilities under his license;

(3) Both parties understand that the licensee is fully responsible for the proper operation of the station; and

(4) The unit so furnished shall be used only for the transmission of communications to other units belonging to the licensee's station.

(b) A station licensed to a telephone answering service shall not be used to relay messages or transmit signals to its customers.

§ 95.69 Duration of transmissions.

(a) All communications or signals, regardless of their nature shall be restricted to the minimum practicable transmission time. The radiation of energy shall be limited to transmissions modulated or keyed for actual permissible communications, tests, or control signals. Continuous or uninterrupted transmissions from a single station or between a number of communicating stations is prohibited, except for communications involving the immediate safety of life or property.

(b) The transmission of permissible control signals shall be limited to the minimum practicable time necessary to accomplish the desired control or actuation of remote objects or devices. The continuous radiation of energy for periods exceeding 3 minutes duration for the purpose of transmission of control signals shall be limited to control functions requiring at least one or more changes during each minute of such transmission. An exception to the limitations contained in this paragraph may be authorized upon a satisfactory showing that a continuous control signal is required to perform a control function which is necessary to insure the safety of life or property.

§ 95.71 Station identification.

(a) The call sign of a station shall consist of either three letters followed by four digits or shall consist of four letters followed by four digits.

(b) Each transmission of the station call sign shall be made in the English language by each unit, shall be complete, and each letter and digit shall be separately and distinctly transmitted. Only standard phonetic alphabets, nationally or internationally recognized, may be used in lieu of pronunciation of letters for voice transmission of call signs. A unit designator or special identification may be used in addition to the station call sign but not as a substitute therefor.

(c) Except as provided in paragraph (d) of this section, all transmissions from each unit of a station shall be identified by the transmission of its assigned call sign at the beginning and end of each transmission or series of transmissions, but at least at intervals not to exceed ten (10) minutes.

(d) Unless specifically required by the station authorization, the transmissions of a station need not be identified when the station

(1) automatically retransmits the information received by radio from another station which is properly identified or (2) is not being used for telephony emission.

(e) In lieu of complying with the requirements of paragraph (c) of this section, base stations, fixed stations, and mobile units when communicating with base stations may identify as follows:

(1) Base stations and fixed stations shall transmit their call signs at the end of each transmission or exchange of transmissions, or once each 15-minute period of a continuous exchange of communications.

(2) A mobile unit communicating with a base station on the same frequency shall transmit once during each exchange of transmissions any unit identifier which is on file in the station records of such base station.

(3) A mobile unit communicating with a base station on a different frequency shall transmit its call sign at the end of each transmission or exchange of transmissions, or once each 15-minute period of a continuous exchange of communications.

§ 95.73 Station location.

(a) The specific location of each base station and each fixed station and the specific area of operation of each mobile station shall be indicated in the application for license. An authorization may be granted for the operation of a base station or fixed station in this service at unspecified temporary fixed locations within a specified general area of operation. However, when any unit or units of a base station or fixed station authorized to be operated at temporary locations actually remains or is intended to remain at the same location for a period of over a year, application for separate authorization specifying the fixed location shall be made as soon as possible but not later than 30 days after the expiration of the 1-year period.

(b) A mobile station authorized in this service may be used or operated anywhere in the United States subject to the provisions of paragraph (d) of this section: *Provided*, That when the area of operation is changed for a period exceeding 7 days, the following procedure shall be observed:

(1) When the change of area of operation occurs inside the same Radio District, the Engineer in Charge of the Radio District involved and the Commission's office, Washington, D.C. 20554, shall be notified.

(2) When the station is moved from one Radio District to another, the Engineers in Charge of the two Radio Districts involved and the Commission's Office, Washington, D.C. 20554, shall be notified.

(c) A mobile station authorized in this service may be used or operated on any vessel, aircraft, or vehicle of the United States: *Provided*, That when such vessel, aircraft, or vehicle is outside the territorial limits of the United States, the station, its operation, and its operator shall be subject to the governing provisions of any treaty concerning telecommunications to which the United States is a party, and when within the territorial limits of any foreign country, the station shall be subject also to such laws and regulations of that country as may be applicable.

§ 95.75 Control points, dispatch points, and remote control.

(a) Each base or fixed station shall be provided with a control point, the location of which will be specified in the license. The location of the control point must be the same as the transmitting equipment unless the application includes a request for a different location. Exception to the requirement for a control point may be made by the Commission upon specific request and justification therefor in the case of certain unattended stations employing special emissions pursuant to § 95.59(d). Authority for such exception must be shown on the license.

(b) No authorization is required to install dispatch points.

(c) A base or fixed station may be authorized to be used or operated by remote control from another fixed

location or from mobile units: *Provided*, That adequate means are available to enable the person using or operating the station to render the transmitting equipment inoperative from each remote control position should improper operation occur.

§ 95.77 Civil defense communications.

A licensee of a station authorized under this part may use the licensed radio facilities for the transmission of messages relating to civil defense activities in connection with official tests, or drills conducted by, or actual emergencies proclaimed by, the civil defense agency having jurisdiction over the area in which the station is located: *Provided*, That:

(a) The operation of the radio station shall be on a voluntary basis.

(b) Such communications are conducted under the direction of civil defense authorities.

(c) As soon as possible after the beginning of such use, the licensee shall send notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications being transmitted and the duration of the special use of the station. In addition, the Engineer in Charge shall be notified as soon as possible of any change in the nature of or termination of such use.

(d) In the event such use is to be a series of pre-planned tests or drills of the same or similar nature which are scheduled in advance for specific times or at certain intervals of time, the licensee may send a single notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications to be transmitted, the duration of each such test, and the times scheduled for such use. Notice shall likewise be given in the event of any change in the nature of or termination of any such series of tests.

(e) The Commission may, at any time, order the discontinuance of such special use of the authorized facilities.

STATION ADMINISTRATION REQUIREMENTS

§ 95.101 Prohibited communications.

(a) A station shall not be used:

(1) For any purpose, or in connection with any activity, which is contrary to Federal, State, or local law.

(2) For the transmission of communications containing obscene, indecent, profane words, language, or meaning.

(3) To communicate with an Amateur Radio Service station, an unlicensed station, or foreign stations except for communications pursuant to §§ 95.65(b) and 95.77.

(4) To convey program material for retransmission, live or delayed, on a broadcast facility. Note: A station may be used in connection with, administrative, engineering, or maintenance activities of a broadcasting station: A station may be used for control functions by radio which do not involve the transmission of program material; and a station may be used in the gathering of news items or preparation of programs: Provided, that the actual or recorded transmissions of the station are not broadcast at any time in whole or in part.

(5) To intentionally interfere with the communications of another station.

(6) For the direct transmission of any material to the public through a public address system or similar means.

(7) For the transmission of music, whistling, sound effects, or any material for amusement or entertainment purposes, or solely to attract attention.

(8) To transmit the word "MAYDAY" or other international distress signals, except when the station is located in a ship, aircraft, or other vehicle which is threatened by grave and imminent danger and requests immediate assistance.

(9) For advertising or soliciting the sale of any goods or services.

(10) For transmitting messages in other than plain language. Abbreviations including nationally or internationally recognized operating signals, may be used only if a list of all such abbreviations and their meaning is kept in the station records and made available to any Commission representative on demand.

(11) To carry on communications for hire, whether the remuneration or benefit received is direct or indirect.

(b) A licensee of a station who is engaged in the business of selling radio transmitting equipment shall not allow a customer to operate under his station license. In addition, all communications by the licensee for the purpose of demonstrating such equipment shall consist only of brief messages addressed to other units of the same station.

§ 95.103 False signals.

No person shall transmit false or deceptive communications by radio or identify the station he is operating by means of a call sign which has not been assigned to that station.

§ 95.105 Current copy of rules required.

Each licensee in this service shall maintain as a part of his station records a current copy of Subpart A of Part 95, Personal Radio Services, of this chapter. Additional requirements of a technical nature may be found in Subpart E of this part.

§ 95.107 Answers to notices of violations.

(a) Any licensee who appears to have violated any provision of the Communications Act or any provision of this chapter shall be served with a written notice calling the facts to his attention and requesting a statement concerning the matter. FCC Form 793 may be used for this purpose.

(b) Within 10 days from receipt of notice or such other period as may be specified, the licensee shall send a written answer, in duplicate, direct to the office of the Commission originating the notice. If an answer cannot be sent nor an acknowledgment made within such period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. In every instance the answer shall contain a statement of the action taken to correct the condition or omission complained of and to preclude its recurrence. If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus, the licensee must comply with the provisions of 95.621 and the answer to the notice shall state fully what steps, if any, have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application. If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge, if any, shall also be given.

§ 95.111 Transmitter service and maintenance.

(a) All transmitter adjustments or tests while radiating energy during or coincident with the construction, installation, servicing, or maintenance of a radio station in this service, which may affect the proper operation of such stations, shall be made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission employed, and such person shall be responsible for the proper functioning of the station equipment at the conclusion of such adjustments or tests. Further, in any case where a transmitter adjustment which may affect the proper operation of the transmitter has been made while not radiating energy by a person not the holder of the required commercial radio operator license or not under the supervision of such licensed operator, other than the factory assembling or repair of equipment, the transmitter shall be checked for compliance with the technical requirements of the rules by a commercial radio operator of the proper grade before it is placed on the air.

(b) Any tests and adjustments necessary to correct any deviation of a transmitter of any station in this service from the technical requirements of the rules in this part shall be made by, or under the immediate supervision of, a person holding a first- or second-class commercial operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission employed.

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§ 95.115 Tests and adjustments.

All tests or adjustments of radio transmitting equipment involving an external connection to the radio frequency output circuit shall be made using a nonradiating dummy antenna. However, a brief test signal, either with or without modulation, as appropriate, may be transmitted when it is necessary to adjust a transmitter to an antenna for a new station installation or for an existing installation involving a change of antenna or change of transmitters, or when necessary for the detection, measurement, and suppression of harmonic or other spurious radiation. Test transmissions using a radiating antenna shall not exceed a total of 1 minute during any 5-minute period, shall not interfere with communications already in progress on the operating frequency, and shall be properly identified as required by § 95.-71 but may otherwise be unmodulated as appropriate.

§ 95.117 Inspection and maintenance of tower marking and lighting, and associated control equipment.

The licensee of any radio station which has an antenna structure required to be painted and illuminated pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, and Part 17 of this chapter, shall perform the inspection and maintain the tower marking and lighting, and associated control equipment, in accordance with the requirements set forth in Part 17 of this chapter.

§ 95.119 Recording of tower light inspections.

When a station in this service has an antenna structure which is required to be illuminated, appropriate entries shall be made in the station records in conformity with the requirements set forth in Part 17 of this chapter.

§ 95.121 Inspection of stations and station records.

All stations and records of stations in this Service shall be made available for inspection upon the request of an authorized representative of the Commission made to the licensee or to his representative (see § 1.6 of this chapter). Unless otherwise stated in this part, all required station records shall be maintained for a period of at least 1 year.

Subpart B—[Reserved]

Subpart C—Radio Control (R/C) Service

General

§ 95.201 Basis and purpose.

These rules are designed to provide for radio signaling, for the control of remote objects or devices by means of radio; all to the extent that these uses are not specifically prohibited in this part.

§ 95.203 Definitions.

For the purpose of this part, the following definitions shall be applicable. For other definitions, refer to Part 2 of this chapter.

(a) Definitions of stations.

Radio Control (R/C) Service station. A station in the Personal Radio Services licensed to be operated on an authorized frequency in the 26.96–27.23 MHz band, or on the frequency 27.255 MHz, for the control of remote objects or devices by radio, or for the remote actuation of devices which are used solely as a means of attracting attention, or on an authorized frequency in the 72–76 MHz band for the radio control of models used for hobby purposes only.

Mobile station. A station intended to be operated while in motion or during halts at unspecified points.

(b) Miscellaneous definitions.

Antenna structure. The term "antenna structures" includes the radiating system, its supporting structures and any appurtenances mounted thereon.

Control point. A control point is an operating position which is under the control and supervision of the licensee, at which a person immediately responsible for the proper operation of the transmitter is stationed, and at which adequate means are available to aurally monitor all transmissions and to render the transmitter inoperative.

Dispatch point. A dispatch point is any position from which messages may be transmitted under the supervision of the person at a control point.

Harmful interference. Any emission, radiation or induction which endangers the functioning of a radio-navigation service or other safety service or seriously degrades, obstructs or repeatedly interrupts a radio-communication service operating in accordance with applicable laws, treaties, and regulations.

Man-made structure. A man-made structure is any construction other than a tower, mast or pole.

Omnidirectional antenna. An antenna designed so the maximum radiation in any horizontal direction is within 3 dB of the minimum radiation in any horizontal direction.

Person. The term "person" includes an individual, partnership, association, joint-stock company, trust or corporation.

Remote control. The term "remote control" when applied to the use or operation of a personal radio services station means control of the transmitting equipment of that station from any place other than the location of the transmitting equipment, except that direct mechanical control or direct electrical control by wired connections of transmitting equipment from some other point on the same premises, craft or vehicle shall not be considered to be remote control.

Station authorization. Any construction permit, temporary permit, license, or special temporary authorization issued by the Commission.

Applications and Licenses

§ 95.211 Eligibility for station license.

(a) Subject to the general restrictions of § 95.213 any person is eligible to hold an authorization to operate a station : *Provided,* That, if an applicant is an individual or partnership, such individual or each partner is twelve or more years of age. An unincorporated association, when licensed under the provisions of this paragraph, may upon specific prior approval of the Commission provide radiocommunications for its members.

NOTE.—While the basis of eligibility in this service includes any state, territorial, or local governmental entity, or any agency operating by the authority of such governmental entity, including any duly authorized state, territorial, or local civil defense agency, it should be noted that the frequencies available to stations in this service are shared without distinction between all licensees and that no protection is afforded to the communications of any station in this service from interference which may be caused by the authorized operation of other licensed stations.

(b) No person shall hold more than one station license.

§ 95.213 General citizenship requirements.

A station license shall not be granted to or held by a foreign government or a representative thereof.

§ 95.215 Standard forms to be used.

(a) FCC Form 505. *Application for Station License in the R/C or CB Service.* This form shall be used when:

(1) Application is made for a new station authorization.

(2) Application is made for modification of any existing station authorization in those cases where prior Commission approval of certain changes is required (see § 95.235).

(3) Application is made for renewal of an existing station authorization, or for reinstatement of such an expired authorization.

(b) *FCC Form 703. Application for Consent to Transfer of Control of Corporation Holding Construction Permit or Station License.* This form shall be used when application is made for consent to transfer control of a corporation holding any station authorization.

§ 95.217 Filing of applications.

(a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to this Service are discussed in § 95.215, and may be obtained from the Washington, D.C., 20554, office of the Commission, or from any of its engineering field offices.

(b) All formal applications for new, modified, or renewal station authorizations shall be submitted to the Commission's office at Gettysburg, Pa. 17326.

applications for consent to transfer of control of a corporation holding any station authorization, requests for special temporary authority or other special requests, and correspondence relating to an application for a station authorization shall be submitted to the Commission's Office at Washington, D.C. 20554, and should be directed to the attention of the Secretary.

(c) Unless otherwise specified, an application shall be filed at least 60 days prior to the date on which it is desired that Commission action thereon be completed. In any case where the applicant has made timely and sufficient application for renewal of license, in accordance with the Commission's rules, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

(d) Failure on the part of the applicant to provide all the information required by the application form, or to supply the necessary exhibits or supplementary statement's may constitute a defect in the application.

(e) Applicants proposing to construct a radio station on a site located on land under the jurisdiction of the U.S. Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior, must supply the information and must follow the procedure prescribed by § 1.70 of this chapter.

§ 95.219 Mailing address furnished by licensee.

Except for applications submitted by Canadian citizens pursuant to agreement between the United States and Canada (TIAS No. 6931), each application shall set forth and each licensee shall furnish the Commission with an address in the United States to be used by the Commission in serving documents or directing correspondence to that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for these purposes.

§ 95.221 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of the fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment. U.S. Code, Title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communication Act of 1934, as amended.

§ 95.223 Defective applications.

(a) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(b) When an application is considered to be incomplete or defective, such application will be returned to the applicant, unless the Commission may otherwise direct. The reason for return of the applications will be indicated, and if appropriate, necessary additions or corrections will be suggested.

§ 95.225 Amendment or dismissal of application.

(a) Any application may be amended upon request of the applicant as a matter of right prior to the time the application is granted or designated for hearing. Each amendment to an application shall be signed and submitted in the same manner and with the same number of copies as required for the original application.

(b) Any application may, upon written request signed by the applicant or his attorney, be dismissed without prejudice as a matter of right prior to the time the application is granted or designated for hearing.

§ 95.227 Partial grant.

Where the Commission, without a hearing, grants an application in part, or with any privileges, terms, or conditions other than those requested, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made, or from its effective date if a later date is specified, file with the Commission a written rejection of the grant as made. Upon receipt of such rejection, the Commission will vacate its original action upon the application and, if appropriate, set the application for hearing.

§ 95.229 License term.

Licenses will normally be issued for a term of 5 years from the date of original issuance, major modification, or renewal.

§ 95.231 Types of operation authorized.

Stations are authorized as mobile stations only; however, they may be operated at fixed locations in accordance with other provisions of this part.

§ 95.233 Transfer of license prohibited.

A station authorization may not be transferred or assigned. In lieu of such transfer or assignment, an application for new station authorization shall be filed in each case, and the previous authorization shall be forwarded to the Commission for cancellation.

§ 95.235 Changes in terms of license.

(a) Commission approval is required to increase the number of transmitters authorized for a particular station.

(b) Commission approval is not required to change either of the following terms:

1. Name of a licensee (without changes in the ownership, control or corporate structure.)

2. Mailing address of a licensee.

Although prior approval of the Commission is not required for any of these changes, prompt written notice must be furnished to the Commission as soon as possible after the change has been implemented. This notice, which may be in letter form, shall contain the name and address of the licensee as they appear in the Commission's records, the new name and/or address, and the call signs and classes of all radio stations authorized to the licensee under this part. This notice shall be sent to FCC, Gettysburg, PA, 17325, and a copy shall be maintained with the records of the station.

(c) Commission approval is not required to substitute transmitting equipment at any station, provided that the equipment employed is included in the Commission's "Radio Equipment List" and is listed as acceptable for use in the R/C Service. Provided it is crystal-controlled and otherwise complies with the power, frequency tolerance, emission and modulation percentage limitations prescribed, non-type acceptance equipment may be substituted at R/C stations operated on frequencies in the 26.99–27.26 MHz band.

§ 95.237 Limitations on antenna structures.

(a) All antennas (both receiving and transmitting) and supporting structures associated or used in conjunction with a Station operated from a fixed location must comply with at least one of the following:

(1) The antenna and its supporting structure does not exceed 20 feet in height above ground level; or

(2) The antenna and its supporting structure does not exceed by more than 20 feet the height of any natural formation, tree or man-made structure on which it is mounted: or

NOTE.—A man-made structure is any construction other than a tower, mast, or pole.

(3) The antenna is mounted on the transmitting antenna structure of an-

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other authorized radio station and exceeds neither 60 feet above ground level nor the height of the antenna supporting structure of the other station; or

(4) The antenna is mounted on and does not exceed the height of the antenna structure otherwise used solely for receiving purposes, which structure itself complies with subparagraph (1) or (2) of this paragraph.

(5) The antenna is omnidirectional and the highest point of the antenna and its supporting structure do not exceed 60 feet above ground level and the highest point also does not exceed one foot in height above the established airport elevation for each 100 feet of horizontal distance from the nearest point of the nearest airport runway.

NOTE.—A work sheet will be made available upon request to assist in determining the maximum permissible height of an antenna structure.

(b) R/C stations operated on frequencies in the 72–76 MHz band shall employ a transmitting antenna which complies with all of the following:

(1) The gain of the antenna shall not exceed that of a half-wave dipole;

(2) The antenna shall be immediately attached to, and an integral part of, the transmitter; and

(3) Only vertical polarization shall be used.

(c) Subpart I of Part 1 of this chapter contains procedures implementing the National Environmental Policy Act of 1969. Applications for authorization of the construction of certain classes of communications facilities defined as "major actions" in § 1.305 thereof, are required to be accompanied by specified statements. Generally these classes are:

(1) Antenna towers or supporting structures which exceed 300 feet in height and are not located in areas devoted to heavy industry or to agriculture.

(2) Communications facilites to be located in the following areas:

(i) Facilities which are to be located in an officially designated wilderness area or in an area whose designation as a wilderness is pending consideration;

(ii) Facilities which are to be located in an officially designated wildlife preserve or in an area whose designation as a wildlife preserve is pending consideration;

(iii) Facilities which will affect districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology or culture, which are listed in the National Register of Historic Places or are eligible for listing (see 36 CFR 800.22 (d) and (f) and 800.10); and

(iv) Facilities to be located in areas which are recognized either nationally or locally for their special scenic or recreational value.

(3) Facilities whose construction will involve extensive change in surface features (e.g. wetland fill, deforestation or water diversion).

NOTE: The provisions of this paragraph do not include the mounting of FM, television or other antennas comparable thereto in size on an existing building or antenna tower. The use of existing routes, buildings and towers is an environmentally desirable alternative to the construction of new routes or towers and is encouraged.

If the required statements do not accompany the application, the pertinent facts may be brought to the attention of the Commission by any interested person during the course of the license term and considered de novo by the Commission.

STATION OPERATING REQUIREMENTS

§ 95.251 Station authorization required.

No radio station shall be operated in this service except under and in accordance with an authorization granted by the Federal Communications Commission.

§ 95.253 Posting station license and transmitter identification cards or plates.

(a) The current authorization, or a clearly legible photocopy thereof, for each station (including units of a station) operated at a fixed location shall be posted at a conspicuous place at the principal fixed location from which such station is controlled, and a photocopy of such authorization shall also be posted at all other fixed locations from which the station is controlled. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy. In addition, an executed Transmitter Identification Card (FCC Form 452–C) or a plate of metal or other durable substance, legibly indicating the call sign and the licensee's name and address, shall be affixed, readily visible for inspection, to each transmitter operated at a fixed location when such transmitter is not in view of, or is not readily accessible to, the operator of at least one of the locations at which the station authorization or a photocopy thereof is required to be posted.

(b) The current authorization for each station operated as a mobile station shall be retained as a permanent part of the station records, but need not be posted. In addition, an executed Transmitter Identification Card (FCC Form 452–C) or a plate of metal or other durable substance, legibly indicating the call sign and the licensee's name and address, shall be affixed, readily visible for inspection, to each of such transfitters: *Provided*, That, if the transmitter is not in view of the location from which it is controlled, or is not readily accessible for inspection, then such card or plate shall be affixed to the control equipment at the transmitter operating position or posted adjacent thereto.

§ 95.255 Authorized frequencies.

R/C stations are authorized to operate on the following frequencies subject to the classifications and conditions set forth below.

(a) Control of remote objects or devices by radio, or remote actuation of devices which are used solely as a means of attracting attention.

(MHz): 26.995; 27.045; 27.095; 27.145; 27.195; 27.255[1].

(b) Radio remote control of any model used for hobby purposes.

(MHz): 72.16; 72.32; 72.96.

(c) Radio remote control of aircraft models only.

(MHz): 72.08; 72.24; 72.40; 75.64.

(d) Special conditions.

(1) Such stations operate on a shared basis with other stations in this Service.

(2) The frequencies available for the control of remote objects or devices or for the remote actuation of devices which are used solely as a means of attracting attention are not afforded any protection from interference caused by the operation of industrial, scientific, or medical devices within the 26.96–27.26 MHz band.

(3) The frequencies available for the radio remote control of models used for hobby purposes are subject to the condition that interference will not be caused to the remote control of industrial equipment operating on the same or adjacent frequencies or to the reception of television transmissions on Channels 4 and 5. These frequencies are not afforded any protection from interference due to the operation of fixed and mobile stations in other services assigned to the same or adjacent frequencies.

§ 95.257 Policy governing the availability of frequencies.

(3) Each frequency available for use by stations in this service is available on a shared basis only, and will not be assigned for the exclusive use of any one applicant; however, the use of a particular frequency may be restricted to (or in) one or more specified geographical areas.

(b) All applicants and licensees in this service shall cooperate in the selection and use of the frequencies assigned or authorized, in order to minimize interference and thereby obtain the most effective use of the authorized facilities.

(c) Simultaneous operation on more than one frequency in the 72–76 MHz band by a transmitter or transmitters of a single licensee is prohibited whenever such operation will cause harmful interference to the operation of other licensees in this service.

§ 95.259 Emission types authorized.

(a) Transmitters used in this service are authorized to use amplitude tone modulation or on-off unmodulated carrier only, for the control of remote objects or devices by radio or for the remote actuation of devices which are used solely as a means of attracting attention.

(b) A station in this service is prohibited from transmitting any form of telegraphy, telephony or recorded communications.

(c) Telemetering, except for the transmission of simple, short duration signals

[1] This frequency is shared with stations in other services.

indicating the presence or absence of a condition or the occurrence of an event, is also prohibited.

§ 95.265 Operation by, or on behalf of, persons other than the licensee.

(a) Transmitters authorized in this service must be under the control of the licensee at all times. A licensee shall not transfer, assign, or dispose of, in any manner, directly or indirectly, the operating authority under his station license, and shall be responsible for the proper operation of all units of the station.

(b) Stations may be operated only by the following persons, except as provided in paragraph (c) of this section:

(1) The licensee;

(2) Members of the licensee's immediate family living in the same household;

(3) The partners, if the licensee is a partnership, provided the communications relate to the business of the partnership;

(4) The members, if the licensee is an unincorporated association, provided the communications relate to the business of the association;

(5) Employees of the licensee only while acting within the scope of their employment;

(6) Any person under the control or supervision of the licensee when the station is used solely for the control of remote objects or devices, other than devices used only as a means of attracting attention; and

(7) Other persons, upon specific prior approval of the Commission shown on or attached to the station license, under the following circumstances:

(i) Licensee is a corporation and proposes to provide private radiocommunication facilities for the transmission of messages or signals by or on behalf of its parent corporation, another subsidiary of the parent corporation, or its own subsidiary. Any remuneration or compensation received by the licensee for the use of the radiocommunication facilities shall be governed by a contract entered into by the parties concerned and the total of the compensation shall not exceed the cost of providing the facilities. Records which show the cost of service and its nonprofit or cost-sharing basis shall be maintained by the licensee.

(ii) Other cases where there is a need for other persons to operate a unit of licensee's radio station. Requests for authority may be made either at the time of the filing of the application for station license or thereafter by letter. In either case, the licensee must show the nature of the proposed use and that it relates to an activity of the licensee, how he proposes to maintain control over the transmitters at all times, and why it is not appropriate for such other person to obtain a station license in his own name. The authority, if granted, may be specific with respect to the names of the persons who are permitted to operate, or may authorize operation by unnamed persons for specific purposes. This authority may be revoked by the Commission, in its discretion, at any time.

(c) An individual who was formerly a station licensee shall not be permitted to operate any station of the same class licensed to another person until such time as he again has been issued a valid radio station license, when his license has been:

(1) Revoked by the Commission.

(2) Surrendered for cancellation after the institution of revocation proceedings by the Commission.

(3) Surrendered for cancellation after a notice of apparent liability to forfeiture has been served by the Commission.

§ 95.269 Duration of transmissions.

(a) All communications or signals, regardless of their nature, shall be restricted to the minimum practicable transmission time. The radiation of energy shall be limited to transmissions modulated or keyed for actual permissible communications, tests, or control signals. Continuous or uninterrupted transmissions from a single station or between a number of communicating stations is prohibited, except for communications involving the immediate safety of life or property.

(b) The transmission of permissible control signals shall be limited to the minimum practicable time necessary to accomplish the desired control or actuation of remote objects or devices. The continuous radiation of energy for periods exceeding 3 minutes duration for the purpose of transmission of control signals shall be limited to control functions requiring at least one or more changes during each minute of such transmission. However, while it is actually being used to control model aircraft in flight by means of interrupted tone modulation of its carrier, a station may transmit a continuous carrier without being simultaneously modulated if the presence or absence of the carrier also performs a control function. An exception to the limitations contained in this paragraph may be authorized upon a satisfactory showing that a continuous control signal is required to perform a control function which is necessary to insure the safety of life or property.

§ 95.271 Station identification.

(a) The call sign of a station shall consist of either three letters followed by four digits or shall consist of four letters followed by four digits.

(b) Unless specifically required by the station authorization, the transmissions of an R/C station need not be identified.

§ 95.273 Station location.

(a) A station may be used or operated anywhere in the United States subject to the provisions of paragraph (b) of this section.

(b) A mobile station authorized in this service may be used or operated on any vessel, aircraft, or vehicle of the United States: *Provided*, That when such vessel, aircraft, or vehicle is outside the territorial limits of the United States, the station, its operation, and its operator shall be subject to the governing provisions of any treaty concerning telecommunications to which the United States is a party, and when within the territorial limits of any foreign country, the station shall be subject also to such laws and regulations of that country as may be applicable.

§ 95.275 Dispatch points and remote control.

(a) No authorization is required to install dispatch points.

(b) Operation of any station by remote control is prohibited except remote control by wire upon specific authorization by the Commission when satisfactory need is shown.

STATION ADMINISTRATION REQUIREMENTS

§ 95.301 Prohibited communications.

(a) A station shall not be used:

(1) For any purpose, or in connection with any activity, which is contrary to Federal, State, or local law.

(2) To intentionally interfere with the communications of another station.

(3) To carry on communications for hire, whether the remuneration or benefit received is direct or indirect.

(b) A licensee of a station who is engaged in the business of selling radio transmitting equipment shall not allow a customer to operate under his station license.

§ 95.305 Current copy of rules required.

Each licensee in this service shall maintain as a part of his station records a current copy of Subpart C of Part 95, Personal Radio Services, of this chapter. Additional requirements of a technical nature may be found in Subpart E of this part.

§ 95.307 Answers to notices of violations.

(a) Any licensee who appears to have violated any provision of the Communications Act or any provision of this chapter shall be served with a written notice calling the facts to his attention and requesting a statement concerning the matter. FCC Form 793 may be used for this purpose.

(b) Within 10 days from receipt of notice or such other period as may be specified, the licensee shall send a written answer, in duplicate, direct to the office of the Commission originating the notice. If an answer cannot be sent nor an acknowledgment made within such period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. In every instance the answer shall contain a statement of the action taken to correct the condition or omission complained of and to preclude its recurrence. If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus, the licensee must comply with the

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provisions of § 95.621, and the answer to the notice shall state fully what steps, if any, have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application. If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge, if any, shall also be given.

§ 95.311 Transmitter service and maintenance.

(2) Except as provided in paragraph (c) of this section, all transmitter adjustments or tests while radiating energy during or coincident with the construction, installation, servicing, or maintenance of a radio station in this service, which may affect the proper operation of such stations, shall be made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radio telegraph, as may be appropriate for the type of emission employed, and such person shall be responsible for the proper functioning of the station equipment at the conclusion of such adjustments or tests. Further, in any case where a transmitter adjustment which may affect the proper operation of the transmitter has been made while not radiating energy by a person not the holder of the required commercial radio operator license or not under the supervision of such licensed operator, other than the factory assembling or repair of equipment, the transmitter shall be checked for compliance with the technical requirements of the rules by a commercial radio operator of the proper grade before it is placed on the air.

(b) Except as provided in § 95.621 and in paragraph (c) of this section, no commercial radio operator license is required to be held by the person performing transmitter adjustments or tests during or coincident with the construction, installation, servicing, or maintenance of transmitters, : *Provided*, That there is compliance with all of the following conditions:

(1) The transmitting equipment shall be crystal-controlled with a crystal capable of maintaining the station frequency within the prescribed tolerance;

(2) The transmitting equipment either shall have been factory assembled or shall have been provided in kit form by a manufacturer who provided all components together with full and detailed instructions for their assembly by nonfactory personnel;

(3) The frequency determining elements of the transmitter, including the crystal(s) and all other components of the crystal oscillator circuit, shall have been preassembled by the manufacturer, pretuned to a specific available frequency, and sealed by the manufacturer so that replacement of any component or any adjustment which might cause off-frequency operation cannot be made without breaking such seal and thereby voiding the certification of the manufacturer required by this paragraph;

(4) The transmitting equipment shall have been so designed that none of the transmitter adjustments or tests normally performed during or coincident with the installation, servicing, or maintenance of the station, or during the normal rendition of the service of the station, or during the final assembly of kits or partially preassembled units, may reasonably be expected to result in off-frequency operation, excessive input power, overmodulation, or excessive harmonics or other spurious emissions; and

(5) The manufacturer of the transmitting equipment or of the kit from which the transmitting equipment is assembled shall have certified in writing to the purchaser of the equipment (and to the Commission upon request) that the equipment has been designed, manufactured, and furnished in accordance with the specifications contained in the foregoing subparagraphs of this paragraph. The manufacturer's certification concerning design and construction features of station transmitting equipment, as required if the provisions of this paragraph are invoked, may be specific as to the particular unit of transmitting equipment or general as to a group or model of such equipment, and may be in any form adequate to assure the purchaser of the equipment or the Commission that the conditions described in this paragraph have been fulfilled.

(6) Any tests and adjustments necessary to correct any deviation of a transmitter of any station in this service from the technical requirements of the rules in this part shall be made by, or under the immediate supervision of, a person holding a first- or second-class commercial operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission employed.

§ 95.315 Tests and adjustments.

All tests or adjustments of radio transmitting equipment involving an external connection to the radio frequency output circuit shall be made using a non-radiating dummy antenna. However, a brief test signal, either with or without modulation, as appropriate, may be transmitted when it is necessary to adjust a transmitter to an antenna for a new station installation or for an existing installation involving a change of antenna or change of transmitters, or when necessary for the detection, measurement, and suppression of harmonic or other spurious radiation. Test transmissions using a radiating antenna shall not exceed a total of 1 minute during any 5-minute period, shall not interfere with communications already in progress on the operating frequency, and shall be properly identified as required by § 95.271 but may otherwise be unmodulated as appropriate.

§ 95.321 Inspection of stations and station records.

All stations and records of stations shall be made available for inspection upon the request of an authorized representative of the Commission made to the licensee or to his representative (see § 1.6 of this chapter). Unless otherwise stated in this part, all required station records shall be maintained for a period of at least 1 year.

Subpart D—Citizens Band (CB) Radio Service

General

§ 95.401 Basis and purpose.

These rules are designed to provide a private short-distance radiocommunications service for the business or personal activities of licensees, all to the extent that these uses are not specifically prohibited in this part.

§ 95.403 Definitions.

For the purpose of this part, the following definitions shall be applicable. For other definitions, refer to Part 2 of this chapter.

(a) Definition of stations.

Citizens Band (CB) Radio Service station. A station in the Personal Radio Services licensed to be operated for radiotelephony only, on an authorized frequency in the 26.96–27.41 MHz band.

Mobile station. A station intended to be operated while in motion or during halts at unspecified points.

(b) Miscellaneous definitions.

Antenna structures. The term "antenna structures" includes the radiating system, its supporting structures and any appurtenances mounted thereon.

Control point. A control point is an operating position which is under the control and supervision of the licensee, at which a person immediately responsible for the proper operation of the transmitter is stationed, and at which adequate means are available to aurally monitor all transmissions and to render the transmitter inoperative.

Dispatch point. A dispatch point is any position from which messages may be transmitted under the supervision of the person at a control point.

External radio frequency power amplifiers. As defined in § 2.815(a) and as used in this part, an external radio frequency power amplifier is any device which, (1) when used in conjunction with a radio transmitter as a signal source is capable of amplification of that signal, and (2) is not an integral part of a radio transmitter as manufactured.

Harmful interference. Any emission, radiation or induction which endangers the functioning of a radio-navigation service or other safety service or seriously degrades, obstructs or repeatedly interrupts a radio-communication service operating in accordance with applicable laws, treaties, and regulations.

Man-made structure. A man-made structure is any construction other than a tower, mast or pole.

Omnidirectional antenna. An antenna designed so the maximum radiation in any horizontal direction is within 3 dB of the minimum radiation in any horizontal direction.

Person. The term "person" includes an individual, partnership, association, joint-stock company, trust or corporation.

Remote control. The term "remote control" when applied to the use or operation of a personal radio services station means control of the transmitting equipment of that station from any place other than the location of the transmitting equipment, except that direct mechanical control or direct electrical control by wired connections of transmitting equipment from some other point on the same premises, craft or vehicle shall not be considered to be remote control.

Sideband emission.

Single sideband emission. An emission in which only one sideband is transmitted. The carrier, or a portion thereof, also may be present in the emission.

Double sideband emission. An emission in which both upper and lower sidebands resulting from the modulation of a particular carrier are transmitted. The carrier, or a portion thereof, also may be present in the emission.

Station authorization. Any construction permit, temporary permit, license, or special temporary authorization issued by the Commission.

Applications and Licenses

§ 95.411 Eligibility for station license.

(a) Subject to the general restrictions of § 95.413, any person is eligible to hold an authorization to operate a station : *Provided*, That if an applicant for a station authorization is an individual or partnership, such individual or each partner is eighteen or more years of age; An unincorporated association, when licensed under the provisions of this paragraph, may upon specific prior approval of the Commission provide radiocommunications for its members.

NOTE: While the basis of eligibility in this service includes any state, territorial, or local governmental entity, or any agency operating by the authority of such governmental entity, including any duly authorized state, territorial, or local civil defense agency, it should be noted that the frequencies available to stations in this service are shared without distinction between all licensees and that no protection is afforded to the communications of any station in this service from interference which may be caused by the authorized operation of other licensed stations.

(b) No person shall hold more than one station license.

§ 95.413 General citizenship requirements.

A station license shall not be granted to or held by a foreign government or a representative thereof.

§ 95.415 Standard forms to be used.

(a) *FCC Form 505. Application for Station License in the R/C or CB Service.* This form shall be used when:

(1) Application is made for a new station authorization.

(2) Application is made for modification of any existing station authorization in those cases where prior Commission approval of certain changes is required (see § 95.435).

(3) Application is made for renewal of an existing station authorization, or for reinstatement of such an expired authorization.

(b) *FCC Form 555–B. Temporary Permit, in the CB Service.* This form shall be used when application is made by an individual for temporary operating authorization.

(c) *FCC Form 703. Application for Consent to Transfer of Control of Corporation Holding Construction Permit or Station License.* This form shall be used when application is made for consent to transfer control of a corporation holding any station authorization.

§ 95.417 Filing of applications.

(a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to this Service are discussed in § 95.415, and may be obtained from the Washington, D.C. 20554, office of the Commission, or from any of its engineering field offices.

(b) All formal applications for new, modified, or renewal station authorizations shall be submitted to the Commission's office, Gettysburg, Pa. 17326. An application for a temporary permit shall be made by completing and making the certifications required by FCC Form 555–B.

Applications for consent to transfer of control of a corporation holding a station authorization, requests for special temporary authority or other special requests, and correspondence relating to an application for a station authorization shall be submitted to the Commission's Office at Washington, D.C. 20554, and should be directed to the attention of the Secretary.

(c) Unless otherwise specified, an application shall be filed at least 60 days prior to the date on which it is desired that Commission action thereon be completed. In any case where the applicant has made timely and sufficient application for renewal of license, in accordance with the Commission's rules, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

(d) A temporary permit may not be held by an applicant already holding a station license.

(e) Failure on the part of the applicant to provide all the information required by the application form, or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

(f) Applicants proposing to construct a radio station on a site located on land under the jurisdiction of the U.S. Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior, must supply the information and must follow the procedure prescribed by § 1.70 of this chapter.

§ 95.419 Mailing address furnished by licensee.

Except for applications submitted by Canadian citizens pursuant to agreement between the United States and Canada (TIAS No. 6931), each application shall set forth and each licensee shall furnish the Commission with an address in the United States to be used by the Commission in serving documents or directing correspondence to that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for these purposes.

§ 95.421 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of the fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment. U.S.

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Code, Title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communications Act of 1934, as amended.

§ 95.423 Defective applications.

(a) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(b) When an application is considered to be incomplete or defective, such application will be returned to the applicant, unless the Commission may otherwise direct. The reason for return of the applications will be indicated, and if appropriate, necessary additions or corrections will be suggested.

§ 95.425 Amendment or dismissal of application.

(a) Any application may be amended upon request of the applicant as a matter of right prior to the time the application is granted or designated for hearing. Each amendment to an application shall be signed and submitted in the same manner and with the same number of copies as required for the original application.

(b) Any application may, upon written request signed by the applicant or his attorney, be dismissed without prejudice as a matter of right prior to the time the application is granted or designated for hearing.

§ 95.427 Partial grant.

Where the Commission, without a hearing, grants an application in part, or with any privileges, terms, or conditions other than those requested, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made, or from its effective date if a later date is specified, file with the Commission a written rejection of the grant as made. Upon receipt of such rejection, the Commission will vacate its original action upon the application and, if appropriate, set the application for hearing.

§ 95.429 License term.

Licenses will normally be issued for a term of 5 years from the date of original issuance, major modification, or renewal.

§ 95.431 Types of operation authorized.

Stations are authorized as mobile stations only; however, they may be operated at fixed locations in accordance with other provisions of this part.

§ 95.433 Transfer of license prohibited.

A station authorization may not be transferred or assigned. In lieu of such transfer or assignment, an application for new station authorization shall be filed in each case, and the previous authorization shall be forwarded to the Commission for cancellation.

§ 95.435 Changes in terms of license.

(a) Commission approval is required to increase the number of transmitters authorized for a particular station.

(b) Commission approval is not required to change either of the following terms:

1. Name of a licensee (without changes in the ownership, control or corporate structure.)

2. Mailing address of a licensee.

Although prior approval of the Commission is not required for any of these changes, prompt written notice must be furnished to the Commission as soon as possible after the change has been implemented. This notice, which may be in letter form, shall contain the name and address of the licensee as they appear in the Commission's records the new name and/or address, and the call signs and classes of all radio stations authorized to the licensee under this part. This notice shall be sent to FCC, Gettysburg, PA, 17325, and a copy shall be maintained with the records of the station.

(c) Commission approval is not required to substitute transmitting equipment at any station, provided that the equipment employed is included in the Commission's "Radio Equipment List" and is listed as acceptable for use in this Service.

§ 95.437 Limitations on antenna structures.

(a) All antennas (both receiving and transmitting) and supporting structures associated or used in conjunction with a station operated from a fixed location must comply with at least one of the following:

(1) The antenna and its supporting structure does not exceed 20 feet in height above ground level; or

(2) The antenna and its supporting structure does not exceed by more than 20 feet the height of any natural formation, tree or man-made structure on which it is mounted; or

(3) The antenna is mounted on the transmitting antenna structure of another authorized radio station and exceeds neither 60 feet above ground level nor the height of the antenna supporting structure of the other station; or

(4) The antenna is mounted on and does not exceed the height of the antenna structure otherwise used solely for receiving purposes, which structure itself complies with subparagraph (1) or (2) of this paragraph.

(5) The antenna is omnidirectional and the highest point of the antenna and its supporting structure do not exceed 60 feet above ground level and the highest point also does not exceed one foot in height above the established airport elevation for each 100 feet of horizontal distance from the nearest point of the nearest airport runway.

NOTE: A work sheet will be made available upon request to assist in determining the maximum permissible height of an antenna structure.

(b) Subpart I of Part 1 of this chapter contains procedures implementing the National Environmental Policy Act of 1969. Applications for authorization of the construction of certain classes of communications facilities defined as "major actions" in § 1.305 thereof, are required to be accompanied by specified statements. Generally these classes are:

(1) Antenna towers or supporting structures which exceed 300 feet in height and are not located in areas devoted to heavy industry or to agriculture.

(2) Communications facilities to be located in the following areas:

(i) Facilities which are to be located in an officially designated wilderness area or in an area whose designation as a wilderness is pending consideration;

(ii) Facilities which are to be located in an officially designated wildlife preserve or in an area whose designation as a wildlife preserve is pending consideration;

(iii) Facilities which will affect districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology or culture, which are listed in the National Register of Historic Places or are eligible for listing (see 36 CFR 800.22 (d) and (f) and 800.10); and

(iv) Facilities to be located in areas which are recognized either nationally or locally for their special scenic or recreational value.

(3) Facilities whose construction will involve extensive change in surface features (e.g. wetland fill, deforestation or water diversion).

NOTE: The provisions of this paragraph do not include the mounting of FM, television or other antennas comparable thereto in size on an existing building or antenna tower. The use of existing routes, buildings and towers is an environmentally desirable alternative to the construction of new routes or towers and is encouraged.

If the required statements do not accompany the application, the pertinent facts may be brought to the attention of the Commission by any interested person during the course of the license term and considered de novo by the Commission.

STATION OPERATING REQUIREMENTS

§ 95.451 Station authorization required.

No radio station shall be operated in this service except under and in accordance with an authorization granted by the Federal Communications Commission.

§ 95.453 Posting station license and transmitter identification cards or plates.

(a) The current authorization, or a clearly legible photocopy thereof, for each station (including units of a station) operated at a fixed location shall be posted at a conspicuous place at the principal fixed location from which such station is controlled, and a photocopy of such authorization shall also be posted at all other fixed locations from which the station is controlled. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy. In addition, an executed Transmitter Identification Card (FCC Form 452–C) or a plate of metal or other durable substance, legibly indicating the call sign and the licensee's name and address, shall be affixed, readily visible for inspection, to each transmitter operated at a fixed location when such transmitter is not in view of, or is not readily accessible to, the operator of at least one of the locations at which the station authorization or a photocopy thereof is required to be posted.

(b) The current authorization for each station operated as a mobile station shall be retained as a permanent part of the station records, but need not be posted. In addition, an executed Transmitter Identification Card (FCC Form 452–C) or a plate of metal or other durable substance, legibly indicating the call sign and the licensee's name and address, shall be affixed, readily visible for inspection, to each of such transmitters: *Provided*, That, if the transmitter is not in view of the location from which it is controlled, or is not readily accessible for inspection, then such card or plate shall be affixed to the control equipment at the transmitter operating position or posted adjacent thereto.

§ 95.455 Authorized frequencies.

(a) The following frequencies may be used for communications between stations:

MHz—26.965; 26.925; 26.985; 27.005; 27.015; 27.025; 27.035; 27.055; 27.075; 27.085; 27.105; 27.115; 27.125; 27.135; 27.155; 27.165; 27.175; 27.185; 27.205; 27.215; 27.225; 27.235; 27.245; 27.255; 27.265; 27.275; 27.285; 7.205; 27.305; 27.315; 27.325; 27.335; 27.345; 27.355; 27.265; 27.375; 27.285; 27.295; 27.305;

(b) Special conditions.

(1) These frequencies are available on a shared basis with other stations in this Service.

(2) These frequencies are subject to no protection from interference due to the operation of industrial, scientific, or medical devices within the 26.96–27.28 MHz band.

(3) The frequency 27.065 MHz shall be used solely for:

(i) Emergency communications involving immediate safety of life of individuals or the immediate protection of property or

(ii) Communications necessary to render assistance to a motorist.

§ 95.457 Policy governing the availability of frequencies.

(a) Each frequency available for use by stations in this service is available on a shared basis only, and will not be assigned for the exclusive use of any one applicant; however, the use of a particular frequency may be restricted to (or in) one or more specified geographical areas.

(b) All applicants and licensees in this service shall cooperate in the selection and use of the frequencies assigned or authorized, in order to minimize interference and thereby obtain the most effective use of the authorized facilities.

§ 95.459 Telephony only.

(a) Transmitters used at stations in this service are authorized to transmit telephony (voice), either single or double sideband.

(b) Tone signals or signalling devices may not be used, except for functions such as tone operated squelch or selective calling circuits used primarily to establish or maintain voice contact. Signals may not be used solely to attract attention or to control remote objects or devices.

(c) The transmission of audible tone signals or a sequence of tone signals for the operation of the tone operated squelch or selective calling circuits shall not exceed a total of 15 seconds duration. Continuous transmission of a subaudible tone for this purpose is permitted. For the purposes of this section, any tone or combination of tones having no frequency above 150 hertz shall be considered subaudible.

§ 95.461 Permissible communications.

Stations are authorized to transmit the following types of communications:

(a) Communications to facilitate the personal or business activities of the licensee.

(b) Communication relating to:

(1) The immediate safety of life or the immediate protection of property in accordance with § 95.463.

(2) The rendering of assistance to a motorist, mariner or other traveler.

(3) Civil defense activities in accordance with § 95.477.

(4) Other activities only as specifically authorized pursuant to § 95.465.

(c) Communications with stations authorized in other radio services except as prohibited in § 95.501(a)(3).

§ 95.463 Emergency and assistance to motorist use.

(a) All stations shall give priority to the emergency communications of other stations which involve the immediate safety of life of individuals or the immediate protection of property.

(b) Any station in this service may be utilized during an emergency involving the immediate safety of life of individuals or the immediate protection of property for the transmission of emergency communications. It may also be used to transmit communications necessary to render assistance to a motorist.

(1) When used for transmission of emergency communications certain provisions in this part concerning use of frequencies (§ 95.455); prohibited uses (§ 95.501(a)(3)); operation by or on behalf of persons other than the licensee (§ 95.465) and duration of transmissions (§ 95.469(a) and (b)) shall not apply.

(2) When used for transmissions of communications necessary to render assistance to a traveler, the provisions of this Part concerning duration of transmission § 95.469(b) shall not apply.

(3) The exemptions granted from certain rule provisions in subparagraphs (1) and (2) of this paragraph may be rescinded by the Commission at its discretion.

(c) If the emergency use under paragraph (b) of this section extends over a period of 12 hours or more, notice shall be sent to the Commission in Washington, D.C., as soon as it is evident that the emergency has or will exceed 12 hours. The notice should include the identity of the stations participating, the nature of the emergency, and the use made of the stations. A single notice covering all participating stations may be submitted.

§ 95.465 Operation by, or on behalf of, persons other than the licensee.

(a) Transmitters authorized in this service must be under the control of the licensee at all times. A licensee shall not transfer, assign, or dispose of, in any manner, directly or indirectly, the operating authority under his station license, and shall be responsible for the proper operation of all units of the station.

(b) Stations may be operated only by the following persons, except as provided in paragraph (c) of this section:

(1) The licensee;

(2) Members of the licensee's immediate family living in the same household;

(3) The partners, if the licensee is a partnership, provided the communications relate to the business of the partnership;

(4) The members, if the licensee is an unincorporated association, provided the communications relate to the business of the association;

(5) Employees of the licensee only while acting within the scope of their employment;

(6) Other persons, upon specific prior approval of the Commission shown on or attached to the station license, under the following circumstances:

(i) Licensee is a corporation and proposes to provide private radiocommunication facilities for the transmission of messages or signals by or on behalf of its parent corporation, another subsidiary of the parent corporation, or its own subsidiary. Any remuneration or compensation received by the licensee for the use of the radiocommunication facilities shall be governed by a contract entered into by the parties concerned and the total of the compensation shall not exceed the cost of providing the facilities. Records which show the cost of service and its nonprofit or cost-sharing basis shall be maintained by the licensee.

(ii) Other cases where there is a need for other persons to operate a unit of licensee's radio station. Requests for authority may be made either at the time of the filing of the application for station license or thereafter by letter. In either case, the licensee must show the nature of the proposed use and that it relates to an actiivty of the licensee, how he proposes to maintain control over the transmitters at all times, and why it is not appropriate for such other person to obtain a station license in his own name.

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The authority, if granted, may be specific with respect to the names of the persons who are permitted to operate, or may authorize operation by unnamed persons for specific purposes. This authority may be revoked by the Commission, in its discretion, at any time.

station licensee shall not be

(c) An individual who was formerly a permitted to operate any station licensed to another person until such time as he again has been issued a valid radio station license when his license has been:

(1) Revoked by the Commission.

(2) Surrendered for cancellation after the institution of revocation proceedings by the Commission.

(3) Surrendered for cancellation after a notice of apparent liability to forfeiture has been served by the Commission.

§ 95.467 Telephone answering services.

(a) Notwithstanding the provisions of § 95.465 a licensee may install a transmitting unit of his station on the premises of a telephone answering service. The same unit may not be operated under the authorization of more than one licensee. In all cases, the licensee must enter into a written agreement with the answering service. This agreement must be kept with the licensee's station records and must provide, as a minimum, that:

(1) The licensee will have control over the operation of the radio unit at all times;

(2) The licensee will have full and unrestricted access to the transmitter to enable him to carry out his responsibilities under his license;

(3) Both parties understand that the licensee is fully responsible for the proper operation of the station; and

(4) The unit so furnished shall be used only for the transmission of communications to other units belonging to the licensee's station.

(b) A station licensed to a telephone answering service shall not be used to relay messages or transmit signals to its customers.

§ 95.469 Duration of transmissions.

(a) All communications or signals, regardless of their nature, shall be restricted to the minimum practicable transmission time. The radiation of energy shall be limited to transmissions modulated or keyed for actual permissible communications, tests, or control signals. Continuous or uninterrupted transmissions from a single station or between a number of communicating stations is prohibited, except for communications involving the immediate safety of life or property.

(b) All communications between stations (interstation) shall be restricted to not longer than five (5) continuous minutes. At the conclusion of this 5 minute period, or the exchange of less than 5 minutes, the participating stations shall remain silent for at least one minute.

(c) All communications between units of the same station (intrastation) shall be restricted to the minimum practicable transmission.

§ 95.471 Station identification.

(a) The call sign of a station shall consist of either three letters followed by four digits or shall consist of four letters followed by four digits. The call sign of a station operating under a temporary permit shall consist of three letters followed by five digits.

(b) Each transmission of the station call sign shall be made in the English language by each unit, shall be complete, and each letter and digit shall be separately and distinctly transmitted. Only standard phonetic alphabets, nationally or internationally recognized, may be used in lieu of pronunication of letters for voice transmission of call signs. A unit designator or special identification may be used in addition to the station call sign but not as a substitute therefor.

(c) Except as otherwise provided, all transmissions from each unit of a station shall be identified by the transmission of its assigned call sign at the beginning and end of each transmission or series of transmissions, but at least at intervals not to exceed ten (10) minutes.

§ 95.473 Station location.

(a) A station may be used or operated anywhere in the United States subject to the provisions of paragraph (b) of this section.

(b) A mobile station authorized in this service may be used or operated on any vessel, aircraft, or vehicle of the United States: *Provided*, That when such vessel, aircraft, or vehicle is outside the territorial limits of the United States, the station, its operation, and its operator shall be subject to the governing provisions of any treaty concerning telecommunications to which the United States is a party, and when within the territorial limits of any foreign country, the station shall be subject also to such laws and regulations of that country as may be applicable.

§ 95.475 Dispatch points and remote control.

(a) No authorization is required to install dispatch points.

(b) Operation of any station by remote control is prohibited except remote control by wire upon specific authorization by the Commission when satisfactory need is shown.

§ 95.477 Civil defense communications.

A licensee of a station authorized under this part may use the licensed radio facilities for the transmission of messages relating to civil defense activities in connection with official tests or drills conducted by, or actual emergencies proclaimed by, the civil defense agency having jurisdiction over the area in which the station is located: *Provided*, That:

(a) The operation of the radio station shall be on a voluntary basis.

(b) Such communications are conducted under the direction of civil defense authorities.

(c) As soon as possible after the beginning of such use, the licensee shall send notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications being transmitted and the duration of the special use of the station. In addition, the Engineer in Charge shall be notified as soon as possible of any change in the nature of or termination of such use.

(d) In the event such use is to be a series of pre-planned tests or drills of the same or similar nature which are scheduled in advance for specific times or at certain intervals of time, the licensee may send a single notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications to be transmitted, the duration of each such test, and the times scheduled for such use. Notice shall likewise be given in the event of any change in the nature of or termination of any such series of tests.

(e) The Commission may, at any time, order the discontinuance of such special use of the authorized facilities.

STATION ADMINISTRATION REQUIREMENTS

§ 95.501 Prohibited communications.

(a) A station shall not be used:

(1) For any purpose, or in connection with any activity, which is contrary to Federal, State, or local law.

(2) For the transmission of communications containing obscene, indecent, profane words, language, or meaning.

(3) To communicate with an Amateur Radio Service station, an unlicensed station, or foreign stations except for communications pursuant to § 95.463(b) and § 95.477.

(4) To convey program material for retransmission, live or delayed, on a broadcast facility.

NOTE: A station may be used in connection with, administrative, engineering, or maintenance activities of a broadcasting station; A station may be used in the gathering of news items or preparation of programs: Provided, that the actual or recorded transmissions of the station are not broadcast at any time in whole or in part.

(5) To intentionally interfere with the communications of another station.

(6) For the direct transmission of any material to the public through a public address system or similar means.

(7) For the transmission of music, whistling, sound effects, or any material for amusement or entertainment purposes, or solely to attract attention.

(8) To transmit the word "MAYDAY" or other international distress signals, except when the station is located in a ship, aircraft, or other vehicle which is threatened by grave and imminent danger and requests immediate assistance.

(9) For advertising or soliciting the sale of any goods or services.

(10) For transmitting messages in other than plain language. Abbreviations including nationally or internationally recognized operating signals, may be used only if a list of all such abbreviations and their meaning is kept in the station records and made available to any Commission representative on demand.

(11) To carry on communications for hire, whether the remuneration or benefit received is direct or indirect.

(b) A station may not be used to communicate with, or attempt to communicate with, any unit of the same or another station over a distance of more than 150 miles.

(c) A licensee of a station who is engaged in the business of selling radio transmitting equipment shall not allow a customer to operate under his station license. In addition, all communications by the licensee for the purpose of demonstrating such equipment shall consist only of brief messages addressed to other units of the same station.

§ 95.503 False signals.

No person shall transmit false or deceptive communications by radio or identify the station he is operating by means of a call sign which has not been assigned to that station.

§ 95.505 Current copy of rules required.

Each licensee in this service shall maintain as a part of his station records a current copy of Subpart D of Part 95, Personal Radio Services, of this chapter. Additional requirements of a technical nature may be found in Subpart E of this part.

§ 95.507 Answers to notices of violations.

(a) Any licensee who appears to have violated any provision of the Communications Act or any provision of this chapter shall be served with a written notice calling the facts to his attention and requesting a statement concerning the matter. FCC Form 793 may be used for this purpose.

(b) Within 10 days from receipt of notice or such other period as may be specified, the licensee shall send a written answer, in duplicate, direct to the office of the Commission originating the notice. If an answer cannot be sent nor an acknowledgment made within such period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. In every instance the answer shall contain a statement of the action taken to correct the condition or omission complained of and to preclude its recurrence. If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus, the licensee must comply with the provisions of § 95.621 and the answer to the notice shall state fully what steps, if any, have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application. If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge, if any, shall also be given.

§ 95.509 External radio frequency power amplifiers prohibited.

No external radio frequency power amplifier shall be used or attached, by connection, coupling attachment or in any other way at any station.

NOTE.—An external radio frequency power amplifier at a station will be presumed to have been used where it is in the operator's possession or on his premises and there is extrinsic evidence of any operation of such station in excess of power limitations provided under this rule part unless the operator of such equipment holds a station license in another radio service under which license the use of the said amplifier at its maximum rated output power is permitted.

§ 95.511 Transmitter Service and Maintenance.

(a) Except as provided in paragraph (b) of this section, all transmitter adjustments or tests while radiating energy during or coincident with the construction, installation, servicing, or maintenance of a radio station in this service, which may affect the proper operation of such stations, shall be made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radio telegraph, as may be appropriate for the type of emission employed, and such person shall be responsible for the proper functioning of the station equipment at the conclusion of such adjustments or tests. Further, in any case where a transmitter adjustment which may affect the proper operation of the transmitter has been made while not radiating energy by a person not the holder of the required commercial radio operator license or not under the supervision of such licensed operator, other than the factory assembling or repair of equipment, the transmitter shall be checked for compliance with the technical requirements of the rules by a commercial radio operator of the proper grade before it is placed on the air.

(b) Except as provided in § 95.621 and in (c) of this section, no commercial radio operator license is required to be held by the person performing transmitter adjustments or tests during or coincident with the construction, installation, servicing, or maintenance of

transmitters used at stations authorized prior to May 24, 1974: *Provided*, That there is compliance with all of the following conditions:

(1) The transmitting equipment shall be crystal-controlled with a crystal capable of maintaining the station frequency within the prescribed tolerance;

(2) The transmitting equipment either shall have been factory assembled or shall have been provided in kit form by a manufacturer who provided all components together with full and detailed instructions for their assembly by nonfactory personnel;

(3) The frequency determining elements of the transmitter, including the crystal(s) and all other components of the crystal oscillator circuit, shall have been preassembled by the manufacturer, pretuned to a specific available frequency, and sealed by the manufacturer so that replacement of any component or any adjustment which might cause off-frequency operation cannot be made without breaking such seal and thereby voiding the certification of the manufacturer required by this paragraph;

(4) The transmitting equipment shall have been so designed that none of the transmitter adjustments or tests normally performed during or coincident with the installation, servicing, or maintenance of the station, or during the normal rendition of the service of the station, or during the final assembly of kits or partially preassembled units, may reasonably be expected to result in off-frequency operation, excessive input power, overmodulation, or excessive harmonics or other spurious emissions; and

(5) The manufacturer of the transmitting equipment or of the kit from which the transmitting equipment is assembled shall have certified in writing to the purchaser of the equipment (and to the Commission upon request) that the equipment has been designed, manufactured, and furnished in accordance with the specifications contained in the foregoing subparagraphs of this paragraph. The manufacturer's certification concerning design and construction features of station transmitting equipment, as required if the provisions of this paragraph are invoked, may be specific as to the particular unit of transmitting equipment or general as to a group or model of such equipment, and may be in any form adequate to assure the purchaser of the equipment or the Commission that the conditions described in this paragraph have been fulfilled.

(c) Any tests and adjustments necessary to correct any deviation of a transmitter of any station in this service from the technical requirements of the rules in this part shall be made by, or under the immediate supervision of, a person holding a first- or second-class commercial operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission employed.

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§ 95.513 Modification of transmitters.

(a) Transmitting equipment type accepted for use in this service shall not be modified by the user. Changes which are specifically prohibited include:

(1) Internal or external connection or addition of any part, device or accessory not included by the manufacturer with the transmitter for its type acceptance. This shall not prohibit the external connection of antennas or antenna transmission lines, antenna switches, passive networks for coupling transmission lines or antennas to transmitters, or replacement of microphones.

(2) Modification in any way not specified by the transmitter manufacturer and not approved by the Commission.

(3) Replacement of any transmitter part by a part having different electrical characteristics and ratings from that replaced unless such part is specified as a replacement by the transmitter manufacturer.

(4) Substitution or addition of any transmitter oscillator crystal unless the crystal manufacturer or transmitter manufacturer has made an express determination that the crystal type, as installed in the specific transmitter type, will provide that transmitter type with the capability of operating within the frequency tolerance specified in § 95.615 (a).

(5) Addition or substitution of any component, crystal or combination of crystals, or any other alteration to enable transmission on any frequency not authorized for use by the licensee.

(b) Only the manufacturer of the particular unit of equipment type accepted for use in CB stations may make the permissive changes allowed under the provisions of Part 2 of this chapter for type acceptance. However, the manufacturer shall not make any of the following changes to the transmitter without prior written authorization from the Commission:

(1) Addition of any accessory or device not specified in the application for type acceptance and approved by the Commission in granting said type acceptance.

(2) Addition of any switch, control, or external connection.

(3) Modification to provide capability for an additional number of transmitting frequencies.

§ 95.515 Tests and adjustments.

All tests or adjustments of radio transmitting equipment involving an external connection to the radio frequency output circuit shall be made using a nonradiating dummy antenna. However, a brief test signal, either with or without modulation, as appropriate, may be transmitted when it is necessary to adjust a transmitter to an antenna for a new station installation or for an existing installation involving a change of antenna or change of transmitters, or when necessary for the detection, measurement, and suppression of harmonic or other spurious radiation. Test transmissions using a radiating antenna shall not exceed a total of 1 minute during any 5-minute period, shall not interfere with communications already in progress on the operating frequency, and shall be properly identified as required by § 95.471, but may otherwise be unmodulated as appropriate.

§ 95.521 Inspection of stations and station records.

All stations and records of stations in this service shall be made available for inspection upon the request of an authorized representative of the Commission made to the licensee or to his representative. Unless otherwise stated in this part, all required station records shall be maintained for a period of at least 1 year.

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licensed to be operated on an assigned frequency in the 460–470 MHz band with a transmitter output power of not more than 50 watts.

Radio Control (R/C) Service station. A station in the Personal Radio Services licensed to be operated on an authorized frequency in the 26.96–27.23 MHz band, or on the frequency 27.255 MHz, for the control of remote objects or devices by radio, or for the remote actuation of devices which are used solely as a means of attracting attention, or on an authorized frequency in the 72–76 MHz band for the radio control of models used for hobby purposes only.

Citizens Band (CB) Radio Service station. A station in the Personal Radio Services licensed to be operated for radiotelephony only, on an authorized frequency in the 26.96–27.41 MHz band.

Base station. A station in the land mobile service not intended for operation while in motion.

Fixed station. A station intended to be operated between specified fixed points.

Mobile station. A station intended to be operated between mobile and land stations or between mobile stations. A mobile station is operated while in motion or during halts at unspecified points.

(b) Miscellaneous definitions.

Antenna structure. The term "antenna structures" includes the radiating system, its supporting structures and any appurtenances mounted thereon.

Assigned frequency. The frequency appearing on a station authorization from which the carrier frequency may deviate by an amount not to exceed that permitted by the frequency tolerance.

Authorized bandwidth. The maximum permissible bandwidth for the particular emission used. This shall be the occupied bandwidth or necessary bandwidth, whichever is greater.

Carrier power. The average power at the output terminals of a transmitter (other than a transmitter having a suppressed, reduced or controlled carrier) during one radio frequency cycle under conditions of no modulation.

External radio frequency power amplifiers. As defined in § 2.815(a) and as used in this part, an external radio frequency power amplifier is any device which, (1) when used in conjunction with a radio transmitter as a signal source is capable of amplification of that signal, and (2) is not an integral part of a radio transmitter as manufactured.

Harmful interference. Any emission, radiation or induction which endangers the functioning of a radio-navigation service or other safety service or seriously degrades, obstructs or repeatedly interrupts a radio-communication service operating in accordance with applicable laws, treaties, and regulations.

Man-made structure. Any construction other than a tower, mast or pole.

Mean power. The power at the output terminals of a transmitter during normal operation, averaged over a time sufficiently long compared with the period of the lowest frequency encountered in the modulation. A time of 1/10 second during which the mean power is greatest, will be selected normally.

Necessary bandwidth. For a given class of emission, the minimum value of the occupied bandwidth sufficient to ensure the transmission of information at the rate and with the quality required for the system employed, under specified conditions. Emissions useful for the good functioning of the receiving equipment, as for example, the emission corresponding to the carrier of reduced carrier systems, shall be included in the necessary bandwidth.

Occupied bandwidth. The frequency bandwidth such that, below its lower and above its upper frequency limits, the mean powers radiated are each equal to 0.5% of the total mean power radiated by a given emission.

Omnidirectional antenna. An antenna designed so the maximum radiation in any horizontal direction is within 3 dB of the minimum radiation in any horizontal direction.

Peak envelope power. The average power at the output terminals of a transmitter during one radio frequency cycle at the highest crest of the modulation envelope, taken under conditions of normal operation.

Remote control. The term "remote control" when applied to the use or operation of a personal radio services station means control of the transmitting equipment of that station from any place other than the location of the transmitting equipment, except that direct mechanical control or direct electrical control by wired connections of transmitting equipment from some other point on the same premises, craft or vehicle shall not be considered to be remote control.

SIDEBAND EMISSION

Single sideband emission. An emission in which only one sideband is transmitted. The carrier, or a portion thereof, also may be present in the emission.

Double sideband emission. An emission in which both upper and lower sidebands resulting from the modulation of a particular carrier are transmitted. The carrier, or a portion thereof, also may be present in the emission.

Station authorization. Any construction permit, license, or special temporary authorization issued by the Commission.

FREQUENCIES, POWER AND EMISSIONS

§ 95.611 Availability of frequencies.

(a) Frequencies available for assignment in the General Mobile Radio Service:

Base and Mobile (MHz)	*Mobile Only* (MHz)
462.550	467.550
462.575	467.575
462.600	467.600
462.625	467.625
462.650	467.650
462.675	467.675
462.700	467.700
462.725	467.725

(b) Fixed stations in the General Mobile Radio Service.

(1) Such fixed stations may be eligible for an assigned frequency under the following conditions:

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(i) Fixed stations which are used to control base stations of a system may be assigned the frequency assigned to the mobile units associated with the base station. Such fixed stations shall comply with the following requirements if they are located within 75 miles of the center of urbanized areas of 200,000 or more population.

(a) If the station is used to control one or more base stations located within 45 degrees of azimuth, a directional antenna having a front-to-back ratio of at least 15 dB shall be used at the fixed station. For other situations where such a directional antenna cannot be used, a cardioid, bidirectional or omnidirectional antenna may be employed. Consistent with reasonable design, the antenna used must, in each case, produce a radiation pattern that provides only the coverage necessary to permit satisfactory control of each base station and limit radiation in other directions to the extent feasible.

(b) The strength of the signal of a fixed station controlling a single base station may not exceed the signal strength produced at the antenna terminal of the base receiver by a unit of the associated mobile station, by more than 6 dB. When the station controls more than one base station, the 6 dB control-to-mobile signal difference need be verified at only one of the base station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location or, if that is not practical, from a location within one-fourth mile of the control station site.

(c) Each application for a control station to be authorized under the provisions of this paragraph shall be accompanied by a statement certifying that the output power of the proposed station transmitter will be adjusted to comply with the foregoing signal level limitation. Records of the measurements used to determine the signal ratio shall be kept with the station records and shall be made available for inspection by Commission personnel upon request.

(d) Urbanized areas of 200,000 or more population are defined in the U.S. Census of Population, 1960, Vol. 1, table 23, page 50. The centers of urbanized areas are determined from the Appendix, page 226 of the U.S. Commerce publication "Air Line Distance Between Cities in the United States."

(ii) Fixed stations, other than those used to control base stations, which are located 75 or more miles from the center of an urbanized area of 200,000 or more population. The centers of urbanized areas of 200,000 or more population are listed on page 226 of the Appendix to the U.S. Department of Commerce publication "Air Line Distance Between Cities in the United States." When the fixed station is located 100 miles or less from the center of such an urbanized area, the power output may not exceed 15 watts. All fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, separation between transmit-receive frequencies is 5 MHz.

(2) Such fixed stations authorized prior to March 18, 1968, located 100 or more miles from the center of any urbanized area of 200,000 or more population, authorized to operate on frequencies other than those specified above, will not have to change frequencies provided no interference is caused to the operation of stations in the land mobile service.

(c) R/C stations. (1) Frequencies authorized for use at R/C stations.

(a) Control of remote objects or devices by radio, or remote actuation of devices which are used solely as a means of attracting attention.

MHz: 26.995; 27.045; 27.095; 27.145; 27.195; 27.255.[1]

(b) Radio remote control of any model used for hobby purposes.

MHz: 72.16; 72.32; 72.96.

(c) Radio remote control of aircraft models only.

MHz: 72.08; 72.24; 72.40; 75.64.

(2) Special conditions.

(a) Such stations may employ only amplitude tone modulation or on-off keying of the unmodulated carrier.

(b) Such stations operate on a shared basis with other stations in the Personal Radio Services on the frequencies authorized above.

(c) The frequencies available for the control of remote objects or devices or for the remote actuation of devices which are used solely as a means of attracting attention are not afforded any protection from interference caused by the operation of industrial, scientific, or medical devices within the 26.96–27.28 MHz band.

(d) The frequencies available for the radio remote control of models used for hobby purposes are subject to the condition that interference will not be caused to the remote control of industrial equipment operating on the same or adjacent frequencies or to the reception of television transmissions on Channels 4 and 5. These frequencies are not afforded any protection from interference due to the operation of fixed and mobile stations in other services assigned to the same or adjacent frequencies.

(d) CB stations.

(1) Frequencies Authorized for use at CB Stations.

(i) The following frequencies may be used for communications between CB stations:

MHz: 26.965; 26.975; 26.985; 27.005; 27.015; 27.025; 27.035; 27.055; 27.075; 27.085; 27.105; 27.115; 27.125; 27.135; 27.155; 27.165; 27.175; 27.185; 27.205; 27.215; 27.225; 27.235; 27.245; 27.255; 27.265; 27.275; 27.285; 27.295; 27.305; 27.315; 27.325; 27.335; 27.345; 27.355; 27.365; 27.375; 27.385; 27.395; 27.405.

(2) Special conditions.

(i) The frequencies listed above are available for use with radiotelephony (voice) transmissions only.

(ii) These frequencies are available on a shared basis with other stations in the Personal Radio Services.

(iii) These frequencies are subject to no protection from interference due to the operation of industrial, scientific, or medical devices within the 26.96–27.28 MHz band.

(iv) The frequency 27.065 MHz shall be used solely for emergency communications, which are defined as:

(a) communications involving the immediate safety of life of individuals or the immediate protection of property, or

(b) Communications necessary to render assistance to a motorist.

§ 95.613 Transmitter power.

(a) Transmitter power is the power at the transmitter output terminals and delivered to the antenna, antenna transmission line, or any other impedance-matched, radio frequency load.

(1) For single sideband transmitters and other transmitters employing a reduced carrier, a suppressed carrier or a controlled carrier, used at CB stations, transmitter power is the peak envelope power.

(2) For all transmitters other than those covered by paragraph (a) (1) of this section, the transmitter power is the carrier power.

(b) The transmitter power of a station shall not exceed the following values under any condition of modulation or other circumstances.

Class of station:	Transmitter power in watts
General mobile radio service	50
R/C	25
26.995 to 27.195 MHz	4
72 to 76 MHz	.75
CB (Carrier (where applicable))	4
CB (Peak envelope power (where applicable))	12

§ 95.615 Frequency tolerance.

(a) Except as provided in paragraphs (b) and (c) of this section, the carrier frequency of a transmitter in this service shall be maintained within the following percentage of the authorized frequency:

Class of station	Frequency tolerance	
	Fixed and base	Mobile
General mobile:		
Radio service	0.00025	0.0005
R/C		.005
CB		.005

(b) Transmitters used at R/C stations operating on authorized frequencies between 26.99 and 27.26 MHz with 2.5 watts or less mean output power, which are used solely for the control of remote objects or devices by radio (other than devices used solely as a means of attracting attention), are permitted a frequency tolerance of 0.01 percent.

(c) General Mobile Radio Service ---------- stations operated at a fixed location used to control base stations, through use of a mobile only frequency, may operate with a frequency tolerance of 0.0005 percent.

[1] This frequency is shared with stations in other services.

§ 95.617 Emission limitations.

(a) Each authorization issued to a General Mobile radio station will show, as a prefix to the classification of the authorized emission, a figure specifying the maximum bandwidth to be occupied by the emission.

(b) The authorized bandwidth of the emission of any transmitter employing amplitude modulation shall be 8 kHz for double sideband and 4 kHz for single sideband. The authorized bandwidth of the emission of any transmitter employing frequency or phase modulation (Class F2 or F3) shall be 20 kHz. The use of F2 and F3 emissions in the frequency band 26.96 MHz–27.41 MHz is not authorized.

(c) The mean power of emissions shall be attenuated below the mean power of the transmitter in accordance with the following schedule:

(1) When using emissions other than single sideband:

(i) On any frequency removed from the center of the authorized bandwidth by more than 50 percent up to and including 100 percent of the authorized bandwidth: At least 25 decibels;

(ii) On any frequency removed from the center of the authorized bandwidth by more than 100 percent up to and including 250 percent of the authorized bandwidth: At least 35 decibels;

(2) When using single sideband emissions:

(i) On any frequency removed from the center of the authorized bandwidth by more than 50 percent up to and including 150 percent of the authorized bandwidth: At least 25 decibels;

(ii) On any frequency removed from the center of the authorized bandwidth by more than 150 percent up to and including 250 percent of the authorized bandwidth: At least 35 decibels;

(3) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth: at least 43+10 log (mean power in watts) decibels, for CB transmitters type accepted before September 10, 1976 and all General Mobile Radio Service transmitters.

(4) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth up to a frequency of twice the fundamental frequency; at least 53+10 log (mean power in watts) decibels, for CB transmitters type accepted after September 10, 1976.

(5) On any frequency twice or greater than twice the fundamental frequency: at least 60 decibels (mean power in watts) for CB transmitters type accepted after September 10, 1976.

NOTE.—The requirements of paragraph (c) must be met both with and without connection of all attachments acceptable for use with such transmitters. External speakers, microphones, power cords, and antennas are among the devices included in this requirement. Additionally, if it is shown that a licensee causes interference to television reception because of insufficient harmonic attenuation, he may be required to insert a low pass filter between the transmitter RF output terminal and the antenna feedline.

(d) When an unauthorized emission results in harmful interference, the Commission may, in its discretion, require appropriate technical changes in equipment to alleviate the interference.

§ 95.619 Modulation requirements.

(a) When double sideband, amplitude modulation is used for telephony, the modulation percentage shall be sufficient to provide efficient communication and shall not exceed 100 percent.

(b) Each transmitter for use in CB stations, other than single sideband, suppressed carrier, or controlled carrier, for which type acceptance is requested after May 24, 1974, having more than 2.5 watts maximum output power shall be equipped with a device which automatically prevents modulation in excess of 100 percent on positive and negative peaks.

(c) The maximum audio frequency required for satisfactory radiotelephone intelligibility for use in this service is considered to be 3000 Hz.

(d) Transmitters for use at General Mobile Radio Service stations shall be provided with a device which automatically will prevent greater than normal audio level from causing modulation in excess of that specified in this subpart; *Provided, however,* That the requirements of this paragraph shall not apply to transmitters authorized at mobile stations and having an output power of 2.5 watts or less.

(e) Each transmitter of a General Mobile Radio Service station which is equipped with a modulation limiter in accordance with the provisions of paragraph (d) of this section shall also be equipped with an audio low-pass filter. This audio low-pass filter shall be installed between the modulation limiter and the modulated stage and, at audio frequencies between 3 kHz and 20 kHz, shall have an attenuation greater than the attenuation at 1 kHz by at least; 60 $\log_{10}$ (f/3) decibels where "f" is the audio frequency in kHz. At audio frequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

(f) Simultaneous amplitude modulation and frequency or phase modulation of a transmitter is not authorized.

(g) The maximum frequency deviation of frequency modulated transmitters used at General Mobile Radio stations shall not exceed ±5 kHz.

§ 95.621 Compliance with technical requirements.

(a) Upon receipt of notification from the Commission of a deviation from the technical requirements of the rules in this part, the radiations of the transmitter involved shall be suspended immediately, except for necessary tests and adjustments, and shall not be resumed until such deviation has been corrected.

(b) When any station licensee receives a notice of violation indicating that the station contained in Subpart E of this part, or where it otherwise appears that operation of a station in this service may not be in accordance with applicable technical standards, the Commission may require the licensee to conduct such tests as may be necessary to determine whether the equipment is capable of meeting these standards and to make such adjustments as may be necessary to assure compliance therewith. A licensee who is notified that he is required to conduct such tests and/or make adjustments must, within the time limit specified in the notice, report to the Commission the results thereof.

(c) All tests and adjustments which may be required in accordance with paragraph (b) of this section shall be made by, or under the immediate supervision of, a person holding a first- or second-class commercial operator license, either radiotelephone or radio telegraph as may be appropriate for the type of emission employed. In each case, the report which is submitted to the Commission shall be signed by the licensed commercial operator. Such report shall describe the results of the tests and adjustments, the test equipment and procedures used, and shall state the type, class, and serial number of the operator's license. A copy of this report shall also be kept with the station records.

PROHIBITED EQUIPMENT

§ 95.631 External radio frequency power amplifiers prohibited.

No external radio frequency power amplifier shall be used or attached, by connection, coupling attachment or in any other way at any CB station.

NOTE.—An external radio frequency power amplifier at a CB station will be presumed to have been used where it is in the operator's possession or on his premises and there is extrinsic evidence of any operation of such CB station in excess of power limitations provided under this rule part unless the operator of such equipment holds a station license in another radio service under which license the use of the said amplifier at its maximum rated output power is permitted.

TYPE ACCEPTANCE AND CERTIFICATION

§ 95.641 Acceptability of transmitters for licensing.

Transmitters type approved or type accepted for use under this part are included in the Commission's Radio Equipment List. Copies of this list are available for public reference at the Commission's Washington, D.C. offices and field offices. The requirements for transmitters which may be operated under a license in this service are set forth in the following paragraphs.

(a) General Mobile Radio Service Stations: All transmitters shall be type accepted.

(b) R/C stations:

(1) Transmitters operated in the band 72–76 MHz shall be type accepted.

(2) All transmitters operated in the band 26.99–27.26 MHz shall be type approved, type accepted or crystal controlled.

(c) CB Stations:

(1) All transmitters first licensed, or marketed as specified in § 2.805 of this chapter, prior to November 22, 1974, shall be type accepted or crystal controlled.

(2) All transmitters first licensed, or marketed as specified in § 2.803 of this

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chapter, on or after November 22, 1974, shall be type accepted.

(3) Effective November 23, 1978, all transmitters shall be type accepted.

(4) Effective January 1, 1977 transmitters which are equipped to operate on any frequency not included in § 95.611 may not be installed at or used by any CB station unless there is a station license posted at the transmitter location, or a transmitter identification card (FCC Form 452–C) attached to the transmitter, which indicates that operation of the transmitter on such frequency has been authorized by the Commission.

(5) No CB transmitter type accepted pursuant to an application filed prior to September 10, 1976 shall be manufactured on or after August 1, 1977.

(6) No CB transmitter type accepted pursuant to an application filed prior to September 10, 1976 shall be marketed on or after January 1, 1978.

NOTE.—A "transmitter" is defined to include any radio frequency (RF) power amplifier.

(d) With the exception of equipment type approved for use at a R/C station, all transmitting equipment authorized in this service shall be crystal controlled.

(e) No controls, switches or other functions which can cause operation in violation of the technical regulations of this part shall be accessible from the operating panel or exterior to the cabinet enclosing a transmitter authorized in this service.

§ 95.643 Procedure for type acceptance of equipment.

(a) Any manufacturer of a transmitter built for use in this service, except noncrystal controlled transmitters for use at R/C stations, may request type acceptance for such transmitter in accordance with the type acceptance requirements of this part, following the type acceptance procedure set forth in Part 2 of this chapter.

(b) Type acceptance for an individual transmitter may also be requested by an applicant for a station authorization by following the type acceptance procedures set forth in Part 2 of this chapter. Such transmitters, if accepted, will not normally be included on the Commission's "Radio Equipment List", but will be individually enumerated on the station authorization.

(c) Additional rules with respect to type acceptance are set forth in Part 2 of this chapter. These rules include information with respect to withdrawal of type acceptance, modification of type-accepted equipment, and limitations on the findings upon which type acceptance is based.

(d) Transmitters equipped with a frequency or frequencies not listed in § 95.611(d) will not be type accepted for use at CB stations unless the transmitter is also type accepted for use in the service in which the frequency is authorized, if type acceptance in that service is required.

§ 95.645 Additional requirements for type acceptance.

(a) All transmitters shall be crystal controlled.

(b) Except for transmitters type accepted for use at General Mobile Radio Service stations transmitters shall not include any provisions for increasing power to levels in excess of the pertinent limits specified in § 95.613.

(c) In addition to all other applicable technical requirements set forth in this part, transmitters for which type acceptance is requested for use at CB stations shall comply with the following:

(1) Single sideband transmitters and other transmitters employing reduced, suppressed or controlled carrier shall include a means for automatically preventing the transmitter power from exceeding either the maximum permissible peak envelope power or the rated peak envelope power of the transmitter, whichever is lower.

(2) Multi-frequency transmitters shall be capable of operation only on those frequencies authorized by § 95.611.

(3) All transmitter frequency determining circuitry (including crystals), other than the frequency selection mechanism, employed in CB station equipment shall be internal to the equipment and shall not be accessible from the exterior of the equipment cabinet or operating panel. Add-on devices, whether internal or external to the equipment, the function of which is to extend the frequency coverage capability of a CB unit beyond its original frequency coverage capability, shall not be sold, manufactured, or attached to any transmitter capable of operation on CB frequencies.

(4) Single sideband transmitters shall be capable of transmitting on the upper sideband. Capability for transmission also on the lower sideband is permissible.

(5) The total dissipation ratings, established by the manufacturer of the electron tubes or semiconductors which supply radio frequency power to the antenna terminals of the transmitter, shall not exceed 10 watts. For electron tubes, the rating shall be the Intermittent Commercial and Amateur Service (ICAS) plate dissipation value if established. For semiconductors, the rating shall be the collector or device dissipation value, whichever is greater, which may be temperature derated to not more than 50° C.

(d) Only the following external transmitter controls, connections or devices will normally be permitted in transmitters for which type acceptance is requested for use at CB stations. Approval of additional controls, connections or devices may be given after consideration of the functions to be performed by such additions.

(1) Primary power connection. (Circuitry or devices such as rectifiers, transformers, or inverters which provide the nominal rated transmitter primary supply voltage may be used without voiding the transmitter type acceptance.)

(2) Microphone connection.

(3) Radio frequency output power connection.

(4) Audio frequency power amplifier output connector and selector switch.

(5) On-off switch for primary power to transmitter. May be combined with receiver controls such as the receiver on-off switch and volume control.

(6) Upper-lower sideband selector; for single sideband transmitters only.

(7) Selector for choice of carrier level; for single sideband transmitters only. May be combined with sideband selector.

(8) Transmitting frequency selector switch.

(9) Transmit-receive switch.

(10) Meter(s) and selector switch for monitoring transmitter performance.

(11) Pilot lamp or meter to indicate the presence of radio frequency output power or that transmitter control circuits are activated to transmit.

(e) An instruction book for the user shall be furnished with each transmitter sold and one copy (a draft or preliminary copy is acceptable providing a final copy is furnished when completed) shall be forwarded to the Commission with each request for type acceptance or type approval. The book shall contain all information necessary for the proper installation and operation of the transmitter including:

(1) Instructions concerning all controls, adjustments and switches which may be operated or adjusted without causing violation of technical regulations of this part;

(2) Warnings concerning any adjustment which, according to the rules of this part, may be made only by, or under the immediate supervision of, a person holding a commercial first or second class radio operator license;

(3) Warnings concerning the replacement or substitution of crystals, tubes or other components which could cause violation of the technical regulations of this part and of the type acceptance or type approval requirements of Part 2 of this chapter;

(4) Warnings concerning licensing requirements and details concerning the application procedures for licensing.

(f) A CB Radio Service application form (FCC Form 505), a Temporary Permit, CB Radio Service (FCC Form 555–B), and a copy of Subpart D of Part 95 of the Commission's Rules and Regulations, each to be current at the time of packing of the transmitter, shall be furnished with each transmitter marketed after January 1, 1977.

(g) The serial number of each new CB unit marketed after January 1, 1977, shall be engraved on the unit's chassis.

§ 95.647 Submission of noncrystal controlled Class C station transmitters for type approval.

Type approval of noncrystal controlled transmitters for use at R/C stations in this service may be requested in accordance with the procedure specified in Part 2 of this chapter.

§ 95.649 Type approval of receiver-transmitter combinations.

Type approval will not be issued for transmitting equipment for operation under this part when such equipment is enclosed in the same cabinet, is constructed on the same chassis in whole or in part, or is identified with a common type or model number with a radio receiver, unless such receiver has been certificated to the Commission as complying with the requirements of Part 15 of this chapter.

§ 95.651 Minimum equipment specifications.

Transmitters submitted for type approval in this service shall be capable of meeting the technical specifications contained in this part, and in addition, shall comply with the following:

(a) Any basic instructions concerning the proper adjustment, use, or operation of the equipment that may be necessary shall be attached to the equipment in a suitable manner and in such positions as to be easily read by the operator.

(b) A durable nameplate shall be mounted on each transmitter showing the name of the manufacturer, the type or model designation, and providing suitable space for permanently displaying the transmitter serial number, FCC type approval number, and the class of station for which approved.

(c) The transmitter shall be designed, constructed, and adjusted by the manufacturer to operate on a frequency or frequencies available to the class of station for which type approval is sought. In designing the equipment, every reasonable precaution shall be taken to protect the user from high voltage shock and radio frequency burns. Connections to batteries (if used) shall be made in such a manner as to permit replacement by the user without causing improper operation of the transmitter. Generally accepted modern engineering principles shall be utilized in the generation of radio frequency currents so as to guard against unnecessary interference to other services. In cases of harmful interference arising from the design, construction, or operation of the equipment, the Commission may require appropriate technical changes in equipment to alleviate interference.

(d) Controls which may effect changes in the carrier frequency of the transmitter shall not be accessible from the exterior of any unit unless such accessibility is specifically approved by the Commission.

§ 95.653 Test procedure.

Type approval tests to determine whether radio equipment meets the technical specifications contained in this part will be conducted under the following conditions:

(a) Gradual ambient temperature variations from 0° to 125° F.

(b) Relative ambient humidity from 20 to 95 percent. This test will normally consist of subjecting the equipment for at least three consecutive periods of 24 hours each, to a relative ambient humidity of 20, 60, and 95 percent, respectively, at a temperature of approximately 80° F.

(c) Movement of transmitter or objects in the immediate vicinity thereof.

(d) Power supply voltage variations normally to be encountered under actual operating conditions.

(e) Additional tests as may be prescribed, if considered necessary or desirable.

§ 95.655 Certificate of type approval.

A certificate or notice of type approval, when issued to the manufacturer of equipment intended to be used or operated in the Personal Radio Services, constitutes a recognition that on the basis of the test made, the particular type of equipment appears to have the capability of functioning in accordance with the technical specifications and regulations contained in this part: *Provided*, That all such additional equipment of the same type is properly constructed, maintained, and operated: *And provided further*, That no change whatsoever is made in the design or construction of such equipment except upon specific approval by the Commission.

[FR Doc.76–37580 Filed 12–22–76;8:45 am]

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federal register

THURSDAY, DECEMBER 23, 1976

PART IV



DEPARTMENT OF THE INTERIOR

Office of the Secretary

■

EMPLOYEE RESPONSIBILITIES AND CONDUCT

Revised Regulations

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Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 20—EMPLOYEE RESPONSIBILITIES AND CONDUCT

The regulations of the Department of the Interior governing the conduct and responsibilities of regular and special employees of the Department are revised. The revision involves clarification of regulations previously published, expanded coverage of employees required to file financial disclosure statements, and addition of public disclosure requirements applicable to recent "Sunshine in Government" legislation. The specific new and expanded provisions of most significance include:

1. Section 20.735–14 is revised to clarify criteria for conditions under which an Indian or Alaska Native (a) may serve as an officer or representative of his or her tribe, band, pueblo or corporation and (b) may occupy a policy or decision-making position within the Bureau of Indian Affairs at an office which has jurisdiction over his or her home reservation.

2. On March 22, 1976, the Department of the Interior published in the FEDERAL REGISTER (41 FR 11638–11840) proposed regulations to implement section 522 of the Energy Policy and Conservation Act, 42 U.S.C. 6392, requiring public disclosure of certain specified, known financial interests by officers and employees performing duties under the Act. The proposed regulations were published pursuant to section 522(b) of the Act.

Interested persons were given until April 26, 1976, to submit written comments, suggestions, or objections to the proposed regulations. Several offices within the Department and one member of the public submitted written comments. These have been given consideration in the rulemaking process. Significant comments are discussed below.

The suggestion was made that personnel of three offices within the Department listed as exempt from filing public disclosure statements under proposed § 20.735–20(b) be covered. A member of the public made a similar suggestion in regard to the Commissioner of Indian Affairs. The proposed subsection (b) has been deleted from these final regulations. Each officer or employee, including those in units listed under the proposed subsection (b), must now file if he or she is a covered employee, as the term is defined in § 20.735(a) (1).

A suggestion was made to revise the proposed definition of "property" by referring to surface and subsurface rights. The proposed definition of property has been deleted. In its place has been substituted the term "energy property," § 20.735–20(a) (2). We believe that this is a term which is relevant to the Act and has been incorporated in this final regulation. The definition is broad and similar to that proposed by the Federal Energy Administration (41 FR 14261), whose employees also are subject to the Act. The definition contains no reference to surface and subsurface rights since such language could be construed as replacing a limitation on the broad meaning intended.

The suggestion was made that the reference to "holding companies" be deleted from proposed § 20.735–20(f) (1) (iii) in view of the discussion of § 20.735–20(a) (4). Subsection (iii) has been deleted as unnecessary. The final regulation, § 20.735–20(a) (4), defines "engaged in energy business" and in so doing makes reference to "parent company or holding company". The definition makes clear that regardless of whether a parent or holding company is directly involved, it is considered as engaged in energy business if one or more of its subsidiaries in the United States is engaged in the energy business.

A commentator suggested that the Office of Land Use and Water Planning be deleted from the list of organizations exempt under proposed § 20.735–20(B) (3) (i). Because this Office has been abolished by order of the Secretary, the suggestion is moot.

Another commentator suggested that the proposed public disclosure statement contain notice to the individual that the statement is subject to examination and copying by the general public. The suggestion has been adopted.

In addition, consideration has been given to comments of the Office of the Comptroller General and from several members of the Congress. These comments have been carefully studied and extensively utilized in the preparation of these final regulations. The result has been, as reflected in these regulations, (1) clarification, revision and deletion of portions of the proposed regulations, (2) inclusion of new terms with definitions in line with those of the Federal Energy Administration, where practical, and (3) provision for identification of specific positions to be exempted in accordance with section 522(c) of the Act.

The proposed regulations indicate that the Department intended to amend sections 20.735–22, –23, and –51. These amendments have been incorporated in this publication.

Numerous editorial changes have been necessary because of revisions, reparagraphing, and redesignation of the public disclosure statement as DI–211B rather than DI–211.

3. Public Law 94–429 (16 U.S.C. 1901), enacted September 28, 1976, provides for the regulation of mining activity within areas of the National Park System. Section 13 thereof, under the title "Sunshine in Government," provides that each officer or employee of the Secretary of the Interior who performs any function or duty under the Act, or under any of several Acts amended by Public Law 94–429, and has any known financial interest in any person subject to the Acts or in any person holding a mining claim, annually file a written statement concerning such interests. 16 U.S.C. 1912. In addition, the Secretary is to prescribe rules which define "known financial interest," and include provisions for filing statements, and their review, and methods for monitoring and enforcing section 13 of the Act. Section 13(a) of the Act also provides that the public disclosure statement shall be available to the public.

It is apparent that the contents of a written statement filed by an employee pursuant to section 13 of the Act will relate to the area of conflict of interest. Therefore, existing regulations which deal with this area of employee conduct are amended as indicated below.

Section 20.735–11 is amended by adding subsection (e). This new subsection summarizes the provisions of section 13 of the Act and brings the implementing regulations within the scope of Subpart B, Conflict of Interest.

Section 20.735–19 is new. It sets forth definitions, specifies who is to file a public disclosure statement, when and where to file, what to report, procedures for review and analysis of statements, and procedures for public access to statements. A new Department form (DI–211A), Public Disclosure Statement of Known Financial Interest) has been developed for use by employees who are covered by the law and these regulations.

4. The Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701, became law on October 21, 1976. Section 313 thereof, titled "Sunshine in Government," provides that each officer or employee of the Secretary of the Interior or of the Bureau of Land Management who performs any function or duty under the Act and has any known financial interest, as outlined in the section, annually file a written public disclosure statement concerning such interests. 43 U.S.C. 1743(a). In addition, the Secretary is required to prescribe rules which define "known financial interests", to include provisions for filing statements, for their review, and methods for monitoring and enforcing section 313(a) of the Act. Section 313(a) also provides that the public disclosure statement shall be available to the public.

It is apparent that the contents of a written public disclosure statement filed by an employee pursuant to section 313 of the Act will relate to the area of conflict of interest. Therefore, existing regulations dealing with this area of employee conduct are amended as indicated below.

Section 20.735–11 is amended by adding subsection (d). This new subsection summarizes the provisions of section 313 of the Act and brings the implementing regulations within the scope of Subpart B, Conflict of Interest.

Section 20.735–18 is new. It sets forth definitions, specifies who is to file a public disclosure statement, when and where to file, what to report, procedures for review and analysis of statements, and procedures for public access to statements. A new Department form has been developed for use by employees who are covered by the law and these regulations. It is form DI–211, titled: Public Disclosure Statement of Known Financial Interest.

5. In defining "known financial interest" in sections 20.735–18, 19 and 20, we found that two elements must be considered. First, the employee must know he or she has a financial interest; second the employee must know that the interest is in a person subject to the respective Acts. Clearly, "known" includes actual knowledge. In consideration of what knowledge should be imputed to the employee, we provided that the term includes knowledge which one ought reasonably be expected to have.

Generally an officer or employee is expected to "know" that a person owns an interest subject to one of the three public disclosure Acts:

(a) When the covered employee is doing business as an individual, a sole proprietorship or a partnership, and owns such an interest;

(b) When the person is doing business in any other organizational form, and an examination of the annual financial statement, or other corporate or business report routinely circulated to investors reveals that such person owns such an interest; or

(c) When that person appears on any list of persons performing activities subject to each of the Acts, which list is prepared and circulated to employees by the Department.

6. The Confidential Statements of Employment and Financial Interests forms (DI–212, DI–213) for regular and special government employees, respectively, were changed to require fuller disclosure as to number of shares of stock and value of investments (see appendices B–1 and B–2).

7. Paragraph 20.735–22(a) is changed to provide that all employees who occupy positions classified GS–15 or higher shall file Confidential Statements of Employment and Financial Interests. In addition, each employee whose position is identified in Appendix C shall file such statement. Appendix C is revised in its entirety and published herein.

8. Appendices D, E, and F to these regulations identify the bureaus and offices of the Department, or subunits thereof, performing functions or duties under the Federal Land Policy and Management Act, Mining in the Parks Act, and Energy Policy and Conservation Act, respectively, and also lists positions within such bureaus, offices, and subunits that have been specifically exempted by the Secretary from the public disclosure requirements of the three Acts because the positions were both nonregulatory and nonpolicymaking. Appendices D, E, and F are not published herein but will be published separately in the FEDERAL REGISTER by about December 31, 1976.

Because Part 20 consists of rules of agency organization, procedure and practice, adoption of the revised Part 20 through the rulemaking procedure prescribed in 5 U.S.C. 553 is not required and the revised Part 20 is accordingly adopted without resort to that procedure. In accordance with the public policy expressed in 5 U.S.C. 553 and the Department's policy statement of May 4, 1971, on rulemaking procedures, interested persons may, however, submit written comments, suggestions, data or arguments concerning the revised Part 20 to the Director, Office of Audit and Investigation, U.S. Department of the Interior, Washington, D.C. 20240, on or before January 24, 1977. All such comments received will be given full consideration.

This revision of Part 20 was approved by the Civil Service Commission on December 9, 1976, and shall be effective December 23, 1976.

THOMAS S. KLEPPE,
Secretary of the Interior.

DECEMBER 17, 1976.

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Subpart E—Bibliography of Statutes

20.735–51 Miscellaneous statutory provisions and restrictions.

APPENDICES

Appendix A–1 Employee Certification—U.S. Geological Survey
Appendix A–2 Employee Certification—Bureau of Indian Affairs
Appendix A–3 Employee Certification—Bureau of Land Management
Appendix A–4 Employee Certification—Bureau of Mines
Appendix A–5 Employee Certification—Mining Enforcement and Safety Administration
Appendix A–6 Employee Certification—Office of the Secretary
Appendix B–1 Confidential Statement of Employment and Financial Interests (Form DI–212)
Appendix B–2 Confidential Statement of Employment and Financial Interests (Form DI–213)
Appendix B–3 Public Disclosure Statement of Known Financial Interests (Federal Land Policy and Management Act—Form DI–211)
Appendix B–4 Public Disclosure Statement of Known Financial Interests (Mining in the Parks Act—Form DI–211A)
Appendix B–5 Public Disclosure Statement of Known Financial Interests (Energy Policy and Conservation Act — Form DI–211B)
Appendix C List of Employees, in addition to GS–15's and higher, required to file Confidential Statements of Employment and Financial Interests (Form DI–212)

AUTHORITY: The provisions of this Part 20 issued under E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR 1964–1965, Comp.; 5 CFR 735. 104; 5 U.S.C. 301; P.L. 94–579; P.L. 94–429; P.L. 94–163.

Subpart A—General Provisions

§ 20.735–1 Policy and general responsibilities.

(a) *Purpose.* These regulations set forth Department policies and identify principal laws and regulations which relate to employee conduct and responsibilities. The regulations are applicable to all regular and special employees of the Department. Exceptions to this general provision are stated in the specific section or paragraph to which they apply.

(b) *General policy.* Employees of the Department are expected to maintain especially high standards of honesty, integrity, impartiality, and conduct to ensure the proper performance of Government business and the continual trust and confidence of citizens in their Government. Employees are expected to comply with all Federal statutes, Civil Service Commission regulations and Department regulations. The conduct of employees should reflect the qualities of courtesy, consideration, loyalty to the United States, a deep sense of responsibility for the public trust, promptness in dealing with and serving the public, and a standard of personal behavior which will be a credit to the individual. These principles apply to official conduct and to private conduct which affects in any way the ability of the employee or the Department to effectively accomplish the work of the Department.

(c) *Conformance with policy.* Employees are required to carry out the announced policies and programs of the Department. The right of employees to express personal opinions and points of view will be respected. Such opinions or points of view will not, however, reduce the employee's responsibility to effectively perform the duties which he or she is assigned. An employee is subject to appropriate disciplinary action if he or she fails to carry out any lawful regulation, order, or policy, or deliberately refuses to obey the proper requests of superiors having responsibility for his or her performance.

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(d) *Bureau responsibility.* (1) Heads of bureaus and offices authorized to take action under § 20.735–3 shall establish and maintain internal procedures and guidelines to adequately and systematically inform employees of the content, meaning, and importance of the regulations in this part. Such supplementary guidelines may include specific or additional restrictions applicable to employees of the bureau or office. They shall be approved by the Department Ethics Counselor before they are issued.

(2) Copies of the regulations in this part shall be given to each employee and special Government employee upon entrance to duty. Each bureau and office shall remind its employees and special Government employees of the regulations in this part at least once annually, through a publication or memorandum issued to all employees. In addition, announcements of vacancies in those positions for which a statement of employment and financial interest is required (§ 20.735–22) will alert applicants to the filing requirement.

(e) *Employee responsibility.* It is the responsibility of employees to familiarize themselves, and to comply with the regulations in this part. Employees are expected to consult with their supervisors and personnel officers on general questions they may have regarding the applicability of the regulations. On specific matters and for guidance on questions of conflict of interest employees may obtain authoritative advice and guidance from Ethics Counselors, Deputy Ethics Counselors, Assistant Ethics Counselors, or the Department Ethics Counselor (§ 20.735–3). In addition, policy and decision-making officials should be careful in dealing with representatives of private industry so as not to give an opinion or decision contrary to expressed Department or bureau policy. A memorandum of discussion may be prepared to document discussions with representatives of private industry for future reference.

(f) *Conduct codes of specific groups.* Special codes of conduct may be developed, or adopted if established by the profession in which the employee is engaged, by the Department for specific groups of employees engaged in the same occupation or profession. Special codes of conduct may be considered in cases where (1) the number of employees involved is large, or (2) the work is performed by members of the group with minimum direct supervision. Proposals for special codes of conduct including procedures for their implementation will be submitted to the Department Ethics Counselor for approval. The Office of Personnel Management and the Office of the Solicitor shall concur in such codes before they are issued.

§ 20.735–2 Definitions.

Bureau. Refers to program-oriented organization of the Department of the Interior, such as the Geological Survey, Bureau of Mines, or the Mining Enforcement and Safety Administration.

Office. Refers to the specific offices to which authority to administer employee conduct regulations is delegated by § 20.735–3.

Employee. Refers to a regular officer or employee of the Department who is appointed or employed to serve more than 130 days in any period of 365 days.

Special Government Employee. Refers to an employee or officer of the Department of the Interior who is retained, designated, appointed, or employed to perform temporary duties with or without compensation, for not to exceed 130 days during any period of 365 consecutive calendar days, either on a full-time or intermittent basis (18 U.S.C. 202).

Executive Order. Refers to Executive Order 11222 of May 8, 1965.

§ 20.735–3 Delegations of authority and channels for counseling.

(a) *Designation of Ethics Counselors.* (1) The Assistant Secretary-Administration and Management for administering the regulations governing the conduct and responsibilities of employees in the Department of the Interior. The Assistant Secretary-Administration and Management has designated the Director, Office of Audit and Investigation as Department Ethics Counselor who shall:

(i) Provide advice, assistance, and guidance to all levels of Ethics Counselors within the Department.

(ii) Monitor, the conflict of interest program, using reports requested of bureaus and offices and periodic audits performed by the Office of Audit and Investigation. These audits will be conducted on a cyclical basis to ensure that each bureau or office is reviewed at least once every three years or upon request of the Department Ethics Counselor.

(iii) Review statements of employment and financial interests for those Department employees cited in paragraph 20.735–22(c)(2) of this part.

(iv) Elect to exercise, for reasonable cause, the authorities and responsibilities of any other Ethics Counselor within the Department either for the duration of an individual case or totally for a period not to exceed six months.

(2) Each bureau head, the Solicitor, the Director of the Office of Hearings and Appeals, and the Director of the Office of Water Research and Technology are designated as Ethics Counselors. Ethics Counselors are responsible for administering the regulations governing the conduct and responsibilities of employees in their respective bureaus or offices.

(3) Each Ethics Counselor shall designate the Bureau Personnel Officer (or other qualified headquarters employee) as Deputy Ethics Counselor. Deputy Ethics Counselors may carry out operational duties of the Ethics Counselor within their bureaus or offices under the general direction of the Ethics Counselor, including reviewing statements of employment and financial interests, informally resolving conflict of interest situations, and answering employee conduct questions.

(4) Each Ethics Counselor may also designate regional or area personnel officers (or other qualified employees) as Assistant Ethics Counselors to perform the operational duties of the Ethics Counselor at the field office level. Assistant Ethics Counselors may also be designated within the bureau or office headquarters.

(5) The Chief, Division of Personnel Services, Office of Secretarial Operations, is designated Deputy Ethics Counselor for employees and special Government employees of the Office of the Secretary and other offices for which personnel services are provided by this division. The Assistant Secretary-Administration and Management shall perform the functions of a bureau or office Ethics Counselor with respect to these employees. The Office of Hearings and Appeals, the Office of the Solicitor, the Office of Water Research and Technology, and those employees identified specifically within the responsibilities of the Department Ethics Counselor are excluded from the provisions of this paragraph.

(b) *Channels for counseling.* (1) Each employee and special Government employee shall be informed annually by the bureau or office head of the name, address, and telephone number of the Ethics Counselor whom he or she may contact.

(2) It is the Department's policy to encourage responsible disposition of counseling requests at the level at which they are first received. Ethics Counselors, if located in the field, may seek advice from Regional Solicitors, or from the Associate Solicitor for General Law if located in Washington, D.C. Matters of unusual significance or complexity may be referred through channels to the Department Ethics Counselor.

(3) Employees may also request counseling assistance from the Regional Solicitors or the Associate Solicitor for General Law, as appropriate. Such requests will be made through the Ethics Counselor serving their office.

§ 20.735–4 Sanctions.

Violations of the regulations in this part by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law. Such disciplinary action shall be taken in accordance with applicable laws, Executive Orders, or regulations (see Federal Personnel Manual and additions thereto).

Subpart B—Conflict of Interest

§ 20.735–11 Scope of subpart.

(a) *Content.* This subpart prescribes policies and procedures for the avoidance of conflicting interests in connection with an employee's Government position or in the discharge of his or her official responsibilities, and sets out the requirements for reporting and reviewing financial interests and outside employment.

(b) *Types of requirements.* All employees are subject to two types of requirements in connection with apparent or actual conflicting financial interests. One is a criminal statute, 18 U.S.C. 208, which by its terms prohibits participation by

any employee in certain official activities where he or she has a conflicting personal financial interest. Other requirements have been established under Executive Order 11222. The Executive Order and Civil Service Commission regulations require that employees occupying certain Government positions must report all personal interests and outside employment by filing a statement of employment and financial interests. The statute and the Executive Order have the common objective of deterring the occurrence of conflicting financial interest situations. The statute prohibits and punishes, while the Executive Order requires the statement of employment and financial interests which is intended to serve as an aid to the employee and those who review his or her statement in avoidance of the conflicting situation through advice and counseling.

(c) *General applicability.* The requirements of 18 U.S.C. 208 apply to all employees of the Department notwithstanding the requirement under this subpart for filing a statement of employment and financial interests by certain employees. All employees shall avoid acquiring a financial interest or taking any action that could result in a violation of 18 U.S.C. 208 or of these regulations.

(d) *Federal Land Policy and Management Act requirements.* Section 313(a) of the Act, Pub. L. 94–579, 90 Stat. 2743, requires each officer or employee of the Department who performs any function or duty under the Act and has a known financial interest in any person who (1) applies for or receives any permit, lease, or right-of-way under, or (2) applies for or acquires any land or interests therein under, or (3) is otherwise subject to the provisions of the Act to file annually with the Secretary a written statement disclosing all such interests held during the preceding calendar year. Such statement is subject to examination and is available for copying by the public upon request. Subsection (b) requires definition of the term "known financial interest," establishment of methods for filing statements, and a report to Congress on June 1 of each year. Subsection (c) provides that specific positions or classes thereof which are nonregulatory and nonpolicymaking may be identified and officers or employees occupying such positions shall be exempted from the requirements of section 313. Subsection (d) provides that any officer or employee who is subject to, and knowingly violates subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both. Section 20.735–18 implements the statutory requirements of section 313 of the Federal Land Policy and Management Act.

(e) *Mining in the Parks Act requirements.* Section 13(a) of the Act, Pub. L. 94–429, requires each officer or employee of the Department who performs any function or duty under the Act, or any Acts amended by the Act, and has a known financial interest (1) in any person subject to such Acts or (2) in any person who holds a mining claim within the boundaries of units of the National Park System, to file annually with the Secretary a written statement disclosing all such interests held during the preceding calendar year. Such statement is subject to examination and is available for copying by the public upon request. Subsection (b) requires definition of the term "known financial interest," establishment of methods for filing statements, and a report to Congress on June 1 of each year. Subsection (c) provides that specific positions or classes thereof, which are nonregulatory and nonpolicymaking may be identified and the officers or employees occupying such positions shall be exempted from the requirements of section 13. Subsection (d) provides that any officer or employee who is subject to and knowingly violates subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both. Section 20.735–19 implements the statutory requirements of section 13 of the Mining in the Parks Act.

(f) *Energy Policy and Conservation Act requirements.* Section 522(a) of the Act, 42 U.S.C. 6392, requires each officer or employee of the Department who performs any function or duty under the Act and has a known financial interest in any person engaged in certain specified businesses or in property from which coal, natural gas, or crude oil is commercially produced, to file annually with the Secretary a written statement disclosing all such interests held during the preceding calendar year. Such statement is subject to examination and is available for copying by the public upon request. Subsection (b) requires definition of the term "known financial interest," establishment of methods for filing statements, and a report to Congress on June 1 of each year. Subsection (c) provides that specific positions or classes thereof which are nonregulatory and nonpolicymaking may be identified and officers or employees occupying such positions shall be exempted from the requirements of section 522. Subsection (d) provides that any officer or employee who is subject to, and knowingly violates subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both. Section 20.735–20 implements the statutory requirements of section 522 of the Energy Policy and Conservation Act.

§ 20.735–12 Statutory prohibitions.

(a) The statutes generally spoken of as the conflict of interest laws, insofar as they relate to regular employees, are sections 203, 205, 207, 208, and 209 of Title 18 of the United States Code. The Department of Justice, in a memorandum of January 28, 1963 (28 FR 965; 18 U.S.C. 201, note) summarized the main provisions of conflict of interest laws as follows:

A regular officer or employee of the Government—that is, one appointed or employed to serve more than 130 days in any period of 365 days—is in general subject to the following major prohibitions (the citations are to the new sections of Title 18 of the United States Code):

1. He may not, except in the discharge of his official duties represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate, or person with whom he is negotiating for employment has a financial interest (18. U.S.C. 208).

3. He may not, after his Government employment has ended represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

4. He may not, for one year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restraint described in paragraph 3 if the matter is one in which he participated personally and substantially.

5. He may not receive any salary, or supplementation of his Government salary, from a private source as compensation of his services to the Government (18 U.S.C. 209).

(b) In addition to the general provisions contained in Title 18 U.S.C. the following restrictions are imposed specifically on selected Department of the Interior employees by other statutes:

(1) 43 U.S.C. 11 applies to the Bureau of Land Management employees. Section 11 provides:

The officers, clerks, and employees in the Bureau of Land Management are prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public land; and any person who violates this section shall forthwith be removed from his office:

An employee, or the spouse of an employee, stationed in Alaska may purchase or lease one tract of land, not exceeding five acres, for residence or recreation purposes in the State of Alaska.

(2) 30 U.S.C. 6 imposes certain restrictions upon Bureau of Mines employees. Section 6 provides:

In conducting inquiries and investigations authorized under sections 1, 3, and 5 to 7 of this Title neither the Director nor any member of the Bureau of Mines shall have any personal or private interest in any mine or the products of any mine under investigation, or shall accept employment from any private party for services in the examination of any mine or private mineral property or issue any report as to the valuation or the management of any mine or other private mineral property.

Nothing herein shall be construed as preventing the temporary employment by the Bureau of Mines, at a compensation not to exceed $10 per day, in a consulting capacity or in the investigation of special subjects, of any engineer or other expert whose principal professional practice is outside of such employment by said bureau.

(3) 43 U.S.C. 31(a) imposes certain restrictions upon members of the Geological Survey. Member is defined for the purposes of these prohibitions as any person on the rolls of the Geological Survey without regard to the duration or

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nature of his or her appointment. Section 31(a) provides in part:

> The Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations.

Members of the Geological Survey are restricted by Section 31(a) from holding any personal or private interests, direct or indirect, in lands whose title is in the United States. They are also restricted from holding personal or private interests, direct or indirect, in the mineral wealth of such lands. This latter provision is extended by paragraph 20.735–13(b) to restrict members of the Geological Survey from holding substantial personal or private interests, direct or indirect, in any private mining or mineral enterprise doing business in the United States except where specifically authorized by the Director of Geological Survey.

(4) 25 U.S.C. 68, which concerns trading with Indians provides:

> No person employed in Indian affairs shall have any interest or concern in any trade with the Indians, except for, and on account of, the United States; and any person offending herein, shall be liable to a penalty of $5,000, and shall be removed from his office.

The preceding law should be read in light of 25 U.S.C. 68a, which relates to employees making purchases from Indians, and 25 U.S.C. 441, which relates to Indian employees being entitled to Indian benefits. In addition, 25 CFR 251.5 and 251.6 provide exceptions applicable to each of these laws.

§ 20.735–13 Specific prohibitions imposed by regulations.

(a) *Mining Enforcement and Safety Administration.* Neither the Administrator nor any member of the Mining Enforcement and Safety Administration shall have any personal or private interest, direct or indirect, in any mine or the products of any mine under investigation, or shall accept employment from any private party for services in the examination of any mine or private mineral property, or issue any report as to the valuation or the management of any mine or other private mineral property. Nothing herein shall be construed as preventing the temporary employment by the Mining Enforcement and Safety Administration in a consulting capacity or in the investigation of special subjects, of any engineer or other expert whose principal professional practice is outside of such employment by the Mining Enforcement and Safety Administration. The Administrator of the Mining Enforcement and Safety Administration may authorize exceptions to this restriction on an individual basis for cause.

(b) *Geological Survey.* In addition to the statutory restrictions cited in paragraph 20.735–12(b)(3), members of the Geological Survey shall not hold substantial personal or private interests, direct or indirect, in any private mining enterprise doing business in the United States. The Director of Geological Survey may authorize exceptions to this restriction on an individual basis for cause.

(c) *Office of the Secretary.* The statutory restrictions quoted in paragraph 20.735–12(b) shall also apply to the employees of the Office of the Secretary and other organizational entities reporting directly to a Secretarial officer who are required to file a statement of employment and financial interests. The Secretary may authorize exceptions to these restrictions for individual employees or a class of employees for cause.

§ 20.735–14 Indian and Alaska Native organizations.

(a) *General restrictions.* Indian and Alaska Native employees are subject to the general restrictions on financial interests set forth in § 20.735–15 and on outside work set forth in § 20.735–16.

(b) *Special conditions.* Many Indian or Alaska Native employees of the Department, especially within the Bureau of Indian Affairs, are members of federally recognized tribes, bands, pueblos or corporations created under the Alaska Native Claims Settlement Act. These employees cannot absolve themselves of tribal membership or ownership in Indian or Alaska Native corporations. Additionally, by operation of law and policy, the Bureau of Indian Affairs must give preference to Indians in all personnel actions, and is pursuing a policy of Indian Self-Determination. In recognition of these factors, membership in an Indian tribe, band or pueblo which receives services from Interior or ownership of interests in an Indian or Alaska Native corporation established under the Indian Reorganization Act or the Alaska Native Claims Settlement Act shall not be considered a conflicting interest except as restricted by the provisions of this section. Ownership of interests in an Indian or Alaska Native corporation shall be reported by the employee on the statement of employment and financial interests whenever such a statement is required.

(1) Except for membership on a tribal election board, an Indian or Alaska Native employee of the Bureau of Indian Affairs may, with the approval of the Commissioner, be involved in tribal affairs as an officer or representative when circumstances justify and no real or apparent conflict of interest is created. Requests will be handled on a case-by-case basis and, if approved will require that such duties be carried out while on (i) off duty hours, (ii) leave without pay, (iii) administrative leave, or (iv) an Intergovernmental Personnel Act assignment. If service is provided to a tribe or Alaska Native Corporation in accordance with these special conditions, the employee may not thereafter, if the tribal organization with which he served is within the jurisdiction or area of responsibility of the office to which the employee is assigned, participate in his governmental capacity in a decision or recommendation involving a particular matter in which he participated while serving the tribal organization. It is the duty of the employee to identify to his supervisor the extent of participation in tribal matters and request, when appropriate, that he be relieved from acting on the matter in his governmental capacity.

(2) An Indian or Alaska Native may hold, in the Bureau of Indian Affairs, a policy or decision-making position as identified in the Bureau of Indian Affairs Manual Part 735, on his or her home reservation, Area Office, or in the Central Office, with approval of the Commissioner, when the following conditions are met:

(i) During tenure the employee may not lease more than $500 in value per year from the tribe or Alaska Native corporation for his or her personal benefit. The Commissioner may authorize exceptions from the $500 limitation on an individual basis for cause;

(ii) Divestiture of tribal financial interest (as well as any personal outside financial interest) that creates an apparent or actual conflict situation unless such divestiture is precluded by law or the Commissioner determines that factors, such as but not limited to tribal custom or severe financial hardship, provide a basis for authorizing an individual exception;

(iii) Acquisition of Indian lands is limited to five (5) acres or less during tenure in office and may be further restricted to no acquisition of Indian lands if the employee presently holds any Indian lands;

(iv) Acquisition of any loans or grants through the tribal governing body is prohibited during tenure in office by the employee, spouse, minor children or other relatives residing in the employee's home. As an exception, loans or grants are not prohibited for Higher Education and Adult Vocational Training programs;

(v) Any personal indebtedness to the tribal governing body will be settled in full prior to appointment. The Appointing Officer may grant extensions not to exceed 90 days after appointment; and

(vi) Any other specific conflict must be satisfactorily resolved.

(3) An Indian or Alaska Native employee of the Department shall not make nor participate in a substantial manner in any decision of the Department if he has a private direct interest as defined in paragraph 20.735–15(b) in the results of the decision. If the decision is one which the employee would be expected to make if he or she had no direct interest, the matter shall be referred to the next higher authority of the Department which does not have such private direct interest in an appropriate form but without recommendation by the employee having a private direct interest.

(4) The restrictions stated in this section shall apply to temporary and intermittent employees and consultants employed by the Department except employees or consultants who are members of boards or other organization which have as a principal purpose consultation with the Department or Bureau of Indian Affairs on the programs and policies of the Department related to Indians and Alaska Natives.

(5) The terms "officer or representative" as used in this section mean the occupant of an elective or other position in an official governing body of the tribe, band, pueblo or corporation or any position of the governing body which carries with it the right to vote in the proceedings of the body or to make substantial decisions on behalf of the governing body.

§ 20.735–15 Financial interests.

(a) No Department employee shall:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her Government duties and responsibilities.

(2) Engage in, directly or indirectly, a financial transaction resulting from, or primarily relying on, information obtained through his or her Government employment.

(3) Have an interest in a contract with the Government or with an Indian tribe for the purchase, transportation, or delivery of goods or supplies for the Indian tribes. While Federal employees may, under regulations of the Secretary, purchase products, services or commodities from Indians, such purchases may not be made for the purposes of resale (25 U.S.C. 67(a)).

(b) Definitions:

Apparent Conflict. A situation where a reasonable member of the public could suppose an employee to be in conflict, even though he or she might not be.

Conflict. A situation where an employee's public duty is or will be affected by his or her interest, such as when the employee owns or has an interest in a company, land, or other entity, which is or will be affected by operations or decisions he or she makes or in which he or she is involved.

Direct Interest. Ownership or part ownership by an employee in his or her own name of lands, stocks, bonds, or other holdings. Direct interest includes the holdings of a spouse and minor child. The holdings of other relatives, including in-laws, who live in the employee's home are also considered to be the direct interest of the employee.

Indirect Interest. Ownership of a financial interest by an employee in the name of another person where the employee still reaps the benefits. This is considered the same as a Direct Interest insofar as these regulations are concerned (except as qualified by paragraph 20.735–24(a)(3) and (4)).

§ 20.735–16 Outside work and interests.

(a) *Policy.* Outside work is permitted to the extent that it does not prevent an employee from devoting his or her primary interests, talents, and energies to the accomplishments of his or her work for the Department or tend to create a conflict between the private interests of an employee and the employee's official responsibilities. The employee's outside work shall not reflect discredit on the Government or the Department.

(b) *Definitions:*

Active Proprietary Management. An outside work business affiliation in which ownership is coupled with responsibility for day to day management efforts in making decisions, supervising operations, dealing with the public, and otherwise discharging essential tasks in the direction of the business.

Outside Work. All gainful employment other than the performance of official duties including but not limited to self-employment, working for another employer, the management or operation of a private business for profit (including personally-owned businesses, partnerships, corporations, and other business entities).

(c) *Restrictions.* (1) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his or her Government employment. Any work assignment or employment affiliation which might encourage on the part of members of the general public a reasonable belief of a conflict of interest falls in this category. Incompatible activities include but are not limited to outside work which tends to impair the employee's mental or physical capacity to perform his or her Government duties and responsibilities in an acceptable manner.

(2) An employee shall not receive any salary or anything of monetary value from a private source as compensation for services to the Government (18 U.S.C. 209). This includes acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest.

(3) A Bureau of Mines or Mining Enforcement and Safety Administration employee may not work on any private report as to the valuation or the management of any mine or other private mineral property with or without remuneration.

(4) A Geological Survey employee may not work on any surveys or examinations for private parties or corporations with or without remuneration.

(5) Active proprietary management of any except the smallest business is questionable because of the probability that such management responsibilities may interfere with the employee's obligations to his or her primary employer, the Federal Government. Employees are especially urged to seek the advice of their Ethics Counselors before committing themselves to such activities.

(6) An employee shall not perform outside work:

(i) Which is of such a nature that it may be reasonably construed by the public to be the official act of the Department; or

(ii) Which involves the use of Government facilities, equipment, and supplies of whatever kind; or

(iii) Which involves the use of official information not available to the public.

(7) While an employee is not prohibited from performing outside work solely because the work is of the same general nature as the work he or she performs for the Government, no employee may perform outside work:

(i) If the work is such that the employee would be expected to do it as a part of his or her regular duties; or

(ii) If the work involves active proprietary management of a business closely related to the official work of the employee; or

(iii) If the work would tend to influence the exercise of impartial judgment on any matters coming before the employee in the course of his or her official duties.

(8) A Government employee shall not use his or her Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or herself or another person particularly one with whom he or she has family, business or financial ties.

(9) This section does not preclude an employee from:

(i) Participation in the activities of national or state political parties which are not otherwise prohibited by law (paragraphs 20.735–37 (i) and (j)); or

(ii) Participation in the affairs of, or acceptance of an award for, meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 20.735–18 Specific regulations under the Federal Land Policy and Management Act.

(a) *Definitions.* (1) "Covered employee" means an officer or employee of the Department of the Interior performing a function or duty under the Federal Land Policy and Management Act, Pub. L. 94–579, 90 Stat. 2743, whose position has not been exempted by the Secretary of the Interior from the reporting requirements of section 313 of the Act.

(2) "Person" means an individual, corporation, partnership, association, consortium, company, firm, society, trust, joint venture, joint stock company, or any entity organized for a common business purpose, wherever situated, domiciled, or doing business.

(3) "Public Land" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except (i) lands located on the Outer Continental Shelf, and (ii) lands held for the benefit of Indians, Aleuts and Eskimos.

(4) "Engaged in business subject to the Federal Land Policy and Management Act" means conduct of any business involving the use, occupancy or development of public land or of mineral, timber, range, wildlife, recreation, watershed or other resources thereon. A parent company or holding company is "engaged in business subject to the Federal Land Policy and Management Act" if one or more of its subsidiaries is "engaged in business subject to the Federal

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Land Policy and Management Act." A mutual fund or investment club is within the definition if it specializes in a business involved in the use, occupancy or development of public lands or of mineral, timber, range, wildlife, recreation, watershed or other resources thereon.

(5) "Pecuniary interest" means any monetary or financial interest (whether owned directly by a covered employee or held for the employee's benefit by a trustee), including, but not limited to (i) the ownership of common stock, preferred stock, bonds, debentures, warrants or a partnership share, (ii) a leasehold, rental, permit, license, right of way, or contract, or (iii) a pension or retirement plan, shared income or other arrangement as a result of current or prior employment or professional association.

(6) "Known financial interest" means (i) any right of a covered employee to use, occupy or develop public land or mineral, timber, range, wildlife, recreation, watershed or other resources thereon, or (ii) any pecuniary interest of a covered employee in any person whom the employee knows, or could reasonably be expected to know, is engaged in a business subject to the Federal Land Policy and Management Act.

(b) *Who shall file.* (1) The Act applies to all officers and employees of the Department who perform functions or duties under it. All such officers and employees must file a public disclosure statement unless they occupy a position which has been specifically exempted by the Secretary of the Interior from the reporting requirements of section 313 of the Act or are no longer employed by the Department at the time a filing is due.

(2) Appendix D of this part lists the bureaus and offices of the Department, or subunits thereof, performing functions or duties under the Act and also lists positions which the Secretary has determined are of a nonregulatory and nonpclioymaking nature and has exempted from the reporting requirements of section 313 of the Act.

(3) The head of each affected bureau or office will annually review and update the related portion of Appendix D to this part. Proposed revisions or a certification that revision is not required shall be submitted to the Department Ethics Counselor by no later than September 30 of each year. The Secretary may revise Appendix D by the addition or deletion of positions at any time he determines such revisions are required to carry out the purpose of the law or the regulations of this part. Additions to, deletions from and other amendments of the list of positions in Appendix D are effective upon notification to the incumbents or publication in the FEDERAL REGISTER.

(c) *When to file.* Each covered employee required to file a public disclosure statement shall file such a statement on form DI–211 (see Appendix B–3). The Ethics Counselor shall notify each such employee, and furnish the form to the employee by December 15 of each year. The employee shall file a completed statement with the appropriate Ethics Counselor by no later than February 1 of each year showing applicable holdings and interests for the previous calendar year.

(d) *Where to file.* The Secretary shall file his statement with the Department Ethics Counselor. All other covered employees shall file their statements as provided in § 20.735–22(c) for form DI–212 (Statement of Employment and Financial Interests).

(e) *What to report.* (1) Covered employees will report all information required on Form DI–211 (Appendix B–3). An employee is not required to report:

(i) Holdings owned by his spouse or children.

(ii) Holdings acquired by trustee for blind trust. Covered employees who are beneficiaries of blind trusts are required to disclose only interests that are initially committed to the blind trust, not of interests thereafter acquired by the trustee of which the employee or officer has no actual knowledge.

(2) Covered employees having no known financial interest to report shall file a form DI–211 indicating thereon, where appropriate, "None".

(f) *Procedure.* (1) Review and analysis of statements. The head of each affected bureau or office will annually review and update Appendix D in accordance with subsection (b) above. After the employee files a statement pursuant to subsections (b) (c) (d) and (e) above, review and analysis of the statement shall be pursuant to § 20.735–23, insofar as what is provided there is not inconsistent with the provisions of this § 20.735–18.

(2) Procedures for remedial action shall be pursuant to § 20.735–24, insofar as what is provided there is not inconsistent with the provisions of this § 20.735–18.

(3) Appeals procedures shall be pursuant to § 20.735–25, insofar as what is provided there is not inconsistent with the provisions of this § 20.735–18.

(4) The annual report required by section 313(b)(2) of the Act shall be prepared under the supervision of the Department Ethics Counselor for submission to the Congress by June 1.

(g) *Public access to and copying of statements; fees.* (1) Form DI–211 shall be available for review or copying at those offices where employees are required to file pursuant to § 20.735–22(c). Within 30 days after receipt (by March 1) the DI–211 forms will be available to the public centrally at the Department Library, 18th and C Street, NW., Washington, D.C. 20240.

(2) The fee schedule for services performed in obtaining or copying a statement is set forth in 43 CFR Part 2, Appendix A, which is made applicable to this regulation.

§ 20.735–19 Specific regulations under the Mining in the Parks Act.

(a) *Definitions.* (1) "Covered employee" means an officer or employee of the Department of the Interior performing a function or duty under the Mining in the Parks Act, Pub. L. 94–429, whose position has not been exempted by the Secretary of the Interior from the reporting requirements of section 13 of the Act.

(2) "Mining claim" means any patented or unpatented mining claim within any area of the National Park System.

(3) "Mining activity" means any exploration and assessment work, preparation of mining claims for the extraction of minerals, mining, transportation of the extracted minerals, processing of the extracted minerals or reclamation of a mining claim following mining, provided these activities take place, in whole or part, within the boundaries of any area of the National Park System.

(4) "Engaged in business subject to the Mining in the Parks Act" means the conduct of a business involving the ownership of, or the right to use or occupy, a mining claim or the conduct of mining activity. A parent company is "engaged in business subject to the Mining in the Parks Act" if one or more of its subsidiaries is "engaged in business subject to the Mining in the Parks Act." A mutual fund or investment club is within the definition if it specializes in a business or businesses which own or have the right to occupy or use mining claims or conduct mining activity.

(5) "Person" means any individual, corporation, partnership, association, consortium, or any other entity organized for a common business purpose.

(6) "Pecuniary interest" means any monetary or financial interest (whether owned directly by a covered employee or held for the employee's benefit by a trustee), including, but not limited to, (i) the ownership of common stock, preferred stock, bonds, debentures, warrants or a partnership share, (ii) a leasehold, rental, permit, license, right of way, or contract or (iii) a pension or retirement plan, shared income or other arrangement as a result of current or prior employment or professional association.

(7) "Known financial interest" means (i) any mining claim which a covered employee owns or has the right to occupy and use, (ii) any mining activity in which a covered employee is engaged, or (iii) any pecuniary interest of a covered employee in any person whom the employee knows, or could reasonably be expected to know, is engaged in business subject to the Mining in the Parks Act.

(b) *Who shall file.* (1) The Act applies to all officers and employees of the Department who perform functions or duties under it. All such officers and employees must file a public disclosure statement unless they occupy a position which has been specifically exempted by the Secretary of the Interior from the reporting requirements of section 13 of the Act or are no longer employed by the Department at the time a filing is due.

(2) Appendix E to this part lists the bureaus and offices of the Department, or subunits thereof, performing functions or duties under the Act and also lists positions which the Secretary has determined are of a nonregulatory and nonpolicymaking nature and has exempted from the reporting requirements of section 13 of the Act.

(3) The head of each affected bureau or office will annually review and update the related portion of Appendix E to this part. Proposed revisions or a certification that revision is not required shall be submitted to the Department Ethics Counselor by no later than September 30 of each year. The Secretary may revise Appendix E by the addition or deletion of positions at any time he determines such revisions are required to carry out the purpose of the law or the regulations of this part. Additions to, deletions from and other amendments of the list of positions in Appendix E are effective upon notification to the incumbents or publication in the FEDERAL REGISTER.

(c) *When to file.* Each covered employee required to file a public disclosure statement shall file such a statement on form DI–211A (see Appendix B–4). The Ethics Counselor shall notify each such employee, and furnish the form to the employee by December 15 of each year. The employee shall file a completed statement with the appropriate Ethics Counselor by no later than February 1 of each year showing applicable holdings and interests for the previous calendar year.

(d) *Where to file.* The Secretary shall file his statement with the Department Ethics Counselor. All other covered employees shall file their statements as provided in § 20.735–22(c) for form DI–212 (Statement of Employment and Financial Interests).

(e) *What to report.* (1) Covered employees will report all information required on form DI–211A (Appendix B–4). An employee is not required to report:

(i) Holdings owned by his spouse or children.

(ii) Holdings acquired by trustee for blind trust. Covered employees who are beneficiaries of blind trusts are required to disclose only interests that are initially committed to the blind trust, not of interests thereafter acquired by the trustee of which the employee or officer has no actual knowledge.

(2) Covered employees having no known financial interest to report shall file a form DI–211A indicating thereon, where appropriate, "None".

(f) *Procedure.* (1) Review and analysis of statements. The head of each affected bureau or office will annually review and update Appendix E in accordance with subsection (b) above. After the employee files a statement pursuant to subsections (b), (c), (d), and (e) above, review and analysis of the statement shall be pursuant to § 20.735–23, insofar as what is provided there is not inconsistent with the provisions of this § 20.735–19.

(2) Procedures for remedial action shall be pursuant to § 20.735–24, insofar as what is provided there is not inconsistent with the provisions of this § 20.735–19.

(3) Appeals procedures shall be pursuant to § 20.735–25, insofar as what is provided there is not inconsistent with the provisions of this § 20.735–19.

(4) The annual report required by section 13(b)(2) of the Act shall be prepared under the supervision of the Department Ethics Counselor for submission to the Congress by June 1.

(g) *Public access to and copying of statements; fees.* (1) Form DI–211A shall be available for review or copying at those offices where employees are required to file pursuant to § 20.735–22(c). Within 30 days after receipt (by March 1) the DI–211A forms will be available to the public centrally at the Department Library, 18th and C Streets, N.W., Washington, D.C. 20240.

(2) The fee schedule for services performed in obtaining or copying a statement is set forth in 43 CFR Part 2, Appendix A, which is made applicable to this regulation.

§ 20.735–20 Specific regulations under the Energy Policy and Conservation Act.

(a) *Definitions.* (1) "Covered employee" means an officer or employee of the Department of the Interior performing a function or duty under the Energy Policy and Conservation Act, 42 U.S.C. 6201, whose position has not been exempted by the Secretary of the Interior from the reporting requirements of section 522 of the Act.

(2) "Energy property" means real property from which coal, natural gas or crude oil is commercially produced.

(3) "Person" means an individual, corporation, partnership, association, consortium, company, firm, society, trust, joint venture, joint stock company, or any entity organized for a common business purpose, wherever situated, domiciled, or doing business, who directly or through other persons subject to their control does business in any part of the United States. For purposes of this definition, the United States includes the Outer Continental Shelf.

(4) "Engaged in energy business" means the active conduct of one or more of the businesses of exploring, developing, producing, or refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products. A parent company or holding company is "engaged in energy business" if one of its subsidiaries in the United States is "engaged in energy business". A mutual fund or investment club is within the definition if it specializes in a business or businesses which explore, develop, refine, transport by pipeline or distribute (other than at the retail level) coal, natural gas, or petroleum products in the United States.

(5) "Pecuniary interest" means any monetary or financial interest (whether owned directly by a covered employee or held for the employee's benefit by a trustee), including, but not limited to (i) the ownership of common stock, preferred stock, bonds, debentures, warrants or a partnership share, (ii) a leasehold, rental permit, license, right of way, or contract, or (iii) a pension or retirement plan, shared income or other arrangement as a result of current or prior employment or professional association.

(6) "Known financial interest" means (i) any energy property which a covered employee owns or has a right to occupy or use and (ii) any pecuniary interest of a covered employee in a person whom the employee knows, or could reasonably be expected to know, owns or has the right to occupy energy property or is engaged in energy business.

(b) *Who shall file.* (1) The Act applies to all officers and employees of the Department who perform functions or duties under it. All such officers and employees must file a public disclosure statement unless they occupy a position which has been specifically exempted by the Secretary of the Interior from the reporting requirements of section 522 of the Act or are no longer employed by the Department at the time a filing is due.

(2) Appendix F to this part lists the bureaus and offices of the Department, or subunits thereof, performing functions or duties under the Act and also lists positions which the Secretary has determined are of a nonregulatory and nonpolicymaking nature and has exempted from the reporting requirements of section 522 of the Act.

(3) The head of each affected bureau or office will annually review and update the related portion of Appendix F to this part. Proposed revisions or a certification that revision is not required shall be submitted to the Department Ethics Counselor by no later than September 30 of each year. The Secretary may revise Appendix F by the addition or deletion of positions at any time he determines such revisions are required to carry out the purpose of the law or the regulations of this part. Additions to, deletions from and other amendments of the list of positions in Appendix F are effective upon notification to the incumbents or publication in the FEDERAL REGISTER.

(c) *When to file.* Each covered employee required to file a public disclosure statement shall file such a statement on form DI–211B (see Appendix B–5). The Ethics Counselor shall notify each such employee, and furnish the form to the employee by December 15 of each year. The employee shall file a completed statement with the appropriate Ethics Counselor by no later than February 1 of each year showing applicable holdings and interests for the previous calendar year.

(d) *Where to file.* The Secretary shall file his statement with the Department Ethics Counselor. All other covered employees shall file their statements as provided in § 20.735–22(c) for form DI–212 (Statement of Employment and Financial Interests).

(e) *What to report.* (1) Covered employees will report all information required on form DI–211B (Appendix B–5). An employee is not required to report:

(i) Holdings owned by his spouse or children.

(ii) Holdings acquired by trustee for blind trust. Covered employees who are beneficiaries of blind trusts are required to disclose only interests that are initially committed to the blind trust, not of interests thereafter acquired by the trustee of which the employee or officer has no actual knowledge.

(2) Covered employees having no known financial interest to report shall file a form DI–211B indicating thereon, where appropriate, "None".

(f) *Procedure.* (1) Review and analysis of statements. The head of each affected

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bureau or office will annually review and update Appendix F in accordance with subsection (b) above. After the employee files a statement pursuant to subsections (b) (c) (d) and (e) above, review and analysis of the statement shall be pursuant to § 20.735–23, insofar as what is provided there is not inconsistent with the provisions of the § 20.735–20.

(2) Procedures for remedial action shall be pursuant to § 20.735–24, insofar as what is provided there is not inconsistent with the provisions of this § 20.735–20.

(3) Appeals procedures shall be pursuant to § 20.735–25, insofar as what is provided there is not inconsistent with the provisions of this § 20.735–20.

(4) The annual report required by section 522(b)(2) of the Act shall be prepared under the supervision of the Department Ethics Counselor for submission to the Congress by June 1.

(g) *Public access to and copying of statements:* fees. (1) Form DI–211B shall be available for review or copying at those offices where employees are required to file pursuant to § 20.735–22(c). Within 30 days after receipt (by March 1) the DI–211B forms will be available to the public centrally at the Department Library, 18th and C Streets, N.W., Washington, D.C. 20240.

(2) The fee schedule for services performed in obtaining or copying a statement is set forth in 43 CFR Part 2, Appendix A, which is made applicable to this regulation.

§ 20.735–21 Certificates of disclaimer.

Each employee covered by the restrictions in § 20.735–12 and § 20.735–13 will sign a certificate upon entrance to duty or upon transfer between bureaus or offices indicating that he or she is aware of the restrictions pertinent to his or her employment and that he or she is in compliance with such restrictions. Each employee currently employed and covered by one or more of the restrictions in § 20.735–12 and § 20.735–13 will sign such a certificate within 120 days of the effective date of these regulations unless the head of the bureau or office concerned determines that a similar certificate previously signed by the employee is adequate. If an employee is unable to sign the certificate, he or she must submit a statement of facts to the appropriate Ethics Counselor for review and action under the provisions of § 20.735–23 through 25. (See Appendix A for applicable certificate.)

§ 20.735–22 Employees required to file statements of employment and financial interests: Manner of Filing.

(a) *Who shall file.* All employees who occupy a position classified GS–15 or higher shall file a Statement of Employment and Financial Interests (form DI–212). In addition each employee whose position is listed in Appendix C to this part shall file a form DI–212. The head of each bureau or office will annually review and update the related portion of Appendix C to this part. Proposed revisions or a certification that revision is not required shall be submitted to the Department Ethics Counselor by no later than September 30 of each year. The Secretary may revise Appendix C by the addition or deletion of positions at any time he determines such revisions are required to carry out the purpose of law, the Executive Order, the Civil Service Commission regulations, or the regulations of this part. Additions to, deletions from, and other amendments of the list of positions in Appendix C are effective upon actual notification to the incumbents. The amended Appendix C shall be submitted annually for publication in the FEDERAL REGISTER. Employees are and shall be included in the Appendix C pursuant to the following criteria:

(1) Employees in administrative law judge positions regardless of pay level.

(2) Employees classified at GS–13 or above (or comparable pay level) who are in positions whose duties and responsibilities require making a Government decision or taking a Government action which could result in a conflict of interest. Examples (not all-inclusive) of such duties are:

Contracting and procurement.

Administering or monitoring grants, loans or subsidies.

Selecting concessioners, approving or administering concessions contracts, or approving concessions management policies.

Regulating, auditing, or inspecting private or other non-Federal enterprise.

Recommending policy for private or other non-Federal enterprise.

Sitting on special committees that may influence policies on private or other non-Federal enterprise.

Appraising or acquiring real estate for the Government.

Enforcing Federal laws.

Conducting other activities where the decision or action has an economic impact on the interests of any private or other non-Federal enterprise.

(3) Employees in other positions classified at GS–13 or above (or comparable pay level) who are in positions whose duties and responsibilities may create an appearance of a conflict of interest. Presidential Interchange Executives and other employees on loan to the Department from industry or other non-Government agency are included under this requirement. Others which may be included are those positions involving such duties as the following:

Participation in the decision-making process on matters that may affect private or other non-Federal enterprise.

Planning or developing activities that may affect private or other non-Federal enterprise.

Reviewing results of operations.

Meeting with public media personnel or preparing and disseminating public information.

Supervising others who must file employment and financial interest statements.

Analyzing or reviewing economic data relating to or of potential value to non-Federal enterprise.

Conducting any other activities that could have an economic impact on the interests of any private or other non-Federal enterprise.

(4) Employees classified at GS–12 or below who are in positions that meet the criteria for positions at GS–13 or above and also:

Who have duties similar to those of a GS–13 in the same occupation in those areas of responsibility where a significant potential for conflict of interest exists.

Who function with a minimum of supervision either because of the nature of their job or because of remote location.

Who make Government decisions that directly affect the economic interests of any private or other non-Federal enterprise.

(5) Filing by employee on temporary assignment or detail.

(i) In some instances, temporary assignments or details will involve employees in policy or decision-making situations different from those in the employee's regular position. An employment and financial interest statement may be necessary, either because the position to which the employee is temporarily assigned is listed in the appendix to this regulation, or because the bureau or office head, task force leader, or project manager, may decide the temporary or detail position requires it.

(ii) In these instances, the temporarily assigned or detailed employee shall file an employment and financial interest statement before the effective date of the assignment or detail, or, if the employee has a statement on file, it shall be updated and reviewed by the applicable Ethics Counselor for conflict or possible conflict with the employee's new duties.

(iii) Each bureau or office is responsible for implementing paragraph 20.735–22(a)(6)(ii) so that statements are filed or updated and reviewed. Assignments of 30 days or less are exempt from the requirement.

(b) *When to file.* Each employee required to file a statement of employment and financial interests shall file such a statement on Form DI–212. (See Appendix B–1) The Ethics Counselors shall notify each such employee and furnish the form to the employee by December 15 of each year. The employee shall file a completed statement of employment and financial interest with the appropriate Ethics Counselor:

(1) By no later than February 1 of each year showing holdings and interests as of December 31, or

(2) Within thirty days after notification that his or her position has been added to the list in Appendix C, or classified at GS–15 or above or

(3) At the time of entrance on duty if a new employee. Persons transferring between bureaus or offices will be treated as new employees.

(c) *Where to file.* (1) The Department Ethics Counselor, his or her immediate supervisor, and the Assistant Secretary—Administration and Management will file statements with the Under Secretary.

(2) Persons in the following positions will file statements with the Department Ethics Counselor: The Under Secretary; Deputy Under Secretaries; Assistants to the Secretary; Solicitor and Deputy Solicitor; Assistant and Deputy Assistant Secretaries; Heads of bureaus and offices; the High Commissioner and Deputy High Commissioner of the Trust Territory; the Governor and Secretary of American Samoa; and such others as the Secretary may designate.

(3) Employees in the Office of the Solicitor (except for the Solicitor and Deputy Solicitor) will file statements with the Solicitor or the Deputy Ethics Counselor for the Office of the Solicitor, as the Solicitor may direct.

(4) Employees in the Office of Hearings and Appeals (except for the Director) will file statements with the Director, Office of Hearings and Appeals or the Deputy Ethics Counselor for the Office of Hearings and Appeals as the Director may direct.

(5) Employees in the Office of Water Research and Technology (except for the Director) will file statements with the Director, Office of Water Research and Technology or the Deputy Ethics Counselor for the Office as the Director may direct.

(6) Employees and special Government employees in the Office of the Secretary and in other Department offices, except those employees mentioned in (1), (2), (3), (4), and (5), of this paragraph will file statements with the Chief, Division of Personnel Services, Office of Secretarial Operations.

(7) Employees and special Government employees in bureaus (except for the head of the bureau) will file statements with the bureau head, Deputy Ethics Counselor, or the Assistant Ethics Counselor as the head of the bureau may direct.

(d) *What to report.* (1) Employees will report all information required on form DI–212 (Appendix B–1). An employee is not required to report connection with, or interest in:

(i) A professional society;

(ii) A charitable, religious, social, fraternal, recreational, public service, civil, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

(2) Except where organic act restrictions apply, either by statute or regulation (§ 20.735–12 and 13), an employee may also exclude:

(i) Holdings in widely held mutual funds, investment clubs or regulated investment companies not specializing in a particular industry.

(ii) Savings or deposits in banks, credit unions, building and loan associations, or insurance companies.

(3) Retirement benefits, vested rights to retirement benefits, or investments in self-employment or individual retirement plans must be reported by employees on form DI–212. Such interests shall be reviewed on a case-by-case basis to ensure that they do not place the employee in a conflict or appearance of conflict situation.

(4) If any information required to be included on a statement of employment and financial interests or supplementary statement is not known to the employee but is known to another person, the employee shall request that other person to submit information on his behalf on form DI–212 to the appropriate Ethics Counselor. This requirement may be waived for holdings in an approved blind trust (paragraph 20.735–24(a)(3)).

(e) *Confidentiality of employees' statements.* (1) Each statement of employment and financial interests is a "Non-security Confidential" document and will be held in confidence. The statement will be transmitted in a blue envelope so marked by the employee to the Ethics Counselor designated in paragraph (c) of this section. Ethics Counselors are responsible for maintaining the statements in strict confidence. Employees having access to statements shall not allow information to be disclosed from statements except to those individuals who must have access in order to carry out responsibilities assigned by these regulations or specific law.

(2) Statements of employment and financial interest will be retained by the Ethics Counselors who actually perform the review. The personnel office holding the employee's official personnel folder must be notified when the review has been completed. All statements shall be destroyed two years after an employee leaves a position in which a statement is required or two years after the employee leaves the Department, whichever is earlier.

§ 20.735–23 Review and analysis of statements.

(a) Each employee and special Government employee statement shall be reviewed by the Ethics Counselor with whom it is filed by no later than March 3 of each year to ensure that the employee is in compliance with these regulations. The Ethics Counselor may consult with the Regional Solicitor, or the Division of General Law of the Office of the Solicitor in Washington, as the case may be (§ 20.735–3(b)(2)), in the conduct of the review. The Ethics Counselor will exercise judgment and reasonableness in reviewing statements, but will be alert to potential conflicts, actual conflicts, or apparent conflicts which may be indicated.

(b) In the event that an employee's statement of employment and financial interest reflects a potential conflict, conflict, or apparent conflict, the Assistant or Deputy Counselor shall endeavor to resolve the matter informally with the employee. If it cannot be so resolved, the employee's statement, and a full report of efforts made to determine the existence or non-existence of conflict and to resolve it, shall be referred to the bureau or office Ethics Counselor for appropriate action under § 20.735–24.

(c) At all stages in the review process employees shall be provided full opportunity to offer information and explanation prior to final determination.

(d) Each bureau and office shall certify to the Department Ethics Counselor that all required reviews of statements have been completed. Certificates are required annually by no later than March 18.

§ 20.735–24 Procedures for resolving conflicts of interest.

(a) *Remedial action to affect resolution.* Violations of the regulations in this part, including the statutory regulations which are incorporated, by an employee or special Government employee may be cause for mandatory remedial action. If the bureau or office Ethics Counselor decides that remedial action is required, immediate action shall be initiated to eliminate the conflict or appearance of conflict of interest within a reasonable time, generally ninety days. Remedial action may include any of the following actions:

(1) *Reassignment or restriction of the employee.* If an employee is in a job where there is a conflict of interest, it may be possible to reassign the employee to another job where no such conflict would exist. It may also be possible to restrict the employee from performing the particular duties that are creating the conflict or the appearance of a conflict of interest. Although the number of cases where this remedy can be used should be rare, the possibility should be explored before divestiture of the interest is ordered.

(2) *Divestiture of the interest.* If the conflict involves the ownership of stocks, lands, etc., or outside employment or business interest, the bureau or office Ethics Counselor may order the employee to divest himself/herself of the stocks, land, or business interest or to discontinue outside employment, whichever is appropriate. Divestiture of the interest shall be ordered in all situations where reassignment or restrictions of an employee will not resolve the conflict or where the conditions for a trust described below are not met.

(3) *Establishment of a Blind Trust.* The Department Ethics Counselor may allow an employee the option to place holdings in a blind trust. A blind trust is established when by written agreement, the employee gives complete control and legal title to a trustee. Employees are permitted to use a blind trust unless such an action is specifically precluded by a statutory restriction (§ 20.735–12). In order to be acceptable as a remedy for a conflict of interest situation, the blind trust must meet the following conditions:

(i) Employees shall have no knowledge of and no control over the holdings in the trust.

(ii) Employees must direct the trustees to divest the corpus of those holdings which created the conflict of interest. Such divestiture is required as soon as reasonably possible.

(iii) Employees must direct the trustee not to acquire holdings which would or could create a conflict of interest situation.

(iv) The agreement must cover all required matters and must be approved in advance by the Department Ethics Counselor and the Office of the Solicitor.

(4) *Other forms of trust.* Employees who have pre-existing trusts or inherited trusts (not established by themselves) may, in rare instances and on a case-by-

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case basis, receive authorization from his or her designated Ethics Counselor to continue the trust provided the employee has no control over its management or assets.

(b) *Authority to order remedial action.* (1) Each bureau or office Ethics Counselor is authorized and shall order resolution of conflict of interest situations within their bureaus and offices. The advice of the Solicitor or Department Ethics Counselor may be sought before such an order is issued. This authority may not be redelegated.

(2) The Assistant Secretary—Administration and Management will be responsible for ordering resolution of conflict of interest situations for employees who file with the Chief, Division of Personnel Services, Office of Secretarial Operations (§ 20.735–22(c)(6)).

(3) The Under Secretary is responsible for ordering resolution of conflict of interest situations for employees who file with the Under Secretary (§ 20.735–22(c)(1)) or the Department Ethics Counselor (§ 20.735–22(c)(2)) except for situations involving himself or herself and Assistants to the Secretary.

(4) The Secretary shall order resolution of conflict of interest situations involving the Under Secretary and Assistants to the Secretary.

(c) *Disciplinary action.* An employee who refuses to comply with an order for remedial action shall be considered to be in violation of these regulations and may be subject to disciplinary action including suspension or removal from his position as provided by § 20.735–4.

§ 20.735–25 Appeals procedures.

(a) *Employee's complaint on filing requirement.* Any employee required to file a statement of employment and financial interest under paragraph 20.735–22 shall be given an opportunity for review through the Department's grievance procedure as to whether his or her position has been improperly included.

(b) *Employees complaint on conflict of interest decision.* (1) An employee has the right to appeal an order for remedial action under paragraph 20.735–24 and shall have 30 days to exercise this right before any disciplinary action is initiated. Appeals shall be made in writing.

(2) Orders for remedial action issued by a bureau or office Ethics Counselor may be appealed to the Assistant Secretary-Administration and Management whose decision shall be final.

(3) Orders for remedial action issued by the Assistant Secretary-Administration and Management may be appealed to the Under Secretary whose decision shall be final.

(4) Orders for remedial action issued by the Under Secretary may be appealed to the Secretary whose decision shall be final.

(5) Each appeal shall be considered by a review board consisting of the Department Ethics Counselor, a representative of the Solicitor, and a representative of the Office of Personnel Management. The review board shall:

(i) Obtain from the appropriate Ethics Counselor a full statement of actions and considerations which led to the order for remedial action including any supporting documentation or files used by the Ethics Counselor.

(ii) Obtain from the employee all information, exhibits or documents which he or she feels should be considered before a final decision is made.

(iii) Provide to the official who will decide the appeal an advisory recommendation on the appeal. The views of dissenting members of the review board shall also be provided.

(6) An employee may request that a final decision made under the procedures in this paragraph be reviewed through the Department's grievance procedures.

Subpart C—Ethical & Other Conduct and Responsibilities of Employees

§ 20.735–31 Scope of Subpart.

(a) *Standards of conduct.*—This subpart contains policies, procedures and restrictions concerning the ethical and other conduct and responsibilities of employees in the discharge of their official responsibilities. Civil Service regulations state that any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct on the part of a Federal employee is cause for his or her removal from the service of the Government. Employees are expected to maintain high standards of ethical, moral, and other conduct and to avoid any actions which could reflect adversely on the Department or the Government service or which would jeopardize the employee's effectiveness in dealings with his peers, supervisors, and the public.

§ 20.735–32 Gifts, entertainment, and favors.

(a) *Soliciting or accepting gifts.* Except as provided in paragraph (c) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with this Department;

(2) Conducts operations or activities that are regulated by this Department; or,

(3) Has interests that may be substantially affected by the performance or non-performance of the employee's official duty.

(b) *Voluntary donations.* Except as specifically authorized by law, employees are not authorized to accept on behalf of the United States voluntary donations from private sources for travel expenses in the form of cash, or of services in kind, such as hotel accommodations. Bona fide reimbursement for actual expenses for travel and such other necessary subsistence may be accepted if no Government payment or reimbursement is made. However, an employee may not be reimbursed for payments made for him for excessive personal living expenses, gifts or entertainment or if such reimbursement is prohibited by law relating to the specific situation in which it is offered. An employee who is officially directed to participate in a convention, seminar, or similar meeting of an association on an active duty basis and is authorized to receive per diem and other travel expenses from the Government, shall not accept travel, subsistence, or payment of other expenses from the association or outside organization (46 CG 689).

(c) *Exclusions.* (1) The prohibitions of subparagraph (a) of this section do not apply in the context of obvious family or personal relationships, such as those between the parents, children, or spouse of the employee and the employee, when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) An employee may accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) An employee may accept loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans;

(4) An employee may accept unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal value.

(d) *Actions to be avoided.* An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(e) *Soliciting contributions.* An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as a marriage, illness, or retirement.

(f) *Gifts from foreign government.* An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342. It is Congressional policy that employees and their families shall not accept or retain gifts except under the following circumstances:

(1) When the gift is of minimal value and the gift is tendered as a souvenir or mark of courtesy;

(2) When refusal of a gift of more than minimal value would be likely to cause offense or embarrassment or otherwise adversely affect the foreign relations

of the United States it may be accepted. However:

(i) If gifts of more than minimal value are accepted they shall not be retained. They must be deposited with the Chief of Protocol, Department of State, unless he has authorized the Agency to retain the gift for official use (22 CFR 3.5).

(ii) If a gift of more than minimal value is tendered in the form of travel or accommodation expenses, the offer should be referred to the Department of State for handling in accordance with the authorities of that Department.

(iii) "Minimal value" is defined as a retail value that would not exceed $50 in the United States.

§ 20.735–33 Teaching, lecturing and writing.

(a) General Policy. Employees are encouraged to engage in teaching, lecturing, or writing that is not prohibited by law, the Executive Order, Civil Service regulations or the regulations of this part.

(b) Using information obtained because of employment—An employee shall not teach, lecture, or write using information obtained because of his or her Government employment, except when that information has been or on request will be made available to the general public, or when the Secretary of the Interior or his designee gives written authorization that use of non-public information is in the public interest.

(c) Preparing persons for examinations—An employee shall not teach, lecture, or write to prepare a person or class of persons for an examination given by the Civil Service Commission or the Board of Examiners for the Foreign Service.

(d) Officers and officials. The Secretary, the Under Secretary, Assistant Secretaries, heads of bureaus and other Department officers, and key full-time officials who report directly to the Secretary as his principal assistants, shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing or appearance the subject of which:

(1) Is devoted substantially to the responsibilities, programs, or operations of this Department; or

(2) Draws substantially on official data or ideas which are not part of the body of public information.

§ 20.735–34 Government property.

(a) *General responsibility.* Employees shall be held accountable for Government property and moneys entrusted to their individual use or in connection with their official duties. It is their responsibility to protect and conserve Government property and to use it economically and for official purposes only.

(b) *Misuse of Government vehicles.* Employees shall not use or authorize the use of a Government-owned or leased motor vehicle for other than official purposes. (Interior Property Management Regulations 114–38.50.)

(c) *Misuse of Government aircraft.* Employees shall not use or authorize the use of a Government owned or leased aircraft for other than official purposes. (Interior Property Management Regulation 114–38.5312).

§ 20.735–36 Indebtedness.

(a) *Employee responsibility.* An employee:

(1) Should pay each just financial obligation (one either acknowledged by the employee or reduced to judgment by a court);

(2) Must refund salary overpayments, travel expense advances, and pay income taxes when due so as not to embarrass the Department;

(3) Must pay a final determination of indebtedness for Federal, state or local taxes so as to prevent embarrassment to the Department.

(b) *Department responsibility.* The Department will not act as a collection agency for private debts owed by its employees, except as required by law, nor does the Department, or any bureau or office, determine the validity or amounts of disputed debts.

(c) *Access to employees.* Whether by telephone or otherwise, creditors or collectors shall not have access to employees on premises occupied by the Department during working hours. If, nevertheless, the employee is approached during working hours, he shall inform the creditor or collector that he is not allowed to transact private business during official hours and that any discussions must be held after hours and away from Department premises.

(d) *Disciplinary action.* An employee may be subject to removal if his failure to meet just financial obligations becomes chronic or causes an embarrassment to or places undue burden on the Department. A decision to remove an employee for these reasons must be taken with full consideration for any extenuating circumstances over which the employee has no control, such as sickness, accident, or death in the family.

§ 20.735–37 Specific types of conduct.

(a) *Negotiations for employment.* It is the policy of the Department that employees shall not negotiate for future non-Federal employment with persons or organizations having business with the Department which the employee is called upon to officially render advice on or make judgments about. In the event that an employee desires to negotiate for such employment, he or she shall request permission from his or her supervisor. The supervisor will consult with the appropriate Ethics Counselor. If the supervisor and the Ethics Counselor determine that the proposed negotiations will not adversely affect the Government's interests, the supervisor may authorize the employee to proceed to negotiate.

(b) *Selling or soliciting.* Employees and other persons are prohibited from selling or soliciting for personal gain within any building or on any lands occupied or used by the Department without proper permission.

(c) *Gambling activity.* An employee shall not participate while on duty for the Government in any gambling activity, including the operation of a gambling device, conducting a lottery or pool, participating in a game for money or property, or selling or purchasing a numbers slip or ticket. However, this paragraph does not preclude activities:

(1) Necessitated by the employee's law enforcement duties; or

(2) Carried out by employees to solicit their own members for support of employee organizations or welfare funds under policies and procedures approved by the Department.

(d) *Money lending activities.* The practice of money lending between or among employees is to be discouraged. Organized financial lending activities by employees, except when officially sponsored by the Department, are prohibited. Properly constituted employee credit unions that provide various financial services to employee members are sanctioned.

(e) *Endorsements.* Employees are prohibited from endorsing in an official capacity the proprietary products or processes of manufacturers or the services of commercial firms for advertising, publicity, or sales purposes. Use of materials, products, or services by the Department does not constitute official endorsement.

(f) *Habitual use of intoxicants.* An employee who habitually uses intoxicants to excess is subject to removal (5 U.S.C. 7352). Disciplinary action will be considered if an employee rejects or ignores treatment or other appropriate assistance.

(g) *Community and professional activities.* Employees are encouraged to participate in the activities of professional societies and civic organizations whose purpose and objectives are not inconsistent with those of the bureau in which they are employed or of the Department. However, such participation must not affect adversely an employee's performance at his regularly assigned duties.

(h) *Budget estimates and legislation.* Since the enactment of the Budget and Accounting Act of 1921, it has been Executive policy to consider budget estimates transmitted to the Congress with the approval of the President to be binding upon the executive departments and agencies. Employees are expected to conform to this policy by refraining from efforts to promote an increase in the Department budget as approved by the President. Employees are also required to refrain from promoting or opposing legislation relating to programs of the Department without the official sanction of the proper Department authority. It should be clearly understood, however, that nothing in this policy is to be considered as restraining or interfering with the obligation of employees to respond freely and candidly to any congressional inquiries made of them in regard to appropriations or related matters.

(i) *Political activity.* Subchapter III of Chapter 73 of Title 5, United States Code (formerly referred to as the Hatch Act) states generally that employees may not use their official authority or influence for the purpose of interfering with an election or affecting its results, and they may not take an active part in political management or in political campaigns.

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An employee is subject to dismissal for violation. (5 CFR Part 733 and Chapter 733, Federal Personnel Manual.) Information regarding the prohibition against employees engaging in political activity, including certain exceptions, is contained in Pamphlet 20 "Political Activity of Federal Officers and Employees", issued by the Civil Service Commission.

(j) *Political affiliation.* Under the Civil Service regulations, no person in the Executive Branch with authority to take or recommend a personnel action relative to a person in, or an eligible candidate or applicant for, a position in the competitive service, may make inquiry concerning his political affiliation. All disclosures concerning political affiliation shall be ignored. Except as may be authorized or required by law, discrimination may not be exercised, threatened, or promised by any person in the Executive branch against or in favor of an employee in, or an eligible candidate or applicant for, a position in the competitive service because of his political affiliation (5 CFR, Part 733, and Chapter 733, Federal Personnel Manual).

(k) *Equal employment opportunity policies.* It is the policy of the Federal Government that there shall be no discrimination based on such factors as race, creed or religion, color, national origin, political affiliation, physical handicap, sex, age, union membership or non-membership, and similar matters not related to merit and fitness.

(l) *Nepotism.* Employment by reason of blood or marriage relationships rather than merit is prohibited. No employee shall supervise a member of his family except in emergency situations such as forest fires, floods, earthquakes, or at isolated field stations or where there is a shortage of quarters. Exceptions in other situations may be made with the approval of the head of the bureau or office. (Regarding summer employees, refer to current Department directives.)

(m) *Employee organizations.* An employee may not knowingly be a member of an organization of Government employees that advocates the overthrow of our constitutional form of government in the United States (5 U.S.C. 7311). Employees are also prohibited from striking against the Federal Government. Further information regarding employee affiliation with employee organizations is found in the Departmental Manual, Part 370, Chapter 711, Labor Management Relations.

(n) *Patents.* Patent regulations issued by the Secretary, 43 CFR 6, define the rights and obligations of employees with respect to any inventions made or developed while they are employed in the Department. Under the regulations each employee shall submit a report on any invention made or developed to the Solicitor, through supervisory channels. This includes inventions developed on Government time and those developed on the employee's time and with his materials.

(o) *Practitioners.* The Department has adopted regulations and restrictions applicable to individuals who practice before the Department. These are included in 43 CFR 1. Former officers or employees, including special Government employees, cannot practice at any time with regard to matters in which they participated personally and substantially as a Government employee through decision, approval, disapproval, or recommendation. Also, if a period of one year has not passed since the termination of their employment with the Government, they cannot practice with regard to any matter that was under their official responsibility.

(p) *Notary.* An employee is prohibited from charging fees for performance of any notorial act for any employee of the Federal Government in his official capacity or for any person during the hours of such notary's service to the Government (E.O. 977, Nov. 24, 1908).

(q) *Franking Privilege and Official Stationery.* An employee is prohibited from using Government franked envelopes, with or without applied postage, or official letterhead stationery for personal business (18 U.S.C. 1719).

(r) *Fraud or False Statements in a Government matter.* Employees are responsible for certification on Government documents issued by them. Special attention is required in the Certification of Time and Attendance Reports, Applications for Employment, Requests for Travel Reimbursement, and Purchase Orders and Receiving forms (18 U.S.C. 1001).

(s) *Embezzlement of Government property.* Employees shall not convert, even temporarily on loan, for personal use any Government property or equipment; nor use Government purchase authority, even though reimbursement is made, for personal acquisitions (18 U.S.C. 641, 643, and 654).

(t) *Use of Official Title.* Employees are prohibited from using their official titles in conducting private business or participation in private or public groups activities. Use is strictly limited to those occasions and circumstances where representation is official.

(u) *Carrying of Weapons.* Employees, except those specifically designated to perform enforcement, police or similar duties requiring the use of firearms, are prohibited from carrying or having in their possession firearms on property under the control of the Secretary of the Interior. Notwithstanding this paragraph, employees may carry firearms on Interior lands under the same conditions and in accordance with procedures and authorization established for members of the general public.

Subpart D—Special Government Employees Responsibilities, Ethical and Other Conduct

§ 20.735–41 Statutes relating to conflict of interest.

The Department of Justice in a memorandum of January 28, 1963 (28 FR 985; 18 U.S.C. 201 note), summarized the major provisions of the conflict of interest laws insofar as special Government employees are concerned as follows:

1. (a) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205).

(b) He may not, except in the discharge of his official duties, represent anyone else in a matter pending before the agency he serves unless he has served there no more than 60 days during the past 365 (18 U.S.C. 203 and 205). He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.

The restrictions described in subparagraphs (a) and (b) apply to both paid and unpaid representation of another. These restrictions in combination are, of course, less extensive than the one described in the corresponding paragraph 1 in the list set forth above with regard to regular employees.

2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

3. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

4. He may not, for one year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restriction described in paragraph 3 if the matter is one in which he participated personally and substantially.

§ 20.735–42 Restrictions upon special Government employees.

In most instances, special Government employees are subject to the Federal statutes relating to standards of conduct the same as regular employees. Although all these statutes are not referenced in these regulations, the more pertinent ones are listed in paragraph 20.735–51 (a). The special Government employee should become acquainted with these. In addition, the attention of the special Government employee is directed to the following regulations which are of particular application and relate to the area of ethical conduct as a special Government employee:

(a) *Use of Government employment.* A special Government employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business or financial ties.

(b) *Use of inside information.* A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this paragraph "inside information" means information obtained under Government authority which has not become part of the body of public information.

(2) Special Government employees may teach, lecture, or write in a manner not inconsistent with the provisions governing employees (see § 20.735–31).

(c) *Coercion.* A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

(d) *Gifts, entertainment, and favors.* Except as provided in paragraph 20.735–32(a), a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with his agency anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 20.735–43 Statements of employment and financial interests.

(a) Each special Government employee who occupies a position of consultant or expert shall file a statement of employment and financial interests as provided in paragraph (b) of this section. A special Government employee who does not occupy a position of consultant or expert shall, nonetheless, file such a statement if the position is found by the appointing officer to be of such a nature or at such a level of responsibility that the submission of a statement is necessary to protect the integrity of the Government. Special Government employees occupying positions other than those mentioned in this paragraph are not required to file statements.

(b) Special Government employees who are required to submit statements of employment and financial interests pursuant to paragraph (a) of this section shall fill out and submit to the appropriate Ethics Counselor designated in § 20.735–22, form DI–213, "Statement of Employment and Financial Interests." This form provides for the reporting of:

(1) All employment, including employment without compensation; and

(2) All financial interests, including any interest held by the spouse or minor child or relation living in the same household of a special Government Employee. The special Government employee is not required to report connection with, or interest in:

(i) A professional society;

(ii) A charitable, religious, social, fraternal, recreational, public service, civil, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

(iii) Holdings in widely held mutual funds, investment clubs, or regulated investment companies not specializing in a particular industry.

(iv) Savings or deposits in banks, credit unions, building and loan associations, or insurance companies;

(c) In an instance involving the proposed employment of a special Government employee for highly specialized and limited duties, the head of a bureau or office may propose to the Department Ethics Counselor a reporting of financial interests restricted to such interests as may be determined to be relevant to the duties the special Government employee is to perform. If a restricted reporting of financial interests is approved by the Department Ethics Counselor in advance of employment, Form DI–213 may be revised to reflect the narrower requirement.

(d) The statement of employment and financial interests shall be submitted before the special Government employee enters on duty. Each special Government employee shall keep his statement current through his employment with the Department by the submission of supplementary statements. Prior to the reappointment of a special Government employee to perform the same or different functions, with or without a break in service, a new statement shall be obtained. Statements filed by special Government employees shall be reviewed, processed and retained in the same manner as those filed by regular employees (§ 20.735–23).

(e) For the purpose of this section the terms "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

Subpart E—Bibliography of Statutes

§ 20.735–51 Miscellaneous statutory provisions and restrictions.

(a) Employees will become acquainted with the statutory provisions that relate to their ethical and other conduct, among which the following are particularly relevant:

(1) House Concurrent Resolution 175, 85th Congress 2nd Session, 72 Stat. B12, the "Code of Ethics for Government Service."

(2) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employee concerned.

(3) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(4) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(5) The prohibitions contained in the Freedom of Information Act against failing to disclose information disclosure of which is required by that Act (5 U.S.C. 552(a)(4)(F)).

(6) The prohibitions against (i) disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); (ii) disclosure of confidential information (18 U.S.C. 1905); and (iii) disclosure of information which is restricted by the Privacy Act (5 U.S.C. 552a(i)(1)).

(7) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(8) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(9) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(10) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(11) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(12) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(13) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(14) The prohibitions against (i) embezzlement of Government money or property (18 U.S.C. 641); (ii) failing to account for public money (18 U.S.C. 643); and (iii) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(15) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(16) The prohibition against political activities in subchapter III of Chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(17) The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(18) The requirement that each officer or employee of the Department of the Interior performing a function or duty under the Energy Policy and Conservation Act file a written statement disclosing known financial interests in certain business and property (42 U.S.C. 6392).

(19) The requirement that each officer or employee of the Secretary of the Interior performing a function or duty under Public Law 94–429, 90 Stat. 1342, file a written statement disclosing known financial interest in any person subject to the Act and other acts specified therein, or in any person who holds a mining claim within the boundaries of units of the National Park System.

(20) The requirement that each officer or employee of the Secretary and of the Bureau of Land Management performing a function or duty under Public Law 94–579, 90 Stat. 2743, file a written statement disclosing known financial interest in any person who applied for or receives any permit, lease, or right-of-way under, or applies for or acquires any land or interests therein under, or is otherwise subject to the provisions of, the Act.

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(21) The provisions of the Federal Election Campaign Act Amendments of 1976, Public Law 94-283 which provides that no person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

(i) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agent's fees or commissions) for any appearance, speech, or article; or

(ii) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $25,000 in any calendar year.

(b) The foregoing statutes shall be available for review in the office of each Ethics Counselor.

APPENDIX A-1—UNITED STATES DEPARTMENT OF THE INTERIOR, U.S. GEOLOGICAL SURVEY, EMPLOYEE CERTIFICATION

I have been given a copy of Department of the Interior Regulations governing Responsibilities and Conduct of Employees (43 CFR 20.735). I have been advised of the name and location of the Bureau and Deputy Ethics Counselors. I understand that I may discuss questions or concerns related to my responsibilities, conduct, and financial interests with these individuals.

I certify I have been informed of the statutory restrictions contained in Title 43, U.S. Code, Section 31(a), which provides that employees of the Geological Survey shall have no personal or private interest in the lands or mineral wealth under survey, and shall execute no surveys or examinations for private parties or corporations.

The Department has determined that these restrictions prohibit an employee of the Geological Survey from having any personal or private interest, direct or indirect, in lands whose title is in the United States. Further, an employee of the Geological Survey is prohibited by the U.S. Code from having any personal or private interest in the mineral wealth of such lands and from executing surveys or examinations for private parties. By paragraph 20.735-13(b) of the Regulations, the Department has also prohibited an employee of the Geological Survey from having a substantial personal or private interest, direct or indirect, in any private mining or mineral enterprise doing business in the United States except where specifically authorized by the Director of Geological Survey.

I certify that to the best of my knowledge I do not have any personal or private interest, direct or indirect, in the Federally-owned lands of the United States nor in the mineral wealth of such lands.

I also certify that to the best of my knowledge I do not have any substantial personal or private interest, direct or indirect, in any private mining or mineral enterprise doing business in the United States except where the Director has authorized me to have such interest.

(Date) (Signature of employee)

INSTRUCTIONS

1. All applicable employees of the U.S. Geological Survey shall complete the certifications on this form.

2. Signed certificates shall be sent to and maintained by the appropriate Personnel Office.

3. If an employee is unable to sign the certificate he must submit a statement of facts to the appropriate Ethics Counselor for review and action.

PRIVACY ACT NOTICE

43 U.S.C. 31(a) and 5 U.S.C. 301 constitute the authority for requesting this certification. This certification must be signed; failure to do so could be cause for denying appointment or for appropriate disciplinary action.

This certification will be used to record officially the fact that you have knowledge of, and are in compliance with, the restrictions pertinent to your employment. The information certified to will be considered confidential and will form a part of the records of the office where you file; as such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

APPENDIX A-2—UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS, EMPLOYEE CERTIFICATION

I have been given a copy of Department of the Interior Regulations governing Responsibilities and Conduct of Employees (43 CFR 20.735). I have been advised of the name and location of the Deputy or Assistant Ethics Counselor for my office. I understand that I may discuss questions or concerns related to my responsibilities, conduct and financial interests with this individual.

I certify I have been informed of and am in compliance with the statutory restrictions contained in Title 25 U.S.C., Section 68, (also referred to in 25 U.S.C. 68a and 441 and 25 CFR 251 and 252) which prohibits any person employed in Indian affairs in the Department of the Interior from having an interest or concern in any trade with the Indians, except for, and on account of, the United States.

I also certify I will not in the future acquire any such interest or concern in violation of the law, so long as I am employed in the Department and involved with Indian affairs.

(Date) (Signature of employee)

INSTRUCTIONS

1. All applicable employees of the Bureau of Indian Affairs shall complete the certifications on this form.

2. Signed certificates shall be sent to and maintained by the appropriate Ethics Counselor.

3. If an employee is unable to sign the certificate, he must submit a statement of facts to the appropriate Ethics Counselor for review and action.

PRIVACY ACT NOTICE

25 U.S.C. 68 and 5 U.S.C. 301 constitute the authority for requesting this certification. This certification must be signed; failure to do so could be cause for denying appointment or for appropriate disciplinary action.

This certification will be used to record officially the fact that you have knowledge of, and are in compliance with, the restrictions pertinent to your employment. The information certified to will be considered confidential and will form a part of the records of the office where you file; as such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

APPENDIX A-3—UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, EMPLOYEE CERTIFICATION

I have been given a copy of Department of the Interior Regulations governing Responsibilities and Conduct of Employees (43 CFR 20.735). I have been advised of the name and location of the Deputy or Assistant Ethics Counselor for my office. I understand that I may discuss questions or concerns related to my responsibilities, conduct and financial interests with this individual.

I certify that I understand and that I am in compliance with the statutory restrictions in Title 43 U.S.C. 11, which provides:

The officers, clerks, and employees in the Bureau of Land Management are prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public land; and any person who violates this section shall forthwith be removed from office.

I also certify that neither I nor my spouse has, nor is either of us in the process of acquiring, in violation of 43 CFR, Part 7, any interest, direct or indirect, in any lands or resources administered by the Bureau of Land Management.

I further certify I understand that if either I or my spouse acquires during my employment, interest in lands or resources administered by the Bureau of Land Management, by gift, devise, bequest or operation of law, that I am required to submit a statement of facts surrounding such acquisition promptly through channels to my bureau head for transmittal to the Secretary of the Interior for decision or other necessary action.

(Date) (Signature of employee)

INSTRUCTIONS

1. All applicable employees of the Bureau of Land Management shall complete the certifications of this form.

2. Signed certificates shall be sent to and maintained by the appropriate Ethics Counselor.

3. If an employee is unable to sign the certificate, he must submit a statement of facts to the appropriate Ethics Counselor for review and action.

PRIVACY ACT NOTICE

43 U.S.C. 11 and 5 U.S.C. 301 constitute the authority for requesting this certification. This certification must be signed; failure to do so could be cause for denying appointment or for appropriate disciplinary action.

This certification will be used to record officially the fact that you have knowledge of, and are in compliance with, the restrictions pertinent to your employment. The information certified to will be considered confidential and will form a part of the records of the office where you file; as such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

APPENDIX A-4—UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF MINES, EMPLOYEE CERTIFICATION

I have been given a copy of Department of Interior Regulations governing Responsibilities and Conduct of Employees (43 CFR 20.735). I have been advised of the name and location of the Deputy or Assistant Ethics Counselor for my office. I understand that I may discuss questions or concerns related to my responsibilities, conduct, and financial interests with this individual.

I certify that I have been informed of and that I am in compliance with the statutory restrictions contained in Title 30, U.S.C., Section 6, which prohibit employees of the Bureau of Mines from having any personal or private interest in any mine or the products of any mine under investigation by the Bureau; accepting employment from any private party for services in the examination of any mine or private mineral property; or

issuing any report as to the valuation or the management of any mine or other private mineral property other than as part of my official duties.

(Date) (Signature of employee)

INSTRUCTIONS

1. All applicable employees of the Bureau of Mines shall complete the certifications on this form.

2. Signed certificates shall be maintained in the Official Personnel Folder.

3. If an employee is unable to sign the certificate, he must submit a statement of facts to the appropriate Ethics Counselor for review and action.

PRIVACY ACT NOTICE:

30 U.S.C. 6 and 5 U.S.C. 301 constitute the authority for requesting this certification. This certification must be signed; failure to do so could be cause for denying appointment or for appropriate disciplinary action.

This certification will be used to record officially the fact that you have knowledge of, and are in compliance with, the restrictions pertinent to your employment. The information certified to will be considered confidential and will form a part of the records of the office where you file; as such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

APPENDIX A-5—UNITED STATES DEPARTMENT OF THE INTERIOR, MINING ENFORCEMENT AND SAFETY ADMINISTRATION (MESA), EMPLOYEE CERTIFICATION

I have been given a copy of Department of the Interior Regulations governing Responsibilities and Conduct of Employees (43 CFR 20.735). I have been advised of the name and location of the Deputy or Assistant Ethics Counselor for my office. I understand that I may discuss questions or concerns related to my responsibilities, conduct, and financial interests with this individual.

I CERTIFY I have been informed of the restrictions established by paragraph 20.735-13(a) of the regulations which prohibits employees of MESA from having any interest, direct or indirect, in any mine or mining company which may be directly affected by the work of MESA through its investigations, technical research, or other activities.

I ALSO CERTIFY I do not have any personal or private interest, direct or indirect, in a mine or mining company which may be directly affected by the work of MESA except where specifically authorized by the Administrator.

I FURTHER CERTIFY I will not accept employment from any private party for services in the examination of any mine or private mineral property, or issue any report as to the valuation or the management of any mine or private mineral property, other than or part of my official duties.

(Date) (Signature of Employee)

INSTRUCTIONS

1. All applicable employees of the Mining Enforcement and Safety Administration shall complete the certifications on this form.

2. Signed certificates shall be sent to and maintained by the appropriate Ethics Counselor.

3. If an employee is unable to sign the certificate, he must submit a statement of facts to the appropriate Ethics Counselor for review and action.

PRIVACY ACT NOTICE

5 U.S.C. 301 constitutes the authority for requesting this certification. This certification must be signed; failure to do so could be cause for denying appointment or for appropriate disciplinary action.

This certification will be used to record officially the fact that you have knowledge of, and are in compliance with, the restrictions pertinent to your employment. The information certified to will be considered confidential and will form a part of the records of the office where you file; as such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

APPENDIX A-6—UNITED STATES DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY, EMPLOYEE CERTIFICATION

I have been given a copy of Department of the Interior Regulations governing Responsibilities and Conduct of Employees (43 CFR 20.735). I have been advised of the name and location of the Deputy or Assistant Ethics Counselor for my office. I understand that I may discuss questions or concerns related to my responsibilities, conduct, and financial interests with this individual.

I understand that under regulations issued by the Secretary of the Interior the statutory restrictions listed below apply to me and to other employees in the Office of the Secretary and other organizational entities reporting directly to a Secretarial officer who are required to file a Statement of Employment and Financial Interest. Therefore, I certify that I understand and that I am in compliance with the following restrictions except where specifically authorized by the Secretary.

(1) Title 43 U.S.C. 11 which provides that certain employees are prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public land, and that any person who violates this section shall forthwith be removed from office.

(2) Title 25 U.S.C., Section 68 (also referred to in 25 U.S.C. 68a and 441 and 25 CFR 251 and 252) which provides that any person employed in Indian affairs in the Department of the Interior is prohibited from having interest or concern in any trade with the Indians, except for, and on account of, the United States.

(3) Title 30 U.S.C. 6, which provides that employees are prohibited from owning stock in any mine or mining company which may directly benefit by work of the Bureau of Mines through its investigations, technical research, or economic studies.

(4) Title 43 U.S.C. 31(a) which provides that employees shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations. The Department has determined that these restrictions prohibit personal or private interest, direct or indirect, in lands whose title is in the United States or in the mineral wealth of such lands.

(Date) (Signature of Employee)

INSTRUCTIONS

1. All applicable employees of the Office of the Secretary and other organizational entities reporting directly to a Secretarial officer shall complete the certifications on this form.

2. Signed certificates shall be sent to and maintained by the appropriate Ethics Counselor.

3. If an employee is unable to sign the certificate, he must submit a statement of facts to the appropriate Ethics Counselor for review and action.

PRIVACY ACT NOTICE

5 U.S.C. 301 constitutes the authority for requesting this certification. This certification must be signed; failure to do so could be cause for denying appointment or for appropriate disciplinary action.

This certification will be used to record officially the fact that you have knowledge of, and are in compliance with, the restrictions pertinent to your employment. The information certified to will be considered confidential and will form a part of the records of the office where you file; as such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

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APPENDIX B-1

Form DI-212
REV. 12-76

UNITED STATES DEPARTMENT OF THE INTERIOR
CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS
(FOR USE BY GOVERNMENT EMPLOYEES)

1. NAME (Last, first, initial) | 2. TITLE OF POSITION

3. DATE OF APPOINTMENT IN PRESENT POSITION | 4. BUREAU AND OFFICE

GENERAL INSTRUCTIONS. When there is insufficient space on this form to provide the required information, use back of form or attachments as necessary. If any information is to be supplied by other persons, e.g. trustee, accountant, relative, show on the form or attachment the name and address of such persons, the date you requested that information be supplied, and the nature of subject matter involved. See the back of the form for additional instructions and the Privacy Act notice.

PART I. FINANCIAL INTERESTS. List the names of all business entities, nonprofit organizations, and educational and other institutions[1] in which you, your spouse, minor children or other relatives who are full-time residents of your immediate household have (1) a continuing financial interest, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or (2) any financial interest through the ownership of stock; stock options, bonds, securities or other arrangements including trusts[1]. If none, write NONE.

NAME OF ORGANIZATION	KIND OF ORGANIZATION AND ADDRESS FOR OTHER THAN LISTED CORPORATIONS—THOSE TRADED ON MAJOR U.S. STOCK EXCHANGES	NATURE OF FINANCIAL INTEREST. FOR STOCKHOLDINGS OF LISTED CORPORATIONS SHOW NUMBER OF SHARES. FOR ALL OTHER FINANCIAL INTERESTS SHOW VALUE AND ANNUAL RETURN, IF APPLICABLE

PART II. REAL PROPERTY. List interest in real property or rights (e.g. mineral, grazing) in lands, in which you, your spouse, minor children or other relatives who are full-time residents of your immediate household have an interest. Exclude property which you occupy as a personal residence. If none write NONE.

NATURE OF INTEREST, e.g., OWNERSHIP, MORTGAGE, LIEN, INVESTMENT TRUST, MINERAL OR GRAZING RIGHTS	TYPE AND PURPOSE OF INVESTMENT, e.g., RESIDENCE, HOTEL, APARTMENT, FARM, UNDEVELOPED LAND, RECREATION	ADDRESS AND PROXIMITY TO FEDERAL LANDS. IF INTERIOR DEVELOPED OR INDIAN, IF RURAL, GIVE RFD., OR BRIEFLY COUNTY AND STATE.

PART III. EMPLOYMENT. List the names of business entities, nonprofit organizations, and educational and other institutions[1] with which you are connected as an employee, officer, owner, director, member, trustee, partner, advisor, or consultant. If none, write NONE.

NAME AND KIND OF ORGANIZATION	ADDRESS	POSITION IN ORGANIZATION

PART IV. CREDITORS. List the names of your creditors other than those to whom you may be indebted by reason of a mortgage on property which you occupy as a personal residence or to whom you may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. If none, write NONE.

NAME AND ADDRESS OF CREDITOR	CHARACTER OF INDEBTEDNESS, e.g., PERSONAL LOAN, NOTE, SECURITY

[1] See back of form for applicable exclusions.

[2] Identify the ownership of interests of yourself and relatives as follows: Sole ownership of employee (E), joint ownership with spouse, minor child or other resident relative (J), sole ownership of spouse (S), sole ownership of minor children (C), sole ownership of other relatives who are full-time residents in your household (R).

I certify that the statements I have made are true, correct, and complete to the best of my knowledge and belief.

Signature of Employee — *Date*

Review completed and determination made that no conflict of interest exists. (43 CFR 20.735-23)

Ethics Counselor — *Date*

APPENDIX B-1

CONTINUATION OF PART _____

INSTRUCTIONS

PRIVACY ACT NOTICE:

Section 402 of Executive Order 11222 and 5 CFR 735.401 constitute the authority for collecting the personal data on this confidential statement of employment and financial interests. This data must be furnished; failure to do so could be cause for appropriate disciplinary action.

The information gathered from the statement will be used to determine whether there are any real or apparent conflicts of interest in violation of 18 U.S.C. § 201 *et seq.*, Executive Order 11222 and 43 CFR 20.735 (Employee Responsibilities and Conduct). The information you provide will be considered confidential and will form a part of the records of the office where you file; as such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

GENERAL REQUIREMENTS:

You are not required to submit any information relating to any connection with, or interest in, a professional society, a charitable, religious, social, fraternal, recreational, public service, civil, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed to be "business enterprises" for purposes of this report and should be included.

Except where organic act restrictions apply, either by statute or regulation (§ 20.735-12 and -13) you may exclude: (1) Holdings in widely held mutual funds, investment clubs, or regulated investment companies not specializing in a particular industry or (2) Savings or deposits in banks, credit unions, building and loan associations, or insurance companies.

In the event any of the required information, including holdings placed in trust, is not known to you but is known to another person, you should request that other person to submit the information on your behalf and should report such request in your statement. This requirement may be waived for holdings in an approved blind trust (§ 20.735-24(a)(3)).

The financial and real property interest, if any, of a spouse, minor child, or other member of your immediate household shall be reported in this statement. If that information is to be supplied by others, it should be so indicated. "Member of your immediate household" includes only those relatives who are full-time residents of your household.

While employment and creditor information pertaining to your spouse, minor children or other relatives who are full-time residents of your immediate household are not reportable, you are cautioned that such activities also may create an appearance of conflict. If your official duties may bring you in contact with business entities, non-profit organizations, or other institutions with which your spouse, minor children or other relatives have either an employment or creditor relationship you should consult with your Ethics Counselor.

GPO 901-707

APPENDIX B-2

Form DI-212
REV. 12-76

UNITED STATES DEPARTMENT OF THE INTERIOR
CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS
(FOR USE BY SPECIAL GOVERNMENT EMPLOYEES)

PART I - TO BE COMPLETED BY AGENCY

1. Name *(last, first, initial)* | 2. Birth Date *(month, day, year)*

3. Bureau and Office Organizational Segment | 4. PERIOD OF APPOINTMENT *(this Agency)* FROM | TO

PART II - TO BE COMPLETED BY APPOINTEE

1. a. Number of days already worked during a consecutive 365-day period
   (1) with this Department .....
   (2) with other Federal agencies .....
   b. Estimated remaining number of days expected to work during the consecutive 365-day period
   (1) with this Department .....
   (2) with other Federal agencies .....
   c. TOTAL .....

2. FEDERAL GOVERNMENT EMPLOYMENT - List all other Federal agencies in which you are presently employed. *(If none, write "none.")*

AGENCY AND LOCATION	TITLE OF KIND OF POSITION	APPOINTMENT PERIOD FROM	TO

3. NON-FEDERAL EMPLOYMENT - Name all corporations, companies, firms, State or local Government organizations, research organizations, and educational or other institutions in which you are serving as employee, officer, member, owner, trustee, director, expert, advisor, or consultant, with or without compensation. *(If none, write "none.")*

NAME AND KIND OF ORGANIZATION *(e.g., manufacturing, research, insurance)*	LOCATION *(City, State)*	TITLE OR KIND OF POSITION

4. FINANCIAL INTERESTS - List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational, or other institutions in which you have any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts. *(If none, write "none.")* Your immediate household shall be reported in this statement as your interest. *Member of your immediate household* includes only those blood relations who are full-time residents of your household.

ORGANIZATION NAME	ORGANIZATION KIND *(manufacturing, storage, public utilities, etc.)*	NATURE OF INTEREST AND IN WHOSE NAME HELD. For stockholdings of Listed Corporations show number of shares. For all other Financial Interests show value and annual return, if applicable.

If additional space is required, use reverse side

I certify that the statements I have made are true, correct, and complete to the best of my knowledge and belief.

Signature of Employee — *Date*

Review completed and determination made that no conflict of interest exists: (43 CFR 20.735-23)

Ethics Counselor — *Date*

APPENDIX B-2

CONTINUATION OF ITEM _____

INSTRUCTIONS

PRIVACY ACT NOTICE:

Section 402 of Executive Order 11222 and 5 CFR 735.401 constitute the authority for collecting the personal data on this confidential statement of employment and financial interests. This data must be furnished; failure to do so could be cause for appropriate disciplinary action.

The information gathered from the statement will be used to determine whether there are any real or apparent conflicts of interest in violation of 18 U.S.C. § 201 *et seq.*, Executive Order 11222 and 43 CFR 20.735 (Employee Responsibilities and Conduct). The information you provide will be considered confidential and will form a part of the records of the office where you file; as such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

GENERAL REQUIREMENTS:

You are not required to submit any information relating to any connection with, or interest in, a professional society, a charitable, religious, social, fraternal, recreational, public service, civil, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed to be "business enterprises" for purposes of this report and should be included.

Except where organic act restrictions apply, either by statute or regulation (§ 20.735-12 and -13) you may exclude: (1) Holdings in widely held mutual funds, investment clubs, or regulated investment companies not specializing in a particular industry or (2) Savings or deposits in banks, credit unions, building and loan associations, or insurance companies.

In the event any of the required information, including holdings placed in trust, is not known to you but is known to another person, you should request that other person to submit the information on your behalf and should report such request in your statement. This requirement may be waived for holdings in an approved blind trust (§ 20.735-24(a)(3)).

The financial and real property interest, if any, of a spouse, minor child, or other member of your immediate household shall be reported in this statement. If that information is to be supplied by others, it should be so indicated. "Member of your immediate household" includes only those relatives who are full-time residents of your household.

INT: 800-70

APPENDIX B-3

Form DI-211
12-76

UNITED STATES DEPARTMENT OF THE INTERIOR
PUBLIC DISCLOSURE STATEMENT OF KNOWN FINANCIAL INTERESTS
(Federal Land Policy and Management Act, Sec. 313, P.L. 94-579)

1. NAME (last, first, initial)	2. TITLE OF POSITION
3. CALENDAR YEAR	4. BUREAU AND OFFICE

KNOWN FINANCIAL INTERESTS.
You must report (1) any right to use, occupy or develop public land or mineral, timber, range, wildlife, recreation, watershed or other resources thereon, or (2) any pecuniary interest in any person whom you know, or could reasonably be expected to know, is engaged in a business subject to the Federal Land Policy and Management Act. You are under an obligation to exercise diligence in determining whether companies or other business entities in which you own interests fall in this category. Include all interests held at any time during the previous calendar year. If as of the reporting date an interest is no longer held, so indicate. If no such interests were held, write "NONE." See instructions and definitions on back of form.

Name and Kind of Business	Address	Nature of Known Financial Interest

Privacy Act Notice:
Subsection 313(a) of P.L. 94-579 provides for filing a statement disclosing all known financial interests. Subsection (d) provides that any officer or employee who is subject to, and knowingly violates subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

I am aware of the provisions of the law and regulations which require the filing of this statement and that such statement shall be subject to examination and available for copying, by the public upon request and subject to review by the designated ethics counselor in accordance with the Departmental conflict of interest regulations (43 CFR 20.735 Subpart B). As such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief.

Signature and date

APPENDIX B-3

INSTRUCTIONS

1. All "covered employees" shall complete this form. These employees are responsible for reviewing and completing this form in accordance with 43 CFR 20.735-18.

2. Signed statements shall be sent to and reviewed by the appropriate Ethics Counselor.

3. With respect to a blind trust, you are only required to disclose holdings of which you have actual knowledge; for example, those holdings initially committed to the blind trust, if subject to the provisions of the Act, must be disclosed.

4. You may exclude from this form any holdings owned solely by your spouse, minor child, or other relative residing in your home. This exclusion applies only to public disclosure statements and not to the regular confidential financial disclosure statement (form DI-212). You are cautioned that such holdings (spouse, minor children, etc.) are subject to the regular conflict of interest statutes, Executive Order, and Departmental regulations.

5. You may also exclude holdings in mutual funds, holding companies, banks, savings and loan associations, investment clubs or regulated investment companies which do not specialize in any person or business subject to the Act.

DEFINITIONS

"Covered employee" means an officer or employee of the Department of the Interior performing a function or duty under the Federal Land Policy and Management Act, P.L. 94-579, 90 Stat. 2743, whose position has not been exempted by the Secretary of the Interior from the reporting requirements of section 313 of the Act.

"Person" means an individual, corporation, partnership, association, consortium, company, firm, society, trust, joint venture, joint stock company, or any entity organized for a common business purpose, wherever situated, domiciled, or doing business.

"Public Land" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except (i) lands located on the Outer Continental Shelf, and (ii) lands held for the benefit of Indians, Aleuts and Eskimos.

"Engaged in business subject to the Federal Land Policy and Management Act" means conduct of any business involving the use occupancy or development of public land or of mineral, timber, range, wildlife, recreation, watershed or other resources thereon. A parent company or holding company is "engaged in business subject to the Federal Land Policy and Management Act: if one or more of its subsidiaries is "engaged in business subject to the Federal Land Policy and Management Act." A mutual fund or investment club is within the definition if it specializes in a business or businesses involved in the use occupancy or development of public lands or of mineral, timber, range, wildlife, recreation, watershed or other resources thereon.

"Pecuniary interest" means any monetary or financial interest (whether owned directly by a covered employee or held for the employee's benefit by a trustee), including, but not limited to (i) the ownership of common stock, preferred stock, bonds, debentures, warrants or a partnership share, (ii) a leasehold, rental, permit, license, right of way, or contract, or (iii) a pension or retirement plan, shared income or other arrangement as a result of current or prior employment or professional association.

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APPENDIX B-4

Form DI-211A
12-76

UNITED STATES DEPARTMENT OF THE INTERIOR
PUBLIC DISCLOSURE STATEMENT OF KNOWN FINANCIAL INTERESTS
(Mining in the Parks Act, Sec. 13, P.L. 94-429)

1. NAME (last, first, initial)	2. TITLE OF POSITION
3. CALENDAR YEAR	4. BUREAU AND OFFICE

KNOWN FINANCIAL INTERESTS.
You must report any mining claim which you own, in whole or in part, or have the right to occupy or use; any mining activity in which you are engaged; or any pecuniary interest which you have in any individual, corporation, partnership, association, consortium, company, firm, society, trust, joint venture, joint stock company or other entity organized for common business purpose which you know, or could reasonably be expected to know, is engaged in business subject to the Mining in the Parks Act. You are under an obligation to exercise diligence in determining whether companies or other business entities in which you own interests fall in this category. Include all interests held at any time during the previous calendar year. If as of the reporting date an interest is no longer held, so indicate. If no interests were held, write "NONE". See back of form for instructions and definitions applicable to filing this form.

Name and Kind of Business	Address	Nature of Known Financial Interest

Privacy Act Notice:
Subsection 13(a) of P.L. 94-429 provides for filing a statement disclosing all known financial interests. Subsection (d) provides that any officer or employee who is subject to, and knowingly violates subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

I am aware of the provisions of the law and regulations which require the filing of this statement and that such statement shall be subject to examination, and available for copying, by the public upon request and subject to review by the designated ethics counselor in accordance with the Departmental conflict of interest regulations (43 CFR 20.735 Subpart B). As such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief.

Signature and date

APPENDIX B-4

INSTRUCTIONS

1. All "covered employees" shall complete this form. These employees are responsible for reviewing and completing this form in accordance with 43 CFR 20.735-19.

2. Signed statements shall be sent to and reviewed by the appropriate Ethics Counselor.

3. With respect to a blind trust, you are only required to disclose holdings of which you have actual knowledge; for example, those holdings initially committed to the blind trust, if subject to the provisions of the Act, must be disclosed.

4. You may exclude from this form any holdings owned solely by your spouse, minor child, or other relative residing in your home. This exclusion applies only to public disclosure statements and not to the regular confidential financial disclosure statement (form DI-212). You are cautioned that such holdings (spouse, minor children, etc.) are subject to the regular conflict of interest statutes, Executive Order, and Departmental regulations.

5. You may also exclude holdings in mutual funds, holding companies, banks, savings and loan associations, investment clubs or regulated investment companies which do not specialize in any person or business subject to the Act.

DEFINITIONS

"Covered employee" means an officer or employee of the Department of the Interior performing a function or duty under the Mining in the Parks Act, P.L. 94-429, whose position has not been exempted by the Secretary of the Interior from the reporting requirements of section 13 of the Act.

"Mining claim" means any patented or unpatented mining claim within any area of the National Park System.

"Mining activity" means any exploration and assessment work, preparation of mining claims for the extraction of minerals, mining, transportation of the extracted minerals, processing of the extracted minerals or reclamation of a mining claim following mining, provided these activities take place, in whole or part, within the boundaries of any area of the National Park System.

"Engaged in business subject to the Mining in the Parks Act" means the conduct of a business involving the ownership of, or the right to use or occupy, a mining claim or the conduct of mining activity. A parent company is "engaged in business subject to the Mining in the Parks Act" if one or more of its subsidiaries is "engaged in business subject to the Mining in the Parks Act." A mutual fund or investment club is within the definition if it specializes in a business or businesses which own or have the right to occupy or use mining claims or conduct mining activity.

"Person" means an individual, corporation, partnership, association, consortium, company, firm, society, trust, joint venture, joint stock company, or any entity organized for a common business purpose, wherever situated, domiciled, or doing business.

"Pecuniary interest" means any monetary or financial interest (whether owned directly by a covered employee or held for the employee's benefit by a trustee), including, but not limited to (i) the ownership of common stock, preferred stock, bonds, debentures, warrants or a partnership share, (ii) a leasehold, rental, permit, license, right of way, or contract, or (iii) a pension or retirement plan, shared income or other arrangement as a result of current or prior employment or professional association.

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Form DI-2118
12-76

UNITED STATES DEPARTMENT OF THE INTERIOR
PUBLIC DISCLOSURE STATEMENT OF KNOWN FINANCIAL INTERESTS
(Energy Policy and Conservation Act, Sec. 522, P.L. 94-163)

APPENDIX B-5

1 NAME (last, first, initial)	2. TITLE OF POSITION
3. CALENDAR YEAR	4. BUREAU AND OFFICE

PART I. KNOWN FINANCIAL INTEREST IN BUSINESSES. You must report any pecuniary interest in any person whom you know, or could reasonably be expected to know, owns or has the right to occupy energy property or is engaged in energy business. You are under an obligation to exercise diligence in determining whether companies or other business entities in which you own interests fall in this category. Include all interests held at any time during the previous calendar year. If as of the reporting date an interest is no longer held, so indicate. If no such interests were held, write "NONE". See instructions and definitions on back of form.

Name and kind of Business	Address	Nature of Known Financial Interest

PART II. KNOWN FINANCIAL INTERESTS IN PROPERTY. You must report any energy property you own or have a right to occupy or use. Include all interests held at any time during the previous calendar year. If as of the reporting date an interest is no longer held, so indicate. If no such interests were held, write "NONE". See instructions and definitions on back of form.

Nature of Interest	Address/Location of Property

Privacy Act Notice:

Subsection 522(a) of P.L. 94-163 provides for filing a statement disclosing all known financial interests. Subsection (d) provides that any officer or employee who is subject to, and knowingly violates subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

I am aware of the provisions of the law and regulations which require the filing of this statement and that such statement shall be subject to examination, and available for copying, by the public upon request and subject to review by the designated ethics counselor in accordance with the Departmental conflict of interest regulations (43 CFR 20.735 Subpart B). As such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief.

Signature and date

APPENDIX B-5

INSTRUCTIONS

1. All "covered employees" shall complete this form. These employees are responsible for reviewing and completing this form in accordance with 43 CFR 20.735-20.

2. Signed statements shall be sent to and reviewed by the appropriate Ethics Counselor.

3. With respect to a blind trust, you are only required to disclose holdings of which you have actual knowledge; for example, those holdings initially committed to the blind trust, if subject to the provisions of the Act, must be disclosed.

4. You may exclude from this form any holdings owned solely by your spouse, minor child, or other relative residing in your home. This exclusion applies only to public disclosure statements and not to the regular confidential financial disclosure statement (form DI-212). You are cautioned that such holdings (spouse, minor children, etc.) are subject to the regular conflict of interest statutes, Executive Order, and Departmental regulations.

5. You may also exclude holdings in mutual funds, holding companies, banks, savings and loan associations, investment clubs or regulated investment companies which do not specialize in any person or business subject to the Act.

DEFINITIONS

"Covered employee" means an officer or employee of the Department of the Interior performing a function or duty under the Energy Policy and Conservation Act 42 U.S.C. 6201, whose position has not been exempted by the Secretary of the Interior from the reporting requirements of section 522 of the Act.

"Person" means an individual, corporation, partnership, association, consortium, company, firm, society, trust, joint venture, joint stock company, or any entity organized for a common business purpose, wherever situated, domiciled, or doing business, who directly or through other persons subject to their control does business in any part of the United States. For purposes of this definition, the United States includes the Outer Continental Shelf.

"Energy property" means real property from which coal, natural gas or crude oil is commercially produced.

"Engaged in energy business" means the active conduct of one or more of the businesses of exploring, developing, producing, or refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products. A parent company or holding company is "engaged in energy business" if one or more of its subsidiaries in the United States is "engaged in energy business". A mutual fund or investment club is within the definition if it specializes in a business or businesses which explore, develop, refine, transport by pipeline or distribute (other thn at the retail level) coal, natural gas, or petroleum products in the United States.

"Pecuniary interest" means any monetary or financial interest (whether owned directly by a covered employee or held for the employee's benefit by a trustee), including, but not limited to (i) the ownership of common stock, preferred stock, bonds, debentures, warrants or a partnership share, (ii) a leasehold, rental, permit, license, right of way, or contract, or (iii) a pension or retirement plan, shared income or other arrangement as a result of current or prior employment or professional association.

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APPENDIX C—LIST OF EMPLOYEES, IN ADDITION TO GS–15's AND HIGHER REQUIRED TO FILE CONFIDENTIAL STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS

ETHICS COUNSELORS

Deputy Department Ethics Counselor, Washington, D.C.
Assistant Department Ethics Counselor, Washington, D.C.
All Deputy Office and Bureau Ethics Counselors.
All Assistant Office and Bureau Ethics Counselors.

SECRETARY'S IMMEDIATE OFFICE

Confidential Assistant to the Secretary, Washington, D.C.
Deputy Executive Secretary, Washington, D.C.
Assistant to the Secretary (White House Fellow), Washington, D.C.
Staff Assistant for Environmental Review, Boston, Massachusetts; Atlanta, Georgia; Chicago, Illinois; Albuquerque, New Mexico; Denver, Colorado; Portland, Oregon; Anchorage, Alaska
Staff Assistant, Chicago, Illinois
Staff Officer, San Francisco, California
Public Informaiton Specialist, Denver, Colorado

OFFICE OF TERRITORIAL AFFAIRS

Supervisory Auditor, St. Thomas, Virgin Islands
Supervisory Auditor, St. Croix, Virgin Islands
Auditor, St. Thomas, Virgin Islands
Supervisory Auditor, Agana, Guam
Auditor, Agana, Guam

OFFICE OF PUBLIC AFFAIRS

Visual Information Officer, Washington, D.C.

OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS

Attorney-Adviser, Washington, D.C.

OFFICE FOR EQUAL OPPORTUNITY

OFFICE OF THE DIRECTOR

Procurement Analyst, Washington, D.C.

DIVISION OF MINORITY BUSINESS ENTERPRISE

Minority Business Enterprise Specialist, Washington, D.C.

DIVISION OF TITLE VI COMPLIANCE

Staff Assistant, Washington, D.C.
Equal Opportunity Specialist, Washington, D.C.

DIVISION OF CONTRACT COMPLIANCE

Equal Opportunity Specialist (Employment), Washington, D.C.
Equal Opportunity Specialist (Employment), Lakewood, CO
Equal Opportunity Specialist (Employment), Anchorage, AK

ASSISTANT SECRETARY—ADMINISTRATION AND MANAGEMENT

Staff Assistant, Washington, D.C.
Committee Management Officer, Washington, D.C.

WASHINGTON COMPUTER CENTER DIVISION

Digital Computer Systems Administrator, Washington, D.C.
Computer Specialist, Washington, D.C.
Administrative Officer, Washington, D.C.

OFFICE OF AIRCRAFT SERVICES

Supervisory Contract Specialist, Boise, Idaho
Chief, Division of Technical Services, Anchor-Idaho
Regional Director, Office of Aircraft Services, Anchorage, Alaska
Chief, Division of Technical Services, Anchorage, Alaska
Contract Specialist, Anchorage, Alaska

OFFICE OF MANPOWER TRAINING AND YOUTH ACTIVITIES

Chief, Operations Division, Washington, D.C.
Chief, Program Planning and Support Division, Washington, D.C.
Conservation Center Director, Ft. Simcoe, Washington

OFFICE OF ADMINISTRATIVE AND MANAGEMENT POLICY

Procurement Analyst, Washington, D.C.
Grants Policy Specialist, Washington, D.C.
Management Analyst, Washington, D.C.

OFFICE OF ADMINISTRATIVE SERVICES

Chief, Division of General Services, Washington, D.C.
Printing Officer, Washington, D.C.
Contract Specialist, Washington, D.C.
Procurement Agent, Washington, D.C.
Procurement and Grants Specialist, Washington, D.C.

OFFICE OF LIBRARY AND INFORMATION SERVICES

Supervisory Librarian, Washington, D.C.
Staff Assistant, Washington, D.C.

OFFICE OF AUDIT AND INVESTIGATION

Supervisory Auditors, (Washington, D.C.; Arlington, Virginia; Denver, Colorado; Albuquerque, New Mexico; Sacramento, California; and Portland, Oregon)
Auditors, GS–12, (Arlington, Virginia; Denver, Colorado; Albuquerque, New Mexico; Sacramento, California; and Portland, Oregon)
Management Analysts, GS–12 and above, (Washington, D.C.; Arlington, Virginia; and Denver, Colorado)
Investigators (General), GS–12 and above, Washington, D.C.

OFFICE OF THE ASSISTANT SECRETARY—FISH, WILDLIFE AND PARKS

Special Assistant, Washington, D.C.

OFFICE OF THE ASSISTANT SECRETARY—ENERGY AND MINERALS

Staff Assistant, Washington, D.C.

OCEAN MINING ADMINISTRATION

Staff Assistant (Foreign Affairs), Washington, D.C.

OFFICE OF LEGISLATION

Staff Assistant, Washington
Attorney—Advisor (Legislation), Washington, D.C.

ASSISTANT SECRETARY—LAND AND WATER RESOURCES

Deputy Assistant Secretary—Land and Water Resources, Washington, D.C.
Staff Assistant, Washington, D.C.
Assistant to the Assistant Secretary—Land & Water Resources, Washington, D.C.

OFFICE OF POLICY ANALYSIS

Program Analyst, Washington, D.C.

OFFICE OF BUDGET

Budget Analyst, Washington, D.C.

OFFICE OF OUTER CONTINENTAL SHELF PROGRAM COORDINATION

Program Analyst, Washington, D.C.
Staff Assistant, Los Angeles, California
Staff Assistant, New York, New York
Economist, Washington, D.C.

BUREAU OF INDIAN AFFAIRS

Joint Use Project Officer, Joint-Use Office, Flagstaff, Arizona
Supervisory Auditor, report to Washington, D.C. GS–13 and above
Contract Specialist, Washington, D.C. GS–13 and above
Grants Administrator, Washington, D.C.
Grants Management Specialist, Washington, D.C.
Chief, Branch of Supply and Office Services, Washington, D.C.
Field Administrator, Administrative Services Center, Albuquerque, New Mexico
Supply Management Officer, Administrative Services Center, Albuquerque, N. Mex.
Supply Management Officer, Washington, D.C.
Supervisory Civil Engineer, Albuquerque, New Mexico GS–14
Contract Specialist, Albuquerque, New Mexico
Chief, Division of Accounting Management, Albuquerque, New Mexico
Administrator, Indian Education Resource Center, Albuquerque, New Mexico
Program Officer, Indian Technical Assistance Center, Denver, Colorado
Rights Protection Officer, Washington, D.C.
Deputy Area Director, Aberdeen, South Dakota
Contract Specialist, Aberdeen, South Dakota
Education Program Administrator, Aberdeen, South Dakota
Area Special Officer, Aberdeen, South Dakota
Area Credit Officer, Aberdeen, South Dakota
Trust and Natural Resources Officer, Aberdeen, South Dakota
Area Realty Officer, Aberdeen, South Dakota
Area Appraiser, Aberdeen, South Dakota
Superintendent, Cheyenne River Agency, Eagle Butte, South Dakota
Superintendent, Crow Creek Agency, Ft. Thompson, South Dakota
Field Representative, Flandreau Santee Field Office, Flandreau, S.D. (GS–9)
School Superintendent, Flandreau School, Flandreau, S.D.
Superintendent, Fort Berthold Agency, New Town, N. Dakota
Superintendent, Fort Totten Agency, Ft. Totten, N. Dakota
Superintendent, Lower Brule Agency, Lower Brule, S. Dakota
Superintendent, Pine Ridge Agency, Pine Ridge, S. Dakota
Superintendent, Rosebud Agency, Rosebud, S. Dakota
Superintendent, Sisseton Agency, Sisseton, South Dakota
Superintendent, Standing Rock Agency, Fort Yates, N. Dakota
Superintendent, Turtle Mountain Agency, Belcourt, N. Dakota
Field Representative, Trenton Field Office (Turtle Mountain Agency), Trenton, North Dakota (GS–9)
School Superintendent, Wahpeton School, Wahpeton, N. Dakota
Superintendent, Winnebago Agency, Winnebago, Nebraska
Superintendent, Yankton Agency, Wagner, South Dakota
Deputy Area Director, Albuquerque Area, Albuquerque, New Mexico
Assistant Area Director, Albuquerque Area, Albuquerque, New Mexico
Supervisory Contract Specialist, Albuquerque, New Mexico
Education Program Administrator, Albuquerque Area, Albuquerque, New Mexico
Area Special Officer, Albuquerque Area, Albuquerque, New Mexico
Area Credit Officer, Albuquerque Area, Albuquerque, New Mexico
Area Realty Officer, Albuquerque Area, Albuquerque, New Mexico
Appraiser, Albuquerque Area, Albuquerque, New Mexico GS–12 and above
Housing Development Officer, Albuquerque Area, Albuquerque, New Mexico
Education Program Coordinator, Albuquerque Indian School, Albuquerque, N.M.
Education Program Administrator, Institute of American Indian Arts, Santa Fe, New Mexico

Superintendent, Jicarilla Agency, Dulce, New Mexico
Superintendent, Mescalero Agency, Mescalero, New Mexico
Superintendent, Northern Pueblos Agency, Santa Fe, New Mexico
Superintendent, Ramah-Navajo Agency, Ramah, New Mexico
Superintendent, Southern Pueblos Agency, Albuquerque, New Mexico
Superintendent, Southern Ute Agency, Ignacio, Colorado
Superintendent, Ute Mountain Ute Agency, Towaoc, Colorado
Special Assistant to Area Director, Andarko Area, Ahadarko, Oklahoma
Program Analysis Officer, Anadarko Area, Anadarko, Oklahoma
Education Program Administrator, Anadarko Area, Anadarko, Oklahoma
Administrative Officer, Anadarko Area, Anadarko, Oklahoma
Indian Services Officer, Anadarko Area, Anadarko, Oklahoma
Housing Officer, Anadarko Area, Anadarko, Oklahoma
Indian Career Development Officer, Anadarko Area, Anadarko, Oklahoma
Trust Responsibilities Officer, Anadarko Area, Anadarko, Oklahoma
Realty Officer, Anadarko Area, Anadarko, Oklahoma
Supervisory Appraiser, Anadarko Area, Anadarko, Oklahoma
Supervisory Loan Specialist, Anadarko Area, Anadarko, Oklahoma
School Superintendent, Chilocco School, Anadarko Area, Chilocco, Oklahoma
President, Haskell Indian Junior College, Anadarko Area, Lawrence, Kansas
School Superintendent, Concho School, Anadarko Area, Concho, Oklahoma
School Superintendent, Fort Sill School, Anadarko Area, Lawton, Oklahoma
School Superintendent, Riverside School, Anadarko Area, Anadarko, Oklahoma
Superintendent, Anadarko Agency, Anadarko, Oklahoma
Superintendent, Concho Agency, Concho, Oklahoma
Superintendent, Horton Agency, Horton, Kansas
Superintendent, Pawnee Agency, Pawnee, Oklahoma
Superintendent, Shawnee Agency, Shawnee, Oklahoma
Assistant Area Director, Billings Area Office, Billings, Montana
Education Program Administrator, Billings Area Office, Billings, Montana
Indian Services Officer, Billings Area Office, Billings, Montana
Employment Assistance Officer, Billings Area Office, Billings, Montana GS–12 and above
Tribal Operations Specialist, Billings Area Office, Billings, Montana
Supervisory Criminal Investigator, Billings Area Office, Billings, Montana
Housing Coordinator, Billings Area Office, Billings, Montana
Resources Development Officer, Billings Area Office, Billings, Montana
Supervisory Loan Specialist, Billings Area Office, Billings, Montana
Supervisory Appraiser, Billings Area Office, Billings, Montana
Realty Officer, Billings Area Office, Billings, Montana
Supervisory Supply Officer, Billings Area Office, Billings, Montana
Supervisory Highway Engineer, Billings Area Office, Billings, Montana
Rights Protection Officer, Billings Area Office, Billings, Montana
Superintendent, Blackfeet Agency, Browning, Montana
Superintendent, Crow Agency, Crow Agency, Montana
Superintendent, Flathead Agency, Ronan, Montana
Supervisory General Engineer, Flathead Irrigation Project, St. Ignatius, Mt
Superintendent, Fort Belknap Agency, Harlem, Montana
Superintendent, Fort Peck Agency, Poplar, Montana
Superintendent, Northern Cheyenne Agency, Lame Deer, Montana
Superintendent, Rocky Boy's Agency, Box Elder, Montana GS–12
Superintendent, Wind River Agency, Fort Washakie, Wyoming
Assistant Area Director (Admin.), Juneau Area, Juneau, Alaska
Area Supply Management Officer, Juneau Area, Juneau, Alaska
Supervisory Contract Specialist, Juneau Area, Juneau, Alaska
Area Field Representative (Southeast Agency), Juneau Area, Juneau, Alaska GS–12
Accounting Officer, Juneau Area, Juneau, Alaska GS–12
Supervisory Civil Engineer, Juneau Area, Juneau, Alaska
Housing Development Officer, Juneau Area, Juneau, Alaska
Tribal Operations Officer, Juneau Area, Juneau, Alaska
Supervisory Financial Analyst, Juneau Area, Juneau, Alaska
Industrial Development Specialist, Juneau Area, Juneau, Alaska
Realty Officer, Juneau Area, Juneau, Alaska
Forester, Juneau Area, Juneau, Alaska
Employment Assistance Officer, Juneau Area, Juneau, Alaska.
Superintendent, Anchorage Agency, Anchorage, Alaska
Superintendent, Bethel Agency, Bethel, Alaska
Superintendent, Fairbanks Agency, Fairbanks, Alaska
Superintendent, Nome Agency, Nome, Alaska
School Superintendent, Mt. Edgecumbe School, Nome Agency, Nome, Alaska
Administrative and Special Representative (Liaison Officer Seattle, Washington, Juneau Area), Seattle, Washington
Assistant Area Director, Minneapolis Area, Minneapolis, Minnesota
Supervisory Contract Specialist, Minneapolis Area, Minneapolis, Minnesota GS–12
Education Program Administrator, Minneapolis Area, Minneapolis, Minnesota
Area Special Officer, Minneapolis Area, Minneapolis, Minnesota
Housing Development Officer, Minneapolis Area, Minneapolis, Minnesota
Area Credit Officer, Minneapolis Area, Minneapolis, Minnesota
Supervisory Forester, Minneapolis Area, Minneapolis, Minnesota
Realty Officer, Minneapolis Area, Minneapolis, Minnesota
Supervisory Appraiser, Minneapolis Area, Minneapolis, Minnesota
Resources Development Officer, Minneapolis Area, Minneapolis, Minnesota
Superintendent, Great Lakes Agency, Ashland, Wisconsin
Superintendent, Minnesota Agency, Bemidji, Minnesota
Superintendent, Red Lakes Agency, Red Lake, Minnesota
Superintendent, Michigan Agency, Sault Ste. Marie, Michigan
Employment Assistant Officer, Chicago Field Employment Assistance Office, Chicago, Illinois
Deputy Area Director, Muskogee Area, Muskogee, Oklahoma
Supply Management Officer, Muskogee Area, Muskogee, Oklahoma
Supervisory Contract Specialist, Muskogee Area, Muskogee, Oklahoma GS–12
Area Realty Officer, Muskogee Area, Muskogee, Oklahoma
Area Credit Officer, Muskogee Area, Muskogee Area, Muskogee, Oklahoma
Special Assistant for Tribal Affairs, Muskogee Area, Muskogee, Oklahoma
Industrial Development Specialist, Muskogee Area, Muskogee, Oklahoma
Program Analysis Officer, Muskogee Area, Muskogee, Oklahoma
Education Program Administrator, Muskogee Area, Muskogee, Oklahoma
Area Travel Operations Officer, Muskogee Area, Muskogee, Oklahoma
Area Employment Assistance Officer, Muskogee Area, Muskogee, Oklahoma
Supervisory Maintenance Engineer, Muskogee Area, Muskogee, Oklahoma
Area Appraiser, Muskogee Area, Muskogee, Oklahoma
Area Roads Engineer, Muskogee Area, Muskogee, Oklahoma
Housing Development Officer, Muskogee Area, Muskogee, Oklahoma
Superintendent, Ardmore Agency, Ardmore, Oklahoma
Superintendent, Okmulgee Agency, Okmulgee, Oklahoma
Superintendent, Osage Agency, Pawhuska, Oklahoma
Superintendent, Miami Agency, Miami, Oklahoma
Superintendent, Tahlequah Agency, Tahlequah, Oklahoma
Superintendent, Talihina Agency, Talihina, Oklahoma
Superintendent, Wewoka Agency, Wewoka, Oklahoma
School Superintendent, Seneca Indian School, Muskogee Area, Wyandotte, Oklahoma GS–12
Supervisory Vocational Development Specialist, Muskogee Area, Dallas, Texas GS–12
Tribal Operations Officer, Navajo Area, Window Rock, Arizona GS–12
Program Officer, Navajo Area, Window Rock, Arizona
Assistant Area Director, Division of Administration, Navajo Area, Gallup, N.M.
Supervisory Contract Specialists, Navajo Area, Gallup, New Mexico
Supply Management Officer, Navajo Area, Gallup, New Mexico
Procurement Officer, Navajo Area, Gallup, New Mexico
Financial Manager, Navajo Area, Gallup, New Mexico
Supervisory Maintenance Engineer, Navajo Area, Window Rock, Arizona
Supervisory Highway Engineer, Navajo Area, Window Rock, Arizona
Natural Resources Manager, Navajo Area, Window Rock, Arizona
Supervisory Loan Specialist, Navajo Area, Window Rock, Arizona
Supervisory Forester (Administration), Navajo Area, Window Rock, Arizona
Realty Officer, Navajo Area, Window Rock, Arizona
Supervisory Criminal Investigator, Navajo Area, Window Rock, Arizona
Housing Development Officer, Navajo Area, Window Rock, Arizona
Appraiser, Navajo Area, Window Rock, Arizona
Employment Assistance Officer, Navajo Area, Window Rock, Arizona
Superintendent, Chinle Agency, Chinle, Arizona
Superintendent, Eastern Navajo Agency, Crownpoint, New Mexico
Superintendent, Fort Defiance Agency, Fort Defiance, Arizona
Project Engineer, Navajo Irrigation Project, Farmington, New Mexico
Suerintendent, Shiprock Agency, Shiprock, New Mexico

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Superintendent, Western Navajo Agency, Tuba City, Arizona
Special Assistant to the Area Director, Phoenix Area Office, Phoenix, Arizona
Assistant to the Area Director (Admin.), Phoenix Area Office, Phoenix, Arizona
Tribal Operations Officers, Phoenix Area Office, Phoenix, Arizona
Indian Trust Protection Officer, Phoenix Area Office, Phoenix, Arizona
Supervisory General Engineer, Phoenix Area Office, Phoenix, Arizona
Financial Manager, Phoenix Area Office, Phoenix, Arizona
Supervisory General Supply Specialist, Phoenix Area Office, Phoenix, Arizona
Education Program Administrator, Phoenix Area Office, Phoenix, Arizona
Employment Assistance Officers, Phoenix Area Office, Phoenix, Arizona
Area Special Officer, Phoenix Area Office, Phoenix, Arizona
Industrial Development Specialist, Phoenix Area Office, Phoenix, Arizona
Area Credit Officer, Phoenix Area Office, Phoenix, Arizona
Forester, Phoenix Area Office, Phoenix, Arizona
Realty Officer, Phoenix Area Office, Phoenix, Arizona
Supervisory Appraiser, Phoenix Area Office, Phoenix, Arizona GS–13 and above
Supervisory Highway Engineer, Phoenix Area Office, Phoenix, Arizona
Superintendent, Colorado River Agency, Parker, Arizona
Superintendent, Eastern Nevada Agency, Owyhee, Nevada
Superintendent, Fort Apache Agency, White-river, Arizona
Superintendent, Hopi Agency, Keams Canyon, Arizona
Superintendent, Papago Agency, Sells, Arizona
School Superintendent, Phoenix Indian School, Phoenix, Arizona
Superintendent, Pima Agency, Sacaton, Arizona
Coordinator, Salt River Agency, Scottsdale, Arizona
Superintendent, San Carlos Agency, San Carlos, Arizona
School Superintendent, Sherman Indian School, Riverside, California
School Superintendent, Stewart Indian School, Stewart, Nevada
Superintendent, Truxton Canon Agency, Valentine, Arizona
Superintendent, Uintah and Ouray Agency, Ft. Ducheene, Utah
Superintendent, Western Nevada Agency, Stewart, Nevada
Superintendent, Fort Yuma Agency, Yuma, Arizona
School Superintendent, Intermountain School, Brigham City, Utah
Assistant Area Director (Admin.), Portland Area, Portland, Oregon
Supply Management Officer, Portland Area, Portland, Oregon
Education Program Administrator, Portland Area, Portland, Oregon
Employment Assistance Officer, Portland Area, Portland, Oregon
Area Special Officer, Portland Area, Portland, Oregon
Housing Development Officer, Portland Area, Portland, Oregon
Finance Specialist, (Credit), Portland Area, Portland, Oregon
Forester, Portland Area, Portland, Oregon
Real Property and Management Officer, Portland Area, Portland, Oregon
Supervisory Appraiser, Portland Area, Portland, Oregon
General Engineer, Portland Area, Portland, Oregon
Supervisory Highway Engineer, Portland Area, Portland, Oregon
School Superintendent, Chemawa School, Chemawa, Oregon
Superintendent, Colville Agency, Nespelem, Washington
Superintendent, Fort Hall Agency, Pocatello, Idaho
Superintendent, Northern Idaho Agency, Lapwai, Idaho
Superintendent, Spokane Agency, Wellpinit, Washington
Superintendent, Umatilla Agency, Pendleton, Oregon
Supervisory General Engineer, Wapato Irrigation Project, Wapato, Washington
Superintendent, Warm Springs Agency, Warm Springs, Oregon
Superintendent, Western Washington Agency, Everett, Washington
Superintendent, Yakima Agency, Toppenish, Washington
Employment Assistance Officer, Seattle FEAO, Seattle, Washingon GS–12
Assistant to the Area Director, Sacramento Area, Sacramento, California
Administrative Officer, Sacramento Area, Sacramento, California
Supervisory Contract Specialist, Sacramento Area, Sacramento, California GS–12
Education Specialist, Sacramento Area, Sacramento, California
Housing Development Officer, Sacramento Area, Sacramento, California
Employment Assistance Officer, Sacramento Area, Sacramento, California
Assistant Area Director, (Resources Mgmt.), Sacramento, California
Area Credit Officer, Sacramento Area, Sacramento, California
Industrial Development Specialist, Sacramento Area, Los Angeles, California
Supervisory Appraiser, Sacramento Area, Sacramento, California GS–13 and above
Realty Officer, Sacramento Area, Sacramento, California
Supervisory Highway Engineer, Sacramento Area, Sacramento, California
Forester, Sacramento Area, Sacramento, California GS–12 and above
Superintendent, Central California Agency, Sacramento, California
Superintendent, Hoopa Agency, Hoopa, California
Area Field Representative, Palm Springs Area Field Office, Palm Springs, California (GS–14)
Superintendent, Southern California Agency, Riverside, California
Employment Assistance Office, Los Angeles Field Employment Assistance Office, Los Angeles, California
Employment Assistance Officer, Oakland/San Francisco FEAO, Alameda, California
Community Services Officer, Eastern Area, Washington, D.C.
Program Planning Specialist, Eastern Area, Washington, D.C.
Business Development Specialist, Eastern Area, Washington, D.C.
Loan Specialist, Eastern Area, Washington, D.C.
Superintendent, Cherokee Agency, Cherokee, N.C.
Superintendent, Choctaw Agency, Philadelphia, Mississippi
Superintendent, Seminole Agency, Hollywood, Florida
Liaison Officer, New York Liaison Office, Syrauce, New York
Employment Assistance Officer, Cleveland FEAO, Cleveland, Ohio GS–12 and above
Employment Assistance Officer, Washington, D.C. GS–12 and above

ALASKA POWER ADMINISTRATION

Chief, Administrative Services Division, Juneau, Alaska.
Chief, Power Division, Juneau, Alaska.
Chief, Project Development Division, Juneau, Alaska.
Project Superintendent (Eklutna), Palmer, Alaska.
Project Superintendent (Snettisham), Juneau, Alaska.

BUREAU OF MINES

Office of the Director:
Officer in Charge, Audio Visual
Chief, Division of Public Information
Public Information Specialist, GS–13
Chief, Division of Production and Distribution
Mineral and Materials Research and Development:
Helium—
Physical Science Administrator, Division of Helium
Administrative Officer Helium Operations
Mining—
Headquarters Staff: Staff Engineers, GS–12 and above, Washington Office (regardless or official classification title)
Environmental Field Office, Wilkes-Barre, Pa.
Administrative Officer and Staff Engineers, GS–12 and above
Research Centers: Technical Project Officers, GS–12 and above (regardless of official classification title)
Metallurgy—
Headquarters Staff: Staff Engineers, Washington Office GS–12 and above (regardless of official classification)
Research Centers: Technical Project Officers GS–12 and above (regardless of official classification title)
Chief, Boulder City Metallurgical Engineering Laboratory
Mineral and Materials Supply/Demand Analysis
Liaison Program Staff Specialists
State Liaison Officers
Metals, Minerals and Materials—
Commodity Specialists, GS–12 and above (regardless of official classification title)
Fuels—
Headquarters Staff: Staff Specialists, GS–12 and above (regardless of official classification title)
Chief, Dallas Field Office
Staff Specialists, Dallas Field Office, GS–12 and above (regardless of official classification title)
Field and Environmental Activities—
Mineral Assessment Specialist, GS–12 and above (regardless of official classification title)
Interindustry and Economic Analysis—
Staff Specialists, GS–12 and above (regardless of official classification title)
International Data and Analysis—
Area Specialists, GS–12 and above (re-
Program Development and Evaluation:
Planning and Evaluation Staff Specialists, gardless of official classification title) GS–13 and above (regardless of official classification title)
Administration:
Division of ADP—
Chief, Branch of Administration and Contracts
Pittsburgh/Bruceton Administration Office—
Chief, Branch of Procurement and Property
Contract Specialists, GS–13 and above
Division of Management Services:
Deputy Management Services Officer
Chief, Branch of Contracts and Grants
Contract Specialist and Analysts, GS–13 and above (regardless of official classification title)

Chief, and Deputy Chief, Branch of Procurement and Property Operations
Contract Specialists, GS–13 and above

NOTE.—Any supervisor not otherwise covered will be required to file if he/she supervises an employee who is required to file.

BONNEVILLE POWER ADMINISTRATION

General Engineer, Portland, Oregon.
Special Assistant, Washington, D.C., Office.
Special Programs Coordinator, Portland, Oregon.
Public Information Officer, Portland, Oregon.
Construction Program Coordinator, Portland, Oregon.
Assistant to Chief Engineer, Computer Applications Staff, Portland, Oregon.
Engineering and Construction Environmental Coordinator, Portland, Oregon.
Senior Procurement Analyst, Portland, Oregon.
Assistant to Construction and Services Manager, Portland, Oregon.
Electrical Engineer, Thermal Engineering Staff, Portland, Oregon.
BPA Project Manager, Portland, Oregon.
Project Engineer, Richland, Washington.
General Engineer, Richland, Washington.
Chief, Branch of Plant Services, Vancouver, Washington.
General Services Manager, Vancouver, Washington.
Assistant Chief, Branch of Construction, Vancouver, Washington.
Head, Line Construction Section, Branch of Construction, Vancouver, Washington.
Assistant Head, Line Construction Section, Vancouver, Washington.
Head, Substation Construction Section, Vancouver, Washington.
Assistant Chief, Branch of Land, Portland, Oregon.
Head, Appraisal Section, Branch of Land, Portland, Oregon.
Head, Acquisitions Section, Branch of Land, Portland, Oregon.
Head, Procurement Section, Branch of Materials and Procurement, Portland, Oregon.
Head, Contract Unit 1, Branch of Materials and Procurement, Portland, Oregon.
Head, Contract Unit 2, Branch of Materials and Procurement, Portland, Oregon.
Head, Contract Unit 3, Branch of Materials and Procurement, Portland, Oregon.
Head, Contract Unit 4, Branch of Materials and Procurement, Portland, Oregon.
Head, Small Purchase Unit, Branch of Materials and Procurement, Portland, Oregon.
Head, Quality Control Section, Branch of Materials and Procurement, Portland, Oregon.
Head, Eastern Quality Control Unit, Branch of Materials and Procurement, Portland, Oregon.
Head, Western Quality Control Unit, Branch of Materials and Procurement, Portland, Oregon.
Head, Receiving Inspection Unit, Branch of Materials and Procurement, Portland, Oregon.
Head, Quality Assurance Unit, Branch of Materials and Procurement, Portland, Oregon.
Traffic Manager, Branch of Materials and Procurement, Portland, Oregon.
Head, Ross Suply Unit, Branch of Materials and Procurement, Vancouver, Washington.
Head, Parts Room Group, Branch of Materials and Procurement, Vancouver, Washington.
Head, Washougal Material Yard, Branch of Materials and Procurement, Washougal, Washington.
Head, Requirements and Sourcing Unit, Branch of Materials and Procurement, Portland, Oregon.
Assistant Chief, Branch of System Engineering, Portland, Oregon.
General Planning Engineer, Advance Planning and Special Projects Staff, Portland, Oregon.
Consultants, Branch of System Engineering, Portland, Oregon.
Head, High Voltage Practise Section, Portland, Oregon.
Chief, Branch of Control Engineering, Portland, Oregon.
Consultants, Branch of Control Engineering, Portland, Oregon.
Head, Program Planning and Management Staff, Branch of Control Engineering, Portland, Oregon.
Head, Technical Services Staff, Branch of Control Engineering, Portland, Oregon.
Assistant Chief, Branch of Laboratories, Vancouver, Washington.
Head, Design Services Section, Branch of Substation Design, Portland, Oregon.
Head, Contract Unit, Branch of Substation Design, Portland, Oregon.
Area Power Manager, Portland Area, Portland, Oregon.
Area Operation and Maintenance Manager, Portland Area, Portland, Oregon.
Area Engineer, Portland Area, Portland, Oregon.
District Manager, Eugene District Office, Eugene, Oregon.
Area Power Manager, Seattle Area, Seattle, Washington.
Area Operation and Maintenance Manager, Seattle Area, Seattle, Washington.
Area Engineer, Seattle Area, Seattle, Washington.
Area Power Manager, Spokane Area, Spokane, Washington.
Area Operation and Maintenance Manager, Spokane Area, Spokane, Washington.
Area Engineer, Spokane Area, Spokane, Washington.
District Manager, Wenatchee District Office, Wenatchee, Washington.
District Manager, Kalispell District Office, Kalispell, Montana.
Area Power Manager, Walla Walla Area, Walla Walla, Washington.
Area Operation and Maintenance Manager, Walla Walla Area, Walla Walla, Washington.
District Manager, Idaho Falls District, Idaho Falls, Idaho.
Assistant to Power Manager (Technical and Administrative), Portland, Oregon.
Assistant to Power Manager (Computer Applications), Portland, Oregon.
Head, Station Project Unit A, Branch of Substation Design, Portland, Oregon.
Head, Station Project Unit B, Branch of Substation Design, Portland, Oregon.
Head, Station Project Unit C, Branch of Substation Design, Portland, Oregon.
Head, Architectural, Civil, and Mechanical Section, Portland, Oregon.
Assistant Chief, Branch of Transmission Design, Portland, Oregon.
Consultants (2), Branch of Transmission Design, Portland, Oregon.
Head, Specifications Section, Branch of Transmission Design, Portland, Oregon.
Head, Line Design Section, Branch of Transmission Design, Portland, Oregon.
Head, Location and Mapping Section, Branch of Transmission Design, Portland, Oregon.
Environmental Manager, Division of Management Services, Portland, Oregon.
Head, Disbursement Audit Section, Branch of Finance and Accounts, Portland, Oregon.
Chief, Branch of Administration Services, Portland, Oregon.
Chief, Branch of ADP Systems, Portland, Oregon.
Assistant to Operation and Maintenance Manager (Program Management), Portland, Oregon.
Assistant to Operation and Maintenance Manager (Computer Applications), Portland, Oregon.
Energy Conservation Officer, Portland, Oregon.
Assistant Chief, Branch of System Operations, Portland, Oregon.
Assistant to Power Manager (Thermal Power), Portland, Oregon.
Head, Thermal Power Section, Branch of Power Resources, Portland, Oregon.
Head, Requirements Section, Branch of Power Resources, Portland, Oregon.
Head, Contracts Section, Branch of Customer Service, Portland, Oregon.
Head, Inventory Management and Storage Section, Branch of Materials and Procurement, Portland, Oregon.
Area Engineer, Walla Walla Area, Walla Walla, Washington.

GEOLOGICAL SURVEY

OFFICE OF THE DIRECTOR

Program Analysts, Reston, Virginia.
Economist, Reston, Virginia.

LAND INFORMATION AND ANALYSIS OFFICE

Administrative Officer, Reston, Virginia.
Operations Research Analyst, Reston, Virginia.
Technical Information Officer (Physical Scientist), Reston, Virginia.
Physical Scientists, Reston, Virginia.
Geographers, Reston, Virginia.
Geologists, Reston, Virginia, GS–12 and above.
Mining Engineers, Reston, Virginia.
Staff Engineer, Reston, Virginia.
Hydrologists, Reston, Virginia.
Environmental Scientists, Reston, Virginia.
Remote Sensing Specialist, Bay St. Louis, Mississippi.
Administrative Officer, EROS Data Center, Sioux Falls, South Dakota.
Research Forester, Sioux Falls, South Dakota.
Supervisory Remote Sensing Specialists, Sioux Falls, South Dakota.
General Engineer, Sioux Falls, South Dakota.
Physical Scientist, Sioux Falls, South Dakota.
Principal Remote Sensing Specialist, Sioux Falls, South Dakota.
Data Management Officer, Sioux Falls, South Dakota.
Supervisory Computer Specialist, Sioux Falls, South Dakota.
Photographic Technologist, Sioux Falls, South Dakota. GS–12 (1).
Geologist, Denver, Colorado.

OFFICE OF NATIONAL PETROLEUM RESERVE IN ALASKA

Petroleum Engineers.
Geophysicists.
Geologists.
Administrative Officers. GS–12 and above.
Contract Specialist.
Contract Analyst.
Chief, NPRA Operations Office.
Assistant Chief, NPRA Operations Office.
Contract Administrator. GS–12 (1).

ADMINISTRATIVE DIVISION

Supervisory Contract Specialists, Reston, Virginia.
Contract Specialist, Reston, Virginia. GS–11 and above.
Procurement Analyst, Reston, Virginia.
Procurement Agents, Reston, Virginia. GS–11 and above.
Supervisory Contract Specialists, Lakewood, Colorado.
Contract Specialists, Lakewood, Colorado. GS–11 and above.
Procurement Officer, Menlo Park, California.

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Contract Specialists, Menlo Park, California. GS–11 and above.

CONSERVATION DIVISION

Area Oil and Gas Supervisor—Resource Evaluation, Metairie, Louisiana.
Assistant Oil and Gas Supervisor—Resource Evaluation, Metairie, Louisiana.
Deputy Oil and Gas Supervisor—Resource Evaluation, Washington, D.C.
Section Chief (Tract Selection and Evaluation), Washington, D.C.
Section Chief (Hazards Analysis), Washington, D.C.
Section Chief (Frontier Data Analysis), Washington, D.C.
Area Oil and Gas Supervisor—Operations, Washington, D.C.
District Supervisor (Mid-Atlantic District), Washington, D.C.
District Supervisor (North Atlantic District), Washington, D.C.
District Supervisor (South Atlantic District), Washington, D.C.
District Engineer, Washington, D.C.
Assistant Conservation Manager, Anchorage, Alaska.
Assistant Conservation Manager, Los Angeles, California.
Computer Systems Analyst, Menlo Park, California.
Computer Systems Analyst, Grand Junction, Colorado.
Meteorologist, Grand Junction, Colorado.
Staff Assistant for Oil and Gas, Lakewood, Colorado.
Staff Assistants for Mining, Lakewood, Colorado.
Staff Assistant for Programs, Lakewood, Colorado.
Staff Assistant for Environment, Lakewood, Colorado.
Senior Coal Evaluation Chief, Lakewood, Colorado.
Computer Systems Analyst, Lakewood, Colorado.
Program Officer, Washington, D.C.
Staff Assistant for Environmental Analysis, Metairie, Louisiana.
Staff Assistant for Operations and Regulation, Metairie, Louisiana.
Staff Assistant for Programs, Metairie, Louisiana.
Digital Computer Systems Administrator, Metairie, Louisiana.
Scientific Staff Assistant, Reston, Virginia.
Legal Staff Assistant, Reston, Virginia.
Contracts Liaison Specialist, Reston, Virginia.
Production Rate Control Coordinator, Reston, Virginia.
Manpower Utilization Specialist, Reston, Virginia.
Program Analyst, Reston, Virginia.
Program Analysis Officer, Reston, Virginia.
Mathematical Statistician, Reston, Virginia.
Transportation Specialist, Reston, Virginia GS–12 (1).
Administrative Officers, all locations. GS–12 and above.
Accountants and Auditors, all locations. GS–9 and above.
Accounting Assistants, all locations. GS–7 and above.
Chemical Engineers, all locations. GS–9 and above.
Economists, all specialities, all locations, GS–12 and above.
Electrical Engineers, all locations. GS–9 and above.
Biologists, all locations. GS–9 and above.
Environmental Specialist and Environmental Scientists, all locations. GS–9 and above.
General Engineers, all locations. GS–9 and above.
Geologists, all locations. GS–9 and above.
Geophysicists, all locations. GS–9 and above.
Hydraulic Engineers, all locations. GS–9 and above.
Hydrologists, all locations. GS–9 and above.
Mechanical Engineers, all locations. GS–9 and above.
Mine Inspectors, all locations. GS–9 and above.
Mining Engineers, all locations. GS–9 and above.
Oceanographers, all locations, GS–9 and above.
Petroleum Engineers, all specialties, all locations. GS–9 and above.
Petroleum Engineering and Drilling Technicians, all locations. GS–9 and above.
Physical Science Technicians, all locations. GS–9 and above.
Physical Scientists, all specialties, all locations. GS–9 and above.
Structural Engineers, all locations. GS–9 and above.

GEOLOGIC DIVISION

Assistant Deputy Chief Geologist for Program and Budget, Reston, Virginia.
Administrative Officers, Reston, Virginia.
Deputy Western Regional Geologist, Menlo Park, California.
Deputy Chief for Geology, Office of Earthquake Studies, Reston, Virginia.
Deputy Chief for Earthquake Mechanics and Prediction, Reston, Virginia.
Staff Geologist for Coastal Zone Program, Reston, Virginia.
Staff Geologist for Outer Continental Shelf Environmental Studies, Reston, Virginia.
Staff Geologist for Onshore Oil and Gas Resources, Reston, Virginia.
Geologist, Office of Energy Resources, Lakewood, Colorado.
Staff Geologist for Outer Continental Shelf Environmental Studies, Boulder, Colo. GS–12 (1).
Staff Geologist for Land Resource Programs, Reston, Virginia.
Staff Geologist for Special Programs, Reston, Virginia.
Staff Geologist for Grants and Contracts, Office of Environmental Geology, Reston, Virginia.
Program Manager, Office of Environmental Geology, Lakewood, Colorado.
Program Manager, Office of Environmental Geology, Menlo Park, California.
Staff Geophysicist for Remote Sensing(Reston, Virginia.
Staff Botanist for Geochemistry and Geophysics, Reston, Virginia. GS–12 (1).
Staff Geologist for Remote Sensing, Reston, Virginia.
International Activities Officer, Reston, Virginia.
Assistant to Office Chief, Office of International Activities, Reston, Virginia.
Staff Geologist, Denver Programs, Office of Mineral Resources, Reston, Virginia.
Staff Geologist, Menlo Park Programs, Office of Mineral Resources, Reston, Virginia.
Chief, Branch of Alaskan Geology, Menlo Park, California.
Chief, Branch of Western Mineral Resources, Menlo Park, California.

PUBLICATIONS DIVISION

Deputy Assistant Chief (Management and Administration), Reston, Virginia.
Chief, Branch of Administrative Services, Reston, Virginia.
Deputy Assistant Chief (Research and Technical Coordination), Reston, Virginia.
Printing Liaison Officer, Reston, Virginia.
Assistant Chief, Eastern Region, Reston, Virginia.
Chief, Administrative Services, Eastern Region, Reston, Virginia.
Assistant Chief, Administrative Services, Eastern Region, Reston, Virigina GS–11 (1).
Chief, Branch of Technical Editing, Eastern Region, Reston, Virginia.
Chief, Branch of Cartography, Eastern Region, Reston, Virginia.
Chief, Branch of Printing, Eastern Region, Reston, Virginia.
Chief, Branch of Exhibits, Eastern Region, Reston, Virginia.
Chief, Branch of Visual Services, Eastern Region, Reston, Virigina.
Chief, Central Region, Lakewood, Colorado.
Chief, Branch of Technical Editing, Central Region, Lakewood, Colorado.
Chief, Branch of Cartography, Central Region, Lakewood, Colorado.
Chief, Branch of Distribution, Central Region, Lakewood, Colorado.
Chief, Branch of Exhibits, Central Region, Lakewood, Colorado. GS–12 (1).
Chief, Western Region, Menlo Park, California.
Chief, Branch of Technical Editing, Western Region, Menlo Park, California.
Chief, Branch of Cartography, Western Region, Menlo Park, California.
Chief, Branch of Exhibits, Western Region, Menlo Park, California. GS–12 (1).
Chief, Flagstaff Cartographic Section, Western Region, Flagstaff, Arizona. GS–12 (1).

TOPOGRAPHIC DIVISION

Photographic Technologist, Reston, Virginia.
Civil Engineer, Reston, Virginia.
Research Specialists, Reston, Virginia.
Research Civil Engineers, Reston, Virginia.
Cartographer, Reston, Virginia. GS–11 (1).
Cartographic Technician, Reston, Virginia. GS–9 (1).

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

Chief, State Grant Program Office.
Subdistrict Managers, Coal Mine Health and Safety and Metal and Nonmetal.
Supervisors, inspectors and engineers performing inspection work GS–9 and above.
Deputy Assessment Officer.
Assessment Specialists.
Collection Officers.
Supervisors and Assessment Conference Specialists GS–11 and above.
Procurement Officers.

SOUTHEASTERN POWER ADMINISTRATION

Chief, Division of Administrative Management (Administrative Officer), Elberton, Georgia.
Supervisory Cost Allocation, Rate and Repayment Specialist, Division of Fiscal Operations, Elberton, Georgia.
Supervisory Electrical Engineer, Division of Power Sales, Elberton, Georgia.
General Engineer, Division of Power Operation, Elberton, Georgia.
Public Utilities Specialist, Division of Power Sales, Elberton, Georgia.
Public Utilities Specialist, Division of Power Sales, Elberton, Georgia.

SOUTHWESTERN POWER ADMINISTRATION

Chief, Division of Administrative Management, Tulsa, Okla.
Chief, Branch of Power Resources Production, Tulsa, Okla.
Chief, Branch of Power Operations, Tulsa, Okla.
Chief, Branch of Engineering, Tulsa, Okla.
Chief, Branch of Customer Service, Tulsa, Oklahoma.
Chief, Branch of Finance and Accounts, Tulsa, Okla.
Chief, Branch of Personnel Management, Tulsa, Okla.

Chief, Branch of General Services, Tulsa, Okla.
Chief, Branch of Maintenance, Tulsa, Okla.
Chief, Branch of Power Contracts, Tulsa, Okla.
Area, Engineer, Muskogee, Okla.
Area, Engineer, Jonesboro, Ark.
Area, Engineer, Springfield, Mo.
Public Utilities Specialist (2), Tulsa, Okla.
Electrical Engineer (Power Systems), Planning Staff, Tulsa, Okla.

NATIONAL PARK SERVICE, WASHINGTON, D.C.

Chief, Budget Division
Chief, Federal and State Liaison Division
Chief, Park Planning and Environmental Compliance Division
Chief, Design and Technology Division
Chief, Maintenance Division
Chief, Interpretation and Visitor Services Division
Chief, Ranger Activities and Protection Division
Realty Officers
Realty Specialists, GS–13 and above
Appraisers, GS–13 and above
Concessions Analysts, GS–13 and above
Safety Officer
Environmental Sanitation Officer
Chief, WASO Personnel Officer
Chief, Youth Activities Division
Chief, Training Division
Chief, General Services Division
Chief, Grants Administration Division
Chief, Technical Preservation Services Division
Chief, Historic American Buildings Survey Division
Chief, Historic American Engineering Record Division
Chief, Historic Sites Survey Division

HARPERS FERRY CENTER

HARPERS FERRY, WEST VIRGINIA

Administrative Officer
Chief, Division of Museum Services
Chief, Division of Reference Services
Chief, Division of Interpretive Planning
Chief, Branch of Procurement and Property Management

ROCKY MOUNTAIN REGION

DENVER, COLORADO

Associate Regional Directors
Assistant to Regional Director, Utah
Superintendents, GS–13 and above
Regional Chief, Division of Contracting and Property Management
Administrative Officers, GS–13 and above
Realty Officer
Chief Appraiser
Appraiser
Chief, Operations Evaluation
Equal Opportunity Officer
Assistant to Regional Director, Public Affairs
Chief, Division of Finance
Supervisory Archeologist, Denver Archeological Office
Deputy Associate Manager, Denver Service Center
Chief, Contract Administration Division, Denver Service Center
Chief, Quality Control and Compliance Division, Denver Service Center
Chief, Surveys Division, Denver Service Center
Chief, Graphics Services Division, Denver Service Center
Chief, Historic Preservation Division, Denver Service Center
Chief, Professional Support Division, Denver Service Center
Chief, Branch of Construction Contracts, Denver Service Center
Chief, Branch of Professional Service Contracts, Denver Service Center

NORTH ATLANTIC REGION

BOSTON, MASSACHUSETTS

Associate Regional Directors
Regional Chief, Division of Contracting and Property Management
Regional Chief, Division of Programs and Budget
Superintendents, GS–13 and above
Assistant Superintendent, GS–13 and above
Realty Officer
Public Information Officer
Regional Scientist
Unit Manager
Administrative Officer, GS–13 and above
Concessions Specialists, GS–9 and above

NATIONAL CAPITAL REGION

WASHINGTON, D.C.

Chief, Division of Property Management
Chief, Division of Contracting and Procurement
Superintendents, GS–11 and above
General Managers
Director, Wolf Trap Farm Park
Chief, U.S. Park Police
Assistant Chief, U.S. Park Police

MID-ATLANTIC REGION

PHILADELPHIA, PENNSYLVANIA

Associate Regional Directors
Superintendents, GS–11 and above
Assistant Superintendents, GS–13 and above
Regional Chief, Division of Contracting and Property Management
Regional Chief, Division of Programming and Budget
Administrative Officers, GS–13 and above
Regional Chief, Division of Finance
Appraisers, GS–12 and above
Realty Specialists, GS–12 and above
Supervisory General Supply Specialist
Park Manager
Architect
Park Planner
General Biological Scientist
Public Information Officer
Staff Curator
Supervisory Museum Curator
Archeologist
Supervisory Park Ranger
Program Manager
Paralegal Assistant

SOUTHEAST REGION

ATLANTA, GEORGIA

Associate Regional Director
Superintendents, GS–13 and above
Assistant Superintendents
Conservation Center Directors
Realty Officers, GS–13 and above
Appraisers, GS–13 and above
Supervisory Archeologist, Southeast Archeological Center
Supervisory Archeologist, Atlanta Archeological Center
Chief, Contracting and Property Management
Accounting Officer
Concessions Analyst

MIDWEST REGION

OMAHA, NEBRASKA

Associate Regional Directors
Special Assistant to Regional Director
Executive Assistant to Regional Director
Superintendents, GS–13 and above
Assistant Superintendents
Regional Realty Officer
Realty Officer
Realty Specialists
Regional Appraiser
Concessions Management Specialist, GS–12
Regional Contracting and Property Officer
Chief, Midwest Archeological Center

WESTERN REGION

SAN FRANCISCO, CALIFORNIA

Superintendents, GS–13 and above
Regional Chief, Division of Contracting and Property Management
Administrative Officers, GS–13 and above
Chief, Programming and Budget
Manager, Western Archeological Center

SOUTHWEST REGION

SANTA FE, NEW MEXICO

Associate Regional Director
Chief, Operations Evaluation
Chief, Contracting and Property Management
Chief, Land Acquisition
Superintendents, GS–13 and above
General Superintendent
Realty Officer, GS–13 and above

PACIFIC NORTHWEST REGION

SEATTLE, WASHINGTON

Associate Regional Director
Superintendents, GS–13 and above
Assistant to the Regional Director, Idaho
Chief Scientist
Realty Officer
Mining Engineer
Chief, Operations Evaluation
Team Leader, Alaska
Management Assistant—Alaska
Staff Assistant—Alaska

BUREAU OF OUTDOOR RECREATION

Assistant Director for Management and Budget, Washington, D.C.
Management Officer, Washington, D.C.
Accounting Officer, Washington, D.C.
All Assistant Regional Directors
Regional Supervisory Outdoor Recreation Planners (State Grants)

U.S. FISH AND WILDLIFE SERVICE

Deputy Assistant Director—Public Affairs—Washington, D.C.
Chief, Office of Audio Visual Services, Public Affairs—Washington, D.C.
Chief, Office of Current Information, Public Affairs—Washington, D.C.
Chief, Office of Radio and TV Program Coordination, Public Affairs—Washington, D.C.
Contract Specialist, Contracting and General Services, duty station, Denver, Colorado
Chief, Branch of Contracting—Washington, D.C.
Assistant Chief, Office of Endangered Species—Washington, D.C.
Assistant Chief, Division of Federal Aid—Washington, D.C.
Staff Biologists, Federal Aid—Washington, D.C.—All GS–13 and above
Assistant Chief, Division of Ecological Services—Washington, D.C.
Leader, Stream Alteration Team, Office of Biological Services—Washington, D.C.
Leader, Power Plant Team, Office of Biological Services—Washington, D.C.
Special Agents—Washington, D.C. All
AFW Program Coordinators—Washington, D.C.
Chief, Office of Wildlife Assistance—Washington, D.C.
Chief, Youth Conservation Programs—Washington, D.C.
Assistant Chief, Division of Engineering—Washington, D.C.
Assistant Chief, Division of National Fish Hatcheries—Washington, D.C.
Assistant Chief, Division of Realty—Washington, D.C.
Chief Appraiser—Washington, D.C.
Realty Specialists and Appraisers, GS–13 and above—Washington, D.C.

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Assistant Chief, Migratory Bird Management—Laurel, Maryland
Regional Staff Biologists—Federal Aid—GS–12 and above—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Deputy Alaska Area Director—Anchorage, Alaska
Chief Regional Contracting and General Services Officer—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado (GS–12 and above)
Assistant Regional Directors—Portland, Oregon; Albuquerque, New Mexico; Minneapolis, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Assistant Alaska Area Directors—Anchorage, Alaska
Chiefs, Office of Support Services—Portland, Oregon; Albuquerque, New Mexico; Minneapolis, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Regional Public Affairs Officers—Portland, Oregon; Albuquerque, New Mexico; Minneapolis, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado; Alaska
Regional Safety Officers—Portland, Oregon; Albuquerque, New Mexico; Minneapolis, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado; Alaska
Regional Activity Leaders, Office of Biological Services—Portland, Oregon; Albuquerque, New Mexico; Minneapolis, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado; Alaska
Regional Realty Specialists and Appraisers, GS–11 and above—Portland, Oregon; Albuquerque, New Mexico; Minneapolis, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Regional Pesticide Specialists—GS–12 and above—Portland, Oregon; Albuquerque, New Mexico; Minneapolis, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Regional Chief Engineer—Portland, Oregon; Albuquerque, New Mexico; Minneapolis, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Coordinator—Indian Programs, Technical Assistance—Portland, Oregon

FIELD LEVEL

Area Managers—All—Various Locations
Unit Leaders, Cooperative Fish and Wildlife Research Units, All—Various locations
Area Supervisors, Division of Ecological Services—All—Various locations
Area Supervisors, Division of Ecological Services—All—Various locations
Special Agents—All—Various locations
Project Leaders, National Wildlife Refuges. All—Various locations
Project leaders, National Fish Hatcheries. All—Various locations
Research Center and Laboratory Directors. All—Various locations
Center Directors, Job Corps Centers—Puxico, Missouri; Indiahoma, Oklahoma
State Supervisors, Animal Damage Control Programs. All—Various locations
Field and Area Level Staff Specialists for Wildlife Assistance—GS–11 and above—Portland, Oregon; Albuquerque, New Mexico; Minneapolis, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Field and Area Level Staff Specialists for Fisheries Assistance—GS–11 and above—Portland, Oregon; Albuquerque, New Mexico; Minneapolis, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado

OFFICE OF HEARINGS AND APPEALS

BOARD OF MINE OPERATIONS APPEALS

Attorney-Advisers (General), Washington, D.C. GS–13 and above.

BOARD OF LAND APPEALS

Attorney-Advisers (General), Washington, D.C. GS–12 and above.

ALASKA NATIVE CLAIMS APPEAL BOARD

Board Members, Anchorage, Alaska, GS–14's.
Attorney-Advisers (General), Anchorage, Alaska, GS–14's.

BUREAU OF RECLAMATION

WASHINGTON OFFICE

Chief, Division of General Services, Commissioner's Office, Washington, D.C.
Chief, Construction and Contracting Activities Branch, Commissioner's Office, Washington, D.C.
Chief, Operations Branch, Division of Procurement and Property, Commissioner's Office, Washington, D.C.
Assistant Chief, Division of Water and Land, Commissioner's Office, Washington, D.C.
Chief, Lands and Recreation Branch, Commissioner's Office, Washington, D.C.
Realty Officer, Commissioner's Office, Washington, D.C.
Contract and Repayment Specialists, Commissioner's Office, Washington, D.C.
Chief, Division of Youth Conservation Programs, Commissioner's Office, Washington, D.C.
Chief, Marketing and Sales Branch, Division of Power, Commissioner's Office, Washington, D.C.
Public Utility Specialists, Division of Power, Commissioner's Office, Washington, D.C.
Chief, Procurement Branch, Division of Procurement and Property, Commissioner's Office, Washington, D.C.

ENGINEERING AND RESEARCH CENTER

Supervisory General Engineers, Denver, Colorado
Environmental Specialist, Denver, Colorado
Supervisory Civil Engineers, Denver, Colorado
Supervisory Contract Specialist, Denver, Colorado GS–12
Supervisory Contract Procurement Officer, Denver, Colorado GS–12
Supervisory Procurement Agent, Denver, Colorado
Supervisory Geologist, Denver, Colorado
Civil Engineers, Denver, Colorado
Procurement Officer, Denver, Colorado
Supervisory Research Physical Scientists, Denver, Colorado
Research Physical Scientist, Denver, Colorado
Supply Management Officer, Denver, Colorado
Appraiser, Denver, Colorado

PACIFIC NORTHWEST REGION

Regional Engineer, Boise, Idaho
Chief, Construction Branch, Boise, Idaho
Chief, Design Branch, Boise, Idaho
Chief, Division of Water and Land Operations, Boise, Idaho
Chief, Repayment and Statistics Branch, Boise, Idaho
Chief, Lands and Recreation Branch, Boise, Idaho
Regional Supervisor of Power, Boise, Idaho
Chief, Resources and Contracts Branch, Boise, Idaho
Regional Planning Officer, Boise, Idaho
Assistant Regional Planning Officer, Boise, Idaho
Chief, Engineering and Surveys Branch, Boise, Idaho
Chief, Economic Resources Branch, Boise, Idaho
Regional Procurement and Property Officer, Boise, Idaho
Chief, Resource Utilization Branch, Boise, Idaho
Regional Public Affairs Officer, Boise, Idaho
Chief, Procurement Branch, Boise, Idaho GS–12
Contract Specialist, Boise, Idaho GS–12
Appraiser, Boise, Idaho GS–12
Realty Specialists, Boise, Idaho GS–11 and above
Chief, Water Operations Branch, Boise, Idaho
Project Superintendent, Central Snake Projects Office, Boise, Idaho
Chief, Salem Field Branch, Salem, Oregon
Center Director, Columbia Basin Civilian Conservation Center, Moses Lake, Washington
Project Manager, Columbia Basin Project Office, Ephrata, Washington
Chief, Engineering and Drainage Division, Ephrata, Washington
Chief, Construction Division, Ephrata, Washington
Chief, Water and Lands Operations Division, Ephrata, Washington
Chief, Realty Branch, Ephrata, Washington GS–12
Chief, Appraisal Branch, Ephrata, Washington GS–12
Appraiser, Ephrata, Washington GS–11
Chief, Construction Field Branch, Columbia Basin Project Office, Coulee City, Washington
Project Superintendent, Hungry Horse Project Office, Hungry Horse, Washington
Project Superintendent, Minidoka Project Office, Burley, Idaho
Center Director, Marsing Civilian Conservation Center, Marsing, Idaho
Project Construction Engineer, Teton Project Office, Newdale, Idaho
Field Engineer, St. Anthony, Idaho
Project Construction Engineer, Tualatin Project Office, Forest Grove, Oregon
Field Engineer, Forest Grove, Oregon
Office Engineer, Forest Grove, Oregon
Realty Specialists, Tualatin Project Office, Forest Grove, Oregon GS–11 and above
Project Superintendent, Yakima Project Office, Yakima, Washington
Chief, Construction Field Division, Yakima Project Office, Cle Elum, Washington
Field Engineer, Grand Coulee, Washington
Office Engineer, Grand Coulee, Washington
Chief, Maintenance Division, Grand Coulee, Washington
Chief, Operations Division, Grand Coulee, Washington
Project Public Affairs Officer, Grand Coulee Project Office, Grand Coulee, Washington GS–12
Chief, Administrative Services, Grand Coulee, Washington
Chief, Teton Claims Officer, Idaho Falls, Idaho
Idaho Falls Claims Officer, Idaho Falls, Idaho
Assistant Claims Officer, Idaho Falls, Idaho GS–12
Review Team Coordinator, Idaho Falls, Idaho
Rexburg Claims Officer, Rexburg, Idaho GS–12

MID-PACIFIC REGION

Assistant to the Regional Director-Administrative Management, Sacramento, California
Project Construction Engineer, Fresno, California
Chief, Office Engineering Division, Fresno, California
Supervisory Repayment Specialist, Contract Administration Division, Fresno, California
Project Manager, Klamath Falls, Oregon
Chief, Office Engineering Division, Auburn, California
Chief, Right-of-Way-Division, Auburn, California
Administrative Officer, Auburn, California
Project Manager, Carson City, Nevada

Regional Loan Engineer, Sacramento, California
Regional Supervisor of Water and Land Operations, Sacramento, California
Regional Finance Officer, Sacramento, California
Chief, Design Branch, Division of Design and Construction, Sacramento, California
Chief, Construction Branch, Division of Design and Construction, Sacramento, California
Regional Supervisor of Power, Sacramento, California
Chief, Marketing and Sales Branch, Sacramento, California
Regional Planning Officer, Sacramento, California
Regional Engineer, Sacramento, California
Assistant Regional Planning Officer, Sacramento, California
Chief, Repayment Branch, Division of Water and Land Operations, Sacramento, California
Regional Supply and Services Officer, Sacramento, California
Chief, Procurement Branch, Division of Supply and Services, Sacramento, California
Chief, Acquisition Branch, Division of Real Estate, Sacramento, California
Regional Real Estate Officer, Sacramento, California
Supervisory Appraiser, Sacramento, California
Project Superintendent, Folsom Field Division, Folsom, California
Project Superintendent, Fresno Field Division, Fresno, California
Project Superintendent, Tracy Field Division, Tracy, California
Project Superintendent, Shasta Field Division, Redding, California
Project Construction Engineer, Willows, California
Chief, Office Engineering Division, Willows, California
Project Construction Engineer, Gilroy, California
Recreation Manager, Lake Berryessa, California

LOWER COLORADO REGION

Assistant to the Regional Director, Boulder City, Nevada
Regional Public Affairs Officer, Boulder City, Nevada
Regional Engineer, Boulder City, Nevada
Regional Supervisor of Power, Boulder City, Nevada
Regional Supervisor of Water and Land Operations, Boulder City, Nevada
Assistant Regional Supervisor of Power, Boulder City, Nevada
Regional Supply and Services Officer, Boulder City, Nevada
Chief, Procurement Branch, Boulder City, Nevada GS–12
Chief, Contracts and Repayment Branch, Boulder City, Nevada
Chief, Marketing and Sales Branch, Boulder City, Nevada
Regional Planning Officer, Boulder City, Nevada
Regional Loan Program Coordinator, Boulder City, Nevada GS–12
Project Manager, Boulder Canyon Project, Boulder City, Nevada
Chief, Land Management Branch, Boulder City, Nevada
Project Manager, Parker-Davis Project, Phoenix, Arizona
Assistant Project Manager, Parker-Davis Project, Phoenix, Arizona
Chief, Office of Procurement and Property, Parker-Davis Project, Phoenix, Arizona GS–12
Chief, Administrative Division, Arizona Projects Office, Phoenix, Arizona
Chief, Procurement and Property Branch, Arizona Projects Office, Phoenix, Arizona GS–12
Chief, Appraisal Branch, Arizona Projects Office, Phoenix, Arizona
Chief, Lands Division, Arizona Projects Office, Phoenix, Arizona
Chief, Property and Procurement Branch, Yuma Projects Office, Yuma, Arizona GS–12
Chief, Lands Branch, Yuma Projects Office, Yuma, Arizona

UPPER COLORADO REGION

U.S. Representative on the Bear River Commission (Expert), Salt Lake City, Utah
U.S. Commissioner & Chairman, Upper Colorado River Commission, Salt Lake City, Utah
Assistant to Regional Director-Administrative Management, Salt Lake City, Utah
Public Information Officer, Salt Lake City, Utah
Regional Engineer, Salt Lake City, Utah
Regional Supervisor of Water and Land Operations, Salt Lake City, Utah
Chief, Operations and Repayment Branch, Salt Lake City, Utah
Chief, Lands Branch, Salt Lake City, Utah
Appraisers, Salt Lake City, Utah GS–12
Regional Planning Officer, Salt Lake City, Utah
Public Utilities Specialists, Salt Lake City, Utah GS–12
Chief, Marketing and Sales Branch, Salt Lake City, Utah
Regional Finance Officer, Salt Lake City, Utah
Regional Procurement Officer, Salt Lake City, Utah GS–11
Administrative Officer, Montrose, Colorado
Chief, Procurement Branch, Montrose, Colorado GS–11
General Supply Officer, Montrose, Colorado GS–11
Chief, Flaming Gorge Field Division, Flaming Gorge Field Division, Dutch John, Utah
Chief, Glen Canyon Field Division, Glen Canyon Field Division, Page, Arizona
Administrative Officer, Page, Arizona GS–12
General Supply Specialist, Page, Arizona GS–9
Project Manager, Western Colorado Projects Office, Grand Junction, Colorado
Administrative Officer, Grand Junction, Colorado
Supervisory Civil Engineer, Montrose Construction Field Division, Grand Junction, Colorado
General Supply Specialist, Grand Junction, Colorado GS–9
Center Director, Collbran Job Corps Civilian Conservation Center, Collbran, Colorado
Assistant Center Director, Collbran, Colorado
Administrative Officer, Collbran, Colorado GS–11
Center Director, Weber Basin Job Corps Civilian Conservation Center, Ogden, Utah
Assistant Center Director, Ogden, Utah GS–12
Administrative Officer, Ogden, Utah GS–11
Supervisory Civil Engineer, Savory-Pot Hook Construction Field Division, Baggs, Wyoming
Supervisory Civil Engineer, Lyman Projects Office, Mountain View, Wyoming
Supervisory Civil Engineer, Uinta Basin Field Division, Duchesne, Utah

SOUTHWEST REGION

Assistant to the Regional Director, Administrative Management, Amarillo, Texas
Regional Public Information and General Services Officer, Amarillo, Texas GS–12
Regional Engineer, Amarillo, Texas
Regional Supervisor of Power, Amarillo, Texas
Regional Planning Officer, Amarillo, Texas
Regional Supervisor of Water and Land Operations, Amarillo, Texas
Chief, Land Operations Branch, Division of Water and Land Operations, Amarillo, Texas
Chief, Repayment and Economics Branch, Division of Water and Land Operations, Amarillo, Texas
Regional Finance Officer, Amarillo, Texas
Regional Procurement and Property Officer, Amarillo, Texas
Project Superintendent, Upper Rio Grande Basin Project Office, Albuquerque, New Mexico
Project Superintendent, Rio Grande Project, El Paso Texas,
Planning Officer, Albuquerque, New Mexico
Project Manager, Pecos River Project Office, Carlsbad, New Mexico
Planning Officer, Oklahoma City, Oklahoma
Planning Officer, Austin, Texas
Project Construction Engineer, Mountain Park Project Office, Altus, Oklahoma GS–12
Project Construction Engineer, Palmetto Bend Project Office, Edna, Texas
Chief, Right-of-Way Division, Palmetto Bend Project Office, Edna, Texas
Special Government Employee, U.S. Commissioner and Chairman of the Canadian River Commission (Expert), Office of the Regional Director, Amarillo, Texas
Project Construction Engineer, Nueces River Project, Three Rivers, Texas
Chief, Right-of-Way Nueces River Project, Three Rivers, Texas

UPPER MISSOURI REGION

Assistant to the Regional Director, Billings, Montana
Regional Public Affairs Officer, Billings, Montana
Regional Engineer, Billings, Montana
Regional Supervisor of Water and Land Operations, Billings, Montana
Regional Supervisor of Power, Billings, Montana
Assistant Regional Supervisor of Power, Billings, Montana
Chief, Power Marketing and Sales Branch, Billings, Montana
Chief, Reviewing Appraiser, Billings, Montana GS–12
Regional Planning Engineer, Billings, Montana
Regional Procurement and Property Officer, Billings, Montana
Chief, Procurement Branch, Billings, Montana GS–12
Chief, Right-of-Way Branch, Billings, Montana
Assistant Project Manager, Bismarck, North Dakota
Chief, Administrative Services Division, Bismarck, North Dakota
Chief, Procurement and Property, Bismarck, North Dakota GS–12
Chief, Appraisal Branch, Bismarck, North Dakota GS–12
Chief, Acquisition Branch, Bismarck, North Dakota GS–12
Chief, Right-of-Way Division, Bismarck, North Dakota
Realty Specialist, Bismarck, North Dakota GS–12
Public Information Officer, Bismarck, North Dakota GS–11
Appraisers, Bismarck, North Dakota GS–11
Realty Specialists, Bismarck, North Dakota GS–11
Assistant Project Manager, Huron, South Dakota
Chief, Right-of-Way Branch, Huron, South Dakota GS–12
Realty Specialists, Huron, South Dakota GS–11
Appraisers, Huron, South Dakota GS 7–11
Chief, Administrative Services Division, Huron, South Dakota
Chief, Procurement and Property Branch, Huron, South Dakota GS–12

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Project Manager, Great Falls, Montana
Project Manager, Riverton, Wyoming
Administrative Officer, Riverton, Wyoming GS–11
Power System Operations Officer, Watertown, South Dakota
Assistant Power System Operations Officer, Watertown, South Dakota
Chief, Administrative Services Division, Watertown, South Dakota GS–12
Project Superintendent, Canyon Ferry, Montana
Administrative Officer, Canyon Ferry, Montana GS–9
Project Superintendent, Fort Peck, Montana
Project Superintendent, Fort Smith, Montana
Chief, Administrative Services Division, Fort Smith, Montana GS–9
Project Construction Engineer, Tiber Dam near Chester, Montana
Administrative Officer, Tiber Dam near Chester, Montana GS–9

LOWER MISSOURI REGION

Assistant to the Regional Director-Administrative Management, Denver, Colorado
Regional Public Affairs Officer, Denver, Colorado
Regional Engineer, Denver, Colorado
Chief, Construction Coordination and Estimates Branch, Denver, Colorado
Regional Planning Officer, Denver, Colorado
Regional Supervisor of Water and Land, Denver, Colorado
Chief, Land Acquisition Branch, Denver, Colorado
Appraiser, Denver, Colorado GS–9/11
Appraisers, Denver, Colorado GS–11 and above
Realty Specialists, Denver, Colorado GS–9 and above
Chief, Repayment Branch, Denver, Colorado
Regional Supervisor of Power, Denver, Colorado
Chief, Power Contracts Branch, Denver, Colorado
Regional Finance Officer, Denver, Colorado
Supply Management Officer, Denver, Colorado
Regional Procurement Officer, Denver, Colorado GS–11
Civil Engineer, Denver, Colorado GS–12
Construction Representative, Denver, Colorado GS–12
General Engineer (Small Loans Officer), Denver, Colorado GS–12
Kansas Reclamation Representative, Topeka, Kansas
Wyoming Reclamation Representative, Cheyenne, Wyoming
Chief, Construction Field Division, Fryingpan-Arkansas Project, Salida, Colorado
Realty Specialists, Fryingpan-Arkansas Project, Pueblo, Colorado GS–11 and above
Administrative Officer, Fryingpan-Arkansas Project, Pueblo, Colorado
Chief, Engineering-Operations Division, Pueblo, Colorado
Project Manager, South Platte River Project, Loveland, Colorado
Project Manager, North Platte River Projects, Casper, Wyoming
Construction Engineer, Cheyenne Construction Office, Cheyenne, Wyoming
Project Manager, Kansas River Project, McCook, Nebraska
Planning Officer, Nebraska Reclamation Office, Grand Island, Nebraska
Construction Engineer, Narrows Construction Office, Fort Morgan, Colorado
Chief, Lands Division, Fort Morgan, Colorado
Realty Specialists, Fort Morgan, Colorado GS–9/11

BUREAU OF LAND MANAGEMENT

Chief, Branch of Upland Minerals Leasing, Washington, D.C.
Chief, Branch of Marine Minerals Leasing, Washington, D.C.
Chief, Branch of Upland Environmental Assessment, Washington, D.C.
Chief, Branch of Marine Environmental Assessment, Washington, D.C.
Chief, Branch of Environmental Studies, Washington, D.C.
Chief, Branch of Minerals Policy Development, Washington, D.C.
Chief, Branch of Minerals Economic Analysis, Washington, D.C.
Appraiser, Division of Appraisal, Washington, D.C.
Chief, Branch of Procurement, Washington, D.C.
All Procurement Analysts, GS–13, Washington, D.C. (3)
Chief, Branch of Contract Operations, Washington, D.C.
All Contract Specialists, GS–13, Washington, D.C. (3)
All Associate State Directors, GS–14 (5)
All Chiefs, Division of Technical Services (11)
All Chiefs, Division of Resources (12)
All Chiefs, Lands and Minerals Operations (12)
All Chief State Appraisers, GS–12 and above (11)
All District Managers (57)
All Assistant District Managers (25)
Chief, Appraisal Staff, Denver Service Center, Denver, Colorado
All Staff Appraisers, Denver Service Center, Denver, Colorado (2)
Chief, Division of Administrative Services, Denver, Colorado
Chief, Branch of Procurement, Denver, Colorado
Chief, Construction Section, Denver, Colorado
Chief, Specialty and Supply Section, Denver, Colorado
Chief, Office of Scientific Systems Development, Denver, Colorado
Deputy BLM Director, Boise Interagency Fire Control Center, Boise, Idaho
Contract Specialist, Office of the Project Coordinator, Anchorage, Alaska
Chief, Branch of Construction, Alaska Pipeline Project, Anchorage, Alaska
All Authorized Officer's Field Representatives, Branch of Construction, Anchorage, Alaska (16)
All Managers, Outer Continental Shelf Offices, GS–14 (3)
All Assistant Managers, Outer Continental Shelf Offices (2)
All Chiefs, Division of Operations, Outer Continental Shelf Offices (2)
All Chiefs, Division of Environmental Assessment, Outer Continental Shelf Offices (2)
Supervisory Natural Resource Specialist, Alaska Outer Continental Shelf Office
Supervisory Mineral Leasing Specialist, Alaska Outer Continental Shelf Office
Supervisory Environmental Specialist, Atlantic Outer Continental Shelf Office
Supervisory Mineral Leasing Specialist, Atlantic Outer Continental Shelf Office
Project Manager, Los Angeles to Midland Pipeline Project
Supervisory Environmental Specialist, Los Angeles to Midland Pipeline Project
Chief, Division of Cadastral Survey, Anchorage, Alaska
Chief, Branch of Contract Survey, Anchorage, Alaska
Chief, Branch of Forestry, Portland, Oregon
Chief, Sales Contracts and Trespass Section, Portland, Oregon
Chief, Appraisals Section, Portland, Oregon
Chief, Development Section, Portland, Oregon
Chief, Planning Section, Portland, Oregon

OFFICE OF WATER RESEARCH AND TECHNOLOGY

Budget and Program Analyst, Office of Assistant Director, Program Planning and Evaluation, Washington, D.C.
General Engineer, Office of Assistant Director, Program Planning and Evaluation, Washington, D.C.
Chemist, Physical Chemistry Division, Washington, D.C.
Assistant Manager, Water Resources Scientific Information Center, Washington, D.C.
Computer Systems Analyst, Water Resources Scientific Information Center, Washington, D.C.
Physical Scientist, Water Resources Scientific Information Center, Washington, D.C.
Staff Assistant, Office of Administrative Manager, Washington, D.C.
Assistant Chief, Contracts and Grants Management Division, Washington, D.C.
Contract Specialist, Contracts and Grants Management Division, Washington, D.C.
Chief, Management Services Division, Washington, D.C.
General Engineer, Thermodynamic Processes Division, Washington, D.C.
Desalination Project Officer (U.S. Israel), Washington, D.C.
Desalting Project Specialist (2), Tel Aviv, Israel FC–12
General Engineer (2), Facilities Engineering Design and Construction, Washington, D.C.
Manager, Wrightsville Beach Test Facility, Wrightsville Beach, N. Car.
Manager, Roswell Test Facility, Roswell, N. Mex.
Physical Scientist, Fountain Valley, California.

OFFICE OF THE SOLICITOR

Special Assistants to the Solicitor
Deputy Ethics Counselor
Assistant Ethics Counselor
Administrative Management Assistant
Confidential Assistant to the Solicitor
Confidential Assistant to the Deputy Solicitor
Secretarial Assistants to the Special Assistants to the Solicitor
Field Solicitors
Attorneys: GS–13 and above

[FR Doc.76–37692 Filed 12–22–76;8:45 am]

federal register

THURSDAY, DECEMBER 23, 1976

PART V



COMMODITY FUTURES TRADING COMMISSION

FLOOR BROKERS AND FUTURES COMMISSION MERCHANTS

Training Standards

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Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

[Regs. 1.35; 155.1—155.3, 155.10]

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

PART 155—TRADING STANDARDS

Records of Cash Commodity and Futures Transactions; Trading Standards for Floor Brokers and Futures Commission Merchants

Notice of Adoption of Rules and Rule Amendments

On December 12, 1975, the Commodity Futures Trading Commission ("Commission") proposed the adoption of certain regulations designed principally to prevent abuses of the relationship of floor brokers and futures commission merchants to their customers. 40 FR 58660 (December 18, 1975). Specifically, the proposed regulations would have banned the practice generally known as dual trading on any contract market that did not adopt a set of rules "which are intended to prevent the abuses which may arise from the possible conflict of interests inherent in dual trading" and which include a provision for the maintenance of a ten-second price change register by the contract market. The proposed regulations would also have banned dual trading after April 17, 1977, on any contract market which had not submitted to the Commission and obtained Commission approval of

a plan, with a timetable for implementation, which provides for the development, as soon as practicable, of a method, through time stamping or otherwise, for recording the sequence of futures transactions executed on the contract market.

After considering all of the comments, both oral and written, submitted in response to its proposed rules and on the issue of dual trading in general, the Commission has decided to adopt the proposed rules in amended form as set forth below.

BACKGROUND

The newly adopted regulations were proposed by the Commission pursuant to sections 4b, 4g, 4j and 8a of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 6b, 6g, 6j and 12a (Supp. V, 1975). Particular emphasis was placed on section 4j of the Act, which requires the Commission to determine whether the practice generally known as dual trading should be permitted to continue; that is, (1) whether a floor broker should be permitted to trade for his own account or any account in which he has trading discretion and also execute a customer's order for commodity futures contracts and (2) whether a futures commission merchant ("FCM") should be permitted to trade for its own account or any proprietary account. Section 4j provides that if the Commission determines to permit dual trading, the Commission shall further determine the terms, conditions and circumstances under which dual trading may occur. In making any such determination, the Commission must, at a minimum, "take into account the effect upon the liquidity of trading of each market." Section 4j also authorizes the Commission to make separate determinations for different contract markets when, in the judgment of the Commission, separate determinations are warranted.[1]

In August of 1975, the Commission formed its Advisory Committee on Regulation of Contract Markets and Self-Regulatory Associations ("Advisory Committee") to consider, among other things, dual trading by floor brokers and futures commission merchants.[2] At a meeting held on November 24, 1975, the Advisory Committee discussed the overall issue of dual trading and a report on dual trading prepared by two of the committee's members (the "Kane-Weinberg Report"). The Commission's rule proposals of December 12, 1975, were made after considering the work of the Advisory Committee and the recommendations in the Kane-Weinberg Report.[3]

On January 20, 1976, the Commission announced that it had determined to

permit dual trading to continue on contract markets for the present and to adopt regulations which will require contract markets to adopt and enforce adequate rules to prevent the possible conflict of interest which is inherent in dual trading.[4]

At the same time the Commission also announced that prior to adopting any

(1) The Commission shall [by January 21, 1976], and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a floor broker may trade for his own account or any account in which such broker has trading discretion, and also execute a customer's order for future delivery and, if the Commission determines that such trades and such executions shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades and such executions shall be conducted . . .

(2) The Commission shall [by January 21, 1976], and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a futures commission merchant may trade for its own account or any proprietary account, as defined by the Commission, and if the Commission determines that such trades shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades shall be conducted . . .

The term "proprietary account" is defined in section 1.3(y) of the Commission's regulations.

regulations governing dual trading, it would hold oral hearings on the proposed regulations and on the subject of dual trading in general. Those hearings were held in Washington, D.C., on March 15, 16, 17 and 18, 1976. At those hearings the Commission heard from over 30 interested persons, including representatives of various contract markets, futures commission merchants, floor brokers and the general public. In addition, the Commission permitted interested persons to submit written comments through April 30, 1976, on matters presented at the hearings and on any other topic relating to dual trading and the Commission's proposed regulations.[5]

As discussed above, the Commission's proposed regulations would have banned dual trading on any contract market which did not obtain Commission approval by April 17, 1977, of a plan for the development of a method for recording the sequence of futures transactions executed on the contract market. As a result of the hearings conducted on the proposed rules, the Commission determined that it might not be possible for all contract markets to develop an acceptable plan by that date. However, the Commission also determined that some method for "bracketing" of trades might be an acceptable interim approach toward accurate transaction sequence reconstruction.[6] Accordingly, the Commission established a task force, composed of various members of the Commission's staff, to consider the feasibility of bracketing as an interim step toward full sequence reconstruction capacity. That task force, which was chaired by Commissioner Gary L. Seevers, visited all ten commodity exchanges and reported to the Commission on July 14, 1976.

The regulations set forth below have been adopted after careful consideration by the Commission of all oral and written comments submitted in response to the regulations proposed on December 12, 1975, and on the issue of dual trading in general. Careful consideration was also given to the reports and recommendations of the Commission's task force on bracketing and to the work of the Commission's Advisory Committee. The following is a discussion of the more pertinent issues considered by the Commission in adopting the new regulations, an explanation of those regulations, and

[1] Section 4j was added to the Act in 1974 by section 203 of the Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93-463, 88 Stat. 1389, 1396. Section 4j provides in pertinent part:

[2] *See* 40 FR 32866 (August 5, 1975).

[3] Transcripts of the Advisory Committee's November 24, 1975 meeting, transcripts of the Advisory Committee's January 1976 meeting at which dual trading was again considered, and copies of the "Kane-Weinberg Report" are available for inspection at the Commission's offices at 2033 K Street, N.W., Washington, D.C. 20581.

[4] 41 FR 3338 (January 22, 1976).

[5] On March 1, 1976, the Commission announced that it would permit interested persons to submit written comments through April 7, 1976, 20 days after the last day of the oral hearings. 41 FR 9587 (March 5, 1976). During the course of the hearings, the comment period was extended an additional ten days. 41 FR 13393 (March 30, 1976). However, interested persons requested even further additional time for comment. In response to these requests, the Commission announced that it would accept all comments submitted by April 30, 1976. 41 FR 15716 (April 14, 1976).

[6] "Bracketing" of a trade is the identification of the trade as having been executed during a specified time period during the trading day.

a general statement of their basis and purpose.[7]

GENERAL EXPLANATION

The regulations proposed on December 12, 1975, were designed primarily "to prevent the abuses which may arise from the possible conflict of interests inherent in dual trading." In short, the proposed regulations would have banned dual trading on any contract market which did not adopt a set of rules and procedures to prevent such potential abuses. Many of the persons commenting on the proposed regulations, whether through written submissions or orally at the dual trading hearings, criticized the approach taken to dual trading by the Commission in the proposed regulations and the FEDERAL REGISTER notice announcing their proposal. These commentators stated, in essence, that it appeared that the Commission had already made a determination that dual trading was detrimental to the best interests of the trading public. These commentators maintained that, in the absence of sufficient factual evidence of significant abuses of dual trading, the Commission could not, consistent with the Congressional intent behind section 4j of the Act, make such a determination.[8] Numerous commentators also presented data and testimony as to the impact of dual trading on liquidity in the futures markets and stressed the Commission's statutory obligation under section 4j to "take into account the effect upon the liquidity of trading in each market" in making a determination on dual trading. Several commentators also contended that the proposed regulations extended beyond the scope of dual trading to the duties of floor brokers and futures commission merchants in general.

The proposed regulations required that a contract market adopt and enforce certain rules governing the general activities of floor brokers and futures commission merchants if the contract market wished to permit its members to dual trade. However, the rules which a contract market would have been required to adopt and to enforce did, in some instances, go beyond dual trading.[9] The Commission has determined that it is inappropriate, in light of the broad duties of floor brokers and FCM's to customers, to condition application of the minimum safeguards set forth in the proposed regulations on dual trading. Accordingly, the trading standards and other requirements imposed upon contract markets, floor brokers, futures commission merchants and others by the newly adopted regulations are not contingent upon whether a contract market permits its members to dual trade. The deletion of this contingency does not, however, eliminate the nexus between dual trading and the newly adopted regulations. In announcing on January 20, 1976, that it had determined to "permit dual trading to continue • • • for the present," the Commission also announced that it would adopt regulations "to prevent the possible conflict of interest which is inherent in dual trading."[10] The newly adopted regulations are designed, to a large extent, to accomplish this result. The Commission emphasizes that it has not as yet made a final determination on the issue of dual trading and that it will continue to study the entire dual trading question. As discussed more fully below, the interim nature of the Commission's determination in this area is primarily due to the lack of sufficient factual data concerning the extent of dual trading abuses and the effect of dual trading on market liquidity. The regulations adopted herein are designed in large part to improve that data and, hence, to aid the Commission in its study of dual trading, while at the same time preventing many of the abuses which may arise from the conflict of interests which the Commission believes may be inherent in dual trading. Consequently, as the Commission continues its study of dual trading, these regulations may be amended in light of such improved data.

Many of the comments received in response to the Commission's proposed rules as well as much of the general testimony presented at the hearings on dual trading were to the effect that there is little available data indicating significant dual trading abuses. However, the Commission does not believe that a conclusion can be drawn from this lack of available data that significant abuses of dual trading do not take place. Rather, under the present record-keeping procedures of most contract markets, it is extremely difficult, if not impossible, to detect abuses not only of dual trading but of the overall duties of floor brokers to their customers as well. Similarly, while the testimony submitted by various contract markets and others as to what they believed was the contribution of dual trading to market liquidity has aided the Commission in its attempt to carry out its responsibilities under section 4j of the Act, the inadequacy of the market data available under current record-keeping practices has precluded the Commission from adequately analyzing the effect of dual trading on market liquidity.

The Commission believes that many of the abuses of the duties of floor brokers to their customers cannot be detected to any significant degree in the absence of a method of accurately and rapidly reconstructing the time and sequence of transactions of a specific floor broker or combination of floor brokers. Accordingly, without an adequate method of transaction time sequence reconstruction, it does not appear that contract markets can carry out their self-regulatory responsibility to enforce rules pursuant to newly adopted regulation 155.2 to prevent abuses of the duties of their members to customers. Moreover, significant analysis of many major market functions and activities, including the contribution of dual trading to market liquidity, require an accurate and rapid transaction time sequence reconstruction capacity. The Commission has therefore determined that contract markets should be required to develop such a capacity as soon as possible. In furtherance of this goal, the regulations set forth herein require three specific improvements in the records maintained by contract markets. First, each contract market must show on the record of each futures trade maintained pursuant to regulation 1.35(e) the mechanically or electronically verified time of execution of each such trade to at least the nearest minute or such superior time sequence indicia as may otherwise be authorized by the Commission. Second, an accurate record of the precise time of each price change on the contract market must be kept. Third, the records maintained by the contract market pursuant to regulation 1.35(e) must be kept in a format and coding structure approved by the Commission for 60 days in computer-readable form on compatible magnetic tapes or discs.

FLOOR BROKER TRADING STANDARDS

Dual Trading. Newly adopted regulation 155.2 requires each contract market to adopt a set of rules to prevent abuses of the relationships between its floor broker members and the persons for whom such members execute futures transactions. This set of contract market rules must, at a minimum, include the provisions specifically set forth in the regulation. The first of these provisions is a requirement that each floor broker be prohibited from purchasing (or selling) any commodity for future delivery for his own account or for any account in which he has an interest while holding an order of another person for the purchase (or sale) of the same commodity which is executable at the market price or at the price at which such purchase (or sale) can be made for the floor broker's own account.

As proposed, this prohibition against floor brokers trading ahead of their customers would have prevented a contract market member from executing any transaction for his own account while holding an order of another person in the same commodity for future delivery which is executable at the market price. One commentator suggested that the

[7] Transcripts of the testimony given at the dual trading hearings and copies of all comments received in response to the Commission's proposed regulations are available at the Commission's offices at 2033 K Street, N.W., Washington, D.C. 20581.

[8] These commentators did not maintain that abuses of dual trading do not occur, but only that there is no factual evidence that such abuses occur to a significant extent. Indeed, both the Commodity Exchange Authority and several contract markets have maintained successful disciplinary actions against floor brokers and others for abuses of dual trading.

[9] It should be noted in this regard that these regulations were proposed and adopted pursuant to not only section 4j of the Act (dual trading), but sections 4b, 4g and 8a (7 U.S.C. 6b, 6j, and 12a) as well.

[10] 41 FR 3338 (January 22, 1976).

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proposed rule be amended to clarify whether a floor broker has the right to trade in "the opposite direction to a customer order though not against the customer order, while holding and attempting to sell a customer order." The Commission believes that the ability of a floor broker to trade in the opposite direction of a customer order may be of benefit to the customer by softening the impact of the customer's order on the market, thereby helping the customer to get a better execution of his order. This is particularly true in the case of large market orders. The prohibition against trading ahead of customers has, therefore, been amended to enable floor brokers to trade in the opposite direction of their customers; however, the Commission cautions that any such activity by floor brokers should be closely scrutinized by contract markets for abusive practices.[11]

Some commentators suggested that the prohibition against floor brokers trading ahead of their customers be limited to trading in the same delivery month. These commentators argued that contracts in the same commodity trading in different delivery months constitute "different economic units." The Commission has not adopted this suggestion because, contrary to the implication of these comments, prices in the various delivery months in the same commodity are often closely related and frequently move in concert with one another. However, this close interrelationship between delivery months may not exist between all delivery months in all commodities. Accordingly, to the extent that a contract market can demonstrate to the satisfaction of the Commission that different delivery months in a commodity are not so interrelated, the Commission has determined that it will use its exemptive authority under regulation 155.10 to appropriately limit the prohibition in regulations 155.2 (a) and (b) against trading ahead of customers.

Several commentators requested clarification of the term "market price" as used in the proposed regulation. The Commission has, to some extent, made such a clarification by prohibiting floor brokers from trading ahead of their customers if the customers' orders can be executed at the market price or at the same price at which the floor broker can execute a transaction for his own account or any account in which he has an interest. Further clarification of this term appears unnecessary. A floor broker who is holding an order of another person which is executable at or near the market price should concentrate his efforts on executing that order and not on trading for his own account. The newly adopted regulation is, in many respects, a codification of this concept. It is also intended to prohibit a floor broker from abusing his relationship with his customers by taking advantage of or trading ahead of the orders of those customers. Simply stated, the newly adopted regulation is intended to require that under all circumstances the customer must come first. In this connection, the newly adopted regulation does not contain the exemption for error transactions contained in the proposed regulation. The Commission has deleted this exemption because it can see no relevant distinction, in light of the obligations of a floor broker to his customers, between transactions executed by the floor broker for his own account in the hope of speculative profits and those executed to avoid losses due to error transactions.

Discretionary Accounts. As previously proposed, regulation 155.2 would have required contract markets to adopt rules prohibiting a floor broker

from executing any transaction for any account in which he has discretionary authority, except that an order for such an account may be placed with another member for execution.

Several commentators urged that the Commission clarify the meaning of the term "discretionary authority." Newly adopted regulation 155.2(c) contains such a clarification. Specifically, the new regulation prohibits a floor broker from executing any transaction for the account of another person for which buying and/or selling orders can be placed or originated, or for which transactions can be executed, by the floor broker without the prior specific consent of the account owner, except that orders for such accounts may be placed with another floor broker on the contract market for execution. In other words, where a transaction can be executed for an account of another person by a floor broker or at such floor broker's direction without obtaining such other person's prior consent to execute that particular transaction, the floor broker must give up all orders for that account to another floor broker for execution.

A number of commentators urged that the term "discretionary authority" as used in the proposed regulation be defined to include only those accounts over which the floor broker has regular and continuous discretion, as opposed to accounts over which the broker has occasional discretion respecting how individual transactions are to be executed. Thus, it was urged that the term apply only to "discretionary accounts" rather than "discretionary orders."[12] Other commentators urged that the prohibition against executing transactions for accounts over which a floor broker has discretionary authority be limited to those specific orders over which such discretionary authority exists. The Commission has considered these comments and believes that whether discretion can be exercised with respect to a specific account rather than how often such discretion is exercised should be the determinative factor. Regulation 155.2(c) is designed to prevent floor brokers from placing their personal trading interests ahead of their customers' interests when exercising trading discretion over such customers' accounts. Effective surveillance over such discretionary trading necessitates the requirement that all orders for an account for which a floor broker can place an order without first obtaining the account owner's specific consent to place that particular order be placed with another floor broker for execution. However, the newly adopted regulation makes it clear that a contract market need only prohibit its members from executing orders for accounts over which they have discretionary authority where that discretionary authority is such that the floor broker may originate orders for those accounts. This prohibition need not extend to accounts where the floor broker's discretion is limited to such things as the selection of the precise time and price at which an order originated by a customer is executed. For example, a floor broker receiving a "not held" order to "buy at 6.25 or better" in a declining market currently at 6.25 would be able to hold that order for a reasonable period of time in order to obtain a better execution for his customer without causing the account of such customer to fall within the operation of regulation 155.2(c).

Further Prohibitions. Newly adopted regulation 155.2 also requires that con-

[11] In this connection, the Commission points out that where a floor broker trades directly against a customer's order by taking the opposite side of such order, the requirements of section 4b of the Act and regulations 1.38 and 155.2(e) must be complied with. Moreover, floor brokers should also be aware that regulation 1.39 prohibits a floor broker from executing both sides of a transaction where the floor broker has any interest in either side of such transaction, directly or indirectly, except as a fiduciary.

[12] In this connection, one commentator suggested that the term "discretionary authority" as used in the proposed regulation meant the same thing as "discretionary account" as that term was set forth in the Senate Committee on Agriculture and Forestry Committee Print on The Commodity Futures Trading Commission Act of 1974, 93d Cong., 2d Sess. (November 15, 1974). In that publication the term "discretionary account" was defined as: An account for which buying and selling orders can be placed by a broker or other person, without the prior consent of the account owner for each such individual order, a blanket agreement having been initially granted by the account owner for such action, and requires an initial customer deposit of a minimum of $5,000 under present CBOT and C.M.E. rules.

This definition was not directed at the particular concerns addressed by the Commission in enacting these regulations regarding the responsibilities of floor brokers to their customers. The elements contained in that definition, *i.e.*, a prior blanket agreement and a minimum initial deposit, may have been appropriate for the broad general purposes of the Committee Print; however, for purposes of requiring contract markets to adopt rules to insure that their members place the interests of their customers ahead of their personal trading interests in exercising trading discretion over such customers' accounts, the Commission believes the determinative factor is whether the requisite discretion can be exercised by a floor broker with respect to a customer's account, rather than the manner in which such discretion is, or, under contract market rules, must be, vested in the floor broker.

tract markets enact rules which, at a minimum, prohibit a floor broker from:

(i) disclosing the orders of other persons revealed to the floor broker by reason of his relationship to such other persons; (ii) taking the other side of any order of another person revealed to a floor broker by reason of his relationship to such other person, except with such other person's prior consent and in conformity with contract market rules approved by the Commission; (iii) prearranging trades; (iv) allocating trades among accounts; or (v) withholding or withdrawing from the market any order or part of an order of another person for the convenience of another member of the contract market.

Numerous comments were received to the effect that the prohibition against disclosing customer orders to others was in conflict with the requirement that floor brokers place all orders for accounts over which they have discretionary authority with another member of the contract market for execution. This is a valid criticism of the proposed rule and the appropriate exception for discretionary account orders has been made in newly adopted regulation 155.2(d). Similarly, one commentator noted that the proposed prohibition against disclosure of customer orders did not identify the persons a floor broker is prohibited from telling about an order. That commentator pointed out that when acting on behalf of an FCM, there may be times when a floor broker must inform the FCM of the status of that day's "deck." The Commission emphasizes that this prohibition against disclosure of customer orders must be interpreted in light of its underlying purpose: to prohibit a floor broker from disclosing customer orders to other persons who may take advantage of that knowledge. The Commission is aware that certain disclosures must take place in the normal course of a floor broker's legitimate business activities. Contract market rules enacted to comply with the newly adopted regulation should provide for such disclosures. The Commission notes, however, with respect to this specific comment, that an FCM requesting status reports on orders which it has previously placed with a floor broker would already have knowledge of those orders. Accordingly, a floor broker reporting on the status of his "deck" to the FCM with respect to those orders would not be "disclosing" those orders to the FCM.

The restrictions on taking the other side of an order of another person revealed to a floor broker by reason of his relationship to such other person are designed to require contract markets to impose restrictions on their members which are similar to certain restrictions imposed directly upon such members by section 4b of the Act and regulations 1.38 and 1.39, 17 CFR 1.38 and 1.39. The prohibition against prearranged trading augments the requirement in regulation 1.38 that

[a]ll purchases and sales of any commodity for future delivery on or subject to the rules of the contract market shall be executed openly and competitively by open outcry or posting of bids and offers or by other equally open and competitive methods * * *.

The prohibition against allocating trades among accounts is designed to prevent floor brokers from allocating the best trades to their own accounts and the accounts of their preferred customers to the detriment of their other customers.[13] Similarly, the prohibition against withholding or withdrawing orders of other persons for the convenience of other members of the contract market is designed to prevent floor brokers from acting against the best interests of their customers for the benefit of other floor brokers and floor traders. All three of these prohibitions are currently in effect on several contract markets. The Commission believes that such prohibitions should be universally applicable throughout the industry.

Clearing Member Confirmations. The proposed regulations would have required contract markets to adopt a rule which would

require that every execution of a transaction on the floor by [a floor broker] be immediately confirmed with the opposite floor broker or floor trader; such confirmation shall identify price, quantity and respective clearing members.

Numerous comments were received on this proposed regulation to the effect that the immediate confirmation of opposing clearing members would not be possible on certain exchanges, primarily those in New York, because the method of trading presently in use on those exchanges does not lend itself to compliance with that requirement. The Commission's staff conducted a study of the procedures for matching of trades at certain New York exchanges which confirmed that it may be extremely difficult for members of those exchanges to comply with the requirement that opposing clearing firms be immediately confirmed. As a result, the Commission has determined that it may be inappropriate to require the immediate confirmation of trades at this time. Accordingly, newly adopted regulation 155.2(i) provides that the required information must be confirmed "promptly." In addition, where opposing clearing members can not be confirmed "promptly" without seriously disrupting the functions of a contract market, the newly adopted regulation authorizes the Commission to exempt a contract market from this requirement where the contract market adopts rules to insure that the opposite sides of every trade executed on the contract market can be effectively matched and will be accepted by a clearing member for clearance or will be otherwise sufficiently guaranteed.

The purpose of prompt confirmation of opposing clearing members is twofold. First, to insure accurate matching of trades. Second, to insure, to the extent possible, that every transaction on a contract market will be guaranteed by the financial integrity of a clearing member and the clearing house of the contract market. However, there may be alternative methods of insuring both accurate matching and the integrity of transactions on contract markets. The Commission does not intend to preclude such alternatives where prompt confirmations would cause serious market disruptions, but the Commission is concerned that the failure to require prompt "give-up" of opposing clearing members may foster a situation in which the opposite sides of transactions may not be properly matched, making effective transaction sequence reconstruction and trading surveillance, and, hence, prevention and detection of abusive trading practices, more difficult. Accordingly, while the Commission does not preclude the use of alternative methods of insuring accurate matching and the financial integrity of transactions, a contract market must make a significant showing of market disruption in order to make use of such alternatives and should engage in vigilant rule enforcement activities to insure that such alternatives do not lead to inadequate trading surveillance by the contract market. The former requirement is specifically made a condition of exemption in the newly adopted regulation. The latter requirement is subsumed in the general rule enforcement obligations of contract markets under section 5a(8) of the Act and regulations 1.51 and 1.53 discussed below.

Enforcement Obligations. One commentator suggested that there was no "reasonable practical way" for a contract market to determine whether or not a floor broker has discretion over a particular account. That commentator urged the Commission to recognize that an affirmative action program based upon responses to customer complaints is adequate to insure compliance with the requirement of regulation 155.2(c) that a floor broker place all orders for accounts over which he has discretionary authority with another broker for execution. Similarly, one contract market argued with respect to the requirements set forth in regulation 155.2 (d) and (e)[14] that

an affirmative action program with regard to [these requirements] is impracticable. The

[13] The Commission recognizes that there may be times when a floor broker must assign trades among accounts. For example, a floor broker who holds ten individual orders calling for the purchase of one contract each in the same commodity and delivery month may fill those orders almost simultaneously by buying five contracts at one price and five more contracts at the next higher price interval. In such instances, the five executions at the lower price interval should be assigned to the first five orders received by the floor broker. Any other assignment of such executions among the ten orders held by the floor broker would constitute the discretionary allocation of trades among accounts which regulation 155.2(g) requires contract markets to prohibit.

[14] Regulations 155.2 (d) and (e) require generally that contract markets adopt and enforce rules which prohibit their members from divulging the orders of their customers to any other person and from taking the other side of a customer's order, except with such other person's prior consent and in conformity with contract market rules approved by the Commission.

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Commission should recognize this fact and explicitly limit Exchanges' responsibility in this area to responding to complaints.

But the comment that was most frequently received in this vein concerned the requirement of newly adopted regulation 155.2(f), which requires contract markets to adopt and to enforce rules to prevent their members from making prearranged trades. The gist of this comment was that the "Commission should expressly recognize that enforcement cannot practically extend beyond floor surveillance (which is unlikely to be very effective) and response to complaints."

The Commission disagrees with the implication contained in these comments. Contract markets have a broad obligation under section 5a(8) of the Act and regulations 1.51 and 1.53 to enforce their rules. Adequate rule enforcement is the heart of self-regulation. In the Commission's view, a contract market's rule enforcement obligation cannot, in most instances, be satisfied solely by responding to customer complaints. Rather, contract markets are required to maintain aggressive "affirmative action" rule enforcement programs which include, at a minimum, extensive floor surveillance and frequent investigations into the trading patterns of their members for the purpose of detecting rule violations. While customer complaints may serve to focus the direction of some of these activities, the Commission does not believe such complaints should serve as the sole basis for rule enforcement initiatives.

Due Diligence. Proposed regulation 155.2(b)(1)(vi) would have required contract markets to adopt rules requiring all contract market members acting as floor brokers, when executing an order of another person, to "use due diligence to execute that order at the best possible price or prices available on the floor of the contract market." Similarly, proposed regulation 155.2(b)(2)(ii) would have required contract markets to adopt rules requiring all contract market members acting as futures commission merchants to "use due diligence in handling each order received from another person so as to enable each such order to be executed at the best possible price or prices available on the contract market." The Commission has determined that it would be more appropriate to consider specific due diligence standards for floor brokers and FCM's in connection with the customer protection rules which are currently being developed by the Commission's staff. Accordingly, such specific due diligence standards have not been incorporated into regulations 155.2 and 155.3. The Commission emphasizes that while it has determined not to adopt specific due diligence standards at this time, this should not be construed to imply that floor brokers and FCM's are not subject to strict due diligence standards apart from any specific Commission regulation or contract market rule. Rather, the Commission believes floor brokers and FCM's are implicitly obligated by reason of the very nature of their relationship to customers to exercise due diligence in not only order handling and executions, but in all of the activities they carry out on behalf of their customers.

STANDARDS FOR FUTURES COMMISSION MERCHANTS

Proposed regulation 155.2(b)(2) would have required contract markets to adopt certain rules governing the activities of contract market members acting as futures commission merchants. In response to this proposed requirement, several contract markets submitted comments which strongly suggested that making the contract markets the "policeman" of the proposed regulation would serve no beneficial purpose and that it was unrealistic to expect contract markets to be able to police effectively FCM personnel located throughout the United States and, in many instances, throughout the world.

The Commission does not agree with the conclusion suggested by these comments. Each contract market has an obligation under section 5(g) of the Act, 7 U.S.C. 7(g), to provide a marketplace in which "transactions for future delivery in the commodity" for which the contract market is designated "will not be contrary to the public interest." Included in this obligation and a contract market's general obligations under the Act is a requirement that each contract market adopt and enforce rules to insure that its members, including those acting as futures commission merchants, deal fairly with the trading public. However, the Commission has decided that it will not, at this time, require contract markets to adopt rules which conform to the minimum standards set forth in the Commission's proposed regulation Rather, the Commission has determined that a direct obligation should be placed upon each FCM to establish and to enforce internal rules, procedures and controls to prevent abuses of the relationship of the FCM and its affiliated persons to customers.[15] This determination is reflected in newly adopted regulation 155.3.

The Commission has found it necessary to impose direct regulation upon the FCM community in newly adopted regulation 155.3 for the protection of the general public. This determination was based in large part upon the present inadequacies in the rule enforcement programs of many contract markets. However, the Commission is committed to promoting self-regulation. In this regard, the Commission is aware that contract markets and other persons in the industry are considering the establishment of a "Title III association"[16] which might be able to assume many of the regulatory responsibilities in the FCM area. The Commission emphasizes that the alternative to effective industry regulation of the FCM community—continuing and perhaps increasing direct governmental regulation—is inevitable if the contract markets and the industry as a whole do not accept this self-regulation responsibility.

Minimum Standards. Paragraph (a) of newly adopted regulation 155.3 establishes certain minimum safeguards which must be included in the internal rules, procedures and controls of all FCM's.[17] The first of these minimum safeguards is a requirement that each futures commission merchant establish internal rules, procedures and controls to insure, to the extent possible, that customer orders "executable at or near the market price" are

> transmitted to the floor of the appropriate contract market before any order in the same commodity for any proprietary account or any other account in which an affiliated person has an interest or for which an affiliated person may originate orders without the prior specific consent of the account owner is transmitted or caused to be transmitted to the floor of a contract market by any affiliated person who gains knowledge of such customer order prior to its transmission to the floor of the appropriate contract market. * * *

The second of these safeguards is a requirement that the internal rules, procedures and controls established by the FCM be designed to prevent its affiliated persons from circumventing the requirement set forth above by placing orders with other FCM's.

As originally proposed, this "customer first" rule would have applied to FCM's on a branch office by branch office basis. Numerous commentators objected to this proposed application, pointing out that, in many instances, compliance with such a provision would be extremely difficult, if not impossible, on a branch office basis in that one associated person may have no idea of the activities of another associated person, especially in large offices. The Commission believes there is some merit to these comments; therefore, the Commission has restructured this customer first requirement in the newly adopted regulation to require FCM's to adopt internal rules, procedures and controls to insure that a customer's order is transmitted to the floor before any order for a proprietary account or any other account in which an affiliated person has an interest or for which an affiliated person may originate orders without the prior specific consent of the account owner is transmitted or caused to be transmitted by any person who has gained knowledge of that customer order prior to its transmission to the floor of the appropriate contract market.[18]

Paragraph (b) of newly adopted regulation 155.3 makes it unlawful for a futures commission merchant or any of its affiliated persons:

> (i) To disclose unnecessarily that an order of another person is being held by the FCM or any of its affiliated persons, or
>
> (ii) To knowingly take, directly or indirectly, the other side of any order of another person revealed to the FCM or any of its affiliated persons by reason of their relationship to such other person, except with such other person's prior consent and in conformity with contract market rules approved by the Commission.

The first of these prohibitions is a traditional customer confidentiality rule designed to protect customers from disclosure of information concerning their orders to other parties. The second prohibition augments section 4(b) of the Act which makes it unlawful for any person to take the other side of an order of another person, willfully and knowingly, without the prior consent of such other person.

Paragraph (c) of regulation 155.3 makes it unlawful for any FCM to knowingly handle the account of any affiliated person of another FCM unless:

> (i) Written authorization is received from a person designated by such other FCM with responsibility for surveillance over such account,
>
> (ii) The FCM receiving an order for such an account prepares immediately upon such receipt a record of such order and records thereon, by time-stamp or other timing device, the date and time, to the nearest minute, the order is received,[19] and
>
> (iii) The FCM transmits on a regular basis to the FCM with which such person is affiliated copies of all statements for the account of such person and copies of all written, time-stamped records prepared upon the receipt of orders for such account.

Paragraph (d) of regulation 155.3 makes it unlawful for any affiliated person of an FCM to have an account, directly or indirectly, with another FCM unless:

> (i) Written authorization is received from a designated official of the FCM with which such person is affiliated for the maintenance of such account, and
>
> (ii) Copies of all statements for such account and of all written, time-stamped records prepared by such other FCM upon receipt of orders for such account are transmitted on a regular basis to the FCM with which such person is affiliated.

As can be seen, paragraphs (c) and (d) of newly adopted regulation 155.3 are designed to assist FCM's in supervising the trading activities of their affiliated persons by providing them with notification of and information concerning the accounts maintained by their affiliated persons with other FCM's. The Commission received several comments in response to its proposed regulations suggesting that it should prohibit associated persons from having accounts with other FCM's and that it should also prohibit FCM's from handling the accounts of the associated persons of other FCM's. The Commission does not believe such a strict prohibition is necessary to insure that FCM's have adequate ability to police the trading activities of their affiliated persons. Rather, the Commission believes that each FCM should be permitted to make its own determination as to the measures necessary to carry out its responsibility to prevent abuses of the relationship of its affiliated persons to the FCM's customers. While the Commission has not itself prohibited affiliated persons from having accounts with FCM's other than the ones with which they are affiliated, an FCM is not precluded from imposing such a prohibition on its own affiliated persons if the FCM determines that such a prohibition is necessary to carry out its responsibilities under newly adopted regulation 155.3.

TRANSACTION TIME SEQUENCE RECONSTRUCTION CAPABILITY

As discussed above, the Commission believes it is essential that each contract market have the ability to reconstruct, accurately and rapidly, the time and sequence of transactions on any given trading day. The Commission believes contract markets must have this capability to carry out their self-regulatory responsibilities under, among other things, newly adopted regulation 155.2. Detection, and hence effective prevention, of market manipulation and of such abusive trading practices as trading ahead of customers and "three-cornered deals" is dependent in large part upon rapid and accurate transaction time sequence reconstruction. While the Commission is aware that there is little factual evidence that such trading abuses occur with significant frequency, the Commission does not accept the conclusion drawn by many of the persons testifying at the March 1976 hearings on dual trading that such abuses occur only in isolated instances. Rather, the Commission has determined that most contract markets would be unable to detect the vast majority of such trading abuses by their members under current record-keeping practices and procedures even if such trading abuses were common practice on such contract markets. Furthermore, even if such trading abuses could be detected through the use of records currently being kept by contract markets, the laborious cross referencing of data which would be necessary to expose such abuses would effectively preclude an efficient contract market surveillance program capable of the prompt detection of trading abuses.

The Commission has also determined that it would be impossible for it to fulfill completely its statutory responsibilities under section 4j of the Act in the absence of the ability on the part of contract markets to reconstruct, rapidly and accurately, the time and sequence of transactions for any given trading period. The difficulty in drawing a meaningful conclusion with respect to the significance of dual trading abuses in the absence of a rapid and accurate transaction time sequence reconstruction capability has already been discussed. The ability of the Commission to analyze in a meaningful way the effects of dual trading on market liquidity in the absence of such reconstruction capability is equally hampered. The enormous difficulties the Commission has experienced in trade practice and other investigations and in various economic studies reinforce those beliefs and emphasize the need for rapid and accurate transaction time sequence reconstruction capability. Accordingly, the Commission has determined to require contract markets to develop this capability as soon as possible. As discussed below, the Commission has decided that contract markets should be required, as a first step toward the attainment of such rapid and accurate reconstruction capability, (i) to maintain an accurate record of the time of execution of each trade and of each price change on the contract market and (ii) to retain such information in a readily retrievable form.

Attempts to reconstruct the time and sequence of transactions on contract markets have generally been based upon, among other things, the price at which each transaction was executed. Since

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[15] The term "affiliated person" of a futures commission merchant is defined in regulation 155.1 as any general partner, officer, director, owner of more than ten percent of the equity interest, correspondent, agent or person associated therewith, associated person or employee of the futures commission merchant, and any relative or spouse of any of the foregoing persons, or any relative of such spouse, who shares the same home as any of the foregoing persons.

For purposes of this definition, the terms "correspondent" and "agent or person associated therewith" of an FCM have the same meaning as they do in the Act. (*See, e.g.*, sections 4b and 4k of the Act, 7 U.S.C. 6b and 6k.) The "relative or spouse . . . or any relative of such spouse" provision includes only those persons who live in the same home as a "general partner, officer . . . agent or employee" of an FCM.

[16] *See* section 17 of the Act, 7 U.S.C. 21, which is Title III of the Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93-463, 88 Stat. 1389, 1406.

[17] To a large extent, these and many of the other requirements of regulation 155.3 are, in the Commission's view, no more than specific codifications of minimal safeguards which a futures commission merchant must employ to carry out its responsibilities to customers under common-law agency principles. Consequently, while the Commission's original proposal would have imposed specific requirements on only those futures commission merchants which hold memberships on contract markets permitting their FCM members to dual trade, the Commission believes that customers of all futures commission merchants should have the benefit of the specific minimum safeguards set forth in regulation 155.3. However, because regulation 155.3, as originally proposed, would not have extended to non-member FCM's, the newly adopted regulation applies only to those FCM's which are members of a contract market. In a separate FEDERAL REGISTER release issued concurrently with these regulations, the Commission is proposing the extension of regulation 155.3 to non-member FCM's as well

[18] The Commission recognizes that a strict, literal interpretation of newly adopted regulation 155.3(a)(1) might require FCM's to adopt rules to insure that clerical employees, such as teletype operators, who receive orders from several associated persons continuously and often simultaneously for mechanical transmission to the appropriate contract market for execution, arrange those orders so that customer orders are always transmitted by such clerical employees prior to proprietary orders. The Commission does not intend that such a strict reading be given to the newly adopted regulation. Rather, FCM internal rules, procedures and controls should be adopted in a form which reflects the purpose of the regulation: to insure that FCM's and their employees do not take advantage of their relationship with customers by using their knowledge of customer orders to trade ahead of or against the interests of such customers for their own benefit or that of their preferred customers.

[19] In most instances, this is already required by regulation 1.35(a-1)(1).

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contract markets maintain records of most price changes in a trading day, including the approximate time of each change, the time of the execution of a transaction may frequently be established by relating the price of the transaction to the time at which the market hit that price. However, there are several basic problems with this method. First, in the presence of a cyclical market, one in which the same price is hit at two or more occasions during the trading day, it may not be possible to assign a specific time to each transaction. Second, the accuracy and precision of contract market price change records is often inadequate. Third, the absence of computerized data retrieval systems correlating price of execution to time of price changes has made market surveillance efforts through the use of price correlation sequencing extremely time-consuming and correspondingly ineffective.

The destructive effect of cyclical market movements upon transaction reconstruction based upon price can be eliminated by identifying executions to time periods within which no cyclical market movement occurs. Various commentators suggested this could be accomplished through the use of the time-stamps currently required on each customer order upon receipt of the order on the floor of the contract market and upon the report of execution of such order. The use of such data for transaction time sequence reconstruction in the course of trade practice and other investigations and various market studies by the Commission's staff has proved unworkable. Presently, only customer orders must be time-stamped upon receipt on the floor and upon report of execution. Accordingly, in a cyclical market it is often impossible to distinguish between two different transactions executed at the same price which involve only floor brokers or floor traders. Even when customers are on one or both ends of a transaction, the period of time which elapses between the receipt of the order on the contract market floor and the report of execution from the contract market floor is often so long that cyclical price movements can occur several times within that period. A significant amount of time may also elapse between the execution of a transaction and the time that execution is reported from the contract market floor. In addition, the manual cross-checking of the time-stamps on orders and reports of execution required to achieve even a general reconstruction of the time and sequence of transactions on a contract market has proved to be prohibitive in terms of cost-efficient market surveillance or analyses of the trading activity.

The second major obstacle to any attempt to reconstruct the time and sequence of transactions on a contract market through the use of price changes is the inaccuracy with which contract markets often record the time of such price changes. Since a large number of trades can take place in a matter of a few seconds or minutes on any exchange, such inaccurate price change timing can easily invalidate the accuracy of any reconstruction of the time and sequence of transactions based upon such timing.

The third major obstacle to transaction time sequence reconstruction based upon price of execution has already been mentioned in connection with the use of time-stamps on customer orders to reduce the effect of cyclical price movements. That is, any system for the reconstruction of the sequence of transactions which necessitates manual cross-checking and correlation from several separate data sources, especially where such system results in a reconstruction which is only marginally accurate, effectively negates its usefulness as a market surveillance or investigatory tool. In other words, the cost efficiency of any system which requires several people several days to achieve a reconstruction with limited accuracy cannot serve as an adequate deterrent to trading abuses or as an acceptable source for market information.

As a result, the Commission has determined that it is essential, in terms of the self-regulatory rule enforcement responsibilities of contract markets and the Commission's responsibility to oversee such rule enforcement, as well as in terms of the Commission's obligations under section 4j of the Act, that three additional record-keeping requirements be immediately imposed upon contract markets as a first step toward requiring them to attain the ability to reconstruct, rapidly and accurately, the precise time and sequence of transactions on the trading floor. The first is a requirement that each contract market maintain an accurate price change register recording each price change within ten seconds.[20] The second is a requirement that the execution of each transaction be identified to a time period within which the probability of a cyclical movement of the market is reduced to the greatest extent possible. In this regard, the Commission believes that the execution of each trade on a contract market must, to the extent possible, be recorded to at least the nearest minute. The third is a requirement that contract markets retain trade data information in a manner which permits accurate and rapid analysis of such data. The newly adopted amendments to regulation 1.35 require such record-keeping improvements.

In response to its rule proposal of December 12, 1975, the Commission received numerous comments to the effect that present technology is such that all price changes on a contract market can not be reported to the nearest ten seconds during hectic trading periods. While the Commission recognizes that even an effective contract market monitoring system may not immediately detect every price change in an extremely hectic trading period, studies conducted by the Commission's staff have shown that present technology is adequate to enable contract markets to record each detected price change within ten seconds. Moreover, the studies conducted by the Commission's staff have also led the Commission to conclude that contract market monitoring systems which utilize an adequate number of pit or ring observers or suitable electronic devices would enable all contract markets to detect virtually all price changes almost instantaneously, even in the busiest markets and heaviest trading periods. Accordingly, regulation 1.35(b) contains no relaxation of the requirement that each contract market maintain a record of all price changes which includes the time of each such change to the nearest ten seconds.[21] However, the Commissioner does not intend the application of this regulation to be absolute and does not anticipate that it will take any action against a contract market for failing to comply with the provisions of regulation 1.35(b) where such non-compliance consists solely of the failure on the part of the contract market to detect and to report within ten seconds occasional and isolated price changes during unusually hectic trading periods.

The Commission recognizes that implementation by certain contract markets of the technology and procedural systems necessary to enable those contract markets to maintain the required price change register may involve certain initial technical difficulties. However, since, as noted above, the Commission believes the technology already exists which would enable contract markets to maintain the ten-second price change register required by the newly adopted regulations, it is incumbent upon contract markets to initiate implementation of such technology and any necessary procedural systems far enough in advance of the effective date of regulation 1.35(h) to insure that the required record can be established and maintained by the contract market by the effective date of that regulation.

Proposed regulation 155.3(a) would have prohibited floor brokers from dual trading after January 16, 1977, in any commodity with respect to which a contract market had not submitted to the Commission for its approval

> a plan, with a timetable for implementation, which provides for the development, as soon as practicable, of a method, through time stamping or otherwise, for recording the sequence of futures transactions executed on the contract market.

Proposed regulation 155.3(b) would have prohibited dual trading on a contract market after April 17, 1977, unless the Commission by order had declared the submitted plan effective by that date or had extended the April 17 deadline. Several commentators orally and in writing expressed a belief that accurate and rapid transaction time sequence reconstruction through time stamping was absolutely essential to an effective regulatory program. Other commentators argued that such a capacity was not economically feasible in the foreseeable future and that potential abuses of dual trading could be effectively monitored by the contract market through other means.

[20] This requirement is also important in terms of the accurate market data which becomes available to the trading public by reason of the maintenance of such a price change record.

[21] One commentator was uncertain as to the meaning of the "nearest ten seconds." That term as used in newly adopted regulation 1.35(h) means that each change in price must be recorded within ten seconds after such price change.

In response to the concern expressed about time sequencing plans at the dual trading hearings, the Commission formed a task force on April 8, 1976, to study the feasibility of improved time sequencing at each exchange. The task force addressed in particular the suggestion that a system of bracketing, the identification of each transaction on the exchange to a determined time segment of the trading day, be accepted as an interim step toward full time sequence reconstruction capacity. The task force concluded that while time sequencing should continue to be the ultimate goal for all contract markets, bracketing would be a "significant step forward for certain markets on certain exchanges" and might represent an acceptable interim step toward full time sequence reconstruction capacity in certain instances.[22] The task force recommended specifically:

> • • • that the Commission promulgate a rule which will require as an ultimate goal the time sequencing of trades. This rule shall be part of the Commission's record-keeping rule (regulation 1.35). While this ultimate goal should be mandated, it is clear that certain exchanges cannot promptly institute a system for time sequencing of trades. Therefore, the rule suggested by the task force would permit, on a market-by-market basis, exchanges which demonstrate that they cannot implement the goal of time sequencing at this time to submit an interim plan which would be a step forward over present systems. For markets which are fully capable of implementing time sequencing by a stated deadline, the exchange would be required to do so, and would not be allowed to implement interim steps. For other markets (in particular those in the actively traded pits), an exchange might propose for Commission approval a plan which would include bracketing as an interim step toward the final goal of time sequencing. Periodically, perhaps annually, exchanges which have not implemented final plans for particular markets would be required to demonstrate further progress in sequence reconstruction capacity and explain why they were not able to have time sequencing, together with an explanation of what steps they are taking to reach that goal.

The Commission has carefully considered the report of its task force on bracketing and the public comments received in response to proposed regulation 155.3. In light of these recommendations and comments, and as a result of the Commission's internal studies on the issue, the Commission has concluded that each contract market should be required to develop the capacity to reconstruct, accurately and rapidly, the time sequence of transactions. As the first step toward such capacity, the Commission has required in regulation 1.35(g)(1) that each contract market implement, as soon as possible, timing and record-keeping systems and procedures which will enable it to show on the record required by regulation 1.35(e) the mechanically or electronically verified time of execution of each futures trade to at least the nearest minute. The Commission emphasizes that it does not intend by the imposition of this minimum requirement to preclude contract markets from utilizing more advanced time sequencing systems. Accordingly, regulation 1.35(g)(1) provides that a contract market may, in the alternative, show on the record required by regulation 1.35(e) such superior time sequence indicia as may be authorized by the Commission.

The Commission recognizes that implementation of the systems and procedures which will enable a contract market to comply with the requirements of regulation 1.35(g)(1) may not be possible on all contract markets on all commodity exchanges by the effective date of this regulation. Accordingly, regulation 1.35(g)(2) provides that the Commission may grant a contract market an extension of time to comply with the requirements of regulation 1.35(g)(1) where the contract market:

> (i) Demonstrates that the contract market cannot immediately implement timing and record-keeping systems and procedures which will enable it to show the mechanically or electronically verified time of execution to at least the nearest minute for each transaction without seriously disrupting the functions of its marketplace;
>
> (ii) Submits a plan, with a timetable for implementation which provides for the development of a record of the mechanically or electronically verified time of execution of each futures trade to at least the nearest minute or such superior time sequence indicia as may otherwise be authorized by the Commission; and
>
> (iii) Submits an interim plan which will represent substantial progress towards an accurate record of the time and sequence of each futures trade on the contract market.

The Commission emphasizes that the availability of any extension of time to comply with the requirements of regulation 1.35(g)(1) will be extremely limited. No such extension will be granted in the absence of a comprehensive study by the contract market of the feasibility and methods of implementing appropriate systems and procedures to enable the contract market to record the time of execution of each transaction to at least the nearest minute. In this regard, the Commission stresses that each contract market must utilize all available means to implement the necessary timing and record-keeping systems and procedures as soon as possible. No extension of time will be granted where the Commission determines that a contract market has failed to do all that it was feasible for it to do to attain the required record-keeping capability or to formulate an acceptable plan for the development of such capability.[23]

The third prerequisite for an extension of time to comply with the requirements of regulation 1.35(g)(1) is the submission of

> an interim plan which will represent substantial progress toward an accurate record of the time and sequence of execution of each futures trade on the contract market.

Such an interim plan must include the maximum possible improvement in the ability of the contract market to reconstruct, accurately and rapidly, the time and sequence of execution of each futures trade on the contract market. In this regard, the Commission believes it is appropriate to give contract markets additional guidance as to the criteria which will be used to evaluate any such interim plan. Specifically, an interim plan must, at a minimum:

> (i) Provide for substantial improvement in the record-keeping systems and procedures of the contract market, including improved data retrievability and analysis capability.
>
> (ii) Be consistent with the overall plans of the contract market for achieving full and accurate time sequencing. In this regard, the interim plan must not have the effect of impeding progress toward the implementation of a method for recording the mechanically or electronically verified time of execution of each futures trade to at least the nearest minute or such superior time sequence indicia as may have been authorized by the Commission.
>
> (iii) Not delay progress toward achieving accurate transaction time sequence reconstruction capability.

Interim plans will be evaluated on a market-by-market basis, even where such markets are on the same commodity exchange. An extension of time to comply with the requirements of regulation 1.35(g)(1) will not be granted to a contract market where the Commission

[22] In this regard, it should be noted that while the task force concluded that "bracketing or better is feasible on all exchanges," it also pointed out that

> [w]hile bracketing will better enable the Commission and the exchanges to reconstruct markets, the job of such reconstruction will continue to be onerous. Therefore, the ultimate goal of time sequencing must continued to be stressed.

The task force was also careful to point out that the feasibility of time stamping or other methods besides bracketing to achieve full sequence reconstruction capacity were not assessed comprehensively by the task force. Copies of the report of the task force on bracketing are available for inspection at the Commission's offices at 2033 K Street, N.W., Washington, D.C. 20581.

[23] Petitions for extensions of time to comply with the requirements of regulation 1.35(g)(1) should be submitted to the Commission at least 60 days prior to the effective date of the regulation to enable the Commission to review the plans accompanying such petitions and to afford the contract market adequate time to make any modifications to such plans necessitated by such review prior to the effective date of regulation 1.35(g)(1). Regulation 1.35(g)(2) does enable the Commission to grant an extension of time to comply with the requirements of regulation 1.35(g)(1) in the absence of the submission of an acceptable plan for the development of the required record-keeping capability; however, the Commission anticipates that it will grant such extensions in the absence of the requisite plan only in emergency circumstances and only for very limited durations.

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determines that the contract market is capable of implementing better transaction time sequence reconstruction than is provided for in the interim plan submitted by the contract market. In this regard, the Commission is especially cognizant of the finding of the task force on bracketing that while bracketing "may be a significant step forward for some very active markets," it may be "a step backwards for others." Accordingly, the task force recommended that the Commission make it clear that bracketing would not be a permissible interim step where a contract market "could go further." As indicated above, the Commission has adopted this recommendation of the bracketing task force.

An extension of time to comply with the requirements of regulation 1.35(g)(1) may not extend beyond one year in duration. While the Commission may renew such an extension for additional periods of up to one year upon subsequent petition by the contract market, such subsequent petitions must demonstrate:

(i) Substantial progress toward the implementation of the plan previously submitted for the development of a record of the mechanically or electronically verified time of execution of each futures trade to at least the nearest minute or such superior time sequence indicia as may have been authorized by the Commission,

(ii) Substantially improved transaction time sequence reconstruction capability, and

(iii) That the contract market cannot immediately implement timing and record-keeping systems and procedures which will enable it to show the mechanically or electronically verified time of execution of each futures trade to at least the nearest minute despite the substantial progress and improvement shown in (i) and (ii) above.

The Commission emphasizes that the interim plans accompanying such petitions must represent substantial improvements over the interim plans accompanying any previous petition for an extension of time to comply with the requirements of regulation 1.35(g)(1) and that it will be increasingly difficult for contract markets to satisfy the requirements for such an extension upon each subsequent petition.

Accuracy of Records

In its efforts to evaluate the adequacy of bracketing as an interim substitute for precise time sequencing, the task force on bracketing found it more appropriate to view bracketing in the context of record-keeping under regulation 1.35, rather than in the narrower context of time sequencing for dual trading purposes under proposed regulation 155.3. The task force concluded in the course of its study that in order to achieve accurate transaction time sequence reconstruction capacity, contract markets must be required to keep "much more accurate records [under regulation 1.35] than currently exist." The task force explained:

> Inaccurate information is an important problem of record keeping for most exchanges. Such inaccuracies require time consuming cross references of data in the course of trade practice investigations and economic studies. Therefore, without concurrent improvements in the accuracy of data, the benefits of bracketing or any other system of time sequencing of trades will be significantly diminished. Steps to identify and improve these other aspects of record keeping are important and should be pursued.

The task force stressed that contract market records must be accurate in all details, including the identities of the clearing members and floor brokers on each side of the transaction, the customer type indicator, and the bracket or other time indicator. In addition, the task force recommended that the Commission's record-keeping rules, in particular regulation 1.35(e), be amended to require that contract markets retain the records required pursuant to regulation 1.35(e) in computer-readable form for a minimum of 30 days. Such a requirement would significantly improve the retrievability of such records for use by the Commission and the contract markets.

The Commission agrees with these conclusions and recommendations of its task force on bracketing and has accordingly amended the requirements of regulation 1.35(e) to improve contract market records kept thereunder. The first of these revisions is a requirement that all the information required by regulation 1.35(e) be kept in a single record. The second is a requirement that both the buying and selling customer type indicators be shown on the record of each futures trade. The Commission is particularly concerned over the inaccuracy of customer type indicators. Each contract market has an obligation under regulation 1.35(e) to maintain accurate trade records, including customer type indicator information. It is therefore incumbent upon a contract market to impose upon its members whatever requirements are necessary to enable the contract market to meet its obligations under regulation 1.35(e).[24]

The third amendment to regulation 1.35(e) provides that the records required by that regulation be kept in computer-readable form on compatible magnetic tapes or discs for a 60-day period in a format and coding structure approved by the Commission.[25] The Commission anticipates that it will not approve any format and coding structure for the maintenance of such records unless such format and coding structure enables the contract market to rapidly retrieve trading data for any given trading day by commodity and delivery month, by time and/or sequence of execution indicia, by opposing floor brokers or floor traders or any combination of floor brokers or floor traders, and by customer type indicators. Such format and coding structures are well within the capabilities of commercial data processing systems. The Commission believes that the cost of implementing such systems would not be prohibitive and, in the context of the rule enforcement responsibilities of the contract markets, appear absolutely necessary. Under the present record-keeping and data retrieval systems of the various contract markets, even assuming adequate data to enable accurate reconstruction of the sequence of transactions on the contract markets, the burden of correlating such data manually and the concomitant expenditures of time and money necessary for effective surveillance of the trading practices of floor brokers are prohibitive. Accordingly, the Commission has required contract markets to adopt adequate data retrievability systems.[26]

In consideration of the foregoing, the Commission hereby adopts 17 CFR Part 155 and hereby amends 17 CFR Part 1 as follows:

1. 17 CFR is amended by adding a new Part 155, Trading standards, to read as follows:

Sec.
155.1 Definitions.
155.2 Trading standards for floor brokers.
155.3 Trading standards for futures commission merchants.
155.10 Exemptions.

AUTHORITY: Secs. 4b, 4g, 4j and 8a of the Commodity Exchange Act, as amended (7 U.S.C. 6b, 6g, 6j and 12a).

§ 155.1 Definitions.

For purposes of this part, the term "affiliated person" of a futures commission merchant means any general partner, officer, director, owner of more than ten percent of the equity interest, correspondent, agent or person associated therewith, associated person or employee of the futures commission merchant, and any relative or spouse of any of the foregoing persons, or any relative of such spouse, who shares the same home as any of the foregoing persons.

§ 155.2 Trading standards for floor brokers.

Each contract market shall adopt and submit to the Commission for approval pursuant to section 5a(12) of the Act and section 1.41 of the regulations, a set of rules which shall, at a minimum, with respect to each member of the contract market acting as a floor broker:

(a) Prohibit such member from purchasing any commodity for future delivery for his own account, or for any account in which he has an interest, while holding an order of another person for the purchase of the same commodity which is executable at the market price or at the price at which such purchase can be made for the member's own account or the account in which he has an interest.

(b) Prohibit such member from selling any commodity for future delivery for his own account, or for any account in which he has an interest, while holding an order of another person for the sale of the same commodity which is executable at the market price or at the price at which such sale can be made for the member's own account or the account in which he has an interest.

(c) Prohibit such member from executing any transaction for any account of another person for which buying and/or selling orders can be placed or originated, or for which transactions can be executed, by such member without the prior specific consent of the account owner, regardless of whether the general authorization for such orders or transactions is pursuant to a written agreement, except that orders for such an account may be placed with another member for execution.

(d) Prohibit such member from disclosing at any time that he is holding an order of another person or from divulging any order revealed to him by reason of his relationship to such other person, except pursuant to paragraph (c) of this section or at the request of an authorized representative of the Commission or the contract market.

(e) Prohibit such member from taking, directly or indirectly, the other side of any order of another person revealed to him by reason of his relationship to such other person, except with such other person's prior consent and in conformity with contract market rules approved by the Commission.

(f) Prohibit such member from making any purchase or sale which has been directly or indirectly prearranged.

(g) Prohibit such member from allocating trades among accounts.

(h) Prohibit such member from withholding or withdrawing from the market any order or part of an order of another person for the convenience of another member.

(i) Require that every execution of a transaction on the floor by such member be confirmed promptly with the opposite floor broker or floor trader; such confirmation shall identify price, quantity, future and respective clearing members. In the event a contract market cannot require prompt identification of respective clearing members without seriously disrupting the functions of its marketplace, the contract market may petition the Commission for exemption from this requirement. Such petition shall include:

(1) An explanation of why the contract market cannot require the prompt identification of respective clearing members without seriously disrupting the functions of its marketplace, and

(2) A proposed contract market rule which will insure that the opposite sides of every trade executed on the contract market can be effectively matched and will be accepted by a clearing member for clearance or will be otherwise sufficiently guaranteed.

The Commission may, in its discretion and upon such terms and conditions as it deems appropriate, grant such petition for exemption upon finding that the functions of the contract market may be seriously disrupted by requiring the prompt identification of respective clearing members and that the contract market appears to have adequately insured that every trade executed thereon can be effectively matched and will be accepted by a clearing member for clearance or will be otherwise sufficiently guaranteed.

§ 155.3 Trading standards for futures commission merchants.

(a) Each futures commission merchant shall, at a minimum, establish and enforce internal rules, procedures and controls to:

(1) Insure, to the extent possible, that each order received from a customer which is executable at or near the market price is transmitted to the floor of the appropriate contract market before any order in the same commodity for any proprietary account or any other account in which an affiliated person has an interest or for which an affiliated person may originate orders without the prior specific consent of the account owner is transmitted or caused to be transmitted to the floor of a contract market by any affiliated person who gains knowledge of such customer order prior to its transmission to the floor of the appropriate contract market; and

(2) Prevent affiliated persons from placing orders, directly or indirectly, with another futures commission merchant in a manner designed to circumvent the provisions of paragraph (a)(1) of this section.

(b) No futures commission merchant or any of its affiliated persons shall:

(1) Disclose that an order of another person is being held by the futures commission merchant or any of its affiliated persons, unless such disclosure is necessary to the effective execution of such order or is made at the request of an authorized representative of the Commission, the contract market on which such order is to be executed, or a futures association registered with the Commission pursuant to section 17 of the Act; or

(2) Knowingly take, directly or indirectly, the other side of any order of another person revealed to the futures commission merchant or any of its affiliated persons by reason of their relationship to such other person, except with such other person's prior consent and in conformity with contract market rules approved by the Commission.

(c) No futures commission merchant shall knowingly handle the account of any affiliated persons of another futures commission merchant unless the futures commission merchant:

(1) Receives written authorization from a person designated by such other futures commission merchant with responsibility for the surveillance over such account pursuant to paragraph (a)(2) of this section;

(2) Prepares immediately upon receipt of an order for such account a written record of such order, including the account identification and order number, and records thereon, by time-stamp or other timing device, the date and time, to the nearest minute, the order is received; and

(3) Transmits on a regular basis to such other futures commission merchant copies of all statements for such account and of all written records prepared upon the receipt of orders for such account pursuant to paragraph (c)(2) of this section.

(d) No affiliated person of a futures commission merchant shall have an account, directly or indirectly, with another futures commission merchant unless:

(1) Such affiliated person receives written authorization to maintain such an account from a person designated by the futures commission merchant with which such person is affiliated with responsibility for the surveillance over such account pursuant to paragraph (a)(2) of this section; and

(2) Copies of all statements for such account and of all written records prepared by such other futures commission merchant upon receipt of orders for such account pursuant to paragraph (c)(2) of this section are transmitted on a regular basis to the futures commission merchant with which such person is affiliated.

(e) The provisions of paragraphs (a) through (d) of this section shall not apply to a futures commission merchant which is not a member of any contract market or to the affiliated persons of such futures commission merchant.

§ 155.10 Exemptions.

Except as otherwise provided in this part, the Commission may, in its discretion and upon such terms and conditions as it deems appropriate, exempt any contract market or other person from any of the provisions of this part.

2. In 17 CFR Part 1, § 1.35 is amended by revising paragraph (e) and adding paragraph (g) to read as follows:

§ 1.35 Records of cash commodity and futures transactions.

* * * * *

(e) *Contract markets.* Each contract market shall maintain or cause to be maintained by its clearing organization a single record which shall show for each futures trade: the date, commodity, future, quantity, price, floor broker or floor trader buying, clearing member buying, floor broker or floor trader selling, clearing member selling, and symbols indicating the buying and selling customer types. The customer type indicators shall show, with respect to each person executing the trade, whether such person:

(1) Was trading for his own account;

(2) Was trading for his clearing member's house account;

(3) Was trading for another member present on the exchange floor, or an ac-

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[24] In a separate FEDERAL REGISTER release issued concurrently with these regulations, the Commission has proposed the adoption of certain rules designed to improve further the accuracy of records kept by contract markets pursuant to regulation 1.35.

[25] The Commission has determined that a 60-day retention period is necessary in light of the delays which frequently precede the initiation of any systematic analysis of a day's trading activity.

[26] It may be possible for certain contract markets to achieve adequate data retrievability without the use of computer analysis systems. Accordingly, the Commission may, "for good cause shown, exempt a contract market from the requirement that regulation 1.35(e) records be kept in computer-readable form" in appropriate instances.

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count controlled by such other member; or

(4) Was trading for any other type of customer.

The record required by this paragraph (e) of this section shall show, by appropriate and uniform symbols, exchanges of futures for cash, transfer trades, and trades cleared on dates other than the date of execution. Such record shall also show for each futures trade such time and sequence of execution indicia as provided for in paragraph (g) of this section. Except as otherwise approved by the Commission for good cause shown, the record required by this paragraph (e) of this section shall be maintained in a format and coding structure approved by the Commission (i) in hard copy or on microfilm as specified in section 1.31 and (ii) for 60 days in computer-readable form on compatible magnetic tapes or discs.

• • • • •

(g) (1) Each contract market shall show on the record of each futures trade required by paragraph (e) of this section the mechanically or electronically verified time of execution of such futures trade to at least the nearest minute or such superior time sequence indicia as may otherwise be authorized by the Commission.

(2) In the event a contract market cannot immediately comply with the requirements of paragraph (g) (1) of this section without seriously disrupting the functions of its marketplace, the contract market may petition the Commission for an extension of time to comply with these requirements. Such petition shall include:

(i) An explanation of why the contract market cannot immediately implement timing and record-keeping systems and procedures which will enable it to show the mechanically or electronically verified time of execution of each futures trade to at least the nearest minute on the record required by paragraph (e) of this section without seriously disrupting the functions of its marketplace;

(ii) A plan, with a timetable for implementation, which provides for the development of a record of the mechanically or electronically verified time of execution of each futures trade to at least the nearest minute or such superior time sequence indicia as may otherwise be authorized by the Commission; and

(iii) An interim plan which will represent substantial progress toward an accurate record of the time and sequence of execution of each futures trade on the contract market.

The Commission may, in its discretion and upon such terms and conditions as it deems appropriate, grant such an extension of time to comply with the requirements of paragraph (g) (1) of this section upon finding that the functions of the contract market may be seriously disrupted by immediately requiring mechanically or electronically verified timing of executions to at least the nearest minute on the contract market, that the plan submitted by the contract market for the implementation of such timing of executions or such superior time sequence indicia as may otherwise be authorized by the Commission provides for the development of such a record within a time period acceptable to the Commission or that the contract market is currently unable to submit such a plan, and that the interim plan submitted by the contract market represents substantial progress toward an accurate record of the time and sequence of execution of each futures trade on the contract market. The Commission may grant an extension of time to comply with the requirements of paragraph (g) (1) of this section for a period not to exceed one year, but may renew such extension for additional periods not to exceed one year upon subsequent petition by the contract market. Such subsequent petition must be made at least 60 days prior to the expiration of the current extension.

(h) *Contract Market Price Change Register.* Each contract market shall establish and maintain a record of all changes in the price of futures transactions executed on the floor of the contract market. This record shall include the time of all changes in price to the nearest ten seconds.

(Secs. 4g, 4j and 8a of the Commodity Exchange Act, as amended (7 U.S.C. 6g, 6j and 12a).)

While the Commission has adopted the foregoing rules and rule amendments in the form set forth above, the Commission will consider any comments on the new regulations submitted by interested persons on or before January 21, 1977, in determining whether any further or different action should be taken with respect to any of the matters dealt with in these regulations. Interested persons should submit written comments to the Commodity Futures Trading Commission, 2033 "K" Street, N.W., Washington, D.C. 20581, Attention: Secretariat. Copies of all comments received will be available for public inspection at the Commission's office in Washington, D.C.

Effective date: 17 CFR Part 155 takes effect on February 14, 1977. The amendments to 17 CFR 1.35 take effect on June 13, 1977.

Issued in Washington, D.C., on December 20, 1976, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-37681 Filed 12-22-76;8:45 am]

federal register

THURSDAY, DECEMBER 23, 1976

PART VI



DEPARTMENT OF COMMERCE

Economic Development Administration

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Proposed Projects Selected

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DEPARTMENT OF COMMERCE

Economic Development Administration

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Notice of Proposed Projects Selected Subject to Clearance

Notice is hereby given to all applicants and prospective applicants for funding under the Local Public Works Capital Development and Investment Program that the Economic Development Administration has reviewed all applications submitted to the appropriate office on or before C.O.B., December 3, 1976, and those applications resubmitted on or before C.O.B., December 9, 1976. Based on those reviews, EDA has selected the projects listed below, subject to final clearance. This does not constitute approval and means only that EDA will complete reviewing these projects for compliance with all provisions of the Local Public Works Capital Development and Investment Act of 1976 (hereinafter referred to as the "Act") and the implementing regulations. Each applicant will be notified as to the final disposition of the application.

Further notice is hereby given to all applicants that all new applications submitted on or before C.O.B., December 3, 1976 and all applications resubmitted on or before C.O.B., December 9, 1976 which are not included in the list below have been denied by the Assistant Secretary. Section 107(d) of the Act requires that 70% of all funds appropriated for this program be granted for public works projects submitted by State or local governments "having unemployment rates for the three most recent consecutive months in excess of the national unemployment rate." The remaining 30% is to be spent for all other categories. The listing below of selected projects for each State is divided into a 70% and a 30% category, consistent with the statutory requirements.

Those projects selected, subject to final clearance are:

STATE OF ALASKA		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-AK-0038-1	MUNICIPALI OF ANCHORAGE	598615
L-AK-0044-1	MUNICIPALITY OF ANCHORAG	500000
L-AK-0058-0	METLAKATLA INDIAN COMM	417687
L-AK-0071-0	CITY OF KETCHIKAN	111857
L-AK-0082-1	CITY OF ANGOON	415743
L-AK-0093-0	CITY OF HAINES	750000
L-AK-0098-0	HYDABURG CTY SCHOOL DIST	1322000
L-AK-0102-0	CITY OF NOME	447400
L-AK-0103-0	CITY OF NOORVIK	955183
L-AK-0106-0	CITY OF SKAGWAY ALASKA	953124
L-AK-0111-0	NORTH SLOPE BOURGH	601800
L-AK-0113-0	KWETHLUK VILLAGE COUNCIL	931122
L-AK-0122-0	VILLAGE OF PORT GRAHAM	882997
L-AK-0127-0	CITY OF PALMER	216275
L-AK-0133-0	CITY OF KAKE	720600

STATE OF ALASKA		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-AK-0061-0	CITY BOROUGH OF JUNEAU	179000
L-AK-0062-0	CITY BOROUGH OF JUNEAU	216000

STATE OF ALABAMA		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-AL-0044-0	WILCOX COUNTY	1175259
L-AL-0056-0	CITY OF BIRMINGHAM	2236000
L-AL-0129-0	CITY OF SELMA	200000
L-AL-0210-0	CITY OF UNIONTOWN	485854
L-AL-0228-0	CITY OF FLORALA	265000
L-AL-0242-0	TOWN OF TRIANA	432168
L-AL-0243-0	TOWN OF BOLIGEE AL	486980
L-AL-0267-1	HALE CNTY COMM	1075600
L-AL-0278-1	TOWN OF HOBSON CITY	757900
L-AL-0284-0	CITY OF HOLLYWOOD ALABAM	400680
L-AL-0314-0	DEKA COUNTY BOARD OF EDU	384268
L-AL-0327-0	LAWRENCE CNTY BD OF ED	3000000
L-AL-0371-0	Cullman Cnty Bd of Ed	386264
L-AL-0373-0	City of Bessemer	1620000

STATE OF ALABAMA		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-AL-0055-1	CITY OF MEADLAND	581803
L-AL-0070-0	PUBLIC LIBRARY SERVICE	1213040
L-AL-0082-1	CITY OF PRICHARD	643684
L-AL-0112-0	CHOCTAW CNTY BD OF ED	295473
L-AL-0118-0	MONROE COUNTY	316270
L-AL-0203-0	CITY OF ENTERPRISE	508000
L-AL-0218-0	LIMESTONE CNTY BD OF ED	340700
L-AL-0289-1	CITY OF EAST BREWTON	433967
L-AL-0291-0	TOWN OF ELKMONT ALABAMA	145500
L-AL-0296-1	CITY WATER & SEWAGE BD	840000
L-AL-0374-0	MORGAN CNTY BD OF ED	488559

STATE OF AMERICAN SAMOA		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-AO-0001-0	GOVERN OF AMERICAN SAMOA	3923000

STATE OF ARKANSAS		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-AR-0011-0	CITY OF TRUMANN	1296052
L-AR-0023-0	CITY OF PINE BLUFF	896637
L-AR-0030-0	CITY OF JACKSONVILLE	729458
L-AR-0032-0	DESHA COUNTY	200000
L-AR-0049-0	TEXARKANA SCHOOL DIST #7	529630
L-AR-0054-1	CRITTENDEN COUNTY	934788
L-AR-0067-0	CITY OF PANGBURN	737831
L-AR-0105-0	FORMAN SCHOOL DIST #25	126073
L-AR-0122-0	CAVE CTY SCHOOL DISTRICT	790077
L-AR-0140-0	HATFIELD SCHOOL DIST #22	798131
L-AR-0152-2	TOWN OF SUNSET	212721

STATE OF ARKANSAS		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-AR-0019-0	GARLAND COUNTY	230000
L-AR-0027-1	CITY OF GREERS FERRY	23675
L-AR-0056-1	TOWN OF CALDWELL	72000
L-AR-0057-0	FORREST CITY SCH DIST #7	1121000
L-AR-0064-0	CITY OF ARKADELPHIA	146649
L-AR-0077-0	CITY OF OZARK	479500
L-AR-0078-0	CITY OF HOT SPRINGS	174615
L-AR-0080-0	CITY OF HOT SPRINGS	709184
L-AR-0095-0	CITY OF HUNTINGTON	122322

STATE OF ARIZONA

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-AZ-0011-0	MARICOPA COUNTY	407950
L-AZ-0012-0	MARICOPA COUNTY	789306
L-AZ-0045-0	NAVAJO TRIBE OF INDIANS	409570
L-AZ-0046-0	NAVAJO TRIBE OF INDIANS	409570
L-AZ-0062-0	CITY OF MESA	106000
L-AZ-0072-1	CITY OF NOGALES	1739116
L-AZ-0186-1	PAPAGO TRIBE	547500
L-AZ-0197-0	SAN CARLOS APACHE TRIBE	896000
L-AZ-0202-0	APACHE CTY ELEM SCH DIST	1950063
L-AZ-0251-0	WHITE MT APACHE TRIBE	1940000

STATE OF ARIZONA

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-AZ-0114-0	CITY OF TUCSON	99000
L-AZ-0118-0	CITY OF TUCSON	577000
L-AZ-0127-0	CITY OF TUCSON	68250
L-AZ-0128-0	CITY OF TUCSON	128000
L-AZ-0129-0	CITY OF TUCSON	85100
L-AZ-0130-0	CITY OF TUCSON	485677
L-AZ-0132-0	CITY OF TUCSON	57060
L-AZ-0134-0	CITY OF TUCSON	282000
L-AZ-0193-1	CITY OF PAGE	114735
L-AZ-0216-0	PRESCOTT HISTORICAL SOC	1407596
L-AZ-0232-0	NORTHERN ARIZONA U	694619

STATE OF CALIFORNIA

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-CA-0007-0	CITY OF OAKLAND	4928000
L-CA-0028-0	CITY OF PARAMOUNT	877633
L-CA-0054-0	CITY OF FRESNO	238000
L-CA-0107-1	COUNTY OF SAN DIEGO	1100000
L-CA-0113-1	GEORGETOWN DIVIDE PUBLIC	275000
L-CA-0123-0	CITY OF CALEXICO	1642793
L-CA-0127-0	CITY OF CALEXICO	124320
L-CA-0185-0	N MARIN CNTY WATER DIST	646067
L-CA-0195-0	CITY OF SAN LEANDRO	150000
L-CA-0229-0	LAKESIDE UNION SCH DIST	651500
L-CA-0232-2	LYNWOOD UNIFIED SCH DIST	2841000
L-CA-0233-0	COUNTY OF EL DORADO	1070000
L-CA-0235-1	MODESTO CTY & SCH DIST	418570
L-CA-0239-0	CTY OF SAN PABLO	569150
L-CA-0258-2	CITY OF SAN DIEGO	1606300
L-CA-0329-0	NEVADA CNTY IRRIG DIST	353272
L-CA-0338-0	ESCONDIDO UNION HIGH SCH	1297653
L-CA-0378-0	CITY OF ESCALON	202709
L-CA-0420-1	CHINO UNIFIED SCH DIST	4963693

STATE OF CALIFORNIA

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-CA-0424-0	CITY OF SAN LEANDRO	179600
L-CA-0426-0	OCEANSIDE UN SCH DIST	301842
L-CA-0450-0	CITY OF NATIONAL CITY	3900296
L-CA-0464-1	L.A.COMMUNITY COLL DIST	4915757
L-CA-0482-0	OAKLAND UNIFIED SCH DIST	441000
L-CA-0484-1	CITY OF SAN PABLO	2184984
L-CA-0539-0	CITY OF SAN LEANDRO	275000
L-CA-0542-0	ALVORD UNIFIED SCH DIST	3486367
L-CA-0556-1	CITY OF CHICO	3462461
L-CA-0582-0	OAKLAND UNIFIED SCH DIST	629160
L-CA-0583-0	OAKLAND UNIFIED SCH DIST	357000
L-CA-0618-0	CITY OF COMMERCE	666729
L-CA-0626-0	SAN DIEGO UNIF SCH DIST	4995000
L-CA-0628-0	CITRUS COMMUNITY COL DIS	1547264
L-CA-0642-0	CITY OF BRISBANE	3367000
L-CA-0672-1	CITY OF MONROVIA	766031
L-CA-0679-0	CITY OF SIMI VALLEY	860000
L-CA-0717-1	SANTA MONICA COMM COLL	527676
L-CA-0729-0	CITY OF ADELANTO	1358532
L-CA-0735-1	ORCHARD DALE CNTY WAT DS	155400
L-CA-0802-1	CITY OF NORWALK	300000
L-CA-0827-0	CITY OF LOS ANGELES	750000
L-CA-0841-0	CITY OF LOS ANGELES	750000
L-CA-0845-0	CITY OF LOS ANGELES	750000
L-CA-0849-0	CITY OF LOS ANGELES	750000
L-CA-0882-0	CITY OF LOS ANGELES	1000000
L-CA-0898-0	CITY OF LOS ANGELES	668200
L-CA-0905-0	CITY OF LOS ANGELES	916300
L-CA-0910-0	CITY OF LOS ANGELES	422300
L-CA-0923-0	CITY OF LOS ANGELES	536000
L-CA-0925-0	CITY OF LOS ANGELES	383500
L-CA-0941-0	CITY OF LOS ANGELES	422560
L-CA-0944-0	CITY OF LOS ANGELES	520000
L-CA-0957-0	CITY OF LOS ANGELES	51000
L-CA-0960-0	CITY OF LOS ANGELES	85000
L-CA-0963-0	CITY OF LOS ANGELES	53000
L-CA-0985-1	CITY OF LOS AGNELES	470600
L-CA-0986-0	CITY OF LOS ANGELES	199800
L-CA-0987-0	CITY OF LOS ANGELES	550000
L-CA-0988-0	CITY OF LOS ANGELES	454000
L-CA-0991-0	CITY OF LOS ANGELES	68700
L-CA-0992-0	CITY OF LOS ANGELES	160000
L-CA-0997-0	CITY OF LOS ANGELES	461000
L-CA-1001-0	CITY OF LOS ANGELES	139200
L-CA-1010-0	CITY OF LOS ANGELES	133000
L-CA-1012-0	CITY OF LOS ANGELES	1760000
L-CA-1014-0	CITY OF LOS ANGELES	1925000
L-CA-1017-0	CITY OF LOS ANGELES	1424500
L-CA-1024-0	CITY OF LOS ANGELES	40100
L-CA-1059-1	MARIN COMMUNITY COLLEGE	810312
L-CA-1087-0	CITY OF CORONA	1147355

STATE OF CALIFORNIA

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-CA-1138-1	LOS ANGELES UNI SCH DIST	430458
L-CA-1165-1	LOS ANGELES UNI SCH DIST	214830
L-CA-1168-0	MILTON F REITERMAN	970000
L-CA-1187-0	COUNTY OF RIVERSIDE	1340026
L-CA-1244-0	CITY OF DUARTE	1466339
L-CA-1305-0	SAN DIEGO UNI SCH DIST	3201000
L-CA-1321-0	CITY OF SOUTH EL MONTE	446447
L-CA-1325-2	S BAY UNION SCHOOL DIST	2020915
L-CA-1329-0	CITY OF GRIDLEY	186550
L-CA-1382-0	STANISLAUS COUNTY	474500
L-CA-1391-1	CITY OF POMONA	1351169
L-CA-1447-1	CARSON CALIFORNIA	1158150
L-CA-1449-1	CITY OF HUNTINGTON PARK	2400000
L-CA-1490-0	CITY OF SANTA FE SPRINGS	315000
L-CA-1506-0	BARSTOW COMMUNITY COLLG	373000
L-CA-1522-0	CITY OF LOS ANGELES	1925811
L-CA-1543-0	CITY OF LOS ANGELES	500000
L-CA-1546-0	CITY OF LOS ANGELES	800000
L-CA-1548-0	CITY OF LOS ANGELES	2800000
L-CA-1550-0	CITY OF LOS ANGELES	3800000
L-CA-1555-1	CITY OF BALDWIN PARK	4706679
L-CA-1579-0	CITY OF LAKEWOOD	680729
L-CA-1591-0	CITY OF EL MONTE	720000
L-CA-1630-0	CITY OF CHULA VISTA	407513
L-CA-1632-0	CITY OF CHULA VISTA	63765
L-CA-1646-1	CITY OF SAN FERNANDO	722998
L-CA-1662-1	COMPTON UNIFIED SCH DIST	4797143
L-CA-1670-1	CITY OF LOS ANGELES	1087001
L-CA-1679-0	CITY OF GILROY	113285
L-CA-1720-0	CITY OF IRWINDALE	108500
L-CA-1797-1	HUGHSON UNION HS DIST	307230
L-CA-1919-0	COUNTY OF LOS ANGELES	2434000
L-CA-1925-1	COUNTY OF LOS ANGELES	4951000
L-CA-2011-0	CITY OF BELLFLOWER	265230
L-CA-2047-1	CITY OF UNION CITY	4982462
L-CA-2059-0	CITY OF WEST COVINA	1500000
L-CA-2074-1	TRUSTEES OF CAL UNIV	197000
L-CA-2099-0	CITY OF HAYWOOD	797970
L-CA-2100-0	OAKDALE JOINT UNION HIGH	186750
L-CA-2108-1	CITY OF LIVERMORE	1538400
L-CA-2110-0	FALLBROOK HS SCH DIST	351874
L-CA-2121-1	MONTEBELLO UNI SCH DIST	2821540
L-CA-2140-1	PALOS VERDES PEN SCH DST	1707204
L-CA-2149-1	CITY OF TEMPLE CITY	418237
L-CA-2158-0	CITY OF TEMPLE CITY	167473
L-CA-2194-0	CITY OF HAWTHORNE	2975000
L-CA-2247-0	NEW HAVEN UNI SCH DIST	1681308
L-CA-2261-0	STANISLAVS UNI SCH DIST	2388536
L-CA-2274-0	RESCUE UNION SCH DIST	453620
L-CA-2310-1	BISHOP IND RESERVATION	960100
L-CA-2326-0	CITY OF NEWMAN	88000

STATE OF CALIFORNIA

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-CA-2331-1	COUNTY OF MERCED	1816340
L-CA-2361-1	CITY OF MONTCLAIR	790000
L-CA-2380-0	HERMOSA BEACH CTY SCHL	723944
L-CA-2408-0	COUNTY OF ALAMEDA	2200000
L-CA-2449-0	CITY OF CERES	630000
L-CA-2483-0	SAN GABRIEL CNTY WAT DST	301350
L-CA-2529-0	TOWN OF CORTE MADERA	594245
L-CA-2533-0	CITY OF HAWAIIAN GARDENS	3333863
L-CA-2612-2	TUOLUMNC CO WATER DISTRI	608760
L-CA-2632-1	CITY OF ANDERSON	394350
L-CA-2642-0	CITY OF LIVINGSTON	161461
L-CA-2662-0	PAUMA BAND MISSION TRIBE	228927
L-CA-2690-0	COUNTY OF ALPINE	375000
L-CA-2691-0	COUNTY OF LOS ANGELES	850000
L-CA-2698-0	CTY & CNTY OF SAN FRAN	1987720
L-CA-2709-0	GALT JOINT UNION SCH DT	1082000
L-CA-2726-0	CTY & CNTY OF SAN FRAN	3212500
L-CA-2757-1	STANISLAUS COUNTY	522865
L-CA-2783-0	PLUMAS CNTY INDIANS INC	174790
L-CA-2854-1	CITY OF LA VERNE	215105
L-CA-2859-0	ORLEANS KAROK TRIBAL COU	171840
L-CA-2874-1	REDONDO BEACH CITY SCH	1950000
L-CA-2879-1	CABRILLO UNIFD SCHL DIST	1905939
L-CA-2905-0	CITY OF EL CNETRO	1639962
L-CA-2907-0	CITY OF SAN RAFAEL	677000
L-CA-2976-0	APPLE VALLEY SCH DIST	604760
L-CA-2982-0	GRINDSTONE TRBL CNCL	333795
L-CA-3020-0	CITY OF ANDERSON	1388331

STATE OF CALIFORNIA

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-CA-0026-0	CITY OF FULLERTON	1282000
L-CA-0027-1	CITY OF FULLERTON	1120900
L-CA-0072-1	COUNTY OF ORANGE	2500000
L-CA-0075-1	YORBA LINDA SCH DIST	2767600
L-CA-0297-0	CITY OF GARDEN GROVE	300000
L-CA-0337-0	CITY OF BUENA PARK	1350000
L-CA-0341-0	CITY OF TUSTIN	860341
L-CA-0369-1	CITY OF SEAL BEACH	610000
L-CA-0377-0	CITY OF ORANGE	290000
L-CA-0391-0	FULLERTON JNT UN SCH DST	525000
L-CA-0429-0	CITY OF BUENA PARK	361884
L-CA-0459-1	CITY OF BENICIA	1708343
L-CA-0461-1	CITY MENLO PARK	360440
L-CA-0463-1	CITY OF MENLO PARK	1027000
L-CA-0493-0	CITY OF FOUNTAIN VALLEY	247672
L-CA-0497-0	CITY OF INDIO	350910
L-CA-0504-1	IRVINE UNIFIED SCH DIST	3533400
L-CA-0512-0	BELMONT CNTY WATER DIST	2063000

STATE OF CALIFORNIA		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-CA-0576-0	ORANGE	785000
L-CA-0594-0	CITY OF VALLEJO	55000
L-CA-0602-0	CITY OF LOS ALAMITOS	409000
L-CA-0611-1	CITY OF SANTA ANA	595000
L-CA-0612-0	FULLERTON UNT UN SCH DST	600000
L-CA-0614-1	CITY OF SANTA ANA	1064000
L-CA-0702-1	CITY OF SANTA ANA	364000
L-CA-0703-0	CITY OF SANTA ANA	3500000
L-CA-0711-1	CITY OF HUNTINGTON BEACH	567000
L-CA-0716-1	CITY OF SANTA ANA	354000
L-CA-0719-0	CITY OF GARDEN GROVE	1875370
L-CA-0723-1	FAIRFIELD CITY	1815615
L-CA-0724-0	CITY OF ORANGE	319524
L-CA-0726-1	CITY OF FAIRFIELD	3794836
L-CA-0777-1	COUNTY OF MONTEREY	936422
L-CA-0791-0	COACHELLA VL CNTY WAT DS	3489181
L-CA-0806-0	CITY OF ANAHEIM	750000
L-CA-0807-0	CITY OF ANAHEIM	120000
L-CA-0808-1	CITY OF ANAHEIM	160000
L-CA-0809-1	CITY OF ANAHEIM	130000
L-CA-0813-0	COACHELLA CITY	140230
L-CA-0814-0	COACHELLA VLY CNTY WATER	343000
L-CA-0817-0	CITY OF ANAHEIM	295000
L-CA-1009-1	SANTA ANA COLLEGE DIST	221900
L-CA-1066-0	SOUTH COAST COUNTY	195000
L-CA-1079-2	SAN LUIS SCHL DIST	912577
L-CA-1146-0	CITY OF LA PALMA	328525
L-CA-1184-0	CITY OF WESTMINISTER	318500
L-CA-1261-0	THE REGENTS OF THE UNIVE	350000
L-CA-1286-0	STATE OF CALIFORNIA	178400
L-CA-1456-0	COAST COMMUNITY COLLEGE	915150
L-CA-1457-0	COAST COMMUNITY COLLEGE	1726225
L-CA-1459-1	COAST COMMUNITY COLLEGE	1128344
L-CA-1486-0	CITY OF LINDSAY	500000
L-CA-1488-0	COUNTY OF MONTEREY	384064
L-CA-1489-0	COUNTY OF MONTEREY	174053
L-CA-1626-1	NAPA SANITATION DISTRICT	1100000
L-CA-1639-0	CITY OF JACKSON	960000
L-CA-1640-1	VISALIA UNIFIED SCH DIST	197533
L-CA-1653-1	VISALIA UNIFIED SCH DIST	467949
L-CA-1654-0	COUNTY OF RIVERSIDE	124755
L-CA-1665-1	VISALIA UNIFIED SCH DIST	334463
L-CA-1697-0	CITY OF SANTA ANA	299450
L-CA-1772-0	CITY OF MOUNTAIN VIEW	506810
L-CA-1776-0	CITY OF MOUNTAIN VIEW	371230
L-CA-1777-0	CITY OF EL PASO DE ROBLE	159462
L-CA-1907-0	COUNTY OF LOS ANGELES	445170
L-CA-2010-0	CITY OF NAPA	100000
L-CA-2018-1	CITY OF YORBA LINDA	126000
L-CA-2051-1	CITY OF PORTERVILLE	175000
L-CA-2101-0	SANTA MARIA PUB AIRPORT	426300

STATE OF CALIFORNIA		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-CA-2126-0	SANTA ANA UNI SCH DIST	2771334
L-CA-2128-0	NEWPORT-MESA UNI SCH DST	1739475
L-CA-2130-1	CITY OF DINUBA	190600
L-CA-2131-0	CITY OF DINUBA	159200
L-CA-2167-0	NEWPORT-MESA UNI SCH DST	639342
L-CA-2184-1	THE STATE OF CALIFORNIA	198431
L-CA-2187-1	COUNTY OF MONTEREY	76650
L-CA-2240-0	CITY OF FAIRFIELD	283352
L-CA-2245-0	CITY OF PASADENA	2566840
L-CA-2252-1	CITY OF PLACENTIA	635000
L-CA-2293-1	CALIF DEPT OF TRANSPORT	503000
L-CA-2377-1	CITY OF PLACENTA	603223
L-CA-2398-1	CITY OF CYPRESS	76773
L-CA-2416-0	CITY OF STANTON	159390
L-CA-2423-1	CITY OF COSTA MESA	550000
L-CA-2490-0	COUNTY OF NAPA	975000
L-CA-2714-0	CITY OF PORTERVILLE	168000
L-CA-2715-0	CITY OF PORTERVILLE	225000
L-CA-2779-0	PALO VERDE SCHOOL	84284
L-CA-2785-0	TULARE CTY SCH DIST	500395
L-CA-2800-0	TULARE CTY SCH DIST	105000
L-CA-2804-0	SEQUOIA UNION SCHL DIST	99049
L-CA-2806-0	COSTA MESA CNTY WAT DIST	931500
L-CA-2829-0	CITY OF COACHELLA	410000
L-CA-2846-1	SACRAMENTO HEALTH DEPT	250000
L-CA-2849-1	CITY OF PALM DESERT	2000000
L-CA-2984-0	CUTLER-OROSI UNIFD DIST	45469
L-CA-2989-0	COUNTY OF INYO	47800

STATE OF COLORADO		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-CO-0007-1	CITY OF COMMERCE CITY	1220635
L-CO-0053-0	ADAMS CO BD OF COMMNERS	674672
L-CO-0065-0	CITY & COUNTY OF DENVER	90000
L-CO-0067-0	CITY & COUNTY OF DENVER	1683000
L-CO-0068-0	CITY & COUNTY OF DENVER	1122000
L-CO-0091-0	UTE MTN TRIBE OF INDIANS	521540
L-CO-0092-0	TOWN OF PAGOSA SPRINGS	246900
L-CO-0093-0	CITY & COUNTY OF DENVER	1020000
L-CO-0112-2	SOUTH SUBURBAN METRO	2093685
L-CO-0164-0	CITY OF THORNTON	166500

STATE OF COLORADO		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-CO-0168-0	PLATTE CANYON SCHL DIST1	2360740
L-CO-0181-0	CITY OF WHEAT RIDGE	1350000

STATE OF CONNECTICUT		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-CT-0007-1	TOWN OF THOMASTON	4500000
L-CT-0052-0	CITY OF TORRINGTON	700000
L-CT-0129-1	CITY OF ANSONIA	939700
L-CT-0152-2	CITY OF HARTFORD	4998000
L-CT-0170-0	CITY OF WATERBURY	4332426
L-CT-0202-0	TOWN OF OXFORD	828000
L-CT-0207-0	TOWN OF PLYMOUTH	1325000
L-CT-0211-0	TOWN OF PLYMOUTH	372960
L-CT-0216-0	CITY OF BRIDGEPORT	1394640
L-CT-0219-0	CITY OF BRIDGEPORT	1111693
L-CT-0222-1	CITY OF BRIDGEPORT	380825
L-CT-0226-0	CITY OF BRIDGEPORT	355642
L-CT-0260-1	NEW HAVEN HOUSING AUTH	55500
L-CT-0269-1	TOWN OF SEYMOUR	395400
L-CT-0280-0	CITY OF BRISTOL	4996000
L-CT-0281-0	CITY OF SHELTON	441300
L-CT-0313-1	TOWN OF BERLIN	967305
L-CT-0363-0	CITY OF NEW HAVEN	1742315
L-CT-0375-0	CITY OF MILFORD	696292
L-CT-0412-1	CITY OF DERBY	1095000
L-CT-0417-0	CITY OF NEW HAVEN	399073
L-CT-0422-0	CITY OF NEW HAVEN	1603000

STATE OF CONNECTICUT		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-CT-0008-0	CITY OF NEW LONDON	1503038
L-CT-0026-0	CITY OF STAMFORD	2000690
L-CT-0028-0	CITY OF STAMFORD	589657
L-CT-0132-2	TOWN OF WEST HARTFORD	1823120
L-CT-0166-1	TOWN OF MONTVILLE	446223
L-CT-0194-1	TOWN OF CANTON	183000
L-CT-0197-2	TOWN OF CANTON	74276
L-CT-0199-1	TOWN OF WESTPORT	1400000
L-CT-0273-1	TOWN OF GROTON	2589400
L-CT-0350-0	TOWN OF LEDYARD	85000
L-CT-0415-0	TOWN OF GREENWICH	4193800

STATE OF DISTRICT OF COLUMBIA		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-DC-0001-0	GOVT OF DIST OF COLUMBIA	1500000
L-DC-0002-0	GOVT OF DIST OF COLUMBIA	1400000
L-DC-0003-1	GOVT OF DIST OF COLUMBIA	900000
L-DC-0005-0	GOVT OF DIST OF COLUMBIA	300000
L-DC-0006-0	GOVT OF DIST OF COLUMBIA	2000000
L-DC-0007-0	GOVT OF DIST OF COLUMBIA	2200000
L-DC-0008-0	GOVT OF DIST OF COLUMBIA	1700000

STATE OF DELAWARE		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-DE-0004-2	CITY OF MILFORD	496650
L-DE-0013-1	DEPT HLTH & SOCIAL SVC	960342
L-DE-0020-0	DELAWARE CITY	694890
L-DE-0023-1	CITY OF WILMINGTON	1115432
L-DE-0025-0	UNIVERSITY OF DELAWARE	125000
L-DE-0026-0	HARTLEY COMMISSIONERS	702590
L-DE-0030-1	CITY OF WILMINGTON	1136000
L-DE-0051-0	CITY OF NEWARK	355360
L-DE-0065-1	LAKE FOREST SCHOOL DIST	1589000

STATE OF DELAWARE		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-DE-0005-0	APPOQUINIMINK SCHOOL DST	590700
L-DE-0012-2	TOWN OF GEORGETOWN	284550
L-DE-0019-1	CITY OF SEAFORD	633780
L-DE-0040-0	TOWN OF LAUREL	659500
L-DE-0042-1	TOWN OF ELSMERE	160755
L-DE-0045-0	TOWN OF DELMAR	175000
L-DE-0055-2	BRIDGEVILLE COMN	386902

STATE OF FLORIDA		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-FL-0003-0	DADE CNTY BD OF COMM	3319930
L-FL-0005-0	DADE CNTY BD OF COMM	5000000
L-FL-0013-1	LEE CNTY BD OF COMM	4877000
L-FL-0035-1	CITY OF LAKE MARY	308000
L-FL-0039-0	CITY OF TAMPA	1467900
L-FL-0079-0	CITY OF WEST MIAMI	399200
L-FL-0080-0	CITY OF PEMBROKE PINES	580000
L-FL-0091-0	ORANGE CNTY BD OF COMM	2849700
L-FL-0095-1	CITY OF SANFORD	1795525
L-FL-0096-0	CITY OF GULPORT	839641
L-FL-0101-0	CITY OF FLORIDA CITY	1000000
L-FL-0102-1	CITY OF LAUDERDALE LAKES	804753
L-FL-0119-1	CITY OF TAMARAC	279098

STATE OF FLORIDA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-FL-0144-0	CITY OF HOMESTEAD	4600000
L-FL-0150-0	HILLSBORO CNTY SCH BD	4933500
L-FL-0154-0	CITY OF MADEIRA BEACH	274550
L-FL-0162-0	CITY OF OVIEDO	480000
L-FL-0165-1	MILLSBOROUGH COUNTY	239606
L-FL-0185-1	HILLSBOROUGH COUNTY	239606
L-FL-0192-2	CITY OF SUNRISE	3675960
L-FL-0193-1	CITY OF MIRAMAR	2053695
L-FL-0199-0	CITY OF NORTH LAUDERDALE	1671955
L-FL-0208-0	CTY OF ALTAMONTE SPRINGS	1250251
L-FL-0238-0	BROWARD BD OF CNTY COMM	350000
L-FL-0243-0	BROWARD BD OF CNTY COMM	2500000
L-FL-0251-0	CITY OF CORAL SPRINGS	198000
L-FL-0292-1	PORT EVERGLADES AUTH	2600000
L-FL-0309-0	CITY OF BELLE GLADE	750000
L-FL-0310-0	CITY OF DANIA	575000
L-FL-0317-1	CITY OF OLDSMAR	440000
L-FL-0321-1	CITY OF KISSIMMEE	456442
L-FL-0344-0	CITY OF OAKLAND PARK	553619
L-FL-0352-1	CITY OF TEMPLE TERRACE	220000
L-FL-0353-0	CITY OF PALM BAY	1735864
L-FL-0365-0	CITY OF DUNEDIN	740600
L-FL-0380-0	CITY OF HIALEAH	2789182
L-FL-0389-1	CITY OF DELRAY BEACH	1230023
L-FL-0425-0	TOWN OF EAGLE LAKE	1935150
L-FL-0439-0	HGHWY SAFETY & MV DEPT	405753
L-FL-0455-0	SCHOOL BOARD OF PALM BCH	338756
L-FL-0469-0	SCH BD PALM BEACH CNTY	300159
L-FL-0489-0	CITY OF WINTER SPRINGS	120300
L-FL-0498-0	MICCOSUKEE IND TRIBE	336160
L-FL-0502-0	CITY OF BOWLING GREEN	540500
L-FL-0505-0	MICCOSUKE TRB OF INDIANS	144540
L-FL-0514-0	CITY OF PLANT CITY	57860
L-FL-0516-0	CITY OF PLANT CITY	275633
L-FL-0520-0	CITY OF WILTON MANORS	49000
L-FL-0521-0	CITY OF DEERFIELD BEACH	640966
L-FL-0582-0	TRANSPORTATION DEPT	1595203
L-FL-0590-0	SOUTH BAY CITY	470966
L-FL-0596-1	HERNANDO CNTY COMM	494770
L-FL-0623-0	PLANTATION CITY	202200
L-FL-0636-0	BREVARD CNTY BD OF COMM	1254592
L-FL-0641-1	CITY OF ROCKLEDGE	1382903
L-FL-0642-0	CITY OF INDIAN HARBOUR	547270
L-FL-0652-0	CITY OF OPALOCKA	2051500
L-FL-0717-0	SEMINOLE CNTY	4669675
L-FL-0728-1	CITY OF WILTON MANORS	467500
L-FL-0729-0	CITY OF PAHOKEE	973000
L-FL-0750-0	CITY OF PORT ORANGE	230000
L-FL-0756-0	BOARD OF COUNTY COMMISSI	600000
L-FL-0757-0	PALM BEACH BD OF COMM	369915
L-FL-0793-0	CITY OF PINELLAS PARK	546063

STATE OF FLORIDA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-FL-0814-0	CITY OF MELBOURNE	887516
L-FL-0887-0	METORPOLITAN DADE COUNTY	1071105
L-FL-0901-0	CITY OF SWEETWATER	736000
L-FL-0926-1	CITY OF POMPANO BEACH	438900
L-FL-0927-1	CITY OF POMPANO BEACH	270693
L-FL-0937-1	TOWN OF DAVIE	73000
L-FL-0940-0	SCHL BOARD BROWARD CNTY	1385155
L-FL-0989-0	CITY OF PLANT CITY	229956
L-FL-1011-1	VILLAGE OF VIRGINIA GARD	511962
L-FL-1012-0	HAINES CITY	2917627
L-FL-1013-1	TOWN OF EATONVILLE	3561239
L-FL-1015-0	CITY OF RIVERA BEACH	3930373

STATE OF FLORIDA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-FL-0064-1	CITY OF ATLANTIC BEACH	1054384
L-FL-0177-1	TOWN OF ORANGE PARK	670000
L-FL-0188-0	TOWN OF PENNEY FARMS	25651
L-FL-0212-0	TOWN OF PENNEY FARMS	48621
L-FL-0240-1	TALLAHASSEE-LEON CIV CTR	3190840
L-FL-0259-0	CITY OF PENSACOLA	1493476
L-FL-0318-1	BAKER CNTY BD OF COMM	147000
L-FL-0319-1	BAKER CNTY BD OF COMM	43900
L-FL-0320-1	BAKER CNTY BD OF COMM	210900
L-FL-0329-0	CITY OF JACKSONVILLE	1829000
L-FL-0330-0	CITY OF JACKSONVILLE	1717491
L-FL-0331-0	CITY OF JACKSONVILLE	403629
L-FL-0332-0	CITY OF JACKSONVILLE	1129986
L-FL-0333-0	CITY OF JACKSONVILLE	1294328
L-FL-0338-0	CITY OF GREEN COVE SPGS	739200
L-FL-0339-0	CITY OF GREEN COVE SPGS	740835
L-FL-0428-0	CITY OF HAWTHORNE	350000
L-FL-0436-0	SANTA ROSA CNTY SCHL DIS	146405
L-FL-0495-0	CITY OF HIGH SPRINGS	262185
L-FL-0501-1	ESCAMBIA CNTY SCH BOARD	52287
L-FL-0506-0	CITY OF HIGH SPRINGS	81490
L-FL-0553-1	CITY OF GAINESVILLE	1818440
L-FL-0554-0	CITY OF GAINESVILLE	1234288
L-FL-0555-0	CITY OF GAINESVILLE	878140
L-FL-0595-0	CLAY CNTY BD OF COMM	356491
L-FL-0639-1	ESCAMBIA COUNTY FLORIDA	1300000
L-FL-0644-0	BOARD OF COUNTY COMMISSI	3081076
L-FL-0645-0	BOARD OF COUNTY COMMISSI	1028575
L-FL-0646-0	ALACHUA CNTY BD OF COMM	581688
L-FL-0741-0	TOWN OF MICANOPY	225916
L-FL-0828-0	CITY OF GULF BREEZE	425000
L-FL-0829-0	NASSAU CNTY	1250600
L-FL-0870-1	DIXIE COUNTY COMMISSION	280000
L-FL-0899-1	CITY OF FERNANDINA BEACH	1353000

STATE OF FLORIDA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-FL-0900-0	CITY OF FERNANDINA BEACH	300000
L-FL-0918-1	CITY OF ALACHUA	12000
L-FL-0963-0	ALACHUA CNTY BD OF COMM	1363940
L-FL-0975-1	CITY OF JACKSONVILLE	1180091
L-FL-0976-1	CITY OF JACKSONVILLE	347173
L-FL-0977-1	CITY OF JACKSONVILLE	559503
L-FL-0979-1	DIXIE COUNTY SCHOOL BOAR	378000
L-FL-0983-0	TOWN OF BALDWIN	633930
L-FL-0984-0	TOWN OF BALDWIN	798316
L-FL-0990-1	DUVAL COUNTY SCHOOL BOAR	4994000

STATE OF GEORGIA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-GA-0005-0	BURKE CNTY BD OF COMM	891975
L-GA-0021-1	JENKINS COUNTY	412461
L-GA-0026-0	ATLANTA PUBLIC SCHOOLS	1900000
L-GA-0067-0	THE CITY OF WRENS	165711
L-GA-0147-0	MARIETTA CTY BD OF ED	1345800
L-GA-0187-0	CITY OF MARIETTA	606966
L-GA-0191-0	GLASCOCK CNTY BD OF ED	199500
L-GA-0226-0	CITY OF ATLANTA	4803159
L-GA-0236-0	EMANUEL CNTY BD OF COMM	415429
L-GA-0238-0	GWINNETT COUNTY	1500000
L-GA-0263-1	VILLA RICA CTY HOSP AUTH	96200
L-GA-0293-1	CITY OF ROCKMART	224136
L-GA-0319-1	CITY OF FAYETTEVILLE	255000
L-GA-0363-1	CITY OF VILLA RICA	410000
L-GA-0384-1	CITY OF JACKSON	117000
L-GA-0407-0	CITY OF CUSSETA	113330
L-GA-0421-0	ATLANTA BD OF ED	1000000
L-GA-0430-1	ATLANTA BD OF ED	1000000
L-GA-0491-0	TAYLOR COUNTY	588447
L-GA-0522-0	CLAYTON COUNTY	938950
L-GA-0540-0	DAWSON COUNTY	840900

STATE OF GEORGIA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-GA-0103-0	CNTY BD OF PUB ED & ORPH	855126
L-GA-0219-0	FLOYD COUNTY	2229500
L-GA-0270-0	PAULDING CNTY WATER AUTH	1931070
L-GA-0310-0	HOUSTON COUNTY	1373570
L-GA-0314-0	CITY OF PEMBROKE	112382
L-GA-0417-0	CITY OF CANTON	270000
L-GA-0476-0	CITY OF CORDELE	150000
L-GA-0484-0	CITY OF BUENA VISTA	88000
L-GA-0552-0	CITY OF HELEN	133800
L-GA-0557-0	HALL COUNTY BD OF ED	436555

STATE OF GUAM — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-GU-0001-1	GOVERNMENT OF GUAM	583835
L-GU-0003-0	GOVERNMENT OF GUAM	897100
L-GU-0006-0	GOVERNOR OF GUAM	624000

STATE OF HAWAII — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-HI-0001-0	COUNTY OF HAWAII	2660000
L-HI-0002-0	COUNTY OF HAWAII	165000
L-HI-0004-0	COUNTY OF HAWAII	470000
L-HI-0005-0	CITY & CNTY OF HONOLULU	470384
L-HI-0006-0	CITY & CNTY OF HONOLULU	1708384
L-HI-0008-0	CITY & CNTY OF HONOLULU	1118140
L-HI-0015-0	CITY & CNTY OF HONOLULU	640358
L-HI-0016-0	LAND & NAT RESOURCE DEPT	559999
L-HI-0017-0	COUNTY OF KAUAI	771742
L-HI-0022-0	COUNTY OF KAUAI	57987
L-HI-0028-0	COUNTY OF MAUI	849000
L-HI-0037-0	CITY & CNTY OF HONOLULU	575384

STATE OF IOWA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-IA-0008-1	OTTUMWA COMM SCHOOL DST	2394998
L-IA-0023-0	CITY OF NORA SPRINGS	607200
L-IA-0057-0	POLK COUNTY	1374117
L-IA-0065-0	SAC AND FOX TRIBE	796000
L-IA-0080-1	CITY OF WATERLOO	462000
L-IA-0091-2	CITY OF ALBIA	1400000
L-IA-0093-0	CITY OF HUDSON	143060
L-IA-0104-0	CITY OF BURLINGTON	632520
L-IA-0139-0	CITY OF EVANSDALE	196875
L-IA-0143-1	CITY OF MISSOURI VALLEY	134000
L-IA-0164-1	CITY OF GRAETTINGER	318300

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STATE OF IOWA

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-IA-0174-0	CITY OF NEOLA	597443

STATE OF IOWA

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-IA-0034-0	CITY OF KEOKUK	953000
L-IA-0054-2	CITY OF DAVENPORT	831073
L-IA-0153-0	CITY OF ROCK VALLEY	713000
L-IA-0156-0	CITY OF DIKE	250000

STATE OF IDAHO

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-ID-0003-0	CITY OF VICTOR	116149
L-ID-0033-0	CITY OF REXBURG	385950
L-ID-0035-1	CITY OF MUD LAKE	269220
L-ID-0061-0	COUNTY OF BLAINE	1509997
L-ID-0063-0	CNTRL SHOSHONE CNTY WTR	382140
L-ID-0070-2	BONNER COUNTY SCHL DIST	850000
L-ID-0100-1	BONNEVILLE COOUNT	889880
L-ID-0116-1	CITY OF BELLEVUE	260000
L-ID-0126-0	CITY OF BONNERS FERRY	272800
L-ID-0134-1	CITY OF FAIRFIELD	98344
L-ID-0138-0	CITY OF SPIRIT LAKE	885700
L-ID-0145-0	JOINT SCHOOL DIST #182	137425
L-ID-0149-0	JOINT SCHOOL DIST A-215	280000
L-ID-0151-1	COEUR D'ALENS TRB OF ID	183496

STATE OF IDAHO

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-ID-0048-1	HORSESHOE BEND	446160
L-ID-0051-1	CITY OF MIDDLETON	1060000
L-ID-0093-0	CITY OF LEWISTON	934700
L-ID-0105-0	GARDEN CITY	1151850
L-ID-0123-1	CITY OF NEW PLYMOUTH	208800

STATE OF ILLINOIS

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-IL-0033-0	STATE OF ILLINOIS	226500
L-IL-0108-0	BI STATE DEVEL AGENCY	1696000
L-IL-0168-0	CITY OF CHICAGO	5000000
L-IL-0170-0	CITY OF CHICAGO	3071000
L-IL-0180-0	CITY OF CHICAGO	3212335
L-IL-0185-0	CITY OF CHICAGO	4425600
L-IL-0191-0	CITY OF CHICAGO	825450
L-IL-0221-0	POPE CNTY CMTY SCH DIS	350000
L-IL-0265-0	CITY OF CHICAGO	5577500
L-IL-0273-0	CITY OF QUINCY	444460
L-IL-0310-1	CITY OF OGLESBY	502575
L-IL-0372-0	MARION COUNTY	992000
L-IL-0444-0	CITY OF CHICAGO	650350
L-IL-0522-1	VILLAGE E CHGO HTS	1297106
L-IL-0533-1	FOREST PRESERVE	492030
L-IL-0534-0	COOK CNTY FOREST PRESV	1394295
L-IL-0535-0	COOK CNTY FOREST PRESV	576390
L-IL-0536-0	COOK CNTY FOREST PRESV	1553055
L-IL-0571-0	CITY OF VENICE	361480
L-IL-0585-1	CITY OF KINMUNDY	304000
L-IL-0605-0	VILLAGE OF ROBBINS	1794210
L-IL-0652-1	STITES TOWNSHIP	422550
L-IL-0766-1	CITY OF EAST ST LOUIS	4542022
L-IL-0774-1	PEMBROKE TOWNSHIP	1150800
L-IL-0807-0	VILLAGE OF WORDEN	303500
L-IL-0832-0	CITY OF WAMAC	395000
L-IL-0866-0	MOCLURE EAST CAPE SEWAGE	1250000
L-IL-0876-0	VILLAGE OF THEBES	769000
L-IL-0983-1	VILLAGE OF ROBBINS	951485
L-IL-1017-0	VILLAGE OF E HAZEL CREST	255750

STATE OF ILLINOIS

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-IL-0020-1	VILLAGE OF PORT BYRON	250000
L-IL-0022-2	STATE OF ILLINOIS	150000
L-IL-0026-1	STATE OF ILLINOIS	1037400
L-IL-0027-1	STATE OF ILLINOIS	688000
L-IL-0039-2	STATE OF ILLINOIS	1797400
L-IL-0110-1	HOMER TOWNSHIP	264950
L-IL-0148-0	GAIL BORDEN LIBR TRUST	366300
L-IL-0154-0	VILLAGE OF MILAN	122240
L-IL-0158-1	STARVED ROCK LIBRARY SYS	453135
L-IL-0159-3	BOLINGBROOK PARK DIST	255150
L-IL-0215-0	CARPENTERSVILLE	2262325
L-IL-0248-1	CTY OF CRYSTAL LAKE	307187
L-IL-0252-1	FOX LAKE PUBLIC LIBRARY	745036
L-IL-0353-0	CITY OF MONTICELLO	286031
L-IL-0388-1	VILLAGE OF ADDISON	829869
L-IL-0395-1	VALLEY VIEW PUB SCHOOLS	3135171

STATE OF ILLINOIS

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-IL-0398-0	VILLAGE OF BETHANY	244400
L-IL-0478-1	VILLAGE OF MOWEAQUA	297100
L-IL-0554-0	CITY OF AURORA	750000
L-IL-0623-1	CITY OF WAUKEGAN	835000
L-IL-0893-0	VILLAGE OF WESTCHESTER	2412000
L-IL-1090-0	RANDOLPH COUNTY NURSING	1713770

STATE OF INDIANA

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-IN-0037-0	CITY OF GARY	1300000
L-IN-0038-1	CITY OF GARY	1245000
L-IN-0039-1	CITY OF GRAY	550000
L-IN-0052-0	TOWN OF MONTGOMERY	297000
L-IN-0075-0	CITY OF RISING SUN	860548
L-IN-0100-2	WAYNE COUNTY	750094
L-IN-0135-0	TOWN OF NORTH JUDSON	471300
L-IN-0150-0	CLARK COUNTY	226913
L-IN-0161-0	TOWN OF HANOVER	873800
L-IN-0201-0	NEW ALBANY-FLOYD SCHL	1200000
L-IN-0224-1	HOBART TWP COMMUNITY SCH	745081
L-IN-0226-0	BD OF CNTY COMMISSIONERS	396507
L-IN-0241-0	CITY OF INDIANAPOLIS	1478600
L-IN-0243-0	CITY OF INDIANAPOLIS	2647000
L-IN-0261-0	TOWN OF CHESTERTON	643741
L-IN-0264-0	TOWN OF CROTHERSVILLE	107500
L-IN-0268-1	TRUSTEE-WASHINGTON TWP	288750
L-IN-0269-1	CENTER TOWNSHIP	1400572
L-IN-0288-0	TOWN OF AUSTIN	439757
L-IN-0299-0	TOWN OF DILLSBORO	165514

STATE OF INDIANA

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-IN-0008-2	WAVELAND DEPT OF PKS&REC	422700
L-IN-0059-1	TOWN OF FRANKTON	110837
L-IN-0071-1	BOARD OF WORKS	2660000
L-IN-0145-0	TOWN OF HAMILTON	1161380
L-IN-0158-0	TOWN OF ASHLEY	377300
L-IN-0225-1	BD OF CNTY COMMISSIONERS	544484
L-IN-0280-0	CITY OF NEW CASTLE	1366862

STATE OF KANSAS

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-KS-0016-1	KICKAPOO TRIBE OF KANSAS	378519
L-KS-0023-1	CITY OF CHETOPA	332000
L-KS-0027-0	CITY OF WICHITA	1400000
L-KS-0030-0	CITY OF WICHITA	1315000
L-KS-0032-1	CITY OF KANSAS CITY	859034
L-KS-0034-1	CITY OF KANSAS CITY	735000
L-KS-0046-0	CITY OF ANDOVER	761000
L-KS-0073-2	CITY OF DESOTO	243243
L-KS-0081-2	UNIFIED SCHOOL DISTRICT	267346
L-KS-0110-1	CITY OF GALENA	850000

STATE OF KANSAS

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-KS-0002-1	CITY OF LEAVENWORTH	200000
L-KS-0018-1	CITY OF LEAVENWORTH	689853
L-KS-0071-0	SHAWNEE COUNTY	654649
L-KS-0092-2	CITY OF PITTSBURG	894530
L-KS-0109-1	UNIFIED SCHOOL DISTRICT	300000
L-KS-0114-1	UNIFIED SCHOOL DISTRICT	200000

STATE OF KENTUCKY

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-KY-0007-0	LEE COUNTY FISCAL COURT	1250000
L-KY-0011-0	CLAY COUNTY FISCAL COURT	931913
L-KY-0026-0	CITY OF MONTICELLO	430000
L-KY-0043-0	JEFFERSON CNTY BD OF ED	1750000
L-KY-0044-0	JEFFERSON CNTY BD OF ED	3750000
L-KY-0072-0	WOLFE CNTY FISCAL COURT	685000
L-KY-0089-0	CITY OF MCKEE	581510
L-KY-0100-0	CITY OF SALYERSVILLE	446000
L-KY-0131-0	CITY OF LIVINGSTON	463625
L-KY-0237-0	CALVERT CITY	602059

STATE OF KENTUCKY — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-KY-0064-0	COUNTY OF GRAYSON	1302144
L-KY-0133-0	HARLAN CNTY FISCAL COURT	1384066
L-KY-0158-1	CITY OF HIGHLAND HEIGHTS	1255328
L-KY-0239-0	SYMSONIA WATER DISTRICT	997000

STATE OF LOUISIANA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-LA-0002-1	NATCHITOCHES PAR POL JRY	583344
L-LA-0007-0	CITY OF PORT ALLEN	431605
L-LA-0009-2	W FELICIANA PAR SCH BD	664884
L-LA-0019-1	CITY OF NEW ORLEANS	418282
L-LA-0021-1	CITY OF NEW ORLEANS	600000
L-LA-0041-1	AVOYELLES PAR SCHOOL BD	763069
L-LA-0051-1	RAPIDES PAR DRAIN DIST	570676
L-LA-0052-0	BIENVILLE PAR POL JURY	525000
L-LA-0081-2	TOWN OF GLENMORA	678100
L-LA-0034-0	CITY OF DEQUINCY	272000
L-LA-0085-0	TOWN OF BENTON	386749
L-LA-0058-1	TOWN OF PORT BARRE	267000
L-LA-0104-0	CITY OF OAKDALE	334635
L-LA-0109-0	CITY OF BOGALUSA	593604
L-LA-0113-1	TOWN OF BRUSLY	81490
L-LA-0131-0	CITY OF KENNER	400000
L-LA-0160-0	CALCASIEU PAR WATER DS#1	465199
L-LA-0166-0	LIVINGSTON PAR POL JURY	358000
L-LA-0169-1	LIVINGSTON PAR POL JURY	108000
L-LA-0176-0	GRANT PARISH POLICE JURY	538845
L-LA-0177-0	CITY OF NEW ORLEANS	1000000
L-LA-0182-1	CITY OF NEW ORLEANS	2726125
L-LA-0196-1	TOWN OF AMITE CITY	150000
L-LA-0200-1	CITY OF BASTROP	1892000
L-LA-0206-2	CITY OF VILLE PLATTE	140532
L-LA-0209-1	EAST CARROLL PAR POL JRY	460201
L-LA-0224-0	CITY OF ST MARTINVILLE	658200
L-LA-0226-0	WEST CARROLL PAR POL JRY	518900
L-LA-0248-0	CITY OF HARAHAN	230000
L-LA-0257-0	TOWN OF WASHINGTON	225000
L-LA-0259-0	PARISH OF JEFFERSON	779960
L-LA-0267-0	ORLEANS PARISH SCHOOL BD	491793
L-LA-0268-0	TOWN OF SIMMESPORT	319000
L-LA-0270-0	VILLAGE OF CANKTON	153000
L-LA-0280-0	TOWN OF BASILE	225250
L-LA-0281-0	VILLAGE OF PALMETTO	188000
L-LA-0282-0	TOWN OF ELTON	120000
L-LA-0298-0	TOWN OF GRAMBLING	254055

STATE OF LOUISIANA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-LA-0045-1	VILLAGE OF YOUNGSVILLE	846300
L-LA-0053-0	CITY OF BATON ROUGE	300000
L-LA-0056-0	CITY OF BATON ROUGE	500000
L-LA-0072-1	TOWN OF FARMERVILLE	462500
L-LA-0096-1	ST JOHN PARISH POL JURY	706977
L-LA-0140-1	CITY OF JEANERETTE	143900
L-LA-0149-0	CITY OF JEANERETTE	205274
L-LA-0157-0	CITY OF DERIDDER	496200
L-LA-0161-0	TOWN OF WELSH	133000
L-LA-0239-1	CITY OF LAFAYETTE	1247107
L-LA-0255-0	CITY OF FERRIDAY	200000
L-LA-0272-0	TOWN OF COLUMBIA	200000
L-LA-0291-0	CITY OF BATON ROUGE	400000

STATE OF MASSACHUSETTS — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MA-0001-1	TOWN OF ARLINGTON	1756000
L-MA-0003-0	CITY OF CHELSEA	3112984
L-MA-0008-1	CITY OF HAVERHILL	1608730
L-MA-0012-0	CITY OF CAMBRIDGE	1729962
L-MA-0066-2	TOWN OF DANVERS	672306
L-MA-0074-1	BLUE HILLS REG VOC CTR	1583269
L-MA-0076-1	TOWN OF NORTON	2004485
L-MA-0079-0	CITY OF BOSTON	1287846
L-MA-0090-0	CITY OF BOSTON	1322444
L-MA-0121-2	TOWN OF GEORGETOWN	1078000
L-MA-0126-0	TOWN OF BLACKSTONE	1720000
L-MA-0136-0	TOWN OF WAKEFIELD	782672
L-MA-0137-1	TOWN OF NORFOLK	330162
L-MA-0157-1	CITY OF BOSTON	2267392
L-MA-0172-1	CITY OF BOSTON	1627317
L-MA-0175-0	CITY OF BOSTON	1112136
L-MA-0176-0	TOWN OF SCITUATE	947047
L-MA-0189-1	TOWN OF NORTH ATTLEBORO	1626450
L-MA-0200-0	CITY OF LAWRENCE	230000
L-MA-0205-2	TOWN OF UPTON	1637750
L-MA-0260-1	TOWN OF GROVELAND	1872938
L-MA-0277-1	TOWN OF SALISBURY	460000
L-MA-0279-1	TOWN OF METHUEN CITY OF	3199880
L-MA-0332-1	TOWN OF PROVINCETOWN	1778125
L-MA-0371-0	TOWN OF SEEKONK	700000
L-MA-0430-0	TOWN OF WEYMOUTH	365508
L-MA-0546-0	TOWN OF WALPOLE	600000

STATE OF MASSACHUSETTS — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MA-0054-2	SALEM BEVERLY WTR BOARD	880000
L-MA-0231-0	TOWN OF RUTLAND	305460
L-MA-0285-0	TOWN OF NORTHBORO	547000
L-MA-0314-0	TOWN OF BRAINTREE	2232920
L-MA-0431-1	CITY OF PEABODY	1800000
L-MA-0451-0	TOWN OF BURLINGTON	286000
L-MA-0480-0	TOWN OF STONEHAM	699300
L-MA-0487-0	TOWN OF FRANKLIN	3172780
L-MA-0499-1	TOWN OF ROCKLAND	576720
L-MA-0526-0	TOWN OF FRAMINGHAM	4500000

STATE OF MARYLAND — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MD-0002-2	TOWN OF CAPITOL HEIGHTS	433563
L-MD-0006-3	MAYOR AND CNCL BALT CITY	317644
L-MD-0007-1	MAYOR AND CNCL BALT CITY	417228
L-MD-0008-2	MAYOR AND CNCL BALT CITY	597393
L-MD-0011-1	MAYOR AND CNCL BALT CITY	254759
L-MD-0013-2	MAYOR AND CNCL BALT CITY	419205
L-MD-0015-2	MAYOR AND CNCL BALT CITY	286899
L-MD-0018-1	Baltimore City Council	637000
L-MD-0019-2	MAYOR AND CITY COUNCIL O	580000
L-MD-0020-2	MAYOR AND CNCL BALT CITY	326949
L-MD-0023-2	MAYOR AND CNCL BALT CITY	1995000
L-MD-0029-0	GARRETT CO BD OF COMMNER	3407708
L-MD-0035-0	TOWN OF ELKTON	492194
L-MD-0039-0	TOWN OF ABERDEEN	283385
L-MD-0049-1	TOWN OF HANCOCK	446070
L-MD-0052-1	SOMERSET CNTY COMMNERS	593177
L-MD-0058-0	ALLEGANY COUNTY	1170750
L-MD-0062-0	COLMAR MANOR MAYR & CNCL	570000
L-MD-0106-1	CITY OF SEAT PLEASANT	667487
L-MD-0134-1	WASHINGTON CNTY BD COMN	260000

STATE OF MARYLAND — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MD-0034-1	CITY OF GREENBELT	282860
L-MD-0042-1	BALTIMORE CNTY GOVERMENT	1000000
L-MD-0096-1	TOWN OF MORNINGSIDE	290000
L-MD-0109-1	PRINCE GEORGES COUNTY	3274554
L-MD-0163-0	CITY OF ANNAPOLIS	1468684

STATE OF MAINE — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-ME-0025-0	CITY OF BANGOR	1683554
L-ME-0031-2	TOWN OF LISBON	490000
L-ME-0047-0	CITY OF CARIBOU	540000
L-ME-0052-0	CITY OF LEWISTON	392790
L-ME-0080-1	TOWN OF FORT FAIRFIELD	288609
L-ME-0081-1	TOWN OF FORT KENT	399920
L-ME-0104-1	PASSAMAQUODDY TRIBE	185200
L-ME-0118-1	TOWN OF ORONO	129045
L-ME-0121-0	PENOBSCOT TRIBE	466100
L-ME-0134-1	COUNTY OF AROOSTOOK	47000
L-ME-0139-0	TOWN OF HERMON	168900
L-ME-0142-0	OLD ORCHARD BEACH	1000335
L-ME-0155-1	WASH.CNTY SOIL & CONSER	993900
L-ME-0192-1	PASSAMAQUODDY TRIBE	343444

STATE OF MAINE — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-ME-0004-0	TOWN OF GORHAM	1361385
L-ME-0022-2	TOWN OF VINALHAVEN	200000
L-ME-0036-2	TOWN OF WINDHAM	494773
L-ME-0054-2	KNOX COUNTY COMMISSIONER	571012
L-ME-0154-0	CITY OF BATH	449925

STATE OF MICHIGAN — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MI-0015-0	CITY OF WAYNE	1944671
L-MI-0058-0	SCHOOL DIST OF DETROIT	5000000
L-MI-0082-1	BOARD OF EDUCATION	3313103
L-MI-0088-1	CITY OF PONTIAC	221450
L-MI-0094-1	CITY OF PONTIAC	835000
L-MI-0096-1	CITY OF LIVONIA	4840000
L-MI-0126-0	CITY OF DETROIT	4272294
L-MI-0135-0	CITY OF DETROIT	4122429
L-MI-0144-0	CITY OF DETROIT	4629143
L-MI-0156-0	CITY OF DETROIT	4389567
L-MI-0158-3	DEERFIELD TOWNSHIP	960000
L-MI-0201-0	BIRCH RUN AREA SCHOOLS	3110100
L-MI-0212-0	CITY OF STERLING HEIGHTS	1600000
L-MI-0254-0	HURON VALLEY SCHOOL DIST	1153534
L-MI-0278-1	GIBRALTAR SCHOOL DIST	4980000
L-MI-0390-2	MONTROSE COMMUNITY SCH	4990000
L-MI-0412-0	CITY OF DURAND	450000
L-MI-0424-2	TOWNSHIP OF VAN BUREN	273457
L-MI-0441-0	CITY OF TROY	2157443
L-MI-0452-1	CITY OF BERKLEY	2427845
L-MI-0454-1	WALLED LAKE SCHOOL DIST	3803000
L-MI-0487-0	CITY OF MONROE	755600

STATE OF MICHIGAN — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MI-0490-0	CITY OF INKSTER	954600
L-MI-0559-1	CITY OF ROMULUS	450958
L-MI-0560-1	CITY OF ROMULUS	931340
L-MI-0601-2	CITY OF WOODHAVEN	286740
L-MI-0658-0	CITY OF DETROIT	5000000
L-MI-0664-0	CITY OF ROYAL OAK	2159028
L-MI-0669-0	CITY OF WARREN	5000000
L-MI-0676-1	VILLAGE OF OXFORD	640500
L-MI-0720-1	CHARTER TWP OF CANTON	2715300
L-MI-0725-0	LAKE MICH COLLEGE DIST	5000000
L-MI-0752-1	CITY OF EAST DETROIT	1288121
L-MI-0872-0	TOWNSHIP OF REDFORD	1394537
L-MI-0883-1	CITY OF HAZEL PARK	1124920
L-MI-0896-1	CITY OF RIVERVIEW	1260000
L-MI-0929-1	HURON TOWNSHIP	1189000
L-MI-1043-0	CITY OF MELVINDALE	1516040
L-MI-1081-1	CITY OF ALLEN PARK	1369230
L-MI-1096-1	TOWNSHIP OF SUMPTER	257690
L-MI-1104-1	TOWNSHIP OF BROWNSTOWN	266596
L-MI-1146-0	MT MORRIS TWP	583923
L-MI-1185-0	KEWEENAW BAY INDIAN COMN	204800
L-MI-1189-1	BRIDGEPORT CHARTER TWP	205000
L-MI-1213-1	THE SAGINAW CHIPPEWA IND	877900
L-MI-1236-0	CHESTERFIELD TOWNSHIP	3455000
L-MI-1282-1	GENESEE TOWNSHIP	400312
L-MI-1283-0	GENESEE TOWNSHIP	385000
L-MI-1292-0	STATE OF MICHIGAN	2249000
L-MI-1300-0	STATE OF MICHIGAN	5000000
L-MI-1301-0	STATE OF MICHIGAN	1228778
L-MI-1355-0	VILLAGE OF MAPLE RAPIDS	396000
L-MI-1368-0	VILLAGE OF SAND LAKE	441115
L-MI-1374-0	MONTCALM INTERM SCHOOL	2620880
L-MI-1423-1	TOWNSHIP OF NORTHVILLE	761000
L-MI-1467-0	BAY MILLS INDIAN CMTY	1154000
L-MI-1588-0	WYOMING PUBLIC SCHOOLS	55051

STATE OF MICHIGAN — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MI-0072-0	CITY OF FARMINGTON	1251000
L-MI-0112-1	COUNTY OF OTTAWA	1046715
L-MI-0228-1	CITY OF DOWAGIAC	136000
L-MI-0263-2	SCH DIST OF GRAND HAVEN	441600
L-MI-0292-0	W OTTAWA PUBLIC SCHOOLS	388000
L-MI-0331-2	CITY OF MANISTIQUE	900000
L-MI-0445-0	CITY OF WIXOM	755140
L-MI-0446-2	TOWNSHIP OF KALAMAZOO	1286817
L-MI-0469-0	CITY OF PORTAGE	2490854
L-MI-0596-0	CITY OF MENOMINEE	1504800
L-MI-0662-1	CITY OF HOLLAND	577093

STATE OF MICHIGAN — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MI-0684-1	VILLAGE OF VANDALIA	159947
L-MI-0764-0	CITY OF EATON RAPIDS	532630
L-MI-0770-1	CITY OF POTTERVILLE	267212
L-MI-0777-0	VILLAGE OF MULLIKEN	514900
L-MI-0780-0	CITY OF ANN ARBOR	2000280
L-MI-0785-1	CITY OF HARTFORD	294000
L-MI-0846-0	SPRING LAKE TOWNSHIP	351021
L-MI-0850-1	PARK TOWNSHIP	1795000
L-MI-0912-1	BRD OF CNTY ROAD COMN	980756
L-MI-0923-2	JEFFERSON TOWNSHIP	301200
L-MI-0937-1	CITY OF HUDSON	109322
L-MI-0954-1	ALLENDALE PUBLIC SCHOOL	600000
L-MI-0981-0	CASS CNTY BD OF COMM	872000
L-MI-1007-0	VILLAGE OF MARCELLUS	304500
L-MI-1015-2	DAVIS-OLMSTEAD DRAIN BD	303000
L-MI-1022-1	CITY OF BROWN CITY	243000
L-MI-1024-0	CITY OF ROGERS CITY	460000
L-MI-1052-1	CITY OF TRENTON	433010
L-MI-1088-0	CITY OF WESTLAND	1294370
L-MI-1090-0	CITY OF WESTLAND	2361253
L-MI-1154-0	BOARD OF EDUCATION	380000
L-MI-1181-0	CITY OF MT PLEASANT	2716100
L-MI-1191-0	TOWNSHIP OF BEDFORD	317100
L-MI-1247-0	JAMESTOWN TOWNSHIP	204000
L-MI-1257-1	NORTHVILLE PUB SCHOOLS	691865
L-MI-1293-0	CITY OF IRON MOUNTAIN	960000
L-MI-1311-0	CITY OF WEST BRANCH	472500
L-MI-1358-1	PORTAGE TWP SCHOOLS	673700
L-MI-1389-0	COUNTY OF KALAMAZOO	4180730
L-MI-1390-0	COUNTY OF KALAMAZOO	1996800
L-MI-1405-0	VILLAGE OF VICKSBURG	114705
L-MI-1476-1	COMSTOCK TOWNSHIP	647700
L-MI-1477-1	ZEELAND PUBLIC SCHOOLS	5000000
L-MI-1519-0	STATE OF MICHIGAN	250000
L-MI-1636-0	COUNTY OF KALAMAZOO	1276800
L-MI-1637-0	COUNTY OF KALAMAZOO	200000

STATE OF MINNESOTA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MN-0008-0	CITY OF DULUTH	5000000
L-MN-0054-0	CHIPPEWA INDIANS	1063830
L-MN-0064-2	LEECH LAKE RESERVATION	1348255
L-MN-0068-1	TOWN OF COKATO	50400
L-MN-0077-0	CITY OF ROSEVILLE	345328
L-MN-0084-0	CITY OF RAMSEY	595058
L-MN-0112-0	CITY OF BROWNS VALLEY	137053
L-MN-0120-0	SCHOOL DISTRICT NO. 707	912851
L-MN-0124-0	CITY OF HANOVER	194000
L-MN-0172-0	WHITE EARTH BUS COMM	1337634
L-MN-0183-0	MILLE LACS RESERVATION	308503
L-MN-0226-0	CITY OF MONTROSE	175000
L-MN-0228-0	FOND DU LAC RESERVATION	300000

STATE OF MINNESOTA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MN-0023-0	SPRING LAKE PARK	495000
L-MN-0049-1	CITY OF CHASKA	75085
L-MN-0111-0	CITY OF INVER GROVE HGHT	52192
L-MN-0149-0	HENNEPIN COUNTY	265482
L-MN-0151-0	CITY OF HASTINGS	180230
L-MN-0210-0	SCHOOL DISTRICT NO. 381	2609501
L-MN-0212-0	MINNEAPOLIS PUB SCHOOLS	588695
L-MN-0225-0	CITY OF MINNEAPOLIS	647900
L-MN-0243-0	CITY OF OGILVIE	81200

STATE OF MISSOURI — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MO-0003-0	CITY OF KANSAS CITY	480000
L-MO-0005-0	CITY OF KANSAS CITY	910000
L-MO-0017-0	CITY OF KANSAS CITY	672500
L-MO-0018-0	CITY OF KANSAS CITY	673500
L-MO-0053-0	JUNIOR COLLEGE DISTRICT	1510380
L-MO-0087-0	CITY OF ST LOUIS	4145965
L-MO-0106-0	CITY OF HERCULANEUM	825000
L-MO-0122-0	FRANKLIN CNTY SCHL DIST2	626782
L-MO-0128-0	CITY OF WELLSTON	760000
L-MO-0146-0	CITY OF WELLSTON	1609000
L-MO-0168-0	CITY OF KINLOCH	1023000
L-MO-0197-1	CITY OF PINE LAWN	14170
L-MO-0204-1	CITY OF ALTON	748603

STATE OF MISSOURI — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MO-0002-0	CITY OF KANSAS CITY	465000
L-MO-0038-1	PLATTE CNTY SCHOOL DIST	940000
L-MO-0065-0	ST LOUIS CNTY GOVT	791700
L-MO-0073-0	CITY OF NORTHWOODS	159968
L-MO-0124-1	CITY OF WEBSTER GROVES	246099
L-MO-0200-1	CITY OF SPRINGFIELD	898043
L-MO-0216-1	CITY OF PLEASANT HILL	602920
L-MO-0257-1	GOLDEN VAL MEM HOSP DIST	1115080
L-MO-0261-0	CITY OF PLEASANT VALLEY	74000

STATE OF MISSISSIPPI — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MS-0001-0	CITY OF MOUND BAYOU	4912900
L-MS-0016-0	COAHOMA COUNTY	298000
L-MS-0062-0	TOWN OF MADISON	335342
L-MS-0067-0	YAZOO CITY	249720
L-MS-0073-0	CHOCTAW BAND OF INDIANS	577000
L-MS-0090-0	HOLMES CNTY BD OF SUPV	376902
L-MS-0101-0	TOWN OF BOLTON	363655
L-MS-0141-0	ALCORN CNTY BD OF SUPV	215000

STATE OF MISSISSIPPI — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MS-0013-0	QUITMAN COUNTY	340000
L-MS-0023-1	CITY OF GREENVILLE	244100
L-MS-0026-0	CITY OF MOORHEAD	172863
L-MS-0034-0	KEMPER COUNTY	352557
L-MS-0042-1	TOWN OF ASHLAND	300000
L-MS-0046-0	TOWN OF ARCOLA	219000
L-MS-0059-1	CITY OF PEARL	346200
L-MS-0097-0	CITY OF NATCHEZ	200000
L-MS-0100-0	COLUMBIA MUN SCHOOL DIST	340710
L-MS-0102-0	NOXUBEE CNTY BD OF SUPV	250000
L-MS-0138-1	WAYNE CNTY BD OF SUPV	200000

STATE OF MONTANA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MT-0004-0	CHIPPEWA-CREE RESERV.	405666
L-MT-0013-0	SALISH & KOOTENAI TRIBES	1970278
L-MT-0018-0	FLATHEAD COUNTY	698900
L-MT-0033-1	BLACKFEET TRIBE	693000
L-MT-0045-2	TOWN OF TROY	150347
L-MT-0048-0	CITY OF WHITEFISH	1252896
L-MT-0055-1	FT BELKNAP INDIAN COMM	600000
L-MT-0083-1	FT PECK INDIAN RESERV	204000
L-MT-0101-0	NORTHERN CHEYENNE TRIBE	991950
L-MT-0105-1	TOWN OF WHITEHALL	350000

STATE OF MONTANA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-MT-0006-2	BILLINGS VOC-TECH CENTER	1500000
L-MT-0043-2	PONDERA COUNTY	376000
L-MT-0080-1	TOWN OF LODGE GRASS	293101
L-MT-0100-0	DEER LODGE COUNTY	510940

STATE OF NORTH CAROLINA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NC-0001-0	BURKE CNTY BD OF EDUC	698852
L-NC-0046-0	COUNTY OF BLADEN	550000
L-NC-0048-0	EASTERN BAND OF CHEROKEE	962500
L-NC-0049-1	ROBESON CNTY BD OF COMM	963000
L-NC-0058-0	BLADEN CNTY BD OF EDUC	683230
L-NC-0084-1	CITY OF CHARLOTTE	664317
L-NC-0112-0	TOWN OF WARSAW	450000
L-NC-0126-0	CASWELL CNTY BD OF EDUC	798735
L-NC-0139-0	BRUNSWICK CNTY COMMISSN	1915490
L-NC-0151-1	TOWN OF ELON COLLEGE	186900
L-NC-0186-0	BOARD OF TRUSTEES VANCE	1480000
L-NC-0197-0	WARREN COUNTY	939000
L-NC-0198-0	GRANVILLE COUNTY	336000
L-NC-0214-0	TOWN OF JAMESVILLE	975000
L-NC-0222-0	TOWN OF TABOR CITY	452890
L-NC-0231-0	STATE OF NORTH CAROLINA	445000
L-NC-0241-0	CITY OF GRAHAM	200000
L-NC-0248-0	TOWN OF FAIR BLUFF	580000
L-NC-0255-0	TOWN OF STONEVILLE	225000
L-NC-0261-0	PERQUIMANS COUNTY	550000
L-NC-0263-1	N C DEPT OF CORECTION	721926
L-NC-0282-0	CITY OF OXFORD	455600
L-NC-0284-1	TOWN OF COLUMBIA	530000
L-NC-0291-0	WASHINGTON COUNTY	546500
L-NC-0302-0	TOWN OF HOBGOOD	544084
L-NC-0304-0	NORTHAMPTON COUNTY	822450
L-NC-0307-1	WILSON COUNTY	1333796

STATE OF NORTH CAROLINA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NC-0331-0	TOWN OF BUNN	495400

STATE OF NORTH CAROLINA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NC-0099-0	CITY OF KINGS MOUNTAIN	999250
L-NC-0164-0	TOWN OF BEAUFORT	403000
L-NC-0236-0	IREDELL COUNTY	981035
L-NC-0308-0	REG 'D' CNCL OF GOVTS	1230651
L-NC-0313-0	GRAHAM CNTY BD OF COMM	1350000
L-NC-0328-0	COUNTY OF UNION	593390
L-NC-0332-0	CUMBERLAND COUNTY	415062
L-NC-0342-0	HYDE CNTY BD OF CNTY COM	2082786
L-NC-0348-0	TOWN OF NASHVILLE	565000

STATE OF NORTH DAKOTA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-ND-0004-0	TURTLE MTN CHIPPEWA BAND	2695000
L-ND-0012-0	STANDING ROCK SIOUX TRBE	1900000
L-ND-0018-1	DEVILS LAKE SIOUX TRIBE	1099360
L-ND-0033-1	THREE AFFILIATED TRIBES	1242120
L-ND-0080-1	CITY OF MANDAN	147725

STATE OF NORTH DAKOTA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-ND-0006-0	CITY OF WILTON	442000
L-ND-0041-1	HAZEN PUBLIC SCHOOLS	466296
L-ND-0043-2	CITY OF MEDORA	295000
L-ND-0044-0	CITY OF WALHALLA	401500
L-ND-0046-0	STEELE SCHOOL DISTRICT	653000
L-ND-0052-1	CARSON CITY	125000
L-ND-0073-1	BUTTE SCHOOL DISTRICT	617482

STATE OF NEBRASKA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NE-0018-0	OMAHA TRIBE	1699000
L-NE-0020-0	SANTEE SIOUX TRIBE	605600
L-NE-0029-0	CITY OF LA VISTA	739473
L-NE-0035-2	VILLAGE OF CERESCO	160335
L-NE-0038-0	FORT CALHOUN COMNTY SCHL	610700
L-NE-0064-1	METRO TECH COMM COLLEGE	2071860
L-NE-0088-0	CITY OF VALLEY	103706
L-NE-0090-1	CITY OF VALLEY	110980
L-NE-0110-1	DOUGLAS COUNTY	899062

STATE OF NEBRASKA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NE-0002-0	CITY OF COLUMBUS	75000
L-NE-0003-0	CITY OF COLUMBUS	650000
L-NE-0014-0	CITY OF LINCOLN	711595
L-NE-0047-1	NEBRASKA CITY SCHOOLS	1591724
L-NE-0057-0	PLATTSMOUTH SCHOOL	359000

STATE OF NEW HAMPHSIRE — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NH-0001-2	TOWN OF PELHAM	578000
L-NH-0013-1	HAMPSTEAD SCHOOL DIST	1417700
L-NH-0037-1	TOWN OF PLAISTOW	351966
L-NH-0044-2	SALEM SCHOOL DISTRICT	219912
L-NH-0057-0	TOWN OF SALEM	534880
L-NH-0060-0	TOWN OF CHARLESTOWN	290000
L-NH-0066-0	TOWN OF STRATFORD	154302
L-NH-0075-0	SANBORN REG SCHL DIST	975000
L-NH-0087-0	CITY OF MANCHESTER	3095408
L-NH-0094-0	CITY OF MANCHESTER	264702

STATE OF NEW HAMPHSIRE — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NH-0031-1	CITY OF CLAREMONT	1950239
L-NH-0082-0	TOWN OF LISBON	299557

STATE OF NEW JERSEY — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NJ-0042-0	CITY OF WILDWOOD	660000
L-NJ-0058-0	CITY OF CAMDEN	3538848
L-NJ-0100-0	CITY OF NEWARK	7596000
L-NJ-0111-1	TOWN OF SECAUCUS	2446895
L-NJ-0116-0	CITY OF JERSEY CITY	2360000
L-NJ-0177-0	MANCHESTER TOWNSHIP	59000
L-NJ-0232-1	CITY OF JERSEY CITY	300025
L-NJ-0272-1	HOBOKEN MAYOR & COUNCIL	4300000
L-NJ-0276-0	BOROUGH OF SWEDESBORO	200000
L-NJ-0279-1	CITY OF JERSEY CITY	3031050
L-NJ-0289-1	CITY OF ORANGE	993800
L-NJ-0290-1	TOWN OF HILLSIDE	659288
L-NJ-0292-2	CITY OF LINDEN	3850685
L-NJ-0343-0	CITY OF NEWARK	4951820
L-NJ-0355-0	STATE OF NEW JERSEY	6966100
L-NJ-0415-1	STATE OF NJ DEPT HIGH ED	330000
L-NJ-0420-0	BOROUGH OF WOODBINE	550000
L-NJ-0430-0	TOWNSHIP OF UNION	1565398
L-NJ-0464-1	CITY OF PATERSON	4701100
L-NJ-0482-1	BOROUGH OF DUMONT	534000
L-NJ-0483-1	BOARD OF EDUCATION OF TH	1899000
L-NJ-0555-1	CITY OF PASSAIC	1683600
L-NJ-0569-0	STATE OF NJ DEPT HIGH ED	1000000
L-NJ-0699-1	ATLANTIC CTY WATER DEPT	5000000
L-NJ-0704-1	CITY OF GLOUCESTER CITY	245000
L-NJ-0877-0	STATE OF NJ DEPT HIGH ED	40000
L-NJ-0944-1	CITY OF GARFIELD	606008
L-NJ-0945-1	BOROUGH OF WEST CAPE MAY	1429164
L-NJ-1008-0	TOWN OF IRVINGTON	2216500
L-NJ-1072-1	TOWNSHIP OF FLORENCE	1000000
L-NJ-1086-0	MORRIS SCHOOL DISTRICT	4971000
L-NJ-1123-0	NJ DEPT INST & AGENCIES	1012669

STATE OF NEW JERSEY — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NJ-0200-2	EAST WINDSOR MUNICIPAL	577600
L-NJ-0217-0	EAST AMWELL TWP BD OF ED	600000
L-NJ-0265-1	BOROUGH OF ROSELLE	1858400
L-NJ-0345-0	LONG BRANCH SWR AUTH	521109
L-NJ-0348-1	BOROUGH OF LINCOLN PARK	3419876
L-NJ-0350-0	BOROUGH OF HIGHLANDS	765219
L-NJ-0351-1	BOROUGH OF OCEANPORT	411016
L-NJ-0352-0	BOROUGH OF EATONTOWN	434067
L-NJ-0447-1	LAMBERTVILLE BOARD OF ED	303174
L-NJ-0476-1	COUNTY OF UNION	4622961
L-NJ-0525-1	VILLAGE OF RIDGEFIELD PK	360000
L-NJ-0588-1	WASH TWSP MUN UTIL AUTH	3261024
L-NJ-0603-1	BOROUGH OF MANVILLE	206250
L-NJ-0639-1	HAZLET TWP SWG AUTH	205117

STATE OF NEW JERSEY — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NJ-0643-1	MONMOUTH BEACH BOROUGH	1041222
L-NJ-0645-0	TWP OF LAWRENCE	712857
L-NJ-0728-0	ALEXANDRIA TWP SCHL DIST	170412
L-NJ-0781-0	BOROUGH OF BUTLER	2033010
L-NJ-0915-0	BOROUGH OF MANVILLE	906000
L-NJ-0943-1	VICTORY GARDENS BOROUGH	480000
L-NJ-0965-1	CHERRY HILL TOWNSHIP	2745223
L-NJ-1202-0	BOROUGH OF CHESTER	458026
L-NJ-1240-0	WHARTON BD OF TRUSTEES	467670
L-NJ-1244-0	TOWNSHIP OF HAMILTON	2676445

STATE OF NEW MEXICO — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NM-0003-1	NAVAJO TRIBE OF INDIANS	407143
L-NM-0026-1	RED RIVER TOWN	611233
L-NM-0027-0	PUEBLO INDIANS OF ZUNI	750000
L-NM-0036-1	BERNALILLO TOWN	863000
L-NM-0042-1	LUNA VO-TECH INST DIR	806948
L-NM-0051-1	ESPANOLA PUB SCHOOLS	957842
L-NM-0068-2	WAGON MOUND VILLAGE	443300
L-NM-0069-0	ESTANCIA TOWN	280557
L-NM-0072-2	MESCALERO APACHE TRIBE	604000
L-NM-0095-0	ALBUQUERQUE CITY	782994
L-NM-0107-0	PUEBLO INDIANS OF ACOMA	357953

STATE OF NEW MEXICO — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NM-0018-2	TULAROSA VILLAGE	802390
L-NM-0039-1	LAS CRUCES CITY	510837
L-NM-0043-0	BLOOMFIELD CITY	348100
L-NM-0054-1	FARMINGTON CITY	229900
L-NM-0099-1	ALBUQUERQUE TECH VO INST	1178498
L-NM-0104-0	BERNALILLO COUNTY	222038
L-NM-0105-0	BERNALILLO COUNTY	33176
L-NM-0106-0	BERNALILLO COUNTY	136967

STATE OF NEVADA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NV-0004-0	DUCK VALLEY RESERVATION	531800
L-NV-0028-1	CLARK COUNTY	4153700
L-NV-0063-1	CITY OF HENDERSON	819839
L-NV-0105-0	YERINGTON PAIUTE TRIBE	400000
L-NV-0113-0	PAIUTE-SHOSHONE TRIBE	227000
L-NV-0118-0	CITY OF NORTH LAS VEGAS	957579
L-NV-0129-0	WASHOE TRIBE	150000
L-NV-0130-0	NEV INTER-TRIBAL CNCL	274919
L-NV-0131-0	CLARK CNTY HOUSING AUTH	232600

STATE OF NEVADA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NV-0056-0	CITY OF SPARKS	307438
L-NV-0057-0	CITY OF SPARKS	130000
L-NV-0059-0	CITY OF SPARKS	418200
L-NV-0072-1	CITY OF YERINGTON	234823
L-NV-0115-0	LYON COUNTY	130000
L-NV-0123-0	DOUGLAS COUNTY	1058500
LOCATOR NO.	APPLICANT	LPW FUNDS
L-NV-0066-G	CITY OF HENDERSON	75900

STATE OF NEW YORK — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NY-0021-2	DORMITORY AUTH - NYS	3382000
L-NY-0068-0	TOWN OF EASTCHESTER	992850
L-NY-0074-0	BLIND BROOK-RYE UNION SC	552305
L-NY-0132-0	WATER RESOURCES DEPT-NYC	3885000
L-NY-0192-1	ST REGIS MOHAWK TRIBE	1060000
L-NY-0208-0	LINDENHURST-INC. VILLAGE	452250
L-NY-0210-2	WEST ISLIP SCHOOL DIST.	321017
L-NY-0218-0	SEWANHAKA SCHOOL DIST.	297000
L-NY-0254-1	EAST ISLIP SCHOOL DIST	170772
L-NY-0257-2	WATER RESOURCES DEPT-NYC	1185000
L-NY-0258-1	WATER RESOURCES DEPT-NYC	2959000
L-NY-0263-1	HIGHWAY DEPT - NYC	1916304
L-NY-0265-2	HIGHWAY DEPT - NYC	1916252
L-NY-0266-1	HIGHWAY DEPT - NYC	1899961
L-NY-0267-1	WATER RESOURCES DEPT-NYC	1627000
L-NY-0269-0	WATER RESOURCES DEPT-NYC	1098000
L-NY-0273-1	PUBLIC WORKS DEPT- NYC	1147093
L-NY-0274-1	HIGHWAY DEPT - NYC	1189388
L-NY-0275-2	HIGHWAY DEPT - NYC	2352538
L-NY-0276-1	HIGHWAY DEPT - NYC	1491616

STATE OF NEW YORK — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NY-0278-0	PUBLIC WORKS DEPT. - NYC	1215064
L-NY-0283-0	Office of Devel - NYC	670294
L-NY-0285-0	CITY OF NEW YORK	1302464
L-NY-0290-1	CITY OF NEW YORK	1351330
L-NY-0291-0	CITY OF NEW YORK	2468899
L-NY-0295-1	CITY OF NEW YORK	1894025
L-NY-0296-1	CITY OF NEW YORK	890100
L-NY-0297-1	CITY OF NEW YORK	997700
L-NY-0306-2	TOWN OF NIAGARA	685000
L-NY-0318-0	CITY OF NEW YORK	1640463
L-NY-0320-0	CITY OF NEW YORK	735000
L-NY-0321-0	CITY OF NEW YORK	1491200
L-NY-0322-0	VILLAGE OF SOUTH NYACK	1374388
L-NY-0324-0	CITY OF NEW YORK	815829
L-NY-0325-0	CITY OF NEW YORK	2647791
L-NY-0326-1	CITY OF NEW YORK	1551457
L-NY-0328-0	CITY OF NEW YORK	2120105
L-NY-0334-2	CITY OF NEW YORK	2336498
L-NY-0424-0	TOWN OF WEST SENECA	1200000
L-NY-0439-0	CITY OF LACKAWANNA	615605
L-NY-0442-0	CITY OF NEW YORK	2657408
L-NY-0444-1	CITY OF NEW YORK	685925
L-NY-0449-0	CITY OF NEW YORK	919600
L-NY-0450-1	CITY OF NEW YORK	3758069
L-NY-0454-0	CITY OF NEW YORK	4569600
L-NY-0455-1	CITY OF NEW YORK	3495531
L-NY-0462-1	SPRGVILLE GRIFFITH INST	1804500
L-NY-0511-1	LYNBROOK UNION FREE SCH	4570000
L-NY-0517-1	CITY OF NEW YORK	3500000
L-NY-0519-0	CITY OF NEW YORK	4983521
L-NY-0524-0	CITY OF NEW YORK	1020000
L-NY-0525-0	CITY OF NEW YORK	489154
L-NY-0528-1	CITY OF NEW YORK	1278712
L-NY-0529-0	CITY OF NEW YORK	2050000
L-NY-0534-0	CITY OF NEW YORK	1662484
L-NY-0535-1	CITY OF NEW YORK	588463
L-NY-0536-0	CITY OF NEW YORK	4068438
L-NY-0537-0	VILLAGE OF OSSINING	1002857
L-NY-0574-1	CITY OF BUFFALO	1181532
L-NY-0577-0	CITY OF BUFFALO	1115000
L-NY-0634-0	CITY OF NEW YORK DEPT OF	1407200
L-NY-0656-1	VILLAGE OF N TARRYTOWN	759600
L-NY-0672-1	TOWN OF HEMPSTEAD	1070073
L-NY-0678-1	TOWN OF HEMPSTEAD	1215964
L-NY-0679-1	CITY OF HEMPSTEAD	675418
L-NY-0680-1	WESTBURY UNION FREE SCH	4572000
L-NY-0740-1	CITY OF NEW ROCHELLE	541850
L-NY-0743-0	CITY OF NEW ROCHELLE	196787
L-NY-0762-1	SENECA NATION OF INDIANS	234390
L-NY-0779-1	TOWN OF BRANT	681000
L-NY-0844-0	TOWN OF BOSTON	279500

STATE OF NEW YORK — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NY-0854-1	TOWN OF RODMAN	233382
L-NY-0869-0	VILLAGE OF YOUNGSTOWN	286435
L-NY-0948-0	CITY OF NEW YORK	4996575
L-NY-0964-0	CITY OF NEW YORK	4193000
L-NY-0984-0	CITY OF NEW YORK	1984200
L-NY-1038-1	VILLAGE OF ALDEN	155000
L-NY-1046-1	VILLAGE OF AKRON	400000
L-NY-1074-1	NYACK PUBLIC SCHOOLS	980000
L-NY-1169-0	CITY OF BUFFALO	1032275
L-NY-1261-0	ERIE COUNTY	262633
L-NY-1264-0	ERIE COUNTY	120940
L-NY-1266-0	ERIE COUNTY	306947
L-NY-1331-0	TOWN OF HEMPSTEAD	1064141
L-NY-1338-1	CITY OF TONAWANDA	2054841
L-NY-1373-1	COUNTY OF WYOMING	420217
L-NY-1380-1	TOWN OF HAMBURG	797703
L-NY-1412-1	TOWN OF LEWISTON	420500
L-NY-1429-0	TOWN OF WHEATFIELD	206200
L-NY-1438-0	TOWN OF LANCASTER	433100
L-NY-1458-0	TOWN OF NIAGARA	565000
L-NY-1475-1	TOWN OF HUNTINGTON	1822600
L-NY-1478-0	VILLAGE OF FRAMINGDALE	530000
L-NY-1485-1	CITY OF LONG BEACH	2591400
L-NY-1559-0	TOWN OF ORLEANS	636320
L-NY-1615-1	COUNTY OF WYOMING	4969298
L-NY-1624-0	CITY OF MOUNT VERNON	1153226
L-NY-1651-0	NANUET UNION FREE SCHOOL	435000
L-NY-1679-0	TOWN OF CHEEKTOWAGA	1854203
L-NY-1682-0	TOWN OF CHEEKTOWAGA	2353000
L-NY-1760-1	GREENBURGH CNTRL SCHOOLS	1693000
L-NY-1812-0	TOWN OF CARMEL	285750
L-NY-1814-0	TOWN OF KENT	605935
L-NY-1843-1	BUFFALO SEWER AUTHORITY	5305941
L-NY-1900-0	COUNTY OF WESTCHESTER	207350
L-NY-1912-0	COUNTY OF WESTCHESTER	167370

STATE OF NEW YORK — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-NY-0024-0	PARKS & RECREATION COMM	600000
L-NY-0156-0	OFF OF SUFFOLK CNTY EXEC	605000
L-NY-0163-1	ST UNIVERSITY CONST FUND	3171000
L-NY-0174-0	ST UNIVERSITY CONST FUND	285300
L-NY-0377-1	VILLAGE OF HILLBURN	330586
L-NY-0411-0	CITY OF ROCHESTER NY	402000
L-NY-0412-0	CITY OF ROCHESTER NY	1940500
L-NY-0418-0	CITY OF ROCHESTER NY	5000000
L-NY-0461-1	VILLAGE OF CANDOR	156678
L-NY-0478-0	HERKIMER COUNTY	1082305
L-NY-0542-0	ROTTERDAM DRAPER UNION	350000

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STATE OF NEW YORK		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-NY-0543-0	PORT CHESTER RYE UNION	1900000
L-NY-0552-1	VILLAGE OF PLEASANTVILLE	205000
L-NY-0561-1	WATERFORD HALFMOON UNION	1570000
L-NY-0616-0	SARATOGA COUNTY	2100000
L-NY-0627-2	WORCESTER CENTRAL SCHOOL	236990
L-NY-0658-0	VILLAGE OF AURORA	245000
L-NY-0674-2	TOWN OF WINDHAM	20000
L-NY-0725-0	VILLAGE OF TARRYTOWN	1302000
L-NY-0728-2	TIOGA COUNTY	312000
L-NY-0734-0	SPRGVILLE-GRIFFITH INST	945000
L-NY-0735-0	WATKINS GLEN SCHOOL DIST	1000000
L-NY-0756-2	TOWN OF HALFMOON	450000
L-NY-0782-2	TOWN OF GLENVILLE	315673
L-NY-0803-1	TOWN OF GREENVILLE	535000
L-NY-0807-1	VILLAGE OF ATTICA	500000
L-NY-0810-1	TOWN OF GREENVILLE	500000
L-NY-0818-1	TOWN OF SHELDON	200000
L-NY-0848-1	DRYDEN CENTRAL SCHOOL	355000
L-NY-0870-1	JORDAN-ELBRIDGE SCH DIST	175000
L-NY-0892-2	SCHENECTADY CNTY BD REPS	570000
L-NY-0908-1	TOWN OF NISKAYUNA	281060
L-NY-0947-1	OWEGO APPALACHIAN SCHOOL	210000
L-NY-0955-1	TOWN OF PATTERSON	92650
L-NY-0965-1	TOWN OF PATTERSON	226274
L-NY-0982-0	BROOME COUNTY	1888348
L-NY-1022-1	VILLAGE OF TANNERSVILLE	288400
L-NY-1042-2	VILLAGE OF NYACK	446500
L-NY-1045-1	WYOMING CENTRAL SCHOOL	206900
L-NY-1048-1	VILLAGE OF TUCKAHOE	1150000
L-NY-1070-1	VILLAGE OF HILTON	695000
L-NY-1070-0	VILLAGE OF HILTON	695000
L-NY-1108-0	INC VILLAGE OF FREEPORT	544608
L-NY-1110-2	COUNTY OF MONROE	150850
L-NY-1174-0	CITY OF WHITE PLAINS	160000
L-NY-1192-1	TOWN OF UNION	159495
L-NY-1207-1	MARCELLUS CENTRAL SCHOOL	973000
L-NY-1229-0	DR EDWIN P CLEMENT SPVR	350000
L-NY-1287-0	FIRE DISTRICT #2	387000
L-NY-1291-1	VILLAGE OF ROCHESTER	301703
L-NY-1354-0	COUNTY OF RENSSELAER	3572800
L-NY-1368-1	ELMIRA CITY SCHOOL DIST	4996500
L-NY-1408-1	TOWN OF GRAND ISLAND	247000
L-NY-1506-1	TOWN OF HENRIETTA	1443000
L-NY-1515-0	TOWN OF SALINA	227800
L-NY-1518-1	TOWN OF KIRKWOOD	2100000
L-NY-1519-0	TOWN OF SALINA	1079800
L-NY-1522-0	TOWN OF SALINA	113400
L-NY-1525-0	VILLAGE BOARD	172770
L-NY-1546-2	TOWN OF KIRKWOOD	1005000
L-NY-1547-1	VILLAGE OF CHURCHVILLE	1723000
L-NY-1551-0	VILLAGE OF WARSAW	40000

STATE OF NEW YORK		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-NY-1561-0	VILLAGE OF WARSAW	40000
L-NY-1587-0	TOWN OF CLAY	644000
L-NY-1588-0	TOWN OF CLAY	164900
L-NY-1611-0	CITY OF PEEKSKILL	498500
L-NY-1646-1	ROCKLAND COUNTY	740147
L-NY-1660-0	NYS INDUST DEV CORP	930000
L-NY-1708-0	VILLAGE OF WALTON	716000
L-NY-1709-0	CITY OF GLEN COVE	4154400
L-NY-1796-0	NATIVE AMERICAN CENTER	4903640
L-NY-1799-0	VILLAGE OF BROCKTON	310700
L-NY-1805-0	HORNELL IND DEVELPT AGCY	1500000
L-NY-1815-1	VILLAGE OF WILLIAMSVILLE	556396
L-NY-1816-0	TOWN OF LEWISTON	344700
L-NY-1921-0	COUNTY OF OTSEGO	247640

STATE OF OHIO		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-OH-0024-1	CITY OF YOUNGSTOWN	2173577
L-OH-0046-1	PORTAGE COUNTY COMN	189300
L-OH-0053-2	CITY OF ALLIANCE	899700
L-OH-0070-0	PORTAGE COUNTY COMN	206600
L-OH-0089-1	PORTAGE COUNTY COMN	3347496
L-OH-0101-0	CITY OF KENT	454275
L-OH-0219-0	VERNON TWP TRUSTEES	263000
L-OH-0325-0	CITY OF CINCINNATI	500000
L-OH-0327-0	CITY OF CINCINNATI	1430000
L-OH-0338-0	CITY OF CINCINNATI	640000
L-OH-0455-1	STATE OF OHIO	1009225
L-OH-0473-1	CITY OF GARFIELD HEIGHTS	1650000
L-OH-0586-0	SCIOTO COUNTY	1292461
L-OH-0592-1	CITY OF DAYTON	682000
L-OH-0696-0	CITY OF CLEVELAND	4990000
L-OH-0748-0	CITY OF EAST CLEVELAND	1746440
L-OH-0835-0	ASHTABULA COUNTY COMN	4671250
L-OH-0838-0	SCIOTO COUNTY	171789
L-OH-0852-1	AUSTINTOWN BRD OF EDUC	418910
L-OH-0914-0	CITY OF YOUNGSTOWN	565010
L-OH-0937-1	LAWRENCE COUNTY COMN	2460290
L-OH-1007-1	VILLAGE OF PIKETON	1098381
L-OH-1015-0	VILLAGE OF WEST UNION	2377000
L-OH-1102-0	VILLAGE OF NEW MIDDLETWN	2134000
L-OH-1126-1	CITY OF EAST LIVERPOOL	1105500
L-OH-1193-0	STATE OF OHIO	115500

STATE OF OHIO		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-OH-0004-1	CITY OF FAIRLAWN	475000
L-OH-0150-1	CITY OF GALION	1670358
L-OH-0289-0	STATE OF OHIO	256110
L-OH-0348-1	VILLAGE OF CARLISLE	229075
L-OH-0382-1	PUTNAM COUNTY	672900
L-OH-0451-2	STATE OF OHIO	3512722
L-OH-0522-1	BD OF COMM MUSKINGUM CO	305628
L-OH-0605-2	VILLAGE OF LODI	150000
L-OH-0519-0	VILLAGE OF HARRISON	977703
L-OH-0638-0	WEST CLERMONT LOCAL SCH	3104881
L-OH-0685-0	CITY OF COLUMBUS	375833
L-OH-0688-1	CITY OF COLUMBUS	217498
L-OH-0689-0	CITY OF COLUMBUS	1371733
L-OH-0692-1	CITY OF COLUMBUS	733841
L-OH-0763-0	CITY OF ST BERNARD	1272495
L-OH-0773-2	AMANDA-CLEARCREEK SCH DI	171285
L-OH-0865-0	ALLEN EAST LOCAL SCH DIS	1983938
L-OH-0890-1	CITY OF LANCASTER	339569
L-OH-1008-1	VILLAGE OF SCIO	2479150
L-OH-1087-0	VILLAGE OF URBANCREST	1430682
L-OH-1211-0	CITY OF SHARONVILLE	513451
L-OH-1218-0	CITY OF EUCLID	700000

STATE OF OKLAHOMA		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-OK-0018-1	CALERA TOWN	136225
L-OK-0025-0	CHECOTAH IND SCHOOL DIST	537200
L-OK-0028-0	WELEETKA SCH DISTRICT	511781
L-OK-0102-0	TOWN OF FORT GIBSON	805980
L-OK-0112-1	TOWN OF DEWAR	186000
L-OK-0115-0	TAHLEQUAH CITY	470000
L-OK-0124-0	COALGATE BD OF EDUCATION	264822
L-OK-0125-1	CHICKASAW NATION OF OKLA	361893
L-OK-0136-1	SEMINOLE NATION OF OKLA	460000
L-OK-0157-2	OKLA CNTY BD OF CNTY COM	1400000
L-OK-0168-1	OTOE-MISSOURIA TR OF OK	360000
L-OK-0181-1	ADAIR CO BD OF CNTY COMM	243300
L-OK-0182-0	CITY OF OWASSO	425000
L-OK-0197-1	CITY OF HARTSHORNE	860000
L-OK-0203-0	CITY OF FORT GIBSON	206905
L-OK-0208-0	CHEYENNE-ARAPAHO TRIBES	464000
L-OK-0211-0	CITY OF HASKELL	240000
L-OK-0238-1	RYAL DEP SCH DIST NO 3	193960
L-OK-0295-1	CITY OF DEL CITY	509846
L-OK-0307-0	TOWN OF HARRAH	130000
L-OK-0326-0	ATOKA BD OF EDUC DIST 1	559526
L-OK-0352-0	LONE GROVE TOWN	132395
L-OK-0376-1	ROFF TOWN	149126
L-OK-0379-0	BOKCHITO TOWN	216000

STATE OF OKLAHOMA		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-OK-0393-0	CLAYTON TOWN	150000
L-OK-0399-0	WRIGHT CITY	580000
L-OK-0402-0	PONCA INDIAN TRIBE OF OK	490000
L-OK-0415-0	MOORE PUBLIC SCHOOL DIST	578394

STATE OF OKLAHOMA		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-OK-0035-0	CEN OK AREA VOTECH DIST	696009
L-OK-0086-0	WAGONER PUBLIC SCHOOLS	888111
L-OK-0088-0	PURCELL PUBLIC SCHOOLS	1606402
L-OK-0109-1	RURAL WATER DISTRICT NO7	321370
L-OK-0288-0	INDIAN CAP SCHOOL DIST 4	338900
L-OK-0310-0	GLENPOOL TOWN	93500
L-OK-0312-0	GLENPOOL TOWN	201170
L-OK-0336-0	ANADARKO CITY	708540
L-OK-0398-0	BETHEL ACRES TOWN	295000

STATE OF OREGON		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-OR-0002-0	CITY OF SPRINGFIELD	861765
L-OR-0005-0	CITY OF EUGENE	771100
L-OR-0029-0	HOOD RIVER CNTY SCH DIST	660786
L-OR-0030-1	CITY OF CRESWELL	285000
L-OR-0053-0	ROGUE COMMUNITY COLLEGE	1654050
L-OR-0081-1	CITY OF COTTAGE GROVE	520300
L-OR-0085-0	CITY OF LOWELL	238141
L-OR-0087-0	CROOK COUNTY	946815
L-OR-0101-0	DESCHUTES COUNTY	3176360
L-OR-0116-1	PINE GROVE WATER DIST	353000
L-OR-0152-0	CITY OF PHOENIX	664089
L-OR-0163-0	EAGLE POINT SCH DIST	1768459
L-OR-0169-0	CITY OF OREGON CITY	476300
L-OR-0171-1	EUGENE SCHOOL DIST 4J	2381800
L-OR-0198-0	CITY OF PRAIRIE CITY	246100
L-OR-0219-0	CITY OF BROWNSVILLE	213853
L-OR-0306-0	CITY OF VERNONIA	561700
L-OR-0419-0	CITY OF INDEPENDENCE	279000
L-OR-0429-2	CITY OF CAVE JUNCTION	285000
L-OR-0448-0	CITY OF IRRIGON	116640
L-OR-0471-0	MITCHELL HIGH SCHOOL	231000
L-OR-0508-0	CITY OF HINES	100000
L-OR-0511-0	CITY OF BURNS	700000
L-OR-0539-0	CITY OF COBURG	367000
L-OR-0563-0	CITY OF FAIRVIEW	703500
L-OR-0605-0	GLENDALE SCHOOL DIST 77	2079453

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STATE OF OREGON		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-OR-0016-1	CITY OF PORTLAND	325529
L-OR-0052-0	CITY OF VALE	636000
L-OR-0122-1	CITY OF CORVALLIS	333804
L-OR-0123-0	CITY OF CORVALLIS	206800
L-OR-0151-1	CITY OF STANFIELD	300000
L-OR-0323-0	CITY OF CULVER	425900
L-OR-0324-0	METZGER WATER DISTRICT	580000
L-OR-0394-1	DEPT OF TRANSPORTATION	925709
L-OR-0408-0	CITY OF PILOT ROCK	1624000
L-OR-0440-1	COUNTY OF GILLAM	143825
L-OR-0482-0	PORTLAND COMMUNITY COLL	422521
L-OR-0517-0	CITY OF FOREST GROVE	2601420
L-OR-0590-0	DEPT OF FISH & WILDLIFE	222000

STATE OF PENNSYLVANIA		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-PA-0076-2	BORGH OF SILVERDALE	632000
L-PA-0095-1	SCH DIST OF PHILA	2446500
L-PA-0132-0	CITY OF CORRY	600000
L-PA-0142-1	SCH DIST OF PHILA	650134
L-PA-0188-1	SCH DIST OF PHILA	2480289
L-PA-0229-1	LUZERNE COUNTY	1035100
L-PA-0246-2	CARBONDALE AREA SCH DIST	1556398
L-PA-0367-2	UNION CTY AREA SCHL DIST	934000
L-PA-0372-1	CITY OF CHESTER	217350
L-PA-0454-1	CITY OF READING	3303369
L-PA-0464-1	CITY OF SHARON	2743125
L-PA-0469-2	BOROUGH OF RENOVO	219115
L-PA-0494-2	TUNKHANNOCK AREA SCHOOL	989095
L-PA-0515-2	CITY OF LOCK HAVEN	1005000
L-PA-0552-1	FOUNTAIN HILL BOROUGH	30000
L-PA-0557-1	LIBERTY TWP SEW AUTH	1641995
L-PA-0574-1	BOROUGH OF COURTDALE	525000
L-PA-0575-2	CITY OF NANTICOKE	1500000
L-PA-0580-0	CITY OF PHILADELPHIA	1202000
L-PA-0620-1	CITY OF EASTON	490225
L-PA-0634-0	CITY OF PHILADELPHIA	548000
L-PA-0638-0	CITY OF PHILADELPHIA	4998000
L-PA-0668-2	BOROUGH OF UPLAND	3751860
L-PA-0671-1	FALLS TOWNSHIP	426992
L-PA-0676-2	NORTH E SCHOOL DISTRICT	5000000
L-PA-0679-0	CITY OF PHILADELPHIA	618000
L-PA-0895-2	TOWNSHIP OF WARMINSTER	1950000
L-PA-0897-1	SULLIVAN COUNTY	737220
L-PA-0985-2	BOROUGH OF CENTRALIA	499289
L-PA-1009-1	TOWNSHIP OF COAL	266230
L-PA-1042-0	TOWNSHIP OF TOBYHANNA	487000
L-PA-1050-1	TOWN OF BLOOMSBURG	157965
L-PA-1053-1	EXETER TOWNSHIP	290554

STATE OF PENNSYLVANIA		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-PA-1055-2	BERWICK AREA SCH DIST	4600000
L-PA-1095-0	BOROUGH OF DICKSON CITY	3335652
L-PA-1124-0	TOWNSHIP OF CHESTER	242400
L-PA-1183-1	COUNTY OF NORTHUMBERLAND	1986700
L-PA-1250-1	DARBY TOWNSHIP	110374
L-PA-1362-0	TOWNSHIP OF PLYMOUTH	653179
L-PA-1436-0	MT CARMEL AREA SCHL DIST	348021
L-PA-1464-0	BOROUGH OF DONORA	761000
L-PA-1536-0	BOROUGH OF EDINBORO	606312
L-PA-1611-0	JERSEY SHORE AREA SCHOOL	1961600

STATE OF PENNSYLVANIA		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-PA-0023-1	COUNTY OF ALLEGHENY	4157231
L-PA-0044-1	MUNICIPALITY OF MONROEBI	891450
L-PA-0126-0	MOUNT LEBANON	155183
L-PA-0135-0	SOUTH PARK TOWNSHIP	462440
L-PA-0196-0	FORWARD TWP MUN AUTH	1075000
L-PA-0331-0	BOROUGH OF BRIDGEVILLE	225000
L-PA-0402-2	BORGH OF MIDLAND	66285
L-PA-0493-2	CITY OF CLAIRTON	1067702
L-PA-0496-2	BRISTOL BORGH W&S AUTH	1376000
L-PA-0547-2	BOROUGH OF SOUTHMONT	1637809
L-PA-0563-0	COUNTY OF LEHIGH	4669459
L-PA-0813-1	BOROUGH OF ALIQUIPPA	851250
L-PA-0946-1	GLENFIELD BOROUGH	427181
L-PA-1002-1	BOROUGH OF CHALFANT	194959
L-PA-1038-1	BOROUGH OF PEN ARGYL	385371
L-PA-1058-0	BOROUGH OF SHARPSBURG	365000
L-PA-1073-1	WILLIAMSBURG COMMUNITY	1440000
L-PA-1105-1	BOROUGH OF MT PLEASANT	1060136
L-PA-1308-0	BALDWIN WHITEHALL SCH DT	850000
L-PA-1311-0	TOWNSHIP OF SCOTT	866592
L-PA-1316-0	BOROUGH OF SPRINGDALE	589577
L-PA-1373-0	TWP OF NORTH VERSAILLES	899000
L-PA-1518-0	BOROUGH OF CORAOPOLIS	542149
L-PA-1598-0	TWP OF UPPER ST. CLAIR	696500
L-PA-1671-0	DEER LAKES SCHOOL DIST	391293

STATE OF PUERTO RICO		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-PR-0007-1	PR INDUS DEVEL COMPANY	518863
L-PR-0010-1	PR INDUS DEVEL COMPANY	3255734
L-PR-0017-1	GENRL SVCS ADMIN OF PR	3760250
L-PR-0021-2	BAYAMON MUNICIPALITY	7446719
L-PR-0034-2	MUNICIPALITY OF CAGUAS	168600
L-PR-0054-0	MUNICIPALITY OF OROCOVIS	898258
L-PR-0069-1	PR AQUEDUCT & SEWER AUTH	456000
L-PR-0076-1	METROPOLITAN BUS AUTH	806626
L-PR-0084-1	MUNICIPALITY OF OROCOVIS	1599045
L-PR-0086-1	MUNICIPALITY OF LARES	663220
L-PR-0089-2	GUAYANILLA MUNICIPALITY	1350100
L-PR-0094-2	MUNICIPALITY OF PONCE	238581
L-PR-0096-2	MUNICIPALITY OF PONCE	202860
L-PR-0098-2	MUNICIPALITY OF PONCE	404286
L-PR-0101-2	MUNICIPALITY OF PONCE	269892
L-PR-0102-2	MUNICIPALITY OF PONCE	566685
L-PR-0103-2	MUNICIPALITY OF PONCE	441630
L-PR-0104-2	MUNICIPALITY OF PONCE	397120
L-PR-0119-1	PR AQUEDUCT & SEWER AUTH	188000
L-PR-0122-1	PR AQUEDUCT & SEWER AUTH	281200
L-PR-0123-1	PR AQUEDUCT & SEWER AUTH	384900
L-PR-0125-0	PR AQUEDUCT & SEWER AUTH	103500
L-PR-0127-1	PR AQUEDUCT & SEWER AUTH	123000
L-PR-0180-0	COMERIO MUNICIPALITY	709850
L-PR-0182-1	COMERIO MUNICIPALITY	807000
L-PR-0202-1	SANTA ISABEL MUNIC	656516
L-PR-0203-1	SANTA ISABEL MUNIC	140789
L-PR-0204-1	PR AQUEDUCT & SEWER AUTH	236000
L-PR-0211-1	EWER AUTH	210000
L-PR-0214-0	MUNICIPALITY OF ANASCO	254835
L-PR-0216-1	PUB BLDG AUTH OF PR	1599842
L-PR-0218-0	SAN LORENZO MUNICIPALITY	252000
L-PR-0222-1	LAS PIEDRAS MUNICIPALITY	327000
L-PR-0226-0	SAN LORENZO MUNICIPALITY	198200
L-PR-0229-0	LAS PIEDRAS MUNICIPALITY	625000
L-PR-0230-1	PUB BLDG AUTH OF PR	1157239
L-PR-0231-1	MUNICIPALITY OF YABUCOA	204000
L-PR-0232-1	MUNICIPALITY OF NAGUABO	319000
L-PR-0233-0	MUNICIPALITY OF YABUCOA	491000
L-PR-0235-0	MUNICIPALITY OF NAGUABO	664000
L-PR-0237-1	MUNICIPALITY OF YABUCOA	149000
L-PR-0246-0	PR DEPT OF HOUSING	133545
L-PR-0250-1	PR DEPT OF NTRL RESOURCS	168000
L-PR-0258-1	UNIV OF PUERTO RICO	1053718
L-PR-0272-0	RIO GRANDE MUNICIPALITY	504589
L-PR-0276-1	RIO GRANDE MUNICIPALITY	431890
L-PR-0278-0	RIO GRANDE MUNICIPALITY	296465
L-PR-0280-0	PR AQUEDUCT & SEWER AUTH	294000
L-PR-0282-1	UNIV OF PUERTO RICO	4995567
L-PR-0286-0	PR AQUEDUCT & SEWER AUTH	708000
L-PR-0293-0	MUNICIPALITY OF LUQUILLO	785000

STATE OF PUERTO RICO		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-PR-0296-0	MUNICIPALITY OF HATILLO	143589
L-PR-0313-1	PR DEPT ADDICTION SRVCS	1803821
L-PR-0315-0	MUNICIPALITY OF HUMACAO	142203
L-PR-0316-0	MUNICIPALITY OF ISABELA	288540
L-PR-0317-0	JUANA DIAZ MUNICIPALITY	640173
L-PR-0319-0	MUNICIPALITY OF GURABO	1227310
L-PR-0328-0	PR AQUEDUCT & SEWER AUTH	621000
L-PR-0329-0	PR AQUEDUCT & SEWER AUTH	325000
L-PR-0355-1	MOROVIS MUNICIPALITY	106375
L-PR-0364-0	PR AQUEDUCT & SEWER AUTH	414540
L-PR-0366-0	PR AQUEDUCT & SEWER AUTH	1001000
L-PR-0371-0	PR DEPT OF HOUSING	755643
L-PR-0379-0	PR AQUEDUCT & SEWER AUTH	167000
L-PR-0383-1	VEGA BAJA MUNICIPALITY	121776
L-PR-0405-1	PR DEPT TRANSPORTATION	476100
L-PR-0432-1	PR DEPT OF HOUSING	394790
L-PR-0446-1	MUNICIPALITY OF ARECIBO	304880
L-PR-0449-0	PR DEPT OF HOUSING	403717
L-PR-0460-0	PUB BLDG AUTH OF PR	1668946
L-PR-0464-0	UNIV OF PUERTO RICO	3161565
L-PR-0479-0	PR DEPT OF HOUSING	532030
L-PR-0487-0	SAN LORENZO MUNICIPALITY	273839
L-PR-0491-0	PR DEPT OF HOUSING	215747
L-PR-0495-1	PR DEPT OF HOUSING	404499
L-PR-0500-1	PR DEPT OF HOUSING	216816
L-PR-0503-0	PR DEPT OF HOUSING	1036678
L-PR-0510-0	PR DEPT OF HOUSING	429259
L-PR-0520-0	MUNICIPALITY OF UTUADO	2563007
L-PR-0526-1	UNIV OF PUERTO RICO	2116715
L-PR-0577-1	MUNICIPALITY OF ARECIBO	166007
L-PR-0582-1	PONCE REGIONAL COLLEGE	2417382
L-PR-0592-0	CULEBRA MUNICIPALITY	296100
L-PR-0595-0	MUNICIPALITY OF HUMACAO	2305787
L-PR-0617-1	MUNICIPALITY OF ADJUNTAS	536029
L-PR-0618-0	PR DEPT OF HOUSING	250459
L-PR-0623-0	UNIV OF PUERTO RICO	1324032
L-PR-0624-0	UNIV OF PUERTO RICO	935525
L-PR-0626-0	PR DEPT OF HOUSING	103277
L-PR-0634-0	PR DEPT OF HOUSING	405516
L-PR-0652-0	MUNICIPALITY OF GUAYAMA	145250
L-PR-0658-0	PR DEPT OF HOUSING	273517
L-PR-0659-0	PR DEPT OF HOUSING	170179
L-PR-0660-0	AQUADILLA MUNICIPALITY	806142
L-PR-0661-0	AQUADILLA MUNICIPALITY	591437
L-PR-0662-0	MUNICIPALITY OF CAGUAS	1145325
L-PR-0666-0	PR DEPT OF HOUSING	167433
L-PR-0681-0	PR DEPT OF HOUSING	93888
L-PR-0696-0	PR DEPT OF HOUSING	331451
L-PR-0702-0	PR DEPT OF HOUSING	702425
L-PR-0709-0	PR DEPT OF HOUSING	236682
L-PR-0721-0	PUB BLDG AUTH OF PR	485472

STATE OF PUERTO RICO — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-PR-0726-0	PR DEPT OF HOUSING	203377
L-PR-0728-0	PR DEPT OF HOUSING	319218
L-PR-0729-0	PR DEPT OF HOUSING	610963
L-PR-0730-0	PR DEPT OF HOUSING	621879
L-PR-0735-0	PR DEPT OF HOUSING	340344
L-PR-0755-0	PR DEPT OF HOUSING	162354
L-PR-0760-0	PR DEPT OF HOUSING	591310
L-PR-0762-0	PR DEPT OF HOUSING	1786995
L-PR-0763-0	PR DEPT OF HOUSING	143962
L-PR-0767-1	PR DEPT OF HOUSING	623383
L-PR-0768-0	PR DEPT OF HOUSING	409859
L-PR-0769-0	PR DEPT OF HOUSING	352602
L-PR-0776-0	PR DEPT OF HOUSING	698969
L-PR-0777-0	PR DEPT OF HOUSING	660126
L-PR-0778-0	PR DEPT OF HOUSING	283630
L-PR-0779-0	PR DEPT OF HOUSING	784489
L-PR-0786-0	MUNICIPALITY OF LOIZA	199361
L-PR-0790-1	ADJUNTAS MUNICIPALITY	552989
L-PR-0804-0	VEGA BAJA MUNICIPALITY	307800
L-PR-0812-0	BARRANQUITAS MUNIC	886000

STATE OF RHODE ISLAND — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-RI-0008-0	TOWN OF SOUTH KINGSTOWN	343570
L-RI-0021-1	CITY OF PROVIDENCE	4969173
L-RI-0028-1	TOWN OF NEW SHOREHAM	345574
L-RI-0047-1	PAWTUCKET CITY OF	337625
L-RI-0063-1	PAWTUCKET CITY OF	1030182
L-RI-0077-0	CITY OF CENTRAL FALLS	1561403
L-RI-0080-1	TOWN OF WARREN	792981
L-RI-0103-1	EXETER W GREENWICH REG	400000
L-RI-0104-1	TOWN OF WEST WARWICK	777010
L-RI-0118-1	TOWN OF BURRILLVILLE	3525000
L-RI-0129-0	TOWN OF JOHNSTON	800000
L-RI-0141-0	TOWN OF BRISTOL	603563

STATE OF RHODE ISLAND — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-RI-0072-0	PORTSMOUTH WTR/FIRE DIST	613500

STATE OF SOUTH CAROLINA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-SC-0018-0	SUMTER COUNTY	954285
L-SC-0051-1	TRIDENT TECH. COLLEGE	1280200
L-SC-0065-0	TOWN OF ALLENDALE	491638
L-SC-0074-1	JASPER CNTY. SCHOOL DIST	799677
L-SC-0086-0	BARNWELL COUNTY COUNCIL	396000
L-SC-0098-0	BAMBERG COUNTY	167294
L-SC-0100-0	DARLINGTON CNTY COUNCIL	936934
L-SC-0103-0	CITY OF BARNWELL	290316
L-SC-0119-1	COLLETON COUNTY	565175
L-SC-0140-0	BEAUFORT COUNTY	398570
L-SC-0143-0	CITY OF COLUMBIA	1125049
L-SC-0153-0	C-M AREA TECH ED CTR COM	438970
L-SC-0154-0	DORCHESTER COUNTY SCHOOL	623145
L-SC-0158-0	CITY OF DILLON	323568
L-SC-0160-0	HAMPTON COUNTY	221129
L-SC-0190-0	MARLBORO COUNTY	318200
L-SC-0206-0	TOWN OF ST. STEPHEN	189908

STATE OF SOUTH CAROLINA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-SC-0014-0	LEE COUNTY	409820
L-SC-0019-0	CLARENDON COUNTY	761963
L-SC-0056-1	LEXINGTON CNTY	487067
L-SC-0112-1	W CAROLINA REG SEWER AUT	2146236
L-SC-0166-1	HORRY COUNTY	396150

STATE OF SOUTH DAKOTA — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-SD-0022-0	CHEYENNE RIVER SIOUX	620337
L-SD-0024-0	SISSETON WAHPETON SIOUX	631800
L-SD-0039-1	CROW CREEK SIOUX TRIBE	995000
L-SD-0053-0	OGLALA SIOUX TRIBE	4918303

STATE OF SOUTH DAKOTA — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-SD-0012-0	CITY OF MOBRIDGE	413532
L-SD-0030-0	CITY OF PRESHO	420286
L-SD-0031-2	TOWN OF WOOD	320478
L-SD-0043-1	CLARK COUNTY	142001
L-SD-0058-1	JERAULD COUNTY	1536188
L-SD-0067-0	GETTYSBURG SCHOOL DIST	259500

STATE OF TENNESSEE — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-TN-0002-1	CITY OF ETOWAH	485000
L-TN-0030-1	CITY OF MEMPHIS	200000
L-TN-0032-1	CITY OF MEMPHIS	450000
L-TN-0035-0	CITY OF MEMPHIS	478000
L-TN-0037-0	CITY OF MEMPHIS	1500000
L-TN-0046-0	TOWN OF MOSHEIM	200000
L-TN-0057-0	NASHVILLE METRO GOVT	1896483
L-TN-0064-0	NASHVILLE METRO GOVT	713000
L-TN-0101-0	CITY OF PALMER	46000
L-TN-0109-0	TOWN OF VONORE	300000
L-TN-0124-0	CITY OF MEMPHIS	400000
L-TN-0125-0	CITY OF MEMPHIS	480000
L-TN-0156-0	FAYETTE COUNTY	2465000
L-TN-0158-0	TOWN OF DYER	892000
L-TN-0216-0	CARROLL COUNTY	361373
L-TN-0222-0	TOWN OF NEWPORT UTIL BD	1750362
L-TN-0236-0	TOWN OF ONEIDA	798000
L-TN-0296-0	HAYWOOD COUNTY	959200
L-TN-0326-1	TOWN OF GREENEVILLE	660000
L-TN-0349-0	CLAIBORNE COUNTY	897000
L-TN-0351-0	TOWN OF HUNTSVILLE	125000
L-TN-0352-0	TOWN OF SNEEDVILLE	295000
L-TN-0391-1	CITY OF PIGEON FORGE	350000
L-TN-0402-0	CITY OF JACKSBORO	527435
L-TN-0414-1	TOWN OF LAKE CITY	708000
L-TN-0427-0	NASHVILLE METRO GOVT	522900

STATE OF TENNESSEE — 30% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-TN-0009-1	CITY OF MURFREESBORO	502300
L-TN-0078-0	CITY OF MILLINGTON	345000
L-TN-0110-0	CITY OF WAVERLY	300000
L-TN-0136-0	DECATUR COUNTY	650000
L-TN-0210-0	HARDEMAN COUNTY	446125
L-TN-0213-0	CITY OF FAYETTEVILLE	99200
L-TN-0237-0	MORGAN COUNTY	483000
L-TN-0243-1	CITY OF GREENFIELD	324000
L-TN-0254-0	CITY OF TULLAHOMA	1339000
L-TN-0257-0	TOWN OF SPRING CITY	290000
L-TN-0268-1	TOWN OF HALLS	145000
L-TN-0330-0	CITY OF CLARKSVILLE	350000
L-TN-0359-0	RED BOILING SPRINGS	91000
L-TN-0366-1	TOWN OF BELL BUCKLE	200000
L-TN-0370-1	CITY OF ADAMS	205000
L-TN-0398-1	CITY OF CLEVELAND	849200

STATE OF TEXAS — 70% AREA

LOCATOR NO.	APPLICANT	LPW FUNDS
L-TX-0039-0	ORE CITY SCHOOL DISTRICT	923880
L-TX-0047-1	LYTLE SCHOOL DISTRICT	2438860
L-TX-0048-1	MARION COUNTY	1182020
L-TX-0079-1	SAN ANTONIO SCH DISTRICT	2400000
L-TX-0099-0	CITY OF KILLEEN	182400
L-TX-0114-0	CITY OF DEL RIO	291720
L-TX-0135-0	CITY OF EAGLE PASS	1115303
L-TX-0164-1	CITY OF CRYSTAL CITY	764359
L-TX-0165-0	SAN ANTONIO RIVER AUTH	83628
L-TX-0169-0	CITY OF CARRIZO SPRINGS	2336150
L-TX-0177-0	CITY OF BROWNSVILLE	1102271
L-TX-0182-0	COUNTY OF REAL	401729
L-TX-0189-1	CITY OF RAYMONDVILLE	854348
L-TX-0276-0	COUNTY OF STARR	1213500
L-TX-0279-0	CITY OF FLORESVILLE	410000
L-TX-0283-0	CITY OF LIVE OAK	1595883
L-TX-0342-0	CITY OF COPPERAS COVE	1215149
L-TX-0345-0	CITY OF EL PASO	2475053
L-TX-0346-0	CITY OF EL PASO	416485
L-TX-0349-0	CITY OF EL PASO	631562
L-TX-0383-0	CITY OF SCHERTZ	536500
L-TX-0401-0	COUNTY OF ZAPATA	417000
L-TX-0454-0	CITY OF BRACKETTVILLE	132600
L-TX-0457-0	CITY OF LAREDO	1154750
L-TX-0465-0	CITY OF PHARR	707500
L-TX-0472-0	COUNTY OF EL PASO	298712
L-TX-0476-0	JIM HOGG CNTY COMM COURT	780000
L-TX-0614-1	CITY OF RIO HONDO	955138
L-TX-0620-0	CITY OF WHITEWRIGHT	493918
L-TX-0622-0	TOWN OF CLINT	624960

STATE OF TEXAS

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-TX-0650-0	CITY OF CONVERSE	190600
L-TX-0651-0	CITY OF CLEVELAND	773940
L-TX-0655-0	CITY OF LA FERIA	194600
L-TX-0657-0	CITY OF PRARIE VIEW	966321
L-TX-0681-0	MEDINA VALLEY SCHL DIST	869529
L-TX-0716-0	TIGUA INDIAN RESERVATION	266175
L-TX-0720-0	COTULLA SCHOOL DISTRICT	3361662
L-TX-0732-0	CITY OF DONNA	529478
L-TX-0749-0	CITY OF ELSA	485220

STATE OF TEXAS

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-TX-0002-0	CITY OF PORT NECHES	1312550
L-TX-0046-0	SOUTH PLAINS COLLEGE	2000000
L-TX-0053-2	SE REG MENTAL RETARD CTR	1827435
L-TX-0121-0	COUNTY OF KERR	758601
L-TX-0186-1	CITY OF GREGORY	599444
L-TX-0193-0	CITY OF DILLEY	146460
L-TX-0201-0	CITY OF AZLE	234743
L-TX-0202-0	CITY OF AZLE	425400
L-TX-0218-0	CITY OF BOERNE	296000
L-TX-0223-0	CITY OF MALAKOFF	499923
L-TX-0231-0	MEDINA SCHOOL DISTRICT	1100000
L-TX-0233-0	CITY OF FREDERICKSBURG	494632
L-TX-0244-0	CITY OF SAN ANTONIO	241225
L-TX-0248-0	CITY OF SAN ANTONIO	1155778
L-TX-0261-0	CITY OF KARNES CITY	517390
L-TX-0303-0	CITY OF HOUSTON	458850
L-TX-0306-0	CITY OF HOUSTON	500000
L-TX-0308-0	CITY OF HOUSTON	699993
L-TX-0310-0	CITY OF HOUSTON	550000
L-TX-0312-0	CITY OF HOUSTON	1000000
L-TX-0314-0	CITY OF HOUSTON	1200000
L-TX-0320-0	CITY OF GRAND PRAIRIE	285200
L-TX-0381-0	CITY OF PINELAND	175000
L-TX-0410-0	CITY OF AZLE	728800
L-TX-0483-0	JEFFERSON COUNTY FWSD 1	289661
L-TX-0572-0	BROOKS COUNTY	242500
L-TX-0666-0	CITY OF FREEPORT	432802
L-TX-0682-0	CORPUS CHRISTI ST SCHOOL	179893
L-TX-0738-0	CITY OF AUSTIN	1525193

STATE OF UTAH

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-UT-0006-0	THE NAVAJO TRIBE	295000
L-UT-0025-2	WEBER COUNTY SCHOOL DIST	1946034
L-UT-0068-1	SALT LAKE CTY CORP	1676000
L-UT-0099-1	MORGAN CNTY SCHOOL DIST	419100
L-UT-0105-1	PLEASANT VIEW CITY	403100
L-UT-0157-1	UTE INDIAN TRIBE	2073000
L-UT-0162-0	NORTH OGDEN CITY	214952

STATE OF UTAH

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-UT-0019-1	CITY OF BOUNTIFUL	807159
L-UT-0060-1	PLEASANT GROVE CITY	432500
L-UT-0063-0	JUAB SCHOOL DISTRICT	650000
L-UT-0102-2	HOWELL TOWN	195500
L-UT-0108-0	WELLINGTON CTY CORP	370000
L-UT-0118-0	SANDY CITY CORPORATION	492881
L-UT-0126-1	BOX ELDER SCH DIST	97308
L-UT-0159-1	SANDY CITY CORP	272300

STATE OF VIRGINIA

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-VA-0063-2	CITY OF NORFOLK	1999992
L-VA-0101-2	WESTMORELAND COUNTY	2585606
L-VA-0153-1	LANCASTER CNTY BD OF SUP	787500
L-VA-0167-0	COMMONWEALTH OF VIRGINIA	270725
L-VA-0171-1	GILES CNTY SCHOOL BOARD	628362
L-VA-0187-2	CITY OF PORTSMOUTH	2129961
L-VA-0234-0	HALIFAX COUNTY	5000000
L-VA-0248-2	NORTHUMBERLAND CO SCH BD	423205
L-VA-0268-0	ESSEX CNTY SCHOOL BD	1761955

STATE OF VIRGINIA

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-VA-0026-0	UPPER VALLEY REG PK AUTH	944391
L-VA-0072-1	CITY OF DANVILLE	2219491
L-VA-0092-1	CITY OF STAUNTON	1483416
L-VA-0272-0	WASHINGTON COUNTY	2104220

STATE OF VIRGIN ISLANDS

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-VI-0001-0	GOVT - VIRGIN ISLANDS	987844
L-VI-0003-0	GOVT - VIRGIN ISLANDS	3150000

STATE OF VERMONT

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-VT-0001-0	TOWN OF LUDLOW	166373
L-VT-0006-1	TOWN OF PROCTOR	249260
L-VT-0007-1	TOWN OF ANDOVER	216004
L-VT-0008-1	VILLAGE OF WATERBURY	292305
L-VT-0009-2	BRADFORD VILLAGE	448185
L-VT-0010-1	CITY OF RUTLAND	963272
L-VT-0014-0	CHARLESTON SCHOOL BOARD	44260
L-VT-0021-1	TOWN OF PUTNEY	137628
L-VT-0025-1	TOWN OF SPRINGFIELD	279710
L-VT-0026-1	TOWN OF SPRINGFIELD	647770
L-VT-0033-0	TOWN OF SHEFFIELD	83000
L-VT-0038-0	TOWN OF SHAFTSBURH	183234
L-VT-0041-1	TOWN OF RANDOLPH	343903
L-VT-0042-1	BARTON ACDMY & SCH DIST	591700
L-VT-0047-1	TOWN OF BENNINGTON	538555
L-VT-0048-0	TOWN OF MONTGOMERY	400000
L-VT-0053-1	CANAAN TOWN SCHOOL DIST	359420
L-VT-0082-0	NORTHFIELD SCHOOL DIST	1118675
L-VT-0095-0	TOWN OF LYNDON	177000

STATE OF VERMONT

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-VT-0024-0	CITY OF BURLINGTON	1658475
L-VT-0055-1	TOWN OF MILTON	350000
L-VT-0073-0	CITY OF WINOOSKI	335597
L-VT-0085-1	CITY OF WINOOSKI	325991
L-VT-0086-0	CITY OF WINOOSKI	138000

STATE OF WASHINGTON

LOCATOR NO.	APPLICANT	70% AREA LPW FUNDS
L-WA-0061-1	INCHELIUM SCHL DISTRICT	2768618
L-WA-0113-0	CITY OF BOTHELL	450025
L-WA-0161-1	MAYOR STANLEY P KERSEY	3850000
L-WA-0176-0	CLARK COUNTY	1898118
L-WA-0321-1	TOWN OF MEDICAL LAKE	366751
L-WA-0417-1	TOWN OF SULTAN	603000
L-WA-0434-0	COLVILLE CONFED TRIBES	256949
L-WA-0438-0	COLVILLE CONFED TRIBES	141298
L-WA-0458-0	CITY OF WASHOUGAL	247275
L-WA-0475-1	CITY OF BONNEY LAKE	3828364
L-WA-0534-1	CITY OF BUCKLEY	308620
L-WA-0561-0	EDMONDS SCHL DIST NO 15	373438
L-WA-0563-1	CITY OF PACIFIC	565810
L-WA-0566-1	SNOQUALMIE VALLEY SC DIS	2741000
L-WA-0567-0	NISQUALLY INDIAN TRIBE	712145
L-WA-0596-0	LWR ELWHA TRBL CMTY CNCL	1333042
L-WA-0604-0	BD DIRECT SHORELINE SCHL	266702
L-WA-0724-0	CITY OF CLE ELUM	344368
L-WA-0737-1	ORTING SCHL DIST NO 344	1153500
L-WA-0756-1	KING COUNTY	2570200
L-WA-0764-0	CITY OF MONROE	884361
L-WA-0825-0	STANWOOD SCH DIST NO 401	1815900
L-WA-0838-0	TOWN OF GRANITE FALLS	268097
L-WA-0875-0	LUMMI INDIAN BUSINESS CO	835000

STATE OF WASHINGTON

LOCATOR NO.	APPLICANT	30% AREA LPW FUNDS
L-WA-0026-1	CITY OF DAVENPORT	445710
L-WA-0040-1	ROSALIA SCHL DIST NO 320	123867
L-WA-0128-0	PORT OF WHITMAN COUNTY	951045
L-WA-0163-0	TIMBERLAND REG'L LIBRARY	870015
L-WA-0175-0	CITY OF CENTRALIA	1208100
L-WA-0313-0	CITY OF CLARKSTON	179000
L-WA-0335-0	GARFIELD COUNTY	833812
L-WA-0524-0	SKOKOMISH INDIAN TRIBE	91861
L-WA-0798-1	CITY OF BENTON CITY	1652850
L-WA-0844-1	COLLEGE PLACE PUBLIC SCH	1580121
L-WA-0879-0	CITY OF HOQUIAM	774200
L-WA-0884-0	OCEAN BEACH SCH DIST 101	1906231
L-WA-0892-1	TOWN OF ENTIAT	1761512

THURSDAY, DECEMBER 23, 1976

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STATE OF WISCONSIN		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-WI-0006-0	MILWAUKEE AREA TECH COLL	724612
L-WI-0007-1	MILWAUKEE AREA TECH COLL	778628
L-WI-0019-0	VILLAGE OF BROWN DEER	745263
L-WI-0024-1	ONEIDA TRIBE OF INDIANS	525250
L-WI-0031-2	MENOMINEE RESTORATN COMM	947114
L-WI-0040-0	CTY OF MILWAUKEE PUB WKS	665000
L-WI-0042-0	CTY OF MILWAUKEE PUB WKS	296651
L-WI-0048-1	CTY OF MILWAUKEE PUB WKS	1224555
L-WI-0054-0	CTY OF MILWAUKEE PUB WKS	3348000
L-WI-0055-2	CTY OF MILWAUKEE	482025
L-WI-0087-1	CHIPPEWAS RED CLIFF BAND	598700
L-WI-0110-0	LAC DU FLAMBEAU BAND	750000
L-WI-0137-1	LAC COURTE OREILLES BAND	843376
L-WI-0185-0	ST CROIX CHIPPEWA BAND	360000
L-WI-0231-2	BLACKHAWK T&A ED DIST	250000
L-WI-0249-0	FOREST CNTY POTAWATOMI	275300
L-WI-0251-0	SCHOOL DISTRICT OF MAPLE	2378280

STATE OF WISCONSIN		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-WI-0058-1	SCH DIST OF CADOTT COMMU	1200000
L-WI-0122-0	CITY OF AMERY	89354
L-WI-0217-0	CITY OF BROOKFIELD	187100
L-WI-0224-1	VILLAGE OF NORTH FREEDOM	240000
L-WI-0239-0	CITY OF MAUSTON	176000
L-WI-0258-1	VILLAGE OF GILMAN	143512
L-WI-0277-0	UNITY SCHOOL DISTRICT	2540000
L-WI-0293-1	CITY OF LADYSMITH	331490
L-WI-0306-1	VILLAGE OF BARNEVELD	333000
L-WI-0337-0	VILLAGE OF MERRIMAC	98000
L-WI-0341-1	VILLAGE OF HOWARD	520827
L-WI-0344-0	DELAVAN DARIEN SCHL DIST	674500

STATE OF WEST VIRGINIA		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-WV-0007-1	BRAXTON CNTY BD OF ED	242151
L-WV-0022-2	CLAY COUNTY COMMISSION	1311300
L-WV-0028-0	TOWN OF TERRA ALTA	218100
L-WV-0065-2	TAYLOR COUNTY COMMISSION	253320
L-WV-0066-1	WRIT CNTY BD OF ED	451500
L-WV-0091-0	RANDOLPH CNTY BD OF ED	429320
L-WV-0111-0	WEBSTER CNTY BD OF ED	184758
L-WV-0129-1	CALHOUN COUNTY	2355000
L-WV-0130-1	FT ASHBY PUB SVC DIST	164000
L-WV-0133-0	CITY OF WESTON	363300
L-WV-0134-0	UPSHUR COUNTY COMMISSION	750000

STATE OF WEST VIRGINIA		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-WV-0003-0	HARRISON CNTY COMM	358200
L-WV-0014-0	CITY OF PHILIPPI	262103
L-WV-0032-1	MORGAN COUNTY COMMISSION	1252650
L-WV-0051-1	TOWN OF MONONGAH	244600
L-WV-0080-0	UNION/WMS PUB SVC DIST	68880
L-WV-0096-1	CITY OF MANNINGTON	10960
L-WV-0132-0	TOWN OF LOST CREEK	251450
L-WV-0137-1	RITCHIE COUNTY COMM	164000
L-WV-0141-0	WETZEL COUNTY COMMISSION	872000

STATE OF WYOMING		70% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-WY-0004-2	CITY OF CHEYENNE	2510311
L-WY-0010-1	TOWN OF JACKSON	488730
L-WY-0020-1	TETON CNTY COMMISSIONERS	1125000
L-WY-0029-0	SHOSHONE TRIBE	614280
L-WY-0046-1	SHOSHONE/ARAPAHOE TRIBE	335417
L-WY-0055-1	ARAPAHOE TRIBE	1041290
L-WY-0056-1	ARAPAHOE TRIBE	565719
L-WY-0057-1	ARAPAHOE TRIBE	304703

STATE OF WYOMING		30% AREA
LOCATOR NO.	APPLICANT	LPW FUNDS
L-WY-0009-0	CITY OF EVANSTON	901035
L-WY-0024-1	CITY OF COKEVILLE	949497
L-WY-0045-0	CITY OF BUFFALO	1396135

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DECEMBER 21, 1976.

JOHN W. EDEN,
Assistant Secretary
for Economic Development.

[FR Doc.76-37854 Filed 12-22-76;8:45 am]

federal register

THURSDAY, DECEMBER 23, 1976

PART VII

FOREIGN CLAIMS SETTLEMENT COMMISSION

PRIVACY ACT OF 1974

Systems of Records

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

FOREIGN CLAIMS SETTLEMENT COMMISSION

PRIVACY ACT OF 1974

Notices of Systems of Records

Pursuant to 5 U.S.C. 522a(e)(4), the Foreign Claims Settlement Commission hereby publishes the systems of records as currently maintained by the agency. The systems were originally published at 40 FR 39023, and were amended at 40 FR 44757, 41 FR 2114, and 41 FR 50721. No other substantive changes have been made in the systems; the only changes are the correction of typographical errors, the entry of new telephone numbers, and changes of address.

Dated at Washington, D.C., on December 15, 1976.

Wayland D. McClellan,
General Counsel

FCSC—1

System name: BULGARIA, CLAIMS AGAINST (1st PROGRAM)—FCSC

System location: Washington National Records Center, GSA, 4205 Suitland Road, Wash., DC 20409. Alphabetical Index to system maintained at Foreign Claims Settlement Commission, 1111 20th Street, NW, Washington, DC 20579.

Categories of individuals covered by the system: U.S. Nationals who suffered certain property losses or damages in Bulgaria prior to Aug. 9, 1955.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title III, International Claims Settlement Act of 1949, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on Aug. 9, 1959.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—2

System name: BULGARIA, CLAIMS AGAINST (2nd PROGRAM)—FCSC

System location: Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

Categories of individuals covered by the system: US Nationals who suffered property losses in Bulgaria between Aug. 9, 1955, and July 2, 1963.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title III, International Claims Settlement Act of 1949, as amended, and US-Bulgarian Claims Agreement of July 2, 1963.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any; to Treasury Department for payment by authorized FCSC personnel; names and other data furnished by claimants used for verifying citizenship status with INS. Law Enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on Aug. 9, 1959.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—3

System name: CERTIFICATIONS OF AWARDS—FCSC

System location: Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: Individuals receiving awards under the International Claims Settlement Act of 1949, and War Claims Act of 1948.

Categories of records in the system: Names and addresses of claimants and amounts of awards certified to Treasury Department for payment. Name and address of claimant's representatives, if any, also included in certification voucher.

Authority for maintenance of the system: International Claims Settlement Act of 1949, as amended, and War Claims Act of 1948, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Award certifications prepared by authorized FCSC personnel and forwarded to Treasury Department for payment in accordance with statutory authority and Treasury Department regulations and procedures.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Contained in file folders

Retrievability: By voucher number and date of certification.

Safeguards: Records are maintained in file cabinets in locked rooms.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: From award portion of decisions as determined by FCSC.

FCSC—4

System name: CHINA, CLAIMS AGAINST COMMUNIST - FCSC

System location: Washington National Records Center, 4205 Suitland Road, Washington, DC 20409. Alphabetical Index to system maintained at Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579.

Categories of individuals covered by the system: US nationals who suffered property losses, death and disability in mainland China arising since Oct. 1, 1949.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization of claimant; nature and amount of claim; description, ownership and value of property; and evidence to support claim.

Authority for maintenance of the system: Title V, International Claims Settlement Act of 1949, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Adjudication of claim, issuance of decisions as to the validity and amounts of claims and issuance of certifications to each individual claimant as to amount determined by FCSC officials and personnel. Such amounts and copies of FCSC decisions are certified to the Secretary of State pending conclusion of any claims settlement agreement between US and China. Law Enforcement: in the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the Above.

Record source categories: Individual on whom the record is maintained.

FCSC—5

System name: CIVILIAN INTERNEES (VIETNAM)—FCSC

System location: Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: American citizens held by a hostile force in Southeast Asia during Vietnam conflict.

Categories of records in the system: Claim application form contains name and address, date and place of birth , birth certificates. Verification of internment furnished by State Department contains names, addresses and inclusive dates of internment.

Authority for maintenance of the system: Sec. 5(i), War Claims Act of 1948, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Adjudication of claims of American citizens and certification of awards to Treasury Department for payment by authorized FCSC personnel. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed by claim number. Cross-referenced by alphabetical index cards.

Safeguards: Security guards in building. Records maintained in file cabinets in locked rooms accessible only to authorized Commission personnel.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

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System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom record is maintained.

FCSC—6

System name: CORRESPONDENCE (GENERAL) - FCSC

System location: Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: Generally, US nationals suffering losses in foreign countries, also inquiries from Congressmen.

Categories of records in the system: Correspondence containing names and addresses of individual, description and location of property or other types of losses. Inquiries generally are related to claims, Commission procedures and other related matters not included under the 'Correspondence (Inquiries concerning claims in foreign countries)' system.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For dissemination of requested information to individuals by FCSC personnel. Correspondence may be referred to other concerned agencies on matters not within the jurisdiction of FCSC.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Alphabetical in file cabinets.

Retrievability: By name.

Safeguards: Security guards in building. Records maintained in file cabinets in locked rooms accessible only to authorized Commission personnel.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—7

System name: CORRESPONDENCE (INQUIRIES CONCERNING CLAIMS IN FOREIGN COUNTRIES)—FCSC

System location: Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: US nationals suffering losses in foreign countries, inquiries from Congressmen.

Categories of records in the system: Correspondence containing names and addresses of individuals and description and location of property or other types of losses. Inquiries generally are related to claims programs administered by FCSC. Records also include those transferred from State Department which may relate to such programs.

Authority for maintenance of the system: 5 U.S.C. 301, sec. 4(d) International Claims Settlement Act of 1949, as amended, and sec. 216, War Claims Act of 1948, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For dissemination of information to individual making inquiries by authorized FCSC personnel concerning various claims programs authorized under the International Claims Settlement Act of 1949, as amended, the War Claims Act of 1948, as amended, international claims agreements, and for notification purposes for newly authorized claims programs under which individuals may be affected.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Alphabetical in file cabinets.

Retrievability: By name.

Safeguards: Security guards in building. Records maintained in file cabinets in locked rooms accessible only to authorized Commission personnel.

Retention and disposal: Records maintained under 5 U.S.C 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—8

System name: CUBA, CLAIMS AGAINST—FCSC

System location: Washington National Records Center, GSA, 4205 Suitland Road, Washington, DC 20409. Alphabetical index to system maintained at Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: US nationals who suffered property losses, death and disability in Cuba since January 1, 1959.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization of claimant; nature and amount of claim; description, ownership and value of property; and evidence to support claim, including medical and death records in claims involving death and disability.

Authority for maintenance of the system: Title V, International Claims Settlement Act of 1949, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Adjudication of claim, issuance of decisions as to the validity and amounts of claims and issuance of certifications to each individual claimant as to amount determined by FCSC officials and personnel. Such amounts and copies of FCSC decisions are certified to the Secretary of State pending conclusion of any claims settlement agreement between US and Cuba. Law Enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—9

System name: CZECHOSLOVAKIA, CLAIMS AGAINST—FCSC

System location: Washington National Records Center, GSA, 4205 Suitland Road, Wash., DC 20409. Alphabetical index to system maintained at Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: US nationals who suffered property losses in Czechoslovakia after January 1, 1945.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title IV, International Claims Settlement Act of 1949, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:
Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained.

FCSC—10

System name: EAST GERMANY, REGISTRATION OF CLAIMS AGAINST—FCSC

System location: Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, D.C. 20579.

Categories of individuals covered by the system: US nationals who suffered certain property losses in East Germany.

Categories of records in the system: Claim registration form containing name and address of claimant and representative, if any, date and place of birth or naturalization, description, ownership, date of loss and value of property lost.

Authority for maintenance of the system: Title I, International Claims Settlement Act of 1949.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information received from individuals on registration forms is for use in the preparation of statistical reports which will form the basis for further discussions by the State Department for negotiations between the Governments of the United States and the German Democratic Republic for the settlement of claims of US nationals not otherwise settled. Registration forms filed will be used by FCSC personnel in the distribution of formal claim application forms in case a claims settlement agreement is reached at a future date.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Numerical order in file cabinets. Cross-reference alphabetical index.

Retrievability: By name.

Safeguards: Building employs security guards. Records are maintained in locked room accessible only to authorized FCSC personnel.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FCSC—11

System name: FEDERAL REPUBLIC OF GERMANY, QUESTIONNAIRE INQUIRIES FORM—FCSC

System location: Foreign Claims Settlement Commission, 1111 10th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: Individuals suffering losses in Eastern European countries, including Germany.

Categories of records in the system: Questionnaire from Federal Republic of Germany (augleichsamt) containing name, address, date and place of birth or naturalization description and location of property. Such information was furnished to Federal Republic of Germany by US residents who filed claims under the West German Federal Compensation Laws (BEG).

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To inform Federal Republic Of Germany Equalization of Burdens offices whether individuals who filed claims for losses compensable under the West

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German Federal Compensation Laws (BEG) also filed claims with the Foreign Claims Settlement Commission under US claims statutes and received compensation under such statutes for the same losses. Information furnished to FRG obtained from FCSC decisions or claim applications from individuals who filed claims with FCSC.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file cabinets.

Retrievability: By name.

Safeguards: Building security guards. Records are maintained in locked room accessible only to authorized FCSC personnel.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301- 3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as above.

Contesting record procedures: Same as above.

Record source categories: Questionnaire from Federal Republic of Germany (Equalization of Burdens Office).

FCSC—12

System name: Payroll records—(FCSC).

System location: General Services Administration, Region 3 Office; copies held by the FCSC. (GSA holds records for the FCSC under contract.)

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by FCSC and GSA employees to maintain adequate payroll information for the employees, and otherwise by FCSC and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix under General Personnel Files. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury, pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. 20579. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Executive Director.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Pub. L. 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB SA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. 20579.

Notification procedure: Refer to FCSC access regulations contained in 40 FR 39023.

Record access procedures: Refer to FCSC access regulations contained in 40 FR 39023.

Contesting record procedures: Refer to FCSC access regulations contained in 40 FR 39023.

Record source categories: The subject individual; the FCSC.

FCSC—13

System name: GENERAL PERSONNEL FILES—FCSC

System location: General Services Administration, Central Office; copies held by the Commission (FSA holds records for Commission under contract).

Categories of individuals covered by the system: Commission employees.

Categories of records in the system: General personnel information, including, among other data, training and travel records, applications, suggestions, position descriptions, request for and notification of personnel action, directory of attorneys, employee performance ratings and promotion appraisals, time and attendance records, security clearances, titles, SCD, DOB, grade, salary, employment history, home address, age, marital status, SSN, home telephone number, resume, and letters of recommendation. System contains copies of Civil Service Commission and GSA personnel forms, including, among others: property pass, fingerprint chart, security investigation data for sensitive position, data for nonsensitive or noncritical-sensitive position, US savings bond authorization, physical fitness inquiry for motor vehicle operators, application for leave, personal qualifications statement, operational emergencies relocation site, career objectives statement, employee record, recommendation for performance recognition, employee appraisal, employment staffing report, payroll change slip, roster of GSA officials, nationwide retirement eligibility report, alpha list of employees by service, organizational roster, notice of injury or occupational disease, claim for reimbursement for expenditures, individual manhour record, statement of earnings, promotion appraisal, and receipt for property.

Authority for maintenance of the system: 5 U.S.C., generally.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Completion of agency forms for requests for personnel actions, security clearances, training authorizations, travel authorizations, time and attendance records, reports, etc. Also used for issuing passes, etc. Information is used 'in house' for personnel evaluation and management. Information is disclosed to persons outside the agency for verifying employment/salary, preparing letters of reference at the request of the employee making travel and training arrangements, supplying data to non-Federal attorneys directories, and furnishing copies of performance appraisals to other government agencies when employees have applied for jobs elsewhere.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

APPENDIX

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violaiton of law, whether civil, criminal or regulatory in nature, and whether

arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit. Used by Executive Director and other authorized agency employees. Used for convenient reference to personnel information needed on a daily basis to complete reports, make payroll adjustments, take personnel action, and meet other administrative requirements within the Commission and GSA. Used also to supply information, as requested by employees, to persons outside the agency.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, computer printouts, and supervisors' card indices.

Retrievability: Manual by name, grade, title.

Safeguards: Filed in guarded buildings; records are available to authorized persons only.

Retention and disposal: Paragraph 9B25 of OAD P 1820.2.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Contact system manager listed above.

Contesting record procedures: Same as the above.

Record source categories: Official personnel records, Commission and GSA Personnel and Finance Offices, Supervisors, letters of reference or commendation furnished by agency officials or persons from private industry, educational information supplied by colleges and universities, the individual.

FCSC—14

System name: GENERAL FINANCIAL RECORDS—FCSC

System location: General Services Administration, Central Office; copies held by the Commission. (GSA holds records for Commission under contract.)

Categories of individuals covered by the system: Commission employees.

Categories of records in the system: SF1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Commission who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally; (also, Reorganization Plan No. 1 of 1954, 68 Stat. 1279).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix under General Personnel Files. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and tape.

Retrievability: Manual and automated by name.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition or records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Contact system manager listed above.

Contesting record procedures: Same as above.

Record source categories: The subject individual; the Commission.

FCSC—15

System name: HUNGARY, CLAIMS AGAINST (1st PROGRAM)—FCSC

System location: Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: US nationals who suffered certain property losses or damages in Hungary prior to Aug. 9, 1955.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title III, International Claims Settlement Act of 1949, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system or records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charge with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

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The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. Alphabetical index used for identification of claim.

Safeguards: Building employs security guards. Records are maintained in locked room accessible only to authorized FCSC personnel.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—16

System name: HUNGARY, CLAIMS AGAINST (2nd PROGRAM)—FCSC

System location: Foreign Claims Settlement Commission, 1111 20th ST., NW, Washington, DC 20579

Categories of individuals covered by the system: US nationals who suffered certain property losses in Hungary between Aug. 9, 1955, and March 6, 1973.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title III, International Claims Settlement Act of 1949, as amended, and US-Hungarian Claims Agreement of March 6, 1973.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law Enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil or criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. Alphabetical index used for identification of claim.

Safeguards: Building employs security guards. Records are maintained in locked room accessible only to authorized FCSC personnel.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be in accordance with 44 U.S.C 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FCSC—17

System name: INDEXES OF CLAIMANTS (ALPHABETICAL)—FCSC

System location: Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: Maintained on all individuals who filed claims for compensation under the statutes administered by the Foreign Claims Settlement Commission.

Categories of records in the system: 3 x 5 Index cards and data processing print-out indexes containing names of claimants, claim and decision numbers, date and disposition of claims, addresses and dates of date and disposition of claims. Addresses and dates of birth on index cards.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized Commission personnel for identification of individual claims and to obtain information concerning disposition of claims where record systems have been destroyed.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper index cards contained in metal cardex containers. Data processing index print-outs stored on shelves in cardboard binders.

Retrievability: By name.

Safeguards: Security guards in building. Records maintained in locked rooms accessible only to authorized Commission personnel.

Retention and disposal: Permanent records. Disposition will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individuals on whom record is maintained and information obtained by actions taken by the Foreign Claims Settlement Commission as a result of adjudication of individual claims.

FCSC—18

System name: ITALY, CLAIMS AGAINST (1st PROGRAM)—FCSC

System location: Washington National Records Center, GSA, 4205 Suitland Road, Washington, DC 20409. Alphabetical index to system maintained at Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: US nationals who suffered losses to property attributable to Italian military action arising out of World War II.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title III, International Claims Settlement Act of 1949, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenshp status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 R.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to The Washington National Records Center after the completion of the claims program on Aug. 9, 1959.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash. DC 20579. 202/653-6156.

Notification procedure: Same as the above

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—19

System name: ITALY, CLAIMS AGAINST (2nd PROGRAM)—FCSC

System location: Washington National Records Center, GSA, 4205 Suitland Road, Wash,. DC 20409. Alphabetical index to system maintained at Foreign Claims Settlement Commission, 1111 20th St, NW, Wash., DC 20579.

Categories of individuals covered by the system: US nationals who suffered certain property losses attributable to military action arising out of World War II. Benefits extended to late US nationals, persons who did not file under the 1st Italian Claims Program and for property losses arising in territory ceded pursuant to the Treaty of Peace with Italy, which claims had been excluded under the 1st program.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title III, International Claims Settlement Act of 1949, amended by Public Law 85-604.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of right to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign charged with the responsebility of investigating or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on December 24, 1971.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—20

System name: MICRONESIA, CLAIMS ARISING IN—FCSC

System location: Washington National Records Center, GSA 4205 Suitland Road, Wash, D.C. 20409. Alphabetical index to system maintained at Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579.

Categories of individuals covered by the system: Inhabitants of Micronesia, including US nationals, who suffered damages to property, disability and death arising out of World War II and arising during the period from the dates of the securing of the various islands of Micronesia to July 1, 1951.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth, nature and amount of claim; description, ownership and value of property; and evidence to support claim for purpose of receiving compensation.

Authority for maintenance of the system: Micronesian Claims Act of 1971.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under authority of the Micronesian Claims Act of 1971; notifications to claimants' right to appeal; and preparation of certifications of awards, if any, to Secretary of Interior for payment by authorized personnel of Foreign Claims Settlement Commission assigned to duty in the Trust Territory of the Pacific Islands and locally hired employees

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of the Micronesian Claims Commission Upon completion of the program, the Commission is required under the Micronesian Claims Act to certify to the FCSC, the Secretary of the Interior, and the Congress of the United States (1) a list of all claims allowed and the amount awarded, (2) a list of all claims disallowed and (3) a copy of the decision rendered in each case.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. Name index used to identify claim.

Safeguards: Security guard in building. Records are maintained in locked room accessible only to authorized Commission personnel.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful or necessary.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedores: Same as the above.

Record source categories: Individuals on whom the record is maintained.

FCSC—21

System name: PANAMA, CLAIMS AGAINST—FCSC

System location: Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

Categories of individuals covered by the system: US nationals who suffered loss of property in Panama as a result of a judgement of the Supreme Court of Panama on October 20, 1931, nullifying title to certain land in Panama.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; description , ownership, and value of property, and evidence to support claim for the purpose of receiveing compensation.

Authority for maintenance of the system: Title I, International Claims Settlement Act of 1949 and Panamanian Claims Convention of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regultion or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintaind in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301- 3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—23

System name: POLAND, CLAIMS AGAINST—FCSC

System location: Washington National Records Center, 4205 Suitland Road, Washington, DC 20409

Categories of individuals covered by the system: US nationals who suffered property losses in Poland due to nationalization or other taking of such property.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title I, International Claims Settlement Act of 1949, as amended, and US-Poland Claims Agreement of July 16, 1960.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program, statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on March 31, 1966.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—24

System name: PRISONERS OF WAR (PUEBLO) - FCSC

System location: Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: Members of the US Armed Forces or any persons (military or civilian) assigned to duty on the USS Pueblo who were captured by military forces of North Korea on January 23, 1968, held prisoner by such forces.

Categories of records in the system: Claim application form containing name and address of claimants, dates and places of birth, branch of service and military service number. In case of death, date, place and name of spouse, names, address and date of birth of surviving children, name and address of parents and VA claim number. Proof of death if no VA claim.

Authority for maintenance of the system: Section 6(e), War Claims Act of 1948, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records used for adjudication of claims for detention benefits, issuance of decisions concerning eligibility of claimant to receive compensation; notifications to claimants of rights to appeal; and preparation of certifications of awards to Treasury Department for payment by authorized Commission personnel. Verifications from State Department include names and addresses and inclusive dates of detention.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By claim number. Cross-referenced by alphabetical index cards which contain claim numbers.

Safeguards: Security guards in building. Records are maintained in locked rooms accessible only to authorized Commission personnel.

Retention and disposal: Records maintained under 5 U.S.C 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—25

System name: PRISONERS OF WAR (VIETNAM)—FCSC

System location: Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: Members of Armed Forces of the United States who were captured and held by a hostile force during the Vietnam conflict beginning February 28, 1961.

Categories of records in the system: Claim application form containing name and address of claimant; date and place of birth, branch of service and military service number. In case of death, date, place, name of spouse, names, addresses and dates of birth of surviving children, name and address of parents and VA claim number.

Authority for maintenance of the system: Section 6(f), War Claims Act of 1948, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records used for adjudication of claims for detention benefits; issuance of decisions concerning eligibility of claimant to receive compensation; notification to claimant of rights of appeal; and preparation of certification of awards to Treasury Department for payment by authorized Commission personnel. Verification of capture status obtained from rosters or casualty reports furnished by the respective military establishments.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made

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at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By claim number. Cross-referenced by alphabetical index cards which contain claim numbers.

Safeguards: Security guards in building. Records are maintained in locked rooms accessible only to authorized Commission personnel.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—26

System name: ROSTERS OF PRISONERS OF WAR AND CIVILIAN INTERNEES—FCSC

System location: Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. Rosters on completed programs located at Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

Categories of individuals covered by the system: Members of the US Armed Forces and civilian American citizens who were captured and held by an enemy force during World War II, Korean conflict, Vietnam conflict and the USS Pueblo incident.

Categories of records in the system: Data processing print-outs containing names, rate or rank, military service number, military organization and inclusive dates of internment. Civilian internee listings include names and addresses and inclusive dates of internment.

Authority for maintenance of the system: Sections 5 and 6, War Claims Act of 1948, as amended, and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records used to verify detention status in adjudication of claims by authorized Commission personnel.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file cabinets or storage boxes.

Retrievability: By subject. Records retrieved from Records Center by accession number and description of record.

Safeguards: Security guards in building. Locked file cabinets in locked rooms accessible only to authorized Commission personnel.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—27

System name: RUMANIA, CLAIMS AGAINST (1st PROGRAM)—FCSC

System location: Washington National Records Center, GSA 4205 Suitland Road, Washington, DC 20409. Alphabetical index to system maintained at Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: US nationals who suffered certain property losses or damages in Rumania prior to August 9, 1955.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title III, International Claims Settlement Act of 1949, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numberically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301- 3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on Aug. 9, 1959.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—28

System name: RUMANIA, CLAIMS AGAINST (2nd PROGRAM)—FCSC

System location: Washington National Records Center, GSA, 4205 Suitland Road, Wash., DC 20409. Alphabetical Index to system maintained at Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579.

Categories of individuals covered by the system: US nationals who suffered certain property losses in Rumania between Aug. 9, 1955, and March 30,1960.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of

claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title III, International Claims Settlement Act of 1949, as amended, US-Rumania Claims Agreement of March 30, 1960.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on December 24, 1971.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—29

System name: SOVIET UNION, CLAIMS AGAINST—FCSC

System location: Washington National Records Center, GSA, 4205 Suitland Road, Wash., DC 20409, Alphabetical Index to system maintained at Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579.

Categories of individuals covered by the system: US nationals suffering loss of property in Russia prior to November 16, 1933, and claims by individuals based upon liens acquired with respect to property in the US assigned to US Government by the Soviet Government under Litvinov Assignment of November 16, 1933.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title III, International Claims Settlement Act of 1949, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on August 9, 1959.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—30

System name: YUGOSLAVIA, CLAIMS AGAINST (1st PROGRAM)—FCSC

System location: Washington National Records Center , GSA, 4205 Suitland Road, Washington, DC 20409. Alphabetical Index to system maintained at Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: US nationals who suffered property losses in Yugoslavia prior to July 19, 1948.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title I, International Claims Settlement Act of 1949, and US-Yugoslavia Claims Agreement of July 19, 1948.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on August 9, 1959.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Washington, DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

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by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Under GSA security safeguards at Washington National Records Center.

Retention and disposal: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on December 31, 1954.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St. NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individual on whom the record is maintained.

FCSC—31

System name: YUGOSLAVIA, CLAIMS AGAINST (2nd PROGRAM)—FCSC

System location: Washington National Records Center, GSA, 4205 Suitland Road, Washington, DC 20409. Alphabetical index to system maintained at Foreign Claims Settlement Commission, 1111 29th St., NW, Washington, DC 20579.

Categories of individuals covered by the system: US nationals who suffered losses in Yugoslavia which occurred between July 19, 1948, and November 5, 1964.

Categories of records in the system: Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

Authority for maintenance of the system: Title I, International Claims Settlement Act of 1949, as amended, and US-Yugoslavia Claims Agreement of November 5, 1964.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the ACt; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim.

Safeguards: Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on July 15, 1969.

System manager(s) and address: Executive Director, Foreign Claims Settlement Commission, 1111 20th St., NW, Wash., DC 20579. 202/653-6156.

Notification procedure: Same as the above.

[FR Doc.76-37230 Filed 12-15-76;2:38 pm]

federal register

THURSDAY, DECEMBER 23, 1976

PART VIII

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

PRIVACY ACT OF 1974

Systems of Records

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OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

PRIVACY ACT OF 1974

Report of Systems and New Routine Uses

Pursuant to 5 U.S.C. 552a(e)(4), the Occupational Safety and Health Review Commission publishes this notice that the systems of records maintained by the Commission and originally published at 40 FR, 40060, August 29, 1975, remains unchanged except for the following:

1. A new system of records, "Payroll Records," is established, with routine uses as proposed.

2. An appendix is added, which will apply to all systems maintained by the Commission and which contains new proposed routine uses for all such systems.

The routine uses of the Payroll Records system and those contained in the Appendix are published for comment, and any person interested in commenting on such routine uses may do so by submitting comments in writing to the Executive Secretary, OSAHRC, 1825 K Street, NW., Washington, D.C. 20006. Comments must be submitted within thirty days of publication of this notice. (January 24, 1977). The routine uses of the system will become final January 24, 1977, and without further publication, unless OSHRC publishes a notice to the contrary.

Dated at Washington, D.C., on December 15, 1976.

William S. McLaughlin,
Executive Secretary.

OSAHRC—1

System name: Travel records—OSAHRC

System location:

Office of Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Categories of individuals covered by the system: Names of persons who use OSAHRC funds for travel

Categories of records in the system: This system of records shows all places to which travel was accomplished and the costs of such travel including subsistence costs.

Authority for maintenance of the system: 29 U.S.C. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system of records is used for budgetary purposes within the agency and for reporting to Members of Congress and other agencies when appropriate.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in folders.

Retrievability: These records are indexed by the names of the individuals on whom they are maintained.

Safeguards: Access to and use of such records are limited to those persons whose official duties require such access.

Retention and disposal: The records are maintained indefinitely.

System manager(s) and address:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Individuals interested in inquiring about their records should notify the System Manager.

Record access procedures: Individuals who wish to gain access to their records should notify in writing, including their name, the System Manager.

Contesting record procedures: Individuals who wish to contest their records should notify in writing, including their name, the System Manager.

Record source categories: Information in this system of records comes from the individual to whom it applies.

OSAHRC—2

System name: Mailing lists for news releases, speeches, reports—OSAHRC

System location:

Office of Information and Publications
1825 K Street, NW.
Washington, D.C. 20006

Categories of individuals covered by the system: This system contains the names of all persons who routinely are sent information on OSAHRC.

Categories of records in the system: This system contains information relating to the individual's address, business affiliation, and the information he desires to receive.

Authority for maintenance of the system: Title 5, U.S. Code Sec. 3301; 29 C.F.R. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in these records are used to mail information relating to case dispositions, speeches, and statistical reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored on mag tape and on labels.

Retrievability: These records are indexed by the names of the individuals on whom they are maintained.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are maintained indefinitely unless the individual requests that it be disposed and then it is disposed immediately.

System manager(s) and address:

Director of Information
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Inquiries should be directed to the System Manager.

Record access procedures: Same as above

Contesting record procedures:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system either comes from the individual to whom it applies or was derived from private source directories.

OSAHRC—3

System name: Commission members case processing—OSAHRC

System location:

Office of Management Information Systems
1825 K Street, NW.
Washington, D.C. 20006

Categories of individuals covered by the system: Commission members formerly or currently employed by OSAHRC who call cases for review and/or issue decisions

Categories of records in the system: This system contains names of Commission members and the docket numbers of cases they have called for review. It also shows the respondent's name; the hearing site; the date of receipt of the case, assignment to the judge, decision filing; date case called for review and final order date.

Authority for maintenance of the system: 29 U.S.C. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information may be used:

a. To respond to a request from a Member of Congress as to the status of a case or the number of cases a member has disposed of or his holding in a case.

b. To respond to a public request for information regarding the status of a case or a listing of cases reviewed or disposed of by a member or a member's holding in a case.

c. As a data source to make management decisions as to case processing activities.

d. For statistical and budgetary purposes to measure member activity.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic disk and in binders.

Retrievability: Records are indexed by name, docket number, date case called for review and final order date.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are retained permanently.

System manager(s) and address:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Inquiries should be directed to the

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record access procedures:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Contesting record procedures:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system either comes from the individual to whom it applies or is derived from information he supplied.

OSAHRC—4

System name: Administrative Law Judge case processing—OSAHRC

System location:

Office of Management Information Systems
1825 K Street, NW.
Washington, D.C. 20006

Categories of individuals covered by the system: Administrative law judges formerly or currently employed by OSAHRC who are assigned to hear and decide cases

Categories of records in the system: This system contains names of judges and the docket numbers of cases assigned to them. It also shows the respondent's name; the hearing site; the date of assignment to the judge, the date of hearing, date of possible settlement; date of receipt of transcript and number of pages; date of receipt of briefs and number of days pending before the judge.

Authority for maintenance of the system: 29 U.S.C. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information may be used:

a. To respond to a request from a Member of Congress as to the status of a case or the number of cases a judge has disposed.

b. To respond to a public request for information regarding the status of a case or a listing of cases assigned or disposed of by a judge.

c. As a data source to make management decisions as to case processing activities.

d. For statistical purposes and budget preparation to measure judge activity.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic disk and in binders.

Retrievability: Records are indexed by judge name, docket number, etc.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are retained permanently.

System manager(s) and address:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Inquiries should be directed to the

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record access procedures:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Contesting record procedures:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system either comes from the individual to whom it applies or is derived from information he supplied.

OSAHRC—5

System name: Administrative Law Judge case assignments-OSAHRC

System location:

Office of Management Information Systems
1825 K Street, NW.
Washington, D.C. 20006

Categories of individuals covered by the system: Administrative law judges formerly or currently employed by OSAHRC who are assigned to hear and decide cases

Categories of records in the system: This system contains names of judges, their mailing addresses and business telephone numbers. It can also show the dates of entry on duty with the agency and dates of transfer, termination or retirement. Also, it can show the number of cases currently assigned, the judge's pending caseload and the number of cases pending more than 180 days.

Authority for maintenance of the system: 29 U.S.C. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information may be used:

a. To respond to a request from a Member of Congress as to the number of cases assigned to a judge currently or to the assignments by regional office city.

b. To respond to a public request for information regarding the number of cases in the hands of a judge or in a regional office city.

c. As a data source to make management decisions as to case assignments to judges.

d. To issue notices and correspondence regarding judge assignments.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic disk and in binders.

Retrievability: Records are indexed by name, date of assignment and regional office, dates of reporting for duty to the agency or regional office.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are retained permanently.

System manager(s) and address:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Inquiries should be directed to the

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record access procedures:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Contesting record procedures:

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Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system comes from the Executive Secretary and the case assignment clerk.

OSAHRC—6

System name: Applications for employment—OSAHRC

System location:

Personnel Office
1825 K Street, NW.
Washington, D.C. 20006

Categories of individuals covered by the system: All those desiring employment with OSAHRC who have sent in a Form 171 or resume

Categories of records in the system: This system contains information relating to birth date, veteran preference, tenure, past and present salaries, grades and position titles, awards and other information relating to the status of the individual, education and test scores.

Authority for maintenance of the system: Title 5, U.S. Code Sec. 3301, Sec. 1302

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in the records may be used to refer applications to those sections within the agency having position vacancies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in folders.

Retrievability: These records are indexed by the names of the applicants.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: The records are maintained up to one year and then are destroyed.

System manager(s) and address:

Personnel Officer
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Inquiries should be directed to

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record access procedures: Individuals who wish to gain access to their record should request in writing, including their name, to

Personnel Officer
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Contesting record procedures: Individuals who wish to contest their records should direct such a request, in writing, including their name, to

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system comes from the individual to whom it applies.

OSAHRC—7

System name: Parties, correspondence records—OSAHRC

System location:

Office of Management Information Systems
1825 K Street, NW.
Washington, D.C. 20006

Categories of individuals covered by the system: This system includes names of representatives of respondent, DOL Solicitor's Office and/or union or employee representatives involved in OSAHRC cases.

Categories of records in the system: This system of records contains the addresses and affiliation of all parties to OSAHRC cases. Also, titles of representatives and party type are maintained.

Authority for maintenance of the system: 29 U.S.C. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system of records is used to issue notices and correspondence to parties in OSAHRC cases.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained on magnetic disk and in folders.

Retrievability: These records are indexed by the docket number of the case proceeding. Retrieval can be by name of the individual on whom they are maintained, by state, zip code, by title and by party type.

Safeguards: Access to and use of such records are limited to those persons whose official duties require such access.

Retention and disposal: The records are maintained on magnetic disk indefinitely, eventually being transferred to magnetic tape. They are retained in folders for 6 months following the final disposition in a case and then transferred to the Federal Records Center, St. Louis, Missouri. They are destroyed by the Federal Records Center when the records are 5 years old.

System manager(s) and address:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Individuals interested in inquiring about their records should do so in writing, including their name to the

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record access procedures: Individuals who wish to gain access to their records should contact in writing, including their name, the

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Contesting record procedures: Individuals wishing to contest their records should do so by directing the request, in writing, including their name, to the:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied.

OSAHRC—8

System name: Payroll Records—Occupational Safety and Health Review Commission

System location: General Services Administration, Region 3 Office; copies held by the Commission. (GSA holds records for the Commission under contract.)

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees, and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally. Also, 29 U.S.C. 651, et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or

other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the OSHRC Director of Personnel. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to the tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5220), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Director of Personnel.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; OSHRC copies stored in secure room and locked file drawers; released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Director of Personnel
Occupational Safety and Health Review Commission
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Individuals interested in inquiring about their records should notify the System Manager.

Record access procedures: Individuals who wish to gain access to their records should notify in writing (including their name), the System Manager.

Contesting record procedures: Individuals who wish to contest their records should notify in writing (including their name), the System Manager.

APPENDIX—OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintianing civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in respose to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

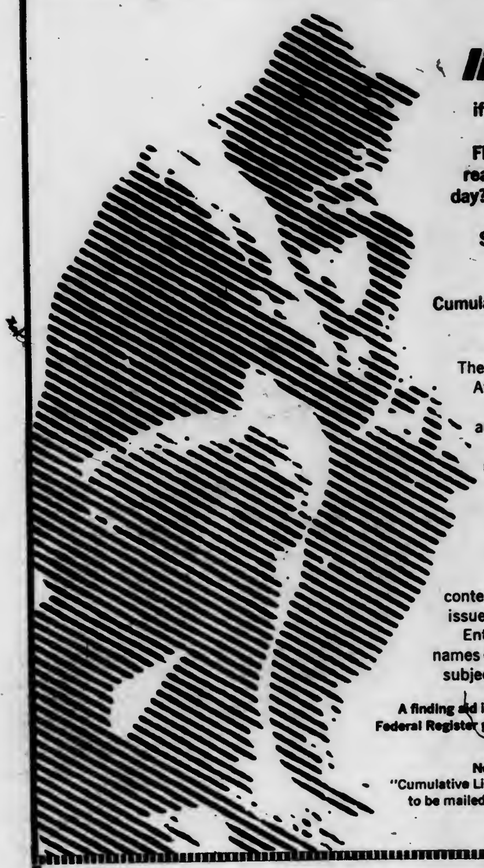
A record of this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc.76-37378 Filed 12-16-76;11:26 am]

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 1701—PUBLIC INFORMATION

REA Bulletins: Preservative Treatment of Wood Poles, Stubs, and Anchor Logs

Appendix A to Part 1701, Title 7, is hereby amended to provide for the revision of REA Bulletin 44–2:345–1, REA Specification DT–5C:PE–9 for Wood Poles, Stubs, and Anchor Logs and for Preservative Treatment of these Materials.

In accordance with proposed rulemaking procedures, notice of the proposed revision of REA Bulletin 44–2:345–1 was published in the FEDERAL REGISTER on March 5, 1976 (41 FR 9557). Interested persons were given 30 days in which to submit written data, views or comments.

The only comment received as a result of the notice of the proposed revision took exception to the preservative retention requirements for LPG treated poles stated in Table 10 of the proposed specification.

In the revision of the specification, REA has proposed an assay of two zones (outer and inner), rather than an assay of only an inner zone for LPG treated poles. The commentator did not object to the two-assay zone requirement, but did recommend that REA specify the same retentions for both the LPG treatment and the penta in heavy solvent treatment. The exception by the commentator was based essentially on the proposed retention requirement in the outer assay zone (zero to 0.5 inch for Douglas fir and the pine species, and zero to 0.6 inch for western larch and the cedar species for which only the outer assay zone will be required).

The proposed zone assays and retentions are intended to improve the quality of LPG treated poles and are considered necessary because of field experience. The proposed retention in the outer assay zone is based on the requirements of Federal Specification TT–W–00571J. The Federal specification requires an assay of only one zone, which in the thin sapwood species is a narrow zone near the pole surface. This narrow assay zone near the pole surface is comparable to REA's proposed outer assay zone, and for the outer zone we have proposed the same retention value as that in the Federal specification for the narrow zone near the pole surface.

After consideration of the exception and supporting statements, and after an extensive review of available field data and published information including a comparison of the proposed specification requirements with Federal Specification TT–W–00571J, REA has decided that the proposed requirements are reasonable.

Accordingly, revised REA Bulletin 44–2:345–1 is being issued as proposed with an effective date of January 1, 1977.

Dated: December 14, 1976.

DAVID A. HAMIL,
Administrator.

[FR Doc.76–37562 Filed 12–23–76;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

Group Licensing for Certain Medical Uses

Notice is hereby given of the amendment of the Nuclear Regulatory Commission's regulation "Human Uses of Byproduct Material," 10 CFR Part 35.

Section 35.100 of 10 CFR Part 35 lists groups of medical uses of radioisotopes that have similar requirements for user training and experience, facilities and equipment, and radiation safety procedures.

The notice of proposed rule making that was published in the FEDERAL REGISTER on January 21, 1974 (39 FR 2384) stated that the groups of licensed uses would be amended from time to time to add new radiopharmaceuticals, sources, devices, and uses as they are developed.

The amendment of 10 CFR 35.100(c)(3)(i) adds the use of sulfur colloid for bone marrow imaging. This change in Group III conforms with the Group II, 10 CFR 35.100(b)(21), use of technetium-99m as labeled sulfur colloid for liver, spleen, and bone marrow imaging.

Because this amendment relates solely to procedural matters, the Commission has found that good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary. Since the amendment relieves licensees from restrictions under regulations currently in effect, it may become effective without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 35 is published as a document subject to codification.

1. Section 35.100 of 10 CFR Part 35 is amended by revising § 35.100(c)(3)(i) to read as follows:

• • • • • • •

§ 35.100 Schedule A—Groups of medical uses of byproduct material.

• • • • • • •

(c) *Group III.* Use of generators and reagent kits for the preparation and use of radiopharmaceuticals containing byproduct material for certain diagnostic uses.

• • • • • • •

(3) Reagent kits for prepartion of technetium-99m labeled;

(i) Sulfur colloid for liver, spleen, and bone marrow imaging.

• • • • • • •

Effective date: This amendment becomes effective on December 27, 1976.

(Secs. 81, 161b, Pub. L. 83–703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201); Sec. 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Maryland this 8th day of December 1976.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.76–37939 Filed 12–23–76;8:45 am]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 1—INVESTMENT SECURITIES REGULATION

Editorial Revision of Undesignated Center Heads

The existing undesignated center heads following §§ 1.12 and 1.226 suggest that a different category of ruling follows each center head. Since this is not the case the existing center heads are being replaced by a single revised center head more accurately describing the rulings which follow.

12 CFR Part 1 is amended by rescinding the undesignated center head following § 1.226 and by revising the undesignated center head following § 1.12 to read as follows:

SECURITIES ELIGIBLE FOR PURCHASE, DEALING IN AND UNDERWRITING; LIMITATIONS ON HOLDINGS

Dated: December 17, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76–37793 Filed 12–23–76;8:45 am]

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Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Regulation OR-105, Amendment 51]

PART 385—DELEGATION AND REVIEW OF ACTION UNDER DELEGATION: NONHEARING MATTERS

Delegation to Chief, Passenger and Cargo Rates Division, Bureau of Economics, To Issue Lists of Carrier Parties to Montreal Agreement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., December 16, 1976.

Effective: December 16, 1976.

Adopted: December 16, 1976.

Under existing practice the Board periodically issues and distributes an updated list of carrier parties to Agreement C.A.B. 18900 (the Montreal Agreement) providing for increased liability limitations and waiver of defenses under Article 20(1) of the Warsaw Convention or the Hague Protocol. Issuance of these lists involves no policy issues or other matters warranting the Board's consideration. Thus, the periodically recurring preparation and submission of drafts of the lists and appropriate covering letters, presently done by the staff of the Passenger and Cargo Rates Division of the Bureau of Economics, for final Board issuance, entails an unnecessary administrative workload. Accordingly, the Board is hereby delegating to the Chief, Passenger and Cargo Rates Division, the authority to maintain, issue, and distribute such lists.

Since this amendment affects a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that the rule may be effective immediately.

Accordingly, the Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385) effective December 16, 1976, as follows:

Amend § 385.14 by adding a new paragraph (k) to read as follows:

§ 385.14 **Delegation to the Chief, Passenger and Cargo Rates Division, Bureau of Economics.**

* * * * * *

(k) Maintain, issue, and distribute lists of all carrier parties to Agreement 18900 (Montreal Agreement) providing for increased liability limitations on personal injury or death and waiver of defenses under Article 20(1) of the Warsaw Convention or the Hague Protocol.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc.76-37904 Filed 12-23-76;8:45 am]

Title 17—Commodity and Securities Exchange

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5767A]

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Registration of Securities To Be Offered or Sold Pursuant to Certain Employee Benefit Plans; Correction

In FR Doc. 76-35227 appearing at page 52662 in the FEDERAL REGISTER of December 1, 1976 (Securities Act Release No. 33-5767, November 22, 1976), the following corrections should be made.

I. On page 52665, the Calculation of Registration Fee portion of the cover page of Form S-8 should be changed by substituting "Proposed maximum offering price per share" for "Proposed minimum offering price per share," so that that portion now reads as follows:

Title of securities to be registered	Calculation of registration fee			Amount of registration fee
	Amount to be registered	Proposed maximum offering price per share	Proposed maximum aggregate offering price	

II. On page 52665, column 3, Note 3 to General Instruction E should be changed by substituting the word "person" for the word "plan" so that the Note now reads as follows:

3. The term "person" as used in General Instruction E shall be the same as is set forth in Rule 144 (a)(2) under the Act.

III. On page 52666, column 1, Instruction 3 of Item 3 of "Information Required in the Prospectus" should be deleted entirely and the following substituted therefor:

3. In case a number of options are outstanding having different prices and expiration dates, the options may be grouped by prices and dates. If this produces more than five separate groups then there may be shown only the range of the expiration dates and the average purchase prices, i.e., the aggregate purchase price of all securities of the same class called for by all outstanding options to purchase securities of that class divided by the number of securities of such class so called for.

IV. On page 52667, column 1, Instruction 1 to Item 14 of "Information Required in the Prospectus" should be changed by substituting "Summary of Operations" for "Summary of Earnings" so that Instruction 1 now reads as follows:

Instructions.—1. If the annual report of the issuer to its security holders for its last fiscal year includes a summary of operations substantially meeting the above requirements and Management's Discussion and Analysis of the Summary of Operations, when applicable, such summary and discussion may be incorporated by reference in the prospectus, provided copies of the report containing such information are filed as an exhibit to the registration statement.

V. On page 52667, column 1, Instruction 2 to Item 14 should be changed by deleting the word "net" from the phrase "net income before extraordinary items" so that Instruction 2 now reads as follows:

2. Subject to appropriate variation to conform to the nature of the business, the following items shall be included: net sales or operating revenues; cost of goods sold or operating expenses (or gross profit); interest charges; income taxes; income before extraordinary items; extraordinary items, and net income.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 17, 1976.

[FR Doc.76-37780 Filed 12-23-76;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket Nos. CP75-96 and RM77-6; Order No. 558A]

PART 2—GENERAL POLICY AND INTERPRETATION

Statement of Procedures Prescribed for the Implementation of the Alaska Natural Gas Transportation Act of 1976

Pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976, Pub. L. No. 94-586, particularly sections 3 and 5 thereof (90 Stat. 2903-2906; 15 U.S.C. 719a and 15 U.S.C. 719c) and pursuant to the provisions of the Natural Gas Act, particularly sections 4, 5, 7, 8, 10, 14, 15, 16 and 23 thereof (52 Stat. 822, 823, 824, 825, 826, 828, 829, 830; 56 Stat. 83, 84; 61 Stat. 459, 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, 717g, 717i, 717m, 717n, 717o and 717w), the Commission will amend § 2.100 by adding a new subsection (d), § 2.100, Part 2, General Policy and Interpretation, in Subchapter A—General Rules, Chapter I, Title 18 of the Code of Federal Regulations. On December 14, 1976, the Commission issued Order No. 558, adopting certain procedures under the Alaska Natural Gas Transportation Act (Act). This order is in furtherance of the Commission's responsibilities under the Act.

The Commission hereby provides for the appointment of a delegate who may receive the presentation of data, views and arguments relative to the issues in this proceeding. This delegate, and those working with him, shall request information and assistance from other Federal agencies, as contemplated under section 5(b)(3) of the Act, as well as from persons or agencies in the private sector, but not from the applicants to this proceeding.

Under the timetable established by the Alaska Natural Gas Transportation Act, and Commission Order No. 558, issued December 14, 1976, the Commission will have only the period between February 1, 1977, and May 1, 1977, to comply with all of its responsibilities under the Act and issue a recommendation to the President. It may develop that the Commission will find that compliance with its responsibilities requires the preparation or consideration of material beyond that in the record before the Administrative Law Judge. If such work were not to begin until February 1, the Commission might find it impossible to comply with its responsibilities under the Act. By providing for the appointment of a delegate and his staff by official letter from the Chairman, this work may commence at once.

To facilitate the work of this group, the Commission hereby suspends the operation of the ex parte rule, 18 CFR § 1.4 (d), with regard only to the delegate and his staff, and with regard only to this proceeding to the extent specified herein.

The delegate and his staff shall not, however, communicate with the Administrative Law Judge, or any person working with him, or the Commissioners or their personal staffs, concerning any matter of substance and any of the data gathered during their activities. At some point in the future it may be appropriate for the Commission by order to receive such communications, or to suspend the ex parte rules entirely with regard to its own operations. However, any such action would be a matter for future consideration.

The action here is intended only to facilitate the preparation and gathering of information, the use of which will be determined at a later date.

The Commission finds: (1) It is necessary and appropriate for purposes of the implementation of the provisions of the Alaska Natural Gas Transportation Act, 15 U.S.C. 719, et seq., and the provisions of the Natural Gas Act, 15 U.S.C. 717(a), et seq., to amend Section 2.100, Part 2, General Policy and Interpretation, Subchapter A, General Rules, Chapter I, Title 18, Code of Federal Regulations, by the addition of subsection (d).

(2) In view of the purpose, intent, and effect of the amendment, good cause exists for making it effective upon issuance of this order.

The Commission, acting pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, et seq., particularly sections 3 and 5 thereof (90 Stat. 2903, 2904, 2905, 2906; 15 U.S.C. 719a and 719c), and pursuant to the provisions of the Natural Gas Act, particularly Sections 4, 5, 7, 8, 10, 14, 15, 16, and 23 thereof (52 Stat. 822, 823, 824, 825, 826, 828, 829, 830; 56 Stat. 83, 84; 61 Stat. 459, 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, 717g, 717i, 717m, 717n, 717o and 717w), orders:

(A) Section 2.100, Part 2, General Policy and Interpretation, Subchapter A, General Rules, Chapter I, Title 18, Code of Federal Regulations, is hereby amended by adding a new paragraph (d) to read as follows:

§ 2.100 **Statement of Procedures Prescribed For the Implementation of The Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, et seq.**

* * * * * *

(d) A delegate, to be designated by the Chairman, is to be appointed to receive data, views and arguments. Additional persons to work with the delegate shall be designated by letter from the Chairman. With regard to such persons, and with regard only to matters covered by the Alaska Natural Gas Transportation Act of 1976, the operation of 18 CFR 1.4(d) is suspended. The delegate and his staff shall not communicate any matters received under the above suspension of the rules to the Administrative Law Judge or his staff, or any of the Commissioners or their personal staffs, except as may be required by further order of the Commission.

(B) The amendment provided for herein shall be effective immediately upon issuance. Such amendment shall expire upon the selection of a transportation system by the Congress, or upon the termination of The Alaska Natural Gas Transportation Act of 1976 pursuant to section 20 thereof, or as otherwise provided by law.

(C) The procedures promulgated herein are subject to further Commission order as may be necessary and appropriate.

(D) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37861 Filed 12-23-76;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 350—REGULATIONS GOVERNING BOOK-ENTRY TREASURY BILLS

Department of the Treasury Circular, Public Debt Series No. 26-76, dated December 2, 1976 (31 CFR Part 350), is hereby amended:

(1) To indicate that the provisions of § 350.6(a)(2) describing how book-entry Treasury bill accounts should be maintained thereunder represent Department of the Treasury recommendations relative to the maintenance of such accounts;

(2) To clarify the provisions of § 350.14(a) to indicate that requests for reinvestment of maturing Treasury bills held under Subpart C would be made by the depositor "in whose name the account is maintained"; and

(3) To change the provisions of § 350.17(f), pertaining to the issuance of definitive Treasury bills to eligible investors, to make clear that such bills would be available for periods co-extensive with their maturity dates.

As amended, the above sections read as follows:

31 CFR Part 350 is amended as follows: Section 350.6 is amended by revising paragraph (a)(2) as set forth below:

§ 350.6 **Book-entry Treasury bill accounts.**

* * * * * *

(a) * * *

(2) *Identification of accounts.* Book-entry accounts may be established in such form or forms as customarily permitted by the entity (e.g., member bank, or other banking or thrift institution, or a securities dealer) maintaining them. The recommended identification for each such account would include data to permit both customer identification by name, address and taxpayer identifying number, as well as a determination of the Treasury bills being held in such account by amount, maturity date and CUSIP number, and of transactions relating thereto.

* * * * * *

Section 350.14 is amended by revising paragraph (a) as set forth below:

§ 350.14 **Reinvestment or payment at maturity.**

(a) *Request for reinvestment.* Upon the request of the depositor in whose name the account is maintained, book-entry Treasury bills held therein will be reinvested at maturity, i.e., their proceeds at maturity will be applied to the purchase of new Treasury bills at the average price (in three decimals) of accepted competitive bids for such Treasury bills then being offered. The request for a reinvestment may be made on the tender form at the time of purchase; subsequent requests for reinvestment will be accepted if received by the Bureau no later than ten business days prior to the maturity of the bills. The difference between the par value of the maturing bills and the issue price of the new bills will be remitted to the subscriber in the form of a Treasury check. Requests for the revocation of the reinvestment of bills will also be accepted if received no later than ten business days prior to the maturity date.

* * * * * *

Section 350.17 is amended by revising paragraph (f) as set forth below:

§ 350.17 **Definitive Treasury bills—available where holding of definitive securities required by law—termination date December 31, 1978.**

* * * * * *

(f) *Termination date.* The provisions of this subpart will apply only to defini-

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tive Treasury bills whose issuance in such form was authorized prior to December 31, 1976, and whose availability will be co-extensive with their maturity dates.

The foregoing amendment was effected under authority of sections 5 and 20 of the Second Liberty Bond Act, as amended (40 Stat. 290, as amended; 31 U.S.C. 754 48 Stat. 343, as amended; 31 U.S.C. 754b; and 5 U.S.C. 301.) Notice and public procedures thereon are deemed unnecessary as the fiscal policy of the United States is involved.

Dated: December 20, 1976.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76-37810 Filed 12-23-76;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 259—SERVICES PERFORMED FOR OTHER AGENCIES

Housing Vacancy Surveys for the Federal Home Loan Bank Board

The Postal Service and the Federal Home Loan Bank Board (FHLBB) entered into an agreement, effective October 19, 1976, under which the Postal Service will conduct housing vacancy surveys in city delivery offices for the FHLBB upon request by that agency. The purpose of this document is to amend 39 CFR 259 of postal regulations to inform managers of city delivery offices of their responsibilities under the agreement as well as the limitations contained in the agreement. These amendments are effective immediately.

(39 U.S.C. 401(2), 411)

ROGER P. CRAIG,
Deputy General Counsel.

§ 259.1 Government.

1. In § 259.1 paragraph (b) is amended by revising the first sentence thereof to read as follows:

(b) Except as provided in paragraph (c) of this section, arrangements for Postal Service participation in special surveys, censuses, and other activities must be made between the national headquarters of the requesting agencies and the Customer Services Department, U.S. Postal Service, Washington, D.C. 20260. • • •

2. Paragraph (c) is redesignated (d); and new paragraph (c) is added reading as follows:

(c) *Housing Vacancy Surveys.* (1) General.—An interagency agreement between the U.S. Postal Service (USPS) and the Federal Home Loan Bank Board (FHLBB) establishes the terms and conditions and reimbursement rates under which USPS will conduct Housing Vacancy Surveys in City Delivery offices when requested by FHLBB.

(2) Restrictions.—The Agreement only authorizes the disclosure of aggregate statistical data. Postal managers must not permit the name or address of any past or present postal patron, or any other person to be disclosed unless such disclosure is authorized in writing by USPS Regions or Headquarters and is not in violation of 39 U.S.C. 412.

(3) Postmaster's Responsibility.—(i) A postmaster will receive notification from FHLBB when his office has been selected to conduct a Housing Vacancy Survey. Normally, written notification will be mailed to the postmaster 30 days in advance of the date FHLBB would like USPS to conduct the survey, since USPS is under no obligation to use overtime or auxiliary assistance to conduct these surveys. The postmaster or his designee will schedule the survey on or near the date requested and will promptly reply to FHLBB so that the necessary forms will be provided on time.

(ii) All necessary forms and instructions will be supplied directly to each post office to be surveyed. Postmasters will designate a manager in each delivery unit to coordinate the survey, within the unit and to review completed survey forms for accuracy.

(iii) FHLBB may request USPS to perform special or emergency surveys with less than 30 days advance notice. Since FHLBB has agreed to reimburse USPS at twice the normal rates for promptly performing such surveys, every reasonable effort should be made to accommodate such requests in a timely manner.

(iv) Housing Vacancy Surveys will not be conducted during the month of December of any year.

(v) Postmasters will notify the Office of Delivery and Collection, Washington, D.C. 20260, of the number of each type survey form completed for FHLBB. FHLBB will then remit payment directly to Headquarters, USPS.

(vi) USPS will not release or publish any survey results except in response to a court order, subpoena, or as required by the Freedom of Information Act.

• • • • • •

[FR Doc.76-37865 Filed 12-23-76;8:45 am]

Title 40—Protection of Environment

[FRL 659-8]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 30—GENERAL GRANT REGULATIONS AND PROCEDURES

Amendments

Amendments are hereby promulgated implementing the requirements of Office of Management and Budget Circular No. A-110 published in the FEDERAL REGISTER on July 30, 1976 (41 FR 32016). The Circular furnished guidance to Federal agencies for obtaining consistency and uniformity among Federal agencies in the administration of grants to institutions of higher education, hospitals, and other nonprofit organizations.

Pursuant to the authority of the Administrator of the Environmental Protection Agency, contained in 40 CFR 30.101, Part 30 is hereby amended.

In accordance with 40 CFR 30.125, public comment on grant regulations is solicited on a continuous basis. Comments may be submitted in writing to Director, Grants Administration Division (PM-216), U.S. Environmental Protection Agency, 401 M Street, S.W., Room 435 WSMW, Washington, D.C. 20460.

Effective date: These regulations shall become effective January 1, 1977, since they do not substantially change current Agency policies and requirements and prompt implementation is required in order to comply with the OMB directive.

Dated: December 17, 1976.

RUSSELL E. TRAIN,
Administrator.

1. Delete § 30.615-1(a), (b), (c), and (d) in their entirety and substitute the following:

§ 30.615-1 Method of payment.

(a) Payment for waste treatment construction grants will be on a reimbursable basis (see §§ 35.845 and 35.945).

(b) Payment for other grant programs will be on an advance basis. Grantees must request the initial advance payment on SF270, Request for Advance or Reimbursement. The initial advance will be based on the grantee's projected cash requirements, not to exceed the first three months. The cash advance will be issued either in one check or one check each month at the agency's option. As the grantee incurs expenditures under the grant, the grantee will submit a request for payment at least quarterly, but generally no more frequently than monthly. This request will report cumulative expenditures incurred under the grant and the grantee's projected cash requirements for the next advance period. The agency will make payment for any expenditure exceeding the previous advance and will provide for the grantee's projected cash requirements for the next advance period.

(c) Payment for certain grants authorized advance financing will be made by letter-of-credit. Detailed procedures will be provided to the grantee when a grantee meets the Treasury Department's criteria for this method of payment.

(d) For grants paid on an advance basis, payments will be made in a manner that will minimize the time elapsing between the transfer of funds from the United States Treasury and the disbursement of those funds by the grantee. For grants which are paid on a reimbursable basis, payment will be made promptly upon submission by the grantee of the properly completed payment request. Grantees not complying with the timing requirements under advance payment methods may be transferred to the reimbursable payment method.

2. Revise the second sentence in § 30.615-2(a) to read as follows:

§ 30.615-2 Cash depositories.

(a) • • • However, a separate bank account shall be used when payments under a letter-of-credit are made on a "checks-paid" basis in accordance with

agreements entered into by the grantee, EPA, and the bank involved.

• • • • • •

3. Revise the third sentence in § 30.620 (b) to read as follows:

§ 30.620 Grant related income.

• • • • • •

(b) • • • The net amount of such income shall be retained by the grantee and, except as may be otherwise provided in the grant agreement, shall be used to further support the project; or for grants with institutions of higher education, hospitals, and other nonprofit organizations may be used to finance the non-Federal share of the project, if approved by EPA. • • •

4. Delete § 30.620-2 and substitute the following:

§ 30.620-2 Royalties received from copyrights and patents.

Unless the grant agreement provides otherwise, grantees (other than profit making) shall have no obligations to EPA with respect to royalties they receive as a result of copyrights or patents produced under the grant. However, nothing in this section shall be construed to diminish or eliminate any rights or privileges flowing to the Federal Government as a result of the provisions of 40 CFR Part 30, Appendix B—Patents and Inventions or Appendix C—Rights in Data and Copyrights.

5. Add the following paragraph (c) at the end of § 30.635-5.

§ 30.635-5 Property reports.

• • • • • •

(c) For all EPA grants, grantees shall submit an annual inventory of federally-owned property in their possession.

6. Revise the first sentence of § 30.810-1 (a) to read as follows:

§ 30.810-1 Definitions.

• • • • • •

(a) • • • The net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. • • •

7. Revise § 30.810-3(a)(6) and add a new subparagraph (8) to read as follows:

§ 30.810-3 Property management standards.

• • • • • •

(a) • • •

(6) Location, use, condition of property, and date the information was reported.

• • • • • •

(8) Unit acquisition cost.

8. Delete the entire paragraph from § 30.810-7(a) and substitute the following:

§ 30.810-7 Nonexpendable personal property acquired with Federal funds.

(a) *Use.*

(1) When nonexpendable personal property is acquired by a grantee as a direct cost under a grant, the grantee shall retain the property in the grant program for its useful life or as long as there is a need for the property to accomplish the purpose of the grant program, whichever is shorter.

(2) During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government is permissible subject to prior approval by EPA. User charges will be made, if appropriate.

(3) Except as may be provided in the grant agreement, when there is no longer a need for such property for the grant program, the grantee may utilize the property in the following order of priority:

(i) Other grant activities sponsored by EPA.

(ii) Grant activities sponsored by other Federal agencies.

9. Revise the first sentence from § 30.810-8 to read as follows:

§ 30.810-8 Expendable personal property acquired with grant funds.

Title to expendable personal property shall vest in the grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value upon termination or at the conclusion of the project period, and the property is not currently needed for any other federally-sponsored project or program, the grantee shall retain the property for use on nonfederally-sponsored activities, or sell it, but must in either case, compensate EPA for its share. • • •

[FR Doc.76-37936 Filed 12-23-76;8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1067—FUNDING OF GRANTEE PROGRAMS

Subpart—Preparation of CSA Form 314, Statement of CSA Grant

From January 1, 1972 to the present, the preparation of OEO/CSA Form 314 and, consequently, the obligation of OEO/CSA funds has been governed by OEO Instruction 6710-1, Change 7. As this document was promulgated before the enactment of Section 623 of the Economic Opportunity Act of 1964, as amended, on September 19, 1972, it was not published in the FEDERAL REGISTER. OEO Instruction 6710-1, Change 7 is now repromulgated in a clarified and updated version (CSA Instruction 6710-1, CH 10), as 45 CFR 1067.30. Section 5d of this Instruction allowed grantees' "Use of [grant] funds until fully expended unless a termination date is entered in column 12 of OEO Form 314"; this subpart now makes it clear that under the corresponding provision, CSA may reprogram such unexpended Federal funds as part of a subsequent grant. However, CSA normally will not require repayment of such funds to the government by an on-going grantee.

As the substance of this subpart is presently in effect and the changes made are technical, except for the provision discussed above which is interpretive, this subpart will be effective immediately on an interim basis. Public comments received by January 20, 1977 will be considered in deciding whether any revision of this subpart is necessary. Please address any comments to Community Services Administration, 1200 19th Street, N.W., Washington, D.C. 20506.

AUTHORITY: The provisions of this subpart issued under sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

Effective date: December 27, 1976.

ROBERT C. CHASE,
Acting Director.

45 CFR Chapter 10, is amended by adding a new subpart 1067.30 reading as follows:

Sec.
1067.30-1 Applicability.
1067.30-2 Definitions of terms as used in this subpart.
1067.30-3 Purpose.
1067.30-4 Policy.
1067.30-5 Procedure.

§ 1067.30-1 Applicability.

This subpart applies to all grants to public and private organizations made under Titles II, III-B, and VII of the Community Services Act when such assistance is administered by the Community Services Administration.

§ 1067.30-2 Definitions of terms as used in this subpart.

(a) A program year is a grantee's 12-month accounting period. For community action agencies, this is the funding period for the principal grant that provides funds for most of the grantee's administrative costs. For other agencies funded by CSA this is their usual 12-month accounting period which may or may not correspond with the funding period of their grant(s) from CSA.

(b) *A program account funding period* extends from the effective date of a new or refunding action (Item 3) through the termination date (Item 12) or expiration of planned number of months for which funding is provided (Item 13). (See attached CSA Form 314.)

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(c) *Unobligated balances*[1] (i.e., Unexpended funds) is that portion of the funds authorized by CSA which has not been obligated by the grantee prior to program year end or other 12-month accounting period.

(d) *Obligations*[1] is that amount of orders placed, contracts and grants awarded, services received, and similar transactions during a given period which will require payment during the same or future period.

§ 1067.30–3 Purpose.

This subpart provides for:

(a) Use of a single grant number for each grantee;

(b) Use of CSA Form 314, Statement of CSA Grant, as the basic action document; and

(c) Grantees' use of funds until fully expended unless a termination date is entered in column 12 of CSA Form 314.[2] Since all grant monies must be expended under an approved and current work program, CSA may reprogram such funds as part of subsequent grant actions.

§ 1067.30–4 Policy.

(a) All grants made to the same organization will be identified by a single grant number.

(b) The Statement of CSA Grant, CSA Form 314, is the basic action document completed by CSA and sent to the grantee. CSA Form 314 is also an acceptance document upon which the grantee indicates his acceptance of the grant action with all attached conditions.

(c) Approval of a CSA grant or funding action means that Federal funds have been awarded to the grantee for the purpose of carryin gout an approved work program. Specifically, CSA Form 314, Statement of CSA Grant, is used to:

(1) Approve an amount of Federal funds and specify the required non-Federal share percentage and amount for each program account;

(2) Approve transfers of funds between program accounts when required (reference OEO Instruction 6710–1, Change 3, relating to flexibility guidelines);

(3) Approve program extensions where no change in funding is involved; and

(4) Deobligate funds as necessary from an on-going project or remaining from a terminated program.

§ 1067.30–5 Procedure.

(a) A single grant number is used to identify CSA grants, regardless of the source of funding within CSA.

[1] Source: OMB Circular A–110 and FMC 74–7.

[2] As provided in OEO Instruction 6714–1 grantees should expend funds provided by old letters-of-credit before drawing down against a new letter-of-credit.

(b) The following explanations refer to specific items on CSA Form 314, Statement of CSA Grant:

(1) *Item 1—Name and address of grantee.* This item is self-explanatory.

(2) *Item 2—Grantee number.* This space contains a five-digit number assigned by CSA. All funds awarded to a grantee will be identified by this number.

(3) *Item 2—Fund source code (FS).* This space contains an applicable alphabetic character identifying the source of CSA funds from among the following:

F—Office of Economic Development.
G—Office of Operations.
J—Boston Region (1).
K—New York Region (2).
L—Philadelphia Region (3).
M—Atlanta Region (4).
N—Chicago Region (5).
P—Dallas Region (6).
Q—Kansas Region (7).
R—Denver Region (8).
S—San Francisco Region (9).
T—Seattle Region (0).

(4) *Item 2—Federal fiscal year (FFY).* This refers to the Federal fiscal year in which funds are awarded (i.e., for the Federal Fiscal Year ending September 30, 1977, 77 would be entered).

(5) *Item 2—Action number.* This is a consecutive number assigned by the funding office to identify each funding action by grantee within a Federal fiscal year. For example the number "01" will be assigned to the first funding action by a Regional Office; the number "01" will likewise be assigned to the first funding action by a Headquarters Program Office and so on through the end of the Federal fiscal year, at which time the fundings in the next fiscal year would begin with "01."

(6) *Item 3—Effective date.* This is the effective date of the funding action; i.e., obligations, deobligation, extension, etc. If funds are being obligated, grantees may not incur costs against this funding action before the date shown in this block.

(7) *Item 4—Obligation date.* This is the date on which a grant action (CSA Form 314) obligating new funds is mailed to the Governor or grantee. Enter the effective date (Item 3) for all other types of actions, e.g., deobligations, extensions, etc.

(8) *Item 5—Program year.* This section will show the grantee's program year. This period will not necessarily agree with the period for which funds are awarded. However, whenever possible the grantee's fundings will coincide with the grantee's program year.

(9) *Item 6—Program account number.* This will show the program account (i.e., 01, 05, 55, etc.) as explained in CSA Instruction 6100–1a, Program Account Structure, funded by this grant action.

(10) *Item 7—Program activity code (PAC).* This code is for identification of CSA obligations, as explained in OEO Staff Manual 2135–1, Accounting Codes.

(11) *Item 8—Program account name.* This will show the program account being funded by this grant action by name. Refer to OEO Instruction 6100–1a, Program Account Structure.

(12) *Item 9—Federal funds awarded this action.* (i) *Funds awarded.* This column shows the amount of Federal funds awarded by this action. An amount will be shown for each program account funded by this action and the total shown at the bottom of the column. Previous amounts awarded to the grantee will not be shown on this form.

(ii) *Funds deobligated.* A deobligation of Federal funds will be shown in this column by placing a minus (–) sign in front of the amount.

(iii) *Funds transferred.* This column is also used to reflect CSA's approval for the transfer of funds between program accounts (reference OEO Instruction 6710–1, Change 3) by placing the appropriate (+) and (–) in front of the amounts representing the increase and decrease. Only the amount being transferred will be reflected in this column and not the original amount awarded.

(13) *Items 10 and 11—Non-Federal share.* These columns show the percentage and amount of non-Federal share required for each program account. If the non-Federal share is not required for a program account, not applicable (N/A) will be entered in this space. In no case will a figure higher than that legally or administratively required be entered.

(14) *Item 12—Termination date.* When a termination date is entered, expenses may not be incurred for the program account beyond this date. When this date is entered, this will determine the end of the program account funding period.

(15) *Item 13—Planned number of months funding provided.* This information is to assist the grantee in planning and budget control and in determination of the program account funding period.

(16) *Item 14—Recommendation for approval.* Contains name of appropriate Regional Director.

(17) *Item 15—Statement of CSA approval.* This item is self-explanatory.

(18) *Item 16—Grantee acceptance of grant.* This item is self-explanatory.

COMMUNITY SERVICES ADMINISTRATION
STATEMENT OF CSA GRANT
(OEO Instruction 6710–1)

Reserved for (OEO) Approval

1. NAME AND ADDRESS OF GRANTEE	2. GRANTEE NO. / FUND SOURCE CODE / FFY / ACTION NO.
	3. EFFECTIVE DATE
	4. OBLIGATION DATE (Date mailed to Governor or Grantee) / 5. PROGRAM YEAR FROM / TO

P.A. NO.	PROGRAM ACTIVITY CODE	PROGRAM ACCOUNT NAME	FEDERAL FUNDS AWARDED THIS ACTION	REQUIRED NON-FEDERAL SHARE %	REQUIRED NON-FEDERAL SHARE AMOUNT	TERMINATION DATE (If applicable)	PLANNED MINIMUM NO. MON THS FUNDING PROVIDED
5.	7.	8.	9.	10.	11.	12.	13.
		TOTAL					

14. RECOMMENDATION FOR APPROVAL

I certify to the sufficiency of this grant and recommend approval.

TYPED NAME & TITLE OF RECOMMENDING OFFICIAL	SIGNATURE	DATE

15. STATEMENT OF CSA APPROVAL

Federal funds as shown in Column 9, are hereby obligated for the program proposed by the grantee as noted above and in the attachments to this statement. Program account budgets may be modified by the grantee only under general flexibility guidelines or in accordance with written CSA approval. The Non-Federal Share may be met by pooling as allowed by CSA instructions.

FINAL APPROVAL OF HEADQUARTERS OFFICIAL	SIGNATURE OF APPROVING OFFICIAL	DATE

16. GRANTEE ACCEPTANCE OF GRANT

On behalf of the grantee, I accept the grant and all modifications, general conditions, special conditions 1 through_____, and requirements attached hereto. There are_____ pages attached to this form.

ACCEPTED BY: (Typed name and title of authorized official)	SIGNATURE	DATE

CSA FORM 314 (Test) MAY 75 (REPLACES OEO FORM 314, DATED AUG 71, WHICH MAY BE USED UNTIL JUN 15 1975)

[FR Doc.76–37696 Filed 12–23–76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

[Docket No. 20841; RM–2644; 2746]

Report and Order; Proceeding Terminated; FM Broadcast Stations; Table of Assignments

Adopted: December 16, 1976.

Released: December 21, 1976.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Theodore and Chickasaw, Alabama).

1. The Commission herein considers the notice of proposed rule making, 41 FR 27390, in the above-captioned proceeding instituted in response to a petition filed by Theodore Broadcasters ("TB"). The petition proposed the assignment of Channel 252A[1] as a first FM channel to Theodore, Alabama. TB filed supporting comments in which it reaffirmed its intention to apply for the channel, if assigned.

2. Theodore is an unincorporated community located approximately 16 kilometers (10 miles) southwest of Mobile, Alabama, and 97 kilometers (60 miles) west of Pensacola, Florida. TB reports the population of the community of Theodore to be 2,300 persons. It has no local aural broadcast service. In the notice we set out information submitted by TB which we believed warranted exploring the need for a first FM assignment to the community. We noted that Channel 252A could be assigned to Theodore in conformity with the minimum distance separation requirements.

3. In response to the notice, a counterproposal (RM–2746) to assign Channel 252A to Chickasaw, Alabama, was filed by Phillips Radio, Inc. ("Phillips"). No reply comments were filed in support of or in opposition to the counterproposal.

4. Chickasaw (pop. 8,477),[2] in Mobile County (pop. 317,308) is located approximately 26 kilometers (16 miles) from Theodore and abuts the city of Mobile on the west boundary of its northern extension. It is part of the Mobile Urbanized Area. It has no local aural broadcast service.

5. In support of its proposal Phillips submitted information with respect to Chickasaw and its need for a first FM channel assignment. Phillips stated that, since Chickasaw is located more than 16 kilometers (10 miles) from Theodore, the use of Channel 252A would be barred under the "10-mile rule" (§ 73.203(b)) if the channel were assigned to Theodore. It pointed out that, if Channel 252A were assigned to Chickasaw, it could be used there or, under the 10-mile rule, at Saraland, Alabama, a community of 7,840 persons, also part of the Mobile Urbanized Area. Saraland has no local aural broadcast service. Channel 252A could be assigned to Chickasaw in conformity with the Commission's minimum distance separation requirements provided its transmitter is located west of Chickasaw.

6. Since it appears that Channel 252A is the only Class A channel available for assignment to Theodore or Chickasaw, a determination must be made as to which community to assign the channel. Each proposal is similar in that it would provide a first local service, but even if we accept TB's claims as to Theodore's population, assignment of Channel 252A to Chickasaw would provide a first local aural broadcast service to the much larger of the two communities. Under the circumstances, we believe that Chickasaw should be favored.

7. *Accordingly, it is ordered,* That effective January 31, 1977, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules and Regulations) is amended to read as follows:

City	Channel No.
Chickasaw, Alabama	252A

8. *It is further ordered,* That the petition for rule making submitted by Theodore Broadcasters is denied.

9. *It is further ordered,* That the counterproposal of Phillips Radio, Inc. is granted.

10. Authority for the action taken herein is contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and

[1] See 41 FR 34321, Aug. 13, 1976.

[2] The population figures in paragraph 4 are taken from the 1970 U.S. Census. The figure for Theodore in paragraph 2 represents petitioner's estimate.

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§ 0.281(b)(6) of the Commission's Rules and Regulations.

11. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-37833 Filed 12-23-76;8:45 am]

[Docket No. 20508; FCC 76-1122]

PART 76—CABLE TELEVISION SERVICES

Memorandum Opinion and Order Regarding Cable TV Channel Capacity and Access Channel Requirements; Proceeding Terminated

In the matter of Amendment of Part 76 of the Commission's Rules and Regulations Concerning the Cable Television Channel Capacity and Access Channel Requirements of § 76.251. Petition for Reconsideration.

Adopted: November 30, 1976.

Released: December 21, 1976.

1. On April 1, 1976, the Commission adopted its Report and Order in Docket 20508, FCC 76-313,[1] 59 FCC 2d 294 (1976) terminating an extensive rule making proceeding concerning cable television channel capacity and access channel requirements. Following its release, petitions were received urging that reconsideration be given to several of the newly adopted changes. Two parties filed statements supporting the petitions, and one response also was received.

2. In 1972 the Commission set out to guarantee a realization of cable television's promised potential by adopting a comprehensive scheme for the regulation of cable television systems throughout the nation, including a framework for the development and use of access and nonbroadcast channels. In part, it required cable systems located within major television markets to possess a fixed minimum channel capacity of at least 20 channels with a capability to expand should additional channels be needed for specifically designated access purposes.[2] The guiding principle was that the Commission "* * * must make an effort to ensure the development of sufficient channel availability on all new CATV systems to serve specific recognized functions."[3] Systems in operation before the rules were adopted were required to come into full compliance with these standards by reconstructing their plant and distribution networks within five years—that is by March 31, 1977. By 1975 the Commission recognized that this initial regulatory framework imposed an undue financial burden on many cable system operators. Thus, the 1977 deadline was canceled[4] and this proceeding initiated to inquire into alternative methods of obtaining access channels on older systems within recognized economic restrictions, and to inquire into channel capacity and access requirements for old and new systems.[5]

3. Briefly, the rules now require larger cable systems (3500 or more subscribers) to have available for potential use a minimum channel capacity of 20 channels and two-way capability. "Old (pre-1972) systems" are given ten years, or until their "natural rebuild," within which to meet the requirements. In addition four dedicated access channels continue to be required, if activated channel capability is available and demand exists for their full time use. Otherwise, one "composite" channel or "blackout" time—where a duplicating program is blacked out to protect another station—may be used to fulfill the access obligations. While the Commission "in no case" will require rebuilding or the installation of converters solely to provide channel space for access services, system operators may not "exclude a potential access user who intends to * * * install a converter himself." These rules form the basis for three of the reconsideration petitions.

4. Several staff members of the Cable Television Information Center argue that the Report and Order represents an "ill considered" and fundamental reversal of long standing Commission policy relating to access programming. Their assertions are contained in a "Petition for Reconsideration," supported by the Alternate Media Center at the New York University School of the Arts, and the New York State Commission on Cable Television. In particular, CTIC views two new policies as unsound: (1) provision of an access channel only when there is sufficient activated capacity, and (2) no requirement that converters be provided to meet access requirements even if demonstrated use and need can be established. CTIC's position is premised on the proposition that without multiple channel availability, stimulation, development, and diversity of access programming is impossible, a proposition it argues, the Commission asserted in the Cable Television Report and Order, supra at para. 120, the Reconsideration of the Cable Television Report and Order, FCC 72-530, 36 FCC 2d 478 at para. 79 (1972), and the Clarification of Rules and Notice of Proposed Rulemaking, FCC 74-384, 46 FCC 2d 175 at para. 13 (1974). Not only do the new rules implement a policy of "limited availability" but the burden of providing additional channel capacity (financing and obtaining special relief from the Commission) has been shifted from the cable operator to the potential channel users, who lack the requisite financial resources, and the local franchising authorities, who generally lack the expertise needed to produce an acceptable showing of special relief. CTIC concludes that cable's strength rests in its surplus channel capacity and its availability to all potential users. Upon reconsideration, the Commission is urged to adopt three policies: a) Require at least one composite access channel on all large (over 3,500 subscriber) systems, subject to a waiver if the operator demonstrates that compliance would result in financial hardship; b) Permit delivered channel capacity to be the subject of negotiation between the cable operator and the franchising authority without Commission review; and, c) Require limited access to medium-sized (1,000-3,500 subscriber) systems.

5. The National Cable Television Association together with the California Cable Television Association responded[6] to CTIC's petition, specifically addressing each of the three proposals and urging rejection of the petition. Larger systems should not be required to provide at least one complete access channel, they argue, because of the undue financial burden it imposes, the limited nature of the exemption, and the impending need to rebuild systems to accommodate new services. Local authorities should be preempted from imposing stricter access requirements than the Commission's[7] because past experience has demonstrated the imposition of abusive and unjustified requirements. Finally, access requirements should not be reimposed on medium sized systems because these are the systems already burdened by overregulation and for which additional financial requirements in the form of converters "would not be minimal." NCTA and CCTA conclude by stating that the Commission has reaffirmed rather than reversed its prior policy and that the burden of proof logically has been placed on the party who seeks a waiver of the existing rules.

6. There should be no mistake regarding the Commission's continuing commitment to the provision of access services and channels. However, as we stated in the Report and Order, this is a very difficult area. Since adoption of the initial access rules in 1972, the Commission has accumulated, through experience and comments, much information regarding the public benefits and corresponding costs of access. Our general reevaluation of the 1972 rules was not intended to reverse our position and the resulting modifications do not constitute such an action.[7] Instead the Report and Order is a recognition that certain limitations exist which make imposition of the original requirements unduly burdensome, ultimately impairing total cable

[1] See 41 FR 22274, June 2, 1976.

[2] See, Cable Television Report and Order, FCC 72-108, 36 FCC 2d 143 paras. 117 through 127 (1972).

[3] Second Further Notice of Proposed Rulemaking in Docket 18397-A, FCC 70-676, 24 FCC 2d 580, 587 (1970).

[4] Report and Order in Docket 20363, FCC 75-821, 54 FCC 2d 207 (1975).

[5] Notice of Proposed Rulemaking in Docket 20508, FCC 75-644, 53 FCC 2d 782 (1975).

[6] The "Response to Petition for Reconsideration" was late filed, but accompanied by a "Motion to Accept Late Filing" due to an unexpected delay in normal delivery service. The motion is hereby granted.

[7] In fact, preliminary findings indicate that more cable subscribers will be effected by the new rules than were by the old ones, because of their extension to smaller markets.

television service to the public. Therefore, modifications were adopted revising the obligations in part and delaying their effective date.

7. We reject CTIC's first proposal, that every system with 3,500 or more subscribers have one full composite access channel, for the reasons stated in the Report and Order when we determined to modify our original mandatory expansion requirement.[8] At that time we reviewed the cost of converter installation and the corresponding benefits. Our conclusion was that the costs involved when weighed against the potential benefits were unreasonable. And it should be emphasized here that we are concerned not just with the costs to the system operator but also with those costs which must in the long run be passed on to subscribers. The CTIC staff petition has not convinced us that our original decision was in error or that the burden should be cast on the system operator in each instance to show that provision of the channel would be unduly burdensome. It should be emphasized, however, that the rules applicable to new systems commencing operation are somewhat more restrictive and do require that at least one channel be available for access purposes. See § 76.254(c). Older systems are exempted from the requirement only if they lack sufficient channel capacity to provide a full channel and even those systems without full channels available are required to accommodate access programming on nonduplication "blackout" time on channels otherwise carrying broadcast signals.

8. The CTIC staff's second proposal goes to the question of whether local authorities should be permitted to require channel capacity and access obligations beyond those contained in the Commission's rules. We expressed the belief in the Report and Order that excessive burdens dictated by local authorities created no less an undue strain on system operators and cable subscribers than those imposed by the Commission. We did provide, however, that local authorities could require services and facilities beyond those required by the Commission when the need for such additional facilities could be documented and the costs imposed have a rational relationship to the likely benefits that cable subscribers will receive. The procedures to be followed in justifying such additional requirements are specified in paragraphs 97-100 of the Report and Order. We recognize that this procedure cast some burden on the franchise authority to present concrete data on costs and proposed channel uses, but we do not feel this is inappropriate in that this is a burden of analysis which should already have been assumed for purposes of making the decision to require the additional channels or service.[9] To the extent such obligations are being imposed to provide channels for services, the particulars of which are unknown, we believe this imposes a burden which cannot be justified. We do recognize, of course, that there may be instances where cities may wish to impose contingent obligations. That is, for example, having budgeted or planned for the completion of an educational or governmental telecommunications facility some time in the future a city may want to require a cable television distribution capacity for the facility's programming. A present requirement for such a capacity would be hard to justify but that would not preclude our acceptance of a contingent term in a cable system franchise under the procedures specified in the Report and Order. Properly documented requests have been granted by the Commission in the past and should receive our sympathetic consideration in the future. Additionally, we reiterate our acquiescence in voluntary actions taken by cable operators to provide access services in excess of federal standards. Although channel capacity and access channel regulations have been preempted, prohibiting mandatory franchise terms more burdensome than the Commission's, we refer to our statement in Comcast Cable of Paducah, FCC 76-965, ____ FCC 2d ____ (1976), that "no Commission rule or regulation would prohibit a cable system from voluntarily providing * * * access services in excess of Commission requirements", so long as any such commitment by the cable operator is "made in a genuinely voluntary atmosphere."

9. The last of CTIC's proposals is for a multi-tiered approach to the access channels, with systems of between 1000 and 3500 subscribers being required to provide some access channels for use by groups with their own production equipment but with no requirement that the system itself have any production capability. We considered the adoption of such an approach in the Report and Order and decided not to adopt it in an effort to simplify an already complex set of rules and in view of the burdens such obligations could impose on smaller systems. Nothing presented in the CTIC petition persuades us now to alter that judgment. We would expect, however, that all systems that have unused channel space available which others wish to use for public, educational, governmental, or leased purposes would cooperate fully and make channel space available. It is, generally, to the cable system operator's advantage to fill up his available channels by whatever means are available. If instances do come to light where non-operator use of otherwise unused channels is denied without explanations, we hope these will be brought to our attention so that further consideration can be given to rule changes in this area. Our present experience has been, however, that even larger systems typically have difficulty finding access channel users so this problem with smaller systems is not likely to arise with any frequency. It should also be noted that local authorities are free to impose requirements of their own on such systems as long as those requirements do not exceed those in our rules. See § 76.258 of the rules.

10. Several cable television companies, in a "Joint Petition for Partial Reconsideration,"[10] also urge the Commission to reconsider its position with regard to the role of local franchising authorities. They argue that a rollback of federal obligations may be ineffectual when local authorities are permitted to impose their own standards and that this "dual jurisdictional" approach places operators between the Commission and the local authorities, making them agents of the Commission where authorities refuse to recognize the Commission's paramount authority. They suggest a halt to city waivers based upon a "reasoned analysis," and ask instead that the Commission impose a complete moratorium on any local or state consideration of access or rebuild requirements until after a system obtains renewal or franchise amendments required to meet the 1977 filing requirements.[11] Both the NCTA and the CCTA make similar arguments in their "Petition for Reconsideration." As stated in response to CTIC's proposal, emption in this area, but with a recognition we have determined to maintain our prewe have dictated. These local standards will not be approved except upon a detailed showing as discussed at paragraph 100 of the Report and Order. Abuses may occur, but we anticipate no widespread problems that cannot be dealt with on an individual basis once they are brought to our attention.

11. The reconsideration petitions of NCTA and CCTA, and the several cable companies, also suggest that adoption of the "third party user" rule, whereby access is guaranteed to a potential user willing to install converters, constitutes a major policy decision made without proper notice, explanation, or comments.[12] The primary problem they assert, is that guaranteed access for third party users transforms cable operators into common carriers, a status the Commission previously has refused to confer upon cable television. These arguments closely parallel those raised by Midwest Video Corporation in its appeal of the Commission's adoption of § 76.253 in the Report and Order in Docket 19988, FCC 74-1279, 49 FCC 2d 1090 (1974), and in this proceeding. Our decision to reject the claims is based on a belief that the adopted regulations reasonably relate to our regulation of cable television pursuant to the objectives of the Communica-

[8] See discussion beginning at paragraph 56.

[9] In this respect see, Arlington Telecommunications Corporation, FCC 75-670, 53 FCC 2d 757 (1975); and Total Communications of Irving, Inc., FCC 74-157, 45 FCC 2d 525 (1974).

[10] The joint cable television operating companies are: Coachella Valley Television; Colony Communications, Inc.; Complete Channel TV, Inc.; Cox Cable Communications, Inc.; Gulf Coast Television, Inc.; Sammons Communications, Inc.; Sioux Falls Cable Television; Televents Affiliated Systems; and The TM Communication Company.

[11] The length of such a moratorium has been rendered indefinite by our action in Docket 21002, FCC 76-1070, generally reviewing the franchise requirements, and this is another reason for not adopting such a freeze.

[12] See Report and Order at para. 66.

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tions Act of 1934, as amended.[13] Cable television is a "hybrid" industry, characterized both by broadcast and common carrier traits. As we stated at paragraph 17 of the Report and Order:

> So long as the rules adopted are reasonably related to achieving objectives for which the Commission has been assigned jurisdiction we do not think they can be held beyond our authority merely by denominating them as somehow "common carrier" in nature.

12. NCTA and CCTA also pose a somewhat more practical question with respect to a third party user's right to interconnect on a cable system. They argue that problems concerning installation and maintenance may interfere with the quality of service provided to subscribers. The Commission is aware that such problems may occur. Although we speak of a "guaranteed right" of access by third party users, we do not mean so unqualified a right that a cable operator is compelled to accept the installation of inferior equipment or improper service which will result in harm to his system. On the other hand, it is the operator's responsibility to demonstrate well beyond mere allegations, that proper service will be impeded with the addition of another's equipment. In those instances where time or experience is necessary to determine the effects of additional equipment we expect the operator to make available that opportunity.[14] The burden is on the operator to show harm rather than on the user to prove the absence of harm.

13. Finally NCTA and CCTA argue that required utilization of the last available channel for access services discriminates against pay television programming, and also runs counter to the Commission's policy of requiring dedicated access channels only when actual demand can be demonstrated. We have stated repeatedly our commitment to the provision of access services. Even so, we have reduced the burden on cable operators so that they may fulfill their obligations with the provision of only one access channel. However, we believe access programming should continue to have priority status over operator-originated programming where they compete for the final available channel on a cable system. At paragraph 68 of the Report and Order we resolved this question by stating: "While we shall continue to encourage operators to originate, we do not believe that the public interest will be served if such efforts are at the expense of others who wish to provide access programming."[15]

14. A final issue for reconsideration is submitted by Community Communications Project of New Paltz, Inc., located in New Paltz, New York. Community asserts that minimum equipment requirements for access channels should be specifically designated. For access service to develop Community believes the signal emanating from the access facilities must be comparable to that of other signals carried on the cable system. Although we are not prepared to dictate equipment standards at this time, we do intend to monitor the situation to make sure that access is not being defeated by poor technical quality. If we determine that standards are required to insure the development of access services, we will take appropriate action.

15. Apart from the several issues noted as proposed grounds for reconsideration, the Commission has received numerous inquiries seeking clarification of various sections of the new rules. Thus, it is appropriate to review these sections to make clear our expectations for their implementation.

(a) *Certification of "May Carry" Signals.* At paragraph 64 of the Report and Order we stated that:

> [W]e do not envision certificating new systems, or the addition of new signals whose carriage is not mandatory to existing systems, if the activated channel capability available for the provision of access services is insufficient to provide at least one full channel for access programming.

We will, however, certificate new systems or "may carry" signals upon assurance by the applicant cable operator that at least one channel will be reserved full time, for access purposes. In other words, "may carry" signals may be certified beyond the system's activated channel capability if assurance is given that the signals will share channel space with each other to the extent necessary to preserve the one full time access channel. We have amended § 76.254(b) of the Rules to make it clear, in conformity with the paragraph quoted above, that at least one channel must be reserved full time for the exclusive presentation of access programming except in the case of systems operating on June 21, 1976 and having insufficient channel capability. See, attached Appendix.

(b) *Previously Certified Access Programs.* Implementation of previously certified access programs now exceeding our rules may continue only upon an appropriate showing and Commission approval unless such a showing was made and accepted under the prior rules. Beginning at paragraph 97 of the Report and Order we outline our treatment of locally imposed access requirements concluding that "in the absence of such showings, provisions exceeding our own will be considered to have no force or effect * * *" and "in those situations where such showings were made and accepted under prior rules, they need not be repeated and our rulings thereon will continue in effect."

(c) *"Blackout" Time.* Provision has been made for the use of "blackout" time to accommodate access programming on those cable systems without sufficient activated channel capability. Use of "blackout" time was granted in lieu of forcing the operator to rebuild or install converters. Therefore, we expect a maximum effort to make this time available. For instance, an assertion that "blackout" time does not exist because of dual channel carriage of network programming is an unacceptable excuse for denial of time to a potential access user.

(d) *Availability of Access Time and Charges for Access Presentations.* (1) A number of questions have arisen as to the conditions under which access channel time must be made available and as to the procedures for resolving disputes concerning the availability of access channel time. As to the latter question the access channel rules adopted by the cable television system operator provide the basic mechanism for regulating channel usage. We have not included, beyond the specifications contained in § 76.256 of the rules, every detail of what these rules should contain, leaving cable operators some leeway to experiment with the details of the rules and to accommodate them, in a reasonable fashion, to local conditions. Questions as to the reasonableness of particular sets of rules should be referred to the Commission for resolution. Every effort will be made to resolve these questions on an informal basis, but more formal proceedings will be commenced if necessary.

(2) Among the matters left initially to the operator's discretion in the rules adopted are the hours during which production facilities and channels are to be available for use. Some questions have been asked as to whether it is adequate to simply have access channels and equipment available during normal business hours (9 a.m. to 5 p.m., for example). In the ordinary circumstances we would not consider such a limitation to be within the intent of the rules, in view of the predominance of television viewing during the evening (prime time) hours. Access limited to daytime hours only would thus not be access to the most significant block of viewing audience. We do not, however, require that the equipment and channels be available twenty-four hours a day, seven days a week.

(3) Charges for production equipment use should also be spelled out in the appropriate access channel rules. As we indicated in the Report and Order, except for a free five minutes of live time, charges may be made not only for the equipment used but also for any system personnel involved in the program production effort. Such charges should be "reasonable and consistent with the goal of affording users a low-cost means of television access." Section 76.256(c)(3). In permitting charges for production time, however, we did not intend to include charges for the playing of tapes or film provided by public access channel users when no use of system production equipment is involved and the programming presented is in a format compatible with that of the system. That is, it should be possible for a public access channel user who has produced a program on his own to deliver that program to the system and have it played without additional charge.

(e) *Operating Rules.* (1) We remind all cable operators that rules governing public, educational, and leased access programming are required to be filed with the Commission within 90 days after a system first activates any such channel, and also are to be made available for public inspection. See § 76.256(d)(4). This requirement is not new, and we will expect full compliance henceforth. Also, because more than one local government may be sharing use of the government access channel, we urge that each cable operator include in his operating rules a provision assuring channel availability for use by each local government jurisdiction served by the cable system.

(2) We note the omission of an exception contained in former § 76.251(a)(11)(iv) of the Rules for some pre-1972 cable systems. The oversight was inadvertent and we are restoring it as part of § 76.256(d)(4). See below.

In view of the foregoing, a denial of the reconsideration requests and issuance of the clarification would be in the public interest.

Accordingly, it is ordered, That the "Petition for Reconsideration" filed by the Community Communications Project of New Paltz, Inc., is denied.

It is further ordered, That the "Joint Petition for Partial Reconsideration" filed by Coachella Valley Television; Colony Communications, Inc.; Complete Channel TV, Inc.; Cox Cable Communications, Inc.; Gulf Coast Television, Inc.; Sammons Communications, Inc.; Sioux Falls Cable Television; Televents Affiliated Systems; and the TM Communications Company, is denied.

It is further ordered, That the "Petition for Reconsideration" filed by the National Cable Television Association and the California Cable Television Association, is denied.

It is further ordered, That the "Petition for Reconsideration" filed by Paul J. Fox, Susan C. Greene, Harold E. Horn, Shelia Mahony, and Victor Nicholson, staff members of the Cable Television Information Center of the Urban Institute, is denied.

It is further ordered, That Part 76 of the Commission's Rules and Regulations is amended, effective January 28, 1977, as set forth below.

Authority for the amendments to the rules adopted in the Appendix attached hereto is contained in sections 2, 3, 4(i) and (j), 301, 303, 307, 308, 309, 315 and 317 of the Communications Act of 1934, as amended.

FEDERAL COMMUNICATIONS COMMISSION,[16]
VINCENT J. MULLINS,
Secretary.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317.)

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

1. Section 76.254(b) is revised to read as follows:

§ 76.254 Number and designation of access channels.

* * * * *

(b) Until such time as there is demand for each channel full time for its designated use, public, educational, government, and leased access channel programming may be combined on one or more cable channels. To the extent time is available therefor, access channels may also be used for other broadcast and nonbroadcast services except that at least one channel shall be maintained exclusively for the presentation of access programming as required by paragraph (c) of this section.

* * * * * *

2. Section 76.256(d)(4) is revised to read as follows:

§ 76.256 Access Services.

* * * * * *

(d) * * *

(4) The operating rules governing public, educational, and leased access programming shall be filed with the Commission within 90 days after a system first activates any such channels, and shall be available for public inspection as provided in § 76.305(b). Except the Commission authorization, or with respect to local government access programming, no local entity shall prescribe any other rules concerning the number or manner of operation of access channels; however, franchise specifications concerning the number of such channels for systems in operation prior to March 31, 1972 shall continue in effect.

* * * * * *

[FR Doc.76-37839 Filed 12-23-76;8:45 am]

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

Prior Notification of Filing of Applications; Correction

Released: December 16, 1976.

In FR Doc. 76-35194 appearing at page 52463, in the issue for Tuesday, November 30, 1976, make the following change.

Paragraph 5 of the Commission's Memorandum Opinion and Order (FCC 76-1056) in RM-2735, adopted November 16, 1976, is corrected as follows:

A sentence officially terminating the rulemaking is added as follows:

5. *Accordingly, it is ordered,* pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that effective December 2, 1976, § 94.15(b) of the Commission's Rules is amended as shown in the attached Appendix. *It is further ordered,* That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37840 Filed 12-23-76;8:45 am]

[12] See also, TM Communications Company, FCC 76-966, ------ FCC 2d ------ (1976).

[14] We recognize however, that posting bond may be appropriate if installation and testing is necessary to determine whether "harm" will occur.

[15] The priority afforded access under this policy is not inconsistent with the "demand" basis for channel commitment. It simply recognizes that demand is unlikely to develop if all channel space is filled, and that even if demand did develop it would not likely be met if programming had to be "bumped."

[16] See attached Concurring Statement of Commissioner White in which Commissioner Fogerty joins. Concurring statement filed as a part of the original document. Commissioner Lee absent; Commissioner Hooks and Washburn concurring in the result.

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1427]

UPLAND AND EXTRA LONG STAPLE COTTON

Proposed Determinations Regarding 1977 Crops

The Commodity Credit Corporation (CCC) is preparing to make certain determinations with respect to the loan programs for the 1977 crops of upland and extra long staple (ELS) cotton:

(a) Schedule of premiums and discounts for grade and staple length of upland cotton;

(b) Schedule of micronaire differentials for upland cotton;

(c) Schedule of base loan rates by warehouse location for upland cotton;

(d) Schedule of loan rates by location for eligible qualities of ELS cotton;

(e) Schedule of micronaire differentials for ELS cotton;

(f) Detailed operating provisions to carry out the price support programs for lint cotton; and

(g) Detailed operating provisions to carry out the seed cotton loan program.

The first six of these determinations are to be made pursuant to the Agricultural Act of 1949, as amended (63 Stat. 1051 as amended; 7 U.S.C. 1421 et seq.).

Section 403 of the Act (7 U.S.C. 1423) provides in part that appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined as provided in this Act. Under section 103(e) of the Act (7 U.S.C. 1444(e)), however, the base loan rate determined for 1977-crop upland cotton is applicable to Middling 1-inch cotton (micronaire 3.5 through 4.9) at average location in the United States.

The preliminary 1977 loan rate announced for Middling 1-inch by press release (USDA 2962–76) dated October 15, 1976, is 42.58 cents per pound. CCC loans will be adjusted to Strict Low Middling (SLM) 1 1/16 inches cotton, the base quality now being used for spot and futures price quotations.

(a) *Schedule of premiums and discounts for grade and staple length of upland cotton.* This schedule would reflect the differences in loan value between SLM 1 1/16 inches cotton and the various other grade and staple length combinations for upland cotton.

(b) *Schedule of micronaire differentials for upland cotton.* A schedule will reflect differences in loan value between micronaire group 3.5 through 4.9 (the statutory base group) and the various other micronaire groups.

(c) *Schedule of base loan rates by warehouse location for upland cotton.* This schedule will establish base loan rates for upland cotton stored at various warehouse locations.

(d) *Schedule of loan rates by location for eligible qualities of ELS cotton.* In accordance with the Act, the loan rate for 1977-crop ELS cotton was announced at a national average rate. That rate is 76.70 cents per pound, announced by press release (USDA 2962–76) dated October 15, 1976. The schedule of rates would reflect differences in loan value by location for each eligible quality.

(e) *Schedule of micronaire differentials for ELS cotton.* A schedule will reflect differences in loan value between micronaire group 3.5 and above (the base group) and the various other micronaire groups.

(f) *Detailed operating provisions to carry out the price support programs for lint cotton.* Detailed regulations necessary to carry out the price support programs for upland and ELS lint cotton are being reviewed for 1977, including specifications for bale packaging materials used for cotton tendered to CCC under such regulations. Loan provisions in effect under the current program may be found in the Cotton Loan Program Regulations (7 CFR 1427.1–27, as amended by 40 FR 30092 and 41 FR 31182). The latest revision of the bale packaging specifications was published in the FEDERAL REGISTER on February 20, 1976 (41 FR 7755, 41 FR 16816). Consideration will be given to amending the specifications as may be recommended by the Cotton Industry Bale Packaging Committee. Payment provisions in effect for ELS cotton under the current program may be found in the regulations providing the terms and conditions for payments on ELS cotton for 1968 and succeeding years (7 CFR 722.700–720).

The following determination is to be made pursuant to Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)):

(g) *Detailed operating provisions to carry out the seed cotton loan program.* The regulations to carry out the seed cotton loan program are also being reviewed for 1977. Provisions in effect under the current program may be found in the Seed Cotton Loan Program Regulations (7 CFR 1427.160–181, as amended by 40 FR 21469).

Prior to making the foregoing determinations, consideration will be given to any data, views, and recommendations relative to these determinations which are submitted in writing to the Director, Grains, Oilseeds and Cotton Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions should be received by the Director not later than January 26, 1977. All written submissions pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington, D.C. on December 17, 1976.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.76–37895 Filed 12–23–76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Periodic Updating of Final Safety Analysis Reports; Correction and Extension of Comment Period

On November 8, 1976, the Nuclear Regulatory Commission proposed for comment (41 FR 49123) amendments to its regulation, "Licensing of Production and Utilization Facilities," 10 CFR Part 50, which would require each applicant for or holder of a power reactor operating license which would be or was issued after January 1, 1963 to periodically submit to the Commission revised pages for its Final Safety Analysis Report (FSAR) that indicate changes made in the facility or the procedures for its operation and any analyses that are affected by these changes.

As indicated in the statement of considerations, the intent of the Commission was to apply the proposed rule to all power reactors licensed after January 1, 1963. However, the proposed rule was inadvertently limited in its applicability to those power reactors licensed pursuant to the provisions of § 50.22 of 10 CFR Part 50 when the actual intent was to include all power reactors even those licensed pursuant to § 50.21 as well.

Accordingly, in FR Doc.76–32614, published on Monday, November 8, 1976, center column, page 49123, the third line of § 50.71(e) is corrected to read as follows: "§ 50.21 or § 50.22, each applicant for or holder of".

In view of the fact that those power reactor licensees who received their operating licenses under the provisions of § 50.21 may not have realized that they would be subject to the proposed rule, it has been decided to extend the comment period to provide adequate time for comment. Accordingly, the comment period is hereby extended to January 26, 1977.

Dated at Bethesda, Maryland this 20th day of December, 1976.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.76–37941 Filed 12–23–76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[19 CFR Part 207, 208]

DOMESTIC INDUSTRIES

Investigations of Injury

These proposed amendments to title 19, chapter II, subchapter B, of the Code of Federal Regulations would add a new Part 207 thereto and delete Part 208. The purpose of these amendments is to provide a procedural framework for implementing the Antidumping Act, 1921, as amended, section 303 of the Tariff Act of 1930, as amended, and section 301(c)(2) of the Trade Act of 1974.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Office of the Secretary, United States International Trade Commission, Washington, D.C. 20436. All communications received on or before January 26, 1977 will be considered before action is taken on the proposed amendment. Comments received will be available for public examination in the Office of the Secretary.

It is proposed to delete Part 208 of title 19 of the Code of Federal Regulations and to add a new Part 207, set forth in tentative form below:

PART 207—INVESTIGATIONS OF INJURY TO DOMESTIC INDUSTRIES RESULTING FROM IMPORTS SOLD AT LESS THAN FAIR VALUE, IMPORTS FREE OF DUTY WHICH HAVE RECEIVED, DIRECTLY OR INDIRECTLY, ANY BOUNTIES OR GRANTS, OR IMPORTS PROVIDED WITH SUBSIDIES (OR OTHER INCENTIVES HAVING THE EFFECT OF SUBSIDIES)

Sec.

207.1 Applicability of part.

Subpart A—Investigations of Injury to Domestic Industries Resulting From Imports Sold at Less Than Fair Value

207.2 Applicability of subpart.
207.3 Inquiries under section 201(c)(2) of the Antidumping Act, 1921, as amended.
207.4 Investigations under section 201(a) of the Antidumping Act, as amended.
207.5 Investigations concerning the review of injury determinations under the Antidumping Act, 1921.
207.6 [Reserved].

Subpart B—Investigations of Injury to Domestic Industries Resulting From Imports Free of Duty Which Have Received, Directly or Indirectly, Bounties or Grants

207.7 Applicability of subpart.
207.8 Investigations under section 303(b) of the Tariff Act of 1930, as amended.
207.9 Investigations concerning the review of injury determinations under section 303(b) of the Tariff Act of 1930.
207.10 [Reserved].

Subpart C—Investigations of Reduced Sales of U.S. Products in U.S. Markets Resulting From Imports Provided With Subsidies (or Other Incentives Having the Effect of Subsidies)

207.11 Applicability of subpart.
207.12 Investigations under section 301(c)(2) of the Trade Act of 1974.

AUTHORITY: Section 335 of the Tariff Act of 1930 (72 Stat. 680, 19 U.S.C. 1335) and section 603 of the Trade Act of 1974 (88 Stat. 2073; 19 U.S.C. 2482).

§ 207.1 Applicability of part.

This Part 207 applies specifically to functions and duties of the Commission under sections 201(a), 201(c)(2), and 201(d) of the Antidumping Act, 1921, as amended (19 U.S.C. 160, et seq.), under section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), and section 301(c)(2) of the Trade Act of 1974 (19 U.S.C. 2411(c)(2)). Subpart A of this part sets forth rules specifically applicable to investigations under the Antidumping Act, 1921, as amended. Subparts B and C of this part set forth rules specifically applicable to investigations under section 303 of the Tariff Act of 1930, as amended, and section 301(c)(2) of the Trade Act of 1974, respectively.

Subpart A—Investigations of Injury to Domestic Industries Resulting From Imports Sold at Less Than Fair Value

§ 207.2 Applicability of subpart.

This Subpart A of Part 207 applies specifically to investigations and inquiries under the Antidumping Act, 1921, as amended. For other applicable rules, see Part 201 of this chapter.

§ 207.3 Inquiries under section 201(c)(2) of the Antidumping Act, 1921, as amended.

(a) *Purpose of inquiry.* The purpose of an inquiry under section 201(c)(2) by the Commission, upon the receipt of a conclusion by and appropriate information from the Secretary of the Treasury, is to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of the class or kind of merchandise which is the subject of an investigation by the Treasury Department.

(b) *Institution of inquiry.* After the receipt of a conclusion and appropriate information from the Secretary of the Treasury under section 201(c)(2), the Commission shall institute an inquiry for the purpose indicated in § 207.3(a), and publish notice thereof in the FEDERAL REGISTER.

(c) *Public hearing.* If in the judgment of the Commission there is good and sufficient reason therefor, the Commission, in the course of its inquiry, will hold a public hearing and afford interested persons the opportunity to appear and be heard at such hearing.

(d) *Written statements.* At any time after a notice of inquiry under § 207.3(b) is published in the FEDERAL REGISTER, any interested person may submit to the Commission a written statement of information pertinent to the subject matter of such inquiry. If a public hearing is held in the inquiry, such statement may be received in lieu of appearance at such hearing. Statements shall conform with the requirements for documents set forth in §§ 201.6 and 201.8 of this chapter.

(e) *Notification of Commission's determination.* Within thirty (30) days after the date of the receipt by the Commission of the information from the Secretary of the Treasury referred to in § 207.3(b) the Commission will notify the Secretary of the Treasury of its determination. The Commission's determination, together with a statement of reasons therefor, will be published in the FEDERAL REGISTER.

§ 207.4 Investigations under section 201(a) of the Antidumping Act, 1921, as amended.

(a) *Purpose of investigation.* The purpose of an investigation by the Commission under section 201(a) of the Antidumping Act, 1921, as amended, is to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of a class or kind of foreign merchandise which the Secretary of the Treasury has determined is being, or is likely to be, sold in the United States or elsewhere at less than its fair value.

(b) *Institution of investigation.* After the receipt of advice from the Secretary of the Treasury that he has determined that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, the Commission shall institute an investigation for the purposes of § 207.4(a), and publish notice thereof in the FEDERAL REGISTER.

(c) *Public hearing.* If, in the judgment of the Commission, there is good and sufficient reason therefor, the Commission, in the course of its investigation, will hold a public hearing and afford an opportunity for interested persons to appear and be heard. If no notice of public hearing issues concurrently with the notice of institution of the investigation under § 207.4(b), the Commission shall, at the request of any foreign manufac-

likely be injured, or prevented from

§ 207.10 [Reserved]

(e) *Notification of Commission's de-*

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turer or exporter or any domestic manufacturer, producer, or wholesaler of merchandise of the same class or kind, conduct a hearing at which—

(1) Any such person shall have the right to appear by counsel or in person; and

(2) Any other person, firm, corporation, or association may make application and, upon good cause shown, may be allowed to intervene and appear at such hearing by counsel or in person.

(3) Any hearing conducted pursuant to this section shall be exempt from sections 554, 555, 556, 557, and 702 of title 5 of the United States Code.

(d) *Written statements.* At any time after a notice of investigation under § 207.4(b) is published in the FEDERAL REGISTER, any interested person may submit to the Commission a written statement of information pertinent to the subject matter of such investigation. If a public hearing is held in the investigation, such statement may be received in lieu of appearance at such hearing. Statements shall conform with the requirements for documents set forth in §§ 201.6 and 201.8 of this chapter.

(e) *Notification of Commission's determination.* On or before the expiration of three (3) months after the date of the receipt by the Commission of the advice from the Secretary of the Treasury referred to in § 207.4(b) the Commission will notify the Secretary of the Treasury of its determination. The determination, whether affirmative or negative, shall be published in the FEDERAL REGISTER together with a complete statement of findings and conclusions, and the reasons or bases therefor, on all the material issues of fact or law presented.

§ 207.5 Investigations concerning the review of injury determinations under the Antidumping Act, 1921.

(a) *Purpose of investigation.* The purpose of an investigation by the Commission to review an injury determination that has been made under section 201(a) of the Antidumping Act, 1921, as amended, is to determine either (1) whether an error in fact or law existed at the time of the subject determination which justifies the reconsideration of the injury determination under section 201(a) or (2) whether changed circumstances exist which indicate that if the finding of dumping issued by the Secretary of the Treasury were modified or revoked, an industry in the United States would not likely be injured, or prevented from being established, by reason of the importation into the United States of the relevant merchandise at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

(b) *Institution of investigation.* The Commission will institute an investigation for the purposes of § 207.5(a)(1) if within twenty (20) days from the date of issuance of an injury determination under § 201(a) the Commission receives a proper application therefor, from an interested party, specifying error of fact or law which the Commission deems to be sufficient to warrant such investigation. The Commission will institute an investigation for the purposes of § 207.5(a)(2) upon its own motion or upon receipt from the Secretary of the Treasury of appropriate advice concerning an application from a party specifying the changed circumstances forming the basis for review, except that in the absence of good cause being shown, no investigation for the purpose of § 207.5(a)(2) shall be made unless 1 year has elapsed since the publication of the finding of dumping by the Secretary of Treasury. The Commission shall publish notice of the institution of an investigation in the FEDERAL REGISTER.

(c) *Public hearing.* If, in the judgment of the Commission, there is good and sufficient reason therefor, the Commission will, in the course of an investigation under § 207.5(b), hold a public hearing and afford interested persons opportunity to appear and be heard at such hearing. If no notice of public hearing issues concurrently with a notice of investigation, any interested person who believes that a public hearing should be held may, within fifteen (15) days after the date of publication in the FEDERAL REGISTER of the notice of investigation, submit a request in writing to the Secretary of the Commission that a public hearing be held, stating the reasons for such request.

(d) *Written statements.* At any time after a notice of investigation under § 207.5(b)(2) is published in the FEDERAL REGISTER, any interested person may submit a written statement of information pertinent to the subject matter of such investigation to the Commission. If a public hearing is held in the investigation, such statement may be received in lieu of an appearance at such hearing. Statements shall conform with the requirements for documents set forth in §§ 201.6 and 201.8 of this chapter.

(e) *Notification of Commission's determination.* The Commission will notify the Secretary of the Treasury of its determination. A summary of the Commission's determination, together with a statement of reasons therefor, will be published in the FEDERAL REGISTER.

§ 207.6 [Reserved]

Subpart B—Investigations of Injury to Domestic Industries Resulting From Imports Free of Duty Which Have Received, Directly or Indirectly, Bounties or Grants.

§ 207.7 Applicability of subpart.

This subpart B applies specifically to investigations under section 303(b) of the Tariff Act of 1930, as amended. For other applicable rules, see Part 201 of this chapter.

§ 207.8 Investigations under section 303(b) of the Tariff Act of 1930, as amended.

(a) *Purpose of investigation.* The purpose of an investigation by the Commission under section 303(b) of the Tariff Act of 1930, as amended, is to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation free of duty into the United States of a class or kind of foreign merchandise or articles as to which the Secretary of the Treasury has made a final determination that a bounty or grant is being paid or bestowed.

(b) *Institution of investigation.* After receipt of advice from the Secretary of the Treasury that a bounty or grant is being paid or bestowed with respect to any article or merchandise which is free of duty and the determination by the Commission described in § 207.8(a) is required, the Commission shall institute an investigation for the purpose indicated in § 207.8(a) and publish notice thereof in the FEDERAL REGISTER.

(c) *Public hearing.* If, in the judgment of the Commission, there is good and sufficient reason therefor, the Commission, in the course of its investigation, will hold a public hearing and afford interested persons opportunity to appear and be heard at such hearing. If no notice of public hearing issues concurrently with a notice of investigation, any interested person who believes that a public hearing should be held may, within fifteen (15) days after the date of publication in the FEDERAL REGISTER of the notice of investigation, submit a request in writing to the Secretary of the Commission that a public hearing be held, stating the reasons for such request.

(d) *Written statements.* At any time after a notice of investigation under § 207.8(d) is published in the FEDERAL REGISTER, any interested person may submit to the Commission a written statement of information pertinent to the subject matter of such investigation. If a public hearing is held in the investigation, such statement may be received in lieu of appearance at such hearing. Statements shall conform with the requirements for documents set forth in §§ 201.6 and 201.8 of this chapter.

(e) *Notification of Commission's determination.* On or before the expiration of three (3) months after the date of receipt by the Commission of the advice from the Secretary of the Treasury referred to in § 207.8(b), the Commission will notify the Secretary of the Treasury of its determination. A summary of the Commission's determination, together with a statement of reasons therefor, will be published in the FEDERAL REGISTER.

§ 207.9 Investigations concerning the review of injury determinations under section 303(b) of the Tariff Act of 1930.

(a) *Purpose of investigation.* The purpose of an investigation by the Commission to review an injury determination that has been made under section 303(b) of the Tariff Act of 1930, as amended, is to determine either (1) whether an error in fact or law existed at the time of the subject determination which justifies the reconsideration of the injury determination under section 303(b) or (2) whether changed circumstances exist which indicate that if the finding of a bounty or grant issued by the Secretary of the Treasury were modified or revoked, an industry in the United States would not likely be injured, or prevented from being established, by reason of the importation into the United States of the relevant merchandise receiving bounties or grants within the meaning of the Tariff Act of 1930, as amended.

(b) *Institution of investigation.* The Commission will institute an investigation for the purposes of § 207.9(a)(1) if within twenty (20) days from the date of issuance of an injury determination under § 303(b), the Commission receives a proper application therefor, from an interested party, specifying error of fact or law which the Commission deems to be sufficient to warrant such investigation. The Commission will institute an investigation for the purposes of § 207.9(a)(2) upon its own motion or upon receipt from the Secretary of the Treasury of appropriate advice concerning an application from a party specifying the changed circumstances forming the basis for review, except that in the absence of good cause being shown, no investigation for the purpose of § 207.9(a)(2) shall be made unless 1 year has elapsed since the publication of the finding of a bounty or grant by the Secretary of Treasury. The Commission shall publish notice of the institution of an investigation in the FEDERAL REGISTER.

(c) *Public hearing.* If, in the judgment of the Commission, there is good and sufficient reason therefor, the Commission will, in the course of an investigation under § 207.9(b), hold a public hearing and afford interested persons opportunity to appear and be heard at such hearing. If no notice of public hearing issues concurrently with a notice of investigation, any interested person who believes that a public hearing should be held may, within fifteen (15) days after the date of publication in the FEDERAL REGISTER of the notice of investigation, submit a request in writing to the Secretary of the Commission that a public hearing be held, stating the reasons for such request.

(d) *Written statements.* At any time after a notice of investigation under § 207.9(b)(2) is published in the FEDERAL REGISTER, any interested person may submit to the Commission a written statement of information pertinent to the subject matter of such investigation. If a public hearing is held in the investigation, such statement may be received in lieu of appearance at such hearing. Statements shall conform with the requirements for documents set forth in §§ 201.6 and 201.8 of this chapter.

(e) *Notification of Commission's determination.* The Commission will notify the Secretary of the Treasury of its determination. A summary of the Commission's determination, together with a statement of reasons therefor, will be published in the FEDERAL REGISTER.

§ 207.10 [Reserved]

Subpart C—Investigations of Reduced Sales of U.S. Products in U.S. Markets Resulting From Imports Provided With Subsidies (or Other Incentives Having the Effect of Subsidies)

§ 207.11 Applicability of subpart.

This Subpart C of Part 207 applies specifically to investigations under section 301(c)(2) of the Trade Act of 1974. For other applicable rules, see part 201 of this chapter.

§ 207.12 Investigations under section 301(c)(2) of the Trade Act of 1974.

(a) *Purpose of investigation.* The purpose of an investigation by the Commission under § 301(c)(2) of the Trade Act of 1974 is to determine whether exports to the United States, which the Secretary of the Treasury has determined are subsidized (or subject to other incentives having the effect of subsidies) by the exporting country or foreign instrumentality, have the effect of substantially reducing sales of the competitive U.S. product or products in the United States.

(b) *Institution of investigation.* Upon the receipt of the determination of the Secretary of the Treasury that a foreign country or instrumentality provides subsidies (or other incentives having the effect of subsidies) on exports of a product to the United States, the Commission shall institute an investigation for the purpose indicated in § 207.12(a) and publish notice thereof in the FEDERAL REGISTER.

(c) *Public hearing.* If, in the judgment of the Commission, there is good and sufficient reason therefor, the Commission, in the course of its investigation, will hold a public hearing and afford interested persons opportunity to appear and be heard at such hearing. If no notice of public hearing issues concurrently with a notice of investigation, any interested person who believes that a public hearing should be held may, within fifteen (15) days after the date of publication in the FEDERAL REGISTER of the notice of investigation, submit a request in writing to the Secretary of the Commission that a public hearing be held, stating the reasons for such request.

(d) *Written statements.* At any time after a notice of investigation under § 207.12(b) is published in the FEDERAL REGISTER, any interested person may submit to the Commission a written statement of information pertinent to the subject matter of such investigation. If a public hearing is held in the investigation, such statement may be received in lieu of appearance at such hearing. Statements shall conform with the requirements for documents set forth in §§ 201.6 and 201.8 of this chapter.

(e) *Notification of Commission's determination.* After the completion of its investigation, the Commission shall transmit to the President a report of the results thereof, including the findings and a transcript of the evidence submitted at the hearing, if any. The Commission's report (except confidential business data) will be released to the public.

PART 208—[RESERVED]

By order of the Commission.

Issued: December 21, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-37932 Filed 12-23-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 620]

[FHWA Docket No. 76-18]

VALUE ENGINEERING

● *Purpose.* The purpose of this document is to propose the application of value engineering for Federal-aid projects.●

The Federal Highway Administration is considering rulemaking to implement section 106(d) of Title 23, United States Code. The proposed rulemaking would add Subpart D to Part 620 of Title 23 of the Code of Federal Regulations.

Under the above cited law, the Secretary is authorized to determine when value engineering analysis shall accompany plans, specifications, and estimates for proposed projects on any Federal-aid system. Since value engineering is a systematic technique for analyzing the function of a product, process, or service, and since its practice requires adherence to a unique procedure or "job plan," implementation of the requirements of law, as introduced in the Federal-Aid Highway Act of 1970, had to be deferred until each State highway department had been furnished an opportunity to participate in value engineering training and become familiar with the process. In fiscal year 1976, nine value engineering workshops were held, one in each of the Federal-aid Regions, and each State highway or transportation department was invited to participate.

The application of value engineering to Federal-aid projects is expected to provide a useful management technique producing considerable cash savings as well as product improvement. Generally, by applying value engineering techniques of identifying the function of a product or service, establishing a value for that function, and developing suitable alternatives, such product or service can be provided with the necessary functional reliability at the lowest overall cost.

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To achieve effective utilization of value engineering, each State highway department would be encouraged to develop or have access to a capability to perform value engineering. Qualified value engineering consultants could be employed by a State to conduct VE studies on Federal-aid projects.

A directive pursuant to 23 U.S.C. 106 (d) is proposed to be included in Volume 6, Chapter 1, of the Federal-Aid Highway Program Manual for the purpose of formalizing the requirements for value engineering and imposing upon the States certain responsibilities regarding its practice. A handbook or text entitled "Value Engineering for Highways" has been prepared and will be issued with the directive to ensure full coverage of all States as well as region and division offices of the Federal Highway Administration. These texts will serve as amplification of the directive and detailed explanation of the process.

In summary, it is the purpose of the proposed addition of Subpart D, Part 620 to 23 CFR to encourage application of value engineering by the States to Federal-aid projects so as to accomplish program objectives at the lowest overall cost.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communication should be submitted in triplicate to the Federal Highway Administration, Department of Transportation, Room 4230, Docket No. 76–18, 400 Seventh Street, SW, Washington, D.C. 20590. All communications received on or before February 1, 1977, will be considered by the Administrator before final action is taken on this proposal. Copies of all written communications received will be available for examination during normal business hours at the foregoing address.

These amendments to Title 23, Code of Federal Regulations, are proposed under the authority of 23 U.S.C. 106(d); and the delegation of authority by the Secretary of Transportation under 49 CFR 1.48(b)(5).

In consideration of the foregoing, it is proposed to amend Chapter I of Title 23 of the Code of Federal Regulations by adding a new Subpart D to Part 620.

Pursuant to the Department of Transportation Policies to Improve Analysis and Review of Regulations (41 FR 16200), the Secretary of Transportation has been notified that the proposed regulation is expressly mandated by statute or has minimal impact.

The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued on: December 17, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

23 CFR, Chapter I is amended by adding a new subpart D to Part 620, reading as follows:

Subpart D—Value Engineering

Sec.
620.401 Purpose.
620.403 Definition.
620.405 Policy.
620.407 Use of Consultants.

AUTHORITY: 23 U.S.C. 106(d), 315; 49 CFR 1.48(b):

Subpart D—Value Engineering

§ 620.401 Purpose.

To provide policy guidance on the application of value engineering (VE) to Federal-aid projects.

§ 620.403 Definition.

"Value Engineering" is the systematic application of recognized techniques which identify the function of a product or service, establish a value for that function, and provide the necessary function reliably at the lowest overall cost.

§ 620.405 Policy.

(a) Section 106(d) of Title 23, United States Code provides:

> In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid system shall be accompanied by a value engineering or other cost reduction analysis.

(b) It is FHWA's policy to encourage State use of VE throughout highway project development, and, through the Division Administrator, to request that VE be performed on Federal-aid projects where its employment has high potential for public benefit.

§ 620.407 Use of Consultants.

(a) Consultants qualified to practice VE, may be employed by a State to conduct VE studies on Federal-aid projects. A consultant may not be employed to apply VE to his own product.

(b) In all cases, the VE consultant should be a Certified Value Specialist (CVS) qualified by the Society of American Value Engineers, or other qualified practitioner meeting similar requirements of education, experience, and training.

[FR Doc.76–37767 Filed 12–23–76;8:45 am]

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 344]

UNITED STATES TREASURY CERTIFICATES OF INDEBTEDNESS—STATE AND LOCAL GOVERNMENT SERIES; UNITED STATES TREASURY NOTES—STATE AND LOCAL GOVERNMENT SERIES; AND UNITED STATES TREASURY BONDS—STATE AND LOCAL GOVERNMENT SERIES

Governing Regulations

Notice is hereby given that the Department of the Treasury is considering the adoption of revised regulations (31 CFR Part 344) to govern United States Treasury Certificates of Indebtedness, Notes and Bonds—State and Local Government Series.

The proposed new regulations, which are set forth at the end of this notice, would restrict the funds eligible for investment in the above securities, would prescribe a more effective penalty provision for the premature redemptions of such securities, and would update the applicable requirements. The changes are to be effected under the authority of 26 U.S.C. 103 (a) and (d), 83 Stat. 656; 31 U.S.C. 752, 753, 754, 754d; and 5 U.S.C. 301.

Specifically, the principal changes being proposed are as follows:

(1) Subscriptions for any issue of securities will be accepted in the minimum amount of $1,000, or in any larger amount in multiples of $100; previously a $5,000 multiple was prescribed.

(2) Certificates will be issued for terms as short as 45 days; notes will be issued with maturities up to ten years in conformity with a recent statutory change; bonds will be issued with maturities up to 40 years.

(3) Only funds consisting solely of proceeds of obligations described in Section 103(a) of the Internal Revenue Code, and in an amount not more nor less than that subject to certain yield restrictions, will be eligible for investment.

(4) Subscriptions submitted by an agent must be accompanied by evidence of the agent's authority to act.

(5) Subscribers will have up to 60 days to pay up on subscriptions, rather than the present three weeks.

(6) Subscriptions that are not timely paid will be canceled and substitute subscriptions will not be accepted for a period of six months.

(7) Paid subscriptions may be canceled, and refunded without interest, within 30 days of the issue date, but no substitute subscriptions will be accepted for a period of six months.

(8) A notice of one week, rather than the present two days, will be required for redemptions prior to maturity.

(9) A penalty will be imposed in any case where a premature redemption would disadvantage the Treasury by subjecting it to higher costs for borrowing funds in the same amount for the remaining period to original maturity.

(10) Where a note or bond is being redeemed prior to maturity, redemption will be effected only as of an interest payment date.

The offering of Treasury securities relates to the fiscal policy of the United States, and, accordingly, is not subject to notice and public procedures. In this case, however, given the connection between this offering and the recent publication of changes in the arbitrage regulations of the Internal Revenue Service, notice is being provided to give investors eligible to participate in this offering, and other interested parties, an opportunity to comment on the proposed rules. At the same time, since this offering is a continuous one, these rules shall apply to all investors electing to subscribe for these securities during the period between this publication and the adoption of the final regulations.

All comments, as well as requests for additional information, should be mailed

to the Bureau of the Public Debt, Washington, D.C. 20226 on or before January 26, 1977.

Dated: December 20, 1976.

DAVID MOSSO,
Fiscal Assistant Secretary.

31 CFR Part 344 is revised as set forth below.

PART 344—REGULATIONS GOVERNING UNITED STATES TREASURY CERTIFICATES OF INDEBTEDNESS—STATE AND LOCAL GOVERNMENT SERIES; UNITED STATES TREASURY NOTES—STATE AND LOCAL GOVERNMENT SERIES; AND UNITED STATES TREASURY BONDS—STATE AND LOCAL GOVERNMENT SERIES

Sec.
344.0 Offering of securities.
344.1 Description of securities.
344.2 Subscription for purchase.
344.3 Issue date and payment.
344.4 Redemption.
344.5 General provisions.

AUTHORITY: 26 U.S.C. 103(a) and (d), 83 Stat. 656; 31 U.S.C. 752, 753, 754, 754d; and 5 U.S.C. 301.

SOURCE.—Department of the Treasury Circular, Public Debt Series No. 3–72, Revised, dated November 21, 1972, as amended (31 CFR, Part 344), is hereby further revised and amended and issued as Department of the Treasury Circular, Public Debt Series No. 3–72, Second Revision.

§ 344.0 Offering of securities.

In order to provide States, municipalities and other government bodies described in section 103(a)(1) of the Internal Revenue Code, and the regulations issued under section 103, with investments tailored to their needs under those provisions, the Secretary of the Treasury offers for sale thereto, under the authority of the Second Liberty Bond Act, as amended:

(1) United States Treasury Certificates of Indebtedness—State and Local Government Series,

(2) United States Treasury Notes—State and Local Government Series, and

(3) United States Treasury Bonds—State and Local Government Series.

The term "government body", as used herein, refers to any one of the entities to which section 103(a)(1) is applicable. The term "securities", as used herein, refers jointly to certificates, notes and bonds. This offering will continue until terminated by the Secretary of the Treasury.

§ 344.1 Description of securities.

(a) *General.* The securities will be issued in book-entry form on the books of the Department of the Treasury, Bureau of the Public Debt, Washington, D.C. 20226. They may not be transferred by sale, exchange, assignment or pledge, or otherwise.

(b) *Terms.*—(1) *Certificates of Indebtedness.* The certificates will be issued in a minimum of $1,000, or in any larger amount in multiples of $100, with maturity periods fixed, at the option of the government body, from 45 days up to one year, or for any intervening period.

(2) *Notes.* The notes will be issued in the minimum amount of $1,000, or in any larger amount in multiples of $100, with maturity periods fixed, at the option of the government body, from one year and one day up to and including ten years, or for any intervening period.

(3) *Bonds.* The bonds will be issued in the minimum amount of $1,000, or in any larger amount in multiples of $100, with maturity periods fixed, at the option of the government body from ten years and one day or for any longer period specified by year, month and day, not to exceed 40 years.

(c) *Rates of interest.* Each certificate, note or bond will bear such rate of interest as the government body shall designate, provided, however, that it shall not be more than one-eighth of 1 percent below the then current Treasury rate on a security of comparable maturity. Interest on certificates will be computed on an annual basis and will be payable at maturity with the principal amount. Interest on notes and on bonds will be paid beginning on any interest payment date requested in the subscription form, and on a semiannual basis thereafter to maturity.[1] If the date requested for the first interest payment is less than 45 days from the date of issue, no assurance can be given that such payment will be timely made. The final interest payment on notes and bonds shall coincide with their maturity and will be paid with the principal. The applicable maximum interest rates for each week may be determined from tables which will be generally available no earlier than the first business day of that week at Federal Reserve Banks and branches. The rate tables will be effective for all subscriptions actually received by the Banks and Branches during the week to which the tables apply, or, where mailed, by the stamp date. All subscriptions submitted by mail must be sent by certified or registered mail.

§ 344.2 Subscription for purchase.

A government body may purchase securities under this offering by submitting a subscription and making payment therefor to a Federal Reserve Bank or Branch. The subscription, dated and signed by an official authorized to make the purchase, must show the amounts, issue dates, maturities, and, on the basis of the applicable table, specify the interest rates of the securities desired; the semiannual interest payment dates (in the case of notes and bonds); and, the title(s) of the designated official(s) authorized to request early redemption of such securities. Subscriptions submitted for certificates, notes and bonds must separately itemize securities of each maturity and each interest rate. Each subscriber will be required to certify that the total investment (1) Consists only of the proceeds of obligations described in section 103(a) of the Internal Revenue Code, and (2) Is not more nor less than the amount of such proceeds subject to yield restrictions under section 103(d) of the Code, and the regulations issued thereunder. Where a commercial bank submits a subscription on behalf of a government body, it must certify that it is acting under the latter's specific authorization; ordinarily, evidence of such authority will not be required. Subscriptions submitted by an agent other than a commercial bank must be accompanied by evidence of the agent's authority to act. Such evidence must describe the nature and scope of the agent's authorization, the legal authority under which the agent was designated, and relate by its terms to the investment action being undertaken. Subscriptions unsupported by such evidence will not be accepted.

§ 344.3 Issue date and payment.

The subscriber shall fix the issue date of each security for which a subscription has been submitted, but in no case may such date exceed by more than 60 calendar days either the date of receipt of the subscription at the Federal Reserve Bank or Branch to which it was submitted or, where mailed, the stamp date thereof. Full payment for each subscription in immediately available funds must be made on the date of issue, or at any time prior thereto. Except in cases where failure to complete a subscription is established to have been due to circumstances not foreseen or contemplated, any subscriber which fails to make timely payment for its subscription will be ineligible thereafter to subscribe for securities under this offering for a period of not less than six months. A subscriber may cancel a paid subscription within 30 days of the issue date, in which event the purchase price, without interest, will be refunded. No substitute subscription therefor will be accepted for a period of six months.

§ 344.4 Redemption.

(a) *At maturity.* A security may not be called for redemption by the Secretary of the Treasury prior to maturity. Upon the maturity of a security, the Treasury will make payment of the principal amount and interest to the owner therof (1) by a direct credit for its account through a member bank of the Federal Reserve System, (2) by Treasury check, or (3) In accordance with other prior arrangements made by the subscriber with the Bureau of the Public Debt.

(b) *Prior to maturity.* A security may be redeemed at the owner's option on one week's notice after 45 days from the issue date in the case of a certificate, and after one year from the issue date in the case of a note or bond. Where redemption prior to maturity occurs, the interest for the entire period the security was outstanding shall be calculated on the basis of the lesser or (1) the original interest rate

[1] If the first interest payment date on a note or bond is March 31, May 31, August 29, 30 and 31, October 31, or December 31, the alternate semiannual interest payment date will be September 30, November 30, February 28 (February 29 in leap year), April 30 or June 30, respectively. Otherwise, interest payment will be made on numerically corresponding dates at six-month intervals.

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at which the security was issued, or (2) the interest rate that would have applied had the term for the security actually been for the shorter period. There shall be deducted from the redemption proceeds, if necessary, any overpayment of interest resulting from previous payments at a higher rate based on the original longer period to maturity. In addition, a penalty shall be assessed in all cases where the current borrowing costs to the Department of the Treasury for the remaining period to original maturity of the security prematurely redeemed exceeds the rate of interest originally fixed for such security. The difference between the two rates shall be the applicable penalty. It shall be assessed by deducting from the redemption proceeds the amount required to offset the increased costs to finance the amount being redeemed. Where a note or bond is being redeemed prior to maturity, its redemption will be effected only as of an interest payment date; no interest will be paid for any fractional part of an interest period. A notice to redeem a security prior to the maturity date must be given by the official(s) authorized to redeem it, as shown on the subscription form, to the Bureau of the Public Debt, Division of Securities Operations, Washington, D.C. 20226, by letter or wire or by telephone confirmed by wire. The telephone number is (202) 447-1288.

§ 344.5 General provisions.

(a) *Regulations.* United States Treasury Certificates of Indebtedness—State and Local Government Series, United States Treasury Notes—State and Local Government Series, United States Treasury Bonds—State and Local Government Series, shall be subject to the general regulations with respect to United States securities, which are set forth in the Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), to the extent applicable. Copies of the circular may be obtained from the Bureau of the Public Debt, Washington, D.C. 20226, or a Federal Reserve Bank or Branch.

(b) *Fiscal Agents.* Federal Reserve Banks and Branches, as fiscal agents of the United States, are authorized to perform such services as may be requested of them by the Secretary of the Treasury in connection with the purchase of, and transactions in, the securities.

(c) *Reservations.* The Secretary of the Treasury reserves the right to reject any application for the purchase of securities hereunder, in whole or in part, and to refuse to issue or permit to be issued any such securities in any case or any class or classes of cases if he deems such action to be in the public interest, and his action in any such respect shall be final. The Secretary of the Treasury may also at any time, or from time to time, supplement or amend the terms of these regulations, or of any amendments or supplements thereto.

[FR Doc.76-37809 Filed 12-23-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 231]

GRAZING LIVESTOCK ON NATIONAL FOREST SYSTEM LANDS

Advance Notice of Proposed Rulemaking

The Forest Service is preparing to amend Part 231 of Title 36, Code of Federal Regulations pertaining to grazing livestock on National Forest System lands. Amendments are necessary to incorporate direction given to the Secretary of Agriculture in the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

This Advance Notice of Proposed Rulemaking is being issued in order to give individuals and organizations who desire an opportunity to submit written views and suggestions as to proposed content of the rules. Communications should be directed to the Director of Range Management, USDA, Forest Service, P.O. Box 2417, Washington, D.C. 20013. All communications received on or before January 28, 1977, will be considered before taking action on the proposed rules. All comments submitted will be available both before and after the closing date for comments for the examination of interested parties. After consideration of the available data and comments received in response to this notice, a Notice of Proposed Rulemaking will be issued.

The Federal Land Policy and Management Act of 1976 directs certain phases of management of the grazing resources of the National Forest System and, specifically, National Forests in the 11 contiguous western States. Part 231 of 36 CFR is involved in the following categories:

1. Authorities and definitions.
2. Management of the range environment.
3. Issuance and reissuance of grazing permits:
   a. 10-year term permits;
   b. Compensation for permitee interest in authorized permanent improvements; and
   c. Cancellation of term grazing permits.
4. Rangeland betterment funds for range improvement.
5. Grazing advisory boards.
6. Grazing fees.
7. Management of certain wild horses and burros.

Rulemaking covering grazing fees and management of certain wild horses and burros are being handled individually. This notice does not invite comment on these two items. Other notices will invite comment and participation in rules for these management phases. Comments are now welcome on items one through five listed above.

(Sec. 1, 30 Stat. 35 as amended, sec. 1, 33 Stat. 628; 16 U.S.C. 551, 472; sec. 32, 50 Stat. 525, as amended; 7 U.S.C. 1011; 85 Stat. 649; 90 Stat. 2743; 90 Stat. 2949.)

Issued in Washington, D.C. on December 17, 1976.

R. A. RESLER,
Assistant Chief, Forest Service.

[FR Doc.76-37808 Filed 12-23-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[Docket No. 21010; RM-2577; FCC 76-1104]

UHF TELEVISION RECEIVER NOISE FIGURES

Inquiry and Proposed Rule Making

Adopted: November 30, 1976.

Released: December 16, 1976.

1. The Commission has received a petition for rulemaking to amend § 15.67 of the Commission's Rules and Regulations to reduce the noise figure required for UHF television receivers on Channels 14–83 inclusive. The petition seeks to reduce the maximum noise figure for UHF receivers from 18 dB, as presently given in § 15.67, to 14 dB within 6 months, 12 dB within 18 months, and 10 dB within 30 months. The petition (RM-2577) was filed with the Commission by the Council for UHF Broadcasting (CUB) joined by the Corporation for Public Broadcasting (CPB), the Public Broadcasting Service (PBS), the National Association of Broadcasters (NAB), the Association of Maximum Service Telecasters Inc. (AMST), the Association of Independent Television Stations Inc. (INTV), and the Joint Council on Educational Telecommunications (JCET). Statements in opposition to this petition were filed with the Commission by the Consumers Electronics Group of the Electronic Industries Association (EIA) and Television Receiver Engineering Committee of the Electronic Industries Association of Japan (EIAJ–TV Rec). The Commission believes that more information is required above that contained in this petition and the oppositions thereto to allow a decision to be reached which considers all pertinent economic and technical effects of a change in the required UHF receiver noise figures from those presently given in § 15.67. For this reason, the Commission is releasing this Notice of Inquiry and Proposed Rule Making.

2. Accoding to § 15.4(h) of the Commission's Rules and Regulations, the noise figure of a television broadcast receiver is: "The ratio of (1) the total noise power delivered by the receiver into its output termination when the noise temperature of its input termination is standard (290° K) at all frequencies, to (2) the portion thereof engendered by the input termination.

NOTE.—For a television broadcast receiver, portion (2) includes only that noise from the input termination which appears in the output via the principal frequency transformation and does not include spurious contributions such as those from image frequency transformation.

3. The method commonly used for measurement of television receiver noise figures is described in the Institute of Electrical and Electronic Engineers Standard IEEE 190–1960, paragraph 4.4.

4. Section 15.67 of the Commission's Rules and Regulations requires television receivers manufactured after April 30, 1964, to have noise figures not exceeding 18 dB (in Channels 14 through 83).

5. Data filed with the FCC during 1971–1972 by various television receiver manufacturers covering 100 different television receivers showed an average noise figure in the UHF television band of 12.4 dB. The standard deviation of the noise figures was 1.9 dB. The distribution of the noise figures was normal.[1]

6. Measurements made in 1974 of the noise figures of 8 types of foreign UHF television tuners gave an average noise figure of 8.95 dB with a standard deviation of 1.75 dB. The range of noise figures of these tuners was from 6.3 to 14.4 dB. Ten U.S. UHF television receivers measured during the same program had an average noise figure of 12.7 dB with a standard deviation of 3.2 dB. The range of noise figures measured for the U.S. receivers was from 7.8 to 20+ db. (The noise figures for the U.S. receivers included those on Channel 83 which was not measured on the foreign tuners.) The U.S. receivers were in the low, medium, and high price ranges. There was no marked trend between noise figure and price.[2]

7. Tests made on a sample of 5 U.S. television receivers using UHF television broadcast signals found little correlation between receiver noise figure and susceptibility of the receiver to cross modulation and intermodulation interference.[3]

8. The most common UHF tuner in U.S. television sets today is the 70 position mechanical tuner. The tuner uses 2 tuned circuits between the antenna input terminals of the tuner and the diode point contact diode mixer. The mixer output is fed through a broadband circuit to the input of the VHF tuner which is used as the 1st IF amplifier. When aligned properly and with the normal range of component values this tuner has a noise figure between 11 to 14 dB. (If mistracking occurs or there is antenna mismatching, the noise figures will, however, be somewhat higher.[4]

9. Data on 2 commercial U.S. tuners using point contact diodes and on 2 commercial tuners using hot carrier diodes (when corrected for correspondence to equal IF noise figures) showed that the hot carrier diode tuners had 1 to 2.3 dB better average noise figures than did the point contact diode tuners. Both tuners are in production.[5]

10. Utilization of available improved UHF diodes and transistors in UHF television tuners will reduce present receiver noise figures.[6]

11. The EIA proposes that a determination be made of the cost effectiveness of a lower noise figure requirement and the social and economic necessity of the continuing availability of low cost television receivers prior to any reduction of the 18 dB noise figure requirement of § 15.67 of the Commission's Rules and Regulations.[4]

12. In view of these considerations, this Notice of Inquiry and Proposed Rule Making solicits responses to the following questions:

(a) Will the changes which would be required in current television sets to reduce UHF noise figures produce greater receiver susceptibilities to other forms of interference (as cross modulation, intermodulation)?

(b) Will UHF receiver oscillator radiation be changed (and if so to what extent) by steps taken to improve UHF noise figures?

(c) At present the average television receiver has a UHF noise figure well below 18 dB. Should § 15.67 of the Rules be deleted from the Rules?

(d) What, if any, are the technical limitations relative to the degree of improvement which can be accomplished in UHF receiver noise figure by using the recently developed diodes and transistors?

(e) What time period will be required to produce television receivers having no greater interference susceptibilities than present receivers, but with UHF noise figures not exceeding: (1) 14 dB, (2) 12 dB, and (3) 10 dB?

(f) What will be the additional cost to the consumer above present television receiver prices for improved television receivers with no greater interference susceptibilities than at present but with the noise figures listed in (e).

(g) Viewers in areas where UHF television signals are strong may already be receiving pictures with very little noise degradation and probably would not benefit to any great extent from a receiver having a noise figure lower than present noise figures. Viewers in weaker signal areas probably would receive noticeable improvements in picture quality from receivers with reduced noise figures. Should several types of television receivers be considered: (1) Those with present noise figures for strong signal areas, and (2) those with noise figures as in (e) for weaker signal areas?

(h) It has been shown that in a sample of 100 television receivers the UHF noise figures are normally distributed.[1] By proper specification of a UHF television receiver noise figure mean and standard deviation, the percentage of receivers having unacceptably high noise figures can be limited to any desired small percentage of the new receiver population. What costs benefits would accrue to: (1) Television receiver manufacturers, (2) the public, if the UHF television requirement (§ 15.67) of the Commission's Rules and Regulations would be changed to specify a UHF television noise figure mean and standard deviation rather than a maximum noise figure?

(i) Are there any imminent technical developments not considered herein which could affect UHF television receiver noise figures and which should accordingly be considered?

13. Attention is invited to relevant exhibits listed below. These exhibits are being placed on file in the instant docket for public inspection.

ADMINISTRATIVE PROVISIONS

14. Authority for this proceeding is contained in sections 4(i), 302, 303(g), 303(r), 303(s), and 330 of the Communications Act of 1934, as amended.

15. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested parties may file comments on or before February 15, 1977, and reply comments on or before March 31, 1977. All relevant and timely comments and reply comments will be considered by the Commisson before further action is taken in this proceeding. The Commission may also consider any other relevant information brought to its attention.

16. In accordance with the provisions of § 1.419 of the Commision's Rules, an original and 5 copies of all comments, reply comments, pleadings, briefs and other documents shall be furnished the Commission. All filings in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,[4]
VINCENT J. MULLINS,
Secretary.

Exhibit No.: FCC-1. Report No. T-7201. "A Survey of Certain Performance Characteristics of Television Receivers" by Sidney R. Lines. June 9, 1972. Available NTIS: PB-236-991. $3.25.

[FR Doc.76-37841 Filed 12-23-76;8:45 am]

[1] FCC, Office of Chief Engineer, Technical Division, Report No. T-7201. "A Survey of Certain Performance Characteristics of Television Receivers."

[2] Petition for Rule Making to Amend § 15.67 of the Commission's Rules and Regulations RM-2577 by The Council for UHF Broadcasting (CUB), and others.

[3] "Comparative UHF Cross Modulation Performance of Several 1976 Color Television Receivers." by David Sillman and John T. Wilner, Engineering Report E 7607, August 20, 1976, Public Broadcasting Service, 475 L'Enfant Plaza, W. S.W., Washington, D.C. 20024.

[4] Opposition to the Petition for Rule Making, RM-2577 by Consumers Electronics Group of the Electronic Industries Association.

[47 CFR Part 76]

[Docket No. 20829]

CABLE TELEVISION APPLICANTS AND CERTIFICATE HOLDERS AND LICENSEES OF CABLE TELEVISION RELAY STATIONS

Nondiscrimination in Employment Policies and Practices

Adopted: December 16, 1976.

Released: December 21, 1976.

In the matter of nondiscrimination in the employment policies and practices of cable television applicants and certificate holders and licensees of cable television relay stations.

1. On July 30, 1976, the Commission adopted a Notice of Proposed Rulemaking in the above-captioned proceeding. Deadlines for filing comments and re-

[4] Commissioner Lee absent.

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plies were November 10, 1976 and December 10, 1976, respectively.

2. On December 9, 1976, National Black Media Coalition (NBMC) filed a "Motion for Leave to File Motion for Extension of Time in Which to File Supplemental Comments," and an associated motion for extension of time. In support of its motions NBMC stated that its counsel is presently awaiting statistical information which should prove beneficial to the Commission in its deliberations—specifically, an independent study on cable equal employment opportunities. NBMC submits that the Commission should have an opportunity to review the study as a part of its considerations in this proceeding and requests an extension until December 20, 1976, in which to file.

3. Under normal circumstances we would deny a motion for extension of time for submission of additional comments at such a late date, particularly since no reason was given why we could not have been informed earlier about the existence of the study. However, since NBMC is apparently in the process of gathering data which is unique in nature and could be of some assistance to us in this proceeding and since it would appear that the public interest would not be harmed by a grant of the motions before us, we will grant NBMC's motions. In order to permit other parties to reply to NBMC's filing we will allow a reasonable period of time for additional replies as well. We contemplate no further extensions of the time periods listed below.

Accordingly, it is ordered, That supplemental comments may be filed to and including December 20, 1976 and additional replies may be filed to and including January 10, 1977.

This action is taken by the Chief, Cable Television Bureau pursuant to authority delegated by § 0.288(a) of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
JAMES R. HOBSON,
Chief, Cable Television Bureau.

[FR Doc.76-37831 Filed 12-23-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

HUGHES AIRWEST

Application for Amendment

DECEMBER 20, 1976.

Notice is hereby given that the Civil Aeronautics Board on December 20, 1976, received an amendment application, Docket 28961, from Hughes Air Corp., d.b.a. Hughes Airwest (Airwest) for an amendment to its certificate of public convenience and necessity for Route 76, so as to remove the certificate provisions which require Airwest to serve an intermediate point(s) on flights between:

A. Phoenix, Arizona-Sacramento, California (one-stop);

B. Fresno, California-Portland, Oregon (one-stop) and;

C. Sacramento, California-Seattle, Washington (two-stops).

The applicant requests that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc.76-37902 Filed 12-23-76;8:45 am]

[Docket 27557]

TRANSATLANTIC FAK CONTAINER AND CHARTER FREIGHT RATES INVESTIGATION

Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above entitled matter, now assigned to be held on January 6, 1977, (41 FR 50849, November 18, 1976) is hereby postponed to January 20, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., December 20, 1976.

THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc.76-37903 Filed 12-23-76;8:45 am]

CIVIL SERVICE COMMISSION

REVOCATION OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

Selective Service System

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Selective Service System to fill by noncareer executive assignment in the excepted service the position of Legislation and Liaison Officer, Office of Legislation and Liaison.

United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37566 Filed 12-23-76;8:45 am]

REVOCATION OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

Selective Service System

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Selective Service System to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of the Deputy Director.

United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37567 Filed 12-23-76;8:45 am]

REVOCATION OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

Selective Service System

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Selective Service System to fill by noncareer executive assignment in the excepted service the position of General Counsel.

United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37568 Filed 12-23-76;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

TRANSFER OF A FISHING VESSEL TO A COMPANY UNDER FOREIGN CONTROL

Receipt of Application for Approval

Notice is hereby given that on October 26, 1976, the Maritime Administration of the Department of Commerce received an application from David C. Owen, 21350 Hawthorne Blvd., Torrance, California 90503, for the approval of the sale of the 36.5' registered length fishing vessel Crystalina, O.N. 269449, to Mr. Pou-Fau Li, aka Paul Lee, 6540 Gentry Avenue, No. Hollywold, California 91606. Such approval is required by Sections 9 and 37 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835), because the applicant, a permanent U.S. resident, is a citizen of the Republic of China. The vessel will be modified to be admeasured at under 5 net tons and will be operated primarily in the Southern California fishery for sea urchins.

The Maritime Administration is the Federal agency responsible for the approval or disapproval of applications submitted pursuant to Sections 9 and 37 of the Shipping Act. However, the Maritime Administration customarily solicits the views of the National Marine Fisheries Service before deciding on an application relating to a fishing vessel, and has sought the views of the Service with regard to this application. Accordingly, the Service solicits the written comments of interested persons in regard to this application. Such comments should be addressed to the Director, National Marine Fisheries Service, Washington, D.C. 20235, and received no later than 30 days after the date this notice is published. All communications received by such date will be considered before action is taken with respect to this application. No public hearing is contemplated at this time.

Dated: December 21, 1976.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.76-37948 Filed 12-23-76;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF CHINA

Establishing Import Levels for Certain Cotton and Man-Made Fiber Textile Products

DECEMBER 20, 1976.

On May 21, 1975, in furtherance of the objectives of, and under the terms of, the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, the Governments of the United States and the Republic of China concluded a comprehensive bilateral cotton, wool and man-made fiber textile agreement concerning exports of cotton, wool and man-made fiber textile products from the Republic of China to the United States over a period of three years beginning on January 1, 1975. The agreement was amended by an exchange of notes between the two governments, dated December 31, 1975, to provide, *inter alia*, a combined consultation level for wool textile products in Category 116/117 and to exempt three additional traditional items from the levels of the agreement. Among the provisions of the agreement, as amended, are those estab-

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lishing specific limits for Categories 9/10, 18/19, 22/23, 43 and part of 62 (shirts and blouses), 45/46/47, 48, 49, 50/51, 60, 213, 219, 221, 222, 224, and 234/235 for the agreement year beginning on January 1, 1977.

Accordingly, there is published below a letter of December 20, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption and withdrawal from warehouse for consumption in Categories 9/10, 18/19, 22/23, 43 and part of 62 (shirts and blouses), 45/46/47, 48, 49, 50/51, 60, 213, 219, 221, 222, 224, and 234/235 limited to the designated levels. The levels of restraint established for cotton textile products in Categories 45/46/47, 50/51 and 60 and man-made fiber textile products in Category 221 have been reduced by the following amounts, representing carryforward applied to these categories in the agreement year which began on January 1, 1976:

Category	*Reduction for Carryforward*
45/46/47	791,489 square yards equivalent
50/51	40,225 dozen
60	2,550 dozen
221	227,439 dozen

This letter and the actions taken pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DECEMBER 20, 1976.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975 between the Governments of the United States and the Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1977 and for the twelve-month period extending through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the indicated categories in excess of the following levels of restraint:

Category	*Twelve-Month Level of Restraint*
9/10	38,815,413 square yards
18/19	2,099,995 square yards
22/23	4,168,065 square yards
43 and part of 62 (only T.S.U.S.A. Nos. 382.0002, 382.0605 and 382.0610)	926,311 square yards equivalent
45/46/47 [1]	13,224,465 square yards equivalent (of which are not more than 35,619 dozen shall be in Category 45)
48	24,836 dozen
49	39,512 dozen
50/51 [1]	672,091 dozen (of which not more than 341,600 dozen shall be in Cat. 50 and not more than 548,796 dozen shall be in Cat. 51)
60 [1]	42,606 dozen
213	8,637,219 pounds
219	5,724,274 dozen
221 [1]	3,800,134 dozen
222	3,784,849 dozen
224	9,697,015 pounds (of which not more than 225,781 pounds shall be in T.S.U.S.A. Nos. 380.0420 and 380.8143 and not more than 677,344 pounds shall be in T.S.U.S.A. Nos. 380.0402 and 380.8103)
234/235	70,065,124 square yards equivalent

[1] These levels have been reduced to account for carryforward used in the previous agreement year.

In carrying out this directive, entries of cotton and man-made fiber textile products in the foregoing categories, produced or manufactured in the Republic of China and exported to the United States prior to January 1, 1977, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period January 1, 1976 through December 31, 1976. In the event the levels of restraint established for these goods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975, as amended on December 30, 1975 (40 FR 60220).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.76-37862 Filed 12-23-76;8:45 am]

SOCIALIST REPUBLIC OF ROMANIA

Establishing Control Levels for Certain Cotton Textile Products

DECEMBER 20, 1976.

On June 2, 1975, in furtherance of the objectives of, and under the terms of, the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, the Governments of the United States and the Socialist Republic of Romania concluded a comprehensive bilateral cotton textile agreement concerning exports of cotton textiles and cotton textile products from Romania to the United States over a period of three years beginning on January 1, 1975. Among the provisions of the agreement are those establishing designated annual consultation levels for Categories 26 (other than duck), 41, 42, 43, 47, 48, 49, and 50 for the agreement year beginning on January 1, 1977.

Accordingly, there is published below a letter of December 20, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that for the twelve-month period beginning on January 1, 1977 and extending through December 31, 1977 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 26 (other than duck), 41, 42, 43, 47, 48, 49, and 50 be limited to the designated levels.

This letter and the actions taken pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C. 20229.

DECEMBER 20, 1976.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton Textile Agreement of June 2, 1975 between the Governments of the United States and the Socialist Republic of Romania, and in accordance with the provisions of executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1977 and extending through December 31, 1977, entry into the United States for consumption of cotton textile products in Categories 26 (other than duck), 41, 42, 43, 47, 48, 49, and 50, in excess of the following levels of restraint:

Category	*Twelve-Month Level of Restraint*
26 (other than duck) [1]	3,000,000 square yards
41	414,708 dozen
42	414,708 dozen
43	414,708 dozen
47	67,610 dozen
48	60,000 dozen
49	92,308 dozen
50	168,568 dozen

[1] In Category 26 the T.S.U.S.A. Numbers for duck fabric are:
320.—01 through 04, 06, 08 326.—01 through 04, 06, 08
321.—01 through 04, 06, 08 327.—01 through 04, 06, 08
322.—01 through 04, 06, 08 328.—01 through 04, 06, 08

In carrying out this directive, entries of cotton textile products in the foregoing categories, produced or manufactured in Romania and exported to the United States prior to January 1, 1977 shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period January 1, 1976 through December 31, 1976. In the event that the levels of restraint established for that twelve-month period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future, pursuant to the provisions of the bilateral agreement of June 2, 1975 between the Governments of the United States, and the Socialist Republic of Romania which provide, in part, that: (1) consultation levels may be increased within the aggregate ceiling upon agreement between the two governments; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Appropriate adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 30, 1975 (40 FR 60220).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton textiles and cotton textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

[FR Doc.76-37864 Filed 12-23-76;8:45 am]

THAILAND

Establishing Import Control Levels for Certain Cotton and Man-Made Fiber Textile Products

DECEMBER 20, 1976.

On December 29, 1975, in furtherance of the objectives of, and under the terms of, the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, the Governments of the United States and Thailand concluded a comprehensive bilateral cotton, wool and man-made fiber textile agreement concerning exports of cotton, wool and man-made fiber textile products from Thailand to the United States over a three-year period beginning on January 1, 1976 and extending through December 31, 1978. Among the provisions of the agreement are those establishing specific export limitations for Categories 45/46/47, 219, 221, 222, 224, and 229 for the agreement year beginning on January 1, 1977.

There is published below a letter of December 20, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton and man-made fiber textile products in Categories 45/46/47, 219, 221, 222, 224, and 229, produced or manufactured in Thailand, which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning on January 1, 1977 be limited to the designated levels.

The letter published below and the actions taken pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 29, 1975, between the Governments of the United States and Thailand, and in accordance with the pro-

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visions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1977 and for the twelve-month period extending through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 45/46/47 and man-made fiber textile products in Categories 219, 221, 222, 224, and 229, produced or manufactured in Thailand, in excess of the following levels of restraints:

Category	*Twelve-Month Level of Restraint*
45/46/47	1,605,000 square yards equivalent
219	871,460 dozen
221	49,430 dozen
222	300,562 dozen
224	452,692 pounds
229	180,606 dozen

In carrying out this directive, entries of cotton and man-made fiber textile products in the foregoing categories, produced or manufactured in Thailand, which have been exported to the United States from Thailand prior to January 1, 1977, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods for the twelve-month period beginning on January 1, 1976 and extending through December 31, 1976. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment in the future, pursuant to the provisions of the bilateral agreement of December 29, 1975, between the Governments of the United States and Thailand which provide, in part, that: (1) levels of restraint in Group I may be increased by ten percent and in Group II, by seven percent; (2) these levels may be increased for carryover and carryforward up to eleven percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers and factors for converting category units into equivalent square yards was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Thailand and with respect to imports of cotton and made-made fiber textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

[FR Doc.76-37863 Feled 12-23-76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Addition; Correction

In FR Doc. 76-37104 appearing on page 55220 in the FEDERAL REGISTER of Friday, December 17, 1976, the first paragraph is amended to read as follows:

Notice of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975) of the commodities and service listed below were published in the FEDERAL REGISTER on September 24, 1976 (41 FR 41943) and October 22, 1976 (41 FR 46641) respectively.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-37850 Filed 12-23-76;8:45 am]

PROCUREMENT LIST 1977

Proposed Additions

Notice is hereby given pursuant to Section 2(a)(2) of Pub. L. 92-28; 85 Stat. 77, of the proposed additions of the following commodities and service to Procurement List 1977, November 18, 1976 (41 FR 50975).

Class 7230

Curtain, Shower, Plastic, 7230-00-849-9838, 7230-00-849-9839.

Class 7510

Binder, Looseleaf, Ring, 7510-00-984-5787, 7510-00-889-3494.

SIC 7349

Janitorial/Custodial Service, Federal Building, 201 Varick Street, New York, New York.

If the Committee approves the proposed additions, all entities of the Government will be required to procure the above commodities and service from workshops for the blind or other severely handicapped.

Comments and views regarding the proposed additions may be filed with the Committee on or before January 27, 1977. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-37851 Filed 12-23-76;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

List of Statements Received

Environmental impact statements received by the Council on Environmental Quality from December 13 to December 17, 1976. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period of public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability (February 7, 1977). The thiry (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230 202-967-4335.

Draft

Knoxville International Energy Exposition, Tenn., December 15: The proposed action is the official recognition of an international exposition themed to energy. This exposition is proposed to be held in the City of Knoxville from May to October in 1982. The purpose of the Exposition is to offer to the citizens of the world a greater comprehension of the effective use of energy and energy resources in the physical field and a more discriminating appreciation of the creative energy in the artistic field. Adverse environmental impacts may include the displacement of the current residents and businesses on the proposed site, and disruption of their lives, lifestyles, and activities (305 pages). (ELR Order No. 61750.)

DEPARTMENT OF DEFENSE

AIR FORCE

Contact: Dr. Billy Welch, Room 4D 873, The Pentagon, Washington, D.C. 20330, 202-OX-9297.

Final

AWACS Beddown at Tinker AFB, Oklahoma County, Okla., December 15: The proposed action is to beddown a new wing of the E-3A, AWACS, aircraft at Tinker AFB, Oklahoma. The first AWACS aircraft is programmed to arrive in March 1977 with the full complement of 34 aircraft assigned by 1981 assuming timely Congressional approval for their production. The proposed action will also result in the alteration and new construction of facilities at Tinker AFB. Adverse impacts associated with the beddown are related to the operational characteristics of the E-3A aircraft in terms of noise and engine emissions (399 pages). Comments made by: EPA, HEW, HUD, DOT, DOI and State and local agencies, concerned citizens. (ELR Order No. 61751.)

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, 202-693-6795.

Draft

Poteau River Small Navigation Project, Ark., December 14: The proposed project consists of channel improvement and maintenance of the lower 1.7 miles of the Poteau River for navigation. Plans call for the addition of a turning basin, dredging, clearing and snagging, removal of abandoned structures (unused railroad bridge pier and water intake structure) in the waterway and widening the mouth. Adverse effects include possible increased water pollution because of increased barge traffic. Disturbance of the aquatic and terrestial ecosystem by dredging and spoil disposal will also result (Tulsa District) (20 pages). (ELR Order No. 61741.)

Final

Barbers Point Harbor, Oahu County, Hawaii, December 14: Proposed is the construction of a deep draft harbor at the authorized Barbers Point site, Oahu, Hawaii. The harbor would be excavated inland from the shore, creating a 94-acre basin which would accommodate presently used vessels as well as those expected to call at Oahu ports over the project life of 50 years. This proposed harbor will, in combination with Honolulu Harbor, provide port facilities to meet the Oahu waterborne commerce needs for the 50-year planning period. Adverse effects include the destruction of a least 5 cultural sites, removal of about 6-12 acres of land from cane production, and the adverse visual impact of the dredged material stockpile (130 pages). Comments made by: AHP, HEW, DOD, DOC, DOI, DOT, EPA, USN, HUD and State and local agencies, concerned groups and persons. (ELR Order No. 61742.)

Great South Bay Channel and Patchogue River, N.Y., December 14: Proposed is the maintenance dredging of the existing Federal navigation project in Great South Bay, the Patchogue River, and the Long Island Sound Intracoastal Waterway to their authorized dimensions. The work is to be performed by contract dredge with placing of dredged material on beaches generally below mean high water, or within the bays to produce new wetland areas. Marine biota will be impacted (New York District) (148 pages). Comments made by: EPA, DOI, HEW, USN, AHP, USDA, DOT, DOC and State and local agencies, concerned citizens. (ELR Order No. 61744.)

Brazos River Basin Lakes, O&M, several Counties, Tex., December 16: This statement reviews the environmental impacts of the operations, maintenance and management programs at 5 completed and operating reservoir projects: Whitney Lake, Waco Lake, Proctor Lake, Stillhouse Hollow Dam and Lake, and Somerville Lake, all in the Brazos River Basin, Texas. These programs include flood control, water conservation, power generation, and management of lands and waters for various forms of recreation. Adverse effects of the programs include the killing of terrestrial wildlife by the impoundment of floodwater, the damaging of grasses and trees by prolonged storage of floodwater, and pressure due to heavy recreational use (Fort Worth District) (195 pages). Comments made by: EPA, FPC, USDA, HUD, DOC, HEW, DOI, DOT, AHP and State and local agencies, concerned citizens. (ELR Order No. 61753.)

Supplement

Stockton Lake, Sac R., Downstream Flooding (S-1), Cedar County, Mo., December 14: Proposed is the acquisition of sloughing easements over 1,337 acres of land in the vicinity of Stockton Lake, Sac River, Missouri. The project includes construction of a channel cutoff, and limitation of hydropower releases for purposes of controlling downstream flooding damages. Construction of the cutoff would disrupt fish and wildlife habitat in Horshoe Bend. Power releases would flood 250 acres of wildlife habitat and 385 acres of crop and pastureland would be flooded or isolated (Kansas City District) (142 pages). (ELR Order No. 61746.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Impact, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, 202-961-8621.

Final

Strategic Petroleum Reserve, December 17: Proposed is the implementation of the Strategic Petroleum Reserve, Title I, Part B of the Energy Policy and Conservation Act of 1975. The purpose of the Reserve is to mitigate the economic impacts of any future interruptions of petroleum impacts. One hundred fifty MMB of oil will be stored by 1978 in the Early Storage Reserve, and 500 MMB will be stored by 1982 under the full program. Oil will be stored underground in solution-mined salt cavaties, conventional mines, or above ground in tanks. Potential adverse impacts include the degradation of surface water quality from construction runoff, increased dredging, and more frequent oil spills (685 pages). Comments made by: USDA, DOC, DOI, DLAB, TREA, EPA, NRC and TVA. (ELR Order No. 61761.)

Bayou Choctaw Salt Dome—SPR, Iberville County, La., December 17: Proposed is the implementation of the Strategic Petroleum Reserve (SPR, Title I, Part B of the Energy Policy and Conservation Act of 1975 through the development of a 99 million barrel crude oil storage facility at the Bayou Choctaw salt dome. The purpose of the SPR is to mitigate the economic impacts of any future interruptions of the petroleum imports. Under the initial phase of the SPR, referred to as the Early Storage Reserve (ESR), 150 million barrels of oil will be stored by 1978. This site-specific EIS analyzes the environmental impacts caused by site preparation and operation. Adverse effects include water quality degradation and the risk of oil spills. (486 pages). Comments made by: (ELR Order No. 61760.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, S.W., Washington, D.C. 20410, 202-755-6308.

Draft

Oak Tower, Oak Park, Ill., Cook County; December 17: Proposed is the granting of FHA Mortgage Insurance for 44 residential units in a 37 story high rise structure on Lake Street and Forest Avenue in Oak Park, Illinois. The project is designed to meet the housing needs of the area, which has excellent mass transit and commercial facilities. Adverse impacts are increased traffic on residential streets, and the potential stimulation of a trend of high intensity development (327 pages). (ELR Order No. 61754.)

Final

Mei Lun Yuen Development, San Francisco, Calif., San Francisco County; December 14: Proposed is a project for the Mei Lun Redevelopment of the Chinatown Redevelopment area in San Francisco, California. The action calls for parcel redevelopment into an elderly highrise apartment building containing 140 units with 10,000 square feet retail commercial space at ground level; 35 family flats in four buildings; and a five-story commercial parking lot. The project is to be constructed in the Chinatown Urban Renewal Area portion of the block bounded by California, Powell, Sacramento, and Stockton Streets. Adverse effects include increases in air and noise pollution, and loss of open space (242 pages). Comments made by: EPA, HEW, AHP, DOI, VA, DOT, FPC, USDA, CSA, State and local agencies, and concerned citizens. (ELR Order No. 61748.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF OUTDOOR RECREATION

Final

Lewis and Clark National Historic Trail, December 17: The statement concerns the legislative inclusion of the Lewis and Clark National Historic Trail in the National Trails System. The proposed action on the 3,700 mile route would require easement on 172 acres, resulting in restricted timber harvesting practices, and the development of recreation facilities along 21 components to accomodate increased use (300 pages). Comments made by: AHP, USDA, DOI, COE, HUD, DOT, EPA, FPC, State and local agencies, and concerned citizens. (ELR Order No. 61757.)

BUREAU OF RECLAMATION

Final

Oroville-Tonasket Unit Extension, Chief Jos. Dam, Okanogan, and Douglas Counties, Wash., December 14: Proposed is the replacement of the deteriorated irrigation system of the Oroville-Tonasket Irrigation District, Chief Joseph Dam Project, Washington, with a new buried pipe system. Pumping plants will be installed along the Similkameen and Okanogan Rivers and old facilities will be removed. An increase in streamflow over a 9-mile reach of the Similkameen River will occur with the abandment of the irrigation district's present diversion structure. Adverse effects include the acquisition of 71.5 acres for project facilities. (99 pages). Comments made by: DOI, AHP, COE, USDA, HUD, DLAB, DOT, and conerned citizens. (ELR Order No. 61743.)

GEOLOGICAL SURVEY

Final

Crow Indian Ceded Area, Mining & Reclamation, Bighorn County, Mont., December 15: Proposed is a strip mining operation for coal at Westmoreland Resources Lease 1420-0252-4088, Crow Indian Ceded Area, Montana. The 20-year plan would authorize mining of 190.6 million tons of coal on a 2151-acre lease area known as Tract III. Coal ownership is by the Crow Tribe of Indians exept for Sec. 36, which is owned by the State of Montana. Negative impacts include destruction of the existing land surface, vegetation, and all aquifers above the base of the

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Robinson Coal, degradation of ground and surface water, and increases in noise and dust (728 pages) cultural use. (528 pages). Comments made by: EPA, AHP, USDA, 2COE, 2HEW, ICC, DOT, DOI, State and local agencies and concerned citizens. (ELR Order No. 61752.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

McCarran Blvd. (Ring Road), Reno & Sparks, Washoe County, Nev., December 14: The proposed project consists of the construction of the north and northwest lengths of McCarran Boulevard, also known as the Ring Road, which is planned to encompass the cities of Reno and Sparks, Nevada when completed. Each section will be designed as 4-lane divided major arterial. Total project length, excluding the completed section, is approximately 6.09 miles. Adverse effects include a permanent commitment of over 150 acres of land to highway purposes (120 pages). (ELR Order No. 61749.)

U.S. Highway 2, Minot East to Surrey, Ward County, N. Dak., December 14: The proposed project is located on U.S. Highway 2 from approximately 1 mile east of its junction with U.S. Highway 83 to approximately 1 mile east of Surrey, North Dakota. The project is approximately 9 miles in length, and consists of acquiring right-of-way and constructing a 4-lane facility utilizing the existing roadway as part of the 4-lane facility. Interchanges will be constructed at the junction of U.S. Highway 2 and 52 and at the intersection of the U.S. Highway 2 bypass and business loop in east Minot. Adverse effects include possible taking of park land at Surrey (Region 8) (45 pages). (ELR Order No. 61745.)

Final

Iowa 415, Polk County, Iowa, December 17: Proposed is the construction of a part of Iowa 415 in Polk County from near Polk City to U.S. 69. The project begins approximately 1,600 feet southeast of the Corps of Engineers barrier dam near Polk City. It then extends in a southeasterly direction, crosses Rock Creek and proceeds easterly to the junction with U.S. 69. The project also includes construction of two short highway extensions. The total project length is 7.45 miles. Adverse effects include the acquisition of 248 acres and the displacement of five houses, one business, and two permanent mobile homes (Region 7) (169 pages). Comments made by: DOT, HEW, HUD, USDA, DOI, EPA, COE, USCG, State and local agencies, and concerned citizens. (ELR Order No. 61758.)

Freeway 561, Freeway 520-Iowa 386N, Dubuque County, Iowa, December 17: The proposed project consists of the construction of a freeway through the City of Dubuque, Iowa, and a proposed bridge traversing the Mississippi River. Freeway 561 begins at proposed Freeway 520 south of Dubuque and extends approximately 9.7 miles north to a junction with Iowa 386N and Iowa 3. The 3 sections of the project are Kerrigan Freeway, Couler Valley Freeway, and City Island Bridge (the Mississippi River Bridge alignment). The project will displace 450 housing units, many of which are occupied by low income families, and 140 businesses. A 4(f) statement is included for the one acre of Louis Murphy Park which will be impacted by the freeway (Region 7) (210 pages). Comments made by: USDA, DOI, HEW, USCG, COE, DOT, State and local agencies, and concerned citizens. (ELR Order No. 61759.)

U.S. 45, Mayfield, Graves County, Ky., December 14: The project involves the reconstruction of U.S. 45 from the Purchase Parkway to the Seventh and Eighth Street junction to a 4-lane curb and gutter section with a median wide enough to accomodate left turns. Also proposed is that Seventh and Eighth Sts. be made one-way between their junction and Walnut Street, and Water and Walnut Sts. be made one-way between Seventh and Eighth Streets. Project length is 1.25 miles. Adverse impacts are the displacement of 10 families and 5 businesses and increased noise levels (Region 4) (137 pages). Comments made by: DOI, EPA, TVA and State and local agencies, concerned citizens. (ELR Order No. 61747.)

USH 61, 151 and STH 35, Mississippi River to Dickeyville, Grant County, Wis., December 17: The statement contains alternative improvement proposals for an 8 mile segment of concurrent U.S.H. 61, 151 and S.T.H. 35 between the Mississippi River and Dickeyville, Wisconsin, which will subsequently connect to a new Mississippi River bridge. Any of the alternatives would result in the displacement of families and businesses and the expansion of urban growth. An additional 140 to 240 acres of land will be required for right-of-way (Region 5) (291 pages).

Comments made by: EPA, DOI, USCG, USDA and State and local agencies, concerned citizens. (ELR Order No. 61755.)

S.T.H. 59, Wis. Waukesha County, Wis., December 17: Proposed is a 9.5-mile improvement of S.T.H. 5 between the west Waukesha County Line and the northeast village limits of North Prairie, Wisconsin. The paved lane widths and shoulders are to be widened 12 ft. and 10 ft. respectively. Adverse impacts include disruption of the community, added pressure on public facilities, and increases in air and noise pollution. A 4(f) statement is included for the 12 acres of Kettle Moraine State Forest land which would be impacted (450 pages). Comments made by: HUD, DOI, EPA, USDA and State and local agencies, concerned citizens. (ELR Order No. 61756.)

Supplement

City Blvd. and I-395, Baltimore (S-1) Baltimore County, Md., December 13: This supplement evaluates the environmental impact resulting from the construction of Alternative No. 6, as discussed in an EIS of December 1974, for the City Blvd. and I-395 in Baltimore City, Maryland. Under Alternative No. 6, the City Blvd. would extend from Eutaw St. in the north to Russell St. in the south, a distance of 1.6 miles. I-395 located between Sharp and Plum Sts. would extend from I-95 ramps in the vicinity of Ostend St. to the vicinity of Russell St. at the City Blvd. on the west and to Conway St. on the north. This alternative would impact several historic sites and the Hamburg St. Playground. A 4(f) statement is included (Region 3) (585 pages). (ELR Order No. 61740.)

U.S. COAST GUARD

Final

Loop Deepwater Port License, La., December 17: The proposed action consists of the granting of a license by the Secretary of Transportation to LOOP, Inc., to own, construct, and operate a deepwater port in the Gulf of Mexico approximately 18 miles off Grand Isle, Louisiana. Among the actions covered are designation of safety fairways, permits for facilities on navigable waters by the US Army Corps of Engineers, and new source determinations and national pollution discharge elimination permits by EPA. Adverse impacts include the disruptive effects of extensive pipeline construction through marine, marsh, swamp, and dry land environments (4 volumes). Comments made by: AHP, USDA, COE, DOC, EPA, FEA, HEW, HUD, DOI, ICC, DLAB and State and local agencies, concerned citizens. (ELR Order No. 61762.)

Seadock Deepwater Port License, Tex., December 17: The proposed action consists of the granting of a license by the Secretary of Transportation to Seadock, Inc., to own, construct, and operate a deepwater port in the Gulf of Mexico approximately 26 miles off Freeport, Texas. Among the actions covered are designation of safety fairways and permits for facilities in navigable waters by the US Army Corps of Engineers, and new source determinations and national pollution discharge elimination permits by EPA. Major adverse effects include possible oil spills in the area surrounding the deepwater port and the preemption of approximately 860 acres of land associated with the onshore facility for other potential uses (4 volumes). Comments made by: USDA, DOC, DOI, DLAB, STAT, DOT, TREA, EPA, FEA and COE. (ELR Order No. 61763.)

DAVID TUNDERMAN,
Acting General Counsel.

[FR Doc.76-37756 Filed 12-23-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

APCO OIL CORP.

Consent Order

I. INTRODUCTION

Pusuant to 10 CFR 205.197(c), the Federal Energy Administration, (FEA) hereby gives notice of a Consent Order which was executed between Apco Oil Corporation (APCO) and the FEA on November 8, 1976. In accordance with that Section, FEA will receive comments with respect to this Consent Order. Although this Consent Order has been signed and tentatively accepted by FEA, the FEA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

The Apco Oil Corporation, with its executive office located in Houston, Texas, is a firm engaged in the production, refining and marketing of petroleum products subject to FEA regulations.

FEA audited Apco's costs of crude oil reflected on its books and records for the period from October 1, 1973 through October 31, 1975. The audit disclosed that, in computing its maximum lawful selling prices, Apco had apparently treated approximately $1.1 million in gains incurred pursuant to foreign-domestic crude oil exchanges and associated with the utilization of its fee free licenses as ordinary income, rather than as reductions in its crude costs. FEA maintained that this treatment contravened applicable regulatory requirements.

In resolution of the issues raised by the audit results, FEA and Apco executed a Consent Order on November 8, 1976, the significant terms of which are as follows:

(1) Apco agreed to reduce the crude oil costs reflected on its Form 96 for each month of measurement from October 1973 through October 1975 in which it accrued a gain in a foreign-domestic crude oil exchange in association with the use of its fee free licenses by the amount of the gain. In this regard, Apco agreed to submit amended Forms FEO-96 and P 110-M-1 for each month of measurement for which a reduction would be made or in which the effect of a reduction would be manifested.

(2) Apco agreed that should the reductions in its crude oil costs result in its having overrecovered increased product costs for two consecutive months of measurement, it would submit to FEA, for FEA's approval, a plan for repayment of such overrecovery together with appropriate interest.

(3) The provisions of 10 CFR 205.197, including the publication of this Notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. D. M. Fowler, Regional Administrator, Region VI, Federal Energy Administration, P.O. Box 35228, Dallas, Texas. 75235.

Copies of this Consent Order may be received free of charge by written request to this same address or by calling (214) 749-7626.

Comments should be identified on the outside of the envelope and documents submitted with the designation "Comments on Apco Consent Order." All comments received on or before 1976, will be considered by the FEA in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C., December 20, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-37818 Filed 12-21-76;12:13 pm]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of October 4 Through October 8, 1976

Notice is hereby given that during the week of October 4 through October 8, 1976 the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Atlantic Richfield Co.; Los Angeles, Calif.; FEA-0810; Motor Gasoline

The Atlantic Richfield Company (Arco) appealed from a Remedial Order which had been issued to it by the Director of the Compliance Division of FEA Region IX. In the Remedial Order the FEA Regional Office found that during 1975 Arco charged the Ashland Oil Company of California (Ashland) and Digas Company (Digas) improperly high prices for the motor gasoline which it sold the two firms pursuant to Assignment Orders which the FEA had issued. The Remedial Order specifically held that Arco had improperly placed Ashland and Digas in an erroneous class of purchaser comprised of branded retail dealers instead of the "multi-station, rebrand reseller-retailers" class of purchaser in which the firms should properly have been placed.

In considering the Appeal, the FEA rejected Area's contention that FEA Ruling 1975-2 is not intended to be applied where a firm is assigned to furnish products to a customer which the firm did not supply on May 15, 1973 and would not ordinarily choose to supply. The FEA held that although the Ruling—which provides guidance for making class of purchaser determinations—does not specifically discuss the process of assigning new customers to an appropriate class of purchaser, the principles set forth in the Ruling are applicable to that procedure. The FEA also rejected Arco's contention that Ashland should be assigned to a newly established class of purchaser. The FEA observed that its Regulations do not permit a firm to establish new classes of purchaser for sales to new customers, but instead require a firm to maintain those classes which existed on May 15, 1973 and place new customers within one of those classes after determining which characteristics of a new customer most closely correspond to those of an already existing class of purchaser.

With respect to Ashland, the FEA held that the record in this matter contained adequate support for Region IX's findings. The FEA noted that Ashland shares several characteristics with the class of purchaser category to which the Region maintained Ashland should properly have been assigned. In view of these similarities and the fact that significant differences exist between Ashland and the Arco retail dealers, the FEA held that it was reasonable to conclude that Arco's assignment of Ashland to the retail dealer class of purchaser was improper and that Ashland should have been placed instead in the ex-Rocket distributor class of purchaser.

With respect to Digas, the FEA noted that Arco had submitted copies of invoices which indicated that Arco delivered motor gasoline directly to Digas retail outlets and consequently Arco's sales to Digas, unlike its sales to Ashland, shared one common element with sales to the retail dealers, *viz.* method of delivery. The FEA also observed that the manner in which the ex-Rocket distributors were described in the Remedial Order suggested that Region IX placed particular importance upon delivery terms as a distinguishing feature of that class of purchaser. Since it was unclear from the Remedial Order whether the Regional Office was aware of the fact that Digas received motor gasoline from Arco at its individual stations or the consideration which was given to that factor, the FEA held that the Remedial Order should be remanded for further consideration insofar at it pertains to Arco's sales to Digas.

Harold G. Hilderbrand; Schenectady, N.Y.; FEX-0088; Freedom of Information

On September 9, 1976, the Federal Energy Administration issued a Decision and Order to Harold G. Hilderbrand (Hilderbrand) in which it found that an Appeal which Hilderbrand purported to file from a previous FEA determination was defective. Harold G. Hilderbrand, 4 FEA Par. 80,532 (September 9, 1976). According to the September 9 Decision, the Hilderbrand submission failed to delineate the basis of the Appeal, or to specify the errors, if any, which appeared in the initial FEA order. Consequently, the Hilderbrand Appeal was dismissed. On September 27, Hilderbrand filed a new document in which he reiterated his desire to obtain certain information which he sought in a Request for Information which had been denied by the FEA Information Access Officer. However, Hilderbrand's new submission failed to correct the procedural deficiencies which were noted in the September 9, 1976 Decision and Order. Consequently the Appeal, as amended by the new submission, was denied.

McCulloch Gas Processing Corp.; Washington, D.C.; FEA-0874 through FEA-0881; *Natural Gas Liquids Products*

The McCulloch Gas Processing Corporation (MGPC) filed Appeals from a Decision and Order which the FEA issued to it on June 29, 1976. In that Decision MGPC was granted exception relief which permitted seven of its natural gas processing plants to increase their selling prices to reflect certain non-product cost increases incurred since May 15, 1973 which exceed the one-half cent per gallon limitation specified in Section 212.165 of the FEA Regulations. McCulloch Gas Processing Corp., 3 FEA Par. 83,258 (June 29, 1976). MGPC's Appeal would, if granted, increase the amount of exception relief which had been approved in the June 29 determination. In its Appeal, MGPC claimed that the FEA should have considered MGPC's amortization expenses to be non-product costs in the analysis of its exception application. In the Appeal proceeding, the MGPC contention was rejected. The FEA held that the firm's amortization expenses were in fact repayments for borrowed funds and were therefore capital transactions which did not satisfy the definition of non-product costs as that term is used in 10 CFR 212.83(c)(2)(E). The FEA further held that, contrary to MGPC's claim, the exception relief approved with respect to the Jamison Prong plant was correctly calculated on the basis of production and sales volumes at that plant during the fourth quarter of 1975 rather than by using data for the first quarter of 1976. The FEA found that it was proper and consistent with prior Decisions to use the earlier quarter, because major repairs which had been conducted in that plant during the first quarter of 1976 significantly reduced production during the period. As a result the fiscal quarter was not representative of that plant's normal production. In view of these considerations, MGPC's Appeals were denied.

Sid Richardson Carbon and Gasoline Co.; Fort Worth, Tex.; FEA-0906; *Natural Gas Liquids*

Sid Richardson Carbon and Gasoline Company (Sid Richardson) filed an Appeal from a Decision and Order which the FEA had issued to the firm on April 23, 1976. Sid Richardson Carbon and Gasoline Company, 3 FEA Par. 83,170 (April 23, 1976). The April 23 Order granted Sid Richardson exception relief which permitted it to increase its selling prices for the natural gas liquids produced at its Keystone plant to reflect non-product cost increases in excess of the 8.005 cent per gallon permitted under Section 212.165 of the FEA Regulations. The Appeal, if granted, would retroactively increase the exception relief so as to permit the firm to pass through additional non-product cost increases applicable to the period April 23 through August 31, 1976. In considering Sid Richardson's submission, the FEA noted that no showing had been made that the prior relief had been incorrectly calculated on the basis of the data which the firm had originally submitted. Although the Sid Richardson appeal contained revised data, the FEA held that the firm was not entitled to retroactive exception relief when

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the original determination had properly been based on material which the firm had itself furnished. Accordingly, the Appeal was denied.

REQUESTS FOR EXCEPTION

Central Hilight Unit; Campbell County, Wyo.; FEE-2373; Crude Oil

The working interest owners of the Central Hilight Unit located in the Powder River Basin of eastern Wyoming filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which would permit the firm to sell the crude oil which it produces from the Central Hilight Unit at upper tier ceiling prices. According to the Central Hilight submission the firm would find it economically feasible to make certain capital investments which would expand the productive life of the Unit and enhance crude oil production only if it were permitted to charge upper tier prices for the crude oil which it recovered. On the basis of previous precedents the FEA determined that exception relief should be granted to Central Hilight so as to provide the firm a sufficient economic incentive to undertake the project while at the same time avoiding the possibility that windfall profits would result. The FEA concluded that in this particular case these objectives would be achieved if Central Hilight were permitted to sell at upper tier ceiling prices for the benefit of the working interest owners the first 643,419 barrels of crude oil produced and sold as a result of the fuel conversion project, the first 213,828 barrels of crude oil produced and sold as a result of submersible pump installations, injection well conversions, and infill drilling project, and the first 1,090,144 barrels of crude oil produced and sold as a result of a polymer waterflood project. Accordingly, exception relief was granted to Central Hilight to accomplish these objectives.

Coastal States Gas Corp., Houston, Tex.; FEE-2572
The Standard Oil Co.; Cleveland, Ohio; FEE-2705; Residual Fuel Oil

Coastal States Gas Corporation filed an Application for Exception from the provisions of 10 CFR 212.67(d)(4) (the Old Oil Entitlements Program). Subsequently, The Standard Oil Company (Sohio) filed a similar Application for Exception. Since both applications involved similar issues of law and fact, the two submissions were consolidated in a single proceeding. The exception requests, if granted, would permit the firms to calculate their entitlement benefits without making the adjustments required by the Regulations for crude oil runs to stills which are attributable to residual fuel oil produced by the firms for sale into the East Coast market. In addition, both firms would also be permitted to recalculate retroactive to April 1, 1976 their position under the Entitlements Program without regard to the provisions of Section 211.67(d)(4). In considering the exception requests submitted by Coastal States and Sohio, the FEA determined that although the provisions of Section 211.67(d)(4) do reduce the benefits the firms previously enjoyed under the Entitlements Program, each of the firms is still realizing a net benefit from the Entitlements Program which enhances its profitability and competitive position. Moreover, neither firm demonstrated that its overall operations was impeded or that its financial position was affected by the application of Section 211.67(d)(4) to such an extent that exception relief was warranted. The Applications for Exception were accordingly denied.

Great Southern Oil and Gas Co., Inc.; Lafayette, La.; FEE-2957; Crude Oil.

Great Southern Oil and Gas Co., Inc. (Great Southern) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil produced from the Castille No. 1 Well. Crude oil production at the Castille No. 1 Well ceased on August 8, 1976 and cannot be resumed unless Great Southern purchases and installs new pumping equipment. In its exception application, Great Southern contended that it does not have an economic incentive to make the investment necessary to restore crude oil production from the property at the lower tier ceiling price it will receive for the crude oil. In considering Great Southern's Application for Exception, the FEA determined that under current FEA regulations, the crude oil produced from the Castille No. 1 Well must be sold at lower tier ceiling prices. The FEA also found that the pumping equipment which Great Southern plans to install is reusable and marketable, and will have a depreciated value of 90.19 percent of its original value after one year of operation. As a result, even in the absence of exception relief, the proposed investment will generate an internal rate of return in excess of 15 percent during its first year of operation, when the depreciated value of the equipment is taken into consideration. Based upon the precedents established by the FEA in several recent cases involving similar circumstances, the FEA determined that a 15 percent internal rate of return should provide Great Southern with an adequate economic incentive to make the proposed investment. Accordingly, the exception request was denied.

Gulf Oil Corp.; Tulsa, Okla.; FEE-3179 through FEE-3193; Natural Gas Liquid Products.

Gulf Oil Corporation (Gulf) filed 15 Applications for Exception from the provisions of 10 CFR 212.165, which if granted would permit Gulf to increase the amount of non-product costs which it includes in the prices of natural gas liquid products produced at certain of its natural gas processing plants. In those applications, Gulf requested that the exception relief previously granted to the firm on September 14 and 17, 1976 be extended for an additional period of time. Gulf Oil Corp., 4 FEA Par. 83,093 (September 17, 1976); Gulf Oil Corp., 4 FEA Par. 83,092 (September 14, 1976). In considering Gulf's requests, the FEA determined that the firm had experienced non-product cost increases during the second quarter of 1976 at 13 of the 15 gas plants which substantially exceeded the $.005 per gallon pass-through permitted under the provisions of Section 212.165. Based on the criteria set forth in Superior Oil Co., 2 FEA Par. 83,271 (August 29, 1975) and other previous Decisions, the FEA determined that exception relief for each of the 13 gas plants was warranted. The FEA therefore granted relief to Gulf's Bluebell, Saunders, Vada and Waddell gas plants for the period October 16, 1976 through March 31, 1977, as well as to its Adena, Camrick, Kalkaska, Pledger, and Souther Fullerton plants for the period October 15, 1976 through March 31, 1977. With respect to the Azalea, Knox, Milfray and Sand Hills gas plants, the FEA found that the adjusted non-product cost increases which Gulf experienced at those plants were unusually high and therefore determined that relief should be granted only for the period October 1, 1976 through December 31, 1976 in order to permit a further evaluation of the cost increases incurred at those plants. However, the FEA denied exception relief for the Delhi and Enville plants on the grounds that the adjusted non-product unit cost increases experienced at those plants amounted to less than $.005 per gallon and were therefore not material for the purposes of the exceptions process under the standards established in previous FEA Decisions.

James M. Cunningham, Inc.; Lafayette, La.; FEE-2773; Crude Oil.

James M. Cunningham, Inc. (JMC) filed an Application for Exception from the provisions of 10 CFR 212.73, which if granted, would permit JMC to sell the crude oil produced from the Julia Richard No. 1 well located in Acadia Parish, Louisiana, at upper tier ceiling prices. In its Applicaton, JMC requested that the exception relief previously granted to the firm on April 30, 1976 be extended for an additional period of time. James M. Cunningham, Inc., 3 FEA Paf. 83,176 (April 30, 1976). In considering JMC's request, the FEA determined that JMC has made a showing that a continuation of exception relief was warranted to prevent the loss of substantial amounts of crude oil production from the Julia Richard well. Based on the analysis of the specific financial and operating data which JMC submitted, the FEA determined that JMC should be permitted to sell at upper tier ceiling prices 56.1708 percent of the crude oil produced and sold for the benefit of the working interest owners for a period of six months.

Rancho Oil Co.; Dallas, Tex.; FEE-2782; Crude Oil.

Rancho Oil Company filed an Application for Exception from the provisions of 10 CFR 212, Subpart D. The exception request, if granted, would permit Rancho to receive upper tier ceiling prices for the crude oil it produced and sold from the Moyer and Prideaux Leases (the Leases) during the month of February 1976. In its exception application, Rancho stated that it failed to certify the Leases as stripper well properties in a timely manner as required by Section 212.31. As a result, Rancho was not able to receive upper tier prices for the crude oil which it produced from the Leases during February 1976. In considering Rancho's Application, the FEA noted that all crude oil producers are subject to the certification requirements set forth in Section 212.131, and Rancho presented no evidence which would indicate that the manner in which these requirements apply to Rancho is discriminatory or inequitable. The FEA further determined that Rancho had also failed to submit any material which indicates that the firm will experience a serious financial hardship as a result of its loss of the additional crude oil sales revenues in February. Moreover, retroactive exception relief of the type Rancho requests is generally inappropriate unless the firm demonstrates that it would otherwise experience a severe and irreparable injury, and Rancho had failed to make this showing. Consequently, the firm's Application was denied.

Richard S. Anderson, Inc.; Midland, Tex.; FEE-2488; Crude Oil.

Richard S. Anderson, Incorporated (Anderson) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit Anderson to retain certain revenues which the firm realized by selling at unlawful price levels crude oil produced from the "C" tract of the Post Montgomery Lease during the period October 1974 through December 1975. Similar exception relief was requested for the crude oil which Anderson sold from the "E" tract of the Post Montgomery Lease during the period June through December 1975. In considering the exception application, the FEA observed that despite Anderson's claims regarding the ambiguity of the term "property" as used in the FEA regulations, the firm had apparently failed to take timely action to obtain a clarification of the regulation provisions involved. Furthermore, Anderson had not demonstrated that in the absence of retroactive exception relief it would incur an irreparable injury. The FEA also found that Anderson had failed to substantiate its contention that it could not recover a pro-rata share of the overcharges involved from the royalty owners and the other working interest owners. The Anderson Application for Exception was therefore denied.

University of Oklahoma; Norman, Okla.; FEE-2704; Aviation Gasoline.

The University of Oklahoma filed an Application for Exception from the provisions of 10 CFR, Part 211, which if granted, would result in the issuance of an Order increasing its base period use of aviation gasoline at the Max Westheimer Field from 95,000 gallons per year to 235,000 gallons per year. In considering the University's application, the FEA determined that the University had failed to demonstrate that it satisfied the criteria specified in previous Decisions such as Fairview Flying Service, 3 FEA Par. 83,213 (June 11, 1976) for the approval of exception relief on gross inequity grounds. The FEA found that the University had failed to show that there had been a substantial increased demand for aviation gasoline at the Field which was attributable to increased aviation operations. Moreover, the FEA noted that the University's base period supplier had recently allocated an additional 126,420 gallons of aviation gasoline for priority end-users at the Field pursuant to Sections 211.143(b) and 211.143(c) of the FEA Allocation Regulations. In addition, the FEA also determined that the University had failed to substantiate its allegation that it would incur a serious financial hardship in the absence of the requested relief. The exception request was accordingly denied.

SUPPLEMENTAL ORDERS

J & W Refining, Inc.; Tucker, Tex.; FEX-0090; Crude Oil.

On August 13, 1976, the Federal Energy Administration issued a Decision and Order to J & W Refining, Inc. (J & W) which granted the firm an exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) and thereby relieved J & W of its obligation to purchase entitlements during the period August 1976 through March 1977. J & W Ref., Inc., 4 FEA Par. 83,042 (August 13, 1976). Under the terms of the August 13 Order, J & W was also issued additional entitlements to sell in August to enable the firm to obtain revenues equivalent in value to the entitlements which it was required to purchase during the month of June. Subsequent to the issuance of the August 13 Order, the Office of Regulatory Programs advised, the Office of Exceptions and Appeals that J & W had not been required to purchase entitlements in June. The FEA therefore determined that J & W should not have been issued the additional entitlements in August. Consequently, the FEA issued a Supplemental Order which modified the August 13 Order to provide that J & W may be required to purchase entitlements to correct for the excess revenues which it received.

Mid-Michigan Truck Service, Inc.; Grand Rapids, Mich.; FEX-0087; Motor Gasoline.

On July 1, 1976, the Federal Energy Administration issued a Supplemental Order to Mid-Michigan Truck Service, Inc. (Mid-Michigan) which approved an extension of the exception relief which had been previously granted the firm on May 20, 1976. Mid-Michigan Truck Service, Inc., 3 FEA Par. 83,100 (July 1, 1976) and 3 FEA Par. 83,197 (May 20, 1976). As a result of the July 1 determination, during the period July through September 1976, the Gulf Oil Corporation (Gulf) was ordered to supply Mid-Michigan with its base period use of petroleum products directly, rather than through a substitute supplier. In the Order which was issued in the proceeding, the Regional Administrator of the FEA Region V was directed to make a further determination for any month subsequent to September as to whether Mid-Michigan was continuing or would continue to experience a serious hardship unless it received additional exception relief and to then make a recommendation to the FEA Office of Exceptions and Appeals as to whether exception relief should be extended. Based on the data submitted by Mid-Michigan and the recommendation of the Regional Administrator, the FEA determined that Mid-Michigan would continue to experience a serious hardship and exception relief was therefore extended through December 31, 1976.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Ed English Station; Granby, Mo.; FEE-2787.
Inexco Oil Co.; Houston, Tex.; FEE-3104.

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Harold H. Kindel; Beckley, W.Va.; FEE-3050.

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Charles F. Haas; Corpus Christi, Tex.; FEE-2719.

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Granger Oil Co., Inc.; Cleveland Park, Kans.; FEE-2584.

The following submissions were dismissed on the grounds that the requests were now moot:

Guam Oil and Refining Co.; Washington, D.C.; FEE-2696.
McDonnell Douglas Corp.; St. Louis, Mo.; FEE-2687.

TEMPORARY STAY

The following Application for Temporary Stay was granted on the grounds that the applicant had made a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Braden-Zenith, Inc.; Wichita, Kans.; FST-0015.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published lose leaf reporter system.

MICHAEL F. BUTLER,
General Counsel.

DECEMBER 20, 1976.

[FR Doc.76-37819 Filed 12-21-76;12:13 am]

CONSUMER AFFAIRS/SPECIAL IMPACT ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Consumer Affairs/Special Impact Advisory Committee will meet Friday, January 14, 1977, at 9 a.m., Room 5041, FEA Headquarters, 12th & Pennsylvania Avenue, NW., Washington, D.C.

The purpose of the Committee is to provide the Federal Energy Administration with advice concerning the impact of FEA policies and programs on consumers and special impact groups.

The agenda for the meeting is as follows:

1. Old Business—Discussion of CA/SI Advisory Committee Recommendations and Requests and FEA Commitments from the November 19 Meeting.
2. Subcommittee Reports.
3. Pending Policy Issues.
4. Discussion and Development of Recommendations on National Energy Policy.
5. Discussion and Development of Recommendations on Other Priorities Adopted by the CA/SI Advisory Committee.
6. Items for Discussion at the Next Meeting.
7. Public Comment.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management (202) 566-7022, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection and copying in the Freedom of Information Office, Room 2107, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Issued at Washington, D.C. on December 21, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-37933 Filed 12-21-76;4:56 pm]

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CONSUMER AFFAIRS/SPECIAL IMPACT ADVISORY COMMITTEE SUBCOMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the subcommittees of the Consumer Affairs/Special Impact Advisory Committee will meet Thursday, January 13, 1977, at the location and time indicated below.

The objective of the subcommittees is to make recommendations to the parent Committee with respect to matters concerning consumer aspects of FEA policies and programs.

The agenda and schedule of meetings is as follows:

Energy Consumption Problems and Utilities Subcommittee, Room 2105, 2000 M Street, NW., Washington, D.C., 9:00 a.m. Agenda: Natural Gas Energy Conservation Policy Proposal.

Transportation Programs Subcommittee, Room 7204, 2000 M Street, NW., Washington, D.C., 9:00 a.m. Agenda: Transportation and Distribution of Alaskan North Slope Crude Oil; Data on Energy Consumption with Respect to Transportation.

Energy Efficiency Standards Conservation and Ecology, Room 2105, 2000 M Street, NW., Washington, D.C., 9 a.m. Agenda: Appliance Efficiency Labeling Program—Consumer Education; Energy and Economic Impacts of Mandatory Beverage Container Deposits; Natural Gas Energy Conservation Policy Proposal.

Consumer Representation Subcommittee, Room 2105, 2000 M Street, NW., Washington, D.C., 1 p.m. Agenda: Federal Energy Reorganization and Consumer Representation.

Energy Legislation and Regulations Subcommittee, Room 2105, 2000 M Street, NW., Washington, D.C., 1 p.m. Agenda: Federal Energy Reorganization; Gasoline Decontrol; Strategic Petroleum Reserve Plan.

Energy Consumption and the Disadvantaged Subcommittee, Room 7204, 2000 M Street, NW., Washington, D.C., 1 p.m. Agenda: Pre-publication Draft of the Regulations for the Weatherization Program; Emergency Assistance Programs for Winter 1976-1977; Energy Problems of the Handicapped.

The subcommittee meetings are open to the public. The Chairman of each subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with a subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management (202) 566-7022, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning these meetings may be obtained from the Advisory Committee Management Office.

Minutes of the meetings will be made available for public inspection in the Freedom of Information Office, Room 2107, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Issued at Washington, D.C. on December 20, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-37934 Filed 12-21-76;4:56 pm]

Industrial Energy Conservation

IDENTIFICATION OF CORPORATIONS REQUIRED TO FILE INFORMATION REGARDING ENERGY CONSUMPTION

Correction

In FR Doc. 76-36920, appearing at page 54977 in the issue for Thursday, December 16, 1976, the date in the ninth line of the second paragraph on page 54978 should read, "December 27, 1976."

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-303]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

DECEMBER 20, 1976.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

52-DSE-AL-77, Consent to assignment of license of domestic satellite Receive-only earth station WB66, from Eastern Shore CATV, Inc. to Eastern Shore Cable Television, Inc. granted December 14, 1976.

11-DSE-ML-77, RCA American Communications, Inc. (KD26), Edwards Air Force Base, Calif. For authority to modify license to make technical changes to transmit facilities and to construct and operate receive facilities at this location. Rec. freq: 3700-3730, 3760-3800, 3840-3880, 3920-3960, 4000-4060, 4080-4140 and 4160-42 mHz; transmit freq: 5925-5959, 6020-6070, 6139-6182, 6213-6300 and 6339-6425 mHz.

SSA-3-77, Hughes Aircraft Systems International, Guam. Request an extension for one year to operate a transportable earth station on the island of Guam.

54-DSE-ML-77, Teleprompter Corporation (KB58), Galveston, Tex. Modification of license to permit the reception of signals of Channel 17, Station WTCG-TV, Atlanta, Ga.

58-DSE-ML-77, Teleprompter Corporation (WB48), Mobile, Ala. Modification of license to permit the reception of signals of Channel 17, Station WTCG-TV, Atlanta, Ga.

59-DSE-ML-77, Teleprompter Corporation (WB69), Superior, Wis. Modification of License to permit the reception of signals of Channel 17, Station WTCG-TV, Atlanta, Ga.

57-DSE-P-77, Television Transmission Company, Peru, Ill. For authority to construct, own and operate a domestic communications satellite Receive-Only earth station at this location. Lat. 41°20'34", Long. 89°06'42." Rec. freq: 3700-4200 GHz. Emission 34000F9. With a 10 meter antenna.

[FR Doc.76-37836 Filed 12-23-76;8:45 am]

[Report No. 837]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

DECEMBER 20, 1976.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See Section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20347-CD-P-77 Havre Answering Service (KUD209) C. P. to change antenna system operating on 152.21 MHz at Loc. No. 2: Centennial Mountain, 12.8 mi. ENE of Big Sandy, Montana.

20348-CD-P-77 Radio Relay Corp.—New Jersey (KEC935) C. P. for additional facilities to operate on 35.58 MHz at a new Loc. No. 5: 84th Street and 7th Avenue, New York, New York.

20349-CD-AL-77 Band Communications, Inc. Consent to Assignment of License from Band Communications, Inc., assignor to David T. Sellers d/b/a Town & Country Communications, assignee. Station: KUS-318, Texarkana, Texas.

20350-CD-MP-77 Tri-State Radio Corp. of Pennsylvania, Inc. (KGC222) C. P. to change antenna system and replace transmitter operating on 454.150 MHz at Loc. No. 1: 75 yards East of TV Station WTPA, Top of Blue Mtn., Pennsylvania.

20351-CD-P-(2)-77 Electropage, Inc. (KMD-986) C. P. for additional facilities to operate on 43.22 & 43.58 MHz at a new Loc. No. 2: 7996 California Avenue, Fair Oak, California.

20352-CD-MP-(4)-77 San Juan Radiotelephone Corporation (WWA311) C. P. to relocate facilities and change antenna system operating on 454.050, 454.100, 454.200 and 454.250 MHz at Loc. No. 4: Atop El Yunque Peak, Puerto Rico.

20353-CD-P-(2)-77 San Juan Radiotelephone Corporation (KQZ767) C. P. to change antenna system, replace transmitter and relocate facilities operating on 152.24 MHz and for additional facilities to operate on 158.70 MHz at Loc. No. 2: El Yunque Peak, Puerto Rico.

20354-CD-P-77 Answer Exchange, Inc. (new) C. P. for a new 1-way station to operate on 158.70 MHz to be located 1 mi. E. of Clute, Texas.

20355-CD-P-77 Baker Protective Services, Inc. (KIA956) C. P. to relocate facilities and change antenna system operating on 152.15 MHz to be located at 2333 Brickell Avenue, Miami, Florida.

20356-CD-P-(2)-77 Airsignal International of Philadelphia, Pennsylvania, Inc. C. P. to change antenna system operating on 35.22 MHz at Loc. No. 4: 4860 Magnolia Avenue, Trevose Heights; and same facilities at Loc. No. 5: 251 W. Dekalb Pike, Bldg. F, Henderson Park, Pennsylvania.

20357-CD-P-(2)-77 Tony H. Scamardo d/b/a Industrial Electronics (KWU336) C. P. for additional facilities to operate on 454.250 MHz, Control at a new Loc. No. 2: 808 West 25th Street, Bryan, Texas; and 459.250 MHz, Repeater at a new Loc. No. 3: Rt. 290, 2 miles West of Brenham, Texas.

20358-CD-P-77 Pierre Radio Paging and Telephone Corp. (KWT855) C. P. to change frequency from 152.15 MHz to 152.03 MHz located 2.8 miles North of Butte, Pierre, South Dakota.

20359-CD-P-77 Tony H. Scamardo d/b/a Industrial Electronics (new) C. P. for a new station to operate on 152.21 MHz to be located at 2614 Maloney Street, Bryan, Texas.

20360-CD-77 Radio Relay New York Corp. (KEC745) C. P. for additional facilities to operate on 43.22 MHz at a new Loc. No. 12: 2.4 miles NE of Peekskill City Limits, Phillipstown, New York.

20361-CD-MP-(3)-77 Vegas Instant Page (KWU408) C. P. to relocate facilities, change antenna system and replace transmitter operating on 454.025, 454.050 and 454.125 MHz to be located at 300 South 4th Street, Las Vegas, Nevada.

Correction

20271-CD-P-77 Radio Broadcasting Company (new) (Developmental) correct PN entry to add facilities operating on 459.675 MHz to be located at Paoli Avenue, Roxborough Antenna Farm, Philadelphia, Pennsylvania. All other particulars are to remain as reported on PN No. 834 dated November 29, 1976.

Major Amendment

20231-CD-P-77 Radio Comm., Inc., Columbus, Indiana (new) amend base frequency 152.21 MHz to read 152.12 MHz and change mobile frequency 158.67 MHz to 158.58 MHz. All other particulars are to remain the same as reported on PN No. 832, dated November 22, 1976.

POINT TO POINT MICROWAVE RADIO SERVICE

570-CF-P-77 The Chesapeake and Potomac Telephone Company of Maryland (WAD24) 320 St Paul Place Baltimore, Maryland Lat. 39°17'35" N., Long. 76°36'53" W., C.P. for a new station on frequencies 11585.0H 11425.0V MHz toward Armiger, Maryland on azimuth 159.4 degrees.

602-CF-P-77 New Jersey Bell Telephone Company (KYS27) 18 Paterson St., New Brunswick, New Jersey Lat. 40°29'40" N., Long. 74°26'37" W., C.P. to add a new point communication on frequencies 10735V 10735H 10815V 10815H 10895V MHz toward Jamesburg, New Jersey on azimuth 168.0 degrees; replace and move antenna on frequencies 6106.3H 5989.7H 10955V 11115V MHz toward Sayreville, New Jersey.

603-CF-P-77 Same (new) Jamesburg N/N Spotsud Gravel Hill Rd Monroe Twp, New Jersey Lat. 40°21'31" N., Long. 74°24'21" W., C.P. for a new station on frequencies 11425H 11425V 11505H 11505V 11585V MHz toward New Brunswick, N.J. on azimuth 348.0 degrees and 11425H 11425V 11505H 11505V 11585V MHz toward Freehold, N.J. on azimuth 140.8 degrees.

604-CF-P-77 Same (new) Freehold 175 W. Main St. Freehold Twp, New Jersey Lat. 40°15'03" N., Long. 74°17'28" W., C.P. for a new station on frequencies 10735V 10735H 10815H 10815V 10895V MHz toward Jamesburg, N.J. on azimuth 320.9 degrees.

609-CF-P-77 South Central Bell Telephone Company (KLK84) 530 South Buchanan St. Lafayette, Louisiana Lat. 30°13'32" N., Long. 92°01'10" W., C.P. to add frequencies 3790.0H MHz toward Opelousas, Louisiana.

610-CF-P-77 Same (KLK85) 251 West North Street Opelousas, Louisiana Lat. 30°32'07" N., Long. 92°05'04" W., C.P. to add frequencies 3830.0H MHz toward Lafayette and 3830.0V MHz Lebeau, La.; replace antenna on frequencies 3770.0H MHz toward Lebeau, La.

611-CF-P-77 Same (KLK86) 3 miles South Lebeau, Louisiana Lat. 30°41'11" N., Long. 91°59'22" W., C.P. to add frequencies 3790.0V toward Opelousas, La. and 3770.0H Cheneyville, La.; replace antenna on frequencies 3750 MHz toward Cheneyville and 3970.0V MHz toward Opelousas, La.

612-CF-P-77 Same (KLM90) 1 mile NW Cheneyville, Louisiana Lat. 31°01'15" N., Long. 92°18'37" W., C.P. to add 3730.0H MHz toward Lebeau, La., 3730.0V MHz toward Alexandria, La. and replace antenna on frequencies 4030.0V MHz toward Lebeau, La.

613-CF-P-77 Same (KLM91) 825 Murray Street, Alexandria, Louisiana Lat. 31°18'28" N., Long. 92°26'52" W., C.P. to add frequencies 3770.0V MHz toward Cheneyville, La. 3930.0H MHz toward Flatwoods and replace antenna on freq. 4010.0H 6345.5H MHz toward Flatwoods.

614-CF-P-77 Same (KLW23) 0.1 miles WNW Flatwoods, La. Lat. 31°24'13" N., Long. 92°52'12" W., C.P. to add frequencies 3970.0H MHz toward Alexandria, La., 3890.0H MHz toward Natchitoche, La.; replace antenna on frequencies 3730.0H 6226.9H MHz toward Alexandria, La. 3970.0H MHz toward Natchitoche, La. and 6093.5H Slagle, La.

615-CF-P-77 South Central Bell Telephone Company (KLW24) Touline and Fourth St. Natchitoches, Louisiana Lat. 31°45'37" N., Long. 93°05'26" W., C.P. to add frequencies 4010.0H MHz toward Flatwoods, La and 3930.0H Martin, La.; replace antenna on frequency 3770.0H MHz toward Flatwoods.

616-CF-P-77 Same (KLW26) 0.5 mile South of Martin, Louisiana Lat. 32°04'28" N., Long. 93°13'12" W., C.P. to add frequencies 3970.0H MHz toward Natchitoche, La 3890.0V MHz toward Ringgold, La; replace antenna on frequency 3970.0V MHz toward Ringgold, La.

617-CF-P-77 Same (KLW25) 5 miles SW of Ringgold, Louisiana Lat. 32°17'09" N., Long. 93°21'41"W., C.P. to add frequencies 4010.0V MHz toward Martin, La, 3930.0H MHz toward Shreveport, La; replace antenna on frequencies 3750.0H MHz toward Martin, La and 3770V.0H MH toward Shreveport, La.

618-CF-P-77 Same (KLW27) 602 Crockett Street, Shreveport, Louisiana Lat. 32°-20'37" N., Long. 93°44'56" W., C.P. to add frequencies 3710.0V MH toward Ringgold, La and replace antenna on frequency 3730.0H Ringgold, La.

627-CF-P-77 The Mountain States Telephone and Telegraph Company (KAN27) 931 Fourteenth Street, Denver, Colorado Lat. 39°44'43" N., Long. 104°59'45" W., C.P. to and frequency 4090.0H MHz toward Devils Head, Co.

628-CF-P-77 Same (KAN28) Devils Head, 15 miles SW of Castlerock, Colorado Lat. 39°15'50" N., Long. 105°06'50" W., C.P. to add frequencies 4050.0H MHz toward Denver, Co and 4050.0H MHz toward Badger Mtn., Co.

629-CF-P-77 Same (KAN25) Badger Mtn. 9 miles N of Lake George, Colorado Lat. 39°09'58" N., Long. 105°30'45" W., C.P. to add frequencies 4090.0H MHz toward Devils Head Co 4090.0V MHz toward Monarch, Co.

630-CF-P-77 Same (KAN31) Monarch PS 17 miles West of Salida, Colorado Lat. 38°29'47" N., Long. 106°19'06" W., C.P. to add frequencies 4050.0V MHz toward Badger Mtn. and 4050.0H MHz toward Gunnison, Co.

631-CF-P-77 Same (KAN30) 2 miles NE of Gunnison, Colorado Lat. 38°33'54" N., Long. 106°54'34" W., C.P. to add frequencies 4090.0H MHz toward Monarch PS, Co and 4090.0H MHz toward Ftptrkmesa, Co.

632-CF-P-77 Same (KAN29) Ftptrkmesa 25 miles East of Montrose, Colorado Lat. 38°23'50" N., Long. 107°25'48" W., C.P. to add frequencies 4050.0H MHz Gunnison, Co 4050.0H MHz toward Cerro SMT, Co.

633-CF-P-77 Same (KAN26) Cerro SMT 13 miles East of Montrose, Colorado Lat. 38°27'38" N., Long. 107°39'06" W., C.P. to add frequencies 4070.0H MHz toward Ftptrkmesa, Co and 4090H MHz toward Whitewater, Co.

634-CF-P-77 Same (KAN80) Whitewater 11 miles SE of Grand Junction, Colorado Lat. 38°54'10" N., Long. 106°29'41" W., C.P. to add frequencies 4050.0H MHz toward Cerro SMT, Co and 5060.0H Grand Jct., Co.

635-CF-P-77 The Mountain States Telephone and Telegraph Company (KVU54) 800 Main St. Grand Junction, Colorado Lat. 39°04'03" N., Long. 108°33'30" W., C.P. to add frequencies 4090.0H toward Whitewater, Co. and 4010.0V MHz toward Boxter Pass, Co.

636-CF-P-77 Same (KBC96) Boxter Pass 22.5 miles NW of Mack, Colorado Lat. 39°35'11" N., Long. 108°57'00" W., C.P. to add frequencies 3970.0V MHz toward Grand Jct., Co. and 3970.0V MHz toward Bruin Peak, Co.

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637–CF–P–77 Same (KPR34) Bruin Peak, 8 miles NNE of Dragerton, Utah Lat. 39°36'-21" N., Long. 110°20'31" W., C.P. to add frequencies 4010.0V MHz toward Price, and Boxter Pass, Colorado.

638–CF–P–77 Same (KPR35) 107 East 1st North of Price, Utah Lat. 39°36'06" N., Long. 110°48'30" W., C.P. to add frequencies 4030.0V MHz toward Soldier SMT, Co. and 3970.0V MHz toward Bruin Peak, Co.

639–CF–P–77 Same (KPR36) Soldier SMT 8 miles NW of Helper, Utah Lat. 39°45'22" N., Long. 110°59'24" W., C.P. to add frequencies 4070.0V MHz toward Salem, Utah and 4070.0V MHz toward Price, Utah.

640–CF–P–76 Same (KPR37) 3.3 miles SE of Salem, Utah Lat. 40°01'09" N., Long. 111° 36'49" W., C.P. to add frequencies 4030.0V Provo Jct., Ut. and 4030.0V MHz toward Soldier SMT, Colorado.

641–CF–P–77 Same (KPB54) Provo Pct. 1210 West Center Street Provo, Utah Lat. 40°-14'03" N., Long, 111°40'41" W., C.P. to add frequencies 3830.0V MHz toward Camp WMS, Utah, 4070.0V MHz toward Salem and replace antenna on frequency 3730.0H MHz toward Camp WMS, Utah.

642–CF–P–77 Same (KPB53) Camp WMS 5 miles NW of Lehi, Utah Lat. 40°25'38" N., Long. 111°56'12" W., C.P. to add frequencies 3790.0V MHz toward Salt Lk Cy, 3790.0V MHz toward Provo Jct. and replace antenna frequencies 3770.0H MHz toward Salt LK Cy 3770.0V MHz toward Provo Jct, Utah.

643–CF–P–77 Same (KPB52) 70 South State Street, Salt Lake City, Utah Lat. 40°46'03" N., Long. 111°53'16" W., C.P. to add frequency 3830.0V MHz toward Camp WMS, Utah and replace antenna on frequency 3730.0H MHz toward Camp WMS, Utah.

644–CF–P–77 Northwestern Telephone Systems, Inc. (KPE25) 111 First Avenue East Kalispell, Montana Lat. 48°11'53" N., Long. 114°18'37" W., C.P. to change frequency 6160.0V to 10875.0V MHz toward Kalispell PRI and from the passive reflector to Blacktail Mt. replace transmitter and add antenna.

645–CF–P–77 Same (KPG94) Blacktail Mt. 12.1 miles South of Kalispell, Montana Lat. 48°00'43" N., Long. 114°21'47" W., C.P. to change frequency 6235.0V to 11605.0V MHz toward Kalispel PRI from passive reflecton to Kalispel replace transmitter and add antenna.

Correction

314–CF–P–77 Southern Bell Telephone and Telegraph Company (KIO59) 405 13th Street Columbus, Georgia to correct coordinate to read Long. 84°59'15" W. and to change point communication (sp) Nankipooh all other particulars remain the same as reported on Public Notice No. 831 dated November 8, 1976

Major amendment

4524–CF–P–76 RCA Alaska Communications, Inc. (new) Sisters Island, Alaska amend application to change longitude from 136°15'23" N. to read 135°15'23" N. all other particulars remain the same as reported on Public Notice No. 816 dated July 26, 1976.

[FR Doc.76–37835 Filed 12–23–76;8:45 am]

[Report No. 836]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See § 1.227 (b) (3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20331–CD–AL–77, Aircall, Inc. Consent to Assignment of license from Aircall, Inc. Assignor to Two-Way Radio of Carolina, Inc., Assignee. Station: KIY395, Burke County, N.C.

20334–CD–P–77, The Medical Dental Bureau, Inc. (KLF512), C.P. for additional facilities to operate on 454.350 MHz to be located at a new site described as Loc. No. 5: 3 miles SE. of New Castle, Pa.

20335–CD–P–77, Mobilfone Communications, Inc. (KLF661), C.P. for additional facilities to operate on 152.24 mHz to be located at a new site described as Loc. No. 3: KASE (FM) Tower, west of Trail of Madrones, Austin, Tex.; and to designate base facilities operating on 152.24 mHz at Loc. No. 1 as standby facilities.

20339–CD–P/L–77, Telephone Secretarial Service (KEA263), C.P. to replace transmitter operating on 152.15 mHz, standby, located at 1180 Raymond Boulevard, Newark, N.J.

20340–CD–P–(4)–77, Central Telephone Company (KOH273), C.P. for additional facilities to operate on 454.425, 454.475, 454.525, 454.575 mHz located at Carson Street and Las Vegas Boulevard South, Las Vegas, Nev.

20341–CD–MP–(2)–77, Tel-Air Communications, Inc. (KSW214), Modification of C.P. to relocate facilities operating on 152.06 and 152.18 mHz to be located 6.3 miles NE. of Dover, N.J., Loc. No. 3.

20342–CD–P–77, Houser Communications, Inc. (KSC864), C.P. to replace transmitter change antenna system and relocate facilities operating on 35.58 mHz to be located at Steward and Leonard Streets, Creve Coeur, Ill.

20344–CD–P–(3)–77, Knox La Rue d.b.a. Atlas Radiophone (KMM630), C.P. for additional base facilities to operate on 152.15 mHz and repeater facilities to operate on 72.06 mHz to be located at a new site described as Loc. No. 5: At Black Butte, off Corral Hollow Road, approx 6 miles SW. of Tracy, Calif.; and for additional control facilities to operate on 75.38 mHz at Loc. No. 2: 2171 Ralph Avenue, Stockton, Calif.

20345–CD–P–77, Radio Broadcasting Company (KGB874), C.P. to change antenna system, and relocate facilities operating on 454.350 mHz at Loc. No. 3 to be located at Roxborough Antenna Farm, Paoli Avenue, Philadelphia, Pa.

RURAL RADIO SERVICE

60084–CR–P/L–77, Southwestern Bell Telephone Company (WBK268), C.P. and license to add frequencies operating on 157.92 and 157.95 mHz located 55 miles NW. of Laredo, Tex.

60085–CR–P/L–77, Southeastern Bell Telephone Company (WBK278), C.P. and license to add frequencies operating on 157.92 and 157.95 mHz located 33.9 miles SE. of Laredo, Tex.

60086–CR–ML–77, David R. Williams d.b.a. Industrial Communications (KZA88), Modification of license to add frequencies 158.52, 158.55, 158.58, 158.64, 158.49, 158.61 mHz located at any temporary fixed location within the territory of the grantee.

60087–CR–P–77, RCA Alaska Communications, Inc. (WQ070), C.P. to replace transmitter, change antenna system and change frequencies from 157.80, 157.89, 157.95 and 158.07 mHz to 157.86 and 158.04 mHz located 102 miles NW. of Bethel, Pitkas Point, Alaska.

60088–CR–P–77, RCA Alaska Communications (new), C.P. for a new central office station to operate on 152.60 and 152.78 mHz to be located at Village located 100 miles NW. of Bethel, St. Mary's, Alaska.

POINT TO POINT MICROWAVE RADIO SERVICE

531–CF–P/ML–77, RCA Alaska Communications Inc. (WAU241), Box 191, Nome Anvil Mountain, Alaska, Lat. 64°33'52" N., Long. 165°22'11" W. C.P. to add a new point communication on frequencies 906H, 906V mHz toward Granite Mountain, Alaska on azimuth 61.9°.

532–CF–P/L–77, Same, (new) 4 miles West of Bethel, Alaska. Lat. 60°46'44" N., Long. 161°52'59" W. C.P. for a new station on frequencies 942H, 942V mHz toward Aniak, Alaska on azimuth 153.5°, 924H 924V mHz toward Cape Romanzof, AK on azimuth 243.8° and 930H, 930V mHz toward Camp Newenham, Alaska on azimuth 236.4°.

533–CF–P–77, Same, (new) WACS Big Mountain Air Station Alaska. Lat. 59°23'27" N., Long. 155°13'29" W. C.P. for a new station on frequencies 906H, 906V mHz toward Sparrevohn, AK, on azimuth 353°, 918V, 918H mHz toward King Salmon, AK on azimuth 227.9° and 930H, 930V mHz toward Diamond Ridge Mountain, Alaska on azimuth 79.4°.

534–CF–P/L–77, Same, (new) 711 ACW Sgdn Cape Lisburne, Alaska. Lat. 68°52'09" N., Long. 166°06'39" W. C.P. for a new station on frequencies 936H, 936V mHz toward Kotzebue, Alaska on azimuth 144.3° and 882V mHz toward Point Lay, AK on azimuth 50.4°.

535–CF–P/L–77, Same, (new) RCA Alascom, Cape Sarichef, Alaska. Lat. 54°35'47" N., Long. 164°52'44" W. C.P. for a new station on frequencies 786H, 786V mHz toward Cold Bay, Alaska on azimuth 60.7° and 816H, 816V mHz toward Driftwood Bay, Alaska on azimuth 243.1°.

536–CF–P/L–77, Same, (new) St. Louis Road, Cold Bay, Alaska. Lat. 55°15'18" N., Long. 162°45'43" W. C.P. for a new station on frequencies 900H, 900V mHz toward Port Moller, AK on azimuth 179.1° and 906H, 906V mHz toward Cape Sarichef, AK on azimuth 153.6°.

537–CF–P/L–77, Same, (new) RCA Alascom, Box 101, Cold Bay, Alaska. Lat. 53°58'33" N., Long. 166°54'15" W. C.P. for a new station on frequencies 924H, 924V mHz toward Nikolaki, AK on azimuth 230.1° and 936H, 936V mHz toward Cape Sarichef, AK on azimuth 61.5°.

538–CF–P/L–77, Same, (new) 8 miles SE. of Fort Yukon, Alaska. Lat. 66°33'44" N., Long. 145°13'25" W. C.P. for a new station 3910R, 5937.8R, 5997.1R mHz toward Barter Island, AK on azimuth 399.9° and 936H, 936V mHz toward Pedro DM, AK on azimuth 198.7°.

539–CF–P/L–77, Same, (new) WACS, P.O. Box 46, Glennallen Tolsona, Alaska. Lat. 62°06'17" N., Long. 146°10'20" W. C.P. for a new station on frequencies 3750R, 3910R, 5937.8A, 5997.1R mHz toward Tahneta Pas, Alaska on azimuth 243.9° and 4030R, 4110R, 5982.3R, 6041.6R mHz toward Glennallen, AK on azimuth 88.6°.

540–CF–P/L–77, Same (new) RCA/WACS Cape Romanzof, Alaska. Lat. 61°47'07" N., Long. 165°56'37" W. C.P. for a new station on frequencies 804H, 804V mHz toward Bethel, AK on azimuth 115.4°.

541–CF–P/L–77, RCA Alaska Communications, Inc. (new), 2 miles NE. of Granite Mountain. AFS Granite Mountain, Alaska. Lat. 65°25'43" N., Long. 161°13'50" W. C.P. for a new station frequencies 792H, 792V mHz toward North River, Alaska on azimuth 168.5°, 786H, 786V mHz toward Anvil Mountain, AK on azimuth on 245.6° and 756H, 756V mHz toward Kotzebue, Alaska on azimuth 339.8°.

542–CF–P/L–77, Same, (new) Adjacent to Galena Air Force Base, Galena, Alaska, Lat. 64°44'06" N., Long. 156°56'30" W.C.P. for a new station on frequencies 2287.5H mHz toward Kalakakt Creek, AK on azimuth 170.5° and 7535H, 7235H mHz toward Campion, AK on azimuth 99.0°.

543–CF–P/L–77, Same, (new) RCA Alascom, Box 186, King Salmon, Alaska, Lat. 58°-42'17" N., Long. 156°39'54" W. C.P. for a new station on frequencies 792H, 792V mHz toward Port Heiden, Alaska on azimuth 212.4° and 798H, 798V mHz toward Big Mountain, AK on azimuth 46.6°.

544–CF–P/ML–77, Same, (WJM43) Box 894, Neklasson Lake, Alaska. Lat. 61°37'15" N., Long. 149°15'12" W. C.P. to add a new point communication on frenquencies 4030R, 4110R, 5982.3R, 6031.6R mHz toward Sawmill, AK on azimuth 66.5°, 4090R, 4170R, 5937.8R mHz toward Elemendorf R1, AK on azimuth 217.7°, 786H, 798V mHz toward Soldotna, AK on azimuth 155.7° and 822H, 810V mHz toward Bosewell Bay, AK on azimuth 213.6°.

545–CF–P/L–77, Same, (new) 14 miles NW. of Fairbanks Pedro Dome, Alaska. Lat. 65° 02'03" N., Long. 147°29'59" W.C.P. for a new on frequencies 4050V, 4130V mHz toward Fairbanks, AK on azimuth 204.0°, 3750V, 3830V mHz toward Murphy DM, AK on azimuth 243.7°, 3750V, 3910V, 5937.8V, 5997.1V mHz toward Harding Lake, Alaska on azimuth 159.4°, 816H, mHz toward Ft. Yukon, AK on azimuth 30.4°, 804V, 804H mHz toward Bear Creek, AK on azimuth 278.7° and 7135V, 7455V mHz toward Elelson, Alaska on azimuth 153.9°.

546–CF–P/L–77, Same, (new) 130 miles S. of McGrath, Sparrevohn, Alaska. Lat. 61°06' 24" N., Long. 155°36'28" W.P. for a new station on frequencies 786H, 786V mHz toward Big Mountain, Alaska on azimuth 173.6°, 756H, 756V mHz toward Aniak, AK on azimuth 216.2° and 789H, 780V mHz toward Tatalina, AK on azimuth 345.1°.

547–CF–P/L–77, Same (new) RCA Alascom Box 486, Delta Junction, Alaska. Lat. 64° 02'15" N., Long. 145°43'37" W. C.P. for a new station on frequencies 3830R, 3910R mHz toward Canyon Creek, Alaska on azimuth 306.8° and 4030R, 4110R mHz toward Gerstle River, AK on azimuth 126.6°.

tions, Inc., (WAH417) RCA Alascom, Miles

548–CF–U/ML–77, RCA Alaska Communications, Inc., (WAH417) RCA Alascom, Miles 248, Richardson Hwy., Alaska miles S. of Delta Junction Donnelly Dome, Alaska. Lat. 63°47'14" N., Long. 145°51'50" W. C.P. to add a new point communication on frequencies 3750V, 3910V, 5962.6V, 6011.9V mHz toward Black Rapids, AK on azimuth 178.6° and 4030H, 4190H, 5967.4H, 6026.7H mHz toward Harding Lake, AK on azimuth 323.0°.

549–CF–P/L–77, Same, (new) 227 Richardson Hwy., 38.5 miles S. of Black Rapids, Alaska. Lat. 63°29'54" N., Long. 145°51" H. C.P. for a new station on frequencies 3710R, 3870R, 6234.3R, 6293.6R, McCallum, Alaska on azimuth 160.7° and 4070R, 4150R, 6204.7R, 6264R mHz toward Donnelly DM, Alaska on azimuth 358.8°.

550–CF–P/L–77, Same, (new) 1.4 miles MW. of Miles 320 Richardson Hwy., Harding Lake, Alaska. Lat. 64°24'36" N., Long., 146°57'15" W. C.P. for a new station on frequencies 3710R, 3870R, 6219.5R, 6278.8R mHz toward Pedro DM, AK on azimuth 142.0° and 4070R, 4150R, 6189.8R, 6249.1R mHz toward Pedro DM, AK on azimuth 339.9°.

551–CD–P/L–77, Same (new) 4 miles N. of Kalakaket Creek AFS, Kalakaket Creek, Alaska, Lat. 64°25'40" N., Long. 156°49'59" W. C.P. for a new station on frequencies 2237.5H mHz toward Galena on azimuth 250.5°, 7685.0H, 7610.0H mHz toward Campion on azimuth 13.4°, 774H, 774V mHz toward Tatalina on azimuth 166.1°, 780H, 780V mHz toward North River on azimuth 249.8° and 810H, 810V mHz toward Bear Creek, AK on azimuth 66.2°.

552–CF–P/L–77, Same, (new) Box 8, Unalakleet North River, Alaska, Lat. 63°53'20" N., Long. 160°31'02" W. C.P. for a new station on frequencies 900H, 900V mHz toward Kalakaket Creek, AK on azimuth 69.8° and 918H, 918V mHz toward Granite Mountain, AK on azimuth 349.1° 7235V, 7235V mHz toward Unalakleet, on azimuth 264.5°.

553–CF–P/L–77, Same, (new) WACS, P.O. Box 46, Glennallen Sawmill, Alaska, Lat. 61°48'28" N., Long, 148°19'48" W. C.P. for a new station on frequencies 4070R, 4150R, 6204.7R, 6264R mHz toward Sheep Mountain on azimuth 93.2° and 3710R, 3870R, 6234.3R, 6293.6R mHz toward Neklason Lake, AK on azimuth 247.3°.

554–CF–P/L–77, Same, (new) 1 mile N. of Tatalina AFS, Tatalina, Alaska. Lat. 62°55'-45" N., Long. 156°01'17" W. C.P. for a new station on frequencies 900H, 900V mHz toward Sparrevohn, AK on azimuth 173.7° and 894H, 894V mHz toward Kalakaket Creek, AK on azimuth 346.9°.

555–CF–P/L–77, Same, (new) within the town of Unalakleet, Alaska, Lat. 63°52'38" N., Long. 160°47'14"7" W. C.P. for a new station on frequencies 7135V, 7435V mHz toward North River on azimuth 84.3°.

556–CF–P/L–77, Same, (WJM42). Elmendorf R1, 42–500 Building Elmendorf AFB, Alaska, Lat. 61°15'40" N., Long. 149°49'45" W. C.P. for a new station on frequencies 3750H, 3830H, 6189.8H, 6249.1H mHz toward Neklason Lake, on azimuth 37.2° 5967.4H, 6086H mHz toward Elmendorf 4050V, 4130V mHz toward Anchorage on azimuth 216.1°.

557–CF–P/L–77, RCA Alaska Communications, Inc. (New), End of Pillar Mountain Road, Box 1155, Kadiak, Alaska. Lat. 57° 47' 19" N., Long. 152° 26' 12" W. C.P. for a new station on frequencies 936H 936V MHz toward Diamond Rdg. on azimuth 12.2°, 7735V 7540V MHz toward Holiday Beach, on azimuth 194.9° 7655V 7465V Chiniak, Alaska on azimuth 153.3°.

558–CF–P/L–77, Same, (New) Tok Junction RCA Alascom, Box 275 Tok, Alaska Lat. 63° 20' 14" N., Long. 142° 58' 57" W. C.P. for a new station on frequencies 4030R 4110R MHz toward Beaver Creek, Alaska on azimuth 277.8°.

559–CF–P/L–77, (New) Indian Mountain. WCAS Facility Indian Mountain, Alaska Lat. 66° 04' 07" N., Long. 153° 40' 45" W. C.P. for a new station on frequencies 798H 796V MHz toward Bear Creek on azimuth 137.6°.

560–CF–P/L–77, Same, (New Campion Building 101, 743 ACW Squadron Galena, Alaska Lat. 64° 42' 31" N., Long. 156° 43' 35" W. C.P. for a new station on frequencies 7435.0H 7135.0H toward Galena, Alaska on azimuth 286.4° and 7310.0H 7385.0H MHz toward Kalankakt Creek, Alaska on azimuth 189.3°.

569–CF–P–77, The Chesapeake and Potomac Telephone Company of Maryland (New) 5 Tick Neck Road Armiger, Md. Lat. 39° 07' 34" N., Long. 76°32'03" W.C.P. for a new station on frequencies 10895.0V 10735.0V MHz toward Baltimore, Md. on azimuth 339.5°.

468–CF–P–77, Eastern Microwave, Inc. (New) Hempstead Turnpike and Carman Ave., E. Meadow, N.Y. (Lat. 40°43'33" N., Long. 73°33'15" W.): Construction permit for new station—5960.0V and 6167.6V MHz toward New York City Gulf and Western Building, N.Y., on azimuth 277.7°.

575–CF–MP–77, United Video, Inc. (WAH 571), Springfield, Ill. (Lat. 39°45'06" N., Long. 89°34'38" W.): Construction permit to add 6286.2H MHz toward Lincoln, Ill., via power split, on azimuth 19.3°.

576–CF–MP–77, United Video, Inc. (WAH 570), 1.5 mile NW of Lincoln, Ill. (Lat. 40°09'48" N., Long. 89°23'23" W.): Construction permit to add 6034.2H MHz toward Minn. and change polarities to 11385.0V and 11465.0V MHz toward Springfield, both in Ill. on azimuths 11.5° and 119.3°, respectively.

577–CF–MP–77, United Video, Inc. (WAH 446), 3 miles East of Minier, Ill. (Lat. 40° 26'16" N., Long. 89°15'23" W.): Construction permit to add 6315.9H MHz toward Bloomington and Peoria and to change polarity to 10895.0V and 10815.0V MHz toward Peoria, both in Illinois, on azimuths 17.5° and 46.0°, respectively.

578–CF–P–77, Yankee Microwave, (New) Manchester, Goffstown, N.H. (Lat. 42°58' 59" N., Long. 71°35'19" W.): Construction permit for new station—6167.6H MHz toward Portsmouth and Mount Washington, both in New Hampshire, on azimuths 82.8° and 9.0°, respectively.

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579–CF–P–77, Yankee Microwave, (New) Jones Ave., Portsmouth, New Hampshire. (Lat. 40°03'18" N., Long. 70°45'36" W.): Construction permit for new station—6341.7V MHz toward Dover, N.H., on azimuth 324.8°.

580–CF–P–77, Yankee Microwave, (KYZ 85), Mount Washington, Sargents Purchase, N.H. (Lat. 44°16'13" N., Long. 71°18'13" W.): Construction permit to change location of receive station—6212.1H and 6212.1V MHz toward Manchester and Saddleback, both in New Hampshire, on azimuths 189.0° and 176.2°, respectively.

581–CF–P–77, Yankee Microwave, (New) Manchester, Mount Uncanunoc, Goffstown, N.H. (Lat. 42°58'59" N., Long. 71° 35'19" W.): Construction permit for new station—6152.6V MHz toward Manchester CATV and Nashua, both in New Hampshire and 6152.6H MHz toward Amesbury, Mass., on azimuths 74.4°, 157.7° and 103.6°, respectively.

619–CF–MP–77, East Texas Transmission Company (KLH 73), Highway 429, 0.6 mile SW of College Mound, Tex. (Lat. 32°40'04" N., Long. 96°11'33" W.): Modification of construction permit to increase power and add 10715.0H, 10635.0H and 10955.0H MHz toward Colfax, Texas, on azimuth 110.3°.

620–CF–MP–77, East Texas Transmission Company (KLH 74), 1.3 mile NW of Colfax, Tex. (Lat. 32°31'29" N., Long. 95°-44'30" W.): Modification of construction permit to increase power and to add 11485.0V, 11245.0V and 11365.0V MHz toward Tyler, Tex., on azimuth 115.0°.

621–CF–MP–77, East Texas Transmission Company (KLH 75), North Glenwood Blvd. and West Claude, Tyler, Tex. (Lat. 32°21'-13" N., Long. 95°19'11" W.): Modification of construction permit to add 10715.0V MHz toward Jacksonville, Tex., on azimuth 175.0°.

622–CF–MP–77, East Texas Transmission Company (KLU 31), International of Jefferson and Selman Sts., Jacksonville, Tex. (Lat. 31°58'48" N., Long. 95°16'53" W.): Modification of construction permit to add 11485.0V MHz toward Palestine, Texas, on azimuth 237.1°.

663–CF–P–77, Eastern Microwave, Inc. (WDD 68), West Rockhill, 2.6 miles NW of Sellersville, Pa. (Lat. 40°23'02" N., Long. 75°21'-02" W.): Construction permit to add 11055.0H MHz toward Fredericksville, Pa., on azimuth 267.1°.

664–CF–P–77, Eastern Microwave, Inc. (WDD 61), Fredericksville, 1.5 mile ENE of Fredericksville, Pa. (Lat. 40°27'27" N., Long. 75°39'55' W.): Construction permit to add 11305.0V MHz toward Pulpit Rock, Pa., on azimuth 304.3°.

665–CF–P–77, Eastern Microwave, Inc. (WDD 71), Pulpit Rock, 3.9 miles NE of Hamburg, Pa. (Lat. 40°35'50" N., Long. 75°56'04 W.): Construction permit to add 11055.0V MHz toward Blue Mountain, Pa., on azimuth 253.0°.

666–CF–P–77, Eastern Microwave, Inc. (WDD 72), Blue Mountain, Appalachian Trait, 2 miles SSE of State Routes 183 and 185, Summit Station, Pa. (Lat. 40°31'55" N., Long. 76°11'49" W.): Construction permit to add 6049.0V MHz toward Womelsdorf, Penna., on azimuth of 179.9° and, via power split, on 6049.0V MHz toward Girard Hill, Pa., on azimuth of 11.6° and to change antenna system. (Note: Applicant requests waiver of Section 21.701(1) of the Rules).

667–CF–P–77, Eastern Microwave, Inc. (WBE 350), Womelsdorf, 2.5 miles SSW of Womelsdorf, Pennsylvania. (Lat. 40°19'25" N., Long. 76°11'48" W.): Construction permit to add 6271.4V MHz toward Harrisburg, Pa. on azimuth 271.9°. (Note: Applicant requests waiver of Section 21.701(1) of the Rules).

668–CF–P–77, Eastern Microwave, Inc. (WDD 73), Girard Hill, 2 miles WMW of Delano, Pa. (Lat. 40°50'58" N., Long. 76°06'41" W.): Construction permit to add 6375.2V MHz toward Penobscot–3, Pa., on azimuth 28.4° and to change antenna system. (Note: Applicant requests waiver of Section 21.701 (1) of the Commission's Rules).

669–CF–P–77, Eastern Microwave, Inc. (WBA 772), Penobscot–3, 0.8 mile North of Mountain Top, Pa. (Lat. 41°10'57" N., Long. 75°52'23" W.3; Construction permit to add 11225.0V MHz toward Swoyersville, Pa., on azimuth 356.2.

670–CF–P–77, Eastern Microwave, Inc. (WBB 231), 2.4 miles SE of U.S. Routes 120 and 220, Lock Haven, Pa. (Lat. 41°07'12" N., Long. 77°24'12" W.): Construction permit to add 6345.5H MHz toward Little Flat, Pa., on azimuth 216.1°.

Correction

219–CF–MP–77, American Microwave and Communications, Inc. (KQL46), 0.5 Mile West of Covington, Mich. (Lat. 46°32'02" N., Long. 88°32'37" W). This entry appearing on Public Notice dated November 8, 1976 is corrected to show construction permit to replace transmitters, change polarity and change frequencies to 6278.8H, 6308.4V, 6338.1H and 6397.4H MHz toward Bergland, Mich., on azimuth 281.7° and to change polarity of frequencies to 6278.8H, 6338.1H and 6397.4H MHz toward Houghton, Mich., on azimuth 356.4°.

[FR Doc.76–37834 Filed 12–23–76;8:45 am]

COMPUTER INQUIRY

List of Parties Intending to Participate

Released: December 21, 1976.

In the matter of Amendment of § 64.702 of the Commission's Rules and Regulations (Computer Inquiry); Docket No. 20828; (41 FR 44057).

1. On November 8 and 9, 1976, the Commission held a planning Conference on Computer Communications. The subject matter of that Conference is relevant to the proceedings in the Computer Inquiry (Docket No. 20828). Accordingly, a copy of the papers presented and a transcript of the conference have been entered into the record and are available for public inspection in the Docket Reference Room in the Commission's offices in Washington, D.C.

2. By Memorandum Opinion and Order, released October 4, 1976, parties interested in participating in the Computer Inquiry were requested to file a notice of intent to participate in order that a service list could be compiled. The parties listed in Attachment A have filed such a notice and all pleadings filed in this proceeding should be served on the parties listed therein.

FEDERAL COMMUNICATIONS COMMISSION,
WALTER HINCHMAN,
Chief, Common Carrier Bureau.

DECEMBER 15, 1976.

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[FR Doc.76–37837 Filed 12–23–76;8:45 am]

[Docket Nos. 21013, 21014; File Nos. BPH–6214, BPH–9470]

COURT HOUSE BROADCASTING CO. AND FREDERICK F. STANNARD AND SALLY S. STANNARD, A PARTNERSHIP

Construction Permits; Application for Consolidated Hearing

In reapplications of the Court House Broadcasting Co., Chillicothe, Ohio; Docket No. 21013, File No. BPH–6214. Requests: 94.3 MHz, Channel F. Stannard and Sally S. Stannard, a Partnership, Chillicothe, Ohio; Docket No. 21014, File No. BPH–9470, Requests: 94.3 MHz, Channel No. 232; 3 kW (H&V); 300 feet.

Adopted: December 8, 1976.

Released: December 17, 1976.

1. The Commission, by the Chief of the Broadcast Bureau acting pursuant to delegated authority, has before it the above-captioned applications of Court House Broadcasting Co. [Court House] and Frederick F. Stannard and Sally S. Stannard, a Partnership [Stannard] which are mutually exclusive in that they seek the same FM broadcast channel in Chillicothe, Ohio.

2. Data on file indicate there would be a significant difference between the areas and populations which would receive service from the proposals.[1] Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. Court House has failed to comply with the requirements of the *Primer on the Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). From the information before us, it appears that the applicant has failed to survey leaders of significant population groupings set forth in its demographic study. *Voice of Dixie, Inc.*, 45 FCC 2d 1027, 29 RR 2d 1127 (1974). For example, while Court House indicates that a number of manufacturing concerns exist in Chillicothe, no representatives of industry have been interviewed.

4. Analysis of Court House's financial data reveals that $83,795 will be required to construct and operate the proposed station for one year, without revenue, itemized as follows:

Down payment on equipment	$11,540
First year payments on equipment	15,463
Building	6,000
Miscellaneous	17,650
Loan repayment with interest	8,142
First year working capital	25,000
Total	83,795

Court House plans to finance construction and operation with the following funds: loan from principal stockholder, $60,000; and loan from banking institution, $30,000. However, the bank commitment expired on August 5, 1976. Accordingly, as the applicant has shown the availability of only $60,000 to meet an $83,795 requirement, a financial issue will be specified.

5. Analysis of Stannard's financial data reveals that $88,230 will be required to construct and operate the proposed station for one year, without revenue, itemized as follows:

Downpayment on equipment	$13,880
First year payments on equipment with interest	13,950
Land	10,000
Miscellaneous	11,500
First year working capital	38,900
Total	88,230

[1] The applicants indicate in Section V–B of their applications that the areas (in square miles) and populations, respectively, their proposals would serve would be as follows: (i) Court House: 644; 58,397; and (ii) Stannard: 660; 76,100.

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Stannard plans to finance construction and operation with the following funds: cash on hand or in banks, $3,165; proceeds from sale of listed stocks, $15,697; proceeds from sale of Northeast Bancorp Stock, $45,756; and proceeds from collection of notes and other receivables, $37,000.[2] However, since the receivables have not been certified collectible as required by Section III, page 3, paragraph 4(b), FCC Form 301, no reliance can be placed on these funds. Accordingly, as Stannard has shown the availability of only $64,618 to meet an $88,230 commitment, a financial issue will be specified.

6. Except as indicated by the issue specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and a place to be specified in a subsequent Order, upon the following issues:

(1) To determine the efforts made by Court House Broadcasting Co. to ascertain the public's needs and issues in the following respect: (a) whether Court House Broadcasting Co.'s showing omits consultations with leaders of industry in the proposed community of license.

(2) To determine with respect Court House Broadcasting Co.: (a) the source and availability of additional funds over and above the $60,000 indicated; and (b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(3) To determine with respect to Frederick F. Stannard and Sally S. Stannard, a Partnership: (a) the source and availability of additional funds over and above the $64,618 indicated; and, (b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(4) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(5) To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

8. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221 (c) of the Commission's Rules, in person or by attorneys shall, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

[2] Even if Stannard's alternate plan of financing were utilized, whereby the Northeast Bancorp stock would be retained and used as collateral for a $40,000 bank loan with $3,600 interest due in the first year, the applicant would be short of its requirement by $32,968.

9. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's Rules, give notice of the hearing, either individually or, if feasible and consistent with the Rules, jointly, within the time and the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION.
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-37832 Filed 12-23-76;8:45 am]

[Docket Nos. 20618, 20619; File Nos. BPH-8917, 9037; FCC 76R-278]

J. SHERWOOD, INC. AND STRAFFORD BROADCASTING CORP.

Construction Permits

J. Sherwood, Inc., Rochester, New Hampshire; Docket No. 20618, File No. BPH-8917; Strafford Broadcasting Corporation, Rochester, New Hampshire; Docket No. 20619, File No. BPH-9037; (41 FR 34107).

Adopted December 2, 1976.

Released December 16, 1976.

By the Review Board: Board Member Kessler abstaining; Board Member Emerson concurring in part and dissenting in part with statement.[1]

1. This proceeding involves the mutually exclusive applications of J. Sherwood, Inc. (Sherwood) and Strafford Broadcasting Corporation (Strafford) for a new FM broadcast station at Rochester, New Hampshire. By Order, FCC 75-1136, 40 FR 50127, published October 28, 1975, the Commission designated the applications for hearing under an issue to determine whether Sherwood "made intentional misrepresentations in its original financial showing" and a standard comparative issue. On November 12, 1975, Strafford filed a petition with the Review Board requesting that numerous additional issues be added against Sherwood.[2] By Order, FCC 76R-215, released July 26, 1976, the Board, with one member absent, denied Strafford's petition to the extent that it sought issues reflecting on Sherwood's character qualifications, and held the petition in abeyance in all other respects pending disposition of a joint petition for approval of an agreement looking toward dismissal of Sherwood's application, filed by the parties on June 22, 1976. Subsequently, in response to an application for review filed by Strafford, the Commission, by Order FCC 76-926, released October 14, 1976, referred the petition to enlarge to the Board for further consideration with an opinion finding that the Board's summary denial of the requested character issues was in conflict with Section 6(d) of the Administrative Procedures Act, 5 U.S.C. 555(e). Moreover, on August 2, 1976, Strafford filed a motion to withdraw their joint petition for settlement. Consequently, the Board will now consider all of the issues requested in Strafford's November 12, 1975 petition to enlarge issues on their merits.[3]

FINANCIAL AND RELATED MISREPRESENTATION ISSUES

2. Strafford's first request is for the addition of cost estimate, second year financial and related misrepresentation issues.[4] As to its cost estimate request, petitioner contends that Sherwood's estimate of $1,600 for studio remodeling costs (made in its amended financial showing) is grossly deficient.[5] In support, Strafford has submitted affidavits executed by an experienced builder in the Rochester area[6] which state that he has

[1] Statement filed as part of the original document.

[2] The following related pleadings were also filed with the Board: (a) Broadcast Bureau's partial opposition to petition to enlarge issues, filed January 22, 1976; (b) opposition, filed January 23, 1976, by Sherwood; (c) request for official notice, filed February 13, 1976, by Sherwood; (d) supplement to opposition, filed March 2, 1976, by Sherwood; and (e) reply, filed March 24, 1976, by Strafford.

[3] We will grant Sherwood's request for official notice of the Administrative Law Judge's Order, FCC 76M-184, released February 12, 1976, accepting an amendment to Sherwood's financial showing. Additionally, we will consider the executed affidavit contained in Sherwood's supplemental opposition filed March 2, 1976, since, though the matter is late filed, its acceptance is unopposed and the matter is pertinent to a resolution of the issues under consideration.

[4] Since the majority of Strafford's allegations in this regard have been mooted or significantly altered by Sherwood's amended financial showing (see note 2, supra), our summary of Strafford's arguments is drawn in large part from its reply pleading which is directly responsive to Sherwood's financial proposals of record.

[5] All remaining challenges to Sherwood's cost estimates have been mooted by Sherwood's financial amendment. The amendment includes an additional $1,000 to meet possible detuning expenditures (Strafford had estimated this cost at $825); an additional $1,592 to meet the costs of purchasing an antennae system (Strafford had contended that, at minimum, an additional $1,580 would be required); an additional $2,500 for legal expenses (petitioner had asserted that Sherwood's earlier estimate predated the designation of a misrepresentation issue against Sherwood, a change in law firms and the filing of the instant petition to enlarge issues and that, consequently, it was deficient); and added $1,000 for "Miscellaneous Expenses" (in response to petitioner's averment that Sherwood would incur miscellaneous costs, such as annual financial statements, subscriptions to trade publications and membership costs in a broadcast association).

[6] These affidavits (dated October 22, 1975 and March 1, 1976, and submitted with Strafford's petition and reply, respectively) are by Louis E. Gregoire, who states that he has been involved in the construction business in the Rochester area for twelve years. Though the October 22 affidavit is entirely conclusory, and therefore grossly deficient, the March 1 affidavit includes a detailed breakdown of the remodeling work which allegedly will be required.

personally inspected Sherwood's proposed studio site, that the structure thereon is a "typical garage type building" and that at least $30 per square foot, or $36,000, will be required to convert it into a broadcast studio. Strafford contends that this expenditure will exhaust Sherwood's available funding, leaving it with a first year deficit of $16,590. Accordingly, petitioner argues that a substantial question has been raised regarding Sherwood's ability to sustain its proposed station through the first year of operation.[7] Next, petitioner asserts that inquiry into Sherwood's ability to meet second year expenses is warranted on the basis of the applicant's high debt-to-equity ratio ($103,798/$1,000 or 104:1) and its heavy reliance on deferred credit to meet first year expenditures (citing Greenfield Broadcasting Corp., 32 FCC 2d 135, -- RR 2d -- (Rev. Bd. 1971); and Ultravision Broadcasting Co., 1 FCC 2d 544, 5 RR 2d 343 (1965)).[8] During its second year of operation, petitioner conprincipal and interest payments of $22,025 and deferred equipment payments of $5,501.76, as well as operating costs of $31,700. In view of the fact that Sherwood is relying entirely on unsubstantiated revenue returns to meet these costs, Strafford argues that a substantial question exists as to whether Sherwood will be able to sustain its proposed station during its second year of operation. Finally, petitioner contends that a misrepresentation issue is warranted on the basis of each of the originally alleged deficiencies in Sherwood's cost estimates. In particular, Strafford alleges that until the time of Sherwood's recent financial amendment, it had concealed the necessity for studio remodeling costs from the Commission by representing that such costs would be entirely subsumed within its annual $1,200 lease payments. Additionally, Sherwood contends that Strafford deliberately overvalued its fixed assets in order to advance its financial posture before the Commission; thus, petitioner alleges that while Sherwood stated the value of its "Total Fixed Assets" at $9,305 in its application, these same assets were valued at only $2,000 in Sherwood's "Statement of Condition as of December 31, 1973," filed with the New Hampshire Secretary of State in April 1974.[9]

3. The Broadcast Bureau, in its partial opposition, opposes petitioner's request for a cost-estimate issue (see note 11, infra). However, the Bureau contends that a second year financial issue is warranted in its absence of substantiation evidencing Sherwood's ability to generate sufficient revenue to meet second year costs of $59,226.76. Moreover, while the Bureau believes that the majority of petitioner's allegations fail to support its request for a misrepresentation issue, it does believe that the discrepancy in Sherwood's valuation of its assets requires further inquiry.

4. In opposition to petitioner's request for a cost-estimate issue, Sherwood states that it has received an estimate for completion of all necessary studio remodeling from one Keith Plaster at the $1,600 figure specified in its recent financial amendment,[10] and that it has sufficient funds to meet this and all other first year expenditures. As to Strafford's higher estimate, Sherwood alleges that petitioner's affiant, Mr. Gregoire, has failed to state that he is "particularly qualified to speak on construction of broadcast studios." Addressing the requested second year financial issue, Sherwood contends that since it will only be required to turn a "modest" profit during its second year of operation to meet fixed costs, the instant case is clearly distinguishable from those cited by petitioner where the need for "substantial" second year profits warranted the designation of second year issues.[11]

5. Finally, Sherwood opposes the addition of a misrepresentation issue, contending that it has neither misrepresented studio remodeling costs nor the true value of its fixed assets. Specifically, Sherwood alleges that at the time its application was filed, it believed that its proposed studio could be completely renovated for a cost of $500-$600 in equipment and materials since labor was to have been provided by Sherwood principals. Sherwood argues that, contrary to petitioner's allegations, these costs were reflected in its application: a portion of them were included in its $1,000 figure for "Other Items: Installation Costs," and the remainder were stated as lease payments in order to reflect the fact that the site owner had indicated that he would provide some of the required materials and labor. According to Sherwood, its recent amendment, which specified $1,600 for remodeling costs, was necessitated by further deterioration of the building in question. Turning to petitioner's allegations regarding its valuation of assets, Sherwood argues that any apparent discrepancy was entirely inadvertent and was made without intent to deceive the Commission. Specifically, Sherwood avers that the lower valuation to the New Hampshire Secretary of State reflected the approximate costs of these assets, while the higher figure furnished to the Commission reflected their value following repair. According to Sherwood, the latter estimate more closely approximates the fair market value of these items, and, consequently, there is no basis for the addition of a misrepresentation issue.

6. The Review Board will add both first and second year financial issues but will deny petitioner's request for a misrepresentation issue. As to the cost estimate aspect of the first year issue, a substantial discrepancy exists between petitioner's $36,000 estimate for studio remodeling (which is based on a detailed analysis of the work which may be required), and the $1,600 estimate supplied by Sherwood.[12] Moreover, contrary to Sherwood's contention, Louis Gregoire, petitioner's affiant, appears fully qualified to submit an alternative estimate in view of his twelve years of experience in construction and remodeling work in the Rochester area.[13] In contrast, Sherwood has neither set out the qualifications of Keith Plaster, upon whom it relies for its $1,600 cost figure, nor has it submitted a breakdown of the work contemplated by its lower estimate. Gives the disparity between petitioner's estimate and that of Sherwood, an inquiry into the reasonableness of Sherwood's remodeling estimate and its ability to meet this cost with available funds is warranted. Cf. Cavallaro Broadcasting Corp., 48 FCC 2d 314, 31 RR 2d 23 (Rev. Bd. 1974).

7. A substantial question has also been raised regarding Sherwood's ability to sustain its station during the second year of operation. Sherwood has conceded that it will be called upon to make approximately $21,825 in principal and interest payments on its proposed loans, as well as $5,501.76 in deferred equipment payments during its second year of opera-

[7] Petitioner has also contended that Sherwood has overstated the value of its assets (including office furnishings and studio and control equipment) by $7,305 and that its estimated costs of construction must accordingly be increased by that amount. However, even assuming such an overvaluation of assets, this deficiency would not require a corresponding increase in the costs of construction, since there is no indication that the office and studio equipment will not be functional despite its lower value. We note, however that Sherwood's alleged overvaluation of its assets is still relevant to petitioner's request for a misrepresentation issue, considered infra.

[8] Sherwood proposes a first year moratorium on principal repayments for a $65,000 bank loan, an 18-month deferral of principal and interest payments on its remaining $20,000 loan (from its principal, Mr. Boucher), as well as $18,798 in deferred credit from its equipment supplier.

[9] Strafford has attached a copy of Sherwood's "Statement of Condition," which lists its only non-liquid assets as "Machinery and Equipment: $2,000".

[10] In support, Sherwood has attached an affidavit by Roger P. Boucher, a principal of the applicant.

[11] In support, Sherwood notes that its recent financial amendment reflects a first year surplus of $17,810 which "will nearly cover" second year bank loan payments of $19,825. As a result, petitioner asserts that it will only be required to generate a second year profit of approximately $7,500 in order to meet equipment payments and principal and interest payments on its Boucher loan. According to Sherwood, "modest" sales revenues of $3,500 a month will suffice for this purpose and, consequently, the Commission can safely forego inquiry into its second year finances.

[12] Though the Broadcast Bureau, in its partial opposition, opposed addition of a cost estimate issue based on an assertion that petitioner had failed to establish that Sherwood planned to use the building in question as a broadcast studio, Sherwood's opposition effectively admits this fact, thereby mooting the Bureau's objection.

[13] Though Sherwood is correct in his contention that Mr. Gregoire has not established his qualifications in the area of broadcast studio construction in particular, we do not view this as significant in light of the detailed breakdown of costs included in the Gregoire affidavit.

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tion. Assuming that Sherwood's first year estimates remain constant, it will also be liable for $32,700 in second year operating costs. While Sherwood relies, inter alia, in its opposition, on a $17,810 first year surplus to meet these expenses, in view of the questions raised regarding its estimated construction costs, these funds may not be available. Moreover, there is no indication that Sherwood's second year revenues will be adequate to meet total second year expenditures of approximately $60,026.[14] Finally, as noted by petitioner, Sherwood's proposal is thinly capitalized; while only $1,000 is being ventured as risk capital, Sherwood is relying on $103,798 in loans and deferred credit to finance its operation. In these circumstances, we believe that a second year financial issue is warranted. Robert Cowan Wagner, 38 FCC 2d 1187, 26 RR 2d 429 (Rev. Bd. 1973); 5 KW, Inc., 33 FCC 2d 895, 23 RR 2d 1015 (Rev. Bd. 1972); Greenfield Broadcasting Corp., supra.[15]

8. As to the requested misrepresentation issue, we are of the view that the evidence before us does not indicate that Sherwood intentionally misled the Commission with regard to its financial qualifications. Though Sherwood did state in its original application, and again in an amendment filed on May 6, 1975, that remodeling costs would be subsumed within lease payments, and though Sherwood now acknowledges that approximately $1,600 will be required for this purpose, it has explained this discovery by an assertion that the building in question fell into further disrepair after May 1975. This explanation has not been contested by petitioner, and in our view it satisfactorily negates an inference that Sherwood may have intended to conceal these costs from the Commission.[16] Moreover, we do not believe that other alleged deficiencies in Sherwood's cost estimates warrant the addition of a misrepresentation issue. The substantial first year surplus reflected in Sherwood's financial showing at the time the challenged cost estimates were made militates against any suggestion that deficiencies in these figures were based on intentional misrepresentation rather than a mere underestimation of costs.[17] Cf. Prairieland Broadcasters, 49 FCC 2d 847, 31 RR 2d 1425 (Rev. Bd. 1974). Although this surplus would not have completely covered Strafford's estimate for studio remodeling costs, Strafford's $36,000 figure is itself untested and is not sufficient to raise a substantial question of misrepresentation. We cannot turn every question of adequacy of cost estimates into a misrepresentation issue; some additional substantial ground is required. We do not find it here. Finally, Sherwood has adequately explained the discrepancy in its valuation of fixed assets by its assertion that these assets were valued at their purchase price in material submitted to the New Hampshire Secretary of State and at their market value in the application submitted to the Commission.[18]

SITE AVAILABILITY AND RELATED 1.65 AND MISREPRESENTATION ISSUES

9. Strafford's next request is for the addition of site availability, and related Rule 1.65[19] and misrepresentation issues. According to petitioner, Willis J. Moore, owner of Sherwood's proposed transmitter site at the time its application was filed, no longer has an interest in the property due to a mortgage foreclosure which occurred on November 4, 1974.[20] Though Moore's mother, Mary L. Moore, subsequently purchased one acre of the proposed site, it is alleged that Sherwood has never submitted evidence of a lease agreement with either Willis or Mary Moore, and that consequently Sherwood has not provided reasonable assurance of the site's availability. In any event, petitioner contends that a petition for special exception to permit the construction of an FM station on this property (filed by Willis Moore with the Rochester Zoning Board of Adjustment prior to June 5, 1973) was denied with prejudice on August 11, 1975.[21] that this determination is res judicata with respect to all persons, and that consequently the property in question cannot be used as a studio site. In view of the fact that Sherwood did not report this zoning decision to the Commission, Strafford avers that a Rule 1.65 issue is also warranted on this basis (citing Dale A. Owens, 56 FCC 2d 482, 35 RR 2d 508 (Rev. Bd. 1975)). Finally, petitioner argues that a misrepresentation issue is warranted since, by specifying its proposed site in its application, Sherwood impliedly represented that it had obtained reasonable assurance of the site's availability (citing *Lake Erie Broadcasting Co.*, 31 FCC 2d 45, 22 RR 2d 647 (Rev. Bd. 1971); *William F. Wallace*, 49 FCC 2d 1424, 32 RR 2d 105 (Rev. Bd. 1974)). The Broadcast Bureau, in its partial opposition, supports addition of site availability and Rule 1.65 issues on the basis of the adverse zoning decision, but avers that petitioner's allegations are insufficient to warrant the addition of a misrepresentation issue.

10. The Review Board will add the requested site availability and Rule 1.65 issues. First, while Sherwood has, with its opposition, submitted an affidavit by the present owner of its proposed site, Mary L. Moore, which establishes that she agreed to lease this property to Sherwood for use as an FM transmitter site, this agreement expired as of September 1, 1976, and consequently submission of a new agreement is necessary to a finding that the site is currently available. More important, Sherwood has not satisfactorily answered questions raised by the August 11, 1975 zoning decision. Rather, in response to these allegations, Sherwood has merely contended that the zoning decision is subject to attack, inter alia, on the grounds of lack of notice and reasonable opportunity to be heard and that Sherwood will pursue its available remedies in an attempt to obtain a favorable determination. However, as we held in WLCY–TV, Inc., 43 FCC 2d 818, 28 RR 2d 997 (Rev. Bd. 1973), the ordinary presumption of zoning authority for construction of a broadcast studio is effectively rebutted by the adverse initial decision of a zoning agency, whether or not the applicant intends to exhaust its administrative or judicial remedies. See also Salem Broadcasting Co., Inc., 40 FCC 2d 458, 26 RR 2d 1565 (Rev. Bd. 1973). Furthermore, the availability of an applicant's proposed site is clearly a matter of decisional significance. As to the requested misrepresentation issue, to the extent that it is based on international concealment of the adverse zoning decision, this matter can be explored under the Rule 1.65 issue being specified herein,

[14] Though Sherwood has estimated first year revenues at $35,000, it has failed to substantiate its ability to generate income in this amount. Even assuming that these revenues were substantiated, and could therefore be relied upon, Sherwood would have to nearly double this figure during its second year of operation to meet fixed expenses.

[15] Though Sherwood has argued that the instant case is distinguishable from those cited above in that Sherwood is only relying on "modest" second year profits to meet fixed expenses, we do not find this contention persuasive. First, Sherwood's assertion that its required second year profits are "modest" for a station of its size and location is entirely conclusory. Second, designation of second year issues in the above cases did not depend on whether the applicant relied on "substantial" as opposed to "modest" second year profits, but rather on the fact that the applicant's proposals were thinly capitalized, involved substantial deferral of first year expenditures and relied on unsubstantiated second year revenues to meet second year costs. Each of these elements is present in the instant case.

[16] Moreover, though Sherwood has acknowledged that $500–$600 worth of materials would have been required even before the building fell into further disrepair, its explanation regarding how this cost was reflected in its application is not unreasonable.

[17] Sherwood's financial showing, as amended on May 6, 1975, reflected a $31,166 first year surplus. After subtracting Sherwood's newly revised cost estimates for detuning, an antennae system, legal and miscellaneous expenditures (see note 4 supra), Sherwood would still have retained $24,974, plus whatever first year revenues it may generate, to cover studio remodeling expenditures.

[18] We note, in addition, that, according to petitioner, Sherwood has filed new material with the New Hampshire Secretary of State which adjusts its valuation of assets to accord with the $9,305 figure submitted to the Commission.

[19] Rule 1.65 provides that an applicant must advise the Commission when the information contained in its pending application is no longer substantially accurate and complete or when there has been a substantial change as to any other matter which may be of decisional significance in the proceeding.

[20] In sunnpport, petitioner has attached an affidavit by the Vice President of Rochester Savings Bank and Trust Company (the mortgage).

[21] Petitioner has attached a letter, dated August 11, 1975, from the Rochester Zoning Board of Adjustment to Willis J. Moore informing him of the denial.

and thus we see no need for designating a separate issue on this basis. However, to the extent that this issue is based on Sherwood's specification of its proposed site, petitioner's request must be denied, since the affidavits of Willis and Mary Moore (included with Sherwood's opposition), establish that each agreed to lease Sherwood the property in question for use as an FM studio.[22]

SUBURBAN[23] AND RELATED MISREPRESENTATION ISSUES

11. Strafford also requests issues to determine whether Sherwood made misrepresentations regarding its community leader survey and to determine whether Sherwood's ascertainment showing meets Commission requirements. In support of the requested misrepresentation issue, petitioner has attached the affidavits of six of the community leaders allegedly interviewed by Sherwood who state that they have no recollection of having been contacted,[24] and of four additional persons some of whom state, in effect, that though they were interviewed, the discussion was too brief and superficial to be considered meaningful.[25] Noting that the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants (Primer), 27 FCC 2d 650, 21 RR 2d 1507 (1971), makes "meaningful" communication between the applicant and community leaders the keystone of its interview requirements, petitioner asserts that each of the foregoing affidavits raise serious questions regarding the bona fides of Sherwood's Suburban showing (citing Faulkner Radio, Inc., 15 FCC 2d 780, 15 RR 2d 285 (1968)). Strafford bases its request for a Suburban or ascertainment issue, first, on an assertion that only 41 of Sherwood's 103 interviewees are identifiable as community leaders from the face of Sherwood's application (citing Primer, supra, Q. & A. 20). Second, petitioner avers that Sherwood has interviewed only one woman leader and no representatives of labor unions, students, or French speaking persons of foreign stock, even though it apparently identified each of these groups as significant segments of the Rochester area population (citing Philadelphia Broadcasting Co., 51 FCC 2d 361, 32 RR 2d 1300 (Rev. Bd. 1975); Maranatha, Inc., 56 FCC 2d 473, 35 RR 2d 475 (Rev. Bd. 1975)). The Broadcast Bureau, in its partial opposition, submits that, absent a satisfactory explanation by Sherwood regarding the six persons specified as community leaders in its application who state they have no recollection of having been interviewed, a misrepresentation issue is warranted on this basis. The Bureau also concurs in petitioner's view that a Suburban issue is warranted, although it would base this issue solely on Sherwood's failure to interview leaders representative of significant groups in the Rochester area, contending that petitioner's remaining allegations fail to meet the specificity requirements of Rule 1.229(c).

12. In response, Sherwood has attached the affidavit of its principal, J. Sherwood Bent, who states that, with one exception, he did personally interview each of the six individuals mentioned in Strafford's petition, regarding the problems and needs of the Rochester community. In support, petitioner has attached the affidavits of three of these individuals,[26] one of whom now recalls the interview, and two of whom recognize the handwriting on their interview forms as their own and their employee's, respectively, and, therefore, presume that personal interviews must have taken place. Sherwood alleges that another of the individuals, a Mr. Gustafson, did not have time for a personal interview when approached by Bent, but contends that Gustafson did return the interview form left with him bearing what appeared to be his personal signature. With regard to the remaining two persons, Sherwood notes that neither has definitively stated that an interview did not take place, and argues that since these contacts occurred over two and one-half years ago, their failure to recall the event is understandable. With respect to allegations regarding those persons who recall having been interviewed but who did not consider the dialogue meaningful, Sherwood avers that, as a matter of law, these contentions do not provide an adequate basis for a misrepresentation issue. Turning to petitioner's request for a Suburban issue, Sherwood merely states that it has undertaken a "significant upgrading" of its ascertainment effort, which will be filed with the Commission in the near future.[27]

13. The Review Board will deny the requested misrepresentation issue. As noted above, of the six community leaders who originally submitted affidavits stating that they did not recall having been interviewed, one affiant now recalls having been contacted and another has identified his handwriting on Sherwood's interview form, thereby adequately substantiating that an interview did take place.[28] Consequently, of the 103 community leaders listed in Sherwood's survey, questions have been raised regarding the bona fides of only four of these representations.[29] In the past, where such a small percentage of an applicant's interviews were in doubt, the Commission and the Board have generally held that a misrepresentation issue is not warranted. See Lake Radio, Inc., 42 FCC 2d 737, 28 RR 2d 587 (Rev. Bd. 1973) (two out of 45); Childress Broadcasting Corp. of West Jefferson, FCC 70–1032, 20 RR 2d 335 (1970) (two out of 50). Moreover, in this case, rather than definitively stating that an interview did not take place, each of the affiants merely asserts that he or she does not recall being contacted some two to two and one-half years earlier. It is reasonable to assume that the passage of time or the cursory nature of the contacts may satisfactorily account for this lack of recollection. Cf. CBS, Inc., 49 FCC 2d 1214, 32 RR 2d 271 (Rev. Bd. 1974). Compare California Stereo, Inc., 39 FCC 2d 401, 26 RR 2d 887 (Rev. Bd. 1973). Moreover, while Sherwood has acknowledged that Mr. Gustafson did not have time for a personal interview, and chose instead to return his interview form by mail, we do not believe that Sherwood's error in listing this person as having been personally interviewed is in itself sufficient to evidence an intent to mislead the Commission. Cf. Great Southwest Media Corp., 46 FCC 2d 1142, 30 RR 2d 378 (Rev. Bd. 1974).[30]

14. On the other hand, we believe that a substantial question has been raised regarding the adequacy of Sherwood's

[22] Lake Erie Broadcasting Co., supra, and William F. Wallace, supra, cited by petitioner, are distinguishable since in those cases the applicants specified transmitter sites without first obtaining purchase or lease agreements with the property owners. In the instant case, Willis Moore's affidavit establishes that he agreed to lease his property to Sherwood well before the October 1973 filing of Sherwood's application.

[23] Suburban Broadcasters, 30 FCC 1021, 20 RR 951 (1961), affirmed sub nom. Henry v. F.C.C. 112 U.S. App. D.C. 257, 302 F.2d 191, cert. denied 371 U.S. 821 (1962).

[24] Included are affidavits of Nelson Goodfield, David Bennett, Charles Hervey, Robert Beranger, Nancy Liebeson and Robert Gustafson. However, see para. 12, infra.

[25] In this regard, petitioner submits the affidavits of George Shevenell (stating that the interview "primarily centered around the acceptance of an FM station"); George Stearns (characterizing the interview as "short"); Robert H. Wass (stating "the interview could not be called meaningful"); and Louis Bergeron (who does not recall the content of the discussion).

[26] In this regard, Sherwood has attached the affidavits of Goodfield, Beranger and Hervey.

[27] This amendment was filed on April 22, 1976, and has been accepted by the presiding Administrative Law Judge by Order, FCC 76M–716, released June 3, 1976.

[28] As to the interviewee who identified the handwriting of his employee on the interview form, we do not believe that this fact satisfactorily establishes that a personal interview actually was held.

[29] As to the four community leaders in Sherwood's application who have challenged either the duration or content of their interviews (see note 24, supra), while under certain circumstances such allegations might provide the basis for a Suburban issue, they are not sufficient to raise a substantial question regarding intentional misrepresentation. In William R. Gaston, 35 FCC 2d 624, 24 RR 2d 779 (Rev. Bd. 1972) and Click Broadcasting Co., 19 FCC 2d 497, 17 RR 2d 164 (Rev. Bd. 1969), cited by petitioner, similar allegations gave rise to Suburban rather than misrepresentation issues.

[30] Faulkner Radio, Inc., supra, cited by petitioner, is distinguishable, since in that case 14 out of 28 community leaders interviewed (or more than one-half) denied having been contacted. Moreover, in our view, Western Television Co., 50 FCC 2d 453, 32 RR 2d 350 (Rev. Bd. 1974), cited by petitioner in its reply pleading, is also distinguishable since in that case it appears that the alleged interviewees definitively denied having been contacted by the applicant only three months after the interviews purportedly took place.

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ascertainment showing. While Sherwood's application, as amended on April 22, 1976 (see note 25 and accompanying text, supra), serves to adequately identify the persons interviewed as holding positions of leadership within the community, the applicant appears to have failed to satisfactorily survey community leaders representative of two significant segments of the Rochester population.[21] First, Sherwood has interviewed only one leader of a woman's group despite the fact that its demographic information reveals that women constitute over 50% of the Rochester population. See Primer, Q. & A. 10.[22] While, as a general matter, we refrain from judging the numerical sufficiency of an applicant's sampling of a minority or other distinct population grouping, it is clear that an applicant's efforts may be drawn into question when its contacts are so meagre as to preclude a finding of representativeness. J. Sherwood Inc., FCC 76R-266, __ RR 2d __ (1976); Azalea Corp., 38 FCC 2d 95, 25 RR 2d 975 (1972). In our view, a single contact cannot be characterized as a representative sampling of the needs and interests of women in the Rochester community. Cf. Great Southwest Media Corp., supra. Second, although Sherwood's February 18, 1975 demographic information characterized Rochester's French speaking population of foreign stock as "significant and distinctive", no interviews have apparently been held with representative leaders of this group. While Sherwood's April 22, 1976 demographic showing has omitted references to this group, absent some explanation for the deletion, we must presume that this segment of the Rochester population retains its significant character. Accordingly, the failure to interview appropriate leaders appears to constitute a violation of the Commission's Primer. See Primer, supra, Q. & A. 13(a), 16.[23]

NETWORK AFFILIATION AND RELATED MISREPRESENTATION ISSUES

15. Next, Strafford alleges that, though Sherwood proposes an ABC radio network affiliation, inquires addressed to ABC personnel have revealed that its files contain no evidence of an actual or tentative affiliation agreement with the applicant. Noting that Sherwood proposes to rely on network programming as its primary source of national and international news, petitioner asserts that network affiliation and misrepresentation issues are warranted.

16. The Review Board, in concurrence with the position of the Broadcast Bureau, will deny the requested issues. Petitioner has neither attached affidavits by the ABC personnel with whom it allegedly spoke regarding Sherwood's proposed affiliation, nor has it set forth other specific facts which would indicate that would indicate that Sherwood does not have reasonable assurance of ultimately obtaining its proposed network affiliation. Consequently, petitioner's allegations fail to conform to the requirements of Rule 1.229(c) and the requested network affiliation issue must be denied. Compare Western Communications, Inc., 39 FCC 2d 1077, 26 RR 2d 1456 (Rev. Bd. 1973); Belo Broadcasting Corp., 42 FCC 2d 1011, 28 RR 2d 732 (Rev. Bd. 1973). As to the alleged misrepresentation, Sherwood has stated, in its opposition, that it spoke with ABC network officials in September 1973 and understood that it should have no difficulty obtaining the desired affiliation after it had a construction permit. Though Sherwood acknowledges that it has not entered into a network affiliation agreement, it avers that by specifying an ABC affiliation in its application it merely intended to indicate that it would use its best efforts to consummate an agreement once a construction permit was obtained. Sherwood's explanation in this regard has not been challenged and, in our view, it adequately rebuts an inference of intentional misrepresentation. *Western Communications, Inc.*, supra.

LEGAL QUALIFICATIONS AND RELATED MISREPRESENTATION ISSUES

17. In support of its final request, petitioner has attached a letter from New Hampshire's Deputy Secretary of State, dated October 22, 1975, which states that J. Sherwood, Inc. is not in good corporate standing. Strafford contends that legal qualifications and misrepresentation issues are warranted on this basis, since Sherwood is prosecuting its application as a corporate entity. In response, Sherwood asserts that it lacks corporate "good standing" simply because it did not file its April 1975 annual return. Sherwood states that all appropriate documents have now been filed, that it should receive a certificate of good standing in due course and that this document will be filed with the Commission as soon as it is received. The Bureau, in its partial opposition, supports the addition of a legal qualifications issue, but opposes petitioner's related misrepresentation request.

18. The Board will not add the requested issues. It appears that, by failing to file its annual return Sherwood has merely violated a technical state requirement which can easily be cured by filing the necessary information. Consequently, a substantial question has not been raised regarding its legal qualifications. We note, however, that if Sherwood should fail to file a certificate of corporate good standing within a reasonable period of time, petitioner may reassert its request, and an appropriate issue may be warranted at that time. As to the requested misrepresentation issue, though Sherwood has filed amendments, under its corporate title subsequent to losing corporate "good standing" on April 1975, as we noted above, it does not appear that Sherwood's legal qualifications are in serious jeopardy and, consequently, we do not believe that a substantial question of misrepresentation has been raised.

19. *Accordingly, it is ordered*, That the request for Official Notice, filed February 13, 1976, by J. Sherwood, Inc., is granted; and

20. *It is further ordered*, That the petition to enlarge issues, filed November 12, 1975, by Strafford Broadcasting Corporation, is granted to the extent indicated herein, and is denied in all other respects; and

21. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine with respect to the application of J. Sherwood, Inc., the reasonableness of its estimated studio construction and remodeling costs and whether it will have available sufficient unds to meet these costs;

(b) To determine whether J. Sherwood, Inc., will have available sufficient funds to sustain its proposed station during the second year of operation;

(c) To determine in light of the evidence adduced under issues (a) and (b) whether J. Sherwood, Inc., is financially qualified to construct and operate its proposed station;

(d) To determine whether J. Sherwood, Inc. has a reasonable expectancy of obtaining permission from the current owner of its proposed site and from the Rochester Zoning Board to construct its proposed broadcasting tower and studio.

(e) To determine whether J. Sherwood, Inc. has failed to comply with Section 1.65 of the Commission's rules with respect to the August 11, 1975 adverse zoning decision by the Rochester Zoning Board, and, if so, to determine the effect on its basic and/or comparative qualifications;

(f) To determine whether J. Sherwood, Inc. has interviewed community leaders representing the significant groups listed in its community survey; and whether, in light of the evidence adduced thereto, the applicant has complied with the Commission's ascertainment Primer.

22. And, it is further ordered, That the burden of proceeding under issue (e) shall be on Strafford Broadcasting Corporation; and that the burden of proceeding under issues (a), (b), (d), and (f), and the burden of proof under all of the issues added herein shall be on J. Sherwood, Inc.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37838 Filed 12-23-76;8:45 am]

[21] We note that, in reaching this conclusion, we have relied solely on the "substitute survey exhibits" contained in Sherwood's April 22, 1976 amendment to its application.

[22] In view of the fact that the applicant has apparently made no effort to ascertain the distinctive groupings encompassed within Rochester's female population, representative women "leaders" must be limited to those concerned with women's problems and issues generally. Cf. American Broadcasting Co., Inc., 52 FCC 2d 98, 33 RR 2d 305 (1975). In our view the only interviewee so qualifying is the leader of a women's business and professional organization. As to Sherwood's interviews with women representing various other community groups and interests, we must presume that these persons were questioned from the perspective of the group to which they belong, and therefore they do not augment Sherwood's showing in this regard. Cf. Town and Country Radio, Inc., 53 FCC 2d 401, 33 RR 2d 1589 (Rev. Bd. 1975).

[23] The Board does not believe that petitioner's remaining allegations regarding defects in Sherwood's community leader survey require further inquiry.

FEDERAL MARITIME COMMISSION

EAST ASIATIC COMPANY LIMITED AND BARBER-BLUE SEA LINE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 17, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stanley O. Sher, Esq.,
Billig, Sher & Jones, P. C.,
2033 K Street, N.W.—Suite 300.
Washington, D.C. 20006.

Agreement No. 10272 would permit The East Asiatic Company Limited and Barber-Blue Sea Line to coordinate their sailings in the eastbound trades from the People's Republic of China, Hong Kong, Vietnam, Cambodia, Laos, Thailand, East and West Malaysia, Sarawak, Brunei, Singapore, Indonesia (including West Irian), Korea, Philippines, Japan, Taiwan, Portuguese Timor and New Guinea Papua to U.S. Pacific Coast ports (including Hawaii and Alaska) and Canada. Additionally, in the case of any of the trades, supra, where the rates, charges and practices are not prescribed by any conference of which the parties are members, the parties may file a common tariff containing appropriate rates, charges and practices applying to cargo moving directly or via transshipment from ports and points in the named countries to U.S. Pacific Coast ports and Canada and inland points via such ports. The agreement further provides that each party shall issue its own bills of lading and that there will be no pooling or sharing of profits or losses.

By Order of the Federal Maritime Commission.

Dated: December 21, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37905 Filed 12-23-76;8:45 am]

MED-GULF CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 17, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Agreement No. 9522-30, among the members of the above-named conference, permits the conference to consult, cooperate and agree with other conferences concerning inland European rates, brokerage, rules, charges and practices, and policing and enforcement thereof, including the filing of inland tariffs.

By Order of the Federal Maritime Commission.

Dated: December 21, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37907 Filed 12-23-76;8:45 am]

R.C.D. SHIPPING SERVICES AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before January 17, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

L. A. Parish, Agent, L. A. Parish Company, 61 Saint Joseph Street, P.O. Box 231, Mobile, Alabama 36601.

Agreement No. 9490-7, among the members of the above-named agreement, amends the basic agreement by deleting Pan Islamic Steamship Co., Ltd. and Muhammadi Steamship Co., Ltd., from membership and adding Pakistan Shipping Corporation to membership.

By Order of the Federal Maritime Commission.

Dated: December 21, 1976.

FRANCIS C. HURNEY,
Secretary.

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FEDERAL POWER COMMISSION

CERTAIN NATIONAL GAS ADVISORY COMMITTEES AND TASK FORCES

Continuations

The Chairman of the Federal Power Commission has determined that continuation of the National Gas Survey's Reserves and Resources Classifications Subgroup, Nonconventional Natural Gas Resources Task Force, Synthesized Gaseous Hydrocarbon Fuels Task Force, Regulatory Aspects of Substitute Gas Task Force, Rate Design Task Force, Impact of Gas Shortage on Consumers Task Force, Efficiency in the Use of Gas Task Force and the Finance Advisory Committee and Curtailment Strategies Advisory Committee is necessary in the public interest in connection with completion of efforts of the above-named groups and with the performance of duties imposed by law upon the Commission.

This notice is published pursuant to Commission General Order No. 464, issued December 19, 1972, 38 FR 1083, as amended by Commission General Order No. 464–A, issued August 2, 1974, and authorities referred to therein, 39 FR 28929. See also Office of Management and Budget, Advisory Committee Management, Circular A–63 Revised, March 27, 1974, as amended July 19, 1974.

The ad hoc task forces proposed to be continued herein were initially established by Commission Order issued September 15, 1975. Order Establishing National Gas Survey Technical Advisory Committee and Technical Advisory Task Forces and Designating Initial Membership, 40 FR 43956. An Order Renewing National Gas Survey Executive Advisory Committee, Coordinating Committee and Certain Technical Advisory Committees and Task Forces was issued November 8, 1976, 41 FR 50505, renewing the aforementioned task forces to and including a date not later than December 24, 1976 as necessary in the public interest in connection with the performance of duties imposed by law upon the Commission. An Order Establishing National Gas Survey Advisory Committee was issued November 11, 1976, 41 FR 50729, to continue for a period of two years from that date and terminating on a date not later than November 11, 1978.

Since all members of the committees and task forces which were extended by the November 8, 1975 Order were also named as members of the National Gas Survey Advisory Committee established by the November 11, 1976 Order, the Chairman of the Federal Power Commission has further determined that the work of the aforementioned task forces and committees can be continued by ad hoc task forces of the National Gas Survey Advisory Committee. The subject committees and task forces when renewed as ad hoc task forces would function as set forth in the aforementioned orders for such additional period of time as necessary to complete their work.

The Office of Management and Budget, Advisory Committee Management, has ascertained that continuation of the ad hoc task forces as set forth above is in accord with the requirements of the Federal Advisory Committee Act, 86 Stat. 770. Continuation of these task forces until completion of their final reports will be reflected in an appropriate Commission Order hereafter issued.

RICHARD L. DUNHAM,
Chairman.

[FR Doc.76–37792 Filed 12–21–76;10:53 am]

[Docket Nos. RP77–7 and RP72–157 (PGA77–1a and R. & D. 77–1a)]

CONSOLIDATED GAS SUPPLY CORP.

Order; Correction

DECEMBER 13, 1976.

In the Order Accepting For Filing and Suspending Certain Tariff Sheets, Accepting and Permitting Other Tariff Sheets to Become Effective, Subject to Refund, Consolidating Proceedings, and Establishing Procedures, issued November 24, 1976, published in the FEDERAL REGISTER on December 3, 1976, 41 FR (53104), in the referenced docket referred in footnote 1 to:

* * * Sixth Revised Sheet Nos. 8 and 9 * * *

The correct tariff sheet designation is:

* * * Sixteenth Revised Sheet Nos. 8 and 9 * * * The order should be changed accordingly.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37797 Filed 12–23–76;8:45 am]

[Docket Nos. CP73–47, et al., No. CP73–148, and No. CP74–122]

EASCOGAS LNG, INC., ET AL.

LNG Importation; Order Granting Motion for Consolidation

DECEMBER 15, 1976.

In the matter of Eascogas LNG, Inc., et al., Energy Pipeline Corp. (Distrigas Pipeline Corp., Energy Terminal Services Corp. (Distrigas of New York Corp.)

On November 8, 1976, Energy Pipeline Corporation (Energy Pipeline) and Energy Terminal Services Corporation (Energy Terminal) jointly filed a motion requesting consolidation of their respective applications in Docket Nos. CP73–148 and CP74–122 with the pending proceedings in Eascogas LNG, Inc., Docket Nos. CP73–47, et al. Energy Terminal's amended application to construct and operate a liquefied natural gas (LNG) storage terminal on Staten Island, New York, and Energy Pipeline's related amended application to construct and operate appurtenant pipeline facilities, were filed November 8, 1976.[1] The instant motion states that the facilities proposed in the amended applications are to be used for the receipt, storage, and delivery of the LNG volumes which are the subject of Eascogas' application in CP73–47, and requests that the separate dockets therefore be consolidated for further hearings and ultimate decision.

Energy Pipeline's and Energy Terminal's amended applications essentially reflect a change in ownership (together with updated exhibits) in the facilities originally proposed by Distrigas Pipeline Corporation and Distrigas of New York Corporation in the same respective dockets. Distrigas Pipeline's application in CP73–148 was filed November 15, 1972, and Distrigas of New York's application in CP74–122 was filed November 2, 1973.[2] By order of December 28, 1973, in Docket Nos. CP73–78, et al., hearings were convened on the various Distrigas proposals, including those in CP73–148 and CP74–122, on February 11, 1974. Subsequently, However, due to renegotiations on the gas supply contract, Distrigas filed a series of motions for extensions of time within which to file their direct case in those proceedings. Distrigas eventually withdrew its application to import LNG into the Staten Island terminal, and hearings were never concluded. In the interim, the Commission Staff issued its Final Environmental Impact Statement for the Staten Island terminal operations, including Eascogas' proposed import, and submitted that document as an exhibit in the Eascogas proceedings.

Distrigas of New York's application in CP74–122 was initially filed under protest in order to reserve the Applicant's right to challenge the Commission's assertion of jurisdiction over the subject facilities. Distrigas, however, subsequently withdrew its protest and challenge to Commission jurisdiction, and Energy Terminal's recent amended application in the same docket is not filed under protest.

As Energy Pipeline and Energy Terminal's motion notes, their proposed Staten Island operations are an integral part of the Eascogas project, in that the latter is dependent on the use of the former. The Staff itself, and all parties by their lack of objection to the environmental procedure, acknowledged as much in issuing one, joint Impact Statement covering both the proposed Eascogas importation, and the then—Distrigas Staten Island operations. Full consolidation of the entire records was not previously granted due primarily to the desire of the party Applicants to keep the Eascogas and Distrigas proceedings separate. The Commission now believes, however, in light of Distrigas' withdrawal of its own proposal to import gas to Staten Island, the removal of the "under protest" cloud on the CP74–122 application, and based on this motion now before us, that the common issues of law and fact involved in these proceedings compels us to consolidate Docket Nos. CP73–148 and CP74–122 with the proceedings in CP73–47, et al., for purposes of further hearing and decision. Attendant to the consolidation, we shall also direct the record heretofore established in the Staten Island terminal operations to be incorporated as part of the record

[1] Notice of the amended applications was issued November 16, 1976, whereby November 26 was set as the due date for protests and petitions to intervene.

in CP73–47, et al. In so doing, we are not unmindful of the likelihood of the record therein being stale due to the long pendency of those proceedings, a possibility we recognized as early as November 14, 1974, in granting one of Distrigas' extensions of time.[3] We leave to the parties and Presiding Judge, however, to determine the appropriate level of weight and relevance to be given that record. Finally, all parties previously granted intervention in the Distrigas proceedings shall hereby be accorded similar status in the CP73–47 Eascogas proceedings.

The Commission finds: (1) It is necessary and appropriate to grant the relief requested by the Motion filed November 8, 1976, by Energy Pipeline Corporation and Energy Terminal Services Corporation, and consolidate the proceedings in Docket Nos. CP73–148 and CP74–122 with the pending proceedings in Docket Nos. CP73–47, et al. (2) It is desirable and in the public interest to allow parties previously granted intervention in Docket Nos. CP73–148 and CP74–122 to be granted intervention status in CP73–47, et al. (3) It is appropriate to incorporate the record heretofore established in CP73–132, et al., as it relates to the Staten Island terminal operations proposed in Docket Nos. CP 73–148 and CP74–122 into the record in CP73–47, et al., subject to argument to the parties as to the relative weight to be given such prior evidence.

The Commission orders: (A) The motion filed November 8, 1976 by Energy Pipeline and Energy Terminal is granted, and Docket Nos. CP73–148 and CP74–122 are hereby consolidated for further hearing and decision with the pending proceedings in Docket Nos. CP73–47, et al. (B) All parties previously granted intervention in Docket Nos. CP73–148 and CP74–122 are permitted to intervene in Docket Nos. CP73–47, et al. (C) The record established to date in Docket Nos. CP73–132, et al., as it relates to the Staten Island terminal operations proposed in Docket Nos. CP73–148 and CP74–122, is hereby incorporated as part of the record in CP73–47, et al.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37795 Filed 12–23–76;8:45 am]

[Docket No. ER77–97]

NEW ENGLAND POWER CO.

Filing of Proposed Changes in Rates and Charges

DECEMBER 15, 1976.

Take notice that on December 6, 1976, New England Power Company (NEPCO) filed revised tariff sheets constituting a new Rate R–11 for its Primary Service for Resale and its Contract Demand Service (CD). NEPCO requests waiver of the notice provisions in order to place its R–11 rates in effect January 1, 1977. Alternatively, NEPCO requests an effective date of February 1, 1977.

NEPCO states that its R–11 rate is in two parts, i.e., primary and CD services, and, in accordance with the Settlement agreement approved by this Commission in Docket No. ER76–148, the rates for both services are based on the same cost of service. The proposed demand charges for the primary service will decrease from $6.43 to $6.38 per kilowatt of demand and the energy charge will decrease from 17.8 mills to 17.7 mills per kilowatthour. For the CD service, the proposed demand charge will increase from $7.01 to $8.52 per kilowatt of demand with the energy charge remaining at 14.0 mills per kilowatthour. NEPCO states that, based on calendar year 1977 as a test period, the effect of the proposed R–11 rates will be to decrease annual revenues by approximately $239,000—an increase of $2,934,150 to CD service and a decrease of $3,173,517 to the primary service.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before December 31, 1976, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing and supporting documents are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37794 Filed 12–23–76;8:45 am]

[Docket Nos. RP77–9; RP71–16 (PGA11–1); RP72–140 (PGA77–1); and RP72–154 (PGA77–2)]

PACIFIC GAS TRANSMISSION CO. ET AL.

Pipeline Rates: Order

DECEMBER 17, 1976.

In the matter of Pacific Gas Transmission Co., Midwestern Gas Transmission Co., Great Lakes Gas Transmission Co., and Northwest Pipeline Corp.

In the matter of order accepting for filing and making effective without suspension proposed rate increases and granting interventions.

On June 10, 1976, the Canadian Government announced increases in the price of natural gas exported from Canada to the United States. The price was increased from $1.60 to $1.80 per MMBtu effective as of September 10, 1976, and from $1.80 to $1.94 per MMBtu effective as of January 1, 1977. By order issued on September 9, 1976, the Commission authorized the four pipelines listed in the caption of this order to flow-through the September 10 price increases to their customers in the United States. These pipelines now request authorization to commence charging the mandated rate of $1.94 per MMBtu effective January 1, 1977. For the reasons set forth below, the requested authorization shall be granted.

On November 2, 1976, Pacific Gas Transmission Company (Pacific Gas) filed for authorization to include the $1.94 rate in its cost of service charges to Pacific Gas & Electric Company effective January 1, 1977. Pacific Gas' filing is made pursuant to the Commission's order issued in Docket No. RP73–111 on September 3, 1974, requiring the company to request Commission approval before including the effect of Canadian price increases in its cost of service rate.

Notice of Pacific Gas' filing was issued on November 11, 1976, providing for protests or petitions to intervene to be filed on or before December 1, 1976. Petitions to intervene were filed on December 1, 1976, by Pacific Gas and Electric Company, and on December 2, 1976, by the People And Public Utilities Commission of California. These interventions will be granted.

On the basis of annual purchases of 386 million Mcf per year, as adjusted to reflect a Btu content of 1045 Btu per Mcf and an assumed exchange rate of 1.0168, Pacific Gas estimates that its purchased gas costs will increase by $57,421,000 annually (U.S.) on January 1, 1977.

Midwestern Gas Transmission Company (Midwestern) filed on October 29, 1976, pursuant to its tariff PGA clause, for authorization to include in its rates the $1.94 (Canadian) border price as of January 1, 1977. Notice of Midwestern's filing was issued on November 8, 1976, providing for protests or petitions to intervene to be filed on or before November 30, 1976. On November 26, 1976, a petition to intervene was filed by Wisconsin Gas Company. Wisconsin's petition shall be granted.

Information and supporting materials included in Midwestern's filing show that under its three contracts with its Canadian supplier, Midwestern's cost of purchased gas will increase by $16,527,587 annually. Based on annual sales of 115,103,262 Mcf, this represents an increase of 14.36 cents per Mcf.

Great Lakes Gas Transmission Company (Great Lakes) filed on November 9, 1976, pursuant to its tariff PGA clause, for authorization to include in its rates the $1.94 (Canadian) border price as of January 1, 1977. Notice of Great Lakes' filing was issued on November 18, 1976, providing for protests or petitions to intervene to be filed on or before December 9, 1976. No comments have been received in response to the notice.

Information and supporting materials included in Great Lakes' filing show that under its three contracts with its Canadian supplier, Great Lakes' cost of purchased gas will increase by $13,570,000 annually. Based on annual sales of 89,727,630 Mcf, this represents an increase of 12.483 cents per Mcf.

[3] Order Conditionally Granting Motions for Further Extensions of Time, issued November 14, 1974, in Distrigas Corporation, Docket Nos. CP73–132, et al., p. 2.

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Northwest Pipeline Corporation (Northwest) filed on November 17, 1976, pursuant to its tariff PGA clause, for authorization to include in its rates the $1.94 (Canadian) border price as of January 1, 1977. Notice of Northwest's filing was issued on December 1, 1976, providing for protests or petitions to intervene to be filed on or before December 15, 1976. On December 9, 1976, Northwest Natural Gas Company petitioned to intervene in Docket No. RP72–154. Northwest Natural's petition will be granted.

Information and supporting materials included in Northwest's filing show that purchased gas costs at its two import points, Sumas and Kingsgate, will increase by $38,239,068 annually. Based on annual sales of 4,051,373,316 therms, this represents an increase of 0.944 cents per therm.

Northwest also requested that its PGA filing be consolidated with its petition filed on October 12, 1976, to amend its import authorization in Docket Nos. CP75–341 and CP75–342. Necessary modifications of the import authorizations of the importing pipelines, including Northwest, will be granted by separate order. Upon review of the filings discussed above, the Commission finds that the requested authorizations should be granted. The pipelines' related tariff sheets will therefore be accepted for filing and permitted to become effective as requested on January 1, 1977.

The Commission orders: (A) Pacific Gas is authorized to include in its cost of service charges a cost of gas purchased from its Canadian supplier of $1.94 (Canadian) per MMBtu, effective on January 1, 1977.

(B) Midwestern's Sixteenth Revised Sheet No. 9 to its FPC Gas Tariff, Third Revised Volume No. 1, is accepted for filing and permitted to become effective on January 1, 1977.

(C) Great Lakes' Twenty-First Revised Sheet No. 57 to its FPC Gas Tariff, First Revised Volume No. 1, is accepted for filing and permitted to become effective on January 1, 1977.

(D) Northwest's Substitute Fourteenth Revised Sheet No. 10 to its FPC Gas Tariff, Original Volume No. 1, is accepted for filing and permitted to become effective on January 1, 1977.

(E) Wisconsin Gas Company is permitted to intervene in the proceeding in Docket No. RP71–16 (PGA77–1), subject to the Commission's Rules and Regulations.

(F) Pacific Gas and Electric Company and the People and Public Utilities Commission of California are permitted to intervene in the proceeding in Docket No. RP77–9, subject to the Commission's rules and regulations.

(G) Northwest Natural Gas Company is permitted to intervene in Docket No. RP72–154 (PGA77–2), subject to the Commission's Rules and Regulations.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37853 Filed 12–23–76;8:45 am]

[Docket No. ER77–59]

SUPERIOR WATER, LIGHT & POWER CO.

Electric Rates: Order Accepting Proposal for Filing, Suspending, Consolidating, and Establishing Procedures

DECEMBER 15, 1976.

On November 15, 1976, the Superior Water, Light and Power Company (Superior) tendered for filing revised rates for service to its single wholesale customer, Dahlberg Light and Power Company (Dahlberg), resulting in increased revenues of $164,473 (14.90 percent) for the 12 month period succeeding the proposed effective date of December 15, 1976.

In addition to increasing the demand and energy charges, the proposed rates would provide for a Power Supply Adjustment Clause to replace the existing fuel clause. The clause would adjust billings to Dahlberg for changes in generation and demand and energy related costs of purchased power.

Superior states that the proposed increase is necessary in order to recover a proportionate share of the increase in costs of its power purchased from Minnesota Power and Light Company (MP&L) due to MP&L's proposed rate increase in Docket No. ER76–827. By Commission order issued August 27, 1976, MP&L's increase was suspended for 30 days to become effective September 30, 1976. Inasmuch as these proceedings involve common issues of law and fact, we shall consolidate them for purposes of hearing and decision.

Public notice of Superior's filing was issued on November 30, 1976, with all protests and petitions to intervene due on or before December 10, 1976. None have been received.

Commission review of the proposed rates indicates that they have not been shown to be just and reasonable and may be unjust, unreasonable, or otherwise unlawful. Accordingly the proposals should be accepted for filing and suspended for three months, to become effective subject to refund on March 16, 1977.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the increases proposed in Docket No. ER77–59 be accepted for filing and suspended for three months, to become effective March 16, 1977, pending hearing and decision as to their lawfulness.

(2) Good cause exists to consolidate Docket Nos. ER76–827 and ER77–59.

The Commission orders: (A) Pursuant to the authority contained in the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Superior in Docket No. ER77–59 and by MP&L in Docket No. ER76–827.

(B) Pending a hearing and decision thereon, Superior's proposed rates tendered in Docket No. ER77–59 are hereby accepted for filing and suspended for three months, to become effective subject to refund on March 16, 1977.

(C) The proceedings in Docket Nos. ER76–827 and ER77–59 are hereby consolidated for hearing and for all other purposes.

(D) The Commission Staff shall prepare and serve top sheets on all parties in the proceedings in Docket Nos. ER76–827 and ER77–59 for purposes of settlement on or before March 1, 1977.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in these proceedings on a date certain within 10 days after the service of top sheets by the Staff, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(F) Superior shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by § 35.19a of the Commission Regulations, 18 CFR 35.19a.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER and shall serve a copy thereof on the wholesale customers of Superior and MP&L.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37796 Filed 12–23–76;8:45 am]

[Docket No. RI77–14]

S.C.C. GAS PRODUCING CO.

Petition for Special Relief

DECEMBER 15, 1976.

Take notice that on November 24, 1976, S.C.C. Gas Producing Company (S.C.C.), 10601 Shiloh Lane, Corpus Christi, Texas filed a petition for special price relief pursuant to § 2.76 of the Commission's regulations (18 CFR 2.76).

Petitioner seeks authorization to charge 76 cents per Mcf for the sale of gas from wells in Byrne and Fox Fields, Bee County, Texas presently sold to Trunkline Gas Company, P.O. Box 1642, Houston, Texas at 37.8 cents per Mcf Petitioner states that the present rate makes this gas production uneconomical and the requested rate is necessary to avoid abandonment. Estimated production is 103600 Mcf over the next 3 years.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any parties wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37798 Filed 12–23–76;8:45 am]

[Docket No. ER77–13]

PENNSYLVANIA ELECTRIC CO., ET AL.

Order Accepting for Filing Amended and New Schedules to Power Pooling Agreement and Establishing Hearing Procedures

DECEMBER 16, 1976.

Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company.

On October 8, 1976,[1] General Public Utilities Corporation (GPU) submitted for filing unexpected revised and new supplements[2] to the power pooling agreement which would:

(1) Revise the method of allocating installed capacity obligations within the GPU system;

(2) Provide a method for allocating the investment responsibility for the Susquehanna-Eastern 500 kv transmission system;

(3) Revise the compensation for transmission losses incurred by the Metropolitan Edison (Met-Ed) system for the delivery of the output of Three Mile Island (TMI) Unit No. 1;

(4) Conform the contract to the basic PJM Interconnection Agreement.

Proposed Changes to Filed Rates: GPU states that the proposed method of allocating installed capacity within GPU is required to conform with the allocation procedure utilized under the PJM agreement of which GPU is a member and because of the greater importance currently of summer peaks as compared to the average weekly peak load recognized in the existing method.

GPU has submitted Schedule 5.03 which provides a method for allocating the investment responsibility assumed by Met-Ed on behalf of itself and the other GPU companies for facilities associated with the Susquehanna-Eastern (S–E) 500 kV transmission systems. Schedule 5.03 provides that the annual fixed charge rate applicable to Met-Ed's investment in facilities which it provides for Pennsylvania Electric Company (Penelec) and Jersey Central will be computed as the average of the fixed-charge rate for the first and fifth years plus average O&M cost for 500 kV transmission facilities in the GPU system.

The financial responsibility for the facilities related to the delivery of the output of TMI Unit No. 2 are to be allocated among the three GPU companies on the basis of their ownership of TMI Unit No. 2. The responsibility for those S–E system facilities installed by Met-Ed, or for which it makes payment to others, is allocated among the three GPU companies; two-thirds in proportion to their ownership of Keystone and Conemaugh generating stations and one-third in proportion to their annual size factor. The estimated monthly charges to Penelec beginning November 1, 1976, and June 1, 1977, are $3,900 and $50,700, respectively; the estimated monthly charges to Jersey Central beginning November 1, 1976, and June 1, 1977, are $17,500 and $320,500, respectively.

Schedule 5.02 changes the loss factor for the transmission service for the delivery of TMI Unit No. 1 output from an estimated 2% to 1.2% to reflect the installation of new transmission lines in Met-Ed's system and actual experienced losses.

Exhibit No. 1c shows a comparison of actual and estimated sales and revenues under the present rate schedule and the proposed revised rate schedule for the 12 months ended August 1976 and the 12 months ended August 1977. The estimated changes in cost to the three GPU members for the 12 months ending August 1977 are:

Penelec	($2,616,300)
Met-Ed	(1,270,800)
Jersey Central	3,887,100

The effect of the proposed change in installed capacity accounting is to increase the installed capacity allocated to Jersey Central and to decrease it for Penelec and Met-Ed. The cause for this change in capacity responsibility is the weight given to the planning period peaks; under existing GPU acounting, capacity responsibility is based entirely on weekly peak loads.

PUBLIC NOTICE

Notice of the filing was issued on November 8, 1976, with responses due on or before November 19, 1976.

On November 19, 1976, the Boroughs of Butler, Lavallette, Madison, Pemberton, and Seaside Heights, New Jersey, submitted a petition for leave to intervene, a complaint and request for suspension of rate. They are wholesale customers of Jersey Central and allege that GPU's proposed changes in the formula disproportionally increase Jersey Central's costs and may adversely affect them.

Review of the proposed amendments and new schedules to the GPU Power Pooling Agreement indicates that they have not been shown to be just and reasonable and may be unjust, unreasonable, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. By letter dated November 15, 1976, GPU stated that it is willing to make refunds of collections under all schedules submitted for filing if the Commission establishes July 15, 1976, as the effective date for Schedule 5.03 and November 8, 1976, for all remaining schedules. The Commission shall therefore accept the proposed new schedules for filing subject to refund, and shall establish hearing procedures.

The Commission finds: (1) Good cause exists to accept GPU's proposed amendments and new schedules to the GPU Power Pooling Agreement subject to refund, with an effective date of July 15, 1976, for Schedule 5.03 and a November 8, 1976, effective date for all remaining schedules, pending the outcome of a hearing and decision thereon.

(2) The participation of the Boroughs of Butler, Lavallette, Madison, Pemberton, and Seaside Heights, New Jersey, in this proceeding may be in the public interest.

The Commission orders: (A) Pending a hearing and decision thereon, the proposed amendments of the GPU Power Pooling Agreement are hereby accepted for filing subject to refund; the effective date for Section 5.03 is July 15, 1976, and the effective date for all remaining schedules is November 8, 1976.

(B) The Boroughs of Butler, Lavallette, Madison, Pemberton, and Seaside Heights, New Jersey, are hereby permitted to intervene in this proceeding subject to the Commission's Rules and Regulations: *Provided, however,* that participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their Petition to Intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Federal Power Act, particulary Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a hearing shall be held concerning the justness and reasonableness of GPU's proposed amendments and new schedules to its Power Pooling Agreement.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge shall convene a hearing in a hearing room of the Federal

[1] On October 21, 1976, executed supplements were submitted; requested information was received on November 15, 1976, the assigned filing date.

[2] Proposed designations and descriptions are shown in the Attachment.

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Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) GPU shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by Section 35.19a of the Commission's Regulations, 18 CFR Section 35.19a.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

GENERAL PUBLIC UTILITIES COMPANY RATE SCHEDULE DESIGNATIONS

Filing Date: November 15, 1976.
Below are listed supplements to each of the following rate schedules:
Metropolitan Edison Company—Rate Schedule FPC No. 40.
Jersey Central Power & Light Company—Rate Schedule FPC No. 31.
Pennsylvania Electric Company—Rate Schedule FPC No. 62.

Rate schedule designations	*Description*
Supp. No. 6 (supersedes supp. No. 2 and supp. No. 6 to supp. No. 4)	Schedule No. 4.01, revised.
Supp. No. 1 to supp. No. 6	Schedule No. 4.11.
Supp. No. 2 to supp. No. 6	Schedule No. 4.12.
Supp. No. 3 to supp. No. 6	Schedule No. 4.21.
Supp. No. 4 to supp. No. 6	Schedule No. 4.211.
Supp. No. 5 to supp. No. 6	Schedule No. 4.212.
Supp. No. 6 to supp. No. 6	Schedule No. 4.213.
Supp. No. 7 to supp. No. 6 (supersedes supp. No. 17 to supp. No. 4)	Schedule No. 11.01, revised.
Supp. No. 8 to supp. No. 6 (supersedes supp. No. 8 to supp. No. 4)	Schedule No. 5.02, revised.
Supp. No. 9 to supp. No. 6	Schedule No. 5.03.

[FR Doc.76-37860 Filed 12-23-76;8:45 am]

[Docket No. CP75-96, et al.]

EL PASO ALASKA CO., ET AL.

Appointment

DECEMBER 21, 1976.

By order of December 16, 1976, the Commission provided for the appointment of a delegate "to receive data, views and arguments" relative to the performance by the Commission of its duties under the Alaskan Natural Gas Transportation Act of 1976.

Pursuant to that Order, Richard Smith and Jerome Hass are jointly designated to act as delegates.

As soon as practicable, the delegates and their staff shall commence assembling the information that may be necessary to enable the Commission to consider the matters set forth in section 5(c) of the Alaskan Natural Gas Transportation Act of 1976. Any information obtained shall be held by the delegates for such dissemination or use as may be provided by subsequent Order of the Commission. Until the issuance of such an order, the delegates or any member of their staff shall not communicate the information or discuss any matter of substance with the Administrative Law Judge, or any person working with him, or the Commissioners or their personal staffs.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37968 Filed 12-23-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 17, 1976. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 14, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, General Accounting Office, Room 5216, 425 I Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL ENERGY ADMINISTRATION

FEA requests clearance of a new single time Form P125-S-0, Report of Refiner Profit Margins with instructions. Form P125-S-0 is based on the expired form CLC-22, Report of Refiners Prices, Costs and Profits and Schedule R to that form, and is being proposed to provide the data necessary for FEA to execute its role in accordance with the Federal Energy Administration Act of 1974 (Pub. L. 93-275 as amended by Pub. L. 94-385) in regards to the provision limiting profit price. Form P125-S-0 also contains Schedule R which was formerly a part of CLC-22. FEA estimates potential respondents to be 140 Crude Oil Refiners and burden to average 25 hours per response.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.76-37807 Filed 12-23-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 24]

FEDERAL PROCUREMENT

Interagency Procurement Policy Committee

Correction

In FR Doc. 76-34311 appearing on page 51447 in the issue for Monday, November 22, 1976, the headings should have read as set forth above.

[GSA Bulletin FPR 25]

FEDERAL PROCUREMENT

Cost Accounting Standards Administration—Interim Guidance

Correction

In FR Doc. 76-34312 appearing on page 51448 in the issue for Monday, November 22, 1976, the headings should have read as set forth above. Also, on page 51451, in the middle column, the heading for "Item T" should have read "Item 9".

[Temporary Reg. F-406]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Administrator, Energy Research and Development Administration, to represent the consumer interests of the executive agencies of the Federal Government in a gas indexing proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201 (a) (4) and 205(d) (40 U.S.C. 481(a) (4) and 486(d)), authority is delegated to the Administrator, Energy Research and Development Administration, to represent the consumer interests of the executive agencies of the Federal Government before the New Mexico Public Service Commission, involving the application of the Gas Company of New Mexico for the inclusion of a rate schedule rider to its tariff permitting a "cost of service adjustment factor" (Case No. 1301).

b. The Administrator, Energy Research and Development Administration, may redelegate this authority to any officer, official, or employee of the Energy Research and Development Administration.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: December 14, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-37773 Filed 12-23-76;8:45 am]

[Intervention Notice No. 18]

TELEPHONE RATE INCREASE PROCEEDING

New York Public Service Commission; New York Telephone Co.

The General Services Administration seeks to intervene in a proceeding before the New York Public Service Commission concerning the application of the New York Telephone Company for an increase in annual revenues. The GSA represents the interests of the executive agencies of the United States Government, as users of telecommunications services.

The New York Telephone Company has filed proposed tariff changes which would increase annual revenues by $393 million. It is estimated that the proposed changes would impact Government costs by $1.8 million annually.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets NW., Washington, DC 20405, telephone (202) 566-0750, on or before January 26, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: December 14, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-37774 Filed 12-23-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

FOREIGN LANGUAGE AND AREA STUDIES RESEARCH PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 602 of Title VI of the National Defense Education Act of 1958, (20 U.S.C. 512) as amended by section 302(d) of Pub. L. 94-482 (1976), applications will be accepted for contracts or grants under the Foreign Language and Area Studies Research Program.

Under this program the Commissioner is authorized to award contracts or grants for studies and surveys to determine the need for increased or improved instruction in modern foreign languages and related fields, to conduct research on training methods for use in such languages and fields, and to develop specialized materials for use in training students and language teachers.

In order to be assured of consideration for funding with fiscal year 1977 funds, applications must be received by the Office of Education Application Control Center on or before February 10, 1977.

A. APPLICATIONS SENT BY MAIL

An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.436. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than Feb. 7, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. HAND DELIVERED PROPOSALS

An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. PROGRAM INFORMATION AND FORMS

Information and application forms may be obtained from the Foreign Language and Area Research Program, Division of International Education, Bureau of Postsecondary Education, U.S. Office of Education, Room 3671, 7th and D Streets, S.W., Washington, D.C. 20202.

D. ESTIMATED DISTRIBUTION OF PROGRAM FUNDS

The Foreign Language and Area Studies Research appropriation for Fiscal Year 1977 is $875,000. The program expects to use approximately $175,000 to supplement seven ongoing research projects and to fund about twenty-eight new projects at an average cost of $25,000 each. Projects which exceed eighteen months should be planned and budgeted in yearly phases.

The above statement with regard to the expected distribution of funds is basically for informational purposes and does not bind the Office of Education, except as may be required by the applicable statute and regulation.

E. APPLICABLE REGULATIONS

The regulations applicable to this program include the Office of Education General Provisions Regulations (45 C.F.R. 100a). A Notice of Proposed Rulemaking setting forth proposed regulations for the Modern Foreign Language and Area Studies Program was published in the FEDERAL REGISTER of August 12, 1976 (41 FR 34052). A public hearing on those regulations was held and written comments were received. Final regulations are being developed and will be published in the FEDERAL REGISTER in the near future. Applicants are advised to follow the requirements and standards published in the proposed regulations in submitting their applications. If the final regulations contain new or inconsistent requirements or funding criteria, the closing date will be extended to allow applicants who have submitted applications based on the proposed regulations to revise their applications.

(20 U.S.C. 512)

Dated: December 8, 1976.

(Catalog of Federal Domestic Assistance Number 13.436; Modern Foreign Language and Area Studies—Research and Studies)

EDWARD AGUIRRE,
Commissioner of Education.

[FR Doc.76-37801 Filed 12-23-76;8:45 am]

Office of the Secretary

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given that the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on January 7 and 8, 1977, in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting will convene at 9:00 a.m. each day and will be generally open to the public, subject to the limitations of available space. Topics identified in the mandate to the Commission under the National Research Act (Pub. L. 93-348), as amended, including psychosurgery and the participation of children in research, will be the agenda for this meeting.

The National Commission is required under recently enacted legislation to study and make recommendations for legislation to Congress on the topic of public disclosure, pursuant to the Freedom of Information Act, of information contained in research protocols, hypotheses and designs obtained by the Secretary of DHEW in connection with applications or proposals for grants, fellowships and contracts under the Public Health Service Act. Specifically, title III of the Health Research and Health Services Amendments of 1976 (Pub. L. 94-278) provides in part that

the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (established by section 201 of the National Research Act (Public Law 93-348) shall • • • conduct an investigation

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and study of the implication of the disclosure to the public of information contained in research protocols, research hypotheses, and research designs obtained by the Secretary of Health, Education, and Welfare (hereinafter in the subsection referred to as the "Secretary") in connection with an application or proposal submitted, during the period beginning January 1, 1975, and ending December 31, 1975, to the Secretary for a grant, fellowship, or contract under the Public Health Service Act. In making such investigation and study • • • the Commission shall • • • determine the following:

(A) The number of requests made to the Secretary for the disclosure of information contained in such research protocols, hypotheses, and designs and the interests represented by the persons for whom such requests were made.

(B) The purposes for which information disclosed by the Secretary pursuant to such requests was used.

(C) The effect of the disclosure of such information on—

(i) proprietary interest in the research protocol, hypothesis, or design from which such information was disclosed and patent rights;

(ii) the ability of peer review systems to insure high quality federally funded research; and

(iii) the (I) protection of the public against research which presents an unreasonable risk to human subjects of such research and (II) the adequacy of informed consent procedures.

To assist in its study, the National Commission desires to have written statements from interested parties, including researchers who may be affected by disclosure of research information. Statements should be received not later than January 28, 1977, in order to be of assistance to the Commission in their discussion of this topic at the meeting scheduled for February 11–12, 1977. Writers are encouraged to include discussion of the following issues:

1. What is the narrowest exemption from disclosure of research information contained in applications or proposals submitted under the Public Health Service Act that is necessary to protect scientists' ideas, "stock in trade," from plagiarism; to encourage detailed and high quality grant applications; to protect patent and other proprietary interests; to prevent harm to the public resulting from the premature disclosure of preliminary research data; and to foster the frank and critical peer review necessary to insure continued high quality federally funded research?

2. How should the purposes of exemption from disclosure, described in the first question above, be balanced against such purposes of disclosure of research information as protection of human subjects in clinical research against unreasonable risk and openness of governmental decision making?

3. Can the basic research idea of a proposal or application submitted under the Public Health Service Act be separated out for the purpose of exempting it from disclosure for a period of time? Would exemption for a period of time serve to protect the proprietary interests and patent rights of the investigator? Should any limitation be stipulated for all research or for only clinical research?

4. Is it possible to predict which categories of proposals or applications have potential patent implications?

Comments should be addressed to the National Commission for the Protection of Human Subjects, 5333 Westbard Avenue, Room 125, Bethesda, Maryland 20016. Requests for information and for copies of a legal analysis of the disclosure issue that was prepared for the National Commission should be directed to Ms. Anne Ballard (301) 496–7776, at the same address.

Dated: December 20, 1976.

CHARLES U. LOWE,
Executive Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

[FR Doc.76–37799 Filed 12–23–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD–378; FDAA–3013–EM]

MINNESOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Minnesota, dated June 17, 1976, and amended on June 28, 1976, August 27, 1976, and on November 9, 1976, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emrgency by the President in his declaration of June 17, 1976:

The Counties of:

Becker	Lyon
Big Stone	Morrison
Brown	Otter Tail
Carlton	Pope
Cass	Redwood
Chippewa	Stearns
Chisago	Stevens
Douglas	Swift
Isanti	Traverse
Lac qui Parle	Wadena
Lincoln	Yellow Medicine

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas.

Dated: December 16, 1976.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.76–37917 Filed 12–23–76;8:45 am]

[Docket No. NFD–380; FDAA–3016–EM]

NORTH DAKOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of North Dakota dated July 21, 1976, is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 21, 1976:

The Counties of:

Dickey	Logan
Emmons	McIntosh
LaMoure	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas.

Dated: December 16, 1976.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.76–37915 Filed 12–23–76;8:45 am]

[Docket No. NFD–377; FDAA–3015–EM]

SOUTH DAKOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of South Dakota dated June 17, 1976, and amended on July 8, 1976, and October 18, 1976, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The Counties of:

Aurora	Hughes
Beadle	Hyde
Brookings	Jerauld
Brown	Kingsbury
Brule	Lake
Buffalo	Lyman
Campbell	McCook
Clark	McPherson
Codington	Marshall
Davison	Mellette
Day	Miner
Deuel	Potter
Douglas	Roberts
Edmunds	Sanborn
Faulk	Spink
Grant	Stanley
Gregory	Sully
Hamlin	Todd
Hand	Tripp
Hanson	Walworth

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas.

Dated: December 16, 1976.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.76–37918 Filed 12–23–76;8:45 am]

[Docket No. NFD–379; FDAA–3014–EM]

WISCONSIN

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Wisconsin, dated June 17, 1976, and amended on July 29, 1976, September 7, 1976, and on September 30, 1976, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The Counties of:

Ashland	Marathon
Bayfield	Oneida
Douglas	Rusk
Forest	Sawyer
Iron	Washburn
Langlade	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas.

Dated: December 16, 1976.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.76–37916 Filed 12–23–76;8:45 am]

DEPARTMENT OF INTERIOR

Bonneville Power Administration

BPA ELECTRICAL SERVICE TO ADDY

Intent to Prepare Draft Environment Statement

Notice of intent to file an environmental statement is hereby given by the Bonneville Power Administration, 1002 NE. Holladay Street, Portland, Oregon 97232.

The environmental statement will cover impacts associated with the Northwest Alloys magnesium plant located at Addy, Washington. The impacts addressed will be those which are expected to occur subsequent to June 1, 1977, at which time Bonneville proposes to provide additional electrical power to the plant.

Your suggestions, comments, and observations are solicited during this period of draft statement preparation for consideration in the preparation of the draft environmental statement. Upon filing of the draft environmental statement with the Council on Environmental Quality (CEQ), comments will be received on the draft statement itself. Tentatively, the draft environmental statement is now planned for filing with CEQ in January or February of 1977.

Dated: December 21, 1976.

DONALD PAUL HODEL,
Administrator.

[FR Doc.76–38004 Filed 12–23–76;8:45 am]

Geological Survey

KNOWN RECOVERABLE COAL RESOURCE AREA

Knife River, North Dakota

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 203 Departmental Manual 1, Secretary's Order No. 2948, and Section 6A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94–377, August 4, 1976), Federal lands within the State of North Dakota have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(34) North Dakota, Knife River (North Dakota) known recoverable coal resource area; May 3, 1976; 1,185,563 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Regional Conservation Manager, Central Region, Mail Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: December 17, 1976.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76–37770 Filed 12–23–76;8:45 am]

National Park Service

CHACO CANYON NATIONAL MONUMENT, NEW MEXICO

Negative Declaration; Availability of Environmental Review

An environmental assessment of alternatives for a proposed master plan/development concept plan for Chaco Canyon National Monument was made available October 10, 1975. Public workshops to discuss the alternatives and to receive public comments were held November 11, 12, and 15 and December 17, 1975, in Gallup, Farmington, Albuquerque, and Grants, New Mexico.

As a result of the workshops and comments received, an environmental review has been prepared selecting proposed actions concerned with boundary changes, visitor access and circulation, support base facilities, and both archeological and soil stabilization.

The National Park Service, based on the environmental review, has decided not to prepare an environmental statement on the general management/development concept plan for Chaco Canyon National Monument.

The environmental assessment and the environmental review are on file and will be available upon request at the following locations: Southwest Regional Office, National Park Service, Old Santa Fe Trail, Post Office Box 728, Santa Fe, New Mexico 87501; Chaco Center, Anthropology Building, University of New Mexico, Post Office Box 26176, Albuquerque, New Mexico 87125; Navajo Lands Group Office, 111 North Behrend Avenue, Post Office Box 539, Farmington, New Mexico 87401; and Chaco Canyon National Monument, Star Route, Bloomfield, New Mexico 87413. Anyone wishing to comment on the proposed plan should send written comments to the Regional Director at the Santa Fe address on or before February 15, 1977.

The National Park Service intends to proceed with implementation of the plan unless evidence is received during the review period which would substantially alter the conclusions outlined in the environmental review.

Dated: November 30, 1976.

THEODORE R. THOMPSON,
Acting Regional Director, Southwest Region, National Park Service.

[FR Doc.76–37804 Filed 12–23–76;8:45 am]

SHENANDOAH NATIONAL PARK

Intention to Issue Concession Permit

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on January 26, 1977, the Department of the Interior, through the Superintendent, Shenandoah National Park, proposes to issue a concession permit to Potomac Appalachian Trail Club, Inc., authorizing it to provide concession facilities and services for the public at backcountry trailside cabins in Shenandoah National Park for a period of five (5) years from January 1, 1977 through December 31, 1981.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the (Office of the Superintendent), Shenandoah National Park, Luray, Va.

The foregoing concessioner has performed its obligations to the satisfaction of the National Park Service, under an existing permit which expires by limitation of time on December 31, 1976, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before January 26, 1977.

Interested parties should contact the Superintendent, Shenandoah National Park, Luray, Virginia 22835 for informa-

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tion as to the requirements of the proposed permit.

ROBERT R. JACOBSEN,
Superintendent.

SEPTEMBER 15, 1976.

[FR Doc.76-37803 Filed 12-23-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[USITC SE-76-6]

GOVERNMENT IN THE SUNSHINE

Meeting

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on December 30, 1976, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, Street, N.W., Washington, D.C. 20436. The Commission plans to consider the following agenda items in open session:

1. Agenda for the meetings of January 11 and 13, 1977;
2. Reorganization;
3. Any other items left over from previous agenda.

If you have any questions concerning the agenda for the December 30, 1976, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Access to documents to be considered by the Commission at the meeting is provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 C.F.R. 201.39(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

By order of the Commission.

Issued: December 21, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-37930 Filed 12-23-76;8:45 am]

[USITC SE-76-2B]

GOVERNMENT IN THE SUNSHINE

Additional Persons Expected at Closed Portion of Meeting

At its meeting of December 21, 1976, the Commission, acting on the authority of 19 U.S.C. 1335 and in conformity with proposed 19 C.F.R. 201.36(b), amended the portion of its public notice for the meeting of December 21, 1976, which pertains to the discussion of item 11 (Consideration of an appeal filed pursuant to the Freedom of Information Act (see memorandum from the General Counsel of December 13, 1976)) in closed session. The following persons and their corresponding affiliations are also expected to be present during the closed portion of the meeting:

Russell N. Shewmaker, General Counsel
Leo Jablonski, Assistant to the General Counsel
Mary Martin, Attorney-Advisor
Rhond Roth, Attorney-Advisor
Steven Morrison, Attorney-Advisor
Charles Ramsdale, Director of Personnel

By order of the Commission.

Issued: December 21, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-37931 Filed 12-23-76;8:45 am]

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

NATIONAL CRIME INFORMATION CENTER

Compliance

Pursuant to the provisions of the Office of Management and Budget Circular No. A-90 Transmittal Memorandum No. 1, notice is hereby given that the Federal Bureau of Investigation National Crime Information Center (NCIC) is in compliance with the provisions of this Transmittal Memorandum. The "National Crime Information Center (NCIC) tional Crime Information Center Computerized Criminal History Program Background, Concept and Policy As Approved by the NCIC Advisory Policy Board, October 20, 1976" (Policy Paper), governs the use of the NCIC Computerized Criminal History File. The Policy Paper is drafted by the NCIC Advisory Policy Board giving consideration to recommendations by the NCIC users at all levels of government. This Board is representative of the entire criminal justice community at the Federal, state and local levels and includes representation from the law enforcement, judicial, prosecutorial, and correctional segments of this community.

The most recent revision to the Policy Paper, which has been approved by the Director, FBI, makes it clear that computer hardware utilized for the handling of criminal history data need not be dedicated to criminal justice functions.

Copies of the Policy Paper may be obtained from Mr. Frank B. Buell, Chief, NCIC Section, Administrative Services Division, FBI Headquarters, Washington, D.C. 20535.

CLARENCE M. KELLEY,
Director.

[FR Doc.76-37867 Filed 12-23-76;8:45 am]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

Consideration of Applications

DECEMBER 16, 1976.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Milwaukee Legal Services for Dane County, Wisconsin.
2. Land of Lincoln Legal Assistance Foundation for Macon, Piatt, Jefferson, and Sangamon Counties, Illinois.
3. Legal Assistance of North Dakota for Burleigh, Morton and Ward Counties, North Dakota.
4. Legal Services Organization of Indianapolis for Delaware, Monroe, Morgan and Brown Counties, Indiana.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

THOMAS EHRLICH,
President.

[FR Doc.76-37768 Filed 12-23-76;8:45 am]

GRANTS AND CONTRACTS

Consideration of Application

DECEMBER 16, 1976.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

Nassau Legal Services for Suffolk County, New York.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

New York Regional Office, 10 East 40th Street, New York, New York 10016.

THOMAS EHRLICH,
President.

[FR Doc.76-37769 Filed 12-23-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-471]

BOSTON EDISON CO., ET AL. (PILGRIM NUCLEAR GENERATING STATION, UNIT NO. 2)

Order Regarding Resumption of Evidentiary Hearing

It is ordered, That:

The evidentiary hearing herein will resume on January 24, 1977, at 11 a.m. in the Middlesex Bar Association Meeting Room, 4th Floor, Middlesex Superior Courthouse, 40 Thorndike Street, East Cambridge, Massachusetts 02141.

Dated at Bethesda, Maryland, this 20th day of December 1976.

The Atomic Safety and Licensing Board.

FREDERIC J. COUFAL,
Chairman.

[FR Doc.76-37944 Filed 12-23-76;8:45 am]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-2, issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Unit 1 of Dresden Nuclear Power Station (the facility) located in Grundy County, Illinois. The license amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to require additional tests to assure control rod coupling following installation of the control rods.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 7, 1976, (2) Amendment No. 19 to License No. DPR-2, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of December 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-37946 Filed 12-23-76;8:45 am]

[Docket Nos. 50-329; 50-330]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS NO. 1 AND NO. 2), CONSTRUCTION PERMIT NOS. CPPR-81 AND CPPR-82

Reconstitution of Board

Daniel M. Head, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict, Mr. Head is unable to continue his service on this Board.

Accordingly, Frederic J. Coufal, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appoined Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland this 21st day of December 1976.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.76-37942 Filed 12-23-76;8:45 am]

[Docket Nos. 50-491; 50-492; 50-493]

DUKE POWER CO. (CHEROKEE NUCLEAR STATION UNITS 1, 2 AND 3)

Evidentiary Hearing

It is ordered, That there will be an evidentiary hearing beginning at 10 a.m. on January 13, 1977, at the Spartanburg County Courthouse, Room 321, 188 Magnolia Street, Spartanburg, South Carolina 29304 to consider the Applicant's request for a Limited Work Authorization as described in the Applicant's letter of November 12, 1976, directed to Mr. Ben C. Rusche, Director, Office of Nuclear Reactor Regulation.

It is further ordered, That following the hearing above described, the Board will consider evidence relating to monitoring stations 19 and 20 as described in the Board's Order of December 14, 1976.

Dated at Bethesda, Maryland, this 20th day of December 1976.

The Atomic Safety and Licensing Board.

FREDERIC J. COUFAL,
Chairman.

[FR Doc.76-37943 Filed 12-23-76;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Proposed Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation (the licensee), for operation of the Vermont Yankee Nuclear Power Station, located near Vernon, Vermont.

The amendment would add provisions in the Technical Specifications relating to additional restrictions on appropriate trip settings and limits for operation with a single recirculation loop, in accordance with the licensee's application for amendment, dated November 10, 1976.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By January 26, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. John A. Ritsher, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

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All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated November 10, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

Dated at Bethesda, Maryland this 20th day of December 1976.

For the Nuclear Regulatory Commission.

VERNON L. ROONEY,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-37940 Filed 12-23-76;8:45 am]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP. ET AL.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. DPR-43, issued to Wisconsin Public Service Corporation, Wisconsin Power & Light Company, and Madison Gas and Electric Company (the licensees), which revised Technical Specifications for operation of the Kewaunee Nuclear Power Plant, located in Kewaunee, Wisconsin. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to delete requirements to perform control rod bank worth and isothermal temperature coefficient measurements between 4000 and 7500 MWD/MTU for fuel cycle 2.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 26, 1976, (2) Amendment No. 11 to License No. DPR-43, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of December 1976.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-37945 Filed 12-23-76;8:45 am]

[Docket Nos. 50-390 and 50-391]

TENNESSEE VALLEY AUTHORITY (WATTS BAR NUCLEAR PLANT, UNITS 1 AND 2)

Receipt of Application for Facility Operating Licenses; Consideration of Issuance of Facility Operating Licenses and Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application for facility operating licenses from Tennessee Valley Authority (the applicant) which would authorize the applicant to possess, use, and operate two light water nuclear reactors (the facilities), located on the applicant's site in Rhea County, Tennessee. Each unit would operate at a steady state power level of 3411 megawatts thermal.

In accordance with an agreement between the Commission and the applicant, the applicant will not submit an environmental report. Instead they will update the Final Environmental Statement, Construction Permit Stage, which will be used as a basis for review by the Commission's Office of Nuclear Reactor Regulation.

A draft environmental statement will be prepared by the Commission's staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus only on any matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permit. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

The Commission will consider the issuance of facility operating licenses to Tennessee Valley Authority which would authorize the applicant to possess, use and operate the Watts Bar Nuclear Plant, Units 1 and 2, in accordance with the provisions of the license and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation on the application by the Office of Nuclear Reactor Regulation; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicant's application for facility operating licenses by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facilities was authorized by Construction Permits Nos. CPPR-91 and CPPR-92, issued by the Commission on January 23, 1973. Construction of Unit 1 is anticipated to be completed by June 1, 1979, and Unit 2 by March 1, 1980.

Prior to issuance of any operating licenses, the Commission will inspect each facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the Construction Permits. In addition, the licenses will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

On or before January 26, 1977, the applicant may file a request for a hearing with respect to issuance of the facility operating licenses and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required in 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how the interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to this interest and the basis for this contention with regard to each aspect on which he desires to intervene. A petition that sets forth contention relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene may be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Stret, N.W., Washington, D.C. by January 26, 1977. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville Tennessee 37902, attorney for the applicant.

A petition for leave to intervene which is not timely will not be granted unless the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition determines that the petitioner has made a substantial showing of good cause for failure to file on time and after considering those factors specified in 10 CFR § 2.714(a)(1)-(4) and § 2.714(d).

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated September 27, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Chattanooga—Hamilton County Bicentennial Public Library, 1001 Broad Street, Chattanooga, Tennessee. As they become available, the following documents may be inspected at the above locations: (1) The safety evaluation report prepared by the Office of Nuclear Reactor Regulation; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Copies of the proposed operating licenses and the ACRS report, when available, may be obtained by request to the Director, Division of Project Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Md. this 13th day of December 1976.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management

[FR Doc.76-37761 Filed 12-23-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

BOSTON STOCK EXCHANGE

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 16, 1976.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Big Three Industries, Inc., capital stock, $2.50 par value, File No. 7-4891.
Hannaford Bros. Co., common stock, $0.75 par value, File No. 7-4892.
Kubota Ltd., American depository receipt shares, each representing 20 shares of dollar validated common stock, 50 yen par value, File No. 7-4893.
New England Nuclear Corp., common stock, $1 par value, File No. 7-4894.
Pioneer Electric Corp., American depository receipt shares, each share of common stock, 50 yen par value, File No. 7-4895.
Wang Laboratories, Inc., class B, common stock, $0.50 par value, File No. 7-4896.

Upon receipt of a request, on or before January 1, 1977 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular applications, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37776 Filed 12-23-76;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 16, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more national securities exchanges:

Kubota, Ltd., American depositary receipt shares, each representing 20 shares of dollar validated common stock, 50 yen par value, File No. 7-4890.

Upon receipt of a request, on or before January 1, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37777 Filed 12-23-76;8:45 am]

NATIONAL FUEL GAS CO. AND NATIONAL FUEL GAS DISTRIBUTION CORP.

Post-Effective Amendment Regarding Proposed Issuance and Sale of Bank Notes and/or Commercial Paper by Holding Company and Issuance and Sale of Short-Term Notes to Holding Company by Subsidiary Company

DECEMBER 17, 1976.

In the matter of National Fuel Gas Company, 30 Rockefeller Plaza, New

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York, New York 10020; National Fuel Gas Distribution Corporation, 10 Lafayette Square, Buffalo, New York 14203.

Notice is hereby given, that National Fuel Gas Company ("National"), a registered holding company, and one of its subsidiary companies, National Fuel Gas Distribution Corporation ("Distribution Corporation"), have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 7, 9 (a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated May 11, 1976 (HCAR No. 19522), National was authorized from time to time through December 31, 1976, (1) to issue and sell short-term, unsecured notes to banks up to an aggregate principal amount at any one time outstanding of $75,000,000 and (2) to issue and sell commercial paper up to an aggregate principal amount at any one time outstanding of $20,000,000 (in addition to amounts of commercial paper previously authorized by HCAR No. 19317 (December 30, 1975)). The aggregate maximum principal amount of both the short-term unsecured notes to banks and commercial paper issued pursuant to this application-declaration at any one time outstanding was limited to $75,000,000. The proceeds from the sale of National's short-term notes and/or commercial paper were to be used to acquire for cash from time to time up to $20,000,000 aggregate principal amount at any one time outstanding of short-term unsecured notes proposed to be issued and sold by Distribution Corporation and up to $55,000,000 aggregate principal amount at any one time outstanding of short-term unsecured notes proposed to be issued and sold by National Fuel Gas Supply Corporation.

National now proposes to continue to issue and sell from time to time through December 30, 1977, up to $20,000,000 aggregate principal amount at any one time outstanding of its commercial paper and/or short-term unsecured notes to The Chase Manhattan Bank, N.A. ("Chase"), pursuant to the same terms as previously authorized in this proceeding. The notes to Chase will bear interest based on the Chase prime rate as it fluctuates from time to time. National has informally agreed with Chase to maintain average balances equaling 10% of the line of credit plus 10% of the average loans outstanding; however, the average balances maintained for normal operating needs are sufficient to cover these amounts. Assuming an average balance of 20% was required, the effective cost of money, based on a 6.50% prime rate, would be 8.125%.

National proposes to use the proceeds from the proposed financing to acquire for cash from time to time up to $20,000,000 aggregate principal amount at any one time outstanding of short-term unsecured notes from Distribution Corporation at National's actual cost of securing such funds. Each such note will be dated the same date and bear the same effective interest rate as the related commercial paper and/or short-term note of National. Each note of Distribution Corporation will mature within twelve months from its date of issue, with interest payable quarterly until the principal amount is paid in full. Distribution Corporation will have the option, after payment of all notes of prior maturity, to prepay any note issued pursuant to this transaction at any time or from time to time, in whole or in part, without premium, upon payment of all interest accrued on the principal amount so prepaid to the date of such prepayment.

Distribution Corporation proposes to use the proceeds from the sale of its notes for additional working capital, including working capital in connection with the purchase of synthetic natural gas. It is anticipated that in 1977 Distribution Corporation will need up to $20,000,000 for this purpose.

National requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof and also requests authority to file certificates under Rule 24 with respect to the proposed transactions on a quarterly basis.

It is stated that no separable fees and expenses are to be incurred in connection with the proposed transactions and that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given, that any interested person may, not later than January 10, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37779 Filed 12-23-76;8:45 am]

PHILADELPHIA STOCK EXCHANGE INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 16, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Sabine Royalty Corp., common stock, no par value, File No. 7-4896.

Upon receipt of a request, on or before January 1, 1976, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to th particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37775 Filed 12-23-76;8:45 am]

[Rel. No. 19813; 31-757]

VERMONT MARBLE CO.

Request for Exemption From Electric Utility Status

DECEMBER 17, 1976.

In the matter of Vermont Marble Company, 61 Main Street, Proctor, Vermont 05765.

Notice is hereby given that the Vermont Marble Company ("VMCo"), a Vermont corporation, has filed an application with this Commission, pursuant to section 2(a)(3) of the Public Utility Holding Company Act of 1935 ("Act"), requesting the entry of an order declaring it not to be an electric utility company as that phrase is defined in the Act. All interested persons are referred to the application, which is summarized below, for a complete statement of the request for exemption.

VMCo was incorporated in 1894 in Vermont and its principal place of business is at Proctor, Vermont. It engages primarily in the business of marble quarrying and fabrication, manufacture of container machinery and production of crushed and other stone products. VMCo also engages in the business of sale of real estate and construction. VMCo's total consolidated revenues for the year ended December 31, 1975 were $18,067,654, approximately 95% of which come from marble quarrying and fabrication, manufacture of container machinery and production of crushed and other stone products.

VMCo owns and operates four electric generating facilities, each of which is an hydro-electric plant located on Otter Creek in Vermont. VMCo states that these facilities produced 54,097,048 kwh of electricity during the year ended December 31, 1975, of which 27,899,000 kwh were used by VMCo and White Pigment Corporation, in which VMCo has a 50% interest. VMCo supplies electricity to residential and commercial users in and around the town of Proctor. In addition, VMCo sells electricity to Allied Power & Light Company, a Vermont utility company, and surplus power primarily to the Central Vermont Public Service Corporation. VMCo's sales revenues from sales of electric energy to such users, for the year ended December 31, 1975, totaled $555,000.

Due to the use of a navigable waterway in its generating operation, VMCo is subject to regulation by the Federal Power Commission. In addition, VMCo is subject to regulation by the Vermont Pubic Service Board.

By agreement, dated September 15, 1976, certain individuals, estates and personal trusts that were shareholders of VMCo, agreed, subject to certain conditions, to sell shares of common stock of VMCo, representing about 75% of the outstanding shares, to Pluess-Staufer (North American) Inc. ("PS(NA)"), a subsidiary of Pluess Staufer AG, ("PS (Switzerland)"), a Swiss corporation. The sale was completed on November 23, 1976. PS(NA) also agreed to make a tender offer for the remaining outstanding shares.

Despite its ownership and operation of the facilities described, VMCo believes that it is entitled to an order, as provided by section 2(a)(3), exempting it from the status of an electric utility company under the Act.

VMCo states: (1) that it is and always has been primarily engaged in marble quarrying and the fabrication of other stone products and (2) that its electric energy output is primarily for use in its own facilities or those of White Pigment Corporation. For the year ended December 31, 1975, only about 1% of VMCo's consolidated revenues came from sale of electric energy to others than White Pigment.

It further states that its distribution of electricity in and around the town of Proctor originated when it owned said town, and is still ancillary to the conduct of its operations in that community and that its sales of surplus power are incidental to the economical and efficient operation of its generating facilities for its own use.

Notice is further given that any interested person may, not later than January 14, 1977 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any other request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicaton, as filed or as it may be amended, may be granted in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37778 Filed 12-23-76;8:45 am]

[Administrative Proceeding File No. 3-5123; File No. 81-234]

PHILIPSBORN, INC.

Application and Opportunity for Hearing

DECEMBER 8, 1976.

Notice is hereby given that Philipsborn, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended ("1934 Act"), that Applicant be granted an exemption from filing an annual report on Form 10-K for the fiscal year ended July 31, 1976, and a quarterly report on Form 10-Q for the quarter ending October 31, 1976.

Section 12(g) of the 1934 Act requires the registration of the equity securities of every issuer which is engaged in a business affecting interstate commerce or whose securities are traded by use of the mails or any means or instruumentality of interstate commerce, and on the last day of the fiscal year has total assets exceeding $1 million and a class of equity securities held of record by 500 or more persons. Registration is terminated 90 days after the issuer filed a certification with the Commission that the number of holders of the registered class of securities is fewer than 300 persons.

Section 13 of the 1934 Act requires that issuers of securities registered pursuant to section 12 shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security certain annual, current and quarterly reports.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole, or in part, any issuer or class of issuers from the provisions of sections 12(g) or 13 of the 1934 Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the public interest or protection of investors.

The Applicant states in part that:

(1) Applicant is a Delaware corporation, subject to the reporting provisions of Section 13 of the 1934 Act.

(2) On July 29, 1976 through a merger, the Applicant became a wholly-owned subsidiary of Philiout Inc. whereby all the applicable securities outstanding are now owned by Philiout which is itself a wholly-owned subsidiary of the Outlet Company.

(3) The Outlet Company is a reporting company under the 1934 Act, and its reports will incorporate the financial results of the Applicant.

(4) There is no trading in the Applicant's common stock.

In the absence of an exemption, Applicant would be required to file an annual report on Form 10-K for the fiscal year ended July 31, 1976 and a quarterly report on Form 10-Q for the quarter ending October 31, 1976, because its terminating certification pursuant to section 12(g)(4) did not become effective until November 4, 1976.

The Applicant states that, in view of the fact that there is only one shareholder of the Applicant, that there is no trading in its stock and that its financial losses would be increased by the auditing expenses necessary to prepare and file the required reports, it should be relieved of the reporting obligations referred to above.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 500 North Capitol Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than January 10, 1977, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such

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communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549 and should briefly state the nature of the interest, the reasons for such request and the issues of fact or law raised by the application which he desires to controvert. At any time after said date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37963 Filed 12-23-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 08/08-0039]

ASSOCIATED CAPITAL CORP.

Issuance of a Small Business Investment Company License

On July 9, 1976, a notice was published in the FEDERAL REGISTER (41 FR 28371) stating that an application had been filed by Associated Capital Corporation, 5151 Bannock Street, Denver, Colorado 80216 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1976)) for a license as a small business investment company.

Interested parties were given until the close of business July 26, 1976, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 08/08-0039 on November 16, 1976, to Associated Capital Corporation, to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: December 16, 1976.

PETER F. MCNEISH,
Deputy Associated Administrator for Investment.

[FR Doc.76-37772 Filed 12-23-76;8:45 am]

[License No. 05/07-0037]

REPUBLIC CAPITAL CORP.

Surrender of License

Notice is hereby given that Republic Capital Corporation, 33 North LaSalle Street, Chicago, Illinois 60602, incorporated under the laws of the State of Illinois on May 13, 1961, has surrended its license, issued by the Small Business Administration on July 10, 1961.

Republic has complied with all conditions set forth by SBA for the surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the Regulations promulgated thereunder, the surrender of the license of Republic is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: December 16, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-37771 Filed 12-23-76;8:45 am]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1976 Rev., Supp. No. 8]

FIRST FINANCIAL INSURANCE CO.

Surety Companies Acceptable On Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $204,000 has been established for the company.

NAME OF COMPANY, LOCATION OF PRINCIPAL EXECUTIVE OFFICE, AND STATE IN WHICH INCORPORATED

FIRST FINANCIAL INSURANCE COMPANY
CHICAGO, ILLINOIS
ILLINOIS

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: December 17, 1976.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc.76-37866 Filed 12-23-76;8:45 am]

Office of the Secretary

STEEL-WALLED ABOVE-GROUND SWIMMING POOLS FROM JAPAN

Tentative Discontinuance of Antidumping Investigation

Information was received in proper form on March 18, 1976, from counsel acting on behalf of Muskin Corporation, Colton, California, alleging that steel-walled above-ground swimming pools from Japan were being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of the establishment of an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160, et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of April 21, 1976 (41 FR 16667).

The Secretary concluded that a tentative determination could not reasonably be made within the usual six-month period. The period in this case was therefore extended to no more than eight months, and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of October 7, 1976 (41 FR 44197).

TENTATIVE DISCONTINUANCE

On the basis of information developed in Customs' investigation and for the reasons stated below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that the antidumping investigation concerning steel-walled above-ground swimming pools from Japan should be tentatively discontinued.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above tentative determination are as follows:

a. *Scope of the Investigation.* It appears that approximately 90 percent of the imports of the subject merchandise from Japan are manufactured by Asahi Chemical Industry Co., Inc., Soka City, Japan. Therefore, the investigation was limited to this manufacturer.

b. *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between the purchase price and the third-country price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales to the United States appear to made to non-related customers. Third-country price, as defined in § 153.3, Customs Regulations (19 CFR 153.3), was used since such or similar merchandise does not appear to be sold by Asahi in the home market in sufficient quantities to provide a basis for fair value. Sales to Canada were chosen as the basis for the determination of third-country price or fair value because sales from Asahi to Canada were made in quantities most similar to those sales made to the United States.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports and third-country sales during the period November 1, 1975, through April 30, 1976.

c. *Purchase Price.* For the purposes of this tentative discontinuance, since all merchandise was purchased or agreed to be purchased, prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the f.o.b. price to unrelated United States purchasers with deductions for inland freight and shipping costs, as appropriate.

d. *Third-Country Price.* For the purposes of this tentative discontinuance, the third-country price has been calculated on the basis of the f.o.b. price to unrelated Canadian purchasers. Adjustments have been made for inland freight and shipping costs and for differences in the following costs associated with Asahi's sales to Canada and to the United States: interest expense, bank charges, packing and merchandise.

Adjustments for differences in interest expense, bank charges, and packing were made in accordance with § 153.10, Customs Regulations (19 CFR 153.10). Each of the foregoing costs was directly related to the sales under consideration.

Adjustments for differences in merchandise relate to the difference in direct production costs between similar pools sold to Canada and to the United States and were made in accordance with § 153.11, Customs Regulations (19 CFR 153.11).

The petition contained an allegation that sales of the subject merchandise to third countries were being made at less than the cost of producing the merchandise as defined in section 205(b) of the Act. An analysis of the Japanese manufacturer's production costs, which were taken from actual records reflecting material, labor, and general expenses directly related to the production of the subject merchandise, has not supported that allegation. Although analysis of these data has not revealed sales below cost at this time, additional information with respect to cost of production has been requested. Pending receipt of this information, sales to a third country, Canada, have been utilized as being above cost.

e. *Result of Fair Value Comparisons.* Using the above criteria, comparisons were made on virtually all of the sales of the subject merchandise to the United States by Asahi Chemical Industry Co., Inc., during the representative period and those comparisons indicated that in some instances purchase price was less than the third-country price of such or similar merchandise. However, although margins were tentatively found ranging from less than one to 27 percent on 24 percent of the sales to the United States made by Asahi, the weighted average margin when weighted over 100 percent of the sales compared tentatively amounted to 1.18 percent, pending verification of certain cost data with respect to comparisons involving similar merchandise sold to Canada. Those margins are deemed to be minimal in terms of the volume of sales involved. In addition, formal assurances have been received from counsel acting on behalf of Asahi Chemical Industry Co., Inc., that Asahi will make no future sales at less than fair value within the meaning of the Act.

Accordingly, the antidumping investigation of steel-walled above-ground swimming pools from Japan is being tentatively discontinued in accordance with section 201(b)(1)(C) of the Act (19 U.S.C. 160(b)(1)(C)), and section 153.33 (a)(1), Customs Regulations (19 CFR 153.33(a)(1)).

In accordance with §§ 153.33(b) and 153.40, interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office not later than January 6, 1977. Such request must be accompanied by a statement outlining the issues wished to be discussed.

This notice is published pursuant to § 153.33(b), Customs Regulations (19 CFR 153.33(b)).

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76-37901 Filed 12-23-76;8:45 am]

Office of the Secretary

[Public Debt Series, No. 33-76]

TREASURY NOTES SERIES U-1978

Interest Rates

DECEMBER 21, 1976.

The Secretary of the Treasury announced on December 20, 1976, that the interest rate on the notes described in Department Circular, Public Debt Series, No. 33-76, dated December 13, 1976, will be 5¼ percent per annum. Accordingly, the notes are hereby redesignated 5¼ percent Treasury Notes of Series U-1978. Interest on the notes will be payable at the rate of 5¼ percent per annum.

PAUL H. TAYLOR,
Acting Fiscal Assistant Secretary.

[FR Doc.76-37811 Filed 12-23-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 220]

ASSIGNMENT OF HEARINGS

DECEMBER 21, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

I&S M 29192, Multiple Tender Allowances, Transamerican Freight Lines and I&S M 29193, Multiple-Tender and Pickup Allowances, Transamerican Freight Lines now assigned December 28, 1976 at the Offices of the Interstate Commerce Commission is now being cancelled.

MC 140513 Sub 1, L.S.T. Co., Inc., and MC 141114 Sub 1, Retailers Delivery Facility Co., Inc., now being assigned January 25, 1977 in a hearing room to be later designated.

AB 3 (Sub-No. 10), Missouri Pacific Railroad Company Abandonment between Bronson and Iola, In Allen and Bourbon Counties, Kansas, now assigned January 25, 1977, at Iola, Kansas will be held in the Iola State Bank.

MC 140829 (Sub-No. 10) Cargo Contract Carrier Corp., now assigned January 26, 1977, at Omaha, Nebr. will be held in Room 616, Union Pacific Plaza, 110 N. 14th Street, 14th and Dodge.

MC 128273 (Sub-No. 231), Midwestern Distribution, Inc., now assigned January 31, 1977, at Omaha, Nebr. will be held in Room 616, Union Pacific Plaza, 110 N. 14th Street, 14th and Dodge.

MC 136168 (Sub-No. 8), Wilson Certified Express, Inc., now assigned February 1, 1977, at Omaha, Nebr. will be held in Room 616, Union Pacific Plaza, 110 N. 14th Street, 14th and Dodge.

MC 114725 (Sub-No. 75), Wynne Transport Service, Inc., now assigned February 3, 1977, at Omaha, Nebr. will be held in Room 616, Union Pacific Plaza, 110 N. 14th Street, 14th and Dodge.

AB 19 (Sub-No. 27), Baltimore and Ohio Railroad Company Abandonment between Flora and Sangamon Junction, In Clay, Effingham, Fayett, Shelby, Christian and Sangamon Counties, Illinois, now assigned January 24, 1977, at Effingham, Ill. will be held in the Circuit Courtroom, Effingham Courthouse, Washington and Third Street.

MC 61592 (Sub-No. 391), Jenkins Truck Line, Inc., now assigned January 17, 1977, at Chicago, Ill. will be held in Room 1743, Everett McKinley Dirksen Building, 219 South Dearborn St.

MC 133880 (Sub-No. 4), Alter Trucking and Terminal Corp., now assigned January 18, 1977, at Chicago, Ill. will be held in Room 1743, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 142254, Friedl Fuel & Cartage, Inc., now assigned January 19, 1977, at Chicago, Ill. will be held in Room 1743, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 140629 (Sub-No. 13), Cargo Contract Carrier Corp., now assigned January 20, 1977, at Chicago, Ill. will be held in Room 1743, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 128273 (Sub-No. 232), Midwestern Distribution, Inc., now being assigned January 21, 1977 (1 day), a Chicago, Ill. in Room 1743, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC-C-9025, Kane Transfer Company-v-Jacobs Transfer, Inc., has been continued to January 5, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 140513 Sub 1, L.S.T. Co., Inc., and MC 141114 Sub 1, now being assigned January 25, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 110191 Sub 28, Turner's Express, Inc., now being assigned February 8, 1977 (3 days), at Richmond, Va., in a hearing room to be later designated.

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AB 31 Sub 3, Grand Trunk Western Railroad Company Abandonment Between Imlay City And Caseville in Lapeer, Tuscola And Huron Counties, Michigan, now assigned January 31, 1977 (1 Week), at Cass City, Michigan, will be held at Culture Center, 6737 Church Street.

MC 82841 Sub 170, Hunt Transportation, Inc., now assigned January 27, 1977 (2 days), at Chicago, Ill., will be held in room 1944C, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 142107 Subl, H & M Trucking Co., now assigned January 25, 1977, (2 Days), at Chicago, Ill., will be held in Room 1944C, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37912 Filed 12-23-76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 21, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43289—*Annual Volume Rates-Chemicals-Between Points in the United States.* Filed by Southwestern Freight Bureau, Agent, No. B-645), for interested rail carriers. Rates on ethylene glycol, in tank-car loads, minimum 190,000 pounds per car, from Plaquemine and Taft, La., and North Seadrift and Texas City, Tex., to Earl and Fiberton, N.C., and Darlington and Greer, S.C.

Grounds for relief—Market competition.

Tariff—Supplement 7 to Southwestern Freight Bureau, Agent, tariff 11-H, ICC 5242. Rates are published to become effective on February 1, 1977.

FSA No. 43290—*Grain and Grain Products Within the Western District.* Filed by Pacific Southcoast Freight Bureau, Agent, (No. 271), for interested rail carriers. Rates on wheat and wheat flour, in carloads, as described in the application, from points in Montana, to points in California.

Grounds for relief—Carrier competition.

Tariff—Supplement 51 to Pacific Southcoast Freight Bureau, Agent, tariff 241-G, ICC 1927. Rates are published to become effective on January 25, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37911 Filed 12-23-76;8:45 am]

[Notice No. 171]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 20, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 10343 (Sub-No. 31TA) filed December 10, 1976. Applicant: CHURCH HILL TRUCK LINES, INC., U.S. Highway 36 West, P.O. Box 250, Chillicothe, Mo. 64601. Applicant's representative: Vernon M. Masters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Paper and paper products*, from the Chicago, Ill., Commercial Zone, to the plantsite and warehouse facilities of McCleery Cumming Company, Washington, Iowa, as an off-route in connection with applicant's regular route authority to and from Grandview and/or Mt. Pleasant, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: McCleery Cumming Company, Washington, Iowa 52353. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 59457 (Sub-No. 34TA) filed December 14, 1976. Applicant: SORENSON TRANSPORTATION CO., INC., Old Amity Road, Bethany, Conn. 06526. Applicant's representative: Thomas W. Murrett, 432 Main St., West Hartford, Conn. 06117. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Dated, printed publications, and parts thereof*, from the plantsite of the Shenandoah Valley Press, Division of Judd Incorporated, at or near Strasburg, Va., in connection with applicant's regular route authority, between New York, N.Y., and Washington, D.C., as contained in Docket No. MC 59457 Sub-No. 21. Applicant intends to tack its existing authority with MC 59457, for 180 days. Supporting shipper: Shenandoah Valley Press, Div. of Judd Inc., 1500 Eckington Place, Washington, D.C. 20002. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 324 U.S. Post Office Bldg., 135 High St., Hartford, Conn. 06101.

No. MC 78228 (Sub-No. 60TA) filed December 7, 1976. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, Pa. 15220. Applicant's representative: Henry M. Wick, Jr., 2310 Grand Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Activated carbon*, in bulk, in dump vehicles, from Catlettsburg, Ky., to Dimmitt, Tex.; Pekin, Ill.; Dayton, Ohio; and Decatur, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Calgon Corporation, P.O. Box 1346, Pittsburgh, Pa. 15230. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 93944 (Sub-No. 10TA) filed December 13, 1976. Applicant: DANELLA BROS., INC., 2280 Butler Pike, Plymouth Meeting, Pa. 19462. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chrome ore*, from the plantsite of Allenwood Steel, at or near Conshohocken, Pa., and the plantsite of Bethlehem Steel at or near Bethlehem, Pa., to Chester, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Airco Alloys, P.O. Box 368, Niagara Falls, N.Y. 14304. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 112520 (Sub-No. 327TA), filed December 13, 1976. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, 122 Appleyard Drive, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: D'Limonene (citrus stripper oil), in bulk, in tank vehicles, from points in Hillsborough, Polk, and Manatee Counties, Fla., to Brunswick, Ga., for 180 days. Supporting shipper: Hercules Incorporated, 900 Life of Georgia Tower, Atlanta, Ga. 30308. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 112617 (Sub-No. 355TA), filed December 10, 1976. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, from Terra Haute, Ind., to points in Illinois, Indiana, Ohio, and St. Louis, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: James A. Dotl, President, Jadcore, Inc., 1854 N. Fruitridge Ave., Terre Haute, Ind. 47805. Send protests to: Elbert Brown, Jr., District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 112750 (Sub-No. 333TA) filed December 10, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Microfilm, microfiche, microforms and related items*, used in the business of banks and banking institutions, between Flora, Miss., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, North Carolina, Ohio, South Carolina, Tennessee and Texas, for 90 days. Supporting shippers: There are approximately 209 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Bldg., New York, N.Y. 10007.

No. MC 114194 (Sub-No. 191TA), filed December 13, 1976. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: Donald D. Metzler (same address as applicant). Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol*, in bulk, from the plant and/or storage facilities of Archer Daniels Midland Company, at Decatur, Ill., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Jerry C. Slaughter, General Traffic Manager, Archer Daniels Midland Company, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 114896 (Sub-No. 1TA) filed December 13, 1976. Applicant: PUROLATOR SECURITY, INC., 1111 W. Mockingbird Lane, Suite 1401, Dallas, Tex. 75247. Applicant's representative: Elizabeth L. Henoch, 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Unique (currency) paper*, between Dalton, Maine and Washington, D.C., under a continuing contract with General Services Administration, for 180 days. Supporting shipper: General Services Administration, Crystal Mall Bldg., No. 4, Washington, D.C. 20406. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 118989 (Sub-No. 149TA) filed December 13, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container closures*, from Sharonville, Ohio, to Jackson and Nashville, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, Inc., 150 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 119226 (Sub-No. 96TA), filed December 9, 1976. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Ave., Indianapolis, Ind. 46227. Applicant's representative: Robert W. Loser, 1109 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol*, in bulk, from the plant and storage facilities of Archer Daniels Midland Company, Decatur, Ill., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Archer Daniels Midland Company, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Fran Sterling, Interstate Commerce Commission, Federal Bldg., & U.S. Courthouse, 46 E. Ohio St., Room 29, Indianapolis, Ind. 46204.

No. MC 119670 (Sub-No. 27TA), filed December 13, 1976. Applicant: THE VICTOR TRANSIT CORPORATION, 5250 Este Ave., Cincinnati, Ohio 45232. Applicant's representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer and materials* used in the manufacture of fertilizer (except in bulk), from Winchester, Ky., to points in West Virginia, for 180 days. Supporting shipper: H. V. Knight, Jr., General Traffic Manager, Southern States Cooperative, Inc., 7th & Main Sts., Richmond, Va. 23213. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 123255 (Sub.-No. 96TA), filed December 14, 1976. Applicant: B & L MOTOR FREIGHT, INC., 140 E. Everett Ave., Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite and warehouse facilities of Inland Container Corporation, located at or near Hazelton, Pa., on the one hand, and, points in New Jersey and New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Inland Container Corporation, P.O. Box 925, Indianapolis, Ind. 46206. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., & U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 124813 (Sub-No. 164TA), filed December 14, 1976. Applicant: UMTHUN TRUCKING CO., 910 S. Jackson St., P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Deflourinated phosphate feed*, from the storage facilities utilized by Occidental Chemical Company, at Rock Island, Ill., to points in Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Occidental Chemical Company, P.O. Box 1185, Houston, Tex. 77001. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 125035 (Sub-No. 43TA), filed December 6, 1976. Applicant: RAY E. BROWN TRUCKING, INC., 1266 Stuart St., N.W., P.O. Box 501, Massillon, Ohio 44646. Applicant's representative: David L. Pemberton, 50 W. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, materials and supplies* (except commodities in bulk); (a) from Sebring, Ohio, to Fort Wayne, Ind.; Chattanooga, Tenn.; and Mechanicsburg, Pa.; and (b) from Oconomowoc, Wis., to Sebring, Ohio, under a continuing contract with Carnation Company, for 180 days. Applicant has also filed an underlying ETA

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seeking up to 90 days of operating authority. Supporting shipper: Carnation Company, Box 351, Sebring, Ohio 44672. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., and U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 129301 (Sub-No. 4TA), filed December 14, 1976. Applicant: ENGLISH AND SONS CORPORATION, 412 Kings Highway, Thorofare, N.J. 08086. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, N.J. 08096. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Room fresheners*, from Camden, N.J., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, under a continuing contract with Certified Chemicals, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Certified Chemicals, Inc., Jefferson & Master Streets, Camden, N.J. 08104. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 E. State St., Room 204, Trenton, N.J. 08608.

No. MC 134105 (Sub-No. 16TA), filed December 13, 1976. Applicant: CELERY-VALE TRANSPORT, INC., 1011 First Tennessee Bank Bldg., Chattanooga, Tenn. 37402. Applicant's representative: Jack H. Blanshan, Sj ite, 205 W. Touhy Ave., Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Farmland Foods, Inc., at or near Carroll, Denison and Iowa Falls, Iowa, to Birmingham, Dothan, Leeds, Mobile, Montgomery, Selma and Tuscaloosa, Ala.; Daytona Beach, Ft. Lauderdale, Gainesville, Hollywood, Jacksonville, Miami, Orlando, Plant City, Pompano Beach, Tallahassee and Tampa, Fla.; Albany, Athens, Atlanta, Augusta, Columbus, Doraville, Dublin, Macon, Rome, Savannah, Thomasville and Waycross, Ga.; and Chattanooga, Greenville, Jackson, Johnson City, Knoxville, Memphis, Murfreesboro and Nashville, Tenn., restricted to the transportation of traffic originating at the named origins and destined to the named destinations, for 180 days. Supporting shipper: Farmland Foods, Inc., P.O. Box 403, Denison, Iowa 51442. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 135797 (Sub-No. 63TA), filed December 13, 1976. Applicant: J. B. JUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, Ark. 72745. Applicant's representative: Don Garrison, 204 Highway 71 North, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals*, from Willis, Nebr., to points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Minnesota, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Willis Company, R. R. No. 1, Jackson, Nebr. 68743. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 138522 (Sub-No. 3TA), filed December 13, 1976. Applicant: R. G. STANKO EXPRESS, INC., West Highway 20, P.O. Box 509, Gordon Nebr. 69343. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Nebraska Beef Packers Co., at or near Gordon, Nebr., and the facilities of Stanko Packing Company, at or near Gering, Nebr. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract with Nebraska Beef Packers Co., of Gordon, Nebr., and Stanko Packing Company, doing business as Nebraska Beef Packers, of Gering, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. G. Stanko, Secretary-Treasurer, Nebraska Beef Packers, Company, Gering, Nebr. 69343. R. G. Stanko, Secretary-Treasurer, Stanko Packing Co., dba, Nebraska Beef Packers, Gering, Nebr. 69341. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., & Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 139163 (Sub-No. 8TA) filed December 13, 1976. Applicant: ELECTRONIC RIGGERS OF FLORIDA, INC., 1256 La Quinta Drive, Orlando, Fla. 32809. Applicant's representative: M. Craig Massey, 202 E. Walnut St., P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines, and parts, materials and supplies* used in the manufacture, installation or sale of such commodities, between Lake City, Fla., on the one hand, and, on the other, points in Appling, Atkinson, Bacon, Berrein, Brantley, Brooks, Bryan, Bulloch, Camden, Candler, Charlton, Chatham, Clinch, Coffee, Colquitt, Cook, Decatur, Echols, Effingham, Evans, Glynn, Grady, Irwin, Jeff Davis, Lanier, Liberty, Long, Lowndes, McIntosh, Pierce, Screven, Seminole, Tattnall, Thomas, Tift, Toombs, Ware and Wayne Counties, Ga., under a continuing contract with Xerox Corporation, for 180 days. Supporting shipper: Xerox Corporation, 3000 Des Plaines Road, Des Plaines, Ill. 60067. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 140645 (Sub-No. 4TA) filed December 14, 1976. Applicant: UNITED TRUCKING, INC., 100 Stoffel Drive, Tallapoosa, Ga. 30176. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, NE., Atlanta, Ga. 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal containers and metal container ends*, and (2) *Machinery, materials and supplies* used in the manufacture and distribution of metal containers, between points in Montgomery County, Pa., on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, under a continuing contract with Southern Can Company, for 180 days. Supporting shipper: Southern Can Company, 100 Stoffel Drive, Tallapoosa, Ga. 30176. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga. 30309.

No. MC 142239 (Sub-No. 4TA) filed December 13, 1976. Applicant: WASHINGTON TRANSPORTATION CO., 3305 Highway 192, Council Bluffs, Iowa 51501. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 298 and 766 (except commodities in bulk and hides), from the commercial zones of Omaha, Nebr., Madison, Nebr., and Sioux City, Iowa, to points in Illinois and Indiana within the Chicago, Ill., commercial zone and points in the commercial zones of Detroit, Mich.; Boston, Mass.; and Toledo, Ohio; and points in New Jersey, New York and Pennsylvania. Restriction: Restricted to a transportation service to be performed under a continuing contract with Cudahy Foods Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: T. L. Byerly, Purchasing Manager, Dudahy Co., 5015 S. 33rd St., Omaha, Nebr. 68107. Send protests to:

Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 142494 (Sub-No. 1TA) filed December 13, 1976. Applicant: UNITED CARTAGE, INC., 737 S. Stacey, Seattle, Wash. 98134. Applicant's representative: George Kargianis, 2120 Pacific Bldg., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, loaded to flatbeds, dry trailers and refrigerated trailers, points located within the City of Seattle and points located within the City of Tacoma, with a prior or subsequent movement by water to the state of Alaska, limited to the account of TOTE, for 180 days. Supporting shipper: Totem Ocean Trailer Express, Inc., P.O. Box 24908, Seattle, Wash. 98124. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 142727TA filed December 13, 1976. Applicant: REYNALDO TAMAYO, 4421 N.W. 200th St., Miami, Fla. 33169. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except the transportation of said commodities in bulk, Classes A and B explosives, household goods, livestock, commodities requiring special handling and special equipment and cement, and commodities requiring refrigeration), between points in Dade County, lying east of State Road 27, south of State Road 826, north of State Road 94, and west of the Atlantic Ocean, all shipments having a prior or subsequent movement by water for 180 days. Supporting shippers: Caribex International Co., 4139 N.W. 132nd St., Ppa Locka, Fla. 33054. Twin Express, Inc., Cargo Bldg., 2141, MIAD; Winair Freight, Inc., Bldg. 2141, Miami International Airport, Miami, Fla. A. Saurez Co., Inc., 3719 N.W. 50th St., Miami, Fla. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37913 Filed 12-23-76;8:45 am]

[Notice No. 170]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 16, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket "sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 808 (Sub-No. 51TA), filed December 10, 1976. Applicant: ANCHOR MOTOR FREIGHT, INC., 21111 Chagrin Blvd., P.O. Box 22005, Cleveland, Ohio 44122. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles, new trucks, new chassis, automobile parts and automobile show equipment*, in initial movements, in truckaway service, (1) from the plantsite of General Motors Corporation, located at Baltimore, Md., to points in Iowa, Minnesota and Missouri; and (2) from the plantsites of General Motors Corporation, at Framingham, Mass.; Linden, N.J.; Tarrytown, N.Y.; and at or near Wilmington, Del., to points in Iowa, Minnesota, Missouri and Wisconsin, under a continuing contract with General Motors Corporation, for 180 days. Supporting shipper: General Motors Corporation, 30007 Van Dyke Ave., Warren, Mich. 48090. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Ninth St., Cleveland, Ohio 44199.

No. MC 26396 (Sub-No. 137TA) filed December 10, 1976. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: David Waggoner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from Laclede, Idaho, to points in California, Utah, Montana, Wyoming, Colorado, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Minnesota, Iowa, Missouri, Wisconsin, Illinois and the International Boundary line between the United States and Canada in the state of Idaho, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Support shipper: William G. Wysong, Vice-President, Marketing, Brand-S Corporation, P.O. Box 1087, Corvallis, Oreg. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 52704 (Sub-No. 135TA) filed December 9, 1976. Applicant: GLENN MCCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., N.W., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products and woodpulp* (except in bulk), from the plantsite of Bowater Carolina Corporation, at or near Catawba, S.C., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Tennessee, Texas, Virginia, West Virginia and the District of Columbia; and (2) *Materials, equipment and supplies* used in the manufacture of paper, paper products and woodpulp (except in bulk), from points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Tennessee, Texas, Virginia, West Virginia and the District of Columbia, to the plantsite of Bowater Carolina Corporation, at or near Catawba, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bowater Carolina Corporation, P.O. Box 7, Catawba, S.C. 29704. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 59457 (Sub-No. 33TA) filed December 8, 1976. Applicant: SORENSEN TRANSPORTATION CO. INC., Old Amity Road, Bethany, Conn. 06526. Applicant's representative: Thomas W. Muttett, 342 Main St., West Hartford, Conn. 06117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper*, other than newsprint, from the plantsite of St. Regis Paper Company, in Bucksport, Maine, to Washington, D.C.; Buffalo, N.Y.; Lancaster, Pa., and Old Say Brook, Conn., for 180 days. Supporting shipper: Time, Inc., Rockefeller Center, New York, N.Y. 10020. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 324 U.S. Post Office Bldg., 135 High St., Hartford, Conn. 06101.

No. MC 64932 (Sub-No. 568TA) filed December 8, 1976. Applicant: ROGERS CARTAGE CO., 10735 S. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: William P. Farrell (same address

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as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol*, in bulk, in tank vehicles, from the plant and storage facilities of Archer Daniels Midland Company, in Decatur, Ill., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at and destined to points named, for 180 days. Supporting shipper: Archer Daniels Midland Company, Jerry C. Slaughter, General Traffic Manager, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 107515 (Sub-No. 1042TA) filed December 10, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products and articles distributed by meat packing plants and foodstuffs* (except hides and commodities in bulk), from the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Ottumwa, Iowa, to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, restricted to traffic originating at named origin and destined to named states; and (2) *Meat, meat products, meat by-products and articles distributed by meat packing plants, foodstuffs, packing plant materials, equipment and supplies* (except hides and commodities in bulk), from points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, to the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Ottumwa, Iowa, restricted to traffic originating at named states and destined to named destination, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Geo. A. Hormel & Co., Box 800, Austin, Minn. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 108207 (Sub-No. 447TA) (Correction) filed November 16, 1976, published in the FEDERAL REGISTER issue of November 30, 1976, and republished as corrected this issue. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products, and foodstuffs*, from St. Louis, Mo., and its commercial zone to points in Kansas, for 180 days. Supporting shipper: There are approximately 6 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242. The purpose of this republication is to state that are more than one support shippers in this proceeding.

No. MC 112520 (Sub-No. 326TA) filed December 9, 1976. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, 122 Applyard Drive, Tallahassee, Fla. 32302. Applicant's representative: Thomas P. Panebianco (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Opelika, Ala., to points in South Carolina, for 180 days. Supporting shipper: Milliken and Company, P.O. Box 1926, Spartanburg, S.C. 29304. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 115092 (Sub-No. 53TA) filed December 7, 1976. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: E. L. Kier (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from Garfield County, Utah, to points in Arizona, New Mexico, Texas, Oklahoma and Arkansas, for 180 days. Supporting shippers: Kaibab Industries, Inc., P.O. Box 20506, Phoenix, Ariz. 85036. Teton West Lumber Sales, Inc., P.O. Box 3656, Casper, Wyo. 82602. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 116073 (Sub-No. 345TA) filed December 9, 1976. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Modular buildings*, from Tempe, Ariz., to points in Arizona, California, Colorado, Nevada, New Mexico, Texas and Utah, for 180 days. Supporting shipper: Enviro Structures, Inc., 35 N. Perry Lane, Tempe, Ariz. 85281. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116073 (Sub-No. 344TA) filed December 9, 1976. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movement, and buildings, from Tucson, Ariz., to points in Texas, New Mexico, Utah, Nevada and California, for 180 days. Supporting shipper: Porta Structures, Inc., 1602 W. Prince Road, Tucson, Ariz. 85705. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116073 (Sub-No. 346TA) filed December 9, 1976. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Modular buildings*, from Phoenix, Ariz., to points in California, Nevada, New Mexico, Utah and Colorado, for 180 days. Supporting shipper: Valley Aluminum Company, 2229 W. Indian School Road, Phoenix, Ariz. 85015. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116073 (Sub-No. 347TA) filed December 9, 1976. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movement (except travel trailers), *and buildings*, from Greeley, Colo., to points in Colorado, Idaho, Kansas, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Utah and Wyoming, for 180 days. Supporting shipper: Central Homes Incorporated, 237 Twenty-Second St., Greeley, Colo. 80631. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116923 (Sub-No. 7TA) filed December 10, 1976. Applicant: KRAMER TRUCKING CO., INC., 275 Trumbull St., Elizabeth, N.J. 07206. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid helium*, shipper's specially constructed trailers, and empty trailers on return, from Otis, Kans., to Bound Brook, N.J., ports located in Baltimore, Md.; Houston, Tex.; Jacksonville, Fla., Los Angeles, Calif.; Mobile, Ala.; New Orleans, La.; New York, Commercial Zone as defined by the Commission, Philadelphia, Pa., and San Francisco, Calif., for 180 days. Supporting shipper: Kansas Refined Helium Company, Division of Angle Industries, Inc., 1720 Kansas State Bank Bldg., Wichita, Kans. 67202. Send protests to: Julia M. Papp, Transportation Assistant, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 119789 (Sub-No. 318TA), filed December 6, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Melamine plastic materials and urea moulding compounds* (except in bulk), in mechanically refrigerated equipment, from the plantsite and warehouse facilities of Plastic Manufacturing Company, at Dallas, Tex., to Gardena, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Plastic Manufacturing Company, 2700 S. Westmoreland Ave., Dallas, Tex. 75223. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 124813 (Sub-No. 163TA), filed December 10, 1976. Applicant: UMTHUN TRUCKING CO., 910 S. Jackson St., P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, in bags, from Green Bay, Wis., to points in Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Frederick Sales Co., 4439 Belleview, Kansas City, Mo. 64111. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 127539 (Sub-No. 54TA), filed December 10, 1976. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Ave., East, Tacoma, Wash. 98421. Applicant's representative: Michael D. Duppenthaler, 607 Third Ave., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Rogers Walla Walla, Inc., located at Walla Walla, Wash., and Milton-Freewater, Oreg., to points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rogers Walla Walla, Inc., P.O. Box 998, Walla Walla, Wash. 99362. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 127840 (Sub-No. 51TA), filed December 8, 1976. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, Ill. 60438. Applicant's representative: William H. Towle, 180 N. LaSalle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible lards*, in bulk, from Tupelo, Miss., to Pawtucket, R.I., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mid-South Packers, Inc., Max Green, Traffic Manager, P.O. Drawer 829, Tupelo, Miss. 38801. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 128030 (Sub-No. 111TA), filed December 8, 1976. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177, R. R. No. 1, Urbana, Ill. 61801. Applicant's representative: James R. Madler, 120 W. Madison, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete batching and cement plants, parts and components thereof*, in special equipment or in towaway service; (A) Specialized equipment from Champaign, Ill., to points in Alabama, California, Florida, Georgia, Idaho, Indiana, Kentucky, Mississippi, Missouri, Maryland, Louisiana, North Carolina, Ohio, Oregon, South Carolina, Tennessee, Texas, Utah, West Virginia, Wyoming and the District of Columbia; and (B) Towaway, from Champaign, Ill., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: C. S. Johnson, J. Peckham, Traffic Manager, Kenwood Road, P.O. Box 3067, Champaign, Ill. 61820. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 135691 (Sub-No. 16TA), filed December 6, 1976. Applicant: DALLAS CARRIERS CORP., 3610 Garden Brook Drive, Dallas, Tex. 75234. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts and accessories, automotive jacks and cranes* (not self-propelled), *hand, electric and pneumatic tools, and advertising materials, premiums, racks, display cases and signs; and materials, supplies and equipment* used in the manufacture, sale and distribution of the aforementioned commodities, between Batavia, Ill.; Jackson, Mich.; Aberdeen and Southaven, Miss.; Seward, Nebr.; Arden, N.C.; Newark, Ohio; Harrisonburg, Va.; Racine, Wis., and Greenville, Tex. Restriction: Restricted to traffic originating and terminating at the plantsite and warehouse facilities utilized by Walker Manufacturing Company, further restricted against the transportation of commodities in bulk, in tank vehicles, restricted against commodities the transportation of which by reason of size or weight require the use of special equipment, and restricted to a transportation service to be performed under a continuing contract with Walker Manufacturing Company of Racine, Wis., a Division of Tenneco, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Walker Manufacturing Company, Division of Tenneco, Inc., 1201 Michigan Ave., Racine, Wis. 53402. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 135797 (Sub-No. 62TA), filed December 9, 1976. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, Ark. 72745. Applicant's representative: Don Garrison, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Diet and nutritional foods;* (2) *Drugs, vitamins and toilet preparations;* and (3) *Food grinders, water purifiers, can openers, container lids, cookbooks, seed sprouting kits, safety matches, candles and seeds*, from the facilities of Arrowhead Mills Inc., at or near Hereford, Tex., to points in Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Missouri, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Tennessee, Vermont, Washington, and Wisconsin. Restrictions: (1), (2) and (3) are applicable when moving in mixed shipments on traffic originating at the plantsite or warehouse facilities of Arrowhead Mills, Inc., Hereford, Tex., and further restricted against the transportation of commodities in bulk, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arrowhead Mills, Inc., P.O. Box 866, Hereford, Tex. 79045. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 136464 (Sub-No. 27TA), filed December 9, 1976. Applicant: CAROLINA EXPRESS, INC., P.O. Box 3961, 650 Eastwood Drive, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles, textile products, lamps, lamp shades and furniture*; (a) from Memphis, Tenn., and Cramerton, N.C., to points in California, and (b) from Cramerton, N.C., to Memphis, Tenn., under a continuing contract with Burlington Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Burlington Industries, Inc., P.O. Box 691, Burlington, N.C. 27215. Send protests to: Terrell Price, District Supervisor, 800

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Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 136553 (Sub-No. 43TA), filed December 10, 1976. Applicant: ART PAPE TRANFER, INC., 1080 E. 12th St., Dubuque, Iowa 52001. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets, pallet parts, and materials* used in the manufacture of pallets; (1) from Wautoma, Wis., to points in Indiana, Illinois, Iowa, Minnesota and Michigan; and (2) from Dubuque, Iowa, to points in Indiana and Michigan, for 180 days. Supporting shipper: Future Pallet, 3rd and Menominee, East Dubuque, Ill. 61025. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 138875 (Sub-No. 40TA, filed December 8, 1976. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products and wood products*, from points in Ada, Canyon, Gem, Boise and Owyhee Counties, Idaho, to points in Colorado, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Boise Cascade Corporation, P.O. Box 7747, Boise, Idaho 83707. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St., P.O. Box 07, Boise, Idaho 83724.

No. MC 139381 (Sub-No. 6TA), filed December 10, 1976. Applicant: SPIRIT OF '71 OVERLAND EXPRESS, INC., 6726 Mohican Trail, Fort Wayne, Ind. 46804. Applicant's representative: Anthony E. Young, 327 S. LaSalle St., Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Such commodities* as are dealt in, or used by, manufacturers and distributors of crusher, breaker and grinding parts, between the facilities of the Frog, Switch and Manufacturing Company, at Carlisle, Pa., on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Texas, Utah and Wyoming. Restriction: The above authority is restricted to service under a continuing contract with Frog, Switch and Manufacturing Company of Carlisle, Pa., for 180 days. Supporting shipper: The Frog, Switch and Manufacturing Company, P.O. Box 70, Carlisle, Pa. 17013. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Suite 113, 343 W. Wayne St., Fort Wayne, Ind. 46802.

No. MC 139973 (Sub-No. 10TA), filed December 9, 1976. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, tranusporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities and Farmland Foods, Inc., at or near Crete, Nebr., and Denison, Carroll, and Iowa Falls, Iowa, to points in Washington, Oregon, California, Nevada, Arizona, New Mexico, Utah, Colorado, Idaho, Wyoming and Montana, for 180 days. Supporting shipper: Farmland Foods, Inc., 435 Charles St., Denison, Iowa 51442. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 141121 (Sub-No. 1TA) filed December 10, 1976. Applicant: MENSCH TRUCKING, INC., 3540 S. Lawrence St., Philadelphia, Pa. 19148. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of American Home Foods Division of American Home Products Corporation, at or near Milton, Pa., to points in New York, for 180 days. Supporting shipper: American Home Foods Division of American Home Products Corporation, 685 3rd Ave., New York, N.Y. 10017. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 141646 (Sub-No. 2TA) filed December 9, 1976. Applicant: E. L. POWELL & SONS TRUCKING CO., INC., 3777 S. Jackson, P.O. Box 356, Tulsa, Okla. 74101. Applicant's representative: Rufus H. Lawson, 106 Bixler Bldg., 2400 NW., 23rd St., Oklahoma City, Okla. 73107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles, from Tulsa, Okla., to Lawrence and Tecumseh, Kans., under a continuing contract with McPherson Bros. Asphalt Sales, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: McPherson Bros. Asphalt Sales, P.O. Box 9205, Tulsa, Okla. 74107. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 NW., Third St., Oklahoma City, Okla. 73102.

No. MC 142668 (Sub-No. 1TA) filed December 10, 1976. Applicant: AERO DISTRIBUTING CO., INC., 7259 Delta Circle, Mableton, Ga. 30336. Applicant's representative: Kim G. Meyer, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by Home Products Distributors for the account of Amway Corporation, from the plantsite of Amway Corporation, in Kent County, Mich., to points in Iowa, Nebraska, North Dakota and South Dakota, under a continuing contract with Amway Corporation, for 180 days. Supporting shipper: Amway Corporation, 7575 E. Fulton Road, Ada, Mich. 49301. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga. 30309.

No. MC 142669 (Sub-No. 2TA) filed December 9, 1976. Applicant: GENE WALTERS AND CLARK WURTELE, doing business as M & M TRUCKING, Buchanan, N. Dak. 58420. Applicant's representative: Charles E. Johnson, P.O. Box 1982, Bismarck, N. Dak. 58501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials*, from Minneapolis, St. Paul, Savage and Pine Bend, Minn., to points in Montana and points in Park, Big Horn, Sheridan, Hot Springs, Washakie, Johnson, Campbell, Crook and Weston Counties, Wyo., transportation of traffic to points in Montana is restricted to shipments in bulk, in hopper or tank vehicles, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Agro Supply, P.O. Box 20256, Billings, Mont. 59104. Send protests to: Ronald R. Mau, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 142669 (Sub-No. 1TA), filed December 9, 1976. Applicant: GENE WALTERS AND CLARK WURTELE, doing business as M & M TRUCKING, Buchanan, N. Dak. 58420. Applicant's representative: Charles E. Johnson, P.O. Box 1982, Bismarck, N. Dak. 58501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed grade urea*, in hopper bottom trailers, from Duluth, Minneapolis and St. Paul, Minn., to Billings, Great Falls, Bozeman, Belgrade, Culbertson and Glendive, Mont., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Agro Supply, Box 20256, Billings, Mont. 59104. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 142720TA filed December 8, 1976. Applicant: HANNEMAN PIGGY BACK TRANSFER COMPANY, 3110 Confederate Blvd., Little Rock, Ark. 72206. Applicant's representative: James M. Duckett, 1021 Pyramid Life Bldg., Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Little Rock, Ark., on the one hand, and, on the other, points in Arkansas, restricted to traffic having a prior or subsequent movement by rail in trailer-on-flatcar service, for 180 days. Supporting shippers: The Maytag Company, P.O. Box 799, Stuttgart, Ark. 72160. The Maytag Company, 12014 Blackwalnut Circle, Little Rock, Ark. 72209. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 142723TA, filed December 7, 1976. Applicant: BRISTOL CONSOLIDATORS, INC., 4133 Clarenceaux Drive, Gibsonia, Pa. 15044. Applicant's representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as are dealt in by retail variety, department and drug stores, *and equipment, materials and supplies* used in the conduct of such business (except commodities in bulk), between the facilities of Bristol Consolidators, Inc., in Pymatuning Township, Pa., on the one hand, and, on the other, points in Maryland, New York, Ohio, West Virginia, New Jersey, Pennsylvania, Indiana, Virginia, and the District of Columbia, under a continuing contract with G. C. Murphy Company, for 180 days. Supporting shipper: G. C. Murphy Company, 531 Fifth Ave., McKeesport, Pa. 15132. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberth Ave., Pittsburgh, Pa. 15222.

No. MC 142724TA, filed December 10, 1976. Applicant: JOHN E. MAHR, doing business as MAHR BROTHERS, R.R. No. 3, Lime Springs, Iowa 52155. Applicant's representative: C. J. Anderson, P.O. Box 280, Cresco, Iowa 52136. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed*, from the facilities of Cargill, Inc., at or near Cresco, Iowa, to points in Houston, Mower, Freeborn and Fillmore counties, Minn., for 180 days. Supporting shipper: Cargill, Inc., Cargill Bldg., Minneapolis, Minn. 55402. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

PASSENGER APPLICATION

No. MC 46879 (Sub-No. 10TA) filed December 9, 1976. Applicant: WALTERS TRANSIT CORP., 525 11th Ave., New York, N.Y. 10018. Applicant's representative: W. L. McCracken, Greyhound Tower, Phoenix, Ariz. 85077. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special operations, beginning and ending in Manhattan and Queens, N.Y., and extending to the New Jersey Sports and Exposition Authority facilities, East Rutherford, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 9 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37914 Filed 12-23-76;8:45 am]

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MONDAY, DECEMBER 27, 1976

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Consumer Affairs and Regulatory Functions, Office of Assistant Secretary

■

MOBILE HOMES

Construction and Safety Standards

V 41 249 DEC 27 76 6 UMI

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION), DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–76–340]

PART 280—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

Electric Water Heaters

The Department of Housing and Urban Development is amending section 280.707 (d) (1) of the Federal mobile home construction and safety standards to delay until February 15, 1977, energy efficiency requirements with respect to electric water heaters that would have gone into effect on January 1, 1977. The Department is further amending the section to permit mobile home manufacturers to install electric water heaters that do not meet the energy efficiency requirements after February 15, 1977, if a label is placed on the water heater explaining that the water heater does not meet the requirements. This will be allowed until April 1, 1977. After April 1, 1977, all electric water heaters must meet the energy efficiency requirements.

The Department was informed, through correspondence and meetings held with representatives of industry, that manufacturers of electric water heaters were having extreme difficulty in achieving compliance with the January 1, 1977, effective date. The water heater industry must both develop water heaters that meet the performance efficiency requirements of the standard, and have those water heaters listed or certified by a nationally recognized testing agency.

The water heater manufacturers pointed out that it had taken almost a year to develop a product that could comply with the requirements of the standard. They also pointed out that the certification process required by section 280.707(a) of the standard ordinarily takes 60–90 days to complete.

Those electric water heater manufacturers and the industry associations (Gas Appliance Manufacturers, Manufactured Housing Institute) which provided input to the Department indicated that the status of compliance to the effective date varied from not yet developing a complying product to completion of the certification process. However, the consensus position of those electric water heater manufacturers providing input was that there would be a serious shortage of certified complying electric water heaters on January 1, 1977.

It was also pointed out by the water heater manufacturers that compliance with the Federal standard would require changes in the construction and configuration of the water heater tank. This change would thereby necessitate space planning and other revisions by the mobile home manufacturers.

Mobile home manufacturers accordingly would require some lead time to incorporate any changes necessary to meet the energy efficiency requirements for electric water heaters into their designs.

The Department has been in contact with the Federal Energy Administration (FEA) in attempts to assure that consistent Federal standards for energy consuming appliances are developed. In reviewing the Energy Policy and Conservation Act (P.L. 94–163) the Department finds that compliance with the energy targets to be established by the FEA are voluntary and not mandatory. Since that is the case, the water heater industry will not be faced with conflicting mandatory requirements.

The Department is delaying any requirement to meet the energy efficiency requirements until February 15, 1977. The Department is also giving mobile home manufacturers the option after February 15, 1977, of installing water heaters meeting the energy efficiency requirements or providing a water heater that bears a label that states that the water heater does not meet the energy efficiency requirements. The Department is providing for this option as a means of allowing mobile home manufacturers to continue production in the face of a probable shortage of electirc water heaters which comply to the energy efficiency requirements of the standards. However, the Department believes that neither the water heater industry nor the mobile home industry has acted as quickly as they should have to meet the requirements which were first published as a final rule on September 2, 1975, fifteen months before they were to take effect. Given this background, the Department is allowing the use of a label, by mobile home manufacturers, to tell consumers that their water heaters do not meet the Federal energy efficiency requirements and to provide an incentive to the mobile home industry to encourage the water heater industry to produce an adequate supply of electric water heaters which comply to the energy efficiency requirements of the standard as soon as possible. It appears that some of the water heater industry may be able to complete their certification and make available to manufacturers a limited supply of acceptable water heaters by February 15, 1977. Therefore, the Department is delaying the effective date for compliance to the energy efficiency requirements for electric water heaters from January 1, 1977, to February 15, 1977.

The Secretary finds, as required by section 604 (c) and (e) of the Act, 42 U.S.C. 5403 (c) and (e), that it is in the public interest that this amendment take effect December 27, 1976.

The reason that immediate implementation of this amendment is in the public interest is that the Department has determined there would be a serious shortage of automatic electric storage water heaters to meet the performance efficiency requirements of the standard on January 1, 1977. This delay in the implementation date of the performance efficiency requirements will assure an adequate supply of electric water heaters on January 1, 1977, for mobile home manufacturers, such that the production of mobile homes requiring electric water heaters would not be impeded.

For the reasons stated above, the Department has determined that this amendment must be made effective as of the date it is published. Therefore, notice and public procedure are impracticable and contrary to the public interest in this case, and this amendment must take effect before January 1, 1977, rather than 30 days after its publication, as provided under 5 U.S.C. 553(d).

The Department has determined that an Environmental Impact Statement is not required with respect to this amendment. A copy of the Finding of Inapplicability is available for inspection and copying according to Department rules and regulations during regular business hours at the Mobile Home Standards Division, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C.

It is hereby certified that the economic and inflationary impacts of the proposed rule have been carefully evaluated in accordance with OMB Circular A–107.

This amendment is being signed by two Assistant Secretaries because the standards were originally codified in the FEDERAL REGISTER Chapter assigned to the Assistant Secretary for Housing Production and Mortgage Credit, but the substantive authority for the program has been transferred to the Assistant Secretary for Consumer Affairs and Regulatory Functions.

Accordingly, § 280.707(d)(1) of 24 CFR is amended to read as follows.

§ 280.707 Heat Producing Appliances.

* * * * *

(d) Performance Efficiency:

(1) Except as provided herein, all automatic electric storage water heaters installed in mobile homes that enter the first stage of production on or after February 15, 1977, shall have a standby loss not exceeding 43 watts/meter² (4 watts/ft²) of tank surface area. The method of test for standby loss shall be as described in section 4.3.1 of ANSI C 72.1–72.

However, a mobile home that enters the first stage of production on or after February 15, 1977, and before April 1, 1977, may contain an automatic electric storage water heater which does not meet the above performance efficiency requirements if a label is affixed to the water heater as follows:

(i) The label shall be located on the front of the water heater so that it is readily visible after the water heater is installed in the mobile home.

(ii) The label shall be made of paper, .005 plastic laminate material, or other materials which may be easily affixed to the water heater by use of a gum or adhesive backing.

(iii) The label shall be a minimum of 3" x 1¾" in dimension.

(ix) The label shall read as follows:

This electric water heater does not meet energy efficiency criteria established by the Department of Housing and Urban Development for water heaters installed in mobile homes. This does not make the water heater unsafe or hazardous.

(Secs. 604 and 625 of Title VI of P.L. 93–383, 42 U.S.C. 5403 and 524 and sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Effective Date: This amendment is effective December 27, 1976.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

JOHN T. HOWLEY,
Deputy Assistant Secretary for Housing.

[FR Doc.76–37703 Filed 12–23–76;8:45 am]

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MONDAY, DECEMBER 27, 1976

PART III

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

OPERATIONS REVIEW PROGRAM

Miscellaneous Amendments

V 41 249 DEC 27 76 6 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 135, 137, 145, 147, and 149]

[Docket No. 16383; Notice No. 76-28]

OPERATIONS REVIEW PROGRAM

Notice No. 4. Miscellaneous Proposals

The Federal Aviation Administration is considering amending Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 135, 137, 145, 147, and 149 of the Federal Aviation Regulations to update and improve regulations concerning (1) aircraft maintenance; (2) airmen certification; (3) air traffic and general operating rules; (4) the certification and operations of air carriers, commercial operators, and air travel clubs, and other operations conducted for compensation or hire; (5) repair stations; and (6) aviation maintenance technician schools. This is the fourth in a series of Notices of Proposed Rule Making issued, or to be issued, as part of the First Biennial Operations Review Program. Notice No. 75-38 (40 FR 54188; November 20, 1975) was the first and dealt with rotorcraft external-load operations. Notice No. 75-39 (40 FR 57342; December 8, 1975) was the second and dealt with clarifying and editorial changes.

Interested persons, including the general public, manufacturers and users of aircraft and their components, both foreign and domestic, and foreign authorities, are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to environmental, energy, or economic impact that might result from adoption of the proposals contained herein are solicited and should be submitted. Comments should identify this regulatory docket and notice number (Docket No. * * * ; Notice No. * * *) and be submitted in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before March 28, 1977, will be considered by the Administrator before taking action on the proposed rules. However, interested persons are urged to submit their comments as early as possible to facilitate rapid resolution of any issues raised. Comments received after the above date will be considered, so far as possible without incurring exepense or delay. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons.

On February 28, 1975, the Federal Aviation Administration, by Notice 75-9 (40 FR 8685), invited all interested persons to submit proposals for consideration during the 1975-76 Operations Review. In that Notice, the FAA announced that it would make available for comment by interested persons a compilation of the proposals that were to be given further consideration as possible agenda items for the Operations Review Conference (December 1-5, 1975).

On June 4, 1975, the FAA announced the availability of the Compilation of Proposals containing over 900 submissions by the FAA and interested persons, and invited all interested persons to submit comments on those proposals (see Notice 75-9A, 40 FR 24041).

In response to that invitation for comments, the FAA received over 5000 individual comments contained in 123 submissions. Based on those comments and on the Compilation of Proposals, the FAA prepared a number of working documents for the Operations Review Conference held in Arlington, Virginia, on December 1-5, 1975. The FAA distributed those documents to all persons who participated in the Operations Review Program and to all other interested persons who requested them (see Notice No. 75-9B, 40 FR 48699, October 17, 1975).

As indicated in Notice No. 75-9B, not all of the proposals contained in the Compilation were included in the agenda for the conference. A number of the proposals were considered to be noncontroversial and adequately justified and it was determined that no useful purpose would have been served by discussing them at the conference. They were identified as "Items for Notice" in the Conference workbook titled "Agenda Supplement." This notice deals with that group of proposals. Public comments received in response to Notice 75-9A and other written comments received after publication of the conference workbooks have been considered in preparing this notice.

Certain proposals contained in this Notice were not included in the Compilation of Proposals nor identified as "Items for Notice" in the Agenda or Agenda Supplement. They are directly related to the proposals in the workbook and are included for the sake of clarity, consistency, and comprehensiveness. However, in certain instances this is not the case because they are of a minor editorial nature (see the proposals for §§ 91.15, 105.43, 121.548, and 127.212).

The FAA recognizes that there may exist additional instances in which a proposed rule change prescribed in this notice as expressly applying only to certain parts of the FAR's should more appropriately apply to additional parts as well. For example, see Proposal No. 92 § 65.13, being used to propose the same change to § 61.17(a) wherein we propose to extend the validity period of temporary certificates from 90 to 120 days.

Several proposals listed "Items for Notice" are not included as proposed rule changes in this notice. Those proposals fall into three general categories and are explained and listed in the Appendices to this notice:

Appendix I—those proposals which are being deferred.

Appendix II—those proposals which were withdrawn by their proponent during or after the conference.

Appendix III—those proposals which were removed from consideration.

For convenience, each proposal in this notice is numbered separately. The FAA requests that interested persons, when submitting comments, refer to proposals by these numbers, and by the FAR sections to which they relate. Each proposal contains a reference to the Operations Review Program Proposal Number (where applicable) and section to which that proposal was addressed. In some cases the section number cited in the reference will not be the same as the section being changed. Comments on this notice should not refer to the Operations Review Program numbers or section numbers without also referring to the corresponding proposal numbers as set forth in this notice.

Each proposal in this notice is followed by an explanation. Where applicable those explanations address comments received in response to Notice 75-9A.

These amendments are proposed under the authority of sections 313, 314, and 601 through 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 135, 137, 145, 147, and 149 of the Federal Aviation Regulations as follows:

PART 43—MAINTENANCE, REBUILDING AND ALTERATION

1. By adding a new § 43.12 immediately following § 43.11, to read as follows:

§ 43.12 Maintenance Records: falsification, reproduction, or alteration.

(a) No person may make or cause to be made:

(1) Any fraudulent entry in any record or report that is required to be kept, made, or used to show compliance with any requirement under this part;

(2) Any fraudulent reproduction of any record or report under this part; or

(3) Any fraudulent alteration of any record or report under this part.

(b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for suspending or revoking the applicable airman, operator, or production certificate, Technical Standard Order Authorization, FAA-Parts Manufacturer Approval, or Product and Process Specification issued by the Administrator and held by that person.

EXPLANATION

At present there is no general prohibition against making fraudulent entries in, reproductions of, or alterations to records required by Part 43. Sections 61.59 and 65.20 contain such prohibitions but they are applicable only to those parts. The FAA believes that a similar section, applicable to Part 43, is necessary.

REF

Proposal Nos. 33, 36; §§ 43.9, 43.11.

2. By revising paragraph (b)(2) of Appendix E to Part 43 to read as follows:

APPENDIX E—ALTIMETER SYSTEM TEST AND INSPECTION

* * * * * * *

(b) * * *

(2) Altimeters which are of the air data computer type with associated computing systems, or which incorporate air data correction internally, may be tested in a manner and to specifications developed by the manufacturer which are acceptable to the Administrator.

EXPLANATION

Certain types of altimeters are not suited to the test procedures and specifications of Appendix E. The proposed change would allow adoption of suitable test procedures and specifications when found acceptable by the Administrator.

REF.

Proposal No. 66; Part 43, Appendix E.

3. By revising the introductory explanatory text and paragraphs (a) and (b) of Appendix F to Part 43 to read as follows:

APPENDIX F—ATC TRANSPONDER TESTS AND INSPECTIONS

The ATC transponder tests required by § 91.117 of this chapter may be conducted using a bench check or portable test equipment, and must meet the requirements prescribed in paragraphs (a) through (d) of this Appendix. If portable test equipment with appropriate coupling to the aircraft antenna system is used, operate the test equipment at a nominal rate of 235 interrogations per second to avoid possible ATCRBS interference. An additional 3db tolerance is permitted to compensate for antenna coupling errors during receiver sensitivity measurements conducted in accordance with paragraph (c)(1) when using portable test equipment.

(a) For reply radio frequency, interrogate the transponder and verify that the reply frequency is 1090 ± 3 MHZ.

(b) Suppression: When the transponder is interrogated on Mode 3/A at an interrogation rate between 230 and 1000 interrogations per second for Class 1B and 2B transponders or between 230 and 1200 interrogations per second for Class 1A and 2A transponders:

(1) Verify that the transponder does not respond to more than 1 percent of the interrogations when the amplitude of P_2 pulse is equal to the P_1 pulse.

(2) Verify that the transponder replies to at least 90 percent of the interrogations when the amplitude of the P_2 pulse is 9db less than the P_1 pulse.

If the test is conducted with a radiated test signal, the interrogation rate shall be 235±5 interrogations per second unless a higher rate has been approved for the test equipment used at that location.

* * * * * *

EXPLANATION

The proposed change to the introductory text would clarify the fact that all transponder tests required by § 91.177 could be conducted through use of a bench check or using portable test equipment.

The proposed change to paragraph (b) would permit more thorough testing of the essential side lobe suppression functions up to higher interrogation rates when the test equipment is connected directly to the transponder under test. In addition it would permit continued use of existing test equipment where no operational problem would result. Although the present test is satisfactory for lower levels, at higher levels where an aircraft may be interrogated by several ground stations simultaneously, the present test would not show saturation effects. The proposed test would show that the unit may not reply at all or may reply to erroneous signals.

REF.

Proposal No. 69; Appendix F of Part 43.

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

§ 61.17 [Amended]

4. By deleting the number "90" and inserting "120" in place thereof in § 61.17(a).

EXPLANATION

Because of the numerous applicants seeking certification under Part 61, the time between date of application and date of issuance frequently exceeds 90 days. This necessitates renewal of the temporary certificate. The proposed 30-day extension should provide adequate time for certificate issuance without renewal of the temporary certificate.

REF.

Proposal No. 92; § 65.13.

PART 63—CERTIFICATION: FLIGHT CREW MEMBERS OTHER THAN PILOTS

§ 63.13 [Amended]

5. By deleting the number "90" and inserting "120" in place thereof in § 63.13.

EXPLANATION

See explanation to Proposal No. 92; § 61.17.

REF.

Proposal No. 92; § 65.13.

6. By revising § 63.41(b) to read as follows:

§ 63.41 Re-testing after failure.

* * * * *

(b) In the case of an applicant's first failure, before the 30 days have expired if he has received additional practice or instruction (flight, synthetic trainer, or ground training, or any combination thereof) that is necessary in the opinion of the Administrator or the applicant's instructor (if the Administrator has authorized the instructor to determine the additional instruction necessary) to prepare the applicant for re-testing.

EXPLANATION

See explanation to Proposal Nos. 83, and 96; §§ 63.59, and 65.19.

REF.

Proposal Nos. 83 and 96; §§ 63.59 and 65.19.

§ 63.53 [Amended]

7. By deleting § 63.53 (b) and (c) and redesignating § 63.53(d) as (b).

EXPLANATION

The proposal provides for utilization of a single-section test format which the FAA considers advantageous because it simplifies test administration and grading.

REF.

Proposal No. 80, 61; § 63.53.

§ 63.57 [Amended]

8. By deleting from § 63.57(a) the words "must pass a practical test in operating flight navigation equipment, and".

EXPLANATION

A separate test on navigation equipment is unnecessary since this ability is evaluated during the flight test. The proposal eliminates this redundancy in the testing requirement.

REF.

Proposal No. 82; § 63.57.

9. By revising §§ 63.59 (a)(2), (b) and (c) to read as follows:

§ 63.59 Retesting after failure.

(a) * * *

(2) In the case of an applicant's first failure, before the 30 days have expired if he presents a signed statement from a certificated flight navigator, certificated ground instructor or any other qualified person approved by the Administrator, certifying that he has given the applicant additional instruction in each of the subjects failed and he considers the applicant ready for retesting.

(b) A statement from a certificated flight navigator, or from an operations official of an approved navigator course, is accepted, for the purposes of paragraph (a)(2) of this section, for the written test and for the flight test. A statement from a person approved by the Administrator is accepted for the written test. A statement from a supervising or check navigator with the United States Armed Forces is acceptable for the written test and for the practical test.

(c) If the applicant failed the flight test, the additional instruction must have been administered in flight.

EXPLANATION

The proposed rule provides a method whereby an applicant who has failed the test for the first time may be re-tested without the mandatory five hours of instruction. Additionally, § 63.59(b) would be changed to provide for a signed statement from "a person approved by the Administrator" as a means of re-qualifying for the written test. The requirement for "5 hours" of additional instruction is being deleted as the FAA believes that it is not necessary to specify the number of hours of instruction to be received. The proposed change would give added flexibility to the person who is to certify the applicant ready for retesting. Also see the explanation to Proposal No. 96; § 65.19.

REF.

Proposal Nos. 83 and 96; §§ 63.59 and 65.19.

10. By revising Appendix A of Part 63 to read as follows:

APPENDIX A—TEST REQUIREMENTS FOR FLIGHT NAVIGATOR CERTIFICATE

(a) *Demonstration of skill.* An applicant will be required to pass a practical test on the prescribed subjects. The test may be given by FAA inspectors and designated flight navigator examiners.

(b) *Practical test procedures.* (1) An applicant will provide an aircraft which is appropriately equipped for accomplishing celestial and radio navigation.

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(2) More than one flight may be used to complete the flight test and any type of flight pattern may be used. The test will be conducted chiefly over water whenever practicable, and without regard to radio facilities. If the test is conducted chiefly over land, a chart should be used which shows very little or no topographical and aeronautical data. The total flight time will cover a period of at least four hours. Only one applicant may be examined at one time, and no applicant may pefrom other than navigator duties during the examination.

(3) When the test is conducted with an aircraft belonging to an air carrier, the navigation procedures should conform with those set forth in the carrier's operations manual. Items of the flight test which are not performed during the routine navigation of the flight will be completed by oral examination after the flight or at times during flight which the applicant indicates may be used for tests on those items. Since in-flight weather conditions, the reliability of the weather forecast, and the stability of the aircraft will have considerable effect on an applicant's performance, good judgment must be used by the inspector or examiner in evaluating the test.

(c) *The practical test evaluation.* The applicant's performance in the practical test is evaluated in terms of the elements listed below. Each item must be completed satisfactorily in order for the applicant to obtain a passing grade.

The applicant will be required to:

(1) Demonstrate or explain the operation of all navigation equipment to be used during the flight test;

(2) Check the presence on board and operating condition of all navigation equipment;

(3) Complete preflight planning to include flight time analysis, fuel requirements, cruise control chart data, and airplane performance parameters; and

(4) Demonstrate efficient and accurate normal navigation methods including computation of headings, ETA's, position determination by radio or celestial means, and transmission of position data to air traffic control facilities.

EXPLANATION

The proposed rule consists of an overall revision which updates references and removes outdated material. All changes are keyed to the items on the current Practical Test Report, FAA Form 8400-3, pertaining to the Flight Navigation Test.

REFERENCE

Proposal No. 84; Appendix A of Part 63.

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

§ 65.13 [Amended]

11. By deleting the number "90" and inserting "120" in place thereof in § 65.13.

EXPLANATION

See explanation to Proposal No. 92; § 61.17.

REFERENCE

Proposal No. 92; § 65.13.

12. By revising § 65.19 to read as follows:

§ 65.19 Retesting after failure.

An applicant for a written, oral, or practical test for a certificate and rating, or for an additional rating under this part, may apply for retesting—

(a) After 30 days after the date he failed the test; or

(b) In the case of an applicant's first failure, before the 30 days have expired if he presents a signed statement from an airman holding the certificate and rating sought by the applicant, certifying that he has given the applicant additional instruction in each of the subjects failed and that he considers the applicant ready for retesting.

EXPLANATION

The revision will make § 65.19 consistent with similar provisions under Part 61. The FAA believes that by limiting, to one, the number of retakes possible within 30 days, both the cost of the airman certification program and the possibility of compromise of FAA tests will be reduced. The requirement for "5 hours" of additional instruction is being deleted as the FAA believes that it is not necessary to specify the number of hours of instruction to be received. The proposed change would give added flexibility to the person who is to certify the applicant ready for retesting.

In deleting the currently enumerated provisions concerning who must certify as to the completion of additional instruction, the proposal would exclude persons holding military parachute rigger ratings from signing "5-hour letters" as is currently provided for under § 65.19(b)(4). The change is necessary because a person holding a military rating, and who under current regulations is authorized to sign "5-hour letters," has not necessarily demonstrated knowledge of the Federal Aviation Regulations under which the parachute was manufactured and is to be maintained.

REF.

Proposal Nos. 96, 97; § 65.19.

PART 91—GENERAL OPERATING AND FLIGHT RULES

13. By revising § 91.8 to read as follows:

§ 91.8 Prohibition against interference with crewmembers.

No person may:

(a) Assault, threaten, intimidate, or interfere with a crewmember in the performance of his duties aboard an aircraft; or

(b) Attempt to cause, either directly or indirectly, a crew member of an aircraft to divert that aircraft from its intended course or destination; or

EXPLANATION

This proposal was submitted to broaden the coverage of § 91.8. Under current § 91.8, the prohibitions against interference with crewmembers and the flight of aircraft only applies while "an aircraft is being operated in air commerce." Consequently, the prohibited acts set forth in the section would not give rise to a violation if they occurred prior to the time operation of the aircraft had begun. Accordingly this proposal would eliminate the words "being operated in air commerce" and thus the restricted coverage of § 91.8.

In addition, the proposal would prohibit the interference by a person, either directly or indirectly, with the intended course or destination of the aircraft. This prohibition would be in addition to the current provisions of § 91.8(b) which prohibit a person from attempting to cause or causing the flight crew to divert the flight of an aircraft from its intended course or destination.

REF.

Proposal No. 167; § 91.8.

14. By revising § 91.15(a)(2) to read as follows:

§ 91.15 Parachutes and parachuting.

(a) • • •

(2) If any other type, it has been packed by a certificated and appropriately rated parachute rigger—

(i) Within the preceding 120 days, if its canopy, shrouds, and harness are composed exclusively of nylon, rayon, or other similar synthetic fiber or materials that are substantially resistant to damage from mold, mildew, or other fungi and other rotting agents propagated in a moist environment; or

(ii) Within the preceding 60 days, if any part of the parachute is composed of silk, pongee, or other natural fiber, or materials not specified in subdivision (i) of this paragraph.

EXPLANATION

Based on a consensus of comments recorded from the First Biennial Operations Review Conference and data gathered in the course of processing petitions for exemption from the provisions of §§ 91.15(a)(2) and 105.43(a)(2) of the Federal Aviation Regulations, the Federal Aviation Administration believes that the required 60 day repack cycle should be extended to 120 days with respect to parachutes made of materials that are substantially resistant to damage from mold, mildew, or other fungi. Current requirements were issued when most parachutes were made of silk or pongee materials which are subject to damage if not frequently opened and aired. Today, virtually all parachutes in use in the United States as auxiliary parachutes under part 105 of the Federal Aviation Regulations are constructed of nylon or other synthetic material proven to be resistant to solar rays, fungi, and moisture. However, since there is no requirement that parachutes be constructed of synthetic materials, the current repacking cycle should be retained for those made from natural fibers or materials.

Although Proposal Nos. 174, 175, and 176 were included in the Operations Review Conference agenda and were discussed by Committee 10 at the conference, they are being dealt with in this notice since they elicited no adverse comments and are deemed appropriate for inclusion in this notice. The petition for rulemaking filed by the United States Parachute Association (Docket No. 13399) was considered in the development of this proposal.

REF.

Proposal Nos. 174, 175, and 176; §§ 91.15 and 105.43.

15. By amending § 91.17 by deleting § 91.17(c) and amending § 91.17(a)(1) to read as follows:

§ 91.17 Towing: Gliders.

(a) No person may operate a civil aircraft towing a glider unless:

(1) The pilot in command of the towing aircraft is qualified under § 61.69 of this chapter.

• • • • •

EXPLANATION

Section 91.17 regulates the towing of gliders and § 91.18 regulates all towing other than that regulated by § 91.17. They are therefore, mutually exclusive and the reference in § 91.17 to § 91.18 is inappropriate and should be deleted.

Also, the reference to § 61.38 in paragraph (a)(1) should be changed to make the correct citation to revised Part 61.

Finally, the grandfather rights provided in paragraph (c) have expired and that paragraph should be deleted.

REF.

Proposal No. 178; § 91.17.

16. By revising § 91.18(a) to read as follows:

§ 91.18 Towing: Other than under § 91.17.

(a) No pilot of a civil aircraft may tow anything with that aircraft (other than under § 91.17) except in accordance with the terms of a certificate of waiver issued by the Administrator.

• • • • •

EXPLANATION

The proposed change to § 91.17(a) would obviate the need for the current provision in § 91.18(a) relating to waivers for the towing of gliders. Consequently, it is proposed to delete the second sentence of paragraph (a) of § 91.18.

REF.

Proposal No. 179; § 91.18.

17. By revising § 91.43(b) to read as follows:

§ 91.43 Special rules for foreign civil aircraft.

• • • • •

(b) *VFR.* No person may conduct VFR operations, which require two way radio communication under this Part, unless at least one crewmember of that aircraft is able to conduct two-way radiotelephone communications in the English language and is on duty during that operation.

• • • • •

EXPLANATION

The FAA has experienced difficulties in the past with aircraft operating between the United States and South America which, although operating VFR and thus not subject to § 91.43(c), enter terminal control areas and mix with other VFR and IFR traffic. Once in the terminal control area the need to be able to communicate with such aircraft is increased, but in many cases communication is either impossible or ineffective due to the crews' inability to do so because of English language difficulties. Accordingly, this proposal would extend the current IFR requirement under § 91.43(c)(3) to VFR operations which are required by Part 91 to have a capability for two-way radio communication.

REF.

Proposal No. 222; § 91.43.

18. By revising the first sentence in the flush paragraph immediately following § 91.52(d)(2) to read as follows:

§ 91.52 Emergency locator transmitters.

• • • • •

(d) • • •

The new expiration date for the replacement (or recharge) of the battery must be legibly marked on the outside of the transmitter and entered in the aircraft maintenance record. • • •

• • • • •

EXPLANATION

In many aircraft the emergency locator transmitter (ELT) is located in the aft section of the aircraft thereby making visual inspection, to determine compliance with battery life dates, difficult. To alleviate this difficulty, it is proposed to require that in addition to being legibly marked on the battery itself, the replacement or recharge dates be entered in the maintenance record for the aircraft.

REF.

Proposal No. 227; § 91.52.

19. By amending § 91.73 by deleting the word "or" after § 91.73(b)(3) and deleting the period after § 91.73(c)(2) and inserting the phrase "; or" in place thereof and by adding a new paragraph (d) immediately following paragraph (c), to read as follows:

§ 91.73 Aircraft lights.

No person may, during the period from sunset to sunrise (or, in Alaska, during the period a prominent unlighted object cannot be seen from a distance of three statute miles or the sun is more than six degrees below the horizon),

• • • • •

(d) Operate an aircraft, required by § 91.33(c)(3) to be equipped with an anticollision light system, unless it has approved and lighted aviation red or aviation white anticollision lights. However, the anticollision lights need not be lighted when the aircraft is being operated under IFR in meteorological conditions which the pilot in command determines make it necessary in the interest of safety to operate the aircraft without lighted anticollision lights.

EXPLANATION

Although § 91.33(c)(3) requires that an aircraft have operable approved anticollision lights for VFR night operations, § 91.73 does not require that they be lighted during VFR night operations nor during other VFR or IFR operations. Accordingly, it is proposed to require that approved anticollision lights be lighted during all night operations, with the exception that the pilot in command may determine that the anticollision lights be turned off when their light output during adverse meteorological conditions would constitute a hazard to safety.

REF.

Proposal No. 236; § 91.73.

20. By revising § 91.83 by deleting the flush paragraph immediately following paragraph (a)(11) and inserting a new paragraph (d) immediately following paragraph (c)(2) to read as follows:

§ 91.83 Flight plan; information required.

• • • • •

(d) *Cancellation.* When a flight plan has been activated, the pilot in command, upon cancelling or completing the flight under the flight plan, shall notify the nearest FAA Flight Service Station or ATC facility.

EXPLANATION

The purpose of this proposal is to clarify the responsibility of the pilot in command with respect to the point after which he must notify the nearest FAA Flight Service Station or ATC facility of the cancellation or completion of a flight plan. As proposed, activation, rather than filing, would be the key point at which the flight plan would enter the air traffic system. As such, this proposal would merely give formal recognition to current FAA procedure. At the present time, VFR flight plans which have not been activated are automatically cancelled unless the Flight Service Station or ATC receives a revised proposed departure time or is informed that the proposed departure time will be met.

REF.

Proposal No. 246; § 91.83.

21. By revising the lead in to § 91.173 (a) and (b) and revising (a)(2)(v) and adding a new paragraph (b)(3) to read as follows:

§ 91.173 Maintenance records.

(a) Except for work performed in accordance with §§ 91.170 and 91.177, each registered owner or operator shall keep the following records for the periods specified in paragraph (b) of this section:

• • • • • •

(2) • • •

(v) The current status of applicable airworthiness directives (AD) including, for each, the method of compliance, the AD number, and revision date. If the AD involves recurring action, the time and date when the next action is required.

• • • • •

(b) The owner or operator shall retain the following records for the periods prescribed.

• • • • •

(3) A list of defects furnished to a registered owner or operator under § 43.9 of this chapter, shall be retained until the defects are repaired and the aircraft is approved for return to service.

• • • • •

EXPLANATION

The proposed revision to § 91.173(a) reflects the requirement that 24 month inspection records required by § 91.177 be retained for a 24 month period.

The proposed revision of § 91.173(a)(2)(v) recognizes a need for specificity in retention of information relating to airworthiness directive (ADs) and compliance therewith. Maintenance entries made under § 43.9 may be broadly stated with respect to airworthiness directive compliance and thus may not provide adequate information. This proposal

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would place the responsibility on the registered owner or operator for more specific entries. The FAA believes that this change would help ensure compliance with ADs.

A new paragraph (b)(3) would be added to § 91.173 to include the list of defects required to be furnished under § 43.9 to be among the maintenance records which must be retained.

REF.

Proposal Nos. 292, 294, 297; § 91.173.

22. By adding a new § 91.189(b)(5) to read as follows:

§ 91.189 Survival equipment for over-water operations.

• • • • • •

(b) • • •

(5) After (a date *after* the effective date of this amendment), a lifeline stored in accordance with § 25.1411(g).

• • • • • •

EXPLANATION

Because many large and turbine-powered multi-engine airplanes are used in operations conducted over water, this proposal would add an important item of emergency equipment in the event of a ditching. This proposal is based in part on requirements applicable to Part 121 certificate holders conducting extended over-water operations and is considered necessary to assist evacuees of a ditched airplane in staying on the wing.

In addition, the FAA invites comments addressed specifically to the appropriate compliance period necessary to insure that no undue burden will be placed on persons affected by the proposal.

REF.

Proposal No. 320; § 91.189.

23. By amending paragraph 2(a)(7) of Appendix A to Part 91 by adding a sentence to read as follows:

APPENDIX A—CATEGORY II OPERATIONS: MANUAL, INSTRUMENTS, EQUIPMENT AND MAINTENANCE

• • • • • •

2. *Required instruments and equipment.*

• • •

(a) *Group I*

• • • • • •

(7) • • • After (a date after the effective date of this amendment), two sensitive altimeters adjustable for barometric pressure, having markings at 20-foot intervals and each having a placarded correction for altimeter scale error and for the wheel height of the airplane.

• • • • • •

EXPLANATION

This proposal is designed to increase the accuracy of altimeter readings by establishing a fixed 20-foot interval requirement for all altimeters. At the present time, some altimeters are marked at 50-foot intervals, which may be too broad and thus not sufficiently accurate for Category II operations.

In addition, the FAA invites comments addressed specifically to the appropriate compliance period necessary to ensure that no undue burden will be placed on persons affected by the proposal.

REF.

Proposal No. 325; Appendix A to Part 91.

PART 149 [RESERVED]

PART 105—PARACHUTE JUMPING

24. By revising § 105.15(b) to read as follows:

§ 105.15 Jumps over or into congested areas or open air assemblies of persons.

• • • • • •

(b) An application for a certificate of authorization issued under this section is made in a form and in a manner prescribed by the Administrator and must be submitted to either the FAA General Aviation District Office or Flight Standards District Office having jurisdiction over the area in which the parachute jump is to be made, at least four days before the day of that jump.

• • • • • •

EXPLANATION

The proposal is intended to remove the ambiguity contained in the present rule which has caused applications for a Certificate of Authorization to be filed at inappropriate FAA offices, resulting in excessive delays. The proposed wording should insure that applications will be submitted to the appropriate offices and thereby expedite issuance.

REF.

Proposal No. 341; § 105.15.

25. By revising § 105.33 to read as follows:

§ 105.33 Parachute jumps between sunset and sunrise.

(a) No person may make a parachute jump, and no pilot in command of an aircraft may allow any person to make a parachute jump from that aircraft, between sunset and sunrise, unless that person is equipped with a means of producing a light visible for at least three statute miles.

(b) Each person making a parachute jump between sunset and sunrise shall display the light required by paragraph (a) of this section from the time he exits the aircraft until he reaches the surface.

EXPLANATION

Section 105.33(a) would be amended to require parachutists to be equipped with a light from sunset to sunrise. This change would make the requirements consistent with § 91.73. The title of the section would also be made more precise as to when the requirements therein apply.

Section 105.33(b) would be amended to require that the light required by § 105.33(a) be displayed from exit from the aircraft to landing. Currently, the light is required to be displayed from canopy opening to landing, and, therefore, a free-falling parachutist is not required to display any light for a significant period of the jump. This proposed change would rectify that situation.

REF.

Proposal Nos. 342, 343; § 105.33.

26. By amending § 105.43 to read as follows:

§ 105.43 Parachute equipment and packing requirements.

(a) • • •

(2) The auxiliary must have been packed by a certificated and appropriately rated parachute rigger:

(i) Within 120 days before the date of use, if its canopy, shroud, and harness are composed exclusively of nylon, rayon or other similar synthetic fiber or material that is substantially resistant to damage from mold, mildew, or other fungi and other rotting agents propagated in a moist environment; or

(ii) Within 60 days before the date of use, if it is composed in any amount of silk, pongee, or other natural fiber, or material not specified in paragraph (a)(2)(i) of this section.

EXPLANATION

See explanation to proposal for § 91.15.

REF.

Proposal Nos. 174, 175, and 176; §§ 91.15 and 105.43.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

27. By revising § 121.11 to read as follows:

§ 121.11 Rules applicable to operations in a foreign country.

Each certificate holder shall, while operating an airplane within a foreign country, comply with the air traffic rules of the country concerned and the local airport rules, except where any rule of this part is more restrictive and may be followed without violating the rule of that country.

EXPLANATION

This proposal recognizes the fact that under § 121.3(d) a domestic air carrier may be authorized to operate within a foreign country, and consequently should comply with the air traffic rules of that country as currently provided for flag and supplemental air carriers and commercial operators under § 121.11.

REF.

Proposal No. 358; § 121.11.

28. By adding a new § 121.26 immediately following § 121.25 to read as follows:

§ 121.26 Application for domestic or flag air carrier operator certificates.

Each application for a domestic or flag air carrier operating certificate shall be made in the form and manner and contain information prescribed by the Administrator. Each applicant must submit his application at least 60 days before the date of intended operation.

EXPLANATION

This proposal would provide a format and time for domestic or flag air carriers to make application for an operating certificate. This is specifically provided for in § 121.67 for a supplemental air carrier or commercial operator's certificate. Apparently, this requirement was inadvertently omitted during recodification, since there was an identical provision under § 40.12 of the Civil Aviation Regulations.

REF.

Proposal No. 344; § 121.26.

29. By revising § 121.29(b) to read as follows:

§ 121.29 Duration of certificate.

• • • • • •

(b) If the Administrator suspends, revokes, or otherwise terminates a certificate, the holder of that certificate shall return it to the Administrator within ten days after receipt of notification of suspension, revocation, or other termination.

EXPLANATION

This proposal is designed to prevent the indefinite holding of suspended, revoked, or otherwise terminated certificates by air carriers against whom FAA enforcement action has been taken.

REF.

Proposal No. 363; §§ 121.29 and 121.53.

30. By amending the second sentence of § 121.47(a) to read as follows:

§ 121.47 Application for supplemental air carrier and commercial operator certificates.

(a) • • • Each applicant must submit his application at least 60 days before the date of intended operation (in the case of an original application) or 60 days before the date the certificate terminates (in the case of a renewal application).

• • • • • •

EXPLANATION

The 60 day application period for the renewal of a supplemental air carrier or commercial operator operating certificate is proposed in order to provide the FAA with a reasonable time within which to inspect and evaluate the certificate holder's operation prior to renewal.

REF.

Proposal No. 366; § 121.47.

31. By revising § 121.53(e) to read as follows:

§ 121.53 Duration of certificate.

• • • • • •

(e) If the Administrator suspends, revokes, or otherwise terminates a certificate, the holder of that certificate shall return it to the Administrator within ten days after receipt of notification of suspension, revocation, or other termination.

EXPLANATION

See discussion of a similar change proposed for § 121.29.

REF.

Proposal No. 363; §§ 121.29 and 121.53.

32. By revising § 121.61(b)(1) to read as follows:

§ 121.61 Management personnel: qualifications.

• • • • • •

(b) No person may serve as chief pilot unless he—

(1) Holds a current airline transport pilot certificate with appropriate ratings for at least one of the types of aircraft used;

• • • • • •

EXPLANATION

Current § 121.61(b)(1) states that the Chief Pilot must hold an airline transport pilot certificate with appropriate ratings for the type of aircraft used. However, many operators use several different types of aircraft, and the FAA believes that the chief pilot need only be type-rated and current in at least one of the types of aircraft being operated by the certificate holder by whom he is employed.

REF.

Proposal No. 372; § 121.61(b)(1).

§ 121.135 [Amended]

33. By amending § 121.135(b)(6) and (7) by deleting the phrase, "their crew complement,".

EXPLANATION

Section 121.135(b)(6) and (7) imply that the operations specifications for Part 121 operators include crew complements. However, operations specifications required by §§ 121.25(b) and 121.45(b) for Part 121 operators do not prescribe crew complements as one of the items required to be included therein. Flight crew requirements are included in the approved Flight Manual and the airworthiness certificate as provided in § 121.385(a). The requirements for a navigator included in the operations specifications are outlined in § 121.389(b). Also the term "crew complement" would include flight attendants. The requirements for flight attendants to be included in the operations specifications is outlined in § 121.391(a). Consequently, inclusion of the term "their crew complement" in § 121.135(b)(6) and (7) is redundant and should be deleted.

REF.

Proposal No. 380; § 121.135(b)(6) and (7).

34. By amending § 121.191(a) as follows:

§ 121.191 Transport category airplanes: turbine engine powered: en route limitations: one engine inoperative.

(a) No person operating a turbine engine powered transport category airplane may take off that airplane at a weight, allowing for normal consumption of fuel and oil, that is greater than that which (under the approved, one engine inoperative, en route net flight path data in the Airplane Flight Manual for that airplane) will allow compliance with paragraphs (a)(1) or (2) of this section, based on the ambient temperatures expected en route:

• • • • • •

EXPLANATION

The clause "allowing for normal consumption of fuel and oil" was inadvertently omitted in the original drafting of this paragraph. There was no intention that the takeoff weight be limited to the maximum weight allowable at the critical en route point. The proposed wording is consistent with § 121.181(a).

REF.

Proposal No. 401; § 121.191(a).

35. By revising § 121.309(b)(4) to read as follows:

§ 121.309 Emergency equipment.

• • • • • •

(b) • • •

(4) Must be marked as to date of last inspection and the date the next inspection is due and, when carried in a compartment or container, the compartment or container must be marked to indicate its contents, and the date of last inspection and the date the next inspection is due.

• • • • • •

EXPLANATION

The item itself, in addition to the container or compartment it occupies, should be marked as to date of last inspection. This should preclude a situation whereby an outdated item is replaced while the inspection date on the container or compartment remains unchanged.

REF.

Proposal No. 426; § 121.309(b)(4).

36. By revising § 121.317 to read as follows:

§ 121.317 Passenger information.

(a) No person may operate an airplane unless it is equipped with passenger information signs that meet the requirements of § 25.791 of this chapter. The signs must be constructed so that the crew can turn them on and off. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

(b) No passenger or crewmember may smoke while the no smoking sign is lighted and each passenger shall fasten his seat belt and keep it fastened while the seat belt sign is lighted.

EXPLANATION

The reference to May 1, 1974 is obsolete in § 121.317(a). In § 121.317(b), changing the words cabin attendant to crewmember would require all crew members to observe the no smoking rule when the no smoking sign is lighted, rather than merely cabin attendants.

REF.

Proposal No. 449; § 121.317 (a) and (b).

37. By adding a new third sentence to § 121.401(c) to read as follows:

§ 121.401 Training program: General.

• • • • • •

(c) • • • When the certification required by this paragraph is made by an entry in a computerized record-keeping system, the certifying instructor, supervisor, or check airman must be identified with that entry. However, the signature of the certifying instructor, supervisor, or check airman is not required for computerized entries.

• • • • • •

EXPLANATION

This proposal recognizes the increased use of computerized recordkeeping systems by Part 121 certificate holders and the difficulty encountered when attempting to reconcile current procedures for certification of crew member, dispatcher, or flight instructor pro-

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ficiency with such systems. Accordingly, this proposal would permit such certification to be accomplished using entries in computer systems, by requiring that each entry identify the instructor, supervisor, or check airman concerned but not requiring his signature.

REF.

Proposal No. 503; § 121.401.

38. By revising § 121.440(b)(2) to read as follows:

§ 121.440 Line checks.

• • • • • •

(b) • • •

(2) Consist of at least one flight over a typical part of the air carrier's route, or over a foreign or federal airway, or over a direct route.

• • • • • •

EXPLANATION

This proposal would permit pilot-in-command line checks to be conducted during "off-line" flights such as charter flights. Pilot proficiency can be as adequately demonstrated during such operations as during a line operation and would thus permit flexibility in the scheduling of line checks.

REF

Proposal No. 543; § 121.440.

39. By revising § 121.548 to read as follows:

§ 121.548 Aviation safety inspector's credentials: admission to pilot's compartment.

Whenever, in performing his duties of conducting an inspection, an inspector of the Federal Aviation Administration presents his credential Form FAA 110A, "Aviation Safety Inspector's Credential", to the pilot in command of an aircraft operated by an air carrier or commercial operator, he must be given free and uninterrupted access to the pilot's compartment of that aircraft.

EXPLANATION

The FAA has revised FAA form 110A by changing its title to "Aviation Safety Inspector's Credential". This proposal would substitute the phrase "Aviation Safety Inspector's Credential" for the phrase "Air Carrier Inspector's Credential". The change is necessary to prevent possible confusion.

REFERENCE

None.

§ 121.651 [Amended]

40. By deleting the words "range station or comparable facility" in § 121.651(d)(2) and substituting the words "navigation facility" in place thereof.

EXPLANATION

The term "radio range stations" is no longer in use. Hence, it should be deleted and the term "radio navigation facility" substituted therefor.

REFERENCE

Proposal No. 779; § 135.111.

41. By amending § 121.652(a) by adding the following new sentence to read as follows:

§ 121.652 Landing weather minimums: IFR: all certificate holders.

(a) • • • However, a pilot in command employed by an air taxi operator certificated under § 135.2 of this chapter, may credit the flight time he acquires in operations conducted for that operator under Part 91 for up to 50% of the 100 hours of pilot-in-command experience required by this paragraph.

• • • • • •

EXPLANATION

Under current § 121.652, if a pilot in command under Part 121 has not served 100 hours as pilot in command in operations under that Part, the MDA or DH and visibility landing minimums in the operations specification of the certificate holder for whom he serves are increased by 100 feet and one-half mile (or the RVR equivalent). In response to the fact that it takes many flights to acquire the 100 hours needed to permit a pilot in command under Part 121 to use lower IFR landing minimums, this proposal would permit a pilot in command serving an air taxi operator certificated under § 135.2 (and who is subject to the operating rules of Part 121), to credit up to 50 hours the flight time he acquires for that air taxi operator in operations governed solely by Part 91 toward the 100 hours required by § 121.652. As such, the proposal recognizes the fact that the pilots in command in question conduct Part 91 operations in the same airplane they fly under Part 121 operations, but to minimums lower than those they are permitted to use under Part 121 until they have acquired the required 100 hours.

Comments are solicited concerning the advisability of expanding this proposal to include pilots in command employed by Part 121 certificate holders.

REF.

Proposal No. 623; § 121.652(a).

§ 121.697 [Amended]

42. By amending § 121.697(e)(2) by deleting the words "six months" and inserting in place thereof the words "three months".

EXPLANATION

This proposal would reduce the record retention period applicable to supplemental air carriers and commercial operators from 6 months to 3 months, thereby making it consistent with the requirement applicable to domestic and flag air carriers under § 121.695. This proposal would reduce the present administrative burden with no resultant adverse effect on safety.

REF.

Proposal No. 640; § 121.697.

43. By revising § 121.723 to read as follows:

§ 121.723 Application and issue.

(a) An application for a crewmember certificate is made on Form FAA-2116 "Application for Crewmember Certificate", and submitted to the nearest Air Carrier District Office. The certificate is issued on Farm FAA-2116.1 "Crewmember Certificate".

(b) The holder of a certificate issued under this subpart, or the air carrier or commercial operator by whom he is employed, shall surrender the certificate for cancellation at the nearest Air Carrier District Office, or submit it for cancellation to the Airman Certification Branch, AC-260, P.O. Box 25082, Oklahoma City, Oklahoma 73125, at the end of the holder's assignment in international air commerce with that carrier or operator.

EXPLANATION

This proposal is intended to provide flexibility to holders of international crewmember certificates in obtaining and returning those certificates. In many cases, the crewmember may be so far away from an Air Carrier District Office that an alternate point for his submission of an application or the return of a cerificate is necessary.

REF.

Proposal No. 647; § 121.723.

PART 123—CERTIFICATION AND OPERATIONS: AIR TRAVEL CLUBS USING LARGE AIRPLANES

44. By adding a new § 123.11(b)(3) to read as follows:

§ 123.11 Application for air travel club operating certificate.

• • • • • •

(b) • • •

(3) The financial information listed in § 123.12.

EXPLANATION

See explanation to Proposal No. 669; § 123.12.

REF.

Proposal No. 669; Part 123.

45. By adding a new § 123.12 immediately following § 123.11 to read as follows:

§ 123.12 Financial information required for original issue or renewal.

Each applicant for the original issue or renewal of an air travel club operating certificate shall submit the information required by § 121.49 (a), (c), (d), (h), and (i) of this chapter with its application.

EXPLANATION

The proposed rule would require that the applicant furnish certain financial information required by the regulations. The FAA is of the opinion that such information is necessary to insure a proper evaluation of the stability of the operation so that safety is not degraded through a failure to observe required operating procedures.

REF.

Proposal No. 669; Part 123.

46. By revising § 123.13 to read as follows:

§ 123.13 Management personnel required.

(a) Each applicant for a certificate under this part must show that it has enough qualified management personnel to provide the highest degree of safety in its operations and to assure that its operations are conducted in accordance with the requirements of this part. Personnel are required in the following or equivalent positions:

(1) Director of Operations.

(2) Director of Maintenance.

(3) Chief Pilot.

(4) Chief Inspector.

(b) Upon application by the air travel club, the Administrator may approve fewer or different positions than those listed in paragraph (a) of this section for a particular operation if the applicant shows that it can perform the operation with the highest degree of safety under the direction of fewer or different categories of management personnel due to:

(1) The kind of operation involved;

(2) The number and type of aircraft used; or

(3) The area of operations.

(c) Each applicant shall:

(1) Set forth in the general policy section of its manual, the duties, responsibilities, and authority, of the personnel required by this section;

(2) List in the manual the names and addresses of the persons assigned to those positions;

(3) Designate one person as responsible for the scheduling of inspections required by the air travel club manual and for the updating of the approved weight and balance system on all aircraft operated by the air travel club; and

(4) Within 10 days of such change, notify the FAA District Office, charged with the overall inspection of the air travel club, of any change made in the assignment of persons to the listed positions.

EXPLANATION

The proposed rule provides that certain key management personnel will be designated. The expansion of air travel club operations makes such a designation necessary to ensure proper management of the clubs and adequate supervision by the FAA. A new § 123.13(b) is added to provide the air travel clubs the same prerogatives as a commercial operator with respect to their management structure.

REF.

Proposal No. 671; § 123.13.

47. By revising § 123.15(a) to read as follows:

§ 123.15 Management personnel: Qualifications.

(a) No person may serve in any position required in § 123.13 unless he meets the appropriate requirements of § 121.61 of this chapter.

EXPLANATION

The proposed change would provide certain minimum qualifications for management personnel to insure that such personnel are qualified to fulfill their responsibilities with respect to the increasingly complex operations of an air travel club. These qualifications are prescribed in § 121.61, and help to assure that operations under Part 123 are conducted in accordance with the regulations prescribed therein.

REF.

Proposal No. 672; § 123.15.

48. By revising § 123.19(c) to read as follows:

§ 123.19 Duration of certificate.

• • • • • •

(c) If the Administrator suspends, revokes, or otherwise terminates a certificate, the holder of that certificate shall return it to the Administrator within 10 days after receipt of notification of suspension, revocation, or other termination.

EXPLANATION

The proposed rule would provide a specific time by which a revoked or otherwise terminated certificate must be returned to the Administrator.

REF.

Proposal No. 673; § 123.19.

49. By redesignating § 123.27 (a) through (m) as (b) through (n) respectively and adding a new (a) to read as follows:

§ 123.27 Applicable regulations of Part 121.

• • • • • •

(a) §§ 121.49(a), 121.49(c), 121.49(d), 121.49(h), 121.49(i), and 121.61 of Subpart C.

• • • • • •

EXPLANATION

The addition of these requirements to Part 123 by proposals to §§ 123.13 and 123.15, included in this notice, require that § 123.27 be amended to reflect those changes.

REF.

Proposal No. 669, 672; Part 123 and § 123.15.

50. By revising § 123.41(a)(1) to read as follows:

§ 123.41 Training program.

(a) Each certificate holder shall have a training program that:

(1) Provides the training required by §§ 121.415 through 121.427 (except § 121.422) of this chapter as applicable to commercial operators; and

• • • • • •

EXPLANATION

This proposed rule would require the certificate holder to have a training program with the prescribed number of programmed hours that are applicable to commercial operators under Part 121. The FAA believes that crewmembers of air travel clubs, who may be flying fewer hours than crewmembers of commercial operations, would benefit from this change which is designed to increase their proficiency by increasing the amount of training they must receive.

REF.

Proposal No. 679; § 123.41.

PART 127—CERTIFICATION AND OPERATION OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

51. By revising § 127.3 to read as follows:

§ 127.3 Operating rules.

Each air carrier shall:

(a) When engaged in scheduled interstate operations, comply with Part 91 of this chapter unless otherwise specified in this part; and

(b) When engaged in charter flights or other special service operations, comply with the requirements of § 121.5 of this chapter.

EXPLANATION

There has been some confusion as to the appplicable operating rules for a Part 127 certificate holder who is conducting other than scheduled operations. The proposal would clarify the rule to reflect that charter and other special service operations are to be conducted under Part 121.

REF.

Proposal No. 682; § 127.1.

52. By revising § 127.21(b) to read as follows:

§ 127.21 Duration of certificate.

• • • • • •

(b) If the Administrator suspends, revokes, or otherwise terminates a certificate, the holder of that certificate shall return it to the Administrator within ten days after receipt of notification of suspension, revocation, or other termination.

EXPLANATION

See explanation to Proposal No. 363; § 121.29.

REF.

Proposal Nos. 363 and 684; §§ 121.29, 121.53 and 127.21.

53. By revising § 127.151(a) to read as follows:

§ 127.151 Establishment.

(a) Each air carrier shall establish a training program, approved by the Administrator, that insures that each crewmember is adequately trained to perform his assigned duties. Before serving in scheduled operations, each crewmember must satisfactorily complete the initial training phases.

• • • • • •

EXPLANATION

The proposed rule would enhance safety by providing for a training program approved by the Administrator. Such approval is necessary to assure that deficiencies detected through FAA evaluation will be corrected in a manner which best insures effective training.

REF.

Proposal No. 692; § 127.151.

54. By revising § 127.212 to read as follows:

§ 127.212 Aviation Safety Inspector's credentials: admission to pilot's compartment.

Whenever, in performing his duties of conducting an inspection, an inspector of the Federal Aviation Administration presents his credential Form FAA 110A, "Aviation Safety Inspector's Credential", to the pilot in command of a helicopter operated by an air carrier, he must be given free and uninterrupted access to the pilot's compartment of that helicopter.

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EXPLANATION

The FAA has revised FAA Form 110A by changing its title to "Aviation Safety Inspector's Credential" from the previous "Air Carrier Inspector's Credential". This proposal is necessary to prevent possible confusion.

REF.

None.

55. By revising § 127.249(b) to read as follows:

§ 127.249 Operation in icing conditions.

• • • • •

(b) No person may takeoff a helicopter that has frost, snow, or ice adhering to its windshield, rotors, stabilizing or control surfaces, or other movable parts of the helicopter or to an altimeter, airspeed, rate of climb, or flight attitude instrument system.

• • • • •

EXPLANATION

The proposed changes would make § 127.249(b) more consistent with § 91.209 which prescribes anti-icing requirements applicable to airplanes.

REF.

Proposal No. 694; § 127.249.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

56. By revising § 135.39(d) to read as follows:

§ 135.39 Informing personnel of operational information.

• • • • •

(d) For foreign operations, the International Flight Information Manual, or a commercial publication that contains the same information and information concerning the pertinent operational and entry requirements of the foreign country or countries involved.

EXPLANATION

This proposal would permit a Part 135 certificate holder conducting foreign operations to use a commercial publication in lieu of the International Flight Information Manual. This is currently permitted under § 135.39(a) for domestic operations.

REF.

Proposal No. 731; § 135.39(d).

57. By revising § 135.63 by amending paragraph (b) and adding a new paragraph (h) to read as follows:

§ 135.63 Carriage of persons without compliance with the passenger-carrying provisions of this part.

• • • • •

(b) A person traveling to or from a crewmember or maintenance assignment, when the operator of the aircraft finds that other means of transportation are not practicable.

• • • • •

(h) A person, authorized by the Administrator, who is performing a duty connected with a cargo operation of the certificate holder.

EXPLANATION

These proposed changes result from two proposals to broaden the coverage of § 135.63. With respect to paragraph (b), provision should be made for maintenance personnel of the certificate holder who must travel to outlying bases to perform required maintenance operations when other means of transportation are not practicable.

A new paragraph (h) is proposed to permit cargo handlers to travel on the certificate holder's aircraft in order to perform loading or unloading functions at the destination. In many cases, the cargo handling function must be performed at remote areas where there are no means or manpower available, other than the crew, for loading or unloading the aircraft.

REF.

Proposal Nos. 745 and 746; § 135.63.

58. By adding a new § 135.68 immediately following § 135.67 to read as follows:

§ 135.68 Continuing flight in unsafe conditions.

No pilot in command may allow a flight to continue toward any airport of intended landing if, in the opinion of the pilot in command, the flight cannot be completed safely, unless, in the opinion of the pilot in command, there is no safer procedure. In that event, continuation toward that airport is an emergency situation as set forth in § 135.7.

EXPLANATION

This proposal is a portion of one recommending the inclusion, in Part 135, of the requirements of § 121.627 relating to the continuations of flight in unsafe conditions. The FAA believes that such a provision is just as appropriate in Part 135 as it is in Part 121, since in both cases it recognizes the practical emergencies that can arise during flight.

However, that portion of the proposal relating to use of a minimum equipment list and inoperative equipment or instruments has not been incorporated in this Notice because Notice 75-20 (40 FR 22110) deals with that issue.

REF.

Proposal No. 751; § 135.68 (new).

59. By revising § 135.131 by amending the flush paragraph immediately following paragraph (g) to read as follows:

§ 135.131 Pilot in command: instrument check requirements.

• • • • •

(g) • • •

Each person taking the autopilot check must show that, while using the autopilot, the airplane can be operated as proficiently as it would be if a second in command were present to handle air-ground communications and copy air traffic control instructions. The autopilot check need only be demonstrated once every 12 calendar months during the instrument check required under paragraph (a) of this section.

• • • • •

EXPLANATION

The proposed rule would provide that the autopilot check be demonstrated only once a year during an instrument check. Experience has shown that six month checks in use of the autopilot are unnecessary.

REF.

Proposal No. 789; § 135.131.

60. By revising § 135.161 to read as follows:

§ 135.161 Fire extinguishers: passenger-carrying aircraft.

No person may operate an aircraft carrying passengers unless it is equipped with hand fire extinguishers of an approved type for use in crew and passenger compartments in accordance with the following:

(a) The type and quantity of extinguishing agent must be suitable for the kinds of fires likely to occur in the compartment where the extinguisher is intended to be used.

(b) At least one hand fire extinguisher, that is accessible to a pilot and a passenger, or two hand fire extinguishers, one of which is accessible to a pilot and the other to a passenger, must be provided.

(c) Each aircraft accommodating more than thirty passengers must be equipped with two hand fire extinguishers which are accessible to the passengers in addition to meeting the requirements of paragraph (b) of this section.

EXPLANATION

Under current § 135.161, there are no standards which required hand fire extinguishers must meet, and consequently there is no reasonable assurance that they will work when needed. The proposed amendment would provide for approval of hand fire extinguishers, and also provide that they be adequate as to numbers and to type of the extinguishing agent used. The proposed amendment would make § 135.161 consistent with the related provisions of § 121.309. Also, the proposal clarifies the requirement as to accessibility of the fire extinguisher by proposing that it be accessible to a pilot and a passenger.

REF.

Proposal No. 815; § 135.161.

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

§ 137.19(e) [Amended]

61. By deleting the second sentence of § 137.19(e).

EXPLANATION

The second sentence is deleted as there are no certificates of waiver in existence and none will be issued. In its present form, the regulation permits a person, who has not participated in agricultural operations for 10 years, to avoid the knowledge and skill test requirements of § 137.19. The FAA believes that agricultural flying requires at least as much skill and knowledge as other flight operations. It is inconsistent with FAA policy to permit a pilot who has not had experience for extended periods to be allowed to resume those activities without appropriate testing. This proposal eliminates the provision which permits avoidance of appropriate testing.

REF.

Proposal Nos. 822, 823; § 137.19.

62. By amending Part 145 as follows:

PART 145—REPAIR STATIONS AND PARACHUTE LOFTS

Subpart A—Repair Stations: General Requirements

• • • • •

Subpart E—Parachute Lofts

Sec.
145.107 Applicability.
145.109 Application and Issue.
145.111 Duration of Certificate.
145.113 Cooperation during inspection or test.
145.115 Persons authorized to maintain or alter parachutes.
145.117 Ratings.
145.119 Eligibility requirements: general.
145.121 Reports and records.
145.123 Maintenance of personnel, facilities, equipment, and materials.
145.125 Maintenance ad alteration standards.
145.127 Material standards.
145.129 Drop Testing.
145.131 Display of certificate.
145.133 Change of location.

Subpart A—Repair Stations: General Requirements

145.1 Applicability.

(a) Subparts A through D of this part prescribe the requirements for issuing repair station certificates and associated ratings to facilities for the maintenance, preventive maintenance, and alterations of aircraft, airframe, aircraft engines, propellers, appliances, and their parts and material, and prescribes the general operating rules for the holders of those certificates and ratings.

• • • • •

145.11 Application and issue.

• • • • •

(b) An applicant who meets the requirements of subparts A through D of this part is entitled to a repair station certificate with appropriate ratings prescribing such operations specifications and limitations as are necessary in the interest of safety.

• • • • •

Subpart E—Parachute Lofts

145.107 Applicability.

This subpart prescribes the requirements for issuing parachute loft certificates and associated ratings and the general operating rules for the holders of those certificates and ratings.

145.109 Application and issue.

(a) An application for a certificate and rating, or for an additional rating under this subpart is made on a form and in a manner prescribed by the Administrator.

(b) An applicant who meets the requirements of this subpart is entitled to a parachute loft certificate and appropriate ratings.

(c) The holder of a parachute loft certificate that has been revoked may not apply for a certificate and rating under this subpart for one year after it is revoked, unless the order of revocation provides otherwise.

145.111 Duration of Certificate.

(a) A parachute loft certificate is effective until it is surrendered, suspended, or revoked. However, the Administrator may cancel such a certificate at any time within 60 days after the date it is issued.

(b) The holder of a parachute loft certificate that is surrendered, suspended, or revoked, shall upon the Administrator's request return it to the Administrator.

145.113 Cooperation during inspection or test.

Upon the Administrator's request, each applicant for a parachute loft certificate must, and each holder of such a certificate shall, cooperate fully during any inspection or test of him, or his personnel, facilities, equipment, and records by the Administrator.

145.115 Persons authorized to maintain or alter parachutes.

(a) Only the following persons may maintain or alter a parachute:

(1) Any person authorized by Part 65 of this chapter.

(2) A certificated parachute loft with an appropriate rating.

(3) The manufacturer.

(4) Any other manufacturer that the Administrator considers to be competent.

(b) Each person who maintains or alters a parachute (except the main parachute of a dual parachute pack used for intentional jumping) must perform that maintenance or make that alteration in accordance with approved manuals and specifications.

145.117 Ratings.

(a) The following ratings are issued under this Subpart:

(1) Packing and general maintenance (not including major repair, inspection, or overhaul).

(2) Canopy overhaul.

(3) Harness overhaul.

(4) Metal parts and container overhaul.

(5) Drop testing.

(b) A parachute loft rating record is attached to each certificate issued under this Subpart. It contains the names of the rating issued to the holder of the certificate.

145.119 Eligibility requirements: General.

To be eligible for a parachute loft certificate and associated ratings, or for an additional rating, an applicant must:

(a) Have personnel who are certificated and appropriately rated under Part 65 of this chapter and who are qualified to perform or supervise the kind of work for which the applicant seeks a rating; and

(b) Have the facilities, equipment, and material necessary to do efficiently the kind of work for which he seeks a rating, including suitable housing that is adequately heated, lighted, and ventilated, an adequate inspection system, adequate drawing equipment, and adequate facilities for segregating and storing parts and materials.

145.121 Reports and records.

(a) Each holder of a parachute loft certificate shall make an adequate record of all work done by him, including the names of the persons doing the work. He shall keep each record made for at least two years after the work is done.

(b) Each holder of a parachute loft certificate shall report, on a form prescribed by the Administrator, any recurring or serious defect or other unairworthy conditions that he finds in a parachute or a part thereof.

145.123 Maintenance of personnel, facilities, equipment, and material.

Each holder of a parachute loft certificate shall maintain personnel, facilities, equipment, and material at least equal to that currently required by § 145.119 for the issue of the certificate and ratings he holds.

145.125 Maintenance and alteration standards.

Each holder of a parachute loft certificate shall perform maintenance and alteration operations in a workmanlike manner so as to maintain the article worked on in, or restore it to, an airworthy condition.

145.127 Material standards.

Each holder of a parachute loft certificate shall use materials of proper strength and quality for the maintenance or alteration operation being performed.

145.129 Drop Testing.

(a) Only the following may drop test a parachute:

(1) The manufacturer.

(2) Any other manufacturer that the Administrator considers to be competent.

(3) A certificated parachute loft with a drop testing rating.

(b) Each holder of a parachute loft certificate shall drop test such parachute on which he has performed a major repair or alteration on a canopy, harness, container, accessory, or any combination of them, whenever the certificated master parachute rigger who inspected it considers that the repair or alteration may have affected the structural, functional, or other airworthiness characteristic of the article.

(c) Whenever it is necessary to determine the functional characteristics of an entire parachute assembly, the loft shall drop test it with a 150 pound dummy man (not including the weight of the parachute) at an indicated airspeed of 70 miles an hour and at an altitude of at least 50 feet above the ground.

(d) Whenever it is necessary to determine the material strength values in an entire parachute assembly, or the material airworthiness of the entire assembly before maintenance, the loft shall drop test it with a 190 pound dummy man (not including the weight of the parachute) at an indicated airspeed of 120 miles an hour and an altitude of at least 500 feet above the ground.

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145.131 Display of certificate.

Each holder of a parachute loft certificate and rating shall display them in a prominent place in the parachute loft.

145.133 Change of location.

The holder of a parachute loft certificate may not make any change in the loft's location unless the change is approved, in writing, in advance. If the holder desires to change the location he shall mail the request to the Regional Director of the region in which the loft is located.

EXPLANATION

The insertion of the terms "preventive maintenance" and "aircraft engines" in the applicability section of Part 145 (§ 145.1) is proposed in order to make that Part consistent with other maintenance regulations.

In addition, this proposal deletes Part 149 "Parachute Lofts", and transfers the requirements therein to a new Subpart E in Part 145. This transfer is made in recognition of the fact that Part 145, since it covers certification and operating rules for repair stations performing maintenance and alteration of aircraft and related equipment, is well suited to the incorporation of the current provisions of Part 149. It should be noted that no substantive change to those provisions would be made under this proposal.

REF.

Proposal No. 858; § 145.1 and Part 149.

63. By revising § 145.17(b) to read as follows:

§ 145.17 Duration of certificate.

• • • • •

(b) A foreign repair station certificate or rating expires at the end of 12 months after the date on which it was issued, unless it is sooner revoked. However, if the station continues to comply with § 145.71 and applies, its certificate may be renewed for 24 months.

• • • • •

EXPLANATION

The FAA has determined that a two year period is a more reasonable time frame for foreign repair station certificate renewal. The FAA believes that there will be no derogation of safety as adequate surveillance is accomplished by the FAA and foreign authorities.

REF.

Proposal No. 864; § 145.17.

§ 145.59 [Amended]

64. By adding to the last sentence of § 145.59(a) the words "with respect to the work performed."

EXPLANATION

The language in the current rule is worded so that the inference is easily drawn that any work on an article by the repair station makes the station responsible for the airworthiness of the article. The proposed amendment is intended to clarify the rule so as to make the repair station responsible only for the work it performs.

REF.

Proposal No. 885; § 145.59(a).

PART 147—AVIATION MAINTENANCE TECHNICIAN SCHOOLS

65. By redesignating § 147.31(c)(2) as (3), adding a new § 147.31(c)(2) and by revising § 147.31(c)(1) to read as follows:

§ 147.31 Attendance and enrollment, tests, and credit for prior instruction or experience.

• • • • •

(c) • • •

(1) A school may credit a student with instruction satisfactorily completed at an:

(i) Accredited university, college, junior college, or accredited vocational, technical, trade or high school, or military technical school; or

(ii) At an aviation maintenance technician school, prior to or after its accreditation.

(2) A school may determine the amount of credit to be allowed:

(i) By an entrance exam equal to one given to students who complete a comparable required curriculum subject at the crediting school; or

(ii) By an evaluation of an authenticated transcript from the student's former school; or

(iii) In the case of an applicant from a military technical school, only on the basis of an entrance test.

• • • • •

EXPLANATION

At the time this rule was developed it was believed that the restriction to "State-owned" vocational or trade schools would assure compliance with minimums standards. The FAA now believes that the restriction is no longer necessary or desirable. There are numerous cities, counties and private groups who have established vocational, trade and technical schools which meet the requisite standards. The proposed change removes the "State-owned" school restriction.

REF.

Proposal No. 897; § 147.(c)(1).

PART 149 [RESERVED]

66. By deleting and reserving Part 149.

149.

EXPLANATION

See explanation to Proposal No. 858; § 149.1.

REF.

Proposal No. 858; § 145.1.

APPENDIX I—PROPOSALS DEFERRED

The following proposals are being deferred for one or more of the following reasons:

1. Based upon careful evaluation, it was determined that the proposal required further study.

2. The proposal is more appropriately considered in conjunction with one or more of the proposals considered at the Operations Review Conference which will be dealt with in a later notice.

3. Several proposals are being considered under a separate review concerning Part 135 and will be addressed through that review (Those proposals are marked with an asterisk).

The deferral of these proposals does not foreclose the FAA from taking separate rulemaking action on the deferred proposals should a need for such action arise and does not commit the FAA to any future course of action.

Proposal no.	14 CFR	Proponent
35	43.11	FAA
58	Pt. 43, app. D	E. C. Watson, Jr.
61	do	FAA.
139	65.111	Sam J. Corso.
140	65.113	Do.
141	65.115	Do.
142	65.117	Do.
143	65.119	Do.
144	65.121	Do.
145	65.123	Do.
146	65.125	Do.
199	91.29	Aircraft Owners & Pilots Association.
228	91.45	FAA.
280	91.169	FAA.
331	91.217	Air Transport Association.
332	91.217	FAA.
338	Pt. 91, app. B	Air Transport Association.
438	121.311	FAA.
580	121.433a	FAA.
627	121.659	FAA.
628	121.661	FAA.
691	127.141	United Kingdom Civil Aviation Authority.
722	135.27	Sam J. Corso.
*735	135.43	National Air Transport Association.
*741	135.57	FAA.
761	135.93	FAA.
*779	135.111	National Air Transport Association.
*780	135.114	Do.
*786	135.127	Do.
*819	135.167	FAA.
820	Pt. 135, app. A	de Havilland, Canada.
879	145.51	FAA.

APPENDIX II—PROPOSALS WITHDRAWN BY PROPONENT

The proposals listed below were withdrawn by their proponent during or after the conference held on December 1–5, 1975. The withdrawal of FAA proposals does not commit the FAA to any future course of action.

Proposal no.	14 CFR	Proponent
88	63, app. B	FAA
147	65, app. A	FAA
198	91.27	FAA
206	91.33	FAA
339	105.1	FAA
370	121.59	FAA
394	121.155	FAA
606	121.509	FAA
657	121.693	FAA
675	123.27	FAA
677	123, subpt. D	FAA

APPENDIX III—PROPOSALS REMOVED FROM CONSIDERATION DURING THE FIRST BIENNIAL OPERATIONS REVIEW

The following proposals are removed from consideration:

Proposal no.	14 CFR	Proponent
711	135.1	Air Taxi & Commercial Pilots Association.
818	135.165	National Air Transportation Association.
888	145.103	Sun Chemical Corp.

(1) Proposal No. 711—This proposal would have provided a maximum of 30 days during which an operator could conduct emergency mail service without complying with Part 135. Under current regulations there is no limit on the duration of emergency mail service, nor its consequent exception from the requirements of Part 135.

This proposal has been removed from the Operations Review because it would contravene the policy of the U.S. Postal Service with respect to emergency mail service conducted under sec. 405(h) of the Federal Aviation Act of 1958. This policy is designed to insure the Postal Service that during emergency situations it will have the flexibility to exercise alternate options when Part 121 or Part 135 certificate holders are not available to provide mail service. Amendment 135–14 (effective January 6, 1970; 35 FR 161), which adopted the current exception in Part 135, was based upon the Postal Service policy. Consequently, no purpose would have been served by placing Proposal No. 711 on the conference agenda, nor by discussing it in a notice of proposed rulemaking.

(2) Proposal No. 818—The substance of this proposal is contained in a current regulatory action (NPRM 75–10, 40 FR 10824). Therefore, it is removed from consideration within the Operations Review.

(3) Proposal No. 888—This proposal would have added an alteration provision to § 145.103. The proponent stated, "A manufacturer is authorized to alter its products, however, the current rule does not specifically state this." That authorization is stated in § 43.3(1) of the Federal Aviation Regulations. It would be redundant and inappropriate to restate it in Part 145.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued in Washington, D.C. on December 16, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76–37754 Filed 12–23–76;8:45 am]

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federal register

MONDAY, DECEMBER 27, 1976

PART IV

CONSUMER PRODUCT SAFETY COMMISSION

■

FLAMMABLE FABRICS ACT REGULATIONS

Proposed Exemption From Preemption

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CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1605]

FLAMMABLE FABRICS ACT REGULATIONS

Proposed Exemption From Preemption

In this notice the Consumer Product Safety Commission proposes a rule granting the State of California an exemption from preemption under section 16(c) of the Flammable Fabrics Act (FFA) (15 U.S.C. 1203(c)) for children's clothing flammability regulations adopted by the State Fire Marshal. In this notice the Consumer Product Safety Commission also solicits written comments concerning the proposal and provides interested persons an opportunity for the oral presentation of views concerning the proposal.

BACKGROUND

Section 17(b) of the Consumer Product Safety Commission Improvements Act (Pub. L. 94–284), which became effective on May 11, 1976, amended section 16 of the FFA to provide, with specified exceptions, that whenever a Federal flammability standard or other regulation for a fabric, product, or related material is in effect, no State or political subdivision may establish or continue in effect a flammability standard or other regulation for such item designed to protect against the same risk of occurrence of fire, unless it is identical to the Federal standard or regulation.

Section 17(b) of Pub. L. 94–284 permits the Commission, upon application by a State or local government, to grant an exemption from the preemption provision if: (1) Compliance with the State or local flammability requirement would not cause the fabric, product, or related material to be in violation of the Federal requirement, (2) the State or local flammability requirement provides a significantly higher degree of protection than the Federal requirement, and (3) the State or local requirement would not unduly burden interstate commerce. Section 17(b) of Pub. L. 94–284 enumerates the findings that the Commission is required to make with respect to the State or local requirement to determine the burden on interstate commerce. An exemption may be granted only after the Commission has provided public notification of the proposed exemption and has afforded interested persons an opportunity to present oral and written comments.

The California State Fire Marshal, in a communication dated October 25, 1976, requested the Commission to grant an exemption from preemption under the Flammable Fabrics Act for regulations regarding the flammability of children's clothing. This request was made the accordance with the Commission's proposed and interim procedures for submitting and considering applications for exemption from preemption by flammability standards in effect under the Flammable Fabrics Act. The proposed and interim procedures were published in the FEDERAL REGISTER July 29, 1976 (41 FR 31569). The California request is being considered under these procedures.

The proposed and interim procedures at § 1604.9 provide that if an application for exemption contains the information required by the procedures to qualify for proposal, the Commission shall propose the exemption in the FEDERAL REGISTER and provide the opportunity for written and oral presentation of views. It has been determined that the request of the California State Fire Marshal meets the requirements contained in the procedures and therefore the Commission is proposing the exemption requested by California.

At the present time the Consumer Product Safety Commission has in effect three flammability standards applicable to wearing apparel: Commercial Standard 191–53 (16 CFR 1610), which applies to general wearing apparel; FF 3–71 (16 CFR 1615) which applies to children's sleepwear in sizes 0 through 6x; and FF 5–74 (16 CFR 1616), which applies to children's sleepwear in sizes 7 through 14. The two flammability standards for children's sleepwear are more stringent than CS 191–53.

The California State Fire Marshal requests an exemption from preemption by CS 191–53 for the California children's clothing flammability regulations [Regulations of the State Fire Marshal, Title 19, Subchapter 5, Flammability Standards for Children's Clothing (July 1, 1974)]. He believes CS 191–53 covers the same items as the California regulations and is designed to protect against the same risk of occurrence of fire as the California regulations. He states that the Federal standard is not identical to the state regulations since the Federal standard does not require items of children's clothing meeting only the criteria of acceptance in CS 191–53 to bear cautionary labeling, when sold or offered for sale on or after July 1, 1977. In addition, CS 191–53 is not identical to the state regulation since it does not require items of children's clothing sold or offered for sale on or after July 1, 1979 to meet the criteria of acceptance stipulated in the Federal flammability standards for children's sleepwear (or any other standard approved by the State Fire Marshal.)

CALIFORNIA REQUEST

1. *California Flammability Regulations for Children's Clothing.* The California request for an exemption from preemption concerns regulations of the State Fire Marshal for the flammability of children's clothing which were issued on July 1, 1974. These regulations include the following requirements:

(a) On or after July 1, 1975 no item of children's clothing shall be sold or offered for sale unless such item has been tested and conforms to the criteria of acceptance specified in any one of the following standards: (i) Federal standard FF 3–71, children's sleepwear, sizes 0 through 6x, as published in the FEDERAL REGISTER July 21, 1972, (ii) Federal standard FF 5–74, children's sleepwear, sizes 7 through 14, as published in the FEDERAL REGISTER May 1, 1974, (iii) any other standard approved by the State Fire Marshal which will provide a level of flame resistance substantially equivalent to the above children's sleepwear standards, or (iv) Commercial Standard CS 191–53 (Class 1 or Class 2), standard for the flammability of clothing textiles.

(b) On or after July 1, 1976, no item of children's clothing which is flame retardant in accordance with the provisions of FF 3–71, FF 5–74, or any other standard approved by the State Fire Marshal shall be sold or offered for sale unless such item is labeled as being flame resistant in accordance with such standard.

(c) On or after July 1, 1977, no item of children's clothing which is not flame retardant and meets only the criteria of acceptance stipulated in CS 191–53 shall be sold or offered for sale unless such item bears cautionary labeling, as provided in the regulations.

(d) On or after July 1, 1979, no item of children's clothing shall be sold or offered for sale unless such item is flame retardant and meets the criteria of acceptance stipulated in DOC FF 3–71, DOC FF 5–74, or any other standard approved by the State Fire Marshal.

The State Fire Marshal submitted a copy of the California flammability regulations with the exemption application. A copy is available for review in the Office of the Secretary of the Commission, Third Floor, 1111 18th Street, N.W., Washington, D.C. 20207.

2. *Requested Exemption.* The California State Fire Marshal submitted to the Commission a memorandum in support of the exemption request. He also included comments received in 1974 by the State Fire Marshal prior to adoption of the state regulations. These comments are from trade associations, manufacturers, distributors, retailers, doctors, and consumers. The comments concern the need for, and impact and scope of the California regulations. Although the comments are too voluminous to be duplicated in this notice, the comments are available for inspection in the Office of the Secretary of the Commission, Third Floor, 1111 18th Street, N.W., Washington, D.C. 20207. Also available in that office are exhibits referred to in the memorandum.

The Memorandum from the California State Fire Marshal provides information, required by § 1604.7 of the Commission's Proposed and Interim Regulations regarding Applications for Exemption from Preemption under the Flammable Fabrics Act (41 FR 31569, July 29, 1976). The text of the memorandum is as follows:

"REQUEST FOR EXEMPTION FROM PREEMPTION RELATIVE TO PUBLIC LAW 94–284 FLAMMABLE FABRICS ACT

BY CALIFORNIA STATE FIRE MARSHAL
OCTOBER 25, 1976

(a) Attached are copies of the State Legislation upon which the State Fire Marshal adopted regulations in the field of children's clothing flammability, copies of the regulations as filed with the Secretary of State (see Exhibit A), and both pro and con written comments and arguments as submitted to this department for review prior to adoption. (See Exhibit B).

(b) The regulations adopted by this department impose a more restrictive criteria of flammability than the federal standards. However, at this time only a greater degree of labeling is required. Ultimately total conformance with federal sleepwear standards will be mandated for all children's clothing. Therefore, any product meeting the provisions of this standard will more than comply with federal mandates and, as such, there is no violation of federal standards.

(c) State regulations require that beginning July 1, 1977, all ordinary articles of children's clothing (sleepwear excluded) which are not flame resistant must be provided with a warning label to inform the public of their flammability. Whether or not this provides a "significantly higher degree of protection" than existing federal standards is a matter of conjecture, but it is believed that an informed public will have a direct effect upon the overall safety achieved.

The provisions which become operative on July 1, 1979, will require the same degree of protection in regard to all children's clothing as now mandated for sleepwear only. It is self-evident that if the degree of protection is significantly higher for children's sleepwear through the application of DOC FF–3 and DOC FF–5 over the former requirements of only CS 191–53, this same degree of protection is achieved through the enforcement of the DOC requirements to all children's clothing.

(1) Most articles of children's clothing are flammable enough to present a threat of serious injury or death if ignited.

(2) The California State standard first requires warning labels in flammable articles (July 1, 1977) and then requires a much higher level of safety by demanding flame resistant fabrics starting July 1, 1979. The delay in imposing these requirements is to permit the industry enough time to develop and implement necessary manufacturing processes.

(3) The current Federal standard permits flammable fabrics in all clothing other than children's sleepwear, and requires no warning labels in flammable articles. The California requirements mandate warning labels initially and ultimately total application of flame-resistive standards to all children's clothing.

(4) The State test method is, until July 1, 1979, the same as the current federal method (CS 191–53). After that date, the state test method becomes the same as for children's sleepwear.

(5) See (4), supra.

(6) Since the flame-resistive standards are not yet in effect, no data relative to the results of their implementation is available except that it is projected that the overall results should equate on a ratio or percentage basis to the effectiveness of the current standards for children's sleepwear.

(7) See (6), supra.

(d) Although not yet implemented, it is evident that the application of the California State requirements may have an effect on interstate commerce. The question becomes whether or not this burden is undue when considered against the benefit to public health and safety. It is submitted that since it has already been found that the benefit outweighs the burden in regard to children's sleepwear, the same analogy can and should be drawn in regard to other articles of children's clothing.

It may be that the life loss and injury fire rate for sleepwear had been excessive in comparison to other types of clothing fires and thus the need for sleepwear standards. However, now that this loss and injury rate is being reduced to a point of negligibility, our large losses in new clothing fires must be in clothing other than sleepwear. We should do everything reasonably possible to reduce the total losses and this can be accomplished through the use of already technologically developed and implemented practices.

(1) Not only does the technology exist, but affected persons have stated their ability to comply within the time frames mandated by the state regulation (see material and statements submitted via item "a" of this report).

(2) There is reason to believe that some fabrics could no longer be made available in the California market since they simply do not comply with the adopted standards at this time. Whether this would be a permanent situation is unknown and would appear to be a matter which might be resolved through future advanced technology. Statements submitted at public hearings indicate industry could meet the technological needs if given sufficient time. It was as a result of this input that a four-step implementation concept to achieve total conformance by July 1, 1979, was instituted.

(3) The overall cost effect of the California provisions is unknown to this department, but, again, could be equated to the cost effect associated with children's sleepwear; i.e., cost per garment for treatment plus those fabrics no longer available in children's sleepwear due to the sleepwear standards.

(4) Information on the present geographic distribution is not specifically available, but based upon population indexes, California regulations would apply to approximately 10 percent of the national product.

(5) No information is available as to probability of other states seeking a similar exemption.

(6) There is the basic question as to whether or not there is a need for a national uniform flammability standard or other regulation under the Flammable Fabrics Act for these products. The State of California's contention that there is a very definite need, and the need is for a much stricter standard. It is for exactly this reason that California has established state standards following considerable input by the general public. In the opinion of this office the solution is for the federal government to establish meaningful safety standards not only for all articles of children's clothing, but for all general wearing apparel.

(e) Attached is a list of interested parties in this matter. (See Exhibit C). Inasmuch as industry must begin "gearing-up" for the labeling aspects in the very near future to meet the July 1, 1977, deadline of state regulations, your earliest review and decision in this matter will be appreciated."

PROPOSAL

Pursuant to § 1604.9 of the interim rules (41 CFR 31572) and provisions of the Flammable Fabrics Act (section 16 (c), 81 Stat. 574, as amended 90 Stat. 512–513; 15 U.S.C. 1203(c)) and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(b), Pub. L. 92–573, 86 Stat. 1231; 15 U.S.C. 2079(b)), the Commission proposes the following new Part 1605 of Title 16, Chapter II, Subchapter D:

PART 1605—EXEMPTIONS FROM PREEMPTION UNDER THE FLAMMABLE FABRICS ACT

Sec.
1605.1 State of California regulations for flammability of children's clothing.

AUTHORITY: Sec. 16(c), Stat. 574, as amended 90 Stat. 512–53; (15 U.S.C. 1203 (c)).

§ 1605.1 State of California regulations for the flammability of children's clothing.

The Consumer Product Safety Commission grants an exemption from preemption by Commercial Standard CS 191–53 (16 CFR Part 1610), a standard under the Flammable Fabrics Act, for the State of California Flammability Standards for Children's Clothing (Regulations of the State Fire Marshal, Title 19, Subchapter 5, Flammability Standards for Children's Clothing (July 1, 1974)).

INVITATION FOR ORAL AND WRITTEN COMMENTS

The Commission invites interested persons to submit written comments and to request the opportunity for an oral presentation of views concerning the proposed exemption from preemption.

The Commission emphasizes that the decision to propose this exemption from preemption does not indicate that the Commission has reached any conclusion concerning the merits of the application. The California State Fire Marshal believes that the state regulations requiring cautionary labeling on certain items of children's clothing will be preempted on their effective date, July 1, 1977. The Commission will attempt to reach a decision on the application prior to this date. In order to assist the Commission in reaching a decision on the merits of the application and in considering the findings provided in section 16(c) of the

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Flammable Fabrics Act, as amended, the Commission encourages interested persons to submit comments concerning this proposal. The Commission is especially interested in receiving comments that address the following issues:

1. Whether the California regulations concerning the flammability of children's clothing would provide a significantly higher degree of protection from the risk of occurrence of fire with respect to which the federal standard, CS 191–53, is in effect.

2. Whether the California regulations concerning the flammability of children's clothing would unduly burden interstate commerce, specifically,

(a) Whether it is technologically feasible to comply with the California regulations.

(b) Whether it is economically feasible to comply with the California regulations.

(c) Whether the cost of complying with the California regulations would unduly burden interstate commerce.

(d) The present geographic distribution of the items to which the California regulations would apply, and projections of future geographic distribution.

(e) The probability that other States or local governments will apply for an exemption for a similar flammability standard or other regulation.

(f) Whether there are any particular circumstances affecting the State of California that make it necessary for California to establish its regulations.

3. Whether action by the Commission on the exemption request could have a significant effect on the environment. (At the present time, the Commission has no information indicating that any Commission action on this matter would have such an effect.)

Interested persons are invited to submit, on or before February 25, 1977, written comments regarding this proposal. Interested persons may also request, on or before January 11, 1977, an opportunity for the oral presentation of views concerning the proposed exemption. The Commission believes it may be beneficial to schedule an oral presentation in California and in Washington, D.C., if oral presentations are requested in these locations. If oral presentations are requested, the Commission will publish in the FEDERAL REGISTER advance notice of the time, place, and date of the presentations. At that time the Commission will also describe procedures to be followed at the oral presentations, and will again offer any interested person an opportunity to request time to make an oral presentation.

Any oral presentation of views will be open to all interested persons, and will take the form of an informal, nonadversary, legislative type proceeding.

Comments and any accompanying data or material should be submitted preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, third floor, 1111 18th Street, NW., Washington, D.C., during working hours Monday through Friday. Requests to make an oral presentation should be submitted in writing to the same address, and should indicate if a California or Washington, D.C., location is requested.

Dated: December 21, 1976.

SHELDON D. BUTTS,
Acting Secretary,
Consumer Product Safety Commission.

[FR Doc.76-37852 Filed 12-23-76;8:45 am]

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Vol. 41—No. 250
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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

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NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that one position of Research Assistant to the Administrator, National Highway Traffic Safety Administration is excepted under Schedule C.

Effective December 28, 1976, § 213.3394 (l) (5) is added as set out below:

§ 213.3394 Department of Transportation.

• • • • •

(l) *National Highway Traffic Safety Administration.* • • •

(5) One Research Assistant to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37973 Filed 12-27-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Treasury

Section 213.3305 is amended to reflect the following organizational title changes: (1) From Deputy Assistant Secretary (Trade and Raw Materials Policy), Office of the Assistant Secretary (Trade, Energy and Financial Resources Policy Coordination) to Deputy Assistant Secretary (Trade and Raw Materials Policy), Office of the Assistant Secretary (International Affairs); (2) from Deputy Assistant Secretary for Research and/or Director of Research (International Affairs), to Deputy Assistant Secretary for Research and Planning (International Affairs); (3) from Deputy Assistant Secretary (Energy Policy), Office of the Assistant Secretary (Trades, Energy, and Financial Resources Policy Coordination) to Deputy Assistant Secretary (Investment and Energy Policy), Office of the Assistant Secretary (International Affairs).

Effective December 28, 1976, §§ 213.3305(a) (21), (a) (31), and (a) (58) are amended as set out below:

§§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* • • •

(21) Deputy Assistant Secretary for Trade and Raw Materials Policy (International Affairs).

• • • • •

(31) Deputy Assistant Secretary for Research and Planning (International Affairs).

• • • • •

(58) Deputy Assistant Secretary for Investment and Energy Policy (International Affairs)

• • • • •

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37974 Filed 12-27-76;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 270—GENERAL INFORMATION AND DEFINITIONS

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

On May 7, 1976, there was published in the FEDERAL REGISTER (41 FR 18781), revisions in the regulations governing the Food Stamp Program.

The U.S. District Court for the District of Columbia has restrained implementation of these regulations (D.D.C., Civ. Act. No. 76–933 and 934). Therefore, except as they may be otherwise amended or modified, the Food Stamp Program shall be governed by the regulations in effect on May 6, 1976 during the period that court orders are in effect restraining implementation of the May 7, 1976 amendments.

Dated: December 20, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-37806 Filed 12-27-76;8:45 am]

[Amendment No. 88]

PART 275—PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

State Agency Costs

On July 9, 1976 a notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 28312) amending Part 275 Appendix A, Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State agencies. Standards for Selected Items of Cost, Paragraph B(3), Capital expenditures, would be amended to provide for a higher exemption for immediate federal financial participation in the costs of acquisition of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets, or non-expendable personal property having a useful life of more than one year.

Interested persons were to submit written comments, suggestions, or objections regarding the proposed amendment by August 9, 1976. There were 14 responses received on the proposed amendment. Of the letters submitted, nine were from State agencies, one response was from a Regional Office, and four were from special interest groups. All endorsed the increase in the exemption with the exception of two "no comment" responses.

Four of the responses objected to the establishing of a limit inconsistent with that of the Department of Health, Education and Welfare, which recently increased its exemption to $5,000 per item to be acquired. One response requested a higher limit for security-related items. We will continue to allow higher priced items, including security-related items, to be acquired provided approval is requested and received prior to the acquisition. We do not believe that a $5,000 limit would provide the degree of control which this agency feels is necessary.

The result of the following change would be that the costs of capital items of $2,500 or less could be made as an immediate one-time charge to the Food Stamp Program for Federal financial participation. Items if more than that amount could be charged for immediate Federal financial participation provided that the procurement is specifically approved by FNS. Otherwise, the costs of items of more than $2,500 could only be compensated through use allowances or depreciation, as otherwise provided by Part 275.

Therefore, Part 275, Appendix A, Title 7 Code of Federal Regulations is amended as follows:

Appendix A—Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State Agencies.

• • • • • •

STANDARDS FOR SELECTED ITEMS OF COST

• • • • • •

B. *Cost allowable with approval of FNS*—

• • • • • •

(3) *Capital expenditures.* The cost, net of any credits, of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets, and/or of nonexpendable personal property, having a useful life of more than one year and an acquisition cost of more than $2,500 per unit, is allowable when such pro-

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curement is specifically approved by FNS. No such approval shall be granted unless the State agency shall demonstrate to FNS that such a cost is (i) necessary and reasonable for proper and efficient administration of the program, and allocable thereto under the principles provided herein, and (ii) that procurement of such item or items has been or will be made in accordance with the standards set out in 275.15 of Part 275. In no case shall such a cost become a program charge against FNS prior to approval in writing by FNS of the procurement and the cost. When assets acquired with Federal funds are (i) sold, (ii) no longer available for use in a federally sponsored program, or (iii) used for purposes not authorized by FNS, the Federal Agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

• • • • •

(78 Stat. 703, as amended; 7 U.S.C. 2011–2026.)

Effective Date: This amendment shall become effective December 20, 1976.

(Catalog of Federal Domestic Assistance Programs No. 10.551. National Archives Reference Services)

Dated: December 20, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76–37731 Filed 12–27–76;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT) DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 3]

PART 775—FEED GRAINS

Feed Grain Program for Crop Years 1975–1977; 1977 Feed Grain Allotment

On July 30, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 31849) stating that the Secretary of Agriculture proposed to make determinations and issue regulations relative to the 1977 national feed grain allotment. Interested persons were invited to submit written data, views, and recommendations regarding the determinations. The comments and recommendations received have been duly considered.

The regulations governing the Feed Grain Program for Crop Years 1975–1977 are amended by adding a new 7 CFR 775.4b. The purpose of this section is to determine and proclaim the 1977 national feed grain allotment.

Pursuant to section 105(b)(2) of the Agricultural Act of 1949, as amended by the Agriculture and Consumer Protection Act of 1973, Pub. L. 93–86, 87 Stat. 221, 231 (1973), the Secretary is required, prior to January 1 of each calendar year, to determine and proclaim for the crop produced in such calendar year a national acreage allotment for feed grains which shall be the number of acres he determines, on the basis of the estimated national average yield of the feed grains included in the program for the crop for which the determination is being made, will produce the quantity (less imports) of such feed grains that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of any of the feed grains are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the feed grain allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks.

The determination in § 775.4b of the 1977 national feed grain allotment is based on the acreages, yields, and usage set out therein. The determination has been made on the basis of the latest available statistics of the Federal Government. Compliance with the feed grain allotment is not a condition of eligibility for participation in the program, and feed grain acreage on the farm may vary widely from the farm feed grain allotment. Hence, in determining the national allotment, an adjustment for the purpose of increasing carryover stocks to a more desirable level was not considered necessary, and no such adjustment was made.

7 CFR Part 775 is amended by adding a new § 775.4b to read as follows:

§ 775.4b 1977 national feed grain allotment.

Based on estimated utilization (less imports) for the 1977–78 marketing year of 5,924 million bushels of corn, 775 million bushels of sorghum, and 370 million bushels of barley and estimated national yields of 90.0 bushels per acre for corn, 53.5 bushels per acre for sorghum, and 44.5 bushels per acre for barley, the combined acreage of corn, sorghum and barley needed to produce a quantity of feed grains equal to estimated utilization is determined to 89.0 million acres is hereby proclaimed.

(Sec. 105, 63 Stat. 1054, as amended; 87 Stat. 231; 7 U.S.C. 1441 note)

Effective date: This amendment becomes effective on December 27, 1976.

Signed at Washington, D.C., on December 21, 1976.

JOHN A. KNEBEL,
Secretary of Agriculture.

[FR Doc.76–37910 Filed 12–27–76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Clay County in Iowa.

The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they again come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Phelps and Putnam Counties in Missouri; Choctaw County in Oklahoma.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Cherokee, Clay, and Cleburne Counties in Alabama; Cherokee, Jasper, and Union Counties in Iowa; Carter and Marion Counties in Missouri; Jackson County in Tennessee.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Kiowa County in Colorado; Pike and Wayne Counties in Illinois; Benton and Linn Counties in Iowa; Graham, Greeley, Logan, Sheridan, Thomas, and Wallace Counties in Kansas; Juncos County in Puerto Rico; Beadle County in South Dakota.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.* Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Barbour, Dale, Etowah, Geneva, Henry, Lee, Russell.

Arkansas. Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Greene, Jackson, Johnson, Lafayette, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Perry, Pike, Polk, Prairie, Searcy, Sharp, Stone, Union, Woodruff, Yell.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Dade, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Pasco, Santa Rosa, Seminole, Sumter, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, Dawson, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene Habersham, Henry, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Caribou, Clearwater, Custer, Fremont, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Bond, Boone, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Chickasaw, Clarke, Clayton, Clinton, Dallas, Davis, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Plymouth, Scott, Shelby, Tama, Taylor, Van Buren, Wapello, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Comanche, Doniphan, Ford, Gove, Graham, Greeley, Haskell, Hodgeman, Johnson, Lane, Logan, Marshall, Pawnee, Phillips, Riley, Scott, Sheridan, Thomas, Trego, Wallace, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Jackson, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dallas, Douglas, Dunklin, Franklin, Gasconade, Hickory, Iron, Jackson, Laclede, Lewis, Miller, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Cheatham, Claiborne, Davidson, Decatur, Dickson, Fentress, Grainger, Greene, Grundy, Hancock, Hardin, Jefferson, Johnson, Knox, Lake, Meigs, Morgan, Polk, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Warren, White.

Texas. Brewster, Childress, Comal, Crane, Ector, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Mason, Newton, Pecos, Reagan, Roberts, Sterling, Terrell, Val Verde, Ward, Winkler.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo, Rojo, Caguas, Camuy, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corosal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Pieddras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.* Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Escambia, Fayette, Franklin, Greene, Hale, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Chicot, Clark, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jefferson, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Phillips, Poinsett, Pope, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White.

Colorado. Mesa, Pueblo, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, New-

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ton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Ada, Bannock, Bingham, Bonneville, Butte, Cassia, Clark, Elmore, Franklin, Gem, Gooding, Jefferson, Lincoln, Madison, Minidoka, Twin Falls.

Illinois. Brown, Effingham, Hardin, Pope, Williamson.

Iowa. Allamakee, Appanoose, Cedar, Cerro Gordo, Cherokee, Crawford, Decatur, Floyd, Guthrie, Harrison, Jasper, Monroe, Poweshiek, Ringgold, Sac, Sioux, Story, Union, Warren, Wayne.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Grant, Gray, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Wabaunsee, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckenridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Daviess, De Kalb, Dent, Gentry, Greene, Grundy, Harrison, Henry, Hold, Howard, Howell, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, DeKalb, Dyer, Fayette, Franklin, Gibson, Giles, Hamblen, Hamilton, Hardeman, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lewis, Lincoln, Louden, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Perry, Pickett, Putnam, Rhea, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Van Buren, Washington, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Utah. Box Elder, Cache.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Carolina, Guaynabo, Hatillo, Las Piedras, Naguabo.

§ 78.22 **Noncertified Areas.**

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

(b) *Specific Counties Within States.*

Iowa. Clay.

Puerto Rico. Vieques.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 111–113, 11a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

Effective date: The foregoing amendments shall become effective December 28, 1976.

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of December, 1976.

The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

J. M. HEJL,
Deputy Administrator,
Veterinary Services.

[FR Doc.76–37561 Filed 12–27–76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–5791 and 34–13063]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Adoption of Amendments to Registration Forms and Guide and Rescission of Registration Form

The Securities and Exchange Commission today adopted amendments to Form S–7 (17 CFR 239.26) and Form S–16 (17 CFR 239.27), which make these forms available to a larger number of issuers, and rescinded Form S–9 (17 CFR 239.22), under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). These amendments were published for comment in Securities Act Release No. 5728 and Securities Exchange Act Release No. 12654 (July 26, 1976) (41 FR 32540) and are adopted substantially as proposed, although certain modifications have been made. The Commission has determined that the modifications made to Forms S–7 and S–16 from those published for comment, which generally represent a relaxation of the proposed provisions, do not impose a significant additional burden on registrants nor necessitate a republication for comment pursuant to the Administrative Procedure Act of 1946 (5 U.S.C. 553).

The Commission also authorized the publication of a related amendment to Guide 30 of the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933 ("Guides"), Securities Act Release No. 4936 (December 9, 1968) (33 FR 18617), as amended. The amendment to Guide 30 is technical in nature and is necessitated by the above-mentioned rescission of Form S–9. Therefore, the Commission has also determined that the opportunity for public comment under the Administrative Procedure Act of 1946 is unnecessary.

This release contains a general discussion of the background, purpose and effect of the amendments and a brief description of certain significant aspects of them. Attention is directed to the attached text of the amendments for a more complete understanding.

BACKGROUND AND PURPOSE

Forms S–7 and S–16 are short registration forms available for registration of securities under the Securities Act. Registrants eligible to use Forms S–7 and S–16 are permitted to omit from the Form S–7 prospectus, or to incorporate by reference in the Form S–16 prospectus, substantial information already provided to security holders or available to investors in material filed with the Commission pursuant to the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). As a result, a Form S–7 prospectus generally is simpler and shorter than one prepared pursuant to other available forms and the burden and expense to registrants of preparing the registration statement is reduced; this is true to an even greater extent with respect to Form S–16. Also, these short form registration statements are usually examined and declared effective more quickly by the staff. Recently, the Commission has taken action to further expedite the review of such registration statements by adopting General Instruction H to Form S–7 and General Instruction D to Form S–16, which request registrants to advise the Division of Corporation Finance of their intention to file a registration statement on Form S–7 or S–16.[1] Such notice would enable the staff to promptly review the registrant's Exchange Act reports in order to expedite processing of the registration statement when filed.

There have recently been improvements in the nature and extent of the information required to be included in reports filed with the Commission and in material provided to security holders[2] pursuant to the requirements of the Exchange Act, and the Commission is continuing its efforts to achieve greater improvements. The Commission's experience to date with the forms as proposed to be amended[3] and the comments of the public on the proposals have presented no reasons to indicate that expanded availability of the forms is not desirable. Therefore, the Commission believes that Forms S–7 and S–16 should be made available for use by a larger number of registrants subject to the reporting requirements of the Exchange Act. Registrants using these forms are reminded of their obligations to make full and prompt announcements of material facts regarding their financial condition, notwithstanding compliance with the reporting requirements of the Exchange Act. The failure of registrants to make prompt and accurate disclosure of both favorable and unfavorable information to security holders and the investing public may violate the Exchange Act and, in the case of a registrant making a continuous offering of its securities, may also violate the Securities Act if the prospectus is not appropriately updated. Therefore, registrants are urged once again to review their policies with respect to corporate disclosure and endeavor to set up procedures which will insure that prompt disclosure is made of all material corporate developments.[4]

During the past several months, the Commission has accelerated its program to further integrate, streamline and update the corporate disclosure system it administers under the Securities Act and the Exchange Act. The adoption of these amendments is an important step since it permits information provided to investors pursuant to the continuous disclosure requirements of the Exchange Act to be relied upon in lieu of disclosure which otherwise would be required in registration statements under the Securities Act. The Commission has also adopted a revised Form S–8 in Securities Act Release No. 5767 (November 22, 1976) (41 FR 52662) as part of this program and has invited public comment on the following proposals: to adopt a new registration form to allow a shorter prospectus to be used in connection with certain business combination transactions, Securities Act Release No. 5744 (October 4, 1976) (41 FR 43876); to amend the rules governing tender offers, including steps to allow persons making tender offers to communicate information to offerees in a more efficient and understandable form, Securities Act Release No. 5731 (August 6, 1976) (41 FR 33004); to amend Forms 8–K (17 CFR 249.308) and 10–Q (17 CFR 249.308a) under the Exchange Act to reduce the number of current reports required to be filed on Form 8–K, Securities Exchange Act Release No. 12619 (July 19, 1976) (41 FR 29784); and to amend Form S–16 to make it available to a limited category of large companies for use in registering certain primary offering of securities, Proposed Rules in this issue at page (Securities Act Release No. 5792 (December 20, 1976)). It has also been announced that the Commission is reviewing the procedures available to small issuers to raise capital, and that proposals may be published soon to solicit comments on how these procedures may be simplified.

ADOPTION OF AMENDMENTS TO FORMS S–7 AND S–16

The amendments adopted today make Forms S–7 and S–16 available for the registration of securities by a greater number of registrants subject to the disclosure requirements of the Exchange Act. The Commission has considered all the letters of comment received on the proposals, all of which supported the primary goal of the proposals, i.e., making the forms more widely available for use by registrants. Many of the changes suggested by the commentators have been incorporated into the amendments adopted today. A discussion of the more important amendments is set forth below.

[1] Securities Act Release No. 5777 (December 2, 1976) (41 FR 53473).

[2] *See,* for example, Exchange Act Rule 14a–3(b) (17 CFR 240.14a–3(b)), as amended by Exchange Act Release No. 11079 (October 31, 1974) (39 FR 40768), which calls for additional information to be included in the Annual Report to Shareholders and requires registrants to indicate in the Annual Report to Shareholders or the proxy statement that copies of its report on Form 10–K (17 CFR 249.310) are available to its shareholders without charge upon request.

[3] Securities Act Release No. 5728 permitted registrants to use Forms S–7 and S–16 as proposed to be amended while the proposals were pending. Also Securities Act Release No. 5613 (September 11, 1975) (40 FR 44584), which contained some of these same proposals, stated that use of the forms was permitted while the proposals were pending.

[4] See Securities Act Release No. 5092 (October 15, 1970) (35 FR 16733).

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RULE AS TO USE OF FORM S-7 (AND FORM S-16)[6]

Registrant Must Be Subject to Exchange Act. The Rule as to Use of Form S-7 presently requires that a registrant have a class of equity securities registered pursuant to Section 12(b) of the Exchange Act or be a domestic registrant with a class of equity securities registered pursuant to Section 12(g) of that Act. The amendments adopted today make two changes in this requirement, the first of which was proposed in Securities Act Release No. 5613. It makes the form available to registrants with any class of securities, debt or equity, registered pursuant to Section 12(b) of the Exchange Act. Secondly, in response to numerous comments, the Commission has determined to make the form available for use by domestic registrants which are required to file reports pursuant to Section 15(d) of the Exchange Act. Both of these changes reflect the fact that through reports filed with the Commission pursuant to Section 13 of the Exchange Act, the information available concerning such registrants is substantially similar to the information available concerning registrants which were previously permitted to use the form. This is particularly so in light of the information concerning the management and principal shareholders of a registrant required to be included in Part II of reports on Form 10-K (17 CFR 249.310) by registrants which have not filed proxy or information statements pursuant to Regulation 14A (17 CFR 240.14a-1 to 240.14a-103) or Regulation 14C (17 CFR 240.14c-1 to 240.14c-101).[7] However, in light of the fact that the Form 10-K may not be disseminated to the public as widely as other corporate disclosure documents, there has been added to the form a new requirement to paragraph (b) of the Rule and a new undertaking which relate solely to registrants subject to Section 15(d) of the Exchange Act.

Registrant Must Comply with Requirements of Exchange Act. In order to meet the present condition to the use of Form S-7, a registrant must have complied in all respects, including timeliness, with the requirements of Sections 13 and 14 of the Exchange Act for three fiscal years prior to the filing of the registration statement.

The amendments adopted today modify the provision to require that the registrant have been subject to Section 12 or 15(d) of that Act[7] and have filed all material required thereunder for at least thirty-six calendar months prior to the filing of the registration statement. This amendment makes Form S-7 available to a wider range of registrants by allowing companies filing reports pursuant to Section 15(d) to use it and by slightly reducing the applicable time period. At the same time, however, these changes, along with those discussed below relating to registrants subject to Section 15(d), will continue to assure that sufficient information about registrants using the form is available to the investing public through the Exchange Act reporting system.

In addition, the period during which all such reports must have been timely filed would be reduced from "three fiscal years" to "twelve calendar months."[8] This change is intended to simplify the determination of whether the timeliness requirement is met, and, at the same time, provide sufficient incentive to registrants to file all required reports when due. Generally, the staff will strictly enforce this condition to the use of Form S-7, since the timely filing of the required reports under the Exchange Act is essential to ensure the availability to the public of current and adequate information concerning registrants.[9]

To ensure that certain information concerning registrants which only have an obligation to file reports pursuant to Section 15(d) of the Exchange Act becomes more widely available to the investing public, the Commission has determined that in order to use the Form S-7, such registrants must furnish a report to all of their security holders who own a class of securities which has the subject of a registration statement declared effective pursuant to the Securities Act. Such a report must have been sent to all such security holders in the twelve months prior to the filing of the registration statement on the form. In addition, the registration statement on Form S-7 must contain an undertaking to send such reports to all those security holders who own a class of securities which has been the subject of an effective registration statement for that period of time during which the registrant remains under an obligation to file reports pursuant to Section 15(d).[10] The report shall contain all the information called for by Rule 14a-3(b) (17 CFR 240.14a-3(b)) which an issuer subject to Section 14 must include in its annual report to shareholders and, in addition thereto, the information relating to directors and the remuneration and transactions with the registrant of management and principal shareholders called for by Part II of Form 10-K. The Commission believes that this additional disclosure relating to registrants subject to Section 15(d) of the Exchange Act who wish to use this optional short registration form is justified since similar disclosure is required of registrants subject to Section 14 of the Exchange Act and will provide more widely available information concerning them to the investing public.

Elimination of Continuity of Management Requirement. The Commission has eliminated the requirement that a majority of the existing board of directors of the registrant has held that office for the last three fiscal years as a condition to the use of Form S-7.

In recent years, the staff has received and granted numerous requests for waivers of this condition in circumstances where registrants have been unable to meet the requirement because, for example, of recent increases in the size of the board of directors or because of turnover on the board due to the death or retirement of directors. In light of this experience, the Commission believes that the requirement is unnecessarily restrictive and that registrants should not be precluded from using the form simply because there has been a change in the majority of the board of directors.

[6] The Rule as to Use of Form S-16 provides that the form is available for registration under the Securities Act of certain securities of registrants which meet the requirement for the use of Form S-7 at the time the registration statement is filed. Thus, the amendments to the Rule as to Use of Form S-7 automatically amend the Rule as to Use of Form S-16. See General Instruction A to Form S-16 (17 CFR 239.27(a)).

[7] The Commission has proposed for comment amendments to certain of the forms under both the Securities Act and the Exchange Act and the proxy rules to provide more meaningful disclosure regarding the background of management. See Securities Act Release No. 5758 (November 2, 1976) (41 FR 49403).

[7] All such registrants must file the reports required by Section 13 of the Exchange Act. Since Section 14 of the Exchange Act is applicable only to issuers whose securities are registered pursuant to Section 12, issuers filing reports pursuant to Section 15(d) are not required to file proxy statements pursuant to Regulation 14A or information statements pursuant to Regulation 14C, although similar information is contained in Part II of their Form 10-Ks, as noted above. Wholly-owned subsidiaries with debt securities registered pursuant to Section 12(b) or preferred stock registered pursuant to Section 12(g) are subject to Section 14, although normally they have no proxy solicitations subject to Regulation 14A or 14C. Such registrants may nonetheless use Form S-7 or S-16 if they meet the other conditions as to their use. Of course, if such a registrant were to solicit proxies, consents or authorizations with respect to a class of securities registered under Section 12, Section 14 of the Exchange would be applicable and must have been complied with in order to use the forms.

[8] A report filed within the time granted pursuant to a request for an extension of time under Exchange Act Rule 12b-25 (17 CFR 240.12b-25) shall be considered timely filed.

[9] In this connection, the Commission wishes to remind registrants that Exchange Act Rule 0-3 (17 CFR 240.0-3) provides that the "date on which papers are actually received by the Commission shall be the date of filing. * * *" The Commission recognizes, however, that on rare occasions a document sent to the Commission in a timely fashion may arrive shortly after the required filing date because of circumstances beyond the control of the registrant. In such cases, the staff may, in its discretion, accept the registration statement for filing where to do so is consistent with the public interest and the protection of investors. See Securities Act Rule 401 (17 CFR 230.401).

[10] The registrant remains subject to Section 15(d) of the Exchange Act unless the duty to file is suspended because it has any class of securities registered pursuant to Section 12 of the Exchange Act or because, at the beginning of a fiscal year other than the fiscal year in which the registration statement became effective, the securities of each class to which the registration statement related are held of record by less than three hundred persons.

The Commission believes, nevertheless, that where there has been a recent change in control of the registrant, certain additional disclosure may be necessary in the Form S-7 or S-16 prospectus. See the discussion below concerning the new Item 10 of Form S-7 and the amended Item 9 of Form S-16.

No-Default Requirement. The amendment adopted today reduces from "ten years" to "thirty-six calendar months" the period during which the registrant and its subsidiaries may not have defaulted in the payment of any dividend or sinking fund installment on preferred stock, or in the payment of any principal, interest or sinking fund installment on any indebtedness for borrowed money, or in the payment of rentals under material long term leases, as a condition to use of the form.

This amendment makes the following changes from the proposal contained in Securities Act Released 5728. There is minor clarification of the relevant time period by indicating that it is "thirty-six calendar months" rather than "three years." The proposal stated that the condition relates to a default "on any indebtedness or borrowed money," rather than "on any indebtedness for borrowed money," which is the language presently in the form. Many commentators stated that this could be interpreted to include such things as a late payment on an ordinary trade account or installment sales contract, which could arise from clerical error or a good faith dispute with a supplier. Such a reading of the condition would unduly restrict the use of Form S-7, would not necessarily reflect a weakening of the registrant's financial position, and would, in any event, entail a laborious and time-consuming search to determine if it had occurred in the course of a routine business transaction. Therefore, the Commission has determined to retain the present language, which has been in the form since its adoption in 1967[11] and which has not resulted in any significant problems in its administration.

It also should be noted that the term "default" as used herein has been, and will continue to be, interpreted to include the failure to pay a dividend on preferred stock. Such a default cannot be remedied for purposes of this requirement by a subsequent payment of the missed dividend.

Minimum Earnings Requirement. The present Rule as to Use of Form S-7 requires that the issuer and its subsidiaries have had a net income, after taxes but before extraordinary items, of at least $500,000 for each of the last five fiscal years. The amendments adopted today are identical to the proposals and reduce the minimum earnings required to "$250,000 for three of the last four fiscal years, including the most recent fiscal year," and provide that the "cumulative effect of a change in accounting principle" shall be excluded in determining net income.

Elimination of Earned Dividends Requirement. The Rule as to Use of Form S-7 presently requires that if the securities to be registered are common stock or are convertible into common stock, the registrant shall have earned, in each of the last five fiscal years, any dividend paid in such years. The Commission, as it proposed, has eliminated this requirement as a condition to the use of Form S-7.

Use of Form S-7 by a Successor Registrant. The proposed amendments provided that a registrant shall be deemed to have met the conditions to use of Form S-7 relating to Exchange Act reporting, defaults and net income only if it and any predecessor[12] taken together do so and further if (1) the succession[13] was primarily for the purpose of changing the state of incorporation of the predecessor or forming a holding company and (2) the assets and liabilities of the successor at the time of succession was substantially the same as those of the predecessor. The Commission has determined to adopt this amendment as proposed with a further provision to indicate that a registrant shall be deemed to meet these conditions if all of its predecessors did so at the time of succession and the registrant has continued to do so since the succession, regardless of the purpose of the succession.

Use of Form S-7 Where Securities Guaranteed by Parent. In the past, the staff has generally accepted the use of Form S-7 to register securities of a registrant which does not meet the Rule as to Use of Form S-7 if the securities of a majority-owned subsidiary were fully guaranteed as to principal and interest by its parent and the parent met the conditions of the rule. In response to public comment, this position has been codified in new General Instruction A(f). The Commission believes that since in these circumstances investors are primarily relying on the guarantee by the parent issuer, Form S-7 should be available and the disclosure concerning the subsidiary issuer may comply with the requirements of Form S-7, even though it does not itself meet the conditions of the Rule as to Use.[14]

USE OF FORM S-7 IN EXCHANGE OFFERS

Presently, Form S-7 may be used only to register securities to be offered for cash. The Commission has determined, as proposed, to make the form available for the registration of securities to be offered in exchange for other securities of the registrant or securities of any other person. It has also determined to allow the use of the form for an offer to exchange the securities of the registrant for the assets of another person, although Form S-14 (17 CFR 239.23) will continue to be required for the registration of securities if Rule 145 (17 CFR 230.145) is applicable to the transaction.[15]

A new Instruction G is being added to Form S-7 which requires additional information to be included in a prospectus covering securities of the registrant to be offered in exchange for the assets or securities of any other person. Part of this additional information relates to the management of the registrant and its principal security holders and their transactions with the registrant. Although this information is not normally required in a Form S-7 prospectus, it is felt that it is necessary where the securities being registered are offered in exchange for the assets or securities of another person. These exchange offers are often accompanied by premium prices, relatively high brokers' commissions and extra selling efforts and the security holders of the subject company may be required to accept the offer or become minority shareholders in a company controlled by the registrant or be forced to exercise appraisal rights; under these circumstances, it is felt that such offerees should not have the burden of obtaining the registrant's Exchange Act filings in order to see the information concerning the management of the registrant. Also, any substantial interest in the subject company held by the registrant or any affiliate[16] of the registrant or by any officer, director or principal shareholder of the registrant, as well as by any associate[17] of such person, must be described.

Paragraph (b) of Instruction G requires that the prospectus include information concerning the person whose assets or securities are the subject of the exchange offer which is identical to the information required by Items 6 to 10 and 12 of Form S-1 (17 CFR 239.11), except in cases where such other person also is eligible to use Form S-7. If such other person is eligible to use Form S-7, the prospectus may include the information concerning it called for by Items 5, 6, 10 and 12 of Form S-7. In either case, if securities of such other person are to be exchanged or cancelled in the exchange or otherwise, such securities must also be described in accordance with the

[11] Securities Act Release No. 4886 (November 29, 1967) (32 FR 17938).

[12] See Securities Act Rule 405(o) (17 CFR 230.405(o)) for the definition of "predecessor."

[13] See Securities Act Rule 405(v) (17 CFR 230.405(v)) for the definition of "succession."

[14] In the case of a guarantee of a security, both the company whose security is guaranteed and the gurantor are deemed to be issuers for purposes of the Securities Act, since the guarantee is itself a "security" as defined in Section 2(1) of the Securities Act.

[15] Since Form S-7 will now be available for use in exchange offers for the securities or assets of another person, it may be used for a "shelf" registration to the same extent as Form S-1 (17 CFR 239.11). See Guide 4(a) of the Guides, letters of the Division of Corporation Finance re Beatrice Foods Co. (January 17, 1973) and Whittaker Corporation (March 30, 1976), and Securities Act Release No. 5510 (July 3, 1974) (39 FR 26719).

[16] See Securities Act Rule 405(a) (17 CFR 230.405(a)) for the definition of an "affiliate."

[17] See Securities Act Rule 405(b-1) (17 CFR 230.405(b-1)) for the definition of an "associate."

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appropriate Items of the applicable form. In addition, the paragraph refers to Item 11(d) of Form S–7, which requires financial statements concerning the other person identical to those which would be required in a registration statement on Form S–1. However, if such other person also meets the conditions as to use of Form S–7, only those financial statements called for by Form S–7 are required for such other person. Relevant portions of the Instructions as to Financial Statements of Form S–1 relating to future successions to other businesses have been added to Items 11(d) (2) and (3) of Form S–7 since Form S–7 is now available for use in exchange offers.

Paragraph (c) has been added to indicate that if the securities being registered are to be offered in exchange for the registrant's own securities, the securities to be surrendered must also be described in accordance with Items 7, 8 or 9 of the form.

AMENDMENTS TO DISCLOSURE ITEMS OF FORMS S–7 AND S–16

Item 5 (Business) of Form S–7. Item 5(b) of Form S–7 calls for disclosure of information concerning lines of business of the registrant or classes of similar products or services of the registrant for each of the past five fiscal years. In light of the amendments to the Rule as to Use of Form S–7, certain registrants eligible to use the form may not have been engaged in business for that period of time. Accordingly, the Commission has amended Item 5(b) to require disclosure of such information for the last five fiscal years or for each fiscal year the registrant and its predecessors have been engaged in business, whichever is less.

Item 6 (Statements of Income) of Form S–7. Item 6 of Form S–7 presently calls for audited income statements of the registrant for each of the last five fiscal years. The Commission has amended Instruction 1 in a manner similar to Item 5(b) described above to require income statements for each of the last five fiscal years, or for each year the registrant and its predecessors have been in existence, whichever is less. Also, it has determined to require audited income statements only for the three most recent fiscal years and for any subsequent interim period(s) for which an audited balance sheet(s) is included in the prospectus. Certain wording changes have been made from the proposal to make clear that statements for an interim period(s) need be audited only if an audited balance sheet(s) is provided for a period subsequent to the latest fiscal year and that in such an event the comparable prior period interim statements need not be audited.

Item 10 (Management and Others) of Form S–7.

Item 9 (Additional Information) of Form S–16. As discussed above, the continuity of management condition to the use of the forms has been eliminated. However, where there has been a recent change in control of the registrant within the meaning of Securities Act Rule 405(f) (17 CFR 230.405(f)), the Commission has included a requirement that certain additional disclosure concerning such change in control of the registrant and its management be made in the prospectus.

Accordingly, if there has been a change in control of the registrant within the past thirty-six months, new Item 10 of Form S–7 requires that the change in control be described. The proposed amendments indicated that the information called for by Items 16 to 20 of Form S–1 should be included in all Form S–7 prospectuses if there had been such a change in control. However, after consideration of the public comments, the Commission has determined that once a change in control within thirty-six months is disclosed in the Form S–7 prospectus, further information concerning management remuneration and transactions and principal shareholders is necessary only to the extent that it has not been "previously reported," as defined in Exchange Act Rule 12b–2 (17 CFR 240.12b–2). Items 16 to 20 of Form S–1 call for information concerning the registrant's directors and executive officers and their remuneration and options to purchase securities, principal holders of the registrant's securities, and the interest of management and others in certain transactions with the registrant.

Form S–16 has been amended to indicate that if there has been a change in control within the meaning of Securities Act Rule 405(f) within the past thirty-six months, a description of the change in control and the information contained in Items 16 to 20 of Form S–1 must be contained in the prospectus only to the extent not previously reported, as defined in Exchange Act Rule 12b–2.

To reflect these changes, present Items 10 and 11 of Form S–7 have been renumbered as Items 11 and 12, respectively, and present Item 9(b) of Form S–16 has been renumbered as Item 9(c). Also, it is indicated in renumbered Item 12(b) of Form S–7 and Item 9(c) of Form S–16 that the prospectus shall state that reports, proxy statements and other information filed by the registrant can be inspected and copied at certain of the Commission's Regional Offices as well as at its office in Washington and that all mail requests for copies of such information should be directed to the Commission's Public Reference Section. The current address of each such facility, as indicated in 17 CFR 200.11 [12] and 200.80(c)(1), shall be set forth in the prospectus.

RESCISSION OF FORM S–9

Form S–9 is a form available for the registration under the Securities Act of non-convertible, fixed interest debt securities by registrants required to file reports pursuant to Section 13 or 15(d) of the Exchange Act and which meet certain other conditions, including minimum fixed charges coverage standards. Form S–9 has been used only by a very small number of registrants in recent years, in part because recent increases in interest rates have made it difficult for many registrants to meet the minimum fixed charges coverage standards.

The Commission has determined to rescind Form S–9. It believes that virtually all registrants who have used the form are eligible to use Form S–7, as amended, for the registration of debt securities. This is particularly so in light of the fact that Form S–7 is now available for use by registrants filing reports pursuant to Section 15(d) of the Exchange Act.

AMENDMENT TO GUIDE 30

The Guides are not rules of the Commission nor are they published as bearing the Commission's approval; they represent policies and practices followed by the Commission's Division of Corporation Finance in administering the disclosure requirements of the Federal securities laws.

Guide 30 presently calls for disclosure of the principal sources of electric revenues on Form S–9. Since Form S–9 is hereby rescinded and electric utilities will now file registration statements on Form S–1 or S–7, the Guide has been amended to become applicable in such cases. This is consistent with the present practice of the staff of the Division of Corporation Finance. Also consistent with such practice, Guide 30 has been amended to be applicable to gas utilities.

ADOPTION OF AMENDMENTS AND RESCISSION

The Commission hereby adopts the amendments to Forms S–7 and S–16 and to Guide 30 and rescinds Form S–9 pursuant to the Securities Act of 1933, particularly Sections 6, 7, 10 and 19(a) thereof. This action is effective December 28, 1976. The text of the amendments to Forms S–7, S–16 and S–9 and to Guide 30 follows.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 20, 1976.

ADOPTION OF AMENDMENTS

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. *Text of Amendments to Form S–7*

Form S–7 (17 CFR 239.26) is amended to read as follows:

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers.

GENERAL INSTRUCTIONS

A. *Rule as to Use of Form S–7.* Any registrant which meets the following conditions may use this form for registration of securities under the Securities Act of 1933:

(a) The registrant (1) has a class of securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934; or (2) is organized under the laws of the United States or any State or Territory or the District of Columbia, has its principal business operations in the United States or its Territories and has a class of equity securities registered pursuant to Section 12(g) of the above Act or is required to file reports pursuant to Section 15(d) of the above Act.

(b) The registrant (1) has been subject to the requirements of Section 12 or 15(d) of the Securities Exchange Act of 1934 and has filed all the material required to be filed pursuant to Sections 13, 14 or 15(d), as applicable, for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this form; (2) has filed in a timely manner all reports required to be filed during the twelve calendar months preceding the filing of the registration statement; and (3) if subject only to the requirements of Section 15(d) of the Securities Exchange Act of 1934, has sent to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by Rule 14a–3(b) (17 CFR 240.14a–3(b)) and Part II of Form 10–K (17 CFR 249.310) under the Securities Exchange Act of 1934 within the twelve calendar months preceding the filing of the registration statement.

(c) The registrant and its subsidiaries have not during the past thirty-six calendar months defaulted in the payment of any dividend or sinking fund installment on preferred stock, or installment on any indebtedness for borrowed money, or in the payment of rentals under long term leases.

(d) The registrant and its consolidated subsidiaries had a net income, after taxes but before extraordinary items and cumulative effect of a change in accounting principle net of tax effect, of at least $250,000 for three of the last four fiscal years, including the most recent fiscal year.

(e) A registrant shall be deemed to have met conditions (b), (c) and (d) above if (1) its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the State of incorporation of the predecessor or forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (2) if all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

(f) This form may be used for the registration of securities of a majority-owned subsidiary which are fully guaranteed as to principal and interest by its parent if the parent meets the above conditions, notwithstanding the failure of the subsidiary issuer to meet such conditions.

B.–F. (No change.)

G. *Exchange Offers.* (a) If any of the securities being registered are offered in exchange for assets or securities of any other person, the prospectus shall include, in addition to the other information called for by this form, the information concerning the registrant called for by Items 16, 17, 19 and 20 of Form S–1 (17 CFR 239.11). Describe any substantial interest in the other person, direct or indirect, by security holdings or otherwise, held within the past three years by the registrant or by each affiliate of the registrant or by any officer, director or security holder of the registrant named in answer to Item 19(a) of Form S–1 (17 CFR 239.11) or by each associate of such person.

(b) Except as stated below, the prospectus shall also include the information concerning the other person required by Items 6 to 10, inclusive, and 12 of Form S–1 (17 CFR 239.11) and, if securities of such other person are to be surrendered or cancelled pursuant to the exchange or otherwise, by Items 13 to 15, inclusive, of Form S–1 (17 CFR 239.11) as if such securities were being registered on that form. Reference is made to Item 11(d) of this form for information concerning the necessity of furnishing financial statements of such other person. In the event the other person also meets the conditions set forth in General Instruction A to this form, the prospectus may include, in lieu of the above information concerning such other person, the information required by Items 5, 6, 10 and 12 of this form and, if securities of such other person are to be surrendered or cancelled pursuant to the exchange or otherwise, by Items 7 to 9, inclusive, of this form as if such securities were being registered on this form. In this event, Item 11(d) may be complied with by furnishing only those financial statements concerning such other person which would be required if it were registering securities on this form. In connection with this instruction, reference is made to Rules 409 (17 CFR 230.409) and 434B (17 CFR 230.434b) under the Securities Act of 1933.

(c) If any of the securities being registered are offered in exchange for outstanding securities of the registrant, the prospectus shall include the information called for by Items 7 to 9, inclusive, of this form as if such outstanding securities were being registered on this form.

H. *Preparation of Part II.* (No change from former General Instruction G.)

I. *Notice of Intention to File the Registration Statement.* (No change from former General Instruction H.)

PART I. INFORMATION REQUIRED IN PROSPECTUS

Item 1.–Item 4. (No change.)

Item 5. Business. (a) (No change.)

(b) (1) *Information as to lines of business.* If the registrant and its subsidiaries are engaged in more than one line of business, state, for each of the registrant's last five fiscal years, or for each fiscal year the registrant and its predecessors have been engaged in business, whichever period is less, the approximate amount or percentage of (i) total sales and revenues, and (ii) income (or loss) before income taxes and extraordinary items, attributable to each line of business which during either of the last two fiscal years accounted for—

(A) 10 percent or more of the total of sales and revenues,

(B) 10 percent or more of income before income taxes and extraordinary items computed without deduction of loss resulting from operations of any line of business, or

(C) a loss which equalled or exceeded 10 percent of the amount of income specified in (B) above; *provided*, that if total sales and revenues did not exceed $50,000,000 during either of the last two fiscal years, the percentages specified in (A), (B) and (C) above shall be 15 percent, instead of 10 percent. (No further change in Item 5.)

Item 6. Statements of Income. Furnish in comparative columnar form statements of income for the registrant, or for the registrant and its subsidiaries consolidated, or both, as appropriate, for—

(a) each of the last five fiscal years of the registrant (or for the life of the registrant and its predecessors, if less), and

(b) any interim period between the end of the most recent fiscal year and the date of the most recent balance sheet(s) being filed pursuant to Item 11(a) and for the corresponding interim period of the preceding fiscal year, and

(c) any additional fiscal years necessary to keep the statements from being misleading.

Where necessary, include information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the prospectus. A statement of source and application of funds shall be furnished for each fiscal year or other period for which a statement of income is required to be furnished.

Instructions. 1. The statements required shall be prepared in compliance with the applicable requirements of Regulation S–X (17 CFR Part 210) and shall be audited for each of the last three fiscal years and for any subsequent interim period to the date of the most recent audited balance sheet(s) included in the prospectus. Regulation S–X (17 CFR Part 210) governs the examination and the form and content of such statements, including the basis of consolidation, and prescribes the statements of retained earnings and other stockholders' equity and the schedules to be filed.

2.–9. (No change.)

10. Statements of income and source and application of funds conforming with the foregoing and statements of retained earnings and other stockholders' equity shall be furnished, here or elsewhere in the prospectus, for each subsidiary or group of subsidiaries or 50 percent or less owned persons for which a balance sheet is furnished in response to Item 11(b).

Item 7.—Item 9. (No change.)

Item 10. Management and Others. If there has been a change in control of the registrant within the past thirty-six calendar months, describe the change in control and provide any information called for by Items 16 to 20, inclusive, of Form S–1 (17 CFR 239.11) which has not been "previously reported" as defined in Rule 12b–2 (17 CFR 240.12b–2) under the Securities Exchange Act of 1934.

Item 11. Other Financial Statements and Schedules. (a)–(c) (No change from paragraphs (a) to (c) of former Item 10.)

(d) *Future Successions to Other Businesses.* (1) (No change from subparagraph (d)(1) of former Item 10.)

(2) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control. In addition, the acquisition of securities which will extend the registrant's control of a business shall be deemed the acquisition of the business if any of the securities being registered hereunder are offered in exchange for the securities to be acquired.

(3) No financial statements need be filed, however, for any business acquired or to be acquired, or for any business in which an investment acquired or to be acquired is required to be accounted for by the equity method, from a totally held subsidiary. In addition, the statements of any one or more such businesses may be omitted if the businesses, considered in the aggregate, would not meet the test of a significant subsidiary; provided that the statements of any business may not be omitted where any of the securities being registered are offered in exchange for securities representing such business or for assets of such business.

(e) (No change from paragraph (e) of former Item 10.)

Item 12. Statement of Available Information. (a) (No change from paragraph (a) of former Item 11.)

(b) The statement shall also indicate that such reports, proxy statements and other information can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C. and at certain of its Regional Offices, stating the current address of each such facility (see 17 CFR 200.11(b) and 17 CFR 200.80(c)(1)), and that copies of such material can be obtained from the Public Reference Section of the Commission at Washington, D.C. 20549

[12] Securities Act Release No. 5746 (September 30, 1976) (41 FR 44695) amended 17 CFR 200.11 to state the current addresses of the Commission's Regional Offices.

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at prescribed rates. In addition, any national securities exchange on which the registrant's securities are listed, and where reports, proxy statements and other information concerning the registrant can be inspected, shall be named.

PART II. INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution. (No change from former Item 12.)

Item 14. Relationship with Registrant of Experts Named in Registration Statement (No change from former Item 13.)

Item 15. Indemnification of Directors and Officers. (No change from former Item 14.)

Item 16. Treatment of Proceeds from Stock to be Registered. (No change from former Item 15.)

Item 17. Other Documents Filed as a Part of the Registration Statement. (No change from former Item 16.)

UNDERTAKINGS

A.–C. (No change.)

D. The following undertaking shall be included in the registration statement if the registrant is subject only to the requirements of Section 15(d) of the Securities Exchange Act of 1934:

"The undersigned registrant hereby undertakes, so long as it remains subject to a duty to file under Section 15(d) of the Securities Exchange Act of 1934, to send to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by Rule 14a–3(b) (17 CFR 240.14a–3(b)) and Part II of Form 10–K (17 CFR 249.310) under the Securities Exchange Act of 1934."

SIGNATURES

(No change.)

INSTRUCTIONS AS TO EXHIBITS

Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for by Item 17.

1.–3. (No change.)

4. Copies of all indemnification contracts or arrangements described in answer to Item 15.

5.–6. (No change.)

INSTRUCTIONS AS TO SUMMARY PROSPECTUSES

1. A summary prospectus used pursuant to Rule 434A (17 CFR 230.434a) shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a)–(j) (No change.)

(k) As to Item 11, a tabular presentation of notes payable, long term debt, deferred credits, minority interests, if material, and the equity section of the latest balance sheet filed, as may be appropriate.

2. The summary prospectus shall not contain a summary or condensation of any of the financial information required by Item 11, except as required by Instruction 1(k) above.

3. (No change.)

2. *Text of Amendments to Form S–16.* Form S–16 (17 CFR 239.27) is amended to read as follows:

§ 239.27 Form S–16, optional form of registration of certain offerings of outstanding securities and of offerings to holders of certain convertible securities and of offerings to holders of certain outstanding warrants.

GENERAL INSTRUCTIONS

(No change.)

PART I. INFORMATION REQUIRED IN PROSPECTUS

Item 1.–Item 8. (No change.)

Item 9. Additional Information (a) (No change.)

(b) If there has been a change in control of the registrant within the past thirty-six calendar months which has not been "previously reported" as defined in Rule 12b–2 (17 CFR 240.12b–2) under the Securities Exchange Act of 1934, describe the change in control and provide any information called for by Items 16 to 20, inclusive, of Form S–1 (17 CFR 239.–11) which has not been "previously reported."

(c) State that reports, proxy statements and other information filed by the registrant can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C. and at certain of its Regional Offices, stating the current address of each such facility (see 17 CFR 200.11(b) and 17 CFR 200.80(c)(1)), and that copies of such material can be obtained from the Public Reference Section of the Commission, Washington, D.C. 20549 at prescribed rates. In addition, any national securities exchange on which the registrant's securities are listed, and where reports, proxy statements and other information concerning the registrant can be inspected, shall be named.

(No further change in Form S–16.)

3. *Rescission of Form S–9.*

§ 239.22 [Rescinded]

17 CFR 239.22 (Form S–9), for the registration of certain debt securities, is rescinded in its entirety.

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

4. *Text of Amendments to Guide 30.* Guide 30 of the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933, Securities Act Release No. 4936 (December 9, 1968) (33 FR 18617), as amended, is amended to read as follows:

30. *Disclosure of Principal Sources of Electric or Gas Revenues.* In registration statements filed on Form S–1 or S–7 by electric or gas utilities, the principal classes of service from which electric or gas revenues are derived should be furnished.

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; 15 U.S.C. 77f, 77g, 77j, 77s(a).)

[FR Doc.76–38057 Filed 12–27–76;8:45 am]

Title 20—Employees Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

Services for Veterans; Correction

In the FEDERAL REGISTER document 76–31944 appearing at 41 FR 48250 et seq. on November 2, 1976, the following corrections are made:

1. On p. 48251, column 1, in the third sentence of § 653.200, paragraph (b), the words "Section 653.212(f)" are corrected to read "Section 653.221(a) (7) (i) of this subpart."

2. On p. 48251, column 3, in the definition of "Disabled Veteran," the phrase "for a disability rated at less than 30 per centum" is deleted.

3. On p. 48251, column 3, in the definition of "Regional Veterans' Employment Representative (RVER)", the phrase "under the RA" and the commas setting off that phrase are deleted. In addition, the following sentences are added at the end of the definition: "The RVER shall report to, be responsible to, and be under the administrative direction of the Director, VES. In addition, the RVER shall report to, be responsible to, and be under the operational direction of the RA."

4. On p. 48251, column 3, in the definition of "State Veterans' Employment Representative (SVER)," the phrase "under the RA and the RVER" is corrected to read "under the RVER."

5. On p. 48252, column 2, paragraph (b) of § 653.213 is corrected to read: "An RVER shall be stationed in each ETA regional office. The RVER shall be a member of the ETA regional executive staff."

6. On p. 48252, column 3, in paragraph (d) of § 653.214, the phrase "Under the direction and supervision of the RA and the RVER" is corrected to "Under the direction and supervision of the RVER."

7. On p. 48253, column 3, in § 653.221 (a) (7) (i) the phrase "(3) Qualified disabled veterans;" is corrected to read "(3) Qualified disabled veterans other than special disabled veterans;".

8. On p. 48254, column 1, paragraph (e) is deleted, paragraph (f) is re-lettered as (e), and paragraph (g) is deleted.

9. On p. 48254, column 2, in paragraph (d) of § 653.224, the phrase "duties prescribed for the LVER" is corrected to read "duties prescribed for the SVER."

10. On p. 48255, in § 653.230, the introductory text of paragraph (f) (2) is corrected by changing the words "referred to" to "enrolled in" both times they appear.

Signed at Washington, D.C. this 16th day of December, 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76–37681 Filed 12–27–76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 76N–0367]

PART 8—COLOR ADDITIVES

FD&C Red No. 4; Confirmation of Effective Date

The Food and Drug Administration is confirming the effective date of October 27, 1976, of an order concerning the use of FD&C Red No. 4 in externally applied drugs and cosmetics.

An order was published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41854) that, inter alia, added §§ 8.4103 and 8.7163 (21 CFR 8.4103 and 8.7163) to provide for safe use of FD&C Red No. 4 in externally applied drugs and cosmetics. The order of September 23, 1976, also amended the identity and specifications for FD&C Red No. 4 under § 9.63 (21 CFR 9.63) to reference § 8.4103.

Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 41 FR 24262)), notice is given that no objections or requests for hearing were filed in response to the order of September 23, 1976. Accordingly, the amendments promulgated thereby became effective on October 27, 1976.

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76–37958 Filed 12–27–76;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N–0435]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Sterile Neomycin Sulfate and Polymyxin B Sulfate Solution; Preservative Added

The Food and Drug Administration (FDA) is amending the oligosaccharide antibiotic drug regulations to provide for the use of a preservative in sterile neomycin sulfate-polymyxin B sulfate solution; effective December 28, 1976.

The Commissioner of Food and Drugs has approved a request submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, as amended, with respect to the marketing of a multiple-dose vial of sterile neomycin sulfate-polymyxin B sulfate aqueous solution. Because of the multiple-dose characteristics of this sterile drug product, a preservative is necessary to prevent the growth of microorganisms. The use of a preservative in such multiple-dose vials is consistent with the requirements of The United States Pharmacopeia.

The Commissioner concludes that the regulation under which this drug product is currently being certified should be amended to provide for the use of the preservative.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 444 is amended in § 444.942b by inserting a new sentence after the first sentence of paragraph (a)(1); as revised, § 444.942b (a)(1) reads as follows:

§ 444.942b Sterile neomycin sulfate and polymyxin B sulfate solution.

(a) • • •

(1) *Standards of identity, strength, quality, and purity.* Sterile neomycin sulfate and polymyxin B sulfate solution is an aqueous solution containing in each milliliter 40 milligrams of neomycin and 200,000 units of polymyxin B. If packaged in a multiple-dose container, it shall contain a suitable and harmless preservative. It is sterile. Its pH is not less than 5.0 and not more than 6.0. The neomycin sulfate used conforms to the standards prescribed by § 444.42a(a)(1)(i), (iv), (vi), and (vii). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30a(a)(1)(i), (iv), (vi), (vii), and (ix) of this chapter. Each other substance used, if its name is recognized in the U.S.P. or the N.F., conforms to the standards prescribed therefor by such official compendium.

• • • • • •

As the conditions prerequisite to providing for certification of this drug have been complied with, and as the matter is noncontroversial in nature, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date: This regulation shall be effective December 28, 1976.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76–37501 Filed 12–27–76;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Crystalline Trypsin, Peru Balsam, Castor Oil

The Food and Drug Administration approves a supplemental new animal drug application (31–555V) filed by Burns-Biotec Laboratories Division, Chromalloy Pharmaceuticals, Inc., 7711 Oakport St., Oakland, CA 94621, proposing the safe and effective use of crystalline trypsin, Peru balsam, castor oil aerosol spray for treating external wounds on horses, cattle, dogs, and cats. The approval is effective December 28, 1976.

The Commissioner of Food and Drugs is amending Part 524 (21 CFR Part 524) to reflect this approval.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(j))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 524 is amended in § 524.2620 by renumbering existing paragraphs (a) and (b) as (a) (1) and (2) and adding new paragraphs (b) (1) and (2) to read as follows:

§ 524.2620 Liquid crystalline trypsin, Peru balsam, castor oil.

(a) (1) *Specifications.* The drug is a liquid for direct application or an aerosol preparation formulated so that each gram delivered to the wound site contains 0.12 milligram of crystalline trypsin, 87.0 milligrams of Peru balsam, and 788.0 milligrams of castor oil.

(2) *Sponsor.* See No. 000514 in § 510.–600(c) of this chapter.

(b) (1) *Specifications.* The drug is a liquid for direct application or an aerosol preparation formulated so that each gram delivered to the wound site contains 0.1 milligram of crystalline trypsin, 72.5 milligrams of Peru balsam, and 800 milligrams of castor oil.

(2) *Sponsor.* See No. 000845 in § 510.–600(c) of this chapter.

• • • • • •

Effective date. This amendment shall be effective December 28, 1976.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 306b (i)).)

Dated: December 17, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.76–37959 Filed 12–27–76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. R–76–430]

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Servicing Companies

The purpose of this revision in to provide a convenient list of servicing companies and to make certain other technical amendments to this part.

Because the revision is for the convenience of the public, it is unnecessary to provide for notice and public procedure. However, good cause does exist for making these revisions effective December 28, 1976.

Accordingly, Subchapter B of Chapter X of Title 24 is amended by revising § 1912.7 as follows:

§ 1912.7 Servicing companies.

The following servicing entities have been designated to act as servicing companies for the Association in the areas indicated:

SERVICING COMPANIES

ALABAMA

The Hartford Insurance Group, Atlanta Center, 250 Piedmont Avenue, N.W., P.O. Box 1720, Atlanta, Georgia 30308, (404) 658–1414.

ALASKA

Industrial Indemnity Company of Alaska, P.O. Box 307, Anchorage, Alaska 99510, (907) 279–9441.

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ARIZONA

Aetna Technical Services, Inc., 3225 North Central Avenue, Phoenix, Arizona 85012, (602) 264–8821.

ARKANSAS

The Travelers Indemnity Company, 700 South University, P.O. Box 51, Little Rock, Arkansas 72203, (501) 664–5085.

CALIFORNIA

Fireman's Fund American Insurance Co., P.O. Box 2323, Los Angeles, California 90051, (213) 381–3141.

COLORADO

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

CONNECTICUT

Aetna Insurance Company, P.O. Box 1779, Hartford, Connecticut 06101, (203) 523–4861.

D.C.—DISTRICT OF COLUMBIA

(See Virginia.)

DELAWARE

General Accident F&L Assurance Corp., Ltd., 414 Walnut Street, Philadelphia, Pennsylvania 19106 (215) 238–5512.

FLORIDA

The Travelers Indemnity Company, 1516 East Colonial Drive, Orlando, Florida 32803, (305) 896–2001, toll free: 800–432–4876.

GEORGIA

The Hartford Insurance Group, Atlanta Center, 250 Piedmont Avenue, N.W., P.O. Box 1720, Atlanta, Georgia 30306, (404) 658–1414.

HAWAII

First Insurance Co. of Hawaii, Ltd., P.O. Box 2866, Honolulu, Hawaii 96803, (808) 548–5511.

IDAHO

Aid Insurance Company, Snake River Division, 1845 Federal Way, Boise, Idaho 83701, (208) 343–4931.

ILLINOIS

State Farm Fire & Casualty Company, 2309 East Oakland Avenue, Bloomington, Illinois 61709, (309) 557–7337.

INDIANA

American States Insurance Company, 500 North Meridian Street, Indianapolis, Indiana 46204, (317) 262–5696.

IOWA

Employers Mutual Casualty Company, P.O. Box 884, Des Moines, Iowa 50304, (515) 280–2511.

KANSAS

Royal-Globe Insurance Companies, 5200 West 110th Street, P.O. Box 7600, Overland Park, Kansas 66207, (913) 341–7600.

KENTUCKY

CNA Insurance, 580 Walnut Street, Suite 1000, Cincinnati, Ohio 45202, (513) 579–9000.

LOUISIANA

Aetna Technical Services, Inc., 2025 Canal Street—Suite 210, New Orleans, Louisiana 70112, (504) 821–3626.

MAINE

Commercial Union Assurance Company, c/o Campbell, Payson & Noyes, 27 Pearl Street, Box 527 Pearl Street Station, Portland, Maine 04116, (207) 774–1431, toll free: 800–482–0131.

MARYLAND

U.S. Fidelity & Guaranty Company, P.O. Box 1138, Baltimore, Maryland 21203, (301) 547–3000, toll free: 800–492–1066.

MASSACHUSETTS (EASTERN)

Commercial Union Assurance Company, 1 Beacon Street, Boston, Massachusetts 02108, (617) 725–6128.

MASSACHUSETTS (WESTERN)

Aetna Insurance Company, P.O. Box 1779, Hartford, Connecticut 06101, (203) 523–4861.

MICHIGAN

Insurance Company of North America, 900 Tower Drive, Troy, Michigan 48098, (313) 879–5250, (313) 879–5254.

MINNESOTA (EASTERN)

The St. Paul Companies, 80 E. Marie Avenue, West St. Paul, Minnesota 55118, (612) 455–6600.

MINNESOTA (WESTERN)

The St. Paul Companies, 7900 Xerxes Avenue, South, Minneapolis, Minnesota 55431, (612) 835–2600.

MISSISSIPPI

The Travelers Indemnity Company, 5360 Interstate 55 North, P.O. Box 2361, Jackson, Mississippi 39205, (601) 956–5600.

MISSOURI (EASTERN)

MFA Insurance Company, 1817 West Broadway, Columbia, Missouri 65201, (314) 445–8441.

MISSOURI (WESTERN)

Royal-Globe Insurance Company, 5200 West 110th Street, P.O. Box 7600, Overland Park, Kansas 66207, (913) 341–7600.

MONTANA

The Home Insurance Company, 8 Third Street, North, P.O. Box 1031, Great Falls, Montana 59401, (406) 761–8110.

NEBRASKA

Royal-Globe Insurance Company, 5200 West 110th Street, P.O. Box 7600, Overland Park, Kansas 66207, (913) 341–7600.

NEVADA

The Hartford Insurance Group, P.O. Box 500, Reno, Nevada 89504, (702) 329–1061.

NEW HAMPSHIRE

Commercial Union Assurance Company, 1 Beacon Street, Boston, Massachusetts 02108, (617) 725–6128.

NEW JERSEY

Great American Insurance Company, 5 Dakota Drive, Lake Success, New York 11040, (201) 224–4200.

NEW MEXICO

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

NEW YORK

Great American Insurance Company, 5 Dakota Drive, Lake Success, New York 11040, (516) 775–6900.

NORTH CAROLINA

Kemper Insurance, 1229 Greenwood Cliff, Charlotte, North Carolina 28204, (704) 372–7150.

NORTH DAKOTA

The St. Paul Companies, The Hamm Building—Room 254, 406 St. Peter Street, St. Paul, Minnesota 55102, (612) 227–9581.

OHIO (NORTHERN)

Commercial Union Insurance Co., 1300 East 9th Street, Cleveland, Ohio 44114, (216) 522–1060.

OHIO (SOUTHERN)

CNA Insurance, 580 Walnut Street, Suite 1000, Cincinnati, Ohio 45202, (513) 579–9000.

OKLAHOMA

St. Paul Fire & Marine Insurance Co., 2000 Classen Center North, Oklahoma City, Oklahoma 73106, (405) 528–7041.

OREGON

State Farm Fire & Casualty Company, 4600 25th Avenue, N.E., Salem, Oregon 97303, (503) 393–0101.

PENNSYLVANIA

General Accident F&L Assurance Corp., Ltd., 414 Walnut Street, Philadelphia, Pennsylvania 19106, (215) 238–5512.

PUERTO RICO

Commonwealth Insurance Co., P.O. Box S–4471, San Juan, Puerto Rico 00905, (809) 723–4618.

RHODE ISLAND

American Universal Insurance Co., 144 Wayland Avenue, Providence, Rhode Island 02904.

SOUTH CAROLINA

Maryland Casualty Co., P.O. Box 11615, Charlotte, North Carolina 28209, (704) 525–6330.

SOUTH DAKOTA

The St. Paul Companies, The Hamm Building—Room 254, 406 St. Peter Street, St. Paul, Minnesota 55102, (612) 227–9581.

TENNESSEE

CNA Insurance, P.O. Box 410, 1101 Kermit Drive, Nashville, Tennessee 37217, (615) 367–0500.

TEXAS

St. Paul Fire & Marine Insurance Co., 2100 Travis Street, 9th Floor, Houston, Texas 77002, (713) 654–9984.

UTAH

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

VERMONT

Commercial Union Assurance Company, 1 Beacon Street, Boston, Massachusetts 02106, (617) 725–6128.

VIRGINIA

Insurance Company of North America, 5225 Wisconsin Avenue, N.W., Washington, D.C. 20015, (202) 244–2000.

WASHINGTON

Fireman's Fund American Insurance Co., 1000 Plaza—Building 600, 6th and Stewart, Seattle, Washington 98101, (206) 587–3200.

WEST VIRGINIA

U.S. Fidelity & Guaranty Co., 3324 McCorkle Avenue, S.E., Charleston, West Virginia 25304, (304) 344–1692.

WISCONSIN

Aetna Insurance Co., 5735 East River Road, Chicago, Illinois 60631, (312) 693–2500.

WYOMING

CNA Insurance, 1660 Lincoln Street—Suite 1800, Denver, Colorado 80203, (303) 861–0561.

VIRGIN ISLANDS

(See Puerto Rico.)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: DECEMBER 20, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–38064 Filed 12–27–76;8:45 am]

[Docket No. FI–365]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Cranston, Rhode Island

On June 7, 1976, at 41 FR 22814, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Cranston, Rhode Island. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of May 21, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 445396A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Cranston Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Cranston map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 17, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–37925 Filed 12–27–76;8:45 am]

[Docket No. FI–2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Nassau Bay, Texas

On August 4, 1976, at 41 FR 32586, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Nassau Bay. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of July 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485491D and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Nassau Bay Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Nassau Bay map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–37922 Filed 12–27–76;8:45 am]

[Docket No. FI–2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Seguin, Texas

On August 4, 1976, at 41 FR 32587, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Seguin, Texas. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of June 25, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485508B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Seguin Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Seguin map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–37921 Filed 12–27–76;8:45 am]

[Docket No. FI–2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for Jefferson Parish, Louisiana

On August 4, 1976, at 41 FR 32584, the Federal Insurance Administrator published a notification of modification of

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the base (100-year) flood elevations in Jefferson Parish. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of July 9, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 225199B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Jefferson Parish Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Jefferson Parish map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–37923 Filed 12–27–76;8:45 am]

[Docket No. FI–2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the Town of Portsmouth, Rhode Island

On August 4, 1976, at 41 FR 32586, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Portsmouth, Rhode Island. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of July 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 445405B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Portsmouth Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Portsmouth map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–37924 Filed 12–17–76;8:45 am]

[Docket No. FI–2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of Arlington County, Virginia, Base Flood Elevations

On June 25, 1976, at 41 FR 26418, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of Arlington County, Virginia.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Arlington County. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 4 U.S.C. 40021–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 515520A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mr. Robert D. Arnold, Community Programs Administrator, Arlington County Department of Transportation, Systems Planning and Evaluation Division, 1400 Court House Road, Arlington, Virginia 22201.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Arlington County Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Arlington County map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: December 16, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–38019 Filed 12–27–76;8:45am]

[Docket No. FI–2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of Kleberg County, Texas, Base Flood Elevations

On June 25, 1976, at 41 FR 26418, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of Kleberg County.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Kleberg County, Texas. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 480423A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

The Honorable W. C. McDaniel, County Judge, County of Kleberg, Kingsville, Texas 78363.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Kleberg County Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Kleberg County map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: December 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–38018 Filed 12–27–76;8:45 am]

[Docket No. FI–1043]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the Borough of Bay Head, New Jersey

On April 21, 1976, at 41 FR 16654, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the Borough of Bay Head, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 19, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345281C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Borough of Bay Head Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Borough of Bay Head map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–38011 Filed 12–27–76;8:45 am]

[Docket No. FI–1044]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the Borough of Seaside Park, New Jersey

On April 21, 1976, at 41 FR 16654, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the Borough of Seaside Park, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 19, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345319C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Borough of Seaside Park Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Borough of Seaside Park map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: November 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–38013 Filed 12–27–76;8:45 am]

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[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Alcoa, Tennessee

On August 11, 1976, at FR 3319, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the City of Alcoa, Tennessee. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elecations are effective as of July 30, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 475421A and must be used for all new policies and renewals.

Under the above-mentioned Act of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the City of Alcoa Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the City of Alcoa map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-38015 Filed 12-27-76;8:45 am]

[Docket No. FI-1103]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Columbia, Tennessee

On May 19, 1976, at 41 FR 20571, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the City of Columbia, Tennessee. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 30, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 475423A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Columbia Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Columbia map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38016 Filed 12-27-76;8:45 am]

[Docket No. FI-1045]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Jamestown, North Dakota

On April 21, 1976, at 41 FR 16654, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the City of Jamestown, North Dakota. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 9, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 385366B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Jamestown Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Jamestown map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38014 Filed 12-27-76;8:45 am]

[Docket No. FI-1189]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the City of Lenoir City, Tennessee

On May 24, 1976, at 41 FR 211189, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the City of Lenoir City, Tennessee. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of May 14, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345290B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Township of Clark Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Township of Clark map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 17, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-38012 Filed 12-27-76;8:45 am]

XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 475438A and must be used for all new policies and renewals.

Under the above-mentioned Act of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elavations on the City of Lenoir City Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the City of Lenoir City map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 29, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-38017 Filed 12-27-76;8:45 am]

[Docket No. FI-1188]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of the City of Tarpon Springs, Florida, Base Flood Elevations

On June 25, 1976, at 41 FR 26406, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of the City of Tarpon Springs, Florida.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in the City of Tarpon Springs. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 120259A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any person having knowledge or wishing to comment on these changes should immediately notify:

Honorable Bill Lane, Mayor, City of Tarpon Springs, City Hall, Tarpon Springs, Florida 33589.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the City of Tarpon Springs Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the City of Tarpon Springs map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 17, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-38010 Filed 12-27-76;8:45 am]

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for the Township of Clark, New Jersey

On May 24, 1976, at 41 FR 211187, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the Township of Clark, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of May 14, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345290B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Township of Clark Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Township of Clark map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 17, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-38012 Filed 12-27-76;8:45 am]

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

[Docket No. R-76-109]

PART 1930—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Servicing Companies; Eligible States

The purpose of this revision to Parts 1930 and 1931, is to update § 1930.6 and § 1931.1, to provide a current list of servicing companies for the Federal Crime Insurance Program and to update the list of States eligible for the sale of crime insurance.

On the basis of the Administrator's continuing review of the crime insurance availability situation in the various States, and on the basis of findings and recommendations by the Governor and the Commissioner of Insurance, it has been determined that a critical market

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unavailability situation exists in the States set forth in revised § 1931.1 and that as of the effective date of this regulation these States will be made eligible for the sale of crime insurance, or continue to be eligible for such sale. Because the sale of crime insurance is beneficial to the public, it is unecessary to provide for notice and public procedure, and good cause exists for making these amendments effective on January 1, 1977.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address:

Rules Docket Clerk, Department of Housing and Urban Development, Room 10141, 451 Seventh Street, SW, Washington, D.C.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

Accordingly, Subchapter C of Chapter X of Title 24 is amended as follows:

1. Section 1930.6 is revised to read as follows:

§ 1930.6 Names and addresses of servicing companies.

The following company has been designated to act as servicing company for the Federal Crime Insurance Program in the States indicated:

Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Kansas, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, Pennsylvania, Ohio, Rhode Island, Tennessee, and Virginia: Safety Management Institute, Federal Crime Insurance, P.O. Box 41033, Washington, D.C. 20410. SMI toll-free number is 800–638–8780. In Washington, D.C. Metropolitan Area call 652–2637. In Maryland, outside Washington, D.C. Metropolitan Area, call collect 301–652–2637.

2. Paragraph (b) of § 1931.1 is revised to read as follows:

§ 1931.1 States eligible for sale of crime insurance.

• • • • •

(b) On the basis of the information available, the Administrator has determined that the States set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal Crime Insurance Program therein. Accordingly, the program is in operation in the following States:

Arkansas	Massachusetts
Colorado	Minnesota
Connecticut	Missouri
Delaware	New Jersey
District of Columbia	New York
Florida	Ohio
Georgia	Pennsylvania
Illinois	Rhode Island
Kansas	Tennessee
Maryland	Virginia

• • • • •

(Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); Sec. 1103, 82 Stat. 566, 12 U.S.C. 1749bbb–17.)

Effective date: January 1, 1977.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76–38063 Filed 12–27–76;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Alaska; Approval of Revised Developmental Schedule

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) by which the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) under a delegation of authority from the Secretary of Labor (Secretary's Order 8–76, 41 FR 25059, June 22, 1976) will review changes in a State plan which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On August 10, 1973, a notice was published in the FEDERAL REGISTER (38 FR 25173) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision and a description of the plan.

Section 1952.243 of Subpart R sets forth the developmental schedule under which the plan will meet criteria of section 18(c) of the Act and Part 1902 within three years following commencement of the plan's operations. By letters dated September 17, 1975, February 10, 1976, and April 15, 1976, from Edmund N. Orbeck, Commissioner, State of Alaska Department of Labor, to James Lake, Regional Administrator for Occupational Safety and Health (hereinafter referred to as the Regional Administrator) and incorporated as part of the plan, the State has submitted a supplement to the plan containing a revised developmental schedule. The developmental schedule has been primarily revised to reflect different dates for completion of developmental steps because:

(a) The State plan narrative, appendices, letters of assurances and the Plan Approval Notice published in the FEDERAL REGISTER as Part 1952, Subpart R, all contained conflicting time schedules for the completion of various goals;

(b) Goals relating to adoption of administrative regulations and some standards were not completed by any of the conflicting dates contained in the plan document, primarily due to three changes in administration of the State program. The delays have not been detrimental to the State plan however. In the case of the administrative regulations, the State has been operating in accordance with procedures developed within 6 months of plan approval. In the case of standards, the State had existing standards, which in the professional judgment of the Regional Administrator provided overall protection comparable to the Federal standards in all issues, with the exception of Pulpmills. The State followed these standards until it promulgated State standards, which were approved by the Regional Administrator to be at least as effective as the comparable Federal standards, including a Pulpmills standard.

(c) The time schedule for the adoption of some standards was moved up to ensure adoption and submittal to the Occupational Safety and Health Administration (hereinafter referred to as OSHA) for approval by the end of the three-year period following commencement of operations.

2. *Description of developmental schedule.* (a) In addition to the changes in completion dates the State has changed the developmental schedule in the following ways:

(1) The State Plan Approval Notice refers to adoption of regulations regarding "providing information to employees on hazards including medical examinations and observation and access to monitoring results." The revised developmental time schedule deletes the commitment to promulgate these regulations. The State designee has submitted provisions in regulations on requirements for labels and medical examinations for adoption to the State's Attorney General but the Attorney General has deleted such provisions as being a statement of intent not properly included in the regulatory code. Since the State plan contains pledges that the State standards will meet the necessary requirements and the State is required by Federal regulations to maintain "at least as effective" standards it would appear that the State is already bound to include the required provisions in all appropriate standards regardless of whether regulations are adopted. Further, all different State standards would be reviewed by OSHA before approval to assure that all necessary provisions are included.

(2) The State originally planned to develop a Fisheries Code. This is no longer contemplated. Such industry will continue to be covered under the State's general standards as it is in the Federal program.

(3) The State has added commitments to promulgate regulations on variances and clarification concerning the appropriate parties for employers to notify in order to file a notice of contest.

(b) The revised schedule contains a formal date for each goal, including those that have already been met in order to provide a uniform record. Several of the developmental steps, including the Compliance Operations Manual and several standard subparts, have been completed and appropriate documentation submitted to OSHA. Change supplements regarding completion of these developmental steps are currently under review by OSHA or are being revised by the State.

3. *Location of the developmental schedule supplement for inspection and copying.* A copy of the developmental schedule supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Room N–3608, 200 Constitution Ave., NW, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Ave., Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska, 99801.

4. *Public participation.* The June 4, 1976, notice published in the FEDERAL REGISTER (41 FR 22580) described the supplement and afforded 30 days for interested persons to submit written comments, data, views, and arguments concerning whether the supplement should be approved. No public comments concerning the supplement have been received.

5. *Decision.* After careful consideration, the Alaska plan supplement described above is hereby approved under Subpart E of Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In addition, in accordance with the above, §§ 1952.243 and 1952.244 of Subpart R, Part 1952, are hereby amended to read as follows:

§ 1952.243 Developmental schedule.

The Alaska plan is developmental. The Schedule of developmental steps (described in the plan as revised in letters dated September 17, 1975, February 10, 1976, and April 15, 1976, from Edmond N. Orbeck, Commissioner, Alaska Department of Labor, to James Lake, Regional Administrator for Occupational Safety and Health) follows:

(a) Promulgation of occupational safety and health standards, as effective as corresponding Federal standards promulgated under Chapter XVII of Title 29, Code of Federal Regulations by September 1976.

(b) A Compliance Operations Manual for the guidance of compliance personnel will be developed and printed by February 1, 1974.

(c) A Management Information System (MIS) will be developed by October 1, 1974.

(d) An interim training schedule (Appendix M) will be initiated by April 1, 1974. An extended training plan of substantially permanent form will be developed and adopted by October 1, 1976.

(e) Complete hiring of industrial health staff by October 1, 1976.

(f) Provide for an Industrial Health Laboratory capacity by October 1, 1976.

(g) Adoption of the following regulations by January 30, 1975:

(1) Recordkeeping & Reporting;

(2) Variances;

(3) Exceptions to the prohibitions against advance notice (such exceptions to be no broader than those contained in 29 CFR Part 1903);

(4) Clarification of the appropriate parties for employers to notify in order to file a notice of contest;

(5) A definition of imminent danger that mirrors the Federal definition;

(6) A regulation to allow affected employees to participate as parties in hearings.

§ 1952.244 Completed developmental steps.

(a) In accordance with § 1952.243(d) Alaska completed its interim training program by April 1, 1974, and has developed and adopted an extended training program by October 1, 1976 (41 FR 36206).

(b) In accordance with § 1952.243(c) Alaska has developed and implemented a manual Management Information System by October 1, 1974 (41 FR 36206).

(c) In accordance with the requirements of § 1952.10 the Alaska Safety and Health Poster for private and public employees was approved by the Assistant Secretary on September 28, 1976 (41 FR 43405).

(d) In accordance with § 1952.243(e) Alaska has completed hiring of its industrial health staff by October 1, 1976 (41 FR 52556).

(e) In accordance with § 1952.243(f) Alaska has provided for an Industrial Health Laboratory capacity by October 1, 1976 (41 FR 36206).

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 17th day of December 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76–37877 Filed 12–27–76;8:45 am]

PART 1952—APPROVED STATE PLANS FOR THE ENFORCEMENT OF STATE STANDARDS

Arizona Plan—Approved Supplements

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act), for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On November 5, 1974, a notice was published in the FEDERAL REGISTER of the approval of the Arizona plan (39 FR 39037) and of the adoption of Subpart CC of Part 1952 containing the decision of approval. On October 1, 1976, the State of Arizona submitted a supplement to the plan involving a State initiated change (see Subpart E of 29 CFR Part 1953). In addition, a notice was published in the FEDERAL REGISTER on August 6, 1976, concerning the approval of the Arizona occupational safety and health standards by the Regional Administrator of the Occupational Safety and Health Administration (41 FR 32917). The promulgation of these standards represents the completion of a developmental step.

2. *Description of the supplement.* The supplement concerns a revised timetable for the completion of two developmental steps. The State has changed its proposed date for promulgation of regulations concerning variances to July 1, 1977. In addition, the notice approving the Arizona plan (39 FR 39037) discussed several legislative amendments which were to be enacted by the State. The State will submit these amendments to the legislature by January 1, 1977, and enactment of the amendments is expected by July 1, 1977.

3. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N3608, 200 Constitution Avenue, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 9470, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102; and the Division of Occupational Safety and Health, Industrial Commission of Arizona, 1601 West Jefferson Street, Phoenix, Arizona 85005.

4. *Public participation.* Under § 1953.2 of this chapter and 5 U.S.C. 553(b)(3)(B), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that public comment and notice is unnecessary because the supplement concerns a change in the timing of the implementation of certain developmental steps within the 3-year developmental period and is not a substantive change in the plan.

5. *Decision.* After careful consideration, the Arizona plan supplement described above is hereby approved. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, §§ 1952.353 and 1952.354 of Subpart CC of 29 CFR Part 1952 are amended as set forth below effective December 28, 1976.

1. Section 1952.353 (c) and (e) is revised as follows:

§ 1952.353 Developmental schedule.

• • • • • •

(c) Promulgation of variance regulations by July 1, 1977.

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(e) The submission of legislative amendments to the Arizona Legislature during its 1977 session.

2. Section 1952.354(h) is revised as follows:

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§ 1952.354 Completed developmental steps.

• • • • •

(h) Arizona occupational safety and health standards comparable to Federal standards in effect as of July 28, 1974, were promulgated on February 28, 1975, and were approved by the Regional Administrator effective August 6, 1976.

(Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g)(2), 667)).

Signed at Washington, D.C. this 17th day of December, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37879 Filed 12-27-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 658-2]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Revised Light Duty Truck Regulations for 1979 and Later Model Year Vehicles

The Environmental Protection Agency (EPA) is amending Subparts A and B of Part 86 of the EPA regulations. This action was preceded by a Notice of Proposed Rule Making (NPRM), 41 FR 6279, February 12, 1976, and after careful review of public comments has been amended as described herein.

The amendments to Subparts A and B of Part 86 will expand the light duty truck (LDT) class definition, impose more stringent exhaust emission standards on trucks in the new light duty truck class and make certain changes in test procedures applicable to LDTs.

These changes do not affect the definition of LDT with regard to mandatory fuel economy labeling requirements of 40 CFR part 600. However, the test procedure changes apply to the fuel economy measurements which EPA will use in determining the mile per gallon performance of LDTs for purposes of labeling and compliance with subsequent fuel economy standards which the Secretary of Transportation may promulgate under provisions of Title V of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1901, as amended by the Energy Policy and Conservation Act of 1975, Pub. L. 94-196, 89 Stat. 871.

The first major change in the regulations is the increase in the upper weight limit for light duty trucks from 6000 to 8500 pounds gross vehicle weight rating (GVWR). Along with this change, the light duty truck class has been restricted to trucks with 6000 pounds or less completed vehicle curb weight and less than 46 square feet frontal area. The lower limit to the heavy duty class (Subparts H, I and J) has been correspondingly increased. The 8500 pound primary cut point was selected because it represents the minimum overlap between trucks used for personal transportation and those for commercial service. Accompanying this change is the creation of two options for alternative certification procedures. Engines for use in heavy duty vehicles (HDVs) over 8500 pounds GVWR but under 10,000 pounds GVWR can either be certified as heavy duty engines or, at the manufacturer's option, in LDTs to the new LDT standards. The second option would allow the manufacturers to request certification of incomplete trucks under 8,500 pounds GVWR as either LDTs or HDVs based on their intended completed vehicle configuration. These features are designed to minimize problems caused by manufacturers having to certify a single line of trucks under two sets of standards as well as to minimize the number of personal use vehicles certified as heavy duty and commercial use vehicles certified as light duty.

The second major change is a reduction of the current light duty truck emission standards from 2.0 grams/mile hydrocarbons (HC), 20 grams/mile carbon monoxide (CO) and 3.1 grams/mile oxides of nitrogen (NOx) to 1.7 grams/mile HC, 18 grams/mile CO and 2.3 grams/mile NOx. The adoption of these standards which were proposed in February represent more than a 44% reduction in lifetime emissions for vehicles to be added to the class. Technology is available which enables light duty trucks to meet these standards at moderate cost and no increase in fuel consumption.

As a result of this action emissions from the new light duty trucks class will be reduced in 1990 by 0.9 million tons per year HC, 4.4 million tons per year CO and 0.6 million tons per year NOx. In 1990 these emission reductions are projected to result in urban air quality improvements of six percent for oxidants, five percent for carbon monoxide and three to four percent for nitrogen dioxide.

The aggregate five year cost of this regulation is estimated to approach $1.6 billion. The average light duty truck cost increase is projected to be $8 for trucks currently regulated as light duty trucks (0 to 6000 pounds GVWR), and $219 for those trucks added to the light duty truck class (6000 to 8500 pounds GVWR). No fuel economy or maintenance cost penalties are anticipated as a result of this regulation.

Light duty trucks are currently subject to evaporative emission standards. Changes to these standards and to the evaporative emissions test procedure are not addressed in this document. EPA has promulgated final rules which revised evaporative emission standards and test procedures (41 FR 35621, August 23, 1976). As promulgated, these evaporative emission regulations are applicable to light duty trucks. Since today's action would change the definition of light duty truck to include more vehicles, the additional trucks will be covered by the new evaporative emission standards and test procedures. The effects of the inclusion of these additional vehicles under the evaporative standards has been previously assessed in the development of the evaporative emission control regulations.

A number of issues were raised in the comments received in response to the NPRM and EPA believes that all have been satisfactorily resolved. The resolution of these issues has resulted in several changes to the final rules. The major issues which have been raised and their resolution along with specific changes to the regulation are described in the following discussions.

Lead Time. The manufacturers contended that the 1978 model year proposed effective date did not provide adequate lead time to meet the emission standards on a full product line before the introduction of the 1978 models. EPA concurs and therefore the proposed regulations were revised to provide for a 1979 model year effective date. The manufacturers have time available to comply with this regulation in the 1979 model year.

Class Definition. Comments were divided over the issue of an appropriate class definition. Some comments supported the EPA proposal and some included alternative suggestions ranging from no change to the current LDT class definition to setting the division between LDTs and HDVs at 10,000 pounds GVWR. Some manufacturers argued that vehicle design parameters should be the basis for distinguishing light duty trucks from heavy duty vehicles.

EPA has developed two types of driving cycles[1] for use in testing vehicles and engines for emissions performance. One of these is currently used for testing light duty vehicles and light duty trucks and is designed to simulate a common form of urban driving typically experienced by vehicles employed primarily for personal, rather than commercial use. The other type of cycle is used for testing engines rather than total vehicles and is used for heavy duty, commercial vehicles. Since the driving cycle is critical to measured emissions, it is appropriate that vehicles or engines be tested on the cycle that best reflects the use and type of driving that the vehicle or engine is most likely to experience in use. Consequently, the EPA position is that the primary use of vehicles should govern their classification for emission testing purposes. The majority of trucks under 8500 pounds GVWR are used primarily for personal transportation and should therefore be tested at LDTs.

Only those design features which would largely preclude personal use have been adopted as criteria for allowing certification as heavy duty vehicles. To this end EPA has accepted the contention that delivery vans which are designed to carry only commodities, and are now characterized by much larger frontal areas than pickup trucks and conventional vans, are properly regulated as heavy duty vehicles. The LDT class definition therefore includes only vehicles of less than 46 square feet frontal area.

[1] The driving cycle is the mix of speeds, stops, accelerations, decelerations, etc. that the vehicle is put through on the test.

The other aspects of the class definition, i.e., 6000 pound curb weight and 8500 pound GVWR (optional to 10,000 pound GVWR) remain unchanged from the NPRM.

Incomplete Vehicles. The curb weight and frontal area of vehicles sold in an incompleted form (without the primary load carrying device) can only be determined at the time of sale by the primary manufacturer based on feedback from the secondary manufacturer. EPA generally agrees with the comments indicating that with current practice, most incomplete vehicles are eventually built into commercial and recreational use vehicles whose final configurations would meet the criteria for heavy duty classification. Therefore, the regulation provides for a manufacturer's option for the certification of incomplete trucks (less than 8500 pounds GVWR) as either LDTs or of their engines as heavy duty engines. Each incomplete HDV under 8500 pounds GVWR, and any incomplete LDT (including any HDV optionally certified as a LDT) must be labeled so that subsequent manufacturers will complete the vehicle in accordance with its certified configuration. The label will specify a maximum certified completed vehicle curb weight and frontal area in the case of LDTs, and a minimum completed vehicle curb weight of 6000 pounds or a minimum frontal area of 46 square feet in the case of HDVs.

It is the Agency's intent that incomplete light duty trucks which are sold by the primary vehicle manufacturer to a secondary manufacturer for subsequent installation of a load-carrying device or container remain subject to the statutory prohibitions regarding the sale of uncertified vehicles. The purpose for requiring the primary manufacturer to label his incomplete light duty trucks is to provide adequate notice to the secondary manufacturer of the extent of the modifications he may make to the vehicle while not invalidating the vehicle's certificate of conformity. Thus, when the secondary manufacturer completes the vehicle within the constraints regarding curb weight and frontal area presented on the vehicle label, the vehicle would retain coverage of its certificate of conformity, and the final vehicle would be considered to be certified. If, however, the secondary manufacturer completes the vehicle at a greater curb weight or frontal area than specified on the vehicle's label, the Agency will deem that vehicle not to be covered by a certificate of conformity. In this event, the statutory prohibitions of section 203(a)(1) of the Clean Air Act (42 U.S.C. 1857f-2(a)(1)) would apply to the secondary manufacturer.

Although this sanction also currently applies to a manufacturer who installs a certified heavy duty engine in a light duty truck, with the advent in model year 1979 of a 6000 pound curb weight and a 46 square foot frontal area limitation on light duty trucks the Agency has deemed it necessary to make more specific the limitations which are placed on the secondary vehicle manufacturer. In the case of incomplete heavy duty vehicles less than 8500 pounds GVWR which are sold by a primary engine/chassis manufacturer for subsequent addition of a vehicle body by the secondary manufacturer, the secondary manufacturer is to be notified in a manner consistent with National Highway Traffic Safety Administration safety notification requirements that he must complete the vehicle with a curb weight greater than 6000 pounds or with a frontal area greater than 46 square feet. To do otherwise would mean that the secondary manufacturer has produced a light duty truck, and that he would then be required to obtain light duty truck certification prior to selling the vehicle.

Road Load Horsepower. The NPRM proposed substantially higher than the existing requirements. Manufacturers submitted data indicating that these values were too high. Additional data confirmed that contention. A new table of road load power requirements has been developed. These power settings, although lower than those proposed, are still higher than result in a more accurate measurement of emissions and fuel economy from LDTs.

On September 10, 1976 (41 FR 38674), EPA proposed regulations for fuel economy testing and calculation for exhaust emission test procedures for 1977 through 1979 model year vehicles. That proposal included an equation for calculating the road load power for 1979 and later model year light duty trucks. That equation presented road load power as a function of vehicle frontal area, shape factor, protuberance factor, tire type and inertia weight. EPA has since concluded that it does not have sufficient road load power data for light duty trucks to be able to implement such an equation for the 1979 model year.

EPA considers the road load values presented as a function of frontal area as a compromise solution to the problem of specifying an accurate value for each specific LDT configuration. EPA recognizes the desirability of expressing road load as a function of several vehicle aerodynamic characteristics in addition to vehicle frontal area, such as body shape, and the presence of protuberances (roof racks, external aerials, hood ornaments, mirrors, etc.). However, insufficient data are now available to express these variables in mathematical terms and quantify the effects of each. As a first attempt to recognize the effects of body shape, two road load equations have been developed. One applies to all LDTs except vans which have reduced road load power requirements for a given frontal area due to better aerodynamic characteristics. EPA plans to further address the potential of expressing road load as a function of light duty truck characteristics in subsequent rule making actions applicable to some model year beyond 1979.

Payload. The NPRM proposed that a 500 pound simulated payload be substituted for the 300 pound payload in the existing regulation. Comments received were largely negative and indicated that the use of the higher payload was inconsistent with the personal use concept which is the basis for the revised class definition. EPA agrees, and has retained the current 300 pound payload.

Stringency of Standards. Some manufacturers claimed that the standards were more stringent than the 1977 LDV standards because of the added payload and higher road load proposals. However, the 500 pound payload is no longer required and the road load horsepower has been reduced to a level which has been adequately accounted for in selecting standards of stringency equivalent to the 1977 LDV standards (HC=1.5, CO=15, NO$_x$=2 grams per mile). Therefore, the final standards remain unchanged from the NPRM.

Without the adoption of these amendments, an increasing portion of motor vehicle emissions will come from vehicles in the light duty truck class. In order to achieve the same overall reduction from further controls on light duty vehicles, extremely stringent and expensive standards would have to be imposed. Control of light duty truck is, in comparison, a cost effective program.

This final regulation is being presented in hte FEDERAL REGISTER in the form of single amendments to the 1979 model year certification regulations. This form has been adopted to aid the reader in identifying the specific provisions of the certification regulations that are affected by today's action. EPA has outstanding several other proposals that affect the 1979 model year certification regulations, and intends to issue a complete set of 1979 model year regulations to aid in the use of its regulations after these other proposals are promulgated in final form.

Effective date: 40 CFR Part 86, as amended becomes effective February 11, 1977 and is applicable to 1979 and subsequent model year light duty trucks. The current regulations which appear at 40 CFR Part 85 and Part 86 would remain in effect for 1975 through 1978 model year vehicles.

Single copies of the Environmental Impact Statement for this regulation and the "Analysis of Comments to the NPRM" are available upon request from the Public Information Center (PM-215), U.S. Environmental Protection Agency, Washington, D.C. 20460. The Environmental Impact Statement discusses the environmental and economic impacts of this regulation, and provides a complete analysis setting forth EPA's rationale for the final regulation. In addition, the Environmental Impact Statement discusses several alternatives which arose as a result of comments submitted on the proposed regulation. The analysis of comments summarizes each commenter's position and describes EPA's rationale in resolving each issue.

This regulation is issued under the authority of sections 202(a), 206 and 301(a) of the Clear Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, 1857g(a)).

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The Environmental Protection Agency has determined that this document contains a major regulation requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Inflation Impact Statement has been prepared.

Dated: December 17, 1976.

RUSSELL E. TRAIN,
Administrator.

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. A new § 86.078–1 is added as follows:

§ 86.078–1 General applicability.

(a) The provisions of this subpart apply to 1978 model year new gasoline-fueled and Diesel light duty vehicles, 1978 model year new gasoline-fueled and Diesel light duty trucks and 1978 model year new gasoline-fueled and Diesel heavy duty engines.

(b) Optional applicability. A manufacturer may request to certify any heavy duty vehicle 10,000 pounds GVWR or less as a light duty truck; heavy duty vehicle provisions do not apply to such a vehicle. Provisions applicable for the 1979 model year shall be followed with respect to such vehicles; however, the standards in § 86.078–9 shall apply. Any 1978 model year light duty truck may be certified under the provisions applicable for the 1979 model year except that the standards in § 86.078–9 still apply.

2. A new § 86.079–1 is added as follows:

§ 86.079–1 General applicability.

(a) The provisions of this subpart apply to 1979 and later model year new gasoline-fueled and Diesel light duty vehicles, 1979 and later model year new gasoline-fueled and Diesel light duty trucks and 1979 and later model year new gasoline-fueled and Diesel heavy duty engines.

(b) Optional applicability. A manufacturer may request to certify any heavy duty vehicle 10,000 pounds GVWR or less as a light duty truck; heavy duty vehicle provisions do not apply to such a vehicle.

3. A new § 86.079–2 is added and reads as follows:

§ 86.079–2 Definitions.

The following definitions apply beginning with the 1979 model year. Section 86.078–2 remains effective excepting those definitions which are hereby superseded.

"Basic vehicle frontal area" means the area enclosed by the geometric projection of the basic vehicle along the longitudinal axis, which includes tires but excludes mirrors and air deflectors, onto a plane perpendicular to the longitudinal axis of the vehicle.

"Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Heavy duty vehicle" means any motor vehicle rated at more than 8500 pounds GVWR or that has a vehicle curb weight of more than 6000 pounds or that has a basic vehicle frontal area in excess of 46 square feet.

"Incomplete truck" means any truck which does not have the primary load carrying device or container attached.

"Light duty truck" means any motor vehicle rated at 8500 pounds GVWR or less which has a vehicle curb weight of 6000 pounds or less and which has a basic vehicle frontal area of 46 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons, or

(3) Available with special features enabling off-street or off-highway operation and use.

"Loaded vehicle weight" means the vehicle curb weight plus 300 pounds.

"Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 86.078–24; incomplete light duty trucks shall have vehicle curb weight specified by the manufacturer.

"Van" means a light duty truck having an integral enclosure, fully enclosing the driver compartment and load carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

4. A new § 86.079–9 is added:

§ 86.079–9 Emission standards for 1979 and later model light duty trucks.

(a)(1) Exhaust emissions from 1979 and later model year light duty trucks shall not exceed:

(i) *Hydrocarbons.* 1.7 grams per vehicle mile.

(ii) *Carbon monoxide.* 18 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 2.3 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B and measured and calculated in accordance with those procedures.

(b) [See paragraph (b) of § 86.078–9].

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1979 and later model year gasoline-fueled light duty truck.

5. A new § 86.079–20 is added:

§ 86.079–20 Incomplete vehicles, classification.

(a) An incomplete truck less than 8500 pounds gross vehicle weight rating shall be classified by the manufacturer as a light duty truck or as a heavy duty vehicle. Incomplete light duty trucks shall be described in the manufacturer's application for certification. The frontal area and curb weight used for certification purposes shall be specified on the label required in § 86.079–35(d). Incomplete heavy duty trucks must be labeled as required in § 86.079–35(e).

6. A new § 86.079–21 is added:

§ 86.079–21 Application for certification.

(a) through (c) [See paragraphs (a) through (c) of § 86.078–21].

(d) Incomplete light duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

7. A new § 86.079–26 is added as follows:

§ 86.079–26 Mileage and service accumulation; emission measurements.

(a)(1) [See § 86.078–26(a)(1)].

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV of this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.125, the manufacturer may elect to conduct the respective emission tests at the inertia weight corresponding to the higher loaded vehicle weight. Mileage will be accumulated on four wheel drive vehicles in their normal on-highway mode of operation.

(a)(3) through (c) [See § 86.078–26 (a)(3) through (c)].

8. A new § 86.079–30 is added as follows:

§ 86.079–30 Certification.

(a)(1) through (a)(7) [See § 86.078–30 (a)(1) through (a)(7)].

(8) Certificates issued for incomplete light duty trucks shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "For incomplete light duty trucks, this certificate covers only those new motor vehicles which when completed by having the primary load carry device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in 40 CFR 86.079–21(d)."

(9) Certificates issued for heavy duty engines shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "For heavy duty engines, this certificate covers only those new motor vehicle engines installed in heavy duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy duty vehicles described in 40 CFR 86.079–2."

(b) through (c) [see § 86.078–30(b) through (c)].

9. A new § 86.079–35 is added:

§ 86.079–35 Labeling.

(a)(1)(iii)(D) through (c) [see § 86.077–35(a) through (a)(1)(iii)(B)].

(C) [see § 86.078–35(a)(1)(iii)(C)].

(a)(1)(iii)(D) through (c) [see § 86.077–35(a)(1)(iii)(D) through (c)].

(d) Incomplete light duty trucks and incomplete heavy duty vehicles optionally certified as light duty trucks shall have the following statement printed on the label required in paragraph (a)(1) of this section in lieu of the statement required by (a)(1)(iii)(E) of this section: "This vehicle conforms to U.S. EPA regulations applicable to 19__ Model Year New Motor Vehicles when completed at a maximum curb weight of ____ pounds and a maximum frontal area of ____ square feet."

(e) Incomplete heavy duty vehicles having an 8500 pound gross vehicle weight rating or less shall have the following statement printed on the label required in paragraph (a)(2) or (a)(3) of this section in lieu of the statement required by paragraph (a)(2)(iii)F or (a)(3)(iii)F of this section: "This engine conforms to U.S. EPA regulations applicable to 19__ Model Year New Heavy Duty Engines when installed in a vehicle completed at a curb weight of more than 6000 pounds or with a frontal area greater than 46 square feet."

(f) The manufacturer of any incomplete vehicle shall notify the purchaser of such vehicle of any curb weight, frontal area or gross vehicle weight rating limitations affecting the emissions certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with NHTSA safety notification requirements published in 40 CFR 568.

10. A new § 86.129–79 is added:

§ 86.129–79 Road load power and inertia weight determination.

(a) Flywheels, electrical or other means of simulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 pounds) available shall be used.

Loaded vehicle weight (pounds)	Equivalent inertia weight (pounds)	Road load power at 50 mph (horsepower)	
		Light Duty Vehicles	Light Duty Trucks
Up to 1,125	1,000	5.9	
1,126 to 1,375	1,250	6.5	
1,376 to 1,625	1,500	7.1	
1,626 to 1,875	1,750	7.7	
1,876 to 2,125	2,000	8.3	
2,126 to 2,375	2,250	8.8	
2,376 to 2,625	2,500	9.4	
2,626 to 2,875	2,750	9.9	
2,875 to 3,250	3,000	10.3	
3,251 to 3,750	3,500	11.2	
3,751 to 4,250	4,000	12.0	
4,251 to 4,750	4,500	12.7	
4,751 to 5,250	5,000	13.4	
5,251 to 5,750	5,500	13.9	
5,751 to 6,250	6,000(1)	14.4(1)	
6,251 to 6,750	6,500	-	
6,751 to 7,250	7,000	-	
7,251 to 7,750	7,500	-	
7,751 to 8,250	8,000	-	
8,251 to 8,750	8,500	-	
8,751 to 9,250	9,000	-	
9,251 to 9,750	9,500	-	
9,751 to 10,000	10,000	-	

(See notes (2) thru (4))

Notes:

(1) Light duty vehicles over 5,750 pounds loaded vehicle weight shall be tested with a 5,500 pound equivalent inertia and a 14.4 horsepower road load.

(2) For all light duty trucks except vans, and for heavy duty vehicles optionally certified as light duty trucks, the road load power (horsepower) at 50 mph shall be 0.58 times A (defined below) rounded to the nearest one half horsepower.

(3) For vans, the road load power at 50 mph (horsepower) shall be 0.50 times A (defined below) rounded to the nearest one half horsepower.

(4) "A" is the basic vehicle frontal area (ft^2) plus the additional frontal area (ft^2) of mirrors and optional equipment exceeding 0.1 square feet which are anticipated to be sold on more than 33 percent of the car line. Frontal area measurements shall be computed to the nearest tenth of a square foot.

(b)(1) through (b)(2) [see § 86.129–78(b)(1) through (b)(2)].

(b)(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph (b)(2) of this section shall be increased by 10 percent, up to a maximum increase of 1.4 horsepower, for testing all test vehicles representing such an engine family if those vehicles are intended to be offered with air conditioning in production. If the table in paragraph (b)(1) of this section is used to determine the road load power for light duty trucks, the above increase for air conditioning shall be added prior to rounding off as instructed by notes 2 and 3 of the table.

11. A new § 86.135–79 is added:

§ 86.135–79 Dynamometer procedure.

(a) through (h) [See § 86.135–78(a) through (h)].

(i) Four wheel drive vehicles will be tested in a two wheel drive mode of operation. Full time four wheel drive vehicles will have one set of drive wheels temporarily disengaged by the vehicle manufacturer. Four wheel drive vehicles which can be manually shifted to a two wheel drive mode will be tested in the normal on-highway two wheel drive mode of operation.

12. A new § 86.142–79 is added:

§ 86.142–79 Records required.

(a) through (e) [see § 86.142–78(a) through (e)].

(f) Vehicle: ID number, Manufacturer, Model year, Standards, Engine family, Evaporative emissions family, Basic engine description (including displacement, number of cylinders, and catalyst usage), Fuel system (including number of carburetors, number of carburetor barrels, fuel injection type, and fuel tank(s) capacity and location), Engine code, Gross vehicle weight rating, Inertia weight class, Actual curb weight at zero miles, Actual road load at 50 mph, Transmission configuration, Axle ratio, Car line, Odometer reading, Idle rpm and Drive wheel tire pressure, as applicable.

(g) through (o) [see § 86.142–78(g) through (o)].

[FR Doc.76-37748 Filed 12-27-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

DISCREPANCIES OR DEFICIENCIES IN GSA OR DOD SHIPMENTS, MATERIAL, OR BILLINGS

The General Services Administration (GSA) on August 12, 1976, published in the FEDERAL REGISTER at 41 FR 34080 a proposal to change Subparts 101–2.1 and 101–26.3 of the Federal Property Management Regulations (FPMR) and to add new Subpart 101–26.8.

During the time allowed for the submission of comments only three were received, none of which spoke to or questioned the policies proposed to be

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changed. Rather, the comments were either of an editorial nature or directed toward GSA policies not part of the proposed changes. Therefore, since no objections were received and in the interests of improved economy and efficiency in GSA supply support, the FPMR is amended as set forth below.

SUBCHAPTER A—GENERAL

[FPMR Amdt. A-24]

PART 101–2—PAYMENTS TO GSA FOR SUPPLIES AND SERVICES FURNISHED GOVERMENT AGENCIES

Subpart 101–2.1—Billings, Payments, and Adjustments

1. Section 101–2.104 is amended as follows:

§ 101–2.104 Adjustments.

* * * * *

(c) Adjustments of billings or payments are not required and should not be requested or made whenever the difference involved, resulting from over or under deliveries or over or under charges, represents an amount of $25 or less on any one line item on a bill. This practice regarding adjustments is not to be construed to eliminate billings and payments for requisitioned items of $25 or less. In connection with GSA Federal Supply Service activities, Subpart 101–26.8 is applicable to adjustments for discrepancies or deficiencies in shipments or material. To minimize followup, research, and collection costs on intragovernmental transactions, agencies are urged to follow the most liberal policy possible in determining whether or not to request adjustments. To further expedite settlement of accounts between GSA and the billed agencies, such settlements may be made by mutual agreement, regardless of amount, without reference to the General Accounting Office.

* * * * *

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-198]

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

The table of contents for Part 101–26 is amended by adding the following reserved and new entries:

Sec.
101–26.307–1 [Reserved]
101–26.307–2 [Reserved]
101–26.307–3 [Reserved]

Subpart 101–26.8—Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings

101–26.800 Scope of subpart.
101–26.801 Applicability.
101–26.802 Exclusions.
101–26.803 Discrepancies or deficiencies in shipments, material, or billings.
101–26.803–1 Reporting discrepancies or deficiencies.
101–26.803–2 Adjustments.

Subpart 101–26.3—Procurement of GSA Stock Items

Section 101–26.307 is revised and §§ 101–26.307–1, 101–26.307–2 and 101–26.307–3 are deleted and reserved as follows:

§ 101–26.307 Processing overages, shortages, and damages.

(a) Transportation-type discrepancies shall be processed in accordance with the instructions in Subpart 101–40.7 when the discrepancies are the fault of the carrier and occur while the shipments are in the possession of:

(1) International ocean or air carriers, regardless of who pays the transportation charges, except when shipment is on a through Government bill of lading (TGBL) or is made through the Defense Transportation System (DTS) (Discrepancies in shipments on a TGBL or which occur while in the DTS shall be reported as prescribed in Subpart 101–26.8.); or

(2) Carriers within the continental United States, when other than GSA or DOD pays the transportation charges.

(b) Reporting discrepancies or deficiencies in material or shipments and processing requests for or documenting adjustments in billings from or directed by GSA activities shall be in accordance with the provisions of Subpart 101–26.8.

§ 101–26.307–1 [Reserved]

§ 101–26.307–2 [Reserved]

§ 101–26.307–3 [Reserved]

New Subpart 101–26.8 is added as follows:

Subpart 101–26.8—Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings

§ 101–26.800 Scope of subpart.

This subpart prescribes a uniform system for reporting discrepancies or deficiencies in material or shipments and processing requests for or documenting adjustments in billings from or directed by GSA or Department of Defense (DOD) activities.

§ 101–26.801 Applicability.

This subpart is applicable to all civilian executive agencies, including their contractors and subcontractors when authorized. DOD activities should follow the applicable DOD or military service/agency regulations in reporting discrepancies or deficiencies in shipments or material, or requesting adjustments in billings from or directed by GSA unless exempted therefrom, in which case the provisions of this § 101–26.801 apply.

§ 101–26.802 Exclusions.

The provisions of this regulation are not applicable to shipments and billings related to the stockpile of strategic and critical materials or excess or surplus property; or to billings for services, space, communications, and printing.

§ 101–26.803 Discrepancies or deficiencies in shipments, material, or billings.

§ 101–26.803–1 Reporting discrepancies or deficiencies.

(a) When discrepancies or deficiencies are incurred in shipments or material, activities shall document such discrepancies or deficiencies with sufficient information to enable initiation and processing of claims against carriers and suppliers for shortages, damages, and the disposition of any overages or incorrect items. Procedures for documenting such discrepancies or deficiencies including those for documenting and reporting quality deficiencies are set forth in the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings, promulgated by the Commissioner, Federal Supply Service.

(1) Discrepancies or deficiencies other than those outlined in paragraph (2) of this section shall be reported on the forms and within the time frames and dollar limitations prescribed in the handbook referenced above.

(2) Transportation-type discrepancies shall be processed in accordance with the instructions in Subpart 101–40.7 when the discrepancies are the fault of the carrier and occur while the shipments are in the possession of:

(i) International ocean or air carriers, regardless of who pays the transportation charges, except when shipment is on a through Government bill of lading (TGBL) or is made through the Defense Transportation System (DTS) (Discrepancies in shipments on a TGBL or which occur while in the DTS shall be reported as prescribed in the GSA Handbook referenced in paragraph (a) of this section.); or

(ii) Carriers within the continental United States, when other than GSA or DOD pays the transportation charges.

(b) Reports shall be prepared promptly and mailed to the appropriate GSA or DOD office in order to avoid delay in adjustment actions and complication of claim actions against carriers or suppliers.

§ 101–26.803–2 Adjustments.

GSA and DOD will adjust billings whenever the difference involved, resulting from over or under charges or discrepancies or deficiencies in shipments or material, exceeds $25 per line item on a bill submitted in accordance with the provisions of this Subpart 101–26.8 and the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Effective date: These regulations are effective December 28, 1976.

The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 16, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-38006 Filed 12-27-76; 8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-1134; Docket No. 20693, RM-2616]

PART 73—RADIO BROADCAST SERVICES

Vertical Blanking Interval of the Television Broadcast Signal for Captioning for the Deaf

Adopted: December 8, 1976.

Released: December 20, 1976.

1. A Notice of Proposed Rule Making in the above-entitled proceeding (FCC 76–72) was released on February 5, 1976 (41 FR 5834). The dates for filing comments and reply comments were originally March 10 and March 24, 1976, respectively. In response to timely filed requests by CBS, Inc. and the Electronic Industries Association (EIA), these dates were extended, by the Chief, Broadcast Bureau, pursuant to delegated authority, to May 10 and May 25, 1976, respectively.[1]

2. This proceeding was initiated in response to a petition for rule making (RM–2616) filed by the Public Broadcasting Service (PBS) on November 6, 1975, requesting amendment of Subpart E of Part 73 of the Commission's Rules and Regulations to provide that Line 21, Field 1, and the available half of Line 21, Field 2, of the television vertical blanking interval be reserved for the transmission of captioned information for the deaf.

3. In the Notice of Proposed Rule Making (para. 15) we set forth several questions to which we asked commenting parties to respond. These questions were:

Should scarce vertical interval space be used to serve the limited purpose advanced in the proposal?

What are the prospects for accommodating shared use of line 21?

If sharing is feasible, should captioning be made a priority use?

What foreseeable uses for the vertical interval would be precluded by adoption of the proposal?

Is the current use of the vertical interval extravagant, i.e., may some of the current vertical interval signals satisfactorily serve their intended function using less vertical interval space than at present?

To what extent are potential users of the information carrying capability of vertical interval signals interested in exploiting this technology.

Additionally, parties were invited to discuss the cost estimates for encoder and decoder equipment and the captioning of programs, particularly in regard to their impact upon anticipated actual use of the service. Comments were also sought, in the light of economic and other pertinent factors, on any matters concerning the application of captioning to programs in general and ultimate use of the captioning system.

4. Parties filing formal comments in this proceeding are identified in Appendix A. In addition, several hundred individuals, many state and local organizations, and many members of Congress filed informal comments endorsing the rule changes proposed in this proceeding. Support for the proposal is not unanimous however. Questions concerning the advisability of proceeding to restrict the use of Line 21 solely for the purpose of captioning have been raised. We shall address the foregoing issues in our further discussion of the PBS proposal herein.

5. To establish that captioning is a pressing need, PBS cites statistics from HEW[2] which show that there are at least 13.4 million persons in the United States with hearing impairments. PBS, utilizing a captioning system which was initially developed by the National Bureau of Standards (NBS), commenced an experimental program in closed captioning on June 28, 1972, under authority granted by this Commission. Several Special Temporary Authority's (STA's) have been issued for this program, the last being issued on November 12, 1976, with a termination date of March 1, 1977. The experimental program also included consideration of an alternative system developed by Hazeltine Research Inc. (HRI) which did not utilize the vertical blanking space, instead relying upon a submerged interleaved subcarrier within the active portion of the video signal. Acknowledging that there were certain problems with both systems, PBS opted for the "Line 21" system (the NBS system) because its problems appeared to be more easily solved.

6. NBS had previously filed a Petition for Rule Making (RM–2108) for transmission on Line 21 of time and standard frequency data along with other information. On November 24, 1976, NBS filed a motion to withdraw its Petition for rulemaking and the Chief, Broadcast Bureau, pursuant to delegated authority, has granted the NBS motion.

7. In its petition, PBS stated that the time is now ripe for adoption of rules for captioning because of (1) the overwhelming acceptance by hearing impaired viewers who have seen captioned programs on an experimental basis, and (2) PBS' experimental program has demonstrated the practicability of a regular captioning system.

8. As pointed out in the Notice of Proposed Rule Making, and as demonstrated by the Commission's recent decision in Docket No. 20659 (Amendment of Part 73 of the Rules to Establish Requirements for Captioning of Emergency Messages on Television), Report and Order (FCC 76–852), released September 15, 1976, the Commission has long been interested in the promotion of procedures and facilities which, for television viewers with impaired hearing, will make available, in visual form, information normally carried on the aural channel. This was not the first expression of concern for the hearing-impaired by the Commission however.

9. In a policy statement released December 17, 1970,[3] The Use of Telecasts to Inform and Alert Viewers with Impaired Hearing, the Commission indicated its desire to alert licensees to the importance of making television a truly valuable mechanism for the hard of hearing and of our concern about the matter. Several suggestions were made by the Commission regarding program presentation techniques which could assist segments of our population, suffering from this significant handicap, and make the tremendously powerful television medium more useful to them. It was thought that these techniques could be applied, to a significant degree, without interfering with the station's service to its general audience and the Commission urged broadcasters to explore them and apply them to the extent feasible. In the intervening six years since that pronouncement, progress in this area has been disappointing except for the PBS experiment which brought about the Notice of Proposed Rule Making which is before us now for determination.

10. It should be noted that the PBS proposal was for Line 21 to "be made available for use by a program related data signal," which would be used to provide the "visual depiction of information simultaneously being presented on the aural channel." It is to be recognized, however, that the PBS proposal does not look toward the adoption of rules which would make captioning obligatory. Nor does the rule making proposal ask for the adoption of any rule governing the technique of captioning.

11. Parties participating in this proceeding have directed their comments primarily toward the specific questions, previously referred to, which were set forth in the Notice of Proposed Rule

[1] PBS timely filed an Application for Review of the Order Extending Time. We find that inadvertently this matter has not been formally acted upon by the Commission. We believe that because of the nature of the proceeding and the desire to have adequate comments that the grant of the extension of time was warranted. However, since the matter is now moot, it will be dismissed.

[2] See DHEW Publication No. (HRA) 75–1526 entitled "Prevalence of Selected Impairments," U.S. 1971. In particular, footnote 6, page 11, of the report appears relevant to this proceeding.

	Number of persons (thousands)	Percent distribution
Total with hearing problems	13,228	100.0
With bilateral hearing problems	6,414	48.5
Trouble with 1 ear only	6,225	47.1
Both ears good	336	2.5
No response	253	1.9
Total with bilateral hearing problems	6,414	100.0
Can hear words spoken in normal voice	3,878	60.5
Can hear words shouted across a room	1,740	27.1
Can hear words shouted in better ear	372	5.8
Can not hear any speech	335	5.2
No response	89	1.4

[3] See DHEW Publication No. (HRA) 75–1526 entitled "Prevalence of Selected Impairments," U.S. 1971. In particular, footnote 6, page 11, of the report appears relevant to this proceeding.

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Making. We will, in the interest of orderliness, treat these comments in the context of those questions.

12. Should scarce vertical interval space be used to serve the limited purpose advanced in the proposal? PBS, in response to this question, answers that current use of the vertical blanking interval is extravagant, and, even if the proposal herein is adopted, ample capacity will remain for subsequently proposed uses. The Corporation for Public Broadcasting (CPB) contends that the present use of lines 17, 18, 19, Fields 1 and 2, accrues little benefit to the public compared to the benefit if captioning is allowed. Both the Maryland Center for Public Broadcasting and the Mississippi Authority for Educational Television also state that there is presently ample capacity in the vertical interval to accommodate both the proposed captioning system and any other services which are presently contemplated. Both the National Association of Broadcasters (NAB) and the special Ad Hoc Committee of the Joint Committee for Intersociety Coordination state that before the Commission concludes that it is advisable to set aside Line 21 for captioning it must carefully consider two propositions fundamental to this proceeding: (1) the exclusive use of Line 21 of the Vertical Interval of the television signal for captioning the aural portion of the television program, and (2) the dedicated application of the technical format for the use of Line 21 as proposed by PBS. They contend that such exclusive and limited use, as proposed, would greatly deter, if not completely undermine, further application of the vertical interval technology for other uses. Southern Broadcasting Company, in its comments, states that the PBS proposal is ill-advised and premature. CBS states that efficiency is the most appropriate measure of any proposal to use space in the vertical blanking interval. Such space is, without doubt, both valuable and scarce. Given these compelling reasons for making efficient use of vertical interval space, the inflexibility and limited versatility of the PBS system militates against its adoption. ABC contends that it would be premature to allocate a large portion of available space (in the vertical interval) to any use on an exclusive basis until there is an overall plan for use of this interval.

13. What are the prospects for accommodating shared use of Line 21? While neither PBS nor CPB specifically state that there can be no shared use of Line 21, it is clear from their comments that they do not wish to accept any other usage of Line 21, but rather that it be set aside on a fulltime, permanent basis, for captioning. Southern Broadcasting believes that there should be provisions for shared use, that the needs of the vast majority of television viewers must be taken into account in the proceeding. CBS, on the other hand, states that the Commission should be economical in the allocation of vertical interval space and that time-sharing of Line 21 may not be desirable or even possible. They point out that one obvious problem with the sharing of Line 21 would be the creation of an operational restraint in that the captioning signal and any other signal sharing Line 21 could not be transmitted simultaneously. Both Electronic Industries Association-Consumer Electronics Group (EIA–CEG) and GTE Sylvania recommend that the Commission adopt a "shared use" approach and not limit the use of Line 21 for captioning so that it could also be used for the transmission of broadcast-related data signals. JCIC believes that shared use of Line 21 is probably not feasible. It states that time-sharing possibilities cannot really be assessed without knowing the nature of the signal which would share Line 21 with the captioning signal. PBS in its reply comments urges that exclusive reservation of Line 21 is desirable and justified and that sharing should not be considered. Sharing, they contend, would degrade reliability of the proposed system (it would introduce a noisy-type environment); would introduce unnecessarily costly complexity in the decoder; and would impede development of decoders because of uncertainty regarding the nature of signals decoders would have to reject. They further state that sharing of Line 21 for other purposes, when the program being telecast is not captioned, is undesirable because it would give rise to competition for use of Line 21 and thus discourage growth of all systems by virtue of the spectre of Line 21 not being available at some particular time.

14. If sharing is feasible, should captioning be made a priority use? While none of the commenting parties addressed this specific question to any degree, it does appear that both CPB and PBS would, if sharing was determined to be feasible, prefer that captioning for the hearing-impaired be given priority status. The other commenting parties contend that without sufficient knowledge as to what other possible uses are to be shared, they cannot determine which use should have a priority status.

15. What foreseeable uses for the vertical interval would be precluded by adoption of the proposal? Maryland Center for Public Broadcasting, Mississippi Authority for Educational Television and PBS contend that any services likely to be suggested for the foreseeable future could be accommodated along with the captioning proposal. They do not list any specific uses, however, only using the conclusionary language set forth above. NAB believes that other uses for the general public might be precluded if the Commission were to adopt the PBS proposal They list the following examples of such uses. A general program sound channel, an emergency sound channel, emergency action notification alerting, data transmission, facsimile transmission and channel identification. They go on to note that a limited use, such as for captioning only, would greatly deter, if not completely undermine, further application of the vertical interval to other uses. JCIC states in its comments that the question cannot be answered adequately until tests are completed concerning the feasibility of using lines in addition to lines 17 through 21 and developments looking toward use of higher data rate and space for a program adaptive equalizer signal are farther along. PBS in its reply comments characterizes the discussion in the industry to date about future use of the vertical interval as "speculation." They note that suggestions advanced in the industry comments regarding teletext type service [4] and SID (Source Identification Signal) has not been backed up by the filing of a petition for rule making. PBS claims that if other possible uses of the vertical interval are subsequently proposed, there will be room for them; and if no proposals are advanced, there is no need for concern about the capacity of the vertical interval. CBS in its comments points out that adoption of the PBS proposal could preclude implementation of a "teletext" type service such as Ceefax and Oracle which are presently being tested in Great Britain.[5]

16. Is the current use of the vertical interval extravagant, i.e., may some of the current vertical interval signals satisfactorily serve their intended function using less vertical interval space than at present? NAB states in its comments that there does in fact appear to be a need for a complete review of the number of lines devoted to particular test functions and also states that there is an urgent need to bring about the standardization of such signals. CBS also believes that the current use of the vertical interval is extravagant and that consistent with this belief, urges the Commission to cut in half the number of lines in the vertical interval presently allocated to Vertical Interval Test Signals (VITS). JCIC in its comments also alludes to extravagant use of the vertical interval. CPB makes an unsubstantiated statement with reference to the present use of the vertical interval being extravagant and that the capacity of the vertical interval would remain far from fully utilized even if Line 21 were reserved for the proposed system. PBS suggests that it might be possible to juggle some of the current uses of the vertical interval so as to make additional space available for future uses.

17. To what extent are potential users of the information carrying capability of vertical interval signals interested in exploiting this technology? PBS and CPB have both expressed their interest in using this technology to provide captioning for the hearing-impaired by means of closed captions on Line 21. WGBH Educational Foundation (Boston) commenced operations of a caption center in 1970. In 1975 they started producing, in "open" caption form, the "Captioned ABC News," the only national television news service for the hearing-impaired. This program is presently carried on more than 125 member stations of the PBS. WGBH also states that, in addition to this captioning, they do captioning for various other television programs. They urge adoption of the PBS proposal in furtherance of the captioning effort. NAB points out in its comments concerning captioning costs, that even assuming the PBS estimate is appropriate, it must be recognized that station utilization of this technique will be minimal at best and that a substantial number of stations would not employ the use of captioning at all. Southern Broadcasting also states that because of the costs, even if you accept the PBS estimate, many stations will not voluntarily undertake to caption programs, especially those stations outside of major markets. CBS states that it has examined and re-examined the PBS proposal and that it finds shortcomings and inadequacies which far outweigh its advantages. Therefore, CBS does not contemplate any near term entry into the field of program captioning or the broadcasting of such programs. CBS' basis for such a decision is stated as (1) time problems—insufficient time to caption because program suppliers are sometimes unable to deliver programs sufficiently in advance of air time, (2) certain programs (such as "60 Minutes," news broadcasts, musical variety shows, live news conferences and sports events) do not lend themselves to captioning, (3) once a program has been captioned no further editing can be done to handle such matters as a five minute political broadcast and (4) degrading effects of moving one generation farther from the "master" tape. NBC and ABC both believe it would be premature to adopt the PBS proposal and further point to similar difficulties as those set forth in the CBS comments. Eastman Kodak Company in its comments supports the enhancement of television service to the deaf and hearing-impaired. However, Eastman, because of a number of uncertainties, seriously questions the desirability of reserving so large a portion of the remaining vertical blanking interval for this single purpose. It notes particularly that the PBS proposal is incompatible with film. They point out that at the present time 64 percent of the prime-time network programming is originated on film. If you add to that the movies shown on TV the figure raises to 77 percent. Additionally, a survey of selected independent stations reflects that approximately 68 percent of their total programming consists of film. All three networks support the statement of Eastman Kodak regarding filmed programs. PBS in its reply comments acknowledges the problems with captioning on film, but states that it believes this problem can be eventually solved. EIA-CEG maintains that the public interest will best be served by designating the PBS proposal as temporary for a testing period of 3 years, permitting testing of other data rates and formats, permitting shared use with broadcast-related signals, and providing for a review at the end of two years. They also state that TV receiver manufacturers, even if they started today to develop a receiver with an integral decoder, would require at least 2 years to get a receiver on the market.

18. Additionally, parties were invited to discuss the cost estimates of the encoder and decoder equipment and the captioning of programs, particularly in regard to their impact upon anticipated actual use of the service. PBS in its initial proposal estimated the cost of a decoder to be about $100 if manufactured in quantity. Additional cost estimates were given for other captioning requirements. It stated that there would be a capital investment of some $25,000 to $50,000 for encoding equipment and that the cost of captioning a one hour program was approximately $1,000. It should also be pointed out that PBS indicated in its petition, as well as in its comments, that 94 percent of the test viewers wanted a decoder in their homes. Southern Broadcasting questions the cost estimates of PBS, but offers no substantive data to support its conclusion. They state that the Commission must examine closely the costs of such proposal. CBS in its comments submitted a cost analysis of captioning a one hour segment of "The Waltons." CBS stated that the captioning was done adhering to "CBS standards of artistic quality, including doing justice to the original author, screen play and producer." The cost for captioning this program was $3,800. NBC states that it believed there were serious practical problems in the implementation of the PBS proposal. They submit data which reflect investment cost requirements of approximately $500,000 compared to the $25,000 to $50,000 estimated by PBS.[6] As to the cost of captioning a one-hour program, NBC estimates $7,600 compared to $1,000 as estimated by PBS. ABC states that it believes the cost of the decoders will probably be higher than that estimated by PBS. They also state that the number of people required and the cost of encoding are believed to be significantly higher than the estimates contained in the proposal of PBS. PBS, in its reply comments, disagrees with contentions of networks that cost of captioning will be substantially greater than PBS has estimated. They suggest that the network estimates are based on much more elaborate installation than necessary. Additionally, PBS states that even if the networks' cost estimates are accurate, costs for captioning are indeed modest when considered in relation to cost of producing programs. JCIC contends that an add-on decoder would not be technically or economically feasible—hence the question of "decoder cost" must be considered in terms of "built-in" decoders. They go on to state that receiver industry representatives agree that $100 at the retail level is a valid "ball park" figure if production runs are in the order of 100,000 units, and do not include adaptive equalizer circuitry. EIA–CEG states that the potential market for decoders is unknown and will be significantly influenced by the amount of available captioned programming. They further state "receiver manufacturers maintain that a decoder as an add-on to receivers in the public's hands is not practical. Safety, warranty, cost, and compatibility problems of making a decoder suitable for a number of different receiver designs all dictate against it." WGBH concludes in its comments that the cost and time estimates for captioning programs should be considered only as tentative.

In any event, "the caption costs should only be a very small percentage of actual production costs." GTE Sylvania comments that the limited market would not provide sufficient incentive for TV receiver manufacturers to market receivers with costly decoders. They also support the comments of EIA–CEG. PBS in its reply comments excepts to the industry contention that add-on decoders are impractical. It concedes, however, that an add-on decoder is more expensive than a built-in decoder. It claims that the extra cost would be far from prohibitive and that the choice of either a built-in or an add-on decoder should be left to the wisdom of the marketplace. It offers that if the proposed rules are adopted, PBS plans to undertake further developmental efforts regarding decoders. PBS considers that decoder circuitry for an adaptive multipath equalizer signal might double the cost of a decoder but takes the position that a purchaser would have the option of buying a device with or without such circuitry. It also contends that substantial cost reduction should result from PBS' continued developmental work on integrated circuits and related technology for captioning. PBS believes that the total market for decoders will be greater than just the hearing-impaired, suggesting that captioning in a foreign language and the usefulness of captions for persons learning the English language may expand the market.

19. Comments were also sought, in the light of economic and other pertinent factors, on any matters concerning the application of captioning to programs in general and ultimate use of the captioning system. PBS states that it has spent a great deal of time and effort in developing the proposed captioning system and believes that it does represent an efficient use of Line 21. WGBH fully supports the PBS petition to reserve Line 21 for captioning for the hearing-impaired, noting that it would not require any broadcaster to provide captioned programming. NAB points out that there are alternatives to captioning which many with hearing impairments might find just as useful. It identifies devices such as conventional hearing aids, and an infrared device for use with a specially designed headset without cords or other

[5] 26 F.C.C. 2d 917 (1970) (FCC 70-1328).

[4] A high data-rate system, using spacing in the vertical interval, capable of providing a multiplicity of services, including captioning.

[5] Ceefax and Oracle are names given to teletext type systems presently being tested.

[6] $400,000 for equipment and installation and $120,000 over 5 years for maintenance, space and spare parts.

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impeding devices. According to NAB, as well as some other commentators, this latter device has wide application in West Germany and is meeting with wide acceptance and success by the hearing-impaired. NAB also comments on the fact that the PBS selection of a relatively low data rate is questionable. They favor a higher data rate which carries the potential to offer a multiplicity of services, which, they contend, results in more efficient use of the vertical interval. NAB believes complete flexibility must be maintained to provide for this possible application. The NAB believes there are simply too many unresolved questions which make it impossible to support adoption of the Notice of Proposed Rule Making. Therefore they urge the proposal not be adopted pending further effort concerning the matter.

Southern Broadcasting suggests that if the proposal is adopted, implementation can be achieved on a rotating basis among stations in a market. Another alternative would be to designate a particular station in each market to be the caption station, or the system could be used by cable systems which originate their own programming. Southern characterizes the approach set forth by PBS as "an • • • 'all or nothing' approach whereby line 21 would be reserved for the deaf on all stations, with no provision for the needs of the vast majority of television viewers; a sledge-hammer approach showing no sensitivity to the balancing of interests and carrying a basically sound idea much too far. CBS states that as to the limited available vertical space—efficiency is the most appropriate measure of the strength of any proposal to use vertical interval space. Such space is, without doubt, both valuable and scarce. Given these compelling reasons for making efficient use of the vertical interval, the inflexibility and limited versatility of the PBS system militates against its adoption. NBC raises an issue as to the limited size of the market. True, they say, there are approximately 14 million people in the U.S. with hearing problems. However, it contends that there are only about 335,000 people who cannot hear any speech. Therefore, the remaining 13 million plus could be assisted by sound amplification. They conclude that the potential market would be reduced further (below 335,000) by these factors: (a) visual inability to use captioning; (b) inability to read English; and (c) inability to afford the device. EIA–CEG also points out its concern as to the market size. It expresses the belief that the probable market size is 1.8 million rather than approximately 14 million as stated by PBS. JCIC suggests that sound amplification systems might be a better short-term solution to meeting needs of the hearing-impaired and an effort which looks toward more efficiency, in terms of use of limited vertical interval space, and more versatile captioning techniques should be pursued for a long-range solution. The "Committee is convinced that the PBS proposal does not represent an efficient use of the available space, and if adopted, could constitute a grave disservice to the hearing-impaired community by encouraging the purchase of new television receivers with built-in decoders which would have such limited utility and which would be made obsolete by any future high data-rate decoder." ABC states that it believes that the Commission should defer action on the PBS proposal until the Ad Hoc Committee of the JCIC issues its report on the studies it is conducting to determine if other (other than 17, 18, 19, 20 and 21) vertical interval lines are feasible for ancillary signals. NBC states that apart from technical and engineering questions, it believes that adoption of such rules may prove an expensive disappointment to those it is meant to help; the economics of the captioning proposal raises a strong probability that little use will be made of line 21 if it is devoted to this purpose; and that therefore scarce vertical blanking space should not be devoted to the proposed captioning. In its reply comments, PBS contends that the only real policy issue which need be addressed by the Commission is whether or not adoption of the proposed rules will preclude more important future uses of the vertical interval. Program related services using the vertical interval must be given top priority when considering all potential uses of the vertical interval.

Yerker Anderson, who filed reply comments, states that licensees have an obligation to serve the hearing-impaired. Size of the hearing-impaired community is not truly a factor—all citizens are entitled to adequate service. He suggests that the Commission should consider a "willingness to serve all individuals [as] one of the criteria in awarding a license." He also states that current "viewing" of television by a hearing-impaired person is not "enjoying." Michael Chatoff in reply comments notes that it has been stated on the record that 65 percent of deaf individuals watch six or more hours of television on weekends. He states that this is not surprising (and not supportive of the contention that hearing-impaired enjoy TV despite present lack of captions) since a large segment of available programming on weekends is sports, and sports can be enjoyed without captions. Mr. Chatoff urges that costs should not be a factor for broadcasters since they enjoy use of a public resource and profit thereby. They have a responsibility to contribute toward serving the hearing-impaired. PBS in its reply comments states that the proposal would permit the television industry to make available to 13.4 million Americans with impaired hearing a fuller use and enjoyment of this country's single most pervasive medium of information and entertainment. PBS sees no ready alternative to closed captioning for meeting the needs of the hearing-impaired. It also believes that there is a very sizeable group of people with an identifiable need, and that the PBS proposal is a method of meeting that need which is acceptable to that group.

DISCUSSION

20. As will be observed by these many and varied comments, the Commission finds itself faced with a most difficult and troublesome decision. On the one hand we believe it is of the utmost importance that the hearing-impaired, a significant portion of our population, enjoy the tremendously powerful television medium. The Commission attempted to make this clear in the 1970 Policy Statement, infra. On the other hand, we find many unanswered questions, either those outlined in the *Notice of Proposed Rule Making*, or in the comments filed by the parties to this proceeding. Regardless of how we look at it, there is simply no easy solution.

21. Because of the many unanswered questions we believe that the proper approach at the present time is to permit the use of Line 21 for captioning, but not reserving it for the exclusive use of such captioning. We are concerned that were we to reserve Line 21, at this time, we would possibly defer future technological developments, such as a teletext-type system, which would provide a larger number of services, including captioning, to a larger percentage of the public. Further, we have considerable concern in regard to ultimate costs associated with the captioning technology and their effect upon ultimate implementation of the system.

22. There still remain unanswered questions regarding the cost of captioning programs, how the "adaptive equalizer" proposed by PBS will work under actual operational conditions, and to what extent captioned programs will be made available. These uncertainties dictate that we exercise caution in arriving at our decision. However, the public interest arguments, we believe, warrant the extent to which we have decided to go at this time.

23. We have considered carefully the comments addressing use of Line 21 and conclude that sharing, within the framework of the rules adopted herein, will promote development of the system advanced by the petitioner and secure its benefits for the hearing-impaired community and, at the same time, provide for more efficient use of Line 21. We are persuaded that the approach we have taken will encourage continued development of technology for using the vertical interval and will permit development of services of interest to both the hearing-impaired and a broader segment of the population, thereby expanding the potential market for decoders and promoting the prospect for making such devices available at minimum cost.

24. As noted in paragraph 8, we adopted certain rules to establish requirements for captioning of emergency messages on television (Docket 20659). In that proceeding we stated that "any questions of compatibility between open and closed captioning systems will be dealt with in Docket 20693." There does not appear to be complete resolution of the problem of compatibility. The commenting parties point out that indeed there may be conflicts between open and closed captioning "during a single emergency." We are therefore amending the proposed rules to include a new paragraph (e) which will provide for priority treatment to be given visual emergency messages which are transmitted pursuant to § 73.675 of our rules.

25. In the *Notice of Proposed Rule Making* (FCC 76–72) we stated that the PBS proposal offers a fully developed technical system by which captioning can be provided so as to afford a much broader range of programming to those hearing-impaired persons willing to invest in decoders, without, in any way, interfering with the viewing of the much larger audience not needing this aid. Many arguments have been made by the commenting parties as to why we should not go forward with the adoption of any rulse concerning captioning, however, there seems to be little, if any, disagreement among the parties that persons with impaired hearing should be able to enjoy television programming. The basic differences seem to center on the best way to provide a service so that this may be accomplished.

26. In considering the various comments as to the possible means of providing this service, i.e. captioning or auditory devices, we must take into account the fact, as JCIC noted in their comments, as many as 2 million Americans may have sufficient loss of hearing so as to be unable to enjoy television programming without assistance from captioning of some type (open or closed). The PBS proposal would go far in making some programming available, incorporating closed captioning, wherever licensees voluntarily provide such service and people are willing to invest in a decoder to receive such programming.

27. We must, however, make it absolutely clear to the public and to the licensees that our decision herein does not make captioning obligatory. We continue to encourage broadcast licensees, as we did in our Public Notice of December 17, 1970, to make television a truly valuable medium for the hearing-impaired. We believe that licensees can and will be responsive to the needs of its viewers, but it is still the responsibility of each licensee to determine how it can most effectively meet those needs.

28. Therefore, based upon all of the comments filed in this proceeding and in view of the public interest to be served, the Commission's rules will be amended to permit closed captioning on Line 21 of the vertical interval for visual display of aural material accompanying a television program. In addition, we will permit the use of Line 21 for display of non-program related material of a broadcast nature during the times when program related captioning is not being displayed. Although the data format for these uses is specified, other data signals conforming to other formats will be considered on an individual basis.

29. Accordingly, *it is ordered*, That pursuant to the authority contained in sections 1, 4(i) and (o) and 303(g) and (r) of the Communications Act of 1934, as amended, Part 73 of the Commission's rules is amended, as set forth below, effective March 1, 1977.

30. *It is further ordered*, That the Application for Review of the Order Extending Time filed by the Public Broadcasting Service on March 5, 1976, is dismissed as moot.

31. *It is further ordered*, That this proceeding is terminated.

(Secs. 1, 4, 303, 48 Stat., as amended, 1064, 1066, 1082; 47 U.S.C. 151, 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION [1]
VINCENT J. MULLINS,
Secretary.

1. Section 73.681 is amended by inserting the following definition immediately preceding "Reference black level":

§ 73.681 Definitions.

• • • • • •

Program related data signal. A signal, consisting of a series of pulses representing data, which is transmitted simultaneously with and directly related to the accompanying television program.

• • • • • •

2. Section 73.682(a)(22) is amended as follows:

§ 73.682 Transmission standards and changes.

(a) • • •

(22) (i) All of Line 21, Field 1 and the first half of Line 21, Field 2 may be used for the transmission of a program related data signal which, when decoded, provides a visual depiction of information simultaneously being presented on the aural channel. Such data signal shall conform to the format described in Figure 17a of Section 73.699 and may be transmitted during all periods of regular operation.

(A) A reference pulse for a decoder associated adaptive multipath equalizer filter may replace the data signal every eighth frame. The reference pulse shall conform to the format described in Figure 17b of Section 73.699.

(B) A decoder test signal consisting of data representing a repeated series of alphanumeric characters may be transmitted at times when no program related data is being transmitted.

(C) A framing code to be used by the data decoder may be transmitted during the first half of Line 21, Field 2 when data, reference pulse and test signals are present. See Figure 17c of Section 73.699 for a description of the format for the framing code.

(D) The data signal shall be coded using a non-return-to-zero (NRZ) format and shall employ standard ASCII 7 bit plus parity character codes.

(ii) At times when Line 21 is not being used to transmit a program related data signal, data signals which are not pro-

[1] Separate statements of Commissioner Washburn and Commissioner Fogarty filed as part of the original document.

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gram related may be transmitted, *Provided*: the same data format is used and the information to be displayed is of a broadcast nature.

(iii) The use of Line 21 for transmission of other data signals conforming to other formats may be used subject to prior authorization by the Commission.

(iv) The data signal shall cause no significant degradation to any portion of the visual signal nor produce emissions outside the authorized television channel.

(v) Transmission of visual emergency messages pursuant to Section 73.675 shall take precedence and shall be cause for interrupting transmission of data signals permitted under this subparagraph.

• • • • • •

3. Section 73.699 is amended by adding a new Figure 17.

§ 73.699 Engineering Charts.

• • • • • •

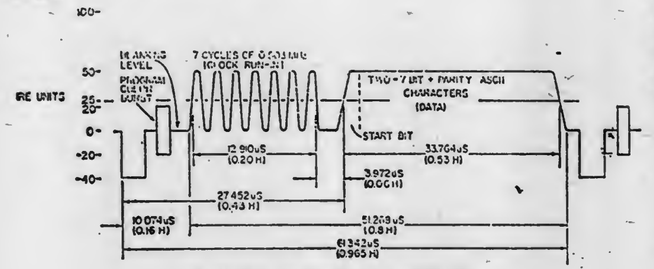


FIGURE 17 A LINE 21 FIELD 1 DATA SIGNAL FORMAT

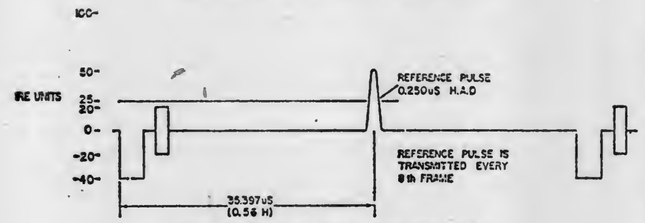


FIGURE 17 B ADAPTIVE EQUALIZER REFERENCE PULSE

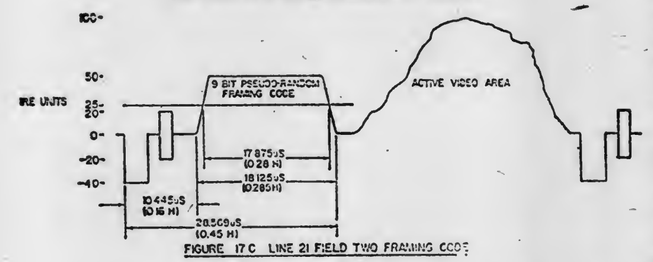


FIGURE 17 C LINE 21 FIELD TWO FRAMING CODE

FIGURE 17

HORIZONTAL DIMENSIONS NOT TO SCALE

1. DATA "1" = 50 IRE UNITS, DATA "0" = 0
2. DATA PULSE RISE TIME = 0.1 BAR RISE TIME.
3. DATA TAPE DATE = 32 f_H (0.5035-0.5000 MHz)
4. DATA BIT INTERVAL = H/32 (1.5-25 uS)
5. NEGATIVE GOING ZERO CROSSINGS OF CLOCK ARE COHERENT WITH DATA TRANSITIONS.
6. DATA AND CLOCK RUN-IN COHERENT WITH H.

Section 73.699 Figure 17

APPENDIX A—COMMENTING PARTIES

American Broadcasting Companies, Inc.
Columbia Broadcasting System
Consumer Electronics Group of the Electronic Industries Association
Corporation for Public Broadcasting
Eastman Kodak Company
GTE Sylvania
JCIC Ad Hoc Committee on Television Broadcast Ancillary Signals
Joint Council on Educational Telecommunications
Maryland Center for Public Broadcasting
Michael Chatoff (reply comments only)
Mississippi Authority for Educational Television
National Association of Broadcasters
National Broadcasting Company
Public Broadcasting Service (including reply comments)
Southern Broadcasting Company
WGBH Educational Foundation (Boston)
Yerker Anderson (reply comments only)

[FR Doc.76-37842 Filed 12-27-76;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-126]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Miscellaneous Delegations

The purposes of this amendment are to:

1. Delegate to the Federal Railroad Administrator those functions relating to audit vested in the Secretary by the Rail Passenger Service, Regional Rail Reorganization, and Railroad Revitalization and Regulatory Reform Acts and revoke the delegations of these functions to the Assistant Secretary for Administration;

2. Delegate to the Deputy Secretary sole authority to act for the Secretary as member of the Board of Directors and executive committee of the Board of Directors of the United States Railway Association and revoke the corresponding delegations to the Federal Railroad Administrator and the General Counsel, under the Rail Transportation Improvement Act (October 19, 1976, Pub. L. 94-555);

3. Delegate to the Federal Railroad Administrator functions vested in the Secretary by sections 215(c), 216(a), 217 (c), and 219 of the Rail Transportation Improvement Act; and

4. Delegate to the Assistant Secretary for Administration certain functions of the Secretary relating to international affairs and equal employment opportunity.

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.49, paragraphs (q), (r), and (u) are revised to read as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

The Federal Railroad Administrator is delegated authority to—

• • • • • •

(q) Carry out the functions vested in the Secretary by sections 201(l)(3); 202 (b)(7); 203, except authority to issue subpoenas; 210; 212; 213; 215; 402; 403; and 601 of the Regional Rail Reorganization Act of 1973 (Pub. L. 93-236) as amended by the Rail Transportation Improvement Act (Pub. L. 94-555).

(r) Carry out the functions vested in the Secretary by subsections 4 (h) and (l) of the Department of Transportation Act, as amended (49 U.S.C. 1653 (h), (l)).

• • • • • •

(u) Carry out the functions vested in the Secretary by sections 204(c); 401 except authority to issue subpoenas; 402; 403; 502; 503; 504; 505; 506, except (c); 507; 508; 511; 512; 513; 515; 517; 606; 610; 703; 704, except (c); 706; 803; 805; 810; 901; 905, as applicable; and 906 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.

§ 1.55 [Amended]

2. In section 1.55 paragraph (h) is amended by deleting the term "and finance committee".

§ 1.56 [Amended]

3. In section 1.56, paragraph (n) is revoked.

§ 1.59 [Amended]

4. In section 1.59, paragraph (l) is revoked and paragraph (m) is redesignated paragraph (n), and new paragraphs (l) and (m) are inserted, to read as follows:

§ 1.59 Delegations to Assistant Secretary for Administration.

The Assistant Secretary for Administration is delegated authority for the following—

• • • • • •

(l) *International Secretariat.*

(1) Serve as the Department's point of contact in relationship with the Central Intelligence Agency and the Defense Intelligence Agency.

(2) Serve as the Department's point of coordination for foreign travel, advising operating elements of potential "overlap" in participation of overseas conferences.

(m) *Equal Employment Opportunity.* Exercise the authority of the Secretary to accept or reject internal complaints of discrimination on the basis of race, color, religion, sex, national origin, or age arising within or relating to the Office of the Secretary.

(n) *Building Management.* Carry out the functions vested in the Secretary by sections 1(b) and 4(b) (as appropriate) of Executive Order 11912.

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e)).

Issued in Washington, D.C., on December 20, 1976.

WILLIAM T. COLEMAN, JR.,
Secretary of Transportation.

[FR Doc.76-38063 Filed 12-27-76; 8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293 (Sub-No. 8)]

PART 1127—STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

Report and Order

Pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973 (the RRR Act), 45 U.S.C. 715(d)(5), as amended by section 309 of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, the Rail Services Planning Office (the Office) of the Interstate Commerce Commission is reopening the above-referenced rulemaking proceeding to amend the standards (49 CFR 1127) for determining commuter rail service continuation subsidies and emergency operating payments.

Quality of Service. The emergency operating assistance standard (49 CFR 1127.8) provides that the railroad and the subsidizer are entitled to be reimbursed for the "losses" or "additional costs" of providing, during the period April 1, 1976 through September 27, 1978, "the same level of commuter rail service as was provided during the 12-month period ended March 31, 1976." Section 1127.8(d) defines "level of service" as follows:

> The same level of service includes the routes, schedules, train seating capacity, performance standards, and equipment units provided during the 12-month period ended March 31, 1976, and any modifications thereof which do not increase the net avoidable loss and reasonable return on the value of the properties as determined in accordance with sections 1127.3-7 in excess of the amount which would have resulted from the service level provided during the 12-month period ended March 31, 1976. The railroad or subsidizer may be reimbursed for additional costs necessary to sustain the same level of service arising from wage or price increases or equipment purchases to the extent that the railroad (or its predecessor) had not agreed to absorb, nor the subsidizer to pay, such cost increases. The railroad or subsidizer may not be reimbursed for losses incurred in providing service on new routes; but the level of service on existing routes may be adjusted to the extent that the total of the net avoidable losses and the reasonable return, as determined in accordance with sections 1127.3-7, based on the level of service provided in the 12-month period ended March 31, 1976, is not thereby exceeded.

The emergency operating assistance regulation derives from section 304(e)(5), subparagraphs (A) and (B) of the RRR Act, which directs the Secretary of Transportation to reimburse the railroad and subsidizers, "under regulations issued by the Office pursuant to section 205(d)(5) of this Act," for continuing certain commuter rail service in the Midwest and Northeast Region. In the Rail Transportation Improvement Act (the RTIA), Pub. L. 94-555, enacted October 19, 1976, Congress added a new subparagraph (C) to section 304(e)(5) which reads as follows:

> (C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies, and agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and cost incurred incident thereto) shall be included within the meaning of the term "loss" as used in subparagraph (A) of this paragraph and within the meaning of the term "additional costs" as used in subparagraph (B) of this paragraph and section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)).

The legislative history explains the purpose of new subparagraph (C) as follows (Conference Report 94-1743, dated September 30, 1976, pp. 39-40):

> In many areas, prior to April 1, 1976, when the respective predecessor bankrupt railroads were operating the commuter services, the lack of normal maintenance procedures on track and equipment represented a state of substantial deferred maintenance and as a result the quality of service steadily deteriorated. Therefore, when [the Consolidated Rail Corporation (Conrail)] assumed the responsibility for the operation of commuter services, it was unclear as to whether Conrail should maintain the same level of service or the same level of deterioration of service. For example, there are many instances where coach doors will not remain shut in winter, or won't remain open in summer, resulting from a lack of adequate preconveyance maintenance procedures. This coupled with the old equipment built over a half century ago, has increased the frequency and acuteness of problems such as these. Unless the level of maintenance is upgraded to provide a catch-up for past deferred maintenance techniques, the rate of deterioration will simply continue. • • •
>
> As the intent of Congress to allow Conrail to be compensated for providing an attractive and quality commuter service as opposed to continuing the bankrupt railroad practices of deferred maintenance, the clarifying amendment allows Conrail to provide a quality service with assurance of retroactive compensation. It also enables the commuter authorities, as intended by Congress, to continue the same level of payments and to not experience further deterioration.

The Urban Mass Transportation Administration (UMTA), which administers the commuter emergency operating assistance program for the Secretary of Transportation, advised the Office by letter, dated November 30, 1976 (see Appendix A hereto), that it believes new paragraph (C) "should be considered to

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be limited to fairly short-range maintenance requirements which are directly related to the continuation of service in accordance with the schedules in effect just prior to April 1, 1976," and should "not be construed to authorize [emergency operating assistance] to pay for long-range, major track rehabilitation programs to upgrade rail facilities to a much higher standard than prevailed in the recent past."

The emergency assistance regulation, as presently framed, would allow the railroad and the subsidizer to receive reimbursement from UMTA for expenditures to provide "an attractive and quality commuter service" (Conference Report, p. 39), including the "fairly short-range maintenance requirements" noted in UMTA's November 30, 1976 letter. However, the Office does consider it appropriate to amend § 1127.8 to conform it with the RTIA and is revising paragraph (d) as set forth below.

Value of Properties and Reasonable Return. Section 304(c) of the RRR Act provides that:

> If a rail service continuation payment is offered, pursuant to paragraph (2)(A) of this subsection, for both freight and passenger service on the same rail properties, the owner of such properties may not be entitled to more than one payment of a reasonable return on the value of such properties.

Section 1127.6(b) of the standards provides that the value of rail properties on which a reasonable return is allowed shall not include the value of properties owned by public bodies or the trustees of debtor estates. (For a discussion of the rationale, see 41 FR at 20108, 26938, and 32551.) At the time the italicized words were adopted, the Office understood that no circumstances would arise in which subsidized commuter services only (and no subsidized freight services) would be performed using rail properties owned by the trustees of debtor estates, and this seemed the simplest way of avoiding the "double return" prohibited by the statute. It now understands that one or two such circumstances have arisen, and therefore is amending § 1127.6(b) as set forth below.

Other Matters. The Office is making certain technical amendments to the standards, to add Account 406—Drawbridge Operation to § 1127.5(h)(1); to correct § 1127.5(e)(15) to exclude Account 247 from the apportionment basis; and to substitute Account 256 for Account 265 in § 1127.5(k).

The Office has received informal requests from interested parties for interpretations of the standards and believes it would be useful to establish a procedure for the issuance of declaratory rulings. A new § 1127.10 has been added for that purpose.

The Office believes that the amendments adopted in this report are essentially pro forma and should be made effective immediately so that the parties will be fully aware of their rights and obligations for the second subsidy period. However, it is serving the report on all parties which have participated in the earlier phases of this proceeding and will entertain petitions for reconsideration from any interested party filed within thirty days of the publication of this report in the FEDERAL REGISTER.

ORDER

In light of the foregoing:

It is ordered, That the proceeding to formulate standards for determining commuter rail service continuation subsidies and emergency operating payments, pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973, as amended, is hereby reopened for the purpose of amending the standards.

It is further ordered, That Part 1127 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations be amended by making the changes set forth below to the standards adopted on August 3, 1976.

And, *it is further ordered,* That the amendments shall be effective December 28, 1976.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Issued December 15, 1976, by Alan M. Fitzwater, Director, Rail Services Planning Office.

ROBERT L. OSWALD,
Secretary.

§ 1127.5 Avoidable costs of providing service.

1. § 1127.5(e)(15) is amended to read as follows:

. . . . . .

(e) . . .

(15) *Account 201—Superintendence; Account 274—Injuries to persons; Account 275—Insurance; Account 276—Stationary and printing; Account 282—Other expenses.* The common costs assigned to these accounts shall be apportioned on the ratio of the commuter service amounts in Accounts 202–265 (except Account 247), 269–273, 278, 279 and 281 in the designated area to the railroad's total for these accounts in the designated area.

. . . . . .

2. § 1127.5(h)(10) is amended by revising the heading to read as follows:

. . . . . .

(h) . . .

(10) *Account 404—Signal interlocker operation; Account 405—Crossing protection; Account 406—Drawbridge operation.* . . .

. . . . . .

3. § 1127.5(k) is amended by deleting the number "465" [which appears in the eighth line of the section as printed in the FEDERAL REGISTER of Tuesday, August 3, 1976 (41 FR 32558)] and substituting the number "456".

4. § 1127.6(b) is revised to read as follows:

§ 1127.6 Value of rail properties.

. . . . . .

(b) The net book value of those roadway and structures properties which are used in commuter services and which could be disposed of if commuter services were discontinued. Such net book value shall include the net liquidation value of the properties as of April 1, 1976, determined for their highest and best use for other than rail transportation purposes, plus the value of additions and betterments after that date for commuter service, less depreciation accrued from that date. It shall not include the value of properties owned by public bodies or of properties owned by the trustees of debtor estates if such properties are entitled to a return computed under 49 CFR 1125.7.

. . . . . .

5. § 1127.8(d) is revised to read as follows:

§ 1127.8 Emergency operating assistance.

. . . . . .

(d) *Level of service.* The same level of service includes the routes, schedules, train seating capacity, performance standards, and equipment units provided during the 12-month period ended March 31, 1976, and any modifications thereof which do not increase the net avoidable loss and reasonable return on the value of the properties as determined in accordance with sections 1127.3–7 in excess of the amount which would have resulted from the service level provided during the 12-month period ended March 31, 1976. The level of service shall be measured by train miles, car miles, or other appropriate indicia of scheduled train movements. The railroad or subsidizer may be reimbursed for additional costs necessary to provide an attractive and quality commuter rail service, arising from

(1) Wage or price increases,

(2) Equipment purchases, or

(3) Short-range programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort; provided however, that neither the railroad (or its predecessor) had agreed to absorb, nor the subsidizer to pay the cost increases arising from (1)–(3) above. The railroad or subsidizer may not be reimbursed for losses incurred in providing service on new routes; but the level of service on existing routes may be adjusted to the extent that the total of the net avoidable losses and the reasonable return, as determined in accordance with sections 1127.3–7, based on the level of service provided in the 12-month period ended March 31, 1976, is not thereby exceeded.

. . . . . .

6. Part 1127 is amended by adding a new § 1127.10, reading as follows:

§ 1127.10 Interpretations of the standards.

Parties desiring an interpretation of the standards should file a written petition citing the section involved and setting forth their position and rationale. If the request arises from a dispute with other parties, the petitioner should identify those parties and serve each of them with a copy. Parties desiring to file a reply must do so within 10 days of their receipt of the petition. The Office will issue an interpretation, unless it concludes that the matter raised requires amendment of the standards, in which case the Office will institute a rulemaking proceeding.

APPENDIX A—OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C., *November 30, 1976.*

MR. ALAN M. FITZWATER
Director, Rail Services Planning Office 1900 L St., 5th Floor, Washington, D.C. 20036.

DEAR MR. FITZWATER: On October 19, 1976, the President signed the Rail Transportation Improvement Act of 1976 (P.L. 94–555), which, among other provisions, amended Section 304(e)(5) of the Regional Rail Reorganization Act of 1973 by inserting a new subparagraph which may have a significant effect on the level of subsidy for commuter services operated by the Consolidated Rail Corporation (Conrail). Since your office has issued regulations for determining both the level of subsidy which is to be required under Section 304(e) to continue these services, and the level of emergency operating assistance which is to be granted by the Department of Transportation under Section 17 of the Urban Mass Transportation Act of 1964, we wish to advise you of our present interpretation of the scope of this new provision, which will guide our administration of the Section 17 program in the absence of an objection by your office.

The new subparagraph 304(e)(5)(C) reads as follows:

"(C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies and agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and costs incurred incident thereto) shall be included within the meaning of the term "loss" as used in subparagraph (A) of this paragraph and within the meaning of the term "additional costs" as used in subparagraph (B) of this paragraph and section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2))."

The purpose of this amendment, in the words of Representative Howard of New Jersey during the debate on the House floor, is "to simply clarify that the inclusion of deferred maintenance as a reimbursable item under Section 17 of the Urban Mass Transportation Act is permissible."[1] Representative Howard noted that the amendment was not intended to "call for any new or additional authorizations of money," and that it was addressed to such maintenance needs as malfunctioning doors on passenger cars, deterioration of air-conditioning systems, and unrepaired windows and lavatories. Both the nature of these examples and the explicit denial of any intention to create additional Federal financial obligations suggest that this paragraph should be considered to be limited to fairly short-range maintenance requirements which are directly related to the continuation of service in accordance with the schedules in effect just prior to April 1, 1976.

The new language should, therefore, not be construed to authorize Section 17 to pay for long-range, major track rehabilitation programs to upgrade passenger rail facilities to a much higher standard than has prevailed in the recent past. Congress has already authorized funds for this purpose in the Northeast Corridor Project and in Title II of the Railroad Revitalization and Regulatory Reform Act. For tracks and facilities outside the Northeast Corridor or the Final System Plan which are used in commuter service, the monies authorized under Sections 3 and 5 of the Urban Mass Transportation Act are available for major rehabilitation projects. Section 17, as an emergency operating assistance program, should not be used for these purposes, both because of the limitation on the available funds and because such a policy would give an undue advantage to those particular rehabilitation projects which affect services subsidized through Section 17. Any funds which are made available for major rail rehabilitation should be equally open to all applicants with capital needs in this category, without regard to whether the service provided through the use of the rehabilitated facilities lies within the scope of Section 304(e) of the RRR Act and Section 17 of the UMT Act.

This view of the scope of Section 17 clearly implies that any expenditure for maintenance or rehabilitation relating to a railroad's list of "deferred maintenance" in its statements to the ICC and FRA cannot, *ipso facto*, be considered a reimbursible item under Section 17. We have estimates that the total deferred maintenance applicable to the reorganized railroads approaches one billion dollars. Even allowing for the fact that much of this is related to properties and facilities not used in commuter service, it is clearly far beyond the scope of DOT's emergency operating assistance program to pay for the correction of all the deterioration of commuter-used facilities caused by this deferral of maintenance.

DOT is, of course, committed to the preservation and improvement of high-quality urban transportation services, including commuter rail services. We fully intend to use the Section 17 program to support normal and prudent levels of maintenance for vehicles and facilities used by Conrail in providing such services. Such maintenance should, in most cases, be planned on the premise that commuter service will continue at present (or higher) levels for the foreseeable future (i.e., that it will not terminate with the expiration of DOT assistance in September, 1978). We recognize that maintenance which is planned and conducted on this basis will be substantially more costly than the levels of maintenance which were being performed by the bankrupt railroads prior to reorganization, and our budget projections for Section 17 allow for this cost increase. It is only major, long-range rail rehabilitation projects which we intend to exclude from the Section 17 program.

In order to prevent uncertainty among the commuter authorities and Conrail, and to avoid a situation where UMTA may refuse to reimburse for an already completed major "deferred maintenance" project, we are suggesting that our grantees seek prior UMTA approval for significant deferred maintenance projects such as the repair of bridges or large sections of running track.

In the interests of fairness, we are distributing copies of this letter to all the parties to your proceeding "Ex Parte No. 293 (Sub. No. 8)," and to all of our applicants for Section 17 assistance.

Sincerely,

DONALD T. BLISS,
Deputy General Counsel.

[FR Doc.76–37908 Filed 12–27–76;8:45 am]

[1] Congressional Record, September 27, 1976, p. H 11129.

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 21—MIGRATORY BIRD PERMITS

Extension of Interim Falconry Rules

On October 26, 1976, the United States Fish and Wildlife Service published a notice of proposed rulemaking with respect to Part 21 of Chapter I, Title 50, Code of Federal Regulations (41 FR 46873). The notice proposed two actions. First, it was proposed to delay implementation of a newly-established Federal Standards for State laws and regulations relating to falconry until December 31, 1977. Second, it was proposed to extend currently effective interim Federal falconry rules until the same date.

Comments concerning the proposal were received from the Society for the Preservation of Birds of Prey, the Committee for Humane Legislation, Inc., the Humane Society of the United States, the North American Falconers Association, the Institute for the Study of Consciousness, the Ecology Center of Southern California, the California Department of Fish and Game, and several individual persons.

Many of the comments received expressed opposition to the proposal. This opposition was based primarily on the belief that a State which fails to comply with Federal standards by the established deadline lacks commitment to responsible regulation of falconry and should be precluded from governing the sport within its jurisdiction.

Response favoring the proposed rulemaking was also received. Those supporting the proposal offered opinions concerning raptor population dynamics and made reference to the existence of current interim Federal falconry rules.

After careful consideration of all the comments received, the Service believes

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that final rulemaking with respect to the proposal is appropriate. Information from individual States indicates that the amount of time presently allotted for development of Federally-approved falconry programs is inadequate because of a number of factors. Among those factors are short or infrequent legislative sessions, which preclude timely enactment of enabling legislation; inexperience of State agencies with the sport of falconry, which prevents expeditious development of satisfactory regulations; and inflexibility of budgets, which make State implementation and enforcement of acceptable programs infeasible.

This amendment constitutes a substantive rule which relieves a restriction within the meaning of Section 553(d)(1) of Title 5, United States Code, and therefore shall be effective December 28, 1976.

Dated: December 22, 1976.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

In consideration of the foregoing, § 21.28(b) of Part 21, Chapter I, Title 50, Code of Federal Regulations, is hereby amended to read as follows:

§ 21.28 Falconry permits.

* * * * *

(b) Interim rules. The rules contained in this paragraph shall apply to all States not listed in § 21.29(k), until December 31, 1977. The practice of falconry in States which are listed in § 21.29(k) shall be governed by § 21.28, as amended, and § 21.29.

[FR Doc.76-38050 Filed 12-27-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

GUARANTEED LOAN PROGRAM FOR BULK POWER FACILITIES

Proposed Revision of REA Bulletin

Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 20–22, Guarantee of Loans for Bulk Power Facilities, issued February 4, 1975. This REA bulletin sets forth REA policies and requirements concerning the guaranteeing, under section 306 of the Rural Electrification Act, of loans made by legally organized lending agencies for bulk power facilities.

The proposed revisions relate to: (1) The consideration of guaranteeing certain loan arrangements involving variable interest rates, and (2) permitting assignments of the contract of guarantee in accordance with the revision of the Rural Electrification Act dated November 4, 1975. The proposed revisions are as follows:

(1) Add at the end of paragraph III C: "If an applicant's preferred proposal provides an interest rate which is not fixed but varies during the term of the loan, the applicant's evaluation shall also particularly address that aspect of the proposal, including effects on the feasibility forecast and protection against lender's control of the rate variations."

(2) Add the words "or assignments" in paragraph VI, line 2, after the word "pledging."

Interested persons may submit written data, views or comments to the Assistand Administrator—Electric, Rural Electrification Administration, Room 4056, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, on or before January 27, 1977. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Assistant Administration—Electric.

A copy of the proposed revision of REA Bulletin 20–22 may be secured in person or by written request from the Office of the Assistant Administrator—Electric.

Dated: December 17, 1976.

DAVID A. HAMIL,
Administrator.

[FR Doc.76-37806 Filed 12-27-76;8:45 am]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed New Specification for Type A Telephone Sets

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 90 et seq.), REA proposes to issue REA Bulletin 345–74 to announce a new REA Specification PE–41 for Type A Telephone Sets. On issuance of REA Bulletin 345–74, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the new specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than on or before January 27, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of he new REA Specification PE–41 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of the new REA Bulletin 345–74 announcing the issuance of the new specification is as follows:

REA BULLETIN 345–74

SUBJECT: REA SPECIFICATION FOR TYPE A TELEPHONE SETS

I. *Purpose.* To announce the issuance of new REA Specification PE–41 for Type A Telephone Sets.

II. *General.* REA Specification PE–41 sets forth requirements for standard telephone sets using carbon transmitters. The requirements are based on transmission and signaling parameters of existing available sets, with an emphasis on mechanical performance. It becomes effective July 1, 1977. All sets furnished to REA borrowers after this date must meet the requirements of this new specification.

III. *Availability of Specification.* Copies of the new PE–41 will be furnished by REA upon request. Questions concerning the new specification may be referred to the Chief, Station Equipment and Protection Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–3173.

Dated: December 20, 1976.

C. R. BALLARD,
Assistant Administrator—
Telephone.

[FR Doc.76-37900 Filed 12-27-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 239]

[Release No. 33–5792; File No. S7–666]

SHORT FORM REGISTRATION FOR CERTAIN PRIMARY FINANCING

Advanced Notice of Proposed Rulemaking

The Securities and Exchange Commission today announced that it is considering possible amendments to Form S–16 (17 CFR 239.27) which would make that form available to a limited category of large companies for use in registering certain primary offerings of securities under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). The Commission is requesting comments by interested persons on the efficacy of and possible conditions on the use of Form S–16 for primary financing, although it is not publishing specific proposed rulemaking provisions at this time.

This announcement was made at the same time that the Commission announced the adoption of other amendments to Form S–16 and Form S–7 (17 CFR 239.26) which make these forms available to a large number of issuers.[1] As amended, Form S–16, a registration form which is comparatively simpler and shorter than other available registration forms, is available to issuers who meet the requirements for use of Form S–7[2] for the registration of only certain types of offerings, including: (1) certain outstanding securities to be offered for the account of persons other than the issuer; (2) securities to be offered upon conversion of outstanding convertible securities of the issuer or an affiliate of the issuer; and (3) securities to be offered upon the exercise of outstanding transferable warrants issued by the issuer.

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[1] See Rules and Regulations in this issue at p. 56301, Securities Act Release No. 33–5791 (December 20, 1976)

[2] Generally, a registrant may use Form S–7 if it (a) has a class of securities registered under Section 12 or is required to file reports pursuant to Section 15(d) of the Exchange Act; (b) has been subject to the requirements of Section 12 or 15(d), and has filed all applicable reports, for 36 calendar months prior to the filing of the registration statement and has timely filed all such reports for the past 12 months; (c) has not defaulted on payments on preferred stock, indebtedness for borrowed money or long-term leases during the past 36 months; and (d) has consolidated net income of at least $250,000 for three of the last four fiscal years, including the most recent fiscal year.

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The Commission is considering proposing amendments to Form S–16 which, if adopted, would allow the use of the short form, on an experimental basis, for registration of securities to be offered by certain types of issuers directly to the public. Inasmuch as a prospectus prepared pursuant to Form S–16 is only required to contain very limited information concerning the identity of the issuer or selling security holders, the description of securities to be offered, and the plan of distribution, the Commission intends to move cautiously in making this form available for primary offerings of new securities.

The Commission specifically invites comment from interested persons on three principal issues which must be resolved in implementing the contemplated revisions to Form S–16. First, the Commission is of the view that parameters must be set to identify a category of issuers eligible to use the brief form for primary offerings. In addition to the existing standards set forth in Form S–7, the Commission is also of the view that the category should be limited to those issuers whose reporting history and assets might justify the use of the abbreviated prospectus in purchases of their securities. Among the types of criteria considered by the Commission in this respect are the property or assets criteria used in designating companies required to report certain replacement cost data,[3] and companies required to report selected quarterly financial data in notes to their annual financial statements.[4] The Commission specifically invites comments on whether these or any other similar specified standards would be appropriate to delimit the availability of Form S–16 for primary financings by issuers meeting the tests in the rule as to the use of Form S–7.

The second area on which the Commission invites comment involves the kinds of limits which should be placed on the type or amount of securities which can be registered on Form S–16 for a primary public offering. It is the view of the Commission that, at least initially, securities offered directly through the Form S–16 prospectus should be of a class which for a minimum period of time has already been registered and listed on a national securities exchange or quoted by a specified number of market makers on the automated quotation system of a national securities association. In such instances, information already would be publicly available about the issuer and the securities and some type of market already would have been established. These circumstances would be important since the offering price of the new securities generally would be established by reference to the market price and the market price, in turn, would be established by reasonably well-informed investors in an open market.

In this regard, possible limits on the amount of such offerings may be important in relation to the trading of the outstanding securities of the class.

Finally, the Commission invites comment on the need for and possible content of additional disclosure items in a Form S–16 which would relate to direct offerings. For example, the new offering prospectus might be required to include information on the market price of the securities or the manner in which the offering price will be determined, a use of proceeds section and certain pro forma financial information. The Commission believes this type of information would be important in assuring that the direct offering prospectus meets the requirements of section 10(a) of the Securities Act.

All interested persons are invited to submit their written views and comments on the foregoing areas and on any other issues which might affect the use of Form S–16 for direct offerings. These comments should be sent, in triplicate, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before February 18, 1977. Such communications should refer to File No. S7–666 and will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 20, 1976.

[FR Doc.76–38056 Filed 12–27–76;8:45 am]

[3] Rule 3–17 (17 CFR 210.3–17) under Regulation S–X (17 CFR Part 210) requires footnote disclosure of certain financial data regarding current replacement cost by registrants who have inventories and gross property, plant and equipment which aggregate more than $100 million and which comprise more than 10 percent of total assets. Accounting Series Release No. 190 (March 23, 1976) (41 FR 13596).

[4] Pursuant to Rule 3–16 (17 CFR 210.3–16) under Regulation S–X, one of the conditions which might trigger this requirement is total assets at the last fiscal year end of $200,000,000 or more. Accounting Series Release No. 177 (September 10, 1975) (40 FR 46107).

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. RM77–1]

JUST AND REASONABLE RATE OF RETURN ON EQUITY FOR NATURAL GAS PIPELINE COMPANIES AND PUBLIC UTILITIES

Permitting Parties to Respond and Approving Withdrawal

DECEMBER 21, 1976.

On October 15, 1976, the Commission issued a notice of proposed rulemaking in the captioned docket (published October 22, 1976, 41 FR 46618), stating that interested persons could become parties to this proceeding by filing on or before November 3, 1976, a notice of intention to respond. On December 1, 2, and 3, 1976, Oglethorpe Electric Membership Corporation and North Carolina Electric Membership Corporation, the Montana Power Company and Delmarva Power & Light Company, respectively, filed late notices of intention to respond. On December 8, 1976, Robert R. Nathan Associates, Inc., requested that their notice of intention to respond be withdrawn.

Upon consideration, notice is hereby given that Oglethorpe Electric Membership Corporation and North Carolina Electric Membership Corporation, the Montana Power Company and Delmarva Power & Light Company are permitted to become parties to this proceeding and that Robert R. Nathan Associates, Inc., will be removed from the service list in this docket.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37978 Filed 12–27–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 8]

[Docket No. 76N–0366]

PROVISIONALLY LISTED COLOR ADDITIVES

Proposed Postponement of Closing Dates; Correction

In FR Doc. 76–27825 appearing at page 41860 in the FEDERAL REGISTER of Thursday, September 23, 1976, the following corrections are made:

1. In § 8.501 *Provisional lists of color additives*, the closing date for D&C Orange No. 11 listed among the color additives in paragraph (b) on page 41865 is changed to read "December 31, 1980."

2. In §8.505, paragraphs (c)(1) and (d)(1) on pages 41865 and 41866, are changed to read as follows:

§ 8.505 Conditions of provisional listing.

* * * * *

(c) The closing date for the following 14 color additives is postponed until September 30, 1977, while chemistry data and analytical methods to establish specifications for them are developed and evaluated and subject to compliance with the requirements of this paragraph: FD&C Yellow No. 6, D&C Yellow No. 10, D&C Red No. 6, D&C Red No. 7, D&C Red No. 27, D&C Red No. 28, D&C Red No. 30, D&C Orange No. 4, D&C Orange No. 5, D&C Blue No. 6, Ext. D&C Yellow No. 1, Ext. D&C Green No. 1, graphite, and logwood.

(1) Each of the petitioners for the 14 color additives listed in paragraph (c) of this section shall agree in writing by (30 days after effective date of final regulation) to undertake to develop the necessary chemistry data and analytical methods for the color additives.

* * * * *

(d) The closing date for the following 32 color additives is postponed until December 31, 1980, while chronic toxicity feeding studies and in the case of caramel, a 2-year mouse skin painting study, are conducted and evaluated, and subject to compliance with the requirements of this paragraph: FD&C Yellow No. 5, FD&C Yellow No. 6, D&C Yellow No. 10, FD&C Red No. 3, D&C Red No. 6, D&C Red No. 7, D&C Red No. 8, D&C Red No. 9, D&C Red No. 10, D&C Red No. 11, D&C Red No. 12, D&C Red No. 13, D&C Red No. 19, D&C Red No. 21, D&C Red No. 22, D&C Red No. 27, D&C Red No. 28, D&C Red No. 30, D&C Red No. 33, D&C Red No. 36, D&C Red No. 37, FD&C Green No. 3, D&C Green No. 5, D&C Green No. 6, FD&C Blue No. 1, FD&C Blue No. 2, D&C Blue No. 6, D&C Orange No. 5, D&C Orange No. 10, D&C Orange No. 11, D&C Orange No. 17, and caramel.

(1) Each of the petitioners for the 32 color additives listed in paragraph (d) of this section shall agree in writing by (30 days after effective date of final regulation) to undertake the required studies on the color additives.

* * * * *

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76–37502 Filed 12–27–76;8:45 am]

[21 CFR Part 18]

[Docket No. 76N–0175]

MILK

Standards of Identity for Lowfat and Skim Milk; Use of Stabilizers and Emulsifiers; Correction

In FR Doc. 76–31203 appearing at page 46873 in the FEDERAL REGISTER of Tuesday, October 26, 1976, the following corrections are made:

1. On page 46873 in the right column, number (2) beginning on the fourth line is changed to read "provide for use of the phrase 'with added thickeners' in the name of the food when these ingredients are used to increase viscosity; and";

2. On page 46874 in the right column, § 18.20(e)(1)(v) is changed to read "The phrase 'with added thickeners' when stabilizers are added to increase the viscosity of the food with or without the aid of emulsifiers."

Dated: December 15, 1976.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.76–37499 Filed 12–27–76;8:45 am]

DEPARTMENT OF STATE

Office of the Secretary

[22 CFR Parts 121, 123, 124]

[Docket No. SD–126]

INTERNATIONAL TRAFFIC IN ARMS

Significant Combat Equipment; Proposed Redefinition

Notice is hereby given that the Secretary of State proposes to amend the International Traffic in Arms Regulations (ITAR), 22 CFR Subchapter M (Parts 121, 123, 124) to redefine the term "significant combat equipment" as used therein. In the current ITAR the term is defined by reference to certain specified categories of the Munitions List, and this definition is set forth in footnotes to two sections (§§ 123.10, 124.10) of the ITAR. The Secretary's authority to make the proposed amendments derives from a delegation in Executive Order 10973 (25 FR 10469) of the President's authority under section 38 of the Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778).

Section 47 of the Arms Export Control Act (22 U.S.C. 2794) defines "major defense equipment" by reference to significant combat equipment on the United States Munitions List. The Act's legislative history expresses the understanding that the Munitions List description of significant combat equipment would be expanded to include military electronic equipment. The proposed revision of Category XI of the List (Military and Space Electronics) is for the purpose of defining such equipment for designation as significant combat equipment. It was also thought advisable, in view of the greater importance accorded the term by the Arms Export Control Act amendments, to place the definition of significant combat equipment in the body of the regulations rather than leaving it as a footnote to other sections.

The proposed amendments revise Category XI of the Munitions List to include electronic equipment (not in Category XII of the List) specifically designed, modified or configured for military application (as well as that expressly assigned a military designation). The proposed amendments also expand (in (a)(1) and (2)) the illustrative list of such equipment. They add a new section to the ITAR entitled "Significant Combat Equipment", which specifies the Categories of the List (to include the new XI(a)(1), (b), and (c)) that are within the term. Finally, the proposed amendments eliminate the existing footnote definitions of significant combat equipment.

The text of the proposed amendments is printed below. Interested persons are invited to submit written comments, suggestions or data to the Office of Munitions Control, Bureau of Politico-Military Affairs, Department of State, Washington, D.C. 20520. Comments received on or before January 31, 1977, will be considered before action is taken on adoption of the proposed amendments. Copies of all written comments received will be available for inspection in the public reading room of the Department of State, 2201 C Street, NW, Washington, D.C. 20520.

Interested persons will also be given the opportunity to offer comments on the proposed regulations orally. A public meeting for this purpose will be held at 10 a.m., February 4, 1977, in the Office of the Director, Office of Munitions Control, Room 800, State Department Annex 6, 1701 N. Fort Meyer Drive, Arlington, Virginia 20520. Those wishing to offer oral comments at this meeting must submit to the Office of Munitions Control, Bureau of Politico-Military Affairs, Department of State, Washington, D.C. 20520, written notice of their intention to do so no later than January 31, 1977. Such notice must state the name of the person wishing to speak at the public meeting and the organization, if any, that the person represents. Interested members of the public are invited to attend the public meeting.

In consideration of the foregoing it is proposed to amend 22 CFR Subchapter M (Parts 121–124) as follows:

PART 121—ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

1. By amending the table of contents for Part 121 to redesignate the present §§ 121.03–121.21 as §§ 121.04–121.22.

2. By revising § 121.01, Category XI, to read as follows:

§ 121.01 The U.S. munitions list.

* * * * *

CATEGORY XI—MILITARY AND SPACE ELECTRONICS

(a) Electronic equipment not included in Category XII of the Munitions List assigned a military designation or specifically designed, modified or configured for military application, including but not limited to the following items:

(1) Underwater sound equipment including long towed arrays, electronic beam formed sonar, target classification equipment, and spectrographic displays; search, acquisition, tracking, moving target indication and imaging radar systems; active and passive countermeasures, counter-countermeasures; electronic fuses; identification systems; command, control and communications systems, and regardless of designation, any experimental or developmental electronic equipment specifically designed or modified for military application, or for use with a military system, and

(2) Simple fathometers; underwater telephones; electro-mechanical beam former sonars and elementary sonobuoys; weather, navigation and air traffic control radar systems navigation, guidance, object-locating methods and means; displays; and telemetering equipment.

(b) Electronic equipment specifically designed or modified for spacecraft and spaceflight.

(c) Electronic systems or equipment designed, configured, used or intended for use in search, reconnaissance, collection, monitoring, direction-finding, display, analysis and production of information from the electromagnetic spectrum for intelligence or security purposes.

(d) Components, parts, accessories, attachments, and associated equipment specifically designed for use or currently used with the equipment in paragraphs (a) through (c) of this category, except such items as are in normal commercial use.

* * * * *

3. By redesignating §§ 121.03–121.21 as §§ 121.04–121.22, as stated in Item 1, and adding a new § 121.03, to read as follows:

§ 121.03 Significant combat equipment.

Significant combat equipment includes the articles (not including technical data) enumerated in Categories I (a), (b), and (c) (in quantity); II (a) and (b); III(a) (excluding ammunitions for firearms in Category I); IV (a), (b), (d), and (e); V(b) (in quantity); VI(a) (limited to combatant vessels as defined in § 121.12(a)) (b) (inclusive only of turrets and gun mounts, missile systems, and special weapons systems) and (e); VII (a), (b), (c), and (f); VIII (a), (b), (c), GEMS as defined in (k), and inertial systems as defined in (l); XI (a)(1), and (b) and (c); XII(a); XIV (a), (b), (c), and (d); XVI; XVII; and XX (a) and (b).

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PART 123—LICENSES FOR UNCLASSIFIED ARMS, AMMUNITIONS AND IMPLEMENTS OF WAR

§ 123.10 [Amended]

4. By deleting footnote 3 to § 123.10 (d).

PART 124—MANUFACTURING LICENSE AND TECHNICAL ASSISTANCE AGREEMENTS

§ 124.10 [Amended]

5. By deleting footnote 1 to § 124.10 (m) (2).

(Sec. 38, as amended, 90 Stat. 744, 22 U.S.C. 2778; secs. 101 and 105, E.O. 10973, 26 FR 10469; sec. 6, Departmental Delegation of Authority No. 104, 26 FR 10608, as amended.)

AMOS A. JORDAN,
Acting Under Secretary for Security Assistance.

DECEMBER 17, 1976.

[FR Doc.76-37962 Filed 12-27-76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Fringe Benefits: Withdrawal of Discussion Draft of Proposed Regulations

• The purpose of this document is to withdraw the discussion draft of proposed amended regulations prescribing standards for determining whether incidental facilities, goods and services benefiting employees (fringe benefits) result in compensation includible in gross income. This discussion draft appeared in the FEDERAL REGISTER on September 5, 1975 (40 FR 41118).•

As noted in the summary and explanation released at the same time, the proposed regulations were issued as a discussion draft, rather than in proposed form, "because of the nature of the subject and the desirability of obtaining the broadest possible public comment." During the past 15 months, the discussion draft has been the subject of extensive comment. These comments have demonstrated the problems associated with establishing rules of general applicability with respect to fringe benefits.

In light of these comments, it has been concluded that the discussion draft should be withdrawn. The question of whether fringe benefits result in taxable compensation to employees should continue to depend, as it presently does, on the facts and circumstances that exist in individual situations.

The discussion draft of proposed regulations on fringe benefits published in the FEDERAL REGISTER (40 FR 41118) is hereby withdrawn.

CHARLES M. WALKER,
Assistant Secretary for Tax Policy.

DECEMBER 20, 1976.

[FR Doc.76-37947 Filed 12-22-76;9:28 am]

[26 CFR Part 1]

ASSIGNMENT OR ALIENATION OF BENEFITS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury of his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably eight copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by January 27, 1977. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by January 27, 1977. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

PREAMBLE

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) in order to conform such regulations to section 401(a)(13) of the Internal Revenue Code of 1954, as added by section 1021(c) of the Employee Retirement Income Security Act of 1974 (Pub. L. No. 93-406, 88 Stat. 937). Section 206(d) of such Act contains provisions substantially similar to the provisions of section 1021(c).

Under section 401(a)(13) of the Code, a trust which forms part of a plan will not qualify under section 401(a) unless the plan provides that benefits may not be assigned or alienated. However, a plan may provide that certain benefits in pay status may be subject to a voluntary and revocable assignment (not to exceed 10 percent of any benefit payment) by a participant provided such assignment or alienation is not for the purpose of defraying plan administration costs. Also, vested benefits may be used as collateral for certain loans to a participant or beneficiary.

Under § 1.401(a)-13(a)(1) of the proposed regulations, a plan must provide that benefits under the plan are not subject to assignment, alienation, attachment, garnishment, levy (other than a Federal tax levy made pursuant to section 6331 of the Code), execution or other legal or equitable process. Section 1.401(a)-13(a)(2)(i) of the proposed regulations defines the terms "assignment" and "alienation" for purposes of section 401(a)(13) to include any direct or indirect arrangement whereby a third person acquires a right or interest in plan benefits that is legally enforceable against the plan, and any arrangement whereby amounts owed to the employer by a participant are offset against benefit payments due the participant. Section 1.401(a)-13(a)(2)(ii) of the proposed regulations describes certain arrangements that are not considered to be "assignments" or "alienations" for purposes of section 401(a)(13).

Section 1.401(a)-13(a)(3) of the proposed regulations implements the statutory provision that, within certain limitations, a plan may provide for the voluntary and revocable assignment or alienation of plan benefits by participants in pay status.

Under § 1.401(a)-13(b)(1) of the proposed regulations, vested benefits may be used as collateral for loans from a plan to a participant or beneficiary provided such a loan is exempt from the excise tax on prohibited transactions imposed by section 4975 by reason of section 4975(d)(1), or would be exempt from such tax under 4975(d)(1) if the participant were a "disqualified person". However, § 1.401(a)-13(b)(2) of the proposed regulations specifically limits this exception to loans from the plan and states that a plan may not provide for the assignment or alienation of nonforfeitable accrued benefits as security for a loan from a party other than the plan.

Under § 1.401(a)-13(c)(1) of the proposed regulations, section 401(a)(13) becomes applicable on January 1, 1976, and will not apply to any assignment or alienation that is irrevocable on December 31, 1975, or any attachment, garnishment or other legal or equitable process that is made on or before such date. Section 1.401(a)-13(c)(2) contains a special rule relating to arrangements in effect 15 days after the publication of the proposed regulations whereby amounts owed to the employer by a participant may be offset against benefit payments due the employee.

The proposed regulations reflect Technical Information Release No. 1422, dated December 3, 1975, relating to pre-1976 assignments of nonforfeitable accrued benefits made as security for loans to a participant or beneficiary from a party other than the plan, and Technical Information Release No. 1430, dated January 2, 1976, relating to renewals or extensions of such loans.

Proposed amendments to the regulations. In order to prescribe regulations under section 401(a)(13) of the Internal Revenue Code of 1954, as added by section 1021(c) of the Employee Retirement Income Security Act of 1974 (Pub. L. No. 93-406, 88 Stat. 937), the Income Tax Regulations (26 CFR Part 1) are amended by adding the following new section immediately before § 1.401(a)-14:

§ 1.401(a)-13 Assignment or alienation of benefits.

(a) *No assignment or alienation*—(1) *General rule.* Under section 401(a)(13), a trust shall not constitute a qualified trust unless the plan of which such trust is a part provides that benefits provided under the plan may not be anticipated, assigned (either at law or in equity), alienated or subject to attachment, garnishment, levy, execution or other legal or equitable process. For purposes of this section, the term "levy" does not include a Federal tax levy made pursuant to section 6331.

(2) *Definition of terms*—(i) *In general.* For purposes of this section, the terms "assignment" and "alienation" include—

(A) Any arrangement whereby amounts owed to the employer by a participant are offset against payments due the participant under the plan, and

(B) Any direct or indirect arrangement (other than an arrangement described in (A) of this subdivision), whether revocable or irrevocable, whereby a third party acquires from a participant or beneficiary a right or interest enforceable against the plan in, or to, all or any part of a plan benefit payment which is, or may become, payable to the participant or beneficiary. Thus, an arrangement whereby benefit payments are paid to a participant's savings or checking account in a financial institution is not considered an "assignment" or "alienation" for purposes of this section.

(ii) *Arrangements not considered assignments or alienations.* The terms "assignment" or "alienation" do not include—

(A) Any arrangement for the recovery of amounts described in section 4045(b) of the Employee Retirement Income Security Act of 1974, 88 Stat. 1027 (relating to the recapture of certain payments),

(B) Any arrangement for the withholding of Federal, State or local tax from plan benefit payments, or

(C) Any arrangement for the recovery by the plan of overpayments of benefits previously made to a participant.

(iii) *Special rules.* For purposes of subdivision (i)(B) of this subparagraph, in the case of any arrangement whereby a participant or beneficiary directs the plan to pay all, or any portion, of a plan benefit payment to a third party, such arrangement will not constitute an "assignment" or "alienation" with respect to any payments made by the plan to the third party pursuant to such arrangement if—

(A) The arrangement is revocable at any time by the participant or beneficiary and such third party acknowledges in writing to the participant or beneficiary and to the plan no later than the later of—

(*1*) [60 days after the date a Treasury decision is published in the Federal Register adopting final regulations under section 401(a)(13)], or

(2) 60 days after the arrangement is entered into,

that it has no enforceable right in, or to, any plan benefit payment or portion thereof (except to the extent of payments actually received pursuant to the terms of the arrangement), or

(B) The participant or beneficiary revokes the arrangement on or before [60 days after the date a Treasury decision is published in the Federal Register adopting final regulations under section 401(a)(13)].

(3) *Certain voluntary and revocable assignments or alienations.* Notwithstanding subparagraph (1) of this paragraph, a plan may provide that once a participant begins receiving benefits under the plan, such participant may assign or alienate the right to future payments, provided that such a provision is limited to assignments or alienations which—

(i) Are voluntary and revocable,

(ii) With respect to a particular benefit payment, do not in the aggregate exceed 10 percent of such payment, and

(iii) Are neither for the purpose, nor have the effect, of defraying plan administration costs.

For purposes of this subparagraph, an attachment, garnishment, levy, execution or other legal or equitable process is not considered a voluntary assignment or alienation.

(b) *Benefits assigned or alienated as security for loans*—(1) *Loans from the plan.* Notwithstanding paragraph (a)(1) of this section, a plan may provide for loans from the plan to a participant or a beneficiary to be secured (by whatever means) by such participant's accrued nonforfeitable benefit, provided that such a provision is limited to loans from the plan and—

(i) If made to a participant or beneficiary who is a disqualified person (within the meaning of section 4975(e)(2)) with respect to such plan, such loan is exempt from the tax imposed by section 4975 (relating to tax imposed on prohibited transactions) by reason of section 4975(d)(1), or

(ii) If made to a participant or beneficiary who is not a disqualified person (within the meaning of section 4975(e)(2)) with respect to such plan, such loan would be exempt from the tax imposed by section 4975 (relating to tax imposed on prohibited transactions) by reason of section 4975(d)(1) if made to a person described in section 4975(e)(2).

(2) *Loans from a party other than the plan.* Pursuant to paragraph (a)(1) of this section, a plan may not provide for the assignment or alienation (or other use) of benefits accrued or to be accrued under the plan as security for a loan from a party other than the plan. For purposes of the preceding sentence, it is immaterial whether the benefits accrued or to be accrued under the plan are nonforfeitable within the meaning of section 411 and the regulations thereunder.

(c) *Effective date*—(1) *In general.* Section 401(a)(13) and this section become applicable on January 1, 1976, and the plan provision required by such sections must be effective as of January 1, 1976. Regardless of when such provision is adopted, it shall not affect—

(i) Attachments, garnishments, levies or other legal or equitable process permitted under the plan that are made on or before December 31, 1975.

(ii) Assignments permitted under the plan that are irrevocable on December 31, 1975, including assignments made on or before such date as security for loans to a participant or beneficiary from a party other than the plan, and

(iii) Renewals or extensions of loans described in subdivision (ii) of this subparagraph, provided—

(A) The principal amount of the obligation outstanding on December 31, 1975 (or, if less, the principal amount outstanding on the date of renewal or extension) is not increased,

(B) The loan, as renewed or extended, does not bear a rate of interest in excess of the rate prevailing for similar loans at the time of the renewal or extension, and

(C) With respect to loans that are renewed or extended to bear a variable interest rate, the formula for determining the applicable rate is consistent with the formula or formulae prevailing for similar loans at the time of the renewal or extension.

For purposes of the preceding sentence, a loan from a party other than the plan made after December 31, 1975, will be treated as a new loan even if the lender's security interest for the loan arises from an assignment of the participant's accrued nonforfeitable benefit made before such date.

(2) *Special rule.* The provisions of paragraph (a)(2)(i)(A) of this section (relating to arrangements whereby amounts owed to the employer may be offset against benefit payments) shall not apply to any such arrangement in effect on January 12, 1977, provided—

(i) The principal amount of the obligation subject to the arrangement is not increased at any time after such date;

(ii) No payment, or any part thereof, made after such date is applied to an obligation other than the obligation subject to the arrangement on such date;

(iii) The rate of interest in effect on such date under the arrangement is not increased any time after such date; and

(iv) In the case of such arrangements that provide for substantially equal periodic payments, the amount of each

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such payment is not increased (except with the permission of the participant) at any time after such date.

[FR Doc.76-38062 Filed 12-27-76;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-104]

AMORPHOUS SILICA

Advance Notice of Proposed Rulemaking

The Occupational Safety and Health Administration, U.S. Department of Labor is studying the general health implications, safe exposure levels, and methods of sampling and measurement for amorphous silica. It is considering preparing a new proposed standard which will be complete and will better protect employees exposed to amorphous silica in the diatomaceous earth processing industry, refractory brick industry, wine and liquor production industry, and other industries which use amorphous silica or diatomaceous earth for cleaning, polishing, filtering, calcining or other processes. There is now no complete standard for amorphous silica but an exposure limit is set by Table Z-3 of 29 CFR 1910.1000 (formerly Table G-3 of 29 CFR 1910.93).

This advance notice of proposed rulemaking is being published to permit interested persons to submit information useful in the preparation of a proposed standard and suggested requirements to be included within it. Interested persons will also be entitled to participate in the rulemaking process after the publication of any proposed standard on amorphous silica through written comments and participation at a hearing if requested.

Accordingly, interested persons are invited to submit by March 1, 1977, written data, views and comments concerning a standard on amorphous silica for employees to the Docket Officer, Docket No. H-104, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3620, 200 Constitution Ave., NW, Washington, D.C. 20210 (Telephone (202) 523-8076). Comments are specifically requested concerning:

(1) Health effects of amorphous silica;

(2) Data useful for setting a safe exposure level and also data of current exposure levels;

(3) The use of respirable mass of dust as a measure of risk;

(4) Workplaces, processes, occupations or jobs where exposures to amorphous silica can occur;

(5) Appropriate engineering controls, work practices and personal protective equipment to reduce levels of exposure;

(6) Appropriate provisions for employee exposure monitoring, methods of compliance, signs and labels, medical surveillance, training and recordkeeping;

(7) The application of recordkeeping and similar requirements to small businesses and those with highly transient work forces;

(8) The feasibility of complying with a complete amorphous silica standard at the current or a reduced level of exposure;

(9) The environmental, economic and inflationary impact of a complete amorphous silica standard at the current or a reduced level of exposure; and

(10) Any other information pertinent in preparing an amorphous silica standard.

(Secs. 4(b), 6(b) and 8 of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653(b), 655(b), 657) and Secretary of Labor's Order No. 8-76 (41 FR 25059, June 22, 1976).)

Signed at Washington, D.C. this 17th day of December 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37870 Filed 8-27-76;8:45 am]

[29 CFR Part 1952]

ALASKA

Proposed Supplement to Approved Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the review of changes and progress in State plans which have been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing this decision. On September 28, 1976, the State of Alaska submitted to the Seattle Regional Office of the Occupational Safety and Health Administration a supplement to the plan involving a developmental change. Following Regional review, the supplement was forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for his determination as to whether it should be approved. The supplement is described below.

2. *Description of the supplement.* Alaska Compliance Manual. The State has submitted a Compliance Operations Manual which is modeled on the Occupational Safety and Health Field Operations Manual.

3. *Location of the plan and its supplement for inspection and copying.* A copy of the plan and the supplement may be inspected and copied during normal business hours at the following locations: Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, NW, Washington, D.C. 20210; Office of Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Washington 98174; and the Alaska Department of Labor, Juneau, Alaska 99801.

4. *Public participation.* Interested persons are hereby given until January 27, 1977 in which to submit written data, views, and arguments concerning whether the supplement should be approved. Such submissions are to be addressed to the Acting Director for Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, NW, Washington, D.C. 20210, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Acting Director for Federal Compliance and State Programs. If in the opinion of the Assistant Secretary, substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subject and issue involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplement, make appropriate amendments to Subpart R of Part 1952 and initiate further proceedings, if necessary.

Signed at Washington, D.C. this 17th day of December, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37676 Filed 12-27-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 903]

AIR FORCE ACADEMY PREPARATORY SCHOOL

Miscellaneous Amendments

The Department of the Air Force proposes to revise Subchapter K of Chapter VII of Title 32 CFR, Part 903, which tells how young men and women may apply for the Air Force Academy Preparatory School, when the school will be conducted, how the students are selected, and how they are reassigned.

This revision includes provision for the admission of women to the Air Force Academy Preparatory School; changes title of Associate Director of Admissions to Director of Cadet Admissions. Deletes use of DD Form 1852; deletes use of the Airman Classification Test (ACT) and Airman Qualifying Examination (AQE); deletes use of the Air Force Officer Qualifying Test (AFOQT); deletes the required one-year wait for re-examination; and adds the Privacy Act statement.

Interested persons are invited to comment on the proposed rulemaking on or before January 31, 1976. Written data, views, arguments concerning the proposal must be submitted to Headquarters U.S. Air Force (DPPA) Lt Col Rhoten, Washington, D.C. 20330. Comments and suggestions submitted in writing will be available for public inspection and copying at the above address.

The revised Part 903, Air Force Academy Preparatory School, will read as follows:

Sec.
903.1 Purpose.
903.2 Terms explained.
903.3 School location and schedule.
903.4 How vacancies are allocated.
903.5 Requirements for enrollment.
903.6 When to apply.
903.7 How to submit a request for enrollment.
903.8 How the organizational commander processes a request for enrollment.
903.9 How students are selected.
903.10 Selection notification.
903.11 Separations from the school.
903.12 Reassignment of Air Force applicants and nominees eliminated or not selected.
903.13 Reassignment of Air Force Regular airmen and nominees selected as cadets.
903.14 Sample letter.
903.15 Statement.

AUTHORITY: 10 U.S.C. 8012, except as otherwise noted.

§ 903.1 Purpose.

This Part tells how young men and women may apply for the Air Force Academy Preparatory School, when the school will be conducted, how the students are selected, and how they are reassigned. Preparatory School enrollment and successful completion of the course does not guarantee admission to the Academy. This Part is affected by the Privacy Act Statement, either incorporated in the body of the document, or in a separate statement accompanying each document.

§ 903.2 Terms explained.

(a) *Regular Military Applicant.* An enlisted member of the Regular Air Force who applies for nomination to the Air Force Academy under the Regular competitive nominating category.

(b) *Reserve Military Applicant.* An enlisted member of the Reserve of the Air Force (including Air National Guard of the United States—ANGUS) who applies for nomination to the Air Force Academy under the Reserve competitive nominating category.

(c) *Military Nominee.* A person on extended active duty with the Armed Forces of the United States other than with the U.S. Air Force, who receives a nomination to the Air Force Academy.

(d) *Organization Commander.* The Commander who administers and operates the organization to which the applicant or nominee is assigned.

§ 903.3 School location and schedule.

The Air Force Preparatory School is located at the United States Air Force Academy near Colorado Springs, Colorado. Classes are conducted annually from early August to early May. A limited number of Regular Air Force airmen may be enrolled in January of each year.

§ 903.4 How vacancies are allocated.

(a) Vacancies are allocated annually to Regular and Reserve members of the Air Force and to military nominees (§ 903.2(c)).

(b) Headquarters Civil Air Patrol—U.S.A.F. may nominate annually three primary and three alternate Civil Air Patrol (CAP) Mitchell Award winners to attend the Air Force Academy Preparatory School.

§ 903.5 Requirements for enrollment.

Applicants and nominees must meet the eligibility requirements specified for the Air Force Academy in Part 901 of this Subchapter. (These requirements are also in the Air Force Academy catalog, obtainable from the Director of Cadet Admissions, USAFA/RRS, USAF Academy CO 80840.) In addition, applicants must:

(a) Be on extended active duty. Air Force Reserve or ANGUS military applicants may apply for the preparatory school course while not on extended active duty. If selected they will be called to extended active duty solely for the purpose of attending the Prep School. ANGUS applicants will be transferred to the Air Force Reserve before being called to extended active duty.

(b) Meet the medical requirements for appointment to the Air Force Academy.

(c) Agree, if a regular military applicant, to extend his or her enlistment before enrollment if the obligated tour of duty or enlistment contract expires before 1 July of the following year.

(d) Attain a satisfactory score on the Air Force Academy Selection Test (AST).

(1) The Director of Cadet Admissions authorizes the test after all records have been evaluated, including school transcripts and the AF Form 1786, Application for Appointment to the USAF Academy Under Quota Allotted to Enlisted Members of the Regular and Reserve Components of the Air Force. Exception: USAFA/RRS may waive this requirement if Scholastic Aptitude Tests (SAT) or American College Testing Program (ACT) tests are available and acceptable.

(2) The base military test control commissioned or noncommissioned officer administers the test.

(e) Have an acceptable academic record as determined by USAFA/RRS.

(f) Individuals who have previously attended a service academy preparatory school normally are not eligible to apply under this Part.

(g) Members of the Army, Navy, and Marine Corps are not eligible under the Regular or Reserve competitive categories. Such applicants must be on active duty and have received nominations from Members of Congress or other authorized nominating sources prior to applying for the Air Force Academy Preparatory School.

§ 903.6 When to apply.

(a) Air Force Regular and Air Force Reserve military applicants may apply for preparatory school at any time. However, completed applications and all other required records for consideration for the class that enters in July must be received by 31 May at USAFA/RRS, USAF Academy, CO 80840.

(b) Army, Navy, and Marine Corps members eligible for the Academy under a Congressional nomination only and who require such nomination to establish eligibility for the school must meet all requirements by 30 June.

§ 903.7 How to submit a request for enrollment.

(a) Regular or Reserve military applicants submit AF Form 1786 through their organization commander, to USAFA/RRS, USAF Academy, CO 80840, requesting enrollment and, on the same form, requesting candidacy under the Regular or Reserve competitive nominating category.

(b) A military nominee (Army, Navy, Marine) must request preparatory school enrollment by submitting a letter through his or her organization commander to USAFA/RRS (see § 903.14).

§ 903.8 How the organization commander processes a request for enrollment.

The Commander:

(a) Determines eligibility according to § 903.5, except that the Air Force Academy determines whether or not the applicant or nominee meets the medical requirements and has an acceptable academic record and satisfactory test scores as outlined in § 903.5 (b) and (d).

(1) The commander returns the applications of ineligible applicants by indorsement, explaining the reason for ineligibility.

(2) The Director of Cadet Admissions, Air Force Academy, will notify any person who is ineligible because of academic records or test scores. The Department of Defense Medical Examination Review Board will notify applicants who are medically disqualified for admission.

(b) Arranges for testing. The AST will be furnished by the USAF Academy and administered only by the test control officer upon authorization by the Director of Cadet Admission, USAF/RRS. Immediately after the test is completed, the answer sheet will be forwarded to USAFA/RRS for grading.

(c) Insures that the applicant or nominee provides certified transcripts of all of his or her academic records from his or her high school or civilian preparatory school and from any college he or she may have attended.

(1) If transcripts are not available when the application is submitted, the appropriate school official will be requested to forward them to USAFA/RRS, USAF Academy CO 80840. The names and addresses of all schools attended

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must appear on the request for enrollment.

(2) Applicants will not be considered for preparatory school enrollment until all academic transcripts are received.

(d) Forward by first indorsement AF Form 1786, or the military nominee's letter of request for admission to the preparatory school to USAFA/RRS; one copy of AF Form 909, Airman Performance Report or AF Form 910, TSgt, SSgt and Sgt Performance Report for applicants in the grade of A1C and above; and transcripts of academic record, if available.

(1) The indorsement must include a complete comprehensive statement concerning the applicant's character, ability, and background, and the following statement: "Statements in this application regarding component, length of service, and date of birth have been verified from official records."

(2) Copy of AF Form 1786 should be retained for file.

§ 903.9 How students are selected.

Selection is made by the Air Force Academy, based on test scores attained, the medical examination, the academic record, the recommendation of the organization commander, and other reports or records indicating the individual's aptitudes and achievements.

§ 903.10 Selection notification.

The Air Force Academy sends the applicant a notice of selection or nonselection, and notifies the appropriate reassignment authority of selection. The notification will specify the reporting date and place and will outline specific information to be included in the reassignment instructions.

(a) Assignment instructions for Air Force personnel are sent to the applicant's organization commander.

(b) Assignment instructions for personnel from the other armed forces are sent to the appropriate organization designated below:

(1) Army: Organization of assignment—which will process the individual under the provisions of AR 600–235.

(2) Navy: Chief of Naval Personnel (Pers B21), Wash DC 20370.

(3) Marine Corps: Commandant of the Marine Corps (Code MMEA), Wash DC 20380.

§ 903.11 Separations from the school.

(a) Persons undergoing preparatory schooling may be relieved from assignment when the Commander, USAFA Preparatory School, USAF Academy CO 80840, determines that one of the following conditions exists:

(1) Failure to maintain academic standards.

(2) Failure to demonstrate adaptability for training and education at the Air Force Academy.

(3) Unsatisfactory conduct.

(4) Retention is not in the best interests of the Government.

(5) Personal request by the student for disenrollment due to lack of desire for an Air Force Academy appointment.

(6) Marriage.

(7) Medical reasons.

(8) Or for any reason outlined in AFR 53–3.

(b) Students released from any service academy preparatory school for any of the above reasons may be disqualified for admission to the Air Force Academy, as determined by the Superintendent, USAF Academy.

§ 903.12 Reassignment of Air Force applicants and nominees eliminated or not selected.

(a) *Regular Air Force Personnel.* When it is determined that an airman should be eliminated from the preparatory school, for one of the conditions in paragraph 10a, or that an airman who has completed the course will not be selected for a cadet appointment, the Commander, USAFA Preparatory School, reports such personnel to AFMPC/DPMRAA, Randolph AFB TX 78148 for reassignment. The following information must be included in the report:

(1) Grade, name, and SSAN.

(2) CAFSC, PAFSC, and any additional AFSCs.

(3) Former unit, base, and command of assignment.

(4) DOS.

(5) ODSD/STRD and last area of oversea assignment.

(6) Oversea volunteer status.

(7) Assignment preferences as reflected on current AF Form 392, Airman Assignment Preference Statement, (both CONUS and overseas). Normally personnel will be reassigned to their original CONUS command.

(8) Assignment deferment status.

(9) Authority for reporting airman for reassignment.

(10) Reason for reassignment.

(11) Statement as to whether airman holds nomination for possible appointment to another academy (designate).

(b) *Reserve Air Force Personnel:* (1) If a Reserve airman should be eliminated from the preparatory school for one of the conditions in § 903.11(a), or if a Reserve airman who has completed the course will not be selected for a cadet appointment, he or she will be released from active duty by USAFA and assigned to ARPC (ORS), 3800 York St., Denver CO 80205.

(2) All Reserve airmen who complete the preparatory school program and receive an appointment to the USAF Academy will be released from active duty immediately before entering the Air Force Academy Wing as Cadets.

(3) The authority for release from active duty of Reserve airmen released under (1) above is: Part 901 of this Subchapter and AFM 39–10. Specific attention is invited to 10 U.S.C. 516.

(4) The authority for release from active duty of Reserve airmen accepting appointment as a Cadet, USAFA, is

(i) Ltr DAF, 8 July 1957, "Members of the Armed Forces Appointed to Service Academy;"

(ii) 10 U.S.C. 516, 8201, 8203, and 8214 as it relates to the Air Force;

(iii) and AFM 39–10.

(5) Individuals will not be issued DD Form 214, Report of Separation from Active Duty. Class year and date of entry to the Academy will be indicated. Records will be retained by Cadet Wing Personnel (CWP) until the airman is commissioned or disenrolled.

(c) *Military Nominees.* Nominees from armed forces other than the Air Force who are eliminated from preparatory school, or who complete the academic year but fail to receive an appointment to the Air Force Academy, will be reported to the holding unit designated below:

(1) From the Army: to the organization specified in AR 600–235.

(2) From the Navy: to the officer-in-charge, Naval Administrative Unit, CIN CONAD Ent AFB CO 80912.

(3) From the Marine Corps: to MARTU, MARTC, Denver CO 80240.

§ 903.13 Reassignment of Air Force Regular airmen and nominees selected as cadets.

(a) Air Force Regular Airmen selected for admission to one of the service academies will be released from active duty by the Air Force Academy and transferred to the appropriate academy. Authority for release from active duty will be:

(1) Ltr DAF, 8 July 1957, "Members of the Armed Forces Appointed to Service Academy;"

(2) 10 U.S.C. 516, 8201, 8205, and 8214 as it relates to the Air Force;

(3) AFM 39–10

(b) Individuals will not be issued DD Form 214, Report of Separation from Active Duty. Class year and date of entry to the Academy will be indicated. Records on those airmen attending the Air Force Academy will be retained by Cadet Wing Personnel (CWP) until the airman is commissioned or disenrolled. Records on those airmen entering one of the other academies will be forwarded to AFMPC/DPMDRR–1, Randolph AFB, Tex. 78148.

(c) Regular airmen accepting an appointment to one of the service academies will sign the statement in attachment 2. Copy of statement will be filed in personnel records.

(d) Students selected as Air Force Academy Cadets from other than the Air Force will be reported by the Air Force Academy to the appropriate service academy.

§ 903.14 Sample letter.

(To be used only by military nominee—see § 903.2(c) and § 903.7(b)) (Army, Navy, and Marine Corps only) (Regular and Reserve Air Force applicants must use Air Force Form 1786)

Subject: Application To Attend Air Force Academy Preparatory School.
Thru: Organization Commander (see § 903.2(d)).
To: USAFA/RRS; USAF Academy CO 80840.

1. I hereby apply under the provisions of AFR 53–14/BuPersInst 1530.49/MCO 1530.5 to attend the Air Force Academy Preparatory School for Air Force Academy candidates.

2. (Use appropriate sentence(s) listed below):

a. I have been nominated by (indicate name of Senator/Representative) for appointment to the Air Force Academy.

b. I have applied for candidacy to the Air Force Academy under the following checked competition(s):

Presidential;
Sons or Daughters of Disabled Veterans;
Sons or Daughters of Medal of Honor Recipients.

3. (Use appropriate sentence(s) listed below):

a. My academic transcripts are attached.

b. My academic transcripts are being requested from the appropriate school officials and will be mailed by them to the Director of Cadet Admissions, USAFA/RRS. I last attended the following high school, college, or preparatory school (name of school) (address of school).

4. I was born on (day) (month) (year). My present enlistment expires (day) (month) (year).

Name
Grade—SSAN
Branch of Service
Organization
Location

§ 903.15 Statement.

Upon acceptance as cadet in the _____ academy, effective _____ I understand that in accordance with the provisions of Public Law No. 614, 84th Congress, should my appointment be terminated for reasons other than acceptance of a commission in a regular or reserve component of the armed forces, or for physical disability, I will be reverted to my former enlisted or inducted status in effect immediately prior to acceptance of appointment as cadet in the _____ for the purpose of completing any remaining active and inactive service required under my enlistment contract or my service obligation under the Universal Military Training and Service Act, or both, as appropriate. I further understand that any time served as a cadet shall be counted as time served under my enlistment contract or period of obligated service, or both, as appropriate.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-38083 Filed 12-27-76;8:45 am]

Corps of Engineers

[33 CFR Part 207]

NAVIGATION REGULATIONS

St. Marys Falls Canal and Locks, Michigan

Notice is hereby given that pursuant to section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) the regulations set forth in tentative form below are proposed by the Secretary of the Army (acting through the Chief of Engineers) to govern the use, administration and navigation of the St. Marys Falls Canal and Locks, Michigan. We propose to amend the present regulations by revising paragraph (v) and by adding a new paragraph (v)(1) in 33 CFR 207.440 to permit the transit of vessels of a length up to 767 feet through the MacArthur Lock whenever the Poe Lock is out of service for a period exceeding 24 hours.

For a number of years the Department of the Army, acting through the Chief of Engineers, has worked as the lead agency with other Federal agencies, state agencies, industry organizations and others in conducting an Extended Navigation Season Demonstration Program on the Great Lakes. A major element of Corps of Engineers participation has been to provide for lockage through the St. Marys Falls Locks during a period extending beyond the normal navigation season which is from 1 April to mid-December. Due to improved fleet operation techniques, increased structural stability of vessels and favorable weather, it has been possible to sail without interruption throughout the extent of the program.

The Great Lakes fleet has been dedicated to continue operations throughout the winter provided the Government will continue to provide passage through the locks at the St. Marys Falls Canal. Two of the ships involved in the program are 767 feet long and the others are less than 730 feet long.

This fleet normally would be accommodated at the Poe Lock chamber which is presently authorized to transit vessels up to 1,000 feet in length. The Poe Lock must be closed for repairs from 1 March 1977 through 1 April 1977 to assure that it will be in condition for full operation during the spring through fall months. The only other lock in the St. Marys Falls complex capable of handling ships of the necessary draft is the MacArthur Lock whose chamber is 80 feet wide by 870 feet long measured from the upper gate to the lower downstream gate. However, 33 CFR 207.440(v), restricts the maximum size vessel in the MacArthur chamber to 730 feet in length.

Maintenance of a channel through the ice is dependent in large measure on the number of vessels plying the channel and the vessel horsepower. As traffic declines, maintenance becomes progressively more difficult. The number of low horsepower vessels that can move is directly correlated to the number of high horsepower vessels available to lead the traffic. In the Great Lakes dedicated fleet, only the two 767 feet vessels are of sufficient horsepower to lead the traffic, so that it becomes essential to the continuation of the Demonstration Program that special arrangements be made to transit the 767 foot vessels through the MacArthur chamber.

Paragraph (v) of 33 CFR, 207.440 has been amended twice previously to permit 767 feet long vessels to transit MacArthur Lock. Both instances were for the same type of circumstances as stated above. Both amendments contained specific time periods during which vessels longer than 730 feet were allowed to use MacArthur Lock. It is proposed by this amendment to effect the same result for similar events without using specific dates. This amendment would also insure a larger degree of service continuity at the St. Marys Falls Canal and Locks by providing immediate remedies to similar conditions occurring in the future whether during scheduled or emergency repairs to Poe Lock.

Prior to the adoption of the proposed regulations consideration will be given to any comments, suggestions or objections thereto which are submitted in writing to the Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attention: DAEN–CWO–N on or before 27 January 1977.

It is proposed that § 207.440(v) be revised as follows:

§ 207.440 St. Marys Falls Canal and Locks, Michigan; use, administration, and navigation.

* * * * *

(v) The maximum overall dimensions of vessels that will be permitted to transit MacArthur Lock are 730 feet in length and 75 feet in width, except as provided in paragraph (v)(1). Further, any vessel of greater length than 600 feet must be equipped with deck winches adequate to safely control the vessel in the lock under all conditions including that of power failure.

(1) Whenever the Poe Lock is out of service for a period exceeding 24 hours, the District Engineer may allow vessels greater than 730 feet in length, but not exceeding 767 feet in length to navigate the MacArthur Lock. Masters of vessels exceeding 730 feet in length shall be required to adhere to special handling procedures as prescribed by the District Engineer.

* * * * *

Dated: December 16, 1976.

MARVIN W. REES,
Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc.76-38005 Filed 12-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 101]

PROFESSIONAL STANDARDS REVIEW AREAS

Notice of Proposed Rulemaking

Notice is hereby given that the Secretary of Health, Education, and Welfare, proposes to amend § 101.48 of Title 42, Code of Federal Regulations (CFR). The proposed amendment will establish the appropriate Professional Standards Review Organization (PSRO) area designation for the State of Texas in accord with section 1152(a) of the Social Security Act [42 U.S.C. 1320(1)].

This area designation proposal is undertaken as a result of the order of the United States District Court in the case of *Texas Medical Association, et al. v. Weinberger*, (U.S.D.C., W.D. of Texas, No. A–74–CA–102, January 9, 1976). That order set aside the nine original PSRO areas designated in Texas under the Department's regulations (42 CFR 101.48) and remanded the matter to the Secretary to again perform his statutory func-

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tion of determining the appropriate PSRO area designation for Texas.

On July 13, a Notice was published in the FEDERAL REGISTER that announced the Secretary's intent to: (1) Conduct an advisory poll of Texas physicians, and (2) develop a PSRO area designation for Texas, after completing a full administrative process in compliance with the court's instructions.

On October 1, a Notice was published in the FEDERAL REGISTER that announced the Department's intent to conduct an advisory poll of physicians in Texas to determine their preference for multiple local PSRO area designations or a single statewide PSRO area designation. Ballots were then mailed to each physician engaged in active practice in the State of Texas. The tabulated results of this poll established that 14 percent favored local PSRO areas and 86 percent preferred a statewide PSRO area designation. Had this informal poll constituted the statutory "State Poll" under section 1152(g) of the Social Security Act, the Department would have been required to designate Texas as a statewide PSRO area.

The Department had contemplated a PSRO area designation for Texas only after completion of an administrative process similar to that implemented during 1973 for the original PSRO area designations throughout the nation. However, review of the information received during the course of the litigation concerning the Texas area designation, as well as recent information submitted to the Department which resulted in the designation of multiple Health Service Areas in Texas, has led to the expectation that the consequence of repeating a full administrative process similar to the one conducted in 1973 would be the designation, in conformance with Departmental guidelines, of multiple PSRO areas in Texas. This, in turn, would require the Department to conduct the statutory "State Poll" of Texas physicians in accordance with section 1152(g) of the Social Security Act. Moreover, the results of the informal poll, which show overwhelming support among Texas physicians for a single area, clearly indicate that the Department would almost certainly be required to designate Texas as a statewide PSRO area as the result of any formal statutory poll.

During the past two years, significant progress has been made nationally in the implementation of the PSRO program to the degree that the program is now implemented in full or in part in virtually every State. To date, however, there is no PSRO activity in Texas, largely as a consequence of the area designation issue. After careful consideration of the Department's overriding desire to expedite the timely establishment of the PSRO program in Texas, and in light of the considerable delay that completion of the entire designation and statutory "State Poll" processes would entail and the clear probability of the results of these processes, the Secretary here proposes that the State of Texas be designated as a single PSRO area.

Interested persons are invited to submit written comments, suggestions or objections concerning this proposal to the Director, Bureau of Quality Assurance, Health Services Administration, Room 16A-55, 5600 Fishers Lane, Rockville, Maryland 20857, on or before January 27, 1977. All comments received in timely response to this Notice will be considered and will be available for public inspection in the above named office during regular business hours.

It is therefore proposed to amend § 101.48 of Subpart A, Part 101 of Title 42 to read as follows:

§ 101.48 Texas.

The State of Texas is designated as a single Professional Standards Review Organization area.

Dated: December 21, 1976.

DAVID MATHEWS,
Secretary.

[FR Doc.76-37967 Filed 12-27-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

[45 CFR Part 613]

PRIVACY ACT REGULATIONS

Correction of Records, Procedures for Requests for Access to or Disclosure of Records

Notice is hereby given that the Director of the National Science Foundation proposes to amend certain portions of Part 613 of Chapter VI of Title 45 of the Code of Federal Regulations.

These amendments conform the regulations to amendments and additions to NSF systems of records made since these regulations were initially published. They also establish a 30-day norm for the initial processing of requests for correction of records and establish procedures for obtaining access to accountings of disclosures made pursuant to 5 U.S.C. 552 a(c).

Written comments concerning these proposed amendments are invited. Comments should be addressed to the Director, National Science Foundation, ATTN: General Counsel, Washington, D.C. 20550, and mailed on or before January 24, 1977.

The proposed amendments to 45 CFR Part 613 are these:

1. Section 613.4(c) is to be amended by adding the following sentence at the end:

§ 613.4 Correction of records.

* * * * * *

(c) * * *

Such letter or notification that the desired correction will be made shall normally be sent within 30 working days of the receipt of a properly addressed request (or within 30 working days of the time the Privacy Act Officer becomes aware that a particular communication not addressed as prescribed above is a request for correction of a record under the Privacy Act.)

2. Section 613.3 is amended by substituting the following list of systems of records for the current list in § 613.3(b), and by adding a new paragraph (e) as follows:

Procedures for requests for access to or disclosure of records pertaining to an individual.

* * * * * *

(b) * * *

Employment Inquiries and Background Information
Applicants to Committee on the Chalenges and Modern Society Fellowship Program (NATO);
Confidential Statements of Employment and Financial Interests;
Congressional Contact Files;
Doctorate Records File;
Earnings and Tax Statements;
Employee Grievance and Appeals File;
Employee Payroll Jackets;
Equal Employment Opportunity Case File;
Fellowship and Traineeship Filing System;
Grants to Individuals;
Health Service Medical Records;
Intergovernmental Personnel Act Assignment Agreements;
Manpower Management Subsystem;
Medical Examination Records for Service in Antarctica;
Minority Applicants for Employment;
Nominees for and Recipients of the National Medal of Science;
NSF Payroll System;
Official Passports;
Official Personnel Folders;
Presidential Internships in Science and Engineering;
Science Education Participant Information Subsystem;
Separated Employees Service Record (SF7);
Student Science Training Program Participant Information;
Time and Attendance Reports;
U.S. Antarctic Research Program Personal Information;
United States Antarctic Research Program Field Participants;
Alien Applications for Consideration of Waiver of Two-Year Foreign Residence Requirements—NSF;
Reviewer/Panelist Information Subsystem;
and Nominees for and Recipients of the Alan T. Waterman Award Nomination File.

* * * * * *

(e) The procedures of paragraphs (a)-(d) of this section shall also apply to requests made pursuant to 5 USC 552a(c)(3) that accountings made under 5 USC 552a(c)(1) be made available.

Date: December 20, 1976.

RICHARD C. ATKINSON,
Acting Director.

[FR Doc.76-37791 Filed 12-27-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1012]

[EX PARTE NO. 333]

MEETINGS OF THE COMMISSION

Proposed Rulemaking and Order

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 21st day of December, 1976.

The "Government in the Sunshine Act" (Pub. L. 94-409) enacted September 13, 1976, added a new section 552b to the Administrative Procedure Act, 5 U.S.C. 552b (section 552b is referred to herein as

the "Act"), establishing requirements and guidelines for the conduct of meetings by members of multi-member government agencies, including the Interstate Commerce Commission. Paragraph (g) of the Act requires each agency to issue regulations implementing the Act within 180 days of its enactment. The appendix to this notice and order contains the regulations which the Commission proposes to issue in response to this requirement.

The accompanying order provides that public comment on the proposed regulations must be filed by February 15, 1977. In addition, the Commission is forwarding a copy to the Chairman of the Administrative Conference of the United States. Commission staff members have consulted with representatives of his office with respect to the proposed regulations, as paragraph (g) requires. A section-by-section analysis of the proposed regulations follows.

Section 1012.1 of the proposed regulations provides an introduction to the substantive regulations and contains a general definition of the term "meeting". Paragraph (a) states that they apply not only to deliberative meetings—which the Commission terms conferences—but also to oral arguments and meetings of committees of the Commission.

The bulk of the Commission's workload in disposing of the formal cases that come before it is handled by one of the three "Divisions" of three Commissioners each into which the Commission is subdivided, or by boards of employees which are delegated decision-making authority by the Commission. Meetings of the Divisions would be covered by the proposed regulations, but meetings of employee boards would not. In addition, the Commission has three standing committees: on Rules, Legislation, and Policy Planning. At times, although infrequently, one of the standing committees acts on behalf of the Commission. In such a situation, its meetings would be covered by the proposed regulations. Where a committee or a Division meets solely to make internal recommendations to the Commission, its meetings would not be covered.

Section 1012.1(b) states that the terms "meeting" (which is used in the Act) and "conference" (the term normally used by the Commission) are interchangeable and that they mean "deliberations of a majority of the members of the Commission or a Division where such deliberations determine or result in the joint conduct or disposition of Commission business." The quoted language reflects that contained in paragraph (a)(2) of the Act. Meetings called to decide whether to close future meetings are excluded from the definition. This paragraph also states that the regulations do not apply to the deliberations of employee boards which have been delegated decision-making authority by the Commission.

In dealing with routine matters, the votes of the Comissioners are normally taken in writing rather than at a conference. It is the Commission's understanding of the Act that it was not intended to affect the practice of notation voting, where the agency members vote individually on matters circulated to them in writing, and § 1012.1(c) excludes notation voting from the scope of the proposed regulations. However, in an effort to conform to the greatest extent possible with the spirit of the new legislation, the Commission proposes to make available copies of the votes, or other statements of position, of all Commissioners eligible to participate in any matter voted on by notation.

Section 1012.2 contains general information concerning the scheduling of Commission conferences and other meetings. Paragraph (a) states that these are usually held at the ICC headquarters building in Washington, but it provides for alternative sites upon the giving of advance notice. Paragraph (b) reflects the Commission's normal practice of holding regular conferences on the first and third Tuesdays of each month and of scheduling oral arguments, to the extent possible, on the first and third Wednesdays. Paragraph (c) provides for the calling of special Commission conferences, Division conferences and committee meetings. Under paragraph (d), provision is made—for the convenience of the public—for scheduling those portions of any meeting which may be open to the public at the beginning of the meeting, and for deferring closed items until the end.

Section 1012.3 of the proposed regulations provides for the scheduling of Commission meetings and the giving of public notice of those meetings. Paragraph (a) of § 1012.3 provides for the giving of formal notice to the parties to a proceeding which is the subject of a meeting through the normal process serving procedures of the Commission, the filing of the notice with the Secretary of the Commission, and through publication in the FEDERAL REGISTER. For the convenience of the public generally, and of the press in particular, notice of meetings will also be posted on a bulletin board to be provided for that purpose in the Commission's Public Information Office.

Paragraph (a) contains an exception reflecting language contained in paragraph (c) of the Act which provides that when an agency finds that the information is exempt from disclosure, it may withold information pertaining to a meeting normally required to be made public under paragraphs (d) and (e). The Commission anticipates giving effect to this exception only in unusual cases. For example, if it should become known that the Commission is considering a major railroad or truckline merger, speculation in the securities of the companies involved may ensue. It could well be in the public interest not to disclose the precise time when the Commission plans to consider such matters. Another example would be the discussion of the possible censure of an individual, where the mere fact that the matter is under consideration might cause damage to that individual's reputation. In cases such as these, advance notice of the holding of the meeting would not be given.

Paragraph (b) spells out the contents of the public notice of a meeting. As required by paragraph (e)(1) of the Act, the notice will include the date, time, place, and subject matter of the meeting, whether it is open or closed to the public, and the name and telephone number of the Commission official designated to respond to requests for information about the meeting. The designated official will normally be the Commission's Public Information Officer, but where it is deemed necessary due to the nature of the subject of a meeting, some other official with specialized knowledge about the matter under consideration may be designated by the Commission to respond to inquiries.

Paragraph (b) further provides that, if a meeting or a portion of a meeting is closed to the public, the notice will include an explanation of the action taken in closing the meeting. If any vote is taken on whether to close a meeting, the notice will also contain a statement of the vote or position of each Commissioner eligible to participate in that vote. In such a case, and unless the Commission finds that information about the meeting is exempt from disclosure under the Act, the notice will be posted within one working day following completion of the voting.

Section 1012.3(c) provides for the giving of one week's public notice of any meeting subject to this section, as required by paragraph (e)(1) of the Act. Reference is made to exceptions to this provision which are spelled out in the two immediately succeeding paragraphs.

Paragraph (d) of § 1012.3 provides for the convening of meetings on less than one week's notice where the subject of the meeting is a matter in which, under applicable provisions of the Interstate Commerce Act, the decision must normally be rendered within a very brief period after the matter comes before the Commission. This provision of the regulations is limited in its applicability to three types of proceedings.

The first involves the filing of a tariff or schedule affecting rates, fares, charges, classifications, or practices of a carrier. Tariffs or schedules may be made effective on 30 days' notice unless suspended by the Commission. In order to allow interested parties an opportunity to submit their views within the limited statutory time frame, the Commission's procedural regulations (49 CFR 1100.200) provide for a very brief period for a decision to be made. Thus, it would almost always be impossible for a full week's notice to be given of any necessary Commission or Division conference called to take action at the "suspension" stage of a rate proceeding.

The second situation in which a meeting would normally be called on short notice involves requests by carriers to deviate from the normal 30-day requirement for filing tariffs. These "special

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permission" applications are entertained only in exceptional circumstances, when time is normally of the essence.

The third special situation covered by paragraph (d) is that involving applications for temporary authority filed by motor and water carriers. Temporary authorities are granted only to meet, in the words of the statute an "immediate and urgent need." Thus, it is almost inevitable that action must be taken on exceedingly short notice.

Public comment is requested on the question whether the Commission is empowered to promulgate a regulation such as that proposed in paragraph (d).

Section 1012.3(e), recognizing the fact that Commission meetings to deal with subjects other than those described in paragraph (d) must from time-to-time be called on less than one week's notice, makes provision for the Commission or a Division to take such action. It reflects the provisions of paragraph (e)(1) of the Act which permits the convening of a meeting on short notice if a majority of the agency members eligible to participate in that meeting determines, by recorded vote, that agency business requires the meeting to be called on less than one week's notice.

Paragraph (f) provides that the Commissioner requesting that a particular item be listed for conference, or requesting that a conference be called, may, in the absence of objection, remove that item from the conference agenda or have the conference cancelled. Except for this situation, changes in the scheduling of a meeting about which public notice has been given would be accomplished only as a result of a vote of the majority of the Commissioners eligible to participate. In either event, public announcement would be made of the scheduling change as early as possible.

Section 1012.4 of the proposed regulations provides certain guidelines for public participation in Commission meetings. Paragraph (a) provides that where Commission or Division conferences or meetings are open to the public, members of the public will be admitted as observers only, and may not take an active part in the discussions, such as by questioning the members of the Commission who are holding the meeting. This paragraph provides that the presiding officer at the meeting will retain the authority to require a person violating this provision to leave the meeting room.

Paragraph (b) states that oral arguments, which may be held either by the Commission or a Division, are always open to the public. It points out that the scheduling of participation in oral arguments is governed by the appropriate provisions of the Commission's General Rules of Practice which appear at 49 CFR 1100.98.

Section 1012.5 deals with the records which are required to be kept of meetings subject to the proposed regulations. Provision is made here for the making of a transcript, sound recording, or minutes of all closed meetings subject to these regulations. These regulations are adopted pursuant to the provisions of paragraph (f) of the Act.

Paragraph (a) provides that the Commission will retain the transcript or recording of each meeting for the period of time specified in paragraph (f)(1) of the Act. Paragraph (c) provides that the record of those portions of a closed meeting which it is later determined should have been open to the public will be made available. Under paragraph (c), the presiding officer at any meeting which is closed to the public will be required to provide a statement setting forth the time and place of the meeting, the names and affiliations of those attending, the subject matter, the action taken, and a copy of the certification issued by the Commission's General Counsel that, in his opinion, the meeting was one that might properly be closed to the public.

Section 1012.6 of the proposed regulations deals with petitions filed by interested parties or other members of the public seeking to have a particular Commission meeting opened or closed to the public. Paragraph (a) provides that the Commission will entertain petitions requesting either the opening or closing of the particular meetings. It also sets the requirement concerning numbers of copies of such petitions which must be filed.

Paragraph (b) permits the filing by any interested person of a petition to open a meeting which the Commission has proposed be closed to the public.

Paragraph (c) reflects the provisions of paragraph (d)(2) of the Act. It provides that in certain instances petitions to close a meeting which the Commission proposes to be opened to the public will be entertained. The circumstances under which such a petition will be entertained are those in which the meeting involves accusing a person of a crime or censoring a person; disclosing information of a personal nature; disclosing trade secrets or other confidential information; and disclosing certain facts connected with enforcement proceedings, but only to the extent that such proceedings are conducted by an agency other than the Commission. In connection with this last provision, it is the Commission's intention that its own staff units, such as its Bureau of Enforcement, would not be eligible to seek the closure of a meeting under this provision. To the extent that a meeting involves an investigation or law enforcement activity being conducted by the Commission itself, any closure of the meeting would have to be made pursuant to the provisions of § 1012.7 of the proposed regulations, which are discussed below.

Paragraph (d) provides that the Commission will make every effort to dispose of petitions to open or close a particular meeting in advance of the meeting date. However, it takes account of the fact that the Commission may not be able to dispose of petitions which are filed only a short time prior to the scheduled meeting date before the meeting actually begins. In such situations, this paragraph of the proposed rules provides that such a petition may be disposed of as the first order of business at the meeting, and that in such a case, the Commission's decision will be communicated to the petitioner orally through some appropriate spokesperson.

Section 1012.7 of the proposed regulations contains provisions for closing meetings to the public where they fall within one of the statutory exemptions provided in paragraph (c) of the Act.

Paragraph (a) provides that a meeting may be closed under this section only if a majority of the Commissioners eligible to participate votes to close the meeting. Provision for posting notice of that vote is contained in § 1012.3(b)(4) of the regulations.

Paragraph (b) provides for the taking of a single vote to close a series of meetings on the same or related subjects, as permitted by paragraph (d)(1) of the Act.

Paragraph (c) makes provision for the issuance, prior to the commencement of any meeting closed under this section, of the General Counsel's certification, required by paragraph (f)(1) of the Act, that the meeting is one that may properly be closed to the public.

Paragraph (d) lists the subjects of meetings which may be closed to the public under this section. The subject-matter listing reflects the exemptions contained in paragraph (c) of the Act, except that the exemption of paragraph (c)(8) is omitted inasmuch as the Commission is not an agency which regulates financial institutions.

The Commission also considered whether to adopt regulations under 5 U.S.C. 552b(d)(4) which authorizes an agency, a majority of whose meetings may properly be closed to the public pursuant to paragraphs (4), (8), (9)(A), or (10) of subsection (c), or any combination thereof, to provide by regulation for the closing of such meetings or portions thereof in the event that a majority of the members, by recorded vote at the beginning of such meeting, or portion thereof, votes to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each member on the question, is made available to the public. Although a majority of the Commission voted not to propose adoption of such regulations, we invite comments on this approach.

All persons interested in commenting on the proposed regulations contained in the appendix to this notice and order are invited to file written statements with the Commission. An original and 15 copies of such statements should be submitted on or before February 15, 1977, to:

The Secretary, Interstate Commerce Commission, Washington, DC 20423.

It is ordered, That a proceeding be, and it is hereby, instituted for the purpose of adding a new part 1012 to Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations to adopt regulations implementing the provisions of section 3(a) of the Government in the Sunshine Act, Pub. L. 94-309, 90 Stat. 1241;

It is further ordered, That any interested person may participate in this proceeding by submitting to the Commission an original and 15 copies of a written statement of views, arguments, or other comments regarding the proposed regulations on or before February 15, 1977; and that no oral hearing is contemplated at this time.

It is further ordered, That a copy of this notice and order be served on the Chairman of the Administrative Conference of the United States; that a copy be deposited in the Office of the Secretary of the Interstate Commerce Commission for public inspection; and that statutory notice of the institution of this proceeding be given by delivery of a copy of this notice and order to the Director, Office of the Federal Register, for publication.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission, Commissioners Murphy, Hardin, Gresham, and MacFarland dissenting in part.

ROBERT L. OSWALD,
Secretary.

It is proposed that Part 1012 be added to read as follows:

PART 1012—MEETINGS OF THE COMMISSION

Sec.
1012.1 General provisions.
1012.2 Time and place of meetings.
1012.3 Public notice.
1012.4 Public participation.
1012.5 Transcripts; minutes.
1012.6 Petitions seeking to open or close a meeting.
1012.7 Meetings which may be closed to the public.

AUTHORITY: 5 U.S.C. 552b(g), as amended by Pub. L. 94-409, 90 Stat. 1241 (49 U.S.C. 17(3), 24 Stat. 385, as amended).

§ 1012.1 General provisions.

(a) The regulations contained in this part are issued pursuant to the provisions of 5 U.S.C. 552b(g), added by section 3(a) of the Government in the Sunshine Act, Pub. L. 94-409 (Act), and section 17(3) of the Interstate Commerce Act. They establish procedures under which meetings of the Interstate Commerce Commission (Commission), Divisions of the Commission (Division), and standing committees of the Commission are held. They apply to oral arguments as well as to deliberative conferences. They apply to meetings of Divisions and committees of the Commission where the Division or committee is empowered to act on the Commission's behalf, but not where a Division or committee is meeting only to formulate an internal recommendation to the Commission. They include provisions for giving advance public notice of meetings, for holding meetings which may lawfully be closed to the public, and for issuing minutes and transcripts of meetings.

(b) The words "meeting" and "conference" are used interchangeably in this part to mean the deliberations of at least a majority of the members of the Commission, a Division, or a committee of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business. They do not include meetings held to determine whether some future meeting should be open or closed to the public. They do not include the deliberations of members of boards of employees of the Commission.

(c) These regulations are not intended to govern situations in which members of the Commission consider individually and vote by notation upon matters which are circulated to them in writing. Copies of the votes or statements of position of all Commissioners eligible to participate in action taken by notation voting will be made available, upon written request to the Secretary of the Commission, as soon as possible after the date upon which the action taken is made public or any decision or order adopted is served.

§ 1012.2 Time and place of meetings.

(a) Conferences, oral arguments, and other meetings are held at the Commission's headquarters building at the northwest corner of 12th Street and Constitution Avenue in Washington, DC, unless advance notice of an alternative site is given. Room assignments for meetings will be posted on the day of the meeting at the Constitution Avenue entrance to the Interstate Commerce Commission building and at the Commission's Public Information Office (room 1211).

(b) Regular Commission conferences are held on the first and third Tuesdays of each month, or on the following day if the regular conference day is a holiday. Oral arguments before the Commission are normally scheduled on the first or third Wednesday of each month. Regular Commission conferences and oral arguments before the Commission or a Division normally begin at 9:30 a.m. A luncheon recess is taken at approximately noon, and other recesses may be called by the presiding officer. Times for reconvening following a recess, or on subsequent days if a conference or oral argument lasts more than one day, are set by the presiding officer at the time the recess is announced.

(c) Special Commission conferences, Division conferences, oral arguments before a Division, and meetings of committees of the Commission are scheduled by the Chairman of the Commission or of the respective Division or committee.

(d) If one or more portions of the same meeting are open to the public while another portion or other portions are closed, all those portions of the meeting which are open to the public are scheduled at the beginning of the meeting agenda, and are followed by those portions which are closed.

§ 1012.3 Public notice.

(a) Unless a majority of the Commission determines that such information is exempt from disclosure under the Act, public notice of the scheduling of a meeting will be given by posting a notice on a bulletin board in the Commission's Public Information Office, by filing a copy of the notice with the Secretary of the Commission for posting and for service on all parties of record in any proceeding which is the subject of the meeting, and by submitting a copy of the notice for publication in the FEDERAL REGISTER.

(b) Public notice of a scheduled meeting will contain—

(1) The date, time, place, and subject matter of the meeting.

(2) Whether it is open to the public.

(3) If the meeting or any portion of the meeting is not open to the public, an explanation of the action taken in closing the meeting or portion of the meeting, together with a list of those expected to attend the meeting and their affiliations.

(4) If a vote is taken on the question whether to close a meeting or a portion of a meeting to the public, a statement of the vote or position of each Commissioner eligible to participate in that vote. If such a vote is taken, public notice of its result will be posted within one working day following completion of the voting. If the result of the vote is to close the meeting or a portion of the meeting, an explanation of that action will be included in the notice to be issued within one working day following completion of the voting. The public notice otherwise required by this subparagraph may be withheld if the Commission finds that such information is exempt from disclosure under the Act.

(5) The name and telephone number of the Commission official designated to respond to requests for information about the meeting. Unless otherwise specified, that official will be the Commission's Public Information Officer, whose telephone number is (202) 275-7252.

(c) Except as provided in paragraphs (d) and (e) of this section, public notice will be given at least one week before the date upon which a meeting is scheduled.

(d) Due and timely execution of the Commission's functions will not normally permit the given of one week's public notice of meetings called to consider or determine whether to suspend or investigate a tariff or schedule under section 15(7), 15(8), 216(g), 218(c), 307(g), 307(i), or 406(e) of the interstate Commerce Act (49 U.S.C. 15(7), 15(8), 316(g), 318(c), 907(g), 907(i), 1006(e)); to consider whether to grant special permission to deviate from tariff filing requirements under section 6(3), 217(c), 218(a), 306(d), 306(e), or 405(d) of the Interstate Commerce Act (49 U.S.C. 6(3), 317(c), 318(a), 906(d), 906(e) or 1005(d)); or to consider or dispose of an application for temporary authority under section 210a(a) or 311(a) of the Interstate Commerce Act (49 U.S.C. 310a(a) or 911(a)). Such meetings will normally be called on less than one week's notice, and public notice will be posted and published at the earliest practicable time.

(e) If a majority of the Commissioners eligible to participate in the conduct or disposition of the matter which is the

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subject of a meeting determines, by recorded vote, that Commission business requires that a meeting be called on less than one week's notice, the meeting may be called on short notice, and public notice will be posted and published at the earliest practicable time.

(f) Changes in the scheduling of a meeting which has been the subject of a public notice will also be made the subject of a public notice, which will be posted at the earliest practicable time. In the absence of objection by another Commissioner, an item may be removed from a conference agenda, or a conference cancelled, at the request of the Commissioner at whose request the item was listed or the conference called. Other changes in, or additions to, a conference agenda or in the open or closed status of a meeting will be made only if a majority of the Commissioners eligible to participate in the conduct or disposition of the matter which is the subject of the meeting determines, by recorded vote, that the Commission's business requires such change and that no earlier announcement of the change was possible. In such a case, the public notice of the change, will show the vote of each Commissioner on the change.

§ 1012.4 Public participation.

(a) In the case of Commission or Division conferences or meetings of committees of the Commission which are open to the public, members of the public will be admitted as observers only. Active public participation, as by asking questions or attempting to participate in the discussions, will not be permitted, and anyone violating this proscription may be required to leave the meeting by the presiding officer.

(b) Oral arguments are always open to the public. The scheduling of participants in the arguments and the allotment of time is governed by the Commission's General Rules of Practice, 49 C.F.R. 1100.98.

§ 1012.5 Transcripts; minutes.

(a) A verbatim transcript, sound recording or minutes will be made of all meetings closed to the public under these regulations, and will be retained by the Commission for two years following the date upon which the meeting ended, or until one year after the conclusion of any proceeding with respect to which the meeting was held, whichever occurs later. In the case of meetings closed to the public under § 1012.7(d) (1) through (7) and (9) of this part, a transcript or recording rather than minutes will be made and retained.

(b) The Commission will make available, upon request, the minutes, transcript or recording of all portions of the meeting except those which it finds to be properly exempt from disclosure under the Act. A copy of such minutes, transcript or recording will be provided, upon request, upon payment of the actual cost of duplication or transcription.

(c) In the case of all meetings closed to the public, the presiding officer shall cause to be made, and the Commission shall retain, a statement setting forth:

(1) The date, time, and place of the meeting;

(2) The names and affiliations of those attending;

(3) The subject matter;

(4) The action taken, and

(5) A copy of the certification issued by the General Counsel that, in his or her opinion, the meeting was one that might properly be closed to the public.

§ 1012.6 Petitions seeking to open or close a meeting.

(a) The Commission will entertain petitions requesting either the opening of a meeting proposed to be closed to the public or the closing of a meeting proposed to be open to the public. In the case of a meeting of the Commission, the original and 15 copies of such a petition shall be filed, and in the case of a meeting of a Division or committee of the Commission, an original and five copies shall be filed.

(b) A petition to open a meeting proposed to be closed, filed by any interested person, will be entertained.

(c) A petition to close a meeting proposed to be open will be entertained only in cases in which the subject of the meeting would:

(1) Involve accusing a person of a crime or formally censuring a person;

(2) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(3) Disclose trade secrets or commercial or financial information obtained on a privileged or confidential basis; and

(4) Disclose investigatory records or information, compiled for law enforcement purposes, to the extent that the production of such records or information would (i) interfere with enforcement proceedings being conducted or under consideration by an agency other than the Commission; (ii) deprive a person of a right to a fair trial or an impartial adjudication; (iii) constitute an unwarranted invasion of personal privacy; (iv) disclose the identity of a confidential investigation agency or a national security intelligence agency; (v) disclose investigative techniques and procedures of an agency other than the Commission; or (vi) endanger the life or physical safety of law enforcement personnel.

(d) Every effort will be made to dispose of petitions to open or close a meeting in advance of the meeting date. However, if such a petition is received less than three working days prior to the date of the meeting, it may be disposed of as the first order of business at the meeting, in which case the decision will be communicated to the petitioner orally through the Commission's Public Information Officer or other spokesperson.

§ 1012.7 Meetings which may be closed to the public.

(a) A meeting may be closed pursuant to this section only if a majority of the Commissioners eligible to participate in the conduct or disposition of the matter which is the subject of the meeting votes to close the meeting.

(b) A single vote may be taken to close a series of meetings on the same or related subjects held within 30 days of the initial meeting in the series.

(c) With respect to any meeting closed to the public under this section, the General Counsel of the Commission will issue his or her certification that, in his opinion, the meeting is one which may properly be closed pursuant to one or more of the provisions of paragraph (d) of this section.

(d) Meetings or portions of meetings may be closed to the public if the meeting or portion thereof is likely to:

(1) Disclose matters (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552); *Provided*, that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets or commercial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a chime, or formally censuring any persons;

(6) Disclose information of personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and (in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation) disclose confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information the premature disclosure of which could (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution;

(9) Disclose information, the premature disclosure of which would be likely significantly to frustrate implementation of a proposed Commission action, except that this subparagraph shall not apply in any instance after the con-

tent or nature of the proposed Commission action has already been disclosed to the public by the Commission, or where the Commission is required by law to make such disclosure prior to the taking of final Commission action on such proposal;

(10) Specifically concern the issuance of a subpoena;

(11) Specifically concern the Commission's participation in a civil action or proceeding or an arbitration; and

(12) Specifically concern the initiation, conduct, or disposition of a particular case or formal adjudication conducted pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after an opportunity for hearing.

[FR Doc.76-38077 Filed 12-27-76;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

MEDITERRANEAN FRUIT FLY BARRIER PROGRAM IN LATIN AMERICA

Draft Environmental Impact Statement

• Purpose: To give notice of the intent to prepare a draft environmental impact statement on a proposed barrier program in Latin America against the Mediterranean fruit fly to prevent spread of the pest to the United States. •

The Animal and Plant Health Inspection Service (APHIS) is proposing a cooperative program in Latin America under authority of the Organic Act, as amended, (7 U.S.C. 147a) to prevent the spread of the Mediterranean fruit fly into the United States.

The Mediterranean fruit fly, *Ceratitis capitata* Wied., is one of the world's most destructive pests of fruits and vegetables, especially citrus fruits. It is a native of the Mediterranean area and is known to attack over 200 kinds of fruits and vegetables and can cause serious economic losses. Heavy infestation can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. Its short life cycle permits the rapid development of serious outbreaks.

The Mediterranean fruit fly has occurred in the United States several times, however, because of prompt emergency measures it was successfully eradicated each time.

The last infestation was discovered in Los Angeles, California, in September 1975 and was declared eradicated on August 2, 1976 (41 FR 32229). Constant vigilance against reintroduction of the fly and prompt eradication efforts are the most effective means of dealing with this pest.

The recently amended Organic Act gives the Department the authority to cooperate with foreign governments in the Western Hemisphere. The proposed program would involve survey, regulatory, and control actions against the pest in northern Central America to prevent the natural or artificial spread of the pest into Mexico and subsequently into the United States. This will be a cooperative effort between the Animal and Plant Health Inspection Service, the Central American countries, and Mexico.

Survey actions will involve the use of traps to detect, delimit, and determine population levels of the pest. Regulatory activities will be directed at preventing the movement of host material into and through noninfested areas. Control efforts will involve chemical application of ultralow volume (ULV) materials, use of bait sprays, and the release of sterile flies in a barrier zone to prevent the natural spread of the Mediterranean fruit fly.

Therefore, this gives notice that an environmental impact statement is under preparation pursuant to section 102 (2)(C) of the National Environmental Policy Act of 1969, by the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service. The first draft is scheduled for completion on June 1, 1977.

To provide opportunity for participation in the development of the draft environmental impact statement, comments are invited from the public, from State and local agencies which administer plant pest control regulatory programs or are authorized to develop and enforce environmental standards, and from Federal Agencies having jurisdiction by law or special expertise with respect to any national program, issue, or environmental impact involved.

Comments concerning matters that should be addressed in the proposed environmental impact statement and requests for additional information should be addressed to the Environmental Evaluation Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782, by January 27, 1977.

The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 16th day of December 1976.

JAMES O. LEE, JR.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.76-37593 Filed 12-27-76;8:45 am]

[PPQ 639]

SOIL SAMPLES

List of Approved Laboratories for Receipt of Certain Soil Samples

• The purpose of this document is to revise the list of laboratories approved to receive shipments of soil samples for analysis. •

This document lists certain laboratories as indicated herein which are approved by the Deputy Administrator for receipt in interstate commerce of soil samples for processing, testing, or analysis pursuant to §§ 301.48-3, 301.80-3, 301.81-3, 301.85-3, of the Japanese beetle, witchweed, imported fire ant, and golden nematode regulations (7 CFR 301.48-3, 301.80-3, 301.81-3, 301.85-3).

Also, in connection with the regulations relating to the movement into or through the United States of soil from foreign countries or Territories or possessions of the United States (7 CFR 330.300 *et seq.*), this document lists certain laboratories as indicated herein which the Deputy Administrator has approved for receipt, under permit, of soil samples for research or analytical purposes in accordance with safeguards and other conditions specified in the permits.

The list reads as follows:

LABORATORY AND ADDRESS

A

A&H Corp., Consulting Engineers, Carbondale, IL
A&H Corp., Consulting Engineers, Champaign, IL
A&H Corp., Consulting Engineers, Chicago, IL
A&H Corp., Consulting Engineers, Peoria, IL
A&H Engineering Corp., Springfield, IL
A&L Laboratory, Memphis, TN[2] (6-30-79)[1]
A&L Midwest Agriculture Laboratory, Inc., Omaha, NE[2] (2-28-78)
Abbott Laboratories, North Chicago, IL
Ackenheil, A. C., & Associates, Inc., Nitro, WV
Ackenheil, A. C., & Associates, Inc., Pittsburgh, PA
Agrico Chemical Co., Washington Courthouse, OH
Agricultural Environmental Systems, Inc., Raleigh, NC[2] (6-30-81)
Agricultural Service Laboratories, Pharr, TX[2] (6-30-77)
Agricultural Technical Service (ATS), Bakersfield, CA[2] (5-31-79)
Agrimanagement, Yakima, WA
Alaska, University of, Agriculture Experiment Station, Palmer, AK[2] (6-31-78)
Alfred Agricultural and Technical Institute, State University of New York, Department of Agronomy, Alfred, NY
Allied Chemical Corp., Morristown, NJ
Alum-A-Therm, Westminster, CA
Ambric Testing & Engineering Associates, Inc., Testing Laboratories, Arlington, VA
Amchem Products, Inc., Ambler, PA[2] (12-31-77)
American Cyanamid Co., Princeton, NJ[2] (6-30-80)
American Oil Co., Soil Laboratories, Holland, TX
American Oil Co., Soil Testing Laboratory, Yoder, IN
American Testing Engineering Corporation, ATEC Associates, Inc., Indianapolis, IN

[1] See footnotes at end of document.

American Testing Institute, San Diego, CA[2] (9-30-77)
Ameron, South Gate, CA
Amoco, Soil Guide Laboratory, Rochelle, GA
Anaerobe Laboratory, Virginia Polytechnic Institute and State University, Blacksburg, VA
Analysis Laboratories, Inc., Metairie, LA
Analytical Biochemistry Laboratories, Inc., Columbia, MO
Analytical Development Corp., Monument, CO[2] (6-30-79)
Analytical Research Labs., Inc., Monrovia, CA[2] (11-30-78)
Anco Testing Laboratory, Inc., St. Louis, MO
Applied Agricultural Research, Inc., Lakeland, FL[2] (6-30-77)
Arizona State University, Tempe, AZ
Arizona State University, Department of Anthropology, Tempe, AZ[2] (6-30-79)
Arizona Testing Laboratory, Phoenix, AZ
Arizona, University of, Department of Geosciences, Tucson, AZ[2] (6-30-80)
Arizona, University of, Department of Plant Pathology, Tucson, AZ[2] (6-30-77)
Arizona, University of, Department of Soils, Water, and Engineering, Tucson, AZ[2] (6-30-80)
Arkansas, University of, Experiment Station, Fayetteville, AR
Arkansas Highway Department, Materials and Testing Laboratory, Little Rock, AR
Arkansas Laboratories, Inc., Fort Smith, AR
Armac Engineering, Inc., Tampa, FL[2] (12-31-77)
Asphalt Institute, College Park, MD[2] (5-31-78)
Asphalt Technology, Bellmawr, NJ
Astrotech, Inc., Harrisburg, PA
Atkins Farmlab, Chico, CA
Atlanta Testing & Engineering Co., Norcross, GA[2] (6-30-81)
Auburn University, Soil Testing Laboratory, Auburn, AL

B

Babcock, Edward S. & Sons, Riverside, CA
Baker, Michael, Inc., Rochester, PA
Barbot, D. C. & Associates, Inc., Florence, SC
Barrow-Agee Laboratories, Inc., Memphis, TN[2]
Battelle Northwest Laboratory, Richland, WA[2] (4-30-78)
B. C. Laboratories, Inc., Bakersfield, CA[2] (4-30-78)
Bechtel Corp., San Francisco, CA
Beckman, Inc., Microbics Operations, La Habra, CA
Belleville Area College Agricultural Club (Dust Kickers), Belleville, IL
Benedict, Bowman, Craig and Moos, Columbus, OH
Bethany Laboratory of Uni-Royal Chemical, Division of Uni-Royal, Inc., Bethany, CT
Biological Testing and Resarch Laboratory, Lindsay, CA
Biospherics, Inc., Rookville, MD[2] (12-31-77)
Boring Soils & Testing Co., Inc., Harrisburg, PA
Boswell, J. G., Co., Corcoran, CA
Bowes & Associates, Steamboat Springs, CO
Bowes, William A., Steamboat Springs, CO[2] (7-31-78)
Bowser-Morner Testing Laboratories, Inc., Dayton, OH
Boyce Thompson Institute, Yonkers, NY[2] (7-31-78)
Brandley, Reinard W., Sacramento, CA
Braun Engineering Testing, Minneapolis, MN
Braun, Skaggs, and Kevorkian Engineering, Inc., Fresno, CA
Brigham Young University, Department of Anthropology & Archeology, Provo, UT[2] (1-31-77)
Bristol Laboratories, Syracuse, NY
Broeman, F. C., & Co., Cincinnati, OH
Brookhaven National Laboratory, Safety and Environmental Protection Division, Upton, NY[2] (4-30-78)
Brookside Farms Laboratory Association, Inc., New Knoxville, OH[2] (6-30-81)
Brown and Root-Northrop IRL, Houston, TX
Brown University, Division of Biological and Medical Sciences, Providence, RI[2] (6-30-78)
Brucker & Associates, St. Louis, MO

C

CIBA-Geigy Corp., Agriculture Division, Greensboro, NC[2] (6-30-77)
CPC International, Inc., Argo, IL
California Department of Food & Agriculture, Chemistry Laboratories, Sacramento, CA
California Department of Public Works, Division of Highways Materials and Research, Sacramento, CA
California State Polytechnic College, Department of Biological Sciences, Pomona, CA[2] (6-30-77)
California Testing Laboratories, South El Monte, CA
California, University of, Agricultural Extension Service, Riverside, CA
California, University of, Department of Anthropology, Davis, CA[2] (6-30-77)
California, University of, Department of Civil Engineering, Davis, CA[2] (6-30-77)
California, University of, Department of Food Science & Technology, Davis, CA[2] (6-30-77)
California, University of, Department of Forestry and Resource Management, Berkeley, CA[2] (10-31-78)
California, University of, Department of Geography, Berkeley, CA[2] (6-30-80)
California, University of, Department of Near Eastern Studies, Berkeley, CA[2] (5-31-78)
California, University of, Museum of Cultural History, Los Angeles, CA[2] (10-31-78)
California, University of (Los Angeles), Laboratory of Nuclear Medicine and Radiation Biology, Los Angeles, CA
California, University of (Southern), Department of Geological Sciences, Los Angeles, CA[2] (6-30-77)
California State College San Bernardino, Department of Biology, San Bernardino, CA[2] (6-30-77)
California State University, School of Agricultural Sciences, Department of Plant Sciences, Fresno, CA[2] (6-30-77)
Calspan Corp., Buffalo, NY
Campbell Institute for Agricultural Research, Cinnaminson, NJ[2] (6-30-77)
Campbell Institute for Agricultural Research, Riverton, NJ[2] (6-30-77)
Capozzoli, Louis J., & Associates, Inc., Baton Rouge, LA
Carpenter Construction Co., Inc., Virginia Beach, VA
Carpco, Inc., Jacksonville, FL[2] (2-28-78)
Cascade Agricultural Service Co., Mt. Vernon, WA
CELPRIL Industries, Inc., Bioagricultural Laboratory, Manteca, CA
Center for Climatic Research, Madison, WI[2] (6-30-77)
Central Michigan University, Department of Biology, Mount Pleasant, MI[2] (6-30-81)
CH²M Hill, California, Inc., Redding, CA
CH²M Hill, Inc., Corvallis, OR[2] (4-30-79)
Chemagro Corp., Kansas City, MO[2] (6-30-77)
Chembac Laboratories, Charlotte, NC
CHEM-CRETE Corp., Menlo Park, CA[2] (6-30-77)
Chemical Service Laboratory, Inc., Jeffersonville, IN[2] (6-30-77)
Chemonics Industries, Phoenix, AZ[2] (6-30-78)
Chevron Asphalt Co., Eastern Laboratory, Baltimore, MD[2] (7-31-78)
Chevron Chemical Co., Richmond, CA
Chevron Oil Field Research Co., La Habra, CA
Chicago, University of, Oriental Institute, Chicago, IL[2] (4-30-78)
Christian Testing Laboratories, Inc., Montgomery, AL
Citizens National Bank of Paris Soil Testing Laboratory, Paris, IL
Clarkson Laboratory & Supply, Inc., San Diego, CA[2] (6-30-80)
C. L. C., Columbus, OH
Clemson University, Clemson, SC
Clinton Corn Processing Company, Clinton, IA[2] (6-30-79)
Coenen and Associates-Engineers, Newport News, VA
Coleman Engineering Laboratories, Inc., Augusta, GA
Colorado State University, Department of Agronomy, Fort Collins, CO
Colorado State University, Department of Economics, Fort Collins, CO
Colorado State University, Department of Microbiology, Ft. Collins, CO[2] (6-30-80)
Colorado, University of, Department of Geological Sciences, Boulder, CO[2] (6-30-80)
Colorado, University of, Institute of Arctic and Alpine Research, Boulder, CO[2] (5-31-78)
Colorado School of Mines, Research Institute, Golden, CO[2] (6-30-80)
Columbia Glass Company, Inc., Baltimore, MD[2] (11-30-78)
Columbia Research Corporation, Irradiation Service Division, Gaithersburg, MD[2] (9-30-77)
Commercial Testing & Engineering Co., Norfolk, VA
Commonwealth Laboratory, Inc., Greenville, SC
Commonwealth Laboratory, Inc., Richmond, VA
Connecticut, University of, Soil Testing Laboratory, Plant Science Department, College of Agriculture and Natural Resources, Storrs, CT
Consolidated Cigar Corp., Glastonbury, CT
Construction Aggregates Corp., Ferrysburg, MI
Contractors & Engineers Service, Inc., Fayetteville, NC
Contractors & Engineers Service, Inc., Goldsboro, NC
Cook Research Laboratories, Inc., Menlo Park, CA
Cook Associates, Oroville, CA
Cookwell Strainer, Cincinnati, OH
Cooper-Clark & Associates, Palo Alto, CA
Coors Spectro-Chemical Laboratory, Denver, CO
Core Laboratories, Inc., Aurora, CO
Core Laboratories, Inc., Houma, LA
Core Laboratories Inc., Lafayette, LA
Core Laboratories, Inc., New Orleans, LA
Core Laboratories, Inc., Shreveport, LA
Core Laboratories, Inc., Farmington, NM
Core Laboratories, Inc., Hobbs, NM
Core Laboratories, Inc., Dallas, TX
Core Laboratories, Inc., Casper, WY
Cornell University, Department of Agronomy, Ithaca, NY[2] (6-30-79)
Cornell University, Department of Floriculture and Ornamental Horticulture, Ithaca, NY
Craig Testing Laboratories, Mays Landing, NJ
Crobaugh Laboratories, Cleveland, OH
Crop Chemical Testing Services, Inc., Arcola, IL

D

Dade County Soils Laboratory, Homestead, FL[2] (6-30-77)
Dames & Moore, Denver, CO
Dames & Moore, Los Angeles, CA[2] (6-30-81)
Dames & Moore, San Francisco, CA[2] (6-30-77)

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Dames & Moore, Atlanta, GA [2] (6–30–81)
Dames & Moore, Houston, TX [2] (6–30–80)
Dames & Moore, Park Ridge, IL [2] (6–30–78)
Dames & Moore, Cranford, NJ [2] (6–30–80)
Dames & Moore, Seattle, WA [2] (6–30–79)
D'Appolonia, E., Consulting Engineers, Inc., Pittsburgh, PA [2] (11–30–77)
Davey Tree Expert Co., Kent, OH
Daylin Laboratories, Inc., Los Angeles, CA
Delaware, University of, Department of Geology, Newark, DE [2] (9–30–77)
Del Monte Corp., San Leandro, CA
Del Monte Corp., Walnut Creek, CA
Delta Testing and Inspection, Inc., Baton Rouge, LA
Delta Testing and Inspection, Inc., Lafayette, LA
Delta Testing and Inspection, Inc., New Orleans, LA
Denver, University of, Department of Geography, Denver, CO [2] (6–30–77)
Diamond Shamrock Corp., Painesville, OH
Dickinson Laboratories, Inc., El Paso, TX [2] (6–31–78)
Dickinson Laboratories, Inc., Mobile, AL
Dixie Laboratories, Inc., Mobile, AL
Dow Chemical Co., Walnut Creek, CA [2] (6–30–77)
Dow Chemical Co., Midland, MI [2] (6–30–81)
Duke University, Durham, NC [2] (6–30–80)
Duke University, Department of Botany, Durham, NC
Duke University, Department of Zoology, Durham, NC [2] (6–30–81)

E

EFCO Laboratories, Tucson, AZ [2] (6–30–78)
Eagle Iron Works, Des Moines, IA [2] (6–30–77)
Eastern Michigan University, Mycology Labs Biology, Ypsilanti, MI [2] (6–30–81)
Effingham Equity, Effingham, IL
Eisenhauer Laboratories, Covina, CA
Ellerbe Architect, Bloomington, MN
Elmira College, Department of Biology, Elmira, NY [2] (6–30–80)
El Paso Chemical Laboratories, El Paso, TX [2] (6–30–78)
Emcon Associates, San Jose, CA
Empire Soils Investigations, Groton, NY
Engineering, Surveys, and Services, Columbia, MO
Engineers Laboratories, Inc., Jackson, MS
Engineers Testing Laboratories, Phoenix, AZ
Environmental Engineering, Watchung, NJ [2] (11–30–77)
Environmental Science & Engineering Corp., Mt. Juliet, TN
Environmental Statement Project, Argonne National Laboratory, Argonne, IL
Eustis Engineering Co., Metairie, LA
Evans, L. T., Inc., Los Angeles, CA
Exxon Production Research Company, Houston, TX [2] (6–30–78)

F

Farm Clinic, West Lafayette, IN
Fayette County Farm Bureau, Vandalia, IL
Federal Chemical Co., Columbus, OH
Fertilizers, John Taylor, Rio Linda, CA
Florida State University, Dept. of Geology, Tallahassee, FL
Florida Testing Laboratories, Inc., St. Petersburg, FL
Florida, University of, Agricultural Research & Education Center, Lake Alfred, FL
Florida, University of, Agricultural Extension Service, Soil Testing Laboratory, McCarty Hall, Gainesville, FL
Florida, University of, Department of Geology, Floyd Hall, Gainesville, FL [2] (6–30–79)
Florida, University of, Soil Science Department, Gainesville, FL [2] (12–31–78)
Flowers Chemical Laboratories, Altamonte Springs, FL
FMC Corporation, Agricultural Chemical Division, Middleport, NY [2] (5–31–78)
FMC Corporation, Agricultural Chemical Division, Richmond, VA
Foley, Hubert L., Jr., New Albany, MS
Foundation Engineering Consultants, Inc., Columbia, SC
Foundation Test Services, Inc., Bethesda, MD [2] (6–30–77)
Franklin, R. T., & Associates, Burbank, CA
Frederick Cancer Research Center, Chemotherapy Fermentation Laboratory, Frederick, MD [2] (6–30–78)
Froehling & Robertson, Inc., Richmond, VA [2]
Fruco & Associates, St. Louis, MO
Fruin-Colnon Corp., St. Louis, MO
Fruit Growers Laboratory, Inc., Santa Paula, CA [2] (6–30–77)
F. S. Royster Guano Co., Toledo, OH
Furgo, Inc., Long Beach, CA [2] (12–31–78)
Fuller Company, Catasauqua, PA [2] (6–30–80).

G

GREFCO, Inc., Torrance, CA [2] (6–30–78)
GREFCO, Inc., Lompoc, CA [2] (6–30–79)
GX Laboratories, Inc., Golden, CA [2] (6–30–77)
General Foods Corp., Food Products Division, Woodburn, OR [2] (6–30–80)
General Testing Laboratory, Kansas City, MO
Geochemical Surveys, Dallas, TX
Geologic Associates, Franklin, TN
Geologic Associates, Knoxville, TN
Georgia State Department of Transportation, Office of Material and Test, Forest Park, GA [2]
Georgia Testing Laboratory, Lithonia, GA
Georgia, University of, Cooperative Extension Service, Plant Pathology, Athens, GA
Georgia, University of, Department of Agronomy, Athens, GA [2] (6–30–81)
Georgia, University of, Institute of Ecology, Athens, GA [2] (6–30–80)
Geo-Survey, Inc., Camp Hill, PA
Geotechnical Consultants, Inc., Burbank, CA
Geotechnical Engineering-Testing, Inc., Mobile, AL
Geotechnical Engineers, Inc., Winchester, MA [2] (10–31–78)
Geotek Consultants, Inc., Denver, CO [2] (11–30–78)
Geo-Testing, Inc., San Rafael, CA [2] (6–30–79)
Gillen Engineering Co., Inc., Metairie, LA
Girdler Foundation & Exploration Co., Lenexa, VA
Glassmire, S. H., & Associates, Metairie, LA
Gooch, George W., Laboratory, Ltd., Los Angeles, CA
Gore Engineering, Inc., Metairie, LA
Grace, W. R., & Co., Columbia, MD [2] (6–30–77)
Grace, W. R., & Co., Fort Pierce, FL
Grace, W. R., & Co., Nashville, TN
Green Engineering Co., Sewickley, PA
Green Giant Co., Agricultural Research Department, Le Sueur, MN [2] (6–30–77)
Green Thumb Corp., Apopka, FL [2] (6–30–79)
Grimes, Walter B., & Associates, Chico, CA
Growers Chemical Corp., Milan, OH
Grubbs Consulting Engineers, Little Rock, AR
Gulf Coast Testing Laboratory, Inc., Corpus Christi, TX
Gulf South Research Institute, Baton Rouge, LA
Gulf South Research Institute, New Orleans, LA

H

Hales Testing Laboratories, Santa Clara, CA
Hales Testing Laboratories, Oakland, CA
Hanson Engineers, Inc., Springfield, IL [2] (6–30–78)
Harding-Lawson Associates, Houston, TX [2] (10–31–78)
Harding-Lawson Associates, San Rafael, CA [2] (6–30–80)
Harlan, R. C., and Associates, San Francisco, CA [2] (6–30–77)
Harris Laboratories, Inc., Lincoln, NE [2] (7–31–78)
Harvard University, Peabody Museum, Cambridge, MA [2] (6–30–78)
Harvard University, Herbaria, Cambridge, MA [2] (6–30–80)
Harza Engineering Co., Chicago, IL [2] (6–30–77)
Hawley & Hawley, Division of Skyline Labs, Inc., Tucson, AZ [2] (6–30–77)
Haynes, John H., Consulting Engineer, Dallas, TX
Hazen Research Inc., Golden, CO [2] (6–30–78)
Hazelton Laboratories, Inc., Falls Church, VA
Hector Agricultural Expert Co., Miami, FL [2] (6–30–79)
Heinrichs Geoexploration Co., Tucson, AZ
Hemphill Corp., Tulsa, OK
Herbert & Associates, Virginia Beach, VA
Hercules, Inc., Wilmington, DE
Herner Analytics, Inc., Rockville, MD [2] (6–30–78)
Hess, John D., Testing Corp., El Centro, CA [2] (5–31–78)
Hoffman-LaRoche, Inc., Nutley, NJ [2] (6–30–78)
Hollywood Testing Laboratories, Hollywood, CA
Horvitz Research Laboratories, Houston, TX
Hoskin/-Western-Sonderegger, Inc., Lincoln, NE [2] (6–30–77)
Hughes Aircraft Co., Culver City, CA [2] (12–31–77)
Hunt, Robert W., Co., Chicago, IL
Hunter College, Department of Anthropology, New York, NY
Hurst-Rosche Engineers, Inc., Hillsboro, IL

I

IIT Research Institute, Chicago, IL
IRI Research Institute, Inc., New York, NY
Illinois Division of Highways, Bureau of Materials, Chicago, IL
Illinois, Division of Highways, Bureau of Materials, Dixon, IL
Illinois Division of Highways, Bureau of Materials, Effingham, IL
Illinois Division of Highways, Bureau of Materials, Elgin, IL
Illinois Division of Highways, Bureau of Materials, Paris, IL
Illinois Division of Highways, Bureau of Materials, Springfield, IL
Illinois Division of Highways, Carbondale, IL
Illinois Division of Highways, East St. Louis, IL
Illinois Division of Highways, Ottawa, IL
Illinois Division of Highways, Peoria, IL
Illinois, University of, Department of Agronomy, Urbana, IL
Illinois, University of, Department of Anthropology, Urbana, IL [2] (6–30–80)
Illinois, University of, at Chicago Circle, Department of Geography, Chicago, IL [2] (6–30–78)
Independent Testing Laboratories, Greensboro, NC
Indiana Farm Bureau Co-op, Indianapolis, IN
Indiana State Highway Commission, Division of Materials and Testing, Indianapolis, IN
Indiana University, Department of Geology, Bloomington, IN [2] (6–30–78)
Industrial Laboratories Co., Denver, CO
Insect and Plant Disease Clinic, Raleigh, NC
Institute for Research, Inc., Houston, TX
International Agriculture Services, San Francisco, CA [2] (6–30–77)
International Fertilizer Development Center, Muscle Shoals, AL
International Flavors and Fragrances (R & D), Union Beach, NJ [2] (3–31–78)
International Mineral & Chemical Corp., Libertyville, IL
International Mineral & Chemical Corp., Mulberry, FL
International Mineral Engineers, Inc., Golden, CO

International Research Corp., Mattawan, MI
Interpace Corp., Los Angeles, CA [2] (6–30–77)
Iowa State Highway Commission Soil Laboratory, Ames, IA
Iowa State University, Department of Agronomy, Ames, IA [2] (6–30–80)
Iowa State University, Engineering Research Institute, Ames, IA [2] (6–30–80)

J

Jennings Laboratories, Virginia Beach, VA
Jersey Testing Laboratories, Atco, NJ
Jersey Testing Laboratories, Newark, NJ
Johns Hopkins University, Department of Geography and Environmental Engineering, Baltimore, MD [2] (6–30–77)
Johnson Soil Engineering Laboratory, Palisades Park, NJ
Jones Ferro Magnetics, Inc., Jacksonville, FL [2] (1–31–78)
Joy Manufacturing Co., Denver Equipment Division, Denver, CO

K

Kaiser Agricultural Chemical Co., Sullivan, IL
Kaiser Agricultural Chemicals Corp., Savannah, GA
Kaiser Aluminum and Chemical Corp., Center for Technology, Pleasanton, CA [2] (6–30–80)
Kalo Laboratories, Inc., Quincy, IL
Kansas City Testing Laboratory, Inc., Kansas City, MO
Kansas City Testing Laboratory, Inc., Leawood, KS
Kansas, University of, Dept. of Geography-Meteorology, Lawrence, KS
Kearney Field Station, University of California, Division of Agricultural Sciences, Parlier, CA
Keico Co., San Diego, CA [2] (6–30–81)
Kennecott Exploration, Inc., Salt Lake City, UT [2] (2–28–78)
Kentucky, University of, Department of Agronomy, Lexington, KY [2] (1–31–78)
Kentucky, University of, Division of Regulatory Services, Lexington, KY
Kinlab, Inc., Cincinnati, OH
Kleinfelder, J. H., & Associates, Fresno, CA
Kleinfelder, J. H., & Associates, Merced, CA
Kleinfelder, J. H., & Associates, Sacramento, CA
Kleinfelder, J. H., & Associates, Stockton, CA [2] (6–30–81)

L

LFE Environmental Analysis Laboratory, Richmond, CA
Lake Ontario Environmental Laboratory, Oswego, NY
Langan Engineering Associates, Clifton, NJ
Langford & Meredith Laboratories, Division of The Analysts, Inc., New Orleans, LA
Larsen, Herluf T., Enola, PA
La Salle County Farm Bureau, Soil Testing Laboratory, Ottawa, IL
Law Engineering Testing Co., Atlanta, GA [2] (6–30–78)
Law Engineering Testing Co., Birmingham, AL [2] (4–30–78)
Law Engineering Testing Co., Charlotte, NC [2] (5–31–78)
Law Engineering Testing Co., Houston, TX [2] (5–31–78)
Law Engineering Testing Co., Marietta, GA [2] (5–31–78)
Law Engineering Testing Co., McLean, VA [2] (6–30–79)
Law Engineering Testing Co., Tampa, FL [2] (5–31–78)
Layne-Western Co., Kansas City, MO
Layne-Western Co., Kirkwood, MO
Lederle Laboratories, Pearl River, NY [2] (6–30–80)
Lerch Brothers, Inc., Hibbing, MN [2] (6–30–80)
Leroy Crandall & Associates, Los Angeles, CA [2] (6–30–77)
Lewin, David W., Corp., Geotechnical Engineering, The Arcade, Cleveland, OH
Libby, McNeill, & Libby, Janesville, WI [2] (6–30–81)
Lilly, Eli, & Co., Greenfield, IN [2] (6–30–79)
Lilly, Eli, & Co., Lilly Research Laboratories, Indianapolis, IN [2] (6–30–80)
Lockwood Corp., Lionel Harris Laboratory, Mitchell, NE [2] (10–31–78)
Louisiana Department of Highways, Baton Rouge, LA
Louisiana State University, Sedberry, Joe E. Jr., Department of Agronomy, Soil Testing Laboratory, Baton Rouge, LA [2] (6–30–80)
Louisiana State University, (Caldwell, Dr. A. G.) Department of Agronomy, Baton Rouge, LA [2] (6–30–81)
Louisiana State University, Coastal Studies Institute, Baton Rouge, LA
Louisiana State University, New Orleans, LA
Lowney/Kaldveer Associates, Palo Alto, CA
Lubbock Labs, Lubbock, TX

M

M & T Chemicals, Inc., Rahway, NJ
Maine State Highway Commission, Bangor, ME
Maine, University of, Orono, ME
Manchester College, Biology Department, North Manchester, IN
Mapco, Inc., Indiana Point Division, Athens, IL
Marathon Oil Co., Findley, OH [2] (6–30–77)
Marathon Oil Co., Littleton, CO [2] (6–30–77)
Maryland, University of, Department of Microbiology, College Park, MD [2] (5–31–78)
Mason-Johnston & Associates, Inc., Dallas, TX [2] (6–30–80)
Massachusetts Department of Public Works, Wellesley Hills, MA
Masssachusetts Institute of Technology, Soil Mechanics Division, Cambridge, MA
Massachusetts, University of, Department of Anthropology, Amherst, MA [2] (10–31–77)
Massachusetts, University of, Department of Plant and Soil Sciences, Amherst, MA
McCallum Inspection Co., Chesapeake, VA [2]
McClelland Engineers, Clayton, MO
McClelland Engineers, Inc., Houston, TX [2] (6–30–79)
McGauthy, Marshall, and McMillian, Norfolk, VA
Memphis State University, Department of Biology, Memphis, TN
Memphis State University, Department of Civil Engineering, Memphis, TN
Merck Institute for Therapeutic Research, Rahway, NJ [2] (6–30–78)
Merck & Co., Inc., Agri Chemical Development, Rahway, NJ
Miami, University of, Department of Microbiology, Miami FL [2] (6–30–77)
Miami, University of, Institute of Marine Science, Miami Beach, FL [2] (6–31–78)
Michigan Department of Public Health, Bureau of Laboratories, Division of Antibiotics and Fermentation, Lansing, MI [2] (6–30–78)
Michigan State University, Department of Botany and Plant Pathology, East Lansing, MI [2] (6–30–77)
Michigan State University, Crop and Soil Science Department, East Lansing, MI [2] (6–30–81)
Michigan State University, Soil Testing Laboratory, East Lansing, MI
Michigan, University of, Botany Department, Ann Arbor, MI [2] (6–30–79)
Michigan, University of, Department of Geology and Mineralogy, Ann Arbor, MI [2] (6–30–81)
Michigan, University of, Department of Zoology, Ann Arbor, MI [2] (6–30–77)
Michigan, University of, Ethnobotanical Laboratory, Ann Arbor, MI [2] (10–31–78)
Michigan Testing Engineers, Inc., Michigan Drilling Division, Detroit, MI
Midwest Research Institute, Kansas City, MO
Midwest Soil Testing Service, Danforth, IL
Mier, Ezra, Raleigh, NC
Miles Laboratories, Inc., Marschall Division, Elkhart, IN [2] (6–30–77)
Miles Laboratories, Inc., Miles Research Division, West Haven, CT [2] (6–30–77)
Milwaukee, City of, Sewage Commission, Milwaukee, WI
Minnesota Department of Highways, Office of Materials, St. Paul, MN
Minnesota Mining and Manufacturing Co., Agrichemical Laboratories, St. Paul, MN [2] (4–30–78)
Minnesota, University of, Department of Geology & Geophysics, Minneapolis, MN [2] (6–30–80)
Minnesota, University of, Department of Plant Pathology, St. Paul, MN [2] (6–30–80)
Minnesota, University of, Department of Soil Science, St. Paul, MN [2] (6–30–80)
Minnesota, University of, Department of Zoology, Minneapolis, MN [2] (6–30–81)
Mississippi State University, State College, MS
Mississippi, University of, University, MS
Missouri Highway Commission, Jefferson City, MO
Missouri, University of, Department of Agronomy, Columbia, MO [2] (6–30–78)
Missouri, University of, Department of Anthropology, Columbia, MO [2] (6–30–81)
Missouri, University of, Department of Food Sciences and Nutrition, Columbia, MO
Mobil Chemical Co., Central Research Lab., Edison, NJ [2] (7–31–78)
Monsanto Co., Agricultural Division, St. Louis, MO [2] (6–30–78)
Montana, University of, Department of Plant and Soil Science, Bozeman, MT [2] (6–30–81)
Moore, George, Columbus, OH
Moran, Douglas E., Tustin, CA
Morse Laboratories, Sacramento, CA
Mountain States Research and Development, Tucson, AZ [2] (6–30–80)
Mueser, Rutledge, Wentworth, and Johnston, New York, NY [2] (6–30–80)

N

Na-Churs Plant Food Co., Forrest City, AR
Na-Churs Plant Food Co., Marion, OH [2] (6–30–80)
Na-Churs, Red Oak, IA [2] (6–30–77)
National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA [2] (4–30–79)
National Bulk Carriers, Inc., New York, NY
National Laboratories, Evansville, IN
National Soil Services, Inc., Dallas, TX
National Soil Services, Inc., Houston, TX [2] (6–30–77)
National Spectographic, Division of Shiller Industries, Warrenville Heights, OH
Natural Resources Laboratory, Golden, CO
Naval Underseas Center, San Diego, CA [2] (11–30–78)
Nebraska Department of Roads, Soil Testing Laboratory, Lincoln, NE
Nebraska, University of, Department of Agronomy, Keim Hall, Lincoln, NE [2] (6–30–78)
Nebraska, University of, Department of Agronomy, Wheat Studies Laboratory, Lincoln, NE [2] (10–30–77)
Nelson Laboratories, Stockton, CA [2] (6–30–80)
Nevada State Highway Department Laboratory, Carson City, NV
New Jersey Department of Transportation, Trenton, NJ
New Mexico State Highway Department, Sante Fe, NM
New Mexico State University, Soil and Water Testing Laboratory, Las Cruces, NM [2] (5–31–78)
New York Botanical Garden, Cryptogamic Herbarium, Bronx, NY [2] (3–31–78)
New York State, University of, College of Environmental Sciences & Forestry, Dept. of Forest Botany & Pathology, Syracuse, NY [2] (6–30–80)

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Niagara Chemical Division of FMC Corp., Middleport, NY
NL Industries, Inc., Baroid Division, Channelview, TX [2] (3-31-78)
NL Industries, Inc., Baroid Division, Malvern, AR [2] (3-31-78)
North American Exploration, Inc., Charlottesville, VA [2] (6-30-78)
North Carolina Department of Agriculture, Raleigh, NC
North Carolina Department of Geology, Raleigh, NC
North Carolina State University, Department of Plant Pathology, Raleigh, NC [2] (8-31-78)
North Carolina State University, Department of Soil Science, International Soil Testing Project, Raleigh, NC [2] (6-30-80)
North Carolina, University of, Department of Botany, Chapel Hill, NC (Dr. J. N. Couch)
North Carolina, University of, Department of Botany, Chapel Hill, NC (Dr. N. G. Miller) [2] (6-30-80)
North Carolina, University of, Department of Botany, Chapel Hill, NC (Dr. Edward G. Barry)
North Dakota State Highway Department, State Highway Department Laboratory, Bismarck, ND
Norvell Plowman Laboratories, Little Rock, AR
Nu-ag Laboratory, Inc., Rochelle, IL
NUS Corporation, Rockville, MD [2] (9-30-78)
Nutting, H. C., Co., Cincinnati, OH

O

Oak Ridge National Laboratory, Environmental Sciences Division, Oak Ridge, TN [2] (3-31-78)
Ohio Florist Association, Columbus, OH
Ohio State University, Botany Department, Columbus, OH [2] (6-30-81)
Ohio State University, Department of Agronomy, Columbus, OH [2] (6-30-80)
Ohio State University, Department of Pathology, Columbus, OH
Ohio State University, Institute of Polar Studies, Columbus, OH [2] (6-30-81)
Ohio State University, Ohio Extension Service, Columbus, OH
Ohio State University, Soil Testing Laboratory, Coumbus, OH [2] (6-30-78)
Oklahoma State Highway Department, Materials Division, Oklahoma City, OK
Oklahoma State University, Stillwater, OK
Oklahoma State University, Department of Agronomy, Stillwater, OK
Oklahoma State University, School of Civil Engineering, Stillwater, OK
Oklahoma Soil Testing Laboratories, Oklahoma City, OK
Oklahoma, University of, School of Civil Engineering and Environmental Science, Norman, OK
Old Dominion University, Norfolk, VA
Olson-Dykeman Laboratories, Freeport, IL
Onondaga Soil Testing, Inc., East Syracuse, NY
Oregon State Highway Department, Salem, OR [1]
Osborne Laboratories, Inc., Santa Fe Springs, CA
Owens-Illinois Inc., Technical Center, Toledo, OH [2] (4-30-78)

P

Pacific Spectro Chemical Laboratory, Los Angeles, CA
Pan American Laboratories, Brownsville, TX [2] (6-30-80)
Parke, Davis, & Co. (Joseph Campau at the River), Detroit, MI
Parke, Davis, & Co., Res. & Med. Affairs, Biol. R. & D., Detroit, MI [2] (6-30-81)
Parrill, Irwin H., Edwardsville, IL
Pattison's Laboratories, Inc., Harlingen, TX [2] (6-30-80)
Patzig Testing Laboratories, Inc., Des Moines, IA
Penniman & Browne, Inc., Baltimore, MD
Pennsylvania State University, Department of Agronomy, University Park, PA [2] (6-30-81)
Pennsylvania, University of, Dept. of Geology, Philadelphia, PA [2] (6-30-78)
Pennsylvania, University of, Department of Physics, Philadelphia, PA [2] (6-30-77)
Perry Laboratory, Los Gatos, CA [2] (6-30-81)
Peters, Robert B., Co., Allentown, PA
Pfeiffer Foundation, Inc., Threefold Farm, Spring Valley, NY [2] (6-30-78)
Pfizer, Charles, & Co., Inc., Groton, CT [2] (6-30-81)
Phifer, Allen, Thorofare, NJ
Phillips Petroleum Co., Phillips Research Center, Bartlesville, OK [2] (8-31-78)
Pickett, Ray, and Silver, St. Peters, MO
Pioneer Testing Laboratory, Inc., Redlands, CA
Pittsburgh Testing Laboratory, Pittsburgh, PA [1]
Pittsburgh, University of, Department of Biology, Pittsburgh, PA [2] (6-30-81)
Plains Laboratory, Lubbock, TX
Pope, W. I., Mobile, AL
Portland State College, Department of Biology, Portland, OR [2] (6-30-77)
Purdue University, Department of Agronomy, Lafayette, IN [2] (6-30-79)
Purdue University, Department of Entomology, Lafayette, IN [2] (7-31-78)

Q

Queens College, Fluhing, NY

R

Raamot Associates, Corona, NY [2] (9-30-77)
Raba and Associates Consulting Engineers, Inc., San Antonio, TX [2] (1-31-78)
Raba Soil Testing Laboratory, San Antonio, TX
Rabe, Fred N., Engineering, Inc., Fresno, CA
Raymond International, St. Louis, MO
Reitz and Jens, Clayton, MO
Resources International, Fresno, CA [2] (6-30-79)
Richfield Oil Corp., Long Beach, CA
Ringel and Associates, Chico, CA
Rochester, University of, Department of Biology, Rochester, NY [2] (6-30-79)
Rocky Mountain Geochemical Corp., Midvale, UT
Rocky Mountain Geochemical Corp., Prescott, AZ
Rocky Mountain Geochemical Corp., West Jordan, UT [2] (6-30-80)
Rocky Mountain Technology, Inc., Golden, CO
Rosner-Hixon Laboratories, Chicago, IL
Royster Co., Norfolk, VA [1]
Rummel, Klepper, & Kahl, Lansdowne, MD
Rutgers, the State University, Department of Microbiology, New Brunswick, NJ [2] (6-30-81)
Rutgers, the State University, Department of Soils and Crops, New Brunswick, NJ [2] (6-30-81)
Rutgers, the State University, Soils Extension Specialist, New Brunswick, NJ

S

San Fernando Valley State College, Department of Biology, Northridge, CA
Sayre & Sutherland, Inc., Richmond, VA
Schering Corp., Bloomfield, NJ [2] (6-30-79)
Scientific Agricultural Services, Visalia, CA [2] (9-30-77)
Scientific Associates, Inc., St. Louis, MO [2] (6-30-78)
Scott, O. M., & Sons, Seed Co., Marysville, OH
Scottland Soil Laboratory, Chrisman, IL
Seabrook Farms, Seabrook, NJ
Shankman Laboratories, Los Angeles, CA
Shannon & Wilson, Inc., Burlingame, CA
Shannon & Wilson, Inc., Portland, OR
Shannon & Wilson, Inc., Seattle, WA [2] (6-30-81)
Shannon & Wilson, Inc., St. Louis, MO
Shell Development Co., Biological Sciences Research Center, Modesto, CA
Shilstone Testing Laboratory, Inc., Baton Rouge, LA
Shilstone Testing Laboratory, Inc., Houston, TX
Shilstone Testing Laboratory, Inc., Lafayette, LA
Shilstone Testing Laboratories, Inc., Monroe, LA
Shilstone Testing Laboratory, Inc., New Orleans, LA
Skyline Laboratories, Inc., Wheat Ridge, CO [2] (6-30-77)
Smith-Douglas, Chesapeake, VA
Smith-Douglas Co., Division of Borden Inc., Columbus, OH
Smith, Kline, & French Laboratories, Swedeland, PA [2] (6-30-79)
Snohomish Farm Veterinary Service, Snohomish, WA
Soil and Materials Engineers, Detroit, MI
Soil and Plant Laboratory, Inc., Santa Ana, CA [2] (6-30-77)
Soil and Plant Laboratory, Inc., Santa Clara, CA [2] (6-30-80)
Soil Consultants, Inc., Charleston, SC
Soil Consultants, Inc., Merrifield, VA
Soil Control Laboratory, Watsonville, CA
Soil Engineering Services, Decatur, IL
Soil Exploration Co., St. Paul, MN
Soil Services, Inc., Mountain View, CA [1] (6-30-78)
Soil Systems, Inc., Marietta, GA
Soil Test, Moorestown, NJ
Soil Testing, Burlington, WA
Soil Testing Engineers, Inc., Baton Rouge, LA [2] (11-30-77)
Soil Testing Services, Inc., Northbrook, IL [2] (6-30-81)
South Alabama, University of, Department of Geology, Mobile, AL [2] (6-30-78)
South Carolina, University of, Department of Engineering, Columbia, SC
South Carolina, University of, Department of Geology, International Programs, Columbia, SC [2] (2-28-77)
South Dakota State Highway Department, Materials and Testing Department, Pierre, SD
Southern California Testing Lab., Inc., San Diego, CA [2] (5-31-78)
Southern Laboratories, Mobile, AL
Southern Methodist University, Department of Anthropology, Dallas, TX [2] (6-30-81)
Southern Technical Services, Inc., Jackson, MS
Southern Testing and Research Laboratories, Wilson, NC
Southern Testing Laboratory, Montgomery, AL
Southern Turf Nurseries, Tifton, GA [2] (6-30-79)
Southwestern Assayers & Chemists, Inc., Tucson, AZ [2] (6-30-79)
Southwestern Irrigation Field Station, Brawley, CA
Southwestern Laboratories, Inc., Houston, TX [1]
Southwestern Laboratories, Midland, TX [2] (6-30-77)
Spectograph Laboratory, Hayden, CO
Squibb, E. R., & Sons, Dept. of Microbiology, Lawrenceville, NJ [2] (6-30-79)
Stabilization Chemicals, Milpitas, CA [2] (6-30-77)
Standard Laboratories, Goodfield, IL
Stanford Research Institute, Menlo Park, CA [2] (6-30-77)
Stanford University, Department of Civil Engineering, Stanford, CA [2] (12-31-78)
State University of New York at Buffalo, Department of Civil Engineering, Buffalo, NY [2] (6-30-80)
Stauffer Chemical Co., Mountain View, CA
Stauffer Chemical Co., Richmond, CA
Stilwell & Gladding, Inc., New York, NY
Stoner Laboratories, Inc., Santa Clara, CA [2] (6-30-77)

Strawinsky Laboratory, Long Beach, CA
Suerdrup and Parcel & Associates, Inc., St. Louis, MO [2] (6-30-77)
Superior Oil Company, Geophysical Laboratory, Houston, TX [2] (6-30-79)
Syracuse University Research Corp., Syracuse, NY

T

T-N-T Chemical Co., Inc., Five Points, CA
Tennent & Associates, Memphis, TN
Tennessee, University of, Department of Geological Sciences, Knoxville, TN [2] (3-31-78)
Tennessee, University of, Soil Testing Laboratory, Nashville, TN
Tennessee Valley Authority, Materials Engineering Laboratory, Knoxville, TN
Terrasearch, Inc., San Jose, CA
Terratech, Inc., San Jose, CA
Test, Inc., Memphis, TN
Testing Engineers Inc., Oakland, CA
Testing Engineers Inc., Santa Clara, CA
Testing Service Corp., Wheaton, IL
Tetco, Trinity Engineering Testing Corp., Austin, TX
Tetco, Trinity Engineering Testing Corp., Corpus Christi, TX
Texas A & M University, Department of Sociology and Anthropology, College Station, TX [2] (6-30-80)
Texas A & M University, Department of Soil and Crop Sciences, Texas Agricultural Experiment Station, College Station, TX [2] (6-30-80)
Texas A & M University, Soil Testing Laboratory, Agricultural Extension Service and Experiment Station, College Station, TX [2] (6-30-81)
Texas Highway Department, Materials and Tests Engineering Division, Austin, TX
Texas Soil Laboratory, McAllen, TX [2] (6-30-78)
Texas Testing Laboratories, Dallas, TX
Texas, University of, (Austin) Department of Botany, Austin, TX [2] (6-30-77)
Texas, University of, Radiocarbon Laboratory, Balcones Research Center, Austin, TX [2] (6-30-79)
Thompson, Vester J., Jr., Inc., Mobile, AL
Three Gee Dee, Pembroke, FL
Tidewater Testing Laboratory, Inc., Virginia Beach, VA
Tippetts-Abbett-McCarthy-Stratton, New York, NY [2] (6-30-81)
Trinity Testing Laboratories, Inc., Corpus Christi, TX
Triple S Laboratory, Inc., Loveland, CO [2] (6-30-79)
Truesdale Laboratories, Inc., Los Angeles, CA
Tulane University, Department of Chemistry, New Orleans, LA [2] (6-30-77)
Tulane University, Department of Geology, New Orleans, LA [2] (5-31-78)
Tulsa, University of, Department of Geology, Tulsa, OK
Twin City Testing and Engineering Laboratory, Inc., St. Paul, MN
Twining Laboratories, Inc., Fresno, CA [2] (6-30-79)
Twining Laboratory of Southern California, Long Beach, CA

U

U.S. Agricultural Consultants Laboratories, San Gabriel, CA
U.S. Borax Research Corp., Anaheim, CA
U.S. Plant, Soil, and Nutrition Laboratory, Ithaca, NY
U.S. Sugar Corporation, Research Department, Clewiston, FL
U.S. Terrestrial Plants Laboratory, Hanover, NH
U.S. Testing Co., Inc., Los Angeles, CA
U.S. Testing Co., Inc., Hoboken, NJ
U.S. Testing Co., Memphis Laboratory, Memphis, TN [2] (6-30-79)
U.S. Testing Laboratory, Richland, WA
USS Agri-Chemicals, Belmond, IA
USS Agri-Chemicals, Decatur, GA
Union Carbide Corp., Grand Junction, CO [2] (6-30-80)
Union Carbide Corp., Niagara Falls, NY [2] (6-30-80)
Union Carbide Corp., South Charleston, WV
Union Oil Company of California, Brea, CA
United Rice Growers and Millers, Maxwell, CA
Upjohn Co., Pharmaceutical Division, Kalamazoo, MI [2] (6-30-80)
Urban Testing and Construction Engineers, Inc., Atlanta, GA
Utah State University, College of Engineering, Agriculture and Irrigation Engineering, Logan, UT
Utah State University, Department of Biology, Logan, UT [2] (6-30-79)
Utah State University, Soil Laboratory, Logan, UT [2] (6-30-81)
Utah State University, Soil and Water Conservation Research, Mechanic Arts, Logan, UT
Utah State University, Crops Research Laboratory, Logan, UT
Utah, University of, Department of Anthropology, Salt Lake City, UT [2] (6-30-81)

U.S. GOVERNMENT

U.S. Department of Agriculture, APHIS, Environmental Quality Laboratory, Gulfport, MS
U.S. Department of Agriculture, APHIS, Westhampton Golden Nematode Facility Riverhead, NY
U.S. Department of Agriculture, APHIS, Gypsy Moth Laboratory, Otis AFB, MA
U.S. Department of Agriculture, APHIS, Southern Methods Development Laboratory, Gulfport, MS
U.S. Department of Agriculture, ARS, Washington, DC [1]
U.S. Department of Agriculture, ARS, Fruit, Vegetable, Soil, and Water Laboratory, Nematology Investigation, Weslaco, TX [2] (6-30-77)
U.S. Department of Agriculture, ARS, Southern Piedmont Conservation Research Laboratory, Watkinsville, GA [2] (6-30-78)
U.S. Department of Agriculture, ARS, U.S. Water Conservation Lab, Phoenix, AZ [2] (6-30-79)
U.S. Department of Agriculture, FS, Washington, DC [1]
U.S. Department of Agriculture, FS, Forest Products Laboratory, Madison, WI [2] (6-30-77)
U.S. Department of Agriculture, SCS, Washington, DC [1]
U.S. Department of Agriculture, SCS, Engineering and Watershed Planning Unit, Portland, OR [2] (6-30-77)
U.S. Departmentof Agriculture, SCS, Soil Survey Investigations Unit, Lincoln, NE [2] (6-30-78)
U.S. Department of Agriculture, SCS, Soil Survey Investigations Unit, Riverside, CA [2] (6-30-77)
U.S. Department of Commerce, National Bureau of Standards, Health Physics Section, Gaithersburg, MD [2] (6-30-80)
U.S. Department of Defense, U.S. Air Force, AFCES/DL Civil Engineering Center, Tyndall AFB, Panama City, FL [2] (6-30-78)
U.S. Department of Defense, U.S. Air Force, Environmental Health Laboratory, Kelly AFB, TX [2] (10-31-78)
U.S. Department of Defense, U.S. Air Force, Radiological Health Laboratory, Wright-Patterson AFB, OH [2] (6-30-81)
U.S. Department of Defense, U.S. Air Force, Air Force Weapons Laboratory, Kirkland AFB, Albuquerque, NM
U.S. Department of Defense, U.S. Air Force, Technical Operations Squadron, McClellan AFB, CA [2] (5-31-78)
U.S. Department of Defense, U.S. Army, Cold Regions Research and Engineering Laboratory, Hanover, NH [2] (9-30-78)
U.S. Department of Defense, U.S. Army Corps of Engineers, Washington, DC [1]
U.S. Department of Defense, U.S. Army Corps of Engineers, South Atlantic Division Laboratory, Marietta, GA [2] (6-30-77)
U.S. Department of Defense, U.S. Army Corps of Engineers, Engineer Waterways Experiment Station, Vicksburg, MS [2] (4-30-78)
U.S. Department of Defense, U.S. Army, Electronics Command, Institute for Exploratory Research, Fort Monmouth, NJ
U.S. Department of Defense, U.S. Army Environmental Hygiene Agency, Aberdeen Proving Ground, MD [2] (6-30-80)
U.S. Department of Defense, U.S. Army Facility Engineering Support Agency, Engineering Division, Nuclear Branch, Fort Belvoir, VA [2] (6-30-79)
U.S. Department of Defense, U.S. Army Mobile Equipment Research Development Center, Countermine/Counter Intrusion Dept., Fort Belvoir, VA [2] (6-30-79)
U.S. Department of Defense, U.S. Army South Pacific Corps of Engineers, Engineering Division Laboratory, Sausalito, CA [2] (6-30-78)
U.S. Department of Defense, U.S. Navy, Naval Facilities Engineering Command, Soil Mechanics and Paving Branch, Norfolk, VA
U.S. Department of Health, Education, and Welfare, National Communicable Disease Center, Mycology Branch, Atlanta, GA [2] (6-30-78)
U.S. Department of the Interior, Bureau of Indian Affairs, Soil Testing Laboratory, Gallup, NM
U.S. Department of the Interior, Engineering and Research Center, Bureau of Reclamation, Denver, CO [2] (12-31-77)
U.S. Department of the Interior, Geological Survey, Washington, DC [1]
U.S. Department of the Interior, U.S. Geological Survey, Branch of Analytical Laboratories, Reston, VA [2] (5-31-78)
U.S. Department of the Interior, Geological Survey, Branch of Exploration Research, Denver, CO
U.S. Department of the Interior, Geological Survey, Denver, CO [2] (6-30-78)
U.S. Department of the Interior, U.S. Geological Survey, Hydrologic Laboratory, Lakewood, CO [2] (3-31-78)
U.S. Department of the Interior, U.S. Geological Survey, Rock Magnetics Laboratory, Menlo Park, CA [2] (12-31-78)
U.S. Department of the Interior, National Park Service, Ecological Services Division, Bay St. Louis, MS
U.S. Department of Transportation, Federal Highway Administration, Washington, D.C. [1]
U.S. Department of Transportation, Federal Highway Administration, Vancouver, WA [2] (6-30-77)
U.S. Department of Transportation, Federal Highway Administration, Sevier County Industrial Park, Sevierville, TN
U.S. Environmental Protection Agency, Pesticides Monitoring Laboratory, Bay St. Louis, MS
U.S. Environmental Protection Agency, Robert Kerr Laboratories, Ada, OK

V

Valentine, James H., Lubbock, TX [2] (6-30-77)
Valmont Industries, Inc., Valley, NE
Value Engineering Company, Alexandria, VA
Velsicol Chemical Corp., Chicago, IL [2] (6-30-80)
Vermilion Co., Farm Bureau, Danville, IL
Vermont, University of, Burlington, VT
Virginia Department of Highways, Richmond, VA
Virginia Polytechnic Institute, Blacksburg, VA
Virginia Polytechnic Institute and State University, Department of Agronomy, Soil and Plant Analysis, Blacksburg, VA [2] (6-30-81)
Virginia Polytechnic Institute and State University, Biology Department, Blacksburg, VA [2] (9-30-77)
Virginia Truck Experiment Station, Painter, VA
Virginia Truck Experiment Station, Virginia Beach, VA

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Virginia, University of, Department of Environmental Sciences, Charlottesville, VA[2] (6–30–77)
Vistron Company, Lima, OH

W

Waddoups, Marr and Associates, Inc., Kennewick, WA
Wahler, W. A., & Associates, Palo Alto, CA[2] (4–30–79)
Walker Laboratories, Columbia, SC
Walker Laboratories, Florence, SC
Ward Engineering Testing, Inc., Atlanta, GA
Ward Lind Engineers, Inc., Jackson, MS
Warf Institute, Inc., Madison, WI
Washington, University of, Center for the Biology of Natural Systems, St. Louis, MO[2] (6–30–81)
Washington, University of, College of Forest Resources, Seattle, WA[2] (6–30–81)
Washington, University of, Department of Anthropology, St. Louis, MO[2] (12–31–77)
Washington, University of, Department of Geological Sciences, Seattle, WA[2] (6–30–77)
Washington, University of, Laboratory of Radiation Ecology, Seattle, WA[2] (6–30–80)
Weber State College, Department of Microbiology, Ogden, UT
Western Agricultural Laboratory, Redlands, CA[2] (12–31–79)
Westfall Engineers, Saratoga, CA
West Virginia, Department of Highways, Charleston, WV
West Virginia, University of, Soil Testing Laboratory, Morgantown, WV
Westvaco Corp., Laurel Research Laboratory, Laurel, MD
Wharton County Junior College, Soil Testing Laboratory, Wharton, TX
Whitaker Laboratories, Inc., Savannah, GA
Whittaker Corp., San Diego, CA
William and Mary, College of, Williamsburg, VA
Williams, E. V., Co., Inc., Virginia Beach, VA
Winter, Ed, Metairie, LA[2] (9–30–77)
Wisconsin Department of Transportation, Madison, WI
Wisconsin, University of, Department of Anthropology, Milwaukee, WI[2] (6–30–79)
Wisconsin, University of, Department of Bacteriology, Madison, WI[2] (6–30–81)
Wisconsin, University of, Department of Sociology/Anthropology, La Crosse, WI[2] (8–31–78)
Wisconsin, University of, Department of Soil Science, Madison, WI[2] (6–30–79)
Wisconsin, University of, Department of Geography, Milwaukee, WI[2] (6–30–77)
Wolf's, Dr., Agricultural Laboratories, Fort Lauderdale, FL[2] (6–30–80)
Woodard Research Corp., Herndon, VA
Woodson-Tenent Laboratories, Memphis, TN[2] (6–30–80)
Woodward-Clyde Consultants, San Francisco, CA[2]
Woodward-Clyde Consultants, Clifton, NJ[2] (6–30–81)
Woodward-Clyde Consultants, Denver, CO[2] (6–30–77)
Woodward-Clyde Consultants, Plymouth Meeting, PA[2] (6–30–78)
Woodward-Clyde Consultants, San Diego, CA[2] (6–30–80)
Woodward-Clyde Consultants, Houston, TX[2] (6–30–78)
Woodville Lime Products, Woodville, OH
Wyoming, University of, Department of Botany, Laramie, WY[2] (6–30–81)

Y

Yakima Testing Laboratory, Yakima, WA[2] (6–30–79)
Yale University, Department of Anthropology, New Haven, CT[2] (11–30–78)
Yale University, Department of Geology & Geophysics, New Haven, CT[2] (6–30–78)
Yale University, Greeley Laboratories, New Haven, CT[2] (6–30–77)
Yeshiva University, New York, NY
Yule, Jordan, and Associates, Camp Hill, PA

Z

Zeff Associates, Inc., Denver, CO
Zoecon Corp., Palo Alto, CA

Programs has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order The Plant Protection and Quarantine 11821 and OMB Circular A–107.

Done at Washington, D.C., this 17th day of December 1976.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.76–37689 Filed 12–27–76;8:45 am]

FOOTNOTES

[2] Approval includes all branch laboratories in conterminous United States.

[3] Approved to receive soil samples pursuant to Subpart—Movement of Soil, Stone, and Quarry Products (7 CFR 330.300 et seq.) only.

[4] Approved to receive soil samples pursuant to Subpart—Movement of Soil, Stone, and Quarry Products (7 CFR 330.300 et seq.) and pursuant to sections 301.48–3, 301.80–3, 301.81–3, and 301.85–3, of the Japanese beetle, witchweed, imported fire ant, and golden nematode regulations (7 CFR 301.48–3, 301.80–3, 301.81–3, 301.85–3).

NOTE.—All laboratories not designated by footnote 2 are approved to receive soil samples pursuant to sections 301.48–3, 301.80–3, 301.81–3, and 301.85–3, of the Japanese bettle, witchweed, imported fire ant, and golden nematode regulations (7 CFR 301.48–3, 301.80–3, 301.81–3, 301.85–3). A date after a name indicates when approval to receive soil samples pursuant to Subpart—Movement of Soil, Stone, and Quarry Products (7 CFR 330.300 et seq.) expires.

Farmers Home Administration

[Designation No. A415]

ARKANSAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Arkansas Counties as a result of various adverse weather conditions shown in the following chart:

ARKANSAS
(8 Counties)

Conway: *Drought* July 4–October 15, 1976; *cool temperatures* and *excessive rainfall* April 10–June 15, 1976.
Izard: *Drought* July 1, 1976–October 4, 1976.
Little River: *Drought* July 3, 1976–September 15, 1976.
Pope: *Wet spring* May 1–June 15, 1976; *drought* June 16–September 5, 1976.
Prairie: *Drought* July 4–September 15, 1976; *cold* and *wet weather* April 1–June 10, 1976.
Scott: *Cool spring* April 20–June 1, 1976; *drought* July 1–September 15, 1976.
St. Francis: *Drought* July 3, 1976–October 23, 1976.
Van Buren: *Drought* July 1, 1976–October 13, 1976.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor David H. Pryor that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 9, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 20th day of December, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76–37896 Filed 12–27–76;8:45 am]

[Designation No. A420]

IOWA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Iowa Counties as a result of various adverse weather conditions shown in the following chart:

Iowa

Audubon: *Drought* June 1, 1976–November 2, 1976; *hailstorm* and *high winds* June 12 and 13, 1976.
Cherokee: *Drought* July 1, 1976–August 31, 1976.
Chickasaw: *Drought* July 1, 1976–November 3, 1976.
Crawford: *Drought* June 1, 1976–September 16, 1976.
Dickinson: *Drought* June 18, 1976–November 2, 1976.
Howard: *Drought* June 15, 1976–October 22, 1976.
Sac: *Drought* July 15, 1976–September 10, 1976.
Winneshiek: *Drought* July 1, 1976–October 31, 1976.
Worth: *Drought* July 1, 1976–October 31, 1976.
Damages and losses to crops occurred as a result of the above disasters.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Robert D. Ray that such designation be made.

Applications for emergency loans must be received by this Department no later than February 11, 1977, for physical losses and September 13, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 20th day of December, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76–37897 Filed 12–27–76;8:45 am]

[Designation No. A412]

MISSOURI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Missouri Counties as a result of various adverse weather conditions shown in the following chart:

MISSOURI COUNTIES

Bollinger: *Freeze and Frost* April 26–May 4, 1976. *Flooding* July 2–3, 1976. *Drought* July 19–August 31, 1976.
Carter: *Drought* June 1–August 31, 1976.
Howell: *Freeze* May 1, 1976. *Drought* May 1–October 20, 1976.
Iron: *Freeze* April 25 and May 2, 1976. *Drought* June 1–October 20, 1976.
Madison: *Freeze* May 4 and 5, 1976. *Drought* June 1–August 21, 1976.
Reynolds: *Frost* May 4, 5 and 26, 1976. *Drought* June 1–August 31, 1976.
Ripley: *Flood* June 23 and July 3, 1976. *Drought* July 15–September 30, 1976.
St. Francis: *Drought* June 1–August 31, 1976.
Vernon: *Frost* and Freeze April 26 and May 3, 1976.
Wayne: *Freeze* April 26 and May 14, 1976; *Flood* July 3, 1976. *Drought* July 4–September 30, 1976.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Christopher S. Bond that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 8, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 20th day of December, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76–37898 Filed 12–27–76;8:45 am]

[Designation No. A418]

NORTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following North Dakota Counties as a result of drought from April 26 through November 1, 1976, in Kidder County; and drought from July 4 through October 4, 1976, in Stutsman County.

Kidder
Stutsman

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Arthur A. Link that such designation be made.

Applications for emergency loans must be received by this Department no later than February 14, 1977, for physical losses and September 14, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 20th day of December, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76–37899 Filed 12–27–76;8:45 am]

Office of the Secretary

MEAT IMPORT LIMITATIONS

First Quarterly Estimates

Public Law 88–482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by Section 2(a) of the Act.

In accordance with the requirements of the Act, the following first quarterly estimates for 1977 are published.

1. The estimated quantity of such articles prescribed by Section 2(a) of the Act during the calendar year 1977 is 1,165.4 million pounds.

2. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1977 is less than 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Since the estimated quantity of imports does not equal or exceed 110 percent of the estimated quantity prescribed by Section 2(a) of the Act, limitations for the calendar year 1977 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled or frozen meat of goats and sheep (TSUS 106.20), are not authorized to be imposed pursuant to Pub. L. 88–482 at this time.

This estimate is based upon information provided by the Department of State that substantive agreement has been reached with major supplying countries to limit meat imports into the United States in 1977. Were it not for these voluntary arrangements with supplying countries, the estimate of imports would have exceeded 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Done at Washington, D.C., this 22nd day of December 1976.

JOHN A. KNEBEL,
Secretary.

[FR Doc.76–38047 Filed 12–27–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 29789, et al.; Order 76–12–119]

HOUSTON/NEW ORLEANS-YUCATAN ROUTE PROCEEDING

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of December, 1976.

By Order 76–9–80, September 15, 1976, the Board instituted two investigations: (1) the *Houston/New Orleans-Yucatan Route Proceeding*, Docket 29789, to determine the need for authorization of U.S.-flag service between Merida, Cozumel, and Cancun, Mexico, on the one hand, and Houston and New Orleans, on the other; and (2) the *Dallas/Fort Worth-Western Mexico Route Proceeding*, Docket 29790, to determine the need for authorization of U.S.-flag service between the terminal point Dallas/Fort Worth and the coterminal points Guadalajara, Puerto Vallarta, Mazatlan, La Paz, and San Jose del Cabo, Mexico. The Board consolidated in the *Yucatan* case applications of Braniff, Continental, Eastern, National, TXIA, and United, to the extent they conform with the scope of the investigation, and it consolidated in the *Western Mexico* case applications of American, Braniff, Delta, Ozark, and TXIA, to the extent they conform with the investigation in that proceeding. The order also granted the motions for a hearing filed in various dockets by several carriers, but denied the immediate hearing motions of Airwest in Docket 25799 and Western in Docket 25776 because these involved Mexican points which are not covered in the outstanding bilateral agreement between the United States and Mexico.

Petitions for reconsideration herein were filed by Braniff, which requests that further action in the proceedings be deferred until bilateral negotiations between the United States and Mexico have been concluded, and by Eastern, which

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requests that scope of the investigations be expanded by including Atlanta as an additional U.S. coterminal point for service to and from the named Yucatan Peninsula points. Answers opposing Braniff's petition were filed by TXIA, United, and the Bureau of Operating Rights, while Eastern's petition was supported in an answer filed by the City of Atlanta and the Atlanta Chamber of Commerce and opposed in answers filed by TXIA, United, and the Bureau of Operating Rights. The instant order will deal only with the *Yucatan* proceeding, with respect to which a prehearing conference has already been conducted.

On consideration of the petitions and the responses thereto the Board has determined that reconsideration should be denied. Braniff has presented no new facts or arguments of which the Board was unaware when it issued Order 76–9–80 instituting this proceeding, and we believe that the public interest in U.S.-flag carrier service to the Yucatan should be explored now, rather than awaiting the conclusion of negotiations whose duration and outcome cannot be predicted. And rather than speculating about the addition of new routes in a forthcoming bilateral agreement, as Eastern would have us do, we think it preferable to proceed within the framework of the routes covered by the current agreement. Our intention to confine the proceeding to the issue of implementing bilateral rights already contained in the agreement is clear on the face of Order 76–9–80, and the while we have preserved flexibility over the *form* of the award so as best to promote the economic operations of the applicants, we do not intend to enlarge the scope of the case to encompass bilateral rights not presently existing. Moreover, while expanding the issues to include Atlanta service would undoubtedly involve a strong U.S. gateway to the Yucatan, such action could be expected to encourage applications for service to and from other potential major gateway cities, and the addition of conjectural bilateral route issues would unduly encumber the proceeding, thus postponing the possible implementation of existing bilateral rights.

The Board also wishes at this juncture to clarify its intention with respect to the scope of the issue concerning Pan American's authority over Route F of the bilateral agreement. Route F authorizes U.S.-flag service between New Orleans and Merida, and beyond to Central America and Panama and beyond. Pan American is the U.S. designated carrier, but is temporarily suspended from serving that route. Order 76–9–80 limited the investigation of the need for service on Route F to the need for New Orleans-Merida service without consideration of service beyond Merida, but stated that the proceeding included the issue "whether Pan American's authority over Route F should be suspended or deleted." It was not intended to include in this case the question of Pan American's beyond-Merida authority, and we shall reframe the issue so as to confine it to the New Orleans-Merida segment.

In addition, we note that Pan American is also certificated to serve Houston-Merida, which is part of Route R of the bilateral agreement (Houston-Merida, Cozumel, Punta Cancun), but the carrier does not now provide this service and has not been designated to do so. In the context of this case the question of suspending or deleting Pan American's Houston-Merida authority does not differ materially from the issue with respect to New Orleans-Merida.[1] Accordingly, to preserve maximum flexibility to the Board when it considers the Route R markets, we shall include in this proceeding the issue whether Pan American's authority to provide service between Houston and Merida should be suspended or deleted.

Finally, in response to the Board's order of investigation, applications and motions to consolidate have been filed by Eastern, Northwest, Southern, and TXIA in Dockets 29887, 29890, 29868, and 29889, respectively. We shall grant all of these motions, to the extent they request consolidation of applications for authorization within the scope of the proceeding in Docket 29789.

Accordingly, it is ordered That: 1. The petitions for reconsideration of Order 76–9–80 of Braniff Airways and Eastern Air Lines insofar as they concern the investigation in Docket 29789 be, and they hereby are, denied;

2. Ordering paragraph 3 of Order 76–9–80 be, and it hereby is, amended by revising subparagraph (d) and adding a new subparagraph (e), to read as follows:

(d) Should Pan American's authority to provide service between New Orleans and Merida be suspended or deleted?

(e) Should Pan American's authority to provide service between Houston and Merida be suspended or deleted;

3. The applications of Eastern Air Lines (Docket 29887), Northwest Airlines (Docket 29890), Southern Airways (Docket 29868), and Texas International Airlines (Docket 29889), to the extent they conform with the investigation instituted in ordering paragraph 1 of Order 76–9–80, be, and they hereby are, consolidated in Docket 29789; and

4. This order shall be served on the parties named in ordering paragraph 17 of Order 76–9–80, and in addition on Northwest Airlines, Southern Airways, the City of Harlingen, Texas, and Chamber of Commerce of Harlingen, Texas, and the Las Vegas Parties.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc.76–38043 Filed 12–27–76;8:45 am]

[Docket 29323; Order 76–12–121]

INTERNATIONAL AIR SERVICE CO., LTD.

Order Setting Matter for Hearing

In the matter of the application of International Air Service Co., Ltd., for exemption or approval of acquisition of control of Aloha Airlines, Inc., by open market purchases and for exemption or approval of interlocking relationships.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of December, 1976.

International Air Service Company, Ltd. (IASCO), has filed an application requesting approval or exemption of the acquisition by IASCO of control of Aloha Airlines, Inc. (Aloha), pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act); and approval or exemption of any interlocking relationships thereafter created, pursuant to Parts 251 and 287.3(e) of the Board's Economic Regulations.

IASCO proposes to acquire control of Aloha by purchasing shares of Aloha common stock from time to time on the Pacific or Honolulu Stock Exchanges at such market prices as shall prevail at the time of such purchases; by acquiring stock through private negotiations with one or more shareholders of Aloha; or by a combination of these methods.[3] The applicant states that its present intention is to purchase up to 50 percent of the outstanding shares of Aloha's common stock,[4] but there is no timetable for achieving this ownership level. Moreover, IASCO does not intend to limit its ownership if circumstances warrant the purchase of shares in excess of that level.[5]

IASCO is a California corporation engaged in the training and provision of flight crews under contract to foreign airlines. In addition, IASCO itself, or through one or more of its wholly owned subsidiaries, is engaged, *inter alia*, in fixed base and air taxi operations, aircraft leasing, maintenance, flight crew training for personnel of foreign airlines, and the sale of new and used aircraft. IASCO also operates a flight training center and maintenance facility at Napa County (California) Airport; and engages in fixed base operations at San Jose Airport, San Jose, California. The San Jose facility provides air taxi and air charter services pursuant to Part 298 of the Board's Economic Regulations.

If it is successful in obtaining control of Aloha, IASCO intends to cause certain interlocking relationships within the purview of section 409 of the Act.

In support of its application, IASCO states that its acquisition of control of Aloha would be consistent with the public interest; would be beneficial to Aloha; and would not create a monopoly, restrain competition, or jeopardize any other air carrier not a party to the acquisition. IASCO further submits that the proposed acquisition does not present any conflicts of interest; that it activities are complementary to, and not in competition with those of Aloha; that there is no risk that the activities of Aloha would be subordinated to those of other IASCO affiliates; and that the acquisition would strengthen Aloha and enhance its ability to compete. IASCO has filed a motion for immediate consideration of its application.

In response to the IASCO application, Aloha has filed a petition for leave to intervene and a statement of position. In support of its petition, the carrier states that a substantial portion of the assets and financial interests of Aloha could be affected by IASCO's proposal; that its interest cannot be adequately represented by any other party or by any other means; that it has a statutory right to participate as a party to this proceeding; and that IASCO's proposal raises important public interest questions which Aloha wishes to address at a hearing.

Upon consideration of the application in Docket 29323, it is concluded that Aloha is a direct air carrier; that IASCO, by reason of its air taxi operations, is an air carrier; that James C. Jack, Jr., is a person controlling an air carrier; and that IASCO by reason of its various other aeronautical activities is a person engaged in a phase of aeronautics, all within the meaning of section 408(a)(5) of the Act; and that the acquisition of control of Aloha by IASCO creates control and common control relationships which are subject to that section. Under the terms of the proviso to section 408(a)(5), the Board may exempt the acquisition of a noncertificated air carrier from the requirements of Board approval to the extent and for such periods as may be in the public interest. However, since the transaction involves the acquisition of a certificated air carrier, the applicant's request for an exemption will be denied.

We further conclude that the applicant's request for approval of the acquisition of control of Aloha requires consideration in a full evidentiary hearing. Aloha, disclosing a substantial interest in the proceeding, is presently requesting a hearing, and the transaction for which approval is sought raises complex issues of fact, law, and Board policy.

Accordingly, it is ordered that: 1. The application of International Air Service Company, Ltd. in Docketa 29323, be and it hereby is set for hearing before an administrative law judge of the Board at a time and place to be hereafter designated;

2. IASCO's motion for immediate consideration of its application be and it hereby is granted;

3. The petition of Aloha Airlines, Inc. for leave to intervene be and it hereby is granted;

4. To the extent not granted herein, all outstanding requests in 29323 be and they hereby are denied; and

5. Petitions for reconsideration of this order shall be filed within twenty (20) days of the date of adoption of this order and answers thereto shall be filed within ten (10) days thereafter.

This order shall be served on all parties of record and shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc.76–38046 Filed 12–27–76;8:45 am]

[Docket 27573; Agreement C.A.B. 26278; Order 76–12–93]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Cargo Rates

Issued under delegated authority December 15, 1976.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement would increase general commodity rates by 10 percent between South Africa and Botswana, Lesotho and Swaziland, which are within Traffic Conference 2 (Europe/Africa/Middle East) and are outside of air transportation. We will approve the agreement insofar as the rates established under this resolution are combinable with rates to/from the United States and thus have indirect application in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that Resolution 200 (Mail 74)552 which is incorporated in Agreement C.A.B. 26278 and which has indirect application in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act.

Accordingly, *It is ordered That:* Agreement C.A.B. 2678 be and hereby is approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–38044 Filed 12–27–76;8:45 am]

[Docket 24778; 28308; Order 76–12–112]

SOUTHERN AIRWAYS, INC. AND PIEDMONT AVIATION, INC.

Order Consolidating and Setting Applications for Hearing in Accordance With Subpart M Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of December 1976.

In the matter of the application of Southern Airways, Inc. for amendment of its certificate of public convenience and necessity, pursuant to Subpart M, to permit nonstop operations between Greenville/Spartanburg, on the one hand, and Washington, D.C., and New York/Newark, on the other; and the application of Piedmont Aviation, Inc. for amendment of its certificate of public convenience and necessity to permit nonstop operations between Greenville/Spartanburg, on the one hand, and Washington, D.C., and New York/Newark, on the other.

By Order 75–8–49, August 11, 1975, the Board set the application of Southern Airways for Greenville/Spartanburg-Washington/New York/Newark nonstop authority for further proceedings pursuant to the provisions of Subpart M of the Board's Rules of Practice.

Answers in support of Southern's application have been filed by the Greenville-Spartanburg Airport District and the Mobile parties.[1] Eastern Air Lines and Piedmont Aviation filed answers in opposition to Southern's application. Southern filed a consolidated reply to the answers of Eastern and Piedmont.

Piedmont also filed a motion to consolidate its application (Docket 28308) requesting nonstop authority between Greenville/Spartanburg, on the one hand, and Washington, D.C., and New York/Newark on the other, for hearing with Southern's application. Southern filed an answer in opposition to Piedmont's motion to consolidate and Eastern filed an answer in opposition to Piedmont's application. In addition, Delta Air Lines filed an answer to Piedmont's motion to consolidate, requesting certain pretrial restrictions as a condition to any award to Piedmont,[2] and a contingent motion for leave to intervene in the event that its proposed pretrial restrictions are not adopted. Piedmont filed a consolidated reply to the answers of Delta, Eastern, and Southern.[3]

Upon consideration of the pleadings and all the relevent facts, the Board has determined that there is a sufficient basis for setting Southern's application (Docket 24778) for hearing. We shall also consolidate Piedmont's application (Docket 28308) with Southern's.

We will deny Delta's request for the imposition of a pretrial restriction pre-

[1] Houston and New Orleans are coterminals on the same segment of Pan American's certificate for Route 136.

[1] Aloha is a publicly held corporation whose shares are listed on the Pacific and Honolulu Stock Exchanges. There are approximately 19,000 Aloha stockholders with only one stockholder holding in excess of ten percent of its outstanding voting shares.

[3] IASCO presently owns or controls approximately three percent of the outstanding and issued common stock of Aloha.

[4] According to the applicant, it has considered and rejected the possibility of a public tender offer for Aloha shares, but reserves the right to amend its application if in the future it deems a public tender offer to be desirable.

[1] City of Mobile, Alabama, and the Mobile Area Chamber of Commerce.

[2] Delta requests a restriction precluding one-stop service via Greenville/Spartanburg between Augusta, Georgia, and Columbia, South Carolina, on the one hand and Washington, D.C., and New York/Newark, on the other.

[3] Eastern has also filed a supplement to its previous answers, accompanied by a motion for leave to file an otherwise unauthorized document. We will grant the motion.

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cluding Piedmont from operating one-stop service, via Greenville/Spartanburg, between Augusta, Georgia, and Columbia, South Carolina, on the one hand, and Washington, D.C., and New York/Newark, on the other. The imposition of such a pretrial restriction would limit the Board's flexibility to impose only those restrictions which are found necessary on the basis of an evidentiary record. Moreover, there appears to be no compelling reason why ordinary beyond-segment rights should be excluded in advance. If there is, in fact, a need for such a restriction, it can be shown at the hearing and the Board will be free to impose it. In light of our action denying Delta's request, we will grant that carrier's contingent motion for leave to intervene.

Finally, Southern and Piedmont have not submitted sufficient information for us to determine the environmental consequences of their applications. Therefore, we will require Southern and Piedmont to file the information set forth in Part 312 of the Board's Procedural Regulations within 30 days of the date of the adoption of this order.

Accordingly, it is ordered That: 1. The application of Southern Airways in Docket 24778, be and it hereby is set down for hearing before an administrative law judge of the Board at a time and place to be hereinafter designated, as the orderly administration of the Board's docket permits;

2. The motion of Piedmont Aviation to consolidate its application in Docket 28308 with Southern's application (Docket 24778) be and it hereby is granted;

3. The request of Delta Air Lines for a pretrial restriction be and it hereby is denied;

4. Delta Air Lines' contingent motion for leave to intervene be and it hereby is granted;

5. Eastern Air Lines' motion for leave to file an otherwise unauthorized document be and it hereby is granted; and

6. Southern Airways and Piedmont Aviation shall each file environmental evaluations pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of the date of adoption of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

JAMES R. DERSTINE,
Acting Secretary.

[FR Doc.76-38045 Filed 12-27-76;8:45 am]

COMMISSION ON CIVIL RIGHTS

CONNECTICUT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7:30 pm. and end at 11:00 pm. on February 3, 1977, at the Holiday Inn, Meriden, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss status of SAC projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D. C., December 22, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-38092 Filed 12-27-76;8:45 am]

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory (SAC) of the Commission will convene at 12:00 noon and end at 2:00 pm. on January 11, 1977, at the 5th Floor Conference Room, 1121 Vermont Ave., NW., Washington, D.C. 20425.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to review and discuss the followup activity to the Forum on civil rights issues.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D. C., December 22, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-38091 Filed 12-27-76;8:45 am]

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Meeting Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER Friday, December 10, 1976, (FR Doc. 76-36308) on page 54014, is hereby cancelled.

Dated at Washington, D.C., December 22, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-38090 Filed 12-27-76;8:45 am]

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and end at 3:00 p.m. on January 17, 1977, at 230 South Dearborn Street, Room 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting will be for the Education Subcommittee to develop procedures to monitor Chicago school desegregation plans and meet with local and state educators.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 22, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-38089 Filed 12-27-76;8:45 am]

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and end at 11:00 p.m. on January 20, 1977, at the Augusta Civic Center, Board Room. Augusta, Maine 04330.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this open meeting is to discuss status of subcommittee and plan for banking conference.

This meeting will be conducted pursuant to the provisions of the Rules and Regulatons of the Commission.

Dated at Washington, D.C., December 22, 1976.

ISAIAH T. CRESWELL, JR.
Advisory Committee Management Officer.

[FR Doc.76-38085 Filed 12-27-76;8:45 am]

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Maine Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and end at 5:30 p.m. on January 25, 1977, at the Augusta Civic Center, Cushnock Auditorium, Community Drive, Augusta, Maine 04330.

Persons wishing to attend this open conference should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this conference is to discuss Equal Employment Opportunity in the Banking Industry in Maine.

This conference will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 22, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-38086 Filed 12-27-76;8:45 am]

TENNESSEE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. and end at 5:30 p.m. on January 21, 1977, at the Ramada Inn, 160 Union Ave., Southern Suite, Memphis, Tenn. 38103.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Bldg., Room 362, 75 Piedmont Ave., NE., Atlanta, Ga. 30303.

The purpose of this meeting is follow-up activity to the Tennessee SAC's open hearing of October 8–9, 1976, and request for Commission hearing in support of and request of Tennessee SAC.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-38087 Filed 12-27-76;8:45 am]

TENNESSEE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. and end at 5:30 p.m. on January 14, 1977, at the Ramada Inn, 160 Union Avenue, Levee Room, Memphis, Tennessee 38103.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Bldg., Room 362, 75 Piedmont Ave., NE., Atlanta, Ga. 30303.

The purpose of this meeting is followup activity to the Tennessee SAC's open meeting of October 8–9, 1976, and request for Commission hearing in support of and request of Tennessee SAC.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 22, 1976.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.76-38088 Filed 12-27-76;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF THE INTERIOR

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Director—Office of Water Research and Technology, Office of the Assistant Secretary—Land and Water Resources, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37788 Filed 12-27-76;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Executive Director, Office of the Executive Director.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners

[FR Doc.76-37787 Filed 12-27-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

Revocation of Authority to Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Securities and Exchange Commission to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Chairman, Office of the Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37789 Filed 12-27-76;8:45 am]

MANUAL ON FUND-RAISING WITHIN THE FEDERAL SERVICE FOR VOLUNTARY HEALTH AND WELFARE AGENCIES

Proposed Changes

Notice is hereby given that under authority of Executive Order 10927 it is proposed to amend the Manual on Fund-Raising Within the Federal Service for Voluntary Health and Welfare Agencies. Interested agencies and persons may submit written comments and suggestions to the Office of the Chairman, U.S. Civil Service Commission, Washington, D.C. 20415, to be received by February 1, 1977. The proposed revisions are included in the material set out below.

UNITED STATES CIVIL SERVICE COMMISSION,
GEORGE J. MCQUOID,
Assistant to the Chairman.

DECEMBER 20, 1976.

PLAN FOR THE MANUAL

A loose-leaf reference publication. This manual is the official medium of the Chairman of the U.S. Civil Service Commission for issuing policy, procedures and informational material on the fund-raising program in the Federal service. The manual provides guidance to Federal officials and representatives of recognized voluntary health and welfare agencies on fund-raising practices in the Federal service.

To keep the manual current and complete, it is in loose-leaf form and revisions are issued as replacement pages. Revised pages and instructions for pen-and-ink changes are conveyed by a numbered series of transmittal sheets. The transmittal sheets describe the nature of the revision, and the replacement pages identify the specific changes in the text by a star at the beginning and at the end of revised material. The deletion of part of a paragraph is indicated by two consecutive stars; of an entire paragraph by a line of stars. Transmittal sheets should be filed in numerical order in the back of the book as a check on the receipt of all numbers issued.

There are no binders or tabs designed specifically for the manual. Manual material is punched to fit an ordinary three-ring binder.

Information for coordinating purposes. A Fund-Raising Bulletin is issued by the Chairman of the Civil Service Commission each spring to announce the national voluntary agencies approved for solicitation privileges in the Federal service during the ensuing campaign period. Other communications will be issued, as necessary.

A detailed guideline for effective campaigning on the job is incorporated in Chapter 6, in suitable form for reproduction and distribution to Federal campaign officials and keyman as needed.

Procurement and distribution within the Federal service. Federal departments and agencies are expected to purchase copies of the manual and its revisions by

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requisition from the Government Printing Office. Copies should be distributed to all points within the agency that maintain administrative regulations. As a minimum, a copy of the manual should be available at all places of major employment. The manual may be reproduced for incorporation into an agency's internal administrative manual system.

Purchase by voluntary agencies. Voluntary health and welfare agencies and other non-Federal organizations cannot use the official requisition procedures described above. They may purchase the manual from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20401.

Inquiries about the program. Technical questions or complaints about functioning of the program in a particular department's or agency's campaign should be addressed to the agency's Fund-Raising Program Coordinator. General inquiries about the program as it applies in more than one agency should be addressed to the appropriate Federal coordinating group at the location involved. If there is no local group, inquiries may be addressed to the Assistant to the Chairman, U.S. Civil Service Commission, Washington, D.C. 20415.

CHAPTER 1—GENERAL INFORMATION

1.1 BACKGROUND AND PURPOSE OF THE PROGRAM

It has always been Federal Government policy to cooperate with an assist voluntary health and welfare agencies in soliciting funds for worthy causes from Federal personnel. At one time, the increasing number of funds drives began to create an administrative burden for Federal officials. They were besieged by dozens of agencies seeking endorsements and the privilege of soliciting employees on the job. In addition, employees were confused by the multiplicity of appeals—as many as 10 to 20 a year in some departments. After extensive study of the situation, a uniform program was established in 1956 to limit the number of campaigns and to insure true voluntary giving by Federal personnel. The purpose of the fundraising program within the Federal service is to establish policies and procedures governing the solicitation of Federal civilian and military personnel for contributions to private charitable and other humanitarian organizations. The program was originally monitored by the President's Committee on Fund Raising Within the Federal Service. When the committee was abolished, its responsibilities were assigned to the Chairman of the U.S. Civil Service Commission by Executive Order 10927 of March 18, 1961.

1.2 SCOPE

The program governs all fund-raising by private voluntary agencies among Federal employees and members of the armed forces at their places of employment or duty stations. Thus, it is applicable to 5 million civilians and military personnel in all executive departments and agencies throughout the world. The program does not apply to solicitations by organizations of Federal employees or members of the armed forces among their own members and for their own benefit. These solicitations are excepted from the program by section 3 of Executive Order 10927 and are governed by rules approved by the head of the department or agency concerned.

1.3 LEGAL AUTHORITY

The policies and procedures prescribed in this manual are directed to the heads of all executive departments and agencies under the authority of Executive Order 10927.

1.4 SUMMARY DESCRIPTION OF THE PROGRAM

1.41 *Eligibility of National Voluntary Agencies.* National voluntary agencies apply to the Chairman of the Civil Service Commission each year for on-the-job solicitation privileges in the Federal Government. Early each calendar year, he issues a list of agencies which have met the prescribed standards as to program objective, administrative integrity, and financial responsibility.

1.42 *Assigned Campaign Periods.* Federal fund-raising campaigns are assigned to fall, winter, or spring periods. In the United States, Combined Federal Campaigns are held in the fall; the DOD Overseas Combined Federal Campaign is also held during a 6-week period in the fall. Where there is no Combined Federal Campaign, the fall period is designated for united funds, community chests, or other local federated groups; the winter period for national health agencies and international service agencies; and the month of March for the American Red Cross, except in communities where it participates in a local united fund or Combined Federal Campaign.

1.43 *Joint Arrangements.* Recognized national voluntary agencies which have been assigned to the same period are required to coordinate solicitation arrangements at all locations where they run campaigns. For example, except where Combined Federal Campaigns are held, the national health agencies and the international service agencies, both assigned to the winter period, must coordinate their programs.

Coordinated campaigns are developed by the participating voluntary agencies under administrative arrangements which provide for individual agency recognition, description of each agency's services and alocation of contributions in accordance with the specific designations by donors.

1.44 *Combined Federal Campaign.* At locations where there are 200 or more Federal personnel, all campaigns must be consolidated into a single annual drive, the Combined Federal Campaign.

1.45 *Decentralized Operations.* Voluntary agency representatives initiate campaigns in their assigned periods by direct contact with the heads of Federal offices and installations in the local communities. Each Federal agency conducts its own solicitation among its employees, using campaign materials, supplies and speakers furnished by the voluntary agencies.

1.46 *Solicitation Methods.* Employee solicitations are conducted during duty hours using methods which permit true voluntary giving and reserve to the individual the option of disclosing his gift or keeping it confidential.

1.47 *Off-the-job Solicitation.* Many worthy voluntary agencies do not participate in the on-the-job program because they do not wish to join in its coordinated arrangements or because they cannot meet the requirements for eligibility. Such agencies may, of course, solicit Federal employees at their homes, as they do other citizens of the community, or appeal to them through union, civil, professional, or other private organizations. In addition, limited arrangements may be made for off-the-job solicitation on military installations and at entrances to Federal buildings.

1.5 FEDERAL POLICY ON CIVIC ACTIVITY

Federal personnel are encouraged to participate actively in the work of recognized voluntary agencies—as members of policy boards or committees, heads of local campaign units, or volunteer workers—to the extent consistent with agency policy and prudent use of official time. They are encouraged, also, to devote as much of their private time as possible to such volunteer work in the public interest.

CHAPTER 2—ORGANIZATION AND FUNCTIONAL RESPONSIBILITIES

2.1 DEVELOPMENT OF POLICY AND PROCEDURES

2.11 *Chairman of the Civil Service Commission.* The Chairman is responsible under Presidential authority for establishing fund-raising policies and procedures in the executive branch. With the advice of the interested organizations and the Federal departments and agencies, he makes all basic policy, procedural and eligibility decisions for the program.

2.12 *Policy Committee.* The Policy Committee is appointed by the chairman and consists of a selected number of Fund-Raising Coordinators from the executive departments and agencies and the presidents, or their personal representatives, of the largest employee organizations in the Federal service. It is responsible for providing direct working participation by Federal agencies and employee organizations in the development of the program. It acts through general meetings and ad hoc working committees, as required.

2.13 *Eligibility Committee.* The Eligibility Committee consists of a chairman and four other members selected by the Chairman from the Policy Committee. The committee is responsible for recommending to the Chairman:

a. Eligibility determinations on national voluntary agencies;

b. Modification of eligibility standards and requirements as needed;

c. Any other matters as requested by the Chairman.

2.2 PROGRAM ADMINISTRATION

2.21 *Federal Agency Heads.* The head of each executive department and agency is responsible for:

a. Seeing that voluntary fund-raising within his department or agency is conducted in accordance with the policies and procedures prescribed by this manual;

b. Designating a top-level representative as Fund-Raising Program Coordinator to work with the Chairman of the Civil Service Commission as necessary in the administration of the fund-raising program within his agency;

c. Assuring full participation and cooperation from his installations in local fund-raising campaigns.

2.22 *Fund-Raising Program Coordinators.* The responsibilities of agency Fund-Raising Program Coordinators are to:

a. Cooperate with the Chairman of the Civil Service Commission and the representatives of national voluntary agencies in the development and operation of the program;

b. Maintain direct liaison with the Office of the Chairman in the administration of the program;

c. Publicize program requirements throughout the department or agency;

d. Answer inquiries about the program from officials and employees and from external sources;

e. Investigate and arrange for any necessary corrective actions on complaints that allege violation of fund-raising program requirements within the agency.

2.3 PROGRAM COORDINATION

The Office of the Chairman, Civil Service Commission, coordinates the agencies' administration of the fund-raising program and maintains liaison with national voluntary agencies.

2.4 LOCAL VOLUNTARY AGENCY REPRESENTATIVES

The eligible national voluntary agencies provide their State and local representatives with policy and procedural guidance on the Federal program. The local representatives are responsible for:

a. Initiating local campaigns in the Federal establishment;

b. Furnishing educational materials, speakers and campaign supplies appropriate to the Federal program.

2.5 LOCAL FEDERAL AGENCY HEADS

The head of the Federal department or agency provides the heads of the local Federal offices and installations with copies of the Federal fund-raising manual. The local agency heads are responsible for:

a. Cooperating with State or local representatives of eligible voluntary agencies and with the local Federal officials in organizing local Federal campaigns;

b. Undertaking official campaigns within their offices or installations and providing active and vigorous support with equal emphasis for each authorized campaign;

c. Assuring that personal solicitations on the job are organized and conducted in accordance with the procedures in Chapter 6;

d. Insuring that authorized campaigns are kept within reasonable administrative limits of official time and expense.

e. In addition, if no local Federal coordinating group exists, the head of the local Federal installation which has the largest number of civilian and military personnel is responsible for administering the nondiscrimination requirements of Chapter 7 in his local area.

2.6 LOCAL FEDERAL COORDINATING GROUPS

When there are a number of Federal agency offices and installations in the same local area, some interagency coordination is necessary in order to achieve effective community-wide campaigns and to improve general understanding and compliance with the fund-raising program. The Chairman of the Civil Service Commission assigns the responsibility for local coordination to existing organizations of Federal agency heads whenever possible, and to special committees where needed.

The local Federal coordinating group is authorized to make final decisions within the provisions established in the Manual, when the voluntary groups are unable to agree on campaign matters, or when their agreed upon action does not promote the best interests of Federal employees or the campaign.

2.61 *Authorized Local Federal Coordinating Groups.* Coordinating responsibility is assigned to one of the following organizations:

a. *Federal Executive Boards.* These boards exist in principal cities of the United States for the purpose of improving interagency coordination. They are composed of local Federal agency heads who have been designated as Board members by the heads of their departments and agencies under Presidential authority.

b. *Federal Executive Associations and Business Associations.* These self-organized associations of local Federal officials exist at many points of Federal concentration for the purpose of general interagency cooperation.

c. *Fund-Raising Program Coordinating Committees.* These committees are established in communities, as needed, under the authority of E.O. 10927, where there is no Federal coordinating group in existence. Leadership in organizing such a committee is the responsibility of the head of the local Federal installation which has the largest number of civilian and military personnel. Local Federal agency heads or their designated representatives serve on the committee and determine all organizational arrangements.

2.62 *Fund-Raising Responsibilities.* Within the limits of the policies, procedures and arrangements made nationally, the fund-raising responsibilities are to:

a. *Facilitate local campaign arrangements.* The Federal coordinating group (1) names a high-level chairman for the authorized Federal campaigns, (2) provides lists of Federal activities and their personnel strength, (3) cooperates on interagency briefing sessions and kick-off meetings, and (4) supports appropriate publicity measures needed to assure campaign success.

b. *Improve Federal agency understanding and compliance with program policies and procedures.* The coordinating group serves as the central medium for resolving program questions locally, to the extent possible. Any questions which cannot be resolved locally may be referred to the Office of the Assistant to the Chairman, U.S. Civil Service Commission, Washington, D.C. 20415.

c. *Administer program requirements.* The coordinating group is responsible for organizing a local Combined Federal Campaign, where appropriate; administering the requirements for a policy and practice of racial nondiscrimination by voluntary agencies participating in local Federal campaigns; and acting upon any problems of a voluntary agency's noncompliance with the policies and procedures of the Federal fund-raising program.

d. *Develop understanding of voluntary agency programs.* Familiarization with the work of participating voluntary agencies is highly commended to all Federal employees and particularly to members of the Federal coordinating groups. Because of the group's particular responsibilities in connection with the fundraising program, it is valuable for members to develop a broad understanding of the different voluntary groups' programs. They can do this through service on community-wide planning and allocation bodies or service as volunteers. However, they should avoid participating in decisions of Federal coordinating groups that concern the distribution of campaign funds while serving on committees or boards of specific local, national, and international voluntary agencies.

e. *Communicate with the Office of the Chairman of the Civil Service Commission.* Each local Federal agency head receives fund-raising directions through his agency channels and can raise questions that pertain to fund-raising activities within his agency by the same means. However, the coordinating group refers unresolved local fund-raising questions or problems that are common to several Federal agencies directly to the Office of the Chairman for decision. The Chairman of the Civil Service Commission communicates directly with the chairman of the local coordinating group for information about the local fund-raising situation.

CHAPTER 3—CAMPAIGN ARRANGEMENTS FOR VOLUNTARY AGENCIES (EXCLUDING COMBINED FEDERAL CAMPAIGNS)

3.1 TYPES OF VOLUNTARY AGENCIES

Voluntary agencies are private, self-governing organizations financed primarily by contributions from the public. Some are national in scope, with a national organization and state or local chapters or affiliates. Others are primarily local, both in form of organization and extent of services. The Federal program involves solicitation arrangements

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for four broad categories of such agencies:

a. Local health, welfare, or recreational services agencies, such as visiting nurse associations, homes and clinics for children and the aged, and neighborhood centers for youth recreation and guidance.

b. National health agencies providing research and public education on a national basis as well as local services, e.g., the American Cancer Society and American Heart Association.

c. National and international welfare, recreational services, and emergency relief—the American National Red Cross.

d. National agencies having an international service function which involves health, welfare or freedom-building programs in foreign countries, such as CARE and Project HOPE.

3.2 TYPES OF FUND-RAISING METHODS

The methods used by voluntary agencies in public fund-raising are usually characterized as federated or independent. A federated campaign is one conducted by a united fund or local community chest. In federated campaigns, local voluntary agencies join contractually into a single organization for fund-raising purposes. A local community chest, united fund, or other local federated group will be considered and supported as a single agency. Local chapters or affiliates of some national agencies are usually admitted as additional participating members of the federated group.

An independent campaign is one conducted by a local or national voluntary agency through its own fund-raising organization. Some national agencies conduct only independent campaigns as a matter of agency policy. Others either campaign independently or participate in federation dependent upon local circumstances and the admission policies of local federated groups.

3.3 CONSIDERATIONS IN MAKING FEDERAL ARRANGEMENTS

Because of the number of worthy voluntary agencies and their major differences in fund-raising policy, coordinated arrangements are necessary in order to provide Federal employees an opportunity, within reasonable administrative expense, to make their contributions. Both federated and independent fund-raising policies are supported since each responds to the legitimate purposes of the voluntary agencies involved. However, in order to keep the number of on-the-job solicitations practical, independent appeals must be grouped into joint campaigns of agencies having similar characteristics, e.g., the National Health Agencies and the International Services Agencies.

3.4 DEFINITION OF TERMS USED IN FEDERAL ARRANGEMENTS

3.41 *Domestic area.* The 50 United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico.

3.42 *Overseas area.* All other points in the world where Federal employees or members of the armed forces are stationed.

3.43 *Recognized national voluntary agency.* An agency which has been declared eligible by the Chairman of the Civil Service Commission for participation in independent or joint campaigns in the Federal establishment.

3.44 *National voluntary agency "supported primarily through united funds and community chests."* An agency which generally solicits within the Federal establishment as a participating member of community chests, united funds or other local federated groups which are members in good standing of, or are recognized by, the United Way of America, for example, United Service Organizations, Inc. (USO).

3.45 *Federated community.* A federated community is a location within the domestic area where a federated fund-raising program is operated by national and local voluntary agencies through a community chest, united fund or other local federated group which is a member in good standing of, or is recognized by, the United Way of America, and which meets the nondiscrimination requirements prescribed in Chapter 7 and the requirements for the adoption and use of the Uniform Standards for Accounting and Financial Reporting. In a federated community, recognized national voluntary agencies can join the federated campaign group or participate in individual campaigns. However, voluntary agencies "supported primarily through united funds and community chests" are authorized to solicit on-the-job in a federated community only as participating members of the local fund or chest.

3.46 *Nonfederated community.* A location within the domestic area where there is no federated fund-raising program or where the federated program does not include any national voluntary agency of the types defined in paragraphs 3.43 and 3.44 or does not meet the nondiscrimination requirements prescribed in Chapter 7 and the requirements for the adoption and use of the Uniform Standards for Accounting and Financial Reporting.

3.5 POLICIES GOVERNING FEDERAL ARRANGEMENTS

a. *Campaign arrangements established nationally.* The basic campaign arrangements in this chapter have been established by the Chairman of the Civil Service Commission after considering the views of representatives of national voluntary agencies, the executive departments and agencies, and Federal employee organizations. Commitments are made nationally in order for the independent national voluntary agencies to develop and administer joint campaigns in the Federal establishment. Therefore, local Federal agency heads are not authorized to vary from the established arrangements except to the extent that local variations are expressly provided for.

b. *Number of solicitations.* Not more than three solicitations on the job will be made at any location annually on behalf of voluntary health, welfare, or international service agencies, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Chairman of the Civil Service Commission. At locations where the Red Cross participates in a local federated campaign no more than two such solicitations will be made annually. Only one solicitation will be made at locations where there is a Combined Federal Campaign.

c. *No duplicate or supplemental campaigns.* No one voluntary agency may be permitted to solicit Federal personnel at their place of employment or duty station more than once in any year except in the case of an approved emergency or disaster appeal.

d. *Responsible conduct.* In the event a national voluntary agency fails to adhere to the eligibility requirements or to the policies and procedures of the Federal program, solicitation privileges may be withdrawn by the Chairman of the Civil Service Commission at any time after due notice and opportunity for consultation.

3.51 *Federated campaigns.* 3.511 *Authorization.* A local community chest, united fund or other local federated group which is a member in good standing of, or is recognized by, the United Way of America, Inc., and which meets the nondiscrimination requirements prescribed in Chapter 7 and the accounting and financial reporting requirements spelled out in Section 5.33 of Chapter 5 of this manual is authorized on-the-job solicitation privileges in its local campaign area on behalf of any of its member agencies which also meet these requirements. Certification as to compliance with the nondiscrimination requirements must be made by the member agency. Certifications as to the accounting and financial reporting requirements on behalf of local united funds and each member agency will be made by the United Way of America to the Office of the Chairman of the Civil Service Commission. While it is expected that all funds and member agencies will conform to this requirement, special circumstances may require an exception. Requests for exception should be directed by the United Way of America on behalf of the local fund or a member agency to the Office of the Chairman, U.S. Civil Service Commission.

If a member agency does not meet the accounting and financial reporting and nondiscrimination requirements, it shall not be permitted to solicit contributions from Federal personnel in the local area. Failure by a member agency to meet the accounting and financial reporting requirements will not affect the right of the entire fund or other member agencies which meet such requirements to solicit. However, failure of a member agency to meet the nondiscrimination requirements may disqualify the fund from soliciting contributions. If the local fund or chest does not meet these requirements, the local area becomes a nonfederated community for purposes of fund-raising, and solicitations will be coordinated in accordance with section 3.52 of the manual.

3.512 *Requirements.* To be eligible for participation in the Federal fund-raising program, the local federated group should be broadly representative on its board and committee membership of the social and economic characteristics of the community and should be making bona fide efforts to meet community needs. Also, requirements for participation in a local federated group must be in writing, and available to the public, reasonable, and applied fairly and uniformly to all local agencies requesting participation. Procedures must be provided by the federated group for at least one review of any decision denying participation requested by a local agency. The review must be conducted by a committee or group within the federated organization which did not participate in the original decision. A written statement of the reasons for denial must be provided to the applicant agency.

NOTE.—Where a local chapter or affiliate of a national agency, precluded from independent participation in the Federal fund-raising program because the agency is supported primarily through united funds, is not approved for participation by a local united fund, such chapter or affiliate may request a Civil Service Commission review to determine that the reasons for its non-approval are not "arbitrary and capricious." Before taking any action, the Civil Service Commission will ask for a report on the facts by the United Way of America.

3.513 *"Causes" excluded.* Solicitation for a health or other "cause," e.g., for "Mental Health," "Heart Disease," without identification of the specific voluntary agency for which the funds are sought, is not authorized. All funds collected from Federal personnel must be allocated only to specific voluntary agencies in accordance with the contractual agreements of the fund or chest.

3.514 *Campaign period.* The fall of the year is reserved for local federated campaigns, coordinated solicitations or combined campaigns in the Federal establishment.

3.52 *Coordinated solicitations in nonfederated communities and mixed areas.* 3.521 *Nonfederated communities.* In a nonfederated community as defined in paragraph 3.46, recognized national voluntary agencies and national voluntary agencies "supported primarily through united funds and community chests" are eligible to participate with purely local voluntary agencies in a coordinated solicitation during the fall of the year. Purely local voluntary agencies must have earned good will and acceptability within the overall geographic area covered by the campaign, and must meet the nondiscrimination requirements set forth in Chapter 7 and the accounting and financial reporting requirements spelled out in Section 5.33 of Chapter 5 of this manual. In nonfederated areas, voluntary agencies participating in fund-raising within the Federal service will provide certifications to local Federal officials. Where there are special circumstances (e.g., lack of professional staff, small size of fund), the local Federal officials may request an exception from the Office of the Chairman, U.S. Civil Service Commission, on behalf of the agencies.

The eligibility of local agencies desiring to join in the solicitation will be determined by the local Federal coordinating group, where one exists. The standards in Chapter 5 will be used as guidelines in determining eligibility. The local and national voluntary agencies that are eligible to participate in a coordinated solicitation will be responsible for developing an appropriate fund-raising organization to handle all phases of the campaign. Campaign arrangements in consonance with the Federal program will be worked out by the local Federal coordinating group and the local voluntary fund-raising organization.

3.522 *Mixed areas.* In an area where a Federal installation overlaps or is part of two or more federated or nonfederated communities, the Federal coordinating group is authorized to develop a coordinated solicitation best suited to the needs of the locality. Arrangements in consonance with the Federal program will be worked out with the representatives of the local and national voluntary agencies and the federated groups in nearby communities in which the Federal personnel reside on a mutually agreeable basis.

3.53 *Independent campaigns.* 3.531 *American National Red Cross.* The American Red Cross can conduct independent campaigns in the month of March at all locations where it has a chapter that:

a. Does not participate in a united fund or other federated or combined campaign; and

b. Is organized to serve the community within which the Federal office or installation is located or nearby.

3.532 *Joint campaigns of other recognized national voluntary agencies.* Except for locations covered by a Combined Federal Campaign, joint campaigns are authorized under administrative arrangements developed by and mutually acceptable to the participating voluntary agencies, and must include the following conditions:

a. *Joint and Concurrent Operation.* All recognized national health agencies will conduct one joint campaign, and the international service agencies another; the two groups will solicit concurrently in the same period at all authorized locations.

b. *Authorized Locations—Health Agencies.* Each recognized national health agency may participate at those locations where it is represented by a state or local chapter or affiliate:

(1) Which does not participate in a local united fund or community chest campaign;

(2) Which is organized to serve the community within which or where nearby a Federal office or installation is located; and

(3) Which shares fully in the planning, work and expense of the local joint campaign.

Each voluntary health agency's designated representative will anually certify a list of the locations in the state (counties) where its chapters or affiliates meet the above conditions. The list is submitted to the appropriate state coordinating committee of the Federal Service Campaign for the National Health Agencies.

c. *Authorized Locations—International Service Agencies.* Each recognized international service agency may participate at those locations where its authorized representative shares fully in the planning, work and expense of the local joint campaign.

d. *Agency Identification.* Each participating national agency will be specifically identified by name in the joint campaign materials provided to potential givers.

e. *Educational Opportunity.* Each participating national agency will be allowed to describe its purpose and program in the campaign materials provided to potential givers.

f. *Designation of Gifts.* Each participating national agency will receive all gifts specifically designated to it by givers.

g. *Campaign Period.* The joint campaigns will be conducted concurrently in one of the following periods:

(1) January 1 to February 15—in communities where the local Red Cross chapter conducts an independent campaign during March.

(2) Any continuous 6 weeks period between January 1 and April 30 in other locations in the domestic area. The exact period is determined locally by the joint campaign organizations.

3.54 *Overseas Campaign.* 3.541 *DoD Overseas Combined Federal Campaign.* A Combined Federal Campaign is authorized for all Department of Defense activities in the overseas area [1] during a 6 weeks' period in the fall. The American National Red Cross, each national health agency recognized for campaigns in the domestic area (the Federal Service Campaign for the National Health Agencies), and each international service agency recognized for campaigns in the domestic area plus any national voluntary agency recognized for overseas campaigns only may participate in the DoD Overseas Combined Federal Campaign.

3.542 *Local Voluntary Agency Campaign.* The heads of overseas offices and installations may, at their discretion, permit the solicitation of their military and civilian personnel for local voluntary agencies. Such campaigns will be conducted in accordance with the basic policies and procedures of the Federal program and at times which do not conflict with the DoD Overseas Combined Federal Campaign period. The eligibility standards in Chapter 5 may be used as guidelines in determining the eligibility of local voluntary agencies. Federal leadership in organizing such

[1] Excludes Hawaii, the Panama Canal Zone, and the Commonwealth of Puerto Rico which are in the domestic area.

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campaigns will be assumed by the head of the overseas Federal establishment which has the largest number of U.S. personnel in the campaign area.

3.543 *Optional Participation by Certain Civilian Agencies.* Federal civilian departments and agencies which have traditionally considered their overseas personnel as members of the National Capital Area for fund-raising purposes may continue this practice.

3.6 OFF-THE-JOB SOLICITATION AT PLACES OF EMPLOYMENT

The program for on-the-job solicitation cannot accommodate all the various fund-raising policies and methods of the voluntary agencies. Therefore, voluntary agencies which are not recognized for the on-the-job program may be authorized off-the-job solicitation privileges at places of Federal employment at the discretion of the local Federal agency heads concerned and under the conditions specified below. Since dual solicitation is not authorized, this privilege cannot be made available to any voluntary agency that is included, independently or as a member of a federated campaign, in the on-the-job program.

3.61 *Family Quarters on Military Installations.* Worthy voluntary agencies may be permitted to solicit at private residences or at similar on-post family public quarters in unrestricted areas of military installations at the discretion of the local commander. However, such solicitation may not be conducted by military or civilian personnel in their official capacity during duty or non-duty hours, nor may such solicitation be conducted as an official command-sponsored project. This restriction is not intended to prohibit nor to discourage military and civilian personnel from participating as private citizens in voluntary agency activities during their off-duty hours.

3.62 *Public Entrances of Federal Buildings and Installations.* Worthy voluntary agencies which engage in limited or specialized methods of solicitations—for example, the use of "poppies" or other similar tokens by veterans organizations—may be permitted to solicit at entrances or in concourses or lobbies of Federal buildings or installations normally open to the general public. The heads of the Federal agencies occupying the building or installation may authorize this privilege at their discretion, and, when necessary, coordinate with the building manager. The agreement with the local representatives of the voluntary agency will specify the authorized locations, the number of solicitors that may be used, and any other necessary arrangements.

CHAPTER 4—THE COMBINED FEDERAL CAMPAIGN

4.1 PURPOSE

The Combined Federal Campaign plan was established to meet employee wishes for a single campaign to reduce Government expense in holding separate campaigns, to permit payroll deductions for charitable contributions, and to provide better support to voluntary health and welfare organizations. The arrangements for combined campaigns were approved by the Chairman of the Civil Service Commission under the authority of Executive Order 10927 of March 18, 1961, which governs fund-raising within the Federal service.

In a Combined Federal Campaign (CFC) the eligible voluntary agencies campaign together at one time in the fall of the year.

4.2 AUTHORIZED VOLUNTARY GROUPS

Arrangements for each local CFC will be worked out through negotiations between the local Federal officials and representatives of the authorized voluntary groups. The four authorized voluntary groups are as follows:

a. *A local united fund, community chest, or other local federated group which is a member in good standing of, or is recognized by, the United Way of America, is eligible to solicit in a CFC.* The number of member agencies in a fund or chest campaign varies from around 20 to over 200, depending upon the locality.

b. *The National Health Agencies.* Eligibility of recognized national health agencies to solicit in a CFC is limited to those locations where the national agency has a State or local chapter or affiliate (a) which is organized to provide direct and meaningful service in the local area (county), and (b) which is not a member agency of the local united fund or chest. The extent of services in the campaign area could, of course, vary from area to area and among individual health agencies. Some examples of direct and meaningful services are: health counseling; disease prevention programs, innoculations; screening for detection of disease, and referrals; clinics and treatment of illnesses and handicaps; educational and information services. As a minimum a health agency chapter should be performing one or more of the above services in the campaign area to be eligible to participate in the local CFC. As a general rule an employee in the solicitation area, or his family, should be able to receive service from a particular health agency, if needed, within a reasonable distance of his employment station. The determination on whether a particular health agency is providing such service in the area is made by the local Federal coordinating group. Any determination that a health agency is not providing service that qualifies it to participate in the local campaign should be submitted to the Civil Service Commission for review before final action to deny solicitation privileges.

c. *The International Service Agencies.* Program operations of International Service Agencies are generally conducted overseas, so that fund-raising eligibility is not limited to the places where they have local chapters or committees. However, if a local chapter participates in a united fund campaign, it cannot participate as a member of the ISA group.

d. *The American Red Cross.* Red Cross chapters constitute the fourth authorized group. Eligibility to solicit in a CFC is limited to those locations where Red Cross does not raise funds with the local united fund or chest.

4.3 RESPONSIBILITY OF LOCAL FEDERAL COORDINATING GROUPS

Each Federal coordinating group is required to organize a Combined Federal Campaign in the local area for which it has fund-raising responsibility. The heads of executive departments and agencies will request their local officials to cooperate fully with the decisions of the Federal coordinating group on all aspects of CFC arrangements.

The Federal coordinating group also makes all final decisions on campaign issues which could not be resolved by direct negotiations among the participating voluntary agencies.

4.4 CFC PLAN

4.41 *CFC as Uniform Fund-Raising Method.* The Combined Federal Campaign is the uniform fund-raising method in all areas in the United States in which 200 or more Federal employees are located.

In order to achieve a single unified campaign for all Federal personnel, all eligible voluntary agencies wishing to participate in fund-raising within the Federal service must do so within the framework of a Combined Federal Campaign.

4.42 *Participation in CFC.* a. *Combined Participation.* Since the Combined Federal Campaign is the uniform authorized fund-raising method for on-the-job solicitation among Federal personnel, a local united fund or community chest, the National Health Agencies, and the International Service Agencies must solicit through such campaigns where they are held. Their local representatives participate as equal partners in the formulation of detailed arrangements for the local campaign and in the preparation of campaign materials.

b. *Non-Participation.* In the event that any of the above groups choose not to participate in a local CFC, they forfeit their fund-raising privilege in local Federal establishments during the fiscal year. Voluntary withdrawal will not prejudice a group's eligibility for the next year's CFC.

c. *Red Cross Participation.* In the communities where the Red Cross is not a member of the local united fund, it will be regarded as a separate campaign organization and full partner in the combined campaign. Red Cross chapters have independent authority with respect to fund-raising policy, so responsibility for deciding on participation in CFC rests with the local chapter board of directors. As with the other national organizations, in the event local Red Cross chapters choose not to participate in CFC, they are not authorized to have a separate campaign in local Federal offices or installations during the fiscal year involved, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Chairman of the Civil Service Commission. (See Manual, sec. 3.5b.)

d. *CFC in Nonfederated Areas.* CFC's must be conducted in nonfederated areas having 200 or more Federal employees. A nonfederated area is a location within the domestic area in which there is either no community chest or united fund but separate voluntary agencies not combined in a fund, or if there is a fund, it is not recognized by the United Way of America. In such cases, the local Federal coordinating group is authorized to approve the participation of each local united fund-type agency, and make arrangements for distribution of funds among such agencies. National Health Agencies (which provide a service in the local area) and International Service Agencies may participate in a Combined Federal Campaign in nonfederated areas.

e. *Exceptions in Areas of Less than 200 Federal Employees.* Where there are 200 or fewer Federal employees in the local campaign area, it may not be practicable to hold a Combined Federal Campaign. Therefore, in such areas local Federal officials are not required to arrange for a Combined Federal Campaign. However, if they believe it would be desirable from the standpoint of the local community or the Federal Government to have such a campaign, they may arrange a Combined Federal Campaign regardless of the number of employees involved. Where a CFC is not conducted because of lack of sufficient Federal employees, the local united fund is authorized to solicit within the Federal establishment during the fall of the year and the National Health and International Service Agencies are authorized to conduct separate spring campaigns. Where the Red Cross is not a member of the local united fund and the area will not have a CFC, then the Red Cross may conduct an independent campaign during the month of March. However, payroll deductions for charitable contributions are only authorized for CFC's.

4.5 ORGANIZING THE LOCAL CAMPAIGN

As previously mentioned, direction of the campaign shall be under the overall policy guidance of the Federal coordinating group and such other arrangements as necessary shall be made to assure the greatest possible success for the campaign. This will include the appointment of a campaign chairman who should carry out his duties in an impartial manner, insuring equal participation of the voluntary agencies in planning campaign arrangements.

When complete, the detailed campaign arrangements will be formalized in a written agreement that includes a budget bearing the signature of the representatives of the authorized voluntary agencies and the chairman of the Federal coordinating group, signifying approval of the campaign arrangements.

4.51 *CFC Committee.* Where necessary, the local Federal coordinating group will designate a committee from among its principal members, called the CFC Committee, to give top policy leadership and direction to the planning, conduct, and evaluation of the local combined campaign. The Federal coordinating group may redelegate any of the authority for the campaign to the CFC Committee. In order to insure employee participation in the planning and conduct of the CFC, employee representatives from the principal employee unions of local Federal installations should serve on the CFC Committee, where possible.

4.52 *Addition of Observers to CFC Committee.* Under certain circumstances, as spelled out in Section 4.7, the CFC Committee will be required to make a determination on the division of campaign receipts among the voluntary groups. To aid the CFC Committee in this process, Observers, appointed by and representing the voluntary agencies, will be added to the committee. Where the Red Cross is a part of the local united fund, the local fund shall be entitled to name two observers. Where the Red Cross is not in the local united fund, it is entitled to one observer and the united fund to one. The National Health Agencies and International Service Agencies are entitled to one observer each. The function of the observers will be to provide such input and advice to the CFC Committee as the committee deems necessary and appropriate. The observers shall not have a vote concerning the division of campaign receipts and shall absent themselves from any CFC Committee meeting where a final determination is to be made concerning the division of campaign receipts.

4.532 *Action Steps by the CFC Committee Chairman.* The Chairman of the CFC Committee will initiate action promptly to organize and plan for the local combined campaign. Suggested action steps are as follows:

a. Meet with the principal representatives of the authorized voluntary groups in the local area, i.e., the local united fund or community chest, the national health agencies, the international service agencies and, in communities where it has a separate Federal campaign, the Red Cross. Enlist their cooperation in the combined campaign.

b. Establish a Local Joint Work Group of Federal and voluntary agency representatives, when necessary. Its purpose is to assemble necessary information and data, plan the detailed campaign arrangements, identify and attempt to resolve any policy issues, and prepare campaign materials. The work group should have a Federal chairman, other management and employee representatives as deemed advisable, and one designated representative from each of the authorized voluntary groups.

c. Insure that local planning and material preparation is scheduled and moves ahead rapidly and that the Federal coordinating group approves detailed arrangements and resolves issues on a timely basis.

4.548 *Loaned Executive Program.* Where appropriate, one or more Loaned Executives may be used in a Combined Federal Campaign. The Loaned Executive Program was authorized by President Nixon in a memorandum to heads of departments and agencies dated March 3, 1971. A Loaned Executive is a Federal employee who is detailed from his agency on a full or part-time basis, for a specific period of time, to conduct or assist in the operation of a Combined Federal Campaign. While no grade level is designated for a Loaned Executive, the individual selected should be capable of assuming a high degree of independent responsibility. Service on the Loaned Executive Program should be with the voluntary consent of the employee.

The purpose of the Loaned Executive in the Combined Federal Campaign is to complement any campaign leadership already provided to the CFC, although a Loaned Executive may personally assume a leadership role. To carry out his responsibilities, the Executive would be detailed to the Federal coordinating group, (such as a Federal Executive Board or Association, Federal Fund-Raising Program Coordinating Committee), or CFC Committee, which is responsible for coordinating the campaign. The length of the assignment is determined by the assigning agency and, during one campaign, executives from several agencies may serve as Loaned Executives so that no one executive is away from his regular duties for a long period of time.

There are a number of advantages for employees who accept such assignments: It helps develop leadership and other executive qualities, and build a knowledge and understanding of the private voluntary health and welfare services. Generally speaking, Loaned Executives will gain a working experience not available within their own organizations and which should be helpful to them in carrying out their regular assignments in their own agencies.

The employing agency decides who will serve as a Loaned Executive and the length of the detail. Executives may not be loaned or assigned to any specific voluntary organization, but only to the official Combined Federal Campaign group. While the Executive will work closely with the private voluntary agencies, an assignment to the staff of the private voluntary organization is prohibited. When on assignment to the CFC, the Executive should be placed on administrative leave.

4.6 BASIC CFC GROUND RULES

The arrangements outlined in sections 4.6 through 4.15 constitute basic ground rules for the Combined Federal Campaign. Certain local variations are permissable if specifically authorized in this chapter or if the voluntary groups unanimously agree to modification.

Within the basic ground rules established by the Chairman of the Civil Service Commission, the local Federal coordinating group is authorized to make final decisions on all matters on which the voluntary groups cannot agree after a reasonable period of negotiation, such as the details in setting ratios for division of undesignated money, in drafting

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campaign materials, in relative publicity, etc. The local Federal coordinating group is expected to give thoughtful consideration to the equities involved and the recommendations of each voluntary agency on the matters at issue and to render impartial decisions which will promote the purposes of the Combined Federal Campaign. However, any modification of ground rules in specific instances will be requested by Federal coordinating groups from the Office of the Chairman, Civil Service Commission, and modifications will be granted only in most exceptional circumstances.

The Federal coordinating group should proceed promptly to work out the detailed arrangements for the campaign, covering the items listed below.

a. *Campaign Name.* The name will be the Combined Federal Campaign. The title should include the year for which contributions are solicited and identification of the locality, as for example: 1977 San Antonio Area Combined Federal Campaign.

b. *Campaign Period.* The solicitation period may be any period not in excess of six consecutive weeks between September 1 and November 30.

c. *Campaign Area.* The exact geographical area to be covered by the combined campaign will be determined locally, taking into account past practice and the feasible scope for a single, coordinated campaign. At some locations, however, more than one united fund or chest may be involved in a single CFC. Because of economies possible in this arrangement, consolidation is encouraged where it will not impair fundraising, and local arrangements to this end are desirable. Any changes in campaign area should be discussed with the local voluntary agencies; final decision authority rests with the Federal coordinating group. In any case, clear demarcation of the area to be covered in the campaign is necessary, since receipts may be distributed only to organizations which participate in the CFC.

All civilian employees and members of the armed forces in Federal offices and installations in the local campaign area are included whenever a CFC is organized.

d. *Past Contributions Data.* Each of the authorized voluntary agencies must report past contributions data. This information forms the basis for the division of CFC receipts among the voluntary groups. The Federal coordinating group should compile past receipts records from the voluntary agencies as required by either of the two methods for dividing campaign receipts described in the following section.

4.7 DIVISION OF RECEIPTS

Dollars donated or pledged in a Combined Federal Campaign are either designated by the contributor for a specific voluntary organization, or undesignated. Undesignated funds are those contributions not designated to any particular beneficiary organization. Designated receipts are always credited to the designated organization.

One of the methods below must be used for distribution of undesignated receipts, unless representatives of the participating agencies unanimously agree on another method.

a. *Method "A" for distribution of undesignated funds.* This method may be used:

In areas which used it prior to the fall 1971 CFC;

When there is disagreement among the participating voluntary groups, Federal officials may decide to continue Method A in these areas; or

If all participating groups unanimously agree to use it.

Under this method, designated funds are credited to the group to which the designated organization belongs. The distribution of undesignated funds among the authorized voluntary agencies will be based on a percentage which takes into account the past giving experience by Federal contributors in the local campaign area. A 3-year experience period is used so as to avoid severe fluctuation due to special factors affecting contributions in any one year.

Each of the authorized voluntary agencies reports its CFC total dollar receipts for the last 3 years from Federal military and civilian personnel in the campaign area. The ratio of each group's 3-year dollar receipts to the overall total is the basis for division of undesignated funds. The Local Joint Work Group may recommend adjustments in this ratio as needed to accommodate to (1) Inability to compile accurate data on past contributions in the local campaign area, (2) shifts of member agencies from one group to another, (3) a Red Cross emergency or disaster appeal, and (4) any other major circumstance which a group believes should be considered in setting the final ratio. If the voluntary groups involved cannot agree on the final percentage ratio after a reasonable time for negotiation, the matters at issue will be referred with the recommendations of each group to the Federal coordinating group for final decision. In making the determination regarding division of receipts, the local coordinating group (or CFC Committee) is free to request budget or program information which it deems necessary in making its decision. For the international agencies, only information on national budget and national program shall be requested and local budget and program information shall not be required.

b. *Method "B" for distribution of undesignated funds.* This method is the recommended one for division of undesignated funds. In the event of disagreement on the method to use among the participating voluntary groups using another method, Federal officials may decide to use Method "B".

How the method works. In accordance with instructions of the Chairman of the Civil Service Commission, a dollar amount is established as a base for each group equal to the average of its receipts from three previous years Federal campaigns (include receipts from CFC or independent campaigns) in the local area, before shrinkage and expenses. The dollar base for each group so established shall remain in effect until modified by instructions from the Chairman of the Civil Service Commission, except that the dollar base for each group shall be adjusted annually as determined by the Chairman of the Civil Service Commission in keeping with any changes in the Consumers Price Index from the base month of March of the previous year.

The dollar base for the groups may be adjusted appropriately in the discretion of the local Federal officials based on shifts of member agencies from one group to another. The addition of agencies to a group is not a basis for changing the dollar base of that group; however, such addition would represent a "new or additional requirement" on that group and, therefore, may be appropriate justification for the assignment of over-base funds, if any, to that group by the local Federal officials, as discussed in the following paragraph.

Using this method, each authorized voluntary group has an established dollar base. All designated funds will be credited to a group's dollar base first. Then, undesignated funds will be added to the amount until the group's established dollar base is achieved.

If a group receives designated funds that exceed its established dollar base, such funds shall not be treated as overbase. Only undesignated funds remaining after the dollar base of each group has been achieved shall be considered overbase. These overbase funds will be distributed among the groups at the discretion of the local Federal coordinating group. In allocating overbase funds the Federal officials give consideration to any new or additional program requirements (including a Red Cross emergency or disaster campaign) in local, national or international functions that are justified to them by the voluntary agencies. The justification of new and additional requirements and the allocation of overbase funds shall take place as soon as final campaign results can be determined.

If the funds raised are insufficient to meet the dollar base of each group, or if they meet the dollar bases of some groups and not others, after all the designated money is credited, the undesignated funds shall be added in such amounts as to assure that each group achieves an equal percentage of its predetermined dollar base.

Method "B" as applied to first-time CFC's. For a first-time CFC, the dollar base for each group will be determined by its average gross receipts from the last three Federal campaigns in the local area. After applying designated funds, all undesignated receipts will be added to achieve the dollar base of each group. Any undesignated funds remaining after the dollar base of each group has been met will be distributed in accordance with the ratio of each group's most recent 3-year experience to the total. The results of the campaign for the first CFC will establish the dollar base for each group for a subsequent 3-year period or until modified by instructions of the Chairman of the Civil Service Commission. However, the dollar base for each group shall be adjusted as determined by the Chairman of the Civil Service Commission annually in keeping with any change in the Consumers Price Index from the base month of March of the previous year.

4.8 CONTRIBUTOR DESIGNATION

The right to designate will be plainly stated in the contributor's leaflet, but designations will be neither encouraged nor discouraged by keymen solicitors or in campaign publicity materials and speeches, or in materials released to public media.

The contributor's information leaflet will identify the authorized voluntary groups and list their member organizations with a brief statement describing each organization's program. The leaflet will explain how the funds will be divided among the groups and of the contributor's right to designate gifts to individual organizations. Several lines will be provided on the pledge form so that the contributor may designate his gift. A minimum of five lines for designation purposes will be shown on the pledge card itself. The reverse side of the pledge card may be used; however, the five designation lines or boxes should appear on the pledge card itself. Separate designations slips are not authorized regardless of the formula used for division of receipts.

Mention will be made in the contributor's leaflet and provision made on the pledge form for designation only to individual organizations, not to voluntary groups. No information will be included that leads the contributors to designate to voluntary groups. If, however, the contributor should write in a group designation, it will be tabulated and allocated to the group in accordance with the contributor's instructions. If contributions are designated to organizations not participating in the local CFC, they will not be accepted but returned to the contributor.

4.9 DOLLAR GOALS

A dollar goal for the overall combined campaign is recommended. Generally, it provides a focus for group spirit an unity of purpose that contributes materially to success. By apportioning the goal equitably among the Federal offices and installations, each agency shares responsibility in the team effort and has a mark with which to gauge its progress.

The dollar goal should be set with the advice and consultation of the voluntary groups. In developing the proposed goal, the local coordinating group should take into account past giving experience in local Federal campaigns, the needs and reasonable expectations of the voluntary agencies in the current campaign situation, and the probability of a substantial increase in the level of giving due to the single campaign and payroll payment plan. The objective should be to set a goal that is attainable and which can be exceeded in an enthusiastic and purposeful campaign.

Dollar goals are not required. An alternative approach, used successfully in some CFC's, is to rely on "suggested giving" as the principal incentive. For example, the "goal" could be 75 percent participation at the suggested giving level.

4.10 SUGGESTED GIVING GUIDES AND VOLUNTARY GIVING

Suggested giving guides for individual contributions should be constructed locally. The guide may be printed in the contributor's leaflet or on the pledge form. It will be accompanied by a statement explaining that the guide is provided because employees often ask for one but that the decision to give and the amount is up to each employee. In this connection, Federal agencies are not authorized to furnish individual employee suggested giving guides based upon the employee's specific pay or grade; a guide of this kind is comparable to an individual quota or assessment which is prohibited.[2] The contributor's leaflet or the pledge form must also include the express statement that the employee has the privilege of making his gift confidentially in a sealed envelope which will be delivered unopened to the voluntary agencies.[3]

It is desirable to emphasize the CFC concept of a single annual campaign in the contributor's leaflet and other campaign publicity. Reference should be made to the fact that the contributor's CFC pledge is to cover what he would have given in the three (or four) separate campaigns held annually and that the privilege of payment through payroll withholding makes it possible for him to pledge a full year's commitment at one time.

The suggested amounts should correlate proportionally to employee pay scales and should reasonably relate to the campaign goal and guides used in local private employment. The guide should also show the suggested amount may be included. These are usually represented in terms of percent of annual income, number of hours' pay, or suggested size of gift in relation to various income levels.

4.11 CENTRAL RECEIPT AND ACCOUNTING FOR CONTRIBUTIONS

The authorized voluntary groups will arrange, through written agreements, for a central receipt and accounting point in the local area for CFC contributions. A central receipt and accounting point is essential in order to avoid the need for multiple pledge and report forms, and to provide a central location for receipt of periodic remittances from Federal payroll offices during the ensuing year. Central receipt and accounting can be arranged as a joint operating activity of the voluntary groups. One of them can act as agent for all with a sharing of expenses or they may be able to obtain voluntary services from a local bank or Federal Credit Union.

[2] See Manual, sec. 6.5.
[3] See Manual, sec. 6.6.

The central accounting point will first tabulate the designated contributions as specified on the pledge cards, and then tabulate the undesignated funds according to Method A or B. The central point will use the final audited totals of designated and undesignated contributions of each voluntary group as the consolidated ratio for distribution of receipts. The voluntary groups will be responsible for distribution to member organizations in accordance with their internal agreements.

Provision must be made for the audit of CFC funds. If the CFC is over $100,000, an independent certified audit must be performed. Copies of the audits will be shared with appropriate local Federal officials, each participating voluntary group, and the Chairman of the Civil Service Commission.

The cost of central receipt and accounting (and other identifiable expenses such as the printing of campaign and publicity materials) will be shared by the voluntary groups under any arrangement that is mutually acceptable to them. To avoid subsequent misunderstandings, they should agree on a CFC budget and formalize a written agreement (Section 4.5) in advance of the campaign, specifying the nature of the expenses to be shared, the method of distribution and the time of billing. Development of a CFC budget is required in all campaigns over $100,000. Generally, expenses should be shared among the groups in the same ratio as their total campaign receipts, based on final audited totals of designated and undesignated contributions. Central accounting and expense-sharing agreements are the responsibility of the voluntary groups and the Government will not enter into their administration.

In addition to the usual method of cash contribution and direct payment of pledges, the use of voluntary payroll withholding is authorized for military and civilian personnel at CFC locations. However, the local voluntary groups decide whether or not to provide for direct payment of pledges; cash contributions must be permitted Keyman collection of installment pledges is not authorized.

4.12 CAMPAIGN AND PUBLICITY MATERIALS

Campaign and publicity materials will be developed in the local area and will be printed and supplied by the voluntary agencies. Local voluntary agencies should be aware of CFC materials available to them on a national basis from their headquarters, and decide themselves whether to use the material or not. However, all publicity materials relating to CFC must have the approval of the appropriate local federal officials before being used. (Distribution of any bona fide educational material of the voluntary agencies or provision of other services to employees at Federal establishments must be handled through the agency occupational health units, and not the CFC coordinators.)

A single Contributor's Information Leaflet, a Pledge Form and a Payroll

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Withholding Authorization are to be distributed by keyman to each potential contributor. The Pledge Form and Payroll Withholding Authorization may be one form.

Campaign materials should constitute a simple and attractive package which has fund-raising appeal and essential working information. Treatment should focus on the combined campaign and homogeneous appeal without undue use of voluntary agency symbols or other distractions that compete for the contributor's attention. Extraneous instructions concerning the routing of forms, tallying contributions, etc. which are primarily for keymen should be avoided.

Generaly, the layout and text of campaign and publicity materials are for local determination. Certain items are prescribed, as follows:

a. *Contributor's leaflet.* This will be the only informational material distributed to individual contributors. It will describe the CFC arrangement, name the participating voluntary groups, and explain the provisions for designations, division of undesignated funds, the payroll deduction privilege, etc. It will list each member organization of the voluntary group with a brief statement of about 25 words on its program.

Some sample CFC text items are included in Attachment A for illustration.

b. *Pledge Form.* When completed, this working form will go to the central receipt and accounting point for the local area. Its format will include the appropriate number of lines for designation purposes.

c. *Payroll Withholding Authorization.* When completed, this form will go to the contributor's payroll office. There are some 1,400 separate payroll offices serving Federal personnel. Many of the Federal departments and agencies payroll on a national or area basis and payroll offices will be receiving withholding authorizations from a number of local combined campaigns. Accordingly, the withholding authorization must be in a standard format and bear adequate identification of the local campaign.

The name and mailing address of the local CFC central receipt and accounting point will be printed at the top of the form. The name should be the same as that for the campaign, and include the year; for example, 1978 San Antonio Area Combined Federal Campaign. The year is needed so that the receipt point can differentiate between the last payroll remittances for one year and the first remittances for the next.

The box entitled "Identification No." will be used for the contributor's social security number, except in the case of agencies which have a separate payroll identification numbering system and in the military services. There is no requirement to use this space and it should be used when it aids in accounting or campaign management.

The standard format and text for payroll withholding authorizations is shown in Attachment B.

Other campaign materials which may be needed, depending upon the size of the operation and local custom, include:

a. *Chairman's Guide.* For use of campaign chairmen in individual Federal installations;

b. *Keyman's Guide.* Instructions for keymen about CFC arrangements, solicitation methods and forwarding procedures;

c. *Keyman's Report Envelope.* With tally sheets (which may be printed on the envelope) on which the keyman will list the names of contributors or the number of confidential envelopes enclosed;

d. *Miscellaneous Campaign Items.* Contributor's Receipt, "We Gave" window stickers, posters, progress charts, awards, etc.;

e. *Publicity Items.* News stories and fillers for the local press and house organs, employee letters, speeches of campaign leaders, division chairmen, films, television and radio material jointly sponsored by the voluntary groups, etc.

Privacy Act requirements regarding campaign materials are discussed in Chapter 6.

4.13 PAYROLL WITHHOLDING

The following policies and procedures are authorized for payroll withholding operations in accordance with Civil Service Regulations, Part 550, Pay Administration. Explanatory notes are shown in parentheses.

a. *Applicability.* Voluntary payroll allotments will be authorized by all Federal departments and agencies for payment of charitable contributions to local Combined Federal Campaign organizations.

b. *Allotters.* The allotment privilege will be made available to Federal personnel as follows:

(1) Employees whose net pay regularly is sufficient to cover the allotment are eligible. An employee serving under an appointment limited to 1 year or less may make an allotment to a Combined Federal Campaign when an appropriate official of the employing agency determines the employee will continue his employment for a period sufficient to justify an allotment. (This includes part-time and intermittent employees who are regularly employed.)

(22) Members of the Armed Forces are eligible, excluding those on only short-term assignment (less than 3 months). (The Department of Defense has modified its military pay allotment regulations to authorize allotments for CFC charitable contributions by service members.)

c. *Authorization.* (1) Allotments will be wholly voluntary and will be based upon contributors' individual written authorizations.

(2) Authorization forms in standard format will be printed by the combined campaign organization at each location. The forms and other campaign materials will be distributed to employees when charitable contributions are solicited.

(3) Completed authorization forms should be transmitted to the payroll offices as promptly as possible, preferably by December 15. However, if forms are received after that date they should be accepted and processed by payroll offices.

d. *Duration.* Authorizations will be in the form of a term allotment for one full year—26, 24 or 12 pay periods depending upon the allotter's pay schedule—starting with the first period beginning in January and ending with the last pay period which begins in December. (The standardization of beginning and ending dates, except for individual discontinuances, is intended to simplify payroll operations and minimize costs.) However, the fact that an employee or military member will not be on duty for the full year should not preclude acceptance of a payroll allotment if he has sufficient time in service remaining to make the allotment practicable. Three months or more would be consdered a reasonable period of time for which to accept an allotment.

e. *Amount.* (1) Allotters will make a single allotment which is apportioned into equal amounts for deductions each pay period during the year.

(2) The minimum amount for allotment will be 50 cents biweekly or semi-monthly, $1.00 monthly, with no restriction on size of increment above the minimum.

(3) No change of amount will be authorized during the term of an allotment.

(4) No deduction will be made for any period in which allotter's net pay, after all legal and previously authorized deductions, is insufficient to cover the allotment. No adjustment will be made in subsequent periods to make up for deductions missed.

(These conditions are for the purpose of simplicity and economy in payroll operations. The 50-cent minimum is essential in order to keep administrative expense in reasonable relation to the amount of contribution.)

f. *Remittance.* (1) One check will be sent by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations to the central receipt and accounting point at each location for which the payroll office has received allotment authorizations.

(2) The check will be accompanied by a statement *identifying the agency* and the number of employee deductions. There will be no listing of allotters included or of allotter discontinuances.

g. *Discontinuance.* (1) Allotments will be discontinued automatically:

(a) On expiration of the one-year withholding period;

(b) On death, retirement, or separation of allotter from the Federal service.

(2) The allotter may revoke his authorization at any time by requesting it in writing from the payroll office. Discontinuance will be effective the first pay period beginning after receipt of the written revocation in the payroll office.

(3) A discontinued allotment will not be reinstated.

h. *Transfer.* When an allotter moves to another organizational unit served by a different payroll office, whether in the same or a different department or agency, his allotment authorization will be transferred to the new payroll office, unless expressly revoked by the individual. If there is a delay in receiving the transferred authorization in the new payroll office, the allotter should be permitted to complete a new authorization for

the remainder of the one-year withholding period, which will supersede and revoke his previous authorization.

i. *Accounting.* Federal payroll offices will oversee establishment of individual allotment accounts, deductions each pay period, and reconciliation of employee accounts in accordance with agency and General Accounting Office requirements.

(The simplified system provided in Section f. *Remittance,* is intended to minimize paperwork and to eliminate the need for any accounting reconciliations between payroll office and voluntary groups. The payroll office accepts responsibility for the accuracy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements. The voluntary groups or their designated agents accept responsibility for the accuracy of distribution of remittances among the member organizations and arrangements for independent audit agreed upon by the participating voluntary groups.)

4.14 ORIENTATION, TRAINING AND PUBLICITY ARRANGEMENTS

A formal plan should be developed to cover the orientation of management and employee organization officials, the training of keymen, and publicity to employees and service members.

Federal officials should assist campaign leaders by conducting an enthusiastic and purposeful solicitation in their installations in order to insure maximum group interest and response. Orientation sessions, however, should stress adherence to manual policies and procedures on prohibition against individual employee quotas, assessments, or any other form of coercive action, and on the employee's right of confidentiality as to the amount of his gift. Contributions must be voluntary.

It is essential that keymen be trained effectively on CFC procedures and be equipped to answer any questions or problems the contributors may have as well as questions of a substantive nature regarding the programs of the voluntary agencies.

Employees and service members should be told the background and purpose of the combined campaign arrangements, including the use of installment payment through payroll withholding. Special stress should be placed in pledging generously on a once-a-year basis in order to provide a fair amount of support for all authorized voluntary groups.

Care should be taken that the Combined Federal Campaign kick-off ceremony emphasizes the joint appeal aspect and the combined effort of the voluntary agencies involved. In addition, there should be no publicity within Federal establishments given to specific voluntary agency needs that acts to detract from the consolidated effort represented by CFC.

4.15 NATIONAL COORDINATION AND REPORTING

The Assistant to the Chairman, U.S. Civil Service Commission, is responsible at the national level for advice to local Federal coordinating groups regarding CFC arrangements. Direct communication by mail and telephone is recommended.

Newly established field coordinating groups should promptly notify the Assistant to the Chairman so they can be added to the mailing list for receipt of any supplementary information or instructions issued. These new field coordinating groups are also required to report their campaign areas, their chairman's name and address, and the address of their central receipt and accounting point to the Assistant to the Chairman as soon as possible.

All chairmen of field coordinating groups are requested to furnish reports of campaign results to the Assistant to the Chairman, by January 15 of each year. A reporting format will be furnished CFC locations prior to that date requesting information on the results of the campaign, including the following:

(1) *Basic data.* Number solicited, Number contributors, Total Receipts, Per capita gift;

(2) *Payroll deductions.* Number authorizing, Total pledged;

(3) *Designations.* Summary totals, by campaign organization;

(4) Final distribution ratio for division of designated and undesignated receipts;

(5) Narrative summary evaluation of CFC arrangement based upon campaign experience.

Attachment A

Sample Text Items

WHAT IS THE COMBINED FEDERAL CAMPAIGN? It's a one-time solicitation for voluntary health and welfare agencies. The (name of local united fund) and the National Health Agencies and International Service Agencies (add American Red Cross where appropriate) which normally would solicit next spring are cooperating locally in a single campaign for Federal personnel. This will be the only fund-raising drive for voluntary agencies this year.

HOW DID IT COME ABOUT? Many employees have asked for a single charity drive. It can save a great amount of time and expense for the Government and the voluntary agencies. One drive makes it practicable, too, to have a payroll payment plan. The Combined Federal Campaign has the full endorsement of the heads of executive departments and agencies and the presidents of major employee organizations.

WHY PAYROLL PAYMENT? Employees and servicemen want to contribute their fair share. Payroll payment helps you to do this because you spread your gift in small installments over a full 12 months. What you give does not depend upon how much cash you have on hand at the time you are solicited. Remember, your one-time pledge covers all charitable contributions on the job this year.

The payroll payment plan is available to all civilian employees and to members of the Armed Forces who are assigned in this area. Its use is optional and voluntary with the contributor, under the ground rules which the Government has set to keep down payroll withholding costs:

1. Minimum allotment per payday is 50¢ if you are paid every two weeks or twice a month, or $1 if paid monthly. Above these minimums, allotment may be in any amount.

2. Withholding in the amount authorized, will be for a full year beginning with the first pay period in January. You may discontinue the allotment at an earlier date upon written request to the payroll office, but you cannot change the amount or begin payroll payment again in 19–.

HOW ARE PLEDGES DIVIDED AMONG THE CAMPAIGN ORGANIZATIONS? If Method "A" is used, the following description of the distribution of funds is appropriate: Contributions which are designated to a participating voluntary agency will be honored and credited to the appropriate group. A proportionate amount of the undesignated funds for each of the campaign organizations has been worked out on the basis of their past receipts from Federal personnel in this area, as shown below:

	Percent
(Name of local united fund)	———
National Health Agencies	———
International Service Agencies	———
(Red Cross, if separate)	———
Total	100

If Method "B" is used, the following description of the distribution of funds is appropriate: Each group has a dollar base determined by its past receipts in Federal campaigns in the area. Contributions which are designated to a participating voluntary agency will be honored and credited towards the dollar base of the appropriate group. Undesignated funds will then be used to fill out the dollar base of each group. Undesignated funds remaining after the dollar base of each group has been met will be distributed by local Federal officials to the groups based on new or additional requirements which the groups specify to Federal officials.

SUGGESTED SCALE OF GIVING. Everyone wants to help his fellowman, but the question is frequently asked "What's my share?" Of course, there's no single answer. The Guide below suggests, what a fair share of the campaign goal would be for those at various income levels. It is not to be regarded as a quota or an assessment on any individual. The decision to give and the amount is up to you.

Be as generous as you can.

Make checks payable to "Combined Federal Campaign."

Contributions are tax deductible.

Contributors who use direct payment have the option of making a confidential gift through the use of a sealed envelope which will be delivered without opening to Combined Federal Campaign Headquarters.

Suggested Giving Guide

Annual income	Suggested annual contribution	Suggested biweekly[1] allotment
Up to $4,000	(Suggested annual contribution is a matter for local determination. However, in arriving at it, the fact that the CFC combines the drives of three groups should be taken into consideration.)	
5,000		
6,000		
7,000		
8,000		
9,000		
10,000		
11,000		
12,000		
13,000		
14,000		
15,000		
16,000		
17,000		
18,000		
19,000		
20,000		
Over 20,000	(2)	(2)

[1] Twice this if payday is monthly.
[2] 1% (or other figure determined locally)

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1976 COMBINED FEDERAL CAMPAIGN- (INSERT NAME AND ADDRESS OF LOCAL CAMPAIGN)

NAME (FIRST) (INITIAL) (LAST) | IDENTIFICATION NO. OR SOC. SEC. NO.

HOME ADDRESS (OPTIONAL) | DEPT., BUREAU OR AGENCY

CITY STATE ZIP | LOCATION OR TIMEKEEPER

TOTAL GIFT $

PAID BY.

PAYROLL DEDUCTION .. ☐
(COMPLETE AUTHORIZATION BELOW)

CASH ..... $

CIVILIAN ☐ MILITARY ☐

FILL IN BLANK BOX OR CHECK BOX SHOWING THE AMOUNT OF YOUR DEDUCTION PER PAY PERIOD

Minimum amount for use of payroll withholding is 50c each pay day if paid every two weeks or twice monthly: $1.00 if paid monthly. The amou indicated by military personnel will be the monthly amount to be deducted as an allotment from pay.

☐ $; ☐ $11.00 ☐ $9.50 ☐ $8.25 ☐ $6.00 ☐ $4.25 ☐ $2.75 ☐ $1.25

I Hereby authorize the above named agency or any other agency of the United States Government by which I may be employed during 1976 to deduct the amount shown above from my pay each pay period during calendar year 1976, starting with the first period beginning in January 1976 and ending with the last pay period which begins in December, provided that the amounts so deducted shall be remitted to the Combined Federal Campaign shown above. I understand that this authorization may be revoked by me in writing at any time before it expires.

SIGNATURE

DATE

REPORTING NO.

CSC FORM 808-1973

TO FEDERAL PAYROLL OFFICES
IF THE CONTRIBUTOR MOVES TO THE JURISDICTION OF ANOTHER PAYROLL OFFICE BEFORE 1977, THIS AUTHORIZATION SHALL BE FORWARDED.

(This is the reverse side of the central receipt record card)

USE ONLY IF DESIGNATING TO AN AGENCY
(SEE CONTRIBUTOR'S LEAFLET FOR INSTRUCTIONS)

AGENCY NO.	AMOUNT	AGENCY NO.	AMOUNT	AGENCY NO.	AMOUNT	AGENCY NO.	AMOUNT	AGENCY NO.	AMOUNT

CHAPTER 5—ELIGIBILITY REQUIREMENTS FOR NATIONAL VOLUNTARY AGENCIES

5.1 PURPOSE

These eligibility requirements are established to insure that:

a. Only responsible and worthy voluntary agencies are permitted to solicit on the job in Federal installations;

b. The funds contributed by Federal personnel will be used effectively and for the announced purposes of the soliciting agencies; and

c. All recognized national voluntary agencies have field organizations capable of participating equitably in the joint campaign arrangements required by the Federal program.

5.2 GENERAL REQUIREMENTS

5.21 *Type of Agency.* Only nonprofit, tax-exempt charitable organizations, supported by voluntary contributions from the general public and providing direct services to persons in the fields of health and welfare services are eligible for approval. Where the health and welfare services are provided by international agencies, such services must be consistent with the policies of the United States Government.

Agencies which are supported primarily through united funds and community chests will only be recognized for independent participation in the Federal fund-raising program in non-federated communities and the overseas area. Such agencies may be eligible for participation in the overseas fund-raising program only if they provide a specific service to persons overseas and meet all other eligibility requirements. National voluntary agencies, not receiving primary support from local united ways, must meet all eligibility requirements in order to participate in the domestic and overseas campaigns.

5.22 *Integrity of Operations.* Only voluntary agencies having a high degree of integrity and responsibility in the conduct of their affairs will be approved. Funds contributed to such organizations by Federal personnel must be effectively used for the announced purposes of the agency.

5.23 *Avoidance of Competition.* To avoid solicitation competition, approval will not be granted to more than one national health agency within a single field which deals with physical handicap or disease, or to more than one international service agency meeting a particular human need in the same geographic area. For any departure to this policy the voluntary agency must demonstrate that it would be in the interest of the public served and the employee contributors.

5.24 *National Scope.* The voluntary agency must demonstrate that:

a. It is organized on a national scale with a national association which is representative of its constituent parts and which, through its board of directors, exercises close supervision over the operations and fund-raising policy of any local chapters or affiliates.

b. It has earned good will and acceptability throughout the United States, particularly in cities or communities within which or nearby are Federal offices or installations with large numbers of personnel.

Good will and acceptability can be demonstrated when a voluntary agency's operating chapters provide service in all or most of the States, and when contributor support comes from al or most parts of the nation. It can also be demonstrated by the extent of public support, the number and location of contributors, the national charatcer of any public campaign, the reputation of the organization nationally, and the proportionate effect of the organization's participation in the Federal program on total campaign income. It is not necessary that international agencies show chapter or affiliate coverage in all or most States.

c. It has sufficient fund-raising representatives at decentralized locations to be able to enter into full participation with a group of voluntary agencies in conducting local campaigns throughout the United States.

d. If it is a national health agency, it has a well-defined national program involving research, education, and community services with sufficiently developed local chapter or affiliate coverage to implement its national program and local service programs in cities or communities within which are nearby are Federal offices or installations with large numbers of personnel.[4]

e. If it is an international service agency, it has a well-defined program, not duplicative of existing programs, which meets basic human needs in an overseas area.

5.25 *Type of Campaign.* Approval will be granted only for fund-raising campaigns in support of current operations. Capital fund campaigns are not authorized. Voluntary agencies must observe the policy and procedural requirements specified for fund-raising in the Federal service.

5.3 SPECIFIC REQUIREMENTS

5.31 *Program.* The voluntary agency is required to have an active and necessary program which provides for direct services to persons, with particular regard to the welfare of the public and the persons served, and for consultation and cooperation with established agencies in the same or related fields, and for efficient operations.

5.32 *Volunteer Control.* The voluntary organization must be directed by an active, voluntary board of directors which serves without compensation, holds regular meetings, and exercises effective administrative control.

5.33 *Finances.* The voluntary agency must adopt the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and maintain a financial system which includes accounting procedures acceptable to an independent certified public accountant. It must conduct fiscal operations in accordance with a detailed annual budget which is prepared and approved at the beginning of the year by the board of directors, with their prior authorization of any significant variations from the approved budget.

5.34 *Administrative and Fund-Raising Expense.* Administrative and fund raising expenses must be reasonable. Expenditures for administration and fundraising not exceeding 25% of total support and revenue will be considered reasonable. Where administrative and fundraising expense exceeds this percentage, the burden is on the voluntary organization to demonstrate the reasonableness of its fund-raising and administrative expenses under all the circumstances in its case.

5.35 *Fund-Raising Practice.* The voluntary agency's publicity and promotional activities must be based upon the actual program and operations of the agency, must be truthful and nondeceptive, and must include all material facts. The agency's fund-raising practices must assure protection against unauthorized use of agency contributors' lists; no payment of commissions, kickbacks, finder fees, percentages, bonuses, or overrides for fund-raising; no mailing of unordered tickets or commercial merchandise with a request for money in return; and no general telephone solicitation of the public.

5.36 *Nondiscrimination.* The voluntary agency must observe a policy and practice of nondiscrimination on the basis of race, color, religion, sex, or national origin, applicable to persons served by the agency, to agency staff employment, and to memberships on the agency's governing board, as prescribed in Chapter 7. Organizations which are organized along religious lines or which are organized to serve persons of a particular sex may nevertheless meet eligibility requirements if a bona fide purpose for organizing along religious lines or for directing services to persons of a particular sex can be shown.

5.37 *Annual Report.* The voluntary agency must prepare an annual report to the general public which includes a full description of the agency's activities and accomplishments and the names of chief administrative personnel.

5.38 *Financial Reports.* Preparation of a consolidated annual financial report to the general public in accordance with the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and certification of such report by an independent certified public accountant is also required. The consolidated report shall include all income and expenditures for the national operations and all chapters, committees, affiliates, or satellites.

5.39 *Independent Audit.* The voluntary agency must provide for an annual external audit by an independent certified public accountant.

[4] While a national health agency may meet eligibility requirements, local chapters, in order to participate in the local fund-raising program, must provide a direct and meaningful service in the area (county) in which the campaign is being conducted (see Section 3.532b and Section 4.2b).

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5.40 *Source of Funds and Costs Report.* The voluntary agency must file a special report with the Chairman of the U.S. Civil Service Commission which discloses on a consolidated basis the agency's (including chapters and affiliates) sources of funds, fund-raising expense, and use of net funds in its most recent fiscal year.

5.4 APPLICATION REQUIREMENTS

5.41 *Exemptions.* The American National Red Cross, and local community chests or united funds which are members in good standing of, or are recognized by, the United Way of America are exempt from these application requirements except for the nondiscrimination requirements of paragraph 5.461 and the accounting and financial reporting requirements of paragraphs 5.46g and 5.46k. In addition, the United Way of America, as a national organization, must conform in its financial reporting to the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations. Each local united way must also assure that the fund-raising and administrative expenses of its local members are reasonable. Expenditures for administrative and fund-raising costs not exceeding 25% of total support and revenue will be considered reasonable. Before the start of the campaign, the local United Way should certify to the local Federal coordinating group that member agencies participating in the CFC meet this requirement. Any exception to this requirement for individual united fund member agencies must be approved by the local Federal coordinating group.

For purposes of this section, the American National Red Cross and its chapters are recognized as operating an accounting and financial system in substantial compliance with the Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and certification to this effect by local chapters is not required. However, local Red Cross chapters are required to furnish nondiscrimination assurances, as required by Section 7.4 of Chapter 7.

5.42 *Annual Applications.* In order to be considered for solicitation privileges in domestic or overseas campaigns in the Federal service, each national voluntary agency must file an application annually. National voluntary agencies which have already been approved for fundraising privileges in the Federal service are not required to submit the information requested in sections 5.46 a, b, c, d, h, and i, except where there has been a substantial or significant change in these items; for example, a change in purpose of the organization or a decline in chapter coverage or activity. They are required to furnish information in sections 5.46 e, f, g, j, k, l, and m.

5.43 *Time and Place of Filing.* Application must be filed with the Office of the Chairman, U.S. Civil Service Commission, Washington, D.C. 20415 and must be postmarked on or before December 1. Applicants are urged to file as early as possible.

5.44 *Eligibility Decisions.* The Chairman, U.S. Civil Service Commission, with the assistance of an eligibility committee of government officials and employee organization leaders, uses the information filed with the agency's application and derived from other responsible sources to make his decision on an agency's eligibility.

5.45 *Notice of Decision.* Applicants are notified of the decisions on their applications as soon as possible after filing. If dissatisfied with the Chairman's decision, the applicants have the opportunity to request a personal appearance before the Chairman's representative or a review of the decision by that official without a personal appearance.

5.46 *Form and Content of Application.* Applications shall be filed in the following form, and will include the information, documents and data specified:

a. *Corporate Name and Fiscal Year.*

b. *Origin, Purpose and Structure of Organization.* Furnish information to show that the voluntary agency meets the General Requirements of section 5.2 Applications for overseas campaign privileges alone will be considered under modified requirements for paragraphs 5.24c and d.

c. *Chapters, Affiliates or Representatives.* Furnish a list of chapters, affiliates or representatives in alphabetical order by State. Under the State, list cities with chapter, affiliate or representative by names and addresses.

d. *National Scope* (sec. 5.24). Demonstrate the good will and acceptability of the organization throughout the United States.

e. *Program* (sec. 5.31). Outline the program. List the names of other national voluntary agencies which offer similar services covering the whole or a part of the same field of activity, and state past and current relationships with such agencies.

f. *Volunteer Control* (sec. 5.32). Describe board of directors' administrative activity in past year and list current board members' names, addresses and businesses or professions.

g. *Finances* (sec. 5.33). Furnish certification by an independent certified public accountant of compliance with an acceptable financial system and adoption of the Uniform Standards.

h. *Fund-Raising Practice* (sec. 5.35). State compliance with all factors in the section.

i. *Nondiscrimination* (sec. 5.36). Furnish written assurance of nondiscrimination as prescribed by Chapter 7. If applicant has filed satisfactory nondiscrimination assurance and has maintained such nondiscriminatory policy or practice without substantial change, further assurance is not required in applications for renewal.

j. *Annual Report* (sec. 5.37). Furnish copy of latest annual report.

k. *Financial Report* (sec. 5.38). Furnish copy of latest financial report prepared in accordance with the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and provide certification by an independent certified public accountant that the report was prepared in conformity with the "Standards."

l. *Independent Audit* (sec. 5.39). Furnish copy of latest external audit by an independent certified public accountant.

m. *Source of Funds and Costs Report* (sec. 5.40). Furnish a special report to the Chairman of the Civil Service Commission consistent with the reporting requirements of the Standards referred to in section 5.38. The report must include the agency's sources of funds, expenditures by program service and supporting services with fund-raising and other expenditures listed separately. The report must cover the most recent fiscal year and represent a consolidated statement of national and affiliate income and expenditures. The amount of contributions received from united funds or community chests, from Federal service campaigns, and the total from other sources must be separately identified and shown as percent of total contributions. The report must be furnished in accordance with the format shown in the attachment to this Chapter.

5.5 PUBLIC ANNOUNCEMENT OF RECOGNIZED AGENCIES AND ASSIGNED PERIODS

Early in the calendar year, the Chairman of the Civil Service Commission announces the names of all voluntary agencies eligible for participation in the Federal fund-raising program for the ensuing campaign year and specifies the assigned periods for solicitations within the Federal service.

ATTACHMENT A

.....
(Agency)

CONSOLIDATED SOURCE OF FUNDS AND COSTS REPORT
(Including Chapters and Affiliates)

(For the year ending .....)
(date)

	Amount	Percent of Income
Support from the Public:		
Received Directly:		
Contributions	$	
Special Events (less related expenses of $_____)		
Subtotal		
Received Indirectly:		
United Funds and/or Community Chests		
Federal Service Campaigns		
Other Contributions		
Subtotal		
Total Support from the Public		
Miscellaneous Revenue:		
Government Grants (including grants-in-kind)		
Service Fees, Literature Sales, etc.		
Gain from the Sale of Products		
Memberships		
Investment Income		
Other Income		
Total Miscellaneous Revenue		
TOTAL SUPPORT AND REVENUE		100
Expenditures:		
Program Services:	Amount	Percent of expenditure
(Category)		
(Category)		
(Category)		
(Category)		
Subtotal		
Supporting Services:		
Management and general		
Fund Raising		
Subtotal		
TOTAL EXPENDITURES		100
EXCESS OF REVENUE OVER EXPENDITURES—$_		

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CHAPTER 6—CAMPAIGN PRACTICES AND PROCEDURES

6.1 PURPOSE OF AUTHORIZED CAMPAIGNS

The program for fund-raising within the Federal service exists in recognition of the importance of voluntary agencies in our free society—agencies which complement and strengthen our tax-supported services in a manner which is vital to the well-being of the American people. Their voluntary services to human needs—in local communities and on the national and international scene—depend upon contributions of funds from the public. And the primary source of contributions is employed persons—those with jobs and regular income who recognize a social and civic responsibility to help their fellow citizen. Solicitation of employees on the job is authorized in the Federal service as in most other large organizations, in order to assist voluntary agencies in obtaining the funds to continue their worthy programs. Thus, the purpose of our approved campaigns is to familiarize Federal personnel with the human needs that are being met by voluntary programs and to encourage them to contribute a fair amount for their financial support.

6.2 TRUE VOLUNTARY GIVING

True voluntary giving is the free response of an individual to an appeal which gives him full knowledge of the human needs at stake and encourages him to contribute generously in relation to his financial ability and his responsibility as a good citizen.

Before the present program was inaugurated, the lack of official guidelines for the conduct of campaigns had resulted in employee complaints—warranted or unwarranted—about coercion by management personnel to force contributions on an involuntary basis. The President's concern on this matter forms the basis for the express injunction of Executive Order 10927 that fund-raising arrangements "shall permit true voluntary giving and reserve to the individual the option of disclosing his gift or keeping it confidential." Any practice that involves compulsion, coercion, or reprisal directed to the individual armed forces member or civilian employee because of the size of his contribution or failure to contribute has no place in the Federal program. Coercive practices debase the spirit and purpose and violate the letter of the Executive Order.

It is incumbent upon the heads of Federal offices and installations to see that management and supervisory personnel and other campaign workers are expressly informed of the President's policy. Negative practices are no substitute for the organized, intensive encouragement of voluntary contributions which is contemplated by the Federal program.

Employees should be informed that if they believe that they have been subjected to compulsion, coercion or reprisal in connection with a fund-raising appeal for voluntary agencies in violation of the President's policy, they may file a complaint under the agency's grievance procedure, or directly with the Civil Service Commission.

6.3 CAMPAIGN OBJECTIVES

The purposes of the Federal fund-raising campaign are:

a. To inform Federal employees of the essential role that volunatry agencies play in the community and the nation and their need for public support.

b. To provide an opportunity for every individual to donate to specific worthy agencies with which he is familiar and which he wants to support.

c. To seek 100 percent voluntary participation while preserving the individual's right to give or not to give.

d. To stimulate generous giving in relation to the ability of the giver while preserving his right to give in a confidential manner if he chooses to do so.

6.4 ORGANIZATION FOR SOLICITATION

6.4.1 *Management and Employee Organization Support.* The importance of meeting human needs through our voluntary agencies and of assisting Federal personnel to discharge their social and civic responsibility without fear of coercion calls for solid understanding, backing and cooperation from all levels of management and from employee organizations. The head of each Federal installation is responsible for providing local leadership to each authorized campaign by:

a. Cooperating with voluntary agency representatives and the heads of other Federal agencies in the communitywide effort.

b. Advance planning and activation of an effective campaign organization at his own installation.

c. Enlisting the participation and support of employee organization leaders, where possible.

d. Personal endorsement and follow-up through messages to all employees and contacts with management and supervisory staff.

6.42 *Advance Planning and Organization.* Advance planning and activation of the campaign organization requires:

a. Selecting a campaign chairman or project officer, division chairmen and keymen who are able and enthusiastic;

b. Briefing of management staff, campaign workers, and employee organization leaders on the policies of the Federal program and the educational material and administrative details involved in the campaign;

c. Clear assignment of responsibilities for general publicity, kick-off rallies, indoctrination meetings, and person-to-person solicitation—and for effective supervision, follow-up, and progress reporting at each echelon of the campaign organization.

These steps are primary and essential. A detailed guideline for effective campaigning is incorporated in the attachment to this chapter.

6.43 *Keyman Responsibilities.* A keyman is selected for the personal solicitation of about 25 employees, depending upon the unit organization. He or she should be chosen for leadership qualifications, compatibility with coworkers, and motivation toward successful performance. Since a keyman is acting, in effect, as an agent of the recognized voluntary agencies in contacting potential contributors, it is important that each keyman be given a thorough briefing on the program and purpose of the participating voluntary agencies, preferably by representatives of the fund-raising agencies themselves. The keyman's responsibilities are to:

a. Personally contact each prospective contributor in the assigned group and provide the educational literature and contributor's card or envelopes appropriate to the campaign;

b. Explain the services performed by the voluntary agencies and answer any questions about them and the Federal fund-raising program;

c. Urge a generous gift, with the goal of 100 percent voluntary participation in mind; where appropriate call attention to local suggested giving guides and arrangements for pledges to be paid on the installment plan;

d. Collect employee contributions, forward them and make reports in accordance with local arrangements for the particular campaign.

6.5 DOLLAR GOALS, SUGGESTED GIVING GUIDES AND INSTALLMENT PLEDGES

6.51 *Dollar Goals.* In the Combined Federal Campaign, united fund and community chest campaigns, coordinated solicitations in non-federated communities and mixed areas, and in Red Cross campaigns in the domestic area, the local Federal agency head may accept an equitable dollar goal representing his installation's share of the overall dollar goal for the community. When so accepted, the dollar goal for the installation may be allocated in the form of subgoals to principal divisions of the installation. The assignment of a dollar goal to an individual potential contributor is absolutely prohibited. Dollar goals are not authorized in the National Health Agencies and International Services Agencies campaigns.

6.52 *Suggested Giving Guides.* In campaigns which have dollar goals, campaign materials may include what the voluntary agencies consider one's suggested share of responsibility toward the success of the campaign. These suggestions are developed by the soliciting agencies for the giver's guidance and education, and are permissible in the Federal program. However, there shall be no requirement that individual employees meet such guides when making gifts, and care should be taken to see that the suggested giving guide is not misrepresented as an individual "assessment" or "quota."

6.53 *Installment Pledges.* In campaigns which have dollar goals, the voluntary agencies may provide for deferred payment of contributions through installment pledges.

6.6 CONFIDENTIAL CONTRIBUTIONS

6.61 *Policy.* The privilege of each Federal contributor to disclose his gift or keep it confidential is guaranteed in all campaigns. This right of privacy is safeguarded through the contributor's option to use a sealed envelope in making his donation, whether by cash, check or pledge. He need not place his name on the envelope and it will not be opened until received by the central receipt and accounting person. No effort may be made by any Federal official or employees to determine the amount of a contribution submitted in a confidential manner.

6.62 *Keyman Procedures.* 6.621 *Solicitation.* Each potential giver must be given full opportunity to exercise his option to disclose the amount of his gift or keep it confidential. No action which might be coercive or contrary to the principles of true voluntary giving is permitted.

6.622 *Collection and Recording.* When a contributor makes his gift by sealed envelope, with or without his name on it, the keyman will preserve the confidentiality of the gift. He will only verify that the contributor's envelope bears the appropriate department or agency identification, and will write it on if necessary, in order to insure its safe transmittal and accountability. Where an individual receipt is required by campaign procedures, he will furnish the contributor a receipt leaving blank the amount of the gift. The keyman will forward the sealed envelopes in his Keyman Envelope. When sealed envelopes do not bear the contributor's name, the keyman will not list the name on his contributor's list or tally sheet but merely show the number of such anonymous contributions.

6.63 *Reports from Voluntary Agencies.* The feedback reports from voluntary agencies will show the total amount of contributions, including the total in sealed envelopes. Voluntary agency reports will not show the amounts of individual contributions.

6.7 GENERAL PRIVACY OF CONTRIBUTIONS

The amounts of individual donations will not be made public or revealed to other personnel except in connection with the routine collection and forwarding of contributions and installment pledges. To avoid any possibility of coercive persuasion aimed at increasing an individual's gift, Federal officials or employees will not prepare or utilize for solicitation purposes lists of individuals revealing their previous gifts. Voluntary agencies will not publicize lists of Federal contributors showing the amounts of their donations.

Agency campaign chairmen, keymen, and other campaign workers should take whatever actions or measures necessary to insure that these guidelines are followed in the conduct of the campaign within their agency.

6.8 PRIVACY ACT REQUIREMENTS

Public Law 93-579 (Privacy Act of 1974), which is intended to provide safeguards for individuals against unnecessary and unwarranted invasions of privacy, applies to systems of records under the control of any agency from which information is retrieved by the name of an individual or by some identifying number, symbol or other identifying particular assigned to the individual. Section 6.7 of this Manual includes specific prohibition against Federal officials or employees preparing or utilizing lists of individuals revealing their previous gifts. Keymen or others in Federal agencies should not retain in their possession any records of contributions collected and forwarded through compaign channels to the central receipt and accounting point. It should be clearly understood that except for payroll withholding authorizations, no systems of records as contemplated by the Privacy Act are prescribed or even recommended in connection with the Federal fund-raising program.

The CFC pledge form, when used to authorize payroll deduction, becomes an agency record maintained in a system of records. The name and composition of such a system will likely vary among agencies, but it generally includes various pay records which would fall within the scope of the Privacy Act. Accordingly, the maintenance of the pledge form as a record authorizing payroll deductions should be acknowledged as a record which meets the Privacy Act criteria.

Further, the pledge form is subject to section 7 of the Privacy Act since it does solicit social security numbers. The number is not needed on the form in all cases; it is required only when (1) payroll deductions are authorized, and (2) the social security number is required by the agency for payroll identification purposes.

A Privacy Act notice designed to comply with the requirements of the law will be printed on an item of campaign material that remains with the employee; for example, the contributor's leaflet or a portion of the pledge card that will be left with the contributor. It should not be printed on the pledge card itself which is sent to the payroll office, or on the card which is forwarded to the central receipt and accounting point. The required notice is as follows:

PRIVACY ACT NOTICE FOR:

CSC 804, Combined Federal Campaign Pledge Form

GENERAL

This information is provided pursuant to Public Law 93-579 (Privacy Act of 1974), December 31, 1974, for individuals who complete the pledge form for Combined Federal Campaign contributions.

AUTHORITY

Executive Order 10927, March 18, 1961, authorized the Civil Service Commission to make arrangements for national voluntary health and welfare agencies to solicit funds from Federal employees and members of the armed forces at their places of employment of duty stations.

Public Law 87-304, September 26, 1961, provides authority for the head of each department to establish procedures under which civilian employees are permitted to make allotments and assignments of amounts from their compensation.

PURPOSES AND USES

This form is used as the authority to make deductions from employees' compensation and transmit such amounts to the organizations they designate. This information will be disclosed to payroll office personnel and personnel in the Department of the Treasury, Division of Disbursements.

EFFECTS OF NONDISCLOSURE

The disclosure of this information is voluntary; however, payroll deductions and payments to organizations cannot be made without a completed form.

INFORMATION REGARDING DISCLOSURE OF YOUR SOCIAL SECURITY NUMBER UNDER PUBLIC LAW 93-579 SECTION 7(b)

Disclosure by you of your social security number may be deemed mandatory for the purpose of payroll deductions for contributions to charitable organizations under the Combined Federal Campaign. Solicitation of the social security number is authorized under provisions of Executive Order 9397, dated November 22, 1943.

6.9 RAFFLES, LOTTERIES AND OTHER SPECIAL PROCEDURES PROHIBITED

The program for fund-raising on the job has only one authorized procedure: personal solicitation of each potential contributor by designated keymen. Raffles, lotteries, carnivals, benefits and other special fund-raising procedures are contrary to Federal policy and are prohibited.

6.10 CAMPAIGN MATERIALS

6.101 *Furnished by Voluntary Agencies.* All educational material and operational forms for Federal campaigns must be furnished by the participating voluntary agencies.

6.102 *Provisions for Confidential Giving.*

a. The campaign literature and individual contributor's card must notify the contributor of his right and option to enclose his gift and pledge card in a sealed envelope. He may use any envelope for this purpose. The voluntary agencies are not required to furnish envelopes for individual contributors. If the required notice is not contained in the material furnished by the voluntary agencies,[5] Federal agencies should provide this notice by preparing an insert to the materials or arranging for oral instructions by the keymen. The provision involved is an express requirement of E.O. 10927.

b. In the National Health Agencies and International Service Agencies Campaigns, the voluntary agencies will provide an envelope for each potential giver which shall bear on it a request to the contributor to enclose his gift and seal the envelope.

6.103 *Recording and Forwarding Contributions.* The campaign literature should contain instructions to agency

[5] This may occur through error or oversight, or in locations where so few Federal employees are involved that it is impractical for the voluntary agencies to provide a special notice.

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campaign chairmen and keymen on the procedures for recording and forwarding contributions. Contributors lists or tally sheets, keyman's envelopes, and campaign report envelopes should bear printed instructions for their use.

ATTACHMENT—CAMPAIGN GUIDELINES FOR VOLUNTARY GIVING

The policies for fund-raising in the Federal service recognize the importance of voluntary agencies in our American way of life, and the opportunity for employees to know about them and to give generously toward their support. At the same time, as set forth in Executive Order 10927, these policies stress the importance of true voluntary giving and establish certain individual safeguards such as the option of disclosing one's gift or keeping it confidential by the use of a sealed envelope, and the prohibition against assigning a special dollar goal or quota to an individual.

Any successful fund drive requires an enthusiastic campaign. But administrative and campaign officials, supervisors and keymen must be familiar with all of the provisions of the Federal program in order to know where to draw the line between proper and improper methods.

It is approved practice for management officials to call employees together, explain the need for and use of the funds being solicited and urge employees to give generously—as much as they can afford. Where there are dollar goals for the campaign, the distribution of a suggested giving guide, based on employee pay levels, is also approved practice and the guide is generally welcomed by employees as an indication of what might be a fair contribution. Difficulty arises if the suggested contributions outlined on suggested giving guides are confused or interpreted as "quotas." Even though two employees are in the same salary bracket, it does not necessarily follow that they are either able or inclined to make the same contribution. Some give considerably more—others less.

There is no place in the Federal fund-raising program for force or coercion. Campaigns must be conducted through an intensive program of employee information about the needs for and use of the solicited funds and by a strong appeal for contributions based on the contributor's ability and willingness to give voluntarily. In the final analysis, each employee must be the sole judge of what he can and will contribute and whether or not he wishes to keep the amount of his contribution confidential.

PLEASE STUDY AND APPLY THE FOLLOWING SUGGESTIONS:

I. *Agency or Installation Heads, Campaign Chairmen, and Division Campaign Chairmen*

A. Familiarize yourself personally with: (1) the fundamentals of the Federal fund-raising program and its policies, and (2) the approved campaigns and the work of the participating voluntary agencies.

B. Make sure that both the President's Message on the campaign and the issuance from the head of your department or agency are dispersed to every employee well in advance of the solicitation for funds.

C. Activate your agency's regular fund-raising organization down to the last keyman. Carefully select project personnel and keymen who are interested, able and enthusiastic.

D. Arrange training sessions for all campaign leaders before the beginning of the campaign so that they know the program needs of the agencies, the basic philosophy behind the Federal plan, and the campaign mechanics.

E. Issue fact sheets to all keymen regarding work of the agencies participating in the particular campaign so that they may explain the program and services of the benefiting agencies.

F. Make it clear that the campaign is important official government business and not an informal duty to be shrugged off. Remember that this is a social and civil responsibility—human needs are at stake and can only be met if most people give generously.

G. Issue a personal memorandum to all employees urging them to familiarize themselves with voluntary agencies and their program and to contribute as generously as possible.

H. Utilize all public information channels and materials available to you so that each giver will understand the work of the agencies involved and the causes for which he is contributing. These should include informational bulletin board posters, house organs, campaign films, etc. Use the Press Kit materials before and during the drive. Work up special material based on eye-witness accounts of work of these agencies. Publish weekly progress reports.

I. Have a kick-off rally for campaign workers at the department, bureau or installation level at least one week before the opening of the campaign. Use key speakers and audio-visual materials.

J. Set a schedule of employee information meetings or rallies so that every employee is thoroughly briefed on the objectives, benefits, and needs of the private agencies in the campaign. Promote well-planned enthusiastic meetings within entire office divisions and units, using division heads, top supervisors and employee organization leaders.

K. In campaigns which have dollar goals, inform everyone of installation and division goals and furnish them with a suggested giver's guide when appropriate.

L. Encourage keymen to approach each employee individually and to make follow-up contact.

M. Discourage contacts with individual givers by other than designated keymen. Management officials or supervisors should always talk to givers in groups and never put an individual "on the spot."

N. Instruct campaign workers to avoid coercive pressure. If the keyman is interested and well-indoctrinated he can transmit this interest and enthusiam to those he solicits.

O. Start the campaign on time. Push it to an early conclusion. This will save staff time and lead to a better campaign.

P. Ask for weekly or biweekly progress reports and use coordinators to assure that the campaign remains active throughout the full period, if necessary to complete solicitation.

Q. Prepare a bar graph or other type chart for public display showing the progress of the campaign on a daily or weekly basis for each of the major campaign units.

R. Report final results to employees and make sure senior officials write "thank-you" letters to all those helping them in the campaign. Outstanding performance merits official commendation in fund-raising as it would in other official activities.

S. Survey a sampling of employees for their evaluation of the conduct of the campaign. As needed, act on the suggestions in planning the next campaign.

II. *Keymen*

A. Plan solicitation carefully. Begin it at a strategic time for your unit, after a rally or meeting, on a pay day. (Concentrating on pay days is sound if cash gifts are appropriate.) Allow plenty of time for call-backs in order to follow-up on those who are missed on the first go-around.

B. Contact everyone individually. Issue all appropriate educational and contributor's materials. Try to avoid more than one complete solicitation. The irritation caused by asking the same person a second or third time for his contribution can imply coercive pressure, can do harm to subsequent campaigns, and therefore, should be avoided.

C. Stress 100 percent participation. No one has to give but almost every one will want to give. Make the campaign a family affair with joint responsibility extending to the smallest giver.

D. Urge a generous gift in keeping with the employees' ability to give. (Let him know that only one appeal will be made for these agencies and that every gift counts.) Encourages payroll deduction giving. It is easier for the employee and provides better support to the campaign. Let the employee know that his gift goes to meet the needs of many agencies.

CHAPTER 7—NONDISCRIMINATION REQUIREMENTS

7.1 NONDISCRIMINATION STANDARD

Voluntary agencies recognized for fund-raising privileges within the Federal service must operate without discrimination and must carry out affirmative action programs to assure equal employment opportunity. This policy applies to persons served by the agencies, to the staffs of the agencies, and to membership on their governing boards. Operating without discrimination means that:

a. No person is excluded from service because of race, color, religion, sex, or national origin.

b. There is no segregation of those served on the basis of race, color, religion, or national origin.

c. There is no discrimination on the basis of race, color, religion, sex, or national origin with regard to hiring, assignment, promotion, or other conditions of staff employment.

d. The agency has a written plan for and is undertaking positive action to achieve equal employment opportunity for all persons in the filling of its staff positions. The plan must include elements such as: contacts with appropriate organizations in the community including minority group and women's organizations concerning the agency's employment needs; recruitment advertisements in minority group news media when advertising in the general media is used to fill jobs; self-identification as an equal employment opportunity employer in recruitment advertisements; and using only those employment agencies which do not discriminate on the basis of race, color, religion, sex, or national origin for making job referrals.

e. There is no discrimination on the basis of race, color, religion, sex, or national origin in membership on the agency's governing body.

7.2 EXEMPTIONS

Exemptions to the above requirements relating to religion or sex may be granted if a voluntary agency is organized for a bona fide purpose on a religious basis or if its purpose is reasonably related to

service of persons of a particular sex. National organizations requesting such exemptions are required to provide justification to the Civil Service Commission. Local organizations must request the appropriate exemption from the local field coordinating group. In considering a request for exemption, consideration will be given to the fundamental purpose of the organization and the reasonableness of the request in relation to this purpose. If such a request is denied by the local coordinating group, the agency should be informed of its right to ask for a review of the decision by the Civil Service Commission.

7.3 NONDISCRIMINATION ON BASIS OF HANDICAP OR AGE

In addition, voluntary agencies should not discriminate in employment, service, or membership on governing bodies on the basis of handicap or age, although reasonable limitations as to age for employment, service, or membership on a governing body may be made where age is a bona fide consideration.

7.4 VOLUNTARY AGENCIES AFFECTED

Every national or local voluntary health or welfare agency which solicits contributions from Federal employees or members of the Armed Forces at their place of employment or duty station must first provide satisfactory assurance that it follows a policy and practice of nondiscrimination. This requirement is applicable to:

a. A local united fund, community chest or other federated fund-raising organization which is authorized solicitation privileges under the provisions of Manual section 3.511, and each of its participating member agencies;

b. Each member agency of a coordinated solicitation which is authorized solicitation privileges under the provisions of Manual section 3.521;

c. The national office, and each State or local chapter of a national voluntary agency, which is authorized on-the-job solicitation privileges under the provisions of Manual section 3.532;

d. Each national or local voluntary agency which is authorized solicitation privileges in the overseas area under the provisions of Manual section 3.541; and

e. Each voluntary agency which is authorized off-the-job solicitation privileges under the provisions of Manual section 3.6.

7.5 ASSURANCE REQUIRED

7.51 *Form of Assurance.* Assurance of nondiscrimination shall be in writing and shall consist of:

a. A statement of policy by the agency's governing board (national or local board, as appropriate) covering the elements of nondiscrimination listed in the standard (7.1);

b. A certification that the agency's practices in fact conform with the standard; and

c. A certification that the national organization and each local chapter has prepared an affirmative action plan to assure equal employment opportunity.

Policy statements and certifications shall be sufficiently explicit to assure that the five elements of nondiscrimination listed in the standard are met. While no standard form or format is required, a sample form is shown at the end of this chapter.

7.52 *Filing Procedure.* a. *National Level.* A national voluntary agency which is required by the provisions of Manual section 5.4 to file application annually for independent solicitation privileges shall file a satisfactory assurance with respect to the nondiscrimination policy and practice of its national organization with the Office of the Chairman, Civil Service Commission, as part of its application for solicitation privileges.

b. *Local Level.* (1) *United Funds and Chests.* A local united fund, community chest or other federated fund-raising organization shall advise its member agencies (including the local Red Cross chapter when it raises funds in partnership with the local united fund or chest) of the nondiscrimination requirements and requirement of each agency for an affirmative action plan for equal employment opportunity. It shall also request each agency to furnish assurance of nondiscrimination as prescribed in 7.41 above. It shall receive such assurances and forward them in a group, with the policy statement and certification of the federated fund-raising organization itself, to the appropriate Federal official in its local campaign area.

(2) *American Red Cross.* Where a local Red Cross chapter participates as an independent agency outside of the local united fund, such chapter must have an affirmative action plan and furnish the necessary nondiscrimination certification as prescribed in 7.41 above.

(3) *National Voluntary Agencies.* Each local chapter or affiliate of a national voluntary agency[a] approved for Federal fund-raising privileges shall provide satisfactory assurance of nondiscrimination to the appropriate local Federal officials. Failure to submit proper certification will bar the local chapter or affiliate from participation in the appropriate local campaign.

7.53 *Recipient of Assurances Filed Locally.* Nondiscrimination assurances required at the local level shall be filed with the chairman of the local Federal coordinating group, or in the absence of such organization in the local area, with the head of the local Federal installation having the largest number of civilian and military personnel.

7.54 *Submission of Affirmative Action Plan.* National or local voluntary agencies, including chapters or affiliates of approved national organizations, must have available, for inspection, the affirmative action plan specified in Section 7.1d. On request, these plans must be submitted to appropriate Federal officials who may review the plans and require amendments thereto. Appropriate Federal officials may also request information concerning employment patterns and board membership on the basis of race, ethnic origin, and sex.

7.55 *When Further Assurance Is Required.* A national or local voluntary agency, chapter or affiliate which has filed satisfactory nondiscrimination assurance and has maintained such nondiscriminatory policy or practice is not required to file further assurance to continue its eligibility in subsequent years unless expressly requested by the appropriate Federal official. Further assurance may be required at any time at the option of appropriate local Federal officials or by the Office of the Chairman, Civil Service Commission.

7.6 ADMINISTRATION BY THE FEDERAL GOVERNMENT

7.61 *Responsibility for Administration.* The responsibility for administration of the nondiscrimination requirements at the national level is assigned to the Office of the Chairman, Civil Service Commission.

At the local level, each local Federal coordinating group is authorized and responsible for administration of the nondiscrimination requirements in its local area. In the absence of such an organization in the local area (county), the authority and responsibility is assigned to the head of the local Federal installation having the largest number of civilian and military personnel. At their discretion, a local Federal coordinating group may redelegate to an appropriate committee, and the head of a designated local Federal installation may redelegate to a subordinate official, such authority as is deemed appropriate.

The heads of Federal offices and installations shall permit the solicitation of employees or military personnel on the job, or "off the job" as defined in Manual section 3.6, but only on behalf of those voluntary agencies that the responsible Federal coordinating group or official have determined to be qualified under the nondiscrimination standard and related requirements.

7.62 *Acceptance of Nondiscrimination Assurances.* The appropriate Federal official in each local area, as designated above, will review the nondiscrimination assurances filed to determine if they meet the requirements. Such additions or amendments and recertifications as the Federal official considers necessary may be required from the voluntary agencies. He may also request the submission of affirmative action plans for review. The Federal official will notify the heads of all local Federal offices and installations of the receipt of satisfactory nondiscrimination assurances from all voluntary agencies which are otherwise eligible to solicit contributions from Federal personnel in the local area. Assurances will be retained as official records in the custody of the Federal official's office. The responsible local Federal official may request interpretation or advice from the Office of the Chair-

[a] Where International Service Agencies do not have local chapters or affiliates providing a service in the area, no local certification is required. The certification of the national office to the Civil Service Commission is sufficient.

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man, Civil Service Commission, as needed.

7.63 *Disqualifications.* If a required nondiscrimination assurance is not filed with the appropriate local Federal official, or is filed but is determined to be unsatisfactory, the voluntary agency concerned shall not be permitted to solicit contributions from Federal personnel in the local area until satisfactory assurance is received. Similar action may also be taken by Federal officials where affirmative action plans have not been prepared or are considered unsatisfactory. [See below for appropriate action where a federated organization or a member agency of a federated organization fails to submit a satisfactory nondiscrimination assurance (Section(s) 7.64, 7.65).]

In the event that a voluntary agency files satisfactory assurance but there arises a question whether the agency's practices in fact meet the standard for nondiscrimination in this manual or whether the organization is carrying out an affirmative action plan for equal employment opportunity, the appropriate Federal official shall make such investigation as may be necessary. After providing the agency an opportunity to present evidence of satisfactory compliance, the Federal official shall make a determination whether Federal fund-raising privileges in the local area will be granted or withheld from the agency. If a member agency of a federated organization is found not to be in compliance with the nondiscrimination requirements, local Federal officials must notify the Office of the Chairman for appropriate action as indicated in 7.65 below.

If a question regarding nondiscrimination practices or an affirmative action program is raised with respect to a voluntary agency which furnished its assurance to the Civil Service Commission, the appropriate Federal official will forward the question and all available related information to the Office of the Chairman, Civil Service Commission, for investigation.

Individual complaints of discrimination in employment against a voluntary organization are filed with Equal Employment Opportunity Commission since that agency has responsibility for enforcement of nondiscrimination by private employers.

7.64 *Where Federated Organization Fails to Submit Required Assurance.* If a local united fund, community chest or other federated organization does not file a satisfactory nondiscrimination assurance itself, or if the organization's practices are not in compliance with the nondiscrimination requirements, including the preparation of an acceptable affirmative action plan, the federated organization shall not be permitted to solicit contributions from Federal personnel in the local area. In such event the local area becomes a nonfederated community for purposes of Federal fund-raising. Member agencies of the federated organization which individually have met the nondiscrimination requirements will not be allowed to solicit independently. However, they may organize a coordinated solicitation in accordance with the provisions of Manual section 3.52.

7.65 *Where a Member Agency Included in a Federated Organization Fails to Submit Required Assurance.* Where one or more member agencies in a federated organization fails to file satisfactory nondiscrimination assurance, or where the agency's practices are not in compliance with the nondiscrimination requirements, including the preparation of an acceptable affirmative action plan, such agencies shall not be permitted to solicit contributions from Federal personnel in the local area. If such agencies continue as member agencies of the local fund despite failure to comply with the nondiscrimination requirements, the fund-raising privileges of the federated organization may be cancelled by the Office of the Chairman, U.S. Civil Service Commission. Notice will first be given to the federated group and to the United Way of America of intent to cancel unless corrective action is taken. Appropriate local Federal officials have the responsibility to notify the Office of the Chairman if any agency of a local united fund, community chest, or other federated organization fails to file a satisfactory nondiscrimination certification as called for in 7.51 above or whose practice is found not to be in compliance with the nondiscrimination requirements.

SAMPLE CERTIFICATE[1]

At a meeting of the governing board of (name of agency) held on (date) the board ( ) affirmed its policy of nondiscrimination as follows:

1. No person is excluded from service because of race, color, religion, sex, or national origin.

2. There is no segregation of persons served on the basis of race, color, religion, or national origin.

3. There is no discrimination on the basis of race, color, religion, sex, or national origin with regard to hiring, assignment, promotion or other conditions of staff employment.

4. The agency has a written plan for positive action to achieve equal employment opportunity for all persons in the filling of its staff positions including elements such as: contacts with various organizations in the community including minority group organizations concerning the agency's employment needs; recruitment advertisements in minority group news media when advertising in the general media is used to fill jobs; self-identification as an equal employment opportunity employer in recruitment advertisements; and the use of employment agencies which do not discriminate on the basis of race, color, religion, sex, or national origin.

5. There is no discrimination on the basis of race, color, religion, sex, or national origin in membership on the agency's governing body.

I certify that the practices of this organization conform to the policy of nondiscrimination stated above.

(Date) (President or other authorized official)

[FR Doc.76-37790 Filed 12-27-76;8:45 am]

[1] Certificate may be appropriately modified where exemption has been granted by the Civil Service Commission for agencies organized for bona fide purposes along religious lines or where service is restricted to members of a particular sex.

DEPARTMENT OF DEFENSE

Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (International Trade and Resources), ODAS (International Trade and Resources), OASD (International Security Affairs), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37972 Filed 12-27-76;8:45 am]

DEPARTMENT OF DEFENSE

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (International Economic Affairs), ODAS (International Economic Affairs), OASD (International Security Affairs), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37969 Filed 12-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner, Assistance Payments Administration, Social and Rehabilitation Service.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37970 Filed 12-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority to Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner for Postsecondary Education, Office of Education.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-37971 Filed 12-27-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Thursday, January 13, 1977, at 9:30 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Technical discussion of analog to digital and digital to analog converters.

(4) Discussion of microprocessors.

(5) Nomination and election of a new Chairman.

EXECUTIVE SESSION

(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 8, 1976, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated: December 21, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

NOTICE OF DETERMINATION

In response to written requests of representatives of a substantial segment of the electronic industry, the Electronic Instrumentation Technical Advisory Committee was established by the Secretary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1) (Supp. V, 1975), to advise the Department of Commerce with respect to questions involving technical matters, worldwide availability, and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee, which currently has seven members representing industry and seven members representing government agencies, will terminate no later than October 7, 1977, unless extended by the Secretary of Commerce or his designee. All members of the Committee have the appropriate security clearances.

The Committee's activities are conducted pursuant to 50 U.S.C. App. 2404(c)(1), Pub. L. 94-362, 50 U.S.C. App. 5(b), Executive Order No. 11940, 15 CFR 390.1, the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975, and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the head of the agency (or his delegate) to which the committee reports determines in writing that all, or some portion, of the agenda of the meeting of the Committee is concerned with matters listed in section 552(b) of Title 5 of the United States Code. Section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, effective March 12, 1977, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the Advisory Committee reports, determines that such portion of such meeting may be closed to the public in accordance with 5 U.S.C. 552b(c).

Section 552(b)(1) of Title 5, United States Code, provides that information may be withheld from the public if it concerns matters specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy, and are in fact properly classified pursuant to such Executive Order. 5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

Notices of Determination authorizing the closing of meetings, or portions thereof, of the Electronic Instrumentation Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, were approved on March 12, 1974 for the Committee's first meeting on April 9, 1974; on April 25, 1974 for the meeting of May 9, 1974; on May 28, 1974, covering a series of meetings for the period May 28, 1974 through January 3, 1975; on December 16, 1974 for a series of meetings from January 4, 1975 through October 22, 1975; and also on September 29, 1975 for a series of meetings from October 23, 1975 to October 22, 1976.

In order to provide advice to the Department under the terms of its charter, the Committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the Committee and its formal subcommittees will be preparing recommendations for the Department's consideration relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive Order No. 11652, 8 C.F.R. 839 (1974). In order for the Committee and its formal subcommittees to provide required

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advice to the U.S. Government, it will be necessary to provide the Committee and its formal subcommittees with such classified material. Therefore, the portions of the series of meetings of the Committee and of subcommittees thereof that will involve discussions of matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, must be closed to the public. The remaining portions of the series of meetings will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that those portions of the series of meetings of the Committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this determination, to October 6, 1977, from the provisions of section 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552(b)(1) and 5 U.S.C. 552b(c)(1). The remaining portions of the meetings will be open to the public.

Dated: December 8, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

Dated: December 1, 1976.

ALFRED MEISNER,
General Counsel.

[FR Doc.76-37820 Filed 12-27-76;8:45 am]

Domestic and International Business Administration

PRESIDENT'S EXPORT COUNCIL TASK FORCE ON EXPORT PROMOTION

Termination

Pursuant to section 14 of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that the President's Export Council Task Force on Export Promotion is terminated, effective December 31, 1975.

This Task Force was established in 1975 to review the export promotion programs and activities of the Department of Commerce and develop recommendations, including proposals for new programs, in this area for Export Council consideration.

The decision to terminate this Task Force on December 31, 1976, has been made for the reason that the Task Force has completed its review of the Department's export promotion programs and submitted its formal recommendations to the Export Council for its consideration. The objectives and duties identified in its charter having been accomplished, there is no need for continuation of the Task Force.

Dated: December 21, 1976.

ROBERT G. SHAW,
Acting Deputy Assistant Secretary for International Commerce.

[FR Doc.76-37975 Filed 12-27-76;8:45 am]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Rules For Allocation of Quotas For Calendar Year 1977 Among Producers Located in the Virgin Islands, Guam and American Samoa

On November 18, 1976, the Departments of Commerce and the Interior published a joint Notice of Proposed Rule Making under Public Law 89-805, setting out the proposed formula for allocation of 1977 watch quotas among producers located in the Virgin Islands, Guam and American Samoa (41 FR 50852 et seq.). Interested parties were invited to participate in proposed rule making by submitting their written views on or before December 8, 1976.

No substantive comments were received by the Departments in response to this invitation, and the Departments are accordingly publishing the proposed rules as final rules.

Watch producers located in the Virgin Islands, Guam and American Samoa must receive their initial quota allocation for calendar year 1977 to avoid any interruption in their assembly operations and to enable them to contract for their inventory requirements and to accept and fill purchase orders for their 1977 quota allocations. Accordingly, good cause exists for making the following rules effective January 1, 1977.

SECTION 1. Upon effective date of these rules, or a soon thereafter as practicable, each producer located in the Virgin Islands, Guam and American Samoa which received a duty-free watch quota allocation for calendar year 1976 and complied with all applicable rules, will receive an initial quota allocation for calendar year 1977 equal to 70 percent of the number of watch units assembled by such producer in the particular territory and entered duty-free into the customs territory of the United States during the first eight months of calendar year 1976. (See Section 9 for new entrant in Guam.)

SEC. 2. Each producer to which an initial quota has been allocated pursuant to Section 1 hereof must, on or before April 1, 1977, have assembled and entered duty-free into the customs territory of the United States at least 25 percent of its initial quota allocation. Any producer failing to enter duty-free into the customs territory of the United States on or before April 1, 1977, a number of watch units assembled by it in a particular territory equal to, or greater than, 25 percent of the number of units initially allocated to such producer for duty-free entry from that territory will, upon receipt of a show cause order from the Departments, be given an opportunity, within 30 days from such receipt, to show cause why the duty-free quota which it would otherwise be entitled to receive should not be cancelled or reduced by the Departments. Such a show cause order may also be issued whenever there is reason to believe that shipments through December 31, 1977, by any producer under the quota allocated to it for calendar year 1977 will be less than 90 percent of the number of units allocated to it. Upon failure of any such producer to show good cause, deemed satisfactory by the Departments, why the remaining, unused portion of the quota to which it would otherwise be entitled should not be cancelled or reduced, said remaining, unused portion of its quota shall be either cancelled or reduced, whichever is appropriate under the show cause order. The Departments may also issue a show cause order to any producer which, for a period of two or more consecutive calendar years, has failed through its Headnote 3(a) watch assembly operation to make a meaningful contribution to the economy of the territory and to the continued development of the duty-free watch assembly industry in the territory, when compared with the performance of the territorial duty-free watch assembly industry as a whole. Among the factors the Departments may consider in taking this action are the producer's utilization of quota, amount of direct labor involved in the assembly of watches and watch movements shipped duty-free into the customs territory of the United States, and the net amount of corporate income taxes paid to the government of the territory. Upon failure of the producer to show cause, deemed satisfactory by the Departments, why such action should not be taken, the firm's quota shall be cancelled and the eligibility of the firm for further allocations terminated. In the event of any quota cancellation or reduction under this section, or in the event a firm voluntarily relinquishes a part of its quota, the Departments will reallocate the quota involved, in a manner best suited to contribute to the economy of the territories, among the remaining producers: Provided, however, That if in the judgment of the Departments it is appropriate, applications from new firms may, in lieu of such reallocation, be invited for any part or all of any unused portions of quotas remaining unallocated as a result of cancellation or reduction hereunder or any quota voluntarily relinquished. Every producer to which a quota is granted is required to file a report (Form DIB-321P) on April 15, July 15 and October 15, of each year covering the periods January 1 to March 31, April 1 to June 30 and July 1 to September 30 respectively supplying all information specified on the report form, copies of which will be forwarded to each producer at its territorial address of record at least 15 days prior to the required reporting date. Copies of Form DIB-321P may also be obtained from the Special Import Programs Division, Office of Import Programs, U.S. Department of Commerce, Washington, D.C. 20230. Each producer to which a quota is granted will also report on Form DIB-321P any change in ownership and control which has occurred subsequent to the filing of an application for a watch quota on Form DIB-334P (see Section 10 below).

SEC. 3. Application forms will be mailed to recipients of initial quota allocations as soon as practicable and must be filed with the Departments on or before January 31, 1977. All data required must be supplied as a condition for annual allocations and are subject to verification by the Departments. In order to accomplish this verification it will be necessary to representatives of the Departments to meet with appropriate officials of quota recipients in the insular possessions in order to have access to company records. Representatives of the Departments plan to perform this verification beginning on or about February 15, 1977, in Guam and American Samoa and beginning on or about March 1, 1977, in the Virgin Islands, and will contact each producer locally regarding the verification of its data.

SEC. 4. (Virgin Islands only). The annual quotas for calendar year 1977 for the Virgin Islands will be allocated as soon as practicable after April 1, 1977, on the basis of (1) the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1976, (2) the dollar amount of wages, up to a maximum of $13,200 per person, paid by such producer in the territory during calendar year 1976 to persons residing in the territory whose pay was attributable to its Headnote 3(a) watch assembly operation, and (3) the total dollar amount of income taxes paid by such producer in the territory during calendar year 1976 attributable to its Headnote 3(a) watch assembly operations, excluding penalty payments and less any income tax refunds and subsidies paid to such producer during calendar year 1976. In making allocations under this formula, a weight of 35 percent will be assigned to Headnote 3(a) production and shipment history, a weight of 50 percent will be assigned to wages paid as specified above, and a weight of 15 percent will be assigned to the total dollar amount of income taxes paid during calendar year 1976 and attributable to Headnote 3(a) watch assembly operations, with the exclusions and deductions specified above.

SEC. 5. (Guam only.) The annual quotas for calendar year 1977 for Guam will be allocated as soon as practicable after April 1, 1977, on the basis of the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1976, and the dollar amount of wages, up to a maximum of $13,200 per person, paid by such producer in the territory during calendar year 1976 to persons residing in the territory whose pay was attributable to its Headnote 3(a) watch assembly operation. In making allocations under this formula, 40 percent will be assigned to production and shipment history and 60 percent to wages as specified above.

SEC. 6. (American Samoa only.) The annual quota for calendar year 1977 will be allocated to the producer in the territory as soon as practicable after April 1, 1977. Policies relative to the allocation of quota in American Samoa are set forth in the Departments' notice of June 9, 1967 (32 FR 8316 et seq.).

SEC. 7. (Virgin Islands and Guam.) For purposes of allocating watch quotas for calendar year 1977 under Sections 4 and 5 above, any watches or watch movements shipped from the Virgin Islands or Guam during calendar year 1976 for duty-free entry into the customs territory of the United States against a producer's 1976 watch quota, and which were lost prior to entry into the customs territory of the United States, shall nevertheless be considered as having been entered into the customs territory for purposes of quota fulfillment: *Provided*, That the Departments have been satisfied that shipment was in fact made but lost prior to entry into the customs territory.

SEC. 8. (Guam only.) In view of the low level of utilization of quota during calendar year 1976, the Departments hereby set aside 150,000 units of the calendar year 1977 Guam quota for possible allocation to new firms. New firms may apply for the set-aside portion of the Guam quota on or before March 1, 1977, or such later date as may be established by the Departments through publication of a notice in the FEDERAL REGISTER. Applicants must complete applicable sections on Form DIB-334P, copies of which may be obtained from the address shown in Section 2 above, and must provide information regarding their experience in watch movement assembly and distribution; anticipated employment of local workers and proposed wage rates; watch movement assembly operations to be performed and types of movements to be assembled in the territory; estimated direct labor costs; anticipated capital investment in the territory; proposed source of financing; and plans for marketing movements assembled in the territory. (By "new firm" is meant an entity which has not heretofore been allocated a quota under Pub. L. 89-805 and which is completely separate from and unassociated with any present producer in terms of ownership and control.) Based on the Departments' evaluation of the information submitted by applicants, the Departments may allocate a part or all of the set-aside portion of the calendar year 1977 Guam quota among those applicants whose proposals, in the judgment of the Departments, offer the likelihood of the greatest contribution to the economy of the territory, and in such a manner as, in the judgment of the Departments, will best serve the interests of the territory. Any part or all of the set aside quotas not allocated under this provision may be reallocated among the 1977 Guam quota recipients in a manner best suited to contribute to the economy of the territory.

SEC. 9. (Guam only.) In the determination of calendar year 1977 initial and annual watch quotas for the new entrant in Guam to which a quota allocation was made pursuant to Section 8 of the Rules for Allocation of Watch Quotas for Calendar Year 1976 (40 FR 59767 et seq.), and which will not have a full year's operation as a basis for computation of a quota for calendar year 1977, the Departments shall take into account these circumstances and make appropriate adjustments.

SEC. 10. The rules restricting transfers of duty-free quotas issued on January 29, 1968 and published in the FEDERAL REGISTER on January 31, 1968 (33 FR 2399), are hereby incorporated by reference as applicable to transfers of quotas issued during calendar year 1977 except that detailed reporting of ownership and control will be reported on April 15, July 15, and October 15, 1977, on Form DIB-321P required in Section 2 above.

Any interested party has the right to petition for the amendment or repeal of the foregoing rules and may seek relief from the application of any of their provisions upon a showing of good cause under the procedures relating to reviews by the Secretaries of Commerce and the Interior (15 CFR 13).

Dated: December 22, 1976.

FRED M. ZEDER,
Director, Office of Territorial Affairs, U.S. Department of the Interior.

DONALD E. JOHNSON,
Deputy Assistant Secretary, Domestic and International Business Administration, Department of Commerce.

[FR Doc.76-38060 Filed 12-27-76;8:45 am]

Office of the Secretary

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES

Executive Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held February 4, 1977 at the Pentagon, Washington, D.C. from 9 a.m. to 4 p.m. and if necessary on February 5, 1977 at the Hotel Washington, 15th and Pennsylvania Avenue, Washington, D.C. from 9 a.m. to 12 p.m. The sessions will be open to the public.

The purpose of this meeting is to plan the program for the semi-annual meeting of the full Committee on April 13-17, 1977. Composed of 25 civilian women, DACOWITS provides the Department of Defense with assistance and advice on matters relating to women in the Armed Forces, to interpret to the public the role of and the need for servicewomen and to encourage the acceptance of military service as a career opportunity.

Members of the public will not be permitted to enter into the oral discussion conducted by the Committee members during the meeting; however, they will be permitted to reply to questions directed to them by members of the Committee. Questions from the public will not be accepted during the Executive Committee session.

Interested persons desiring to make oral presentations, submit written statements for consideration, attend the meeting or receive additional information

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must contact Lucille B. Dion, Consultant to DACOWITS Secretariat, OASD (Manpower and Reserve Affairs), Room 2C263, The Pentagon, Washington, D.C. 20301, telephone (202) 695-5153 no later than January 24, 1977.

DECEMBER 22, 1976.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

[FR Doc.76-37965 Filed 12-27-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 663-1; OPP-210006]

KEPONE LEVELS IN CERTAIN SEAFOOD

Public Hearing

The Environmental Protection Agency recommended to the Food and Drug Administration action levels for Chlordecone (Kepone) in finfish, shellfish and crabs in the first quarter of 1976. The Agency did so with the proviso that a subsequent review of these action levels would take place following the 1976 fishing season in the Chesapeake Bay and the coastal waters of the East Coast, in which the results of the Federal and State monitoring programs for these commodities would be incorporated into the re-evaluation process. The Agency has received data from the Food and Drug Administration and the States of Maryland and Virginia regarding the levels of Kepone found in commodities during 1976, data from the National Marine Fisheries Service regarding catches of finfish in the Chesapeake Bay, and further information from the Virginia seafood industry regarding consumption of commercial finfish. The Agency is now preparing to review its original action level recommendations to FDA concerning these data.

Notice is hereby given, therefore, that pursuant to Section 21(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) et seq.), an informational hearing will be held to solicit comments and information relevant to the Agency's review of the action levels for Kepone in finfish, shellfish and crabs. Two hearings will be held:

January 24—Maryland State Highway Administration, Ground Floor Auditorium, 300 W. Preston, Baltimore MD 21201 at 10:00 a.m.

January 26—Sheraton Motor Inn, Imperial Room, Belvedere and Franklin Streets, Richmond VA 23220 at 10:00 a.m.

Two pertinent documents will be available for public viewing at the address given below after January 10: 1) an explanation of how the current action levels were determined and an assessment of the residue and consumption data submitted to the Agency in 1976 since this original determination; and 2) a document which addresses action levels from the point of view of risk and benefits attendant to varying levels utilizing an alternative risk extrapolation method.

Interested persons are invited to attend either of these meetings and submit oral or written statements if they so desire. A written copy of any oral remarks must be submitted at the time they are made; an advanced copy of such remarks need not be submitted. Written statements will be accepted at either of these meetings or may be mailed to the Office of Pesticide Programs at the address given below. Anyone wishing to attend these meetings is requested to contact Ms. Jan B. Wine for reservations by writing to the Federal Register Section (WH-569), Office of Pesticide Programs, Room 405 East Tower, 401 M St. SW, Washington, D.C. 20460, or by calling (202) 755-4854 by January 14. A schedule of witnesses will be available by January 19.

The comment period will close January 26, and a final recommendation to the Food and Drug Administration will be made by February 11, 1977. All written comments submitted with regard to this notice and subsequent meetings will be available for public inspection in the office of the Federal Register Section, Room 401 East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: December 22, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-38100 Filed 12-27-76;8:45 am]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for license as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

International Service Group, Inc., 1021 Grandview Drive, South San Francisco, CA 94080; Officers: Dan Kromat, President, John Allan, Vice President; Stan Rudney, Secretary/Treasurer.

Soto Forwarding Agency (A. X. Soto, dba), 223 Paredes Line Rd., Brownsville, Texas 78521.

International Moving Service, Inc., 5544 St. Charles Road, Berkeley, IL 60162; Officers: Karl H. Keller, President, Kaye Lori Keller, Secretary/Treasurer.

International Ocean Freight Forwarders (Frank W. Chinn, dba), 30 Amethyst Way, San Francisco, CA 94131.

Cargo, Inc., 5645 Gage, Rosemont, IL 60018; Officers: Ronnie L. Winston, Pres./Treas./Director, Gregory R. Prede, Vice President, Richard T. White, Secretary/Director, Juanita Frede, Asst. Sec./Asst. Treas.

Reacer Export International, 8502 Glen Vista, Houston, TX 77017; Officers: A. W. Cutler, President, Fred Reacer, Vice President, Michael G. Orlando, Director, Carolyn M. Orlando, Director, Victoria L. Clayton, Director.

Maclif Industries Corporation, 11211 Katy Frwy., Suite 605, Houston, TX 77079; Officers: Charles D. McDonald, President, B. F. Clifton, Vice President.

World Commerce Service Inc., 5361 Michigan Avenue, Rosemont, IL 60018; Officers: Edward J. Domek, President, Sandra L. Domek, Vice President.

Ala-Mar Shipping Co., Inc., 2401 N.W. 33rd Avenue, Miami, FL 33142; Officers: Ricardo M. Perdomo, President, Carlos J. Guerra, Vice President, Jose M. Guerra, Secretary/Treasurer.

Robbins, Inc., Box 1025, Miami Airport, Miami, FL 33148; Officers: Allen Robbins, President, Stuart Robbins, Vice President.

Corponic Shipping, Inc., P.O. Box 1125, Miami, FL 33148; Officers: Robert L. Larsh, Treasurer, David Grossman, Vice President.

Comet Air & Ocean Freight Forwarders, 5758 W. Century Blvd., Los Angeles, CA 90045; Officers: Larry Denkler, President, Terry Bealey, Vice Pres./Secretary.

James Lewis Garst, III, 805 Chatfield Court, Box 354, Jamestown, NC 27282.

Schrimer International Inc., 1804 N. Mitchell Avenue, Arlington Heights, IL 60004; Officers: Detleff F. Schirmer, President, Ruth Schirmer, Secretary/Treasurer.

By the Federal Maritime Commission.

Dated: December 22, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-38061 Filed 12-27-76;8:45 am]

JAPAN LINE, LTD., ET AL

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 17, 1970. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Agreement 10274, among Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, and Yamashita-Shinnihon Steamship Co., Ltd., provides for the pooling and apportionment of revenues earned by the parties from their joint containership operations between ports in Japan and ports on the U.S. Atlantic Coast.

By Order of the Federal Maritime Commission.

Dated: December 22, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-38062 Filed 12-27-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP72-142, (PGA77-3)]

CITIES SERVICE GAS CO.

Proposed Changes In FPC Gas Tariff

DECEMBER 20, 1976.

Take notice that Cities Service Gas Company (Cities Service) on December 8, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that pursuant to the Purchased Gas Cost Rate Adjustment provision in Article 21 of the FPC Gas Tariff, it proposes to increase its rates effective January 23, 1977, to reflect increased purchased gas costs. Cities Service states that such increased rates are reflected on Third Revised Sixteenth Revised Sheet PGA-1, as hereinafter described.

Third Revised Sixteenth Revised Sheet PGA-1 reflects a current adjustment of 7.90¢ per Mcf. Such adjustment reflects increases in purchased gas costs other than those increases resulting from Opinion No. 770-A which were included in Cities Service's filing in Docket No. RP72-142 (PGA77-2) effective on December 1, 1976, and one cent quarterly escalation to certain producers in payment for gas which qualified for the $1.42 rate under Opinion No. 770-A.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP72-142 and RP76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37858 Filed 12-27-76;8:45 am]

[Docket No. CP77-31]

COLUMBIA GULF TRANSMISSION CO. AND TENNECO, INC.

Application

DECEMBER 14, 1976.

Take notice that on December 7, 1976, Columbia Gulf Transmission Company and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicants), Post Office Box 683, Houston, Texas, 77001 and Post Office Box 2511, Houston, Texas, 77001, respectively, filed a first amendment to their application in Docket No. CP77-31, for the purpose of authorizing Applicants to deliver transportation gas to Amoco Production Company (Amoco) at an additional point of redelivery in Section 49, Township 6 South, Range 2 East, St. Landry Parish, Louisiana.

Applicants state that their original Application in Docket No. CP77-31, filed on October 26, 1976, requested authorization to transport gas for Amoco and redeliver such gas to Amoco at a point of redelivery in Section 18, Township 13 South, Range 1 East, Vermilion Parish, Louisiana. By an amendment dated December 6, 1976, an additional point of redelivery was added, which is located in Section 49, Township 6 South, Range 2 East, St. Landry Parish, Louisiana. In the event this additional point of redelivery is utilized, an additional rate based on cost of service, will be charged Amoco for the additional transportation service.

Applicants propose no other changes in their application and same remains unchanged except as set forth above.

Any persons desiring to be heard or to make any protest with reference to said amendment should on or before January 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37859 Filed 12-27-76;8:45 am]

[Docket Nos. CI75-119 and RI75-5]

WILLIAM A. JENKINS (OPERATOR), ET AL.

Requests for Waiver

DECEMBER 16, 1976.

Take notice that on November 25, 1976, William A. Jenkins (Operator), et al. (Jenkins), Suite 608, Expressway Terrace Building, 2601 Northwest Expressway, Oklahoma City, Oklahoma 73112, filed a request for waiver of § 157.40(c) of the Commission's regulations in order to make sales of natural gas that are the subject of the above Dockets to Champlin Petroleum Company under Jenkins' small producer certificate at the rate authorized in the above Dockets. Jenkins was issued a small producer certificate in Docket No. CS76-826 on August 4, 1976.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37857 Filed 12-27-76;8:45 am]

[Docket No. ER77-103]

BLACKSTONE VALLEY ELECTRIC CO.

Tariff Change

DECEMBER 20, 1976.

Take notice that on December 8, 1976, Blackstone Valley Electric Company ("Blackstone"), tendered for filing a proposed Supplement No. 4 to its Rate Schedules FPC Nos. 19 and 20 which involve the use of Blackstone transmission facilities in northern Rhode Island by Montaup Electric Company and The Narragansett Electric Company. The Supplements, which are proposed to become effective on December 1, 1976, would have the effect of increasing Blackstone's revenues by less than $50,000.

Copies of this filing were served upon the affected customers, the Massachusetts Department of Public Utilities and the Rhode Island Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of

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practice and procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before December 31, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37993 Filed 12-27-76;8:45 am]

[Project No. 2734]

CAROLINA POWER & LIGHT CO.

Application for Surrender of Preliminary Permit

DECEMBER 20, 1976.

Notice is hereby given that Application for Surrender of Preliminary Permit has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by the Carolina Power & Light Company (Correspondence to: William E. Graham, Jr., Esquire, Vice President and General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602 and Mr. P. Howe, Manager-Technical Services, Carolina Power & Light Company, 336 Fayetteville Street, Raleigh, North Carolina 27502) for the proposed Madison County Pump Storage Project No. 2734, which would have been located in Madison County, North Carolina and Sugar Camp Branch of Big Pine Creek and Pawpaw Creek, tributaries of the French Broad River.

On December 12 ,1974, the Commission issued an order issuing preliminary permit to Carolina Power & Light Company (Permittee) for a period of 36 months to study the feasibility of the proposed 2,000 MW Madison County Pumped Storage Project. The Permittee states that its studies have revealed that the development of this project would not be economically feasible for the company in the foreseeable future; consequently, on September 3, 1976, Permittee filed an application for surrender of the permit.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38003 Filed 12-27-76;8:45 am]

[Docket No. RP72-142; (PGA77-3)]

CITIES SERVICE GAS CO.

Proposed Changes In FPC Gas Tariff

DECEMBER 20, 1976.

Take notice that Cities Service Gas Company (Cities Service) on December 8, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that pursuant to the Purchased Gas Cost Rate Adjustment provision in Article 21 of the FPC Gas Tariff, it proposes to increase its rates effective January 23, 1977, to reflect increased purchased gas costs. Cities Service states that such increased rates are reflected on Third Revised Sixteenth Revised Sheet PGA–1, as hereinafter described.

Third Revised Sixteenth Revised Sheet PGA–1 reflects a current adjustment of 7.96¢ per Mcf. Such adjustment reflects increases in purchased gas costs other than those increases resulting from Opinion No. 770–A which were included in Cities Service's filing in Docket No. RP72–142 (PGA77–2) effective on December 1, 1976, and one cent quarterly escalation to certain producers in payment for gas which qualified for the $1.42 rate under opinion No. 770–A.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP72–142 and RP76–135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37988 Filed 12-27-76;8:45 am]

[Docket No. ER77-104]

CONNECTICUT LIGHT AND POWER CO.

Purchase Agreement

DECEMBER 20, 1976.

Take notice that on December 10, 1976,

Take notice that on December 10, 1976, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units, dated November 1, 1976 between (1) CP&L and The Hartford Electric Light Company (HELCO), and (2) Middleborough Gas and Electric Department (MG&ED).

CL&P states that the Purchase Agreement provides for a sale to MG&ED of a specified percentage of capacity and energy from five gas turbine generating units (Norwalk Harbor, Devon, South Meadow 10, Middletown and Torrington Terminal) during the period from November 1, 1976 to April 30, 1977 together with related transmission service.

CL&P states that questions as to MG&ED's Capability Responsibility Obligation, under the terms of the New England Power Pool (NEPOOL) Agreement, during the Term of this Purchase Agreement affected the amounts of gas turbine capacity that could be purchsed by MG&ED and thus delayed execution of the agreement until a date which prevented the filing of such rate schedule more than thirty days prior to the proposed effective date.

CL&P therefore requests that, in order to permit MG&ED to receive urgently needed capacity, the Commission, pursuant to § 35.11 of its regulations, waive the thirty-day notice period and permit the rate schedule filed to become effective on November 1, 1976.

CL&P states that the capacity charge for the proposed service was a negotiated rate, the monthly transmission charge is equal to one-twelfth of the annual average unit cost of transmission service on the Northeast Utilities (NU) system determined in accordance § 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts of winter capability which MB&ED is entitled to receive, reduced to give due recognition of the payments made by MG&ED for transmission services on intervening systems, and the variable maintenance charge was arrived at through negotiations.

CL&P requests an effective date of November 1, 1976 for the MG&ED agreement.

HELCO has filed a certificate of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut and MG&ED, Middleborough, Massachusetts.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 5, 1977. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37994 Filed 12-27-76;8:45 am]

[Docket No. RP72-157; (PGA77-3)]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

DECEMBER 21, 1976.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on December 9, 1976 tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, pursuant to its PGA clause for rates to be effective January 1, 1977. The proposed rate increase would generate $24.2 million annually in additional jurisdictional revenues.

Consolidated states that the PGA filing was triggered by rate increases filed by Tennessee Gas Pipeline Company, Texas Eastern Transmission Corporation and Texas Gas Transmission Corporation, all for effectiveness January 1, 1977.

Consolidated is requesting a waiver of § 154.22, Notice requirements, of the Commission's Rules and Regulations, stating that it did not receive its supplier rates in sufficient time to make a timely filing. In addition Consolidated requests a waiver of any other of the Commission's Rules and Regulations in order to permit the proposed rates shown on Eighteenth Revised Sheet Nos. 8 and 9 to become effective January 1, 1977.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37997 Filed 12-27-76;8:45 am]

[Docket No. ER77-101]

EL PASO ELECTRIC CO.

Supplemental Agreement

DECEMBER 20, 1976.

Take notice that on December 6, 1976, El Paso Electric Company (El Paso Electric) tendered for filing a supplement to its Export Rate Schedule FPC No. 20 to extend the term thereof to March 31, 1977.

El Paso Electric states that on November 26, 1976 it executed a supplemental agreement with the Comision Federal de Electricidad (CFE), providing for an extended term for its electric service to CFE authorized by the Commission's Order issued October 9, 1970, in Docket No. IT–5762. El Paso Electric states that the filing requests no change in the terms of electrical service previously authorized by the Commission on October 9, 1970, which, with the proposed rate filed with the Commission on November 19, 1976, in Docket No. ER77–69, will have no effect on its other jurisdictional customers. El Paso Electric requests that the supplemental agreement be made effective on November 26, 1976, the date agreed upon by the parties therein.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37980 Filed 12-27-76;8:45 am]

[Docket No. ER77-68]

FLORIDA POWER & LIGHT CO.

Filing of Agreement

DECEMBER 20, 1976.

Take notice that Florida Power & Light Company (FP&L), on December 2, 1976, tendered for filing a Contract for Interchange Service between FP&L and Utilities Commission of the City of New Smyrna Beach, Florida (New Smyrna), dated December 23, 1975. FP&L states that this contract is identical to the contract which was appended to the settlement agreement entered into between FP&L and New Smyrna in FPC Docket Nos. E–8008 and ER76–211, filed with the Commission on February 24, 1976. The settlement agreement was accepted by the Commission by Order issued July 6, 1976.

FP&L states that the rates for service contained in the service schedules attached to the contract conform to interchange agreements for the type of service described therein. Special cost of service studies were not prepared in connection with the derivation of these rates.

Service to New Smyrna under the attached contract is expected to commence on or about December 20, 1976, according to FP&L. FP&L requests that the contract be accepted for filing effective as of the date service does commence. FP&L states that it will notify the Commission of the date service actually commences. FP&L also states that service has been made on New Smyrna in accordance with Section 35.2(d).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37989 Filed 12-27-76;8:45 am]

[Docket No. ER76-169]

GREEN MOUNTAIN POWER CORP.

Filing of Amendment

DECEMBER 20, 1976.

Take notice that, on December 13, 1976, Green Mountain Power Corporation (Green Mountain) tendered for filing an amendment to its September 24, 1975, contract with the Holyoke Gas and Electric Department of the City of Holyoke, Massachusetts (Holyoke), which is designated as Amendment No. 1 to said contract. By this amendment, the terms of the contract are sought to be extended through the following periods:

May 1, 1978 through October 31, 1978, May 1, 1979 through October 31, 1979, May 1, 1980 through October 31, 1980, May 1, 1981 through October 31, 1981.

With its tender, Green Mountain submitted a copy of Amendment No. 1, which was executed by both Green Mountain and Holyoke and is dated October 19, 1976.

Green Mountain stated that a copy of the filing was sent to Holyoke and to the Vermont Public Service Board.

Any person desiring to be heard or to make protest with reference to this filing should, on or before January 5, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing and supporting documents are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37979 Filed 12-27-76;8:45 am]

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[Project No. 2004]

HOLYOKE WATER POWER CO.

Application for Approval of Eastment Over Project Lands

DECEMBER 21, 1976

Public notice is hereby given that an application was filed on October 27, 1976, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, By Holyoke Water Power Company (Correspondence to: Mr. Leon E. Maglathlin, Vice President, Holyoke Water Power Company, One Canal Street,, Holyoke, Massachusetts 01040; and Maurice L. Zilber, Esq., Peabody, Brown, Rowley & Storey, One Boston Place, Boston, Massachusetts 02108) for Commission approval of the grant of an easement over certain lands of the Hadley Falls Project, FPC No. 2004, to the Town of South Hadley, Massachusetts, for the construction, operation, and maintenance of a sanitary sewer line. The affected project lands are located in the Town of South Hadley, Hampshire County, Massachusetts, on the Connecticut River.

The subject easement would permit installation of 730 feet of 30-inch-diameter prestressed concrete pipe in the bed of the South Hadley Canal, and approximately 1,000 feet of 24-inch-diameter reinforced concrete pipe along the shore of the Connecticut River within the project boundary. The sewer line would transport sewage from the northern and central parts of the Town of South Hadley to a wastewater treatment plant near the southern town limits. A safety valve would be provided in the line for the protection of downstream areas in the event of a pipe rupture.

The U.S. Environmental Protection Agency and the Commonwealth of Massachusetts, Division of Water Pollution Control have jointly issued National Pollutant Discharge Elimination System Permit No. MA100455 to the Town of South Hadley pursuant to Section 402 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1342. This permit outlines the timetable pursuant to which the town must proceed with the construction under the approved water pollution control program.

Applicant has requested the shortened procedure provided for under Section 1.32 (b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 9, 1977, file with the Federal Power Commission, 825 N. Capitol St. N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. § 825g and § 825h, and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–38000 Filed 12–27–76;8:45 am]

[Docket No. ES–77–4]

IOWA PUBLIC SERVICE CO.

Application

DECEMBER 20, 1976.

Take notice that on November 17, 1976, Iowa Public Service Company (Applicant) filed an application seeking an order pursuant to §204 of the Federal Power Act authorizing the issuance of up to 1,000,000 shares of Common Stock (par value $5 per share) and of 150,000 shares of Class A Preferred Stock without par value. Applicant proposes to sell the New Common and the New Preferred at competitive bidding in accordance with the applicable requirements of §34.1(a) of the Commission's regulations.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

Applicant proposes to use the proceeds from the issuance of the securities to reduce short-term loans incurred and to be incurred prior to the sale of the securities to secure funds for construction purposes and to meet expenditures for the construction program.

Any person desiring to be heard or to make any protest with reference to said application should, on or before January 4, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37996 Filed 12–27–76;8:45 am]

[Docket No. RM75–14]

JURISDICTIONAL SALES OF NATURAL GAS

Order Extending Period for Producer Rate Filings Under Opinion No. 770–A

DECEMBER 20, 1976.

In the matter of National rates for jurisdictional sales of natural gas dedicated to interstate commerce on or after January 1, 1973, for the period January 1, 1975, to December 31, 1976.

On November 5, 1976, the Commission issued its Opinion No. 770–A, modifying in part Opinion No. 770. Therein, the Commission reduced the rate previously prescribed in Opinion No. 770 from $1.01 per Mcf to $0.93 per Mcf, plus a 1 cent per annum escalator, for 1973–1974 biennium gas, and clarified the applicability of the rates prescribed. The Commission required all producers to either amend their original rate filings in accordance with such revisions or to file an affidavit indicating that their prior rate filings were in accordance with the policy enunciated in Opinion No. 770–A. Such amended filings or affidavits were to be filed by November 12, 1976.

After a preliminary analysis of the rate filings submitted pursuant to Opinion No. 770–A, it is apparent that larger producers were able to secure copies of that opinion in time to comply with the required filing date. However, certain smaller producers,[1] which relied upon receipt of mailed copies of Opinion No. 770–A, were unable to make timely filings within the limited period provided in that opinion.

In order to avoid any inequity arising from the delay of notice of the required filing, we will provide a grace period within which contractually authorized rate filings will be accepted. Any producer filing made on or before November 30, 1976, will be nunc pro tunc and will be treated as having been filed by November 12, 1976.

The pipeline tracking filings presently reflect producer purchases timely filed pursuant to Opinion No. 770–A. Since adoption of a grace period would permit additional producer increases to be retroactive to July 27, 1976, the pipeline purchasers will incur additional gas purchase costs which cannot be recouped until their next PGA filings. Therefore, any affected pipeline purchasers shall carry these additional gas purchase costs with appropriate interest until their next regular PGA filing, unless they can show that such costs warrant approval of an immediate special tracking filing.

The Commission orders. (A) The November 12, 1976 filing date for contractually authorized increased rate filings, as provided in Ordering Paragraph (B) of Opinion No. 770–A, is hereby extended to November 30, 1976.

(B) Any jurisdictional pipeline company affected by the extension of the filing period referenced in paragraph (A) above, shall carry the additional purchased gas costs, with appropriate interest, until their next regular PGA filing.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37976 Filed 12–27–76;8:45 am]

[1] This does not include "small producers" who are exempt from such filing requirements under § 157.40 of the Commission's Regulations.

[Docket No. ER77–106]

KANSAS CITY POWER & LIGHT CO.

Filing of Change in Rate Schedule

DECEMBER 20, 1976.

Take notice that on December 13, 1976, Kansas City Power & Light Company ("KCPL") tendered for filing a Municipal Wholesale Firm Power Contract dated November 1, 1976, between KCPL and the City of Armstrong, Missouri. KCPL requests an effective date thirty (30) days after filing. The Contract terminates the Municipal Wholesale Firm Power Contract, dated October 3, 1976, KCPL Rate Schedule FPC No. 62, and provides for rates and charges for wholesale firm power service by KCPL to the City of Armstrong.

KCPL states that the proposed rates are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Power Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20246, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 7, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37981 Filed 12–27–76;8:45 am]

[Project No. 2640]

KANSAS CITY STAR CO.

Application for Use of Project Property

DECEMBER 20, 1976.

Public notice is hereby given that application for approval of use of project property was filed on October 14, 1976, and supplemented on November 4, November 11, and November 16, 1976, under the Federal Power Act (16 U.S.C. 791a–825r) by The Kansas City Star Company, Flambeau Paper Division (correspondence to: Mr. Norman G. Hoefferle, President, The Flambeau Paper Company, Park Falls, Wisconsin 54552) for its constructed Upper Hydro-Electric Project, FPC No. 2640, located on the North Fork of the Flambeau River in the City of Park Falls, Price County, Wisconsin. The Licensee seeks permission to construct a fire access road, bridge, and blow tank along the west bank of the powerplant headrace, within the project boundary.

The access road would extend 230 feet along the canal and would require riprapping of that section of the canal bank. The bridge, 15 feet in width and 90 feet in length, would be supported over the water on bearing piles and would connect the access road with the blow tank. The blow tank would be built partly on shore and partly on sand and/or gravel fill placed behind sheet piling in the headrace. Maximum dimensions of the blow tank foundation and necessary working area would be 47 feet by 27 feet. The blow tank and access road would be integral portions of Licensee's proposed counter-current, pulp-washing installation, which is necessary in order to comply with the pollution abatement program ordered by the Wisconsin Department of Natural Resources (Permit No. 0003212) to meet the prescribed pollution limits set by the United States Environmental Protection Agency by June 30, 1977. The effluent from the treatment plant will be discharged into the powerhouse intake just above the No. 1 water wheel by a pipeline about 388 feet long which will be located within the project boundary.

Applicant has requested the shortened procedures pursuant to Section 1.32(b) of the Commission's Regulations under the Federal Power Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 31, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. §§ 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b), as amended by Order No. 518 a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard protest or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised further notice of hearing will be given.

Under the shortened procedure herein provided for unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the earing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–38002 Filed 12–27–76;8:45 am]

[Docket No. RP73–23; (PGA77–4a)]

LAWRENCEBURG GAS TRANSMISSION CORP.

Filing of Substitute Gas Tariff Sheets

DECEMBER 20, 1976.

Take notice that on December 10, 1976 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two (2) substitute gas tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on December 7, 1976, proposed to become effective January 1, 1977 and identified as follows:

Substitute Seventh Revised Sheet No. 4.
and Substitute Sixth Revised Sheet No. 18.

The proposed changes contained therein would increase revenues from jurisdictional sales by $183,656 as compared to revenues at the current rates in effect since December 1, 1976, based on the 12 months ending October 31, 1976.

Lawrenceburg states that, pursuant to the purchased gas adjustment (PGA) provision in its FPC Gas Tariff, First Revised Volume No. 1, it filed on November 26, 1976 Seventh Revised Sheet No. 4 and Sixth Revised Sheet No. 18 in order to track a proposed increase in its cost of gas purchased from Texas Gas Transmission Corporation (Texas Gas) filed on November 24, 1976 and proposed to become effective January 1, 1977. On December 6, 1976 Texas Gas filed to revise its proposed January 1, 1977 rates because of a change in the underlying rates of its suppliers, thereby prompting Lawrenceburg to file substitute tariff sheets as noticed herein.

Lawrenceburg requests an effective date of January 1, 1977 on its proposed tariff sheets and requests that the Com-

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mission waive its notice requirements, as required, in order that its proposed tariff sheets can become effective on that date.

Lawrenceburg states that copies of this filing have been mailed to its two wholesale customers and to the interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37982 Filed 12-27-76;8:45 am]

[Docket No. ER77-105]

MINNESOTA POWER & LIGHT CO.

Filing of Agreement

DECEMBER 20, 1976.

Take notice that on December 10, 1976, Minnesota Power & Light Company (MP&L) tendered for filing Supplement No. 2 dated July 30, 1976, supplemental to MP&L's Export Rate Schedule FPC No. 122, the Interconnection, Facilities and Coordinating Agreement with Minnkota Power Cooperative, Inc. and the Manitoa Hydro Electric Board.

This Supplement amends Exhibit D revising Service Schedules B, G, H and I to adjust rates for power and energy and conforming the rates to those for similar service on file in the Mid-Continental Area Power Tool Agreement, NSP–FPC Rate Schedule No. 377, et al as supplemented by amendments thereto filed May 23, 1975.

MP&L requests that the Agreement become effective as of November 10, 1976, pursuant to § 35.11, because the electric facility which this Agreement exclusively pertains to become commercially operable on that date.

Service on Minnkota Power Cooperative and Manitoba Hydro Electric Board has been made in accordance with § 35.2(d).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 5, 1977.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37984 Filed 12-27-76;8:45 am]

[Docket No. CP75-126]

NORTHERN NATURAL GAS CO.

Petition To Amend

DECEMBER 20, 1976.

Take notice that on December 3, 1976, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP75-126 pursuant to Section 7(c) of the Natural Gas Act a petition to amend the Commission's order of January 17, 1975 in said docket to authorize an increase from 12,800 Mcf to 25,600 Mcf in the daily maximum volume allowed to be transported and delivered to Northern States Power Company (NSP) all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that pursuant to the terms of a transportation agreement, dated October 2, 1974, between Petitioner and NSP and the order of the Commission in said docket, Petitioner is authorized to transport by displacement up to 12,800 Mcf of vaporized liquified natural gas (LNG) for NSP. It is stated that the authorized transportation by displacement is carried out in the following manner: When Northern vaporizes LNG volumes at its Westcott Plant located south of St. Paul, Minnesota, Petitioner reduces the volume it otherwise would deliver to NSP at transfer points south of St. Paul by an amount equal to the volume vaporized up to a maximum reduction of 12,800 Mcf. A volume of gas equivalent to the vaporized volume is then delivered to a transfer point north of St. Paul. The southern transfer points, it is indicated, are St. Paul TBS No. 1–p and St. Paul TBS No. 1–q and the northern point is Lake Elmo TBS No. 1–b. It is further indicated that the present transportation agreement assists NSP to serve the northern and northeastern areas of St. Paul during peak periods.

Petitioner seeks authorization to increase the maximum daily volume from the current 12,800 Mcf to 25,600 Mcf. It is stated that to minimize the effect of increased volumes on the flow conditions of Petitioner's system, NSP will not be allowed to increase the hourly flow rate through Lake Elmo TBS No. 1–b by more than 200 Mcf per hours nor decrease the rate by more than 400 Mcf per hour. It is further stated that the purpose of the proposed amendment is to enable NSP more adequately to meet the needs of its firm and small volume customers served in its northern and northeastern areas and to maintain distribution system security.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37983 Filed 12-27-76;8:45 am]

[Docket No. CP76-389]

NORTHWEST PIPELINE CORP.

Amendment

DECEMBER 20, 1976.

Take notice that on December 1, 1976, pursuant to Section 1.11(a) of the Commission's Rules of Practice (18 CFR 1.11(a)), Northwest Pipeline Corporation, Post Office Box 1526, Salt Lake City, Utah 84110 (Applicant) filed in Docket No. CP76-389 an amendment to its pending application for a certificate of public convenience and necessity filed pursuant to Section 7(c) of the Natural Gas Act on June 10, 1976, in said docket. The amendment requests authorization to (1) deliver up to 27,000,000 Mcf of natural gas

to Mountain Fuel Resources, Inc. (Resources) during the 1977 injection season for injection into the Clay Basin Storage Field for storage; (2) withdraw therefrom of up to 9,400,000 Mcf of natural gas during the 1977–78 withdrawal season; and, (3) change certain billing procedures for the 1976–77 period, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that in its application filed June 10, 1976 in said docket, it sought authorization to utilize natural gas storage service provided by Resources. To effectuate its proposal, it is indicated, Applicant requested particular authorization for:

1. The delivery of natural gas to Mountain Fuel Supply Company (Mt Fuel) during the summer of 1976 for the purpose of delivering volumes of natural gas to Resources by Mt. Fuel for Applicant's account for storage and ultimate redelivery by Resources of a portion of the volumes so delivered for storage.

2. The contractual storage arrangement with Resources for the purpose of delivering and receiving volumes of natural gas from Applicant for storage and redelivery by Resources.

3. The construction and operation during 1976 of a tap connection on Applicant's main transmission system.

4. The injection of cushion gas during the summer of 1976 into the Dakota Formation of the Clay Basin Field to be operated by Resources.

5. Injection of additional cushion gas during the summers of 1977 and 1978.

6. The construction and operation of certain mainline transmission facilities during calendar year 1978.

Applicant states that a temporary certificate authorizing 1, 2, 3, and 4 above was issued on July 19, 1976 and that it has been authorized to use said storage service since that date.

In addition, Applicant states that its original filing in said docket was predicated upon the Clay Basin Storage Agreement (Agreement) dated June 8, 1976, between Applicant and Resources. On November 5, 1976, it is stated, the parties amended the Agreement to revise the level of operations for 1977–78 and to change the billing procedure for deliveries, storage and withdrawals occurring in 1976–77. It is stated that Applicant in its amended filing seeks approval for the following amendments to the Agreement: (a) a decrease in the injection of working gas during the 1977 injection season and a decrease in the withdrawal of same during the 1977–78 withdrawal season from 10,000,000 Mcf to 9,400,000 Mcf; (b) an increase in the minimum volume of cushion gas required as of November 1, 1977 from 10,219 Mcf to 17,600,000 Mcf; (c) an increase in the maximum daily injection rate during the 1977 injection season from 100,000 Mcf to 225,000 Mcf; and, (d) a change in billing procedure for 1976–77 whereby the demand component of its charges would be revised from a fixed monthly charge to a charge based on cost-of-service. Applicant states that under these amendments to its Agreement and application it will deliver up to 27,000,000 Mcf of natural gas to Resources during the 1977 injection season for storage, to be allocated about 17,600,000 Mcf to cushion gas and 9,400,000 Mcf to working gas. Said cushion gas requirement would be reduced by the volume of natural gas remaining in storage as of March 30, 1977 or about 335,000 Mcf, it is indicated.

Applicant states that, although not specifically agreed to, the level of service for the period beyond 1977–78 would be as set forth in the original Agreement. It is further stated that the cushion gas required to support the 1978–79 withdrawal season is estimated to be 23,700,000 Mcf.

Applicant states that the grant of the authorizations requested would permit Applicant to increase its summer purchases including those from Westcoast Transmission Company Limited and to utilize that gas to assist Applicant in meeting the heating season requirements of all of its customers within their respective present contract demand.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who already have filed in the subject docket need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37987 Filed 12-27-76;8:45 am]

[Docket No. RM76-36]

POLICY STATEMENT REGARDING LIMITED-TERM SALES

Order Dismissing Petition for Revision

DECEMBER 20, 1976.

On August 20, 1976, the "Industrial and Agricultural Consumers"[1], filed in Docket No. RM76-36, a Petition for Notice of Proposed Rulemaking concerning the current procedures permitting limited-term sales to interstate pipelines. Petitioners alleged that the limited-term certificate procedure, as set forth in Section 2.70 of the Commission's Regulations, is no longer an effective mechanism for obtaining emergency gas supplies from the intrastate markets to ameliorate the effects of curtailments. Petitioners suggest that the current procedure should be revised to conform to an earlier procedure established under Order No. 431 whereby proof was required only as to the reasonableness of the price and the need of the purchasing pipeline.

In Opinion No. 699[2], the Commission eliminated limited-term certificates; however, in Opinion 699–B[3], the Commission reinstituted the procedure due to the level of curtailment of the interstate pipeline systems. In so doing, the Commission added a third condition whereby a producer seeking limited-term sale of gas has the additional burden of proving that the supply would be available only for the limited period for which the certification was sought. Petitioners argue that this added condition has "effectively eliminated (the) procedure and meaningful contributions of new gas to the interstate market."

The rationale for the imposition of the third condition was that prior to Opinion No. 699–B, a producer was free to negotiate short-term commitments of natural gas for the sole purpose of maintaining his freedom to renegotiate future contracts at a higher price at the expiration of a term. The Commission concluded that the producer should be required to demonstrate by substantial evidence in an administrative hearing that the underlying reason for selling the gas supply to the interstate market for a limited-term is other than to seek a higher price at its expiration. The Commission intended to eliminate a possible vehicle for circumventing regulation.

This Commission has set a policy of encouraging that allocation of new reserves to the interstate market. In establishing a new national rate of $1.42 per Mcf, we have promulgated a rate which will encourage increased drilling activity and place interstate pipelines in a more competitive position in onshore markets. No longer does this Commission want to establish procedures which have a "band-aid effect" in dealing with natural gas crisis. Such measures have proved to provide solely temporary help to the curtailed interstate pipeline system rather than any long-term benefit.

The Commission orders. The petition filed by the Industrial and Agricultural Consumers, in Docket No. RM76-36, on August 20, 1976, is hereby dismissed without prejudice.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37977 Filed 12-27-76;8:45 am]

[1] This is a self-styled group of individual companies.

[2] *Just and Reasonable National Rates for Sales of Natural Gas From Wells Commenced On Or After January 1, 1973, And New Dedications Of Natural Gas To Interstate Commerce On Or After January 1, 1973*, Opinion No. 699, *et al.*

[3] 52 FPC 700 (1974)

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[Docket No. RP72-121; (PGA77-2)]

SOUTHWEST GAS CORP.

Filing of Tariff Sheet

DECEMBER 20, 1976

Take notice that on November 26, 1976, Southwest Gas Corporation (Southwest) tendered for filing First Substitute Eighteenth Revised Sheet No. 3A, constituting Original PGA–1 in its FPC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to increase the rates of Southwest under its Purchased Gas Adjustment Clause in Section 9 of its General Terms and Conditions contained in its FPC Volume No. 1.

Southwest states the instant notice of change in rates is occassioned solely by an increase in the cost of purchased gas which will become effective on January 1, 1977.

Southwest has requested an effective date of January 1, 1977 and states that copies of the filing have been mailed to the Neveda Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and the California-Pacific Utilities Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37985 Filed 12–27–76;8:45 am]

[Docket No. E–7201]

SOUTHWESTERN POWER ADMINISTRATION, DEPARTMENT OF THE INTERIOR

Further Extension of Time

(DECEMBER 21, 1976).

On December 7, 1976, the Sam Rayburn Dam Electric Cooperative, Inc., filed a motion for a further extension of time to comment on the request for confirmation and approval of a contract rate of compensation for the power and energy generated at the Sam Rayburn Dam Reservoir Project, filed October 4, 1976, in the above-styled proceeding. The comment period was extended to December 13, 1976, by Notice issued November 9, 1976.

Upon consideration, notice is hereby given that a further extension of time is granted to and including January 7, 1977, within which to comment on the subject filing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37999 Filed 12–27–76;8:45 am]

[Docket No. RP71–11 (PGA77–1a)]

TENNESSEE NATURAL GAS LINES, INC.

Proposed Rate Change Under Tariff Rate Adjustment Provisions

DECEMBER 20, 1976.

Take notice that on December 9, 1976, Tennessee Natural Gas Lines, Inc. "Tennessee Natural") tendered for filing proposed changes to First Revised Volume No. 1 of its FPC Gas Tariff to be substituted for tariff sheets which previously became effective on November 1 and December 1, 1976. Such proposed tarriff sheets and the sheets for which they are proposed to be substituted are:

Substitute Eighteenth Revised Sheet PGA–1 in substitution for Eighteenth Re-Revised Sheet No. PBA–1 which became effective in Docket No. RP71–11 (PGA 77–1) December 1, 1976;

Substitute Thirteenth Revised Sheet. No. PGA–2 in substitution for Thirteenth Revised Sheet No. PGA–2 which became effective in Docket No. RP71–11 (PGA77–1) on December 1, 1976;

Substitute Second Revised Sheet No. 4–A in substitution for Second Subsitute First Revised Sheet No. 4–A, which became effective in Docket No. RP76–99 on November 1, 1976;

Substitute First Revised Sheet No. 4–B in substitution for First Revised Sheet No. 4–B which became effective in Docket No. RP76–99 on November 1, 1976.

Tennessee Natural states that the sole purpose of the proposed substitutions is to correct errors on the sheets proposed to be replaced which were discovered after such sheets became effective and which results in an overstatement of the commodity rate after current adjustment set forth on Sheet Nos. PGA–1 and PGA–2. Tennessee Natural further states that such error results, in turn, from an error contained in the statement and effective date of its sole supplier's rate, contained on Sheet Nos. 4–A and 4–B, which is used in computation of its PGA rate changes.

Tennessee Natural further advises the Commission that it has discovered that, although the same has operated correctly in the past, in the future due to changed circumstances the PGA provisions of its tariff as applied to its SWS–1 Rate Schedule (for service from its LNG storage facility) may result in Tennessee Natural recovering rate changes of its supplier on a time period basis different than the Commission may have intended; that if such is the case, the PGA provisions of its tariff as applied to its SWS–1 Rate Schedule will have to be changed and that the same will be complex and will require time and study to work out. Tennessee Natural states its belief that the proper forum for working out such problems, if any, would be its general rate proceeding in Docket No. RP76–99. Tennessee Natural states that, in the meantime, it voluntarily agrees that it will collect the PGA increase in the commodity component of its SWS–1 Rate Schedule beginning December 1, 1976 subject to refund and will refund back to such date any amounts collected thereunder in excess of the rates it would have collected under any revised PGA clause applicable to its SWS–1 rate schedule which may finally be approved.

Tennessee Natural states that copies of the filing have been mailed to its jurisdictional customer and the affected state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. This notice does not provide for consolidation of the captioned proceedings and any party desiring to protest or intervene in either proceeding should file separately in either docket. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37991 Filed 12–27–76;8:45 am]

[Docket No. RP71–11 (PGA77–2)]

TENNESSEE NATURAL GAS LINES, INC.

Proposed Rate Change Under Tariff Rate Adjustment Provisions

DECEMBER 20, 1976.

Take notice that on December 9, 1976, Tennessee Natural Gas Lines, Inc. ("Tennessee Natural") tendered for filing proposed changes to First Revised Volume No. 1 of its FPC Gas Tariff to be effective on January 1, 1977, consisting of the following revised tariff sheets:

Nineteenth Revised Sheet No. PGA–1 and Fourteenth Revised Sheet No. PGA–2.

Tennessee Natural states that the purpose of the instant filing is to make a PGA rate adjustment pursuant to the purchased gas adjustment provisions of Rate Schedule G–1 and SWS–1 of its FPC Gas Tariff to reflect a PGA rate change of its sole supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. ("Tennessee Gas"), filed on or about December 1, 1976 and proposed to become effective on January 1, 1977.

Tennessee Natural further advises the Commission that it has discovered that, although the same has operated correctly in the past, in the future due to changed circumstances the PGA provisions of its tariff as applied to its SWS–1 Rate Schedule (for service from its LNG storage facility) may result in Tennessee Natural recovering rate changes of its supplier on a time period basis different than the Commission may have intended; that if such is the case, the PGA provisions of its tariff as applied to its SWS–1 Rate Schedule will have to be changed and that the same will be complex and will require time and study to work out. Tennessee Natural states its belief that the proper forum for working out such problems, if any, would be its general rate proceeding in Docket No. RP76–99. Tennessee Natural states that, in the meantime, it voluntarily agrees that it will collect the PGA increase in the commodity component of its SWS–1 Rate Schedule (for service from its LNG storage facility) may result in Tennessee Natural recovering rate changes of its supplier on a time period basis different than the Commission may have intended; that if such is the case, the PGA provisions of its tariff as applied to its SWS–1 Rate Schedule will have to be changed and that the same will be complex and will require time and study to work out. Tennessee Natural states its belief that the proper forum for working out such problems, if any, would be its general rate proceeding in Docket No. RP76–99. Tennessee Natural states that, in the meantime, it voluntarily agrees that it will collect the PGA increase in the commodity component of its SWS–1 Rate Schedule (Sheet No. PGA–2 tendered for filing) subject to refund and will refund back to the effective date thereof any amounts collected thereunder in excess of the rates it would have collected any revised PGA clause applicable to its SWS–1 rate schedule which may finally be approved.

Tennessee Natural states that copies of the filing have been mailed to its jurisdictional customer and the affected state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. This notice does not provide for consolidation of the captioned proceedings and any party desiring to protest or intervene in either proceeding should file separately in either docket. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37992 Filed 12–27–76; 8:45 am]

[Docket No. RP74–41; (PGA72–2a)]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

DECEMBER 21, 1976.

Take notice that Texas Eastern Transmission Corporation on December 7, 1976 tendered for filing proposed changes in its FPC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Substitute Twenty-seventh Revised Sheet No. 14.
Substitute Twenty-seventh Revised Sheet No. 14A.
Substitute Twenty-seventh Revised Sheet No. 14B.
Substitute Twenty-seventh Revised Sheet No. 14C.
Substitute Twenty-seventh Revised Sheet No. 14D.

These sheets are being issued in substitution for sheets filed by Texas Eastern on November 17, 1976 pursuant to the Demand Charge Adjustment Commodity Surcharge provision and Purchased Gas Cost Adjustment provision contained in Section 12.4 and 23, respectively, of the General Terms and Conditions of Texas Eastern's FPS Gas Tariff, Fourth Revised Volume No. 1. This substitute filing reflects a net reduction from such November 17, 1976 filing based on a revision of the impact of Opinion No. 770–A on Texas Eastern's cost of purchased gas from its pipeline and producer suppliers and a partial reduction in DCA Commodity Surcharges.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37998 Filed 12–27–76;8:45 am]

[Docket No. PR72–156\(PGA77–2a)]

TEXAS GAS TRANSMISSION CORP.

PGA Filing To Track the Reduced Rates of a Pipeline Supplier

DECEMBER 20, 1976.

Take notice that on December 6, 1976, Texas Gas Transmission Corporation (Texas Gas) submitted for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, Substitute Seventeenth Revised Ssheet No. 7.

Substitute Seventeenth Revised Sheet No. 7 is being filed to reflect the reduced rates of a pipeline supplier, Texas Eastern Transmission Corporation (Texas Eastern) which will become effective January 1, 1977.

The proposed effective date of Substitute Seventeenth Revised Sheet No. 7 is January 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–37986 Filed 12–27–76;8:45 am]

[Docket Nos. RP71–31, RP72–78, RP73–3, AR61–2 and AR69–1, *et al.* (Disputed Zone)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Approving Refund Plan and Directing Release of Refunds

DECEMBER 21, 1976.

On March 1, 1976, Transcontinental Gas Pipe Line Corporation (Transco) filed with the Commission a proposal to distribute to its jurisdictional customers $734,486.56 in refunds received from certain suppliers for the period January 1, 1971, through September 30, 1973. Transco states that said refunds have been made by its suppliers pursuant to Commission order issued December 9, 1975, in *Area Rate Proceeding, et al. (Southern Louisiana Area)*, Docket Nos. AR61–2 and AR69–1, *et al.* (Disputed Zone). Under Transco's proposal, refunds will be made by crediting the Deferred Purchased Gas Cost Account.

Notice of the instant filing was issued on March 8, 1976, providing that any comments or protests should be filed on or before March 19, 1976. No responses have been received.

Review of Transco's proposed refund plan indicates that it is reasonable and should be approved. Accordingly, Transco shall be ordered to refund the amount in question by crediting its Deferred Purchased Gas Cost Account within 10 days of the date of issuance of this order.

The Commission finds. It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that Transco be ordered to distribute the refunds discussed herein by crediting the subject amount to its Deferred Purchased Gas Cost Account.

The Commission orders. (A) Transco is hereby directed to release, within 10 days of issuance of this order, the refunds discussed herein by crediting its Deferred Purchased Gas Cost Account.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–38001 Filed 12–27–76;8:45 am]

V41250 DEC 28 76 UMI

[Project No. 848]

WELLS RURAL ELECTRIC CO.

Issuance of Annual License(s)

DECEMBER 20, 1976.

On July 14, 1954, a license was issued to Wells Rural Electric Company for Project No. 848, located in Elko County, near the town of Wells, Nevada.

The license for Project No. 848 was issued effective December 14, 1953, for a period ending December 13, 1973. Since expiration of the original license, the project has been maintained and operated under annual license, the most recent of which will expire on December 13, 1976. In order to authorize the continued operation and maintenance of the project, pending the filing and completion of Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Wells Rural Electric Company.

Take notice that an annual license is issued to Wells Rural Electric Company for the period December 14, 1976, to December 13, 1977, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 848 subject to the terms and conditions of the original license. Take further notice that if issuance of a new license does not take place on or before December 13, 1977, a new annual license will be issued each year thereafter, effective December 14 of each year, until such time as a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37990 Filed 12-27-76;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1976 No. 49]

APPLICATIONS AND REPORTS

Actions of the Board

Received during the week ending December 4, 1976.

ACTIONS OF THE BOARD

Regulation U, notice of further revisions to revised Form U-1, "Statement of Purpose of a Stock-Secured Extension of Credit by a Bank".

Individual Retirement Accounts, the Federal Reserve System is conducting a one-time survey of the outstanding amount of IRA deposits as of December 31, 1976; letter and general instructions to all Federal Reserve Banks.

Amendment to Rules Regarding Delegation of Authority, specific functions delegated to Board employees and to Federal Reserve Banks.

Fidelity Union Bancorporation, Newark, New Jersey, extension of time within which to open an office located at the intersection of Routes Nos. 10 and 202 in Parsippany-Troy Hills, New Jersey.[1]

Bank of Elmore Company, Elmore, Ohio, to make an investment in bank premises.[1]

Harris Trust and Savings Bank, Chicago, Illinois, to make an investment in bank premises.[1]

Liberty State Bank & Trust, Hamtramck, Michigan, to make an investment in bank premises.[1]

First Trust & Deposit Company, Syracuse, New York, extension of time within which to establish an office in the immediate neighborhood of the intersection of the West Entry Road and Willett Parkway, Radisson, Town of Lysander, New York.[1]

First Virginia Bank of Roanoke Valley, Roanoke, Virginia, extension of time within which to establish a branch at 231 College Avenue, Salem, Virginia.[1]

Deregistration statement for lenders pursuant to Regulation G for D. H. Baldwin Company and for Eagle-Picher Industries, Inc., both of Cincinnati, Ohio.[1]

Deregistration statement for lenders pursuant to Regulation G for Gasco, Inc., Honolulu, and for Retirement System of Hawaiian Telephone Company, Honolulu, Hawaii.[1]

Deregistration statement for lenders pursuant to Regulation G for Coastal Bend Production Credit Association, Robstown, West Texas Production Credit Association, Houston, Rolling Hills Production Credit Association, Jasper, and for Republic National Life Insurance Company, Dallas, Texas.[1]

Jackson Exchange Bank, Jackson, Missouri, application for permission to exercise general trust powers.[1]

Peoples-Liberty Bank and Trust Company, Covington, Kentucky, request for permission to reduce its capital stock.[1]

Bank of America N.T. & S.A., San Francisco, California, extension of time to December 23, 1977, within which to acquire shares of European Brazilian Bank Ltd., London, presently held by Bank of America International S.A., Luxembourg and its wholly-owned subsidiary, Bank of America International Ltd., London.[1]

Banco Nacional S.A., Rio de Janeiro, Brazil, letter to New York State Banking Department interposing no objection to Bank establishing a branch at 2 Wall Street, Borough of Manhattan, New York.[1]

Nippon Fudosan Bank Ltd., Tokyo, Japan, letter to New York State Banking Department interposing no objection to Bank establishig a branch at 2 Wall Street, Borough of Manhattan, New York.[1]

Barnett Bank of North Pensacola, Escambia County, Florida, proposed merger with Barnett Bank of Pensacola, Pensacola, Florida; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Deposit National Bank, DuBois, Pennsylvania, proposed merger with Farmers and Merchants Bank, St. Marys, Pennsylvania; report to the Comptroller of the Currency on competitive factors.[1]

Farmers and Traders Bank, Wrightstown, Wisconsin, proposed acquisition by West Bank and Trust, Green Bay, Wisconsin; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

First Bank of Athol (National Association), Athol, Massachusetts, proposed merger with The First National Bank of Athol, Athol, Massachusetts; report to the Comptroller of the Currency on competitive factors.[1]

Midlantic National Bank/West, Morristown, New Jersey; proposed merger with Midlantic National Bank, Newark, New Jersey; report to the Comptroller of the Currency on competitive factors.[1]

Subsidiaries of Flagship Banks, Inc., Miami Beach, Florida, proposed merger with Flagship Bank of St. Petersburg, N.A., St. Petersburg, Florida; report to the Comptroller of the Currency on competitive factors.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

NOTE.—The H.2 release is now published in the FEDERAL REGISTER. It will continue to be sent, upon request, to anyone desiring a copy.

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

The Central Trust Company of Canal Winchester, Canal Winchester, Ohio: Branch to be established at Waggoner Road and East Main Street, Reynoldsburg, Franklin, Fairfield, and Licking Counties.[1]

Harris Trust and Savings Bank, Chicago, Illinois. Branch to be established in the Board of Trade Building, 141 West Jackson Boulevard, Chicago.[1]

Bank of Houston, Houston, Texas. To establish a drive-in facility to be located directly across Fannin Street from existing bank premises.[1]

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To Become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

First Northwestern Trust Company of South Dakota, Sioux Falls, South Dakota.[1]

The Garden of the Gods Bank, Colorado Springs, Colorado.[1]

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To Establish an Overseas Branch of a Member bank Pursuant to Section 25 of the Federal Reserve Act.

APPROVED

Detroit Bank and Trust Company: Branch—George Town, Grand Cayman, Cayman Islands.

To Organize or Invest in a Corporation Doing Foreign Banking and Other Foreign Financing Pursuant to Section 25 of 25(a) of the Federal Reserve Act.

APPROVED

Chemical Bank: Re: To organize an Edge Corporation to be known as "Chemco International, Inc."

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International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Bank of America: Investment—additional shares of corner Banca S.A., Switzerland, in order to maintain its 20.7 per cent interest.

Banco di Roma, S.P.A., Rome, Italy: Reconsideration of divestiture of stock of Euro-Partners Securities Corp., New York.

Bamerical International Financial Corporation: To continue to hold the shares of BankAmerica Finance, Ltd., Reading, England, after the latter issues debt obligations.

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To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

[1] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

APPROVED

Crestwood Banking Company, Ltd., Crestwood, Kentucky, for approval to acquire 80 per cent or more of the voting shares of Crestwood State Bank, Crestwood, Kentucky.

Stillwater Holding Company, Stillwater, Minnesota, for approval to acquire 80.02 per cent of the voting shares of The First National Bank of Stillwater, Stillwater, Minnesota.[1]

Windsor Bancshares, Inc., Windsor, Missouri, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of The Citizens Bank of Windsor, Windsor, Missouri.[1]

West Texas Bancorporation, Inc., Post, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of The First National Bank of Post, Post, Texas.[1]

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To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

CB&T Bancshares, Inc., Columbus, Georgia, for approval to acquire 51 per cent or more of the voting shares of Commercial Bank, Thomasville, Georgia.

CB&T Bancshares, Inc., Columbus, Georgia, for approval to acquire 51 per cent or more of the voting shares of La Grange Banking Company, La Grange, Georgia.

First National Financial Corporation, Kalamazoo, Michigan, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Grand Rapids Bank, National Association, Grand Rapids, Michigan.[1]

Evans Insurance Agency, Inc., Billings, Oklahoma, for approval to retain 411 of the voting shares of The First State Bank in Billings, Billings, Oklahoma.

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To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

DELAYED

Shawmut Corporation, Boston, Massachusetts, notification of intent to engage in de novo activities (agricultural commodity financing, and servicing such financing and related and incidental activities and in general, making, servicing, or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities) at 4701 Marion Street, Denver, Colorado, through a subsidiary, American Cattle and Crop Services Corporation (11/29/76).[1]

Virginia National Bankshares, Inc., Norfolk, Virginia, notification of intent to engage in de novo activities (acting as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business with respect to any insurance that is directly related to an extension of credit by a bank or a bank related firm or is directly related to the provision of other financial services by a bank or such bank related firm; protecting the value of assets financed, leased, such as homeowners, fire, theft, and other perils, comprehensive, collision, marine, and liability when sold as part of an otherwise permissible package) in Norfolk, Virginia, through its subsidiary, VNB Insurance Agency, Inc. (12/3/76).[1]

PERMITTED

Industrial National Corporation, Providence, Rhode Island, notification of intent to engage in de novo activities (the leasing of personal property) at One Northpark East, Suite 109, 8950 North Central Expressway, Dallas, Texas, through Inleasing Corporation, a subsidiary of Industrial National Corporation (11/29/76).[1]

Maryland National Corporation, Baltimore, Maryland, notification of intent to engage in do novo activities (engaging generally in the business of leasing personal property including, but not limited to, the leasing of various types of equipment, machinery, vehicles, transportation equipment, and data processing equipment; originating personal property leases as principal or agent; servicing personal property leases for affiliated or non-affiliated individuals, partnerships, or corporations; buying and selling and otherwise dealing in personal property lease contracts as principal or agent; acting as adviser in personal property leasing transactions; engaging in the sale, as agent or broker, of insurance similar in form and intent to credit life and/or mortgage redemption insurance; engaging generally in the business of leasing real property where the lease is the functional equivalent of an extension of credit; originating real property leases as principal or agent; servicing real property leases for affiliated or non-affiliated individuals, partnerships, corporations or other entities; buying, selling, and otherwise dealing in real property leases as principal, agent, or broker and acting as adviser in real property leasing transactions) at 1301 York Road, Lutherville, Maryland, through a subsidiary, Maryland National Leasing Corporation (12/2/76).[1]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in de novo activities (acting as investment or financial adviser to the extent of serving as investment adviser as defined in Section 2(a)(20) of The Investment Company Act of 1940 to an investment company registered under that act; providing portfolio investment advice to any other person and furnishing general economic information and advice, general statistical forecasting services, and industry studies; and providing financial advice to State and local governments such as with respect to the issuance of their securities) at 250 Park Avenue, South, Winter Park, Florida and 1001 East Atlantic Avenue, Delray Beach, Florida, through a subsidiary, Barnett Investment Services, Inc. (12/5/76).[1]

TG Bancshares Co., St. Louis, Missouri, notification of intent to engage in de novo activities (providing financially-oriented data processing and bookkeeping services for nonbanking businesses; development of financially-oriented automated data processing programs; and carrying on permissible incidental activities to the extent excess computer time and facilities are available at 3115 South Grand Boulevard, St. Louis, Missouri, through a subsidiary, Financial Computing Corporation of Missouri (11/29/76).[1]

Northwest Bancorporation, Minneapolis, Minnesota, notification of intent to acquire a de novo trust company (assume trust activities from four subsidiary banks) at 204 South First Street, Aberdeen, South Dakota; 825 St. Joe Street, Rapid City, South Dakota; 101 North Phillips Avenue, Sioux Falls, South Dakota; and 20 North Maple Street, Watertown, South Dakota; through First Northwestern Trust Co. of South Dakota (12/3/76).[1]

Peoples State Holding Company, Westhope, North Dakota, notification of intent to engage in de novo activities (the activities of an agricultural credit company) in Newburgh and Westhope, both in North Dakota, through a subsidiary, Peoples Credit Company (12/4/76).[1]

NBC Co., Lincoln, Nebraska, notification of intent to engage in de novo activities (conducting the business of an industrial loan and investment company including issuance of interest bearing savings certificates and making loans including consumer loans, commercial loans, and real estate mortgage loans) at 10855 West Dodge Road, Omaha, Nebraska, through a subsidiary, Mutual Savings Company of Omaha (12/3/76).[1]

First Hawaiian, Inc., Honolulu, Hawaii, notification of intent to relocate de novo activities (operating as an industrial loan company in the manner authorized by State law) from 94-246 Mokuola Street to 94-144 Farrington Highway, Waipahu, Hawaii, through its subsidiary, Hawaii Thrift & Loan Incorporated (11/29/76).[1]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (acting as broker or agent for the sale of credit related property and casualty insurance with respect to loans or extensions of credit of The Bankers Investment Company at 400 S. Broadway, Wichita, Kansas, through its subsidiary, The Bankers Investment Company (11/28/76).[1]

To expand a bank holding company pursuant to section 4(c)(12) of the Bank Holding Company Act of 1956.

PERMITTED

Berkshire Hathaway Inc., New Bedford, Massachusetts, notification of intent to acquire directly and indirectly more than five per cent of the outstanding voting stock of Government Employees Financial Corporation, Denver, Colorado, a consumer finance business in the United States and West Germany (12/2/76).[1]

APPLICATIONS RECEIVED

To establish a domestic branch pursuant to section 9 of the Federal Reserve Act.

Chemical Bank of Binghamtpon, Binghamton, New York. Branch to be established at 1935-1977 Lake Street, Town of Elmira, Chemung County.

Endicott Trust Company, Endicott, New York. Branch to be established on Route 434 approximately 500 feet east of the intersection of Pennsylvania Avenue in the Hamlet of Apalachin, Town of Owego, Tioga County.

First Manassas Bank and Trust Company, Manassas, Virginia. Branch to be established in the K-Mart Shopping Center on Sudley Manor Drive, Manassas.

Community Bank and Trust Company of Augusta County, Verona, Virginia. Branch to be established at 1157 West Main Street, Waynesboro.

[1] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

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Union Bank and Trust Company, Evansville, Wisconsin. Branch to be established at the corner of North Madison and Mill Street, Evansville.

Glenwood State Bank, Glenwood, Iowa. Branch to be established at Glenwood Plaza Shopping Center, Glenwood.

Bank of Houston, Houston, Texas. To establish a drive-in facility to be located directly across Fannin Street from existing bank premises.

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To become a member of the Federal Reserve System pursuant to section 9 of the Federal Reserve Act.

Garden of the Gods Bank, Colorado Springs, Colorado.

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To merge pursuant to section 18(c) of the Federal Deposit Insurance Act.

The Commercial Bank, Delphos, Ohio, for prior approval to merge with The Farmers Bank of Elida, Elida, Ohio.

To form a bank holding company pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956.

Page Bank Holding Company, Page, North Dakota, for approval to acquire 92.67 per cent of the voting shares of Page State Bank, Page, North Dakota.

Y & S Investment Company, Omaha, Nebraska, for approval to acquire 80 per cent or more of the voting shares of State Bank of Atwood, Atwood, Kansas.

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To retain bank shares acquired in a fiduciary capacity pursuant to section 3 of the Bank Holding Company Act of 1956.

First Chicago Corporation, Chicago, Illinois, for approval to retain the shares of Marco Capital Corporation, Wilmington, Delaware and indirectly acquire Marshall County Bank & Trust Company, Plymouth, Indiana.

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To expand a bank holding company pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956.

Centran Corporation, Cleveland, Ohio, notification of intent to engage in de novo activities (the making and acquiring of consumer finance loans, for its own account or the account of others, (including loans to individuals secured by second mortgages or deeds of trust on residential property) the purchasing of installment sales contracts; the sale as agent of credit life insurance and health and accident insurance to borrowers at their request in connection with extensions of credit; the sale as agent of fire, inland marine, and extended coverage insurance on real property, furniture, and household goods and vehicular physical damage insurance on vehicles taken as collateral on loans made or purchased; and the servicing of loans and other extensions of credit for any person) at 8803 Sudly Road, Manassas, Virginia, through its wholly-owned subsidiary, Major Finance Corporation, Silver Spring, Maryland (11/30/76)[2]

Citizens and Southern Holding Company, Atlanta, Georgia, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including specifically (but without limitation upon the foregoing) the making of loans secured by second mortgages upon residential and other real property and servicing loans and other extensions of credit) at 6445 Powers Ferry Road, Atlanta, Georgia and 1895 Phoenix Boulevard, College Park, Georgia, through a subsidiary, Citizens and Southern Equity Mortgage Company (Dec. 2, 1976).[2]

Security Bancorp, Inc., Southgate, Michigan, for approval to expand, its insurance underwriting activities through its subsidiary, United Bankers Life Insurance Company, Phoenix, Arizona (engage in underwriting, as reinsurer, credit accident and health insurance in connection with extensions of credit by the holding company system).

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making loans and extending credit and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company, including but not limited to, making consumer installment loans, purchasing installment sales finance contracts, and making loans to small businesses and extensions of credit secured by real or personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit by FinanceAmerica Corporation of Massachusetts) from Suite 200, 74 Merrimack Street, Lowell, Massachusetts to 1105 K. Lakeview Avenue, Dracut, Massachusetts, through its indirect subsidiary, Finance America Corporation of Massachusetts (Nov. 26, 1976).[2]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in de novo activities (the making or acquiring, for its own account or for the account of others, loans and other extensions of credit) at 1418 West Idaho Street, Boise, Idaho, through its subsidiary, Rainier Mortgage Company (Nov. 26, 1976).[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) at 1400 North Harbor Boulevard, Fullerton, California, through its subsidiary, Security Pacific Finance Corp. (Nov. 26, 1976).[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) at Del Amo Financial Center, 21515 Hawthorne Blvd., Torrance, California, through its subsidiary, Security Pacific Finance Corp. (Nov. 26, 1976).[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (the financing of personal property and equipment and real property and the leasing of such property or the acting as an agent, broker, or adviser in the leasing and/or financing of such property where at the inception of the initial lease the effect of the transaction (and, with respect to Governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease and the servicing of such financing and/or leases) at Suite 910, 7777 Bonhomme, Clayton, Missouri, through its subsidiary, Security Pacific Leasing Corporation. (Nov. 26, 1976).[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate de novo activities (the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for its own account or for the sale to others and the servicing of such loans on multi-family and commercial properties for its own account or for the sale to others and the servicing of such loans for others) from 819 West Fifth Avenue to 1011 East Tudor Road, Anchorage, Alaska, through its subsidiary, Security Pacific Mortgage Corporation (Nov. 22, 1976).[2]

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REPORTS RECEIVED

None.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, December 17, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37846 Filed 12-27-76;8:45 am]

BANKSTOCK ONE, INC.

Formation of Bank Holding Company

Bankstock One, Inc., Ozark, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent of the voting shares of Bank of Ozark, Ozark, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than January 12, 1977.

Board of Governors of the Federal Reserve System, December 16, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37847 Filed 12-27-76;8:45 am]

EDWARD BATES & SONS (HOLDINGS), LTD.

Order Disapproving Retention of Investment

The First Arabian Corporation, S.A. ("FAC"), Paris, France, has applied for the Board's approval under section 4(c)(9) of the Bank Holding Company Act of 1956, as amended ("the Act"), 12 U.S.C. 1843(c)(9), to retain more than five per cent of the voting shares of Edward Bates & Sons (Holdings), Ltd. ("Bates Holdings"), London, England, if FAC becomes a bank holding company. FAC now owns 24.7 per cent of the voting shares of Bates Holdings, but proposes to reduce its ownership to 7.5 percent of such shares.

FAC today received the Board's approval to become a bank holding company by acquisition of 77.4 percent of the voting shares of Bank of the Commonwealth ("Bank"), Detroit, Michigan. FAC presently owns 49 percent of J. H. Rayner & Co., Ltd. ("Rayner"), London, England, and holds an option on an additional 2 percent of Rayner's voting shares, which it will exercise before acquiring shares of Bank. Upon exercise of this option and consummation of the proposed acquisition of Bank, FAC will be a foreign bank holding company within the meaning of § 225.4(g)(1)(iii) of Regulation Y, and as such can, under § 225.4(g)(2)(v) of Regulation Y, own or control voting shares of a company, organized under the laws of a foreign country, that is engaged directly or indirectly in activities in the United States if (a) such company is not a subsidiary of FAC, (b) more than half of the company's consolidated assets and revenues are located and derived outside the United States, and (c) such company does not engage, directly or indirectly, in the business of underwriting, selling, or distributing securities in the United States.

Bates Holdings, which is organized under the laws of the United Kingdom, meets the first two tests of § 225.4(g)(2)(v) of Regulation Y since it is not a subsidiary of FAC and more than half of its consolidated assets and revenues are located and derived outside the United States. However, Bates Holdings owns 52 percent of the voting shares of Edward Bates & Sons North America, Ltd. ("Bates North America"), Houston, Texas, a company, registered as a broker-dealer with the Securities and Exchange Commission, which engages in the business of assisting business enterprises in the private placement of debt and equity. FAC states that Bates North America places securities with large institutional investors in the United States, but does not take an equity position in the businesses it serves, and does not deal with the general public. It further appears that Bates North America in almost all cases participates in negotiations between its clients and prospective purchasers, and in most cases charges a fee that is contingent upon a successful placement.

FAC believes that the activities of Bates North America should not cause Bates Holdings to be deemed to be indirectly engaged in the business of underwriting, selling, or distributing securities in the United States because Bates North America's activities do not present the dangers against which the Glass-Steagall Act and related laws and regulations were designed to protect. Accordingly, FAC believes its investment in Bates Holdings qualifies under § 225.4(g)(2)(v) of Regulation Y. In the alternative, FAC believes that even if its investment in Bates Holdings does not meet the tests for exemption in § 225.4(g)(2)(v) of Regulation Y because of the activities of Bates North America, FAC's investment in Bates Holdings should be specifically approved under § 225.4(g)(3) of Regulation Y. FAC essentially contends that due to its remote and tenuous relationship to Bates North America and its lack of control over Bates Holdings, retention would not be substantially at variance with the purposes of the Act and would be in the public interest. In particular, FAC believes that divestiture of its interest in Bates Holdings below five percent would not be in the public interest since it could delay FAC's acquisition of Bank.

It is the public policy of this nation's banking laws, as expressed in the Glass-Steagall Act, 12 U.S.C. 24(7), 78, 377, 378, to separate commercial banking from investment banking, and, in the Board's judgment, Bates North America's participation in negotiations and its contingent fee arrangements infringe upon the area of investment banking to such an extent that it must be considered to be engaged in the business of underwriting, selling, or distributing securities within the meaning of § 225.4(g)(2)(v) of Regulation Y. In this connection, the Board notes that the Deputy Comptroller of the Currency has ruled, in letter rulings dated November 11, 1974 and January 15, 1975, that national banks and their subsidiaries should not participate in any substantial degree in negotiations between their clients and prospective purchasers of securities, nor should they charge a fee contingent upon a successful placement of securities since such a middleman role "lies at the heart of the investment banking business," and such a fee arrangement is a "strong incentive for the bank to locate a purchaser with whom a deal can can be made." It is precisely this promotional interest of the investment banker that the Glass-Steagall Act intended to separate from the commercial banker's interest in acting as an impartial source of credit and providing impartial investment advice.[1] Accordingly, the Board concludes that Bates Holdings is engaged, indirectly through Bates North America, in the business of underwriting, selling, or distributing securities in the United States and that FAC's investment in Bates Holdings therefore is not among the investments permitted by § 225.4(g)(2)(v) of Regulation Y.

Furthermore, the Board has determined that under the circumstances retention of FAC's shares in Bates Holdings is substantially at variance with the purposes of the Act and is not in the public interest, and FAC's request for a specific exemption under § 225.4(g)(3) is denied. The Board notes that FAC's interest in Bates Holdings is 24.7 percent and may soon be reduced to 7.5 percent, and that such a reduction would tend to reduce correspondingly the likelihood that abuses will arise from the relationship between Holdings and Bank.[2] Congress has provided in section 4(c)(6) of the Act, however, that a bank holding company may own up to five percent of the voting shares of a company regardless of that company's activities, and, because of the overriding importance to the banking system of the principles enunciated by Congress in the Glass-Steagall Act, the Board concludes that it would be substantially at variance with the purposes of the Act and would not be in the public interest to sanction a closer connection between commercial banking and investment banking activities than that permitted under the de minimis level of § 4(c)(6) of the Act. In addition, FAC's indirect investment in Bates North America is an investment that would not be permitted if FAC were a domestic bank holding company, and the Board believes the principles of Glass-Steagall should apply equally to foreign bank holding companies. Affiliation with a domestic securities company could, in this regard, give a foreign bank holding company a competitive advantage over domestic bank holding companies.[3]

The Board notes that FAC proposes to reduce its ownership to 7.5 percent of the outstanding shares of Bates Holdings, and the Board is aware from the facts of record that a further reduction may be difficult.[4] In recognition of such hardship, however, Companies has allowed bank holding companies from two to five years, depending on the circumstances in individual cases, to accomplish the divestiture of impermissible nonbank companies, and there is accordingly no reason that Applicant's purchase of Bank shares should be delayed on account of the Board's denial of this application.

Based upon the foregoing and other considerations reflected in the record, the Board denies the request of FAC for an exemption under section 4(c)(9) of the

[1] See *Investment Company Institute v. Camp*, 401 U.S. 617, 631–632 (1971).

[2] The Board recognizes that measures might be taken to insulate FAC's banking and its indirect securities activities, but believes that to guard comprehensively and effectively against all possible abuses, such measures would be so complex as to be administratively unworkable. See Order disapproving retention by Banco di Roma of investment in Europartners Securities Corporation, 59 Federal Reserve Bulletin 940 (1972).

[3] See Order disapproving retention by Banco di Roma of investment in Europartners Securities Corporation, supra, n. 2.

[4] FAC states that because of its minority interest in Bates Holdings it does not have the ability to effect a divestiture by Bates Holdings of Bates North America.

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Act for its investment in Bates Holdings. Under section 4(a)(2) of the Act, if FAC consummates its proposed acquisition of Bank, it will be required by law to divest its ownership of shares of Bates Holdings in excess of five per cent within two years after the date on which it becomes a bank holding company.

By order of the Board of Governors,[5] effective December 17, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-37845 Filed 12-27-76;8:45 am]

FIRST ARABIAN CORP.

Order Approving Formation of Bank Holding Company

The First Arabian Corporation, Paris, France ("FAC"), has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a band holding company through acquisition of 77.4 percent or more of the voting shares of Bank of the Commonwealth, Detroit, Michigan ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

FAC is a foreign corporation (total assets on a parent-only basis of $27.1 million, as of August 31, 1976) organized under Luxembourg law and acts as a holding company with investments primarily in various overseas business enterprises. Its principal investments are in two English companies, headquartered in London, Edward Bates & Sons (Holdings), Limited, whose major asset is a London merchant bank, and J. H. Rayner & Company, Limited, whose major interest is in a London based trading company, Rayner & Faure, Limited. FAC, through Edward Bates & Sons, also has an interest in Edward Bates and Sons North America, Houston, Texas, a company principally engaged in the private placement of debt and securities.[1] With the exception of Bates North America, FAC's operations are conducted overseas.

Upon acquisition of Bank, FAC would control the sixth largest banking organization in Michigan with $836 million in deposits, representing 2.8. percent of the total commercial bank deposits in the State.[2] Bank is the fifth largest of 38 banking organizations operating in the Detroit banking market (the relevant market) and controls 5.3 percent of total commercial bank deposits in the Detroit market.[3] On the basis of the facts of record, consummation of the proposal would have no significant adverse effects on existing or potential competition in any relevant area; therefore, competitive considerations are consistent with approval of the application.

Under the Bank Holding Company Act, the Board must consider the financial and managerial resources and future prospects of both the applicant holding company and the bank to be acquired. In regard to such considerations, it is noted that Bank's condition is of such a nature that the direct financial support of the Federal Deposit Insurance Corporation is required.[4] While Bank's condition reflects some improvement since 1972, it appears that Bank has inadequate resources to repay the Capital Notes to the FDIC when due and maintain continued operations. As part of this proposal, FAC has agreed to make an equity capital infusion into Bank of $10 million (less any amounts derived from the exercise of preemptive rights by existing security holders), which will occur as a result of a recapitalization plan to be voted upon by Bank's shareholders on December 20, 1976. At the same time, the FDIC has agreed to extend the maturity and modify terms of its notes. Such additional capital and the FDIC's proposed action are essential to the Bank's ability to continue functioning. In these circumstances, the Board is of the view that the financial resources and future prospects of Bank are dependent upon the implementation of the recapitalization plan, including FAC's injection of capital into Bank. With respect to Bank's managerial resources, they have shown some improvement, though additional strengthening is required. While FAC cannot be viewed as a significant source of managerial strength and its current financial resources are otherwise limited, FAC's assistance through the recapitalization plan does offer immediate financial strengthening of Bank, which would preserve the opportunity for further improvements. In light of all of the above and other facts of record, it is the Board's view that banking factors associated with this proposal lend significant weight toward approval of the application.

There is no evidence to indicate that the banking needs of the community to be served are not currently being met. However, approval of the proposal will enable Bank to continue to compete in the Detroit banking market as an independent and full-service competitive alternative in that market. Thus, convenience and needs considerations lend weight toward approval. Accordingly, based on the above and all the facts of record, it is the Board's judgment that approval of the application would be in the public interest and the application should be approved subject, however, to the provisions and terms of the agreements and undertakings FAC enters into with the Federal Deposit Insurance Corporation, and on the conditions that the recapitalization plan is approved by the stockholders of Bank and that the plan is in fact implemented.

On the basis of the record, the application is approved for the reasons summarized above and on the conditions stated. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[5] December 17, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-37846 Filed 12-27-76;8:45 am]

FREECO, INC.

Order Approving Retention of Bank Shares

Freeco, Inc., Hermitage, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to retain 1,956 of the outstanding voting shares of The Bank of Hermitage, Hermitage, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a one-bank holding company by virtue of its ownership of 48.9 percent of the outstanding voting shares of Bank. In December of 1975, Applicant acquired an additional 1,956 shares of Bank's outstanding voting shares pursuant to a pro rata stock offering. The acquisition was made without the

[5] Voting for this action: Chairman Burns and Governors Gardner, Wallich Coldwell, and Partee. Absent and not voting: Governors Jackson and Lilly.

[1] By action of this date, in a separate Order, the Board has denied FAC's application, filed pursuant to section 4(c)(9) of the Act (12 U.S.C. 1843(c)(9)), to retain Bates & Sons (Holdings), Limited.

[2] All banking data are as of December 31, 1975, and reflect bank holding company formations and acquisitions approved as of October 30, 1976.

[3] The Detroit banking market is approximated by Macomb, Oakland and Wayne Counties.

[4] In 1972, the Federal Deposit Insurance Corporation ("FDIC") rendered financial assistance to Bank in the form of $35.5 million in 5.5 percent Capital Notes which become due April 1, 1977.

[5] Voting for this action: Chairman Burns and Governors Gardner, Wallich Coldwell, and Partee. Absent and not voting: Governors Jackson and Lilly.

Board's prior approval.[1] Applicant now seeks the Board's approval to retain these shares. Bank ($8.8 million in deposits) is the 415th largest banking organization in Missouri, controlling 0.05 percent of the total deposits in commercial banks in the State.[2]

Bank is the only bank in Hickory County, which approximates the relevant geographic market. In view of the fact that Applicant already controls Bank and the proposal involves the retention of Bank shares acquired pursuant to a pro rata stock offering without any change in Applicant's percentage ownership of Bank, it does not appear that Applicant's retention of Bank's shares would have any adverse effect on existing or potential competition; nor would it increase the concentration of banking resources in any relevant area. Thus, competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant and Bank are generally satisfactory and the future prospects for each appear favorable. Accordingly, banking factors are consistent with approval. Although there will be no immediate increase in the services offered by Bank, convenience and needs considerations are also consistent with approval. Therefore, it is the Board's judgment that the retention of the shares of Bank would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above.

By order of the Board of Governors,[3] effective December 20, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37844 Filed 12-27-76;8:45 am]

MANUFACTURERS BANCORP, INC.

Formation of Bank Holding Company

Manufacturers Bancorp, Inc., Leavenworth, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 90.1 percent of the voting shares of Manufacturers State Bank, Leavenworth, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 12, 1977.

Board of Governors of the Federal Reserve System, December 17, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37848 Filed 12-27-76;8:45 am]

SCRIBNER BANKSHARES, INC.

Order Approving Formation of Bank Holding Company

Scribner Banshares, Inc., Scribner, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 96.1 percent or more of the voting shares of Scribner Bank, Scribner, Nebraska ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a corporation chartered in 1974 under the laws of the State of Nebraska, has been operating as a general insurance agency from the premises of Bank since the date of its organization and currently owns 3.3 percent of the shares of Bank. Applicant has now applied to the Board for permission to become a bank holding company through acquisition of an additional 96.1 percent or more of the shares of Bank.[1] Upon acquisition of those shares, Applicant would control the 11th largest banking organization in Nebraska with total deposits of approximately $12.5 million, representing 0.2 percent of total deposits held by commercial banks in the State.[2] Bank is the only bank in Scribner, Nebraska and is the third largest of eight banks in the relevant market,[3] controlling approximately 8.3 percent of the deposits therein.

Five of Applicant's principals are also directors and/or officers of other banks or bank holding companies in Nebraska, Iowa, and South Dakota. However, these banking organizations are located at considerable distances from Bank in different banking markets. Furthermore, inasmuch as the instant proposal to form a bank holding company represents a reorganization of the ownership by Bank by ten individuals to a corporation owned by the same individuals, it appears that the acquisition of Bank by Applicant would have no significant adverse effect upon either existing or potential competition. Accordingly, on the basis of the record, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant and Bank are regarded as satisfactory. The future prospects of Applicant are dependent upon those of Bank, which are also regarded as satisfactory. Although Applicant will incur acquisition debt in connection with this proposal, it appears that it will be able to serve this debt adequately without impairing the financial resources of Bank. Furthermore, it appears that the overall financial and managerial considerations with respect to the other one-bank holding companies in which principals of Applicant are involved are generally satisfactory. Therefore, considerations relating to banking factors are consistent with approval of the application.

Although consummation of the proposal would effect no changes in the services offered by Bank, the Board regards considerations relating to the convenience and needs of the community to be served as being consistent with approval. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[4] effective December 20, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-37843 Filed 12-27-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

ADP PROCUREMENT CHANGES

Proposed Change—Procurement of ADPE Within the Federal Government

We have set forth below for your review and comment the substantive elements of certain planned procurement program changes, whereby both the Federal Supply Service (FSS) and the Automated Data and Telecommunications Service (ADTS) of the General Services Administration will establish multiple-award schedule type contracts for FSC Group 70 automatic data pro-

[1] Since 1957 the Board has had outstanding an interpretation of the Bank Holding Company Act that states, in part, that the "purchase of bank stock by a holding company through the exercise of rights does require the Board's prior approval." (Interpretations ¶ 7050, 12 CFR § 225.103). In accordance with the Board's position with respect to violations of the Act, the Board has scrutinized the underlying facts surrounding the acquisition of Bank's shares. Upon an examination of all the facts of record, including Applicant's undertaking to guard against violations in the future, the Board is of the view that the circumstances surrounding the violation are not such as would call for denial of the application.

[2] All banking data are as of December 31, 1975.

[3] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Lilly.

[1] Applicant will terminate its insurance agency business prior to consummation of the proposed bank holding company formation.

[2] All banking data are as of December 31, 1975.

[3] The relevant banking market is approximated by the boundaries of Dodge County.

[4] Voting for this action: Chairman Burns, and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Lilly.

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cessing equipment (ADPE) and related services. When implemented, these changes should serve to: (a) Simplify and expedite numerous lower dollar value acquisitions of ADPE/services, and (b) eliminate any question as to whether a given item(s) falls within the FSC Group 70 category of ADPE, and therefore would or would not, as the case may be, be subject to the regulatory and policy controls that apply to ADPE procurements.

PLANNED CHANGES

1. To ensure that all ADPE contract items are properly identified, definitions of ADP as outlined in FPR 1–4.1102, will be applied to all items having questionable classification that are included in FSC Groups 58, 66, 67, 70 and 74 Schedule contracts.

Item descriptions for cataloging action has to be prepared. This function is to be completed during FY 77 by an FSS/ADTS task group team. Differences as to correct classification will be referred by FSS to the Defense Logistics Supply Center for binding classification determination.

2. FSS will be delegated multiple-award schedule contracting authority and responsibility for low dollar value FSC Group 70 ADP items that qualify by meeting *all* of the following criteria. Prior ADTS/FSS procurement agreements are to be subsequently realigned to meet these criterion:

(a) The ADPE must be a stand-alone item or system (defined as equipment that, when acquired, will be capable of fully meeting the operational mission for which acquired without connection to additional equipment). Related software, communications equipment, minor accessories or components may be awarded provided such items are uniquely applicable to the basic stand-alone item or system.

(b) The ADPE will not have a stand-alone item or system unit purchase price that exceeds $50,000. Appropriate MOL's for single order quantities will be established at levels that are appropriate for the product or grouping involved, but will not exceed $200,000. Requirements that exceed MOL's will be procured only under the authority of ADTS.

(c) The ADPE is not to be cataloged or marketed as a component of, or as a peripheral or accessorial item for, a major ADPE system. As referenced here a major ADPE system or item is any combination of equipment that has, along with other criteria, a purchase price in excess of $50,000. Appropriate controls are to be established to ensure that items appear on only one Schedule.

(d) FSS multiple-award schedule contracts for FSC Group 70 ADPE are to follow current Federal Procurement Regulations procedures and will initially be mandatory. However, contracts will be developed for agency use under simplified ADPE procurement regulations, which may subsequently become nonmandatory, for acquisitions up to $50,000 in value. Larger dollar value procurements will continue to require a specific delegation of procurement authority from ADTS.

3. ADTS will establish schedule contracts for all other ADPE and related services. ADTS will also adapt its schedule contracts to the same simplified procedures for procurements up to $50,000 that are referenced in (d) above, for FSS Schedule contracts.

Shifts of ADPE from FSS to ADTS contracts, and vice-versa, that may be necessary in accordance with (a) through (d) above will be accomplished in an orderly manner, with appropriate advance notice to vendors and ordering offices.

Please submit before January 31, 1977, any comments that you have regarding these proposed changes to:

Commissioner Theodore D. Puckorius, Automated Data and Telecommunications Service, General Services Administration, Room 3240, Washington, DC 20405.

Dated: December 1, 1976.

W. E. BURTON,
Acting Commissioner.

[FR Doc.76–37957 Filed 12–27–76; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N–0375]

COSMETIC LABELING

Termination of Provisional Listing of Carbon Black

The Food and Drug Administration (FDA) gives notice that existing stocks of cosmetic labeling for products formerly containing carbon black (all-gas channel black) and stating that the product contains "carbon black" in accordance with § 701.3 (21 CFR 701.3) of the cosmetic labeling regulations may continue to be used until supplies are exhausted or until September 23, 1977, whichever occurs first.

A regulation was published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41857) terminating the provisional listing, and, hence the approval, of carbon black (all-gas channel black) for use in food, drugs, and cosmetics, effective September 23, 1976. The preamble to that regulation (41 FR 41859) provided for use of food and drug labeling stating that the product contains "artificial color" because of the prior inclusion of carbon black (all-gas channel black) but did not mention cosmetic ingredient labeling. Section 701.3 requires that labeling of cosmetic packages identify the specific color additives that are used in the product.

The Commissioner of Food and Drugs is aware that in some cases alternative color additives for use in cosmetics may be difficult to obtain immediately. In addition, although alternative color additives may be available, revised package labeling specifically identifying the new color additive may not be immediately available, or large quantities of new labeling containing a declaration of ingredients my have been recently ordered and received by firms marketing cosmetics as required under § 701.3. The Commissioner concludes that a prohibition against the use of cosmetic labeling disclosing the presence of carbon black (all-gas channel black) could create undue hardship to firms marketing cosmetics in compliance with § 701.3. Therefore, he hereby gives notice that existing stocks of cosmetic labeling for products formerly containing carbon black (all-gas channel black) and stating that the product contains "carbon black" in accordance with § 701.3 may continue to be used until supplies are exhausted or until September 23, 1977, whichever occurs first, even though the cosmetic product no longer contains carbon black. Similarly, for products in which an alternative color additive is used to replace carbon black, existing supplies of labeling declaring carbon black without declaring the presence of alternative color additive may be used until supplies are exhausted or until September 23, 1977, whichever occurs first.

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76–37503 Filed 12–27–76;8:45 am]

PANEL ON REVIEW OF BACTERIAL VACCINES AND BACTERIAL ANTIGENS

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Bacterial Vaccines and Bacterial Antigens Panel by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond December 22, 1976.

Authority for this panel will expire on December 22, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 16, 1976.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.76–37504 Filed 12–27–76;8:45 am]

[Docket No. 76F–0484]

SOUTHERN SIZING CO.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A3251) has been filed by the Southern Sizing Co., P.O. Box 90987, East Point, GA 30364, proposing that § 121.1099 *Defoaming agents* (21 CFR 121.1099) be amended to provide for the use of polypropylene glycol as a defoaming agent in the manufacture of edible protein.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B–42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 15, 1976.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.76–37500 Filed 12–27–76;8:45 am]

BOARD OF TEA EXPERTS

Rechartering

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the rechartering of the Board of Tea Experts by the Commissioner, Food and Drug Administration, for an additional period of 2 years beyond January 3, 1977.

The charter for this committee will expire January 3, 1979.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76–37815 Filed 12–27–76;8:45 am]

[Docket No. 76N–0356; DESI 1543]

CERTAIN ESTROGEN-CONTAINING DRUGS FOR ORAL OR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 76–28436, appearing at page 43114, in the issue of Wednesday, September 29, 1976, on page 43115, column 1 in the captioned designated "II" the first word should be "LONG" and not "LONH".

[Docket No. 76N–0261; DESI 2238]

CERTAIN PREPARATIONS FOR VAGINAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 28434, appearing at page 43110, in the issue of Wednesday, September 29, 1976, on page 43110, column 2, last paragraph, on the 7th line from the bottom and just before the word "labeling" insert "worded to coincide with the physician".

DENTIFRICE AND DENTAL CARE PANEL

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Dentifrice and Dental Care Panel by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond December 27, 1976.

Authority for this panel will expire on December 27, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76–37812 Filed 12–27–76;8:45 am]

[Docket No. 76N–0233]

HESS & CLARK, ET AL.

Nihydrazone (NF–64); Opportunity for Hearing On Proposal to Withdrawal Approval of Certain New Animal Drug Applications

Correction

In FR Doc. 76–23618 appearing at page 34908 in the issue for Tuesday, August 17, 1976 the following correction should be made. On page 34915 in the first column, third full paragraph, ninth line, the material which begins in parenthesis should read "(–CH–N–N". The correction appearing at 41 FR 43215, September 30, 1976 in item (2) is incorrect.

LAXATIVE, ANTIDIARRHEAL, ANTIEMETIC, AND EMETIC PANEL

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Laxative, Antidiarrheal, Antiemetic, and Emetic Panel by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond December 27, 1976.

Authority for this panel will expire on December 27, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76–37817 Filed 12–27–76;8:45 am]

TECHNICAL ELECTRONIC PRODUCT RADIATION SAFETY STANDARDS COMMITTEE

Rechartering

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the rechartering of the Technical Electronic Product Radiation Safety Standards Committee by the Commissioner, Food and Drug Administration, for an additional period of 2 years beyond December 24, 1976.

The charter for this committee will expire December 24, 1978.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76–37813 Filed 12–27–76;8:45 am]

TOPICAL ANALGESIC PANEL

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Topical Analgesic Panel, (which reviews antirheumatic, otic, burn, sunburn treatment and prevention drugs) by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond December 27, 1976.

Authority for this panel will expire on December 27, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76–37814 Filed 12–27–76;8:45 am]

[Docket No. 76N–0505]

DEVICE LISTING

Owners or Operators of Medical Device Establishments

The Food and Drug Administration (FDA) gives notice to owners or operators of device establishments of the procedures that will be followed by FDA to implement the device listing requirements of the Medical Device Amendments of 1976 (Pub. L. 94–295). Notice of the procedures is also given to manufacturers and repackagers of in vitro diagnostic product devices who previously voluntarily registered and listed their products with FDA in accordance with the drug registration procedures (21 CFR Part 207).

In the FEDERAL REGISTER of September 3, 1976 (41 FR 37458), FDA proposed regulations under the authority of the Medical Device Amendments to establish procedures for the registration of establishments in which devices intended for human use are produced. Those proposed regulations were issued to implement section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) relating to establishment registration and product listing.

Although section 510 of the act governs both establishment registration and

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product listing, the Commissioner of Food and Drugs announced in the September 3, 1976 proposal that a more orderly implementation of section 510 of the act would be possible if these two functions were accomplished separately during the initial year of implementing the amendments. Therefore, the proposed regulation set forth the procedures related to the first function, namely, the registration of establishments producing devices. A second proposed regulation setting forth the procedures for device listing was to be published in the FEDERAL REGISTER at a later date. It was intended at the time of that FEDERAL REGISTER notice to accomplish both device establishment registration and product listing by December 31, 1976, as required by section 510 of the act.

This notice is to inform the owners or operators of medical device establishments that FDA will not require submission of device listing information by December 31, 1976. The procedures, forms, and other related information for device listing will be mailed to the designated Official Correspondent for each registered establishment when such information becomes available, after January 1, 1977. The registrants will be notified at that time when the forms must be completed and returned to the agency.

Owners or operators engaged in the manufacture, preparation, propagation, compounding, or processing of in vitro diagnostic device products who in the past have registered their establishment(s) and listed their in vitro diagnostic device products in accordance with procedures set forth in the regulations for the registration of producers of drugs and listing of drugs in commercial distribution (21 CFR Part 207), are advised to no longer submit update information on Forms FD–2656 (Registration of Drug Establishment) and FD–2657 (Drug Product Listing). Instead, such owners or operators are advised to register their establishment(s) as a device establishment pursuant to the September 3, 1976 proposal. Such owners or operators will be mailed procedures, forms, and other information relating to listing of their in vitro diagnostic device products at the same time as the other device manufacturers are so informed, as indicated above.

Dated: December 22, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76–38127 Filed 12–27–76;8:45 am]

WORKSHOP ON GUIDELINES FOR CLINICAL EVALUATION OF OSTEOGENETIC AND ANTIOSTEOGENETIC AGENTS

Open Meeting

The Food and Drug Administration announces a workshop on guidelines for clinical evaluation of osteogenetic and antiosteogenetic agents to be held on January 21, 1977, beginning at 9 a.m. in Conference Rooms G–H, Parklawn Building, 5600 Fishers Lane, Rockville, MD.

Speakers will include: J. Aloia, M.D.; R. P. Heaney, M.D.; C.C. Johnston, M.D.; J. Jowsey, Ph.D.; and R.P. Mazess, Ph.D..

Those interested in attending should notify A.T. Gregoire, Ph.D. (HFD–130), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3510. Attendance will be limited to space available.

Dated: December 20, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76–37816 Filed 12–27–76;8:45 am]

Health Services Administration

ADVISORY COMMITTEE

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of February 1977:

INDIAN HEALTH ADVISORY COMMITTEE

Date and Time: February 7–8, 1977, 9:00 a.m.
Place: Conference Room 525–A & 529–A, South Portal Building, 200 Independence Ave., S.W., Washington, D.C. 20201. Open for entire meeting.
Purpose: The Committee advises the Secretary; Assistant Secretary for Health; Administrator, Health Services Administration; and Director, Indian Health Service, on health and other realted matters that have a bearing on the conduct of the Indian health program, as well as current and proposed regulations and policies.
Agenda: The Committee will discuss the current total Indian health administrative program operations, more specifically, the impact of the Indian Self-Determination Act and the Indian Health Care Improvement Act on the delivery of services, and other specific items of departmental interest and concern regarding Indian health endeavors.
The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Mose E. Parris, Room 5A–43, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1104.

INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

Date and Time: February 9, 1977, 9:00 a.m.
Place: Conference Rooms G & H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open for entire meeting.
Purpose: The Committee provides for the communication and exchange of information necessary to maintain the coordination and effectiveness among such Federal programs and activities and make recommendations to the Secretary respecting the administration of grants and contracts under Title XII, including making regulations for the emergency medical services systems program.
Agenda: Proposed agenda items for this meeting include: New regulations for Public Law 94–573, fiscal year 1977 budget, mandated committee reports required under Public Law 94–573, local EMS problems in utilizing controlled drugs and implementation strategy for the burn legislation.
The meeting is open to the public for observation. Anyone wishing to attend, obtain the roster of members, minutes of meeting, or other relevant information should contact Mr. John D. Reardon, 6525 Belcrest Road, Hyattsville, Maryland 20782, Telephone (301) 436–6260. Public seating is limited to forty (40). Please contact at least 72 hours before the meeting.

NATIONAL ADVISORY COUNCIL ON MIGRANT HEALTH

Date and Time: February 15–17, 1977, 9:00 a.m.
Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open for entire meeting.
Purpose: The Committee is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 319 of the Public Health Service Act.
Agenda: The members of the Council will consider the following: (1) Organization and structure of the Council; (2) function of Health Systems Agencies; (3) the relationship of the Health Professions Educational Assistance Act of 1976 to manpower needs of Migrant Health Projects; (4) the definition of migrant vs. seasonal farmworker; (5) the Migrant Health Regulations; (6) the Migrant Hospitalization Program; (7) Environmental Health Services; (8) Bureau common reporting requirements; and (9) Intrestate Entitlement Projects and Third Party Reimbursements.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Billy M. Sandlin, Room 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1153.

Agenda items are subject to change as priorities dictate.

Date: December 20, 1976.

WILLIAM H. ASPDEN, JR.,
Associate Administrator for Management.

[FR Doc.76–37953 Filed 12–27–76;8:45 am]

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on January 6–7, 1977, at the National Institute of Education, 1200 19th Street NW., Washington, D.C., in Room 823. The meeting will convene at 9 a.m., and adjourn at 5 p.m., January 6th and on January 7th, convene at 8:30 a.m., and adjourn at 4 p.m.

The National Council on Educational Research is established under section 405

(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute:

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute:

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educatjonal renewal and reform based upon the findings of educational research.

The meeting will be open to the public except for the closed session on January 7th. The tentative agendas are as follows:

JANUARY 6, 1977

PUBLIC SESSION

9:00	Convene.
9:00–12:00	NCER Committee Meetings.
12:00–1:00	Lunch.
1:00–4:00	Report of Executive Committee: A. Policy Framework, Existing Policies and New Policy Issues; B. NCER Handbook; C. NCER/NIE Staff, Working Relationships (e.g., decision-making processes).
4:00–5:00	Report of Review and Reports Committee: A. Review Process; B. FY 1977 Report; Feature Topic.

JANUARY 7, 1977

PUBLIC SESSION

8:30–9:00	Director's General Report.
9:00–10:00	Report of Program Committee and NIE Staff: Curriculum Policy Issues.

EXECUTIVE SESSION

10:00–1:30	FY 1978 Budget.
(12:15–1:00)	(Working Luncheon).

PUBLIC SESSION

1:30–3:00	FY 1979 Planning Guidance.
3:00–4:00	Final Actions and Future Agendas.

The closed session will consist of a discussion of the FY 1978 Budget which has not yet been released by the Executive Branch of the Federal Government. This is in accordance with the Council's policy that all sessions be open unless they concern confidential budgetary or personnel information or concerns other matters requiring confidentiality. This policy is consistent with the provisions of the Federal Advisory Committee Act.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and Mrs. Ella L. Jones, Administrative Coordinator of the Council, at the address shown below.

In accordance with Council Policy (NCER Resolution No. 013074–8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Administrative Coordinator. Resolutions are available shortly after the particular meeting at which adopted. Because minutes require approval by the Council at a subsequent meeting, they are usually available approximately four to six weeks after the date of the meeting to which they refer.

In order to verify the tentative agendas, or assure adequate seating arrangements, interested persons are requested to contact the Administrative Coordinator, National Council on Educational Research, whose address and telephone number are listed below:

National Council on Educational Research,
National Institute of Education, Washington, D.C. 20208, Telephone: 202/254–7900.

Dated: December 22, 1976.

HAROLD L. HODGKINSON,
Director, National Institute of Education.

[FR Doc.76–38042 Filed 12–27–76;8:45 am]

National Institutes of Health

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, on January 13–16, 1977, at the Marina Del Rey Hotel, Surf Room, Marina Rel Rey, CA 90291.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. subject to space available. The purpose of the meeting will be to discuss recommendations for the interim Commission report and to consult with the Science Advisory Board of the Hereditary Disease Foundation.

Dr. Nancy S. Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Bldg. 31, Room 8A11, Bethesda, MD 20014, (301) 496–9175, will provide substantive program information.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, NINCDS, Bldg. 31, Room 8A02, Bethesda, MD 20014, (301) 496–5751, will provide summaries of the meeting and rosters of Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: December 16, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–37825 Filed 12–27–76;8:45 am]

DIVISION OF RESEARCH RESOURCES AND GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

Meeting

Notice is hereby given of the meeting of representatives from the General Clinical Research Centers Committee and of the Division of Research Resources, January 17, 1977, National Institutes of Health, Building 31, Room 4B13, Bethesda, Maryland 20014. The meeting will be open to the public from 10:30 a.m. to 5 p.m., during which time the report, "Assuring the Resources for Biomedical Research, An Evaluation of the Scientific Mission of the Division of Research Resources (DRR), NIH," conducted by the Research Resources Evaluation Panel and coordinated by Bolt Beranek and Newman, Inc., Cambridge, Massachusetts, will be discussed. The representatives will focus their deliberations on recommendations relevant to the General Clinical Research Centers Program of DRR, NIH, with particular reference to the evaluation of the role of the General Clinical Research Centers Program in the scientific mission of the Division of Research Resources. Responses to recommendations in the report will be developed. Attendance by the public will be limited to space available.

Mr. James Augustine, Information Officer, Division of Research Resources, Maryland 20014, (301) 496–5545, will Building 31, Room 5B39, Bethesda, provide information pertaining to the meeting.

Dr. Ephraim Y. Levin, Executive Secretary, General Clinical Research Centers Committee, Building 31, Room 4B13, Bethesda, Maryland 20014, (301) 496–6595, will furnish substantive information.

(Catalog of Federal Domestic Assistance Program No. 13.333 National Institutes of Health.)

Dated: December 17, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–37626 Filed 12–27–76;8:45 am]

GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the General Clinical Research Centers Committee on February 14 and 15, 1977, from 9 a.m. to 5 p.m., at the National Institutes of Health, Building 31, Conference Room 9, Bethesda, Maryland. This meeting will be open to the public from 9 a.m. to 10 a.m. on February 14, 1977, to discuss administrative reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5 U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to

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the public on February 14, 1977, from 10 a.m. to 5 p.m. and on February 15, 1977, from 9 a.m. to 5 p.m. for the review, discussion and evaluation of initial pending, renewal, and supplemental grant applications. The closed portions of the meetings involve solely the internal expression of views and judgments of Committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B39, Bethesda, Maryland 20014, telephone (301) 496–5545, will furnish rosters of Committee members, and summaries of the meetings. Dr. Ephraim Y. Levin, Executive Secretary, General Clinical Research Centers Committee, Bldg. 31, Room 4B13, Bethesda, Maryland 20014, (301) 496–6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.333, National Institutes of Health.)

Dated: December 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–37828 Filed 12–27–76;8:45 am]

NATIONAL ADVISORY GENERAL MEDICAL SCIENCES COUNCIL

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, February 3–4, 1977, Building 31C, Conference Room 6. This meeting will be open to the public on February 3 from 9 to 5 p.m. for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 4 from 9 a.m. to adjournment for the review, discussion and evaluation of initial pending, supplemental, and renewal grant applications; and applications for the National Research Service Awards. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications which contain information of proprietary or confidential nature, including detailed research protocols; designs and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20014, Telephone: 301, 496–7301, will provide a summary of the meeting and a roster of Council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, Building 31, Room 4A52, Telephone: 301, 496–5231, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13–859, 13–860, 13–861, 13–862, 13–863, National Institutes of Health.)

Dated: December 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–37827 Filed 12–27–76;8:45 am]

PHARMACOLOGY-TOXICOLOGY RESEARCH PROGRAM COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pharmacology-Toxicology Research Program Committee, National Institute of General Medical Sciences, March 3–4, 1977, National Institutes of Health, Building 31C, Conference Room 8, Bethesda, Maryland.

This meeting will be open to the public on March 3 from 9 a.m. to 10 a.m. for opening remarks and general administrative business. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 3 from 10 a.m. to 5 p.m. and on March 4 from 9 a.m. to 5 p.m. for the review, discussion, and evalaution of initial pending and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications which contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data such as salaries; and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20014, Telephone: 301, 496–7301, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Raymond E. Bahor, Executive Secretary, Westwood Building, Room 919, Bethesda, Maryland, Telephone: 301, 496–7707.

(Catalog of Federal Domestic Assistance Program 13–859, Pharmacology-Toxicology Program, National Institute of General Medical Sciences, National Institutes of Health.)

Dated: December 20, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–37829 Filed 12–27–76;8:45 am]

Office of Education

TITLE I AUDIT APPEAL

Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972, as amended by 41 FR 28568, July 12, 1976), an application for an appeal before the Board has been received from the State of West Virginia and it has met the jurisdictional requirements of section 5 of the Notice establishing the Board.

The appeal involves the allowability of expenditures of $53,710 made by the Wayne County local education agency during fiscal year 1973 from funds allotted to the agency for fiscal year 1971. The Audit Control Number is 50008–03, Docket 13–(28)–76.

The prehearing conference will be held at 10:30 a.m. on February 3, 1977, in Room 4173, 400 Maryland Avenue, SW., Washington, D.C.

Section 7(c) of the Notice setting up the Board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to crossexamine other writnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before January 24, 1977.

(20 U.S. 241a, 1232c.)

(Catalog of Federal Domestic Assistance Number 13.428, Educationally Deprived Children—Local Educational Agencies.)

Dated: December 20, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner
of Education.

[FR Doc.76–37952 Filed 12–27–76;8:45 am]

Office of Human Development

CHILDREN'S BUREAU

Statement of Organization, Functions, and Delegations of Authority

Chapter 1R40 of the statement of organization, function, and delegations of authority of the Department of Health, Education, and Welfare which relates to the Office of Child Development of the Office of Human Development (40 FR 28657), July 8, 1975, is amended to reflect the transfer of the Day Care Services Division from the Head Start Bureau to the Children's Bureau.

The revisions to effect this transfer are as follows: delete present section 1R40.-20B.5; add a new section 1R40.20C.5 as follows:

5. *Day Care Division.* Responsible for the development of policies, strategies, standards, manuals, and guidance materials for the conduct of experiments, demonstrations, and operational programs in the field of day care. Actively encourages development at the Federal, State, and local levels of effective day care services.

Dated: December 20, 1976.

JOHN OTTINA,
Assistant Secretary for
Administration and Management.

[FR Doc.76–38048 Filed 12–27–76;8:45 am]

Office of the Secretary

REVIEW PANEL ON NEW DRUG REGULATION

Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, that the Review Panel on New Drug Regulation, established pursuant to 42 USC 217a. by the Secretary of Health, Education, and Welfare, on Sunday, January 9, 1977, at 5:30 p.m. to 8:30 p.m. and Monday, January 10, 1977, at 8:30 a.m. to 5:30 p.m., in Room 5051 of the Department of Health, Education, and Welfare's North Building, 330 Independence Avenue, SW, Washington, D.C. The Review Panel will consider matters pertaining to its study of existing policies and procedures for the regulation of new drugs by the Food and Drug Administration. The meeting is open to the public.

Further information on the Review Panel may be obtained from John D. Rust, Executive Secretary, Review Panel on New Drug Regulation, Room 1187 Donahoe Building, 330 Independence Avenue, SW, Washington, D.C. 20201, telephone (202) 472–3000.

JOHN D. RUST,
Executive Secretary, Review
Panel on New Drug Regulation.

DECEMBER 16, 1976.

[FR Doc.76–37949 Filed 12–27–76;8:45 am]

STUDENT FINANCIAL ASSISTANCE STUDY GROUP

Hearing and Meeting

The Student Financial Assistance Study Group was established by public notice on August 27, 1976, to advise the Secretary of Health, Education, and Welfare on ways to implement more effectively and efficiently the Student Financial Assistance Programs administered by the Department. These programs include the Basic Educational Opportunity Grants Program (BEOG), the Guaranteed Student Loan Program (GSL), the Supplemental Educational Opportunity Grants Program (SEOG), the National Direct Student Loan Program (NDSL), the College Work-Study Program (CWS), and the State Student Incentive Grant Program (SSIG).

Notice is hereby given pursuant to Pub. L. 92–463 that the Student Financial Assistance Study Group will hold a hearing to receive suggestions on all topics related to its study and in particular issues related to "Delivery Systems", defined as those various administrative mechanisms used to deliver financial assistance to students. The public hearing will be held on Thursday, February 3, 1977, in Room 1300 of the Department of Health, Education, and Welfare's Region VI Office, 1200 Main Tower Building, 1200 Commerce Street, Dallas, Texas, 75202, from 9:30 a.m. to 3:00 p.m. This hearing is part of the Student Financial Assistance Study Group's efforts to review management and administrative issues related to the student assistance programs.

Outline of the study. The Student Financial Assistance Study Group at its November meeting outlined, in broad terms, the following major areas to be included in the Study.

1. Introduction — background. There will be an introduction which, from a historical base, will analyze why the current management and administrative problems exist in the federal student aid programs and why the Student Financial Assistance Study Group was established.

2. Eligibility. This section of the study will address the process for determining eligibility to receive federal funds and to participate in the student aid programs. The study will critically review, the process for determining and terminating eligibility for states, institutions, student and lenders.

3. Delivery system. The delivery system for providing financial assistance to students through the various mechanisms currently in force will also receive the attention of the Study Group. This will include the application process, panel review process, allotment of funds, packaging of aid and student budget process. The Group intends to give consideration to the timing of payments to students and to institutions; the roles of the federal central office and regional offices in the administration of the programs; the roles of the states, the educational institutions, the private sector service organizations, and the lending institutions in the administration of the programs.

4. Program management and integrity. The organization structure, policies, and procedures used to manage the programs to insure program integrity, coordination, and control will be the focus of this section of the Study. The Study will look at management systems in general, including communications, training, technical assistance, and data acquisition; the incentives and disincentives for program integrity; the appeal processes; the efforts to prevent and eliminate fraud and abuse; and the procedures for evaluating performance of institutions, agencies, and individuals.

At its January public hearing the Study Group members received testimony principally addressing issues related to eligibility. At the public hearing which this notice announces, the Study Group is particularly interested in receiving comments and suggestions on issues related to the Delivery System. A brief statement of some of the issues identified to date in this area is presented below.

The delivery systems. The following is an initial identification of what may be included in the topics to be considered in this part.

A. *Information systems.* How is information distributed to parents, students, and others about these programs? Who should be responsible for distribution of information?

Are students fully informed as to both their rights and their responsibilities when they participate in these programs? Is the information requested from applicants, so complex, that it prevents those in the greatest need from applying? Is all of the requested information necessary? Or is more information needed to serve program objectives? Is there a way to determine the validity and accuracy of information provided? Do institutions and student financial aid officers have sufficient information on their rights and responsibilities for operating these programs?

B. *Allocation of funds.* The programs vary in the ways funds are initially allocated to states and institutions for final distribution to students. The State Student Incentive Grant Program provides dollar-for-dollar matching grants to states which are based on formulas related to higher education enrollment in the states. The allocation of funds for the three campus-based programs is also based on formulas related to the numbers of students enrolled in each state, but the funds are actually distributed to institutions, not states. In the case of the Basic Educational Grant Program, funds are allocated directly to students based on an entitlement formula.

Do the current methods result in equity, effectiveness and efficiency? Should there be common policies and procedures across program lines? What should be the role of the states in the allocation process?

C. *Application and awards process.* The application and awards process to institutions for the three campus-based programs have been a subject of considerable debate and question. Attempts have been made to simplify the application process by use of a "short form"; however, this leads to other problems. According to a GAO report, the current system lends itself to serious abuse which results in unfair advantage and inequity in the final award process.

Currently, students apply for BEOG funds from one national center. At the present time, institutions of postsecondary education are not authorized a role in the application process, and some have questioned if there should be some monitoring responsibility for the institutions, particularly to control and correct errors and, where possible, prevent fraud and abuse.

In the use of SSIG funds, there has been some movement to limit the flexi-

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bility currently available to the states in awarding funds. Will this provide equity and efficiency and promote effective use of these funds, or will it only add problems to an already complex student financial aid delivery system?

States agencies currently have major responsibilities for operation of GSLP and efforts are underway to encourage further growth in this area. What problems are there in the need to provide national uniform and consistent policies and procedures, as the states assume even more responsibility? What should the role of the institutions be in this process?

In all parts of the delivery system, there needs to be a due process or appeals procedure. How should this be structured when there are various offices and individuals assigned responsibility for program operation? Where should responsibility be fixed?

What is the impact of the student's budget and the packaging process on the amount of funds received by the student? Is there a need for national standards and guidelines to achieve fairness and equity in the award process?

D. *Payment of funds.* The Guaranteed Student Loan Program has recently proposed the institution of an "Escrow System" as a means to provide multiple disbursements to students and to prevent fraud and abuse. The program is also planning to establish other new procedures. What is the best and most reasonable way to dispense the funds to students? For example, should the college be asked to cosign the check; should the funds be dispersed in monthly installments? Will the new multiple disbursement procedures create other problems not present in the system?

Under the Basic Educational Opportunity Grant Program, funds are sent to the institution based on an estimate of the number of students the institution will serve. The institutions have no well-defined procedure or responsibility to correct errors in award amounts, and sometimes find themselves paying funds that they believe are not accurate. Some institutions have made use of these funds for other than the intended purposes. Students have been able to receive duplicate payments and have received funds for educational purposes with no true intent to seek an education. What changes are needed to improve this system and, in particular, eliminate situations of fraud and abuse?

For all programs, there is a need to have a practical means to limit, suspend, and terminate payment of funds in cases of serious abuse and fraud. Currently, the system makes this process difficult.

There have also been delays in making funds available on a timely basis to institutions. As a result, institutions have had to use their own limited funds, and students have concerns that commitments for assistance will not be fulfilled.

A subsequent public hearing will emphasize issues related to Program Management and Integrity.

Dr. John A. Perkins, Chairman of the Student Financial Assistance Study Group, will preside at the hearing. Persons wishing to testify should submit their requests in writing to: Mrs. Mary Jane Calais, Staff Director, Student Financial Assistance Study Group, Room 325H, South Portal Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-9855. Requests to testify should reach Mrs. Calais not later than January 25, 1977. Persons wishing to present written statements for the record are encouraged to do so. Such written statements should be received by the Student Assistance Study Group not later than January 25, 1977.

The hearing will be open for public observation.

Pursuant to Pub. L. 92-463, notice is also hereby given of a meeting of the Student Financial Assistance Study Group to be held on Friday and Saturday, February 4 and 5, 1977 from 9:00 a.m. until 5:00 p.m. each day, in Room 1300 of the HEW Region VI Office, 1200 Main Tower Building, 1200 Commerce Street, Dallas, Texas.

The meeting will be used to review and discuss available information, to plan for future study activities, and to make staff work assignments. Members of the Public are invited to attend the meeting. Because of limited metting accommodations, reservations are recommended. Persons wishing to attend should notify the Study Group Staff Director by mail at Room 325H, 200 Independence Avenue, S.W., Washington, D.C. 20201, or by telephone at (202) 245-9855.

MARY JANE CALAIS,
Staff Director, Student Financial Assistance Study Group.

DECEMBER 22, 1976.

[FR Doc.76-38049 Filed 12-27-76;8:45 am]

Social Security Administration

TRUST TERRITORY OF THE PACIFIC ISLANDS

Finding Regarding Foreign Social Insurance or Pension System

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health, Education, and Welfare finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof are paid on account of old age, retirement, or death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to the authority duly vested in the Commissioner of Social Security by the Secretary of Health, Education, and Welfare, and redelegated to him, the Director of the Bureau of Retirement and Survivors Insurance has approved a finding that the Trust Territory of the Pacific Islands, beginning July 1, 1976, has a social insurance system of general application which pays periodic benefits on account of old age, retirement, or death, and under which citizens of the United States, not citizens of the Trust Territory of the Pacific Islands, who leave the Trust Territory of the Pacific Islands, are permitted to receive such benefits or their actuarial equivalent at the full rate without qualification or restriction while outside that territory.

Accordingly, it is hereby determined and found that the Trust Territory of the Pacific Islands, has in effect, beginning July 1, 1976, a social insurance system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

PASQUALE F. CALIGIURI,
Director, Bureau of Retirement and Survivors Insurance.

[FR Doc.76-37830 Filed 12-27-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-76-672]

SEA-AIR ESTATES

Hearings

In the matter of: Sea-Air Estates, Douglas R. Gaines, President and Sea-Air Estates, Inc.; 76-308-IS, OILSR No. 0-4242-09-1075. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that:

1. Sea-Air Estates, Douglas R. Gaines, President and Sea-Air Estates, Inc., authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, *et seq.*) received a Notice of Proceedings and Opportunity for Hearing issued October 15, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Sea-Air Estates, located in Monroe County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 5, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW, Washington, D.C., on January 28, 1977 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before January 5, 1977.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: November 23, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-38067 Filed 12-27-76;8:45 am]

[Docket No. N-76-671]

TIBURON (CAINE WOODS)

Hearing

In the matter of: Tiburon (Caine Woods) a/k/a Parker Estates, B.T.W. & Associates, William B. Ingersoll, 76-315-IS, OILSR No. 0-4233-24-70. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b).

Notice is hereby given that:

1. Tiburon (Caine Woods) a/k/a Parker Estates, B.T.W. & Associates, William B. Ingersoll, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, *et seq.*) received a Notice of Proceedings and Opportunity for Hearing issued October 21, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Tiburon (Caine Woods), located in Worcester County, Maryland, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 10, 1976 in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW, Washington, D.C., on February 9, 1977 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before January 11, 1977.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: December 1, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-38066 Filed 12-27-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA

Cancellation of Meeting

The meeting of the Phoenix District Multiple Use Advisory Board scheduled for January 14, 1977, Notice of which appeared in FEDERAL REGISTER Vol. 41, No. 239, page 55034 of the issue of December 10, 1976, is hereby cancelled.

Dated: December 20, 1976.

W. K. BARKER,
District Manager.

[FR Doc.76-38007 Filed 12-27-76;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before Dec. 17, 1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by January 7, 1977.

JERRY L. ROGERS,
Acting Chief, Office of Archeology and Historic Preservation.

CALIFORNIA

Alameda County

Oakland, *Treadwell Mansion and Carriage House*, 5212 Broadway.

ILLINOIS

Kane County

Batavia, *Chicago, Burlington, and Quincy Railroad Depot*, 155 Houston St.

Lake County

Lake Forest, *Lake Forest Historic District*, roughly bounded by Western, Westleigh, Lake Michigan and northern city limits.

McLean County

Hudson, *Gildersleeve House*, 108 Broadway.

Shelby County

Shelbyville, *Chatauqua Auditorium*, Forest Park at NE. 9th St.

INDIANA

Marion County

Indianapolis, *Northside*, roughly bounded by I-65, Bellefontaine, 16th, and Pennsylvania Sts.

KANSAS

Brown County

Hiawatha vicinity, *Davis Memorial*, 0.5 mi. E of Hiawatha.

Chase County

Elmdale vicinity, *Clover Cliff Ranch House*, 4 mi. SW of Elmdale.

Crawford County

Pittsburg, *Pittsburg Public Library*, 4th and Walnut.

Doniphan County

Wathena, *Harding, Benjamin, House*, 308 N. 5th.

Douglas County

Baldwin City, *Parmenter Memorial Hall*, 8th and Dearborn.

Lyon County

Emporia, *Soden, Hallie B., House*, 802 S. Commercial.

Shawnee County

Topeka, *Davies Building*, 725-727 Kansas Ave.

Wyandotte County

Kansas City, *Rosedale World War I Memorial Arch*, Mt. Marty Park.
Kansas City, *Sauer Castle*, 945 Shawnee Dr.

KENTUCKY

Bell County

Cubage vicinity, *Hensley Settlement*, S of Cubage on Cumberland Gap National Historic Park.

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Washington County

Springfield, *Washington County Courthouse*, Public Sq.
Springfield vicinity, *Walton Manor Cottage (John Pope Law Office)*, 2 mi. W of Springfield on KY 150.

MISSOURI

Buchanan County

St. Joseph, *Wholesale Row*, bounded by Jules, 3rd, 4th, and Francis Sts.

Charlton County

Keytesville, *First Presbyterian Church*, Hill and East Sts.

Cooper County

Boonville, *Boiler House*, 223 E. Spring St.
Pilot Grove vicinity, *Pleasant Green*, 8 mi. SW of Pilot Grove on U.S. 135.

Dade County

South Greenfield vicinity, *Dilday Mill*, SE of South Greenfield on Turnback Creek.

Dunklin County

Campbell vicinity, *Chalk Bluff*, W of Campbell.

Marion County

Hannibal, *Mark Twain Historic District*, roughly bounded by the Mississippi River, U.S. 36, 3rd, and Bird Sts.

Pemiscot County

Portageville vicinity, *The Fort (23PM-53)*, W of Portageville.

Ralls County

Hannibal vicinity, *Garth, John, House*, S of Hannibal off U.S. 61.

Saline County

Marshall, *First Presbyterian Church*, 212 E. North St.
Marshall, *Saline County Courthouse*, Courthouse Sq.

MONTANA

Sanders County

Thompson Falls vicinity, *Salish House Site*, S of Thompson Falls.

NEW JERSEY

Burlington County

Burlington vicinity, *Irick, John, House (Copany Way)*, E of Burlington off NJ Tnpk.
Moorestown, *Town Hall*, 40 E. Main St.

Camden County

Haddonfield vicinity, *Barclay Farm House*, NE of Haddonfield near jct. of I-295 and NJ 70.

Essex County

Newark, *Salaam Temple (Newark Symphony Hall)*, 1020 Broad St.

Gloucester County

Pitman, *Pitman Grove*, bounded by Holly, East, Laurel, and West Aves. (both sides).

Mercer County

Titusville vicinity, *Phillips, Joseph, Farm*, N of Titusville on Hunter Rd.

NEW MEXICO

Santa Fe County

Santa Fe vicinity, *Madrid Historic District*, 25 mi. SW of Santa Fe on NM 14.

NEW YORK

Queens County

Flushing, *Bowne, John, House*, 37-01 Bowne St.

PENNSYLVANIA

Allegheny County

East Pittsburgh, *George Westinghouse Memorial Bridge*, U.S. 30 over Turtle Creek.

Philadelphia County

Philadelphia, *Bellevue Stratford Hotel*, 200 S. Broad St.

RHODE ISLAND

Providence County

Manville vicinity, *Cole, John, Farm*, E of Manville on Reservoir Rd.

UTAH

Morgan County

Mountain Green, *Deserter Point*, I-80.

VERMONT

Lamoille County

Johnson, *Nye Block*, Main and Railroad Sts.

WASHINGTON

Chelan County

Wenatchee, *U.S. Post Office and Annex*, Mission and Yakima Sts.

WEST VIRGINIA

Lewis County

Weston, *Weston State Hospital*, River St.

WISCONSIN

Ashland County

LaPointe, *LaPointe Indian Cemetery*, S. Old Main St.

[FR Doc.76-37626 Filed 12-27-76;8:45 am]

Office of the Secretary

COMMITTEE ON FUTURE ENERGY PROSPECTS NATIONAL PETROLEUM COUNCIL

Meeting

Notice is hereby given for following meeting:

The National Petroleum Council's Committee on Future Energy Prospects will meet on Friday, January 14, 1977, at 10 a.m. in the Mount Vernon Room of the Madison Hotel, 15th and M Streets NW, Washington, D.C.

The agenda includes the following items for discussion:

1. Review and discuss progress on completion of individual discussion papers.
2. Discuss overall plans and timetable for completion of study.
3. Discuss any other matters pertinent to the overall assignment of the Committee.

The purpose of the National Petroleum Council is to provide to the Secretary of the Interior, upon request, advice, information, and recommendations upon any matter relating to petroleum or the petroleum industry.

The meeting will be open to the public to the extent that space and facilities permit. Any member of the public may file a written statement with the Council either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Council and obtain approval in accordance with its established procedures.

Further information about the meeting may be obtained from Ben Tafoya, Office of the Assistant Secretary—Energy and Minerals, Department of the Interior, Washington, D.C. (telephone: 343-6226).

Dated: December 21, 1976.

ROBERT L. PRESLEY,
Staff Assistant, Emergency Preparedness, Office of the Assistant Secretary—Energy and Minerals.

[FR Doc.76-37950 Filed 12-27-76;8:45 am]

WATCHES AND WATCH MOVEMENTS

Rules For Allocation of Quotas For Calendar Year 1977 Among Producers Located In the Virgin Islands, Guam and American Samoa

CROSS REFERENCE: For a document concerning the above entitled matter, issued jointly by the Department of Commerce and by the Department of the Interior, see FR Doc. 76-38060, in the notices section of this issue under Department of Commerce, Office of the Secretary.

DEPARTMENT OF JUSTICE

Antitrust Division

PROPOSED CONSENT JUDGMENT IN UNITED STATES v. SAKS & COMPANY, ET AL., AND COMPETITIVE IMPACT STATEMENT THEREON

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Southern District of New York in *United States of America v. Saks & Company, et al.*, Civil Action No. 74-4391. The complaint in this case alleges that the three defendant stores conspired to fix the price of women's clothing in the New York Metropolitan Area in violation of section 1 of the Sherman Act. The proposed judgment enjoins the defendant stores from agreeing to fix prices or markups for the sale of women's clothing, from agreeing to establish dates for the reduction of prices or markups, and from agreeing to establish, police or adhere to any manufacturer's suggested or other retail prices or markups. The proposed judgment also enjoins the defendant stores from engaging in specified unilateral attempts to influence other retailers or clothing manufacturers, and from communicating certain pricing and other information to such retailers or manufacturers.

Public comment is invited on or before February 24, 1977. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Bernard Wehrmann, Chief, New York Office, Antitrust Division, Department of Justice, 26 Federal Plaza, New York, New York 10007.

Dated: December 16, 1976.

CHARLES F. B. MCALEER,
Assistant Section Chief, Judgments & Judgment Enforcement Section.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Saks & Company; Bergdorf Goodman Inc.; and Genesco Inc.*, Defendants.

Civil Action No. 74 Civ. 4391 (HFW).

Filed: December 16, 1976.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to the Plaintiff and Defendants in this and any other proceeding.

For the Plaintiff: Donald I. Baker, *Assistant Attorney General*; William E. Swope, Richard J. Favretto, Charles F. B. McAleer, Bernard Wehrmann, Melvin Lublinski, Edward F. Corcoran, *Attorneys, Department of Justice.*

For the Defendants: Solinger & Gordon, by John C. Grosz, a member of the firm, *Attorneys for Saks & Company*; Wormser, Kiely, Alessandroni and McCann, by Lawrence M. McKenna, a member of the firm; Covington & Burling, by Lawrence M. McKenna, for Virginia Watkin, a member of the firm, *Attorneys for Bergdorf Goodman Inc.*; Donovan Leisure Newton & Irvine, by Sanford M. Litvack, a member of the firm, *Attorneys for Genesco Inc.*

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Saks & Company; Bergdorf Goodman Inc.; and Genesco Inc.*, Defendants.

Civil Action No. 74 Civ. 4391 (HFW).

Filed: December 16, 1976.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on October 7, 1974, and Defendants Saks & Company, Bergdorf Goodman Inc., and Genesco Inc., having appeared by their attorneys, and the Plaintiff and the Defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and upon the consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the Defendants under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" means any individual, corporation, partnership, firm, association or other business or legal entity.

(B) "Women's clothing" means dresses, suits, coats, separates, sportswear, swimwear, beachwear and other items of outerwear intended to be worn by women, but excluding shoes, millinery and accessories.

(C) "Defendant stores" means Saks & Company, Bergdorf Goodman Inc., and the Bonwit Teller Division of Genesco Inc.

(D) "Affiliated companies" means corporations in which 50% or more of the voting stock is owned by a Defendant store's parent or which are in fact controlled by such parent.

III

The provisions of this Final Judgment, as applied herein to any Defendant or Defendant store, shall also apply to each of their officers, directors, agents, employees, subsidiaries, successors and assigns, to each of the officers, directors, agents and employees of each of their respective subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply to transactions or communications between a Defendant store and its subsidiaries, affiliated companies, parent or any company which owns 100% of the voting stock of its parent.

IV

Each Defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by the Defendant store in the marketing of women's clothing, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court, and serve upon the Plaintiff, its consent to be bound by this Final Judgment.

V

(A) Each Defendant store is enjoined and restrained from entering into, adhering to, maintaining, furthering or enforcing, directly or indirectly, any agreement, understanding, plan or program with any other person to:

(1) Raise, fix, stabilize or maintain prices, markups or other terms or conditions at which any women's clothing is offered for sale at retail within the United States;

(2) Establish or determine dates for the reduction of prices or markups on any women's clothing offered for sale at retail within the United States;

(3) Establish, issue, police, enforce or adhere to any manufacturer's suggested or other retail prices or markups for any women's clothing offered for sale at retail within the United States.

(B) Each Defendant store is enjoined and restrained from acting, either unilaterally or in concert with any other person, directly or indirectly, to induce, coerce or attempt to influence:

(1) Any manufacturer to establish, issue, police or enforce any manufacturer's suggested or other retail prices or markups for any women's clothing offered for sale at retail within the United States;

(2) Any other retailer to adhere to any manufacturer's suggested or other retail prices or markups for any women's clothing offered for sale at retail within the United States;

(3) Any other person to establish or determine dates for the reduction of prices or markups on any women's clothing offered for sale at retail within the United States.

VI

(A) Each Defendant store is enjoined and restrained from communicating, directly or indirectly, to any other retailer of women's clothing or any manufacturer of women's clothing, information concerning:

(1) The actual or proposed prices, price changes, markups, or markup changes on any women's clothing it offers for sale at retail within the United States, other than proposed prices or markups for items of women's clothing communicated to the manufacturer of the clothing solely for the purpose of negotiating lower wholesale prices for the clothing;

(2) The actual or proposed prices, price changes, markups, or markup changes on any women's clothing offered for sale at retail by any third person within the United States;

(3) Any third person's refusal to adhere to or intention not to adhere to any manufacturer's suggested or other retail prices or markups for any women's clothing offered for sale at retail within the United States;

(4) Any third person's refusal to change or intention not to change its prices or markups on any women's clothing offered for sale at retail within the United States;

(5) The actual or proposed dates on which any third person intends to reduce the prices or markups on any women's clothing it offers for sale at retail within the United States.

Beginning three years after entry of this Final Judgment, nothing in Paragraph A(1) of this Section shall prevent a Defendant store from arranging with a manufacturer from which it has purchased women's clothing that such manufacturer affix to the clothing tickets setting forth prices specified by the Defendant store to the manufacturer within thirty (30) days prior to the date set for delivery.

(B) Each Defendant store is enjoined and restrained from communicating, directly or indirectly, to any other retailer of women's clothing, information concerning the actual or proposed dates on which it intends to reduce the prices or markups on any women's clothing it offers for sale at retail within the United States.

(C) Each Defendant store is enjoined and restrained from soliciting or accepting from any other retailer or from any manufacturer any actual or proposed price or markup list pertaining to any women's clothing where the Defendant store knows or has reason to believe that the list was promulgated by any retailer other than the Defendant store.

VII

Each Defendant store is ordered and directed to:

(A) For a period of ten (10) years from the date of entry of this Final Judgment, take affirmative steps (including, but not limited to, distribution of this Final Judgment, written directives setting forth corporate compliance policies and meetings to review the terms and obligations of this

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Judgment) to advise each of its officers and directors and each of its buyers, assistant buyers, store managers and other employees having managerial or supervisory authority in the purchase or pricing of women's clothing offered for sale at retail within the United States of its and their obligations under this Final Judgment and of the criminal penalties for violation of Sections V and VI of this Final Judgment;

(B) For a period of ten (10) years from the date of entry of this Final Judgment, distribute a conformed copy thereof to all successors of each individual presently holding any position described in subsection (A) of this Section upon the entry on duty of each such successor;

(C) Within sixty (60) days after entry of this Final Judgment, furnish a conformed copy thereof to each of its suppliers of women's clothing offered for sale at retail within the United States from whom purchases of women's clothing during the calendar year 1975 exceeded $25,000;

(D) File with this Court and mail to the Plaintiff, within ninety (90) days after entry of this Final Judgment, an affidavit setting forth the fact and manner of compliance with subsection (C) of this Section VII;

(E) File with this Court and mail to the Plaintiff on each anniversary date of this Final Judgment, for a period of ten (10) years from the date of entry thereof, an affidavit of the officer responsible for the performance of the Defendant store's obligations under subsections (A) and (B) of this Section VII setting forth all steps the Defendant store has taken during the preceding year to discharge such obligations.

VIII

(A) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, each Defendant shall permit duly authorized representatives of the Department of Justice, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to such Defendant at its principal office, subject to any legally recognized privilege:

(1) Access, during the regular business hours of such Defendant, who may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the Defendant which relate to any matters contained in this Final Judgment;

(2) Subject to the reasonable convenience of the Defendant, and without restraint or interference from it, to interview any officers or employees of Defendant, who may have counsel present, regarding any matters contained in this Final Judgment.

(B) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, each of the Defendants shall submit such reports in writing, under oath if so requested, with respect to any matters contained in this Final Judgment as may from time to time be requested in writing by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division.

(C) No information obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

X

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. *Saks & Company; Bergdorf Goodman Inc.; and Genesco Inc.*, Defendants.

Civil Action No. 74 Civ. 4391 (HFW).

Filed: December 16, 1976.

PROPOSED CONSENT DECREE: COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)–(h)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

NATURE AND PURPOSE OF THE ACTION

On October 7, 1974, the Department of Justice filed a civil antitrust action alleging that Saks & Company, Bergdorf Goodman Inc., and Genesco Inc., through its Bonwit Teller Division, had combined and conspired to raise, fix, stabilize and maintain retail prices of women's clothing in the New York Metropolitan Area in violation of Section 1 of the Sherman Act. It was alleged that as a result of the conspiracy the prices of women's clothing were fixed and maintained at artificial and noncompetitive levels depriving customers of free and open competition and restraining competition.

The Department of Justice requested that the Court enjoin the defendants from continuing the alleged conspiracy and engaging in any other conspiracy having similar purpose or effect.

DESCRIPTION OF THE PRACTICES GIVING RISE TO THE ALLEGED VIOLATION

According to the complaint, the defendant companies are among the largest retailers specializing in the sale of women's clothing in the New York Metropolitan Area. In 1972 they accounted for approximately $70 million in area retail sales. The defendant companies use mark up lists in pricing the items of clothing they sell to consumers. Their markup lists consist of a column showing each price level at which the store purchases women's clothing and a corresponding column showing the retail price to be charged for items purchased at that cost level. The complaint alleged that beginning at least as early as the late 1960's, the defendant stores allegedly engaged in a course of conduct through which they jointly established uniform prices through the adoption of uniform markup lists, maintained adherence to such prices, induced manufacturers to use such uniform prices as their suggested retail prices, induced manufacturers to police such suggested retail prices, and set dates for the beginning of clearance periods during which uniform retail prices were reduced.

EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment provides specific measures to dispel the anticompetitive effects alleged by the complaint. Saks & Company, Bergdorf Goodman Inc., and Bonwit Teller Division of Genesco Inc. are enjoined and restrained from entering into any agreement or arrangement to fix the price of women's clothing they offer for sale in the United States, to establish sales dates, or to establish, police or adhere to any manufacturer's suggested price list. Furthermore, the three defendant stores are each barred from inducing or attempting to influence any manufacturer to issue or police a suggested price list and from inducing or attempting to influence any retailer to adhere to a manufacturer's suggested price list or to establish sale dates. Such conduct is forbidden on the part of the defendant store regardless of whether it is acting unilaterally or in concert with others. Moreover, each defendant store is prohibited from communicating certain information regarding its own pricing policies and sales date policies or those of its competitors. However, certain limited communications with manufacturers are permitted for the purpose of negotiating lower wholesale prices for clothing being purchased. Additionally, after a three-year moratorium period, each defendant store will be permitted to request manufacturers to "pre-ticket" items by marking them with retail prices specified by the defendant store. Each defendant store is also barred from soliciting or accepting a markup list which it knowns or has reason to believe was promulgated by a cmpetitor. Finally, each defendant store will be required to take affirmative steps to advise each of its officers, directors, store managers, buyers, assistant buyers and certain other employees of their responsibilities under the decree and to furnish a copy of the decree to each supplier from whom 1975 purchases of women's clothing exceeded $25,000.

COMPETITIVE EFFECTS OF THE PROPOSED CONSENT JUDGMENT

It is anticipated that the proposed consent judgment will have the effect of eliminating the conspiracy which restrained price competition and restoring price competition among the defendants.

ALTERNATIVE REMEDIES CONSIDERED BY THE GOVERNMENT

One alternative to the proposed consent judgment considered by the Antitrust Division was a full trial on the merits. The Antitrust Division determined that the judgment provided substantially all of the relief which might reasonably be expected following a trial and a decision favorable to the Government, without the commitment of manpower and delay involved in a trial.

The Antitrust Division also considered a consent decree which was different in several respects from the decree presently proposed. Initially, the Antitrust Division considered a decree with a definition of women's clothing which was broader than that definition set forth in the complaint but did not insist upon that definition as there was no assurance of obtaining such relief after trial. Similarly, the Antitrust Division did not insist upon more encompassing notification provisions because the procompetitive benefits would have been marginal when compared to the expense of carrying out such provisions.

The Antitrust Division also agreed to permit two limited types of communications which it initially proposed to prohibit. These are communications by a defendant store to a manufacturer of certain retail pricing information for the purpose of facilitating negotiating of lower wholesale prices and, aftr a three-year moratorium period, to enable the manufacturer to pre-ticket purchased garments. The latter is a potential cost-saving device while the former may encourage lower retail prices. The decree also permits a defendant store to advise a manufacturer of its sales date plans to ensure delivery by the manufacturer of special purchase and other goods.

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies which they would have had, were the proposed consent judgment not entered. However, this judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is subject to a stipulation by and between the United States and the defendants, which provides that the United States may withdraw its consent to the proposed judgment until the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed judgment provides for retention of jurisdiction of this action in order, among other things, to permit any of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any persons believing that the proposed judgment should be modified may, for a 60-day period, submit written comments to the United States Department of Justice, Antitrust Division, New York, New York 10007, which will file with the Court and publish in the FEDERAL REGISTER such comments and its response to such comments. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

DETERMINATIVE DOCUMENTS

There are no materials or documents which the Government considered determinative in formulating this proposed consent judgment. Therefore, none are being filed with this Competitive Impact Statement.

EDWARD F. CORCORAN,
MELVIN LUBLINSKI,
Attorneys, Department of Justice.

[FR Doc.76-38008 Filed 12-27-76;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEES ON PRODUCTIVITY AND TECHNOLOGICAL DEVELOPMENTS AND FOREIGN LABOR AND TRADE

Meeting

There will be a joint meeting of the BRAC Committees on Productivity and Technological Developments and Foreign Labor and Trade on January 17, 1977, at 1 p.m., in Room S4215 (A, B, and C), New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. The agenda for the meeting is as follows:

1. Status of work on Trade Statistics Monitoring System;

2. Comparative measures and hourly compensations among countries;

3. Development of quarterly industry productivity measures.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 523–1559.

Signed at Washington, D.C. this 20th day of December 1976.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.76-37869 Filed 12-27-76;8:45 am]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 20th day of December, 1976.

BEN BURDETSKY,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending December 17, 1976

Name of applicant	Location of enterprise	Principal product or activity
Irvin A. Miller	Washington, Pa	Lease of store facilities.
Cumberland Mills, Inc	Eton, Ga	Manufacture of tufted textile-carpet.
Co. O. Smith, Jr	Moultrie, Ga	Manufacture of nitrogenous fertilizer materials.
McDonald Supply Co	Americus, Ga	Retail and industrial sales of hardware.
Thurman C. Ellis	Whiteville, N.C	Rebuilding of auto, farm and industrial engines.
Tommie Corp	Thorsby, Ala	Production of iron castings (lightweight).
National Livestock Equipment, Inc	Cullman, Ala	Manufacture of livestock handling equipment.
Anne Maris Medical Care Nursing Home, Inc	North Augusta, S.C	Nursing home.
Rocky River Mills, Inc	Wadesboro, N.C	Manufacture of livestock and poultry feed.
Wingerts Inc	Mayville, Mich	Supermarket.
Curtis Corp	New London, Wis	Manufacture of architecturally specified institutional and residential doors.
The Texas Brick Co	Brownwood, Tex	Manufacture of brick products.
Larry R. Burck	Millersburg, Ia	Retail and wholesale tire dealer.
The Eugene Squire Motel	Eugene, Oreg	Motel.

[FR Doc.76-37935 Filed 12-27-76;8:45 am]

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SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Solicitation of Grant Applications From Governors

1. *Definitions.* As used in this notice, the term "States" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands; and the term "Governors" means the chief executives of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

2. *Purpose.* The purpose of this notice is to request each Governor to apply for a project grant under the Senior Community Service Employment Program (SCSEP). The SCSEP is authorized by Title IX of the Older Americans Act as added by the Older Americans Amendments of 1975 (Pub. L. 94-135) and is governed by the regulations at Title 29 of the Code of Federal Regulations, Part 89 (41 FR 9066, March 2, 1976).

3. *Scope.* The funds available in connection with this solicitation represent a portion of those that were appropriated for Community Service Employment for Older Americans by the Departments of Labor and Health, Education, and Welfare, and Related Agencies Appropriations Act, Fiscal Year 1977 (Pub. L. 94-439). In the Conference Report that attended the Appropriations Act (House of Representatives Conference Report No. 94-1384), congressional intent with regard to the use of these funds was explained as follows:

> The conferees are agreed that the amount in the bill, $90,600,000 will support a level of 22,600 jobs and shall be utilized for a 12-month period beginning July 1, 1977, and ending June 30, 1978. During this period, it is the intent of the conferees that 18,800 jobs be allocated to national contractors and that 3,800 jobs be allocated to the States according to the formula in the basic law.

The Department of Labor has determined that $15,234,000 is needed to support the 3,800 jobs which the Congress has designated for States. Accordingly, the portion of the appropriation to which this solicitation pertains is $15,234,000. From this amount, specific allotments have, consistent with the formula set forth in Pub. L. 94-135, been reserved for each State. The Department of Labor hereby requests each Governor to apply for the State's full allotment from the $15,234,000.

4. *Background.* (a) *Program Description.* The SCSEP, which was put into opration in 1974, employs low-income persons, aged 55 and above, in part-time community service jobs. With their wages subsidized by the Federal government, program participants may work in a wide variety of activities, such as day care centers, schools, hospitals, senior citizens centers, and beautification, conservation and restoration projects. In addition to subsidized employment, the program also provide participants with yearly physical examinations, personal and job-related counseling, job training and, in some cases, placement into regular, unsubsidized jobs. While offering participants a welcome income supplement, the SCSEP offers the communities in which it operates a federally supported pool of manpower which can be drawn upon to augment existing services or to create new ones.

(b) *Current status of the SCSEP.* SCSEP projects currently operate in every State and Territory and in the District of Columbia and the Commonwealth of Puerto Rico. The great majority of these projects are now being sponsored by five national-level organizations: Green Thumb, Inc. (an arm of the National Farmers Union); the National Council on the Aging; the National Council of Senior Citizens; the National Retired Teachers Association—American Association of Retired Persons; and the U.S. Forest Service. Combined, these five organizations sponsor all SCSEP projects now being conducted in 47 States; Washington, D.C.; and Puerto Rico. In the 3 States and 4 Territories not covered by these organizations (Alaska, Delaware, Hawaii, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands), SCSEP projects are being sponsored by the State and Territorial governments. In total, about 15,000 part-time job positions are currently being supported under the SCSEP. All grants for existing projects, which have been funded from a Fiscal Year 1976 appropriation, will complete on June 30, 1977.

(c) *Continuing role for the national sponsoring organizations.* The five national organizations named above will continue to serve as project sponsors under the SCSEP. From the $90,600,000 that was appropriated to support the SCSEP during the period of July 1, 1977, through June 30, 1978, the Department of Labor has reserved $75,366,000 for use by these five organizations. This is the amount that the Department of Labor has determined will be needed to support the 18,800 jobs which the Congress has designated for "national contractors".

(d) *Coordination between the national sponsoring organizations and the State and Territorial governments.* The Department of Labor has instructed the national sponsoring organizations to communicate formally with the governments of those States in which they will be operating SCSEP projects during the 12-month period beginning July 1, 1977. In this regard, the national sponsors will, by no later than January 14, 1977, provide to the State agency on aging a copy of its written plan for activities in the State. This plan will identify separately: (i) The existing local projects that are planned for continuation and (ii) any new local projects which the sponsor intends to implement. The State agencies on aging are invited to make written recommendations to the national sponsors regarding these plans with particular respect to the locations in the States where the new projects are most needed. The national sponsors have been instructed to give full and careful consideration to the recommendations of the State agencies on aging in selecting sites for the new projects. Cooperation and coordination between the national sponsors and the State governments (through the State agencies on aging) will be vital with the respect to the avoidance of duplicative or competitive project activities. The comments of the State agencies on aging are being requested pursuant to section 903(a) of Title IX of the Older Americans Act.

5. *Allotments reserved for States.* Following are the allotments from the $15,234,000 which the Department of Labor has reserved for each State:

Alabama	$268,000
Alaska	277,000
Arizona	144,000
Arkansas	183,000
California	1,080,000
Colorado	126,000
Connecticut	159,000
Delaware	277,000
District of Columbia	100,000
Florida	722,000
Georgia	298,000
Hawaii	277,000
Idaho	100,000
Illinois	577,000
Indiana	323,000
Iowa	192,000
Kansas	151,000
Kentucky	248,000
Louisiana	240,000
Maine	100,000
Maryland	195,000
Massachusetts	371,000
Michigan	474,000
Minnesota	246,000
Mississippi	187,000
Missouri	353,000
Montana	100,000
Nebraska	101,000
Nevada	100,000
New Hampshire	100,000
New Jersey	403,000
New Mexico	100,000
New York	1,058,000
North Carolina	354,000
North Dakota	100,000
Ohio	846,000
Oklahoma	205,000
Oregon	154,000
Pennsylvania	817,000
Puerto Rico	170,000
Rhode Island	100,000
South Carolina	177,000
South Dakota	100,000
Tennessee	302,000
Texas	708,000
Utah	100,000
Vermont	100,000
Virginia	272,000
Washington	199,000
West Virginia	146,000
Wisconsin	302,000
Wyoming	100,000
American Samoa	138,000
Guam	138,000
Trust Territory of the Pacific Islands	138,000
Virgin Islands	138,000

6. *Application procedures.* (a) *General.* There are two basic steps involved in the grant application process. First, the Governor must notify the Department of Labor of the State's intent to apply for the SCSEP grant. This is accomplished by submitting a properly completed preapplication to the Department. Second, the Governor must submit a properly completed grant application, along with a partially completed grant signature sheet, to the Department of Labor. Necessary preapplication and application materials and instructions have been forwarded to each Governor.

(b) *Department of Labor receiving office.* Preapplications and applications must be submitted to:

> Office of National Programs, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building—Room 6402, 601 D Street, NW, Washington, D.C. 20213; Attention: Title IX Grants.

(c) *Preapplication.* The preapplication must be submitted to the Office of National Programs no later than February 28, 1977. Receipt of the preapplication will be acknowledged promptly, in writing, by the Office of National Programs.

(d) *Application.* The application and the partially completed grant signature sheet must be submitted to the Office of National Programs no later than April 30, 1977. The Department of Labor will review the application to determine if it is complete and assures the operation of a project consistent with the specifications described in paragraph (e) of this section and with applicable laws and regulations. In the event the Department of Labor finds that an application is not acceptable for funding, the Department will advise the Governor as to the inadequacies and will permit the State to submit a corrected application until May 31, 1977.

(e) *Specifications.* The following specifications must be reflected in the preapplication and the application:

(1) *Proposed funding.* The Federal share of the proposed funding must be no more than the allotment specified in section 4 of this notice. The non-Federal share must be no less than 10 percent of the total cost proposed.

(2) *Project start date.* The project start date must be indicated as being July 1, 1977.

(3) *Project duration.* The project duration must be indicated as being 12 months. On the grant signature sheet, the grant period must be indicated as being from July 1, 1977 to June 30, 1978.

7. *Award.* Provided that the application (or the corrected application) is found acceptable for funding, the Department of Labor will award the grant to the State on or before June 30, 1977.

8. *Conditions for exclusive consideration.* The Department of Labor will consider the Governor as the presumptive recipient of the State's allotment from the $15,234,000 provided that the Governor meets the stated deadlines for filing the preapplication and the application and submits a properly completed grant application that assures the operation of a project consistent with the specifications described in section 6(e) of this notice and with the requirements of applicable laws and regulations. In the event these conditions are not met, the Department of Labor may take steps to award the State's allotment to one or more of the national sponsoring organizations mentioned previously.

9. *Governors that determine not to apply.* In the event a Governor determines not to apply for the State's allotment from the $15,234,000 the Governor may specify to the Department of Labor the national sponsoring organization(s), of the five mentioned previously, it wishes to receive the allotment. If the Governor wishes to make such a specification, this should be done in writing to the Office of National Programs no later than February 28, 1977. If it is at all reasonable to do so, the Department of Labor will act in accordance with the request of the Governor in this matter.

10. *Recommended role for State agencies on aging.* The Department of Labor, with the concurrence of the Federal Administration on Aging, urges the Governor of each State to consult the State agency on aging with regard to the decision on whether or not to apply for the available allotment. If the State determines to apply for the allotment, the State agency on aging should be involved in the development of the State's grant application in order to ensure that the SCSEP activities to be undertaken by the State are coordinated with those of the national SCSEP sponsors and with programs and activities administered by the State and area agencies on aging. This role for State agencies on aging is outlined in section 903(a) of Title IX of the Older Americans Act, pursuant to which the Department of Labor has instructed the national sponsoring organizations to forward copies of their respective plans to State agencies on aging for review and comment.

11. *Recommended role for State manpower services councils.* In the regulations that govern the SCSEP (29 CFR, Part 89), section 89.17, Cooperative relationships, states:

> Each (SCSEP) project sponsor shall, to the maximum extent feasible, establish and maintain cooperative relationships and working linkages with . . . manpower and manpower related agencies and, in particular, with agencies operating programs through the Department (of Labor), including State employment security agencies, prime sponsors under title I of the Comprehensive Employment and Training Act of 1973, and State manpower services councils. * * *

In light of the fact that the State manpower services council has a general responsibility to foster coordination between employment and training activities within the State, this responsibility could usefully be extended to the SCSEP. That is, the Governor could call upon the State manpower services council to make specific recommendations as to how and to what extent SCSEP activities should be coordinated or linked with those of the State employment security agency and of State and local prime sponsors under the Comprehensive Employment and Training Act.

12. *Responsible agency.* In the regulations that govern the SCSEP (29 CFR, Part 89), § 89.55, Single State agency not required, states:

> No single State agency or multimember board or commission need be established or designated to administer or supervise the administration of grant projects under (Title IX of) the (Older Americans) Act.

A Governor has discretion, therefore, to place responsibility for the administration and operation of the State's SCSEP grant in whichever State agency or organizational unit is deemed most appropriate. Moreover, a Governor may implement projects at the local level through subgrants with units of local government and private nonprofit organizations. Regardless of the agency or agencies designated by the Governor to administer activities under the State's SCSEP grant, the recommendation appearing in section 10 of this notice aspertains to the consultative role of the State agency on aging should be followed.

Signed at Washington, D.C. this 20th day of December 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-37880 Filed 12-27-76;8:45 am]

Occupational Safety and Health Administration

ALASKA STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of Federal standards as State standards by reference. Section 1952.243 of Subpart R sets forth the State's schedule for the adoption of Federal standards.

By letters dated September 20 and 24, 1976, from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910, Subpart R, §§ 1910.265 and 1910.266 as published in the FEDERAL REGISTER on May 29, 1971 (36 FR 10466) These standards, which are contained in Article 2 of Subchapter 7 of the State's Wood Products Code, were promulgated by the

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State on August 31, 1976, by resolution by the Alaska Department of Labor pursuant to AS 18.60.020 in accordance with the Alaska Administrative Procedures Act.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards with the exceptions of grammatical improvements and additional State original standards, and accordingly are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Technical Data Center, Occupational Safety and Health Administration, New Department of Labor Building, Room N3620, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. *Public participation.* Section 1953.2 (c) of this chapter provides that where State standards are identical to or "at least as effective" as comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law, they are approved without an opportunity for further public comment.

This decision is effective December 28, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this 29th day of October 1976.

JOHN A. GRANCHI,
Acting Regional Administrator.

[FR Doc.76-37875 Filed 12-27-76;8:45 am]

[V-76-9]

JOSLYN MANUFACTURING AND SUPPLY CO.

Grant of Variance

I. BACKGROUND

Joslyn Manufacturing and Supply Company, 2 North Riverside Plaza, Chicago, Illinois 60606 made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance and an interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.22(c) and 1910.23(c)(3). Section 1910.22(c) requires that covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, etc. Section 1910.23(c)(3) requires that all galvanizing tanks be guarded with a standard guardrail and toeboard. Section 1910.23 (e)(1) states that a standard guardrail shall consist of top rail, intermediate rail, and post and shall have a vertical height of 42 inches nominal from upper surface of top rail to floor, platform, runway, or ramp level. The purpose of the standards is to protect the employees from falls into these particularly hazardous areas. The facility affected by this application is:

Empire Galvanizing Plant, Joslyn Manufacturing and Supply Company, 10909 Franklin Park, Franklin Park, Illinois 60131.

Notice of the application, and of the granting of the interim order, was published in the FEDERAL REGISTER on July 23, 1976 (41 FR 34721). The notice invited interested persons, including affected employers and employees to submit written data, views and arguments regarding the grant or denial of the variance requested. In addition, employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant operates two galvanizing kettles. Kettle one had a protective wall 23½ inches in height and 29½ inches in width; kettle two had a protective wall 27½ inches in height and 24½ inches in width.

The applicant asserts that the erection of a 42 inch guardrail around its galvanizing tank would seriously interfere with necessary work practices such as skimming the zinc and may create additional hazards of splashing hot zinc.

Instead of the standard guardrail, the applicant has modified the protective wall of each kettle by increasing their heights (from 23½ inches and 27½ inches) to 32 inches.

III. DECISION

Section 1910.22(c) requires that guardrails be provided to protect personnel from the hazards of open pits, tanks, etc. Section 1910.23(c)(3) requires that regardless of height, opensided floors, walkways, platforms or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units or similar hazards shall be guarded with a standard railing and toeboard.

In the work situation described, the 24½ inch and 29½ inch ledge widths prevents an employee from accidentally stepping into the kettles. The 32 inch side heights are sufficient for an employee to right himself if he should fall toward the kettle. The combination of side height and ledge width, combined with the applicant (1) assuring that no employee walks, steps, or sits on the ledge around the tank and (2) training the employees regarding the proper performance of the operation and the hazards associated with walking, stepping, and sitting on the ledge around the tank, provides protection as safe as that which would be provided by use of a standard guardrail and toeboard.

IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in the Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that Joslyn Manufacturing and Supply Company be, and it is hereby authorized to continue its operation while using its two galvanizing kettles having ledges 24½ inches and 29½ inches in width and 32 inch side heights, in lieu of the standard guardrail required by 29 CFR 1910.22(c) and 1910.23(c)(3) provided that:

1. No employee shall walk, step, or sit on the ledges around the kettles.

2. Training and information regarding the hazards associated with and the prohibition against walking, stepping or sitting on the ledge around the tank shall be provided for current employees within one week of the effective date of this variance, for new employees at the time of their initial assignment, and for all employees on a quarterly basis after their initial training.

As soon as possible, Joslyn Manufacturing and Supply Company shall give notice to affected employees of the terms of the order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on December 28, 1976, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 17th day of December, 1976.

B. M. CONCKLIN,
Deputy Assistant Secretary of Labor.

[FR Doc.76-37872 Filed 12-27-76;8:45 am]

[V-74-49]

METALPLATE AND COATINGS, INC.

Grant of Variance

I. Background

Metalplate and Coatings, Inc., 500 Selig Drive, SW, Atlanta, Georgia 30336 made application pursuant to section 6 (d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the safety standards prescribed in 29 CFR 1910.22(c) and 1910.23 (c)(3). Section 1910.22(c) requires that covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, vats, ditches etc. Section 1910.23(c)(3) requires that all galvanizing tanks be guarded with a standard guardrail and toeboard. Section 19.10.23(e)(1) states that a standard guardrail shall consist of top rail, intermediate rail, and post and shall have a vertical height of 42 inches nominal from upper surface of top rail to floor, platforms, runway or ramp level. The purpose of the standards is to protect employees from falls into these particularly hazardous areas. The facility affected by this application is:

Metalplate and Coatings, Inc., 500 Selig Drive, SW., Atlanta, Georgia 30336.

Notice of the application, and of the granting of an interim order, was published in the FEDERAL REGISTER on September 27, 1974 (39 FR 34721). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant has a galvanizing tank that is built below the floor level with sides rising 24 inches above floor level. The top of this wall is a ledge 27½ inches wide.

The applicant asserts that the erection of a 42-inch guardrail around its galvanizing tank would seriously interfere with the moving of items into and out of the tank and with the skimming of the zinc.

The applicant had originally planned to widen the ledge by adding a two inch pipe running parallel to the ledge around the periphery of the tank and six inches from it. This two inch pipe has not proven durable. Instead of the standard guardrail and toeboard, the applicant has modified the wall of the tank by increasing the width to 32 inches and the height to 30 inches.

The applicant provides training to the employees regarding the proper performance of the operation and the hazards associated with walking, stepping, or sitting on the ledge around the tank.

III. DECISION

Section 1910.22(c) requires that guardrails be provided to protect personnel from the hazards of open pits, tanks, etc. Section 1910.23(c)(3) requires that regardless of height, opensided floors, walkways, platforms or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units and similar hazards shall be guarded with a standard railing and toeboard.

In the work situations described, the 30 inch side height prevents an employee from accidentally stepping into the tank. The 32 inch ledge width is sufficient to allow an employee to right himself if he should lose his balance and fall toward the tank. The combination of side height and ledge width, combined with the applicant assuring that no employee walks, steps, or sits on the ledge around the tank and the training of employees, provides protection as safe as that which would be provided by use of a standard guardrail and toeboard.

IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that Metalplate and Coatings, Inc., be, and it is hereby, authorized to continue its operations while using its galvanizing tank having sides 30 inches high and ledges 32 inches wide, in lieu of the standard guardrail and toeboard required by 29 CFR 1910.22(c) and 1910.23(c)(3), provided that:

1. No employee shall walk, step, or sit on the ledge around the tank;

2. Training and information regarding the hazards associated with and the prohibition against walking, stepping or sitting on the ledge around the tank shall be provided for current employees within one week of the effective date of this variance, for new employees at the time of their initial assignment, and for all employees on a quarterly basis after their initial training.

As soon as possible Metalplate and Cotings, Inc., shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on December 28, 1976, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 17th day of December, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-37871 Filed 12-27-76; 8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH SUBGROUPS ON POLICY/BUDGET, STANDARDS, AND COMPLIANCE

Meetings

Notice is hereby given that the Subgroups on Policy/Budget, Standards, and Compliance of the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on the following dates:

Policy/Budget, January 13, 1977
Standards, January 27, 1977
Compliance, February 2, 1977

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act. The Committee has established Subgroups on Policy/Budget, Standards, and Compliance to assist in carrying out its responsibilities.

All Subgroup meetings will be held in Room N-4437, Department of Labor Building, 3rd Street and Constitution Avenue, NW, Washington, D.C. 20210. The meetings will begin at 9 a.m. The public is invited to attend.

The Policy/Budget Subgroup will examine the monitoring of state plans, the OSHA-NIOSH interface, and if time permits economic and inflationary impact assessments.

The Standards Subgroup will discuss the Standards Completion Project and related issues.

The Compliance Subgroup will discuss new concepts in compliance techniques, employee discrimination complaints under Section 11(c) of the Act, and the role of the Compliance Safety and Health Officer in achieving safety and health objectives.

For additional information contact:

J. Goodell, Chief, Committee Management Office, Room N-3635, OSHA-Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210. Phone: (202) 523-8024.

Any written data or views concerning these agenda items or suggestions for future agenda items which are received by the Committee Management Office before the scheduled meeting dates, preferably with 20 copies, will be presented to the Subgroup and included in the official record of the meeting.

Anyone wishing to make an oral presentation should notify the Committee Management Office before the meetings. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentation will be scheduled at the discretion of the Subgroup Chairman, depending on the extent to which time permits.

Official records of the meetings will be available for public inspection at the above address.

Signed at Washington, D.C. this 16th day of December 1976.

J. GOODELL,
Executive Secretary.

[FR Doc.76-37874 Filed 12-27-76;8:45 am]

[V-75-13]

SMITH INDUSTRIES, INC.

Grant of Variance

I. BACKGROUND

Smith Industries, Inc., 8300 Hempstead Highway, Houston, Texas 77008 made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the safety and health standards prescribed in 29 CFR 1910.22 (c) and 1910.23(c)(3). Section 1910.22 (c) requires that covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, vats, ditches, etc. Section 1910.23 (c)(3) requires that all galvanizing tanks be guarded with a standard guardrail and toeboard. Section 1910.23(e) states that a standard guardrail shall consist of top rail, intermediate rail, and post and shall have a vertical height of 42 inches nominal from upper surface of top rail to floor, platform, runway, or ramp level. The purpose of the standard is to protect employees from falls into these particularly hazardous areas. The facility affected by this application is as follows:

V41250 DEC 28 76 UMI

Smith Industries, Inc., 8300 Hempstead Highway, Houston, Texas 77008.

Notice of the application, and of the granting of the interim order, was published in the FEDERAL REGISTER on December 23, 1975 (40 FR 59384). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance request. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant has a galvanizing tank in its Fastener Division which has a wall around it 24¾ inches in height and 33½ inches in width.

The applicant asserts that the erection of a 42 inch guardrail around its galvanizing tank would seriously interfere with necessary work practices such as skimming the zinc and may create additional hazards of splashing hot zinc.

Instead of the standard guardrail and toeboard, the applicant has installed a 6 inch guardrail on top of the existing wall, bringing the dimensions to a 30¾ inch height and 33½ inch width.

III. DECISION

Section 1910.22(c) requires that guardrails be provided to protect personnel from the hazards of open pits, tanks, etc. Section 1910.23(c)(3) requires that regardless of height, opensided floors, walkways, platforms or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units or similar hazards shall be guarded with a standard railing and toeboard.

In the work situation described, the 33½ inch ledge width prevents an employee from accidentally stepping into the tank. By installing the 6 inch guardrail on top of existing wall, it has effectively lengthened the side height to 30¾ inches. This height is sufficient to allow an employee to right himself if he should fall towards the tank. The combination of side height and ledge width, combined with the applicant (1) assuring that no employees walks, steps or sits on the ledge around the tank and (2) training the employees regarding the proper performance of the operation and the hazards associated with walking, stepping, and sitting on the ledge around the tank, provides protection as safe as that which would be provided by use of a standard guardrail and toeboard.

IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in the Secretary of Labor's Order No. 8–76 (41 FR 25059), it is ordered that Smith Industries, Inc., be, and it is hereby authorized to continue its operation while using its galvanizing tank having ledges 33½ inches wide and sides (including the 6 inch guardrail) 30¾ inches high, in lieu of the standard guardrail and toeboard required by 29 CFR 1910.22(c) and 1910.23(c)(3) provided that:

1. No employee shall walk, step, or sit on the ledge around the tank.

2. Training and information regarding the hazards associated with and the prohibition against walking, stepping or sitting on the ledge around the tank shall be provided for current employees within one week of the effective date of this variance, for new employees at the time of their initial assignment, and for all employees on a quarterly basis after their initial training.

As soon as possible, Smith Industries, Inc., shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on December 28, 1976, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 17th day of December, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76–37873 Filed 12–27–76;8:45 am]

VIRGINIA

Dismissal of Rejection Proceedings

Notice is hereby given that on October 26, 1976, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) and the Commissioner of Labor and Industry for the Commonwealth of Virginia (hereinafter referred to as the Commissioner), by counsel, jointly moved for dismissal of the proceedings for rejection of the Virginia Occupational Safety and Health Plan. Notice of that proposed rejection was published at 39 FR 27844, August 1, 1974. The joint motion to dismiss was granted on the date of the motion, based upon the Assistant Secretary's approval of the amended Virginia Plan pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. § 667) and 29 CFR Part 1902, notice of which was published at 41 FR 42655, September 28, 1976. In light of the approval of the amended plan it was agreed by the parties that there remained nothing to be determined in the instant proceedings.

Signed at Washington, D.C. this 17th day of December 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76–37878 Filed 12–27–76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

NORTH PENN EMPLOYEES' SAVINGS PLAN AND PENCO SAVINGS AND PROFIT SHARING PLAN

Exemption From Prohibitions

Correction

In FR Doc. 37227, appearing at page 55664, in the issue of Tuesday, December 21, 1976, the following changes should be made:

1. On page 55664, in column 1, paragraph 1, line 10, where "604" appears twice, it should read "406", and on the last line of that paragraph the FR page number should read "18471" instead of "18741".

2. On page 55665, column 3, in the first full paragraph, on line 4, the address for the Internal Revenue Service should read "1111" instead of "111".

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Pendency of Proposed Exemption Relating to a Transaction Involving Iron Workers' Apprentice Fund (Application No. L–341)

Notice is hereby given of the pendency before the Department of Labor (the Department) of a proposed exemption from the restrictions of sections 406(a) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act). The pending exemption was requested in an application filed by the Iron Worker's Apprentice Fund (the Plan) for the purchase by the Plan of one acre of unimproved real property from the Iron Workers' Local Union No. 84 (the Union).

The application was filed pursuant to section 408(a) of the Act and in accordance with the procedure set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Summary of Representations. The application contains representations with regard to the pending exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the Plan.

The Plan was established in 1959 pursuant to a collective bargaining agreement between the Houston Chapter of the Associated General Contractors of America, the Construction Employers Association of Texas, and local unions 84 and 135 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL–CIO.

The purpose of the Plan is to provide training for iron worker apprentices and journeymen. In June, 1976, training classes were averaging approximately 375 trainees. Total Plan assets as of March 31, 1975 were $417,278. On August 22, 1975, the Union purchased, from an unrelated party, approximately one acre of unimproved real property adjacent to the Plan's existing training facilities. The purchase price was approximately $24,000. The Union purchased the property to build a new union hall. However, subsequent to the purchase, the plans for the new hall were revised and the property was not large enough to accommodate the new, proposed facilities. The Union offered to sell the property to the Plan.

The Plan's training facilities are to the east side of the property. The south side fronts on a one-third acre piece of land which the Plan recently purchased from the City of Houston for $11,000.

The Plan needs the property which it proposes to purchase from the Union for parking facilities. The Plan currently has 180 parking spaces; however, after completion of its expansion program on the property purchased from the City of Houston, the Plan will need 264 parking spaces. Some of the current 180 parking spaces are located on the property purchased from the City of Houston and will be lost when construction is completed. If needed, all or a portion of the property to be purchased may subsequently be used for building expansion of the training facilities.

The proposed purchase price for the property is $24,859. On July 8, 1976, an appraisal of the property was made by an appraiser who has not prepared real estate appraisals for the Trustees of the Plan or any individual member of the Board of Trustees of the Plan, and has not made any appraisals for the Union, either prior or subsequent to the appraisal of July 8, 1976. In addition, the appraiser has no interest, personal or financial, in either the Plan or the Union, and has no personal or financial association with any individuals involved with either the Plan or the Union. The appraisal estimated the fair market value of the property to be $28,300 as of July 8, 1976.

One of the trustees of the Plan is the business manager of the Union. Neither the Union nor any member of the Union will receive any commission or other form of compensation as a result of the sale.

Notice of pendency of an exemption as published in the FEDERAL REGISTER will be given to the trustees of the Plan, to each of the associations of employers and employee representatives who created the Plan, and to all current participants. This notice will be provided in writing and delivered in person or by first class mail within three (3) business days from the date on which it is published in the FEDERAL REGISTER.

General Information. The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The pending exemption, if granted, will not extend to transactions prohibited under sections 406(b)(1) and (3) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the Plan and its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The pending exemption, if granted, is supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is the subject of an exemption is not dispositive of whether the transaction would have been a prohibited transaction in the absence of such exemption or, though it would have been a prohibited transaction, is exempt by operation of a statutory exemption or a transitional rule.

Pursuant to section 408(a) of the Act, the Department is required to offer an opportunity for a public hearing where a pending exemption relates to section 406(b) of the Act. Any interested person may submit a written request that a hearing be held relating to the pending exemption. Such written request must be received by the Department on or before February 11, 1977 and should state the reason for such person's request for a hearing and the nature of such person's interest in the pending exemption.

All interested persons are also invited to submit written comments on the pending exemption contained herein. In order to receive consideration, such comments must be received by the Department on or before February 11, 1977.

All written comments and all requests for a hearing (preferably six copies) should be addressed to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Exemption Application No. L–341. The application for exemption referred to herein and all such comments relating thereto will be available for public inspection at the Public Documents Room of Pension and Welfare Benefit Programs, Room N–4677, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Pending Exemption. Based upon the application, hereinabove described, the Department has under consideration the granting of the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 whereby the restrictions of sections 406(a) and 406(b)(2) of the Act shall not apply to the purchase by the Plan of one acre of unimproved real property from the Union, pursuant to the terms, conditions and representations set forth in the application.

The pending exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 21st day of December 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc.76–38095 Filed 12–22–76;5:04 pm]

Office of the Secretary

[TA–W–923, 997–999, 1059]

AMERICAN MOTORS CORP.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 76–35175 appearing at page 52558 in the FEDERAL REGISTER of November 30, 1976, two phrases were inadvertently omitted on page 52561. Accordingly, the following corrections should be made:

1. The 2nd column, 4th full paragraph, 3rd line, is corrected by adding the phrase "and luxury small" immediately following the word "intermediate" and

2. The 10th line of the above paragraph is corrected by adding the phrase "workers producing body assemblies for luxury small cars at the Kenosha, Wisconsin plant of American Motors Corporation (TA–W–999)" immediately following the number "999)."

Signed at Washington, D.C., this 13th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76–37882 Filed 12–27–76;8:45 am]

[TA–W–1081]

BOSS MANUFACTURING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein present the results of TA–W–1081: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 20, 1976 in response to a worker petition filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing work gloves at the Kewanee, Illinois plant of Boss Manufacturing Company, Kewanee, Illinois.

The Notice of Investigation was published in the FEDERAL REGISTER on October 5, 1976 (41 FR 43970). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of Boss Manufacturing Company, its customers, the National Association of Glove Manufacturers, the Work Gloves Manufacturing Association, the U.S. Departments of

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Commerce and Labor, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers decreased 39 percent in 1975 compared to 1974. Employment decreased 28 percent in the period of July–December 1975 compared to the like period in 1974. Employment in the period of January-September 1976 increased 28 percent compared to the like period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production decreased 47 percent in 1975 compared to 1974. Production decreased 46 percent in the period of July–December 1975 compared to the like period in 1974. Production in the period of January–June 1976 increased 40 percent compared to the like period in 1975. Production declined 25 percent in the third quarter of 1976 compared to the like period in 1975. No sales data is kept for the Kewanee facility since production is taken to a central warehouse which also receives gloves from other Boss plants.

INCREASED IMPORTS

Imports of work gloves and mittens of all types increased actually in 1972 compared to 1971 and each year thereafter through 1974, then decreased 18 percent in 1975 compared to 1974. Imports increased 66 percent in the first 6 months of 1976 compared to the like period in 1975. Imports increased relative to domestic production each year from 1972 through 1975 compared to the previous year. The ratio of imports to domestic production increased from 19.2 percent in 1974 to 21.1 percent in 1975, and continued to increase from 18.7 percent in the first six months of 1975 to 26.0 percent in the like period of 1976.

CONTRIBUTED IMPORTANTLY

Company imports of gloves of the all-leather and combination types decreased 34 percent in 1975 compared to 1974, and increased 16 percent during the period of January–September 1976 compared to the same period in 1975. These company imports increased 59 percent in the third quarter of 1976 compared to the like period in 1975. Company imports of fabric work gloves increased 2 percent in 1975 compared to 1974, and increased 37 percent in the period of January–September 1976 compared to the like period in 1975. These imports increased 434 percent in the third quarter of 1976 compared to the like period in 1975.

The Department's investigation revealed that most customers who were surveyed had not switched purchases from Boss Manufacturing Company to import sources. However customers were not able to tell whether their purchases from Boss were foreign made. Some customers had experimented with purchases of imported gloves but had returned to Boss Manufacturing Company. A small percentage of customers continue to buy imports.

While aggregate imports of work gloves and mittens increased 26 percent in the first six months of 1976 compared to the like period in 1975; employment and production at the Kewanee, Illinois plant increased 30 percent and 40 percent, respectively, in the first six months of 1976 compared to the like period in 1975. However, in the third quarter of 1976, although employment at the Kewanee plant increased compared to the like period in 1975, production declined and company imports increased substantially.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with work gloves and mittens produced at the Kewanee, Illinois plant of Boss Manufacturing Company contributed importantly to the total or partial separation, and to the threat of further separations of the workers of the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Kewanee, Illinois plant of Boss Manufacturing Company, Kewanee, Illinois, who became totally or partially separated from employment on or after August 30, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37883 Filed 12-27-76;8:45 am]

[TA-W-1053]

CENTRAL SLIPPER COMPANY, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1053: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 30, 1976 in response to a worker petition received on August 30, 1976 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing ladies' and children's sneakers and slippers at the Wilkes-Barre, Pennsylvania plant of Central Slipper Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on September 10, 1976 (41 FR 36562). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Central Slipper Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, production or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that all the above criteria have been met for the soft-soled footwear production division (slippers) but that the first criterion has not been met for the hard-soled production division (sneakers).

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment is maintained separately between the two production lines for hard-soled footwear (sneakers) and soft-soled footwear (slippers).

Employment of workers engaged in the production of slippers declined 11 percent from 1973 to 1974, declined 33 percent from 1974 to 1975, and declined 50 percent in the first half of 1976 compared to the first half of 1975. All employees engaged in slipper production were separated from January through April, 1976. The employment level of these workers in the second quarter of 1976 was 50 percent lower than the employment average in the second quarter of 1975, and 64 percent lower than in the second quarter of 1974.

Employment of workers engaged in the production of sneakers declined 29 percent from 1973 to 1974, declined 3 percent from 1974 to 1975, and then increased 15 percent in the first half of 1976 compared to the first half of 1975.

Employment of salaried workers declined 7 percent annually from 1973 to 1976.

SALES OR PRODUCTION, OR BOTH, INCREASED ABSOLUTELY

Soft-soled footwear (slippers) comprised one-third of total sales from 1973 to 1975. Sales of slippers declined 12 percent in quantity from 1973 to 1974, and declined 28 percent in quantity from 1974 to 1975. Sales of slippers decreased 53 percent in quantity in the first half of 1976 compared to the first half of 1975.

Hard-soled footwear (sneakers) constituted approximately two-thirds of total sales from 1973 through 1975. Sales of sneakers declined 33 percent in quantity from 1973 to 1974 and declined 5 percent in quantity from 1974 to 1975. Sales of sneakers declined 5 percent in quantity in the first half of 1976 compared to the first half of 1975.

Production data was not maintained separately for sneakers and slippers. Total production declined 28 percent in quantity from 1973 to 1974, declined 13 percent in quantity from 1974 to 1975, and then increased 10 percent in the first half of 1976 compared to the first half of 1975. The company was actually producing for inventory in the second quarter of 1976 in order to keep the plant in operation.

INCREASED IMPORTS

Imports of house slippers increased absolutely and relatively compared to domestic production in each year from 1971 to 1975, and in the first half of 1976 compared to the first half of 1975. The ratio of imports to domestic production increased from 29.5 percent in 1974 to 42.3 percent in 1975, and increased from 43.2 percent in the first half of 1975 to 62.6 percent in the first half of 1976.

Imports of rubber/canvas footwear declined absolutely and relatively compared to domestic production from 1971 to 1972 and then increased absolutely and relatively in each year from 1972 to 1974. Imports declined absolutely and relatively from 1974 to 1975, and declined absolutely in the first half of 1976 compared to the first half of 1975. The ratio of imports to domestic production increased from 18.0 percent in the first half of 1975 to 19.9 percent in the first half of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that retail customers of Central Slipper shifted purchases of slippers from Central Slipper to less expensive imports during the past two years.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with ladies' and children's slippers produced by the soft-soled footwear production division of Central Slipper Co., Inc. Wilkes-Barre, Pennsylvania contributed importantly to the total or partial separation of the workers in that division of the plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of ladies' and children's slippers at Central Slipper Co., Inc. located in Wilkes-Barre, Pennsylvania who became totally or partially separated from employment on or after August 25, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that separations of workers engaged in the production of sneakers in the hard-soled footwear production division of the Wilkes-Barre, Pennsylvania plant of Central Slipper Company, Incorporated have not occurred as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37884 Filed 12-27-76;8:45 am]

[TA-W-1246]

DAVIS BOX TOE COMPANY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1246: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 9, 1976 in response to a worker petition received on November 9, 1976 which was filed on behalf of workers and former workers producing box toes and shoe counters at Davis Box Toe Company, Incorporated, Beacon, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51629). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Davis Box Toe Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Davis Box Toe produces box toes and shoe counters. Box toes and shoe counters are component parts used in the production of most shoes. Their purpose is to help maintain the shape and fit of the shoe. The evidence developed in the Department's investigation revealed that there are no separately identifiable imports of box toes or shoe counters. These products are not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that there are no imports of this item.

Imports of shoes which incorporated counters or box toes of the same origin are not like or directly competitive with shoe counters produced by Davis Box Toe Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with those produced by the Davis Box Toe Company, Incorporated, Beacon, New York are not being imported in increased quantities either actual or relative to domestic production as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37885 Filed 12-27-76;8:45 am]

[TA-W-1084]

GENERAL ELECTRIC CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1084: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 11, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing jet engines and parts at the Evendale, Ohio plant of General Electric Company.

The notice of investigation was published in the FEDERAL REGISTER on Octo-

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ber 1, 1976 (41 FR 43493). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of General Electric Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that criteria (3) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of hourly workers at the Evendale plant increased 11 percent in 1974 from 1973 and decreased 17 percent in 1975 from 1974. Average employment decreased 7 percent in the first 9 months of 1976 from the first 9 months of 1975.

Average employment of salaried workers at the Evendale plant increased 1 percent in 1974 from 1973, and decreased 7 percent in 1975 from 1974 and 5 percent in the first 9 months of 1976 from the first 9 months of 1975.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The Evendale plant produces jet engines and spare parts for two markets—the military market and the commercial airline industry.

MILITARY

Sales equals production since all production is to order. Sales of military jet engines (total sales to the U.S. Government, to foreign governments through the U.S. Government and directly to foreign governments) increased 32 percent in quantity and 28 percent in value in 1974 from 1973 and decreased 21 percent in quantity and 8 percent in value in 1975 from 1974. Sales decreased 12 percent in quantity and increased 4 percent in value in the first 9 months of 1976 from the first 9 months of 1975.

Military sales of spare parts increased 16 percent in value in 1974 from 1973 and decreased 18 percent in 1975 from 1974. Sales increased 22 percent in the first 9 months of 1976 from the first 9 months of 1975.

COMMERCIAL

Production of commercial jet engines increased 1 percent in quantity and 9 percent in value in 1974 from 1973 and decreased 52 percent in quantity and 49 percent in value in 1975 from 1974. Production decreased 40 percent in quantity and 21 percent in value in the first 9 months of 1976 from the first 9 months of 1975.

Production of spare parts for commercial engines increased 134 percent in value in 1974 from 1973 and decreased 13 percent in 1975 from 1974. Production decreased 2 percent in the first 9 months of 1976 from the first 9 months of 1975.

Sales of commercial jet engines increased 10 percent in quantity and 19 percent in value in 1974 from 1973 and decreased 45 percent in quantity and 37 percent in value in 1975 from 1974. Sales decreased 10 percent in quantity and increased 11 percent in value in the first 9 months of 1976 from the first 9 months of 1975.

Sales of commercial engine spare parts increased 102 percent in value in 1974 from 1973 and decreased 21 percent in 1975 from 1974. Sales increased 30 percent in the first 9 months of 1976 from the first 9 months of 1975.

INCREASED IMPORTS

Imports of commercial jet engines for wide-bodied jets into the U.S. increased absolutely and relative to domestic production in 1972, 1973 and 1974 from the previous year. Imports decreased 39 percent absolutely in 1975 from 1974 and decreased relatively from 54.7 percent of domestic production in 1974 to 35.9 percent in 1975. It is estimated that imports have decreased 36 percent absolutely in 1976 from 1975 and decreased relatively from 35.9 percent in 1975 to 32.0 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that all military sales from the Evendale plant are to the U.S. Defense Department or to foreign governments. The U.S. Defense Department does not purchase imported jet engines or spare parts. Sales to foreign governments are exports.

Customers of commercial jet engines and spare parts produced at the Evendale plant have not switched to imported engines and spare parts.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that imports of articles like or directly competitive with jet engines and parts produced at the Evendale, Ohio plant of General Electric Company have not increased as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D. C. this 13th day of December 1976.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.76-37886 Filed 2-27-76;8:45 am]

[TA-W-1217]

INDUSTRIAL FOOD SERVICE, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1217: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 2, 1976 in response to a worker petition received on that date which was filed on behalf of workers of Industrial Food Service, Incorporated, Pittsburgh, Pennsylvania who provided food services for vending machines.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 51139) on November 19, 1976. No public hearing was requested and none was held. The information upon which the determination was made was obtained principally from officials of Industrial Food Service, Incorporated, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the above criteria is not satisfied, a negative determination must be made.

Industrial Food Service was incorporated in 1944. It provides vending machine services to plants or office buildings seeking such services. The company neither owns any production equipment or facility, nor does it manufacture any products. One of its vending contracts is with Allegheny Ludlum Steel which has no ownership in Industrial Food nor any Industrial Food employees on its payroll.

Industrial Food Service does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in *Pan American World Airways*, Incorporated (TA-W-153, 40 FR 54639). The only question presented in this case is whether Allegheny Ludlum Steel, i.e., a firm which produces an article, namely steel products, and for whom the service is provided, can be considered the "workers' firm". The Department has also previously determined that an independent firm for which such services are provided cannot be considered the "workers' firm". See Notice of Determination in *Nu-Car Driveaway, Inc.* (TA-W-393, 41 FR 12749).

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by Industrial Food Service, Incorporated, Pittsburgh, Pennsylvania are not "articles" within the meaning of section 222(3) of the Trade Act of 1974 and that Allegheny Ludlum Steel cannot be considered the "workers' firm". The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37887 Filed 12-27-76;8:45 am]

[TA-W-1078]

KRASNO BROTHERS GLOVE AND MITTEN COMPANY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1078: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 15, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing leather work gloves at the Krasno Brothers Glove and Mitten Company, Incorporated, Milwaukee, Wisconsin.

The Notice of Investigation was published in the FEDERAL REGISTER on October 1, 1976 (41 FR 43494). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of the Krasno Brothers Glove and Mitten Company, Incorporated, the Work Glove Manufacturers' Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Department's investigation revealed that Krasno Brothers is a specialty shop, designing and producing leather work gloves according to customer specifications. Customer orders are often small volume orders for special purpose work gloves. The leather gloves produced by Krasno Brothers are used for protective purposes in such as the steel and automobile industries.

Both company and union officials at Krasno Brothers stated that since January 1975 there have been no layoffs or reduced hours at the plant. Fluctuations in employment are due to voluntary separations of workers who work part-time at the plant to supplement their Social Security benefits.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that separations of workers at the Krasno Brothers' Glove and Mitten Company, Incorporated, Milwaukee, Wisconsin, have not occurred as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37888 Filed 12-27-76;8:45 am]

[TA-W-1047]

PRINCESS PAT

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1047; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 27, 1976 in response to a worker petition received on August 27, 1976 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' swimwear at the Princess Pat plant, Bridgeport, Connecticut of Peter Pan International, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on September 14, 1976 (41 FR 39115). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Princess Pat/Peter Pan, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, production or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivison are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 39 percent in the first nine months of 1975 compared to the same period in 1974. All employees were terminated when the company closed.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production in terms of quantity declined 3 percent in the first nine months of 1975 compared to the same period in 1974. All production ceased when the company closed.

INCREASED IMPORTS

Imports of women's, misses' and juniors' swim suits declined absolutely and relatively from 1973 to 1974, and

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then increased two percent absolutely from 1974 to 1975. The ratio of imports to domestic production increased from 33.2 percent in 1974 to 33.3 percent in 1975.

CONTRIBUTED IMPORTANTLY

Retail customers of Princess Pat/Peter Pan surveyed did not shift purchases from Peter Pan swimwear to imports. Peter Pan swimwear was designed to attract the older, more conservative segment of the market. Retail customers who decreased purchases from Peter Pan from 1974 to 1975 shifted to other domestic brands. These customers placed retail emphasis on the more trendy contemporary styles which Peter Pan did not produce. While small amounts of imported designer swimwear from Israel, Italy, and France are carried by some retail customers, their imports have not increased over the past three years. The imported swimwear purchased by the retail customers is distinguishable from domestic labels in that the imports are in a higher priced "designer label" category, whereas the bulk of domestic labels are in a comparatively moderate price range. Therefore, although retail customers reduced purchases from Peter Pan, they shifted their purchases to other domestic swimwear from 1974 to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' swimwear produced at the Princess Pat plant, Bridgeport, Connecticut of Peter Pan International, New York, New York did not contribute importantly to the total or partial separations of the workers of that plant.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37889 Filed 12-27-76;8:45 am]

[TA-W-1074]

ROCKWELL INTERNATIONAL ADMIRAL GROUP

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1074: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 19, 1976 in response to a worker petition received on September 19, 1976 which was filed on behalf of workers and former workers producing console television and stereo cabinets at the Shelbyville, Indiana plant of Rockwell International, Admiral Group.

The notice of investigation was published in the FEDERAL REGISTER on October 5, 1976 (41 FR 43973). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rockwell International, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criteria (3) and (4) have not been met.

The Shelbyville, Indiana plant of Rockwell produces television and stereo cabinets for use in the production of console televisions and stereos at Rockwell's Harvard, Illinois production facility. The Shelbyville plant's sole customer is Rockwell. Rockwell also purchases cabinets from other domestic manufacturers. The Shelbyville plant is scheduled to close in December 1976.

There are no separately identifiable imports of television and stereo cabinets. The product is not listed as a separated item in the Tariff Schedule of the United States (TSUSA).

A Department survey indicates that the importation of cabinets as a component of console television and stereo sets is assumed to be negligible. The cost of ocean shipping of bulky cabinets designed for console television and stereo sets is greater than any possible labor savings that might result from offshore production. In addition, cabinets produced at the Shelbyville plant were primarily designed for console color televisions of screen sizes greater than 19 inches.

Imports of color television sets are concentrated in the screen sizes 19 inches and smaller. This indicates that portable television sets, which do not require crafted wood cabinets, rather than console television sets, which normally require crafted wood cabinets, are the type of television sets being imported in increased quantities in recent years.

Rockwell indicated that when current contract obligations are fulfilled by the Shelbyville plant, all cabinets needed at Harvard will be purchased solely from other domestic manufacturers of cabinets.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that imports of articles like or directly competitive with television and stereo cabinets produced at the Shelbyville, Indiana plant of Rockwell International, Admiral Group are not being imported in increased quantities as required under Section 222 of the Trade Act of 1974 and did not contribute importantly to total or partial separations of the workers at the Shelbyville plant. Therefore certification of eligibility to apply for adjustment assistance is denied.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37890 Filed 12-27-76;8:45 am]

[TA-W-606T]

ROHR INDUSTRIES, INC.

Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-606T; investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in section 223(d) of the Act.

On April 26, 1976, workers producing aircraft nacelles at the Riverside, California plant of Rohr Industries, Inc. were certified as eligible to apply for trade adjustment assistance. The Notice of Certification was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20963).

The investigation regarding termination was initiated on July 19, 1976, to determine whether the groups of workers specified above continue to meet the group eligibility requirements of section 222 of the Act. The Notice of Investigation was published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31961). No public hearing was requested and none was held.

During the course of the investigation, information was obtained from officials of Rohr Industries, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria is no longer met, a termination of certification must be issued. Such termination would apply only with respect to total or partial separations occurring after the specified termination date.

Without regard as to whether the other criteria are satisfied, the investigation reveals that the third criterion is no longer being met with respect to workers at the Riverside plant.

INCREASED IMPORTS

On May 30, 1976, Rohr shut down its facility in Tijuana (Parfabco) which manufactured parts and subassemblies for nacelles. At the same time, one of the three plants constituting the Transysco operation was closed. The value of imports from the Mexican operations began to decline in May 1976 and have continued to decline. For the period January–September 1976, the value of these imports declined by 50 percent from the first nine months of 1975.

Company officials have announced the discontinuation of all but one of the Mexican operations, and a complete shutdown is anticipated before the end of 1976. Layoffs of employees in Mexico have commenced and equipment is currently being transferred to Rohr's plants in California. The only Mexican operation that will not be discontinued is work that is unrelated to production at Riverside and that work has been performed in Mexico since the contract's inception.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers producing aircraft nacelles at Rohr's Riverside plant are no longer attributable to the conditions specified in Section 222 of the Trade Act of 1974. In accordance with Section 223(d) of the Act, I hereby revise the certification of April 26, 1976 as follows:

All hourly employees of Department 043 at the Riverside California plant of Rohr Industries, Inc. who became totally or partially separated from employment on or after February 11, 1975 and before December 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All employees separated on or after December 31, 1976 are denied eligibility.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37891 Filed 12-27-76;8:45 am]

[TA-W-26T]

ROHR INDUSTRIES, INC.

Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-26T: investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in section 223(d) of the Trade Act.

On July 18, 1975, workers producing frame weldments for transit cars and detailed sheet metal parts and subassemblies for aircraft nacelles at the Chula Vista, California plant of Rohr Industries, Inc. were certified as eligible to apply for trade adjustment assistance. The Notice of Determination, including a listing of job classifications of affected workers and departments employing such workers, was published in the FEDERAL REGISTER on July 29, 1975 (40 FR 31844). Revisions to that Notice were published in the FEDERAL REGISTER on October 6, 1975 (40 FR 46167), November 26, 1975 (40 FR 54893), and April 30, 1976 (41 FR 18193).

The investigation regarding termination was initiated on July 19, 1976, to determine whether the specified group of workers continues to meet the group eligibility requirements of section 222 of the Act. The Notice of Investigation was published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31961). No public hearing was requested and none was held.

During the course of the investigation, information was obtained from officials of Rohr Industries, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria is no longer met, a termination of certification must be issued. Such termination would apply only with respect to total or partial separations occurring after the specified termination date.

Without regard as to whether the other criteria are satisfied, the investigation reveals that the third criterion is no longer being met with respect to workers at the Chula Vista plant.

INCREASED IMPORTS

Production of transit cars ceased in July 1975 with the final delivery of cars under the Bay Area Rapid Transit (BART) contract. In May 1976, Rohr shut down one of the three plants constituting its facility in Mexicali (Transysco). Transysco manufactured parts and weldments for transit cars as well as aerospace products. On May 30, 1976, Rohr's facility in Tijuana, Parfabco, was shut down. Parfabco had been a manufacturer of parts and subassemblies for nacelles. The value of imports frm Transysco and Parfabco began to decline in May 1976 and have continued to declined. For the period January–September 1976, the value of such imports declined by 50 percent from the first nine months of 1975.

Company officials have announced the discontinuation of all but one of the Mexican operations, and a complete shutdown is anticipated before the end of 1976. Layoffs of employees in Mexico have commenced, and equipment is currently being transferred to Rohr's plants in California. The only Mexican operation that will not be discontinued is work under a contract unrelated to production at Chula Vista, work that has been performed in Mexico since the contract inception.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers producing frame weldments for transit cars and detailed sheet metal parts and subassemblies for aircraft nacelles at Rohr's Chula Vista plant are no longer attributable to the conditions specified in section 222 of the Trade Act of 1974.

In accordance with section 223(d) of the Act, I hereby revise the certification of July 18, 1975 as follows:

All hourly workers of the Chula Vista, California facility of Rohr Industries, Inc. employed in the job classifications and totally or partially separated from employment in the departments as designated in July 18, 1975 certification (TA-W-26), including subsequent revisions, on or after October 3, 1974 and before December 31, 1976 and those salaried workers of the Chula Vista facility who were engaged in employment related to such production in the designated departments and job classifications who became totally or partially separated from employment on or after December 1, 1974 and before December 31, 1976 are certified as eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Those designated workers separated on or after December 31, 1976 are denied eligibility.

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That portion of the certification relevant to workers in job classification code 4-5093 (weldor) and 4-5094 (weldor) in Department 064 of the Chula Vista facility laid off on or after October 31, 1974 and before June 30, 1975 is not revised.

Signed at Washington, D.C. this 14th day of December 1976.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.76-37892 Filed 12-27-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

DRAFT REPORT REVIEW

Meeting

DECEMBER 14, 1976.

Pursuant to section 10 of the Federal Advisory Committee Act of 1972 notice is hereby given that the National Advisory Council on Economic Opportunity will hold a one day (possibly two day) meeting on February 8 (and possibly February 9) at the Council office at 1725 K Street, NW (Room 405), Washington, D.C. The meeting will begin at 9:30 a.m. and is open to the public.

The purpose of the meeting will be to review a draft report of the Council.

The National Advisory Council on Economic Opportunity is authorized by section 605 of the Community Services Act to advise the President and the Director of the Community Services Administration on policy matters arising under the administration of the Act and to review the effectiveness and operations of programs under the Act.

Records shall be kept of all proceedings and shall be available for public inspection at the offices of the National Advisory Council on Economic Opportunity.

WALTER B. QUETSCH,
Executive Director.

[FR Doc.76-37894 Filed 12-27-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (76-116)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL COMMITTEE ON AERONAUTICAL PROPULSION

Meeting

The NASA Research and Technology Advisory Council Committee on Aeronautical Propulsion will meet on January 19-21, 1977, at the NASA Dryden Flight Research Center, Edwards, California 93523. The meeting will be held in Conference Room 2000 of Building 4800. Members of the public will be admitted on a first-come, first-served basis, up to the seating capacity of the room, which is about 5 persons. All visitors must report to the Dryden Flight Research Center Receptionist in Building 4800.

The NASA Research and Technology Advisory Council Committee on Aeronautical Propulsion was established to advise NASA's senior management in the areas of aeronautical propulsion research and technology. The Committee studies issues, pinpoints critical problems, determines gaps in needed technology, points out desirable goals and objectives, summarizes the state of the art, assesses ongoing work, and makes recommendations to help NASA plan and carry out an aeronautical propulsion program of greatest benefit to the nation.

There are 13 members on the Aeronautical Propulsion Committee. The current Chairman is Mr. Morris A. Zipkin.

The following list sets forth the approved agenda and schedule for the meeting. For further information, please contact Mr. Harry W. Johnson, NASA Headquarters, Washington, D.C., Area Code 202, 755-3003.

JANUARY 19, 1977

Time	Topic
8 a.m.	Introductory remarks by center director, committee chairman, and executive secretary. (Purpose: To review agenda: note actions of last research and technology advisory council meeting and NASA response to recommendations; summarize NASA organizational, programmatic and budgetary status pertinent to committee interests.)
9 a.m.	Research center program highlight reports. (Purpose: To review recent accomplishments and status of aeronautical propulsion and related programs conducted at the Lewis, Langley, Ames and Dryden Research Centers, and the Jet Propulsion Laboratory.)
1 p.m.	Tour of Dryden Flight Research Center (DFRC). (Purpose: To acquaint committee members with NASA aeronautical flight test hardware and test facilities at DFRC.)
2:30 p.m.	Alternative hydrocarbon fuels research. (Purpose: To report the activities of the ad hoc Panel on jet engine hydrocarbon fuels, review NASA fuels research status and plans, and develop committee discussion of fuels problems and issues.)
4 p.m.	Propulsion system integration. (Purpose: To review activities and plans for integrated airframe/engine/controls research and technology, including 2D nozzles and F-15 aircraft experiments.)

JANUARY 20, 1977

Time	Topic
8 a.m.	Small aircraft engine technology review. (Purpose: To review NASA's research and technology programs and plans pertaining to military and civil small aircraft engines including gas turbine and intermittent combustion engines.)
10 a.m.	Coannular nozzle noise reduction and variable cycle engines. (Purpose: To review status and plans for coannular nozzle noise suppression research and to discuss implications on variable cycle engine concepts for advanced supersonic cruise aircraft.)
1 p.m.	Tour of Air Force Flight Test Center. (Purpose: To acquaint committee members with aeronautical test facilities and flight hardware used in Air Force flight test programs with which NASA is concerned.)
3 p.m.	Technology transfer processes. (Purpose: To review the impact and value of in-house aeronautical propulsion research and technology conducted by the Government as compared to contract research with reference to maximizing the transfer of technology within the United States.)

JANUARY 21, 1977

Time	Topic
8 a.m.	Committee discussions and recommendations. (Purpose: To discuss major program elements and issues presented during the meeting, summarize committee views, prepare recommendations for presentation to the NASA research and technology advisory council, and to plan committee future activities and next meeting.)
12 m.	Adjournment.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

DECEMBER 17, 1976.

[FR Doc.76-37822 Filed 12-22-76;8:45 am]

[Notice (76-115)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL PANEL ON RESEARCH

Meeting

The NASA Research and Technology Advisory Council Panel on Research will meet on January 27 and 28, 1977, at the NASA Ames Research Center, Moffett Field, California 94035. The meeting will be held in the Committee Room, Building N-200. The purpose of this meeting is to gain firsthand knowledge of the research work and the management of university sponsored research at Ames Research Center. The OAST Research Council will meet concurrently with the Panel on Research. Members of the public will be admitted on a first-come, first-served basis, limited by the seating capacity of the meeting room which holds 50 persons. All visitors must sign in prior to attending the meeting.

The Panel on Research of the NASA Research and Technology Advisory Council serves in an advisory capacity only. There are 12 members on the Panel. The chairman is Professor A. Hertzberg. The following list sets forth the approved agenda and schedule for the meeting of this Panel on Research on January 27 and 28, 1977. For additional information, please contact Mr. F. C. Schwenk, Area Code 202, 755-2488, at NASA Headquarters, Washington, D.C., or Dr. L. P. Zill, Area Code 415, 965-5759, at the Ames Research Center, Moffett Field, CA.

JANUARY 27, 1977

Time	Topic
8 a.m.	Introduction (Purpose: Welcome by Ames Officials and remarks by the Chairman on the conduct of the review.)
8:15 a.m.	Review of (1) aerodynamics, (2) fluid mechanics, and (3) environmental science. (Purpose: Review of the in-house and university sponsored research in the areas listed.
1 p.m.	Review of (1) physics and chemistry, (2) atmospheric and space science, (3) materials, and (4) applied mathematics and computer science. (Purpose: Review of the in-house and university sponsored research in the areas listed.)
4:15 p.m.	Panel discussion (Purpose: To discuss and evaluate the presentations.)

JANUARY 28, 1977

Time	Topic
8:30 a.m.	Program overview (Purpose: To discuss informally with division directors and branch chiefs the present programs, possible new directions and problem areas.)
1 p.m.	Executive session (Purpose: To discuss overall review and to make recommendations.)
3 p.m.	Meeting with center director (Purpose: To inform Center Director of the findings and recommendations.)
4:30 p.m.	Adjournment.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

DECEMBER 17, 1976.

[FR Doc.76-37821 Filed 12-27-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

ADVISORY COMMITTEE PUBLIC PROGRAMS PANEL

Meeting

December 20, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Public Programs Panel will meet at the Shoreham Building, 806 15th Street, NW, Washington, D.C. 20506, commencing at 10 a.m., Wednesday, January 6, 1977.

The purpose of the meeting is to review Humanities Museums and Historical Organizations grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW, Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-37964 Filed 12-27-76;8:45 am]

ARTISTS-IN-SCHOOLS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Artists in Schools Advisory Panel to the National Council on the Arts will be held on January 12-13, 1977, from 9:30 a.m. to 9 p.m. on January 12 and from 9:30 a.m. to 3 p.m. on January 13, in Room 1425, Columbia Plaza Building, 2401 E Street, NW, Washington, D.C.

A portion of this meeting will be open to the public on January 12 from 9:30 a.m. to 5 p.m., and on January 13 from 9:30 a.m. to 3 p.m., on a space available basis. Accommodations are limited. The agenda will include discussions of Program and administrative policy and Program Guidelines.

The remaining sessions of this meeting, on January 12 from 5 p.m. to 9 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-37955 Filed 12-27-76;8:45 am]

FEDERAL STATE PARTNERSHIP ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal State Partnership Advisory Panel to the National Council on the Arts will be held on January 11-12, 1977, from 9 a.m. to 5 p.m., in the Music Center of Los Angeles County, 135 North Grand Avenue, Los Angeles, California.

A portion of this meeting will be open to the public on January 11, from 9 a.m. to 5 p.m., on a space available basis. The agenda will include discussion of major policy issues facing the panel.

The remaining sessions of this meeting on January 12, from 9 a.m. to 5 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-37956 Filed 12-27-76;8:45 am]

PUBLIC MEDIA ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Public Media Advisory Panel to the National Council on the Arts will be held on January 10-11, 1977, from 9 a.m. to 5 p.m., in Room 1425, Columbia Plaza Building, 2401 E Street, NW, Washington, D.C.

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A portion of this meeting will be open to the public on January 10, from 10 a.m. to 5 p.m., on a space available basis. Accommodations are limited. The agenda will include reviews of the American Film Institute programs and draft guidelines.

The remaining sessions of this meeting on January 10 from 9 a.m. to 10 a.m., and January 11, from 9 a.m. to 5 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552 (b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee, Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76–37954 Filed 12–27–76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR MATHEMATICAL SCIENCES-AD HOC GROUP ON MATHEMATICAL LOGIC

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Group on Mathematical Logic-Advisory Panel for Mathematical Sciences (NSF).

Date and time: January 26, 1977—9:00 a.m.–5:00 p.m.

Place: Embassy Room in the Chase-Park, St. Louis, Missouri.

Type of meeting: Closed.

Contact person: Dr. Ralph M. Krause, Program Director, Topology and Foundations Program, Rm. 304, National Science Foundation, Washington, D.C. Telephone (202) 632–7377.

Purpose of panel: To provide advice and recommendations relative to the support of research in the mathematical sciences.

Agenda: The panel will be reviewing and evaluating research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

DECEMBER 22, 1976.

[FR Doc.76–38084 Filed 12–27–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 22, 1976.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

United Energy Resources, Inc.: Common Stock, $1.00 par value; File No. 7–4899.

Upon receipt of a request, on or before January 7, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–38052 Filed 12–27–76;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 10(a), that the National Market Advisory Board will conduct open meetings on January 17 and 18, 1977 in Room 776, 500 North Capitol Street, Washington, D.C. Initial notice of this meeting was published in the FEDERAL REGISTER on November 24, 1976 (41 FR 51890).

The Board will also conduct open meetings on February 14 and 15, 1977 in Los Angeles, California. The summarized agenda and exact location for these meetings will be published in the FEDERAL REGISTER at a later date.

The summarized agenda for the January meeting is as follows:

1. Discussion of the Board's report to the Congress pursuant to Section 11A(d)(3)(B) of the Securities Exchange Act of 1934;

2. Discussion of the Board's report to the Securities and Exchange Commission regarding the establishment of a composite limit order book;

3. Discussion of the Board's report to the Securities and Exchange Commission regarding off-board principal transactions in listed securities by exchange members;

4. Discussion of the submission of Institutional Networks Corporation; and

5. Discussion of such other matters as may properly be brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D. C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 21, 1976.

[FR Doc.76–38051 Filed 12–27–76;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 22, 1976.

In the matter of an application of Midwest Stock Exchange, Inc. for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Corning Glass Works; Common Stock, $5.00 par value; File No. 7–4889.

Upon receipt of a request, on or before January 7, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76–38053 Filed 12–27–76;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 21, 1976.

In the matter of an application of Midwest Stock Exchange, Inc. for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Pioneer Electronic Corp.; American Depository Receipt Shares each represents 2 shares of common stock—50 yen par value; File No. 7–4897.

Upon receipt of a request, on or before January 6, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76–38054 Filed 12–27–76;8:45 am]

[File No. 500–1]

ROBINO-LADD CO.

Suspension of Trading

DECEMBER 20, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Robino-Ladd Company being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 11:15 a.m. (EST) on December 20, 1976 through December 26, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–38055 Filed 12–27–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

CIVIL RESERVE AIR FLEET ADVISORY COMMITTEE

Notice of Reestablishment

Notice is hereby given that the Civil Reserve Air Fleet (CRAF) Advisory Committee is being reestablished. The Office of Emergency Transportation, Office of the Secretary, is the sponsor of the committee which reports to the Secretary through the Assistant Secretary for Administration.

The committee consists of representatives of the individual civil air carriers actively participating in the CRAF program at the time a committee meeting is called; members of the civil air carrier industry who have expressed an interest in the CRAF program; representatives of the Office of the Secretary of Defense, the Department of the Air Force, the Military Airlift Command, the Department of Transportation's Federal Aviation Administration, the General Services Administration's Federal Preparedness Agency, and the Civil Aeronautics Board.

The committee advises and makes recommendations to the Secretary of Transportation concerning problems related to participation by civil air carriers in the CRAF program and the allocation of some of their aircraft to the CRAF. Further, it provides a forum for members of the civil air carrier industry participating in the CRAF program and concerned members of the Department of Transportation and the Federal transportation community to discuss problems of mutual interest and to insure a clear understanding of the policies and practices used by the Department in the allocation of aircraft to the CRAF program.

The Secretary of Transportation has determined that the formation and use of the Civil Reserve Air Fleet Advisory Committee are necessary in the public interest in connection with the performance of duties imposed on the Department of Transportation by executive order and law.

Issued in Washington, D.C., on December 20, 1976.

CLARENCE G. COLLINS, Jr.,
Acting Director, Office of Emergency Transportation.

[FR Doc.76–38094 Filed 12–27–76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Department Order No. 202 (Rec.2)]

OFFICE OF THE ASSISTANT SECRETARY (INTERNATIONAL AFFAIRS)

Organization and Responsibilities

By virtue of the authority vested in the Secretary of the Treasury, including the authority vested in me by Reorganization Plan No. 26 of 1950, it is ordered that:

1. The Assistant Secretary (International Affairs) is the principal adviser to the Secretary of the Treasury and the Under Secretary (Monetary Affairs) in exercising policy direction and control over Treasury Department positions in areas dealing with international financial, economic, monetary, trade, and commercial matters, as well as energy policies and programs.

2. Within the Office of the Assistant Secretary (International Affairs) (OASIA), there are five Deputy Assistant Secretaries: Trade and Raw Materials Policy, Investment and Energy Policy, International Monetary Affairs, Developing Nations, and Research and Planning. The functions and responsibilities of the Deputy Assistant Secretaries are defined by the Assistant Secretary and the Deputy Assistant Secretaries serve under the policy guidance of the Assistant Secretary. Each Deputy Assistant Secretary supervises a number of offices managed by Directors. The functions and responsibilities of the Deputy Assistant Secretaries shall include, but not be limited to, the following:

a. *Deputy Assistant Secretary (Trade and Raw Materials Policy).* The Office serves as the principal policy advisor to the Assistant Secretary in the areas of trade policy, trade with nonmarket economy countries, raw materials, and oceans policy.

(1) The Office formulates and implements Treasury Department positions on: (a) U.S. trade and commercial policy on general; (b) multilateral and bilateral trade negotiations; (c) trade finance matters; (d) U.S. economic relationships with the U.S.S.R., Eastern Europe, China, and such other nonmarket economy countries as may be designated, including support for operations of the East-West Foreign Trade Board and its Working Group; and (e) programs in relation to the Secretary's responsibilities for trade relations with other countries.

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(2) The Office also formulates and implements Treasury Department positions on: (a) questions relating to basic natural resources, particularly non-fuel minerals and agricultural commodities; (b) U.S. commodity policy; and (c) oceans policy matters, including "Law of the Sea" negotiations.

b. *Deputy Assistant Secretary (Investment and Energy Policy)*. (1) The Office serves as the principal policy advisor to the Assistant Secretary in formulating and implementing Treasury Department positions on: (a) international investment policy, including foreign investment in the United States; (b) international banking policy; (c) domestic and international energy policy, with special emphasis on the economic aspects of such policy; and (d) domestic and international energy finance matters.

(2) In carrying out these responsibilities, the Office: (a) supports the Secretary of the Treasury in his role as a member of the Energy Resources Council; (b) serves as Secretariat for the interagency Committee on Foreign Investment in the United States established by Executive Order No. 11858; and (c) develops and implements Treasury Department policy with respect to issues arising in the International Energy Agency, and the Organization for Economic Cooperation and Development (OECD) Committees on Financial Markets and on Investment and Multinational Enterprises.

c. *Deputy Assistant Secretary (International Monetary Affairs)*. (1) The Office serves as the principal policy advisor to the Assistant Secretary in formulating and implementing Treasury Department policies concerned with the maintenance and operation of a smoothly functioning international monetary system, and the development and conduct of U.S. financial relations with the market economy industrial nations. In carrying out this function the Office provides support for U.S. participation in multilateral financial institutions, principally the International Monetary Fund and the OECD, as well as in other fora related to the operations of the international financial system.

(2) The Office provides analyses and forecants of economic developments in and policies of the major industrial nations, both domestic and external. The Office maintains Treasury Department representatives in key industrial countries and in the OECD to facilitate communication on issues of both bilateral and multilateral concern. It also analyzes regional and global payments patterns and their implications for the workings of the monetary system.

(3) With guidance furnished by senior Treasury Department officials, the Office also: (a) formulates and implements policy relating to exchange market operations; (b) develops policy on the use and management of the assets of the Exchange Stabilization Fund (ESF); (c) provides direction to the Federal Reserve Bank of New York with respect to ESF exchange market operations; and (d) maintains continuing oversight of gold markets, production, consumption, and foreign trade.

d. *Deputy Assistant Secretary (Developing Nations)*. (1) The Office serves as the principal policy advisor to the Assistant Secretary in formulating and implementing Treasury Department positions on U.S. economic policies and programs with respect to the developing nations. The Office helps formulate, review, and oversee U.S. economic and financial policies with respect to individual developing countries, as well as U.S. policies with respect to the developing countries in general, including debt, development, expropriation, and food policies. In support of these activities, the Office maintains Treasury Department representatives in a number of key developing nations. The Office also has responsibility for providing support to the Secretary of the Treasury in his capacity as a member of the joint economic commissions which have been established with individual developing countries.

(2) The Office formulates, reviews, and oversees Treasury Department positions on policies, operations, and activities of the international lending institutions and the activities of the International Monetary Fund related to developing nations. The Office maintains liaison with and reviews policies of international, United States, and interagency development finance and policy formulating bodies, such as the Development Assistance Committee of the OECD, the United Nations Conference on Trade and Development, the Overseas Private Investment Corporation, and the Development Loan Staff Committee. The Office administers the Secretariat of the National Advisory Council on Iternational Monetary and Financial Policies (NAC). The NAC operates under the authority of Executive Order No. 11269.

e. *Deputy Assistant Secretary (Research and Planning)*. (1) The Office serves as the principal research advisor to the Assistant Secretary and other OASIA officials and provides policy guidance on the entire range of international economic issues with which OASIA is concerned.

(2) The Office is responsible within the Department for: (a) U.S. balance of payments analysis and forecasting; (b) administration of the Treasury Department's foreign exchange reporting system; (c) maintaining data reporting systems on foreign currency positions of U.S. banking and commercial institutions, and foreign official indebtedness to entities of the U.S. Government; and (d) providing computer-based services to fulfill the needs of OASIA.

(3) The Office provides in-depth analysis and policy planning guidance on subjects such as: (a) the working of the international monetary mechanism, including quantitative studies of the causes of balance of payments disturbances and of how policies pursued by the U.S. Government and foreign governments affect the process of adjustment to such disturbances; (b) the economic consequences on the U.S. and international economies of changes of monetary and fiscal policy by the U.S. Government and foreign governments; (c) the economic consequences of changes in the trade and raw materials policies of the U.S. Government; and (d) current and prospective developments in the U.S. balance of payments. These research projects are coordinated with other U.S. Government departments and agencies and international institutions under the guidance of the Assistant Secretary.

3. Within the Office of the Assistant Secretary (International Affairs), there also are the Office of the Deputy to the Assistant Secretary (Saudi Arabian Affairs), the Deputy to the Assistant Secretary and Secretary of the International Monetary Group, the Office of the Inspector General, the Administrative and Personnel Staff, and the OASIA Secretariat. The functions and responsibilities of these offices, which are defined by the Assistant Secretary, are:

a. *The Office of the Deputy to the Assistant Secretary (Saudi Arabian Affairs)* is composed of an Office of Saudi Arabian Affairs in Washington and an Office of the U.S. Representation to the Joint Commission in Riyadh, Saudi Arabia, and serves as the principal policy advisor to the Assistant Secretary in formulating and implementing the projects and programs undertaken by the U.S.-Saudi Arabian Joint Commission on Economic Cooperation established on June 8, 1974, and chaired by the Secretary of the Treasury. The Office is also responsible for the development of Treasury Department policy with respect to U.S. economic relations with Saudi Arabia.

b. *The Deputy to the Assistant Secretary and Secretary of the International Monetary Group* serves as a policy advisor to the Assistant Secretary in the formulation and implementation of policies relating to the international monetary system.

c. *The Office of the Inspector General* provides the Assistant Secretary and other senior level Treasury Department officials with a reliable and independent internal appraisal of selected international financial activities and programs for which OASIA has primary operational responsibility. The Inspector General also performs such reviews as requested. Major areas of concern include the efficiency and economy of the use of U.S. investments in the International Monetary Fund, the International Bank for Reconstruction and Development, and regional multilateral banks, as well as procedures governing the use of the ESF.

d. *The Administrative and Personnel Staff and OASIA Secretariat* perform personnel, administrative and other support operations for the Assistant Secretary.

4. With the exception of the Office of the Inspector General, the Assistant Secretary may reassign programs, functions, and associated positions and resources among the subordinate offices established above as deemed necessary, consistent with the policies and procedures governing the ESF.

5. This Order supersedes Treasury Order No. 202 (Rev. 1), March 26, 1973; Treasury Order No. 202–1, October 14, 1964; Treasury Order No. 203, October 14, 1964; Treasury Order No. 232, June 23, 1974; Treasury Order No. 202–2, July 25, 1975; and Treasury Order No. 241, February 1, 1976. This Order does not affect Treasury Order No. 237, April 7, 1975; Treasury Order No. 220, April 23, 1971; or Treasury Order 190 (Rev. 12), September 14, 1976.

Dated: December 20, 1976.

WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.76-37951 Filed 12-27-76;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 27, 1977, at 9:30 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building—U.S. Courthouse, Room A–220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Falls Business College, 620 Gallatin Road, South, Madison, Tennessee, should be discontinued, as provided in 38 CFR 21.-4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: DECEMBER 20, 1976.

R. S. BIELAK,
Director, VA Regional Office.

[FR Doc.76–38009 Filed 12–27–76;8:45 am]

INTERSTATE COMMERCE COMMISSION

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of protests to the granting of the authority must be filed with the Commission on or before January 27, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 119642 (Sub-No. 4) (republication) filed April 26, 1976, published in the FEDERAL REGISTER issue of June 17, 1976, republished as amended in the FEDERAL REGISTER issue of July 29, 1976, and republished this issue. Applicant: JANESVILLE AUTO TRANSPORT COMPANY, a corporation, 1263 South Cherry Street, P.O. Box 959, Janesville, Wis. 53545. Applicant's representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. The Initial Decision by the Administrative Law Judge, served November 23, 1976, finds that the issuance of a *contract carrier* Permit to applicant is consistent with the public interest and the national transportation policy authorizing operations over irregular routes in the transportation of (1) *Automobiles, trucks, chassis, and buses,* in initial movements, in truckaway and driveaway service, from Janesville, Wis., to points in Illinois, Indiana, Iowa, the Upper Peninsula of Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; (2) *tractors* (except farm tractors and crawler or track type tractors), in initial movements, in truckaway and driveaway service, from Janesville, Wis., to points in Montana, Nebraska, North Dakota and South Dakota; (3) *automobiles, trucks, tractors* (except farm tractors and crawler or track type tractors), chassis, and buses, in secondary movements, in truckaway and driveaway service, between points in Illinois, Indiana, Iowa, and the Upper Peninsula of Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota and Wisconsin; (4) *unfinished automobiles, trucks and chassis,* in initial movements, in truckaway and driveaway service, from Janesville, Wis., to points in the Upper Peninsula of Michigan, Minnesota, Missouri, and Wisconsin; (5) *unfinished automobiles, trucks, and chassis,* in secondary movements, in truckaway and driveaway service, between points in Illinois, Indiana, Iowa, the Upper Peninsula of Michigan, Minnesota, Missouri and Wisconsin; (6) *automobile parts,* from Janesville, Wis., to points in Illinois, Indiana, and Iowa.

(7) *Vehicle bodies, automobile parts* when accompanying vehicles with which to be used, and *automobile show paraphernalia and displays* (except display vehicles), between points in Illinois, Indiana, Iowa, the Upper Peninsula of Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wisconsin; (8) *automobiles, trucks, chassis, buses, and tractors* (except farm tractors and crawler or track type tractors), in initial movements, in truckaway and driveaway service, from Janesville, Wis., to points in Colorado, Idaho, Kansas, Wyoming and the Lower Peninsula of Michigan; (9) *automobiles, trucks, tractors* (except farm tractors and crawler or track type tractors), *chassis and buses,* in secondary movements, in truckaway and driveaway service, and *vehicle bodies, automobile parts* when accompanying vehicles with which to be used, and *automobile show paraphernalia and displays,* (a) between points in Colorado, Idaho, Kansas, Wyoming, and the Lower Peninsula of Michigan; and (b) between points in Colorado, Idaho, Kansas, Wyoming, and the Lower Peninsula of Michigan, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wisconsin and the Upper Peninsula of Michigan; (10) *automobiles, trucks, and buses* as described in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in initial movements, in truckaway service; (a) from the plantsites of General Motors Corporation, located at Jackson County, Mo., to points in Minnesota, Wisconsin, Illinois, Iowa, and the Upper Peninsula of Michigan, restricted to the transportation of traffic moving through Janesville, Wis.; and (b) from the plantsites of the General Motors Corporation, Jackson County, Mo., to Janesville, Wis.; (11) *automobiles, trucks, and buses,* as described in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in initial movements, in truckaway service, (a) from Pontiac, Mich., to points in Iowa, Minnesota and Wisconsin, restricted to the transportation of traffic moving through Janesville, Wis.; and (b) from Pontiac, Mich., to Janesville, Wis., restricted against the transportation of traffic from the plantsite of the GMC Truck & Coach Division of General Motors Corporation, located in Pontiac, Mich.; (12) (a) *automobiles, trucks, chassis, and buses,* in initial movements, in truckaway and driveaway service, from Janesville, Wis., to points in Kentucky and Tennessee; and (b) *returned shipments* of such commodities, from points in Kentucky and Tennessee, to Janesville, Wis.

(13) *Automobiles, trucks and buses,* as described in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in initial movements, in truckaway service, (a) from the plantsite of the General Motors Corporation, located at Janesville, Wis., to points in Connecticut, Delaware, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; and (b) from the plantsite of the General Motors Corporation, located at Lordstown, Ohio, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, and Wisconsin; and (14) *automobiles, trucks and buses,* as described in the report of *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in initial movements, in truckaway service, from (a) Norwood, Ohio, to points in Illinois and Wisconsin; and (b) Willow Run, Mich., to points in Illinois, Iowa, Wisconsin, and Minnesota, restricted to the transportation of traffic originating at or destined to a plant, warehouse, or

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other facilities of General Motors Corporation, restricted to a transportation service in all of the above, to be performed under a continuing contract, or contracts, with General Motors Corporation: that applicant is fit, willing, and able properly to perform such service and to conform to the provisions of the Interstate Commerce Act and the rules and regulations thereunder.

This republication is deemed necessary because of publishing inconsistencies relative to the St. Louis-East St. Louis Commercial Zone and the belated reference in this proceeding to applicant's Sub-No. 9, authorized in a certificate issued July 22, 1976. This application is directly related to a Section 5(2) finance proceeding in No. MC-F-12809, published in the FEDERAL REGISTER issue of April 22, 1976. The proposed authority is a conversion of existing common carrier certificates in MC 134779 and subs thereunder; concurrently with the issuance of a permit in this proceeding, all certificates held by applicant under MC 134779 and (Sub-Nos. 1, 6, 7, 9, and 10) will be cancelled.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37909 Filed 12-27-76;8:45 am]

[Notice No. 221]

ASSIGNMENT OF HEARINGS

DECEMBER 22, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139999 (Sub 12), Redfeather Fast Freight, Inc. now being assigned February 14, 1977 (2 days) at Kansas City, Missouri in a hearing room to be later designated.

MC 119988 (Sub-No. 98), Great Western Trucking Co., Inc., now being assigned January 24, 1977 (2 days) at Dallas, Texas, in a hearing room to be later designated.

MC 139495 (Sub-No. 163), National Carriers, Inc., now being assigned January 26, 1977 (3 days) at Dallas, Texas, in a hearing room to be later designated.

MC 108158 (Sub 58), Mid-Continent Freight Lines, Inc, now being assigned March 1, 1977 (9 days) at St. Paul, Minnesota in a hearing room to be later designated.

MC 110191 Sub 28, Turner's Express, Inc., now being assigned February 2, 1977, (3 days), at Richmond, Va., in a hearing room to be later designated.

MC 114211 (Sub Nos. 262 and 290), Warren Transport, Inc. now being assigned March 7, 1977 (1 week) for continued hearing at San Francisco, California and will be held in Room 510, 5th Floor, 211 Main Street.

AB 3 (Sub-No. 9), Missouri Pacific Railroad Company Abandonment Between Dearing & Dexter in Montgomery, Chautauqua, and Cowley Counties, Kansas, now assigned January 26, 1977, at Independence, Kans. is postponed to February 7, 1977 (3 days), at Independence, Kans.; in a hearing room to be later designated.

MC 113855 (Sub-No. 351), International Transport, Inc., now assigned February 8, 1977, at Chicago, Ill. will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 140829 (Sub-No. 11), Cargo Contract Carrier Corp., now assigned February 10, 1977, at Chicago, Ill. will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 58923 (Sub-No. 33) and MC 58923 (Sub-No. 42), Georgia Highway Express, Inc., has been continued to January 26, 1977 (2½ days) at Atlanta, Georgia; in Room 305 1252 West Peachtree Street, N.W.

MC 113495 (Sub 76), Gregory Heavy Haulers, Inc. now being assigned March 2, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 51146 (Sub-No. 463), Schneider Transport, Inc., MC 51146 (Sub-No. 470), Schneider Transport, Inc., MC 133655 (Sub-No. 87), Trans-National Truck, Inc., and MC 133655 (Sub-No. 93), Trans-National Truck, Inc., now assigned February 14, 1977, at Chicago, Ill. will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 75406 (Sub 40), Superior Forwarding Co., Inc. now being assigned January 5, 1977 (2 days) at Memphis, Tennessee for continued hearing and will be held in Room 1006, Tax Court, Federal Building, 167 North Main Street.

MC 135639 (Sub-No. 5), Queensway, Inc., now assigned January 17, 1977, at New York, N.Y. will be held at the Court of Claims, Room 238, Court Room A, 26 Federal Plaza.

MC 117940 (Sub-No. 179), Nationwide Carriers, Inc., now assigned January 18, 1977, at New York, N.Y. will be held at the Court of Claims, Room 238, Court Room A, 26 Federal Plaza.

MC 140033 (Sub-No. 16), Cox Refrigerated Express, Inc., now assigned January 19, 1977, at New York, N.Y. will be held at the Court of Claims, Room 238, Court Room A, 26 Federal Plaza.

MC 103066 (Sub-No. 38), Stone Trucking Company, now assigned January 20, 1977, at New York, N.Y. will be held at the Court of Claims, Room 238, Court Room A, 26 Federal Plaza.

MC 110563 (Sub 186), Coldway Food Express, Inc. now being assigned March 3, 1977 at the Offices of the Interstate Commerce Commission Washington, D.C.

MC 142362, Hogan Trucking Co., Inc. now being assigned March 9, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 135797 (Sub 60), J.B. Hunt Transport, Inc. now being assigned March 2, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 128224 (Sub 2), George F. Johnson now being assigned March 3, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 123744 (Sub 25), Butler Trucking Co. now being assigned March 10, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

ROBERT L. OSWALD,
Secretary,

[FR Doc.76-38078 Filed 12-27-76;8:45 am]

[Notice No. 96]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 28, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 17, 1977. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76284. By order of December 3, 1976 the Motor Carrier Board approved the transfer to Nippon Express, U.S.A., Inc., New York, N.Y., of Certificate No. MC 73828, issued December 12, 1972; to D & R Moving & Trucking, Inc., Oceanside, N.Y., authorizing the transportation of: household goods, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia and the District of Columbia. Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368, Attorney for Applicants.

No. MC-FC-76287. By order of December 3, 1976 the Motor Carrier Board approved the transfer to D & R Moving & Trucking, Inc., Oceanside, New York, of Certificate No. MC 139558 issued July 17, 1975, to Raymond Storage Warehouse, Inc., Bronx, N.Y. authorizing the transportation of: household goods, between New York, N.Y., and points in Westchester and Nassau Counties, N.Y., and Fairfield County, Conn., on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Massachusetts, Maryland, New Hampshire, New Jersey (except points in Essex, Union and Hudson Counties), New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia. Ronald I. Shapss, 450 Seventh Avenue, N.Y., N.Y. 10001 Attorney for Transferor and Arthur Piken, 1 Lefrak City Plaza, Flushing, N.Y., Attorney for Transferee.

No. MC-FC-76632, by order entered December 6, 1976 the Commission, Motor Carrier, approved the transfer to Albert Ring, Andrew Ring, Bernard Ring, and Ronald Ring, doing business as Frank Ring, Neola Iowa the operating rights set forth in Certificates Nos. 42194 and

sub numbers 1 and 2, issued April 13, 1967, November 18, 1971, and December 17, 1973 respectively to Leonard L. Madsen doing business as Kroeger Transfer, Minden, Iowa, authorizing the transportation of: *General commodities*, except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (other than those requiring refrigeration), and those injurious or contaminating to other lading, between Minden, Iowa, and Omaha, Nebr., serving the intermediate points of Neola, Underwood, and Weston, Iowa: From Minden over Iowa Highway 83 (formerly portion Iowa Highway 64) to junction Iowa Highway 64, thence over Iowa Highway 64 to Council Bluffs, Iowa, thence across the Missouri River to Omaha, and return over the same route. *Household goods* as defined by the Commission, over irregular routes, from Neola, Iowa, and points within 15 miles thereof, to Omaha, Nebr.; and *Feed, tankage, livestock, farm implements, building materials*, and *household goods* as defined by the Commission from Omaha, Nebr., to Neola, Iowa, and points within 15 miles thereof; and *livestock, grain, hay, feed, agricultural implements, lumber, concrete blocks*, and *petroleum products* in containers, over irregular routes, between Harlan, Iowa, and points within 25 miles of Harlan, on the one hand, and, on the other, Omaha, Nebr. Donald Stern, 530 Univac Bldg., 7100 West Center Rd., Omaha, Neb. 68106, Attorney for applicants.

No. MC-FC-76830. By order entered December 20, 1976 the Motor Carrier Board approved the transfer to Holiday Travel, Inc., Eau Claire, Wisc., of the operating rights set forth in License No. MC 130253, issued January 6, 1976, to Douglas Patrick Stoffers and Michael O'Meara, a partnership doing business as Daytona Beach Tours, Eau Claire, Wisc., authorizing operations as a broker at Eau Claire, Wisc. in connection with the transportation of passengers and their baggage in round trip special and charter operations beginning and ending at points in Wisconsin except from 29 specified counties and extending to points in Volusia County, Florida.

Michael O'Meara, 2842 London Square Mall, Eau Claire, Wisc. 54701, applicant.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38079 Filed 12-27-76;8:45 am]

[Notice No. 97]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76745, filed September 22, 1976. Transferee: KENNETH MANCE, doing business as ALL-STATE TRANSPORT, 309 West Morrell St., Streator, Ill. 61364. Transferor: Warsaw Trucking Co., Inc., P.O. Box 1017, 1102 W. Winona Ave., Warsaw, Ind. 46580. Applicants' representative: Donald S. Mullins, registered practitioner, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-123294 (Sub-No. 12), issued August 29, 1968, as follows: Iron and steel articles, from the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, Ill., to points in Indiana and Ohio; and materials, equipment, and supplies used in the manufacture and processing of iron and steel articles, from points in Indiana and Ohio, to the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, Ill., subject to certain restrictions. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-76794, filed October 22, 1976. Transferee: RAYMOND J. WILKE and BETTY L. WILKE, a partnership, doing business as EASTERN ILLINOIS FILM SERVICE, Route 3, Flora, Ill. 62839. Transferor: Clifford M. Burtt, doing business as Burtt's Delivery Service, No. 1 West Point Lane, St. Louis, Mo. 63131. Transferee's representative: Wm. Robin Todd, Esquire, 124 East North Avenue, Flora, Ill. 62839. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-15974, issued September 30, 1966, as follows: Films and associated articles, newspapers, and magazines, between St. Louis, Mo., and points in Illinois; cigars from St. Louis, Mo., to points in Illinois; and motion picture films and associated articles, between Flora, Ill., and Wayne City, Ill., and between Flora, Ill., and Kinmundy, Farina, and St. Francisville, Ill. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76819, filed November 9, 1976. Transferee: BEITZ WRECKER SERVICE, INC., Highway 65, Redfield, Ariz. 72132. Transferor: F. E. Beitz, doing business as Beitz Wrecker Service, General Delivery, Redfield, Ariz. 72132. Applicants' representative: Mr. Thomas J. Presson, Lot 27, Riverbend Estates, Redfield, Ariz. 72132. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 140278 Sub-1, issued November 3, 1975, as follows: Wrecked or disabled motor vehicles, by wrecker equipment only, from points in Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, to points in Arkansas; and replacement vehicles for wrecked or disabled motor vehicles by use of wrecker equipment only, from points in Arkansas to points in the origin States named above. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76833, filed November 18, 1976. Transferee: CHEECHAKO TRUCKING CO., INC., doing business as ALASKA TRUCK TRANSPORT, INC., 416 Third Street, Graell, Fairbanks, Alaska 99701. Transferor: Alaska Truck Transport, Inc., 416 Third Street, Graell, Fairbanks, Alaska 99701. Applicants' representative: Earl H. Scudder, Jr., Esquire, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 118520 Sub-5, issued May 29, 1975, as follows: General commodities, except those of unusual value, household goods, and classes A and B explosives, between points in Alaska, except points east of an imaginary line constituting a southward extension of the United States (Alaska)-Canada (Yukon Territory) Boundary line other than Haines, Alaska. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-76839, filed November 29, 1976. Transferee: COMMERCIAL STORAGE & DISTRIBUTION CO., a corporation, 432 Richmond, Rd., Texarkana, Tex. 75501. Transferor: Robert L. Torrans, doing business as Commercial Storage & Distribution Co., West 26th and Taylor St., P.O. Box 5698, Tex-

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arkana, Tex. 75501. Applicants' representative: E. Lawrence Merriman, attorney at law, 803 Spruce St., P.O. Box 1049, Texarkana, Tex. 75501. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 128932, subnumbers 1, 3, 4, 5, and 7, issued September 22, 1969, March 8, 1973, October 12, 1973, October 16, 1973, and February 27, 1976, as follows: *Used household goods*, over irregular routes, between Texarkana, Tex.-Ark., and points in McCurtain County, Okla.; Red River, Bowie, Franklin, Titus, Camp, Upshur, Gregg, Harrison, Marion, Cass, Lamar, Delta, Hopkins, Wood, and Morris Counties, Tex.; Miller, Lafayette, Columbia, Union, Ouachita, Nevada, Sevier, Little River, Howard, Hempstead, Pike, Clark, Calhoun, Dallas, Garland, Bradley, Drew, Ashley, and Polk Counties, Ark.; and Caddo, Bossier, Webster, and Claiborne Parishes, La., with restrictions. And *used household goods*, over irregular routes, between Texarkana, Tex.-Ark., and points in Jefferson, Cleveland, Lincoln, Desha, Chicot and Arkansas Counties, Ark.; Panola, Rusk and Dallas Counties, Tex.; Tulsa, Creek, Wagoner, Okmulgee, Muskogee, Okfuskee, McIntosh, Haskell, Pittsburg, Hughes, Seminole, Pontotoc, Coal, Latimer, Atoka, Pushmataha, Johnston, Marshall, Bryan and Choctaw Counties, Okla.; and Bieville, Caldwell, DeSoto, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Red River, Richland, Tensas, Union and West Carroll Parishes, La., with restrictions. And general commodities, with exceptions, over irregular routes between Texarkana, Ark., on the one hand, and, on the other, points in Clark, Columbia, Hempstead, Howard, Lafayette, Little River, Montgomery, Nevada, Ouachita, Pike, Polk, Sevier, and Union Counties, Ark.; Bossier, Caddo, Clairborne, and Webster Counties, La.; McCurtain, Pushmataha, and Choctaw Counties, Okla.; and Bowie, Cass, Camp, Franklin, Lamar, Marion, Morris, Red River, and Titus Counties, Tex., with restrictions. And *prefabricated wooden trusses*, from points in Miller County, Ark., and Bowie County, Tex., to points in Arkansas, Louisiana, Oklahoma, and Texas. And *wooden shipping containers and chicken coops*, from points in Miller County, Ark., Bowie County, Tex., and Caddo and Bossier Parishes, La., to points in Arkansas, Louisana, Oklahoma, and Texas.

And *wooden ammunition containers*, from the origin points described above to points in Des Moines and Appanoose Counties, Iowa; Tuscaloosa County, Ala.; Gibson County, Tenn.; DuPage and Will Counties, Ill.; and Labette County, Kans.; and household goods as defined by the Commission over irregular routes from specified points in Texas, Oklahoma, Arkansas, and Louisiana to specified points in Texas, Oklahoma, Arkansas, and Louisiana. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-76842, filed November 29, 1976. Transferee: BOLLA FREIGHT LINES, INC., 323 South Canal, South San Francisco, Calif. 94080. Transferor: Angelo Bolla, doing business as Bolla Freight Lines, 323 South Canal, South San Francisco, Calif. 94080. Applicants' representatives: Bertram S. Silver, Esquire, and Michael J. Stecher, Esquire, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought for purchase by transferee of the operating rights of transferor as evidenced by Certificate of Registration No. MC 99980 (Sub-No. 3), issued October 14, 1975, pursuant to Certificate of Public Convenience and Necessity granted by Decision No. 84369, dated April 29, 1975, as affirmed by Decision No. 84535, dated June 10, 1975, issued by the Public Utilities Commission of the State of California. Transferee presently holds no authority from this Commission. Application for temporary authority has not been filed under section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38080 Filed 12-27-76;8:45 am]

[Ex Parte 293 (Sub-No. 11)]

PREPARATION OF DELMARVA PENINSULA STUDY ON RAIL TRANSPORTATION

Public Hearings

Notice is hereby given that, pursuant to Section 302 of the Rail Transportation Improvement Act, the Rail Services Planning Office will conduct hearings to solicit comments on the problems of, and need for, rail services on the Delmarva Peninsula, the reasons why the acquisitions of Delmarva trackage proposed under the final system plan were not consummated, and recommendations for the continuation or extension of viable rail transportation service on the peninsula.

It is therefore ordered That:

1. The hearing sites are established together with the local contact coordinator who will receive requested appearance times at the respective hearings. The dates below indicate when the hearings commence.

MONDAY, JANUARY 24, 1977

DOVER, DELAWARE

Main Conference Room, Administrative Building, Delaware Department of Transportation, U.S. Route 113, Dover, Delaware.
Contact: Virginia Summers, c/o Rail Services Planning Office, 1900 L Street, N.W., Washington, D.C., 20036. Phone: 202-254-3281.

WEDNESDAY, JANUARY 26, 1977

SALISBURY, MARYLAND

Auditorium, Holloway Hall, Salisbury State College, College Avenue at Camden Avenue, Salisbury, Maryland.
Contact: Virginia Summers, c/o Rail Services Planning Office, 1900 L Street, N.W., Washington, D.C., 20036. Phone: 202-254-3281

FRIDAY, JANUARY 28, 1977

MELFA, VIRGINIA

Lecture Hall, Eastern Shore Community College, Melfa, Virginia
Contact: Virginia Summers, c/o Rail Services Planning Office, 1900 L Street, N.W., Washington, D.C., 20036. Phone: 202-254-3281

2. Attorneys from the Office of Public Counsel have been retained by the Office to provide free legal assistance to communities, users of rail service and other interested parties in the preparation of their testimony. The assistance of these attorneys may be obtained pursuant to the hearing rules set forth below.

Interested parties may participate either by appearing in person at one of the hearings or by submitting written comments within the time prescribed below directly to the Office.

3. The following uniform rules, procedures, and practices for the hearings are established:

(a) Oral testimony will be limited to 10 minutes. Those appearing are encouraged to testify from prepared statements.

(b) Persons who wish to testify at the hearings should call or write the local contact coordinator who is identify in Item I of this Notice.

(c) Prospective witnesses will be asked to provide: their name, address, telephone number and business association, if any; and the location, time and date when they wish to appear. This information will be relayed to an attorney from the Office of Public Counsel. If prospective witnesses need the assistance of an attorney, they should so inform the contact coordinator.

(d) The attorney assigned to the hearing site will schedule all witnesses and either the attorney or the local coordinator will notify prospective witnesses of confirmed hearing appearance times. The attorney will attempt to accommodate prospective witnesses who appear at the hearing without a prescheduled appearance time.

(e) All written material for the record should be submitted on 8½×11" paper in 10 copies at the hearing or sent directly to the Rail Services Planning Office, 1900 L Street, N.W., Washington, D.C. 20036. Statements sent to the Office should arrive no later than February 14, 1977. Since the Office has a very short time for review of the testimony, statements received after February 14, 1977, will be made part of the record, but may not be reviewed by the Office.

(f) Witnesses with common interests are urged to make joint submissions.

(g) The proceedings are legislative, not judicial in nature. witnesses will not be required to testify under oath, nor will there be any cross examination or rebuttal testimony. Only questions from the presiding officer and the representative of the Office of Public Counsel will be permitted.

(h) In order to insure that the public is fully informed of the contents of the Rail Study Report and its possible impacts upon communities and rail users, the usual Interstate Commerce Commission limitations on radio and television coverage during the hearing will be relaxed. The presiding officer will permit

live news coverage in the hearing room provided that the conduct of the media representatives and the presence of radio and television equipment do not disturb the orderly conduct of the proceedings. Where courtroom facilities are used, however, the rules of the court regarding media participation will apply. The customary rules of the Commission prohibiting smoking and talking during the hearing will apply.

(i) Hearings will commence on the days specified on Item 1 of this Notice.

(j) Hearings will convene promptly at 9:30 a.m. and adjourn at 5:30 p.m. An evening session will be scheduled on the first day if appearance times are requested. The evening session will commence at 7:30 p.m. and adjourn at 10:00 p.m. Additional evening sessions may be scheduled at the discretion of the attorney and the hearing officer.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38081 Filed 12-27-76;8:45 am]

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federal register

TUESDAY, DECEMBER 28, 1976

PART II



DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

■

RULES AND REGULATIONS FOR MINIMUM STANDARDS FOR EMPLOYEE PENSION BENEFIT PLANS

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Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS, DEPARTMENT OF LABOR

SUBCHAPTER C—MINIMUM STANDARDS FOR EMPLOYEE PENSION BENEFIT PLANS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2530—RULES AND REGULATIONS FOR MINIMUM STANDARDS FOR EMPLOYEE PENSION BENEFIT PLANS

BACKGROUND

On September 8, 1975, a notice was published in the FEDERAL REGISTER (40 FR 41654) containing a proposed and temporarily effective amendment to Chapter XXV adding a new Part 2530. Part 2530 contains regulations relating to Part 2 of Title I of the Employee Retirement Income Security Act of 1974 ("the Act"), which prescribes minimum standards for pension plans covered by Title I in the areas of participation; vesting and accrual of benefits.

Minimum standards provisions parallel to the minimum standards of Title I of the Act were added to the Internal Revenue Code of 1954 ("the Code") by Title II of the Act and appear in, among others, sections 410 and 411 of the Code. In accordance with the statutory allocation of regulatory authority between the Secretary of Labor and the Secretary of the Treasury with respect to minimum standards provisions of Title I of the Act and the Code, Part 2530 applies the minimum standards provisions Title I of the Act. A detailed explanation of the interrelationship between the minimum standards of Part 2 of Title I of the Act and those of the Code is set forth below under the heading "Inter-relationship of Part 2 and the Code."

Interested parties were given an opportunity to submit written data, views and arguments regarding proposed and temporarily effective regulations under Part 2530. The deadline for written comments was originally established as November 7, 1975, but was extended to January 9, 1976. In response to requests submitted by interested parties, a hearing was held on March 2, 1976 regarding alternatives to the definition of the term "year of service" and related provisions concerning breaks in service contained in the temporary regulations. At the hearing comments were received recommending that the Department amend the temporary regulations to provide for an elapsed time method of crediting service for pension benefits. References to the results of the hearing and the elapsed time method of crediting service appear below in the discussion of § 2530.200b–9.

While the proposed and temporarily effective regulations under Part 2530 were in the process of revision for final publication, the Department issued four ERISA Technical Releases ("ETR's") describing changes that would be made in the final version of Part 2530. ETR 2000 was issued on June 11, 1976; ETR's 2001, 2002 and 2003 were issued on June 30, 1976. The ETR's were issued in advance of the FEDERAL REGISTER publication of the final version of Part 2530 in order to provide guidance to members of the public engaged in amending pension plans to conform to the minimum standards provisions of Title I of the Act and of the Code.

This document sets forth the final version of Part 2530, as modified to take into account many of the written and oral comments received by the Department. Of particular note is a new § 2530.200b–9, which sets forth an elapsed time method of crediting service. In addition to substantive changes, this final version of Part 2530 contains revisions in the proposed and temporary regulations designed to clarify various provisions of those regulations.

Although not appearing in the September 8, 1975 proposed and temporary regulations § 2530.200b–9 is published as a temporary regulation effective immediately, as well as a proposed regulation on which public comments are solicited. The reason for making this section effective immediately on a temporary basis is that plans in existence on January 1, 1974 must meet the minimum standards of the Act for plan years beginning after December 31, 1975 within the time specified in section 401(b) of the Code. Publication of § 2530.200b–9 as a temporary regulation will enable such plans to be amended as expeditiously as possible so that they can be brought into compliance with the minimum standards provisions of the Act.

For the foregoing reason, the undersigned finds that good cause exists for making 29 CFR § 2530.200b–9 temporarily effective without advance publication, as specified in 5 U.S.C. section 553(d)(3).

Section 2530.200b–9 is also proposed for final adoption. Interested persons are invited to submit written data, views or arguments concerning that section by February 28, 1977. Such data, views and arguments should be submitted to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, Atten: Elapsed time comments. All comments should be clearly referenced to the paragraph or subparagraph to which they are directed.

Any person who desires an opportunity to comment orally on proposed § 2530.200b–9 at a public hearing should submit a written request to that effect by February 28, 1977 to the address set forth above. If a public hearing is held, notice of the date, time and place of the hearing will be published in the FEDERAL REGISTER.

INTERRELATIONSHIP OF PART 2 OF TITLE I OF THE ACT AND THE CODE

With only a few exceptions, provisions substantially identical to those contained in Part 2 of Title I of the Act are also contained in the Code. Except in certain areas where the Secretary of Labor has been specifically authorized to prescribe regulations, regulations prescribed by the Secretary of the Treasury under sections 410 and 411 of the Code apply, pursuant to section 3002(c) of the Act, to the counterpart provisions of Part 2 of Title I of the Act as well. Generally, these provisions of the Act are sections 202 (minimum participation standards), 203 minimum vesting standards) and 204 (minimum benefit accrual requirements). Conversely, regulations prescribed by the Secretary of Labor in areas where, under Part 2 of Title I of the Act, the Secretary is specifically authorized to prescribe regulations, apply to the counterpart provisions of sections 410 and 411 of the Code. Regulations relating to other provisions of Part 2 of Title I of the Act which have substantially identical counterparts of the Code but for which no exclusive authority to prescribe regulations is delegated either to the Secretary of the Treasury (or his delegate) or to the Secretary of Labor, will be issued by both the Secretary of Labor and the Secretary of the Treasury.

Regulations implementing Part 2 of Title I of the Act and, in cases where the Secretary of Labor has exclusive authority for issuing regulations relating to specific provisions, the counterpart provisions of sections 410 and 411 of the Code are contained in Part 2530. Each section contained in Part 2530 which relates to a specific section of the Act is numbered so as to indicate in the three digits following the decimal point the section of the Act to which it relates: For example, § 2530.202–2 relates to section 202 of the Act. Regulations relating to more than one section of Part 2 of Title I of the Act are set forth in Subpart A, Scope and General Provisions (i.e., sections of Part 2530 numbered ".200").

With few exceptions, such as the regulations pertaining to coverage, the regulations presently being issued pertain to areas for which regulatory authority is specifically delegated to the Secretary of Labor for purposes of part 2 of Title I of the Act and sections 410 and 411 of the Code.

FRAMEWORK AND BASIC STANDARDS OF PART 2 OF TITLE I OF THE ACT

The rules contained in Part 2530 are applicable to the minimum participation, vesting and benefit accrual standards of sections 202, 203 and 204 of Part 2 of Title I of the Act. While regulations issued by the Secretary of the Treasury under sections 410 and 411 of the Code represent the authoritative interpretations of the minimum standards provisions both of Title I of the Act and of the Code in areas where the Secretary of the Treasury is authorized to prescribe regulations, an outline of the overall scheme of the minimum standards is set forth below solely in order to enable Part 2530 to be understood in context.

It should be emphasized that plan provisions more liberal than the standards of the Act are not prohibited. For example, under section 202(a)(2) of the Act most pension plans may not require, as a condition of participation in the plan, that an employee complete a period of service with the employer maintaining the plan extending beyond the later of the date on which the employee attains age 25 or completes 1 year of service. A plan to which section 202 of the Act applies, however, could provide that every

employee is eligible to participate regardless of age or service or that an employee who has attained age 24 is eligible to participate.

(1) *Eligibility To Participate.* Section 202 requires generally that an employee cannot be excluded from a plan on account of age or service if he or she is at least 25 years old and has had at least one year of service. However, if the plan provides full and immediate vesting for all participants, it may require employees to complete three years of service in order to participate (e.g., H.R. 10 or Keogh Plans). As an alternative, any plan which is maintained exclusively for employees of a tax-exempt educational organization which provides full and immediate vesting for all participants may have a participation requirement of age 30, with one year of service.

In general, for purposes of the participation requirements, the term "year of service" means a 12-month period during which an employee has at least 1,000 hours of service. This 12-month period is measured from the date the employee commences employment. Thus, the employee has fulfilled his or her 1,000-hour requirement if he or she has 1,000 hours of service by the first anniversary of the date of employment. The employee (if age 25 or older) must then be admitted to the plan within six months of his or her first anniversary date of employment or by the beginning of the first plan year following the first anniversary date, whichever occurs earlier. (Of course, this does not mean that an employee must be admitted to the plan if he or she may lawfully be excluded for reasons other than age or service.) If an employee does not complete 1,000 hours of service by the first anniversary of the date of employment but is still employed on the first anniversary date, then he or she starts over toward meeting the 1,000 hour requirement. For this purpose, a plan may provide (on a consistent basis) that the relevant 12-month period for starting over is either (a) the year between the first anniversary of employment and the second anniversary of employment, or (b) the plan year which begins before the first anniversary of the date of employment.

The regulations with respect to the definition of the term "year of service" for purposes of eligibility to participate are found in §§ 2530.202–1 and 2530.202–2, which introduce the concept of the "eligibility computation period" as the 12-month periods for determining eligibility to participate. A definition of the term "hour of service" is set forth in subpart A of part 2530 (specifically, in § 2530.200b–2), along with other provisions pertaining to computing years of service. Among these are provisions of § 2530.200b–3, which permit the use of equivalencies to determine the number of hours of service to be credited to employees in each computation period. This regulation is designed to enable plans to avoid record-keeping difficulties associated with the crediting of hours of service.

The Secretary of Labor is authorized to prescribe regulations which provide for the calculation of an employee's period of participation on any reasonable and consistent basis. The regulations with respect to the definition of the term "year of participation" are found in § 2530.204–1. In addition, § 2530.204–2 introduces the concept of an "accrual computation period" for plans which are required to provide for benefit accrual on a yearly basis. Some plans with certain defined benefit formulas are not required to accrue benefits on a yearly basis; the rules with respect to these plans are found in § 2530.204–3.

(2) *Vesting.* Section 203 requires that a plan must provide full and immediate vesting in benefits derived from employee contributions. With respect to an employee's accrued benefit derived from employer contributions, a plan (unless it is a class-year plan) must generally meet one of three alternative minimum vesting standards, which are expressed in terms of the percentage of the employee's accrued benefit which must be vested at specified points in the employee's career. The provisions of a plan governing an employee's vested percentage at specified points in the employee's career are commonly referred to as the plan's "vesting schedule". Generally, all of an employee's years of service with an employer (including pre-participation years of service, and years of service performed before the effective date of the Act) are to be taken into account for purposes of determining his or her place on the vesting schedule. However, the plan may ignore certain periods; for example, periods for which the employee declined to make mandatory contributions to the plan or periods for which the employer did not maintain the plan or a predecessor plan, as defined in Treasury regulations. Generally, the plan may also ignore service performed before age 22; however, if a plan elects to use the "Rule of 45" as a vesting schedule, service before age 22 may be ignored only if the employee was not a participant in the plan for the years before age 22. Service performed prior to January 1, 1971 may also be ignored by the plan, unless (and until) the employee has at least 3 years of service after December 31, 1970. In addition, if the employee has had a "1-year break in service", service performed prior to the break may be ignored to the extent permitted under the "break in service" rules of section 203(b)(3).

All of the vesting schedules and the rules governing service which must be taken into account in determining an employee's place on the plan's vesting schedules are expressed in terms of "years of service." Years of service for purposes of vesting are not necessarily the same as years of service for purposes of eligibility to participate in the plan, and §§ 2530.203–1 and 2530.203–2 of these regulations introduce the concept of a "vesting computation period" for determining the 12-month period which must be taken into account as a year of service for vesting purposes. The vesting computation period will also be used for other purposes, such as calculating breaks in service, with some exceptions.

(3) *Accrual of Benefits.* Section 204 requires plans other than defined benefit plans to make a separate accounting for each employee's accrued benefit. A defined benefit plan is required to satisfy one of three accrued benefit tests (which limit the extent to which a plan may "back-load" benefit accrual—i.e., the extent to which a plan may increase the rate of benefit accrual in the latter years of a participant's career).

SECTION-BY-SECTION ANALYSIS

§§ 2530.200a–1, 2530.200a–2, and 2530.200a–3. These sections deal with the interrelationship of the minimum standards provisions of Title I of the Act and regulations prescribed thereunder with those of the Code. They have not been substantively modified from the temporary regulations.

§ 2530.200b–1. Paragraph (a) of § 2530.200b–1 describes the relationship between the various computation periods established pursuant to sections 202, 203 and 204 of the Act and sections 410 and 411 of the Code (see *Framework and Basic Standards of Part 2 of Title I of the Act* above). Paragraph (b) states rules generally applicable to all computation periods. This section does not, however, establish rules governing each type of computation period. Those rules are stated principally in §§ 2530.202–2, 2530.203–2 and 2530.204–2.

In general, years of service, years of participation and 1-year breaks in service are determined on the basis of the number of hours credited to an employee during an applicable computation period. There are three basic types of computation periods: (1) the eligibility computation period, used to determine eligibility to participate in the plan (and, if a plan so provides, deferral of benefit accrual for two years); (2) the vesting computation period used to determine the employee's place on the vesting schedule and, with certain exceptions, to determine a break in service; and (3) the accrual computation period used to determine whether an employee, once a participant in a defined benefit plan, will accrue full, partial or no retirement benefits for the period.

The eligibility computation period and the vesting computation period are generally 12-consecutive-month periods. The accrual computation period is usually a 12-consecutive-month period, but special rules are provided for shorter periods resulting from plan amendments changing the accrual computation period. Plans which provide for benefit accrual on the basis of an employee's total service under the plan are not required to use 12-consecutive-month accrual computation periods if the plan can show that, under the benefit accrual method used, one of the minimum benefit accrual rules will be met under all circumstances (see § 2530.204–3).

Under the minimum standards provisions, an employee who completes 1,000 hours of service during an applicable computation period must generally be credited with a year of service for vest-

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ing and a year of service for eligibility to participate in the plan. Under a plan which determines benefit accrual on the basis of computation periods, the number of hours of service required for full accrual of benefits in each accrual computation period may be established by the plan, but an employee who completes 1,000 or more hours of service during an accrual computation period must be given at least a ratable portion of the full accrual. Employment in service covered by a defined benefit plan for the full computation period is not required for obtaining credit for that period; a year's credit is to be determined solely on the basis of the number of hours of service completed during the applicable computation period.

A plan may designate any 12-consecutive-month period as the vesting computation period. Similarly, a plan which uses an accrual computation period as a basis for determining benefit accrual may desingate any 12-consecutive-month period as the accrual computation period. These periods are not required to coincide with the plan year, which is defined under section 3(39) of the Act as the year on which the records of the plan are kept. Part 2530 permits a wide degree of latitude in a plan's choice of 12-month periods to serve as computation periods in order to provide for flexibility in plan design. As a result, a plan may designate one 12-month period as the vesting computation period and the same or a different 12-month period as the accrual computation period. However, plans may find it advantageous, in order to simplify recordkeeping, to designate the plan year as both the vesting and accrual computation period. This approach would allow all recordkeeping to be on one period unless the plan has a minimum service requirement for eligibility to participate, in which case the eligibility computation period must, under section 202(a)(3)(A) of the Act, begin with the date on which an employee's employment commenced. A plan may, however, determine years of service for purposes of eligibility to participate, after an employee's initial eligibility computation period, on the basis of the plan year. Of course, a plan may also designate all three computation periods (eligibility, vesting and accrual) to be the 12-consecutive-month periods which begin with the employment commencement date and anniversaries thereof. This approach, however, probably will not serve the recordkeeping needs of most plans.

Paragraph (a) of § 2530.200b–1 has been revised for purposes of clarity. In addition, references to the equivalencies permitted under § 2530.200b–3 and to the elapsed time method of crediting service permitted under § 2530.200b–9 have been added.

In paragraph (b) of § 2530.200b–1, language has been added to make it clear that, although employment on the last day of a computation period is not determinative of whether an employee receives credit for a year of service or partial year of participation for the computation period, a plan may under certain circumstances provide that certain consequences result from an employee's failure to be employed on a particular date. Specifically, the regulation states that an individual account plan (such as a profit-sharing plan) is not subject to certain accrual requirements set forth in the minimum standards provisions of the Act and the Code and, therefore, may provide that a former plan participant who has separated from service before, e.g., the date on which employer contributions are allocated among participants' accounts does not share in such allocation. This rule is implicit in the accrual provisions of the Act and the Code, and was stated earlier in ETR 2000. It has been made explicit in the final version of § 2530.200b–1(b).

Paragraph (b)(1) of § 2530.200b–1 as it appeared in the temporary regulations has been eliminated. Paragraph (b)(1) would have required that where alternative computation periods are permitted under the Act and under Subpart B of Part 2530, the selected alternative be set forth in the plan documents. In order to draft a plan which meets the minimum standards provisions, it will generally be necessary to state all computation periods used by the plan, not merely those chosen as alternatives.

Section 2530.200b–2. An hour of service is the basic unit of service which must be credited to an employee under the minimum standards provisions in determining whether the employee is entitled to a year of service or partial year of participation, or incurs a 1-year break in service, in an applicable computation period. In § 2530.200b–2, a definition of "hour of service" is set forth (paragraph (a)), together with rules for determining the number of hours of service which must be credited to an employee on account of certain periods during which the employee is not engaged in the performance of duties (paragraph (b)), rules for determining to which computation period hours of service must be credited (paragraph (c)), and other matters.

Under the definition of the term "hour of service" set forth in § 2530.200b–2(a), three categories of hours must be credited to an employee: (1) hours for which the employee is paid for the performance of duties, (2) hours for which back pay is awarded, and (3) hours for which an employee is paid on account of a period during which no duties are performed due to vacation, holiday, illness, incapacity, layoff, jury duty, military service or leave of absence. Such hours must be credited to an employee regardless of whether contributions are required to be made to the plan on account of such hours or whether such contributions, even though required, have not in fact been made.

The treatment of the third category of hours described above—hours for which an employee is paid even though no duties are performed—is different under the final regulations than under the temporary regulations. Under the temporary regulations, these hours were required to be credited to an employee solely for the purpose of determining whether the employee incurred a 1-year break in service in a particular computation period. Some comments objected to crediting such hours for purposes of breaks in service on the grounds that they are unproductive. Comments also pointed out that crediting these hours creates administrative problems, particularly for multiemployer plans which receive from employers only records of hours for which contributions are made to such plans. Other comments took the opposite view, urging that hours in the third category described above be credited for all purposes, citing the expansive view of the term "service" adopted in cases such as *Social Security Board v. Nierotko*, 329 U.S. 359 (1945). Still other comments suggested that hours of service should be credited for periods during which no duties are performed by reason of, e.g., sickness or vacation, regardless of whether compensation is paid for such periods.

The approach taken in § 2530.200b–2(a)(3), which was announced in ETR 2001, requires that hours of service be credited for all purposes for periods during which no duties are performed due to vacation, holiday, illness, incapacity, severance or layoff. This approach is consistent with the view that the term "service" includes "not only work actually done, but the entire employer-employee relationship for which compensation is paid," Nierotko, supra, at 365–366. The final regulation does not, however, require crediting of hours of service for periods which are not compensated.

In order to ease administrative difficulties associated with crediting hours of service for periods during which no duties are performed, § 2530.200b–3 permits certain equivalencies to be used in calculating the number of hours of service to be credited to employees in computation periods—in particular, equivalencies which enable a plan to determine hours of service on the basis of working time or compensation.

In addition, the final regulation limits the number of hours of service which must be credited on account of any single, continuous period during which no duties are performed to 501, the number of hours of service generally necessary to avoid a 1-year break in service in a computation period. Further, an employee is not required to be credited with hours of service as a result of payments from a plan maintained solely to comply with applicable workmen's compensation, unemployment compensation or disability insurance laws. Hours of service are also not required to be credited for payments which reimburse an employee solely for medical or medically related expenses incurred, since such payments do not compensate the employee for hours of working time lost by the employee for medical reasons.

Under § 2530.200b–2(a)(3), termination of the employment relationship does not necessarily end crediting of hours of service. Thus, a disabled employee who, although terminated from employment, continues to receive payments for

his disability must continue to receive credit for hours of service until the 501-hour maximum is reached.

It is intended that the term "incapacity" used in § 2530.200b–2(a)(3) and elsewhere in Part 2530 include both the conventional notion of "disability" and other conditions, such as pregnancy, which prevent an employee from performing duties.

Paragraph (b) of § 2530.200b–2 sets forth a special rule for determining hours of service for reasons other than the performance of duties. Paragraph (b) corresponds roughly to § 2530.200b–2(b)(2) of the temporary regulations. The approach taken in the final regulation, however, differs from that of the temporary regulations. Under the temporary regulations, the number of hours of service credited for a paid period during which no duties were performed was determined by dividing the amount of the payment by the lesser of the employee's most recent hourly rate of compensation or the average crediting an employee with less than the number of working hours in a period during which the employee was compensated at less than the employee's normal rate. For example, where an employee receives disability payments equal to 80 percent of his normal wages, the employee would receive credit for only 80 percent of the number of working hours in the period covered by the payment. Other comments pointed out that by requiring hours of service to be calculated on the basis of the average hourly rate of compensation of an employee for the most recent computation period in which the employee completed more than 500 hours of service, the rule could result, in years when wages are rising, in the crediting of more hours of service than the number of working hours in the period during which no duties are performed.

Under § 2530.200b–2(b)(1) of the final regulations, payments for periods during which no duties are performed are grouped in two categories: payments which are calculated on the basis of units of time, such as hours, days, weeks or months, and payments which are not so calculated. For example, a payment based on an employee's normal wages, or a percentage of his normal wages, for a period of illness is calculated on the basis of the units of time in such period. By contrast, a lump-sum disability payment compensating an employee for incapacity, determined on the basis of a schedule of injuries, is not calculated on the basis of units of time.

The number of hours of service credited for a payment calculated on the basis of units of time is the number of regularly scheduled working hours included in the units of time on the basis of which the payment is calculated. If an employee has no regular work schedule, a plan may provide for such calculation on any basis which reflects the average hours worked by the employee over representative periods of time, or may use a 40-hour workweek or 8-hour workday as a basis for such calculation regardless of whether the employee averages a greater or a lesser number of hours per week or per day, as the case may be. The basis chosen by the plan must be applied consistently with respect to all employees within the same reasonably defined job classification.

A payment which is not calculated on the basis of units of time is treated in a manner similar to that in which payments for reasons other than the performance of duties were treated under the temporary regulations; the amount of the payment is divided by an hourly rate. For an employee paid on an hourly basis, the employee's most recent hourly rate is used to avoid the over-counting of hours that would be caused by requiring the use of an average hourly rate whenever that rate was lower than the most recent rate. For an employee not paid on an hourly basis, but on the basis of a fixed rate for specified periods of time, such as days, weeks or months (e.g., a monthly salary), the hourly rate is determined by dividing the employee's most recent rate of compensation by the number of hours regularly scheduled for the performance of duties during the period used as a basis for such rate. If the employee has no regular work schedule, the hourly rate may be calculated on the basis of an average of hours worked, or on the basis of a 40-hour workweek or an 8-hour workday. If an employee is not paid on the basis of a fixed rate for a specified period of time (e.g., a commission salesman), the plan may use the lowest hourly rate of compensation payable to an employee in the same job classification as the employee or the minimum wage prescribed under the Fair Labor Standards Act of 1938, as amended.

An additional limiting rule is applicable to both payments calculated on the basis of units of time and payments not so calculated: The number of hours of service that must be credited need not exceed the number of hours regularly scheduled for the performance of duties during the period for which the payment is made.

Paragraph (c) of § 2530.200b–2 sets forth rules relating to the crediting of hours of service to computation periods. The material in this paragraph was included in paragraphs (a)(1), (a)(2) and (b)(1) of § 2530.200b–2 of the temporary regulations. Under the final regulation, hours of service credited for the performance of duties are credited to the computation period in which the duties are performed. Hours of service credited as the result of a back-pay award or agreement are credited to the computation period to which the award or agreement pertains. Hours of service credited for a payment on account of a period during which no duties are performed due to vacation, holiday, illness, etc., are credited as follows. Hours of service credited for a payment calculated on the basis of units of time must be credited to the computation period or computation periods in which the period during which no duties are performed occurs, beginning with the first unit of time to which the payment relates. Hours of service credited for a payment not calculated on the basis of units of time must be credited to the computation period in which a period of time when no duties are performed occurs, or if the period of nonperformance of duties extends beyond one computation period, such hours of service must be allocated to not more than the first two such computation periods, on any reasonable basis which is consistently applied. For example, if an employee receives a lump sum payment resulting in the crediting of 501 hours of service for a long-term disability which incapacitates the employee for a period of several years, all 501 hours must be allocated to the first two computation periods during which the employee is disabled. The plan may not allocate any part of the 501 hours to later computation periods during which the employee is disabled.

A new rule is provided in § 2530.200b–2(c)(4) to ease certain administrative problems in connection with payments for periods which overlap two computation periods. Comments on the temporary regulations indicated that when an employer's payroll period overlaps two computation periods, the employer's payroll records might not indicate to which computation period hours of service creditable for the payroll period are to be allocated. In this situation, to require a determination to be made as to the number of hours of service to be credited to either payroll period for each employee would create a difficult administrative burden for the plan. Accordingly, paragraph (c)(4) permits a plan to credit all hours of service for a period of no more than 31 days which extends beyond one computation period either to the first or to the second computation period on a consistent basis. The 31-day limitation reflects the fact that few employers use payroll periods extending beyond a month and minimizes distortion of an employee's credit for hours of service.

§ 2530.200b–3. This section prescribes methods by which service to be credited to employees may be determined. Paragraph (a) of this section which states the general rule for determination of hours of service, has been revised primarily for purposes of clarity. Paragraph (b), which corresponds to paragraph (c) of § 2530.200b–3 of the temporary regulations, has also been revised, and an explicit reference to the use of equivalencies or elapsed time for purposes of determining hours of service completed before the effective date of Part 2 of Title I of the Act has been added. Thus, even if a plan uses the basic method of counting each hour worked and each hour for which payment is made for each employee with respect to post-effective date service, the plan may use equivalencies or elapsed time to determine pre-effective date service.

The primary focus of the comments on § 2530.200b–3 as it appeared in the tem-

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porary regulations was the need for a more flexible system of equivalencies for determining hours of service. The only alternative method of determining hours of service permitted under the temporary regulations was set forth in paragraph (b) of § 2530.200b–3. Use of that alternative was limited to situations where determination of hours of service under the general rule would be virtually impossible—for employees whose compensation is not determined on the basis of certain amounts of compensation for each hour worked during a given period and whose hours are not required to be counted and recorded under any other federal law, such as the Fair Labor Standards Act of 1938. Many of the comments suggested that the Department should permit the use of a greater variety of alternative methods of determining hours of service to be credited to employees, particularly alternatives which take into account existing recordkeeping systems. The comments pointed out that in many situations where strict counting of hours is not absolutely impossible, simpler methods of determining service to be credited will result in lower administrative costs for plans.

Accordingly, in ETR 2001 the Department announced that paragraph (b) of § 2530.200b–3 of the temporary regulations would be replaced by provisions permitting the use of a number of equivalencies designed to accommodate use of a wide variety of recordkeeping systems as a basis for determining hours of service to be credited under pension plans. The equivalencies have been structured so as to ensure that inaccuracies resulting from their use will generally work in favor of employees.

Paragraph (c) of § 2530.200b–3 sets forth general rules applicable to the use of the equivalencies described in the three subsequent paragraphs. Any equivalency used by a plan must be set forth in the document under which the plan is maintained. A plan may use different methods of crediting service, including the general method of counting each hour required to be credited under § 2530.200b–2, the equivalencies, and elapsed time, for different classifications of employees or for different purposes. For example, a plan may use the general method of counting each hour for purposes of participation but an equivalency based on earnings permitted under § 2530.200b–3(f) for purposes of vesting and benefit accrual. A separate classification of employees may be created which includes only part-time employees, provided that the classification is reasonable. In keeping with the general proposition that Part 2530 does not modify or impair requirements imposed by, among other provisions, section 401(a)(4) of the Code, relating to prohibited discrimination, § 2530.200b–3 contains a notice that use of a particular combination of methods of crediting service might result in discrimination prohibited by section 401(a)(4) of the Code.

Paragraph (d) sets forth equivalencies which enable a plan to credit service on the basis of working time. Under one such equivalency, a plan may credit an employee with only those hours actually worked. The employee must then be credited with a year of service or at least a partial year of participation for benefit accrual purposes (or both, depending on the purpose for which the hours of credit are applied), if he or she is credited with 870 hours worked in an applicable computation period, and the employee may not incur a one-year break in service if credited with more than 435 hours worked. The difference between the standards for determining a year of service or partial year of participation and a one-year break in service under the Act and the corresponding standards under the equivalencies represents a premium designed to compensate for omitting the hours of service which would be credited to an employee under § 2530.200b–2(a)(3)—i.e., hours credited for periods during which no duties are performed due to vacation, holiday, illness, etc.

Also permitted under paragraph (d) is an equivalency under which an employee is credited only with regular time hours, i.e., hours worked excluding overtime hours. Under this equivalency, the statutory minimum standards are reduced by an even larger amount in order to reflect the fact that overtime hours, as well as hours which would be credited for periods of absence under the basic method, are not credited. Under a plan using the equivalency based on regular time hours, an employee must be credited with a year of service or at least a partial year of participation if credited with 750 regular time hours, and may not incur a break in service if credited with more than 375 regular time hours.

Paragraph (e) sets forth equivalencies based on periods of employment. These equivalencies are designed primarily to enable a plan to use a recordkeeping system geared to an employer's payroll periods or other periods on the basis of which pay records are maintained. Each equivalency requires that an employee be credited with a specified number of hours of service for each period of employment for which the employee would be credited with at least an hour of service under the basic method of counting each hour of service. The periods of employment on which the equivalencies are based are days, weeks, semi-monthly payroll periods, months and shifts. Each of these equivalencies, other than the equivalency based on shifts, requires that an employee who receives credit for the period must be credited with a larger than normal number of hours of service for the period, in order to account for the possibility that an employee may work long hours in any particular period. Under the equivalency based on days of employment, 10 hours of service must be credited for each day of employment; under the equivalency based on semi-monthly payroll periods, 95 hours for each such period; under the equivalency based on months, 190 hours for each month.

In the case of shifts, a plan is required to credit only the number of hours that are included in a shift, and the times of the beginning and end of each shift used as a basis for crediting service must be set forth in a document referred to in the plan. Under the equivalency based on shifts, an employee must be credited with a shift if he or she works one hour in the shift. Therefore, if an employee, after completing one shift, performs an hour of service during the following shift, the employee must be credited with the number of hours in two full shifts.

Paragraph (e)(4) contains a special rule under the equivalencies based on periods of employment for payments described in § 2530.200b–2(b)(2)—i.e., payments which result in the crediting of hours of service for periods during which no duties are performed due to vacation, holiday, illness, etc., but which are not calculated on the basis of units of time. Under the special rule, hours of service resulting from such payments are determined in the same manner as under the general rule set forth in § 2530.200b–2(b). Thus, hours credited for such a payment are determined by dividing the amount of the payment by an hourly rate, which is calculated as provided in § 2530.200b–2(b). The exceptional treatment of these payments under the equivalencies based on periods of employment is designed to avoid an elaborate and unnecessary set of rules prescribing the manner in which hours resulting from such payments would be allocated to periods of employment during an employee's absence from employment.

A plan may combine an equivalency based on periods of employment (i.e., days, weeks, semi-monthly payroll periods, months or shifts) with an equivalency based on working time (i.e., hours worked or regular time hours). In such case, the plan must credit an employee with the same number of hours worked or regular time hours as the number of hours of service which would be credited under the equivalencies based on periods of employment, for each period of employment in which the employee performs at least one hour worked or at least one regular time hour. As under the equivalencies based on working time, 870 hours worked and 150 regular time hours are treated as equivalent to 1000 hours of service, and 435 hours worked and 375 regular time hours are treated as equivalent to 500 hours of service.

Paragraph (f) permits the use of two equivalencies based on earnings for determining service to be credited to employees: an equivalency for hourly employees and an equivalency for nonhourly employees. Under the equivalency for hourly employees, an hourly employee is credited with the number of hours equal to the employee's total earnings for a computation period divided by the employee's lowest hourly rate of compensation or his or her actual rates of compensation during the computation period. Because an hourly employee's total earnings for a computation period will reflect hours of overtime performed by

the employee during the computation period, hours credited under this equivalency are treated in the same manner as under the equivalency based on hours worked: If an employee is credited with 870 hours in a computation period, the employee is credited with a year of service or at least a partial year of participation; if the employee is credited with more than 435 hours in a computation period, the employee does not incur a 1-year break in service. In order to avoid the over-counting of hours that would result under this equivalency where an employer pays a premium rate for overtime hours, the regulation provides that the plan may adjust for such hours.

Under the equivalency based on earnings for non-hourly employees, an employee is credited with the number of hours equal to the employee's total earnings for the performance of duties during the computation period divided by an hourly rate determined for the employee in the manner described below. Since the total earnings of a non-hourly employee might not reflect overtime, hours credited under this equivalency are treated in the same manner as under the equivalency based on regular time hours: If an employee is credited with 750 hours in a computation period, the employee is credited with a year of service or at least a partial year of participation, and if the employee is credited with more than 375 hours in a computation period, the employee does not incur a 1-year break in service.

For purposes of applying the equivalency based on earnings for non-hourly employees, an hourly rate is determined as follows. In the case of an employee whose compensation is determined on the basis of a fixed rate for a specified period of time (other than hours) such as a day, week or month, the employee's hourly rate is determined by dividing either the employee's lowest rate or his or her actual rates of compensation for such specified period by the number of hours regularly scheduled for the performance of duties during that period. If the employee has no regular work schedule, the plan may use a 40-hour workweek, or an 8-hour workday, or a reasonable basis which reflects the average hours worked by the employee over a representative period of time, to determine the employee's hourly rate, provided that the basis used is applied consistently to all employees within the same job classification, reasonably defined. In the case of an employee whose compensation is not determined on the basis of a fixed rate for a specified period of time, the minimum wage under the Fair Labor Standards Act of 1938 must be used.

§ 2530.200b–4. Sections 202(b) and 203(b)(3) of the Act and sections 410(a)(5) and 411(a)(6) of the Code permit a plan to disregard certain service for purposes of eligibility to participate and vesting under certain circumstances if an employee incurs one or more one-year breaks in service. The general approach set forth in the temporary regulations to the computation periods used for measuring one-year breaks in service has not been changed in the final regulations.

The rules relating to one-year breaks in service may be summarized as follows. A one-year break in service is defined as a 12-consecutive month period during which an employee is not credited with more than 500 hours of service. If an employee incurs a one-year break in service, years of service before such break are not required to be taken into account until the employee completes a year of service upon his or her return. In addition, under a defined contribution plan, years of service after a one-year break in service are not required to be taken into account in determining an employee's vested right to the accrued benefit derived from employer contributions which accrued before the break. An employee who has not yet acquired any vested percentage in an accrued benefit derived from employer contributions may be subject to the so-called "rule of parity," under which a plan may provide that the employee may lose credit for purposes of participation or vesting when the employee incurs a number of consecutive one-year breaks in service which equals or exceeds the number of years of service credited to the employee before the consecutive one-year breaks in service. Finally, a plan described in section 202(a)(1)(B)(i) of the Act and section 410(a)(1)(B)(i) of the Code (i.e., a plan that requires three years of service for eligibility to participate in the plan) may provide that an employee who incurs a one-year break in service before meeting the eligibility requirement loses all credit for service before the one-year break in service.

The break in service rules of the Act make it necessary to prescribe in Part 2530 three basic types of computation periods for purposes of participation and for purposes of vesting: the computation periods used for measuring one-year breaks in service, the computation periods used for measuring completion of a year of service upon an employee's return after a one-year break in service, and the computation periods used for measuring years of service before consecutive one-year breaks in service are set forth in §§ 2530.202–2 and 2530.203–2, relating to eligibility computation periods and vesting computation periods, respectively.

The primary focus of the comments on the one-year break in service rules set forth in the temporary regulations was that, generally, the regulations did not permit a plan to choose the 12-consecutive-month period to be used for measuring one-year breaks in service, but required plans to use computation periods established for other purposes. Some comments suggested that a plan should be permitted to establish any 12-consecutive-month period as the computation period to be used for measuring one-year breaks in service. Other comments urged that a plan which does not provide that an employee incurs a one-year break in service unless the employee terminates employment with the employer be permitted to use a computation period beginning on the date of termination for measuring one-year breaks in service.

After consideration of the comments, it was decided to retain the general approach of the temporary regulations to the break in service computation periods. Particularly for purposes of the "rule of parity", the computation periods used for measuring one-year breaks in service must be the same as the computation periods used for measuring years of service before the consecutive one-year breaks in service. If other computation periods were allowed, complex rules would be necessary to deal with the overlap between pre-break in service computation periods and one-year break in service computation periods, or to deal with service between the end of the last pre-break computation period and the beginning of the computation period used for determining the first one-year break in service. To avoid these and similar problems, the one-year break in service rules require the use of computation periods that were established for other purposes in measuring one-year breaks in service.

In conjunction with changes in § 2530.202–2, relating to eligibility computation periods, the one-year break in service rules have been revised to facilitate use of the plan year as the computation period for all purposes other than for the initial eligibility computation period (and the initial computation period for measuring completion of a year in service after a one-year break in service).

Under § 2530.200b–4, as revised, a plan must use the vesting computation period in measuring one-year breaks in service for purposes of vesting, as well as in measuring completion of a year of service for vesting after a one-year break in service.

In measuring breaks in service for purposes of eligibility to participate, a plan must use the same computation period that it uses in measuring years of service for eligibility to participate. Similarly, under § 2530.202–2(c), in measuring years of service before consecutive one-year breaks in service for purposes of eligibility to participate, a plan must use the same computation period that it uses in measuring years of service for eligibility to participate.

Under § 2530.202–2(a), a plan must use the 12-consecutive-month period beginning on a employee's employment commencement date as the initial computation period for measuring years of service for eligibility to participate. After the initial eligibility computation period, the plan may continue to use eligibility computation periods beginning on anniversaries of the employment commencement date in measuring years of service for eligibility to participate, or may use plan years. If a plan uses plan years to measure years of service for eligibility to participate, it must also use plan years for measuring one-year breaks

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in service for eligibility to participate, and years of service before consecutive one-year breaks in service in applying the "rule of parity" for purposes of eligibility to participate.

In measuring completion of a year of service after a one-year break in service for eligibility, section 202(b)(3) of the Act and section 410(a)(5)(C) of the Code require a plan to use the same rules prescribed for measuring years of service for purposes of eligibility to participate in section 202(a)(3) of the Act and section 410(a)(3) of the Code. Accordingly, paragraph (b) of § 2530.20b–4 provides that in measuring completion of a year of service upon an employee's return after a one-year break in service, a plan must use the 12-consecutive-month period beginning on the employee's reemployment commencement date.

In the situation where an employee returns after a one-year break in service, the reemployment commencement date is analogous to the employment commencement date. The reemployment commencement date is defined as the first day on which an employee is credited with an hour of service for the performance of duties after the first eligibility computation in which the employee incurs a one-year break in service following an eligibility computation period in which the employee is credited with more than 500 hours of service. Thus, when an employee incurs a one-year break in service the employee generally has no more than one reemployment commencement date, regardless of whether the first one-year break in service is followed by further one-year breaks in service. In the case of an employee who terminates employment covered by the plan, the reemployment commencement date will generally occur when the employee is rehired. In the case of an employee who continues in employment covered by the plan but fails to be credited with more than 500 hours of service in an eligibility computation period, the reemployment commencement date could occur on the first day of the following eligibility computation period, i.e., if the employee is credited with an hour of service for the performance of duties on that day.

The situation may occur where an employee who has incurred a one-year break in service for eligibility to participate without terminating employment covered under the plan subsequently terminates such employment without having met the plan's requirement of completion of a year of service upon an employee's return after a one-year break in service. When such an employee later returns to covered employment, the statutory language contemplates that the employee must be given a new opportunity to complete a year of service in a 12-consecutive-month period beginning on the date of his or her return. Accordingly, an employee is treated as having a new reemployment commencement date on the first day the employee is credited with an hour of service for the performance of duties after an eligibility computation period in which the employee is credited with no hours of service. Crediting of no hours of service to an employee in a computation period is generally an indication that the employee has terminated employment.

After the initial computation period, in measuring completion of a year of service for eligibility upon an employee's return after a one-year break in service, a plan which uses plan years to measure years of service for eligibility after the initial eligibility computation period must use plan years, while a plan which uses eligibility computation periods beginning on anniversaries of an employee's employment commencement date must use computation periods beginning on anniversaries of an employee's reemployment commencement date.

Thus, a plan may designate the plan year as the computation period for all purposes, except the initial eligibility computation period and computation periods following reemployment commencement dates for measuring completion of a year of service following a one-year break in service. This result may be accomplished by designating the plan year as the vesting computation period, the accrual computation period and the computation period to be used for measuring years of service for eligibility after the initial eligibility computation period.

Maritime industry. (*§§ 2530.200b–6, 2530.200b–7 and 2530.200b–8*). Sections 202(a)(3)(D), 203(b)(2)(D) and 204(b)(3)(D) of the Act and sections 410(a)(3)(D), 411(a)(5)(D) and 411(b)(2)(E) of the Code permit plans covering employees in the maritime industry to determine service to be credited to such employees on the basis of days of service rather than hours of service. Under those sections, 125 days of service are equated with 1000 hours of service. In §§ 2530.200b–6, 2530.200b–7 and 2530.200b–8, rules are set forth relating to days of service in the maritime industry which are analogous to the rules relating to hours of service set forth in §§ 2530.200b–2 and 2530.200b–3. Accordingly, the provisions relating to days of service have been revised to conform to those relating to hours of service. Completing the special regulations for the maritime industry, under § 2530.200b–4(a)(1), 62 days of service may be equated with 500 hours of service for purposes of one-year breaks in service.

The provisions of the Act and the Code which contemplate the crediting of service on the basis of days of service in the maritime industry are permissive, rather than mandatory, in nature. Thus, a plan covering employees in the maritime industry may credit service for such employees either on the basis of days of service, as defined in § 2530.200b–7(a), or on the basis of hours of service, as defined in § 2530.200b–2(a). Thus, a plan covering employees in the maritime industry may credit service for such employees on the basis of any of the equivalencies permitted under § 2530.200b–3(d), (e) and (f), or may use the elapsed time method of crediting service permitted under § 2530.200b–9. Since the equivalencies permitted under § 2530.200b–3 may be used with respect to employees in the maritime industry, no equivalencies have been provided for determining days of service.

In the case of a plan covering both employees in the maritime industry, as defined in paragraph (b) of § 2530.200b–6, and employees who are not in the maritime industry, the plan may credit service on the basis of days of service only for those employees who are in the maritime industry. For employees who are not in the maritime industry, however, service may be determined on the basis of days of employment under § 2530.200b–3(e)(1)(i). The definition of the term "maritime industry" in paragraph (b), which corresponds to paragraph (a) of § 2530.200b–6 of the temporary regulations, has been revised in two respects. First, the words "engaged in the operation of" have been changed to read "performs duties on board" in order to make it clear that, e.g., a steward who serves food on board a vessel is deemed to be a maritime employee even though his or her duties might not be considered by some to involve the actual operation of the vessel. Although the preamble to the temporary regulations so stated, some comments suggested that the regulation itself was not sufficiently clear on this point. Second, the word "moving" has been inserted to modify "vessels" in order to make it clear that employees whose duties are performed exclusively while a vessel is stationary in port, such as longshoremen, are not deemed to be employed in the maritime industry.

As under the temporary regulations, an employee who travels by water in order to perform duties on land is not an employee in the maritime industry unless such employee also performs duties on board a moving vessel.

Paragraph (d) of § 2530.200b–6, relating to years of participation for benefit accrual, has been revised in conformity with revisions to §§ 2530.204–1 *et seq.*, which deal with accrual.

Section 2530.200b–9. This section prescribes an alternative method—the elapsed time method—for determining service required to be taken into account for purposes of eligibility to participate, vesting or benefit accrual. The elapsed time method of crediting service was described in ERISA Technical Release (ETR) 2003, released on June 30, 1976, which provided seven conditions which a plan was required to satisfy to determine service on the basis of elapsed time. This section further clarifies those conditions and provides a framework for drafting those plan provisions necessary to implement an elapsed time method of crediting service.

After the issuance of the September 8, 1975 temporary regulations, the Department received a considerable number of comments with respect to the general method of determining service set forth in § 2530.200b–2 of those regulations. Several commenters stated that the general method set forth in that section was overly restrictive and that elapsed time

methods of crediting service, which were a common feature of plans in existence before the passage of the Act, should be permitted to continue. On March 2, 1976, after the publication of a notice in the FEDERAL REGISTER, a public hearing was held in order to discuss alternative methods of determining service, and at that hearing the use of elapsed time methods was discussed at length.

The comments and the statements at the hearing were generally to the effect that the elapsed time system is favorable to employees and less costly to administer because the plan is required only to keep records of the appropriate periods of time, without regard to the actual number of hours of service completed during such periods. Also, an elapsed time method allows an employer to integrate his employee benefit programs in the sense that an employee may be provided with a single reference point for determining his or her rights under those employee benefit programs which rely on length of service for determining rights. Finally, because elapsed time methods were common prior to ERISA, problems relating to employee uncertainty with respect to plan changes would be reduced by continuance of such methods.

Section 2530.200b–9 sets forth an additional alternative method of crediting service, an elapsed time method, under which service is determined generally with reference to the total period of time which elapses while the employee is employed (i.e., while the employment relationship exists) with the employer maintaining the plan, regardless of the actual number of hours of service completed during such period of time. Accordingly, the determination of service is generally based on the status of an individual as an employee. The specific rules relating to the operation of the elapsed time method are set forth in paragraphs (b) through (g) of § 2530.200b–9.

§§ *2530.201–1* and *2530.201–2*, relating to coverage, have not been changed.

Eligibility to participate (*§§ 2530.202–1 and –2*). Under section 202(a)(1)(A) of the Act and section 410(a)(1)(A) of the Code, a plan may generally require no more than one year of service for eligibility to participate in the plan. However, a plan which provides that after not more than three years of service a participant has a right to 100 percent of such participant's accrued benefit under the plan which is nonforfeitable at the time such benefit accrues may require completion of up to three years of service for eligibility to participate. Under section 202(a)(3)(A) of the Act and section 410(a)(3)(A) of the Code, a plan which requires that an employee must complete one or more years of service for eligibility to participate in the plan must use a 12-consecutive-month computation period to measure completion of a year of service. Even after an employee completes a year of service under such a plan, it may be necessary to measure completion of years of service for eligibility to participate if the plan provides for a "rule of parity" for purposes of eligibility—i.e., a rule under which an employee who has no vested right to an accrued benefit derived from employer contributions loses credit for years of service for eligibility credited before a series of consecutive one-year breaks in service, if the number of consecutive one-year breaks in service equals or exceeds the number of years of service credited to the employee before the one-year breaks in service. Section 2530.202–2 sets forth rules relating to the computation period to be used in measuring completion of a year of service for purposes of eligibility to participate.

The initial eligibility computation period must generally begin on an employee's employment commencement date, which is defined as the first day on which an employee is credited with an hour of service for the performance of duties. For eligibility computation periods used in measuring years of service after the initial eligibility computation period, a plan (including a plan which, under section 202(a)(1)(B)(i) of the Act and section 410(a)(1)(B)(i) of the Code, may require three years of service for eligibility to participate in the plan) may continue to use 12-consecutive-month periods beginning on anniversaries of an employee's employment commencement date, or may use plan years. If the plan provides that years of service for purposes of eligibility to participate will be determined on the basis of plan years after the initial eligibility computation period, the plan must credit an employee with a year of service for eligibility to participate for each plan year in which the employee is credited with 1000 hours of service, starting with the first plan year beginning after the first day of the initial eligibility computation period. Although this rule will result in double crediting of certain hours of service, it ensures that no employee will lose credit for hours of service with which the employee is entitled to be credited and is administratively simpler than other possible solutions to problems created by overlapping computation periods.

A plan which, under section 202(a)(1)(B)(i) of the Act and section 202(a)(1)(B)(i) of the Code, may require completion of up to three years of service for participation in the plan follows the same rules as a plan which may require only one year of service.

In applying the "rule of parity" for purposes of eligibility, a plan measures years of service for eligibility to participate against subsequent consecutive one-year breaks in service. Years of service before the consecutive one-year breaks in service must be measured on the basis of the same eligibility computation periods that are used for measuring years of service for eligibility to participate. Thus, a plan which, after the initial eligibility computation period, measures years of service for eligibility on the basis of 12-consecutive-month periods beginning on anniversaries of an employee's employment commencement date must use those eligibility computation periods for measuring pre-break service in applying the "rule of parity" for purposes of eligibility. Similarly, a plan which, after the initial eligibility computation period, measures years of service for eligibility on the basis of plan years must use the initial eligibility computation period and plan years thereafter in measuring pre-break service in applying the "rule of parity" for purposes of eligibility to participate.

Paragraph (e) of § 2530.202–2 sets forth an alternative eligibility computation period which is designed to eliminate administrative difficulties which some plans might experience in determining an employee's employment commencement date (or reemployment commencement date in the case of an employee who has incurred a one-year break in service). For example, where a plan obtains records from an employer indicating the number of hours of service (or other units of service) credited to an employee during a payroll period, but not indicating the specific days to which such hours are attributable, the plan may be unable to identify an employee's commencement date. The alternative set forth in paragraph (e) permits a plan to use as the initial eligibility computation period a period beginning no more than 31 days before an employee's employment commencement date (or reemployment commencement date)—for example, the first day of the first weekly or monthly payroll period for which an employee receives a paycheck—and ending on the anniversary of the last day of such payroll period. For eligibility computation periods after the initial one, if the plan does not shift to plan years after the initial eligibility computation period, the plan must use eligibility computation periods beginning on anniversaries of the first day of the initial eligibility computation period and ending on the anniversaries of the last day of the initial eligibility computation period. Thus, unless a shift to plan years is made, use of the alternative will repeatedly result in overlapping computation periods longer in duration than 12 consecutive months.

Under the alternative, an employee is deemed to have met the plan's service requirement for participation as of the anniversary of the first day of the eligibility computation period in which the employee completes the plan's service requirement, even though the eligibility computation period itself may extend beyond such anniversary. This rule ensures that an employee who has in fact completed 1000 hours of service in the 12-consecutive-month period beginning on the employee's employment commencement date or anniversary thereof will be admitted to participation on a date no later than the date specified under section 202(a)(4) of the Act and section 410(a)(4) of the Code.

Used in conjunction with the rule under § 2530.200b–2(c)(4) (which enables a plan to credit hours of service to computation periods on the basis of an employer's payroll periods), the alternative set forth in paragraph (e) allows a plan

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to make use of simpler and more economical record-keeping systems.

Vesting (§§ 2530.203–1 and –2). Under section 203 of the Act and section 411(a) of the Code, years of service are used as units of measurement in determining the nonforfeitable (vested) percentage of a participant's accrued benefit derived from employer contributions. The term "year of service" for purposes of vesting is generally defined in section 203(b)(2)(A) of the Act and section 411(a)(5)(A) of the Code as a 12-consecutive-month period designated by the plan (and not prohibited under regulations prescribed by the Secretary) during which the participant has completed 1000 hours of service.

Section 2530.203–1, which has been revised for purposes of clarity, contains a general discussion of vesting.

In § 2530.203–2 the rules relating to the vesting computation period are set forth. Under these rules, a plan may designate any 12-consecutive-month period as the vesting computation period, including a separate 12-consecutive-month period for each employee—for example, the 12-consecutive-month period beginning on an employee's employment commencement date. A plan may not, however, designate a 12-consecutive-month period which would result in artificial postponement of vesting credit.

Paragraph (b) of § 2530.203–2, as it appeared in the temporary regulations, contained a special rule applicable in situations where an employee's eligibility computation period, under a plan requiring a year of service for eligibility to participate, overlaps two vesting computation periods. Under the special rule, if the employee completed 1000 hours of service in the eligibility computation period (and thus was admitted to participation) but failed to complete 1000 hours in either of the two vesting computation periods as a result of the distribution of the employee's hours of service between those computation periods, the plan would be required to credit the employee with a year of service for purposes of vesting on the basis of the 1000 hours completed during the eligibility computation period. Comments objected to the special rule on the ground that it would render plan administration more complex. The special rule has been deleted in the present version of § 2530.203–2 because, on balance, the administrative difficulties which it would create outweigh the advantages which plan participants might derive from it in the relatively restricted number of cases to which it would apply.

Paragraph (b) of § 2590.203–2 of the final regulations provides a cross reference to the rule on computation periods which must be used to determine when a participant acquires a nonforfeitable right to 100 percent of his or her accrued benefit under a plan described in section 202(a)(1)(B)(i) of the Act and section 410(a)(1)(B)(i) of the Code.

Paragraph (c) of § 2530.203–2 contains rules relating to plan amendments changing the vesting computation period. Under this paragraph, as a result of such an amendment, no employee's vested percentage of the accrued benefit derived from employer contributions may be less on any date after the change than the vested percentage would be in the absence of the change. Paragraph (c) also sets forth a method for changing a plan's vesting computation period which will be deemed to comply with the general requirement just stated. Under this method, the first vesting computation period under the amendment must begin before the end of the last vesting computation period under the plan as in effect before the amendment, and the plan must credit an employee who has 1000 hours in both of these vesting computation periods with two years of service. In the temporary regulations this method was prescribed as the exclusive method for changing the vesting computation period. In response to comments calling for a greater degree of flexibility in this area, however, the present paragraph (c) permits other methods which meet the requirement stated therein—for example a method under which, as of any date after an amendment changing the vesting computation period, each employee is credited with the greater of the vested percentage of the accrued benefit derived from employer contributions determined under the plan before the amendment, or such vested percentage determined under the plan as amended.

Section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code provide that in the case of a participant who has no vested right to an accrued benefit derived from employer contributions, years of service before a one-year break in service are not required to be taken into account for purposes of vesting if the number of consecutive one-year breaks in service equals or exceeds the aggregate number of years of service before such break. Paragraph (d) of § 2530.203–2 provides that in determining the aggregate number of years of service before a break in service for purposes of section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code, the vesting computation period must be used, just as under § 2530.200b–4(b)(2), the vesting computation period must be used in determining one year breaks in service to be matched against the pre-break years of service.

Benefit accrual—general (§§2530.204–1, –2, –3 and 4). Section 204 of the Act and section 411(b) of the Code contain minimum standards relating to benefit accrual which an employee pension benefit plan subject to Part 2 of Title I of the Act must meet. In particular, section 204(b)(1) of the Act and section 411(b)(1) of the Code contain certain requirements which a defined benefit pension plan must satisfy. These requirements are in part applied on the basis of an employee's period of service under a plan. Section 204(b)(3) of the Act and section 411(b)(3) of the Code set forth rules relating to the service which must be taken into account in determining an employee's period of service on the basis of which the defined benefit plan accrual rules set forth in section 204(b)(1) of the Act and section 411(b)(1) of the Code must be applied. Under section 204(b)(3)(A) of the Act and section 411(b)(3)(A) of the Code, the Secretary of Labor is authorized to prescribe regulations providing for the calculation, on a reasonable and consistent basis, of an employee's period of service for purposes of applying the defined benefit plan accrual rules.

Section 204(b)(3)(B) and (C) of the Act and section 411(b)(3)(B) and (C) of the Code contain a specific rule relating to the calculation of an employee's period of service for purposes of benefit accrual. Under those sections, an employee must be given at least a partial accrual credit, determined on the basis of a pro-rata portion of full accrual, if the employee is credited with 1000 hours of service (or other units of service under an equivalency permitted under § 2530.200b–3(d), (e) or (f)) in a computation period.

Regulations relating to the calculation of an employee's period of service for purposes of accrual are set forth in §§ 2530.204–1, –2, and –3.

Section 2530.204–1 sets forth certain rules relating to the calculation of an employee's period of service for purposes of benefit accrual. Under section 204(b)(1) of the Act and section 411(b)(1) of the Code, the period of service on the basis of which the defined benefit plan accrual rules must be applied is generally expressed in terms of "years of participation." Section 2530.204–2 sets forth rules relating to the computation periods to be used for measuring years of participation ("accrual computation periods"). Accrual computation periods are also used for measuring completion of 1000 hours of service in determining whether an employee is entitled to at least a partial credit for accrual under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code. A defined benefit plan, however, is not required to calculate an employee's period of service for purposes of accrual only on the basis of years of participation; § 2530.204–3 sets forth rules relating to the calculation of an employee's period of service for purposes of accrual on a basis other than computation periods.

The final section relating to benefit accrual, § 2530.204–4, prescribes the computation period which a plan must use in measuring years of service if the plan provides that accrual of benefits does not become effective until an employee has two continuous years of service, pursuant to section 204(b)(1)(E) of the Act and section 411(b)(1)(E) of the Code.

§ 2530.204–1. This section sets forth general rules relating to the calculation of an employee's period of service for purposes of benefit accrual. In general, all service beginning on the earliest date an employee is a participant in a plan must be taken into account, with the exception of service which is included in a period of service which is not required to be taken into account under section 202(b) of the Act and section 410(a)(5) of the Code, and service which may be disregarded under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code. The foregoing rule reflects the language of section 204(b)(3) of the Act and section 411(b)(3) of the Code, although the rule itself was not explicitly stated in the temporary regulations. In addition, pursuant to the Secretary's authority under section 204(b)(3)(A) of the Act to determine the period of service which must be taken into account for purposes of benefit accrual, paragraph (b) of § 2530.204–1 provides that in calculating an employee's period of service for purposes of benefit accrual, a defined benefit plan is not required to take into account service before the conclusion of a series of consecutive one-year breaks in service which permits a plan to disregard prior service under section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code—i.e., service before the date on which application of the "rule of parity" for purposes of vesting permits the plan to disregard prior service for purposes of vesting. When an employee becomes subject to the "rule of parity" for purposes of eligibility, the employee's pre-break service is not required to be taken into account for purposes of accrual, since under section 204(b)(3) of the Act and section 411(b)(3) of the Code, service which may be disregarded under section 202(b) of the Act and section 410(a)(5) of Code is not required to be taken into account for purposes of accrual. In a relatively restricted number of instances, however, application of the "rule of parity" for purposes of vesting will occur before application of the "rule of parity" for purposes of accrual, as a result of the fact that certain years of service may be disregarded for vesting purposes although they must be taken into account for purposes of eligibility. In order to enable plans to operate their service crediting systems on a unified basis and thus reduce administrative costs, paragraph (b) provides that as soon as an employee becomes subject to the "rule of parity" for purposes of vesting, service credited for benefit accrual before the parity break for purposes of vesting may be disregarded.

§ 2530.204–2. This section sets forth rules relating to accrual computation periods for plans which use them. Paragraph (a) provides that a plan may designate any 12-consecutive-month period as the accrual computation period, and may designate an individual accrual computation period for each participant. Paragraph (b) of § 2530.204–2 sets forth rules relating to participation before the effective date of Part 2 of Title I of the Act, which must be taken into account in applying the defined benefit plan accrual rules set forth in section 204(b)(1) of the Act and section 411(b)(1) of the Code.

Paragraph (c) of § 2530.204–2 sets forth rules relating to the crediting of partial years of participation and the application of the minimum service requirement of 1000 hours of service permitted under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code. Although not explicitly stated in the temporary regulations, these rules are consistent with the express provisions of the Act and the Code. In applying a 1000 hours minimum service requirement, a plan must use the accrual computation period designated under paragraph (a) of § 2530.204–2.

Paragraph (c) of § 2530.204–2 as it appeared in the temporary regulations also provided for measurement of service for accrual on the basis of partial accrual computation periods in situations where an employee first becomes a participant, or resumes active participation following a break in service, on a day other than the first day of an accrual computation period. Under paragraph (c) of the temporary regulations, a plan with a minimum hours of service requirement for partial credit for an accrual computation period, as permitted under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code, was required to prorate the minimum hours requirement on the basis of the ratio of the period from the date an employee became a participant (or resumed active participation following a break in service) to the end of the accrual computation period, to a full year. In the absence of such a rule an employee who, e.g., became a participant shortly before the end of an accrual computation period might be unable to meet the plan's 1000 hours of service requirement and consequently would fail to receive partial credit for service performed before the end of the accrual computation period. A plan with semi-annual participation entry dates, moreover, could be structured so as to ensure that few employees would receive accrual credit until the next accrual computation period following the employee's entry into participation.

Comments on the temporary regulation indicated that the requirement of a partial accrual computation period posed unnecessary and burdensome administrative problems for plans. Accordingly, the requirement of a partial accrual computation period has not been retained in the final version of Part 2530, except in the case of a change in the accrual computation period. However, to avoid the problems at which the partial accrual computation period was aimed, paragraph (c) contains a rule requiring that, in applying a minimum service requirement for benefit accrual in an accrual computation period which includes the date on which an employee becomes a participant in a plan, or resumes active participation after a break in service, the plan must take into account all hours of service which must be credited to the employee in the entire accrual computation period, not merely those which are credited during the portion of the computation period for which the employee is an active participant. If the employee is credited with 1000 or more hours of service in such a computation period, the employee must be credited with at least a partial year of participation on a pro-rata basis for the period after the employee begins (or resumes) participation.

Paragraph (d) of section 2530.204–2 prohibits proration of benefit accruals under section 204(b)(3)(B) of the Act and section 411(b)(3)(B) of the Code under plans which define benefits on a basis which has the effect of prorating benefits to reflect less than full-time employment, in order to prevent double proration of benefit accruals. In response to comments, paragraph (d) has been revised for purposes of clarity.

Paragraph (e), which prescribes a method for amending a plan to change the accrual computation period, has also been revised for purposes of clarity. Paragraph (e) makes use of a partial accrual computation period, with a prorated minimum service requirement, to avoid inequities to participants as a result of the change of computation periods.

§ 2530.204–3. A defined benefit plan is not required to determine an employee's service for purposes of benefit accrual on the basis of accrual computation periods. Section 2530.204–3, which has been revised for purposes of clarity, sets forth rules relating to plans which do not use accrual computation periods.

Under § 2530.204–3, if a plan does not use computation periods to determine an employee's period of service for purposes of benefit accrual, it must be possible to prove that the plan's provisions relating to benefit accrual meet at least one of the three benefit accrual rules of section 204(b)(1) of the Act and section 411(b)(1) of the Code under all circumstances. Further, such a plan may not disregard service under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code, since those sections contemplate determination of the number of hours of service credited to an employee on a computation-period-by-computation-period basis.

Some comments on the temporary regulations indicated that § 2530.204–3 gave the impression that a plan which does not use computation periods as a basis for determining an employee's period of service for purposes of benefit accrual may not provide for any degree of "back-loading" of benefit accruals. Such a plan may "back-load" benefit accruals to the extent permitted under the three tests against "back-loading" set forth in section 204(b)(1) of the Act and section 411(b)(1) of the Code, provided that it is possible to prove that the back-loading is not in excess of the amount allowed by those tests.

§ 2530.204–4. Section 204(b)(1)(E) of the Act and section 411(b)(1)(E) of the Code permit a plan to provide that accrual of benefits under a plan does not become effective until the employee has two continuous years of service. Under § 2530.204–4, in measuring years of service for purposes of section 204(b)(1)(E) of the Act and section 411(b)(1)(E) of the Code, a plan must use eligibility computation periods designated under § 2530.202–2(b), relating to eligibility computation periods after the initial eligibility computation period, and, if applicable, § 2530.202–2(a).

Section 2530.210. § 2530.210 of the regulations has been revised for purposes of

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clarity. Generally, the operational rules contained in § 2530.210 of the temporary regulations have been retained. The revised format makes explicit certain principles that were implicit in the text and diagrams of the temporary regulations. The final version of § 2530.210 does contain some minor amplifications, which are noted in the following sectional analysis.

Paragraph (a) of the regulations sets forth the general statutory provisions relating to the crediting of service. In general, section 202(a) of the Act requires that all service with the employer or employers maintaining the plan be taken into account for purposes of determining eligibility to participate in the plan. Similarly, section 203(b)(1) of the Act requires generally that all service with the employer or employers maintaining the plan shall be counted toward advancement on the vesting schedule, with certain exceptions such as for service when the employer did not maintain the plan or a predecessor plan. In contrast, section 204(b) of the Act requires only that periods of actual participation in the plan be taken into account for purposes of benefit accrual. Section 210 provides rules applicable to section 202, 203 and 204 for determining who is an "employer or employers maintaining the plan" and, accordingly, what service is required to be taken into account in the case of a plan maintained by more than one employer.

The general operational rule contained in paragraph (b) of the regulations is that a multiple employer plan (e.g., a multiemployer plan) takes service into account in accordance with the rules set forth in paragraph (c), a plan maintained by members of a controlled group of corporations takes service into account in accordance with paragraph (d) and a plan maintained by trades or businesses under common control takes service into account in accordance with paragraph (e). Note throughout that every mention of multiple employer plans includes multiemployer plans. See § 2530.210(c)(3). Special break in service rules for such plans are set forth in paragraph (f). Paragraph (g) applies the rule of parity to such plans.

The primary clarification and amplification of the temporary regulations is with respect to the rules relating to multiple employer plans. In the temporary regulations, paragraph (b) of § 2530.210 provided that a multiple employer plan shall be treated as if all maintaining employers constituted a single employer so long as an employee maintains "continuity" of either employment or plan coverage. Paragraph (c) of these regulations replaces paragraph (b) of the temporary regulations. Paragraph (c) provides that a multiple employer plan shall be treated as if all maintaining employers constitute a single employer so long as an employee is employed in either covered service or contiguous noncovered service. The "continuity" terminology has been deleted because comments indicated that it is misleading and inappropriate, and the terms "covered service" and "contiguous noncovered service" have been substituted. However, this change is primarily for purposes of clarity; generally, the final regulations require that a multiple employer plan take the same service into account as was required to be taken into account under the temporary regulations.

"Covered service" is service within a job classification or class of employees covered under the multiple employer plan. Neither the temporary regulations nor the final regulations require that covered service be continuous, with no interruptions, as the language of the temporary regulations led some commenters to believe. An employee may perform hours of service which are credited as covered service with any number of employers and at any number of different times during a computation period. Employment with each employer may be terminated with a quit, discharge or retirement. In other words, the fact that an employee has periods of noncovered service during a computation period has no effect on the plans' obligation to credit all the employee's covered service during such period.

"Contiguous noncovered service" is noncovered service immediately preceding or following covered service, with no intervening quit, discharge or retirement. The final regulations amplify the rule contained in the temporary regulations in the following respect. Under the temporary regulations, continuity of employment led to the crediting of service, but the term "continuity of employment" was not defined. The final regulations adopt the term "contiguous noncovered service" to indicate that noncovered service so described touches a prior or subsequent period of covered service in the sense that an employee has not separated from service through quit, discharge, or retirement between the periods of covered and noncovered service. An employee is entitled to have contiguous noncovered service taken into account. Stated another way, if a period of time includes covered and noncovered service, but no quit, discharge, or retirement, all the service within that period of time must be taken into account. This is so because the noncovered service is contiguous.

With respect to noncovered service, the operation of the final regulations and the temporary regulations would lead to the same results; however, the final regulations clarify an ambiguity contained in the temporary regulations. Separation from service as a result of quit, discharge or retirement affects the status of noncovered service under the final regulations. The temporary regulations did not state that quit, discharge or retirement were the specific events that would interrupt continuity of employment. Therefore, the temporary regulations might be interpreted to mean that continuity of employment would not be interrupted by, for example, a quit, if the employee reentered service before incurring a break in service. It should be noted that a quit, discharge or retirement must be bona fide. A pro forma discharge, for example, may constitute a violation of section 510 of the Act, which forbids certain actions if they are taken for the purpose of interfering with the attainment of rights under the plan and the Act.

An additional clarification with respect to the multiple employer plan rules is the inclusion of a definition of "multiple employer plan." A multiple employer plan includes a multiemployer plan as defined in section 3(37) of the Act and section 414(f) of the Code or a multiple employer plan within the meaning of section 413 (b) and (c) of the Code and the regulations issued thereunder. However, the definition contains an exception in the case of plans maintained solely by members of the same controlled group of corporations or by trades or businesses which are under the common control of one person or group of persons. Such a plan is required to apply the controlled group rules and the common control rules respectively. The multiple employer plan definition is included in response to suggestions by commenters.

To summarize the operation of the rules with respect to multiple employer plans, the rules require credit for participation, vesting and benefit accrual purposes, when a participant is employed in service covered under the multiple employer plan. When an employee moves from noncovered service to covered service and if the noncovered service is contiguous, past service must be credited for participation and vesting purposes but not for benefit accrual purposes since section 204(b)(3) requires that only service from the first date of participation in the plan must be taken into account. Similarly, when an employee moves from covered service to contiguous noncovered service for the same employer, he or she continues to receive credit toward vesting in the benefits accrued while a participant.

The break in service rule contained in paragraph (f)(1) of the regulations implements the statutory language of section 210(a)(2) which authorizes the Secretary to prescribe regulations with respect to breaks in service. Commenters indicated that the "lack of continuity" concept, without an explicit statutory referent, caused confusion. Paragraph (f)(1) of the final regulations is in response to those comments and provides that noncontiguous noncovered service results in service which may be disregarded for break in service purposes.

For example, under the rule in paragraph (f)(1) of the regulations, noncontiguous noncovered service may be disregarded by a multiple employer plan for vesting purposes. Such service may occur when an employee moves from covered service with one employer to noncovered service with a second employer, even if both employers maintain the multiple employer plan. In that case, the plan is not required to continue to credit the employee's service for vesting purposes so long as he remains in noncovered employment with the second employer. It should be noted that the same result occurs even if the employee moves to noncontiguous noncovered service with the same employer maintaining the plan.

For example, an employee employed in covered service quits and then six months later is reemployed by the same employer but in a job classification which is not covered under the plan.

Paragraph (d) of the final regulations has not been revised. Paragraph (d) (corresponding to paragraph (c) of the temporary regulations) provides that all employees of all corporations which are members of a controlled group of corporations (within the meaning of section 1563(a) of the Code, determined without regard to section 1563 (a)(4) and (e)(3)(C)) shall be treated as employed by a single employer.

Paragraph (e) (formerly paragraph (d) of the temporary regulations) sets forth the rules with respect to trades or businesses under common control and provides the same rules as set forth in the former paragraph (d). Paragraph (e) provides that, under regulations prescribed by the Secretary of the Treasury, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer. This rule is subject to the same principles and analysis as controlled groups of corporations.

A new paragraph (f) has been added to the final regulations in order to set forth the special rule for break in service for multiple employer plans and to clarify the operation of the substantive rules contained in paragraphs (c) through (e) of the final regulations. As previously stated, paragraph (f)(1) sets forth the rule in the case of noncontiguous noncovered service under a multiple employer plan. The purpose of subparagraph (f)(2) is to clarify the rule against double attribution contained in paragraph (a) of the temporary regulations, which provided (1) that, in the case of a multiemployer plan, the plan is not required to apply the controlled group or common control attribution rules to service not otherwise attributable to the multiple employer plan through the operation of the multiple employer plan rule, and (2) service under the multiemployer plan need not be attributed to controlled group or common control plans through the operation of the multiemployer plan rules. Paragraph (f)(2) states that a controlled group or common control plan is required to apply only the rules applicable to such plan. The general principle contained in paragraph (f)(2) is that each plan maintained by such an employer is required to credit the statutory entitlements of an employee only under the rules in paragraph (c), (d) or (e) applicable to that plan. This is true even though the employee may have service with any number of other plans to which different rules apply. Indeed, a plan uses the rules applicable to it even though the employee has service with another plan or plans maintained by the same employer, but to which different rules apply.

A new paragraph (g) is contained in the final regulations in order to clarify the operation of the "rule of parity" with respect to plans maintained by more than one employer. As previously stated, an employer may maintain more than one plan, so that service may be required to be taken into account under various rules. Consequently, the operation of the rules may result in an employee incurring a break in service under one plan while being credited with service under another plan (and under the operation of different rules).

The operation of the rule of parity with respect to a multiple employer plan is illustrated in the following example. In a multiple employer plan of which employers X and Y are the only members, an employee earns 4 years of credit for covered service with X, then leaves X and immediately thereafter enters upon 4 years of noncovered service with Y. At the end of the 4 years with Y, the employee has incurred four consecutive one-year breaks in service with the multiple employer plan, so that at that moment prior service with X may be disregarded. If the employee then enters immediately into service with Y that is covered by the multiple employer plan, the four years of noncovered service with Y must be counted for eligibility and vesting purposes. However, there is no restoration of the 4 years of service with X.

Several diagrams are included in the final regulations. These diagrams were adapted from the diagrams set forth in the temporary regulations. To assist in the understanding of the regulations, the diagrams are no longer consolidated in a single paragraph but are used to illustrate the operational rules of the paragraphs in which they occur. Consequently, it has been necessary to simplify certain diagrams in order to limit their operation to the rule under consideration. However, paragraph (h) contains a comprehensive diagram which illustrates several rules.

Accordingly, 29 CFR Part 2530 is revised to read as follows:

Subpart A—Scope and General Provisions

Sec.
2530.200a Scope.
2530.200a–1 Relationship of the Act and the Internal Revenue Code of 1954.
2530.200a–2 Treasury regulations for purposes of the Act.
2530.200a–3 Labor regulations for purposes of the Internal Revenue Code of 1964.
2530.200b–1 Computation periods.
2530.200b–2 Hour of service.
2530.200b–3 Determination of hours of service.
2530.200b–4 Break in service.
2530.200b–5 Seasonal industries [Reserved].
2530.200b–6 Maritime industries.
2530.200b–7 Day of service.
2530.200b–8 Determination of days of service.
2530.200b–9 Elapsed time.
2530.201–1 Coverage; general.
2530.201–2 Plans covered by Part 2530.

Subpart B—Participation, Vesting and Benefit Accrual

2530.202–1 Eligibility to participate; general.
2530.202–2 Eligibility computation period.
2530.203–1 Vesting; general.
2530.203–2 Vesting computation period.
2530.203–3 Suspension of benefits upon reemployment of retiree [Reserved].
2530.204–1 Year of participation for benefit accrual; general.
2530.204–2 Accrual computation periods.
2530.204–3 Alternative computation method for accrual.
2530.204–4 Deferral of benefit accrual.

Subpart C—Form and Payment of Benefits

2530.205 [Reserved]
2530.206 [Reserved]

Subpart D—Plan Administration as Related to Benefits

2530.207 [Reserved]
2530.208 [Reserved]
2530.209 [Reserved]
2530.210 Employer or employers maintaining the plan.
2530.211 [Reserved]

AUTHORITY: Secs. 201, 202, 203, 204, 210, 505, 1011, 1012, 1014 and 1015, Pub. L. 93–406, 88 Stat. 852–862, 866–867, 894, 896–913, 924–929 (29 U.S.C. 1051–4, 1060, 1135, 26 U.S.C. 410, 411, 413, 414); Secretary of Labor's Order No. 13–76.

Subpart A—Scope and General Provisions

§ 2530.200a Scope.

§ 2530.200a–1 Relationship of the Act and Internal Revenue Code of 1954.

(a) Part 2 of Title I of the Employee Retirement Income Security Act of 1974 (hereinafter referred to as "the Act") contains minimum standards that a plan which is an employee pension benefit plan within the meaning of section 3(2) of the Act and which is covered under Part 2 must satisfy. (For a general explanation of the coverage of Part 2, see § 2530.201–1.) Substantially identical requirements are imposed by Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code of 1954 (hereinafter referred to as "the Code") for plans seeking qualification for certain tax benefits under the Code. In general, the Code provisions apply to "qualified" pension, profit-sharing, and stock bonus plans described in section 401(a) of the Code, annuity plans described in section 403(a) of the Code and bond purchase plans described in section 405(a) of the Code. The standards contained in Title I of the Act generally apply to both "non-qualified" and "qualified" employee pension benefit plans. The standards contained in the Act, and the related Code provisions, are "minimum" standards. In general, more liberal plan provisions (in terms of the benefit to be derived by the employee) are not prohibited.

(b) For a definiton of the term "employee pension benefit plan", see section 3(2) of the Act and § 2510.3–2.

(c) For a statement of the coverage of Part 2 of Title I of the Act, see sections 4 and 201 of the Act and §§ 2510.3–2, 2510.3–3, 2530.201–1 and 2530.201–2.

§ 2530.200a–2 Treasury regulations for purposes of the Act.

Regulations prescribed by the Secretary of the Treasury or his delegate under sections 410 and 411 of the Code (relating to minimum standards for par-

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ticipation and vesting) shall apply for purposes of sections 202 through 204 of the Act. Thus, except for those provisions (such as the definition of an hour of service or a year of service) for which authority to prescribe regulations is specifically delegated to the Secretary of Labor, regulations prescribed by the Secretary of the Treasury shall also be used to implement the related provisions contained in the Act. Those regulations specify the credit that must be given to an employee for years of service and years of participation completed by the employee. The allocation of regulatory jurisdiction between the Secretary of the Treasury or his delegate and the Secretary of Labor is governed by Titles I through III of the Act. *See* section 3002 of the Act (88 Stat. 996).

§ 2530.200a–3 Labor regulations for purposes of the Internal Revenue Code of 1954.

The Secretary of Labor is specifically authorized to prescribe certain regulations (generally relating to hour of service, year of service, break in service, year of participation and special rules for seasonal and maritime industries) applicable to both Title I of the Act and sections 410 and 411 of the Code. These regulations are contained in this Subpart (A) and Subpart (B) of this part (2530) and must be integrated with regulations prescribed by the Secretary of the Treasury or his delegate under section 410 of the Code (relating to minimum participation standards), 411(a) of the Code (relating to minimum vesting standards) and 411(b) of the Code (relating to benefit accrual requirements). The allocation of regulatory jurisdiction between the Secretary of Labor and the Secretary of the Treasury or his delegate is governed by Titles I through III of the Act. *See* section 3002 of the Act (88 Stat. 996).

§ 2530.200b–1 Computation periods.

(a) *General.* Under sections 202, 203 and 204 of the Act and sections 410 and 411 of the Code, an employee's statutory entitlements with regard to participation, vesting and benefit accrual are generally determined by reference to years of service and years of participation completed by the employee and one-year breaks in service incurred by the employee. The units used for determining an employee's credit towards statutory participation, vesting and benefit accrual entitlements are in turn defined in terms of the number of hours of service credited to the employee during a specified period—in general, a twelve-consecutive-month period—referred to herein as a "computation period". A plan must designate eligibility computation periods pursuant to § 2530.202–2 and vesting computation periods pursuant to § 2530.203–2, and, under certain circumstances, a defined benefit plan must designate accrual computation periods pursuant to § 2530.204–2. An employee who is credited with 1000 hours of service during an eligibility computation period must generally be credited with a year of service for purposes of section 202 of the Act and section 410 of the Code (relating to minimum participation standards). An employee who is credited with 1000 hours of service during a vesting computation period must generally be credited with a year of service for purposes of section 203 of the Act and 411(a) of the Code (relating to minimum vesting standards). An employee who completes 1000 hours of service during an accrual computation period must, under certain circumstances, be credited with at least a partial year of participation for purposes of section 204 of the Act and section 411(b) of the Code (relating to benefit accrual requirements). With respect to benefit accrual, however, the plan may not be required to credit an employee with a full year of participation and, therefore, full accrual for such year of participation unless the employee is credited with the number of hours of service or other permissible units of credit prescribed under the plan for crediting of a full year of participation (*see* § 2530.204–2 (c) and (d)). It should be noted that under some of the equivalencies which a plan may use under § 2530.200b–3 to determine the number of units of service to be credited to an employee in a computation period, an employee must be credited with a year of service or partial year of participation if the employee is credited with a number of units of service which is less than 1000 in a computation period. *See also* § 2530.–200b–9, relating to elapsed time.

(b) *Rules generally applicable to computation periods.* In general, employment at the beginning or the end of an applicable computation period or on any particular date during the computation period is not determinative of whether the employee is credited with a year of service or a partial year of participation, or incurs a break in service, for the computation period. Rather, these determinations generally must be made solely with reference to the number of hours (or other units of service) which are credited to the employee during the applicable computation period. For example, an employee who is credited with 1000 hours of service during any portion of a vesting computation period must be credited with a year of service for that computation period regardless of whether the employee is employed by the employer on the first or the last day of the computation period. It should be noted, however, that in certain circumstances, a plan may provide that certain consequences follow from an employee's failure to be employed on a particular date. For example, under section 202(a)(4) of the Act and section 410(a)(4) of the Code, a plan may provide that an individual otherwise entitled to commence participation in the plan on a specified date does not commence participation on that date if he or she was separated from the service before that date. Similarly, under section 204(b)(1) of the Act and section 411(b)(1) of the Code, a plan which is not a defined benefit plan is not subject to section 204 (b)(1) and (b)(3) of the Act and section 411 (b)(1) and (b)(3) of the Code. Such a plan, therefore, may provide that an individual who has been a participant in the plan, but who has separated from service before the date on which the employer's contributions to the plan or forfeitures are allocated among participants' accounts or before the last day of the vesting computation period, does not share in the allocation of such contributions or forfeitures even though the individual is credited with 1000 or more hours of service for the applicable vesting computation period. Under certain circumstances, however, such a plan provision may result in discrimination prohibited under section 401(a)(4) of the Code. *See* Revenue Ruling 76–250, I.R.B. 1976–27.

§ 2530.200b–2 Hour of service.

(a) *General rule.* An hour of service which must, as a minimum, be counted for the purposes of determining a year of service, a year of participation for benefit accrual, a break in service and employment commencement date (or re-employment commencement date) under sections 202, 203 and 204 of the Act and sections 410 and 411 of the Code, is an hour of service as defined in paragraphs (a)(1), (2) and (3) of this section. The employer may round up hours at the end of a computation period or more frequently.

(1) An hour of service is each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer during the applicable computation period.

(2) An hour of service is each hour for which an employee is paid, or entitled to payment, by the employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. Notwithstanding the preceding sentence,

(i) No more than 501 hours of service are required to be credited under this paragraph (a)(2) to an employee on account of any single continuous period during which the employee performs no duties (whether or not such period occurs in a single computation period);

(ii) An hour for which an employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workmen's compensation, or unemployment compensation or disability insurance laws; and

(iii) Hours of service are not required to be credited for a payment which solely reimburses an employee for medical or medically related expenses incurred by the employee.

For purposes of this paragraph (a)(2), a payment shall be deemed to be made by or due from an employer regardless of whether such payment is made by or due from the employer directly, or indirectly

through, among others, a trust fund, or insurer, to which the employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer or other entity are for the benefit of particular employees or are on behalf of a group of employees in the aggregate.

(3) An hour of service is each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the employer. The same hours of service shall not be credited both under paragraph (a)(1) or paragraph (a)(2), as the case may be, and under this paragraph (a)(3). Thus, for example, an employee who receives a back pay award following a determination that he or she was paid at an unlawful rate for hours of service previously credited will not be entitled to additional credit for the same hours of service. Crediting of hours of service for back pay awarded or agreed to with respect to periods described in paragraph (a)(2) shall be subject to the limitations set forth in that paragraph. For example, no more than 501 hours of service are required to be credited for payments of back pay, to the extent that such back pay is agreed to or awarded for a period of time during which an employee did not or would not have performed duties.

(b) *Special rule for determining hours of service for reasons other than the performance of duties.* In the case of a payment which is made or due on account of a period during which an employee performs no duties, and which results in the crediting of hours of service under paragraph (a)(2) of this section, or in the case of an award or agreement for back pay, to the extent that such award or agreement is made with respect to a period described in paragraph (a)(2) of this section, the number of hours of service to be credited shall be determined as follows:

(1) *Payments calculated on the basis of units of time.* (i) Except as provided in paragraph (b)(3) of this section, in the case of a payment made or due which is calculated on the basis of units of time, such as hours, days, weeks or months, the number of hours of service to be credited shall be the number of regularly scheduled working hours included in the units of time on the basis of which the payment is calculated. For purposes of the preceding sentence, in the case of an employee without a regular work schedule, a plan may provide for the calculation of the number of hours to be credited on the basis of a 40-hour workweek or an 8-hour workday, or may provide for such calculation on any reasonable basis which reflects the average hours worked by the employee, or by other employees in the same job classification, over a representative period of time, provided that the basis so used is consistently applied with respect to all employees within the same job classifications, reasonably defined. Thus, for example, a plan may not use a 40-hour workweek as a basis for calculating the number of hours of service to be credited for periods of paid absences for one employee while using an average based on hours worked over a representative period of time as a basis for such calculation for another, similarly situated employee.

(ii) *Examples.* The following examples illustrate the rules in paragraph (b)(1) of this section without regard to paragraphs (b)(2) and (3).

(A) Employee A was paid for 6 hours of sick leave at his normal hourly rate. The payment was therefore calculated on the basis of units of time (hours). A must, therefore, be credited with 6 hours of service for the 6 hours of sick leave.

(B) Employee B was paid his normal weekly salary for 2 weeks of vacation. The payment was therefore calculated on the basis of units of time (weeks). B is scheduled to work 37½ hours per week (although from time to time working overtime). B must, therefore, be credited with 75 hours of service for the vacation (37½ hours per week multiplied by 2 weeks).

(C) Employee C spent 3 weeks on a paid vacation. C's salary is established at an annual rate but is paid on a bi-weekly basis. The amount of salary payments attributable to be paid vacation was calculated on the basis of units of time (weeks). C has no regular work schedule but works at least 50 hours per week. The plan provides for the calculation of hours of service to be credited to employees in C's situation for periods of paid absences on the basis of a 40-hour workweek. C must, therefore, be credited with 120 hours of service for the vacation (3 weeks multiplied by 40 hours per week).

(D) Employee D spent 2 weeks on vacation, for which he was paid $150. Although D has no regular work schedule, the $150 payment was established on the assumption that an employee in D's position works an average of 30 hours per week at a rate of $2.50 per hour. The payment of $150 was therefore calculated on the basis of units of time (weeks). The plan provides for the calculation of hours of service to be credited to employees in D's situation for periods of paid absences on the basis of the average number of hours worked by an employee over a period of 6 months. D's employer's records show that D worked an average of 28 hours per week for a 6-month period. D must, therefore, be credited with 56 hours of service for the vacation (28 hours per week multiplied by 2 weeks).

(E) Employee E is regularly scheduled to work a 40-hour week. During a computation period E is incapacitated as a result of injury for a period of 11 weeks. Under the sick leave policy of E's employer E is paid his normal weekly salary for the first 8 weeks of his incapacity. After 8 weeks the employer ceases to pay E's normal salary but, under a disability insurance program maintained by the employer, E receives payments equal to 65% of his normal weekly salary for the remaining 3 weeks during which E is incapacitated. For the period during which he is incapacitated, therefore, E receives credit for 440 hours of service (11 weeks multiplied by 40 hours per week) regardless of the fact that payments to E for the last 3 weeks of the period during which he was incapacitated were made in amounts less than E's normal compensation.

(2) *Payments not calculated on the basis of units of time.* (i) Except as provided in paragraph (b)(3) of this section, in the case of a payment made or due, which is not calculated on the basis of units of time, the number of hours of service to be credited shall be equal to the amount of the payment divided by the employee's most recent hourly rate of compensation (as determined under paragraph (b)(2)(ii) of this section) before the period during which no duties are performed.

(ii) For purposes of paragraph (b)(2)(i) of this section an employee's hourly rate of compensation shall be determined as follows:

(A) In the case of an employee whose compensation is determined on the basis of an hourly rate, such hourly rate shall be the employee's most recent hourly rate of compensation.

(B) In the case of an employee whose compensation is determined on the basis of a fixed rate for specified periods of time (other than hours) such as days, weeks or months, the employee's hourly rate of compensation shall be the employee's most recent rate of compensation for a specified period of time (other than an hour), divided by the number of hours regularly scheduled for the performance of duties during such period of time. For purposes of the preceding sentence, in the case of an employee without a regular work schedule, the plan may provide for the calculation of the employee's hourly rate of compensation on the basis of a 40-hour workweek, an 8-hour workday, or may provide for such calculation on any reasonable basis which reflects the average hours worked by the employee over a representative period of time, provided that the basis so used is consistently applied with respect to all employees within the same job classifications, reasonably defined.

(C) In the case of an employee whose compensation is not determined on the basis of a fixed rate for specified periods of time, the employee's hourly rate of compensation shall be the lowest hourly rate of compensation paid to employees in the same job classification as that of the employee or, if no employees in the same job classification have an hourly rate, the minimum wage as established from time to time under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(iii) *Examples.* The following examples illustrate the rules in paragraph (b)(2) of this section without regard to paragraphs (b)(1) and (3).

(A) As a result of an injury, an employee is incapacitated for 5 weeks. A lump sum payment of $500 is made to the employee with respect to the injury under a disability insurance plan maintained by the employee's employer. At the time of the injury, the employee's rate of pay was $3.00 per hour. The employee must, therefore, be credited with

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167 hours of service ($500 divided by $3.00 per hour).

(B) Same facts as in Example (A), above, except that at the time of the injury, the employee's rate of pay was $160 per week and the employee has a regular work schedule of 40 hours per week. The employee's hourly rate of compensation is, therefore, $4.00 per hour ($160 per week divided by 40 hours per week) and the employee must be credited with 125 hours of service for the period of absence ($500 divided by $4.00 per hour).

(C) An employee is paid at an hourly rate of $3.00 per hour and works a regular schedule of 40 hours per week. The employee is disabled for 26 weeks during a computation period. For the first 12 weeks of disability, the employee is paid his normal weekly earnings of $120 per week by the employer. Thereupon, a lump-sum disability payment of $1000 is made to the employee under a disability insurance plan maintained by the employer. Under paragraph (a)(3)(i) of this section, the employee is credited with 501 hours of service for the period of disability (lesser of 501 hours—the maximum number of hours required to be credited for a period of absence—or the sum of 12 weeks multiplied by 40 hours per week plus $1000 divided by $3.00 per hour).

(3) *Rule against double credit.* (i) Notwithstanding paragraphs (b) (1) and (2) of this section, an employee is not required to be credited on account of a period during which no duties are performed with a number of hours of service which is greater than the number of hours regularly scheduled for the performance of duties during such period. For purposes of applying the preceding sentence in the case of an employee without a regular work schedule, a plan may provide for the calculation of the number of hours of service to be credited to the employee for a period during which no duties are performed on the basis of a 40-hour workweek or an 8-hour workday, or may provide for such calculation on any reasonable basis which reflects the average hours worked by the employee, or by other employees in the same job classification, over a representative period of time, provided that the basis so used is consistently applied with respect to all employees within the same job classifications, reasonably defined.

(ii) *Examples.* (A) Employee A has a regular 40-hour workweek. Each year Employee A is entitled to pay for a two-week vacation, in addition to receiving normal wages for all hours worked, regardless of whether A actually takes a vacation and regardless of the duration of his vacation. The vacation payments are, therefore, calculated on the basis of units of time (weeks). In computation period I, A takes no vacation but receives vacation pay. A is entitled to no credit for hours of service for the vacation payment made in computation period I because the payment was not made on account of a period during which no duties were performed. In computation period II, A takes a vacation of one week in duration, although receiving pay for a two-week vacation. A is entitled to be credited with 40 hours of service for his one-week vacation in computation period II even though paid for two weeks of vacation. In computation period III, A takes a vacation for a period lasting more than 2 weeks. A is entitled to be credited with 80 hours of service for his vacation in computation period III (40 hours per week multiplied by 2 weeks) even though the vacation lasted more than 2 weeks.

(B) Employee B has no regular work schedule. As a result of an injury, B is incapacitated for 1 day. A lump-sum payment of $500 is made to A with respect to the injury under an insurance program maintained by the employer. A pension plan maintained by the employer provides for the calculation of the number of hours of service to be credited to an employee without a regular work schedule on the basis of an 8-hour day. A is therefore required to be credited with no more than 8 hours for the day during which he was incapacitated, even though A's rate of pay immediately before the injury was $3.00 per hour.

(c) *Crediting of hours of service to computation periods.* (1) Except as provided in paragraph (c)(4) of this section, hours of service described in paragraph (a)(1) of this section shall be credited to the computation period in which the duties are performed.

(2) Except as provided in paragraph (c)(4) of this section, hours of service described in paragraph (a)(2) of this section shall be credited as follows:

(i) Hours of service credited to an employee on account of a payment which is calculated on the basis of units of time, such as hours, days, weeks or months, shall be credited to the computation period or computation periods in which the period during which no duties are performed occurs, beginning with the first unit of time to which the payment relates.

(ii) Hours of service credited to an employee by reason of a payment which is not calculated on the basis of units of time shall be credited to the computation period in which the period during which no duties are performed occurs, or if the period during which no duties are performed extends beyond one computation period, such hours of service shall be allocated between not more than the first two computation periods on any reasonable basis which is consistently applied with respect to all employees within the same job classifications, reasonably defined.

(3) Except as provided in paragraph (c)(4) of this section, hours of service described in paragraph (a)(3) of this section shall be credited to the computation period or periods to which the award or agreement for back pay pertains, rather than to the computation period in which the award, agreement or payment is made.

(4) In the case of hours of service to be credited to an employee in connection with a period of no more than 31 days which extends beyond one computation period, all such hours of service may be credited to the first computation period or the second computation period. Crediting of hours of service under this subparagraph must be done consistently with respect to all employees within the same job classifications, reasonably defined.

(5) *Examples.* The following examples are intended to illustrate paragraph (c)(4) of this section.

(i) An employer maintaining a plan pays employees on a bi-weekly basis. The plan designates the calendar year as the vesting computation period. The employer adopts the practice of crediting hours of service for the performance of duties during a bi-weekly payroll period to the vesting computation period in which the payroll period ends. Thus, when a payroll period ends on January 7, 1978, all hours of service to be credited to employees for the performance of duties during that payroll period are credited to the vesting computation period beginning on January 1, 1978. This practice is consistent with paragraph (c)(4) of this section, even though some hours of service credited to the computation period beginning on January 1, 1978, are attributable to duties performed during the previous vesting computation period.

(ii) An employer maintains a sick leave policy under which an employee is entitled to a certain number of hours of sick leave each year, on account of which the employee is paid his or her normal rate of compensation. An employee with a work schedule of 8 hours per day, 5 days per week, is sick from December 26, 1977 through January 4, 1978. Under the employer's sick leave policy, the employee is entitled to compensation for the entire period. A plan maintained by the employer establishes a calendar-year vesting computation period. The period from December 26, 1977 through December 31, 1977 includes 5 working days; the period from January 1, 1978 through January 4, 1978 includes 3 working days. Unless the plan adopts the alternative method for crediting service under paragraph (c)(4) of this section (illustrated in Example (iii), below) for the period of paid sick leave, the plan, pursuant to paragraph (c)(2)(i) of this section, must credit the employee with 40 hours of service in the 1977 vesting computation period (5 days multiplied by 8 hours per day) and 24 hours of service in the 1978 vesting computation period (3 days multiplied by 8 hours per day).

(iii) Same facts as in Example (ii), above, except that the plan adopts the practice of crediting hours of service for sick leave and other periods of compensated absences to the vesting computation period in which the employer's bi-weekly payroll period ends. The employee returns to work on January 5, 1978 and works for 2 days. For the 2-week payroll period ending on January 8, 1978, the employee may be credited with 80 hours of service in the 1978 vesting computation period (64 hours of service for the paid sick leave and 16 hours of service for the 2 days during which duties were performed).

(d) *Other Federal law.* Nothing in this section shall be construed to alter,

amend, modify, invalidate, impair or supersede any law of the United States or any rule or regulation issued under any such law. Thus, for example, nothing in this section shall be construed as denying an employee credit for an "hour of service" if credit is required by separate federal law. Furthermore, the nature and extent of such credit shall be determined under such law.

(e) *Additional examples.* (1) During a computation period, an employee was paid for working 38¼ hours a week for 45 weeks. During the remaining 7 weeks of the computation period the employee was not employed by this employer. The employee completed 1,721¼ hours of service (45 weeks worked multiplied by 38¼ hours per week). The employer may also round up hours at the end of the computation period or more frequently. Thus, this employee could be credited with 1,722 hours of service (or, if the employer rounded up at the end of each week, 39 hours of service per week, resulting in credit for 1,755 hours of service).

(2) During a computation period, an employee was paid for a workweek of 40 hours per week for 40 weeks and, including overtime, for working 50 hours per week for 8 weeks. The employee completed 2,000 hours of service (40 weeks multiplied by 40 hours per week, plus 8 weeks worked multiplied by 50 hours per week).

(3) During a computation period, an employee was paid for working 2 regularly scheduled 40-hour weeks and then became disabled. The employee was disabled through the remainder of the computation period and the following computation period. Throughout the period of disability, payments were made to the employee as follows: for the first month of the period of disability, the employer continued to pay the employee the employee's normal compensation at the same rate as before the disability occurred; thereupon, under the employer's disability insurance policy, payments were made to the employee in amounts equal to 80 percent of the employee's compensation before the disability. For the first computation period the employee is credited with 80 hours of service for the performance of duties (2 weeks multiplied by 40 hours per week) and 501 hours of service for the period of disability (the lesser of 501 hours of service or 50 weeks multiplied by 40 hours per week), or a total of 581 hours of service; for the second computation period the employee is credited with no hours of service because, under paragraph (a)(2)(i) of this section, the maximum of 501 hours of service has been credited for the period of disability in the first computation period.

(4) An employee has a regularly scheduled 5-day, 40-hour week. During a computation period the employee works for the first week, spends the second week on a paid vacation, returns to work for an hour and is then disabled for the remainder of the computation period. Payments under a disability plan maintained by the employer are made to the employee on account of the period of disability. The employee is credited with 582 hours of service for the computation period (40 hours for the period of paid vacation; 41 hours for the performance of duties; 501 hours for the period of disability).

(5) Same facts as in Example (4), above, except that the employee's period of disability begins before the employee returns from vacation to the performance of duties. The employee is credited with only 541 hours of service, because the paid vacation and the disability together constitute a single, continuous period during which no duties were performed and, therefore, under paragraph (a)(2)(i) of this section, no more than 501 hours of service are required to be credited for such period.

(6) During a computation period, an employee worked 40 hours a week for the first 2 weeks. The employee then began serving on active duty in the Armed Forces of the United States, which service occupied the remaining 50 weeks of the computation period. The employee would be credited with 80 hours (2 weeks worked multiplied by 40 hours) plus such credit as may be prescribed by separate Federal laws relating to military service. The nature and extent of the credit that the employee receives upon his return and the purpose for which such credit is given, e.g., the percentage of his or her accrued benefits derived from employer contributions which are nonforfeitable (or vested); will depend upon the interpretation of the federal law governing veterans' reemployment rights.

(f) *Plan document.* A plan which credits service on the basis of hours of service must state in the plan document the definition of hours of service set forth in paragraph (a) of this section, but is not required to state the rules set forth in paragraphs (b) and (c) of this section if they are incorporated by reference.

§ 2530.200b–3 Determination of service to be credited to employees.

(a) *General rule.* For the purpose of determining the hours of service which must be credited to an employee for a computation period, a plan shall determine hours of service from records of hours worked and hours for which payment is made or due or shall use an equivalency permitted under paragraphs (d), (e) or (f) of this section to determine hours of service. Any records may be used to determine hours of service to be credited to employees under a plan, even though such records are maintained for other purposes, provided that they accurately reflect the actual number of hours of service with which an employee is required to be credited under § 2530.-200b–2(a). Payroll records, for example, may provide sufficiently accurate data to serve as a basis for determining hours of service. If, however, existing records do not accurately reflect the actual number of hours of service with which an employee is entitled to be credited, a plan must either develop and maintain adequate records or use one of the permitted equivalencies. A plan may in any case credit hours of service under any method which results in the crediting of no less than the actual number of hours of service required to be credited under § 2530.-200b–2(a) to each employee in a computation period, even though such method may result in the crediting of hours of service in excess of the number of hours required to be credited under § 2530.200b–2. A plan is not required to prescribe in its documents which records are to be used to determine hours of service.

(b) *Determination of pre-effective date hours of service.* To the extent that a plan is required to determine hours of service completed before the effective date of Part 2 of Title I of the Act (see section 211 of the Act), the plan may use whatever records may be reasonably accessible to it and may make whatever calculations are necessary to determine the approximate number of hours of service completed before such effective date. For example, if a plan or an employer maintaining the plan has, or has access to, only the records of compensation of employees for the period before the effective date, it may derive the pre-effective date hours of service by using the hourly rate for the period or the hours customarily worked. If accessible records are insufficient to make an approximation of the number of pre-effective date hours of service for a particular employee or group of employees, the plan may make a reasonable estimate of the hours of service completed by such employee or employees during the particular period. For example, if records are available with respect to some employees, the plan may estimate the hours of other employees in the same job classification based on these records. A plan may use any of the equivalencies permitted under this section, or the elapsed time method of crediting service permitted under this section, or the elapsed time method of crediting service permitted under § 2530.200b–9, to determine hours of service completed before the effective date of Part 2 of Title I of the Act.

(c) *Use of equivalencies for determining service to be credited to employees.* (1) The equivalencies permitted under paragraphs (d), (e) and (f) of this section are methods of determining service to be credited to employees during computation periods which are alternatives to the general rule for determining hours of service set forth in paragraph (a) of this section. The equivalencies are designed to enable a plan to determine the amount of service to be credited to an employee in a computation period on the basis of records which do not accurately reflect the actual number of hours of service required to be credited to the employee under § 2530.200b–2(a). However, the equivalencies may be used even if such records are maintained. Any equivalency used by a plan must be set forth in the document under which the plan is maintained.

(2) A plan may use different methods of crediting service, including equivalencies permitted under paragraphs (d), (e) and (f) of this section and the method of crediting service under the general rule set forth in § 2530.200b–

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2(a), for different classifications of employees covered under the plan or for different purposes, provided that such classifications are reasonable and are consistently applied. Thus, for example, a plan may provide that part-time employees are credited under the general method of crediting service set forth in § 2530.200b–2 and full-time employees are credited under a permissible equivalency. A classification, however, will not be deemed to be reasonable or consistently applied if such classification is designed with an intent to preclude an employee or employees from attaining statutory entitlement with respect to eligibility to participate, vesting or benefit accrual. For example, a classification applied so that any employee credited with less than 1,000 hours of service during a given 12-consecutive-month period would be considered part-time and subject to the general method of crediting service rather than an equivalency would not be reasonable.

(3) Notwithstanding paragraphs (c) (1) and (2) of this section, the use of a permissible equivalency for some, but not all, purposes or the use of a permissible equivalency for some, but not all, employees may, under certain circumstances, result in discrimination prohibited, result in discrimination pro- Code, even though it is permitted under this section.

(d) *Equivalencies based on working time.* (1) *Hours worked.* A plan may determine service to be credited to an employee on the basis of hours worked, as defined in paragraph (d)(3)(i) of this section, if 870 hours worked are treated as equivalent to 1,000 hours of service and 435 hours worked are treated as equivalent to 500 hours of service.

(2) *Regular time hours.* A plan may determine service to be credited to an employee on the basis of regular time hours, as defined in paragraph (d)(3)(ii) of this section, if 750 regular time hours are treated as equivalent to 1,000 hours of service and 375 regular time hours are treated as equivalent to 500 hours of service.

(3) For purposes of this section:

(i) The term "hours worked" shall mean hours of service described in § 2530.200b–2(a)(1), and hours for which back pay, irrespective of mitigation of damages, is awarded or agreed to by an employer, to the extent that such award or agreement is intended to compensate an employee for periods during which the employee would have been engaged in the performance of duties for the employer.

(ii) The term "regular time hours" shall mean hours worked, except hours for which a premium rate is paid because such hours are in excess of the maximum workweek applicable to an employee under section 7(a) of the Fair Labor Standards Act of 1938, as amended, or because such hours are in excess of a bona fide standard workweek or workday.

(4) A plan determining service to be credited to an employee on the basis of hours worked or regular time hours shall credit hours worked or regular time hours, as the case may be, to computation periods in accordance with the rules for crediting hours of service to computation periods set forth in § 2520.200b–2(c).

(5) *Examples.* (i) A defined benefit plan uses the equivalency based on hours worked permitted under paragraph (d)(1) of this section. The plan uses the same 12-consecutive-month period for the vesting and accrual computation periods. The plan credits a participant with each hour for which the participant is paid, or entitled to payment, for the performance of duties for the employer during a computation period (as well as each hour for which back pay is awarded or agreed to). During a vesting/accrual computation period Participant A is credited with 870 hours worked. A is credited with a year of service for purposes of vesting for the computation period and with at least a partial year of participation for purposes of accrual, as if A had been credited with 1000 hours of service during the computation period. During the same computation period Participant B is credited with 436 hours of service. B is not credited with a year of service for purposes of vesting or a partial year of participation for purposes of accrual for the computation period, but does not incur a one-year break in service for the computation period, as if B had been credited with 501 hours of service during the computation period.

(ii) A plan uses the equivalency based on regular time hours permitted under paragraph (d)(2) of this section. During a computation period a participant works 370 regular time hours and 20 overtime hours. The participant incurs a one-year break in service for the computation period because he has not been credited with 375 regular time hours in the computation period.

(e) *Equivalencies based on periods of employment.* (1) Except as provided in paragraphs (e)(4) and (6) of this section, a plan may determine the number of hours of service to be credited to employees in a computation period on the following bases:

(i) On the basis of days of employment, if an employee is credited with 10 hours of service for each day for which the employee would be required to be credited with at least one hour of service under § 2530.200b–2;

(ii) On the basis of weeks of employment, if an employee is credited with 45 hours of service for each week for which the employee would be required to be credited with at least one hour of service under § 2530.200b–2;

(iii) On the basis of semi-monthly payroll periods, if an employee is credited with 95 hours of service for each semi-monthly payroll period for which the employee would be required to be credited with at least one hour of service under § 2530.200b–2; or

(iv) On the basis of months of employment, if an employee is credited with 190 hours of service for each month for which the employee would be required to be credited with at least one hour of service under § 2530.200b–2.

(2) Except as provided in paragraphs (e)(4) and (6) of this section, a plan may determine the number of hours of service to be credited to employees in a computation period on the basis of shifts if an employee is credited with the number of hours included in a shift for each shift for which the employee would be required to be credited with at least one hour of service under § 2530.200b–2. If a plan uses the equivalency based on shifts permitted under this paragraph, the times of the beginning and end of each shift used as a basis for the determination of service shall be set forth in a document referred to in the plan.

(3) *Examples.* The following examples illustrate the application of paragraphs (e)(1) and (2) of this section:

(i) A plan uses the equivalency based on weeks of employment permitted under paragraph (e)(1)(ii) of this section. An employee works for one hour on the first workday of a week and then takes leave without pay for the entire remainder of the week. The plan must credit the employee with 45 hours of service for the week.

(ii) A plan uses the equivalency based on weeks of employment permitted under paragraph (e)(1)(ii) of this section. An employee spends a week on vacation with pay. The plan must credit the employee with 45 hours of service for the week.

(iii) A plan uses the equivalency based on weeks of employment permitted under paragraph (e)(1)(ii) of this section. An employee spends two days of a week on vacation with pay and the remainder of the week on leave without pay. The plan must credit the employee with 45 hours of service for the week.

(iv) A plan uses the equivalency based on weeks of employment permitted under paragraph (e)(1)(ii) of this section. An employee spends the entire week on leave without pay. The plan is not required to credit the employee with any hours of service for the week because no payment was made to the employee for the week of leave and, therefore, under § 2530.200b–2 no hours of service would be credited to the employee for the week of leave.

(v) The workday of an employer maintaining a plan is scheduled in shifts. Ordinarily, each shift is 6 hours in duration. At certain times, however, the employer schedules 8-hour shifts in order to meet increased demand. Such shifts are described in a collective bargaining agreement referred to in the plan documents. The plan must credit an employee with 8 hours of service for each 6-hour shift for which the employee would be credited with one hour of service under § 2530.200b–2, and with 8 hours of service for each such 8-hour shift.

(vi) An employer's workday is divided into three 8-hour shifts, each employee generally working 5 shifts per week. A plan maintained by the employer uses the equivalency based on shifts permitted under paragraph (e)(2) of this section. An employee is on vacation with pay for 2 weeks, during which, in the ordinary course of his work schedule, he would have workd 10 shifts. The employee must be credited with 80 hours of service for the vacation (10 shifts multiplied by 8 hours per shift).

(vii) An employer's workday is divided into 3 8-hour shifts, each employee generally working 1 shift per workday. A plan maintained by the employer uses the equivalency based on shifts permitted under paragraph (e)(2) of this section. On a certain day, an employee works his normal 8-hour shift and an hour during the following shift. In addition to 8 hours service for the first shift, the employee must be credited with 8 hours of service for the following shift, since he would be entitled to be credited with at least one hour of service for the second shift under § 2530.200b–2.

(viii) A plan uses the equivalency based on days permitted under paragraph (e)(1)(i) of this section. During a computation period an employee spends 2 weeks on vacation with pay. In the ordinary course of the employee's regular work schedule, the employee would be engaged in the performance of duties for 10 days during the 2-week vacation period. Under § 2530.200b–2, the employee would be credited with at least one hour of service for each of the 10 days during the 2-week vacation for which the employee would ordinarily be engaged in the performance of duties. Under paragraph (e)(4) of this section, the employee is credited with 100 hours of service for the 2-week vacation (10 days multiplied by 10 hours of service per day).

(4) For purposes of this paragraph, in the case of a payment described in § 2530.200b–2(b)(2) (relating to payments not calculated on the basis of units of time), a plan using an equivalency based on units of time permitted under this paragraph shall credit the employee with the number of hours of service determined under subparagraph (2) of § 2530.200b–2(b), and, to the extent applicable, paragraph (e)(3), containing the rule against double crediting, of § 2530.200b–2(b). For example, if an employee with a regular work schedule of 40 hours per week paid at a rate of $3.00 per hour is incapacitated for a period of 4 weeks and receives a lump sum payment of $500 for his incapacity, the employee must be credited with 160 hours of service for the period of incapacity, regardless of whether the plan uses an equivalency permitted under this paragraph (*see* example at § 2530.200b–2(b)(2)(iii)(A)). If, however, the employee is incapacitated for only 3 weeks, under § 2530.200b–2(b)(3) the employee is not required to be credited with more than 120 hours of service (lesser of 167 hours of service determined under the preceding sentence or 3 weeks multiplied by 40 hours per week).

(5) For purposes of this paragraph, in the case of a payment to an employee calculated on the basis of units of time which are greater than the periods of employment used by a plan as a basis for determining service to be credited to the employee under this paragraph, the plan shall credit the employee with the number of periods of employment which, in the course of the employee's regular work schedule, would be included in the unit or units of time on the basis of which the payment is calculated. For example, a plan uses the equivalency based on days permitted under paragraph (e)(1)(i) of this section. During a computation period an employee spends 2 weeks on vacation with pay. In the ordinary course of the employee's regular work schedule, the employee would be engaged in the performance of duties for 10 days during the 2-week vacation period. Under § 2530.200b–2, the employee would be credited with at least one hour of service for each of the 10 days during the 2-week vacation for which the employee would ordinarily be engaged in the performance of duties. Under this subparagraph the employee is credited with 100 hours of service for the 2-week vacation (10 days multiplied by 10 hours of service per day). If, however, the employee, although paid for a 2-week vacation, spends only one week on vacation, under § 2530.200b–2(b)(3) the employee is not required to be credited with more than 50 hours of service (5 days multiplied by 10 hours per day).

(6) For purposes of this paragraph, in the case of periods of time used as a basis for determining service to be credited to an employee which extend into two computation periods, the plan may credit all hours of service (or other units of service) credited for such a period to the first computation period or the second computation period, or may allocate such hours of service (or other units of service) between the two computation periods on a pro rata basis. Crediting of service under this subparagraph must be done consistently with respect to all employees within the same job classifications, reasonably defined.

(7) A plan may combine an equivalency based on working time permitted under paragraph (d) of this section (i.e., hours worked or regular time hours) with an equivalency based on periods of employment permitted under this paragraph if the following conditions are met:

(i) The plan credits an employee with the number of hours worked or regular time hours, as the case may be, equal to the number of hours of service which would be credited to the employee under paragraph (e)(1) and (2) of this section, for each period of employment for which the employee would be credited with one hour worked or one regular time hour; and

(ii) The plan treats hours worked and regular time hours in the manner prescribed under paragraph (d)(1) and (d)(2) of this section.

(8) *Example.* The following example illustrates the application of paragraph (e)(7) of this section. A plan uses the equivalency based on weeks of employment permitted under paragraph (e)(1)(ii) of this section in conjunction with the equivalency based on hours worked permitted under paragraph (d)(1) of this section, as provided in paragraph (e)(7) of this section. During a vesting computation period an employee is paid for the performance of duties for at least 1 hour in each of the first 20 weeks of the computation period and spends the next 2 weeks on a paid vacation. The employee thereupon terminates employment performing no further duties for the employer, and receiving no further compensation in the computation period. The employee is therefore credited with 900 hours worked for the vesting computation period (20 weeks multiplied by 45 hours per week), receiving no credit for the two weeks of paid vacation. The employee is credited with a year of service for the vesting computation period because he has been credited with more than 870 hours for the computation period.

(f) *Equivalencies based on earnings.* (1) In the case of an employee whose compensation is determined on the basis of an hourly rate, a plan may determine the number of hours to be credited the employee in a computation period on the basis of earnings, if:

(i) The employee is credited with the number of hours equal to the total of the employee's earnings from time to time during the computation period divided by the employee's hourly rate as in effect at such times during the computation period, or equal to the employee's total earnings for the performance of duties during the computation period divided by the employee's lowest hourly rate of compensation during the computation period, or by the lowest hourly rate of compensation payable to an employee in the same, or a similar, job classification, reasonably defined; and

(ii) 870 hours credited under paragraph (f)(1)(i) of this section are treated as equivalent to 1,000 hours of service, and 435 hours credited under paragraph (f)(1)(i) of this section are treated as equivalent to 500 hours of service.

For purposes of this paragraph (f)(1), a plan may divide earnings at premium rates for overtime by the employee's hourly rate for overtime, rather than the regular time hourly rate.

(2) In the case of an employee whose compensation is determined on a basis other than an hourly rate, a plan may determine the number of hours to be credited to the employee in a computation period on the basis of earnings if:

(i) The employee is credited with the number of hours equal to the employee's total earnings for the performance of duties during the computation period divided by the employee's lowest hourly rate of compensation during the computation period, determined under paragraph (f)(3) of this section; and

(ii) 750 hours credited under paragraph (f)(2)(i) of this section are treated as equivalent to 1,000 hours of service, and 375 hours credited under paragraph (f)(2)(i) of this section are treated as equivalent to 500 hours of service.

(3) For purposes of paragraph (f)(2) of this section, an employee's hourly rate of compensation shall be determined as follows:

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(i) In the case of an employee whose compensation is determined on the basis of a fixed rate for a specified period of time (other than an hour) such as a day, week or month, the employee's hourly rate of compensation shall be the employee's lowest rate of compensation during a computation period for such specified period of time divided by the number of hours regularly scheduled for the performance of duties during such period of time. For purposes of the preceding sentence, in the case of an employee without a regular work schedule, the plan may provide for the calculation of the employee's hourly rate of compensation on the basis of a 40-hour workweek or an 8-hour workday, or may provide for such calculation on any reasonable basis which reflects the average hours worked by the employee over a representative period of time, provided that the basis so used is consistently applied to all employees within the same job classifications, reasonably defined.

(ii) In the case of an employee whose compensation is not determined on the basis of a fixed rate for a specified period of time, the employee's hourly rate of compensation shall be the lowest hourly rate of compensation payable to employees in the same job classification as the employee, or, if no employees in the same job classification have an hourly rate, the minimum wage as established from time to time under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(4) *Examples.* (i) In a particular job classification employees' wages range from $3.00 per hour to $4.00 per hour. To determine the number of hours to be credited to an employee in that job classification who is compensated at a rate of $4.00 per hour, a plan may divide the employee's total earnings during the computation period for the performance of duties either by $3.00 per hour (the lowest hourly rate of compensation in the job classification) or by $4.00 per hour (the employee's own hourly rate of compensation).

(ii) An hourly employee's total earnings for the performance of duties during a vesting computation period amount to $4,350. During that calendar year, the employee's lowest hourly rate of compensation was $5.00 per hour. The plan may determine the number of hours to be credited to the employee for that vesting computation period by dividing $4,350 by $5.00 per hour. The employee is credited with 870 hours for the vesting computation period and is, therefore, credited with a year of service for purposes of vesting.

(iii) During the first 3 months of a vesting computation period an hourly employee is paid at a rate of $3.00 per hour and earns $675 for the performance of duties; during the next 6 months, the employee is paid at a rate of $3.50 per hour and earns $1,575 for the performance of duties; during the final 3 months the employee is paid at a rate of $3.60 per hour and earns $810 for the performance of duties. The plan may determine the number of hours to be credited to the employee in the computation period under the equivalency set forth in paragraph (f)(1) of this section either (A) by dividing the employee's earnings for each period during which the employee was paid at a separate rate ($675 divided by $3.00 per hour equals 225 hours; $1,575 divided by $3.50 per hour equals 450 hours; $810 divided by $3.60 per hour equals 225 hours) and adding the hours so obtained (900 hours), or (B) by dividing the employee's total compensation for the vesting computation period by the employee's lowest hourly rate during the computation period ($3,020 divided by $3.00 per hour equals 1,006⅔ hours). The plan may also divide the employee's total compensation during the computation period by the lowest hourly rate payable to an employee in the same, or a similar, job classification.

(iv) During a plan's computation period an hourly employee's total earnings for the performance of duties consist of $7,500 at a basic rate of $5.00 per hour and $750 at an overtime rate of $7.50 per hour for hours worked in excess of 40 in a week. If the plan uses the equivalency permitted under paragraph (f)(1) of this section, the plan may adjust for the overtime rate in calculating the number of hours to be credited to the employee. Thus, the plan may calculate the number of hours to be credited to the employee by adding the employee's earnings at the basic rate divided by the basic rate and the employee's earnings at the overtime rate divided by the overtime rate ($7,500 divided by $5.00 per hour, plus $750 divided by $7.50 per hour, or 1,500 hours plus 100 hours), resulting in credit for 1,600 hours for the computation period.

(v) During a plan's vesting computation period an employee's lowest weekly rate of compensation is $400 per week. The employee has a regular work schedule of 40 hours per week. The employee's lowest hourly rate during the vesting computation period is, therefore, $10 per hour ($400 per week divided by 40 hours per week). During the vesting computation period, the employee receives a total of $7,500 for the performance of duties. The plan determines the number of regular time hours to be credited to the employee for the computation period by dividing $7,500 by $10 per hour. The employee is credited with 750 hours for the computation period and is, therefore, credited with a year of service for purposes of vesting.

§ 2530.200b–4 One-year break in service.

(a) *Computation period.* (1) Under sections 202(b) and 203(b)(3) of the Act and sections 410(a)(5) and 411(a)(6) of the Code, a plan may provide that an employee incurs a one-year break in service for a computation period or periods if the employee fails to complete more than 500 hours of service or, in the case of any maritime industry, 62 days of service in such period or periods.

(2) For purposes of section 202(b) of the Act and section 410(a)(5) of the Code, relating to one-year breaks in service for eligibility to participate, in determining whether an employee incurs a one-year break in service, a plan shall use the eligibility computation period designated under § 2530.202–2(b) for measuring years of service after the initial eligibility computation period.

(3) For purposes of section 203(b)(3) of the Act and section 411(a)(6) of the Code, relating to breaks in service for purposes of vesting, in determining whether an employee incurs a one-year break in service, a plan shall use the vesting computation period designated under § 2530.203–2(a).

(4) For rules regarding service which is not required to be taken into account for purposes of benefit accrual, see § 2530.204–1(b)(1).

(b) *Service following a break in service.* (1) For purposes of section 202(b)(3) of the Act and section 410(a)(5)(C) of the Code (relating to completion of a year of service for eligibility to participate after a one-year break in service), the following rules shall be applied in measuring completion of a year of service upon an employee's return after a one-year break in service:

(i) In the case of a plan which, after the initial eligibility computation period, measures years of service for purposes of eligibility to participate on the basis of eligibility computation periods beginning on anniversaries of an employee's employment commencement date, as permitted under § 2530.202–2(b)(1), the plan shall use the 12-consecutive-month period beginning on an employee's reemployment commencement date (as defined in paragraph (b)(1)(iii) and (iv) of this section) and, where necessary, subsequent 12-consecutive-month periods beginning on anniversaries of the reemployment commencement date.

(ii) In the case of a plan which, after the initial eligibility computation period, measures years of service for eligibility to participate on the basis of plan years beginning with the plan year which includes the first anniversary of the initial eligibility computation period, as permitted under § 2530.202–2(b)(2), the plan shall use the 12-consecutive-month period beginning on an employee's reemployment commencement date (as defined in paragraph (b)(1)(iii) and (iv) of this section and, where necessary, plan years beginning with the plan year which includes the first anniversary of the employee's reemployment commencement date.

(iii) Except as provided in paragraph (b)(1)(iv) of this section, an employee's reemployment commencement date shall be the first day on which the employee is entitled to be credited with an hour of service described in § 2530.200b–2(a)(1) after the first eligibility computation period in which the employee incurs a one-year break in service following an eligibility computation period in which the employee is credited with more than 500 hours of service.

(iv) In the case of an employee who is credited with no hours of service in an eligibility computation period beginning after the employee's reemployment commencement date established under subparagraph (b)(1)(iii) of this section, the

employee shall be treated as having a new reemployment commencement date as of the first day on which the employee is entitled to be credited with an hour of service described in § 2530.200b–2(a)(1) after such eligibility computation period.

(2) For purposes of section 203(b)(3)(B) of the Act and section 411(a)(6)(B) of the Code (relating to the completion of a year of service for vesting following a one-year break in service), in measuring completion of a year of service upon an employee's return after a one-year break in service, a plan shall use the vesting computation period designated under § 2530.203–2. In the case of a plan which designates a separate vesting computation period for each employee (rather than one vesting computation period for all employees), when an employee who has incurred a one-year break in service later completes an initial hour of service, the plan may change the employee's vesting computation period to a 12-consecutive-month period beginning on the day on which such initial hour of service is completed, provided that the plan follows the rules for changing the vesting computation period set forth in § 2530.203–2(c)(1). Specifically, such a plan must ensure that as a result of the change of the vesting computation period of an employee who has incurred a one-year break in service to the 12-month period beginning on the first day on which the employee later completes an initial hour of service, the employee's vested percentage of the accrued benefit derived from employer contributions will not be less on any date after the change than such nonforfeitable percentage would be in the absence of the change. As under § 2530.203–2(c)(i), the plan will be deemed to satisfy the requirement of that paragraph if, in the case of an employee who has incurred a one-year break in service, the vesting computation period beginning on the day on which the employee completes an hour of service after the one-year break in service begins before the end of the last vesting computation period established before the change of vesting computation periods and, if the employee is credited with 1000 hours of service in both such vesting computation periods, the employee is credited with 2 years of service for purposes of vesting.

(3) For purposes of section 203(b)(3)(B) of the Act and section 411(a)(6)(B) of the Code (relating to the completion of a year of service for vesting following a one-year break in service), in measuring completion of a year of service upon an employee's return after a one-year break in service, a plan shall use the vesting computation period designated under § 2530.203–2. In the case of a plan which designates a separate vesting computation period for each employee (rather than one vesting computation period for all employees), when an employee who has incurred a one-year break in service later completes an initial hour of service, the plan may change the employee's vesting computation period to a 12-consecutive-month period beginning on the day on which such initial hour of service is completed, provided that the plan follows the rules for changing the vesting computation period set forth in § 2530.203–2(c)(1).

(4) *Examples.* (i) Employer X maintains a pension plan. The plan uses a calendar year vesting computation period and plan year. As conditions for participation, the plan requires that an employee of X complete one year of service and attain age 25, and, in accordance with § 2530.202–2(b)(2), provides that after the initial eligibility computation period, plan years will be used as eligibility computation periods, beginning with the plan year which includes the first anniversary of an employee's employment commencement date. Thus, under paragraph (a)(2) of this section, the plan must use plan years in measuring one-year breaks in service for eligibility to participate. The plan provides that an employee acquires a nonforfeitable right to 100 perment of the accrued benefit derived from employer contributions upon completion of 10 years of service. Under the plan, for purposes of vesting, years of service completed before an employee attains age 22 are not taken into account. The plan also provides that if an employee has incurred a one-year break in service, in computing the employee's period of service for eligibility to participate, years of service before such break will not be taken into account until the employee has completed a year of service with X after the employee's return. The plan further provides that in the case of an employee who has no vested right to an accrued benefit derived from employer contributions, years of service for purposes of eligibility to participate or vesting before a one-year break in service for eligibility or vesting (as the case may be) shall not be required to be taken into account if the number of consecutive one-year breaks in service equals or exceeds the aggregate number of such years of service before such consecutive one-year breaks in service.

(A) Employee A commences employment with X on January 1, 1976 at age 30 and completes a year of service for eligibility to participate and vesting in both the 1976 and 1977 computation periods. A becomes a participant in the plan on January 1, 1977. A terminates employment with X on November 3, 1977, after completing 1000 hours of service; completes no hours of service in 1978, incurring a one-year break in service; and is reemployed by X on June 1, 1979. A completes 800 hours of service during the remainder of 1979 and 600 hours of service from January 1, 1980 through May 31, 1980. Under paragraph (b)(1)(iii) of this section, A's reemployment commencement date is June 1, 1979. By June 1, 1980, A has completed a year of service during the eligibility computation period following his return, and receives credit for his pre-break service to the extent required under section 202 of the Act and section 410 of the Code and the regulations thereunder. The plan is not, however, required to credit A with a year of service for vesting during 1979 because he failed to complete 1,000 hours of service during that vesting computation period. If A completes 400 or more hours of service from June 1, 1980 to December 31, 1980, then A will be credited with one year of service for vesting purposes for the 1980 vesting computation period.

(B) Employee B was born on February 22, 1955 and commenced employment with Employer X on July 1, 1975. B is credited with a year of service for eligibility to participate in the plan for the eligibility computation period beginning on his employment commencement date (July 1, 1975) and a year of service for eligibility and vesting for the 1976 and 1977 plan years. As of the end of the 1977 plan year, B is credited with 3 years of service for purposes of eligibility to participate, but only one year of service for purposes of vesting. Not having attained age 25, however, B is not admitted to participation in the plan upon completion of his first year of service with X. In the 1978 plan year, B fails to be credited with 500 hours of service, thereby incurring a one-year break in service. As a result of B's one-year break in service in the 1978 plan year, the year of service for vesting which was earlier credited to B for the 1977 plan year is disregarded because the one-year break in service equals the one year of service credited to B before the one-year break in service. After the end of the 1978 plan year, B does not perform an hour of service with X until February 3, 1979. February 3, 1979, therefore, is B's reemployment commencement date under paragraph (b)(1)(i) of this section. B fails to be credited with 1000 hours of service in the first eligibility computation period beginning on February 3, 1979, and also for the vesting computation period beginning January 1, 1979. Because, in accordance with § 2530.202–2(b)(2), the plan provides that after the initial eligibility computation period, plan years will be used as eligibility computation periods, under paragraph (b)(1)(ii) of this section the plan must provide that, in measuring completion of a year of service for eligibility to participate after a one-year break in service, plan years beginning with the plan year which includes an employee's reemployment commencement date will be used. B is credited with 1000 hours of service for the plan year beginning on January 1, 1980 and is therefore credited with a year of service for the 1980 plan year. Under section 202(b)(3) of the Act and section 410(a)(5)(C) of the Code, as a consequence of B's completion of a year of service in the 1980 plan year, B's service before his one-year break in service in the 1978 plan year must be taken into account for eligibility purposes. As conditions of participation, the plan requires that an employee attain age 25 and complete one year of service. Upon his completion of a year of service for the 1980 plan year, B is deemed to have met the plan's participation requirements as of February 22, 1980, his twenty-fifth birthday, because the year of service completed by B in B's eligibility computation period beginning on January 1, 1976 is

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taken into account for eligibility purposes.

(ii) Employer Y maintains a defined benefit pension plan. The plan provides that an employee acquires a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions upon completion of 10 years of service. As conditions for participation, the plan requires that an employee of Y complete one year of service and provides that if an employee has incurred a one-year break in service, in computing the employee's period of service for eligibility to participate, years of service before such break will not be taken into account until the employee has completed a year of service with Y after the employee's return. In accordance with § 2530.202–2(b)(1), the plan provides that after the initial eligibility computation period, eligibility computation periods beginning on anniversaries of an employee's employment commencement date will be used. Thus, under paragraph (a)(1) of this section, the plan must use computation periods beginning on anniversaries of the employee's employment commencement date in measuring one-year breaks in service. Employee C's employment commencement date with Y is February 1, 1975. C is credited with a year of service for eligibility to participate in the eligibility computation period beginning on C's employment commencement date and meets the plan's eligibility requirements as of February 1, 1976. In accordance with the provisions of the plan, C commences participation in the plan as of July 1, 1976. C is thereafter credited with a year of service for eligibility to participate in each of the eligibility computation periods beginning on anniversaries of C's employment commencement date (February 1) in 1976, 1977, 1978 and 1979. Thus, as of February 1, 1980, C is credited with 5 years of service for eligibility to participate. In the eligibility computation period beginning on February 1, 1980, C fails to be credited with more than 500 hours of service and therefore incurs a one-year break in service. In the eligibility computation period beginning on February 1, 1981, C is not credited with an hour of service for the performance of duties until March 1, 1981. Under paragraph (b)(1)(iii) of this section, March 1, 1981 is C's reemployment commencement date. C terminates employment with Y on May 1, 1981 and fails to be credited with 1000 hours of service in the 12-consecutive-month period beginning on March 1, 1981, or with more than 500 hours of service in the eligibility computation period beginning on February 1, 1981, thereby incurring a second one-year break in service for eligibility to participate. C is credited with no hours of service in the eligibility computation period beginning on February 1, 1982, thereby incurring a third one-year break in service for eligibility to participate, and is likewise credited with no hours of service in the 12-consecutive-month period beginning on March 1, 1982, the anniversary of B's reemployment commencement date. Under paragraph (b)(1)(iv) of this section, C must therefore be treated as having a new reemployment commencement date as of the first day following the close of the eligibility computation period beginning on February 1, 1982. On January 1, 1984 (before the end of the eligibility computation period beginning February 1, 1983) C is rehired by Y and is credited with an hour of service for the performance of duties. C is therefore treated as having a new reemployment commencement date January 1, 1984. C fails to be credited with more than 500 hours of service in the eligibility computation period beginning on February 1, 1983, thereby incurring a fourth one-year break in service, and fails to be credited with 1000 hours of service in the 12-consecutive-month period beginning on March 1, 1983, the anniversary of C's original reemployment commencement date. However, in the 12-consecutive-month period beginning on January 1, 1984, C is credited with 1000 hours of service, thus meeting the plan's requirement that an employee who has incurred a one-year break in service for eligibility to participate must complete a year of service upon the employee's return in order for years of service before the one-year break in service to be taken into account for purposes of eligibility. Because C's years of service completed before C's first one-year break in service must be taken into account under section 202(b) of the Act and section 410(b)(5) of the Code for purposes of eligibility to participate, under § 2530.204–2(a)(2) the period beginning on July 1, 1976 (the earliest date on which C was a participant) and extending until January 31, 1980 (the last day before C's first one-year break in service) must be taken into account for purposes of benefit accrual.

(c) *Prior service for eligibility to participate.* For rules relating to computing service preceding a break in service for the purpose of eligibility to participate in the plan, see § 2530.202–2(c).

(d) *Prior service for vesting.* For rules relating to computing service preceding a break in service for the purpose of credit toward vesting, see § 2530.203–2(d).

§ 2530.200b–5 Seasonal industries. [Reserved]

§ 2530.200b–6 Maritime industry.

(a) *General.* Sections 202(a)(3)(D), 203(b)(2)(D) and 204(b)(3)(E) of the Act and sections 410(a)(3)(D) and 411(a)(5)(D) and (b)(3)(E) of the Code contain special provisions applicable to the maritime industry. In general, those provisions permit statutory standards otherwise expressed in terms of 1,000 hours of service to be applied to employees in the maritime industry as if such standards were expressed in terms of 125 days of service. A plan covering employees in the maritime industry may nevertheless credit service to such employees on the basis of hours of service, as prescribed in § 2530.200b–2, including the use of any equivalency permitted under § 2530.200b–3, or may credit service to such employees on the basis of elapsed time, as permitted under § 2530.200b–9.

(b) *Definition.* For purposes of sections 202, 203, and 204 of the Act and sections 410 and 411 of the Code, the maritime industry is that industry in which employees perform duties on board commercial, exploratory, service or other vessels moving on the high seas, inland waterways, Great Lakes, coastal zones, harbors and noncontiguous areas, or on offshore ports, platforms or other similar sites.

(c) *Computation periods.* For employees in the maritime industry, computation periods shall be established as for employees in any other industry.

(d) *Year of service.* To the extent that a plan covers employees engaged in the maritime industry, and credits service for such employees on the basis of days of service, such employees who are credited with 125 days of service in the applicable computation period must be credited with a year of service. In the case of a plan covering both employees engaged in the maritime industry and employees not engaged in the maritime industry, service of employees not engaged in the maritime industry shall not be determined on the basis of days of service.

(e) *Year of participation for benefit accrual.* A plan covering employees engaged in the maritime industry may determine such an employee's period of service for purposes of benefit accrual on any basis permitted under § 2530.204–2 and § 2530.204–3. For purposes of § 2530.204–2(c) (relating to partial years of participation), in the case of an employee engaged in the maritime industry who is credited by the plan on the basis of days of service and whose service is not less than 125 days of service during an accrual computation period, the calculation of such employee's period of service for purposes of benefit accrual shall be treated as not made on a reasonable and consistent basis if service during such computation period is not taken into account. Thus, the employee must be credited with at least a partial year of participation (but not necessarily a full year of participation) for that accrual computation period, in accordance with § 2530.204–2(c).

(f) *Employment commencement date.* For purposes of § 2530.200b–4 (relating to breaks in service) and § 2530.202–2 (relating to eligibility computation periods):

(1) The employment commencement date of an employee engaged in the maritime industry who is credited by the plan on the basis of days of service shall be the first day for which the employee is entitled to be credited with a day of service described in § 2530.200b–7(a)(1).

(2) (i) Except as provided in paragraph (f)(2)(ii) of this section, the reemployment commencement date of an employee engaged in the maritime industry shall be the first day for which the employee is entitled to be credited with a day of service described in § 2530.200b–7(a)(1) after the first eligibility computation period in which the employee incurs a one-year break in service following an eligibility computation period in which the employee is credited with more than 62 days of service.

(ii) In the case of an employee engaged in the maritime industry who is credited with no hours of service in an eligibility computation period beginning after the employee's reemployment commencement date established under paragraph (f)(2)(i) of this section, the employee shall be treated as having a new reemployment commencement date as of the first day for which the employee is entitled to be credited with day of service described in § 2530.200b–7(a)(1) after such eligibility computation period.

§ 2530.200b–7 Day of service for employees in the maritime industry.

(a) *General rule.* A day of service in the maritime industry which must, as a minimum, be counted for the purposes of determining a year of service, a year of participation for benefit accrual, a break in service and an employment commencement date (or reemployment commencement date) under sections 202, 203 and 204 of the Act and sections 410 and 411 of the Code by a plan that credits service by days of service rather than hours of service (as prescribed in § 2530.200b–2, or under equivalencies permitted under § 2530.200b–3) or elapsed time (as permitted under § 2530.200b–9), is a day of service as defined in paragraphs (a)(1), (2) and (3) of this section.

(1) A day of service is each day for which an employee is paid, or entitled to payment for the performance of duties for the employer during the applicable computation period.

(2) A day of service is each day for which an employee is paid, or entitled to payment, by the employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. Notwithstanding the preceding sentence,

(i) No more than 63 days of service are required to be credited under this paragraph (a)(2) to an employee on account of any single continuous period during which the employee performs no duties (whether or not such period occurs in a single computation period);

(ii) A day for which an employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workmen's compensation (including maintenance and care), or unemployment compensation or disability insurance laws; and

(iii) Days of service are not required to be credited for a payment which solely reimburses an employee for medical or medically related expenses incurred by the employee.

For purposes of this paragraph (a)(2), a payment shall be deemed to be made by or due from an employer regardless of whether such payment is made by or due from the employer directly, or indirectly through, among others, a trust, fund, or insurer, to which the employer contributes or pays premiums, and regardless of whether contributions made or due to the trust, fund, insurer or other entity are for the benefit of particular employees or are made on behalf of a group of employees in the aggregate.

(3) A day of service is each day for which back pay, irrespective of mitigation of damages, has been either awarded or agreed to by the employer. Days of service shall not be credited both under paragraph (a)(1) or paragraph (a)(2), as the case may be, and under this subparagraph. Thus, for example, an employee who receives a back pay award following a determination that he or she was paid at an unlawful rate for days of service previously credited will not be entitled to additional credit for the same days of service. Crediting of days of service for back pay awarded or agreed to with respect to periods described in paragraph (a)(2) shall be subject to the limitations set forth in that paragraph. For example, no more than 63 days of service are required to be credited for payments of back pay, to the extent that such back pay is agreed to or awarded for a period of time during which an employee did not or would not have performed duties.

(b) *Special rule for determining days of service for reasons other than the performance of duties.* In the case of a payment which is made or due on account of a period during which an employee performs no duties, and which results in the crediting of days of service under paragraph (a)(3) of this section, or, in the case of an award or agreement for back pay, to the extent that such award or agreement is made with respect to a period described in paragraph (a)(2) of this section, the number of days of service to be credited shall be determined as follows:

(1) *Payments calculated on the basis of units of time.* In the case of a payment made or due which is calculated on the basis of units of time, such as days, weeks or months, the number of days of service to be credited shall be the number of regularly scheduled working days included in the units of time on the basis of which the payment is calculated. For purposes of the preceding sentence, in the case of an employee without a regular work schedule, a plan may provide for the calculation of the number of days of service to be credited on the basis of a 5-day workweek, or may provide for such calculation on any reasonable basis which reflects the average days worked by the employee, or by other employees in the same job classification, over a representative period of time, provided that the basis so used is consistently applied with respect to all employees within the same job classifications, reasonably defined.

(2) *Payments not calculated on the basis of units of time.* Except as provided in paragraph (b)(3) of this section, in the case of a payment made or due, which is not calculated on the basis of units of time, the number of days of service to be credited shall be equal to the amount of the payment divided by the employee's most recent daily rate of compensation before the period during which no duties are performed.

(3) *Rule against double credit.* Notwithstanding paragraphs (b)(1) and (2) of this section, an employee is not required to be credited on account of a period during which no duties are performed with a number of days of service which is greater than the number of days regularly scheduled for the performance of duties during such period. For purposes of the preceding sentence, in the case of an employee without a regular work schedule, a plan may provide for the calculation of the number of days of service to be credited to the employee for a period during which no duties are performed on the basis of a 5-day workweek, or may provide for such calculation on any reasonable basis which reflects the average hours worked by the employee, or by other employees in the same job classification, over a representative period of time, provided that the basis so used is consistently applied with respect to all employees in the same job classifications, reasonably defined.

(c) *Crediting of days of service to computation periods.* (1) Except as provided in paragraph (c)(4) of this section, days of service described in paragraph (a)(1) of this section shall be credited to the computation period in which the duties are performed.

(2) Except as provided in paragraph (c)(4) of this section, days of service described in paragraph (a)(2) of this section shall be credited as follows:

(i) Days of service credited to an employee on account of a payment which is calculated on the basis of units of time, such as days, weeks or months, shall be credited to the computation period or computation periods in which the period during which no duties are performed occurs, beginning with the first unit of time to which the payment relates.

(ii) Days of service credited to an employee by reason of a payment which is not calculated on the basis of units of time shall be credited to the computation period in which the period during which no duties are performed occurs, or if the period during which no duties are performed extends beyond one computation period, such hours of service shall be allocated between not more than the first two computation periods on any reasonable basis which is consistently applied with respect to all employees within the same job classifications, reasonably defined.

(3) Except as provided in paragraph (c)(4) of this section, days of service described in paragraph (a)(3) of this section shall be credited to the computation period or periods to which the award or agreement for back pay pertains, rather than to the computation period in which

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the award, agreement or payment is made.

(4) In the case of days of service to be credited to an employee in connection with a period of no more than 31 days which extends beyond one computation period, all such days of service may be credited to the first computation period or the second computation period. Crediting of days of service under this subparagraph must be done consistently with respect to all employees with the same job classifications, reasonably defined.

(d) *Other federal law.* Nothing in this section shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States or any rule or regulation issued under any such law. Thus, for example, nothing in this section shall be construed as denying an employee credit for a day of service if credit is required by separate federal law. Furthermore, the nature and extent of such credit shall be determined under such law.

(e) *Nondaily employees.* For maritime employees whose compensation is not determined on the basis of certain amounts for each day worked during a given period, service shall be credited on the basis of hours of service as determined in accordance with § 2530.200b–2(a) (including use of any equivalency permitted under § 2530.200b–3) or on the basis of elapsed time, as permitted under § 2530.200b–9.

(f) *Plan document.* A plan which credits service on the basis of days of service must state in the plan document the definition of days of service set forth in paragraph (a) of this section, but is not required to state the rules set forth in paragraph (b) and (c) if they are incorporated by reference.

§ 2530.200b–8 Determination of days of service to be credited to maritime employees.

(a) *General rule.* For the purpose of determining the days of service which must be credited to an employee for a computation period, a plan shall determine days of service from records of days worked and days for which payment is made or due. Any records may be used to determine days of service to be credited to employees under a plan, even though such records are maintained for other purposes, provided that they accurately reflect the actual number of days of service with which an employee is required to be credited under § 2530.200b–7(a). Payroll records, for example, may provide sufficiently accurate data to serve as a basis for determining days of service. If, however, existing records do not accurately reflect the actual number of days of service with which an employee is entitled to be credited, a plan must develop and maintain adequate records. A plan may in any case credit days of service under any method which results in the crediting of no less than the actual number of days of service, required to be credited under § 2530.200b–7(a) to each employee in a computation period, even though such method may result in the crediting of days of service in excess of the number of days required to be credited under § 2530.200b–7(a). A plan is not required to prescribe in its documents which records are to be used to determine days of service.

(b) *Determination of pre-effective date days of service.* To the extent that a plan is required to determine days of service completed before the effective date of Part 2 of Title I of the Act (*see* section 211 of the Act), the plan may use whatever records may be reasonably accessible to it and may make whatever calculations are necessary to determine the approximate number of hours of service completed before such effective date. For example, if a plan or an employer maintaining the plan has, or has access to, only the records of compensation of employees for the period before the effective date, it may derive the pre-effective date days of service by using the daily rate for the period or the days customarily worked. If accessible records are insufficient to make an approximation of the number of pre-effective date days of service for a particular employee or group of employees, the plan may make a reasonable estimate of the days of service completed by such employee or employees during the particular period. For example, if records are available with respect to some employees, the plan may estimate the days of service of other employees in the same job classification based on these records. A plan may use the elapsed time method prescribed under section 2530.200b–9 to determine days of service completed before the effective date of Part 2 of Title I of the Act.

§ 2530.200b–9 Elapsed time.

(a) *General.* (1) *Introduction to elapsed time method of crediting service.* (i) § 2530.200b–2 sets forth the general method of crediting service for an employee. The general method is based upon the actual counting of hours of service during the applicable 12-consecutive-month computation period. The equivalencies set forth in § 2530.200b–3 are also methods for crediting hours of service during computation periods. Under the general method and the equivalencies, an employee receives a year's credit (in units of years of service or year's of participation) for a computation period during which the employee is credited with a specified number of hours of service. In general, an employee's statutory entitlement with respect to eligibility to participate, vesting and benefit accrual is determined by totalling the number of years' credit to which an employee is entitled.

(ii) Under the alternative method set forth in this section, by contrast, an employee's statutory entitlement with respect to eligibility to participate, vesting and benefit accrual is not based upon the actual completion of a specified number of hours of service during a 12-consecutive-month period. Instead, such entitlement is determined generally with reference to the total period of time which elapses while the employee is employed (i.e., while the employment relationship exists) with the employer or employers maintaining the plan. The alternative method set forth in this section is designed to enable a plan to lessen the administrative burdens associated with the maintenance of records of an employee's hours of service by permitting each employee to be credited with his or her total period of service with the employer or employers maintaining the plan, irrespective of the actual hours of service completed in any 12-consecutive-month period.

(2) *Overview of the operation of the elapsed time method.* (i) Under the elapsed time method of crediting service, a plan is generally required to take into account the period of time which elapses while the employee is employed (i.e., while the employment relationship exists) with the employer or employers maintaining the plan, regardless of the actual number of hours he or she completes during such period. Under this alternative method of crediting service, an employee's service is required to be taken into account for purposes of eligibility to participate and vesting as of the date he or she first performs an hour of service within the meaning of § 2530.200b–2(a)(1) for the employer or employers maintaining the plan. Service is required to be taken into account for the period of time from the date the employee first performs such an hour of service until the date he or she severs from service with the employer or employers maintaining the plan.

(ii) The date the employee severs from service is the earlier of the date the employee quits, is discharged, retires or dies, or the first anniversary of the date the employee is absent from service for any other reason (e.g., disability, vacation, leave of absence, layoff, etc.). Thus, for example, if an employee quits, the severance from service date is the date the employee quits. On the other hand, if an employee is granted a leave of absence (and if no intervening event occurs), the severance from service date will occur one year after the date the employee was first absent on leave, and this one year of absence is required to be taken into account as service for the employer or employers maintaining the plan. Because the severance from service date occurs on the earlier of two possible dates (i.e., quit, discharge, retirement or death or the first anniversary of an absence from service for any other reason), a quit, discharge, retirement or death within the year after the beginning of an absence for any other reason results in an immediate severance from service. Thus, for example, if an employee dies at the end of a four-week absence resulting from illness, the severance from service date is the date of death, rather than the first anniversary date of the first day of absence for illness.

(iii) In addition, for purposes of eligibility to participate and vesting under the elapsed time method of crediting service, an employee who has severed from service by reason of a quit, discharge or retirement may be entitled to have a period of time of 12 months or less taken into account by the employer or employers maintaining the plan if the employee returns to service within a certain period of time and performs an hour of service within the meaning of § 2530.200b–2(a)(1). In general, the period of time during which the employee must return to service begins on the date the employee severs from service as a result of a quit, discharge or retirement and ends on the first anniversary of such date. However, if the employee is absent for any other reason (e.g., layoff) and then quits, is discharged or retires, the period of time during which the employee may return and receive credit begins on the severance from service date and ends one year after the first day of absence (e.g., first day of layoff). As a result of the operation of these rules, a severance from service (e.g., a quit), or an absence (e.g., layoff) followed by a severance from service, never results in a period of time of more than one year being required to be taken into account after an employee severs from service or is absent from service.

(iv) For purposes of benefit accrual under the elapsed time method of crediting service, an employee is entitled to have his or her service taken into account from the date he or she begins to participate in the plan until the severance from service date. Periods of severance under any circumstances are not required to be taken into account. For example, a participant who is discharged on December 14, 1980 and rehired on October 14, 1981 is not required to be credited with the 10 month period of severance for benefit accrual purposes.

(3) *Overview of certain concepts relating to the elapsed time method.* (i) *General.* The rules with respect to the elapsed time method of crediting service are based on certain concepts which are defined in paragraph (b) of this section. These concepts are applied in the substantive rules contained in paragraphs (c), (d), (e), (f) and (g) of this section. The purpose of this subparagraph is to summarize these concepts.

(ii) *Employment commencement date.* (A) A concept which is necessary in order to credit service accurately under any service crediting method is the establishment of a starting point for crediting service. The employment commencement date, which is the date on which an employee first performs an hour of service within the meaning of § 2530.200b–2(a)(1) for the employer or employers maintaining the plan, is used throughout Part 2530 to establish the date upon which an employee must begin to receive credit for certain purposes (e.g. eligibility to participate and vesting).

(B) In order to credit accurately an employee's total service with an employer or employers maintaining the plan, a plan also may provide for an "adjusted" employment commencement date (*i.e.*, a recalculation of the employment commencement date to reflect noncreditable periods of severance) or a reemployment commencement date as defined in paragraph (b)(3) of this section. Fundamentally, all three concepts rely upon the performance of an hour of service to provide a starting point for crediting service. One purpose of these three concepts is to enable plans to satisfy the requirements of this section in a variety of ways.

(C) The fundamental rule with respect to these concepts is that any plan provision is permissible so long as it satisfies the minimum standards. Thus, for example, although the rules of this section provide that credit must begin on the employment commencement date, a plan is permitted to "adjust" the employment commencement date to reflect periods of time for which service is not required to be credited. Similarly, a plan may wish to credit service under the elapsed time method as discrete periods of service and provide for a reemployment commencement date. Certain plans may wish to provide for both concepts, although it is not a requirement of this section that plans so provide.

(iii) *Severance from service date.* Another fundamental concept of the elapsed time method of crediting service is the severance from service date, which is defined as the earlier of the date on which an employee quits, retires, is discharged or dies, or the first anniversary of the first date of absence for any other reason. One purpose of the severance from service date is to provide the endpoint for crediting service under the elapsed time method. As a general proposition, service is credited from the employment commencement date (i.e., the starting point) until the severance from service date (i.e., the endpoint). A complementary purpose of the severance from service date is to establish the starting point for measuring a period of severance from service in order to determine a "break in service" (see paragraph (a)(3)(v) of this section). A third purpose of such date is to establish the starting point for measuring the period of time which may be required to be taken into account under the service spanning rules (see paragraph (a)(3)(vi) of this section).

(iv) *Period of service.* A third elapsed time concept is the use of the "period of service" rather than the "year of service" in determining service to be taken into account for purposes of eligibility to participate, vesting and benefit accrual. For purposes of eligibility to participate and vesting, the period of service runs from the employment commencement date or reemployment commencement date until the severance from service date. For purposes of benefit accrual, a period of service runs from the date that a participant commences participation under the plan until the severance from service date. Because the endpoint of the period of service is marked by the severance from service date, an employee is credited with the period of time which runs during any absence from service (other than for reasons of a quit, retirement, discharge or death) which is 12 months or less. Thus, for example, a three week absence for vacation is taken into account as part of a period of service and does not trigger a severance from service date.

(v) *Period of severance.* A period of severance begins on the severance from service date and ends when an employee returns to service with the employer or employers maintaining the plan. The purpose of the period of severance is to apply the statutory "break in service" rules to an elapsed time method of crediting service.

(vi) *Service spanning.* Under the elapsed time method of crediting service, a plan is required to credit periods of service and, under the service spanning rules, certain periods of severance of 12 months or less for purposes of eligibility to participate and vesting. Under the first service spanning rule, if an employee severs from service as a result of quit, discharge or retirement and then returns to service within 12 months, the period of severance is required to be taken into account. However, a situation may arise in which an employee is absent from service for any reason other than quit, discharge, retirement or death and during the absence a quit, discharge or retirement occurs. The second service spanning rule provides in that set of circumstances that a plan is required to take into account the period of time between the severance from service date (i.e., the date of quit, discharge or retirement) and the first anniversary of the date on which the employee was first absent, if the employee returns to service on or before such first anniversary date.

(4) *Scope.* (i) Except for certain provisions for which the Secretary of Labor has been specifically authorized to prescribe regulations, regulations prescribed by the Secretary of the Treasury under section 410 and 411 of the Code shall, pursuant to section 3002(c) of the Act, implement the counterpart provisions of sections 202, 203 and 204 of the Act. Certain provisions for which the Secretary of Labor has been authorized to prescribe regulations relate to the methods for computing service to be credited to an employee, such as the calculation of an hour of service, year of service, year of participation and breaks in service, and such concepts are implemented in Part 2530. Accordingly, because elapsed time represents an alternative method of crediting service, this alternative method is set forth in Part 2530.

(ii) In order to clarify and illustrate the elapsed time method of crediting service, this section restates certain statutory provisions for which the Secretary of the Treasury has been authorized to prescribe regulations. In certain instances, as a result of the nature of the elapsed time method of crediting service, it has been necessary in this section to recast these concepts in a mode consistent with and solely for the purpose of using the elapsed time method. Thus, for example, due to the lack of computation periods under the elapsed time method of crediting service, a plan using elapsed time may disregard service for vesting purposes prior to the date an employee attains the age of 22, while under the general rule under section 203(b)(1)(A) of the Act, 411(a)(4)(A) of the Code and Treasury Department regulations under section 411(a) of the Code, contained in 26 CFR, a plan may disregard service for vesting computation periods prior to the vesting computation period during which

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an employee attains the age of 22. Except as otherwise expressly provided in this section, the rules applicable to the general methods of crediting service are also applicable to the elapsed time method of crediting service.

(5) *Application of elapsed time method to sections 202, 203 or 204 of the Act and sections 410 and 411 of the Code.* (i) The substantive rules for crediting service under the elapsed time method with respect to eligibility to participate are contained in paragraph (c), the rules with respect to vesting are contained in paragraph (d), and the rules with respect to benefit accrual are contained in paragraph (e). The format of the rules is designed to enable a plan to use the elapsed time method of crediting service either for all purposes or for any one or combination of purposes under Part 2 of Title I of the Act and the counterpart provisions of the Code. Thus, for example, a plan may credit service for eligibility to participate purposes by the use of the general method of crediting service set forth in § 2530.200b–2 or by the use of any of the equivalencies set forth in § 2530.200b–3, while the plan may credit service for vesting and benefit accrual purposes by the use of the elapsed time method of crediting service.

(ii) A plan using the elapsed time method of crediting service for one or more classifications of employees covered under the plan may use the general method of crediting service set forth in § 2530.200b–2 or any of the equivalencies set forth in § 2530.200b–3 for other classifications of employees, provided that such classifications are reasonable and are consistently applied. Thus, for example, a plan may provide that part-time employees are credited under the general method of crediting service set forth in § 2530.200b–2 and full-time employees are credited under the elapsed time method. A classification, however, will not be deemed to be reasonable or consistently applied if such classification is designed with an intent to preclude an employee or employees from attaining his or her statutory entitlement with respect to eligibility to participate, vesting or benefit accrual. For example, a classification applied so that any employee credited with less than 1,000 hours of service during a given 12-consecutive-month period would be considered part-time and subject to the general method of crediting service rather than the elapsed time method would not be reasonable.

(iii) Notwithstanding paragraph (a)(5)(i) and (ii) of this section, the use of the elapsed time method for some purposes or the use of the elapsed time method for some employees may, under certain circumstances result in discrimination prohibited under section 401(a)(4) of the Code, even though the use of the elapsed time method for such purposes and for such employees is permitted under this section.

(b) *Definitions.* (1) *Employment commencement date.* For purposes of this section, the term "employment commencement date" shall mean the date on which the employee first performs an hour of service within the meaning of § 2530.200b–2(a)(1) for the employer or employers maintaining the plan.

(2) *Severance from service date.* For purposes of this section, a "severance from service" shall occur on the earlier of—

(i) The date on which an employee quits, retires is discharged or dies; or

(ii) The first anniversary of the first date of a period in which an employee remains absent from service (with or without pay) with the employer or employers maintaining the plan for any reason other than quit, retirement, discharge or death, such as vacation, holiday, sickness, disability, leave of absence or layoff.

(3) *Reemployment commencement date.* For purposes of this section, the term "reemployment commencement date" shall mean the first date, following a period of severance from service which is not required to be taken into account under the service spanning rules in paragraphs (c)(2)(iii) and (d)(1)(iii) of this section, on which the employee performs an hour of service within the meaning of paragraph § 2530.200b–2(a)(1) for the employer or employers maintaining the plan.

(4) *Participation commencement date.* For purposes of this section, the term "participation commencement date" shall mean the date a participant first commences participation under the plan.

(5) *Period of severance.* For purposes of this section, the term "period of severance" shall mean the period of time commencing on the severance from service date and ending on the date on which the employee again performs an hour of service within the meaning of § 2530.200b–2(a)(1) for an employer or employers maintaining the plan.

(6) *Period of service.* (i) *General rule.* For purposes of this section, the term "period of service" shall mean a period of service commencing on the employee's employment commencement date or reemployment commencement date, whichever is applicable, and ending on the severance from service date.

(ii) *Aggregation rule.* Unless a plan provides in some manner for an "adjusted" employment commencement date or similar method of consolidating periods of service, periods of service shall be aggregated unless such periods may be disregarded under section 202(b) or 203(b) of the Act and section 410(a)(5) or 411(a)(4) of the Code.

(iii) *Other federal law.* Nothing in this section shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States or any rule or regulation issued under any such law. Thus, for example, nothing in this section shall be construed as denying an employee credit for a "period of service" if credit is required by separate federal law. Furthermore, the nature and extent of such credit shall be determined under such law.

(c) *Eligibility to participate.* (1) *General rule.* For purposes of section 202(a)(1)(A) of the Act and section 410(a)(1)(A) of the Code, a plan generally may not require as a condition of participation in the plan that an employee complete a period of service with the employer or employers maintaining the plan extending beyond the later of—

(i) The date on which the employee attains the age of 25; or

(ii) The date on which the employee completes a one-year period of service.

See regulations, relating to eligibility to participate rules (section 410(a) of the Code), prescribed by the Secretary of the Treasury in 26 CFR.

(2) *Determination of one-year period of service.* (i) For purposes of determining the date on which an employee satisfies the service requirement for initial eligibility to participate under the plan, a plan, using the elapsed time method of crediting service, shall provide that an employee who completes the 1-year period of service requirement on the first anniversary of his employment commencement date satisfies the minimum service requirement as of such date. In the case of an employee who fails to complete a one-year period of service on the first anniversary of his employment commencement date, a plan which does not contain a provision permitted by section 202(b)(4) of the Act and section 410(a)(5)(D) of the Code (rule of parity) shall provide for the aggregation of periods of service so that a one-year period of service shall be completed as of the date the employee completes 12 months of service (30 days are deemed to be a month in the case of the aggregation of fractional months) or 365 days of service.

(ii) For purposes of section 202(a)(1)(B)(i) of the Act and section 410(a)(1)(B)(i) of the Code, a "3-year period of service" shall be deemed to be "3 years of service."

(iii) *Service spanning rules.* In determining a 1-year period of service for purposes of initial eligibility to participate and a period of service for purposes of retention of eligibility to participate, in addition to taking into account an employee's period of service, a plan shall take into account the following periods of severance—

(A) If an employee severs from service by reason of a quit, discharge or retirement and the employee then performs an hour of service within the meaning of § 2530.200b–2(a)(1) within 12 months of the severance from service date, the plan is required to take into account the period of severance; and

(B) Notwithstanding paragraph (c)(2)(iii)(A) of this section, if an employee severs from service by reason of a quit, discharge or retirement during an absence from service of 12 months or less for any reason other than a quit, discharge, retirement or death, and then performs an hour of service within the meaning of § 2530.200b–2(a)(1) within 12 months of the date on which the employee was first absent from service, the plan is required to take into account the period of severance.

(iv) For purposes of determining an employee's retention of eligibility to participate in the plan, a plan shall take into

account an employee's entire period of service unless certain periods of service may be disregarded under section 202(b) of the Act and section 410(a)(5) of the Code.

(v) *Example.* Employee W, age 31, completed 6 months of service and was laid off. After 2 months of layoff, W quit. Five months later, W returned to service. For purposes of eligibility to participate, W was required to be credited with 13 months of service (8 months of service and 5 months of severance). If, on the other hand, W had not returned to service within the first 10 months of severance (i.e., within 12 months after the first day of layoff), W would be required to be credited with eight months of service.

(3) *Entry date requirements.* (i) *General rule.* For purposes of section 202(a)(4) of the Act and section 410(a)(4) of the Code, it is necessary for a plan to provide that any employee who has satisfied the minimum age and service requirements, and who is otherwise entitled to participate in the plan, commences participation in the plan no later than the earlier of—

(A) The first day of the first plan year beginning after the date on which such employee satisfied such requirements, or

(B) The date six months after the date on which he satisfied such requirements, unless such employee was separated from service before the date referred to in subparagraph (A) or (B), whichever is applicable.

(ii) *Separation from service.* (A) *Definition.* For purposes of this section, the term "separated from service" includes a severance from service or an absence from service for any reason other than a quit, discharge, retirement or death, regardless of the duration of such absence. Accordingly, if an employee is laid off for a period of six weeks, the employee shall be deemed to be "separated from service" during such period for purposes of the entry date requirements.

(B) *Application.* A period of severance which is taken into account under the service spanning rules in paragraph (c)(2)(iii) of this section or an absence of 12 months or less may result in an employee satisfying the plan's minimum service requirement during such period of time. In addition, once an employee satisfies the plan's minimum service requirement, either before or during such period of time, such period of time may contain an entry date applicable to such employee. In the case of an employee whose period of severance is taken into account and such period contains an entry date applicable to the employee, he or she shall be made a participant in the plan (if otherwise eligible) no later than the date on which he or she ended the period of severance. In the case of an employee whose period of absence contains an entry date applicable to such employee, he or she, no later than the date such absence ended, shall be made a participant in the plan (if otherwise eligible) as of the first applicable entry date which occurred during such absence from service.

(iii) *Examples.* For purposes of the following examples, assume that the plan provides for a minimum age requirement of 25 and a minimum service requirement of one year, and provides for semi-annual entry dates.

(A) Employee A, age 35, worked for 10 months in a job classification covered under the plan, became disabled for nine consecutive months and then returned to service. During the period of absence, A completed a 1-year period of service and passed a semi-annual entry date after satisfying the minimum service requirement. Accordingly, the plan is required to make A a participant no later than his return to service effective as of the applicable entry date.

(B) Employee B, after satisfying the minimum age and service requirements, quit work before the next semi-annual entry date, and then returned to service before incurring a 1-year period of severance, but after such semi-annual entry date. Employee B is entitled to become a participant immediately upon his return to service effective as of the date of his return.

See regulations, relating to eligibility to participate rules (Section 410(a) of the Code), prescribed by the Secretary of the Treasury in 26 CFR.

(4) *Break in service.* For purposes of applying the break in service rules under sections 202(b)(2) and (3) of the Act and sections 410(a)(5)(B) and (C) of the Code, the term "1-year period of severance" shall be substituted for the term "1-year break in service." A 1-year period of severance shall be determined on the basis of a 12-consecutive-month period beginning on the severance from service date and ending on the first anniversary of such date provided that the employee during such 12-consecutive-month period does not perform an hour of service within the meaning of § 2530.200b–2(a)(1) for the employer or employers maintaining the plan.

(5) *One-year hold-out.* (i) *General rule.* (A) For purposes of section 202(b)(3) of the Act and section 410(a)(5)(C) of the Code, in determining the period of service of an employee who has incurred a 1-year period of severance, a plan may disregard the employee's period of service before such period of severance until the employee completes a 1-year period of service after such period of severance.

(B) *Example.* Assume that a plan provides for a minimum service requirement of 1 year and provides for semi-annual entry dates, but does not contain the provisions permitted by section 202(b)(4) of the Act and section 410(a)(5)(D) of the Code (relating to the rule of parity). Employee G, age 40, completed a seven-month period of service, quit and then returned to service 15 months later, thereby incurring a 1-year period of severance. After working four months, G was laid off for nine months and then returned to work again. Although the plan may hold employee G out from participation in the plan until the completion of a 1-year period of service after the 1-year (or greater) period of severance, once the 1-year hold-out is completed the plan is required to provide the employee with such statutory entitlement as arose during the 1-year hold-out. Accordingly, employee G satisfied the 1-year of service requirement as of the first month of layoff, and G is entitled to become a participant in the plan immediately upon his return to service after the nine month layoff effective as of the first applicable entry date occurring after the date on which he satisfied the 1-year of service requirement (i.e., the first applicable entry date after the first month of layoff).

See regulations, relating to eligibility to participate rules (Section 410(a) of the Code), prescribed by the Secretary of the Treasury in 26 CFR.

(6) *Rule of parity.* (i) *General rule.* For purposes of section 202(b)(4) of the Act and section 410(a)(5)(D) of the Code, in the case of a participant who does not have any nonforfeitable right under the plan to his accrued benefit derived from employer contributions and who incurs a 1-year period of severance, a plan, in determining an employee's period of service for purposes of section 202(a)(1) of the Act and section 410(a)(1) of the Code, may disregard his period of service if his latest period of severance equals or exceeds his prior period of service, whether or not consecutive, completed before such period of severance.

(ii) In determining whether a completely nonvested employee's service may be disregarded under the rule of parity, a plan is not permitted to apply the rule until the employee incurs a 1-year period of severance. Accordingly, a plan may not disregard a period of service of less than one year until an employee has incurred a period of severance of at least one year.

(iii) *Example.* Assume that a plan provides for a minimum service requirement of one year and provides for the rule of parity. An employee works for three months, quits and then is rehired 10 months later. Such employee is entitled to receive 13 months of credit for purposes of eligibility to participate and vesting (see service spanning rules). Although the period of severance exceeded the period of service, the three months of service may not be disregarded because no 1-year period of severance occurred.

See regulations, relating to eligibility to participate rules (Section 410(a) of the Code), prescribed by the Secretary of the Treasury in 26 CFR.

(d) *Vesting.* (1) *General rule.* (i) For purposes of section 203(a)(2) of the Act and section 411(a)(2) of the Code, relating to vesting in accrued benefits derived from employer contributions, a plan, which determines service to be taken in account on the basis of elapsed time, shall provide that an employee is credited with a number of years of service equal to at least the number of whole years of the employee's period of service, whether or not such periods of service were completed consecutively.

(ii) In order to determine the number of whole years of an employee's period

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of service, a plan shall provide that nonsuccessive periods of service must be aggregated and that less than whole year periods of service (whether or not consecutive) must be aggregated on the basis that 12 months of service (30 days are deemed to be a month in the case of the aggregation of fractional months) or 365 days of service equal a whole year of service.

(iii) *Service spanning rules.* In determining a participant's period of service for vesting purposes, a plan shall take into account the following periods of severance—

(A) If an emloyee severs from service by reason of a quit, discharge or retirement and the employee then performs an hour of service within the meaning of § 2530.200b–2(a) (1) within 12 months of the severance from service date, the plan is required to take into account the period of severance; and

(B) Notwithstanding subparagraph (d)(1) (iii) (A) of this section, if an employee severs from service by reason of a quit, discharge or retirement during an absence from service of 12 months or less for any reason other than a quit, discharge, retirement or death, and then performs an hour of service within the meaning of § 2530.200b–2(a) (1) within 12 months of the date on which the employee was first absent from service, the plan is required to take into account the period of severance.

(iv) For purposes of determining an employee's nonforfeitable percentage of accrued benefits derived from employer contributions, a plan, after calculating an employee's period of service in the manner prescribed in this paragraph, may disregard any remaining less than whole year, 12-month or 365-day period of service. Thus, for example, if a plan provides for the statutory five to fifteen year graded vesting, an employee with a period (or periods) of service which yield 5 whole year periods of service and an additional 321-day period of service is twenty-five percent vested in his or her employer-derived accrued benefits (based solely on the 5 whole year periods of service).

(2) *Service which may be disregarded.* (i) For purposes of section 203(b) (1) of the Act and section 411(a) (4) of the Code, in determining the nonforfeitable percentage of an employee's right to his or her accrued benefits derived from employer contributions, all of an employee's period or periods of service with an employer or employers maintaining the plan shall be taken into account unless such service may be disregarded under paragraph (d) (2) (ii) of this section.

(ii) For purposes of paragraph (d) (2) (i) of this section, the following periods of service may be disregarded—

(A) The period of service completed by an employee before the date on which he attains age 22;

(B) In the case of a plan which requires mandatory employee contributions, the period of service which falls within the period of time to which a particular employee contribution relates if the employee had the opportunity to make a contribution for such period of time and failed to do so;

(C) The period of service during any period for which the employer did not maintain the plan or a predecessor plan;

(D) The period of service which is not required to be taken into account by reason of a period of severance which constitutes a break in service within the meaning of paragraph (d) (4) of this section;

(E) The period of service completed by an employee prior to January 1, 1971, unless the employee completes a period of service of at least 3 years at any time after December 31, 1970; and

(F) The period of service completed before the first plan year for which this section applies to the plan, if such service would have been disregarded under the plan rules relating to breaks in service.

See regulations, relating to service which may be disregarded (Section 411 (a) of the Code), prescribed by the Secretary of the Treasury in 26 CFR.

(3) *Seasonal industry.* (Reserved.)

(4) *Break in service.* For purposes of applying the break in service rules, the term "1-year period of severance" shall be substituted for the term "1-year break in service." A 1-year period of severance shall be a 12-consecutive-month period beginning on the severance from service date and ending on the first anniversary of such date, provided that the employee during such 12-consecutive-month period fails to perform an hour of service within the meaning of § 2530.200b–2(a) (1) for an employer or employers maintaining the plan.

(5) *One-year hold-out.* For purposes of section 203(b) (3) (B) of the Act and section 411(a) (6) (B) of the Code, in determining the nonforfeitable percentage of the right to accrued benefits derived from employer contributions of an employee who has incurred a 1-year period of severance, the period of service completed before such period of severance is not required to be taken into account until the employee has completed a 1-year period of service after his return to service.

See regulations, relating to vesting rules (Section 411(a) of the Code, prescribed by the Secretary of the Treasury under 26 CFR.

(6) *Vesting in pre-break accruals.* For purposes of section 203(b) (3) (C) of the Act and section 411(a) (6) (C) of the Code, a "1-year period of severance" shall be deemed to constitute a "1-year break in service."

See regulations, relating to vesting rules (Section 411(a) of the Code), prescribed by the Secretary of the Treasury under 26 CFR.

(7) *Rule or parity.* (i) *General rule.* For purposes of section 203(b) (3) (D) of the Act and section 411(a) (6) (D) of the Code, in the case of an employee who is a nonvested participant in employer-derived benefits at the time he incurs a 1-year period of severance, the period of service completed by such participant before such period of severance is not required to be taken into account for purposes of determining the vested percentage of his or her right to employer-derived benefits if at such time the consecutive period of severance equals or exceeds his prior period of service, whether or not consecutive, completed before such period of severance.

See regulations, relating to vesting rules (Section 411(a) of the Code), prescribed by the Secretary of Treasury under 26 CFR.

(e) *Benefit accrual.* (1) For purposes of section 204 of the Act and section 411 (b) of the Code, a plan may provide that a participant's service with an employer or employers maintaining the plan be determined on the basis of the participant's total period of service beginning on the participation commencement date and ending on the severance from service date.

(2) Under section 204(b) (3) (A) of the Act and section 411(b) (3) (A) of the Code, a defined benefit pension plan may determine an employee's service for purposes of benefit accrual on any basis which is reasonable and consistent and which takes into account all service during the employee's participation in the plan which is included in a period of service required to be taken into account under section 202(b) of the Act and section 410(a) of the Code (relating to service which must be taken into account for purposes of determining an employee's eligibility to participate). A plan which provides for the determination of an employee's service with an employer or employers maintaining the plan on the basis permitted under paragraph (e) (1) of this section will be deemed to meet the requirements of section 204(b) (3) (A) of the Act and section 411(b) (3) (A) of the Code, provided that the plan meets the requirements of § 2530.204–3, relating to plans which determine an employee's service for purposes of benefit accrual on a basis other than computation periods. Specifically, under § 2530.204–3, it must be possible to prove that, despite the fact that benefit accrual under such a plan is not based on computation periods, the plan's provisions meet at least one of the three benefit accrual rules of section 204(b) (1) of the Act and section 411(b) (1) of the Code under all circumstances. Further, § 2530.204–3 prohibits such a plan from disregarding service under section 204(b) (3) (C) of the Act and section 411 (b) (3) (C) of the Code (which would otherwise permit a plan to disregard service performed by an employee during a computation period in which the employee is credited with less than 1,000 hours).

See regulations, relating to benefit accrual rules, (Section 411(b) of the Code), prescribed by the Secretary of the Treasury under 26 CFR.

(f) *Transfers between methods of crediting service.*

(1) *Single plan.* A plan may provide that an employee's service for purposes of eligibility to participate, vesting or benefit accrual shall be determined on the basis of computation periods under the general method set forth in § 2530.200b–1 for certain classes of employees but under the alternative method permitted under this section for other clases of employees if the plan provides as follows—

(i) In the case of an employee who transfers from a class of employees whose service is determined on the basis of computation periods to a class of employees whose service is determined on the alternative basis permitted under this section, the employee shall receive credit, as of the date of the transfer, for a period of service consisting of—

(A) A number of years equal to the number of years of service credited to the employee before the computation period during which the transfer occurs; and

(B) The greater of (1) the period of time beginning on the first day of the computation period during which the transfer occurs and ending on the date of such transfer or (2) the service taken into account under the computation periods method as of the date of the transfer.

If the period of service for which an employee receives credit under this paragraph (f) (1) (i) consists of the total of the periods of service determined under paragraph (f) (1) (i) (A) plus paragraph (f) (1) (i) (B) (1) of this section, the employee shall receive credit for service subsequent to the transfer commencing on the date the transfer occurs. If such period of service consists of the total of the amounts of service determined under paragraph (f) (1) (i) (A) plus paragraph (f) (1) (i) (B) (2) of this section, the employee shall receive credit for service subsequent to the transfer commencing on the day after the last day of the computation during which the transfer occurred.

(ii) In the case of an employee who transfers from a class of employees whose service is determined on the alternative basis permitted under this section to a class of employees whose service is determined on the basis of computation periods—

(A) The employee shall receive credit, as of the date of the transfer, for a number of years of service equal to the number of 1-year periods of service credited to the employee as of the date of the transfer, and

(B) The employee shall receive credit in the computation period which includes the date of the transfer, for a number of hours of service determined by applying one of the equivalencies set forth in § 2530.200b–4(e) (1) to any fractional part of a year credited to the employee under this section as of the date of the transfer. Such equivalency shall be set forth in the plan and shall apply to all similarly situated employees.

(2) *More than one plan.* In the case of an employee who transfers from a plan using either the general method of determining service on the basis of computation periods set forth in § 2530.200 b–1 or the method of determining service permitted under this section to a plan using the other method of determining service, all service required to be credited under the plan to which the employee transfers shall be determined under the method of determining service used by such plan. Accordingly, to the extent that service credited to the employee under the plan from which he or she transfers must also be credited to the employee under the plan to which he or she transfers, such service must be redetermined under the latter plan.

(g) *Amendments to change method of crediting service.* A plan may be amended to change the method of crediting service for any purpose or for any class of employees between the general method set forth in § 2530.200b–1 and the method permitted under this section, if such amendment contains provisions under which each employee with respect to whom the method of crediting service is changed is treated in the same manner as an employee who transfers from one class of employees to another under paragraph (f) (1) of this section.

§ 2530.201–1 Coverage; general.

Coverage of the provisions of Part 2 of Title I of the Act is determined under a multiple step process. First, the plan must be an employee benefit plan as defined under section 3(3) of the Act and § 2510.3–3. (See also the definitions of employee welfare benefit plan, section 3(1) of the Act and § 2510.3–1 and employee pension benefit plan, section 3(2) of the Act and § 2510.3–2). Second, the employee benefit plan must be subject to Title I of the Act. Coverage for Title I is specified in section 4 of the Act. Third, section 201 of the Act specifies the employee benefit plans subject to Title I which are not subject to the minimum standards of Part 2 of Title I of the Act. Section 2530.201–2 specifies the employee benefit plans subject to Title I of the Act which are exempted from coverage under Part 2 of Title I of the Act and this Part (2530).

§ 2530.201–2 Plans covered by part 2530.

This part (2530) shall apply to any employee benefit plan described in section 4(a) of the Act (and not exempted under section 4(b)) other than—

(a) An employee welfare benefit plan as defined in section 3(1) of the Act and § 2510.3–1;

(b) A plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees;

(1) (Reserved.)

(2) (Reserved.)

(c) A plan established and maintained by a society, order, or association described in section 501(c) (8) or (9) of the Code, if no part of the contributions to or under such plan are made by employers of participants in such plan;

(d) A trust described in section 501 (c) (18) of the Code;

(e) A plan which is established and maintained by a labor organization described in section 501(c) (5) of the Code and which does not at any time after the date of enactment of the Act provide for employer contributions;

(f) Any agreement providing payments to a retired partner or a deceased partner's successor in interest, as described in section 736 of the Code;

(g) An individual retirement account or annuity described in section 408 of the Code, or a retirement bond described in section 409 of the Code;

(h) An excess benefit plan as described in section 3(36) of the Act.

Subpart B—Participation, Vesting and Benefit Accrual

§ 2530.202–1 Eligibility to participate; general.

(a) Section 202 of the Act and section 410 of the Code contain minimum participation standards relating to certain employee pension benefit plans. In general, an employee pension benefit plan may not require, as a condition of participation in the plan, that an employee complete a period of service with the employer or employers maintaining the plan in excess of limits established by of the Code and the regulations issued plan in excess of limits established by section 202 of the Act and section 410 of the Code and the regulations issued thereunder. Service for this purpose is measured in units of years of service. Section 2530.202–2 sets forth rules relating to the computation periods which a plan must use to determine whether an employee has completed a year of service for purposes of eligibility to participate ("eligibility computation periods").

(b) For rules relating to service with the employer or employers maintaining the plan, see § 2530.210.

§ 2530.202–2 Eligibility computation period.

(a) *Initial eligibility computation period.* For purposes of section 202(a) (1) (A) (ii) of the Act and section 410(a) (1) (A) (ii) of the Code, the initial eligibility computation period the plan must use is the 12-consecutive-month period beginning on the employment commencement date. An employee's employment commencement date is the first day for which the employee is entitled to be credited with an hour of service described in § 2530.200b–2(a) (1) for an employer maintaining the plan. (For establishment of a reemployment commencement date following a break in service, see § 2530.200b–4(b) (1) (iii) and (iv)).

(b) *Eligibility computation periods after the initial eligibility computation period.* In measuring years of service for purposes of eligibility to participate after the initial eligibility computation period, a plan may adopt either of the following alternatives:

(1) A plan may designate 12-consecutive-month periods beginning on the first anniversary of an employee's employment commencement date and succeeding anniversaries thereof as the eligibility computation period after the initial eligibility computation period; or

(2) A plan may designate plan years beginning with the plan year which includes the first anniversary of an employee's employment commencement date as the eligibility computation period

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after the initial eligibility computation period (without regard to whether the employee is entitled to be credited with 1000 hours of service during such period), provided that an employee who is credited with 1000 hours of service in both the initial eligibility computation period and the plan year which includes the first anniversary of the employee's employment commencement date is credited with two years of service for purposes of eligibility to participate.

(c) *Service prior to a break in service.* For purposes of applying section 202(b)(4) of the Act and section 410(a)(5)(D) of the Code (relating to years of service completed prior to a break in service for purposes of eligibility to participate), the computation periods used by a plan in determining years of service before such break shall be the eligibility computation periods established in accordance with paragraphs (a) and (b) of this section.

(d) *Plans with three-year 100 percent vesting.* A plan which, under 202(a)(1)(B)(i) o fthe Act and section 410a(1)(B)(i) of the Code, requires more than one year of service for eligibility to participate in the plan shall use an initial eligibility computation period established under paragraph (a) of this section and eligibility computation periods designated in accordance with paragraph (b) of this section. Thus, for the eligibility computation period after the initial eligibility computation period, such a plan may designate either eligibility computation periods beginning on anniversaries of an employee's employment commencement date or plan years beginning with the plan year which includes the anniversary of the first day of the initial eligibility computation period.

(e) *Alternative eligibility computation period.* The following rule is designed primarily for a plan using a recordkeeping system which does not permit the plan to identify an employee's employment commencement date (or, in the case of an employee who has incurred a one-year break in service, the employee's reemployment commencement date), but which does permit the plan to identify a period of no more than 31 days during which the employee's employment commencement date (or reemployment commencement date) occurred.

(1) A plan may use an initial eligibility computation period (or initial computation period for measuring completion of a year of service upon an employee's return after a one-year break in service) beginning on the first day of a period of no more than 31 days during which an employee's employment commencement date (or reemployment commencement date) occurs and ending on the anniversary of the last day of such period.

(2) If a plan uses an initial eligibility computation period (or initial computation period for measuring completion of a year of service upon an employee's return after a one-year break in service) permitted under paragraph (e)(1) of this section, the plan shall use the following computation periods after the initial computation period:

(i) If the plan does not use plan years for computation periods after the initial computation period, the plan shall use computation periods beginning on anniversaries of the first day of the initial computation period and ending on anniversaries of the last day of the initial computation period, and including a period of at least 12 consecutive months.

(ii) If the plan uses plan years for computation periods after the initial computation period, the plan shall use plan years beginning with the plan year which includes the anniversary of the first day of the initial computation period.

(3) For purposes of determining an employee's commencement of participation under section 202(a)(4) of the Act and section 410(a)(4) of the Code, regardless of whether an eligibility computation period permitted under this paragraph includes a period longer than 12 consecutive months, an employee who completes 1000 hours of service in such eligibility computation period shall be treated as having satisfied the plan's service requirement for eligibility to participate as of the last day of the 12-consecutive-month period beginning on the first day of such eligibility computation period. In the case of a plan described in section 202(a)(1)(B)(i) of the Act and section 410(a)(1)(B)(i) of the Code, the requirement of the preceding sentence shall apply only with respect to the last year of service required under the plan for eligibility to participate.

(4) *Example.* A plan maintained by Employer X obtains records from X which indicate the number of hours worked by an employee during a monthly payroll period. The records do not, however, break down the number of hours worked by an employee by days. Thus, after a new employee has begun employment with X it is impossible for the plan to ascertain the employee's employment commencement date from the records furnished by X (although it is possible for the plan to determine the month during which an employee's employment commencement date occurred). For administrative convenience, in conjunction with the equivalency based on hours worked permitted under § 2530.200b-3(d)(1), and with the method of crediting hours of service to computation periods set forth in § 2530.200b-2(c)(4), the plan uses the alternative initial eligibility computation period permitted under this paragraph. The plan provides that an employee's initial eligibility computation period shall be the period beginning on the first day of the first monthly payroll period for which the employee is entitled to credit for the performance of duties and ending on the last day of the monthly payroll period which includes the anniversary of the last day of the initial monthly payroll period. This condition ensures that the initial eligibility computation period will include the 12-consecutive-month period beginning on the employee's employment commencement date and ending on the day before the anniversary of the employee's employment commencement date. If, however, an employee completes the plan's requirement of one year of service for eligibility to participate (i.e., completion of 870 hours worked in an eligibility computation period) in the initial eligibility computation period, the plan provides that the employee is deemed to have satisfied the plan's service requirements for eligibility to participate as of the day before the anniversary of the first day of the initial eligibility computation period. This provision ensures that no employee who has in fact completed 1000 hours of service in the 12-consecutive-month period beginning on the employee's employment commencement date will be admitted to participation later than the date specified under section 202(a)(4) of the Act and section 410(a)(4) of the Code. For example, in the case of an employee who begins employment in January, 1977, the employee's initial eligibility computation period begins on January 1, 1977 and ends on January 31, 1978. If the employee completes 879 hours worked in the initial eligibility computation period, the employee is treated as having met the plan's service requirements for eligibility to participate as of December 31, 1977. If the plan provides for semi-annual entry dates of January 1 and July 1, and the employee has met any eligibility requirements of the plan other than the minimum service requirement as of December 31, 1977, the plan must provide that the employee commences participation as of January 1, 1978.

§ 2530.203–1 Vesting; general.

(a) Section 203 of the Act and section 411(a) of the Code contain minimum vesting standards relating to certain employee pension benefit plans. In general, a pension plan subject to section 203 of the Act or section 411(a) of the Code must meet certain requirements relating to an employee's nonforfeitable ("vested") right to his or her normal retirement benefit. One of these requirements specifies that an employee's accrued benefit derived from employer contributions must be vested in accordance with certain schedules. The schedules (or alternative minimum vesting standards) are generally based on the employee's number of years of service with the employer or employers maintaining the plan. Section 2530.203–2 sets forth rules relating to the computation periods used to determine whether an employee has completed a year of service for vesting purposes ("vesting computation periods").

(b) For rules relating to service with the employer or employers maintaining the plan, *see* § 2530.210.

§ 2530.203–2 Vesting computation period.

(a) *Designation of vesting computation periods.* Except as provided in paragraph (b) of this section, a plan may designate any 12-consecutive-month period as the vesting computation period. The period so designated must apply equally to all participants. This requirement may be satisfied even though the actual 12-consecutive-month periods are not the same for all employees (e.g., if the designated vesting computation period is the 12-consecutive-month period

beginning on an employee's employment commencement date and anniversaries of that date). The plan is prohibited, however, from using any period that would result in artificial postponement of vesting credit, such as a period measured by anniversaries of the date four months following the employment commencement date.

(b) *Plans with 3-year 100 percent vesting.* For rules regarding when a participant has a nonforfeitable right to his accrued benefit, see section 202(a)(1)(B)(i) of the Act and 410(a)(1)(B)(i) of the Code and regulations issued thereunder.

(c) *Amendments to change the vesting computation period.* (1) A plan may be amended to change the vesting computation period to a different 12-consecutive-month period provided that as a result of such change no employee's vested percentage of the accrued benefit derived from employer contributions is less on any date after such change than such vested percentage would be in the absence of such change. A plan amendment changing the vesting computation period shall be deemed to comply with the requirements of this subparagraph if the first vesting computation period established under such amendment begins before the last day of the preceding vesting computation period and an employee who is credited with 1,000 hours of service in both the vesting computation period under the plan before the amendment and the first vesting computation period under the plan as amended is credited with 2 years of service for those vesting computation periods. For example, a plan which has been using a calendar year vesting computation period is amended to provide for a July 1–June 30 vesting computation period starting in 1977. Employees who complete more than 1,000 hours of service in both of the 12-month periods extending from January 1, 1977 to December 31, 1977 and from July 1, 1977 to June 30, 1978 are advanced two years on the plan's vesting schedule. The plan is deemed to meet the requirements of this subparagraph.

(2) For additional requirements pertaining to changes in the vesting schedule, see section 203(c)(1) of the Act and section 411(a)(10) of the Code and the regulations issued thereunder.

(d) *Service preceding a break in service.* For purposes of applying section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code, (relating to counting years of service before a break in service for vesting purposes), the computation periods used by the plan in computing years of service before such break must be the vesting computation periods. (For application of the break in service rules, see section 203(b)(3)(D) and section 411(a)(6)(D) of the Code and regulations issued thereunder.)

§ 2530.203–3 Suspension of Benefits upon Reemployment of Retirees. [Reserved]

§ 2530.204–1 Year of participation for benefit accrual.

(a) *General.* Section 204(b)(1) of the Act and section 411(b)(1) of the Code contain certain requirements relating to benefit accrual under a defined benefit pension plan. Some of these requirements are based on the number of years of participation included in an employee's period of service. Paragraph (b) of this section relates to service which must be taken into account in determining an employee's period of service for purposes of benefit accrual. Section 2530.204–2 sets forth rules relating to the computation periods to be used in measuring years of participation for benefit accrual ("accrual computation periods").

(b) *Service which may be disregarded for purposes of benefit accrual.* (1) In calculating an employee's period of service for purposes of benefit accrual under a defined benefit pension plan, section 204(b)(3) of the Act and section 411(b)(3) of the Code permit the following service to be disregarded: service before an employee first becomes a participant in the plan; service which is not required to be taken into account under section 202(b) of the Act and section 410(b)(5) of the Code (relating to one-year breaks in service for purposes of eligibility to participate); and service which is not required to be taken into account under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code (relating to 12-consecutive-month periods during which an employee's service is less than 1000 hours). In addition, in calculating an employee's period of service for purposes of benefit accrual, a defined benefit plan shall not be required to take into account service before the conclusion of a series of consecutive 1-year breaks in service occurs which permits a plan to disregard prior service under section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code.

(2) *Example.* The following example illustrates paragraph (b)(1) of this section. A plan has a calendar year vesting and accrual computation period and, under § 2530.202–2 (a) and (b)(1), uses eligibility computation periods beginning on an employee's employment commencement date and anniversaries thereof. The plan provides that an employee who has at least 10 years of service has a vested right to 100 percent of his accrued benefit derived from employer contributions. The plan provides that an employee who is credited with at least 1,000 hours of service in a calendar year accrual computation period is credited with at least partial year of participation for purposes of benefit accrual. An employee whose birthday is October 16, 1956, begins employment with an employer maintaining the plan on January 1, 1977. Under § 2530.202–2(a)(1), January 1, 1977 is the employee's employment commencement date and the calendar year 1977 is the employee's initial eligibility computation period. The employee completes at least 1,000 hours of service in each of the calendar years from 1977 through 1981. On January 1, 1982 the employee is admitted to participation in the plan, having met the plan's age requirement (25 years) and service requirement (one year of service) for eligibility to participate. In 1982, the employee is credited with the number of hours of service required for a full year of participation (i.e., more than 1,000 hours of service). Under § 2530.202–2(c), for purposes of applying section 202(b)(4) of the Act and section 410(a)(5)(D) of the Code (relating to years of service completed before a break in service for purposes of eligibility to participate), eligibility computation periods beginning on the employee's employment commencement date and anniversaries thereof are used under the plan to measure service prior to a break in service (in addition, under § 2530.200b–4(a)(2), the same eligibility computation periods are used in measuring one-year breaks in service for purposes of eligibility to participate). Thus, as of January 1, 1983, the employee is credited with six years of service for purposes of eligibility to participate and is credited with one year of participation. In accordance with section 203(b)(1)(A) of the Act and section 411(a)(4)(A) of the Code, the plan provides that years of service completed before age 22 are disregarded for purposes of vesting. As of January 1, 1983, therefore, the employee is credited with four years of service for purposes of vesting. In 1983 the employee terminates employment with the employer, incurring one-year breaks in service in each of the calendar years from 1983 through 1986. As of December 31, 1986, the employee's consecutive one-year breaks in service equal the employee's four years of service for vesting before such breaks. Under section 203(b)(3)(D) of the Act and section 410(a)(5)(D) of the Code and the terms of the plan, the four years of service for vesting completed by the employee before his four consecutive one-year breaks in service are not taken into account for purposes of vesting. Under paragraph (b)(1) of this section, therefore, in calculating the employee's period of service for purposes of benefit accrual, the plan may disregard the year of participation completed by the employee before his four consecutive one-year breaks in service for vesting, because the four consecutive one-year breaks in service equal the four years of service credited to the employee for vesting. The employee is re-employed by the employer on January 1, 1987 completing an hour of service on that date. Under § 2530.200b–4(b)(1), therefore, January 1, 1987 is the employee's reemployment commencement date. In 1987, the employee completes the number of hours of service required for a full year of participation (i.e., more than 1,000 hours of service). For 1987, therefore, the employee is credited with a year of service for purposes of eligibility to participate and vesting, and with a year of participation. As of December 31, 1987, the employee is credited with one year of service for purposes of vesting, since service before the employee's four consecutive one-year breaks in service—including the year of service completed in 1982—is not taken into account. Because under paragraph (b)(1) of this section, the year of participation credited to the employee for 1982 is not required to be taken into account for purposes of benefit accrual, the

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employee is credited with one year of participation as of December 31, 1987.

§ 2530.204–2 Accrual computation period.

(a) *Designation of accrual computation periods.* A plan may designate any 12-consecutive-month period as the accrual computation period except that the period so designated must apply equally to all participants. This requirement may be satisfied even though the actual time periods are not the same for all participants. For example, the accrual computation period may be designated as the vesting computation period, the plan year, or the 12-consecutive-month period beginning on either of two semi-annual dates designated for entry to participation under a plan.

(b) *Participation prior to effective date.* For purposes of applying the accrual rules of section 204(b)(1)(D) of the Act and section 411(b)(1)(D) of the Code (relating to accrual requirements for defined benefit plans for periods prior to the effective date of those sections), all service from the date of participation in the plan, as determined in accordance with applicable plan provisions, shall be taken into account in determining an employee's period of service. When the plan documents do not provide a definite means for determining the date of commencement of participation, the date of commencement of employment covered under the plan during the period that the employer maintained the plan shall be presumed to be the date of commencement of participation in the plan. The plan may rebut this presumption by demonstrating from circumstances surrounding the operation of the plan, such as the date of commencement of mandatory employee contributions, that participation actually began on a later date.

(c) *Partial year of participation.* (1) Under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code, in calculating an employee's period of service for purposes of benefit accrual, a plan is not required to take into account a 12-consecutive-month period during which the employee's service is less than 1000 hours of service. In measuring an employee's service for purposes of section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code, a plan shall use the accrual computation period designated under paragraph (a) of this section. Under section 204(b)(3)(B) of the Act and section 411(b)(3)(B) of the Code, in the case of an employee whose service is not less than 1,000 hours of service during an accrual computation period, the calculation of such employee's period of service will not be treated as made on a reasonable and consistent basis unless service during such computation period is taken into account. To the extent that the employee's service during the accrual computation period is less than the service required under the plan for a full year of participation, the employee must be credited with a partial year of participation equivalent to no less than a ratable portion of a full year of participation.

(2) For purposes of calculating the portion of a full year of participation to be credited to an employee whose service during a computation period is not less than 1,000 hours of service but is less than service required for a full year of participation in the plan, the plan may credit the employee with a greater portion of a full year of participation than a ratable portion, or may credit an employee with a full year of participation even though the employee's service is less than the service required for a full year of participation, provided that such crediting is reasonable and is consistent for all employees within the same job classifications, reasonably established.

(3) In the case of an employee who commences participation in a plan (or recommences participation in the plan upon the employee's return after one or more 1-year breaks in service) on a date other than the first day of an applicable accrual computation period, all hours of service required to be credited to the employee during the entire accrual computation period, including hours of service credited to the employee for the portion of the computation period before the date on which the employee commences (or recommences) participation, shall be taken into account in determining whether the employee has 1,000 or more hours of service for purposes of section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code. If such employee's service is not less than 1,000 hours in such accrual computation period, the employee must be credited with a partial year of participation which is equivalent to no less than a ratable portion of a full year of participation for service credited to the employee for the portion of the computation period after the date of commencement (or recommencement) of participation.

(4) Examples. The following are examples of reasonable and consistent methods for crediting partial years of participation:

(i) A plan requires 2,000 hours of service for a full year of participation. An employee who is credited during a computation period with no less than 1,000 hours of service but less than 2,000 hours of service is credited with a partial year of participation equal to a portion of a full year of participation determined by dividing the number of hours of service credited to the employee by 2,000.

(ii) A plan requires 2,000 hours of service for a full year of participation. The plan credits service in an accrual computation period in accordance with the following table:

Hours of service credited:	*Percentage of full year of participation credited*
1000	50
1001 to 1200	60
1201 to 1400	70
1401 to 1600	80
1601 to 1800	90
1801 and above	100

Under this method of crediting partial years of participation, each employee who is credited with not less than 1,000 hours of service is credited with at least a ratable portion of a full year of participation.

(iii) A plan provides that each employee who is credited with at least 1,000 hours of service in an accrual computation period must receive credit for at least a partial year of participation for that computation period. For full accrual, however, the plan requires that an employee must be credited with a specified number of hours worked; employees who meet the 1,000 hours of service requirement but who are not credited with the specified number of hours worked required for a full year of participation are credited with a partial year of participation on a prorata basis. For example, if the plan requires 1,500 hours worked for full accrual, an employee with 1,500 hours worked would be credited with full accrual, but an employee with 1,000 hours worked and 500 other hours of service would be credited with ⅔ of full accrual. The plan's method of crediting service for accrual purposes is consistent with the requirements of this paragraph. It should be noted, however, that use of hours worked as a basis for prorating benefit accrual may result in discrimination prohibited under section 401(a)(4) of the Code.

(iv) Employee A is employed on June 1, 1980 in service covered by a plan with a calendar year accrual computation period, and which requires 1,800 hours of service for a full accrual. Employee A completes 500 hours from June 1, 1980 to December 31, 1980, and completes 100 hours per month in each month during 1981. A is admitted to participation on July 1, 1981. A is credited with 1,200 hours of service for the accrual computation period beginning January 1, 1981. Under the rules set forth in paragraph (c)(3) of this section, A is required to be credited with not less than one-third of a full accrual (600 hours divided by 1,800 hours).

(d) *Prohibited double proration.* (1) In the case of a defined benefit plan that (i) defines benefits on a basis which has the effect of prorating benefits to reflect less than full-time employment or less than maximum compensation and (ii) does not adjust less-than-full-time service to reflect the equivalent of full-time hours or compensation (as the case may be), the plan may not further prorate benefit accrual under section 204(b)(3)(B) of the Act and section 411(b)(3)(B) of the Code by crediting less than full years of participation, as would otherwise be permitted under paragraph (c) of this section. These plans must credit, except when service may be disregarded under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code (relating to less than 1000 hours of service), less-than-full-time employees with a full year of participation for the purpose of accrual of benefits.

(2) *Examples.* (i) A plan's defined benefit formula provides that the annual retirement benefit shall be 2 percent of the average compensation in all years of participation multiplied by the number of years of participation. Employee A is a full-time employee who has completed 2,000 hours during each of 20 accrual computation periods. A's average hourly rate was $5 an hour. Thus, A's average

compensation for each year during participation in the plan is $10,000 ($5 per hour multiplied by 2,000 hours). If the plan states that a full year of participation is 2,000 hours, then A's annual retirement benefits, if he retired at that time, would be $4,000 ($10,000 per year of compensation ×.02×20 years of participation). Employee B, however, is a part-time employee who completes 1,000 hours of service during each of 20 accrual computation periods. Like A, B's average hourly rate is $5 per hour. B's average compensation for his total years of participation is $5,000 ($5 per hour multiplied by 1,000 hours). Thus, the plan's benefit formula, by basing benefits on an employee's average compensation in all years of participation, in effect prorates benefits to reflect the fact that during B's participation in the plan, he has earned less than the maximum compensation that a full-time employee paid at the same rate could earn during the same period of participation in the plan. Under the rule of subparagraph (1), therefore, the plan is not permitted to prorate B's years of participation to reflect B's less than full-time employment throughout his participation in the plan. Therefore, B's annual retirement benefit would be $2,000 ($5,000 average compensation ×.02×20 years of participation). (If double proration were permitted, then B's total years of participation would be only 10 since he would be credited with only one-half of a year of participation during each of the accrual computation periods (1,000/2,000). Thus, B's annual retirement benefit would be $1,000—i.e., $5,000 average compensation ×.02×10 years of participation.)

(ii) If the plan adjusts the average compensation during plan participation to reflect full compensation, then the plan may prorate years of participation. Thus, the average full annual compensation for B would be $10,000 rather than the $5,000 actually paid. Employee B's annual retirement benefit would then be $2,000 ($10,000 average full compensation × .02 × 10 years of participation).

(e) *Amendments to change accrual computation periods.* (1) A plan may be amended to change the accrual computation period to a different 12-consecutive-month period, provided that the period between the end of the last accrual computation period under the plan as in effect before such amendment and the beginning of the first accrual computation period under the plan as amended is treated as a partial accrual computation period in accordance with the rules set forth in subparagraph (2) of this paragraph.

(2) In the case of a partial accrual computation period, the following rules shall apply:

(i) A plan having a minimum service requirement expressed in hours of service (or other units of service) for benefit accrual in a full accrual computation period (as permitted under section 204(b)(3)(B) of the Act and section 411(b)(3)(B) of the Code) may apply a minimum service requirement for benefit accrual in a partial accrual computation period which is equal to the plan's minimum service requirement for benefit accrual in a full accrual computation period, multiplied by the ratio of the length of the partial accrual computation period to a full year.

(ii) In the case of a participant who meets a plan's minimum service requirement for benefit accrual in a partial accrual computation period (as permitted under subparagraph (2)(i) of this paragraph), the plan shall credit the participant with at least a partial year of participation for purposes of benefit accrual. Credit for a partial accrual computation period shall be determined in accordance with paragraphs (c) and (d) of this section.

(3) *Example.* Effective October 1, 1977, a plan is amended to change the accrual computation period from the 12-consecutive-month period beginning on January 1 to the 12-consecutive-month period beginning on October 1. The period from January 1, 1977 to September 30, 1977 must be treated as a partial accrual computation period. The plan has a requirement that a participant must be credited with 1,000 hours of service in an accrual computation period in order to be credited with a year of participation for purposes of benefit accrual. For the partial accrual computation period the plan may require a participant to be credited with 750 hours of service in the partial accrual computation period in order to receive credit for purposes of benefit accrual (1,000 hours of service multiplied by the ratio of 9 months to 12 months). To the extent permitted under paragraph (d) of this section, the plan may prorate accrual credit for employees whose service is 1,000 hours of service or more but less than service required for full accrual in a full accrual computation period.

§ 2530.204–3 Alternative computation methods for benefit accrual.

(a) *General.* Under section 204(b)(3)(A) of the Act and section 411(b)(3)(A) of the Code, a defined benefit pension plan may determine an employee's service for purposes of benefit accrual on the basis of accrual computation periods, as specified in § 2530.204–2, or on any other basis which is reasonable and consistent and which takes into account all covered service during the employee's participation in the plan which is included in a period of service required to be taken into account under section 202(b) of the Act and section 410(a)(5) of the Code. If, however, a plan determines an employee's service for purposes of benefit accrual on a basis other than computation periods, it must be possible to prove that, despite the fact that benefit accrual under the plan is not based on computation periods, the plan's provisions meet at least one of the three benefit accrual rules of section 204(b)(1) of the Act and section 411(b)(1) of the Code under all circumstances. Further, a plan which does not provide for benefit accrual on the basis of computation periods may not disregard service under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code.

(b) *Examples.* The following are examples of methods of determining an employee's perio dof service for purposes of benefit accrual under which an employee's period of service is not determined on the basis of computation periods but which may be used by a plan provided that the requirements of paragraph (a) of this section are met:

(1) *Career Compensation.* A defined benefit formula based on a percentage of compensation earned in a participant's career or during participation, with no variance depending on hours completed in given periods.

(2) *Credited Hours.* A defined benefit formula pursuant to which an employee is credited with a specified amount of accrual for each hour of service (or hour worked or regular time hour) completed by the employee during his or her career.

(3) *Elapsed Time.* See § 2530.200b–9(e).

§ 2530.204–4 Deferral of Benefit Accrual.

For purposes of section 204(b)(1)(E) of the Act and section 411(b)(1)(E) of the Code (which permit deferral of benefit accrual until an employee has two continuous years of service), an employee shall be credited with a year of service for each computation period in which he or she completes 1,000 hours of service. The computation period shall be the eligibility computation period designated in accordance with § 2530.202–2.

Subpart C—Form and Payment of Benefits

§ 2530.205 [Reserved]

§ 2530.206 [Reserved]

Subpart D—Plan Administration as Related to Benefits

§ 2530.207 [Reserved]

§ 2530.208 [Reserved]

§ 2530.209 [Reserved]

§ 2530.210 Employer or employers maintaining the plan.

(a) *General statutory provisions.* (1) *Eligibility to participate and vesting.* Except as otherwise provided in sections 202(b) or 203(b)(1) of the Act and sections 410(a)(5), 411(a)(5) and 411(a)(6) of the Code, all years of service with the employer or employers maintaining the plan shall be taken into account for purposes of section 202 of the Act and section 410 of the Code (relating to minimum eligibility standards) and section 203 of the Act and section 411(a) of the Code (relating to minimum vesting standards).

(2) *Accrual of benefits.* Except as otherwise provided in section 202(b) of the Act and section 410(a)(5) of the Code, all years of participation under the plan must be taken into account for purposes of section 204 of the Act and section 411(b) of the Code (relating to benefit accrual). Section 204(b) of the Act and 411(b) of the Code require only that periods of actual participation in the plan (e.g., covered service) be taken

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into account for purposes of benefit accrual.

(b) *General rules concerning service to be credited under this section.* Section 210 of the Act and sections 413(c), 414 (b) and 414(c) of the Code provide rules applicable to sections 202, 203, and 204 of the Act and sections 410, 411(a) and 411 (b) of the Code for purposes of determining who is an "employer or employers maintaining the plan" and, accordingly, what service is required to be taken into account in the case of a plan maintained by more than one employer. Paragraphs (c) through (e) of this section set forth the rules for determining service required to be taken into account in the case of a plan or plans maintained by multiple employers, controlled groups of corporations and trades or businesses under common control. Note throughout that every mention of multiple employer plans includes multiemployer plans. See § 2530.210(c)(3). Paragraph (f) of this section sets forth special break in service rules for such plans. Paragraph (g) of this section applies the break in service rules of sections 202(b)(4) and 203(b)(3)(D) of the Act and sections 410(a)(5)(D) and 411(a)(6)(D) of the Code (rule of parity) to such plans.

(c) *Multiple employer plans*—(1) *Eligibility to participate and vesting.* A multiple employer plan shall be treated as if all maintaining employers constitute a single employer so long as an employee is employed in either covered service or contiguous noncovered service. Accordingly, except as referred to in paragraph (a)(1) and provided in paragraph (f) of this section, in determining an employee's service for eligibility to participate and vesting purposes, all covered service with an employer or employers maintaining the plan and all contiguous noncovered service with an employer or employers maintaining the plan shall be taken into account. Thus, for example, if an employee in service covered under a multiple employer plan leaves covered service with one employer maintaining the plan and is employed immediately thereafter in covered service with another employer maintaining the plan, the plan is required to credit all hours of service with both employers for purposes of participation and vesting. If an employee moves from contiguous noncovered to covered service, or from covered service to contiguous noncovered service, with the same employer, the plan is required to credit all hours of service with such employer for purposes of eligibility to participate and vesting.

(2) *Benefit accrual.* A multiple employer plan shall be treated as if all maintaining employers constitute a single employer so long as an employee is employed in covered service. Accordingly, except as referred to in paragraph (a)(2) and provided in paragraph (f) of this section, in determining a participant's service for benefit accrual purposes, all covered service with an employer or employers maintaining the plan shall be taken into account.

(3) *Definitions.* (i) For purposes of this section, the term "multiple employer plan" shall mean a multiemployer plan as defined in section 3(37) of the Act and section 414(f) of the Code or a multiple employer plan within the meaning of sections 413 (b) and (c) of the Code and the regulations issued thereunder. Notwithstanding the preceding sentence, a plan maintained solely by members of the same controlled group of corporations within the meaning of paragraph (d) of this section or by trades or businesses which are under the common control of one person or group of persons within the meaning of paragraph (e) of this section shall not be deemed to be a multiple employer plan for purposes of this section, and such plan is required to apply the rules under this section which are applicable to controlled groups of corporations or commonly controlled trades or businesses respectively.

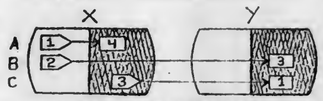
(ii) For purposes of this section, the term "covered service" shall mean service with an employer or employers maintaining the plan within a job classification or class of employees covered under the plan.

(iii) For purposes of this section the term "noncovered service" shall mean service with an employer or employers maintaining the plan which is not covered service.

(iv) (A) *General.* For purposes of this section noncovered service shall be deemed "contiguous" if (1) the noncovered service precedes or follows covered service and (2) no quit, discharge or retirement occurs between such covered service and noncovered service.

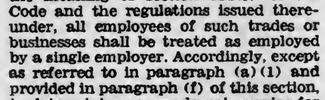
(B) *Exception.* Notwithstanding the preceding paragraph, in the case of a controlled group of corporations within the meaning of paragraph (d) of this section or trades or businesses which are under the common control of one person or group of persons within the meaning of paragraph (e) of this section, any transfer of an employee from one member of the controlled group to another member or from one trade or business under common control to another trade or business under the common control of the same person or group of persons shall result in the period of noncovered service which immediately precedes or follows such transfer being deemed "noncontiguous" for purposes of paragraph (c) of this section.

Diagram No. 1. (Multiple Employer Plan.)



Assume for purposes of diagram No. 1 that X and Y are both employers who are required to contribute to a multiple employer plan and that neither employer maintains any other plan. Covered service is represented by the shaded segments of the diagram. After completing 1 year of noncovered service, employee A immediately enters covered service with X and completes 4 years of covered service. For purposes of eligibility to participate and vesting, the plan is required to credit employee A with 5 years of service with employer X because his period of service with X includes a period of covered service and a period of contiguous noncovered service. On the other hand, employee B, immediately after completing 2 years of noncovered service with X, enters covered service with Y. Because B quit employment with X, his period of noncovered service with X is not contiguous and, therefore, is not required to be taken into account. In the case of employee C, the plan is required to take into account all service with employers X and Y because employee C is employed in covered service with both employers.

Diagram No. 2. (Multiple Employer.)



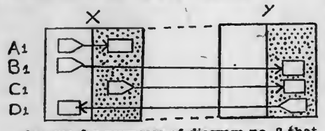
The multiple employer plan rules with respect to noncovered service are illustrated in diagram No. 2. Assume that X and Y are both employers who are required to contribute to a multiple employer plan and that neither employer maintains any other plan. Covered service is represented by the shaded segments of the diagram. Employee E completed 3 years of service with employer X in covered service and then immediately entered noncovered service with X. Because E's noncovered service is contiguous, the plan is required to take into account all service with X for purposes of eligibility to participate and vesting under the multiple employer plan. Employee F does not continue to receive credit; F quit the employment of Y and entered noncovered service with X.

(d) *Controlled groups of corporations.* (1) With respect to a plan maintained by one or more members of a controlled group of corporations (within the meaning of section 1563(a) of the Code, determined without regard to section 1563 (a)(4) and (e)(3)(C)), all employees of such corporations shall be treated as employed by a single employer.

(2) Accordingly, except as referred to in paragraph (a)(1) and provided in paragraph (f) of this section, in determining an employee's service for eligibility to participate and vesting purposes, all service with any employer which is a member of the controlled group of corporations shall be taken into account. Except as referred to in paragraph (a)(2) and provided in paragraph (f) of this section, in determining a participant's service for benefit accrual purposes, all service during periods of participation covered under the plan with any employer which is a member of the controlled group of corporations shall be taken into account.

(e) *Commonly controlled trades or businesses.* With respect to a plan maintained only by one or more trades or businesses (whether or not incorporated) which are under common control within the meaning of section 414(c). of the Code and the regulations issued thereunder, all employees of such trades or businesses shall be treated as employed by a single employer. Accordingly, except as referred to in paragraph (a)(1) and provided in paragraph (f) of this section, in determining an employee's service for eligibility to participate and vesting purposes, all service with any employer which is under common control shall be taken into account. Except as referred to in paragraph (a)(2) and provided in paragraph (f) of this section, in determining a participant's service for benefit accrual purposes, all service during periods of participation covered under the plan with any employer which is under common control shall be taken into account.

Diagram No. 3. (Controlled group or commonly controlled trade or business.)



Assume for purposes of diagram no. 3 that X and Y are either members of the same controlled group of corporations or trades or businesses which are under the same common control. The dotted segments of the diagram represent plan coverage under plans separately maintained by X and Y. Neither employer maintains any other plans. Because A1, B1, C1 and D1 have their service with X and Y treated as if X and Y were a single employer, the plans are required to take into account all service with X and Y for eligibility to participate and vesting purposes.

(f) *Special break in service rules.* (1) In addition to service which may be disregarded under the statutory provisions referred to in paragraph (a) of this section, a multiple employer plan may disregard noncontiguous noncovered service.

(2) In the case of a plan maintained solely by one or more members of a controlled group of corporations or one or more trades or businesses which are under common control, if one of the maintaining employers is also a participating employer in a multiple employer plan which includes other employers which are not members of the controlled group or commonly controlled trades or businesses, service with such other employer maintaining the multiple employer plan may be disregarded by the controlled group or commonly controlled plan.

Diagram No. 4. (Break in Service Rules)

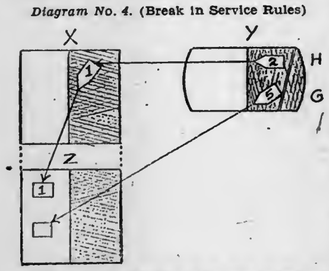


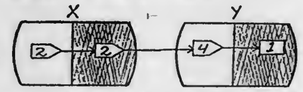
Diagram no. 4 illustrates the break in service rules of paragraph (f) of this section. Assume for purposes of diagram no. 4 that employer Z is controlled by employer X but employer Y's only relation to X and Z is that X, Y and Z are required to contribute to a multiple employer plan. The multiple employer plan, represented by the shaded segments of the diagram, provides for 100% vesting after 10 years. X, Y and Z maintain no other plans.

Employee G completed 5 years of covered service with employer Y, and then moved to noncovered service with employer Z. G's noncovered service is noncontiguous (see employee F in diagram no. 2 above), and such service may be disregarded for purposes of the multiple employer plan under the rule in paragraph (f)(1).

Employee H completed 2 years of covered service with employer Y and then entered covered service with employer X for 1 year. The multiple employer plan is required to credit H with 3 years of service. H then entered noncovered service with employer Z. H's noncovered service is noncontiguous (see employee F in diagram no. 2 above), and such service may be disregarded for purposes of the multiple employer plan under the rule in paragraph (f)(1).

(g) *Rule of parity.* For purposes of sections 202(b)(4) and 203(b)(3)(D) of the Act and sections 410(a)(5)(D) and 411(a)(6)(D) of the Code, in the case of an employee who is a nonvested participant in employer-derived accrued benefits at the time he incurs a 1-year break in service, years of service completed by such employee before such break are not required to be taken into account if at such time he incurs consecutive 1-year breaks in service which equal or exceed the aggregate number of years of service before such breaks. This is so even though the period of noncontiguous noncovered service with an employer or employers maintaining the plan may subsequently be deemed contiguous as the result of the employee entering covered service with the same employer maintaining the plan and, consequently, such plan may be required to credit such service.

Diagram no. 5. (Rule of parity)



Assume for purposes of diagram no. 5 that X and Y are both employers who are required to contribute to a multiple employer plan which contains a provision applying the rule of parity. Covered service is represented by the shaded segments of the diagram. The plan has 100% vesting after ten years. X and Y maintain no other plan.

The multiple employer plan credited employee I with 4 years of service with X when he quit employment with X and entered noncovered service with Y. As a result of 4 years of noncontiguous noncovered service with Y, employee I incurred 4 consecutive 1-year breaks in service, so that the multiple employer plan may disregard his prior service (i.e., the 4 years of service with X).

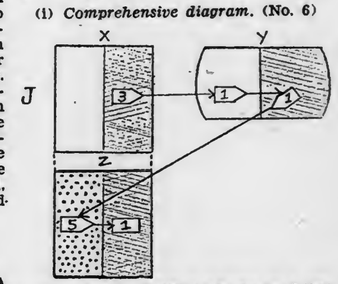
When employee I entered covered service with Y (as a "new employee"), his 4 years of noncontiguous service with Y became contiguous for purposes of the multiple employer plan. Consequently, after 1 year of covered service with Y, the plan is required to credit employee I with 5 years of service.

(h) *Example.* Under section 203(b)(1)(C) of the Act and section 411(a)(4)(C) of the Code, service with an employer prior to such employer's adoption of the plan need not be taken into account. The following example demonstrates that this rule applies even if an employee is employed in contiguous noncovered service. The example is applicable to any plan subject to the rules of this section. However, for purposes of clarity, the example assumes that X and Y are required to contribute to a multiple employer plan.

Assume that employee D completed 3 years of covered service with employer Y as of the date X adopts the plan. Immediately after X's adoption of the plan D left covered service with Y and D entered covered service with X. His prior covered service with Y is required to be counted, and D remains a participant.

On the other hand, if D had entered service with X anytime prior to X's adoption of the plan and subsequently was covered by the plan when X adopted it, has prior service with Y must also be counted, unless such service may be disregarded under the break in service rules because the period of service with X before X's adoption of the plan was equal to or greater than his prior service with Y. For example, if X adopted the plan three years after D began employment with X, and consequently after D had incurred 3 consecutive 1-year breaks in service, his prior service with Y could be disregarded.

(i) *Comprehensive diagram.* (No. 6)



Assume for purposes of diagram no. 6 that employer Z is controlled by employer X within the meaning of paragraph (d) but employer Y's only relation to X and Z is that X, Y and Z are required to contribute to a multiple employer plan. The shaded segments represent coverage under the multiple employer plan which contains a provision applying the rule of parity. The dotted segment represents a separate plan maintained by Z. Both plans have 100% vesting after 10 years.

Employee J completed 3 years of service with employer X in covered service with the multiple employer plan. J then entered noncovered service with Y and remained with Y for 1 year, and thereby incurred a 1-year break in service under the multiple employer plan. J then entered covered service with employer Y, thereby causing the noncovered service with Y to become contiguous. Covered service with X and contiguous noncovered and covered service with Y must be taken into account for purposes of the multiple employer plan; accordingly, that plan is required to credit J with a total of 5 years of service.

J then left service with Y and entered noncovered service (with respect to the multiple employer plan) with Z. J remained in noncovered service with Z (with respect to the multiple employer plan) for 5 years and thereby incurred 5 consecutive 1-year break in service for purposes of the multiple employer plan. Consequently, the prior service with X and Y may be disregarded for purposes of the multiple employer plan.

J then entered covered service under the multiple employer plan with Z and com-

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pleted 1 year of service. Because the 5 years of noncovered service with Z is contiguous with the 1 year of covered service, the multiple employer plan is now required to credit J with 6 years of service for purposes of eligibility to participate and vesting.

For purposes of Z's controlled group plan (i.e., dotted segment), employee J is entitled to receive credit for 9 years of service. The 3 years of service with X, a member of the controlled group, may not be disregarded under the rule of parity because J incurred only 2 consecutive 1-year breaks in service while employed with Y. When J entered service with Z covered under Z's controlled group plan, the 3 years of service with X were still required to be credited by the controlled group plan. In addition, J must receive credit for the 5 years of service with Z covered under the controlled group plan. Finally, when J moved to service with Z covered under the multiple employer plan the controlled group plan was required to credit J with an additional year of service.

Signed at Washington, D.C. this 22nd day of December, 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.76-38096 Filed 12-23-76;8:45 am]

federal register

TUESDAY, DECEMBER 28, 1976

PART III



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

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COTTON DUST

Proposed Standards for Exposure and Notice of Hearing

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1910 and 1928]

[Docket No. H–052]

OCCUPATIONAL EXPOSURE TO COTTON DUST

Proposed Standards and Notice of Hearing

Pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 ("the Act") (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8–76 (41 FR 25059) and Title 29, Code of Federal Regulations ("CFR"), Part 1911, it is proposed to amend Part 1910 of 29 CFR by adding a new occupational safety and health standard for exposure to cotton dust as 29 CFR 1910.-1043, and by deleting the present standard for "cotton dust (raw)" contained in Table Z–1 of 29 CFR 1910.1000. This standard would apply to all employments in all industries covered by the Act, including "general industry," construction, maritime and agriculture except harvesting.

In addition, pursuant to section 4(b)(2) of the Act (84 Stat. 1592, 29 U.S.C. 653), if th standard, when promulgated, is determined to be more effective than corresponding standards now applicable to the maritime and construction industries contained in Subpart B of Part 1910, Parts 1915, 1916, 1917, 1918, and 1926 of 29 CFR, the new cotton dust standard will supersede the corresponding maritime and construction standards for exposure to cotton dust. Appropriate conforming amendments will be made in Subpart B of Part 1910, and amendments to delete the superseded standards and replace them with references to the new cotton dust standard will be made in 29 CFR 1926.55 and in similar sections of Parts 1915–1918.

Further, to clarify the proposed application of the cotton dust standard to agricultural operations including cotton ginning (but excluding harvesting), it is proposed to amend 29 CFR 1928.21 to add the cotton dust standard to the list of standards applicable to agriculture.

During Fiscal Year 1977, which ends on September 30, 1977, OSHA is subject to a rider attached to the Department of Labor-Department of Health, Education, and Welfare Appropriations Act (Pub. L. 94–439), which prohibits, among other things, the expenditure of funds to prescribe or issue any standard which is applicable to any person engaged in a farming operation and employing 10 or fewer employees. Accordingly, to the extent that there are farming operations (such as cotton ginning done on the farm) which would otherwise be covered by this standard but which employ 10 or fewer employees, this standard would not be applicable to such operations so long as the rider remains in effect.

The accompanying document is a proposal issued pursuant to sections 6(b) and 8(c) of the Act. As explained more fully below, the agency requests the submission of written comments, data, and arguments from interested persons on the various issues specifically addressed or implicit in the proposal. In addition, pursuant to section 6(b)(3) of the Act, there will be an informal rulemaking hearing to provide further opportunity for presentation of evidence and discussion of the issues. After the hearing the Occupational Safety and Health Administration (OSHA) will issue a final standard based upon the full record in the proceeding.

Very briefly, the proposed standard provides for a permissible employee exposure limit of 200 micrograms of vertical elutriated cotton dust per cubic meter of air (200 $\mu g/m^3$) averaged over any eight-hour period. The proposal also provides for, among other things, the measurement of employee exposure, methods of compliance, personal protective equipment, training, work practices including housekeeping, medical surveillance, signs and recordkeeping.

Some of the major issues raised in this proposal on which comment is requested include the following:

(1) Whether the proposed application of the permissible exposure limit for cotton dust to all employments in all industries covered by the Act, including "general industry", maritime, construction, and agriculture, but excluding harvesting, is appropriate.

(2) Whether different standards should be set for different industries involved with cotton dust, such as ginning, merchandising, textiles, cottonseed oil manufacturing, waste utilization operations, etc., or for various operations within industries, especially weaving, knitting and subsequent processes such as dyeing.

(3) What is the impact of seasonal employment on the hazards of exposure to cotton dust.

(4) Whether present knowledge of the physiological response to cotton dust is sufficiently developed to set different standards for cotton dusts generated from different varieties of cotton grown in different regions and generated in the wide variety of industrial processes.

(5) Whether the selection of the substance to be regulated, namely vertical elutriated particulates, is appropriate.

(6) Whether the proposed permissible exposure limit of 200 $\mu g/m^3$ incorporate an appropriate margin of safety for all affected employees.

(7) Whether the prevention of reversible symptoms or reversible physiological changes should be considered in establishing a standard, such as this one for exposure to cotton dust.

(8) Whether the proposed compliance schedule is technologically feasible; what are the expected compliance costs and ability of the affected industries to comply.

(9) Whether the proposed provisions for employee exposure measurements, compliance procedures, work practices, medical surveillance, protective equipment and recordkeeping are appropriate.

(10) Whether certain aspects of the medical surveillance proposed should be conducted by a non-physician and if so what training or certification should be required.

(11) Whether there are groups with increased susceptibility to cotton dust in the working population, such as smokers and asthmatics, and whether such susceptibility, if it exists, should be considered in establishing a standard for occupational exposure to cotton dust.

(12) Whether medical measurements, mainly pulmonary function measurement, need to be applied differently to different ethnic groups.

(13) What requirements should be established where, as a result of the medical surveillance program, it is determined that an employee is at increased risk.

(14) Whether the standard should include specific requirements for methods and equipment to be used in conducting pulmonary function tests and, if so, what is appropriate.

(15) Whether, as proposed, cleaning of equipment and surfaces using compressed air ("blow-downs") should be prohibited or restricted to a time when only personnel doing such work are present and using personal protective equipment.

I. Background

A. General

Cotton is commercially grown in at least nineteen States and is a major crop in fourteen. The states generally considered to be the largest producers of cotton are Texas, California, Mississippi and Arkansas. Between ten and thirteen million bales (480 lbs. net wt.) of cotton lint are produced annually in the United States. At the farm level, cotton was worth almost $3 billion in 1973 and more than $12 billion at retail levels. The number of workers involved in cotton fiber processing alone was estimated by OSHA in 1973 to be at least 800,000.

The cotton industry of the United States can be divided into eleven processes: (1) harvesting; (2) ginning; (3) warehousing and compressing of cotton lint; (4) classing and marketing of cotton lint; (5) yarn manufacturing using cotton lint; (6) fabric manufacturing using cotton yarn; (7) reclaiming and marketing of textile manufacturing waste; (8) delintering of cottonseed; (9) marketing and converting of linters; (10) reclaiming and marketing of ginmotes; and (11) batting, yarn and felt manufacturing using waste cotton fibers and byproducts. Within each of these major processes there are various stages, distinct work procedures and methods of operation.

Less than 15 percent of the cotton crop is grown in the southeastern states where the textile industry is concentrated. Thus, a large proportion of the crop is transported long distances to domestic mills or to ports for export. Most of the crop is harvested and ginned in the fall and early winter; it is processed by domestic and foreign mills on a year round basis. Hence, storage and transportation are major elements of the entire cotton industry.

As soon as cotton is harvested it is usually hauled to a nearby gin. The gin has features which are similar to a fixed industrial work place such as a textile

mill. After the seed cotton arrives at the gin, it is exposed to multiple stages of conditioning and cleaning most, if not all, of which result in cotton dust exposures. The line is separated from the seed and packaged into bales weighing approximately 480 pounds.

After ginning most cotton lint moves into a warehouse for storage or a compress for hydraulic pressing to higher density pending shipment to cotton mills or ports for export. Bales are initially sampled at the gin or warehouse for the United States Department of Agriculture classification which is furnished to cotton producers under the United States Cotton Standard Act (7 U.S.C. 51–65). Bales are usually resampled by warehousemen and reclassed by merchants or shippers one or more additional times as they move through marketing channels. Transportation, storing and sampling of cotton all involve employee exposure to cotton dust primarily as a result of cotton dust being generated into the atmosphere by the handling of cotton.

Cotton lint arrives at the textile mill in hydraulically compressed packaged bales. At the mill the bale covering is removed and the contents are passed through the opening machinery which exposes it to successive processes of intense decompression, beating, cleaning, and mixing. During these operations, dirt and other heavy impurities are removed by gravity or by centrifugal force through grids or screens. Cotton from the opening equipment is usually conveyed pneumatically to the picker room where it is fed evenly to the pickers which further open and clean the cotton and deliver either a picker lap, a flat thick batt of randomly oriented fibers, or pneumatically conveyed loose cotton lint to the carding machinery. Carding machines comb the fiber so that it lies straight and parallel and some cleaning is also effected. Large quantities of dust can be produced by this process and the card room has traditionally been one of the dustiest workrooms in a mill. The main processes in a spinning mill after carding are: drawing to obtain thorough fiber mixing and weight uniformity, roving to draw the sliver down to one fourth to one-eighth its original size and slightly twist it, and spinning to give considerable fine draft to the soft roving and twist it into yarn. Processes subsequent to spinning are only amalgamation of yarn units or changes in the form of package and result in the production of a yarn in a form suitable for dispatch to the fabric manufacturing mill. Weaving is the process of interlacing two sets of yarn, one running lengthwise on a loom, the other crosswise, by means of a shuttle. This results in a woven fabric, ready for finishing processes such as dyeing.

Textile wastes are usually packaged into bales at the textile plant, frequently in a separate building or work area referred to as the waste house, and sold to textile waste dealers or directly to textile waste processing plants. At the waste processing plant the bale covering is removed, the contents are passed through a hand opening and cleaning process for removal of gross debris such as paper and pieces of metal caps from floor sweepings and then through machinery which exposes the contents to successive processes of intense beating, cleaning and mixing before rebaling and storage pending sale to the spinning trade for use in yarn and the felting trade for use in batting and felting. As this description indicates, waste processing is an extremely dusty operation.

The cottonseed is separated from the cotton lint at the gin. From the gin, most cottonseed moves into oilseed processing. Cotton linters, the short fibrous material adhering to cotton seed after ginning, are removed from the seed by machines before the seeds are crushed.

Gin motes are a byproduct of the cotton ginning process consisting of any cotton waste useable for its fiber content. Gin motes may be cleaned and baled at the gin, usually in a building separate from the gin plant, or sold in loose form to mote cleaning plants which pick up motes in bins or trailers at regular intervals. At the mote cleaning plant the loose gin motes and the unclean baled gin motes are cleaned or reclaimed, baled and stored pending sale to the spinning trade for use in yarn and to the felting trade for use in batting and felting.

Three types of waste cotton fibers and byproducts are used in manufacturing batting and felting for bedding, automotive uses, upholstered furniture and thermal insulation: cotton linters, gin motes and cotton mill wastes. All of the cotton fibers and byproducts used in mattress felts and related products arrive at the batting manufacturers in packaged bales. At the plant the bale covering is removed and the contents are passed through opening and mixing machinery which exposes it to successive processes of decompression, beating, cleaning and mixing. Cotton from opening equipment is sucked up to a condenser before it is delivered to the garnetting machinery. The garnet consists of two main cylinders and many smaller ones which further separate and form the fibers into fine web, causing much of the trash to be liberated.

The proportion of cotton to synthetic fiber in textile goods has generally decreased in recent years with the advent of newer texturizing processes for synthetic fibers. However, processed cotton has certain desirable properties which make it unlikely that complete substitution by synthetic fibers would ever occur. Among these are its properties of moisture absorbancy, coolness, softness, ready adaptability into leisure fabrics such as denim and corduroy, and economy of use. In addition, substitution of synthetic fibers results in increased use of petroleum products and other forms of energy.

B. History of Regulation

Although textile workers have long been know to suffer from a high prevalence of respiratory disease, substantial improvements relating to working conditions in the cotton textile industry did not occur until well into the twentieth century. The most imporant early improvements came in England as a result of legislative acts requiring medical inspection of workplaces, compulsory reporting of industrial diseases and compensation of the diseased and disabled workers. In 1942 a compensation scheme was introduced in England as a means of implementing the Factory Act of 1937 and associated legislation which for the first time recognized byssinosis as an occupational disease.

At that time byssinosis was thought to be confined to British cotton mills. Even as recently as 1961, its occurrence in the United States was said to be almost nil. Ten years later prevalence of byssinosis in the United States on the order of 20–30 percent was found in carding operations. (*16*) In 1964 the American Conference of Governmental Industrial Hygienists (ACGIH) placed cotton dust on its tentative list of threshold limit values, and in 1966 they adopted a 1000 ug/m³ of total cotton dust as their recommended value for exposure. This TLV was based upon the work of Roach and Schilling (*1*) in the Lancashire cotton mills. Exposure to cotton dust was not regulated in the U.S. until 1968, when the Secretary of Labor under the Walsh-Healey Act (41 U.S.C. 35 et seq.), promulgated the 1968 ACGIH list of Threshold Limit Values which included a "cotton dust (raw)" limit of 1000 ug/m³. This standard was subsequently adopted as an established Federal standard under section 6(a) of the Occupational Safety and Health Act of 1970. In 1972, the British Occupational Hygiene Society (BOHS) published a report, largely based upon Molyneux and Berry's "Correlation of Cotton Dust Exposure with the Prevalence of Respiratory Symptoms, (*55*)" recommending a new standard of 500 ug/m³ less "fly"; the term fly meaning dust particles removed by a 2-mm wire screen. In addition, in 1972, on the basis of BOHS and others, a revision of the TLV was recommended that would measure respirable dust rather than "total dust". In 1974, a TLV of 200 ug/m³ of cotton dust as measured by the vertical elutriator was adopted by ACGIH. The rationale was stated as follows:

Molyneux and Berry, in a 3-year prospective study of cardroom workers in Lancashire, concluded that two components of the total dust, the "respirable" and "medium" fractions correlated significantly with the prevalence of respiratory symptoms. The committee of Hygiene Standards of the British Occupational Hygiene Society stated on the basis of this study that a concentration of 0.3 to 0.4 mg/m³ of "fly-free" dust results in 20 percent byssinosis. ("Fly-free" cotton dust is the sum of respirable and medium length fibers. At an average level of 0.46 mg/m³ fly-free dust, 6 percent Grade II byssinosis occurred. Merchant, Lumsden and Kilburn using the vertical elutriator sampler, showed a byssinosis (all grades) prevalence of 20 percent at 0.3 mg/m³ of dust with fiber length less than 15 um. In slashing and weaving areas of the mills, only 6 percent byssinosis, all grades, occurred at 0.5 mg/m³. A probit line of best fit of the data indicated that raw, untreated cotton would result in 3 percent byssinosis at 0.05 mg/m³, 7 percent at 0.1 mg/m³, 13 percent at 0.2

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mg/m³. The BOHS Committee further determined that less than one case of Grade II byssinosis occurred per five cases of byssinosis all grades, at 0.5 mg/m³. Thus, the 13 percent byssinosis, all grades found by Merchant et al. in this country at 0.2 mg/m³ would result in considerably less than 3 percent Grade II byssinosis. Moreover, Merchant et al. have shown that a concentration of 0.2 mg/m³ in the cotton preparation room was equivalent in byssinosis production to 1 mg/m³ in the slashing and weaving areas.

From the statistical treatment of the data, the interpretation of the findings of Merchant et al. would appear to be that there is no readily measureable limit for raw cotton dust that will completely eliminate Monday morning "chest tightness" and reduction in 1-second forced expiratory volumes.

Accordingly, a TLV for raw cotton of 0.2 mg/m³ of dust composed of fibers less than 15 um in length is recommended. The limit is intended to prevent Monday morning chest tightness in most of the workers so that the more susceptible may be detected and transferred out of the exposure before irreversible damage to health results.

On September 26, 1974, pursuant to section 20(a)(3) of the Act, the Director of the National Institute for Occupational Safety and Health (NIOSH) submitted to the Secretary of Labor a criteria document containing a recommended standard for cotton dust. Among other things, the significant sections of the recommended standard included medical management and surveillance, personal protective equipment, posting of signs, exposure monitoring, informing employees of the hazards of cotton dust, recordkeeping and work practices. The NIOSH recommendation was intended to apply to all employments in all segments of the cotton industry. The document stated that "since no definitive environmental level can assure complete health protection, none is recommended * * *. However, to ensure that effective engineering controls are implemented and dust concentrations reduced, an environmental standard should be fixed. The concentration should be set at the lowest level feasible in order to reduce the prevalence and severity of byssinosis."

On December 6, 1974, NIOSH forwarded to the Assistant Secretary of Labor for Occupational Safety and Health a memorandum which modified the recommendation in the criteria document that the dust concentration should be set at the "lowest feasible" concentration. He stated

> * * * that byssinosis has been reported in workers exposed to as little as 0.05 milligrams of cotton dust per cubic meter of air (mg/cu m). It was also reported that byssinosis has resulted from exposure to cotton dust below this concentration. However, background dust levels near 0.1 mg/cu m are indistinguishable from cotton dust by available sampling methods. We believe that a level of 0.1 to 0.2 mg/cu m of lint-free cotton dust is feasible to measure and achieve, but these concentrations have been found to cause byssinosis in some workers. (78)

NIOSH also stated that the standard should be set in no case at an environmental concentration as high as 200 ug/m³ lint-free cotton dust. The NIOSH memorandum states its purpose is to "explain (the) rationale for the recommendation (of the lowest feasible level in the criteria document) and to offer a modification * * *" that hopefully would clarify any misunderstanding. On December 27, 1974, OSHA published an advance notice of proposed rulemaking (39 FR 44769) requesting that interested persons submit their views on specified issues relating to cotton dust, particularly the NIOSH Criteria Document.

In early 1975, petitions were filed by the Textile Workers Union of America and the North Carolina Public Interest Research Group with the Department of Labor requesting modification of the cotton dust standard to provide, among other things, a permissible exposure level of 100 ug/m³ cotton dust. (62)

II. Occupational Health Implications of Exposure to Cotton Dust

Chronic obstructive lung disease is one of the most common causes of premature disability retirement in the United States. It can also lead to premature death. The major cause of chronic lung disease is believed to be external irritants which are breathed into the lung. Significant contributing factors include cigarette smoking, air pollution and industrial exposure.

Workers exposed to cotton dust have been known to suffer from a high prevalence of respiratory diseases. (15–20) This fundamental association between cotton dust and increased prevalence of respiratory diseases has been recognized for almost a century.

However, as recently as twenty-five years ago, chronic respiratory disease due to exposure to cotton dust was thought to be confined to English cotton mills. It has since been described in countries all over the world including the U.S., and among workers in a wide range of exposure processes ranging from the ginning of cotton through the manufacturing of fabric using cotton yarn and the use of waste cotton fibers and byproducts. Studies by Schrag and Gullett (14) Bouhuys, (15, 16) Zuskin (2) Merchant (44) and others (17, 18, 19) have definitely established the existence and severity of respiratory disease from exposure to cotton dust in the U.S.

While byssinosis, the specific occupational disease, is responsible for many of the symptoms in workers exposed to cotton dust, exposure also results in the production or aggravation of respiratory symptoms characteristic of chronic lung disease, i.e., chronic bronchitis, asthma, emphysema and other non-specific disorders.

A. BYSSINOSIS

Ramazzini, (7) writing in 1713 of flax and hemp workers, described symptoms characteristic of byssinosis. Many descriptions were given to the chronic respiratory disease suffered by textile workers; such conditions were reported in France in 1822 and 1827, (8) and in England in 1832. (9) In 1877, Adrien Proust described the syndrome as "byssinosis," which has continued to be used as the name for this occupational disease. (67)

Byssinosis is a specific respiratory disease, the symptoms of which are attributable to the action of cotton dust on the respiratory passages. The effects of byssinosis can be temporary or permanent, depending upon the exposure and the individual, and can lead in time to chronic obstructive lung disease, primarily chronic bronchitis. (20, 21) Initially, the individual notices a tightness in the chest occurring on the first day of the work week. The tightness may be accompanied by a measurable decrease in breathing capacity as measured by pulmonary function tests. Usually, the condition is mild and temporary at first, tending in time to progress to the stage where it bothers the workers on other days of the work week. This progression, which is characterized by constriction of the bronchial tubes of the lung, leads to a permanent narrowing of these airways. The individual develops a chronic cough with a production of phlegm and increasing shortness of breath. At this stage, the condition is readily detectable by pulmonary function measurements. Total disability and even death may follow. The description of these detailed symptoms appeared as early as 1908 in the work of Collis. (10)

As a result of the obvious subjective quality of the early symptoms of byssinosis, investigators have, in the past few years, subdivided byssinosis into different categories for purposes of diagnosis and treatment, namely: (a) the reversible symptomatic or physiological condition (sometimes referred to as a reactor state), and (b) the chronic irreversible lung disease.

Schilling (22, 23) distinguished the reversible symptoms of Grade one-half, Grade one, and Grade two byssinosis from the permanent incapacity which he labeled Grade three byssinosis. According to Schilling's classification byssinosis is graded as follows:

(a) Grade one-half—occasional chest tightness on the first day of work week.
(b) Grade one—chest tightness and/or breathlessness on Mondays only.
(c) Grade two—chest tightness and/or breathlessness on Mondays and other days.
(d) Grade three—grade two symptoms accompanied by evidence of permanent incapacity from diminished effort tolerance and/or reduced ventilatory capacity.

1. *Grades 1/2 to 2 (the reactor state).* After a variable time period, usually at least several years, a worker exposed to cotton dust develops a sensation of tightness in the chest, difficulty in breathing, increased coughing, and perhaps wheezing after coming to work on the first day of the work week, after being absent one or two days. Workers often notice that this reaction is more severe when intervals away from work have been more prolonged, such as after a vacation or an illness.

Bouhuys (24) observed that exposed workers also exhibit a measurable decrement in pulmonary function as measured by several techniques. Forced Expiratory (FEV_1) Volume for one second (FEV_1) is a widely used measurement and has shown significant decreases during the first day of the work week in workers with symptoms characteristic of grades 1/2 to 2. However, some workers may exhibit tightness in the chest without any decrement in FEV_1, and still others may exhibit this decrement without the corresponding symptoms. (18,19, 3, 24). Other means of diagnosis, such as flow volume determinations, (25) closing volume determinations, and maximum mid-expiratory flow (MMF) (26) have been evaluated. Flow volume and MMF are more sensitive measurements and thus are more likely to decline with exposure to cotton dust than FEV_1. A satisfactory explanation has not been offered why some individuals complain of the tightness while others exhibit the decrement in pulmonary function without such complaints. The possibility that the subjective symptoms may be due to constriction of smaller airways, whereas the FEV_1 is more likely to decrease with constriction of larger airways, has been suggested by some as a possible explanation. (27) It is clear, however, that there is no generally accepted single diagnostic method of detection for the disease in the reactor state of Grades 1/2 –2.

2. *Grade 3 (the chronic irreversible disease).* In this advanced stage the clinical picture often becomes confused, as the chronic disease process is neither well understood nor well defined. Workers frequently manifest symptoms consistent with chronic bronchitis and emphysema. This stage is generally considered to be irreversible, with work in dusty atmospheres becoming extremely difficult or impossible. The rate at which a worker progresses to this stage, if at all, depends upon the amount of the causative agent contained in the dust inhaled, and the susceptibility of the individual.

In a study of American plants involving 995 workers, Braun et al. (19) came to the conclusion that prevalence of possible chronic effects could be as high as 14 percent in carders and 5.2 percent in other workers. Schrag and Gullett (14) studied textile workers in a large mill complex in the rural south. Of the 509 workers studied, 63 had byssinosis, a prevalence of 12%. Grade 3 byssinosis existed in 20 workers, of whom ten worked in carding, 4 in spinning, 4 in weaving, and 2 in picking operations. The prevalence of grade 3 byssinosis was much higher in those with more than 10 years of exposure to cotton dust.

El-Sadik et al. (29) in a study of lung function changes in different grades of byssinosis showed significant changes in FEV_1, vital capacity and other pulmonary function tests among grade 3 byssinotics. The authors pointed out that these changes are permanent in grade 3 byssinosis.

The clinical similarities between grade 3 byssinosis and other respiratory diseases have lead to misleading occupational mortality statistics, e.g. for heart disease (73) in which the final stages of grade 3 byssinosis create a strain on the heart leading to cardiac failure. That is to say that byssinosis, as a specific disease, is rarely reported as an underlying cause of death.

B. OTHER HEALTH EFFECTS

While byssinosis as a specific occupational disease is responsible for most of the symptoms in workers exposed to cotton dust, it seems clear that exposure to such dust also results in the production or exacerbation of respiratory symptoms characteristic of chronic lung disease of non-specific origin.

There is ample evidence that chronic bronchitis, (which is indistinguishable when produced by different etiologies), is far more common among cotton textile mill workers in cases where byssinosis symptoms are diagnosed by spirometry. (31, 32, 17, 33, 34) As with chronic bronchitis found in others, the condition may progress to the point of disability.

Elwood and co-workers (33) noted the presence of bronchitis as well as byssinosis in flax workers in Northern Ireland. They recognized two grades of byssinosis, differing largely in the persistence and quantity of production of phlegm from the chest. They observed that the similarity in the clinical pictures of advanced byssinosis and chronic bronchitis had been stressed by other writers. (31, 32, 34) A review (20) of the respiratory diseases of cotton workers showed that chronic bronchitis is frequently found in textile workers, specifically among those who have been diagnosed as byssinotic. Elwood et al. (33) suggested "that byssinosis represents an acute specific effect of certain textile dusts on the respiratory system, superimposed on a non-specific chronic bronchitic process." The clinical symptoms of the two diseases, as listed by Harris and associates, (20) are very similar.

Imbus and Suh (18) noted a marked relationship between the prevalence of byssinosis and bronchitis. Berry et al. (41) found the prevalence of bronchitis, unlike that of byssinosis, to be unrelated to dust levels. However, the prevalence of bronchitis among cotton mill workers was higher than in workers in synthetic fiber mills.

"Mill fever" is used to describe a symptom complex of unknown cause which occurs in some workers not accustomed to breathing cotton dust. (20) The symptoms which develop may include malaise, cough, fever, chills, and upper respiratory symptoms shortly after exposure. They disappear after acclimatization but may reappear after an absence from exposure or with an increased exposure to dust. (35)

Periodic outbreaks of an acute respiratory illness termed "weavers cough" have occurred among some workers. It appears as a sudden epidemic affecting both old and new workers. Earlier reports (36, 37) have associated its occurrence with mildewed yarn while other reports have incriminated tamarind seed powder, a constituent used in some yarn-sizing materials; unidentified sizing materials have been incriminated in other reports. Since weaver's cough is primarily associated with weaving operations where a low prevalence of byssinosis is expected, it appears that the occurrence of this illness among cotton workers depends upon unique situations involving mildewed yarns, sizing, or other unknown agents and not upon cotton dust as generally experienced by these workers.

Still another illness appears in workers handling dusty, (39,40) low-grade stained cotton. Those affected included cotton mill employees, workers at a cotton seed processing plant, and members of rural families using cotton to make mattresses. The illness, which began 1–6 hours after work started, had initial symptoms of fatigue and generaliezd aches, followed by anorexia, headache, nausea, vomiting, chills and fever. In these instances, symptoms ceased when respiratory protective devices were used or a better grade of cotton was substituted.

C. EARLY DETECTION PRIOR TO DEVELOPMENT OF CHRONIC DISEASE

Of critical importance to the regulation of exposure to cotton dust is the availability of techniques to detect susceptibility of workers prior to development of chronic disease. Cotton dust appears to be in the category of substances which produce discomfort or temporary physiological alteration prior to the development of irreversible disease. This fact makes early detection of byssinosis possible and therefore a critical element of an occupational health program.

Early detection of byssinosis historically has been achieved primarily by two methods, namely: the use of a questionnaire, and pulmonary function and reactivity testing.

1. *The use of a questionnaire.* A standard questionnaire such as the Medical Research Council (MRC) questionnaire (Appendix B), has been shown to be effective in identifying those individuals with the subjective symptoms of tightness in the chest. It has been argued that subjective symptoms may be exaggerated, understated, or coached by third parties. Although these arguments may have some degree of validity, the questionnaire survey technique has nevertheless been shown to be a valuable tool when used in a climate of mutual cooperation. In addition to the specific symtom of tightness, the questionnaire data reveal symptoms of bronchitis, e.g., chronic productive cough, and other symptoms of lung dysfunction such as shortness of breath (dyspnea), wheezing, and asthma.

Thus, medical questionnaires are considered valuable tools to indicate potential development or impairment, whether temporary or permanent. (74)

2. *Pulmonary function/reactivity testing.* Individuals who become sensitive to cotton dust and who are at increased risk of development of impairment, frequently show a temporary reduction of one or more pulmonary function measurements after exposure to cotton dust. While flow volume determinations and maximum mid-expiratory flow (FEF 25–75%) are considered to be the more sensitive measurements of reactivity, they have the disadvantages of non-specificity and greater

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natural intra-subject variability. On the other hand, forced expiratory volume in one second (FEV_1), although less sensitive, appears less likely to respond to non-specific factors and shows less normal variation within subjects.

There is some evidence of the possibility of developing pulmonary impairment due to cotton dust exposure without previous evidence of subjective symptoms or abnormal pulmonary function. (*41, 42*) Imbus and Suh (*18*) found that exposed employees who do not exhibit subjective symptoms, are not at greater risk. However, Berry et al. (*41*) and Merchant (*42*) indicated that exposed employees show greater deterioration in pulmonary function, as compared with controls. The likelihood of pulmonary impairment occurring, however, is diminished by requiring that each employee have determinations of pulmonary function measurements periodically. These tests will ensure that any significant change from the baseline determination will become apparent before material impairment occurs. While this method does not guarantee that no non-symptomatic or non-reactive employees will remain undetected, it clearly minimizes the incidence.

D. INCREASED SUSCEPTIBILITY OF SOME WORKERS

Most epidemiological studies (*2, 14, 17, 24, 41*) reveal that some workers do not appear to be affected by very high dust exposures while others are affected at very low exposures. The reasons for these differences in susceptibility are not understood well, but seem to include cigarette smoking and previous state of health.

Byssinosis produces a chronic obstructive lung disease similar to that produced by other pollutants, such as cigarette smoke. Thus consideration must be given to the studies showing the increased risk of byssinosis among those cotton dust workers who are also cigarette smokers, and to acceleration of effects of byssinosis by cigarette smoking. (*44, 51*)

Merchant (*44*) et al. observed a 50–600 percent increase in the prevalence of byssinosis in male workers who smoke as distinct from workers who do not smoke. It is estimated that approximately two-thirds of male workers and one-third of female workers in the textile industry smoke cigarettes. Cigarette smoking is considered an additive risk factor in the development of byssinosis.

In addition, since the effects of exposure to cotton dust are related to chronic lung disease it is expected that the effects would be increased where there are pre-existing respiratory conditions.

Molyneux and Tombleson, (*66*) in a 1963–1966 study of respiratory symptoms in cotton mills, found a relationship between bronchitis and byssinosis. Merchant et al. (*17*) have noted that the workers who have bronchitis are more likely to have byssinosis than those without bronchitis.

III. PERTINENT LEGAL AUTHORITY

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards. The standards setting process under section 6 of the Act is an integral part of an occupational safety and health program in that the process permits the participation of interested parties in consideration of medical data, industrial processes and other factors relevant to the identification of hazards. Occupational safety and health standards provide notice of the requisite conduct or exposure level and provide a basis for ensuring the existence of safe and healthful workplaces.

The Act provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life.
>
> Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of standards, and experience gained under this and other health and safety laws. [Section 6(b)(5)].

Section 2(b)(5) and (6), 20, 21, 22, and 24 of the Act reflect Congress' recognition that conclusive medical or scientific evidence including causative factors, epidemiological studies or dose response data may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, while final standards are based on the best available evidence, the legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Comm. On Education and Labor, H.R. Rep. No. 91–1291, 91st Cong., 2d Sess. 18 (1970).

This congressional judgment is supported by the courts which have reviewed standards promulgated under the Act. In sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court of Appeals for the Second Circuit stated that "it remains the duty of the Secretary to act to protect the workingman, and to act even in circumstances where existing methodology or research is deficient". *Society of Plastics Industry, Inc* v. *Occupational Safety and Health Administration*, 509 F.2d 1301, 1308 (2d Cir. 1975), cert. denied 95 S. Ct. 1998, 44 L. Ed. 2d 482 (1975).

A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia Circuit in reviewing the asbestos standard (29 CFR 1910.1001).

The Court stated that:

> some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual analysis.

[*Industrial Union Department, AFL–CIO* v. *Hodgson*, 499 F. 2d 467, 474 (D.C. Cir. 1974).]

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Comm. on Labor and Public Welfare, S. Rep. No. 91–1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *Society of Plastics Industry, Inc.* v. *Occupational Safety and Health Administration*, supra at 1309.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Moreover, where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employees (section 6(b)(77)). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (section 8(c)).

IV. THE PROPOSAL

In the development of this proposal, OSHA has utilized extensively a number of scientific studies, including the *Criteria for a Recommended Standard—Occupational Exposure to Cotton Dust* developed by NIOSH.(*6*) Subsequent to the receipt of the NIOSH Criteria Document, OSHA has had extensive input from the scientific community, government, labor unions, affected industries, representatives of cotton growers, and equipment manufacturers.

The following section discusses the major elements of the proposed standard for occupational exposure to cotton dust and analyzes some of the significant issues raised. OSHA requests that comments and information be submitted on all the issues discussed or implicit in this preamble and proposed standard.

A. SCOPE AND APPLICATION

This proposed standard is applicable to all workplaces in all industries where exposure to cotton dust exists, including ginning, warehousing, compressing of cotton lint, classing and marketing of cotton lint, fabric manufacturing using cotton yarn, reclaiming and marketing of textile manufacturing waste, delinting of cottonseed, marketing and converting of linters, reclaiming and marketing of gin motes and batting yarn felt manufacturing using waste cotton fibers and by-products. This standard also applies to industries in construction, maritime and agriculture, except harvesting, to the extent that exposure to cotton dust exists. The proposed standard does not apply to harvesting, because it is a distinctively farming operation and presents different exposure environments and possibilities of control than are proposed herein. Also, this standard would not be applicable to framing operations such as cotton ginning done on the farm, which employ 10 or fewer employees, until expiration of the appropriations rider discussed above. Nor does the proposed standard apply to dust generated solely from the handling of woven and knitted materials, such as dust generated during the manufacturing of garments from finished textile fabrics.

"Cotton dust" is defined as dust present in the atmosphere during the handling or processing of cotton. It may contain a mixture of many substances, including ground up plant matter, fiber, bacteria, fungi, soil, pesticides, noncotton plant matter and other contaminants, which may have accumulated with the cotton during the growing, harvesting, subsequent handling, processing or storage periods. Any dust present during the handling and processing of cotton through the weaving or knitting of fabric in textile mills, and dust present in other operations or manufacturing processes using new or waste cotton fibers or cotton fiber byproducts from textile mills, is considered cotton dust.

OSHA is aware that the majority of epidemiological evidence relates to the textile industry. OSHA is also aware, however, of evidence that health problems similar to those observed in the textile industry do exist in nontextile manufacturing industries which process cotton, and thus the scope of this proposal is not limited to the textile industry.

A recent study by Weill and Jones (*68*) of workers in cottonseed mills revealed a decline in ventilatory function of exposed workers. For several functional parameters the mean decline was significantly different from zero, from the expected change based on diurnal variation, and from the change on the last day of the work week. Both chronic bronchitis and acute byssinosis had a low prevalence among cottonseed mill workers, but the dust is apparently biologically active as evidenced by the bronchoconstrictor effects. Since an acute pulmonary constrictor response was evidenced, the authors suggested that the current dust levels in the cottonseed mills should be lowered.

NIOSH found, in a study of cotton ginworkers in Texas and New Mexico, that the prevalence of FEV_1 decrements was higher than the prevalence in the cotton textile industry itself. (*59*) These responses were more common and more severe in smokers, than in non-smokers. The reduced FEV_1 values in smokers were related to the number of years worked. Chronic respiratory disease was not related to any personal or area dust exposure level, probably due to the large variation in duties of the cotton gin worker over the years. Yet it appears that the same response pattern to cotton dust found in textile workers also was occurring in ginworkers.

An Australian study (*70*) of the cottonseed lint removal and crushing industry found high concentrations of dust ranging from 15 to 37 mg/m³. Workers exposed to such concentrations showed a significant fall in FEV_1, whereas workers in the same plant not exposed to cotton dust were not affected. In a study of six cotton-garnetting plants in Australia, lung function tests of the machine operators showed an average decline in FEV_1 of 0.12 liter, with more than twice this decline in the most dusty areas.(*71*)

A British study of twenty-two mills representative of the waste cotton industry was undertaken in 1950.(*72*) Although the workers had never been exposed to any dust hazard other than waste cotton, disabling byssinosis occurred in 5 percent of the men, with 25 percent of the workers having lesser degrees of the same disease. Bronchitis or emphysema were found in an additional 11 percent of the exposed workers who had no indication of byssinosis.

In addition, the agency is aware that even within one industry, such as the textile industry, certain processes may generate dust of different composition and varying toxicity. OSHA has considered the suggestion that different standards based upon industry specific epidemiological evidence be established for the different industries involved and perhaps even for the varying processes within each particular industry. However, there is a lack of data indicating that exposure to cotton dust affects workers differently in the various affected industries, specifically, that workers react in a manner dissimilar to that of the textile workers. Indeed, the evidence which is available supports the view that exposure to cotton dust, regardless of the stage of processing in which the dust is encountered, results in byssinosis and other respiratory diseases. It is OSHA's view that the need to protect workers in all industries utilizing cotton outweighs the constraints upon regulatory action which might be advocated because of the fact that much of the epidemiological data has arisen from one segment of the cotton industry. OSHA invites comments and testimony concerning the scope of this cotton dust standard.

B. PERMISSIBLE EXPOSURE LIMIT

1. *General considerations.* Considerations involved in setting a permissible exposure limit for cotton dust are more complicated than those in setting a standard for a single chemical or physical agent. As noted, cotton dust may contain a mixture of many substances (*45, 46, 69*) including ground up plant material, fiber, bacteria, fungi, soil, pesticides, non-cotton plant material and other contaminants. The relative proportion of these substances in the "cotton dust" at any time can vary depending upon the type of plant, harvesting and storage methods, and cleaning operations, both at the gin and in subsequent processing. The causative agent(s) of byssinosis are not known. Various theories have been advanced, including that the causative agent in the cotton dust is one or more chemical toxins (*47*) contained in the plant material, a histamine releasing agent, (*48, 49*) bacterial enzymes, (*50*) an antibody producing agent, (*51, 52*) or bracteria. (*53, 45*)

Since the causative agents are not known and since the composition of cotton dust can and does vary, it is reasonable to expect variation in the proportionate amounts of causative agents in various types of cotton dust. Nevertheless, despite these anticipated but as yet unspecified variations, the evidence available clearly indicates that exposure to cotton dust, wherever it occurs, is a health hazard.

A correlation between cotton dust concentrations and the prevalence of byssinosis has been found by most investigators who have studied the effects of exposure of workers to cotton dust. (*1, 19, 30, 51, 55, 57, 58*). However, the dose response relationships obtained by different investigators vary considerably. One or more of the following factors may explain some of these differences in prevalence of byssinosis observed by investigators at comparable dust levels:

(a) *Observer differences.* Prevalence of byssinosis has been based in part upon questionnaire responses. Therefore, there is the possibility of different interpretations of questionnaire responses by different observers, leading to varying diagnoses.

(b) *Difference in worker response to questions.* Braun (*19*) has pointed out the lack of uniformity of questionnaire responses when administered to the same individuals at different times. Questions may be given different interpretations by workers in various regions (linguistic difficulties may compound this); (*59*) some workers may tend to minimize, while others may exaggerate, symptoms.

(c) *Length of exposure.* Some studies have correlated prevalence of byssinosis with years of exposure per given dust level; others have not. An employee population with relatively brief exposure may be associated with lower prevalence at given dust levels.

(d) *Previous exposure history.* Some workers may have been previously exposed to very high dust concentrations making them very reactive to lower dust levels, even after environmental conditions are controlled.

(e) *Different toxicity of dust.* Dust generated by different processes, such as carding versus spinning, may have different toxicity. (*55, 56*) Weaving dust often contains considerable amounts of sizing material, such as starch or polyvinyl alcohol, which has been added to

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the fiber to aid further processing. Cotton grown in different regions may have variable amounts of microorganisms, and presumably different proportions of plant and extraneous material. Cotton blend mills may have significant amounts of synthetic particles in the dust samples.

In summary, despite these differences, a correlation between cotton dust concentration and the prevalence of byssinosis has been found by most investigators who have studied the effects of exposure on cotton workers. (6)

2. *Permissible exposure limit.* The proposed standard sets a permissible exposure limit of 200 micrograms of vertical elutriated cotton dust per cubic meter of air average over an eight hour work shift. In arriving at this level, consideration was given to many different recommendations presented in the literature, particularly the recommendations of NIOSH as expressed in the criteria document and subsequent memoranda.

In general, most research demonstrates a decrease in disease prevalence with decrease in dust levels. In addition, although some variation exists among investigators, especially in the area of relation of exposure to clinical effects and to the development of chronic disease, it appears that exposure to cotton dust is clearly harmful over a wide range of exposures, and, in fact, recent studies show a higher prevalence of byssinosis at even lower dust levels than evidenced by earlier studies.

Roach and Schilling (1), in the 1950's, the first to conduct extensive studies in British textile mills of the relationship of dust levels to the prevalence of byssinosis, found "virtually no byssinosis" where total dust concentrations were below 1000 ug/m³. Subsequently, in 1970 Roach (54) noted a 1.5 percent prevalence at concentrations of fly-free dust below 500 ug/m³. He therefore suggested that less than 400 ug/m³ be considered "negligible" and that concentrations between 500 and 1400 ug/m³ fly-free dust be considered low, producing an estimated risk of less than 2 percent of those exposed developing chronic impairment (Grade 3 byssinosis). The British Occupational Hygiene Society appeared to be in general agreement with Roach, when, in 1972, its Subcommittee on Vegetable Textile Dust recommended that dust levels of 500 ug/m³ be categorized as "low."

Merchant, (51) et al. however, in his studies of textile mills in the U.S., reached the conclusion that 500 ug/m³ would result in a 25 percent prevalence of all grades of byssinosis. The investigators, using the vertical elutriator, found a strong linear association between the prevalence of byssinosis and the concentration of lint-free dust (less than an aerodynamic equivalent diameter of 15 microns). In cotton preparation and yarn areas, untreated cotton was shown to produce 3 percent byssinosis (all grades) at 50 ug/m³, 7 percent at 100 ug/m³, and 13 percent at 200 ug/m³. These findings were in general agreement with the findings of Molyneux and Tombleson. (66)

Imbus and Suh, (18) in a 1973 study of the biological effects of cotton dust on workers, also showed significant prevalence of byssinosis at low levels of exposure. At concentrations below 250 ug/m³, the prevalence ranged from 13.5 percent in preparation areas to 3.5 percent in yarn areas, with 5.7 percent in both preparation and yarn areas.

NIOSH initially did not recommend a specific exposure limit in its criteria document, rather, the document was primarily directed toward medical screening, work practices, respiratory protection, and administrative controls. However, it recommended that engineering controls be implemented and that an environmental standard be set at the lowest level feasible. Later modification of the criteria document posited a level "in no case as high as 200 ug lint-free cotton dust/m³" as being the "lowest feasible limit."

In determining how best to regulate employee exposure, OSHA has considered options ranging from no environmental limit to a specified environmental level ranging from 1000 $\mu g/m^3$ total dust to 100 $\mu g/m^3$ respirable dust as follows:

(A) *No permissible exposure limit.* OSHA has considered setting a standard for cotton dust without defining a specific permissible exposure limit. Reliance would be primarily upon medical screening, work practices, respirators, and administrative means.

However, OSHA believes that this option places too great a reliance on the use of respirators, and places too many workers at risk. It also does not provide suitable incentive for the institution of engineering controls, which are considered to be the most appropriate form of long term protection against chronic disease.

(B) *Options which include a permissible exposure limit.* In setting a permissible exposure limit, there are a variety of options. Those options which appear to be the most reasonable are discussed below.

(i) A different permissible exposure limit for different industries and processes. Ideally this may offer the most precise method of establishing the lowest feasible level for each affected industry. However, because data are not available with which to scientifically set different limits, OSHA believes that this option is not feasible. In addition, variation in the hazard appears to depend upon many factors other than process.

(ii) A permissible exposure limit of 1000 ug/m³ total airborne dust. This is the current OSHA standard and is based upon the original ACGIH threshold limit value of 1966. However, in the past few years, even the proponents of this level have proposed standards based upon fine or respirable dust. It has been found that observed health effects are poorly related to measured total dust concentrations. OSHA is of the view that a permissible exposure limit based upon total dust would not adequately reflect the potential of the dust to adversely affect health.

(iii) Permissible exposure limit of 500 ug/m³ respirable dust. Some investigators have shown a "low" prevalence of byssinosis, generally less than 10 percent (all grades) and less than two percent grade 2, following exposure at estimated dust concentration levels of 500 ug/m³ respirable dust. (6, 54, 55) It appears that 500 ug/m³ respirable dust (as measured by the vertical elutriator) is roughly equivalent to 1000 ug/m³ total dust, a level viewed as inadequate in the above discussion.

Merchant concludes that 500 ug/m³ respirable dust would result in a prevalence of byssinosis of over 25 percent (all grades). Therefore, though 500 ug/m³ may be somewhat protective in a number of cotton processing operations, OSHA considers the work of Merchant and others as indicating that it is not sufficiently protective in many operations.

(iv) Permissible exposure limit of 200 ug/m³ respirable dust. As previously discussed, the American Conference of Governmental Industrial Hygienists, while recognizing that there was no readily measurable limit that would eliminate byssinosis, in 1974 established a Threshold Limit Value for cotton dust of 200 ug/m³ of dust composed of fibers less than 15 um. According to the work of Merchant,(51) there would be a predicted prevalence of byssinosis of 12.7 percent (all grades) and 3 percent (Grade two) at 200 ug/m³; other investigators(54, 55, 60) have found lower prevalence at these levels, but nevertheless conclude that some byssinosis will exist.

(v) A permissible exposure limit of 100 ug/m³ respirable dust. This level, proposed by Merchant(51) and others,(62) represents the safest limit of all the proposals considered. This does not mean, however, that even at this level no adverse health affects will be seen in the case of the susceptible worker. A permissible exposure limit of 100 ug/m³ is considered by OSHA, based on the available evidence in the technological feasibility assessment and elsewhere, to be extremely difficult to implement, if not totally infeasible in many operations covered by this standard. In addition, because background air contamination in a number of industrial locations approaches this suggested level,(6) it creates difficulties due to interference by particulate matter from other sources. The question has also been raised as to the accuracy and difficulty of sampling methods at this level. NIOSH(6) concludes: "The feasibility of achieving a level of 100 ug/m³ as measured by the vertical elutriator in the operating areas of opening, picking, carding, drawing, and combing is not now evident using commercially available dust removal equipment."

(c) *The Proposed Permissible Exposure Limit.* The proposal contains a permissible exposure limit of 200 ug/m³ of vertical elutriated cotton dust averaged over an eight-hour work shift. OSHA believes that much of the data would provide strong justification for a 200 ug standard. Based upon its own evaluation of the

studies, the ACGIH has established a Threshold Limit Value of 200 ug/m³ of the respirable fraction of cotton dust.

In the criteria document, NIOSH stated that there is "no environmental limit of cotton dust that will prevent all adverse effects on workers health." Merchant et. al. found cases of byssinosis associated with dust levels as low as 50 ug/m³. (51) Statistical treatment of the data of Molyneux and Berry, (55) and Imbus (18) and Suh, indicates some prevalence of byssinosis at exposure levels so low as to be effectively zero. These data cannot be ignored. Accordingly, OSHA recognizes the absence of any known "safe level of exposure." When it proposes a permissible exposure limit of 200 ug/m³ of respirable cotton dust, which it considers to be the "lowest feasible," OSHA feels that considerable reduction of work place exposure accompanied by a substantial decrease in byssinosis, particularly the chronic variety, can be achieved at this level.

Although OSHA's first and prime responsibility is to assure employees safe and healthful places of employment, the Act and its legislative history recognize that feasibility is a legitimate factor to be considered in the setting of occupational safety and health standards. In setting standards for which no safe level of exposure can be shown, such as cotton dust, OSHA's policy has been to set the standard at the lowest level feasible.

Even though the limit of 100 ug/m³ recommended by Merchant et. al. does not provide, according to their data, complete protection against the symptoms of byssinosis, it is so low that background dust levels in some cases could interfere with accurate determinations of cotton dust levels and with attainment of the required dust level. Implementation of this or lower levels would appear to require efficient filtration of outside makeup air entering the ventilation system in many areas. (63, 76) In addition, a survey of the technological capabilities of the industry at this time and during the foreseeable future indicates that a level of 100 ug/m³ is not likely to be feasible. (77)

Therefore, on the basis of all the currently available evidence, 200 $\mu g/m^3$ of respirable cotton dust appears to represent the lowest feasible level, and to provide substantial protection for employees exposed to cotton dust.

The proposed standard would require implementation of medical surveillance, monitoring, employee training, and the like in any place where cotton dust is present. Thus, where a permissible exposure level is not a "safe" level but rather a level predicated largely upon feasibility, caution requires the exercise of certain protective measures if there is any exposure to the substance.

OSHA is aware of gaps which exist in the data, and intends to review its estimate of feasibility and other factors relevant to setting a cotton dust exposure limit if warranted by additional evidence presented in the rulemaking process.

(c) *Methods of exposure measurement.* 1. *Sampling devices.* Cotton dust ranges in size from particles large enough to be visible to the naked eye to those which are submicron in size. The shape of the particles is also irregular. Therefore, particle size is equated with the "aerodynamic equivalent diameter," i.e. the size of a unit density sphere having the same settling velocity as the particle in question, of whatever size, shape or density. Most investigators (41, 51, 66) currentlyy agree that a better correlation exists between respirable dust and health effects, since total dust measurements include a significant fraction of particles which are too large to be deposited in the respiratory tract. Medical and environmental evidence presently favors the use of a permissible exposure limit based upon respirable dust. Many of the more recent studies have involved the use of the vertical elutriator for measuring employee exposure to cotton dust. While this method collects somewhat more than the respirable fraction, including particles up to approximately 15 microns in size, exposure data derived from the use of the vertical elutriator have generally been shown to correlate well with indicators of biological response.

The vertical elutriator utilizes the principle that particles with settling velocities less than the velocity of an air stream will be carried upward by a stream of air in a cylinder. The flow rate of 7.4 liters/minute is required to achieve cut off size at 15 um. The larger particles, with settling velocities greater than that of the vertical air stream, will settle out during their course of upward motion and will not be measured, whereas the smaller particles reach the top and are collected on a filter.

The vertical elutriator as discussed above is described by Lynch.(64) Its use in the field, both for research and periodic monitoring purposes, has been accepted. The vertical elutriator, including pump, is approximately three feet in height, 6 inches in diameter and weighs approximately 15 lbs.; therefore, its use at its current stage of development requires fixed sampling sites.

Determining exposure to cotton dust in a large plant may require many samples. Since several hours are required for each sample, it is obvious that to complete the sampling in several days, a number of units must be used simultaneously. Some other problems in using the vertical elutriator are: the necessity of relatively regular maintenance for its motors; the time consumed in the process of pre- and post-sample weighing of filters; the difficulty of calibration and maintaining calibrated flow rates; and, because of their size, the number of samplers susceptible to damage during transportation.(65)

Other sampling devices have been tested and utilized for collecting respirable cotton dust. One that has offered some promise is the GCA dust collector with miniature vertical elutriator attachment, as reported by Neefus.(65) This device utilizes the principle of a radioactive source to determine the amount of impacted dust. At higher dust levels (generally above 700 ug/m³), its correlation with the vertical elutriator results is erratic.

The use of the horizontal elutriator and Hexhlet was also reported by some investigators. (1, 17, 63) Lumsden (17) has described a cyclone apparatus attached to a high volume sampler; however, this is even more bulky, expensive, and complicated than the vertical elutriator. OSHA invites comments on the present state of the art of samplers capable of size-selective sampling of cotton dust.

In view of several important advantages of the vertical elutriator; its availability, extensive experience with its use, proven reliability and, most importantly, its ability to monitor exposure to respirable dust, the proposal requires the use of the vertical elutriator in accordance with Appendix A, "Air Sampling and Analytical Procedures for Determining Concentrations of Cotton Dust," for conducting the required monitoring.

2. *Personal Versus Area Sampling.* There are definite advantage in relating a dust concentration measurement to a particular employee's exposure. Thus, wherever possible, OSHA has considered the use of personal sampling devices that can be worn by an employee through the working day to be superior to area samplers even though OSHA recognizes the use of area sampling for periodic environmental monitoring. Presently, OSHA is using a personal sampler consisting of a portable pump to which an open face filter is attached by means of flexible tubing. The filter is then attached to the employee's lapel or collar. Though OSHA has considered this method more representative of employee exposure, it does present certain disadvantages. It is prone to contamination with fiber and large dust particles due to actual contact of the employee with cotton lint that gathers on the employee's clothing. Likewise, undue agitation of the filter may result in loss of the sample. Wide variation of cotton dust concentrations for workers performing similar jobs in the same area have been reported using this method. While some of this variation may be attributable to varying work activities, it is possible that much of it may be due to the collection method itself. Ideally, a small device which could be attached to individual employees and which would collect only smaller particles would be more suitable. Such a device should not be unduly influenced by the continuing motion of the employee. Some work has recently been done in developing a portable vertical elutriator. However, flow rates for such a small device are quite low and unless dust concentrations are high, it must be worn for an impractically long period of time in order to collect an adequate sample. Also, the potential problem of variability of results due to agitation of air currents from motion of the employee has not been fully evaluated.

Since data presently available indicate the desirability of basing a standard upon respirable dust, OSHA considers it

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appropriate to base its permissible exposure limit upon that fraction of dust with an aerodynamic equivalent diameter of approximately 15 microns or less. Currently there is no satisfactory method known to OSHA of collecting such a dust fraction with a personal type sampler. Thus area sampling with a vertical elutriator is proposed. Area sampling has long been used by industrial hygienists and if properly conducted to reflect breathing zone levels of contaminants, can, together with accurate estimates of employee activity, reasonably assign dust exposure to particular employees.

Due to the difficulties of cotton dust sampling, the proposal requires a specific monitoring protocol, as stated in Appendix A, "Air Sampling and Analytical Procedures for Determining Concentrations of Cotton Dust."

D. *Exposure monitoring program.* Under the provisions of the proposal, employers would be required to make measurements in all places of employment in which cotton dust is present.

The measurements are required to be representative of all employees' exposure to cotton dust. Measurements must be taken for each job classification in each shift regardless of concentration, and must be repeated at least every 6 months and whenever there is a change in work practices, process, or control methods likely to result in an increase in employee exposure to cotton dust.

The employer must notify all employees of the exposure measurements which are representative of their exposure and if an employee's exposure is above the permissible exposure limit he shall be informed of the corrective action being taken.

E. *Methods of compliance.* Compliance with the proposed standard of 200 ug/m³ presents unique problems. From evidence currently available, it appears that most affected industries are unable to comply immediately with OSHA's traditional priority of control methods which requires that the permissible exposure level be achieved by means of engineering controls. Accordingly, this proposal would phase in, over a period of 7 years, the requirement to reach the permissible exposure limit solely by engineering controls, while requiring the immediate achievement of that level through the use of respirators, as set out below.

The proposed standard would require that employers immediately institute feasible engineering controls to reduce employee exposure to cotton dust to no more than 500 ug/m³ vertical elutriated cotton dust. The permissible exposure limit of 200 ug/m³ would be achieved by means of supplementary and respiratory protection controls. Further reduction to 350 ug/m solely by means of engineering controls would be required within 4 years from the effective date of this standard. Again the permissible exposure limit of 200 ug/m³ would be achieved by means of supplementary respiratory protection controls.

Finally, a reduction to the permissible exposure limit of 200 ug/m³ solely by means of engineering controls would be required within 7 years from the effective date of this standard.

The employer would be required to develop a written plan and to implement a program in accordance with that plan to reduce exposures solely by means of engineering and work practice controls as required by the above schedule.

OSHA's first and prime responsibility is to assure employees safe and healthful places of employment. The Act and its legislative history however recognize that feasibility is a legitimate factor to be considered in the setting of occupational safety and health standards. The information gathered on the issue of technological feasibility suggests great difficulties in immediately achieving the proposed level solely by means of engineering and work practice controls. Based upon this information, it appears that reduction of exposures to 350 ug/m³ solely by means of engineering and work practices controls, in cotton yarn production, could not be achieved in less than 4 to 5 years; and that achieving compliance with the exposure level of 200 ug/m³ solely by means of such controls would take considerably longer, perhaps 8 years or more. Implementation time for the other industry sectors, such as ginning, weaving, and waste processing, is more difficult to assess. A reduction of exposure to 500 ug/m³ may be attainable with existing control devices, but below that level several years would be necessary for design, manufacture and installation of the required controls in many affected establishments. (76, 77)

The primary determinant of these time estimates is the ability of the regulated industry to design, produce, and install equipment that will reliably produce the required level of control. At best, a typical yarn mill may require 18 to 24 months for the steps involved, from the preliminary planning to specifications, contracting, delivery, installation, testing, and full operation of engineering controls.

The technological restraints, illustrated by this discussion, on achieving the degree of dust control required, solely by means of engineering and work practice controls, indicate that it is virtually impossible to achieve a level of 200 μg/m³ solely by these means, in less than several years. Accordingly, the proposed cotton dust standard includes a schedule for the primary purpose of establishing the maximum time periods in which employers will be allowed to achieve the permissible exposure level solely by means of engineering and work practice controls. However, the proposal requires that where the permissible exposure level of 200 μg/m³ cannot be accomplished immediately by engineering controls that supplementary respiratory protection controls shall be used to reduce exposures to this level.

F. *Use of respirators.* Respirators are generally the least satisfactory means of exposure control because they are capable of providing good protection only if properly selected, properly fitted, worn by the employee, and replaced when they cease to provide adequate protection. While it is possible for all of these conditions to be met, often they are not. Consequently, the protection of employees by respirators is not as effective as the protection provided by engineering controls which eliminate or reduce the dust at the source. Further, employees with impaired respiratory function may not be able to wear certain types of respirators, such as those operating in the negative pressure mode.

Despite the inherent difficulties associated with respirator use, they remain the only viable form of protection when engineering and work practice controls cannot reduce exposure below the permissible limit. The proposed standard requires the use of respirators to control employee exposure to the permissible exposure limit of 200 ug/m³. As specified under the methods of compliance section, respirators would be used as a supplement to work practice and engineering controls. The proposal would require the employer to select respirators specified in the table and tested and approved by NIOSH.

The proposed standard provides that, where respirators are required for concentrations not greater than 10,000 ug/m³, the employer shall provide a powered air purifying respirator for each affected employee who expresses a preference for such a device. The wearing of a non-powered respirator may be difficult for medical reasons, e.g., reduced pulmonary function or chronic lung disease. The significant prevalence of such conditions among employees exposed to cotton dust and the extent of initial reliance on respirators to achieve the required exposure reduction suggest that there will be numerous employees who would find it difficult to wear respirators of a negative pressure or demand type. Since there are no objective medical tests to determine an employee's ability to wear a nonpowered respirator, the determination must be left to the subjective evaluation of the employee.

G. *Work practices.* OSHA recognizes that in most processes in which cotton dust is present, even exposures below the permissible exposure level may be harmful, as there is no "safe" level of exposure. Therefore, definite work practices and procedures must be instituted to control employee exposure.

These work practices must be continued even after the permissible exposure level is attained.

The proposal requires that several work practices be implemented including the proper maintenance of exhaust systems; the elimination of employee "handling" of cotton except where the employer shows that it is infeasible to perform a particular job by mechanical means; prohibition of "blow downs" except where alternatives are not available; and other practices designed to minimize the dispersal of airborne dust.

H. *Medical surveillance procedures.* The proposed standard requires each employer to institute a medical surveillance program for all employees exposed to cotton dust. The role of medical surveillance in protecting the health of employees exposed to cotton dust has been widely recognized by many investigators.

The NIOSH criteria document provided recommendations for a medical surveillance program. Section 6(b)(7) of the Act provides the authority to include medical surveillance in an OSHA standard. The Act states:

> • • • where appropriate any such standard [promugated under subsection 6(b)] shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure

The proposed standard requires that the medical surveillance program provide each affected employe with an opportunity for medical examination. All examinations and procedures are required to be performed by or under the supervision of a licensed physician and provided without cost to the employee. While a licensed physician is clearly the appropriate person to be conducting a medical examination, certain aspects of the medical surveillance program, e.g., the questionnarie and pulmonary function tests, do not necessarily require the physician's expertise and may be conducted by another person under the supervision of the physician. Of concern to OSHA is the quality of training of the persons administering the questionnaire and conducting pulmonary function tests. At the time of this proposal, there is no approved and generally recognized source of training for pulmonary function technicians. OSHA is seeking specific suggestions for inclusion in the standard of criteria by which an employer can determine which persons are competent to conduct these tests. Additionally, OSHA has requested NIOSH to provide specifications for appropriate procedures and equipment to be used in performing pulmonary function evaluations for this and certain other health standards.

The proposed standard provides that a standardized respiratory questionnaire (Appendix B) and pulmonary function measurements including FVC and FEV_1 be performed at the time of initial assignment or upon institution of the medical surveillance program. The purposes of this requirement are to make an initial assessement of the fitness of each employee to be exposed to cotton dust and to establish a baseline health condition against which changes in an employee's health may be compared. The pulmonary function measurements are required to be performed before the employee enters the workplace on the first day of the working week, following a period of at least 35 hours away from work. The test will be repeated following exposure of no less than 4 hours and no more than 10 hours, but in any event no more than 1 hour after cessation of exposure. A determination will be made of the amount of FEV_1, the FVC and the percentage that the measured values of FEV, and FVC differ from predicted values using the standardized tables in Appendix C. The regulation specifies the formula to be used for applying the tables to results obtained in whites and blacks. OSHA requests information on formulas which should be used for evaluating results of pulmonary function among other ethnic groups.

FEF 25–75 percent has been considered for inclusion since at low lung volume it may be a more sensitive early indicator of airway obstruction than FEV_1. No. additional breathing maneuvers by the workers or new apparatus for pulmonary function testing are necessary, only the slight additional training of the technician to make this calculation from the forced expiratory curve. OSHA solicits information and views concerning whether FEF 25–57 percent should be required.

Each employee will be classified based upon questionnaire results as to whether or not he exhibits symptoms of byssinosis using the Schilling classification, and whether or not he exhibits the pulmonary function reactor state. The latter will be based upon a determination as to whether there is a decrease in FEV_1 of either 5 percent or 200 ml, whichever is less, from the beginning of work shift to the time of retesting. Employees will be retested on at least an annual basis. The FEV_1 and FVC will be compared with the baseline established on the original testing and a determination will be made on an annual basis of whether there has been a significant decrease of FEV_1 or FVC. Where in the opinion of a physician, or health professional under the supervision of a physician, a significant change in questionnaire findings or pulmonary function results has occurred, the employee will be so advised, and portions of the medical surveillance will be performed with increased frequency.

The employer is required to provide the physician with certain information. This information includes a copy of the regulation, a description of the affected employee's duties as they relate to the employee's exposure, the results of the employee's exposure measurement, if any, or the employee's anticipated or estimated exposure level, a description of any personal protective equipment used or to be used, and information from previous medical examinations of the affected employee to the extent that they are not readily available to the physician. The purpose in making this information available to the physician is to aid in the evaluation of the employee's fitness to work in the regulated area and fitness to wear personal protective equipment.

The employer is required to obtain a written opinion from the examining physician containing: the physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to cotton dust; the results of the medical examination; recommended limitations upon the employee's exposure to cotton dust and upon the use of respirators; a statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

The proposed standard also contains a procedure to be followed by the employer in the event that an employee refuses to undergo any required examination. This procedure involves informing the employee of the potential risks that are incurred by a refusal to be tested or medically examined, and obtaining from the employee a signed statement attesting to the fact that the employee fully understands the potential risk, but still does not wish to be tested or examined. It is not the intent of OSHA to encourage employees to avoid medical examination or testing. On the contrary, OSHA believes that the positive action taken by employers to inform employees of the risks involved will encourage employees to undergo the examinations.

The proposed standard does not include a provision prohibiting the exposure of an employee to cotton dust if the employee would be placed at increased risk of material impairment of his or her health from such exposure. Nor does the proposal include any provision requiring the transfer of such an employee to another job, or that removal for medical reasons would not result in loss of earnings or seniority status to the affected employee. Provisions of this type have been referred to collectively as rate retention and mandatory removal.

The Coke Oven Emission standard (41 FR 46742 at page 46780, October 22, 1976) addresses the major considerations which must be dealt with in determining how to treat this issue. The conclusion reached by OSHA in that document is that.

> • • • further exploration of this (the rate retention) issue is necessary in order to deal in considerably more depth with the numerous issues raised by such a provision. It is therefore our intention to conduct further study, through an Advisory Committee or other means, of the need and implications of rate retention as an aspect of an OSHA health standard. On the basis of this study, the Agency will take further action under the Act, as appropriate, regarding rate retention.

In the meantime, with respect to the cotton dust proposal, OSHA specifically invites comment on the issues related to the propriety, scope and implications of a rate retention requirement in this standard, including: the number of employees who would be at increased risk from exposure to cotton dust at levels below 200 ug/m³; the range of rate retention provisions available and their relative merits; pertinent medical information related to determining when a condition is caused by agents other than cotton dust, e.g. a pre-existing respiratory condition, and, if so, whether an employer should be responsible for such an employee's retention of pay rate where said condition results in transfer or mandatory removal; the impact of such a provision on the affected industries, including the impact on collective bargaining; and possible alternatives to employee withdrawal.

The unique aspects of cotton dust exposure which make treatment of this issue so complex, are (a) the number of employees who are presently known to suffer from byssinosis and other res-

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piratory conditions and, (b) the uncertain number of employees projected to be reactive even at levels below 200 ug/m³. The existence of such employees, coupled with the fact that the industries involved do not seem to present a significant number of non-exposure job positions, make this a particularly difficult matter in this proposal.

I. *Employee Education and Training.* Information and training are essential for the protection of employees, because employees can do much to protect themselves if they are informed of the nature of the hazards in the workplace. To be effective, however, an employee education system must apprise the employee of the specific hazards associated with the work environment. For this reason the employer is required to inform each employee who is assigned to work in the presence of cotton dust of the specific nature of operations which result in cotton dust exposures.

The proposal requires that employees be trained in proper procedures to avoid unnecessary exposure. In addition, the proposal requires that employers provide a training program which shall, among other things, advise employees of the signs and symptoms of exposure to cotton dust and the purpose, proper use, and limitation of respirators. In addition to these training and education requirements, appropriate signs must be posted wherever employees are required to wear respirators.

J. *Recordkeeping.* Section 8(c) of the Act requires that each employer shall keep and make available such records as the Secretary may prescribe as necessary or appropriate for the enforcement of this Act, or for developing information regarding occupational accidents and illnesses. The proposal would require employers to maintain written records of the following: (1) All exposure measurements; and (2) medical surveillance.

Because symptoms of disease that may be related to exposure to cotton dust may not appear for several years following an initial exposure the proposal requires that records of employee exposure measurements and medical examinations be retained for at least 20 years to aid in fulfilling the Secretary's obligations under the Act.

The proposal's recordkeeping provisions also require that the aforementioned records be made available for examination and copying to the Secretary, the Director of NIOSH, employees, former employees or their designated representatives.

K. *Observation of monitoring.* Section 8(c) (3) of the Act requires that employers provide employees or their representatives with the opportunity to observe the monitoring of exposures to toxic materials or harmful physical agents. In accordance with this section, the proposed standard contains a provision for such observations. To ensure that this right is meaningful, observers would be entitled to an explanation of the measurement procedure, to observe all steps related to it, and to record the results obtained.

The observer, whether an employee or a designated representative, must be provided with, and is required to use, any protective devices required to be worn by employees working in the area that is being monitored and must comply with all other applicable safety and health procedures.

V. Conclusions

OSHA recognizes that many of the matters considered in this proposal are controversial and that gaps exist in the available scientific evidence. OSHA believes, however, that in this case we are dealing with an agent or agents that are extremely harmful to man. The existence of unanswered questions cannot be permitted to delay the process of proposing a standard for protecting workers exposed to cotton dust, as tens of thousands of workers are believed to suffer from the effects of exposure. OSHA hopes that the public participation which is invited will help to fill whatever gaps exist.

Therefore, based upon the available evidence and in view of the above considerations, OSHA believes that employee exposures to cotton dust must be reduced to the level of 200 ug/m³ of vertical elutriated particulates and that the other requirements to regulate exposure to cotton dust must be imposed, as set forth in the proposal. After the conclusion of the public rulemaking which follows, OSHA will evaluate all evidence received and issue a final standard based on the entire record.

VI. Technological Feasibility Assessment and Economic and Inflationary Impact Statement

Pursuant to section 6(b) of the Occupational Safety and Health Act and in accordance with Executive Order No. 11821 (39 FR 41501, November 29, 1974), OMB Circular A–107 (January 28, 1975), and Secretary's Order No. 15–75 (40 FR 54484, November 24, 1975), OSHA contracted for and received a technological feasibility assessment and economic and inflationary impact statement from Research Triangle Institute. The statement was reviewed in accordance with the criteria specified in section 5(c) of the Secretary's Order, and OSHA concluded that the proposed regulations of cotton dust is a "major" action and so certified pursuant to section 4(b) of the Secretary's Order, on September 2, 1976.

This certification was reviewed by the Assistant Secretary of Labor for Policy, Evaluation, and Research. Pursuant to section 4(b) of Secretary's Order No. 15–75, concurrence was granted on September 7, 1976.

This statement along with all other references cited and other relevant material, are available for inspection and copying at the OSHA Technical Data Center, Room N–3620, 200 Constitution Avenue, NW, Washington, D.C. 20210. OSHA invites comments on any of the information contained and conclusions drawn in said statement concerning technological feasibility and economic and inflationary impact.

VII. Environmental Impact

The preceding description of the proposed standard and its rationale, as well as the following sections on environmental impact, constitute OSHA's draft environmental impact statement on the proposed standard for occupational exposure to cotton dust.

This statement has been prepared in accordance with the requirements of 29 CFR Part 1999 (OSHA's regulations for the preparation the Guidelines of the CFR Part 1500, pursuant to the provisions of the National Environmental Policy Act (Pub. L. 91–120, 42 U.S.C. 4321 et. seq.) and Executive Order No. 11514. The purpose of this draft environmental impact statement is an aid to Agency decision-making on proposed actions which may have the potential for significantly affecting the quality of the human environment. Written comments and information on the projected impacts of this proposed standard for exposure to cotton dust are solicited from any interested persons or groups during the period for written comment submissions listed below in this Notice.

In addition to this general request for comment, copies of this proposal and environmental impact statement have been sent to numerous Federal and State agencies, industry representatives, employee unions, and public interest groups with requests for their comments. A copy of this listing is available in the OSHA Technical Data Center, Room N–3620, Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

Testimony, data, arguments etc. may also be addressed at the public hearing to be held on this proposed standard April 5, 1977, provided pre-hearing submission requirements, also outlined below, are complied with.

Additional copies of this proposed standard and draft environmental impact statement are available for review and copying in the OSHA Technical Data Center.

Standards promulgated by OSHA have the potential for impact on two environments. The most significant impacts will occur to the workplace environment, while lesser impacts occur to the general human environment external to the workplace.

The first five sections of this preamble to a proposed standard for occupational exposure to cotton dust outline the requirements of the proposal and the impacts to be expected as a result of its implementation. Generally, the impacts on the workplace environment are expected to be beneficial ones, including: fewer cases of byssinosis, fewer cases of dust-induced respiratory symptoms, fewer lost workdays due to dust-induced illness, etc. The preamble details the studies and reports on which OSHA bases its assumption that these beneficial impacts will occur. Further, it is anticipated that more information concerning the proposal's potential for impacting the workplace environment will be introduced during the course of the public comment and hearing period of this rulemaking proceeding.

A standard for control of occupational exposure to dust also has the potential for affecting the external air quality, water quality, waste disposal (a function of land use, air quality and water quality), energy consumption, and human resources. These will be discussed in the following section on environmental impacts external to the workplace. Economic costs of implementing an occupational health standard have also been determined to have the potential for impacting the general human environment. A summary of these costs is given in the following discussion.

A. Environmental Impact—External to Workplace

This section discusses the anticipated impacts, accruing to the general human environment external to the workplace, which may result from implementation of the proposed standard for control of cotton dust exposure in the workplace. The bulk of the analysis is concerned with the impacts resulting from exposure control in cotton gins and cotton textile mills. Data on the effects of exposure control in other industries, such as waste processing and cottonseed oil production were largely unavailable, but what information was obtained in those areas has been presented.

In a general sense, reduction of cotton dust exposures in these industries will involve improved housekeeping practices and improved methods for the collection and removal of cotton dust from the workplace. It is not anticipated that these actions will result in any significant adverse impact to the general human environment external to the workplace with respect to ambient air quality, water quality or solid waste. This conclusion, however, is judgemental, and is based on the similarity of these industries with other textile mills rather than on evaluation of actual data. Information on the potential for environmental impact resulting from implementation of OSHA's proposed standard in these other industries will be solicited during the rulemaking proceedings.

1. *Air Quality.* In assessing the impact of the cotton dust regulation on air quality, cotton ginning, since it is basically an open air operation, must be considered separately from textile mills and the rest of the cotton industry. Cotton gins are usually not entirely enclosed, but consist of various cleaning and ginning machinery under a roof, yet exposed to outside wind. Therefore machine emissions are easily transported into the ambient atmosphere, while the workplace itself is exposed to dust and particulates blown in from the surrounding environment. In addition, large volumes of dust-laden outside air are drawn into the gin for use in the pneumatic transport systems.

Cotton gins contribute varying degrees of suspended particulates to the atmosphere, depending upon the air pollution control devices installed on the exhausts (i.e., cyclones, lint cleaners, inline filters). (79) The composition of these particulates is fine-leaf trash, dust, lint and other trash generated during each step of the ginning process. It has been reported that the total particulate matter emissions of a typical gin, processing machine picked cotton at a rate of 10 bales per hour, varied from an average of 13.5 pounds to as high as 30 pounds of dust per hour. (80) Because stripper harvested cotton contains more trash, the total emissions from gins processing 10 bales/hour of stripper cotton, can range as high as 6–72 pounds per hour. (81, 82) Air pollution surveys conducted in Texas, near gins processing stripper cotton, have demonstrated increased suspended particulate level downwind from the ginning operations. (79, 83, 84) One study reported downwind particulate sample 5 to 18 times greater than those simultaneously measured upwind (upwind 487 ug/m³; downwind 8800 ug/m³). (83) Other data has also shown increased levels of fungi and bacteria measured downwind from cotton gins. (84)

The major sources of dust in ginning are the gin stands, lint cleaners, and bale press. Capture and filtration of air by redesign of the press plus maintaining negative air pressure in lint cleaners expected to be sufficient to achieve dust concentrations generally of both 500 ug/m³ vertically elutriated (V.E.) dust and 200 ug/m³ V.E. (76) However, contamination from atmospheric dust could present a significant problem in attaining levels lower than 200 ug/m³ V.E.

In heavily polluted areas particulate values up to 2.0 mg/m³ have been reported. (85) In the textile center of Greenville, SC, the median airborne particulate concentration measured in 1966 was 0.084 mg/m³ and the 90% concentration was 0.15 mg/m³. (86) When the gin emissions are added to this background level, the resulting particulate concentration of the atmosphere surrounding the gin will normally be well in excess of 0.1 mg/m³. (87) Therefore, in order to achieve dust concentrations within the gin of 0.2 or 0.1 mg/m³, the ginning process would need to be enclosed in a building provided with air filtering and air conditioning systems. Furthermore, it is likely that additional enclosures of dust emission sources will need to be implemented on the gin stands themselves to complement or replace the local ventilation hoods. Because of the need of visibility, complete enclosure of this machinery is infeasible. An alternative to this would be a redesign of the gin stands with the objective of keeping dust emissions to a minimum.

Since ginning contributes directly to the dust levels of the ambient air, any reduction of emissions by way of compliance with occupational health regulations will be beneficial to the external atmosphere as well. The most drastic reduction in ambient air pollution would occur as a result of enclosing the ginning machinery within an air conditioned building, which would essentially eliminate all contamination of the external atmosphere by industrial dust. This solution, however, since it would be required only to achieve the lowest levels of occupational exposure, and because of its economic infeasibility, is highly unlikely to be adopted. Application of cyclones, lint fly catchers, inline filters and condensor coverings will reduce the discharge of a significant portion of airborne emissions from the various cotton gin operations. It is estimated that 95 percent of the total lint and trash processed by ginning operations can be effectively controlled through proper application of control equipment. Quantification as to the extent of this reduction of particulate matter is not available. In any case, any reduction in industrial airborne dust levels would effect a similar reduction in ambient air pollution and would result in a relative increase in solid waste accumulation.

The major factors influencing levels of dust and lint liberated in the textile mills are the quality of cotton received from the ginning operations and processing conditions at the textile mill. (88) Cotton quality as it is received at the textile mill is dependent upon the variety of cotton, conditions under which it was grown, harvesting method and ginning practices. The significant difference in the trash content of cotton harvested by machine picking versus machine stripping has already been indicated. Significant progress has been made in the past years in reducing the trash content of cotton received at the mills (5.2 percent in 1946 to 2.8 percent in a comparable grade 1974 crop). This improvement is attributable mainly to better ginning techniques and increased use of cleaning machinery at the gin, especially lint cleaners. If the proposed reduction in occupational cotton dust exposures requires that ginning operations further clean the cotton through application of additional lint catchers, cotton dust levels within textile mills would be reduced as a consequence. Tests conducted by Cotton Incorporated have demonstrated that using lint cleaners at the gin actually causes airborne dust levels to be lower in the carding rooms of yarn mills. (89).

The various operations in cotton textile mills consist of opening, picking, carding, drawing, roving, spinning, winding, spooling, twisting, warping and weaving. Opening, picking, carding are the operations subject to the greatest amounts of airborne dust and lint in textile mills. The weaving operation also generates relatively high dust counts, however, the bulk of weave room dust apparently consists of the starch sizing used to treat the yarn, and not cotton dust. (76)

While dust concentrations vary among operations, control methods are basically the same throughout the textile mill. Effective dust removal depends on capture devices and efficient filtration methods. The degree of control can range from simple local exhaust ventilation to complete enclosure of machinery. The control methods required to achieve various levels of airborne dust concentration are roughly as follows: 1000ug/m³ total dust (T.D.) concentration can be expected with dust capture devices and single stage filtration; 500ug/m³ vertically

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elutriated (V.E.) dust concentration can be achieved with two-stage filtration and air washing; 200ug/m³ V.E. will result from three-stage filtration and air washing; and 100ug/m³ V.E. would require complete equipment enclosure and stringent filtering of both recirculated and make-up air.(76)

It might seem that the exhausting of increased amounts of dust from the workplace air would result in greater contribution to the pollution in the ambient air surrounding the plant, but this is not the case. Direct exhaust to the external environment would be a violation of ambient air quality standards. It might also result in inadvertent reintroduction of high dust content air into the plant, negating the effect of the exhaust system. But the most compelling reason preventing the exhaust of workplace air is that it would represent a loss of air which has been conditioned for humidity and temperature as a quality control measure and would necessitate conditioning of make-up air, at substantially higher cost.(90)

Instead, the dust-laden air is processed through a filtration system and then returned either directly or via the central air conditioning system to the workplace. The collected dust ultimately accumulates in the waste house, increasing the amount of solid waste produced, as in ginning. Finally, textile mills do not now seem to contribute appreciably to air pollution in the surrounding environment, nor should they as a result of OSHA's regulation of cotton dust in the workplace.

Dust concentrations of 500 μg, 200 μg and lower can likewise be expected through similar control methods in waste processing and cottonseed oil mill.(76) There are not now any such stringent control systems in use, nor is there any data available from which to predict accurately the degree of control necessary to achieve specific exposure limit. But the similarity of the waste processing operations to yarn processing indicates that dust capture and filtration methods would be applicable to both. OSHA requests that further information on controls in these industries as well as in ginning, and on the environmental impacts of such measures be submitted during the public review and hearing period.

Before proceeding with a discussion on the disposal of gin trash, it should be pointed out that the U.S. Department of Agriculture, through its Agricultural Research Service, has been responsible for developing, testing and applying air pollution control technology to cotton ginning operations. For the most part, this research has centered around the application of high-efficiency cyclones and filters as a means to control atmospheric discharges.(80, 91, 92, 93, 94, 95, 96) There have been attempts by others to control emissions through skimmers.(97) and wet-scrubbing techniques,(98, 99) however, most cotton gins in the U.S. use high-efficiency cyclones and screen coverings on their condenser exhausts or inline filters for final lint control. Additionally, the Environmental Protection Agency is currently developing a source assessment document on cotton gins which contains emission factors and assesses the effect of ginning operations on ambient air quality. However, this report is still in the draft stage and is not presently available for distribution.

2. *Solid waste impact.* A second potential source for environmental contamination is the generation of solid waste. As stated above, reducing worker exposure to cotton dust will require collection of emissions, thus increasing the amounts of solid waste to be disposed. However, the bulk of the waste (i.e., burs, sticks, stems, leaves, and lint) is already being collected for reprocessing in a variety of ways to be discussed further on. Reducing worker exposure involves collecting the very fine, respirable dust that has been shown to be harmful to health. However, the actual amounts of this dust will probably be insignificant when compared to the tonnages of gin trash generated by modern gins.

When machine-picked cotton is ginned, this trash accumulates at the rate of 150 to 225 pounds per bale, and at about five times that rate for machine-stripped cotton.(100) Where space is not a limiting factor, and where the gin is located in a sparsely inhabited area, gin trash can be accumulated in an open pile and hauled away at the end of a season. In more densely populated areas, it may be collected in a truck or trailer and hauled away as a load accumulates. Optimally, the waste is stored in an enclosure designed to prevent it from blowing or scattering over the premises while it is being accumulated. Where large volumes of waste material are being handled within short periods of time, elevated storage hoppers are sometimes used.(101, 102, 103) The transfer of gin trash into or out of these various storage facilities and the transportaton by trucks could present a fugitive dust problem if proper care is not taken.

During the 1965–66 season, prior to strict clean air regulations and early harvest mechanization, a beltwide survey conducted by USDA showed that 37 percent of all gin trash was burned, 58 percent was hauled directly to the farm for use as an organic mulch on cropland, and the remaining 5 percent was disposed of by some other method.(104) However, under the Clean Air Act of 1970, open burning of gin trash is prohibited in all cotton-producing states with the exception of West Texas, where a high incidence of Verticillium Wilt prevents the return of gin waste to the land. Additionally, incinerating trash in "Teepee" or "Wigwam" burners is being discouraged by state air pollution agencies who now require that multiple-chamber incinerators be used.(101) Because of these restrictions on disposal, potential uses of gin trash are presently being investigated. Three major possibilities have been reported: cotton gin trash as a cattle feed; use of cotton gin trash as an organic mulch for cropland; and heat recovery from gin trash incineration.

In the West Texas areas, large tonnages of gin trash are used in cattle feed. Gin trash is a ruminant roughage of moderate protein and energy value. It can increase the carrying capacity of any range operation where year-round natural feed is limited.(105) It cannot be used if it has been contaminated by chemicals (i.e., herbicides, insecticides and especially arsenic acid dessicants).(106) And detoxification of trash contaminated by pesticides has not been shown to be feasible.

Gin trash can serve as a good cropland organic mulch if disease and other problems can be overcome. Composting has proved effective in destroying the Verticillium Wilt organism and in reducing weed seed viability.(100) However, if not properly handled, composting can become a nuisance by emitting offensive odors.

One of the most attractive applications of gin trash is incineration for production of heat to be used in the drying operation within the cotton gin. It is recommended that the moisture content of seed cotton be maintained between 6–8 percent; therefore, in cotton growing areas of relatively high humidity, dryers are used to bring the moisture level into the proper range.(107) It has been reported that incineration of machine-picked cotton trash will reduce the volume of the trash about 92 percent and produce from 1 million to 1.5 million BTU's bale.(100) A study conducted by Cotton Incorporated concluded that heat-recovery incineration would eliminate the need for 85 percent of the natural gas otherwise used for cotton drying if 30 to 35 percent of the total heat could be extracted.(108) They reported that the system worked well with the exception of creating particulate emissions in the stack gas. In view of the present concern over energy resources, the approach appears to be an attractive option for gin waste disposal. However, there does seem to be a conflict between saving energy and current clean air policy which will have to be resolved before this method is employed on a large scale.

Solid waste in the form of lint and other trash is generated during the yarn production process in cotton mills. This material is collected by filters and is ducted to a waste house where it is processed into a mat form by passing through a condenser. The waste fibers are doffed continuously into a receptacle located beneath the condenser. "A modern high-speed cotton card, for instance, producing 40 pounds of cotton sliver per hour, may produce 1.6 pounds of waste per hour. It is obvious, then, that a production unit of 39 such cards (which is not uncommon) would produce a 500 pound bale of waste in every 8 hour working shift."(109) This waste in turn may be sold to cotton waste processors to be used as batting, non-woven fabric and surgical dressings, mattresses and bedsprings, and spun yard.(76) Reducing worker exposure to cotton dust will involve collecting more lint-fly and trash from the work environment and thus will increase to some degree the amount of solid waste to be handled. Data is not

presently available on the additional amounts of this waste which will be collected as a result of this proposal. However, it is not believed that from an environmental standpoint, this additional amount of waste will cause unique problems relative to its sale or ultimate disposal. Throughout its processing, waste undergoes filtering and refinement. The material which is ultimately left over consists primarily of trash. The additional amounts of fly and fine dust collected as a result of OSHA's regulation, if not used in the products of waste processing, will contribute only a miniscule amount to the quantity of trash which is already being disposed, usually in landfills. Therefore, the solid waste impact resulting from this proposal is not considered to be significant. More information on the potential for solid waste impact will be solicited during OSHA's rulemaking proceeding.

3. *Water quality.* Wet-control methods to reduce worker exposures to cotton dust have not been identified as a probable method of compliance for the cotton ginning industry, and fewer than five gins in the United States utilize wet-scrubbing techniques to control air pollution emissions.(76) Additionally, past practices of dumping gin trash directly into streams and waterways has ceased in almost all instances.

Compliance with reduced occupational exposure limits for cotton dust in textile mills will most likely involve increased hooding and capture devices and multiple-staged filtration of recirculated air. Since these mills are air conditioned, they presently employ air washing (with water) as part of the means to accomplish temperature and humidity control. However, these air washers are not designed as efficient air cleaners. The greater the dust and lint load allowed to enter these washers, the more maintenance they will require. Therefore, the air washers are usually preceded by some form of precleaner to prevent lint from entering.(76)

Wet separating techniques have been utilized to control dust exposure in other industries, however, they are not believed to be practical for cotton mills for a variety of reasons. The use of a wet separator preceding the air washer would make humidity control by the air washer more difficult.

Secondly, wet waste is more difficult to handle and reuse than dry waste. Finally, a wet dust separtor is likely to become inoperable if significant amounts of waste enter with the dust because of inefficiency or malfunction of the separating or concentrating equipment preceding the dust separator. (109)

For the above reasons, it does not appear that wet-control methods are of practical use in controlling cotton dust in textile mills. Thus, it is reasonable to assume that there will be no increased wastewater effluent generated because of the proposed standard. Consequently, it appears that there will be no significant water quality impact as a result of reducing occupational exposures to cotton dust.

4. *Human resources.* The Technological Feasibility Assessment and Inflationary Impact Statement on the cotton dust proposal estimated that OSHA's regulation would effect a reduction in employment in the cotton industry of 1,018, 9,902, and 30,089 for the exposure levels of 0.5, 0.2, and 0.1 mg/m³, respectively. These figures represent a range of percentage reductions throughout the industry from 0.1 to 4.3 percent. At the same time, in some areas increases in manpower requirements would occur of 859, 3,257, and 4,628 for the exposure levels of 0.5, 0.2, and 0.1 mg/m³. These additional manpower requirements are expected to be easily satisfied by internal or regional labor, with the exception of certain highly skilled personnel, such as industrial nurses and hygienists. (76)

In general, the additional manpower resources that will be needed by the various cotton industries represent a negligible portion of total employment levels. This is not true for the cotton ginning industry, however, where a manpower increase of 47 percent is predicted. The seasonal nature of the industry should alleviate the problem somewhat and local labor supplies should be sufficient for the remaining industries.

Workers required for operation and maintenance of control equipment and personnel. Other personnel can be trained to sample with the vertical elutriator. The relatively small amount of physician time required for training personnel and for medical counselling can normally be acquired from physicians practicing in the vicinity.

Based on the assumption that every plant would require at least one nurse to administer the questionnaire and conduct the pulmonary function test, it was estimated that over 1000 nurses would be needed. Assuming half-time hires, this would amount to about 500 full-time equivalents. Also, an additional 30 industrial hygienists will be required. The shortage of hygienists in 1973 was estimated at 5000; the number being trained is increasing each year. While it will be difficult to fill these specialized manpower requirements, the number required by the cotton industry is only a small percentage of the demand nationwide, thus the impact of OSHA's regulation on this labor market will not be significant.

5. *Energy use impact.* The Technological Feasibility Assessment and Inflationary Impact Statement evaluated the increases in energy consumption that would be necessitated by implementation of the proposed standard 200 ug/m³ as well as for two alternative permissible exposure limits, 500 ug/m³ and 100 ug/m³.

In the yarn industry, the additional energy requirements and energy costs are significant for all three exposure limits. An additional 4.9 16.0 and 34.7 trillion BTU's per year (855×10^9, 2819.0×10^9 and 6107×10^9 barrels of oil equivalent) will be required to meet the 500, 200 and 100 ug/m³ limits, respectively, in the SIC codes examined. These additional energy requirements will cost 21, 68 and 147 million dollars annually at the 1975 electricity price, and the additional BTU requirements represent an increase of 3.5, 11.6 and 25.1 percent over the current energy consumption by the six SIC sectors examined. With respect to the total U.S. energy requirements, however, these amounts are insignificant.

The additional energy requirements are significant for the ginning, weaving, and waste processing industries at the proposed 200 ug/m³ exposure limit as well as at the alternative 100 ug/m³ limit. They are occasionally significant for the 500 ug/m³ limit also. For the individual industries, the proposed standard (200 ug/m³ will require a 74.7 percent increase (680,400 barrels of oil equivalent) in energy requirements for the ginning sector and over 21 percent (3,513,200 barrels of oil equivalent) for the cotton weaving sector.

The 100 ug/m³ limit would require an 87.1 percent increase (793,600 barrels of oil equivalent) in energy consumption (above 1972 energy consumption levels) in the ginning industry, a 60.1 percent increase (9,977,400 barrels of oil equivalent) in the cotton weaving industry, and a 35.9 percent increase (99,400 barrels of oil equivalent) in SIC Code 2293 (Padding and Upholstery Fillings). Percent increases for SIC Codes 2294 and 2515 were 16.9 (36,800 barrels of oil equivalent) and 15.9 (77,500 barrels of oil equivalent). The total dollar cost of the additional energy requirements of the 100 ug/m³ exposure limit for ginning, weaving, cotton waste proeessing, and mattresses and bedsprings is almost $284 million at 1975 energy prices; the cost is almost $120 million for the proposed standard's exposure limit. These energy and energy cost requirements are insignificant with respect to total U.S. requirements, however.

6. *Economic impact.* The following summary of economic impacts is taken from the study of the Technological Feasibility and Inflationary Impact Statement of the proposed cotton dust standard prepared for OSHA by Research Triangle Institute.

The total additional capital requirements in the yarn industry were estimated to be $984.4 million. The sectors of ginning, weaving, cotton waste and linters consumers will experience additional capital requirements totalling $1,687.2 million.

The total annualized costs for the yarn industry will be $241.6 million, and $90.4, $343.5, and $12.8 million for ginning, weaving, and waste consumers, respectively.

The average price increases per dollar of sales in yarn industry, to maintain pre-standard rates of return on investment, rage from 0.22 cent to 6.25 cents. In the yarn spinning and weaving industries price increases range from 0.01 cent to 0.17 cent.

The general inflationary impacts in the ginning, weaving, and waste consumer industries altogether are estimated to increase the Consumer Price Index (CPI) by 0.37 percent. The inflationary impacts in the yarn industry will increase the CPI by 0.143 percent.

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Cotton yarn consumption is estimated to decrease by 58.3 million pounds, and the total contraction of raw cotton consumption resulting from compliance in ginning, spinning, and yarn processing will be 113 million pounds.

The impact of the proposed standard on the weaving sector will be quite severe, and it is doubtful whether those firms could compliance costs internally, if at all.

The costs of control for the cottonseed oil industry are so small as to have a negligible impact on the variables analyzed.

B. IMPACTS OF ALTERNATIVE SOLUTIONS

Section IV of this document outlines the alternatives considered by OSHA in the area of controlling employee exposure to cotton dust. As with most occupational health sandards, alternatives usually fall into two main categories: alternatives concerned with the substances to be regulated, and alternatives concerned with the level to which the chosen substance will be regulated. Earlier sections of this preamble have outlined the difficulties associated with the determination of the substance or substances contained in cotton dust which cause byssinosis. The preamble also discusses the alternative ways in which cotton dust exposure could be measured (vertical elutriated, respirable fraction, total dust, etc.)

Regardless of the alternative chosen the impacts of an OSHA regulation for cotton dust can be summarized as follows: the more cotton dust emitted from the workplace into the air or into water systems, the greater the potential for adverse impacts on air and/or water quality. Depending upon the levels of cotton dust present in the ambient air and water of communities surrounding cotton-processing industries, however, better control of cotton dust exposures in the workplace may have the potential for benefitting the general human environment of nearby areas as a result of limiting fugitive emissions and controlling point source emissions. In any event, controlling employee exposure to a level lower than that required under the current standard (29 CFR 1910.1000) should not necessarily produce a significantly adverse effect on the external environment.

The key factor is the method chosen by the employer for the purpose of compliance with the required exposure level. If control of employee exposure were achieved by methods which collect the exhausted dusts, logically, air quality in the neighborhoods surrounding cotton-processing plants may be improved. Similarly, the method of dust collection and disposal could impact water quality and solid waste categories.

Presently, OSHA has no data which quantify these potential impacts. Submissions of this type of data into the record of this proceeding are encouraged.

Alternatives for process control of the health hazards associated with cotton dust exposure, i.e., controls which do not concern varying permissible exposure limits, were also considered. For example, the washing of raw cotton has been shown to reduce or eliminate its potential for causing byssinosis. Literature sources have also revealed beneficial effects from washing, steaming, claving and use of better grades of cotton in textile mills. However, washing cotton was reported to change the characteristics sufficiently to interfere with processing it into yarn and autoclaving presents practical application problems. Steaming, however, has been tested in actual plant operations. The results of this study revealed that steaming improved the decrement in forced expiratory volume, especially in dusty operations such as opening, picking, blending and carding, but less in spinning and twisting. An approximately 30 percent reduction in total and elutriated dust levels was also achieved, yet no significant reductions in the symptoms of byssinosis were observed. Recommendations of the study still supported dust control as the primary means to prevent byssinosis. However, it did conclude that steaming could be used as an adjunct method where these measures are not effective, or as an interim measure where suitable dust control is not practical or feasible at the present time.(*28*) Merchant, et al., also observed an improvement in change in FEV, but at the same time they noted a post-preparation increase in dust levels, due possibly to adherence by the dust to cotton fibers because of the steaming. (*110*)

Among long-term solutions currently being researched are: cotton varieties which shed their bracts prior to maturation and harvest, dwarf determinant cotton with increased fruiting potential relative to the production of vegetative parts, raw chemicals that will more efficiently defoliate cotton and thereby reduce the trash content of harvested seedcotton, field extraction of trash, which could reduce gin emissions up to 35 percent.(*82*) improved ginning methods that will allow more efficient trash separation, and substitution by synthetic fibers.(*76*) Evaluation of the environmental impact for each of these research aims is actually beyond the scope of this statement. However, it should be cautioned that prior to introducing new chemicals or plant species into the environment, a thorough evaluation should be undertaken to determine if any adverse effects on man or his environment can be identified. As to alternatives to the other provisions of the regulation, (monitoring and surveillance, for example) it is considered that none of the alternatives would have any significant impact on the external environment.

C. RELATIONSHIP WITH OTHER FEDERAL ACTIONS

There are potentially two areas where the proposed reduction in cotton dust may overlap other Federal actions concerned with the discharge of pollutants into the environment. First, the release of air pollutant emissions into the atmosphere from cotton ginning operations, which was treated in some detail in a previous section. Under the authority of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Environmental Protection Agency (EPA) is responsible for safeguarding air quality. To these ends they have promulgated Federal ambient air quality standards. Even though cotton dust, per se, is not specifically regulated by EPA, emissions from gin processing and incineration of cotton gin trash are composed of suspended particulate matter for which both primary and secondary ambient air quality standards have been issued. The primary standards for particulates is 75 ug/m³ annual geometric mean; the secondary standard is 60 ug/m³. (40 CFR 50.6). In order to achieve compliance with these standards, individual states have instituted allowable emission standards for various industrial processes. For cotton gins, allowable emissions based on process weight have been promulgated by the following states: Arizona, Louisiana, Missouri, North Carolina, Oklahoma, Mississippi, Alabama, Tennessee, Texas, Arkansas and California.(*101*) Additionally, all cotton ginning states have instituted air pollution regulations to control smoke emissions from incineration of gin trash. EPA is in the process of preparing a source assessment document for cotton gins which does evaluate the air pollution potential of these operations. It is not known at this time whether emission guideline will be issued by EPA with respect to gin emissions. Nevertheless, as stated previously, there appears to be a close relationship between control of cotton dust and lint control in the ginning process and the effect on ambient air quality. Therefore, both control of workplace exposures to cotton dust and the controls on gin emission as required by clean air regulations would appear to be mutually beneficial.

The second potential overlap with other Federal actions could occur in the cotton textile mills with regard to the effluent limitation guidelines promulgated by the Environmental Protection Agency for these mills.

The Environmental Protection Agency (EPA), the National Commission on Water Quality (NCWQ) and the American Textile Manufacturers Institutes (ATMI) have categorized the wastewater effluent from cotton mills involved in yarn manufacturing and making unfinished fabrics. For comparison these subcategories are listed as follows:

EPA, Subcategory 3—Dry Processing
NCWQ, Subcategory 4—Woven Dry & Processing Mill
ATMI, Subcategory 6, 3—Greige Mills plus Woven Fabric Finishing

These common subcategories cover most greige mill operations which are relatively dry in comparison to a true wet operation (i.e. fabric finishing). Generally, the only wet operation is in the slashing of warp yarn. Slashing is the application of lubricants and sizing (starch, PVA, CMC) where the only waste generated is in the occasional dumping of starch batches and wash down of the size mixing and slasher area. (111) This waste can contain appreciable amounts of Biological Oxygen Demand (BOD), Chemical Oxygen Demand (COD) and Total Suspended Particulates (TSS). The total waste stream of these mills is over 90 percent sanitary. The combined waste stream will generally contain 80–465 mg/l BOD, 50 to 360 mg/l TSS, 320 to 2000 mg/l COD and a range of pH from 6–11. The following sets of effluent limitations guidelines have been promulgated by EPA and are applicable to dry-processing cotton mill. The 1977 guidelines require the use of Best Practical Technology (BPT), while the 1983 limitations call for Best Available Technology (BAT): (*112*)

	1977 (BPT)	1983 (BAT)
BOD	[1] 0.7	0.2
TSS	.7	.2
COD	1.4	.4

[1] Units expressed in pounds pollutant/1,000 lb. product.

Since wet control methods do not appear to be the most probable method of compliance with the new permissible exposure limits to cotton dust, there will be no significant impact on water quality. Therefore, compliance with the 1977 and 1983 effluent limitations required by EPA will not be adversely affected by OSHA's proposed cotton dust standard.

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VIII. Public Participation

Interested persons are invited to submit written data, views and arguments on the proposed standard and on all issues raised or involved herein. Written data, views, and arguments concerning the proposal must be submitted in quadruplicate to the Docket Officer, Docket No. H–052, Room N–3620, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, on or before March 4, 1977. Written submissions must clearly identify the provisions of the proposal addressed and the position taken with respect to each such provision. The data, views, and arguments will be available for public inspection and copying at the above address. All written submissions received will be made a part of the record of this proceeding.

In order to expedite this rulemaking proceeding and in anticipation of requests for a hearing, we are scheduling an informal public hearing, pursuant to section 6(b)(3) of the Act and 29 CFR Part 1911, to begin on April 5, 1977, in the Departmental Auditorium, 14th and Constitution Avenues, N.W., Washington, D.C.

All issues raised in this notice and all aspects of the proposed standard, including its economic, inflationary and environmental impacts, will be at issue in the hearing.

Persons desiring to appear at the hearing must file a notice of intention to appear, on or before March 4, 1977, with OSHA Committee Mangement Office, Docket No. H–052, Room N3633, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (Telephone: 202–523–8023). The notices of intention to appear, which will be available for inspection and copying at the above address, must contain the following information:

(1) The name and address of the person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time required for the presentation;

(4) The specific provisions of the proposal that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each provision addressed; and

(6) A detailed statement of the evidence with respect to each such provision proposed to be presented at the hearing.

OSHA has determined that strict enforcement of its procedural rules contained in 29 CFR 1911.11 is necessary for an expeditious and orderly proceeding. Therefore, the notices of intent to appear will be scrutinized closely for sufficiently detailed information concerning the position to be taken with regard to the issues specified and the evidence to be presented in support of the position. Persons filing notices of intent to appear which are not sufficiently detailed will be so informed and given seven (7) days from the date they are so informed to file a a proper notice of intent to appear. Further, the amount of time requested for each presentation will be reviewed in light of the contents of the notice of intention to appear. In those cases where the information contained in the notice of intention to appear does not seem to warrant the amount of time requested, the participant will be allocated a more appropriate amount of time and notified of this fact. The participant will have seven (7) days from the date on which he is so informed to demonstrate why the allocated time is inappropriate. In addition, all prepared statements and documents that are intended to be submitted for the record during the course of the hearing must be submitted in quadruplicate and received no later than April 1, 1977.

The hearing will commence at 9:30 a.m. on Tuesday April 5, 1977 and will be conducted in accordance with 29 CFR Part 1911. The oral proceedings will be reported verbatim and a transcript will be made available for inspection and copying to interested persons.

The Administrative Law Judge who will be designated to preside at the hearing shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers;

(1) To regulate the course of the proceedings;

(2) To dispose of procedural requests, objections, and comparable matters;

(3) To confine the presentations to matters pertinent to the proposed standard;

(4) To regulate the conduct of those present at the hearing by appropriate means;

(5) In his discretion, to question and permit questioning of any witness; and

(6) In his direction, to keep the record open for a reasonable, stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge shall certify the record thereof to the Assistant Secretary. The proposal will be reviewed in light of all the oral and written submissions received as part of the record in this proceeding and appropriate action will be taken.

Accordingly, pursuant to sections 4(b), 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653, 655, 657), Secretary of Labor's Order 8–76 (41 FR 25059), and 29 CFR Part 1911, it is hereby proposed to amend Parts 1910 and 1928 of Title 29, Code of Federal Regulations, by adding a new § 1910.1043 regulating exposure to cotton dust, by deleting the current standard for cotton dust (raw) contained in Table Z–1 of § 1910.1000, and by making conforming amendments in § 1910.19 and § 1928.21 as set forth below.

(It is hereby certified that the economic and inflationary impact of this proposed regulation has been carefully evaluated in accordance with Executive Order 11821 and OMB Circular A–107.)

Signed at Washington, D.C. this 21st day of December 1976.

MORTON CORN,
Assistant Secretary of Labor.

1. In § 1910.19, paragraph (c) is proposed to be added to read as follows:

§ 1910.19 Asbestos dust.

* * * * * *

(c) Section 1910.1043 shall apply to the exposure of every employee to cotton dust in every employment covered by § 1910.12, § 1910.13, § 1910.14, § 1910.15, or § 1910.16, in lieu of any different standard on exposure to cotton dust which would otherwise be applicable by virtue of any of those sections. (Secs. 4, 6, 8, 84 Stat. 1592, 1593, 1599 (29 U.S.C. 653, 655, 657) and 29 CFR Part 1911)

§ 1910.1000 [Amended]

2. Table Z–1 in § 1910.1000 is proposed to be amended by deleting the following:

Cotton dust (raw) Mg/m³----------	1

3. A new § 1910.1043 is proposed to be added to Part 1910, to read as follows:

§ 1910.1043 Cotton dust.

(a) *Scope and application.* This section applies to the control of employee exposure to cotton dust in all workplaces and all industries, including ginning, warehousing and compressing of cotton lint, classing and marketing of cotton lint, yarn manufacturing using cotton lint, fabric manufacturing using cotton yarn, reclaiming and marketing of textile manufacturing waste, delinting of cottonseed, marketing and converting of linters, reclaiming gin motes and batting yarn, felt manufacturing using waste cotton fibers and by-products, and other processes where cotton dust is present in the atmosphere. This section applies to operations in all industries, including "general industry", construction, maritime and agriculture, except harvesting. The section does not apply to the handling or processing of woven or knitted materials nor does this section apply to working conditions with respect to which other Federal agencies have exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(b) *Definitions.* For the purpose of this section:

"Blow down" means the cleaning of equipment and surfaces with compressed air;

"Cotton dust" means dust present in the atmosphere during the handling or processing of cotton which may contain a mixture of many substances including ground-up plant matter, fiber, bacteria, fungi, soil, pesticides, non-cotton plant

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matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods. Any dust present during the handling and processing of cotton through the weaving or knitting of fabric, and dust generated in other operations or manufacturing processes using new or waste cotton fibers or cotton fiber by-products from textile mills are considered cotton dust;

"Director" means the Director of the National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education, and Welfare, or his designee;

"Secretary" means the Secretary of Labor, U.S. Department of Labor or his designee;

"Vertical elutriated cotton dust" means that fraction of cotton dust collected by a vertical elutriator according to the specifications given in Appendix A.

(c) *Permissible exposure limit.* The employer shall assure that no employee is exposed to airborne concentrations of vertical elutriated cotton dust greater than 200 $\mu g/m^3$, averaged over any eight-hour period.

(d) *Exposure monitoring and measurement.*—(1) *Monitoring program.* (i) For the purposes of this paragraph (d), employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) Within 90 days from the effective date of this section, each employer who has a place of employment in which cotton dust is present as specified in paragraph (a) of this section shall conduct monitoring, by obtaining measurements which are representative of the exposures of all the employees to airborne cotton dust over an 8-hour period. The sampling program shall include at least one determination during each shift for each job classification. The procedures for collection and analysis of environmental samples provided in Appendix A shall be followed.

(2) *Frequency of monitoring.* (i) The employer shall repeat the measurements required by paragraph (d)(1) of this section at least every six months.

(ii) Whenever there has been a production, process, or control change which may result in new or additional exposure to cotton dust, or whenever the employer has any other reason to suspect an increase in employee exposure, the employer shall repeat the monitoring and measurements required by paragraph (d)(1) of this section for those employees affected by such change or increase.

(3) *Employee notification.* (i) The employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure within five working days after the receipt of the results of measurements required by paragraphs (d)(1) and (d)(2) of this section.

(ii) Whenever such results indicate that the representative employee exposure exceeds the permissible exposure limit, the employer shall, in such notification, inform each employee of the corrective action being taken to reduce exposure to or below the permissible exposure limit.

(e) *Methods of compliance.* The employer shall control employee exposure to cotton dust by the use of engineering controls, work practice controls, and respirators as follows:

(1) *Engineering controls.* (i) The employer shall institute immediately engineering.
controls to reduce exposures to cotton dust to 500 $\mu g/m^3$, except to the extent that the employer can establish that such controls are not feasible. In determining whether the institution of engineering controls is feasible, the requirement, effective August 27, 1971, to implement feasible administrative or engineering controls to reduce exposures to cotton dust shall be considered.

(ii) The employer shall institute engineering controls necessary to reduce exposures to cotton dust to 350 $\mu g/m^3$ within 4 years from the effective date of this section, except to the extent that the employer can establish that such controls are not feasible.

(iii) The employer shall institute engineering controls necessary to reduce exposures to cotton dust to 200 $\mu g/m^3$ within 7 years from the effective date of this section, except to the extent that the employer can establish that such controls are not feasible.

(iv) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposure to the levels specified to be achieved solely by these means in paragraph (e)(1)(i)(e)(1)(iii) of this section, the employer shall nonetheless institute these controls to reduce exposures to the lowest feasible level.

(2) *Work practice controls.* The employer shall implement the work practice controls listed in paragraph (g) of this section regardless of the level of exposure.

(3) *Respirators.* Whenever the engineering and work practice controls which are instituted are not sufficient to reduce employee exposure to the permissible exposure limit (200 $\mu g/m^3$ vertical elutriated cotton dust), the employer shall supplement such controls with the use of respirators which shall comply with provisions of paragraph (f) of this section.

(4) *Compliance program.* (i) Each employer shall establish and implement a written program to reduce exposures solely by means of engineering controls, as specified in paragraph (e)(1) of this section.

(ii) The written program shall include at least the following:

(a) A description of each operation or process resulting in employee exposure to cotton dust;

(b) Engineering plans and other studies used to determine the controls for each process;

(c) A report of the technology considered in meeting the permissible exposure limit;

(d) Monitoring data obtained in accordance with paragraph (d) of this section;

(e) A detailed schedule for the implementation of engineering controls;

(f) Other relevant information.

(iii) Written plans for such program shall be submitted, upon request, to the Secretary and the Director, and shall be available at the worksite for examination and copying by the Secretary, the Director, any affected employee or their representative. The plans required under paragraph (e)(4) of this section shall be revised and updated at least every six months to reflect the current status of the program.

(5) *Mechanical ventilation.* When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control the exposure, such as capture velocity, duct velocity, or static pressure shall be made at least every six months. Measurements of the system's effectiveness to control exposures shall also be made within five days of any change in production, process or control which might result in any change in airborne concentrations of cotton dust.

(f) *Use of Respirators.*—(1) *General.* Where the use of respirators is required under this section, the employer shall provide and assure the use of respirators which comply with the requirements of this paragraph (f). Compliance with the permissible exposure limit may not be achieved by the use of respirators except:

(i) During the time periods allowed to install engineering controls; or

(ii) In work operations such as maintenance and repair activity, in which engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; or

(iv) In operations specified under paragraph (g)(2)(i) of this section.

(2) *Respirator selection.* (i) Where respirators are required under this section, the employer shall select and provide and assure the use of the appropriate respirator from Table 1 below.

TABLE I.—RESPIRATORS FOR COTTON DUST

Cotton dust concentration	*Required respirator*
(a) Not greater than 2000 ug/m³ ------	(1) Any dust respirator, except single use; or (2) Any supplied air respirator; or (3) Any self-contained breathing apparatus.
(b) Not greater than 10,000 ug/m³ ------	(1) Any dust respirator with full-facepiece and high efficiency filter; or (2) Any supplied air respirator with full-facepiece; or (3) Any self-contained breathing apparatus with full-facepiece.
(c) Greater than 10,000 ug/m³ ---------	(1) Any powered air-purifying respirator with high efficiency filter; or (2) Any self-contained breathing apparatus operated in pressure demand or other positive pressure mode; or (3) Any type "C" supplied air respirator operated in pressure demand or continuous flow mode.

(ii) Respirators shall be selected from those tested and approved for protection against dust by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(iii) Whenever respirators are required by this section for concentrations not greater than 10,000 ug/m³, the employer shall provide, either a respirator as provided in paragraph (f)(2)(i)(a) and (b) of this section or, at the option of each affected employee, a powered air purifying respirator as provided in paragraph (f)(2)(i)(c)(1) of this section.

(3) *Respirator program.* The employer shall institute a respirator program in accordance with § 1910.134 of this part.

(4) *Respirator usage.* (i) The employer shall assure that respirators used by employees exhibit minimum facepiece leakage and that the respirators are fitted properly. The employer shall perform semi-quantitative fit tests annually for each employee who uses a nonpowered, particulate filter respirator.

(ii) The employer shall allow each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(iii) The employer shall allow employees who wear respirators to wash their face and respirator facepiece to prevent skin irritation associated with respirator use.

(g) *Work practices.* (1) The employer shall inspect, clean, maintain and repair, all engineering control equipment and ventilation systems including power sources, ducts and filtration units of the equipment pursuant to a detailed written program established and implemented for effective control of cotton dust exposure.

(2) The employer shall establish and implement a written program of work practices, to include procedures which shall minimize cotton dust exposure for each specific job. The procedures shall include the following, where applicable:

(i) The employer shall prohibit compressed air "blow down" cleaning, except where alternative means are not available, in which case respirators shall be worn by the employees present. Employees in the area whose presence is not required to perform the "blow down" shall be required to leave the area during this cleaning operation. Cleaning of clothing with compressed air is prohibited.

(ii) Floor sweeping shall be performed with a vacuum or with methods designed to minimize dispersal of dust.

(iii) Cotton and cotton waste shall be stacked, sorted, baled, dumped, removed or otherwise handled by mechanical means except where the employer can show that it is infeasible to do so. Where infeasible, the method developed and implemented by the employer shall be one which most effectively prevents the release of airborne cotton dust in excess of the permissible exposure limit.

(h) *Medical surveillance.*—(1) *General.* (i) Each employer who has a place of employment in which cotton dust is present shall institute a program of medical surveillance for all employees.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and are provided without cost to the employee.

(iii) The employer shall inform any employee who refuses any required medical surveillance of the possible health consequences of such refusal and shall obtain a signed statement from the employee indicating that the employee understands the risk involved in the refusal to be examined.

(2) *Initial examinations.* At the time of initial assignment or upon the institution of the medical surveillance program, the employer shall provide each employee with an opportunity for a physical examination that shall include:

(i) A medical history;

(ii) The standardized questionnaire (Appendix B);

(iii) A pulmonary function measurement, including a determination of forced vital capacity (FVC) and forced expiratory volume in 1 second (FEV_1).

(a) These determinations will be made for the new employee prior to placement.

(b) These determinations will be made for the current employee before he enters his workplace on the first day of the work week, following at least 35 hours after previous exposure to cotton dust. The test will be repeated during the shift, no sooner than 4 and no more than 10 hours after the beginning of said work shift; and, in any event, no more than one hour after cessation of exposure.

(iv) A determination shall be made of the amount of the FEV_1, the FVC and the percentage that the measured values of FEV, and FVC differ from the predicted values, using the standard tables as set forth in Appendix C.

(v) Based upon questionnaire results, each employee shall be graded according to Schilling's byssinosis classification system.

(3) *Periodic examinations.* (i) The employer shall provide each employee with an opportunity for medical surveillance as outlined in paragraph (h)(1) and (2) of this section repeated on an annual basis. (ii) Medical surveillance shall be provided every six months for employees placed in the following categories:

(a) An FEV_1 of greater than 80 percent of predicted but with an FEV_1 decrement of 5 percent or more on a first working day,

(b) An FEV_1 of less than 79 percent of the predicted value.

Updated questionnaires shall be required every six months for employees in this category, and a detailed pulmonary examination is required for employees whose FEV_1 is less than 60 percent of the predicated value.

(c) Where in the opinion of a physician, a significant change in questionnaire findings, pulmonary function results or, other diagnostic tests has occurred.

(iii) A comparison shall be made between the current examination results and those of previous examinations and a determination made by the physician as to whether there has been a significant change.

(4) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its Appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's exposure level or anticipated exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(5) *Physician's written opinion.* (i) The employer shall obtain and furnish the employee with a copy of the written opinion from the examining physician containing the following:

(a) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to cotton dust;

(b) Any recommended limitations upon the employee's exposure to cotton dust or upon the use of equipment such as respirator; and

(c) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written

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opinion specific findings or diagnoses unrelated to occupational exposure.

(i) *Employee education and training.* (1) Each employer who has a workplace where airborne cotton dust is present as described in paragraph (a) of this section shall:

(i) Keep a copy of this regulation with its appendices at the workplace and make such material readily available to employees.

(ii) Inform employees who work or will be assigned work in the presence of cotton dust of the specific nature of the operations which could result in exposure at or above the permissible exposure limit.

(2) Each employer who has a workplace where airborne cotton dust is present shall provide, prior to initial placement of new employees and at least annually for all employees, a training program which shall inform each employee of:

(i) The measures, including work practices, required by paragraph (g) of this section, necessary to protect them from exposures in excess of the permissible exposure limit;

(ii) The purpose, proper use and limitations of respirators as required by paragraph (f) of this section;

(iii) The purpose for and a description of the medical surveillance program required by paragraph (n) of this section, including information on the signs and symptoms of byssinosis and other respiratory diseases related to exposure to cotton dust;

(iv) A review of this standard.

(3) The employer shall provide all materials relating to the employee training and information program to the Secretary and the Director upon request.

(j) *Signs.* The employer shall be required to post signs wherever respirators are required to be used by this section, which state:

RESPIRATORS REQUIRED IN THIS AREA

(k) *Recordkeeping*—(1) *Measurements.* The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to airborne concentrations of cotton dust required in paragraph (d) of this section.

(i) This record shall include the log as required by paragraph IV(a) of Appendix A, and:

(a) The type of protective devices worn, if any and length of time worn; and

(b) The name, social security numbers, job classification, and exposure levels of employees in the involved workplace.

(ii) This record shall be maintained for at least 20 years.

(2) *Medical surveillance.* The employer shall establish and maintain an accurate medical record for each employee subject to medical surveillance as required by paragraph (h) of this section.

(i) The record shall include:

(a) The name and social security number and description of duties of the employee;

(b) A copy of the medical examination results;

(c) A copy of the physician's written opinion;

(d) Any employees medical complaints related to exposure to cotton dust; and

(e) The signed statement of any refusal to have medical surveillance under paragraph (h) of this section.

(ii) This record shall be maintained for at least 20 years.

(3) *Availability.* (i) The employer shall make available upon request all records required to be maintained by paragraph (k) of this section to the Secretary and the Director for examination and copying.

(ii) The employer shall make available upon request records of employee exposure measurements required by paragraph (k)(1) of this section for inspection and copying to affected employees, former employees, and their designated representatives.

(iii) The employer shall make available upon request employee medical records required to be maintained in paragraph (k) of this section to a physician designated by the affected employee or former employee.

(4) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by paragraph (k) of this section.

(ii) Whenever the employer ceases to do business, and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted by registered mail to the Director.

(iii) At the expiration of the retention period for the records required to be maintained under paragraph (k) of this section, the employer shall transmit these records by registered mail to the Director or shall continue to retain these records.

(l) *Observation of Monitoring.* (1) The employer shall provide affected employees or their representatives an opportunity to observe any measuring of employee exposure to cotton dust conducted pursuant to paragraph (d) of this section.

(2) Whenever observation of the measuring or monitoring of employee exposure to cotton dust requires entry into an area where the use of personal protective equipment is required, the employer shall provide the observer with and assure the use of such equipment and shall require the observer to comply with all other applicable safety and health procedures.

(3) Without interfering with the measurement, observers shall be entitled to:

(i) An explanation of the measurement procedures;

(ii) Observe all steps related to the measurement of airborne cotton dust performed at the place of exposure; and

(iii) A record of the results obtained.

(m) *Effective date.* This standard shall become effective 90 days after publication of the final standard in the FEDERAL REGISTER.

(n) *Appendices.* The information contained in the appendices of this section are part of this section.

APPENDIX A

AIR SAMPLING AND ANALYTICAL PROCEDURES FOR DETERMINING CONCENTRATIONS OF COTTON DUST

I. SAMPLING LOCATIONS

The sampling procedure must be designed so that samples of the actual dust concentrations are collected accurately and consistently and reflect the concentrations of dust at the place and time of sampling. At least five 6-hour area samples in each distinct operational area of the plant shall be collected at locations which provide representative samples of air to which the worker is exposed. Samples in each operating area shall be gathered simultaneously during a normal operating period. The daily time-weighted average (TWA) exposure of each worker can then be determined by using the following formula:

$$TWA = \frac{\text{summation of hours spent in each location} \times \text{the dust concentration in that location}}{\text{Total hours exposed}}$$

A time-weighted average concentration shall be computed for each worker and properly logged and maintained on file for review.

II. SAMPLING EQUIPMENT

(a) Sampler. The instrument selected for monitoring is the vertical elutriator. It shall operate at a flow rate of 7.4 ± 0.2 liters/minute.

The samplers shall be cleaned prior to sampling. The pumps shall be monitored and vacuums checked during sampling.

(b) Filter holder. A three-piece cassette constructed of polystyrene designed to hold a 37-mm diameter filter shall be used. To insure that an adequate seal exists between elements of the cassette, an opaque cellulose shrink band shall be placed over the joint between the center and bottom parts of the cassette.

(c) Filters and support pads. The membrane filters used shall be polyvinyl chloride with a 5-um pore size and 37-mm diameter. A support pad, commonly called a backup pad, shall be used under the filter membrane in the field monitor cassette.

(d) Balance. A balance sensitive to 10 micrograms shall be used.

III. INSTRUMENT CALIBRATION PROCEDURE

Samplers shall be calibrated when first received from the factory, after repair, and after receiving any abuse. The samplers shall be calibrated in the laboratory both before they are used in the field and after they have been used to collect a large number of field samples. The primary standards, such as a spirometer or a wet test meter or other standard calibrating instruments such as a large bubble meter or dry gas meter, shall be used. Instructions for calibration with the wet test meter follow. If another calibration device is selected, equivalent procedures shall be used:

(a) Level wet test meter. Check the water level which should just touch the calibration point at the left side of the meter. If water level is low, add water 1-2 F° warmer than room temperature to fill point. Run the meter for 30 minutes before calibration;

(b) Place the polyvinyl chloride membrane filter in the filter cassette;

(c) Assemble the calibration sampling train;

(d) Connect the wet test meter to the train. The pointer on the meter should run clockwise and a pressure drop of not more

than 1.0 inch of water indicated. If the pressure drop is greater than 1.0 disconnect and check the system;

(e) Operate the system for ten minutes before starting the calibration;

(f) Check the vacuum gauge on the pump to insure that the pressure drop across the orifice exceeds 14 inches of mercury;

(g) Record the following on calibration data sheets:

(1) Wet test meter reading, start and finish;

(2) Elapsed time, start and finish (at least two minutes);

(3) Pressure drop at manometer;

(4) Air temperature;

(5) Barometric pressure; and

(6) Limiting orifice number;

(h) Calculate the flow rate and compare against the flow of 7.4 ± 0.2 liters/minute. If flow is between these limits, perform calibration again, average results, and record orifice number and flow rate. If flow is not within these limits, discard or modify orifice and repeat procedure;

(i) Record the name of the person performing the calibration, the date, serial number of the wet test meter, and the number of the critical orifices being calibrated.

IV. SAMPLING PROCEDURE

(a) Sampling data sheets shall include a log of:

(1) The date of the sample collection;

(2) The time of sampling;

(3) The location of the sampler;

(4) The sampler serial number;

(5) The cassette number;

(6) The time of starting and stopping the sampling and the duration of sampling;

(7) The weight of the filter before and after sampling;

(8) The weight of dust collected (corrected for controls);

(9) The dust concentration measured;

(10) Other pertinent information; and

(11) Name of person taking sample.

(b) Assembly of filter cassette shall be as follows:

(1) Loosely assemble 3-piece cassette;

(2) Number cassette, top and bottom;

(3) Place absorbant pad in cassette;

(4) Weigh filter to an accuracy of 10 ug;

(5) Place filter in cassette;

(6) Record weight of filter in log, using cassette number for identification;

(7) Fully assemble cassette, using pressure to force parts tightly together;

(8) Install plugs top and bottom;

(9) Put shrink band on cassette, covering joint between center and bottom parts of cassette; and

(10) Set cassette aside until shrink band dries thoroughly.

(c) Sampling collection shall be performed as follows:

(1) Clean lint out of the motor and elutriator and clean the relief valve screen;

(2) Install vertical elutriator in sampling locations specified above with inlet 4½ to 5½ feet from floor (breathing zone height);

(3) Remove top section of cassette;

(4) Install cassette in ferrule of elutriator;

(5) Tape cassette to ferrule with 1 in. wide masking tape or similar material for air-tight seal;

(6) Remove bottom plug of cassette and attach hose containing critical orifice;

(7) Start elutriator pump and check to see if gauge reads above 14 in. of Hg vacuum;

(8) Record starting time, cassette number, and sampler number;

(9) At end of sampling period stop pump and record time; and

(10) Controls: With each batch of samples collected, two additional filter cassettes shall be subjected to exactly the same handling as the samples, except that they are not opened. These control filters shall be weighed in the same manner as the sample filters. Any difference in weight in the control filters would indicate that the procedure for handling sample filters may not be adequate and shall be evaluated to ascertain the cause of the difference, whether and what necessary corrections must be made, and whether additional must be collected.

(d) Shipping

The cassette with samples shall be collected, along with the appropriate number of blanks, and shipped to the analytical laboratory in a suitable container to prevent damage in transit.

(e) Weighing of the sample shall be achieved as follows:

(1) Remove shrink band;

(2) Remove top section of cassette and bottom plug;

(3) Remove filter from cassette and weigh to an accuracy of 10 ug; and

(4) Record weight in log against original weight

(f) Calculation of volume of air sampled shall be determined as follows:

(1) From starting and stopping times of sampling period, determine length of time in minutes of sampling period; and

(2) Multiply sampling time in minutes by flow rate of critical orifice in liters per minute and divide by 1000 to find air quantity in cubic meters

(g) Calculation of Dust Concentrations shall be made as follows:

(1) Subtract weight of clean filter from dirty filter and apply control correction to find actual weight of sample. Record this weight (in ug) in log; and

(2) Divide mass of sample in ug by air volume in cubic meters to find dust concentration in ug/m. Record in Log.

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APPENDIX B
RESPIRATORY QUESTIONNAIRE

A. IDENTIFICATION DATA

PLANT_____ SOCIAL SECURITY NO. _____
DAY MONTH (figures) YEAR (last 2 digits)

NAME _____ DATE OF INTERVIEW_____
(Surname)

_____ _____ DATE OF BIRTH_____
(First Names) M F

ADDRESS _____ AGE_____(8,9) SEX_____(10)

_____ RACE | W | N | IND. | OTHER | (11)

INTERVIEWER: 1 2 3 4 5 6 7 8 (12)

WORK SHIFT: 1st_____ 2nd_____ 3rd_____(13) STANDING HEIGHT_____(14,15)

PRESENT WORK AREA WEIGHT_____(16,18)

If working in more than one specified work area, X area where most of the work shift is spent. If "other," but spending 25% of the work shift in one of the specified work areas, classify in that work area. If carding department employee, check area within that department where most of the work shift is spent (if in doubt, check "throughout"). For work areas such as spinning and weaving where many work rooms may be involved, be sure to check the specific work room to which the employee is assigned -- if he works in more than one work room within a department classify as 7 (all) for that department.

	Workroom Number	(19) Open	(20) Pick	Area	(21) Card #1	(22) #2	(23) Spin	(24) Wind	(25) Twist	(26) Spool	(27) Warp	(28) Slash	(29) Weave	(30) Other
AT RISK (cotton & cotton blend)	1			Cards										
	2			Draw										
	3			Comb										
	4			Rove										
	5			Thru Out										
	6													
	7 (all)													
Control (synthetic & wool)	8													
Ex-Worker (cotton)	9													

Use actual wording of each question. Put X in appropriate square after each question. When in doubt record 'No'. When no square, circle appropriate answer.

B. COUGH

Do you usually cough first thing in the morning? (on getting up)† _____ Yes___ No___ (31)
(Count a cough with first smoke or on "first going out of doors." Exclude clearing throat or a single cough.)

Do you usually cough during the day or at night? _____ Yes___ No___ (32)
(Ignore an occasional cough.)

If 'Yes' to either question (31-32):

Do you cough like this on most days for as much as three months a year? _____ Yes___ No___ (33)

Do you cough on any particular day of the week? Yes___ No___ (34)

(1) (2) (3) (4) (5) (6) (7)

If 'Yes': Which day? Mon. Tues. Wed. Thur. Fri. Sat Sun. (35)

C. PHLEGM or alternative word to suit local custom.

Do you usually bring up any phlegm from your chest first thing in the morning? (Count phlegm with the first smoke or on "first going out of doors." Exclude phlegm from the nose. Count swallowed phlegm.) (on getting up)† _____ Yes___ No___ (36)

Do you usually bring up any phlegm from your chest during the day or at night? (Accept twice or more.) _____ Yes___ No___ (37)

If 'Yes' to either question (36) or (37):

Do you bring up phlegm like this on most days for as much as three months each year? _____ Yes___ No___ (38)

If 'Yes' to question (33) or (38):

How long have you had this phlegm? (cough)
(Write in number of years

(1) ☐ 2 years or less
(2) ☐ More than 2 years-9 years
(3) ☐ 10-19 years
(4) ☐ 20+ years

†These words are for subjects who work at night

D. CHEST ILLNESSES

In the past three years, have you had a period of (increased) †cough and phlegm lasting for 3 weeks or more? _____

(1) ☐ No (40)
(2) ☐ Yes, only one period
(3) ☐ Yes, two or more periods

†For subjects who usually have phlegm

During the past 3 years have you had any chest illness which has kept you off work, indoors at home or in bed? (For as long as one week, flu?) Yes___ No___ (41)

If 'Yes' to (41): Did you bring up (more) phlegm than usual in any of these illnesses? Yes___ No___ (42)

If 'Yes' to (42): During the past three years have you had:
Only one such illness with increased phlegm? (1) ☐ (43)
More than one such illness: (2) ☐ (44)

Br. Grade_____

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E. TIGHTNESS

Does your chest ever feel tight or your breathing become difficult? _____ Yes ____ No ____ (45)

Is your chest tight or your breathing difficult on any particular day of the week? (after a week or 10 days away from the mill) _____ Yes ____ No ____ (46)

If 'Yes': Which day? Mon. (3) Tues. (4) Wed. (5) Thur. (6) Fri. (7) Sat. (8) Sun. (47)
(1) Sometimes (2) Always

If 'Yes' Monday: At what time on Monday does your chest feel tight or your breathing difficult? (48)
1 ☐ Before entering the mill
2 ☐ After entering the mill

(Ask only if NO to Question (45)

In the past, has your chest ever been tight or your breathing difficult on any particular day of the week? _____ Yes ____ No ____ (49)

If 'Yes': Which day? Mon. (3) Tues. (4) Wed. (5) Thur. (6) Fri. (7) Sat. (8) Sun. (50)
(1) Sometimes (2) Always

F. BREATHLESSNESS

If disabled from walking by any condition other than heart or lung disease put "X" here and leave questions (52-60) unasked. ☐ (51)

Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill? _____ Yes ____ No ____ (52)

If 'No', grade is 1. If 'Yes', proceed to next question

Do you get short of breath walking with other people at an ordinary pace on the level? _____ Yes ____ No ____ (53)

If 'No', grade is 2. If 'Yes', proceed to next question

Do you have to stop for breath when walking at your own pace on the level? _____ Yes ____ No ____ (54)

If 'No', grade is 3. If 'Yes', proceed to next question

Are you short of breath on washing or dressing? _____ Yes ____ No ____ (55)

If 'No', grade is 4. If 'Yes', grade is 5.

Dyspnea Grd. _____ (56)

ON MONDAYS:

Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill? _____ Yes ____ No ____ (57)

If 'No', grade is 1. If 'Yes', proceed to next question

Do you get short of breath walking with other people at an ordinary pace on the level? _____ Yes ____ No ____ (58)

If 'No', grade is 2. If 'Yes', proceed to next question

Do you have to stop for breath when walking at your own pace on the level? _____ Yes ____ No ____ (59)

If 'No', grade is 3. If 'Yes', proceed to next question

Are you short of breath on washing or dressing? _____ Yes ____ No ____ (60)

If 'No', grade is 4. If 'Yes', grade is 5 B. Grd. _____ (61)

G. OTHER ILLNESSES AND ALLERGY HISTORY

Do you have a heart condition for which you are under a doctor's care? _____ Yes ____ No ____ (62)

Have you ever had asthma? Yes No (63)

If 'Yes', did it begin: (1) ☐ Before age 30
(2) ☐ After age 30

If 'Yes' before 30: did you have asthma before ever going to work in a textile mill? _____ Yes ____ No ____ (64)

Have you ever had hay fever or other allergies (other than above)? _____ Yes ____ No ____ (65)

H. TOBACCO SMOKING*

Do you smoke?

Record 'Yes' if regular smoker up to one month ago. (Cigarettes, cigar or pipe) _____ Yes ____ No ____ (66)

If 'No' to (63).

Have you ever smoked? (Cigarettes, cigars, pipe. Record 'No' if subject has never smoked as much as one cigarette a day, or 1 oz. of tobacco a month, for as long as one year.) _____ Yes ____ No ____ (67)

If 'Yes' to (63) or (64); what have you smoked and for how many years? (Write in specific number of years in the appropriate square)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	
Years	(<5)	(5-9)	(10-14)	(15-19)	(20-24)	(25-29)	(30-34)	(35-39)	(>40)	
Cigarettes										(68)
Pipe										(69)
Cigars										(70)

If cigarettes, how many packs per day? (Write in number of cigarettes)
(1) ☐ less than 1/2 pack (71)
(2) ☐ 1/2 pack, but less than 1 pack
(3) ☐ 1 pack, but less than 1-1/2 packs
(4) ☐ 1-1/2 packs or more

Number of pack years: _____ (72,73)

If an ex-smoker (cigarettes, cigar or pipe), how long since you stopped? _____ (74)
(Write in number of years)

(1) ☐ 0-1 year
(2) ☐ 1-4 years
(3) ☐ 5-9 years
(4) ☐ 10+ years

*Have you changed your smoking habits since last interview? If yes, specify what changes.

I. OCCUPATIONAL HISTORY**

Have you ever worked in: A foundry? (As long as one year) _____ Yes ____ No ____ (75)

Stone or mineral mining, quarrying or processing? (As long as one year) _____ Yes ____ No ____ (76)

Asbestos milling or processing? (Ever) _____ Yes ____ No ____ (77)

Cotton or cotton blend mill? (For controls only) ____ Yes ____ No ____ (78)

Other dusts, fumes or smoke? If yes, specify: ____ Yes ____ No ____ (79)

Type of exposure _____

Length of exposure _____

**Ask only on first interview.

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At what age did you first go to work in a textile mill? (Write in specific age in appropriate square).

(1)	(2)	(3)	(4)	(5)	(6)	
<20	20-24	25-29	30-34	35-39	40+	(80)

When you first worked in a textile mill, did you work with (1) ☐ Cotton or cotton blend (81)
(2) ☐ Synthetic or wool

Within the first few days you first worked in a textile mill, do you remember becoming sick with fever, chills, cough or sickness of the stomach? (Accept any of the above signs or symptoms)_____Yes_____No_____(82)

If "no" to (75): Have you ever had such an illness after returning to the mill after a few days away from the mill?_____Yes_____No_____(83)

How many years have you worked in a textile mill? (Write in total number of years in appropriate square)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
Processing:	<1	1-4	5-9	10-14	15-19	20-24	25-30	30+	
Cotton or Cotton Blend									(84)
All Synthetic or Wool									(85)

If cotton, how many years did you spend in each area? (Write in years in each area)

	(86) Open	(87) Pick	(88) Card	(89) Spin	(90) Wind	(91) Twist	(92) Spool	(93) Warp	(94) Slash	(95) Weave	(96) Other	
<1												(1)
1-4												(2)
5-9												(3)
10-14												(4)
15-19												(5)
20-24												(6)
25-29												(7)
30+												(8)

For those working in more than one area:

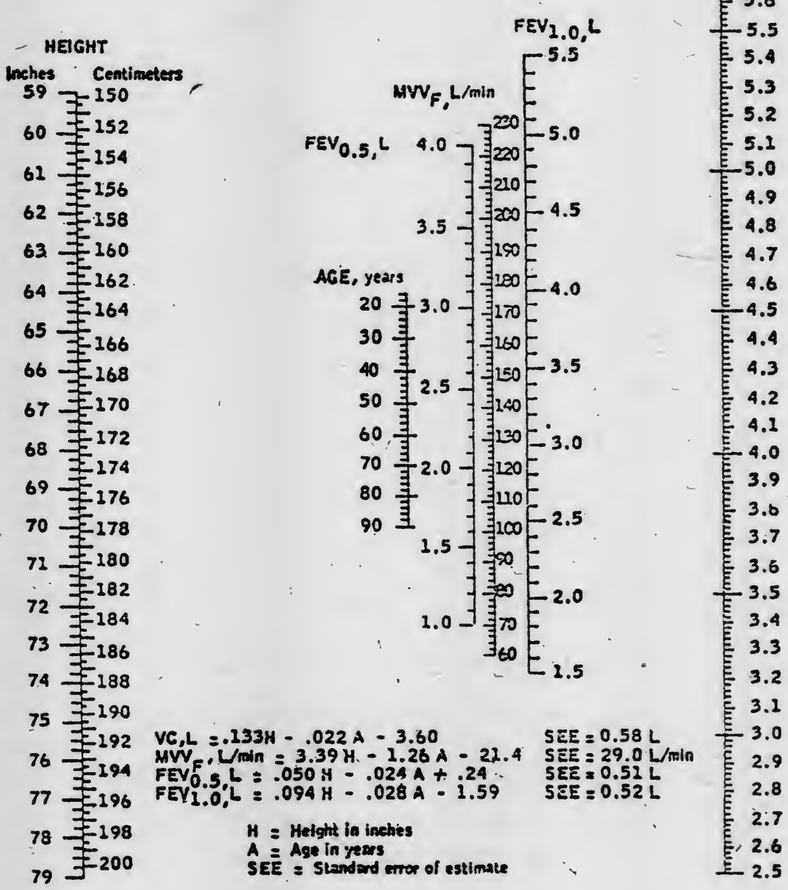
Did you move from a dusty work area to one that was not as dusty?_____Yes_____No_____(97)

If yes, did you move because the dust bothered your breathing?_____Yes_____No_____(98)

APPENDIX C

V.A. COOPERATIVE STUDY
Spirometry in Normal Males
Prediction Nomograms

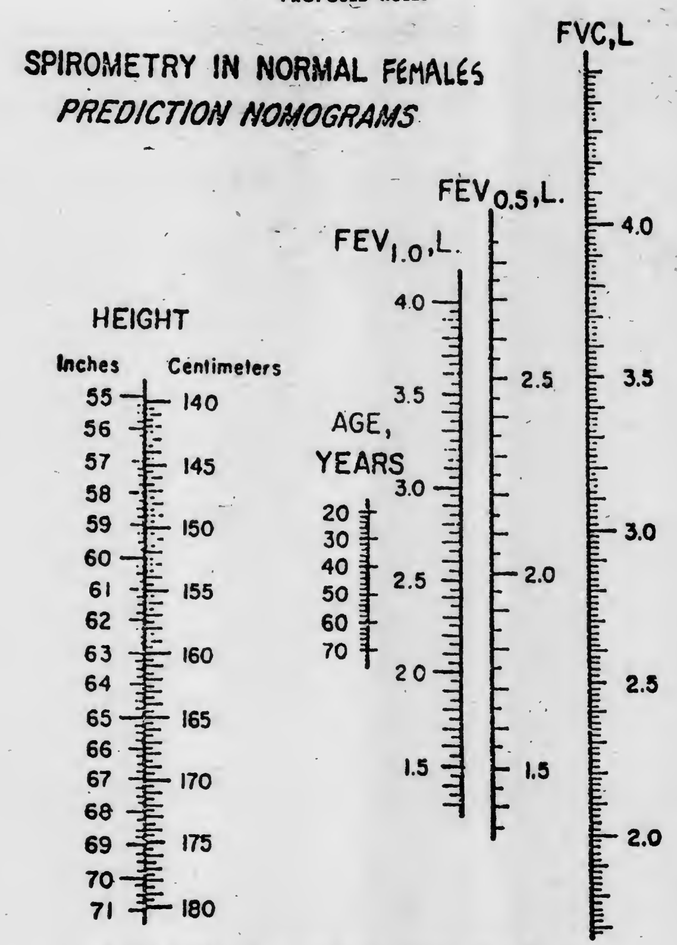
SPIROMETRY IN NORMAL MALES
PREDICTION NOMOGRAMS



VC,L = .133H - .022 A - 3.60	SEE = 0.58 L
MVV_F, L/min = 3.39 H - 1.26 A - 21.4	SEE = 29.0 L/min
$FEV_{0.5}$, L = .050 H - .024 A + .24	SEE = 0.51 L
$FEV_{1.0}$, L = .094 H - .028 A - 1.59	SEE = 0.52 L

H = Height in inches
A = Age in years
SEE = Standard error of estimate

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$FVC = 0.041\,H - 0.018\,A - 2.689$ (SEE = 0.371)

$FEV_{0.5} = 0.018\,H - 0.011\,A - 0.297$ (SEE = 0.306)

$FEV_{1.0} = 0.028\,H - 0.021\,A - 0.867$ (SEE = 0.330)

H = Height in cm. A = AGE in years. N = 450

SEE = Std. Error of Estimate

The following guidelines are recommended for use in evaluating pulmonary function results in conjunction with the monograms of this appendix.

1. In black persons, the predicted value for FVC obtained from the monogram should be multiplied by 0.85 to adjust for the 15% lower FVC.

2. The measured value for FVC should not be less than 75% of that predicted for age, sex, and height.

4. In Part 1928 of 29 CFR, § 1928.21 would be amended by adding the following item to paragraph (a) of § 1928.21:

§ 1928.2 Applicable standards in 29 CFR Part 1910.

(a) • • •

(5) Cotton dust—§ 1910.1043.

(Secs. 4, 6, 8, 84 Stat. 1592, 1593, 1599, (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059): 29 CFR Part 1911.)

[FR Doc.76-37893 Filed 12-22-76;2:00 pm]

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federal register

TUESDAY, DECEMBER 28, 1976

PART IV



SECURITIES AND EXCHANGE COMMISSION

■

SHORT SALES OF SECURITIES AND PROHIBITIONS RELATING TO PUBLIC OFFERINGS

Proposed Rulemaking

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SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34–13091; File No. S7–665]

SHORT SALES OF SECURITIES

Public Fact-Finding Investigation and Rulemaking Proceeding

The Securities and Exchange Commission announced today that it has ordered a public investigatory and rulemaking proceeding to ascertain facts, conditions, practices and other matters relating to short sales of securities registered, or admitted to unlisted trading privileges, on national securities exchanges. The purpose of this investigatory and rulemaking proceeding is to gather evidence as to whether regulation of short sales of all securities registered, or admitted to unlisted trading privileges, on national securities exchanges of the type currently provided by the Commission's primary short sale rule, Rule 10a–1 (17 CFR § 240.10a–1) under the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975), is needed in today's regulatory environment.[1]

In connection with this investigatory and rulemaking proceeding, the Commission is publishing for comment proposed temporary Rules 10a–3(T)[A], 10a–3(T)[B] and 10a–3(T)[C] (17 CFR §§ 240.10a–3(T)[A], 240.10a–3(T)[B] and 240.10a–3(T)[C]) and proposed Rule 10b–11 (17 CFR § 240.10b–11). Proposed Rules 10a–3(T)[A], 10a–3(T)[B], and 10a–3(T)[C] would suspend in part, to varying degrees, the operation of the "tick" test provisions of Rule 10a–1 under the Act, while proposed Rule 10b–11 would establish explicit borrowing requirements in connection with short sales. The Commission invites written views, data and arguments with respect to whether the Commission should adopt any of the alternative rules regarding the suspension of the "tick" test proposed herein (or some variation thereof), as well as with respect to various other issues and questions discussed herein relating to the need for or manner of regulating short sales.

The investigatory and rulemaking proceeding commenced today is intended to be the first step in a thorough and comprehensive reexamination of short sale regulation in the light of changing market and regulatory conditions and to provide a framework for public discussion of the issues involved. In commencing this proceeding, and in publishing for comment proposed ules 10a–3(T)[A], 10a–3(T)[B], and 10a–3(T)[C], the Commission wishes to emphasize, however, that it has reached no conclusions with respect to the desirability of removal, either in whole or in part, of the existing "tick" test provisions of Rule 10a–1. Assuming that such removal would be appropriate, at least on an experimental basis, the Commission has also not resolved either the scope or timing of such an experiment.

First, as more fully discussed infra, the Commission may wish to defer the commencement of any deregulation experiment until it has in place a comprehensive monitoring and data collection program with respect to short selling and has gathered data for comparison purposes with respect to short sale activity under the existing regulatory environment. In addition, because of the significant structural changes now occurring in the securities markets, the Commission may wish to defer a deregulation experiment relating to short selling until it has had a further opportunity to observe the effects of these changes in functioning of the markets. For example, the Commission is currently considering rule proposals filed by several national securities exchanges contemplating the introduction of trading in put options. On July 7, 1976, the Commission announced (in Securities Exchange Act Release No. 12601), that, while it would not make a decision respecting the initiation of exchange puts trading until after January 1, 1977, in order to fully analyze a number of unresolved regulatory, surveillance and economic issues, it "recognize[d] the economic logic for the extension of existing exchange option trading to include puts." Should the Commission authorize a pilot program in puts trading after January 1, 1977, it may be appropriate to defer any short sale deregulation experiment until the impact of exchange put trading on the securities markets can be reviewed in light of actual experience.

Finally, the Commission wishes to point out that the commencement of this investigatory and rulemaking proceeding does not at this time alter the existing short sale regulatory scheme. All persons are reminded that, until such time (if ever) as the Commission takes further action to adopt one of the alternative rules proposed herein(or some variation thereof), short sales of securities registered, or admitted to unlisted trading privileges on, national securities exchanges, must comply fully with Rule 10a–1 under the Act (and all other applicable provisions of the federal securities laws).

I. BACKGROUND

Short selling has been the subject of Commission regulation since 1938.[2] The Commission has consistently analyzed short sale regulation in terms of three possible objectives:

(i) Allowing relatively unrestricted short selling in an advancing market;

(ii) Preventing short selling at successively lower prices, thus eliminating short selling as a tool for driving the market down; and

(iii) Preventing short sellers from accelerating a declining market by exhausting all remaining bids at one price level, causing successively lower prices to be established by long sellers.[3]

Prior to April 30, 1976, the permissibility of short sales under Rule 10a–1 (17 CFR § 240.10a–1) was determined for a particular exchange by applying the so-called "tick" test to the proposed short sale, comparing the price of the proposed short sale to immediately preceding transactions in the security to be sold short occurring on that exchange. Thus, Rule 10a–1 (17 CFR § 240.10a–1), as then in effect, prohibited the short sale of any security on an exchange below the price at which the last sale was effected (i.e., on a minus tick) or at the last sale price if the immediately preceding trade at a different price was higher (i.e., on a zero minus tick).[4] "Regional" stock exchanges, however, could avail themselves of the so-called "equalizing exemption" to the foregoing general rule provided in paragraph (d)(6) of Rule 10a–1, as in effect prior to amendment, which permitted a short sale on an exchange if necessary to equalize the price of a security with its current price in the "principal exchange market" for that security.[5] Thus, this exemption permitted a short sale to be effected on a "regional" exchange at a price equal to the last sale in the primary market regardless of whether the last sale in that market was effected on a plus or minus tick and regardless of whether the "equalizing" short sale represented a minus tick in the market in which it was executed. Finally, although section 10(a) of the Act (15 U.S.C. 78j(a)) authorizes the Commission to adopt comprehensive short sale regulation for securities "registered" on a national securities exchange, whether such sales are effected thereon or by means of another instrumentality of interstate commerce, Rule 10a–1, as in effect prior to June 12, 1975 (on which date amendments to the rule were adopted which became operative on April 30, 1976), applied only to exchange transactions.

On June 12, 1975, the Commission adopted amendments to its short sale rules to provide for comprehensive regulation of short sales of listed securities in all markets (including the over-the-counter market) in conjunction with the full implementation of the consolidated transaction reporting system (the "consolidated system") contemplated by Rule 17a–15 under the Act (17 CFR § 240.17a–15).[6] Those amendments, which, as noted above, became operative on April 30, 1976,[7] prohibit any person from effecting a short sale of a reported security at a price below the price of the last sale thereof, or at the price of the last sale thereof if the preceding different sale was effected at a higher price, reported in the consolidated system.[8] In addition to altering the reference point for determining the permissibility of short sales (which theretofore, as discussed above, had been the last sale on the several exchanges), the amendments also altered the reference point for so-called "equalizing short sales" to refer to the last sale reported in the consolidated system.[9] Finally, as amended on June 12, 1975, Rule 10a–1 permits an exchange to make an election as to whether short sales of reported securities in its market are to be governed by a "tick" test referenced to the last sale reported in the consolidated system or one referenced to the last sale reported in that exchange's market.[10]

. . . . . .

In the course of the Commission's review of short sale regulation during the process of formulating the recent amendments to its short sale rules and consideration of certain short sale rule proposals advanced by the "regional" exchanges,[11] the Commission has reconsidered the nature and role of such regulation and has concluded that the continuation of the short sale rules, and regulation of short selling, may no longer be required except perhaps in certain limited circumstances (e.g., in connection with underwritten offerings, and possibly other circumstances.)[12] In reaching this conclusion, the Commission has considered, among other things, (i) the fact that, despite efforts to achieve uniform and comprehensive regulation of short selling, the recent amendments and proposals have demonstrated the increasing complexity of the short sale rules and the fact that Rule 10a–1 has had, and continues to have, an undesirable competitive impact on individual market centers as a consequence of differences in its application to different categories of market participants, (ii) the lack of reliable information (including current statistical studies) with respect to the pattern of short selling in today's markets, the general effect of short selling, and the efficacy of short sale regulation as currently in effect, (iii) whether the goals of short sale regulation continue to be desirable objectives (particularly if they can be pursued only by means of short sale rules of the type currently employed), and (iv) the growing support of academicians and certain self-regulatory organizations[13] for the elimination of short sale regulation except to the extent that short selling is used as a manipulative device.

A. Competitive Impact of Short Sale Rule. As more fully set forth below, short sale regulation, by its very nature, has allegedly imposed burdens on competition by restricting short selling under certain circumstances, thereby precluding short sellers from competing with long sellers for executions when the provisions of the short sale rule apply.[14]

Moreover, the short sale rule has always applied differently to various market centers and has differentiated in its application among types of short sellers. Because of the "tick" test mechanism by which existing short sale regulation functions and the operation of the "equalizing exemption," short sales at a given price which can be effected legally in one market may not be permissible in another market. Similarly, the existing short sale regulatory scheme has established relatively favored and disfavored categories of short sellers in terms of the price levels at which permissible short sales may be effected under the rule. As a result, it is argued that the operation of Rule 10a–1 has had, and continues to have, an impact on the allocation of order flow among the various market centers—an impact substantial

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[1] See Securities Exchange Act Release No. 12384 (April 28, 1976) at 3, 41 FR 19229 (1976). The Commission's short sale rules under the Act are Rules 3b–3, 10a–1, and 10a–2 (17 CFR 240.3b–3, 240.10a–1, 240.10a–2).

[2] In 1934, the Senate Banking and Currency Committee found that "few subjects relating to exchange practices have been characterized by greater differences of opinion than that of short selling." S. Rept. No. 1455, Report on Stock Exchange Practices of the Senate Comm. on Banking and Currency. 73d Cong., 2d Sess. 50 (1934) ("S. Rept. No. 1455"). See also id. at 50–54; Committee on Stock Exchange Regulation, Report to Secretary of Commerce, 73d Cong., 2d Sess. 17 (Comm. Print 1934). Rather than abolish the practice, however, Congress granted the Commission plenary power to regulate short sales in listed securities in order to "purge the markets of the abuses connected with these practices." S. Rep. No. 1455 at 55. See also H.R. Rep. No. 1383, 73d Cong., 2d Sess. 11 (1934).

The Commission did not adopt a rule immediately, but instead, in 1935, requested the exchanges to regulate the practice. Securities and Exchange Commission, First Annual Report 16 (1935). The exchanges adopted general rules prohibiting all sales which had the effect of "demoralizing" the market, including a short sale below the previous sale. 2 Securities & Exchange Commission, Report of Special Study of Securities Markets, H. Doc. No. 95, 68th Cong., 1st Sess. 251 (1963) ("Special Study"). Following a study of the market break of 1937, however, the Commission adopted its own rule, which prohibited all short sales at or below the last sale. Securities Exchange Act Release No. 1548 (January 24, 1938), 3 FR 213 (1938). New York Stock Exchange ("NYSE") officials urged revision of the rule and the Commission adopted the rule in the form which was in effect until April 30, 1976, in March, 1939. Securities Exchange Act Release No. 2039 (March 10, 1939), 4 FR 1209 (1939). See 2 Special Study 252.

[3] Securities Exchange Act Release No. 11468 (June 12, 1975) at 3, 40 FR 25443 (1975).

[4] See generally Securities Exchange Act Release No. 2039 (March 10, 1939), 4 FR 1209 (1939). 2 Special Study 251–52.

[5] See Securities Exchange Act Release No. 1579 (February 10, 1938), 3 FR 362 (1938). Operation of the equalizing amendment under Rule 10a–1, as in effect prior to amendment and under the rule after amendment on June 12, 1975, is discussed in Securities Exchange Act Release No. 11468 (June 12, 1975), 40 FR 25442 (1975).

[6] Securities Exchange Act Release No. 11468 (June 12, 1975), 40 FR 25442 (1975). The desirability of such comprehensive regulation of short selling was recognized by the Commission in its Policy Statement on the Structure of a Central Market System. See Securities and Exchange Commission, Policy Statement on the Structure of a Central Market System (March 29, 1973) at 32, 66. See also Advisory Committee on a Central Market System, Interim Report to the Securities and Exchange Commission on Regulation Needed to Implement a Composite Transaction Reporting System, (October 11, 1972) ("Advisory Committee Interim Report").

The Commission first published proposed amendments to the short sale rules on March 6, 1974, Securities Exchange Act Release No. 10668 (March 6, 1974), 39 FR 10604 (1974) and, after revisions in light of the comments received, adopted those amendments on September 27, 1974 (effective October 4, 1974) (the "October Amendments"). Securities Exchange Act Release No. 11030 (September 27, 1974), 39 FR 35570 (1974). The October Amendments to Rules 10a–1 and 10a–2 were suspended temporarily by the Commission pending further study in response to representations made to the Commission by certain self-regulatory organizations that implementation of the October Amendments would result in serious operational and other difficulties in regulating short sale transactions in their markets. Securities Exchange Act Release No. 11056 (October 17, 1974), 39 FR 37971 (1974). See also Securities Exchange Act Release Nos. 11051 (October 15, 1974) and 11051A (November 17, 1974). On March 5, 1975, the Commission published for comment additional proposed amendments to Rule 10a–1 (the "March Proposals"), which were intended to ameliorate the difficulties perceived by those self-regulatory organizations. Securities Exchange Act Release No. 11276 (March 5, 1975), 40 FR 12522 (1975). The amendments to the short sale rule adopted on June 12, 1975, in substance, are an implementation of the March Proposals.

On June 12, 1975, the Commission also proposed certain additional amendments to the short sale rules. The proposed amendments related to (i) the reference point for application of the "tick" test under paragraph (a)(1) of Rule 10a–1 and (ii) the scope of the exemption afforded by pargaraph (e)(5) of that rule. After reviewing the comments received on the proposals (including the views of certain self-regulatory organizations presented at a public meeting held on April 26, 1976), the Commission determined to withdraw the proposed amendments. Securities Exchange Act Release No. 12384 (April 28, 1976), 41 FR 19229 (1976).

[7] See Securities Exchange Act Release Nos. 12138 (February 25, 1976) and 12384 (April 28, 1976), 41 FR 19229 (1976).

[8] See Securities Exchange Act Release No. 11030 (September 30, 1974) at 1, 39 FR 35570 (1974).

[9] Rule 10a–1(e)(6) (17 CFR § 240.10a–1(e)(6)). The amendments contain certain other minor changes from Rule 10a–1 as in effect prior to those amendments. See Securities Exchange Act Release Nos. 11030 (September 27, 1974), 39 FR 35570 (1974) and 11468 (June 12, 1975), 40 FR 25442 (1975).

[10] This aspect of the short sale rule, as amended, was designed to ameliorate potential regulatory and operational problems perceived by certain exchanges with a uniform short sale rule employing a "tick" test referenced to the consolidated system. See Securities Exchange Act Release No. 11468 (June 12, 1975) at 5, 40 FR 25444 (1975). To date such elections have been made by the NYSE and the American Stock Exchange ("Amex"). See Securities Exchange Act Release Nos. 12201 (March 12, 1976), 41 FR 11907 (1976), and 12357 (April 21, 1976), 41 FR 17633 (1976). Rule 10a–1, as amended, also permits an exchange to foreclose use of the equalizing exemption by its specialists and market makers. Securities Exchange Act Release No. 11468 (June 12, 1975) at 5, 40 FR 25444 (1975). While the NYSE has chosen to foreclose use of the equalizing exemption by its specialists, the Amex has not.

[11] See Securities Exchange Act Release No. 12384 (April 28, 1976), 41 FR 19229 (1976).

[12] Id. at 2, 41 FR 19230 (1976).

[13] See note 90 infra.

[14] See discussion at p. 47 infra. It is also argued that the limitations on sellers created by the short sale rule may have adverse effects on purchasers who will wish to buy at as low a price as is available in an open market.

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enough to affect competition among these centers.[15]

B. *Studies of Short Selling.* Consideration of whether short sale regulation continued to be appropriate in today's markets, in light of the burdens on competition which allegedly result from such regulation, has been hampered by a lack of data concerning short selling, particularly on "regional" exchanges and in the over-the-counter market.[16] Moreover, although several studies have been conducted during the past forty years with respect to short sale activities, those studies do not demonstrate conclusively the effects of short selling or the efficacy of short sale regulation.

Virtually no statistical information concerning the incidence of short selling was available until 1931.[17] Although the NYSE, following the collapse of the market in October, 1929, did conduct a survey of the short interest of its members as of November 12, 1929,[18] the collection of short sale statistics on a regular basis did not begin until May 23, 1931,[19] and then only in the face of allegations that the severe market decline experienced in the 1929–1931 period "was the work of a group of wicked bear raiders—professional speculators—who by selling short were driving prices lower and preventing recovery."[20] The first published statistics which related to the short interest[21] of NYSE members in individual stocks and on an aggregate basis, released in late 1931,[22] revealed very little useful information concerning the relation of short selling to trends in securities prices. The statistics merely demonstrated that price declines of certain securities were accompanied by both rising and falling levels of short interest; similarly, in situations where stocks advanced, both increases and decreases in the short interest were reported.[23]

The initial attempt at a comprehensive statistical study of the effects of short selling was conducted in late 1933 by the Twentieth Century Fund, Inc.[24] The study attempted to analyze the impact of short selling through an analysis of the published data on the short interest of NYSE members together with certain unpublished statistics made available to the study group by the NYSE.[25] The study concluded that, in general, short selling did not have "any appreciable effect in limiting the extremes to which prices may rise."[26] In both long and short term stock movements, the study concluded that short selling was "likely to appear after prices have started downward and to grow in volume as they continue downward, to be covered through purchases either at lower price levels or after prices have turned upward."[27] The main tendency of short selling appeared to be "to accelerate the downward trend to prices during the early and middle phases of [downward price] movement[s] • • •"[28]

In announcing these results, however, the Securities Market Study noted that "[t]he short selling statistics compiled by the New York Stock Exchange are not • • • complete."[29] It cautioned that the supporting evidence for the conclusions reached was fragmentary and that "more complete evidence might lead to somewhat different conclusions."[30]

During the latter part of 1937, the Commission instituted its own analysis of short selling "to study at first hand the effects of short selling in a rapidly declining market."[31] The study focused on two weekly periods during September and October, 1937—periods which the Commission described as "characterized by a large volume of trading, erratic intermediate price movements and insensitive liquidation."[32] From this study the Commission concluded "that members trade predominantly with the price trend on balance" and "that in a declining market certain types of short sales are seriously destructive of stability."[33]

The conclusions of this study resulted in the adoption in January, 1938, of the Commission's initial short sale rule.[34] In commenting on the relation between the Commission's study and the adoption of the short sale rule, then Chairman William O. Douglas wrote that the study showed that "it was pounding by the short seller which increased the downward momentum of the market."[35] "That discovery," commented Douglas, "led [the Commission] to promulgate • • • the short sale rule which is still in effect and which is in a sense a cotter pin in a declining market. • • •"[36]

The 1937 Commission study has been criticized on several grounds. First, it is argued that the Commission drew its conclusions from inadequate data and that the information released by the Commission merely demonstrates trends over a short period of time—trends which are inconclusive with respect to the general impact of short selling. Second, although the Commission indicated that "[t]he study of short selling by the Commission's staff will, of course, be a continuing one," and that "[a] detailed report on [short selling would] be available in the near future,"[37] no further information with respect to the 1937 study was disseminated.

At the same time the Commission was undertaking its study of short selling, the NYSE requested the Twentieth Century Fund "to make an independent appraisal of the recorded data on short selling."[38] The study, which was not released until 1951, focused primarily on statistical information with respect to short positions and prices of individual stocks and groups of stocks during the period from May 23, 1931 through December 31, 1939,[39] although the study group also examined extensive nonstatistical information, including private NYSE files relating to short selling and investigations made by NYSE officials into cases of alleged manipulation or raiding.[40]

The study concluded that "there appeared to be no conclusive statistical evidence that short selling materially affected the extent of a major decline or a major advance in the market as a whole,"[41] and that the influence of short selling in the years immediately preceding publication of the study "has been completely negligible."[42] The study further concluded "that short selling seldom, if ever, exerted a determining influence on even the 'intermediate' movement of stock prices during the period analyzed."[43]

With respect to short term price movements, the study stated that "in some instances during the period covered by [the] investigation short selling had a temporarily disorganizing effect on the market for particular stocks."[44] The study noted, however, that the short sale regulations of the Commission and the NYSE adopted during the 1930's "seem . . . to have eliminated even such sporadic outbursts."[45]

With respect to short sale activities in the early days of the NYSE (for which there were only nonstatistical records), the authors found "little doubt that short selling often had a temporarily disorganizing effect on the price movements of a particular stock and sometimes of the market as a whole."[46] The study stated, however, that

> [t]here seems little doubt that, even in those days, it was ever a serious factor in determining the *larger and longer-term* movements of the market in general or even of individual stocks.[47]

Although the Twentieth Century Fund Study was the most comprehensive conducted at that time, its staff recognized that "the factual material at the disposal of the research staff [had] serious limitations."[48] First, the data used related primarily to short positions at particular points in time, which do not give a complete picture of short selling because they do not capture all short sale activity (including short positions subsequently covered).[49] Second, the study staff noted that data for the early years of the study was not broken down according to the type of trader involved, except for odd-lot houses.[50] It was therefore impossible for the study to measure the relative importance of the various types of short selling which the study generally identified—speculative short selling, short selling "against the box,"[51] arbitrage, hedging, and selling of various kinds by floor traders, members and nonmembers.[52]

The next statistical study of the impact of short selling was the Special Study of the Securities Markets.[53] The Special Study made use of various data derived during the previous studies of short selling, augmented by data filed with the Commission by the NYSE on a continuing basis and by members' reports on file with that exchange.[54] To further supplement this data, the Special Study obtained additional statistics on short selling for limited periods.[55]

The Special Study produced detailed statistical information indicating the general percentage breakdown of short selling by market professionals. The Special Study found that "specialists do the greatest amount of short selling, partly because their obligation to maintain fair and orderly markets frequently leads them to make short sales."[56] During the years immediately preceding the Special Study, short selling by specialists ordinarily represented 40 to 70 percent of total short sales by exchange members.[57] The Special Study also found that, as a percentage of their own sales, specialists' short selling was approximately 15 to 20 percent, and had a tendency to decrease during market advances and to increase during market declines.[58]

Short sales by off-floor members represented 10 to 25 percent of total short selling by members, and their short sales amounted to from 8 to 25 percent of their own total sales.[59] Off-floor traders tended to decrease their short activity more markedly than specialists during advances and to increase it more markedly than specialists during declines.[60] Floor traders' short sale activities accounted for only 2 to 10 percent of total short selling by members, but amounted to from 5 to 15 percent of their total sales.[61]

Round lot short selling by nonmembers customarily accounted for less than one-half of all short sales, but the Special Study found that this proportion tended to increase during a sharp decline.[62] In addition nonmembers' short selling in the aggregate was ordinarily small compared with total sales by nonmembers, especially toward the end of rising markets when the ratio tended to fall below 1 percent.[63]

With respect to general market effects of short selling, the Special Study was

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[15] The recent history of the Commission's efforts to deal with these factors in reviewing short sale regulation to comport with the implementation of the consolidated system has been set forth at length in prior releases. See note 6 supra; letter from Robert J. Birnbaum, Senior Vice President, American Stock Exchange, Inc., to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, June 20, 1974, at 5; letter from James E. Buck, Secretary, New York Stock Exchange, Inc., to George A. Fitzsimmons, Secretary, Securities anad Exchange Commission, June 1, 1974, at 6, 8; letter from Kenneth I. Rosenblum, Vice President and Counsel, Midwest Stock Exchange, Inc., to Robert C. Lewis, Associate Director, Division of Market Regulation, November 25, 1974; letter from Arnold Staloff, Vice President, PBW Stock Exchange, Inc., to Robert C. Lewis, Associate Director, Division of Market Regulation, November 8, 1974; letter from Charles J. Henry, Vice President, Pacific Stock Exchange, Inc., to Robert C. Lewis, Associate Director, Division of Market Regulation; November 14, 1974; letter from Kenneth I. Rosenblum, Vice President and Counsel, Midwest Stock Exchange, Inc., to Ray Garrett, Jr., Chairman, Securities and Exchange Commission, June 4, 1975, at 1; letter from Elkins Wetherill, President, Philadelphia Stock Exchange, to Roderick M. Hills, Chairman, Securities and Exchange Commission, September 30, 1976. All of these letters are contained in Commission File No. S7-515. See also Advisory Committee Interim Report, supra note 6, at 3, 6–7; Securities and Exchange Commission, Forty First Annual Report 14–15.

[16] See Securities Exchange Act Release No. 11276 (March 5, 1975) at 2, 40 FR 12522 (1975).

[17] During World War I, the NYSE collected limited information concerning short sales. At that time, it was feared that excessive selling or "bear raiding" in the stock markets could impair the war effort by impairing public confidence and interfering with the flotation of Liberty Bond issues. J. Meeker, Short Selling 122 (1932) ("Meeker"). Moreover, there was concern that "[e]nemy agents • • • might willingly lose large sums of money in raiding the market, if it could slow up American war efforts." Id. As a result, the NYSE appointed a special committee to make recomendations concerning the administration of the NYSE under wartime conditions. Id.

In November, 1917, upon the recommendation of this special committee, the NYSE adopted a resolution requiring all NYSE members and firms to report daily the amounts and identity of all borrowings of stock and on the size of their short position. Id. NYSE members were also required to attach to these reports a sealed envelope containing the names of those persons who had sold short. Id. NYSE members and their customers were notified that "if any 'bear raids' were attempted, the [NYSE] would open these envelopes, discover the parties responsible therefor and make the facts public." Id. This latter step was never taken and the system of reporting was abandoned; the information collected by the NYSE during this period was never made public.

[18] Stock Exchange Practices, Hearings on S. Res. 84 Before the Senate Comm. on Banking and Currency 72d Cong., 1st Sess. 146–47 (1932) (testimony of Richard Whitney, President, New York Stock Exchange) ("Stock Exchange Practice Hearings"); Meeker, supra note 17, at 125, 251. The results of this survey are published in Stock Exchange Practice Hearings, Appendix to Parts 1, 2, and 3, at 12. The collection of statistics proceeded for several weeks and was then discontinued. Stock Exchange Practice Hearings at 146–47.

[19] Stock Exchange Practice Hearings, supra note 18, at 45; Meeker, supra note 17, at 127. Certain statistics of a general nature were collected in late 1930, but the program began in 1931 was the first of a systematic nature. Stock Exchange Practices at 45, 147. The program initiated in May, 1931 required reports on a weekly basis. Id. at 45; Meeker at 127, 253. That program continued until September 21, 1931, at which time reports were required on a daily basis. Stock Exchange Practice Hearings at 45; Meeker at 127, 256. Daily reporting then continued until September, 1932, when weekly reports were then reinstituted. F. Macaulay, Short Selling on the New York Stock Exchange 30 (1951) ("Twentieth Century Fund Study"). After June, 1933, reports were made available monthly. Id.

[20] J. Flynn, Security Speculation 216 (1934), reprinted in II L. Loss, Securities Regulation 1166 (1961) ("Loss").

[21] The short interest for a particular stock is the total number of shares that have been sold short and still have not been covered by a purchase at a given date. G. Leffler and L. Farwell, The Stock Market 221 (1963) (Leffler and Farwell).

[22] Figures relating to the size of the short interest of NYSE members were released in part on October 16, 1931, by then President Richard Whitney in a public address. Meeker at 128. On October 19, 1931, the NYSE released the full series of aggregate statistics from May 25, 1931, through October 7, 1931. Id. Subsequently, on December 16, 1931, the NYSE released complete statistics for the aggregate short interest and the short interest for individual securities during the period May 25, 1931, through November 30, 1931. New York Stock Exchange, Statistics in Regard to Short Selling (1931).

[23] See Meeker, supra note 17, at 139–40.

[24] The study focused on all aspects of the securities markets. See Stock Exchange Practices, Hearings on S. Res. 84, S. Res. 56 and S. Res. 97 Before the Senate Comm. on Banking and Currency, 73d Cong., 1st Sess., pt. 15, at 6938 ("Stock Exchange Practice Hearings—73d Congress"). A summary of the findings of the staff was published in 1934. Twentieth Century Fund, Inc., Stock Market Control (1934). The full text of the research findings of the study group was published in 1935. Twentieth Century Fund, Inc., The Security Markets (1935) ("Security Markets Study").

[25] Security Markets Study, supra note 24, at 365–67.

[26] Id. at 397.

[27] Id.

[28] Id.

[29] Id. at 367.

[30] Id. at 397.

[31] Loss, supra note 20, at 1229; see Securities and Exchange Commission, Fourth Annual Report 87 (1938).

[32] Securities Exchange Act Release No. 1548 (January 24, 1938) at 6.

[33] Id. at 5, 8.

[34] In fact, the pertinent data from the study was published as part of the Commission release promulgating the short sale rule. Id. at 5–8.

[35] Douglas, Forward, 28 Geo. Wash. L. Rev. 4 (1959).

[36] Id. at 5.

[37] Securities Exchange Act Release No. 1548 (January 24, 1938) at 2.

[38] Twentieth Century Fund Study, *supra* note 19, at ii. This study, although conducted by the same organization, had no relation to the Securities Markets Study described earlier.

[39] *Id.* at 31.

[40] *Id.* at iii.

[41] *Id.* at ix.

[42] *Id.* at xiv.

[43] *Id.* at xiv–xv.

[44] *Id.* at xv.

[45] *Id.*

[46] *Id.* at xiv.

[47] *Id.* (emphasis in original).

[48] *Id.* at iv.

[49] *Id.*, at 31.

[50] *Id.*

[51] Selling "against the box" occurs when a seller actually possesses the security being sold short but makes delivery by borrowing stock rather than delivering the stock he owns. Such a seller may cover either by using his own stock or by effecting a covering purchase in the market. Short sales "against the box" are used primarily for hedging purposes and for tax purposes (to carry over a profit from one year to the next). *See* Leffler and Farwell, *supra* note 21, at 229–30.

[52] Twentieth Century Fund Study, *supra* note 19, at 31. It should also be noted that during virtually all of the period studied short selling was restricted by either exchange or Commission regulation.

[53] A Special Study 246–294.

[54] *Id.* at 147.

[55] *Id.*

[56] *Id.* at 291.

[57] *Id.* at 257, 291.

[58] *Id.* at 266, 291.

[59] *Id.* at 266, 291.

[60] *Id.* at 291.

[61] *Id.* at 266, 291–292.

[62] *Id.* at 271.

[63] *Id.* at 271, 291.

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limited to broad conclusions because the only data regularly compiled and published concerning short sales were daily aggregate figures for all stocks on the NYSE and the Amex, and monthly figures on the short positions in certain stocks on the NYSE and in all securities on the Amex.[64] The Special Study did find a tendency for the ratio of short sales to total volume to increase as a market decline progresses (attributable principally to increased short selling by nonmembers), thus calling into question the classic argument that short selling has a stabilizing influence during market declines (because of later covering purchases).[65]

The Special Study found that the number of stocks with relatively large short positions tended to rise as the market declined and to fall as the market advanced.[66] In general, however, the Study found that the large short positions tended to be concentrated in no more than 100 stocks (including the so-called "market leaders" and the "trading favorites").[67] The Special Study noted that "[t]his strong concentration of short selling in a relatively small number of stocks suggests that * * * aggregate [short sale] data * * *, although useful to portray broad patterns, tend to obscure the true significance of short selling."[68]

In an effort to obviate the limiting impact of aggregate statistics, the Special Study examined short selling in eight selected stocks during the period prior to and during the market break of May, 1962.[69] The Special Study noted that most of the eight stocks experienced a declining trend during the period under study, but also experienced a significant increase in short selling.[70] Although varying factors accounted for the large volume of short selling in the eight stocks, the Special Study pointed out that much of the short selling came "during spells of decline," and that "[c]ertain of this extra supply of stock when the market was under heavy selling pressure undoubtedly contributed to the downward movement."[71] Finally, the Special Study stated its view that an awareness of this augmented supply may well have tended to cause professionals on the floor of the NYSE, including specialists, to diminish and withdraw their buying, thereby prolonging the market decline.[72]

The Special Study concluded that the:

substantial volume of short selling in prominent stocks during intervals of price weakness indicates the inadequacy of current [short sale] rules to cope with the harmful effect of short selling which they were devised to prevent.[73]

The Study stated that the short sale rule, because of its reliance on "tick" test and because of the fact that plus or zero plus ticks (which under the rule are the determinants for permissible short sales) may be commonplace during sharply declining markets, was unable to prevent the concentration of short selling "in times of critical market decline, or the concentration of substantial short selling in individual stocks, frequently at moments of great selling pressure in those stocks."[74] As a result, the Special Study concluded that

the present up-tick limitation should be supplemented by a rule or rules designed to cope more effectively with the potentially depressing effects of short selling during price declines.[75]

The inadequacy of data which had hampered previous analyses of the impact of short selling also impaired the usefulness of the results of the Special Study. The Special Study itself chronicled the continuing data deficiencies. With respect to information on file with the Commission, the Special Study noted that "it does not provide, with respect to either round lots or odd lots, the total volume of short selling occurring in single issues over continuous periods of time."[76] The Study also complained that certain of the data available in exchange records did not provide "the most basic material necessary for an appraisal of short selling—a record of total short sales effected in any particular issue either classified by type of seller or, ideally, in terms of each short sale transaction."[77] As indicated previously, because of these data deficiencies only broad conclusions could be derived with respect to the general impact of short selling.[78] Consequently, the Special Study included as one of its main recommendations that improvements be effected in the extent and type of data which should be collected with respect to short sales.[79]

No comprehensive study of the general effects of short selling or the efficacy of short sale regulation as currently in effect has been conducted since the publication of the Special Study in 1963.[80] Furthermore, the availability of data with respect to short selling continues to be inadequate to establish meaningful conclusions in these areas.[81] Finally, previous studies of the short selling phenomenon, despite their comprehensiveness, have not conclusively established either the short or long term effects of short selling, and it may be that no conclusive statistical evidence with respect to that question may be able to be developed without some type of suspension of the existing short sale rules.[82]

C. Objectives of Short Sale Regulation: Theories For and Against Retention of "Tick" Test Provisions of Rule 10a–1. In considering whether to adopt the partial suspension of the "tick" test provisions of the short sale rule proposed today, the primary question before the Commission is whether the objectives sought to be achieved by short sale regulation[83] continue to be desirable ones, particularly if they can be pursued only by means of prophylactic regulatory measures of the type now employed (with their consequent impact on competition).[84] What is at issue, in our view, is whether (i) unregulated short selling (except for certain limited circumstances (*e.g.*, in connection with underwritten offerings[85])) has significant potential for abuse as a manipulative device or as a means of "demoralizing" the market (either the general market or the market for a particular security), (ii) short selling continues to have the potential for accelerating market declines, and, if so, whether that potential effect continues to be viewed as undesirable and as a justification for regulatory action, or (iii) unregulated short selling will have undesirable short term effects on public investors and on activities of block positioning firms.

In support of adoption of a derergulation experiment with respect to short selling, it is argued that there is no economic rationale for short sale regulation and that such regulation impedes market efficiency. Under one important theory of market behavior, the ideal market is one in which prices always fully reflect available information so that prices can provide accurate signals for resource allocation—a primary role of the capital market.[86] A market in which prices satisfy this ideal standard of "fully reflecting" available information is deemed to be "efficient" in an economic sense.[87]

The "efficient markets" theory postulates that, if a market has zero transaction costs, if all available information is costless to all interested parties, and if all participants and potential participants in the market have identical time horizons and homogeneous expectations with respect to prices, that market will be efficient and prices in that market will fluctuate randomly.[88] Those conditions cannot, of course, be met by any market, but economists suggest that a market may be characterized as efficient if information is readily available to a sufficient number of investors, transaction costs are reasonable, and there is no evidence of consistency superior or inferior performance by a significant group of investors participating in the market. Although theorists believe that the existence of even these less stringent conditions cannot be determined directly, there are indications that the necessary conditions for efficiency are reasonably descriptive of actual securities markets.[89]

Measuring the existing pattern of short sale regulation against the "efficient markets" hypothesis, it is argued that such regulation prevents the securities markets from being as efficient as they otherwise would be. By preventing short sales on minus or zero minus ticks, it is argued that investors and market professionals are prevented from translating negative perceptions concerning the value of individual stocks or the value of stocks generally into market action as rapidly as they wish, thereby impeding the market from expressing a valuation of securities on the basis of all available information (including all buying and selling interest) and creating inefficiencies in the pricing mechanism.

Professor James H. Lorie of the University of Chicago, in his paper entitled "Public Policy for American Capital Markets," has expressed this argument as follows:

Present [SEC] rules should be changed whether or not the central market emerges in the recommended form or any other. At the present time, the up-tick rule and the treatment of gains from short-sales as ordinary income make short-selling relatively difficult and costly. Short-selling is no more dangerous or evil than ordinary selling or buying. If short-selling were easier and less costly, there would be more of it with a consequent increase in the liquidity of the market and in its efficiency. At the present time, much research which indicates that securities are overvalued is wasted because of the costs and difficulty of short-selling. As a consequence, prices adjust less certainly and less rapidly in response to research with negative implications.[90]

[64] *Id.* at 291.
[65] *Id.*
[66] *Id.* at 274, 292.
[67] *Id.* at 280, 292.
[68] *Id.* at 292.
[69] *Id.* at 282–288, 292.
[70] *Id.* at 283, 292.
[71] *Id.* at 292.
[72] *Id.*; 4 Special Study 861.
[73] 2 Special Study 292.
[74] *Id.* at 288.
[75] *Id.* at 294. The Special Study did not suggest a particular formulation to implement its recommendation, but did identify possibilities which should be considered, including:

The prohibition of short selling in a particular stock whenever its last sale price was below the prior day's low; or alternatively, whenever the last sale price was a predetermined dollar amount or percentage below a base price (*e.g.*, the prior day's close or low or the same day's opening) as specified in the rule; or instead, given the circumstances of such a decline, a limitation of short sales in any particular stock to a predetermined proportion of the amount of stock available at the prevailing market.

Id. The Commission requested comment with respect to alternatives to the "tick" test provisions of Rule 10a–1, including those discussed above, in connection with its recent amendments to the short sale rules Securities Exchange Act Release No. 10668 (March 6, 1974) at 4–5, 39 FR 10605 (1974). After considering public comments with respect to those alternatives, the Commission determined to retain the "tick" test as the basis for determining the permissibility of short sales.

It should be noted that the Special Study also recommended:

[a]s a further precaution for times of general market distress, the Commission's rules should provide for temporary banning of short selling, in all stocks or in a particular stock, upon an appropriate finding by the Commission of need for such action.

2 Special Study 294.
[76] 2 Special Study 253.
[77] *Id.* at 254.
[78] *See* note 64 *supra* and accompanying text. In any event, as indicated above with respect to the Twentieth Century Fund Study, the period studies was characterized by regulation of short selling.
[79] 2 Special Study 293.
[80] The Commission's staff recently completed an examination of aggregate short sales by specialists, other members of national securities exchanges, and the public during the period 1960 to 1975. The study used data based on gross aggregate short sales for each of these categories of market participants, and compared changes in short sale activity with changes in the Standard & Poor's Composite Stock Index. The results show, on balance, increases in short selling activity tend to be accompanied by increases in price, although the results for public short sales were not conclusive.
[81] The statistical data with respect to short selling is virtually identical to that available at the time of the Special Study, despite recommendations that

"* * * the exchanges should initiate systems of reporting that will provide more frequent information on the volume of short sales in particular stocks as between the public and the principal classes of members. Monthly data on the short interest should show corresponding information in the selected individual stocks. In addition, consideration should be given the feasibility of indicating exempt short sales and furnishing information on the other types of short sales as 'against the box,' arbitrage, and hedging. The Commission also should consider the extent to which short sales data should be reported by other exchanges."

Id. This data consists primarily of (i) weekly reports of daily round lot transactions on the NYSE and the Amex, in which daily aggregate short selling as well as aggregate short selling effected by members for their own account, classified into three categories, (ii) weeky reports of aggregate short sales by odd-lot customers on the Amex, (iii) reports released by the NYSE on a monthly basis providing an aggregate mid-month short interest figure for all stocks, the number of issues in which a short interest was reported, and the actual short interest for certain individual issues, (iv) individual reports on file with the NYSE and the Amex of all clearing members' daily total sales and short sales, and all members' daily total transactions on file with the NYSE and the Amex of members' mid-month short position in each stock, (vi) data relating to all investment account transactions by specialists, and (vii) data relating to all trades for a specialist's own account during short periods in connection with spot checks of specialists' activities. *Cf.* id. at 253–54.
[82] As noted previously, all existing short sale data, with the exception of the small amount of data released by the NYSE regarding the 1929–1931 period, relates to periods during which short selling has been restricted either by exchange or Commission rules. Accordingly, no study completed to date has, or could have, examined the impact of short selling in an unrestricted environment.
[83] *See* page 6 *supra*.
[84] In resolving this question, the Commission does not intend to revisit arguments that short selling is immoral, constitutes illegal gambling activities, and has no economic value or justification and therefore should be prohibited altogether. See S. Rep. No. 1455, *supra* note 2, at 50; Meeker, *supra* note 17, at 45, 77–84; *see generally* Stock Exchange Practice Hearings, *supra* note 18. The legality of short sale contracts is well established. *see Clews v. Jamison*, 182 U.S. 461 (1901); *Hurd v. Taylor*, 181 N.Y. 231, 73 N.E. 977 (1905); Loss, *supra* note 20, at 1226. and the Commission has long recognized that short selling under some circumstances, particularly technical short selling by specialists and market makers, is necessary to facilitate the effective and orderly functioning of the securities markets. See 2 Special Study 249.
[85] The Commission also announced today, in Securities Exchange Act Release No. 34–13092 (December 21, 1976) the publication for comment of a revised version of proposed Rule 10b–21 and amendments to Rules 17a–3(a) (6) and (7). Proposed Rule 10b–21 would establish certain restrictions on short selling immediately prior to and during underwritten public offerings for cash regardless of whether one of the alternative short sale deregulation rules proposed herein (or some variation thereof) is adopted.
[86] Fama, Empirical Capital Markets: A Review of Theory and Empirical Work, J. Finance 383 (1970).
[87] *Id.*
[88] J. Lorie and M. Hamilton, The Stock Market: Theories and Evidence 80 (1973) ("Lorie and Hamilton"). There are three forms of this hypothesis: (i) the weak form; (ii) the semistrong form; and (iii) the strong form.

The weak form asserts that current prices fully reflect the information implied by the historical sequence of prices. Thus, it is asserted that investors cannot improve their ability to select stocks by knowing the history of succesive prices and the results of analyzing them in all possible ways. *Id.* at 71. A number of investigators have found strong evidence to support this hypothesis. *Id.* at 97.

The semistrong form of the hypothesis asserts that current prices fully reflect public knowledge about the underlying companies, and that efforts to acquire and analyze this knowledge cannot be expected to produce superior investment results. *Id.* at 71. Thus, it is asserted that investors cannot expect to earn superior returns by reacting to annual reports, announcements of changes in dividends or stock splits. *Id.* Several studies have lent substantial support for the semistrong form. *Id.* at 88.

The strong form asserts that not even persons with privileged information can obtain consistently, superior investment results since prices reflect not only public information, but also information which may not be generally known, such as information available to security analysts through private or individual inquiries. *Id.* at 71, 97. Findings to date are generally consistent with the strong form of the hypothesis, but deviations from the strong form have been found in studies of specialists and insider trading. *Id.* at 96–97.
[89] *Id.* at 80.
[90] J. Lorie, Public Policy for American Capital Markets at 10 (Department of the Treasury, February 7, 1974). Support for either partial or complete deregulation of short selling (although not necessarily based on the above theory) has also been received from brokers and dealers, as well as various self-regulatory organizations, including the Midwest Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the National Association of Securities Dealers, Inc., (the "NASD"). *See* letter from Donald E. Weeden, Chairman of the Board of Directors, Weeden & Co., Incorporated, to Lee A. Pickard, Director, Division of Market Regulation, November 15, 1974; letter from Donald M. Feuerstein, Partner, Salomon Brothers, to Secretary, Securities and Exchange Commission, May 30, 1974; letter from Donald M. Feuerstein, General Partner, Salomon Brothers to Secretary, Securities and Exchange Commission, April 14, 1975; letter

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In addition, it is argued that the existence of the current "tick" test provisions of Rule 10a–1, by preventing short sellers from competing with long sellers for executions at price levels which would result in minus or zero minus ticks, imposes a burden on a competition between these different types of sellers.[91]

On the other hand, there remains strong support for maintaining the existing short sale provisions.[92] It is argued that the short sale rule remains an appropriate regulatory response to perceived abuses in the market place, that the goals of preventing short sellers from accelerating declines in securities prices or "demoralizing" the market continue to be necessary and appropriate in the public interest and for the protection of investors, and that removal of the "tick" test provision of Rule 10a–1 will cause short term disruption in the market, increase volatility in an inappropriate manner, and have adverse impacts on both public customers placing "open" orders on exchanges and block positioning activities.

from Donald H. Burns, Secretary, NASD, to George Fitzsimmons, Secretary, Securities and Exchange Commission, May 19, 1975; letter from G. Robert Ackerman, President, Pacific Stock Exchange, Inc., to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, August 11, 1975; letter from Kenneith I. Rosenblum, Vice President and Counsel, Midwest Stock Exchange, Inc., to Ray Garrett, Jr., Chairman, Securities and Exchange Commission, June 4, 1975. All of these letters are contained in Commission File No. S7–515.

At a short sale regulation conference with the various self-regulatory organizations, the Midwest and Pacific Stock Exchanges restated their support for elimination of short sale regulation, but proposed, as an interim step, elimination of short sale regulation only for public short sales (*e.g.*, short sales effected by persons who are not market professionals).

[91] The burden on competition which proponents of deregulation assert results from short sale regulation generally is to be contrasted with the burdens on competition which result from the fact that the "tick" test provisions of the short sale rules currently in effect do not operate uniformly in all market centers and with respect to all categories of market professionals. *See* discussion at pp. 14–15 *supra*. These latter burdens have to date been found by the Commission to be necessary or appropriate in furtherance of the purposes of the Act. Securities Exchange Act Release No. 11468 (June 12, 1975) at 3, 40 FR 25443 (1975).

[92] *See* letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, August 8, 1975. The NYSE stated:

"We do not consider the elimination of all short sale prohibitions to be a feasible approach to market regulation. Apart from the vastly increased potential for manipulation if all short sale restrictions were eliminated, the public interest is best served when successive bids at lower prices are restricted to those persons who actually own the stock involved and have a real economic stake in it. Otherwise, the value of the public stockholders' portfolios would be adversely affected by short sales at successively lower prices effected by persons who do not own the stock and who would stand to benefit if the price of the stock were to decline."

1. *Manipulative and "demoralizing" activity.* It is well documented that short selling has been employed in connection with manipulative activity. In addition to "bear raiding," or concerted action to depress the price of securities through short selling,[93] short selling was one of a number of practices which were employed in connection with the manipulative pools which operated during the period prior to the passage of the Act.[94]

Historically, defenders of short selling have distinguished between short selling in general, which was described as "a necessary feature of an open market for securities," [95] and "bear raiding," which was claimed to result in "illegal demoralization of the market and (the creation of) fictitious prices." [96] In a 1931 speech in defense of the practice of short selling, Richard Whitney, then President of the NYSE, expressed the difference between legitimate and illegitimate short selling as follows:

> For a great many years, the short sale has been a regular feature, not only of the leading security markets in the world, but also of practically all branches of business. Competent and impartial economic students both here and abroad have long declared that short selling, by restraining inflation and cushioning sharp declines, tends to stabilize the fluctuations of prices.
>
> • • • Short selling is also regularly employed as a "hedge," not at all for the purpose of making speculative profits, but for ensuring against losses due to price fluctuations.
>
> • • • Any halt or hindrance of short selling would have the effect of driving from the stock market the most important sources of buying power, and it could only lead to an excess of sellers and further declines in prices.
>
> • • • • •
>
> [However, n]obody can discuss the question of short selling without also considering the practice which is commonly described as "bear raiding." In the public mind the two are often linked together and the evils of "bear raiding" are attributed to short selling. If a person sells stock, not because he believes the stock is too high, but because he believes that by selling quickly and in great volume he can force the price to decline, he is abusing the legitimate practice of short selling. Contrary to what many people believe, the [NYSE] has always opposed "bear raiding." [97]

As the above excerpt indicates, concern over the manipulative or "demoralizing" use of short selling predates both the Commission's short sale rule and the passage of the Act. That concern was shared by the Congress and was embodied in the Act through the grant to the Commission of regulatory authority with respect to short selling. The House Committee on Interstate and Foreign Commerce, in reporting out the bill which contained the regulatory approach to short sales ultimately adopted by the Congress in Section 10(a) of the Act, stated that

> [t]here is plenty of room for legitimate speculation in the balancing of investment demand and supply, in the shrewd prognostication of future trends and economic directions; but the accentuation of temporary fluctuations and the deliberate introduction of a mob psychology into the speculative markets by the fanfare of organized manipulation menace the true functioning of the exchanges, upon which the economic well-being of the whole country depends.[98]

Although manipulative or "demoralizing" short sale activity has for many decades been viewed as conduct inimical to the public interest, the question still remained as to the most appropriate manner of eliminating or substantially reducing the incidence of such conduct. Long before the market "crash" of 1929, the NYSE had enacted a constitutional provision prohibiting a member from selling securities for the purpose of "demoralizing" the market.[99] The provision,

[93] See Leffler and Farwell, supra note 21, at 449–51; Short Selling of Securities, Hearings on H.R. 4, H.R. 4604, H.R. 4638 and H.R. 4639 Before the House Comm. on the Judiciary, 72d Cong., 1st Sess. 14–15 (1932) ("Short Selling Hearings"). The Twentieth Century Fund Study released in 1951 described the typical "bear raid" as follows:

> Some speculative operator or group of operators would get information that an individual, or a group of individuals was carrying a large block of a particular stock with borrowed funds, and that the price of that stock had declined so much since purchase that the creditor was asking or on the verge of asking for additional cash or securities, and that it was doubtful whether the owner could supply much more of either. The "raider" would then proceed to sell this stock short—hoping thereby to push the price down further, even if only temporarily, to a point at which some of the hypothecated stock would have to be sold. And he hoped that if this occurred, such selling would itself drive the price down still further, giving the raider an opportunity to cover his short position at a profit.

Twentieth Century Fund Study, supra note 19, at vi–vii.

[94] See Leffler and Farwell, supra note 21, at 456; Security Markets Study, supra note 24, at 449, 488; Stock Exchange Practice Hearings, supra note 18, at 983–84; Stock Exchange Practice Hearings—73d Congress; supra note 24, at 991–92, 1053–69, 1071–76, 1077–85; F. Cormier, Wall Street's Shady Side 3 (1962).

[95] S. Rep. No. 1455, supra note 2, at 50.

[96] Id. at 52; see Stock Exchange Practice Hearings, supra note 18, at 43, 362–65, 729; Stock Exchange Practice Hearings—73d Congress, supra note 24, at 156, 217–18, 262–63, 1207–08.

[97] Address by Richard Whitney, President, New York Stock Exchange, Before the Hartford Chamber of Commerce, October 16, 1931 ("Whitney Speech"), in Stock Exchange Practice Hearings, supra note 18, at 187, 188–89, 192.

[98] H.R. Rep. No. 1383, Report to Accompany H.R. 9323, 73d Cong., 2d Sess. 11 (1934).

[99] Meeker, supra note 17, at 121–22; Security Markets Study, supra note 24, at 43, 159; Whitney Speech, supra note 97, in Stock Exchange Practice Hearings at 192. That provision, Article XVII, Section 4 of the NYSE Constitution, read as follows:

> Purchases or sales of securities or offers to purchase or sell securities, made for the purpose of upsetting the equilibrium of the market and bringing about a condition of demoralization in which prices will not fairly reflect market values, are forbidden, and any member who makes or assists in making any such purchases or sales or offers to purchase or sell with knowledge of the purpose thereof, or who, with such knowledge, shall be a party to or assist in carrying out any plan or scheme for the making of such purchases or sales or offers to purchor sell, shall be deemed guilty of an act inconsistent with just and equitable principles of trade.

however, was vague, allegedly indefinite in application, and apparently did nothing to curb the abuses which occurred during the pre-depression and depression period.[100]

In 1931, the NYSE adopted a rule requiring its members to mark all sell orders as either "short" or "long." [101] The purpose of this rule was to enable the NYSE to detect the source and amount of short selling; [102] the rule did not on its face interfere with the right of any exchange member to sell short. Although the NYSE's 1931 marking rule did not actually restrict short selling, it became a practice of brokers not to permit short sales to take place at a price lower than that of the prior sale; any such sale was considered to "demoralize the market." [103] Thus, the NYSE, through interpretation of its marking rule, established the concept of an objective "tick" test as the basis for determining whether a short sale effected on that exchange was "demoralizing" and therefore inconsistent with the public interest.

That concept was continued by the Commission following the passage of the Act. The exchange rules regulating short selling adopted in 1935 pursuant to Commission request merely codified the pre-existing interpretation of the NYSE's rules—that no short sale of a security should be effected at a price below the last price.[104] Although the Commission's own rule on short selling adopted in 1938 and amended in 1939 was more restrictive than the original exchange rules in terms of the price at which a short sale could legally be effected,[105] the concept of using a "tick" test for differentiating between "legitimate" short selling and "demoralizing" short selling remained.

It may be argued that the alteration of short sale regulation represented by proposed temporary Rule 10a–3(T)—namely, elimination of the "tick" test—could result in resumption of the types of abuses present during the period prior to the passage of the Act. It appears, however, that certain of the major manipulative practices intended to be remedied by short sale regulation of the type currently in effect no longer do, or could, afflict today's market in the same manner they did in the period prior to the adoption of the existing market regulatory framework. For example, the Commission believes that, as a result of the improved reporting of transactions in exchange-traded securities (resulting from implementation of the consolidated system) and the development of more sophisticated techniques for market surveillance by the Commission and the various self-regulatory organizations, practices like the traditional "bear raid" are now much more difficult to engage in, since any attempt at such an effort under today's market and regulatory conditions is likely to be detected and stopped.[106]

Furthermore, even if the Commission determines to eliminate the existing "tick" test provisions of the current short sale rules, short sales would continue to be subject to the remaining provisions of the short sale rules, including the marking requirements, as well as the anti-fraud and anti-manipulative provisions of the federal securities laws and rules and regulations thereunder. For example, section 9(a) of the Act (15 U.S.C. 78i(a)) prohibits the use of the mails or any means or instrumentality of interstate commerce, or of any facility of any national securities exchange

> [t]o effect, alone or with one or more persons, a series of transactions in any security registered on a national securities exchange • • •, raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.[107]

Thus, engaging in "bear raids" or other manipulative activity in connection with short selling would continue to be unlawful.[108]

2. *Acceleration of Declines; Increased Volatility.* Those favoring maintenance of the existing restrictions on short selling also argue that one of the purposes of existing short sale regulation is to "prevent short sellers from accelerating a declining market • • •" [109] and that, in the absence of the "tick" test provisions, which allegedly lend an upward bias to the market, future market declines will be accelerated or prolonged. In support of this argument, those favoring retention of the existing regulatory pattern point to the conclusions of the Special Study that short sales, during the market break of May, 1962, contributed to the downward movement of stocks, and that "the aggravating influence of

[100] Leffler and Farwell, supra note 21, at 232.

[101] Meeker, supra note 17, at 147, 267; Security Markets Study, supra note 24, at 395; Stock Exchange Practice Hearings, supra note 18, at 160; Whitney Speech, supra note 97, in Stock Exchange Practice Hearings at 193. The rule, adopted October 5, 1931, in the form of a circular from the NYSE's Business Conduct Committee, required that "before executing any selling orders members shall ascertain and notify their floor brokers whether such orders are for long or short account." Meeker at 267.

[102] Whitney Speech, in Stock Exchange Practice Hearings at 193; Security Markets Study, supra note 24, at 396; Short Selling Hearings, supra note 93, at 103.

[103] Leffler and Farwell, supra note 21, at 232; Meeker, supra note 17, at 147; Security Markets Study, supra note 24, at 396; Stock Exchange Practice Hearings, supra note 18, at 41, 146, 218–19, 272, 364–65; Short Selling Hearings, supra note 93, at 103; 2 Special Study 251.

[104] 2 Special Study 251; Leffler and Farwell, supra note 21, at 232–33.

[105] As indicated previously, the Commission, after its examination of short selling during the market decline of 1937, determined that the exchange rules adopted in 1935 "[had] not proven effective." Securities Exchange Act Release No. 1548 (Jan. 24, 1938) at 1, 3 FR 213 (1938). As a result, the Commission adopted its own rule prohibiting a short sale on an exchange of any security "at or below the price at which the last sale thereof, regular way, was effected on such exchange." Rule 10a–1(a), as adopted January 24, 1938 (emphasis added).

The result of this formulation of the "tick" test was, as one observer noted, "the short interest dropped sharply and short selling (in round lots) was almost wiped out." Leffler and Farwell, supra note 21, at 233. See 2 Special Study 252. After discussions with the NYSE, the Commission, as indicated previously, modified its "tick" test to permit short sales on a zero minus tick (a middle ground between the approach of the 1935 exchange rules and the initial Commission formulation). Securities Exchange Act Release No. 2039 (March 10, 1939), 4 FR 1209 (1939). See 2 Special Study 252; note 2 supra.

[106] See Securities Exchange Act Release No. 12384 (April 28, 1976) at 2, 41 FR 19230 (1976); letter from J. J. O'Donohue, Vice President, Market Surveillance, NYSE, to Andrew M. Klein, Assistant Director, Division of Market Regulation, December 11, 1974, at 3, in Commission File No. S7–515.

[107] Section 9(a)(2), of the Act (15 U.S.C. 78i(a)(2)). See also Sections 10(b) and 15(c)(1) under the Act (15 U.S.C. 78j(b), 78o(c)(1)), and Rules 10b–5 and 15cl–2 thereunder (17 CFR §§ 240.10b–5, 240.15c11–2). A person, or group of persons, who engage in short sales of a security which have the effect of depressing the price of that security may be deemed to have the purpose of inducing the purchase or sale of that security by others. Cf. In the Matter of The Federal Corporation, 25 SEC 227, 230 (1947); In the Matter of Halsey, Stuart & Co., Inc., 30 SEC 106, 123–24 (1949). See Securities Exchange Act Release No. 2056 (October 27, 1941).

[108] Notwithstanding the above factors, it is argued that elimination of the "tick" test provisions will increase the likihood of manipulative conduct. Although proponents of this argument apparently concede that the likihood of large scale manipulations is minimal, it is argued that eliminating existing restrictions on short selling will increase the likihood of manipulative activity designed to achieve relatively small price movements in stocks—particularly those which are underlying securities for exchange-traded options. Such narrow range manipulaitve activity, it is further argued, is extremely difficult to detect or prevent even through the use of sophisticated surveillance techniques available today. While the Commission is currently of the view that the threat of manipulative conduct of this nature due to removal of the "tick" test provisions is minimal, the Commission is particularly interested in the views of commentators as to the likelihood of this type of narrow-range manipulative activity and, if commentators believe such activity presents a significant threat, the need to maintain existing prophylactic measures to guard against this threat (compared to other regulatory alternatives available to the Commission).

[109] Securities Exchange Act Release No. 11468 (June 12, 1975) at 3, 40 FR 25443 (1975). *See* 2 Special Study 251.

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short sales" occurred even with the existing regulatory structure in place.[110] Elimination of the existing restrictions, it is argued, may very well further aggravate the impact of short sales during periods when stocks are subject to intense selling pressure.

It is also argued that removal of the "tick" test restrictions will result in increased volatility (particularly in the short run). It is argued that this increased short term price volatility will, over time, impair the capital raising process by reducing public confidence in the pricing mechanisms of secondary markets in equity securities, causing investors to seek alternative investment vehicles.

On the other hand, proponents of short sale deregulation do not view either more rapid short term declines in stock prices or increased volatility (should such phenomena occur as a result of implementation of the deregulation proposal) as harmful either to investors or to the efficient functioning of the capital markets. Proponents of deregulation argue that short selling has no long term effect on price levels—either for individual stocks or for the market in general.[111] As a result, if securities prices decline more rapidly in the presence of short selling than they would in its absence, or become generally more volatile in the short term, that merely means that ultimate equilibrium prices—which would not change even if short selling were not present—are being reached more rapidly than would otherwise be the case and that the efficiency of the market is being improved. Thus, the proponents conclude, the Commission's short sale rules, which are based in part on preventing short sellers from accelerating or causing major declines in stock prices, promote market inefficiencies not in the public interest and should be eliminated.[112]

The Act makes clear that there is an important public interest in the effects of rapid price fluctuations on the securities markets and on the economy in general. The act sets forth, in its enumeration of the factors underlying the adoption of the federal market regulatory scheme, a Congressional finding that

> [n]ational emergencies, which produce widespread unemployment and the dislocation of trade, transportation, and industry, and which burden interstate commerce and adversely affect the general welfare, are precipitated, intensified and prolonged by manipulation *and sudden and unreasonable fluctuations of security prices* and by excessive speculation on * * * exchanges and [the over-the-counter] markets * * * [113]

However, in determining the appropriate manner of responding to this interest, it is important for the Commission to evaluate whether (i) unregulated short selling will result in "sudden and unreasonable" price fluctuations, particularly in light of arguments that whatever changes in short term price fluctuations which may result from adoption of the deregulation proposal would contribute to market efficiency, and (ii) if increased price fluctuations and volatility which might result from elimination of the "tick" test provisions are determined to be "unreasonable," continuation of the "tick" test provisions satisfactorily responds to these "unreasonable" price fluctuations, particularly in light of the concerns expressed by the Special Study with respect to the effectiveness of such a test during the May, 1962, market decline.

3. *Impact on Public Investors and Block Positioning Activities.* In the course of the Commission's recent review of short sale regulation and consideration of the appropriateness of retaining the existing regulatory framework, the Commission and its staff have considered the general impact of removal of the "tick" test provisions on investors and on the functioning of the securities markets. It has been argued that implementation of a deregulation proposal will have several adverse short terms effects, particularly on (i) public customers placing "open" orders on exchanges, and (ii) block positioning activities.

a. *"Open" Orders".* The Commission is aware that a number of securities traders and other markets professionals believe that, although removal of the "tick" test requirements contained in the existing short sale rule would be of benefit to them by making it easier for them to sell short, such action could have adverse effects on public investors. One example universally cited as an area of potential difficulty is the effect of deregulation on "open" orders (limit orders entered as "good until cancelled") to purchase stocks on national securities exchanges, particularly in the event of adverse information concerning a particular company of the general economy. These orders, it is asserted, would be "picked off" by short sellers with such speed that they could not be protected.

Upon the announcement of "bad news," it is argued, the expectation is that the stock of the particular company involved will decline—at least temporarily. According to this argument, such a decline might well be accelerated by short sellers who would be attracted by the adverse publicity and who, under present circumstances, are precluded from leading declines by virtue of the need to comply with the "tick" test provisions of the short sale rules. The presence of short sellers, according to this view, would have little impact on other market professionals, since they would immediately be aware of the adverse news and the presence of such sellers and could pull their bids until trading in the particular security stabilized. Public investors on the other hand, who would not be on the floor and could not be aware of developments in the stock as rapidly, would not have time to cancel their "open" buy orders on the specialists' books and would end up purchasing the stock at "artificially" high levels.

b. *Block Positioning.* Under present conditions, it is asserted, market professionals are easily able to discern from the consolidated transaction reporting system and from private communications networks when large blocks of securities are being positioned, as well as which firm has engaged in the positioning activities. Some block positioners are fearful that, in an environment of unrestricted short selling, other market professionals will engage in "mini bear raids" whenever they position stock, attempting to force the block positioners to liquidate their positions at artificially depressed prices. This activity, in the view of block positioners, will increase the risks associated with block positioning and will reduce the incentives of those firms currently handling blocks to continue to do so.

In considering the theories and arguments discussed above, the Commission must weigh the competitive impact of the existing regulatory framework and must balance any burden on competition, if any, imposed by that framework against the other regulatory purposes of the Act.[114] In commenting on the de-

[110] 2 Special Study 285–86, 288–89, 292; 4 Special Study 861.

[111] *See* discussion *supra* at pp. 21–22, 26.

[112] It should also be noted that, should the Commission ultimately determine to eliminate the "tick" test provisions of the existing short sale rules, the proponents of this "efficient markets" theory can not presently conceive of any observable market phenomenon which would cause them to alter their view that short sale regulation is inappropriate and that competition among entrants in the market is the most appropriate manner of ensuring an efficient market structure

[113] Section 2(4) of the Act [15 U.S.C. 78b (4)] (emphasis added).

[114] Section 23(a) of the Act, as amended by the Securities Acts Amendments of 1975 (the "1975 Amendments"), requires the Commission, in making rules and regulations under the Act, to "consider among other matters the impact any such rule or regulation would have on competition." Section 23(a)(2) of the Act [15 U.S.C. 78w(a)(2)]. That section further states that [t]he Commission shall not adopt any rule or regulation which would impose a burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].

Id.

The legislative history of the 1975 Amendments, however, makes clear that this explicit obligation to balance the competitive implications of proposed Commission regulatory action against the other purposes of the Act should not be viewed as requiring the Commission to justify that [its rules and regulations] be the least anti-competitive manner of achieving a regulatory objective. S. Rep. No. 94–75, Report to Accompany S. 249, 94th Cong., 1st Sess. 13 (1975). Moreover, Congress did not intend that [c]ompetition would . . . become paramount to the great purposes of the Exchange Act, but [rather that] the need for and effectiveness of regulatory actions in achieving those purposes . . . be weighed against any detrimental impact on competition.

Id. at 14.

regulation proposal published herein, commentators should therefore address themselves not only to the merits of the particular arguments advanced in favor of and in opposition to deregulation of short selling, but also to the appropriate weight which they believe should be given to these arguments in balancing the alleged anticompetitive impacts of short sale regulation against the other regulatory purposes of the Act.

II. Objectives of Proposed Suspension

The Commission's proposed program for temporary deregulation with respect to short selling (if adopted) is designed to enable the Commission and its staff to study, over a reasonable period, the functioning of the exchange markets in an atmosphere permitting unlimited short selling by both market professionals and public investors (except for short selling activity engaged in for manipulative purposes) in order to attempt to reach conclusions (to the extent such conclusions can be reached through empirical analysis or otherwise) concerning a number of issues relating to the impact of short selling on the equity markets and to the need, if any, to continue prophylactic short sale regulation. Thus, should the Commission adopt one of the alternative short sale deregulation proposals discussed herein (or some variation thereof), the Commission and its staff intend to collect data, views and arguments both before and during suspension of the "tick" test provisions designed to facilitate examination of, among others, the following issues:

(i) the manner in which the pricing mechanism for securities is affected in rising and declining markets by the relative ease or difficulty of effecting short sales;

(ii) the impact of elimination of the "tick" test provisions of the short sale rule on market volatility and liquidity;

(iii) the impact of existing margin requirements on both buyers and sellers (including long sellers who have purchased securities on margin and short sellers) in terms of the pricing mechanism for securities;

(iv) the circumstances, if any, under which short sellers may be compelled to effect, or choose to effect covering purchases of stock sold short in a declining market (*e.g.*, whether, in a declining market, a short seller is ever compelled by the person who has loaned that seller securities to deliver against his short sales to repay those securities, and the extent to which, when such payment is required, repayment is effected with securities borrowed from another source rather than with securities purchased in the market), the means by which such covering purchases are or may be compelled, and whether any such requirements should be imposed as a regulatory matter; and

(v) the extent to which the present scheme of short sale regulation fails to achieve its objectives (including the objective of preventing short sellers from exhausting support at a given price level in a generally declining market, thus forcing long sellers to a lower level in order to effect their sales) because of the lack of a requirement that short sellers must yield priority to long sellers at any given price level, and whether such a requirement would be appropriate (on the basis, for example, that short sellers must yield priority to long sellers at any given price level, and whether such a requirement would be appropriate (on the basis, for example, that short selling is justified only to the extent needed to supply liquidity and that it is intrinsically unfair, or, alternatively, against public policy, to subject an investor who is attempting to liquidate a long position, representing an investment in an enterprise held at market risk, to compete with a seller who has neither invested nor intends to do so, who is not currently exposed to the risks of the market, and who wishes merely to "gamble" that the market for the security he seeks to sell short will decline by establishing a short will decline by establishing a short position).

In addition to the impact of short selling on the equity markets, the proposed deregulation program, if adopted, is also designed to ascertain the effects, if any, that elimination of the short sale rules may have on trading markets in put and call options. In this connection, the Commission intends to consider (and hereby solicits comments on) the extent to which investors and market professionals utilize various options strategies (i) as risk-limiting devices in connection with short selling [115] or (ii) as an alternative to short selling.[116] The Commission is particularly interested in receiving views with respect to the manner in which such strategies may affect either the options markets or the markets for securities underlying options, and suggestions as to methods by which any manipulative possibilities could be prevented by Commission rulemaking. Moreover, the Commission wishes interested persons to consider, in commenting on the proposed rules discussed herein, the effect of Commission approval of a pilot program in exchange puts trading (should such approval be forthcoming) on the desirability or timing of a deregulation experiment with respect to short sales.

Finally, in addition to comments with respect to the issues discussed above relating to the impact of short selling on the equity and options markets, the Commission is also interested in receiving the views of interested persons as to whether reporting and monitoring efforts will be valuable in evaluating these issues, and, if so, what specific reporting and monitoring activities should be undertaken to acquire a statistically sufficient evidentiary base on which to evaluate each of those issues.

[115] For example, investors creating substantial short positions may elect to hedge their short sales by purchasing calls covering an equivalent amount of securities. By establishing a pre-determined exercise price, the purchase of the call options enabled the short seller to avoid the potentially unlimited up-side risk inherent in covering the short sale in the event of an unexpected rise in the market price of the underlying securities. Conversely, a short seller may elect to hedge partially a short position in the underlying stock against the risk of a rising market by writing a put (with the same exercise price) against his short position. If market price of the underlying stock increases—thereby making exercise of the put unprofitable—the put will expire and the writer will continue to be at risk with respect to his short sale and will be able to offset that risk partially through his premium income. If the market price of the underlying stock declines and the put is exercised, however, the writer can use the stock put to him to cover his short sale—retaining the premium as his profit (rather than the amount which could have been earned by making a covering purchase in the market at a lower price).

[116] For example, investors may elect to purchase put options as a risk limiting alternative to short selling. By purchasing a put (with the same exercise price as the price at which the underlying security would have been sold short), the investor can achieve the same gain if the price of the underlying security declines (less the premium paid) while limiting his risk to no more than the premium paid. Moreover, in contrast to the short seller, the put buyer is not subject to margin calls in the event of a price increase in the underlying security. Individuals who expect a stock to decline but who either do not anticipate that the market will decline sufficiently to justifying a short sale, or who wish to employ the greater leverage opportunities available in option transactions, may elect to write uncovered or "naked" call options. Although the objectives of uncovered writers of call options and of short sellers are substantially the same, the risks borne by them differ in significant ways. For example, (1) while the short seller must (at some future point in time) cover by effecting a closing purchase of options equal to the number previously written; and (II) since most options (i.e., approximately 90 percent) expire unexercised, and because, even when options are exercised, the exercise is allocated among option writers on a random basis by the Options Clearing Corporation, the uncovered writer may never be required to cover his position, whereas the short seller always must eventually make a covering purchase. In addition, while the short seller is required to meet initial margin requirements currently equal to 50 percent of the value of the underlying securities (subject to maintenance adjustments by the particular broker involved), the uncovered writer need only meet initial margin requirements currently equal to 30 percent of the value of the underlying securities covered by the option (subject to certain adjustments).

Finally, in contrast to the short seller whose profits depend upon the degree to which the market price of the underlying security declines following the short sale, the uncovered call writer's profit is limited to the amount of the premium. However, the uncovered writer may preserve his profit even in the absence of a market decline to the extent that the market price for the underlying securities does not exceed the option exercise price plus the option premium and related transaction costs.

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III. RULES 10a-3(T) AND 10b-11

In order to provide a framework for discussion of the issues relating to the possible deregulation of short selling, the Commission is proposing temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C]. The alternative formulations represented by these proposed rules are designed to present a wide range of alternatives with respect to the scope of a deregulation experiment.

Proposed Rule 10a-3(T)[A] would provide that, subject to the provisions of proposed Rule 10b-21 (17 CFR § 240.10b-21) (with respect to short sales prior to and during certain underwritten offerings), short sales of securities which are registered, or admitted to unlisted trading privileges, on a national securities exchange may be effected without regard to the provisions of paragraphs (a) or (b) of Rules 10a-1, or of any exchange rule adopted in accordance with paragraph (a)(2) of Rule 10a-1, on and after January 1, 1978. Rule 10a-3(T)[A] would thus suspend the operation of the short sale rule for all exchange-traded securities.

Rules 10a-3(T)[B] and 10a-3(T)[C] are modeled on proposed Rule 10a-3(T)[A] but are more limited in scope. Rule 10a-3(T)[B] would suspend the operation of the "tick" test only for equity securities (other than warrants, rights or options) which are registered, or admitted to unlisted trading privileges, on more than one national securities exchanges and as to which transactions are reported in the consolidated system.[117] Rule 10a-3(T)[C] would suspend the "tick" test only for the 50 most active equity securities (other than warrants, rights or options) during the 12 calendar months preceeding the effective date of the rule.[118]

Under each of the alternative formulations of proposed Rule 10a-3(T), the only provision of the short sale rule which would be affected would be the "tick" test. All other provisions of Rule 10a-1, including those requiring that all orders be market "long" or "short,"[119] and that no order be market "long" unless certain conditions are met,[120] would continue in effect.

In addition to the suspension of the "tick" test provisions contemplated by Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C], the Commission is also proposing, as part of its deregulation program, the adotpion of Rule 10b-11 under the Act (§ 240.10b-11). Proposed Rule 10b-11 would apply to short sales of all equity securities—not just short sales of exchange-traded securities—and would prohibit any person from affecting a short sale, for his own account or for the account of any other person, unless he, or the person for whose account the short sale is effected, (i) has borrowed the security, or has entered into an arrangement for the borrowing of the security, or (ii) has reasonable grounds to believe that he, or the person for whose account the short sale is effected, as the case may be, can borrow the security so that, in either event, he, or the person for whose account the short sale is effected, will be capable of delivering the securities on the date delivery is due. Although the Commission believes that these requirements regarding the ability of a short seller to make timely delivery may well reflect existing practice, the Commission is of the view that it is appropriate to focus attention on the necessity of compliance with delivery requirements in the context of unregulated short selling by creating a new express obligation with respect to a short seller's ability (through borrowings) to meet those requirements.

The Commission is also interested in receiving comment on formulating proposed Rule 10b-11 in such a way as to require persons effecting short sales either for their own account or for the account of others, to be prepared to demonstrate that in the event the short seller has not borrowed or entered into an arrangement to borrow the securities to be sold short prior to, or at the time the short sale is effected, the short seller or the person effecting the short sale for him has a reasonable basis for believing that the short seller will be capable of delivering the securities sold short when delivery is due. Finally, the Commission wishes to receive comment on the desirability of eliminating clause (b) of proposed Rule 10b-11, thus requiring, in all cases, that securities to deliver against a short sale be borrowed (or an agreement for such borrowing be entered into) prior to or at the time of any short sale.

The text of proposed temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] (17 CFR §§ 240.10a-3(T)[A], 240.10a 3(T)[B] and 240.10a-3(T)[C] and proposed Rule 10b-11 (§ 240.10b-11) are set forth at the end of this release.

In publishing temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] (17 CFR §§ 240.10a-3(T)[A], 240.10a-3(T)[B] and 240.10a-3(T)[C] for public comment, the Commission wishes to emphasize that the rules, as proposed, represent suggested approaches with respect to the scope and timing of an experiment in deregulation with respect to short selling. The Commission recognizes, however, that there are other alternative approaches available with respect to such an experiment, and commentators are requested, in submitting comments on the proposed rules, to consider whether or not such other alternatives would provide the Commission with a more meaningful experiment regarding the impact of removal of the current restrictions on short selling than would the approach proposed in temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C]. In addition, the Commission wishes to receive comments on certain other issues relating to the deregulation proposal, as discussed below.

a. *Scope of Suspension.* As indicated above, proposed Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] are designed to provide a wide range of possible alternatives with respect to a short sale deregulation experiment. The Commission is especially interested in receiving the views of commentators as to whether a meaningful experiment (yet one which is fair to issuers, brokers, dealers and the public) can be conducted using a smaller number of issues than that proposed in Rule 10a-3(T)[A]. Interested persons who believe the experiment could be conducted on a sample basis (as contemplated by proposed Rules 10a-3(T)[B] and [C] should specify the appropriate number of securities to be included in the sample and the manner in which such securities should be selected (e.g., on a random basis).

Commentators favoring adoption of either proposed Rule 10a-3(T)[B] or 10 a-3(T)[C] (or some variation thereof) should also address themselves to a number of concerns which the Commission has regarding use of a smaller number of issues than that proposed in Rules 10 a-3(T)[A]. First, the Commission is concerned that selection of a small sample for purposes of the deregulation experiment may not result in a representative selection, or that the results of the study may be impaired if a significant number of the sample stocks exhibit unusual deviations from historical trading patterns.

Second, there is a possibility that the results of the study may be biased by the selection process itself in that investors might behave differently with respect to those stocks included in the sample knowing that such stocks are part of a statistical study. The possibility of persons attempting to influence the results of the study in this way is, in our view, minimal, but, nevertheless, such activity remains a possibility so long as the sample selected is relatively small.

Third, the Commission notes that any selection of securities which does not include all exchange-traded securities might be viewed by those issuers selected for deregulation (and by holders of their securities) as being arbitrary and unfair, and possibly as imposing a burden on competition which is not otherwise justified by reference to the purposes of the Act.[121] Issuers selected for deregulation may argue that eliminating short sale regulation with respect to their securities may result in increased volatility for their securities (since there would no longer be any rules slowing market declines in those issues by discouraging short sale activity), and that this increased volatility would, in turn, lead to inferior secondary market for those securities and make it more difficult for the issuers whose securities are selected for deregulation to raise equity capital in the future. The Commission, of course, expresses no view at this time with respect to the merits of these arguments, but nevertheless notes that such arguments may be raised and requests interested persons to comment regarding those arguments as well as any other possible impacts on issuers which might result from adoption of any of the alternative proposed temporary rules.

b. *Termination Date.* Temporary Rules 10a-3(T)(A), 10a-3(T)(B) and 10a-3(T)(C), as proposed, would contain no termination date, and therefore would remain in effect indefinitely. The Commission is currently of the view that the suspension of the short sale rule contemplated by proposed Rules 10a-3(T)(A), 10a-3(T)(B) and 10a-3(T)(C), regardless of its scope, should remain in effect for a sufficient time to gather the data necessary to reach conclusions on the various issues discussed herein. The Commission considers it difficult, if not impossible, to predict with certainty in advance how long that task might take to accomplish. For example, it may be desirable for purposes of the study to consider the pattern of short sales in both advancing and declining markets, since a study of short selling in an advancing market may not provide any insight as to the pattern of short selling which might prevail in a declining market environment. Since there is no reliable way of predicting when advancing or declining market conditions may occur, it may be necessary to continue the experiment on a relatively long term basis to evaluate short selling under all market conditions.

On the other hand, a study conducted in today's market may yield sufficient data to permit the Commission to conclude the experiment after a relatively short length of time (*e.g.*, six to nine months). The Commission, therefore, is particularly interested in the views of interested persons with respect to (i) whether the Commission should establish a firm termination date for the deregulation experiment, (ii) if so, what time period should be selected, and (iii) whether long term trends in the market (up or down) are important in determining the appropriate length of time for the experiment.

c. *Other Issues Related to Proposed Deregulation Experiment.* In addition to comments on the proposed rules and the policy issues discussed earlier, the Commission also wishes to receive the views of interested persons on the following issues relating to the scope of the Commission's deregulation proposals:

(i) Whether, and in what manner, should short sales, and perhaps covering purchases, be disclosed as such on a current basis (in the consolidated system or otherwise);

(ii) If short sales should be disclosed as such on a current basis, whether any class of persons should be exempted from or treated differently under such a requirement (*e.g.*, registered exchange specialists, market makers, "block positioners");

(iii) Whether, and in what manner, the aggregate short position in any security should be disclosed;[122]

(iv) Whether, and under what circumstances, the Commission should exercise its authority either (A) to reimpose the "tick" test requirements, or (B) prohibit short selling (either by all persons or by non-professionals or by all persons other than those performing market making functions), in all stocks or in a particular stock;[123]

(v) Whether suspension of short sale regulation should be limited to public short sales (*i.e.*, short sales effected by, or for the account of, a person other than a broker or dealer); and

(vi) Whether suspension of short sale regulation should be limited to situations in which the market for the security proposed to be sold short is advancing (*i.e.*, the last sale price as reported in the consolidated system is above the closing price for the previous day as reported in the consolidated system).

IV. REQUEST FOR COMMENT

The Securities and Exchange Commission hereby proposes Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] (17 CFR §§ 240.10a-3(T)[A], 240.10a-3(T)[B] and 240.10a-3(T)[C] and 10b-11 (§ 240.10b-11)) pursuant to its authority under the Securities and Exchange Act of 1934 (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94-29 (June 4, 1975). Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] are proposed pursuant to Sections 2, 3, 6, 9, 10, 11, 11A, 15, 17 and 23 of the Act (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78k, 78k-1, 78o, 78q and 78w), and Rule 10b-11 is proposed pursuant to Sections 2, 3, 10 and 23 of the Act (15 U.S.C. 78b, 78c, 78j and 78w). The texts of the proposed rules are as follows:

§ 240.10a-3(T)[A] Short sales of listed securities.

Subject to the Provisions of § 240.10b-21 (Rule 10b-21 under the Act), short sales of securities which are registered, or admitted to unlisted trading privileges, on a national securities exchange may be effected without regard to the provisions of paragraphs (a) or (b) of § 240.10a-1 (Rule 10a-1 under the Act), or of any exchange rule adopted in accordance with paragraph (a)(2) of § 240.10a-1, on and after January 1, 1978.

§ 240.10a-3(T)[B] Short sales of listed securities.

Subject to the provisions of § 240.10b-21 (Rule 10b-21 under the Act), short sales of equity securities (other than warrants, rights or options) registered, or admitted to unlisted trading privileges, on more than one national securities exchange and with respect to which transactions are reported in the consolidated transaction reporting system contemplated by § 240.17a-15 (Rule 17a-15 under the Act), may be effected without regard to the provisions of paragraph (a) of § 240.10a-1 (Rule 10a-1 under the Act), or of any exchange rule adopted in accordance with paragraph (a)(2) of § 240.10a-1, on and after January 1, 1978.

§ 240.10a-3(T)[C] Short sales of listed securities.

Subject to the provisions of § 240.10b-21 (Rule 10b-21 under the Act), short sales of the 50 equity securities (other than warrants, rights or options) which accounted for the highest aggregate volume reported in the consolidated transaction reporting system contemplated by § 240.17a-15 (Rule 17a-15 under the Act) (the "consolidated system") during the 12 calendar months preceding the effective date of this section, may be effected without regard to the provisions of paragraph (a) of § 240.10a-1 (Rule 10a-1 under the Act), or of any exchange rule adopted in accordance with paragraph (a)(2) of § 240.10a-1, on and after January 1, 1978.

(Secs. 2, 3, 6, 11, 15, 17, 23, Pub. L. 78-291, 48 Stat. 881, 882, 885, 891, 895, 897, 901, as amended by secs. 2, 3, 4, 6, 11, 14, 18, Pub. L. 94-29, 89 Stat. 97, 97, 104, 110, 121, 137, 155 (15 U.S.C. 78b, 78c, 78f, 78k, 78o, 78q, 78w, as amended by Pub. L. 94-29 (June 4, 1975)); secs. 9, 10, Pub. L. 78-291, 48 Stat. 889, 891 (15 U.S.C. 78i, 78j); sec. 7, Pub. L. 94-29, 89 Stat. 111 (15 U.S.C. 78k-1))

§ 240.10b-11 Requirement of borrowing in connection with short sales.

It shall constitute a "maniuplative or deceptive device or contrivance," as that term is used in Section 10(b) of the Act, for any person to effect a short sale of any equity security, for his own account or for the account of any other person, unless he, or the person for whose account the short sale is effected, (a) has borrowed the security, or has entered into an arrangement for the borrowing of the security, or (b) has reasonable grounds to believe that he, or the person for whose account the short sale is effected, as the case may be, can borrow the security, so that, in either event, he or the person for whose account the short sale is effected, will be capable of delivering the security on the date delivery is due.

(Secs. 2, 3, 23, Pub. L. 78-291, 48 Stat. 881, 882, 901, as amended by secs. 2, 8, 16, Pub. L. 94-

[117] The Commission estimates that adoption of Rule 10a-3(T)[B] would involve suspension of the "tick" test for approximately 900 equity issues.

[118] Determination of the 50 securities which would be the subject of the experiment would be made be reference to aggregate volume reported in the consolidated system over the 12 month period.

[119] Rule 10a-1(c) (17 CFR 240.10a-1(c)).

[120] Rule 10a-1(d) (17 CFR 240.10a-1(d)).

[121] See note 114 supra.

[122] For example, a possible approach would be to require disclosure of the aggregate short position in each exchange-traded security on a daily basis (following the close of trading in all market centers).

[123] As indicated previously, an emergency provision providing for the temporary banning of short selling, in all stocks or in a particular stock, upon an appropriate finding by the Commission of need for such action, was recommended by the Special Study. *See* note 75 *supra*.

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29, 89 Stat. 97, 97, 155 (15 U.S.C. 78b, 78c, 78w, as amended by Pub. L. 94-29 (June 4, 1975)); sec. 10, Pub. L. 78-291, 48 Stat. 891 (15 U.S.C. 78j)

Interested persons are invited to submit written views, data and arguments with respect to proposed temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] and proposed Rule 10b-11, as well as with respect to the additional issues and inquiries discussed in this release. Persons wishing to make such submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549 not later than March 1, 1977. All submissions should refer to File No. S7-665 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 21, 1976.

[FR Doc.76-38058 Filed 12-27-76;8:45 am]

[17 CFR Part 240]

[Release No. 34-13092; File No. S7-510]

PROHIBITIONS RELATING TO PUBLIC OFFERINGS

Proposed Amendments to Short Sales and Recordkeeping Rules

The Securities and Exchange Commission announced today that it has proposed for comment an alternative version of proposed Rule 10b-21 (17 CFR § 240.10b-21), as well as amendments to paragraphs (a)(6) and (a)(7) of Rule 17a-3 (17 CFR §§ 240.17a-3(a)(6) and (a)(7)) under the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94-29 (June 4, 1975)), restricting short sales of securities prior to and during underwritten public offerings of securities for cash, and establishing certain additional recordkeeping requirements with respect to short sales. The proposed rule and amendments were first proposed in Securities Exchange Act Release No. 10636 (February 11, 1974), 39 FR 7806 (1974), and were reproposed in Securities Exchange Act Release No. 11328 (April 2, 1975), 40 FR 16090 (1975). Interested persons should refer to those releases for a discussion of the practices which the proposed rule and amendments are intended to address. After reviewing the comments received on these proposals, the Commission has determined to solicit comment on modification of their provisions in important respects. Consequently, the Commission is publishing an alternative version of proposed Rule 10b-21 and republishing the amendments to Rule 17a-3 for further comment.

PROPOSED RULE 10b-21

a. *General.* Proposed Rule 10b-21 has been revised in concept for purposes of receiving additional comments thereon and comparison with the Commission's prior proposal with respect to that Rule. The Commission is particularly interested in receiving comments comparing the desirability and efficacy of the mechanisms for regulating pre-offering short selling contemplated by Rule 10b-21 in the form last published in April, 1975, with those proposed herein.

Proposed Rule 10b-21 is designed to prevent manipulative short selling practices in connection with underwritten offerings of securities of the same class as outstanding securities. Manipulative opportunities exist in such offerings because the outstanding securities can be sold short prior to the commencement of the offering with the expectation that such selling activity will lower the price of the offered security and enable the short seller to cover at a depressed price (usually with shares which are the subject of the offering).

As published for comment in April, 1975, proposed Rule 10b-21 would operate to deter manipulative short selling prior to underwritten offerings by restricting the ability of persons to make covering purchases within certain periods and from certain persons. Thus, proposed Rule 10b-21, as published in April, 1975, would prohibit a covering purchase in connection with a short sale if the short sale was made within a ten-day period prior to the commencement of an offering covered by a registration statement or a notification on Form 1-A and if the covering purchase would be made from an underwriter or other dealer participating in the distribution. In addition, if the short sale was made within five days of the commencement of the offering, the Rule would prohibit covering purchases of securities of the same class as those covered by the registration statement or notification on Form 1-A within a five day period after the commencement of the offering or before the termination of the offering, whichever is earlier. The applicable prohibition against covering purchases would extend to a short sale of a security of the same class as the offered security and the purchase, within the specified period, of a security convertible into or exchangeable for a security of the same class as the security offered.

The alternative proposal published today would, if adopted, alter the regulatory approach contemplated by the April, 1975, proposal in important respects. Rather than prohibiting covering purchases, proposed Rule 10b-21, as published herein, would regulate short sales of securities of the same class as offered securities directly through the use of a "tick" test which would apply during the pre-offering period and continue until termination of post-offering stabilizing arrangements.[1] Thus, revised Rule 10b-21, as proposed herein, would regulate short selling after the effective date, while the prior proposal would regulate only covering purchases, and then only for a maximum of five days after commencement of the offering. Since the Commission's investigation of the unlawful practices which led to the original proposal of Rule 10b-21 did not involve short selling subsequent to the offering date, the Commission specifically invites comment on that portion of revised Rule 10b-21 which would extend the prohibitions of the Rule to the period following the offering.

For securities registered, or admitted to unlisted trading privileges, on national securities exchanges, proposed Rule 10b-21, as revised, would rely on the "tick" test provisions of the Commission's existing short sale rule, Rule 10a-1 under the Act (17 CFR § 240.10a-1), to regulate short selling prior to and during underwritten offerings. Rule 10a-1 prohibits any person from effecting a short sale of any security as to which trades are reported in the consolidated transaction reporting system contemplated by Rule 17a-15 under the Act (17 CFR § 240.17a-15) (the "consolidated system") at a price below the price of the last sale thereof (*i.e.*, on a minus tick), or at the price of the last sale thereof if the preceding different sale was effected at a higher price (i.e., on a zero minus tick), reported in the consolidated system.[2] It is possible that Rule 10a-1, by preventing short sales of exchange-traded securities at successively lower prices (and thereby limiting the potential profits of short sellers), to a large extent discourages the manipulative market tactic described above and conceivably reduces the need for further prophylactic measures.

Rule 10b-21, as republished herein, has been drafted in light of the Commission's investigation and proceeding, also announced today, to determine whether to suspend in part the operation of Rule 10a-1.[3] If some variation of proposed Temporary Rule 10a-3(T) is adopted, (particularly in the comprehensive form contemplated by version [A] of the proposal), the provisions of paragraphs (b)(1) and (c)(1) of the proposed alternative Rule 10b-21 would retain short sale regulation as presently embodied in Rule 10a-1 for securities which are the subject of an underwritten offering for cash during the pre-offering and offering periods. If no variation of proposed Temporary Rule 10a-3(T) is adopted, certain changes in the proposed alternative Rule 10b-21, of course, would be made (including elimination of paragraph (c)(1) thereof).

With respect to over-the-counter securities as to which quotations are reported in the National Association of Securities Dealers Automated Quotations system ("NASDAQ"), it would appear that market depressing short sales to and during underwritten public offerings for cash can be prevented directly by prohibiting them from being effected during the pre-offering and offering periods below a price ⅛th point above the highest independent bid reflected in NASDAQ (subject to an exception for market makers and certain others analogous to those contained in Rule 10a-1). These limitations are set forth in paragraphs (b)(1) and (c)(2) of the proposed alternative Rule.[4] The objective of these restrictions would be to prevent short sellers, during the pre-offering and offering periods, from "crossing" the market to "hit" bids, thus forcing quoted prices to even lower levels. As to non-listed, non-NASDAQ securities, the Commission does not believe Rule 10b-21's protections are needed, since issuers of securities in that category rarely have recourse to public capital more than once unless listed or NASDAQ status has been achieved.

b. *Determination of regulated period.* It may be desirable that Rule 10b-21, in whatever form adopted, contain a mechanism by which investors and securities professionals may be notified in advance of the period during which the prohibitions of the Rule would come into play. Rule 10b-21 would establish such a mechanism by requiring the underwriter or managing underwriter, in the case of non-competitive offerings, or the issuer (or other person on whose behalf the offering is made), in the case of competitive offerings, to establish, in good faith, an expected offering date with respect to a proposed underwritten offering and to notify the Commission, relevant self-regulatory organizations and others of this date.[5] The Commission anticipates that those organizations (and private news services) will take steps to ensure the prompt and widespread dissemination of that information so that investors and market professionals will be aware of the expected offering date in advance of the commencement of restrictions on short selling.[6] Such restrictions would commence at the opening of business on the tenth business day preceding the expected offering date (or, in the event notice of the expected offering date precedes the expected offering date by less than ten business days, at the time persons subject to the restrictions know, or in the exercise of reasonable care should know, of such expected offering date) and continue until the close of business on the date stabilizing arrangements and trading restrictions among the underwriters of the offering are terminated.

In the event that, subsequent to providing notice of the expected offering date, the underwriter or managing underwriter, in the case of a noncompetitive offering, or the issuer (or other person on whose behalf the offering is to be made), in the case of a competitive offering, knows, or in the exercise of reasonable care, should know, that the offering will not commence on or before the expected offering date, he must provide, as promptly as practicable under the circumstances, notice of the fact that such offering is no longer expected to commence on the date specified and either (i) the revised expected offering date, (ii) the fact that such offering has been postponed indefinitely or withdrawn, or (iii) a representation that notice of a new current expected offering date will be given at a future date. If an underwriter or issuer has to revise his expected offering date and does not announce a new expected offering date, short sale restrictions will, of course, terminate, since there will no longer be in place a "current expected offering date" within the meaning of the proposed rule. Restrictions on short selling will not recommence until (and unless) a new expected offering date is selected; upon selection of a new date restrictions will recommence in accordance with the proposed alternative Rule on the tenth business day prior to the new expected offering date.

If an underwriter or issuer or other person on whose behalf an offering is being made revises the expected offering date and selects a new date as the expected offering date, whether or not restrictions on short selling terminate depends upon the new date selected as the expected offering date. If the time period between the date notice of the revised date is given and the revised date is less than ten business days from the date of such notice, short sale restrictions will not terminate and will continue in effect until the completion of the offering (*i.e.*, the date stabilization and trading restrictions are terminated). If the time period between the date notice is given and the revised expected offering date is greater than ten business days, short sale restrictions will terminate until the opening of business on the tenth business day prior to the revised expected offering date.

While this formulation of the Rule would not preclude persons interested in a distribution from establishing and re-establishing an expected offering date numerous times (with an obvious consequent impact on the market), the Commission believes that the prohibition against bad faith or baseless estimates contained in paragraph (b)(2) of the proposed alternative Rule, combined with the fact that an offering which is too frequently rescheduled is unlikely to succeed (since for example, prospective syndicate members do not wish to be precluded from normal market activities by Rule 10b-6 under the Act (17 CFR § 240.10b-6) for a lengthy or indefinite period), is sufficient to prevent abuse of the proposed alternative Rule's flexibility in this regard.

c. *Request for comment on prior approach.* In publishing the alternative version of Rule 10b-21 discussed herein, the Commission wishes to reemphasize that it is not, by so doing, abandoning the regulatory approach contemplated in the April, 1975 version of the Rule. The Commission hereby notifies all commenters that it is still actively considering, in lieu of restricting short sales by means of a "tick" test, the version of Rule 10b-21 published in April, 1975, prohibiting the covering of short sales effected during the pre-offering period with shares purchased in the offering, as well as the covering of short sales effected during the five days prior to the expected offering date with shares purchased within a five day period after the commencement of the offering or before the termination of the offering, whichever is earlier. Commentators are specifically requested to compare and contrast the version of Rule 10b-21 published herein with that published in April, 1975, to describe the probable impact of each of the two approaches on short selling prior to and during underwriter offerings, and to indicate which of the two approaches (or some combination thereof) they believe should be adopted by the Commission.

AMENDMENTS TO PARAGRAPHS (a)(6) AND (a)(7) OF RULE 17a-3

The proposed amendments to paragraphs (a)(6) and (a)(7) of Rule 17a-3 published for comment with proposed Rule 10b-21 in April, 1975, intended to extend the "long" and "short" marking requirements of Rule 10a-1 to over-the-counter sales, have been revised to ensure that they will not apply to sales of exempted securities or municipal securities. In addition, paragraph (a)(7) of the Rule has been revised to make clear that the marking requirements of Rule

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[1] Commentators are also requested to consider whether, if the approach contemplated by the revised proposal is adopted, the length of time the prohibitions of the rule would be applicable should be limited to a maximum of five days after the commencement of the offering.

[2] *See* Securities Exchange Act Release No. 13091 (December 21, 1976), publishing for public comment proposed temporary Rules 10a-3(T)[A], 10a-3(T)[B] and 10a-3(T)[C] under the Act (17 CFR §§ 240.10a-3(T)[A], 240.10a-3(T)[B] and 240.10a(T)[C]).

[3] With respect to exchange-traded securities as to which trades are not reported in the consolidated system, Rule 10a-1 prohibits short sales on a minus or zero minus tick determined by reference to the preceding transaction in the security to be sold short occurring on that exchange. For securities reported in the consolidated system, Rule 10a-1 also permits a national securities exchange to elect to have the permissibility of short sales determined by reference to the last sale on that exchange rather than by reference to the consolidated system.

[4] Commentators should also address themselves to the desirability of using as a reference point for permissible short sales of NASDAQ securities during the pre-offering and offering periods the representative bid displayed in Level 1 of NASDAQ rather than the highest independent bid displayed in Level 2 (as proposed herein). Persons commenting on the use of the representative bid as a reference point should attempt to assess the extent to which use of that reference point would preclude predatory or manipulative short selling prior to and during underwritten offerings (*e.g.*, cause even those bidders whose bids would be insulated from short selling (because their bids are at or below the price of the representative bid) during the period of the rule's application to reduce the price levels of their bids).

[5] Estimates of the expected offering date made otherwise than in good faith or without any reasonable basis under the circumstances would be proscribed by paragraph (b)(2) of the proposed alternative Rule.

[6] The Commission is particularly interested in receiving comments on this aspect of proposed alternative Rule 10b-21, especially from those persons who would be expected to perform the function of disseminating information as to the expected offering date, revisions and syndicate terminations (*e.g.*, as to the means by which information would be disseminated, their willingness to do so, and related matters).

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17a–3 apply to sales to dealers effected by persons other than brokers or dealers (as well as to sales by dealers to such persons).

REQUEST FOR PUBLIC COMMENT

The Securities and Exchange Commission hereby proposes Rule 10b–21 and amendments to Rules 17a–3(a)(6) and 17a–3(a)(7). Rule 10b–21 would be adopted pursuant to Sections 2, 3, 9, 10, 12, 13, 15, 17, and 23 of the Securities Exchange Act of 1934 and Sections 7, 10, and 19 of the Securities Act of 1933 (15 U.S.C. 78b, 78c, 78l, 78j, 78l, 78m, 78o, 78q, 78w, 77g, 77j, and 77s). The amendments to paragraphs (a)(6) and (a)(7) of Rule 17a–3 would be adopted pursuant to Sections 17 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78q and 78w).

The texts of proposed Rule 10b–21 and of paragraphs (a)(6) and (a)(7) of Rule 17a–3, as proposed to be revised, are set forth below (Rule 10b–21 has been completely revised; changes to Rules 17a–3(a)(6) and 17a–3(a)(7) from prior versions of the proposals are indicated as follows):

(Additions are indicated by arrows ►and◄, and deletions therefrom by brackets [and]).

§ 240.10b–21 Restrictions on short sales in connection with public offerings.

(a) *Definitions.* For purposes of this section: (1) The term "short sale" shall have the meaning set forth in § 240.3b–3 (Rule 3b–3 under the Act);

(2) The term "listed security" shall mean any equity security registered, or admitted to unlisted trading privileges, on a national securities exchange;

(3) The term "NASDAQ security" shall mean any equity security (other than a listed security as to which transactions are reported in the consolidated transaction reporting system contemplated by § 240.17a–15 (Rule 17a–15 under the Act)) traded over-the-counter which meets the qualifications set forth in Schedule D of the By-Laws of the National Association of Securities Dealers, Inc. (the "NASD") for inclusion in, and which is included in, NASDAQ, the electronic interdealer quotation system owned and operated by the NASD;

(4) The term "arbitrage" shall mean: (i) a purchase or sale of a security in one market together with an offsetting sale or purchase of the same security in a different market at as nearly the same time as practicable, for the purpose of taking advantage of a current difference in prices in the two markets, or

(ii) a purchase of a security which is, without restriction other than the payment of money, exchangeable or convertible within 90 calendar days following the date of its purchase into a second security together with an offsetting sale at or about the same time of such second security for the purpose of taking advantage of a current difference in the price of the two securities;

(5) The term "qualified third market maker" shall have the meaning set forth in § 240.17a–16 (Rule 17a–16 under the Act);

(6) The term "competitive offering" shall mean an underwritten offering for cash of a class of equity securities pursuant to a registration statement filed under the Securities Act of 1933 or pursuant to a notification on Form 1–A under such Act in connection with which the issuer of the securities to be offered, or other person on whose behalf the offering is to be made, has issued a public invitation for bids to underwrite the offering;

(7) The term "noncompetitive offering" shall mean an underwritten offering for cash of a class of equity securities pursuant to a registration statement filed under the Securities Act of 1933 or pursuant to a notification on Form 1–A under such Act which is other than a competitive offering;

(8) The term "current expected offering date" shall mean (i) In the case of a noncompetitive offering, the most recently established date which the underwriter (or, in offerings involving more than one underwriter, the managing underwriter) has estimated, in good faith, will be the date on which the offering will commence; or

(ii) In the case of a competitive offering, the most recently established date which the issuer (or other person on whose behalf the offering is to be made) has estimated, in good faith, will be the date on which a bid (or bids) will be accepted;

(9) The term "subject security," when used in connection with restrictions established by this section with respect to short sales prior to or during any competitive or noncompetitive offering, shall mean any securities of the same class as those to be offered (or which are being offered) in a competitive or noncompetitive offering of listed or NASDAQ securities.

(10) The term "independent bid," when used in connection with the price at which a short sale of subject securities may be made, shall mean a firm offer to purchase subject securities made by or on behalf of a person other than (i) The person effecting or proposing to effect the short sale, or

(ii) Any person directly or indirectly controlling, controlled by or under common control with the person effecting or proposing to effect the short sale.

(11) The term "underwriter" shall mean a person who has agreed with an issuer or other person on whose behalf a competitive or noncompetitive offering of listed or NASDAQ securities is to be (or is being) made (i) to purchase securities for distribution, (ii) to distribute securities for or on behalf of such issuer or other person, or (iii) to manage or supervise a distribution of securities for or on behalf of such issuer or other person, regardless of whether the terms and conditions of the distribution have been agreed upon;

(12) The term "managing underwriter" shall mean, in the case of a competitive or noncompetitive offering involving more than one underwriter, the underwriter or underwriters designated by all of the underwriters as (or, if not so designated, serving as) the managing or a co-managing underwriter or underwriters, or as the representative or a co-representative of all of the underwriters.

(13) The term "designated persons," when used in connection with any notice required to be provided pursuant to paragraphs (e), (f) and (g) of this section, shall mean

(i) The Securities and Exchange Commission;

(ii) Each national securities exchange on which securities of the class being offered in any competitive or noncompetitive offering are (or are to be) listed or admitted to unlisted trading privileges;

(iii) Each national securities association having one or more members which act as qualified third market makers with respect to securities of the class being offered;

(iv) The Consolidated Tape Association; and

(v) The Options Price Reporting Authority (in the case of a class of securities underlying call options admitted to trading on any national securities exchange).

(b) *General prohibition.* It shall constitute a "manipulative or deceptive device or contrivance," as that term is used in section 10(b) of the Act, (1) For any person to effect for his own account or the account of any other person, directly or indirectly, any short sale of a subject security prior to or during any competitive or noncompetitive offering of listed or NASDAQ securities in contravention of the terms and conditions specified herein; or

(2) For an underwriter or managing underwriter, in the case of a noncompetitive offering of listed or NASDAQ securities, or for an issuer or other person on whose behalf an offering is to be made, in the case of a competitive offering of listed or NASDAQ securities, to announce or give notice of any date as the date on which such offering is expected to commence or on which a bid (or bids) will be accepted otherwise than in good faith or without a reasonable basis, under the circumstances, for believing that such date will be the date on which such offering will commence or on which a bid (or bids) will be accepted, or fail to provide timely notice of the current expected offering date with respect to such offering (or of any revision of that date), and of the termination of stabilizing arrangements and trading restrictions among underwriters with respect to such offering, in accordance with the terms and conditions specified herein.

(c) *Restrictions on short selling.* (1) Notwithstanding the provisions of § 240.10a–3(T) (Rule 10a–3(T) under the Act), no person who has, or in the exercise of reasonable care should have, knowledge of the current expected offering date with respect to any competitive or noncompetitive offering of listed securities shall effect for his own account or the account of any other person, directly or indirectly, any short sale of a subject security prior to or during any competitive or noncompetitive offering of listed or NASDAQ securities in contravention of the terms and conditions specified herein, unless such person first knows, or in the exercise of reasonable care should have known, of the current expected offering date (or, in the event notice of the current expected offering date precedes the current expected offering date by less than ten business days, at the time such person first knows, or in the exercise of reasonable care should have known, of the current expected offering date) and ending at the close of business on the date stabilizing arrangements and trading restrictions among the underwriters of such offering are terminated, except in accordance with the provisions of § 240.10a–1 (Rule 10a–1 under the Act).

(2) No person who has, or in the exercise of reasonable care should have, knowledge of the current expected offering date with respect to any competitive or noncompetitive offering of NASDAQ securities shall effect for his own account or the account of any other person, directly or indirectly, a short sale of any subject security over-the-counter during the period beginning at the opening of business on the tenth business day preceding the current expected offering date (or, in the event notice of the current expected offering date precedes the current expected offering date by less than ten business days, at the time such person first knows, or in the exercise of reasonable care should have known, of the current expected offering date) and ending at the close of business on the date stabilizing arrangements and trading restrictions among the underwriters of such offering are terminated, below a price ⅛ point above the highest independent bid displayed in Level 2 of NASDAQ at the time of the proposed short sale.

(3) For purposes of computing the price at which a short sale of a subject security may be made under paragraph (c)(1) and (2) of this section, the price at which the short sale is effected shall be deemed to be the transaction price recorded on the trade ticket less any commission, commission equivalent or differential charged by any dealer (acting as principal) to whom the sale is made.

(d) *Exceptions.* The restrictions on short sales of subject securities imposed by this section shall not apply to (1) Any bona fide foreign or domestic arbitrage transaction;

(2) Any dealer, which is registered with a national securities exchange as a specialist or market maker in the subject securities to be sold or which is registered as an odd-lot dealer with respect to such securities, acting in that capacity;

(3) Any dealer, which is a qualified third market maker (i) which has filed a notice for the subject securities with the Commission on Form X–17A–16 (§ 249.631), or (ii) which has submitted both bid and ask quotations as to such securities in an interdealer quotation system, communications system or otherwise on ten consecutive business days preceding commencement of restrictions on short sales in accordance with paragraphs (c)(1) or (c)(2) of this section or on each of at least twelve days within the thirty calendar days prior to the commencement of restrictions on short sales in accordance with paragraphs (c)(1) or (c)(2) of this section with no more than four business days in succession without such a two-sided quotation, acting in that capacity; or

(4) Any transaction in a NASDAQ security effected during any period restrictions on short selling are in effect in accordance with paragraphs (c)(1) or (c)(2) of this section which, if effected on a national securities exchange (and if the security were a listed security), would be exempted from the operation of § 240.10a–1 (Rule 10a–1 under the Act) by virtue of paragraphs (e)(1), (e)(2) or (e)(10) of § 240.10a–1.

(e) *Notice of current expected offering date.* In connection with any competitive or noncompetitive offering of listed or NASDAQ securities (other than the initial public offering for the class of securities which is the subject of the offering), the issuer or other person on whose behalf the offering is to be made, in the case of a competitive offering, or the underwriter or managing underwriter, in the case of a noncompetitive offering, shall establish in advance of the date on which the offering is to commence, as accurately as practicable under the circumstances, a current expected offering date and shall notify all designated persons no later than the close of business on (1) the date on which such person establishes the current expected offering date, or (2) the eleventh business day prior to the current expected offering date, whichever is later, of the identity of the offering and the current expected offering date.

(f) *Notice of change in expected offering date.* In the event that, subsequent to any date on which notice is given of a current expected offering date, the person required to provide such notice knows, or in the exercise of reasonable care should know, that the offering which was the subject of such notice will not commence on or before the date specified therein, such person shall provide, as promptly as practicable under the circumstances, notice to all designated persons of (1) the identity of the offering; (2) the fact that such offering is no longer expected to commence on the date specified in such person's prior notice; and (3) the revised current expected offering date (in accordance with paragraph (e) of this section), the fact that such offering has been postponed indefinitely or withdrawn, or his representation that notice of a new current expected offering date will be given at a future date (in accordance with paragraph (e) of this section).

(g) *Notice of termination of offering.* In connection with any offering as to which notice of the current expected offering date is required to be given in accordance with paragraph (e) of this section, the person required to give such notice shall notify all designated persons no later than the close of business on the date stabilizing arrangements and trading restrictions among the underwriters of such offering are terminated of the identity of the offering and the fact that such arrangements and restrictions have been terminated.

(h) *Exemptions.* This rule shall not prohibit any transaction or transactions which the Commission, upon written request or upon its own motion, exempts, whether unconditionally or on specified terms and conditions, as not constituting a manipulative or deceptive device or contrivance comprehended by the purposes of this section.

(Secs. 2, 3, 15, 17, 23, Pub. L. 78–291, 48 Stat. 881, 882, 895, 897, 891, as amended by secs. 2, 3, 11, 14, 18, Pub. L. 94–29, 89 Stat. 97, 97, 121, 137, 155 (15 U.S.C. 78b, 78c, 78o, 78q, 78w, as amended by Pub. L. 94–29 (June 4, 1975)); secs. 9, 10, Pub. L. 78–291, 48 Stat. 889, 891 (15 U.S.C. 78i, 78j); secs. 12, 13, Pub. L. 78–291, 48 Stat. 892, 894, as amended by secs. 3, 4, Pub. L. 88–467, 78 Stat. 565, 569 (15 U.S.C. 78l, 78m); secs. 7, 10, 19, Pub. L. 73–22, 48 Stat. 78, 81, 85 (15 U.S.C. 77g, 77j, 77s).)

§ 240.17a–3 Records to be made by certain exchange members, brokers and dealers.

(a) • • •

(6) A memorandum of each brokerage order, and of any other instruction, given or received for the purpose of sale of securities, whether executed or unexecuted. Such memorandum shall show the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry, whether, if a sale ►of a security other than an exempted security or a municipal security◄, the order is entered "long" or "short," the price at which executed and, to the extent feasible, the time of execution or cancellation. An order shall not be marked "long" unless (i) the security to be delivered after sale is carried in the account for which the sale is to be effected, or (ii) the broker-dealer is informed that the seller owns the security ordered to be sold and, as soon as is possible without undue inconvenience or expense, will deliver the security owned to the account for which the sale is to be effected. Orders entered pursuant to the exercise of discretionary power by such member, broker, or dealer, or any employee thereof, shall be so designated. The term "instruction" shall be deemed to include instructions between partners and employees of a member, broker or dealer. The term "time of entry" shall be deemed to mean the time when such member, broker, or dealer transmits the order or instruction for execution or, if it is not so transmitted, the time when it is received.

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(7) A memorandum of each purchase and sale of securities for the account of such member, broker or dealer showing the price and, to the extent feasible, the time of execution; and, in addition, where such purchase or sale is with a ►person◄ [customer] other than a broker or dealer, a memorandum of each order received, showing the time of receipt, the terms and conditions of the order, the account in which it was entered and whether, if a sale ►of a security other than an exempted security or a municipal security by or to such member, broker, or dealer◄, such scale was effected "long" unless (i) the security to be delivered after sale is carried in the account for which the sale is to be effected, or (ii) the broker-dealer is informed that the seller owns the security ordered to be sold and, as soon as is posible without undue inconvenience or expense, will deliver the security owned to the account for which the sale is to be effected.

(Secs. 17, 23, Pub. L. 78-291, 48 Stat. 897, 901, as amended by secs. 14, 18, Pub. L. 94-29, 89 Stat. 137 155 (15 U.S.C. 78q, 78w).)

* * * * *

All interested persons are invited to submit written views, data and arguments with respect to the above proposal and amendments. Persons wishing to make such submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, not later than February 10, 1977. All submissions should make reference to File No. S7-510, and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, NW, Washington, D.C.

By the Commission,

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 21, 1976.

[FR Doc.76-38059 Filed 12-27-76;8:45 am]

federal register

TUESDAY, DECEMBER 28, 1976

PART V



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secertary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931. as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alaska:	
AK76–5095	Sept. 24, 1976.
Colorado:	
CO76–5106	Nov. 26, 1976.
Iowa:	
IA76–4092	May 21, 1976.
IA76–4099	June 18, 1976.
IA76–4145	Sept. 10, 1976.
IA76–4175	Oct. 15, 1976.
Kentucky:	
KY76–1058	May 21, 1976.
KY76–1129	Nov. 26, 1976.
Massachusetts:	
MA76–2104; MA76–2106	Sept. 3, 1976.
MA76–2105	Sept. 20, 1976.
Mississippi:	
MS76–1064	Aug. 20, 1976.
Missouri:	
MO76–4107; MO76–4108	July 2, 1976.
Montana:	
MT76–5103	Nov. 19, 1976.
New Mexico:	
NM76–4182	Nov. 12, 1976.
Ohio:	
OH76–2041	Apr. 9, 1976.
Texas:	
TX76–4115; TX76–4118	July 16, 1976.
TX76–4126; TX76–4128	July 23, 1976.
TX76–4155; TX76–4157	Oct. 1, 1976.
TX76–4168; TX76–4169; TX 76–4170; TX76–4171.	Oct. 8, 1976.
TX76–4183	Nov. 12, 1976.
Vermont:	
VT76–2170	Dec. 10, 1976.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

California:	
CA76–5053 (CA76–5120); CA76–5059 (CA76–5121).	July 2, 1976.
Connecticut:	
CT76–2111, CT76–2112 (CT 76–2172); CT76–2111, CT 76–2112 (CT76–2173).	Sept. 17, 1976.
Florida:	
FL75–1085 (FL76–1141)	Sept. 5, 1975.
Michigan:	
MI76–2049 (MI76–2171)	Apr. 16, 1976.
Mississippi:	
MS75–1020 (MS76–1142)	Feb. 7, 1975.
Tennessee:	
TN75–1074 (TN76–1140)	Aug. 8, 1975.
Texas:	
TX76–4042 (TX76–4196)	Feb. 13, 1976.
TX76–4087 (TX76–4194)	May 21, 1976.
TX76–4110 (TX76–4197)	July 2, 1976.
TX76–4125 (TX76–4193)	July 23, 1976.
TX76–4151 (TX76–4195)	Sept. 24, 1976.
West Virginia:	
WV75–3107 (WV76–3286)	Dec. 5, 1975.
WV75–3106 (WV76–3286)	Dec. 12, 1976.
Wisconsin:	
WI75–2064 (WI76–2169)	May 16, 1975.

Change in publication date. The FEDERAL REGISTER will not be published Friday, December 31, due to Friday being a holiday. Modifications and supersedeas decisions to general wage determination decisions scheduled for publication on December 31, 1976, will be published in the FEDERAL REGISTER on January 4, 1977.

Signed at Washington, D.C., this 17th day of December 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IA76-4092 - Mod. #4 (41 FR 21079 - May 21, 1976) Black Hawk County (City of Waterloo & abutting municipalities), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction:					
Electricians:	$10.48	.45	1%		1%
Electricians Cable Splicers	10.79	.45	1%		1%
DECISION #IA-76-4099 - Mod. #5 (41 FR 24844 - June 15,1976) Cerro Gordo County (City of Mason City), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction:					
Electricians	$10.45	.45	1%		1%

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AK76-5095 - Mod. #5 (41 FR 42060 - September 24, 1976) Statewide, Alaska					
Change:					
Asbestos Workers	$17.61	.44	.97	.50	.10
Boilermakers	16.285	.775	1.00	.02	
Plumbers:					
Area III	15.20	1.00	1.20		.10
DECISION #CO76-5106 - Mod. #1 (41 FR 52225-November 26, 1976) Las Animas, Otero and Pueblo Counties, Colorado					
Change:					
Plumbers:					
Zone I (0-15 miles from P.O.)	$10.97	.85			.08
Zone II (15-20 miles from P.O.)	11.54	.85			.08
Zone III(20-40 miles from P.O.)	11.97	.85			.08
Zone IV (Over 40 miles from P.O.)	12.995	.85			.08

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MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IA76-4145 - Mod. #4 (41 FR 38711 - Sept. 10,1976) Clinton County (City of Clinton & abutting municipalities), Iowa					
Change:					
Building, Water Treatment Plants & Sewage Disposal Plants Construction:					
Bricklayers & Stonemasons	$ 9.85		.65		
Cement Masons	9.35		.65		
Plasterers	9.85		.65		
DECISION #IA76-4175 - Mod. #1 (41 FR 45811 - Oct. 15,1976) Woodbury County (City of Sioux City & abutting municipalities) Iowa					
Change:					
Electricians	$10.76	.40	1%		1%
Plumbers & Steamfitters	9.62	.74	.55		.10

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION # KY76-1058 - Mod. # 4 (41 FR-21082 - May 21, 1976) McCracken County, Kentucky					
Change:					
Boilermakers	10.80	.75	1.00		.02
Electricians:					
Electricians	10.30	.40	1%		½ of 1%
Cable splicers	10.55	.40	1%		½ of 1%
Line Construction:					
Linemen	10.25	.45	1%		½ of 1%
Equipment operator	10.25	.45	1%		½ of 1%
Groundman	7.36	.45	1%		½ of 1%
Groundman truck driver	7.64	.45	1%		½ of 1%
Sheet metal workers	10.74	1.067	.80		.14
DECISION # KY76-1129 - Mod. # 2 (41 FR-52257 - November 26, 1976) Hardin, Jefferson, and Meade Counties, Kentucky					
CHANGE:					
Asbestos workers	10.66	.50	1.00		
Laborers:					
Group I	6.90	.35	.35		
Group II	7.10	.35	.35		
Group III	7.25	.35	.35		
Group IV	7.40	.35	.35		
Group V	8.10	.35	.35		
Truck Drivers:					
Group I	7.61	a	a	b	
Group II	7.51	a	a	b	
Group III	7.44	a	a	b	
Group IV	7.33	a	a	b	
Group V	7.21	a	a	b	

FOOTNOTES:

a. Employer contributes $ 21.00 per week to Health & Welfare and $20.00 per week to Pension for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive day period

b. Employee who have been regularly employed on a project by an employer for one year and who worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employees who have been regularly employed on a project by an employer for one year, and who have worked a minimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours).

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MA76-2104- Mod #2 (41 FR 37485- September 3, 1976) Plymouth County, Massachusetts					
Change:					
Electricians:					
Remainder of County:					
Electrical contracts $40,000 or over	$11.05	6%	5%	2%	.5%
Elect. contracts under $40,000	9.15	6%	5%	2%	.5%
Residential	6.60	.50	5%	2%	.5%
Elevator constructors	11.445	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elev. constructors' helpers (prob)	50%JR	.545	.35	4%+a+b	.02
Line construction:					
Linemen	12.00	.65	1%	e	3/8of1%
Equipment operators	11.28	.65	1%	e	3/8of1%
Groundmen	7.68	.65	1%	e	3/8of1%
Driver groundman	9.03	.65	1%	e	3/8of1%
Piledrivermen:					
Remainder of County	10.15	.60	1.00		
DECISION NO. MA76-2105- Mod #2 (41 FR 35377- September 20, 1976) Suffolk County, Massachusetts					
Change:					
Elevator constructors	11.445	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elev. constructors' helpers (prob)	50%JR	.545	.35	4%+a+b	.02
Line construction:					
Linemen	12.00	.65	1%	d	3/8of1%
Equipment operators	11.28	.65	1%	d	3/8of1%
Driver groundman	9.03	.65	1%	d	3/8of1%
Groundman	7.68	.65	1%	d	3/8of1%
Piledrivermen	10.15	.60	1.00		
Plumbers	10.80	1.02	1.28		.05
DECISION NO. MA76-2106 Mod. #2 (41 FR 37409- September 3, 1976) Worcester County, Massachusetts					
Change:					
Electricians:	9.60	.50	1%+.30	.43	.02+a
Line construction:					
Linemen	12.00	.65	1%	e	3/8of1%
Equipment operator	11.28	.65	1%	e	3/8of1%
Driver groundman	9.03	.65	1%	e	3/8of1%
Groundman	7.68	.65	1%	e	3/8of1%

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # MS76-1084 - Mod. #3 (41 FR-35382 - August 20, 1976) Hinds County, Mississippi.					
Change:					
Roofers:					
Roofers	7.60	.15			
Kettlemen	6.00	.15			
Paper rollers	6.00	.15			
Helpers	4.70	.15			
Sprinkler fitters	10.10	.60	.90		.08
DECISION #MO76-4107 - Mod. #4 (41 FR 27621 - July 2, 1976) Franklin, Jefferson, Lincoln, St. Charles and Warren and St. Louis City and County, Missouri					
Change:					
Modification #2 dated December 10, 1976, to read modification #3					
DECISION #MO76-4108 - Mod. #4 (41 FR 27624 - July 2, 1976) Franklin, Jefferson, Lincoln, St. Charles and Warren Counties, and St. Louis City and County, Missouri					
Change:					
Modification #2 dated December 10, 1976, to read modification #3					

DECISION NO. MT76-5103 - Mod. #1
(41 FR 51326 - November 19, 1976)
Statewide, Montana

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
LABORERS:					
Broadwater (Northern area), Lewis and Clark, Meagher, Powell (that portion lying east of a N-S line at the west edge of the Town of Elliston) Counties:					
Group 1	$7.31	.50	.30		.03
Group 2	7.465	.50	.30		.03
Group 3	7.565	.50	.30		.03
Group 4	7.66	.50	.30		.03
PAINTERS:					
Broadwater, Gallatin, Jefferson, (Northern area from a line running East and West five miles south of the Southern City limits of Boulder), Lewis and Clark (southern portion from a line running East and West through the southern limits of Craig), Madison (East of the West City limits of Harrison), Meagher, Park, Powell (Northern area from a line running East and West through the Southern City limits of Helmsville)					
Brush	8.44	.25	.20		.03
Spray, Steel Brush	9.44	.25	.20		.03
Structural Steel Brush	9.44	.25	.20		.03
Steel Spray	10.44	.25	.20		.03
Structural Steel Spray	10.94	.25	.20		.03
Water and Sandblast	11.34	.25	.20		.03

DECISION #MT76-5103 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cascade, Chouteau (south of a line running East and West through the Southern limits of Big Sandy), Daniels, Fergus, Glacier (excluding Glacier National Park), Garfield, Judith-Basin, Lewis and Clark, (Northern portion from a line running East and West through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Tolle, Valley and Wheatland (northern area from a line running East and West Thru the southern limits of Harlowtown) Counties					
Painters, brush, preparatory work; Pot tander; Parking lot atrippint and related work; Roller up to 9 inches	8.09	.49	.30		1/2%
Perfataper	8.49	.49	.30		1/2%
Brush on steel; spraying & Airless spray	8.59	.49	.30		1/2%
Water & sandblasting; application of cold tar products, epoxies, polyurethanes and acid resistant paints; paperhangers	10.34	.49	.30		1/2%
Roller over 9 inches long	11.69	.49	.30		1/2%

DECISION NO. NM76-4182 - Mod. #3
(41 FR 50163 - November 12, 1976)
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS - ZONE I:					
AREA I					
1-A	$ 9.90	.60	17+.70		1/2%
1-B	10.59	.60	17+.70		1/2%
1-C	11.19	.60	17+.70		1/2%
1-D	11.88	.60	17+.70		1/2%
AREA II					
2-A	8.80	.60	17+.70		1/2%
2-B	9.42	.60	17+.70		1/2%
2-C	9.94	.60	17+.70		1/2%
2-D	10.56	.60	17+.70		1/2%
ELECTRICIANS - ZONE II	11.19	.60	17+.70		1/2%
CABLE SPLICERS - ZONE I:					
AREA I					
1-A	10.89	.60	17+.70		1/2%
1-B	11.58	.60	17+.70		1/2%
1-C	12.18	.60	17+.70		1/2%
1-D	12.87	.60	17+.70		1/2%
AREA II					
2-A	9.68	.60	17+.70		1/2%
2-B	10.30	.60	17+.70		1/2%
2-C	10.82	.60	17+.70		1/2%
2-D	11.44	.60	17+.70		1/2%
CABLE SPLICERS - ZONE II	12.18	.60	17+.70		1/2%

DECISION No. OH76-2041 - Mod. #5
(41 FR 15300 - April 9, 1976)
Statewide, Ohio

	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 3	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:						
Power Equipment Operators:						
Heavy and Highway						
Class A	$ 11.28	10.54	.46	1.00		.11
Class B	11.18	10.42	.46	1.00		.11
Class C	10.14	9.38	.46	1.00		.11
Class D	9.67	8.95	.46	1.00		.11
Class E	8.23	7.34	.46	1.00		.11
Zone Definitions						
Zone 2: Ashtabula, Cuyahoga, Erie, Geauga, Lake, Loraine, Medina, Portage and Summit Counties						
Zone 3: Remainder of Counties						

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Painters:					
Zone 14 - Delaware, Fairfield, Fayette, Franklin, Madison, Pickaway and Union Counties	9.25	.55	.30		
Add:					
Painters:					
Zone 14 - Delaware, Fairfield, Fayette, Franklin, Madison, Pickaway and Union Counties:					
Brush	9.45	.55	.55		
Structural steel & Swing stage, Chair	9.75	.55	.55		
Spray	9.95	.55	.55		
Sand blast, Steam cleaning & Hazardous work	10.15	.55	.55		

NOTICES
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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4115 - Mod. #4 (41 FR 29652 - July 16, 1976) Gregg County, Texas					
Change: Boilermakers	$10.00	.50	1.00		.02
DECISION #TX76-4118 - Mod. #3 (41 FR 29605 - July 16, 1976) Ector & Midland Cos., Texas					
Change: Boilermakers	10.00	.50	1.00		.02
DECISION #TX76-4176 - Mod. #3 (41 FR 30565 - July 23, 1976) Cameron, Hidalgo, Starr & Willacy Cos., Texas					
Change: Boilermakers	10.00	.50	1.00		.02
DECISION #TX76-4128 - Mod. #5 (41 FR 30566 - July 23, 1976) Wichita County, Texas					
Change: Boilermakers	10.00	.50	1.00		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4155 - Mod. #4 (41 FR 43645 - October 1, 1976) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change: Electricians	$ 9.88	.40	1%		1/2%
DECISION #TX76-4157 - Mod. #5 (41 FR 43549 - October 1, 1976) Bell, Bosque, Coryell, Falls, Hill & McLennan Counties, Texas					
Change: Building Construction: Boilermakers	10.00	.50	1.00		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4168 - Mod. #3 (41 FR 44671 - October 8, 1976) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Boilermakers	$10.00	.50	1.00		.02
Electricians:					
Zone 1:					
Electricians	9.88	.40	1%		1/2%
Cable splicers	10.87	.40	1%		1/2%
Line Construction:					
Zone 1:					
Lineman	9.88	.40	1%		1/2%
Cable splicer	10.87	.40	1%		1/2%
Groundman, more than 1 year experience	6.49	.40	1%		1/2%
Groundman, less than 1 year experience	5.68	.40	1%		1/2%
Operator-hole digger, line truck	7.53	.40	1%		1/2%
Flat bed truck driver	5.68	.40	1%		1/2%
DECISION #TX76-4169 - Mod. #4 (41 FR 44662 - October 8, 1976) Bowie County, Texas					
Change:					
Boilermakers	10.00	.50	1.00		.02
Electricians	9.40	.40	1%		1/4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4170 - Mod. #2 (41 FR 44674 - October 8, 1976) Brazos County, Texas					
Change:					
Boilermakers	$10.00	.50	1.00		.02
Carpenters	9.00				
DECISION #TX76-4171 - Mod. #1 (41 FR 44664 - October 8, 1976) Taylor County, Texas					
Change: Boilermakers	10.00	.50	1.00		.02
DECISION #TX76-4183 - Mod. #2 (41 FR 50191 - November 12, 1976) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties, Texas					
Change: Boilermakers	10.00	.50	1.00		.02

SUPERSEDEAS DECISION

STATE: California

COUNTIES: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo Santa Barbara and Ventura

DECISION NUMBER: CA76-5120

DATE: Date of Publication

Supersedes Decision No. CA76-5058 dated July 2, 1976, in 41 FR 27549.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.35	.80	$ 1.02		.06
BOILERMAKERS	10.85	.65	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Imperial County	10.57	.83	1.06		.06
Inyo, Kern and Mono Counties	11.60	1.00	1.00		.07
Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach), Orange County	10.80	.95	1.15		.30
Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach)	10.03	.80	1.20		.07
Riverside and San Bernardino Counties	11.10	1.03	1.35		.07
Santa Barbara and San Luis Obispo Counties	9.47	1.05	1.20	.85	.01
Ventura County	11.10	.85	1.20		.02
BRICK TENDERS	8.255	.95	1.95	.55	
CARPENTERS:					
Carpenters	9.54	1.30	1.80	.80	.06
Saw Filers	9.62	1.30	1.80	.80	.06
Table Power Saw Operators	9.64	1.30	1.80	.80	.06
Shinglers; Piledrivermen, Bridge or dock Carpenters; Derrick Bargemen; Rock Slinger	9.67	1.30	1.80	.80	.06
Hardwood Floor Layers	9.74	1.30	1.80	.80	.06
Head Rock Slinger	9.77	1.30	1.80	.80	.06
Pneumatic Nailer	9.79	1.30	1.80	.80	.06
Millwrights	10.04	1.30	1.80	.80	.06
CEMENT MASONS:					
Cement Masons	9.41	1.10	1.75	1.00	.08
Cement Floating and Troweling Machine	9.66	1.10	1.75	1.00	.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRYWALL INSTALLERS	$ 11.21	$1.30	$ 1.80	.80	.07
ELECTRICIANS:					
Imperial County					
Electricians	12.50	.75	18+1.25		
Cable Splicers	12.78	.75	18+1.25		
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)					
Electricians; Technicians	14.06	.70	18+1.39		.15
Cable Splicers	15.47	.70	18+1.39		.15
Kern County (Remainder of Co.)					
Electricians; Technicians	11.56	.70	18+1.39		.15
Cable Splicers	12.72	.70	18+1.39		.15
Los Angeles County					
Electricians	12.29	1.05	18+1.70		.02
Cable Splicers	12.59	1.05	18+1.70		.02
Traffic Signal and Street Lighting:					
Electricians	11.79	1.05	18+1.70		.02
Utility Technician No. 1	8.84	1.05	18+1.70		.02
Utility Technician No. 2	8.25	1.05	18+1.70		.02
Tunnel:					
Electricians	13.52	1.05	18+1.70		.02
Cable Splicers	13.82	1.05	18+1.70		.02
Sound Technicians:					
Sound Technicians (on building construction)	11.07	.50	18		
Sound Technicians (on modification of existing buildings)	8.71	.50	18		
Orange County					
Electricians	11.30	.45	18+1.35		.02
Cable Splicers	12.03	.45	18+1.35		.02
Riverside County					
Electricians	12.31	.60	18+1.25		.04
Cable Splicers	12.61	.60	18+1.25		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Inyo, Mono and San Bernardino Counties					
Electricians	$ 10.60	.71	18+1.50		.04
Cable Splicers	10.90	.71	18+1.50		.04
Tunnel:					
Electricians	11.66	.71	18+1.50		.04
Cable Splicers	11.96	.71	18+1.50		.04
San Luis Obispo County					
Electricians	11.61	1.00	18+1.15		.03
Cable Splicers	12.77	1.00	18+1.15		.03
San Barbara County (Vandenburg AFB)					
Electricians	13.35	.90	18+1.35		.03
Cable Splicers	14.35	.90	18+1.35		.03
Remainder of County					
Electricians	11.85	.90	18+1.35		.03
Cable Splicers	12.85	.90	18+1.35		.03
Ventura County					
Electricians	12.53	.84	18+1.05		.02
Cable Splicers	13.78	.84	18+1.05		.02
ELEVATOR CONSTRUCTORS:					
Imperial, Inyo, Kern (South of Tehachapi Range), Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties					
Elevator Constructors	12.95	.545	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Kern County (North of Tehachapi Range)					
Elevator Constructors	13.49	.545	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
GLAZIERS:					
Imperial County	9.69	.55	.60		
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Ventura Counties	11.19	.67	1.45		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Fence Erectors	$ 10.14	$1.09	$ 1.83		.04
Reinforcing	11.03	1.09	1.83		.04
Ornamental; Structural	11.03	1.09	1.83		.04
IRRIGATION AND LAWN SPRINKLERS:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	9.40	10%	16%	13%	3/4%
LATHERS:					
Inyo, Kern and Mono Counties	9.13	.60	1.30	.70	.05
Los Angeles County (except City of Lancaster)	11.00	.60	.75		.03
Ventura County	9.06	.60	1.10	1.00	.02
San Luis Obispo County	7.72	.87	3.20		
San Barbara County	8.72	.57	1.00	1.50	
LINE CONSTRUCTION:					
Imperial County					
Groundmen	10.00	.75	18+1.25		
Linemen	12.50	.75	18+1.25		
Cable Splicers	12.78	.75	18+1.25		
Kern (China Lake Naval Ordnance Test Station and Edwards AFB)					
Groundmen	11.17	.70	18+1.39		.15
Linemen	14.06	.70	18+1.39		.15
Cable Splicers	15.47	.70	18+1.39		.15
Kern County (Remainder of County)					
Groundmen	8.67	.70	18+1.39		.15
Linemen	11.56	.70	18+1.39		.15
Cable Splicers	12.72	.70	18+1.39		.15
Orange County					
Groundman 1st year	9.36	.45	18+1.35		.02
Groundman 2nd year	9.92	.45	18+1.35		.02
Lineman; Heavy Equipment Operators	11.50	.45	18+1.35		.02
Cable Splicers	12.03	.45	18+1.35		.02
Los Angeles County					
Groundmen	8.83	.71	18		
Linemen	11.77	.71	18		
Cable Splicers	12.07	.71	18		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (Cont'd)					
Riverside County					
Groundman	$ 9.25	.60	1%+1.25		.04
Lineman; Line Equipment Operators	12.33	.60	1%+1.25		.04
Cable Splicers	12.63	.60	1%+1.25		.04
San Luis Obispo County					
Groundman	8.70	1.00	1%+1.15		.03
Lineman; Line Equipment Operators	11.61	1.00	1%+1.15		.03
Cable Splicers	12.77	1.00	1%+1.15		.03
Ventura County					
Groundman	9.24	.70	1%+.55		.02
Lineman	10.42	.70	1%+.55		.02
Cable Splicers	11.46	.70	1%+.55		.02
San Barbara County (Vandenburg AFB)					
Groundmen	10.39	.90	1%+1.35		.03
Linemen	13.35	.90	1%+1.35		.03
Cable Splicers	14.35	.90	1%+1.35		.03
Remainder of County					
Groundman	8.89	.90	1%+1.35		.03
Lineman	11.85	.90	1%+1.35		.03
Cable Splicers	12.85	.90	1%+1.35		.03
MARBLE SETTERS:					
Inyo and Mono Counties	10.64	1.00	.83	1.03	
Imperial County	10.04	.55	1.17	.75	
Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	8.16	.65	.55		
MARBLE SETTERS' HELPERS:					
Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	6.98	1.11	1.20		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (excluding Western portion)					
Brush; Paint Burners Papeshangers; Iron, steel and bridge (swing stage); Sheet rock taper	$ 10.37	.97	$ 1.10	.75	.07
Brush (swing stage); Spray	10.87	.97	1.10	.75	.07
Steeplejack	10.06	.97	1.10	.75	.07
	11.77	.97	1.10	.75	.07
Inyo, Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), Mono San Bernardino (west of a line north of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	10.72	.46	.60	.50	.01
Structural steel and bridge; Painter Burner	10.84	.46	.60	.50	.01
Tapers	11.42	.46	.60	.50	.01
Brush Swing Stage (13 stories or less); Paperhangers; Sandblasters; Spray	10.97	.46	.60	.50	.01
Brush swing stage (over 13 stories)	11.09	.46	.60	.50	.01
Structural steel and bridge, swing	11.12	.46	.60	.50	.01
Spray sandblaster swing stage (13 stories or less); Paste Machine; Special coating Spray	11.22	.46	.60	.50	.01
Steeplejack	11.97	.46	.60	.50	.01
Kern County (Remainder of County)					
Brush	9.87	.45	.61		.03
Brush or Roller, swing stage; Paperhangers; Taping joint sheet rock	10.12	.45	.61		.03
Sprsy; Sandblasters	9.87	.45	.61		.03
Steeplejack	11.37	.45	.61		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
San Luis Obispo, Santa Barbara, and Ventura Counties					
Brush	$ 11.26	.75	.60		.03
Iron and Steel; Paperhangers; Paste Machine Operator; Sandblaster	11.51	.75	.60		.03
Spraymen	11.76	.75	.60		.03
Steeplejack	12.51	.75	.60		.03
Tapers, sheet rock	11.54	.75	.60		.03
Parking Lot Striping Work and/or Highway Markers:					
Inyo and Mono Counties					
Striper	9.97	.50	.35	b	
Striper Helper	8.22	.50	.35	b	
Traffic Delineating Device Applicator; Wheel Stop Installer; Traffic Surface; Sandblaster	8.87	.50	.35	b	
Helper (traffic delineating device applicator, wheel stop installer, traffic surface sandblaster)	7.72	.50	.35	b	
Slurry Seal Operation					
Mixer Operator	8.87	.50	.35	b	
Squeegee Man	8.37	.50	.35	b	
Applicator Operator	7.72	.50	.35	b	
Shuttleman	6.65	.50	.35	b	
Top Man	6.22	.50	.35	b	
Remaining Counties:					
Traffic Delineating Device Applicator					
Striper; Wheel Stop Installer; Surface Sandblaster	8.87	.50	.35	b	
Helper (striper, wheel stop installer, traffic surface sandblaster)	8.48	.50	.35	b	
Slurry Seal Operation	6.83	.50	.35	b	
Mixer Operator					
Squeegee Man	8.48	.50	.35	b	
Applicator Operator	7.48	.50	.35	b	
Shuttleman	6.83	.50	.35	b	
Top Man	6.65	.50	.35	b	
	5.83	.50	.35	b	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Imperial County	$ 10.96	.65	$ 1.50	$ 1.00	.07
Los Angeles and Orange Cos.	9.745	.68	1.85	.70	.10
Riverside and San Bernardino Counties	10.675				.01
San Luis Obispo County	12.00				
Santa Barbara County	8.69	.70	1.05		.01
Ventura County	8.625	.55	.50	.50	.02
PLASTERERS TENDERS:					
Imperial, Inyo, Mono, Riverside and San Bernardino Counties	10.18	.95	1.95	.50	
Kern County (China Lake Naval Ordnance Test Station, Edwards AFB)	11.725	.95	1.95	.55	
Kern County (Remainder of Co.)	9.10	.95	1.95	.55	
Los Angeles and Orange Cos.	10.175	.95	1.95	.80	
San Luis Obispo County	8.35	.95	1.95	.50	
Santa Barbara County (except Santa Marie)	9.53	.95	1.95	.55	
Santa Barbara County (Santa Marie)	9.73	.95	1.95	.55	
Ventura County	9.88	.95	1.95	1.05	
PLUMBERS; Steamfitters:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	11.66	10%	16%	13%	3/4%
Inyo, Kern (except east of Los Angeles (Aqueduct) and Mono Counties	10.53	.95	1.60	1.00	.17
Kern County (East of Los Angeles Aqueduct)	13.03	.95	1.60	1.00	.17
REFRIGERATION & AIR CONDITIONING:					
Riverside and San Bernardino Counties	8.85	.96	.55	.80	.05
Los Angeles and Orange Counties	11.935	1.53	1.70	1.42	.20
ROOFERS:					
Imperial County	9.99	.50	.75	1.00	
Inyo, Kern and Mono Counties	9.20	.60	.60		
Riverside and San Bernardino Counties	9.90	.80	.65	1.00	
Los Angeles, Orange and Ventura Counties	11.59	.82	.80		.065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: (Cont'd)					
San Luis Obispo and Santa Barbara Counties	$ 9.83	.535	.34		.0025
SHEET METAL WORKERS:					
Imperial County	11.96	1.04	2.20		
Inyo, Kern, Los Angeles (North of line between Gorman and Big Pines) and Mono Counties	9.47	.84	1.35		.02
Los Angeles County (Remaining portion)	11.53	.94	1.50		.02
Orange County	11.02	.99	1.80		.02
Riverside and San Bernardino Counties	9.55	1.04	1.80		.05
San Luis Obispo, Santa Barbara and Ventura Counties	11.00	.94	1.60		
SOFT FLOOR LAYERS:					
Imperial County	9.55	.60	1.05		.07
Inyo (including Inyo-Kern Naval Reservation), Kern (East of the Los Angeles Aqueduct), Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Luis Obispo and Ventura Counties	9.12	.65	.62	.52	.03
Kern County (Remaining portions)	9.02	.60	.45	.52	.03
SPRINKLER FITTERS:					
Imperial Inyo, Kern, Mono, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario, San Luis Obispo, Santa Barbara and Ventura (except Santa Paula, Point Mugu and Port Hueneme)	14.82	.60	.90		.08
Los Angeles (Los Angeles City and Area within 25 miles and Pomona), Orange (Santa Ana), San Bernardino (Ontario), and Ventura (Santa Paula, Point Mugu and Port Hueneme)	14.66	.66	.90		.09

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS:					
Imperial County	$ 10.04	.55	$ 1.17	.75	
TILE SETTERS:					
Imperial County	10.04	.55	1.17	.75	
Los Angeles, Orange and Venture Counties	11.40	.80	1.00		.08
San Luis Obispo and Santa Barbara Counties	9.47	1.05	1.20	.85	.01
Riverside and San Bernardino Counties	10.72	1.03	1.35		
TILE SETTERS' HELPERS:					
Imperial County	8.39	.55	.85		
Los Angeles, Orange and Ventura Counties	8.95	1.11	1.20		.13

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
A. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. Employer contributes $.22 per hour to Holiday Fund plus $.13 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.33 per hour to Vacation Fund, 5 years but less than 10 years $.43 per hour to Vacation Fund; over 10 years $.53 per hour to Vacation Fund.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLEANING AND HANDLING OF PANEL FORMS; Concrete screeding for rough strike off; Concrete, water curing; Demolition laborer, the cleaning of brick and lumber; Dry packing of concrete, plugging, filling or shee-bolt holes; Fire watcher, limbers, brush loaders, pilers and debris handler) Gas and oil pipeline; Laborers, general or construction; Laborer, temporary water and air lines; Material hoseman (walls, slab, floor and decks); Mixer-truck chute man (walls, slab decks, floors, foundations and footing-curb and gutter and sidewalks); Rigging and signalling; Slip form raisers; Window cleaner	$ 7.65	.95	$ 1.95	.55	.10
CUTTING TORCH (Demolition); Scaler; Tarman; Mortarman	7.70	.95	1.95	.55	.10
GUNITE CHASER	7.83	.95	1.95	.55	.10
ASPHALT SHOVELER; Fine grader, highway and street paving, airports, runways, and similar type heavy construction; Landscape gardener and nursery man	7.75	.95	1.95	.55	.10
PACKING ROD STEEL AND PANS; Tanks scaler and cleaner	7.77	.95	1.95	.55	.10
UNDERGROUND (INCLUDING CAISSON BELLOWERS)	7.78	.95	1.95	.55	.10
CHUCK TENDER: Septic tank digger and installer	7.80	.95	1.95	.55	.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CESSPOOL DIGGER AND INSTALLER	$ 7.83	.95	$ 1.95	.55	.10
CONCRETE CURER-IMPERVIOUS MEMBRANE AND FORM OILER; Rip Rap stonepaver placing stone or sacked concrete; Sandblaster (pot tender)	7.84	.95	1.95	.55	.10
PIPELAYERS' BACKUP MAN, COATING, GROUTING, MAKING OF JOINTS, SEALING, CAULKING, DIAPERING and INCLUDING RUBBER GASKET JOINTS, POINTING and ANY and ALL OTHER SERVICES	7.94	.95	1.95	.55	.10
BOOSTMOBILE MAN; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Gas and oil pipeline wrapper-pot tender; Power broom sweepers (small); Roto scraper and tiller; Tree climber, faller, chain saw operator, Pittsburg Chipper and similar type brush shredders; Trenching machine, hand propelled	7.86	.95	1.95	.55	.10
ASPAHLT RAKER, LUTEMAN & IRONER; Concrete core cutter, grinder or sander; Concrete saw man, cutting, scoring old or new concrete, impact wrench, multi-plate; Pneumatic, gas, electric tools, vibrating machines and similar mechanical tools not separttely classified herein; Tamper, barko wacker and similar type	7.96	.95	1.95	.55	.10
ROCK SLINGER	7.86	.95	1.95	.55	.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRILLER, JACKHAMMER - 2½ ft. DRILL STEEL OR LONGER	$ 8.04	.95	$ 1.95	.55	.10
CONCRETE VIBRATOR OPERATOR, 70 lbs. and over	8.06	.95	1.95	.55	.10
GAS AND OIL PIPELINE WRAPPER - (6" and over); Kettlemen, Pot man and men applying asphalt, lay-kold, creosote, lime caustic and similar type materials	7.99	.95	1.95	.55	.10
CRIBBER, SHORER, LAGGING, SHEETING AND TRENCH BRACKING, HAND-GUIDED LAGGING HAMMER; Pipelayers (non-metallic including Sewer, Drain and Underground Tile); Prefabricated Manhole installer	8.16	.95	1.95	.55	.10
BLASTER POWDERMAN	8.30	.95	1.95	.55	.10
STEEL HEADBOARD MAN AND GUIDE-LINE SETTER	8.07	.95	1.95	.55	.10
SANDBLASTER (nozzleman)	8.10	.95	1.95	.55	.10
DRILLER (Core-Diamond-Wagon)	8.30	.95	1.95	.55	.10
HEAD ROCK SLINGER	8.17	.95	1.95	.55	.10
GUNNITE LABORERS: Nozzlemen and Rodmen	9.37	.95	1.95	.55	.10
Gunmen	8.87	.95	1.95	.55	.10
Reboundmen	7.91	.95	1.95	.55	.10

LABORERS (Tunnel)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BATCH PLANT LABORERS; Bull Gang Mucker, Trackman; Concrete Crew, including Rodders and Spreaders; Dumpman, Dumpman (outside); Swamper (Brakeman and Switchman on tunnel work); Tunnel materials handling Man; Tool Man	$ 9.23	.95	$ 1.95	.55	
CABLE TENDER: Chuck tender; Nipper; Steel form raiser and setter's helper; Vibratorman, jackhammer, pneumatic tools (except driller)	9.35	.95	1.95	.55	
BLASTER, Driller, Powderman; Chemical grout jetman; Cherry pickerman; Grout gunman; Grout mixerman; Grout pumpman; Jack-leg miner; Jumbo man; Kemper and other pneumatic concrete placer operator; Miner tunnel (hand or machine); Powderman (primer house); Primer Man; Shot-crete Man; Steel Form Raiser and setter; Timberman; Retimber (wood or steel); Tunnel concrete finisher	9.51	.95	1.95	.55	
SHAFT, Raise miner; Diamond driller	9.79	.95	1.95	.55	

POWER EQUIPMENT OPERATORS DREDGING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(Hydraulic Suction Dredges)					
LEVERMAN	$ 11.30	.95	$ 2.00	.30	.04
WATCH ENGINEER; Welder	10.72	.95	2.00	.30	.04
DECKMATE	10.24	.95	2.00	.30	.04
WINCHMAN (Stern winch or dredge)	10.17	.95	2.00	.30	.04
BARGEMAN; Deckhand; Fireman; Oiler; Leveehand	9.63	.95	2.00	.30	.04
(Clamshell Dredges)					
LEVERMAN	11.30	.95	2.00	.30	.04
WATCH ENGINEER	10.72	.95	2.00	.30	.04
DECKMATE	10.24	.95	2.00	.30	.04
BARGEMATE	10.17	.95	2.00	.30	.04
BARGEMAN; Deckhand; Fireman; Oiler	9.63	.95	2.00	.30	.04

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:	$ 9.25	.95	$ 2.00	.50	.04
Group 2:	9.53	.95	2.00	.50	.04
Group 3:	9.82	.95	2.00	.50	.04
Group 4:	9.96	.95	2.00	.50	.04
Group 5:	10.18	.95	2.00	.50	.04
Group 6:	10.29	.95	2.00	.50	.04
Group 7:	10.41	.95	2.00	.50	.04
Group 8:	10.58	.95	2.00	.50	.04
Group 9:	10.71	.95	2.00	.50	.04
TRUCK DRIVERS					
Group 1:	$ 8.72	$1.25	.70	$ 1.00	.10
Group 2:	8.80	1.25	.70	1.00	.10
Group 3:	8.86	1.25	.70	1.00	.10
Group 4:	8.95	1.25	.70	1.00	.10
Group 5:	8.98	1.25	.70	1.00	.10
Group 6:	9.00	1.25	.70	1.00	.10
Group 7:	9.04	1.25	.70	1.00	.10
Group 8:	9.05	1.25	.70	1.00	.10
Group 9:	9.10	1.25	.70	1.00	.10
Group 10:	9.13	1.25	.70	1.00	.10
Group 11:	9.18	1.25	.70	1.00	.10
Group 12:	9.20	1.25	.70	1.00	.10
Group 13:	9.25	1.25	.70	1.00	.10
Group 14:	9.50	1.25	.70	1.00	.10
Group 15:	9.75	1.25	.70	1.00	.10
Group 16:	9.85	1.25	.70	1.00	.10

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

GROUP 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer oiler; Generator; Heavy duty repairman helper; Pump; Signalman; Switchman

GROUP 2: Compressor (600 C.F.M. or larger); Concrete mixer, skip type; Conveyor; Fireman; Hydrostatic pump; Oiler crusher (asphalt or concrete plant); Plant op., generator, pump or compressor; Rotary drill helper (oilfield); Skiploader - wheel type up to 3/4 yd. w/o attachments; Soils field technician; Tar pot fireman; Temporary heating plant; Trenching machine oiler; Truck crane oiler

GROUP 3: A-frame or winch truck; Elevator op. (inside); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Power concrete curing machine; Power concrete saw; Power driven jumbo form setter; Ross carrier (job site); Stationary pipe wrapping and cleaning machine

GROUP 4: Asphalt plant fireman; Boring machine; Boxman or mixerman (asphalt or concrete); Chip spreading machine; Concrete pump (small portable); Bridge type unloader and turntable; Dinkey locomotive or motorman (up to & incl. 10 tons); Equipment greaser (greaser truck); Helicopter hoist; Highline cableway signalman; Hydra-hammer-aero stomper; Power sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching machine (up to 6 ft.)

GROUP 5: Asphalt plant engineer; Backhoe (up to & incl. 3/4 yd.); Batch plant; Bit sharpener; Concrete joint machine (canal & similar type); Concrete planer; Deck engine; Derrickman (oilfield type); Drilling machine op. (incl. water wells); Forklift (under 5-ton capacity); Hydrographic seeder machine (straw, pulp or seed); Machine tool op.; Maginnis internal full slab vibrator; Mechanical berm, curb or gutter (concrete or asphalt); Mechanical finisher (concrete-Clary, Johnson, Bidwell or similar); Pavement breaker (truck mounted); Road oil mixing machine; Roller (asphalt or finish); Rubber-tired earth moving equipment (single engine, up to & incl. 25 yds. struck); Self-propelled tar pipelining machine; Slip form pump (power - driven hydraulic lifting device for concrete forms); Skiploader (crawler & wheel type over 3/4 yd. & up to & incl. 1½ yds); Stinger crane (Austin-Western or similar type); Tractor-bulldozer, tamper scraper (single engine, up to 100 h. p., flywheel & similar types, up to & incl. D-5 and similer types); Tugger hoist 1 drum; Tunnel locomotive (over 10 and up to & incl. 30 tons); Welder-general

GROUP 6: Asphalt or concrete spreading (tamping or finishing); Asphalt paving machine (Barber Greene or similar type); Bridge crane op.; Cast-in-place pipe laying machine; Combination mixer and compressor (gunite work); Compactor, self-propelled; Concrete mixer - paving; Concrete pump (truck mounted); Crane op.

POWER EQUIPMENT OPERATORS (CONT'D)
(Except Piledriving and Steel Erection)

up to and including 25 ton capacity)(Long-boom pay applicable); Crushing plant; Drill doctor; Elevating grader; Forklift (over 5 tons); Grade checker; Grade-all; Grouting machine; Heading shield; Heavy duty repairman; Hoist op. (Chicago boom and similar type); Kolman belt loader & similer type; LeTourneau blob compactor or similar type; Lift mobile; Lift slab machine (Vagtborg and similer types); Loader (Athey, Euclid, Sierra and similer type); Material hoist; Mucking machine (¼ yd. rubber tired, rail or track type); Pneumatic concrete placing machine (Hackley-Presswell or similar type); Pneumatic heading shield (tunnel), Pumpcrete gun; Rotary drill (excl. caisson type); Rubber-tired earth moving equipment (single engine-Caterpiller, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and incl. 50 cu. yds. struck); Rubber-tired earth moving equipment (multiple engine, up to and incl. 25 yds. struck); Rubber-tired scraper (self-loading-paddle wheel type-John Deere, 1040 and similer single unit); Skiploader (crawler and wheel type-over 1½ yds., up to and including 6½ yds.); Surface heaters and planer; Trenching machine (over 6 ft. depth capacity); Tower crane; Tractor compressor drill combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar) bulldozer, tamper, scraper and push tractor single engine); Tractor (boom attachments); Traveling pipe wrapping, cleaning and bending machine; Tunnel locomotive (over 30 tons); Shovel backhoe, dragline, clamshell (over 3/4 yd. and up to 5 cu. yd. m.r.c.)(long boom pay applicable); Self-propelled curb and gutter machine

GROUP 7: Crane, over 25 ton up to and incl. 100 tons m.r.c. (long boom pay applicable); Derrick barge (long boom pay applicable); Dual drum mixer; Heavy duty repairman-welder combination; Hoist, stiff-legs, guy derrick or similar type, up to and incl. 100 tons (long boom pay applicable); Monorail locomotive (diesel, gas or electric); Motor patrol-blade op. (single engine); Multiple engine tractor (Euclid and similer type, except quad 9 cat); Rubber-tired earth moving equipment (single engine, over 50 yds., struck); Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similer) (over 25 yds and up to 50 cu. yds. struck); Shovel, backhoe, dragline, clamshell (over 5 cu. yds. m.r.c.)(long boom pay applicable); Tower crane repairman; Tractor loader (crawler and wheel type over 6½ yds.); Welder-certified; Woods mixer and similer pugmill equipment

GROUP 8: Auto grader; Automatic slip form; Crane-over 100 tons (long boom pay applicable; Hoist-stiff legs, guy derrick or similer types (capable of hoisting 100 tons or more)(long boom pay applicable); Mass excavator-less than 750 cu. yds.; Mechanical finishing machine; Mobile form traveler; Motor patrol,multi-engine); Pipe mobile machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similer type over 50 cu. yds. struck); Rubber

POWER EQUIPMENT OPERATORS (CONT'D)
(Except Piledriving and Steel Erection)

tired self-loading scraper (paddle wheel-auger type self-loading-2 or more units); Rubber-tired scraper - pushing one another w/o push cat. Push-pull (50c per hr. additional to base rate); Tandem equipment (2 units only); Tandem tractor (quad 9 or similar type); Tunnel mole boring machine

GRADE 9: Canal liner; Canal trimmer; Helicopter pilot; Highline cableway; Remote controlled earth moving equipment ($1.00 p/h additional to base rate); Wheel excavator (over 750 cu. yd.)

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver or vehicle or combinations of vehicles of 2 axles (including all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers of vehicles or combination of vehicles of 3 axles

Group 5: Bootman; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 6½ yards

Group 8: Truck Repairman Helper

Group 9: Water Truck, 3 or more axles

Group 10: PB and similar type truck when performing within the Teamsters' jurisdiction; Pipeline and utility working truck including winch, but limited to truck applicable to Pipeline and Utility work, where a composite crew is used; Slurry Driver; Truck Greaser and Tireman (50c per hour additional for Tireman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 6½ yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All-off-highway equipment within Teamsters Jurisdiction (off highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

SUPERSEDEAS DECISION

STATE: California

COUNTIES: Imperial, Kern; Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura

DECISION NUMBER: CA76-5121

DATE: Date of Publication

Supersedes Decision No. CA76-5059 dated July 2, 1976, in 41 FR 27559.

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.35	.80	$ 1.02		.06
BOILERMAKERS	10.85	.65	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Imperial County	10.57	.83	1.06		.06
Kern County	11.60	1.00	1.00		.07
Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach); Orange County	10.80	.95	1.15		.30
Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach)	10.03	.80	1.20		.07
Riverside and San Bernardino Counties	11.10	1.03	1.35		.07
Santa Barbara and San Luis Obispo Counties	9.47	1.05	1.20	.85	.01
Ventura County	11.10	.85	1.20		.02
BRICK TENDERS	8.255	.95	1.95	.55	
CARPENTERS:					
Carpenters	9.54	1.30	1.80	.80	.06
Saw Filers	9.62	1.30	1.80	.80	.06
Table Power Saw Operators	9.64	1.30	1.80	.80	.06
Shinglers; Piledrivermen, bridge or dock carpenters; Derrick bargemen; Rock slinger	9.67	1.30	1.80	.80	.06
Hard wood floor layers	9.74	1.30	1.80	.80	.06
Head Rock Slinger	9.77	1.30	1.80	.80	.06
Pneumatic Nailer	9.79	1.30	1.80	.80	.06
Millwrights	10.04	1.30	1.80	.80	.06
CEMENT MASONS:					
Cement Masons	9.41	1.10	1.75	1.00	.08
Cement Floating and Troweling Machine	9.66	1.10	1.75	1.00	.08
DRYWALL INSTALLERS	11.21	1.30	1.80	.80	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Imperial County					
Electricians	$ 12.50	.75	1%+1.25		
Cable Splicers	12.78	.75	1%+1.25		
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)					
Electricians; Technicians	14.06	.70	1%+1.39		.15
Cable Splicers	15.47	.70	1%+1.39		.15
Kern County (Remainder of County)					
Electricians; Technicians	11.56	.70	1%+1.39		.15
Cable Splicers	12.72	.70	1%+1.39		.15
Los Angeles County					
Electricians	12.29	1.05	1%+1.70		.02
Cable Splicers	12.59	1.05	1%+1.70		.02
Orange County					
Electricians	11.50	.45	1%+1.35		.02
Cable Splicers	12.03	.45	1%+1.35		.02
Riverside County					
Electricians	12.31	.60	1%+1.25		.04
Cable Splicers	12.61	.60	1%+1.25		.04
San Bernardino County					
Electricians	10.60	.71	1%+1.50		.04
Cable Splicers	10.90	.71	1%+1.50		.04
San Luis Obispo County					
Electricians	11.61	1.00	1%+1.15		.03
Cable Splicers	12.77	1.00	1%+1.15		.03
Santa Barbara County (Vandenburg AFB)					
Electricians	13.35	.90	1%+1.35		.03
Cable Splicers	14.35	.90	1%+1.35		.03
Remainder of County					
Electricians	11.85	.90	1%+1.35		.03
Cable Splicers	12.85	.90	1%+1.35		.03
Ventura County					
Electricians	12.53	.84	1%+1.05		.02
Cable Splicers	13.78	.84	1%+1.05		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Imperial, Kern (South of Tehachapi Range), Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties					
Elevator constructors	$ 12.95	.545	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.).	50%JR				
Kern County (North of Tehachapi Range)					
Elevator Constructors	13.49	.545	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
GLAZIERS:					
Imperial County	9.69	.55	.60		
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Ventura Counties	11.19	.67	1.45		.04
IRONWORKERS:					
Fence Erectors	10.14	1.09	1.83	1.15	.04
Reinforcing	11.03	1.09	1.83	1.15	.04
Ornamental; Structural	11.03	1.09	1.83	1.15	.04
IRRIGATION & LAWN SPRINKLERS:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties	9.40	10%	16%	13%	3/4%
LATHERS:					
Kern County	9.13	.60	1.30	.70	.05
Los Angeles County (except City of Lancaster)	11.00	.60	.75		.03
Ventura County	9.06	.60	1.10	1.00	.02
San Luis Obispo County	7.72	.87		3.20	
Santa Barbara County	8.72	.57	1.00	1.50	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Imperial, Orange, Riverside, Los Angeles (Pomona Area); San Bernardino (excluding Western portion)					
Brush; Paint Burners Paperhangers; Iron, steel and bridge (swing stage); Sheet Rock Taper	$ 10.37	.99	$ 1.10	.75	.07
Brush (swing stage); Spray Steeplejack	10.87	.99	1.10	.75	.07
Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), San Bernardino (west of a line North of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)	10.62	.99	1.10	.75	.07
Brush	11.77	.99	1.10	.75	.07
Structural steel and bridge; Painter Burner	10.72	.46	.60	.50	.01
Tapers	10.84	.46	.60	.50	.01
Brush swing stage (13 stories or less); Paperhangers; Sandblasters; Spray	11.42	.46	.60	.50	.01
Brush swing stage (over 13 stories)	10.97	.46	.60	.50	.01
Structural steel and bridge, swing	11.09	.46	.60	.50	.01
Spray sandblaster swing stage (13 stories or less); Paste machine; Special coating spray	11.12	.46	.60	.50	.01
Steeplejack	11.22	.46	.60	.50	.01
Kern County (Remainder of County)	11.97	.46	.60	.50	.01
Brush	9.87	.45	.61		.02
Brush or Roller, Swing stage; Paperhangers; Taping Joint Sheet Rock	10.12	.45	.61		.03
Spray; Sandblasters	9.87	.45	.61		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
San Luis Obispo, Santa Barbara and Ventura Counties					
Brush	$ 11.26	.75	.60		.03
Iron and Steel; Paperhangers; Paste Machine Operator; Sandblaster	11.51	.75	.60		.03
Tapers, Sheetrock	11.54	.75	.60		.03
Spraymen	11.76	.75	.60		.03
Steeplejack	12.51	.75	.60		.03
PLASTERERS:					
Imperial County	10.96	.65	1.50	1.00	.07
Los Angeles and Orange Cos.	9.745	.60	1.85	.70	.10
Riverside and San Bernardino Counties	10.675				.01
San Luis Obispo County	12.00				
Santa Barbara County	8.69	.70	1.05		.01
Ventura County	8.625	.55	.50	.50	.02
PLASTERERS' TENDERS:					
Imperial, Riverside and San Bernardino Counties	10.18	.95	1.95	.50	
Kern County (China Lake Naval Ordnance Test Station, Edwards AFB)	11.725	.95	1.95	.55	
Kern County (Remainder of Co.)	9.10	.95	1.95	.55	
Los Angeles and Orange Cos.	10.175	.95	1.95	.80	
San Luis Obispo County	8.35	.95	1.95	.50	
Santa Barbara County (except Santa Maria)	9.53	.95	1.95	.55	
Santa Barbara County (Santa Maria)	9.73	.95	1.95	.55	
Ventura County	9.88	.95	1.95	1.05	
PLUMBERS; Steamfitters:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties	11.66	10%	16%	13%	3/4%
Kern (except east of Los Angeles Aqueduct)	10.53	.95	1.60	1.00	.17
Kern County (east of Los Angeles Aqueduct)	13.03	.95	1.60	1.00	.17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
REFRIGERATION & AIR CONDITIONING:					
Riverside and San Bernardino Counties	$ 8.85	.96	.55	.80	.05
Los Angeles and Orange Cos.	11.935	1.53	1.70	1.42	.02
ROOFERS:					
Imperial County	9.99	.50	.75	1.00	
Kern County	9.20	.60	.60		
Los Angeles, Orange and Ventura Counties	11.59	.02	.80		.065
San Luis Obispo and Santa Barbara Counties	9.83	.535	.34		.0025
Riverside and San Bernardino Counties	9.90	.80	.65	1.00	
SHEET METAL WORKERS:					
Imperial County	11.96	1.04	2.20		
Kern, Los Angeles (North of a line between Gorman and Big Pines)	9.47	.84	1.35		.02
Los Angeles County (Remaining portion)	11.53	.94	1.50		.02
Orange County	11.02	.99	1.80		
Riverside and San Bernardino Counties	9.55	1.05	1.80		.05
San Luis Obispo, Santa Barbara and Ventura Counties	11.00	.94	1.60		
SOFT FLOOR LAYERS:					
Imperial County (Kern Naval Reservation), Kern (East of the Los Angeles Aqueduct), Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Luis Obispo and Ventura Counties	9.55	.60	1.05		.07
Kern County (Remaining portion)	9.12	.65	.62	.52	.03
SPRINKLER FITTERS:	9.02	.60	.45	.52	.03
Imperial, Kern, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario), San Luis Obispo, Santa Barbara and Ventura (except Santa Paula, Point Mugu and Port Hueneme)	14.82	.60	.90		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS: (Cont'd)					
Los Angeles (Los Angeles City and Area within 25 miles, and Pomona), Orange (Santa Ana), San Bernardino (Ontario), and Ventura (Santa Paula, Point Mugu and Port Hueneme)	$ 14.66	.66	.90		.09
TILE SETTERS:					
Imperial County	10.04	.55	1.17	.75	
Los Angeles, Orange and Ventura Counties	11.40	.80	1.00		.08
San Luis Obispo and Santa Barbara Counties	9.47	1.05	1.20	.85	.01
Riverside and San Bernardino Counties	10.72	1.03	1.35		
TILE SETTERS' HELPERS:					
Imperial County	8.39	.55	.85		
Los Angeles, Orange and Ventura Counties	8.96	1.11	1.20		.13

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLEANING AND HANDLING OF PANEL FORMS; Concrete screeding for rough strike off; Concrete, water curing; Demolition laborer, the cleaning of brick and lumber; Dry packing of concrete, plugging, filling or shee-bolt holes; Fire watcher, limbers, brush loaders, pilers and debris handler; Gas and oil pipeline; Laborers, general or construction; Laborer, temporary water and air lines; Material hoseman (walls, slab, floor and decks); Mixer-truck chute man (walls, slab decks, floors, foundations and footing-curb and gutter and sidewalks); Rigging and signalling; Slip form raisers; Window cleaner	$ 7.65	.95	$ 1.95	.55	.10
CUTTING TORCH (Demolition); Scaler; Tarman; Mortarman	7.70	.95	1.95	.55	.10
GUINEA CHASER	7.83	.95	1.95	.55	.10
ASPHALT SHOVELER; Fine grader, highway and street paving, airports, runways, and similar type heavy construction; Landscape gardener and nursery man	7.75	.95	1.95	.55	.10
PACKING ROD STEEL AND PANS; Tanks scaler and cleaner	7.77	.95	1.95	.55	.10
UNDERGROUND (INCLUDING CAISSON BELLOWERS)	7.78	.95	1.95	.55	.10
CHUCK TENDER: Septic tank digger and installer	7.80	.95	1.95	.55	.10

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LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CESSPOOL DIGGER AND INSTALLER	$ 7.83	.95	$ 1.95	.55	.10
CONCRETE CURER-IMPERVIOUS MEMBRANE AND FORM OILER; Rip Rap stonepaver placing stone or sacked concrete; Sandblaster (pot tender)	7.84	.95	1.95	.55	.10
PIPELAYERS' BACKUP MAN, COATING, GROUTING, MAKING OF JOINTS, SEALING, CAULKING, DIAPERING and INCLUDING RUBBER GASKET JOINTS, POINTING and ANY and ALL OTHER SERVICES	7.94	.95	1.95	.55	.10
BUGGYMOBILE MAN; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Gas and oil pipeline wrapper-pot tender; Power broom sweepers (small); Roto scraper and tiller; Tree climber, faller, chain saw operator, Pittsburg Chipper and similar type brush shredders; Trenching machine, hand propelled	7.86	.95	1.95	.55	.10
ASPHALT RAKER, LUTEMAN & IRONER; Concrete core cutter, grinder or sander) Concrete saw man, cutting, scoring old or new concrete, impact wrench, multi-plate; Pneumatic, gas, electric tools, vibrating machines and similar mechanical tools not seperttely classified herein) Tamper, barko wacker and similar type	7.96	.95	1.95	.55	.10
ROCK SLINGER	7.86	.95	1.95	.55	.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRILLER, JACKHAMMER - 2½ ft. DRILL STEEL OR LONGER	$ 8.04	.95	$ 1.95	.55	.10
CONCRETE VIBRATOR OPERATOR, 70 lbs. and over	8.06	.95	1.95	.55	.10
GAS AND OIL PIPELINE WRAPPER - (6" and over); Kettlemen, Pot men and men applying asphalt, lay-kold, creosote, lime caustic and similar type materials	7.99	.95	1.95	.55	.10
CRIBBER, SHORER, LAGGING, SHEETING AND TRENCH BRACKING, HAND-GUIDED LAGGING HAMMER; Pipelayers (non-metallic including Sewer, Drain and Underground Tile); Prefabricated Manhole installer	8.16	.95	1.95	.55	.10
BLASTER POWDERMAN	8.30	.95	1.95	.55	.10
STEEL HEADBOARD MAN AND GUIDE-LINE BETTER	8.07	.95	1.95	.55	.10
SANDBLASTER (nozzleman)	8.10	.95	1.95	.55	.10
DRILLER (Core-Diamond-Wagon)	8.30	.95	1.95	.55	.10
HEAD ROCK SLINGER	8.17	.95	1.95	.55	.10
GUNNITE LABORERS:					
Nozzlemen and Rodmen	9.37	.95	1.95	.55	.10
Gunmen	8.87	.95	1.95	.55	.10
Reboundmen	7.91	.95	1.95	.55	.10

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:	$ 9.25	.95	$ 2.00	.50	.04
Group 2:	9.53	.95	2.00	.50	.04
Group 3:	9.82	.95	2.00	.50	.04
Group 4:	9.96	.95	2.00	.50	.04
Group 5:	10.18	.95	2.00	.50	.04
Group 6:	10.29	.95	2.00	.50	.04
Group 7:	10.41	.95	2.00	.50	.04
Group 8:	10.58	.95	2.00	.50	.04
Group 9:	10.71	.95	2.00	.50	.04
TRUCK DRIVERS					
Group 1:	$ 8.72	$1.25	.70	$ 1.00	.10
Group 2:	8.80	1.25	.70	1.00	.10
Group 3:	8.86	1.25	.70	1.00	.10
Group 4:	8.95	1.25	.70	1.00	.10
Group 5:	8.98	1.25	.70	1.00	.10
Group 6:	9.00	1.25	.70	1.00	.10
Group 7:	9.04	1.25	.70	1.00	.10
Group 8:	9.05	1.25	.70	1.00	.10
Group 9:	9.10	1.25	.70	1.00	.10
Group 10:	9.13	1.25	.70	1.00	.10
Group 11:	9.18	1.25	.70	1.00	.10
Group 12:	9.20	1.25	.70	1.00	.10
Group 13:	9.25	1.25	.70	1.00	.10
Group 14:	9.50	1.25	.70	1.00	.10
Group 15:	9.75	1.25	.70	1.00	.10
Group 16:	9.85	1.25	.70	1.00	.10

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

GROUP 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer oiler; Generator; Heavy duty repairman helper; Pump; Signalman; Switchman

GROUP 2: Compressor (600 C.F.M. or larger); Concrete mixer, skip type; Conveyor; Fireman; Hydrostatic pump; Oiler crusher (asphalt or concrete plant); Plant op., generator, pump or compressor; Rotary drill helper (oilfield); Skiploader - wheel type up to 3/4 yd. w/o attachments; Soils field technician; Tar pot fireman; Temporary heating plant; Trenching machine oiler; Truck crane oiler

GROUP 3: A-frame or winch truck; Elevator op. (inside); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Power concrete curing machine; Power concrete saw; Power driven jumbo form setter; Ross carrier (job site); Stationary pipe wrapping and cleaning machine

GROUP 4: Asphalt plant fireman; Boring machine; Boxman or mixerman (asphalt or concrete); Chip spreading machine; Concrete pump (small portable); Bridge type unloader and turntable; Dinkey locomotive or motorman (up to & incl. 10 tons); Equipment greaser (greaser truck); Helicopter hoist; Highline cableway signalman; Hydra-hammer-aero stomper; Power sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching machine (up to 6 ft.)

GROUP 5: Asphalt plant engineer; Backhoe (up to & incl. 3/4 yd.); Batch plant; Bit sharpener; Concrete joint machine (canal & similar type); Concrete planer; Deck engine; Derrickman (oilfield type); Drilling machine op. (incl. water wells); Forklift (under 5-ton capacity); Hydrographic seeder machine (straw, pulp or seed); Machine tool op.; Maginnis internal full slab vibrator; Mechanical berm, curb or gutter (concrete or asphalt); Mechanical finisher (concrete-Clary, Johnson, Bidwell or similar); Pavement breaker (truck mounted); Road oil mixing machine; Roller (asphalt or finish); Rubber-tired earth moving equipment (single engine, up to & incl. 25 yds. struck); Self-propelled tar pipelining machine; Slip form pump (power - driven hydraulic lifting device for concrete forms); Skiploader (crawler & wheel type over 3/4 yd. & up to & incl. 1½ yds); Stinger crane (Austin-Western or similar type); Tractor-bulldozer, tamper scraper (single engine, up to 100 h. p., flywheel & similar types, up to & incl. D-5 and similar types); Tugger hoist 1 drum; Tunnel locomotive (over 10 and up to & incl. 30 tons); Weider-general

GROUP 6: Asphalt or concrete spreading (tamping or finishing); Asphalt paving machine (Barber Greene or similar type); Bridge crane op.; Cast-in-place pipe laying machine; Combination mixer and compressor (gunite work); Compactor, self-propelled; Concrete mixer - paving; Concrete pump (truck mounted); Crane op.

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POWER EQUIPMENT OPERATORS (CONT'D)
(Except Piledriving and Steel Erection)

up to and including 25 ton capacity)(Long-boom pay applicable); Crushing plant; Drill doctor; Elevating grader; Forklift (over 5 tons); Grade checker; Grade-all; Grouting machine; Heading shield; Heavy duty repairman; Hoist op. (Chicago boom and similar type); Kolman belt loader & similar type; LeTourneau blob compactor or similar type; Lift mobile; Lift slab machine (Vagtbord and similar types); Loader (Athey, Euclid, Sierra and similar type); Material hoist; Mucking machine (½ yd. rubber tired, rail or track type); Pneumatic concrete placing machine (Hackley-Presswell or similar type); Pneumatic heading shield (tunnel), Pumpcrete gun; Rotary drill (excl. caisson type); Rubber-tired earth moving equipment (single engine-Caterpiller, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and incl. 50 cu. yds. struck); Rubber-tired earth moving equipment (multiple engine, up to and incl. 25 yds. struck); Rubber-tired scraper (self-loading-paddle wheel type-John Deere, 1040 and similar single unit); Skiploader (crawler and wheel type-over 1½ yds., up to and including 6½ yds.); Surface heaters and planer; Trenching machine (over 6 ft. depth capacity); Tower crane; Tractor compressor drill combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar) bulldozer, tamper, scraper and push tractor single engine); Tractor (boom attachments); Traveling pipe wrapping, cleaning and bending machine; Tunnel locomotive (over 30 tons); Shovel backhoe, dragline, clamshell (over 3/4 yd. and up to 5 cu. yd. m.r.c.)(long boom pay applicable); Self-propelled curb and gutter machine

GROUP 7: Crane, over 25 ton up to and incl. 100 tons m.r.c. (long boom pay applicable); Derrick barge (long boom pay applicable); Dual drum mixer; Heavy duty repairman-welder combination; Hoist, stiff-legs, guy derrick or similar type, up to and incl. 100 tons (long boom pay applicable); Monorail locomotive (diesel, gas or electric); Motor patrol-blade op. (single engine); Multiple engine tractor (Euclid and similar type, except quad 9 cat); Rubber-tired earth moving equipment (single engine, over 50 yds., struck); Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similar) (over 25 yds and up to 50 cu. yds. struck); Shovel, backhoe, dragline, clam-shell (over 5 cu. yds. m.r.c.)(long boom pay applicable); Tower crane repairman; Tractor loader (crawler and wheel type over 6½ yds.); Welder-certified; Woods mixer and similar pugmill equipment

GROUP 8: Auto grader; Automatic slip form; Crane-over 100 tons (long boom pay applicable; Hoist-stiff legs, guy derrick or similar types (capable of hoisting 100 tons or more)(long boom pay applicable); Mass excavator-less than 750 cu. yds.; Mechanical finishing machine; Mobile form traveler; Motor patrol,multi-engine); Pipe mobile machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similar type over 50 cu. yds. struck); Rubber

POWER EQUIPMENT OPERATORS (CONT'D)
(Except Piledriving and Steel Erection)

tired self-loading scraper (paddle wheel-auger type self-loading-2 or more units); Rubber-tired scraper - pushing one another w/b push cat. Push-pull (50c per hr. additional to base rate); Tandem equipment (2 units only); Tandem tractor (quad 9 or similar type); Tunnel mole boring machine

GRADE 9: Canal liner; Canal trimmer; Helicopter pilot; Highline cableway; Remote controlled earth moving equipment ($1.00 p/h additional to base rate); Wheel excavator (over 750 cu. yd.)

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver or vehicle or combinations of vehicles of 2 axles (including all vehicles less then six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers on vehicles or combination of vehicles of 3 axles

Group 5: Bootman; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 6½ yards

Group 8: Truck Repairman Helper

Group 9: Water Truck, 3 or more axles

Group 10: PB and similar type truck when performing within the Teamsters jurisdiction; Pipeline and utility working truck including which, but limited to truck applicable to Pipeline and Utility work, where a composite crew is used; Slurry Driver; Truck Greaser and Tireman (50c per hour additional for Tireman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 6½ yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All off-highway equipment with Teamster's jurisdiction (off highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

SUPERSEDEAS DECISION

STATE: CONNECTICUT
COUNTIES: *See Below
DECISION NUMBER: CT76-2172
DATE: Date of Publication
Supersedes Decision Nos.: CT76-2111 dated September 17, 1976, in 41 FR 40378 and CT76-2112 dated September 17, 1976, in 41 FR 40386
DESCRIPTION OF WORK: Building Construction (including residential), Heavy and Highway Construction

*Fairfield, Litchfield, and Windham Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fairfield Co.; Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Kent, Litchfield, Morris, New Hartford, New Milford, Plymouth, Roxbury, Sharon, Torrington, Warren, Washington, Watertown, Winchester, Woodbury, & Thomaston; Windham Co.: Ashford, Chaplin, Eastford, Hampton, Scotland & Windham	$10.34	.65	.96		
Litchfield Co.: Canaan, Colbrook, Norfolk, N. Canaan & Salisbury; Windham Co.: Woodstock	9.60	.54	.75		.01
Windham Co.: Brooklyn, Canterbury, Killingly, Plainfield, Pomfret, Putnam, Sterling, & Thompson	9.32	.71	.83		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; Cement masons; Finishers; Marble masons; Plasterers; Stonemasons; Terrazzo workers; Tile setters (Building Construction):					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Southport, Stratford, & Trumbull	9.70	.65	.50		$50.00p/y
Fairfield Co.: New Canaan, Norwalk, Ridgefield, Weston, Westport, & Wilton	9.85	.65	.50	a	
Fairfield Co.: Darien & Stamford	9.60	.53	.25		
Fairfield Co.: Greenwich	9.90	.50	.45		
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, & Sherman; Litchfield Co.: Bridgewater, Kent, New Milford, & Roxbury	9.65	.65	.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS (CONT'D):					
Litchfield Co.: Bantam, Barkhamsted, Bethlehem, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, & Winsted	9.45	.65	.50		
Windham Co.	9.85	.65	.50		.01
Litchfield Co.: Plymouth, Thomaston, Watertown, & Woodbury	9.55	.65	.55		
BRICKLAYERS (Heavy & Highway Construction):					
Fairfield Co., except Darien, Greenwich, & Stamford; Litchfield Co., w. of Housatonic River	9.00	.65	.50	b	
Fairfield Co.: Darien & Stamford	9.08	.68	.25	b	
Fairfield Co.: Greenwich	9.09	.56	.45	b	
Litchfield Co., e. of Housatonic River; & Windham Co.	8.95	.65	.50	b	
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers (Building Construction):					
Fairfield Co.: Greenwich	9.43	.46	.45		.02
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Stratford, Trumbull, Weston, & Westport, & that part of Orange from Orange Center Road w. to Milford & the Oyster River situated in Orange	9.35	.50	.30	c	$50.00p/y
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Redding, Ridgefield, Sherman, Stamford, & Wilton; Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D):					
Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, Norwalk, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, & Woodbury	$9.25	.50	.40		.05
Litchfield Co.: Harwinton, Plymouth, & Terryville	9.80	.70	.45		.05
Fairfield Co.: Shelton	9.35	.35	.30	d	
Litchfield Co.: Morris (S. of Rte #109), Northfield, Thomaston, & Watertown	9.35	.50	.30	e	.03
Windham Co.: Canterbury (S. of Rte #14), Scotland	9.75	.70	.45		.03
CARPENTERS (Heavy & Highway Construction):					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, & Westport	9.55	.70	.45	f	$50.00p/y
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford, & Wilton; & Litchfield Co.	9.55	.70	.45	f	.05
Fairfield Co.: Greenwich	9.60	.65	.45	f	.02
Windham Co.	9.55	.70	.45	f	.03
ELECTRICIANS:					
Fairfield Co.: Norwalk (E. of Five Mile River), Weston, Westport, & Wilton					
Building construction	9.60	.68	1%+.30	6%	½%
Residential construction	5.30	.68	1%+.30	6%	½%
Fairfield Co.: Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newtown, Redding, Ridgefield, Shelton, Sherman, Stratford, & Trumbull; Litchfield Co.: Bridgewater, & New Milford					
Building construction	10.05	.58	1%+.30		½%
Residential construction	5.60	.43	1%+.20		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D):					
Fairfield Co.: Darien, Greenwich, New Canaan, & Stamford	$9.68	3-3/4%	7½%+1.50	10%	½%
Litchfield Co.: Plymouth					
Building construction	10.17	1.00	1%+.50		½%
Residential construction	5.53	.55	1%+.50		½%
Windham Co.:					
Building construction	10.55	1.00	1%+.50		½%
Residential construction	5.50	.75	1%+.45		½%
Litchfield Co.: Rem. of Co.	10.30	.82	1%+.60	g	1/8%
ELEVATOR CONSTRUCTORS	10.35	.545	.35	4%+h+i	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.245	.545	.35	4%+h+i	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.175				
GLAZIERS:					
Fairfield Co.: Greenwich	9.10	.66	1.66	.365	.03
Fairfield Co.: Rem. of Co.; & Litchfield Co.	9.53	.95	.47	j	.01
Windham Co.	11.41	.84	.55	k	
IRONWORKERS:					
Ornamental; Reinforcing; Structural; and Precast concrete erection	11.10	.75	.95	1	.08
LATHERS:					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Redding, Ridgefield, Shelton, Stratford, Trumbull, Weston, Westport, & Wilton	9.73	.35	.40		.01
Fairfield Co.: Greenwich, New Canaan, Norwalk, & Stamford	8.51	.35	.20	.75	.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newtown, & Sherman; Litchfield Co.: Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Milford, N. Canaan, Plymouth, Roxbury, Thomaston, Torrington, Warren, Washington, Watertown, & Woodbury	9.65	.35	.30		.01

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS (CONT'D):					
Litchfield Co.: Barkhamsted, Colebrook, New Hartford, Norfolk, & Winchester; Windham Co.: Chaplin, Hampton, Scotland, & Windham	9.90	.35	.30		.01
Windham Co.: Danielson	9.25	.45	.55		.01
LEADBURNERS	9.25	.35		m	.01
LINE CONSTRUCTION:					
Fairfield Co.: Darien, Greenwich, New Canaan, Stamford, & that portion of Norwalk, w. of Five Mile River					
Linemen	9.33	3-3/4%	6%+n+o	10%	½%
Cable splicers	9.33	3-3/4%	6%+n+o	10%	½%
Driver groundmen	9.33	3-3/4%	6%+n+o	10%	½%
Fairfield Co.: Rem. of Co.; Litchfield Co.; & Windham Co.					
Linemen	10.42	.70	1%+.50	p	3/8%
Equipment operators	9.69	.70	1%+.50	p	3/8%
Driver groundmen	7.37	.70	1%+.50	p	3/8%
MARBLE SETTERS' HELPERS:					
Fairfield Co.: Darien, Greenwich, Norfolk, Stamford, & Westport	7.33	.74	.88	q	
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers:					
Fairfield Co.: Rem. of Co.; Litchfield Co.; & Windham Co.	8.65	.50	.65		
PAINTERS:					
Bridge:					
Structural steel	12.00				
Spray	15.50				
Sandblasting or power tools	13.00				
Fairfield Co.: Greenwich					
Brush; Structural steel; Paperhangers; Tapers	7.90	.20	.75	.30	
Spray	11.85	.20	.75	.30	
Fairfield Co.: Bridgeport, Easton, Fairfield, Southport, Stratford and Trumbull					
Brush	8.65	.50	.65	r	
Spray	10.65	.50	.65	r	
Taper	9.04	.50	.65	r	

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Fairfield Co.: Darien & Stamford					
Brush	$8.00	.50	.50		.01
Spray	9.85	.50	.50		.01
Fairfield Co.: New Canaan, Norwalk, Weston, Westport, & Wilton					
Brush	8.00	.50	.50		.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, Ridgefield, Sandy Hook & Sherman; Litchfield Co.: New Milford					
Brush; Roller	9.35	.50	.25		
Paperhangers; Tapers	8.70	.50	.25		
Epoxy	10.85	.50	.25		
Residential	7.60	.50	.25		
Fairfield Co.: Byram					
Brush	8.15	.45	.45+.426/7	.40	
Spray	9.15	.45	.45+.426/7	.40	
Steel & Swing stage & boatswain chair	9.31 3/7	.45	.45+.426/7	.40	
Drywall taper	8.95	.45	.45+.426/7	.40	
Fairfield Co.: Monroe & Shelton					
Brush	9.25	.35	.80	s	.01
Hand roller; Paperhangers	9.75	.35	.80	s	.01
Structural steel	10.25	.35	.80	s	.01
Spray	12.25	.35	.80	s	.01
Windham Co.: Willimantic & Windham					
Brush; Tapers	9.80	.65	.45		
Paperhangers	10.30	.65	.45		
Riding steel; Steamcleaning; Sandblasting; Tanks; Towers; & Hazardous work	10.38	.65	.45		
Spray	12.80	.65	.45		
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent, Litchfield, New Hartford, Newfield, N. Canaan, Plymouth, Salisbury, Sharon, Terryville,					

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Torrington, Warren, Winchester, & Winsted					
Brush; Roller; Taping	$9.40	.70	.45		
Spray; High	12.00	.70	.45		
Epoxy	9.30	.70	.45		
Paperhanging	9.90	.70	.45		
Work over 60' & Boatswain chair; Open steel	14.10	.70	.45		
Windham Co., except Willimantic & Windham					
Brush	8.95	.35	.60		.01
Paperhangers	9.25	.35	.60		.01
Sign	9.33	.35	.60		.01
Taping	9.35	.35	.60		.01
Roller	9.45	.35	.60		.01
Structural steel	9.75	.35	.60		.01
Spraying oil paint	12.10	.35	.60		.01
Spraying epoxy	13.35	.35	.60		.01
PLUMBERS:					
Windham Co.: Windham	10.10	.62	.62		.20
PLUMBERS; Steamfitters:					
Fairfield Co.: Greenwich	10.00	.45	.70		.02
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, & Trumbull	9.99	.75	.70	4%	.01
Fairfield Co.: Georgetown, Norwalk, S. Norwalk, Weston, Westport, & Wilton	9.50	.75	.50	.36	.02
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, Ridgefield, & Sherman; Litchfield Co.: Bridgewater, & New Milford	9.85	.75	.70	.50	.02
Fairfield Co.: Darien, New Canaan, & Stamford	10.20	.75	.70	4%	.02
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Falls Village, Goshen, Harwinton, Kent, Lakeville, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Winchester, & Winsted	9.64	.83	.70	t	.05

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters (CONT'D):					
Litchfield Co.: Bethlehem, New Preston, Plymouth (incl. Terryville), Roxbury, Thomaston, Washington, Watertown & Woodbury	$10.00	.83	.70	t	.05
Windham Co., except Windham	11.32	.40	.70	u	.025
ROOFERS:					
Fairfield Co., except that portion of Fairfield Co. bounded on the e. by the eastern boundary of Greenwich; Litchfield Co.: Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, & Woodbury	9.65	1.05	.50		
Litchfield Co.: Bantam, Canaan, Colebrook, Cornwall, Cornwall Bridge, E. Canaan, Falls Village, Gaylordsville, Goshen, Lakeside, Litchfield, Marbledale, Morris, New Hartford, New Preston, Norfolk, Northfield, Oakville, Pequabuck, Pine Meadow, Pleasant Valley, Plymouth, Riverton, Salisbury, Sharon, S. Kent, Taconic, Terryville, Thomaston, Torrington, Washington Depot, Watertown, W. Cornwall, W. Goshen, Winchester Center, & Winsted; & Windham Co.					
Composition	8.75	.525	.70	.55	
Slate & Tile	9.25	.525	.70	.55	
Fairfield Co.: That portion of Fairfield Co. bounded on the e. by the eastern boundary of Greenwich					
Slate & Tile	9.20	.50	1.40	1.40	
Helpers	7.50	.50	1.00	1.00	
SHEET METAL WORKERS:					
Fairfield Co.; Litchfield Co.	11.19	9½%	7%		.02
Windham Co.	10.95	.50	.66		.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$11.38	.60	.90		.08
STEAMFITTERS:					
Windham Co.: Windham	10.27	1.16	.66		.13
TILE SETTERS' HELPERS:					
Fairfield Co.: Darien, Greenwich, Norwalk, Stamford, & Westport	7.58	.50	1.27		

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. 7 paid holidays: A through F, and Good Friday
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holidays: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately, prior to the holiday.
d. 3 paid holidays: C, D, and E
e. 4 paid holidays: B, C, D, and E
f. 3 paid holidays: B, C, and D
g. The last 4 regular working hours prior to Christmas shall be a paid half day.
h. 6 paid holidays: A through F.
i. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
j. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Columbus Day.
l. The last 4 hours on Christmas Eve is a paid half day if employee has worked 5 consecutive days prior to Christmas Eve.
m. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the day preceding and following the holiday.
n. 1% of the gross electrical labor payroll
o. Employer contributes $1.50 per day to a supplemental unemployment fund.
p. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
q. 1 paid holiday: St. Patrick's Day
r. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday
s. 4 paid holidays: B, C, D, and E providing the employee works the day before and the day after the holiday
t. 2 paid holidays: B and D and half day paid holiday the Friday after Thanksgiving and the last working day before Christmas and Good Friday paid half day
u. 1 paid holiday: D
v. 3% of gross earnings to SASMI

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POWER EQUIPMENT OPERATORS (Building construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver; & Setting stone	$10.90	.45	.90	a	.10
Dragline; Fork lift - over 4' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull or drag material regardless of motive power or operation); Koehring scooper loader and/or hoe; Master mechanic; Shovel; & Tower crane	10.80	.45	.90	a	.10
Maintenance engineer	10.70	.45	.90	a	.10
Central mix operator; Coleman loader and screening plant or similar equipment; Combination hoe and loader over 1/4 yd.; Conveyors - regardless of motive power; Front and loader - 3 cy. up to 7 cy.; High pressure portable boiler; Joy drill - limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; Pumpcrete machine; Rock boring machine; Vibratory hammer; Welder; & Well digger	10.45	.45	.90	a	.10
Compressor battery operator	9.70	.45	.90	a	.10
Asphalt spreader	10.25	.45	.90	a	.10
Bulldozer; Carry-all operators; Grader; & Scraper pan	10.20	.45	.90	a	.10
Combination hoe and loader machine Concrete mixer - 5 bags or over; Front end loader under 3 cy.; Powerstone spreader	10.15	.45	.90	a	.10
Air and steam valve	9.45	.45	.90	a	.10
Compressor; Generator; Pump and Well point; Welding machine	9.35	.45	.90	a	.10

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POWER EQUIPMENT OPERATORS (Building Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Cont'd):					
Fork lift not over 4'; & Steam Jenny	$10.05	.45	.90	a	.10
Mechanical heater	9.20	.45	.90	a	.10
Roller	9.95	.45	.90	a	.10
Dinky machine; Power pavement breaker	9.80	.45	.90	a	.10
Fireman (High pressure)	9.00	.45	.90	a	.10
Oiler	8.55	.45	.90	a	.10
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
Apprentice Oilers (Newly hired on Backhoes on Tracks)	5.80	.45	.90	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F, and Good Friday

LABORERS (Heavy and Highway Construction):					
Laborers	$7.50	.50	.45		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operator; fence & guard rail erectors; Form setters; Hand operated concrete vibrator operators; Hand operated vibratory compactor operators; Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic Gas & Electric drill operators; Powdermen & wagon drill operators	7.75	.50	.45		.10
Air track operators; Block pavers; Curb setters	8.00	.50	.45		.10
Blasters	8.25	.50	.45		.10

DECISION NO CT76-2172

POWER EQUIPMENT OPERATORS (Heavy and Highway construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Class 1	$10.93	.45	.90	a	.10
Class 2	10.79	.45	.90	a	.10
Class 3	10.47	.45	.90	a	.10
Class 4	10.28	.45	.90	a	.10
Class 5	10.14	.45	.90	a	.10
Class 6	9.96	.45	.90	a	.10
Class 7	9.76	.45	.90	a	.10
Class 8	8.92	.45	.90	a	.10
Class 9	9.02	.45	.90	a	.10
Class 10	9.36	.45	.90	a	.10
Class 11	9.69	.45	.90	a	.10
Class 12	8.58	.45	.90	a	.10
Class 13	9.30	.45	.90	a	.10
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					
Apprentice Oilers (Newly hired on Backhoes on Tracks)	5.80	.45	.90	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F, and Good Friday

CLASSIFICATIONS:
Class 1: Erecting and handling structural steel; Front end loader (7 cy. or over)
Class 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; Lighter derrick; Paver (concrete); Derrick (stiff leg and guy); Steel pile sheeting; Koehring loader (skooper); Master mechanic
Class 3: Drill (Joy heavy weight champion or equivalent); Side boom; loader (Euclid); Mucking machine; Pumpcrete; Rock and earth boring machine; Post hole digger; Well digger; & Hammer (vibratory); Central mix; Combination hoe & loader (over 1/4 yd)
Class 4: Asphalt spreader
Class 5: Front end loader (3 yds. or over); Grader; Power stone spreader; Combination hoe and loader
Class 6: Asphalt roller; Bulldozer; Carryall; Maintenance engineer; Concrete mixer (5 bags and over); Welder
Class 7: Front end loader (under 3 yds.); Roller; Power chipper; Fork lift; Finishing machine; Asphalt plant; Power pavement breaker; Dinky machine
Class 8: Compressor; Pump
Class 9: Fireman (high pressure)
Class 10: Well point system
Class 11: Compressor battery
Class 12: Oiler
Class 13: Batch plant; Bulk cement plant

DECISION NO. CT76-2172

TRUCK DRIVERS (Building, Heavy, and Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
TRUCK DRIVERS:					
Class 1	$7.41	a	b	c	
Class 2	7.51	a	b	c	
Class 3	7.61	a	b	c	
Class 4	7.56	a	b	c	
Class 5	7.66	a	b	c	
Class 6	7.71	a	b	c	

CLASSIFICATIONS:
Class 1: Two axle trucks; Helpers
Class 2: Three axle trucks; Two axle ready mix
Class 3: Four axle trucks; Heavy duty trailer-up to 40 tons
Class 4: Three axle ready-mix
Class 5: Four axle ready-mix; Specialized earth moving equipment other than conventional type on-the-road trucks and semi-trailers (including Euclids)
Class 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. $23.60 per week for employees employed over 16 hours and $.42 per hour for employees employed less than 16 hours during the week
b. $23.00 per week for employees employed over 16 hours and $.575 per hour for employees employed less than 16 hours during the week
c. 7 paid holidays: A through F, and Good Friday provided the employee has 31 calendar days' service and is available for work the day preceding and following the holiday

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building Construction):					
Laborers; Carpenters' tenders; & Wrecking laborers	$7.50	.50	.45		.10
Jackhammer operators; Mason tenders; Mortar mixers; Pipe layers; Plasterers' tenders; & Power buggy	7.75	.50	.45		.10
Air track operators; Sandblasters; & Wagon drill operators	8.00	.50	.45		.10
Open Air Caisson, Cylindrical Work and Boring Crew:					
Top man	7.50	.50	.45		.10
Bottom man	8.00	.50	.45		.10

STATE: CONNECTICUT
COUNTIES: *See Below
DECISION NUMBER: CT76-2173
DATE: Date of Publication
Supersedes Decisinn Nos.: CT76-2111 dated September 17, 1976, in 41 FR 40378 and CT76-2112 dated September 17, 1976, in 41 FR 40386.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

*Hartford, Middlesex, New Haven, New London, and Tolland Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS: Hartford Co.: Avon, Berlin, Bloomfield, Bristol, Burlington, Canton, E. Hartford, E. Windsor, Farmington, Glastonbury, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, Southington, S. Windsor, W. Hartford, Wethersfield, & Windsor; Middlesex Co.: New Haven Co.; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Groton, Lebanon, Lyme, Montville, New London, Norwich, Old Lyme, Salem, Sprague & Waterford; & Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Tolland, Vernon, & Willington	$10.34	.65	.96		
Hartford Co.: E. Granby, Enfield, Granby, Hartland, Suffield, & Windsor Locks; Tolland Co.: Somers, Stafford, & Union	9.60	.54	.75		.01
New London Co.: Griswold, Ledyard, Lisbon, N. Stonington, Preston, Stonington, & Voluntown	9.32	.71	.83		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; Cement masons; Finishers; Marble masons; Plasterers; Stonemasons; Terrazzo workers & Tile setters (Building Construction): Hartford Co.: Avon, Bloomfield, Burlington, Enfield, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Marlborough, Rocky Hill, Simsbury,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS (CONT'D): S. Windsor, Suffield, Thompsonville, W. Hartford, Wethersfield, Windsor, Windsor Locks; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Hanafield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	$9.70	.65	.50		
Hartford Co.: Berlin, Kensington, New Britain, Newington, Plantsville, & Southington; New Haven Co.: Meriden	9.60	.50	.50		
Hartford Co.: Canton	9.45	.65	.50		
Middlesex Co.; & New London Co.	9.85	.65	.50		.01
New Haven Co.: Bethany, Branford, E. Haven, Guilford, Hamden, Madison, New Haven, N. Branford, N. Haven, Orange, W. Haven, Woodbridge, part of Milford, & parts of Cheshire	9.65	.65	.50		
New Haven Co.: Ansonia & Derby	9.10	.50	.50	a	
Hartford Co.: Bristol, Marion, & Plainville; New Haven Co.: Beacon Falls, Middlebury, Mixville, Naugatuck, Prospect, Waterbury, & Wolcott	9.55	.65	.55		
New Haven Co.: Devon to the Orange Town line & the Indian River in Milford	9.70	.65	.50		$50.00p/y
BRICKLAYERS (Heavy & Highway Construction): New Haven Co.: Milford	9.00	.65	.50	b	
Hartford Co.; Middlesex Co.; New Haven Co., except Milford; New London Co.; & Tolland Co.	8.95	.65	.50	b	
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers (Building Construction): New Haven Co.: Milford	9.35	.50	.30	c	$50.00p/y
Hartford Co.: Avon, E. Granby, E. Hartland, E. Windsor, Enfield, Farmington, Glastonbury, Granby,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D):					
Hartford, Hartland, Manchester, Rocky Hill, Simsbury, S. Windsor, Suffield, Thompsonville, Unionville, W. Hartford, Wethersfield, Windsor, Windsor Locks; Tolland Co.: Bolton, Ellington, Rockville, Somers, Stafford, Tolland, & Vernon	$9.71	.70	.45		.05
Hartford Co.: Berlin, Bristol, Canton, E. Berlin, Kensington, Marion, Milldale, New Britain, Newington, Plainville, & Southington; Middlesex Co.; New Haven Co.: Meriden, & Wallingford	9.80	.70	.45		.05
New Haven Co.: Bethany, Branford, E. Haven, Guilford, Hamden, Madison, New Haven, N. Branford, N. Haven, S. Cheshire, W. Haven, & Woodbridge	9.30	.50	.30		
New Haven Co.: Ansonia, Derby, Orange, Oxford, & Seymour	9.35	.35	.30	d	
New Haven Co.: Beacon Falls, Bethany (to the firehouse), Cheshire (w. of Rte #10 from Southington to Hamden line), Middlebury, Naugatuck, Prospect, Southbury, Waterbury, & Wolcott	9.35	.50	.30	e	.03
New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Griswold, Groton, Lebanon, Ledyard, Lisbon, Lyme, Montville, New London, N. Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington (N. of Rte #184), Voluntown, & Waterford	9.75	.70	.45		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (Heavy & Highway Construction):					
New Haven Co.: Ansonia, Derby, Milford, Orange (W. of Orange Center Road & S. of Rte #1 & W. of the Oyster River), Oxford, & Seymour	9.55	.70	.45	f	$50.00p/y
Hartford Co.; Middlesex Co.; & New Haven Co.: Rem. of Co.; Tolland Co.: Bolton, Ellington, Somers, Stafford, Tolland, & Vernon	9.55	.70	.45	f	.05
New London Co.; Tolland Co.: Andover, Columbia, Coventry, Hebron, Mansfield, Union, & Willington	9.55	.70	.45	f	.03
ELECTRICIANS:					
New Haven Co.: Milford	10.05	.58	1%+.30		½%
Hartford Co.: Berlin, Bristol, New Britain, Newington, Plainville, & Southington	10.17	1.00	1%+.50		½%
Hartford Co.: Suffield, & Thompsonville	8.29	.48	1%+.15	.43	g
Hartford Co.: Hartland; New Haven Co.: Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, & Wolcott	10.30	.82	1%+.60	h	1/8%
Hartford Co.: Rem. of Co.; Middlesex Co.: Cromwell, Middlefield, Middletown & Portland; New London Co.: Bozrah, Colchester, Franklin, Griswold, Lebanon, Ledyard, Lisbon, Montville, N. Stonington, Norwich, Preston, Salem, Sprague, Stonington, & Voluntown; & Tolland Co.	10.55	1.00	1%+.50		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D):					
Middlesex Co.: Centerbrook, Chester, Clinton, Cobalt, Deep River, Durham, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Middle Haddam, Moodus, Old Saybrook, Rockfall & Westbrook; New Haven Co.: Ansonia, Branford, Cheshire, Derby, Guilford, Madison, Meriden, New Haven, N. Branford, N. Haven, Northford, Orange, S. Britain & Wallingford; New London Co.: E. Lyme, Groton, Lyme, New London, Old Lyme, & Waterford	10.06	.90	1%+.40		
ELEVATOR CONSTRUCTORS	10.35	.545	.35	4%+i+j	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.245	.545	.35	4%+i+j	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.175				
GLAZIERS:					
New Haven Co., except Wallingford	9.53	.95	.47	k	.01
Hartford Co.; Middlesex Co.; New Haven Co.: Wallingford; New London Co.; & Tolland Co.	11.41	.84	.55	l	
IRONWORKERS:					
Ornamental; Reinforcing; Structural and Precast concrete erection	11.10	.75	.95	m	.08
LATHERS:					
Hartford Co.: Bristol, Southington; New Haven Co.: Beacon Falls, Bethany, Cheshire, Meriden, Middlebury, Naugatuck, Oxford, Prospect, Southbury, Waterbury, & Wolcott	9.65	.35	.30		.01
Hartford Co.: Avon, Berlin, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS (CONT'D):					
New Britain, Newington, Plainville, Rocky Hill, Simsbury, S. Windsor, W. Hartford, Windsor & Windsor Locks; Middlesex Co.: Cromwell, E. Haddam, E. Hampton, Middlefield, Middletown & Portland; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Groton, Lebanon, Lisbon, Lyme, Montville, Norwich, Old Lyme, Salem, Sprague, & Waterford; Tolland Co.: Andover, Bolton, Columbia, Coventry, Hebron, Mansfield, & Vernon	$9.90	.35	.30		.01
Hartford Co.: Broad Brook, Enfield, Hazardville, Melrose, Suffield, Thompsonville, & Warehouse Point; Tolland Co.: Crystal Lake, N. Somers, Somers, Stafford, Stafford Springs, Staffordville & Union	8.45	.45	.25		.01
Middlesex Co.: Chester, Clinton, Deep River, Durham, Essex, Haddam, Killingworth, Old Saybrook, & Westbrook; New Haven Co.: Ansonia, Branford, Derby, E. Haven, Guilford, Hamden, Madison, Milford, New Haven, N. Branford, N. Haven, Orange, Seymour, Wallingford, W. Haven, & Woodbridge	9.57	.65	.43		.01
New London Co.: Groton	9.25	.45	.55		.01
LEADBURNERS	9.25	.35		n	.01
LINE CONSTRUCTION:					
Linemen	10.42	.70	1%+.50	o	3/8%
Equipment operators	9.69	.70	1%+.50	o	3/8%
Driver groundmen	7.37	.70	1%+.50	o	3/8%
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers	8.65	.50	.65		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Bridge:					
Structural steel	$12.00				
Sandblasting or power tools	13.00				
Spray	15.50				
New Haven Co.: Milford (up to Gulf Street)					
Brush	8.65	.50	.65	p	
Taping	9.04	.50	.65	p	
Spray	10.65	.50	.65	p	
Hartford Co.: Avon Bloomfield, Broad Brook, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Rocky Hill, Poquonock, Simsbury, S. Windsor, Suffield, S. Manchester, W. Hartford, W. Simsbury, Wethersfield, Windsor, & Windsor Locks; Tolland Co.: Andover, Ashford, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Rockville, Stafford, Somers, Tolland, Union, Vernon, & Willington					
Brush; Tapers	9.80	.65	.45		
Paperhangers	10.30	.65	.45		
Riding steel; Steamcleaning; Sandblasting; Tank; Towers; & Hazardous work	10.38	.65	.45		
Spray	12.80	.65	.45		
Hartford Co.: Berlin, Bristol, Burlington, E. Berlin, Forestville, Hartland, Kensington, Milldale, New Britain, Newington, Plainville, Plantsville, Southington, & Unionville; New Haven Co.: Cheshire, Guilford, Madison, Meriden, & Wallingford;					

DECISION NO. CT76-2173

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Middlesex Co.: Chester, Clinton, Cromwell, Deep River, Durham, E. Haddam, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Killingworth, Middlefield, Middletown, Moodus, Norfolk, Portland, Saybrook, & Westbrook					
Brush; Roller; Taping	9.40	.70	.45		
Spray; High	12.00	.70	.45		
Epoxy	9.30	.70	.45		
Paperhanging	9.90	.70	.45		
Work over 60' & Boatswain chair; Open Steel	14.10	.70	.45		
New Haven Co.: Ansonia, Beacon Falls, Derby, Oxford, & Seymour					
Brush	9.25	.35	.80	q	.01
Hand roller; Paperhangers	9.75	.35	.80	q	.01
Structural steel	10.25	.35	.80	q	.01
Spray	12.25	.35	.80	q	.01
New Haven Co.: Bethany, Branford, E. Haven, Hamden, Milford (s. on Gulf Street & n. on North Street), New Haven, N. Branford, N. Haven, Orange, W. Haven, Woodbridge, & Woodmont					
Brush; Sandblasting	8.80	.50	.60		.02
Tapers	9.15	.50	.60		.02
Paperhangers	9.30	.50	.60		.02
Spray	11.55	.50	.60		.02
Structural steel	9.05	.50	.60		.02
New Haven Co.: Middlebury, Naugatuck, Prospect, Roxbury, Southbury, Thomaston, Washington, Waterbury, Watertown, Wolcott, & Woodbury					
Brush	8.05	.35	.60		
Paperhanger	8.30	.35	.60		
Taping	8.30	.35	.60		

DECISION NO. CT76-2173

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
New London Co.: Norwich					
Brush	$8.95	.35	.60		.01
Paperhangers	9.25	.35	.60		.01
Sign	9.33	.35	.60		.01
Taping	9.35	.35	.60		.01
Roller	9.45	.35	.60		.01
Structural steel	9.75	.35	.60		.01
Spraying oil paint	12.10	.35	.60		.01
Spraying epoxy	13.35	.35	.60		.01
PLUMBERS:					
Hartford Co.: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, Windsor Locks; Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	10.10	.62	.62		.20
PLUMBERS; Steamfitters:					
New Haven Co.: Milford	9.99	.75	.70	4%	.01
Hartford Co.: Southington; Middlesex Co.: Durham; New Haven Co.: Cheshire, Meriden, & Wallingford	10.10	.75	.70	r	.03
Hartford Co.: Berlin, Bristol, E. Berlin, Kensington, New Britain, & Plainville	9.40+10%	.75	.70	s	.03

DECISION NO. CT76-2173

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters (CONT'D):					
Middlesex Co.: Clinton, Killingworth, & Westbrook; New Haven Co.: Branford, Derby, E. Haven, Guilford, Hamden, Madison, New Haven, N. Branford, N. Haven, Orange, W. Haven, & Woodbridge	$9.98	.75	.70	t	.02
Middlesex Co.: Essex, Ivoryton, Old Saybrook, & Saybrook; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Griswold, Groton, Lebanon, Ledyard, Lisbon, Lyme, Montville, New London, N. Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington, Voluntown, & Waterford	11.32	.40	.70	u	.025
New Haven Co.: Ansonia, Beacon Falls, Bethany, Naugatuck, Oxford, Prospect, & Seymour	10.45	.83	.70	v	.05
New Haven Co.: Middlebury, Southbury, S. Britain, Waterbury & Wolcott	10.00	.83	.70	v	.05
Hartford Co.: Hartland	9.64	.83	.70	v	.05
ROOFERS:					
New Haven Co.: Ansonia, Beacon Falls, Bethany, Branford, Derby, E. Haven, Guilford, Hamden, Madison, Milford, Middlebury, Naugatuck, New Haven, N. Branford, N. Haven, Orange, Oxford, Seymour, Union City, W. Haven, & Woodbridge	9.65	1.05	.50		
Hartford Co.; Middlesex Co.; New Haven Co.: Cheshire, Meriden, Prospect, Wallingford, & Wolcott; New London Co.; & Tolland Co.					
Composition	8.75	.525	.70	.55	
Slate, Tile	9.25	.525	.70	.55	
SHEET METAL WORKERS	10.95	.50	.66		.07
SPRINKLER FITTERS	11.38	.60	.90		.08

DECISION NO. CT76-2173

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STEAMFITTERS: Hartford Co.: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, & Windsor Locks; Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	$10.27	1.16	.66		.13

DECISION NO. CT76-2173

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:
a. 2 paid holidays: D and Good Friday
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holidays: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately prior to the holiday.
d. 3 paid holidays: C, D, and E
e. 4 paid holidays: B, C, D, and E
f. 3 paid holidays: B, C, and D
g. $30.00 per man per week
h. The last 4 regular working hours prior to Christmas Day shall be a paid half day.
i. 6 paid holidays: A through F
j. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day
l. 9 paid holidays: A thru F, Washington's Birthday, Good Friday and Columbus Day
m. The last 4 hours on Christmas Eve is a paid half day if employee has worked 5 consecutive days prior to Christmas Eve
n. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the day preceding and following the holiday.
o. 9 paid holidays: A through F, Washington's Birthday, Good Friday and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
p. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday
q. 4 paid holidays: B, C, D, and E providing the employee works the day before and the day after the holiday
r. 1 paid holiday: D
s. Paid holidays: D, and the Friday after Thanksgiving is a paid half day, and December 24, provided it falls on a working day, is a paid half day
t. 3½ paid holidays: C, D, E, and the half day Friday after Thanksgiving
u. 1 paid holiday: D
v. 2 paid holidays: B, D & Half day paid holiday the Friday after Thanksgiving and the last working day before Christmas, & Good Friday paid half day.

DECISION NO. CT76-2173

POWER EQUIPMENT OPERATORS (Building construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS: Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver; & Setting stone	$10.90	.45	.90	a	.10
Dragline; Fork lift - over 4' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull or drag material regardless of motive power or operation); Koehring scooper loader and/or hoe; Master mechanic; Shovel; & Tower crane	10.80	.45	.90	a	.10
Maintenance engineer	10.70	.45	.90	a	.10
Central mix operator; Coleman loader and screening plant or similar equipment; Combination hoe and loader over 1/4 yd.; Conveyors - regardless of motive power; Front end loader - 3 cy. up to 7 cy.; High pressure portable boiler; Joy drill - limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; Pumpcrete machine; Rock boring machine; Vibratory hammer; Welder; & Well digger	10.45	.45	.90	a	.10
Compressor battery operator	9.70	.45	.90	a	.10
Asphalt spreader	10.25	.45	.90	a	.10
Bulldozer; Carry-all operators; Grader; & Scraper pan	10.20	.45	.90	a	.10
Combination hoe and loader machine; Concrete mixer - 5 bags or over; Front end loader under 3 cy.; Powerstone spreader	10.15	.45	.90	a	.10
Air and steam valve	9.45	.45	.90	a	.10
Compressor; Generator; Pump and Well point; Welding machine	9.35	.45	.90	a	.10

DECISION NO. CT76-2173

POWER EQUIPMENT OPERATORS (Building Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Cont'd): Fork lift not over 4'; & Steam Jenny	$10.05	.45	.90	a	.10
Mechanical heater	9.20	.45	.90	a	.10
Roller	9.95	.45	.90	a	.10
Dinky machine; Power pavement breaker	9.80	.45	.90	a	.10
Fireman (High pressure)	9.00	.45	.90	a	.10
Oiler	8.55	.45	.90	a	.10
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
Apprentice Oilers (Newly hired on Backhoes on Tracks)	5.80	.45	.90	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F and Good Friday

LABORERS (Heavy and Highway Construction): Laborers	$7.30	.50	.45		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operator; fence & guard rail erectors; Form setters; Hand operated concrete vibrator operators; Hand operated vibratory compactor operators; Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic Gas & Electric drill operators; Powdermen & wagon drill operators	7.75	.50	.45		.10
Air track operators; Block pavers; Curb setters	8.00	.50	.45		.10
Blasters	8.25	.50	.45		.10

DECISION NO CT76-2173

POWER EQUIPMENT OPERATORS (Heavy and Highway construction)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Class 1	$10.93	.45	.90	a	.10
Class 2	10.79	.45	.90	a	.10
Class 3	10.47	.45	.90	a	.10
Class 4	10.28	.45	.90	a	.10
Class 5	10.14	.45	.90	a	.10
Class 6	9.96	.45	.90	a	.10
Class 7	9.76	.45	.90	a	.10
Class 8	8.92	.45	.90	a	.10
Class 9	9.02	.45	.90	a	.10
Class 10	9.36	.45	.90	a	.10
Class 11	9.69	.45	.90	a	.10
Class 12	8.58	.45	.90	a	.10
Class 13	9.30	.45	.90	a	.10
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					
Apprentice Oilers (Newly hired on Backhoes on Tracks)	5.80	.45	.90	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F, and Good Friday

CLASSIFICATIONS:
Class 1: Erecting and handling structural steel; Front end loader (7 cy. or over)
Class 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; Lighter derrick; Paver (concrete); Derrick (stiff leg and guy); Steel pile sheeting; Koehring loader (skooper); Master mechanic
Class 3: Drill (Joy heavy weight champion or equivalent); Side boom; loader (Euclid); Mucking machine; Pumpcrete; Rock and earth boring machine; Post hole digger; Well digger; & Hammer (vibratory); Central mix; Combination hoe & loader (over 1/4 yd)
Class 4: Asphalt spreader
Class 5: Front end loader (3 yds. or over); Grader; Power stone spreader; Combination hoe and loader
Class 6: Asphalt roller; Bulldozer; Carryall; Maintenance engineer; Concrete mixer (5 bags and over); Welder
Class 7: Front end loader (under 3 yds.); Roller; Power chipper; Fork lift; Finishing machine; Asphalt plant; Power pavement breaker; Dinky machine
Class 8: Compressor; Pump
Class 9: Fireman (high pressure)
Class 10: Well point system
Class 11: Compressor battery
Class 12: Oiler
Class 13: Batch plant; Bulk cement plant

DECISION NO. CT76-2173

TRUCK DRIVERS (Building, Heavy, and Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
TRUCK DRIVERS:					
Class 1	$7.41	a	b	c	
Class 2	7.51	a	b	c	
Class 3	7.61	a	b	c	
Class 4	7.56	a	b	c	
Class 5	7.66	a	b	c	
Class 6	7.71	a	b	c	

CLASSIFICATIONS:
Class 1: Two axle trucks; Helpers
Class 2: Three axle trucks; Two axle ready mix
Class 3: Four axle trucks; Heavy duty trailer-up to 40 tons
Class 4: Three axle ready-mix
Class 5: Four axle ready-mix; Specialized earth moving equipment other than conventional type on-the-road trucks and semi-trailers (including Euclids)
Class 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. $23.60 per week for employees employed over 16 hours and $.42 per hour for employees employed less than 16 hours during the week
b. $23.00 per week for employees employed over 16 hours and $.575 per hour for employees employed less than 16 hours during the week
c. 7 paid holidays: A through F, and Good Friday provided the employee has 31 calendar days' service and is available for work the day preceding and following the holiday

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building Construction):					
Laborers; Carpenters' tenders; & Wrecking laborers	$7.50	.50	.45		.10
Jackhammer operators; Mason tenders; Mortar mixers; Pipe layers; Plasterers' tenders; & Power buggy	7.75	.50	.45		.10
Air track operators; Sandblasters; & Wagon drill operators	8.00	.50	.45		.10
Open Air Caisson, Cylindrical Work and Boring Crew:					
Top man	7.50	.50	.45		.10
Bottom man	8.00	.50	.45		.10

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Dade
DECISION NUMBER: FL76-1141 DATE: Date of Publication
Supersedes Decision No. FL75-1085 dated September 5, 1975 in 40 FR 41363
DESCRIPTION OF WORK: Highway Construction,

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	5.00				
Carpenters	6.00				
Cement finishers	5.75				
Electricians	11.25				
Form setters	4.76				
Grade checkers	4.75				
Ironworkers:					
Reinforcing	9.75	.75	.58		.08
Structural	5.00				
Laborers:					
Air tool operators	6.60	.75	.30		
Asphalt rakers	5.13				
Concrete laborers	4.50				
Pipelayers	4.50				
Powderman	4.50				
Unskilled	4.05				
Truck drivers	4.05				
Welders	5.00				
POWER EQUIPMENT OPERATORS:					
Asphalt distributor	5.12				
Asphalt paving machine	5.30				
Asphalt mixer	5.30				
Asphalt plant	4.97				
Backhoe	6.08				
Bulldozer	5.50				
Concrete paving machine	5.25				
Crane	5.75				
Drilling machine	5.00				
Gradall	5.00				
Loader:					
Under 1 cu. yd.	5.00				
1 cu. yd or over	5.50				
Mechanic	6.08				
Motor grader	5.75				
Oiler	4.75				
Piledriver	6.00				
Roller	5.09				
Scraper	5.75				
Tractor	4.74				
Trenching machine	4.50				

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Kent
DECISION NUMBER: MI76-2171 DATE: Date of Publication
Supersedes Decision No. MI76-2049 dated April 16, 1976 in 41 FR 16390
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Construction.

DECISION NO MI76-2171

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers & Stonemasons	$7.70	.25	.25		.04
Carpenters	6.23				
Cement Masons	5.82				
Electricians	9.62	.40	1%+.35		.01
Elevator Constructor	8.12	.395	.26	2%+a&b	.02
Glaziers	6.75	.28	.20		
Ironworkers:					
Structural	6.43				
Reinforcing	7.60	.50	.50		.02
Laborers	5.81	.40	.30	.55	.04
Lathers	8.30	.44	.10		.01
Painters:					
Brush & Structural Steel	6.70	.25	.20	.10	
Tapers	6.95	.25	.20	.10	
Plasterers	8.39	.32	.18		.03
Plumbers & Steamfitters	9.59	.38	.35		
Roofers	5.14				
Sheet Metal Workers	7.50	.42+c	.30	.52	
Soft Floor Layers	7.00	.45	.40		.01
Sprinkler Fitters	9.10	.40	.60	.50	.07
Terrazzo Workers	7.05	.25	.25		
Terrazzo Workers' Helpers	6.00				
Tile Setters	7.05	.25	.25		
Tile Setters' Helpers	5.66				
Truck Drivers	5.80				
POWER EQUIPMENT OPERATORS:					
Asphalt Paver	6.85				
Air Compressor	7.55				
Backhoe	5.20				
Bulldozer	6.82				
Crane	8.70	.50	.55		.07
Finishing Machine	5.25				
Front End Loader	5.00				
Grader	5.00				
Pumps	5.31				
Roller	6.00				
Tractor	5.42				
Trenching Machine	6.00				

FOOTNOTES:
a. - 6 Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.
b. - Employer contributes 4% or regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years & 2% for employee in business less than 5 years.
c. - $5.00 per month - Life Insurance

LC-ZONE II

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman; Heavy Equipment operator	$7.88	.35	1%	a	.25%
Cable Splicer	8.21	.35	1%	a	.25%
Combination Digger operator; Tractor operator Groundman:					
1st 6 Months	5.73	.35	1%	a	.25%
Over 6 Months	6.18	.35	1%	a	.25%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 Months	4.99	.35	1%	a	.25%
Over 6 Months	5.43	.35	1%	a	.25%
Combination Winch Truck Driver Groundman:					
1st 6 Months	4.55	.35	1%	a	.25%
Over 6 Months	5.19	.35	1%	a	.25%
Combination Truck Driver Groundman	4.40	.35	1%	a	

aFOOTNOTE: 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO MI76-2171

MICH-7-LAB

LABORERS - HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$5.41	.35	.30		.04
CLASS B	5.56	.35	.30		.04
CLASS C	5.66	.35	.30		.04
CLASS D	5.53	.35	.30		.04
CLASS E	5.63	.35	.30		.04
CLASS F	5.73	.35	.30		.04
CLASS G	5.91	.35	.30		.04

CLASS A
Laborers

CLASS B
Plaster Tenders, Material Mixers, Operators of Portable Mixers, Air, Electric or Gasoline Tools & Motor Driven Buggies & Swing Scaffolds.

CLASS C
Jackhammer Operators

CLASS D
Signal Men & Top Men on Sewer & Caisson Construction (Open Cut)

CLASS E
Windlass Operator (On Caisson Work)

CLASS F
Crocklayers or Pipelayers, Caisson Workers

CLASS G
Top Men on Chimneys or Towers over 30' in Height

DECISION NO MI76-2171

MICH-3-PEO

POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A Crane with boom & jib or leads 220' or longer	$9.70	.50	.55		.05
CLASS B Crane with boom & jib or leads 140' or longer up to 220', tower cranes, gantry cranes, whirley derrick	9.45	.50	.55		.05
CLASS C Regular equipment operator, crane, stiff leg derrick, scrapper, dozer, grader, front end loader, hust, job mechanic & head grease man	9.20	.50	.55		.05
CLASS D Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	9.00	.50	.55		.05
CLASS E Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" & grease man	7.95	.50	.55		.05
CLASS F Fireman, oiler or heater operator	7.25	.50	.55		.05

DECISION NO. MI76-2171 MICH -9-PEO-U

POWER EQUIPMENT OPERATORS UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$9.79	.55	.75		.05
CLASS II	9.66	.55	.75		.05
CLASS III	8.93	.55	.75		.05
CLASS IV	8.36	.55	.75		.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cpa.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or lerger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling rig, slip form paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submerisble pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H. p. or over) oiler & firemen

SUPERSEDEAS DECISION

STATE: Mississippi COUNTIES: Forrest and Jones
DECISION NUMBER: MS76-1142 DATE: Date of Publication
Supersedes Decision No. MS75-1020 dated February 7, 1975 in 40FR 5966.
DESCRIPTION OF WORK: Building construction (excludes single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Bricklayers	7.10					
Carpenters	6.49					
Cement masons	6.25					
Electricians	8.05					
Glaziers	5.00					
Ironworkers, structural & ornamental	7.60	.35	.35		.04	
Ironworkers, reinforcing	8.65	.35	.35		.04	
Laborers:						
Laborers	3.22					
Air tool op.	4.05					
Mortar mixers	4.65	.15	.15			
Painters, brush	5.25					
Plasterers	6.50					
Plumbers and pipefitters	7.75					
Roofers	4.50					
Sheet metal workers	5.00					
Soft floor layers	5.00					
Tile setters	6.00					
Truck drivers	3.22					
POWER EQUIPMENT OPERATORS:						
Backhoe	5.00					
Bulldozer	4.74					
Cranes, derricks and draglines	6.94					
Motor graders	4.25					
Drilling machine	5.90	.25	.25			
Tractor	4.55					

SUPERSEDEAS DECISION

STATE: Tennessee COUNTIES: *See below
DECISION NUMBER: TN76-1140 DATE: Date of Publication
Supersedes Decision No.: TN75-1074 dated August 8, 1975 in 40 FR-33645
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

Counties: Dyer, Gibson, Lake, Lauderdale, Obion, and Weakley.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning & Heating mechanics	5.10				
Bricklayers	4.92				
Carpenters	4.09				
Cement masons	4.11				
Electricians	5.10				
Drywall finishers	4.46				
Drywall hangers	4.34				
Insulation Installers	3.50				
Ironworkers, Structural & Ornamental	3.50				
Laborers:					
Laborers	2.50				
Mason tenders	3.28				
Mortar mixers	2.50				
Painters, brush	4.44				
Plumbers	6.00				
Roofers	4.51				
Sheet metal workers	6.00				
Soft floor layers	7.00				
Tile setters	5.00				
Truck drivers	2.75				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.00				
Bulldozers	8.00				
Graders	3.75				
Rollers	3.50				
Paver	3.75				
Tractor	4.00				

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Bee, Kleberg & Nueces
DECISION NO.: TX76-4193 DATE: Date of Publication
Supersedes Decision No. TX76-4125, dated July 23, 1976, in 41 FR 30563.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.29	.50	.50		
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS:					
Bee County	5.50				
Kleberg & Nueces Counties	8.31	.23	.30		.04
CARPENTERS:					
Carpenters	7.49	.27	.30		.03
Millwrights	9.05				1%
CEMENT MASONS	8.05				
ELECTRICIANS:					
Electricians	9.40	.40	1%		1/2%
Cable splicers	9.525	.40	1%		1/2%
GLAZIERS (excluding Kleberg Co.)	5.34		.20		
IRONWORKERS	6.84	.55	.80		.04
LABORERS:					
GROUP 1 - General laborer (any work not specifically defined herein)	4.60	.28	.10		
GROUP 2 - Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipelayers, lathers, finish carpenters, slip form operators, scaffolding water proofers, cement finishers; Power tool operators - includes paving buster, jackhammer, chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps and any and all power driven equipment operated by laborers	4.80	.28	.10		
GROUP 3 - Pipe wrappers & dopers	4.95	.28	.10		
GROUP 4 - Gunnite nozzlemen; Powderman or blaster	5.05	.28	.10		
LATHERS	7.75	.30	.20	1.00	.01
LINE CONSTRUCTION:					
Lineman	9.40	.40	1%		1/2%
Cable splicer	9.525	.40	1%		1/2%
Groundman (1st year)	4.70	.40	1%		1/2%
Groundman	5.23	.40	1%		1/2%

DECISION NO. TX76-4193

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	$ 7.68		.15		.02
MARBLE SETTERS' HELPERS	5.37				
PAINTERS:					
Brush	7.18	.25	.25		2/10%
Spray	7.58	.25	.25		2/10%
Sign	7.43	.25	.25		2/10%
PLASTERERS	9.35				.01
PLUMBERS & STEAMFITTERS	8.565	.335	.35		.035
ROOFERS:					
Roofers; Kettleman; Waterproofers; Deckmen	6.325		.20		
SHEET METAL WORKERS	8.27	.23	.25		.01
SOFT FLOOR LAYERS	7.49	.27	.30		.03
SPRINKLER FITTERS	10.90	.60	.90		.08
TERRAZZO WORKERS	7.68		.15		.02
TERRAZZO WORKERS' HELPERS:					
Terrazzo helpers	5.37				
Floor machine operators	5.57				
Base machine operators	5.72				
TILE SETTERS	7.68		.15		.02
TILE SETTERS' HELPERS	5.37				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX76-4193

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 6.65	.18	.45		
GROUP 2	5.825	.18	.45		
GROUP 3	5.225	.18	.45		
GROUP 4	5.375	.18	.45		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Air Compressor over 125 CFM, gasoline or diesel powered; Asphalt Plant Mixer; Back Filler; Back Hoe; Batch Plant (concrete); Blade Grader; Boring Machine (foundation, horizontal or waterwell); Bull Clam; Bull Dozer; Cableway; Clamshell; Crane, power operated (all types); Crusher; Derrick, power operated (all types); Dragline; Elevating Grader; Elevator, outside the building; Euclids, and similar type machines; Forklift (on construction except in warehouses); Grade-All; Hi-Lift; Hoist (2 drums or more); Locomotive and Switch Engines; Mixer (paving); Mixer (concrete); Pile Driver; Pumps (2) over 3 inches; Pumpcrete Machine; Push Cat or Pull Cat; Roller (pneumatic, flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench Machine, Tugboat (on construction); Turn-a-pulls and similar machines; Welding Machines (7 to 13) other than electric; Wellpoint; Winch Truck; Mechanic; Lubrication Engineer (required on grease racks and service trucks); All other equipment of similar nature coming within the Heavy Equipment Class when power operated

GROUP 2 - Air Compressor (1 or 2) 125 CFM or less, gasoline or diesel powered; Blade Grader (towed); Conveyor; Elevator, inside the building, permanent type; Fireman (required on any boiler, steam locomotive, steam crane, etc.); Flexplane; Form Grader; Generator (gas, diesel over 1500 watts); Hoist (1 drum); Mixer (less than 14 cu. ft.); Pulsometer; Pumps (1) over 3 inches; Pumps (1 or 2) 3 inches or under; Roller (towed); Tractor (wheel type); Driver-oiler (required on tractor or truck cranes on which controls of crane and those of tractor or truck are operated from different seats or stations, mobile type grade all, etc.); Wagon Drill; Welding Machine (3 to 6) other than electric; All other equipment of similar nature coming within the Light Equipment Class when power operated

GROUP 3 - Oilers, 1st year

GROUP 4 - Oilers, 2nd year

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SUPERSEDEAS DECISION

STATE: Texas COUNTY: El Paso
DECISION NO.: TX76-4194 DATE: Date of Publication
Supersedes Decision No. TX76-4087, dated May 21, 1976, in 41 FR 21151.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 7.44	.50	1.17(a)		.03
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS; BLOCKLAYERS; ROCK MASONS; STONEMASONS	7.25	.48	.20		.05
CARPENTERS:					
Carpenters	7.47	.55			.02
Millwrights	7.90	.55			.02
Stationary radial arm power saw operator	7.63	.55			.02
Floor layers	7.47	.55			.02
CEMENT MASONS	6.36	.48			.03
DRYWALL:					
GROUP 1 - Tapers	6.68	.30	.10		.02
GROUP 2 - Area tools	6.90	.30	.10		.02
GROUP 3 - Texture spray	7.38	.30	.10		.02
ELECTRICIANS:					
Electricians	8.85	.30	1%		1/2%
Cable splicers	9.10	.30	1%		1/2%
ELEVATOR CONSTRUCTORS	8.17	.543	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.543	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	6.39	.30	.10		.02
IRONWORKERS	7.90	.55	.80		.10
LABORERS:					
GROUP 1 - Powderman or blaster	5.81	.38	.35		
GROUP 2 - Outside wagon drill; wagon drill tenders; miner	5.56	.38	.35		
GROUP 3 - Cement gun or gunite; mason tender; mortar mixer; machine man; track man; chuck tender	5.31	.38	.35		
GROUP 4 - Pipelayer, main sewer and drainage	5.19	.38	.35		
GROUP 5 - Jackhammer operator, asphalt raker; kettlemen; asphalt or pot man	5.06	.38	.35		
GROUP 6 - Common	4.91	.38	.35		
LATHERS	8.14				.01

DECISION NO. TX76-4194

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman-Technician; Equipment operators	$ 8.85	.30	1%		1/2%
Cable splicers	9.10	.30	1%		1/2%
Groundman	75%JR	.30	1%		1/2%
Groundman (less than 6 months)	50%JR	.30	1%		1/2%
MARBLE MASONS	6.98		.20		.04
PAINTERS:					
GROUP 1 - Brush & roller, paperhanger; tapers	6.78	.30			.02
GROUP 2 - Steel after erection, steam cleaning, power driven tools	7.19	.30			.02
GROUP 3 - Spray, sandblasting, waterblasting & swing stage, stripping machine	7.485	.30			.02
GROUP 4 - Area tools	7.00	.30			.02
GROUP 5 - Water tanks, smoke stacks, tower from 70 - 100 ft.	8.14	.30			.02
PLASTERERS	7.66	.48			.01
PLUMBERS & STEAMFITTERS	8.49	.43	.40		.05
ROOFERS:					
Roofers; Waterproofers; Pipewrappers	5.60				
SHEET METAL WORKERS	8.855	3%+.51	.35		.025
SOFT FLOOR LAYERS	6.53	.30	.10		.02
SPRINKLER FITTERS	10.90	.60	.90		.08
TERRAZZO WORKERS	6.98		.20		.04
TERRAZZO WORKERS' HELPERS	4.30		.20		
TILE SETTERS	6.98		.20		.04
TILE SETTERS' HELPERS	4.30		.20		
TRUCK DRIVERS:					
GROUP 1 - Up to and including 2 tons	3.50	.26			
GROUP 2 - Flat bed dump trucks, mechanically	3.60	.26			
GROUP 3 - Tank trucks, up to 2500 gallons	3.50	.26			

DECISION NO. TX76-4194

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions*	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
GROUP 4 - Standard dump trucks, up to and including 4 cu. yds.	$ 3.60	.26			
GROUP 5 - Dump trucks, over 4 cu. yds.; Trucks over 4 tons including transit mix, all semitruck, etc.; Lowboy	3.75	.26			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - Includes $0.07 contribution to Occupational Health Fund
b - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
c - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX76-4194

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 6.39	.35	.40		.10
GROUP 2	6.97	.35	.40		.10
GROUP 3	7.06	.35	.40		.10
GROUP 4	7.11	.35	.40		.10
GROUP 5	7.19	.35	.40		.10
GROUP 6	7.43	.35	.40		.10
GROUP 7	7.59	.35	.40		.10
GROUP 8	7.06	.35	.40		.10
GROUP 9	7.29	.35	.40		.10
GROUP 10	7.59	.35	.40		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Fireman, Oiler; Mechanic, Grease Truck and Welder's Helpers; Screedman, Pneumatic roller towed by farm type tractor or truck; Scale Operator and such as bin-a-batch; Rubber-tired farm type tractors and tractors under 35 HP without attachments
GROUP 2 - Air Compressors, Power Plants, pumps and welding machines; Concrete mixers, under 1 yd. & concrete batch plants, under 1 yd., gunnite & pumpcrete machine, mechanical bull floats, spreading & finishing machines. Screening Plants. Drilling machines, Diamond, rotary, core & cable drilling; Well under 6". Hoists, scoopmobiles, A-frame Air tugger; Hydrolift, Hydrocranes, winch truck. Loaders: Elevating, belt type loader, front end loader (under 2 yds.) & over head loaders; forklift & lumber staker on construction job site. Motor man & Industrial Locomotive. Tractors under 35 HP with attachments
GROUP 3 - Concrete mixers 1 yd. & over and batch plants 1 yd. & over, single drum paving machines, Crushing plant. Drilling Machine, 6" & over; Front end loaders, 2 yds. & over; Paving: Asphalt plants, boiler or retort heater, distributor, lay down machine, pug mill, breakdown & tandem rollers. Steam Engineer. Trenching Machines. Patrol, rough, not required to blue top or finish
GROUP 4 - Tractor Equipment: Athey & Barber Green Loader, Bulldozer, DW10, DW20, DW21, Dumor, Elevating Grader; Euclid, Highlander, Scraper, Traxcavator, Turnapull, Turnarocker & Tractors 35 HP & up & farm type tractors with backhoe & shovel type attachments
GROUP 5 - Concrete paving machines, double drum. Caterpanes, Hysters, Cherry Pickers, Attachments cranes, side & swing boom tractors; Mechanic, Welder, Patrol, Finish; Grease Truck Operator (Head Oiler). Building Hoist, 1 drum. Concrete Pump (Snorkle Type Trailer Mounted)
GROUP 6 - Shovel, Backhoe, clam & dragline 3/4 yds. & under; Cranes 25 tons & under; Building Hoist, 2 drums & up. Concrete pump (Snorkle Type Truck Mounted)
GROUP 7 - Guy & stiff leg derrick, Piledrivers; Crawler or skid rig, Shovel, Backhoe, clam & dragline over 3/4 yds.; Crane over 25 tons. Pecco type cranes
GROUP 8 - Refrigeration, slusher, Jumbo form operators
GROUP 9 - Mucking machines
GROUP 10 - Mine hoists

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SUPERSEDES DECISION

STATE: Texas — COUNTIES: Galveston & Harris
DECISION NO.: TX76-4195 — DATE: Date of Publication
Supersedes Decision No. TX76-4151, dated September 24, 1976, in 41 FR 42149.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.00	.70	.70		.06
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	10.13	.58	.50		.05
CARPENTERS:					
Carpenters	9.40	.65	.60		.05
Millwrights	9.76	.65	.60		.05
Piledrivermen	9.40	.65	.60		.05
CEMENT MASONS:					
Harris County	9.25	.49	.42		.08
Galveston County	9.25	.49	.42		
ELECTRICIANS:					
Harris County	11.20	.40	3%		.04
Galveston County	11.34	.40	1%+.40		.06
ELEVATOR CONSTRUCTORS	9.76	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.07	.60	.425		.01
IRONWORKERS	9.63	.55	.85		.075
LABORERS:					
GROUP 1 - Common	6.93	.28	.40		.02
GROUP 2 - Air tool operator (jackhammer-vibrator); Mason tenders; Pipelayers (concrete & clay); Sandblasters; Power buggy operator	7.105	.28	.40		.02
GROUP 3 - Lather tender; Mortar mixers; Plaster tenders & hod carriers	7.205	.28	.40		.02
GROUP 4 - Well driller	7.48	.28	.40		.02
GROUP 5 - Well driller tender	7.055	.28	.40		.02
GROUP 6 - Blaster, powderman	7.355	.28	.40		.02
LATHERS (Harris County only)	9.92	.50	.35		.02
LINE CONSTRUCTION:					
Lineman & cable splicer	11.26	.40	1%		1/2%
Groundman (1st 6 mos.)	3.94	.40	1%		1/2%
Groundman (2nd 6 mos.)	4.73	.40	1%		1/2%
Groundman	6.53	.40	1%		1/2%

DECISION NO. TX76-4195

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Harris County	$ 9.51				
Galveston County	8.41				
MARBLE MASONS' HELPERS	7.15				
PAINTERS:					
East Harris County:					
GROUP 1 - All brush painting, hand rolling and all other work other than that below	10.46				
GROUP 2 - All pneumatic and electric tools and steam cleaning	10.815				
GROUP 3 - All tape and float on drywall	10.585				
GROUP 4 - All paper and vinyl hanging	10.71				
GROUP 5 - All spray painting, sandblasting & waterblasting	10.855				
GROUP 6 - Steeple jack work, hot materials	11.12				
Remainder of Harris County:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	9.295	.365	.35	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	9.67	.365	.35	.40	.04
GROUP 3 - Tape, float & drywall	9.42	.365	.35	.40	.04
GROUP 4 - Steeple jack work, hot materials	9.92	.365	.35	.40	.04
Galveston County:					
GROUP 1 - Painters on new work	9.00	.55	.45	.665	.02
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	9.25	.55	.45	.665	.02
GROUP 3 - Painters on rework & repaint	8.245	.55	.45	.665	.02
PIPEFITTERS:					
Harris County and that part of Galveston County west of the Trinity River	10.35	.45	.60		.045

DECISION NO. TX76-4195

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS (CONT'D):					
That part of Galveston County east of the Trinity River:					
Commercial work up to $50,000	$10.12	.445	.50		.03
Commercial work $50,000 & over	10.55	.445	.50		.03
PLASTERERS	9.70	.52	.30		.02
PLUMBERS:					
Harris County	10.42	.50	.60		.10
Galveston County:					
Commercial work up to $50,000	10.12	.445	.50		.03
Commercial work $50,000 & over	10.55	.445	.50		.03
ROOFERS:					
Roofers	8.69	.20	.25	.25	.03
Kettlemen	7.92	.20	.25	.25	.03
Helpers	5.52	.20	.25	.25	.03
SHEET METAL WORKERS:					
Harris County	9.80	.275	.525	.32	.06
Galveston County	8.75	.15	.25		.10
SOFT FLOOR LAYERS	9.17	.35	.45		.09
SPRINKLER FITTERS	10.90	.60	.90		.08
TERRAZZO WORKERS:					
Harris County	9.51				
Galveston County	8.41				
TERRAZZO WORKERS' HELPERS:					
Terrazzo workers' helpers	7.15				
Terrazzo floor machinemen	7.30				
Terrazzo base machinemen	7.45				
TILE SETTERS:					
Harris County	9.51				
Galveston County	8.41				
TILE SETTERS' HELPERS	7.15				
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons; wash, grease, fireman, fuel pump operator when used on construction jobs	7.84				
GROUP 2 - 1½ thru 2½ tons; dump truck less than 7 yds.	8.23				
GROUP 3 - Over 2½ tons; farm tractors; fork lifts, floats	8.45				

DECISION NO. TX76-4195

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
GROUP 4 - Euclids (not self-loading	$ 8.61				
GROUP 5 - Warehousemen	8.10				
GROUP 6 - Material checkers; pick-up drivers	9.14				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX76-4195

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.87	.35	.65		.06
GROUP 2	8.38	.35	.65		.06
GROUP 3	7.84	.35	.65		.06
GROUP 4	7.66	.35	.65		.06

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick - power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more, Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW-10 Caterpillar, S-18 Euclid and similar Tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader, Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel Driven Welding Machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or Diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A Light Equipment Operator may run 1 or 2 105 cfm compressors; All other aquipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Harrison
DECISION NO.: TX76-4196 DATE: Date of Publication
Supersedes Decision No. TX76-4042, dated February 13, 1976, in 41 FR 7013.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.38	.325	.685		.025
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.75		.25		
CARPENTERS	6.00				
CEMENT MASONS	7.50		.25		
ELECTRICIANS:					
Electricians	8.30	.40	1%		1/4%
Cable splicers	8.70	.40	1%		1/4%
GLAZIERS	5.00				
IRONWORKERS	7.65	.30	.35		.04
LABORERS:					
Laborers	3.08				
Mason tenders	3.25				
LATHERS	3.20				
PAINTERS:					
GROUP 1 - Journeymen painters, paperhangers, hand rollers & tools used for cleaning	5.50				
GROUP 2 - Window jack or window sill; Sand tape & floating	5.625				
GROUP 3 - Swing stage; Spray & sand blasting; Sign painting; Steel swing stage, boatswain's chair, brush	6.00				
GROUP 4 - Steam cleaning, buffing, burners and torches	7.25				
GROUP 5 - Steel brush	5.75				
GROUP 6 - Steel swing stage, boatswain's chair, spray & sandblasting	8.00				
PLASTERERS	8.75		.25		
PLUMBERS & PIPEFITTERS	7.20		.30		.02
ROOFERS	3.25				
SHEET METAL WORKERS	9.065	3%+.45	.66		.055
SPRINKLER FITTERS	10.90	.60	.90		.08
TERRAZZO WORKERS	6.00				
TILE SETTERS	6.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. TX76-4196

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 7.515	.40	.75		.10
GROUP 2	8.30	.40	.75		.10
GROUP 3	8.70	.40	.75		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers, less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; All other equipment of similar nature coming under the Light Equipment Classification, when power operated

GROUP 3 - Ford Tractor or like with any attachment (except blade and mower on rear); Drilling Machine (all types); Scoopmobile; Hoists, two drum or more; Forklifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixers (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Classification, when powsr operated

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Lubbock
DECISION NO.: TX76-4197 DATE: Date of Publication
Supersedes Decision No. TX76-4110, dated July 2, 1976, in 41 FR 27652.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.70	.50	.30		.07
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.85		.30		.03
CARPENTERS	7.97	.38	.40		.01
CEMENT MASONS	6.75				
ELECTRICIANS:					
Electricians	9.25	.40	1%		1/10%
Cable splicers	9.50	.40	1%		1/10%
IRONWORKERS:					
Structural; Ornamental; Reinforcing	7.93	.55	.85		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	8.055	.55	.85		.10
LABORERS:					
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all construction laborers except those named below	4.725	.275	.20		
GROUP 2 - Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete & clay & all non-metallic pipe); handling, laying & cleaning pumpcrete pipe	5.00	.275	.20		
GROUP 3 - Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders	4.925	.275	.20		
GROUP 4 - Wagon drill	5.075	.275	.20		
GROUP 5 - Blasters & powder make-up men	5.325	.275	.20		

DECISION NO. TX76-4197

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 6.75	.20			.01
LINE CONSTRUCTION:					
Linemen	9.25	.40	1%		
Operators	80%JR	.40	1%		
Groundmen (more than 1 year experience)	55%JR	.40	1%		
Groundmen (less than 1 year experience)	50%JR	.40	1%		
Flat bed truck operator	70%JR	.40	1%		
PAINTERS:					
Brush	5.85	.30	.20		.04
Spray	6.50	.30	.20		.04
PLASTERERS	7.00				
PLUMBERS & STEAMFITTERS	8.81	.39	.40		.04
ROOFERS	3.50				
SHEET METAL WORKERS	9.43	.35	.30		.10
SOFT FLOOR LAYERS	5.85	.30	.20		.04
SPRINKLER FITTERS	10.90	.60	.90		.08
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX76-4197

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 6.75	.30	.50		.10
GROUP 2	7.65	.30	.50		.10
GROUP 3	8.05	.30	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated
GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 feet of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractorvators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

SUPERSEDEAS DECISION

STATE: West Virginia
LOCATION: State of West Virginia excluding the Counties of Berkeley Jefferson Morgan, Nicholas & Preston
DECISION No.: WV76-3286 DATE: Date of Publication
Supersedes Decision No. WV75-3106, dated December 12, 1975, in 40 FR 58060, and No. WV75-3107, dated December 5, 1975, in 40 FR 57061
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See Heavy and Highway Construction General Wage Determination for all work in connection with the clearing and grading of the site, also all paving incidental to the project, and all incidental water lines and sewers utilities to within 5 feet of the building line, when such work is let as a separate contract by the owner or as a subcontract by the prime contractor).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
AREA 1	$10.77	.59	.89		.03
AREA 2	11.10	.60	.70		
AREA 3	11.05	.50	.70		.03

AREAS COVERED BY ASBESTOS WORKERS

AREA 1 - Hampshire and Hardy Counties.

AREA 2 - Barbour, Brooke, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Taylor, Tucker, Tyler and Wetzel Counties.

AREA 3 - Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Upshur, Wayne, Webster, Wirt, Wood and Wyoming Counties.

BOILERMAKERS:					
AREA 1	9.40	.75	1.00	1 40	.02
AREA 2	9.815	7.5%	7%		.01

AREAS COVERED BY BOILERMAKERS

AREA 1 - Barbour, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Ohio, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood and Wyoming Counties.

AREA 2 - Hancock County.

DECISION NO. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TERRAZZO WORKERS & TILE LAYERS:					
AREA 1	9.79		.40		
AREA 2	9.25				
AREA 3	8.20				
AREA 4	9.92	.65	.75		
AREA 5					
Bricklayers & Stone Masons	11.04	30	.30		
Marble Masons, Terrazzo Workers & Tile Layers	9.95	.30	.30		
AREA 6					
Bricklayers & Stone Masons	9.65	.60			
Marble Masons, Terrazzo Workers & Tile Layers	9.15	.60			
AREA 7					
Bricklayers & Stone Masons	9.63	.60	6%		.02
Tile Layers	9.48	.60	6%		.02
AREA 8					
Bricklayers, Stone Masons & Marble Masons	9.93	.50	.25		.02
Tile Setters & Terrazzo Workers	6.18	.50	.25		.02
AREA 9	8.55	.30	.30	.30+a	
AREA 10	9.65	40			
AREA 11					
Bricklayers & Stone Masons	9.40	.30	.25		

DECISION NO. WV76-3286

AREAS COVERED BY BRICKLAYERS, STONEMASONS ETC

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Barbour, Grant, Hardy, Pendleton, Pocahontas, Randolph, Tucker & Webster Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, Putnam, Raleigh & Summers Counties.

AREA 5 - Cabell, Lincoln, Mason, Mingo & Wayne Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt & Wood Counties.

AREA 7 - Marshall, Ohio, Tyler & Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

AREA 9 - Doddridge, Gilmer, Harrison, Lewis, Taylor & Upshur Counties.

AREA 10 - Marion County.

AREA 11 - Monongalia County.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
AREA 1					
Carpenters					
Contracts under $100,000	9.95	.25	.20		.04
Contracts $100,000 or more	10.20	.25	.20		.04
Piledrivermen					
Contracts under $100,000	10.45	.25	.20		.04
Contracts $100,000 or more	10.70	25	.20		.04

DECISION NO. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 2					
Carpenters	9.90	.45	.25		.02
Piledrivermen	10.20	.45	.25		.02
AREA 3					
Carpenters	9.45	.87	.65		.02
Piledrivermen	10.24	5%	10%		½ of 1%
AREA 4					
Carpenters	10.62	.35	.35		.02
Piledrivermen	10.87	.35	.35		.02
AREA 5					
Carpenters	9.91	.25	.25		.02
Piledrivermen	10.16	.25	.25		.02
AREA 6					
Carpenters	9.72	.40	.50		.03
Piledrivermen	10.01	.40	.50		.03
AREA 7					
Carpenters	10.02	.35	.35		.02
Piledrivermen	10.27	.35	.35		.02
AREA 8					
Carpenters	9.60	.35	.35		.02
Piledrivermen	9.85	.35	.35		.02

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN

AREA 1 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Pleasants, Randolph, Taylor, Tucker, Tyler, Upshur, Webster & Wetzel Counties.

AREA 2 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Greenbrier, Jackson (southern portion including the towns of Leon, Ripley & Bereford), Kanawha, Lincoln, Mason, Monroe, Pocahontas, Putnam & Roane Counties.

AREA 5 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

AREA 7 - Fayette, McDowell, Mercer, Raleigh, Summers & Wyoming Counties.

AREA 8 - Logan County.

DECISION NO. WV76-3286

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
AREA 1	9.25				
AREA 2	9.79		.40		
AREA 3	9.50				
AREA 4	8.20				
AREA 5					
Cement Masons	9.02	.70			
Plasterers	9.10				.01
AREA 6					
Cement Masons	8.11	40			.01
Plasterers	8.25	.25			
AREA 7					
Cement Masons	8.96	.60			.01
Plasterers	8.51	.30			
AREA 8					
Cement Masons	9.30				
Plasterers	9.50				.01
AREA 9					
Cement Masons	7.36	.38	.05	.30	.03
AREA 10					
Cement Masons	9.76	.45			
AREA 11					
Cement Masons	6.90	35			

DECISION NO. WV76-3286

AREAS COVERED BY CEMENT MASONS & PLASTERERS

AREA 1 - Barbour, Grant, Hardy, Pendleton, Pochontas, Randolph, Tucker & Webster Counties.

AREA 2 - Hampshire & Mineral Counties.

AREA 3 - Calhoun, Gilmer, Jackson, Mason (northern portion of the county, south to but not including Point Pleasant), Pleasants, Ritchie, Tyler, Wirt, & Wood Counties.

AREA 4 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 5 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln (eastern half of county), Logan, Putnam, Raleigh & Roane Counties.

AREA 6 - Brooke (the northern portion of county to Buffalo Creek) and Hancock Counties.

AREA 7 - Brooke (remainder of county), Marshall, Ohio & Wetzel Counties.

AREA 8 - Doddridge, Harrison, Lewis, Taylor & Upshur Counties.

AREA 9 - Marion, Monongalia Counties.

AREA 10 - Cabell, Lincoln (remainder of county), Mason (remainder of county) & Wayne Counties.

AREA 11 - Greenbrier County.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Barbour, Doddridge, Harrison Lewis, Randolph & Upshur Counties:					
Wiremen	9.10	.50	1%+.53	1.17	.03
Cable Splicers	10.01	50	1%+.53	1.17	.03
Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties:					
Wiremen	9.75	.50	1%+1.02	1.02	.04
Cable Splicers	10.00	.50	1%+1.02	1.02	.04

DECISION NO. WV76-3286

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties:					
Wiremen	9.90	.50	1%+.32	1.02	.04
Cable Splicers	10.15	.50	1%+.32	1.02	.04
Brooke (remainder of county) and Hancock Counties:					
Wiremen	10.80	6%	7%	6%	1/5 of 1%
Cable Splicers	11.20	6%	7%	6%	1/5 of 1%
Cabell & Wayne Counties:					
Wiremen	10.37	.50	1%+.47	1.02	.04
Cable Splicers	10.89	.50	1%+.47	1.02	.04
Lincoln County:					
Wiremen	10.57	.50	1%+.47	1.02	.04
Cable Splicers	11.10	.50	1%+.47	1.02	.04
Logan, Mason & Mingo Counties:					
Wiremen	10.82	.50	1%+.47	1.02	.04
Cable Splicers	11.36	.50	1%+.47	1.02	.04
Mineral County:					
Wiremen	10.15	.50	1%+.25		1%
Hampshire County:					
Wiremen	10.35	.50	1%+.25		1%
Grant County:					
Wiremen	10.55	.50	1%+.25		1%
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:					
Wiremen	8.51	.30	1%		¼ of 1%
Cable Splicers	8.91	.30	1%		¼ of 1%
Hardy & Pendleton Counties:					
Contracts under $30,000:					
Wiremen	6.25	.50	1%		3/4 of 1%
Contracts $30,000 or more:					
Wiremen	9.65	.50	1%		3/4 of 1%
Marion, Monongalia, Taylor & Tucker Counties:					
Contracts under $12,000:					
Wiremen	5.50	.50	1%+1.02	1.27	.02
Contracts over $12,000					
Wiremen	8.85	.50	1%+1.02	1.27	.02
Cable Splicers	9.00	.50	1%+1.02	1.27	.02

DECISION No. WV76-3286

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Summers & Wyoming Counties:					
Contracts $15,000 or less:					
Wiremen	7.55	.50	1%+.12	.77	.06
Cable Splicers	7.85	.50	1%+.12	.77	.06
Contractors over $15,000:					
Wiremen	10.45	.50	1%+.12	.77	.06
Cable Splicers	10.75	.50	1%+.12	.77	.06
Fayette (except Falls & Kanawha Twps.) County:					
Contractors $15,000 or less:					
Wiremen	7.35	.50	1%+.12	.77	.06
Cable Splicers	7.65	.50	1%+.12	.77	.06
Contracts over $15,000:					
Wiremen	10.25	.50	1%+.12	.77	.06
Cable Splicers	10.55	.50	1%+.12	.77	.06
Raleigh (except Clear Fork & Marsh Fork Twps.) County:					
Contracts $15,000 of less:					
Wiremen	7.05	.50	1%+.12	.77	.06
Cable Splicers	7.35	.50	1%+.12	.77	.06
Contracts over $15,000:					
Wiremen	9.95	.50	1%+.12	.77	.06
Cable Splicers	10.25	.50	1%+.12	.77	.06
Boone, Braxton, Calhoun, Clay Fayette (Falls & Kanawha Twps), Gilmer, Kanawha, Putnam, Raleigh (Clear Fork & Marsh Fork Twps.), Roane & Webster Counties:					
Wiremen	11.35	.50	1%+.07	.02	04
Cable Splicers	12.46	.50	1%+.07	.02	.04
ELEVATOR CONSTRUCTORS:					
Boone, Clay, Fayette, Kanawha Logan , Mingo & Putnam Counties:					
Mechanics	9.895	.495	.32	4%+b+c	.02
Helpers	6.93	.495	.32	4%+b+c	.02
Probationary Helpers	4.95				

DECISION NO. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cabell, Mason & Wayne Counties:					
Mechanic	10.945	.545	.35	4%+b+c	.02
Helpers	7.66	.545	.35	4%+b+c	.02
Probationary Helpers	5.47				
Brooke, Hancock, Harrison, Marshall & Ohio Counties:					
Mechanics	9.20	.495	.32	4%+b+c	.02
Helpers	6.44	.495	.32	4%+b+c	.02
PRobationary Helpers	4.60				
GLAZIERS:					
AREA 1	9.33				
AREA 2	9.50		.20		
AREA 3					
Inside	5.40	.26	.20	.60+p	
Outside	6.10	.26	.20	.60+p	

AREAS COVERED BY GLAZIERS

AREA 1 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 2 - Boone, Cabell, Calhoun, Clay, Fayette, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pendleton, Pocahontas, Putnam, Raleigh, Summers, Wayne & Wyoming Counties.

AREA 3 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.

IRONWORKERS -Structural, Ornamental & Reinforcing					
AREA 1	9.67	.65	.70		.01
AREA 2	10.63	60	.75		.03
AREA 3	10.42	.75	.85		.05
AREA 4	9.84	60	.90		
AREA 5	9.55	.60	.65		.03
AREA 6					
Zone 1 - 10 miles from Union Hall	10.26	.65	.70		.01
Zone 2 - 10-15 miles from Union Hall	10.41	.65	.70		.01
Zone 3 - 15-20 miles from Union Hall	10.51	.65	.70		.01
Zone 4 - 20-25 miles from Union Hall	10.61	.65	.70		.01

DECISION NO.: WV76-3286

AREA COVERED BY IRONWORKERS

AREA 1 - Calhoun, Doddridge, Gilmer, Jackson, Lewis, Mason, Pleasants, Ritchie, Roane, Upshur, Wirt & Wood Counties.

AREA 2 - Barbour, Brooke, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Taylor, Tyler & Wetzel Counties.

AREA 3 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln, Logan, McDowell, Putnam, Raleigh, Webster & Wyoming Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral, Pendleton, Randolph & Tucker Counties.

AREA 5 - Greenbrier, Mercer, Monroe, Pocahontas & Summers Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
AREA 1					
Group 1	7.87	.35	.35		.03
Group 2	7.52	.35	.35		.03
Group 3	7.22	.35	.35		.03
AREA 2					
Group 1	7.81	.35	.35		.03
Group 2	7.46	.35	.35		.03
Group 3	7.16	.35	.35		.03
AREA 3					
Group 1	7.15	.35	.35		.03
Group 2	6.80	.35	.35		.03
Group 3	6.50	.35	.35		.03
AREA 4					
Group 1	8.01	.35	.35		.03
Group 2	7.66	.35	.35		.03
Group 3	7.36	.35	.35		.03
AREA 5					
Group 1	7.58	.35	.35		.03
Group 2	7.23	.35	.35		.03
Group 3	6.93	.35	.35		.03
AREA 6					
Group 1	7.95	.35	.35		.03
Group 2	7.60	.35	.35		.03
Group 3	7.30	.35	.35		.03

DECISION NO WV76 3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 7					
Group 1	8.05	.35	.35		.03
Group 2	7.70	.35	.35		.03
Group 3	7.40	.35	.35		.03
AREA 8					
Group 1	7.60	.55	.40		.05
Group 2	7.765	.55	.40		.05
Group 3	7.80	.55	.40		.05
Group 4	7.845	.55	.40		.05
Group 5	7.93	.55	.40		.05
Group 6	8.10	.55	.40		.05
Group 7	8.13	.55	.40		.05
Group 8	8.28	.55	.40		.05
Group 9	8.43	.55	.40		.05
Group 10	8.50	.55	.40		.05

CLASSIFICATION DEFINITION
LABORERS - AREAS 1,2,3,4 5,6,7

GROUP 1 - Laborers; carpenter tender; flagmen; water boy; demolition worker; fire watch; landscape laborer.

GROUP 2 - Powderman helper; semi-skilled laborer; scaffold builders; chainmen & rod men; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tenders; lathers tenders; tile setters tenders; mortar mixers jackhammer operators; vibrator operators; tamper operators; pavement buster operators; chipping & Peening hammer operators; air sysphon & air pump operators; riprap finishers; concrete saw operators; concrete technician; pwer saw operators; chain saw operators; motorized buggy operators; pipelayers helpers; drill operators helpers; sheeters & Shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workmen working with acid mortar, acid brick, acid or mastic asphalt; workmen working creosote; nozzlemen for gunnite or sandblasting; tool room attendants; ride or walk roller tampers.

GROUP 3 - Blacksmith; powdermen; air track operator; pipe layer (including laser beam set-up); burner.

DECISION NO. WV76-3286

LABORERS - AREA 8

GROUP 1 - General laborers; carpenter tenders.

GROUP 2 - Brick handlers; tenders for brick masons, plasterers, stone masons; tile setters; montarmen for masons & plasterers; men mixing cement for cement finishers.

GROUP 3 - Operators of concrete busters, jackhammers, air spades, chipping hammers, air tampers, vibrators, power buggy, cement saw, power saw, sand-blaster, acetylene burners; welders; scuba divers; panel cleaning machines; all power driven tools operators; air pump operators; air blow pipe operators; pipe layers & helpers working in ditches or tunnels; hand spikers on railwoads.

GROUP 4 - Ditches, trenches, caissons & coffers over 6' Deep (open top).

GROUP 5 - Laborers performing work pertaining to or in connection with repair stoves, blast furnaces & basic oxygen process furnaces, steeples & stacks, annealing process furnaces, Kilns, soaking pits, coke battries on industrial work; demolition of stacks 50' to 100'; tunnel laborers, muckers, including casisson & coffers, horizontal & underground.

GROUP 6 - Demolition of stacks 100' to 150'.

GROUP 7 - Miners, including caissons & coffers, horizontal or underground; mucking machine operators.

GROUP 8 - Blaster men & helpers; billmen & Lancer; bottom-men in blast furnaces; stacks, stoves & dust covers.

GROUP 9 - GUnnite nozzlemen.

GROUP 10 - Demolition of stacks over 150'.

DECISION NO. WV76-3286

AREAS COVERED BY LABORERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Braxton, Doddridge, Gilmer, Grant, Hampshire, Hardy, Harrison, Lewis, Marion, Mineral, Monongalia, Pendleton, Randolph, Taylor, Tucker, Upshur & Webster Counties

AREA 3 - Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers & Wyoming Counties.

AREA 4 - CaBell, Lincoln, Mason & Wayne Counties.

AREA 5 - Logan & Mingo Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, WIrt & Wood Counties.

AREA 7 - Marshall, Ohio & Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
AREA 1	10.125		.10		
AREA 2	10.25		.20		.01
AREA 3	8.41	30	.10		.01
AREA 4	8.98	.45	1.10		.01
AREA 5	9.315		.10		
AREA 6	8.43		.15		.01

DECISION NO. WV76-3286

AREAS COVERED BY LATHERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Taylor, Tyler, Upshur & Wetzel Counties.

AREA 3 - Brooke, Marshall & Ohio Counties.

AREA 4 - Hancock County

AREA 5 - Cabell, Mason & Wayne Counties

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Wirt & Wood Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:					
Linemen	8.66	.35	1%		1/2 of 1%
Cable Splicers	9.06	.35	1%		1/2 of 1%
Equipment Operators	7.45	.35	1%		1/2 of 1%
Truck with earth boring auger	6.06	.35	1%		1/2 of 1%
Truck with winch & groundmen	4.76	.35	1%		1/2 of 1%
Mineral County:					
Linemen	10.15	.50	1%+.25		1/2 of 1%
Equipment Operators	9.64	.50	1%+.25		1/2 of 1%
Truck drivers & groundmen	6.60	.50	1%+.25		1/2 of 1%
Hampshire County:					
Linemen	10.35	.50	1%+.25		1/2 of 1%
Equipment Operators	9.84	.50	1%+.25		1/2 of 1%
Truck drivers & groundmen	6.80	.50	1%+.25		1/2 of 1%
Grant County:					
Linemen	10.55	.50	1%+.25		1/2 of 1%
Equipment Operators	10.04	.50	1%+.25		1/2 of 1%
Truck drivers & groundmen	7.00	.50	1%+.25		1/2 of 1%
Hardy & Pendleton Counties:					
Linemen, cable splicers & equipment operators	12.11	.35	1%		1/2 of 1%
Truck with winch, pole or steel handling	7.73	.35	1%		1/2 of 1%
Groundmen	7.47	.35	1%		1/2 of 1%

DECISION NO. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Raleigh					
Linemen & equipment Operators	10.00	.45	1%+.12	.77	1/2 of 1%
Cable Splicer	10 30	.45	1%+.12	.77	1/2 of 1%
Groundmen	8.00	.45	1%+.12	.77	1/2 of 1%
Summers & Wyoming Counties:					
Linemen & equipment operators	10.50	.45	1%+.12	.77	1/2 of 1%
Cable Splicers	10 80	.45	1%+.12	.77	1/2 of 1%
Groundmen	8.40	.45	1%+.12	.77	1/2 of 1%
Fayette County:					
Linemen & Equipment Operators	10.30	.45	1%+.12	.77	1/2 of 1%
Cable SpLicers	10.60	.45	1%+.12	.77	1/2 of 1%
Groundmen	8.24	.45	1%+.12	.77	1/2 of 1%
Marion, Monongalia, Taylor & Tucker Counties:					
Linemen & Equipment Operators	9.40	.50	1%+1.02	1.27	1/2 of 1%
Cable Splicers	10.34	.50	1%+1.02	1.27	1/2 of 1%
Groundmen & Truck Drivers	7.52	.50	1%+1.02	1.27	1/2 of 1%
Jackson, PLeasants, Ritchie, Tyler, Wirt & Wood Counties:					
Linemen & Equipment Operators	9.80	.45	1%+1.02	1.02	1/2 of 1%
Cable Splicers	10.78	.45	1%+1.02	1.02	1/2 of 1%
Groundmen	7.84	.45	1%+1.02	1.02	1/2 of 1%
Brooke (Buffalo Twp. only), Marhsll, Ohio & Wetzel Counties:					
Linemen & Equipment Operators	9.90	.50	1%+.32	1.02	1/2 of 1%
Cable Splicers	10.15	.50	1%+.32	1.02	1/2 of 1%
Groundmen	7.92	.50	1%+.32	1.02	1/2 of 1%
Brooke (except Buffalo Twp.) & Hancock Counties:					
Linemen & Equipment Operator	10.80	5%	6%	8%	1/2 of 1%
Cable splicers	11.20	5%	6%	8%	1/2 of 1%
Groundmen	7.02	5%	6%	8%	1/2 of 1%
Barbour, Doddridge, Harrison Lewis, Randolph, and Upshur Counties:					
Linemen & Equipment Operators	9.10	.50	1%+.53	1.18	1/2 of 1%
Cable Splicers	10.01	.50	1%+.53	1.17	1/2 of 1%
Groundmen & truck drivers	7.28	.50	1%+.53	1.17	1/2 of 1%
Boone, Braxton, Cabell, Calhoun Clay, Gilmer, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Roane, Wayne & Webster Counties:					

DECISION No. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen & Equipment Operators	10.48	.45	1%+.42	1 02	1/2 of 1%
Cable Splicers	11.53	45	1%+.42	1.02	1/2 of 1%
Groundmen	8.38	.45	1%+.42	1.02	1/2 of 1%
MARBLE MASON HELPERS, TERRAZZO WORKER HELPER & TILE LAYER HELPER:					
Cabell, Lincoln, Mason, Mingo & Wayne Counties	7.93	.30	.30		
MILLWRIGHTS:					
AREA 1	10 26	.45	.25		.02
AREA 2	10.79	.40	.37		.03
AREA 3	10.50	.25	.20		.04
AREA 4	10.43	50	.50		.02
AREA 5	10.90	35	.35		.02
AREA 6	9.65	50	.55		.10

AREAS COVERED BY MILLWRIGHTS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell, Lincoln & Wayne Counties.

AREA 3 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 4 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 5 - Boone, Clay, Fayette, Greenbrier, Jackson (Southern portion including the towns of Leon, Rippley & Hereford), Kanawha, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pocahontas, Putnam, Raleigh, Roane (southern portion up to but not including Spencer), Summers & Wyoming Counties.

AREA 6 - Calhoun, Jackson (remainder of county), Pleasants, Ritchie, Roane (remainder of county), Tyler, Wetzel, Wirt & Wood Counties.

DECISION NO. WV76-3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
AREA 1					
Brush, rollers, hanging wallcovering & installing seemless type floors	7.70		.25		
Spray, sandblasting & use of toxic materials	8.20		.25		
Drywall:					
Taping, spackling, sanding & finishing	9.60		.25		
AREA 2					
Commercial	6.82	.20	.25		.02
Hazardous work	8.63	.20	.25		.02
AREA 3					
Brush & roller	6.42	.50			.01
Paper & vinyl hangers	6.42	.50			.01
Seemless floors	6.42	.50			.01
Glove	6.67	.50			.01
Perfa-taping	6.79	.50			.01
Brush height over 40'	6.92	.50			.01
Spray, sandblast, seemless floor epoxy & steam cleaning	7.42	.50			.01
AREA 4					
Brush	6.20	.50	.40		
Roller	6.20	.50	.40		
Spray	7.20	.50	.40		
Vinyl hanging & taping	8.15	.50	.40		
AREA 5					
Commercial	8.40	.50	.20	.30	
Drywall finishers	8.65	.50	.20	.30	
Swing & boat swain chair	8.75	.50	.20	.30	
Vinyl wall covering	8.90	.50	.20	.30	
Structural steel after erection	9.25	.50	.20	.30	
Repaint structural steel	8.50	.50	.20	.30	
Spray painting	9.40	.50	.20	.30	

DECISION NO. WV76 3286	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Towers, tankes, stacks	9.65	.50	.20	.30	
Sand blasting	10.25	.50	.20	.30	
Extra pay of heights 50' to 100' (+.50 perhour); over 100' (+$1.00 per hour)					
AREA 6					
New Construction:					
Brush	9.16		.30		.01
Roller	9.42		.30		.01
Spray & Blast	10.18		.30		.01
Pot-Men	10.18		.30		.01
Commercial Repaint:					
Brush	7.74		.30		.01
Roller	8.02		.30		.01
Paper Hanger	9.16		.30		.01
Drywall	9.61		.30		.01
Spray, Pot-Men	10.18		.30		.01
Paper & Vinyl Hangers	9.16		.30		.01
Open Structural Steel	10.51		.30		.01
Drywall Pointers & Tapers	9.61		.30		.01
Liquid Tile Brush	9.93		.30		.01
Stacks, Vent Pipes, Flag Poles, Electrical, Radio & T.V. Towers & Tanks over 30' high	10.11		.30		.01
Hdroject, Steam Cleaning & Glove WOrk	10.18		.30		.01
Operating Mechanical Taping Machines	10.61		.30		.01

DECISION NO WV76-3286	REPAINT Basic Hourly Rates	NEW Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 7						
Air Compressor Operator	7.32	8.14				
Brush Painting	7.32	8.14				
Roller, Dry-Wall Pointers & Tapers, Dipping & Mitten Work & Spray	7.68	8.46				
Water Blasters, Steam Jenny Nozzle Men, Swinging Scaffold & Boatswain Chair, Window Jack Work	8.43	8.99				
Brush Painters on Bridges, Nadele Bean, Cable Work, Power Tool Work, Brush & Flame Cleaning	8.86	9.37				
Operating Mechanical Taping Machines	9.08	9.73				
Sand Blasters	9.12	9.70				
All Stacks, Vent Pipe, Flag Poles in excess of 30' high, all Towers Water Towers, Elevated Towers, Electrical Switch Yards, Transformer Banks & Television Towers	10.25	10.65				
Vinyl hangers & Paper hangers (with tools	7.67	8.46				

DECISION NO. WV76-3286

AREAS COVERED BY PAINTERS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 3 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 4 - Brooke (remainder of county) & Hancock Counties.

AREA 5 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 6 - Jackson, Pleasants, RItchie, Roane, Tyler, Wirt & Wood Counties.

AREA 7 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Pocahontas, Putnam, Raleigh, Summers & Wyoming Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS:					
AREA 1	9.65	.45	.55	10%	.04
AREA 2	9.90	.45	.55	10%	.04
AREA 3	10.15	.45	.55	10%	.04
AREA 4	10.40	.45	.55	10%	.04
AREA 5	9.69	.40	7%	10%	.05
AREA 6	10.46	.40	7%	8%	.05
AREA 7					
Comercial WOrK	10.23	.40	.50		
Repair WOrk	10.04	.40	.50		
AREA 8					
ZONE 1 - within an 8 mile radius of CAbell County courthouse, Huntington, W.V.	10.58	.50	1.00		.02
ZONE 2 - 8 to 15 miles from the courthouse	10.78	.50	1.00		.02
ZONE 3 - 15 to 25 miles from the courthouse	10.98	.50	1.00		.02
ZONE 4 - Over 25 miles from the courthouse	11.23	.50	1.00		.02
AREA 9					
Contracts to $75,000	7.55	.45	.40		.09
Contracts above $75,000	9.62	.45	.40		.09

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AREAS COVERED BY PLUMBERS & PIPEFITTERS

AREA 1 - Harrison, Marrion & MonongaLia Counties.

AREA 2 - Barbour, Doddridge, Lewis, Taylor & Upshur Counties.

AREA 3 - Braxton (that portion north of the southern corporate limits of the city of Sutton), Gilmer, Randolph, Tucker & Webster (that portion north of the southern city limits of Webster Springs) Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 5 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke (remainder of county) & Hancock Counties.

AREA 7 - Calhoun, Jackson (northern portion to but not including the Town of Ripley), Pleasants, Ritchie, Roane (northern portion up to but not including Spencer), Tyler, Wirt & Wood Counties.

AREA 8 - Boone (southwest portion to but not including the Towns of Madison & Whitesville), Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 9 - McDowell, Mercer, Monroe, Raleigh, Wyoming Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS:					
Plumbers	9.78	.45	.30		.05
Steamfitters	9.82	.45	.15		.05

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AREA COVERED BY PLUMBERS & STEAMFITTERS

Boone (remainder of county)) Braxton (remainder of county), Clay, Fayette Greenbrier, Jackson (remainder of county), Kanawha, Pocahontas, Putnam, Roane (remainder of county), SUmmers & Webster (remainder of county) Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	10.62	.40	.50		.04
GROUP 2	10.12	.40	.50		.04
GROUP 3	9.72	.40	.50		.04
GROUP 4	9.32	40	.50		.04
GROUP 5	8.62	.40	.50		.04

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

GROUP 1 - Operating cranes, derricks, tower cranes, and similar equipment, having a reach from the top of its boom to the ground of 175' or a lifting capacity of 70 tons; all shovels, draglines, clamshells, backhoes, end-loaders, and concrete mixing plants of 4 cubic yard capacity or over; hoist with 10,000 pound line pull or over.

GROUP 2 - All mechanics and those operating cranes, derricks and similar equipment hydraulic cranes in excess of 15 tons capacity; all shovels, draglines, clamshells, gradealls, tug or tow boats; concrete clamshells, gradealls, tug or tow boats - concrete mixing plants of 3 cubic yards capacity; endloaders in excess of 2½ cubic yards capacity; backhoes in excess of ½ cubic yard capacity; hoist in excess of 5,000 pounds line pull; side boom cat, standards guage locomotive.

GROUP 3 - Hydraulic cranes up to and including 15 tons capacity; endloaders up to and including 2½ cubic yards capacity; backhoes up to and including ½ cubic yard capacity; two drum hoist; well point system, concrete mixing plants, elevators, core drills, fork lift, ross carrier, air compressor (60 CFM or over), high compression equipment, concrete pumps double.

GROUP 4 - Trencher, air tugger, concrete mixer, (2 bag) material hoist, (single) "A" frame truck, rubber tired scraper, power grader, dozer, tractor and pan, push cat, all tractors, oiler's standard guage locomotive crane, truck cranes; over 15 tons, grease truck operator and greaser, fireman, deckhand, asphalt and concrete paving equipment operators.

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 - Roller and compactor, concrete mixer, (1 bag) Barbour Graene loader, mechanic helper, crawler crane oiler, air compressor, welding machine, gasoline powered) light plant, generator, conveyor, mechanical heater and pump operator.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
AREA 1	7.45		.10		
AREA 2	8.08	.10	.15		
AREA 3	10.35	.45	.30		d
AREA 4					
Commercial:					
Roofers	9.60		.10		.01
Waterproofers	9.85		.10		.01
Unprotected roofing or reroofing:					
Roofers	7.25		.10		.01
Waterproofers	7.50		.10		.01

AREA COVERED BY ROOFERS

AREA 1 - Cabell, Lincoln, Logan, Mingo & Wayne Counties.

AREA 2 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 3 - Boone, Clay, Fayette, Greenbrier, Kanawha, Mason, McDowell, Mercer, Monroe, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 4 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Grant, Hardy, Harrison, Jackson, Lewis, Marion, Mineral, Monongalia, Pendleton, Pleasants, Pocahontas, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt & Wood Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEETMETAL WORKERS:					
AREA 1	10.20		.25	1.25	.02
AREA 2	10.47	.45+e	.50		.05
AREA 3	6.93	45	.45		.02
AREA 4	10.50	.45	.55		.04
AREA 5	9.20	.35	.30		.04

AREAS COVERED ON SHEETMETAL WORKERS

AREA 1 - Grant, Hampshire, Hardy & Mineral Counties.

AREA 2 - Cabell, Lincoln, Logan, Mingo & Wayne Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Fayette, Greenbrier, Kanawha, Mason, McDowell, Mercer, Monroe, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 5 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pendleton, Pleasants, Pocahontas, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Wetzel, Wirt & Wood Counties.

SOFT FLOOR LAYERS:						
AREA 1	9.45	.87	.65		.02	
AREA 2	9.72	.40	.50		.03	
AREA 3	10.02	.35	.35		.02	
AREA 4	9.60	.35	.35		.02	
AREA 5	10.62	.35	.35		.02	
AREA 6	9.51	.25	.25		.02	

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AREAS COVERED BY SOFT FLOOR LAYERS

AREA 1 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 2 - Cabell, Mingo & Wayne Counties.

AREA 3 - Fayette, McDowell, Mercer, Raleigh, Summers & Wyoming Counties.

AREA 4 - Logan County

AREA 5 - Boone, Clay, Greenbrier, Jackson (southern portion including the Towns of Leon, Ripley & Hereford), Kanawha, Lincoln, Mason, Monroe, Pocahontas, Putnam & Roane Counties.

AREA 6 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	11.23	60	.90		.08
TRUCK DRIVERS:					
AREA 1					
GROUP 1	8.16	f	g		
GROUP 2	8.26	f	g		
GROUP 3	8.41	f	g		
GROUP 4	8.46	f	g		
GROUP 5	8.51	f	g		
GROUP 6	8.61	f	g		
GROUP 7	8.81	f	g		
AREA 2					
GROUP 1	6.30	h	i		
GROUP 2	6.40	h	i		
GROUP 3	6.55	h	i		
GROUP 4	6.70	h	i		
GROUP 5	6.95	h	i		
GROUP 6	7.05	h	i		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 3					
GROUP 1	7.91	h	j	.80	
GROUP 2	8.01	h	j	.80	
GROUP 3	8.16	h	j	.80	
GROUP 4	8.21	h	j	.80	
GROUP 5	8.26	h	j	.80	
GROUP 6	8.31	h	j	.80	
GROUP 7	8.56	h	j	.80	
AREA 4					
GROUP 1	6.10	k	i		
GROUP 2	6.20	k	i		
GROUP 3	6.40	k	i		
GROUP 4	6.45	k	i		
GROUP 5	6.50	k	i		
GROUP 6	6.88	k	i		
AREA 5					
GROUP 1	5.85	l	m	n	
GROUP 2	5.88	l	m	n	
GROUP 3	5.90	l	m	n	
GROUP 4	6.00	l	m	n	
GROUP 5	6.08	l	m	n	
GROUP 6	6.13	l	m	n	
GROUP 7	6.16	l	m	n	
GROUP 8	6.43	l	m	n	
GROUP 9	6.50	l	m	n	
GROUP 10	6.53	l	m	n	
AREA 6					
GROUP 1	5.37	o			
GROUP 2	5.38	o			
GROUP 3	5.42	o			
GROUP 4	5.45	o			
GROUP 5	5.47	o			
GROUP 6	5.70	o			
GROUP 7	6.00	o			
GROUP 8	6.10	o			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 7					
GROUP 1	7.56	.60	.70		
GROUP 2	7.71	.60	.70		
GROUP 3	7.91	60	.70		
GROUP 4	8.10	.60	.70		
GROUP 5	8.34	.60	.70		

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS - AREA 1

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panal trucks, flatbody material truck (straight job), greasers, washers, tiremen, gas pumps attendants, dump trucks (up to 5 cubic yards)
GROUP 2 - Tank truck (straight)
GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi-trailers, (whether flat rack, or pole and hauled or pushed by truck or tractor), agitator or mixer trucks (up to 5 cubic yards), farm type tractor, tank truck (semi).
GROUP 4 - Low-Boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.
GROUP 5 - Material checker and receiver, mechanics helpers.
GROUP 6 - Agitator or mixer truck (5 cubic yards and over).
GROUP 7 - Mechanics, euclid, dumpster, turnarocker, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS AREA 2

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks.
GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), greasers, washers, tiremen, gas pump attendants, mechanic helpers, material checkers & receivers, tank truck (straight).
GROUP 3 - Dump trucks (5 cubic yards & over), semi-dump trucks, semi-trailer (whether flat, rack or pole and hauled or pushed by truck or tractors), egitators or mixed trucks (up to 5 cubic yards), tank trucks (semi), monorais.
GROUP 4 - Low-boy trailers, winch trucks, fork truck, distributor trucks (front and back end), truck crane, agitators or mixer trucks (5 cubic yards & over), hydraulic tail gate, farm type tractors.
GROUP 5 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons or similar equipment, A-frame, hydrolift, dual purpose trucks.
GROUP 6 - Mechanics.

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TRUCK DRIVERS - AREA 3

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, flatboat material truck (straight job), greasers, washers, tiremen, gas pump attendants, dump trucks (up to 5 cubic yards).
GROUP 2 - Tank truck (straight)
GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi trailers (whether flat rack or pole and hauled or pushed by truck or tractors), agitator or mixer trucks (up to 5 cubic yards), tank truck (semi)
GROUP 4 - Low-boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.
GROUP 5 - Material checker and receiver, mechanics helpers.
GROUP 6 - Agitator or mixer truck (5 cubic yards and over).
GROUP 7 - Mechanics, tri-axle dump trucks, hydraulic lift tailgate truck and farm type tractors, end dumpsters, turnarockers, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS - AREA 4

GROUP 1 - Warehouse, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, team 2 - up.
GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), material checkers, material receivers, team 4 - up, greasers, tiremen and mechanic helpers (truck)
GROUP 3 - Semi-dump truck, semi-trailers (flat rack or pole), low-boy trucks, distributor trucks, agitators or mixer trucks (up to and including 5 yards) dump trucks and dumpster (5 to 12 yards).
GROUP 4 - Dump truck, agitator or mixer trucks and other hauling equipment (12 yards to 20 yards), mucker trucker, rubber-tired tractors (towing or pushing)
GROUP 5 - Dump truck, agitator or mixer trucks and other hauling equipment (20 yards and over)
GROUP 6 - "A" Frame operator, mechanics (truck).

DECISION NO. WV76-3286

TRUCK DRIVERS - AREA 5

GROUP 1 - Flat bed material trucks, dump trucks, semi-dump trucks.
GROUP 2 - Tank trucks (straight & semi).
GROUP 3 - Semi-trailers, tractor trailers.
GROUP 4 - Pole trailer.
GROUP 5 - Agitator & mixer trucks (up to 5 cubic yards)
GROUP 6 - Euclids, dumpsters, turnarocker, ross carriers, athey wagons.
GROUP 7 - Agitator & mixer trucks (over 5 cubic yards).
GROUP 8 - Low-boy trailers, winch trucks, ford trucks (front and back end) truck crane.
GROUP 9 - A-Frame.
GROUP 10 - Mechanics.

TRUCK DRIVERS - AREA 6

GROUP 1 - Warehousemen, yardmen, truck helpers.
GROUP 2 - Greasers, washers, tiremen, gas pump attendants, mechanics helpers.
GROUP 3 - Flatboy material trucks, dump trucks, semi-trucks.
GROUP 4 - Tank trucks (straight & semi)
GROUP 5 - Semi-trailers & tractor trailers.
GROUP 6 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons.
GROUP 7 - Low-boy trailers, winch trucks, A-frame, fork trucks, distributor (front & back end), truck crane.
GROUP 8 - Mechanics.

DECISION NO. WV76-3286

TRUCK DRIVERS - AREA 7

GROUP 1 - Dumpmen & flagmen.
GROUP 2 - Pick-up trucks, dump tracks under 5 yard capacity, straight trucks.
GROUP 3 - Panel trucks, straight truck with multiple axle, dumpsters under 5 yard capacity, transit mix, dump trucks from 5 to 9 yard capacity, flat body material trucks (straight jobs), greasers, tiremen & mechanic helpers, rubber-tired (towing or pushing flatbody vehicles), & form trucks.
GROUP 4 - Dump trucks 10-15 yard capacity.
GROUP 5 - Dump trucks over 15 yard capacity, bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frames, mechanics, semi-trailer or tractor trailers, low boy trucks, asphalt distributor trucks, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, off-highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

AREAS COVERED BY TRUCK DRIVERS

AREA 1 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Pocahontas, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 3 - CAbell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 4 - Barbour, DOddridge, Harrison, Lewis, Marion, Monongalia, Randolph, Taylor, Tucker & Upahur Counties.

AREA 5 - Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke & Hancock Counties.

AREA 7 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

DECISION NO. WV76-3286

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E- Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holiday: Christmas Day.

b. PAid Holidays: A through F.

c. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Employer contributes 2¢ per hour per employee from June 1 to December 31.

e. Employer contribution of 3% per hour to the Sasmi Fund per employee and is based on the basic hourly rate, plus pension, plus health and welfare.

f. Employer contributes $41.16 per month per employee employed 30 days or more.

g. Employer contributes $34.67 per month per employee.

h. Employer contributes $58.50 per month per employee employed 30 days or more.

i. Employer contributes $26.00 per month per employee employed 30 days or more.

j. Employer contributes $34.67 per month per employee employed 30 days or more.

k. Employer contributes $28.50 per month per employee employed 30 days or more.

l. Employer contributes $6.30 per week per employee.

m. Employer contributes $6.00 per week per employee.

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FOOTNOTE (Cont'd):

n. One week's paid vacation.

o. Employer contributes $9.50 per week per employee.

p. Paid Holidays: A through F, Plus Christmas Eve.

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Racine
DECISION NO.: WI76-2169 DATE: Date of Publication
Supersedes Decision No. WI75-2064, dated May 16, 1975, in 30 FR 21691
DESCRIPTION FOF WORK: Building and Residential Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.57	.60	.70	1.00	.04
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.05	.50	.50	.50	
CARPENTERS (West of Hwy. #75)					
Carpenters and Soft Floor Layers	9.86	.30	.40		.04
Millwrights	10.38	.30	.40		.04
CARPENTERS (Balance of County)					
Carpenters and Soft Floor Layers	9.95	.40	.50		.03
Millwrights	10.21	.40	.50		.03
Piledrivermen	10.03	.40	.50		.03
CEMENT MASONS	8.76	.40	.60	.50	
ELECTRICIANS (Burlington)	10.20	.45	1%	7%	4%
ELECTRICIANS (Balance of County)	11.48	.55	1%	[illegible]	3/4 of 1%
ELEVATOR CONSTRUCTORS:					
Constructors	11.17	.545	.35	4%+a+b	.02
Helpers	7.82	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	10.06	.95	.70	1.15	.15
LABORERS:					
Laborers	8.10	.40	.60	.20	
Air Tool Operators (Jackhammer)	8.42	.40	.60	.20	
Mason Tender	8.23	.40	.60	.20	
Mortar Mixer and Plasterers' Tender	8.23	.40	.60	.20	
Vibrator Operator	8.42	.40	.60	.20	
LATHERS	8.23	.40	1.45		.01
LEADBURNERS	9.25	.35		c	.01
PAINTERS:					
Brush	8.65	.40	.40		
Structural Steel	8.80	.40	.40		
Spray	9.40	.40	.40		
PLASTERERS	9.38	.40	.50		
PLUMBERS AND STEAMFITTERS	10.93	.40	.60	.89	
ROOFERS	9.62	.40	.15		
PILEDRIVERMEN (West of Hwy #75)	10.01	.30	.40		.04

DECISION NO WI76-2169

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$ 10.00	.40	.70	1.15	.02
SPRINKLER FITTERS	10.40	.60	.90		.08
TERRAZZO WORKERS	9.42	.80	.60	.47	.07
TILE SETTERS	8.58	.50	.50	.50	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employer who has worked in business more than 5 years. Employer contributes 2% if regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the Holiday, and the regularly scheduled work days immediately preceding and following the holidays.

DECISION NO. WI76-2169

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 10.02	.70	.90		.10
GROUP II	9.77	.70	.90		.10
GROUP III	9.47	.70	.90		.10
GROUP IV	9.37	.70	.90		.10
GROUP V	9.16	.70	.90		.10
GROUP VI	8.92	.70	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor
GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)
GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)
GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type),Asssistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)
GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)
GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric),Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

[FR Doc.76-37631 Filed 12-27-76;8:45 am]

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federal register

WEDNESDAY, DECEMBER 29, 1976

highlights

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INFORMATION AND ASSISTANCE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

PART 18—PREPARATION AND TRANSMITTAL OF DOCUMENTS GENERALLY

Clarity of Rulemaking Documents in the Federal Register

AGENCY: Administrative Committee of the FEDERAL REGISTER.

ACTION: Final rule.

SUMMARY: This rule prescribes format requirements for the preamble that accompanies the regulatory text of a proposed or final rulemaking document. These requirements are intended to improve the clarity of documents published in the FEDERAL REGISTER since the present preamble requirement has not resulted in clear, simple explanations of rulemaking documents.

Effective Date: April 1, 1977.

For Further Information Contact:

Martha Girard, Special Projects Unit, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408. (202–523–5240).

Supplementary Information: On August 5, 1976, the Administrative Committee of the FEDERAL REGISTER published a proposed rule (41 FR 32861) to revise the present preamble requirements for certain FEDERAL REGISTER documents (1 CFR 18.12). As the Committee stated at that time, the present requirement was adopted in 1972 to introduce some uniform compliance with the public information function of the FEDERAL REGISTER and to make the information published easier to understand. The primary purpose of the proposed change was to improve the public notice giving function of the FEDERAL REGISTER.

Virtually all of the 46 comments received in response to the proposed changes were favorable. Several commenters, while agreeing in principle with the proposal, raised questions or made suggestions that convinced the Committee that a number of changes from the proposed rule are warranted.

DISCUSSION OF MAJOR COMMENTS

WHAT SHALL WE NAME IT?

The Committee received a wide variety of suggested names for what has traditionally (at least in the legal community) been called the preamble. After considering all of the comments and suggestions, the Committee has concluded there is not sufficient agreement on any one name to justify "regulating" a new name. Therefore, the Committee intends to continue to use the term preamble.

SHOULD THE RULE APPLY TO ALL FEDERAL REGISTER DOCUMENTS?

The Committee's proposed revision of § 18.12 contained mandatory requirements for the opening part of each FEDERAL REGISTER document. After considering the comments received, the Committee has concluded that these requirements should not apply to documents published in the Notices Section of the FEDERAL REGISTER at this time. This will permit agencies to concentrate their initial efforts on proposed and final rule documents which in general have more legal significance and public impact. It will also permit the Office of the Federal Register to evaluate the effectiveness of the new format requirements in actual use and to determine whether the same format should apply to notice documents.

Another commenter suggested that the § 18.12 requirements should be strictly advisory and not mandatory. The Committee does not agree. The public notice giving function of the FEDERAL REGISTER requires, at a minimum, that each rulemaking document be intelligible. For the public to use the FEDERAL REGISTER, for the staff of the Office of the Federal Register to perform its indexing function, it is essential that each rulemaking document contain an adequate preamble.

Additionally, it was suggested that the agencies be permitted some latitude as to preamble format. The Committee considers that adequate flexibility exists to accommodate agency needs under the "Supplementary Information" section. The Committee believes that it is important to provide relative consistency within the first six items of the preamble. This will aid FEDERAL REGISTER users and will also make practical the proposed Weekly Digest which is currently in the planning stage. (See GSA Consumer Representation Plan, 41 FR 42862, September 28, 1976).

HOW MUCH DETAIL IS REQUIRED?

Two comments were received concerning the need for paragraph (d), which proposed to require the issuing agency to make a determination of the need for additional information in the public interest of the type described in paragraph (c). The requirement for the agency to make a determination of a need for additional detailed information has been incorporated into paragraph (c) and paragraph (d) has been dropped. In addition, paragraph (c) has been rewritten to make it clear that it is up to the issuing agency to determine how much information must be supplied to satisfy both the legal and public information requirements of FEDERAL REGISTER publication.

The Committee does not feel that the requirement for detailed background information should be mandatory for all documents. There are a significant number of simple and routine documents which do not require detailed information to fully inform the public of the agency action. The issuing agency is best qualified to identify the audience being addressed and to assure that each document communicates its intended message to that audience.

BURDEN

Several commenters requested clarification of the term "burden." One commenter suggested that paragraphs (c)(4) and (5) be revised "to incorporate a statement of consumer burden." Another commenter suggested that paragraphs (c)(4) and (5) be reversed and placed under the requirements of paragraph (b) so as to make them mandatory. Finally, one commenter suggested that the requirements should "be specific as to costs citing a dollar amount."

The Committee has reconsidered the issue and has decided not to list "burden" as a separate requirement in paragraph (b). To some extent this is already covered by Executive Order 11821 (39 FR 41501) which requires the evaluation of inflationary impact for all rulemaking documents. Furthermore, if burden (economic or other) is a significant issue, then an agency should discuss it under the general requirements of paragraph (c).

IMPACT STATEMENTS

Two commenters requested that the appropriate impact statements be included in the introductory summary. Two commenters requested clarification of the term "appropriate impact statements." Upon further consideration, the Committee has decided to delete reference to impact statements as a separate requirement. It is anticipated that the responsible agencies will continue to include references to appropriate impact statements (environmental, economic, etc.) in documents where impact is a significant issue for public consideration.

WHY SUCH SIMPLE LANGUAGE?

One Federal agency stated:

The proposed approach is too broad in that it reduces everything for lay public consumption. For instance, what about technical matters designed for specific group consumption only, such as capitation grants for schools of nursing?

The Committee acknowledges that many problems addressed by Federal agencies are extremely complex and technical and therefore some regulations are necessarily complex and technical.

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However, the Committee is of the opinion that the need for, and intended effect of, even the most complex and technical regulation can be explained in words that can be understood by a person who is not an expert in the subject matter. Therefore, the Committee does not agree that the requirement of § 18.12 is too broad.

MUST WE REPLY TO EVERY COMMENT?

One commenter pointed out that:

• • • Our experience has been that proposed regulations which have controversial aspects will generally inspire a flood of comment letters, some of which will contain helpful and constructive suggestions or will make cogent points. Occasionally, however, some of these letters are merely vituperative in nature, or discuss points that are wholly irrelevant to the subject matter of the proposed regulation or are based on a grossly mistaken reading of the substance of a proposed regulation. It is clearly wasteful of time and energy to respond to all such comments in the FEDERAL REGISTER • • •.

The Committee agrees that it is neither useful nor necessary to respond to comments which are merely vituperative. Nor is it necessary to address individually each comment received. For example, in this document the Committee has attempted to address all of the significant comments received, those that resulted in changes in the rule and those that were rejected as well. In some cases several commenters addressed the same issue and these were lumped together as an "issue" discussion. The Committee has also noted those comments which were beyond the scope of the proposed rule. It also noted that where those comments were directed toward improvement of the FEDERAL REGISTER that they would be considered by the Office of the Federal Register in the future.

In response to the comments the Committee has inserted the word "substantive" before "public comments" in paragraph (c).

WHO CAN I CALL TO FIND ABOUT A DOCUMENT?

Several commenters requested that the names of agency contact persons, including phone numbers, be included with the explanatory material.

In his September 27, 1976 Memorandum for the Heads of Executive Departments and Agencies, the President stated:

In recognition of the need for consumers to have direct access to appropriate Federal officials, each department and agency publishing in the FEDERAL REGISTER a rule making, regulation, guideline or other policy matter shall provide in a manner and format determined by the General Services Administration the name, address, and telephone number of the appropriate person responsible for responding to citizens inquiry or comment.

(41 FR 42764, September 28, 1976).

Therefore, the Committee has added a requirement for identification of a contact person.

DELAY OF EFFECTIVE DATE

Several commenters suggested a delayed effective date to facilitate compliance by those agencies likely to be caught with a considerable number of documents already in process. The Committee concurs and is delaying the effective date to accommodate those concerns. However, agencies are strongly urged to begin using the new format as soon as possible. The staff of the Office of the Federal Register will assist agencies to ensure a smooth transition.

HIGHLIGHTS

Highlights will still appear on the cover of the FEDERAL REGISTER, contrary to the impression of several commenters. The new format requirements will provide the necessary information for the Office of the Federal Register staff to write meaningful highlight statements. Thus, the revocation of § 18.16 shifts the responsibility for preparation of the highlight from the issuing agency to the Office of the Federal Register staff. Certain classes of documents of a nonsubstantive nature will continue to be excepted from the highlights.

DISCUSSION OF MISCELLANEOUS COMMENTS

The Committee does not agree that the proposed rule would be improved as suggested by some commenters and has rejected the following suggestions:

(1) That the Office of the Federal Register must concur in an agency determination that further discussion under paragraph (c) is not required. This decision should be made by the issuing agency.

(2) That interpretative rules and procedural rules be exempted from § 18.12. These categories of rules can have as much public significance as legislative rules.

(3) That a summary of internal agency debate "be required in controversial cases." An agency discussion of the important issues in a rulemaking proceeding will normally be adequate to inform the public. Ventilation of internal agency debate is a decision that each agency must and should make for itself.

(4) That a disclaimer clause be included to state that the preamble is merely a reader aid and has no legal effect. Section 5.1(c) of the Committee's regulations states:

In prescribing regulations governing headings, preambles, effective dates, authority citations, and similar matters of form, the Administrative Committee does not intend to affect the validity of any document that is filed and published under law.

The Committee does not believe that a stronger disclaimer statement would be of any value. Rather, normal rules of construction would apply. That is, the courts would follow the language of a regulation as long as it is clear and would look to materials, not included in the regulation, such as the preamble statement, only to clarify ambiguity.

(5) That a "legal authorities statement" be added to the preamble requirements. Such a requirement would merely create a redundancy since it is already required with the regulatory text.

One commenter suggested that all regulations be reprinted, incorporating all intervening changes, at periodic intervals. This is presently being accomplished on an annual basis through the Code of Federal Regulations (CFR). All of the codified regulations are contained within its 50 titles which are updated and published annually. Full sets or individual volumes of the CFR are available through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

COMMENTS BEYOND SCOPE

A number of comments were received that were beyond the scope of the notice. They included:

(1) Require minimum comment period of 90 days;

(2) Eliminate emergency regulations;

(3) Impose personal responsibilities upon Government employees for the regulations and programs they propose;

(4) Group all documents in the daily FEDERAL REGISTER by agency;

(5) Request the Office of Management and Budget and the General Accounting Office to prepare for publication in the FEDERAL REGISTER proposed new report forms with instructions and justification statements;

(6) Increase the size of FEDERAL REGISTER print;

(7) Require, where proposed regulations have been substantially changed, agencies to resubmit the revised proposal rules for notice and comment;

(8) Require a standardized format for regulations; and

(9) Footnote legal citations and explain at the bottom of the page.

In addition to being beyond the scope of the proposed rule hereunder consideration, many of the above suggestions are beyond the authority of the Committee. The FEDERAL REGISTER is continually under review for potential improvement and all comments aimed in that direction will be considered by the Office of the Federal Register in its future efforts.

Accordingly, 1 CFR Part 18 is amended as follows:

1. By revising § 18.12 to read as follows:

§ 18.12 Preamble requirements.

(a) Each agency submitting a proposed or final rule document for publication shall prepare a preamble which will inform the reader, who is not an expert in the subject area, of the basis and purpose for the rule or proposal.

(b) The preamble shall be in the following format and contain the following information:

Agency: ---------- (Name of issuing agency)

Action: ----------
(Notice of Intent), (Advance Notice of Proposed Rulemaking), (Proposed Rule), (Final Rule), (Other).

Summary: ----------
(Brief statements, in simple language, of: (i) the action being taken; (ii) the circumstances which created the need for the action; and (iii) the intended effect of the action.)

Dates: ----------
(Comments must be received on or before: ----------) (Proposed effective date: ---------) (Effective date: ----------)
(Hearing: ----------) Other: ----------)

Addresses: ----------
(Any relevant addresses.)

For further information contact: ----------
(For Executive departments and agencies, the name and telephone number of a person in the agency to contact for additional information about this document [Presidential Memorandum, 41 FR 42769, September 28, 1976].)

Supplementary information: ----------
(As required by the provisions of paragraph (c) of this section.)

(c) When the issuing agency determines that the information provided under paragraph (b) of this section is inadequate as a matter of law, or is insufficient to adequately inform a reader who is not an expert in the subject area, or that a report of additional information is in the public interest, the agency shall include in the preamble the following information, as applicable:

(1) A discussion of the background and major issues involved;

(2) In the case of a final rule, any significant differences between it and the proposed rule;

(3) A response to substantive public comments received; and

(4) Any other information the agency considers appropriate.

§ 18.16 [Reserved]

2. By revoking and reserving § 18.16.

(44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958, Comp. p. 189,)

JAMES B. RHOADS,
Chairman.
THOMAS F. MCCORMICK,
Member.
MARY O. EASTWOOD,
Member.

Approved:

EDWARD H. LEVI,
Attorney General.
JACK ECKERD,
Administrator of General Services.

[FR Doc.76-38173 Filed 12-28-76;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 392, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period December 17–23, 1976. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 392 (41 FR 54918). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 907.692 (Navel Orange Regulation 392) (41 FR 54918) are hereby amended to read as follows:

(i) District 1: 788,000 cartons;
(ii) District 2: 55,000 cartons; and
(iii) District 3: 107,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: December 22, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-38142 Filed 12-28-76;8:45 am]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Expenses and Rate of Assessment

This document authorizes expenses of $27,000 for the Indian River Grapefruit Committee, under Marketing Order 912, for the 1976–77 fiscal period and fixes a rate of assessment of $0.002 per box ($0.001 per four-fifths bushel) of grapefruit handled in such period to be paid to the committee by each handler as his pro rata share of such expenses.

On December 3, 1976, notice of rulemaking was published in the FEDERAL REGISTER (41 FR 53035) inviting written comments not later than December 21, 1976, regarding proposed expenses and the related rate of assessment for the period August 1, 1976, through July 31, 1977, pursuant to the marketing agreement, as amended, and order No. 912, as amended (7 CFR Part 912) regulating the handling of grapefruit grown in the Indian River District in Florida. None were received. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Indian River Grapefruit Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 912.216 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee during the period August 1, 1976, through July 31, 1977, will amount to $27,000.

(b) *Rate of assessment.* The rate of assessment for said period payable by each handler in accordance with § 912.41, is fixed at $0.002 per standard packed box ($0.001 per four-fifths of a United States bushel) of grapefruit, whether in bulk or in any container.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of grapefruit are now being made, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period, and (3) such period began on August 1, 1976, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: December 22, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-38143 Filed 12-28-76;8:45 am]

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CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 442.12]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Grants for Facilitating Development of Private Business Enterprises and Community Water and Waste Disposal Facilities

The introductory text in § 1823.460 of Subpart 0 of Part 1823 of Chapter XVIII, Title 7, Code of Federal Regulations (38 FR 29037, as amended at 39 FR 40579), is amended. The purpose of this amendment is to permit the disbursement of grant funds prior to completion of construction in certain exceptional cases with the prior approval of the National Office. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553. This amendment, however, is not being published as proposed rulemaking because it amends existing regulations which preclude grant closing and funds being disbursed prior to project completion, and such delay is detrimental to concerned parties by prohibiting the completion of needed projects and is thus contrary to the public interest.

Interested persons are invited, however, to submit written suggestions on objections regarding this amendment to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before January 28, 1977. Material thus submitted will be evaluated and acted upon in the same manner as if the amendment were a proposal. All written submissions pursuant to this notice will be made available for public inspection in the Office of the Chief, Directives Management Branch during regular business hours (8:15 a.m.–4:45 p.m.).

As amended, the introductory text in § 1823.460 reads as follows:

§ 1823.460 Grant closing and delivery of funds.

Closing is the process by which FmHA determines that applicable administrative actions and required work of the grantee have been completed and delivers the grant funds. If all or a portion of the grant is for construction, the grant will not be closed and funds will not be delivered before construction is completed; however, in exceptional cases grants may be closed at an earlier date with prior concurrence of the National Office. In such exceptional cases, State Directors will forward their recommendations for fund disbursal and the following information to the National Office for concurrence before grant closing or commencement of construction, whichever occurs first: The applicant's certification that it has no other resources to pay for completion of the construction; and if interim financing cannot be used due to legal reasons, an opinion from the State Attorney General to that effect, provided by the applicant; or when interim financing is not otherwise available at reasonable rates and terms.

• • • • • •

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Effective date. This amendment shall become effective on December 29, 1976.

Dated: December 22, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-38119 Filed 12-28-76;8:45 am]

[FmHA Instruction 442.13]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Development Grants for Community Domestic Water and Waste Disposal Systems

MISCELLANEOUS AMENDMENT

Section 1823.472(e) (2) of Subpart P of Part 1823 of Chapter XVIII, Title 7, Code of Federal Regulations (39 FR 20475) is amended. The purpose of this amendment is to permit the disbursement of grant funds prior to completion of construction in certain exceptional cases, with prior approval of the National Office. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment, notwithstanding the exemption in 5 U.S.C. 553. This amendment, however, is not being published as proposed rulemaking because it amends existing regulations which preclude grant closing and funds being disbursed prior to project completion, and such delay is detrimental to concerned parties by prohibiting the completion of needed projects and is thus contrary to the public interest.

Interested persons are invited, however, to submit written suggestions or objections regarding this amendment to the Chief, Directives Management Branch, Farmers Home Administration, Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250 on or before January 28, 1977. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. All written submissions pursuant to this notice will be made available for public inspection in the office of the Chief, Directives Management Branch, during regular business hours (8:15 a.m.–4:45 p.m.).

As amended, § 1823.472(e) (2) reads as follows:

§ 1823.472 Application processing.

• • • • • •

(e) *Grant closing and delivery of funds.* • • •

(2) When FmHA is not making a loan and all or a portion of the grant is for construction, the grant will not be closed and funds will not be delivered before construction is completed; however, in exceptional cases grants may be closed at an earlier date with prior concurrence of the National Office. In such exceptional cases, State Directors will forward their recommendations for fund disbursal and the following information to the National Office for concurrence before grant closing or commencement of construction, whichever occurs first: The applicant's certification that it has no other resources to pay for completion of the construction; and, if interim financing cannot be used due to legal reasons, an opinion from the State Attorney General to that effect provided by the applicant; or when interim financing is not otherwise available, signed statements from other lenders and the applicant showing that such financing is not available at reasonable rates and terms.

• • • • • •

(7 U.S.C. 1989 delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Effective date. This amendment shall become effective on December 29, 1976.

Dated: December 22, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-38118 Filed 12-28-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRCULTURE

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

• *Purpose:* To correct the number of samples required for testing. •

Statement of considerations. The number of samples of a product submitted by each licensee for testing by Veterinary Services is prescribed in § 113.3. The number is based on the requirements of tests which may be conducted on each class of product by Veterinary Services personnel.

Subsequent to preparing the current list of samples, some products have been reclassified by definition from a bacterin to a bacterin-toxoid. The number of samples prescribed in § 113.3 for these products was not adjusted accordingly. These changes will provide the necessary number of samples for proper testing.

Pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158) Part 113, Subchapter E, Chapter 1 of Title 9 of the Code of Federal Regulations is amended by making the following administrative changes:

Section 113.3 is amended by revising paragraphs (b) (2) and (b) (5) to read:

§ 113.3 Sampling of biological products.

• • • • • •

(b) • • •

(2) *Bacterins and Bacterin-Toxoids:*

(i) Twelve samples of single-fraction bacterins and bacterin-toxoids.

(ii) Thirteen samples of double-fraction bacterins and bacterin-toxoids.

(iii) Fourteen samples of triple-fraction bacterins and bacterin-toxoids.

(iv) Fifteen samples of bacterins and bacterin-toxoids containing more than three fractions.

• • • • • •

(5) *Toxoids:* Sixteen single-dose samples or thirteen multiple-dose samples of tetanus toxoid or twelve samples of all other toxoids.

• • • • • •

(21 U.S.C. 151 and 154; 37 FR 28477; 38 FR 19141.)

These amendments provide administrative changes in the biologics control program administered in accordance with the Virus-Serum-Toxin Act. In order to be of maximum benefit, they must be made effective immediately.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning these amendments are impracticable and unnecessary, and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing amendments shall become effective December 28, 1976.

Done at Washington, D.C., this 23rd day of December, 1976.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

J. M. HEJL,
Deputy Administrator,
Veterinary Services.

[FR Doc.76-38229 Filed 12-28-76;8:45 am]

Title 10—Energy

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

REVOCATION OF FORMER AEC REGULATIONS

The Energy Research and Development Administration (ERDA) was established by the Energy Reorganization Act of 1974, Pub. L. 93-438. Pursuant to that Act, as an interim measure. ERDA published a notice, continuing in effect, to the extent not inconsistent with applicable law and with certain clarifications, the regulations of the former Atomic Energy Commission (AEC) contained in 10 CFR Chapter I. The notice also redesignated the regulations as Parts 700 through 870 of a new Chapter III.

The regulations carried over from the AEC included those which pertained to the licensing and regulatory functions of the AEC. These functions were transferred to the Nuclear Regulatory Commission by the Energy Reorganization Act and excepted from the transfer of AEC's functions to ERDA. Pub. L. 93-438, Sec. 201(f). Accordingly, the AEC licensing and related regulations are inapplicable to ERDA and should be revoked.

10 CFR Chapter III is amended by revocation of the parts listed below, effective December 29, 1976.

Dated: December 23, 1976.

ROBERT C. SEAMANS, JR.,
Administrator.

(Secs. 105, 301, Pub. L. 93-438, 88 Stat. 1238, 1249 (42 U.S.C. 5815, 5871).)

The following parts of 10 CFR Chapter III are hereby revoked:

Part No.	Title	Former AEC No.
715	Interpretations	8
719	Notices, instructions and reports to workers; inspections	19
720	Standards for protection against radiation	20
730	Rules of general applicability to licensing of byproduct material	30
731	General licenses for byproduct material	31
732	Specific licenses to manufacture, distribute, or import certain items containing byproduct material	32
733	Specific licenses of broad scope for byproduct material	33
734	Licenses for radiography and radiation safety requirements for radiographic operations	34
736	Export and import of byproduct material	36
740	Licensing of source material	40
750	Licensing of production and utilization facilities	50
751	Licensing and regulatory policy and procedures for environmental protection	51
755	Operators' licenses	55
770	Special nuclear material	70
771	Packaging of radio-active material for transport and transportation of radio-active material under certain conditions	71
800	Reactor site criteria	100
815	Procedures for review of certain nuclear reactors exempted from licensing requirements	115
850	Exemptions and continued regulatory authority in agreement states under sec. 274	150
870	Fees for facilities and materials licenses under the Atomic Energy Act of 1954, as amended	170

[FR Doc.76-38160 Filed 12-28-76;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. D; Docket No. R-0069]

PART 204—RESERVES OF MEMBER BANKS

Reserve Percentages

The Board of Governors has amended Regulation D (12 CFR 204) to modify the provisions as to the reserve balances that member banks are required to maintain on demand deposits. The amendments will reduce reserve requirements of member banks by one-half percentage point on demand deposits up to $10 million and by one-quarter percentage point on demand deposits above that amount.

The amendments approved by the Board today represent a structural adjustment in reserve requirements on demand deposits that will tend to increase the supply of bank credit. The effect of these amendments will be to reduce required reserves of member banks by approximately $550 million.

This action was taken pursuant to the Board's authority under section 19 of the Federal Reserve Act (12 U.S.C. 461) to set reserve ratios for member banks. The amendments to Regulation D are effective with respect to reserves required to be held by member banks during the week beginning December 30, 1976, against deposits outstanding in the week beginning December 16, 1976.

The Board determined it to be in the public interest to provide a basis for an increase in the supply of bank credit without the delay and uncertainty that might result if a change in reserve requirements were announced in proposed form. In light of these factors, therefore, the Board determined that good cause exists for dispensing with notice and public participation with respect to these amendments and for promulgating these amendments without deferring the effective date thereof for the 30 day period referred to in section 553(d) of Title 5 of the United States Code, and that it would be impracticable, unnecessary and contrary to the public interest to provide notice and public participation or to defer the effective date. See also § 262.2(e) of the Board's Rules of Procedure.

Effective as to the reserves required to be held during the week commencing December 30, 1976, against deposits outstanding in the week beginning December 16, 1976, § 204.5(a) (1) (iii) and (2) (iii) of Regulation D are amended to read as follows:

§ 204.5 Reserve requirements.

(a) • • •

(1) • • •

(iii) (a) 7 percent of its net demand deposits if its aggregate net demand deposits are $2 million or less, (b) $140,000 plus 9½ percent of its net demand deposits in excess of $2 million but less than $10 million, (c) $900,000 plus 11¾ percent of its net demand deposits in excess of $10 million if its aggregate net demand deposits are in excess of $10 million but less than $100 million, or (d) $11,475,000 plus 12¾ percent of its net demand deposits in excess of $100 million.

(2) • • •

(iii) $49,725,000 plus 16¼ percent of its net demand deposits in excess of $400 million.

• • • • • •

Board of Governors of the Federal Reserve System, December 17, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-38118 Filed 12-28-76;8:45 am]

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[Reg. ZFC–0030]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

In accordance with 12 CFR Part 226.1 (d), the Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

Official staff interpretations may be reconsidered by the Board upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

This interpretation shall be effective as of December 27, 1976.

[FC–0030]

§ 226.8(b)(3) Mortgage insurance premiums should be included in computation of each payment. Can disclose duplicate payments as "12 monthly payments of $x" rather than listing each duplicate payment separately. Supplements FC–0003. See also FC–0025.

DECEMBER 15, 1976.

This is in response to your letter of ———, in which you raised a question concerning the disclosure of mortgage guarantee insurance premiums under § 226.8(b)(3) of Regulation Z.

Your letter indicates that you are aware of the position expressed in Official Staff Interpretation FC–0003 that the amount of required mortgage insurance premiums should be taken into consideration in computing the amount of each payment scheduled to repay the indebtedness for disclosure under § 226.8(b)(3). You have asked how the mortgage insurance premium should be reflected on the Truth in Lending disclosure statement.

Staff suggests two methods of disclosure of the mortgage insurance premium which will satisfy § 226.8(b)(3). The creditor may simply list the actual amount of each required payment over the life of the loan. If this method is chosen, the mortgage insurance premium should be included in the computation of each payment to be made during the period for which mortgage insurance is required. It is staff's understanding that in most cases, although the mortgage insurance premium varies from year to year, the yearly premium is allocated equally to each monthly payment during that year, resulting in twelve equal monthly payments. In such cases, there is no need to list the amount of each payment twelve times; a disclosure such as "twelve monthly payments of $x" would be sufficient.

An alternative method of disclosure would be to disclose the amount of payments using the format outlined in Interpretation § 226.808. Official Staff Interpretation FC–0003 authorizes the use of the disclosure format outlined in Interpretation § 226.808 for this purpose despite the fact that each payment does not consist of an equal amount being applied to principal. Official Staff Interpretation FC–0025 (copy enclosed) outlines how a disclosure of this type could be made.

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(3) and is confined to the facts as stated. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Assistant Director.

[FC–0031]

§ 226.8(b)(3) Identical to FC–0030, issued December 15, 1976.

DECEMBER 17, 1976.

This is in response to your letter of ———, in which you raised a question concerning the disclosure of mortgage guarantee insurance premiums under § 226.8(b)(3) of Regulation Z.

Your letter indicates that you are aware of the position expressed in Official Staff Interpretation FC–0003 that the amount of required mortgage insurance premiums should be taken into consideration in computing the amount of each payment scheduled to repay the indebtedness for disclosure under § 226.8(b)(3). You have asked how the mortgage insurance premium should be reflected on the Truth in Lending disclosure statement.

Staff suggests two methods of disclosure of the mortgage insurance premium which will satisfy § 226.8(b)(3). The creditor may simply list the actual amount of each required payment over the life of the loan. If this method is chosen, the mortgage insurance premium should be included in the computation of each payment to be made during the period for which mortgage insurance is required. It is staff's understanding that in most cases, although the mortgage insurance premium varies from year to year, the yearly premium is allocated equally to each monthly payment during that year, resulting in twelve equal monthly payments. In such cases, there is no need to list the amount of each payment twelve times; a disclosure such as "twelve monthly payments of $x" would be sufficient.

An alternative method of disclosure would be to disclose the amount of payments using the format outlined in Interpretation § 226.808. Official Staff Interpretation FC–0003 authorizes the use of the disclosure format outlined in Interpretation § 226.808 for this purpose despite the fact that each payment does not consist of an equal amount being applied to principal. Official Staff Interpretation FC–0025 (copy enclosed) outlines how a disclosure of this type could be made.

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(3) and is confined to the facts as stated. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Assistant Director.

[FC–0032]

§226.8(c) Payment to dentist from patient's insurance company should be treated as downpayment if amount is known or can be estimated.

DECEMBER 20, 1976.

This is in response to your letter of ———, requesting an official staff interpretation concerning proper credit sale disclosures under § 226.8 of Regulation Z.

You indicate that your dentist clients, engaging in other than open end credit transactions, frequently receive payment from a patient's insurance company. This payment may be made prior to, during, or after dental treatment, and the timing is solely under the control of the insurance company. The insurance company generally provides, either directly or through the patient, an estimate of the amount of the fee which will be paid by the company. The dentist does not charge interest on the portion of the fee paid by the insurance company. However, the patient is liable to pay that amount if the company for any reason fails to pay. Your question is how this payment should be reflected on the disclosure statement for the credit sale.

Although the insurance payment is not always received prior to the time disclosures are made, it is staff's opinion that the best method of disclosure would be to show that payment as a downpayment, pursuant to § 226.8(c)(2). Two reasons support treating the payment in this manner. First, it reflects the reality of the transaction, since it is the cash price less these insurance payments that typically represents the true amount financed, i.e., the amount on which finance charges (here interest) are computed. Secondly, disclosures under Truth in Lending are to be based on the intentions of and the facts as known by the parties at consummation; here both parties rely on the insurance payments and structure their relationship accordingly.

If the insurance company payment has already been received at the time disclosures are made, the downpayment should be shown in the exact amount received. Where the payment has not yet been received but an estimate has been made by the insurance company, that estimated figure should be disclosed as the downpayment in accordance with § 226.8(f).

If, at the time of the disclosures, neither the payment nor an estimate has been received from the insurance company, in staff's opinion it would be proper to show the full fee as the cash price and therefore included in the amount financed. In other words, the initial transaction could be set up as if the insurance payment would not be made. If the insurance company later did make a payment, this would be treated as a subsequent occurrence. Since this unanticipated payment would ultimately result in a prepayment of the loan under the original terms of the contract, disclosures under § 226.8(b)(6) or § 226.8(b)(7) may be applicable.

This letter is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(3) of the Regulation. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Assistant Director.

Board of Governors of the Federal Reserve System, December 22, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76–38115 Filed 12–28–76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 77–12]

UNCLAIMED AND ABANDONED MERCHANDISE

General Order

Section 141.5 of the Customs Regulations (19 CFR 141.5) provides that merchandise for which timely entry is not made shall be treated in accordance with Part 20 of the Customs Regulations (19 CFR Part 20). Section 158.44(b) provides for the sale of abandoned merchandise in accordance with the provisions of Part 20. Section 162.46(c)(1) provides for the sale of forfeited property in accordance with the provisions of Part 20.

Part 20 of the Customs Regulations, relating to the disposition of unclaimed and abandoned property merchandise, has been deleted and its provisions revised and republished as Part 127. Therefore, it is necessary to amend §§ 141.5, 158.44(b), and 162.46(c)(1) in order that they properly refer to Part 127.

Accordingly, §§ 141.5, 158.44(b), and 162.46(c)(1) of the Customs Regulations (19 CFR 141.5, 158.44(b), 162.46(c)(1)) are amended as follows:

PART 141—ENTRY OF MERCHANDISE

§ 141.5 [Amended]

The second sentencee of § 141.5 is amended by substituting "Part 127" for "Part 20."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

§ 158.44 [Amended]

The first sentence of § 158.44(b) is amended by substituting "Part 127" for "Part 20."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 162—INSPECTION, SEARCH, AND SEIZURE

§ 162.46 [Amended]

The first sentence of § 162.46(c)(1) is amended by substituting "Part 127" for "Part 20."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

Inasmuch as the foregoing amendments merely correct obsolete references contained in the Customs Regulations and require no public initiative, notice and public procedure thereon is found to be unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

Effective date. These amendments shall become effective on December 29, 1976.

Approved: December 20, 1976.

VERNON D. ACREE,
Commissioner of Customs.
JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76–38141 Filed 12–28–76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7449]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Election to Have Investment Credit for Movie and Television Films Determined in Accordance With Previous Litigation

This document contains temporary income tax regulations (26 CFR Part 7) relating to the election to have the investment credit for movie and television films determined in accordance with previous litigation under section 804(c)(3) of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1595).

Under section 804(c)(3) of the Tax Reform Act of 1976, any taxpayer who filed an action in any court of competent jurisdiction before January 1, 1976, for a determination of such taxpayer's rights to investment credit under section 38 of the Internal Revenue Code of 1954 with respect to any film placed in service in any taxable year beginning before January 1, 1975, may elect to have investment credit on all films placed in service in taxable years beginning before January 1, 1975 (except those subject to an election under section 804(e)(2) of the Act) determined as through section 804 of the Act (except section 804(c)(3) of the Act) had not been enacted.

Section 804(c)(3)(D) of the Act provides that the election shall be made by filing a notification of such election with the National Office of the Internal Revenue Service. In order to provide taxpayers who may wish to make this election assurance that they do so properly, paragraph (b) of § 7.48–1 of the regulations contained in this Treasury decision provide a permissible, but not mandatory, means of making the election.

ADOPTION OF REGULATIONS

In order to prescribe temporary income tax regulations under the Tax Reform Act of 1976 (26 CFR Part 7) relating to the means of making the election to have the investment credit for movie and television films determined in accordance with previous litigation under section 804(c)(3) of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1595), the following temporary regulations are hereby adopted and added to Part 7, established at 41 FR 55344, December 20, 1976.

§ 7.48–1 Election to have investment credit for movie and television films determined in accordance with previous litigation.

(a) *Generally.* Under section 804(c)(3) of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1595), any taxpayer who filed an action in any court of competent jurisdiction before January 1, 1976, for a determination of such taxpayer's rights to investment credit under section 38 of the Internal Revenue Code of 1954 with respect to any film placed in service in any taxable year beginning before January 1, 1975, may elect to have investment credit on all films placed in service in taxable years beginning before January 1, 1975 (except those subject to an election under section 804(e)(2) of the Act) determined as though section 804 of the Act (except section 804(c)(3) of the Act) had not been enacted.

(b) *Manner of making the election.* The election allowed by section 804(c)(3) of the Act may be made by a notification in the form of a letter signed by the taxpayer or an authorized representative of the taxpayer stating:

(1) The taxpayer's name, address, and identification number;

(2) The taxable years in which the films were placed in service with respect to which the election shall apply; and

(3) The court in which the litigation was commenced and information adequate to identify the particular litigation, for example, the names of the litigants, the date the suit was commenced, and the court case or docket number of the litigation.

The letter should be sent to the Deputy Commissioner of Internal Revenue, Attention: CC:RL:Br2, Room 4617, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

(c) *Time for making the election.* The election under section 804(c)(3) of the Act must be made not later than January 3, 1977. If mailed, the cover containing the notification of such election must be postmarked not later than January 3, 1977.

(d) *Revocation of election.* An election under section 804(c)(3) of the Act, once made, shall be irrevocable.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805)).

Approved: December 22, 1976.

WILLIAM E. WILLIAMS,
Deputy Commissioner of Internal Revenue.

WILLIAM M. GOLDSTEIN,
Acting Assistant Secretary of the Treasury.

[FR Doc.76–38099 Filed 12–22–76;4:48 pm]

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[T.D. 7450]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Questions and Answers Relating to Exclusion of Certain Disability Income Payments

This document contains questions and answers relating to the exclusion of certain disability income payments received in taxable years beginning after December 31, 1975, from an employer-establish plan.

Under prior law, an employee could exclude from income up to $100 a week received under wage continuation plans when such employee was absent from work on account of injury or sickness. The Tax Reform Act of 1976 eliminates the so-called sick pay exclusion for temporary absences from work and continues the exclusion of up to $5,200 a year generally for retirees under age 65 only if the disability retiree is permanently and totally disabled. In addition the Act reduces this $5,200 exclusion dollar-for-dollar for adjusted gross income (including disability income) in excess of $15,000.

These questions and answers are intended to provide guidelines which may be relied upon by taxpayers in order to resolve the issues specifically considered. However, no inferences should be drawn regarding issues not raised which may be suggested by a particular question and answer or as to why certain questions, and not others, are included. Furthermore, in applying the questions and answers, the effect of subsequent legislation, regulations, court decisions, and interpretative bulletins must be considered.

ADOPTION OF AMENDMENTS OF THE REGULATIONS

In order to provide Temporary Income Tax Regulations (26 CFR Part 7) under section 105(d) of the Internal Revenue Code of 1954, as amended by section 505 (a) and (c) of the Tax Reform Act of 1976 (90 Stat. 1566), the following new section is added.

§ 7.105–1 Questions and answers relating to exclusions of certain disability income payments.

Q–1: What effect on the sick pay exclusion does the new law have?

A–1: The "sick pay" provisions of prior law (which allowed a limited exclusion from gross income of sick pay received before mandatory retirement age by active employees temporarily absent from work because of sickness or injury, as well as by disability retirees) have been replaced by provisions of the new law (which provide for a limited exclusion of disability payments but restrict its application to individuals retired on disability who meet certain requirements as to permanent and total disability, age, etc.) (Q–4). As a result of the more restrictive provisions of the new law, many taxpayers who qualified for the exclusion in previous taxable years will not be eligible to claim the disability payments exclusion beginning with the effective date of the new law.

Q–2: What is the effective date of the new law relating to disability exclusion?

A–2: The disability payments exclusion and the related annuity provisions of the Tax Reform Act of 1976 are effective for taxable years beginning after December 31, 1975. Thus, a payment received in 1976 by a retiree who uses the cash receipts and disbursements method of accounting and files returns on a calendar year basis is governed by the new law. This is true even though the payment may be applicable to 1975. For example, a payment for December 1975 that is received in January 1976 by a calendar-year, cash-basis taxpayer is controlled by the new law.

Q–3: What are disability payments?

A–3: In general, disability payments are amounts constituting wages or payments in lieu of wages made under provisions of a plan providing for the payment of such amounts to an employee for a period during which the employee is absent from work on account of permanent and total disability. Amounts paid to such an employee after mandatory retirement age is attained are not wages or payments in lieu of wages for purposes of the disability income exclusion.

Q–4: Who is eligible to exclude disability payments?

A–4: A taxpayer who receives disability payments in lieu of wages under a plan providing for the payment of such amounts may qualify for the exclusion provided all of the following requirements are met:

(1) The taxpayer has not reached age 65 (see Q–9) before the end of the taxable year;

(2) The taxpayer has not reached mandatory retirement age (see Q–8) before the beginning of the taxable year;

(3) The taxpayer retired on disability (see Q–10) (or if retired prior to January 1, 1976 and did not retire on disability, would have been eligible to retire on disability at the time of such retirement);

(4) The taxpayer was permanently and totally disabled (see Q–11) when the taxpayer retired (or if the taxpayer retired before January 1, 1976, was permanently and totally disabled on January 1, 1976); and

(5) The taxpayer has not made an irrevocable election not to claim the disability income exclusion (see Q–17 through Q–19).

Q–5: What limitations are placed on the amounts excludable?

A–5: The amount of disability income that is excludable:

(a) Cannot exceed the amount of the disability income payments received for any pay period;

(b) Cannot exceed a maximum weekly rate of $100 per taxpayer. Thus, the maximum disability income exclusion allowable on a joint return (see Q–7) in the usual case where one spouse receives disability payments, generally, would be $5,200, and if both spouses received disability payments the maximum exclusion, generally, would be $10,400 ($5,200 for each spouse);

(c) Cannot exceed, in the case of a disability income payment for a period of less than a week, a prorated portion of the amount otherwise excludable for that week (see Q–6); and

(d) Cannot exceed, for the entire taxable year, the total amount otherwise excludable for such taxable year reduced, dollar for dollar, by the amount by which the taxpayer's adjusted gross income (determined without regard to the disability income exclusion) exceeds $15,000. Where a disability income exclusion is claimed by either or both spouses on a joint return, the taxpayer's adjusted gross income means the total adjusted gross income of both spouses combined (determined without regard to the disability income exclusion) (see also Q–7).

Q–6: On what occasion is a taxpayer likely to receive part-week disability payments? How do you prorate such payments?

A–6: Such part-week payments may be received when one of the following events occurs after the first day of the taxpayer's normal workweek: (a) the disability retirement commences; (b) the taxpayer reaches mandatory retirement age in a taxable year prior to the taxable year in which such taxpayer attains age 65; or (c) the taxpayer dies. To prorate a part-week disability income payment for purposes of the exclusion, the taxpayer must:

(1) Determine the "daily exclusion," which is the lesser of—

(a) The taxpayer's daily rate of disability pay, or

(b) $100 divided by the number of days in the taxpayer's normal workweek.

(2) Multiply the daily exclusion by the number of days for which the part-week payment was made.

Thus, for a taxpayer whose normal workweek was Monday through Friday and whose retirement on permanent and total disability began on Wednesday, the first disability income payment would include a payment for a part-week consisting of three days. Assuming that the daily exclusion determined in (1), above, is $20, the taxpayer's exclusion for the first week would be $60 ($20 × 3).

Q–7: What filing restrictions apply to a married taxpayer who claims a disability income exclusion?

A–7: A taxpayer married at the close of the taxable year who lived with his or her spouse at any time during such taxable year must file a joint return in order to claim the disability income exclusion. However, a taxpayer married at the close of the taxable year who lived apart from his or her spouse for the entire taxable year may claim the exclusion on either a joint or separate return.

Q–8: What is "mandatory retirement age"?

A–8: Generally, mandatory retirement age is the age at which the taxpayer would have been required to retire under the employer's retirement program, had the taxpayer not become disabled.

Q–9: Does a taxpayer reach age 65 on the day before his or her 65th birthday for purposes of the disability income exclusion, as is the case for purposes of the exemption for age and the credit for the elderly?

A–9: No. For purposes of the disability income exclusion, a taxpayer reaches age 65 on the day of his or her 65th birthday anniversary. Thus, a taxpayer whose 65th birthday occurs on January 1, 1977, is not considered to reach age 65 during 1976, for purposes of the disability income exclusion.

Q–10: What does "retired on disability" mean?

A–10: Generally, it means that an employee has ceased active employment in all respects because of a disability and has retired under a disability provision of a plan for employees. However, an employee who has actually ceased active employment in all respects because of a disability may be treated as "retired on disability" even though the employee has not yet gone through formal "retirement" procedures, as for example, where an employer carries the disabled employee in a non-retired status under the disability provisions of the plan solely for the purpose of continuing such employee's eligibility for certain employer-provided fringe benefits. In addition, such an employee may be treated as "retired on disability" even though the initial period immediately following his or her ceasing of employment on account of a disability must first be used against accumulated "sick leave" or "annual leave" prior to the employee being formally placed in disability retirement status.

Q–11: What is permanent and total disability?

A–11: It is the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that:

(a) Can be expected to result in death;

(b) Has lasted for a continuous period of not less than 12 months; or

(c) Can be expected to last for a continuous period of not less than 12 months. The substantial gainful activity referred to is not limited to the activity, or a comparable activity, in which the individual customarily engaged prior to such individual's retirement on disability.

Q–12: If a taxpayer retired on disability but it is not clear until the following taxable year that the disability as of the date of such retirement was permanent and total (so that the employee did not exclude any amount as disability income in the earlier taxable year), may the taxpayer file an amended return to claim the disability income exclusion for the taxable year in which such taxpayer retired on disability which was permanent and total?

A–12: Yes.

Q–13: What proof must a taxpayer furnish to establish the existence of permanent and total disability?

A–13: If retired on disability before January 1, 1976: A certificate from a qualified physician attesting to the taxpayer's permanent and total disability on January 1, 1976.

If retired on disability during 1976 or thereafter: A certificate from a qualified physician attesting to the taxpayer's permanent and total disability at the time such taxpayer retired on disability.

In either case, the taxpayer must attach such certification to the taxpayer's income tax return. The certification by the physician shall give the physician's name and address and shall also contain an acknowledgment that the physician understands the certification will be used by the taxpayer to claim the exclusion for permanent and total disability on his or her income tax return. No certification from any employer is required with regard to the determination of permanent and total disability.

Q–14: For what period does a taxpayer eligible (see Q–4) for the disability income exclusion (without regard to the $15,000 income phaseout explained in Q–5) continue to be eligible for such exclusion?

A–14: Unless the taxpayer earlier makes the irrevocable election not to claim the disability income exclusion described in Q–17 through Q–19, such taxpayer continues to be eligible until the earlier of:

(a) The beginning of the taxable year in which the taxpayer reaches age 65; and

(b) The day on which the taxpayer reaches mandatory retirement age.

Q–15: May a taxpayer while eligible (see Q–4) for the disability income exclusion under the new law, exclude any applicable pension or annuity costs?

A–15: No. This is true even though while eligible for the disability income exclusion, such taxpayer is unable to exclude any amount of the disability income payments because of the $15,000 income phaseout (see Q–5).

Q–16: When will a taxpayer who is eligible (see Q–4) to exclude disability income payments (without regard to the $15,000 phaseout explained in Q–5) under the new law be able to exclude any applicable pension or annuity costs?

A–16: In general, such a taxpayer will begin to exclude any of his or her pension or annuity costs under applicable rules of the Code beginning on the first day of the taxable year in which he or she attains age 65 or, if mandatory retirement age is attained in an earlier taxable year, beginning on the day the taxpayer attains mandatory retirement age.

Q–17: May a taxpayer who is eligible (see Q–4) to exclude disability income payments (without regard to the $15,000 phaseout explained in Q–5) under the new law begin to exclude applicable pension or annuity costs in an earlier taxable year?

A–17: Yes, but such a taxpayer must make the election described in Q–18 and Q–19 in which case the taxpayer would no longer be eligible for the disability income exclusion.

Q–18: What is an election not to claim the disability income exclusion?

A–18: It is an irrevocable election for the taxable year for which the election is made, and each taxable year thereafter. If such an election is made the taxpayer will begin to recover tax-free, out of the payments, his or her annuity costs as provided under the applicable provision of the Code.

Q–19: How does a taxpayer who is eligible to exclude disability income payments (without regard to the $15,000 phaseout explained in Q–5) under the new law make this election?

A–19: The election is made by means of a statement attached to the taxpayer's income tax return (or amended return) for the taxable year in which the taxpayer wishes to have the applicable annuity rule apply. The statement shall set forth the taxpayer's qualifications to make the election (i.e., that the taxpayer is eligible (see Q–4) to exclude disability income payments (without regard to the $15,000 income phaseout explained in Q–5)) and that such taxpayer irrevocably elects not to claim the benefit of excluding disability income payments under section 105(d), as amended, for such taxable year and each taxable year thereafter. The election cannot be made for any taxable year beginning before January 1, 1976.

Q–20: What relief is provided for taxpayers who underpaid their estimated taxes for the installments due prior to enactment of the Tax Reform Act of 1976?

A–20: The IRS does not, under present law, have any authority to abate estimated tax underpayment penalties that are attributable to retroactive changes in the tax law. However, when Congress reconvenes it is anticipated that legislation may be approved to relieve taxpayers of such penalties due to the Tax Reform Act to the extent that they are attributable to retroactive changes in the law. Therefore, the Service will defer assessment of penalties for the underpayment of estimated tax until April 15, 1977, in order that Congress will have an opportunity to consider legislative action in this area. In the meantime, current estimated tax installments should reflect changes made in the law. To avoid additional penalties which will arise should remedial legislation not be enacted, taxpayers should pay previously underpaid estimated tax as soon as possible.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitations of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 21, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.76-38098 Filed 12-22-76;4:44 pm]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7451]

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

Temporary Regulations Relating to Certain Requirements for Income Tax Return Preparers

This document contains temporary regulations on procedure and administration (26 CFR Part 404) under sections 6060, 6107, 6109(a)(4), and 6695(b) of the Internal Revenue Code of 1954 as added or amended by section 1203 of the Tax Reform Act of 1976 (Pub. L. 95–455, 90 Stat. 1688) in order to provide for certain requirements for income tax return preparers with respect to the preparation of returns of tax under subtitle A of the Code and claims for refund of tax under subtitle A of the Code.

The temporary regulations provide for the filing of an annual information return by certain income tax return preparers with respect to income tax return preparers employed by them. The temporary regulations also provide for the signature of an income tax return preparer on the return or on the claim for refund of income tax; for the furnishing of a copy of the return or claim for refund to the taxpayer for whom such return or claim was prepared; and for retention of a copy of the return or claim for refund prepared, or retention on a list, of the name, the identification number, and taxable year of the taxpayer for whom such return or claim for refund was prepared and the type of return or claim for refund prepared. In addition, certain income tax return preparers are required by such temporary regulations to furnish on the return or claim for refund their identifying number and the address of the place of business where such return or claim for refund was prepared.

Income tax return preparers shall comply with the requirements of these provisions for returns or claims for refund prepared after December 31, 1976.

ADOPTION OF AMENDMENT TO THE REGULATIONS

A new part 404, Temporary Regulations on Procedure and Administration Under the Tax Reform Act of 1976, is hereby added to Title 26 of the Code of Federal Regulations. In order to prescribe temporary regulations on procedure and administration relating to certain requirements for income tax return preparers under sections 6060, 6107, 6109 (a)(4), and 6695(b) of the Internal Revenue Code of 1954, as added or amended by section 1203 of the Tax Reform Act of 1976 (Pub. L. 95–455, 90 Stat. 1688), the following temporary regulations are hereby adopted:

Sec.

404.6060–1 Information returns of income tax return preparers.
404.6107–1 Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list.

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404.6109–1 Furnishing identifying number of income tax return preparer.
404.6695–1 Failure to sign return.

AUTHORITY. Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

§ 404.6060–1 Information returns of income tax return preparers.

(a) *In general.* (1) Any person who employs one or more income tax return preparers to prepare any return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 other than for such person, at any time during a return period shall make an information return setting forth the name, taxpayer identification number, and place of work of each income tax return preparer employed by him at any time during such period.

(2) For the definition of the term "income tax return preparer", see section 7701(a)(36). For the definition of the term "return period", see section 6060(c) and paragraph (c) of this section.

(3) For purposes of this section, any individual who, in acting as an income tax return preparer, is not the employee of another income tax return preparer shall be treated as his own employer. Thus, for example, a sole proprietor without any employee-preparers shall make the information return required under this section. However, a partnership shall, for the purpose of this section, be treated as the employer of the partners of such partnership. Thus, the partnership shall make the information return on which shall be listed the partners and employees who were income tax return preparers on behalf of the partnership during the return period.

(4) Form 5717 is the form prescribed for use in making the information return required under this section. The information return made under this section shall be filed on or before the first July 31 following the end of the return period to which such return relates with the Internal Revenue Service Center.

(b) *Alternative reporting method.* (1) A person required to make an information return under paragraph (a) of this section may request approval of an alternative reporting method which such person wishes to use to comply with the requirements of paragraph (a) of this section. Such an alternative reporting method requested may include, for example, the filing, on a consistent basis, of the information required by paragraph (a) of this section on magnetic tape. However, no approval will be given to an alternative reporting method that does not require some form of annual filing of all the information required.

(2) Any such request for approval of an alternative reporting method shall be in writing, directed to, and filed at least 90 days prior to the date such return is otherwise due with the Office of Assistant Commissioner (Accounts, Collection and Taxpayer Service), Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. If such request is denied (or not approved) by the date when the return is otherwise due, the return shall be immediately filed. If such request is approved, the approval shall continue in effect with respect to all return periods until modified or revoked by written notice to the person otherwise required to make the return.

(c) *Return period defined.* For purposes of this section, the term "return period" means the 12-month period beginning on July 1 of each year, except that the first return period shall be the 6-month period beginning on January 1, 1977, and ending on June 30, 1977.

(d) *Penalty.* For the civil penalty for failure to file an information return required under this section or for failure to set forth an item in such return as required under this section, see section 6695(e).

§ 404.6107–1 Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list.

(a) *Furnishing copy to taxpayer.* Any person who is an income tax return preparer with respect to any return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 shall furnish a completed copy of such return or claim for refund to the taxpayer not later than the time such return or claim for refund is presented for such taxpayer's signature.

(b) *Copy or list to be retained.* Any person who is an income tax return preparer with respect to a return or claim for refund shall, for the 3 year period following the close of the return period during which such return or claim for refund was filed—

(1) (i) Retain a completed copy of such return or claim for refund, or

(ii) Retain, on a list, the name, taxpayer identification number, and taxable year of the taxpayer for whom such return or claim for refund was prepared and the type of return or claim for refund prepared; and

(2) Make such copy or list available for inspection upon request by the district director.

For the definition of the "return period", see section 6060(c) and § 404.6060.1(c).

(c) *Preparer.* For the definition of the term "income tax return preparer", see section 7701(a)(36). For purposes of applying this section, in the case of—

(1) An employment arrangement between two or more income tax return preparers, the person who employs one or more other preparers to prepare for compensation any return or claim for refund other than for such person (and not the other preparers) shall be considered to be the income tax return preparer; and

(2) A partnership arrangement for the preparation of returns and claims, the partnership (and not the partner) shall be considered to be the income tax return preparer.

(d) *Penalties.* (1) For the civil penalty for failure to furnish a copy of the return or claim for refund to the taxpayer as required of the preparer under paragraph (a) of this section, see section 6695(a).

(2) For the civil penalty for failure to retain a copy of the return or claim for refund, or to retain a list, as required of the preparer under paragraph (b) of this section, see section 6695(d).

§ 404.6109–1 Furnishing identifying number of income tax return preparer.

(a) *Furnishing identifying number.* Any return or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 prepared by an income tax return preparer shall bear the identifying number of such preparer. For purposes of this section, where there is an employment arrangement between two or more preparers, the person who employs one or more other persons to prepare for compensation the return or claim for refund (and not the other preparers) shall be considered to be the preparer. Where the preparer is—

(1) An individual (not described in subparagraph (2) of this paragraph (a)), such preparer's social security account number shall be affixed by such preparer; and

(2) A person (whether an individual, corporation or partnership) who employs one or more persons to prepare the return or claim for refund, such preparer's employer identification number shall be affixed by such preparer.

For the definition of the term "income tax return preparer" (or "preparer"), see section 7701(a)(36).

(b) *Furnishing address.* Any return or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 which is prepared by an income tax return preparer shall bear the street address, city, state, and postal zip code of the preparer's place of business where the return or claim for refund was prepared. For purposes of the preceding sentence, if prior written permission has been granted by the Internal Revenue Service, the postal zip code of such place of business will be considered a satisfactory address. However, if the place of business where the return or claim for refund was prepared is not maintained by the preparer as a place of business on a year-round basis, the return or claim for refund shall bear the street address, city, state, and postal zip code of the preparer's principal office or business location which is maintained on a year-round basis, or if none, the preparer's residence.

(c) *Penalty.* For the civil penalty for failure to furnish an identifying number as required under paragraph (a) of this section, see section 6695(c).

§ 404.6695–1 Failure to sign return.

(a) *Signature of income tax return preparer.* Any individual who is an income tax return preparer with respect to a return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 shall sign the return or claim for refund in the appropriate space provided on such return or claim for refund. If the preparer is unavailable for signature, another preparer must so advise the taxpayer, must review the entire preparation of the return or claim, and then must sign the return or claim. The signature of the preparer should be affixed after the return or claim is completed and is ready to be submitted to the taxpayer for signature. For the definition of the term "income tax return preparer" (or preparer), see section 7701(a)(36). If more than one income tax return preparer is involved in the preparation of the return or claim for refund, the individual preparer who has the primary responsibility as between or among the preparers for the overall accuracy of the preparation of such return or claim for refund shall be deemed to be the income tax return preparer for purposes of this section.

(b) *Examples* The application of paragraph (a) of this section is illustrated by the following examples:

Example (1). X law firm employs Y, a lawyer, to prepare for compensation returns and claims for refund of taxes. X is employed by T, a taxpayer, to prepare his 1976 Federal tax return. X assigns Y to prepare T's return. Y obtains the information necessary for completing the return from T and makes determinations with respect to the proper application of the tax laws to such information in order to determine T's tax liability. Y then forwards such information to C, a computer tax service which performs the mathematical computations and prints the return form by means of computers. C then sends the completed return to Y who reviews the accuracy of the return. Y is the individual preparer who is primarily responsible for the overall accuracy of T's return. Y must sign the return as preparer.

Example (2). X partnership is a national accounting firm which prepares for compensation returns and claims for refund of taxes. A and B, employees of X, are involved in preparing the 1976 tax return of T Corporation. After they complete the return, including the gathering of the necessary information, the application of the tax law to such information, and the performance of the necessary mathematical computations, P, a partner of X reviews the return. As part of this review, P checks for mathematical mistakes, reviews the information provided, and makes the final determination with respect to the proper application of the tax law to the information in order to determine T's tax liability. P is the individual preparer who is primarily responsible for the overall accuracy of T's return. P must sign the return as preparer.

Example (3). C corporation maintains an office in Seattle, Washington for the purpose of preparing for compensation returns and claims for refund of taxes. C makes compensatory arrangements with individuals (but provides no working facilities) in several states to collect information from taxpayers and to make determinations with respect to the proper application of the tax law to such information in order to determine the tax liabilities of such taxpayers. E, an individual who has such an arrangement in Los Angeles with C, collects such information from T, a taxpayer, and completes a work sheet kit supplied by C which is stamped with E's name and an identification number assigned by C. In this process, E classifies this information in appropriate income and deduction categories for the tax determination. The completed work sheet kit signed by E is then mailed to C. D, an employee in C's office, reviews the work sheet kit for accuracy. D neither reviews the information for the validity or accuracy of the underlying information provided nor makes the final determinations with respect to the proper application of the tax law to such information. The data from the work sheet kit is entered into a computer and the return form is completed. The return is prepared for submission to T with filing instructions. E is the individual preparer primarily responsible for the overall accuracy of T's return. E must sign the return as preparer before filing.

(c) *Penalty.* Any individual required by paragraph (a) of this section to sign a return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954 who fails to comply with such requirement shall be subject to a penalty of $25 for each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury Decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

Approved: December 23, 1976.

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

WILLIAM M. GOLDSTEIN,
Assistant Secretary of the Treasury.

[FR Doc.76-38140 Filed 12-23-76; 12:03 pm]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS

[FRL 655-2]

PART 35—STATE AND LOCAL ASSISTANCE

Subagreements Under Grants for Construction of Treatment Works; Technical Amendments

On March 4, 1976, the Environmental Protection Agency published in the FEDERAL REGISTER as final rulemaking Appendixes C–1 (Required Provisions—Consulting Engineering Agreements) and C–2 (Required Provisions—Construction Contracts) to 40 CFR Part 35 Subpart E (41 FR 9340). These Appendixes were an integral part of regulations governing procurement under grants for construction of treatment works which had been published with Appendixes C–1 and C–2 reserved on December 17, 1975 (40 FR 58602), and which became effective on March 1, 1976.

At the time of promulgation of Appendixes C–1 and C–2, interested parties were invited to submit comments by May 15, 1976, with respect to the need for revision of the Appendixes. Approximately 80 comments were received, the large majority of which were on Appendix C–1, indicating certain areas which would benefit from revision. Subsequent to preparation of a first draft revision, public meetings, announced in the FEDERAL REGISTER (41 FR 36834), were held on September 16 and 17, 1976, to discuss that draft. A subsequent draft of the revisions was distributed to all parties who attended the public meeting. Some additional comments were received at that time. The revisions promulgated here were developed after full consideration of all comments received in writing and as the result of the public meetings.

Some of the changes being made in Appendixes C–1 and C–2 necessitate minor changes in the regulatory sections upon which they are based. Accordingly, such technical amendments to the regulations are also being promulgated at this time.

Discussion of the major comments received and changes made follows:

GENERAL COMMENTS

Several commenters questioned why EPA was issuing these Appendixes if the Agency itself is not to be a party to the contracts in which they will be included. The Appendixes are issued in order to ensure that all mandatory Federal provisions are included in each subagreement and thereby to simplify review of subagreements under EPA grants. In extraordinary circumstances, when use of the Appendixes by a grantee would not be in the best interest of the Government, deviations from the regulatory requirements for their use may be requested in accordance with Subpart I of 40 CFR Part 30.

Both Appendixes promulgated on March 4 made reference to various EPA regulations. Many commenters requested that those statements be modified to indicate that the reference is to regulations in effect on the date of execution of the agreement or contract. References to the regulations throughout both Appendixes have been modified to read "in effect on the date of execution of this agreement [contract]."

Questions have been raised as to the applicability of Appendix C–1, C–2 or both to a construction management contract. The applicability of C–1 or C–2 clauses to a project manager who acts as an agent for the grantee to manage design or construction is limited to the extent to which the project manager is actually performing design or construction tasks for which these clauses would appropriately apply. Therefore, the specific clauses which are applicable to a particular construction management contract will be determined by the EPA Regional Office on a case-by-case basis.

APPENDIX C–1 AND RELATED SECTIONS

Several commenters suggested that the Appendix C–1 provisions need not apply to the entire engineering agree-

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ment, but only to those portions of the work which are funded by EPA. That was our intent and we have, therefore, specifically stated in clause 1(a) that the provisions "apply to the EPA grant-eligible work."

Several commenters suggested that the word "deficiencies" in 2(a) be changed to read "omissions" which is a term used in engineering agreements such as that jointly issued by the National Society of Professional Engineers and the American Consulting Engineers Council. The term "deficiencies," however, is the term used in engineering agreements awarded directly by the Federal government. We recognize that the terms are not identical and may connote different things. Accordingly, we have added the term "omissions" to the existing clause, so that the Engineer will "correct or revise any errors, omissions or other deficiencies."

Several commenters suggested that the Engineer should not be responsible when errors are attributable to circumstances beyond his control. Such a statement was added to 2(d). Further, a statement has been added limiting the Engineer's liability when new or advanced technology is used pursuant to applicable EPA regulations.

Clause 3 has been rewritten to clarify EPA's intent that the specific scope of work should be identified in the basic engineering services agreement to which these provisions are attached, and that work shall be performed in accordance with the EPA regulations.

Several commenters expressed strong concern about the reference to 40 CFR Part 35 Subpart E in Clause 3 because of the substance of one of the sections of those regulations. Section 35.935–5 requires the grantee to "provide and maintain competent and adequate engineering supervision and inspection of the project to insure that construction conforms with the approved plans and specifications." (Emphasis added.) Some engineers and their insurance carriers have interpreted this section to mean that EPA intended the engineer to guarantee the construction. Such guarantees are specifically excluded from some professional liability insurance policies. Such is not the intent of EPA. We do not expect the engineer to be the guarantor of the construction contract.

A paragraph has been added to clause 4 which indicates that if EPA requirements should change, the increased or decreased cost of performance shall be reflected in a modification of the agreement.

The provision for termination for convenience of the Owner in clause 5 has been tightened somewhat to indicate that such termination should be based upon some justifiable cause, such as legal or financial constraints, or transition to the next Step under the grant. A provision has been added to paragraph (e) that if the work is taken over and completed by another party, the Engineer will not be held liable for improper use of the Engineer's work.

The Remedies clause promulgated on March 4 provided for arbitration unless the parties agreed otherwise. Nevertheless, the clause was read by many commenters as mandating arbitration. That was not the intent. The clause has been revised to reduce the emphasis on arbitration, and now specifically mentions both the option of arbitration and the option of remedy in the courts. The parties could also agree in the basic agreement to some other mechanism, such as a Board of Contract Appeals, or the like, in the larger municipalities.

The Payments clause promulgated on March 4 provided for monthly progress payments with a retainage of ten percent until the completion of a Step or task within a Step. The provision, and the regulation on which it was based (§ 35.937–10) represented a significant liberalization of the previous EPA policy which provided for EPA payment only at the completion of a task or Step. Nevertheless, the new policy was viewed by many commenters as more restrictive. The revised clause provides that payment will be made in accordance with a schedule incorporated in the basic engineering agreement. If no such schedule is included, however, the clause provides for monthly progress payments. Any retainage is at the option of the grantee. No payment, however, may exceed the estimated value of services performed. Sections 35.937–10 and 35.945 are also being amended in this promulgation to reflect this change in policy.

In paragraph (d) of clause 9, many commenters suggested that the Engineer should be permitted to comment on all portions of the audit report, not just the "pertinent" portions. EPA is unable to agree to this recommendation, since an audit report for a particular project will usually include information which is relevant to only the grantee, other consulting firms, the construction contractor, etc., as well as that which is relevant to the Engineer. It would be inappropriate for EPA to permit the Engineer to comment on such portions of the report not related to the Engineer. That paragraph has been further clarified to indicate that the Engineer may comment and submit any supporting documentation on the portion of the report pertinent to him and that the final report will include the Engineer's comments if they are of reasonable length.

Section 35.935–7, the regulatory provision dealing with access to records, is being revised to clarify that it is the grantee's responsibility to insure that access is provided. We have also added to this section cross-references to the access and audit requirements in Part 30 and in the two Appendixes.

The introductory note to clause 10 has been revised to eliminate reference to the optional use of the clause for contracts of $100,000 or less. The first sentence has been clarified to indicate that either the grantee or EPA may make a defective pricing determination.

Some commenters requested that the time frame for which this price reduction clause would apply be specifically included in the clause. Since it is necessary to gain access to the Engineer's records for the purpose of determining whether there has been defective pricing, access to records for the purpose of exercising this clause by EPA is limited to the period of time specified in the access to records clause (Clause 9).

The Subcontracts clause promulgated on March 4 provided that no more than thirty percent of the work could be subcontracted without prior approval of the grantee unless the engineering agreement provided for some other figure. Several commenters suggested that that figure be changed, or that it be left blank. We have revised that paragraph to make it easy for the engineer and grantee to agree to another figure, simply by inserting it in the space provided. The thirty percent figure is retained in the event that they take no specific action.

With respect to Clause 16, Gratuities, several commenters suggested that the Engineer should be permitted to make gifts of nominal value (including meals) to grantee representatives. However, since under the terms of the regulations governing the behavior of the grantee's employees (§ 35.936–16), the grantee's employees are prohibited from accepting anything of monetary value, such a provision for gifts of nominal value would not be appropriate. Paragraph (a) has been modified to provide for grantee remedies other than termination in the event of violations.

We have been specifically asked for an interpretation of the applicability of the Gratuities clause in both Appendixes C–1 and C–2 to specialty advertising. Specialty advertising products are low in cost (such as pens, pencils, calendars, etc.) and are distributed to advertise the products or services of the advertiser. The U.S. Civil Service Commission, in defining those gifts which a Federal employee may not accept, has excluded specialty advertising products. Accordingly, EPA does not consider specialty advertising products to be within the scope of the provisions on gratuities in Appendixes C–1 and C–2.

The term "Subject Data" in clause 18 has been defined in the context of the construction grants program to indicate exactly what materials are intended to be covered by this clause.

We have received several inquiries as to whether Engineers and grantees will be required to, or whether they may, reopen engineering agreements which have included the Appendix C–1 in effect since March 1, 1976. EPA does not require that agreements which have included the current C–1, or clauses determined by the Regional Counsel to be in substantial conformance with the required clauses, be renegotiated to include the revised Appendix C–1. If grantees and their Engineers mutually agree, however, the engineering agreement may be renegotiated to include the revised Appendix C–1, for appropriate consideration which the grantee deems adequate. Regional Office approval of the renegotiated agreement, if any, is required.

APPENDIX C–2 AND RELATED SECTIONS

Appendix C–2 promulgated on March 4, 1976, did not include several of the required Federal clauses (such as remedies or termination) because it was expected that the Appendix C–2 would be used in conjunction with the "General Conditions" of the "Contract Documents for Construction of Federally Assisted Water and Sewer Projects" which already included such clauses, among others. The regulations promulgated on December 17, 1975, had mandated the use of that document in all Step 3 construction contracts (§ 35.938–8(a)). Experience with the mandatory use of those clauses has created problems in certain areas, particularly with larger municipalities. Therefore, on September 20, 1976, EPA issued a class deviation from the mandatory requirement that each construction contract include those clauses. In this promulgation, we are eliminating the requirement from the regulations. In order to compensate for the elimination of the required Federal clauses in the standard "General Conditions" document, we have added six additional clauses to Appendix C–2. In case of any conflict between the standard "General Conditions," if elected to be used by a grantee, and Appendix C–2, Appendix C–2 provisions govern.

If, during the duration of the class deviation (for grants awarded and Step 3 construction contracts bid prior to the effective date of these regulations), a grantee elects not to utilize the standard "General Conditions," the grantee and the Regional Office must assure that the clauses used are adequate to meet all minimum Federal requirements and to define a sound and complete agreement, including those areas covered by the six new clauses. Use of the new Appendix C–2 in these cases will be helpful in achieving compliance.

The addition of the new clauses necessitated rearrangement of the order of clauses in the Appendix. This discussion will refer to the clauses by name, rather than by either the old or new numbers.

Several comments received on Appendix C–2 were identical to comments received on the parallel clause in Appendix C–1. (Many commenters did not restate such comments, but indicated that their views on C–2 were the same as those on C–1.) EPA's responses to those comments are the same as the responses to the similar C–1 clauses. We have attempted to make the identical changes in C–2 as we made in C–1 in all cases where the clauses were the same and the circumstances fit.

Some commenters took issue with the records retention requirement in the Audit clause. Grantee records are required by Federal Management Circular 74–7 to be retained for audit for three years after final payment under the grant. If a contractor is permitted to dispose of his project related records before that time, the records will not be available in many cases when audit is initiated.

Some commenters requested the elimination of the Price Reduction for Defective Cost or Pricing Data clause, or its restructuring to permit price increases. The clause applies only to negotiated procurements in excess of $100,000 and is designed to permit recovery of costs only when there has been inaccurate or incomplete pricing data used in the negotiation. The clause is based on the Federal practice in this area; no substantive changes have been made.

The General Accounting Office commented on our failure to include a termination for convenience clause in Appendix C–2. It was not in the Appendix C–2 promulgated on March 4 because it was included in the standard "General Conditions" which were then mandatory. Such a clause has been now added to Appendix C–2, in accordance with the discussion above relating to new clauses.

The new Remedies clause is based on the approach used in the Appendix C–1 Remedies clause, as a result of the public comments received on that. The remaining new clauses are all based on those clauses in use by the Federal Government in direct contracting.

OTHER TECHNICAL AMENDMENTS

We are promulgating other brief technical amendments to Subpart E which were necessitated by the promulgation of the subagreement regulations and Appendixes C–1 and C–2.

A new § 35.925–20 (Procurement) is added. This section includes the applicable procurement requirements of §§ 35.935 through 35.939 among those requirements which the Regional Administrator must determine have been met before a grant can be awarded.

Section 35.935–2 is revised. The first sentence of paragraph (a) had included as a grant condition compliance with § 35.938. That is rewritten to include compliance with the applicable procurement requirements of §§ 35.935 through 35.939. (At the time of the promulgation of § 35.935–2 in February 1974, §§ 35.936, 35.937 and 35.939 had not yet been promulgated.) In addition, that section had dealt with force account work and nonrestrictive specifications. Those subject areas are now covered by § 35.936–14 (Force account work) and § 35.936–13 (Specifications). Therefore, those provisions are being deleted from § 35.935–2.

The provisions of §§ 35.935–4 and 35.935–15 are now covered in § 35.936–2 (Grantee procurement systems; State or local law) and § 35.936–7 (Small and minority business). Sections 35.935–4 and 35.935–15 are therefore being deleted and designated "reserved" to eliminate any duplication or conflict.

Section 35.935–11 deals with project changes for which prior written approval is necessary. Sections 35.937–6(b) and 35.938–5 (d) and (g) already require written approval for procurement actions for subagreement amendments in excess of $100,000. That requirement is being added to this section for clarification.

Subsequent to the publication of the subagreement regulations, it was brought to our attention that the provision in § 35.938–6(c) for protection of the Federal and grantee interest in progress payments made for specifically manufactured equipment may not provide adequate protection for prime contractors. Therefore, on July 12, 1976, a class deviation was issued which had the effect of changing the word "or" at the end of § 35.938–6(c)(1) to "and." In this promulgation, that change is being made in the regulations.

In accordance with 40 CFR 30.125 public comment on grant regulations is solicited on a continuous basis. Comment on these regulations may be submitted in writing to the Director, Grants Administration Division (PM–216), Attention: Construction Grants Regulations, Environmental Protection Agency, Washington, D.C. 20460.

Effective date: These amendments to 40 CFR Part 35 Subpart E shall become effective on February 1, 1977, and shall govern all grants for construction of treatment works (including subsequent related projects) awarded on or after that date. The revised Appendixes may be used at the option of the grantee for new subagreements under grants awarded prior to February 1, 1977.

Dated: December 22, 1976.

JOHN QUARLES,
Acting Administrator.

40 CFR Part 35 Subpart E is amended as indicated below:

1. By adding a new § 35.925–20, reading as follows:

§ 35.925–20 Procurement.

That the applicant has complied or will comply with the applicable provisions of §§ 35.935 through 35.939 with respect to procurement actions taken prior to the award of Step 1, 2, or 3 grant assistance, such as submission of the information required pursuant to § 35.937–6.

2. By revising § 35.935–2 to read as follows:

§ 35.935–2 Procurement.

The grantee and party to any subagreement must comply with the applicable provisions of §§ 35.935 through 35.939 with respect to procurement undertaken for Step 1, 2, or 3 work. The Regional Administrator will cause appropriate review of grantee procurement methods to be made from time to time.

§ 35.935–4 [Reserved]

3. By deleting and reserving § 35.935–4.

4. By revising § 35.935–7 to read as follows:

§ 35.935–7 Access.

The grantee must insure that representatives of the Environmental Protection Agency and the State will have access to the project work whenever it is in preparation or progress and must provide proper facilities for such access and inspection. The grantee must allow the Regional Administrator, the Comptroller General of the United States, the State agency, or any authorized representative, to have access to any books, documents,

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plans, reports, papers, and other records of the contractor which are pertinent to the project for the purpose of making audit, examination, excerpts, copies and transcriptions thereof. The grantee must insure that a party to a subagreement will afford access to such project work, sites, documents, and records. See §§ 30.-605 (Access) and 30.805 (Records) of this subchapter, Clause 9 of Appendix C–1 to this subpart, and Clause 10 of Appendix C–2 to this subpart.

5. By revising § 35.935–11 to read as follows:

§ 35.935–11 Project changes.

(a) In addition to the notification of project changes required pursuant to § 30.900–1 of this chapter, prior written approval by the Regional Administrator and (where necessary) the State agency is required for:

(1) Project changes which may (i) substantially alter the design and scope of the project, (ii) alter the type of treatment to be provided, (iii) substantially alter the location, size, capacity, or quality of any major item of equipment; or (iv) increase the amount of Federal funds needed to complete the project: *Provided*, That prior EPA approval is not required for changes to correct minor errors, minor changes, or emergency changes; and

(2) Subagreement amendments amounting to more than $100,000 for which EPA review is required pursuant to §§ 35.937–6(b) and 35.938–5(d) and (g).

(b) No approval of a project change pursuant to § 53.900 of this chapter shall commit or obligate the United States to any increase in the amount of the grant or payments thereunder unless a grant increase is approved pursuant to § 35.-955. The preceding sentence shall not preclude submission or consideration of a request for a grant amendment pursuant to § 30.900–1 of this chapter.

§ 35.935–15 [Reserved]

6. By deleting and reserving § 35.935-15.

7. By revising § 35.937–10 to read as follows:

§ 35.937–10 Subagreement payments—architectural or engineering services.

Payment by the grantee to the engineer shall be made in accordance with the payment schedule incorporated in the engineering agreement or in accordance with paragraph 7b of Appendix C–1 to this subpart. Any retainage is at the option of the grantee. No payment request made by the Engineer under the agreement may exceed the estimated amount and value of the work and services performed.

§ 35.938–6 [Amended]

8. By changing the word "or" to "and" at the end of § 35.938–6(c)(1).

9. By revising § 35.938–8 to read as follows:

§ 35.938–8 Required construction contract provisions.

Each construction contract must include the "Supplemental General Conditions" set forth in Appendix C–2 to this subpart.

10. By amending § 35.945 by deleting the entire first paragraph and substituting the following new first paragraph:

§ 35.945 Grant payments.

The grantee shall be paid the Federal share of allowable projects costs incurred within the scope of an approved project and which the grantee is currently obligated to pay, subject to the limitations of §§ 35.925–18, 35.930–5, 35.-930–6, and 35.965(b) and (c), up to the grant amount set forth in the grant agreement and any amendments thereto. Payments for engineering services for Step 1, 2 or 3 shall be made in accordance with § 35.937–10 and payments for Step 3 construction contracts shall be made in accordance with §§ 35.938–6 and 35.938–7. All allowable costs incurred prior to initiation of construction of the project must be claimed in the application for grant assistance for that project prior to the award of such assistance or no subsequent payment will be made for such costs.

* * * * *

11. By revising Appendixes C–1 and C–2 to read as follows:

APPENDIX C–1

REQUIRED PROVISIONS—CONSULTING ENGINEERING AGREEMENTS

1. General.
2. Responsibility of the engineer.
3. Scope of work.
4. Changes.
5. Termination.
6. Remedies.
7. Payment.
8. Project design.
9. Audit; access to records.
10. Price reduction for defective cost or pricing data.
11. Subcontracts.
12. Labor standards.
13. Equal employment opportunity.
14. Utilization of small or minority business.
15. Covenant against contingent fees.
16. Gratuities.
17. Patents.
18. Copyrights and rights in data.

1. GENERAL

(a) The Owner and the Engineer agree that the following provisions shall apply to the EPA grant-eligible work to be performed under this agreement and that such provisions shall supersede any conflicting provisions of this agreement.

(b) The work under this agreement is funded in part by a grant from the U.S. Environmental Protection Agency. Neither the United States nor the U.S. Environmental Protection Agency (hereinafter, "EPA") is a party to this agreement. This agreement which covers grant-eligible work is subject to regulations contained in 40 CFR 35.936, 35.937, and 35.939 in effect on the date of execution of this agreement. As used in these clauses, the words "the date of execution of this agreement" mean the date of execution of this agreement and any subsequent modification of the terms, compensation or scope of services pertinent to unperformed work.

(c) The rights and remedies of the owner provided for in these clauses are in addition to any other rights and remedies provided by law or under this agreement.

2. RESPONSIBILITY OF THE ENGINEER

(a) The Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the Engineer under this agreement. The Engineer shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and other services.

(b) The Engineer shall perform such professional services as may be necessary to accomplish the work required to be performed under this agreement, in accordance with this agreement and applicable EPA requirements in effect on the date of execution of this agreement.

(c) Approval by the Owner or EPA of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of responsibility for the technical adequacy of his work. Neither the Owner's nor EPA's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this agreement or of any cause of action arising out of the performance of this agreement.

(d) The Engineer shall be and remain liable in accordance with applicable law for all damages to the Owner or EPA caused by the Engineer's negligent performance of any of the services furnished under this agreement, except for errors, omissions or other deficiencies to the extent attributable to the Owner, Owner-furnished data or any third party. The Engineer shall not be responsible for any time delays in the project caused by circumstances beyond the Engineer's control. Where new or advanced processes, methods or technology (see 40 CFR 35.908) are recommended by the Engineer and are utilized, the Engineer shall be liable only for gross negligence to the extent of such utilization.

3. SCOPE OF WORK

The services to be rendered by the Engineer shall include all services required to complete the task or Step in accordance with applicable EPA regulations (40 CFR Part 35, Subpart E in effect on the date of execution of this agreement) to the extent of the scope of work as defined and set out in the engineering services agreement to which these provisions are attached.

4. CHANGES

(a) The Owner may, at any time, by written order, make changes within the general scope of this agreement in the services or work to be performed. If such changes cause an increase or decrease in the Engineer's cost of, or time required for, performance of any services under this agreement, whether or not changed by any order, an equitable adjustment shall be made and this agreement shall be modified in writing accordingly. Any claim of the Engineer for adjustment under this clause must be asserted in writing within 30 days from the date of receipt by the Engineer of the notification of change unless the Owner grants a further period of time before the date of final payment under this agreement.

(b) No services for which an additional compensation will be charged by the Engineer shall be furnished without the written authorization of the Owner.

(c) In the event that there is a modification of EPA requirements relating to the services to be performed under this agreement subsequent to the date of execution of this agreement, the increased or decreased cost of performance of the services provided for in this agreement shall be reflected in an appropriate modification of this agreement.

5. TERMINATION

(a) This agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this agreement through no fault of the terminating party: *Provided*, That no such termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(b) This agreement may be terminated in whole or in part in writing by the Owner for its convenience: *Provided*, That such termination is for good cause (such as for legal or financial reasons, major changes in the work or program requirements, initiation of a new Step) and that the Engineer is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(c) If termination for default is effected by the Owner, an equitable adjustment in the price provided for in this agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the Engineer at the time of termination may be adjusted to the extent of any additional costs occasioned to the Owner by reason of the Engineer's default. If termination for default is effected by the Engineer, or if termination for convenience is effected by the Owner, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the Engineer for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the Engineer relating to commitments which had become firm prior to the termination.

(d) Upon receipt of a termination action pursuant to paragraphs (a) or (b) above, the Engineer shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the Owner all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Engineer in performing this agreement, whether completed or in process.

(e) Upon termination pursuant to paragraphs (a) or (b) above, the Owner may take over the work and prosecute the same to completion by agreement with another party or otherwise. Any work taken over by the Owner for completion will be completed at the Owner's risk, and the Owner will hold harmless the Engineer from all claims and damages arising out of improper use of the Engineer's work.

(f) If, after termination for failure of the Engineer to fulfill contractual obligations, it is determined that the Engineer had not so failed, the termination shall be deemed to have been effected for the convenience of the Owner. In such event, adjustment of the price provided for in this agreement shall be made as provided in paragraph (c) of this clause.

6. REMEDIES

Except as may be otherwise provided in this agreement, all claims, counter-claims, disputes and other matters in question between the Owner and the Engineer arising out of or relating to this agreement or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State in which the Owner is located.

7. PAYMENT

(a) Payment shall be made in accordance with the payment schedule incorporated in this agreement as soon as practicable upon submission of statements requesting payment by the Engineer to the Owner. If no such payment schedule is incorporated in this agreement, the payment provisions of paragraph (b) of this clause shall apply.

(b) Monthly progress payments may be requested by the Engineer and shall be made by the Owner to the Engineer as soon as practicable upon submission of statements requesting payment by the Engineer to the Owner. When such progress payments are made, the Owner may withhold up to ten percent of the vouchered amount until satisfactory completion by the Engineer of work and services within a Step called for under this agreement. When the Owner determines that the work under this agreement or any specified task hereunder is substantially complete and that the amount of retained percentages is in excess of the amount considered by him to be adequate for the protection of the Owner, he shall release to the Engineer such excess amount.

(c) No payment request made pursuant to paragraph (a) or (b) of this clause shall exceed the estimated amount and value of the work and services performed by the Engineer under this agreement, which estimates shall be prepared by the Engineer and supplemented or accompanied by such supporting data as may be required by the Owner.

(d) Upon satisfactory completion of the work performed hereunder, and prior to final payment under this agreement for such work, or prior settlement upon termination of the agreement, and as a condition precedent thereto, the Engineer shall execute and deliver to the Owner a release of all claims against the Owner arising under or by virtue of this agreement, other than such claims, if any, as may be specifically exempted by the Engineer from the operation of the release in stated amounts to be set forth therein.

8. PROJECT DESIGN

(a) In the performance of this agreement, the Engineer shall, to the extent practicable, provide for maximum use of structures, machines, products, materials, construction methods, and equipment which are readily available through competitive procurement, or through standard or proven production techniques, methods, and processes, consistent with 40 CFR 35.936–3 and 35.936–13 in effect on the date of execution of this agreement, except to the extent that advanced technology may be utilized pursuant to 40 CFR 35.908 in effect on the date of execution of this agreement.

(b) The Engineer shall not, in the performance of the work called for by this agreement, produce a design or specification such as to require the use of structures, machines, products, materials, construction methods, equipment, or processes which are known by the Engineer to be available only from a sole source, unless such use has been adequately justified in writing by the Engineer.

(c) The Engineer shall not, in the performance of the work called for by this agreement, produce a design or specification which would be restrictive in violation of Sec. 204(a)(6) of the Federal Water Pollution Control Act (PL 92–500). This statute requires that no specification for bids or statement of work shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing, or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words "or equal." With regard to materials, if a single material is specified, the Engineer must be prepared to substantiate the basis for the selection of the material.

(d) The Engineer shall report to the Owner any sole-source or restrictive design or specification giving the reason or reasons why it is considered necessary to restrict the design or specification.

(e) The Engineer shall not knowingly specify or approve the performance of work at a facility which is in violation of Clean Air or Water standards and which is listed by the Director of the EPA Office of Federal Activities pursuant to 40 CFR Part 15.

9. AUDIT; ACCESS TO RECORDS

(a) The Engineer shall maintain books, records, documents and other evidence directly pertinent to performance on EPA grant work under this agreement in accordance with generally accepted accounting principles and practices consistently applied, and 40 CFR 30.605, 30.805, and 35.935–7 in effect on the date of execution of this agreement. The Engineer shall also maintain the financial information and data used by the Engineer in the preparation or support of the cost submission required pursuant to 40 CFR 35.937–6(b) in effect on the date of execution of this agreement and a copy of the cost summary submitted to the Owner. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, Owner, and [the State water pollution control agency] or any of their duly authorized representatives shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. The Engineer will provide proper facilities for such access and inspection.

(b) The Engineer agrees to include paragraphs (a) through (e) of this clause in all his contracts and all tier subcontracts directly related to project performance which are in excess of $10,000.

(c) Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

(d) The Engineer agrees to the disclosure of all information and reports resulting from access to records pursuant to paragraphs (a) and (b) above, to any of the agencies referred to in paragraph (a) above, provided that the Engineer is afforded the opportunity for an audit exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final audit report will include written comments of reasonable length, if any, of the Engineer.

(e) Records under paragraphs (a) and (b) above shall be maintained and made avail-

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able during performance on EPA grant work under this agreement and until three years from date of final EPA grant payment for the project. In addition, those records which relate to any "Dispute" appeal under an EPA grant agreement, or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

10. Price Reduction for Defective Cost or Pricing Data

(This clause is applicable if the amount of this agreement exceeds $100,000.)

(a) If the Owner or EPA determines that any price, including profit, negotiated in connection with this agreement or any cost reimbursable under this agreement was increased by any significant sums because the Engineer or any subcontractor furnished incomplete or inaccurate cost or pricing data or data not current as certified in his certification of current cost or pricing data (EPA Form 5700-41), then such price or cost or profit shall be reduced accordingly and the agreement shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be subject to the Remedies clause of this agreement.

(NOTE—Since the agreement is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, the Engineer may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Engineer. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

11. Subcontracts

(a) Any subcontractors and outside associates or consultants required by the Engineer in connection with the services covered by this agreement will be limited to such individuals or firms as were specifically identified and agreed to during negotiations, or as are specifically authorized by the Owner during the performance of this agreement. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior approval of the Owner.

(b) The Engineer may not subcontract services in excess of thirty percent (or ------ percent, if the Owner and the Engineer hereby agree) of the contract price to subcontractors or consultants without prior written approval of the Owner.

12. Labor Standards

To the extent that this agreement involves "construction" (as defined by the Secretary of Labor), the Engineer agrees that such construction work shall be subject to the following labor standards provisions, to the extent applicable:

(a) Davis-Bacon Act (40 U.S.C. 276a-276a-7);

(b) Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333);

(c) Copeland Anti-Kickback Act (18 U.S.C. 874); and

(d) Executive Order 11246 (Equal Employment Opportunity);

and implementing rules, regulations, and relevant orders of the Secretary of Labor or EPA; and the Engineer further agrees that this agreement shall include and be subject to the "Labor Standards Provisions for Federally Assisted Construction Contracts" (EPA Form 5720-4) in effect at the time of execution of this agreement.

13. Equal Employment Opportunity

In accordance with EPA policy as expressed in 40 CFR 30.420-5, the Engineer agrees that he will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.

14. Utilization of Small and Minority Business

In accordance with EPA policy as expressed in 40 CFR 35.936-7, the Engineer agrees that qualified small business and minority business enterprises shall have the maximum practicable opportunity to participate in the performance of EPA grant-assisted contracts and subcontracts.

15. Covenant Against Contingent Fees

The Engineer warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty the Owner shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

16. Gratuities

(a) If it is found, after notice and hearing, by the Owner that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Engineer, or any agent or representative of the Engineer, to any official, employee or agent of the Owner, of the State, or of EPA with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of this agreement, the Owner may, by written notice to the Engineer, terminate the right of the Engineer to proceed under this agreement or may pursue such other rights and remedies provided by law or under this agreement: *Provided*, That the existence of the facts upon which the Owner makes such findings shall be in issue and may be reviewed in proceedings pursuant to the Remedies clause of this agreement.

(b) In the event this agreement is terminated as provided in paragraph (a) hereof, the Owner shall be entitled (1) to pursue the same remedies against the Engineer as it could pursue in the event of a breach of the contract by the Engineer, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Owner) which shall be not less than three nor more than ten times the costs incurred by the Engineer in providing any such gratuities to any such officer or employee.

17. Patents

If this agreement involves research, developmental, experimental, or demonstration work and any discovery or invention arises or is developed in the course of or under this agreement, such invention or discovery shall be subject to the reporting and rights provisions of Subpart D of 40 CFR Part 30, in effect on the date of execution of this agreement, including Appendix B of said Part 30. In such case, the Engineer shall report the discovery or invention to EPA directly or through the Owner, and shall otherwise comply with the Owner's responsibilities in accordance with said Subpart D of 40 CFR Part 30. The Engineer hereby agrees that the disposition of rights to inventions made under this agreement shall be in accordance with the terms and conditions of aforementioned Appendix B. The Engineer shall include provisions appropriate to effectuate the purposes of this condition in all subcontracts involving research, developmental, experimental, or demonstration work.

18. Copyrights and Rights in Data

(a) The Engineer agrees that any plans, drawings, designs, specifications, computer programs (which are substantially paid for with EPA grant funds), technical reports, operating manuals, and other work submitted with a Step 1 Facilities Plan or with a Step 2 or Step 3 grant application or which are specified to be delivered under this agreement or which are developed or produced and paid for under this agreement (referred to in this clause as "Subject Data") are subject to the rights in the United States, as set forth in Subpart D of 40 CFR Part 30 and in Appendix C to 40 CFR Part 30, in effect on the date of execution of this agreement, including the right to use, duplicate and disclose, such Subject Data, in whole or in part, in any manner for any purpose whatsoever, and have others do so. For purposes of this article, "grantee" as used in said Appendix C shall refer to the Engineer. If the material is copyrightable, the Engineer may copyright such, as permitted by said Appendix C, and subject to the rights in the Government as set forth in Appendix C, but the Owner and the Federal Government reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish and use such materials, in whole or in part, and to authorize others to do so. The Engineer shall include provisions appropriate to effectuate the purpose of this condition in all subcontracts expected to produce copyrightable Subject Data.

(b) All such Subject Data furnished by the Engineer pursuant to this agreement are instruments of his services in respect of the project. It is understood that the Engineer does not represent such Subject Data to be suitable for reuse on any other project or for any other purpose. Any reuse by the Owner without specific written verification or adaptation by the Engineer will be at the risk of the Owner and without liability to the Engineer. Any such verification or adaptation will entitle the Engineer to further compensation at rates to be agreed upon by the Owner and the Engineer.

APPENDIX C-2

REQUIRED PROVISIONS—CONSTRUCTION CONTRACTS

Supplemental General Conditions

1. General.
2. Changes.
3. Differing site conditions.
4. Suspension of work.
5. Termination for default; damages for delay; time extensions.
6. Termination for convenience.
7. Remedies.
8. Labor standards.
9. Utilization of small or minority business.
10. Audit; access to records.
11. Price reduction for defective cost or pricing data.
12. Covenant against contingent fees.
13. Gratuities.
14. Patents.
15. Copyrights and rights in data.
16. Prohibition against listed violating facilities.

1. General

(a) The Owner and the Contractor agree that the following supplemental general provisions shall apply to the work to be performed under this contract and that such provisions shall supersede any conflicting provisions of this contract.

(b) This contract is funded in part by a grant from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies or employees is a party to this contract. This contract is subject to regulations contained in 40 CFR 35.936, 35.938, and 35.939 in effect on the date of execution of this contract.

(c) The rights and remedies of the Owner provided for in these clauses are in addition to any other rights and remedies provided by law or under this contract.

2. Changes

(a) The Owner may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract, including but not limited to changes:

(1) In the specifications (including drawings and designs);

(2) In the method or manner of performance of the work;

(3) In the Owner-furnished facilities, equipment, materials, services, or site; or

(4) Directing acceleration in the performance of the work.

(b) Any other written order or an oral order (which terms as used in this paragraph (b) shall include direction, instruction, interpretation or determination) from the Owner, which causes any such change, shall be treated as a change order under this clause, *provided* that the Contractor gives the Owner written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.

(c) Except as herein provided, no order, statement, or conduct of the Owner shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly: *Provided, however*, That except for claims based on defective specifications, no claim for any change under (b) above shall be allowed for any costs incurred more than 20 days before the Contractor gives written notice as therein required: *And provided further*, That in the case of defective specifications for which the Owner is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.

(e) If the Contractor intends to assert a claim for an equitable adjustment under this clause, he must, within 30 days after receipt of a written change order under (a) above or the furnishing of a written notice under (b) above, submit to the Owner a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Owner. The statement of claim hereunder may be included in the notice under (b) above.

(f) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

3. Differing Site Conditions

(a) The Contractor shall promptly, and before such conditions are disturbed, notify the Owner in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this contract. The Owner shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the contract modified in writing accordingly.

(b) No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in (a) above; *provided*, however, the time prescribed therefor may be extended by the Owner.

(c) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

4. Suspension Of Work

(a) The Owner may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the Owner.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Owner in administration of this contract, or by his failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

(c) No claim under this clause shall be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Owner in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.

5. Termination For Default; Damages For Delay; Time Extensions

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within such time, the Owner may, by written notice to the Contractor, terminate his right to proceed with the work or such part of the work as to which there has been delay. In such event the Owner may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may be on the site of the work and necessary therefor. Whether or not the Contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any damage to the Owner resulting from his refusal or failure to complete the work within the specified time.

(b) If fixed and agreed liquidated damages are provided in the contract and if the Owner so terminates the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the Owner in completing the work.

(c) If fixed and agreed liquidated damages are provided in the contract and if the Owner does not so terminate the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed or accepted.

(d) The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

(1) The delay in the completion of the work arises from causes other than normal weather beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy acts of the Owner in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from causes other than normal weather beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any such delay (unless the Owner grants a further period of time before the date of final payment under the contract), notifies the Owner in writing of the causes of delay. The Owner shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in the Remedies clause of this contract.

(e) If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the Owner, be the same as if the notice of termination had been issued pursuant to such clause. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the Owner, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be subject to the Remedies clause of this contract.

(f) The rights and remedies of the owner provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(g) As used in paragraph (d)(1) of this clause, the term "subcontractors or suppliers" means subcontractors or suppliers at any tier.

6. Termination For Convenience

(a) The performance of work under this contract may be terminated by the Owner in accordance with this clause in whole, or from time to time in part, whenever the Owner shall determine that such termination is in the best interest of the Owner. Any

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such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination, and except as otherwise directed by the Owner, the Contractor shall:

(1) Stop work under the contract on the date and to the extent specified in the Notice of Termination;

(2) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(3) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(4) Assign to the Owner, in the manner, at the times, and to the extent directed by the Owner, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Owner shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(5) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Owner to the extent he may require, which approval or ratification shall be final for all the purpoees of this clause;

(6) Transfer title to the Owner, and deliver in the manner, at the times, and to the extent, if any, directed by the Owner, (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the Owner;

(7) Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Owner, any property of the types referred to in (6) above: *Provided, however,* That the Contractor (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed and at a price or prices approved by the Owner: *And provided further,* That the proceeds of any such transfer of disposition shall be applied in reduction of any payments to be made by the Owner to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Owner may direct;

(8) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(9) Take such action as may be necessary, or as the Owner may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Owner has or may acquire an interest.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Owner his termination claim, in the form and with the certification prescribed by the Owner. Such claim shall be submitted promptly but in no event later than one year from the effective date of termination, unless one or more extensions in writing are granted by the Owner upon request of the Contractor made in writing within such one-year period or authorized extension thereof. However, if the Owner determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one-year period or extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Owner may, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (e), the Contractor and the Owner may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done: *Provided,* That such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the contractor in the event of failure of the Contractor and the Owner to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

(e) In the event of the failure of the Contractor and the Owner to agree as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Owner shall determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amounts determined as follows:

(1) With respect to all contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of—

(i) The cost of such work;

(ii) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in paragraph (b) (5) above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of work under this contract, which amounts shall be included in the cost on account of which payment is made under (i) above; and

(iii) A sum, as profit on (i), above, determined by the Owner to be fair and reasonable: *Provided, however,* That if it appears that the contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (iii) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(2) The reasonable cost of the preservation and protection of property incurred pursuant to paragraph (b) (9); and any other reasonable cost incidental to termination of work under this contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under this contract.

The total sum to be paid to the Contractor under (1) above shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the Owner shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under (1) above, the fair value, as determined by the Owner of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Owner, or to a buyer pursuant to paragraph (b) (7).

(f) The Contractor shall have the right to dispute under the clause of this contract entitled "Remedies," from any determination made by the Owner under paragraph (c) or (e) above, except that, if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Owner has made a determination of the amount due under paragraph (c) or (e) above, the Owner shall pay to the Contractor the following: (1) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Owner or (2) if a "Remedies" proceeding is initiated, the amount finally determined in such "Remedies" proceeding.

(g) In arriving at the amount due the Contractor under this clause there shall be deducted (1) all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this contract, (2) any claim which the Owner may have against the Contractor in connection with this contract, and (3) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things kept by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Owner.

(h) If the termination hereunder be partial, prior to the settlement of the terminated portion of this contract, the Contractor may file with the Owner a request in writing for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices; however, nothing contained herein shall limit the right of the Owner and the Contractor to agree upon the amount or amounts to be paid to the contractor for the completion of the continued portion of the contract when said contract does not contain an established contract price for such continued portion.

7. Remedies

Except as may be otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the Owner and the Contractor arising out of or relating to this agreement or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State in which the Owner is located.

8. Labor Standards

The Contractor agrees that "construction" work (as defined by the Secretary of Labor) shall be subject to the following labor standards provisions, to the extent applicable:

(a) Davis-Bacon Act (40 U.S.C. 276a–276a-7);

(b) Contract Work Hours and Safety Standards Act (40 U.S.C. 327–33);

(c) Copeland Anti-Kickback Act (18 U.S.C. 874); and

(d) Executive Order 11246 (Equal Employment Opportunity);

and implementing rules, regulations, and relevant orders of the Secretary of Labor or EPA; and the Contractor further agrees that this contract shall include and be subject to the "Labor Standards Provisions for Federally Assisted Construction Contracts" (EPA Form 5720–4) in effect at the time of execution of this agreement.

9. Utilization of Small and Minority Business

In accordance with EPA policy as expressed in 40 CFR 35.936–7, the Contractor agrees that small business and minority business enterprises shall have the maximum practicable opportunity to participate in the performance of EPA grant-assisted contracts and subcontracts.

10. Audit; Access to Records

(a) The Contractor shall maintain books, records, documents and other evidence directly pertinent to performance on EPA grant work under this contract in accordance with generally accepted accounting principles and practices consistently applied, and 40 CFR 30.605, 30.805, and 35.936–7 in effect on the date of execution of this contract. The Contractor shall also maintain the financial information and data used by the Contractor in the preparation or support of the cost submission required pursuant to 40 CFR 35.936–5 in effect on the date of execution of this contract for any negotiated contract or change order and a copy of the cost summary submitted to the Owner. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, Owner, and [the State water pollution control agency] or any of their duly authorized representatives shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. The Contractor will provide proper facilities for such access and inspection.

(b) If this contract is a formally advertised, competitively awarded, fixed price contract, the Contractor agrees to make paragraphs (a) through (f) of this clause applicable to all negotiated change orders and contract amendments affecting the contract price. In the case of all other types of prime contracts, the Contractor agrees to include paragraphs (a) through (f) of this clause in all his contracts in excess of $10,000 and all tier subcontracts in excess of $10,000 and to make paragraphs (a) through (f) of this clause applicable to all change orders thereto directly related to project performance.

(c) Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

(d) The Contractor agrees to the disclosure of all information and reports resulting from access to records pursuant to paragraphs (a) and (b) above, to any of the agencies referred to in paragraph (a), above, provided that the Contractor is afforded the opportunity for an audit exit conference, and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final EPA audit report will include written comments of reasonable length, if any, of the Contractor.

(e) Records under paragraphs (a) and (b) above, shall be maintained and made available during performance on EPA grant work under this contract and until three years from the date of final EPA grant payment for the project. In addition, those records which relate to any "Dispute" appeal under an EPA grant agreement, or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

(f) The right of access conferred by this clause will generally be exercised (with respect to financial records) under (1) negotiated prime contracts, (2) negotiated change orders or contract amendments in excess of $10,000 affecting the price of any formally advertised, competitively awarded, fixed price contract, and (3) subcontracts or purchase orders under any contract other than a formally advertised, competitively awarded, fixed price contract. However, this right of access will generally not be exercised with respect to a prime contract, subcontract, or purchase order awarded after effective price competition. In any event, such right of access may be exercised under any type of contract or subcontract (1) with respect to records pertaining directly to contract performance, excluding any financial records of the Contractor, (2) if there is any indication that fraud, gross abuse, or corrupt practices may be involved or (3) if the contract is terminated for default or for convenience.

11. Price Reduction for Defective Cost or Pricing Data

(This clause is applicable to (1) any negotiated prime contract in excess of $100,000; (2) negotiated contract amendments or change orders in excess of $100,000 affecting the price of a formally advertised, competitively awarded, fixed price contract; or (3) any subcontract or purchase order in excess of $100,000 under a prime contract other than a formally advertised, competitively awarded, fixed price contract. Change orders shall be determined to be in excess of $100,000 in accordance with 40 CFR 35.938–5 (g). However, this clause is not applicable for contracts or subcontracts to the extent that they are awarded on the basis of effective price competition.)

(a) If the EPA Project Officer determines that any price (including profit) negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant sums because the Contractor, or any subcontractor furnished incomplete or inaccurate cost or pricing data or data not current as certified in his certification of current cost or pricing data (EPA Form 5700–41), then such price or cost or profit shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be subject to the Remedies Clause of this contract.

(NOTE—Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

12. Covenant Against Contingent Fees

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Owner shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

13. Gratuities

(a) If it is found, after notice and hearing, by the Owner that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any official, employee or agent of the Owner, of the State, or of EPA with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of this contract, the Owner may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract or may pursue such other rights and remedies provided by law or under this contract: *Provided,* That the existence of the facts upon which the Owner makes such findings shall be in issue and may be reviewed in proceedings pursuant to the Remedies clause of this contract.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Owner shall be entitled (1) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Owner) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

14. Patents

If this contract involves research, developmental, experimental, or demonstration work, and any discovery or invention arises or is developed in the course of or under this contract, such invention or discovery shall be subject to the reporting and rights provisions of Subpart D of 40 CFR Part 30, in effect on the date of execution of this contract, including Appendix B of said Part 30. In such case, the Contractor shall report the discovery or invention to EPA directly or through the Owner, and shall otherwise comply with the Owner's responsibilities in accordance with said Subpart D of 40 CFR Part 30. The Contractor hereby agrees that the disposition of rights to inventions made under this contract shall be in accordance with the terms and conditions of the aforementioned Appendix B. The Contractor shall include provisions appropriate to effectuate the purposes of this condition in all subcontracts involving research, developmental, experimental, or demonstration work.

15. Copyrights and Rights in Data

The Contractor agrees that any plans, drawings, designs, specifications, computer programs (which are substantially paid for with EPA grant funds), technical reports, operating manuals, and other work submitted with a proposal or grant application or which are specified to be delivered under this contract or which are developed or produced and paid for under this contract (referred to in this clause as "Subject Data") are subject to the rights in the United States, as set forth in Subpart D of 40 CFR Part 30 and in Appendix C to 40 CFR Part 30, in effect on the date of execution of this contract, including the right to use, duplicate and disclose such Subject Data, in whole or in part, in any manner for any purpose whatsoever, and have others do so. For purposes of this

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article, "grantee" as used in Appendix C shall refer to the Contractor. If the material is copyrightable, the Contractor may copyright such, as permitted by said Appendix C, and subject to the rights in the Government as set forth in Appendix C, but the Owner and the Federal Government reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish and use such materials, in whole or in part, and to authorize others to do so. The Contractor shall include provisions appropriate to effectuate the purposes of this condition in all subcontracts expected to produce copyrightable "Subject Data."

16. PROHIBITION AGAINST LISTED VIOLATING FACILITIES

(Applicable only to a contract in excess of $100,000 and when otherwise applicable pursuant to 40 CFR Part 15.)

(a) The Contractor agrees as follows:

(1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq., as amended by Public Law 92–604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, as amended by Public Law 92–500), respectively relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract.

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency list of violating facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use his best efforts to comply with clean air and clean water standards at the facilities in which the contract is being performed.

(4) To insert the substance of the provisions of this clause, including this subparagraph (4), in any nonexempt subcontract.

(b) The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq. as amended by Public Law 92–604).

(2) The term "Water Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq. as amended by Public Law 92–500).

(3) The term "Clean Air Standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110(d) of the Air Act (42 U.S.C. 1857c–5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), or an approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c–7(d)).

(4) The term "Clean Water Standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "Compliance" means compliance with Clean Air or Water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term "Facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, to be utilized in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are located in one geographical area. (Secs. 109(b), 201 through 205, 207, 210 through 212, and 501(a), 502, and 511, Pub. L. 92–500 (86 Stat. 816; 33 U.S.C. 1251) as amended by Pub. L. 93–243.)

[FR Doc.76–38212 Filed 12–28–76;8:45 am]

SUBCHAPTER C—AIR PROGRAMS

[FRL 662–3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Gasoline Vapor Recovery; Revised Compliance Dates for Small Bulk Plants

This notice of rulemaking announces changes in certain compliance dates in regulations pertaining to the collection of vapors displaced during the filling of storage tanks with gasoline and the refilling of delivery vehicles with gasoline at small bulk plants in states where such regulations are in effect. Small bulk plants are gasoline wholesale distributing facilities with an annual average gasoline throughput of 5,000,000 gallons per year or less (20,000 gallons per day × 250 days). The U.S. Environmental Protection Agency is currently conducting studies to determine the feasibility of controlling small gasoline distributing facilities such as bulk plants and to determine the degree to which they can be controlled. Evaluation of the results of these studies is not due to be completed until February 1977. Since final compliance with these regulations is presently required no later than January 1, 1977, additional time is needed to evaluate the results of these studies before a decision is made regarding the extent small bulk plants must be controlled. It would cause undue hardship to the owners or operators of these small bulk plants to require them to be in compliance with vapor recovery regulations if it is found at a later date that control of these plants is not justified. The Administrator will decide in March 1977 whether further revision of these regulations is appropriate. This action delays the final compliance date for small bulk plants and the storage containers and delivery vehicles served by them to May 31, 1977.

The state plans and regulations affected by the changes are as follows:

California: § 52.255(c) 38 FR 31251 (November 12, 1973).
Colorado: § 52.336(c) 38 FR 30823 (November 7, 1973).
Indiana: § 52.787(e) 38 FR 12349 (April 5, 1974).
Maryland: § 52.1086(c) 38 FR 33719 (December 6, 1973); § 52.1101(c) 38 FR 34252 (December 13, 1973).
Massachusetts: § 52.1147(a) 38 FR 30970 (November 8, 1973).
New Jersey: § 52.1598(c) 38 FR 31399 (November 13, 1973).
Pennsylvania: § 52.2042(c) 38 FR 32896 (November 28, 1973).
Texas: § 52.2285(c) 38 FR 30643 (November 6, 1973).

The main provision of the Stage I regulations requires recovery of 90 percent of the hydrocarbon vapors displaced from gasoline storage tanks greater than 250 gallons (1000 gallons in Texas) during refilling with exceptions for stationary storage containers with capacity of less than 550 gallons used exclusively for the fueling of implements of husbandry, any container with a capacity of less than 2000 gallons installed prior to the promulgation and gasoline transfers from storage tanks equipped with floating roofs or their equivalent. In addition, the regulations require vapor laden delivery vehicles to refill only at facilities equipped with a vapor recovery system capable of recovering 90 percent of the hydrocarbon vapors displaced from the delivery vehicles during refilling.

The Administrator finds good cause for making this rulemaking effective immediately upon the date of promulgation without proposal and the 30-day deferral of the effectiveness of the promulgation. The Administrator finds that a pre-promulgation public comment period on these regulations would be "impracticable, unnecessary, or contrary to the public interest" within the meaning of 5 U.S.C. 553(b)(B) because of the extreme shortness of time before final compliance with Stage I vapor recovery regulations is required, the hardship which would result to the owners of storage tanks served by these small bulk plants if they are forced to find alternative sources of gasoline before a final determination on the control of these plants is made, and the impact that enforcement of these regulations would have on the availability of gasoline to the customers of the small bulk plants. Public comment is invited, however, until January 28, 1977. Interested persons may submit written comments to The Division of Stationary Source Enforcement, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Michael Merrick. Following the close of the comment period, EPA will publish a response to any substantive comments received, together with any amendments to these regulations which seem justified by these comments.

This rulemaking is effective immediately, and is issued under the authority of Sections 110 and 301 of the Clean Air Act as amended (42 U.S.C. 1857c–5 and 1857g).

Dated: December 23, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

§ 52.255 [Amended]

1. In § 52.255(c)(3), subparagraph (iii) the date "January 1, 1977" is revised to read "May 31, 1977."

2. In § 52.255(c)(3), subparagraph (iv) the date "January 1, 1977" is revised to read "May 31, 1977."

3. In § 52.255(c)(3) subparagraph (v) the date "January 1, 1977" is revised to read "May 31, 1977."

4. In § 52.255(c)(3), subparagraph (vi) the date "January 1, 1977" is revised to read "May 31, 1977."

5. In § 52.255(c)(3), subparagraph (vii) the date "January 1, 1977" is revised to read "May 31, 1977."

Subpart G—Colorado

6. In § 52.336(c), subparagraph (3) is amended by adding (iv) as follows:

§ 52.336 Gasoline transfer vapor control.

* * * * * * *

(c) * * *

(3) * * *

(iv) Facilities which have an average annual throughput of 5,000,000 gallons of gasoline or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage containers served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also will be required to meet the provisions of this section no later than May 31, 1977.

Subpart P—Indiana

7. In § 52.787, (e) is amended as follows:

§ 52.787 Gasoline transfer vapor control.

* * * * * * *

(e) No person shall own or operate a facility for the filling of delivery vessels with gasoline unless the facility is equipped with a control system, which can recover or eliminate at least 90 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling. Facilities which have an average annual throughput of gasoline of 5,000,000 gallons or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage containers served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also will be required to meet the provisions of this section no later than May 31, 1977.

Subpart V—Maryland

8. Section 52.1086(c)(3) is amended by adding subparagraph (iv) as follows:

§ 52.1086 Gasoline transfer vapor control.

* * * * * * *

(c) * * *

(3) * * *

(iv) Facilities which have an annual average throughput of 5,000,000 gallons of gasoline or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage containers served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also are required to meet the provisions of this section no later than May 31, 1977.

9. Section 52.1101(c)(3) is amended by adding subparagraph (iv), as follows:

§ 52.1101 Gasoline transfer vapor control.

* * * * * * *

(c) * * *

(3) * * *

(iv) Facilities which have an annual average throughput of 5,000,000 gallons of gasoline or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage containers served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also are required to meet the provisions of this section no later than May 31, 1977.

Subpart W—Massachusetts

10. In § 52.1147(a), subparagraph (5) is amended by adding (i), as follows:

§ 52.1147 Federal compliance schedules.

* * * * * * *

(a) * * *

(5) * * *

(i) Facilities subject to (c)(1)(iii) of § 52.1144 of this subpart which have an average annual throughput of 5,000,000 gallons of gasoline or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage containers served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also are required to meet the provisions of this section no later than May 31, 1977.

Subpart FF—New Jersey

11. In § 52.1598(c), subparagraph (3) is amended by adding (iv), as follows:

§ 52.1598 Gasoline transfer vapor control.

* * * * * * *

(c) * * *

(3) * * *

(iv) Facilities which have an annual average throughput of 5,000,000 gallons of gasoline or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage containers served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also are required to meet the provisions of this section no later than May 31, 1977.

Subpart NN—Pennsylvania

12. In § 52.2042(c), subparagraph (3) is amended by adding (iv), as follows:

§ 52.2042 Gasoline transfer vapor control.

* * * * * * *

(c) * * *

(3) * * *

(iv) Facilities which have an annual average throughput of 5,000,000 gallons of gasoline or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage containers served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also are required to meet the provisions of this section no later than May 31, 1977.

Subpart SS—Texas

13. In § 52.2285(c), subparagraph (3) is amended by adding (iv), as follows:

§ 52.2285 Control of evaporative losses from the filling of storage vessels by 1976.

* * * * * * *

(c) * * *

(3) * * *

(iv) Facilities which have an annual average throughout of 5,000,000 gallons of gasoline or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage vessels served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also are required to meet the provisions of this section no later than May 31, 1977.

[FR Doc.76–38210 Filed 12–28–76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

PART 3500—LEASING OF MINERALS OTHER THAN OIL AND GAS; GENERAL

PART 3520—PREFERENCE RIGHT AND COMPETITIVE LEASES

Coal Leases; Diligent Development and Continued Operation

On May 28, 1976, the Department of the Interior defined, for the first time in a rulemaking, diligent development and continued operation of coal leases, 41 FR 21779 (1976). Subsequently, on August 4, 1976, Congress passed the Federal Coal Leasing Amendments Act, Pub. L. No. 94–377, 90 Stat. 1083. Then, on October 15, 1976, the Department proposed revised regulations governing diligent development and continued operation so that the regulations would be consistent with the new Act, 41 FR 45571 (1976). The Department has received and taken into consideration numerous comments on the proposed regulations. Several changes have been made and the regulations are now published as a final rulemaking. While the section numbers of the new regulations correspond to the old regulations they replace, they will at a future date be transferred to a new 30 CFR Part 3400 which will be devoted exclusively to coal.

* * * * *

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Only three substantive changes have been made since the regulations were published as proposed regulations on October 15, 1976. First, the definition of LMU reserves, 43 CFR 3500.0–5(e), has been redefined to include both estimated recoverable Federal reserves in the LMU and estimated recoverable non-Federal reserves in the LMU. It no longer excludes estimated non-Federal reserves which will be mined after all the estimated Federal reserves. As was pointed out in several of the comments, this change is imperative in order to comply with section 5(b) of the new Act, supra, 90 Stat. at 1086, which requires that any mining plan for an LMU provide for the mining of the LMU reserves, whether Federal or non-Federal, in 40 years. If non-Federal reserves were excluded from an LMU, they would, contrary to the statute, be exempted from the 40-year production schedule.

Second, while a lessee may still surrender deposits in a lease and thereby reduce his LMU reserves, a surrender is now conditioned upon the approval of the authorized officer, 43 CFR 3520.2–6 (c). This condition is added as an assurance against "high grading" and to make certain that deposits which are economically recoverable are not left in the ground and wasted.

Third, the deadline for achieving diligent development on coal leases issued before August 4, 1976 may, as specified, be extended, 43 CFR 3520.2–5(c). In the proposed regulations, extensions for achieving diligent development could not be granted beyond August 4, 1986, or the date on which lease terms first became subject to readjustment after August 4, 1976, whichever was later. This change to allow for longer extensions is to make certain that lessees who were issued leases before the new Act continue to be eligible, if they meet certain qualifications, for the same extensions as were allowed in the Department's first regulatory definition of diligent development on May 28, 1976. Otherwise, the effect of these regulations would be to foreshorten the period of possible extensions.

The Department has made several changes and additions to the regulations so that they reiterate provisions in the new Act. For example, 43 CFR 3503.3–2 (b)(1) now specifies that the Mining Supervisor will give a notice six months in advance if he elects to cease to accept advance royalties in lieu of continued operation, and 43 CFR 3523.2–1(b)(1)(iii) now indicates that upon cancellation or relinquishment of a lease any deferred bonus payments shall be immediately payable.

Several sections have been reorganized and simplified. The definition of diligent development, 43 CFR 3500.0–5(f), has been shortened so that there is a distinction drawn only between leases issued before and after August 4, 1976; the date of readjustment is not a factor. The paragraphs applicable to extensions for meeting the diligent development requirement (previously proposed as 43 CFR 3500.0–5(f)(2)(i) and (ii)) have been transferred to 43 CFR 3520.2–5 which is the operative section on diligent development. We believe that these changes will eliminate much of the confusion expressed in the comments about the diligent development requirement.

As a result of another reorganization, all conditions for paying advance royalties now appear under 43 CFR 3503.3–2 (b)(1). As proposed, several advance royalty provisions appeared in 43 CFR 3522.2–1(b).

The regulations might be better understood if several points made in the comments were specifically addressed. First, it was suggested that the Department has no authority to designate single leases as logical mining units. It is the Department's position that section 5(b) of the new Act, supra, 90 Stat. at 1086, authorizes such designations by the words "[a] logical mining unit may consist of one or more Federal leaseholds, and may include intervening or adjacent lands in which the United States does not own the coal resources." While there is a requirement in section 5(b) to hold a public hearing before establishing a logical mining unit, that requirement applies only to units established by the consolidation of several leases or tracts.

Second, it was suggested that since the new Act, by limiting advance royalty payments to ten years per lease, undercut the Department's efforts of May 28, 1976 to induce production through an advance royalty program, the Department should explore alternative financial inducements. Two alternatives proposed were a special rental program and a higher production rate for meeting the continued operation requirement. The special rental program has been found to be infeasible. It was suggested that the Department in essence rename its advance royalty program of May 28, 1976 a rental program. While the Department would appear to have the authority under section 6 of the new Act, supra, 90 Stat. at 1087, to institute a special rental program, the effectiveness of the program would hinge on the authority to allow credits of rental payments against royalties. However, the legislative history indicates that the previous authority to allow such credits was removed. "[T]his section [6] eliminates a provision of current law which permits the credit of rentals against royalties," H.R. Rep. No. 94–681, 94th Cong., 1st Sess. 24 (1975). Consequently, the Department has no authority to allow the crediting of rental payments against royalties.

The Department also decided against requiring a higher production rate of two or three percent in the definition of continued operation. As the regulations now require, the mining plan for a logical mining unit must provide for a 40-year production schedule. The continued operation requirement, on the other hand, requires the production of 1 percent of the reserves each year, a production rate that will generally be less than the one specified in the mining plan. The Department views this difference in rates as providing a helpful margin in administering these regulations. If the lessee produces less than the rate specified in the mining plan, the Department may cancel the lease for failure to comply with the plan; however, if the lessee fails to produce one percent annually, the Department's discretion to decide against cancellation would be substantially limited as set forth in 43 CFR 3523.2–1(b)(1)(i). This ability to elect whether or not to cancel a lease if annual production is between 1 percent and the higher rate specified in the mining plan provides the Department with leverage to pressure those in arrears to increase production and to cancel leases when there is not a good faith effort to comply with the mining plan.

Therefore, under the authority granted under section 32 of the Mineral Leasing Act 30 U.S.C. 189, 43 CFR Parts 3500 and 3520 are hereby amended, effective immediately, as follows:

1. Paragraphs (d), (e), (f), and (g) of 43 CFR 3500.0–5 are hereby revised as follows:

§ 3500.0–5 Definitions.

* * * * *

(d) *Logical Mining Unit (LMU).* A Logical Mining Unit or LMU is an area of coal land that can be developed and mined in an efficient, economical, and orderly manner with due regard to the conservation of coal reserves and other resources. An LMU may consist of one or more Federal leaseholds, and may include intervening or adjacent non-Federal lands, but all lands in an LMU must be contiguous, under the effective control of a single operator, and capable of being developed and operated as a unified operation with complete extraction of the LMU reserves within 40 years from the first approval of a mining plan for that LMU. For purposes of this paragraph (d) "contiguous" shall mean having at least one point in common. No LMU approved after August 4, 1976, shall exceed 25,000 acres, including both Federal and non-Federal coal deposits.

(e) *Logical Mining Unit (LMU) Reserves.* LMU Reserves are defined as being equal to the sum of (1) estimated recoverable reserves under Federal lease in the LMU, and (2) estimated non-Federal recoverable reserves in the LMU. The LMU reserves associated with a Federal lease are the LMU reserves estimated as of the effective date of the LMU, of which that lease is a part, except that the LMU reserves under both paragraphs (e)(1) and (2) of this section may be adjusted by the Mining Supervisor whenever he approves a modification of the LMU boundaries, whenever the lessee surrenders deposits subject to the LMU, or whenever significant new information becomes available about the amount of such reserves, including the time at which a mining plan is approved.

(f) *Diligent Development.* (1) Diligent development of any Federal coal lease issued after August 4, 1976, means the timely preparation for and initiation of production of coal from the LMU of which the lease is a part so that coal is actually produced in commercial quantities by the end of the tenth year from the effective date of the lease. For the purpose of this subparagraph (1), commercial quantities means one percent of the LMU reserves.

(2) Diligent development of any coal lease which was issued before August 4, 1976, means the timely preparation for and initiation of production of coal from the LMU so that coal is actually produced in commercial quantities before June 1, 1986, except that the period of time during which production of coal in commercial quantities must be achieved may be extended as provided in 43 CFR 3520.2–5. For the purpose of this subparagraph (2), commercial quantities means one-fortieth of the LMU reserves.

(g) *Continued Operation.* Continued operation means the production of coal in the amount of one percent of the LMU reserves for each of the first two years following the achievement of diligent development, and an average amount of one percent of the LMU reserves associated with the lease thereafter. The annual average amount shall be computed on a three year basis, and the three-year period for which the average shall be computed shall consist of the year in question and the two preceding years.

(2) 43 CFR 3503.3–2(b)(1) is amended by the addition of the following:

§ 3503.3–2 General statement on royalties.

* * * * *

(b) * * *

(1) The Mining Supervisor shall have discretion, upon the request of the lessee, to authorize the payment of an advance royalty in lieu of continued operation for any particular year. The advance royalty for each lease shall be based on a percent of the value of a minimum number of tons of coal, and the percent shall not be less than the percent prescribed in that lease for the production royalty. For any lease issued after August 4, 1976, the minimum number of tons shall be determined on a schedule sufficient to exhaust the leased reserves in 40 years from the date of approval of the mining plan for the LMU of which the lease is a part; for any lease issued before August 4, 1976, the minimum number of tons shall be determined on a schedule sufficient to exhaust the leased reserves in 40 years from June 1, 1976. Advance royalties shall not be paid for more than ten years in all during the life of any lease, including the life of the lease after readjustment. No payment of an advance royalty during the first 20 years of a lease may be used as a credit against production royalty due after the 20th year of that lease. The Mining Supervisor may, upon notifying the lessee six months in advance, cease to accept advance royalties in lieu of the requirement of continued operation.

3. 43 CFR 3520.2–1 is amended by the addition of the following:

§ 3520.2–1 Duration of leases.

* * * * *

(a) * * *

(3) *Coal.* A coal lease shall be for a period of 20 years and as long thereafter as coal is produced annually in commercial quantities from that lease or the LMU of which it is a part. As the term "commercial quantities" is used in this subparagraph (3) it means quantities of coal sufficient to meet the requirements for continued operation under § 3500.0–5(g) of this chapter.

4. 43 CFR 3520.2–5 is amended to read as follows:

§ 3520.2–5 Coal: Diligent development and continued operation.

(a) Section 7 of the Mineral Leasing Act (30 U.S.C. 207) provides that each coal lease shall require (1) diligent development, and (2) either continued operation or in lieu thereof, when the Secretary determines that the public interest will be served, payment of an advance royalty. The Secretary has determined that the public interest will be served by authorizing the Mining Supervisor to permit payment of an advance royalty in lieu of continued operation for any particular year. Provisions for advanced royalties are described in § 3503.3–2(b)(1) of this chapter.

(b) Each coal lease shall be subject to the requirements of diligent development and continued operation and shall remain subject to the requirement of continued operation except when operations under the lease are interrupted by strikes, the elements or casualties not attributable to the lessee.

(c) In the case of coal leases issued before August 4, 1976, the ten-year period by the end of which diligent development must have been achieved may be increased as follows:

(1) Upon application of the lessee, the ten-year period shall be extended by an amount of time equal to the period during which diligent development is in the opinion of the Secretary, significantly impaired by (i) a strike, the elements, or casualties not attributable to the lessee, (ii) an administrative delay in the Department which is not caused by the lessee's action, or (iii) extraordinary circumstances not attributable to the lessee and not foreseeable by a reasonably prudent operator. In the determination of whether any of the conditions listed in subdivisions (i), (ii) and (iii) of this subdivision occurred and whether one or more of those conditions did in fact significantly impair diligent development, the Secretary's finding shall be final. The Secretary shall, however, not find to be an extraordinary circumstance under (iii) any condition arising out of normally foreseeable business risks such as: fluctuations in prices, sales, or costs, including foreseeable costs of compliance with requirements for environmental protection; commonly experienced delays in delivery of supplies or equipment; or inability to obtain sufficient sales.

(2) Upon application of the lessee, the Secretary may grant one extension, not exceeding five years, of the ten-year period when the lessee shows to the satisfaction of the Secretary that diligent development cannot be achieved within the ten-year period because of (i) time needed to complete development of advanced technology, e.g., in situ, gasification or liquefaction processes; (ii) the large magnitude of the project (ordinarily large magnitude means a mine in which the production in the first year after the end of the extended period for diligent development is expected to be at least two million tons if an underground mining operation or five million tons if a surface mining operation); or (iii) a contract or its equivalent which is a firm commitment for the sale or use of the first one-fortieth of the LMU reserves after the ten-year period. Irrespective of the reason for granting an extension, the lessee must produce the first one-fortieth of the LMU reserves before the end of the extension.

(d) At the time when the Secretary grants an extension under paragraphs (b) and (c) of this section, he shall notify the lessee of the revised date by which he must produce coal in commercial quantities.

5. 43 CFR Subpart 3520 is amended by adding the following:

§ 3520.2–6 Coal: Logical mining unit.

(a) *Establishment and modification of logical mining units.* Every Federal coal lease will automatically be considered by itself an LMU as of the effective date of the lease or June 1, 1976, whichever is later, and may later be included in an LMU with other Federal coal leases or with interests in non-Federal coal deposits, or both. An LMU containing any interest other than a single Federal lease will become effective only at the direction of the Mining Supervisor or upon its approval by the Mining Supervisor when it is requested by the lessee; the Mining Supervisor shall not direct or approve the establishment of such an LMU unless he has determined that the maximum economic recovery of all Federal deposits in the LMU will be served thereby. The boundaries of an LMU may later be changed either upon application by the lessee and with the approval of the Mining Supervisor after consultation with the authorized officer or by direction of the Mining Supervisor after consultation with the authorized officer.

(b) *Amendment of lease terms.* When a Federal coal lease is included in an LMU with other Federal coal leases or with interests in non-Federal coal deposits, the terms and conditions of the lease will be amended so that they are not inconsistent with the requirements imposed on that LMU of which it has become a part. In particular, diligent development, continued operation, and production in commercial quantities anywhere within the LMU, with respect to either Federal or non-Federal coal deposits, shall be deemed to have occurred on each Federal lease in the LMU. The rental and royalty payments on all Federal leases in an LMU shall be combined and advanced royalties paid on any Federal lease in that LMU may, at the request of the operator of the LMU, be credited against those combined royalties.

(c) *Computation of LMU reserves.* The lessee may, upon approval of the authorized officer, surrender his rights to any

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deposits, and, if he does so, the LMU reserves shall be adjusted. When the Mining Supervisor is determining the LMU reserves, he shall consult the lessee as to any deposits (such as deposits in specified strata) subject to his lease which the lessee does not intend to mine and the rights to which the lessee is prepared to surrender in order to decrease the LMU reserves upon which the requirements of diligent development, continued operation, and production in commercial quantities will be based.

6. 43 CFR 3522.2–1 is amended to read as follows:

§ 3522.2–1 Terms and conditions.

(a) *Potassium and phosphate.* The terms and conditions of potassium and phosphate leases are subject to readjustment at the end of each 20-year period succeeding the effective date of the lease unless otherwise provided by law at the time of the expiration of such periods. Before the expiration of each 20-year period, whenever feasible, the lessee will be notified of the proposed readjustment of terms or notified that no readjustment is to be made. Within 30 days after receipt of the notice, unless the lessee files his objection to the proposed readjusted terms, or the lessee files a relinquishment of the lease, he will be deemed to have agreed to such readjusted terms.

(b) *Coal.* All coal leases will be subject to readjustment at the end of the first 20-year period following the issuance of the lease and at the end of each ten-year period thereafter. Before the expiration of the initial 20-year period or any succeeding 10-year period thereafter, the authorized officer shall if it is feasible, notify the lessee of any proposed readjustment of terms and conditions or that no readjustment will be made. Unless the lessee within 30 days after receipt of notice of any proposed readjustment from the authorized officer files either an objection to the proposed readjustment or a relinquishment of his lease, he will be deemed to have agreed to the readjusted terms. If the date on which a coal lease became liable for readjustment of terms and conditions occurred before August 4, 1976, but the authorized officer prior to that date neither readjusted the terms and conditions nor informed the lessee that no readjustment would be made, the terms and conditions of that lease shall be readjusted to conform to the requirements of the Federal Coal Leasing Amendments Act of 1975.

7. 43 CFR 3523.2–1(b)(1) is amended by the insertion of "(i)" after the word "Coal" and by adding the following subdivisions (ii) and (iii):

§ 3523.2–1 Judicial proceedings.

* * * * * * *

(b) * * *

(1) * * *

(ii) Any coal lease issued or readjusted on or after August 4, 1976, on which the lessee does not meet diligent development requirements shall be terminated. Any other coal lease on which the lessee does not meet diligent development requirements will be subject to cancellation in whole or in part. Any coal lease on which the lessee does not meet either continued operation or advance royalty requirements will be subject to cancellation in whole or in part. In deciding whether to cancel a lease under the two preceding sentences, the Secretary will not consider adverse circumstances which arise out of: (A) normally foreseeable cost of compliance with requirements for environmental protection; (B) commonly experienced delays in delivery of supplies or equipment; or (C) inability to obtain sufficient sales. The requirements as to notice included in subdivision (i) of this subparagraph are applicable to cancellations under this subdivision (ii) also.

(iii) Should a lease be cancelled or relinquished for any reason, all deferred bonus payments shall be immediately payable and all rentals and royalties, including advance royalties already paid or due, will be forfeited to the United States.

Dated: December 22, 1976.

THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.76–38174 Filed 12–28–76;8:45 am]

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5611]

ALASKA

Clarification of Public Land Order No. 5561, As Amended

Pursuant to the authority vested in the Secretary by Executive Order No. 10355 of May 26, 1952 (17 FR 4831), and otherwise including but not limited to section 6(g) of the Alaska Statehood Act, 72 Stat. 339, and section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1), it is ordered as follows:

1. Subject to valid existing rights, paragraph 2 of Public Land Order No. 5561 of December 16, 1975, appearing in FEDERAL REGISTER issue of December 19, 1975, at page 58857, as amended by Public Land Order No. 5581 of March 31, 1976, appearing in the FEDERAL REGISTER issue of April 6, 1976, at page 14518, is hereby further amended to provide that the preference right for State selections under section 6(g) of the Alaska Statehood Act upon the revocation or termination of any reservation shall cease at 11:30 p.m. EST, April 1, 1977. Thereafter the land shall be available for selection under section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) and for State selection under the Alaska Statehood Act.

2. Paragraph 2 of Public Land Order No. 5561, as amended by Public Land Order No. 5581, provided that upon the termination of said orders the lands would be available for State selection unless otherwise provided in any statute, regulation, court decree, contract, or public land order.

The purpose of this order is to provide for the termination of the preference right of selection vested in the State of Alaska by section 6(g) of the Alaska Statehood Act.

This order applies to all those lands previously withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act, 43 Stat. 1610, and not previously selected by any Alaska Native Corporation and which are otherwise vacant and unappropriated or reserved from State selection.

H. GREGORY AUSTIN,
Acting Secretary of the Interior.

DECEMBER 27, 1976.

[FR Doc.76–38382 Filed 12–28–76;8:52 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN PUBLIC ASSISTANCE PROGRAMS

Need and Amount of Assistance Exclusion of SSI beneficiaries from AFDC

Correction

In FR Doc. 76–36568, appearing at page 54489 in the issue of Tuesday, December 14, 1976, the first line of § 233.20(a)(3)(vi) should read "Except for child support obligations assigned pursuant to § 232.11 of this chapter, if the State agency holds rela-".

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76–1197]

PART 1—PRACTICE AND PROCEDURE

Schedule of Fees; Suspension

Adopted: December 22, 1976.

Released: December 23, 1976.

1. On December 16, 1976 the United States Court of Appeals for the District of Columbia Circuit handed down opinions in four cases[1] remanding to the Commission various orders relating to our schedule of fees. For the reasons explained below, we have determined that the appropriate, immediate response to these decisions is a suspension of any further collection of fees effective January 1, 1977 and instruction to the staff to undertake a study of the legal and administrative implications of refunding fees in order that the Commission may make a determination of the extent and nature of any refund of fees that may be necessary.

[1] *National Cable Television Ass'n, Inc., et al. v. FCC*, Nos. 75–1063, *et al.*; *National Ass'n of Broadcasters, et al. v. FCC*, Nos. 75–1087, *et al.*; *Electronics Industries Ass'n, et al. v. FCC*, Nos. 75–1120, *et al.*; *Capital Cities Communications, Inc., et al. v. FCC*, Nos. 75–1503, *et al.*

2. The Court's decisions in the National Cable and Electronics Industries cases remanded to the Commission its 1975 action adopting a new schedule of fees in response to the Supreme Court's decision in "NCTA v. United States," 415 U.S. 336 (1974). See Report & Order, Schedule of Fees, 50 FCC 2d 906, reconsid. grtd in part & denied in part, 52 FCC 2d 333 (1975). That revised schedule was adopted in an effort to comply with the mandate of Title V of the Independent Offices Appropriations Act of 1952, 5 U.S.C. 483a. However, at the time we adopted that schedule, we emphasized the difficulty of complying with requirements of the Supreme Court's ruling in the NCTA decision, and in a separate statement Chairman Wiley, joined by the full commission, urged that Congress consider legislation on this subject:

> The Commission believes that its revised fee schedule represents a reasoned and legally sustainable response to the limitations imposed upon the agency by the Supreme Court's NCTA decision and its mandate under Title V * * * to render the agency "self-sustaining to the full extent possible." However, the present circumstance in which the Commission finds itself cries out for guidance from the Congress. The Supreme Court's ruling not only sharply circumscribes the Commission's ability to recover regulatory costs, but contains language sufficiently ambiguous to encourage renewed litigation and judicial review of any fee schedule promulgated by this agency. Therefore, the members of this Commission join me in unanimously requesting remedial or clarifying legislation.

50 FCC 2d at 937.

3. Those views are, on several occasions, called to the attention of the Congress in testimony before both House and Senate Committees. In addition, in the Report of the House Appropriations Committee on the Commission's fiscal year 1977 budget, the Committee concluded that guidance was needed from Congress in the "entire area of regulatory fee policy" and urged that the appropriate Senate and House Committees consider the matter. See H. Rep. No. 94–1220, 94th Cong., 2d Sess. 35 (1976).

4. However, no legislative action has been taken to clarify the Commission's authority to assess fees for the services it performs, and what was a problem that warranted Congressional attention in 1975 has now become, as a result of these recent decisions, a situation which demands legislative action if the Commission is to continue collecting fees. The National Cable and Electronics Industries decisions, when read with the Supreme Court's NCTA decision, place constraints on the implementation of the statute (5 U.S.C. 483a) that make it extremely difficult for the Commission to adopt a fee schedule that will successfully withstand judicial scrutiny. We are still studying that issue, but the questions raised are sufficiently serious that pending further review of the decisions all fee collections will be suspended.

5. The Court's other two decisions, the National Association of Broadcasters case and the Capital Cities case, remanded Commission orders that had denied requests for refund of fees. See, e.g., Refund of Fees, 50 FCC 2d 730, reconsid. denied, 52 FCC 2d 666 & 53 FCC 2d 207 (1975). The Court made clear that on remand the Commission was to refund some portion of the fees it has collected since adoption of the 1970 schedule. Accordingly, we are directing the staff to provide us with proposals as to the legal and administrative implications of the Court's refund decisions in order that we may make a determination at the earliest practicable date of the appropriate amounts to be refunded and the procedures under which any refund of fees will be carried out. It would be difficult to overstate the enormity of the administrative burden any substantial refund action will place on the Commission. This process cannot be accomplished overnight. It is our intention to determine the amounts of appropriate refunds as soon as possible and, within the limits imposed by available staff and administrative resources, to return those amounts in an expeditious manner. Interested parties are advised that any decisions in this area will be announced promptly. Inquiries will not speed the process.

6. For the reasons stated above, it is ordered that Subpart G of Part 1 of the Commission's Rules, 47 CFR 1.1101–1.1120, is suspended effective January 1, 1977. Pending further Commission action, fees normally required by those rules must not be submitted to the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–38175 Filed 12–28–76;8:45 am]

[Docket No. 19528; FCC 76–1139]

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

Message Toll Telephone Service and Wide Area Telephone Service

Adopted: December 14, 1976.

Released: December 28, 1976.

In the Matter of proposals for new or revised classes of interstate and foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS).

In its various decisions in this docket[1] the Commission has established a registration program (Part 68 of the Commission's Rules and Regulations) designed to allow consumers to connect terminal equipment to the nationwide telephone network without using carrier-supplied protective couplers (connecting arrangements). This program is applicable both to equipment provided by users (customer-supplied equipment) and to equipment provided by telephone companies (carrier-supplied equipment).[2]

2. The grandfather provisions in Part 68 of the Commission's Rules are contained in § 68.2, and provide that:

> (a) Except as provided for in paragraphs (b) and (c), the rules and regulations in this Part apply to the direct connection after May 1, 1976 of all terminal equipment other than coin telephones, and PBX and key telephone equipment to the telephone network, for use in conjunction with all services other than party line service, and to the direct connection after August 1, 1976 of all terminal equipment other than coin telephones to the telephone network, for use in conjunction with all services other than party line service.
>
> (b) Unless otherwise ordered by the Commission, all items of equipment, other than PBX and key telephone equipment, of a type directly connected to the network as of May 1, 1976 may be connected thereafter up to January 1, 1977, and may remain connected for life, without registration, unless subsequently modified.
>
> (c) Unless otherwise ordered by the Commission, all PBX and key telephone equipment of a type directly connected to the network as of August 1, 1976 may be connected thereafter up to January 1, 1977, and may remain connected for life, without registration, unless subsequently modified.

3. The effect of this rule as it relates to equipment other than PBX and key telephone equipment[3] is as follows:

> (a) Installations before May 1, 1976. Any equipment lawfully connected to the telephone network before May 1, 1976, may continue to be so connected without registration, but which established certain "grandfather" provisions concerning equipment installed during a transition period established for phasing in registration of terminal equipment. On March 15, 1976, the Commission released a Memorandum Opinion and Order, 58 F.C.C. 2d 716, which substantially modified the registration program's technical standards. In a Second Report and Order released March 18, 1976, 58 F.C.C. 2d 736, the Commission extended the registration program to include PBXs, key telephone equipment and main telephones (leaving coin telephones and equipment connected with party-line telephone service excluded from the scope of the registration program). In response to petitions for clarification of earlier rulings in this proceeding, the Commission released a Memorandum Opinion and Order on April 28, 1976, 59 F.C.C. 2d 83, which, among other things, clarified the grandfather provisions and transition period requirements of Part 68 of the Commission's Rules. On October 18, 1976, the Commission released a Memorandum Opinion and Order, FCC 76–926, which generally affirmed its March 18, 1976 Second Report and Order.

[1] The registration program was established in a First Report and Order (hereafter, November Order), 56 F.C.C. 2d 593 (1975), and initially applied to all terminal equipment other than PBXs, key telephone equipment, main telephones and coin telephones. On February 18, 1976, the Commission issued a Memorandum Opinion and Order, 57 F.C.C. 2d 1216, in reconsideration of the November Order which generally affirmed the conclusions and principles of the November Order,

[2] 56 FrCC. 2d at 601.

[3] For PBX and key telephone equipment, all references to May 1, 1976 should be changed to read Aug. 1, 1976.

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tion. The Part 68 rules generally do not apply to such equipment installations.

(b) Installations between May 1, 1976 and January 1, 1977. Equipment installed during this time period may be connected in one of three manners. First, if the equipment is registered pursuant to Part 68 of the Rules, it may be directly connected to the telephone network. Second, if the equipment is of a type directly connected to the network as of May 1, 1976, such equipment type is grandfathered, and may be directly connected to the network without registration. Third, if the equipment is of a type not directly connected to the network as of May 1, 1976, such equipment may be connected pursuant to tariff provisions in effect prior to May 1, 1976; i.e., connected through a telephone company-supplied connecting arrangement. (This third option is available because the carrier's connecting arrangements are grandfathered.)[4]

(c) Installations after January 1, 1977. All equipment directly connected to the telephone network after January 1, 1977 must be registered pursuant to Part 68 of the Rules.

4. During the course of this proceeding, certain parties appealed one or more of the Commission's decisions herein to the United States Court of Appeals for the Fourth Circuit. By orders of April 28, 1976 and June 16, 1976, the court stayed the Commission's decisions herein as they relate to main and extension telephones, PBXs, key telephone systems and all carrier-supplied equipment.

5. We now have before us a Petition for Relief, filed October 29, 1976, by the Computer and Business Equipment Manufacturers Association (CBEMA), which requests that AT&T be required to continue providing connecting arrangements for at least six months following January 1, 1977 for use in conjunction with unregistered customer-provided equipment. The Bell System companies filed a response in which they agreed with CBEMA's request insofar as it requests the Commission to authorize continued telephone company-provision of unregistered data access arrangements for an interim period subsequent to January 1, 1977. We are also in receipt of letters from Marquette Electronics, Inc. and Rixon, Inc. requesting in one form or another an extension of the January 1, 1977 date.

6. In consideration of the pleadings mentioned in the preceding paragraph, as well as the reasons stated below, we believe that a five month extension of the January 1, 1977 date to June 1, 1977 is in the public interest. As a result of the court litigation concerning the Registration Program and the various possible outcomes which may result from that litigation, there has been a substantial amount of uncertainty concerning the effectiveness of various aspects of the program. This is highlighted by the fact that on April 28, 1976, just three days before the effective date of the program, the U.S. Court of Appeals stayed the entire program, and then on June 16, 1976, the court lifted the stay except as it related to main and extension telephones, PBXs, key telephone systems and all carrier-supplied equipment. Thus at the outset the program stated a month and a half later than had been planned.

7. The program was further delayed by the late release, July 12, 1976, of the Report and Order in Docket No. 20774 prescribing the standard plugs and jacks required by the rules to be used with registered terminal equipment (FCC 76-617, 41 FR 28694). For data equipment manufacturers, the earlier wording of one of our technical rules, § 68.314, would have required significant modifications or redesign of their equipment. However, in our October 18, 1976 Memorandum Opinion and Order, FCC 76-928 (41 FR 46298, October 20, 1976), we rectified this problem by liberalizing the requirements of this rule.

8. As a result of these late additions and modifications to the rules and the uncertainty surrounding the court litigation, many manufacturers have been hesitant to undertake the time and expense to have their products registered. Thus we have received a very small number of applications for registered protective circuitry (which would replace carrier-supplied connecting arrangements) or for data equipment. In view of this, it is questionable whether manufacturers can meet the market quantity requirements by January 1, 1977.

9. Therefore in order to assure an orderly transition during which the various suppliers may bring their equipment into compliance with our rules and secure registration, we will extend the January 1, 1977 date to June 1, 1977. This will allow the continuation of all three options stated in paragraph 3(b) above for an additional five months.[5]

10. Accordingly, *It is ordered* That the Petition for Relief filed by CBEMA is granted.

11. *It is further ordered*, pursuant to Sections 1, 2(a), 4(i), 4(j), 201-205, 208, 215, 313, 403, 303, 410 and 602 of the Communications Act, That Part 68 of the Commission's Rules and Regulations is amended as follows effective December 30, 1976,[6] subject to the court's stay referred to in paragraph 4 above.

12. *It is further ordered*, That AT&T is directed to file tariffs in accordance with this Order.

(Secs. 4, 201-205, 208, 215, 218, 313, 314, 403, 410, 602, 48 Stat., as amended, 1066, 1070-1072, 1073, 1076, 1077, 1087, 1094, 1096, 1102, 47 U.S.C. 154, 201-205, 208, 215, 218, 313, 314, 403, 410, 602.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT MULLINS,
Secretary.

[4] For a complete discussion of the terms "directly connected" and "of a type," as well as other clarifications of the grandfather provisions, see 59 F.C.C. 2d 83 (1976).

[5] In view of the action we are taking herein, it is unnecessary to address CBEMA's argument that before AT&T can cease providing connecting arrangements, it must obtain a Section 214 discontinuance authorization.

[6] Since the rule we are modifying would, absent this modification, take effect on Jan. 1, 1977, the public interest requires that this change become effective before Jan. 1, 1977.

The Commission's Rules and Regulations (Chapter I of Title 47 of the Code of Federal Regulations) are amended as follows:

Section 68.2 (a), (b) and (c) are amended to read as follows:

§ 68.2 Scope.

(a) Except as provided for in paragraphs (b) and (c), the rules and regulations in this Part apply to the direct connection after May 1, 1976 of all terminal equipment other than coin telephones, and PBX and key telephone equipment to the telephone network, for use in conjunction with all services other than party line service, and to the direct connection after August 1, 1976 of all terminal equipment other than coin telephones to the telephone network, for use in conjunction with all services other than party line service.

(b) Unless otherwise ordered by the Commission, all items of equipment, other than PBX and key telephone equipment, of a type directly connected to the network as of May 1, 1976 may be connected thereafter up to June 1, 1977—and may remain connected for life—without registration, unless subsequently modified.

(c) Unless otherwise ordered by the Commission, all PBX and key telephone equipment of a type directly conected to the network as of August 1, 1976 may be connected thereafter up to June 1, 1977—and may remain connected for life—without registration, unless subsequently modified.

[FR Doc.76-38176 Filed 12-28-76;8:45 am]

[Docket No. 20698; FCC 76-1144]

PART 73—RADIO BROADCAST SERVICES

Noncommercial Educational Broadcast Stations; Program Logs

Adopted: December 14, 1976.

Released: December 30, 1976.

In the matter of amendment of the Commission's rules and regulations concerning program logs for noncommercial educational broadcast stations.

1. In a Notice of Proposed Rule Making released on September 2, 1976 (FCC 76-793) (41 FR 37347, September 3, 1976), the Commission looked toward amending Part 73 of its rules and regulations with respect to program logs of noncommercial educational broadcast stations.

2. The proposed amendments would (a) permit such stations to log the type and source of programs according to definitions in the renewal form for those stations (FCC Form 342) instead of the definitions in Notes 1 and 2 to the rules on program logging; (b) provide the alternative of putting certain donor announcement information in the station's public file instead of the program log; and (c) promulgate a separate program logging rule common to all stations licensed or operating as noncommercial (§ 73.582).

3. Comments supporting the proposals were filed by Fort Wayne Bible College, licensee of WBCL(FM), Fort Wayne, Indiana; Ohio State University, licensee of Stations WOSU, WOSU-FM and WOSU-TV, Columbus, Ohio; and Tennessee Temple College, licensee of WDYN (FM), Chattanooga, Tennessee. There were no comments opposing the amendments. No reply comments were filed.

4. It should be noted that the Notice of Proposed Rule Making herein was issued after the Idaho State Board of Education[1] and the Technical Director of WBAU[2] had made similar proposals in Docket No. 20600 (program log rules) which the Commission found to be outside the scope of that proceeding but to merit consideration in a new rule making proceeding.[3]

LOGGING OF PROGRAM TYPES AND SOURCES

5. Noncommercial educational broadcast stations have been required to log program types and sources in accordance with the definitions thereof in Notes 1 and 2 to the program logging rules. Note 1 defines types under the primary categories of "Agricultural," "Entertainment," "News," "Public Affairs," "Religious," "Instructional," "Sports," "Other," and subcategories of "Editorials," "Political" and "Educational Institution."

6. In their renewal applications, noncommercial educational stations have been required to set forth programming information based on definitions of program types and sources in that form (FCC Form 342). The form defines types as "Instructional," "General Educational," "Performing Arts," "Public Affairs," "Light Entertainment" and "Other."[4]

7. With respect to program sources, Note 2 of the program logging rules differs from Form 342 only in omitting the "Other" category and combining it with "REC" (recorded program).

8. To complete the renewal form, it has been incumbent upon such licensees, as a practical matter, to keep program logs based on two differing sets of definitions.

9. Ohio State University claims in its comments that "the present practice has, in effect, rendered the program logs virtually useless in preparing the renewal applications for noncommercial stations."

10. Fort Wayne Bible College states in its comments that "the two types of broadcast stations—commercial and noncommercial—have important differences and deference to those differences through separate, more applicable definitions should be set forth uniformly in both the Commission's Rules and its required Forms."

11. Tennessee Temple College agrees in its comments that "by adopting a uniform system of categorizing program types for noncommercial stations the Commission will simplify program logging procedures as well as renewal application preparation for noncommercial educational stations," and "moreover, this action will recognize the operational differences between commercial and noncommercial stations which should be reflected in the definitions utilized for program logging purposes."

12. Our program logging rules for noncommercial educational stations will be amended to specify the same definitions of program types and sources as contained in FCC Form 342 except that news will be specified as a separate program category instead of being included in the definition of "Other" programs. Although FCC Form 342 does not call for an accounting of time devoted specifically to news, the Commission intends to institute a proceeding for the purpose of reviewing what the form itself should realistically require and, in the meantime, will avoid any revision in the program logging rules which might give an appearance of downgrading the matter of news. It should also be noted that there is presently before the Commission a rule making proceeding, Docket No. 20735, looking into overall licensing and operational matters with respect to FM noncommercial educational stations.

DONOR INFORMATION

13. Our rules require an entry in the program log of the name of the donor or person furnishing materials or services, in accordance with the provisions of §§ 73.1212 and 73.503 including Notes 1 through 5 thereto. Idaho State Board of Education had claimed that certain nationally distributed programs such as "Sesame Street" have as many as five or six donors who are announced; and that if all donors are logged each time a program is broadcast, such log entries would require a relatively large amount of electronic memory in automated logging schemes. Idaho suggested the rules be amended so that the licensee of a noncommercial educational station could simply indicate with a "D" or similar designator beside the program name (on the program log) that a donor announcement had been made and, in the key to abbreviations section of the log, indicate that the name of the donor could be found in the station's public file. Idaho contended that, since donor announcements would remain the same for an entire year of "Sesame Street" and similar series of programs, the amount of work involved in recording such information would be significantly reduced, and that, since public files are legally more accessible than program logs, the public information function of those log entries would be better accomplished.

14. We set forth such a provision in our Notice of Proposed Rule Making but noted that we had reservations about its merits and would withhold judgment until a study of the comments was made.

15. Each of the comments supported the provision. Fort Wayne Bible College stated the provision would greatly simplify the logging process as well as reduce the cost of program logging and "is in the best interest of the public" inasmuch as "information as to the organizations or individuals supporting noncommercial educational programming would be even more available to the public if it is contained in the public inspection file as those files are undoubtedly more accessible than daily program logs" and, accordingly, "the purpose of the donor announcements—to let the public know who is supporting the programs broadcast—is better served."

16. We conclude that the proposal is meritorious as an alternative to be used at the option of the licensee, as set forth in § 73.582(b)(2) in the Appendix hereto.

17. We remind licensees who use the alternative that program logs submitted to the Commission must include a list of the names of donors indicated thereon.

SEPARATE PROGRAM LOGGING RULE

18. A separate program logging rule common to all stations licensed as noncommercial educational was supported in each of the comments as giving proper recognition to operational differences between commercial and noncommercial educational stations. We are revising the program logging rule for noncommercial educational FM, i.e. § 73.582, and providing in the program logging rules of the other services (AM, FM, TV) that stations licensed or operating as noncommercial educational shall maintain a program log in accordance with the provisions of § 73.582.

19. In view of the foregoing, we conclude that the public interest would be served by adoption of the amendments as proposed.

20. Authority for adoption of the amendments contained in the Appendix hereto is set forth in Sections 4(i) and 303 (j) and (r) of the Communications Act of 1934, as amended.

21. Accordingly, *it is ordered*, That, effective January 27, 1977, Part 73 of the Commission's Rules and Regulations is amended as set forth below.

22. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

1. Section 73.112(a) is amended to read as follows:

§ 73.112 Program log.

(a) A program log shall be kept in accordance with the provisions of § 73.111, for each broadcast day, which, in this context, means from the station's sign-on to its sign-off, or from midnight to midnight for stations operating 24 hours a day. A station licensed or operating as noncommercial educational shall main-

[1] Licensee of Stations KAID-TV, Boise; KBGL, Pocatello; and KUID-TV, KUID-FM, Moscow.

[2] Adelphi University, Garden City, New York.

[3] Para. 44, *Report and Order*, Docket No. 20600, released June 30, 1976.

[4] "Other" programs include news and sports.

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tain its program log in accordance with the provisions of § 73.582 (Subpart C).

* * * * *

2. Section 73.282(a) is amended to read as follows:

§ 73.282 Program log.

(a) A program log shall be kept in accordance with the provisions of § 73.281, for each broadcast day, which, in this context, means from the station's sign-on to its sign-off, or from midnight to midnight for stations operating 24 hours a day. A station licensed or operating as noncommercial educational shall maintain its program log in accordance with the provisions of § 73.582 (Subpart C).

* * * * *

3. Section 73.582 is amended to read as follows:

§ 73.582 Program log.

(a) A program log shall be kept in accordance with the provisions of § 73.581 for each broadcast day, which, in this context, means from the station's sign-on to its sign-off, or from midnight to midnight for stations operating 24 hours a day.

(b) *Entries:* The following entries shall be made in the program log;

(1) *For each program.* (i) An entry identifying the program by name or title.

(ii) Entries which indicate the time each program begins and ends. If programs are broadcast during which separately identifiable program units of a different type or source are presented, and if the licensee wishes to count such units separately, the beginning and ending time for the longer program need be entered only once for the entire program. The program units which the licensee wishes to count separately shall then be entered underneath the entry for a longer program, with the beginning and ending time of each such unit, and with the entry indented or otherwise distinguished so as to make it clear that the program unit referred to was broadcast within the longer program.

(iii) An entry classifying each program as to source, using the definitions set forth in Note 1 at the end of this section. (For network programs, also give name or initials of network, e.g. PBS, NPR, etc.)

(iv) An entry classifying each program as to type, using the definitions set forth in Note 2 at the end of this section.

(v) An entry for each program presenting a political candidate, showing the name and political affiliation of such candidates.

(2) *For donor announcement.* An entry giving the name(s) of any donor(s), or person(s) furnishing money, service or other valuable consideration, in accordance with the provisions of § 73.503 including Notes 1 through 5 thereto and § 73.1212, respectively; and the entry shall constitute a representation that identification was announced on the air in accordance with the provisions of the said Sections and Section 317 of the Communications Act of 1934, as amended. As an alternative to giving the name, an entry of the word Donor(s) may be made, provided that the log shall clearly indicate that the name of the donor(s) or person(s) is retained in the station's public file. Such information for a given series of programs need be entered in the public file only once, provided the information is identical for each program in the series. The information shall be retained in the public file for a period of two years. Program logs submitted to the Commission must include a list of the names of donors indicated thereon.

(3) *For public service announcements.* An entry showing that a public service announcement (PSA) has been broadcast, together with the name of the organization or interest on whose behalf it is made. See Note 3 following this section for definition of a public service announcement.

(4) *For other announcements.* (i) An entry of the time that each required station identification announcement is made (call letters and licensed location, pursuant to § 73.1201).

(ii) An entry for each announcement presenting a political candidate showing the name and political affiliation of such candidate.

(iii) An entry for each announcement made pursuant to the local notice requirements of § 1.580 (pre-grant) and § 1.594 (designation of hearing), showing the time it was broadcast.

(iv) An entry showing that broadcast of taped, filmed or recorded material has been made in accordance with the provisions of § 73.1208.

(c) *Network programming.* A station broadcasting the programs of a network (see "network program," Note 1) which will supply it with all informtion as to such programs necessary for the "full week of operation" (FCC Form 342) need not log such data but shall record in its log the name of each network program broadcast, the time the program was broadcast (beginning and ending) and any non-network mattter broadcast required to be logged. The information supplied by the network for the "full week" which the station will use in its renewal application shall be retained with the program logs and associated with the log pages to which it relates.

(d) *Manually kept log.* Entries on a manually kept log may be made either at the time of or prior to broadcast. The employee responsible for keeping the log shall sign the log when starting duty and when going off duty and enter the time of each. If entries are pre-printed prior to broadcast and any deviation therefrom occurs in what was actually broadcast, an appropriate correction must be made on the log. When the employee keeping the log signs the log upon going off duty, that person attests to the fact that the log, with any corrections or addition made before he signed off, is an accurate representation of what was actually broadcast.

(e) *Automatically kept log.* (1) Entries on an automatically kept program log may be made by automatic logging instruments with sequential language printouts corresponding to manually kept log entries.

(2) An employee on duty shall be responsible for the automatic logging process and the keeping of the log. In the event of failure or malfunctioning of the automatic logging process, the person responsible for the log shall make the required entries in the log manually.

(3) The employee responsible shall sign the log, or a separate page to be affixed to the log, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic printout part of the log, the employee checked the automatic logging equipment periodically throughout the tour and that, to the best of his knowledge and belief, at no time during his tour did it fail or malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually, with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(f) *Automatic maintenance of logging data.* (1) An employee on duty shall be responsible for any automatic maintenance of data and the keeping of the log. In the event of failure or malfunctioning of the said automatic process, the employee responsible for the log shall make the required entries in the log manually at that time.

(2) The employee responsible shall sign, on a separate page to be affixed to the logging data, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic maintenance of data equipment, the employee checked it periodically throughout the tour and that, to the best of his knowledge and belief, at no time during his tour did it fail or malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually, with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(3) The licensee shall extract any required information from automatically maintained program logging data for days specified by the Commission or its duly authorized representative and submit it in written log form, together with the underlying recording, tape, or other means employed, within such time as the Commission may specify.

(g) *Information required.* The licensee, whether employing manual logging, automatic logging or automatic maintenance of logging data, or any combination thereof, must be able accurately to furnish the Commission with all information required to be logged.

(h) *Corrections.* (1) Program logs shall be changed or corrected only in the manner prescribed in § 73.581(c).

(2) If corrections or additions are made on the log after it has been signed, explanation must be made on the log or an attachment to it, dated and signed by either the person who kept the log, the station program director or manager, or an officer of the licensee.

NOTE 1. Sources of programs are defined as follows:

A local program (L) is any program originated or produced by the station, employing live talent more than 50% of the time, and using the studios or other facilities of the station. A local program recorded or filmed by the station for later broadcast shall be classified as local. Programs primarily featuring phonograph records, syndicated or feature films or taped or transcribed programs, shall not be classified as local even though a station personality appears incidentally to introduce such material.

A record program (REC) (Radio only) is any program, not falling within the definition of "local" above, which utilizes phonograph records, electrical transcriptions or taped music, with or without commentary by a local announcer, or other station personnel.

A network program (N) is any program furnished to the station by a network (national, regional or special) such as Public Broadcasting System, National Public Radio, etc.

Other Programs (OTHER) are any programs not defined above, including, without limitation, syndicated film, taped or transcribed programs, and feature films.

NOTE 2: Types of educational programs are defined as follows:

Instructional (I) includes all programs designed to be utilized by any level of educational institution in the regular instructional program of the institution. In-school, in-service for teachers, and college credit courses are examples of instructional programs.

General Educational (GEN) is an educational program for which no formal credit is given.

Performing Arts (A) is a program, live or recorded, in which the performing aspect predominates such as drama or concert, opera, or dance.

News (NS) programs include reports dealing with the current local, national and international events, including weather and stock market reports; and commentary, analysis, or sports news when it is an integral part of a news program.

Public Affairs (PA) includes programs dealing with local, state, regional, national, or international issues or problems, including, but not limited to, talks, commentaries, discussions, speeches, political programs, documentaries, mini-documentaries, panels, roundtables, vignettes, and extended coverage (whether live or recorded) of public events or proceedings, such as local council meetings, Congressional hearings, and the like.

Light Entertainment (LE) includes programs consisting of popular music or other light entertainment.

Other (O) includes all programs not falling within the definitions of Instructional, General Education, Performing Arts, News, Public Affairs or Light Entertainment. Sports programs should be reported as "Other."

NOTE 3: Definition of a public service announcement. A public service announcement is one which promotes programs, activities, or services of Federal, State, or local governments (e.g. recruiting, sales of bonds, etc.) or the programs, activities or services of nonprofit organizations (e.g., UGF, Red Cross, Blood Donations, etc.), and other announcements regarded as serving community interests, excluding time signals, routine weather announcements, and promotional announcements. See, however, § 73.503(d) with respect to the preclusion of announcements promoting the sale of a product or service.)

4. Section 73.670(a) is amended to read as follows:

§ 73.670 Program log.

(a) A program log shall be kept in accordance with the provisions of § 73.669, for each broadcast day, which, in this context, means from the station's sign-on to its sign-off, or from midnight to midnight for stations operating 24 hours a day. A station licensed or operating as noncommercial educational shall maintain its program log in accordance with the provisions of § 73.582 (Subpart C).

* * * * *

[FR Doc.76-38177 Filed 12-28-76;8:45 am]

Title 49—Transportation

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 604—CHARTER BUS OPERATIONS

Amendments

On April 1, 1976, the Urban Mass Transportation Administration (UMTA) published final regulations in the FEDERAL REGISTER (41 FR 14122) on charter bus operations by UMTA-assisted transit operators. The purpose of these amendments is to make clarifying changes and to correct inadvertent errors contained in those regulations.

The final paragraph of the preamble is amended to make clear that the charter regulations are final and not proposed regulations issued as a new Part 604 of 49 CFR Chapter VI.

Section 604.3 is amended to add a new definition of the term "Interested party" which was inadvertently left out of the regulations when they were published on April 1, 1976. Likewise, a new § 604.4 is added which establishes a public hearing requirement. Section 604.0 appeared in the index of the April 1, 1976 regulations but for some reason was not printed in the body of the regulations.

A considerable amount of concern has been voiced concerning § 604.15(a) of the regulations as they presently exist. That concern has been that UMTA has attempted to broaden the scope of section 3(f) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602) by applying the charter regulations to charter service inside an applicant's service area. This has never been UMTA's intention. Section 604.15 is therefore amended to make clear that the procedures required by that section apply only to applicants who engage in charter service outside of their urban area.

Finally, § 604.20(b) is amended to make clear that a grantee need develop certifications of costs, statements of proposed or existing charter bus operations and a cost allocation plan to be sent to private carriers only if that grantee intends to engage in charter service outside of its urban area.

In view of the technical nature of today's amendments, notice and comment concerning the amendments are unnecessary.

In consideration of the foregoing, (1) the new Part 604 of Chapter VI of Title 49 CFR, which was inadvertently issued on March 29, 1976, as a proposed new Part 604 of 49 CFR Chapter IV, is hereby reissued and republished by reference as final regulations, effective March 29, 1976; (2) Part 604 of Chapter VI of title 49 CFR is amended as follows, effective March 29, 1976.

Issued in Washington, D.C., December 22, 1976.

ROBERT E. PATRICELLI,
Urban Mass Transportation Administrator.

The final paragraph of the preamble to Part 604—Charter Bus Operations is amended to read as follows:

In consideration of the foregoing, a new Part 604 of 49 CFR Chapter VI is added as set forth below, effective March 29, 1976.

Issued on March 29, 1976.

2. Section 604.3 is amended to add, in appropriate alphabetical order, the following definition:

§ 604.3 Definitions.

* * * * *

"Interested party" means an individual, partnership, corporation, association or public or private organization that has a financial interest which is adversely affected by the act or acts of a grantee with respect to charter bus operations.

* * * * *

3. A new § 604.4 is added to read as follows:

§ 604.4 Public hearing requirement.

Each applicant who engages or wishes to engage in charter bus operations outside of its urban area shall afford an adequate opportunity for the public to consider such operations at the time the applicant conducts public hearings to consider the economic, social or environmental effects of its requested Federal financial assistance under section 3(d) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602(d)).

4. Section 604.15 is amended in paragraph (a) to read as follows:

§ 604.15 Notice.

(a) Each applicant who engages or wishes to engage in charter bus operations outside of its urban area shall include the following in its application: * * *

* * * * * *

5. Section 604.20 is amended in paragraph (b) to read as follows:

§ 604.20 Modification of prior agreements.

* * * * * *

(b) The grantee, if it engages or wishes to engage in charter bus operations outside of its urban area, shall develop a certification of costs for its charter bus operations and send it with a

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statement of its proposed or existing charter operations and a cost allocation plan to private charter bus operators who originate service in the grantee's urban area.

[FR Doc.76-38163 Filed 12-28-76;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1163, Amdt. 7]

PART 1033—CAR SERVICE

Missouri Pacific Railroad Co. Authorized To Operate Over Tracks of Union Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of December, 1976.

Upon further consideration of Service Order No. 1163 (38 FR 32259; 39 FR 18280, 41854; 40 FR 24005, 56443; 41 FR 22067, and 48343), and good cause appearing therefor:

It is ordered, That: Service Order No. 1163. Missouri Pacific Railroad Company authorized to operate over tracks of Union Pacific Railroad Company Service Order No. 1163 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1976.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members, Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38214 Filed 12-28-76;8:45 am]

[Service Order No. 1213-A]

PART 1033—CAR SERVICE

St. Louis-San Francisco Railway Co. Authorized To Operate Over Tracks of the Kansas City Southern Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of December, 1976.

Upon further consideration of Service Order No. 1213 (40 FR 21959, 53592; 41 FR 19325 and 50448), and good cause appearing therefor:

§ 1033.1213 [Deleted]

It is ordered, That: § 1033.1213 Service Order 1213-A, St. Louis-San Francisco Railway Company authorized to operate over tracks of the Kansas City Southern Railway Company be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2).)

It is further ordered, That this order shall become effective at 11:59 p.m., December 21, 1976; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38215 Filed 12-28-76;8:45 am]

[Ex Parte No. MC-37 (Sub-No. 26)]

COMMERCIAL ZONES AND TERMINAL AREAS

Miscellaneous Amendments

• *Purpose:* The purpose of this document is to notify the public that the Interstate Commerce Commission is modifying its regulations in order to expand commercial zones and motor carrier and freight forwarder terminal areas. •

By order served August 11, 1975, the Interstate Commerce Commission instituted the above-entitled proceeding in order to solicit public views regarding the possibility of modifying its regulations in order to expand commercial zones (49 CFR Part 1048) and motor carrier and freight forwarder terminal areas (49 CFR Part 1049). The Commission invited interested persons to submit written comments on this matter on or before October 14, 1975. Based upon a careful analysis of the representations received in response to the above request and upon an evaluation of other pertinent data, the Commission proposed certain rules and regulations in its Interim Report in this proceeding, served January 12, 1976. An additional 60 day period was set aside for written comments on the rules and regulations proposed in the Interim Report, which time was subsequently extended to April 14, 1976. Based upon an analysis of the representations filed by motor carriers, freight forwarders, shippers, and other interested parties, and an evaluation of economic, demographic, and environmental data, the Commission has promulgated the rules and regulations set forth below.

These rules (1) expand commercial zones and terminal areas pursuant to a new population-mileage formula, (2) specifically define certain zones which require greater limits than the proposed population-mileage boundaries, (3) restore the exemption to the New York, N.Y., Los Angeles, Calif., and St. Louis, Mo.-East St. Louis, Ill., commercial zones and to municipalities in Westchester and Nassau Counties, N.Y., and to certain described municipalities in New Jersey within 20 miles of New York, N.Y., (4) specifically define commercial zones of consolidated governments, (5) define the commercial zones of certain "twin cities," (6) eliminate existing confusing specific commercial zones descriptions, and (7) modify the existing rules for interpreting certificates and permits to comport with the changes made in (1) through (6) above. Generally, it has been found that the new commercial zones better reflect the economic and social development of American municipalities than the old zones, that they permit urban expansion, that they provide shippers located beyond the existing zones an equality of competition with shippers located within the existing zones, that they permit linehaul and existing exempt operations to become more efficient, and that any adverse effect to certificated short-haul carriers caused by added competition will be outweighed by the benefits of this action.

(Secs. 552, 553, and 559 of the Administrative Procedure Act (5 U.S.C. 552, 553, and 559) and sections 202, 203, 204, 207, 209, 402, 403, and 404 of the Interstate Commerce Act (49 U.S.C. 302, 303, 304, 307, 309, 1002, 1003, and 1004).)

By the Commission.

ROBERT L. OSWALD,
Secretary.

Accordingly, 49 CFR 1041, 1048, and 1049 are hereby modified in the following manner:

PART 1041—INTERPRETATION—CERTIFICATES AND PERMITS

1. Section 1041.21 is revised as follows:

§ 1041.21 Operating authority to serve particular unincorporated community, construction.

A certificate or permit issued to a motor carrier of property pursuant to the provisions of Part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) or to any freight forwarder under Part IV of the act (49 U.S.C. 1001 et seq.) authorizing service at a particular unincorporated community having a post office of the same name shall be construed as authorizing service at all points which are within the United States and not beyond the territorial limits, if any, fixed in such certificate or permit on the authority granted, as follows: (a) All points within 3 miles of the post office in such unincorporated community if it has a population of less than 2,500; within 4 miles if it has a population of 2,500 but less than 25,000; and within 6 miles if it has a population of 25,000 or more, (b) at all points in any municipality any part of which is within the limits described in paragraph (a) of the section and (c) at points in any municipality wholly surrounded, or so surrounded except for a water boundary by any municipality included under the terms of paragraph (b) of this section. (49 Stat. 543, as amended, 544, as amended, 546, as amended; 49 U.S.C. 302, 303, 304).

§ 1041.22 [Deleted]

2. Section 1041.22 is deleted.

§ 1041.23 [Redesignated]

3. Section 1041.23 is redesignated as § 1041.22.

PART 1048—COMMERCIAL ZONES

§§ 1048.1 through 1048.41 [Deleted]

4. Sections 1048.1 through 1048.41 are deleted.

5. A new section 1048.1 is added.

§ 1048.1 Albany, N.Y.

The zone adjacent to, and commercially a part of Albany, N.Y., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Albany, N.Y., itself.

(b) All points within a line drawn eight miles beyond the municipal limits of Albany.

(c) All points in that area more than eight miles beyond the municipal limits of Albany bounded by a line as follows: Beginning at that point on the western boundary of Cohoes, N.Y., where it crosses the line described in paragraph (b) of this section, thence along the western and northern boundary of Cohoes to the Mohawk River thence along such river to the northern boundary of the Town of Waterford thence along the northern and eastern boundaries of the Town of Waterford to the northern boundary of the City of Troy (all of which city is included under the next provision).

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Albany or any other municipality included under the terms of paragraph (d) of this section.

6. A new § 1048.2 is added.

§ 1048.2 Beaumont, Tex.

The zone adjacent to, and commercially a part of Beaumont, Tex., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act [49 U.S.C. 303(b)(8)] includes and is comprised of all points as follows:

(a) The municipality of Beaumont, Tex., itself;

(b) All points within a line drawn 8 miles beyond the municipal limits of Beaumont;

(c) Points in Jefferson County and Orange County, Tex.;

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Beaumont or by any other municipality included under the terms of paragraph (d) of this section.

7. A new § 1048.3 is added.

§ 1048.3 Charleston, S.C.

The zone adjacent to, and commercially a part of Charleston, S.C., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Charleston, S.C., itself;

(b) All points within a line drawn 6 miles beyond the municipal limits of Charleston;

(c) Those points in Charleston County, S.C., which are not within the areas described in paragraph (b) of this section; and those points in Berkley County, S.C., which are not within the areas described in paragraph (b) of this section, and which are west of South Carolina Highway 41.

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Charleston or by any other municipality included under the terms of paragraph (d) of this section.

§ 1048.4 Charleston, W. Va.

The zone adjacent to, and commercially a part of Charleston, W. Va., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Charleston, W. Va., itself;

(b) All points within a line drawn 6 miles beyond the municipal limits of Charleston;

(c) Those points in Kanawha County, W. Va., which are not within the area described in paragraph (b) of this section; and those points in Putman County, W. Va., south of West Virginia Highway 34;

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Charleston or by any other municipality included under the terms of paragraph (d) of this section.

8. A new § 1048.5 is added.

§ 1048.5 Lake Charles, La.

The zone adjacent to, and commercially a part of Lake Charles, La., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulations under section 203(b)(8) of the Interstate Commerce Act (40 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Lake Charles, La., itself;

(b) All points within a line drawn 6 miles beyond the municipal limits of Lake Charles;

(c) Those points in Calcasieu Parish, La., which are not within the area described in paragraph (b) of this section; and which are east of Louisiana Highway 27 (western section);

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of

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Lake Charles or by any other municipality included under the terms of paragraph (d) of this section.

9. A new § 1048.6 is added.

§ 1048.6 Pittsburgh, Pa.

The zone adjacent to, and commercially a part of Pittsburgh within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Pittsburgh, Pa., itself;

(b) All points within a line drawn 15 miles beyond the municipal limits of Pittsburgh;

(c) Those points in Allegheny County, Pa., which are not within the area described in paragraph (b) of this section;

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Pittsburgh by any other municipality included under the terms of paragraph (d) of this section.

10. A new § 1048.7 is added.

§ 1048.7 Pueblo, Colo.

The zone adjacent to and commercially a part of Pueblo, Colo., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulations under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Pueblo, Colo., itself;

(b) All points within a line drawn 6 miles beyond the municipal limits of Pueblo;

(c) Those points in Pueblo County, Colo., which are not within the area described in paragraph (b) of this section;

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality included under the terms of paragraph (d) of this section.

11. A new § 1048.8 is added.

§ 1048.8 Ravenswood, W. Va.

The zone adjacent to, and commercially a part of Ravenswood, W. Va., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Ravenswood, W. Va., itself;

(b) All points within a line drawn 4 miles beyond the municipal limits of Ravenswood;

(c) Those points in Jackson County, W.Va., which are not within the area described in paragraph (b) of this section, and which are north of U.S. Highway 33.

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Ravenswood or by any other municipality included under the terms of paragraph (d) of this section.

12. A new § 1048.9 is added.

§ 1048.9 Seattle, Wash.

The zone adjacent to, and commercially a part of Seattle, Wash., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Seattle, Wash., itself;

(b) All points within a line drawn 15 miles beyond the municipal limits of Seattle;

(c) Those points in King County, Wash., which are not within the area described in paragraph (b) of this section, and which are west of a line beginning at the intersection of the line described in paragraph (b) of this section and Washington Highway 18, thence northerly along Washington Highway 18 to junction of Interstate Highway 90, thence westerly along Interstate Highway 90 to junction Washington Highway 203, thence northerly along Washington Highway 203 to the King County line; and those points in Snohomish County, Wash., which are not within the area described in paragraph (b) of this section and which are west of Washington Highway 9.

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Seattle or by any other municipality including under the terms of paragraph (d) of this section.

13. A new § 1048.10 is added.

§ 1048.10 Washington, D.C.

The zone adjacent to, and commercially a part of Washington, D.C., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Washington, D.C., itself;

(b) All points within a line drawn 15 miles beyond the municipal limits of Washington, D.C.

(c) Those points in Fairfax County, Va., which are not within the area described in paragraph (b) of this section, and Dulles International Airport;

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Washington, D.C., or by any other municipality included under the terms of paragraph (d) of this section.

14. A new § 1048.11 is added.

§ 1048.11 Twin Cities.

For the purpose of determining commercial zones, utilizing the general population-mileage formula as set forth in § 1048.101, each of the following combinations of cities shall be considered as a single municipality (a) having a population equal to the sum of their combined populations, and (b) having boundaries comprised of their combined corporate limits, with the common portion thereof disregarded:

(1) Bluefield, Va.-W. Va.
(2) Bristol, Va.-Tenn.
(3) Davenport, Iowa, and Rock Island and Moline, Ill.
(4) Delmar, Del.-Md.
(5) Harrison, Ohio-West Harrison, Ind.
(6) Junction City, Ark.-La.
(7) Kansas City, Mo.-Kansas City, Kans.
(8) Minneapolis-St. Paul, Minn.
(9) St. Louis, Mo.-East St. Louis, Ill.
(10) Texarkana, Ark.-Tex.
(11) Texhoma, Tex.-Okla.
(12) Union City, Ind.-Ohio.

15. A new § 1048.12 is added.

§ 1048.12 Consolidated Governments.

The zone adjacent to and commercially a part of a consolidated government within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) All points within the boundaries of the consolidated government.

(b) All points beyond the boundaries of the consolidated government which were at any time within the commercial zone of the formerly independent core municipality.

(c) When the present population of the formerly independent core municipality is identifiable, all points beyond the boundaries of the consolidated government which are within the territory determined by the most recent population-mileage formula measured from the limits of the formerly independent core municipality.

(d) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the consolidated government or by any other municipality included under the terms of paragraphs (a), (b), or (c) of this section.

16. A new § 1048.13 is added.

§ 1048.13 New Jersey Area in which ex-maritime and ex-rail traffic will share in New York, N.Y., commercial zone.

The exemption provided by section 203(b)(8) of the Interstate Commerce Act, of transportation by motor vehicle, in interstate or foreign commerce, is hereby expressly extended to transportation which is performed wholly between points in New Jersey south of Interstate 495 and New Jersey Highway 3, east of the Garden State Parkway, and north of the Raritan River, on the one hand, and, on the other, points in the New York, N.Y., commercial zone as determined by application of § 1048.101, restricted to shipments that have had a prior or will have subsequent movement by rail or by water.

17. A new § 1048.15 is added.

§ 1048.15 Los Angeles, Calif., Harbor Zone.

The Los Angeles, Calif., Harbor Zone shall include all points within a line beginning at the Pacific Ocean and extending easterly along Rosencrans Avenue to its point of intersection with the western municipal limits of Compton, thence in an easterly direction along the northern municipal limits of Compton to the point where the eastern municipal limits of Compton and Rosencrans Avenue intersect, thence along Rosencrans Avenue in an easterly direction to its intersection with California Highway 19, thence extending southerly along California Highway 19 to its intersection with California Highway 91, thence easterly along California Highway 91 to the Los Angeles-Orange County line, thence south along said County line to the Pacific Ocean.

§ 1048.42 [Redesignated]

18. Section 1048.42 is redesignated as § 1048.14.

19. Section 1048.101(c) is amended as follows:

§ 1048.101 Commercial zones determined generally, with exceptions.

• • • • • •

(c) • • •

(1) When the base municipality has a population less than 2,500 all unincorporated areas within 3 miles of its corporate limits and all of any other municipality any part of which is within 3 miles of the corporate limits of the base municipality.

(2) When the base municipality has a population of 2,500 but less than 25,000 all unincorporated areas within 4 miles of its corporate limits and all of any other municipality any part of which is within 4 miles of the corporate limits of the base muncipality.

(3) When the base municipality has a population of 25,000 but less than 100,000 all unincorporated areas within 6 miles of its corporate limits and all of any other municipality any part of which is within 6 miles of the corporate limits of the base municipality.

(4) When the base municipality has a population of 100,000 but less than 200,000 all unincorporated areas within 8 miles of its corporate limits and all of any other municipality any part of which is within 8 miles of the corporate limits of the base municipality.

(5) When the base municipality has a population of 200,000 but less than 500,000 all unincorporated areas within 10 miles of its corporate limits and all of any other municipality any part of which is within 10 miles of the corporate limits of the base municipality.

(6) When the base municipality has a population of 500,000 but less than 1 million, all unincorporated areas within 15 miles of its corporate limits and all of any other municipality any part of which is within 15 miles of the corporate limits of the base municipality.

(7) When the base municipality has a population of 1 million or more, all unincorporated areas within 20 miles of its corporate limits and all of any other municipality any part of which is within 20 miles of the corporate limits of the base municipality, and

• • • • • •

PART 1049—TERMINAL AREAS

20. Section 1049.2(a) is revised as follows:

§ 1049.2 Terminal areas of motor carriers and freight forwarders at unincorporated communities served.

• • • (a) all points in the United States which are located within the limits of the operating authority of the motor carrier of property or freight forwarder involved, and within 3 miles of the post office at such authorized unincorporated point if it has a population less than 2,500, within 4 miles if it has a population of 2,500 but less than 25,000, within 6 miles if it has a population of 25,000 or more; • • •

[FR Doc.76-38216 Filed 12-28-76;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

[Amdt. 6]

PART 16—LIMITATION ON IMPORTS OF MEAT

Section 204 Import Regulations; Transshipment Restrictions With Respect to Australian and New Zealand Meat Entered During Calendar Year 1977

The regulations set forth in this subpart are amended to assist in carrying out agreements negotiated by the United States with governments of Australia and New Zealand pursuant to Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), with respect to the entry into the customs territory of the United States of certain meat during the calendar year 1977.

These agreements cover meat of Australian or New Zealand origin described in items 106.10 and 106.20 of the Tariff Schedules of the United States (TSUS) and meat which would fall within such description but for processing in Foreign-Trade Zones, territories or possessions of the United States prior to entry, or withdrawal from warehouse, for consumption in the United States customs territory.

The regulation is issued with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations.

The regulation limits the entry into the customs territory of the United States of meat of Australian or New Zealand origin covered by TSUS items 106.10 and 106.20 to such meat exported from these countries as direct shipments or on through bills of lading to the United States. It also provides that meat which, but for processing in foreign trade zones, territories or possessions of the United States prior to entry or withdrawal from warehouse for consumption in the United States, would be considered such meat of Australian or New Zealand origin may not be entered into the customs territory of the United States unless exported as direct shipments or on through bills of lading to the United States from the foreign trade zone, territory or possession of the United States in which processed. The regulation requires the presentation at the time of entry into the customs territory of the United States of documentation to establish (1) that such conditions have been met and (2) the country from which the meat was exported in the form in which it would be classified TSUS 106.10 or 106.20.

It is essential that the action taken herewith be made effective January 1, 1977, when the agreements entered into by the United States with Australia and New Zealand become effective. Since the action taken herewith involves foreign affairs functions of the United States, this regulation falls within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553.

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The subpart, Section 204 Import Regulations of Part 16, Subtitle A of Title 7 (40 FR 31227), is amended as follows:

Section 16.3, *Transshipment restrictions*, is amended to read as follows:

§ 16.3 Transshipment restrictions.

During calendar year 1977:

(a) No meat of Australian or New Zealand origin may be entered or withdrawn from warehouse for consumption in the United States unless exported into the customs territory of the United States as direct shipments or on a through bill of lading from the country of origin.

(b) No meat, which but for processing in Foreign-Trade Zones, territories or possessions of the United States would fall within the definition of meat in § 16.2 (a) and would be treated as being of Australian or New Zealand origin, may be entered or withdrawn from warehouse for consumption in the United States unless exported into the customs territory of the United States as direct shipments or on a through bill of lading from the Foreign-Trade Zone, territory or possession of the United States in which it was processed.

(c) Articles subject to paragraphs (a) and (b) above may not be entered into the customs territory of the United States unless there is presented at time of entry documentation establishing (1) that there has been compliance with the applicable conditions of this section and (2) the country from which the article was exported in the form in which it would fall within the definition of meat in § 16.2(a).

EFFECTIVE DATE. The regulation contained in this amendment shall become effective January 1, 1977.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854); E.O. 11539, 35 F.R. 10733)

Issued at Washington, D.C. this 28th day of December, 1976.

RICHARD E. BELL,
Acting Secretary of Agriculture.

[FR Doc.76-38402 Filed 12-28-76;10:02 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE DEPARTMENT OF AGRICULTURE

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime Work at Border Ports, Seaports, and Airports

• Purpose: The purpose of this document is to amend 7 CFR 354.1 relating to charges for overtime work performed at airports outside of the regularly established hours of service.•

Agricultural quarantine inspectors of the U.S. Department of Agriculture are charged with performing inspection duties relating to imports and exports at border ports, seaports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following document amends § 354.1, Overtime Work at Border Ports, Seaports, and Airports, by changing the overtime rate to be charged owners and operators of aircraft for work performed outside of the regularly established hours of service. One of the sections of the 1976 Amendments of the Airport and Airways Development Act provides that any required quarantine inspection service for operation of aircraft at airports during regularly established hours of service or. Sundays and holidays will be performed without reimbursement from the owners or operators of the aircraft to the same extent such service had been performed during regularly established hours of service during weekdays, and by having any administrative overhead costs associated with such services at airports, also to be performed without reimbursement. These limitations of charges to owners and operators of aircraft for government inspection at airports are made in accordance with the Airport and Airways Development Act Amendments of 1976.

Pursuant to the authority conferred by the Act of August 28, 1950, (64 Stat. 561; 7 U.S.C. 2260) and the Airport and Airways Development Act Amendments of July 12, 1976, (90 Stat. 882; 48 U.S.C. 1741), § 354.1 of Part 354 Title 7, Code of Federal Regulations, the first sentence of § 354.1(a) is amended as set forth below:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal products, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and Subchapter D of Chapter I, Title 9 CFR, who requires the services of an employee of the Plant Protection and Quarantine Programs, on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or overtime service request the Plant Protection and Quarantine Programs inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at the rate of $21.32 per man-hour per employee on a Sunday and at the rate of $14.60 per man-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture; and except that owners and operators of aircraft will be provided service without reimbursement during regularly established hours of service on a Sunday or holiday; and except that the overtime rate to be charged owners and operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of aircraft, for work performed outside of the regularly established hours of service on a Sunday will be $17.52, and for work performed outside of the regularly established hours of service for holiday or any other period will be $10.84 per hour, which charges exclude administrative overhead costs.

• • • • • •

(64 Stat. 561 (7 U.S.C. 2260); (Sec. 15 of Pub. L. 94-353, 90 Stat. 882) (49 U.S.C. 1741).)

Effective date: The foregoing amendment shall become effective January 1, 1977.

Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 23rd day of December, 1976.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.76-38231 Filed 12-28-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

COST ACCOUNTING STANDARDS BOARD

[4 CFR Part 331]

CONTRACT COVERAGE

Proposed Amendment

Notice is hereby given that the Cost Accounting Standards Board proposes to amend Part 331, Contract Coverage, of its regulations.

A relevant Federal agency has urged the Board to expand the provision set out in the third sentence in § 331.70(b) of the Board's regulations. That sentence now reads as follows:

Subsequently, if the contractor fails during contract performance to follow his disclosed practices or to comply with applicable Cost Accounting Standards, any increased cost to the United States by reason of that failure must be measured by the difference between the cost estimates used in negotiations and the cost estimates that would have been used had the contractor proposed on the basis of the practices actually used during contract performance.

The agency points out that in some cases the parties to a contract may not have agreed on the cost estimates used during negotiation of the contract, in which case it might be difficult to make the comparison required by the sentence quoted above. The agency states that in many cases the determination of increased costs paid by the United States can be more easily made through the use of estimates to complete the remaining work under the contract. The agency would like to have the option to use the estimates-to-complete approach where use of it is appropriate, and to retain the original-negotiation-data approach where use of it is appropriate.

The Board believes that it should in appropriate cases be responsive to the needs of procurement agencies which must administer the Board's Standards, rules and regulations, and the Board has long urged such agencies to recommend changes in the Board's materials which the agencies believe to be desirable. Consequently, the Board proposes an amendment of § 331.70(b), as follows:

Amend § 331.70(b) by inserting immediately following the third sentence of that paragraph the following sentence:

§ 331.70 Interpretation.

• • • • • •

(b) • • • If however, negotiations were not based on cost estimates, or if the cost estimates which were used are not readily determinable by the procuring agency, any increased costs to the United States by reason of that failure may be measured by the difference between the costs that would have been allocated if the failure had not arisen and the costs that will be allocated under the practice followed or to be followed by the contractor. • • •

The Board solicits comments on the proposed amendment to its regulations. Interested persons should submit written materials to assist the Board in its consideration of this proposal. Views should be submitted to the Cost Accounting Standards Board, 441 G Street, N. W., Washington, D.C. 20548. To be given consideration by the Board in its determination relative to the adoption of the proposed amendment, written submissions must be made to arrive no later than February 28, 1977. All written submissions made pursuant to this notice will be made available to the public for inspection during the Board's regular business hours.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.76-38108 Filed 12-28-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 92]

RESTRICTIONS ON IMPORTATION OF BIRDS

Extension of Time for Submission of Comments

This notice extends the time period for submitting written comments, data, views and other information with respect to proposed restrictions on importation of birds into the United States, as published in the FEDERAL REGISTER November 12, 1976 (41 FR 50000), from December 14, 1976 to February 12, 1977. Certain representatives of importers of birds have requested that the comment period be extended an additional 60 days in order to give them adequate time to obtain relevant data and information and to develop sound views and comments.

Since the Department is interested in receiving meaningful views and comments, these circumstances are considered ample justification for an extension of the time period originally allotted for submitting views and comments.

Therefore, written comments and other material relating to this matter may be submitted to the Deputy Administrator, Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, Federal Building, Hyattsville, Maryland 20782, on or before February 12, 1977.

Done at Washington, D.C., this 23rd day of December 1976.

J. M. HEJL,
Deputy Administrator, Veterinary Services.

[FR Doc.76-38230 Filed 12-28-76;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Docket No. R-0070; Reg. Z]

PART 226—TRUTH IN LENDING

Proposed Board Interpretations of Regulation Z; Sample Lease Disclosure Statements

The Board is publishing for comment three proposed Board interpretations of Regulation Z in the form of sample lease disclosure statements. These sample statements are being proposed to facilitate lessor compliance with the Consumer Leasing Act of 1976 (Pub. L. 94-240) and amendments to Regulation Z issued by the Board on October 8, 1976. (41 FR 45537, October 15, 1976) which implemented the Act.

The Board believes that the proposed interpretations will be, when properly used, adequate disclosure statements of lease terms as required by Regulation Z. When finalized, their proper use will protect lessors from liability for violations of the Consumer Leasing Act, as provided by 15 U.S.C. 1640(f). The Board wishes to emphasize, however, that these forms are not the exclusive format by which compliance with the Regulation may be achieved. Lessors remain free to design and implement other forms and sequences of disclosure.

There are disclosure statements for three types of leasing transactions: (1) Open-end or finance vehicle leasing, (2) Closed-end or net vehicle leasing and (3) Furniture leasing. The Board solicits comment on whether these three forms are sufficient to encompass most types of consumer leasing.

Detailed instructions for each form are included in the proposed interpretations. These instructions are an integral part of the forms and were designed to provide guidance to those persons actually completing them. The Board asks that comments be directed to the adequacy and intelligibility of the instructions.

The Board has completed a form for each type of leasing transaction and the completed forms accompany the proposed interpretations. These completed forms are not part of the interpretations, however, and are provided for informational purposes only.

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The forms are designed as disclosure statements and not as lease contracts. The Board has chosen to propose these interpretations as disclosure statements rather than as contracts in order to avoid imposition of contract terms upon the lease parties. Lessors who wish to provide disclosures on the contract document rather than on a separate disclosure statement may incorporate the disclosure into a contract as permitted by § 226.15(a)(1). Further, the forms have a skeletal design, which will permit lessors to provide specific disclosure language. The Board is concerned that lessors have the greatest amount of flexibility in structuring their lease agreements and disclosures. Similarly, the design of the forms is such that lessors may provide any permissible language for the specific disclosures. An exception to this skeletal format is the language of Item 14 in Interpretation § 226.1501 (the open-end vehicle lease statement) which contains specified language for the end-term liability disclosures required by § 226.15(b)(ii) and (iii).

The disclosures must be made only if they are applicable to the lessor's particular lease. Any inapplicable disclosure may be deleted from the form. The Board has provided brackets around disclosures which are alternative in nature, e.g., the disclosures concerning purchase options.

To insure compliance with the form and protection from liability, lessors should not alter the wording of the statements, except in those instances (e.g., initial payments, total of other charges) where provision has been made for deletion or substitution of terms. The numbering system used in the statements may also be deleted.

Use of the instructions is not required; they may be disregarded by lessors or other instructions may be substituted, provided they are not used to circumvent the Regulation in any manner.

The open end vehicle lease disclosure statement is reproduced on two pages in the FEDERAL REGISTER because of page size limitations. It can be reproduced on a single side of a legal size page.

The Board invites comment on all facets of the proposed interpretations and particularly on those issues indicated in the previous discussion and below:

1. The proposed skeletal design of the forms and their issuance as disclosure statements rather than as lease contracts.
2. The general style and format of the forms and the manner in which they could be improved.
3. The use of simplified language throughout the forms.
4. Whether there are unnecessary disclosures in the form and whether information which is not required should be added in order to render the forms more understandable to consumers.
5. Whether there are problems peculiar to each type of consumer leasing encompassed by the forms which are not adequately addressed in the proposed interpretations.
6. Whether the disclosure language of Item 14 in Interpretation § 226.1501 is an adequate and readily understandable statement of the limitations on the lessee's end-term liability.

The deadline for receipt of written comments is January 21, 1977. Comments should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments should include a reference to Docket No. R-0070.

Pursuant to the authority granted in 15 U.S.C. 1604 (1968) the Board proposes to issue the following interpretations of 12 CFR Part 226:

SECTION 226.1501---OPEN-END OR FINANCE
VEHICLE LEASE DISCLOSURE STATEMENT

DATE_____

1. LESSOR(S) LESSEE(S)

2. Description of leased property

YEAR	MAKE	MODEL	BODY MAKE	SERIAL #

3. Initial Charges, consisting of: (Actual dollar amounts may, but need not be itemized.)
☐/Advance Payment ☐/Refundable Security Deposit ☐/Trade-in Allowance
☐/Delivery Charge ☐/(Other-must be identified) $_____

4. The term of this lease is _____. (e.g., # of weeks, months, quarters) The first periodic payment is due on _____; subsequent payments on the _____ of each _____ thereafter.
5. Amount of each periodic payment: _____ (May include charges for taxes and insurance.)
6. Total of Periodic Payments: _____ X _____ = _____ $_____

7. Total of Other Charges Payable to Lessor: ☐/Disposition Charge $_____
☐/Maintenance $_____ ☐/(Other-must be itemized) $_____

8. Official Fees and Taxes
Total amount you will pay during the term for official fees, registration, certificate of title, license fees and taxes. $_____

9. Insurance
The following types and amounts of insurance are required in connection with this lease: (e.g., physical damage, personal liability, uninsured motorist insurance).
☐/We (lessor) will provide the insurance coverage quoted above for a premium cost of $_____ payable
☐/You (lessee) agree to provide insurance coverage in the amounts and types indicated above.

10. Estimated value of the vehicle at the end of the lease term: (Your liability for this sum is limited. See Item 14.) $_____

11. Total lease obligation: Items 3, 6 and 10 but excluding any refundable security deposit and insurance premiums. $_____
12. Initial Value of Vehicle: $_____
13. Difference: (Item 11 less Item 12.) $_____

14. End of Term Liability
Federal law requires us to tell you the following:
(a) The estimated value of the vehicle stated in Item 10 is based on a reasonable, good faith estimate of the value of the vehicle at the end of the lease term. If the actual value of the vehicle at that time is greater than the estimated value, you will have no further liability under this lease (and are entitled to a credit or refund of any surplus).
If the actual value of the vehicle is less than its estimated value, you will be liable for any difference up to $_____ (3 times Item 3). For any difference in excess of that amount, you will be liable only if:

1. Excessive use or damage represented more than normal wear and tear and therefore resulted in an unusually low value at the end of the term.

2. You voluntarily agree with us after the end of the lease term to make a higher payment.

3. The matter is not otherwise resolved and we win a lawsuit against you seeking a higher payment. Should we bring a lawsuit against you, we must prove that our original estimate of the value of the leased property at the end of the lease term was reasonable and was made in good faith. For example, we might prove that the actual value was less than the original estimated value, although the original estimate was reasonable, because of an unanticipated decline in value for that type of vehicle.

Unless we prove that the excess amount owed was the result of excessive use or unreasonable wear and tear, we will pay your reasonable attorney's fees.

(b) If you disagree with the actual value assigned to the vehicle, you may obtain, at your own expense, a professional appraisal of the value of the leased vehicle which could be realized at sale by an independent third party agreeable to both of us. The appraised value shall then be used as the actual value.

15. Early Termination and Default

(a) [Prior to the end of the lease term you may terminate this lease under the following conditions: _____.]
[The charge for such early termination is* _____.]

(b) [Prior to the end of the lease term we may terminate this lease under the following conditions: [Occurrence of default (specify) _____.]
[(Specify any other conditions) _____.]
[Upon such termination we shall be entitled to the following charge(s) for [default* _____.]
[(Specify other charges)* _____.]]

(c) To the extent these charges take into account the value of the vehicle at the end of the lease term, you have the same right to a professional appraisal as upon lease expiration (Item 14(c)).

16. Security Interest

We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: _____.

17. Late Payments*

The charge for late payments is _____.

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18 Lessee's Option to Purchase

[You have an option to purchase the leased vehicle at the following time:_____.]

[If at the end of the term the price will be $_____.]
[If prior to end of the term the price will be $*_____.]

[Lessee has no option to purchase the leased vehicle.]

19. Warranties

The leased vehicle is subject to the following express warranties: (Identify any manufacturer's or lessor's warranties available to the lessee.)

20. Maintenance

[You are responsible for the following maintenance and servicing of the leased vehicle:_____.]

[We are responsible for the following maintenance and servicing of the leased vehicle:_____.]

21 Standards for wear and use

The following standards are applicable for determining unreasonable or excessive wear and use of the leased vehicle: (e.g., No more than _____ miles during the lease term, compliance with manufacturer's warranty maintenance schedule.)

* May use amount or method of determining the amount.

INSTRUCTIONS FOR COMPLETION OF § 226.1501—OPEN-END OR FINANCE VEHICLE LEASE DISCLOSURE STATEMENT

GENERAL INSTRUCTIONS

Completion of this form may be facilitated by reference to the following instructions. Any question as to the permissibility or accuracy of a specific disclosure may be answered by reference to Regulation Z, 12 CFR Part 226.

Information which is required to be disclosed may be estimated if the information is unknown or unavailable, provided that the information is clearly identified as an estimate and the estimate is based on the best information available and is reasonable (§ 226.6(f)).

Any inapplicable disclosures may be deleted.

All numerical amounts must be stated in figures and shall be printed in not less than the equivalent of ten point type or elite typewritten numerals or legibly handwritten (§ 226.6(a)).

Certain numerical items may be disclosed by giving the amount or the method of determining the amount. These items are identified by an asterisk.

SPECIFIC INSTRUCTIONS

Item 1. The disclosures must be made on a written dated statement. All lessors and lessees must be identified by name (§ 226.15(a)). If, for example, one person arranges the lease and another person enters into the lease with the lessee, both must be identified as lessors (§ 226.2 (n) and (oo)). An address may augment the identification but need not be supplied as part of the disclosure form.

Item 2. This disclosure provides a brief description of the leased property (§ 226.15(b)(1)). Lessors may include a more detailed description including, for example, special accessories. There is no requirement that a serial number for the vehicle be disclosed.

Item 3. This disclosure shows the total amount of any initial payment the customer must make when the lease is entered into (§ 226.15(b)(2)). The components of the initial payment *must* be identified and *may*, at the lessor's option, be itemized with respect to dollar amount. The checklist is provided to aid in the identification.

The initial payment does not include any periodic payment disclosed under Item 5 even though a periodic payment may be due prior to delivery of the leased property.

Items 4, 5 and 6. When completed, these combined items disclose the term of the lease, the number, amount and due dates of each periodic payment, and the total amount of all periodic payments to be made under the lease (§ 226.15(b)(3)). The amount shown for each periodic payment should include any incidental charges for taxes, insurance or both, if those charges are payable as part of the periodic payment.

Item 7. This item discloses other charges payable to the lessor (§ 226.15(b)(15)). This excludes charges for official fees, taxes, insurance and charges disclosed under other items.

Item 8. This item discloses the total amount to be paid by the lessee during the lease term for taxes and other official fees (§ 226.15(b)(4)).

Item 9. This item requires disclosure of the types and amounts of insurance coverage, with their costs, if the insurance is provided by the lessor (§ 226.15(b)(6)(i)). In the alternative, the types and amounts of coverage required of the lessee must be disclosed (§ 226.15(b)(6)(ii)).

Item 10. This item provides for disclosure of the estimated value of the leased vehicle at the end of the term, an element of the "total lease obligation" (§ 226.15(b)(15)(i)). The reference to item 14 is to call the lessee's attention to the qualifying disclosures in that item required by §§ 226.15(b)(14) and 226.15(b)(15)(ii) and (iii).

Item 11, 12 and 13. These items provide for disclosure of the difference between the total lease obligation and the property's value at the inception of the lease. The definition of "total lease obligation" (§ 226.2(rr)) is the sum of any initial charges (Item 3), the total of periodic payments (Item 6) and the estimated value of the property at the end of the term (Item 10), excluding any refundable security deposit and insurance premiums contained in the periodic payments. The Board has indicated it does not consider these latter amounts properly includable in the total lease obligation. 41 *Fed. Reg.* 45537.

Item 14. This item provides disclosures with respect to the lessee's liability at the end of the lease term. The bracketed phrase in the second sentence is appropriate only where the lessee will be given any surplus resulting from the disposition. Item 14(a) implements, in lay language, the disclosures required by § 226.15(b)(15)(ii) and (iii). Item 14(b) discloses the lessee's right to an independent appraisal required by § 226.15(b)(14).

Item 15. When completed, this item discloses the conditions under which the lessee and lessor may terminate the lease prior to the end of the lease term. It also discloses the amount or method of determining the amount of the charge which the lessee must pay for early termination (§ 226.15(b)(12)). This item also discloses the amount or method of determining the amount of any default charges (§ 226.15(b)(10)).

Item 16. This disclosure of the security taken must include, in the space provided, a brief identification of the types of security interest and an identification of the property covered by each (§ 226.15(b)(9)).

Item 17. This disclosure, when completed, indicates the amount or method of determining the amount of any charges for late payment.

Item 18. This item provides alternative disclosures covering the several options a lessor may offer to a lessee to purchase the leased property. A lessor should use the disclosure applicable to the lease plan used. For example, if no option to purchase is offered, only the last sentence of the item need be used. If the lessor offers an option to purchase, the times at which it may be exercised must be supplied. The price must be disclosed for an option exercised at the end of the term and the price or method of computing the price for an option exercised during the lease term must be supplied (§ 226.15(b)(11)).

Item 19. This item discloses all express warranties on the leased property made by the manufacturer or lessor and available to the lessee. A brief identification of the warranty must be supplied. A reference to the standard manufacturer's warranty, for example, would suffice.

Item 20. This item provides for disclosure of the maintenance and servicing responsibilities (§ 226.15(b)(8)). These responsibilities may be allocated either to the lessor or to the lessee, or may be divided between them.

Item 21. When completed, this item discloses reasonable standards for wear and use established by the lessor. The lessor is permitted but not required to set such standards. Therefore, the disclosure may be omitted by lessors who do not set standards for wear and use (§) 226.15(b)(8)).

SECTION 226.1501---OPEN-END OR FINANCE VEHICLE LEASE DISCLOSURE STATEMENT

DATE April 15, 1977

1. LESSOR(S)
Custom Auto Leasing

LESSEE(S)
Mary S. Roe

2. Description of leased property

YEAR	MAKE	MODEL	BODY MAKE	SERIAL #
1977	Ford	LTD	4 Door Sedan	8G40716001

3. Initial Charges, consisting of: (Actual dollar amounts may, but need not be itemized.)
[X] Advance Payment [ ] Refundable Security Deposit [ ] Trade-in Allowance
[X] Delivery Charge [X] Sales Tax on Advance Payment — $ 580.00

4. The term of this lease is 24 months. (e.g., # of weeks, months, quarters) The first periodic payment is due on 4/15/77; subsequent payments on the 5th of each month thereafter.
5. Amount of each periodic payment: $146.50 Includes tax of $ 8.29 on a monthly payment of $138.21
6. Total of Periodic Payments: $146.50 x 24 = $3,516.00 — $ 3,516.00

7. Total of Other Charges Payable to Lessor: [X] Disposition Charge $ 50.00
[ ] Maintenance: $_____ [ ] (Other--must be itemized) — $ 50.00

8. Official Fees and Taxes**
Total amount you will pay during the term for official fees, registration, certificate of title, license fees and taxes. — $ 338.96

9. Insurance
The following types and amounts of insurance are required in connection with this lease: Comprehensive, $100,000/300,000; Bodily injury, $25,000; Property damage, $10 deductible; Collision comprehensive, Actual value,
[X] We (lessor) will provide the insurance coverage quoted above for a premium cost of $ 336.00** payable annually
[ ] You (lessee) agree to provide insurance coverage in the amounts and types indicated above. — $ 3,000.00

10. Estimated value of the vehicle at the end of the lease term: (Your liability for this sum is limited. See Item 14.) — $ 2,096.00

11. Total lease obligation: Items 3, 6 and 10 but excluding any refundable security deposit and insurance premiums. — $ 5,950.00
12. Initial Value of Vehicle: — $ 4,804.00
13. Difference: (Item 11 less Item 12.) — $ 1,146.00

14. End of Term Liability
Federal law requires us to tell you the following:
(a) The estimated value of the vehicle stated in Item 10 is based on a reasonable, good faith estimate of the value of the vehicle at the end of the lease term. If the actual value of the vehicle at that time is greater than the estimated value, you will have no further liability under this lease [and are entitled to a credit or refund of any surplus].
If the actual value of the vehicle is less than its estimated value, you will be liable for any difference up to $ 439.50 (3 times Item 3), For any difference in excess of that amount, you will be liable only if:

1. Excessive use or damage represented more than normal wear and tear and therefore resulted in an unusually low value at the end of the term.

2. You voluntarily agree with us after the end of the lease term to make a higher payment.

3. The matter is not otherwise resolved and we win a lawsuit against you seeking a higher payment. Should we bring a lawsuit against you, we must prove that our original estimate of the value of the leased property at the end of the lease term was reasonable and was made in good faith. For example, we might prove that the actual value was less than the original estimated value, although the original estimate was reasonable, because of an unanticipated decline in value for that type of vehicle.

Unless we prove that the excess amount owed was the result of excessive use or unreasonable wear and tear, we will pay your reasonable attorney's fees.

(b) If you disagree with the actual value assigned to the vehicle, you may obtain, at your own expense, a professional appraisal of the value of the leased vehicle [which could be realized at sale] by an independent third party agreeable to both of us. The appraised value shall then be used as the actual value.

15. Early Termination and Default

(a) Prior to the end of the lease term you may terminate this lease under the following conditions: At any time after 6 months from the date of this agreement, on 30 days written notice, by surrending the leased vehicle to us at our place of business.
The charge for such early termination is $50.00 plus 50% of the remainder of periodic payments.

(b) [Prior to the end of the lease term we may terminate this lease under the following conditions: Occurrence of default(your failure to fulfill any obligation under the lease, including failure to make any payment; the institution of insolvency proceedings by or against you.
[Specify any other conditions)_____

[Upon such termination we shall be entitled to the following charge(s) for default* $50.00 plus all costs of retaking possession of the leased vehicle plus 50% of any remaining periodic payments.

[Specify other charges)*_____

(c) To the extent these charges take into account the value of the vehicle at the end of the lease term, you have the same right to a professional appraisal as upon lease expiration (Item 14(c)).

16. Security Interest

We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: A security interest in the leased vehicle described in the security agreement attached to the lease contract.

17. Late Payments*

The charge for late payments is 3% per month on any amounts due and unpaid after 5 days.

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18. Lessee's Option to Purchase

[You have an option to purchase the leased vehicle at the following times: At any time after 12 months from the date of the lease contract.

[If at the end of the term the price will be $ 3,000.
[If prior to end of the term the price will be $* the estimated value of the vehicle at the end of the term plus 70% of all periodic payments unaccrued at the date the option is exercised.

[Lessee has no option to purchase the leased vehicle.]

19. Warranties

The leased vehicle is subject to the following express warranties: The vehicle is subject to the Ford new card warranty which accompanies the vehicle. Lessor makes no warranties, express or implied, of merchantability or fitness, with respect to the leased vehicle.

20. Maintenance

You are responsible for the following maintenance and servicing of the leased vehicle: All normal operating expenses, including gasoline, oil and lubrication; all maintenance and repairs necessary to maintain the leased vehicle in conformity with the standards for wear and use.

[We are responsible for the following maintenance and servicing of the leased vehicle:

21. Standards for wear and use

The following standards are applicable for determining unreasonable or excessive wear and use of the leased vehicle: No more than $50,000 miles during the lease term; compliance with manufacturer's warranty maintenance schedule; no body or interior damage with an aggregate repair cost in excess of $100.00.

* May use amount or method of determining the amount.
** Estimate

Section 226.1502---CLOSED-END OR NET
VEHICLE LEASE DISCLOSURE STATEMENT

Date _____

1. LESSOR(S) _____ LESSEE(S) _____

2. Description of leased property

YEAR	MAKE	MODEL	BODY MAKE	SERIAL #

3. Initial Charges, consisting of: (Actual dollar amounts may, but need not be itemized.) ☐ Advance Payment ☐ Refundable Security Deposit ☐ Trade-in Allowance ☐ Delivery Charge ☐ (Other-must be identified) $ _____

4. The term of this lease is _____ (e.g., # of weeks, months, quarters). The first periodic payment is due on _____; subsequent payments on the _____ of each _____ thereafter.
5. Amount of each periodic payment: _____ (May include charges for taxes and insurance.)
6. Total of Periodic Payments: _____ x _____ = _____ $ _____

7. Total of Other Charges Payable to Lessor: ☐ Disposition Charge $ _____ ☐ Maintenance $ _____ ☐ (Other-must be itemized) $ _____

8. Official Fees and Taxes
Total amount you will pay during the term for official fees, registration, certificate of title, license fees and taxes. $ _____

9. Insurance
The following types and amounts of insurance are required in connection with this lease: (e.g., physical damage, personal liability, uninsured motorist insurance).
☐ We (lessor) will provide the insurance coverage noted above for a premium cost of $ _____ payable _____
☐ You (lessee) agree to provide insurance coverage in the amounts and types indicated above.

10. Early Termination and Default
(a) [Prior to the end of the lease term you may terminate this lease under the following conditions: _____
[The charge for such early termination is*[_____
(b) [Prior to the end of the lease term we may terminate this lease under the following conditions: [Occurrence of default (specify) _____
[Specify any other conditions] _____
[Upon such termination we shall be entitled to the following charge(s) for [default* _____
[(Specify other charges)* _____

11. Security Interest
We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: _____

12. Late Payments*
The charge for late payments is _____

13. Lessee's Option to Purchase
[You have an option to purchase the leased vehicle at the following times: _____
[If at the end of the term the price will be $ _____
[If prior to end of the term the price will be $* _____
[Lessee has no option to purchase the leased vehicle.]

14. Warranties
The leased vehicle is subject to the following express warranties: (Identify any manufacturer's or lessor's warranties available to the lessee.) _____

15. Maintenance
[You are responsible for the following maintenance and servicing of the leased vehicle: _____
[We are responsible for the following maintenance and servicing of the leased vehicle: _____

16. Standards for wear and use
The following standards are applicable for determining unreasonable or excessive wear and use of the leased vehicle: (e.g., No more than _____ miles during the lease term, compliance with manufacturer's warranty maintenance schedule.) _____

*May use amount or method of determining the amount.

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INSTRUCTIONS FOR COMPLETION OF § 226.1502—CLOSED-END OR NET VEHICLE LEASE DISCLOSURE STATEMENT

GENERAL INSTRUCTIONS

Completion of this form may be facilitated by reference to the following instructions. Any question as to the permissibility or accuracy of a specific disclosure may be answered by reference to Regulation Z, 12 CFR Part 226.

Information which is required to be disclosed may be estimated if the information is unknown or unavailable, provided that the information is clearly identified as an estimate and the estimate is based on the best information available and is reasonable (§ 226.6(f)).

Any inapplicable disclosures may be deleted.

All numerical amounts must be stated in figures and shall be printed in not less than the equivalent of ten point type or elite typewritten numerals or legibly handwritten (§ 226.6(a)).

Certain numerical items may be disclosed by giving the amount or the method of determining the amount. These items are identified by an asterisk.

SPECIFIC INSTRUCTIONS

Item 1. The disclosures must be made on a written dated statement. All lessors and lessees must be identified by name (§ 226.15(a)). If, for example, one person arranges the lease and another person enters into the lease with the lessee, both must be identified as lessors (§ 226.2 (n) and (oo)). An address may augment the identification but need not be supplied as part of the disclosure form.

Item 2. This disclosure provides a brief description of the leased property (§ 226.15(b)(1)). Lessors may include a more detailed description including, for example, special accessories. There is no requirement that a serial number for the vehicle be disclosed.

Item 3. This disclosure shows the total amount of any initial payment the customer must make when the lease is entered into (§ 226.15(b)(2)). The components of the initial payment *must* be identified and *may*, at the lessor's option, be itemized with respect to dollar amount. The checklist is provided to aid in the identification.

The initial payment does not include any periodic payment disclosed under Item 5 even though a periodic payment may be due prior to delivery of the leased property.

Items 4, 5 and 6. When completed, these combined items disclose the term of the lease, the number, amount and due dates of each periodic payment, and the total amount of all periodic payments to be made under the lease (§ 226.15(b)(3)). The amount shown for each periodic payment should include any incidental charges for taxes, insurance or both, if those charges are payable as part of the periodic payment.

Item 7. This item discloses other charges payable to the lessor (§ 226.15(b)(15)). This excludes charges for official fees, taxes, insurance and charges disclosed under other items.

Item 8. This item discloses the total amount to be paid by the lessee during the lease term for taxes and other official fees (§ 226.15(b)(4)).

Item 9. This item requires disclosure of the types and amounts of insurance coverage, with their costs, if the insurance is provided by the lessor (§ 226.15(b)(6)(i)). In the alternative, the types and amounts of coverage required of the lessee must be disclosed (§ 226.15(b)(6)(ii)).

Item 10. When completed, this item discloses the conditions under which the lessee and lessor may terminate the lease prior to the end of the lease term. It also discloses the amount or method of determining the amount of the charge which the lessee must pay for early termination (§ 226.15(b)(12)). This item also discloses the amount or method of determining the amount of any default charges (§ 226.15(b)(10)).

Item 11. This disclosure of the security taken must include, in the space provided, a brief identification of the types of security interest and an identification of the property covered by each (§ 226.15(b)(9)).

Item 12. This disclosure, when completed, indicates the amount or method of determining the amount of any charges for late payment.

Item 13. This item provides alternative disclosures covering the several options a lessor may offer to a lessee to purchase the leased property. A lessor should use the disclosure applicable to the lease plan used. For example, if no option to purchase is offered, only the last sentence of the item need be used. If the lessor offers an option to purchase, the times at which it may be exercised must be supplied. The price must be disclosed for an option exercised at the end of the term and the price or method of computing the price for an option exercised during the lease term must be supplied (§ 226.15(b)(11)).

Item 14. This item discloses all express warranties on the leased property made by the manufacturer or lessor and available to the lessee. A brief identification of the warranty must be supplied. A reference to the standard manufacturer's warranty, for example, would suffice.

Item 15. This item provides for disclosure of the maintenance and servicing responsibilities (§ 226.15(b)(8)). These responsibilities may be allocated either to the lessor or to the lessee, or may be divided between them.

Item 16. When completed, this item discloses reasonable standards for wear and use established by the lessor. The lessor is permitted but not required to set such standards. Therefore, the disclosure may be omitted by lessors who do not set standards for wear and use (§ 226.15(b)(8)).

Section 226.1502—CLOSED-END OR NET VEHICLE LEASE DISCLOSURE STATEMENT

Date 3/29/77

LESSOR(S)

D-Drive-It Car Dealer

1st National Bank

LESSEE(S)

John P. Doe

1. Description of leased property

YEAR	MAKE	MODEL	BODY MAKE	SERIAL #
1977	Cadillac	Seville	4 Door Sedan	9T51827112

2. Initial Charges, consisting of: (Actual dollar amounts may, but need not, be itemized.)
[x] Advance Payment [X] Refundable Security Deposit [ ] Trade-in Allowance
[x] Delivery Charge [X] Sales Tax on Advance Payment — $ 1,150.00

3. The term of this lease is 48 months (e.g., # of weeks, months, quarters). The first periodic payment is due on 3/29/77; subsequent payments on the 15th of each month thereafter.

4. Amount of each periodic payment: $232.50 Includes sales tax of $11.07 per month.

5. Total of Periodic Payments: $232.50 x 48 = $11,160 — $11,160.00

6. Total of Other Charges Payable to lessor: [X] Disposition Charge $ 50.00
[ ] Maintenance $ [ ] (Other-must be itemized) — $ 50.00

7. Official Fees and Taxes**
Total amount you will pay during the term for official fees, registration, certificate of title, license fees and taxes. (Including sales tax on advance and periodic payments.) — $ 837.36

8. Insurance
The following types and amounts of insurance are required in connection with this lease: $ 100,000 / 300,000 Bodily Injury; $ 25,000 Property Damage; $ 100 Deductible Collision; Comprehensive, Actual Cash Value.
[X] We (lessor) will provide the insurance coverage quoted above for a premium cost of $ 336.00** payable annually.
[ ] You (lessee) agree to provide insurance coverage in the amounts and types indicated above.

10. Early Termination and Default
(a) Prior to the end of the lease term you may terminate this lease under the following conditions: At any time after 12 months from the date of the lease, on 30 days written notice, by surrendering the leased vehicle at our place of business.
The charge for such early termination is** $ 50.00 plus all periodic payments and other charges payable up to the date of the terminating.

(b) Prior to the end of the lease term we may terminate this lease under the following conditions: Occurrence of default Your failure to make any payment or fulfill any other obligation under the lease; the entry of any judgement or attachment against you.
(Specify any other conditions)

Upon such termination we shall be entitled to the following charge(s) for default**: $ 50.00 plus all costs of retaking possession of the leased vehicle, plus 50% of all unpaid periodic payments.
((Specify other charges)**

11. Security Interest
We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease:
A security interest in the leased vehicle described in the security agreement attached to the lease contract.

12. Late Payments**
The charge for late payments is 3% per month for any amounts overdue for 10 days.

13. Lessee's Option to Purchase
You have an option to purchase the leased vehicle at the following times: At the end of the lease term.

If at the end of the term the price will be $ 4,200.00
[If prior to end of the term the price will be $*

*Lessee has no option to purchase the leased vehicle.]

14. Warranties
The leased vehicle is subject to the following express warranties: The vehicle is subject to the Cadillac new car warranty which accompanies the vehicle. Lessor makes no warranties, express or implied, of merchantability or fitness, with respect to the lease vehicle.

15. Maintenance
You are responsible for the following maintenance and servicing of the leased vehicle: All normal operating expenses, including gasoline, oil and lubrication; all maintenance and repairs necessary to maintain the leased vehicle in conformity with the standards for wear and use.
We are responsible for the following maintenance and servicing of the leased vehicle.

16. Standards for Wear and Use
The following standards are applicable for determining unreasonable or excessive wear and use of the leased vehicle: No more than 50,000 miles during the lease term; compliance with manufacturer's warranty maintenance schedule; no body or interior damage with an aggregate repair cost in excess of $ 100.

*May use amount or method of determining the amount.
**Estimate

V41251 DEC 29 76 UMI

SECTION 226.1503—, FURNITURE LEASE DISCLOSURE STATEMENT

DATE_____

1. LESSOR(S) _____ LESSEE(S) _____

2. Description of leased property [is attached].

ITEMS	PRICE	COLOR	STOCK #	MFG.	QTY.		

3. Initial Charges, consisting of: (Actual dollar amounts may, but need not be itemized.) [ ]Refundable Security Deposit [ ]Delivery Charge [ ](Other-must be identified) — $_____

4. The term of this lease is_____. (e.g., 9 of weeks, months, quarters) The first periodic payment is due on the_____of_____; subsequent payments on the_____of each_____thereafter.

5. Amount of each periodic payment: _____ (May include charges for taxes and waiver fee or insurance.) — $_____

6. Total of Periodic Payments: _____ X _____ = _____ — $_____

7. Total of Other Charges Payable to Lessor: [ ]Pick-up charge $_____ (Other-must be itemized) $_____ — $_____

8. Official Fees and Taxes
Total amount you will pay during the term for official fees and taxes. — $_____

9. Insurance
[ ]You (lessee) agree to provide insurance coverage of the following types in the following amounts:_____
[ ]We (lessor) will provide the following types and amounts of insurance coverage at the cost indicated:_____
[ ]You agreed to pay the following waiver fee in lieu of insurance: $_____ This amount is payable_____

10. Maintenance
[You are responsible for the following maintenance of the leased property: _____]
[We are responsible for the following maintenance of the leased property: _____]

11. Standards for wear and use
The following standards are applicable for determining unreasonable or excessive wear and use of the leased property: _____

12. Early Termination and Default
(a)[Prior to the end of the lease term you may terminate this lease under the following conditions: _____]
[The charge for such early termination is* _____]
(b)[Prior to the end of the lease term we may terminate this lease under the following conditions: [Occurrence of default (specify) _____]
[(Specify other conditions) _____]
[Upon such termination we shall be entitled to the following charge(s) for default* _____]
[(Specify other charges)* _____]

13. Security Interest
We reserve a security interest of the following type in the listed property to secure performance of your obligations under this lease: _____

14. Late Payments*
The charge for late payments is _____

15. Lessee's Option to Purchase
[You have an option to purchase any or all items of the leased property at the following times: _____
[If at the end of the term the price will be $_____]
[If prior to end of the term the price will be]*
[Lessee has no option to purchase the leased property.]

16. Warranties
The leased property is subject to the following express warranties: (Identify any manufacturer's or lessor's warranties available to the lessee.)

* May use amount or method of determining the amount.

INSTRUCTIONS FOR COMPLETION OF § 226.1503—FURNITURE LEASE DISCLOSURE STATEMENT

GENERAL INSTRUCTIONS

Completion of this form may be facilitated by reference to the following instructions. Any questions as to the permissibility or accuracy of a specific disclosure may be answered by reference to Regulation Z, 12 CFR Part 226.

Information which is required to be disclosed may be estimated if the information is unknown or unavailable, provided that the information is clearly identified as an estimate and the estimate is based on the best information available and is reasonable (§ 226.6(f)).

Any inapplicable disclosures may be deleted.

All numerical amounts must be stated in figures and shall be printed in not less than the equivalent of ten point or elite typewritten numerals or legibly handwritten (§ 226.6(a)).

Certain numerical items may be disclosed by giving the amount or the method of determining the amount. These items are identified by an asterisk.

SPECIFIC INSTRUCTIONS

Item 1. The disclosures must be made on a written dated statement. All lessors and lessees must be identified by name (§ 226.15(a)). If, for example, one person arranges the lease and another person enters into the lease with the lessee, both must be identified as lessors (§ 226.2(n) and (oo)). An address may augment the identification but need not be supplied as part of the disclosure form.

Item 2. This disclosure provides a brief description of the leased item (§ 226.15(b)(1)). In the left column the name of the item should appear. The relevant entry should be made in the appropriate box in the columns to the right of the names of the items as indicated by the column headings. All of the descriptive elements in the column headings, except the one labelled "ITEMS," are examples only. Those which are inapplicable to a lease plan may be deleted. Other descriptive column headings may be added (as indicated by the blank columns) if the lessor desires.

Item 3. This disclosure shows the total amount of any initial payment the customer must make when the lease is consummated (§ 226.15(b)(2)). The components of the initial payment *must* be identified and *may*, at the lessor's option, be itemized with respect to dollar amount. The checklist is provided to aid in the identification.

The initial payment does not include any periodic payment disclosed under item 5, even though a periodic payment may be due prior to delivery of the leased items.

Items 4, 5 and 6. When completed, these combined items disclose the term of the lease, the number, amount and due dates of each periodic payment, and the total amount of all periodic payments to be made under the lease (§ 226.15(b)(3)). The amount shown for each periodic payment should include any incidental charges for taxes, insurance or both, if those charges are payable as part of the periodic payment.

Item 7. This item discloses other charges payable to the lessor (§ 226.15(b)(5)). This excludes charges for official fees, taxes, insurance and charges disclosed under other items.

Item 8. This item discloses the total amount to be paid by the lessee during the lease term for taxes and other official fees (§ 226.15(b)(4)).

Item 9. This item provides alternative methods of disclosing insurance coverage. It provides a disclosure for situations in which the lessee provides the coverage, in which case the types and amounts of coverage must be specified (§ 226.15(b)(6)(ii)). It provides a disclosure for situations in which the lessee procures coverage through the lessor, in which case the types, amounts and costs of coverage must be specified (§ 226.15(b)(6)(i)). It also provides disclosure of a fee in lieu of insurance.

Item 10. This item, when completed, discloses the maintenance responsibilities of the parties. If only one party has maintenance responsibilities the inapplicable disclosure may be omitted (§ 226.15(b)(8)).

Item 11. When completed, this item discloses standards for wear and use established by the lessor. The lessor is permitted, but not required, to set such standards (§ 226.15(b)(10)).

Item 12. When completed, this item discloses the conditions under which the lessee and lessor may terminate the lease prior to the end of the lease term. It also discloses the amount or method of determining the amount of the charge which the lessee must pay for early termination (§ 226.15(b)(12)). This item also discloses the amount of method of determining the amount of any default charges (§ 226.15(b)(10)).

Item 13. This disclosure of the security taken must include, in the space provided, a brief identification of the types of security interest and an identification of the property covered by each such interest (§ 226.15(b)(9)).

Item 14. This disclosure, when completed, indicates the amount or method of determining the amount of any charges for late payment.

Item 15. This item provides alternative disclosures covering the several options a lessor may offer to a lessee to purchase the leased property. A lessor should use the disclosure applicable to the lease plan used. For example, if no option to purchase is offered only the last sentence of the item need be used. If the lessor offers an option to purchase, the relevant times must be supplied. The price for exercise of the option at the end of the term must be disclosed and the price or method of computing the price for an exercise of the option during the lease term must be supplied (§ 226.15(b)(11)).

Item 16. This item discloses all express warranties applicable to the leased property made by the manufacturer or lessor and available to the lessee. A brief identification of the warranty must be supplied. A reference to the standard manufacturer's warranty would suffice (§ 226.15(b)(7)).

DEC 29 76 V41 251 DMI UMI

SECTION 326.1503-- FURNITURE LEASE DISCLOSURE STATEMENT

DATE May 1, 1977

1.
LESSOR(S)
XYZ Furniture Lessor, Inc.

LESSEE(S)
S. Customer

2. Description of leased property [is attached].

ITEMS	PRICE	COLOR	STOCK #	MFG.	QTY.		
Sofa	$650.00	Green	12345	Alpha Sofa Company	1		
End Table	150.00	Mahogany	12346	Beta Furniture Company	2		
Coffee Table	200.00	Mahogany	12347	Beta Furniture Company	1		
Recliner Chair	500.00	Brown	12348	Gamma Chair Company	1		

3. Initial Charges, consisting of: (Actual dollar amounts may, but need not be itemized.) /X/Refundable Security Deposit /X/Delivery Charge / /(Other-must be identified) — $ 50.00

4. The term of this lease is 24 months. (e.g., # of weeks, months, quarters) The first periodic payment is due on the 1st of June 1977; subsequent payments on the 1st of each month thereafter.

5. Amount of each periodic payment: $40.00 (May include charges for taxes and waiver fee or insurance.) — $ 960.00

6. Total of Periodic Payments: $40.00 x 24 = $960.00 — $ 20.00

7. Total of Other Charges Payable to Lessor: /X/Pick-up charge $ 20.00 (Other-must be itemized) $ — $ 55.00**

8. Official Fees and Taxes
Total amount you will pay during the term for official fees and taxes.

9. Insurance
/ /You (lessee) agree to provide insurance coverage of the following types in the following amounts:
/X/We (lessor) will provide the following types and amounts of insurance coverage at the cost indicated: property damage insurance in the account of $1650.00 for a $20.00 premium.
/ /You agree to pay the following waiver fee in lieu of insurance: $ This amount is payable

10. Maintenance
You are responsible for the following maintenance of the leased property: Cleaning and repair of minor damage from ordinary use.

We are responsible for the following maintenance of the leased property: Repair of major damage from ordinary use, if without such repairs the items are not functional.

11. Standards for wear and use
The following standards are applicable for determining unreasonable or excessive wear and use of the leased property: Use of the leased property out of doors without protection from the elements will be considered unreasonable and excessive use.

12. Early Termination and Default
(a) Prior to the end of the lease term you may terminate this lease under the following conditions: After expiration of 1/2 the lease term, if you give us 10 days written notice and the property is delivered to our place of business.
The charge for such early termination is 1/2 the amount of the total of periodic payments unpaid at the time of termination, less taxes, plus $20.00 pick up charge if we provide transport of the leased items.

(b) Prior to the end of the lease term we may terminate this lease under the following conditions: Occurrence of default (specify) Failure to make a payment under the lease within 30 days after it is due or removal of the leased property from the State without our written permission.
(Specify other conditions)

Upon such termination we shall be entitled to the following charge(s) for [default* All unpaid periodic payments, less taxes and less unaccrued but previously paid taxes, less unaccrued but previously paid insurance premiums, plus $20.00 pickup charge if we provide transport of the leased property.
(Specify other charges)*

13. Security Interest:
We reserve a security interest of the following type in the listed property to secure performance of your obligations under this lease: A security interest, as evidenced by the document entitled "Security Agreement" attached hereto and made a part hereof, in the leased property.

14. Late Payments:
The charge for late payments is $3.00 for each periodic payment late more than 10 days.

15. Lessee's Option to Purchase
[You have an option to purchase any or all items of the leased property at the following times: At end of term or at any other time after 1/2 the term. [If at the end of the term the price will be Sofa - $100.00, End Table - $40.00, Coffee Table - $45.00, Recliner Chair - $90.00

[If prior to end of the term the price will be computed by adding the end term purchase option price to the total periodic payments unpaid, less taxes, at the time of exercise of the option.

16. Warranties
The leased property is subject to the following express warranties: Those warranties contained in documents entitled "Standard Manufacturers Warranty" attached hereto and made a part hereof.

* May use amount or method of determining the amount.

Board of Governors of the Federal Reserve System, December 20, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-38114 Filed 12-28-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 305]

[PDR-43, Docket 30259, December 23, 1976]

RULES OF PRACTICE IN INFORMAL NONPUBLIC INVESTIGATIONS BY THE BUREAU OF ENFORCEMENT

Limitation on Confidentiality Proposed Rulemaking

Notice is hereby given that the Civil Aeronautics Board is proposing to amend Part 305 of its Procedural Regulations (14 CFR Part 305) to provide that orders initiating Part 305 investigations be made available to the public in cases where the order does not identify the persons under investigation, but that the remainder of the record of Part 305 proceedings continue to be kept confidential except as otherwise required by law. The purpose of the proposals is described in the Explanatory Statement and the proposed amendments are set forth in the Proposed Rule.

The amendments are proposed under the authority of sections 204(a) and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788; 49 U.S.C. 1324, 148.

Interested persons may participate in the proposed rulemaking through submission of twenty (20) copies of written data, views, or arguments pertaining thereto, addressed to Docket 30259, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant comments received on or before February 14, 1977 will be considered by the Board before taking final action on the proposed rule. Copies of such documents will be available for examination by interested persons in the Docket Section of the Board, Room 711 Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

EXPLANATORY STATEMENT. Part 305 of the Board's Procedural Regulations sets forth procedures to be followed in informal investigations conducted by the Board to determine whether formal enforcement action should be instituted. Section 305.10 now specifies that the entire record of Part 305 proceedings, including the order initiating the investigation, shall not be available to the general public.

When Part 305 was enacted in 1963, the Board's determination to keep Part 305 proceedings entirely confidential was influenced by concern both for the rights of the parties under investigation and for the efficiency of the investigation. Since Part 305 investigations are nonadjudicatory and need not result in the institution of any formal charges, the Board thought it appropriate to protect persons under such informal investigation from unfair notoriety by according strict confidentiality to the entire record of Part 305 proceedings. It was also thought that the nonpublic nature of the proceedings would encourage a more cooperative attitude on the part of witnesses and thereby facilitate development of leads during the initial phases of the investigation.

The confidentiality of Part 305 proceedings has always applied equally to orders initiating Part 305 investigations as well as to other parts of the record. However, in light of the Board's experience under Part 305 and evolving Federal policies in favor of governmental openness, we are now persuaded that blanket confidentiality of initiating orders goes beyond what is necessary to protect individual rights or to facilitate informal investigations. Initiating orders are usually drafted in very general terms, indicating only the types of suspected violations and the markets involved, but without any mention of specific names of suspected violators. Since public disclosure of such broadly drafted orders would not infringe the rights of any identifiable person, the protective purpose of § 305.10 would not appear to apply to these documents. We have therefore tentatively determined to amend § 305.10 to provide that initiating orders which do not disclose the identity of particular persons or firms under investigation shall be published in the FEDERAL REGISTER.

We are also amending § 305.10 to eliminate any suggestion of conflict between Part 305 and the Board's obligations under the Freedom of Information Act (FOIA), 5. U.S.C. 552. It may be that, pursuant to a request made under FOIA § 552(a)(3), the Board will be obliged to disclose certain portions of the record of a Part 305 proceeding, while properly withholding other portions pursuant to FOIA § 552(b)(7) or other applicable exemptions. In such event, the Board might appear to be acting in contravention of its own regulation in § 305.10. In order to avoid the appearance of such conflict, the Board is amending § 305.10, thereby making it clear that we will permit disclosure of the Part 305 record to the extent "required by law." Which records, if any, are actually disclosed will, of course, be determined on a case-by-case analysis of FOIA requests.

Although the proposed rule is procedural and could be promulgated without prior notice to the public, we have determined that the privacy aspects involved in this matter make it appropriate for the Board to provide an opportunity for the submission of comments by interested persons for our consideration before taking final action.

Accordingly, it is proposed to amend Part 305 of the Board's Procedural Regulations (14 CFR Part 305) as set forth below:

Revise § 305.10 to read as follows:

§ 305.10 Nonpublic character or proceedings.

Investigations shall be attended only by the witnesses and their counsel, the administrative law judge, the Investigation Attorney, other Board personnel concerned with the conduct of the proceeding and the official stenographer. All orders initiating investigations, motions to quash or modify investigation subpoenas, orders disposing of such motions, documents, and transcripts of testimony shall be part of the record in the investigation. All orders initiating investigations which do not disclose the identity of the particular persons or firms under investigation shall be published in the FEDERAL REGISTER. Except as otherwise required by law, the remainder of the record of such proceedings shall constitute internal Board documents which shall not be available to the general public. The use of such records in Board proceedings subject to Part 302 of the Rules of Practice shall be governed by §§ 302.19(g) and 302.39 and by the law of evidence applicable to Board proceedings.

[FR Doc.76-38202 Filed 12-28-76;8:45 am]

[14 CFR Part 313]

[PDR-42, Docket 30247, Dated December 22, 1976]

IMPLEMENTATION OF ENERGY POLICY AND CONSERVATION ACT

Procedural Regulations

Notice is hereby given that the Civil Aeronautics Board has under consideration the adoption of a new Part 313 of its Procedural Regulations implementing the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6201 *et seq.* The principal features of the proposal are described in the Explanatory Statement, to which the proposed rules are appended. The rules are proposed under the authority of section 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324, and section 382(b) of the Energy Policy and Conservation Act, 89 Stat. 940, 42 U.S.C. 6382(b).

Interested persons may participate in the proposed rule making in Docket 30247 through submission of twelve (12) copies of written data and views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C., 20428. Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through the submission of comments in letter form to the Docket Section at the address noted above, without the necessity of filing additional copies thereof.,

All relevant material in comments received by February 14, 1977, will be considered by the Board before taking final action on the proposed rules. Copies of any such comments received will be available for examination by the public in the

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Docket Section of the Board, Room 710 Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

EXPLANATORY STATEMENT

The Energy Policy and Conservation Act, Pub. L. 94–163, 42 U.S.C. 6201 et seq., (hereinafter "EPCA") establishes a national energy program covering domestic energy supply availability, standby rationing authority, improvement of energy efficiency in various sectors of the nation's economy, and petroleum pricing and allocations. Title III of EPCA relates to the goal of improving energy efficiency and consists of parts pertaining to automotive fuel efficiency, energy conservation programs for consumer products other than automobiles, energy conservation programs by the states, industrial energy conservation programs, and "other federal energy conservation measures." Included in the latter is section 382, which pertains to energy conservation in the policies and practices of certain Federal agencies which regulate various aspects of transportation, among them the Board.

Section 382 calls upon the named agencies, including the Board, to submit to Congress a series of three studies and reports on energy conservation practices and policies within their respective jurisdictions. The Board has submitted the initial two reports, and the last is to be filed by December 22, 1976. In addition to these one-time reports, the agencies are directed as a continuing matter, where practicable and consistent with their authority under other laws, to include in any "major regulatory action * * * a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation." None of the terms are defined. Indeed, the Congress specifically left "major regulatory action" to be defined by rule of the agency.

The objective of this rule, then, is to make that definition and also to outline the policies and procedures generally to be followed by the Board in making the energy statements called for by section 382(b) of EPCA.

As a general matter, we believe that the EPCA goals of energy conservation and the improvement of energy efficiency must be viewed as supplementing the Board's existing—and continuing—mandates under the Federal Aviation Act of 1958 (hereinafter the "Act") to regulate air transportation in the public interest, and consistent with the public convenience and necessity (see section 102, 49 U.S.C. 1302). As such, EPCA provides additional specific guidance to the Board as to those factors which it shall consider to be in the public interest in carrying out its responsibilities, and are thus to be weighed in the decision-making process just as the Board's more traditional policies and missions. Both EPCA and the Act confer upon this agency the responsibility of balancing sometimes conflicting public interest considerations, but we perceive no unusual difficulty in giving full effect to mandates of both statutes. In this regard, the weight to be accorded the various factors bearing upon the public interest, including energy conservation and efficiency, will naturally differ from case to case depending upon the particular facts and circumstances involved, and we imply no particular preference herein.

PROCEDURE

The Board has in the past considered the energy implications of its major actions as part of its responsibilities under the National Environmental Policy Act of 1969 ("NEPA"), in environmental assessments, negative declarations, and impact statements prepared pursuant to Part 312 of the Board's Procedural Regulations and, prior to August, 1975, § 339.-110 of the Policy Statements (now repealed). Moreover, findings and conclusions with respect to energy conservation and efficiency in compliance with EPCA have been made on an ad hoc basis in several significant Board decisions rendered since the enactment of EPCA, quite apart from the environmental considerations. For example, EPCA findings have been made in the following cases: *Miami-Los Angeles Competitive Nonstop Case*, Order 76–3–93 (March 15, 1976); *Boston-Atlanta Nonstop Service Case*, (Order 76–6–122 (June 16, 1976) and Order 76–7–112 (July 28, 1976); *Transatlantic Route Proceeding*, Docket 25908, decision submitted to the President on July 15, 1976; *Supplemental Renewal Proceeding*, Docket 23944, decision submitted to the President on July 15, 1976; Regulation SPR–110, adopting *Part 371-Advance Booking Charters* (adopted September 1, 1976); *Las Vegas-Calgary/Edmonton Route Proceeding*, Order 76–9–140 (served September 28, 1976); and *Chicago-Montreal Route Proceeding*, Order 76–11–32 (served November 8, 1976).

The Board's experience in considering environmental and energy factors in its decisions leads us to conclude that the procedures required to formally implement the energy statement requirement of EPCA need not be extensive. Specifically, we do not believe that the procedures developed in response to the unique requirements of NEPA, as interpreted by the courts, are either necessary or appropriate to implement EPCA in the context of the Board's existing statutory administrative hearing processes.[1]

Under the statutory scheme governing the Board's processes, most Board actions, including actions taken after notice and hearing, are taken in response to applications filed by air carriers and others seeking, for example, route authority, changes in fares and rates, mergers or acquisitions, and so forth. The NEPA procedures contemplate detailed environmental consideration, including where appropriate detailed draft and final environmental impact statements, prior to a hearing on a matter. At best, such a procedure is awkward, since it requires substantial fact-finding and preliminary decision-making well in advance of statutorily-mandated hearings, at a time when no federal proposal for action exists. Indeed, in cases decided after notice and hearing, the first significant federal action with respect to an application is necessarily the administrative law judge's initial or recommended decision. Thus, the hearing process is intended simply to develop the record upon which, under the Federal Aviation Act, decisions must be based, and is primarily a fact-finding mechanism. Moreover, the need for information and environmental consideration so early in the proceedings places a not insignificant burden upon applicants, who must provide the information sometimes long before their specific proposals and relevant evidentiary materials have taken shape, and upon the Board's staff, which must make environmental conclusions without benefit of the more definitive and ample material available at the hearing and without opportunity for cross-examination.

In the absence of any specific requirements of EPCA to the contrary, and we perceive none, we believe it preferable as a general matter to integrate the Board's EPCA procedures in hearing cases within our normal hearing process rather than the unique NEPA procedures. Thus, we will provide that the initial or recommended decision integrate findings and conclusions with respect to the energy conservation and efficiency consequences of the various alternative actions in issue in the case, including where appropriate a brief analysis of such consequences in light of the other public convenience and necessity factors relevant to the decision. These findings and conclusions shall constitute the energy "statement" required by EPCA. This is the procedure we have in essence followed on an *ad hoc* basis since enactment of EPCA. The detail and comprehensiveness of the energy findings and conclusions will of course depend upon the facts and circumstances of each particular case, and no hard and fast rule can be adopted here.[2] As is the case with all other aspects of an initial or recommended decision, the adequacy of the energy statement is subject to Board review under our usual discretionary review procedures.

[1] Cf., "Greene County Planning Board v. Federal Power Commission," 445 F. 2d 412 (2nd Cir., 1972), cert. denied 409 U.S. 849 (1972). But see, Aberdeen & Rockfish R. Co. v. SCRAP, 422 U.S. 289, 320–321 (1975).

[2] Naturally, the preciseness of findings with respect to energy consumption and efficiency is subject to a "rule of reason." Thus, while we foresee no unusual problems in determining the primary impact of Board actions in terms of aviation fuel consumption, some possible secondary effects—such as on automobile fuel consumption, for example—may be difficult if not impossible to determine. For this reason, we provide that the energy statement contain findings with respect to energy consumption and efficiency "to the extent practicable" (313.6(a)).

It shall be the responsibility of the applicants and other parties, as directed by the administrative law judge, to provide sufficient information to enable the administrative law judge to make the energy statement, if one is required. We contemplate that such information normally will be submitted pursuant to the usual practice in hearing cases, *viz*, as information responses, direct exhibits, rebuttal exhibits, etc. We do not, at this point, believe it necessary to specify by regulation the nature and extent of the information to be submitted. As in the case of other evidentiary submissions, that will be within the judgment and control of the administrative law judge. The parties and other participants will of course be free to submit such evidence and make such arguments to the administrative law judge or the Board as they desire with respect to the energy matters involved in a proceeding, whether the action does or does not involve a "major regulatory action" as defined in this part.

In cases not normally involving hearings, including cases customarily handled by show cause procedures, the energy statement, when required, will be incorporated into the Board's order disposing of the substantive issues involved. In such instances, the energy information needed to make an energy statement shall be submitted along with any other materials submitted in justification of an application, or with the application itself. Here again, we do not believe it necessary at this time to delineate the exact information to be submitted. If required, the Board's staff may request the submission of additional or more detailed information from applicants or other participants. It should be pointed out that applications not normally requiring hearings will not often involve a "major regulatory action" as defined in this part. Nevertheless, applicants have the responsibility to provide sufficient information to enable the Board to make an independent determination of whether an energy statement will be required in any particular instance. In most cases, it would appear that a projection of expected fuel usage or a reasoned estimate thereof will suffice.

MAJOR REGULATORY ACTION

The Board processes hundreds of applications each month. Most of the resulting orders or decisions are routine and are not of major regulatory significance, except perhaps to the parties directly involved. Some are "major" actions in terms of the Federal Aviation Act's policies and the impact upon the air transportation industry, but may or may not be significant in terms of probable impact upon energy conservation and efficiency. Clearly, it would be administratively burdensome as well as unproductive to require an energy statement in each Board order or decision, or in decisions which, while major in other respects, have no significant energy implications. Apparently recognizing these factors, the Congress delegated the task of defining those "major regulatory actions" which will require an energy statement to the Board. Given the focus of EPCA on energy conservation and efficiency, we believe it reasonable to define "major regulatory actions" in terms of the energy impact involved.

We have selected a quantitative rather than a qualitative approach to differentiate between those "major" actions of the Board which would ordinarily require an energy statement and other actions which do not, and have selected 10 million gallons net annual change in aviation fuel consumption (including jet fuel and aviation gasoline) as the threshold. To some extent, a quantitative threshold is simplistic because it does not recognize the differing characteristics involved in the gamut of cases that come wthin the Board's jurisdiction. Board cases may involve such disparate matters as, for example, airline route authority, charter rules, rates and ratemaking standards, mergers and acquisitions, intercarrier agreements, and so forth.[3] On the other hand, this simplicity is also the major virtue of a quantitative threshold, for it eliminates the uncertainty involved in attempting to determine, on a case-by-case basis, when energy impact is "substantial" or "significant." The burden of compliance and of administration is thereby much eased, and this outweighs, in our opinion, whatever inflexibility may be inherent in quantifying the threshold value.

As to the specific value selected—10 million gallons net annual change in consumption—we believe it to be sufficiently sensitive to encompass virtually all cases in which energy considerations could matter and yet high enough to exclude the vast bulk of Board actions which have little if any meaningful energy impact. Ten million gallons represent approximately 1/10th of 1 percent of the certificated route carriers' total consumption of aviation gasoline and jet fuel in calendar year 1972, which is the last full year not reflecting the effects of the Arab oil embargo and OPEC price escalation, and the resultant petroleum conservation measures.[4] Calendar 1972 also represents the base year used by Congress for purposes of measuring the energy conservation effects of EPCA programs in transportation, see section 382(a)(2).

We recognize, of course, that any quantitative value which may be selected is arbitrary to some extent. Thus, the 10-million gallon threshold should be viewed as an experimental figure, which may well be adjusted in the light of experience over the course of time. It may appear that a different value would be more realistic, or that a relative value, such as 1/10 of 1 percent of the last full calendar year's airline consumption, would more accurately reflect the energy impact of Board actions at any particular time. For a starting point, however, we believe that the 10-million gallon figure is reasonable. Thus, in terms of the Board's current case load, this threshold would cover approximately one-half of the route cases currently being handled by the Board's Bureau of Operating Rights, *i.e.*, in which there is a potential change in fuel usage in the first year of operations exceeding the threshold. This strikes a reasonable balance, in our view, between the understandable importance of careful consideration of the Board's actions on energy consumption and efficiency, on the one hand, and the public interest in minimizing unproductive procedures, on the other hand.

ENERGY EFFICIENCY

Section 313.3(b) of this regulation defines "energy efficiency" generally as "the ratio of the useful output of services in air transportation to the energy consumption of such services." We are not prepared to be more specific or to render the definition in quantifiable terms at this time. Rather, we hope that the Board's further experience in administering EPCA, as well as the comments of interested persons on the contents of this proposed rule, will shed further light on the problems of quantifying energy efficiency in the context of the disparate types of cases that come before the Board. In this regard, we would expect that the outlines of some realistic and useful ways of measuring energy efficiency will continue to be explored in those proceedings in which energy statements are appropriate.

As a practical matter, there may be any number of valid ways to measure efficiency per unit of fuel consumed. Changes in passenger load factors or ton load factors, which are simply ratios of utilized capacity to available capacity, have been suggested, for one. Whichever measure is used, it is necessary to compare the efficiency consequences of any particular proposed Board action with some base standard in order to determine whether the action will have either an adverse or beneficial impact on energy efficiency. Any number of standards might be appropriate, reflecting for example the historical fuel efficiency—however measured—of the industry as a whole, the trunk or local service carriers separately, a particular air carrier, a city-pair market, a group of markets comparable on a mileage, density or other basis, and so

[3] Notably, the Board's jurisdiction does not encompass direct authority over the carriers' equipment or schedules. See section 401(e)(4) of the Act, which provides that "[n]o term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require * * * (49 U.S.C. 1371(e)(4)). The House report on H.R. 7014, a forebear of EPCA, states that the Board "regulates airline routing and schedules," Report No. 94–340, 94th Congress, 1st Session (July 9, 1975), on the Energy Conservation and Oil Policy Act of 1975, at 75. The House report fails to give recognition to the Congressional mandate of section 401(a)(4) of the Act to the extent that it implies any direct Board power to regulate airline scheduling decisions.

[4] Calendar 1972 consumption, excluding consumption by supplemental carriers, totaled 10.3 billion gallons. CAB Handbook of Airline Statistics, 1973 Ed., Table 57.

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forth. Additionally, a base period is required. This might be 1972 (the last full year of operations not reflecting the effects of the fuel crisis and steep fuel price escalations), the most recent available year, or some other period. As the Board has discovered in recent cases, establishing a method for determining fuel efficiency is not easy. Based on the information and experience now available, we are not yet prepared to suggest any one particular method. It may well be that a variety of methods are appropriate, depending upon the particular facts and circumstances in a proceeding, and the type of action contemplated.

In this regard, we should note that while some types of Board actions inherently contribute toward raising energy efficiency, it may be difficult if not impossible to meaningfully quantify that effect. For example, it is intuitively obvious that Board actions which increase carrier routing and scheduling flexibility can benefit efficiency, such as in the case of the realignment of a carrier's route authority into one continuous segment, or the removal of specific operational restrictions or limitations contained in a carrier's certificates. Yet, the immediate impact of such actions in terms of actual operational changes may be small or even unknown; since a carrier's decisions with respect to schedules, routings, equipment used, etc. are predicated upon a great variety of factors, only one of which is the characteristics of the operational authority held. Over longer periods of time, of course, it is widely recognized that the route structure is critical in terms of efficiency, but such long-term consequences are often difficult to measure in the context of the individual case. Thus, the quantification of energy efficiency consequences in some cases may in fact be unrealistic and give meaningless results.

Similarly, some Board actions which on their face may be perceived to have detrimental impact on energy efficiency in the short run may in fact be intrinsically neutral or even beneficial. An example, in our view, is the certification of first competitive service. Historically, load factors in competitive markets have on the whole been lower than in monopoly markets.* Moreover, it is generally—although not universally—the case that one consequence of the certification of a competitor in a monopoly market is to depress load factors in the short term, since neither normal traffic growth nor the new traffic often stimulated by new service is usually able to absorb the additional capacity introduced in the market in the first year of operations. In such an instance, it would appear that energy efficiency has suffered. However, over time there is no intrinsic reason why, at any given fare level, a competitive market cannot reach an equilibrium of demand and supply whereby market load factor returns to a reasonable level. Thus, reliance on forecast year comparisons of fuel efficiency may well be meaningless or even substantially misleading in the typical competitive route case.

It may well be that after all is said and done the typical Board route proceeding will be found to have little—if any—impact on energy efficiency *per se* though the fuel consumption involved may be considerable. It is certainly clear that many actions which affect airline fuel efficiency significantly are under control of the carriers or other agencies, and not the Board.† We recognize, on the other hand, that fuel efficiency may be significantly—albeit indirectly—affected by the Board's fare policies, particularly with respect to load factor standards and seating configuration standards.‡ In short, any definition of "energy efficiency" by rule which has the effect of establishing some type of quantifiable efficiency criteria will have to be closely scrutinized to ensure that it reflects the true impact of the particular Board action involved in a proceeding.

Adopt a new Part 313 of the Board's Procedural Regulations (14 CFR Part 313), to read as follows:

PART 313—IMPLEMENTATION OF THE ENERGY POLICY AND CONSERVATION ACT

Sec.

313.1 Purpose, scope and authority.
313.2 Policy.
313.3 Definitions.
313.4 Major regulatory actions.
313.5 Energy information.
313.6 Energy statements.
313.7 Integration with environmental procedures.

AUTHORITY: Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; and section 382(b) of the Energy Policy and Conservation Act, 89 Stat. 940, 42 U.S.C. 6362(b).

§ 313.1 Purpose, Scope and Authority.

(a) The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq., hereinafter "EPCA") authorizes and directs certain actions to conserve energy supplies through energy conservation programs and where necessary, the regulation of certain energy uses, and to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products. In furtherance of these purposes, section 382 of EPCA requires several transportation regulatory agencies, including the Board, to submit a number of reports to the Congress with respect to energy conservation and efficiency, and, where practicable and consistent with the exercise of the Board's authority under other law, to include in any major regulatory action a statement of the probable impact of such action on energy efficiency and energy conservation. Section 382(b) of EPCA directs the Board to define the term "major regulatory action" by rule.

(b) Section 204(a) of the Federal Aviation Act of 1958, as amended (hereinafter "Act") authorizes the Board to establish such rules, regulations and procedures as are necessary to the exercise of its functions and are consistent with the purposes of the Act.

(c) The purpose of these regulations is to establish procedures and guidelines for the implementation of the Board's responsibility under EPCA to include in any major regulatory action taken by the Board a statement of the probable impact of such action on energy efficiency and energy conservation.

(d) These regulations apply to all proceedings before the Board, as provided herein.

§ 313.2 Policy.

(a) *General.* It is the policy of the Board to view the conservation of energy and the energy efficiency improvement goals of EPCA as part of the Board's overall mandate, to be considered along with the several public interest and public convenience and necessity factors enumerated in section 102 of the Federal Aviation Act (49 U.S.C. 1302). To the extent practicable and consistent with the Board's authority under the Act and other law, energy conservation and efficiency are to be weighed in the decision-making process just as are the Board's traditional policies and missions.

(b) *Implementation.* Implementation of this policy is through the integration of energy findings and conclusions into decisions, opinions, or orders in proceedings involving a major regulatory action, as defined in this part.

(c) *Proceedings in progress.* The provisions of this Part are intended primarily for prospective application. Proceedings in progress on the effective date of this Part, in which an application has been docketed but no final decision made public, shall adhere to § 313.6(a), *Provided,* That the fair, efficient, and timely administration of the Board's regulatory activities is not compromised thereby. Nothing herein shall imply a requirement for new or additional hearings, a reopening of the record, or any other procedures which would tend to delay a timely decision in proceedings in progress.

(d) *Hearings.* Public hearings will not normally be held for the purpose of implementing EPCA, particularly in connection with proposed actions which do not require notice and hearing as a prerequisite to decision under the Act. Hearings may be ordered in exceptional circumstances where the proposed action is of great magnitude or widespread public interest and, in addition, presents complex issues peculiarly subject to resolution through evidentiary hearings and the process of cross examination.

* *The Domestic Route System: Analysis and Policy Recommendations*, a staff study by the Bureau of Operating Rights, Washington, D.C., CAB, October 1974.

† We noted a number of these in our second report to Congress in compliance with section 382(a)(2) of EPCA, submitted on April 22, 1976. They include airways and airport delays, and changes in operational procedures such as reduction of cruise speeds, better planning of flight profiles, taxiing and gate hold procedures, etc.

‡ The Board is reexamining its load-factor standard by rulemaking, see Order 75-6-72 (June 13, 1975).

§ 313.3 Definitions.

As used in this Part:

(a) "Act" means the Federal Aviation Act of 1958, as amended.

(b) "Energy efficiency" means the ratio of the useful output of services in air transportation to the energy consumption of such services.

(c) "Energy statement" is a statement of the probable impact of a major regulatory action on energy efficiency and energy conservation, contained in a decision, opinion, order, or rule.

(d) "EPCA" means the Energy Policy and Conservation Act.

(e) "Major regulatory action" is any decision by the Board or administrative law judge requiring an energy statement pursuant to § 313.4.

(f) "NEPA" means the National Environmental Policy Act of 1969.

§ 313.4 Major Regulatory Actions.

(a) Any initial, recommended, tentative or final decision, opinion, order, or final rule is a major regulatory action requiring an energy statement, if it:

(1) May cause a near-term net annual change in aircraft fuel consumption of 10 million (10,000,000) gallons or more, compared to the probable consumption of fuel were the action not to be taken; or

(2) Is specifically so designated by the Board because of its precedential value, substantial controversy with respect to energy conservation and efficiency, or other unusual circumstances.

(b) Notwithstanding paragraph (a)(1) of this section, the following types of actions shall not be deemed as major regulatory actions requiring an energy statement:

(1) Tariff suspension orders under sections 1002(g) or 1002(j) of the Act, temporary suspensions under section 401(j) of the Act; emergency exemptions or temporary exemptions not exceeding 24 months under sections 101(3) or 416(b) of the Act, interim approval of agreements under section 412, and other proceedings in which timely action is of the essence;

(2) Orders instituting or declining to institute investigations or rulemaking, setting or declining to set applications for hearing, on reconsideration, or on requests for stay;

(3) Other procedural or interlocutory orders; and

(4) Actions taken under delegated authority.

(c) Notwithstanding paragraph (a)(1) of this section, the Board may provide that an energy statement shall not be prepared in a proceeding which may result in a major regulatory action, if it finds that—

(1) The inclusion of an energy statement is not consistent with the exercise of the Board's authority under the Act or other law;

(2) The inclusion of an energy statement is not practicable because of time constraints, lack of information, or other unusual circumstances; or

(3) The action is taken under laws designed to protect the public health or safety.

§ 313.5 Energy Information.

(a) It shall be the responsibility of applicants and other parties or participants to a proceeding which may involve a major regulatory action to submit sufficient information with respect to the energy consumption and energy efficiency consequences of their proposals or positions in the proceeding to enable the administrative law judge or the Board, as the case may be, to determine whether the proceeding will in fact involve a major regulatory action for purposes of this Part, and if so, to consider the relevant energy factors in the decision and prepare the energy statement.

(b) In proceedings involving evidentiary hearings, the energy information shall be submitted at such hearings pursuant to the Board's usual procedural regulations and practices, under control of the administrative law judge or other hearing officer.

(c) In proceedings not involving evidentiary hearings, the energy information shall be submitted at such time as other materials in justification of an application are submitted. Where an application itself is intended as justification for Board action, the energy information shall be submitted with such application. In rulemakings not involving hearings, the energy information shall normally be submitted along with comments on the notice of proposed rulemaking, or as directed in any such notice or any advance notice.

§ 313.6 Energy Statements.

(a) Each major regulatory action shall include, to the extent practicable, consideration of the probable impact of the action taken or to be taken upon energy efficiency and conservation. The administrative law judge or the Board, as the case may be, shall normally make findings and conclusions with respect to:

(1) The net change in energy consumption;

(2) The net change in energy efficiency; and

(3) The balance struck between energy factors and other public interest and public convenience and necessity factors in the decision.

(b) Energy findings and conclusions contained in any initial or recommended decision are a part of that decision and thus subject to discretionary review by the Board.

(c) In the case of orders to show cause initiated by the Board, energy findings and conclusions may be omitted if adequate information is not available. In such instances the energy statement shall be integrated into the final decision.

§ 313.7 Integration with Environmental Procedures.

(a) In proceedings in which an environmental impact statement or a detailed environmental negative declaration is prepared by a responsible official pursuant to the Board's Procedural Regulations implementing the National Environmental Policy Act of 1969 (NEPA), the energy information called for by this Part may be included in such statement or declaration in order to yield a single, comprehensive document. In such instances, the procedures of the Board's NEPA regulations shall govern the submission of the energy information. However, it shall remain the responsibility of the administrative law judge or the Board, as the case may be, to make the findings and conclusions required by § 313.6(a).

(b) A determination that a major regulatory action within the meaning of EPCA and this Part may be involved in a proceeding is independent from any determination that the proceeding is a "major Federal action significantly affecting the quality of the human environment" within the meaning of NEPA, and vice versa.

[FR Doc.76-38203 Filed 12-28-76;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1601]

NOTICE AGENCIES

Proposed Designation

Pursuant to §§ 1601.12(e) and (j), Title 29, Chapter 14 of the Code of Federal Regulations as revised and published in the FEDERAL REGISTER, 40 FR 3210M, January 20, 1975, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) proposes that the agency listed below be designated as "Notice Agency" (§ 1601.12(e)). The purpose for "Notice Agency" designation is to authorize such agencies to be notified by the Commission of the filing of charges with the Commission.

This announcement commences the 15-day period within which any person or organization may file written comments with the Commission as provided for under § 1601.12(l). At the expiration of the 15-day period, the Commission may effect such designation of each of the agencies by publishing an amendment to § 1601.12(m). The proposed "Notice Agency" is as follows:

Raleigh (North Carolina) Community Relations Commission

Written comments pursuant to this notice must be filed with the Commission on or before January 12, 1977.

Signed at Washington, D.C. this 23rd day of December 1976.

ETHEL BENT WALSH,
Vice Chairman, Equal Employment Opportunity Commission.

[FR Doc.76-38213 Filed 12-28-76;8:45 am]

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DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 223]

SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Proposed Rulemaking

The Department of the Treasury proposes to amend its regulations at 31 CFR Part 223 (also appearing as Treasury Department Circular No. 297) governing surety companies doing business with the United States, to accomplish the following purposes.

1. To clarify regulations that are subject to misinterpretation and to update the regulations in light of current practices.

2. To remove the only technical requirements contained in Part 223. These requirements will be placed in the Treasury's Annual Letter to Executive Heads of Surety Companies. Also, to reflect the Department's long standing procedure for valuing assets and liabilities in accordance with the instructions contained in Treasury's Annual Letter.

3. To allow the quarterly statement form of the N.A.I.C., (when modified to conform to the Secretary of the Treasury's requirements) to be substituted for Treasury's quarterly statement form.

4. To clearly indicate that one or more companies holding certificates of authority as acceptable sureties or acceptable reinsuring companies may reinsure liabilities on excess risks running to the United States.

5. To define Treasury's long standing procedure for determining paid up capital and surplus for Treasury rating purposes.

6. To clarify Treasury's position on claims payment and to indicate that a copy of the bond should be included when an agency makes a report of a company's failure to pay a claim.

7. To revise its schedule of fees to recover costs related to services performed for, and special benefits conferred upon, surety companies by the Department. The services performed and benefits conferred are in connection with the Fiscal Service's maintenance and publication of an annual listing (Treasury Department Circular No. 570) of surety companies holding certificates of authority from the Secretary of the Treasury as acceptable sureties or reinsurers on Federal bonds. The revised fees are proposed for adoption pursuant to 31 U.S.C. 483a, the user charge statute, and Office of Management and Budget Circular No. A-25, as amended, entitled User Charges.

Accordingly, notice is hereby given pursuant to 5 U.S.C. 553, that the Secretary of the Treasury is considering the adoption, under authority of 6 U.S.C. 6–13, 5 U.S.C. 301 and the Act of August 31, 1951, 65 Stat. 290 (31 U.S.C. 483a), of the following revisions to Part 223 of Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations.

§ 223.3 [Amended]

1. In § 223.3: Amend "(a) If, from the evidence submitted in the manner and form herein required • • •" to read "(a) If, from the evidence submitted in the manner and form herein required, subject to the guidelines referred to in § 223.9 • • •"

2. Section 223.7 is amended to read:

§ 223.7 Investment of capital and assets.

The cash capital and other funds of every such company must be safely invested in accordance with the laws of the State in which it is incorporated and will be valued on the basis set forth in § 223.9. The Secretary of the Treasury will periodically issue instructions for the guidance of companies with respect to investments and other matters. These guidelines may be updated from time to time to meet changing conditions in the industry.

3. In § 223.8(a): Amend "Secretary of the Treasury" to read "Assistant Comptroller for Auditing" in the first sentence. The remaining sentences of § 223.8 (a) are amended to read:

§ 223.8 Financial reports.

(a) • • • On or before the last days of April, July and October of each year, every such company shall file a financial statement with the Assistant Comptroller for Auditing as of the last day of the preceding month. A form is prescribed by the Treasury for this purpose. The quarterly statement form of the N.A.I.C., when modified to conform to the Treasury's requirements, may be substituted for the Treasury's form. The quarterly statement will be signed and sworn to by the company's president and secretary or their authorized designees.

• • • • • •

4. Section 223.9 is amended to read:

§ 223.9 Valuation of assets and liabilities.

In determining the financial condition of every such company, its assets and liabilities will be computed in accordance with the instructions contained in the Treasury's current Annual Letter to Executive Heads of Surety Companies. However, the Secretary of the Treasury may value the assets and liabilities of such companies in his discretion. Credit will be allowed for reinsurance in all classes of risks if the reinsuring company holds a certificate of authority from the Secretary of the Treasury, or has been recognized as an admitted reinsurer in accord with § 223.12.

§ 223.11 [Amended]

5. Section 223.11(b)(2)(i) is amended to read: (i) One or more companies holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds or one or more companies holding a certificate of authority as an acceptable reinsuring company on such bonds, or

6. In § 223.11(b)(2)(ii): Amend "Any company" to read "One or more companies."

7. In § 223.11(c)(1): Amend "of property" to read "of assets admitted by the Treasury."

8. Section 223.15 is amended to read:

§ 223.15 Paid up capital and surplus for Treasury rating purposes; how determined.

The amount of paid up capital and surplus of any such company shall be determined on an insurance accounting basis under the regulations in this part, from the company's financial statements and other information, or by such examination of the company at its own expense as the Secretary of the Treasury may deem necessary or proper.

§ 223.16 [Amended]

9. In § 223.16: Delete "a fidelity and" from its first sentence.

§ 223.17 [Amended]

10. In § 223.17: Amend "Whenever in the judgment of the Secretary of the Treasury a company is not complying with the requirements of 6 U.S.C. 6–13 and of the regulations in this part, he shall • • •" to read "Whenever it appears that a company is not complying with the requirements of 6 U.S.C. 6–13 and of the regulations in this part, the Secretary of the Treasury will • • •"

11. Section 223.18(a) is amended to read:

§ 223.18 Performance of agency obligations.

(a) Every company shall promptly honor its bonds naming the United States or one of its agencies or instrumentalities as obligee. If an agency's demand upon a company on behalf of the agency or laborers, materialmen, or suppliers (on payment bonds), for payment of a claim against it is not settled to the agency's satisfaction, and the agency's review of the situation thereafter establishes that the default is clear and the company's refusal to pay is not based on adequate grounds, the agency may make a report to the Secretary of the Treasury, including a copy of the subject bond, the basis for the claim against the company, a chronological resume of efforts to obtain payment, a statement of all reasons offered for nonpayment, and a statement of the agency's views on the matter.

§ 223.20 [Amended]

12. Section 223.20 is amended by adding "without further notice" at the end of its last sentence.

§ 223.21 [Amended]

13. In § 223.21: Amend "If, after one year from the date of the expiration or the revocation of the certificate of authority, as the case may be • • •" to read "If, after one year from the date of the expiration or the revocation of the certificate of authority, under § 223.20 • • •"

§ 223.22 [Amended]

14. In § 223.22: Amend "effective January 31, 1976" to read "effective January 31, 1977."

15. Sections 223.22(a) and 223.22(c) are amended to read:

§ 223.22 Schedule of Fees.

• • • • • •

(a) For examining a company's application for a certificate of authority as an acceptable surety on Federal bonds, or for examining a company's application for a certificate of authority as an acceptable reinsuring company on such bonds: $960 (see § 223.2).

• • • • • •

(c) For determining the continuing qualifications for annual renewal of a company's certificate of authority: $640 (see § 223.3).

• • • • • •

Prior to adoption of the proposed amendments, consideration will be given to written views or arguments submitted to the Commissioner, Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226, and received on or before January 28, 1976. Copies of comments received will be available for inspection and copying upon request in accordance with the Treasury's rules entitled "Disclosure of Records" (31 CFR Part I, Subpart A). The Bureau of Government Financial Operations has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 22, 1976.

D. A. PAGLIAI,
Commissioner.

[FR Doc.76-38106 Filed 12-28-76;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 531]

[Docket No. 76-40]

FILING OF FREIGHT AND PASSENGER RATES, FARES AND CHARGES IN THE DOMESTIC OFFSHORE TRADE, PUBLICATION AND POSTING

Further Enlargement of Time

DECEMBER 22, 1976.

Upon request of Hearing Counsel, and good cause appearing, time within which its reply to comments llash ebldefi IES its reply to comments shall be filed in this proceeding is enlarged to and including January 10, 1977. Answers to Hearing Counsel's reply shall be filed on or before January 31, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-38206 Filed 12-28-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 0, 1]

[Docket No. 21032; FCC 76-1196]

GOVERNMENT IN THE SUNSHINE

Implementation

Adopted: December 22, 1976.

Released: December 23, 1976.

1. The Government in the Sunshine Act (Pub. L. 94-409) was signed by the President on September 13, 1976. Agencies are charged with the issuance of rules implementing the Act by March 12, 1977, 180 days after the date of enactment. The Commission's proposed rules are set out below. We have also initiated consultations with the Office of the Chairman of the Administrative Conference of the United States, as required by the Act.

2. Pursuant to procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on the proposed rules on or before January 27, 1977. Reply comments are not requested. Comments will be available for inspection in the Commission's Broadcast and Dockets Reference Room at its headquarters in Washington, D.C. All relevant and timely comments will be considered by the Commission prior to final action in this proceeding. In reaching its decision, the Commission may take into account other relevant information before it in addition to the comments invited by this Notice. In accordance with the provisions of § 1.419 of the Rules and Regulations, an original and 5 copies of all comments and other materials shall be furnished the Commission.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 0 and 1 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. Subpart F of Part 0 is added to read as follows:

Subpart F—Meeting Procedures

Sec.
0.601 Definitions.
0.602 Open meetings.
0.603 Basis for closing a meeting to the public.
0.605 Meeting procedures.

Subpart F—Meeting Procedures

§ 0.601 Definitions.

For purposes of this section:

(a) The term "agency" means (1) the Commission, (2) a Board of Commissioners (see § 0.212), (3) the Telecommunications Committee, (see § 0.215), (4) the Subscription Television Committee (see § 0.216), and (5) any other group of Commissioners hereinafter established by the Commission on a continuing or ad hoc basis and authorized to act on behalf of the Commission.

(b) The term "meeting" means the deliberations among a quorum of the Commission, a Board of Commissioners, or a quorum of a committee of Commissioners, where such deliberations determine or result in the joint conduct or disposition of official agency business, except that the term does not include deliberations to decide whether a meeting should be open or closed. (The term includes conference telephone calls, but does not include the separate, sequential consideration of Commission business by Commissioners.) For purposes of this subpart, each item on the agenda of a meeting is considered a meeting or a portion of a meeting.

§ 0.602 Open meetings.

(a) All meetings shall be conducted in accordance with the provisions of this subpart.

(b) Except as provided in § 0.603, every portion of every meeting shall be open to public observation. Observation does not include participation or disruptive conduct by observers, and persons engaging in such conduct will be removed from the meeting.

§ 0.603 Basis for closing a meeting to the public.

An agency or advisory committee meeting may be closed to the public, and information pertaining to such meetings which would otherwise be disclosed to the public under § 0.605 may be withheld, if the agency determines that an open meeting or the disclosure of such information is likely to:

(a) Disclose matters that (1) are specifically authorized under criteria established by executive order to be kept secret in the interest of national defense or foreign policy, and (2) are in fact properly classified pursuant to such executive order (see § 0.457(a));

(b) Relate solely to the internal personnel rules and practices of an agency (see § 0.457(b));

(c) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld (see § 0.457(c));

(d) Disclose trade secrets and commercial or financial information obtained from a person and priviledged or confidential (see § 0.457(d));

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy (see § 0.457(f));

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contined in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligency investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

[2] Commissioner Hook concurring in the result; Commissioner Quello absent.

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(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except where the agency has already disclosed to the public the content or nature of the disclosed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures specified in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for hearing.

§ 0.605 Meeting procedures.

(a) If an agency, by its staff, determines that a meeting should be open to the public, it will, at least one week prior to the meeting, announce in writing the time, place, and subject matter of the meeting, that it is to be open to the public, and the name and phone number of an official designated to respond to requests for information about the meeting. The announcement provided for in this paragraph and in paragraphs (e), (f) and (g) of this section will be submitted for publication in the FEDERAL REGISTER on or before the date on which the announcement is made.

(b) The agency will vote on the question of closing a meeting to the public:

(1) If the staff recommends that the meeting be closed and one member of the agency requests that a vote be taken; or

(2) If a person whose interests may be directly affected by a meeting requests the agency to close the meeting for any of the reasons listed in § 1.603 (e), (f) or (g), and a member of the agency requests that a vote be taken.

(c) When a vote is taken, a separate vote will be taken for each meeting proposed to be closed to the public and with respect to any information proposed to be withheld from the public. However, a single vote may be taken with respect to a series of meetings proposed to be closed to the public, and with respect to information concerning such series of meetings, if each meeting involves the same particular matters and is scheduled to be held no later than 30 days after the first meeting in the series.

(d) A meeting will be closed to the public pursuant to § 0.603 only by vote of a majority of the entire membership of the agency. The vote of each participating Commissioner will be recorded. No Commissioner may vote by proxy.

(e) (1) If the question of closing a meeting is considered by the agency but no vote is taken, the agency will, at least one week prior to the meeting, announce in writing the time, place and subject matter of the meeting, that it is to be open to the public, and the name and phone number of an official designated to respond to requests for information about the meeting.

(2) If a vote is taken, the agency will, in the same announcement and within one day after the vote, make public the vote of each participating Commissioner.

(3) If the vote is to close the meeting, the agency will also, in that announcement, set out a full written explanation of its action and a list of all persons other than Commission personnel expected to attend the meeting, together with their affiliations.

(4) If the meeting is closed, the agency may withhold and not announce the information specified in paragraphs (e) (1), (2) and (3) of this section, if and to the extent that it finds that such action is justified under § 0.603. Information will be withheld only by a vote of a majority of the entire membership of the agency, which will be recorded and will include no vote by proxy.

(f) If the prompt and orderly conduct of agency business should require that a meeting be held less than one week after the announcement provided for in paragraph (e) for this section, the agency will announce, at the earliest practicable time, the time, place, and subject matter of the meeting, and whether it will be open or closed to the public. Such action will be taken only by a majority vote of the entire membership of the agency.

(g) If, after the announcement provided for in paragraphs (a) and (e) of this section, the time or place of a meeting is changed or the meeting is cancelled, the agency will announce the change at the earliest practicable time. The subject matter or the determination to open or close the meeting will be changed only if (1) a majority of the entire membership of the agency determines by recorded vote that agency business so requires and that no earlier announcement of the change was possible, and (2) the agency publicly announces the change and the vote of each member upon such change at the earliest practicable time.

(h) For every meeting closed under § 0.603, the General Counsel will certify that the meeting may be closed to the public and will state each relevant provision of § 0.603, and the presiding officer will prepare a statement setting out the time and place of the meeting and the names of those other than Commission personnel who were present. Except as otherwise provided in paragraph (e) (4) of this section, these papers will also state the subject matter of the meeting. The certification and statement will be retained by the Secretary in a public file.

(i) (1) The agency will maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting closed to the public, except that in a meeting closed pursuant to paragraph (h) or (j) of § 1.603, the agency may maintain minutes in lieu of a transcript or recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote. All documents considered in connection with any item will be identified in the minutes.

(2) If the agency has determined that the meeting may properly be closed to the public, the transcript, recording or minutes shall not be made available to the public until such future time, if any, as it is determined, upon request, that the reasons for closing the meeting no longer pertain: *Provided, however,* That any separable portion of a transcript, recording or minutes will be made promptly available to the public if that portion does not contain information properly withheld under § 0.603.

(3) If the transcript, recording or minutes are made available to the public, copies of the transcript or minutes, or a transcription of the recording disclosing the identity of each speaker, will be furnished at the actual cost of duplication or transcription.

(4) The agency will maintain a copy of the transcript, recording or minutes for a period of two years after the meeting, or until one year after conclusion of the proceeding to which the meeting relates, whichever occurs later.

FREEDOM OF INFORMATION RULES

2. In § 0.457, a sentence is added at the end of the Introductory text preceding paragraph (a), and the portion of paragraph (c) preceding subparagraph (1) is revised, to read as follows:

§ 0.457 Records not routinely available for public inspection.

* * * * * *

Requests to inspect or copy the transcripts, recordings or minutes of agency or advisory committee meetings will be considered under § 0.603 rather than under the provisions of this section.

* * * * * *

(c) Materials that are specifically exempted from disclosure by statute (other than the Government in the Sunshine Act, 5 U.S.C. 552(b)), provided that such statute (1) requires that the materials be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of materials to be withheld. The Commission is authorized under the following statutory provisions to withhold materials from public inspection.

* * * * * *

EX PARTE RULES

3. Section 1.1223 is revised to read as follows:

§ 1.1223 Presentations prohibited in restricted application proceedings prior to their designation for hearing.

As provided in § 1.1203(b), certain application proceedings are "restricted" following the submission of a petition to deny or public notice of the filing of a mutually exclusive application. Except as provided in § 1.1227, no interested person shall, directly or indirectly, make or attempt to make any oral or written ex parte presentation to decision-making Commission personnel concerning such a proceeding. Nor, in the absence of public notice, shall such an ex parte presentation be made, directly or indirectly, by an interested person having actual knowledge that a mutually exclusive application has been filed. No interested person outside the Commission who knows that a proceeding will be designated for hearing shall make any ex parte presentation concerning that proceeding.

4. Section 1.1225(b) is revised to read as follows:

§ 1.1225 Solicitation of ex parte presentations.

* * * * * *

(b) Except as provided in § 1.1227, decision-making personnel shall not make or cause to be made, solicit or encourage ex parte presentations from any person, and shall not entertain ex parte presentations which are made to them.

5. Section 1.1251(a) is revised to read as follows:

§ 1.1251 Sanctions.

(a) *Parties.* (1) Upon notice and hearing, any party to a restricted proceeding who directly or indirectly makes any unauthorized ex parte presentation, who encourages or solicits others to make any such presentation, or who fails to advise the Executive Director of the facts and circumstances concerning an unauthorized ex parte presentation (see § 1.1245), may be disqualified from further participation in that proceeding. Such alternative or additional sanctions as may be appropriate may be imposed.

(2) To the extent consistent with the interests of justice and the public, a party who has made an ex parte presentation may be required to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded or otherwise adversely affected.

[FR Doc.76-38178 Filed 12-28-76;8:45 am]

[47 CFR Part 15]

[Docket No. 20990; RM-1617; RM-2152; RM-2223.]

REMOTE CONTROL AND SECURITY DEVICES

Order Extending Time to File Comments

Adopted: December 16, 1976.

Released: December 21, 1976.

In the matter of amendment of Part 15 of FCC Rules to provide for remote control and security devices.

1. On November 24, 1976, the Commission released a Notice of Proposed Rule-making in the above entitled matter (41 FR 52705, December 1, 1976). Since that time requests for extensions of time to file comments have been received from the following: (1) Security Equipment Industry Association and Linear Corporation, filed December 7, 1976; (2) Door Operator and Remote Controls Manufacturers Association, filed December 9, 1976; (3) Stanley Vemco, filed December 13, 1976; (4) A. E. Moore Company, Inc., filed December 13, 1976; (5) McKee Door Company, filed December 14, 1976; (6) General Aluminum Corporation, filed December 14, 1976; and (7) American Power-Unit Corporation, filed December 15, 1976.

2. Because of the technical nature of this proceeding, which would require testing and other studies by those commenting; the importance of this proceeding to both the manufacturers and consumers; and, the Commission's desire to have the most definitive responses possible, an extension of time to March 28, 1977, for filing Comments and April 28, 1976, for filing Reply Comments is hereby ordered pursuant to the authority granted by § 0.241(d) of the Commission's Rules.

HARRY FINE,
Acting Chief Engineer.

[FR Doc.76-38179 Filed 12-28-76;8:45 am]

[47 CFR Part 73]

[Docket No. 21022 RM-2722]

FM BROADCAST STATIONS; TABLE OF ASSIGNMENTS

Mechanicsville, Va.

Adopted: December 16, 1976.

Released: December 22, 1976.

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Mechanicsville, Virginia).

1. *Petitioner, Proposal and Comments:* (a) *Notice of Proposed Rule Making* is given concerning amendment of the FM Table of Assignments (Section 73.202(b) of the Commission's Rules and Regulations) as concerns Mechanicsville, Virginia.

(b) *A Petition for Rule Making*[1] was filed on behalf of Crusade for Christ, Inc. ("Crusade") of Norfolk, Virginia, seeking the assignment of Channel 224A as a first FM assignment to Mechanicsville. Crusade also submitted "Comments in Support of Proposed Rule Making." No other responses have been recevied.

2. *Community Data:* (a) *Location:* Mechanicsville (pop. 5,189[2]) is located in Hanover County, Virginia (pop. 37,479), approximately 16 kilometers (10 miles) northeast of Richmond, Virginia.

(b) *Local Broadcast Service:* Mechanicsville has no local aural services. The petitioner indicates that the proposed 60 dBu service area is now being served on a fulltime basis by five commercial FM stations and, on a daytime basis, by five AM stations. Varying portions of this service area are served by five other AM stations during daytime hours. Interference-free nighttime AM service is available from only one station in 55% of the proposed service area, two stations in 16%, and three or more stations in the remaining portion of the proposed service area.

(c) *Economic Data:* Principal industries include farming, tobacco, textiles and wood products. Retail sales in Hanover County totalled $99 million in 1975 on total personal income of $219 million. Per capita income was approximately $4,500.

3. *Preclusion Considerations:* Inasmuch as the petition proposes the assignment of a first Class A channel to a community located in close proximity to a larger city having a number of FM assignments, a preclusion study was required.[3] The study submitted by the petitioner and verified by a staff engineering analysis, indicates that only co-channel preclusion will result, affecting a small area immediately northeast of Mechanicsville. The proposed assignment can be made in compliance with technical and mileage separation requirements.

4. *Additional Considerations:* The potential benefits to be derived from the availability at Mechanicsville of a first local FM service provide sufficient basis for the issuance of a notice of proposed rule making. However, because of the proximity of Mechanicsville to Richmond, and the fact that the station's 1 mV/m contour apparently would cover all of Richmond, petitioner should provide documentation of its intent to serve Mechanicsville rather than Richmond.

5. *Proposed Amendment to the FM Table of Assignments:* The Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's Rules and Regulations) with regard to the community of Mechanicsville, Virginia, as follows:

City	Channel No.	
	Present	Proposed
Mechanicsville, Va.		224A

6. *Authority:* The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

7. *Comments and Replies:* Interested parties may file comments on or before

[1] Public Notice of filing of the petition was issued on July 14, 1976 (Rept. No. 989).

[2] Unless otherwise indicated, all population statistics are cited from the 1970 U.S. Census. Crusade notes that the population of Mechanicsville in 1976 is now estimated to be 8,071 persons.

[3] Policy to Govern FM Channel Assignments, 8 F.C.C. 2d 79 (1967).

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January 31, 1977, and reply comments on or before February 22, 1977.

FEDERAL COMMUNICATIONS COMMISSION
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comment. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Numbers of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.76-38180 Filed 12-28-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 232]

[Docket No. PB-4, Notice 3]

INSTALLATION, INSPECTION, TESTING AND MAINTENANCE OF POWER OR TRAIN BRAKES

Withdrawal of Advance Notice of Proposed Rulemaking

On March 16, 1971, the Federal Railroad Administration (FRA) published in the FEDERAL REGISTER (36 FR 4994) a notice soliciting public participation and comment on the need for a revision of those portions of 49 CFR Part 232, Railroad Power Brakes and Drawbars, concerning power brakes. The public was also invited to comment on the nature of the revisions considered necessary or desirable to resolve any difficulties arising under existing provisions.

Several comments were received in response to that notice. Most of the comments concerned minor or technical revisions to the existing rules. One commenter, the Association of American Railroads (AAR), submitted a comprehensive and detailed proposal for the amendment and recodification of the pertinent portions of 49 CFR 232.

On July 26, 1974, FRA published in the FEDERAL REGISTER (39 FR 27331) an advance notice of proposed rulemaking (ANPRM) soliciting comments on the amendments proposed by AAR. Inadvertently, the text of the proposed amendments and the explanatory notes filed by the AAR were not published as an appendix to that notice. On August 7, 1974, a correction was published in the FEDERAL REGISTER (39 FR 29441) containing the text of the amendments proposed by AAR.

Only the AAR and the Congress of Railway Unions (CRU) submitted comments directly to FRA in response to the ANPRM. However, many members of the Brotherhood of Railway Carmen of the United States and Canada (BRCUS &C) wrote Congressmen and Senators, who in turn referred their comments to FRA. Without exception, the comments of the CRU and the members of BRCUS&C were in opposition to the adoption of the AAR proposal.

After carefully considering this proposal and all of the comments received during this proceeding, FRA has determined that the AAR proposal does not contain sufficient supportive data regarding the impact its adoption would have upon safety. Adoption of the AAR proposal in the absence of such supportive data would contravene Section 9 of the Safety Appliance Acts, 45 U.S.C. § 9, which provides, in part, that "changes in the rules, standards, and instructions for the installation, inspection, maintenance and repair of all power or train brakes shall be promulgated solely for the purpose of achieving safety."

Adoption of the AAR proposal would result in a wholesale relaxation of existing safety requirements. For example, the AAR proposed to increase the distance between intermediate inspections of trains from points not more than 500 miles apart to points not more than 1,000 miles apart. This proposal is not supported by data indicating that such an increase would maintain the level of safety now achieved by the 500 mile inspection requirement.

The AAR proposal would also make initial terminal inspections and tests of air brakes optional, by providing that "all trains may be given inspection and test where train is originally made up (Initial Terminal)." Initial terminal inspections and tests are presently mandatory. In addition, the AAR proposal would also eliminate the present requirement that initial terminal road train air brake tests be conducted at point of interchange. Here again the AAR has suggested the relaxation of presently mandatory safety requirements but has failed to supply supportive data indicating that safety would not be diminished.

FRA believes that amendments such as those proposed by AAR, which affect the safety of the general public and railroad employees, should be predicated upon the results of tests conducted under controlled and supervised conditions. The record compiled in this proceeding does not contain the results of such tests. In light of that fact, FRA has determined that rulemaking action on the proposed amendments is not appropriate at the present time, and that this proceeding should be terminated until such time as the necessary test data can be compiled to support amendments to the current rules. Approval to conduct tests to compile this data may be sought in accordance with the provisions of 49 CFR Part 211. The withdrawal of this proposal does not preclude FRA from issuing similar notices in the future or commit FRA to any course of action.

In consideration of the foregoing, the notices published by FRA in the FEDERAL REGISTER on March 16, 1971 (36 FR 4994), July 26, 1974 (39 FR 27331), and August 7, 1974 (39 FR 28441) concerning proposed amendments to 49 CFR Part 232, Railroad Power Brakes and Drawbars, are hereby withdrawn and this proceeding is terminated.

This notice is issued under the authority of the Power or Train Brakes Safety Appliance Act of 1958 (72 Stat. 86; 45 U.S.C. § 9) and § 1.49(c) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(c)).

Issued in Washington, D.C. on December 22, 1976.

ASAPH H. HALL,
Administrator.

[FR Doc.76-38152 Filed 12-28-76;8:45 am]

[49 CFR Part 417]

[Docket No. RSOR-2, Notice 4]

RAILROAD "STOP-AND-PROCEED" PROCEDURES

Termination of Rulemaking Proceeding

BACKGROUND

On August 9, 1973, the Federal Railroad Administration (FRA) published an advance notice of proposed rulemaking (38 FR 21503) stating that it was studying possible courses of action to address the safety problems highlighted by those accident cause codes generally categorized by FRA as "human factor" accidents. Approximately one-third of all reportable train accidents are now attributable to human factor causes which generally involve noncompliance with existing carrier operating rules. The National Transportation Safety Board also recognized this area of human factor accidents as one in need of FRA consideration. That agency conducted a special study, "Signals and Operating Rules as Causal Factors in Train Accidents" (Report No. NTSB-RRS-71-3), which identified the ambiguous construction and varying interpretations of existing operating rules as a significant safety hazard.

In the advance notice of proposed rulemaking, FRA requested comments relative to the advisability of developing uniform minimum standards for operating rules governing the operation of trains and other railroad operating equipment. As a starting point, FRA chose three areas of concern: (1) failure to operate trains in accordance with restrictive conditions; (2) excessive speed within yard limits; and (3) failure of train crew members to provide adequate flag protection when a train is operated under circumstances in which it may be overtaken by another train. Four specific operating rules contained in the Association of American Railroad's Standard Code of Operating Rules were identified for specific consideration in the development of minimum Federal standards in these three areas. These rules are: Rule 34, calling of signals; Rule 93, operation of trains within yard limits; Rule 99, protective flagging; and Rule 291, stop-and-proceed signals (See AAR, Standard Code of Operating Rules). After analyzing the comments received in response to the advance notice of proposed rulemaking, the FRA decided to proceed with rulemaking with respect to Rule 291, stop-and-proceed signals, and to defer, temporarily, action on the remaining three rules.

AAR Rule 291 provides that a train must come to a full stop at a "stop-and-proceed" signal, and then may enter the block governed by the signal, proceeding at restricted speed, prepared to stop short of a train, obstruction, or switch not properly lined. A note to Rule 291 provides that "railroads desiring to avoid stopping trains may arrange accordingly" in their book of operating rules or otherwise. Several carriers presently operate under a permissive provision which allows a train crew to pass such a signal without stopping provided the train is proceeding at restricted speed, prepared to stop short of another train, obstruction, or switch not properly lined. On March 31, 1975, a notice of proposed rulemaking (NPRM) setting forth proposals for mandatory procedures for train crews to follow when they encounter a "stop-and-proceed" signal was published (40 FR 14336).

Written comments were received from nine commenters expressing opinions with respect to the proposed procedures. Six of the commenters either questioned the determination as to the need for such a Federal rule or opposed the specific procedures included in the notice on various grounds. Specifically, these commenters alleged that their operating experience did not confirm the presumption that the use of a permissive rule allowing train crews to pass such a signal without coming to a full stop, created an unsafe operation which resulted in a greater number of train accidents. These commenters stated that stopping the train before entering the block governed by the signal was not the important factor and would not insure accident prevention. The most important factor which guaranteed the safety of a permissive rule, they believed, was the operation of the train at a restricted speed, prepared to stop short of another train ahead, once the train entered the occupied block. Therefore, they concluded that the issuance of a rule requiring a train to be stopped before entering the block would not succeed in eliminating rear end collisions. In addition, several of these commenters noted additional safety hazards which could result from a required stop because of slack action and train separations. Generally, they felt that the uniqueness of geography and operating conditions on each carrier's property precluded the possibility of a practical universal rule. The conclusion reached by several of these commenters was that if safety problems resulting from the use of permissive signals could be identified on specific carriers, they should be addressed by rail management and labor through the established operating rules enforcement procedures of the carriers involved.

Two commenters responded favorably to the proposed procedures stating that the action of stopping a train at the signal would assure that the train would be under complete control when it then entered the occupied block. In addition, the stopping requirement would contribute to assuring that the engineer, and all crew members would maintain a vigilant lookout thus enhancing safety. The final commenter did not state a position in favor of or gainst the issuance of the regulation, but did comment on certain definitions included in the proposed rule.

In addition to these written comments, the FRA conducted a public hearing at which three individuals provided statements for the record in this proceeding. These statements questioned the advisability of the maximum "restricted speed" of 20 m.p.h. rather than the 15 m.p.h. maximum now existing on many carriers, the limitation of a minimum 1 percent ascending grade for grade signals, and the provision that trains be required to stop in areas where vandalism is prevalent and the safety of the crew is thereby endangered. Commenters at the hearing also cited the possibility of confusion resulting from conflicts between the proposed rule and other carrier operating rules and the failure of the proposal to recognize the concept of continuous cab signals used in concert with automatic block signals or used without automatic block signals.

Following an initial review and analysis of the comments and input from the public hearing, FRA decided that the record reflected sufficient disagreement as to the need for the proposed regulation to warrant referral to the Railroad Operating Rules Advisory Committee (RORAC) for additional review and recommendation. RORAC was an advisory group, made up of representatives from railroad management, labor organizations and State regulatory agencies with jurisdiction over railroads, which was created by the FRA in 1974 to advise the agency in the area of operating rules. Following their review of this docket, the Committee's consensus was that their general experience and accident data did not indicate a need for Federal regulation on this particular operating rule.

Before making a final decision in this proceeding, and because of the conflicting comments as to the safety of permissive signals, FRA conducted an analysis of train accident data for the ten year period 1965 through 1974. The data analyzed indicated that rear end train collisions, the category of statistics most likely to have a correlation with a "stop-and-proceed" regulation, have accounted for less than 1 percent of the total reportable train accidents. FRA also analyzed the accident rate for rear end collisions for those carriers who operate under a "stop-and-proceed" rule, requiring a train to come to a full stop, and those who operate under a permissive rule, allowing trains to pass such a signal at restricted speed. The accident rate was calculated on both a train mile and a gross ton mile basis. For the three most current years available (1972 through 1974) the average rate of rear end collisions per million train miles for carriers using a "stop-and-proceed" rule was .08 accidents per million train miles. For carriers who use a permissive rule, the accident rate was .05 accidents per million train miles. On the basis of rear end collisions per billion gross ton miles, carriers with a "stop-and-proceed" rule experienced .3 accidents per billion gross ton miles, while those with a permissive rule experienced .2 accidents per billion gross ton miles. These statistics do not

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indicate that there is a significant safety advantage in railroad operations which require crews to bring a train to a complete stop at a "stop-and-proceed" signal. In fact, the statistics indicate a slightly better safety performance for those carriers who do not require a train to stop.

Finally, FRA analyzed data collected through its field investigations of rear end collisions during the period from January 1974 through November 1976. Nine of these cases involved incidents in which the train crew complied with a carrier's "stop-and-proceed" rule by coming to a full stop for a signal displaying a "stop-and-proceed" aspect before entering the next block. The collision, in each of these cases, was determined to have been caused by the failure of the crew to operate in accordance with the restricted speed rule once the movement was resumed after having come to the complete stop at the signal. Therefore, it appears that the requirement of a mandatory stop rule as proposed in this proceeding, would not significantly add to the safety of train operations by assuring the prevention of rear end collisions.

With respect to the "proceed" aspect of the rule, that which gives the train crew authority to enter the block governed by the signal, FRA has found that carriers having either a "stop-and-proceed" rule or a permissive rule all require a movement in the block governed by the signal to be made at a restricted speed, prepared to stop short of an obstruction. The FRA has no basis to believe that such a rule is not being successfully applied and adequately enforced by the carriers through their established rules enforcement programs. Therefore, the FRA has decided that the addition of a uniform Federal rule requiring such moves to be made at restricted speed would not add materially to the overall safety of railroad operations.

Having analyzed the issues raised by interested parties and reviewed the pertinent train accident statistics, the FRA has determined that the need for a uniform Federal regulation such as that proposed in this proceeding can not be identified. Therefore, in compliance with the President's policy of regulatory reform and the Departmental policy to ensure that regulations issued by operating administrations will be effective in accomplishing their intended purpose and will not impose unnecessary burdens on the private sector, consumers, or on Federal, State and local governments, the FRA has determined that the "stop-and-proceed" procedures proposed in this proceeding are not likely to reduce significantly the occurrence of rear end train collisions. Consequently, the FRA has decided to terminate this proceeding without the issuance of a final regulation.

This notice is issued under the authority of section 202, 84 Stat. 971, 45 U.S.C. 431; § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on December 22, 1976.

ASAPH H. HALL,
Administrator.

[FR Doc.76-38153 Filed 12-28-76;8:45 am]

Urban Mass Transportation Administration

[49 CFR Part 604]

[Docket No. 76-10; Notice No. 1]

ADVANCE NOTICE OF PROPOSED RULEMAKING AND NOTICE OF PUBLIC HEARING

The Urban Mass Transportation Administration (UMTA) is considering amending Part 604 of its regulations on charter bus operations by UMTA-assisted transit operators. These regulations were issued on April 1, 1976, under section 3(f) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.) ("the UMT Act"). Under section 3(f) of the UMT Act an applicant for Federal financial assistance for the purchase or operation of buses (and/or the operation of equipment) must enter into an agreement with the Secretary of Transportation. That agreement must provide that the applicant will not engage in charter bus operations outside of the urban area within which it provides regularly scheduled mass transportation service, except pursuant to arrangements which the Secretary finds to be fair and equitable and which are designed to ensure that the Federal financial assistance will not enable the assisted operator to foreclose private operators from the intercity charter bus industry where they are willing and able to provide charter service.

The charter regulations set forth the terms which are "fair and equitable" in the opinion of the Secretary to accomplish the objectives of section 3(f) of the UMT Act. They also establish minimum conditions under which all UMTA-assisted operators can engage in charter operations in competition with private carriers and yet not foreclose the latter from the charter industry.

The basic thrust of the regulations is twofold: (1) They require grantees who engage in charter bus operations outside of their regular service area to certify that revenues generated from those operations are equal to, or greater than the cost of providing that service; and (2) They codify the "incidental" charter restrictions on the use of federally-assisted equipment which the Comptroller General set forth in his Opinion of 1966, (Comptroller General of the United States, B-160204 (December 7, 1966)).

Several issues have now emerged concerning the impact of these regulations on UMTA-assisted operators. Of particular concern has been UMTA's attempt to codify in the charter regulations its long-standing policy of allowing UMTA-assisted buses to be used in charter operations only on an incidental basis. Other issues involve the need for new charter agreements with each new application for assistance; the need to provide both actual and constructive notice to private operators; and the proper scope of the UMTA statutory mandate under section 3(f) of the UMT Act.

Comments are specifically requested on the following areas of concern:

1. Should § 604.11 which regulates the incidental use of mass transportation equipment, be deleted, modified or left unchanged?

2. Should section 3(f) agreements be a one time filing required only with an applicant's initial application for assistance under sections 3 or 5 of the UMT Act?

3. Should the requirement of providing actual notice to private operators whose service originates in a grantee's service area be deleted?

Comments are welcomed on these questions, as well as any additional recommendations for implementing section 3(f) of the UMT Act.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Chief Counsel, UMTA, Room 9320, 400 7th Street, SW., Washington, D.C. 20590.

All communications received on or before January 28, 1977, will be considered by the Administrator before taking final action on the proposed rule. All comments submitted will be available, both before and after the closing of the Rules Docket for examination by interested persons.

In addition to receiving written comment on the Rules Docket a public hearing will be held on Tuesday, January 25, 1976, from 9:30 a.m. to 12 noon and from 2:00 p.m. to 5:00 p.m. (EDT) at the DOT Headquarters, Nassif Building, 400 7th Street, SW., Washington, D.C., in Room 2230.

All persons, official bodies and organizations interested in presenting written and/or oral testimony pertaining to this hearing may register in advance of the hearing by calling 202/426-1906 or writing the Chief Counsel, UMTA (UCC-10), Room 9320, 400 7th Street, SW., Washington, D.C. 20590. Those persons, official bodies or organizations who do not register in advance will be heard after advanced registrants have been called and heard. If it is determined to be in the public interest to proceed further after consideration of the available data and comments received in response to this notice, a notice of proposed rulemaking will be issued.

This notice is issued under the authority of the Urban Mass Transportation Act, as amended (49 U.S.C. 1601 *et seq.*); 23 U.S.C. 103(e)(4); 23 U.S.C. 142 (a) and (c); and 49 CFR 1.51.

Issued in Washington, D.C., on December 22, 1976.

ROBERT E. PATRICELLI,
Urban Mass Transportation Administrator.

[FR Doc.76-38162 Filed 12-28-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CONSUMER PRODUCT SAFETY COMMISSION

PRODUCT SAFETY ADVISORY COUNCIL

Notice of Meeting

Notice is given that a meeting of the Product Safety Advisory Council will be held on Tuesday, January 25, 1977 (9 a.m. to 5 p.m.) and Wednesday, January 26, 1977 (9 a.m. to 4 p.m.) in the Third Floor Hearing Room, 1111 18th Street, N.W., Washington, D.C.

The Advisory Council has been established pursuant to section 28 of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1230; 15 U.S.C. 2077). The Act provides that the Commission may consult the Council before prescribing a consumer product safety rule or taking other action under the Act.

The proposed agenda includes a discussion of public participation in CPSC activities with specific emphasis on the proposed Office of Public Counsel and implementing guidelines for funding of public participation; review of the National Electronic Injury Surveillance System (NEISS), and discussion of rental of consumer products.

Persons wishing to make oral or written presentations to the Council should notify the Secretary of the Commission at least five (5) days in advance of the Advisory Council meeting. The notification should indicate the name of the individual planning to make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter to be addressed, and the approximate time requested for the presentation. The meeting is open to the public; however, space is limited. Further information concerning this meeting and final agenda may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, phone (202) 634-7700.

Dated: December 23, 1976.

SHELDON D. BUTTS,
Acting Secretary.

[FR Doc.76-38149 Filed 12-28-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

PERISHABLE AGRICULTURAL COMMODITIES ACT-INDUSTRY ADVISORY COMMITTEE

Open Meeting

Pursuant to the Federal Advisory Committee Act, section 10(a)(2), dated October 6, 1972, notice is hereby given of a meeting of the Perishable Agricultural Commodities Act-Industry Advisory Committee on Saturday, February 5, 1977, at 9:00 a.m., Cottonwood Room, Hyatt Regency Hotel, Houston, Texas.

The purpose of the meeting is to discuss policies and procedures relating to the administration of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et. seq.). The meeting will be open to the public.

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Floyd F. Hedlund, Director, Fruit and Vegetable Division, Agricultural Marketing Service, Room 2077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250; telephone 202-447-4722.

Dated: December 22, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc.76-38145 Filed 12-28-76;8:45 am]

Farmers Home Administration

[Notice of Designation No. A419]

MISSISSIPPI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Mississippi Counties as a result of various adverse weather conditions shown in the following chart:

Mississippi

County	Disaster	Incidence periods
Attala	Below normal temperatures.	Apr. 20 through June 13, 1976.
	Drought	July 5 through Sept. 8, 1976.
	Fall frost	Oct. 17, 1976.
	Fall freeze	Oct. 21, 1976.
Benton	Fall frost	Oct. 18, 1976.
	Fall freeze	Oct. 26 through Oct. 27, 1976.
DeSoto	Cold wet spring	Apr. 1 through June 12, 1976.
	Drought	July 2 through Sept. 8, 1976.
Holmes	Below normal temperatures.	Apr. 26 through June 23, 1976.
	Drought	July 4 through Aug. 28, 1976.
	Freeze	Oct. 18, 1976.
Montgomery	Cold wet spring	Apr. 1 through May 31, 1976.
	Drought	July 4 through Oct. 1, 1976.
	Freeze	Oct. 20, 1976.
Pontotoc	Below normal temperatures.	Apr. 1 through June 8, 1976.
	Drought	June 15 through Aug. 25, 1976.
Smith	do	July 25 through Nov. 9, 1976.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Cliff Finch that such designation be made.

Applications for emergency loans must be received by this Department no later than February 14, 1977, for physical losses and September 14, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas make it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 20th day of December 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-37966 Filed 12-28-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30221]

DOD CONTRACT-ELIGIBLE CERTIFICATION CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on January 17, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, North Universal Building, 1875 Connecticut Avenue, Washington, D.C., before Administrative Law Judge Burton S. Kolko.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before January 6, 1977, and the other parties on or before January 13, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76-38198 Filed 12-28-76;8:45 am]

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[Order 76-12-131; Docket Nos. 22859, 26838]

EASTERN AIR LINES, INC.

Freight Rate Investigations; Suspensions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of December, 1976.

By tariff revisions[1] marked to become effective December 27, 1976, Eastern Air Lines, Inc. (Eastern) proposes, with certain exceptions, systemwide increases of 6 percent in its freight rates and charges. The chief exceptions are the minimum charge per shipment for standard service, which would be raised by 8 percent (from $13 to $14), and certain northbound rates from Florida origins which would be raised by 10 percent, but not to exceed the southbound rates. In addition, Eastern proposes to extend its density discount rates until December 27, 1977.[2]

The carrier asserts, inter alia, that the the purpose of its proposed increases is to obtain needed revenue to compensate for deficient rate levels and rising costs; and that even with these increases, the carrier will not achieve a 12-percent rate of return on freight investment. As a result of the proposed increases, Eastern estimates annual revenue increases of about $3 million. Eastern asserts that its proposed extension of density discount rates is a defensive measure to match a similar filing by Delta Air Lines, Inc. (Delta).

The proposed rates all come within the scope of either the Domestic Air Freight Rate Investigation (DAFRI), Docket 22859, or the Priority Reserved Air Freight Rates Investigation (PRAFRI), Docket 26838, and their lawfulness will be determined in those proceedings. The issue before the Board is whether to suspend the rates or to permit them to become effective pending the decisions in those investigations.

Upon consideration of all relevant factors, the Board finds that the proposed $14 minimum charge per shipment for markets with lengths of haul less than about 497 miles, as specified in Appendix A hereto, should be suspended because it would exceed industry-average costs (including return on investment) of carrying air freight in such markets.[3] The corresponding express minimum charge of $18.20 should also be suspended since, if permitted to become effective, it would exceed the recommended 30 percent premium over the standard service charge in these markets. The Board will permit the remaining portions of the proposed rate increases to become effective as the rates do not appear excessive. Our approval of the extension of density discount rates is consistent with our recent action taken with regard to similar rates for Delta, Order 76-12-66.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. Pending hearing and decision by the Board, the charges and provisions described in Appendix A[4] hereto are suspended, and their use deferred to and including March 26, 1977, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension, except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariffs and served upon Eastern Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronatics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-38200 Filed 12-28-76;8:45 am]

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariffs C.A.B. Nos. 169 and 227.

[2] Density discount general commodity rates are applicable on traffic with density of at least 25 pounds per cubic foot, and are equal to 60 percent of the otherwise applicable general commodity rate.

[3] Industry-average costs recommended by the administrative law judge in DAFRI, revised for cost increases through the 12 months ended June 1976. The minimum charges suspended exceed the costs of a 35-pound shipment, the estimated size of an average shipment below 100 pounds in various markets. This standard for small shipment rates has been applied in Orders 76-12-66 and 76-11-14.

[4] Filed as part of the original document.

[Docket 29759]

FUEL SURCHARGE

Final Action on Revised Procedures for Part 288

DECEMBER 22, 1976.

By Notice, dated September 8, 1976, the Board expressed an intention to change its procedure and methodology for developing fuel-surcharge amendments applicable to the minimum rates established in Part 288 of the Economic Regulations (14 CFR Part 288) for air transportation services performed by air carriers for the Department of Defense (DOD) and procured by the Military Airlift Command (MAC).[1] Under the revised procedure and methodology, the fuel-surcharge amendments would be issued on an ad hoc basis when fuel price changes require a 0.75 percent or more adjustment to the current minimum rates, either upward or downward. Further, such adjustments would be based on fuel cost and consumption data provided in Schedule P-12(a) of the Form 41 reports (14 CFR Part 241) for military charter services performed.

Comments in response to the Notice were filed jointly by five carriers,[2] Northwest Airlines, Inc. (Northwest), Pan American World Airways, Inc. (Pan Am), Saturn Airways, Inc. (Saturn), Trans International Airlines, Inc. (TIA), and DOD. A reply to Saturn's comments was also filed by DOD. All comments and the reply have been carefully considered and all contentions not otherwise disposed of herein are rejected.

The responses were almost unanimously in favor of basing the fuel-surcharge computation on the fuel cost and consumption data reported monthly in Schedule P-12(a) reports.[3] The DOD and the joint carriers request that the Board continue the quarterly adjustment procedure. Northwest, Pan Am, Saturn,[4] and Trans International concurred with the proposed ad hoc adjustment.

DOD and the joint carriers assert that the present stabilization of fuel prices is not expected to continue and that substantial fuel price increases are anticipated in the near future. They also feel that the proposed 0.75 percent rate impact bench mark for triggering an ad hoc fuel surcharge adjustment represents a substantial financial impact and could impose an undue burden to the carriers or the DOD, depending on the direction of fuel price movement. The joint respondents allege that the prospective enormous reequipment program requires that the industry's profit position be diligently maintained and that they should not be faced with the potential profit absorption inherent in the ad hoc fuel surcharge procedure. While they believe that the foregoing circumstances justify the retention of the quarterly procedure, the carriers also indicate that if the ad hoc approach is adopted, it should apply only to commercial fuel prices and that the military-supplied fuel price changes should be made directly rate-responsive through an automatic surcharge provision.

Upon consideration of the commehts, we have determined for the reasons set forth herein and in the Notice to eliminate quarterly fuel surcharge adjustments and to adopt instead the ad hoc adjustment procedure set forth in the Notice with one modification. We have adopted Pan American's recommendation and converted the minimum price change needed to trigger the adjustment provision from a percentage impact on the rates to a fixed change in the price of fuel per gallon. Accordingly, as modified herein, the procedure will be for the Board to issue fuel surcharge amendments when the average price of fuel has increased or decreased by one cent or more per gallon over the per gallon average reflected in the last surcharge amendment. This modification involves no substantive change to the adjustment methodology set forth in the Notice but merely provides a simplified procedure by which fuel price changes can be identified and necessary adjustments based upon those prices can be made. Finally, the station reports of fuel costs and consumption to the Bureau of Economics shall be eliminated as proposed in the Notice; and hereinafter, the MAC rate fuel surcharge amendments shall be based upon reported fuel cost and consumption data in the Form 41 Schedule P-12(a).

The joint carriers and MAC have apparently misconceived the objective of the ad hoc adjustment procedure we have determined to adopt. The practice of surcharging the MAC rates for fuel was implemented as a short-term response to ameliorate the financial burden of abnormally escalated fuel costs that could not be otherwise offset and was not intended to accommodate normal minimal movements in fuel prices. The Board was under no obligation to continue this practice once the fuel crisis that precipitated it had passed and could have discontinued these surcharge adjustments without further procedures. However, because fuel costs are subject to greater fluctuation than other cost elements, are a more significant part of the costs of performing military charters, and are separately identifiable in the carriers' reports, the Board has determined to continue surcharges, on an ad hoc basis, in order to insure that fuel price fluctuations do not result in a significant understatement or overstatement of the rates. The ad hoc procedure we now intend to follow will cover all but de minimis fluctuations in fuel prices and, with regular monitoring of fuel price changes, should insure that reasonable minimum rates are maintained.[5]

Similarly, we see no basis at this time to consider reinstatement of automatic surcharge rate adjustments for price fluctuations in military-supplied fuels as requested by several parties. The purpose of this proceeding was to establish a new procedure for dealing with MAC fuel cost fluctuations and to eliminate unnecessary reporting requirements. Automatic fuel price adjustment clauses were eliminated from foreign MAC rates in 1975[6] and from domestic MAC rates in 1976[7] and are not under consideration. Further, we believe that the ad hoc review procedure adopted herein should afford the parties adequate rate protection against prospective changes in fuel prices, including the prices of fuels obtained from military sources. On the other hand, since almost all the fuel consumed in domestic MAC services are obtained from military sources, an automatic price adjustment procedure for these services may warrant further consideration, provided that sufficient monitoring controls can be developed. In this connection, Saturn and Hawaiian Airlines, Inc. have jointly filed a petition requesting the Board to amend Part 288 to permit an internal fuel price adjustment which allegedly obviates the need for Board fuel surcharges. This petition is pending in Docket 30109 and will be disposed of in due course.

The established procedure for the issuance of fuel surcharges has been to add the fuel surcharge effective prospectively from the first day of the month following the base commercial fuel price reports by the carriers or the effective date of changes in the price for military-supplied fuel. In this way, administrative lag was reduced and the surcharge adjustments were reasonably coincidental with the changes in underlying cost. However, this same expedition may now be difficult to achieve due to the fact that the fuel data needed to make the adjustment will no be filed until the 20th of the month following the month in which the price adjustment occurred. In the event that we are unable to issue a surcharge amendment reasonably within the customary period of time after the fuel reports are filed, we shall examine our established procedure and determine whether any modifications are warranted at that time.

Northwest's assumptions are correct in its request for clarificatiton of the fuel surcharge computation methodology. The determination for surcharge adjustment would be based on a comparison of the current average price levels with those reflected in the currently-effective rate, within the base rate or as amended by the latest fuel surcharge.

The attached Appendix[8] illustrates the fuel-surcharge comoutation, for a hypothetical average fuel price change for the long-range MAC carriers, pursuant to the revised procedures and methodology adopted above. As set out therein, the methodology conforms to the computation techniques employed in ER-972, effective October 1, 1976, substituting the latest average fuel price reports for the "active stations" data previously used. When the latest reported weighted average fuel price per gallon[9] represents a change from that reflected in the current rate of one cent or more per gallon, each carrier's price change is converted to a measure of economic cost impact. The resulting economic cost impact is further translated into the individual carrier's impact on the currently-effective base rate, and the sum of the carrier's impact computations produces the fuel-surcharge amendment factor.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-38197 Filed 12-28-76;8:45 am]

[1] DOD indicated that the F-12(a) data could be investigated as an alternative to the B-66 reports. We believe that the analysis and conclusion on page 4 of the Notice adequately covered this matter. DOD has not challenged the Board's conclusion nor advanced any reasons for pursuing the analysis further.

[2] Saturn's primary concern is for changes in prices of fuel obtained from military sources. It indicated that future Logair and Quicktrans contracts would contain provisions for military fuel to be supplied at the prices upon which the rates set forth in ER-962 were based. This was confirmed by DOD. Accordingly, Saturn contends that any price differentials would be adjusted internally within DOD, without requiring involvement by the carriers or the Board, obviating the need for fuel surcharge adjustments to the domestic MAC rates.

[3] The 0.75 percent rate impact, or a price fluctuation of one cent per gallon, is considered reasonable, particularly when compared with the carriers' recent filing for increased MAC rates, which led to the institution of the current investigation by ER-962. Their request was precipitated by an alleged rate deficiency of 7.64 percent, by the carriers' computation—ten times the impact being adopted herein for ad hoc fuel surcharge purposes. Moreover, on a monthly basis, the surcharge amendment would be triggered by a fuel cost movement of approximately $90,000, an average of only $9,000 per carrier.

[4] ER-896, January 17, 1975.

[5] ER-959, July 15, 1976.

[6] Filed as part of the original document.

[7] For all of the MAC rate participating carriers.

[Dockets 21546, 22497, 23000, 23314, 23407, 24554, 27473]

JAPANESE AIRFREIGHT FORWARDER OPERATIONS

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-mentioned proceedings is assigned to be held on January 26, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Frank M. Whiting.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76-38197 Filed 12-28-76;8:45 am]

[Docket 30064]

NORTHWEST AIRLINES, INC.

Complaint of Mary Lou Nemir, Assignment of Proceeding

In the matter of Northwest Airlines, Inc., enforcement proceeding and complaint of Mary Lou Nemir.

This proceeding has been assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76-38189 Filed 12-28-76;8:45 am]

[Docket 29855]

NORTHWEST AIRLINES, INC.

Complaint of Thomas Joseph Moore; Assignment of Proceeding

In the matter of Northwest Airlines, Inc., enforcement proceeding complaint of Thomas Joseph Moore.

This proceeding has been assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

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Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76-38188 Filed 12-28-76;8:45 am]

[Docket 29882]

PACIFIC WESTERN AIRLINES, LTD. FOREIGN AIR CARRIER PERMIT

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on January 26, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Stephen J. Gross.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before January 12, 1977.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., December 22, 1976.

ROSS I. NEWMAN,
Chief,
Administrative Law Judge.

[FR Doc.6-38196 Filed 12-28-6;8:45 am]

[Order 76-12-128; Docket Nos. 29936, 29937, and 25637]

SFO HELICOPTER AIRLINES, INC., ET AL

Temporary Suspension of Service and Aircraft Purchase Transaction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 22nd day of December, 1976. Application of SFO Helicopter Airlines, Inc. for temporary suspension of service on Route 103. Joint Application of British Airways Helicopters, Ltd. and SFO Helicopter Airlines, Inc. for approval of aircraft purchase transaction. Joint Application of SFO Helicopter Airlines, Inc., Trans World Airlines, Inc. and United Aircraft Corp. pursuant to section 408 of the Federal Aviation Act of 1958, as amended.

By Order 76-11-52, November 9, 1976, the Board directed all interested persons to show cause why the Board should not issue an order (1) revoking, pursuant to section 401 of the Act, the certificate of SFO Helicopter Airlines, Inc. for Route 103 and (2) granting, pursuant to section 408 of the Act, the application of SFO and British Airways Helicopters (BAH) for approval of an aircraft purchase transaction.

On November 29, 1976, SFO and Cal-Tex Helicopter Airlines, Inc. (Cal-Tex) filed joint objections to Order 76-11-52 insofar as it proposes to order that SFO's certificate for Route 103 be revoked.[1] The objectors state that Cal-Tex has been formed with the express purpose of providing certificated air transportation between various points in the San Francisco/Oakland Bay area within the area encompassed by, and pursuant to SFO's certificate and area exemption authority; consequently, Cal-Tex is presently negotiating an agreement with SFO for the acquisition of SFO's certificate and exemption authority, and its remaining assets, other than the flight equipment and spare parts which have been sold to BAH. Cal-Tex intends to seek Board approval of the transfer to it of SFO's authority preferably under show cause or other expedited procedures.[2] SFO submits that its certificate and attendant exemption authority, its goodwill, its ground facilities, and its long investment in attempting to "make a go" of helicopter service in the Bay area, are valuable assets which it should have an opportunity to liquidate for the benefit of its stockholders and creditors. Cal-Tex submits that as a purchaser for SFO's service authorizations, it is an "interested person" possessing a material and substantial interest in the continued effectiveness of SFO's operating authority and remaining assets. The objectors submit that the time extension sought is a reasonable one particularly in face of the fact that SFO had no reason to expect the Board would propose immedaite termination of its operating authority. SFO further states, however, that if the objections here are deemed by the Board to delay in any way approval of the aircraft purchase transaction between SFO and BAH, then SFO withdraws from this joint objection.

Upon consideration of the foregoing pleadings and all the relevant facts, we have decided that the tentative findings and conclusions contained in Order 76-11-52, dated November 9, 1976, should be made final, and that the public convenience and necessity require that (1) pursuant to section 401(f)[3] of the Act, SFO's certificate for Route 103 be terminated and (2) pursuant to section 408 of the Act, the application of SFO and BAH for approval of an aircraft purchase transaction be granted.

As pointed out in Order 76-11-52, SFO ceased operations on August 23, 1976 and intends to liquidate its assets and dissolve the corporation. SFO's cessation of operations justifies termination of its certificate under section 401(f) of the Act. In all its pleadings filed in this proceeding, SFO has clearly stated that it is not about to renew its operations; it only desires to sell its remaining assets and transfer its certificate and exemption authority to Cal-Tex in order to liquidate. However, we find that any further delay in terminating this certificate is contrary to the public interest in that the prompt development of other commuter service in the Bay area would be discouraged by such a delay. As we noted in the show-cause order, all operations which were performed by SFO could be legally conducted under Part 298 free from all the major requirements of section 401 of the Act. There is nothing in the Federal Aviation Act to prevent Cal-Tex from providing service over SFO's old route as an air taxi operator under Part 298. Moreover, SFO will now be free to sell its remaining assets to Cal-Tex or any other person without Board approval. Under these circumstances, we will deny the joint petition for a stay and cancel SFO's certificate for Route 103.

Accordingly, it is ordered, That:

1. The tentative findings and conclusions contained in Order 76-11-52, be and they are hereby made final;

2. The application of SFO Helicopter Airlines and British Airways Helicopters in Docket 29937 for approval of an aircraft purchase transaction, pursuant to section 408, be and it hereby is granted;

3. The certificate of public convenience and necessity of SFO Helicopter Airlines for Route 103, be and it hereby is terminated;

4. The motion of SFO Helicopter Airlines and Cal-Tex Helicopter Airlines to withhold their tentative agreement from public disclosure, be and it hereby is granted;

5. The motion of SFO Helicopter Airlines and Cal-Tex Helicopter Airlines for a stay of the proceedings in Order 76-11-52, be and it hereby is denied; and

6. This order may be amended or revoked at any time in the discretion of the Board without hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-38201 Filed 12-28-76;8:45 am]

[Docket 29039]

TRANS WORLD AIRLINES, INC.

Complaint of Glenda G. Gordon, Assignment of Proceeding

In the matter of Trans World Airlines, Inc., enforcement proceeding and complaint of Glenda G. Gordon.

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief, Administrative Law Judge.

[FR Doc.76-38185 Filed 12-28-76;8:45 am]

[1] Neither SFO nor Cal-Tex object to any other part of Order 76-11-52.

[2] A copy of a tentative agreement dated November 26, 1976, between SFO and Cal-Tex accompanied the objections. The agreement was accompanied by a motion to withhold from public disclosure, which will be granted.

[3] While the show-cause order clearly expressed our tentative decision to terminate SFO's certificate, it referred to revocation under subsection (g) of section 401, rather to an action under subsection (f) which we find more appropriate as a technical matter. SFO and Cal-Tex, however, have expressed general opposition to a termination of SFO's certificate rather than concern for the specific statutory provision cited. See also Order 76-11-52, p. 8, footnote 10.

[Docket 30041]

TRANS WORLD AIRLINES, INC.

Complaint of Robert J. Levine, Assignment of Proceeding

In the matter of Trans World Airlines, Inc., enforcement proceeding complaint of Robert J. Levine.

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief,
Administrative Law Judge.

[FR Doc.76-38186 Filed 12-28-76;8:45 am]

[Docket 30044]

TRANS WORLD AIRLINES, INC.

Complaint of Oliver C. Morse; Assignment of Proceeding

In the matter of Trans World Airlines, Inc., enforcement proceeding and complaint of Oliver C. Morse.

This proceeding has been assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief,
Administrative Law Judge.

[FR Doc.76-38187 Filed 12-28-76;8:45 am]

TRANS WORLD AIRLINES, INC.

[Docket 29219]

Complaint of Joseph C. Donohue; Assignment of Proceeding

In the matter of Trans World Airlines, Inc. Enforcement proceeding, complaint of Joseph C. Donohue.

This proceeding has been assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C. December 21, 1976.

ROSS I. NEWMANN,
Chief,
Administrative Law Judge.

[FR Doc.76-38190 Filed 12-28-76;8:45 am]

[Docket 29386]

TRANS WORLD AIRLINES, INC.

Complaint of Joyce Trattner Leanse; Assignment of Proceeding

In the matter of Trans World Airlines, Inc., enforcement proceeding complaint of Joyce Trattner Leanse.

This proceeding has been assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief,
Administrative Law Judge.

[FR Doc.76-38191 Filed 12-28-76;8:45 am]

[Docket 30042]

TRANS WORLD AIRLINES, INC.

Complaint of Overby Pearson, Jr.; Assignment of Proceeding

In the matter of Trans World Airlines, Inc., enforcement proceeding complaint of James Overby Pearson, Jr.

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief,
Administrative Law Judge.

[FR Doc.76-38192 Filed 12-28-76;8:45 am]

[Docket 28593]

TRANS WORLD AIRLINES, INC.

Complaint of Robert L. Nissly; Assignment of Proceeding

In the matter of Trans World Airlines, Inc., enforement proceeding complaint of Robert L. Nissly.

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief,
Administrative Law Judge.

[FR Doc.76-38193 Filed 12-28-76;8:45 am]

[Docket 28298]

TRANS WORLD AIRLINES, INC.

Complaint of James Aiken Fisher; Assignment of Proceeding

In the matter of Trans World Airlines, Inc., enforcement proceeding complaint of James Aiken Fisher.

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief,
Administrative Law Judge.

[FR Doc.76-38194 Filed 12-28-76;8:45 am]

[Docket 29288]

TRANS WORLD AIRLINES, INC.

Complaint of Susan D. Goland; Assignment of Proceeding

In the matter of Trans World Airlines, Inc. enforcement proceeding complaint of Susan D. Goland.

This proceeding has been assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief,
Administrative Law Judge.

[FR Doc.76-38195 Filed 12-28-76;8:45 am]

[Docket 29871]

UNITED AIR LINES, INC.

Complaint of Charles Tremaine Dewoody; Assignment of Proceeding

In the matter of United Air Lines, Inc. Enforcement proceeding, complaint of Charles Tremaine Dewoody.

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., December 21, 1976.

ROSS I. NEWMANN,
Chief,
Administrative Law Judge.

[FR Doc.76-38184 Filed 12-28-76;8:45 am]

CIVIL SERVICE COMMISSION

COMMITTEE ON PRIVATE VOLUNTARY AGENCY ELIGIBILITY

Meeting

Pursuant to the provisions of section 10 of Public Law 92-463, notice is hereby given that the Committee on Private Voluntary Agency Eligibility will hold a meeting on January 17, 1977. The meeting will be held in Room 7B09, Civil Service Commission Building, 1900 E Street, N.W., Washington, D.C., at 9:30 a.m.

The Committee's primary responsibility is to make recommendations to the Chairman of the Civil Service Commission regarding eligibility of national voluntary agencies to participate in the Federal fund-raising program. At this meeting the Committee will review applications for fund-raising privileges which have been submitted by voluntary organizations to the Commission in compliance with the Federal Fund-Raising Manual.

The meeting will be open to the public. Any interested person may file a written statement with the Committee in advance of or at the meeting. Additional information concerning this meeting may be obtained by contacting the Office of the Assistant to the Chairman, U.S. Civil Service Commission, 1900 E Street, N.W., Washington, D.C. 20415, telephone 202-632-5564 (Mrs. Davis).

GEORGE J. MCQUOID,
Assistant to the Chairman.

DECEMBER 22, 1976.

[FR Doc.76-38128 Filed 12-28-76;8:45 am]

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DEPARTMENT OF COMMERCE

Economic Development Administration

PENNY BAG, INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Penny Bag, Inc., 25 Renwick Street, Newburgh, New York 12550, a producer of handbags for women, was accepted for filing on December 20, 1976, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618).

Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76–38123 Filed 12–28–76;8:45 am]

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS TASK GROUP 13

Termination

Pursuant to section 14 of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that the Federal Information Processing Standards Task Group 13 (FIPS TG–13), Workload Definition and Benchmarks, is terminated upon publication of this notice in the Federal Register.

This committee was originally chartered in January 1973 for the purpose of advising the Secretary of Commerce on matters relating to the nation's need for methodology, data, and techniques in the computer workload definition and benchmarking area.

Since its establishment, FIPS TG–13 has developed and revised the detailed technical *Guidelines for Benchmarking ADP Systems in the Competitive Procurement Environment*, FIPS PUB 42, December 15, 1975. Copies of FIPS PUB 42 are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (SD Catalog No. C13.52:42). Microfiche copies are available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151 (refer to NBS–FIPS–PUB–42 and its title).

It has been determined that the recommended technical benchmarking guidelines adequately address a major portion of benchmarking problems which are of mutual concern to Federal computer users and commercial interests. The National Bureau of Standards will continue Federal developmental work on computer workload definition and benchmarking standards, but such work will concentrate primarily on specific technical issues of interest to Federal agencies, and will not require public advisory participation. Therefore, it is no longer considered necessary to continue FIPS TG–13 as an advisory committee under the Federal Advisory Committee Act. The termination of FIPS TG–13 represents an instance where the decreased necessity for advice through the mechanism of an advisory committee will allow for conservation of agency resources.

ERNEST AMBLER,
Acting Director.

DECEMBER 9, 1976.

[FR Doc.76–38122 Filed 12–28–76;8:45 am]

National Oceanic and Atmospheric Administration

NAVAL UNDERSEA CENTER

Notice of Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (c) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Scientific Research Permit issued to the Naval Undersea Center, Biosystems Research Department, on March 7, 1974, as later amended and then modified on July 8, 1974 (39 FR 24932), on August 2, 1974 (39 FR 27933), on February 26, 1975 (40 FR 6240), on April 22, 1975 (40 FR 17770), on September 11, 1975 (40 FR 42230), on November 18, 1975 (40 FR 53417), and on June 16, 1976 (41 FR 24440), is further modified by means of Modification No. 9, in the following manner:

The period of validity of the Permit is extended from December 31, 1976 to December 31, 1978;

This modification is effective on December 29, 1976.

The Permit as modified is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 15, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76–38150 Filed 12–28–76;8:45 am]

NEW ENGLAND AQUARIUM

Notice of Modification of Permit

Notice is hereby given that, pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the public display permit issued to New England Aquarium, Central Wharf, Boston, Massachusetts 02110, on November 8, 1974, is modified, by means of Modification No. 1, in the following manner:

The modification extends the period of validity of the permit, with respect to the authorized taking, from December 31, 1976, to December 31, 1978.

This modification is effective on December 29, 1976.

The Permit, as modified, and documentation pertaining to the modification is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: December 15, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Services.

[FR Doc.76–38151 Filed 12–28–76;8:45 am]

LEONARD F. PORTER, INC.

Notice of Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due form for a Certificate of Exemption under Pub. L. 94–359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant: Leonard F. Porter, Inc., 600 Prefontaine Building, Third and Yesler Streets, Seattle, Washington 98104.

Period of exemption: The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted: (1) The prohibition, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity any such species part; (2) The prohibition, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted: Finished scrimshaw products to be made from approximately 1,420 pounds of baleen.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before January 28, 1977.

Dated: December 22, 1976.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.76–38159 Filed 12–28–76;8:45 am]

National Oceanic and Atmospheric Administration

CHARLES MILTON BARRINGER

Notice of Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due form for a Certificate of Exemption under Pub. L. 94–359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant: Charles Milton Barringer, 217 2nd Isle North, Port Richey, Florida 33568.

Period of exemption: The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted: (1) The prohibition, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce by any means whatsoever and in the course of commercial activity any such species part, (2) The prohibition, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted: Finished scrimshaw products to be made from approximately 4,268 sperm whale teeth and 26 pounds of sperm whale bone.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before January 28, 1977.

Date: December 22, 1976.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.76–38158 Filed 12–28–76;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON PRODUCT LIABILITY

Open Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act. 5 U.S.C. App. I (Supp. V. 1975), notice is hereby given that a meeting of the Advisory Committee on Product Liability will be held at 1:00 P.M., Tuesday, January 11, 1977 in Room 4830 of the Main Commerce Building 14th Street between E. Street and Constitution Avenue, N.W., Washington, D.C.

The Committee was established to advise the Department, through the Under Secretary, on measures that might be taken in the public policy area to facilitate improvements in the product liability process.

Agenda items are as follows:

1. Discussion of the Briefing Report of the Interagency Task Force on Product Liability.

2. Comments and questions from the public.

The meeting will be open to public observation and a period will be set aside for oral comments or questions by the public. Any person who wishes to file a written statement with the Committee may do so before or after the meeting. Approximately 40 seats will be available to the public on a first come, first serve basis.

Minutes of the meeting will be available on request 30 days after the meeting from the Committee Control Officer.

Additional information may be obtained from the Committee Control Officer, (202–377–2101), Room 2998C, United States Department of Commerce, Washington, D.C. 20230.

Dated: December 28, 1976.

EDWARD T. BARRETT, II,
Committee Control Officer.

[FR Doc.76–38411 Filed 12–28–76;11:15 am]

DEPARTMENT OF DEFENSE

Department of the Army

FORT POLK MILITARY RESERVATION, LA.

Joint Order Interchanging Administrative Jurisdiction of Department of the Army Lands and National Forest Lands

Correction

In FR Doc. 75–11947 appearing in the FEDERAL REGISTER of Wednesday, May 7, 1975 the following corrections should be made on page 19853, third column, in the land description.

In the 4th line in "Sec. 15," change "SW¼" to "SW½";

In the 10th and 11th lines, in "Sec. 21," change "W;" and "NW¼" to "W½" and "NW½";

In the 12th line in "Sec. 28," change "NW¼" to "NW½."

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

FEDERAL INTERACTION WITH COMMERCIAL STANDARDS-SETTING BODIES

Proposed OMB Circular; Extension of Time

DECEMBER 21, 1976.

On November 30, 1976, the Office of Federal Procurement Policy issued a proposed OMB circular establishing a uniform policy for all executive branch agencies in working with commercial (non-Federal) standards-setting bodies (published December 8, 1976, 41 FR 53723). Comments were requested not later than December 31, 1976. This date is hereby extended to January 31, 1977.

HUGH E. WITT,
Administrator.

[FR Doc.76–38121 Filed 12–28–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

MINORITY BUSINESS RESOURCE CENTER ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463); (5 U.S.C. App. I) notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held January 7, 1977, at 9:00 a.m. until 4:00 p.m. at the Consolidated Rail Corporation, 6 Penn Center Plaza, Room 1240A, Philadelphia, Pennsylvania 19104. The agenda for this meeting is as follows:

(a) Tour of Consolidated Rail's (ConRail) Facilities.

(b) Adoption of Advisory Commitee recommendations for the Minority Business Resource Center.

(c) Progress report on Financial Assistance programs.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons withing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Kenneth E. Bolton, Executive Director, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, Telephone: 202–426–2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on December 22, 1976.

KENNETH E. BOLTON,
Executive Secretary.

[FR Doc.76–38124 Filed 12–28–76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 662–4; OPP—30000/9A]

INTENT TO PROCESS PESTICIDE PRODUCTS CONTAINING SPERM WHALE OIL FOR REREGISTRATION

Correction

On November 19, 1976, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (41 FR 51067) a notice stating its intention to process according to normal reregistration and classification procedures pesticide products containing sperm whale oil, provided that the sperm whale oil used in these products was derived from supplies lawfully held in this country prior to December 23, 1973. The Agency also listed the following registrants and registered products:

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EPA registration No.	Registrant	Product trade name
008596-00017	Kemin Industries, Inc., Box 70, Des Moines, Iowa 50301.	Grain Treet Liquid.
001174-00001	Industrial Sanitation Co., P.O. Box 471, East Chicago, Ill. 46312.	Kaspray Odorless Renovator.
001266-00130	Malter International Corp., Box 6099, New Orleans, 70114.	So-Clean Foaming Cleanser.
001769-00105	National Chemsearch Division, 2727 Chemsearch Blvd., Irving, Tex. 75060.	National Chemsearch Lustra Germicidal Conc. Bowl Cleaner.

Subsequent review of Agency records has shown that these four products do not contain sperm whale oil, these registrations were listed through computer error in the search program for products containing sperm whale oil. The November 19th FEDERAL REGISTER notice is therefore irrelevant to the registration or reregistration of these products.

Should any applications for registration of pesticide products containing sperm whale oil be submitted to the Agency, however, these applications will be processed in accordance with the procedure outlined in the November 19th notice of intent to process for reregistration.

Dated: December 16, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-37937 Filed 12-28-76;8:45 am]

[FRL 655-1]

TOXIC SUBSTANCES CONTROL ACT REPORTING AND PREMARKET NOTIFICATION REQUIREMENT

Formation of Premarket Notification Working Group; Solicitation of Comments

The Toxic Substances Control Act 1976 requires that the Environmental Protection Agency (EPA) establish mechanisms for premarket notification by manufacturers of all new chemicals introduced into commerce after mid-December 1977. In the next year EPA must clarify the provisions in the law for the reporting of new chemicals. An inventory or list of all chemicals in commerce must be promulgated by November 11, 1977. EPA must prepare a reporting form for premarket notice of new chemicals and clarify provisions for exemption from the premarket notification requirement.

Accordingly, the Agency has initiated a work group to establish the procedures necessary to carry out the intention of the new law with respect to premarket notification requirements. The major focus of the work group will be on Section 8 (a) and (b) and Section 5. This undertaking calls for the resolution of many technical and policy issues which will impact the overall implementation of the Act. Some of the major issues that will have to be addressed involve the choice of categories of chemicals that might be included on the initial inventory list, clarification of certain definitions such as "research chemicals" and "test marketing", and various procedural questions such as the development of a reporting form. At a later date the work group may address questions associated with the implementation of discretionary provisions concerning premarket notification requirements, such as the designation of significant new uses.

EPA welcomes comments on these and any other aspects of the premarket notification sections (8 (a) and (b) and 5) of the Toxic Substances Control Act. Please address your comments to:

Environmental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street, S.W., Washington, D.C. 20460, Attention: Ms. Cynthia C. Kelly.

Dated: Dec. 23, 1976.

KENNETH L. JOHNSON,
Acting Assistant Administrator for Toxic Substances.

[FR Doc.76-38211 Filed 12-28-76;8:45 am]

[FRL 662-6]

ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Availability of EPA Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of October 1, 1976 and October 31, 1976.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the source of the EPA review as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listed in Appendices I, III, IV, and V.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, DC 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: December 22, 1976.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

APPENDIX I.—*Draft environmental impact statements for which comments were issued between October 1, 1976, and October 31, 1976*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
D-COE-C32008-NJ	Great Egg Harbor Inlet and Peck Beach, Ocean City, Cape May County, N.J.	LO-2	C
DS-COE-C36009-NY	Cazenovia Creek Watershed, Flood Control, Erie County, N.Y.	LO-1	C
D-COE-D35011-PA	Rohm & Haas Co., Permit, Placing Solid Fill in the Delaware River Off Bridge St., Philadelphia, Pa. (NAPOP-R-053).	ER-2	D
DS-COE-E32011-AL	Theodore Ship and Barge Channel Extension, Mobile Bay, Ala.	ER-2	E
D-COE-F32045-MI	Bay Port and Caseville Harbors, Maintenance and Dredging Operations, Michigan.	EU-1	F
D-COE-F36042-MI	Shorelina Flood Protection Study, Detroit Waterfront, Wayne County, Mich.	3	F
D-COE-F36045-WI	Mississippi River Flood Control, Prairie du Chien, Crawford County, Wis.	LO-1	F
DS-COE-G32013-LA	Mermental River, Gulf of Mexico, Navigation Channel, Louisiana.	LO-2	G
D-COE-G36051-AR	Flood Control Improvements, Eight Mile Creek, Greene County, Ark.	LO-1	G
D-COE-H34013-KS	Operation and Maintenance, Milford Lake, Geary, Clay, and Dickinson Counties, Kans.	LO-1	H
DS-COE-H36016-IA	West Des Moines and Des Moines Local Flood Protection, Polk County, Iowa.	LO-1	H
D-COE-K35009-CA	Homboldt Bay Harbor Marina, Permit, Eureka, Homboldt County, Calif.	ER-2	J
DS-COE-L05005-AK	Hydroelectric Power Development, Upper Susitna River Basin, Southcentral Railbelt Area, Alaska.	ER-2	K
DS-COE-L36041-WA	Chehalis River, Flood Control, South Aberdeen Cosmopolis, Grays Harbor County, Wash.	LO-2	K
D-COE-L39009-AK	Port Lions Small Boat Harbor, Port Lions, Alaska	3	K
	DEPARTMENT OF AGRICULTURE		
D-AFS-F00002-MN	Proposed Land Exchange, Superior National Forest, Minn.	EU-3	F
D-AFS-J65051-CO	Thompson Creek Land Use Plan, White River National Forest, Pitkin County, Colo.	LO-2	I
D-AFS-J65052-MT	Multiple-Use Plan, Prospect Planning Unit, Lolo National Forest, Sanders County, Mont.	LO-2	I
D-AFS-K65016-00	Tolyabe National Forest, Alpine Planning Unit, Alpine and El Dorado Counties, Calif., and Douglas County, Nev.	LO-1	J
D-AFS-L61078-ID	Land Use Plan, Boulder Planning Unit, Kaniksu National Forest, Boundary County, Idaho.	LO-1	K
D-AFS-L61079-ID	Land Use Plan, Elk River Planning Unit, St. Joe National Forest, Clearwater County, Idaho (USDA-FS-R1-04-FES-ADM-75-13).	LO-1	K
D-AFS-L61080-AK	Karta Unit Management Plan, Tongass National Forest, Ketchikan, Alaska (FS-R10-DES-ADM-75-05).	LO-2	K
D-AFS-L61081-OR	Bull Run Planning Unit, Clackamas, Multnomah, and Hood River Counties, Mount Hood National Forest, Oreg. (USDA-FS-R6-DES-ADM-76-16).	LO-1	K
D-REA-J00000-CO	500-MW Combustion Turbine Package Powerplants, Burlington Generating Station, Tri-State Generation and Transmission Association, Inc., Denver, Kit Carson County, Colo.	LO-1	I
D-REA-L05006-AK	2 60-MW Combustion Turbines, Alaska 6 Golden Valley, Alaska (USDA-REA-EIS-ADM-76-13-D).	LO-2	K
DS-SCS-E36041-AL	Blue Eye Creek Watershed, Calhoun and Talladega Counties, Ala. (WS-(ADM)-76-1-D-AL).	LO-2	E
D-SCS-F36044-IL	Little Cache Creek Watershed, Johnson County, Illinois	LO-2	F
	DEPARTMENT OF DEFENSE		
D-USA-J00006-UT	Operation of Chemical Agent Munitions Disposal System (CAMDS), Tooele Army Depot, Utah.	ER-2	I
	DEPARTMENT OF INTERIOR		
D-BIA-J01007-MT	Crow-Ceded Area Coal Lease, Tracts II and III, Westmoreland Resources, Big Horn County, Mont.	ER-2	I
D-BLM-J01006-CO	Northwest Colorado Coal, Routt, Moffat, and Rio Blanco Counties, Colo.	3	I
D-BLM-J07004-UT	Emery Powerplant, Construction and Operation, Coal-Fired, Steam Electric-Generating Units, Emery County, Utah.	ER-2	I
D-BLM-L08024-00	500-kV Transmission Line, Pacific Power & Light Co., Midpoint, Idaho, to Medford, Oreg. (DES-76-32).	ER-2	K
D-BOR-H61001-IA	Acquisition and Development, Des Moines Riverfront Development, Polk County, Iowa.	LO-2	H
DS-DOI-A61077-ME	Acadia National Park, Master Plan, Hancock and Knox Counties, Maine (DES-76-24).	LO-1	B
D-IBR-G07010-NM	Proposed Expansion of San Juan Powerplant, San Juan County, N. Mex.	LO-2	G
D-IBR-J34006-CO	Construction, Fruitland Mesa Project, Delta, Montrose, and Gunnison Counties, Western Colorado.	ER-2	I

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Identifying No.	Title	General nature of comments	Source for copies of comments
	Department of Transportation		
DS-DOT-A41199-KS	KS-7, Nettleton Avenue to North or Riverview Road, Bonner Springs, Wyandotte County, Kans. (FHWA-KS-EIS-72-07-DS-D).	LO-1	H
DS-DOT-A41305-VT	I-93, Littleton, N.H., to Waterford, Vt. (FHWA-NH-EIS-72-01-DS).	ER-1	B
DS-DOT-A41472-VT	U.S. 7, Sunderland to Manchester, Vt.	ER-2	B
D-FAA-C51005-NY	Chemung County Airport, Town of Big Flats, Elmira, N.Y.	LO-2	C
D-FAA-D51007-MD	Ocean City Airport, Expansion, Worcester County, Md. (WADO-611).	LO-2	D
D-FAA-L51007-AK	Akhiok Airport, Kodiak Island, Akhiok, Alaska.	LO-1	K
D-FHW-B40019-NY	I-93, Franconia Notch and Alternate Routes, Lincoln to Franconia, Grafton County, N.H. (FHWA-NH-EIS-76-02-D).	ER-1	B
D-FHW-C40026-NY	Sprain Brook Parkway, Westchester County, N.Y.	ER-2	C
D-FHW-D40037-MD	U.S. 15, Putman Road to MD-77, Frederick County, Md.	ER-2	D
D-FHW-D40038-VA	VA-76, Powhite Parkway Extension, Chesterfield County, Va.	ER-2	D
DS-FHW-E40078-MS	I-55 and Riverside Park, Jackson, Hinds County, Miss. (FHWA-MS-EIS-76-03-F).	LO-1	E
D-FHW-E40062-TN	I-40, Claybrook to Bon Air Sts., Memphis, Shelby County, Tenn. (FHWA-TN-EIS-76-03-F).	ER-2	E
D-FHW-F40070-MN	U.S. 2 Bypass of Bemidji, Beltrami County, Minn. (FHWA-MN-EIS-76-03-D).	LO-2	F
D-FHW-F40071-IL	IL-409, O'Fallon to Sandoval, St. Clair, Clinton, and Marion Counties, Ill.	LO-2	F
D-FHW-F40072-OH	I-480 and Ohio Turnpike to OH-252, Lorain and Cuyahoga Counties, Ohio.	ER-2	F
D-FHW-F40073-MI	I-94, Business Loop, Berrien County, Mich. (FHWA-MI-EIS-76-02-D).	ER-2	F
D-FHW-F40074-WI	Knowlton Bridge and Approaches, WI-34, Marathon County, Wis.	LO-2	F
D-FHW-F40078-OH	OH-7 Relocation, Shadyside, Meade, and Poultney Townships, Belmont County, Ohio.	LO-1	F
D-FHW-G40055-LA	Louisiana North-South Expressway Study, Opelcusas to Alexandria to Shreveport to Monroe, La.	LO-2	G
D-FHW-H40061-KS	U.S. 73, Leavenworth and Atchison Counties, Kans. (FHWA-KS-EIS-76-04-D).	LO-1	H
D-FHW-J40024-CO	U.S. 24, Bypass, Colorado Springs, El Paso County, Colo.	ER-2	I
D-FHW-J40025-CO	Project U-160-2(14) Through Alamosa, Alamosa County, Colo.	LO-1	I
DS-FHW-K40016-CA	CA-7, Long Beach Freeway, Between CA-10 and CA-210, Los Angeles County, Calif.	ER-2	J
D-FHW-K40045-NV	Flamingo Rd., I-15 to U.S. 93 and U.S. 95, Boulder Highway, Clark County, Nev. (FHWA-NV-EIS-76-04-D).	ER-2	J
D-FHW-L40040-ID	Gould St. Connection, U.S. 30, Pocatello, Bannock County, Idaho (FHWA-ID-EIS-76-04-D).	LO-2	K
D-FHW-L40041-ID	Granite Hill to Swan Valley, U.S. 26, Bonneville County, Idaho (FHWA-ID-EIS-76-06-D).	LO-1	K
	Energy Research and Development Administration		
D-ERD-A00122-ID	Waste Management Operations, Idaho National Engineering Laboratory (INEL), Idaho.	ER-2	A
	Department of Housing and Urban Development		
D-HUD-C85011-NY	Commercial Complex Downtown, Yonkers, N.Y.	ER-2	C
D-HUD-C85012-PR	Los Caobos Development, Project No. 76-306, Ponce, P.R.	ER-2	C
D-HUD-C89001-NY	Project Agnes, Urban Renewal Project, Corning, Steuben County, N.Y. (NYR-404).	LO-2	C
D-HUD-D85007-MD	St. Charles Communities, Charles County, Md.	ER-2	D
DS-HUD-E28003-NC	Great Alamance Creek Water Supply Project, Burlington, N.C. (CDBG).	LO-2	E
D-HUD-G24002-AR	Southeast Sanitary Sewer and Drainage Improvements, Pine Bluff, Jefferson County, Ark.	LO-1	G
D-HUD-G85016-TX	Sewer Improvements, Henderson, Rusk County, Tex.	LO-1	G
D-HUD-K85004-CA	Woodside Village Project, West Covina and Walnut, Los Angeles County, Calif.	ER-2	J
	International Boundary and Water Commission		
D-IBW-G05003-TX	Amistad Hydroelectric Plant, Rio Grande, Val Verde County, Tex.	LO-1	G
	Interstate Commerce Commission		
D-ICC-A53042-00	Investigation of Freight Rates for the Transportation of recyclable/Recycled Materials.	LO-1	A
	National Aeronautics and Space Administration		
DS-NAS-D84003-VA	National Transonic Facility, Langley Research Center, Hampton, Va.	LO-2	D
D-NAS-J99001-UT	Space Shuttle Solid Rocket Motor D.D.T. & E. Program at Thiokol/Wasatch Division, Promontory, Utah.	LO-1	I

Identifying No.	Title	General nature of comments	Source for copies of comments
	Nuclear Regulatory Commission		
DS-AEC-A00050-PA	Three Mile Island Nuclear Station, Unit 2, Metropolitan Edison, Jersey Central Power & Light, and Pennsylvania Electric Cos., Docket No. 50-320, Dauphin County, Pa.	ER-2	D
D-NRC-F00003-WI	La Crosse Boiling Water Reactor, Dairyland Power Cooperative, Docket STN 50-409, Vernon County, Wis. (NUREG-0087).	3	F

[1] EPA has rated the EIS in 2 parts: The regional analysis portion of the EIS was rated category 3 and the specific mining plans was rated as category ER-2.

Appendix II.—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final environmental impact statements for which comments were issued between Oct. 1, 1976 and Oct. 31, 1976*

Identifying No.	Title	General nature of comments	Source for copies of comments
	Corps of Engineers		
FS-COE-A32188-MT	Libby Dam and Lake Koocanusa, Kootenai River, Lincoln County, Mont.	EPA's concerns were adequately addressed in the final EIS. EPA requested the opportunity to review the results of the model studies regarding the probability of achieving gas supersaturation design goals.	I
FS-COE-A34079-CA	Warm Springs Dam and Lake Sonoma Project, Russian River Basin, Sonoma County, Calif.	EPA's concerns were adequately addressed in the supplement to the final EIS.	J
FS-COE-C32005-NJ	Maintenance of the Raritan River, Navigation Project, New Jersey.	EPA expressed environmental reservations concerning the effects of dredging and disposal of spoil on water quality and anadromous fish. Accordingly, EPA recommended a meeting between affected Federal and State agencies to arrive at a mutually agreeable plan.	C
F-COE-F36007-IL	Milan-Big Island Local Flood Protection, Illinois.	EPA's concerns were adequately addressed in the final EIS.	C
F-COE-H36028-CO	Locks and Dam No. 26, replacement, Mississippi River, Alton, Ill., Missouri and Illinois.	EPA's review of the final EIS indicated the COE was unresponsive to the concerns expressed in EPA's comment letter on the draft EIS. In addition, only two out of several inadequacies identified by EPA received satisfactory responses. EPA requested to be consulted in the planning and development of the project if it receives congressional approval.	H

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Identifying No.	Title	General nature of comments	Source for copies of comments
DEPARTMENT OF COMMERCE			
F-NOA-A99096-00	Renegotiation of Interim Convention on Conservation of North Pacific Fur Seals.	EPA's concerns were adequately addressed in the final EIS.	A
DEPARTMENT OF THE INTERIOR			
F-IBR-J34004-CO	Dallas Creek, Project, Colorado...	EPA expressed environmental reservations on the project as proposed. Specifically, EPA is concerned about the lack of substantiation of the conclusions concerning the fate of heavy metals, the uncertain nature of the water exchange agreement, and the existence of an alternative which would apparently remove the need for 27 pct of the reservoir's waters.	I
F-SFW-A82096-00	Use of Avian Stressing Agent PA-14 for Control of Blackbirds and Starlings at Winter Roosts.	EPA's comments on the final EIS will be combined with the review of the proposed policy and guidelines referenced in the final EIS.	A
DEPARTMENT OF TRANSPORTATION			
F-FAA-C61003-VI	Harry S. Truman Airport Master Plan, St. Thomas, V.I.	EPA's concerns were adequately addressed in the final EIS.	C
FS-FHW-A41763-NC	Charlotte Inner Belt Loop, York Rd., NC-49, to Central Ave., Mecklenburg County, N.C. (FHWA-NC-EIS-73-04-S).	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA feels additional clarification of the information contained in table I-N is warranted.	E
F-FHW-C40001-PR	Jesus T. Pinerio Ave., PR-17, Puerto Rico.	EPA's review of the final EIS indicated the FHWA was unresponsive to EPA's comments on the draft EIS concerning air quality and mass transit alternatives. EPA requested a meeting be held to resolve these issues.	C
F-FHW-F40044-IN	IN-162, Muncie Bypass between I-69 and Tillotson Ave., Delaware County, Ind.	EPA's concerns were adequately addressed in the final EIS. EPA requested the opportunity to review the FHWA's plans for noise abatement.	F
F-FHW-K40036-CA	Sacramento River Crossing, I-5 to CA-273, Shasta County, Calif. (FHWA-CA-EIS-76-01-D).	EPA's concerns were adequately addressed in the final EIS.	J
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
F-HUD-F85007-MN	Preserve Planned Unit Development, Northmark, Winslope, Neill Lake, Eden Prairie, Hennepin County, Minn.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA recommended that areas of the development subjected to severe noise from the Flying Cloud Airport be zoned for non-noise sensitive uses. EPA also indicated HUD should be aware of the potential overuse of the water supply aquifer as predicted in the level B study for the seven-county metropolitan area.	F
F-HUD-J85006-CO	Hutchinson Heights, Planned Community Development, Denver, Arapahoe County, Colo.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA stressed that HUD should address cumulative impacts for the housing developments in the Denver area that are being considered for FHA approval.	I
FEDERAL POWER COMMISSION			
FS-FPC-A03063-00	Alaska Natural Gas Transportation Systems.	EPA notes that in many respects the Alcan route could prove to have the fewest direct adverse environmental impacts of any of the three major proposals to deliver Alaskan natural gas to the lower 48 States. However, the existence of permafrost conditions over the Alcan System route guarantees environmental and technical problems should a buried chilled pipeline concept be adopted. EPA, therefore, stated its environmental reservations with the Alcan proposal pending the satisfactory resolution of pipeline design problems associated with construction in permafrost areas.	A

APPENDIX IV.—*Final environmental impact statements which were reviewed and not commented on between Oct. 1, 1976 and Oct. 31, 1976*

Identifying No.	Title	Source of review
CORPS OF ENGINEERS		
F-COE-A34113-00	McNary Lock and Dam Project, Lake Wallula, Columbia River, Wash. and Oreg.	K
F-COE-A35062-MS	Pass Christian Harbor, Maintenance Dredging, Mississippi Sound, Harrison County, Miss.	E
F-COE-A35144-AL	Bon Secour River, Maintenance Dredging, Baldwin County, Ala	E
F-COE-A36108-MA	Charles River Study, Flood Control, Mass	B
F-COE-A36406-LA	Tensas Basin, Flood Control, Concordia County, La	G
F-COE-B35003-RI	Proposed Improvement Dredging, Galilee Harbor, Point Judith Pond, Narragansett, R.I.	B
F-COE-C32001-NY	Improved Navigation, St. Lawrence Seaway, South Cornwall Channel, Pollys Gut, N.Y.	C
F-COE-D36001-PA	Lock Haven Flood Protection Project, West Branch, Susquehanna River and Bald Eagle Creek, Pa.	D
F-COE-G34006-LA	Mississippi River Outlets, Vicinity of Venice, La	G
F-COE-J34001-CO	Operation and Maintenance, John Martin Dam and Reservoir, Arkansas River, Benton County, Colo.	I
DEPARTMENT OF AGRICULTURE		
F-AFS-J65016-MT	Master Plan, Big Mountain Ski Resort, Flathead National Forest, Mont.	I
F-AFS-J65031-MT	Big Swede-Pipe Planning Unit, Kootenai National Forest, Mont	I
F-AFS-L61053-WA	Twisp-Winthrop-Conconully Planning Unit, Okanogan National Forest, Wash. (USDA-FS-R6-FES (Adm.)-76-5).	K
F-REA-G07005-AR	Flint Creek Power Plant, 500 MW, Benton County, Ark	G
DEPARTMENT OF DEFENSE		
F-USA-A11054-00	Formation of U.S. Army Electronics Research and Development Command, New Jersey, Maryland and Virginia.	A
DEPARTMENT OF INTERIOR		
F-IBR-G28003-NM	Eastern New Mexico Water Supply Project, New Mexico	G
DEPARTMENT OF TRANSPORTATION		
F-FHW-E40072-NC	U.S. 64, Asheboro to Ramseur, Randolph County, N. C.	E
F-FHW-H40030-KS	McLean Blvd., MacArthur Rd. to 31st South to 29th St., Wichita, Sedgwick County, Kans.	H
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-E28009-AL	Water Distribution System, North Sumter County, Ala. (CDBG)	E
F-HUD-E28010-TN	DeKalb County Rural Potable Water Line, Smithville, Tenn. (CDBG)	E
F-HUD-E28013-AL	Pplelika Wastewater Facilities Projects, Opelika, Lee County, Ala	E
F-HUD-G38001-TX	City of Mesquite Drainage Project, Dallas, Tex	G
F-HUD-G85013-LA	Woodmere Subdivision, Jefferson Parish, La	G
F-HUD-J85006-CO	Brown Farm, Planned Residential Development, Ft. Collins, Colo	I
TENNESSEE VALLEY AUTHORITY		
F-TVA-E09001-00	Policies Relating to Electric Power Rates, TVA's Electric Rates in Effect Throughout the Tennessee Valley Region and Authority.	E

APPENDIX V.—*Regulations, legislation and other Federal agency actions for which comments were issued between Oct. 1, 1976 and Oct. 31, 1976*

Identifying number	Title	General nature of comments	Source for copies of comments
DEPARTMENT OF DEFENSE			
R-DOD-A11055-00	32 CFR Part 255, Air Installations compatible use zones.	EPA commended DOD's approach to solving this critical environmental problem. EPA suggested that the LDN-60DB contour be plotted and that "C" weighted noise levels be used for intermittant impulse noises.	A
DEPARTMENT OF INTERIOR			
A-BOR-A61200-00	Proposal for a Formation of a Uniform Recreation Data Classification System Land Use and Land Cover Classification System for Use With Data.	EPA made a number of suggestions for improving this system including the explicit use of water quality criteria as an element of recreational potential of water resources; the addition of flood plains, areas of seasonally high water tables and areas of steep slopes as separate categories for use in describing recreational resources; and the expansion of the public management and administrative aspects of recreational lands to include those under easements or zoning restrictions.	A

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Identifying No.	Title	Source of review
R-IGS-A01037-00	30 CFR Part 211, Coal Mining Operating Regulations, Adoption of Requirements of Wyoming's reclamation Laws and Requirements.	EPA generally concurred in the proposed rulemaking, and recommended that specific reference to recently published coal mining point source effluent guidelines be included in the Wyoming reclamation laws and requirements. A
DEPARTMENT OF TRANSPORTATION		
R-FAA-A51009-00	Policies and Procedures for Considering Environmental Impacts (Docket No. 15978, Proposed FAA Order 1050.1B) Notice.	EPA commended FAA's development of these comprehensive and thorough regulations and offered several suggestions for further improvements. A
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
R-HUD-A85040-00	24 CFR Parts 710 and 720, Assistance for New and Communities, 1970 Act, Financing Public and Private Developments.	Based on its review, EPA suggested a change which would require developers to secure all Federal approvals along with those from State and local governmental units.

APPENDIX VI

SOURCE FOR COPIES OF EPA COMMENTS

Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, D.C. 20460.
Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Cortland Street NE, Atlanta, Georgia 30308.
Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.
Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.
Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.
Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.
Director of Public Affairs, Region 9, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.
Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101,

[FR Doc.76-38104 Filed 12-28-76;8:45 am]

PESTICIDE PROGRAMS

[FRL 662-5; OPP—62001]

Administrator's Decision To Accept Plan of Mississippi Authority and Order Suspending Hearing for the Pesticide Chemical Mirex

On October 20, 1976, the Administrator of the Environmental Protection Agency (EPA) issued an order accepting a Plan submitted by the Mississippi Authority for the Control of Fire Ants (the holder of all registrations for Mirex end-use products) for the gradual phase-out of its Mirex registrations and the suspension of the pending hearing under section 6(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act. The following is a compilation of documents that are germane to this action, including (1) the Administrator's order; (2) a letter to Mr. John R. Quarles, Jr. from Mr. Jim Buck Ross which, with its attachments, constitutes the Plan submitted by the Mississippi Authority to the EPA; and (3) a staff-prepared "Summary of Evidence and Other Information and Statement of Reasons" setting forth the Agency's reasons for accepting the Plan. References and Appendices to the "Summary of Evidence and Other Information and Statement of Reasons" are available for inspection in the office of the FEDERAL REGISTER Section, Technical Services Division (WH-569), Office of Pesticide Programs, Rm. 401, East Tower, 401 M St. S.W., Washington, D.C. 20460 from 8 a.m. to 4:30 p.m. during normal working days.

Dated: December 21, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

UNITED STATES OF AMERICA, ENVIRONMENTAL PROTECTION AGENCY, BEFORE THE ADMINISTRATOR

In Re: Public Hearing to Determine Whether or not the Registrations of Mirex Should be Cancelled or Amended.
FIFRA Docket No. 293.

ADMINISTRATOR'S DECISION TO ACCEPT PLAN OF MISSISSIPPI AUTHORITY AND ORDER SUSPENDING HEARING

On September 23, 1976, the Agency's Acting Judicial Officer issued a "Notice of Receipt of Request to Cancel Mirex Registrations and Request for Comments" to all of the parties to this proceeding. After reviewing the proposed "Summary of Evidence and Statement of Reasons" submitted by EPA staff, the comments submitted by the other parties to this proceeding, and the Agency's staff's response to these comments, I have decided to approve the Plan submitted by the Mississippi Authority for the Control of Fire Ants, and adopt the "Summary of Evidence and Statement of Reasons" submitted by the Agency staff, with minor corrections. Accordingly, I hereby direct the Agency staff to take such action as is necessary to implement the Plan in accordance with its terms. Since the only Mirex product whose registration is not cancelled pursuant to the Plan is a technical or manufacturing use only product that can only be used in formulating other end-use products will be cancelled under the Plan, I have determined that it is no longer in the public interest to continue this Public Hearing to Determine Whether or Not the Registrations of Mirex should be Cancelled or Amended.

Accordingly, it is ordered that this hearing is hereby suspended.

Dated: October 20, 1976.

RUSSELL E. TRAIN,
Administrator.

THE STATE OF MISSISSIPPI,
DEPARTMENT OF AGRICULTURE AND COMMERCE,
Jackson, August 31, 1976.

MR. JOHN R. QUARLES, JR.,
Deputy Administrator, Environmental Protection Agency, Room 1218 West Tower, 401 M Street, S.W., Washington, D.C.

DEAR MR. QUARLES: Pursuant to our recent conversation regarding the continued use of mirex, we are submitting the following plan for your consideration. The responsible agencies of the nine states infested with the imported fire ant recognize that their immediate responsibility to the people of their respective states is two-fold: to provide an effective means of controlling the imported fire ant while concurrently preventing undue damage to the environment. As there is a question as to the long-range effect that mirex may have on the environment, it is obvious that the best way to minimize this potential danger is to reduce the amount of technical mirex placed in it. Therefore, the Mississippi Authority for the Control of Fire Ants ("Mississippi Authority") has designed the following plan ("Plan") to minimize the amount of mirex to be used; to reduce the size of contiguous areas treated, and to phase-out gradually the current mirex registrations with the objective of replacing current mirex registrations with an unquestionably safe registered material as quickly as possible. The plan shall become effective immediately upon notification by EPA to the Mississippi Authority that the plan is acceptable to EPA.

The plan has the following elements;

I. CANCELLATION OF MIREX REGISTRATIONS

The Mississippi Authority for the Control of Fire Ants requests that the Environmental Protection Agency cancel all of its mirex registrations under Section 6(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act in accordance with the attached suggested cancellation notice. (Attachment A.) The Mississippi Authority hereby waives its right under Section 6(a)(1) to request within 30 days after issuance of such notice that the registrations be continued in effect. The Mississippi Authority also states that it will not give its concurrence to any other person to request that the registrations be continued in effect.

II. SUSPENSION OF THE PENDING MIREX HEARING

The Mississippi Authority for the Control of Fire Ants proposes that upon publication of the attached cancellation notice, the pending hearing under Section 6(b)(2) of the Federal Insecticide, Fungicide and Rodenticide Act should be suspended. It is understood that after publishing its Section 6(a)(1) cancellation notice and after suspending the ongoing Section 6(b)(2) hearings, the Environmental Protection Agency would publish a Statement of Reasons for taking this action. This Statement of Reasons will include a summary of evidence in the record developed at the Section 6(b)(2) hearing and other information not included in the record bearing on the risks and benefits of mirex use and the merits of this proposal of the Mississippi Authority.

III. RESEARCH

A program to find a suitable alternative chemical to replace mirex has been implemented through the "Cooperative Interagency Agreement for the Study of Alternative Chemicals to Mirex." (See Attachment B). Additionally, the USDA Agricultural Research Service has an ongoing program to screen alternatives to mirex for control of imported fire ants. It is our understanding that Congress has appropriated additional funds to expand this research. The Mississippi Authority for the Control of Fire Ants will make every effort to have this program incorporated into the Cooperative Interagency Agreement.

IV. REQUEST FOR AMENDMENT

The Mississippi Authority for the Control of Fire Ants requests that its mirex 10:5 bait registration (EPA Reg. No. 38962-3) be amended to permit in addition to the methods now provided the packaging of mirex 10:5 bait in five pound bags for ground broadcast or mound-to-mound application by persons affected by the Imported Fire Ant or under the supervision of authorized state or federal personnel. Labels on such five pound bags should specify that the contents may not be applied aerially.

The Mississippi Authority for the Control of Fire Ants feels that the above plan will achieve both of its goals and should receive the support of all affected persons. The Authority urges that you give this proposal very careful consideration.

Sincerely yours,

JIM BUCK ROSS,
Chairman, The Mississippi Authority for Control of Fire Ants.

ATTACHMENT A.—PROPOSED FEDERAL REGISTER NOTICE REQUESTING CANCELLATION OF REGISTRATION OF PESTICIDE PRODUCTS CONTAINING MIREX

Pursuant to Section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) *et seq.*) the Environmental Protection Agency (EPA) has notified the Mississippi Authority for the Control of Fire Ants, PO Box 1609, Jackson MS 39205, of its intention to cancel, in accordance with the following conditions, the registrations of all these products containing the active ingredient Mirex:

Registered products—Mirex

Registrant	EPA registration No.	Product
Mississippi authority for control of fire ants	38962-1	Fire Ant Bait.
Do	38962-2	Fire Ant Bait "150".
Do	38962-3	Granular Bait 2x now 10:5.
Do	38962-4	Granular Bait 4x.
Do	38962-5	Harvester Bait 300.
Do	38962-6	Mirex Special Concentrate (25 percent).
Do	38962-7	Mirex Technical Concentrate (80 percent).
Do	38962-8	Mirex Pelleted Bait 450.
Do	38962-9	A-C Mirex Pelleted Bait 450.
Do	38962-10	Yellowjacket Stopper.

A. PRODUCTION LIMITATIONS AND END DATES FOR USE OF CURRENT-REGISTERED PRODUCTS

1. *Number of Aerial Applications.* No single acre will be treated aerially with Mirex bait on more than one occasion between July 1, 1976 and December 31, 1977.

2. *Mirex 4x Bait.* The effective date of cancellation for Mirex 4x Bait (EPA Reg. No. 218-565) shall be December 1, 1976. Between July 1, 1976 and December 1, 1976 not more than 45,000 pounds of technical Mirex shall be formulated into Mirex 4x Bait. Stocks of Mirex 4x Bait existing as of December 1, 1976 may be used only through December 31, 1976; provided that 1,000 pounds of Mirex 4x Bait may be utilized for research as a control in experiments to determine the efficacy of alternative materials until June 30, 1978.

3. *Mirex 10:5 Bait.* EPA shall amend the Mirex 10:5 Bait registration (EPA Reg. No. 38962-3) to add to that registration by permitting the packaging of Mirex 10:5 Bait in five pound bags for ground broadcast or mound-to-mound application by persons affected by the imported fire ant, or under the supervision of authorized state or federal personnel.

The effective date of cancellation for Mirex 10:5 Bait (EPA Reg. No. 38962-3) shall be December 1, 1977. Between September 1, 1976 and December 1, 1977, not more than 20,000 pounds of technical Mirex shall be formulated into Mirex 10:5 Bait. *Provided,* That, if less Mirex 4x Bait is produced than can be produced with the 45,000 pounds of technical Mirex provided for in paragraph (A)(2) above, up to 15,000 pounds of the amount of technical Mirex not utilized from this 45,000 pound limitation shall be added to the 20,000 pound production limitation for Mirex 10:5 Bait. Stocks of Mirex 10:5 Bait existing as of December 1, 1977 may be applied aerially only through December 31, 1977. Stocks of Mirex 10:5 Bait in five pound bags existing as of December 1, 1977 may be sold, distributed, and used in ground broadcast and mound application until June 30, 1978. Other stocks of Mirex 10:5 Bait existing as of December 1, 1977 may be packaged by the Registrant into five pound bags for sale, distribution, and use in ground broadcast and mound application until June 30, 1978.

4. *Mirex Technical.* The effective date of cancellation for Technical Mirex (EPA Reg. No. 218-585) shall be December 1, 1977. No stocks of Technical Mirex existing as of December 1, 1977 shall be distributed, sold, or used.

5. *Mirex Harvester Ant Bait 300.* The cancellation of the registration for Mirex Harvester Ant Bait 300 (EPA Reg. No. 38962-5) shall be effective immediately for all uses other than for the control of the pheidole ant, the Argentine ant, and the fire ant on pineapples in Hawaii. Presently existing stocks of Mirex Harvester Ant Bait 300 may be distributed, sold, and used for all uses until December 31, 1976. The effective date of cancellation for Mirex Harvester Ant Bait 300 for the control of the said ants on pineapples in Hawaii shall be December 1, 1977. Stocks of Mirex Harvester Ant Bait 300 existing on December 1, 1977 may not be applied aerially for the control of the said ants on pineapples in Hawaii after December 31, 1977, but may be distributed, sold, and used (other than aerially) for this use indefinitely.

6. *Other Mirex Registrations.* The cancellation of all other Mirex registrations shall be effective immediately. Presently existing stocks of materials formulated according to all other EPA Mirex registrations may be distributed, sold, and used until December 31, 1977.

B. ADDITIONAL RESTRICTIONS

1. *Coastal Zones.* Because of the recognized limitations of the coastal county restrictions which were based on political boundaries, and in view of the need to protect embryonic and juvenile marine and aquatic life which is dependent on shallow coastal and estuarine areas, aerial treatment will be precluded within the coastal zone as determined as follows:

The coastal zone shall be determined so as to bring within the zone all of the following areas:

(a) the area between the coastline and a parallel line twelve miles from the coastline; the coastline shall include the shores of any bays or estuaries which are contiguous to the sea;

(b) the area within twelve miles from the furthest inland edge of any coastal, saline marsh; coastal marshes are defined as those areas represented on U.S. Geological Survey maps by the standard marsh symbol with a white background;

(c) the area around major rivers which are subject to a tidal influence which area may be, based on hydrologic and geologic factors, from one-quarter mile to five miles in circumference as measured from the point of tidal influence; a major river is defined as any river which drains an area in excess of 150 square miles. The point of tidal influence is defined as the point at which the mean discharge of the river no longer affects its stage at a mean high tide.

Whenever practicable coastal zone boundaries shall be along topographical features which are easily recognizable by air, such as highways, railroad beds, and rivers.

States that desire relief from the current label restriction against aerial Mirex application in coastal counties may develop a plan in accordance with the criteria contained herein and additional guidelines as found necessary, and may submit the plan to the Office of Pesticide Programs for review and approval. Such plan must be submitted to EPA for approval at least 45 days prior to application. The Office of Pesticide Programs may, by approving the plan in whole or in part, grant relief from the label prohibition against aerial Mirex application in any coastal county to the extent that such aerial application is performed consistently with the plan and any conditions imposed by EPA Office of Pesticide Programs in conjunction with approving the plan. The current coastal county restrictions shall remain in effect for each county for which an acceptable coastal zone plan is not submitted.

2. *Type of Aerial Application.* From July 1, 1976 through December 31, 1976, aerial application shall be made in accordance with current label restrictions except where the restrictions set forth in paragraphs 3 and 4 of these additional restrictions supersede. From January 1, 1977 through December 31, 1977, aerial application shall be made only with helicopters and single-engine aircraft flying at an altitude of no greater than 150 feet and at a speed of no greater than 150 miles per hour; provided that these conditions shall in no way supersede regulations of other agencies, including the Federal Aviation Administration, governing the aerial application of pesticides.

3. *Requests for Non-Treatment.* Prior to any aerial application of Mirex, prominent notice shall be published in local newspapers, at least 20 days but not more than 30 days prior to application, stating what area will be treated and giving any resident of such areas the right to prevent application upon his land. *Provided,* That until December 1,

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1976 the required notice may be published at least 10 days, but not more than 30 days prior to application.

4. *Area Limitations Applicable to Aerial Applications.* (a) *Wooded Areas.* Wooded areas are defined as those areas which have trees and which are not used for agricultural purposes. Tree farms or commercial forests shall not be considered areas used for agricultural purposes; however, groves and orchards shall be considered used for agricultural purposes. There shall be no aerial application in contiguous wooded areas except for a 100 yard swath contiguous to treated areas and cleared areas within the wooded area.

(b) *Aquatic Areas.* From July 1, 1976 through December 31, 1976 there shall be no aerial application to any aquatic areas, except for intermittent streams where there is no flow and except for man-made or natural impoundments of water which do not exceed two acres in size and are not commercially flashed. However, even these exempted waters should be avoided where possible. After December 31, 1976, there shall be no aerial application of Mirex to any aquatic areas, except for intermittent streams where there is no flow. Intermittent streams are defined as those streams having continuous flow during periods of heavy run-off and no flow during the remainder of the year. Man-made or natural impoundments of water are defined as such impoundments of water occurring on farms that are utilized for purposes such as irrigation, stock watering, and recreation. Aquatic areas are defined to include without limitation estuaries, rivers, streams, wetlands, lakes, ponds, and other bodies of water. The term "wetlands" means those land and water areas subject to inundation by tidal, riverine, or lacustrine floage. Generally included are inland navigable waters, including inland and coastal shallows, marshes, mudflats, estuaries, swamps, and similar areas in coastal and inland navigable waters. There shall be no aerial application where run-off or flooding will contaminate aquatic areas.

(c) *Idle Lands.* Cut-over lands and brush fields that, when left untreated, will not increase infestation exposure to treated lands shall not be treated.

(d) *Other Areas.* Aerial application is permitted (subject to paragraph 3 above) in areas other than those outlined (even though some trees are present), such as agricultural lands, home sites, and developed portions of public areas; provided that an appropriate state official certifies in writing before each application that he or his employees have inspected the area and there is at least one imported fire ant mound for each one-quarter section to be treated. Certification shall be available for inspection upon EPA request.

5. *Ground Application.* Ground application, whether broadcast by properly calibrated equipment or individually mound treated, is permitted in all areas of infestation; provided that there shall be no ground application to aquatic and heavily forested areas or areas where run-off or flooding will contaminate such areas. Ground broadcast and mound treatment shall be confined to areas where the imported fire ants are causing significant problems.

6. *Revised Labeling.* Revised labeling in accordance with this notice shall be prepared and submitted by the Mississippi Authority for the Control of Fire Ants for determination by EPA that such labeling conforms to this notice and other provisions of the Act.

7. *Monitoring.* It is understood that a program for human, environmental, and application monitoring of the application of Mirex bait is essential to this agreement. The users will have primary responsibility for application monitoring, subject to EPA oversight.

C. Substitution of Less Toxic Mirex Formulations for *Mirex 10:5 Bait.*

When presented with adequate efficacy data, EPA shall promptly permit substitution of Mirex bait formulations providing for the application of less actual toxicant per acre for Mirex 10:5 Bait (EPA Reg. No. 38962-3). The production limitations, end dates, and other restrictions provided for in this notice shall remain in effect for such substituted formulation.

The Agency has discussed this cancellation action with representatives of the Mississippi Authority for the Control of Fire Ants who have indicated concurrence with the intended cancellation. Moreover, the Mississippi Authority for the Control of Fire Ants has waived its right to request, within 30 days, that the registrations be continued in effect, and has further stated that it will not give its concurrence to any other person to request that the registrations be continued in effect. Accordingly, these registrations are hereby cancelled, effective on the effective dates specified herein.

[ATTACHMENT B]

AMENDMENT NO. 1

The cooperative agreement between the Mississippi Department of Agriculture, Imported Fire Ant Division, the United States Department of Agriculture, Animal and Plant Health Inspection Service, and United States Environmental Protection Agency, Office of Pesticide Programs, for the performance of laboratory and field evaluations of chemicals which can serve as alternatives to mirex in the control of imported fire ants, signed by the parties thereto on October 29, 1975, October 30, 1975, and September 11, 1975, respectively, is hereby amended as follows:

(1) Paragraph IV, Duration of Agreement, is amended as follows: This agreement will cover the period from September 1, 1975, to January 1, 1978.

(2) Paragraph VIII, General Provisions, is inserted as follows: The cost of the work to be performed by the Mississippi Department of Agriculture and Commerce is estimated at $100,000. In its performance the Mississippi Department of Agriculture and Commerce shall comply with the attached General Provisions for Use in Cost Reimbursement Contracts with Educational and Other Nonprofit Institutions, EPA Form 1900-28 Oct. 1973 as amended by the alterations thereto, EPA Form 1900-28 (Revised Mar. 1975) February 27, 1976.

(3) Paragraph VII, Funds, Personnel, and Facilities, seventh paragraph is amended as follows:

EPA will pay the Mississippi Department of Agriculture and Commerce for actual costs incurred in the performance of the services agreed to herein in an amount not to exceed $100,000. The Mississippi Department of Agriculture and Commerce will submit an itemized bill for payment to:

Environmental Protection Agency, Financial Management Division (PM-226), 401 M Street, S.W., Washington, D.C. 20460.

The itemized bill should be submitted quarterly. It should cite the number of this agreement and the following accounting data:

Appropriation	68X0107
Account No.	644932C99C
Document Control No.	K00049

Except as herein expressly provided, all other terms and conditions of the agreement shall remain in full force and effect.

Dated: May 13, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs, EPA.

Dated:--------

HARRY C. MUSSMAN,
Acting Administrator for Animal and Plant Health Inspection Service, U.S.D.A.

Dated: May 13, 1976.

J. B. ROSS,
Commissioner, Mississippi Department of Agriculture and Commerce.

SUMMARY OF EVIDENCE AND OTHER INFORMATION AND STATEMENT OF REASONS

I. INTRODUCTION

The Environmental Protection Agency has been conducting a hearing under section 6(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, since July 11, 1973, to determine whether registrations for pesticide products containing Mirex should be cancelled or amended. Information adduced at this hearing, and other information which has recently come to light, has prompted the Mississippi Authority for the Control of Fire Ants (Mississippi Authority), the sole registrant of end-use Mirex products, to submit to the Agency a plan (Plan) for the cancellation of its Mirex registrations and a gradual phase-out of Mirex use.

The plan prescribes the ultimate fate of all currently-registered end-use Mirex products. As indicated above, this is the same matter which would be resolved in the FIFRA section 6(b)(2) hearing currently in progress, should that hearing be allowed to continue to a conclusion. Accordingly, the Plan represents the offer of the sole registrant and producer of end-use Mirex products to end this litigation at this point in time on prescribed terms and conditions.[1] This is acknowledged in the Plan itself, in that one of its provisions calls for immediate cessation of the hearing.

The Agency therefore must decide whether to accept the Plan, and suspend the hearings, or reject the Plan and continue the hearings with the objective of implementing some other solution to the question of the ultimate fate of Mirex through the hearing process. This document sets forth the Agency's decision on the question whether to accept or reject the Plan of the Mississippi Authority. As indicated below, the Agency's decision is to accept the Plan.

This document consists of five parts. Part I is this introduction. Part II is a brief procedural history of the Mirex litigation. Part III is a brief summary of available information concerning the risks and benefits of the use of Mirex for its currently registered uses. Part IV is a brief summary of the significant

[1] In essence, the sole producer of the products in question is stating in the Plan that it will no longer produce the products after a set period of time. Accordingly, it follows that no person who desires to use pesticides which would be produced *after* these end dates can complain of these cancellations, because FIFRA does not create any obligation upon a producer to continue to produce a pesticide.

elements of the Plan of the Mississippi Authority (a copy of the Plan itself is also attached). Finally, Part V presents the Agency's decision to accept the Plan, and its rationale for that decision.

The scope and purpose of the various parts of this document are, for the most part, self-explanatory. However, some elaboration is necessary with respect to Part III, which presents a summary of available information concerning the risks and benefits of the use of Mirex for its currently registered uses. The information which is summarized is, for the most part, contained in the hearing record of the Mirex litigation. To some extent, however, information is included which has recently come to light that has not yet been incorporated in the hearing record. As as indicated in more detail below, the summary does not represent the Agency's findings of fact at the conclusion of the Mirex litigation. Rather, it represents an attempt to summarize available information with respect to the risks and benefits of Mirex use in order to provide a basis upon which to make a responsible decision concerning whether or not to accept the Plan of the Mississippi Authority. Obviously, no such decision can be made without reaching conclusions concerning the risks and associated benefits of Mirex use, because the Plan provides for continued production and use of some currently-registered end-use Mirex products during the phase-out period provided for. The Agency cannot assess whether this solution is consistent with the public interest, without some consideration of available information concerning risks and benefits of Mirex use.

II. HISTORY

On March 18, 1971, this Agency issued a notice of intent to cancel registrations of pesticide products containing Mirex. The reason for issuing the notice was that evidence concerning the effects of Mirex on humans and other animals raised a substantial question about the safety of continued use of pesticide products containing Mirex. Allied Chemical Corporation, holder of ten of the eleven Mirex registrations, elected to challenge the notice by petitioning, on April 16, 1971, for referral of the matter to a Scientific Advisory Committee pursuant to 7 U.S.C. 135b(c).[2] In its report, submitted with revisions on March 1, 1972, the committee made recommendations which can be summarized as follows:

(1) Mirex registrations should be continued with labeling restrictions to minimize environmental contamination; (2) publicly supported control programs should be limited to infested areas where the imported fire ant is a problem because of proximity to people or interference with agricultural operations; (3) where publicly sponsored programs are unavailable, nonaerial broadcast treatment of lawns, pastures, schoolgrounds, parks, and similar areas by individuals is recommended instead of mound treatment; (4) more information should be obtained in order to establish economic or nuisance threshold levels requiring Mirex treatment, including information regarding rates of reinfestation and population recovery in areas receiving a single bait treatment; and (5) more research should be conducted on the possible hazards of Mirex to man and his environment.

In an order filed May 3, 1972, published in the FEDERAL REGISTER on June 1, 1972 (37 FR 10987), Administrator Ruckelshaus accepted the findings of the Committee and made additional findings of his own. He found that although Mirex is capable of being stored in human adipose tissue, the data regarding Mirex residues in human tissue was extremely fragmentary and inconclusive. He also found that, while one study had clearly shown that Mirex was tumorigenic in mice, the Committee had refrained from labeling Mirex as carcinogenic, because only one species was involved.

Administrator Ruckelshaus concluded that, while at that time the evidence of a threat to human health was not strong, there was a distinct threat to the aquatic environment based upon fish and wildlife residue data as well as laboratory toxicity studies. Consequently, he banned application of Mirex to all heavily forested and aquatic areas and prohibited aerial application in all coastal counties or parishes. In a subsequent order, dated June 30, 1972 and published in the FEDERAL REGISTER on July 6, 1972 (37 FR 13290), Administrator Ruckelshaus reinstated all Mirex registrations and permitted ground broadcast of Mirex if ground application equipment which could be calibrated to deliver the recommended label dosages were utilized. In still another order, dated March 28, 1973 and published in the FEDERAL REGISTER on April 4, 1973 (38 FR 8615), the total ban on application to aquatic areas was modified to exclude intermittent streams and farm ponds not used primarily for human consumption.

Finally in order to resolve the issues still surrounding the use of Mirex, the Administrator issued notice of his intent to hold a hearing pursuant to section 6(b)(2) of FIFRA, to determine whether or not the registrations of Mirex should be cancelled or amended (38 FR 8618, April 4, 1973). On July 11, 1973 public hearings commenced pursuant to section 6(b)(2) of FIFRA. The hearings continued unabated until March 28, 1975, when settlement negotiations commenced. These negotiations continued until July 14, 1975, when the registrant, Allied Chemical Corporation, formally announced that, because a settlement could not be reached on terms acceptable to the United States Department of Agriculture, Allied would no longer actively participate in the proceedings. Moreover, Allied announced that it was ceasing production of Mirex until some viable solution was reached. The hearings then resumed and proceeded intermittently until February 12, 1976, when Allied Chemical Company stated its intention not to resume formulation of Mirex bait in the future. On February 26, 1976, at the request of the parties, the hearings were temporarily suspended, and on May 10, 1976, the Mississippi Authority announced that Allied Chemical Company had transferred its Mirex registrations to the Authority. Since that time the hearings have remained dormant while the Mississippi Authority's counsel have reviewed the case.

III. SUMMARY OF RELEVANT INFORMATION CONCERNING RISKS AND BENEFITS OF MIREX

As indicated above, a hearing has been in progress under section 6(b)(2) of FIFRA since July 11, 1973, to determine whether or not the registrations of pesticide products containing Mirex should be cancelled or amended. The hearing record now consists of over 13,000 pages of transcript, over 200 exhibits, and includes the testimony of more than 100 witnesses. In addition to the information in the hearing record, information has recently become available on the health effects of Mirex, including some extremely significant information concerning human exposure to Mirex.

Set forth below is a brief summary of the significant available information.[3] It is emphasized that this summary does not purport to serve the function of the findings of fact required at the conclusion of the FIFRA section 6(b)(2) hearing. Rather, it is an attempt to develop a body of information upon which to base a responsible decision concerning whether or not the Plan of the Mississippi Authority should be accepted or rejected. Available information concerning the cancer risk to man resulting from Mirex use is discussed in some detail. This is because the Plan provides for continued production and use of currently-registered Mirex products during the specified phase-out period. In order to assess whether this aspect of the Plan is acceptable to the Agency, it is necessary to assess in some manner the risks to which exposed members of the public will be subjected during this phase-out period. If these risks appeared unreasonable, the Agency would have rejected the Plan and attempted to implement some other solution involving less exposure through the FIFRA hearing process. Indeed, because the question before the Agency is whether the hearings should be terminated short of findings, evidence indicating carcinogenic risk of Mirex must be given special significance. Finally, this summary differs from findings of fact in one other significant respect, i.e. in some instances the information which is summarized is not part of the hearing record, and therefore has not been subjected to cross-examination by other parties to the proceeding.

A. MIREX: IDENTIFICATION AND NOMENCLATURE.

"Mirex" is the common name given to a chlorocarbon compound with a chemical formula of C10 C12 and a technical nomenclature of dodecachlorooctahydro - 1,3,4,-metheno-2H-cyclobuta[cd] pentalene; the systematic name of this compound is dodecachloropentacyclo (5.3.0.0^{2,6}.0^{3,9}.0^{4,8}) decane. The term "Mirex" also is used in reference to a bait which is comprised of corncob grits, soybean oil, and the chlorocarbon compound identified above.

B. CURRENT REGISTRATIONS

There are currently eleven registered products containing Mirex: One, held by Hooker Chemical Company, is a technical product used only in formulating other products (EPA Reg. No. 935-27). All of the rest of the registrations are held by the Mississippi Authority for the Control of Fire Ants. Two of these are used only in formulating other products (EPA Reg. No. 38962-7; EPA Reg. No. 38962-6). One contains 0.5% Mirex formulated into a bait for control of yellowjackets (EPA Reg. No. 38962-10). Two contain 0.450% Mirex formulated into a bait for controlling Texas leaf cuting ants, harvester ants, and fire ants (EPA Reg. No. 38962-8; EPA Reg. No. 38962-9). One contains 0.3% Mirex formulated into a bait for control of western harvester ants, pheidole ants in Hawaii, and assorted other ants (EPA Reg. No. 38962-5). One contains 0.3% Mirex for controlling fire ants in the federal-state cooperative program for imported fire ant suppression (EPA Reg. No. 38962-4). One contains 0.1% Mirex for controlling fire ants in the federal-state cooperative program for imported fire ant suppression (EPA Reg. No. 38962-3). One contains 0.15% Mirex for control of fire ants through ground broadcast and mound treatment (EPA Reg. No. 38962-2). One contains 0.075% Mirex for controlling fire ants through ground broadcast and mound treat-

[2] Prior to the 1972 Amendments, a registrant could challenge a Notice of Intent to Cancel either by requesting a hearing or by requesting referral to a Scientific Advisory Committee.

[3] Citations to Testimony in this document refer to testimony presented in FIFRA 293. Citations to "References" refer to the list of "References" at the end of this document. Citations to "Appendices" refer to the documents appended to this document.

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ment (EPA Reg. No. 38962-1). (See Appendix A).

C. CHEMICAL AND BIOLOGICAL CHARACTERISTICS OF MIREX

1. *Impurities and Degradation Products.* Very recent screening analyses of formulated Mirex bait at the Mississippi Authority's formulating plant in Aberdeen, Mississippi, have shown that Kepone is present in Mirex bait at levels up to 0.25 ppm and in technical Mirex at levels up to 2.58 ppm.

Recent research conducted by the United States Department of Agriculture and others has shown that as much as 10% of Mirex applied in the environment either begins as Kepone or is degraded into Kepone over periods of five and twelve years. (Appendix C). Laboratory studies have shown that Mirex can degrade photolyticly into Kepone. (Reference 2)

2. *Persistence.* Because of its unique chemical structure, Mirex is more resistant to chemical attack than other chlorinated hydrocarbons such as DDT, Aldrin/Dieldrin, and Heptachlor. (Alley Testimony at 4). Mirex therefore will likely remain in nonliving (and living) matter for longer periods of time than would such chlorinated hydrocarbon pesticides as DDT, Aldrin/Dieldrin, and Heptachlor. (Alley Testimony at 4). Research performed by USDA and others has shown that as much as 50% of the original Mirex that was applied in 1962 was recovered from soil residues twelve years after treatment. (Appendix C).

3. *Bioconcentration.* Unlike most chemical compounds (Livingston Testimony [II] at 1), Mirex continues to accumulate to higher and higher levels in the brain, muscle, liver, skin, and subcutaneous tissues of mammals to which it is fed as a constant increment of the diet, apparently without reaching a plateau. There appears to be an unlimited capacity for accumulation of Mirex in some animal tissues, and Mirex can accumulate in vertebrate animals to extremely high levels. (Gibson Testimony at 3; Gibson TR 157, 165, 168).

Moreover, Mirex bioaccumulates in wildlife and the food of wildlife, including *Crustaceans* (Lowe Testimony at 6; Tagatz Testimony at 4; Bookhout Testimony at 10; Bookhout TR 1989), *Ciliate protozoa* (Cooley Testimony at 2–3; Cooley TR at 8905–8), and *algae* (Hollister Testimony at 3). At even the most primary trophic levels in the environment the bioconcentration of Mirex has been demonstrated, often at levels thousands of times that found in aquatic media.

In addition, Mirex is highly resistant to metabolic attack, and as a consequence is apparently not eliminated from vertebrate bodies as a result of metabolic conversion (Gibson Testimony at 50), nor is it readily excreted through normal excretory channels. (Reference 3). However, Mirex can be excreted through special mechanisms, such as lactation and via egg yolks. (Reference 4 at 5–7; Kimbrough Testimony at 9). The significance of these special pathways of Mirex elimination is two-fold. First, man is a consumer of products which are the vehicles of such special elimination in other species. Second, since it has been shown that cows will eliminate significant quantities of Mirex in their milk, it is reasonable to expect that Mirex will also be excreted in the milk of female human beings and thus transmitted to their offspring via breast feeding. (Gibson Testimony at 6).

Mirex is transferred through the placenta in rates. The placenta constitutes a barrier between the fetus and the mother which is designed to protect the fetus. Dr. Renate Kimbrough characterized the finding in rats as a "warning signal" that it may also take place in human beings. (Kimbrough Testimony at 12).

4. *Biomagnification.* Mirex biomagnifies in higher-level organisms as it moves up the food chain to man (Livingston Testimony [II] at 2–3; Cowley TR 8926). Mirex's great persistence in the environment and its propensity to bioaccumulate and biomagnify mean that even though it is applied at relatively small application rates, it will be available for consumption by humans, wildlife, and marine and aquatic organisms for long periods of time. (Alley Testimony at 4; Papp Testimony at 10–11).

D. MIREX TOXICITY TO HUMANS.

1. *Carcinogenicity.* Two experiments have been performed to date concerning the carcinogenicity of Mirex. The first was abioassay in mice completed by Bionetics Research Laboratories, Inc. in 1969 under a contract with the National Cancer Institute. Mirex was tested in this bioassay (hereinafter referred to as First Bionetics) along with 120 other industrial chemicals in an effort to screen out and identify those compounds which were carcinogenic. Both sexes of two hybrid strains of mice were administered Mirex, with 18 animals in each sex-strain subgroup given Mirex orally and other mice of the same strain receiving subcutaneous injections. Oral administration of Mirex commenced by stomach tube when test mice were 7 days of age, and after 4 weeks the mice were weaned and given 26 ppm of Mirex in their diet, a dose which had earlier been calculated to be the maximum tolerated dose. Administration of Mirex continued in this fashion for the life time of the test animals. Negative control animals—those not exposed to Mirex at any time during their lifetime—were kept in the same room with Mirex-exposed animals, and positive control animals were exposed to seven known carcinogenic agents to assure that a carcinogenic reaction would be produced in the strains under test. Only the results of the oral administration of Mirex were reported thereafter (Reference 5) and reviewed in testimony presented in FIFRA 293.

A second carcinogenesis bioassay of Mirex (hereinafter referred to as Second Bionetics) was conducted with Charles River caesarean derived (CD) rats exposed to a calculated maximum tolerated dose of 100 ppm and also to one-half that amount, 50 ppm. Control animals were kept under identical conditions as exposed rats. Mirex was administered for 18 months, with the surviving rats being held for an additional six-month observation period before being killed for necropsy. This bioassay, which was performed simultaneously with tests on 16 other compounds, was completed and reported by Litton-Bionetics, Inc. in 1973. The National Cancer Institute has very recently issued a final report on this experiment.[4]

(a) *The first bionetics experiment (mice).* The results of the First Bionetics Experiment were published in the Journal of the National Cancer Institute in 1969. (Reference 11) That report stated that Mirex induced a highly statistically significant (P less than 0.01) increase of liver hepatomas in both sexes of both strains of mice in which it was tested. The Mirex-induced response roughly equalled that of the response induced by the seven positive-control chemicals. Because of this strong response, the Report listed Mirex among eleven of the 120 compounds judged to be "clearly tumorigenic" for the strains of mice used at the dose levels tested.[5]

The word "hepatoma" was used in the report to denote both benign and malignant tumors. In fact, in the opinion of the pathologists who collaborated in the report, it seemed more reasonable to conclude that the great majority of the tumors observed had malignant potentiality. (Reference 11 at 1114.) Dr Paul Kotin, who designed the experiment, testified that he had personally examined some of the slides taken from this experiment with the chief pathologist, J. R. M. Innes, and had observed liver cancers (hepatocellular carcinomas) which Innes, later reported as hepatomas. There was no basis, therefore, for distinguishing between "hepatomas" and "carcinomas." (Kotin TR 1692–3). Independent pathological diagnoses of the First Bionetics slides by Dr. Melvin D. Reuber, one of the most experienced and imminent researchers into the process of carcinogenesis in test animals, and statistical analyses of the diagnoses by Dr. Adrian Gross, Assistant Director for Scientific Coordination in the Office of Pharmaceutical Research and Testing of the Bureau of Drugs of the Food and Drug Administration, demonstrated that Mirex induced a highly statistically significant increase in liver cancers (hepatocellular carcinomas) in both strains and both sexes of test animals as compared with the control animals in this experiment. (Reuber Testimony at 11; Gross Testimony at 11.)

However, Dr. Paul Newberne, another well qualified pathologist, has prepared testimony for the Mirex hearing that disagrees with both Dr. Reuber and the pathologists who participated in the report of the First Bionetics Experiment. In his opinion, none of the lesions induced in the test animals could be classified as hepatocellular carcinoma. (Newberne Prepared Testimony at 9). He observed a number of hyperplastic nodules, but these represented to him only one of the several ways that liver cells respond to Mirex.

The Advisory Panel on the Carcinogenicity of Pesticides of the Commission on Pesticides and their Relationship to Environmental Health, appointed by the Secretary of Health Education and Welfare in April 1969, placed Mirex in a group judged "positive for tumorigenicity" on the basis of the First Bionetics report (Reference 6 at 461.) The Report of the Mirex Advisory Committee of the National Academy of Sciences concluded that in this experiment "Mirex is very close to being equal in carcinogenic potency to the seven known carcinogenic compounds." However, the Advisory Committee was of the opinion that carcinogenic activity in mice alone had no particular significance for human health. Nevertheless, the Advisory Committee "urgently desired" that Mirex be tested for carcinogenicity in other species.

(b) *The second bionetics experiment (rats).* In September, 1973, Dr. Melvin Reuber examined the tissue slides taken from the Second Bionetics experiment. Dr. Reuber determined that none of the 20 female and 20 male control rats developed either hyperplastic nodules or carcinomas of the liver. He further determined that 2 out of 26 males and 1 out of 26 female rats fed 50 ppm and 7 out of 26 males and 2 out of 26 females fed 100 ppm developed liver cancer. (Reuber Testimony at 12.) Dr. Adrian Gross statistically analyzed Dr. Reuber's diagnoses and determined that there was a highly statistically significant increase in liver cancers in males fed 100 ppm and in combined males and females fed 100 ppm over the control animals. (Gross Testimony, Table 2.)

In addition to carcinomas, Dr. Reuber also diagnosed a very high incidence of hyperplastic nodules of the liver in both sexes of rats at both 50 ppm and 100 ppm feeding levels. (Reuber Testimony at 12.) Dr. Gross statistically analyzed Dr. Reuber's diagnoses and determined that Mirex induced a highly statistically significant increase in hyperplastic nodules in both sexes of rats at both feeding levels. (Gross Testimony (IV), Table 2.) Dr. Reuber testified that he defined hyperplastic nodules as nodules that have reached the stage where they are no longer dependent upon continued exposure to the chemical stimulus. If the chemical is discontinued, these nodules will continue to progress and become carcinomas. (Reuber Testimony at 3.)

Dr. Newberne prepared testimony for the hearing in which he disagreed with Dr. Reuber's diagnoses. Dr. Newberne stated that he observed no hepatocellular carcinomas in the Mirex-exposed rats, and the hyperplastic nodules he observed did not pose a carcinogenic threat to the animals. Dr. Newberne felt that the hyperplastic nodules he observed were only of "academic interest in a safety evaluation of a substance." (Newberne Prepared Testimony at 35). He was of the opinion that "hyperplastic nodules definitely do not all progress and become carcinomas."

The National Cancer Institute had not published a final report on the Second Bionetics Experiment at the time the witnesses testified in the hearing. However, Dr. Robert Squire, who was at the time Expert Consultant to the National Cancer Institute, Carcinogenesis, Division of Cancer Cause and Prevention, testified that he had examined the slides from the Second Bionetics Experiment and had concluded that Mirex is carcinogenic in rats. (Squire Offer of Testimony at 5–7.) Dr. Squire further testified that the nodular hyperplasia that he observed was precarcinogenic. He testified that "there is evidence that given sufficient time and exposure, liver cancer would develop in a substantial percentage of the hyperplastic instances such as I have observed here." (Squire Offer of Testimony at 4.)[6] Dr. Newberne's testimony did not take issue with Dr. Squire's diagnoses.

Dr. Umberto Saffiotti, who was at the time Associate Director for Carcinogenesis, Division of Cancer Cause and Prevention, National Cancer Institute, testified that it was his understanding that the NCI reevaluation of the tissue slides led to the recognition of a significant induction of liver tumors in the test animals by Mirex. (Saffiotti Testimony at 2.)

In April, 1976, Dr. Norbert P. Page, Chief, Carcinogen Bioassay and Program Resources Branch, Carcinogenesis Program, National Cancer Institute, provided EPA with NCI verified slide-by-slide diagnoses of the Second Bionetics Experiment. These diagnoses were statistically analyzed by Dr. Todd Thorslund, an EPA statistician. His analysis revealed that Mirex caused by a highly statistically significant increase in carcinomas in male rats, and a highly statistically significant increase in "neoplastic nodules"[7] in both sexes. (Appendix D.)

The very recent National Cancer Institute Report on the Second Bionetics Experiment, which has not yet been published, sets forth the opinions of NCI personnel on the Second Bionetics experiment. (Appendix G) The incidence of cancerous and pre-cancerous lesions diagnosed by the NCI pathologists corresponds rather closely to the incidence observed by Dr. Reuber. No carcinomas or neoplastic nodules were observed in any of the control animals. One low dose male, four high dose males, and one high dose female had liver cancers (hepatocellular carcinoma) In addition, two low dose males, four low dose females, seven high dose males and four high dose females had neoplastic nodules. About the neoplastic nodules the paper reported that:

"It has been shown by several workers that this type of lesion has, under appropriate circumstances, a high probability of progressing to hepatocellular carcinoma. Furthermore, neoplastic lesions or carcinomas rarely occur in rats as was true in these control animals, and also in the pooled control population and such neoplastic lesions are characteristic of the early response to known carcinogens. It therefore is inadequate to call such nodules merely hyperplastic which belies their neoplastic nature and malignant potential."

The paper finally concludes that: "The spectrum of lesions observed in the liver of the various groups at risk suggest carcinogenic activity."

c. *Implications for Man.* The First and Second Bionetics Experiments provide substantial evidence that Mirex is a human carginogen. The EPA's "Interim Cancer Assessment Procedures" (41 FR 21402; May 25, 1976) provide:

"General Principles Concerning the Assessment of Carcinogenesis Data. The central purpose of the health risk assessment is to provide a judgment concerning the weight of evidence that an agent is a potential human carcinogen and, if so, how great an impact it is likely to have on public health.

"Judgments about the weight of evidence involve considerations of the quality and adequacy of the data and the kinds of responses induced by the suspect carcinogen. The best evidence that an agent is a human carcinogen comes from epidemiological studies in conjunction with confirmatory animal tests. *Substantial evidence is provided by animal tests that demonstrate the induction of malignant tumors in one or more species including benign tumors that are generally recognized as early stages of malignancies.* Suggestive evidence includes the induction of only those nonlife-shortening benign tumors which are generally accepted as not progressing to malignancy, and indirect tests of tumorigenic activity, such as mutagenicity, in-vitro cell transformation and initiation-promotion skin tests in mice." [Italics added.]

This approach to the problem of identifying substances which pose a carcinogenic risk to man is generally supported by the final report of the National Cancer Institute's National Cancer Advisory Board Subcommittee on Environmental Carcinogenesis entitled "General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances." That report states:

"The carcinogenicity of a substance is established when the administration to groups of animals in adequately designed and conducted experiments results in increases in the incidence of one or more types of malignant neoplasms [or a combination of benign and malignant neoplasms] in the treated groups as compared to control groups maintained under identical conditions but not given the test compound. The increased incidence of neoplasms in one or more of the experimental groups should be evaluated statistically for significance, and the only major experimental variable between the control and the experimental group should be the absence or presence of the single test agent. Such increases may be regarded with greater confidence if positive results are observed in more than one group of animals or in different laboratories. The demonstration that the occurrence of neoplasms follows a dose-dependent relationship provides additional evidence of a positive result.

"The occurrence of benign neoplasms raises the strong possibility that the agent in question is also carcinogenic since compounds that induce benign neoplasms frequently induce malignant neoplasms. In addition, benign neoplasms may be an early state in a multi-step carcinogenic process and they may progress to malignant neoplasms; also, benign neoplasms may themselves jeopardize the health and life of the host. For these reasons, if a substance is found to induce benign neoplasms in experimental animals it should be considered a potential human health hazard which requires further evaluation. In experiments where the increased incidence of malignant neoplasms in the treated group is of questionable significance, a parallel increase in incidence of benign tumors in the same tissue adds weight to the evidence for carcinogenicity of the test substance."

Dr. Reuber provided further support for this approach in his testimony in FIFRA 293. He testified that carcinogenesis in man can be detected or reliably predicted in either of two ways. The first is by valid epidemiological evidence, i.e., by the observation of groups of human beings, one of which has been exposed to the compound in question and the other of which has not. Tumor incidence is then compared among individuals of both groups according to age, sex and other characteristics. (Reuber Testimony at 20). The second is by examining the effects of a particular substance on mammalian

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[4] In addition to these two bioassay experiments, there have been two very recent experiments performed on mice and rhesus monkeys by the Center of Experimental Pathology and Toxicology of Albany Medical College for Allied Chemical Corporation. In the monkey experiment a total of eight monkeys were exposed to different doses of Mirex for periods ranging from one year, five months to three years, one month. No carcinogenic effect was reported. However, because of the small number of animals employed and the short durations of exposure, the significance of this study is highly questionable.

In the other experiment Mirex was fed to mice at 0.2 ppm for twenty months. The tissue slides from this experiment have been analyzed by only one pathologist and no statistical analysis has been performed on that diagnoses. A disturbing aspect of the experiment is that Mirex was found in the tissues of the control animals. Until further analysis is made of this study, its significance is unclear.

[5] All of the Mirex exposed mice died before the conclusion of the experiment. It is reasonable to conclude that some of the treated mice that died without tumors likely would have formed such tumors by the end of the experiment had they lived to the end of the experiment. (Reuber Testimony at 13; Gart Testimony at 9.)

[6] On August 20, 1976, Dr. Squire sent a memorandum to EPA's Cancer Assessment Group summarizing his evaluation of the Second Bionetics Experiment. In that memorandum Dr. Squire stated that "there is a marginally significant result for hepatocellular carcinomas in male rats; however the high dose response itself is not significantly higher than the control response. Neoplastic nodules in male rats show a significant response when comparing high dose with controls. The test among females was not significant • • •. Although the results indicate there may be a hepatocarcinogenic effect, the small animal group sizes and the small number of animals with liver neoplasma do not permit a firm determination." (Appendix E.)

[7] Between 1973 and 1976 the nomenclature for rat tumors changed among many pathologists from "hyperplastic nodule" to "neoplastic nodule."

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species other than man. (Reuber Testimony at 19–20).

With many variables inherent in such experiments, it is extremely difficult to obtain valid epidemiological data for chemical carcinogens in human beings. (Reuber Testimony at 19–20; see also Reference 6 at 463; Reference 7 at 27). It is all the more difficult when the compound under test is a pesticide which is found widely in the environment and for which suitable control groups may therefore be difficult or impossible to establish. (Reuber TR 8,696). For Mirex there is as yet no epidemiological data. (Reuber Testimony at 20). Therefore the carcinogenic risk to man posed by Mirex must be determined by examining its effects on species other than man.

The formation and occurrence of tumors in man and in such test animals as hamsters, mice, and rats is very similar. Kotin TR 1,629). Hyperplastic lesions are found in both man and test animals, and morphologic features of tumors are the same, both grossly and microscopically. Reuber Testimony at 19–20). Carcinogens in all mammalian systems are characterized by irreversibility of effect. Upon the transformation of a cell from its normal condition to a neoplastic state, that cell will reproduce, as will the cells it produces; this process may be initiated by only a small quantity of a carcinogenic agent, and only a small number of neoplastic cells may be required to keep this process of carcinogenesis alive. (Reuber Testimony at 18; see also Reference 7 at 32). Beyond a certain point in this process, moreover, the carcinogenic stimulus can be removed and the progression toward carcinomas will continue. (Reuber Testimony at 18). That point is reached when hyperplastic nodules are observed. (Reuber Testimony at 3).

The First and Second Bionetics Experiments demonstrate that Mirex induces malignant tumors (hepatocellular carcinomas) in mice and rats including benign tumors that are generally recognized as early stages of malignancies ("hyperplastic nodules" – or "neoplastic nodules"). Therefore, under the "Interim Cancer Assessment Procedures", substantial evidence exists that Mirex is a human carcinogen. The weight of this evidence may be reduced slightly by Dr. Newberne's apparent disagreement with Drs. Innes, Reuber, and Kotin with regard to the First Bionetics Experiment and with Drs. Reuber and Squire with regard to the Second Bionetics Experiment. However, the evidence is certainly strong enough to support a holding that Mirex is a potential human carcinogen. The carcinogenic risk that Mirex poses to man therefore depends on the extent of human exposure to Mirex.

E. EFFECTS OF MIREX ON WILDLIFE

1. *Avian Species.* The lethal toxicity of Mirex to most birds is low and there is little potential for lethality at current levels of Mirex field applications. (Lincer Testimony at 9–10). At these levels of application no perceptible reproductive effects would be caused in avian species that have been tested thus far. (Lincer Testimony at 11).

2. *Fish.* Although Mirex is not directly lethal to fish at environmentally realistic levels of exposure (Reference 8 at 75), Mirex has the potential for causing widespread change in populations and communities of aquatic ecosystems. (Livingston Testimony at 5).

3. *Crustaceans.* Laboratory experiments have demonstrated that Mirex is highly toxic to crustaceans, often at miniscule levels of exposure. Effects arising from exposure to Mirex range from short-term lethality to more prolonged and subtle consequences for the development of these organisms. (Lowe Testimony; Ludke/Finley Testimony).

4. *Non-target Insects.* Tests have shown that one application of 0.018 pounds of technical Mirex per acre reduces the population of carabid and staphylinid beetles by 60 percent and 67 percent respectively. (Hensley Testimony at 3; Reference 10; Hensley TR 2,727). These insects are among the natural predators of the sugarcane borer. (Hensley Testimony at 3).

F. TRANSPORT OF MIREX

Mirex leaches from Mirex bait into sea water. (Tagatz Testimony at 5; Reference 11 at 4). Mirex can be leached from Mirex bait by fresh water, and it can thereafter enter a salt water environment. (Tagatz Testimony at 5). Studies have shown that Mirex residues in water resulting from fresh water runoff after application of Mirex in the watershed range from 0.1 to 1.0 parts per trillion in fresh runoff waters. (Alley Testimony at 7–8). Mirex is transported into aquatic organisms, including edible fish, from nearby treated lands. (Duke Testimony at 7, Duke TR 1,901).

G. RESIDUES OF MIREX IN THE ENVIRONMENT

Mirex is chemically identical to the compounds known as "Dechlorane" and "C10 Cl_{12}." "Dechlorane" was marketed from 1959–72 as a fire retardant in plastics and polymers. "C10 Cl_{12}" has been marketed for only a short period of time for limited pyrotechnical usage. (Alley Testimony at 12). Dechlorane cannot escape from the plastics and polymers in which it is used until they degrade. Many of these plastics and polymers are, however, non-degradable by environmental action. (Alley Testimony at 12). Since Mirex residues generally exist only in areas treated with Mirex, it is safe to assume that residues observable in the environment are due to application of the pesticide Mirex. (Alley Testimony at 12–13; Alley TR 4,292, 4,293–8; Enos Testimony [II] at 1; Lincer TR 8,972–74; Puma TR 5,215–24).[8]

1. *Mirex Residues in Human Beings.* Dr. F. W. Kutz presented the results of the EPA's National Human Monitoring Program (NHMP) up to the time he testified in the hearing. Samples were taken after that time but not yet completely analyzed as of the date of Dr. Kutz's appearance. A total of 1,400 samples had been collected nationwide and analyzed at the time Dr. Kutz testified. Only since 1970 have NHMP analytical techniques been geared to detect Mirex in particular (Kutz TR 5,456), and the incidence of Mirex residues in human beings, as presented in the testimony of Dr. Kutz, was based on samples taken up to only April, 1972. (Kutz TR 5,470). Dr. Kutz testified that Mirex had been found in nine samples of human adipose tissue, all of which came from states that receive Mirex treatment. The nine positive samples were found in a total of 329 samples taken by the NHMP in eight states. Dr. Kutz stressed, however, that in reporting these NHMP results he could draw no conclusions concerning the statistical incidence of Mirex residues in human beings residing in these eight states. (Kutz Testimony [II] at 4, Kutz TR 5,450).

Recognizing a need to obtain a better indication of the extent of Mirex residues in human beings in Mirex treated states, EPA began a monitoring study early in Fiscal Year 1976 that, except for some control samples, limited itself to the states in which Mirex is applied as a pesticide. More than 40 collecting sites were recruited in addition to the ones already collecting for the national program. Although the collecting and analysis is not yet completed, the results so far show that Mirex is present in the adipose tissue of from 21 percent of the human beings in the states where Mirex is applied. The percentages are much higher in states that receive heavy Mirex treatment. (Appendix F). The average residue of Mirex in the positive samples analyzed to date is 0.38 ppm with a range from trace to 1.32 ppm. Five of the positive samples have been verified by mass spectrographic methods to eliminate any possible confusion with other compounds that could result from gas-liquid chromatograph analysis. These results represent a significant addition to the Agency's information about human exposure to Mirex.

2. *Mirex Residues in Human Foods.* Mirex residues are not observed with any great frequency in the national food monitoring programs conducted by FDA and USDA. (Puma Testimony at 6–7). However, these programs are not entirely adequate for determining human exposure to Mirex via the diet. (Puma Testimony at 18–15). All three programs (FDA Total Diet Survey, FDA Pesticide Program, and USDA Animal and Plant Health Inspection Service) are national programs that do not focus on areas of Mirex application. (Puma Testimony at 13). The multi-residue analysis techniques used in these programs are less sensitive than more specialized investigations. (Puma Testimony at 14, Puma TR 5,277). Even after multiple extractions, a reported residue in the FDA programs will represent only about 70 percent of Mirex actually present in an analyzed sample, while the USDA reported residue will represent only about 50 percent. (Puma Testimony at 16, Puma TR 5,230). More sensitive surveys directed toward Mirex treated areas detect Mirex residues in animals which could be consumed by man, including fish (Reference 12; Reference 13 at Table 22); crayfish (Reference 14 at 13); salt water crustacea (Reference 12); fowl (Reference 13 at 17–20); deer (Reference 13 at 16) and beef (Reference 15; Reference 13 at 16). No evidence was presented in the hearing to indicate whether the species sampled were eaten by humans. Mirex has also been detected in three samples of cow's milk (Reference 13 at 21).

3. *Human Exposure to Mirex.* Dr. Kutz's recent data make it very clear that human beings in the South are being exposed to Mirex. The average level of Mirex that is present in those human beings is of considerable concern. This is not surprising given the readiness with which mammalian fatty tissue absorbs Mirex.

The route of human exposure to Mirex is unclear, but the high incidence of detection of Mirex in animals that are consumed by humans indicates that one of the routes of Mirex exposure is via the diet. The average daily intake of Mirex is also unknown. Extrapolation from levels present in adipose tissue is virtually impossible. However, since many humans (21 percent of the samples analyzed) are exposed to this potential human carcinogen, it is clear that Mirex use in the South according to its current registrations poses a carcinogenic risk to man.

H. BENEFITS OF MIREX

1. *Southern United States.* (a) *Description of the Fire Ant and its Habitat.* Fire ants presently infest parts of nine states in the Southeastern United States: Texas, Arkansas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, and North Carolina. (Holloway Testimony, Figure 5). Whether the fire ant is likely to spread beyond the present areas of infestation is subject to dispute. The peripheral boundary of fire ant infestation has not changed significantly since 1959, indicating that the fire ant has reached the extent of its ecological range. (Holloway Testimony at 25; Buren Testimony at 5). Several experts have testified that the fire ant could potentially infest large areas of the United States that are presently uninfested. (Markin Testimony at 9; Glancey Testimony at 23). However, there is no evidence that Mirex application has prevented the spread of the fire ant into areas where it is not otherwise limited by ecological factors. Thus, Mirex application is not necessary to prevent the spread of the fire ant beyond its current ecological range. (Holloway Testimony at 25).

(b) *Harm to Humans from Fire Ants.* The fire ant inflicts a painful sting upon humans. However, compared to many large tropical ants, wasps, or honeybees, the sting is comparatively mild. To a normal person who experiences a normal reaction, a sting is only a brief but painful incident, the effects of which disappear in a few minutes, although within 24 hours a small pustule is formed which can leave a scar. (Martin Testimony at 20–21). The fire ant is different from other stinging insects in its aggressiveness; if a person disturbs a fire ant mound he can be stung many times. (Martin Testimony at 21). Fire ant stings can give rise to secondary infections if not properly cleaned and cared for. (Triplett Testimony at 6–8). In a very small number of very sensitive persons fire ant stings, like other venomous insect stings, can result in anaphylactic shock, which is accompanied by difficulty in breathing and decrease in blood pressure. (Triplett Testimony at 9; Rhodes Testimony at 16). In very rare cases this requires special therapy. (Rhodes Testimony at 13). Hyposensitization treatment can be employed by doctors to build up immunity to fire ant stings in persons who are likely to experience anaphylactic shock from fire ant stings. (Rhodes Testimony at 17).

Fire ants are generally very easy for human beings to avoid, because their mounds are easily detected. (Yelderman Testimony at 3; Tschinkel Testimony at 43). Nevertheless, a large number of people receive fire ant stings yearly in infested states. Still, several experts have testified that as a human pest, the fire ant ranks well below many other biting insects such as wasps, chiggers, horse flies, mosquitoes, bees, sand flies, and stable flies. (Tschinkel Testimony at 44; Appendix H; Ferguson Offer of Testimony at 12).

In fact, fire ants may have some beneficial impacts on human health. Fire ants prey upon control harmful insects, such as lone star ticks. (Yelderman Testimony at 3; Holloway Testimony at 70; Hensley Testimony at 9). Ticks can cause serious illnesses including tularemia, Rocky Mountain Spotted Fever, and Relapsin Tick Fever. (Yelderman Testimony at 3).

(c) *Harm to Agriculture from Fire Ants.* Fire ants can interfere with hand harvesting of citrus, cotton, strawberries, tung nuts, and pecans in fields that are infested with fire ants. (Brown Testimony at 2–3; Ueltshey Testimony at 3; Block Testimony at 3). Additionally, fire ant mounds can interfere with harvesting machinery. (Bruer Testimony at 9; Senn Testimony at 4–5; Carlton Testimony at 2). But this only occurs in areas with clay soils. (Buren Testimony at 3). There have been reports of injury to livestock, farm animals, hay, pasture land, soybeans, and other crops due to fire ants.

Despite these reports, many experts testified that fire ants present an insignificant risk of harm to agriculture. (Yelderman Testimony at 3; Ferguson Offer of Testimony at 12; Tschinkel Testimony at 43–44; Holloway Testimony at 67–68). In fact, fire ants prey upon and help control several kinds of insects that are harmful to agriculture, including the sugarcane borer. (Holloway Testimony at 71; Hensley Testimony at 3; Reference 16).

(d) *Efficacy of Mirex.* When Mirex is applied in adequate amounts near fire ant mounds and properly foraged, the population of fire ants in the mound is severely reduced. (Lincoln Testimony at 5; Holloway Testimony at 52–53; Markin Testimony at 28). This can result in elimination of the entire colony. (Holloway Testimony at 53). If, however, Mirex bait is not foraged within one or two days after application, it can become rancid and unattractive to the ants. (Holloway Testimony at 54; Markin Testimony at 28).

When fire ants reinfest an area that has been treated with Mirex, they come back in even greater numbers than the pre-existing concentration. (Tschinkel Testimony at 44; Holloway Testimony at 10). Competition for food and territory gradually forces the fire ant population down to the pre-existing equilibrium after approximately 2–3 years. (Tschinkel Testimony at 41; Holloway Testimony at 9–10).

2. *Hawaii.* The pineapple mealybug wilt disease is a disease caused by the feeding of pineapple mealybugs, which leave toxic saliva in the pineapple plant. From the effect of the toxic saliva the root system of the pineapple plant completely collapses in a short time. (Sakimura Testimony at 2). Large numbers of mealybugs must feed for an extended time on the pineapple plant before the plant is affected. Lightly infested plants may not show the disease symptoms. Therefore, Hawaii is able to keep the pineapple plants free from disease as long as the mealybug infestation level is kept low by control measures. Mealybug wilt disease will cause affected plants not to produce any marketable fruit. If no control measure is applied against the mealybug, the disease spreads rapidly and extensively. Ants carry mealybugs to and from pineapple plants and protect or attend the mealybug colonies on pineapple plants. (Sakimura Testimony at 3, 5). Ants transport mealybugs from old pineapple plants to new succulent plants which provide a better supply of honeydew. Ants also attend mealybugs by removing excretions harmful to mealybugs and protecting mealybugs from attacks by predators or parasites. (Sakimura Testimony at 6). Ants are, therefore, largely responsible for moving the mealybugs and spreading incidence of the wilt disease. With absence of ants in the fields, there will be little spread of the disease. An annual application of Mirex Harvester Ant Bait "300" at a rate of two and one-half pounds of formulated product per acre (applied by fixed wing aircraft) with supplemental Heptachlor applications, where necessary, has been shown to be effective in controlling the ant population in Hawaiian pineapple fields to a low level. (Terry Testimony at 5).

I. ALTERNATIVES TO MIREX

1. *Southern United States.* Chlordane is the only registered alternative to Mirex for the control of fire ants in the southern United States. Chlordane is presently the subject of an ongoing cancellation hearing. For this use Chlordane is applied at a rate of two pounds per acre. Other unregistered alternatives, such as diazinon, dimethoate, and juvenile hormones show some promise, but have not been adequately tested.

2. *Hawaii.* Heptachlor is registered for control of ants in Hawaii. Mealybugs can be controlled by diazinon, parathion, and malathion. However, there was testimony that these pesticides are not adequate to control subterranean mealybug infestations. (Sakimura Testimony at 6.)

IV. THE MISSISSIPPI AUTHORITY'S PLAN

On August 31, 1976 the Mississippi Authority for the Control of Fire Ants, the current holder of ten of the eleven Mirex registrations, submitted to the Deputy Administrator of the Envirnomental Protection Agency a plan "to minimize the amount of Mirex to be used; to reduce the size of the contiguous areas treated, and to phase-out gradually the current Mirex registrations with the objective of replacing current Mirex registrations with an unquestionably safe registered material as quickly as possible." The Plan has several important elements.

A. PRODUCTION LIMITATIONS AND END DATES FOR USE OF CURRENT REGISTERED PRODUCTS

Assuming the Plan is adopted, the Mississippi Authority requested pursuant to section 6(a)(1) of FIFRA, that the Mississippi Authority's Mirex registrations be voluntarily cancelled in accordance with a prescribed phase-out schedule and certain production limitations.

1. *Mirex 4X Bait.* Mirex 4X bait is the bait cufrently used in the Joint Federal/State Fire Ant Program aerial application. Mirex 10:5 bait is a new Mirex formulation that calls for the application of approximately 70% less pure Mirex per acre than Mirex 4X bait. The effective date of cancellation for Mirex 4X bait is December 1, 1976, with use of existing stocks through December 31, 1976. Not more than 45,000 pounds of technical Mirex may be formulated into Mirex 4X bait between July 1, 1976 and December 1, 1976, when the cancellation will become effective.[9] If less than 45,000 pounds of pure Mirex are utilized prior to December 1, 1976 for formulation into Mirex 4X bait, up to 15,000 pounds of pure Mirex may be carried over for formulation into Mirex 10:5 bait during 1977. The 45,000 pound limitation will allow for a somewhat larger Mirex Program this fall than has been carried out in the past. During this fall, aerial application Mirex may be applied from multi-engine aircraft as has been the case in the past.

2. *Mirex 10:5 Bait.* Under the Plan, the effective date of cancellation for Mirex 10:5 bait is December 1, 1977. Stocks of Mirex 10:5 bait may be applied aerially through December 31, 1977. Remaining stocks of Mirex 10:5 bait existing as of December 1, 1977 may be packaged into five pound bags[10] for sale, distribution and use in ground broadcast and mound application until June 30, 1978. If 45,000 pounds of technical Mirex is formulated into Mirex 4X bait during the Fall of 1976, only 20,000 pounds of technical Mirex may be formulated into Mirex 10:5 bait during 1977. However, depending upon the amount of technical Mirex fromulated into Mirex 4X bait in Fall, 1976, as much as 35,000 pounds of technical Mirex can be formulated into 10:5 bait. This will allow for treatment of a much larger total acreage than has been treated in past years, but of course less actual Mirex will be applied per acre, and less total Mirex will be applied. Moreover, aerial application during 1977 will be allowed only from single engine aircraft and helicopters

[8] The possibility still remains that some of the observed exposure is occupational. The Agency is presently conducing an inquiry into this possibility.

[9] An additional 1,000 pounds of Mirex bait could be used for research purposes as a control to determine the efficacy of alternative materials until June 30, 1978.

[10] Under the Plan the Mississippi Authority requests that its Mirex 10:5 bait registration be amended to permit packaging into five pound bags for ground broadcast and mound, but not aerial, application. I am instructing the Office of Pesticide Programs to take the steps necessary to implement the Plan, including granting this request.

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flying at an altitude of no greater than 150 feet and at a speed of no greater than 150 miles per hour. This restriction should ensure that application is much more accurate than it has been in the past.

3. *Mirex Harvester Ant Bait 300 for Use in Hawaii.* The Plan calls for immediate cancellation of Mirex Harvester Ant Bait 300 for all uses other than for the control of ants on pineapples in Hawaii. The effective date of cancellation for that use is December 1, 1977. Stocks existing as of that date may be applied aerially until December 31, 1977, and they may be distributed, sold, and used for ground application until they run out.

4. *Other Mirex Registrations.* The effective date for cancellation for the Mississippi Authority's registrations for technical Mirex is December 1, 1977.[11] This will allow for use of technical Mirex for only so long as is necessary to comply with the production limitations and end dates for the formulated products. All other Mirex registrations are cancelled immediately under the Plan. Presently existing stocks of materials formulated under these registrations may be distributed, sold, and used until December 31, 1977.

B. OTHER RESTRICTIONS ON MIREX APPLICATION.

1. *Number of Aerial Applications.* Other than the poundage limitations, the most important provision of the Plan is that it provides that no single acre of land may be treated aerially with Mirex bait of any kind between July 1, 1976 and December 31, 1977. Thus, any given land owner will receive at most only one more aerial application of Mirex bait.

2. *Request for Non-Treatment.* The Plan provides for notifying residents prior to aerial Mirex application to provide every resident an opportunity to prevent aerial Mirex application upon his land.

3. *Coastal Zone Restrictions.* The Plan calls for lifting certain presently-existing restrictions against applying Mirex in coastal counties. Rather than relying on political boundaries for determining how close to marine areas Mirex will be applied, as has been done in the past, the Plan relies on hydrological and geographical factors. Under the Plan, Mirex may not be applied in the "coastal zone," which consists of areas within twelve miles of coastlines, estuarine areas, and saline marshes, and areas around major rivers which are subject to tidal influence. Mirex may only be applied in coastal counties of a state if the state develops a plan of its own in accordance with the general criteria set forth in the Plan which is acceptable to EPA.

4. *Other Area Limitations Applicable to Aerial Applications.* Under the Plan, Mirex may not be applied to "wooded areas" as defined in the Plan. Neither may Mirex be applied to aquatic areas as defined in the Plan, except for intermittent streams where there is no flow, and during the Fall of 1976 (when multi-engine aircraft will be allowed) except for man-made or natural impoundments which do not exceed two acres in size and which are not commercially fished. The intent of this provision is to keep Mirex out of areas which might result in exposure of aquatic organisms and areas in which exposure to human water supplies might result. The Plan will not allow Mirex application to idle lands that when left untreated will not increase infestation exposure to treated lands. Other areas will be aerially treated only if an appropriate state official certifies in writing before each application that he or his employees have inspected the area and found that there is at least one imported fire ant mound for each one-quarter section to be treated. This last restriction is included to ensure that no land is treated that is not infested with fire ants.

C. ADDITIONAL PROVISIONS

The Plan imposes several obligations upon the Agency.

1. *Suspension of the Pending Mirex Hearing.* Pursuant to the Plan, I am immediately terminating the pending hearing under section 6(b)(2) of FIFRA.

2. *Substitution of Less Toxic Formulation for Mirex 10:5 Bait.* When presented with adequate efficacy data, EPA will, under the Plan, be obligated to permit substitution of Mirex bait formulations providing for application of less actual toxicants per acre than Mirex 10:5 bait. The production limitations, end dates and other restrictions otherwise provided for will still remain in effect for the substituted formulation. Since the poundage limitations will not change, this provision will allow more acres to be treated with the reduced toxicant formulation.

3. *Research.* EPA will continue to carry out its obligations set forth in the "Cooperative Interagency Agreement for the Study of Alternative Chemicals to Mirex," as amended. (See Attachment B to the Plan).

V. STATEMENT OF REASONS FOR ACCEPTING THE MISSISSIPPI AUTHORITY PLAN

The Agency has decided to accept the Plan submitted by the Mississippi Authority. Because the Mississippi Authority is the sole registrant of end-use Mirex products, and the Plan proposed by it provides for the final cancellation of all of its Mirex registrations,[12] the primary consideration affecting the decision to accept or reject the Plan is whether the phase-out period specified in the Plan for certain Mirex registrations is consistent with applicable statutory standards and the public interest in general. In the event that the Agency had determined that this or any other aspect of the Plan as unacceptable, its only option would have been to continue the FIFRA section 6(b)(2) hearing, with the objective of implementing some other solution through the hearing process.

The Agency has decided that the phase-out period provided for in the Plan is in the public interest, for essentially the following reasons:

A. FALL 1976 APPLICATIONS

The Plan calls for allowing a slightly expanded program for applying Mirex 4X bait in the Fall of 1976. The present Mirex hearings would probably not be completed before November. The Administrative Law Judge and the Administrator would then have a combined total of ninety days to render a decision whether or not to cancel. A suspension hearing could consume an equivalent amount of time. The bulk of the Fall application program would be over by late November. Thus, it seems clear that the Fall 1976 application would proceed in any event.[13]

B. APPLICATIONS IN 1977 AND 1978

It would probably be possible to secure an order cancelling Mirex registrations prior to the Spring and Fall 1977 applications, although it is possible that such an order would be stayed pending appeal in a U.S. Court of Appeals. Given the dispute over some of the facts and over the weight to be given to the risks and benefits of Mirex use, as well as the possibility for procedural error inherent in formal adjudicatory proceedings, an appeal to the courts of such an order could result in Mirex use for a period of time longer than the Mississippi Authority's Plan calls for.

Moreover, pursuing the present hearings to their conclusion, including a possible appeal in a U.S. Court of Appeals, would consume large amounts of valuable Agency resources, both in the Office of General Counsel and in the Office of Pesticide Programs. The Office of Special Pesticide Reviews in the Office of Pesticide Programs is intensively engaged in evaluating a large number of pesticides, all of which may pose risks to man and the environment equal to or greater the risks posed by Mirex. The Office of General Counsel is actively supporting this effort, which will undoubtedly give rise to litigation in the near future. The limited resources of both Offices are urgently needed for these efforts. Finally, in this regard, the acceptance of the Plan will permit senior agency officials, including the Administrator, and the Administrative Law Judge assigned to the hearing, to devote their limited time to other matters.

In return for the elimination of litigative risks and preservation of Agency resources, the Agency is essentially yielding one year of aerial or ground application of up to 35,000 pounds of technical Mirex subject to stringent environmental constraints, and one-half year of ground broadcast and mound application of any of the 35,000 pounds that remains after December 31, 1977.[14] The Plan calls for application only from single engine aircraft during 1977 and only to land that is demonstrably infested with fire ants. Aquatic and marine areas are protected. During the entire remaining time allowed for aerial Mirex application no single acre may be aerially treated on more than one occasion. With these restrictions an additional 35,000 pounds of Mirex should not add significantly to the already existing environmental burden of Mirex.

A further positive aspect of the Plan is the provision requiring that if Mirex is to be used for fire ant control after January 1, 1977, it must be the 10:5 formulation (instead of the 4X formulation, which has been extensively utilized in the past). On a per acre basis, Mirex 10:5 application results in the application of approximately 70% less actual toxicant per acre. More acres can be treated with the amount of 10:5 bait that can be produced within the production limitation provided for in 1977 than would be the case if 4X bait were produced. Nevertheless, the Agency is of the view that additional acreage coupled with reduced exposure per care is preferable to less acreage with increased exposure per acre, particularly where treatment in or near populated areas is concerned.

Moreover, allowing use of Mirex, subject to the restrictions set forth in the Plan, will provide relief to the people in the South from fire ants for a reasonable period of time during which an alternative can be made available. Indeed, the assurance of a large market for an alternative pesticide to control fire ants should significantly stimulate research. Similarly, the specified phase-out period for the Hawaiian pineapple use for fire ants should permit the pineapple industry to avail itself of the benefits of any research which is conducted to develop an alternative for fire ant control, and to conduct any pesticide product development program they themselves may deem appropriate. Finally in this regard, the Plan eliminates uncertainty concerning the ultimate fate of Mirex registrations. Obviously, as long as uncertainty continued, it had some discouraging effect on public or private institutions to conduct research to develop alternatives to Mirex for ant control. This uncertainty, and any related disincentive on research efforts, are eliminated by approving the Plan.

Finally, acceptance of the Plan does not preclude the Agency from taking emergency action (including an emergency order of suspension), should any additional information come to its attention indicating that any use of Mirex provided for in the plan has given use to an imminent hazard to human health.

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[FR Doc.76–38105 Filed 12–28–76;8:45 am]

[11] Hooker Chemical Company has one other registration for a technical Mirex product. That registration is unaffected by the Plan. However, since Mirex produced under this registration may only be used in the formulation of other products, the registration will be useless after December 1, 1977, unless the Agency issues fresh registrations for Mirex formulated products at some time in the future.

[12] Because of this aspect of the Plan, the question whether Mirex registrations should be cancelled is not presented for decision. In this regard, however, the Agency notes that there is a high likelihood that the FIFRA section 6(b)(2) hearings would have concluded with a final order cancelling Mirex registrations for use against the fire ant. Essentially, this judgment is based upon the evidence that Mirex poses a cancer risk to man, coupled with the available evidence pertaining to its persistence in the environment. All of this evidence is summarized in Part III. The fate of the pineapple use of Mirex should the hearing have continued is less clear; however, with respect to this use as well, cancellation was a likely result. Even if this use had not been cancelled, it is unlikely that the registrant would have continued to produce the small quantities involved, if the fire ant uses had in fact been cancelled.

[13] We have received information that Hooker Chemical Company, the sole producer of technical Mirex is presently refusing to sell Mirex to the Mississippi Authority unless the Authority provides for indemnification for losses in potential civil litigation. Of course, if Hooker refuses to sell any further technical Mirex, the whole question of the risks and benefits of further Mirex use becomes moot.

[14] The Plan also calls for slight reductions and additions to the coastal zone restrictions from the Administrator's May 3, 1972 order. Under the Plan, relief could be obtained from the present label restriction against application in coastal counties, pursuant to a coastal zone plan submitted to and approved by the Agency. Criteria are included to grow in the development of such coastal zone plans.

[FRL 662–T; OPP–66022]

PESTICIDE PROGRAMS

Cancellation of Registration of Pesticide Products Containing Mirex

Pursuant to section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) *et seq.*) the Environmental Protection Agency (EPA) has notified the Mississippi Authority for the Control of Fire Ants, PO Box 1609, Jackson MS 39205, of its intention to cancel, in accordance with the following conditions, the registrations of all these products containing the active ingredient Mirex:

Registered products—Mirex

Registrant	EPA registration No.	Product
Mississippi authority for control of fire ants	38962–1	Fire Ant Bait.
Do	38962–2	Fire Ant Bait "150".
Do	38962–3	Granular Bait 2x now 10:5.
Do	38962–4	Granular Bait 4x.
Do	38962–5	Harvester Bait 300.
Do	38962–6	Mirex Special Concentrate (25 percent).
Do	38962–7	Mirex Technical Concentrate (80 percent).
Do	38962–8	Mirex Pelleted Bait 450.
Do	38962–9	A–O Mirex Pelleted Bait 450.
Do	38962–10	Yellowjacket Stopper.

A. PRODUCTION LIMITATIONS AND END DATES FOR USE OF CURRENT-REGISTERED PRODUCTS

1. *Number of Aerial Applications.* No single acre will be treated aerially with Mirex bait on more than one occasion between July 1, 1976 and December 31, 1977.

2. *Mirex 4x Bait.* The effective date of cancellation for Mirex 4x Bait (EPA Reg. No. 218–565) shall be December 1, 1976. Between July 1, 1976 and December 1, 1976 not more than 45,000 pounds of technical Mirex shall be formulated into Mirex 4x Bait. Stocks of Mirex 4x Bait existing as of December 1, 1976, may be used only through December 31, 1976; *provided* that 1,000 pounds of Mirex 4x Bait may be utilized for research as a control in experiments to determine the efficacy of alternative materials until June 30, 1978.

3. *Mirex 10:5 Bait.* EPA shall amend the Mirex 10:5 Bait registration (EPA Reg. No. 38962–3) to add to that registration by permitting the packaging of Mirex 10:5 Bait in five pound bags for ground broadcast or mound-to-mound application by persons affected by the imported fire ant, or under the supervision of authorized state or federal personnel.

The effective date of cancellation for Mirex 10:5 Bait (EPA Reg. No. 38962–3) shall be December 1, 1977. Between September 1, 1976 and December 1, 1977, not more than 20,000 pounds of technical Mirex shall be formulated into Mirex 10:5 Bait. *Provided that*, if less Mirex 4x Bait is produced than can be produced with the 45,000 pounds of technical Mirex provided for in paragraph (A)(2) above, up to 15,000 pounds of the amount of technical Mirex not utilized from this 45,000 pound limitation shall be added to the 20,000 pound production limitation for Mirex 10:5 Bait. Stocks of Mirex 10:5 Bait existing as of December 1, 1977 may be applied aerially only through December 31, 1977. Stocks of Mirex 10:5 Bait in five pound bags existing as of December 1, 1977 may be sold, distributed, and used in ground broadcast and mound application until June 30, 1978. Other stocks of Mirex 10:5 Bait existing as of December 1, 1977 may be packaged by the Registrant into five pound bags for sale, distribution, and use in ground broadcast and mound application until June 30, 1978.

4. *Mirex Technical.* The effective date of cancellation for Technical Mirex (EPA Reg. No. 218–585) shall be December 1, 1977. No stocks of Technical Mirex existing as of December 1, 1977 shall be distributed, sold, or used.

5. *Mirex Harvester Ant Bait 300.* The cancellation of the registration for Mirex Harvester Ant Bait 300 (EPA Reg. No. 38962–5) shall be effective immediately for all uses other than for the control of the pheidole ant, the Argentine ant, and the fire ant on pineapples in Hawaii. Presently existing stocks of Mirex Harvester Ant Bait 300 may be distributed, sold, and used for all uses until December 31, 1976. The effective date of cancellation for Mirex Harvester Ant Bait 300 for the control of the said ants on pineapples in Hawaii shall be Decem-

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ber 1, 1977. Stocks of Mirex Harvester Ant Bait 300 existing on December 1, 1977 may not be applied aerially for the control of the said ants on pineapples in Hawaii after December 31, 1977, but may be distributed, sold, and used (other than aerially) for this use indefinitely.

6. *Other Mirex Registrations.* The cancellation of all other Mirex registrations shall be effective immediately. Presently existing stocks of materials formulated according to all other EPA Mirex registrations may be distributed, sold, and used until December 31, 1977.

B. Additional Restrictions

1. *Coastal Zones.* Because of the recognized limitations of the coastal county restrictions which were based on political boundaries, and in view of the need to protect embryonic and juvenile marine and aquatic life which is dependent on shallow coastal and estuarine areas, aerial treatment will be precluded within the coastal zone as determined as follows:

The coastal zone shall be determined so as to bring within the zone all of the following areas:

(a) The area between the coastline and a parallel line twelve miles from the coastline; the coastline shall include the shores of any bays or estuaries which are contiguous to the sea;

(b) The area within twelve miles from the furthest inland edge of any coastal, saline marsh; coastal marshes are defined as those areas represented on U.S. Geological Survey maps by the standard marsh symbol with a white background;

(c) The area around major rivers which are subject to a tidal influence which area may be, based on hydrologic and geologic factors, from one-quarter mile to five miles in circumference as measured from the point of tidal influence; a major river is defined as any river which drains an area in excess of 150 square miles. The point of tidal influence is defined as the point at which the mean discharge of the river no longer affects its stage at a mean high tide.

Whenever practicable coastal zone boundaries shall be along topographical features which are easily recognizable by air, such as highways, railroad beds, and rivers.

States that desire relief from the current label restriction against aerial Mirex application in coastal counties may develop a plan in accordance with the criteria contained herein and additional guidelines as found necessary, and may submit the plan to the Office of Pesticide Programs for review and approval. Such plan must be submitted to EPA for approval at least 45 days prior to application. The Office of Pesticide Programs may, by approving the plan in whole or in part, grant relief from the label prohibition against aerial Mirex application in any coastal county to the extent that such aerial application is performed consistently with the plan and any conditions imposed by EPA Office of Pesticide Programs in conjunction with approving the plan. The current coastal county restrictions shall remain in effect for each county for which an acceptable coastal zone plan is not submitted.

2. *Type of Aerial Application.* From July 1, 1976 through December 31, 1976, aerial application shall be made in accordance with current label restrictions except where the restrictions set forth in paragraphs 3 and 4 of these additional restrictions supersede. From January 1, 1977 through December 31, 1977, aerial application shall be made only with helicopters and single-engine aircraft flying at an altitude of no greater than 150 feet and at a speed of no greater than 150 miles per hour; *provided* that these conditions shall in no way supersede regulations of other agencies, including the Federal Aviation Administration, governing the aerial application of pesticides.

3. *Requests for Non-Treatment.* Prior to any aerial application of Mirex, prominent notice shall be published in local newspapers, at least 20 days but not more than 30 days prior to application, stating what areas will be treated and giving any resident of such areas the right to prevent application upon his land. *Provided* that until December 1, 1976 the required notice may be published at least 10 days, but not more than 30 days prior to application.

4. *Area Limitations Applicable to Aerial Applications.* a. *Wooded Areas.* Wooded areas are defined as those areas which have trees and which are not used for agricultural purposes. Tree farms or commercial forests shall not be considered areas used for agricultural purposes; however, groves and orchards shall be considered used for agricultural purposes. There shall be no aerial application is contiguous wooded areas except for a 100 yard swath contiguous to treated areas and cleared areas within the wooded area.

b. *Aquatic Areas.* From July 1, 1976 through December 31, 1976 there shall be no aerial application to any aquatic areas, except for intermittent streams where there is no flow and except for manmade or natural impoundments of water which do not exceed two acres in size and are not commercially fished. However, even these exempted waters should be avoided where possible. After December 31, 1976, there shall be no aerial application of Mirex to any aquatic areas, except for intermittent streams where there is no flow. Intermittent streams are defined as those streams having continuous flow during periods of heavy run-off and no flow during the remainder of the year. Manmade or natural impoundments of water are defined as such impoundments of water occurring on farms that are utilized for purposes such as irrigation, stock watering, and recreation. Aquatic areas are defined to include without limitation estuaries, rivers, streams, wetlands, lakes, ponds, and other bodies of water. The term "wetlands" means those land and water areas subject to inundation by tidal, riverine, or lacustrine flowage. Generally included are inland navigable waters, including inland and coastal shallows, marshes, mudflats, estuaries, swamps, and similar areas in coastal and inland navigable waters. There shall be no aerial application where run-off or flooding will contaminate aquatic areas.

c. *Idle Lands.* Cut-over lands and brush fields that, when left untreated, will not increase infestation exposure to treated lands shall not be treated.

d. *Other Areas.* Aerial application is permitted (subject to paragraph 3 above) in areas other than those outlined above (even though some trees are present), such as agricultural lands, home sites, and developed portions of public areas; *provided* that an appropriate state official certifies in writing before each application that he or his employees have inspected the area and there is at least one imported fire ant mound for each one-quarter section to be treated. Certification shall be available for inspection upon EPA request.

5. *Ground Application.* Ground application, whether broadcast by properly calibrated equipment or individually mound treated, is permitted in all areas of infestation; *provided* that there shall be no ground application to aquatic and heavily forested areas or areas where run-off or flooding will contaminate such areas. Ground broadcast and mound treatment shall be confined to areas where the imported fire ants are causing significant problems.

6. *Revised labeling.* Revised labeling in accordance with this notice shall be prepared and submitted by the Mississippi Authority for the Control of Fire Ants for determination by EPA that such labeling conforms to this notice and other provisions of the Act.

7. *Monitoring.* It is understood that a program for human, environmental, and application monitoring of the application of Mirex bait is essential to this agreement. The users will have primary responsibility for application monitoring, subject to EPA oversight.

C. Substitution of Less Toxic Mirex Formulations for Mirex 10:5 Bait

When presented with adequate efficacy data, EPA shall promptly permit substitution of Mirex bait formulations providing for the application of less actual toxicant per acre for Mirex 10:5 Bait (EPA Reg. No. 38962-3). The production limitations, end dates, and other restrictions provided for in this notice shall remain in effect for such substituted formulation.

The Agency has discussed this cancellation action with repersentatives of the Mississippi Authority for the Control of Fire Ants who have indicated concurrence with the intended cancellation. Moreover, the Mississippi Authority for the Control of Fire Ants has waived its right to request, within 30 days, that the registrations be continued in effect, and has further stated that it will not give its concurrence to any other person to request that the registrations be continued in effect. Accordingly, these registrations are hereby cancelled, effective on the effective dates specified herein.

Dated: December 21, 1976.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-38103 Filed 12-28-76;8:45 am]

[FRL 662-8; PF57]

PESTICIDE PROGRAMS

Notice of Filing of Pesticide Petition

Buchman Laboratories, Inc., 1256 N. McLean Blvd., Memphis TN 38108 has submitted a petition (PP 7F1885) to the Environmental Protection Agency which proposes that 40 CFR 180.288 be amended by establishing a tolerance of 0.1 part per million for residues of the fungicide 2-(thiocyanomethylthio) benzimidazole (TCNTB) in or on the raw agricultural commodity sugarcane. The proposed analytical method for determining residues is a colorimetric procedure in which residues are extracted, cleaned up, and hydrolyzed. The thiocyanate ion liberated is determined spectrophotometrically at 630 nanometers. Notice of this submission is given pursuant to the provisions of Section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act. Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW, Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 22, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202/426-2454. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: December 20, 1976.

John B. Ritch, Jr.,
Director, Registration Division.

[FR Doc.76-38102 Filed 12-28-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21019; File No. TS 10-76; FCC 76-1147]

PEOPLES TELEPHONE COOPERATIVE, INC., ET AL.

Toll Connection Arrangement

Adopted: December 15, 1976.

Released: December 28, 1976.

1. We have before us for consideration (1) a formal complaint filed pursuant to Sections 201(a), 206, 207, 208, 209 and 214(a) of the Communications Act of 1934, as amended, by Peoples Telephone Cooperative, Inc. (Peoples) against Southwestern Bell Telephone Company (Southwestern) and General Telephone Company of the Southwest (General); (2) Southwestern and General's answers and requests that the complaint be dismissed; and (3) Peoples' oppositions to the requests for dismissal of its complaint.

2. Peoples is a non-profit corporation providing telephone service and equipment to subscribers in Wood County, Texas. In 1973, Peoples constructed a toll line from several of its exchanges to Southwestern's repeater point D5E in Wood County.[1] Southwestern refused to interconnect its toll terminal facilities with Peoples' newly constructed toll line and abandon the present toll routing arrangement. The present arrangement requires that Peoples' intrastate and interstate traffic be transferred from its facilities to the lines of General and then to those of Southwestern. Peoples' proposed rerouting arrangement would bypass General's facilities and allow direct interchange of traffic between Peoples and Southwestern. Peoples brought an action in United States District Court, Eastern District of Texas, against Southwestern alleging violation of the antitrust laws and seeking equitable relief and damages. The Court denied Southwestern's motion to dismiss and, applying the doctrine of primary jurisdiction, stayed all proceedings before it pending conclusion of appropriate administrative proceedings before this Commission. Peoples Telephone Cooperative, Inc. v. Southwestern Bell Telephone Company," 399 F. Supp. 561 (E.D. Tex. (1975)). The parties were thereafter unsuccessful in further attempting to settle the dispute and the instant complaint was filed.

3. All parties agree that the basic issue to be determined is whether it is in the public interest to change the existing toll connection arrangement to permit Peoples to connect its new toll line directly to Southwestern's toll terminal. Peoples alleges that such a change would be necessary and desirable in the public interest because it would be more rapid and efficient for all telephone users if the intermediary connection through General were eliminated. Peoples asserts that this would permit direct dial toll service not now available; allow use of entirely underground facilities as opposed to the mainly aerial facilities of General; and eliminate a third party between Peoples' and Southwestern's toll centers. Finally, Peoples alleges that Southwestern's refusal to connect with its new toll line is based in substantial part on a desire to accommodate General in order that General may continue to share in the revenues generated by Peoples' subscribers on messages transmitted through Southwestern's toll center. Accordingly, Peoples asks us to (1) order Southwestern to establish a physical connection with Peoples' toll line at its toll terminal near Quitman, Texas at repeater point D5E; (2) order General to cease and desist from any efforts to prevent Southwestern from making such a connection; (3) grant such certificates pursuant to Section 214(a) of the Act as may be required for the discontinuance of the existing toll connection; and (4) award damages to Peoples as may be established as resulting from Southwestern and General's violations of the Act.[2]

4. Southwestern and General argue that the change from the existing toll connection arrangement requested by Peoples is not in the public interest. Southwestern asserts that a change in point of connection should be made only in the most compelling circumstances and both parties contend that the proposed change would result in duplicating facilities and idling useful plant.[3] They deny Peoples' allegation of collusion for the purpose of continuing General's participation in sharing toll revenues. In addition, they challenge the legal sufficiency of the complaint under Section 208 of the Act asserting that it fails to allege a violation by either defendant of any provision of the Act or of any Commission order, rule or regulation, and therefore ask that the complaint be dismissed. Furthermore, Southwestern contends that Peoples' offer to specify damages by supplemental complaint does not comply with our rules. Finally, both defendants deny that the Commission has jurisdiction under Section 214(a) of the Act with regard to this matter since no application by an appropriate party for relief thereunder has been filed.

Discussion

5. Consideration of whether the complaint states a cause of action under the Communications Act requires us to accept the material allegations therein as true, "Conely v. Gibson," 335 U.S. 41 (1957). We believe that the complaint substantially complies with our procedural rules governing complaints and we will deny defendants' motions to dismiss. Section 1.731(a) of our rules provides for dismissal of a complaint when there is a "lack of legal sufficiency appearing on the complaint." Section 1.722 of our rules provides:

> A formal complaint shall be so drawn as to advise the Commission and the defendant fully wherein the provisions of the Communications Act, or an order, rule, or regulation of the Commission have been violated; as to the facts claimed to constitute such violation, including such data as will identify, with reasonable certainty, the communications, transmissions, or other services complained of (as well as any other appropriate facts elicited by § 1.723); and as to the relief sought.

In addition, § 1.735(a), provides, in part:

[1] Peoples states that it constructed the toll line upon the advice of an independent consulting engineer and that of the Rural Electrification Administration field staff who believed that toll service could be improved through this facility.

[2] Peoples states that it intends to specify its damages with certainty by supplemental complaint pursuant to § 1.723 of the Commission's Rules.

[3] Southwestern expresses the fear that approval of Peoples' action would set a dangerous precedent with the likely effect of encouraging other companies to request a change in point of connection to one most financially beneficial to it.

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Any document purporting to be a formal complaint which does not state a cause of action under the Communications Act will be dismissed.

Taken as a whole, the allegations in the complaint raise questions, which we do not now decide, as to whether there have been violations of Sections 201 and 202 (a) of the Act.[4] The complaint specifically invokes Section 201(a) and alleges specific facts showing Southwestern's refusal to interconnect pursuant to that provision on terms and conditions Peoples believes to be reasonable. Furthermore, the complaint alleges, upon information and belief, the existence of an accommodating relationship between Southwestern and General which could constitute an undue or unreasonable preference or advantage for General and prejudice or disadvantage against Peoples in violation of Section 202(a). This allegation substantially complies with § 1.726 of our rules requiring that when undue or unreasonable preference, advantage, prejudice, or disadvantage is alleged, "* * * the complaint shall clearly specify the particular person, company or other entity, locality, or description of traffic affected thereby, and the particular discrimination, preference, advantage, prejudice, or disadvantage relied upon as constituting a violation of the Communications Act." Thus, it is sufficient that denial of interconnection to Peoples by Southwestern based on its desire to allow General to continue to receive a share of the toll revenues could violate Section 202(a). We do not believe that Peoples is required to plead extensive factual evidence not readily available to it in support of this allegation. Such evidence may be brought forth by later means of discovery or cross-examination in the evidentiary hearing we will now designate. We follow the policy expressed in Conely that "* * * complaint should not be dismissed for failure to state a claim unless it appears beyond a doubt that plaintiff can prove no set of facts in support of his claim that would entitle him to relief." See "Conely v. Gibson," 335 U.S. at 45. We have previously stated that our rules governing complaints are to be liberally construed. The Bunker-Ramo Corp. et al., 25 FCC 2d 691, 696 (1970); "Stroud v. Western Union," 59 FCC 2d 852 (1976). The defendants have been given adequate notice of the nature of the claims against them and have been advised with reasonable certainty of the facts upon which the claims are based. We find therefore that the complaint does not lack sufficiency.

6. We also cannot agree with Southwestern that Peoples may not specify damages by supplemental complaint. Section 1.723(b) of our rules specifically states that ["D]amages may be awarded * * * upon a supplemental complaint based upon the finding of the Commission in the original proceeding." Furthermore, defendants' argument that the Commission lacks jurisdiction over this under Section 214(a) of the Act because no carrier has made an application thereunder is misplaced. Section 214(a) provides that ["N]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby". It is clear that Section 4(i) of the Act allows us to either order the filing of any appropriate application under Section 214(a), or issue after opportunity for hearing, without such a filing, any appropriate certificate should we find that the public interest requires Southwestern to interconnect directly with Peoples.[5]

7. Section 201(a) gives us authority to require the establishment of physical connection of the facilities of common carriers subject to our jurisdiction. Southwestern provides interstate telephone service and is subject to Section 214 of the Act. Peoples is a connecting carrier and subject to Sections 201 through 205 of the Act, among others, as provided in Section 2(b) of the Act.[6] The pleading filed by Peoples may be treated, for purposes of considering what relief, if any, is to be granted, as a petition for interconnection under Section 201(a) as well as a complaint under Section 208 of the Act. See Tri-City Telephone Company, 20 FCC 2d 674, 675 (1969).

8. Southwestern incorrectly states that "a change in point of connection should be made only in the most compelling circumstances." The standard by which the Commission may order physical connection of facilities of different carriers requires a determination, after opportunity for a hearing, that such connection is "necessary or desirable in the public interest." In the circumstances here we believe that an adjudicatory hearing is necessary to establish definite facts upon which to base the public interest determination. We will therefore designate this matter for evidentiary hearing. In doing so, we emphasize that connection will not be ordered merely to serve the private interests of any carrier. Conversely, should it be determined that the public interest would be served by the connection Peoples seeks, such connection will not be frustrated merely to serve the private interests of any carrier. The public interest standard must be related to the objectives set forth in the Communications Act including the provision of a rapid, efficient, nationwide wire communciation service.

9. In light of the foregoing, it is ordered, pursuant to the provisions of Sections 4(i), 4(j), 201, 202, 208 and 409 of the Communications Act of 1934, as amended, That this matter is hereby designated for hearing on the following issues:

(1) to determine whether telephone service to Peoples' subscribers would become more rapid and efficient or less costly if the intermediary connection through General were eliminated;

(2) to determine whether direct dial toll service is now available to Peoples' subscribers, and, if not, whether connection of Peoples' toll line with Southwestern will make such service available;

(3) to determine whether connection of Peoples' toll line with Southwestern will result in duplicating facilities and idling useful plant;

(4) to determine whether connection of Peoples' toll line with Southwestern will result in any adverse effect on the quality of, or charges for, any of General's telephone service.

(5) to determine the facts and circumstances surrounding Southwestern's refusal to establish physical connections with Peoples' toll line;

(6) to determine whether General has engaged in efforts to encourage or persuade Southwestern not to establish physical connections with Peoples' toll line, and, if so, the nature and extent of those efforts;

(7) to determine whether Southwestern has engaged in any unjust or unreasonable practice in violation of Section 201(b) of the Act by refusing to establish physical connections with Peoples' toll line;

(8) to determine whether Southwestern has given any undue or unreasonable preference or advantage to General in violation of Section 202(a) of the Act by refusing to establish physical connections with Peoples' toll line;

(9) to determine whether Southwestern has subjected Peoples to any undue or unreasonable prejudice or disadvantage in violation of Section 202(a) of the Act by refusing to establish physical connections with Peoples' toll line;

[4] Section 201(a) provides: "It shall be the duty of every common carrier engaged in interstate or foreign communication by wire or radio to furnish such communication service upon reasonable requests therefor; and, in accordance with the orders of the Commission, in cases where the Commission, after opportunity for hearing, finds such action necessary or desirable in the public interest, to establish physical connections with other carriers, to establish through routes and charges applicable thereto and the divisions of such charges, and to establish and provide facilities and regulations for operating such through routes."

Section 202(a) provides: "It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage."

[5] Section 4(i) provides: "The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions."

[6] Section 2(b) provides, in part: "Subject to the provisions of section 301, nothing in this Act shall be construed to apply or to give the Commission jurisdiction with respect to * * * (2) any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier * * * except that sections 201 through 205 of the Act, both inclusive, shall except as otherwise provided therein, apply to carriers described in clauses (2), (3), and (4)." (Emphasis added.)

(10) to determine whether Southwestern has engaged in any unjust or unreasonable discriminatory practice or has subjected Peoples' subscribers to undue or unreasonable prejudice or disadvantage in violation of Section 202(a) of the Act by refusing to establish physical connections with Peoples' toll line;

(11) to determine whether General has subjected Peoples' subscribers to undue and unreasonable disadvantage in violation of Section 202(a) of the Act and made efforts to prevent Southwestern from establishing physical connections with Peoples' toll line;

(12) to determine whether Southwestern and General, acting in concert, have engaged in any unjust or unreasonable discriminatory practice or have subjected Peoples' subscribers to any undue or unreasonable prejudice or disadvantage in violation of Section 202(a) of the Act by continuing to insist on General's intermediary connection between Peoples' and Southwestern's toll centers after Peoples had requested connection of its toll line to Southwestern's toll center;

(13) to determine whether forfeitures should be imposed against Southwestern pursuant to Section 202(c) of the Act for any violation determined in issues (8) through (10) and (12) above;

(14) to determine whether forfeitures should be imposed against General pursuant to Section 202(c) of the Act for any violation determined in issues (11) and (12) above;

(15) to determine whether it is necessary or desirable in the public interest to order Southwestern to establish a physical connection with Peoples' toll line at the Southwestern toll terminal near Quitman, Texas at repeater point D5E and, if so, whether it is necessary or desirable in the public interest to establish through routes and charges applicable thereto and the divisions of such charges, and to establish and provide facilities and regulations for operating such through routes;

(16) to determine whether our findings in issue (15) above require General to obtain a certificate for discontinuance of service pursuant to Section 214(a) of the Act, and, if so, whether such certificate should be granted to General.

10. *It is further ordered*, That the hearing in this proceeding shall be held before an Administrative Law Judge at a time and place to be specified by subsequent order; and that such Administrative Law Judge shall upon closing of the record, prepare and issue an initial decision, which shall be subject to the submittal of exceptions and requests for oral argument as provided in § 1.276 and 1.277 of the Commission's Rules (47 CFR 1.276 and 1.277), after which the Commission shall issue its decision as provided in § 1.282 of the Commission's Rules (47 CFR 1.282).[7]

11. *It is further ordered*, That Peoples Telephone Cooperative, Inc., Southwestern Bell Telephone Company, General Telephone Company of the Southwest, and the Chief, Common Carrier Bureau, are made parties to this proceeding.

12. *It is further ordered*, That the initial burden of proceeding with regard to issues (1) and (2), and (6) through (15) shall be upon Peoples and with regard to issues (3) and (4) shall be upon Southwestern and General.

13. *It is further ordered*, That the burden of proceeding with regard to issue (5) shall be with Southwestern.

14. *It is further ordered*, That the parties herein may avail themselves of an opportunity to be heard by filing with the Commission pursuant to Section 1.221(e) of the Rules within twenty (20) days of the release date of this Memorandum Opinion and Order, a written notice stating an intention to appear on the date set for hearing and present evidence on the issues specified.

15. *It is further ordered*, That the motions to dismiss of General and Southwestern are denied.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-38181 Filed 12-28-76;8:45 am]

[7] In accordance with Section 410(b) of the Act and the "Plan of Cooperative Procedure" set forth in Appendix A, Part I of the Commission's Rules and Regulations, we are directing the Chief, Common Carrier Bureau to notify the general solicitor of the National Association of Regulatory Utility Commissioners that the Texas Public Utility Commission is invited to designate a member of its commission to sit with the Administrative Law Judge as a cooperating Commissioner. See In the Matter of Doniphan Telephone Co. v. AT&T and Southwestern Bell, 34 FCC 2d 949 (1963).

PERSONAL USE RADIO ADVISORY COMMITTEE

Meeting

Personal Use Radio Advisory Committee (PURAC) will meet at the following time and location.

Date: January 27, 1977
Time: 10 A.M.
Location: Sheraton National Hotel, Columbia Pike and Washington Blvd., Arlington, Virginia 22204.

Agenda:

1. Chairman's remarks and introductions.
2. Reports on action items.
3. Reports by task area coordinators.
4. Other business, to be determined.
5. Review of action item list.
6. Adjournment.

Meetings of PURAC are open to the public, subject to available meeting space. Observers desiring to make oral presentations at this meeting should coordinate their presentations with the Chairman. The following information should be submitted: Name, mailing address, and telephone number of person making the presentation, outline of material to be presented, duration of presentation, and audio/visual aids required. Written statements may also be submitted to the Committee and should be addressed to the Chairman, Mr. John B. Johnston, Room 5114, Federal Communications Commission, Washington, D.C. 20554. Further information concerning this meeting of PURAC may be obtained from Mr. Gregory M. Jones, Room 5114, Federal Communications Commission, Washington, D.C. 20554 (202-632-7175).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-38182 Filed 12-28-76;8:45 am]

PRIVATE LAND MOBILE ADVISORY COMMITTEE

Meeting

In preparation for the 1979 World Administrative Radio Conference (WARC), the Private Land Mobile Advisory Committee, headed by Neal Pike, will hold its next meeting on January 27, 1977 in Washington, D.C. The meeting will be held in Conference Room 8210, Federal Communications Commission, 2025 M Street, N.W., at 9:00 A.M. The meeting is open to the public and will be conducted in accordance with the following agenda:

1. Call of the agenda.
2. Opening remarks of the Chairman.
3. Designation of Secretary.
4. Consideration of comments in Docket 20271, Third Notice of Inquiry.
5. Further business.
6. Adjournment.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-38183 Filed 12-28-76;8:45 am]

FEDERAL MARITIME COMMISSION

PRIVACY ACT OF 1974

System of Records

Notice is hereby given that the Federal Maritime Commission pursuant to 5 U.S.C.A. 552a(e) (4) and (11) of the Privacy Act of 1974 (Pub. L. 93-579), proposes to adopt the following additional notice of system of records.

Interested parties may participate in this proceeding by filing with the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, on or before January 28 1977 an original and 15 copies of their views and comments pertaining to the routine use portion of the notice. All suggestions for changes in the text should be accompanied by drafts of the language thought necessary to accomplish the desired changes and should be accompanied by supportive statements and arguments. If no comments are received within 30 days from the date of publication (January 28, 1977) in the FEDERAL REGISTER, the additional system of records will become effective, as proposed, by the Commission.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

FMC-21

System name:

Payroll Records—Federal Maritime Commission.

System location:

General Services Administration, Region 3 Office; copies held by the FMC. (GSA holds records for the Federal Maritime Commission under contract.)

Categories of records in the system:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees;

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health benefits records, requests for deductions; tax forms, W–2 forms, overtime requests; leave data; retirement records. Records are used by the FMC and GSA employees to maintain adequate payroll information for FMC employees, and otherwise by the FMC and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C., generally.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Privacy Act Officer, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Privacy Act Officer.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93–579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and microfilm.

Retrievability:

Social Security Number.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2)

System manager(s) and address:

Director, Office of Budget and Finance, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

Notification procedure:

All inquiries regarding this system of records should be addressed to: Privacy Act Officer, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

Record access procedures:

Requests for access to a record should be directed to the Privacy Act Officer listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

Contesting record procedures:

An individual desiring to amend a record pertaining to him shall direct such a request to the Privacy Act Officer at the above listed address. Such request shall specify the desired amendments and the reasons therefor, and shall meet the requirements of section 503.66 of Title 46 of the Code of Federal Regulations.

Record source categories:

The subject individual; the Commission.

APPENDIX—FEDERAL MARITIME COMMISSION

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a "routine use," to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

A record from this system of records may be disclosed as a "routine use" to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc.76–38076 Filed 12–28–76;8:45 am]

[Independent Ocean Freight Forwarder License No. 1706]

EL COQUI SHIPPING CO.

Order of Revocation

By letter dated November 19, 1976, Mr. Anthony La Penta, dba, El Coqui Shipping Company, 371 Classon Avenue, Brooklyn, NY 11238 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1706 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before December 19, 1976.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

El Coqui Shipping Company has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (c) dated June 30, 1975:

It is ordered, That Independent Ocean Freight Forwarder License No. 1706 issued to El Coqui Shipping Company be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No.

1706 be and is hereby revoked effective December 19, 1976.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon El Coqui Shipping Company.

LEROY F. FULLER,
Director,
Bureau of Certification & Licensing.

[FR Doc.76–38204 Filed 12–28–76;8:45 am]

[Independent Ocean Freight Forwarder License No. 1711]

FREDERICK MICHAEL BROTHERS

Order of Revocation

By letter dated November 19, 1976, Mr. Frederick Michael Brothers, 67–81 152nd Street, Flushing, N.Y. 11367 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1711 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before December 19, 1976.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Frederick Michael Brothers has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (c) dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1711 issued to Frederick Michael Brothers be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1711 be and is hereby revoked effective December 19, 1976.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Frederick Michael Brothers.

LEROY F. FULLER,
Director,
Bureau of Certification & Licensing.

[FR Doc.76–38205 Filed 12–28–76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G–2895, etc.]

ATLANTIC RICHFIELD CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

DECEMBER 16, 1976.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 13, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G–2895..... D 7–6–76	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Natural Gas Pipeline Company of America, Lips Field, Roberts and Ochiltree Counties, Tex.	(1)	(1)
G–4070..... C 7–8–76	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	Arkansas Louisiana Gas Co., East Haynesville and Colquitt Fields, Claiborne Parish, La.	[2] [3] [4] 67.9065/	15.025
G–4579..... D 3–5–76	Cities Service Oil Co. (operator), et al., P.O. Box 300, Tulsa, Okla. 74102.	Colorado Interstate Gas Co., Keyes Field, Cimarron County, Okla.	(5)	(5)
G–7004..... D 11–30–76	Pennzoil Co., 900 Southwest Tower, Houston, Tex. 74102.	Consolidated Gas Supply Corp., certain acreage in West Virginia.	(6)	(6)
G–15492, *et seq.*[9] D 7–26–76	Caroline Hunt Schoellkopf, 2900 First National Bank Bldg., Dallas, Tex. 75202.	United Gas Pipe Line Co., et al: Northwest Oberlin Field, Allen Parish, La., et al.	(7)	----
G–19284..... D 6–8–76	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	United Gas Pipe Line Co., 1,387.557 acres of lease No. L–4636, 3,631.37 acres of lease No. L–4637, 2,908.80 acres of lease No. L–4638.	(8)	(8)
C170–573[9] 4–8–76	The Rodman Corp. (operator), et al., P.O. Box 3826, Odessa, Tex. 79760.	Cities Service Gas Co., Sooner Trend Field, Kingfisher County, Okla.	.....	.....
C172–81..... C 12–3–76	Arka Exploration Co., P.O. Box 1794, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., section 9–16N–20W, Dewey County, Okla.	(9)	----
C174–145..... C 6–15–76	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., Drinkard Formation Gas-Well Gas, Lea County, N. Mex.	[2] [3] [4] 64.0624/	14.65
C175–245..... E 12–9–76	Sun Oil Co., 2 Northpark East, P.O. Box 20, Dallas, Tex. 75221.	Arkansas Louisiana Gas Co., Lacy and River areas, Blaine and Kingfisher Counties, Okla.	[10] ----	----
C175–356..... C 11–30–76	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Colorado Interstate Gas Co., Patrick Draw Area Field, Sweetwater County, Wyo.	[2] [3] [4] 93.00/	14.65
C175–771..... C 6–15–76	Amoco Production Co.....	Transwestern Pipeline Co., Peterson Penn Field, Roosevelt County, N. Mex.	[2] [3] 63.5800/	14.65
C176–452..... C 9–3–76	Odessa Natural Corp. (operator), P.O. Box 2908, Odessa, Tex. 79760.	El Paso Natural Gas Co., township 23 north, range 3 west, all of section 21, S/2 of section 22, all of section 27 and all of section 28, all in Sandoval County, N. Mex.	[2] [3] $1.43	14.73
C177–74..... B 10–20–76	Sun Oil Co.....	Union Texas Petroleum, a division of Allied Chemical Corp., various fields, Noland and Coke Counties, Tex.	(10)	----
C177–112..... (CI64–902, CI72–852, CI75–396) D 10–20–76	Delta Drilling Co., for itself and as operator; Suburban Propane Gas Corp., 2210 Mercantile Bank Bldg., Dallas, Tex. 75201.	Northern Natural Gas Co., Crockett County, Tex.	(11)	(11)
C177–126..... A 11–26–76	Texas Pacific Oil Co., Inc., 1700 One Main Pl., Dallas, Tex. 75250.	El Paso Natural Gas Co., Elliott "B" 12 No. 2 Well, Will Carry No. 8 Well, Lea County, N. Mex.	[2] [3] [4] $0.5772	14.73
C177–127..... A 11–26–76	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Bayou Jean LaCroix Field, Terrebonne Parish, La.	[2] [3] [4] [12] [13] $1.79	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

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Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-128..... A 11-26-76	Enserch Exploration, Inc., 1817 Wood St., Dallas, Tex. 75201.	Transwestern Pipeline Co., D. F. Crane "50" Unit No. 1 Well, section 50, block 42, H. & T. C. RR. Co. Survey, Hemphill County, Tex.	[4] [11] [14] [19] $1.5375	14.65
CI77-130..... (CI65-025) B 11-19-76	CRA International, Ltd., P.O. Box 1348, Kansas City, Mo. 64141.	Panhandle Eastern Pipe Line Co., Coiclasier Gas Unit, Johansen Area, Kiowa County, Kans.	[21]	.....
CI77-132..... A 10-30-76	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	United Gas Pipe Line Co., Shongaloo Area, Webster Parish, La.	[11] [13] [22] [23] $1.5286	15.025
CI77-133..... A 12-2-76	CIG Exploration, Inc., Five Greenway Plaza East, Houston, Tex. 77046.[24]	Colorado Interstate Gas Co., Lott Area, Wheeler County, Tex.	[4] [11] [13] [19] $1.5375	14.65
CI77-134..... A 12-3-76	Texas Pacific Oil Co., Inc., 1700 One Main Pl., Dallas, Tex. 75250.	Kansas-Nebraska Natural Gas Co., Reydon Area, Roger Mills, Okla. and Hemphill Counties, Tex.	[25] $0.93 [11] [14] [26] $1.43	14.73
CI77-135..... A 12-3-76	Pacific Lighting Gas Development Co., 720 West Eighth St., Los Angeles, Calif. 90017.[24]	Pacific Interstate Transmission Co., Potash Field, Eddy County, N. Mex.; St. Clair Field, Roberts County, Tex; Apollo Field, Winkler County, Tex.	[27] 154.5427¢ [4] [11] [13] [28] 154.5046¢	14.65
CI77-136..... A 12-3-76	Arkla Exploration Co., P.O. Box 21734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., Hinton Area, Caddo County, Okla.	[4] [19] $1.53065	14.65
CI77-137..... A 12-6-76	Placid Oil Co., 1600 First National Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., Eugene Island Area, block 296, offshore, Louisiana.	[11] [13] [29] [30] 143.0¢	15.025
CI77-138..... A 12-7-76	Pan Eastern Exploration Co., P.O. Box 1642, Houston, Tex. 77001.[24]	Panhandle Eastern Pipe Line Co., Beaver County, Okla.	[4] [19] [31] 106.1614¢	14.65
CI77-139..... A 12-8-76	Amoco Production Co	Transcontinental Gas Pipeline Corp., West Mermentau Field, Jefferson Davis Parish, La.	[4] [11] [14] $1.533739	15.025

[1] Nonproducing leases expired.
[2] Subject to upward Btu adjustment.
[3] Includes tax reimbursement.
[4] Applicant proposes to collect the national rate in accordance with Opinion No. 770 as amended.
[5] Nonproductive.
[6] G-17308, CI61-399, CI61-1343, CI61-1380, CI61-643, CI64-912, CI67-1190, CI68-1102, CI69-323, CI69-185, CI70-28, CI71-867, CI79-513.
[7] Applicant states that the certificate should be amended to show that the certificate holder is Caroline Hunt Schoellkoff and should delete the interest of Loyd B. Sands.
[8] Provides for a change in delivery point. Applicant proposes to cease deliveries to buyer at 1 delivery point and commence deliveries to buyer at another delivery point currently being used to receive gas sold to buyer under 2 other rate schedules.
[9] Applicant states that there is no gas being delivered yet from the additional property added by the July 1, 1976 amendment and the instant filing is merely to file the amendment as a supplement to Rate Schedule 29.
[10] Includes 51.7176¢ base price, plus 4.2187¢ production taxes, plus 8.7261¢ Btu adjustment.
[11] Subject to upward and downward Btu adjustment from 1,000 Btu/ft³.
[12] Filing reflects merger agreement between Sue Calvert Co. and Sun Oil Co., (Delaware).
[13] Plus 1.0¢/1,000 ft³ for gathering.
[14] Includes 100 pct. tax reimbursement.
[15] Subject to upward and downward Btu adjustment.
[16] To sell gas directly to same ultimate pipeline purchaser.
[17] Depleted.
[18] Includes 7.0¢ tax reimbursement.
[19] Plus 1.0¢ escalation per quarter.
[20] Applicant is willing to accept a certificate in accordance with Opinion No. 770, as amended.
[21] The lease reached its economic limit and CRA sold its interest therein effective Dec. 21, 1971.
[22] Plus 1.02¢ escalation per quarter.
[23] Applicant is willing to accept a $2.0¢ base rate, plus tax, Btu adjustment and gathering.
[24] Applicant and purchaser are affiliated.
[25] 1973-74 vintage gas.
[26] 1975-76 vintage gas.
[27] Price based on Nash Federal No. 3 well.
[28] Price based on O. R. Tipps No. 1 and University "21-2" No. 1 wells.
[29] At 14.73¢ psia.
[30] Includes 12.0228¢ Btu adjustment at estimated 1,078 Btu.
[31] Includes 0.9946¢ escalation per quarter.

[FR Doc.76-37856 Filed 12-28-76;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1976 No. 50]

ACTIONS OF THE BOARD

Applications and Reports Received During Week Ending December 11, 1976

ACTIONS OF THE BOARD

Regulation Z, Truth in Lending, the Board issued for comment a regulatory amendment that would permit creditors doing business in Puerto Rico to make truth in lending disclosures in Spanish (Docket No. R-0066).

Home Mortgage Disclosure Act exemptions, the Board approved, with certain exceptions, application from California, Illinois, Massachusetts, and New York for limited exemptions from the requirements of the Act and the Board's implementing Regulation C (Docket No. R-0057) California; (Docket No. R-0058) Illinois; (Docket No. R-0052) Massachusetts; and (Docket No. R-0047) New York.

The Board delegated to the General Counsel the authority to make certifications (prior and final) for Federal tax purposes with respect to distributions and divestitures pursuant to the Bank Holding Company Act amendments of 1970 (Docket No. R-0065).

Clear Bancorp, Inc., Chicago, Illinois, extension of time to January 12, 1977, within which to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the Clearing Bank, Chicago, Illinois.[1]

First United Bancorporation, Inc., Fort Worth, Texas, extension of time to January 7, 1977, within which to consummate the acquisition of Las Colinas National Bank of Irving, Irving, Texas, a proposed new bank.[1]

Philadelphia National Corporation, Philadelphia, Pennsylvania, extension of time to January 31, 1977, within which to consummate the acquisition of Liberal Finance Company and Liberal Consumer Discount Company by Signal Finance Corporation.[1]

SYB Corporation, Oklahoma City, Oklahoma, extension of time to January 8, 1977, within which to consummate acquisition of Stock Yards Bank, Oklahoma City, Oklahome.[1]

Northern Virginia Bank, Springfield, Virginia, to make an investment in bank premises.[1]

Bank of Marin, San Rafael, California, extension of time to March 8, 1977, within which to accomplish membership in Federal Reserve System.[1]

First Progressive Bank, Brewton, Alabama, a proposed new bank, extension of time to September 27, 1977, within which it may open for business and effect Federal Reserve membership.[1]

Citibank Overseas Investment Corporation, New York, New York, extension of time within which its West German bank holding company, Citibank Aktiengesellschaft, may acquire and hold up to 65 per cent of the shares of Kunderkreditbank Kommanditgesellschaft Auf Aktien, Dusseldorf, West Germany, and hold up to 70 per cent of shares of Trinkaus & Burkhardt, Dusseldorf, West Germany.[1]

Deregistration for lenders pursuant to Regulation G for Cooperation Center Federal Credit Union, Berkeley, Dart Industries Federal Credit Union, Los Angeles, California; Eastern Idaho Production Credit Association, Pocatello, Idaho; Nalley's Federal Credit Union, Tacoma, Washington, and Northwest Livestock Production Credit Association, Portland, Oregon.[1]

Bank of Yakima, Yakima, Washington, proposed acquisition by Peoples National Bank of Washington, Seattle, Washington; report to the Comptroller of the Currency on competitive factors.[1]

First National Bank of Loysville, Loysville, Pennsylvania, proposed merger with Farmers Trust Company, Carlisle, Pennsylvania; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

New Bank of Pleasant Grove, Pleasant Grove, Utah, proposed merger with Bank of Pleasant Grove, Pleasant Grove, Utah; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

New Mountain View Bank, American Fork, Utah, proposed merger with Mountain View Bank, American Fork, Utah; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

New State Bank of Lehi, Lehi, Utah; proposed merger with State Bank of Lehi, Lehi, Utah; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

NOTE.—The H. 2 release is now published in the FEDERAL REGISTER. It will continue to be sent, upon request, to anyone desiring a copy.

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

United American Bank, Nashville, Tennessee. Branch to be established at 2609 West End Avenue, Nashville.[2]

The Rock Island Bank, Rock Island, Illinois. Branch to be established at 3411 18th Avenue, Rock Island.[2]

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To Become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act.

[1] Application processed on behalf of the Board of Governors under delegated authority.

APPROVED

Yamhill County Bank, McMinnville, Oregon.[2]

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International Investments and Other Actions Pursuant to Section 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Citibank Overseas Investment Corporation: To amend its Articles of association by designating Wilmington, Delaware as its home office location.

Crocker International Bank: To amend Articles of Association by changing its name to Crocker International (New York).

Bamerical International Financial Corporation Investment—additional in Societe Financiere Europeenne Luxembourg, maintaining its current 12.5 per cent interest.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

WITHDRAWN

Nabach, Inc., Farmer City, Illinois, for approval to acquire 52.27 per cent of the voting shares of State National Bank of Lincoln, Lincoln, Illinois.

APPROVED

AmeriCorp, Shawnee, Oklahoma, for approval to acquire 80 per cent or more of the voting shares of American National Bank and Trust Company of Shawnee, Shawnee, Oklahoma.[2]

• • • • • •

To Expand a Bank Holding Company Pursuant to Seotion 3(a)(3) of the Bank Holding Company Act of 1956.

REACTIVATED

Trust Company of Georgia, Atlanta, Georgia, for approval to acquire 80 per cent or more of the voting shares of Security National Bank, Smyrna, Georgia.

APPROVED

Trust Company of Georgia, Atlanta, Georgia, for approval to acquire 80 per cent or more of the voting shares of Security National Bank, Smyrna, Georgia.

United Michigan Corporation, Flint, Michigan, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of The Peoples State Bank of Caro, Michigan, Caro, Michigan.[2]

Michigan Financial Corporation, Marquette, Michigan, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of The Iron River National Bank, Iron River, Michigan.[2]

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

WITHDRAW

Nabach, Inc., Farmer City, Illinois, for approval to continue to engage in the provision of investment advisory services for State National Bank of Lincoln, Lincoln, Illinois.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

PERMITTED

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in *de novo* activities (mortgage banking including the making, acquiring, and servicing for its own account or the accounts of others, loans and other extensions of credit) at Suite 206, 824 5th Avenue, Huntington, West Virginia, through its wholly-owned subsidiary, The Kissell Company, Springfield, Ohio (12/6/76)[2]

Dominion Bankshares Corporation, Roanoke, Virginia, notification of intent to engage in *de novo* activities (making and servicing personal loans secured by first and second mortgages; and acting as agent in the sale of credit life insurance in connection with such mortgage loans) at 2101 Executive Drive, Hampton, Virginia, through its subsidiary, State Mortgage Corporation (12/9/76)[2]

First & Merchants Corporation, Richmond, Virginia, notification of intent to engage in *de novo* activities (leasing of personal property and equipment, or acting as agent, broker, or adviser in leasing of such property; term financing using conditional sales contracts and security agreements; and making or acquiring, loans or participations in loans or other extensions of credit including construction loans and other mortgage loans on residential, multi-family and commercial real estate) at 1111 East Main Street, Richmond, Virginia, through a subsidiary, Equitable Leasing Corporation (12/6/76)[2]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in *de novo* activities (providing bookkeeping and data processing services for the internal operations of the holding company and its subsidiaries and storing and processing banking, financial, or related economic data for others) at 3210 Cleveland Avenue, Fort Myers; 491 North State Road #7, Plantation; 1000 West Garden Street, Pensacola; and 1000 North Ashley, Tampa; all located in Florida, through a subsidiary, Barnett Computing Company (12/10/76)[2]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in *de novo* activities (leasing personal property and equipment where at the inception of the initial lease the expectation is that the effect of the transaction will be to compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease and acting as agent, broker, or adviser in the leasing of personal property and equipment pursuant to leases of the type described in the preceding part) at 1000 North Ashley, Tampa, Florida, through a subsidiary, Barnett Leasing Company (12/10/76)[2]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for other persons; acting as an insurance agent or broker with respect to the following types of insurance that are directly related to the extension of credit by Wells Fargo & Company or its subsidiaries: credit life and credit accident and health insurance and mortgage redemption life insurance and group mortgage disability insurance) at 1047 W. Foothill Blvd., Upland, California, through its subsidiaries, Wells Fargo Mortgage Company and WFMC Corporation (12/11/76)[2]

APPROVED

First National Charter Corporation, Kansas City, Missouri, for permission to engage *de novo* through a subsidiary, Charter Bankers Life Insurance Company, Kansas City, Missouri (engaged in the business of underwriting, as a Missouri domiciled life insurance company, credit life and credit accident and health insurance related to extensions of credit by the holding company system)

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Manufacturers Hanover Trust Company, New York, New York. Branch to be established at 100 Duffy Avenue, Hicksville (unincorporated area) Town of Oyster Bay, Nassau County.

Marion County Banking Company, Hamilton, Alabama. Branch to be established at the intersection of U.S. Highway 78 and Alabama Highway 17, Weston.

Chemical Bank and Trust Company, Midland, Michigan. Branches to be established at the following locations:
A. 2009 South Saginaw Road, Midland.
B. 3400 West Isabella Road, Midland.

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To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Bankstock One, Inc., Ozark, Arkansas, for approval to acquire 80 per cent of the voting shares of Bank of Ozark, Ozark, Arkansas.

Yoakum County Baneshares, Inc., Denver City, Texas, for approval to acquire 96.04 per cent of the voting shares (less directors' qualifying shares) of Yoakum County State Bank, Denver City, Texas.

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To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Utah Bancorporation, Salt Lake City, Utah, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Utah Valley Bank, Orem, Utah, a proposed new bank.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Chittenden Corporation, Burlington, Vermont, for approval to engage *de novo* in management consulting activities through an existing wholly-owned subsidiary, Chittenden Realty Credit Corporation, Burlington, Vermont (engaged in providing management consulting advice to nonaffiliated commercial banks; such advice would relate principally to the development of residential and commercial mortgage lending activities, including but not limited to, offering advice on the development of a mortgage lending operations manual, a departmental table of organization and responsibilities, and offering advice with respect to government mortgage programs and secondary mortgage markets)

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

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Citicorp, New York, New York, notification of intent to engage in *de novo* activities (operating as an industrial loan company (Morris Plan) issuing thrift certificates and thrift passbook certificates; offering to sell life insurance equal to the difference between the maturity value of a thrift certificate purchase plan or periodic thrift certificate purchases over a specified term and the balance at the time of the customer's death in compliance with all applicable State laws and regulations) at Cottonwood Mall Shopping Center, Inc., 4835 South, Highland Drive, Salt Lake City, Utah and 2085 West 3500 South, Granger, Utah, through its subsidiary, Nationwide Financial Service Corporation and its subsidiary, Citicorp Person-to-Person Financial Center of Utah (12/3/76).[2]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in *de novo* activities (making secondary mortgage loans secured in whole or in part by mortgage, deed of trust, security agreement, or other lien on real estate situated in the State of Maryland which property is subject to the lien of one or more prior encumbrances or other leasehold interests; and acting as agent in the sale of credit life insurance and credit accident and health insurance in connection with its extension of credit) at 7801 Old Branch Avenue, Clinton, Maryland, through a subsidiary, Union Home Loan Corporation (12/8/76).[2]

Flagship Banks, Inc., Miami Beach, Florida, notification of intent to engage in *de novo* activities (acting as agent for the sale of credit life and credit accident and health insurance and other credit related insurance that is directly related to extensions of credit by the bank holding company and/or its banking and non-banking subsidiaries) at offices in Tallahassee, Melbourne, Orlando, Tavares, Sanford, Kissimmee, Titusville, Ormand Beach, Crescent City, Arcadia, Tampa, Lutz, Zephyrhills, Mulberry, Fort Meade, Hialeah, Miami, Coral Gables, St. Petersburg, Jacksonville, Boynton Beach, Okeechobee, West Palm Beach, Fort Myers, and Punta Gorda, all located in Florida, through a subsidiary, Seaforth, Inc., 5401 West Kennedy Blvd., Tampa, Florida (12/6/76).[2]

Trust Company of Georgia, Atlanta, Georgia, for approval to acquire 100 percent of the shares of Adair Mortgage Company, Atlanta, Georgia (engaged in mortgage banking activities)

Trust Company of Georgia, Atlanta, Georgia, for approval to acquire through and for its subsidiary, Adair Mortgage Company, Atlanta, Georgia, the loan servicing portfolio and certain assets of The Georgia Loan and Trust Company, Macon, Georgia (engaged in mortgage servicing activities)

United Banks of Colorado, Inc., Denver, Colorado, notification of intent to relocate *de novo* activities (a mortgage banking business limited to the origination and closing of real estate mortgage loans) from 102 North Cascade Avenue, Colorado Springs, Colorado to 614 North Academy Boulevard, Colorado Springs, Colorado, through a subsidiary, United Mortgage Company (12/7/76).[2]

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REPORTS RECEIVED

None.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, December 22, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-38109 Filed 12-28-76;8:45 am]

C.I.T. FINANCIAL CORP.

Determination Regarding "Grandfather" Privileges

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather" privileges) with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges, if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

Notice of the Board's proposed review of grandfather privileges of C.I.T. Financial Corporation, New York, New York, and an opportunity for interested persons to submit comments and views or request a hearing, has been given (37 FR 22414 and 37 FR 25204). The time for filing comments, views, and requests has expired, and all those received, including those submitted by the Independent Insurance Agents of America (formerly the National Association of Insurance Agents) and the Independent Insurance Agents of North Carolina, have been considered by the Board in light of the factors set forth in Section 4(a)(2) of the Act.[1]

On the evidence before it, the Board makes the following findings. C.I.T. Financial Corporation ("Registrant" or "C.I.T."), New York, New York, became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the Act and by virtue of Registrant's control of 100 percent of the voting shares (less directors' qualifying shares) of National Bank of North America ("Bank"), New York, New York (assets of about $2.1 billion, as of December 31, 1970). Bank, control of which was acquired by Registrant in 1965, has total domestic deposits of approximately $2.2 billion, representing about 1.6 percent of the total deposits in commercial banks in New York State and approximately 2.3 percent of the total deposits in commercial banks in the New York City metropolitan banking market.[3] Bank, which operates 141 offices in the New York City metropolitan banking market, is the 10th largest bank in New York State and the 35th largest banking organization in the nation.

The bulk of Registrant's financial resources is concentrated in its nonbanking activities and its financial strength is not dependent upon the resources of Bank. Indeed, Registrant has served as a source of financial strength to Bank and by instituting a conservative dividend policy has enabled Bank to accumulate a very strong capital base. The Board has found no evidence of any unsound banking practices, and furthermore, actions taken by Registrant toward improving various areas of Bank's operations should enhance its prospects and overall performance.

Registrant, organized in 1924, is a diversified conglomerate which engages, either directly or through subsidiaries, in a broad range of activities but primarily banking, consumer financing, business financing, factoring, leasing of personal and real property, and acting as insurance underwriter and agent. It also engages to a lesser extent in manufacturing and merchandising, providing data processing services, making venture capital investments either directly or through limited partnerships, developing and managing real estate through limited partnerships, and controlling charitable foundations. As of December 31, 1975, C.I.T. and all of its subsidiaries had total combined assets of approximately $7 billion. Approximately 50 per cent of these assets are attributable to C.I.T.'s consumer and business finance activities, while Bank accounts for about 41 per cent of its assets. The balance is divided largely between its manufacturing and insurance subsidiaries.

C.I.T. engages in consumer financing activities ($3.9 billion of receivables outstanding on December 31, 1975) primarily through direct and indirect subsidiary companies with about 1,000 offices located throughout the United States and in

[1] During the course of the Board's review of C.I.T.'s grandfather privileges, a petition requesting a hearing on C.I.T.'s insurance activities was filed on behalf of the Independent Insurance Agents of America and the Independent Insurance Agents of North Carolina. Following an exchange of correspondence, the scope of C.I.T.'s insurance activities was clarified for the Petitioners and they subsequently withdrew their request for a hearing.

[3] Banking data as of December 31, 1975, unless otherwise noted.

Puerto Rico and Canada, and has been engaged in such activities continuously since June 30, 1968. In addition to the usual forms of consumer lending, some or all of these subsidiaries engage in purchasing retail installment obligations, financing dealers' inventories, and making second mortgage loans. C.I.T. is one of the nation's largest independent finance companies in terms of receivables with receivables of $5 billion originated during 1975. Since Registrant has been engaged in consumer financing activities continuously since June 30, 1968, these activities appear to be eligible for retention on the basis of grandfather privileges.[2]

C.I.T. engages in industrial financing and leasing activities ($1.7 billion of receivables outstanding on December 31, 1975) through a network of offices located throughout the United States and has been engaged in these activities continuously since June 30, 1968. C.I.T.'s industrial financing and leasing business covers heavy construction equipment, commercial air transport, railway rolling stock, marine tankers, material handling machinery, data processing hardware, offshore drilling rigs, and fleets of cars and trucks. These leasing activities are conducted on both a full-payout and non-full-payout basis. During 1975 C.I.T. originated $0.9 billion of industrial loans and lease receivables. In addition, C.I.T. engages in factoring and commercial financing activities primarily through three subsidiaries and has been engaged in these activities continuously since June 30, 1968. During 1975, C.I.T.'s factoring and commercial finance companies acquired receivables of approximately $3.0 million, and year-end receivables outstanding were $509.6 million. Since Registrant has been engaged in these financing, leasing, and factoring activities since June 30, 1968, and continuously thereafter, these activities appear to be eligible for retention on the basis of grandfather privileges.

C.I.T. engages in certain insurance agency and underwriting activities. Through two subsidiaries, C.I.T. underwrites life and health insurance on individuals and groups that is sold through general agents; and underwrites directly and as reinsurer credit life and credit accident and health insurance written in connection with consumer sales finance transactions and consumer personal loans. Total assets of these companies at year-end 1975 were approximately $225.1 million. C.I.T. also engages, through a subsidiary, in the underwriting of property and casualty insurance against fire, theft, collision and other physical damage risks, primarily on mobile homes, motor vehicles, recreational vehicles, and household goods which are collateral security for credit extended by subsidiaries of C.I.T. The subsidiary also underwrites such risks on direct sales made by agents and participates in insurance pools involving primary and reinsurance risks for multiple lines of insurance. In addition, C.I.T. engages in the activity of acting as agent for the sale of insurance for C.I.T. and its subsidiaries. C.I.T. does not act as agent with respect to the sale of insurance to the general public except in connection with extensions of credit by C.I.T.'s subsidiaries, and does not hold itself out as a general insurance agent. Since C.I.T. was engaged in the foregoing insurance agency and underwriting/reinsurance activities on June 30, 1968, and continuously thereafter, these activities appear to be eligible for retention on the basis of grandfather privileges.

C.I.T. engages, through subsidiaries, in leasing activities with respect to real property, and had real property lease receivables of $25.3 million at year-end 1975. The subsidiaries lease, on a full-payout basis, such property as buildings for hospital, extended care and geriatric use; related medical facilities; and residence and dining halls for educational institutions. C.I.T. was engaged in the leasing of real property on a full-payout basis on June 30, 1968, and has engaged in this activity continuously thereafter. Accordingly, this activity appears to be eligible for retention on the basis of grandfather privileges. While C.I.T. engages to some extent in the leasing of real property on a non-full-payout basis, this activity has not been engaged in Continuously since June 30, 1968, and C.I.T is not entitled to, nor does it make any claim to, grandfather privileges with respect to this activity.

C.I.T. owns subsidiaries that engage in various manufacturing and merchandising activities (combined assets of $358.8 million at year-end 1975). The Picker Corporation (assets of $191.6 million as of December 31, 1975), manufactures and supplies to the medical profession, clinics, and hospitals a varied line of x-ray apparatus, equipment and accessories manufactured by others. It also produces ultrasonic devices and nuclear instrumentation and radioactive isotope devices for clinical diagnosis and laboratory and therapy uses. C.I.T. states that the Picker Corporation's executive offices and principal manufacturing facility are located in Cleveland, Ohio; that sales and service facilities include 25 offices located throughout the United States and 12 offices throughout Canada; and that there are wholly-owned subsidiaries, sales representatives or distributors in more than 70 foreign countries. Gibson Greeting Cards, Inc. (assets of $121.8 million, as of December 31, 1975), manufactures and distributes greeting cards, gift wrapping, and other assorted related products. The executive offices are located in Cincinnati, Ohio, and the principal manufacturing facilities are located in Cincinnati, Ohio, and Memphis, Tennessee. Sales facilities are located throughout the United States. All-Steel Inc. (assets of $34.9 million, as of December 31, 1975), manufactures and distributes metal office furniture. Two affiliates of All-Steel Inc. manufacture and distribute metal office furniture and equipment in Canada. The executive offices and principal manufacturing operations of All-Steel Inc. are located in Aurora, Illinois; sales facilities are located throughout the United States. Raco, Inc. (assets of $20.4 million, as of December 31, 1975), manufactures electrical outlet, junction and switch boxes and related fittings. Its executive offices and principal manufacturing operations are located in South Bend, Indiana; sales representatives and distributors are located throughout the United States. It appears that C.I.T. was engaged in the above-mentioned manufacturing and merchandising activities on June 30, 1968, and has been engaged in these activities continuously thereafter. Accordingly, these activities appear to be eligible for retention on the basis of grandfather privileges.[4] In addition, one

[2] C.I.T. acquired, as going concerns, certain consumer finance subsidiaries between June 30, 1968 and December 31, 1970. Although C.I.T.'s finance activities appear to be eligible for retention on the basis of grandfather privileges, the provisions of sections 4(a)(2) and 4(c)(11) of the Act preclude the retention beyond December 31, 1980, of interests in or assets of going concerns acquired by a bank holding company between June 30, 1968 and December 31, 1970. Accordingly, in order for C.I.T. to retain these subsidiaries, Board approval must be obtained pursuant to one of the exemptions provided in section 4(c) of the Act. The Board's determination with respect to C.I.T.'s grandfather privileges does not imply present or future approval of any such application for retention that C.I.T. may file, since each would be separately considered by the Board on the basis of the statutory factors set forth in the Act.

In addition, C.I.T. acquired a number of de novo finance company subsidiaries on dates between June 30, 1968 and December 31, 1970. Section 4(c)(11) of the Act, in effect, exempts the creation of de novo companies engaged in indefinitely-grandfathered activities from the prohibitions of section 4 of the Act. While it may be argued that this section would apply only to de novo companies acquired subsequent to the addition of this section of the Act, i.e., subsequent to December 31, 1970, the Board notes that the only distinction between the de novo companies acquired prior to December 31, 1970, and the de novo companies acquired subsequent to that date is the intervention of the enactment of the 1970 Amendments and the section 4(c)(11) exemption contained therein. In view of this, the Board believes that a proper interpretation of section 4(c)(11) would apply the exemption of that section to the pre-December 31, 1970 de novo companies and that no useful purpose would be served by requiring C.I.T. to apply for retention of those companies. Accordingly, C.I.T. may retain the finance company subsidiaries acquired de novo between June 30, 1968 and December 31, 1970.

[4] This determination is not authority to enter into any new activities that were not engaged in on June 30, 1968, and continuously thereafter. The Board does not regard "manufacturing" as an activity in and of itself for purposes of grandfather privileges pursuant to section 4(a)(2), but rather looks to the product lines of manufacturing in which a Registrant has been continuously engaged since June 30, 1968. While the Board believes that C.I.T. may incorporate technological improvements to existing product lines, C.I.T. may not expand such product lines without Board concurrence that such expansion is consistent with C.I.T.'s grandfather privileges.

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subsidiary of The Picker Corporation, Picker Briggs Corporation, Cleveland, Ohio, was acquired as a going concern after June 30, 1968. Accordingly, pursuant to the provisions of section 4(a)(2) of the Act, C.I.T. may not retain Picker Briggs Corporation beyond December 31, 1980.

C.I.T. engages directly in data processing activities including the sale or sublease of computer time, the provision of payroll processing services, life insurance file processing, accounting and delivery scheduling and similar automated data processing services, and the sale or licensing of software initially developed by C.I.T. for its own use. In 1975 C.I.T. had receivables of $75,179 as a result of the data processing services provided to firms not affiliated with C.I.T. Since C.I.T. has engaged in this activity continuously since June 30, 1968, it appears to be eligible for retention on the basis of grandfather privileges.

C.I.T., directly and through subsidiaries, makes venture capital investments. These venture capital investments are made either directly to the borrowing companies, or indirectly through the medium of limited partnerships in which C.I.T. invests equity capital as a limited partner. C.I.T. does not claim grandfather privileges for the venture capital investments that it makes directly and has stated that all such investments will be brought below 5 percent of the shares of any company by December 31, 1980. With respect to C.I.T.'s interests in limited partnerships, such activities have not been engaged in continuously since June 30, 1968 and are not eligible for retention on the basis of grandfather privileges.[5]

C.I.T. has invested, since 1970, through its subsidiary C.I.T. Realty Corporation, in two limited partnerships organized to construct and operate moderate and low income apartment projects in New York City under the Private Housing Finance Law of the State of New York. C.I.T. has an aggregate 95 percent investment in both limited partnerships. In return, C.I.T., through its subsidiary, obtains 90 percent of the tax benefits accruing to the partnerships, such as interest deductions and depreciation. C.I.T. claims grandfather privileges for these investments on the ground that this is nothing more than a traditional but innovative form of financing; i.e., a business finance transaction similar in substance to those for which C.I.T. has grandfather privileges.[6] The Board does not believe that C.I.T.'s investment in these limited partnerships can be properly viewed as a form of general business lending. In particular, it is noted that in a lending transaction, the lender does not receive direct income tax benefits in the form of interest deductions and depreciation, as C.I.T. does in this instance. Accordingly, given the nature of such interests, the Board views C.I.T.'s participation in the development and management of real estate through these limited partnerships as an activity different in form and substance from that of general business lending. Since this activity was commenced after June 30, 1968, C.I.T. is not entitled to indefinite grandfather privileges with respect to it and may not retain such interests beyond December 31, 1980. Of course, this Determination does not preclude C.I.T. from filing an application pursuant to section 4(c)(8) of the Act for retention of such interests nor does it constitute a finding by the Board that such interests would be permissible under that section.

C.I.T. has caused to be created three charitable foundations that are engaged primarily in charitable activities, including making grants to institutions organized exclusively for religious, charitable, scientific, literary, or educational goals. Since these foundations were created prior to June 30, 1968, C.I.T. may continue its relationship with them on the basis of indefinite grandfather authority.

In addition to the above-described activities, C.I.T., from time to time, makes acquisitions in satisfaction of debts previously contracted ("dpc"), which include acquisitions of more than 5 percent of the shares of stock of certain companies.[7] C.I.T. asserts a claim to making and holding "dpc" acquisitions as a necessary and incidental part of its indefinitely grandfathered lending activities. Accordingly, C.I.T. asserts that the acquisitions which it makes or holds "dpc" may be retained on the basis of grandfather privileges without limitation or restriction, regardless of whether such acquisitions were made before or after December 31, 1970. While the Board agrees that a bona fide "dpc" acquisition may be regarded as normal, necessary and incidental to the business of lending, holding such "dpc" interests without restriction or limitation is not integral or necessary to the business of lending. Thus, the Board rejects C.I.T.'s contention that holding such property without restriction or limitation is within the scope of the grandfathered lending activities.[8]

On the basis of the foregoing and all the facts before the Board, it appears that the volume, scope, and nature of the activities of Registrant described herein do not demonstrate an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

There appears to be no reason to require Registrant to terminate its grandfathered interests. It is the Board's judgment that, at this time, termination of the grandfather privileges of Registrant described herein is not necessary in order to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. This determination is not authority to enter into any new activity or product extension that was not engaged in on June 30, 1968, and continuously thereafter, or any activity that is not the subject of this determination.

A significant alteration in the nature or extent of Registrant's activities or a change in location thereof (significantly different from any described in this determination) will be cause for a reevaluation by the Board of Registrant's activities under the provisions of section 4(a)(2) of the Act, that is, whenever the alteration or change is such that the Board finds that a termination of the grandfather privileges is necessary to prevent an undue concentration of resources or any of the other adverse consequences at which the Act is directed. No merger, consolidation, acquisition of assets other than in the ordinary course of business, nor acquisition of any interest in a going concern, to which the Registrant or any nonbank subsidiary thereof is a party, may be consummated without prior approval of the Board. Further, the provision of any credit, property, or service by the Registrant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

The determination herein does not preclude a later review, by the Board, of Registrant's nonbank activities and a future determination by the Board in favor of termination of grandfather benefits of Registrant. The determination herein is subject to the Board's authority to require modification or termination of the activities of Registrant or any of its nonbanking subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

[5] C.I.T. also claims exemptions for holding these limited partnership interests under other provisions of the Act. The question of the applicability of those exemptions to limited partnership interests is under consideration. However, the volume of scope of C.I.T.'s venture capital limited partnership interests amount to approximately $3.25 million and the Board does not regard them of sufficient magnitude to warrant delay of this Determination pending resolution of that issue.

[6] C.I.T. also claims sections 4(c)(6) and 4(c)(7) as possible exemptions for these limited partnership interests; however, the Board concludes that these exemptions are not available to C.I.T. After examining the nature and scope of C.I.T.'s involvement in the business of these partnerships, the Board has determined that C.I.T. must be deemed to be engaged in that business. Because section 4(a)(2) of the Act prohibits engaging in an activity without Board approval, the provisions of sections 4(c)(6) and 4(c)(7), which are intended to exempt small passive investments, do not provide authority for this activity.

[7] By virtue of section 4(c)(6) of the Act, the acquisition of 5 per cent or less of the outstanding voting shares of any company is exempt from the prohibitions of section 4.

[8] The Board is considering the question of the permissible time period that should be allowed for the holding of "dpc" acquisitions. The Board's determination with respect to that question will be announced at a later date.

By determination of the Board of Governors,[9] effective December 20, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-38110 Filed 12-28-76;8:45 am]

T.N.B. FINANCIAL CORP.

Acquisition of Bank

T.N.B. Financial Corp., Springfield, Massachusetts, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The First National Bank of Athol, Athol, Massachusetts. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 24, 1977.

Board of Governors of the Federal Reserve System, December 21, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-38111 Filed 12-28-76;8:45 am]

UTAH BANCORP.

Acquisition of Bank

Utah Bancorporation, Salt Lake City, Utah, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Utah Valley Bank, Orem, Utah. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 12, 1977.

Board of Governors of the Federal Reserve System, December 21, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-38112 Filed 12-28-76;8:45 am]

YOAKUM COUNTY BANCSHARES, INC.

Formation of Bank Holding Company

Yoakum County Bancshares, Inc., Denver City, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 96.04 percent or more of the voting shares of Yoakum County State Bank, Denver City, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 19, 1977.

Board of Governors of the Federal Reserve System, December 21, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.76-38113 Filed 12-28-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 21, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and FPC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before January 18, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5216, 425 I Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL POWER COMMISSION

FPC requests clearance of revisions to three schedule pages of Form No. 1, Annual Report for Public Utilities, Licensees and Others (Class A and Class B) prescribed by Section 141.1, Title 18, Chapter I of the Code of Federal Regulations. The revisions are requested to provide for reporting consistent with the establishment of a uniform formulary method for determining the maximum rates to be used in computing the Allowance for Funds Used During Construction (AFUDC) proposed in the Notice of Proposed Rulemaking in Docket No. RM75-27 issued May 20, 1975 (40 FR 23322, May 29, 1975). The revisions will be effective for the reporting year 1977. Potential respondents are the 12 electric utilities and hydroelectric licensees presently subject to the Commission's reporting requirements. FPC estimates average additional burden to be one hour per annual response.

FPC requests clearance of revisions to three schedule pages of Form No. 2, Annual Report of Natural Gas Companies (Class A and Class B) prescribed by Section 260.1, Title 18, Chapter I of the Code of Federal Regulations. The revisions are requested to provide for reporting consistent with the establishment of a uniform formulary method for determining the maximum rates to be used in computing the Allowance for Funds Used During Construction (AFUDC) proposed in the Notice of Proposed Rulemaking in Docket No. RM75-27 issued May 20, 1975 (40 FR 23322, May 29, 1975). The revisions will be effective for the reporting year 1977. Potential respondents are the 82 natural gas companies presently subject to the Commission's reporting requirements. FPC estimates the average additional burden per annual response to be one hour.

FPC requests clearance of revisions to one schedule page of Form No. 2-A, Annual Report of Natural Gas Companies (Class C and Class D) prescribed by Section 260.2, Title 18, Chapter I of the Code of Federal Regulations. The revisions are requested to provide for reporting consistent with the establishment of a uniform formulary method for determining the maximum rates to be used in computing the Allowance for Funds Used During Construction (AFUDC) proposed in the Notice of Proposed Rulemaking in Docket No. RM75-27 issued May 20, 1975 (40 FR 23322, May 29, 1975). The revisions will be effective for the reporting year 1977. Potential respondents are the 24 natural gas companies presently subject to the Commission's reporting requirements. FPC estimates the average

[9] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee, and Lilly.

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additional burden per annual response to be one hour.

FPC requests clearance of revisions to the Form No. 5, Monthly Statement of Electric Operating Revenue and Income prescribed by Section 141.25, Title 18, Chapter I of the Code of Federal Regulations. The revisions are requested to provide for reporting consistent with the establishment of a uniform formulary method for determining the maximum rates to be used in computing the Allowance for Funds Used During Construction (AFUDC) proposed in the Notice of Proposed Rulemaking in Docket No. RM75-27 issued May 20, 1975 (40 FR 23322, May 29, 1975). The revisions will be effective for reporting year 1977, beginning with the monthly report for January 1977 to be filed by March 12, 1977. Potential respondents are the 240 electric utilities and hydroelectric licensees presently subject to the Commission's reporting requirements. FPC estimates the average additional burden per annual response to be one hour.

FPC requests clearance of revisions to page one of the Form No. 11, Natural Gas Pipeline Company Monthly Statement prescribed by Section 260.3, Title 18, Chapter I of the Code of Federal Regulations. The revisions are requested to provide for reporting consistent with the establishment of a uniform formulary method for determining the maximum rates to be used in computing the Allowance for Funds Used During Construction (AFUDC) proposed in the Notice of Proposed Rulemaking in Docket No. RM75-27 issued May 20, 1975 (40 FR 23322, May 29, 1975). The revisions will be effective for reporting year 1977, beginning with the monthly report on January 1977, to be filed by March 12, 1977. Potential respondents are the 34 major interstate natural gas companies presently subject to the Commission's reporting requirements. FPC estimates the average additional burden per annual response to be one hour.

CIVIL AERONAUTICS BOARD

CAB requests clearance of the reporting requirements in Part 221a of the Board's Economic Regulations—Fare Summaries. Part 221a requires certificated air carriers to make available to the public concise and easily understandable information concerning the various normal and discount passenger fares they offer in scheduled service that they perform in interstate and overseas air transportation, so that persons contemplating air travel can make an informed choice of the alternative fares and select those best suited to their needs. Summaries of this information must be submitted to the Board at times specified in Part 221a. These submissions are required under the Federal Aviation Act of 1958, as amended. Potential respondents are 36 certificated route air carriers and CAB estimates burden to average 15 minutes for each submission of the summaries.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-38135 Filed 12-28-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

IMMUNIZATION PRACTICES ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.
Date: December 29, 1976.
Place: Room 207, Building 1, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.
Time: 1-5 p.m.
Type of Meeting: Open.
Contact Person: H. Bruce Dull, M.D., Executive Secretary of Committee, Building 1, Room 2118, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Phone: AC/404 633-3311, Extension 3701. FTS: 236-3701.
Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents for public health practice.
Agenda: The Committee will review the information on the association of Guillain-Barre syndrome and influenza vaccination.

The usual requirement for 15 days' advance notice of this emergency meeting is impossible to meet due to recent developments in the influenza immunization program.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: December 23, 1976.

DAVID J. SENCER,
Director, Center for Disease Control.

[FR Doc.76-38314 Filed 12-28-76;8:45 am]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Social Services and Welfare Subcommittee of the Secretary's Advisory Committee on the Rights and Responsibilities of Women will meet on Thursday, and Friday, January 13-14, 1977, from 9:00 a.m. to 5:00 p.m. each day in Room 624-D, HEW—South Portal Building, 200 Independence Avenue, S.W., Washington, D.C. The Social Services and Welfare Subcommittee is one of the five subcommittees of the Secretary's Advisory Committee on the Rights and Responsibilities of Women mandated to advise the Secretary concerning the needs of women for social services, including income-security programs and proposals. The agenda for the Social Services and Welfare Subcommittee will include finalizing the Subcommittee's report on Female-Headed Families with Children.

Interested persons wishing to address the Committee, should contact the Secretary's Advisory Committee on the Rights and Responsibilities of Women by COB Wednesday, January 5. Phone: 202-245-8454. Written statements received by January 5 will be duplicated and distributed to the members. Members of the public are invited to attend the meeting.

Dated: December 9, 1976.

SANDRA S. KRAMER,
Executive Director, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.76-38125 Filed 12-28-76;8:45 am]

Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

National Center for Education Statistics

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics and the U.S. Office of Education have proposed collections of information and data acquisition activities, which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to afford each educational agency or institution subject to a request under the proposed collection of information and data acquisition activities and their representative organizations an opportunity, during a 30-day period before transmittal to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collections of information and data acquisition activities.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments must be received on or before January 28, 1977 and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: December 17, 1976.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITIONING ACTIVITY

1. Agency/bureau/office—National Center for Education Statistics.
2. Agency form number—NCES 2389.
3. Title of proposed activity—Survey of characteristics of students in public and private noncollegiate postsecondary schools.
4. Legislative authority for this activity—"• • • The (national) center (for education statistics) shall—• • • collect, collate, and, from time to time, report full and complete statistics on the condition of education in the United States • • •" (Sec. 501. (a) of Pub. L. 93-380; Sec. 406.(b) of the General Education Provision Act, 20 U.S.C. 1221e-1).
5. Voluntary/obligatory nature of the response—Voluntary.
6. How information to be collected will be used—The information will be used as the sampling frame for the proposed survey of characteristics of students in public and private noncollegiate postsecondary schools. The statistics subsequently collected through questionnaires addressed to a sample of students will be used in the following manners:

By manpower researchers: tap sources of labor supply for particular occupations;

By educational planners: establish broader base from which to develop occupational programs by taking into account individuals' reasons in selecting programs and their objectives;

By legislators and policy planners: provide knowledge of options open for achieving a more balanced labor supply and direct attention to steps needed to equalize educational opportunity among various student groups;

By postsecondary planning commissions: supply basic data on both institutions and individuals in the noncollegiate sector;

By federal student aid planners and administrators: identify more accurately trends and concentrations of student groups requiring financial aid and evaluate impact of cost in students' decisions of vocational schools; and

By career guidance counselors: provide basic demographic data in clarifying types of individuals enrolled in career training schools and the motivational factors involved in choosing vocational training.

7. Data acquisition plan—a. Method of collection: Mail; b. Time of collection: January/February, 1977; and c. Frequency: Single time.
8. Respondents—a. Type: Vocational/technical postsecondary institutions; b. Number: Sample: 565 institutions; and c. Estimated number of man-hours per respondent: 30 minutes.
9. Information to be collected—A list of names, addresses and telephone numbers of students in specified programs. This information will be collected in compliance with the provisions of Section 438 of the General Education Provisions Act (20 U.S.C. 1232g) relating to the protection of the rights and privacy of parents and students.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Agency/bureau/office—U.S. Office of Education, Office of Planning, Budgeting and Evaluation.
2. Agency form number—OE 502- 11, 12, 13.
3. Title of proposed activity—A study of the sustaining effects of compensatory education on basic skills: District cost and characteristics questionnaire and cost data interview guide.
4. Legislative authority for this activity—"• • • The Secretary shall transmit (to specified committees of the Congress) an annual evaluation report which evaluates the effectiveness of applicable programs • • •

• • • such report shall (among other things) • • • describe the cost and benefits of the applicable program being evaluated • • • and identify which sectors of the public receive the benefits of such programs • • •

In the case of programs and projects assisted under Title I of the Elementary and Secondary Education Act of 1965, the report under this subsection shall include a survey of how many of the children counted under section 103(c) of such Act participate in such programs and projects, and how many children do not, and a survey of how many educationally disadvantaged children participate in such programs and projects, and how many educationally disadvantaged children do not • • •" (Pub. L. 93-380, Sec. 506(a)(3)(c); Part B, Subpart 2, Sec. 417(a) of the General Education Provisions Act as amended; 20 USC 1226c.

5. Voluntary/obligatory nature of response—Voluntary.
6. How information to be collected will be used—This material is part of a total study that is needed to provide information on the numbers of educationally and economically disadvantaged children who do and do not receive compensatory services, the nature of such services and how recipients benefit from them over an extended period of time. The results of the study, as they become available, will be included in the Annual Evaluation Report to Congress (20 U.S.C. 1226e). Such results will be used as part of a basis for legislative proposals and for USOE planning and budgeting functions.

The particular information sought in this portion of the study will be used to determine the cost of compensatory education through a resource utilization approach and to ascertain district policies that affect the conduct of compensatory projects at the school building level.

Summary results (including the nature of the most effective projects) will be distributed to appropriate members of Congress and their staffs, to State and local Title I personnel and to other interested parties.

7. Data acquisition plan—a. Method of collection: Mail and personal interview.

b. Time of collection: Each Spring for three successive years.

c. Frequency: Annually.

8. Respondents—a. Type: Local education agencies.

b. Number: 269.

c. Estimated average man-hours per respondent: 3.2.

a. Type: Principals (elementary).

b. Number: 45.

c. Estimated average man-hours per respondent: 2.

a. Type: Teachers (elementary). b. Number: 45. c. Estimated average man-hours per respondent: 1.

9. Information to be collected—Respondent type: Local educational agencies.

Expenditure of regular and compensatory funds by district and selected individual schools.

Student enrollment by grades by districts.

Number of district (FTE) employees by various job categories.

Descriptions of: district testing practices; district staff involvement in program decisions.

Number of elementary schools having different instructional approaches.

Use of Title I funds—viz. allocation practices, parent involvement, non-public school involvement.

Respondent type: Principals (elementary). Descriptions of resources used for compensatory instruction in basic skills.

Respondent type: Teachers (elementary). Frequency of resource utilization for compensatory instruction in basic skills.

[FR Doc.76-38107 Filed 12-28-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-76-673]

DELAWARE BAY ESTATES

Hearing

In the matter of: Delaware Bay Estates, Atlantic City Lots, Inc. and Sidney Simon, President, 76-285-IS, OILSR No. 0-2327-35-10.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b)

Notice is hereby given that:

1. Delaware Bay Estates, Atlantic City Lots, Inc. and Sidney Simon, President, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710,et seq.) received a Notice of Proceedings and Opportunity for Hearing issued September 24, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Delaware Bay Estates subdivision located in Cumberland County, New Jersey, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received October 18, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on January 28, 1977 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before January 5, 1977.

6. The Respondent is *hereby notified*, That failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: November 23, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-38137 Filed 12-28-76;8:45 am]

[Docket No. N-76-674]

FLOR-A-MAR/GULF HARBORS

Hearing

In the matter of: Flor-A-Mar/Gulf Harbors, Lindrick Corporation and John

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H. Evans, President, 76-233-IS, OILSR No. 0-2522-09-750 (A), (B), (C), and (D)

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b)

Notice is hereby given that:

1. Flor-A-Mar/Gulf Harbors, Lindrick Corporation and John H. Evans, President, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued September 16, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Flor-A-Mar/Gulf Harbors, located in Pasco County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received October 19, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.-160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on February 3, 1977 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before January 14, 1977.

6. The Respondent is *Hereby notified*, That failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: November 23, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-38138 Filed 12-28-76;8:45 am]

Office of the Secretary

[Docket No. D-76-472]

NEW YORK, BUFFALO, NEWARK, CAMDEN AND CARIBBEAN AREA OFFICES AND ALBANY INSURING OFFICE

Establishment of Property Disposition Committees and Redelegation of Authority

The redelegation of authority and assignment of functions with respect to the Central Office Property Disposition Committee, published at 35 FR 4022 and amended at 35 FR 16102 and 36 FR 14229, has been revised and published at 41 FR 26946, as amended at 41 FR 52545. Effective July 2, 1976, there was established in each Regional Office a Regional Office Property Disposition Committee (herein called the Regional Office Committee) to which has been redelegated the authority of the Central Office Property Disposition Committee. The redelegation of authority to the Regional Office Committee authorized each Regional Administrator and each Deputy Regional Administrator to establish in any Area Office an Area Office Property Disposition Committee and to establish in any Insuring Office an Insuring Office Property Disposition Committee and to redelegate to each such Committee the power and the authority of the Regional Office Committee within the jurisdiction of the Area or Insuring Office.

SECTION A. REDELEGATION TO AREA AND INSURING OFFICES

(1) Pursuant to such authority there is hereby established in each of the New York, Buffalo, Newark, Camden and Caribbean Area Offices an Area Office Property Disposition Committee.

(2) Pursuant to such authority there is hereby established in the Albany Insuring Office an Insuring Office Property Disposition Committee.

(3) All power and authority of the Regional Office Committee, Region II, within the jurisdiction of each of the above Offices is hereby redelegated to the respective Committees hereby established. The composition of said Committees and the applicable procedures shall be as set forth in "Property Disposition Committees, Redelegation of Authority", published on June 30, 1976 at 41 F.R. 26946.

Effective date: This redelegation of authority is effective as of August 21, 1976.

Issued at New York, N.Y.

S. WILLIAM GREEN,
Regional Administrator,
Region II, New York.

DECEMBER 6, 1976.

[FR Doc.76-38136 Filed 12-28-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

INTERIOR COAL ADVISORY COMMITTEE

Ad Hoc Steering Subcommittee Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Ad hoc Steering Subcommittee of the Interior Coal Advisory Committee will be held Friday, January 14, 1977, commencing at 9:00 a.m., in Room 7000, Interior Building, 18th and C Streets, NW., Washington, D.C.

The Interior Coal Advisory Committee was established to advise the Secretary of the Interior and to recomend positions for policy formation and implementation leading to increase the domestic production and use of coal, consistent with national energy, economic and environmental goals.

The purpose of the Ad hoc Steering Subcommittee meeting is to establish an organizational structure and plans for the Interior Coal Advisory Committee to permit the Committee to carry out its responsibilities.

The meeting will be open to the public and space will be provided for approximately 20 persons to attend the meeting in addition to the Committee members.

Further information concerning this meeting may be obtained from Mr. John S. Hoover, Executive Secretary, Room 6043, Bureau of Mines, Department of the Interior, Columbia Plaza, 2401 E Street, NW., Washington, D.C. 20241, telephone number (202) 634-1030. Minutes of the meeting will be available 30 days from the date of the meeting upon written request to the Eexcutive Secretary.

Dated: December 22, 1976.

THOMAS V. FALKIE,
Director, Bureau of Mines.

[FR Doc.76-38117 Filed 12-28-76;8:45 am]

Fish and Wildlife Service

MARINE MAMMALS

Administrative and Status Report 1976

The following report of Administrative actions and the status of marine mammals under the jurisdiction of the Department of the Interior is hereby published in the FEDERAL REGISTER in compliance with section 103(f) of the Marine Mammal Protection Act of 1972 (Public Law 92-522).

The Department of the Interior, under section 3(12)(B) of the Act is responsible for the following marine mammals: walrus, polar bear, sea otter, manatee, and dugong. This report is current as of June 21, 1976.

Issued at Washington, D.C., and dated December 20, 1976.

LYNN A. GREENWALT,
Director.

ADMINISTRATION OF THE MARINE MAMMAL PROTECTION ACT OF 1972

JUNE 1976

Report of the Department of the Interior

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Prepared by U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 1976.

ADMINISTRATION OF THE MARINE MAMMAL PROTECTION ACT OF 1972

JUNE 22, 1975 TO JUNE 21, 1976

INTRODUCTION

AUTHORITY

Pursuant to the requirements of Section 103(f) of the Marine Mammal Protection Act of 1972 (86 Stat. 1027; hereinafter, the "Act") this report describes administrative actions and the status of certain species of marine mammals. The report covers the period June 22, 1975, through June 21, 1976, and is presented in three parts: administrative actions; species status reports; and appendices.

Under Section 3(12)B of the Act, the Department of the Interior is responsible for the following marine mammals: walrus, polar bear, sea otter, manatee, and dugong. The Secretary of the Interior has delegated authority for the functions prescribed by the Act to the Director, U.S. Fish and Wildlife Service, as prescribed in 242.1.1 of the Departmental Manual.

CONGRESSIONAL OVERSIGHT HEARINGS

The Honorable Robert L. Leggett, Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment, called an oversight hearing on October 21, 1975, on the Marine Mammal Protection Act of 1972 and a wrap-up session on December 9, 1975; Director Lynn A. Greenwalt, U.S. Fish and Wildlife Service, testified on Federal/State cooperation, marine mammal research, enforcement of the Act, issuance of permits and the State of Alaska request to waive the moratorium and return management of nine species of marine mammals.

MARINE MAMMAL COMMISSION

Title II of the Act established a Marine Mammal Commission and a nine member Committee of Scientific advisors. The Act prescribes extensive consultative roles for the Commission and the Committee with the Secretaries of Interior and Commerce. Contact with the Commission, through its staff, is on an almost daily basis. The formal review of permit applications, section 110 grant proposals and waiver of the moratorium requests are accomplished through established procedures.

The Commissioners are: Victor Scheffer, Chairman, Bellvue, Washington. Mr. Scheffer is a marine mammal biologist retired from the U.S. Fish and Wildlife Service. Donald B. Siniff, St. Paul, Minnesota. Dr. Siniff is a Professor in the Department of Ecology and Behavioral Biology, University of Minneosta, St. Paul, Minnesota, Richard A. Cooley, Santa Cruz, California. Dr. Cooley is the Academic Assistant to the Chancellor at the University of California, Santa Cruz, California.

The Marine Mammal Commission is an independent body and reports to Congress annually.

PART I—ADMINISTRATIVE ACTIONS

REGULATIONS

Four significant sets of regulations pertaining to the Act were published in the FEDERAL REGISTER by the Fish and Wildlife Service during the period covered by this report.

On December 24, 1975, the Director of the Service published a final decision in the proceeding concerning waiver of the moratorium on the taking of Pacific walrus (40 FR 59459) (Appendix A). The Director determined that it was appropriate to waive the moratorium but conditioned lifting the moratorium and returning management to the State of Alaska on his approval of the State's laws and regulations relating to management. As part of the Director's decision, a draft of a new subpart H was published for use by the Service as a guide in the development of regulations imposing specific Federal limitations on the taking and importation of Pacific walrus.

On the same day the Service published in final form a new subpart F entitled "Waiver of the Moratorium—State Laws and Regulations." (40 FR 59442) (Appendix B). These regulations had been revised in accordance with the Director's decision and the recommended decision of the administrative law judge who served as a presiding officer at the hearings which were held to consider the waiver.

On February 6, 1976, the Service published procedural regulations (Appendix C) applicable to hearings held under section 103(d) of the Act (40 FR 5395). These regulations, which became effective on March 8, 1976, expanded the application of existing procedural rules from Pacific walrus to all marine mammals over which the Service has jurisdiction.

On April 5, 1976, the Director published notice of his final approval of the State of Alaska's laws and regulations (Appendix D) governing management of Pacific walrus. (41 FR 14372). In the same publication, final regulations limiting the taking and importation of Pacific walrus managed by the State of Alaska were promulgated. These regulations were contained in a new subpart H entitled "Waiver of Moratorium of Taking and Importation of Individual Marine Mammal Species." Publication of the Director's approval of State laws and regulations, along with promulgation of the new subpart H, affected return of management of the Pacific walrus to the State of Alaska. Because immediate implementation of the State's management program was considered essential to control the flow of raw walrus ivory, subpart H became effective upon publication.

On April 9, 1976, the Service published proposed regulations to amend the existing subpart F, "Waiver of the Moratorium—State Laws and Regulations," and subpart H, "Waiver of Moratorium on Taking and Importation of Individual Marine Mammal Species," to apply to all marine mammals over which the Service has jurisdiction (41 FR 15166) (Appendix E). The proposed amendment would allow any State to submit a request for return of management of Pacific walrus, polar bears, or sea otters within its jurisdiction and provides specific Federal limitations on the management by a State of those species. Public hearings were held on subpart H, as required by Section 103(d) of the Act. The first hearing was held in Alaska in July 1976 and the second in October in Washington, D.C. Notice of the times and places for the public hearing was published by presiding officer Malcom P. Littlefield on May 28, 1976 (41 FR 21832) (Appendix F). After conclusion of the required hearings and review of the presiding officer's recommended decision, the Director will, if appropriate, publish the proposed rules for subpart H as final rules. Subpart F, as amended by the proposal, will be published in final form in the near future.

WAIVER OF THE MORATORIUM

The State of Alaska has applied to the Secretary to waive the moratorium with respect to walrus, sea otter, and polar bear, and return management of these species to the State. A similar request has been made of the Secretary of Commerce with respect to northern sea lions, harbor and spotted seals, ringed seals, bearded seals, ribbon seals, and beluga whales. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service are jointly considering the request and have issued a draft environmental impact statement (DEIS) covering all species requested. This DEIS was filed with the Council on Environmental Quality on March 5, 1976. Consideration of the waiver will involve an agency hearing before an Administrative Law Judge regarding the extent that a waiver that may be granted and whether State laws and regulations are consistent with the purposes and policies of the Act under Section 109 before management can be returned to the State.

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A major problem in preparing the DEIS related to application of the terms "optimum sustainable population" (OSP) and "optimum carrying capacity" as used in the Act. The major objective of the Act, in the management of marine mammals, is to insure that such species and population stocks not be permitted "to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part." Consistent with this major objective, they should not be permitted to diminish below their OSP. There is not yet wide agreement within the scientific community on the meaning of OSP or its relationship to maximum sustainable yield. Another problem in preparing the DEIS was the lack of published scientific information on some species of marine mammals involved in the Alaska request for a waiver.

ENFORCEMENT

United States Fish and Wildlife Service Special Agents initiated 183 Marine Mammal Cases during this report period. Fifty-one of these cases, primarily importations through Interior-designated ports, were referred to the National Marine Fisheries Service. To date 118 cases have been closed.

The following is a partial breakdown of the types of investigations handled by FWS Special Agents:

11 investigations involved walrus; 10 investigations involved polar bear; 2 investigations involved sea otters.

Half of the approximately 88 cases now pending involve gift shops. These will be routinely inspected for dealers' sources of types of marine mammal products for sale, and for possible violations of the Marine Mammal Protection Act.

PUBLIC DISPLAY AND SCIENTIFIC RESEARCH PERMITS

Section 101(a)(1) of the Act and § 18.31 of the regulations governing the taking and importing of marine mammals authorize the Director (by delegation) to issue permits to take and import marine mammals and marine mammal products for the purposes of scientific research and public display.

The Act declares a moratorium on the taking or importing of marine mammals and marine mammal products, however, the Act included exceptions that allow research on marine mammals and taking of marine mammals for public display, providing that the health and well-being of the marine mammal species and populations involved as well as the marine ecosystem are not adversely affected. Permits may, however, be granted only after a review of the applications by the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals.

The Fish and Wildlife Service has been working in close cooperation with the Marine Mammal Commission, the National Marine Fisheries Services, and the Animal and Plant Health Inspection Service (APHIS) of the Department of Agriculture, as well as representatives of the display industry, to develop standards for the care and maintenance of captive marine mammals. In October 1975, these efforts resulted in a set of standards and guidelines, prepared by the Marine Mammal Commission. The Fish and Wildlife Service, National Marine Fisheries Service and Animal and Plant Health Inspection Service under the authority of the Animal Welfare Act of 1970 have been developing means by which these standards and guidelines will be implemented by the involved Federal agencies.

The Fish and Wildlife Service received 19 applications for scientific research and public display permits during the period of this report. Eight permits were issued; one application was denied; one was withdrawn; and nine are pending. Actions taken on these applications are summarized below:

SCIENTIFIC RESEARCH PERMIT APPLICATIONS

To capture and tag up to 10 sea otters; to attach telemetry equipment to no more than 3 of these 10; and to possess carcasses of sea otters killed accidentally or found dead. (University of California, Los Angeles, California.) Issued June 23, 1975. An amendment was issued January 19, 1976, stating Block 11 D: Number of permitted subjects is increased from 10 to 40 for capturing and tagging; from 3 to 15 for attaching telemetry equipment. All subjects are to be released at capture site.

To capture, hold, attach radio telemetry equipment, anesthetize if necessary, color mark and make scientific studies on no more than 25 sea otters from the Pacific Coast off Monterey and Santa Cruz counties, California. The permit holder may salvage any sea otters found injured or dead and any sea otters injured or killed as result of permitted activity. Dead sea otters are to be preserved to facilitate scientific research—Amendment to 9–22–C. (Daniel P. Costa, Coastal Marine Lab, University of California, Santa Cruz, California.) Issued August 29, 1975.

An amendment was issued October 7, 1975, stating the number of subjects of the study reduced from 25 to 10.

To capture and tag 10 Pacific walrus per year by means of a "limpit" device. The permit holder may collect 12 skin samples per year from Pacific walrus which have been taken by Alaskan natives for subsistence purposes. Any walrus accidentally injured or killed may be salvaged. (Dr. G. Carleton Ray, Department of Pathobiology, John Hopkins University, Baltimore, Maryland.) Permit No. 9–23–C issued July 3, 1975.

To capture, hold, transport and release no more than 12 West Indian manatees to develop and implement tagging techniques. The permit holder may salvage and care for any manatees found dead or injured or accidentally killed or injured in course of study—Amendments to 9–25–C. (Howard W. Campbell, Gainesville Substation, Gainesville, Florida National Fish and Wildlife Laboratory.) Issued September 25, 1975.

An amendment was issued January 20, 1976. Authorized to collect blood and urine samples from 12 manatees. Authorized to tag with aerosol spray paint utilizing the technique of underwater application.

To take up to fifty (50) dead Florida manatees for the purpose of scientific research. (Daniel K. Odell, Division of Biology and Living Resources, School of Marine and Atmospheric Science, University of Miami.) Permit No. 2–88 issued May 25, 1976.

May capture up to 35 adult sea otters in Alaska, and up to 20 in California for: (a) weighing and sexing; (b) marking with human hair dye and/or flipper tags; (c) attaching telemetric equipment, and (d) taking blood samples. The permit holder may salvage and care for any sea otters found dead or injured, or killed or injured in course of study. (University of Minnesota, BioScience Center.) Permit No. 2–122 issued June 12, 1976.

To capture 4 female and 1 male sea otters at Pacific Coast off Monterey and Santa Cruz Counties, California; to transport to and hold at Sea World, for scientific studies and public display. The permit holder may salvage dead or injured sea otters; if dead, should be preserved to facilitate scientific research. (Sea World, Inc., San Diego, California.) Permit No. 9–24–C issued September 4, 1975.

PUBLIC DISPLAY PERMIT APPLICATION

May import through any designated port of entry two polar bear cubs from Calgary Zoo. (Louisville Zoological Garden—Robert B. Bean, Director, Louisville, Kentucky.) Permit No. 9–15–C issued August 27, 1975.

CERTIFICATES OF REGISTRATION

Section 18.23 of the regulations provides that marine mammals taken by an Indian, Aleut, or Eskimo for the purpose of creating and selling authentic native articles of handicraft and clothing may be transferred to a registered tannery, either directly by the Indian, Aleut, or Eskimo or through a registered agent. Similarly, marine mammals taken by Alaskan natives for subsistence may be sent to a registered tannery for processing and subsequent return to an Alaskan native.

Any tannery or person who wishes to act as an agent may apply for registration. The Service has processed the following applications for certificates of registration:

Roy Hendricks (RA–1), Anchorage, Alaska. The renewal of a certificate of registration to deal in walrus ivory was issued on January 9, 1976, effective through December 31, 1977.

Dennis R. Corrington (RA–3), Corrington's Alaskan Ivory Co., Anchorage, Alaska. The renewal of a certificate of registration to deal in walrus ivory was issued on January 20, 1976, effective through December 31, 1977.

Richard E. McGuirl (RA–5), Taxidermy, Anchorage, Alaska. Was denied a certificate of registration to receive and handle marine mammals (walrus, polar bear, and sea otter). Denial was issued on July 21, 1975.

Martin James, Jr. (RA–6), Maruskiya's of Nome, Nome Alaska. The renewal of a certificate of registration to deal in walrus ivory was issued on February 23, 1976. This certificate was then amended to also authorize the registered agent to deal in polar bear hides. The amendment was issued on June 9, 1976. The certificate is effective through December 31, 1977.

Jack Wood (RA–8), Alaskan Custom Taxidermy, Anchorage, Alaska. A formerly issued certificate of registration to deal in polar bear hides was amended to clarify applicant's authority; the amendment was issued on July 10, 1975, and the certificate remains effective through December 31, 1977.

New Method Fur Dressing Company (RA–9), Renaldo Pepi, Owner, South San Francisco, California. Was issued a certificate of registration to receive, store, and ship polar bear hides. Effective from July 3, 1975, to December 31, 1977.

Jonas Brothers, Inc. (RA–11), Denver, Colorado, and Anchorage, Alaska. Was issued a certificate of registration to receive, store, process and ship polar bear, sea otter, and walrus hides. Effective from October 17, 1975, to August 31, 1978.

The Colorado Tanning and Fur Dressing Company (RA–12), Denver, Colorado. Was issued a certificate of registration to receive, store, process and ship polar bear, sea otter, and walrus hides. Effective from October 17, 1975, to August 31, 1978.

Arctic Trading Post (RA–13), Howard and Mary Knodel, Nome, Alaska. Was issued a certificate of registration to receive, store, cure, and sell walrus ivory. Effective from February 23, 1976, to December 31, 1977.

Teller Commercial Company (RA–14), Helen M. and Robert R. Blodgett, Teller, Alaska. Was issued a certificate of registration to deal in polar bear skins and/or walrus ivory. Effective from February 27, 1976, to December 31, 1977.

Alaskan Unorganized Borough School District (RA–15), George H. White, Superintendent, Nome, Alaska. Was issued a certificate of registration to deal in polar bear skins and/or walrus ivory. Effective from April 14, 1976, to December 31, 1977.

Chase Arctic Taxidermy (RA–16), Fred E. Chase, Owner, Fairbanks, Alaska. Was issued a certificate of registration to deal in polar bear hides. Effective from May 19, 1976, to December 31, 1977.

RESEARCH

The objectives of the Fish and Wildlife Service research program relating to studies of marine mammals are to actively carry out the Service's mandates of the Act; and to determine the ecological effects on marine wildlife of man's activities related to the development of energy resources.

In order to meet these objectives, considerable survey work, accumulation of information, and detailed analyses of population data remain to be accomplished. Review of worldwide marine mammal research literature and preparation of status reports continue to be important efforts in the overall research program. Research, conducted in-house, by contract, and by grants-in-aid, is summarized below:

In-house

1. Sea otter investigations: a. To determine the biology and management needs of the California sea otter.

b. To determine annual and seasonal distribution, abundance, and composition of populations of sea otters and other marine mammals in Prince William Sound, Alaska.

c. To determine the distribution and abundance of recently established sea otter populations.

2. Walrus investigations: a. To determine the biological activities of the Pacific walrus.

3. Polar bear investigations: a. To conduct satellite tracking of polar bears.

b. To determine parasites and environmental contaminants in polar bears.

c. To determine discreteness of populations of polar bears.

d. To develop a telemetry system for long range monitoring of movements and physiological parameters of polar bears.

e. To determine polar bear den ecology and distribution.

f. To determine biology and ecology of Alaska coastal polar bear populations.

g. To determine biology and ecology of polar bears of the Arctic Ocean.

h. To estimate Alaska polar bear population size and productivity.

i. To determine biological parameters of polar bears of the Chukchi Sea.

j. To conduct multivariate analysis of cranial measurement data of polar bears as part of the systematic study of polar bears.

4. Manatee and dugong investigations: a. To determine the effects of vegetation control programs on the Florida manatee.

b. To evaluate the biological consequences of manatee uses of sanctuaries and unprotected environments.

c. To develop manatee tagging and tracking technology.

d. To define manatee habitat requirements and assess habitat alterations.

e. To determine basic sensory and physiological parameters of manatees as related to technical needs.

f. To determine marine mammal capability with urbanization.

g. To survey the distribution, status, and conservation problems of the dugong.

h. To study and salvage standed manatees and other marine mammals.

i. To determine the distribution status of all taxa and populations of manatees.

5. Other Marine Mammals: To determine, in cooperation with NMFS, the status of the Hawaiian Monk Seal.

Contract

1. Status survey of the dugong. Investigator—Martini, F. ($2,650).

2. Environmental pollutants in marine mammals. Investigator—Brownell ($15,000). Collection and analysis of marine mammal tissues as indicators of pollutant levels in the ecosystem.

3. Development of radiotelemetry package for the polar bear. Investigator—Haugstadt ($12,000). Develop radio transmitter for attachment to polar bears in order to monitor their movements.

4. Ecologcal investigations of sea otter habitats in Prince William Sound, Alaska. Investigator—Daves and Moore ($29,500).

5. Survey of monk seal. Ship charter—Skip Nastel ("Easy Rider") ($22,483).

6. Nearshore studies of fish communities of Otter Island. Investigator—Fishery Research Institute, University of Washington ($14,527).

7. Development of satellite telemetry package for polar bears. Investigator—Handar ($52,144). To develop and produce 3 transmitters for use with Nimbus F.

GRANT-IN-AID

Five proposals were received for research grants from researchers outside the Fish and Wildlife Service. Two of these proposals were funded, one 1975 grant was extended in accordance with the original proposal and three were not funded. These proposals are summarized below:

1. *Age determination of the manatee.* (Daniel K. Odell, School of Marine and Atmospheric Science, University of Miami, Miami, Florida. Funded—$16,048.)

The manatee is listed as an endangered species throughout its range, yet little is known about its biology. In order to provide proper conservation and management measures, information must be obtained about the biology of the species, particularly population biology. This includes such parameters as longevity, age of sexual maturity, calving interval, and overall growth rates. However, a determination of the absolute age of the manatee is prerequisite to insure precision in the above parameters. This research seeks a technique for determining relative and absolute age of the manatee. Live animals will not be sacrificed; only stranded animals and museum specimens are used.

2. *Sea otter energetics.* Dr. Kenneth Norris, Coastal Marine Institute, University of California, Santa Cruz, California, $17,554, of which $5,400 is Fish and Wildlife Service the remainder is Marine Mammal Commission funds.

The impact of the sea otter on commercial fisheries has been an issue of controversy for a number of years, and is not completely understood. Specifically, food intake in terms of calories, nutrients, and utilization by animals in nature remains unknown. The proposed research attempts to discover what role availability of food items plays in the range and preference in otter feeding by analyzing the energetics of the sea otter, using a double labeled water technique.

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3. *An Analysis of Polar Bear Predation of Ice Pinniped Populations of Alaska.* (Alaska Department of Fish and Game—$63,314) A cooperative study with Fish and Wildlife Service biologist to assess the impact of polar bear predation upon ice-inhabiting pinniped populations of the Bering, Chukchi and Beaufort Seas of Alaska.

4. *Preliminary Assessment of Atlantic Walrus Stock Size, Seasonal Distribution, and Exploitation along the West Coast of Greenland.* (Randall R. Reeves) To survey and summarize what is known about Atlantic walruses and their exploitation off West Greenland; and to determine the feasibility and methodology for further field studies in this area. Not funded.

5. *Recording and Acoustic Analysis of the Vocalizations of Trichechus manatus latirostris.* (Harlan), (Dr. Stephen H. Feinstein, University of Florida) To study vocalizations of the manatee with the object of developing a warning system to reduce manatee boat collisions. Not funded.

6. *The Helminth Fauna of the Florida Manatee.* (Dr. Donald J. Forrester, University of Florida) To determine the baseline parasite load of manatees in order to determine their role in debilitation and/or death in wild animals. Not funded.

ENDANGERED SPECIES

In the FEDERAL REGISTER of December 16, 1975 (40 FR 58308–58312), the Fish and Wildlife Service proposed determining critical habitat for six species, including the Florida manatee. This measure was taken pursuant to Section 7 of the Endangered Species Act of 1973 which requires all Federal agencies to insure that their actions do not adversely affect the critical habitat of endangered and threatened species. The general areas proposed for the manatee, all in Florida, are: The Crystal River and its King's Bay headwaters; portions of the Little Manatee, Manatee, Myakka, and Peace Rivers, and Charlotte Harbor in west-central Florida; the Caloosahatchee River and associated coastal waters; waters off the coast of Collier and Monroe counties, including Whitewater Bay; the waterway formed by Card, Barnes, Blackwater, and Buttonwood Sounds; Biscayne Bay and adjoining waterways; Lake Worth; Loxachatchee River; the intracoastal waterway from Sewalls Point to Jupiter Inlet, and from the St. Marys River to State Highway AIA; the Indian and Banana Rivers; and the St. Johns River and certain associated waters. These areas are utilized by the largest concentrations of manatees in the United States and are the only areas that presently can be defined as having major dependent populations. A final rulemaking was expected in 1976.

A recovery team for the Florida manatee was appointed July 19, 1976.

On June 23, 1976, the Director, Fish and Wildlife Service signed a Cooperative Agreement with Florida pursuant to Section 6 of the Endangered Species Act of 1976. The Executive Director of the Department of Natural Resources and Director of Game and Fresh Water Fish Commission were both a signatory to the Cooperative Agreement. Florida may now request, through an application for Federal Assistance, a priority allocation portion of the 2 million dollars ($2,000,000) the Service has in Grant-in-Aid funds for FY 1976.

OUTER CONTINENTAL SHELF BASELINE STUDIES

Approximately $977,251 will be spent for marine mammal research in Alaska waters during FY 76 as part of the Interior Department's Outer Continental Shelf (OCS) baseline studies for offshore oil and gas development. The studies are funded by Interior's Bureau of Land Management (BLM). Interior's Fish and Wildlife Service (FWS) has been designated as coordinator for the marine mammal and sea bird portion of OCS baseline studies. In addition to serving in a continuing advisory capacity and participating directly in the baseline studies, the Service is also assisting Commerce's National Oceanic and Atmospheric Administration (NOAA) which is the principal program manager for all baseline studies in Alaska, with the continuing development of programs for the Beaufort Sea, Bering Sea, and the Gulf of Alaska.

The following is the listing of marine mammal projects now planned:

1. Analysis of Marine Mammal Remote Sensing Data; G Carlton Ray and Douglas Wartzok, the Johns Hopkins University. $12,000 in FY 76.

2. Baseline Characterization of Marine Mammals; Clifford H. Fiscus and Alton Y. Roppel, NMFS. $81,700 in FY 76.

3. Abundance and Seasonal Distribution of Marine Mammals in the Gulf of Alaska; Clifford H. Fiscus and George Y. Harry, NMFS. $56,600 in FY 76.

4. Resource Assessment: Abundance Seasonal Distribution of Bowhead and Bulukha Whales—Bering Sea; Clifford H. Fiscus and W. Bruce McAlister, NMFS. $38,310 in FY 76.

5. Abundance and Seasonal Distribution of Bowhead and Beluhka Whales—Beaufort Sea, Northeastern Chukchi Sea; William M. Marquette and George Y. Harry, NMFS. $49,800 in FY 76.

6. Physiological Impact of Oil on Pinnipeds; R. L. Gentry and W. B. McAllister, NMFS. $91,507 in FY 76.

7. Morbidity and Mortality of Marine Mammals; Francis H. Fay, University of Alaska, $83,787 (obligated in FY 75).

8. Biology of the Harbor Seal—Phoca vitulina richardi; Kenneth W. Pitcher, ADF&G, $69,000 in FY 76.

9. The Natural History and Ecology of the Bearded Seal, Erignathus barbatus and the Ringed Seal, Phoca (pusa) hispida; John J. Burns ADF&G. $106,041 in FY 76.

10. An Aerial Census of Spotted Seals, Phoca vitulina largha; John J. Burns, ADF&G. $17,997 in FY 76.

11. Trophic Relationships Among Ice Inhabiting Phocid Seals; John J. Burns, ADF&G. $60,041 in FY 76.

12. Assessment of the Distribution and Abundance of Sea Otters Along Kenai Peninsula, Kamishak Bay and the Kodiak Archipelago; Karl Schneider, ADF&G. $11,075 in FY 76.

13. Distribution and Abundance of Sea Otters in Southwestern Bristol Bay; Karl Schneider, ADF&G. $9,980 in FY 76.

14. Population Assessment, Ecology and Trophic Relationships of Steller Sea Lions in the Gulf of Alaska; Karl Schneider and Kenneth Pitcher, ADF&G. $157,100 in FY 76.

15. The Relationships of Marine Mammal Distributions, Densities and Activities to Sea Ice Conditions; John J. Burns, Francis H. Fay and Lewis H. Shapiro, ADF&G. $109,566 in FY 76.

16. A Survey of Cetaceans of Prince William Sound and Adjacent Vicinity, their Numbers and Seasonal Movements; John D. Hall, $26,745.

INTERNATIONAL ACTIVITIES

The international marine mammal program is an integral part of the Service's overall program. The Service continues its efforts to achieve the objectives of the Marine Mammal Protection Act through international cooperation. The following details the principal thrust of the international program during this past year.

U.S.-U.S.S.R. MARINE MAMMAL PROJECT, ENVIRONMENTAL PROTECTION AGREEMENT

The international marine mammal project is to develop collaborative research on the biology, ecology, and population dynamics of marine mammals of mutual interest to both nations. This project will contribute toward sound management and conservation of these mammals.

A project meeting was held in Leningrad, U.S.S.R., on June 2–12, 1975. Principal accomplishments were: final agreement for coordinated aerial surveys of walrus and bowhead whales in the Bering and Chukchi Seas in the fall of 1975; final agreement for participation of at least two and possibly four U.S. scientists in the spring of 1976, walrus-ice seal cruise in the Bering Sea (final arrangements were concluded in January 1976, with three U.S. scientists participating in the ice edge studies aboard the Soviet vessel *Zagorianl* from mid-March to early May 1976), and agreement to hold the walrus-ice seal biology meeting in January 1976 in Moscow.

The special conference on Walrus and Ice Seal Biology convened by the U.S.-U.S.S.R. Marine Mammal Project was held in Moscow, U.S.S.R., January 12–20, 1976.

The Protocol summarized the direction of a long range research plan for walrus and ice seals. The Protocol calls for increased emphasis on studies at the community and ecosystem levels, evaluation of current aerial survey techniques, and development of joint studies in Alaska and the Chukotka region of Siberia. Special attention was drawn to the Bering Strait region as an important location for studying migratory species.

The need for a conservation convention on walrus and ice seals was discussed at length. The Soviets pointed out that national protective measures by by both nations during the past decade had reversed the declining population trends of walrus and ribbon seals and that the populations of all five species dealt with were either increasing or already high and stable. The United States discussed the need for international management of these pinniped species, particularly in view of potential environmental degradation. The Soviets wanted additional time to consider the issues involved. Therefore, it was agreed that the question would be reconsidered at the next project meeting.

FOOD AND AGRICULTURE ORGANIZATION (FAO)

The Advisory Committee on Marine Resources Research (ACMRR) is a working part on marine mammals to examine available data on the status of all marine mammals. All four groups of experts—Group I (Large Whales), Group II (Small Cetaceans and Sirenians), Group III (Pinnipeds and Sea Otters), and Group IV (Ecological Aspects)—have met, and reports are in varying stages of completion. Reports of the first three groups will describe (1) the status of marine mammal populations and (2) research priorities in each of the three marine mammal groupings. Research priorities are designed to provide information needed for proper conservation of all species. Review of the status of marine mammal populations was conducted through specifically prepared scientific papers which are part of the reports of the first three groups.

The Scientific Consultation on the Conservation and Management of Marine Mammals and Their Environment to be held in Bergen, Norway August 31 to September 9, 1976, is the final step in ACMRR's responsibility to provide an objective report on status of marine mammals to FAO. The Consultation will be attended by a large number of scientists from around the world. These scientists will critically review and discuss the reports of Groups I, II, and III on status of all species. Other major discussions of the Consultation will involve consideration of the ecological relationships of marine mammals. Research proposals concerning marine mammals will be reviewed and assembled into a single worldwide program. The final report and recommendations of the Consultation will be published.

PART II—SPECIES STATUS REPORT

INTRODUCTION

Status reports have been prepared for the seven species which are the responsibility of the Secretary of the Interior under the terms of the Act. Information about each species is summarized under seven major headings. They are: distribution and migration; abundance and trends; general biology; ecological problems; allocation problems; regulations; and current research. A partial bibliography is listed at the end of this part.

The Act defines a marine mammal as "any mammal which (A) is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea), or (B) primarily inhabits the marine environment (such as polar bears); and for the purpose of this Act, includes any part of any such marine mammal, including its raw, dressed, or dyed fur or skin."

SPECIES LIST

CARNIVORA

Ursidae: *Ursus maritimus* (Polar Bear).

Mustelidae: *Enhydra lutris* (Sea Otter); *Lontra felina* (Marine Otter).

PINNIPEDIA

Odobenidae: *Odobenus romarus divergens* (Pacific Walrus); *Odobenus romarus rosmarus* (Atlantic Walrus).

SIRENIA

Trichechidae: *Trichechus manatus* (West Indian Manatee); *Trichechus senegalensis* (African Manatee); *Trichechus inunguis* (Amazonian Manatee); *Dugong dugon* (Dugong).

POLAR BEAR

(*Ursus maritimus*)

Distribution and migration. Polar bears occur only in the northern hemisphere, nearly always in association with Arctic sea ice. Centers for six geographically isolated polar bear populations identified in the main polar basin are Wrangel Island-western Alaska, northern Alaska, northern Canada, Greenland, Spitsbergen-Franz Josef Land, and central Siberia. Separate populations also occur further south in Hudson Bay in Canada.

Bears are most abundant near the southern edge of the sea ice but do occur throughout most of the polar basin and have been recorded as far north as 88° N. latitude. They make extensive north-south movements related to the seasonal position of the southern edge of the ice. In winter, bears off Alaska commonly occur as far south as Bering Strait and occasionally reach St. Lawrence Island and even St. Matthew Island in the Bering Sea. In the summer, north of Alaska, the edge of the ice pack and bears commonly occur between 71° and 72° N. latitude. Pregnant females concentrate for winter denning and bearing young on large offshore Russian islands, northern Canadian islands, and certain of the Spitsbergen islands.

Abundance, trends, and harvest: Total world population estimates, which range from a low of 10,000 by the Soviets to a high of 20,000 by the Norwegians, are based on broad assumptions and should be considered as very general. Abundance of bears off the Alaska coast and the magnitude of sustained long-term harvests suggest that the 20,000 figure may be low.

During the 1930's, 1940's, and 1950's, Alaska Natives harvested about 120 bears annually. Trophy hunting with use of aircraft developed in the 1950's, and the average annual kill gradually increased to 250 for 1961–72. The number of bears reported per hour of flying by Alaska hunting guides did not show a trend during 1956–69, the period when guides provided reliable data. Sex composition for 1961–72 when 87 percent of the bears were taken with the use of aircraft was 70–80 percent males. Selective hunting with use of aircraft reduced the percentage of mature males in the population. A high percentage of females with young in the population indicated a healthy rate of reproduction however. Age composition of bears harvested west of Alaska during the aircraft hunting era did not show a trend. Age composition of bears harvested north of Alaska declined in 1970 and 1971 and then increased in 1972, reflecting high harvests in 1966 and 1967, followed by hunting restrictions and reductions in harvest after 1967. Approximate harvests after passage of the Marine Mammal Protection Act of 1972, which permits hunting only by Natives for subsistence or as a source of material for traditional articles of Native handicraft or clothing, were 7 in 1973, 50 in 1974, 60 in 1975, and 150–160 in 1976.

The higher harvest in 1976 is largely the result of heavy ice conditions making more bears available to Eskimos on St. Lawrence Island and in villages along the northeast coast.

Russians believe that polar bear populations in the Soviet Arctic declined during the first half of this century and have now stabilized since hunting was stopped in 1956 and harvests limited to 10–15 clubs per year for zoos. There is a 5-year moratorium by the Norwegian government on the hunting of bears in Spitsbergen, where formerly about 300 were taken each year. The annual harvest in Canada is about 600 and in Greenland is 125–150. Thus the annual world harvest is now about 900.

General biology. Polar bears other than family groups of females and young are solitary most of the year. During the breeding season in late March, April, and May, males actively seek out females by following their tracks on the sea ice. Bears are polygamous, and a male remains with a female a relatively short time and then seeks another female. Delayed implantation probably occurs.

Pregnant females seek out denning areas in October and November. Known denning concentration areas occur on Russian, Canadian, and Spitsbergen islands. Bears den along sections of the Greenland coast and the north Alaska cost. Some denning occurs on heavy pack ice north of Alaska. Bears most commonly den under banks along the coast or rivers, or on slopes where snow drifts. A denning female commonly forms a depression in the snow and then enlarges a denning chamber as snow drifts over her. Young, weighing less than a kilogram, are born in December. A litter of two is the most common, one is quite common, and three is rare. The female and cubs break out of the den in late March or early April when cubs weigh about 7 kilograms. They make short trips to and from the opened den for several days as the cubs become acclimated to outside temperatures. If the den is on land the family group then travels to the sea ice. In most sections of the Arctic, young remain with the mother until they are about 28 months old.

Age at which females produce their first litter ranges from 4 to 8 years. Some females breed again at about the time they separate from their young so can produce litters every third year. Other

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females have longer intervals between litters. Males can first breed when 4 years old. Most bears do not live beyond 25 years. Mature females off the Alaskan coast weigh 200 to 300 kilograms and mature males 300 to 600 kilograms. Animals west of Alaska are larger than animals north of Alaska. Polar bears feed primarily on ringed seals and also on bearded, harp, and bladder nose seals. They occasionally eat carrion, including whale, walrus, and seal carcasses, and small mammals, birds, eggs, and vegetation when other food is not available. Approximately 60 percent of Alaskan bears harbor *Trichinella spiralis*, apparently obtained from eating seals and other marine mammals, garbage, and possibly carcasses of other bears. Polar bear liver is toxic if eaten because of high vitamin A content.

Ecological problems. Long term climatic trends probably have a major impact on bear populations. Warming trends restrict areas that are suitable for denning and feeding, and cooling trends favor expansion of populations. Ice movement, especially in the fall when females are seeking maternal den sites, may also affect populations. Females may be forced to bear young in locations less favorable for denning when ice providing access to favorable denning sites forms late in the season. Years of light snow, or wind conditions which prevent formation of deep snow drifts, may also affect denning success, both for polar bears and ringed seals, one of their principal foods. Because of this dependency on ringed seals, any ecological change affecting seals could also affect bears.

Human development, especially that associated with oil and gas extraction, poses the greatest immediate threat to polar bears. Oil exploration and drilling in denning areas could cause bears to den in less suitable areas. Oil spills from offshore drilling or transporting of oil through ice covered waters could reduce insulating value of bears' fur and adversely affect the food chain below them. Ice would hinder or prevent containing of a spill, and currents could distribute oil over large areas.

Recent studies indicate that a significant number of bears have traditionally denned and produced young along Alaska's north coast. Increased human activity will perhaps cause fewer bears to come ashore to den and therefore den in less favorable sea ice sites, or cause animals to desert land dens earlier than normal when cubs would be less able to survive. Areas where oil and gas development may be having an impact now or could impact in the future include Naval Petroleum Reserve No. 4, the Arctic National Wildlife Range, State coastal and nearshore oil and gas lease lands, Federal Outer Continental Shelf oil and gas lease lands, and lands eligible for selection under terms of the Alaska Native Claims Settlement Act. Thus there is potential for development along the entire north Alaska coast from Pt. Hope to the Canadian border. Mercury and low levels of DDT and PCB's have been found in tissue samples of all Alaskan bears checked for these contaminants.

Allocation problems. In the United States, the polar bear evokes varied and often emotional feelings about its management and use, ranging from complete protection, to limited harvest for subsistence, to maximum sustained harvest primarily by trophy hunters. At present, non-Native residents of the arctic coast believe they are being discriminated against because only Natives are allowed to hunt. New conflicts will arise as development proceeds in the arctic and causes more direct encounters between bears and people and more disturbance to bears during critical stages in their life history.

The U.S.S.R. believes that bear stocks off the Siberian coast have been reduced, and restricts taking to a few cubs for zoos. Until recent years, Norwegian sealers killed bears as predators, Spitsbergen trappers used baited set guns to obtain hides to sell, and trophy hunters took bears from Norwegian boats in the summer. The present feeling in Norway is that these uses should no longer be permitted. In Greenland the harvest is limited to Eskimos or long term residents primarily for subsistence and personal use of skins. The Canadian harvest has traditionally been by Eskimos for subsistence and to obtain skins for sale. Trophy hunting from the ground, although encouraged by managing agencies in part of Canada, has not developed to any great extent because Natives, who trophy hunters must employ as guides, can realize more profit from selling skins than from guiding.

Regulations. Past management practices in Alaska have included seasons, bag limits, a permit system, limit on the number of hunts individual guides could participate in, and protection for females with young and young. Two management areas were established, one to the west of Alaska and one to the north of Alaska. Residents were allowed to hunt bears at any time for food provided aircraft were not used. Hides and skulls of all bears taken had to be presented to the Alaska Department of Fish and Game within 30 days for examination, sealing, and removal of a tooth for age determination. The State of Alaska banned the use of aircraft for hunting polar bears after July 1, 1972, and lengthened the season to encourage sport hunting from the ground.

The Federal Marine Mammal Protection Act of 1972 transferred management authority for polar bears to the Federal government and limited the harvest to Alaskan coastal Eskimos for subsistence or for manufacture of traditional Native articles of clothing or handicraft. The Marine Mammal Act removed restrictions on harvest of females with young and their young by Natives. A request by the State of Alaska for return of management authority for polar bears and certain other marine mammals as provided for in the Marine Mammal Act is under review, part of which will be public hearings the summer of 1976. The management plan proposed by the State of Alaska would provide for both recreational and subsistence hunting. The open season for both types of hunting would extend from 1 January through 31 May. Hunting with use of aircraft would be specifically prohibited. The closed season during the summer would preclude use of boats. The bag limit for recreational hunting would be one bear every 4 years by permit only. Residents utilizing bears for food could take one bear each year without a permit. Young and females accompanied by young would be protected.

The U.S.S.R. has not allowed polar bear hunting since 1956. Norway stopped set gun and trophy hunting in 1971 and enacted a 5-year moratorium in 1973 on all harvesting because of a change of attitude in Norway and because studies indicated the bear population was smaller than previously believed. In Greenland only Eskimos or long term residents may take bears and must use traditional ground methods of hunting. In Canada, prior to 1968, Eskimos hunting from the ground took bears with few restrictions. Since then, harvests have been regulated by establishment of hunting districts with quotas. In certain districts, trophy hunters may purchase a permit to take a bear from its quota provided a Native resident is used as a guide. In November 1973 the five polar bear nations—Canada, Denmark, Norway, Russia, and United States—drafted an Agreement on Conservation of Polar Bears to allow bears to be taken only in areas where they have been taken by traditional means in the past, and to prohibit use of aircraft and large motorized vessels as an aid in taking. The agreement also calls for both national research and cooperative international research and management, especially on populations occurring on the high seas or within more than one national jurisdiction; provides protection for ecosystems of which polar bears are a part; by resolution seeks special protection from hunting for denning females, females with cubs, and cubs; and by resolution asks for an international system of hide identification to better control traffic in hides.

Current research effort. The governments of Canada, Denmark, Norway, Russia, and the United States are conducting intensive long term investigations. In most countries shorter term projects funded by universities and grants complement government programs. Research programs are coordinated internationally by the Polar Bear Specialist Group under the auspices of the International Union for the Conservation of Nature.

SEA OTTER

(Enhydra lutris)

Distribution and migration. Populations in waters of the United States are resident (the sea otter is not migratory) along the west coast of North America from central California north to Prince William Sound and westward along the Aleutian Chain to the Commander Islands, along the southern Kamchatka Peninsula, and among the Kuril Islands. The sea otter seldom ranges offshore beyond the 30-fathom (180 feet) depth curve.

Abundance and trends. Since sea otters were completely protected early in the 20th century, they have increased and become reestablished in a substantial portion of their historic range. In the late 19th century sea otter populations had been reduced by the fur trade to a few hundred animals at widely scattered locations. In 1973 Alaska Department of Fish and Game published estimates of sea otters in each Game Management unit. The total of these estimates are 101,050 to 121,050 otters. From recent surveys the sea otter population in California was estimated to be about 1,600 to 1,800 animals and ranged from Ano Nuevo Island north of Santa Cruz to beyond Point Buchon on the south.

During the period 1965 to 1972 sea otters from Amchitka Island and Prince William Sound were translocated to Southeastern Alaska, British Columbia, Washington, Oregon, and the Pribilof Islands. Among translocated otters, young have been observed in Southeastern Alaska, British Columbia, Washington, and Oregon. Recent surveys of these areas indicate a thriving population of more than 500 animals north of Sitka in Southeast Alaska but the number at other sites remain low—from about 10 to 60 animals—and the success of translocation remains questionable.

General biology. The sea otter is the largest member of the family Mustelidae, reaching a length of 148 cm and a weight of 45.5 kg. It becomes sexually mature at about 4 years of age and bears a single young, weighing approximately 2.3 kg, about every 2 years. The pup nurses for 10 to 12 months, but during this period often takes solid food gathered by the mother. The mother is very attentive to her young. Most of the young are born during the summer, but births and mating may occur at any season. Breeding behavior is promiscuous; mating male and female remain together for as long as 3 days. The dense underfur is about 1 inch long; the guard hairs are about 0.25 inch longer. A healthy animal may accumulate considerable body fat but there is no layer of blubber. The sea otter is, therefore, dependent for insulation from cool (35° to 50° F) marine waters on the air blanket retained among the dense underfur fibers.

Mortality at Amchitka Island (the only area studied intensively) is greatest in winter and early spring. A dense population there depleted food organisms, and starvation occurred during stormy weather. Young animals accounted for 70 percent of the mortality. The remaining 30 percent were predominantly animals showing signs of old age. Most of the dead animals exhibited signs of starvation and enteritis. Internal parasites include Trematoda (4 spp.). Cestoda (2 spp.), Nematoda (1 sp.) and Acanthocephala (5 or possibly 6 spp.).

Ecological problems. Human activities which are changing the environment will no doubt affect sea otters. Oil pollution of waters occupied by sea otters probably would be fatal to them. Pesticide residues have been found in California sea otters but the effect is unknown.

Allocation problems. There is conflict over management of the sea otter population off the coast of California. Because sea otters reduce the abundance of prey species, some of which are desired by humans, commercial and sport users of these resources prefer that the abundance and range of sea otters be limited. Preservation groups would like sea otters reestablished throughout their historic range.

There is no commercial or subsistence harvest of sea otters at present.

Regulations. The sea otter is protected by the Marine Mammal Protection Act of 1972 (Pub. L. 92–522). In California it is listed as a completely protected animal.

Current research and funding. The U.S. Fish and Wildlife Service employs two full time biologists on sea otter studies. The States of Alaska and California no longer employ biologists full time on sea otter studies but do carry out censuses. The Owings Foundation, privately endowned, employs a full time sea otter naturalist. Additional research is supported by the Marine Mammal Commission.

PACIFIC WALRUS

(Odobenus rosmarus divergens)

Distribution and migration. The entire population spends winters in the seasonal pack ice of the Bering Sea where they are distributed from eastern Bristol Bay to the area south and west of St. Lawrence Island. Traditionally walruses concentrate southwest of St. Lawrence Island and in central Bristol Bay although the exact distribution may vary upon the extent and quality of sea ice. The majority of breeding females apparently occur in the northwestern Bering Sea, although pregnant females have been observed in Bristol Bay.

The northward migration begins in April; the exact timing of migration probably is heavily dependent upon the pattern of sea ice recession which may vary greatly from year to year. At least 5,000 males presently remain on or near Round Island in northern Bristol Bay. This number has increased by 2,000 to 3,000 over the past several decades. During the southern migration, walruses frequently haul out to rest at Big Diomede and Punuk Islands, and along the Soviet coastline, until the pack ice becomes accessible. During the fall of 1975, biologists from the Soviet Union located 9 such coastal haulout areas between the north coast of Chukhotka and Cape Olyutorski.

Following the northward migration into the Arctic Ocean, walruses disperse along the ice edge from about Pt. Barrow west to the Kolyma River in the east Siberian Sea. Apparently the routes of migration and summer distribution vary considerably among years, depending upon seasonal ice conditions.

Abundance and trends. The Pacific walrus population has increased during the past several decades following a decline in abundance caused by overexploitation. The population may have numbered as few as 40,000 to 50,000 by about 1950. Aerial surveys of walruses were begun in 1960, the most recent survey being a coordinated effort between the United States and the Soviet Union. Over 96,000 walruses were counted at coastal hauling areas along the Soviet coastline and another 30,000 to 40,000 were estimated to occur along the ice edge west of the International Date Line. Another 75,000 were estimated to occur east of the Date Line. However these estimates, are at best, very crude.

The take of walruses by the Soviet Union in 1975 was 1,265 animals. The number killed or wounded but lost is not included. The harvest cannot exceed 2,000, the present annual quota. The hunter take of walruses in Alaska in 1975 presently is not available.

General biology. Only one group of pinnipeds, the elephant seals, is larger than the Pacific walrus. Adult males weigh an average of about 1,160 kg with a mean standard length of about 316 cm. Adult females weigh an average of about 900 kg with a mean standard length of 270 cm. From a sample of new born young the maximum weight was 77 kg and the maximum length 137 cm.

The first ovulation of females usually occurs between 5 and 8 years of age. Males become fertile at 7 to 8 years but are not physically mature until they are at least 10 years old. The walrus is polygamous, in what is apparently the main breeding area (southwest of St. Lawrence Island). The gestation period is about 15 months, including approximately a 3 month period of delayed implantation. The young are usually born in May, during the spring migration northward. The females and young are very gregarious; males are gregarious outside the breeding season. Walruses often attain ages of 30 years or more.

Walruses are not buoyant, and must rest on ice or land at fairly frequent intervals. However, by means of pharyngeal pouches that may be inflated, walruses are able to sleep while floating upright at sea for short periods of time.

Clams are the most important food species. The stomach of one adult male contained 50 pounds of *Mya truncata* siphons and 35 pounds of *Clinocarduim nuttalli* feet. Other food includes echinoderms, annelids, coelenterates, sepunculids, echiurods, priapulids, arthropods, and tunicates. Occasionally, adult males may eat the flesh of other pinnipeds or cetaceans. The walrus diet apears to be seasonally variable.

Internal parasites recorded from walruses include the following: Trematoda (3 spp.), Cestoda (3 spp.), Nematods (6 spp.), and Acanthocephala (4 spp.). All walruses except calves are infested with external parasites, including three species of sucking lice. A small percentage of adult male walruses become carnivorous

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and feed on seal flesh. Probably it is this abnormal feeding behavior that accounts for trichinosis infection of from 1 to 10 percent of over 1,000 male walruses sampled from four arctic regions. Incidence of uterine cysts and other disease conditions is low, as far as is known, and such diseases and abnormalities appear to be unimportant.

Ecological problems. Petroleum will undoubtedly be exploited from the Bering Sea and Arctic Ocean. The effect of this activity on walruses or other requisite resources is unknown. The extensive benthic food resources of the walrus are not yet subject to human exploitation. Such human activities could be competitive with walruses. However, the relationship between walruses and the benthic community are virtually unknown. Also of concern is the harassment of walruses when they are hauled out in summer on the Walrus Island State Game Sanctuary (Togiak Bay), Bristol Bay. During summer of 1975 Alaska Department of Fish and Game maintained a protection agent at Round Island.

Allocation problems. Siberian and Alaskan natives kill 5,000 to 6,000 walruses annually for subsistence. None were taken during 1975 for display. Loss of walruses during hunting is about 40 to 50 percent.

Additional waste occurs in the utilization of the products of retrieved walruses. If ivory is the primary objective, utilization amounts to as little as 1 to 3 percent of the potential. When meat and hides are used, utilization is as high as 90 percent of the carcasses taken. During recent years, ivory hunting has become an increasingly important problem. Regulations: During 1975, management of Pacific walruses was returned to the State of Alaska. Current regulations restrict the take of females although this restriction was not in affect during the spring hunting season of 1975.

Current research. The U.S. Fish and Wildlife Service has an ongoing research program on Pacific walruses. Investigators from th University of Alaska and Johns Hopkins University are currently studying walruses under funded grants from several agencies. The Alaska Department of Fish and Game will maintain observers during the hunting seasons at coastal villages of Alaska to monitor the kill and to collect information on the population.

ATLANTIC WALRUS

(*Odobenus rosmarus rosmarus*)

Distribution and migration. Walruses are circumpolar in distribution. In the north Atlantic area, a small population occurs along the east coast of Greenland, Spitsbergen-Franz Josef Land, and east to the Barents and Kara Seas. A larger, geographically isolated population, occurs in the eastern Canadian Arctic and western Greenland. Presently, walruses are rarely found along the coast of North America south of Labrador. Scattered groups are located in Angava Bay and on the southeast coast of Baffin Island. In Hudson Bay, the main population is found around Coats Island, southern Southhampton Island, and northern Foxe Basin. North of Baffin Island, walruses are scattered northeast from Kane Basin between Ellesmere Island and Greenland and west to Melville Island. Along the west coast of Greenland, the principal population is located in the Thule area. There is no evidence of extensive migration, except in the west Greenland area. This situation contrasts sharply with the strongly migratory Pacific walrus.

Abundance and trends. Only the status of the population around Southhampton Island is well known. This population was estimated by the Fisheries Research Board of Canada and the Canadian Wildlife Service to be about 3,000 animals in 1947. An aerial survey in 1961 indicated a similar status at that time. The population in Foxe Basin appears to be larger, although no reliable estimate is available. Little is known of the status of walruses in other areas of the eastern Canadian arctic. They are relatively inaccessible and remain unaffected from predation by man. In western Greenland, the population has apparently declined considerably since the early 1940's because of human encroachment and predation. Catches in this area have declined from around 600 per year to 19 in 1967. No subsequent data from this area are available. This decline was apparently the result of Norwegian hunting which was prohibited by law in 1952. The status of the population in the Thule area is less well understood, although hunting activities there apparently are not affecting adversely that population.

General biology. The Atlantic walrus is generally smaller than the Pacific subspecies. Calves average 122 cm and weigh about 67 kg at birth. Adult females have an average length of about 260 cm and an average weight of about 570 kg, while males attain an average length of 305 cm and an average weight of about 910 kg. Seldom do the tusk lengths exceed 36 cm for males and 25 cm for females. Adult males may be distinguished from females by cutaneous tubercles of the head and neck, a broader muzzle, and more powerful muscles of the neck and shoulders.

Reproductive biology of the Atlantic walrus is not well understood. During most of the year, herds of adult males are spatially segregated from the herds of adult females with calves and immatures. Females apparently reach sexual maturity at about 4 years and males at about 6 years, although neither may become reproductively active until several years later. The gestation period lasts about 15 months with births occuring over a two month period with a peak in mid-May.

Ecological problems. Disturbance to the benthic food resources may affect the Atlantic walrus although limiting resources and relationships between walruses and the benthic community are virtually unknown. The results of recent exploration for oil and gas indicate that greatly increased human activity associated with the development of this resource may occur in northeastern Hudson Bay. The effect of these activities on walruses or their requisite resources is unknown.

Allocation problems. In Canada the most sucessful hunting occurs in autumn from "Peterhead" boats in shallow bays along the coast where walruses are hauled out on land. Few wounded animals escape during these operations. Much hunting occurs from canoes and whaleboats amongst the loose ice in spring and summer. Losses are estimated to be as high as 30 percent during this time, and many wounded animals escape the hunters. Some of the meat is consumed by humans. Much of the meat, skin, guts, and blubber is used as dog food. An ivory trade is maintained with the Hudson's Bay Company and much is sold privately.

Regulations. Canada established regulations in 1928 which limited the killing of walruses to Eskimos for food and clothing. These regulations have since been amended several times, but have not been changed in their main intent. Walrus hunting regulations were established in Greenland in 1957. These limit hunting to Danish citizens resident in Greenland. From 1 June to 1 January all hunting of males in the West Ice is forbidden, and from 1 April to 1 January no females and calves may be taken in the same area. Hunting from land is also forbidden in certain areas at certain times.

Current research. No field studies of the Atlantic walrus have been carried out since 1961.

WEST INDIAN MANATEE

(*Trichechus manatus*)

Distribution and migration. T. manatus inhabits rivers, estuaries, and coastal areas of the tropical and sub-tropical regions of the New World Atlantic (Fig. I). It is commonly found from northern Florida in the U.S. to the northern coast of Brazil, in South America. Manatees are seasonally present in Georgia, and rarely in South and North Carolina, with occasional stragglers historically reported as far north as Old Orchard, New Jersey (40°N.) (Fig. I), and as far south as Esprito Santo, Brazil (20°S.).

Within the U.S., the year-round range of *T. manatus* is largely confined to peninsular Florida, but varies seasonally (Fig. II), with most manatees grouped near sources of warm water during the winter. Along the west coast, they congregate in a series of populations located near Crystal River and adjacent rivers in Citrus County, in east Tampa Bay, in the Caloosahatchee River and along the extreme southwest coast from Naples to the Everglades National Park. On the east coast, large populations congregate at Merritt Island, in Lake Worth and in Port Everglades, while smaller groupings are found in the upper reaches and near the mouth of the St. John's River, and at several points along the coast. One group of at least 50 manatees is essentially landlocked in the Miami canal system in fresh water. southeast Florida. In one survey, 37% of the manatees were in salt water, while 45% were in brackish and 17% were in fresh water.

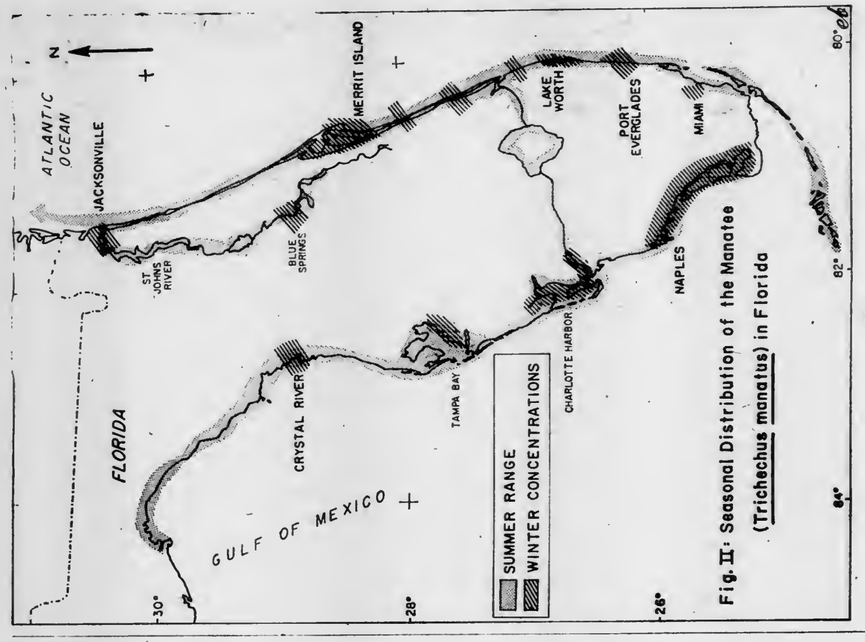


Fig. II: Seasonal Distribution of the Manatee (Trichechus manatus) in Florida

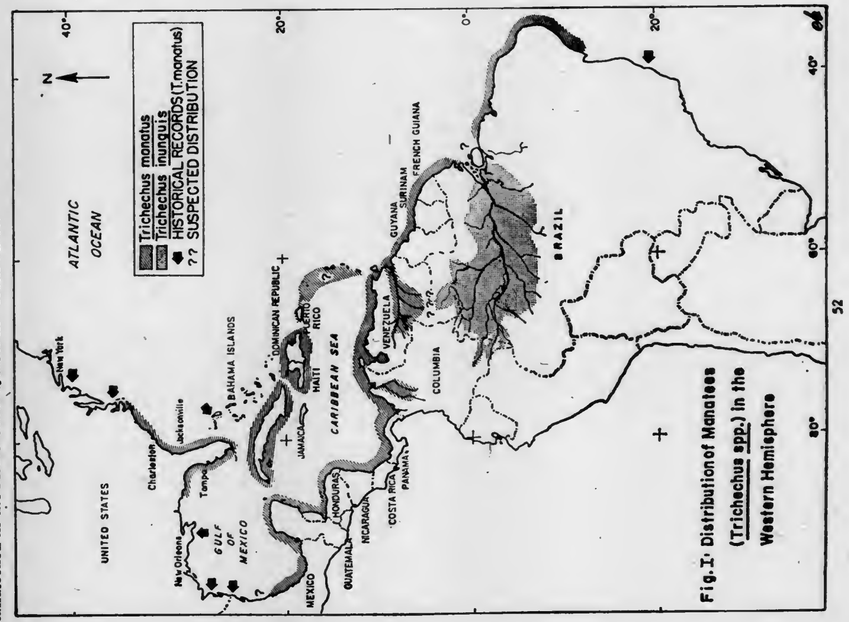


Fig. I: Distribution of Manatees (Trichechus spp.) in the Western Hemisphere

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Manatees in Florida apparently cannot withstand cold winter temperatures. Warm water springs or localities where factories discharge heated water into the rivers are the focus of most winter congregations. Except in extreme southwest Florida and the landlocked manatees in Miami, most manatees were within 5 km. of a warm water source during a 1976 cold weather aerial survey. There are more then twenty-five such warm water refugia used by manatees on the Atlantic and Gulf coasts. Arrival at these congregating sites usually begins in November; many animals remain nearby for the winter, but there is continuous movement and probably exchange of old and new members of the congregations during warm periods.

As the water warms with spring, the congregations disperse throughout Florida into most accessible water more than one meter deep. Some move north into Georgia and beyond, while others go west along the Florida Panhandle, generally no farther than the Aucilla and Port St. Joe Rivers, although single sightings from Pensacola, Florida and Lake Pontchartrain, Louisiana were reported in 1975–76. Summer observations of manatees at Northern Florida and south Georgia localities are common, whereas the animals are absent during the winter, thus strongly suggesting northernly movements in spring and a southward migration to avoid the cold in the fall. One manatee with large salt water barnacles arrived at Blue Spring, 170 km. up (south) the St. John's River in winter 1975. Offshore movements may also occur.

In Mexico, occasional manatees are thought to range along the Gulf Coast nearly to the U.S. border, but they are more commonly found south of Tamulipas or Veracruz, within the Bay of Campeche and on both sides of Yucatan Peninsula. Distribution appears to be continuous along the coast from Belize to Costa Rica, including Lake Isabella of Guatemala. Only isolated populations remain in Panama, and are located in Chiriqui Bay, the Chonquinola River, Gatun Lake, the Sicalo River, and possibly the Cocle River. Manatees may be found along the eastern coast of Colombia and in the Atrato, Leon, Suriqui, Meta Rivers and the Magdalena River and tributaries. *T. manatus* frequents the lower Orinoco drainage of Venezuela including its tributaries, the Apure, Arauca, Payara, Capanaparo, and the Claro, as well as Lake Maracibo. In Guyana and Surinam, manatees are found primarily in the rivers of the coastal plain. In Brazil, manatees range along the coast as far south as Mangue Seca (12° S.), but may not be continuous along the north coast due to unsuitable habitat.

Manatees are found throughout the Caribbean Sea, usually in small numbers, in coastal regions near rivers and away from population centers. They are distributed along both coasts of Cuba and are seen most frequently at the Hatiguanico River in the Zapata Swamp, and in the Ensenada de la Bara. In Jamaica, manatees are most frequently found in the Black River area in the southwest, and Portland Point area of the south central coast. The Dominican Republic distribution is nearly continuous along the north coast with concentrations occurring around Monte Criste, on the north side of the Samana Peninsula, on the south and eastern shores of Bahia de Samana, around the Tres Hermanas Springs area near the southeast tip of the island, and in the southwest from Azua to the Perdenales Peninsula. Nothing is known of manatees in Haiti, but at least some animals probably interchange with those from the Dominican Republic. Little is known of manatees in Puerto Rico, but isolated groups have been located on the south coast near Guanica, Guayanilla, La Parguerra, Jobas Bay and at Roosevelt Roads Naval Base on the east coast and Guanajibo on the west coast. One sighting has recently been reported from Trinidad.

Abundance and trends. Aerial surveys of Florida coasts and rivers during 1972–76 and interview data in 1975–76 indicate a manatee population numbering between perhaps 1,000 and 2,000. Over 740 manatees were counted in a concentrated aerial survey in late January 1976, but the percentage of the population not observed is not known. Numbers have been reported to be increasing along the west coast of Florida and similarly increasing or stable along the Atlantic coast.

Manatee numbers in Mexico are markedly reduced and reports are rare; however, their current local status appears to be stable. Likewise, populations in Belize seem to be decreased but stable. Manatees are reported to be fast decreasing at Guatemala, but are still present at least in Lago Isabela. Present status in Honduras is unknown, and estimates for Nicaragua range from a few score to several hundred. Numbers are believed to be low in Panama and Costa Rica.

Manatees are currently decreasing in many Colombian rivers and are extremely rare in the Santa Marta District and in the Llanos of eastern Colombia. They have been extirpated from Taganga Bay, the Canal de Dique, and the Cienaga de Guajaro. In Venezuela, manatees are considered neither abundant nor rare in the lower Orinoco Basin. Estimates of some thousands but not tens of thousands of manatees have been made for Guyana, but populations are reportedly reduced for both Guyana and Surinam.

In the Caribbean, manatees are uncommon to rare in most areas, and are thought to be declining in many locales.

It can be generally concluded that hunting pressures in the Caribbean, Mexico, Central and South America have resulted in the present diminished manatee populations. In most cases, hunting is now on a subsistence basis and little commercial exploitation occurs. Hunting efforts have decreased somewhat in many areas, partially due to the scarcity of manatees, permitting remaining populations to stabilize.

General biology. The West Indian Manatee is large, fusiform in shape, and thick-skinned with little hair. The forelimbs are modified paddles with rudimentary nails, and the spatulate tail is horizontally flattened. Adults range in size from 2.5 to over 4.5 m. in length and corresponding weights vary from 200 to 600 kg. However, average adults are between 3 and 4 m. in length and weigh less than 500 kg. Sexual dimorphism in size has not been documented.

Breeding occurs throughout the year. The cow is polyandrous, allowing several bulls to copulate with her during her relatively short period of receptivity. Mating has been observed in water about 2.5 m. in depth as well as in shallows less than 1 m. deep. Most calves are born between December–June, with a majority born in the spring. The gestation period is probably about 385 to 400 days and parturition is thought to occur in secluded shallows. Successful breeding has occurred under captive conditions only once but full documentation of the event is lacking. One is the usual number of young; however, twins and a case of foster parenthood have been recorded. Newborn calves usually measure over 1 m. in length and weigh between 11 and 27 kg. Suckling from the pectoral teats occurs underwater. Calves may begin grazing within weeks of birth, but nursing may continue for 1 or 2 years. Therefore, breeding probably occurs every 2.9 to 3 years.

Manatees have been classified into the following age groups: calves, any young animal associating with a cow; juvenile, independent but not yet sexually mature; and adults, animals taking part in reproduction. Transition to adulthood is gradual and sexual maturity may not be attained until 4 or possibly 6 years of age. Manatee longevity in the wild is unknown, but a captive has been successfully maintained in Florida for 24 years.

Preliminary studies of social behavior indicate that the most obvious close bond is between cow and calf. Estrus herds of bulls may last from one week to more than a month. Small herds of less than 5 animals are the most commonly encountered non-estrus groups except during cold winter periods when groups of as many as 140 animals are found in warm water refugia in Florida. Intragroup social interactions including "play" and nonspecific sexual behavior (including homosexual) are reported.

T. manatus is reported arythmical with no specific daily patterns of behavior. Adults may spend from 6 to 8 hours daily in feeding. Manatees are wholly herbivorous, consuming a variety of food plants in the following order of preference: (1) submerged plants, (2) surface floating vegetation, and (3) emergents. Quantities of incidentally ingested insect larvae, amphipods, mollusks, shrimp, and other invertebrates probably provide necessary amounts of protein for the manatee. Captive adults consume 30 to 50 kg. of

vegetation each day. It has been suggested that manatees must return to freshwater occasionally for drinking.

Internal parasites of *T. manatus* include two species of trematodes (*Opisthotrema* and *Chiorchis*) and one species of nematode (*Plicatolabia*). A single copepod (*Harpacticus*) was also reported on the skin. Manatees in saltwater become covered with marine diatoms (*Zygnema* and *Navicula*) and barnacles, whereas animals remaining in freshwater develop a coat of algae (*Lyngbya* and *Compsopogon*). Manatees appear to be susceptible to pneumonia and other bronchial disorders when exposed to unusually low temperatures. To date, there is no documentation of predation upon the manatee by any animals other than man, but attacks by alligators and giant squid in Florida have been reported. Sharks have also been suggested as likely predators.

Ecological problems. In the United States, wounds inflicted by motor boat propellers and keels pose a major problem and are the prime cause of known manatee mortality. Water contamination by industrial effluents is responsible for the destruction of proper manatee habitat and food supplies, but does not appear to directly affect the animals who often congregate near polluted outfalls in winter. In upper Tampa Bay, the natural submergent vegetation has been eradicated by this pollution, resulting in the absence of manatees in the upper bay. Dredging may also have detrimental effects, increasing the water turbidity to a point where submergent plants can no longer survive. Natant plants seem to thrive under these conditions, and in the absence of the preferred submergents, manatees do consume these natants. However, the floating plants present a problem to boat traffic and (as in the St. John's River) are sprayed with herbicides, such as 2–4–D, which is then directly ingested by manatees. No direct effects of this or other herbicides have been documented. Oil spills from offshore drilling may also have detrimental effects on the manatee's food supplies. Vandalism, poaching, accidental nettings, and flood control structures are additional threats to the manatee.

Blue Springs Park (a winter congregating site) has been designated a Manatee Sanctuary by the Florida Department of Natural Resources and is the only locality in Florida with lowered boat speed limits and swimming restrictions for manatee protection. As many as 25 manatees take refuge in this spring during cold periods. Manatees also inhabit the Everglades National Park and several National Wildlife Refuges, being especially abundant in the Merritt Island NWR. They are found within the Parque Nacional Isla de Salamanca of Colombia, and in Tortuguero National Park, Costa Rica, but their occurrence in other foreign reserves or sanctuaries is unknown.

Allocation problems. Manatees have long been hunted for their meat, hides, oil and ivory. Protective legislation is nearly complete. The meat is still sold occasionally in local markets of Colombia, Brazil, and Venezuela, but kills are usually the result of fortuitous encounter by natives or fishermen. *T. manatus* has been used with mixed success in small scale aquatic weed clearance projects in Guyana, Mexico, and Panama, but at this point, large-scale utilization of manatees for weed control does not seem feasible, for large numbers of animals are required. The manatee has also been suggested for domestication for meat in the distant future. Current decimated populations, plus a low reproductive rate, deem this project as unrealistic.

Regulation. Protective legislation for the manatee now exists in the following countries: U.S., Brazil, British Honduras, Costa Rica, Panama, Colombia, Venezuela, Guyana, Cuba, Jamaica, Puerto Rico, Trinidad, Haiti, Mexico and the Dominican Republic.

Current research. The National Fish and Wildlife Laboratory (NFWL) of the U.S. Department of the Interior has initiated a broad scope research program into the ecology and physiology of *T. manatus*. Survey efforts are being expanded in Florida and the southeastern United States and initiated throughout the Caribbean, Central America, and southern Brazil. Tracking studies of movements and seasonal habitat utilization were initiated in Fall 1975 in the southeastern United States. Suitable tagging techniques are also being developed. Detailed analysis of the environmental relationships of *T. manatus* in the Blue Springs Park has been initiated with the cooperation of the Florida Department of Natural Resources. Studies of basal metabolism and osmoregulation are underway, while programs to investigate sensory physiology are planned. Dr. D. Odell of the University of Miami Marine Laboratory is cooperating with the NFWL in studies of mortality factors and is conducting a study to develop a methodology for aging dead manatees. Cooperative program between the University of Florida School of Veterinary Medicine and the NFWL are studying manatee parasites (Dr. Donald J. Forrester), hematology (Dr. John W. Harvey), and fungal skin infections (Dr. Fred Neal). Dr. Kermit C. Bachman of the Dairy Sciences Department is working with the NFWL to study the components of manatee milk. An in depth study of manatees in Puerto Rico is projected for F.Y. '77–78, with at least preliminary surveys scheduled for Panama, Belize, Costa Rica, Mexico and northern South America.

E. Mondolfi of Venezuela is compiling records of this species in his country to determine their local range and P. van Bree of Amsterdam is supervising a taxonomic study comparing *T. manatus* to *T. senegalensis*. The U.S. National Academy of Sciences, the National Research Council of Canada, and the National Science Research Council of Guyana are considering the joint establishment of an international manatee research center in Guyana. They hope to direct their research toward reproduction, physiology and nutrition of the West Indian Manatee.

African Manatee

(Trichechus senegalensis)

Distribution and migration. The African Manatee occurs in coastal waters and in adjacent rivers along the coast of West Africa from the mouth of the Senegal River (16°N) to the mouth of the Cuanza River to Angola (Fig. III). They have been reported from the Faleme, Gambia and Casamance Rivers of Senegal and Gambia, and from the coasts of Guinea. Other rivers known to support manatees are the Sierra Leone, the Missunado, the St. Paul's and the Cavalla Rivers. In Ghana, they are now apparently restricted to Lake Volta and the upper reaches of the Volta River. Manatees have been taken at Benin and Lagos, Nigeria, and are numerous in most of the larger rivers of southern Nigeria. They occur in the Niger River and are commonly known as far upriver as Idah, on the western border. They travel even further upriver, and have been noted in Segou, Mali, approximately 200 miles southwest of Timbuktu. Manatees also ascend the Benue River, a large tributary of the Niger. They have been reported in this waterway as far east as Numan (9°N 12°W). It is not thought that manatees occur in Lake Chad, although specimens have been collected from its principal tributaries, the Baningi, the Bahr Keeta and the River Shari. In Cameroon, they are found within the Korup Reserve and have been reported from the Mungo and Wouri Rivers. It is also likely that they inhabit the Campo River in southern Cameroon. Specimens have been taken from the Rio Muni, Gabon and Ogooue Rivers and may also be found in the Loeme River of Congo Brazzaville. In Zaire, *T. senegalensis* occurs in the lower Congo River, and also in the upper drainage of the Uele River, east to Kibali. The Loge, Dnade, Bengo, and Cuanza Rivers of Angola all reportedly contain manatees. No migrational movements have been noted for this species.

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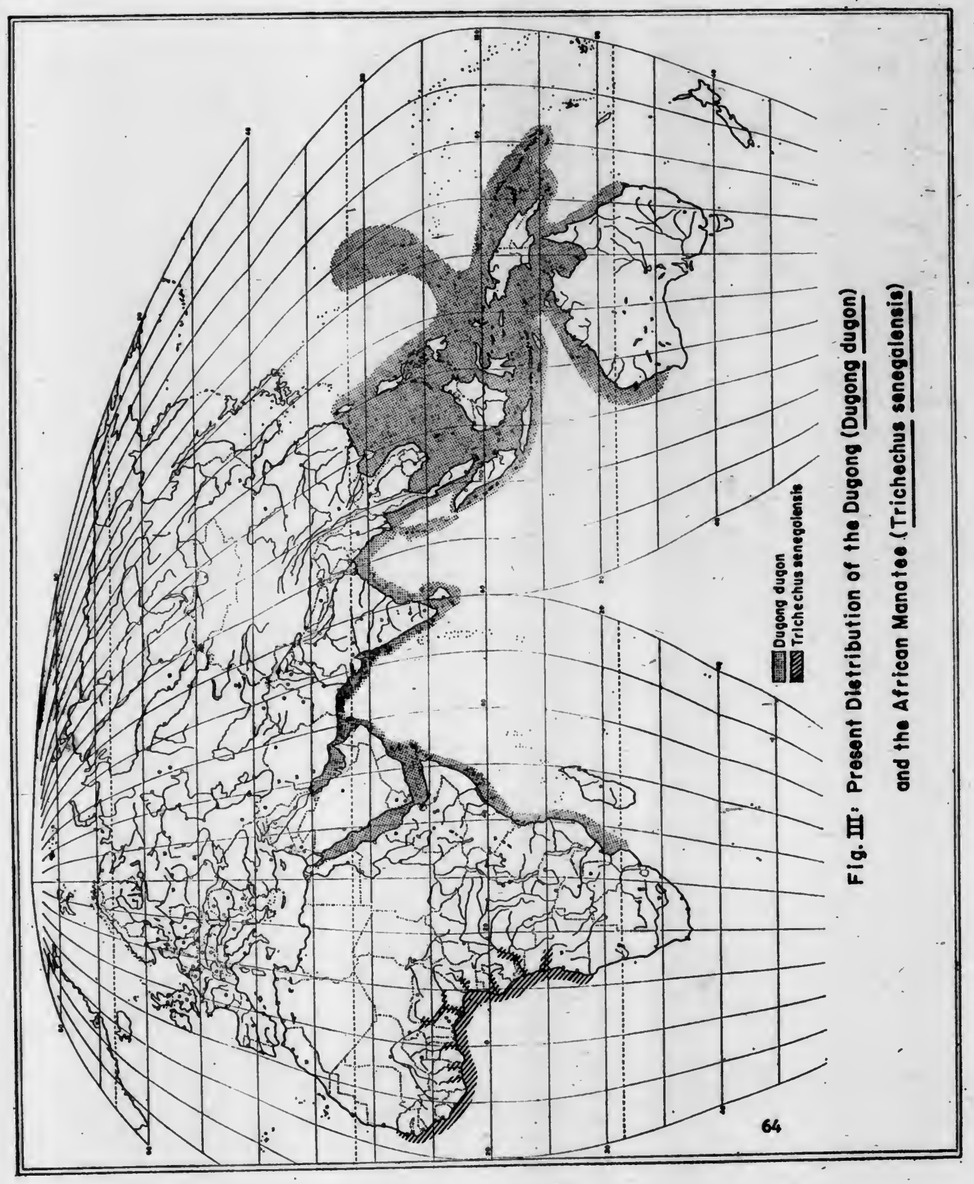


Fig. III: Present Distribution of the Dugong (Dugong dugon) and the African Manatee (Trichechus senegalensis)

Abundance and trends. No population estimates are available for this species. The African Manatee was reported as rare in the Senegal, Faleme and Casamance Rivers of Senegal as early as 1900. Recent reports of manatee abundance in Senegal, Guinea and Portugese Guinea are lacking. Mantees remain common enough in the Sierra Leone River estuaries today to be trapped for food, but no information is available on the current status of manatees along the coast from Liberia to Nigeria. Manatees have been extirpated from the Mekrou River of Dahomey and the portion of the Niger River on the Niger-Dahomey border, although they are thought to still be numerous in most of the larger rivers of southern Nigeria. Populations seem to be stable in the lower Niger, the Benue River, and the Anambra system of creeks, but manatees are rare in the Izichi River of Nigeria. *T. senegalensis* has apparently been extirpated in Lake Chad and is classified as rare in the Cameroons. The lower reaches of the Congo River reportedly support considerable numbers, but populations have diminished in the upper rivers. In general, the manatee population of Zaire is much reduced. *T. senegalensis* is classified as a vulnerable species, but little data is available on the recent distribution or abundance of this animal.

General biology. Externally, this manatee is indistinguishable from the West Indian Mantee. It is large, fusiform and nearly hairless, with paddle-like flippers and spatulate tail. Average adults measure from 2.5 to 3.4 m. in length and weigh from 400 to 500 kg. It has been hypothesized that breeding occurs during the late dry season in weedy swamps and lagoons, but documentation has not been provided. The gestation period is unknown but is probably about one year. One is the usual number of young. Newborn calves are approximately 1 m. in length, and they are believed to remain with the parent cow for a long period of time. There is no further information available on reproductive or population biology of this species. African Mantees favor weedy swamps and mirigots. They are believed to be active throughout the day, but feed mostly at night. Their diet includes mangrove leaves, *Cymodocea nodosa*, *Polygonum*, and *Eichornia crassipes*, but they have also been reported feeding on *Rhizophora*, a terrestrial plant which often hangs over water. A 1.85 m captive male consumed 12 kg. of vegetables daily. Upon reaching 2.4 m. in length, he regularly ate 17 to 18 kg. of vegetables, *Elodea*, and legumes daily. The only information available of the social behavior of *T. senegalensis* is that groups of four animals, including half-grown calves, have been observed.

The one internal parasite reported for the African Manatee is *Chiorchis fabaceus*, a trematode found in the large intestine. No diseases of this species have been reported from the wild, but one captive died as a result of acute enteritis. There is no evidence of predation on *T. senegalensis* by any species other than man.

Ecological problems. Propellers and keels of boats striking submerged manatees may inflict mortal wounds. While there has been no evidence presented indicating that this is a real problem in West Africa as it is in Florida, the Ijaw fishermen of the Anambra system of creeks in Nigeria considered manatees a nuisance to their boat traffic. In 1932, they began trapping and killing manatees, and within three years, managed to exterminate the local population. Killing of manatees for food is reported to have reduced this species in rivers in Ghana after water clarity improved following the construction of dams. These dams are also believed to have isolated populations and may disrupt normal migratory movements. Manatees inhabit the recently formed Lake Volta in Ghana and Lake Kainje in Nigeria, which are currently being swamped by growth of aquatic weeds. Use of herbicides on the weeds which are consumed by the manatees presents a potential threat to manatee. Pollution of waters in areas of human development would be expected to adversely affect the food sources of manatees. This species occurs within the Doro River Forest Reserve of Nigeria and in the proposed Korup and Campo Reserves of Cameroon.

Allocation problems. The African Manatee has long been hunted throughout its range, largely for its meat. Nets, harpoons and guns are used in taking manatees and the hunting is usually done at night. Manatee hunting has been a regular occupation in the lower Congo, Angola and in northern Nigeria. No estimates are available as to the current take. An additional problem is the accidental netting of manatees in shark nets. These are set along many coastal areas of West Africa. *T. senegalensis* has been considered as a potential solution to the problem of aquatic weed control in man-made lakes and river systems. Experiments carried out on the West Indian Manatee indicate that successful weed control by manatees is feasible under certain specialized circumstances. It is likely that the use of manatees in conjunction with the alternative mechanical weed removers, would provide the best means of control.

Regulations. The African Manatee is currently protected in Senegal, Guinea, Sierra Leone, Liberia, Ivory Coast, Ghana, Togo, Dahomey, Nigeria, Cameroon, Gabon, Congo Brazzaville, Zaire and Angola.

Current research. There are no current survey programs underway to determine the status and distribution of this species, but the National Fish and Wildlife Laboratory of the U.S. Department of the Interior considers this a critical area for research in F.Y. '77. Peter van Bree of Amsterdam is supervising a taxonomic study comparing *T. senegalensis* to *T. manatus*. The National Fish and Wildlife Laboratory of the U.S. Department of the Interior has compiled a report on the distribution, conservation and natural history of *T. senegalensis*.

Amazonian Manatee

(*Trichechus inunguis*)

Distribution and migration. The Amazonian Manatee is strictly fluviatile, apparently being confined to the Amazon Basin and possibly the Orinoco drainage. (Fig. 1). In Brazil, it occurs in the Amazon River and the following tributaries: the Rio Tocantins, the Rio Xingu, the Tapajos, the Nhamunca, the Rio Madeira and the Rio Negro. They have also been reported in the Rio Branco, which is almost continuous with the Essequibo and Rupununni Rivers of Guyana during flooding, thus allowing manatees access to these rivers. It is thought that *T. inunguis* also inhabits the upper Orinoco and the Cano Casiquiare of Venezuela, but records are lacking. In Colombia, Amazonian Manatees may be found in the Amazon, the Pupumayo River (west to the Araracuara rapids). They may also frequent the Apaporis River. Peruvian rivers supporting manatees are: the Rio Napo, the Rio Tigre, the Rio Maranon (as far as its confluence with the Rio Pastaza), the Rio Samiria and the Rio Pacaya. They also inhabit the Ucayli and Huallago River drainages, but are absent from both the Madre de Dios and the Purus systems. No information is available on migration of this species.

Abundance and trends. Amazonian Manatees were formerly abundant in the Brazilian Amazon. Thousands of skins were brought yearly to Manaus for trade in the 1930's and 1940's. *T. inunguis* is consequently less abundant today in most of the Amazon and its tribuatries. They are, however, still fairly common in some lakes on the lower Tapajos, and in the Nhamunca River. In general, this manatee is regarded as rare in Colombia. This species is nearer to extinction in Peru than any other mamal, although modest numbers do remain in the Rio Samiria and the Rio Pacaya. All reports indicate dramatic decline in numbers of Amazonian Manatees throughout their range. Population estimates are not available, but extinction has been predicted within the next few decades if local hunting pressures continue.

General biology. T. inunguis is a large, fusiforma, nearly hairless marine mammal with paddlelike flippers and a spatulate tail. It is distinct from other manatee species (*T. manatus* and *T. senegalensis*) in both appearance and habitat. It is characteristically more slender in form with elongated flippers lacking nails, and it is marked by a unique white breast patch. This species is the only entirely fluvatile manatee. Adults may reach lengths of 2.8 m. and estimated weights are between 125 and 250 kg. Breeding apparently occurs throughout the year. The gestation period is thought to be about one year, and one is the usual number of young born. Newborn calves are less than one meter in length and weigh less than 20 kg. Further information on reproduction, ontogentic variation and population structure are lacking. Longevity in nature is unknown, but a captive pair survived for 12½ years before they died.

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Amazonian Manatees feed upon a variety of aquatic vegetation including *Statiotes, Potamogeton, Vallisneria, Ceratophyllum, Ulva, Myriophyllum* and *Zostera*. Daily consumption of food plants has not been measured under natural conditions, but captive adults generally require 9 to 15 kg. of lettuce and vegetables daily. There is no documentation of any natural predation on T. inunguis, but jaguars, sharks, piranha and caiman have been suggested as likely predators. The trematode, *Chiorchis fabaceus*, occurring in the large intestine, is the only internal parasite reported for this species. Bronchial disorders, pneumonia and skin problems have been noted in captives, and one captive developed a case of osteomyelitis as a result of a harpoon wound.

Allocation problems. Many Indian tribes of Amazonia have hunted manatees in the past, both for meat and for the hides which were used in making shields. Harpoons and nets were used in capturing the animals, but the final killing was done by driving wooden plugs into nostrils causing suffocation. In the 1930's and 1940's, the Amazonian Manatee was commercially exploited for the skins, which were shipped to Portugal and Rio de Janeiro to be used primarily in the manufacture of machine belting and water hoses. A meat preparation called "mixira" consisting of meat boiled in its own fat, was canned and also shipped abroad. Thousands of manatees were slaughtered yearly. Protective legislation has since been enacted and the present rate of exploitation is reportedly reduced. However, poaching continues at a reduced rate and manatee meat is still occasionally available in Colombia and Brazil. In Leticia, Colombia, a large manatee today is worth about 40 Colombia pesos. The price has reportedly slumped in other areas.

Regulations. *T. inunguis* is totally protected in Brazil (1968), Venezuela (1970), Colombia (1969), Peru (1973) and Guyana (1961).

Current research. Diana Magor is the only individual currently studying *T. inunguis*. She is based in Manaus, Brazil, and is collecting data on growth, distribution, and the natural history of the Amazonian Manatee.

DUGONG

(*Dugong dugon*)

Distribution and migration. The dugong occurs in tropical and subtropical waters of the Indo-Pacific (Fig. III). It is totally marine and is usually found in near-shore coastal waters from two to three fathoms in depth. Along the east coast of Africa it ranges from Egypt in the Red Sea, south to Delagoa Bay (26° S), Mozambique. This distribution is discontinuous due to local extirpation in certain areas. Dugongs have been reported from the Persian Gulf and they also range along the west coast of India, south of the Gulf of Kutch. They occur in Ceylonese waters and are present in the Andaman Islands, the Mergui Archipelago, Burma, Malaysia, the Moluas and Sumatra. They may still be found in the Ryuyu Archipelago, and specimens have been taken in Formosa and Hong Kong. The present range extends south and east to include Guam, the Palau Islands, the Carolines, New Britain, New Guinea, the Solomons, New Caledonia and New Hebrides. In Australia, dugongs occur all along the northern coast from Perth (32° S), on the west coast, to Brisbane, in the east. They are absent from the Marshall, Gilbert, Ellice and Fiji Islands.

Long distance migrations are unknown for this species, but local, offshore movements are apparent. These correlated with the changing monsoon seasons and possibly with resulting shifts in abundance of food sources. During the season of rough seas and extreme winds, the animals move to shore, apparently seeking shelter. Such movements have been reported in east Africa, India, and the Phillipines (where they are no longer present). Similar migrations have not been noted in Australia.

Abundance and trends. Populations are thought to be much reduced and continuing to decline through much of the range, excepting Australia and Papua-New Guinea. Numerical estimates of dugongs are unavailable except for northeastern Australia. A population of 1,000–2,000 dugongs is estimated along the Queensland coast.

Dugongs are more abundant in Kenya and the Somali Republic than elsewhere along the coast of Africa. They are now extremely rare in the Red Sea and the Gulf of Aqaba. They were once abundant enough in the Gulf of Mannar (between Ceylon and India) to support a large commercial dugong fishery. The only remaining remnants of this population are restricted to the region near the Mannar Peninsula of Ceylon, from Jaffna to Puttalam. Numbers have declined along the Sarawak coast of Malaysia, and few dugongs can be found today in the Ryuyu Archipelago. The only stable populations occur along the northern Australia coast, Shark Bay, Broome, the Gulf of Carpentaria, the northern coast of Queensland, and along the coast of Papua-New Guinea. These stocks appear to be maintaining themselves and may even be increasing. At present, dugongs occur only in Lamu Park in Kenya.

General biology. Dugongs are large fusiform marine mammals with flipper-like forelimbs and a broadly notched, horizontal tail fluke. Adults range from 2.4 to 2.7 m. in length and corresponding weights are 230 to 360 kg. The thick, nearly hairless skin is deep slate to brown in color and is frequently marked with numerous scars and scratches. Dugongs were quite social in the past, occurring in large herds of several hundred animals. Today, groups of one to six animals are the usual number, although groups of up to fifty animals are still seen along the coast of Australia. Breeding apparently occurs throughout the year. The gestation period is thought to be about one year and one is the usual number born. Twins have been rarely reported. Newborn calves are about 1.1 m. in length. Calves begin grazing within the first three months after birth, but continue to nurse for over a year, reaching a length of up to 1.8 m. Sexual maturity is attained when animals reach approximate length of up to 2.4 m. (estimated five to ten years of age). Sexual dimorphism in size of adults is not evident. Longevity of the dugong in the wild is unknown, but analysis to tooth growth layer suggests a maximum age of thirty to sixty years, depending on whether growth rings are annual or biannual. A pair of captives were successfully maintained for ten years.

Dugongs are largely herbivorous and rely primarily upon marine sea grasses of the families Potamogetonaceae and Hydrocharitaceae, occurring in upper subtidal and lower intertidal waters which range from 21° to 38° C. throughout the year. *Diplanthera* and *Cymodocea* are the most heavily utilized genera. Brown algae (Sargassum) may also be consumed in significant amounts when sea grasses are locally in short supply. Dugongs reportedly prefer to feed at night or with the rising tide.

There are few observations of predation upon the dugong by animals other than man. Fishermen have claimed the shark is a predator, but in over 100 dugongs netted and drowned in Queensland, none ever showed any sign of attack by sharks or any other predators. Large saltwater crocodiles are known to eat dugongs on occasion but the extent of this predation is unknown.

Internal parasites include Termatoda (10 spp.) and Nematoda (2 spp.). Barnacles and green filamentous algae have been observed on dugongs,but do not appear harmful. No diseases have been reported.

Allocation problems: Man is the major threat to the dugong's existence. Boat traffic in offshore areas may inflict mortal wounds. Increased marine fishery activities in the India-Ceylon area have resulted in accidental nettings, drowning substantial numbers of dugongs. Dynamiting for fish is also assumed to affect dugongs adversely. In Queensland, Australia, a shark netting program has resulted in large dugong mortality; similar netting programs exist in Africa.

Dugongs have been hunted throughout their range. Their meat is similar to veal or pork, and "keeps" for long periods of time. Average sized adults yield from five to eight gallons of oil similar to cod liver oil, and the hide makes excellent leather, especially suitable for sandalmaking. Tusks and bones are used as ivory and several body parts were once thought to have medicinal or aphrodisiac properties. Today, hunting pressures are much reduced, in part due to the decline of dugongs. In spite of legislative protection, however, poaching continues. In Australia, the aborigines and Torres Islanders may still legally hunt the animals. One village (250 people) caught an average of about 70 animals per year during the early 1960's. In Papua-New Guinea at least one animal a week is killed for local consumption along the southwestern coast.

Regulations. The dugong is totally protected in Egypt, Anglo-Egyptian Sudan, Ethiopia, Somalia, Kenya, Tanzania, Mozambique, Madagascar, South Africa, Natal, India, Ceylon, Sabah, Sarawak, the Philippines, Japan, Formosa and New Caledonia; in Australia and Papua New Guinea, only aborigines and natives may hunt the dugong and they only for local consumption and use. While protection is near complete, effective enforcement is virtually impossible in most areas.

Current research. George Heinshon is continuing his study of dugongs in Townsville, Queensland. Animals accidentally drowned in shark nets are providing population and reproduction data, as well as information on food habits. Studies of nutrition, general ecology and behavior, and histology are also being conducted. Robert Kater and Adrian Hillier are also reportedly studying dugongs in Kenya, but the nature of their investigations is unknown. The National Fish and Wildlife Laboratory of the U.S. Department of the Interior has assembled a report on the distribution, status, and natural history of this species and recently conducted surveys along the north Australia coast, in Papua-New Guinea and in Kenya. Surveys are underway to determine dugong distribution in many areas of the Pacific where data are lacking and tagging and tracking studies to determine movements and migratory habits are planned for F.Y. 1977–78.

MARINE OTTER

(*Lontra felina*)

Local common names. Gato marino, chungungo, hulaque, nutria de mar, and chinchimen.

Taxonomy. Two subspecies of the marine otter are recognized; *L. f. felina* from southern Chile is slightly darker brown on the ventral surface when compared to *L. f. peruviensis* from northern Chile and Peru. Sufficent specimens are not currently available to permit detailed studies on the validity of these subspecies.

Distribution and migration. This species inhabits the coastal waters along the west coast of South Amerca from central Peru (north at least to 12°S) south to Cape Horn, Chile. Nothing is known about its seasonal movements. It occurs mainly in the littoral region, but it is also known to ascend rivers to at least 650 meters above sea level.

Abundance and trends. Darwin found this otter abundant in the Chonos Archipelago and among the islands off the southwestern shores of Tierra del Fuego. It has been greatly diminished in numbers since Darwin's time, but in 1923 the Chicago Field Museum expedition found it to be common along the southern end of Chiloe Island, Chile. Nothing is known about numbers of the marine otter along the northern coast of Chile, but in Peruvian waters the population is estimated to be between 200 to 300. In the Cape Horn and southern Tierra del Fuego region this species has been practically exterminated. One specimen was collected at Wollaston Islands, Tierra del Fuego about 25 years ago.

General biology. The following external measurements have been recorded for the marine otter: head and body 570 to 787 mm; tail, 300 to 362 mm; and total length, 910 to 1149 mm. An adult male taken at the southern end of Chiloe Island weighed 9 pounds. The fresh water prawn, *Criphiops caementarius*, is included in the diet of the species. Darwin reported that this otter feeds also on fish, "small red crab", "cuttle-fish", and the inhabitants of "volute shells". Sexual dimorphism was not detected in a small sample of this species. All species of *Lontra* except *L. provocax* and *L. felina* are allopatric (occupying different geographic areas), and all except *L. felina*, a littoral marine species, are probably ecological equivalents. *Lontra felina* is the smallest and the most distinct species in the genus and, according to one investigator, "probably evolved from a stream-dwelling species that adapted to a marine environment after isolation in coastal habitats as a consequence of progressive aridity in middle latitudes of South America's west coast."

Parasites and diseases. Nothing is known about parasites or diseases in this species.

Allocation problems. In Peruvian waters these otters are often shot by fishermen because of the alleged damage they do to the stocks of freshwater prawns. In Chile the species is hunted regularly by fishermen for their skins, especially south of Isla Chiloe.

Ecological problems. No specimens have been examined for pesticide residues or heavy metal contaminants.

Regulations. This species is listed as endangered in the Red Data Book of the International Union for the Conservation of Nature, but *L. felina* is not listed in the U.S. Endangered Species Act of 1973, which prohibits the importation into the United States species listed except for scientific, education or propagation purposes. The Marine Mammal Protion Act of 1972 assumed management authority for all marine mammals, but the marine otter for some reason was not listed under the jurisdiction of the Act. In Peru, the marine otter has been found in three areas being considered as a coastal park, but it is not known if the species is local enough in habits to remain in any one of these areas throughout the year.

Current research and funding of marine otter studies. Contracts are being established by U.S. Fish and Wildlife Service in Peru and Chile. Carlos Cabello of the Corporacion Nacional Forestal, Chile, is studying marine otters around Isla de Chiloe, Chile.

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PART III. APPENDICES

Appendix A—Decision to Waiver of Moratorium and Return Management of Walrus to the State of Alaska: FEDERAL REGISTER reference, 40 FR 59159.
Appendix B—Subpart F Approval of Alaskan Laws and Regulations: FEDERAL REGISTER reference, 40 FR 59442.
Appendix C—Procedural Regulation for Hearings: FEDERAL REGISTER reference, 41 FR 5396.
Appendix D—Subpart H—Waiver of Moratorium on Taking and Importation of Individual Marine Mammal Species: FEDERAL REGISTER reference, 41 FR 14372.
Appendix E—Proposed Waiver of Moratorium on the Polar Bear, Sea Otter and Pacific Walrus: FEDERAL REGISTER reference, 41 FR 15166.
Appendix F—Revised Notice of (I) Public Hearings and (II) Prehearing Order; Revised Notice of Public Hearings: FEDERAL REGISTER reference, 41 FR 21833.

[FR Doc.76-37690 Filed 12-28-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[332-80]

PROBABLE ECONOMIC EFFECT OF THE PROVISIONS OF H.R. 14600 AND THE NEED TO PROTECT A DOMESTIC INDUSTRY

Rescheduling of Public Hearing

Notice is hereby given that the United States International Trade Commission's public hearing in connection with investigation No. 332–80 will be held in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street, NW., Washington, D.C., bgeinning at 10 a.m., e.s.t. on March 15, 1977.

Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in the United States International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, not later than noon, March 10, 1977.

This notice revokes the date of the subject public hearing as announced in the Notice of Rescheduling of Public Hearing issued on December 2, 1976, and published in the FEDERAL REGISTER on December 7, 1976 (41 FR 53549).

By order of the Commission.

KENNETH R. MASON,
Secretary.

Issued: December 22, 1976.

[FR Doc.76-38101 Filed 12-28-76;8:45 am]

NOTICE OF MEETING

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on December 28, 1976, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436. The Commission plans to consider the following agenda items in open session:

1. Agenda for future meetings;
2. Minutes of the hearings and meetings of December 14, 16, and 20, 1976;
3. Reorganization;
4. Footwear (Inv. TA–201–18)—vote on remedy, if necessary;
5. Quarterly report on East-West Trade—draft to be distributed; and
6. Work plans for FY 77 and FY 78 budget estimates—see memorandum dated December 8, 1976, from the Chief, Financial Management.

A majority of the entire membership of the Commission determined by recorded vote that Commission business requires that the meeting of December 28, 1976, be called with less than one week's prior notice and directed the issuance of this notice at the earliest practicable time.

If you have any questions concerning the agenda for the December 28, 1976, Commission meeting, please contact the Secretary to the Commission at (202) 523–0161. Access to documents to be considered by the Commission at the meeting is provided for in Subpart C of the Commission's rules (19 CFR 201.17–201.21).

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 CFR 201.39(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

By order of the Commission:

Issued: December 23, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-38156 Filed 12-28-76;8:45 am]

MEETING

Addition to Agenda

At its meeting of December 23, 1976, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 in conformity with proposed 19 C.F.R. 201.38, voted to add the following item to its agenda for the meeting of December 23, 1976:

11. GSP (Invs. TA–503(a)–3 and 332–81)—approval of notice deleting citrus fruit items and establishing time and place of public hearing on January 4, 1977, in Houston, Texas.

Commissioners Minchew, Parker, Leonard, Moore, and Ablondi voted by unanimous consent, that Commission business requires the change in subject matter by addition of the agenda item, affirmed that no earlier announcement of the addition to this agenda was possible, and directed the issuance of this notice at the earliest practicable time. (Commissioner Bedell was not present for the vote.)

By order of the Commission:

Issued: December 23, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-38155 Filed 12-28-76;8:45 am]

MEETING

Additions to Agenda

At its meeting of December 23, 1976, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 in conformity with proposed 19 C.F.R. 201.38, voted to add the following items to its agenda for the meeting of December 30, 1976:

4. Draft letter from the Special Trade Representative for Negotiations re section 203 (i)(2) investigation on "bearing" steel;
5. Proposed request from the President for an investigation of tariff classification of textiles.

Commissioners Minchew, Parker, Leonard, Moore, and Ablondi voted by unanimous consent, that Commission business requires the change in subject matter by addition of these agenda items, affirmed that no earlier announcement of the addition to this agenda was possible, and directed the issuance of this notice at the earliest practicable time. (Commissioner Bedell was not present for the vote.)

By order of the Commission:

Issued: December 23, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-38157 Filed 12-28-76;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

IMPORTATION OF CONTROLLED SUBSTANCES

Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on October 19, 1976, Philadelphia Seed Co., Chemical & Gravers Roads, Plymouth Meeting, Pa. 19462, made application to the Drug Enforcement Administration to be registered as an importer of marihuana, a basic class of controlled substance in Schedule 1, for the importation of seed only, to be rendered non-viable for use in feed.

As to the basic class of controlled substance listed above for which applications for registration has been made, any other applicant therefore, and any existing bulk manufacturer registered therefor, may file written comments on or objection to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than January 27, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, N.W., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: December 17, 1976.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-38154 Filed 12-28-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[76–117]

SPACE PROGRAM ADVISORY COUNCIL (SPAC), LIFE SCIENCES COMMITTEE

Meeting

The SPAC Life Sciences Committee will meet on February 9–10, 1977, at the Lyndon B. Johnson Space Center, Houston, Texas 77058. The meeting will be held in Room 966 of Building One. Members of the public will be admitted on a first come first served basis, up to the seating capacity of the room, which is about 60 persons.

The SPAC Life Sciences Committee serves in an advisory capacity only. In this capacity, it is concerned with man in relation to space travel and habitation, with exobiology, with other life forms, and including: physiology, behavior, clinical aerospace medicine, microbiology, radiobiology, biochemistry, nutrition and food technology, biology of gravity and rhythms, and biotechnology. The current Chairman is Dr. G. Donald Whedon. There are 18 members.

The following list sets forth the approved agenda and schedule for the February 9–10, 1977 meeting of the Life Sciences Committee. For further information, please contact Dr. Walton L. Jones: Area Code 202–755–2206, NASA Headquarters, Washington, DC 20546.

FEBRUARY 9, 1977

Time	*Topic*
0830–0900	Administrative. (Purpose: Subjects being discussed will include topics such as final approval of previous committee minutes and action items from the previous meeting of the parent organization, Space Program Advisory Council.)
0900–1030	Life Sciences Five-Year Plan, Budget and New Start Items. (Purpose: To apprise the Life Sciences Committee of the long term program plans and more immediate budget and new start propositions and to solicit comments and advice of Life Sciences Committee members.)

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Time	Topic
1030–1100	Viking Results. (Purpose: To brief the LSC on the findings and significance of the biological and related experiments of Viking I and II subsequent to those reported at the LSC meeting of November 3, 1976.)
1100–1200	Planetary Quarantine Program Review Subcommittee Report. (Purpose: To report on subcommittee's findings at a review meeting at Jet Propulsion Laboratory and to solicit comments and advice of the full LSC.)
1300–1430	Update of Study in Human Factors and Aviation Safety. (Purpose: To apprise the LSC of the studies and results since the previous briefing and to solicit comments and advice of the members.)
1430–1600	Pharmacological Studies in Vestibular Program. (Purpose: To brief the LSC on the research and space flight experience of drugs used for the space motion sickness syndrome, as well as studies planned and to solicit comments and advice of the LSC members.)
1600–1630	Discussion. (Purpose: To formulate positions on issued discussed during the day.)
1630–1730	System Mission Development Test III (SMD III) Briefing and Tour. (Purpose: To provide LSC members with the opportunity to visit and examine the Spacelab Payload development and test facility used to develop experiments integration and data handling requirements, etc.)
	FEBRUARY 10, 1977
0830–0930	View Shuttle Extravehicular Mobility Unit (EMU) and Rescue Ball in Test Conditions. (Purpose: To demonstrate for the LSC the prototype test articles, EMU, and Rescue Ball for the Space Shuttle.)
0930–1030	Biocidal Water Treatment Research and Development of Waste Sampling Technology. (Purpose: To brief the LSC on this research and development effort and to solicit comments and advice of the LSC members.)
1030–1130	Progress on Calcium/Muscle Problem—Bed Rest Studies. (Purpose: To apprise the LSC of the progress of the calcium/muscle problem in flight, the results of the analogue studies using bed rest and to solicit comments and advicse of the LSC members.
1130–1200	Status of the first Spacelab mission (SL–1) Life Sciences Experiments. (Purpose: To apprise the LSC of the current status of the SL–1 Life Sciences Experiments.)
1200–1230	Discussion. (Purpose: To formulate the position on issues discussed during the meeting.)

December 21, 1976.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs National Aeronautics and Space Administration.

[FR Doc.76–338126 Filed 12–28–76;8:45 am]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

MEETINGS

The National Commission on Electronic Fund Transfers will hold consecutive meetings of its committees on January 11–13, 1977 at the Sawgrass, Ponte Vedra Beach, Florida, beginning at 9:30 a.m. each day. The Users Committee will meet on Tuesday, January 11, the Suppliers Committee will meet on Wednesday, January 12, and the Regulatory Issues Committee will meet on Thursday, January 13. The Providers will meet at the same location on Friday, January 14 at 9:30 a.m. Each of the meetings will discuss the Commission's February report.

The meetings are open to the public on a first-call basis to the extent that space permits. Any person interested in attending should first call Ms. Janet Miller at (202) 254–7400 to check on the availability of space.

Dated: December 23, 1976.

WILLIAM B. WIDNALL,
Chairman.

[FR Doc.76–38225 Filed 12–28–76;8:45 am]

MEETINGS

The National Commission on Electronic Fund Transfers will hold consecutive meetings of its committees on January 3 and 4, 1977, at the Federal Reserve Martin Annex Building, Dining Room E, Washington, D.C., beginning at 9:00 a.m. each day. On January 3, the Regulatory Issues Committee will meet at 9:00 a.m. and the Providers Committee will meet at 1:00 p.m. On January 4, the Users Committee will meet at 9:00 a.m., the Supplier's Committee will meet at 11:00 a.m., and the Steering Committee will meet at 2:30 p.m. Each of these meetings will discuss the Commission's February report.

The meetings are open to the public on a first call basis to the extent that space permits. Any person interested in attending should first call Ms. Janet Miller at (202) 254–7400 to check on the availability of space.

Dated: December 23, 1976.

WILLIAM B. WIDNALL,
Chairman.

[FR Doc.76–38224 Filed 12–28–76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MUSEUM ADVISORY PANEL

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held on January 12–13, 1977, from 9:30 a.m. to 4:00 p.m., at the Museum of Fine Arts, 1001 Bissonnet, Houston, Texas.

A portion of this meeting will be open to the public on January 13, 1977, from 9:30 a.m. to 4:00 p.m., on a space available basis. The agenda will include a review of Museum Program and current policy developments.

The remaining sessions of this meeting, on January 12, 1977, from 9:30 a.m. to 4:00 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76–38171 Filed 12–28–76;8:45 am]

PUBLIC MEDIA ADVISORY PANEL

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a closed meeting of the Public Media Advisory Panel to the National Council on the Arts will be held on January 14–15, 1977, from 9:00 a.m. to 5:00 p.m., in Room 1215, Columbia Plaza Building, 2401 E Street, NW, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76–38172 Filed 12–28–76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 76–53]

CORRESPONDENCE RELATING TO SAFETY RECOMMENDATIONS

Availability

The National Transportation Safety Board, by letter of December 17, has supplied comments on the Federal Railroad Administration's recent proposal to amend 49 CFR Part 221. The notice of proposed rulemakng—Docket No. RSRM–1, Notice 1, Rear End Marking Devices-Passenger, Commuter and Freight Trains—was published November 17, 1976, at 41 FR 50701.

In commenting on the FRA proposal, the Safety Board points to its earlier recommendations for improving the conspicuity of the rear end of trains. The Board's December 17 letter makes specific reference to the recommendation, No. R–76–25, which asked FRA to "establish standards for rear end visibility of trains." The recommendation was made in light of investigation of the rear end collision of a Penn Central commuter train and a Metroliner near Wilmington, Delaware, October 17, 1975. (See 41 FR 32794, August 5, 1976.)

The Safety Board comments that rules issued by the Secretary of Transportation in compliance with section 5(b), Federal Railroad Safety Authorization Act of 1976, Pub. L. 94–348, should seek to establish a standard which will assist the locomotive engineer controlling trains to detect rolling stock on the track structure. The Board believes that a uniform marking device should be developed so that, when the agreed-upon symbol is detected by the engineer, he will immediately recognize it as an obstruction and take appropriate action. The Board notes that Federal standards should convey as much information as is practical; also, spacing of the markers, the size of the marker, and the intensity of the illumination should be uniform so that there is no misperception by the individual observing the markers.

The Board further believes that instructions should be developed so that crewmembers will be informed that markers are lighted. When darkness falls or when visibility is reduced after the train is en route, the Board stated, the locomotive engineer and the conductor should be notified of rear end illumination.

As a result of investigation of the Southern Pacific Transportation Company freight train/automobile grade crossing collision in Tracy, California, on March 9, 1975, the Safety Board issued recommendations H–75–2 and H–76–3 to the National Highway Traffic Safety Administration. These recommendations requested that NHTSA determine the effectiveness of currently employed traffic information and control systems at railroad crossings and develop more effective systems for use at temporary traffic control sites with respect to impaired drivers. (See 41 FR 14953, April 8, 1976.)

Subsequently, NHTSA informed the Safety Board that it believes these recommendations fall under the jurisdiction of the Federal Highway Administration, and that NHTSA will coordinate its research and program efforts as they relate to these recommendations with FHWA to maximize the contribution FHWA can make to the issues raised. The Safety Board, in agreement with this decision, on December 21 directed recommendations H–76–2 and H–76–3 to FHWA.

Copies of letters concerning Safety Board recommendations may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

(Sec. 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2172 (49 U.S.C. 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

DECEMBER 23, 1976.

[FR Doc.76–38146 Filed 12–28–76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Department Order 107; Rev. 20]

DIRECTOR, OFFICE OF ADMINISTRATIVE PROGRAMS, ET AL.

Delegation of Authority

By virtue of the authority vested in the Secretary of the Treasury, including the authority conferred by 5 U.S.C. 301, and by virtue of the authority delegated to me by Treasury Department Order No. 190 Revised, it is hereby ordered that the head of each Treasury bureau and his deputy is authorized to affix the Seal of the Department of the Treasury in the authentication of originals and copies of books, records, papers, writings, and documents of the Department, for all purposes, including the purposes authorized by 28 U.S.C. 1733(b).

Bureau heads or their deputies may delegate this authority to appropriate subordinate officials.

In the Office of the Secretary, the following are authorized to affix the Seal of the Department of the Treasury under this delegation:

1. Director, Office of Administrative Programs

2. Deputy Director, Office of Administrative Programs

3. Assistant Director (Paperwork Management), Office of Administrative Programs

a. Chief, Departmental Paperwork Management Staff

b. Chief, Document Management Branch

(1) Chief, Document Distribution Section

The Head of each bureau and the Director of Administrative Programs are authorized to procure and maintain custody of the dies of the Treasury Seal.

Treasury Department Order No. 107 (Revision 19) dated August 11, 1975 is superseded.

Dated: December 21, 1976.

WARREN F. BRECHT,
Assistant Secretary (Administration).

[FR Doc.76–38120 Filed 12–28–76;8:45 am]

HUNGARY

Removal of Johnson Act Restrictions

Notice is hereby given that the Government of the Hungarian People's Republic has recently made full payment of all indebtedness owed by it to the United States Government through December 15, 1976, and is therefore not now "in default in the payment of its obligations, or any part thereof to the United States", within the meaning of the Johnson Act (Pub. L. 80–772, 62 Stat. 744 (18 U.S.C. 955)). Therefore, the restrictions of the Johnson Act, which forbids persons within the United States from engaging in specified financial transactions with certain foreign governments in default in the payment of their obligations to the United States Government, do not now apply to the Hungarian People's Republic.

GERALD L. PARSKY,
Assistant Secretary for International Affairs.

DECEMBER 23, 1976.

[FR Doc.76–38260 Filed 12–28–76;10:58 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 222]

ASSIGNMENT OF HEARINGS

DECEMBER 23, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC–F–11874, Matlack, Inc.—Control—C.F. Tank Lines, Inc., now being assigned prehearing conferences February 1, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 121607 (Sub-No. 8), Columbia-Pacific Transport Co.—Crane Division, now assigned January 24, 1977, at Seattle, Wash. is canceled and reassigned for January 24, 1977 (1 week), at Richland, Wash., Hanford House, George Washington Way at Knight Street.

MC 115904 (Sub-No. 47), Grover Trucking Co., now assigned March 2, 1977, at Boise, Idaho is postponed to March 21, 1977 (3 days), at Boise, Idaho; in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 76–38220 Filed 12–28–76;8:45 am]

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[AB 1 (Sub-No. 52)]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Abandonment of Line

DECEMBER 16, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment of the Chicago and North Western Transportation Company branch line extending 26.3 miles between Rosemere and Forest Junction, in Manitowoc and Calumet Counties, Wisc., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that alternative transportation is available in the region and the environmental effects attendant to the diversion of traffic from the line to motor carriers would be minimal. Abandonment should not preclude the movement of goods. Although an industrial park is located adjacent to the right-of-way, adequate highways exist to serve this facility and alternative rail service is in close proximity. Full development of the park should not be inhibited. A determination has been made that the right-of-way would be suitable for public use.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 31, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38219 Filed 12-28-76;8:45 am]

[AB 12 (Sub-No. 50)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment of Line

DECEMBER 16, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of its line extending from Burrell in a southeasterly direction to the end of the branch near Riverdale, a distance of 6.12 miles, in Fresno County, Calif., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of the NEPA.

It was concluded, among other things, that the associated environmental impacts are not considered significant because traffic on the subject line has been declining, and the area is no longer an important trans-shipment point for grain. There are a number of alternate railheads located in close proximity to the line which can handle diverted traffic. As a result, abandonment will not cause any significant increases in air pollution or fuel consumption.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before January 31, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38218 Filed 12-28-76;8:45 am]

[Rule 19; Ex Parte No. 241; Exemption No. 130]

PITTSBURGH AND LAKE ERIE RAILROAD CO.

Exemption Under Mandatory Car Service Rules

It appearing that the railroad named below owns numerous plain gondolas; that under present conditions there are substantial surpluses of these cars on its line; that return of these cars to the owner would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, less than 61-ft. in length described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 401, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "GA", "GB", "GD", "GH", "GS", "GT", and "GW", which are less than 61-ft. in length which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1(a), 2(a) and 2(b).

The Pittsburgh and Lake Erie Railroad Company Reporting Marks: P&LE

Effective: December 15, 1976.

Expires: January 31, 1977.

Issued at Washington, D.C., December 9, 1976.

INTERSTATE COMMERCE COMMISSION,

JOEL E. BURNS,
Agent.

[FR Doc.76-38221 Filed 12-28-76;8:45 am]

[Order No. 15; Service Order No. 1252]

CONSOLIDATED RAIL CORP.

Rerouting or Diversion of Traffic

In the opinion of Joel E. Burns, Agent, the Consolidated Rail Corporation (Conrail) is unable to transport trailer-on-flatcar (TOFC) and container-on-flatcar (COFC) traffic requiring handling at its Boston (Beacon Park), Massachusetts, TOFC-COFC facility because of a work stoppage by certain employees stationed at that facility.

It is ordered, That:

(a) ConRail, being unable to transport TOFC and COFC traffic requiring handling at Boston (Beacon Park), Massachusetts, TOFC-COFC facility because of a work stoppage; that carrier is hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now

exist between them with reference to the division of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 3:00 p.m., December 14, 1976.

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 23, 1976, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement, under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 14, 1976.

INTERSTATE COMMERCE COMMISSION,

JOEL E. BURNS,
Agent.

[FR Doc.76-38222 Filed 12-28-76;8:45 am]

IRREGULAR—ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 23, 1976.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 10, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 8973 (Sub-No. E89), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING INC., 2429 95th St., N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such hardware, building materials, equipment, and supplies as is aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Fairmont, W. Va., to those points in Pennsylvania on and east of a line beginning at the Pennsylvania-New Jersey State line at Pond Eddy, Pa., thence south along an unmarked road to Milford, Pa., and U.S. Highway 209, thence south along U.S. Highway 209 to Dingman's Ferry, Pa., thence east along an unmarked road to the Pennsylvania State line, and that part of Pennsylvania on and east of a line beginning on the Delaware River at Washington Crossing, thence south on Pennsylvania State Highway 32 to Interstate Route 95, thence south on Interstate Highway 95 to an unmarked road leading to Yardley, thence east to Pennsylvania Highway 32, thence south on Pennsylvania Highway 32 to the Pennsylvania-New Jersey State line.

The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E90), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such hardware, building materials, equipment, and supplies as is aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Oswego, N.Y., to points in Delaware.

The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E91), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such hardware, building materials, equipment, and supplies as is aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Oswego, N.Y., to those points in New Jersey on and east of a line beginning on the Pennsylvania-New Jersey State line at Stockton, N.J., thence north along New Jersey Secondary State Highway 523 to junction New Jersey Secondary State Highway 517, thence north on New Jersey Highway 517 through Fairmount to an unmarked road leading north to New Jersey Secondary Highway 513, thence north on the road to New Jersey Highway 513 to New Jersey Highway 10, thence east on New Jersey Highway 10 to New Jersey Highway 53, thence north on New Jersey Highway 53 to Denville, N.J., thence north on an unmarked road through Kinnelon and Butler, N.J., thence east on the same road to U.S. Highway 202, thence north on U.S. Highway 202 to New Jersey Secondary Highway 208, thence east on New Jersey Highway 208 to an unmarked road leading to Wyckoff, N.J., thence north on the unmarked road through Ramsey, N.J., to New Jersey Secondary Highway 507, thence north on New Jersey Secondary Highway 507 through Mahwah to the New Jersey-New York State line.

The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E92), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such hardware, building materials, equipment, and supplies as is aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Oswego, N.Y., to those points in Pennsylvania on and east of a line beginning on the Delaware River at Point Pleasant, Pa., thence south along an unmarked road to Pennsylvania Highway 413, thence south along Pennsylvania Highway 413 to junction U.S Highway 202, thence west on U.S. Highway 202 to Doylestown, Pa., thence south on Pennsylvania Highway 611 to Interstate Highway 276, thence west on Interstate Highway 276 to junction Pennsylvania Highway 23, thence south on Pennsylvania Highway 23 to junction Pennsylvania Highway 320, thence south on Pennsylvania Highway 320 to junction Pennsylvania Highway 3, thence west on Pennsylvania Highway 3 to an unmarked road, thence south along the unmarked road to U.S Highway 1, thence west along U.S. Highway 1 through Concordville, Pa, to U.S. Highway 202, thence south on U.S. Highway 202 to the Delaware-Pennsylvania State line.

The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E93), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such hardware, building materials, equipment, and supplies as is aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Oswego, N.Y., to those points in Maryland on and south of a line beginning on the Potomac River at Marshall Hall, Md., thence south on Maryland Highway 227, to Maryland Highway 210, thence north on Maryland Highway 210 to junction Maryland Highway 373, thence east on Maryland Highway 373 to junction U.S. Highway 301, thence north on U.S. Highway 301 to Maryland Highway 4, thence east on Maryland Highway

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4 to junction Maryland Highway 258, thence east on Maryland Highway 258 to Maryland Highway 256, thence east on Maryland Highway 256 to Deale, Md., and the Chesapeake Bay, thence north along the Intracoastal Waterway, through Chesapeake City, Md., and along the Delaware-Chesapeake Canal to the Delaware State line.

The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 8973 (Sub-No. E95), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such hardware, building materials, equipment, and supplies as is aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Warren, Ohio, to points in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut.

The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at Woodbridge, N.J

No. MC 8973 (Sub-No. E100), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Oswego, N.Y., to that portion of the New York, N.Y. Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(B)(8) of the Interstate Commerce Act (the exempt zone), restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment.

The purpose of this filing is to eliminate the gateways of the facilities of Alcan Aluminium Corporation at South Kearney, N.J., and points in the New York, N.Y. Exempt Zone that is also in New York, N.Y.

No. MC 8973 (Sub-No. E101), filed July 1, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sheet*, from the facilities of Alcan Aluminum Corporation at Warren, Ohio, to that portion of the New York, N.Y., Commercial zone, as defined in the *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(B)(8) of the Interstate Commerce Act (the exempt zone), restricted against the transportation of Class A and B explosives, commodities in bulk, and those commodities requiring special equipment.

The purpose of this filing is to eliminate the gateway of the facilities of Alcan Aluminum Corporation at South Kearny, N.J., and points in the New York, N.Y. Exempt Zone that is also in New York, N.Y.

No. MC 46990 (Sub-No. E17), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in Alabama and Arkansas.

The purpose of this filing is to eliminate the gateways of New York, N.Y. and Philadelphia, Pa.

No. MC 46990 (Sub-No. E18), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in Delaware and Colorado.

The purpose of this filing is to eliminate the gateways of New York, N.Y., Philadelphia, Pa., and Kinsley, Kans., and points within 60 miles thereof.

No. MC 46990 (Sub-No. E19), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in Florida and Washington, D.C.

The purpose of this filing is to eliminate the gateways of New York, N.Y., and Philadelphia, Pa.

No. MC 46990 (Sub-No. E20), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in Kansas and Georgia.

The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and New York, N.Y.

No. MC 46990 (Sub-No. E21), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in Ohio, Indiana, Michigan, and Illinois.

The purpose of this filing is to eliminate the gateways of Syracuse, N.Y. and Philadelphia, Pa.

No. MC 46990 (Sub-No. E22), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in Louisiana and Colorado.

The purpose of this filing is to eliminate the gateways of New York, N.Y. and Philadelphia, Pa.

No. MC 46990 (Sub-No. E23), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in Mississippi and Maryland.

The purpose of this filing is to eliminate the gateways of New York, N.Y., and Philadelphia, Pa.

No. MC 46990 (Sub-No. E24), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in North Carolina and Missouri. The purpose of this filing is to eliminate the gateways of New York, N.Y. and Philadelphia, Pa.

No. MC 46990 (Sub-No. E25), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in Oklahoma on and west of Interstate Highway 35. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa. and Kinsley, Kans. and points within 60 miles thereof.

No. MC 46990 (Sub-No. E26), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in South Carolina and Pennsylvania on and west of the Susquehanna River. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., New York, N.Y., and Syracuse, N.Y.

No. MC 46990 (Sub-No. E27), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in Texas and Tennessee. The purpose of this filing is to eliminate the gateways of New York, N.Y. and Philadelphia, Pa.

No. MC 46990 (Sub-No. E28), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Massachusetts, Rhode Island, and Connecticut, on the one hand, and, on the other, points in West Virginia and Virginia, (2) between points in Virginia, on the one hand, and, on the other, points in Rhode Island, Vermont, and Connecticut, and (3) between points in Virginia, on the one hand, and on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateways of (1) New York, N.Y. and Philadelphia, Pa., for (1), and for (2) Philadelphia, Pa., New York, N.Y., and Syracuse, N.Y. and for (3) Philadelphia, Pa., and New York, N.Y.

No. MC 46990 (Sub-No. E32), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New Jersey, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 46990 (Sub-No. E33), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New Jersey, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate the gateways of New York, N.Y., and Philadelphia, Pa.

No. MC 46990 (Sub-No. E45), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Delaware, on the one hand, and, on the other, points in Colorado and the District of Columbia. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Kinsley, Kans.

No. MC 46990 (Sub-No. E48), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Delaware, on the one hand, and, on the other, points in Louisiana and Massachusetts. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and New York, N.Y.

No. MC 46990 (Sub-No. E50), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New Castle County, Del., on the one hand, and, on the other, points in Missouri and Ohio. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 46990 (Sub-No. E51), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Delaware, on the one hand, and, on the other, points in Oklahoma and Rhode Island. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Kinsley, Kans., and New York, N.Y.

No. MC 46990 (Sub-No. E56), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Maryland on and east of Interstate Highway 81 (except points east of the Chesapeake Bay and except Washington, Frederick, and Carroll Counties, Md.), on the one hand, and, on the other, points in Alabama, Arkansas, and Florida. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 46990 (Sub-No. E57), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Maryland, on and east of Interstate Highway 81 (except points in Maryland east of the Chesapeake Bay), on the one hand, and, on the other, points in Colorado, points in Illinois on and north of Interstate Highway 74, and points in Kansas. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Kinsley, Kans.

No. MC 46990 (Sub-No. E58), filed June 4, 1974. Applicant: TRANS-

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COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Maryland on and east of Interstate Highway 81 (except points east of the Chesapeake Bay and except Washington. Frederick, and Carroll Counties, Md.), on the one hand, and, on the other, points in Mississippi and Missouri. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 46990 (Sub-No. E59), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Maryland on and east of Interstate Highway 81 (except points in Maryland on and east of the Chesapeake Bay), on the one hand, and, on the other, points in Louisiana and Texas. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 61825 (Sub-No. E774), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in New York on and southeast of a line beginning at the Pennsylvania-New York State line and extending east along New York Highway 652 to junction New York Highway 97, thence east along New York Highway 97 to junction New York Highway 52, thence northeast along New York Highway 52 to junction U.S. Highway 209, thence northeast along U.S. Highway 209 to junction New York Highway 213, thence east along New York Highway 213 to junction New York Highway 32, thence northeast along New York Highway 32 to junction Interstate Highway 87, thence north along Interstate Highway 87 to junction New York Highway 7, thence east along New York Highway 7 to the New York-Vermont State line, and those points in Pennsylvania on and bounded by a line beginning at the New Jersey-Pennsylvania State line and extending west along U.S. Highway 202 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 322, thence west along U.S. Highway 322 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 81, thence northeast along Interstate Highway 81 to junction U.S. Highway 6, thence northeast along U.S. Highway 6 to junction Pennsylvania Highway 652, thence northeast along Pennsylvania Highway 652 to the Pennsylvania-New York State line, thence southeast along the Pennsylvania-New York State line to the Pennsylvania-New Jersey State line.

Thence south along the Pennsylvania-New Jersey State line to point of beginning, on the one hand, and, on the other, points in Arizona, California, Nevada, Oregon, and Washington, and points in Colorado, Idaho, Montana, New Mexico, and Utah on and southwest of a line beginning at the Texas-New Mexico State line and extending west along U.S. Highway 66 to junction New Mexico Highway 104, thence northwest New Mexico Highway 104 to junction New Mexico Highway 3, thence north along New Mexico Highway 3 to junction New Mexico Highway 38, thence northwest along New Mexico Highway 38 to junction New Mexico Highway 3, thence north along New Mexico Highway 3 to junction Colorado Highway 159, thence north along Colorado Highway 159 to junction U.S. Highway 160, thence west along U.S. Highway 160 to junction Colorado Highway 17, thence north along Colorado Highway 17 to junction U.S. Highway 285, thence north along U.S. Highway 285 to junction U.S. Highway 50, thence east along U.S. Highway 50 to Salida, Colorado, thence northwest along U.S. Highway 50 to junction U.S. Highway 89, thence north along U.S. Highway 89 to junction U.S. Highway 91, thence north along U.S. Highway 91 to junction U.S. Highway 30N, thence west along U.S. Highway 30N to junction Interstate Highway 80N, thence west along Interstate Highway 80N to junction U.S. Highway 93, thence north along U.S. Highway 93 to junction U.S. Highway 26, thence northeast along U.S. Highway 26 to junction Idaho Highway 68, thence west along Idaho Highway 68 to junction Idaho Highway 23, thence northwest along Idaho Highway 23 to junction U.S. Highway 93, thence north along U.S. Highway 93 to Sun Valley, Idaho, thence northeast along unnumbered Highway to junction U.S. Highway 93 Alternate, thence northwest along U.S. Highway 93 Alternate to junction U.S. Highway 93, thence north along U.S. Highway 93 to junction U.S. Highway 2, thence east along U.S. Highway 2 to junction Montana Highway 49, thence north along Montana Highway 49 to junction U.S. Highway 89, thence north along U.S. Highway 89 to the United States-Canadian International Boundary line, restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Pulaski, Lynchburg and Bedford, Va.

No. MC 61825 (Sub-No. E775), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in New York and southeast of a line beginning at the Maryland-Pennsylvania State line and extending north along U.S. Highway 15 to junction U.S. Highway 15 (Business Rd), thence north along U.S. Highway 15 (Business Rd), to junction U.S. Highway 15, thence north along U.S. Highway 15 to Harrisburg, Pennsylvania, thence north along U.S. Highway 22 to junction Interstate Highway 81, thence northeast along Interstate Highway 81 to junction U.S. Highway 6, thence northeast along U.S. Highway 6 to junction Pennsylvania Highway 652, thence northeast along Pennsylvania Highway 652 to junction New York Highway 97, thence east along New York Highway 97 to junction New York Highway 52, thence northeast along New York Highway 52 to junction U.S. Highway 209, thence northeast along U.S. Highway 209 to junction New York Highway 213, thence east along New York Highway 213 to junction New York Highway 32, thence northeast along New York Highway 32 to junction Interstate Highway 87, thence north along Interstate Highway 87 to junction New York Highway 7, thence east along New York Highway 7 to the New York-Vermont State line, thence north along the New York-Vermont State line to U.S. Highway 9 to junction New York Highway 50, thence south along New York Highway 50 to junction New York Highway 67, thence west along New York Highway 67 to junction New York Highway 30, thence south along New York Highway 30 to junction New York Highway 7, thence southwest along New York Highway 7 to junction New York Highway 23, thence west along New York Highway 23 to junction New York Highway 12, thence southwest along New York Highway 12 to junction New York Highway 17, thence west along New York Highway 17 to junction New York Highway 17C.

Thence west along New York Highway 17C to junction New York Highway 17 to junction New York Highway 282, thence south along New York Highway 282 to junction Pennsylvania Highway 187, thence south along Pennsylvania Highway 187 to junction U.S. Highway 6, thence west along U.S. Highway 6 to junction U.S. Highway 220, thence south along U.S. Highway 220 to junction Pennsylvania Highway 87, thence southwest along Pennsylvania Highway 87 to junction U.S. Highway 220, thence west along U.S. Highway 220 to junction U.S. Highway 15, thence south along U.S. Highway 15 to junction Pennsylvania Highway 45, thence west along Pennsylvania Highway 45 to junction Pennsylvania Highway 235, thence south along Pennsylvania Highway 235 to junction U.S. Highway 522, thence southwest along U.S. Highway 522 to junction U.S. Highway 322, thence north along U.S. Highway 322 to junction Pennsylvania Highway 655, thence southwest along Pennsylvania Highway 655 to junction U.S. Highway 22, thence west along U.S. Highway 22 to junction Pennsylvania Highway 36, thence north along Pennsylvania Highway 36 to junction U.S. Highway 220 at Altoona, Pa., thence south along U.S. Highway 220 to junction Pennsylvania Highway 164, thence east along Pennsylvania Highway 164 to junction Pennsylvania Highway 36, thence south along Pennsylvania Highway 36 to junction Pennsylvania Highway 26, thence east along Pennsylvania Highway 26 to junction Pennsylvania Highway 915, thence south along Pennsylvania Highway 915 to junction Interstate Highway 70, thence south along Interstate Highway 70 to junction Pennsylvania Highway 643, thence southeast along Pennsylvania Highway 643 to junction U.S. Highway 522, thence south along U.S. Highway 522 to the Pennsylvania-Maryland State line, and thence east along the Pennsylvania-Maryland State line to point of beginning, on the one hand, and, on the other, points in California and Oregon, and points in Arizona, Idaho, Nevada, New Mexico, Utah, and Washington, on and southwest of a line beginning at the Texas-New Mexico State line and extending west along the New Mexico Highway 83 to junction U.S. Highway 82, thence west along U.S. Highway 82 to junction New Mexico Highway 172, thence north along New Mexico Highway 172 to junction New Mexico Highway 31, thence west along New Mexico Highway 31 to junction New Mexico Highway 2, thence north along New Mexico Highway 2 to junction U.S. Highway 380, thence west along U.S. Highway 380 to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction New Mexico Highway 6, thence northwest along New Mexico Highway 6 to junction U.S. Highway 66, thence northwest along U.S. Highway 66 to junction U.S. Highway 666.

Thence north along U.S. Highway 666 to junction New Mexico Highway 264, thence west along New Mexico Highway 264 to junction Arizona Highway 264, thence west along Arizona Highway 264 to junction U.S. Highway 160, thence west along U.S. Highway 160 to junction U.S. Highway 89, thence northwest along U.S. Highway 89 to junction Utah Highway 14, thence west along Utah Highway 14 to junction Utah Highway 130, thence north along Utah Highway 130 to junction Utah Highway 21, thence northwest along Utah Highway 21 to junction Nevada Highway 73, thence Northwest along Nevada Highway 73 to junction U.S. Highway 50, thence west along U.S. Highway 50 to junction Nevada Highway 51, thence north along Nevada Highway 51 to junction U.S. Highway 40, thence west along U.S. Highway 40 to junction Nevada Highway 18A, thence northwest along Nevada Highway 18A to junction Nevada Highway 18, thence east along Nevada Highway 18 to junction Nevada Highway 11, thence north along Nevada Highway 11 to junction Nevada Highway 51, thence north along Nevada Highway 51 to junction Idaho Highway 51, thence north along Idaho Highway 51 to junction U.S. Highway 26, thence northwest along U.S. Highway 26 to Boise, Idaho, thence northwest along Idaho Highway 44 to junction Idaho Highway 55, thence north along Idaho Highway 55 to junction U.S. Highway 95, thence north along U.S. Highway 95 to the Adams-Idaho County line (Idaho), thence west along the Adams-Idaho County line (Idaho) to the Idaho-Oregon State line, thence north along the Idaho-Oregon State line to the Idaho-Washington State line, thence north along the Idaho-Washington State line to junction U.S. Highway 12, thence east along U.S. Highway 12 to junction U.S. Highway 95, thence north along U.S. Highway 95 to junction Idaho Highway 270, thence west along Idaho Highway 270 to junction Washington Highway 270, thence west along Washington Highway 270 to junction U.S. Highway 195, thence north along U.S. Highway 195 to junction U.S. Highway 395, thence northwest along U.S. Highway 395 to the United States-Canadian International Boundary line, restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment.

The purpose of this filing is to eliminate the gateways of Pulaski, Lynchburg, and Bedford, Va.

No. MC 61825 (Sub-No. E776), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in New York and Pennsylvania on and bounded by a line beginning at the West Virginia-Pennsylvania State line and extending north along U.S. Highway 119 to junction Pennsylvania Highway 88, thence north along Pennsylvania Highway 88 to junction Pennsylvania Highway 51, thence north along Pennsylvania Highway 51 to junction U.S. Highway 30, thence east along U.S. Highway 30 to junction Pennsylvania Highway 380, thence northeast along Pennsylvania Highway 380 to junction Pennsylvania Highway 66, thence north along Pennsylvania Highway 66 to junction Pennsylvania Highway 56, thence east along Pennsylvania Highway 56 to junction Pennsylvania Highway 156, thence northeast along Pennsylvania Highway 156 to junction Pennsylvania Highway 210, thence northeast along Pennslyvania Highway 210 to junction U.S. Highway 119, thence northeast along U.S. Highway 119 to junction Pennslyvania Highway 255, thence northeast along Pennslyvania Highway 255 to junction Pennslyvania Highway 555, thence east along Pennslyvania Highway 555 to junction Pennslyvania Highway 120, thence east along Pennslyvania Highway 120 to junction Pennslyvania Highway 144, thence north along Pennslyvania Highway 144 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction Pennslyvania Highway 287, thence northeast along Pennslyvania Highway 287 to junction U.S. Highway 15, thence north along U.S. Highway 15 to junction New York Highway 54, thence northeast along New York Highway 54 to junction New York Highway 14.

Thence south along New York Highway 14 to junction New York Highway 414, thence north along New York Highway 414 to junction New York Highway 5, thence northeast along New York Highway 5 to junction New York Highway 90, thence north along New York Highway 90 to junction New York Highway 31, thence east along New York Highway 31 to junction New York Highway 34, thence north along New York Highway 34 to junction New York Highway 370, thence east along New York Highway 370 to junction New York Highway 176, thence northeast along New York Highway 176 to junction New York Highway 48, thence north along New York Highway 48 to the United States-Canadian International Boundary line, thence northeast along the United States-Canadian International Boundary line to the New York-Vermont State line, thence south along the New York-Vermont State line to Plattsburgh, N.Y., thence south along U.S. Highway 9 to junction New York Highway 50, thence south along New York Highway 50 to junction New York Highway 67, thence west along New York Highway 67 to junction New York Highway 30, thence south along New York Highway 30 to junction New York Highway 7, thence southwest along New York Highway 7 to junction New York Highway 23, thence west along New York Highway 23 to junction New York Highway 12, thence southwest along New York Highway 12 to junction New York Highway 17, thence west along New York Highway 17C to junction New York Highway 17 near Nichols, New York, thence south along New York Highway 17 to junction New York Highway 282, thence south along New York Highway 282 to junction Pennsylvania Highway 187 to junction U.S. Highway 6, thence west along U.S. Highway 6 to junction U.S. Highway 220, thence south along U.S. Highway 220 to junction Pennsylvania Highway 87, thence southwest along Pennsylvania Highway 87 to junction U.S. Highway 220, thence west along U.S. Highway 220 to junction U.S. Highway 15, thence south along U.S. Highway 15 to junction Pennsylvania Highway 45, thence west along Pennsylvania Highway 45 to junction Pennsylvania Highway 235, thence south along Pennsylvania Highway 235 to junction U.S. Highway 522, thence northwest along U.S. Highway 522 to junction U.S. Highway 322, thence north along U.S. Highway 322 to junction Pennsylvania Highway 655, thence southwest along Pennsylvania Highway 655 to junction U.S. Highway 22, thence west along U.S. Highway 22 to junction Pennsylvania Highway 36, thence north along Pennsylvania Highway 36 to junction U.S. High-

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way 220, thence south along U.S. Highway 220 to junction Pennsylvania Highway 164.

Thence east along Pennsylvania Highway 164 to junction Pennsylvania Highway 36, thence south along Pennsylvania Highway 36 to junction Pennsylvania Highway 26, thence east along Pennsylvania Highway 26 to junction Pennsylvania Highway 915, thence south along Pennsylvania Highway 915 to junction Interstate Highway 70, thence south along Interstate Highway 70 to junction Pennsylvania Highway 643, thence southeast along Pennsylvania Highway 643 to junction U.S. Highway 522, thence south along U.S. Highway 522 to the Pennsylvania-Maryland State line, thence west along the Pennsylvania-Maryland State line to the Pennsylvania-West Virginia State line, and thence west along the Pennsylvania-West Virginia State line to point of beginning, on the one hand, and, on the other, points in Arizona, California, Nevada, and Oregon on, South and west of a line beginning at the New Mexico-Arizona State line and extending west along U.S. Highway 70 to junction U.S. Highway 666, thence south along U.S. Highway 666 to junction Interstate Highway 10, thence west along Interstate Highway 10 to junction U.S. Highway 89, thence northwest along U.S. Highway 89 to junction U.S. Highway 93, thence northwest along U.S. Highway 93 to junction U.S. Highway 95, thence northwest along U.S. Highway 95 to junction Nevada Highway 58, thence southwest along Nevada Highway 58 to junction California Highway 58, thence southwest along California Highway 58 to junction California Highway 190, thence west along California Highway 190 to junction U.S. Highway 395, thence south along U.S. Highway 395 to junction California Highway 178, thence west along California Highway 178 to junction California Highway 155, thence west along California Highway 155 to junction California Highway 65, thence north along California Highway 65 to junction California Highway 198, thence west along California Highway 198 to junction California Highway 63.

Thence north along California Highway 63 to junction California Highway 180, thence west along California Highway 180 to junction California Highway 41, thence north along California Highway 41 to junction California Highway 49, thence northwest along California Highway 49 to junction California Highway 26, thence west along California Highway 26 to junction California Highway 99, thence north along California Highway 99 to junction California Highway 32, thence north along California Highway 32 to junction California Highway 36, thence northwest along California Highway 36 to junction California Highway 89, thence north along California Highway 89 to junction California Highway 299, thence northeast along California Highway 299 to junction California Highway 299 to junction California Highway 139, thence north along California Highway 139 to junction Oregon Highway 39, thence northwest along Oregon Highway 39 to junction U.S. Highway 97, thence north along U.S. Highway 97 to junction Oregon Highway 58, thence northwest along Oregon Highway 58 to junction Interstate Highway 5, thence north along Interstate Highway 5 to junction Oregon Highway 22, thence west along Oregon Highway 22 to junction U.S. Highway 101, thence north along U.S. Highway 101 to the Oregon-Washington State line, restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment.

The purpose of this filing is to eliminate the gateways of Pulaski, Lynchburg, and Bedford, Va.

No. MC 76677 (Sub-No. E1) (Partial correction), filed May 23, 1974, published in the FEDERAL REGISTER issue of September 23, 1975, and republished, as corrected, this issue. Applicant: HALLAMORE MOTOR TRANSPORTATION INC., 795-Plymouth Street, Holbrook, Mass. 02343. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateways of: Massachusetts within 50 miles of Boston, Mass., in (A)(2) and (7) above; points in Massachusetts within 35 miles of Brockton, Mass., in (11) and (12), (20) and (21) above; and points in Massachusetts within 50 miles of Boston, Mass.

NOTE.—The purpose of this correction is to reflect the true scope of applicant's authority. The remainder of this letter notice remains as previously published.

No. MC 95540 (Sub-No. E324), (Correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of April 15, 1975, and republished, as corrected, this issue. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits*, and frozen vegetables, from those points in Michigan on and east of a line beginning at Saginaw Bay and extending along Michigan Highway 13, thence along Michigan Highway 13 to junction Michigan Highway 52, thence along Michigan Highway 52 to junction Michigan Highway 21, thence along Michigan Highway 21 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Ohio-Michigan State line, to those points in Arkansas on and south of a line beginning at the Arkansas-Tennessee State line and extending along Interstate Highway 55 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 67/167, thence along U.S. Highway 67/167 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Florence, Ala.

NOTE.—The purpose of this correction is to correct the territorial description.

No. MC 95540 (Sub-No. E336) (Correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of April 15, 1975, and republished, as corrected, this issue. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk and except meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), from points in Texas on and south of a line originating in western Texas., near the Rio Grande River, near Eperanza, Tex., on Interstate Highway 10 and extending east through Ft. Stockton to junction U.S. Highway 67/385, thence east on U.S. Highway 67 to San Angelo, thence east on U.S. Highway 87 to Brady, thence east on U.S. Highway 190 to Temple, thence east on Texas Highway 53 to junction U.S. Highway 77 and traveling south to junction U.S. Highway 190, thence east on U.S. Highway 190 to junction U.S. Highway 79 and traveling south to junction Texas Highway 6, thence south on Texas Highway 6 to Bryan, thence east on U.S. Highway 190 to Huntsville, thence north on Texas Highway 19 to junction Texas Highway 94 and traveling north to Lufkin, thence on Texas Highway 103 to junction Texas Highway 21 traveling east to boundary, to those points in Illinois on and north and east of a line beginning at the Kentucky-Illinois State line and extending along U.S. Highway 45 to junction Illinoise Highway 145, thence along Illinois Highway 145 to junction Illinois Highway 142, thence along Illinois Highway 142 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 32, thence along Illinois Highway 32 to junction Illinois Highway 121, thence along Illinois Highway 121 to junction Illinois Highway 51, thence along Illinois Highway 51 to junction Illinois Highway 64, thence along Illinois Highway 64 to junction U.S. Highway 52, thence along U.S. Highway 52 to the Mississippi River.

The purpose of this filing is to eliminate the gateway of Florence, Ala.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 95540 (Sub-No. E865), filed May 20, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from

Carrollton, Ga., to points in Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, Wisconsin, Illinois, Indiana, Michigan, and points in Pennsylvania on, west, and north of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 15 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction Pennsylvania Highway 660, thence along Pennsylvania Highway 660 to junction Pennsylvania Highway 362, thence along Pennsylvania Highway 362 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 144, thence along Pennsylvania Highway 144 to junction Pennsylvania Highway 879, thence along Pennsylvania Highway 879 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 286, thence along Pennsylvania Highway 286 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Pennsylvania-West Virginia State line, and to points in New York on, north, and west of a line beginning at the New York-Massachusetts State line and extending along New York Highway 2 to junction New York Highway 7, thence along New York Highway 7 to junction New York Highway 5, thence along New York Highway 5 to junction New York Highway 51, thence along New York Highway 51 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 13, thence along New York Highway 13 to junction New York Highway 328, thence along New York Highway 328 to the New York-Pennsylvania State line.

The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 105813 (Sub-No. E41), filed December 19, 1975. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible meats, edible meat products, and meat by-products, and edible articles* distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site of Geo. A. Hormel & Co., at or near Bureau, Ill., to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along Mississippi Highway 42 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction Interstate Highway 59, thence south along Interstate Highway 59 to the Louisiana-Mississippi State line, and to those points in South Carolina on and south of a line beginning at the Atlantic Ocean and extending west along U.S. Highway 21 to junction South Carolina Highway 170, thence west along South Carolina Highway 170 to junction U.S. Highway 278, thence north along U.S. Highway 278 to junction South Carolina Highway 336, thence west along South Carolina Highway 336 to junction U.S. Highway 321-601, thence south along U.S. Highway 321-601 to the Georgia-South Carolina State line. Restriction: The service authorized herein is restricted to the transportation of traffic originating at the plant site of Geo. A. Hormel & Co., at or near Bureau, Ill. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 105813 (Sub-No. E42), filed December 19, 1975. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik, 700 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible meats, edible meat products, and meat by-products, and edible articles* distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site of Oscar Mayer & Co., at Beardstown, Ill., to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along Mississippi Highway 594 to junction Mississippi Highway 63, thence west along Mississippi Highway 63 to junction Mississippi Highway 57, thence west along Mississippi Highway 57 to junction Mississippi Highway 26, thence west along Mississippi Highway 26 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction Interstate Highway 59, thence south along Interstate Highway 59 to the Louisiana-Mississippi State line and to those points in South Carolina on and south of a line beginning at the Atlantic Ocean and extending west along U.S. Highway 21 to junction South Carolina Highway 170, thence west along South Carolina Highway 170 to junction U.S. Highway 278, thence north along U.S. Highway 278 to junction South Carolina Highway 336, thence west along South Carolina Highway 336 to junction U.S. Highway 321-601, thence south along U.S. Highway 321-601 to the Georgia-South Carolina State line. Restriction: The authority granted herein is restricted to the transportation originating at the plant site of Geo. A. Hormel & Co., Inc., at Beardstown, Ill. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 105813 (Sub-No. E65), filed December 5, 1975. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural commodities*, except commodities in bulk, from points in the New York, N.Y., Commercial Zone as defined in New York, N.Y., Commercial Zone, 1 M.C.C. 665 and 2 M.C.C. 191, to those points in Mississippi on and south of a line beginning at the Alabama-Mississippi State line and extending west along U.S. Highway 82 to junction Mississippi Highway 9, thence north along Mississippi Highway 9 to junction Mississippi Highway 8, thence west along Mississippi Highway 8 to the Arkansas-Mississippi State line, and points in that part of Arkansas on and south of a line beginning at the Arkansas Highway 4 to junction U.S. Highway 70, thence west along U.S. Highway 70 to the Arkansas-Oklahoma State line, and to those points in Oklahoma on and south of a line beginning at Arkansas-Oklahoma State line and extending west along U.S. Highway 70 to the Oklahoma-Texas State line, and to those points in Texas beginning at the Oklahoma-Texas State line and extending south and west along U.S. Highway 70 to junction U.S. Highway 287, thence west along U.S. Highway 287 to junction U.S. Highway 66, thence west along U.S. Highway 66 to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 107515 (Sub-No. E501), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except frozen meats, meat products, and meat by-products), in vehicles equipped with mechanical refrigeration, from Los Angeles, San Jose and San Francisco, Calif., to points in Virginia, North Carolina, South Carolina, and West Virginia; (2) *Frozen Foods*, in vehicles equipped with mechanical refrigeration from those points in California on and west of a line beginning at the California-Nevada State line, and extending along U.S. Highway 66 to junction California Highway 58, thence along California Highway 58 to junction California Highway 99, thence along California Highway 99 to junction Interstate Highway 205, thence along Interstate Highway 205 to junction Interstate Highway 580, thence along Interstate Highway 580 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 101, thence along U.S. Highway 101 to the Pacific Ocean to points in Virginia, West Virginia, and those points in Kentucky on and east of a line beginning at the Tennessee-Kentucky State line and extending along Interstate Highway 65, to the Indiana-Kentucky State line; (3)(a) *canned lemon juice*, in vehicles equipped with mechanical refrigeration, from Covina, Fresno, and Los Angeles, Calif., to points in Virginia, West Virginia, and those points in Kentucky on and east of a line beginning at the Tennessee-Kentucky State line and extending along Interstate Highway 65 to the Indiana-Kentucky State line, (b) *Citrus products*, frozen and non-frozen, in vehicles

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equipped with mechanical refrigeration, from Ontario and Corona, Calif., to points in Virginia, West Virginia and those points in Kentucky on and east of a line beginning at the Tennessee-Kentucky State line, and extending along Interstate Highway 65 to the Indiana-Kentucky State line.

(c) *Canned vegetables*, in vehicles equipped with mechanical refrigeration, from Oxnard and Saticoy, Calif., to points in Virginia, West Virginia and those points in Kentucky on and east of a line beginning at the Tennessee-Kentucky State line and extending along Interstate Highway 65 to the Indiana-Kentucky State line, (d) *canned fish*, in vehicles, equipped with mechanical refrigeartion, from Los Angeles, Calif., to points in Virginia, West Virginia, and those points in Kentucky on and east of a line beginning at the Tennessee-Kentucky State line, and extending along Interstate Highway 65 to the Indiana-Kentucky State line, (e) *fresh fruit and vegetables*, in vehicles equipped with mechanical refrigeration when moving in same vehicle and at the same time as commodities the transportation of which is subject to economic regulation under Part II of the Interstate Commerce Act, from points in California and Litchfield, Park, Ariz., to points in Virginia, West Virginia, and those points in Kentucky on and east of a line beginning at the Tennessee-Kentucky State line, and extending along Interstate Highway 65 to the Indiana-Kentucky State line, (f) *cream*, sterilized in hermetically sealed containers and *cream*, aerated, in gas charged containers, in vehicles equipped with mechanical refrigeration, from Gustine, Calif., to points in Virginia, West Virginia and those points in Kentucky on and east of a line beginning at the Tennessee-Kentucky State line, and extending along Interstate Highway 65 to the Indiana-Kentucky State line, (g) *sterilized cream*, in hermetically sealed containers, and *cream* aerated, not frozen, in gas charged dispenser cans, in vehicles equipped with mechanical refigeration from Gustine, Calif., to Virginia, West Virginia, and those points in Kentucky on and east of a line beginning at the Tennessee-Kentucky State line and extending along Interstate Highway 65 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC 110098 (Sub-No. E69) (Correction), filed May 9, 1974, published in the FEDERAL REGISTER issue of October 17, 1974, and republished, as corrected, this issue. Applicant: ZERO REFRIGERATED LINES, P.O. Box 20380, San Antonio, Tex. 78220. Applicant's representative: T. W. Cothren (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plant site and storage facilities of, or utilized by, American Beef Packers, Inc. in Pottawattami County, Iowa, and the plant site and storage facilities of, or utilized by, Great Plains Beef Co. at Council Bluffs, Iowa, to points in New Mexico, Arizona, that part of California on and south of a line beginning at the California-Nevada State line, thence along Interstate Highway 80 to junction California Highway 20, thence along California Highway 20 to the Pacific Ocean, and that part of Nevada on and south of U.S. Highway 91. The purpose of this filing is to eliminate the gateway of Dalhart, Tex.

NOTE.—The purpose of this correction is to more accurately describe the orgin territory.

No. MC 114868 (Sub-No. E30), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, (1) between points in Michigan, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville. (2) between points in Michigan, on the one hand, and, on the other, points in Maryland within 125 miles of Washington, D.C. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 114868 (Sub-No. E31), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, (1) between points in Minnesota, on the one hand, and, on the other, Washington, D.C. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville. (2) between points in Minnesota, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville. (3) between points in Minnesota, on the one hand, and, on the other, points in Maryland within 125 miles of Washington, D.C. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville and Washington, D.C.

No. MC 114868 (Sub-No. E32), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, (1) between points in Missouri, on the one hand, and, on the other, Washington, D.C. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville. (2) between points in Missouri, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateway of points in Tennessee within 125 miles of Nashville. (3) between points in Missouri, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Washington, D.C. and points in Kentucky within 125 miles of Nashville. (4) between points in Missouri, on the one hand, and, on the other, points in Indiana within 10 miles north of the Ohio River. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville. (5) between points in Missouri, on the one hand, and, on the other, points in Ohio within 10 miles north of the Ohio River. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville. (6) between points in Missouri, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville. (7) between points in Missouri, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville and Washington, D.C.

No. MC 114868 (Sub-No. E47), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, (1) between points in Kentucky, on the one hand, and, on the other, points in Mississippi, (2) between points in Kentucky, on the one hand, and, on the other, points in South Carolina, (3) between points in Kentucky, on the one hand, and, on the other, points in Tennessee, and (4) between points in Kentucky on the one hand, and, on the other, points in Texas.

The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38223 Filed 12-28-76;8:45 am]

federal register

WEDNESDAY, DECEMBER 29, 1976

PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

COMMUNITIES ELIGIBLE FOR SALE OF INSURANCE AND FLOOD ELEVATION DETERMINATIONS

V41I251 DEC 29 76 UMI

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2538]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at § 1912.5, 24 CFR Part 1912).

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Iowa	Appanoose	Moravia, town of	Dec. 14, 1976, emergency	Mar. 19, 1976	190623
New York	Orleans	Ridgeway, town of	do	Feb. 7, 1975	361257A
				Jan. 16, 1976	
Missouri	Stoddard	Bell City, city of	Dec. 15, 1976, emergency	Oct. 18, 1974	290421A
				Nov. 21, 1975	
Do	Cass	Freeman, city of	do	Nov. 8, 1974	290066A
				Jan. 16, 1976	
Nebraska	Platte	Lindsay, village of	do	Nov. 8, 1974	310177A
				Dec. 5, 1975	
New York	Clinton	Beekmantown, town of	do	Aug. 30, 1974	360166A
				Feb. 27, 1976	
Georgia	Coweta	Moreland, town of	Dec. 16, 1976, emergency	Apr. 18, 1976	130300
New York	Oswego	Oswego, town of	do	May 10, 1974	360657A
				May 14, 1976	
Do	Tioga	Spencer, village of	do		361471A
Oklahoma	Cotton	Randlett, town of	do	Aug. 13, 1976	400318
Pennsylvania	Monroe	Mt. Pocono, borough of	do	Jan. 24, 1975	420692
Georgia	Lumpkin	Dahlonega, city of	Dec. 17, 1976, emergency	June 28, 1974	130129A
				Jan. 23, 1976	
Louisiana	Jefferson	Westwego, city of	Apr. 27, 1973, emergency; Dec. 28, 1976, regular.	July 16, 1976	220094A
New Jersey	Union	Garwood, borough of	June 23, 1972, emergency; Feb. 1, 1977, regular	Feb. 1, 1977	340464
Ohio	Athens	Chauncey, village of	Dec. 17, 1976, emergency	June 21, 1974	390017A
				Apr. 16, 1976	
Do	Lawrence	Coal Grove, village of	do	June 14, 1974	390326A
				May 21, 1976	
				Dec. 27, 1974	422532
Pennsylvania	Venango	Clintonville, borough of	do	Apr. 30, 1976	420408
Do	Delaware	Collingdale, borough of	Oct. 13, 1972, emergency; Feb. 2, 1977, regular	Dec. 28, 1973	420264B
Do	Centre	Milesburg, borough of	June 17, 1975, emergency; Feb. 2, 1977, regular	June 11, 1976	
Do	Northampton	Palmer, township of	Oct. 22, 1971, emergency; Dec. 28, 1976, regular	Apr. 20, 1973	420728A
Do	Clinton	South Renovo, borough of	June 18, 1974, emergency; Feb. 2, 1977, regular	Feb. 2, 1977	420335

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, (34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: December 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37928 Filed 12-28-76;8:45 am]

[Docket No. FI-2537]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at § 1912.5, 24 CFR Part 1912).

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Delaware	New Castle	Elsmere, town of	Oct. 2, 1974, emergency; Dec. 31, 1976, regular	Jan. 31, 1975	100028A
Indiana	Floyd	New Albany, city of	Oct. 1, 1971, emergency; Dec. 17, 1976, regular	Feb. 15, 1974	180062B
				Jan. 30, 1976	
Iowa	Warren	Locona, city of	Dec. 6, 1976, emergency	Sept. 19, 1975	190752
Do	Emmet	Wallingford, city of	do	Sept. 26, 1975	190821
Minnesota	Lincoln	Tyler, city of	do	May 3, 1974	270235
Nebraska	Cheyenne	Potter, village of	do	Sept. 5, 1975	610311
New Jersey	Cape May	Upper, township of	Jan. 29, 1971, emergency; Dec. 10, 1976, regular	Dec. 6, 1974	340159A
Ohio	Cuyahoga	Mayfield, village of	Dec. 17, 1971, emergency; Dec. 24, 1976, regular.	Nov. 23, 1973	390116B
				June 18, 1976	
Pennsylvania	Clearfield	Irvona, borough of	Dec. 6, 1976, emergency	Apr. 12, 1974	420006A
Alabama	Dale	Pinckard, town of	Dec. 8, 1976, emergency	Jan. 24, 1975	010249
Louisiana	Acadia	Morse, village of	do	Nov. 23, 1973	220007A
				Mar. 12, 1976	
Nebraska	Fillmore	Fairmont, city of	do	Sept. 12, 1976	310067
North Dakota	Ramsey	Crary, city of	do	Nov. 15, 1974	380093
Pennsylvania	Berks	Laureldale, borough of	do		1 422646
Do	Montgomery	Cheltenham, township of	Nov. 24, 1976, suspension withdrawn	June 28, 1974	420096B
				Apr. 11, 1975	
North Carolina	Beaufort	Washington Park, town of	do	Feb. 9, 1973	370269A
Arkansas	Miller	Texarkana, city of	Sept. 1, 1972, emergency; Dec. 31, 1976, regular	May 24, 1974	050137B
				Oct. 16, 1975	
Georgia	Chatham	Vernonburg, town of	Mar. 19, 1971, emergency; July 27, 1973, regular; Jan. 15, 1975, suspended; Dec. 3, 1976, reinstated.	July 27, 1973	135165A
				July 1, 1974	
				Oct. 31, 1975	
New York	Oswego	Parish, town of	Dec. 9, 1976, emergency	Dec. 27, 1974	361357
Ohio	Lawrence	Hanging Rock, village of	do	Mar. 28, 1975	390299
Oklahoma	Garvin	Pauls Valley, city of	do		400246
Do	Atoka	Stringtown, town of	do	Aug. 12, 1976	400329
Utah	Salt Lake	Midvale, city of	do	Sept. 26, 1975	490211
Washington	Kittitas	South Cle Elum, city of	do	July 11, 1975	530263
Michigan	Lenawee	Blissfield, village of	Dec. 10, 1976, emergency	Sept. 12, 1975	260233
Oklahoma	Beckham	Sayre, city of	do	June 11, 1976	400441
Pennsylvania	Allegheny	Sewickley Hills, borough of	do		420072

1 New.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: December 3, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-37929 Filed 12-28-76;8:45 am]

[Docket No. FI-2566]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at § 1912.5, 24 CFR Part 1912).

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by Section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

DEC 29 76 V 41 251 D UMI

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Michigan	Kalamazoo	Charleston, township of	Dec. 20, 1976, emergency	July 25, 1975	260426
Ohio	Carroll	Sherrodsville, village of	do	Aug. 9, 1974 June 4, 1976	390054A
Washington	King	Skykomish, town of	do	Feb. 14, 1975	530236
Iowa	Greene	Jefferson, city of	Dec. 23, 1976, emergency	Aug. 29, 1975	190396
Maine	Hancock	Mount Desert, town of	do	Jan. 17, 1975	230287
Do	do	Sedgwick, town of	do	Jan. 24, 1975	230291
Missouri	Gentry	Darlington, village of	do	Dec. 13, 1974	290146
Do	Putnam	Unionville, city of	do	Aug. 13, 1976	290301
Oklahoma	Mayes	Spavinaw, town of	do	do	400328
Pennsylvania	Berks	North Heidlberg, township of	do	Sept. 13, 1974 Sept. 24, 1976	421086A
Kansas	Jackson	Holton, city of	Dec. 27, 1976, emergency	Feb. 22, 1974	200141A
Minnesota	Houston	Brownsville, city of	do	Oct. 18, 1974 July 2, 1976	270191A
Missouri	Stoddard	Essex, city of	do	Sept. 6, 1974 Dec. 26, 1975	290425A
North Dakota	Cass	Barnes, township of	do		380256

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969), as amended 39 FR 2787, Jan. 24, 1974.)

Issued: December 17, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38065 Filed 12-28-76;8:45 am]

[Docket No. FI-2290]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Eau Claire, Wisconsin

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Eau Claire, Wisconsin under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 203 South Farwell, Eau Claire, Wisconsin 54701.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Eau Claire River	Interstate Highway 53	797	50	50
	Dewey St	791	50	100
	Barstow St	787	650	400
Chippewa River	Lilac St	805	(1)	150
	Upstream side of Dells Dam	800	200	100
	Madison St	787	650	1,100
	Grand Ave	785	500	550
	Lake St. (Veterans Memorial Bridge)	784	900	100
	U.S. Highway 12	779	1,800	250
	Highways 37 and 85 (Shore St.)	777	500	3,500
	Interstate Highway 94	776	2,700	(1)

[1] Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-37919 Filed 12-28-76;8:45 am]

[Docket No. FI-2532]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Milford, Delaware

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Milford, Delaware under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the

National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Offices, Milford, Delaware 19963.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Mullet Run	U.S. 113 [1]	24	120	360
Mispillion River	do.[1]	18	500	500
	Church St	10	280	540
	Washington St	9	60	300
Presbyterian Branch	U.S. 113 [1]	22	720	90
	Woodland Dr	20	110	130
	Lakelawn Dr	17	70	40

[1] Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 19, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-37920 Filed 12-28-76;8:45 am]

[Docket No. FI-2141]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Danbury, Connecticut

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Danbury, Connecticut under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 155 Deer Hill Avenue, Danbury, Connecticut 06810.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

DEC 29 76 UMI V 41 251

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Still River	U.S. 7	288	60	300
	I-84	293	70	60
	Old Newton Rd	298	290	40
	Newton Rd	323	20	20
	Casper St	357	75	75
	White St	374	40	40
	Penn Central Railroad	415	20	80
	do	450	20	30
Limekiln Brook	Newtown Rd	293	710	370
Sympaug Brook	Shelter Rock Rd	356	710	370
Padanaram Brook	Crosby St	374	415	290
	Balmforth Ave	387	60	20
	Hayestown Ave	393	20	30
	Padanaram Rd	405	20	30
	Golden Hill Rd	442	95	10
Kohanya Brook	North St	388	200	25
	Thorp St. extension	391	100	260
	Kohanya St	420	140	120

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-37926 Filed 12-28-76;8:45 am]

[Docket No. FI-845]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Elma, Erie County, New York

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Town of Elma, Erie County, New York under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Town Hall, Elma.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Buffalo Creek	Transit road (at northwest corporate limit.)	659	1,050	125
	Blossom Rd	660	100	1,100
	Bowen Rd	715	25	75
	Girdle Rd	739	125	80
	Bullis Rd	764	125	40
	Rice Rd. (extended across creek)	780	500	225
	Jamison Rd	821	25	120
	At southeast corporate limit	822	90	1,060
Cassenovia Creek	Transit road (at west corporate limit)	685	100	180
	North Rd	710	150	300
	Kinsley Rd. (extended across creek)	727	200	275
	At southern corporate limit	770	150	10
Little Buffalo Creek	Northern corporate limit		180	780
	Clinton St		440	710
	Eastern corporate limit		1,160	200

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-37927 Filed 12-28-76;8:45 am]

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federal register

WEDNESDAY, DECEMBER 29, 1976

PART III



DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Proposed Class Exemption and Hearing

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[26 CFR Part 54; 29 CFR Part 2550]

EXEMPTIONS FOR PROVISION OF SERVICES AND OFFICE SPACE TO EMPLOYEE BENEFIT PLANS, INVESTMENT OF PLAN ASSETS IN BANK DEPOSITS, AND PROVISION OF BANK ANCILLARY SERVICES TO PLANS, AND TRANSITIONAL RULE FOR PROVISION OF SERVICES TO PLANS; AND PROPOSED CLASS EXEMPTION REQUESTED BY THE NATIONAL ASSOCIATION OF PENSION CONSULTANTS AND ADMINISTRATORS, INC., THE INVESTMENT COMPANY INSTITUTE, AND OTHERS

Hearing on Notices of Proposed Rulemaking and Proposed Class Exemption

Proposed regulations under sections 4975(d) (2), (4), (6), and (10) of the Internal Revenue Code of 1954 (the Code) and section 2003(c) (2) (D) of the Employee Retirement Income Security Act of 1974 (the Act), and sections 408 (b) (2), 408(b) (4), 408(b) (6), 408(c) (2) and 414(c) (4) of the Act, appeared in the FEDERAL REGISTER for July 30, 1976 (41 FR 31838, 31874). These proposed regulations relate to the provision of services and office space to employee benefit plans, the investment of plan assets in bank deposits, the provision of bank ancillary services to plans, and the transitional rule for the provision of services to plans until June 30, 1977.

By notice appearing in this issue of the FEDERAL REGISTER, the Department of Labor and the Internal Revenue Service (hereinafter collectively referred to as "the Agencies") have also announced the pendency of a proposed class exemption involving, among other things, the receipt of insurance and mutual fund sales commission by pension consultants, insurance agents and brokers and mutual fund principal underwriters and their affiliates who are fiduciaries of service providers with respect to employee benefit plans.

A public hearing on the provisions of the proposed regulations and the proposed class exemption will be held on February 14, 1977, beginning at 10:00 a.m. in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

In addition, the comment period with respect to the proposed regulations described above, which terminated on September 23, 1976, is hereby extended to January 27, 1977.

Proposed regulation 26 CFR 54.4975-6 (b) (1), relating to the statutory exemption for the provision of office space or services to plans set forth in section 4975(d) (2) of the Code, states that:

> It (the exemption in section 4975(d) (2)) does not provide an exemption from section 4975(c) (1) (E) (relating to fiduciaries dealing with the income or assets of plans in their own interest or for their own account) or from section 4975(c) (1) (F) (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan).

Thus, a person who is a fiduciary with respect to a plan may not provide additional services to the plan and receive any compensation or other consideration in connection therewith, unless such provision of services is arranged and approved on behalf of the plan by a fiduciary who is independent of and unrelated to the fiduciary providing such services, who is not a party to such arrangement for the provision of services, who does not receive any compensation or other consideration with respect to such provision of services, an dwho has no other interest with respect to the transaction that might affect the exercise of such fiduciary's best judgment as a fiduciary.

Proposed regulation 29 CFR 2550.408b-2(b) (1) contains a similar statement with respect to section 408(b) (2) of the Act (i.e., that it does not provide an exemption from the prohibitions of sections 406(b) (1), (2) and (3) of the Act).

The many comments received on these proposed regulations suggest the need for further explanation. The following points are offered.

First, a person is a "fiduciary" if that person exercises any authority or control regarding management or disposition of plan assets, or has or exercises discretionary authority, control or responsibility for plan administration or management, as described in sections 3(21) (A) (i) and (iii) of the Act and 4975(e) (3) (A) and (C) of the Code, or if that person renders investment advice to the plan for a fee or other compensation, direct or indirect, as defined in sections 3(21) (A) (ii) of the Act and 4975(e) (3) (B) of the Code, and the regulations thereunder (29 CFR 2510.3-21 and 26 CFR 54.4975-9.) In this connection, as noted in the Conference Report accompanying the Act (H.R. Rep. 93-1280, 93d Cong. 2d Sess. (1974) 323), there will be situations in which a person who renders advisory or consulting services to a plan will be a fiduciary, although not formally named as such, because, by virtue of his or her actions, he or she exercises discretionary authority or control with respect to the management or administration of such plan or has authortiy or control regarding the assets of the plan.

Second, if a person has or exercises authority, control, or responsibility over plan management or administration or over the disposition of plan assets sufficient to make such person a fiduciary respecting such plan, sections 406(b) (1) of the Act and 4975(c) (1) (E) of the Code prohibit that person from exercising such authority, control, or responsibility respecting such plan so as to deal with the income or assets of the plan in his or her own interest or for his or her own account.

Third, the rule in the proposed regulations cited above was not intended to mean that a fiduciary can exercise the authority, control or responsibility that makes such person a fiduciary to benefit himself or herself, even if a second fiduciary, who is independent and has no personal interest in the matter, approves the first fiduciary's undertakings. The first fiduciary is still subject to the prohibition contained in sections 406(b) of the Act and 4975(c) (1) (E) and (F) of the Code against the exercise of such fiduciary's powers to deal with plan income or assets for his or her own benefit or the benefit of others, notwithstanding the actions of a second fiduciary.

Fourth, sections 406(b) (1) of the Act and 4975(c) (1) (E) of the Code do not prohibit a person from providing additional services to a plan merely because that person is a fiduciary. A fiduciary may not use the authority, control or responsibility that makes such person a fiduciary to, for example, authorize the retention of himself or herself to provide such additional services. However, if such fiduciary does not have or exercise any such authority, control or responsibility in connection with the retention of himself or herself to provide such additional services, the retention of such fiduciary to provide such additional services to the plan by a second fiduciary does not constitute a violation by the first fiduciary of the prohibition against fiduciary self-dealing contained in sections 406(b) (1) of the Act and 4975(c) (1) (E) of the Code.

Examples of the above points in operation are as follows:

Example 1. On January 1, 1978, F, a fiduciary of plan P with overall authority over the administration of P, acting on behalf of P, successfully negotiates with I, a professional investment manager in which F has no interest which might adversely affect the exercise of F's judgment as a fiduciary, a contract under which I will render investment advice to P of a type which causes I to be a fiduciary of P under sections 3(21) (A) (ii) of the Act and 4975(e) (3) (B) of the Code. Thereafter F, acting on behalf of P, negotiates a second contract with I under which I will perform bookkeeping services for P for a fee. The making of such a contract does not constitute a prohibited transaction within the meaning of sections 406(b) (1) of the Act and 4975(c) (1) (E) of the Code because I did not use any of the authority, control or responsibility which makes I a fiduciary to cause the plan to retain I to perform the bookkeeping services.

Example 2. On January 1, 1976, F, a fiduciary of plan P, which covers F's employees, commences providing bookkeeping services at no charge to P. The provision of such services does not constitute a prohibited transaction within the meaning of sections 406(b) (1) of the Act and 4975(c) (1) (E) of the Code because F has received no compensation or other consideration with respect to the provision of such services.

Example 3. C, a consultant to plan P, is, under the particular facts and circumstances, a fiduciary with respect to P. On January 1, 1978, C recommends to D, a named trustee of the plan with discretion over the management and disposition of plan assets, that the plan purchase an insurance policy from insurance company U, which is not a party in interest or disqualified person with respect to P. C thoroughly explains the reasons for the recommendation, and makes a full disclosure concerning the fact that C will receive a commission from the sale of such policy from U. D considers the recommendation and approves the purchase of the policy by the plan. C receives a commission. Under such circumstances, C has engaged in a prohibited transaction under sections 406(b) (1) of the Act and 4975(c) (1) (E) of the Code. However, if the pending class exemption which

appears elsewhere in this issue of the FEDERAL REGISTER is granted, the transaction would be exempt from the prohibited transaction provisions of section 406 of the Act and section 4975 of the Code if the transaction satisfies the conditions set forth in the exemption.

Example 4. Assume the same facts as in Example 3 except that the nature of C's relationship with the plan is not such that C is a fiduciary of P. The purchase of the insurance policy would not be a prohibited transaction under sections 406(b) (1) of the Act and 4975(c) (1) (E) of the Code.

Any interested person who desires to present oral comments at the hearing and who wishes to be assured of being heard should submit a statement to that effect, an outline of the topics he wishes to discuss, and the time he wishes to devote, by 3:30 p.m. on February 10, 1977. The statement and outline should be submitted to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room C-4526, Washington, D.C. 20216, attention, application D-183 Hearing. An agenda will then be prepared containing the order of presentation of oral comments and the time allotted to such presentation. Ordinarily, a period of 10 minutes will be the time allotted to each person for making his oral comments. Information with respect to the contents of the agenda may be obtained on February 11, 1977, by telephoning (Washington, D.C.) 202-523-8881.

At the conclusion of the presentations of comments by persons listed in the agenda, to the extent time permits, other comments will be received. The public hearing will be transcribed.

A person wishing to make oral comments at the hearing may do so without filing written comments. Persons making oral comments should be prepared to answer questions regarding information brought forth on their comments (including written comments, if any).

Signed at Washington, D.C., this 22d day of December, 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

[FR Doc.76-38232 Filed 12-28-76;8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

EMPLOYEE BENEFIT PLANS

[Application Nos. D–183, D–301, D–419, D–459, D–466 and D–473]

Notice of Pendency of Proposed Class Exemption Requested by the National Association of Pension Consultants and Administrators, Inc., the Investment Company Institute, and Others.

Notice is hereby given of the pendency before the Department of Labor (the Department) and the Internal Revenue Service (the Service) of a proposed class exemption from the restrictions of sections 406(a)(1) (A) through (D) and 406(b) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1) of the Code. The pending class exemption was requested in applications submitted by the National Association of Pension Consultants and Administrators, Inc. (NAPCA) (D–183); jointly by the American Council of Life Insurance (ACLI) [1], the National Association of Life Underwriters (NALU) and the Association for Advanced Life Underwriting (AALU) (D–301); the Investment Company Institute (ICI) (D–419 and D–466); jointly by Marsh & McLennan Companies, Inc. and Johnson & Higgins (M & M) (D–459); and jointly by Investors Diversified Services, Inc. and American General Capital Distributors, Inc. (D–473).

The pending class exemption would exempt from the prohibited transactions provisions: (1) The receipt of sales commissions from an insurance company, directly or indirectly, by an insurance agent or broker or a pension consultant [2] in connection with the purchase of insurance contracts or annuities with employee benefit plan assets when such insurance agent or broker or pension consultant is a service provider or a fiduciary with respect to the plan; (2) the receipt of sales commissions by a mutual fund principal underwriter in connection with the purchase of mutual fund shares with plan assets when such principal underwriter is a plan fiduciary or service provider; (3) the execution by an insurance agent or broker or a pension consultant of the purchase of insurance with plan assets from an insurance company when such insurance agent or broker or pension consultant is a service provider or fiduciary with respect to the plan and, in connection with the execution of such transaction, is acting as the agent of the insurance company; (4) the purchase of insurance with plan assets from an insurance company which is a party in interest or disqualified person (including a fiduciary) with respect to the plan solely by reason of providing services, directly or indirectly, to the plan (e.g., in connection with an insurance company-sponsored master or prototype plan which has been adopted as the plan) or by reason of a relationship described in section 3(14) (G), (H) or (I) of the Act or section 4975(e)(2) (G), (H) or (I) of the Code to an insurance agent or broker or pension consultant who provides services to or is a fiduciary with respect to the plan; and (5) the purchase of mutual fund shares with plan assets from, or the sale of mutual fund shares to, a principal underwriter with respect to the mutual fund, where the principal underwriter or mutual fund, or both, are parties in interest or disqualified persons (including fiduciaries) with respect to the plan by reason of providing services, directly or indirectly, to the plan (e.g., in connection with a mutual fund-sponsored master or prototype plan which is adopted as the plan).

The applications for class exemption were filed pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75–26, 1975–1 C.B. 722.

Numerous applications have also been received for individual exemptions covering transactions of the type described in this proposed class exemption. All such transactions will be exempted if they satisfy the terms and conditions of the proposed class exemption. As stated in section 3.04 of ERISA Proc. 75–1 and Rev. Proc. 75–26, an application for an individual exemption will not ordinarily be considered separately if a class exemption which may encompass the transaction described in the application for an individual exemption is under consideration by the Department and the Service. Accordingly, the agencies are notifying directly each applicant for an individual exemption of the fact that such applicant's application is not being considered separately from this proposed class exemption, that such application will ordinarily be closed, and, therefore, that such applicant's comments with respect to this pending class exemption are sought by the agencies.

PREAMBLE

Summary of representations. The applications contain representations with regard to the pending class exemption, which are summarized below. Interested persons are referred to the applications on file with the Department and the Service for the complete representations of the applicants.

Pension consultants. The applications submitted by NAPCA and by Marsh & McLennan Companies, Inc. and Johnson & Higgins request class exemptions to permit pension consultants who are fiduciaries with respect to plans (as defined in section 3(21) of the Act and section 4975(e)(3) of the Code) to receive commissions from insurance companies in connection with the purchase of insurance by such plans. The applicant's represent that pension consultants provide a wide variety of administrative, consulting and advisory services to plans. These services include, among others; advice on the cost of various types of benefits; advice on the structure of plan management and operations; advice on the types of funding media available to provide particular plan benefits; actuarial evaluations; designing funding media, plan investment objectives and policies, administrative policies, forms, etc.; and numerous administrative support services. The provision of some of these services in individual cases could cause a pension consultant to become a plan fiduciary.

Customarily, pension consultants are compensated for the provision of their services to plans through the receipt of fees from plans, plan sponsors or other persons or by means of the receipt of initial and renewal sales commissions on the sale of insurance products to such plans. The applicants represent that if and when pension consultants are plan fiduciaries, a question exists whether the receipt of insurance sales commissions by such persons violates section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code, which prohibit plan fiduciaries from receiving consideration for their own personal accounts from any party (e.g., an insurance company) dealing with the plan in connection with a transaction involving plan assets. A question also exists whether such a pension consultant, who is also a plan fiduciary, would be in violation of section 406(b)(1) and (2) of the Act and section 4975(c)(1)(E) of the Code when acting as agent of an insurance company in connection with the purchase of insurance by the plan. Section 406(b)(1) of the Act and section 4975(c)(1)(E) of the Code prohibit a plan fiduciary from dealing with the income or assets of the plan in his own interest or for his own account. Section 406(b)(2) of the Act prohibits a plan fiduciary from representing a party whose interests are adverse to the interests of the plan or its participants and beneficiaries in connection with a transaction involving the plan.

The applicants further represent that the provision of services to plans by pension consultants is exempt from the prohibited transaction provisions pursuant to section 508(b)(2) of the Act and section 4975(d)(2) of the Code, and that the receipt of insurance sales commissions, and the sale of insurance to plans, by most pension consultants when they are plan fiduciaries, is exempt until June 30, 1977 pursuant to the transitional rules of sections 414(c)(4) and 2003(c)(2)(D) of the Act, as interpreted in ERISA IB 75–1 and IRS TIR–1329 (issued December 31, 1974).

The applicants state that they believe that if their requested exemptions are not granted, the normal business practices of pension consultants will be restricted, and that this will result in a constriction in the variety of consulting and administrative services that would be available to plans. The applicants represent that this would be highly disruptive of plan operations and would lead to increased plan administrative and operating costs.

Insurance agents and brokers. The applications submitted by NAPCA, M & M, and jointly by the ACLI, NALU and AALU request a class exemption to permit life insurance agents and brokers to continue to sell insurance to plans with respect to which such agents or brokers are fiduciaries or otherwise parties in interest or disqualified persons by reason of the consultative and advisory services performed for plans by such agents or brokers.

In this connection, the applicants have also requested that the Department and the Service rule that the normal sales presentation and recommendations made by an insurance agent or broker to a plan or a plan fiduciary will not be considered to constitute the rendering of investment advice for a fee so as to classify such agent or broker as a fiduciary.[3] However, the applicants represent that, even if their requested ruling is issued, the consultative or advisory services performed for plans by insurance agents and brokers are such that in particular cases the agent or broker would become a plan fiduciary.

In this regard, the applicants represent that insurance agents and brokers customarily provide a variety of administrative and consultative services to plans, besides the sale of insurance products. Among other things, these services include: describing available funding media; advice on procedures for obtaining Service approval of plans; communicating plan details to employees and obtaining necessary employee information for initial plan operation; actuarial services; preparation of plan reports and plan operating procedures; and advice on termination procedures. If the plan is not funded through insurance company products, the agent or broker will normally be compensated through the payment of a fee. If insurance products are involved, the agent or broker is fully or partially compensated through commissions on the sale of insurance to the plan. Such commissions are paid by the insurance companies whose products are sold to the plan.

The applicants further represent that where the agent or broker is a plain fiduciary, such insurance sales commissions could be considered to constitute consideration for the agent's or broker's own personal account from a party (i.e., the insurance company) dealing with the plan in connection with a transaction involving the assets of the plan, in violation of section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code. In addition, such agent or broker could be deemed to be self-dealing in violation of section 406(b)(1) of the Act and 4975(c)(1)(E) of the Code and to be acting on behalf of an adverse party in connection with such transactions in contravention of section 406(b)(2) of the Act.

Although the applicants state that they believe that many of the "prohibited transactions" described above are exempt from the prohibitions and excise taxes of the Act and the Code for the period from January 1, 1975 through June 30, 1977 by reason of the transitional rules of sections 414(c)(4) and 2003(c)(2)(D) of the Act, they represent that a class exemption is necessary to permit these transactions to continue subsequent to June 30, 1977. In addition, because the transitional rules of section 414(c)(4) and 2003(c)(2)(D) of the Act are not available for agents and brokers who are not considered to have furnished the type of services involved as of June 30, 1974, the applicants have requested that the pending class exemption be effective as of January 1, 1975, the effective date of the prohibited transaction provisions of the Act and the Code.

In support of their exemption request, the applicants represent that, without an exemption, insurance agents and brokers will be precluded from receiving their customary form of compensation for the furnishing of services to plans (i.e., sales commissions) and would, therefore, be compelled to curtail the provision of many of the services that they currently provide to plans. The applicants contend that these developments would severely disrupt long established business practices and relationships and would create hardships for plans, plan sponsors and plan participants. The applicants note that such hardships would be most severe for insured plans of small employers which have commonly relied heavily on the services of insurance agents and brokers because the limited resources of such plans do not permit them to retain consultants.

For essentially the same reasons outlined above, the applicants have also requested an exemption to permit an insurance company to sell insurance to a plan when such insurance company is a party in interest or disqualified person (including a fiduciary) with respect to the plan by reason of providing services, directly or indirectly, to the plan or by a reason of a relationship described in section 3(14) (G), (H) or (I) of the Act or section 4975(e)(2) (G), (H) or (I) of the Code to an insurance agent or broker who provides services to or is a fiduciary with respect to the plan.

Mutual fund principal underwriters. On October 31, 1975, notice was published in the FEDERAL REGISTER (40 FR 50845) of the granting of class exemptions (Prohibited Transaction Exemption 75–1) for certain transactions involving plans and certain broker-dealers, reporting dealers and banks. One of these class exemptions permits, among other things, the purchase and sale of securities, including mutual fund shares, by a plan from or to a broker-dealer which is a party in interest or disqualified person (other than a fiduciary) with respect to the plan by virtue of providing services to the plan. This class exemption also covers, as of January 1, 1975, the purchase and sale of mutual fund shares by a plan from or to a broker-dealer which is a plan fiduciary, provided that such broker-dealer is not a principal underwriter for, or affiliated with, such mutual fund, and the receipt of commissions by such fiduciary/broker-dealer is in connection with the purchase of mutual fund shares by plans.

The applications submitted by the ICI and by Investors Diversified Services, Inc. and American General Capital Distributors, Inc., request a class exemption to permit mutual fund principal underwriters (and their affiliates) to purchase or sell shares of the mutual fund from and to plans with respect to which such principal underwriters are fiduciaries, and to permit such fiduciary principal underwriters (and their affiliates) to receive sales commissions in connection with such plan purchases of mutual fund shares. The requested exemption would cover not only the prohibitions of sections 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code, but also the provisions of section 406(a)(1)(A) through (D) of the Act and sections 4975(c)(1)(A) through (D) of the Code, which prohibit, among other things, the sale of property between a plan and a party in interest or disqualified person. The applicants represent that if their requested exemption is granted, it will remove unwarranted discrimination between the sale of mutual fund shares effected by broker-dealers who are plan fiduciaries and who are unrelated to mutual funds (which sales are covered by Prohibited Transaction Exemption 75–1) and sales made directly by mutual fund principal underwriters who are plan fiduciaries.

In this regard, the applicants have made a request, similar to that made in the NAPCA, M&M and ACLI, NALU and AALU applications, that the Department and the Service rule that the normal sales presentation and recommendations made by a mutual fund principal underwriter or an employee thereof to a plan or a plan fiduciary will not be considered to constitute the rendering of investment advice for a fee so as to classify such person as a fiduciary.

Notwithstanding the issuance of such a ruling, the applicants represent that a class exemption is still necessary for those situations in which a mutual fund principal underwriter or an affiliate thereof is a plan fiduciary. In support of this request, the applicants note that the distribution of mutual fund shares to plans and other investors through principal underwriter direct sales forces has been a standard and customary practice for over forty years and that the activi-

[1] The American Council of Life Insurance is the successor to the American Life Insurance Association.

[2] All references to the terms "insurance agent or broker", "pension consultant", "insurance company", "principal underwriter", "fiduciary" and "service provider" include such persons and any affiliates thereof. The term "affiliate" is defined in section IV (d) of the pending class exemption, and would include, for example, an employee of an insurance agency or pension consulting firm or a corporation of which an insurance agent or pension consultant is an employee.

[3] For a discussion of this question, see the section of the Preamble entitled "Definition of Fiduciary," infra. reports and plan operating procedures; and advice on termination procedures. If the plan is not funded through insurance company products, the agent or broker will normally be compensated through the payment of a fee. If insurance products are involved, the agent or broker is fully or partially compensated through commissions on the sale of insurance to the plan. Such commissions are paid by the insurance companies whose products are sold to the plan.

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ties of mutual funds, their investment advisers and their principal underwriters, and the sale of mutual fund shares to investors, is closely regulated by the Securities and Exchange Commission under the Investment Company Act of 1940, the Securities Act of 1933, the Investment Advisers Act of 1940, and the Securities Exchange Act of 1934.

The applicants also represent that mutual fund principal underwriter direct sales forces normally recommend mutual fund shares as the funding medium for small employee benefit plans which can neither afford to retain professional investment managers nor otherwise obtain diversification of assets. These sales forces often recommend and sell mutual fund shares to employee benefit plans which are not readily serviced by regular retail broker-dealers or other financial institutions. If the requested exemption is not granted, the applicants represent that these plans would be foreclosed from continuing to receive these services, and that this would result in substantial hardship and economic loss for such plans.

For essentially the same reasons outlined above, the ICI has also requested, in Application D–466, an interpretation of the applicable provisions of the Act and the Code or, in the alternative, an exemption to permit the purchase or sale of mutual fund shares from or to a principal underwriter with respect to the mutual fund, where the principal underwriter or mutual fund, or both, may be parties in interest or disqualified persons (including fiduciaries) with respect to the plan because they may be considered to be providing services, directly or indirectly, to the plan (e.g., in connection with a mutual fund-sponsored master or prototype plan which is adopted as the plan).

Regarding Application D–466 filed by the ICI, and the joint application of the ACLI, NALU and AALU insofar as it relates to the question of whether a sponsor of a master or prototype plan may be considered to be a service provider or fiduciary with respect to the plan, the Department and the Service wish to emphasize that the proposal of a class exemptions to permit the purchase or sale of mutual fund shares or insurance contracts or annuities from or to the principal underwriter or insurance company when the principal underwriter, mutual fund or insurance company is the sponsor of the master or prototype plan is not intended to reflect a decision on this question by the Department and the Service. Rather, the class exemption, to the extent that it covers the master and prototype plan situation, is proposed, in part, to eliminate the adverse effects under the prohibited transaction provisions for plans and their participants and beneficiaries that may be caused by any uncertainties regarding the resolution of this question. Thus, to the extent that an insurance company, mutual fund or principal underwriter of a mutual fund may be considered to be a service provider or fiduciary as a result of services performed in connection with a master or prototype plan that it sponsors, the exemption provides relief from the prohibited transaction provisions of section 406 of the Act and section 4975(c)(1) of the Code for the purchase of insurance contracts or annuities from the insurance company or the purchase or sale of mutual fund shares from or to the mutual fund or principal underwriter.

Definition of "Fiduciary." Several of the applicants for class exemption have requested that the Department and the Service rule that the normal sales presentation and recommendations made to a plan or a plan fiduciary by an insurance agent or broker, pension consultant, or a mutual fund principal underwriter, or an employee thereof, will not be considered to constitute the rendering of investment advice for a fee so as to classify such agent or broker, pension consultant, or principal underwriter, or employee thereof, as a "fiduciary." Section 3(21)(A)(ii) of the Act and section 4975(e)(3)(B) of the Code define the term "fiduciary" with respect to a plan as a person who "renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so."

By notices published in the FEDERAL REGISTER (40 FR 50840, 50842) on October 31, 1975, the Service and the Department adopted regulations, 26 CFR 54.4975–9(c) and 29 CFR 2510.3–21(c), clarifying the applicability of the definition of the term "fiduciary" to persons who render investment advice to plans. As here relevant, those regulations provide:

(c) *Investment Advice.* (1) A person shall be deemed to be rendering "investment advice" to an employee benefit plan * * * only if:

(i) Such person renders advice to the plan as to the value of securities or other property, or makes recommendations as to the advisability of investing in, purchasing, or selling securities or other property; and

(ii) Such person either directly or indirectly (e.g., through or together with any affiliate)—

(A) Has discretionary authority or control, whether or not pursuant to agreement, arrangement or understanding, with respect to purchasing or selling securities or other property for the plan; or

(B) Renders any advice described in paragraph (c)(1)(i) of this section on a regular basis to the plan pursuant to a mutual agreement, arrangement or understanding, written or otherwise, between such person and the plan or a fiduciary with respect to the plan, that such services will serve as a primary basis for investment decisions with respect to plan assets, and that such person will render individualized investment advice to the plan based on the particular needs of the plan regarding such matters as, among other things, investment policies or strategy, overall portfolio composition, or diversification of plan investments.

The advice and recommendations made to plans and plan fiduciaries by insurance agents and brokers, pension consultants, and mutual fund principal underwriters (or their employees) regarding plan purchases of insurance contracts or annuities or mutual fund shares come within the type of advice described in paragraph (c)(1)(i) of the regulations cited above and could constitute "investment advice" so as to classify the persons who furnish such advice as "fiduciaries" if it is rendered under the circumstances described in either paragraph (c)(1)(ii)(A) or paragraph (c)(1)(ii)(B) of such regulations. A determination whether such advice constitutes "investment advice" under these regulations and section 3(21)(A)(ii) of the Act and section 4975(e)(3)(B) of the Code can be made only on a case-by-case basis.

In addition, the Department and the Service stated in the preamble sections of the notices announcing the adoption of the regulations that, until a more definitive statement is issued, the phrase "fee or other compensation, direct or indirect" for the rendering of investment advice for purposes of section 3(21)(A)(ii) of the Act and section 4975(e)(3)(B) of the Code should be deemed to include all fees or other compensation incidental to the transaction in which the investment advice to the plan has been rendered or will be rendered, and may therefore include insurance and mutual fund sales commissions. The Department and the Service have not modified or revised this position, notwithstanding the contrary views expressed in several of the applications for class exemption.

Exemption for services. Section 408(b)(2) of the Act and section 4975(d)(2) of the Code provide an exemption from the prohibited transaction provisions for, as here relevant, the provision of services to plans by parties in interest and disqualified persons if certain conditions are met. By notices published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31838, 31874), the Service and the Department proposed regulations, 26 CFR 54.4975–6 and 29 CFR 2550.408b–2, designed to clarify the scope and conditions of these statutory exemptions.

Among other things, the proposed regulations indicate that the statutory exemptions cover all parties in interest and disqualified persons, including plan fiduciaries. Thus, the services provided to plans by persons who are insurance agents or brokers, pension consultants, or mutual fund principal underwriters would be covered by the exemption set forth in section 408(b)(2) of the Act and section 4975(d)(2) of the Code, whether or not such persons are plan fiduciaries, if the arrangements under which such persons provide services to plans satisfy the provisions of the regulations under sections 408(b)(2) of the Act and 4975(d)(2) of the Code. To the extent that an insurance agent or broker, pension consultant, or mutual fund principal underwriter is not a fiduciary, he or she may rely on the statutory exemption contained in sections 408(b)(2) of the Act and 4975(d)(2) of the Code or on this exemption, if granted.

The proposed regulations also provide that the statutory exemption covers only the furnishing of services and not the prohibitions against certain fiduciary conduct described in section 406(b) of the Act and section 4975(c)(1)(E) and

(F) of the Code that might be present in the arrangement for the furnishing of services to a plan. The proposed regulations indicate, however, that if the arrangements for the provision of services to a plan by a fiduciary are arranged and approved on behalf of the plan by a second fiduciary who is independent of and unrelated to the fiduciary providing the services, the fiduciary/service provider would not be considered to be dealing with plan assets in his own interest or for his own account in contravention of section 406(b)(1) of the Act and section 4975(c)(1)(E) of the Code. Interested persons are directed, however, to the notice of hearing on the proposed regulations under section 408(b)(2) of the Act and section 4975(d)(2) of the Code and this pending class exemption, which notice appears elsewhere in this issue of the FEDERAL REGISTER, for a further explanation of the views of the Department and the Service with respect to the effect of the approval of a second fiduciary in situations where the fiduciary/service provider might be considered to be dealing with plan assets in his own interest or for his own account.

In connection with this notice of pendency of exemption, the Department and the Service wish to emphasize that satisfaction of the conditions of the pending class exemption will not permit a breach of the general fiduciary responsibility provisions of section 404 of the Act or excuse a violation of the "exclusive benefit of employees" requirement contained in section 401(a) of the Code. Such breach or violation might occur, for example, if a fiduciary with respect to the plan recommends or causes the plan to select a funding medium or investment which, under the particular circumstances, is not suitable for the plan. Thus, in the circumstances of a given case, an insurance agent who is a fiduciary with respect to a plan might be found to have breached his fiduciary responsibilities under section 404 of the Act and to have caused the plan to violate section 401(a) of the Code if he caused the plan to purchase individual insurance or annuity policies or other high commission products when similar benefits or protections could have been secured at a lesser cost to the plan (i.e., for lower premiums) under a group policy.

Further, while receipt of the disclosure required by the conditions of the exemption set forth below is expected to aid plan fiduciaries to evaluate recommendations made by persons selling insurance or mutual fund shares to the plan, such fiduciaries must still determine that the purchase of any insurance product or mutual fund shares for the plan satisfies the general fiduciary responsibility provisions of section 404(a)(1) of the Act. Such determination would require the evaluation of various factors not addressed in this exemption, such as, for example, whether the insurance product or mutual fund shares are an appropriate funding medium or investment for the particular plan involved.

General information. The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department and the Service must find that the exemption is administratively feasible, in the interests of the plan or plans and of their participants and beneficiaries, and protective of the rights of participants and beneficiaries of such plan or plans.

(3) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(5) The applications for exemption referred to herein are available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C., 20210 and in the Internal Revenue Service National Office Reading Room, Room 1565, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

All interested persons are invited to submit written comments on the pending class exemption set forth herein. In order to receive consideration, such comments should be received by the Department of Labor on or before January 27, 1977.

By notice appearing elsewhere in this issue of the FEDERAL REGISTER, the Department and the Service have announced that a public hearing will be held on February 14, 1977 with respect to the proposed class exemption and with respect to proposed regulations of the Department and the Service under sections 408(b)(2), 408(b)(4), 408(b)(6), 408(c)(2) and 414(c)(4) of the Act and sections 4975(d)(2), (4), (6) and (10) of the Code and 2003(c)(2)(D) of the Act, published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31838, 31874). These proposed regulations relate to the provision of services and office space to plans, the investment of plan assets in bank deposits, the provision of bank ancillary services to plans, and the transitional rule for the provision of services to plans until June 30, 1977.

All written comments on the pending class exemption (at least six copies) should be addressed to Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room C–4526, Washington, D.C., 20216, Attention: Application No. D–183. All such comments will be made part of the record, and will be available for public inspection at the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20210, and at the Internal Revenue Service National Office Reading Room, Room 1565, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

PENDING EXEMPTION

Based on the applications referred to above, the Department and the Service have under consideration the granting of the following class exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75–26, 1975–1 C.B. 722:

Section I—Introduction. Effective January 1, 1975, the restrictions of sections 406(a)(1)(A) through (D) and 406(b) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the transactions described in section II of this exemption, provided that the conditions set forth in section III of this exemption are met.

Section II—Transactions. (a) The receipt of sales commissions from an insurance company, directly or indirectly, by an insurance agent or broker or a pension consultant in connection with the purchase of insurance contracts or annuities with plan assets when such insurance agent or broker or pension consultant is a service provider or fiduciary with respect to the plan.

(b) The receipt of sales commissions by a principal underwriter for an investment company registered under the Investment Company Act of 1940 (hereinafter referred to as a "mutual fund") in connection with the purchase of mutual fund shares with plan assets when such principal underwriter is a fiduciary or service provider with respect to the plan.

(c) The execution by an insurance agent or broker or pension consultant of a transaction for the purchase of insurance contracts or annuities with plan assets from an insurance company when

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such insurance agent or broker or pension consultant is a fiduciary or service provider with respect to the plan and, in connection with the execution of such transaction, is acting as the agent of the insurance company.

(d) The purchase of insurance contracts or annuities with plan assets from an insurance company which is a party in interest or disqualified person (including a fiduciary) with respect to the plan solely by reason of providing services directly or indirectly to the plan, or which, by reason of a relationship described in section 3(14) (G), (H) or (I) of the Act or section 4975(e)(2) (G), (H) or (I) of the Code to an insurance agent or broker or a pension consultant, is a service provider or a fiduciary with respect to the plan.

(e) The purchase of mutual fund shares with plan assets from, or the sale of such shares to, a mutual fund or a principal underwriter with respect to a mutual fund, when such mutual fund or principal underwriter, or both, are parties in interest or disqualified persons (including fiduciaries) with respect to the plan by reason of providing services, directly or indirectly, to the plan.

Section III—Conditions. (a) The insurance agent or broker, pension consultant, insurance company, mutual fund or principal underwriter referred to in any of the paragraphs of section II above does not have any authority on behalf of the plan to retain or terminate the provision of services of such insurance agent or broker, pension consultant, insurance company, mutual fund or principal underwriter for the plan.

(b) Each of the transactions described in section II above, and any transactions in connection therewith for the purchase of insurance contracts or annuities or mutual fund shares with plan assets or the sale of mutual fund shares, is:

(1) On terms at least as favorable to the plan as an arm's-length transaction with an unrelated party would be; and

(2) Prior to the execution of the transaction, approved in writing on behalf of the plan by a fiduciary who is not an affiliate of the insurance agent or broker, pension consultant, insurance company, mutual fund, mutual fund principal underwriter, or mutual fund investment adviser and who does not receive, directly or indirectly, any compensation or other consideration for his or her own personal account in connection with any such transaction. Such approval must be based, in part, on the information disclosed pursuant to paragraph (e) of this section.

(c) The total of all fees and other consideration received by such insurance agent or broker, insurance company, pension consultant, or mutual fund principal underwriter for the rendering of services to the plan, plus commissions received in connection with the purchase of insurance contracts or annuities or mutual fund shares with plan assets, is not in excess of "reasonable compensation" within the contemplation of sections 408 (b)(2) and 408(c)(2) of the Act and sections 4975(d)(2) and 4975(d)(10) of the Code.

(d) With respect to any purchase of insurance contracts or annuities or mutual fund shares referred to in paragraphs (a), (b) and (c) of section II above, the insurance agent or broker, pension consultant, or mutual fund principal underwriter referred to in any of such paragraphs:

(1) Is a party in interest or disqualified person (including a fiduciary) with respect to the plan solely by reason of the provision of consultative, administrative or investment advisory services to the plan; and

(2) Effects the purchase of insurance or mutual fund shares in the ordinary course of its business as an insurance agent or broker, pension consultant, or mutual fund principal underwriter.

(e) With respect to any purchase of insurance contracts or annuities or mutual fund shares referred to in paragraphs (a), (b) and (c) of section II above, or any contract or agreement for such a purchase which is executed more than 60 days after the date of granting of this exemption, the insurance agent or broker, pension consultant or mutual fund principal underwriter provides to the fiduciary referred to in paragraph (b)(2) of this section, prior to the written approval described in paragraph (b)(2), written disclosure of the following information and such fiduciary acknowledges receipt of such written disclosure in writing:

(1) The names of all insurance companies and mutual funds with respect to which such insurance agent or broker, pension consultant or mutual fund principal underwriter is an affiliate, and a description of the nature of such affiliation.

(2) The amount of any sales commissions that will be received, directly or indirectly, by the soliciting agent in connection with the purchase of any insurance contracts or annuities or mutual fund shares which are recommended by the soliciting agent for purchase with plan assets. In the case of insurance, commissions should be disclosed as a percentage of gross premium payments for both first-year sales commissions and renewal commissions, if any. In the case of mutual funds, sales commissions should be disclosed as a percentage of the dollar amount of the plan't investment.

(3) With respect to any insurance contracts or annuities or mutual fund shares which are recommended by the soliciting agent, (i) if the soliciting agent has received any special instructions with respect to soliciting purchases of such contracts, annuities or shares (other than with respect to describing the characteristics of such contracts, annuities or shares) from any insurance agent or broker, pension consultant, insurance company, mutual fund, or principal underwriter, a description of such instructions, (ii) if the soliciting agent has a special incentive arrangement (other than the receipt of sales commissions) in connection with the sale of such insurance contracts or annuities or mutual fund shares, a statement that the soliciting agent has such an arrangement and, if requested by the aforementioned fiduciary, a description of such arrangement, and (iii) if the soliciting agent or an insurance agent or broker, pension consultant or mutual fund principal underwriter for which the soliciting agent is an employee has, for any of its three taxable years prior to the making of such recommendation by the soliciting agent, received more than 20 percent of its gross commissions from all sales of insurance or mutual fund shares for any such year from the insurance company or mutual fund whose insurance contract, annuity or shares are recommended, the soliciting agent must disclose such facts.

Once the disclosures required by this paragraph (e) have been made to the fiduciary described in paragraph (b)(2) of this section with respect to the purchase of insurance contracts or annuities or mutual fund shares, no further disclosure need be made with respect to additional purchases of such contracts, annuities, or shares with plan assets within three years subsequent to such disclosure, unless the commission or special incentive arrangement with respect to such additional sales of such contracts, annuities or shares is materially different from that for which the disclosure was made, or the contract, annuity or mutual fund is materially different from that for which the disclosure was made.

(f) Such records as are necessary to enable the persons described in paragraph (g) of this section to determine whether the conditions of this exemption have been met shall be maintained for a period of six years from the date of any transaction described in section II above, except that:

(1) This paragraph (f) and paragraph (g) below shall not apply to transactions effected prior to 60 days subsequent to the date of granting of this exemption; and

(2) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, or of such insurance agent or broker, pension consultant, mutual fund principal underwriter or insurance company, such records are lost or destroyed prior to the end of such six-year period.

For transactions described in paragraphs (a) and (c) of section II above, such records shall be maintained by the insuranace agent or broker or pension consultant; for transactions described in paragraphs (b) and (e) of section II above, such records shall be maintained by the principal underwriter of the mutual fund; and for transactions described in paragraph (d) of section II above, such records shall be maintained by the insurance company.

(g) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (f) of this section are unconditionally available for examination during normal business

hours by duly authorized employees or representatives of (1) the Department ofof Labor, (2) the Internal Revenue Service, (3) plan participants and beneficiaries, (4) any employer of plan participants and beneficiaries, and (5) any employee organization any of whose members are covered by the plan.

Section IV—Definitions. For purposes of this exemption:

(a) The term "principal underwriter" is defined in the same manner as that term is defined in section 2(a)(29) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(29)).

(b) The terms "fiduciary", "service provider", "insurance agent or broker," "pension consultant", "insurance company", "mutual fund", and "principal underwriter" include such persons and any affiliates thereof.

(c) The term "soliciting agent" means the individual who solicits the purchase of the insurance contract or annuity or the purchase of mutual fund shares.

(d) The term "affiliate" of a person includes:

(1) Any person directly or indirectly controlling, controlled by, or under common control with such person;

(2) Any officer, director, partner, employee or relative of such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(e) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(f) the term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term "special incentive arrangement" means an arrangement whereby consideration is available or payable (directly or indirectly) to a soliciting agent because of the insurance agent's or broker's, pension consultant's, or mutual fund principal underwriter's contractual relationship with an insurance company or mutual fund, and not an arrangement whereby consideration is available to any soliciting agent who sells a product of that insurance company or mutual fund.

Signed at Washington, D.C., this 22d day of December, 1976.

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.76-38233 Filed 12-28-76;8:45 am]

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

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	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 1—General Provisions

CHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PART 310—MISCELLANEOUS STATEMENTS

Miscellaneous Amendments

The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571–576, to study the efficiency, adequacy and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and to make recommendations for improvement to administrative agencies, collectively or individually, to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574(1)).

The Administrative Conference of the United States at its Fifteenth Plenary Session, held December 9–10, 1976, adopted two Recommendations and one formal Statement. Recommendation 76–4 recommends amendments to the judicial review provisions of the Clean Air Act and Federal Water Pollution Control Act. Recommendation 76–5 urges Federal agencies normally to employ pre-adoption or post-adoption comment procedures when promulgating an interpretive rule of general applicability or statement of general policy. The Conference Statement is addressed to procedures to deal with an emergency shortage of natural gas.

1. The table of contents to Part 305 of Title 1, Chapter III, CFR is amended to add the following sections:

Sec.

305.76–4 Judicial Review Under the Clean Air Act and Federal Water Pollution Control Act (Recommendation No. 76–4)

304.76–5 Interpretive Rules of General Applicability and Statements of General Policy (Recommendation No. 76–5)

2. Section 305.76–4 is added to Part 305 to read as follows:

§ 305.76–4 Judicial Review Under the Clean Air Act and Federal Water Pollution Control Act (Recommendation No. 76–4).

(a) The Congress has enacted provisions for judicial review in the Clean Air Act and the Federal Water Pollution Control Act (FWPCA) that are in some respects inconsistent, incomplete, ambiguous and unsound.

(b) Courts have sometimes felt constrained to stretch these statutes to achieve sensible results. In other instances, courts seem to have ignored sensible general congressional direction in an attempt to do justice in particular cases. On yet other occasions courts have felt compelled by unclear provisions to reach undesirable results that Congress probably did not intend.

(c) Experience under the two Acts has highlighted a variety of problems in the interpretation and application of the judicial review provisions, all of which are likely to be addressed by Congress in the near future.

(d) This series of recommendations urges that, when Congress reconsiders the judicial review provisions of the principal pollution statutes, it rationalize, alter and clarify them, guided especially by the principle that jurisdictional provisions should draw bright lines to minimize the waste and expense of litigation over whether a case has been brought in the right court. One recommendation is addressed to the Judicial Conference and calls upon the courts, pending congressional action to clarify their powers, to utilize their discretion to transfer judicial review proceedings where transfer will avoid undue duplication of litigation.

More specifically, the Conference has in view these considerations:

1. Section 509(b) of the FWPCA provides that all standards promulgated under it by the Environmental Protection Agency, including national standards, are to be reviewed in the United States Court of Appeals for a circuit in which the petitioner resides or transacts business. Under Section 307(b) of the Clean Air Act, on the other hand, certain nationally applicable standards are to be reviewed only in the Court of Appeals for the District of Columbia Circuit, but the EPA's actions in approving or promulgating state implementation plans are reviewable only "in the United States Court of Appeals for the appropriate circuit." Thus the FWPCA provides for a decentralized review of national standards, whereas the Clean Air Act requires that analogous standards be reviewed only in the D.C. Circuit. This inconsistency in approach should be resolved; the advantages of expeditious and authoritative review of all national standards in the D.C. Circuit suggests that it is the FWPCA's venue provision which should be amended. All national standards under the FWPCA should be made reviewable in the D.C. Circuit. Review of all other regulations, standards and determinations that are reviewable in the courts of appeals under the FWPCA should be in the circuit containing the affected state or facility. These amendments would entirely supplant the present provisions for review in the circuit in which the petitioner resides or transacts business.

The Clean Air Act's specification of "appropriate circuit" as the venue for review of state implementation plan approvals has also created uncertainties, especially when several plan approvals are challenged on identical grounds. Although a perfect resolution is impossible, an amendment, clarifying that the appropriate circuit is the one containing the state whose plan is challenged, would eliminate much of the prospect of threshold litigation over the question of which is the appropriate circuit, and would also avoid the splitting of cases into two different forums whenever local and national issues are present in the same case. The possibility of undue duplication of proceedings that might result can be met by increasing the flexibility of available transfer provisions to remove doubts about the authority of any court of appeals to transfer a case to any other court of appeals.

2. Section 304 of the Clean Air Act and Section 505 of the FWPCA authorize citizen suits in the district courts to require the EPA Administrator to perform "any act or duty under this Act which is not discretionary." Some district courts have accepted jurisdiction under Section 304 over cases that amount to challenges to the Administrator's approval and promulgation of state implementation plans, despite the provision of Section 307 for exclusive jurisdiction in the courts of appeals to review such action. The citizen-suit provisions should not furnish an alternative or premature method of review of questions that can be raised by direct review of the EPA's actions in the courts of appeals.

The proper scope of the present citizen-suit provisions is especially unclear in the context of standard-setting, where the line between failure to act and failure to act properly is dim. The difficulty of drawing such a distinction is ample reason for giving the courts of appeals exclusive jurisdiction of actions to compel or to postpone the issuance of regulations whose validity would properly be determined in a court of appeals. It is recognized that in its review of such issues a court of appeals might conclude that the administrative record requires amplification. Since courts of appeals normally do not hold evidentiary proceedings, provision should be made for prior resort or remand to the EPA (or, if that is inappropriate, to the district court) to meet that need.

To prevent unfairness from a litigant's choice of the wrong court, Congress

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should provide for transfer between district courts and courts of appeals of petitions and complaints filed under the Acts. The Court of Claims transfer provision provides a good model.

3. Although both Acts provide expressly for review in the courts of appeals and for citizen suits in the district courts, it remains possible in some circumstances to obtain non-statutory review under general federal question jurisdictional statutes. But the citizen-suit provisions of both Acts require the plaintiff to give the EPA 60 days' notice of the intended district-court action. Congress should make clear that where a non-statutory review action is filed alleging grounds that correspond to those appropriate for the filing of an action under such citizen-suit provisions, failure to comply with the notice requirements of those provisions will require a dismissal of the case.

4. The Clean Air Act and the FWPCA provide that certain regulations reviewable by petition to the courts of appeals "shall not be subject to judicial review in civil or criminal proceedings for enforcement." Moreover, challenges to the validity of regulations must be made in the court of appeals within 30 days (air) or 90 days (water) after promulgation, unless the challenge is based "solely on grounds arising after" the statutory period. The express preclusion of review at the enforcement stage creates a highly unusual and unnecessary harsh restriction on the right to challenge the validity of a regulation to which one is subject. Congress should amend the Acts to allow the validity of a regulation to be challenged in defense to an enforcement proceeding. It should also amend the Clean Air Act to extend the time limit for filing petitions for review in the court of appeals to 60 days and, for consistency, amend the FWPCA to reduce the 90-day period for filing a petition thereunder to 60 days. Finally, the time limits in both Acts should be made inapplicable where the petitioner can show reasonable grounds for failure to file a timely petition.

5. Not every action of the EPA under the Clean Air Act or the FWPCA is made reviewable in the courts of appeals. Some of the omissions appear to be inconsistent with the general statutory plan, and corrective amendments are desirable.

6. Each of the four judicial review and citizen-suit provisions in the Clean Air Act and the FWPCA presents a different standard for who may petition for review or sue. This leads to undesirable confusion and inconsistency in the administration of the Acts.

RECOMMENDATION

A. *Venue in the Courts of Appeals*

1. Congress should provide for centralized review of national standards under the FWPCA, as is now provided under the Clean Air Act, by amending Section 509(b) [33 U.S.C. § 1369(b)] to provide for the review of all such national standards in the Court of Appeals for the District of Columbia Circuit.

2. Congress should further amend section 509(b) of the FWPCA to provide that review of regulations, standards or determinations affecting single states or facilities be had in the circuit containing the state or facility.

3. Congress should amend section 307 (b) of the Clean Air Act [42 U.S.C. § 1857 h–5(b)] to make explicit that the Administrator's action in approving or promulgating state implementation plans is reviewable in the circuit containing the state whose plan is challenged.

4. Courts of appeals, when reviewing cases arising under the Clean Air Act or FWPCA, should utilize existing transfer powers to avoid undue duplication of proceedings, and Congress should amend the Acts or the transfer statute [28 U.S.C. § 2112(a)] to remove doubts about the authority of any court of appeals to transfer such cases to any other court of appeals to avoid undue duplication and in the interest of the administration of justice.

B. *Choice between District Court and Court of Appeals for Review*

1. Congress should amend the citizen-suit provisions of the Clean Air Act [Section 304, 42 U.S.C. § 1857h–2] and FWPCA [Section 505, 33 U.S.C. § 1365] to make clear that, insofar as suits against the Administrator of the EPA are concerned, these sections do not provide an alternative or premature method of review of questions that can be raised under the sections that provide for direct review of the EPA's actions in the courts of appeals [Section 307(b), 42 U.S.C. § 1857h–5(b); Section 509, 33 U.S.C. § 1369].

2. Congress should amend the Clean Air Act and FWPCA to provide that courts of appeals have exclusive jurisdiction of actions to compel or to postpone the issuance or revision of regulations whose validity is to be determined in a court of appeals. The amendments should provide that where there is need for the development of a factual record, prior resort or remand shall be made to the EPA or, if that is inappropriate, to the district court.

3. Congress should provide, by analogy to 28 U.S.C. § 1506, for transfer between courts of appeals and district courts when a proceeding to review EPA action under the Clean Air Act or FWPCA is filed in the wrong forum.

C. *Limitation of Non-Statutory Review*

Congress should amend the statutes to make clear that when a non-statutory review action is filed alleging grounds that correspond to those appropriate for the filing of a citizen suit under Section 304 of the Clean Air Act [42 U.S.C. § 1857h–2] or Section 505 of the FWPCA [33 U.S.C. § 1365], failure to comply with the notice requirements of those sections will require a dismissal of the case.

D. *Raising Defenses at the Enforcement Stage*

1. Congress should amend the Clean Air Act and FWPCA to permit the validity of a regulation to be challenged in defense to an enforcement proceeding.

2. Congress should amend Section 307 (b) of the Clean Air Act [42 U.S.C. § 1857h–5(b)] and Section 509(b) of the FWPCA [33 U.S.C. § 1369(b)] to prescribe 60 days as the period within which, under both statutes, a petition for review must be filed in the courts of appeals.

3. Congress should amend the Clean Air Act and FWPCA to ensure that petitions for review of regulations may be filed after the expiration of the time limits of Sections 307(b) and 509(b), when the petitioner can show a reasonable ground for failure to file a timely petition.

E. *Actions Subject to Court-of-Appeals Review*

1. Congress should amend section 509 (b) of the FWPCA [33 U.S.C. § 1369(b)] to make clear that the following actions by the EPA are reviewable in the courts of appeals:

a. Promulgation or approval of water-quality standards under Section 303 [33 U.S.C. 1313].

b. Promulgation of effluent guidelines under section 304 [33 U.S.C. 1314].

c. Promulgation of regulations governing the discharge of oil or hazardous substances under section 311(b) [33 U.S.C. 1321(b)].

d. Promulgation of standards for marine sanitation devices under Section 312 [33 U.S.C. 1322] or determinations that a state may completely prohibit the discharge from all vessels of any sewage under Section 312(f) [33 U.S.C. § 1322(f)].

2. Congress should amend the Clean Air Act to make those new-car emission standards not now reviewable under section 307(b) [42 U.S.C. § 1857h–5(b)], reviewable in the courts of appeals.

F. *Standing*

Congress should adopt a single test of standing to govern all proceedings for judicial review under the Clean Air Act and FWPCA.

SEPARATE STATEMENT OF G. WILLIAM FRICK

(1) Recommendation A.2. should be amended to provide that where "national issues" are involved they should be reviewed in the D.C. Circuit. Recommendation A.3. should be amended in the same fashion.

Cases involving permits and permit programs under the FWPCA sometimes involve generic issues that apply to EPA's actions nationwide. For essentially the reasons discussed in our comments on recommendation A.3., below, we believe such issues should be reviewed in the D.C. Circuit. This result could be specified, without disturbing the general thrust of the Recommendation, by amending § 509 of the FWPCA as suggested in our comments of November 12, 1976.

Although approval and promulgation of State implementation plans (SIP's) under the Clean Air Act usually involve issues peculiar to the affected States, such actions sometimes involve generic determinations of nationwide scope or effect. Examples include EPA's granting of two-year extensions of the date for attainment of national ambient air quality standards in a number of metropolitan areas[1] and its promulgation of generic regulations (applicable to all States) that require prevention of significant deterioration of air quality (40 CFR 52.21). We view such actions as virtually identical to promulgation of "national standards",[2] as to which recommendation A.1. expresses a preference for review in the D.C. Circuit.

Under the existing law, it is possible to argue that the D.C. Circuit is the "appropriate circuit" for review of "national" SIP issues, and three courts of appeals have so held.[3] Recommendation A.3., however, would provide that such issues, together with all other SIP issues, must be in the local circuit. Although recommendation A.4. would promote transfer to avoid "undue duplication of proceedings", it would provide no basis for arguing that the D.C. Circuit is the appropriate transferee forum.

As indicated by Professor Currie in his report, Congress intended review in the D.C. Circuit of "matters on which national uniformity is desirable." Among the reasons for this are the D.C. Circuit's obvious expertise in administrative law matters and its sensitivity to Congressional mandates. In addition, the D.C. Circuit has become thoroughly familiar with the Clean Air Act—a very complex statute—and with its equally complex legislative history. We believe it makes sense to centralize review of "national" SIP issues in the D.C. Circuit, taking advantage of its administrative law expertise and facilitating an orderly development of the basic law under the Act, rather than to have such issues decided separately by a number of courts, some of which would probably lack frequent exposure to the Act and its legislative history. Moreover, the validity of a nationally applicable regulation will not turn on the particulars of its impacts within a given Circuit.

(2) Recommendation D.1., which would allow the challenge of validity of regulations in enforcement proceedings, should be deleted.

The "legislative history" of this recommendation suggests that it is inspired in part by a concern that the time limits for filing of petitions for review of the validity of regulations are too short, and in part by a concern that *any* time limit may unreasonably constrain the opportunity for such review.

[1] See *NRDC* v. *EPA*, 475 F. 2d 968 (D.C. Cir. 1973).

[2] As with national standards, such actions typically involve establishment or application of uniform principles for all States, are taken on a single administrative record, and do not involve factual questions unique to particular geographical areas.

[3] *Dayton Power & Light Co.* v. *EPA*, 530 F. 2d 703, 706–07 (6th Cir. 1975) (regulations for prevention of significant deterioration); *NRDC* v. *EPA*, 475 F. 2d 968, 969–70 (D.C. Cir. 1973) (two-year extensions and similar issues); *NRDC* v. *EPA*, 465 F. 2d 492, 494 (1st Cir. 1972) (same).

As to the first factor we would much prefer the solution offered by Recommendation D.2. As to the second, we oppose the recommendation on several grounds. Permitting challenges to validity in enforcement would leave open the question of validity indefinitely, notwithstanding Congress' intent to have it decided expeditiously;[4] would require EPA to retain its often immense records indefinitely; would mean district court rather than court of appeals review of validity, notwithstanding the clear intent of Congress; and might very well lead to conflicting results, with resolution of conflicts (if at all) only after review by the courts of appeals and the Supreme Court. In our view, facial validity need be determined only once and should be determined expeditiously; there are other mechanisms for relief based on factors peculiar to individual sources (see comments on recommendation D.3.), and it makes no sense to require every district court presented with the issue of validity to engage in duplicative review of the often immense records involved.

The Recommendation glosses over that fact that State implementation plans, which have and will continue to make up the vast majority of onerous air pollution requirements, can be challenged facially and on grounds of infeasibility through administrative and judicial review channels in the States.[5]

Finally, as Professor Walter Gellhorn observed at the Plenary Session, there is an inherent contradiction between Recommendations D.1. and D.3., viz., the argument is for extending the deadlines for obtaining review while at the same time espousing that there should be no deadline for obtaining review. That the federal courts involved are at different levels does not cure this contradiction.

(3) Recommendation D.3., which would allow late filings of petitions for review upon reasonable grounds shown, should be deleted.

The "legislative history" of this recommendation suggests a number of concerns that may have prompted it: (a) the problem of short time limits; (b) the problem of persons who fail to file through carelessness; (c) lack of opportunity for consideration of individual factors that might affect validity; and (d) the problem of persons who are unaffected by a regulation until after the deadline for filing has passed. My comments are as follows:

(a) Short time limits. We prefer Recommendation D.2. as providing a more direct solution to this problem, if it is thought to be a problem. Protection of one's rights need not await detailed analysis of what EPA has actually done; common practice is to file one-paragraph petitions alleging that EPA's action was arbitrary or capricious, or similarly general grounds.

(b) Carelessness. The industries we regulate generally submit extensive comments on proposed regulations, sometimes "lobby" the agency extensively, often mount well-coordinated attacks on final regulations in court, and seem to follow the development of regulations rather well. And, even before publication of proposals in the FEDERAL REGISTER, they receive notice through EPA's gathering of supporting data from them, through trade associations, through industry representatives on EPA advisory committees, or during pre-publication review by other federal agencies. We believe the public interest in early resolution of validity (clearly intended by Congress) should outweigh the interests of those who fail to file timely petitions through carelessness.

(c) Individual factors that might affect validity. As Professor Currie seems to acknowledge in his report, individual factors are often if not always irrelevant to the validity of EPA regulations. Those cited as examples do not appear to be grounds for challenge of SIP approvals,[6] for example, or of national standards adopted under §§ 111 or 112 of the Clean Air Act (42 U.S.C. 1857c–6, 1857c–7). Relief based on such factors may be available through a variety of mechanisms,[7] but they do not go to the validity of the regulations.

(d) Previously unaffected parties. In our view, persons who choose to do business in a regulated industry (or to expand into a geographical area subject to controls) after the establishment of applicable regulations take the business (or the area) as they find it. If a company invents a new process that presents particular problems under an applicable regulation, it may petition for revision of the regulation.

Finally, we note that this recommendation would leave the question of validity open indefinitely, with all the problems that would entail (see discussion of Recommendation D.1.).

3. Section 305.76–5 is added to Part 305 to read as follows:

§ 305.76–5 Interpretive rules of general applicability and statements of general policy (recommendation 76–5).

(a) Agencies often explain their view of the meaning of statutes or rules by issuing interpretive rules of general ap-

[4] See *Union Electric Co.* v. *EPA*, 96 S. Ct. 2518 (1976).

[5] See *Union Electric Co.* v. *EPA*, *supra*.

[6] Under the Clean Air Act, for example, relief may be available by way of SIP revisions (including variances) approved or promulgated by EPA, postponements of SIP requirements under 42 U.S.C. 1857c–5(f), enforcement orders fixing a "reasonable time" for compliance (42 U.S.C. 1857–c–8(a)(4)), equitable relief provided by court order in enforcement proceedings (*see* 42 U.S.C. 1857c–8(b)), waivers or exemptions under 42 U.S.C. 1857c–7, or petition for revision of any applicable regulation.

[7] See *Kennecott Copper Corp.* v. *EPA*, 462 F. 2d 846, 849 & nn. 14–15 (D.C. Cir. 1972). Expeditious resolution of SIP issues is particularly important because Congress mandated attainment of the health-protective ambient air quality standards (via SIP's) by a time certain, regardless of economic or technical feasibility.

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plicability, and agencies indicate how they will exercise discretion by announcing statements of general policy. The Administrative Procedure Act requires that these interpretive rules and policy statements be published in the FEDERAL REGISTER. But the Act does not require that interested persons be given advance notice and opportunity to comment upon interpretive rules and policy declarations. Courts, however, have occasionally imposed that requirement.

(b) At times policy statements and interpretive rules are barely distinguishable from substantive rules for which notice and comment is required. For that and other reasons many agencies have often utilized the notice-and-comment procedures set forth in Section 553 of the Act, without regard to whether their pronouncements fall into one category or another. This is, in general, beneficial to both the agencies and potentially affected elements of the public. Providing opportunity for comment upon interpretive rules and policy statements of general applicability, sometimes before and sometimes after their adoption, makes for greater confidence in and broader acceptance of the ultimate agency judgments. The following recommendations look toward wider voluntary adoption of such procedures by the agencies. Nothing here proposed would in any event alter the existing provisions of Administrative Procedure Act section 553(e), allowing any person to petition at any time for the amendment or repeal of a rule, including an interpretive rule or a statement of general policy. Moreover, the recommended procedures are not intended to apply to interpretations or policies set forth in opinions in formal or informal adjudications.

RECOMMENDATION

1. Before an agency issues, amends, or repeals an interpretive rule of general applicability or a statement of general policy which is likely to have substantial impact on the public, the agency normally should utilize the procedures set forth in Administrative Procedure Act subsections 553(b) and (c), by publishing the proposed interpretive rule or policy statement in the FEDERAL REGISTER, with a concise statement of its basis and purpose and an invitation to interested persons to submit written comments, with or without opportunity for oral presentation. If it is impracticable, unnecessary, or contrary to the public interest to use such procedures the agency should so state in the interpretive rule or policy statemnt, with a brief statement of the reasons therefor.

2. Where there has been no promulgation notice and opportunity for comment, the publication of an interpretive rule of general applicability or a statement of general policy, even one made effective immediately, should include a statement of its basis and purpose and an invitation to interested persons to submit written comments, with or without opportunity for oral presentation, within a following period of not less than thirty days. The agency should evaluate the rule or statement in the light of comments received. Not later than sixty days after the close of the comment period, the agency should indicate in the FEDERAL REGISTER its adherence to or alteration of its previous action, responding as may be appropriate to significant comments received. An agency may omit these post-adoption comment procedures when it incorporates in the interpretive rule or policy statement a declaration, with a brief statement of reasons, that such procedures would serve no public interest or would be so burdensome as to outweigh any foreseeable gain.

4. The table of contents of Part 310 of Title I, Chapter III, CFR is amended to add the following section:

Sec.
310.5 Statement on procedures to deal with emergency shortages of natural gas.

5. Section 310.5 is added to Part 310 to read as follows:

§ 310.5 Statement on procedures to deal with emergency shortages of natural gas.

(a) Consideration of procedures to deal with possible emergency shortages of natural gas involves the analysis and weighing of numerous and complex issues. The Congress is the proper body to consider the policy responses which may be appropriate for dealing with such an emergency. Of significance to the Administrative Conference is that, in any such deliberative process, Congress should consider from the beginning how to assure fair and effective administrative procedure in any program which it adopts. This statement is not intended to recommend any particular program or to go beyond procedural considerations.

(b) If the Congress believes an emergency shortage of natural gas is a significant possibility in the foreseeable future, then the necessary investigation and analysis of the issues noted in this Statement should be undertaken soon. By giving early consideration to the difficult issues which must be resolved, the Congress can enable the orderly development of fair and effective administrative procedures to be available in the case of need. The alternative to such prompt consideration is likely to be, in the event of an emergency, a hastily-established program which might not adequately provide for public participation in the development of policies and regulations nor for suitable procedures for the determination of matters involving identifiable parties. This might work unnecessary hardships, invite public distrust, and create more serious social and economic dislocations than necessary.

(1) At the present time the procedures by which government can deal with an emergency created by an undersupply of natural gas have severe limitations. Governmental authority over natural gas, to the extent it exists, is fragmented among the Federal Power Commission and the several States.

(a) The Natural Gas Act confines the Federal Power Commission's jurisdiction, and consequently its curtailment authority, mainly to the interstate sale and transportation of natural gas; the Commission does not exercise authority over natural gas that is produced and consumed within a single State, nor normally over the retail sale distribution of either intrastate or interstate gas.

(b) The procedures of the Federal Power Commission are largely designed for certification and ratemaking cases, and they are generally ill-suited for emergency situations. While the Commission has adopted an end-use curtailment policy, in fact it is without jurisdiction to enforce it at the State level. Nor does the Commission have the authority to order interconnections among pipelines and transfer of gas from one to another.

(c) The respective States have widely varying resources and interests. No procedures exist for them to distribute the burden of an emergency shortage of natural gas among themselves and throughout the nation.

(2) The range of possible legislative responses is wide, and the questions involved are of the highest complexity.

(a) The approaches which have been suggested include: complete reliance on the free market mechanism to bring supply and demand into balance; primary reliance on the free market mechanism, coupled with standby emergency procedures of some sort; an end-use allocation procedure administered jointly by a Federal agency and the States; a procedure in which States or regions or classes of users receive pro-rata portions of the gas used in a base period; incentives to conserve natural gas and other forms of energy; accelerated development of renewable forms of energy; extension of federal regulation to the intrastate gas market.

(b) Determination of the appropriate approach, from among the foregoing or others, is for Congress to resolve through the political process.

(3) Any Congressional action to institute Federal or Federal/State allocation procedures requires consideration of many complex subjects, several of which are noted below in Paragraphs 4–6. If, therefore, Congress determines (a) that an emergency shortage of natural gas is a significant possibility in the foreseeable future and (b) that its response will be some sort of allocation procedures, it should act promptly in view of the time involved in the legislative process and the lead time necessary to establish any new program. Adequate lead time should also be provided to allow States, gas users, and industry participants to plan on a sound, well-conceived basis.

(4) If Congress were to consider some sort of end-use allocation procedure, the following issues should be addressed in the legislative process:

(a) Comprehensive data are required for its organization and implementation, and such data do not appear to be readily available in sufficiently accurate, complete and compatible form.

(b) An end-use allocation procedure might adversely affect incentives for the conservation of natural gas by States, gas distributors, and users, and for the development of new sources of supply, so that care should be taken to minimize any such adverse affects.

(c) The sheer number of users of natural gas, each of which or each category of which might require consideration in an end-use allocation procedure, and each of which would incur particular economic and social consequences if the supply of natural gas were interrupted, means that it may be impractical to administer an end-use allocation procedure exclusively by a means of a centralized Federal agency.

(5) If Congress were to consider involving the States in the administration of an end-use allocation procedure, the following issues should be addressed in the legislative process:

(a) In some States, the authority to formulate and implement relevant energy policy resides in a public utilities commission, while in other States it resides in the Governor's office, and in still other States legislative provision for such authority does not currently exist. In some States, authority is divided between statewide and local governmental entities.

(b) Many State governments appear at present to lack the resources and expertise to administer an end-use allocation system. A comprehensive survey of the respective personnel and financial resources of the various States that would be needed to undertake an end-use allocation system apparently does not currently exist.

(c) Congress should consider whether and by what means the Federal Government may induce a State to take legislative action.

(d) Some States have taken measures to protect their respective economies from the adverse effects of natural gas shortages, and they would probably resist any Federal system which failed to recognize and reward such diligence.

(6) If Congress were to consider authorizing some Federal agency to order, as part of an allocation procedure, interconnections among interstate and intrastate pipelines and the mandatory transfer of gas from one to another, then the legislative process should address the fact that no comprehensive, accurate, compatible and readily available data concerning the existence and feasibility of interconnections among pipelines exist.

(7) Whatever action it takes, Congress should consider the relationship between that action and a number of laws, including the National Environmental Policy Act (NEPA) and existing antipullution statutes.

(a) The effect on the environment of requiring large users of natural gas to switch to alternative fuels may be substantial.

(b) Enivronmental impact statements may be time consuming and may be incompatible with the implementation of emergency procedures, if not their development.

(8) To the extent that it enacts legislation authorizing allocative procedures by government agencies, whether on the Federal, State, or local level, Congress should ensure the use of suitable and adequate administrative procedures.

(a) To the maximum extent feasible, each agency should develop its policies and regulations as far in advance of an actual emergency as possible and do so by using the procedures of § 553 of the Administrative Procedure Act and Recommendations 72–5 and 76–3 of the Administrative Conference.

(b) For the determination of matters that involve any specifically identifiable party, agencies should, to the maximum extent feasible, use procedures that assure the party adequate notice, opportunity to present facts and positions, a statement of the basis for decision, and reasonable administrative appeal.

Dated: December 27, 1976.

RICHARD K. BERG,
Executive Secretary.

[FR Doc. 76-38381 Filed 12-29-76;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Regulation 385, Amendment 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Minimum Size Requirement

This amendment extends the minimum size requirement of 2.32 inches in diameter currently in effect for navel oranges grown in Districts 1 and 3 of the production area, effective December 31, 1976, through July 15, 1977. The size requirement is designed to promote orderly marketing in the interest of producers and consumers.

On November 26, 1976, notice was published in the FEDERAL REGISTER (41 FR 52060) regarding a proposed amendment to be made effective pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. This notice allowed interested persons 21 days during which they could submit written data, views, or arguments pertaining to this proposed amendment. None were submitted. The amendment was proposed by the Navel Orange Administrative Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This action reflects the Department's appraisal of the need for regulation based on the current and prospective crop and market conditions. Shipments of navel oranges from Districts 1 and 3 of the production area are now in progress, and navel oranges in such shipments are required to be at least 2.32 inches in diameter through December 30, 1976. The amendment extends this minimum size requirement through July 15, 1977. The volume and size composition of the navel orange crop grown in Districts 1 and 3 is such that ample supplies of the more desirable sizes of fruit are available to satisfy the demand in regulated channels. The amendment is designed to permit shipment of ample supplies of navel oranges of acceptable sizes in the interest of both growers and consumers, and is necessary to maintain orderly marketing conditions, provide consumer satisfaction, and prevent shipment of fruit of less desirable sizes. Navel oranges which do not meet the minimum size requirement may be shipped to fresh export markets where smaller fruit is in demand, left on the trees to attain further growth, or utilized in processing. The amendment is consistent with the objectives of the act of promoting orderly marketing and protecting the interest of consumers.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the committee, and other available information, it is hereby found and determined that the amendment, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of this proposed amendment with an effective date of December 31, 1976, was published in the FEDERAL REGISTER and no objections were received; (2) the regulatory provisions in the amendment are the same as those now in effect through December 30, 1976, (3) compliance with these regulatory provisions will not require any special preparation on the part of navel orange handlers which cannot be completed by December 31, 1976; and (4) shipments of navel oranges from Districts 1 and 3 are now in progress, and insofar as practicable, the regulatory provisions should apply to all shipments of such oranges in order to effectuate the declared policy of the act.

Order. The provisions of § 907.385 Navel Orange Regulation 385 (41 FR 49824) are amended to read as follows:

§ 907.685 Navel Orange Regulation 385.

Order. (a) During the period December 31, 1976, through July 15, 1977, no handler shall handle any navel oranges grown in District 1 or District 3 which are of a size smaller than 2.32 inches in diameter, which shall be the largest

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measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the navel oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(b) The terms "handler" and "handle" as used herein shall have the same meaning as is given to the respective terms in said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated December 23, 1976, to become effective December 31, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–38286 Filed 12–29–76;8:45 am]

[Navel Orange Reg. 394]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period December 31, 1976–January 6, 1977. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.694 Navel Orange Regulation 394.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The Committee further reports that the fresh market demand for Navel oranges remains very dull. Prices f.o.b. averaged $4.07 a carton on a reported sales volume of 1,350 carlots last week, compared with $4.14 per carton on sales of 1,441 carlots a week earlier.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 28, 1976.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 31, 1976, through January 6, 1977, are hereby fixed as follows:

(i) District 1: 779,000 cartons;
(ii) District 2: 85,000 cartons;
(iii) District 3: 86,000 cartons."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 29, 1976.

DAVID A. PATTON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–38474 Filed 12–29–76;12:42 pm]

[Lemon Reg. 73]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period January 2–8, 1977. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.373 Lemon Regulation 73.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues good. Average f.o.b. price was $5.08 per carton the week ended December 25, 1976 compared to $4.82 per carton the previous week. Track and rolling supplies at 90 cars were 10 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 28, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period January 2, 1977, through January 8, 1977, is hereby fixed at 200,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 29, 1976.

DAVID A. PATTON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–38474 Filed 12–29–76; 12:42 pm]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 410.1]

PART 1801—RECEIVING AND PROCESSING APPLICATIONS

Receiving and Processing Applications

Section 1801.3(d) of Subpart A of Part 1801, Chapter XVIII, Title 7 of the Code of Federal Regulations (36 FR 15737; 37 FR 20105; 37 FR 21425; Redesignated at 38 FR 4772; 40 FR 26257) is amended, Paragraph (d)(4)(ii)(d) adds the requirement that the letter of rejection inform the applicant of the option to appeal the rejection directly to the State Director; the second sentence in paragraph (d)(5) is amended to further advise the applicant of the continuing right to appeal the rejection by including a statement to this effect in the letter of rejection.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the change is to extend additional recourse to a rejected applicant and a delay in extending the recourse would be contrary to the public interest. For that reason, notice and public procedure thereon are unnecessary.

As added and amended, § 1801.3 (d)(4)(ii)(d) and (d)(5) read as follows:

§ 1801.3 Processing applications.

* * * * *

(d) * * *

(4) * * *

(ii) * * *

(d) A statement that the applicant has the option to appeal the rejection directly to the State Director, and the State Director's name and address.

(5) * * * Such a letter will, in addition to confirming the decision, advise the applicant of his continuing right to appeal by including the following statement:

* * * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 P.L. 93–357; 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Director, Office of Economic Opportunity, 29 FR 14764, 33 FR 9850.)

Effective date. These amendments are effective December 30, 1976.

Dated: December 9, 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76–38288 Filed 12–29–76;8:45 am]

[FmHA Instruction 443.2]

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

Subpart B—Soil and Water Loans

INCREASE INDEBTEDNESS—BORROWER ELIGIBILITY

Section 1821.55(c) and (f) of Subpart B of Part 1821, Title 7, Code of Federal Regulations (31 FR 14165, as Redesignated at 32 FR 7171) are revised. Paragraph (c) is revised to reflect the allowable limits for maximum unpaid indebtedness, against the security and farm. New Paragraph (c)(2) establishes ceilings for maximum unpaid principal balances for any combination of existing Soil and Water, Farm Ownership, Recreation, or Land Conservation and Development loans. Revised paragraph (c)(3) limits the amount of the loan and the unpaid principal balance plus any past-due interest of other liens against the farm, to the market value; the loan limitation contained in new paragraph (c)(4) has been transferred from the existing paragraph (c)(2) which is now divided into new paragraphs (c)(3) and (c)(4); the existing paragraph (c)(4) appears as (c)(5) and reflects the debt ceiling of $225,000. The revision of paragraph (f) incorporates by reference the provisions in paragraph (c) pertaining to the availability of Soil and Water loans to other FmHA borrowers.

These revisions reflect policy pertaining to Farm Ownership loan limitations contained in § 1821.8 of this part, and merely corrects and clarifies the Soil and Water loan limitations contained in this Subpart, and for this reason, it is unnecessary to give public notice and procedure thereon.

As revised, § 1821.55 (c) and (f) read as follows:

§ 1821.55 Special requirements.

* * * * *

(c) *Loan limitations.* A Soil and Water loan will not be approved if: (1) The borrower's unpaid indebtedness against the security and the farm if owned by him, whether or not it serves as security, plus the amount of the loan will exceed $225,000. In addition to the above limitation, if only nonreal estate items will serve as security, the borrower's unpaid indebtedness against the nonreal estate security plus the amount of the loan will exceed $25,000. The unpaid indebtedness in either case outlined above includes all FmHA's and any other lender's principal and any past-due interest on the existing and proposed security; or

(2) The borrower's unpaid principal balance on existing SW, Farm Ownership (FO), Recreation, or Land Conservation and Development loans, or any combination thereof, plus the amount of the proposed SW loan exceeds $100,000; or

(3) The amount of the loan and the unpaid principal balance plus any past-due interest of other liens against the farm will exceed the market value of the farm and when applicable, the market value of any other security, as determined by the loan approval official; or

(4) The loan exceeds the amount certified by the County Committee.

(5) A lien junior to the FmHA lien likely will be taken simultaneously with or immediately subsequent to the closing of the loan to secure any debt the borrower may have at the time of the loan closing or any indebtedness he may incur in connection with the SW loan, such as money borrowed from others for payments on debts against the farm, unless such a lien is within the $225,000 debt limit or the market value of the Security, whichever is less.

* * * * *

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(f) *SW loans to other FmHA borrowers.* SW loans may be made to other FmHA borrowers subject to the limits in § 1821.55(c).

* * * * *

(7 U.S.C. 1989, 42 U.S.C. 1480, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Effective date: December 30, 1976.

Dated: December 20, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-38332 Filed 12-29-76;8:45 am]

[FmHA Instruction 444.3]

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

Redesignation-Revision

Beginning on Page 46315 of the FEDERAL REGISTER dated October 20, 1976, there was published a notice of proposed rulemaking establishing under Chapter XVIII, Title 7, a new Part 1904—"Loan and Grant Programs (Individual)," Subparts A through G (§ 1904.1 through 1904.350) in the Code of Federal Regulations. This proposed Redesignation-Revision transfers Subpart B, "Section 504 Rural Housing Loan Policies, Procedures, and Authorizations," of Part 1822 to new Subpart G, "Section 504 Rural Housing Loans and Grants (§ 1904.301–1904.350)." This revision improves the operation and administration of the section 504 program and increases its effectiveness by including provisions for making grants or combinations of loans and grants. Also, included were editorial changes and a change in title to reflect the addition of grants.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed revision. Written comments have been received and considered, and as a result the following changes from the original proposal are made:

1. Section 1904.305 is changed to include storm windows and doors, insulation, and needed heating facilities as examples of authorized loan and grant purposes.

2. Section 1904.306 is changed to require preparation of Form FmHA 431–3, "Family Budget," for applicants 62 years of age or older, rather than for all applicants. A guideline has been provided for County Supervisors to determine the applicant's repayment ability and when making partial grants, to determine the ratio of loan and grant.

3. Section 1904.309 includes instructions for determining the amortization period for the loan when making a combination loan and grant.

New Subpart G of Part 1904 is adopted with changes as set forth below.

Subpart G—Section 504 Rural Housing Loan and Grant Policies, Procedures, and Authorizations

Sec.

1904.301 General.
1904.302 Objectives.
1904.303 Amount of Section 504 loans and grants.
1904.304 Eligibility requirements.
1904.305 Loan and grant purposes
1904.306 Evaluating application and determining need for section 504 loans and grants.
1904.307 Limitations.
1904.308 Evidence of ownership.
1904.309 Terms and rates.
1904.310 Security.
1904.311 Approval of loan or grant.
1904.312 Supervised bank accounts.
1904.313 Nondiscrimination.
1904.314–1904.350 (Reserved.)
EXHIBIT A Agreement In Connection With A Section 504 Grant Authority.

AUTHORITY: (42 U.S.C. 1480, delegation of authority by the Sec. of Agri., 7 CFR 2.23, delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Subpart G—Section 504 Rural Housing Loans and Grants

§ 1904.301 General.

This Subpart sets forth policies and procedures and delegates authority for making initial and subsequent Rural Housing (RH) loans and/or grants under Section 504(a) of the Housing Act of 1949 (Section 504 loans). A Section 504 loan, combined loan and grant, or grant will be made in accordance with the provisions of Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1) as supplemented and modified by this Subpart.

§ 1904.302 Objectives.

The basic objective of the Farmers Home Administration (FmHA) in making Section 504 loans and grants is to assist owner-occupants in rural areas who do not qualify for Section 502 loans to repair or improve their dwellings to make such dwellings safe and sanitary and remove hazards to the health of the occupants, their families, or the community.

§ 1904.303 Amount of Section 504 loans and grants.

No initial or subsequent Section 504 loan, loan and grant, or grant may be made which will cause the total amount of Section 504 assistance extended to the applicant to exceed $5,000. Transferees assuming a Section 504 loan are limited to subsequent loans in an amount not to exceed the difference between the unpaid principal balance of the debt assumed and $5,000. The information will be compiled and retained indefinitely for all borrowers who have received Section 504 financial assistance.

§ 1904.304 Eligibility requirements.

(a) *Section 504 loan.* To be eligible for a Section 504 loan, an applicant must own and occupy a dwelling located in a rural area and meet the other eligibility requirements of Subpart A of Part 1822 of this Chapter, [FmHA Instruction 444.1] except that the applicant must:

(1) Be without sufficient income to qualify for a Section 502 loan.

(2) Have sufficient income, including any welfare-type payments, to repay the Section 504 loan, except that if the applicant's income is not sufficient to pay the loan, he/she may qualify for the loan by obtaining a cosigner or cosigners in accordance with § 1822.4(d) and § 1822.12(d) of this Chapter [Paragraphs IV D and XII D of FmHA Instruction 444.1].

(3) Need to make repairs or improvements to the dwelling which he/she owns and occupies to make it safe and sanitary and remove hazards to the health of the applicant, the applicant's family, or the community.

(b) *Combination loan and grant.* A combined loan and grant may be made to an applicant meeting the requirements of paragraph (a) of this section, provided the applicant is 62 years of age or older and has income so low that he/she is able to repay only a part of the total cost of the needed repairs or improvements. The portion of the assistance which the applicant can repay, as determined by the County Supervisor, will be made in the form of a loan. Only that portion of the assistance which is determined beyond the applicant's ability to repay will be in the form of a grant.

(c) *Section 504 grant (without loan).* A grant may be made to an applicant meeting the requirements of paragraph (a) of this section provided the applicant is 62 years of age or older; has an income so low that he cannot repay any part of a Section 504 loan; the repairs and improvements are not for cosmetic purposes, but are necessary to make the dwelling safe and sanitary and/or remove health hazards to the occupants, their families, or the community.

§ 1904.305 Loan and grant purposes.

Section 504 loan and/or grant funds may be used for paying the cost of repairs and improvements, including but not limited to:

(a) Repairing roofs.

(b) Supplying screens, storm windows and doors, insulation, and needed heating system for the dwelling.

(c) Repairing or providing structural supports.

(d) Adding a room to an existing dwelling in special cases when clearly necessary to remove hazards to the health of the family.

(e) Providing a sanitary water and waste disposal system. If funds are included in the loan for a water or waste disposal system, the system must meet local health department requirements.

(f) Providing other similar repairs or improvements.

(g) Paying fees and expenses in accordance with § 1822.6(a)(14) of this Chapter. [Paragraph VI A 14 of FmHA Instruction 444.1.]

§ 1904.306 Evaluating application and determining need for section 504 loans and grants.

(a)(1) Before a loan or grant may be made, the County Supervisor must document the evidence that the applicant meets all requirements of eligibility to receive such loan or grant. For all applicants 62 years of age or older, Form FmHA 431–3, "Family Budget," will be prepared. For those applicants receiving grants or partial grants, the budget must evidence the applicant's inability to repay any part of the amount received as a grant.

(2) The maximum amortization periods set forth in § 1904.309 for amount of loan, and Form 431–3 will be used to determine the applicant's repayment ability for the total assistance being granted. For example: $2,300 is required for needed repairs. Form FmHA 431–3 indicates that the applicant can repay $8.00 each month on a Section 504 loan. [$1,300 amortized over 15 years @ 1% interest rate=$7.79 each month.] $1,000 would then be advanced as a Section 504 grant.

(b) The County Supervisor will visit the home of each applicant who appears to be eligible to determine whether the applicant meets the requirements of paragraph § 1904.304(a)(3). During the visit, information will be recorded in the loan docket on the following items, along with any additional pertinent facts:

(1) The nature of the health or safety hazard and how the proposed loan will remove such hazard.

(2) The specific repairs to be made and a list of items of materials and labor to be paid for with the proposed loan and/or grant.

(c) Itemized cost estimates will be obtained for all work to be performed. If in the judgment of the County Supervisor the cost estimate is not reasonable, additional cost estimates will be obtained.

(d) Information about cosigners will be obtained in accordance with § 1822.12(d) of this Chapter [Paragraph XII D of FmHA Instruction 444.1].

§ 1904.307 Limitations.

A Section 504 loan or grant may *not* be made to:

(a) Assist in the construction of new dwellings.

(b) Improve the appearance of a dwelling or make facilities in the dwelling more convenient unless such changes are directly associated with removing hazards to health or safety.

(c) Make repairs to a dwelling of such poor condition and quality that when the repairs are completed the dwelling would likely continue to be a substantial hazard to the health and safety of the family.

(d) In addition to paragraphs (a), (b) and (c) of this section, a Section 504 grant may not be made to applicants under 62 years of age. Furthermore, a grant recipient must sign an agreement stating that he/she will not sell the property on which grant funds were utilized for a period of 3 years. Exhibit A may be used as a guide in preparing the agreement. In the event the property is sold before the end of said 3-year period, the agreement will provide that the grantee will reimburse the Government the full amount of the grant.

§ 1904.308 Evidence of ownership.

Each applicant will be required to submit evidence of ownership of the farm or nonfarm tract. This may be the original or a certified or photostatic copy of the deed, purchase contract, or other instrument evidencing ownership. When the County Supervisor is uncertain as to whether the applicant is a qualified owner, the County Supervisor will take such actions as he considers necessary, such as requiring the applicant to furnish additional information or obtaining the advice of the Office of the General Counsel regarding the evidence of ownership submitted, and any further information or action that may be needed. Proof of ownership need not be as much as that required by Part 1807 of this Chapter [FmHA Instruction 427.1]. It may consist of evidence which, considered as a whole, would be sufficient to convince a reasonably well informed and prudent person that the applicant is probably the owner. It may include, for example, such evidence as the levy and payment in the applicant's name of taxes on the real estate and affidavits by others in the community to the effect that the applicant has occupied the property as the apparent owner for a given length of time and is believed and generally reputed to be the owner.

§ 1904.309 Terms and rates.

A Section 504 loan will be scheduled for repayment in accordance with the applicant's ability to pay. Loans of not more than $1,500 may be amortized over a period not to exceed 10 years. Loans of more than $1,500 but not more than $2,500 may be amortized over a period not to exceed 15 years and loans of more than $2,500 may be amortized over a period not to exceed 20 years from the date of the note. For a combination grant and loan, the total amount of assistance needed will be used to determine the amortization period for the loan. The interest rate for Section 504 loans is 1 percent per annum.

§ 1904.310 Security.

(a) *Section 504 loans.* Section 504 loans of $2,500 or more will be secured by a mortgage on the borrower's real estate. Real estate security will also be taken for loans of less than $2,500 whenever the loan approval official determines that such security may be needed to reasonably assure repayment of the loan. For all Section 504 loans, the title requirements of Part 1807 of this Chapter, [FmHA Instruction 427.1] will not apply. However, the County Supervisor will use all practical means to verify that title and lien information furnished by the applicant is complete and accurate.

(b) *Section 504 grants or loans and grants.* County Supervisors are required to take steps, to the extent possible and practical, to protect the government's interest to promote FmHA's recovery of grant funds in the event of sale by the owner or foreclosure by other creditors. In addition, all persons receiving grants or partial grants will be required to sign an agreement (see Exhibit A) not to sell the property, for which the grant or partial grant was given for a period of 3 years. The agreement will provide that if the property is sold before the expiration of the 3-year period, the full amount of the grant will be repaid to the Government.

§ 1904.311 Approval of loan or grant.

Section 504 loans or grants may be approved in accordance with the authorizations of Subpart B of Part 1810 of this Chapter [FmHA Instruction 440.2].

§ 1904.312 Supervised Bank Accounts.

A Supervised bank account will be used for each section 504 loan and/or grant unless the entire proceeds will be disbursed to a supplier or contractor at closing.

§ 1904.313 Nondiscrimination.

Loans and/or grants under this program are subject to the nondiscrimination policies of the U.S. Department of Agriculture, and will be processed without regard to race, color, religion, sex, or national origin.

§§ 1904.314—1904.350 [Reserved]

EXHIBIT A—AGREEMENT

SECTION 504 GRANT

I (we) the undersigned, hereby agree not to sell the property located at_____

_____

being repaired with grant funds provided by the Farmers Home Administration grant, for a period of three years from the date of this agreement. Should I (we) sell such property within three years, I (we) agree to repay to the grantor, at the time of the sale, the full amount of the grant, which is $_____.

_____
(Grantee)

_____ _____
(Date) (Grantee)

_____
(Representative, Farmers Home Administration)

_____
(Date)

Effective date: December 30, 1976.

Dated: December 21, 1976.

FRANK W. NAYLOR, Jr.,
Acting Administrator
Farmers Home Administration.

[FR Doc. 76-38289 Filed 12-29-76;8:45 am]

Title 10—Energy

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Revision of Former AEC Regulations

The Energy Research and Development Administration (ERDA) was established by the Energy Reorganization Act of 1974, Pub. L. 93–438. Pursuant to that Act, as an interim measure, ERDA published a notice, continuing in effect, to the extent not inconsistent with applicable law and with certain clarifications, the regulations of the former Atomic Energy Commission (AEC) con-

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tained in Chapter I of Title 10, Code of Federal Regulations. The notice also redesignated the regulations as Parts 700 through 870 of a new Chapter III.

Recently a number of regulations carried over from the AEC which pertained to the licensing and regulatory functions of the AEC were revoked by ERDA inasmuch as these functions were transferred to the Nuclear Regulatory Commission by the Energy Reorganization Act. There remain other former AEC regulations which continue in substantive effect as ERDA regulations. Because these remaining regulations are in terms of the AEC and its organizational structure, it is appropriate that they be revised to conform to ERDA and ERDA's organization.

Published herewith are seven ERDA regulations which are revised accordingly. The regulations are:

10 CFR part No.	Title	Former AEC part No.
706	Security policies and practices relating to labor-management relations	6
712	Grand Junction remedial action criteria	12
725	Permits for access to restricted data	25
760	Domestic uranium program	60
783	Waiver of patent rights	83
795	Safeguarding of restricted data	95
861	Control of traffic at Nevada test site	161

The revision consists essentially of changes in terminology. References to the AEC and its officials have been changed to ERDA and the appropriate ERDA officials. The revision to Part 760 also includes the deletion of former sec. 60.9 "Uranium prospecting permits and mining leases on lands administered by Federal agencies which do not have the authority to lease such lands."

Three other former AEC regulations are revoked. The regulations are:

10 CFR part No.	Title	Former AEC part No.
737	Radioisotope research support program	37
773	Physical protection of special nuclear material	73
830	Priorities regulations	130

The remaining ERDA regulations carried over from the AEC will require policy consideration and changes of a substantive nature. These are in the process of revision and will be published at a later date.

The regulations listed above as being revised are published as a document for codification to be effective as of the date of publication.

Because the changes in the regulations are procedural and editorial in nature, the notice and proposed rulemaking procedures are omitted as unnecessary.

Interested persons who desire to submit written comments or suggestions for consideration in connection with such regulations should send them before April 1, 1977, to the General Counsel, Energy Research and Development Administration, Washington, D.C. 20545.

Dated: December 27, 1976.

ALFRED D. STARBIRD,
Acting Administrator.

AUTHORITY: Pub. L. 93-438, § 105(a), 88 Stat. 1238, 42 U.S.C. 5815.

Chapter III is amended as follows:

1. 10 CFR Part 706 (formerly 10 CFR 6) is revised as follows.

2. 10 CFR Part 712 (formerly 10 CFR 12) is revised as follows.

3. 10 CFR Part 725 (formerly 10 CFR 25) is revised as follows.

4. 10 CFR Part 760 (formerly 10 CFR 60) is revised as follows including deletion of former §60.9, "Uranium prospecting permits and mining leases on lands administered by Federal agencies which do not have the authority to lease such lands".

5. 10 CFR Part 783 (formerly 10 CFR 83) is revised as follows.

6. 10 CFR Part 795 (formerly 10 CFR 95) is revised as follows including deletion: under sec. 795.40 of the last sentence thereof starting with the words "Permittees shall also report * * *" because this covers a reporting requirement no longer deemed to be needed under ERDA operations.

7. 10 CFR Part 861 (formerly 10 CFR 161) is revised as follows.

8. 10 CFR Part 737, Radioisotope Research Program (formerly 10 CFR 37) pertains to AEC programs not continued by ERDA, and is revoked.

9. 10 CFR Part 773, Physical Protection of Plants and Materials (formerly 10 CFR 73) pertains to licensing functions of the AEC not carried on by ERDA, and is revoked.

10. 10 CFR Part 830, Priorities Regulation (formerly 10 CFR 130) pertains to AEC programs not continued by ERDA, and is revoked.

PART 706—SECURITY POLICIES AND PRACTICES RELATING TO LABOR-MANAGEMENT RELATIONS

GENERAL

Sec.
706.1 Purpose.
706.2 Basis and scope.

SECURITY POLICIES AND PROCEDURES IN NATIONAL LABOR RELATIONS BOARD PROCEEDINGS

706.10 Policy.
706.11 Consent elections.
706.12 Administrative Law Judges.
706.13 Clearance of counsel.
706.14 ERDA's role in proceedings.

LOYALTY OF PARTICIPANTS

706.20 Policy.

CONTRACT NEGOTIATION AND ADMINISTRATION

706.30 Clearance of certain local union representatives.
706.31 Clearance of conciliators and arbitrators.
706.32 Security indoctrination of non-employee representatives.
706.40 Final responsibility of ERDA in security matters.

AUTHORITY: The provisions of this Part 706 issued under sec. 161, 68 Stat. 948, as amended; 42 U.S.C. 2201.

GENERAL

§ 706.1 Purpose.

The purpose of this part is to set forth Energy Research and Development Administration, hereinafter "ERDA," security policies and practices in the area of labor-management relations.

§ 706.2 Basis and scope.

The specific policies contained in this part are worked out within the framework of ERDA's general objectives for labor-management relations in the ERDA program, namely:

(a) Wholehearted acceptance by contractors and by labor and its representatives of the moral responsibility inherent in participation in the ERDA program;

(b) Development of procedures to assure (1) that all participants in the program are loyal to the United States including those whose participation involves the exercise of negotiating and disciplinary authority over bargaining units, and (2) that determination of unit, jurisdiction, and similar questions will not breach security;

(c) Continuity of production at vital ERDA installations;

(d) Consistent with ERDA's responsibility under the law, the least possible governmental interference with the efficient management expected from ERDA contractors;

(e) Minimum interference with the traditional rights and privileges of American labor.

SECURITY POLICIES AND PROCEDURES IN NATIONAL LABOR RELATIONS BOARD PROCEEDINGS

§ 706.10 Policy.

It is policy of ERDA that NLRB cases falling within the scope of the Labor Management Relations Act at the various ERDA installations should be conducted in normal fashion wherever possible, on the basis of open hearings unclassified records and published decisions. This policy does not preclude adoption of special arrangements which may be required for reasons of program security at any stage of the proceedings in particular areas.

§ 706.11 Consent elections.

In accordance with the recommendation of the President's Commission on Labor Relations in the Atomic Energy Installations, it is the policy of ERDA to encourage every effort by management and labor at ERDA installations to determine bargaining units and representatives by agreement and consent elections in preference to contested proceedings before the National Labor Relations Board.

§ 706.12 Administrative Law Judges.

By agreement with the National Labor Relations Board, a panel of cleared NLRB administrative law judges is maintained to facilitate resolution of questions as to the materiality of classified information in NLRB hearings and to facilitate preparation of an unclassified record. The assignment of individual administrative law judges to ERDA cases remains a matter within the discretion of the National Labor Relations Board.

§ 706.13 Clearance of counsel.

It is recognized that clearance of counsel for the parties is sometimes desirable for proper preparation of a case even though the record is to be unclassified. Clearance of counsel makes possible their participation in any closed discussions needed preparatory to making an unclassified record. Each party is responsible for requesting clearance of its counsel well in advance so that clearance requirements will not delay the proceeding. The clearance of temporary special counsel will be terminated on completion of the proceeding.

§ 706.14 ERDA's role in proceedings.

If controversies within the scope of the Labor Management Relations Act arise which cannot be adjusted by mutual agreement, and contested proceedings before NLRB result, each party to such proceedings will present his own position and the evidence in support thereof with due regard for existing security rules. ERDA will be continuously informed of the progress of such proceedings and will act as may appear desirable (a) to assure the protection of classified information; (b) to assure that material and relevant information is not withheld from the record on grounds of security if such information can be supplied in unclassified form; and (c) to assist in determining appropriate action where a decision may turn on data which can be expressed only in classified form.

LOYALTY OF PARTICIPANTS

§ 706.20 Policy.

Loyalty to the United States is a paramount factor applicable to all participants in ERDA program including those whose participation (although not requiring access to restricted data) involves the exercise of administrative, negotiating and disciplinary authority over bargaining units composed of employees engaged on classified work. Individuals involved in questions of loyalty will be given full opportunity to explore the questions with ERDA. ERDA will take such further steps as may be appropriate in the circumstances.

CONTRACT NEGOTIATION AND ADMINISTRATION

§ 706.30 Clearance of certain local union representatives.

It is recognized that security clearance of certain union representatives may be necessary to assure opportunity for effective representation of employees in collective bargaining relationships with ERDA contractors. Accordingly, ERDA managers may authorize investigation for "Q" clearance of union officials whose functions as representatives of employees may reasonably be expected to require access to Restricted Data under NLRB and other procedures according to applicable law (LMRA, 1947); to effectively perform their representation functions in the resolution of grievances and in other collective bargaining relationships with contractors; to effectuate the recommendation of the President's Commission on Labor Relations in the Atomic Energy Installations in respect to integration of the union into the plant organization "as to two-way channel of communication and a medium of understanding between management and workers".

(a) In the pre-contract stage of union-management relations, the requirements of the Labor Management Relations Act normally will be the applicable criteria for determining which bargaining representatives, if any, will need access to classified material in the exercise of their functions as employee representatives.

(b) After a bargaining relationship has been established between the contractor and the representatives of its employees the nature of this relationship and the procedures followed in it normally will be the controlling criteria for determination of the access to be granted to particular persons in carrying out their functions as employee representatives. For example, many contract grievance procedures designate by title certain union and management officials who are to have definite roles in the resolution of grievances under the procedure. Investigation for "Q" clearance will normally be in order for such officials, both company and union, employee and non-employee. In addition, persons not so designated may be investigated for clearance where the company and the union advise ERDA manager that their established relationships contemplate access for such persons.

§ 706.31 Clearance of conciliators and arbitrators.

Conciliators and arbitrators who are regularly assigned to ERDA cases may be processed for "Q" clearance at the discretion of the local ERDA manager, either on the manager's initiative or at the request of a contractor.

§ 706.32 Security indoctrination of non-employee representatives.

All collective bargaining representatives, company and union, who are to have access to Restricted Data, will be given appropriate security indoctrination.

§ 706.40 Final responsibility of ERDA in security matters.

On all matters of security at all Government-owned, privately operated ERDA installations, ERDA retains absolute and final authority, and neither the security rules nor their administration are matters for collective bargaining between management and labor, insofar as ERDA security regulations affect the collective bargaining process, the security policies and regulations will be made known to both parties. To the fullest extent feasible ERDA will consult with representatives of management and labor in formulating security rules and regulations that affect the collective bargaining process.

PART 712—GRAND JUNCTION REMEDIAL ACTION CRITERIA

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712.9 Factors to be considered in determination of order of priority for remedial action.
712.10 Selection of appropriate remedial action.

AUTHORITY: Sec. 203, 86 Stat. 226.

§ 712.1 Purpose.

(a) The regulations in this part establish the criteria for determination by ERDA of the need for, priority of and selection of appropriate remedial action to limit the exposure of individuals in the area of Grand Junction, Colo., to radiation emanating from uranium mill tailing which have been used as a construction-related material.

(b) The regulations in this part are issued pursuant to Pub. L. 92-314 (86 Stat. 222) of June 16, 1972.

§ 712.2 Scope.

The regulations in this part apply to all structures in the area of Grand Junction, Colo., under or adjacent to which uranium mill tailings have been used as a construction-related material between January 1, 1951, and June 16, 1972, inclusive.

§ 712.3 Definitions.

As used in this part:

(a) "Administrator" means the Administrator of Energy Research and Development or his duly authorized representative.

(b) "Area of Grand Junction, Colo.," means Mesa County, Colo.

(c) "Background" means radiation arising from cosmic rays and radioactive material other than uranium mill tailings.

(d) "ERDA" means the U.S. Energy Research and Development Administration or any duly authorized representative thereof.

(e) "Construction-related material" means any material used in the construction of a structure.

(f) "External gamma radiation level" means the average gamma radiation exposure rate for the habitable area of a structure as measured near floor level.

(g) "Indoor radon daughter concentration level" means that concentration of radon daughters determined by: (1) Averaging the results of 6 air samples each of at least 100 hours duration, and taken at a minimum of 4-week intervals throughout the year in a habitable area of a structure, or (2) utilizing some other procedure approved by the Commission.

(h) "Milliroentgen (mR) means a unit equal to one-thousandth (1/1000) of a roentgen which roentgen is defined as an exposure dose of X or gamma radiation such that the associated corpuscular emission per 0.001293 gram of air produces, in air, ions carrying one electrostatic unit of quantity of electricity of either sign.

(i) "Radiation" means the electromagnetic energy (gamma) and the particulate radiation (alpha and beta)

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which emanate from the radioactive decay of radium and its daughter products.

(j) "Radon daughters" means the consecutive decay products of radon-222. Generally, these include Radium A (polonium-218), Radium B (lead-281), Radium C (bismuth-214), and Radium C' (polonium-214).

(k) "Remedial action" means any action taken with a reasonable expectation of reducing the radiation exposure resulting from uranium mill tailings which have been used as construction-related material in and around structures in the area of Grand Junction, Colo.

(l) "Surgeon General's guidelines" means radiation guidelines related to uranium mill tailings prepared and released by the Office of the U.S. Surgeon General, Department of Health, Education and Welfare on July 27, 1970.

(m) "Uranium mill tailings" means tailings from a uranium milling operation involved in the Federal uranium procurement program.

(n) "Working Level" (WL) means any combination of short-lived radon daughter products in 1 liter of air that will result in the ultimate emission of 1.3×10^5 MeV of potential alpha energy.

§ 712.4 Interpretations.

Except as specifically authorized by the Administrator in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of ERDA other than a written interpretation by the General Counsel will be recognized to be binding upon ERDA.

§ 712.5 Communications.

Except where otherwise specified in this part, all communications concerning the regulations in this part should be addressed to the Director, Division of Safety, Standards, and Compliance, U.S. Energy Research and Development Administration, Washington, D.C. 20545.

§ 712.6 General radiation exposure level criteria for remedial action.

The basis for undertaking remedial action shall be the applicable guidelines published by the Surgeon General of the United States. These guidelines recommend the following graded action levels for remedial action in terms of external gamma radiation level (EGR) and indoor radon daughter concentration level (RDC) above background found within dwellings constructed on or with uranium mill tailings:

EGR	RDC	Recommendation
Greater than 0.1 mR/hr.	Greater than 0.05 WL.	Remedial action indicated.
From 0.05 to 0.1 mR/hr.	From 0.01 to 0.05 WL.	Remedial action may be suggested.
Less than 0.05 mR/hr.	Less than 0.01 WL.	No remedial action indicated.

§ 712.7 Criteria for determination of possible need for remedial action.

Once it is determined that a possible need for remedial action exists, the record owner of a structure shall be notified of that structure's eligibility for an engineering assessment to confirm the need for remedial action and to ascertain the most appropriate remedial measure, if any. A determination of possible need will be made if as a result of the presence of uranium mill tailings under or adjacent to the structure, one of the following criteria is met:

(a) Where ERDA approved data on indoor radon daughter concentration levels are available:

(1) For dwellings and schoolrooms: An indoor radon daughter concentration level of 0.01 WL or greater above background.

(2) For other structures: An indoor radon daughter concentration level of 0.03 WL or greater above background.

(b) Where ERDA approved data on indoor radon daughter concentration levels are not available:

(1) For dwellings and schoolrooms:

(i) An external gamma radiation level of 0.05 mR/hr. or greater above background.

(ii) An indoor radon daughter concentration level of 0.01 WL or greater above background (presumed).

(A) It may be presumed that if the external gamma radiation level is equal to or exceeds 0.02 mR/hr. above background, the indoor radon daughter concentration level equals or exceeds 0.01 WL above background.

(B) It should be presumed that if the external gamma radiation level is less than 0.001 mR/hr. above background, the indoor radon daughter concentration level is less than 0.01 WL above background, and no possible need for remedial action exists.

(C) If the external gamma radiation level is equal to or greater than 0.001 mR/hr. above background but is less than 0.02 mR/hr. above background, measurements will be required to ascertain the indoor radon daughter concentration level.

(2) For other structures: (i) An external gamma radiation level of 0.15 mR/hr. above background averaged on a room-by-room basis.

(ii) No presumptions shall be made on the external gamma radiation level/indoor radon daughter concentration level relationship. Decisions will be made in individual cases based upon the results of actual measurements.

§ 712.8 Determination of possible need for remedial action where criteria have not been met.

The possible need for remedial action may be determined where the criteria in § 712.7 have not been met if various other factors are present. Such factors include, but are not necessarily limited to, size of the affected area, distribution of radiation levels in the affected area, amount of tailings, age of individuals occupying affected area, occupancy time, and use of the affected area.

§ 712.9 Factors to be considered in determination of order of priority for remedial action.

In determining the order of priority for execution of remedial action, consideration shall be given, but not necessarily limited to, the following factors:

(a) Classification of structure. Dwellings and schools shall be considered first.

(b) Availability of data. Those structures for which data on indoor radon daughter concentration levels and/or external gamma radiation levels are available when the program starts and which meet the criteria in § 712.7 will be considered first.

(c) Order of application. Insofar as feasible remedial action will be taken in the order in which the application is received.

(d) Magnitude of radiation level. In general, those structures with the highest radiation levels will be given primary consideration.

(e) Geographical location of structures. A group of structures located in the same immediate geographical vicinity may be given priority consideration particularly where they involve similar remedial efforts.

(f) Availability of structures. An attempt will be made to schedule remedial action during those periods when remedial action can be taken with minimum interference.

(g) Climatic conditions. Climatic conditions or other seasonal considerations may affect the scheduling or certain remedial measures.

§ 712.10 Selection of appropriate remedial action.

(a) Tailings will be removed from those structures where the appropriately averaged external gamma radiation level is equal to or greater than 0.05 mR/hr. above background in the case of dwellings and schools and 0.15 mH/hr. above background in the case of other structures.

(b) Where the criterion in paragraph (a) of this section is not met, other remedial action techniques, including but not limited to sealants, ventilation, and shielding may be considered in addition to that of tailings removal. ERDA shall select the remedial action technique or combination of techniques, which it determines to be the most appropriate under the circumstances.

PART 725—PERMITS FOR ACCESS TO RESTRICTED DATA

GENERAL PROVISIONS

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APPENDICES

Appendix A—Categories of Restricted Data Available. (Including scope notes for each category.)
Appendix B—ERDA's Operations Offices and Geographical areas of Responsibility.

AUTHORITY: Sec. 161, 68 Stat. 943; 42 U.S.C. 2201.

GENERAL PROVISIONS

§ 725.1 Purpose.

This part establishes procedures and standards for the issuance of an Access Permit to any person subject to this part who requires access to Restricted Data applicable to civil uses of atomic energy for use in his business, trade or profession; provides for the amendment, renewal, suspension, termination and revocation of an Access Permit; and specifies the terms and conditions under which the Administrator will issue the Permit.

§ 725.2 Applicability.

The regulations in this part apply to any person within or under the jurisdiction of the United States who desires access to Restricted Data for use in his business, profession or trade.

§ 725.3 Definitions.

As used in this part: (a) "Access Permit" means a permit, issued by the Administrator authorizing access by the named permittee to Restricted Data applicable to civil uses of atomic energy in accordance with the terms and conditions stated on the permit.

(b) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

(c) "Category" means a category of Restricted Data designated in Appendix "A" to the regulations in this part.

(d) "Administrator" means the Administrator of Energy Research and Development or his duly authorized representatives.

(e) "ERDA" means the Energy Research and Development Administration.

(f) "Permittee" means the holder of a permit issued pursuant to the regulations in this part.

(g) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than ERDA, any state or any political subdivision of, or any political entity within a state, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(h) "Restricted Data" means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Act.

§ 725.4 Interpretations.

Except as specifically authorized by the Administrator in writing no interpretation of the meaning of the regulations in this part by any officer or employee of ERDA other than a written interpretation by the General Counsel will be recognized to be binding upon ERDA.

§ 725.5 Communications.

Communications concerning rulemaking, i.e., petition to change part 725, should be addressed to Administrator of Energy Research and Development, Energy Research and Development Administration, Washington D.C. 20545. Except with respect to category C–24, all other communications concerning the regulations in this part and applications filed under them, should be addressed to the ERDA Operations Office listed in Appendix "B" of this part responsible for the geographical area in which (a) the applicant's principal place of business is located, or (b) the principal place where the applicant will use the restricted data is located.

§ 725.6 Categories of available information.

For administrative purposes ERDA has categorized Restricted Data which will be made available to permittees in the categories as set forth in Appendix "A" to this part. Top Secret information; information pertaining to the design, manufacture or utilization of atomic weapons; and defense information other than Restricted Data are not included in these categories and will not be made available under this part.

§ 725.7 Specific waivers.

The Administrator may, upon application of any interested party, grant such waivers from the requirements of this part as he determines are authorized by law and will not constitute an undue risk to the common defense and security.

APPLICATIONS

§ 725.11 Applications.

(a) Any person desiring access to Restricted Data pursuant to this part should submit an application (Form ERDA 378), in triplicate, for an acess permit to the ERDA Operations Office, listed in Appendix "B" to this part, responsible for the area in which (1) the applicant's principal place of business is located, or (2) the principal place where the applicant will use the Restricted Data is located. Applications for access to Restricted Data in category C–24 isotope separation, should be submitted to the Oak Ridge Operations Office.

(b) Where an individual desires access to Restricted Data for use in the performance of his duties as an employee, the application for an access permit must be filed in the name of his employer.

(c) Self-employed private consultants, desiring access to Restricted Data, must file the application in their own name for an individual access permit.

(d) Each application should contain the following information:

(1) Name of applicant (unincorporated subsidiaries or divisions of a corporation must apply in the name of the corporation);

(2) Address of applicant;

(3) Description of business or occupation of applicant; and

(4) (i) If applicant is an individual, state citizenship.

(ii) If applicant is a partnership, state name, citizenship and address of each partner and the principal location where the partnership does business.

(iii) If applicant is a corporation or an unincorporated association, state:

(A) The state where it is incorporated or organized and the principal location where it does business;

(B) The names, addresses and citizenship of its directors and of its principal officers;

(C) Whether it is owned, controlled or dominated by an alien, a foreign corporation, or foreign government, and if so, give details.

(iv) If the applicant is acting as agent or representative of another person in filing the application, identify the principal and furnish information required under this subparagraph with respect to such principal;

(5) Total number of full-time employees:

(6) Classification of Restricted Data (Confidential or Secret) to which access is requested;

(7) Potential use of the Restricted Data in the applicant's business, profession or trade. If access to Secret Restricted Data is requested, list the specific categories by number and furnish detailed reasons why such access within the specified categories is needed by the applicant. The need for Secret information should be stated by describing its proposed use in specific research, design, planning, construction, manufacturing, or operating projects; in activities under licenses issued by Nuclear Regulatory Commission; in studies or evaluations planned or under way; or in work or services to be performed for other organizations. In addition, if access to secret restricted data in category C–65, plutonium production, or restricted data in category C–24, isotope separation, is requested, the application should also include sufficient information to satisfy the requirements of § 725.15(b) (2) or (3), as the case may be."

(8) Principal Location(s) at which Restricted Data will be used.

(e) Applications should be signed by a person authorized to sign for the applicant.

(f) Each application shall contain complete and accurate disclosure with respect to the real party or parties in interest and as to all other matters and things required to be disclosed.

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§ 725.12 Noneligibility.

The following persons are not eligible to apply for an access permit:

(a) Corporations not organized under the laws of the United States or a political subdivision thereof.

(b) Any individual who is not a citizen of the United States.

(c) Any partnership not including among the partners one or more citizens of the United States; or any other unincorporated association not including one or more citizens of the United States among its principal officers.

(d) Any organization which is owned, controlled or dominated by the Government of, a citizen of, or an organization organized under the laws of a country or area listed as a Subgroup A country or destination in § 371.3 (15 CFR 371.3) of the Comprehensive Export Schedule of the United States Department of Commerce.

(e) Persons subject to the jurisdiction of the United States who are not doing business within the United States.

§ 725.13 Additional information.

The Administrator may, at any time after the filing of the original application and before the termination of the permit, require additional information in order to enable the Administrator to determine whether the permit should be granted or denied or whether it should be modified or revoked.

§ 725.14 Public inspection of applications.

Applications and documents submitted to ERDA in connection with applications may be made available for public inspection in accordance with the regulations contained in Part 702 of this chapter.

§ 725.15 Requirements for approval of applications.

(a) An application for an access permit authorizing access to confidential restricted data in the categories set forth in Appendix A of this part (except C–91 and C–24) will be approved only if the application demonstrates that the applicant has a potential use or application for such data in his busines, trade, or profession and has filed a complete application form.

(b) (1) An application for an access permit authorizing access to restricted data in category C–24 or secret restricted data in other categories will be approved only if the applicant has a need for such data in his business, trade, or profession and has filed a complete application form.

(2) An application for an access permit authorizing access to Secret Restricted Data in category C–65 Plutonium Production will be approved only if the application demonstrates also that the applicant:

(i) Is directly engaged in a substantial effort to develop, design, build or operate a chemical processing plant or other facility related to his participation in the peaceful uses of atomic energy for which such production rate and cost data are needed; or

(ii) Is furnishing to a permittee having access to C–65 under paragraph (b) (2) (i) of this section, substantial scientific, engineering or other professional services to be used by said permittee in carrying out the activities for which said permittee received access to category C–65.

(3) An application for an access permit authorizing access to restricted data in category C–24, isotope separation—subcategory A or B—will be approved only if the application demonstrates also that the applicant:

(i) Possesses qualifications demonstrating that the applicant is potentially capable of undertaking or participating significantly in the construction and operation of large, complex production or manufacturing facilities and offers reasonable assurance of adequacy of resources to carry on, alone or with others, uranium enrichment on a production basis or the large-scale manufacture or assembly of precision equipment systems; is not a corporation or entity owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; and

(A) For subcategory A, desires to determine its interest in participating significantly in a substantial effort to develop, design, build, and operate a uranium enrichment facility or a facility for the manufacture of uranium enrichment equipment.

(B) For subcategory B, proposes to participate significantly in, or is directly participating significantly in, a substantial effort to evaluate alternative processes, develop, design, build, and operate a uranium enrichment facility or a facility for the manufacture of uranium enrichment equipment, or

(ii) Is furnishing to a permittee having access to Category C–24 under the paragraph (b) (3) (i) of this section substantial scientific, engineering, or other professional services to be used by said permittee in carrying out the activities for which said permittee received access to Category C–24.

(4) An application for an access permit authorizing access to Confidential and Secret Restricted Data in C–91, Nuclear Reactors for Rocket Propulsion, will be approved only if the application demonstrates also that the applicant:

(i) Possesses qualifications demonstrating that he is capable of making a contribution to research and development in the field of nuclear reactors for rocket propulsion and is directly engaged in or proposes to engage in a substantial research and development program in such field of work; or

(ii) Is engaged in or proposes to engage in a substantial study program in the field of nuclear reactors for rocket propulsion preparatory to the submission of a research and development proposal to ERDA; or

(iii) Is furnishing to a permittee having access under subdivision (i) or (ii) of this subparagraph substantial scientific, engineering or other professional services to be used by that permittee in a study or research and development program for which said permittee received access.

PERMITS

§ 725.21 Issuance.

(a) Upon a determination that an application meets the requirements of this regulation, the Administrator will issue to the applicant an access permit on Form ERDA 379.

(b) An Access Permit is not an access authorization. It does not authorize any individual not having an appropriate ERDA access authorization to receive Restricted Data. See § 725.24 and Part 795 of this chapter.

§ 725.22 Scope of permit.

(a) All access permits will as a minimum authorize access, subject to the terms and conditions of the access permit to confidential restricted data in all of the categories set forth in Appendix A to this part, except C–91 and C–24.

(b) In addition, access permits may authorize access, subject to the terms and conditions of the access permit to such Secret Restricted Data as is included within the particular category or categories specified in the permit.

§ 725.23 Terms and conditions of access.

(a) Neither the United States, nor ERDA, nor any person acting on behalf of ERDA makes any warranty or other representation, express or implied, (1) with respect to the accuracy, completeness or usefulness of any information made available pursuant to an access permit, or (2) that the use of any such information may not infringe privately owned rights.

(b) The Administrator, on behalf of ERDA, hereby waives such rights with respect to any invention or discovery as it may have pursuant to section 152 of the Act by reason of such invention or discovery having been made or conceived in the course of, in connection with, or resulting from access to Restricted Data received under the terms of an access permit. (Note provisions of § 725.23(d).)

(c) Each permittee shall: (1) Comply with all applicable provisions of the Atomic Energy Act of 1954, as amended, and with parts 795 and 810 of this chapter and with all other applicable rules, regulations, and orders of ERDA, including such rules, regulations, and orders as ERDA may adopt or issue to effectuate the policies specified in the act directing ERDA to strengthen free competition in private enterprise and avoid the creation or maintenance of a situation inconsistent with the antitrust laws.

(2) Be deemed to have waived all claims for damages under section 183 of title 35 U.S. Code by reason of the imposition of any secrecy order on any patent application and all claims for just compensation under section 173 of the Atomic Energy Act of 1954, with respect to any invention or discovery made or conceived in the course of, in connection with or as a result of access to Restricted Data received under the terms of the access permit;

(3) Be deemed to have waived any and all claims against the United States, ERDA and all persons acting on behalf of ERDA that might arise in connection with the use, by the applicant, of any and all information supplied by them pursuant to the access permit;

(4) Obtain and preserve in his files written agreements from all individuals who will have access to Restricted Data under his access permit. The agreement shall be as follows:

In consideration for receiving access to Restricted Data under the access permit issued by the Administrator of Energy Research and Development, I hereby agree to:

(a) Waive all claims for damages under section 183 of Title 35 U.S. Code by reason of the imposition of any secrecy order on any patent application, and all claims for just compensation under section 173 of the Atomic Energy Act of 1954, with respect to any invention or discovery made or conceived in the course of, in connection with or resulting from access to Restricted Data received under the terms of the access permit issued to (insert the name of the holder of the access permit);

(b) Waive any and all claims against the United States, ERDA, and all persons acting on behalf of ERDA that might arise in connection with the use, by me, of any and all information supplied by them pursuant to the access permit issued to (insert the name of the holder of the access permit).

(5) In case of an access permit authorizing access to restricted data in category C–24, isotope separation, the agreement shall also provide for such requirements as the permittee considers necessary for purposes of fulfilling its obligations under paragraph (d) of this section.

(6) Pay all established charges for personnel access authorizations, ERDA consulting services, publication and reproduction of documents, and such other services as ERDA may furnish in connection with the access permit.

(d) The following terms and conditions are applicable to an access permit authorizing access to restricted data in category C–24, isotope separation irrespective of whether access to ERDA's restricted data information is desired:

(1) The permittee agrees to grant a nonexclusive license at reasonable royalties to the United States and, at the request of ERDA, to domestic and foreign persons, to use in the production or enrichment of special nuclear material any U.S. patent or any U.S. patent application (otherwise in condition for allowance except for a secrecy order thereon) on any invention or discovery made or conceived by the permittee, its employees, or others engaged by the permittee in the course of the permittee's work under the access permit, or as a result of access to data or information made available by ERDA.

(2) The permittee agrees to grant to the United States, and, at the request of ERDA, to domestic and foreign persons, the right at reasonable royalties to use for research, development, or manufacturing programs for the production or enrichment of special nuclear material, any technical information or data, including economic evaluations thereof, of a proprietary nature developed by the permittee, its employees, or others engaged by the permittee in the course of the permittee's work under the access permit or as a result of access to data or information made available by ERDA and not covered by a U.S. patent or U.S. patent application referred to in paragraph (d) (1) of this section. If ERDA disseminates any such proprietary technical information or data in its possession to any of its contractors for use in any ERDA research, development, production, or manufacturing programs, it will do so under contractual provisions pursuant to which the contractor would undertake to use this information only for the work under the pertinent ERDA contract. Notwithstanding the foregoing provisions of this subparagraph, the permittee waives any claim against ERDA for compensation or otherwise, in connection with any use or dissemination of information or data not specifically identified and claimed by the permittee as proprietary in a written notice to ERDA at the time of the furnishing of the information or data to ERDA. As used in this subparagraph, the term "technical information or data, including economic evaluations thereof, of a proprietary nature" means information or data which:

(i) Is not the property of the Government by virtue of any agreement;

(ii) Concerns the details of trade secrets or manufacturing processes which the permittee has protected from us by others; and

(iii) (A) Is specifically identified as proprietary at the time it is made available to ERDA.

(B) Technical information or data shall not be deemed proprietary in nature whenever substantially the same technical information is available to ERDA which has been prepared, developed or furnished as nonproprietary information by another source independently of the proprietary information and data furnished by the permittee.

(3) If the amount of reasonable royalties provided for in paragraph (d) (1) and (2) of this section cannot be agreed upon, the permittee agrees that such amount shall be determined by the Administrator under the provisions of section 157c of the Atomic Energy Act of 1954, as amended.

(4) In the event domestic commercial uranium enriching services are provided by persons other than an agency of the United States, the permittee agrees not to require the United States to pay the royalties provided for in paragraph (d) (1) and (2) of this section.

(5) The acceptance, exercise, or use of the licenses or rights provided for in paragraph (d) (1) and (2) of this section shall not prevent the Government, at any time, from contesting their validity, scope or enforceability.

(6) The permittee agrees, during the term of the access permit, to make quarterly reports to ERDA in writing, in reasonable detail, respecting all technical information or data, including economic evaluations thereof, which the permittee or ERDA considers may be of interest to ERDA, including reports of patent applications on inventions or discoveries and of technical information and data of a proprietary nature. These reports will cover the results of the permittee's work under the access permit or as a result of data or information made available by ERDA. The foregoing provisions of this subparagraph shall be subject to the provisions of paragraph (d) (1) and (2) of this section.

(7) The permittee agrees to make available to ERDA, at all reasonable times during the term of the access permit, for inspection by ERDA personnel, or by mutual agreement, others on behalf of ERDA, all experimental equipment and technical information or data developed by the permittee, its employees, or others engaged by the permittee, in the course of the permittee's work under the access permit or as a result of data or information made available by ERDA. The foregoing provision of this subparagraph shall be subject to the provisions of paragraph (d) (1) and (2) of this section.

(8) The permittee agrees to pay such reasonable compensation as ERDA may elect to charge for the commercial use of its inventions and discoveries including related data and technology and, except for an applicant qualifying for a permit pursuant to § 725.15(b) (3) (ii), agrees to pay $25,000 for an access permit authorizing access to restricted data in subcategory B.

(9) Except as may be otherwise authorized by ERDA, the permittee agrees not to disseminate to persons not granted access by ERDA, restricted data made available to the permittee by ERDA or restricted data developed by the permittee, its employees, or others engaged by the permittee in the course of the permittee's work under the access permit or as a result of data or information made available by ERDA.

(10) The granting of an access permit does not constitute any assurance, direct or implied, that the Nuclear Regulatory Commission will grant the permittee a license for a production facility or any other license.

(11) In the event the permittee is engaged by ERDA to perform work for ERDA in the field of the separation of isotopes, the permittee agrees to undertake such measures as ERDA may require for the separation of its activities under the access permit from its work for ERDA.

§ 725.24 Administration.

With respect to each permit issued pursuant to the regulations in this part, the cognizant Operations Office will:

(a) Process all personnel access authorizations requested in connection with the permit;

(b) Review the procedures submitted by the Applicant, in accordance with

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Part 795 of this chapter, for the safeguarding of Restricted Data; and

(c) Provide information to the permittee with respect to the sources and locations of Restricted Data available under this permit and to assist the permittee in other matters pertaining to the administration of his permit.

§ 725.25 Term and renewal.

(a) Each access permit will be issued for a two year term, unless otherwise stated in the permit.

(b) Applications for renewal shall be filed in accordance with § 725.11. Each renewal application must be complete, without reference to previous applications. In any case in which a permittee has filed a properly completed application for renewal more than thirty (30) days prior to the expiration of his existing permit, such existing permit shall not expire until the application for a renewal has been finally acted upon by the Administrator.

§ 725.26 Assignment.

An access permit is nontransferable and nonassignable.

§ 725.27 Amendment.

An access permit may be amended from time to time upon application by the permittee. An application for amendment may be filed, in triplicate, in letter form and shall be signed by an individual authorized to sign on behalf of the applicant. The term of an access permit shall not be altered by an amendment thereto.

§ 725.28 Administrator action on application to renew or amend.

In considering an application by a permittee to review or amend his permit, the Administrator will apply the criteria set forth in § 725.15. Failure of an applicant to reply to an ERDA request for additional information concerning an application for renewal or amendment within 60 days shall result in a rejection of the application without prejudice to resubmit a properly completed application at a later date.

§ 725.29 Suspension, revocation and termination of permits.

The Administrator may revoke or suspend any access permit for any material false statement in the application or in any report submitted to ERDA pursuant to the regulations in this part or because of conditions or facts which would have warranted a refusal to grant the permit in the first instance, or for violation of any of the terms and conditions of the Atomic Energy Act of 1954 or rules, regulations or orders issued pursuant thereto. A permittee should request termination of his permit when he no longer requires Restricted Data for use in his business, trade or profession.

§ 725.30 Exceptions and additional requirements.

Notwithstanding any other provision in the regulations in this part, the Administrator may deny an application for an access permit or suspend or revoke any access permit, or incorporate additional conditions or requirements in any access permit, upon finding that such denial, revocation or the incorporation of such conditions and limitations is necessary or appropriate in the interest of the common defense and security or is otherwise in the public interest.

§ 725.31 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

APPENDIX A

Categories of Restricted Data Available (Including Scope Notes for Each Category).

C–24. Isotope separation.—This category is divided into subcategories A and B.

Subcategory A includes information in summary form concerning the status and potential of the gaseous diffusion and gas centrifuge processes for the separation of uranium isotopes.

Subcategory B includes information on the following:

a. Any aspect of separating one or more isotopes of uranium from a composition containing a mixture of isotopes of that element by the gas centrifuge or gaseous diffusion processes.

b. Design, construction, and operation of any plant, facility or device capable of separating by the gas centrifuge or gaseous diffusion processes one or more istotopes of uranium from a composition containing a mixture of isotopes of that element, including means and methods of transporting materials from one to another device.

C–44 Nuclear Technology. This category includes classified technical information concerning nuclear technology. It may contain information on the following:

a. Materials, including metals, ceramics, organic and inorganic compounds. Included are such technical areas as the technology and fabrication of fuel elements, corrosion studies, cladding techniques and radiation studies.

b. Chemistry, chemical engineering and radiochemistry of all the elements and their compounds. Included are techniques and processes of chemical separations, radioactive waste handling and feed material processing.

c. Reactor physics, engineering and technology including theory, design, criticality studies and operation of reactors, reactor systems and reactor components.

d. Reserved.

e. Lithium isotope separation technology. This subcategory includes classified technical information on the separation of lithium isotopes by using counter-current flows of lithium amalgam and aqueous lithium hydroxide solution in packed columns. Not included is information regarding plant design and operating conditions from which total production rates or design capacity of the lithium isotope separation plant (Colex) in Oak Ridge, Tennessee, can be inferred. In addition to the other requirements of this Part, access permits for Restricted Data in this subcategory will be approved, provided the permittee:

1. Demonstrates that it is not a corporation or entity owned, controlled or dominated by an alien, a foreign corporation, or a foreign government, and

2. Agrees to insertion in his access permit of the terms and conditions:

(i) Set forth in paragraphs (a) and (b) of § 725.23 of this Part;

(ii) Set forth in paragraph (c) of §725.23 of this Part, amended by deleting the phrase "category C–24, isotope separation," and inserting in lieu thereof the phrase "subcategory C–44e, lithium isotope separation technology";

(iii) Set forth in paragraph (d) of § 725.23 of this Part, amended by:

(A) Deleting the phrases "production or enrichment of special nuclear material" and "separation of isotopes" wherever they appear, and inserting in lieu thereof the phrase "separation of isotopes of lithium";

(B) Deleting the phrase "domestic commercial uranium enriching services are provided by," and inserting in lieu thereof the phrase "domestic lithium isotope separation capacity becomes available to."

This category does not include information which reveals or from which can be calculated actual or planned (as distinguished from design) capacities, production rates and unit costs for the plutonium production program.

C–85 Plutonium Production. This category includes information on reactor, fuel element and separations technology which reveals or from which can be calculated actual or planned (as distinguished from design) capacities, production rates and unit costs for the Hanford and Savannah River production facilities.

Technology which does not reveal or enable calculation of production rates and unit costs of Hanford or Savannah River production facilities is categorized in C–44 Nuclear Technology.

C–90 Nuclear Reactors for Ram-Jet Propulsion. This category includes information on:

a. Programs pertaining to the development of nuclear reactors for application to ram-jet propulsion systems including theory and/or design, test philosophy procedures and/or results.

b. Fabrication technology and evaluation of performance or characteristics of materials or components for such reactors.

c. Controls, control systems and instrumentation relating to the design or technology of such reactors.

d. Data pertaining to heat transfer, propellant kinetics or corrosion and erosion of materials under conditions of high temperature, high gas flows or other environmental conditions characteristic of ram-jet propulsion systems.

This category does not include information on:

a. Design details of weapons systems or nuclear warheads.

b. Military operational techniques or characteristics.

c. General aspects of nuclear ram-jet missiles, such as payload, aerodynamic characteristics, guidance systems, physical size, gross weight, thrust and information of this kind which is associated with utilization of a nuclear ram-jet propulsion system.

C–91 Nuclear Reactors for Rocket Propulsion. This category includes information on:

a. Programs pertaining to nuclear reactors for rocket propulsion, i.e., missile propulsion, theory and/design, test philosophy procedures and/or results.

b. Design, fabrication technology and evaluation of performance or characteristics of material, components, or subsystems or nuclear rocket reactors.

c. Controls, control systems and instrumentation relating to the design or technology of rocket reactor systems.

d. Data pertaining to heat transfer, propellant kinetics or corrosion and erosion of rocket reactor system materials under conditions of high temperature, high gas flows, or other environmental conditions characteristic of rocket reactors.

This category does not include information on:

a. Design details of weapons systems or nuclear warheads.

b. Military operational techniques or characteristics.

c. General aspects of payload and aerodynamic characteristics.

d. Design details and development, information of components and subsystems of the nuclear rocket engine other than that associated with the reactor system.

C–92 Systems for Nuclear Auxiliary Power (SNAP). This category includes information on:

a. Isotopic SNAP Program, including theory, design, research and development, fabrication, test procedures and results for the device, including power conversion device and the fuels used.

b. Reactor SNAP Program, including theory, design, research and development, fabrication, test procedures and results for the reactor, including the directly associated power conversion device when developed by ERDA.

This category does not include that technical and scientific data developed under the SNAP Advanced Concept Program which should be reported in C–93.

C–93 Advanced Concepts for Future Application.

C–93a Reactor Experiments. This category includes classified technical information developed in the pursuit of work on new or advanced concepts of reactors or components which ERDA considers essential to future growth or for general application to future generations of reactors. Classified information developed in the pursuit of work on the lithium cooled reactor experiment is an example of the type of information to be reported in this category, i.e., information resulting from an experimental reactor project or component development which may have many future applications but which is not currently being pursued to meet the specific needs of an approved requirement for which other information categories have been provided. For example, classified technical information developed in the pursuit of work on Naval, Ram-Jet or Rocket nuclear reactors would not be reported here but under their respective specific categories. This category will include classified technical information on the following:

a. Theory, design, and performance, either estimated or actual.

b. Design details, composition and performance characteristics of major components (e.g., fuel media, reflectors, moderators, heat exchangers, pressure shells or containment devices, control rods, conversion devices, instrumentation and shielding).

c. Material (metals, ceramics and compounds) development, alloying, cladding, corrosion, erosion, radiation studies and fabrication techniques.

d. Chemistry, including chemical engineering, processes and techniques. Reactor physics, engineering and criticality studies.

C–93b Conversion Devices. This category includes classified technical information developed in the pursuit of studies, designs, research and development, fabrication and operation of any energy conversion device to be used with nuclear energy sources which is not being applied to a specific system development project.

C–94 Military Compact Reactor (MCR). This category includes classified technical information on the actual or planned Military Compact Reactor and its components developed in the pursuit of studies, designs, research and development, fabrication, and operation of the reactor system or its components.

Examples of the areas of information included are:

a. Reactor core physics.

b. Fuel elements and fuel element components.

c. Moderator and reflector details.

d. Data on primary coolant system.

e. Radiation shield.

f. Controls and instrumentation.

This category does not include information on military operational characteristics or techniques.

APPENDIX B

ERDA'S OPERATIONS OFFICES AND GEOGRAPHICAL AREAS OF RESPONSIBILITIES

Albuquerque Operations Office, U.S. Energy Research and Development Administration, P.O. Box 5400, Albuquerque, New Mexico 87115: Arizona, Kansas, New Mexico, Oklahoma, and Texas.

Chicago Operations Office, U.S. Energy Research and Development Administration, 9800 South Cass Avenue, Argonne, Illinois 60439: Connecticut, Delaware, District of Columbia, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, North Dakota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, and Wisconsin.

Richland Operations Office, U.S. Energy Research and Development Administration, P.O. Box 550, Richland, Washington 99352: Alaska, Oregon, and Washington.

Oak Ridge Operations Office, U.S. Energy Research and Development Administration, P.O. Box E, Oak Ridge, Tennessee 37830: Arkansas, Kentucky, Louisiana, Mississippi, Missouri, Panama Canal Zone, Puerto Rico, Tennessee, Virginia, Virgin Islands, and West Virginia.

San Francisco Operations Office, U.S. Energy Research and Development Administration, 2111 Bancroft Way, Berkeley 4, California 94612: California, Colorado, Hawaii, Idaho, Montana, Nevada, Utah, Wyoming, and U.S. Pacific Territories.

Savannah River Operations Office, U.S. Energy Research and Development Administration, P.O. Box A, Aiken, South Carolina 29810: Alabama, Florida, Georgia, North Carolina, and South Carolina.

PART 760—DOMESTIC URANIUM PROGRAM

Sec.

760.1 Uranium leases on lands controlled by ERDA.

760.2 Reserved

AUTHORITY: Secs. 66, 161, 68 Stat. 933, 948, as amended; 42 U.S.C. 2096, 2201.

§ 760.1 Uranium leases on lands controlled by ERDA. (Domestic Uranium Program Circular No. 760.1, formerly (AEC) Domestic Uranium Program Circular 8, 10 CFR 60.8).

(a) What this section does. This section sets forth regulations governing the issuance of leases to permit the exploration for and mining of deposits containing uranium in public lands withdrawn from entry and location under the general mining laws for use of ERDA, and in certain other lands under ERDA control.

(b) Statutory authority. The Atomic Energy Act of 1954, as amended (68 Stat. 919, 42 U.S.C. 2011 et seq.) is the authority for this section.

(c) Who may hold leases. Only parties who are (1) citizens of the United States; (2) associations of such citizens; or (3) corporations organized under the laws of the United States or territories thereof, are eligible lessees under this section. Persons under 21 years of age or employees of ERDA are not eligible.

(d) Issuance of leases through competitive bidding. Except under special circumstances as provided in paragraph (u) of this section, each lease will be offered through competitive bidding and, except as otherwise provided in this paragraph (d), will be issued to the acceptable bidder offering the highest bid. The bid may be on a cash bonus, royalty bonus, or other basis as specified in the invitation to bid. Invitations to bid on some of the lands may be limited to small business concerns as defined by the Small Business Administration, and such invitations may limit the number of leases to be awarded to each bidder. In such cases ERDA will accept those bids which, in relation to other bids received pursuant to the invitation, are most advantageous to the Government. Before any lease is awarded, ERDA may require high bidders to submit a detailed statement of the facts as to such matters as their experience, organization, and financial resources. ERDA reserves the right to reject any and all bids.

(e) Solicitation of bids. Announcements of the availability of invitations to bid for a lease will be publicly posted and published. Copies of such announcements will also be mailed to parties who submit to ERDA's Grand Junction, Colorado, Office subsequent to publication in the FEDERAL REGISTER of this (ERDA) Domestic Uranium Program Circular 760.1, written requests that their names be placed on a mailing list for receipt of such announcements. The invitations containing information for preparation and submission of bids will be available at the Grand Junction Office, and will be mailed only on specific written request, following announcement of their availability. Invitations will specify the land to be leased, the basis on which bids are to be submitted, the amount of the monetary deposit which must be transmitted with the bid, the place and time the bids will be publicly opened, the term, royalty and other payments, performance requirements, and other payments, performance requirements, and other conditions which will become a part of the lease. In addition, data which have been assembled pertaining to the lands to be leased will be available for public inspection at the Grand Junction Office; copies will also be available for purchase.

(f) Bidding requirements; deposits. All bids must be filed at the place and prior to the time set forth in the invitation. Each bid must be sealed and accompanied by a deposit, in the form of a certified check, cashier's check, or bank draft, in an amount as specified in the

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invitation to bid. Deposits of unsuccessful bidders will be returned. If the bidder is an individual, he must submit with his bid a statement of his citizenship and age. If the bidder is an association (including a partnership), the bid shall be accompanied by a certified copy of the articles of association together with a statement as to the citizenship and age of its members. If the bidder is a corporation, evidence that the officer signing the bid had authority to do so and a statement as to the State of incorporation shall also be submitted.

(g) Awarding of lease. Following public opening of the bids, ERDA, subject to the right to reject any and all bids, will determine the successful bidder. In the event the highest acceptable bids are tie bids, a public drawing will be held by ERDA to determine the successful bidder. After notice of award and within the time period prescribed in the invitation, the successful bidder shall execute and return to ERDA three (3) copies of the lease and shall remit payments due as prescribed in the invitation. Should the successful bidder fail to execute the lease, or make payments as required, in accordance with the terms of the invitation, or fail to otherwise comply with applicable regulations, he may be required to forfeit any payments previously made, and lose any further right or interest in the lease. In such event, ERDA may offer the lease to the next highest acceptable bidder, reoffer the lease for bidding, or take such other action as appropriate. If the awarded lease is executed by the bidder through an agent, evidence of authorization must be submitted.

(h) Dating of lease. A lease issued under this section will ordinarily be effective as of the date it is signed on behalf of ERDA.

(i) Term of lease. A lease shall be for the period specified in the invitation to bid. When deemed desirable by ERDA, the lease will provide that the lease term may be extended at the option of the lessee for a specified period and upon stipulated conditions.

(j) Payments to ERDA under lease. Royalty payments shall be specified in the invitation to bid; base royalty, minimum royalty, advance royalty, and rental payments, or a combination thereof may be required.

(k) Title to unshipped ore. ERDA, unless it approves otherwise, reserves all right and title to property in and to all ores and other uranium- or vanadium-bearing material not removed from the leased premises within 60 days after expiration or other termination of the lease. Unless ERDA approves otherwise, all material mined from the leased premises and not marketed by the lessee shall remain on the leased premises.

(l) Environmental controls. Each lease will contain such provisions as may be deemed necessary by ERDA with respect to the lessee's use of the leased lands. ERDA may require periodic submission of plans for exploration and mining activities including provisions for control of environmental impact. The lessee will be required to conduct operations so as to minimize adverse environmental effects, to comply with all applicable State and Federal statutes and regulations and to the extent stipulated in the lease agreement, will be held responsible for maintenance or rehabilitation of affected areas in accordance with plans submitted to and approved by ERDA.

(m) Performance requirements. A lease shall require that exploration, development, and mining activities, as appropriate, be conducted on the leased premises with reasonable diligence, skill, and care as required to achieve and maintain production of uranium ore at rates consistent with good and safe mining practice and with market conditions.

(n) Health and safety requirements. A lease (1) shall require that exploration, development, and mining activities, as appropriate, be conducted on the leased premises with due regard for the health and safety of those involved, and (2) shall include appropriate measures for the control of radiation exposure in the mines.

(o) Lessee's records. Leases shall provide that the lessee keep and make available to ERDA such records as ERDA deems necessary for the administration of the lease and its leasing program.

(p) Rights of ERDA. ERDA reserves the right to enter upon the leased property and into all parts of the mine for inspection and other purposes. ERDA also reserves the right to grant to other persons easements or rights of way upon, through, or in the leased premises. ERDA and the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after termination or expiration of lease, have access to and the right to examine any directly pertinent books, papers, and records of the lessee involving transactions related to the lease.

(q) Relinquishment of leases. A lease may be surrendered by the lessee upon filing with and approval by ERDA of a written application for relinquishment. Approval of the application shall be contingent upon the delivery of the leased premises to ERDA in a condition determined to be satisfactory to ERDA. The lessee shall continue to be liable for the payment of all royalty and other debts due ERDA.

(r) Assignment of leases. Any transfer of a lease or any interest therein or claim thereunder, will not be recognized unless and until approved by ERDA in writing. Ordinarily, ERDA will not approve any transfer of a lease which involves overriding royalties or deferred payments of any kind to the transferor.

(s) Cancellation. Any lease may be cancelled by ERDA whenever the lessee fails to comply with the provisions of the lease. Failure of ERDA to exercise its right to cancel shall not be deemed a waiver thereof.

(t) Form of lease. Leases will be issued on forms prescribed by ERDA.

(u) Noncompetitive leases. Under special circumstances, where ERDA believes it to be in the best interest of the Government, ERDA at its discretion may award or extend leases on the basis of negotiation.

(v) ERDA decisions. All matters connected with the issuance and administration of leases will be determined by ERDA whose decisions shall be final and conclusive.

(w) Definitions. "ERDA" as used in this section means the United States Energy Research and Development Administration or its duly authorized representative or representatives.

(x) Multiple use of land. Leases issued under this section shall provide that operations under them will be conducted so as not to interfere with the lawful operations of any third party having a lease, permit, easemen or other right or interest in the premises

(y) Compliance with State and Federal Regulations. Every lease shall provide that the lessee is required to comply with all applicable State and Federal statutes and regulations.

§ 160.2 [Reserved].

PART 783—WAIVER OF PATENT RIGHTS

Sec.
783.1 Waiver.
783.2 Limitations.

AUTHORITY: Secs. 152, 161, 68 Stat. 944, 948, as amended; 42 U.S.C. 2182, 2201.

§ 783.1 Waiver.

The Energy Research and Development Administration, hereinafter "ERDA", waives its rights under section 152 of the Atomic Energy Act of 1954 (66 Stat. 944) with respect to inventions and discoveries resulting from the use of the following materials and services:

(a) Source materials, special nuclear materials, and heavy water distributed by ERDA in accordance with the "Schedules of Base Charges for Materials Sold of Leased by ERDA for Use in Private Atomic Energy Development and Base Prices Which ERDA Will Pay For Certain Products From Private Reactors."

(b) Radioactive and stable isotopes, irradiation services (this waiver does not include inventions or discoveries made by ERDA or ERDA contractor personnel in the course of or in connection with the performance of an irradiation service), and radioactive material resulting from the performance of an irradiation service sold or distributed by ERDA in accordance with the prices and charges established by:

(1) Oak Ridge National Laboratory Inventory and Price List of electromagnetically enriched and other stable isotopes.

(2) Oak Ridge National Laboratory Catalog and Price List of radioisotopes, special materials, and services.

(3) Idaho National Engineering Laboratory Catalog of Price and charges on irradiation services at the materials testing reactor. The waiver does include inventions or discoveries made by sponsor personnel in the course of their use of the Gamma Irradiation Facility at the Idaho National Engineering Laboratory.

(4) Argonne National Laboratory schedule of charges for irradiation services at its irradiation facilities.

(5) Brookhaven National Laboratory schedule of prices and charges for irradiation services and radioisotopes.

§ 783.2 Limitations.

(a) Except with regard to the use of the Gamma facility at the Idaho National Engineering Laboratory, nothing contained in this part shall be deemed to waive any rights in inventions or discoveries where a person or a group of persons acting on behalf of the person requesting the irradiation service works at the ERDA facility in connection with the irradiation service. In such event, special arrangements are made.

(b) Nothing contained in this part shall be construed to affect the provisions of any written agreement to which ERDA has or may become a party.

PART 795—SAFEGUARDING OF RESTRICTED DATA

GENERAL PROVISIONS

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AUTHORITY: Sec. 161i, 68 Stat. 948, 42 U.S.C. 2201.

GENERAL PROVISIONS

§ 795.1 Purpose.

The regulations in this part establish requirements for the safeguarding of Secret and Confidential Restricted Data received or developed under an Access Permit. This part does not apply to Top Secret Restricted Data.

§ 795.2 Scope.

The regulations in this part apply to all persons who receive access to Restricted Data under an Access Permit issued pursuant to the regulations in Part 725 of this chapter.

§ 795.3 Definitions.

As used in this part. (a) "Administrator" means the Administrator of Energy Research and Development or his designee.

(b) "Access authorization" means an administrative determination by ERDA that an employee or an ERDA contractor, an employee of a contractor of another Federal agency, or an employee of an Access Permittee is eligible for access to Restricted Data;

(c) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto;

(d) "ERDA" or "Administration" means the United States Energy Research and Development Administration or its duly authorized representatives;

(e) "Document" means any piece of recorded information regardless of its physical form or characteristics;

(f) "DOD" means the Department of Defense;

(g) "L(X) access authorization" means a determination by ERDA that an individual is eligible for access to Confidential Restricted Data under an Access Permit;

(h) "NASA" means the National Aeronautics and Space Administration;

(i) "Permittee" means the holder of an Access Permit issued pursuant to the regulations in Part 725 of this chapter;

(j) "Person" means (1) any individual, corporation, partnership, firm association, trust, estate, public or private institution, group, Government agency other than ERDA, any State or any political subdivision of, or any political entity within a State, or other entity; and (2) any legal successor, representative, agent or agency of the foregoing;

(k) "Q(X) access authorization" means a determination by ERDA that an individual is eligible for access to Secret and Confidential Restricted Data under an Access Permit;

(l) "Restricted Data" means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Act;

(m) "Security area" means a physically defined space, access to which is subject to security restrictions and control;

(n) "Security clearance" means an administrative determination by ERDA that an employee of ERDA or of another Federal agency is eligible for access to Restricted Data or defense information; and

(o) "United States," when used in a geographical sense, includes all Territories and Possessions of the United States, the Canal Zone and Puerto Rico.

§ 795.4 Communications.

Communications concerning rule making, i.e., petition to change Part 795 should be addressed to Assistant Administrator for National Security, U.S. Energy Research and Development Administration, Washington, D.C. 20545. All other communications concerning the regulations in this part should be addressed to the U.S. Energy Research and Development Administration at the Administration's Operations Office (listed in Appendix "B" of 10 CFR Part 725) administering Access Permits for the geographical area.

§ 795.5 Submission of procedures by Access Permit holder.

No Permittee shall have access to Restricted Data until he shall have submitted to ERDA a written statement of his procedures for the safeguarding of Restricted Data and for the security education of his employees and ERDA shall have determined and informed the Permittee that his procedures for the safeguarding of Restricted Data are in compliance with the regulations in this part and that his procedures for the security education of his employees, who will have access to Restricted Data, are informed about and understand the regulations in this part.

§ 795.6 Specific waivers.

ERDA may, upon application of any interested party, grant such waivers from the requirements of this part as it determines are authorized by law and will not constitute an undue risk to the common defense and security.

§ 795.7 Interpretations.

Except as specifically authorized by the Administrator in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of ERDA other than a written interpretation by the General Counsel will be recognized to be binding upon ERDA.

PHYSICAL SECURITY

§ 795.21 Protection of Restricted Data in storage.

(a) Persons who possess Restricted Data pursuant to an Access Permit shall store Secret and Confidential documents and material when not in use in accordance with one of the following methods:

(1) In a locked vault, safe, or safe-type steel file cabinet having a 3-position dial-type combination lock; or

(2) In a dual key, Bank Safety Deposit Box; or

(3) In a steel file cabinet secured by a steel lock bar and a 3-position dial-type changeable combination padlock; or

(4) In a locked steel file cabinet when located in a security area established under § 795.23 or when the cabinet or the place in which the cabinet is located is under ERDA approved automatic alarm protection.

(b) Changes of combination: Each permittee shall change the combinations on locks of his safekeeping equipment whenever such equipment is placed in use, whenever an individual knowing the combination no longer requires access to the repository as a result of change in duties or position in the Permittee's or-

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ganization, or termination of employment with the Permittee or whenever the combination has been subjected to compromise, and in any event at least once a year. Permittees shall classify records of combinations no lower than the highest classification of the documents and material authorized for storage in the safekeeping equipment concerned.

(c) The lock on safekeeping equipment of the type specified in paragraph (a)(4) of this section shall be replaced immediately whenever a key is lost.

§ 795.22 Protection while in use.

While in use, documents and material containing Restricted Data shall be under the direct control of an appropriately cleared individual and the Restricted Data shall be capable of being removed from sight immediately.

§ 795.23 Establishment of security areas.

(a) When, because of their nature or size, it is impracticable to safeguard documents and material containing Restricted Data in accordance with the provisions of §§ 795.21 and 795.22, a security area to protect such documents and material shall be established.

(b) The following controls shall apply to security areas:

(1) Security areas shall be separated from adjacent areas by a physical barrier designed to prevent entrance into such areas, and access to the Restricted Data within the areas, by unauthorized individuals.

(2) During working hours, admittance shall be controlled by an appropriately cleared individual posted at each unlocked entrance.

(3) During non-working hours, admittance shall be controlled by protective personnel on patrol, with protective personnel posted at unlocked entrances, or by such automatic alarm system as ERDA may approve.

(4) Each individual authorized to enter a security area shall be issued a distinctive badge or pass when the number of employees assigned to the area exceeds thirty.

§ 795.24 Special kinds of classified material.

When the Restricted Data contained in material is not ascertainable by observation or examination at the place where the material is located and when the material is not readily removable because of size, weight, radioactivity, or similar factors, ERDA may authorize the Permittee to provide such lesser protection than is otherwise required by §§ 795.21 to 795.23 inclusive, as ERDA determines to be commensurate with the difficulty of removing the material.

§ 795.25 Protective personnel.

Whenever protective personnel are required by § 795.23, such protective personnel shall:

(a) Possess a "Q" or "L" security clearance or access authorization or "Q(X)" or "L(X)" access authorization if the Restricted Data being protected is classified Confidential or a "Q" security clearance or access authorization or "Q(X)" access authorization if the Restricted Data being protected is classified Secret.

(b) Be armed with side-arms of not less than .38 caliber.

CONTROL OF INFORMATION

§ 795.31 Access to Restricted Data.

(a) Except as ERDA may authorize, no person subject to the regulations in this part shall permit any individual to have access to Secret or Confidential Restricted Data in his possession unless the individual has an appropriate security clearance or access authorization granted by ERDA, or has been certified by DOD or NASA through ERDA, and:

(1) The individual is authorized by an Access Permit to receive Restricted Data in the categories involved and, in the case of Secret Restricted Data, the Permittee determines that he requires the access in the course of his duties, or

(2) The individual needs such access in connection with his duties as an ERDA employee or ERDA contractor employee, or as certified by DOD or NASA.

(b) Inquiries concerning the clearance status of individuals, the scope of Access Permits, or the nature of contracts should be addressed to ERDA Office administering the Access Permit or the contract.

§ 795.32 Classification and preparation of documents.

(a) Classification. Restricted Data originated by an Access Permit holder must be appropriately classified. OC DOC-54, "Classification Guide for Use in the Civilian Application Program," will be furnished each Permittee. In the event an Access Permit holder originates information within the definition of Restricted Data (§ 795.3(k)) or information which he is not positive is not within that definition and OC DOC-54 does not provide positive classification guidance for such information, he shall designate the information as Confidential, Restricted Data and request classification guidance from the ERDA through the Classification Officer at the Operations Office administering the Permit, who will refer the request to the Director, Division of Classification, U.S. ERDA, Washington, D.C., if he does not have authority to provide the guidance.

(b) Classification consistent with content. Each document containing Restricted Data shall be classified Secret or Confidential according to its own content.

(c) Document which custodian believes improperly classified or lacking appropriate classification markings. If a person receives a document which in his opinion is not properly classified, or omits the appropriate classification markings, he shall communicate with the sender and suggest the classification which he believes to be appropriate. Pending final determination of proper classification, such documents shall be safeguarded with the highest classification in question.

(d) Classification markings. Unless otherwise authorized below, the assigned classification of a document shall be conspicuously marked or stamped at the top and bottom of each page and on the front cover, if any, and the document shall bear the following additional markings on the first page and on the front cover:

RESTRICTED DATA

This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Its transmittal or the disclosure of its contents in any manner to an unauthorized person is prohibited.

(e) Documentation. (1) All Secret documents shall bear on the first page a properly completed documentation stamp such as the following: This document consists of ___ pages. Copy No.___ of ___ Series _____.

(2) The series designation shall be a capital letter beginning with the letter "A" designating the original set of copies prepared. Each subsequent set of copies of the same documents shall be identified by the succeeding letter of the alphabet.

(f) Letter of transmittal. A letter transmitting Restricted Data shall be marked with a classification at least as high as its highest classified enclosure. When the contents of the letter of transmittal warrant lower classification or require no classification, a stamp or marking such as the following shall be used on the letter:

When separated from enclosures handle this document as _____.

(g) Permanently fastened documents. Classified books or pamphlets, the pages of which are permanently and securely fastened together, shall be conspicuously marked or stamped with the assigned classification in letters at least one-fourth (¼) inch in height at the top and bottom on the outside front cover, on the title page, on the front page and on the inside and outside of the back cover. The additional markings referred to in paragraph (d) of this section shall be placed on the first page and on the front cover.

(h) Physically connected documents. The classification of a file or group of physically connected documents shall be at least as high as that of the most highly classified document therein. It shall bear only one over-all classification, although pages, paragraphs, sections, or components thereof may bear different classifications. Each document separated from the file or group shall be handled in accordance with its individual classification.

(i) Attachment of security markings. Documents which do not lend themselves to marking or stamping shall have securely affixed or attached a tag, sticker, or similar device bearing the appropriate security markings.

§ 795.33 External transmission of documents and material.

(a) Restrictions. (1) Documents and material containing Restricted Data shall be transmitted only to persons who possess appropriate clearance or access authorization and are otherwise eligible for access under the requirements of § 795.31.

(2) In addition, such documents and material shall be transmitted only to persons who possess facilities for their physical security consistent with this part. Any person subject to the regulation in this part who transmits such documents or material shall be deemed to have fulfilled his obligations under this subparagraph by securing a written certification from the prospective recipient that such recipient possesses facilities for its physical security consistent with this part.

(3) Documents and material containing Restricted Data shall not be exported from the United States without prior authorization of ERDA.

(b) Preparation of documents. Documents containing Restricted Data shall be prepared for transmission outside an individual installation in accordance with the following:

(1) They shall be enclosed in two sealed opaque envelopes or wrappers.

(2) The inner envelope or wrapper shall be addressed in the ordinary manner and sealed with tape, the appropriate classification shall be placed on both sides of the envelope and the additional marking referred to in § 795.32(d) shall be placed on the side bearing the address.

(3) The outer envelope or wrapper shall be addressed in the ordinary manner. No classification, additional marking or other notation shall be affixed which indicates that the document enclosed therein contains classified information or Restricted Data.

(4) A receipt, which identifies the document, the date of transfer, the recipient and the person transferring the document shall accompany the document and shall be signed by the recipient and returned to the sender whenever the custody of a Secret document is transferred.

(c) Preparation of material. Material, other than documents, containing Restricted Data shall be prepared for shipment outside an individual installation in accordance with the following:

(1) The material shall be so packaged that the classified characteristics will not be revealed.

(2) A receipt which identifies the material, the date of shipment, the recipient, and the person transferring the material shall accompany the material and the recipient shall sign such receipt whenever the custody of Secret material is transferred.

(d) Methods of transportation. (1) Secret documents and material shall be transported only by one of the following methods:

(i) Registered mail.

(ii) Railway or air express in "Armed Guard Service" or "Armed Surveillance Service."

(iii) Individuals possessing appropriate ERDA security clearance or access authorization who have been given written authority by their employers.

(2) Confidential documents and material shall be transported by one of the methods set forth in subparagraph (1) of this paragraph or by one of the following methods:

(i) Certified or first-class mail, if approved by the Manager of Operations administering the Permit. Certified or first-class mail may not be used in any transmission of Confidential documents to Alaska, Hawaii, the Canal Zone, Puerto Rico, or any United States territory or possession.

(ii) Railway or air express "Protective Signature Service"; railway express "Recorded Tally Service"; airlines "Protective Signature Service," when available; rail or motor vehicles in sealed car or sealed van service; or services providing equivalent protection.

(iii) Material in less than carload, truckload, or planeload lots, by regular commercial carrier when the container and its contents weigh more than 500 pounds and such container is locked and sealed.

(e) Transmission by cryptographic means. Cryptographic systems shall not be used for the transmission of Restricted Data unless approved by ERDA.

(f) Telephone conversations. No discussion of classified information is permitted during a telephone conversation.

§ 795.34 Accountability for Secret documents.

Each permittee possessing documents containing a Secret Restricted Data shall establish a document accountability procedure and shall maintain records to show the disposition of all such documents which have been in his custody at any time.

§ 795.35 Authority to reproduce.

Nothing in this part shall be deemed to prohibit any person possessing documents containing Restricted Data from reproducing any Confidential documents, or any Secret documents originated by him. He shall not reproduce any other documents containing Secret Restricted Data without prior authorization from ERDA or from the originator of the document.

§ 795.36 Changes in classification.

Documents containing Restricted Data shall not be downgraded to a lower classification or declassified except as authorized by ERDA. Requests for downgrading or declassification shall be submitted to the ERDA Operations Office administering the Permit; the U.S. ERDA, Declassification Branch, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee; or U.S. ERDA, Washington, D.C. 20545. Attention: Division of Classification. If the Commission approves a change of classification or declassification, the previous classification marking shall be cancelled and the following statement, properly completed, shall be placed on the first page of the document:

Classification canceled (or changed to) _____
(Insert appropriate classification)

by authority of _____
(Person authorizing change in classification)

by _____
(Signature of person making change and date thereof)

Any person making a change in classification or receiving notice of such a change shall forward notice of the change in classification to holders of all copies as shown on his records.

§ 795.37 Destruction of documents or material containing Restricted Data.

(a) Documents containing Restricted Data may be destroyed only by shredding and burning, pulping, or by any other method that assures complete destruction of the information. If the document contains Secret Restricted Data, a permanent record of the subject, title, or report number of the document, its date of preparation, its series designation and copy number, and the date of destruction shall be signed by the person destroying the document and shall be maintained in the office of the last custodian.

(b) Restricted Data contained in material, other than documents, may be destroyed only by a method that assures complete obliteration, removal, or destruction of the Restricted Data.

§ 795.38 Suspension or revocation of access authorization.

In any case where the access authorization of an individual subject to the regulations in this part is suspended or revoked in accordance with the procedures set forth in Part 710 of this chapter, such individual shall, upon due notice from ERDA of such suspension or revocation and demand by ERDA, deliver to ERDA any and all documents or materials in his possession containing Restricted Data for safekeeping and such further disposition as ERDA determines to be just and proper.

§ 795.39 Expiration, suspension or revocation of Access Permits.

(a) Upon expiration of an Access certificate of non-possession of Remit has been issued may, except as provided in paragraph (b) of this section, (1) deliver all documents or materials in his possession containing Restricted Data to ERDA or to a person authorized to receive them and file with ERDA a certificate of non-possession of Restricted Data; (2) destroy them, and file with ERDA a certificate of nonpossession; or (3) file with ERDA a certified inventory of Restricted Data attached to a request for approval of retention of such data. A person retaining Restricted Data must maintain an active Access Permit unless otherwise authorized by ERDA.

(b) In any case where an Access Permit has expired or has been suspended or revoked and ERDA has determined that further possession by the former Access Permit holder of documents or materials containing Restricted Data would endanger the common defense

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and security, such former Access Permit holder shall upon due notice from ERDA of such expiration, suspension, or revocation and of such determination, deliver to ERDA any and all documents or materials in his possession containing Restricted Data for safekeeping and such further disposition as ERDA determines to be just and proper.

§ 795.40 Termination of employment or change of duties.

Each Permittee shall furnish promptly to ERDA written notification of the termination of employment of each individual who possesses an access authorization under his Permit or whose duties are changed so that access to Restricted Data is no longer needed. Upon such notification, ERDA may, (a) terminate the individual's access authorization or (b) transfer the individual's access authorization to the new employer of the individual to allow continued access to Restricted Data where authorized pursuant to ERDA regulations.

§ 795.41 Continued applicability of the regulation in this part.

The expiration, suspension, revocation or other termination of a security clearance or access authorization or Access Permit shall not relieve any person from compliance with the regulations in this part.

§ 795.42 Reports.

Each Permittee shall report promptly to the ERDA office administering the Access Permit all losses of Restricted Data documents or material and to that ERDA office and the nearest office of the Federal Bureau of Investigation any alleged or suspected violation of the Atomic Energy Act or the Espionage Act.

§ 795.43 Inspection.

ERDA may make such inspections of the premises, activities, records, and procedures of any person subject to the regulations in this part as ERDA deems necessary to effectuate the purposes of the Act.

§ 795.44 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. Any person who willfully violates, attempts to violate or conspires to violate any provisions of the Act or any regulation or order issued thereunder, including the provisions of this part, may be guilty of a crime and upon conviction may be punished by fine or imprisonment, or both, as provided by law.

NOTE.—The record keeping and reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

PART 861—CONTROL OF TRAFFIC AT NEVADA TEST SITE

Sec.
861.1 Purpose.
861.2 Scope.
861.3 Definitions.
861.4 Use of site streets.
861.5 Penalties.
861.6 Posting and distribution.
861.7 Applicability of other laws.

Appendix A—Perimeter description of the Energy Research and Development Administration Nevada test site in the State of Nevada.

AUTHORITY: The provisions of this Part 861 issued under 62 Stat. 281, as amended; sec. 108, 63 Stat. 380, as amended, sec. 205, 63 Stat. 389; sec. 161, 68 Stat. 948, as amended, sec. 1, 81 Stat. 54; 40 U.S.C. 318; 42 U.S.C. 2201; 5 U.S.C. 552; Federal Property Management Regulations T.R. D–11, 34 F.R. 1997, and Delegation of Authority to Manager, Nevada Operations Office.

§ 861.1 Purpose.

The regulations in this part are designed to facilitate the control of traffic at the Nevada Test Site.

§ 861.2 Scope.

This part applies to all persons who use the streets of the Nevada Test Site.

§ 861.3 Definitions.

As used in this part:

(a) "ERDA" means the Energy Research and Development Administration.

(b) "Nevada Test Site" means ERDA's Nevada Test Site located in Nye County, Nev. A perimeter description is attached as Appendix A to this part.

(c) "Nevada Test Site Traffic Regulations" means the traffic directives promulgated by the Manager of the Nevada Operations Office pursuant to § 861.4.

(d) "Person" means every natural person, firm, trust partnership, association or corporation.

(e) "Street" means the entire width between the boundary lines of every way when any part thereof is open to the use of those admitted to the Nevada Test Site for purposes of vehicular travel.

(f) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any roadway for purposes of travel.

(g) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a roadway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

§ 861.4 Use of site streets.

All persons using the streets of the Nevada Test Site shall do so in a careful and safe manner.

(a) The Nevada Test Site Traffic Regulations supplement this section by identifying the specific traffic requirements relating to such matters as:

(1) Enforcement and obedience to Traffic Regulations, including the authority of police officers and traffic regulations, and responsibility to report accidents.

(2) Traffic signs, signals, and markings, including required compliance with traffic lanes and traffic control devices, and prohibitions on display of unauthorized traffic signs, signals, or marking or interference with authorized traffic control devices.

(3) Speeding or driving under the influence of intoxicating liquor or drugs, including prohibitions on reckless driving, and promulgation of maximum permissible speeds.

(4) Turning movements, including required position and method of turning at intersections, limitations on turning around, and obedience to turning markers and no-turn signs.

(5) Stopping and yielding, including obedience to stop and yield signs, requirements when entering stop or yield intersections, emerging from alleys, driveways, or buildings, operation of vehicles on approach of authorized emergency vehicles and stops when traffic is obstructed.

(6) Pedestrians' rights and duties, including pedestrian's right-of-way in crosswalks, when a pedestrian must yield, required use or right half of crosswalks and requirements concerning walking along roadways and prohibited pedestrian crossings.

(7) Parking, stopping, and standing, specifying when parking, stopping, and standing are prohibited, including special provisions applicable to buses, requirements that parking not obstruct traffic and be close to curb, and concerning lamps on parked vehicles.

(8) Privileges of drivers of authorized emergency vehicles, including exemptions from parking and standing, stopping, speeding and turning limitations, under specified circumstances and within specified limitations.

(9) Miscellaneous driving rules, including requirements for convoys, and limitations on backing, opening and closing vehicle doors, following fire apparatus, crossing a fire hose, driving through a safety zone, through convoys, on sidewalks or shoulders of roadways, boarding or alighting from vehicles, passing a bus on the right, and unlawful riding.

(b) The Nevada Test Site Traffic Regulations, when posted and distributed as specified in § 861.6, shall have the same force and effect as if made a part hereof.

§ 861.5 Penalties.

Any person doing any act forbidden or failing to do any act required by the Nevada Test Site Traffic Regulations shall, upon conviction, be punishable by a fine of not more than $50 or imprisonment for not more than 30 days, or both.

§ 861.6 Posting and distribution.

Notices including the provisions of the Nevada Test Site Traffic Regulations will be conspicuously posted at the Nevada Test Site. Such other distribution of the Nevada Test Site Regulations will be made by the Manager as will provide reasonable assurance of notice to persons subject to the regulations.

§ 861.7 Applicability of other laws.

Nothing in this part shall be construed to affect the applicability of the provisions of State laws or of other Federal laws.

APPENDIX A

Perimeter Description of the Energy Research and Development Administration's Nevada Test Site in the State of Nevada

The Nevada Test Site, containing approximately 858,764 acres located in Nye County, Nev., is described as follows:

Beginning at the northwesterly corner of the tract of land hereinafter described, said corner being at latitude 37°20'45", longitude 116°34'20";
Thence easterly approximately 6.73 miles, to a point at latitude 37°20'45" longitude 116°27'00";
Thence northeasterly approximately 4.94 miles to a point at latitude 37°23'07", longitude 116°22'30";
Thence easterly approximately 4.81 miles to a point at latitude 37°23'07"; longitude 116°17'15";
Thence southeasterly approximately 6.77 miles to a point at latitude 37°19'47", longitude 116°11'10";
Thence southerly approximately 5.27 miles to a point at latitude 37°15'12.043", longitude 116°11'10";
Thence easterly approximately 14.21 miles to a point at latitude 37°15'07.268", longitude 115°55'42.268";
Thence southerly approximately 39.52 miles to a point at latitude 36°40'43.752", longitude 115°55'37.687";
Thence westerly approximately 2.87 miles to a point at latitude 36°40'40.227", longitude 115°58'43.956";
Thence southerly approximately 5.23 miles to a point at latitude 36°36'07.317", longitude 115°58'41.227";
Thence southwesterly along a perimeter distance approximately 5.82 miles to a point at latitude 36°34'39.754", longitude 116°-04'11.167";
Thence northerly approximately 3.20 miles to a point at latitude 36°37'26.804", longitude 116°04'11.355";
Thence northwesterly approximately 5.16 miles to a point at latitude 36°40'28.854", longitude 116°08'17.749";
Thence westerly approximately 8.63 miles to a point at latitude 36°40'23.246", longitude 116°17'37.466";
Thence southerly approximately 0.19 mile to a point at latitude 36°40'13.330", longitude 116°17'37.461";
Thence westerly approximately 8.49 miles to a point at latitude 36°40'13.666", longitude 116°26'47.915";
Thence northerly approximately 32.87 miles to a point at latitude 37°08'50", longitude 116°26'44.125";
Thence northwesterly approximately 15.37 miles to a point at latitude 37°20'45", longitude 116°34'20", the point of beginning herein.

[FR Doc.76–38349 Filed 12–29–76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 76–SO–96]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On October 21, 1976, a notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 46459), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Siler City, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, February 24, 1977, as hereinafter set forth.

In § 71.181 (41 FR 440), the following transition area is added:

SILER CITY, N.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Siler City Municipal Airport (Lat. 35°42'10" N., Long. 79°30'22" W).

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued in East Point, Ga., on December 17, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76–38129 Filed 12–29–76;8:45 am]

[Airspace Docket No. 76–WA–20]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Atlanta Terminal Control Area (TCA)

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter a portion of the Atlanta Terminal Control Area (TCA). On September 13, 1976, an amendment was published in the FEDERAL REGISTER (41 FR 38760) that amended the description of the Atlanta, Ga., (Dobbins AFB/NAS Atlanta) control zone. Since the description of Area E of the Atlanta TCA is based, in part, on the Atlanta, Ga., (Dobbins AFB/NAS Atlanta) control zone, this amendment is necessary to properly describe Area E. A small amount of TCA airspace will be affected both to the east and west of Dobbins AFB/NAS.

Since this amendment is a minor adjustment upon which the public would have no particular desire to comment, notice and public procedure thereon are unnecessary. However, since it is necessary to reflect the amended description in Part 71 of the Federal Aviation Regulations, good cause exists for making this amendment effective immediately.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective upon publication of this amendment in the FEDERAL REGISTER, as hereinafter set forth.

In § 71.401(a) (42 FR 642) the description of Area E is amended by deleting coordinates "Lat. 33°54'35"N., Long. 84°23'40"W.," and substituting "Lat. 33°54'25"N., Long. 84°24'47"W.," therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on December 20, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76–38130 Filed 12–29–76;8:45 am]

[Airspace Docket No. 76–GL–24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of VOR Federal Airway

On November 1, 1976, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (41 FR 47947) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would realign V–97 between Janesville, Wis., and Lone Rock, Wis.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. The only comment received was favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, February 24, 1977, as hereinafter set forth.

71.123 [Amended].

Section 71.123 (42 FR 307) is amended as follows:

In V–97 "INT Janesville 294° and Lone Rock, Wis., 147° radials; Lone Rock;" is deleted and "Lone Rock, Wis., including a W alternate via INT Janesville 281° and Lone Rock 147° radials;" is substituted therfore.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on December 20, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76–38131 Filed 12–29–76;8:45 am]

[Airspace Docket No. 76–RM–24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Extension of Federal Airway

On September 30, 1976, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (41 FR 43183) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would extend V–247 from Douglas, Wyo., to Scottsbluff, Nebr.

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Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. We received one response to the NPRM in which the commentator posed no objection to the proposal.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, February 24, 1977, as hereinafter set forth.

§ 71.123 [Amended].

Section 71.123 (42 FR 307) is amended as follows:

In V–247 "Douglas, Wyo.," is deleted and "Scottsbluff, Nebr., 75 MSL, INT Scottsbluff 307° and Douglas, Wyo., 109° radials, 75 MSL, Douglas;" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on December 20, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76–38132 Filed 12–29–76;8:45 am]

[Airspace Docket No. 76–SW–44]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Designation of Temporary Restricted Areas

On November 4, 1976, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 48541) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate temporary restricted areas adjacent to Fort Hood, Tex., for a joint military exercise "GALLANT CREW 77."

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. Both comments received were favorable.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 GMT, February 24, 1977, as hereinafter set forth.

§ 71.151 [Amended]

Section 71.151 (42 FR 345) is amended by adding "R–6315A GALLANT CREW 77, Tex." and "R–6315B GALLANT CREW 77, Tex."

§ 73.63 [Amended]

Section 73.63 (42 FR 696) is amended by adding the following.

1. R–6315A GALLANT CREW 77, TEX.

Boundaries. Beginning at Lat. 32°00'00"N., Long. 97°50'00"W.; to Lat. 32°10'00"N., Long. 98°32'00"W.; to Lat. 31°36'00"N., Long. 99°00'00"W.; to Lat. 31°00'00"N., Long. 99°00'00"W.; to Lat. 30°47'00"N., Long. 98°03'00"W.; to Lat. 30°48'00"N., Long. 97°38'00"W.; to Lat. 31°06'06"N., Long. 97°32'42"W.; to Lat. 31°13'45"N., Long. 97°32'35"W.; to Lat. 31°50'00"N., Long. 97°46'00"W.; to point of beginning, excluding the airspace 4,000 feet MSL and below within a 5 mile radius of the Hood, Tex., VOR, within a 5 mile radius of the Fort Hood AAF, (Lat. 31°08'15"N., Long. 97°42'50"W.) and within 5 miles each side of the Hood, Tex., VOR 102°T and 125°T radials extending from the VOR to V–17 airway, and also excluding the airspace 800 feet AGL and below within a 3 NM radius of the following airport coordinates:

City-County Airport, Gatesville, Tex., (Lat. 31°25'18"N., Long. 97°47'48"W.).
Moccasin Bend Airport, Gatesville, Tex., (Lat. 31°29'06"N., Long. 97°48'05"W.).
Hamilton Municipal Airport, Hamilton, Tex., (Lat. 31°40'15"N., Long. 98°08'45" W.).
Litch Field, Copperas Cove, Tex., (Lat. 31°-10'10"N., Long. 97°56'20"W.).
Dublin Jaycee Airport, Dublin, Tex., (Lat. 32°03'19"N., Long. 98°19'09"W.).
Dublin Municipal Airport, Dublin, Tex., (Lat. 32°04'05"N., Long. 98°19'30"W.).
Lee Campbell Ranch Airport, Dublin, Tex., (Lat. 32°01'57"N., Long. 98°25'09"W.).
DeLeon Municipal Airport, DeLeon, Tex., (Lat. 32°05'55"N., Long. 98°31'30"W.).
Comanche County-City Airport, Comanche, Tex., (Lat. 31°55'00"N., Long. 98°36'00" W.).
Dudley Airport, Comanche, Tex., (Lat. 31°-52'15"N., Long. 98°39'45"W.).
Mills County Airport, Goldthwaite, Tex., (Lat. 31°28'55"N., Long. 98°34'25"W.).
Bowie Memorial Airport, Brownwood, Tex., (Lat. 31°40'00"N., Long. 98°59'00"W.).
San Saba Municipal Airport, San Saba, Tex., (Lat. 31°14'06"N., Long. 98°43'00"W.).
Lampasas Airport, Lampasas, Tex., (Lat. 31°-06'27"N., Long. 98°11'45"W.).
Lometa Airport, Lometa, Tex., (Lat. 31°14'-00"N., Long. 98°28'00"W.).
Sybert Farm Airport, Jarrell, Tex., (Lat. 30°-47'20"N., Long. 97°39'17"W.).
Designated altitudes. 500 feet AGL to but not including FL 180.
Time of designation. Continuous, 0600 CST March 22 through 2400 CST March 31, 1977.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley Air Force Base, Va. 23665

2. R–6315B GALLANT CREW 77, TEX.

Boundaries. Beginning at Lat. 32°10'00"N., Long. 98°32'00"W.; to Lat. 32°10'00"N., Long. 99°30'00"W.; to Lat. 31°10'00"N., Long. 99°30'00"W.; to Lat. 31°00'00"N., Long. 99°00'00"W.; to Lat. 30°47'00"N., Long. 98°03'00"W.; to Lat. 31°05'00"N., Long. 97°47'00"W.; to Lat. 31°50'00"N., Long. 97°46'00"W.; to Lat. 32°00'00"N., Long. 97°50'00"W.; to point of beginning.
Designated altitudes. FL 180 to and including FL 280.
Time of designation. Continuous, 0600 CST March 22 through 2400 CST March 31, 1977.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley Air Force Base, Va. 23665

3. R–6315C GALLANT CREW 77, TEX.

Boundaries. Beginning at Lat. 30°47'00"N., Long. 98°03'00"W.; to Lat. 31°02'00"N., Long. 98°11'00"W.; to Lat. 31°24'00"N., Long. 97°43'00"W.; to Lat. 31°22'33"N., Long. 97°42'45"W.; to Lat. 31°20'48"N., Long. 97°40'32"W.; to Lat. 31°19'37"N., Long. 97°40'32"W.; to Lat. 31°13'45"N., Long. 97°32'35"W.; to Lat. 31°06'06"N., Long. 97°32'42"W.; to Lat. 30°48'00"N., Long. 97°38'00"W.; to point of beginning, excluding that airspace within a 5 mile radius of the Hood, Tex., VOR, within a 5 mile radius of the Fort Hood AAF, (Lat. 31°08'15"N., Long. 97°42'50"W.), within 5 miles each side of the Hood, Tex., VOR 102°T and 125°T radials extending from the VOR to V–17 airway, and also excluding the airspace within a 3 NM radius of the following airport coordinates:

City-County Airport, Gatesville, Tex., (Lat. 31°25'18"N., Long. 97°47'48"W.);
Lampasas Airport, Lampasas, Tex., (Lat. 31°-06'27"N., Long. 98°11'45"W.);
Litch Field, Copperas Cove, Tex., (Lat. 31°-10'10"N., Long. 97°56'20"W.);
Sybert Farm, Jarrell, Tex., (Lat. 30°47'20" N., Long. 97°39'17"W.).
Designated altitudes. 100 feet AGL to and including 500 feet AGL.
Time of designation. Continuous, 0600 CST March 22 through 2400 CST March 31, 1977.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley Air Force Base, Va. 23665

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on December 20, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76–38133 Filed 12–29–76;8:45 am]

[Airspace Docket No. 76–AL–11]

PART 73—SPECIAL USE AIRSPACE

Alteration of a Restricted Area

On October 28, 1976, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (41 FR 47265) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would alter the lateral boundaries and operating hours of Restricted Area R–2211, Blair Lakes, Alaska.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 Gmt, February 24, 1977, as hereinafter set forth.

§ 73.22 [Amended]

§ 73.22 (42 FR 658) R–2211, Blair Lakes, Alaska, is amended in its entirety to read as follows:

R–2211 Blair Lakes, Alaska.
Boundaries. Beginning at Lat. 64°30'00"N., Long. 147°44'00"W.; to Lat. 64°20'00"N., Long. 147°19'00"W.; to Lat. 64°13'30"N., Long. 147°32'00"W.; to Lat. 64°22'30"N., Long. 147°58'00"W.; to point of beginning.
Time of designation. 0800 to 1800, local time, Monday through Friday and at other times as activated by NOTAM issued by the using agency at least 24 hours in advance.
Designated altitudes. Surface to 18,000 feet MSL.
Controlling agency. Federal Aviation Administration Elelson RAPCON.
Using agency. Alaskan Air Command.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on December 23, 1976.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76–38267 Filed 12–29–76;8:45 am]

[Docket No. 16389; Special Federal Aviation Reg. No. 33]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Flight Recorders and Cockpit Voice Recorders

The purpose of this Special Federal Aviation Regulation is to permit, temporarily, certain large airplanes having a maximum passenger capacity of 30 seats or less, a maximum payload capacity of 7,500 pounds or less, and a maximum zero fuel weight of 35,000 pounds or less, to be operated under Parts 121 and 135 of the Federal Aviation Regulations without a flight recorder or a cockpit voice recorder. Certain airplanes are excluded as discussed herein.

Section 121.343 requires that no person may operate a large airplane that is certificated for operations above 25,000 feet altitude or is turbine engine powered, unless it is equipped with one or more flight recorders that meet the specifications set forth in Part 121. Section 121.-359 requires that no person may operate a large turbine engine powered airplane or a large pressurized airplane with four reciprocating engines without an approved cockpit voice recorder. The requirements of §§ 121.343 and 121.359 apply to Part 135 certificate holders by virtue of § 135.2 which requires air taxi operators to comply with the certification and operations requirements of Part 121 applicable to supplemental air carriers for operations conducted with large aircraft. On the other hand, § 121.9 permits Part 121 certificate holders to comply with the requirements of Part 135 applicable to air taxi operators for operations conducted in small aircraft. A large aircraft is defined in § 1.1 as an aircraft of more than 12,500 pounds maximum certificated takeoff weight and a small aircraft as one of 12,500 pounds or less maximum certificated takeoff weight.

The use of the "12,500 pound" aircraft standard for purposes of operations under Parts 121 and 135 has been questioned and, based upon a preliminary review, the FAA believes that requiring an aircraft to be operated under the rules of Part 121 or 135 based on whether its maximum certificated takeoff weight is more or less than 12,500 pounds may no longer be appropriate or necessary in the interest of safety. Accordingly, the FAA has under consideration the development of new standards for operations conducted with large airplanes having a maximum passenger capacity of 30 seats or less, a maximum payload capacity of 7,500 pounds or less, and a maximum zero fuel weight of 35,000 pounds or less. The developent of new standards will be accomplished in the Part 135 Regulatory Review Program, public notice of which was published on September 13, 1976 (Notice No. 76–18, 41 FR 38778). A review conference, held in Denver, Colorado, during the period of November 8–11, 1976, was attended by approximately 400 persons. With the review conference having been completed, a notice of proposed rule making will be issued as soon as practicable with a 90-day comment period.

During the review conference, more than 100 proposals were discussed and the FAA pointed out that certain of the proposals might result in rule making which would delete the requirements for a flight recorder and cockpit voice recorder on large airplanes (excluding the Convair 240, 340, and 440; the Martin 202 and 404; the F–27 and FH–227; and the Hawker Siddeley 748) having a maximum passenger capacity of 30 seats or less, a maximum payload capacity of 7,500 pounds or less, and a maximum zero fuel weight of 35,000 pounds or less, operating under the rules of Part 135, as those rules may be revised in the Part 135 Regulatory Review Program. Various attendees commented on the flight recorder (FDR) and cockpit voice recorder (CVR). In summary, the comments noted that the FDR and CVR do not enhance the safety of a particular flight, but are useful only for accident investigation purposes. It was also stated that significant expense is incurred in the acquisition and maintenance of the FDR and CVR and that the weight of the equipment imposes a payload penalty on the operator. The general consensus of the persons commenting on the FDR and CVR was that the economic detriment resulting from the FDR and CVR requirements on airplanes of the size specified in the Part 135 Regulatory Review Program is significant. Concern also was expressed that continuation of these requirements during the process of rule making which might result in deletion of the requirements could cause needless expense to be incurred by air taxi operators. Several certificate holders have advised the FAA that they expect to acquire, imminently, large airplanes within the size specified herein which do not have an approved FDR or CVR installed. These certificate holders have stated that unless immediate relief from the FDR and CVR requirements is granted, they will be required to incur significant expenses.

It also is noted that the following pending petitions for exemption seek permission to operate certain large airplanes without a flight recorder or cockpit voice recorder: Usair Corporation, dated 5/30/75 (Docket 14716); World Aviation Services, dated 6/10/75 (Docket 14771); Thunderbird Airways, Inc., dated 7/28/75 (Docket 15056); Jet Fleet Corporation, dated 6/3/76 (Docket 15852); and Boise Cascade Aviation Division, dated 10/12/76 (Docket 15254). In addition, Lacy Aviation, Inc. (petition for exemption dated 4/25/75, Docket 14700), DeBoer Aviation Corporation (petition for exemption dated 5/6/75, Docket 14699), and American Jet Aviation (petition for rule making dated 2/27/75, Docket 14472) have requested relief including permission to operate certain large airplanes without a flight recorder or cockpit voice recorder.

Representatives of the National Transportation Safety Board (NTSB) were in attendance throughout the conference. At the close of the conference a representative of the NTSB stated that the Board was unable to comment at that time on the discussions of the FDR and CVR which took place at the conference.

In view of the foregoing, the FAA is concerned that an adverse economic impact may result from continuation of the FDR or CVR requirements for airplanes specified herein in view of the possibility that the FDR and CVR may not be required by rules developed in the Part 135 Regulatory Review Program. The FAA has considered the accident investigation usefulness of the FDR and CVR in relation to the possible adverse economic impact described above and has concluded that safety and the public interest do not require the installation of the flight recorder or cockpit voice recorder in the airplanes specified herein pending the development of new standards for operations conducted with those airplanes.

Therefore, this SFAR is adopted to permit, during this period, airplanes type certificated as large airplanes, having a maximum passenger capacity of 30 seats or less, a maximum payload capacity of 7,500 pounds or less, and a maximum zero fuel weight of 35,000 pounds or less to be operated under Parts 121 and 135 of the Federal Aviation Regulations without complying with the requirements for a flight recorder or a cockpit voice recorder. The SFAR does not apply to the Convair 240, 340, and 440; the Martin 202 and 404; the Fairchild F–27 and FH–227; or the Hawker Siddeley 748. Also, the SFAR does not apply to any airplane described in paragraph (a) of section 1 which, as of the effective date of the SFAR, is listed on the operations specifications of Part 121 or Part 135 certificate holders for operation as large airplanes and has an approved flight recorder and cockpit voice recorder installed.

Since this special regulation would avoid the probable imposition of an undue economic burden on certain certificate holders, would relieve a restriction and would not adversely affect safety, I find that notice and public proce-

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dure are impracticable and that for good cause it may be made effective on less than 30 days notice. However, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this SFAR. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before January 31, 1977, will be considered by the Administrator and this SFAR may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

It should be noted that in Notice 76-29, issued on December 22, 1976, the FAA requests comments on a proposal to amend this SFAR and extend its relief to those airplanes currently excluded by paragraph (b) (2) of section 1.

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

In consideration of the foregoing, the following Special Federal Aviation Regulation is adopted, effective December 22, 1976:

SPECIAL FEDERAL AVIATION REGULATION NO. 33

1. *Applicability.* Contrary provisions of Parts 121 and 135 of the Federal Aviation Regulations notwithstanding, large airplanes described in paragraph (a) of this regulation may be operated under Parts 121 and 135 of the Federal Aviation Regulations without a flight recorder or a cockpit voice recorder:

(a) Except as provided in paragraph (b) of this section, airplanes type certificated as large airplanes, having a maximum passenger capacity of 30 seats or less, a maximum payload capacity of 7,500 pounds or less, and a maximum zero fuel weight of 35,000 pounds or less.

(b) This regulation does not apply to the following airplanes:

(1) Convair 240, 340, and 440; Martin 202 and 404; Fairchild F-27 and FH-227; Hawker Siddeley 748; and

(2) Any airplane described in paragraph (a) of this section that on the effective date of this SFAR is listed on the operations specifications of a Part 121 or Part 135 certificate holder for operation as a large airplane and has an approved flight recorder and cockpit voice recorder installed.

2. *Definitions.* For purposes of this Special Federal Aviation Regulation, the following definitions apply:

(a) Except as provided in paragraph (b) of this section, the term "maximum payload capacity" means the maximum certificated takeoff weight of an airplane, less the empty weight, less all justifiable airplane equipment, and less the operating load (consisting of minimum fubel load, oil, flight crew, steward's supplies, etc.). The allowance for the weight of the crew, oil, and fuel is as follows:

(1) Crew—200 pounds per crew member required under the Federal Aviation Regulations.

(2) Oil—350 pounds.

(3) Fuel—the minimum weight of fuel required by the Federal Aviation Regulations for a flight between domestic points 174 nautical miles apart under VFR weather conditions and not involving extended overwater operations.

(b) In the case of an airplane for which a maximum zero fuel weight is prescribed in FAA technical specifications, maximum payload capacity means the maximum zero fuel weight, less the empty weight, less all justifiable airplane equipment, and less the operating load (consisting of minimum flight crew, steward's supplies, etc., but not including disposable fuel or oil).

(c) The term "empty weight" means the weight of the airframe, engines, propellers, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.

(d) The term "maximum zero fuel weight" means the maximum permissible weight of an airplane with no disposable fuel or oil. The zero fuel weight figure may be found in either the airplane type certificate data sheet or the approved airplane flight manual or both.

This Special Federal Aviation Regulation terminates June 30, 1978, unless sooner superseded or rescinded.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on December 22, 1976.

JOHN L. MCLUCAS,
Administrator.

[FR Doc.76-38228 Filed 12-29-76;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket Nos. R-393 and RM76-5]

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Small Producer Regulation

DECEMBER 22, 1976.

On November 5, 1976, the Commission issued Opinion No. 770-A, *Opinion And Order On Rehearing Modifying In Part Opinion No. 770 And Granting Petitions For Intervention*, Docket No. RM75-14. That opinion promulgated § 2.56a(p) of the Commission's Regulations requiring the filing of certain specified information where a seller sought to obtain the new nationwide rate for the second well drilled in an established proration unit.

On December 1, 1976, Yucca Petroleum Co. (Yucca) filed in Docket No. RM75-14 a request for clarification of Opinion No. 770-A that § 2.56a(p) did not apply to small producers. Yucca asserts that the 56a(p), subject section does not apply to small producers because these certificate holders were not made parties to the proceeding in Docket No. RM75-14 and, therefore, should not be bound by § 2.-

The Commission's reasons for enacting § 2.56a(p) are expressed in Opinion No. 770-A and the Commission there did not distinguish between large and small producers in the application of § 2.56a(p). The Commission's purpose in enacting § 2.56a(p) would be defeated if small producers were exempt from the requirements of § 2.56a(p), since small producers would then be able, where state authority permitted and without Commission review, to drill additional, and possibly unnecessary, wells solely in order to obtain the higher rate. The primary purpose of the 130% small producer incentive, which does not apply to the $1.42 per Mcf rate, was to compensate them for the increased risk of wildcat exploration,[1] not to increase the rate of delivery of established reservoirs. Secondly, although the Commission did not make small producers respondents to the rulemaking procedure in Docket No. RM75-14, participation was open to small producers who petitioned to intervene and the rates set in Opinion No. 770 were made applicable to small producers in Order No. 553-A,[2] to which Yucca did not object. For these reasons § 2.56a(p) applies to both large and small producers.

In Order No. 553-A § 157.40 of the Commission's Regulations was amended to add new subsection (c) (3) to permit small producers to collect 130% of the $1.01 per Mcf rate set in Opinion No. 770 for the 1973-1974 biennium. In Opinion No. 770-A this rate was recalculated and fixed at 93 cents per Mcf plus escalation as determined in § 2.56a(a)(4). Consistent with that redetermination, § 157.40(c)(3) will be amended by deleting the number $1.01 and substituting therefor 93 cents.

Filings made by small producers pursuant to § 2.56a(p) shall be limited to the submission of the statement of eligibility, since small producers are not required to make rate filings. The filings shall not include notices of change in rate. Collection by small producers of the rates authorized in Opinion No. 770-A will be made pursuant to the provisions of § 157.40, as amended.

[1] *Opinion No. 742, Opinion And Order Amending Section 157.40 Of The Regulations Under The Natural Gas Act*, Docket No. R-393, ---- FPC ---- (August 26, 1975), *rehearing denied*, Opinion No. 742-A (August 2, 1976), *order on clarification*, Opinion No. 742-C (September 9, 1976).

[2] *Order Clarifying Prior Order*, Docket No. RM76-5, ---- FPC ---- (September 9, 1976).

The Commission orders:

(A) The request for clarification by Yucca is granted to the extent that § 2.-56a(p) of the Commission's Regulations, as enacted in Opinion No. 770-A, applies to small producers, as that term is defined in § 157.40 of the Regulations, limited solely to the filing of the statement of eligibility required by § 2.56a(p).

(B) Ordering paragraph (A) of Order No. 553 and Order No. 553-A is further amended to revise paragraph (c) (3) of § 157.40 to read as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

• • • • • •

(c) • • •

(3) All sales of natural gas by small producers for resale ininterstate commerce that qualify for the base ceiling rate of 93 cents per Mcf set in Opinion No. 770-A shall be made at a maximum rate of 130% of that ceiling rate.

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By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38376 Filed 12-29-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-371]

MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER THE NATIONAL HOUSING ACT

Assurance of Completion Requirements

On September 22, 1976, in Volume 41, Number 185 at page 41516 of the FEDERAL REGISTER, the Department of Housing and Urban Development amended Parts 207, 213, 221, 232, 241, 242 and 244 of Title 24 to change the assurance of completion requirements for multifamily housing projects, nursing homes, hospitals and group practice facilities, the construction or rehabilitation of which is financed through mortgages insured by the Department.

Subsequent to the issuance of the revised bonding requirements, we have received numerous inquiries from field office personnel and interested persons relative to the effective date of these changes. We are informed that numerous problems would result, if the newly enacted bonding requirements contained in the September 22, 1976 FEDERAL REGISTER did not provide sufficient lead time prior to becoming effective.

In order to provide for sufficient lead time prior to implementation, notice is hereby given that the regulations published on September 22, 1976, are applicable to all projects in which the initial application for mortgage insurance, accompanied by the appropriate fees, was received and date stamped by the HUD field office on or after September 22, 1976.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.76-38347 Filed 12-29-76;8:45 am]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-436]

PART 1905—STATEWIDE "FAIR" PLANS

Pursuant to Title XI and Title XII of the National Housing Act (added by the Urban Property Protection and Reinsurance Act of 1968, 12 U.S.C. 1749 bbb-1749 bbb-21), 5 U.S.C. 553, as amended by the National Insurance Development Act of 1975 (Pub. L. 9413, 89 Stat. 68, 12 U.S.C. 1749 bbb Note), and delegation of authority by the Secretary of Housing and Urban Development (34 FR 2680, February 27, 1969), the Federal Insurance Administrator published in the FEDERAL REGISTER (41 FR 1499, 1500, January 8, 1976) a notice of proposed rulemaking in which he proposed to issue the following regulation pertaining to Part A of the Act (12 U.S.C. 1749 bbb-1749 bbb-21) as a new § 1905.13 of Part 1905 of Chapter VII of Title 24.

The purpose of the new § 1905.13 is: to promulgate in regulatory form a requirement that each FAIR Plan offering insurance pursuant to the Act (12 U.S.C. 1749 bbb-1749 bbb-21) shall provide a notice to all FAIR Plan policyholders with all policies issued or renewed on and after July 1, 1976 that consumer oriented inquiries and complaints dealing with the policy issuance and/or claims handling performance of the FAIR Plan and its agents and employees may be directed by the policyholder to the State insurance regulatory body thus being available for Federal Insurance Administration audit; to implement the Department of Housing and Urban Development's commitment to a primary goal to assure that the rights and interests of consumers are fully considered and duly respected; and to comply with the spirit of President Ford's April 17, 1975, letter to the Congress stressing the importance of assuring that consumer interests "receive full consideration in all Government actions" and the President's Directive that each agency and Department undertake a review of its policies and procedures as they affect consumer representation in agency decision making.

Interested parties were given 60 days within which to submit written comments relative to the proposed rule and written comments were received from 10 State insurance authorities, 4 State FAIR Plans, 2 national trade associations, and 10 individual companies or associations of companies, a total of 26 written comments. All relevant comments were given full and careful consideration. While two State regulatory authorities endorsed the proposed rulemaking entirely, there was an expression in some of the comments that the Federal Insurance Administration should not be routinely informed of all consumer inquiries because the State insurance regulatory authorities are eminently able to protect the FAIR Plan consumer's interest and to evaluate and respond to consumer inquiries and complaints dealing with FAIR Plan activities in the jurisdictions of the insurance regulatory authorities of the several States. Such views are consistent with the Federal Insurance Administration's long-standing position that the public is best served by an insurance system under which the private insurance sector remains the principal provider, and the States the regulators of insurance. Accordingly, in order to accommodate the understandable concerns of State regulators with the needs of FIA, the provisions requiring inclusion of the Federal Insurance Administrator's name as a person to be contacted in respect to complaints has been eliminated in favor of a request to regulators to segregate and separately maintain inquiries and complaints dealing with FAIR Plans to the end that they may be readily available incident to FAIR Plan audits by FIA's Office of Review and Compliance.

There were questions raised in some of the written comments as to whether the Federal Insurance Administrator had authority to issue the proposed rule to effectuate the review, by the Federal Insurance Administration, of consumer oriented inquiries and complaints dealing with the performance of the FAIR Plans of the States in which such Plans are in effect. Such authority was clearly established by the 1970 amendments to the National Insurance Development Program which established the Office of Review and Compliance under the Federal Insurance Administrator (Sec. 603, Housing and Urban Development Act of 1970, Public Law 91-609, approved December 31, 1970, 84 Stat. 1770, 1791, added Section 1215 to Title XII—National Insurance Development Program). Under the Office of Review and Compliance such authority includes; among other things, the implementation of review, audit and public hearing functions by the Federal Insurance Administrator. This authority is fortified by the revised purpose clause of the National Insurance Development Act of 1975 extending the authority granted in the 1970 and 1968 Acts.

The comments and advice of interested parties have been fully taken into consideration in the preparation of the regulations which are hereby adopted.

To allow the various State FAIR Plans sufficient time to implement the resulting regulations, as revised, and in accordance with the provisions of 5 U.S.C. 553 (d), these regulations will become effective on April 15, 1977.

It has been determined that these amendments do not have a substantial effect upon the quality of the environment nor do they have an economic im-

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pact as determined under OMB Circular A-107. Accordingly, findings of inapplicability have been prepared with respect to both environmental and economic considerations and copies of both these determinations are available for public inspection in the Office of the Rules Docket Clerk, Room 10141, Office of the Secretary.

Section 1905.13 of Part 1905—Statewide "FAIR" Plan is added to read as follows:

§ 1905.13 Notice to policyholders.

(a) Each participating or cooperating insurer offering insurance pursuant to this program (12 U.S.C. 1749 bbb–1749 bbb–21) shall provide a notice to all FAIR Plan policyholders with policies issued or renewed on and after January 15, 1977, containing the following information:

(1) Authority for issuance of policy.

(2) FAIR Plan name, address, and telephone numbers.

(3) State Insurance Department addresses and telephone numbers.

(b) Compliance with the requirements of paragraph (a) above will be satisfied provided the participating or cooperating insurer complies with a format of notice as designated by the Federal Insurance Administrator; such notices shall, as a minimum, include the following information employing the same terms or substantially similar terms.

Dear Policyholder: The attached FAIR Plan Insurance Policy, or renewal thereof, has been issued to you by the FAIR Plan in cooperation with your State Insurance Authority and the Federal Insurance Administration of the United States Department of Housing and Urban Development. The policy is serviced generally by the statewide FAIR Plan, as listed at the end of this Notice. The FAIR Plan or your insurance agent will assist you if you need to report a loss or if you have any questions pertaining to the premium charged or the scope of the coverage afforded under the policy. In addition, your State Insurance Department which has regulatory authority over the FAIR Plan is ready to be of assistance to you in these matters, if the FAIR Plan or agent cannot help you. Moreover, since the FAIR Plan Program is intended to provide you with the highest caliber of service, your State Insurance Department would welcome any suggestions you may have for improving the program. Please do not hesitate to write, for assistance, to:

(1) FAIR Plan: [Name, Address, Telephone Number].

(2) State Insurance Department [Name, Address, Telephone Number].

(Sec. 7(d), 70 Stat. 670 (42 U.S.C. 3535d); Sec. 1103, 82 Stat. 566 (12 U.S.C. 1749 bbb–17).)

Effective date: This section shall be effective on April 15, 1977.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-38348 Filed 12-29-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7452]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Temporary Regulations Relating to Definition of Qualified Possession Source Investment Income for Purposes of the Puerto Rico and Possession Tax Credit

This document contains temporary income tax regulations (26 CFR Part 7) under section 936 of the Internal Revenue Code of 1954 as added by section 1051 of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1643) in order to provide rules with respect to the definition of qualified possession source investment income for purposes of the Puerto Rican and possession tax credit.

Section 936 (d) (2) defines "qualified possession source investment income" as gross income, less deductions properly apportioned or allocated thereto, which "(A) is from sources within a possession of the United States in which a trade or business is actively conducted, and (B) the taxpayer establishes to the satisfaction of the Secretary is attributable to the investment in such possession (for use therein) of funds derived from the active conduct of a trade or business in such possession, or from such investment." Section 1051 (i) of the Act provides that section 936 is, in general, effective for taxable years beginning after December 31, 1975, but provides that qualified possession source investment income shall include income from any source outside the United States earned before October 1, 1976. Investment income earned on or after October 1, 1976, must meet the requirements of section 936 (d) (2) in order to qualify for the credit provided by section 936.

The Secretary of the Treasury of the Commonwealth of Puerto Rico has issued Regulations (as amended on September 28, 1976), under the authority of section 2(j) of the Puerto Rico Industrial Incentive Act of 1963, as amended, providing certain conditions under which an exemption from Puerto Rican income tax is allowed for interest on deposits with Puerto Rican financial institutions. Such income tax exemption is conditioned, among other things, on the reinvestment of the funds, within specified periods not to exceed 6 months, in Puerto Rico in activities which directly tend to increase production, income and employment in Puerto Rico. It is contemplated that the final regulations, when issued, will substantially reduce this 6-month period as of a future date so that the Puerto Rican financial institutions will have an adequate period under which to adjust their practices. This reinvestment requirement is substantially similar to that provided in section 936 of the Code. The regulations further provide for monthly reporting by the financial institutions involved to the Secretary of the Treasury of Puerto Rico to insure compliance with the reinvestment requirements.

The Internal Revenue Service has recognized the need to provide guidance to taxpayers pending the issuance of proposed regulations under section 936 with respect to whether interest on deposits with Puerto Rican financial institutions (less applicable deductions) is qualified possession source investment income under section 936(d)(2). The temporary regulations provide that interest (less applicable deductions) earned by a domestic corporation engaged in the conduct of a trade or business in Puerto Rico which elects the application of section 936 with respect to deposits with Puerto Rican financial institutions which qualifies for exemption from Puerto Rican income tax under the regulations issued by the Secretary of the Treasury of Puerto Rico, as in effect on September 28, 1976, will be treated as qualified possession source investment income, provided that such interest is from sources within Puerto Rico (within the meaning of section 936(d)(2)(A)) and the funds with respect to which such interest is earned are derived from the active conduct of a trade or business in Puerto Rico or from investment of funds so derived.

Adoption of amendment to the regulations. In order to prescribe temporary income tax regulations relating to the definition of qualified possession source investment income with respect to the Puerto Rico and possession tax credit under section 936(d)(2), as added by section 1051 of the Tax Reform Act of 1976 (Pub. L. 95–455, 90 Stat. 1644), the following temporary regulations are hereby adopted:

§ 7.936–1 Qualified possession source investment income.

For purposes of this section, interest earned after September 30, 1976 (less applicable deductions), by a domestic corporation, engaged in the active conduct of a trade or business in Puerto Rico, which elects the application of section 936 with respect to certain Puerto Rican financial institutions will be treated as qualified possession source investment income within the meaning of section 936(d)(2) if (1) the interest qualifies for exemption from Puerto Rican income tax under regulations issued by the Secretary of the Treasury of Puerto Rico, as in effect on September 28, 1976, under the authority of section 2 (j) of the Puerto Rico Industrial Incentive Act of 1963, as amended, (2) the interest is from sources within Puerto Rico (within the meaning of section 936 (d)(2)(A)), and (3) the funds with respect to which the interest is earned are derived from the active conduct of a trade or business in Puerto Rico or from investment of funds so derived.

Because of the need for immediate guidance with respect to the provision contained in this Treasury Decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 23, 1976.

WILLIAM M. GOLDSTEIN,
Deputy Assistant Secretary of the Treasury.

[FR Doc.76-38379 Filed 12-29-76;8:45 am]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7453]

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

Temporary Regulations Relating to Disclosures of Return Information by Internal Revenue Officers and Employees for Investigative Purposes

This document contains temporary regulations on procedure and administration (26 CFR Part 404) under section 6103(k)(6) of the Internal Revenue Code of 1954 as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1679) in order to provide rules governing disclosures of return information (as defined by section 6103(b)(2)) by officers and employees of the Internal Revenue Service and office of the Chief Counsel therefor for investigative purposes authorized by section 6103(k)(6) of the Code.

The temporary regulations describe the circumstances and conditions under which such officers or employees are authorized to disclose return information to a person other than the taxpayer to whom such return information relates (or such taxpayer's representative) in connection with official duties relating to an examination, collection activity, civil or criminal investigation, enforcement activity, or other offense under the internal revenue laws or relating to certain personnel or claimant representative matters under such laws or 31 U.S.C. 1026.

These temporary regulations are effective on January 1, 1977.

Adoption of amendment to the regulations. In order to prescribe temporary regulations on procedure and administration relating to disclosures of return information by internal revenue officers and employees for investigative purposes authorized by section 6103(k)(6) of the Internal Revenue Code of 1954, as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1679), the following temporary regulations are hereby adopted and added to Part 404 of Title 26 of the Code of Federal Regulations:

§ 404.6103(k)(6)–1 Disclosure of return information by internal revenue officers and employees for investigative purposes.

(a) *Disclosure of taxpayer identity information and fact of investigation in connection with official duties relating to examination, collection activity, civil or criminal investigation, enforcement activity or other offense under the internal revenue laws.* In connection with the performance of official duties relating to any examination, collection activity, civil or criminal investigation, enforcement activity, or other offense under the internal revenue laws, or in connection with preparation for any proceeding (or investigation which may result in such a proceeding) described in section 6103 (h)(2) of the Internal Revenue Code of 1954, an officer or employee of the Internal Revenue Service or office of the Chief Counsel therefor is authorized to disclose taxpayer identity information (as defined in section 6103(b)(6)), the fact that the inquiry pertains to the performance of official duties, and the nature of the official duties in order to obtain necessary information relating to performance of such official duties or where necessary in order to properly accomplish any activity described in subparagraph (6) of paragraph (b) of this section. Disclosure of taxpayer identity information to a person other than the taxpayer to whom such taxpayer identity information relates or such taxpayer's legal representative for the purpose of obtaining such necessary information or otherwise properly accomplishing such activities as authorized by this paragraph should be made, however, only if the necessary information cannot, under the facts and circumstances of the particular case, otherwise reasonably be obtained in accurate and sufficiently probative form, or in a timely manner, and without impairing the proper performance of the official duties, or if such activities cannot otherwise properly be accomplished without making such disclosure.

(b) *Disclosure of return information in connection with official duties relating to examination, collection activity, civil or criminal investigation, enforcement activity, or other offense under the internal revenue laws.* In connection with the performance of official duties relating to any examination, collection activity, civil or criminal investigation, enforcement activity, or other offense under the internal revenue laws, an officer or employee of the Internal Revenue Service or office of the Chief Counsel therefor is authorized to disclose return information (as defined in section 6103(b)(2)) in order to obtain necessary information relating to the following—

(1) To establish or verify the correctness or completeness of any return (as defined in section 6103(b)(1)) or return information;

(2) To determine the responsibility for filing a return, for making a return where none has been made, or for performing such acts as may be required by law concerning such matters;

(3) To establish or verify the liability (or possible liability) of any person, or the liability (or possible liability) at law or in equity of any transferee or fiduciary of any person, for any tax, penalty, interest, fine, forfeiture, or other imposition or offense under the internal revenue laws or the amount thereof to be collected;

(4) To establish or verify misconduct (or possible misconduct) or other activity proscribed by the internal revenue laws;

(5) To obtain the services of persons having special knowledge or technical skills (such as, but not limited to, knowledge of particular facts and circumstances relevant to a correct determination of a liability described in subparagraph (3) of this paragraph or skills relating to handwriting analysis, photographic development, sound recording enhancement, or voice identification) or having recognized expertise in matters involving the valuation of property where relevant to proper performance of a duty or responsibility described in this paragraph;

(6) To establish or verify the financial status or condition and location of the taxpayer against whom collection activity is or may be directed, to locate assets in which the taxpayer has an interest, to ascertain the amount of any liability described in subparagraph (3) of this paragraph to be collected, or otherwise to apply the provisions of the Code relating to establishment of liens against such assets, or levy on, or seizure, or sale of, the assets to satisfy any such liability; or

(7) To prepare for any proceeding described in section 6103(h)(2) or conduct an investigation which may result in such a proceeding,

or where necessary in order to accomplish any activity described in subparagraph (6) of this paragraph. Disclosure of return information to a person other than the taxpayer to whom such return information relates or such taxpayer's legal representative for the purpose of obtaining information necessary to properly carry out the foregoing duties and responsibilities as authorized by this paragraph or for the purpose of otherwise properly accomplishing any activity described in subparagraph (6) of this paragraph should be made, however, only if such necessary information cannot, under the facts and circumstances of the particular case, otherwise reasonably be obtained in accurate and sufficiently probative form, or in a timely manner, and without impairing the proper performance of such duties and responsibilities, or if the activities described in subparagraph (6) of this paragraph cannot otherwise properly be accomplished without making such disclosure.

(c) *Disclosure of return information in connection with certain personnel or claimant representative matters.* In connection with the performance of official duties relating to any investigation concerned with the enforcement of any provision of the Internal Revenue Code concerned with the enforcement of any rules, directives, or manual issuances prescribed by the Secretary under section 7803 or any other provision of the Code, which affects or may affect the personnel or employment rights or status, or civil or criminal liability, of any employee or former or prospective em-

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ployee of the Department of the Treasury or the rights of any person who is or may be a party to an administrative action or proceeding pursuant to 31 U.S.C. 1026, an officer or employee of the Internal Revenue Service or office of the Chief Counsel therefor is authorized to disclose return information (as defined in section 6103(b)(2)) for the purpose of obtaining, verifying, or establishing other information which is or may be relevant and material to such investigation. Disclosure of return information to a person other than the taxpayer to whom such return information relates or such taxpayer's legal representative for the purpose of obtaining information necessary to properly carry out the foregoing duties and responsibilities as authorized by this paragraph should be made, however, only if such necessary information cannot, under the facts and circumstances of the particular case, otherwise reasonably be obtained in accurate and sufficiently probative form, or in a timely manner, and without impairing the proper performance of such duties and responsibilities.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Secs. 6103(k)(6) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1679, 68A Stat. 917; 26 U.S.C. 6103(k)(6), 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 27, 1976.

WILLIAM M. GOLDSTEIN,
Deputy Assistant Secretary of the Treasury.

[FD Doc.76-38384 Filed 12-29-76;8:45 am]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

SUBCHAPTER M—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. ATF-36]

PART 245—BEER

Reduction in Beer Tax for Small Brewers

The Director, Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury or his delegate, is amending regulations in 27 CFR Part 245, Beer, in order to implement the provisions of Pub. L. 94-529, the Reduction in Beer Tax for Small Brewers Act.

Background. Pub. L. 94-529 amended 26 U.S.C. 5051, Imposition and Rate of Tax [on beer], by reducing the tax on beer for certain small brewers from $9.00 to $7.00 per barrel for the first 60,000 barrels of beer removed for consumption or sale in a calendar year. This law becomes effective January 1, 1977, and will apply to brewers or "controlled groups" of brewers who produce not in excess of 2,000,000 barrels of beer per year. In the case of "controlled groups" of brewers as defined at 26 U.S.C. 1563(a), the total production of all members cannot exceed 2,000,000 barrels, and the 60,000 barrels eligible for the $7.00 tax rate may apply once to the entire group, to be apportioned at the discretion of the member brewers. The reduced rate of tax applies only to beer produced at domestic breweries; thus, imported beer is not eligible for the reduced tax rate.

Qualification of Brewers. Pub. L. 94-529 allows qualified brewers to pay $7.00 tax per barrel (31 gallons) on the first 60,000 barrels of beer removed for consumption or sale in a calendar year. A new section, § 245.110a, is added outlining the criteria used to determine if a brewer is eligible to pay the reduced rate of tax. Section 245.110a requires:

(1) That the beer be produced at a qualified brewery in the United States.

(2) That the brewer not produce more than 2,000,000 barrels of beer in the calendar year.

(3) That the brewer not be a member of a "controlled group" of brewers who together produce more than 2,000,000 barrels of beer in a calendar year.

Although the tax reduction applies only to domestically produced beer, the House Committee Report accompanying H.R. 3605 states that for purposes of determining whether a brewer is a small brewer entitled to the reduced tax rate, all of the brewer's production is to be taken into account, including its foreign production. The brewer shall use the quantity entered into his daily record and on his monthly report, Form 103 line 2, as the beer "produced" for determining compliance with the 2,000,000 barrel limitation; a brewer who operates two or more breweries must include the production of beer at all his breweries.

For purposes of both the 2,000,000 barrel limitation, and the 60,000 barrels of beer which may be taxpaid at the reduced rate of $7.00, a "controlled group" of brewers shall be treated as a single brewer. The production of all brewers in the group shall be added together to determine if the group produces not more than 2,000,000 barrels of beer, and the entire group of brewers is eligible for a total of 60,000 barrels of beer to be taxpaid at the $7.00 rate.

Controlled groups. A "controlled group" of brewers is a closely related group of brewers who have common ownership interests. There are several categories of controlled groups but a few of the most common are as follows:

(1) *Parent — subsidiary controlled group:* one or more chains of corporations connected through stock ownership (direct or indirect) with a common parent corporation.

(2) *Brother—sister controlled group:* two or more corporations owned (directly or indirectly) by the same five or fewer persons who are individuals, estates or trusts.

(3) *Combined group:* a group of three or more corporations in which each corporation is a member of a parent—subsidiary controlled group or a brother—sister controlled group, and at least one of such corporations is the common parent of a parent—subsidiary controlled group and also is a member of a brother—sister controlled group.

In general, ownership control is exercised by 51% stock ownership in a corporation. However, ownership in a corporation need not be direct and 51% constructive ownership may be acquired through: (1) an option to purchase stock in a corporation; (2) attribution from partnerships; (3) attribution from estates or trusts; (4) attribution from corporations; and (5) ownership by spouses, children, grandchildren, parents and grandparents. These examples of controlled groups are by no means complete and a more in-depth explanation of controlled groups of corporations may be found at Section 1563 of the Internal Revenue Code and regulations beginning at 26 CFR 1.1563.

Payment of reduced rate of tax by return. Revised § 245.117a of the regulations provides that qualified brewers who elect to pay tax at the reduced rate of tax of $7.00 by return, Form 2034, may do so by filing the notice described below with the copy of the tax return sent to the regional regulatory administrator (formerly regional director) in each region in which the brewer operates breweries. The brewer must file the notice annually, and must file the notice with the tax return for the first return period (or with the first prepayment return) in which the brewer pays tax at the lower rate. The brewer may then continue to pay tax at the $7.00 rate until the 60,000 barrel (or apportioned) limitation is reached in each calendar year.

A new section, § 245.110c, is added prescribing the information required on the notice to pay the reduced rate of tax. This information includes the following:

(1) A statement that the brewer will not or is not likely to produce more than 2,000,000 barrels of beer in the calendar year.

(2) A statement that the brewer is not a member of a controlled group of brewers, or if a member of a controlled group, a statement that the combined production of the group will not or is not likely to exceed 2,000,000 barrels of beer in the calendar year.

(3) If the brewer operates more than one brewery, a statement as to how the 60,000 barrels is to be apportioned among the breweries (for example: Plant No. 1, Baltimore, 30,000 barrels; Plant No. 2, Cincinnati, 30,000 barrels). If the brewer is a member of a controlled group of brewers, a list of the names and locations of all brewers in the group, and a statement as to how the 60,000 barrels is to be apportioned among the brewers (for example: RST Brewing Co., Newark, N.J. 40,000 barrels; UVW Brewing Co., Chicago, 20,000 barrels; XYZ Brewing Co., Los Angeles, no barrels).

The brewer must execute each notice under penalties of perjury. Notices shall

be prepared in duplicate, the original submitted to the regional regulatory administrator with the tax return and the copy retained with the brewer's records.

Foreign brewers' production statement. New section 245.110c contains a paragraph requiring any brewer which operates foreign breweries, or which is a member of a controlled group of breweries which has one or more foreign members, to submit to the regional regulatory administrator at the end of the calendar year, a notice stating the combined production of all brewers or breweries involved if the brewer paid tax at the reduced rate that calendar year. The reason for requiring this additional notice is to enable the regional regulatory administrator to verify that the brewer (or controlled group of brewers) did not produce more than 2,000,000 barrels of beer that year and was thus eligible to pay the reduced rate of tax. Section 245.110c requires that the brewer file this notice with the tax return, Form 2034, covering the last return period in the calendar year.

In the case of domestic brewers (or controlled groups of brewers) which operate no foreign plants, the production information is readily available to the regional regulatory administrator from the brewer's monthly report of operations, Form 103, which brewers file monthly.

Payment of reduced rate of tax by claim. A second method by which a brewer may pay the reduced rate of tax on beer is by filing a claim for tax excessively paid during the calendar year. The brewer must have been eligible to pay tax at the lower rate during the year but, instead, have paid the tax on beer at the $9.00 rate. In such cases, the brewer may file a claim for refund of tax on Form 843 with the regional regulatory administrator in the region in which his principal place of business is located, within the time limitation provided in 26 U.S.C. 6511(a). A new section, § 245.166, requires the following information in support of the claim:

(1) Name and address of the brewer.

(2) Quantity of beer covered by the claim, determined by the number of barrels of beer taxpaid at the $9.00 rate but which were eligible, within the 60,000 barrel or apportioned amount, to be taxpaid at the $7.00 rate. The brewer shall exclude the quantity of beer removed that calendar year on which credit or refund of tax of the $9.00 rate has been taken.

(3) Amount of tax paid in excess.

(4) The exact number of barrels of beer produced that calendar year.

(5) A statement as to the brewer's inclusion in a controlled group of brewers, similar to the statement made in the brewer's notice described earlier.

Claims for refund or credit of tax. Brewers filing claims for refund or credit of tax who pay the reduced rate of tax of $7.00 on beer, must establish the rate of tax paid or determined on beer which is voluntarily destroyed, returned to a brewery other than the one from which removed, or lost due to disaster or casualty. In order for a brewer to establish the rate of tax at which a particular lot of beer was taxpaid or determined, the brewer must know the exact date of removal from the brewery. In many cases, it may be impossible for the brewer to establish the date of removal of the beer or the rate of tax paid or determined. Therefore, amended sections 245.160 and 245.163 require a brewer who has paid tax on beer at the $7.00 rate during a year, to make claims for refund or credit at the $7.00 tax rate for all beer unless the brewer can establish that the beer was taxpaid at the $9.00 rate. The brewer may use shipping invoices, coding, or other methods in establishing the date of removal of beer; however, the regulations do not require that beer be so identified and the brewer may make all decreasing adjustments at the $7.00 tax rate.

Sections 245.148, 245.161, and 245.164 are amended to require a brewer making a claim for refund, credit, or remission of tax to specify the rate of tax paid or determined (or the rate of tax which would have been applicable) on beer covered by the claim. No change is made with respect to returned beer used to offset removals as provided in § 245.156.

Tax liability for brewers producing more than 2,000,000 barrels of beer in a year. Pub. L. 94-529 provides for a reduced rate of tax on beer for brewers who produce not more than 2,000,000 barrels of beer per calendar year. It is possible that a brewer, expecting to produce less than 2,000,000 barrels of beer, will file the required notice and pay beer tax at the $7.00 rate; however, that brewer may finally produce in excess of 2,000,000 barrels of beer that year. In this case, the brewer is ineligible to pay the $7.00 rate of tax on any beer removed that year. Therefore, new section 245.110d requires the brewer immediately to make an increasing tax adjustment of $2.00 for each barrel of beer on which tax was paid at the $7.00 rate that year. The brewer must make the tax adjustment not later than the return period (or prepayment return) in which he exceeds 2,000,000 barrels production, and shall include interest from the time at which the beer was taxpaid at the $7.00 rate.

Other changes. On December 1, 1976, the position of regional director was abolished and a new position, the regional regulatory administrator, was established to direct regulatory activities in each ATF region. Therefore, the definitions in § 245.5 are amended by including a definition of "regional regulatory administrator" and by cross-referencing the obsolete term "assistant regional commissioner" to mean a "regional regulatory administrator". Similar changes are made throughout the sections amended.

Numerous other changes have been made to reflect the status of the Bureau of Alcohol, Tobacco and Firearms as a Treasury bureau separate from the Internal Revenue Service. Section 245.5 is further amended by deleting obsolete definitions of "Commissioner", "regional commissioner", and "Director, Alcohol, Tobacco and Firearms Division", by adding definitions for "ATF officer", and "Director", and by updating the term "region" to specify a Bureau of Alcohol, Tobacco and Firearms region. Additionally, the term "this chapter" has been updated to reflect the recodification of the regulations in Title 27 Code of Federal Regulations.

Text of regulations. In view of the foregoing, 27 CFR Part 245 is amended to read as follows:

Paragraph 1. Section 245.5 is amended (1) by adding in alphabetical order, definitions for the terms "Director", ATF officer", and "regional regulatory administrator"; (2) by deleting the obsolete terms "Commissioner", "regional commissioner", and "Director, Alcohol, Tobacco and Firearms Division", (3) by cross-referencing the obsolete term "assistant regional commissioner" to the term "regional regulatory administrator", and (4) by updating the definitions for "region" and "this chapter."

Par. 2. A new section, § 245.110a, is added immediately following § 245.110, which sets forth the provision for the payment of tax on beer at a reduced rate of tax, and establishes criteria for eligibility of brewers to pay reduced tax.

Par. 3. A new section, § 245.110b, is added which describes the manner by which an eligible brewer may pay the reduced rate of tax on beer.

Par. 4. A new section, § 245.110c, is added which prescribes a notice to be filed by brewers eligible to pay the reduced rate of tax on beer, in order for them to pay the reduced rate by tax return, Form 2034 (5130.7).

Par. 5. A new section, § 245.110d, is added which requires brewers who have paid the reduced rate of tax on beer during a calendar year, and who produce more than 2,000,000 barrels of beer in that year, to make a tax adjustment for the additional tax due on the beer tax paid at the reduced rate of tax.

Par. 6. Section 245.117a is revised (1) by including a requirement that brewers paying the reduced rate of tax on beer indicate the cumulative number of barrels of beer paid at the lower rate on the tax return. Form 2034 (5130.7), and (2) by rewriting and redesignating the paragraphs in the section for better understanding.

Par. 7. Section 245.148 is amended (1) by changing the term "assistant regional commissioner" wherever it appears to read "regional regulatory administrator," and (2) by adding a requirement that a claim for remission of tax include the rate of tax which would have been applicable to the beer for which the claim is filed.

Par. 8. Section 245.160 is revised (1) by including a requirement that a brewer who is paying the reduced rate of beer tax may only claim refund, credit or remission of tax at the lower rate, unless he can establish that the tax on the beer being returned was paid or determined at the higher rate, and (2) by dividing the section into paragraphs.

Par. 9. Section 245.161 is amended (1) by changing the term "assistant regional

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commissioner", wherever it appears, to read "regional regulatory administrator", (2) by changing the terms "inspector" and "internal revenue officer", wherever they appear, to read "ATF officer", and (3) by adding a requirement that the brewer's notice contain a statement as to the rate of tax paid or determined on the beer.

Par. 10. Section 245.163 is amended (1) by including a requirement that a brewer who is paying the reduced rate of beer tax may only claim refund or credit of tax at the lower rate of tax, unless he can establish that the tax on the beer which was lost or rendered unmerchantable was paid or determined at the higher rate, and (2) by changing the term "assistant regional commissioner", wherever it appears, to read "regional regulatory administrator".

Par. 11. Section 245.164 is amended (1) by changing the term "assistant regional commissioner", wherever it appears, to read "regional regulatory administrator"; and (2) by adding a requirement that the claim include a statement of the rate of tax paid or determined on the beer.

Par. 12. A new section, § 245.166, is added which describes the claim procedure to be used by a brewer who was eligible to pay the tax on beer at the reduced rate of tax, but who paid the tax at the higher rate during the calendar year.

Effective date: Because the amendments made by this Treasury decision allow small brewers to take advantage of the reduced rate of tax on beer effective January 1, 1977, and because of the need for immediate guidance with respect to eligibility for payment of tax at the reduced rate, it is found it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitations of 5 U.S.C. 553(d).

Accordingly, this Treasury decision shall become effective on January 1, 1977, which is the effective date of Public Law 94–529.

Authority. This Treasury decision issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Inflation Impact. The Bureau of Alcohol, Tobacco and Firearms has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Signed: December 23, 1976.

JARVIS L. BREWER,
Assistant Director.

Approved: December 23, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

§ 245.5 Meaning of terms.

When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this subpart, as follows:

ATF officer. An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Assistant regional commissioner. Whenever used in this part shall mean a regional regulatory administrator as defined in this section.

Beer. "Beer" shall mean beer, ale, porter, stout and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

(68A Stat. 612; 26 U.S.C. 5052)

Bottle and bottling. "Bottle" shall mean a bottle, can, or similar container, and "bottling" shall mean the filling of bottles, cans, and similar containers.

Brewer. "Brewer" shall mean every person who brews or produces beer for sale.

(68A Stat. 617; 26 U.S.C. 5092)

Brewery. "Brewery" shall mean the land and buildings described as such in the brewer's notice on Form 27–C, where beer is to be produced and packaged.

(72 Stat. 1389, as amended; 26 U.S.C. 5402, 5411)

Brewing. "Brewing" shall mean the production of beer for sale.

Business day. "Business day" shall mean the 24-hour cycle of operations in effect at the brewery, which, if other than the calendar day, is subject to the approval of the assistant regional commissioner. The business day, having been once established, shall be applicable to all records and operations of the brewery, and shall not be changed without approval of the assistant regional commissioner.

Cereal beverage. "Cereal beverage" shall mean malt beverage, either fermented or unfermented, which contains, when ready for consumption, less than one-half of 1 percent of alcohol by volume.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Director of the service center. "Director of the service center" shall mean the director of the internal revenue service center in each of the internal revenue regions.

District director. "District director" shall mean a district director of internal revenue.

Executed under penalties of perjury. "Executed under penalties of perjury" shall mean signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this _____ (insert type of document such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct and complete."

Gallon. "Gallon" shall mean the liquid measure containing 231 cubic inches.

(68A Stat. 612; 26 U.S.C. 5052)

Includes and including. "Includes" and "including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

Inclusive language. Words in the plural form shall include the singular and vice versa, and words in the masculine gender shall include the feminine as well as individuals, trusts, estates, partnerships, associations, companies, corporations, and other legal entities.

I. R. C. "I. R. C." shall mean the Internal Revenue Code of 1954.

Package and packaging. "Package" shall mean a bottle, can, keg, barrel, or other original consumer container, and "packaging" shall mean the filling of any package.

(72 Stat. 1390, as amended; 26 U.S.C. 5416)

Person. "Person" shall mean and include an individual, a trust, estate, partnership, association, company, and corporation.

(68A Stat. 911; 26 U.S.C. 7701)

Region. A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

Removed for consumption or sale. "Removed for consumption or sale" (except when used with respect to beer removed without payment of tax as authorized by law) shall mean (a) the sale and transfer of possession of beer for consumption at the brewery or (b) any removal of beer from the brewery.

(72 Stat. 1333, as amended; 26 U.S.C. 5052)

Secretary. "Secretary" shall mean the Secretary of the Treasury.

This chapter. Chapter I, Title 27, Code of Federal Regulations.

U. S. C. "U. S. C." shall mean the United States Code.

[21 F.R. 8627, Nov. 9, 1956, as amended by T.D. 6384, 24 F.R. 4821, June 12, 1959; T.D. 6473, 25 F.R. 5963, June 29, 1960, as amended by T.D. 7008, 34 F.R. 3671, Mar. 1, 1969; T.D. 7113, 36 F.R. 8799, May 13, 1971; T.D. 7130, 36 F.R. 12856, July 8, 1971]

§ 245.110a Reduced rate of tax for certain brewers.

(a) *General.* Section 5051(a)(2) of Title 26 U.S.C. provides for a reduced rate of tax on the first 60,000 barrels of beer removed for consumption or sale by a brewer during a calendar year. To be eligible to pay the reduced rate of tax, a brewer must:

(1) brew or produce the beer at a qualified brewery in the United States;

(2) not produce more than 2,000,000 barrels of beer per calendar year; and

(3) not be a member of a "controlled group" of brewers whose members together produce more than 2,000,000 barrels of beer per calendar year.

(b) *Definitions.* For the purpose of determining eligibility for payment of the reduced rate of beer tax prescribed in paragraph (a) of this section, terms shall have the meaning ascribed below:

(1) *Controlled group.* A related group of brewers as defined in 26 U.S.C. 1563(a) and further modified by 26 U.S.C. 5051(a)(2)(B). Controlled groups include, but are not limited to:

(i) Parent-subsidiary controlled groups as defined in 26 CFR 1.1563–1(a)(2).

(ii) Brother-sister controlled groups as defined in 26 CFR 1.1563–1(a)(3).

(iii) Combined groups as defined in 26 CFR 1.1563–1(a)(4). Stock ownership in a corporation need not be direct and 51% constructive ownership, defined in 26 CFR 1.1563–3, may be acquired through:

(iv) An option to purchase stock;

(v) Attribution from partnerships;

(vi) Attribution from estates or trusts;

(vii) Attribution from corporations; or

(viii) Ownership by spouses, children, grandchildren, parents, and grandparents.

(2) *Production of beer.* The production of beer as recorded in the brewer's daily records and reported in the monthly report, Form 103 line 2. For the purpose of determining compliance with the 2,000,000 barrel limitation, production of beer by a brewer or a controlled group of brewers shall include both beer produced at qualified breweries within the United States and beer produced outside the United States.

(c) *Brewers operating more than one brewery.* Brewers who operate more than one brewery must include the combined production of beer at all their breweries when determining eligibility under the 2,000,000 barrel per calendar year limitation. The reduced rate of tax shall apply to the first 60,000 barrels of beer removed for consumption or sale in a calendar year by the brewer; such brewer shall apportion the 60,000 barrels among his breweries in the manner described in his notice as provided by § 245.110c(b)(3).

(d) *Controlled groups of brewers.* Members of a controlled group of brewers must include the combined production of beer by all member brewers when determining eligibility under the 2,000,000 barrel per calendar year limitation. The reduced rate of tax shall apply to the first 60,000 barrels of beer removed for consumption or sale in a calendar year by the controlled group of brewers; such controlled group of brewers shall apportion the 60,000 barrels among member brewers in the manner described in each brewer's notice as provided by § 245.110c(b)(3).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051, 5052).)

§ 245.110b Payment of reduced rate of tax.

(a) *By return, Form 2034 (5130.7).* A brewer who is eligible to pay the reduced rate of tax on beer may, upon filing the notice required by § 245.110c, pay the reduced rate of tax on beer by semimonthly return as provided in § 245.117a, or by prepayment return as provided in § 245.117c. Payment of the reduced rate of tax on beer by return, Form 2034 (5130.7), may commence with any tax return filed during a calendar year and shall continue until the brewer has taxpaid 60,000 barrels of beer at the lower rate of tax, or taxpaid the number of barrels of beer apportioned under § 245.110c(b)(3) for that calendar year.

(b) *By claim for refund of tax.* A brewer, eligible to pay the reduced rate of tax on beer during a calendar year, but who has not paid the reduced rate of tax by return during that year, may file a claim, Form 843, for refund of tax excessively paid on beer during that year. Claims for refund of tax shall be filed as provided in § 245.166.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051).)

§ 245.110c Notice of brewer to pay reduced rate of tax.

(a) *Requirement to file notice.* Every brewer who desires to pay the reduced rate of tax on beer authorized by 26 U.S.C. 5051(a)(2) by tax return, Form 2034 (5130.7), shall prepare a notice, in duplicate, containing the information required by paragraph (b) of this section. The brewer shall file the original of the notice with the copy of the tax return sent to the regional regulatory administrator for the first return period (or prepayment return) during which the brewer pays tax on beer at the reduced rate. The brewer shall retain the copy of the notice with his records. The brewer shall file the notice each year in which he pays the reduced rate of tax on beer by return.

(b) *Information to be furnished.* Each notice described in paragraph (a) of this section shall contain the following information:

(1) A statement that the brewer will not or is not likely to produce more than 2,000,000 barrels of beer in the calendar year for which the notice is filed,

(2) A statement that the brewer is not a member of a controlled group of brewers, or if the brewer is a member of a controlled group of brewers, a statement that the controlled group will not or is not likely to produce more than 2,000,000 barrels of beer in the calendar year for which the notice is filed.

(3) If the brewer operates more than one brewery, a statement of the locations of all his breweries and a statement of how the 60,000 barrel limitation for the reduced rate of tax will be apportioned among his breweries. If the brewer is a member of a controlled group of brewers, a statement of the names and locations of all other brewers in the group and a statement of how the 60,000 barrel limitation will be apportioned among the brewers in the group.

(c) *Foreign brewer's production statement.* Each brewer who operates foreign breweries, or each brewer who is a member of a controlled group of brewers which has one or more foreign members, and who has paid the reduced rate of tax by return during a calendar year, shall prepare an additional notice, in duplicate. The brewer shall list all breweries which he operates, or all member brewers in the controlled group of brewers, and shall state their combined production (in barrels of 31 U.S. gallons) for the calendar year in which the brewer paid tax at the reduced rate. The brewer shall file the original copy of the notice with the regional regulatory administrator together with the tax return, Form 2034 (5130.7), covering the last return period in the calendar year. The brewer shall retain the copy of the notice with his records.

(d) *Perjury statement.* Each notice described in this section shall be executed by the brewer under penalties of perjury as required by § 245.231.

(Pub. L. 85–591, 68A Stat. 749 (26 U.S.C. 6065); Sec. 201, Pub. L. 85–859, 72 Stat. 1390, 1395 (26 U.S.C. 5415, 5555).)

§ 245.110d Tax liability for brewers who produce more than 2,000,000 barrels of beer.

Each brewer who has paid tax on beer by return, Form 2034 (5130.7), at the reduced rate of tax during a calendar year, but whose production (or the production of a controlled group of brewers of which the brewer is a member) exceeds 2,000,000 barrels of beer in that calendar year, shall no longer be eligible to pay tax on beer at the reduced rate of tax for any beer removed that calendar year for consumption or sale. Such brewer shall make a tax adjustment for the payment of additional tax no later than the return period in which his production (or the production of a controlled group of brewers of which the brewer is a member) exceeds 2,000,000 barrels of beer. The adjustment shall be determined by multiplying the difference between the higher and lower rates of tax applicable to beer by the number of barrels removed by the brewer that year at the reduced rate of tax. The brewer shall make tax adjustments for all breweries where he paid tax at the lower rate that year, and shall include interest payable from the date on which tax was paid at the lower rate. In the case of a controlled group of brewers whose production exceeds 2,000,000 barrels of beer, all member brewers who paid tax at the lower rate shall make tax adjustments as determined in this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051).)

§ 245.117a Semimonthly return.

(a) *Requirement for filing.* Each brewer shall pay the tax on beer (unless prepaid) by semimonthly return on Form 2034 (5130.7). The brewer shall file a Form 2034 (5130.7) as a semimonthly return regardless of whether tax has been prepaid as provided in § 245.117c during the return period. The brewer shall file a return, Form 2034 (5130.7), for each return period even

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though no beer was removed for consumption or sale.

(b) *Payment of tax.* The brewer shall include for payment with his return, the full amount of tax required to be determined (and which has not been prepaid) on all beer removed for consumption or sale during the period covered by the return. Prepayments made by the brewer during the semimonthly period shall be separately stated on the return.

(c) *Information to be furnished.* The brewer shall state on the return the quantities of keg and bottled beer removed daily for consumption or sale during the period covered by the return, and the total quantities removed during the period. In the case of a brewer who has filed the notice required by § 245.110c and is paying the tax on beer at a reduced rate, the brewer shall state the cumulative number of barrels of beer removed for consumption or sale during the calendar year at the reduced rate of tax.

(d) *Return periods.* Return periods shall run from the brewer's business day beginning on the first day of each month through the brewer's business day beginning on the 15th day of that month, and from the brewer's business day beginning on the 16th day of the month through the brewer's business day beginning on the last day of the month.

(e) *Time for filing returns and paying tax.* The brewer shall file the semimonthly tax return, Form 2034 (5130.7), for each return period, with remittance, not later than the last full calendar day of the return period next succeeding that period.

(f) *Timely filing.* (1) When the Brewer sends the semimonthly return and remittance to the office of the district director by U.S. mail, the date of the official postmark of the United States Postal Service stamped on the cover in which the return and remittance were mailed shall be considered the date of delivery of such return and remittance. When the postmark on the cover is illegible, the burden of proving when the postmark was made shall be on the brewer.

(2) When the return and remittance are sent by registered mail, the date of registry or, when the return and remittance are sent by certified mail, the date of the postmark on the sender's receipt, shall be treated as the postmark date of the return and remittance.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335 (26 U.S.C. 5061).)

§ 245.148 Claims for remission of tax.

Claims for remission of tax on beer lost in transit between breweries of the same ownership shall be prepared on Form 2635 by the brewer or his duly authorized agent and submitted with Form 103 of the receiving brewery for the month in which the shipment is received. Where the loss is by casualty, the claim shall be submitted with the Form 103 for the month in which the loss is discovered. Where, for valid reason, the required claim cannot be submitted with such report, a statement shall be attached to the monthly report setting forth the reason why the claim cannot be filed at that time and specifying when it will be filed. No claim shall be allowed unless filed with the regional regulatory administrator within 6 months after the date of loss. The claim shall set out:

(a) The date and serial number of the shipment (as shown on the transfer paper).

(b) The quantity of beer lost (number and size of packages and their equivalent in barrels), and the rate of tax at which the beer would have been removed for consumption or sale.

(c) The percent of loss.

(d) The specific cause of the loss.

(e) The nature of the loss (leakage, breakage, casualty, etc.).

(f) Full information as to whether the claimant has been indemnified by insurance or otherwise in respect of the tax or has any claim for indemnification. Full details shall be furnished on losses due to casualty or accident, supported if possible, by statements of the carrier or other parties having personal knowledge of the loss.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended, 1389 (26 U.S.C. 5056, 5414).)
[T.D. 6473, 25 F.R. 5964, June 29, 1960]

§ 245.160 Refund or credit of tax on returned beer.

(a) *Refund, credit or relief of tax.* The tax paid by a brewer on beer produced in the United States and returned to any brewery of the brewer may be refunded or credited to him (without interest) or, if the tax has not been paid, he may be relieved of liability therefor. Similar refund, credit, or relief may be allowed the brewer in respect of the tax paid or determined on beer voluntarily destroyed as provided in this subpart.

(b) *Returns used to offset removals.* No refund, credit, or relief from tax shall be allowed on beer returned to the brewery for which an offset against, or deduction from, removals has been taken as provided in § 245.116.

(c) *Rate of tax.* Brewers who have filed the notice required by § 245.110c and who have paid the tax on beer at the reduced rate of tax shall make claims for refund, credit, or relief based upon the lower rate of tax. However, any such brewer may make claim for refund, credit, or relief of tax based on the higher rate of tax if the brewer can establish to the satisfaction of the regional regulatory administrator that he paid or determined the tax on the beer at the higher rate of tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056).)

§ 245.161 Notice of brewer.

(a) *Beer to be destroyed.* When a brewer possesses beer on which he has paid or determined the tax and which he desires to destroy elsewhere than in any of his breweries, he shall give written notice of his intention, in triplicate, to the regional regulatory administrator of the region in which the beer is to be destroyed: *Provided,* That such notice may be submitted directly to an ATF officer at any of his breweries if the place of destruction and the brewery are in the same region. The notice, which shall be serially numbered, shall be executed under penalties of perjury as defined in § 245.5. The notice shall specify the date on which the beer is to be destroyed, which date shall not be less than 12 days from the date of the notice. If, before the date specified in the notice, an ATF officer has not supervised destruction of the beer, or the regional regulatory administrator has not advised the brewer to the contrary, the brewer may destroy the beer on the date and in the manner stated in the notice. Where the notice is given to an ATF officer at the brewery, the ATF officer may supervise the transaction or transmit the notice to the regional regulatory administrator. The notice shall contain the following information:

(1) The number and sizes of kegs and the actual quantity of beer contained therein expressed in barrels; or the number of cases, the number and size in ounces of the bottles comprising the cases, and the actual quantity of beer contained therein expressed in barrels. (The burden of proof of establishing the correct quantity of beer is on the brewer and where kegs or cases containing less than the original contents are involved, the actual quantity of beer shall be determined by weight unless the regional regulatory administrator has authorized the use of another method.)

(2) The date on which the beer was received for destruction.

(3) A statement that the tax on the beer has been fully paid or determined and the rate at which the tax on the beer was paid or determined.

(4) If the title to the beer has passed, the name and address of the person returning the beer.

(5) The location at which the brewer desires to accomplish destruction and the reason for not returning the beer to the brewery.

(b) *Additional notice requirements.* The regional regulatory administrator may, where he deems it necessary, require a brewer who desires to return beer on which he has paid or determined the tax to any of his breweries other than the brewery from which removed, to give written notice in the same manner as is required by paragraph (a) of this section with respect to beer which is to be destroyed elsewhere than in any of his breweries.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 245.163 Beer lost by fire, theft, casualty, or act of God.

(a) *General.* In accordance with the provisions of this part the tax paid by any brewer on beer produced in the United States may be refunded or credited (without interest) or, if the tax has not been paid, the brewer may be relieved of liability therefor if, before transfer of title thereto to any other person, such beer is lost, whether by theft or otherwise, or is destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God. In any case in which beer is rendered unmerchantable by fire, casualty, or act of God, refund or credit, or relief from liability of tax shall not be allowed unless the brewer proves to the satisfaction of the regional regulatory administrator that such beer cannot be salvaged and returned to the market for consumption or sale. In any case in which beer is lost or destroyed, whether by theft or otherwise, the regional regulatory administrator may require the brewer to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the tax shall be collected unless the brewer proves to the satisfaction of the regional regulatory administrator that such theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(b) *Claims.* A brewer who sustains a loss of beer before transfer of title thereto to another person and desires to file a claim for refund or credit, or for relief from liability of tax, shall, on learning of such loss, immediately notify the regional regulatory administrator of the region in which the loss occurred of the nature, cause, and extent of the loss, and the place where such loss occurred. Statements of witnesses or other supporting documents should be furnished, if available. When such notice, and supporting documents where furnished, are received by the regional regulatory administrator, he will examine the reasons for the described loss and will cause such investigation to be made or require such additional evidence to be submitted as he may deem necessary for use in connection with the claim when it is submitted. The tax liability on excessive losses of beer from transfers between breweries of the same ownership may be remitted as provided in § 245.143.

(c) *Rate of tax.* Brewers who have filed the notice required by § 245.110c and who have paid the tax on beer at the reduced rate of tax shall make claims for refund, credit, or relief of tax based upon the lower rate of tax. However, any such brewer may make claim for refund, credit, or relief of tax based upon the higher rate of tax if the brewer can establish to the satisfaction of the regional regulatory administrator that he paid or determined the tax on the beer at the higher rate of tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 245.164 Claims for refund of tax.

Claims for refund of tax shall be filed on Form 843. Such claims, if for refund of tax on beer returned to a brewery of the brewer or voluntarily destroyed at a location other than the brewery, shall show (a) the name and address of the brewer filing the claim, the address of the brewery from which the beer was removed, and the address of the brewery to which the beer was returned, as applicable, (b) the quantity of beer covered by the claim and the rate(s) of tax at which the beer was tax paid or determined, (c) the amount of tax for which the claim is filed, (d) the reason for return or voluntary destruction of the beer and the facts relating thereto, (e) whether the brewer is indemnified by insurance or otherwise in respect of the tax, and, if so, the nature of such indemnification, (f) the claimant's reasons for believing that the claim should be allowed, and (g) the date on which the beer was returned to the brewery (where applicable), the name of the person from whom the beer was received, and a statement that the tax has been fully paid or determined. If the claim is for refund of tax on beer lost, whether by theft or otherwise, or destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God, it shall contain the information specified in paragraphs (a), (b), (c), (e), and (f) of this section, and a statement of the circumstances surrounding the loss, and, where applicable, the reason that the beer rendered unmerchantable cannot be salvaged and returned to the market for consumption or sale. The claim shall also show the date of the loss, and, if lost in transit, the name of the carrier. Notices required under § § 245.161 and 245.163 shall be incorporated, by reference, in claims. Claims covering losses shall be supported, whenever possible, by affidavits of persons having knowledge of the loss, unless such affidavits are contained in the notice given under § 245.163. The regional regulatory administrator may require the submission of additional evidence in support of any claim filed under this section when deemed necessary for proper action on the claim. Any claim on Form 843 shall be filed with the regional regulatory administrator of the region in which the beer was returned, lost, destroyed, or rendered unmerchantable, within 6 months after the date of such return, loss, destruction, or rendering unmerchantable. Such claims will not be allowed if filed after the prescribed time or if the claimant was indemnified by insurance or otherwise in respect of the tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 245.166 Refund of beer tax excessively paid.

(a) *Eligibility.* A brewer who, under the provisions of § 245.110a, is eligible to pay the reduced rate of tax on beer prescribed by 26 U.S.C. 5051(a)(2), but who did not pay tax at the reduced rate by return, Form 2034 (5130.7), during the calendar year for which the brewer was eligible, may file a claim for refund of tax excessively paid on beer for that year. The brewer shall file the claim for refund of tax on Form 843 with the regional regulatory administrator in the region in which the brewer's principal place of business is located, within the period of limitation prescribed in 26 U.S.C. 6511(a). For rules relating to the period of limitation on filing claims, see 26 CFR 301.6511 (a)-1 and 301.6511 (b)-1.

(b) *Calculation of refund.* The brewer shall file the claim based on the quantity of beer eligible to be taxpaid at the lower rate of tax, but which was paid at the higher rate of tax, subject to a maximum of 60,000 barrels of beer per calendar year or the limitation as determined in § 245.110a(d). The brewer shall exclude from the claim the quantity of beer removed that calendar year on which a credit or refund at the higher rate of tax has been taken.

(c) *Information to be furnished.* Each claim for refund of tax filed under this section shall include the following information:

(1) Name and address of the brewer.

(2) Quantity of beer covered by the claim as determined in paragraph (b) of this section.

(3) Amount of tax paid in excess.

(4) A statement of the exact number of barrels of beer which the brewer produced during the calendar year.

(5) A statement that the brewer is not a member of a controlled group of brewers (as defined in § 245.110a(b)(1)) or, if the brewer is a member of a controlled group of brewers, a list of the names and addresses of all the members of the controlled group of brewers and a statement of the combined number of barrels of beer produced by all members of the controlled group in the calendar year.

(6) If the brewer is a member of a controlled group of brewers, a statement of how the 60,000 barrel limitation for the reduced rate of tax is to be apportioned among the members of the controlled group of brewers.

(Pub. L. 83-591, 68A Stat. 791 (26 U.S.C. 6402); Sec. 201, Pub. L. 85-859, 72 Stat. 1333, as amended (26 U.S.C. 5061))

[FR Doc.76-38271 Filed 12-29-76;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JJUSTICE

[Order No. 676-76]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Appendix to Subpart Q—Confinement of Persons in District of Columbia Correctional Institutions

REVISION OF FURLOUGH AUTHORITY OF THE DISTRICT OF COLUMBIA

This Order revises the terms of the current delegation of authority made by the Attorney General to the Mayor of the District of Columbia concerning extension of the limits of confinement for certain prisoners. The current delegation was made in Attorney General Orders No. 612-75, 40 FR 30977 (July 24, 1975), and 636-76, 41 FR 3289 (Jan. 22, 1976). It is now codified at 28 CFR Part 0 Appendix to Subpart Q.

The current delegation authorizes the Mayor or his authorized representative to extend the limits of confinement of prisoners in his custody for the purposes

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specified, and within the limits established, by the Act of September 10, 1965 (18 U.S.C. 4082). With respect to a prisoner convicted of a crime of violence who is not within six months of a firm release date, the current delegation provides that an extension shall be granted only in exceptional circumstances, with the personal written approval of the Director of the District of Columbia Department of Corrections, and following prior notice of the proposed extension to the Mayor.

Federal officials with responsibility for various aspects of the criminal justice system in the District of Columbia have expressed concern over the operation of the Department of Corrections' furlough program under the foregoing delegation. This Department's investigation, conducted with the cooperation of the Mayor and District officials, disclosed that in a few cases the standards required by the delegation had not been observed, and that in many cases the Department of Corrections' interpretation of the terms "firm release date" and "exceptional circumstances" was out of accord with the criteria which the delegation intended to apply. As a result, a relatively large number of persons convicted of serious crimes of violence have been released daily into the community, without supervision, long before they were eligible for parole and long before they had served their minimum sentences of confinement. The situation has now been substantially corrected, but the inadequacies of the existing delegation which would permit it to recur must be eliminated.

This revised delegation has been adopted after extensive consideration of existing furlough policies and discussions with District of Columbia officials. It has the effect of extending—beyond what the current delegation, properly interpreted, would permit—the period prior to release or parole within which a prisoner convicted for a crime of violence can normally be furloughed; but of eliminating entirely any "exceptional circumstances" furloughs for such prisoners prior to that period. It also provides for annual reports to the Department of Justice concerning furloughs of prisoners convicted of crimes of violence, and adds to the list of offenses which come within the definition of "crimes of violence," extortion with threat or use of violence to person.

The premature release of violent criminals from prison poses grave risks to life and safety, and disrupts the equity of sentencing by the courts of the United States. For these reasons, the change effected by this Order should be implemented at once. The same disposition is suggested by the fact that prisoners who are continued on furlough during a period in which it is known this change is being proposed for adoption may have reduced incentive to return. I therefore find it impracticable and contrary to the public interest to stay the effective date of this Order or to provide for a period of notice and public comment before it is adopted, and I direct that this Order shall take effect immediately.

Written comments will be received and considered in determining whether further action is necessary or desirable. Such comments should be addressed to the Assistant Attorney General, Office of Legal Counsel, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. Comments should be submitted by the thirtieth day following the date of publication of this Order. No oral hearings are contemplated.

By virtue of the authority vested in me by the Act of September 1, 1916, 39 Stat. 711 (D.C. Code section 24–402), by Section 11 of the Act of July 15, 1932, as added by the Act of June 6, 1940, 54 Stat. 244 (D.C. Code section 24–425), and by the Act of September 10, 1965 (18 U.S.C. 4082), it is ordered that:

(1) Paragraph (b) of 28 CFR Part O, Appendix to Subpart Q, is revised to read as follows:

Appendix to Subpart Q

CONFINEMENT OF PERSONS IN DISTRICT OF COLUMBIA CORRECTIONAL INSTITUTIONS

* * * * *

(b) The authority conferred by subsection (a) shall not include any extension of the limits of confinement for any prisoner serving a sentence for a crime of violence and not participating in a furlough program as of December 22, 1976, unless such prisoner has served at least twelve months, has not been denied parole, without recommendation for furlough, at his most recent parole hearing (whether such hearing was held before or after extension of the limits of his confinement was granted), and

(1) Is within twelve months of the expiration of his maximum sentence, without reduction, or

(2) Is within twelve months of a date on which he will be eligible for parole from confinement, or

(3) Has served at least ninety percent of his minimum sentence, without reduction.

By October 15 of each year, there shall be submitted to the Deputy Attorney General a report concerning each prisoner serving a sentence for a crime of violence whose limits of confinement have been extended during the twelve-month period ending the preceding September 30, indicating the offense and term for which, and the court by which, the prisoner was sentenced with respect to his present confinement; all other criminal offenses of which the prisoner has been convicted; the date, duration and purpose of each extension of the limits of his confinement; all parole board actions with respect to the prisoner; and all infractions of the terms of extension, violations of prison rules, or criminal offenses with which the prisoner has been officially charged since the beginning of his confinement.

(2) Paragraph (d) of 28 CFR Part O, Appendix to Subpart Q, is amended by deleting the word "or" and inserting after the words "assault with intent to rob," the following:

, or extortion involving the threat or use of violence to person.

(3) This Order is effective immediately.

Dated: December 23, 1976.

EDWARD H. LEVI,
Attorney General.

[FR Doc.76-38243 Filed 12-29-76;8:45 am]

[Order No. 675–76]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Director, Bureau of Prisons; Authority to Promulgate Rules

This order adds to the list of specific authorities delegated to the Director of the Bureau of Prisons the authority to promulgate rules governing the control and management of Federal penal and correctional institutions and providing for the classification, government, discipline, treatment, care, rehabilitation, and reformation of inmates.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, § 0.96 of Subpart Q of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following paragraph (t) at the end thereof:

§ 0.96 Delegations.

* * * * *

(t) Promulgating rules governing the control and management of Federal penal and correctional institutions and providing for the classification, government, discipline, treatment, care, rehabilitation; and reformation of inmates confined therein.

(18 U.S.C. 4001(b)(1) and (2)).

Dated: December 21, 1976.

EDWARD H. LEVI,
Attorney General.

[FR Doc.76-38333 Filed 12-29-76;8:45 am]

Title 32—National Defense

CHAPTER XVI—SELECTIVE SERVICE SYSTEM

PART 1611—DUTY AND RESPONSIBILITY TO REGISTER

PART 1631—ALLOCATION OF INDUCTIONS

Procedural Amendments

Whereas, on November 23, 1976, the Director of Selective Service published a notice of proposed amendments of Selective Service Regulations, 41 FR 51618 of November 23, 1976; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than thirty days have elapsed subsequent to such publication during which period no comment from the public has been received; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has

timely requested that the matter be referred to the President for decision.

The proposed revision of Part 1611 would eliminate obsolete language and the provisions for voluntary registration of certain persons and the special arrangements for registration of inmates of institutions.

The proposed revision of § 1631.1 would eliminate the requirements that the lottery to establish the random sequence for induction be conducted once each year in Washington, D.C.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective upon publication in the FEDERAL REGISTER, as follows:

Part 1611, *Duty and Responsibility to Register*, is amended to read as follows:

Sec.
1611.1 Persons required to register.
1611.2 Persons not required to register.
1611.3 Time of registration.
1611.4 Place of registration.

AUTHORITY: Military Selective Service Act, as amended (50 App. U.S.C. 451 et seq.).

§ 1611.1 Persons required to register.

Except as otherwise provided by the provisions of § 1611.2, it shall be the duty of each male citizen of the United States who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 26th anniversary of the day of his birth to present himself for and submit to registration under the provisions of the Military Selective Service Act.

§ 1611.2 Persons not required to register.

Persons in the following categories are not required to register under the Military Selective Service Act:

(a) Any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status, in the United States; and

(b) Any person described in section 6 of the Military Selective Service Act as not being required to register.

§ 1611.3 Time of registration.

Persons required to register shall present themselves for and submit to registration on a day prescribed by the President.

§ 1611.4 Place of registration.

(a) Persons required to register shall present themselves for and submit to registration at the places indicated:

(1) Citizens of the United States shall present themselves for registration before a duly designated registration official in the area in which they have their permanent home or in which they may happen to be or before a diplomatic or consular officer of the United States who is a citizen of the United States or any other person who may be designated by the Director of Selective Service as registrar; and

(2) Persons residing in the United States other than citizens of the United States shall present themselves for registration before a duly designated registration official.

(b) The Director may authorize the registration of persons without their appearing before the officials specified in paragraph (a) of this section. Procedures authorized under this paragraph shall be uniform throughout the state(s) in which they apply.

Section 1631.1, *Random selection sequence for induction*, is amended to read as follows:

§ 1631.1 Random selection sequence for induction.

The Director of Selective Service shall establish a random selection sequence for induction. Such random selection sequence will be established by a drawing to be conducted in the place and, on a date the Director shall fix, and shall be applied nationwide. The random selection method shall use 365 days, or, when appropriate, 366 days to represent the birthdays (month and day only) of all registrants who, during the specified calendar year(s) attained their 18th year of age. The drawing commencing with the first day selected and continuing until all 365 days or, when appropriate, 366 days are drawn, shall be accomplished impartially. The random selection sequence thus obtained shall, in accordance with the Selective Service Regulations, determine the order of selection of such registrants. The random sequence number thus determined for any registrant shall apply to him so long as he remains subject to induction for military training and service by random selection. A random sequence number established for a registrant shall be equivalent, for purposes of selection, to the same random sequence established for other registrants in other drawings, including the drawings of December 1, 1969, and July 1, 1970, and the random selection sequences obtained in those drawings shall continue to determine the order of selection of the registrants covered thereby in accordance with the Selective Service Regulations. Selection among registrants who have the same random sequence number shall be based upon the supplemental drawing conducted December 1, 1969, which determined alphabetically a random selection sequence by name.

BYRON V. PEPITONE,
Director.

DECEMBER 27, 1976.

[FR Doc.76-38244 Filed 12-29-76;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

LIBERALIZATION OF PENSION BENEFITS

On page 49838 of the FEDERAL REGISTER of November 11, 1976, there was published a notice of proposed regulatory changes to 38 CFR Part 3 to implement provisions of Public Law 94–432 (90 Stat. 1369), which liberalizes pension benefits.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These VA regulations are effective January 1, 1977.

Approved: December 22, 1976.

By direction of the Administrator.

A. J. SCHULTZ, JR.,
Associate Deputy Administrator.

1. In § 3.3, paragraph (c)(3) is revised to read as follows:

§ 3.3 Pension.

* * * * *

(c) *Disability pension: Mexican border period, and later war periods.* Basic entitlement exists if the veteran:

* * * * *

(3) Is permanently and totally disabled from non-service-connected disability not due to his (or her) own willful misconduct or vicious habits, or by reason of having attained the age of 65 years, or by reason of having become unemployable after age 65. (38 U.S.C. 502, 521)

* * * * *

2. In § 3.252, paragraph (f) is added to read as follows:

§ 3.252 Annual income; pension; Mexican border period and later war periods.

* * * * *

(f) *Income over maximum; reduced aid and attendance allowance.* Beginning January 1, 1977, veterans in need of regular aid and attendance who are not receiving pension because their income exceeds the applicable statutory limitation may be eligible for a reduced aid and attendance allowance. The amount payable is the regular aid and attendance allowance authorized by 38 U.S.C. 521(d)(1) reduced by 16.6 percent for each $100, or portion thereof, by which the veteran's annual income exceeds the applicable maximum income limitation. The reduced aid and attendance allowance is payable when:

(1) A veteran in need of regular aid and attendance is denied pension under 38 U.S.C. 521 solely because the veteran's annual income exceeds the applicable maximum income limitation in 38 U.S.C. 521 (b)(3) and (c)(3); or

(2) Pension payable under 38 U.S.C. 521 to a veteran in need of regular aid and attendance is discontinued solely because the veteran's annual income exceeds the applicable maximum income limitation in 38 U.S.C. 521 (b)(3) or (c)(3); and

(3) The veteran's annual income exceeds the applicable maximum income limitation in 38 U.S.C. 521 (b)(3) or (c)

for Haverhill Paperboard Corporation to

(FRL 665–1)

this part from sources located or to be

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(3) by an amount not greater than the amount specified in 38 U.S.C. 521(d)(2).

CROSS REFERENCES: Basic pension determinations. See § 3.314.

Determination of permanent need for regular aid and attendance and "permanently bedridden". See § 3.352.

3. In § 3.314, paragraph (b)(2) is revised to read as follows:

§ 3.314 Basic pension determinations.

* * * * *

(b) *Mexican border period and later war periods.* * * *

(2) Determinations of permanent total disability for pension purposes will be based on non-service-connected disability or combined non-service-connected and service-connected disabilities not the result of willful misconduct or vicious habits. However, for pension under Pub. L. 86–211 (73 Stat. 432), permanent and total disability will be presumed where the veteran has attained age 65 or effective January 1, 1977, where the veteran became unemployable after age 65. (38 U.S.C. 502(a); 523(a))

* * * * *

4. In § 3.401, paragraph (i) is added to read as follows:

§ 3.401 Veterans.

Awards of pension or compensation payable to or for a veteran will be effective as follows:

* * * * *

(i) *Increased disability pension based on attainment of age 78.* First day of the month during which veteran attains age 78.

5. In § 3.552, paragraph (j) is added to read as follows:

§ 3.552 Adjustment of allowance for regular aid and attendance.

* * * * *

(j) The aid and attendance allowance authorized by § 3.252(f) is subject to reduction for hospitalization under the provisions of this section in the same manner as the regular aid and attendance allowance (38 U.S.C. 521). No hospital adjustment in the reduced aid and attendance allowance will be made when it is equal to or less than the rate authorized by § 3.351(d).

[FR Doc.76-38343 Filed 12-29-76;8:45 am]

Title 40—Protection of Environment

[FRL 659-4]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Maryland State Implementation Plan, Approval of Revisions; Correction Notice

On March 2, 1976 (41 FR 8956), the Administrator of the Environmental Protection Agency amended the Identification of Plan sections for each subpart of 40 CFR Part 52. The amendment delineates a revised format which provides for a more detailed explanation of each approved revision submitted by the respective jurisdictions rather than merely listing the submittal dates of a State Implementation Plan (SIP) revision request.

On June 30, 1976 (41 FR 26901), EPA approved a revision of the Maryland SIP. The revision consisted of an amendment in Section .04J of Maryland Regulations 10.03.38 and 10.03.39, pertaining to control of evaporative emissions from gasoline facilities (vapor recovery, Stage I), and submitted by the State of Maryland on April 24, 1974 as amended on July 1, 1975. Accordingly, EPA amended 40 CFR Section 52.1070 by adding Paragraph (c)(16) to reflect the Administrator's limited approval.

On March 1, 1976 (41 FR 8769), EPA approved as a revision of the Maryland SIP an amendment in Sections .04B(1) and .04B(2) of Maryland Regulations 10.03.37, 10.03.40 and 10.03.41 pertaining to the allowable sulfur content in fuel and submitted by the State on July 1, 1975. Accordingly, Paragraph (c)(4) of 40 CFR § 52.1070 was amended to indicate that supplemental information to the approved Maryland SIP had also been submitted on July 1, 1975. Because this approval notice was published prior to the March 2, 1976 format change to 40 CFR 52.1070, EPA subsequently prepared a correction notice to incorporate the March 1, 1976 approval action into the new format. This notice was published on July 29, 1976 (41 FR 31574), but the description of the approved amendments was erroneously listed under 40 CFR 52.1070(c)(16).

In order to alleviate any confusion concerning EPA's recent actions with respect to the approval of revisions of the Maryland SIP, the Administrator hereby redesignates 40 CFR 52.1070(c)(16), promulgated on July 29, 1976 as 40 CFR 52.1070(c)(17). Accordingly, the amended paragraphs of 40 CFR 52.1070 reflecting the Administrator's approval actions of March 1, 1976 (as corrected on July 29, 1976) and June 30, 1976 are listed below.

(Authority: 42 U.S.C. 1857c-5)

Dated: Deeember 23, 1976.

JOHN QUARLES,
Acting Administrator.

1. Part 52 of Title 40, Code of Federal Regulations Subpart v Maryland, is amended as follows: in § 52.1070, Paragraphs (c)(16) and (c)(17) are amended as follows:

§ 52.1070 Identification of plans.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(16) Amendment to Sections .04J(1) and .04J(2) of Maryland Regulations 10.03.38 and 10.03.39 (vapor recovery, Stage I); submitted on April 24, 1974, and amended on July 1, 1975 by the Governor.

(17) Amendment to Sections .04B(1) and .04B(2) of Maryland Regulations 10.03.37, 10.03.40 and 10.03.41 (allowable sulfur content in fuel); submitted on July 1, 1975 by the Governor.

[FR Doc.76-38385 Filed 12-29-76;8:45 am]

[FRL 662-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts Revision

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with exceptions, the Massachusetts Implementation Plan for the attainment of national ambient air quality standards.

On June 4, 1976, the Secretary of Environmental Affairs completed submission of a revision to the Massachusetts Implementation Plan which would allow fuel burning sources in the Merrimack Valley Air Pollution Control District (MVAPCD) to burn a higher sulfur content fuel oil. The MVAPCD is the same geographic area as the Massachusetts portion of the Merrimack Valley-Southern New Hampshire Interstate Air Quality Control Region (AQCR). All residual fuel oil users in the District would be allowed to convert to fuel oil of up to 2.2 percent sulfur content by weight, except that residual fuel oil users in the City of Lawrence and the Towns of Andover, Methuen, and North Andover, and the Haverhill Paperboard Corporation in Haverhill, would remain constrained to 1 percent sulfur content fuel oil. Also, use of higher sulfur content fuel oil by fossil fuel utilization facilities of over 100×10^6 Btu/hr heat input would be contingent upon application for and receipt of written approval from the Department of Environmental Quality Engineering (the Department).

On September 20, 1976 the Regional Administrator published a notice of proposed rulemaking in the FEDERAL REGISTER (41 FR 40502), indicating that he was considering disapproval of the revision on the basis of calculations which predicted potential exceedences of the 24-hour National Ambient Air Quality Standards (NAAQS) for sulfur oxides in the Merrimack Valley Air Pollution Control District. He requested additional data or technical information and invited public comment on any pertinent issues related to the proposal.

During the 30-day comment period, the Department submitted additional data in response to the major concerns outlined in the Regional Administrator's notice. In reviewing the Department's submittal, EPA developed further information which shows the 24-hour sulfur oxide standards would not be violated in Lowell. Also, the Department's submittal included calculations which indicate that the impact of the proposed revision would not cause standards violations in the City of Lawrence.

Comments were also received from the Haverhill Paperboard Corporation, Haverhill, Massachusetts, which recommended approving the revision as submitted but also to include an approval for Haverhill Paperboard Corporation to burn the higher sulfur fuel oil. No new information was provided which would show conclusively that the source would not cause a violation of the NAAQS, and therefore the Haverhill Paperboard Corporation cannot be approved at this time to burn higher sulfur content fuel. However, if the Department submits new information which demonstrates that Haverhill Paperboard Corporation could burn higher sulfur content fuel and not violate the NAAQS, the Regional Administrator will publish a Notice of Proposed Rulemaking in the FEDERAL REGISTER to solicit comments before a final determination is made.

After these further evaluations, the Administrator has determined that the proposed revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved and promulgated as a revision to the Massachusetts Implementation Plan.

The revision becomes effective January 31, 1977.

AUTHORITY: Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. § 1857c-5(a).

Date: December 23, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

§ 52.1120 [Amended]

(1) In § 52.1120 paragraph (c) is hereby amended by inserting the phrase "A revision to Regulation 5.1, Sulfur Content of Fuels and Control Thereof, for the Merrimack Valley Air Pollution Control District, submitted on June 4, 1976 by the Secretary of Environmental Affairs" in the proper chronological order.

(2) Section 51.1126 is hereby amended by adding a new paragraph (e) to read as follows:

§ 52.1126 Control strategy: Sulfur oxides.

* * * * *

(e) Massachusetts Regulation 5.1 for the Merrimack Valley Air Pollution Control District, excluding the City of Lawrence and the Towns of Andover, Methuen, and North Andover, submitted on June 4, 1976, is approved except as to the following source which remains subject to the previously approved requirements of Regulation 5 which stipulate that sources are permitted to burn residual fuel oil having a sulfur content not in excess of 0.55 lb. per million Btu heat release potential (approximately equivalent to 1 percent sulfur content by weight):

Haverhill Paperboard Corporation.
Haverhill, Massachusetts.

[FR Doc.76-38386 Filed 12-29-76;8:45 am]

(FRL 665-1)

SUBCHAPTER C—AIR PROGRAMS

DELEGATION OF AUTHORITY—NEW SOURCE REVIEW

Delegation of Authority to the State of North Carolina

The amendments below institute certain address changes for reports and applications required from operators of new sources. EPA has delegated to the State of North Carolina authority to review new and modified sources. The delegated authority includes the reviews under 40 CFR Part 52 for the prevention of significant deterioration. It also includes the reviews under 40 CFR Part 60 for the standards of performance for new stationary sources and reviews under 40 CFR Part 61 for national emission standards for hazardous air pollutants.

A notice announcing the delegation of authority is published elsewhere in this issue of the FEDERAL REGISTER. These amendments provide that all reports, requests, applications, submittals, and communications previously required for the delegated reviews will now be sent instead to the North Carolina Environmental Management Commission, Department of Natural and Economic Resources, Division of Environmental Management, P.O. Box 27687, Raleigh, North Carolina 27611. Attention: Air Quality Section, instead of EPA's Region IV.

The Regional Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on November 24, 1976, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal regulations.

This rulemaking is effective immediately, and is issued under the authority of Sections 101, 110, 111, 112, and 301 of the Clean Air Act, as amended, 42 U.S.C. 1857, 1857c-5, 6, 7 and 1857g.

Dated: December 21, 1976.

JOHN A. LITTLE,
Deputy Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. Part 52 of Chapter I, Title 40, Code of Federal Regulations, Subpart II—North Carolina, is amended as follows: § 52.1778 is amended by adding a new paragraph (c) as follows:

§ 52.1778 Significant deterioration of air quality.

* * * * *

(c) All applications and other information required pursuant to § 52.21 of this part from sources located or to be located in the State of North Carolina shall be submitted to the North Carolina Environmental Management Commission, Department of Natural and Economic Resources, Division of Environmental Management, P.O. Box 27687, Raleigh, North Carolina 27611. Attention: Air Quality Section, instead of the EPA Region IV office.

* * * * *

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

2. Part 60 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows: In § 60.4, paragraph (b) is amended by revising subparagraph (II) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(A)–(HH) * * *

(II) North Carolina Environmental Management Commission, Department of Natural and Economic Resources, Division of Environmental Management, P.O. Box 27687, Raleigh, North Carolina 27611. Attention: Air Quality Section.

* * * * *

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

3. Part 61 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows: In § 61.04, paragraph (b) is amended by revising subparagraph (II) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(A)–(HH) * * *

(II) North Carolina Environmental Management Commission, Department of Natural and Economic Resources, Division of Environmental Management, P.O. Box 27687, Raleigh, North Carolina 27611. Attention: Air Quality Section.

* * * * *

[FR Doc.76-38387 Filed 12-29-76;8:45 am]

SUBCHAPTER C—AIR PROGRAMS

[FRL 664-3]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to State of Nebraska

Pursuant to the delegation of authority for the Standards of Performance for New Stationary Sources (NSPS), to the State of Nebraska on November 24, 1975, the Environmental Protection Agency (EPA) is today amending 40 CFR 60.4, [Address.], to reflect this delegation. A notice announcing this delegation is published (December 30, 1976), in the FEDERAL REGISTER. Effective immediately all requests, reports, applications, submittals, and other communications concerning the 12 source categories of the

DEC 30 76 UMI V 41 252 V

NSPS which were promulgated December 23, 1971, and March 8, 1974, shall be sent to Nebraska Department of Environmental Control (DEC), P.O. Box 94653, State House Station, Lincoln, Nebraska 68509. However, reports required pursuant to 40 CFR 60.7(a) shall be sent to EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, as well as to the State.

The Regional Administrator finds good cause for forgoing prior public notice and making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. This delegation, which is reflected by this administrative amendment, was effective on November 24, 1975, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-6.)

Dated: December 20, 1976.

JEROME H. SVORE,
Regional Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4 paragraph (b) is amended by revising subparagraph (CC) to read as follows:

§ 60.4 Address.

* * * * * * *

(b) * * *

(A)–(BB) * * *

(CC) Nebraska Department of Environmental Control, P.O. Box 94653, State House Station, Lincoln, Nebraska 68509.

[FR Doc.76-38234 Filed 12-29-76;8:45 am]

[FRL 664-6]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to the State of Iowa

Pursuant to the delegation of authority for New Source Performance Standards (NSPS) to the State of Iowa on June 6, 1975, the Environmental Protection Agency is today amending 40 CFR 60.4, [Address.] to reflect this delegation. A notice announcing this delegation is published (December 30, 1976), in the FEDERAL REGISTER.

The amended § 60.4 provides that all reports, requests, applications, submittals, and other communications required for the 11 source categories of the NSPS, which were delegated to the State, shall be sent to the Iowa Department of Environmental Quality (DEQ), 3920 Delaware Avenue, P.O. Box 3326, Des Moines, Iowa 50316. However, reports required pursuant to 40 CFR 60.7(a) shall be sent to EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, as well as to the State.

The Regional Administrator finds good cause to forgo prior public notice and make this rulemaking effective immediately in that it is an administrative change and not one of substantive content. The delegation was effective June 6, 1975, and it serves no purpose to delay the technical change of the addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately and is issued under the authority of Section 111 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-6.)

Dated: December 20, 1976.

JEROME H. SVORE,
Regional Administrator.

Part 60 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4, paragraph (b) is amended by revising subparagraph Q, to read as follows:

§ 60.4 Address.

* * * * * * *

(b) * * *

(A)–(P) * * *

(Q) State of Iowa, Department of Environmental Quality, 3920 Delaware, P.O. Box 3326, Des Moines, Iowa 50316.

* * * * * * *

[FR Doc.76-38241 Filed 12-29-76;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 664-4; PP6E1825/R119]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Sodium Chlorate

On October 19, 1976, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (41 FR 46011) a notice of proposed rulemaking pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, which proposed that 40 CFR 180.1020 be amended by exempting residues of the pesticide chemical sodium chlorate from the requirement of a tolerance in or on the raw agricultural commodity sunflower seeds when it is used in accordance with good agricultural practice as a desiccant in sunflower seed production.

This notice of proposed rulemaking was issued in response to a pesticide petition (PP 6E1825) submitted to the Agency by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of North Dakota, South Dakota, Minnesota, and Texas. No comments or requests for referral to an advisory committee were received with regard to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.1020 should be adopted as proposed. This amendment to the regulations will protect the public health.

Any person adversely affected by this regulation may, on or before January 31, 1977, file written objections with the Hearing Clerk, Environmental Protection Agency, East Tower, Rm. 1019, 401 M St. SW, Washington DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective December 30, 1976, 40 CFR 180.1020 is amended as set forth below.

Dated: December 22, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart D, § 180.1020 is amended by revising paragraph (b) to exempt residues of sodium chlorate in or on sunflower seeds from the requirement of a tolerance, to read as follows:

§ 180.1020 Sodium Chlorate; exemption from the requirement of a tolerance.

* * * * * * *

(b) Sodium chlorate is exempted from the requirement of a tolerance for residues in or on grain sorghum, fodder, and forage, rice and rice straw, and sunflower seeds, when used as a desiccant in accordance with good agricultural practice in the production of grain sorghum, rice, and sunflower seeds.

[FR Doc.76-38235 Filed 12-29-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-1176; Docket No. 20936]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

SSB Equipped Vessels Operating Solely in Alaska Waters; Exemption From Mandatory VHF Capabilities

Adopted: December 21, 1976.

Released: December 30, 1976.

1. The Commission on September 28, 1976, adopted a Notice of Proposed Rule Making in the above-entitled matter (FCC 76-899) which made provisions for the filing of comments and reply comments. The Notice was published in the FEDERAL REGISTER on October 7, 1976, (41 FR 44194). The time for filing comments and reply comments has passed.

2. The proposed rule amendment would exempt single sideband (SSB) equipped vessels operating solely in Alaskan waters from mandatory VHF capabilities until January 1, 1982. Part 83 of the rules now requires that all SSB equipped vessels have the capability to operate on VHF frequencies by January 1, 1977. It was felt that since only a small percent of the Alaska coast line had VHF coverage, the five-year extension of time would provide an opportunity for the establishment of additional VHF public coast and U.S. Coast Guard stations in Alaska.

3. Comments were received by SGC, Inc., Northwest Instrument Co., North Pacific Marine Radio Council, Commander, Seventeenth Coast Guard District, Alaska and the Commandant, U.S. Coast Guard, Washington, D.C. All of the commentators, except SGC, Inc., opposed the proposed rule amendment.

4. The Commandant, U.S. Coast Guard (Commandant) comments state that the majority of potential users of VHF service are confined to a limited portion of the total Alaskan coast line, and that the Coast Guard has concentrated its VHF coverage in these areas and have no plans to provide complete coverage of the total expanse of the Alaskan coast line in the future. The Commandant notes that over 90 percent of the vessels in Alaska are now being served by VHF and that while the Coast Guard VHF system will be upgraded and improved as necessary, no additional coverage of population or geographical areas is anticipated and therefore, no basis for delaying the January 1, 1977, implementation date appears to exist.

5. The Commander, Seventeenth Coast Guard District, Alaska, (Commander) comments also states that Coast Guard VHF stations cover only a small percent of the Alaska coast line, but that the areas of coverage reach a vast majority of the recreational and inshore commercial users. It is estimated that 10 percent or less of the registered vessels are in areas where VHF coverage will not be provided, and that by delaying the implementation date of mandatory VHF capabilities, the Commission will foster dependency on the inadequate 2 MHz system by failing to encourage VHF. In addition, the Coast Guard has programmed and budgeted, both in funds and personnel, in anticipation of the January 1, 1977, implementation date, and that a five-year delay could promote reallocation of Coast Guard resources to other more pressing and immediate projects. The Commander further states that because of the delay in construction of some sites and the undemonstrated success of new sites, some relief of the January 1, 1977, date is in order.

6. Northwest Instrument Co., (NI) and North Pacific Marine Radio Council (MPMRC) also opposed the proposed rule amendment for many of the reasons mentioned above. In addition, they state, as does the Commandant, that a distress system is based upon the vessel mutual assistance concept, and that while coast station coverage is important, it is not the only factor to be considered. If the five-year extension of time is granted, thousands of VHF fitted vessels could not communicate or depend on VHF exempted vessels during emergencies, or vice versa.

7. SGC, Inc., who describes itself as a "prominent manufacturer of marine single sideband, an appreciable part of which is sold in Alaska" supports the proposal. They feel that it will be a number of years before the coverage on VHF is commensurate with the contiguous 48 states. SGC offers nothing more definitive. It must be recognized that Alaska has an extremely large and rugged coast line and that total VHF coverage comparable to that in the contiguous 48 states is not feasible now or in the foreseeable future. However, it does appear that there is substantial VHF coverage of high density boating areas.

8. We are aware, however, that there are some areas of the Alaska shore line that may never have completely adequate VHF coverage, but we do not understand the failure of the Alaskan boating community to comment on these matters in this proceeding. A possible explanation may be the short interval between our Notice and the January 1977 implementation date. The Commission, however, remains concerned that the coverage and service be effective. Accordingly, we are providing a two-year exemption of the VHF requirement for SSB equipped vessels operating solely in Alaskan waters. Further, within one year the Commission will conduct a mandatory review of the progress in this area and will assess the adequacy of coverage and small boat compliance. An improved coverage plan from the Coast Guard is requested to be included as part of this review. Following such review and assessment of the adequacy and compliance, the Commission will, at the end of the first year, consider any further action that may be necessary to achieve its objective of adequate coverage in the Alaskan Maritime VHF service.

9. Accordingly, *It Is Ordered*, That pursuant to the authority contained in sections 4(i) and 303(c), (d), (f), and (r) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules is amended, as set forth below, and inasmuch as this relieves a restriction, the provisions of 5 U.S.C. 553(d) are not applicable and the rule amendment shall become effective January 1, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 83.351(c)(3)(i) is amended to read as follows and the note deleted.

§ 83.351 Frequencies available.

* * * * * * *

(c) * * *

(3) * * *

(i) The ship station is equipped for use of F3 emissions on frequencies in the band 156–162 MHz, except for vessels bearing Alaska registration or documented vessels with a home port in Alaska and operating solely in waters off Alaska until January 1, 1979.

NOTE.—[Deleted.]

* * * * * * *

[FR Doc.76-38406 Filed 12-29-76;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-134; Amdt. No. 178-40]

PART 178—SHIPPING CONTAINER SPECIFICATIONS

Hazardous Materials Regulations Reissuance—Correction

In FR Doc. 76-26376 appearing at pages 38175-38183 in the FEDERAL REGISTER of Thursday, September 9, 1976, amendment No. 46 appearing on page 38182, column 2, is corrected by changing "178.219-3" in the second and third lines to read "178.219-13."

(49 U.S.C. 1803, 1804, 1808 and 49 CFR 1.53 (e).)

Issued in Washington, D.C. on December 27, 1976.

GEORGE S. MOORE, JR.,
Acting Director,
Materials Transportation Bureau.

[FR Doc.76-38410 Filed 12-29-76;8:45 am]

SUBCHAPTER D—PIPELINE SAFETY

[Docket No. OPS-18; Amdt. 192-20A]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Line Markers for Mains and Transmission Lines

The purpose of this amendment to 49 CFR 192.707(d)(1) and (e)(2)(i), which is in response to a petition from the Exxon Pipeline Company (Docket No. 75-11W), is to permit certain wording on gas pipeline markers as an alternative to the wording presently required.

Section 192.707(d)(1) requires that gas pipeline markers located other than at navigable waterways display the words "Gas Pipeline." Likewise, § 192.707(e)(2)(i) requires that the words "Gas Pipeline Crossing" be displayed on markers at navigable waterways. The Materials Transportation Bureau (MTB) believes that permitting those markers to display the name of the gas being transported in a pipeline, in lieu of the word "gas," conveys the information intended to be provided. MTB therefore agrees with Exxon that § 192.707 should be amended to permit such identification.

Because this amendment establishes an alternative safety requirement without reducing the level of safety provided by the existing rule, and does not impose any additional burden on the affected public, MTB finds that notice and public procedure are unnecessary and good cause exists for making the amendment effective on less than 30 days' notice.

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In consideration of the foregoing, 49 CFR 192.707 is amended effective December 31, 1976, by amending paragraphs (d) (1) and (e) (2) (i) to read as follows:

§ 192.707 Line markers for mains and transmission lines.

* * * * *

(d) * * *

(1) The word "Warning," "Caution," or "Danger" followed by the words "Gas (or name of gas transported) Pipeline" all of which, except for markers in heavily developed urban areas, must be in letters at least one inch high with one-quarter inch stroke.

* * * * *

(e) * * *

(2) * * *

(i) The word "Warning," "Caution," or "Danger," followed by the words "Do Not Anchor or Dredge" and the words "Gas (or name of gas transported) Pipeline Crossing"; and

* * * * *

(Sec. 3, Pub. L. 90-481, 82 Stat. 721, 49 USC 1672, 40 FR 43901, 49 CFR 1.53(a))

Issued in Washington, D.C. on December 22, 1976.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.76-38269 Filed 12-29-76;8:45 am]

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-09]

PART 601—ORGANIZATION, FUNCTION, AND PROCEDURES

Miscellaneous Amendments

The purpose of the following is to amend 49 CFR Part 601, Subparts A and B to reflect modifications in the organization and distribution of functions as well as changes in the delegations of authority within the Urban Mass Transportation Administration.

Since these changes are solely matters of departmental management, procedures and practices, notice and public procedure thereon is unnecessary, and they may be made effective in less than thirty days after publication in the FEDERAL REGISTER.

49 CFR Part 601, is amended by revising Subparts A and B to read as follows:

Subpart A—General

Sec.
601.1 Purpose.
601.2 Organization of the Administration.
601.3 General responsibilities.
601.4 Responsibilities of the Administrator.

Subpart B—Delegations

601.10 Delegations of authority.

AUTHORITY: Sec. 9 of the Department of Transportation Act (49 U.S.C. 1657), Reorganization Plan No. 2 of 1968 (82 Stat. 1369), and Sec. 1.5. of title 49 CFR, unless otherwise noted.

Subpart A—General

§ 601.1 Purpose.

This part describes the organization of the Urban Mass Transportation Administration ("UMTA") an operating administration within the Department of Transportation. This part also describes the general responsibilities and authority of the officials directing the various offices of which UMTA is composed. In addition, this part describes the sources and locations of available UMTA program information.

§ 601.2 Organization of the Administration.

(a) The headquarters organization of UMTA is composed of ten principal offices which function under the overall direction of the Urban Mass Transportation Administrator ("the Administrator") and Deputy Administrator. These offices are:

(1) Office of the Administrator.
(2) Office of the Associate Administrator for Administration.
(3) Office of Chief Counsel.
(4) Office of Civil Rights.
(5) Office of Public Affairs.
(6) Office of the Associate Administrator for Transit Assistance.
(7) Office of the Associate Administrator for Policy and Program Development.
(8) Office of the Associate Administrator for Transportation Planning.
(9) Office of the Associate Administrator for Transportation Management and Demonstrations.
(10) Office of the Associate Administrator for Technology Development and Deployment.

The Administrator receives staff support from the Executive Secretariat which coordinates internal document dissemination and project assignments and ensures policy compliance.

(b) The Office of the Administrator and the Offices of Chief Counsel, Public Affairs, the Associate Administrator for Administration, the Associate Administrator for Transit Assistance, the Associate Administrator for Policy and Program Development, and the Associate Administrator for Transportation Planning are located in the Department of Transportation Building, 400 7th Street, S.W., Washington, D.C. 20590. The Offices of Civil Rights, the Associate Administrator for Technology Development and Deployment, and the Associate Administrator for Transportation Management and Demonstrations are located in the Transpoint Building, 2100 2nd Street, S.W., Washington, D.C. 20590.

(c) (1) In addition to its headquarters organization, UMTA has ten regional offices each headed by an UMTA Representative. These regional offices provide technical guidance and planning assistance to grantee and applicants; make on-site engineering inspections and evaluation analyses; conduct audits of grant projects; monitor ongoing projects; provide continuous liaison with local planning and transportation activities; provide support to the Secretarial Representative in each region; coordinate UMTA activities with those of other operating administrations within DOT; and provide information to the public concerning UMTA activities. (2) The location, mailing address, telephone number and jurisdiction of each of the ten UMTA regional offices follow:

Region/States	Office/address	Telephone No.
I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.	UMTA Representative, c/o Transportation Systems Center, Kendall Square, Room 277, 55 Broadway, Cambridge, Mass. 02142.	617-494-2055
II—New York, New Jersey, Puerto Rico, and Virgin Islands.	UMTA Representative, 26 Federal Plaza, Suite 507, New York, N.Y. 10007.	212-264-8162
III—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.	UMTA Representative, 434 Walnut St., Suite 1010, Philadelphia, Pa. 19106.	215-597-8098
IV—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.	UMTA Representative, 1720 Peachtree Rd., NW., Suite 400, Atlanta, Ga. 30309.	404-526-3948
V—Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin.	UMTA Representative, 300 South Wacker Dr., Suite 1740, Chicago, Ill. 60606.	312-353-0100
VI—Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.	UMTA Representative, 819 Taylor St., Suite 3A32, Fort Worth, Tex. 76102.	817-334-3787
VII—Iowa, Kansas, Missouri, and Nebraska	UMTA Representative, 6301 Pork Hill Rd., Room 303, Kansas City, Mo. 64131.	816-926-5053
VIII—Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.	UMTA Representative, Prudential Plaza, Suite 1822, 1050 17th St., Denver, Colo. 80202.	303-837-3242
IX—Arizona, California, Hawaii, Nevada, Guam, and American Samoa.	UMTA Representative, Two Embarcadero Center, Suite 620, San Francisco, Calif. 94111.	415-556-2884
X—Alaska, Idaho, Oregon, and Washington	UMTA Representative, Federal Bldg., Suite 3106, 915 2d Ave., Seattle, Wash. 98174.	206-442-4210

§ 601.3 General responsibilities.

The general responsibilities of each of the offices which comprise the headquarters organization of UMTA are:

(a) *Office of the Associate Administrator for Administration.* Directed by an Associate Administrator for Administration, this office provides general administrative support services for UMTA, including financial management, personnel administration, audit, procurement, logistical and management information systems.

(b) *Office of Chief Counsel.* Directed by a Chief Counsel, this office provides legal advice and services to the Administrator and other UMTA officials; coordinates with and provides support to the General Counsel of DOT on matters involving urban mass transportation; and provides liaison between UMTA and the Department of Labor regarding the administration of section 13(c) of Urban Mass Transportation Act of 1964, as amend ("the Act").

(c) *Office of Public Affairs.* Directed by a Director of Public Affairs, this office advises and assists the Administrator in the area of public relations and in the dissemination to the public and the news media of information about UMTA programs, projects and activities.

(d) *Office of the Associate Administrator for Policy and Program Development.* Directed by an Associate Administrator for Policy and Development, this office advises and assists the Administrator in the development and evaluation of policies and plans for implementing the functions and programs authorized by the Act; coordinates UMTA activities with those of other agencies; and manages and administers the University Research Program under section 11 of the Act (49 U.S.C. 1607c). This office has three organizational components: the Office of Policy Development; the Office of Program Evaluation; and the Office of Policy Research.

(e) *Office of the Associate Administrator for Transit Assistance.* Directed by an Associate Administrator for Transit Assistance, this office reviews and processes all applications for urban mass transportation capital and operating assistance grants and loans under sections 3, 4, 5, 16 and 17 of the Act (49 U.S.C. 1602, 1603, 1604, 1612 and 1613); reviews and processes applications for Federal assistance to the Washington Metropolitan Area Transit Authority (WMATA) under the Transportation Act of 1972 and the National Capital Area Transit Act of 1972; directs the evaluation and analysis of proposed annual programs and individual programs and individual projects; and approves and recommends for approval annual programs and individual projects. This office has three operating components which direct and coordinate post-approval grant activities; the Office of Grant Assistance, the Office of Program Support, and the Office of Program Analysis.

(f) *Office of the Associate Administrator for Transportation Planning.* Directed by an Associate Administrator for Transportation Planning, this office assists the Administrator in directing, coordinating and controlling UMTA's transportation planning assistance and reviews planning activities both in relation to UMTA-supported State and local actions and planning policy interaction within the Department of Transportation and with other Federal agencies; and administers grants to States and local public bodies under section 9 of the Act (49 U.S.C. 1607a). This office has two organizational components: the Office of Planning Assistance and the Office of Planning Methodology and Technical Support.

(g) *Office of the Associate Administrator for Transportation Management and Demonstrations.* Directed by an Associate Administrator for Transportation Management and Demonstrations, this office assists the Administrator in directing, conducting and controlling research and demonstration activities, including information dissemination, to foster the development of methods for improving transit management and operations from the perspectives of the operator and the user; administers grant and procurement contracts to demonstrate facilities, methods and techniques under section 6(a) of the Act (49 U.S.C. 1605), and managerial training fellowship grants under section 10 of the Act (49 U.S.C. 1607b). This office has two organizational components: the Office of Transit Management and the Office of Service and Methods Demonstrations.

(h) *Office of the Associate Administrator for Technology Development and Deployment.* Directed by an Associate Administrator for Technology Development and Deployment, this office is responsible for developing and administering a program of research, development, testing, evaluation, operational demonstration, product qualification, standardization, analysis, and information exchange concerning new products intended for use in transportation systems assisted by UMTA. The office is also responsible for UMTA's safety and system assurance function and for advising the Administrator on matters relating to technology. This office administers research, development and demonstration projects under section 6(a) of the Act (49 U.S.C. 1605).

(i) *Office of Civil Rights.* Directed by a Director of Civil Rights, this office advises and assists the Administrator and other UMTA officials in implementing compliance with applicable laws and directives pertaining to civil rights and equal employment opportunity, both within UMTA and in the conduct of urban mass transportation projects and programs.

§ 601.4 Responsibilities of the Administrator.

The Administrator is responsible for the planning, direction and control of the activities of UMTA, and has authority to approve urban mass transportation grants, loans, and contracts. The Deputy Administrator is authorized to act for and on behalf of the Administrator during his absence or disability. In the event of the absence or disability of both the Administrator and the Deputy Administrator, the following officials shall, in the order named, assume and perform the duties of the Administrator:

(a) Chief Counsel.
(b) Associate Administrator for Policy and Program Development.
(c) Associate Administrator for Transportation Planning.
(d) Associate Administrator for Transit Assistance.
(e) Associate Administrator for Technology Development and Deployment.
(f) Associate Administrator for Administration.

Subpart B—Delegations

§ 601.10 Delegations of authority

(a) Pursuant to authority delegated to the Administrator by 49 CFR 1.45(b) and 1.51 of the regulations of the Office of the Secretary of Transportation, the following powers and duties of the Administrator are redelegated to the officials indicated—

(1) The Associate Administrator for Transit Assistance is delegated authority to execute grant contracts, loan agreements, and amendments thereto with respect to approved capital and operating grants, loans and advanced land acquisition loan projects under sections 3, 4, 5, 16 and 17 of the Act (49 U.S.C. 1602, 1603, 1604, 1612 and 1613); under limited circumstances review and approve applications for grants and grant amendments under the UMT Act and section 119 of the Federal-Aid Highway Act of 1976 and 121(a) of the Federal-Aid Highway Act of 1973, as amended (23 U.S.C. 103 (e) (4) and 142). The Associate Administrator is further authorized, in connection with the administration of those projects, to approve requisitions for funds, third-party contracts, and project budget amendments within previously authorized limits.

(2) The Associate Administrator for Policy and Program Development is delegated authority to execute and amend grant contracts and amendments for university research and training projects under section 11 of the Act (49 U.S.C. 1607c). The Associate Administrator is further authorized in connection with the administration of those projects to approve requisitions for funds, third-party contracts and project budget amendments within previously authorized limits.

(3) The Associate Administrator for Technology Development and Deployment is delegated authority to execute and amend grant contracts and procurement requests for approved projects under section 6(a) of the Act (49 U.S.C. 1605); The Associate Administrator is further authorized, in connection with the administration of grant contracts, procurement contracts, interagency reimbursable agreements and purchase orders, to approve requisitions for funds, third-party contracts, and project budget amendments within previously authorized limits.

(4) The Associate Administrator for Transportation Planning is delegated authority to execute and amend grant contracts and interagency agreements for planning, engineering, architectural feasibility and operational improvement study projects under section 9 of the Act (48 U.S.C. 1607a); review and approve grant applications and grant amendments requested pursuant to section 9 of the Act by urbanized areas of less than 500,000 population. The Associate Administrator is further authorized in connection with the administration of such contracts to approve requisitions for funds, third-party contracts and project budget amendments within previously authorized limits.

(5) The Associate Administrator for Transportation Management and Demonstrations is delegated authority to execute and amend grant contracts for projects designed to demonstrate facilities, methods and techniques of transit

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management and operations under section 6(a) of the Act (49 U.S.C. 1605) and for approved managerial training fellowship projects under section 10 of the Act (49 U.S.C. 1607b). The Associate Administrator is further authorized, in connection with the administration of such projects to approve requisitions for project funds, third-party contracts and project budget amendments within previously authorized limits.

(b) All authority delegated to an official listed in paragraph (a) of this section may be redelegated by that official to one or more employees under his jurisdiction.

This amendment to 49 CFR Part 601, Subpart A and B is effective upon issuance.

Issued in Washington, D.C., on December 17, 1976.

ROBERT E. PATRICELLI,
Urban Mass Transportation Administrator.

[FR Doc.76-38250 Filed 12-29-76;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-31; Notice 02]

PART 557—PETITIONS FOR HEARINGS ON NOTIFICATION AND REMEDY OF DEFECTS

Establishment of New Regulation

This notice amends Chapter V of Title 49 of the Code of Federal Regulations by the addition of a new Part 557, *Petitions for Hearings on Notification and Remedy of Defects*, governing petitions for hearings on whether or not a manufacturer has reasonably met its obligation to notify owners, dealers, and purchasers of a safety-related defect or noncompliance with a safety standard, or to remedy the defect or noncompliance. The new part also specifies the procedures to be followed in holding such a hearing.

The NHTSA proposed the regulation (40 FR 56926, December 5, 1975) to carry out a statutory provision concerning the hearing. Section 156 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1416) provides that "[u]pon petition of any interested person or on his own motion, the Secretary may hold a hearing in which any interested person (including a manufacturer) may make oral (as well as written) presentations of data, views, and arguments on the question of whether a manufacturer has reasonably met his obligation to notify under section 151 or 152, and to remedy a defect or failure to comply under section 154." Sections 151 and 152 require a manufacturer to notify owners, dealers, and purchasers of a safety-related defect or failure to comply with an applicable Federal motor vehicle safety standard in any motor vehicle or item of equipment manufactured by him. Section 154 requires a manufacturer to remedy without charge such defects or failures to comply. Section 156 also provides that

> [I]f the Secretary determines the manufacturer has not reasonably met such obligation, he shall order the manufacturer to take specified action to comply with such obligation; and in addition, the Secretary may take other action authorized by this title.

Five comments were received from private persons, five comments were received from manufacturers and trade associations, and two comments were received from consumer groups; the Consumer Protection Division of the County Manager's Office for Metropolitan Dade County; and the Center for Auto Safety (the Center). The National Motor Vehicle Safety Advisory Council did not take a position on the proposal. The Vehicle Equipment Safety Commission did not comment on the proposal.

Four of the comments received from private persons objected to the institution of hearings as meaningless or a waste of money. The fifth private party supported issuance of the regulation. The four commenters appeared to be unaware of the provision for these hearings mandated by section 156 of the Act, independent of the promulgation of Part 557. The agency does believe that the informal hearing minimizes the expense that will be involved in fulfilling this statutory mandate.

Walker Manufacturing objected that permitting "[a]ny interested person" to file a petition would invite spurious requests whose pursuit would be a waste of time and money. The agency conformed to the statutory language of section 156 that "any interested person" can petition for this hearing, and concludes that a narrowing of the language would be contrary to the intent of Congress in establishing the right.

The Consumer Protection Division for Metropolitan Dade County suggested that the Consumer Product Safety Commission (CPSC) would be a more suitable agency with which to vest this hearing procedure, because of better public identification with its consumer protection role. However, the jurisdiction of the CPSC under the Consumer Product Safety Act (15 U.S.C. 2051, et seq.) does not include motor vehicles or motor vehicle equipment (15 U.S.C. 2052), and the authority to carry out section 156 is vested in the Department of Transportation.

Firestone Tire and Rubber Company suggested that the hearing procedure could be consolidated with the hearing procedures set forth in Part 552 (*Petitions for Rulemaking, Defect, and Noncompliance Orders*) of NHTSA regulations (49 CFR Part 552). Part 552 addresses the procedures that arise from a request for the initiation of agency action in a rulemaking, defect, or noncompliance area. Unlike those situations, Part 557 addresses the different and more limited considerations of an evaluation of an ongoing action undertaken by persons outside the agency. The separation of these functions into different procedural regulations clarifies these distinct functions. Accordingly, the agency declines to adopt the Firestone suggestion.

The Center appeared to misunderstand why minimum qualification requirements were established for hearing petitions. The regulation states that, to be considered as a petition, a document must be written in English, have the word "petition" preceding its text, request a hearing, and contain a brief statement of the alleged failure and a summary of the data, views, or arguments that would be presented at the hearing. Reasonable considerations underlie these minimum qualification requirements. For example, the agency undertakes to respond to such petitions within 60 days, and the agency must be able to recognize a document as a petition if the writer wishes to have it treated as such. This is the basis for requiring that the word "petition" appear. The Center's request that the specifications be relaxed to recognize as petitions filings in Spanish as well as English from the Commonwealth of Puerto Rico and the Canal Zone does not detract from the intent of the qualification requirements, and the final regulation is accordingly modified.

The Center's more basic objection is that persons effectively will not be on notice that a request for a hearing must conform to the requirements of Part 557 to be treated as a petition. While it is true that it must so conform to achieve petition status (entitling it to a reply within 60 days), it is not true that a nonconforming request would not result in the calling of a hearing. Any complaint, request, or series of them, can result in the calling of a hearing on the Administrator's own motion. The Administrator is not precluded from deciding to hold a hearing simply because a person's complaint does not qualify as a petition. Thus, the agency disagrees with the Center's conclusion that Part 557 "denies an owner the right to a hearing unless he or she follows the regulation in every detail."

For this reason, the agency does not consider necessary the Center's request for an amendment of the newly-revised Part 557 (dealing with notification of safety-related defects or noncompliances) to include the detailed specifications for the content of a Part 557 petition. It is noted that the agency is unaware of any supplemental submission by the Center to the docket on revision of Part 577, either at the time the comments on that docket were evaluated, or as of this date. With regard to the Center's suggestion that each complainant be advised by return mail to resubmit any request for a hearing in the proper format, it is just this sort of response the agency intends to avoid by its flexible approach.

In a related matter, the Dade County Manager's office believed that a lawyer would be required to draft the petition specified by § 557.4. This is not the case. A normal letter format, preceded by the word "petition" and containing the petitioner's complaint and its reasons for the complaint are all that is required. In response to the point that every complaint should not precipitate a hearing, it is simply noted that the grant of a

petition is within the discretion of the Administrator under the statute, as set forth in § 557.6 of the new regulation.

Section 557.6 of the regulation sets forth the factors considered by the Administrator in determining whether to hold a hearing. The factors listed are: the nature of the complaint; the seriousness of the alleged breach of obligation to remedy; the existence of similar complaints; and the ability of the NHTSA to resolve the problem without holding a hearing. The Center considered the first factor (the nature of the complaint) to be meaningless, and suggested its clarification or deletion.

Stating the nature of the complaint is deemed necessary to allow NHTSA to judge whether the issues of fact or opinion are of a type that could be resolved by a hearing. In those cases where facts or engineering considerations are not at issue and only a policy decision remains to be made, the Administrator could make his finding without holding a hearing. A related factor (listed as § 557.6(a)(4)) is the NHTSA's ability to resolve a particular complaint without a hearing. Such a case would be when factual issues are in dispute, but the facts are already gathered. The agency therefore disagrees with the Center's assessment of § 557.6(a)(1) and declines to modify it or delete it.

The Center viewed the second factor listed in § 557.6 (the seriousness of the alleged breach of obligation to remedy) as impermissibly vague also. The Center's submission implies that only two types of "breach of obligation" exist: failure to repair and refusal to remedy without charge. In fact, every conceivable type of "alleged breach of obligation" exists, all with differing levels of seriousness. For example, in a recall to replace seat belts, an owner could object that a shortage of red seat belts resulted in installation of black seat belts in place of what had been originally fitted. Another example would be a failure of a notification letter to list the correct address of the dealer that will undertake a particular repair. The agency needs to exercise its discretion in such cases to decide whether the gravity of the objection merits a public hearing.

The Center also argued that § 557.6(4) (the ability of the NHTSA to resolve a problem without holding a hearing) constitutes an impermissible "escape hatch" from agency responsibilities. This comment ignores the language of the Act. Section 156 states that the Secretary "may hold a hearing," a statutory grant of discretion now properly reflected in the implementing regulation, and intended to expedite the agency's decisions in the public interest, not avoid them.

The Recreation Vehicle Industry Association (RVIA) requested that the information presented to the NHTSA in accordance with Part 573 (Defect Reports) be listed as a specific factor to be considered in deciding whether to hold a public hearing. The RVIA appears to be requesting that a particular body of information be singled out for review in reaching the decision. Of course, all information related to the case will enter into the decision, but the agency has sought to list in § 557.6 factors other than the information itself that would enter into the decision whether or not a hearing is necessary. This decision is separate from the decision of the adequacy of the notification and remedy itself. For this reason, the RVIA suggestion is not adopted.

The Center also believed that immediate publication of the reasons for denial of a petition would be necessary and desirable. The agency knows no reason why this would be the case, but rather concludes that notice to the petitioner within the allotted period is the significant step in the case of a denial. The publication only serves as a record function. Experience with a similar publication schedule for denial of rulemaking petitions has been satisfactory.

The Center further suggested that all hearings be conducted within 30 days of the decision to grant a hearing, and that a final decision on the adequacy of notification or remedy be made within 30 days of the hearing. The agency intends to schedule hearings within a reasonable time after the petition is granted, but is unable to assure that a hearing can always be held within a 30-day period. As for the request that a decision be reached within 30 days of the hearing, the agency relies on information other than that presented at the hearing and is not able to state unequivocally that the hearing will produce the information necessary to reach a decision within 30 days of holding the hearing. Accordingly, the Center's suggestions are not adopted.

Section 557.7 of the regulation sets forth the nature of the public hearing that is contemplated by the regulation. The section provides for submission of views orally or in writing, the maintenance of a transcript and exhibits, and the presence in some cases of a legal officer. The RVIA, AMC, and International Harvester Company (IH) asked that the informal non-adversarial hearings be revised to permit cross-examination of those who appear by those who disagree with them. IH also asked that, upon agreement of the petitioner and the manufacturer involved, the hearing be modified to conform to the adjudicatory specifications of sections 556 and 557 of the Administrative Procedures Act.

The agency will take into consideration these requests for possible future action. At this time, the NHTSA wishes to conform its regulation to the scope expressed in the proposal. The matter of upgrading hearings to a more adversarial level will be treated therefore at a later date. With regard to IH's request for the opportunity to further develop views on newly developed material, the agency will accept written supplemental views for attachment to the transcript of the hearing. Revision of the regulation to provide for this practice is not necessary.

The RVIA concluded its comments with the recommendation that, in the event of a finding that a manufacturer has not reasonably met its notification and remedy obligations, the finding be accompanied by a statement of the grounds upon which the Administrator based his determination. The agency does not contemplate the issuance of such a finding without stating its reasons, and therefore concludes that its contemplated actions will conform to the RVIA recommendation.

In accordance with Department of Transportation policy encouraging adequate analysis of the consequences of regulatory action (41 FR 16200, April 16, 1976), the agency herewith summarizes its evaluation of the economic and other consequences of this action on the public and private sectors, including possible loss of safety benefits. In this case, the new regulation merely establishes procedures to carry out the mandate of section 156 of the Act to provide for a possible hearing on the adequacy of notification and remedy in the case where any interested person requests such a hearing. The informal nature of the hearing should have minimal costs for those, including manufacturers, who participate. While minimum requirements for petitioning might result in some increase in time for assessing the adequacy of notification and remedy in some cases, it is believed that any consequent effect on highway safety was contemplated by Congress in providing for the hearings.

In consideration of the foregoing, a new Part 557, *Petitions for Hearings on Notification and Remedy of Defects*, is added to Title 49 of the Code of Federal Regulations, as set forth below.

Effective date: January 31, 1977. Because the regulation is procedural and does not create a burden upon any regu-

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lated person, it is found for good cause shown that an effective date earlier than 180 days following issuance is in the public interest.

(Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 156, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1416); delegation of authority at 49 CFR 1.50)

Issued on December 22, 1976.

JOHN W. SNOW,
Administrator.

PART 557—PETITIONS FOR HEARINGS ON NOTIFICATION AND REMEDY OF DEFECTS

Sec.
557.1 Scope.
557.2 Purpose.
557.3 General.
557.4 Requirements for petition.
557.5 Improperly filed petitions.
557.6 Determination whether to hold a public hearing.
557.7 Public hearing.
557.8 Determination of manufacturer's obligation.

§ 557.1 Scope.

This part establishes procedures under section 156 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (88 Stat. 1470, 15 U.S.C. 1416), for the submission and disposition of petitions filed by interested persons for hearings on the question of whether a manufacturer has reasonably met his obligation to notify owners, purchasers, and dealers of a safety-related defect or failure to comply with a Federal motor vehicle safety standard, or to remedy such defect or failure to comply. This part also establishes procedures for holding a hearing on these questions.

§ 557.2 Purpose.

The purpose of this part is to enable the National Highway Traffic Safety Administration to identify and respond on a timely basis to petitions for hearings on whether a manufacturer has reasonably met his obligation to notify or remedy, and to establish the procedures for such hearings.

§ 557.3 General.

Any interested person may file with the Administrator a petition requesting him to hold a hearing on—

(a) Whether a manufacturer has reasonably met his obligation to notify owners, purchasers, and dealers of a safety-related defect in any motor vehicle or item of replacement equipment manufactured by him;

(b) Whether a manufacturer has reasonably met his obligation to notify owners, purchasers, and dealers of a failure to comply with an applicable Federal motor vehicle safety standard in any motor vehicle or item of replacement equipment manufactured by him;

(c) Whether the manufacturer has reasonably met his obligatino to remedy a safety-related defect in any motor vehicle or item of replacement equipment manufactured by him; or

(d) Whether the manufacturer has reasonably met his obligation to remedy a failure to comply with an applicable Federal motor vehicle safety standard in any motor vehicle or item of replacement equipment manufactured by him.

§ 557.4 Requirements for petition.

A petition filed under this part should be addressed and submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. Each petition filed under this part must—

(a) Be written in the English or Spanish language;

(b) Have, preceding its text, the word "Petition";

(c) Contain a brief statement concerning the alleged failure of a manufacturer to meet reasonably his obligation to notify or remedy;

(d) Contain a brief summary of the data, views, or arguments that the petitioner wishes to present in a hearing on whether or not a manufacturer has reasonably met his obligations to notify or remedy;

(e) Specifically request a hearing.

§ 557.5 Improperly filed petitions.

(a) A petition that is not addressed as specified in § 557.4, but that meets the other requirements of that section, will be treated as a properly filed petition, received as of the time it is discovered and identified.

(b) A document that fails to conform to one or more of the requirements of paragraphs § 557.4(a) (1) through (5) will not be treated as a petition under this part. Such a document will be treated according to the existing correspondence and other procedures of the NHTSA, and any information contained in it will be considered at the discretion of the Administrator.

§ 557.6 Determination whether to hold a public hearing.

(a) The Administrator considers the following factors in determining whether to hold a hearing:

(1) The nature of the complaint;

(2) The seriousness of the alleged breach of obligation to remedy;

(3) The existence of similar complaints;

(4) The ability of the NHTSA to resolve the problem without holding a hearing; and

(5) Other pertinent matters.

(b) If, after considering the above factors, the Administrator determines that a hearing should be held, the petition is granted. If it is determined that a hearing should not be held, the petition is denied. In either case, the petitioner is notified of the grant or denial not more than 60 days after receipt of the petition by the NHTSA.

(c) If a petition submitted under this part is denied, a FEDERAL REGISTER notice of the denial is issued within 45 days of the denial, setting forth the reasons for it.

(d) The Administrator may conduct a hearing under this part on his own motion.

§ 557.7 Public hearing.

If the Administrator decides that a public hearing under this part is necessary, he issues a notice of public hearing in the FEDERAL REGISTER, to advise interested persons of the time, place, and subject matter of the public hearing and invite their participation. Interested persons may submit their views through oral or written presentation, or both. There is no cross-examination of witnesses. A transcript of the hearing is kept and exhibits may be accepted as part of the transcript. Sections 556 and 557 of Title 5, United States Code, do not apply to hearings held under this part. When appropriate, the Chief Counsel designates a member of his staff to serve as legal officer at the hearing.

§ 557.8 Determination of manufacturer's obligation.

If the Administrator determines, on the basis of the information presented at a hearing or any other information that is available to him, that the manufacturer has not reasonably met his obligation to notify owners, dealers, and purchasers of a safety-related defect or failure to comply with a Federal motor vehicle safety standard or to remedy such defect or failure to comply, he orders the manufacturer to take specified action to comply with his obligation, consistent with the authority granted the Administrator by the Act.

[FR Doc.76-38169 Filed 12-29-76;8:45 am]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Change of Addresses; Correction

In FR Doc. 76-35232, appearing at page 52860 in the issue of Thursday, December 2, 1976, an amendment of § 571.5 of 49 CFR Part 571 listed an incorrect name and address.

Accordingly, § 571.5(b) (3) is corrected to read:

§ 571.5 Matter incorporated by reference.

* * * * *

(b) * * *

(3) *Standards of the American National Standards Institute.* They are published by the American National Standards Institute. Information and copies may be obtained by writing to: American National Standards Institute, 1430 Broadway, New York, New York 10018.

* * * * *

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407) delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on December 22, 1976.

ROBERT L. CARTER,
Associate Administrator Motor Vehicle Programs.

[FR Doc.76-38166 Filed 12-29-76;8:45 am]

[Docket No. 74–20; Notice 07]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Rearview Mirrors

This notice responds to petitions for reconsideration of a recent amendment of Standard No. 111, *Rearview Mirrors*, by reducing upcoming mirror size requirements to the level presently specified by the standard.

By notice published August 26, 1976 (41 FR 36023), paragraph S8.1 of Standard No. 111 (49 CFR 571.111) was established to increase from 50 square inches to 75 square inches the amount of reflective surface required for plane mirrors on multipurpose passenger vehicles and trucks with a GVWR of 25,000 pounds or more. The new requirement becomes effective February 26, 1977. In the same issue of the FEDERAL REGISTER the NHTSA published a proposal to further amend Standard 111 to provide for the optional use of plane and convex mirror combinations on multipurpose passenger vehicles and trucks with a GVWR of 25,000 pounds or more (41 FR 36037). The proposed requirements would allow manufacturers to equip their larger vehicles with either a 75-square-inch mirror of unit magnification or a combination mirror system comprised of a 45-square-inch plane mirror and a 25-square-inch convex mirror.

Mr. M. W. Urban and the White Motor Company petitioned the NHTSA to revoke the amendment requiring vehicles over 25,000 pounds to have plane mirrors with 75 square inches of reflective surface. Petitioners were concerned that the proposal to allow plane and convex combinations for the larger vehicles would not be made a final rule by the time of the February 26, 1977, effective date for the 75-square-inch plane mirror requirement. They noted that this would have the effect of prohibiting the use of combination mirrors after February 26, 1977, although they are presently allowed and would be allowed again in the future under the outstanding proposal.

The NHTSA has determined that petitioners' argument has merit. As stated in the preamble to the August 26, 1976, proposal, the NHTSA recognizes that the larger vehicles (GVWR greater than 25,000 pounds) have rearward visibility problems that can create potential safety hazards, and that the use of both plane and convex mirrors on these vehicles should help to increase rearward visibility. The NHTSA does not wish to preclude the combination mirror systems currently being used on the MPV's and trucks, since most of these systems would meet dimensional specifications set forth in the outstanding proposal.

While the NHTSA concluded that the larger plane mirrors are necessary on heavy vehicles not equipped with combination mirrors, many manufacturers are already equipping these vehicles with "West Coast" mirrors that have 96 square inches of reflective surface. Therefore, postponement of the 75-square-inch plane mirror requirement for heavy vehicles should not significantly reduce motor vehicle safety.

The rearview mirror amendments published on August 26, 1976, established the requirement that school buses be equipped with plane mirrors having 50 square inches of reflective surface. Mr. Urban's petition for reconsideration also requested that this requirement be postponed and modified to include separate requirements for small school buses. The petition stated that smaller plane mirrors in combination with convex mirrors should be allowed on van-type school buses on an optional basis.

The NHTSA considered all comments to the notice proposing these school bus requirements prior to issuance of the final rule. It was determined that 50-square-inch plane mirrors were necessary on school buses to provide the driver an adequate view to the rear along both sides of the vehicle. Since Mr. Urban did not submit his views regarding van-type school buses during the specified comment period, his comments will only be considered in future rulemaking on this subject.

In consideration of the foregoing, the number "75 in²" in paragraph S8.1 of Standard No. 111 (as published August 26, 1976 (41 FR 36023) and effective February 26, 1976) is amended to read "50 in²".

Effective date: The change may be made immediately to the FEDERAL REGISTER text published August 26, 1976 (41 FR 36023) and is effective February 26, 1977.

(Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 22, 1976.

JOHN W. SNOW,
Administrator.

[FR Doc.76-38167 Filed 12-29-76;8:45 am]

[Docket No. 75–10; Notice 02]

PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION

Defect and Noncompliance Notification Regulation

This notice amends 49 CFR Part 577, "Defect Notification", to conform to sections 151 through 160 of the National Traffic and Motor Vehicle Safety Act (the Act) (Pub. L. 93–492, 88 Stat. 1470, October 27, 1974; 15 U.S.C. 1411–1420).

The amendments of Part 577 were published as a notice of proposed rulemaking in the FEDERAL REGISTER on May 6, 1975 (40 FR 19651). Approximately 30 comments were received from vehicle and equipment manufacturers, equipment distributors, trade associations representing these groups, and the Center for Auto Safety. The National Motor Vehicle Safety Advisory Council did not take a position on this proposal. Interested persons are advised that NHTSA Dockets 75–30 (Defect and Noncompliance Responsibility), 75–31 (Petitions for Hearing on Notification and Remedy of Defects or Failure to Comply), and 74–7 (Defect and Noncompliance Reporting) are relevant to the subject matter of this rulemaking.

The agency is amending its earlier notification procedures to reflect the major expansion of manufacturer responsibilities under the Motor Vehicle and Schoolbus Safety Amendments of 1974 to notify vehicle and equipment owners or purchasers of noncompliances with safety standards and of defects that relate to motor vehicle safety (hereinafter referred to as defects), chief of which is that remedy shall be without charge in most cases.

The new regulation specifies the content, timing, and form of notification that complies with the requirements set forth in section 153 of the Act. Distinctions among notifications that arise under different circumstances are set forth in detail. Provisions concerning disclaimers in the notification and conformity to the statutory requirements are carried over from the former Part 577.

Comments on the proposal were generally in agreement with the revision of the regulation, in recognition that the revision reflects responsibilities already a matter of law. Several questions were raised with regard to the authority for or wisdom of specific provisions of the proposed regulation, and these are discussed below.

Motor vehicle manufacturers and the Motor Vehicle Manufacturers Association (MVMA) expressed strong support for modification of the statutory definitions of "original equipment" and "replacement equipment" that allocate responsibility for notification and remedy between vehicle and equipment manufacturers. The agency has issued a separate proposal to redistribute responsibility (40 FR 56930, December 5, 1975) which addresses the issues raised. Resolution of that proposal will be responsive to the issues raised by the MVMA and vehicle manufacturers. To simplify any future action in this area, the two terms are no longer set forth in Part 577.

In the definitions section of the regulation, the phrase "in good faith" has been added to the definition of "first purchaser" to conform to its meaning under § 108(b)(1) of the Act.

The Recreational Vehicle Industry Association (RVIA) requested that vehicle alterers be permitted to meet (assume) the obligations of manufacturers for notification and remedy on a voluntary basis. Without notice and opportunity for comment on this idea, the agency does not consider it wise to modify the regulation as suggested by the RVIA.

NOTIFICATION PURSUANT TO A MANUFACTURER'S DETERMINATION

Section 151 of the Act provides that a manufacturer who determines in good faith that a defect or noncompliance exists in its products

Shall furnish notification to the Secretary and to owners, purchasers, and dealers in accordance with section 153, and he shall remedy the defect or failure to comply in accordance with section 154.

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Section 577.5 of Part 577 provides for manufacturer-initiated notifications in accordance with section 151. The section specifies, among other things, that a statement appear in the notification that the manufacturer has determined that a defect or noncompliance exists in identified vehicles or equipment. An additional statement may be made to indicate that the problem may not exist in each such vehicle or item of equipment. The MVMA and American Motors Corporation (AMC) believed that a better approach would be to state that the defect or noncompliance exists in some, but not all, vehicles or items of equipment (if such is the case), and that an owner should bring his vehicle in for inspection in any case. The agency does not believe that either the MVMA or AMC has an expertise in this area and declines to adopt the suggested modification.

Paragraph (e) of § 577.5 requires a clear description of the defect or noncompliance, including, among other things,

(e) • • •
(2) A description of any malfunction that may occur. The description of a noncompliance with an applicable standard shall include the difference between the performance of the noncomplying vehicle or item of replacement equipment and the performance specified by the standard;

The MVMA viewed the phrase "any malfunction" as overbroad and ambiguous, in that a manufacturer would be held to correctly anticipate a malfunction, whether or not related to safety or the noncompliance. The agency agrees that such a description would go beyond the purpose of the notification and therefore has narrowed somewhat the language proposed.

Vehicle manufacturers and the MVMA argued that the second sentence of paragraph (e)(2) should be deleted because an exact description of the difference in performance due to noncompliance would be too technical for comprehension by most owners, require extensive and expensive testing in some cases that would delay notification, and be the basis for a technical violation of the regulation. The agency believes that the description is valuable to vehicle or equipment owners in understanding the noncompliance, but agrees that a detailed description could delay notification unnecessarily. Accordingly, the phrase "in general terms" is added to modify the required description.

The Center for Auto Safety (the Center) believed that the statement required by (e) to minimize the chances of an accident before remedy failed to mention prior warnings that the vehicle's operating characteristics might offer. While prior warning is adequately covered by the "evaluation of risk" statement made regarding the possibility of vehicle crash (paragraph (f)(1)(ii)), the agency has added a comparable requirement to paragraph (f)(2) (that covers "noncrash" type defects and noncompliances).

The Specialty Equipment Manufacturers Association objected that any evaluation of the risk to motor vehicle safety would be speculative and therefore was unjustified. This requirement, however, is based on the specific requirement of section 153 (a) of the Act, and cannot be eliminated.

The Center believed that the evaluation of risk to motor vehicle safety is a discretionary statement that need not be made by a manufacturer. This is not the case. Section 577.5 is a requirement that the information (b) through (g) be listed and, under paragraph (f), the evaluation must either describe the crash hazard or be a description of the "general type of injury to occupants, or [others], that can result."

Paragraph (g) of § 577.5, dealing with measures to be taken by the owner, proved to be the greatest source of comments on the proposal. The paragraph is divided into subparagraphs dealing with notification of remedy without charge and notification of remedy for which the manufacturer will charge. This distinction is based on § 154(a)(4) of the Act which limits the "remedy without charge" to vehicles or equipment first purchased no more than 8 years (3 years in the case of tires) before notification in accordance with §§ 151 or 152.

Paragraph (g)(1) specifies requirements both for notification when the remedy must be undertaken and also notification when the manufacturer voluntarily decides to remedy without charge. The MVMA and General Motors (GM) felt that manufacturers undertaking voluntary remedy should not be subjected to the same notification requirements as those manufacturers required to remedy. The agency distinguishes between the separate duties of notification and remedy, however, and notes that the notification requirements of section 153 of the Act contain no exceptions for older vehicles and equipment. The MVMA's abbreviated list of requirements for a voluntary remedy do not fulfill the requirements of section 153. For example, section 153(a)(2) requires that the notification contain an evaluation of the risk to motor vehicle safety.

It is the agency's philosophy that a manufacturer undertaking a remedy should provide the same information to the owner whether or not the remedy is undertaken voluntarily. In this way, an owner will be apprised of the information necessary to make informed decision. Also, events beyond the manufacturer's control will not be able to negate the remedy without agency or manufacturer's knowledge. For these reasons, the agency does not modify the requirements as suggested.

Aside from the general suitability of paragraph (g)(1)'s requirements for a voluntary remedy, manufacturers raised more specific questions about the separate provisions.

International Harvester Company (IH) asserted with regard to paragraph (g)(1)(i) that no basis existed for the exception of replacement equipment from the right to refund as a means of remedy. In the agency's view, section 154 (2)(B) of the Act clearly limits the remedy for items of replacement equipment to either repair or replacement.

IH objected to the requirements that the earliest date for repair set under paragraph (g)(1)(ii) be premised on anticipated receipt by dealers of necessary parts for repair. The company pointed out that some repair parts would not typically be forwarded to a dealer for repair until a specific request has arisen. The agency would like to clarify that the "earliest date" can be established as a certain number of days following inspection of the defective or noncomplying vehicle. Thus a manufacturer need only calculate the time that it would take to get the parts to the dealer following an inspection and then state that the earliest date for repair will follow the date of inspection by that amount.

AMC argued that the requirement for a general description of the work and amount of time involved in a repair without charge by the manufacturer's dealer exceeded the authority of the Act and is unnecessary when the manufacturer undertakes repair. The same argument was made with regard to paragraphs (g)(1)(v) and (vi). The agency disagrees, and notes that the specific authority listed in section 153(a) is "in addition to such other matters as the Secretary may prescribe by regulation." As for the need for a general description, it is concluded that the owner would value knowledge of the time involved and the nature of the repair that is involved, to correctly weigh the gravity of the problem. Correspondingly, the offer of replacement or refund is more helpful to the owner if it includes the detail that has been specified.

In paragraph (g)(1)(iv), the MVMA asked for parallelism with the construction of paragraph (g)(1)(iii). It is accomplished by the addition of "or its dealers" following the word "manufacturer". IH suggested the addition of "authorized service centers" to the list, but this is unnecessary in view of the NHTSA's interpretation of "dealer" to include an authorized service center.

The Center, Mack Trucks, and Crane Carrier Corporation (CCC) commented on paragraph (g)(1)(iv)'s requirement that the method or basis for a manufacturer's assessment of depreciation be specified. The two manufacturers suggested use of a retailer's price guide as the basis. The Center suggested that a method for determination of depreciation be devised by a panel of industry, government, and consumer representatives. The legislative history indicates that retailer price guides should not be the sole criterion, and thus the Mack and CCC recommendations are not adopted. Until there is some indication that the manufacturers' chosen methods of assessment are unreasonable, the agency does not consider it necessary to exercise its authority in this area, and the Center's suggestion is also not adopted.

The greatest objections were raised regarding the statement advising an owner how to inform the NHTSA if he believes that the notification or remedy

is inadequate, or that the remedy was untimely or not made in accordance with the notification. PACCAR, AMC, Chrysler, GM, IH, the RVIA, and the MVMA considered the statement to be, in some respects, beyond the agency's statutory authority and not contemplated by Congress. As earlier noted, Section 153 is prefaced by a general grant of authority to the agency to specify the contents of the notification.

The agency has considered the objections in any case, particularly in view of the decision to require the same notification in the case of voluntary and mandatory remedy notices. It is concluded that modification of the statements to reflect the exact terms of section 154(a)(6) is appropriate.

Manufacturers objected to the language of paragraph (g)(1)(vii)(C) that invites owner complaints if a remedy is not effected within a reasonable period. The agency considers timeliness to be an aspect of whether a manufacturer has failed or is unable to provide a remedy as specified in section 153(a)(6) of the Act. The agency does agree that remedy by replacement or refund should not be limited to the first 60 days, since it might follow a failure to repair within that 60-day period. In conforming to section 154(b)(1), the agency substitutes "tender" for "first attempt". Also, reference to extension by the Administrator of the 60-day repair period has been added to paragraph (g)(1)(vii)(C)(1).

GM suggested that an additional statement be made to owners, advising them of recourse available with the manufacturer if the dealer's response is unsatisfactory. The agency considers this desirable but, without the benefit of notice and opportunity for comment, declines to make this addition. Paragraph (g)(1), of course, only sets forth what the manufacturer "shall include" in its notification, and it may make such additional statements as it deems necessary.

There was no comment on the second part of § 577.5 that deals with manufacturer notices in which remedy without charge is not required and is not volunteered. Accordingly, the paragraph is adopted as proposed.

Notification Pursuant to Administrator's Determination

Section 577.6 provides for Administration-ordered notifications in accordance with section 152. Paragraphs (a), (b), and (c) set forth requirements for the three types of notification contemplated by the Act. Manufacturers made no comment on the requirements for notification ordered by the Administrator in the first instance, and paragraph (a) is accordingly made final as proposed.

PACCAR objected to provisional notification as placing an unreasonable burden on the manufacturer, rendering any court decision in its favor meaningless. Section 155(b) of the Act clearly contemplates such an order, however, and the regulations consequently do provide for it.

Comments were received on the proposed content of the provisional notification. The MVMA pointed out that the requirement in paragraph (b)(2) should be clarified to permit a statement that the defect or non-compliance may not occur in all the described vehicles. The agency agrees and adds a paragraph similar to § 577.5(d).

With regard to the proposed paragraph (b)(4), the MVMA asked that reference to a "United States District Court" be broadened to "the Federal courts" and that the statement make clear that the NHTSA and not the court is ordering provisional notification. The agency concurs in these clarifications and they are made where appropriate in the final rule.

The requirements of paragraphs (b)(5), (6), and (7) provide for a description of the Administrator's determination, his evaluation of the hazard, and the recommended measures to avoid unreasonable hazard resulting from the defect or noncompliance. Fiat requested that the description, evaluation, and recommended measures be provided by the NHTSA. As specified in the requirements, it is the "Administrator's stated basis" that must be described, and the measures "stated in his order" that must be listed. The agency intends to include in each order a description, evaluation, and list of measures that permit quotation or paraphrase by the manufacturer.

Chrysler and the MVMA asked that a manufacturer be permitted more latitude to explain its position than provided for in paragraph (b)(8). The agency has considered this request, and concludes that extensive advocacy of the manufacturer's position would detract from the intent of the provisional notification to put the owner on notice of potential problems. The Chrysler and MVMA suggestion is therefore not adopted.

In the required statement dealing with availability of remedy and reimbursement in the event the court upholds the Administrator's determination (paragraph (b)(9)), Chrysler argued that the suggestion of reimbursement would generate poor customer relations if a repair were sought or undertaken during pendency of a court proceeding in which the manufacturer prevailed. The agency is aware of the possibility for some misunderstanding but is certain that the provisional notification was intended by the Congress to encourage owners to consider repair or other corrective action while the manufacturer contests the determination. For this reason, the notice of possible reimbursement remains in the regulation. The first statement in (b)(9)(i) has been clarified in one minor respect.

The MVMA requested that the phrase "for repair" be substituted for "in repairing" to permit manufacturers to make clear that reimbursement would only cover the repairs that were reasonable and necessary to correct the defect or noncompliance. The NHTSA believes that the term "reasonable and necessary" makes clear what repairs would be reimbursed should the court uphold an Administrator's determination.

The MVMA asked, and the agency agrees, that the reimbursement statement be qualified by the limitations that appear in the statute.

Paragraph (b)(10) requires a statement whether, in the manufacturer's opinion, a repair of the defect or noncompliance is possible. GM asked that "feasible" be substituted for "possible" and the agency makes the change in agreement that it more clearly reflects the judgment made by a manufacturer in choosing its preferred remedy. The MVMA and Chrysler made the more basic objection that (b)(10) assumes that a defect or noncompliance exists prior to the court's ruling, and that it requires unjustified effort to develop repair parts and facilities before a decision is reached on the validity of the Administrator's determination. The agency is of the view that the level of detail specified is justified in these cases and necessary to fulfill the purpose of provisional notification contemplated by Congress. The agency has modified the wording to make clear that reimbursement for expenses are limited to those necessary and reasonable for repair.

With regard to proposed paragraph (b)(12), the MVMA asked that only notification and not remedy be mentioned. There will be a discussion of remedy in the notification, however, and the owner should be encouraged to inquire further as to this aspect of the notification.

Firestone and the Automotive Parts and Accessories Association felt that the regulations should apply to the agency and that it should be required to advise the owner, purchaser, and dealer in the event its determination is not upheld by the courts. The statutory scheme being implemented by Part 577 concerns manufacturer obligations under §§ 151 through 160 of the Act to notify and remedy safety problems in vehicles. The agency does not consider an expansion of the regulations beyond this purpose as appropriate. Nothing, of course, prevents the manufacturer from making such a notice to the owner or others.

Paragraph (c) of § 577.6 deals with final notification following a court decision in the Administrator's favor and it is adopted, with corrections similar to those made in the other sections. Because the MVMA objected to reference to being "upheld in a proceeding in a United States District Court" as the basis for the post-litigation order, the agency has substituted the language of the Act. Also, reference to "a date" on which provisional notification was ordered is corrected to "the date" to reflect that it will in all cases be a specific date.

Time and Manner of Notification

The major problem with regard to the time and manner of notification concerned the statutory requirement (section 153(c)(1)) that notification be,

Section 153 • • •
(c) • • •
(1) In the case of a motor vehicle, by first class mail to each person who is registered under State law as the owner of such vehicle and whose name and address is reasonably ascertainable by the manufacturer through

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State records or other sources available to him;

PACCAR, Volkswagen, and IH expressed their doubts that all State records would be available or that alternative services would provide timely information. The agency has incorporated the statutory requirements in this regulation word-for-word and, on that basis, declines to modify it. As for the suggestion that "reasonably ascertainable" be defined, it is the agency's view that the phrase is only given meaning by the separate factual situations that arise. The agency cannot agree with PACCAR that records are not "reasonably ascertainable" simply by virtue of delay in retrieving them.

Sheller-Globe Corporation asked if certified mail would be considered the equivalent of first class mail for meeting the requirements. As a school bus manufacturer, Sheller-Globe wanted certainty of notification to school districts and other customers. The NHTSA does not consider them equivalent in view of relevant legislative history. Congress considered the U.S. Postal Service regulation that prohibits forwarding of certified mail and they concluded that first class mail would be a superior means of obtaining notification.

With regard to the maximum times permitted for issuance of notification, the Center asked that the period be reduced to 30 days in the case of all Administration-ordered notifications. Some manufacturers asked that the 30-day period for provisional notification be expanded to 60 days. B. F. Goodrich stated that notification letters cannot be printed in advance of actual mailing, because the date for earliest remedy must be included in the letter. The agency has weighed the conflicting views, and concludes that a 60-day period is justified for administration-ordered recalls. The provisional notification requirement is amended accordingly.

IH suggested that public notice of defects or noncompliances in items of replacement equipment would be adequate, and that notice to the most recent purchaser should be optional. The agency has simply conformed its regulation to the statutory requirements of section 153(c).

OTHER MATTERS

The MVMA suggested that the disclaimer section of the regulation could be clarified by an additional paragraph permitting manufacturer statements that a notification does not "constitute an admission by the manufacturer that it has been guilty of negligence or other wrong doing". The agency views this statement as exactly the type of disclaimer that could contribute to a reader's decision not to take action in response to notification and accordingly declines to adopt the MVMA recommendation.

With regard to the MVMA concern that technical violations of the regulations not be pursued as a violation of the Act under § 577.9, the agency expects to continue to enforce the Act and its regulations in a reasonable manner, calculated to avoid arbitrariness or irrationality.

After-market equipment manufacturers and their associations expressed the view that the notification scheme was unworkable for notice to equipment purchasers, that wear of parts in normal use conflicted with the concept of safety-related defects, and that the 8-year period for remedy without charge was too long. Also, the establishment of a cut-off based on the date of retail sale appeared impractical, because records of these transactions are not maintained. As a response, the agency notes that the regulation conforms to the statute's language and clearly-expressed Congressional intent. Experience to date with the requirements does not demonstrate that they are in fact unworkable. The issues of improper installation and remanufactured parts were not addressed by the statute, and resolution of these issues will require some experience with situations as they arise.

The RVIA asked that the agency exercise its authority to require the submission to manufacturers by dealers of the names and addresses of purchasers. The agency takes this recommendation under advisement but, as it is beyond the scope of Part 577, does not act on it in this notice.

In consideration of the foregoing, Part 577, "Defect Notification", of Title 49, Code of Federal Regulations, is renamed "Defect and Noncompliance Notification" and is amended to read as set forth below.

Effective date: June 28, 1977.

(Secs. 108, 112, 119, Pub. L. 89-563, 80 Stat. 718; Sec. 102, 103, 104, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1397, 1401, 1407, 1411-1420; delegation of authority at 49 CFR 1.50).)

Issued on December 22, 1976.

JOHN W. SNOW,
Administrator.

Sec.

577.1 Scope.
577.2 Purpose.
577.3 Application.
577.4 Definitions.
577.5 Notification pursuant to a manufacturer's determination.
577.6 Notification pursuant to the Administrator's determination.
577.7 Time and manner of notification.
577.8 Disclaimers.
577.9 Conformity to statutory requirements.

AUTHORITY: Secs. 108, 112, 119, Pub. L. 89-563; 80 Stat. 718; Secs. 102, 103, 104, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1397, 1401, 1408, 1411-1420; delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

§ 577.1 Scope.

This part sets forth requirements for notification to owners of motor vehicles and replacement equipment about the possibility of a defect which relates to motor vehicle safety or a noncompliance with a Federal motor vehicle safety standard.

§ 577.2 Purpose.

The purpose of this part is to ensure that notifications of defects or noncompliances adequately inform and effectively motivate owners of potentially defective or noncomplying motor vehicles or items of replacement equipment to have such vehicles or equipment inspected and, when necessary, remedied as quickly as possible.

§ 577.3 Application.

This part applies to manufacturers of completed motor vehicles, incomplete motor vehicles, and replacement equipment. In the case of vehicles manufactured in two or more stages, compliance by either the manufacturer of the incomplete vehicle, any subsequent manufacturer, or the manufacturer of affected replacement equipment, shall be considered compliance by each of those manufacturers.

§ 577.4 Definitions.

For purposes of this part:

"Act" means the National Traffic and Motor Vehicle Safety Act of 1966, as amended, 15 U.S.C. 1391 et seq.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration or his delegate.

"First purchaser" means the first purchaser in good faith for a purpose other than resale.

"Owners" includes purchaser.

§ 577.5 Notification pursuant to a manufacturer's determination.

(a) When a manufacturer of motor vehicles or replacement equipment determines that any motor vehicle or item of replacement equipment produced by him contains a defect which relates to motor vehicle safety, or fails to conform to an applicable Federal motor vehicle safety standard; he shall provide notification in accordance with paragraph (a) of § 577.7, unless the manufacturer is exempted by the Administrator (pursuant to section 157 of the Act) from giving such notification. The notification shall contain the information specified in this section. The information required by paragraphs (b) and (c) of this section shall be presented in the form and order specified. The information required by paragraphs (d) through (g) of this section may be presented in any order. Notification sent to an owner whose address is in either the Commonwealth of Puerto Rico or the Canal Zone shall be written in both English and Spanish.

(b) An opening statement: "This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act."

(c) Whichever of the following statements is appropriate:

(1) "(Manufacturer's name or division) has determined that a defect which relates to motor vehicle safety exists in (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a replacement equipment manufacturer);" or

(2) "(Manufacturer's name or division) has determined that (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a replacement equipment manufacturer) fail to conform to Federal Motor Vehicle Safety Standard No. (number and title of standard)."

(d) When the manufacturer determines that the defect or noncompliance may not exist in each such vehicle or item of replacement equipment, he may include an additional statement to that effect.

(e) A clear description of the defect or noncompliance, which shall include—

(1) An identification of the vehicle system or particular item(s) of motor vehicle equipment affected.

(2) A description of the malfunction that may occure as a result of the defect or noncompliance. The description of a noncompliance with an applicable standard shall include, in general terms, the difference between the performance of the noncomplying vehicle or item of replacement equipment and tne performance specified by the standard;

(3) A statement of any operating or other conditions that may cause the malfunction to occur; and

(4) A statement of the precautions, if any, that the owner should take to reduce the chance that the malfunction will occur before the defect or noncompliance is remedied.

(f) An evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance.

(1) When vehicle crash is a potential occurrence, the evaluation shall include whichever of the following is appropriate:

(i) A statement that the defect or noncompliance can cause vehicle crash without prior warning; or

(ii) A description of whatever prior warning may occur, and a statement that if this warning is not heeded, vehicle crash can occur.

(2) When vehicle crash is not a potential occurrence, the evaluation must include a statement indicating the general type of injury to occupants of the vehicle, or to persons outside the vehicle, that can result from the defect or noncompliance, and a description of whatever prior warning may occur.

(g) A statement of measures to be taken to remedy the defect or noncompliance, in accordance with paragraph (g)(1) or (g)(2) of this section, whichever is appropriate.

(1) When the manufacturer is required by the Act to remedy the defect or noncompliance without charge, or when he will voluntarily so remedy in full conformity with the Act, he shall include—

(i) A statement that he will cause such defect or noncompliance to be remedied without charge, and whether such remedy will be by repair, replacement, or (except in the case of replacement equipment) refund, less depreciation, of the purchase price.

(ii) The earliest date on which the defect or noncompliance will be remedied without charge. In the case of remedy by repair, this date shall be the earliest date on which the manufacturer reasonably expects that dealers or other service facilities will receive necessary parts and instructions. The manufacturer shall specify the last date, if any, on which he will remedy tires without charge.

(iii) In the case of remedy by repair through the manufacturer's dealers or other service facilities:

(A) A general description of the work involved in repairing the defect or noncompliance; and

(B) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance.

(iv) In the case of remedy by repair through service facilities other than those of the manufacturer or its dealers:

(A) The name and part number of each part that must be added, replaced, or modified;

(B) A description of any modifications that must be made to existing parts, which shall also be identified by name and part number;

(C) Information as to where needed parts will be available;

(D) A detailed description (including appropriate illustrations) of each step required to correct the defect or noncompliance;

(E) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance; and

(F) The manufacturer's recommendations of service facilities where the owner should have the repairs performed.

(v) In the case of remedy by replacement, a description of the motor vehicle or item of replacement equipment that the manufacturer will provide as a replacement for the defective or noncomplying vehicle or equipment.

(vi) In the case of remedy by refund of purchase price, the method or basis for the manufacturer's assessment of depreciation.

(vii) A statement informing the owner that he may submit a complaint to the Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590, if the owner believes that—

(A) The manufacturer, distributor, or dealer has failed or is unable to remedy the defect or noncompliance without charge.

(B) The manufacturer has failed or is unable to remedy the defect or noncompliance without charge—

(*1*) (In the case of motor vehicles or items of replacement equipment, other than tires) within a reasonable time, which is not longer than 60 days in the case of repair after the owner's first tender to obtain repair following the earliest repair date specified in the notification, unless the period is extended by Administrator.

(*2*) (In the case of tires) after the date specified in the notification on which replacement tires will be available.

(2) When the manufacturer is not required to remedy the defect or noncompliance without charge and he will not voluntarily so remedy, the statement shall include—

(i) A statement that the manufacturer is not required by the Act to remedy without charge.

(ii) A statement of the extent to which the manufacturer will voluntarily remedy, including the method of remedy and any limitations and conditions imposed by the manufacturer on such remedy.

(iii) The manufacturer's opinion whether the defect or noncompliance can be remedied by repair. If the manufacturer believes that repair is possible, the statement shall include the information specified in paragraph (g)(1)(iv) of this section, except that—

(A) The statement required by paragraph (g)(1)(iv)(A) of this section shall also indicate the suggested list price of each part.

(B) The statement required by paragraph (g)(1)(iv)(C) of this section shall also indicate the manufacturer's estimate of the date on which the parts will be generally available.

§ 577.6 Notification pursuant to Administrator's determination.

(a) *Manufactured-ordered notification.* When a manufacturer is ordered pursuant to section 152 of the Act to provide notification of a defect or noncompliance, he shall provide such notification in accordance with §§ 577.5 and 577.7, except that the statement required by paragraph (c) of § 577.5 shall indicate that the determination has been made by the Administrator of the National Highway Traffic Safety Administration.

(b) *Provisional notification.* When a manufacturer does not provide notification as required by paragraph (a) of this section, and an action concerning the Administrator's order to provide such notification has been filed in a United States District Court, the manufacturer shall, upon the Administrator's further order, provide in accordance with paragraph (b) of § 577.7 a provisional notification containing the information specified in this paragraph, in the order and, where specified, the form of paragraphs (b)(1) through (b)(12) of this section.

(1) An opening statement: "This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act."

(2) Whichever of the following statements is appropriate:

(i) "The Administrator of the National Highway Traffic Safety Administration has determined that a defect which relates to motor vehicle safety exists in (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a replacement equipment manufacturer);" or

(ii) "The Administrator of the National Highway Traffic Safety Adminis-

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tration has determined that (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a replacement equipment manufacturer) fail to conform to Federal Motor Vehicle Safety Standard No. (number and title of standard)."

(3) When the Administrator determines that the defect or noncompliance may not exist in each such vehicle or item of replacement equipment, the manufacturer may include an additional statement to that effect.

(4) The statement: "(Manufacturer's name or division) is contesting this determination in a proceeding in the Federal courts and has been required to issue this notice pending the outcome of the court proceeding."

(5) A clear description of the Administrator's stated basis for his determination, as provided in his order, including a brief summary of the evidence and reasoning that the Administrator relied upon in making his determination.

(6) A clear description of the Administrator's stated evaluation as provided in his order of the risk to motor vehicle safety reasonably related to the defect or noncompliance.

(7) Any measures that the Administrator has stated in his order should be taken by the owner to avoid an unreasonable hazard resulting from the defect or noncompliance.

(8) A brief summary of the evidence and reasoning upon which the manufacturer relies in contesting the Administrator's determination.

(9) A statement regarding the availability of remedy and reimbursement in accordance with paragraph (9)(i) or (9)(ii) below, whichever is appropriate.

(i) When the purchase date of the vehicle or item of equipment is such that the manufacturer is required by the Act to remedy without charge or to reimburse the owner for reasonable and necessary repair expenses, he shall include—

(A) A statement that the remedy will be provided without charge to the owner if the Court upholds the Administrator's determination;

(B) A statement of the method of remedy. If the manufacturer has not yet determined the method of remedy, he shall indicate that he will select either repair, replacement with an equivalent vehicle or item of replacement equipment, or (except in the case of replacement equipment) refund, less depreciation, of the purchase price; and

(C) A statement that, if the Court upholds the Administrator's determination, he will reimburse the owner for any reasonable and necessary expenses that the owner incurs (not in excess of any amount specified by the Administrator) in repairing the defect or noncompliance following a date, specified by the manufacturer, which shall not be later than the date of the Administrator's order to issue this notification.

(ii) When the manufacturer is not required either to remedy without charge or to reimburse, he shall include—

(A) A statement that he is not required to remedy or reimburse, or

(B) A statement of the extent to which he will voluntarily remedy or reimburse, including the method of remedy, if then known, and any limitations and conditions on such remedy or reimbursement.

(10) A statement indicating whether, in the manufacturers opinion, the defect or noncompliance can be remedied by repair. When the manufacturer believes that such remedy is feasible, the statement shall include:

(i) A general description of the work and the manufacturer's estimate of the costs involved in repairing the defect or noncompliance;

(ii) Information on where needed parts and instructions for repairing the defect or noncompliance will be available, including the manufacturer's estimate of the day on which they will be generally available;

(iii) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance; and

(iv) The manufacturer's recommendations of service facilities where the owner could have the repairs performed, including (in the case of a manufacturer required to reimburse if the Administrator's determination is upheld in the court proceeding) at least one service facility for whose charges the owner will be fully reimbursed if the Administrator's determination is upheld.

(11) A statement that further notice will be mailed by the manufacturer to the owner if the Administrator's determination is upheld in the court proceeding; and

(12) An address of the manufacturer where the owner may write to obtain additional information regarding the notification and remedy.

(c) *Post-litigation notification.* When a manufacturer does not provide notification as required in paragraph (a) of this section and the Administrator prevails in an action commenced with respect to such notification, the manufacturer shall, upon the Administrator's further order, provide notification in accordance with paragraph (b) of § 577.7 containing the information specified in paragraph (a) of this section, except that—

(1) The statement required by paragraph (c) of § 577.5 shall indicate that the determination has been made by the Administrator and that his determination has been upheld in a proceeding in the Federal courts; and

(2) When a provisional notification was issued regarding the defect or noncompliance and the manufacturer is required under the Act to reimburse—

(i) The manufacturer shall state that he will reimburse the owner for any reasonable and necessary expenses that the owner incurred (not in excess of any amount specified by the Administrator) for repair of the defect or noncompliance of the vehicle or item of equipment on or after the date on which provisional notification was ordered to be issued and on or before a date not sooner than the date on which this notification is received by the owner. The manufacturer shall determine and specify both dates.

(ii) The statement required by paragraph (g)(1)(vii) of § 577.5 shall also inform the owner that he may submit a complaint to the Administrator if the owner believes that the manufacturer has failed to reimburse adequately.

(3) If the manufacturer is not required under the Act to reimburse, he shall include—

(i) A statement that he is not required to reimburse, or

(ii) When he will voluntarily reimburse, a statement of the extent to which he will do so, including any limitations and conditions on such reimbursement.

§ 577.7 Time and manner of notification.

(a) The notification required by § 577.5 shall—

(1) Be furnished within a reasonable time after the manufacturer first determines the existence of a defect which relates to motor vehicle safety, or of a noncompliance.

(2) Be accomplished—

(i) In the case of a notification required to be sent by a motor vehicle manufacturer, by first class mail to each person who is registered under State law as the owner of the vehicle and whose name and address are reasonably ascertainable by the manufacturer through State records or other sources available to him. If the owner cannot be reasonably ascertained, the manufacturer shall notify the most recent purchaser known to the manufacturer.

(ii) In the case of a notification required to be sent by a replacement equipment manufacturer—

(A) By first class mail to the most recent purchaser known to the manufacturer, and

(B) (Except in the case of a tire) if determined by the Administrator to be necessary for motor vehicle safety, by public notice in such manner as the Administrator may determine after consultation with the manufacturer.

(iii) In the case of a manufacturer required to provide notification concerning any defective or noncomplying tire, by first class or certified mail.

(b) The notification required by any paragraph of § 577.6 shall be provided:

(1) Within 60 days after the manufacturer's receipt of the Administrator's order to provide the notification, except that the notification shall be furnished within a shorter or longer period if the Administrator incorporates in his order a finding that such period is in the public interest; and

(2) In the manner and to the recipients specified in paragraph (a) of this section.

§ 577.8 Disclaimers.

(a) A notification sent pursuant to § 577.5 or § 577.6 regarding a defect which relates to motor vehicle safety shall not, except as specifically provided in this part, contain any statement or implication that there is no defect, that the defect does not relate to motor vehicle safety, or that the defect is not present in the owner's vehicle or item of replacement equipment.

(b) A notification sent pursuant to § 577.5 or § 577.6 regarding a noncompliance with an applicable Federal motor vehicle safety standard shall not, except as specifically provided in this part, contain any statement or implication that there is not a noncompliance or that the noncompliance is not present in the owner's vehicle or item of replacement equipment.

§ 577.9 Conformity to statutory requirements.

A notification that does not conform to the requirements of this part is a violation of the Act.

[FR Doc.76-38168 Filed 12-29-76;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 32155 (Sub-No. 5)]

PART 1207—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

Report and Order

Certain revised accounting regulations governing Class I and Class II common and contract motor carriers of property (49 CFR Part 1207) are adopted to be effective January 1, 1977.

REPORT OF THE COMMISSION

In June 1976, the American Trucking Association expressed the industry's concern over the ambiguous intent of Note A to account 4400, Other Fringes, and Instruction 29(c). The carriers cannot determine if they are required to maintain control accounts for each classification of fringe expenses.

Our review of the texts of Note A and Instruction 29(c) indicated the language is ambiguous. Accordingly, we decided these items should be revised. The revised texts will clarify that carriers may enter expenses directly into the appropriate activity or they may accumulate expenses in control accounts for later distribution.

In August 1976, the Household Goods Carriers' Bureau submitted the industry's request for consideration of a change in Instruction 2(f). The proposed change would allow carriers to obtain financial reports from their agents no later than May 15th of each year. Currently, Instruction 2(f) requires carriers to obtain reports from their agents no later than the time for filing of the carrier's annual report, March 31st of each year. The Household Goods Carriers' Bureau states the proposed change would allow the agents to prepare their reports after completion of their annual audit and tax filings. The carriers believe the extra 45 days would enable the agents to produce more accurate reports with less difficulty.

Our review of the proposal to change Instruction 2(f) indicates the change would have no adverse consequences. Furthermore, the general public will not be affected because agent reports are only available to carrier personnel and Commission examiners.

None of the proposed revisions will require any additional recordkeeping nor will they place any additional burden on the carriers. The proposed revisions of Note A to Account 4400 and Instruction 29(c) would not change existing regulations but only clarify their intent. In addition, the proposed revision of Instruction 2(f) does not directly affect the carriers but eases the burden on the carriers' agents. Thus, a rulemaking proceeding under sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) is not necessary.

FINDINGS

We find that Part 1207 of Chapter X of Title 49 of the Code of Federal Regulations should be amended as detailed in the appended statement of changes; and that such rules are reasonable and necessary to the effective enforcement of the provisions of Part II of the Interstate Commerce Act, as amended; that such rules are otherwise lawful and, to the extent so found in this report, consistent with the public interest and the national transportation policy; that for good cause notice and public procedure are unnecessary under the Administrative Procedure Act, 5 U.S.C. 553(b)(B); and that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

An appropriate order will be entered.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C. on the 9th day of December 1976.

Consideration having been given to the matters and things involved in this proceeding, and the said Commission, on the date thereof, having made and filed a report herein containing its findings and conclusions, which report is hereby made a part hereof:

It is ordered, That, effective January 1, 1977, the regulations prescribed in Part 1207, of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations be, and they are hereby, revised to read as shown in the appendix to the above mentioned report.

It is further ordered, That service of this order shall be made on all affected carriers; and to the Governor of every State and to Public Utilities Commissions or Boards of each State having jurisdiction over transportation; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C. and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 and that for good cause notice and public procedure are unnecessary under the Administrative Procedure Act, 5 U.S.C. 553(b)(B).

(49 U.S.C. 204)

By the Commission.

ROBERT L. OSWALD,
Secretary.

Amend Part 1207—Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Property:

CLASS I AND CLASS II MOTOR CARRIERS INSTRUCTIONS

The text of Instruction 2(f), paragraph (1), is revised to read:

2. **Records.**

* * * * *

(f) Carriers classified as household goods carriers shall also comply with the following requirements.

(1) As evidence of the financial condition of agents required in § 1056.19(b) of this chapter, Required Filings Relating to Agency Agreements, the authorized carrier shall acquire from each of its agents (i) An income statement for the calendar year preceeding the effective date of the agency agreement and (ii) A balance sheet as of the last day of said year. Annually thereafter, for each year an agency agreement is in effect the authorized carrier shall acquire the required statements and a detailed schedule of operating revenues and expenses, from each of its agents no later than May 15th of each year. The required financial statement shall be prepared in accordance with the prescribed schedules for such statements in the annual report form filed with the Commission by the authorized carrier.

* * * * *

Instruction 29(c) is revised to read:

29. **Payroll related expenses.**

* * * * *

(c) **Other fringes** (account series 4400 for I–27 and I–28A carriers and account series 5100 and accounts 5010, 5020, 5030, 5040, and 5090 for I–28B carriers) may (1) be distributed within each natural classification directly to the appropriate activity without the use of control accounts, or (2) may be accumulated in the control account of each natural classification and distributed to the activities using one of the following techniques (in order of preference):

* * * * *

CLASS I AND CLASS II MOTOR CARRIERS

OPERATING EXPENSE ACCOUNT EXPLANATIONS

Instruction 27 and 28A Carriers

The text of Note A to Account 4400—Other Fringes, is revised to read:

4400—Other Fringes.

* * * * *

NOTE A.—Carriers may (1) distribute fringe expenses within each natural classification directly to the appropriate activity without the use of control accounts, or (2) they may accumulate them in the appropriate control accounts and distribute them to the activities using one of the techniques described in Instruction 29(c).

[FR Doc.76-38363 Filed 12-29-76;8:45 am]

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Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Cibola National Wildlife Refuge, Ariz, and Calif.

The following special regulation is issued and is effective on January 1, 1977.

§ 26.34 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

ARIZONA AND CALIFORNIA

CIBOLA NATIONAL WILDLIFE REFUGE

The Cibola National Wildlife Refuge, Arizona and California, is open to public access, use, and recreational activity from January 1 through December 31, 1977, inclusive, subject to the provisions of Title 50, Code of Federal Regulations, and all applicable Federal and State laws and regulations and all official signs posted in the area. The public use area totals approximately 9,463 acres and is delineated on maps available at refuge headquarters, Blythe, California, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, and subject to the following special conditions:

(1) The use of boats, rafts or any floating devices is permitted on Cibola Lake except during the periods January 1 through March 31, 1977, inclusive, and October 1 through December 31, 1977, inclusive.

(2) Waterskiing is permitted only on the Colorado River.

(3) All motorized vehicles, including motorcycles, are permitted only on developed roads. Driving off roads or on roads closed by sign or barrier is prohibited.

(4) Carrying, possessing, or discharging firearms on the Refuge is prohibited, except that legal firearms may be used during open hunting seasons.

(5) Campfires are permitted only in designated areas. All other open fires are prohibited.

(6) Wildlife observation is permitted at Cibola Lake during the closed period. Persons are permitted to use only established routes of travel.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through December 31, 1977.

GORDON H. HANSEN,
Acting Regional Director,
Albuquerque, New Mexico.

DECEMBER 22, 1976.

[FR Doc.76-38327 Filed 12-29-76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 907]

HANDLING OF NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Minimum Size Requirement

This notice proposes the extension of the minimum size requirement of 2.32 inches in diameter currently in effect for navel oranges grown in District 2 of the production area, to be effective January 21, through July 15, 1977. The proposed requirement is designed to promote orderly marketing in the interest of producers and consumers.

The proposed amendment would continue in effect regulations, pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than January 13, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendment was recommended by the Navel Orange Administrative Committee, and it reflects the committee's appraisal of the need for regulation based on the current and prospective crop and market conditions. Shipments of navel oranges from District 2 of the production area are now in progress, and such shipments are regulated by size through January 20, 1977, under Navel Orange Regulation 391, which requires such navel oranges to be at least 2.32 inches in diameter. The proposed amendment, which would become effective January 21, 1977, would continue in effect this size requirement. The volume and size composition of the crop of navel oranges grown in District 2 is such that ample supplies of the more desirable sizes are available to satisfy the demand in regulated channels. The proposed amendment is designed to permit shipment of ample supplies of navel oranges of acceptable sizes in the interest of both growers and consumers, and is necessary to maintain orderly marketing conditions, provide consumer satisfaction, and prevent shipment of fruit of less desirable sizes. Navel oranges failing to meet the minimum size requirement may be shipped to fresh export markets where smaller fruit is in demand, left on the trees to attain further growth, or utilized in processing. The proposed amendment is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

The proposal is that Navel Orange Regulation 391 (41 FR 54197) be amended to read as follows:

§ 907.691 Navel Orange Regulation 391.

Order. (a) During the period January 21, 1977, through July 15, 1977, no handler shall handle any navel oranges grown in District 2 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the navel oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(b) The terms "handler" and "handle" as used herein shall have the same meaning as is given to the respective terms in said marketing agreement and order.

Dated: December 23, 1976.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-38787 Filed 12-29-76;8:45 am]

[7 CFR Part 1205]

DETERMINATION OF COTTON BOARD MEMBERSHIP

Extension of Comment Period

This notice extends the period for comments to the notice, published December 14, 1976 (41 FR 54494), proposing a revision in the regulations for the determination of Cotton Board membership.

The original notice invited comments on the proposed rule through December 28, 1976. Requests have been made on behalf of interested parties to extend the comment period to January 11, 1977, to provide additional time to prepare and submit comments.

Since a large portion of the comment period fell within the holiday season, as well as the heavy volume of holiday mail, we find it advisable to extend the comment period. Accordingly, the comment period is hereby extended and interested persons may submit written data, views, or arguments in triplicate to the Hearing Clerk, Room 112, U.S. Department of Agriculture, Washington, D.C. 20250, not later than January 11, 1977.

Dated: December 23, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc.76-38285 Filed 12-29-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

ALTERNATIVE ENTITLEMENT PROGRAM ADJUSTMENTS FOR IMPORTED RESIDUAL FUEL OIL

Proposed Rulemaking and Public Hearing

On November 3, 1976 the Federal Energy Administration (the "FEA") held a public hearing as to the March 29, 1976 amendments to its domestic crude oil allocation program (the "entitlements program"), which amendments provided for certain entitlement adjustments for residual fuel oil, both imported and domestic, sold on the East Coast. As a result of this hearing, FEA has determined that it would be appropriate to propose for public comment certain further amendments in this regard that would achieve a result similar to that of the March 29 amendments and would eliminate certain undesirable effects of the current regulations on the domestic residual fuel oil markets.

These proposed modifications to the entitlements program are presented in three alternative proposals, each of which contemplates elimination of any entitlement loss (or the so-called "reverse entitlements") for domestic residual fuel oil sold on the East Coast, an increase of the amount of entitlement benefits for imported residual fuel oil, the receipt of these benefits for imports into PAD Districts I through IV and, finally, adjustment of the amount of these import benefits to operate in conjunction with the Mandatory Oil Import Program ("MOIP") to provide an 84¢ per barrel level of effective protection for domestic refiners that refine imported crude oil as compared with product importers. FEA has determined this amount to be appropriate for purposes of the MOIP (see 41 FR 30058; July 21, 1976).

FEA has utilized three alternative proposals to present these amendments for public comment, because of the direct relationship of both the entitlements program and the MOIP to competitive differentials between domestic and foreign refiners and since the agency is now in the process of determining what

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recommendations for revisions to the MOIP should be submitted to the President. FEA believes that its proposed entitlement program amendments should be considered as they would interact with what now appear to be the three most likely MOIP fee structures for imported finished products. Therefore, in this proceeding FEA is requesting that comments address both the general restructuring of the entitlements program adjustments for imported residual fuel oil and the three alternatives proposed hereby for the MOIP.

I. BACKGROUND

Entitlements Program. On March 29, 1976 FEA adopted amendments to the entitlements program which were designed to mitigate potential severe competitive imbalances in the East Coast residual fuel oil market. These amendments were necessitated by the removal in December 1975 of the $2 per barrel supplemental fee on imported crude oil and by the February 1, 1976 rollback in domestic crude oil prices under the Energy Policy and Conservation Act, the combined effect of which was to place importers of finished product at an approximate $3 per barrel raw material cost disadvantage as compared with domestic refiners.

The March 29 amendments basically provided for entitlement adjustments with respect to residual fuel oil imported into or produced by a domestic refiner for sale in the Bureau of Mines East Coast Petroleum Refining District (the "East Coast market"), commencing with such imports and production in February 1976. The East Coast market includes the states within PAD District I (except for the State of West Virginia and certain counties in Western New York and Pennsylvania) and does not include Puerto Rico or the U.S. Virgin Islands. Under these amendments, imports of residual fuel oil into the East Coast market result in the issuance to the importer of record of a fractional entitlement per barrel equal to 30% of the fractional entitlement value for each barrel of crude oil included in a refiner's crude oil runs to stills in the month in which the import takes place. As to domestically refined residual fuel oil produced for sale into the East Coast market, the refiner loses 50% of the applicable crude oil fractional entitlement value for each barrel of residual fuel oil so produced in excess of the first 5,000 barrels per day (B/D). The net effect of these adjustments is to preserve for domestic refiners a theoretical crude cost advantage for production in excess of the first 5,000 B/D equal to 20% of the per barrel crude oil entitlement value for the month in question (with the per barrel entitlement value of $2.30 for October 1976, for example, this advantage was equal to 46¢).

In the preamble to the March 29 amendments FEA indicated that it was aware that the amendments adopted were very complex and would require further review after the effect of their interaction with other FEA regulations was fully understood. In this regard, FEA stated that it intended to reassess the operation and effectiveness of the entitlements program before the end of 1976. Consistent with this commitment, FEA held the November 3, 1976 public hearing and requested comments generally as to the effectiveness of these amendments and specifically as to the extent to which entitlement benefits were being passed through, the proper advantage for domestic refiners, whether different adjustments were warranted for refiners located on the Gulf Coast that market in the East Coast and the reasons for recent price increases for residual fuel oil on the East Coast. FEA received a large number of written comments in this proceeding and a substantial number of firms made oral presentations at the public hearing.

Although there was some disagreement among the participants on certain issues, there was a relatively clear consensus to the effect that FEA's March 29 amendments, insofar as they provide for an entitlement loss for sales of domestic residual fuel oil in the East Coast market, have produced significant operational and marketing difficulties for affected firms and in certain cases have resulted in inequities as between consumers of residual fuel oil, depending on where they were located.

These amendments have severely impacted on the marketing operations of certain resellers located near the inland boundary of the East Coast market, as defined in the regulations. For example, FEA has received numerous complaints that the requirement that resellers certify to a refiner that the product purchased would not be resold into the East Coast market has adversely affected the marketing activities of these resellers. In general, however, the reverse entitlement provisions have created strong disincentives to sales of domestic residual fuel oil in the East Coast. For instance, the volumes of residual fuel oil produced by Gulf Coast refiners for sale into the Western Coast of Florida have been sharply reduced. FEA has also been advised that residual fuel oil actually refined on the East Coast has been shipped to the West Coast, and product refined in the Gulf Coast has been exchanged into the West Coast, so as to not give rise to an entitlement loss for the refiner concerned. Thus, the reverse entitlement provisions seem to be having the apparently anomalous effect of encouraging shipments into a marketing area where residual fuel oil is generally in surplus and which would not constitute a normal marketing outlet for the product. An analysis of residual fuel oil prices also shows that East Coast prices are higher than those prevailing in the rest of the United States, which is primarily due to the entitlement loss experienced for domestic product sold on the East Coast.

In addition, from its experience in administering this aspect of the entitlements program, FEA is in agreement that the reverse entitlement provisions present significant administrative and enforcement problems that could only be mitigated through the promulgation of a very complex and burdensome set of regulations. For example, after promulgation of the March 29 amendments, FEA was immediately required to issue complex reporting guidelines for firms selling residual fuel oil on the East Coast in order to enable them to report properly under the regulations, and further, more complex regulations are required if the current regulatory structure is not changed. In particular, administrative and enforcement problems are posed with respect to certifications by resellers as to where their sales of residual fuel oil purchased from domestic refiners will be made and with respect to use by a refiner that is a historical marketer on the East Coast of other domestic refiners' exemptions for the first 5,000 B/D of their residual fuel oil production sold into the East Coast market. To demonstrate the disincentives to sales of domestic residual fuel into the East Coast market and the resulting increase in the use of the 5,000 B/D exemption, the following table shows, for the reporting months February through October 1976, the total volumes of residual fuel oil reported as sold in the East Coast market, the volumes thereof reported as subject to entitlement loss under these provisions, the number of firms reporting volumes sold into the East Coast and the number of firms selling 5,000 B/D or less into that market.

Sales of domestic residual fuel oil into east coast market

1976	Total domestic barrels to east coast	Total domestic barrels subject to deduction	Number of firms selling in east coast	Number of firms selling 5,000 bbl/d or less
February	15,376,971	12,948,419	26	16
March	16,948,901	13,756,372	28	14
April	15,106,579	12,028,051	30	19
May	14,690,806	11,386,706	28	17
June	13,966,394	10,139,129	30	17
July	13,676,717	9,455,383	35	23
August	16,197,088	11,830,008	34	21
September	13,463,380	8,862,944	37	21
October	17,425,589	12,960,562	39	26

FEA believes that it is especially significant that 14 of the firms included in the table did not report any volumes sold into the East Coast in the first four months shown above. Of these firms, one is located in PAD District I, nine are located in Districts II through IV, and four are located in District V.

For the reasons outlined above, FEA's preliminary determination is that the reverse entitlements rule should be eliminated and that the entitlement benefits for imports of residual fuel oil should be increased so that firms' relative competitive positions in the domestic residual fuel oil markets would be adjusted through product import entitlement issuances alone.

The MOIP. In its analysis of these proposed amendments to the entitlements program, FEA has recognized that any proposal with respect thereto should take into account FEA's conclusion that 84¢ per barrel is the proper level of protection for domestic refiners under the MOIP and of any possible changes to the MOIP. In other words, FEA's entitlement adjustments must operate in conjunction with the MOIP to achieve the proper level of protection for domestic refiners.

On July 16, 1976 FEA issued a notice providing for a public hearing, which was held on August 19 and 20, 1976, as to tentative revisions to the MOIP that FEA proposed to recommend to the President. The July 16 notice set forth FEA's initial conclusions that the current level of protection for domestic refiners under the entitlements program (between $2 and $3 per barrel) is substantially in excess of that required to provide an effective incentive for locating incremental refinery capacity within the United States, while at the same time the level of protection under the current MOIP (between 42¢ and 58¢ per barrel, disregarding the effects of fee free allocations) is too low. In this regard, FEA has since concluded that this level of protection should approximate 84¢ per barrel for a domestic refiner refining a barrel of imported crude oil as compared with an offshore refiner.

In the July 16 notice, FEA also discussed certain aspects of the current MOIP that in effect discriminate in favor of historical marketers and increase the administrative complexities associated with administering the program. FEA accordingly announced in this notice its tentative conclusion that a revised version of the MOIP be adopted, which would increase effective protection for domestic refining in the long term, suspend the product fees during the period of continued price controls on domestic crude oil, apply the crude oil import fees in a uniform manner, separate fees and tariffs, and simplify the administration of the MOIP.

II. ALTERNATIVE AMENDMENTS PROPOSED

Given FEA's current evaluation of possible revisions to the MOIP, for purposes of this notice of proposed rulemaking FEA has concluded that it should receive comments both on its proposed amendments to the entitlements program, as they would be implemented in conjunction with three different possible structures for the MOIP, and on the three alternatives for the MOIP as set forth herein.

FEA's initial conclusion is that the appropriate raw material cost differential between importers and domestic refiners in the East Coast residual fuel oil market should be equivalent to the level of protection determined to be proper under the MOIP, i.e., 84¢ per barrel. Therefore, FEA is proposing for public comment in this notice alternative amendments to the entitlements program that would eliminate any entitlement loss for production of domestic residual fuel oil sold in the East Coast market and that would increase the entitlement value awarded to imports of residual fuel oil, the amount of the entitlement value being fixed so as to produce the desired 84¢ per barrel advantage for domestic refiners.

Under each of these proposals the East Coast would receive additional benefits for its residual fuel oil imports, and prices for this product would be lowered to be equivalent to those in other areas. FEA felt that this particular facet of the proposal, i.e. an increase in the amount of the regional transfers into the East Coast under the entitlements program, called for coverage of residual fuel oil imports into PAD Districts II through IV, as well as District I, in order to treat all of these regions on the same basis under the program. In this regard, however, FEA wishes to distinguish its analysis from the rationale underlying its March 29 amendments, which provided entitlement benefits only for imports into the East Coast and were directed at resolving specific potential competitive problems and market distortions in that area. Imports into PAD District V, however, where domestic residual fuel oil is currently in surplus, would not be eligible for entitlement issuances. FEA invites comments as towhether coverage of imports into PAD Districts II through IV is appropriate, and especially as to whether imports into PAD District V should also be so covered.

Under Alternative Proposals No. 1 through No. 3 described in greater detail below, FEA has set forth the proposed interaction of the entitlements program with each of three possible forms for the MOIP. Under Alternative No. 1, the product import fees are suspended for the duration of the entitlements program, and the 84¢ per barrel advantage for domestic refiners is provided for by the entitlements program alone through May 1979. Under Alternative No. 2, the MOIP is left unchanged and the protection for domestic refiners is provided for initially by the entitlements program alone, and then by both the entitlements program and the MOIP, as the average level of fee payments increases as fee free allocations are phased out, and finally by the MOIP alone when the entitlements program expires. Alternative No. 3 assumes an immediate change in the MOIP to provide for the 84¢ per barrel advantage for domestic refiners by an increase in the fees on finished products and elimination of fee free allocations, together with the grant of the full crude oil entitlement value for imports of residual fuel oil.

FEA wishes to emphasize that it is seeking comments from interested parties on all three of the alternative proposals set forth below, since it has not yet made any final determination on the form that the MOIP should take in the future. In particular, FEA requests comments as to whether the proposed 84¢ per barrel advantage for domestic refiners on all products is appropriate, or whether it should be set at some lower figure solely with respect to residual fuel oil produced by established refineries in the Caribbean (including Venezuela), which have historically accounted for a significant portion of the residual fuel oil sold in the East Coast market. Since one of the purposes of the March 29 amendments was to maintain the economic viability of domestic marketers reliant on these Caribbean refineries, while providing an incentive for domestic refiners to meet any increased demand, FEA invites comments on whether any such differentiation in the level of protection as between imports from historical and non-historical suppliers of imported products is appropriate and feasible. In this regard, FEA invites comments on whether the volumes of residual fuel oil receiving this special treatment should be limited by reference to historical import volumes and, if so, what is the most appropriate manner of prescribing such historical volumes.

Alternative Proposal No. 1. Under this first alternative proposal, all import fees on finished products, including residual fuel oil, would be suspended for the duration of the period in which the entitlements program will be in effect i.e. through May 1979, and entitlement benefits would be provided to imports of residual fuel oil into PAD Districts I through IV at a level that is 84¢ lower than that earned by domestic refiners for refining a barrel of crude oil. This alternative would utilize the entitlements program (while it is in effect) to fulfill the dual regulatory objectives of crude cost equalization and incentives for domestic refining, rather than utilizing two separate regulatory programs in this period. The alternative also necessarily assumes elimination of the competitive advantages accruing to firms possessing fee free allocations under the MOIP and treats imports of residual fuel oil into PAD District I through IV on a comparable basis. For imported products other than residual fuel oil that is imported into those PAD Districts, the domestic refiners' advantage would be higher than the 84¢ per barrel, amount while the entitlements program remains in effect, and would be equal to the entitlement value for a barrel of crude oil processed by a domestic refiner.

Alternative Proposal No. 2. Under the second alternative, the current import fees on refined products would not immediately be changed, and the fee free allocations would also be retained with the present phase-out schedule. To obtain the 84¢ per barrel level of protection for domestic refiners (measured in PAD District I), the entitlements program would operate as a supplement to the MOIP to provide for this advantage through May 1979 to the extent that the 84¢ advantage is not provided for by the MOIP. Prior to a point in time in 1977 or 1978 to be determined, the full domestic advantage would be provided for under the entitlements program, when fee free allocations still exceed the volume of imports. However, FEA estimates

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that sometime in the period May 1977 through April 1978 (the next allocation period for the MOIP), some importers of residual fuel oil on the East Coast will be paying the 63¢ fee on incremental volumes above those represented by fee free allocations, and that East Coast residual fuel oil prices would then commence to reflect the full payment of the fee on these incremental volumes. This would amount to effective protection for domestic refiners of 42¢ per barrel, taking into account the 21¢ per barrel fee on imported crude oil. Therefore, at this time, to obtain the 84¢ per barrel advantage with respect to these incremental volumes, the entitlements program would grant to imports of residual fuel oil a per barrel crude oil value equal to the per barrel crude oil value less 42¢ (the difference between the 42¢ per barrel effective level of protection under the MOIP and the required 84¢ advantage). After expiration of the entitlements program in May 1979, the product import fee levels would be increased to provide for the entire domestic refiners' 84¢ per barrel advantage.

FEA recognizes that, to the extent fee free allocations continue to be available, the domestic refining advantage may not exist as between certain firms; however, FEA believes that prices for imported residual fuel oil on the East Coast will reflect the cost of the marginal barrel of imports and that domestic refiners will possess the same advantage as would be possessed were no fee free allocations in effect. Under these assumptions, firms with fee free allocations would, of course, receive a special benefit as compared with their competitors equal to the amount of fees exempted. Under this alternative the level of effective protection would also necessarily differ in PAD District I, Districts II through IV, and District V, due to the applicability of fee free allocations to District I importers alone. Finally, under this option FEA would monitor the market prices for residual fuel oil imported into the East Coast, as well as the market value of import licenses, to determine at what point in time to implement its adjustments under the entitlements program and as to whether any adjustments made continued to achieve their intended purpose.

Alternative Proposal No. 3. Under FEA's third alternative proposal, the finished product import fees would be immediately increased to 84¢ per barrel, and the entitlements program would be amended simultaneously to provide for the full per barrel crude oil entitlement value for imports of residual fuel oil into PAD Districts I through IV. This alternative in essence provides for the domestic refining advantage for residual fuel oil in these Districts to be effected through the import program alone, and would require immediate amendment of the MOIP to eliminate all fee free allocations and to increase the finished product import fees to the 84¢ per barrel level.

This alternative, as is the case with Alternative No. 1, would remove the inequities inherent in the current MOIP fee free allocations, which favor historical marketers. In addition, the immediate institution of an 84¢ per barrel product import fee would tend to provide domestic refiners with more certainty as to their future status under Federal programs relating to petroleum imports, as contrasted with Alternative No. 1, under which the fees would initially be suspended and later reimposed upon expiration of the entitlements program. Finally, under this alternative the U.S. Treasury would initially realize a higher level of revenues from the import fees that would implement the domestic refining advantage.

III. Written Comment and Public Hearing Procedures

Written comments regarding the subject matter of this notice will be accepted and considered if filed by January 21, 1977. Comments should be submitted to Executive Communications, Room 3309, Federal Energy Administration, Box JW, the Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "Imported Residual Fuel Oil Adjustments under Entitlements Program." Fifteen copies should be submitted.

A public hearing on the subject matter of this notice will be held beginning at 9:30 a.m., e.s.t., on January 27, 1977, in Room 2105, 2000 M Street, N.W., Washington, D.C., to receive comments from interested persons.

Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., January 13, 1977. Such a request may be handdelivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be reached through January 26, 1977. Each person selected to be heard will be notified by FEA before 4:30 p.m., e.s.t., January 17, 1977, and must submit 100 copies of his or her statement to Allocation Regulation Development Office, FEA, Room 2214, 2000 M Street, N.W., Washington, D.C., before 4:30 p.m., e.s.t., on January 26, 1977.

FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.s.t., January 21, 1977. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

The transcript of the public hearing will be available for public review at the FEA, Freedom of Information Library, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

In compliance with the requirements of the National Environmental Policy Act (42 U.S.C. 4321) FEA is reviewing the proposed amendments with respect to possible impacts on the quality of the human environment. Because it is difficult to determine accurately the possible impacts such amendments could have on fuel oil supply and tanker traffic patterns, if any, FEA is currently undertaking an environmental assessment to determine whether an environmental impact statement is needed. FEA invites public comments on any environmental aspects of this proposal. After the completion of that assessment and consideration of the public comments received, FEA will determine whether an environmental impact statement is required to be prepared. Such steps shall be completed prior to issuance of any final rule.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

The FEA has determined that this document contains a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107, and certifies that an inflation impact statement has been prepared.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133 and Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, it is proposed to amend Part 211 of Chapter II, Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., December 23, 1976.

Michael F. Butler,
General Counsel.

1. Section 211.62 is amended to delete the definition of "East Coast market" and in the definitions of "eligible firm", "eligible product", and "national domestic crude oil supply ratio" as follows:

Alternative No. 1

§ 211.62 Definitions.

* * * * *

"Eligible firm" means any firm that imports an eligible product into PAD Districts I through IV for sale or use in those Districts, that is the importer of record under a license issued pursuant to Part 213 of this chapter and that owns the eligible product at the time of importation thereof pursuant to that license. Importation for the purpose hereof shall be as defined in paragraph (j) of § 213.27 of Part 213 of this chapter.

"Eligible product" means residual fuel oil imported into PAD Districts I through IV, except that an import of residual fuel oil into United States customs territory from the U.S. Virgin Islands shall not be considered an eligible product.

* * * * *

"National domestic crude oil supply ratio" means, for a particular month, (i) the sum of (A) the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate adjusted crude oil receipts of all refiners and (B) the total volume of imports of eligible products by eligible firms for that month, multiplied by 84 cents and divided by the entitlement price for that month, decreased by (ii) a number of barrels of deemed old oil equal to the number of entitlements issuable to small refiners under § 211.67(e), divided by (iii) the sum of the total volume of the crude oil runs to stills for all refiners for that month and the total volume of imports of eligible products by eligible firms for that month. The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

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Alternative No. 2

§ 211.62 Definitions.

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"Eligible firm" means any firm that imports an eligible product into PAD Districts I through IV for sale or use in those Districts, that is the importer of record under a license issued pursuant to Part 213 of this chapter and that owns the eligible product at the time of importation thereof pursuant to that license. Importation for the purpose hereof shall be as defined in paragraph (j) of § 213.27 of Part 213 of this chapter.

"Eligible product" means residual fuel oil imported into PAD Districts I through IV, except that an import of residual fuel oil into United States customs territory from the U.S. Virgin Islands shall not be considered an eligible product.

* * * * *

"National domestic crude oil supply ratio" means, for a particular month, the (i) sum of (A) the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate adjusted crude oil receipts of all refiners and (B) the total volume of imports of eligible products by eligible firms for that month, multiplied by the difference between 84 cents and the then current amount of effective import fee protection for domestic refiners for imported crude oil as compared with the marginal barrel of residual fuel oil imports into PAD District I, as determined by the FEA, and divided by the entitlement price for that month, decreased by (ii) a number of barrels of deemed old oil equal to the number of entitlements issuable to small refiners under § 211.67(e), divided by (iii) the sum of the total volume of the crude oil runs to stills for all refiners for that month and the total volume of imports of eligible products by eligible firms for that month. The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

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Alternative No. 3

§ 211.62 Definitions.

* * * * *

"Eligible firm" means any firm that imports an eligible product into PAD Districts I through IV for sale or use in those Districts, that is the importer of record under a license issued pursuant to Part 213 of this chapter and that owns the eligible product at the time of importation thereof pursuant to that license. Importation for the purpose hereof shall be as defined in paragraph (j) of § 213.27 of Part 213 of this chapter.

"Eligible product" means residual fuel oil imported into PAD Districts I through IV, except that an import of residual fuel oil into United States customs territory from the U.S. Virgin Islands shall not be considered an eligible product.

* * * * *

"National domestic crude oil supply ratio" means, for a particular month, the volume of deemed old oil (as defined in § 211.67(b)), included in the aggregate adjusted crude oil receipts of all refiners, decreased by a number of barrels of deemed old oil equal to the number of entitlements issuable to small refiners under § 211.67(e), divided by the sum of the total volume of the crude oil runs to stills for all refiners for that month and the total volume of imports of eligible products by eligible firms for that month. The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

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2. Section 211.66 is revised in paragraph (j) to read as follows:

§ 211.66 Reporting requirements.

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(j) *Monthly report by eligible firms.* On or prior to the fifth day of each month, commencing with the month of April 1976, each eligible firm that has imported an eligible product in the second month preceding that month shall file with the FEA a report certifying the following:

(1) The identity, volumes and ports of origin and entry of any eligible products imported by that eligible firm in that preceding month.

(2) That the eligible product was imported for sale in the geographic area coextensive with PAD Districts I through IV.

(3) Such other information as the FEA may request.

3. Section 211.67 is revised in subparagraph (3) of paragraph (a) to read as follows:

Alternative No. 1

§ 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements.*

* * *

(3) For each month, commencing with the month of February 1976, each eligible firm that has imported an eligible product in that month shall be issued a number of entitlements so as to result in the receipt of a per barrel entitlement value for its eligible product imports that is 84 cents less than would be received by a refiner (without giving effect to the provisions of § 211.67(e)) in that month with respect to inclusion of a barrel of crude oil in that refiner's crude oil runs to stills. An eligible product is imported for purposes of this paragraph (a)(3) in the month, as specified on Customs Forms 7501 or 7505, as appropriate, in which importation takes place. For purposes of this paragraph (a)(3), "importation" means that term as defined

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in paragraph (j) of § 213.27 of Part 213 of this chapter.

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ALTERNATIVE #2

§ 211.67 Allocation of domestic crude oil.

(a) Issuance of entitlements.

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(3) For each month, commencing with the month of February 1976, each eligible firm that has imported an eligible product in that month shall be issued a number of entitlements so as to result in the receipt of a per barrel entitlement value for its eligible product imports that is less than that per barrel amount received by a refiner (without giving effect to the provisions of § 211.67(e)) in that month with respect to inclusion of a barrel of crude oil in that refiner's crude oil runs to stills by an amount representing the difference between 84 cents and the then current amount of effective import fee protection for domestic refiners for imported crude oil as compared with the marginal barrel of residual fuel oil imports into PAD District I, has determined by the FEA. An eligible product is imported for purposes of this paragraph (a)(3) in the month, as specified on Customs Forms 7501 or 7505, as appropriate, in which importation takes place. For purposes of this paragraph (a)(3), "importation" means that term as defined in paragraph (j) of § 213.27 of Part 213 of this chapter.

ALTERNATIVE #3

§ 211.67 Allocation of domestic crude oil.

(a) Issuance of entitlements.

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(3) For each month, commencing with the month of February 1976, each eligible firm that has imported an eligible product in that month shall be issued a number of entitlements equal to the number of entitlements that would be received by a refiner (without giving effect to the provisions of § 211.67(e)), in that month with respect to inclusion of a number of barrels of crude oil in that refiner's crude oil runs to stills equal to the number of barrels of that eligible product imported by that eligible firm. An eligible product is imported for purposes of this paragraph (a)(3) in the month, as specified on Customs Forms 7501 or 7505, as appropriate, in which importation takes place. For purposes of this paragraph (a)(3), "importation" means that term as defined in paragraph (j) of § 213.27 of Part 213 of this chapter.

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[FR Doc.76-38295 Filed 12-29-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76-NE-38]

OXFORD, CONNECTICUT, 700-FOOT TRANSITION AREA

Extension

The Federal Aviation Administration is considering amending Section 71.181 of Part 71 of the Federal Aviation Regulations so as to extend the Oxford, Connecticut, 700-foot Transition Area.

A review of airspace requirements has determined that a one-half mile (.5) extension to the existing 700-foot transition extension area is required to provide controlled airspace for aircraft executing a new NDB approach procedure to Runway 18 at the Waterbury-Oxford Airport, Oxford, Connecticut.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before January 31, 1977 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Operations, Procedures and Airspace Branch, New England Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Oxford, Connecticut, proposes the airspace action hereinafter set forth:

§ 71.181 [Amended]

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Oxford, Connecticut, 700-foot Transition Area and add in lieu thereof the following description:

That airspace extending upward from 700 feet above the surface within a 7-mile radius area of the center of latitude 41°26'45" N, longitude 73°08'10" W of Waterbury-Oxford Airport, Oxford, Connecticut, and within 4.5 miles each side of the Oxford, Connecticut, Waterbury NDB (latitude 41°31'45" N, longitude 73°08'36" W) 354° bearing extending from the 7-mile radius area to 11 miles north of the NDB.

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].)

Issued in Burlington, Massachusetts, on December 9, 1976.

QUENTIN S. TAYLOR,
Director,
New England Region.

[FR Doc.76-38134 Filed 12-29-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-WE-32]

VOR FEDERAL AIRWAY

Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a VOR Federal Airway from Seal Beach, Calif., VORTAC to Hector, Calif., VORTAC via direct March, Calif., VOR and March VOR 352° magnetic radial to intercept VOR airways V8/V21 thence direct to Hector.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before January 31, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591. The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendment would designate an airway from Seal Beach, Calif., VORTAC to Hector, Calif., VORTAC via direct March, Calif., VOR and March VOR 352° magnetic radial to intercept VOR airway V8/V21 thence direct to Hector. The proposed new airway would

avoid a high-density traffic area and reduce controller workload by relieving the controller from issuing extensive radar vectors. The proposed routing has been in operation for some time and is operationally satisfactory.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Washington, D.C., on December 22, 1976.

DAVID F. SOLOMON,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-38266 Filed 12-29-76;8:45 am]

[14 CFR Parts 121 and 135]

[Docket No. 16386; Notice No. 76-29]

CERTAIN LARGE AIRPLANES WITHOUT A FLIGHT RECORDER OR A COCKPIT VOICE RECORDER

Operation

The Federal Aviation Administration is considering amending Special Federal Aviation Regulation No. 33 to delete paragraph (b)(2) of section 1 of the SFAR. The effect of that provision is to require continued use and maintenance of flight recorder and cockpit voice recorder installations in existence on certain airplanes on the effective date of the SFAR.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before January 31, 1977, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

SFAR No. 33 was issued on December 22, 1976, and provided immediate relief to the extent and for the reasons explained in the preamble. By virtue of section 1(b)(2) of the SFAR, airplanes of the size covered by section 1(a), that had flight recorders and cockpit voice recorders installed on the effective date of the SFAR, were not included in the relief provided by the SFAR. As mentioned in the preamble to SFAR No. 33, various attendees at the Part 135 Regulatory Review Program conference, held in Denver, Colorado, during the period November 8-11, 1976, commented on the flight recorder and the cockpit voice recorder. According to the comments, the flight and cockpit voice recorder do not enhance the safety of a particular flight, but are useful only for accident investigation purposes. The comments also noted that significant expense is incurred in the maintenance and servicing of the flight recorder and cockpit voice recorder which must be accomplished at periodic intervals. The FAA has considered the accident investigation usefulness of the flight recorder and cockpit voice recorders in relation to the maintenance and servicing expenses and has concluded that safety and the public interest do not require continued maintenance and servicing of the recorders currently installed on airplanes of the size covered by section 1(a) SFAR No. 33 during the time required for completion of rule making in the Part 135 Regulatory Review Program. Accordingly, it is proposed to amend SFAR No. by deleting paragraph (b)(2) of section 1.

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing, it is proposed to amend SFAR No. 33 by revising paragraph (b) of section 1 to read as follows:

1. *Applicability.* • • •

(b) This regulation does not apply to Convair 240, 340, and 440; Martin 202 and 404; Fairchild F-27 and FH-227; and Hawker Siddeley 748 airplanes.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on December 22, 1976.

RICHARD P. SKULLY,
Director, Flight Standards Service.

[FR Doc.76-38227 Filed 12-29-76;8:45 am]

DEPARTMENT OF STATE

[22 CFR Part 6a]

[Docket No. SD-127]

PRIVACY ACT POLICIES AND PROCEDURES

Proposed Systems Exemptions

The Department of State proposes to amend Title 22, Part 6a of the Code of Federal Regulations (40 FR 45606, October 2, 1975) by exempting two systems of records from certain provisions of the Privacy Act of 1974 (5 U.S.C. 552a). The two systems are the Public Affairs Records (STATE-35) and the Privacy Act Requests Records (STATE-40). The proposed regulations would exempt the two systems from the provisions of subsections (c)(3) and (4); (d); (e)(1) and (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a.

In the course of processing requests for access to or correction of records pursuant to the Privacy Act of 1974, it is frequently necessary to search for records in systems of records for which exemptions have been claimed pursuant to 5 U.S.C. 552a (j) or (k). When records are located in these systems, it is often necessary to prepare copies to use when consulting with agency personnel or with other agencies concerning disclosure, access, correction or review of the records in question. If records otherwise exempt pursuant to published rules should lose their exempt character when taken from such exempt systems for the purpose of compliance with the Privacy Act, the purpose of the Privacy Act in providing such exemptions would be defeated and nullified and the efficient and timely processing of Privacy Act requests would be impeded.

Written comments on the proposed exemptions should be clearly labeled "Privacy Act Exemption Comments" and sent to the Director, Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street, NW., Washington, D.C. 20520. All comments received on or before January 31, 1977 will be considered before action is taken on the amendment.

The proposed amendment would add the following new paragraph (k) to § 6a.6:

§ 6a.6 Exemptions.

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(k) Portions of certain documents in the following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a (j) and (k) from subsections (c)(3) and (4); (d); (e)(1) and (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a:

Public Affairs Records—STATE-35.
Privacy Act Requests Records—STATE-40.

These exemptions apply only to the extent that the records contained in the system have been obtained from other systems of records maintained by the Department of State for which exemptions from one or more provisions of the Privacy Act of 1974 have been promulgated. The exemptions claimed for these systems apply only to the records obtained from other Departmental systems and only to the extent that the records contained in such other systems have been exempted.

(5 U.S.C. 552a, as amended by Pub. L. 93-579.)

Dated: December 14, 1976.

For the Secretary of State.

LAWRENCE S. EAGLEBURGER,
Deputy Under Secretary for Management.

[FR Doc.76-38307 Filed 12-29-76;8:45 am]

V 41 252 DEC 30 76 UMI

INTER-AMERICAN FOUNDATION

[22 CFR Part 1004]

GOVERNMENT IN THE SUNSHINE ACT

Implementation

Notice is given that the Inter-American Foundation is considering promulgating the following rules for implementing Pub. L. 94–409 of September 13, 1976. Section 3 amends title 5, United States Code by adding after section 552a a new section 552b.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposals to the Executive Officer, Inter-American Foundation, 1515 Wilson Blvd., Rosslyn, Virginia 22209. All relevant material received on or before January 31, 1977 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8:30 a.m. to 5:00 p.m. Monday through Friday (except holidays) during the mentioned 30-day period.

WILLIAM M. DYAL, Jr.,
President.

DECEMBER 22, 1976.

PART 1004—RULES FOR IMPLEMENTING OPEN MEETINGS WITHIN THE INTER-AMERICAN FOUNDATION

Sec.

1004.1 General policies.
1004.2 Definitions.
1004.3 Requirement of open meetings.
1004.4 Grounds on which meetings may be closed.
1004.5 Procedures for announcing meetings.
1004.6 Procedures for closing meetings.
1004.7 Reconsideration of opening or closing a meeting.
1004.8 Transcripts, recordings of closed meetings.

AUTHORITY: Pub. L. 91–175, 83 Stat. 821 (22 U.S.C. 290f).

§ 1004.1 General policies.

The Inter-American Foundation will provide the public with the fullest practical information regarding its decision-making processes while protecting the rights of individuals and its abilities to carry out its responsibilities.

§ 1004.2 Definitions.

The following definitions apply:

(a) The term "agency" includes any executive department, military department, government corporation, government controlled corporation or other establishment in the executive branch of the government (including the Executive Office of the President) or any independent regulatory agency, and is headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency. The Inter-American Foundation is a government corporation headed by a 7-member Board of Directors, all of whom are appointed by the President with the advice and consent of the Senate, and is therefore an "agency" under these terms.

(b) The term "meeting" means the deliberation of this Board of Directors where such deliberations determine or result in the joint conduct or disposition of official IAF business.

(c) The term "member" means an individual who belongs to the IAF Board of Directors.

§ 1004.3 Requirement of open meetings.

Members shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in § 1004.4 every portion of every meeting of the agency shall be open to public observation.

§ 1004.4 Grounds on which meetings may be closed.

The IAF shall open every portion of every meeting of the agency for public observation except where the agency determines that such portion or portions of its meeting or the disclosure of such information is likely to:

(a) Disclose matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and

(2) In fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practice of the agency;

(c) Disclose matters specifically exempted from disclosure by statute, provided that such statute:

(1) Requires that the matters be withheld from the public in such manner as to leave no discretion on the issue, or

(2) Established practical criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings,

(2) Deprive a person of a right to a fair trial of an impartial adjudication,

(3) Constitute an unwarranted invasion of personal privacy,

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential source,

(5) Disclose investigative techniques and procedures, or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information the premature disclosure of which would be likely to significantly guarantee implementation of a proposed agency action. This shall not apply in any instance where the IAF has already disclosed to the public the content or nature of its proposed action, or where the IAF is required by law to make such disclosure on its own initiative prior to taking final IAF action on such proposal;

(i) Specifically concern the IAF's issuance of a subpoena, or the IAF's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the IAF of a particular case of formal agency adjudication pursuant to the procedures in section 554, of this title or otherwise involving a determination on the record after opportunity for a hearing; or

(j) Disclose information the premature disclosure of which would be likely to significantly guarantee implementation of a proposed IAF action. This shall not apply in any instance where the IAF has already disclosed to the public the content or nature of its proposed action, or where the IAF is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal.

§ 1004.5 Procedures for announcing meetings.

(a) In the case of each meeting, the IAF shall make public, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the IAF to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the Board of Directors of the IAF determines by a recorded vote that the IAF requires that such a meeting be called at an earlier date, in which case the IAF shall make public announcement of the time, place and subject matter of such meeting and whether open or closed to the public, at the earliest practical time.

(b) Immediately following the public announcement, the IAF will publish it in the FEDERAL REGISTER.

§ 1004.6 Procedures for closing meetings.

(a) The closing of a meeting shall occur only when:

(1) A majority of the membership of the IAF Board votes to take such action. A separate vote of the Board members shall be taken with respect to each Board meeting a portion or portions of which are proposed to be closed to the public pursuant to § 1004.4, or with respect to any information which is proposed to be withheld under § 1004.4. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Board member participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the IAF close such portion to the public for any of the reasons referred to in 1004.4 (e), (f) or (g), the IAF, upon request of any one of its Board members, shall take a recorded vote, whether to close such portion of the meeting.

(b) Within one day of any vote taken, the IAF shall make publicly available a written copy of such vote reflecting the vote of each member on the question and full written explanation of its action closing the entire or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation.

(c) The IAF shall announce the time, place and subject matter of the meeting at least 8 days before the meeting.

(d) For every closed meeting, the General Counsel of the IAF shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the IAF.

§ 1004.7 Reconsideration of opening or closing a meeting.

The time or place of a Board meeting may be changed following the public announcement only if the IAF publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the agency to open or close a meeting, or portion of meeting, to the public, may be changed following the public announcement only if a majority of the Board of Directors determines by a recorded vote that IAF business so requires and that no earlier announcement of the change was possible, and the IAF publicly announces such change and the vote of each member upon such change at the earliest practicable time.

§ 1004.8 Transcripts, recording of closed meetings.

(a) The IAF shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public.

(b) The IAF, after review by the General Counsel shall make promptly available to the public in a place easily accessible to the public, the transcript or electronic recording of the discussion of any time on the agenda, or any item of the testimony of any witness received at the Board meeting, except for such item or items of such discussion or testimony as the IAF determines to contain information which may be withheld under § 1004.4. Copies of such transcript, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The IAF shall maintain a complete verbatim copy of the transcript or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any IAF proceeding with respect to which the meeting or portion was held, whichever occurs later.

[FR Doc.76-38317 Filed 12-29-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 880]

[Docket No. R-76-380]

SECTION 8 HOUSING ASSISTANCE PAYMENTS, NEW CONSTRUCTION

Requests for Rent Increase

On April 26, 1976, the Department published in the FEDERAL REGISTER (41 FR 17468) and made effective revised final regulations for the section 8 Housing Assistance Payments Program—New Construction, 24 CFR Part 880, under section 8 of the United States Housing Act of 1937. Miscellaneous amendments and corrections were published on September 29, 1976.

Notice is hereby given that the Department is proposing to amend these regulations by revising § 880.209(b).

The purpose of the proposed amendment is to revise the circumstances and limitations under which HUD may approve a request for a rent increase submitted by an Owner with the Final Proposal or architect's certification.

The proposed amendment would allow HUD to approve such requests for rent increase if the need for increased rents results from circumstances beyond the developer's control and if rents were not a deciding factor in competitive selection. The principal change is deletion of the limitation in the present regulations which requires that rents may not exceed those rents proposed by the Owner in his Preliminary Proposal. The requirements that the requested rents be determined reasonable and not exceed the Fair Market Rent limitation would remain the same.

Interested parties are invited to submit written comments, suggestions and objections to the proposal amendment on or before January 31, 1977.

Submittals should refer to the above Docket Number and date of publication and be addressed to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. All relevant material will be considered before adoption of the final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

A Finding of Inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A Finding of Inapplicability of inflation impact statement requirements has also been made in accordance within HUD procedures. A copy of these findings will be available for public inspection during regular business hours at the address set forth in the preceding paragraph. It is therefore proposed to amend title 24 of the Code of Federal Regulations by revising § 880.209 (b) to read as follows:

§ 880.209 Final proposals.

* * * * * *

(b) *Consistency with preliminary proposal.* The Final Proposal shall be consistent with the HUD approved Preliminary Proposal. Any material deviations from the Preliminary Proposal in the Final Proposal will cause reconsideration by HUD of such Final Proposal and may result in its rejection. However, the Owner may request, with the submission of his Final Proposal or architect's certification, an increase in Contract Rents over those approved in the Preliminary Proposal; and HUD, in its discretion, may approve such an increase if HUD determines that (1) the need for increased rents is due to factors beyond the Owner's control which he could not have reasonably foreseen; (2) the requested rents are reasonable (see § 881.108(b)); (3) (i) there was sufficient contract authority to select all approvable Preliminary Proposals, or (ii) it is specifically determined by HUD, based upon the record of the ranking of all the approvable Proposals, that the Preliminary Proposal clearly would have been selected even without regard to any weight being given by reason of its rents; and (4) the requested rents do not exceed the Fair Market Rent limitations in effect at the time of submission of the Preliminary Proposal (see § 880.108(a)). The Owner shall submit documentation justifying his request and evidencing the need for increased rents.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); sec. 5(b) of the United States Housing Act of 1937 (42 U.S.C. 1437c(b)); sec. 8 of the United States Housing Act of 1937 (42 U.S.C. 1437(f)).)

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

Issued at Washington, D.C., December 23, 1976.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing — Federal Housing Commissioner.

[FR Doc.76-38346 Filed 12-29-76;8:45 am]

V 41 252 DEC 30 76 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

IRRIGATION OPERATION AND MAINTENANCE CHARGES

Basic and Other Water Charges; Fort Hall Irrigation Project, Idaho

These proposed regulations are being considered for issuance under the authority delegated to the Commissioner of Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Commissioner to the Area Director 10 BIAM 3.

Notice is hereby given that it is proposed to modify § 221.32 of Part 221, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations by changing the basic rates for annual operation and maintenance assessments on the Fort Hall Project for Calendar Year 1977 and subsequent years.

The purpose of this modification is to increase the assessment rates to cover the actual operation and maintenance costs based on the previous year's operating experience and the anticipated program of work.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views or arguments with respect to the proposed rates to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, on or before January 31, 1977.

Section 221.32 of Chapter I, Title 25 of the Code of Federal Regulations is revised to read as follows:

§ 221.32 Basic and other water charges.

(a) In compliance with the provisions of the Acts of March 1, 1907 (34 Stat. 1024), and the August 31, 1954 (68 Stat. 1026), the annual basic water charges for the operation and maintenance of the lands in non-Indian ownership and Indian-owned lands leased to a non-Indian or a non-member of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, to which water can be delivered for irrigation are hereby fixed for the Calendar Year 1977 and subsequent years until further notice as follows:

(1) Fort Hall Project: Basic rate; $12.50 per acre.

(2) Michaud Division, Fort Hall Project: Basic rate; $16.75 per acre. Additional rate for sprinkler irrigation when pressure is supplied by the project; $6.25 per acre.

(3) Minor Units, Fort Hall Reservation: Basic rate; $10.00 per acre.

(b) In addition to the foregoing charges, there shall be collected a minimum charge of $5 for the first acre or fraction thereof on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

DOYCE L. WALDRIP,
Acting Area Director.

[FR Doc.76-38319 Filed 12-29-76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 7]

INCOME TAX

Temporary regulations relating to definition of qualified possession source investment income for purposes of the Puerto Rico and possession tax credit; Invitation for comments; Public hearing

Temporary regulations under section 936 of the Internal Revenue Code of 1954 relating to the definition of qualified possession source investment income for purposes of the Puerto Rico and possession tax credit are published in the Rules Section in today's FEDERAL REGISTER (see FR Doc. 76-38379). As indicated, such regulations are temporary and it is contemplated that they will be replaced by permanent regulations. To assist in the development of the permanent regulations, the Internal Revenue Service would appreciate receiving views from members of the public, by way of written comments and suggestions and also oral comments at a public hearing, as to the desirability of including in the final regulations the substance of the temporary regulations. Such written comments or suggestions should be submitted in writing (preferably 6 copies) to the Commissioner of Internal Revenue Attention: CC:LR:T, Washington, D.C. 20224, by February 9, 1977.

A public hearing to receive oral comments with respect to the desirability of including the substance of the temporary regulations in final regulations will be held on February 23, 1977, beginning at 10 a.m. in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

To the extent pertinent, the rules of § 601.601 (a) (3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-566-3935. Under such § 601.601 (a) (3), persons who have submitted written comments or suggestions by February 9, 1977, and who desire to present oral comments at the hearing on such temporary regulations, should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by February 9, 1977. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Under § 601.601 (a) (3) (26 CFR Part 601) each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of this agenda will be available free of charge at the hearing, and information with respect to its contents may be obtained on February 22, 1977, by telephoning (Washington, D.C.) 202-566-3935.

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

[FR Doc.76-38380 Filed 12-27-76;4:49 pm]

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 211]

Bureau of Land Management

[43 CFR Part 3041]

SURFACE MANAGEMENT COAL MINING OPERATING REGULATIONS

Steep Slopes

On May 17, 1976, a complete revision of 30 CFR Part 211, Coal Mining Operating Regulations, and a new 43 CFR Part 3041, Surface Management, were published in the FEDERAL REGISTER (41 FR 20252) and were made effective on that date.

At that time, it was noted in the preamble to the rulemaking that specific performance standards relating to operations conducted on land configurations commonly referred to as "steep slopes" would be prepared and published as proposed rulemaking amendments to the regulations promulgated at that time.

The following proposed rulemaking has been prepared for this purpose, and are published for public comment at this time.

Interested persons are invited to submit their comments in writing on the proposed rulemaking on or before January 24, 1977. Comments on the proposed amendments should be submitted to the Director, United States Geological Survey, The National Center, Reston, Virginia 22092; and to the Director, Bureau of Land Management (210), Washington, D.C. 20240.

It is proposed that 30 CFR Part 211 and 43 CFR Subpart 3041 be amended as follows:

§ 3041.0-6 [Amended].

§ 211.2 [Amended].

1. The provisions of 43 CFR 3041.0-6 and 30 CFR 211.2 are amended by insertion of the following language as a new subparagraph 3041.0-6 (11) and 211.2 (mm), respectively, and the renumbering of succeeding subparagraphs accordingly:

Steep Slopes. As used herein, the term 'steep slopes' shall refer to a land surface configuration of a slope of 20° or greater, but shall not apply to flat or gently rolling terrain, nor to occasional such slopes which may be encountered in an operation in which mining proceeds in predominantly flat or gently rolling terrain.

§ 3041.3-2 [Amended]

§ 211.40 [Amended]

2. The provisions of 43 CFR 3041.2-2(f) and 30 CFR 211.40(a) are amended by the insertion of the following language as a new subparagraph 3041.2-2(18) and 211.40(a)(18), respectively:

In surface coal mining operations conducted on steep slopes,

(__) No spoil material waste, or debris may be placed on the slope below the bench or outslope used in mining, except that a variance may be granted in accordance with 30 CFR 211.74 to allow for soil or other overburden material from a cut to be placed on the downslope in a limited manner. Spoil material in excess of that required for reclamation to approximate original contour may be permanently stored in spoil storage areas such as head of hollow fill. Approximate original contour reclamation procedures are not to exclude such reclamation methods or techniques in which a terrace of some form remains or where the original bench is located to permit more effective utilization of the land. Any such placement may occur only in accordance with all other requirements of this part, including but not limited to those relating to stability, prevention of erosion, and approximate original contour.

(__) Head of hollow fill or other permanent spoil storage areas may be approved as part of the mining plan and shall be graded, compacted, stabilized, and shaped in a way to protect against slides, subsidence, erosion, and water pollution. Head of hollow fill shall normally be placed with a french drain constructed through the complete height of the fill, the drain to be constructed of coarse material that will permit water to flow through.

(__) The land above the top of a highwall may not be disturbed except to facilitate compliance with the performance standards, and disturbance of the land proposed for above the highwall shall be included as part of the approved mining plan.

§ 3041.8 [Amended]

3. The provisions of 43 CFR 3041.8 are amended by the striking from subparagraph 3041.8(a)(1) of the language "(12) or (13) of this subpart" from the first sentence thereof, and the substitution therefor of the following language: "(12), (13) or (18) of this subpart".

§ 211.74 [Amended]

4. The provisions of 30 CFR 211.74 are amended by the striking from subparagraph 211.74(a)(1) of the language "(12), or (13) of this Part" from the first sentence thereof, and the substitution therefor of the following language: "(12), (13) or (18) of this Part".

Dated: DECEMBER 23, 1976.

W. W. LYONS,
Deputy Under Secretary.

[FR Doc. 76-38316 Filed 12-29-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 663-8]

STATE OF MARYLAND

Proposed Revision of Implementation Plan

On October 14, 1975, the State of Maryland submitted to the Regional Administrator, EPA Region III, a request for a variance from the air pollution regulations governing Maryland Area I [Maryland portion of the Cumberland-Keyser Interstate Air Quality Control Region (AQCR)]. The State asked that this variance request be reviewed and processed as a revision to the Maryland State Implementation Plan for the attainment and maintenance of national ambient air quality standards.

The variance would exempt the Kelly-Springfield Tire Company of Cumberland, Maryland from compliance with Maryland Regulations 10.03.36.02C(2) [Control and Prohibition of Visible Emissions] and 10.03.36.03B(2)c(3) [Control of Particulate Matter from Fuel Burning Equipment] until September 24, 1977, contingent on the purchase of high-efficiency (99%) electrostatic precipitators (ESP). The exception request further permits Kelly-Springfield to burn coal in boilers No. 61 and No. 62 immediately after the boilers are converted to dual firing capability (coal or oil) and temporarily equipped with refurbished medium efficiency mechanical dust collectors. Prior to this request, the Kelly-Springfield company was burning 1.0% sulfur residual oil.

The State of Maryland and the Kelly-Springfield Company justify the variance request with the following:

1. Kelly-Springfield's Cumberland plant represents a substantial economic factor in the Western Maryland area.

2. The competitive position of the Cumberland plant is in jeopardy because of the increase in the cost of fuel oil. The uncertainty of foreign fuel oil supply creates a continuous production threat to the company.

3. Conversion from fuel oil to Western Maryland coal as a primary fuel will significantly reduce manufacturing costs and in turn stimulate the Western Maryland economy.

4. An analysis by the Company's consultant indicates that the impact of emissions into the ambient air from the coal fired boilers during the two year conversion period may not significantly affect ambient air particulate concentrations.

The State of Maryland submitted proof that a public hearing was held on July 25, 1975 in Cumberland, in accordance with the requirements of 40 CFR 51.4.

A preliminary technical review performed by EPA indicates that if the variance request were approved, the annual particulate concentration levels would increase in an AQCR that is presently not attaining the annual national ambient air quality standard for particulates. Furthermore, if certain meteorological conditions occur, ambient particulate concentration levels could increase to a point at which human health could be imminently and substantially endangered. For these reasons EPA informed Maryland in March, 1976 that the variance request could not be approved. No withdrawal action has been taken by the State.

On September 16, 1976, a Notice of Violation under section 113(a) of the Clean Air Act was issued to the Kelly-Springfield Company because of its violations of the Maryland SIP. A conference was held with Kelly-Springfield in accordance with section 110(a)(4) of the Clean Air Act. The Company could be the subject of future enforcement action under section 113(a) if it is found to still be in violation of the federally-approved SIP regulations cited in the Notice of Violation.

The public is invited to submit comments on whether the variance request submitted by the State of Maryland should be approved or disapproved as a revision to the Maryland State Implementation Plan. Only those comments received on or before January 31, 1977 will be considered.

The Administrator's decision to approve or disapprove this proposed SIP revision will further be based on whether it meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Copies of the proposed SIP revision and the analysis on which it is based are available for public inspection during normal business hours at the following locations:

United States Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: Mr. Harold Frankford.

Maryland Bureau of Air Quality and Noise Control, 201 West Preston Street, Baltimore, Maryland 21201. ATTN: Mr. George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

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All comments should be submitted to:

Mr. Howard Heim (3AH10), Chief, Air Programs Branch, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: AH007MD.

(42 U.S.C. 1857c–(5))

Dated: December 14, 1976.

DANIEL L. SNYDER III,
Regional Administrator.

[FR Doc.76–38236 Filed 12–29–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3041]

SURFACE MANAGEMENT COAL MINING

Operating Regulations

CROSS REFERENCE: For a document issued by Geological Survey and the Bureau of Land Management affecting Title 43, Part 3041, see FR Doc. 76–38318 appearing under Department of the Interior, Geological Survey in the Proposed Rules section of this issue.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 206]

APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

Dissemination of Information on Public Assistance

The Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend § 206.10 of Part 206, Chapter II, Title 45 of the Code of Federal Regulations.

The purpose of the amendment is to make clear that information concerning the public assistance programs under Titles I, IV–A, X, XIV, XVI (AABD), and XIX of the Social Security Act must be furnished not only to applicants but to any individual who seeks such information.

The basis of the amendment is the Department's belief that clarification is needed of the intent of the current regulation to prevent further misinterpretation by State and local agencies and to ensure that any individual who wishes information receives it.

The proposed amendment is responsive to reports from recipient group representatives that some State and local agencies have interpreted the furnishing of information provision under § 206.10 (a) (1) to mean that only individuals who have made a signed application for public assistance shall be given information about the programs. Thus, the agencies have not made printed or oral information about the programs available to persons seeking such information unless they are, in fact, applicants as defined in § 206.10(b) (1).

The Department's intent in the current regulation is that information about the financial assistance and medical assistance programs be made available to all individuals, whether they are actual or potential applicants or merely individuals seeking information.

Accordingly, § 206.10(a) (1) and (2) (i) is being revised to specify that information concerning the program shall be provided to any individual who requests it, and applicants and all individuals who inquire about the programs shall be informed of the eligibility requirements and their rights and obligations under the programs.

Prior to the adoption of the proposed amendments, consideration will be given to written comments, suggestions, or objections thereto received by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2382, Washington, D.C. 20013, on or before February 19, 1977. In order to assure prompt handling of comments, please refer to "PCO–153–P." Agencies and organizations are requested to submit their comments in duplicate.

Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Room 5225 of the Department's offices at 330 C Street, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202–245–0950).

Answers to specific questions may be obtained by calling Miss Helen Hamilton, 202–245–1721.

(Section 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid) and Program No. 13.714, Medical Assistance Program.)

The Social and Rehabilitation Service has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: December 6, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

Approved: December 22, 1976.

MARJORIE LYNCH,
Acting Secretary.

Part 206, Chapter II, Title 45 of the Code of Federal Regulations is amended by revising paragraph (a) (1) and (a) (2) (i) of § 206.10 to read as set forth below:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act shall provide that:

(1) Each individual wishing to do so shall have the opportunity to apply for assistance under the plan without delay and information concerning the program shall be provided to any individual who requests it. Under this requirement:

(i) Each individual may apply under whichever of the State plans he chooses;

(ii) The agency shall require a written application, signed under a penalty of perjury, on a form prescribed by the State agency, from the applicant himself, or his authorized representative, or, where the applicant is incompetent or incapacitated, someone acting responsibly for him;

(iii) An applicant may be assisted, if he so desires, by an individual(s) of his choice (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them; and

(iv) (A) Individuals found eligible for financial assistance under a State plan for title I, IV–A, X, XIV, or XVI (AABD) are eligible for medical assistance without a separate application.

(B) Aged, blind, or disabled individuals found eligible for Supplementary Security Income benefits under title XVI of the Act or for State supplemental payments are eligible for medical assistance without a separate application to the extent provided for in agreements between the individual's State of residence and the Social Security Administration; and

(C) Individuals not found eligible as specified in paragraph (a) (1) (iv) (A) or (B) of this section must file a separate application for medical assistance.

(v) (A) For assistance under title XIX, the agency shall request on the application the social security number (SSN) of each individual (including children) for whom assistance is requested. Under this requirement, the agency shall advise the applicant whether disclosure of such number is mandatory or voluntary, by what statute or other authority such number is requested, and what uses will be made of it. Disclosure of the SSN may be made mandatory only if the State had in existence and operating prior to January 1, 1975, a system of welfare or Medicaid records for which disclosure of the SSN was required, by statute or regulation, in order to verify the identity of the individual. If any individual cannot provide a SSN either because he has not been issued one or he does not know his SSN, and wishes to secure one, the agency shall assist him in filling out an application for such number on such forms and under such procedures as may be required by the Social Security Administration (SSA) and shall transmit it to the SSA. Under this requirement, the agency shall also obtain such evidence as may be required under SSA regulations to establish the age, citizenship or alien status, and true identity of such applicant, and, where the case record attests that a previous social security number has been issued, request verification of the number by SSA. Where disclosure of the SSN is voluntary, no individual who is otherwise eligible shall be denied assistance because of failure or refusal to disclose or apply for a SSN, and the individual shall be so informed.

(B) The provisions of paragraph (a) (1) (v) (A) of this section shall apply to title IV–A for the period prior to July 1, 1975.

(C) The agency shall not deny or delay assistance to an eligible individual pending issuance by SSA or verification by the agency of his SSN.

(2) (i) Applicants and all individuals who inquire about the program shall be informed about the eligibility requirements and their rights and obligations under the program. Under this requirement individuals are given information in written form, and orally as appropriate, about coverage, conditions of eligibility, scope of the program, and related services available, and the rights and responsibilities of applicants for and recipients of assistance. Specifically developed bulletins or pamphlets explaining the rules regarding eligibility and appeals in simple, understandable terms, are publicized and available in quantity.

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[FR Doc.76–38209 Filed 12–29–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 4]

[CGD 76–149]

MARINE INVESTIGATION REGULATIONS

Proposed Coast Guard-National Transportation Safety Board Marine Casualty Investigations

The Coast Guard is proposing an amendment to the Marine Investigation Regulations in 46 CFR Part 4 to include a new Subpart 4.40, Coast Guard-National Transportation Safety Board Marine Casualty Investigation. The National Transportation Safety Board (Board) is proposing identical regulations, as an amendment to 49 CFR Part 850 on page 56837 of this issue of the FEDERAL REGISTER.

Interested parties are invited to participate in the proposed rulemaking by submitting written data, views, or arguments to the Commandant (G–CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting a comment should include his name, address, identify the notice (CGD 76–124), and give reasons in support of his comment. Comments received before March 1, 1977, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination in Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. The proposal may be changed in light of the comments received.

No public hearing is planned, but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

This proposed amendment would implement a requirement of § 304 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2166, 49 U.S.C. 1901 et seq.), (The Act). That requirement is as follows:

The Board shall—

(1) Investigate or cause to be investigated (in such detail as it shall prescribe), and determine the facts, conditions, and circumstances and the cause or probable cause or causes of any • • •

(e) Major marine casualty, except one involving only public vessels, occurring on the navigable waters or territorial seas of the United States, or involving a vessel of the United States, in accordance with regulations to be prescribed jointly by the Board and the Secretary of the Department in which the Coast Guard is operating. Nothing in this subparagraph shall be construed to eliminate or diminish any responsibility under any other Federal statute of the Secretary of the Department in which the Coast Guard is operating: *Provided*, That any marine accident involving a public vessel and any other vessel shall be investigated and the facts, conditions, and circumstances, and the cause or probable cause determined and made available to the public by either the Board or the Secretary of the Department in which the Coast Guard is operating • • •

Furthermore, under Section 304, the Board may request that a designee of the Secretary of Transportation make the investigation, except where Federal Government misfeasance or nonfeasance is alleged, and report the findings to the Board so that it can determine cause or probable cause.

This proposal contains the procedures under which the Board and the Coast Guard would investigate, under the Act, major marine casualties, as defined in § 4.40–5 of this proposal, and casualties involving a public and non-public vessel. Under § 4.40–15 of this proposal, the Board would conduct its inquiries under the existing Board rules of practice for surface transportation accident hearings in 49 CFR Part 845.

Under § 4.40–25 of this proposal, the Coast Guard may conduct the fact-finding inquiry if requested by the Board when the Board does not conduct an inquiry. Under § 4.40–30 of this proposal, the Coast Guard would use the existing marine casualty investigation procedures in 46 CFR Part 4, which are for 46 U.S.C. 239 investigations. The Board may designate a person or persons to participate in an inquiry under 46 CFR Subpart 4.07 or 4.09.

Public vessel is defined under proposed § 4.40–5 as a vessel owned by the United States, except one to which 46 U.S.C. 363 applies. 46 U.S.C. 363 applies to vessels owned and operated by the Department of Commerce. These vessels are controlled by the Federal Maritime Administration of the Department of Commerce and are chartered for commercial use. If one of these vessels were involved in a casualty, it would be, for the purposes of these proposed regulations, a vessel of the United States as defined under proposed § 4.40–5(g).

The Coast Guard and the Board intend to annually review these regulations. Conforming amendments to the existing rules in 46 CFR Part 4 would be promulgated by the Coast Guard when the procedures of the Coast Guard and the Board are published as rules.

In consideration of the foregoing, it is proposed to amend Part 4 of Title 46, Code of Federal Regulations, by adding a new Subpart 4.40 to read as follows:

Subpart 4.40—Coast Guard—National Transportation Safety Board Marine Casualty Investigations

Sec.

4.40–1 Purpose and applicability.
4.40–5 Definitions.
4.40–10 Preliminary fact-finding by the Coast Guard.
4.40–15 Marine casualty inquiry by the Board.
4.40–20 Cause or probable cause determinations from Board inquiry.
4.40–25 Coast Guard marine casualty inquiry for the Board.
4.40–30 Procedures for Coast Guard inquiry.
4.40–35 Records of the Coast Guard and the Board.

AUTHORITY: 5 U.S.C. 552, 14 U.S.C. 2, 633, 46 U.S.C. 239, 375, 416, 49 U.S.C. 1655(b)(1), 1903(a)(1)(E); 49 CFR 1.46(b).

Subpart 4.40—Coast Guard—National Transportation Safety Board Marine Casualty Investigations

§ 4.40–1 Purpose and applicability.

This subpart prescribes the joint regulations of the National Transportation Safety Board and the Coast Guard for the investigation of—

(a) A major marine casualty, as defined under § 4.40–5(e), that occurs on the navigable waters or territorial seas of the United States or that involves a vessel of the United States, except one involving only public vessels; and

(b) A casualty involving public and non-public vessels.

§ 4.40–5 Definitions.

As used in this subpart:

(a) "Act" means Title III of Public Law 93–633, the Independent Safety Board Act of 1974, (49 U.S.C. 1901, et seq.).

(b) "Board" means the National Transportation Safety Board.

(c) "Chairman" means the Chairman of the National Transportation Safety Board.

(d) "Commandant" means the Commandant of the Coast Guard.

(e) "Major marine casualty" means a casualty involving a vessel, other than a public vessel, that results in—

(1) The loss of six or more lives;

(2) The loss of a mechanically propelled vessel of 100 or more gross tons;

(3) Property damage initially estimated as $500,000 or more; or

(4) Serious threat, as determined by the Commandant and concurred in by the Chairman, to life, property, or the environment by hazardous materials.

(f) "Public vessel" means a vessel owned by the United States, except a vessel to which the Act of October 25,

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1919, c.82, (41 Stat. 305, 46 U.S.C. 363) applies.

(g) "Vessel of the United States" means a vessel—

(1) Documented or required to be documented under the laws of the United States;

(2) Owned in the United States; or

(3) Owned by a citizen or resident of the United States and not registered under a foreign flag.

§ 4.40–10 Preliminary fact-finding by the Coast Guard.

(a) The Coast Guard conducts the preliminary fact-finding of marine casualties.

(b) The Commandant determines from the preliminary fact-finding whether—

(1) The casualty is a major marine casualty; or

(2) The casualty involves public and non-public vessels.

(c) The Commandant notifies the Board of a casualty described in paragraph (b) (1) or (2) of this section.

§ 4.40–15 Marine casualty inquiry by the Board.

The Board may conduct an inquiry under the Act for any major marine casualty or any casualty involving public and non-public vessels under the Board's rules of practice for surface transportation accident hearings in 49 CFR Part 845.

§ 4.40–20 Cause or probable cause determinations from Board inquiry.

After an inquiry conducted by the Board under § 4.40–15, the Board determines cause or probable cause and issues a report of that determination.

§ 4.40–25 Coast Guard marine casualty inquiry for the Board.

(a) If the Board does not conduct an inquiry under § 4.40–15 and if requested by the Board, the Coast Guard may conduct an inquiry under the Act unless there is an allegation of Federal Government misfeasance or nonfeasance.

(b) The Board requests the Coast Guard to conduct an inquiry under paragraph (a) within 48 hours of receiving notice under § 4.40–10(c).

(c) The Coast Guard advises the Board within 24 hours of receipt of a request under paragraph (b) whether the Coast Guard will conduct an inquiry under the Act.

§ 4.40–30 Procedures for Coast Guard inquiry.

(a) The Coast Guard conducts an inquiry under § 4.40–25 using the procedures in 46 CFR 4.01–1 through 4.23–1.

(b) The presiding Coast Guard officer for an inquiry conducted under 46 CFR Subpart 4.07 or 4.09 has the following powers:

(1) To open, continue, or adjourn the inquiry.

(2) To issue subpoenas.

(3) To call witnesses and administer oaths.

(4) To determine the admissibility of and to receive evidence and to regulate the course of the hearing.

(5) To rule on procedural requests and similar matters.

(6) To take any other action necessary for the orderly conduct of the inquiry.

(c) The Board may designate a person or persons to participate in every phase of an inquiry, including on scene investigation, that is conducted under the procedures in 46 CFR Subpart 4.07 or 4.09.

(d) Consistent with paragraph (b), the person or persons designated by the Board under paragraph (c) may:

(1) Make recommendations about the scope of the inquiry.

(2) Call and examine witnesses.

(3) Submit or request additional evidence.

(e) The Commandant reports to the Board the facts, conditions, and circumstances of a major marine casualty determined under an inquiry under paragraph (a).

(f) The Board, under the Act, determines cause or probable cause of a major marine casualty using the report of the Commandant under paragraph (d), and any additional evidence the Board may acquire under its own authority.

(g) An inquiry under this section is both an inquiry under the Act and under R.S. 4450 (46 U.S.C. 239) and the record of an inquiry under this section is also the report of the facts for:

(1) A report of investigation under 46 CFR 4.07–10; or

(2) A record of proceedings under 46 CFR 4.09–20.

§ 4.40–35 Records of the Coast Guard and the Board.

(a) Records of the Coast Guard made under § 4.40–30 are available to the public under 49 CFR Part 7.

(b) Records of determinations of cause or probable cause made by the Board under §§ 4.40–20 and 4.40–30 are available to the public under 49 CFR Part 801.

(5 U.S.C. 552, 14 U.S.C. 2, 633, 46 U.S.C. 239, 375, 416, 49 U.S.C. 1655(b)(1), 1903(a)(1)(E); 49 CFR 1.46(b).)

Dated: December 23, 1976.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.76–38144 Filed 12–23–76;12:23 pm]

Office of Pipeline Safety Operations

[49 CFR Parts 192 and 195]

[Docket No. OPSO–39, Notice 76–3]

PIPELINE OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Advance Notice of Proposed Rulemaking

The materials Transportation Bureau (MTB) is considering the issuance of additional standards governing occupational safety and health for the protection of employees engaged in the construction, operation, and maintenance of pipeline facilities used in the transportation of hazardous materials in or affecting interstate or foreign commerce. The impact of facility design on employee protection will be considered in the issuance of any such standards. This advance notice of proposed rulemaking provides the general public an opportunity for early participation in the rulemaking process.

Parts 192 and 195 now provide occupational safety and health protection in some areas, but the coverage is not complete. The anticipated standards would apply to working conditions and work places for pipeline system employees who are directly involved in the physical transportation or storage of hazardous gas and liquid materials. For example, this includes such areas and facilities as compressor and pump stations, pipe and appurtenances along the right of way, meter stations, storage facilities, and LNG plants. It would not include buildings which are not directly used in the physical transportation or storage of a hazardous material.

MTB is exploring different approaches it can take to define those areas where MTB standards apply, so that employers and employees of the pipeline industry will better understand the respective responsibilities of MTB and the Occupational Safety and Health Administration (OSHA) respecting employee safety and health. The application of MTB standards could be defined to apply either geographically, functionally, or operationally. The perimeter of MTB coverage could also be identified by utilizing classifications of facilities and equipment. MTB invites comments on this matter.

MTB also invites public comment on the following matters of concern:

1. Identification of occupational safety and health areas that are not covered by MTB's existing regulations.
2. Identification of areas where MTB's existing regulations are not adequate for occupational safety and health, and
3. Discussion of means to correct these deficiencies.

Specific advice and recommendations are requested to identify:

1. Standards adopted by the OSHA which may have significant application to working conditions on pipelines;
2. OSHA standards which should be adopted by MTB without change;
3. OSHA standards which should be revised in whole or in part before their adoption by MTB for the pipeline industry;
4. OSHA standards which should not be adopted by MTB for the pipeline industry;
5. Occupational safety or health standards not adopted by OSHA and not presently included under Parts 192 and 195 which may be necessary or appropriate for the pipeline industry;
6. Serious occupational safety and health problems existing in the pipeline industry; and
7. Priorities MTB should adopt in the promulgation of pipeline occupational and health standards.

Further, MTB is seeking public comment and suggestions as to the appropriate format by which additional standards for occupational safety and health protection could be incorporated into the Code of Federal Regulations. One alternative is to amend as necessary existing sections of Parts 192 and 195 of Title 49 CFR or add new sections to include

standards relating to occupational safety and health. Another alternative would be to assign a new part in Title 49 CFR to contain occupational safety and health standards exclusively. Another consideration in the format is whether there should be a distinct division between employee occupational safety and employee occupational health or whether the safety and health of the employee should be treated as a single concept.

MTB policy is to seek information from all knowledgeable sources so that regulations will be founded on a broad base of facts. This policy gives everyone—industry, other Federal and State agencies, and the general public—an opportunity to participate in the identification and definition of occupational safety and health problems unique to pipelines, the development and evaluation of alternative solutions for those problems, and the choice of the proper solution for each problem. An advance notice of proposed rulemaking, inviting public participation early in the rulemaking process, is an application of that policy.

MTB invites interested persons to participate in the development of additional standards by submitting in writing, by April 1, 1977, such information and comments as they may desire. Comments received after that date will be considered so far as practicable. Communications should identify the docket and notice numbers (Docket No. OPSO–39, Notice 76–3) and be submitted in triplicate to the Acting Director, Office of Pipeline Safety Operations, 2100 Second Street, S.W., Washington, D.C. 20590. All comments received will be available for inspection and copying in Docket Room 6500.

Again, this notice is a request for information, not a proposal to amend the regulations. After analyzing the response to this notice, MTB may issue another notice (or notices), proposing specific amendments to Title 49 CFR. Interested persons will then have an opportunity to comment on the specific proposals.

(Sec. 3 of the Natural Gas Pipeline Safety Act of 1968 (49 USC 1672); sec. 105 of the Hazardous Materials Transportation Act (49 USC 1804); sec. 834, Title 18, United States Code, sec. 6(e)(4) of the Department of Transportation Act (49 USC 1655(e)(4)); § 1.53 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.53), and the redelegation of authority to the Director, Office of Pipeline Safety Operations, set forth in Appendix A to Part 102 of the regulations of the Office of the Director, Materials Transportation Bureau (49 CFR Part 102).)

Issued in Washington, D.C. on December 22, 1976.

CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc.76–38268 Filed 12–29–76;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 1–5; Notice 23]

BRAKE HOSES

Modification of Labeling Requirements

This notice proposes amendments of Standard No. 106–74, *Brake Hoses*, that would modify the requirement to label brake hose assemblies, the definition of "permanently attached end fitting", and the test temperature for brake fluid compatibility testing of hydraulic brake hose, and would also eliminate one requirement for certain coiled tubing and one requirement for hydraulic brake hose used with "keyed" end fittings.

Brake hose assembly labeling. Standard No. 106–74 (49 CFR 571.106–74) requires the manufacturer of a brake hose assembly, except a vehicle manufacturer who assembles and installs it in a vehicle manufactured by him, to affix a band to his product. The band must be labeled with the date of assembly, a designation identifying him as the assembler, and symbol "DOT" as a certification that the assembly meets all applicable safety standards. Since the inception of the requirement, manufacturers have asked for elimination of the requirement, arguing that the costs of banding are not justified by the benefit that results from being able to identify the hose assembler in the event a safety-related defect or a noncompliance necessitates recall. Some manufacturers have recommended stamping of the end fitting in place of the band in cases where the end fitting is attached by crimping or swaging.

The NHTSA has weighed the usefulness of the assembly labeling requirement in the light of defect and noncompliance experience since implementation of Standard No. 106–74. The agency proposed and subsequently made final an amendment of the definition of "brake hose assembly" that had the effect of eliminating this labeling requirement in the case of assemblies made in the field from all new components for repair service (41 FR 28505, July 12, 1976). The agency found that the burden of affixing a band and certifying compliance with the requirements of the standard was not commensurate with the relatively small number of assemblies prepared by such manufacturers.

In response to several petitions, the agency has reevaluated the effectiveness of the requirement in the case of manufacturers and distributors that manufacture brake hose assemblies for purposes other than repair. The data demonstrates that the majority of assembly failures are the result of improper installation or damage in service, not the result of the original assembly operation.

In recent practice, identification by production lot number rather than the date of assembly has been utilized for safety-related defect recalls. Also, the lower-than-projected rate of failure supports a less expensive method of manufacturer identification, where achievable. Finally, alternative means exist to fulfill the certification responsibility represented by the existing requirement for the "DOT" symbol on the band. With these factors in mind, the agency granted petitions for elimination of the banding requirement.

A reasonable alternative for assembler identification that entails modest cost is the stamping of the assembler's designation on end fittings which are crimped or swaged to the hose in a permanent operation. As proposed in this notice, this method of identification would be limited to assemblies involving crimped or swaged fittings, because of the greater expense and potential for confusion in identification that would exist when used with renewable or reusable fittings. This identification method is proposed along with a provision that makes continued use of banding permissible so that existing supplies of banding materials may be depleted. The requirement for assembly date would be eliminated to conform the banding requirement to the stamping option.

Brake fluid compatibility test temperature. The American Society for Testing and Materials (ASTM) petitioned for a minor change in the test temperature used to evaluate the brake fluid compatibility of hydraulic brake hose (S5.3.9 of the standard). As part of the requirement, brake hose is filled with brake fluid and subjected to a temperature to 200°F. for a period of 70 hours. The ASTM requested a small increase in the temperature to 212°F. so that it would be compatible with the equivalent 100° Celsius value that has been proposed for adoption as a standard test temperature by the International Standards Organization (ISO).

The NHTSA concluded that the small increase in test temperature would not significantly affect the stringency of the test requirement and therefore granted the ASTM petition. The change is proposed in this rulemaking, and comments are solicited on whether the agency's tentative conclusion is justified.

Coiled nylon tubing. Standard No. 106–74 recognizes the distinctive construction of the coiled nylon tubing that is used in air brake lines between truck tractors and trailers, by excluding it from two requirements of the standard (S7.3.10 and S7.3.11) if it complies with Bureau of Motor Carrier safety regulations. Parker-Hannifin Corporation suggested in a letter to the NHTSA that a third requirement of the standard (S7.3.6's limitation on elongation or shrinking of air brake hose length) is also inappropriate for coiled tubing because the coiled construction makes the absolute length of the tubing noncritical. The agency agrees that the problems of fatigue through expansion and

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contraction would not be critical in the case of coiled tubing and therefore proposes to exclude these hose assemblies from the length change requirement of S7.3.6. Comments on the wisdom of the proposed changes are solicited.

In response to Parker-Hannifin's second question, a manufacturer's responsibility to certify its products' compliance to applicable standards is established by Section 114 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1403). "Certification" encompasses certification to the standard as a whole, and the fact that a particular brake hose assembly is not required to meet every requirement set forth in a standard is irrelevant to the duty of certification. The fact that coiled tubing is excluded from two of the air brake assembly requirements does not excuse it from certification.

End fitting labeling requirements. Standard No. 106–74 requires labeling of end fittings except for those fittings that are attached by deformation of the fittings about a hose by crimping or swaging. Mercedes-Benz petitioned for a modification of this labeling requirement to also exclude fittings that are attached by heat shrinking or dimensional interference fit to vacuum brake hose. These methods are used in plastic vacuum hose assemblies utilized by Mercedes, and the company only uses them in cases where fully assembled brake hose assemblies are installed as original equipment or stocked as spare parts. The NHTSA considered the modification to have merit and granted the Mercedes petition.

The agency's further consideration of the use of these joining methods indicates that, at least in the case of dimensional interference fit, the possibility exists that reuse of the fitting (with consequent need to know dimensional and use characteristics) could occur. The agency considers the possibility for reuse to be remote, but comments are requested on the issue of possible reuse.

Striping of hydraulic hose. Standard No. 106–74 requires that hydraulic hose be labeled with two stripes along opposite sides of the hose to aid in the installation of hose without twisting. Twisting can lead to fatigue and early failure of the hose assembly in operation.

Alfred Teves GMBH (Teves) petitioned for elimination of the striping requirement in case of hose used in assemblies that have "keyed" end fittings at both ends, i.e., fittings that can be installed in only one or possibly several orientations to the vehicle. Teves argued that twisting in the installation of such assemblies would be improbable because 360 degrees of twisting would be required in the case of those assemblies manufactured by Teves that can be installed in only one orientation at each end.

The agency tentatively agrees that the likelihood of twisting in relatively short assemblies of this construction is improbable. Teves claims that cost would be reduced by the elimination of such assemblies from the striping requirement. It appears that a limited exclusion for hose used in such installations is justified. On the other hand, some keyed assemblies might permit more than one installation orientation, thus increasing the possibility for twisting. It is also clear that any exception for this type of construction must be limited to hose that actually is assembled into keyed assemblies.

Therefore, the NHTSA tentatively proposes that, notwithstanding the other requirements of S5.2.1, hose that is assembled into an assembly whose fittings permit their installation into the vehicle in only one orientation need not meet the requirements of S5.2.1. Comments on the practical usefulness of such an exclusion are requested.

General matters. The Rubber Manufacturers Association has asked for the substitution of a new adhesion test for the existing requirements of S7.3.7 in the case of air brake hose that is reinforced with wire. Problems encountered in preparing a test specimen were detailed in the RMA request as the basis for the change.

The agency has, through experience gained since implementation of the requirement, also concluded that the adhesion test does not give sufficiently repeatable results in the case of wire-reinforced air brake hose. Substitution of the "vacuum ball" test suggested by the RMA appears to be practicable, but the agency has not completed analysis of the new test at this time. Until that analysis is complete, the agency proposes elimination of the adhesion requirements of S7.3.7 in the case of wire-reinforced air brake hose.

The agency estimates that the environmental effects of this proposal would be positive. Elimination of the banding requirement is estimated to save approximately 30,000 pounds of material, with associated energy savings and air, noise, and water quality improvement.

The economic and inflationary impacts of this rulemaking have been carefully evaluated in accordance with the Office of Management and Budget Circular A–107, and an Inflation Impact Statement is not required.

In consideration of the foregoing, it is proposed that Standard No. 106–74 (49 CFR 571.106–74) be amended as follows:

1. Section S5.2.1 would be amended by the addition of a sentence at the end of the text to read:

However, hydraulic brake hose, manufactured for use only in an assembly whose end fittings permit their installation in the vehicle in only one orientation, need not meet the requirements of S5.2.1.

2. In S5.2.3, the words "heat shrinking, or dimensional interference fit to plastic vacuum brake hose without a fastener, or" would be added to the first sentence following the phrase "is attached by".

3. Section S5.2.4 would be amended in part by the revision of the first sentence, deletion of paragraph (c), and by the addition of a new subsection S5.2.4.1, to read:

S5.2.4. Each hydraulic brake hose assembly that has end fittings attached by deformation of the fitting about the hose by crimping or swaging shall be labeled by means of a band around the brake hose assembly as specified in this section or, at the option of the manufacturer, by means of labeling as specified in S5.2.4.1.

• • • • • • •

(a) • • •

(c) [Reserved]

S5.2.4.1 At least one brake hose end fitting shall be permanently etched, embossed, or stamped, with a designation that identifies the manufacturer of the hose assembly and is filed in accordance with S5.2.4(b).

4. The temperature of 200°F. in S5.3.9 would be increased to 212°F.

5. The parenthetical phrase "(other than a coiled nylon tube for use in an assembly that meets the requirements of § 393.45 of this title)" would be added to S7.3.6 following the phrase "An air brake hose".

6. The temperature of 200°F. in S6.7.2(a) would be increased to 212°F.

7. Section S7.3.7 would be amended by the addition of "Except for hose reinforced by wire," at the beginning of the text.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: February 14, 1977.

Proposed effective date: Date of publication of the final rule in the FEDERAL REGISTER.

(Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on December 22, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.76–38165 Filed 12–29–76;8:45 am]

[49 CFR Part 571]

[Docket No. 71–1; Notice 5]

GLAZING MATERIALS

Permitted Use

This notice proposes the amendment of Standard No. 205, Glazing Materials, to permit the use of rigid plastic glazing in all doors and windows of buses that have a gross vehicle weight rating (GVWR) of more than 10,000 pounds, other than in the windshields or in windows to the immediate right or left of the driver.

Currently, Standard No. 205, (49 CFR 571.205) permits plastic glazing materials only in standee windows of buses and in readily removable windows of buses having a GVWR of more than 10,000 pounds. General Motors has requested that the standard be amended to permit the use of rigid plastic glazing materials in all bus windows except windshields and windows to the immediate right or left of the driver.

Standard No. 205 incorporates by reference the American National Standard "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," Z26.1–1966 (ANS Z26). General Motors pointed out that use of plastic glazing in bus windows was limited in ANS Z26 to assist passenger egress in emergency situations in which it might be necessary to break the glazing to expedite occupant removal. It was judged that plastic glazing would be difficult to break. Since the issuance of the glazing standard, however, a new Standard No. 217, Bus Window Retention and Release, 49 CFR 571.217, has been implemented to provide unobstructed openings in buses for emergency exit purposes. For this reason General Motors contends that a restriction on the use of plastic glazing in buses to assure emergency egress is no longer necessary. In further support of its petition, General Motors maintains that the use of rigid plastic glazing would result in less breakage of bus windows, thereby reducing maintenance costs and the potential hazards associated with the operation of buses with broken glazing.

The National Highway Traffic Safety Administration agrees with petitioner's arguments regarding the use of rigid plastics in buses. Use of plastics in bus side-windows should reduce the safety hazards and maintenance costs resulting from the deliberate breakage of bus windows. Since Standard No. 217 now provides for emergency occupant egress, there is no compelling reason to prohibit the use of plastic glazing in locations not requisite for driving visibility.

The economic impact of this proposed amendment would be minimal since it does not create additional requirements, but rather provides manufacturers with an option. The proposed rule would have negligible effect on the environment.

In consideration of the foregoing, it is proposed that Standard No. 205 (49 CFR 571.205) be amended as follows:

1. Paragraph S 5.1.1.2 would be revised in part to read:

S 5.1.1.2 The following locations are added to the lists specified in ANS Z26 in which item 4 and item 5 safety glazing may be used:

• • • • • •

(1) Windows and doors in buses having a GVWR of more than 10,000 pounds, except for the windshield, windows to the immediate right or left of the driver, and rearmost windows if used for driving visibility.

2. Existing paragraphs S 5.1.1.4 and S 5.1.1.5 would be renumbered S 5.1.1.5 and 5.1.1.6, respectively, and a new paragraph S 5.1.1.4 would be added to read:

S 5.1.1.4 The following locations are added to the lists specified in ANS Z26 in which item 8 and item 9 safety glazing may be used:

(f) Windows and doors in motor homes, except for the windshield and windows to the immediate right or left of the driver.

(g) Windows and doors in slide-in campers and pickup covers.

3. A new sub-section (h) would be added to paragraph S 5.1.2.1 to read:

(h) Windows and doors in buses having a GVWR of more than 10,000 pounds, except for the windshield and windows to the immediate right or left of the driver.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date. March 30, 1977.

Proposed effective date. The amendments would be effective upon publication of the final rule.

(Sec. 103, 19, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on December 22, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.76–38164 Filed 12–29–76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[49 CFR Part 850]

MARINE CASUALTIES

Rules Pertaining to Investigations

The National Transportation Safety Board (Board) is proposing regulations to implement the requirements of § 304 (a)(1)(E) of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2168 (49 U.S.C. 1903)) (Act) which concerns investigation of marine casualties. The requirements are as follows:

The Board shall—

(1) Investigate or cause to be investigated (in such detail as it shall prescribe), and determine the facts, conditions, and circumstances and the cause or probable causes of any—

• • • • • •

(E) Major marine casualty, except one involving only public vessels, occurring on the navigable waters or territorial seas of the United States, or involving a vessel of the United States, in accordance with regulations to be prescribed jointly by the Board and the Secretary of the department in which the Coast Guard is operating. Nothing in this subparagraphr shall be construed to eliminate or diminish any responsibility under any other Federal statute of the Secretary of the department in which the Coast Guard is operating: *Provided*, That any marine accident involving a public vessel and any other vessel shall be investigated and the facts, conditions, and circumstances, and the cause or probable cause determined and made available to the public by either the Board or the Secretary of the Department in which the Coast Guard is operating • • •

The United States Coast Guard (Coast Guard), on page 56833 of this issue of the FEDERAL REGISTER, is proposing identical regulations as an amendment to 46 CFR Part 4—Marine Investigation Regulations.

Interested persons are invited to participate in the proposed rulemaking by submitting written data, views, or arguments to the General Counsel, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594. Comments received on or before March 1, 1977, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination in Room 804, at the above address.

This proposal contains the procedures under which the Board and the Coast Guard would investigate, under the Act, major marine casualties, as defined in § 850.5 of this proposal, and casualties involving a public and nonpublic vessel. Under § 850.15 of this proposal, the Board would conduct its inquiries under the existing Board rules of practice for surface transportation accident hearings in 49 CFR Part 845.

Under § 850.25 of this proposal, the Coast Guard may conduct the factfinding inquiry if requested by the Board when the Board does not conduct an inquiry. Under § 850.30 of this proposal, the Coast Guard would use the existing marine casualty investigation procedures in 46 CFR Part 4, which are for 46 U.S.C.

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239 investigations. The Board may designate a person or persons to participate in an inquiry under 46 CFR Subpart 4.07 or 4.09.

Public vessel is defined under proposed § 850.5 as a vessel owned by the United States, except one to which 46 U.S.C. 363 applies. 46 U.S.C. 363 applies to vessels owned and operated by the Department of Commerce. These vessels are controlled by the Federal Maritime Administration of the Department of Commerce and are chartered for commercial use. If one of these vessels were involved in a casualty, it would be, for the purposes of these proposed regulations, a vessel of the United States as defined under proposed § 850.5(g).

The Coast Guard and the Board intend to annually review these regulations. Conforming amendments to the existing rules in 46 CFR Part 4 would be promulgated by the Coast Guard when the procedures of the Coast Guard and the Board are published as rules.

In consideration of the foregoing, the National Transportation Safety Board proposes to establish Part 850 of Chapter VIII, Title 49, Code of Federal Regulations, to read as follows:

PART 850—COAST GUARD-NATIONAL TRANSPORTATION SAFETY BOARD MARINE CASUALTY INVESTIGATIONS

Sec.

850.1 Purpose and applicability.
850.5 Definitions.
850.10 Preliminary factfinding by the Coast Guard.
850.15 Marine casualty inquiry by the Board.
850.20 Cause or probable cause determinations from Board inquiry.
850.25 Coast Guard marine casualty inquiry for the Board.
850.30 Procedures for Coast Guard inquiry.
850.35 Records of the Coast Guard and the Board.

AUTHORITY: Sec. 304(a)(1)(E) of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2168, (49 U.S.C. 1903)).

PART 850—COAST GUARD-NATIONAL TRANSPORTATION SAFETY BOARD MARINE CASAULTY INVESTIGATIONS

§ 850.1 Purpose and applicability.

This part prescribes the joint regulations of the National Transportation Safety Board and the Coast Guard for the investigation of—

(a) A major marine casualty, as defined under § 850.5(e), that occurs on the navigable waters or territorial seas of the United States or that involves a vessel of the United States, except one involving only public vessels; and

(b) A casualty involving public and nonpublic vessels.

§ 850.5 Definitions.

As used in this part:

(a) "Act" means Title III of Pub. L. 93-633, the Independent Safety Board Act of 1974 (49 U.S.C. 1901, et seq.).

(b) "Board" means the National Transportation Safety Board.

(c) "Chairman" means the Chairman of the National Transportation Safety Board.

(d) "Commandant" means the Commandant of the Coast Guard.

(e) "Major marine casualty" means a casualty involving a vessel, other than a public vessel, that results in—

(1) The loss of six or more lives;

(2) The loss of a mechanically propelled vessel of 100 or more gross tons;

(3) Property damage initially estimated as $500,000 or more; or

(4) Serious threat, as determined by the Commandant and concurred in by the Chairman, to life, property, or the environment by hazardous materials.

(f) "Public vessel" means a vessel owned by the United States, except a vessel to which the Act of October 25, 1919, c. 82 (41 Stat. 305, 46 U.S.C. 363) applies.

(g) "Vessel of the United States" means a vessel—

(1) Documented or required to be documented under the laws of the United States;

(2) Owned in the United States; or

(3) Owned by a citizen or resident of the United States and not registered under a foreign flag.

§ 850.10 Preliminary factfinding by the Coast Guard.

(a) The Coast Guard conducts the preliminary factfinding of marine casualties.

(b) The Commandant determines from the preliminary factfinding whether—

(1) The casualty is a major marine casualty; or

(2) The casualty involves public and nonpublic vessels.

(c) The Commandant notifies the Board of a casualty described in paragraph (b)(1) or (2) of this section.

§ 850.15 Marine casualty inquiry by the Board.

The Board may conduct an inquiry under the Act for any major marine casualty or any casualty involving public and nonpublic vessels under the Board's rules of practice for surface transportation accident hearings in 49 CFR Part 845.

§ 850.20 Cause or probable cause determinations from Board inquiry.

After an inquiry conducted by the Board under § 850.15, the Board determines cause or probable cause and issues a report of that determination.

§ 850.25 Coast Guard marine casualty inquiry for the Board.

(a) If the Board does not conduct an inquiry under § 850.15 and if requested by the Board, the Coast Guard may conduct an inquiry under the Act unless there is an allegation of Federal Government misfeasance or nonfeasance.

(b) The Board requests the Coast Guard to conduct an inquiry under paragraph (a) within 48 hours of receiving notice under § 850.10(c).

(c) The Coast Guard advises the Board within 24 hours of receipt of a request under paragraph (b) of this section whether the Coast Guard will conduct an inquiry under the Act.

§ 850.30 Procedures for Coast Guard inquiry.

(a) The Coast Guard conducts an inquiry under § 4.40-25 using the procedures in 46 CFR 4.01-1 through 4.23-1.

(b) The presiding Coast Guard officer for an inquiry conducted under 46 CFR Subpart 4.07 or 4.09 has the following powers:

(1) To open, continue, or adjourn the inquiry.

(2) To issue subpoenas.

(3) To call witnesses and administer oaths.

(4) To determine the admissibility of and to receive evidence and to regulate the course of the hearing.

(5) To rule on procedural requests and similar matters.

(6) To take any other action necessary for the orderly conduct of the inquiry.

(c) The Board may designate a person or persons to participate in every phase of an inquiry, including on scene investigation, that is conducted under the procedures in 46 CFR Subpart 4.07 or 4.09.

(d) Consistent with paragraph (b) of this section, the person or persons designated by the Board under paragraph (c) of this section may:

(1) Make recommendations about the scope of the inquiry.

(2) Call and examine witnesses.

(3) Submit or request additional evidence.

(e) The Commandant reports to the Board the facts, conditions, and circumstances of a major marine casualty determined under an inquiry under paragraph (a) of this section.

(f) The Board, under the Act, determines cause or probable cause of a major marine casualty using the report of the Commandant under paragraph (d) of this section, and any additional evidence the Board may acquire under its own authority.

(g) An inquiry under this section is both an inquiry under the Act and under R.S. 4450 (46 U.S.C. 239) and the record of an inquiry under this section is also the report of the facts for—

(1) A report of investigation under 46 CFR 4.07-10; or

(2) A record of proceedings under 46 CFR 4.09-20.

§ 850.35 Records of the Coast Guard and the Board.

(a) Records of the Coast Guard made under § 850.30 are available to the public under 46 CFR Part 7.

(b) Records of determination of cause or probable cause made by the Board under §§ 850.20 and 950.30 are available to the public under 49 CFR Part 801.

Signed at Washington, D.C. this 22nd day of December, 1976.

WEBSTER B. TODD, JR.,
Chairman.

[FR Doc.76-38147 Filed 12-23-76;1:31 pm]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 17 and 222]

TOTOABA

Proposed "Endangered" Species

The Director, National Marine Fisheries Service and the Director, U.S. Fish and Wildlife Service hereby issue a notice of proposed rulemaking that would list the totoaba (*Cynoscion macdonaldi*), a marine finfish found only in Mexican waters, as an endangered species throughout its range, pursuant to section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (hereinafter the "Act"). This proposed rulemaking would add this fish to the List of Endangered and Threatened Wildlife found in 50 CFR 17.11 and would reference such listing in 50 CFR 222.23. This proposed listing is based on a preliminary determination by the Director, National Marine Fisheries Service (hereinafter the "Director" and the "NMFS," respectively) that the fish is an endangered species. The totoaba, or MacDonald weakfish, is found only in the northern Gulf of California and is most often encountered in the general vicinity of San Felipe, Mexico.

BACKGROUND

Section 4(a) of the Act states: *General.* The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or man-made factors affecting its continued existence.

With the exception of enforcement responsibilities for certain plants, the Act defines "Secretary" to mean either the Secretary of the Interior or the Secretary of Commerce (as program responsibilities are vested pursuant to the provisions of Reorganization Plan Number 4 of 1970). Most marine species are the sole responsibility of the Secretary of Commerce. The authority of the Secretary has been delegated to the Director, NMFS.

The totoaba is found only in the northern Gulf of California, as indicated above, and spawns at the mouth of the Colorado River. More specifically, the range of the totoaba includes the waters of the Gulf of California from the mouth of the Colorado River to the Rio Fuerte, Sinaloa, on the eastern coast, and from the Colorado River to the Bay of Concepcion, Baja California, on the western coast. The maximum length is reported at almost 2 meters and maximum weights are reported to exceed 135 kg.

The catch of totoaba, a fishery of sport and commercial importance, has been declining sharply over the past decade. Protective measures instituted by Mexico (e.g., the establishment of a refuge zone where all fishing was forbidden; a seasonal closure of totoaba fishing in the entire Gulf of California) were not adequate in stemming the decline in the catch, so on June 19, 1975, the Mexican government proclaimed a 2-year ban on both sport and commercial fishing. Then on August 2, 1975, Mexico declared an indefinite closed season on the totoaba. The species has a restricted range of distribution with a known migration pattern. This fact coupled with a concentrated spawning area makes the totoaba highly vulnerable to commercial and sport fishery pressures. It should be noted that a major portion of the catch is exported from Mexico to the United States (principally San Diego) where it is popular in seafood restaurants in Southern California.

Mexican and U.S. biologists claim that overfishing and the diversion of the Colorado River have so drastically reduced the totoaba population that the species is in danger of extinction. NMFS scientists and Dr. Robert B. Brownell of the Smithsonian Institution initially submitted information and requested a review of the status of the totoaba. Many of the statements and facts cited below are based on the publication, "Observations on the commercial fishery and reproductive biology of the totoaba, *Cynoscion macdonaldi*, in the northern Gulf of California" (Fishery Bulletin 74(3), July 1976), by Drs. Christine A. Flanagan and John R. Hendrickson of the University of Arizona. These individuals and others facilitated the preparation of the status review of the totoaba, which led to the determination by NMFS to propose an endangered species listing in support of protective measures taken by Mexico.

The totoaba was in serious trouble once before in the late 1950's. After fluctuating wildly in the late 1930's, the annual catch of totoaba began to decrease constantly in 1942 from a level of 2,250 metric tons (t) and by 1957-58 only about 250 t of this species were caught each year. Various conservation measures brought the annual catch back to almost 1,500 t in 1966; however, the totoaba catch has again continued to decline steadily.

In order to support Mexico's stringent conservation measures to ensure the recovery of the totoaba resource, the NMFS and the U.S. Fish and Wildlife Service propose to list the totoaba as an endangered species. This action would facilitate enforcement of Mexican laws by removing much of the stimulus for poaching and smuggling. This action would also be consistent with section 4 of the Endangered Species Act of 1973 which directs NMFS to consider efforts made by foreign countries to protect endangered species and section 8 of that Act which directs NMFS to encourage foreign international cooperation in the conservation of endangered species. In addition, the listing of the totoaba on the U.S. Endangered Wildlife List would complement our proposal to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora to list the totoaba on Appendix I of that Convention.

SUMMARY OF FACTORS AFFECTING THE SPECIES

The findings in support of the Director's proposal are summarized herein and described under each of the five criteria of section 4(a) of the Act.

(1) The present or threatened destruction, modification, or curtailment of its habitat or range. The degradation and loss of spawning grounds is believed to be an important factor in the decline of the totoaba. The totoaba spawns in large schools in the shallow marshes at the mouth of the Colorado River. The quality of the spawning grounds has deteriorated due to a significant flow reduction in the annual Colorado River flow. The diversion of the Colorado River into the Mexicali Valley, after the Morelos Dam was built, is the major cause for the flow reduction. This resulted in: (a) A significant reduction of the totoaba's spawning grounds as marshes began drying up; and (b) a replacement of brackish waters by saline waters in and around the mouth of the Colorado River. This flow reduction can be correlated with the declining totoaba catch and assuredly has lessened reproductive success. The totoaba are only known to congregate in the Colorado River estuary which until recently was unlike other estuaries in the northern Gulf of California in that it was the recipient of large quantities of fresh water from the Colorado River. With changes in the spawning grounds, it is also possible that olfactory cues may have been weakened, thereby contributing to the totoaba's decline. Another alarming circumstance is that the length of the totoaba breeding period has shortened considerably in recent years.

Flow-related degradation of the nursery grounds in the northern Gulf of California has probably not played a significant role in the fish's decline. Apparently, the salinity changes in the nursery grounds have not adversely affected larvae and small juveniles. In some ways, such as reduced predation and abundant food resources, reduced flow into the shallow nursery grounds may have benefited the recruits.

(2) Overutilization for commercial, sporting, scientific, or educational purposes. Overfishing is the major reason for the decline in totoaba stocks.

Catches of totoaba in excess of 2,000 metric tons (t) were reported in the early 1940's. Since 1966, however, these catches continued to decline sharply and amounted to only 200 t in 1973. Subsequent catches have reportedly declined significantly.

The limited range of the totoaba coupled with the intense exploitation of the species on its spawning grounds, nursery grounds, and migratory routes, has taken a heavy toll on the totoaba.

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(3) Disease or predation. This factor is not known to be a cause of the totoaba's decline.

(4) The inadequacy of existing regulatory mechanisms. As noted above, we believe it important to provide controls on illegal trade in totoaba which may enter the United States from Mexico.

(5) Other natural or man-made factors affecting its continued existence. It has been reported that the totoaba may have also been affected by insecticides used by U.S. and Mexican farmers along the Colorado River.

EFFECT OF THIS RULEMAKING

Section 9(a) of the Act sets forth a series of general prohibitions which apply to all endangered species of fish and wildlife.

With respect to any endangered species listed pursuant to section 4 of the Act, it is unlawful for any person subject to the jurisdiction of the United States to:

(1) Import any such species into, or export any such species from, the United States;

(2) Take any such species within the United States or the territorial sea of the United States;

(3) Take any such species upon the high seas;

(4) Possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of (2) and (3) above;

(5) Deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(6) Sell or offer for sale in interstate or foreign commerce any such species; or

(7) Violate any regulation pertaining to such species and promulgated by the Secretary pursuant to authority provided by the Act.

The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

The Act further provides certain limited exceptions to those general prohibitions. These exceptions include: a grandfather clause for species held in captivity or a controlled environment on December 28, 1973, and not for commercial purposes (section 9(b) of the Act); a one-year limited exemption to minimize undue economic hardship tied to a previous contract commitment (section 10(b) of the Act); and permits for scientific purposes or enhancement of propagation or survival of the species (section 10(a) of the Act).

In addition, NMFS regulations published in Parts 217–222 and Part 225 of Title 50 of the Code of Federal Regulations, set forth rules and procedures which apply to all endangered species under the jurisdiction of the Secretary of Commerce. These regulations provide for general provisions, civil procedures, seizure and forfeiture procedures, importation and exportation at designated ports, general and specific permit provisions, and Federal/State cooperation and financial assistance. In the event that the totoaba is listed as an endangered species, these regulations would be applicable to the species.

INTERAGENCY COOPERATION

The listing herein proposed would make available the protection afforded by section 7 of the Act. That section reads as follows:

Section 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

No "critical habitat" will be determined by NMFS for the totoaba since this fish is found only in a foreign country. However, the other provisions of section 7 would be applicable.

PUBLIC COMMENTS SOLICITED

Pursuant to section 4(b) of the Act, the Director is notifying the Government of Mexico, in cooperation with the Secretary of State, with respect to this proposal and requesting any comments and recommendations before making a final determination on listing.

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any written comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rulemaking are solicited. Comments are particularly sought concerning:

1. The existence of any other living members of this species;

2. Biological or other relevant data concerning any threat (or the lack thereof) to the totoaba; and

3. Additional information concerning the range and distribution of the totoaba.

Written comments, views, and other documents should be submitted, preferably in duplicate, to the Director, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235. All comments and other documents received no later than March 1, 1977 will be considered. The Director will consider requests for a public hearing, provided such requests are received by February 14, 1977. The holding of a public hearing is at the discretion of the Director.

The Director has determined that the proposed designation of the non-resident totoaba as an endangered species is not a major Federal action which would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA). Furthermore, the President's Council on Environmental Quality has indicated that environmental assessments and impact statements are not required by NEPA for listing species as endangered or threatened which are not resident in the United States. Accordingly, neither, the preparation of an environmental assessment nor the preparation of an environmental impact statement on the proposed action is required. Comments and other documents received pertaining to the proposed listing are available for public review in the Marine Mammal and Endangered Species Division, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C., or may be obtained by writing the Director, National Marine Fisheries Service, Department of Commerce. Washington, D.C. 20235.

Dated: DECEMBER 16, 1976.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, it is proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations by adding to § 17.11(i) under the class entitled "Fishes" and immediately after "Topminnow, Gila" the following:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
*	*	*	*	*	*		
Totoaba	*Cynoscion macdonaldi*	NA	Mexico (northern Gulf of California).	Entire	E	17	NA
*	*	*	*	*	*		

(41 FR ?; Dec. 30, 1976.)

PART 222—ENDANGERED FISH OR WILDLIFE

§ 222.23 [Amended]

In addition, it is proposed to amend § 222.23(a) of Subpart C, Part 222 of Chapter II, Title 50 of the Code of Federal Regulations by adding "Totoaba (*Cynoscion macdonaldi*)" immediately after "Shortnose sturgeon (*Acipenser brevirostrum*)" in the second sentence.

[FR Doc.76-38161 Filed 12-29-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 17 and 222]

TOTOABA

Proposed "Endangered" Species

CROSS REFERENCE: For a document issued jointly by the Department of Interior, U.S. Fish and Wildlife Service, and the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, on the subject of the totoaba (*Cynoscion macdonaldi*) as a proposed "Endangered" Species, see FR Doc 76-38161, appearing in the proposed rules section of this issue under the Department of Commerce, National Oceanic and Atmospheric Administration.

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

FEDERAL ENERGY ADMINISTRATION

INDIANA GAS CO.

Petition for Assignment of Synthetic Natural Gas Feedstocks and Construction and Operation of SNG Plant

The Federal Energy Administration (FEA) hereby gives notice that written comments will be received and a public hearing held regarding the October 18, 1974, petition under 10 CFR 211.29 and Special Rule No. 1 issued thereunder, of the Indiana Gas Company (Indiana Gas), a proposed new synthetic natural gas (SNG) manufacturer, for the assignment of a supplier and base period use of naphtha for SNG feedstock use after construction of its SNG plant. FEA will also receive testimony at the public hearing and written comments on the draft environmental impact statement (EIS), which FEA has prepared on construction and operation of the proposed Indiana Gas SNG plant.

The volume of naphtha requested for SNG feedstock is 158,623,416 gallons (3,776,748 barrels) of naphtha per year commencing upon completion of the plant, which is estimated for the summer of 1979.

The Indiana Gas SNG plant as proposed will initially produce 60,000 thousand cubic feet (mcf) of SNG per day or 28,820,000 mcf per year based on 347 days of operation. La Gloria Oil and Gas Company, the proposed supplier, has agreed to supply the entire requested annual volume of naphtha for SNG feedstock use.

A file containing all information and data filed in conjunction with the Indiana Gas petition, other than confidential information which FEA has determined to be exempt from the disclosure requirements of 5 U.S.C. 522, is available for public inspection and copying at the FEA Freedom of Information Library, Room 2107, Federal Building, 1200 Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays. Copies of the draft EIS will also be available for public review at this location. A limited number of single copies of the draft EIS are available and may be obtained from FEA, Office of Communications and Public Affairs, Room 3138, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Written comments regarding the Indiana Gas petition will be accepted and considered if filed by January 24, 1977, and written comments regarding the draft EIS will be accepted and considered if filed by February 17, 1977. Any person submitting written comments with respect to the Indiana Gas petition or the EIS should, as required by 10 CFR 205.33 (b) of FEA's Administrative Procedures and Sanctions, send a copy of his or her comments to the applicant and certify to the FEA that he or she has complied with this requirement. Comments should be submitted to the Office of Product Allocations, Specialty Fuels Branch, Federal Energy Administration, Room 6318, 2000 M Street, N.W., Washington, D.C. 20461, attention: Mr. Finn Neilsen. Comments should be identified on the outside envelope and on documents submitted to FEA with the designation "Allocation of Feedstock for the Indiana Gas SNG Plant" or "Draft EIS—the Indiana Gas SNG Plant." Five copies should be submitted to FEA and one copy to Indiana Gas Company, 1630 North Meridan Street, Indianapolis, Indiana 46202, Attention: Mr. William V. Bell, and one copy to each other person identified as having an interest in the proceeding.

FEA believes that factual disputes between interested parties respecting this petition or EIS are likely and that a public hearing on this petition will materially advance consideration of the issues involved. Therefore, a public hearing on the Indiana Gas petition and draft EIS will be held beginning at 9:30 a.m., e.s.t., on January 25, 1977, in Room 2105, 2000 M Street, N.W., Washington, D.C. to receive comments from interested persons. If necessary the hearing will be continued at the same location at 9:30 a.m., e.s.t., on January 26, 1977.

Any person who has an interest in the petition or EIS or who is a respresentative of a group or class of persons which has an interest in the petition or EIS may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, Room 3309, Federal Building, 1200 Pennslyvania Avenue, N.W., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., January 19, 1977. Such a request may be hand delivered to Room 3309, Federal Building, 1200 Pennslyvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give concise summary of the proposed oral presentation and a phone number where he or she may be reached through January 24, 1977. Each person selected to be heard will be notified by FEA before 4:30 p.m., e.s.t., January 21, 1977, and must submit 50 copies of his or her statement to Allocation Regulations Development Office, FEA, Room 2214, 2000 M Street, N.W., Washington, D.C. 20461 before 4:30 p.m., e.s.t., on January 24, 1977.

The FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, before 4:30 p.m., e.s.t., January 24, 1977. Any person who makes an oral statement and who wishes at the hearing to ask a question of another person making an oral statement may submit the question in writing to the presiding officer. The FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

It is expected that the public hearing will initiate requests by the hearing panel for certain factual information and data which will not be immediately available for inclusion in the hearing record. Consequently, the hearing record will remain open to receive such information until 4:30 p.m., February 3, 1977, after which the hearing record will be closed.

Additional public comment on all written and oral presentations received by February 3, 1977, will be permitted through 4:30 p.m., February 17, 1977. Comments should be submitted to the Office of Product Allocations, Specialty Fuels Branch, Room 6318, 2000 M Street, N.W., Washington, D.C. 20641, attention: Mr. Finn Neilsen. Persons submitting comments during this additional period must send five copies to FEA and one copy each to Indiana Gas and to all persons who participated in the public hearing or who submitted written comments prior to the hearing. A list of such persons will be made available for public viewing on January 27, 1977, at the FEA Freedom of Information Library, Room 2107, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The transcript of the public hearing will be available for public review at the FEA Freedom of Information Library, Room 2107, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Any decision made by the FEA with respect to the subject matter of the hearing will be based on all information available to the FEA.

MICHAEL F. BUTLER,
General Counsel.

DECEMBER 27, 1976.

[FR Doc.76-38378 Filed 12-27-76;4:43 pm]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of November 1 Through November 5, 1976

Notice is hereby given that during the week of November 1 through November 5, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Edward Albert Applegate; South Orange, N.J.; FEA-0979; Freedom of Information

Edward Albert Applegate (Applegate) appealed from an Order which had been issued to him by the FEA Information Access Officer denying in part a Request for Information which Applegate had filed under the Freedom of Information Act (the Act). In response to Applegate's Request, the Information Access Officer released copies of documents which described the procedures which FEA officials had implemented in determining the base period use of motor gasoline for a new retail outlet that Applegate was operating. However, the Information Access Officer deleted from the documents the names and locations of three retail motor gasoline outlets which had been used for comparative purposes. The FEA Information Access Officer found that this information, in combination with the base period uses of the three outlets which had been released to Applegate, was proprietary information which was exempt from disclosure under the provisions of section 552(b)(4) of the Act. In considering the Applegate Appeal, the FEA determined that the material which had been deleted was "commercial or financial information" which had been obtained from a "person" as that term is defined by the Administrative Procedure Act. The FEA further determined that the deleted information was "confidential," as that term was interpreted by the Court of Appeals in *National Parks and Conservation Ass'n* v. *Morton*, 489 F.2d 765 (D.C. Cir 1974), because disclosure of the names and locations of the comparable stations would be likely to cause substantial harm to the competitive position of the three firms in question Finally, the FEA determined that in view of the potential competitive harm, disclosure of the deleted information would not be in the public interest. On the basis of these findings, the FEA concluded that the Information Access Officer had correctly withheld the information identifying the three comparable outlets, and the Applegate Appeal was therefore denied.

Farmland Industries, Inc.; Kansas City, Mo.; FEA-0894; Natural Gas Liquid Products

Farmland Industries, Inc. (Farmland) appealed from a Decision and Order which had been issued to it by the Federal Energy Administration on June 7, 1976. Farmland Industries, Inc., 3 FEA Par. 83,214 (June 7, 1976). In the June 7 Order, the FEA permitted Farmland to increase the prices which it charges for natural liquid products produced at its Gillette, Lamont and Mertzon plants above the levels specified in 10 CFR 212.165 to reflect certain non-product cost increases. However, the June 7 Order also denied exception relief with respect to Farmland's Quitman plant on the grounds that the non-product cost increases incurred at that plant were not materially in excess of the $.005 per gallon passthrough permitted under § 212.165. The Appeal, if granted, would permit Farmland to increase its prices for natural gas liquid products by an additional amount to reflect non-product cost increases incurred at the Lamont and Mertzon plants which had been disallowed by the FEA. Farmland would also be permitted to increase its prices for the natural gas liquid products produced at the Quitman plant. In considering Farmland's Appeal, the FEA determined that Farmland had made a convincing showing that the increased labor costs of $.09653 and $.04824 per gallon which it incurred at the Lamont and Mertzon plants represent a legitimate and necessary business expense and Farmland should therefore be permitted to reflect those increased costs in its selling prices. In addition, the FEA found that in the June 7 Decision the amount of depreciation expenses disallowed at the Lamont, Mertzon and Quitman plants had been calculated incorrectly. The FEA therefore concluded that Farmland's Appeal should be granted and approved additional exception relief for the Lamont, Mertzon and Quitman plants which permits the firm to increase the prices for its natural gas liquid products to recover the revenues which it would have received if the FEA had properly calculated the level of exception relief in the June 7 proceeding.

REQUESTS FOR EXCEPTION

Brinkerhoff Drilling Co., Inc.; Roosevelt County, Mont.; FEE-2847; Crude Oil

The Brinkerhoff Drilling Company, Inc. (Brinkerhoff) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit Brinkerhoff to sell the crude oil produced from the Track Lease, Well No. 1, Tule Creek South Field located in Roosevelt County, Montana at upper tier ceiling prices. In considering the Brinkerhoff Application, the FEA determined that the costs of producing crude oil from the Track Lease increased significantly in 1974, 1975 and 1976 and the firm's current production costs exceed the lower tier ceiling price which Brinkerhoff is permitted to charge. Consequently, the FEA found that Brinkerhoff does not have an economic incentive to continue to operate the Track Lease and if Brinkerhoff abandoned the Lease, a significant quantity of otherwise recoverable domestic crude oil would not be produced. On the basis of previous precedents involving similar factual situations, the FEA granted exception relief to Brinkerpff which permits the firm to sell for a six month period 21.1127 percent of the crude oil produced from the Track Lease for the benefit of the working interest owners at upper tier ceiling prices.

Central Carolina Farmers, Inc.; Durham, N.C.; FEE-2793; Propane

Central Carolina Farmers, Inc. (Central) filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result in the assignment of a new, lower-priced supplier of propane to replace Central's base period suppliers, American Oil Company (American) and Mobil Oil Company (Mobil). In considering the exception request, the FEA determined that no significant disparity existed between the prices charged by Central's base period suppliers and the prices charged by other propane suppliers in Central's market area. The FEA further determined that Central's propane sales volume had increased significantly since 1973 while its markup on sales had remained relatively constant. Furthermore, although the financial data submitted by Central did indicate that the firm's propane division had been operating at a loss, the financial data contained certain questionable cost allocations between Central's propane division and its other divisions which could account for the loss position reported for the propane division. Based upon these considerations, the FEA concluded that Central failed to establish that the application to it of the provisions of 10 CFR 211.9 constitutes a serious hardship or a gross inequity. Consequently, Central's exception application was denied.

Cities Service Co.; Tulsa, Okla.; FEE-2849 (Adair) FEE-2850 (Bluitt), FEE-2851 (Bryans Mill), FEE-2852 (Chico), FEE-2853 (Citronelle), FEE-2854 (Crowley), FEE-2854 (Dollarhide), FEE-2856 (East Texas), FEE-2857 (Garrett), FEE-2858 (Halley), FEE-2859 (Lapeyrouse), FEE-2860 (Lefors), FEE-2861 (Lehman), FEE-2862 (May), FEE-2863 (Maysville), FEE-2864 (Mermentau), FEE-2865 (Myrtle Springs), FEE-2866 (North Cowden), FEE-2867 (North Rincon), FEE-2868 (Pampa), FEE-2869 (Price), FEE-2870 (Rio Grande), FEE-2871 (Robstown), FEE-2872 (Rodman), FEE-2873 (St. Amelia), FEE-2874 (San Antonio), FEE-2875 (Stonewall), FEE-2876 (Waco), FEE-2877 (Wichita), FEE-2895 (Ambrose), FEE-2896 (Kimball), FEE-2897 (Midway); Natural Gas Liquid Products

Cities Service Company (Cities) filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would

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permit the firm to increase the prices it charges for natural gas liquid products to reflect the non-product cost increases which the firm has incurred at 32 of its natural gas processing plants. In considering the applications, the FEA noted that as a general rule exception relief will be granted to any natural gas processor which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough for natural gas liquid products permitted under § 212.165. *See Superior Oil Co.*, 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Cities had made such a showing with respect to 30 of the 32 gas plants and therefore granted Cities appropriate exception relief for those 30 plants. However, the FEA denied exception relief for the remaining two plants on the grounds that the adjusted non-product unit cost increase experienced by Cities with respect to the Adair and Ambrose plants was not materially in excess of the $.005 per gallon passthrough permitted by § 212.165.

Doric Petroleum, Inc; Houston, Tex.; FEE–3140 (Newcastle), FEE–3230 (Hennessey); Natural Gas Liquid Products

Doric Petroleum, Inc. (Doric) filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase the prices it charges for natural gas liquid products to reflect the non-product cost increases which the firm has incurred at its Newcastle and Hennessey natural gas processing plants. In considering the applications, the FEA noted that as a general rule exception relief will be granted to any natural gas processor which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough for natural gas liquid products permitted under § 212.165. *See Superior Oil Co.*, 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Doric had made such a showing with respect to its Newcastle and Hennessey gas plants and granted Doric appropriate exception relief for those plants.

Independent Refining Corp.; Winnie, Tex.; FEE–2952; Motor Gasoline; Natural Gasoline

Independent Refining Corporation (IRC) filed a submission with the FEA requesting various types of administrative relief in connection with its acquisition on August 25, 1976 of the Winnie refinery and related assets previously owned by the Union Texas Petroleum Division of the Allied Chemical Corporation (Union Texas). In considering IRC's submission, the FEA determined that in order to avoid a disruption in the refinery's operations and supply dislocations to purchasers of motor gasoline from the refinery, IRC should be assigned to supply the base period purchasers of motor gasoline from the refinery. The FEA also determined that Union Texas should be permitted to sell the inventories of natural gasoline and motor gasoline at the Winnie refinery directly to IRC without including those products in its allocable supply and that Union Texas should be assigned to supply IRC with the same quantity of natural gasoline which the Winnie refinery used during the base period. With respect to the Old Oil Entitlements Program, the FEA determined that IRC should be permitted to earn entitlements beginning in November 1976 for its September 1976 crude oil runs to stills. In the Decision which it issued, the FEA noted that the Order would have prospective effect only and was not intended to ratify any unlawful conduct or improper practices in which either IRC or Union Texas may have engaged prior to the issuance of the Decision.

James Andros d/b/a Jim's Mobil; Rolling Meadows, Ill.; FEE–2779; Motor Gasoline

James Andros (Andros), a gasoline retailer doing business as Jim's Mobil, filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would have resulted in the assignment of the Shell Oil Company as the firm's new base period supplier in place of Nicot Oils Company (Nicot). In its submission, Andros asserted that his relationship with Nicot had deteriorated to the extent where he no longer purchased any product from Nicot and that he would be required to declare bankruptcy unless he were assigned a new supplier. Andros alleged that Nicot had overcharged him, manipulated records, fraudulently caused his supply contract to be cancelled and refused to cash credit card invoices. In considering Andros' exception request, the FEA determined that Andros had failed to submit any documentation which demonstrated that Nicot had defrauded Andros or intentionally violated any legal or contractual obligation to Andros. The FEA also determined that, although some of the issues which Andros raised in his exception application were currently the subject of a lawsuit, a court of law had not made any findings with respect to any of Andros' allegations. The FEA therefore concluded that Andros' claims were unsubstantiated and that exception relief was not warranted under the precedents established in *Eagle Point School District*, 2 FEA Par. 80,622 (July 1, 1975); and *George P. Rios*, 4 FEA Par. 83,006 (July 15, 1976).

Joe Webster d/b/a JW Oil Co.; Casper, Wyo.; FEE–3142; Crude Oil

Joe Webster d/b/a JW Oil Company (JW) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of the exception relief previously granted to JW on August 19, 1976 and would permit the firm to continue to sell a portion of the crude oil produced from the Buffalo 016999(a) Lease (the Lease) at upper tier ceiling prices. *See Joe Webster d/b/a JW Oil Co.*, 4 FEA Par. 83,060 (August 19, 1976). In considering the exception application, the FEA found that JW was continuing to incur operating costs which exceeded the revenues which the firm was able to obtain from selling crude oil at the required lower tier ceiling prices. On the basis of that analysis, the FEA concluded that the firm does not have an economic incentive to produce and sell crude oil from the property at the lower tier ceiling price. In view of this situation and on the basis of the operating data presented for the Lease for the previous six months, the FEA further concluded that JW should be permitted to sell 44.22 percent of the crude oil produced from the Lease for the benefit of the working interest owners at upper tier ceiling prices for a period of six months.

Livingston's Service Station, Inc.; Columbus, Ga.; FEE–2823; Motor Gasoline

Livingston's Service Station, Inc. (Livingston) filed an Application for Exception which, if granted, would result in the assignment of a new, lower-priced supplier of motor gasoline to replace Livingston's base period supplier, Hi-Octane Terminal Company (Hi-Octane). In considering the exception request, the FEA found that Livingston had relied upon supplies of surplus motor gasoline almost exclusively since June returning to its base period supplier only in certain summer months when adequate supplies of surplus gasoline were unavailable. The FEA determined that this operating procedure had enabled Livingston to increase the quantity of motor gasoline which it sold by more than 75 percent on a monthly basis between 1972–73 and 1974–76. Moreover, Livingston's monthly average profits during the first eight months of 1976 were significantly greater than the firm's monthly average profits during the previous four years. The Livingston financial data therefore failed to substantiate the firm's claim that it was experiencing a serious financial hardship as a result of the application to it of the provisions of 10 CFR 211.9 and the exception application was accordingly denied.

Maurice L. Brown Co.; Kansas City, Mo.; FEE–2712; Crude Oil

The Maurice L. Brown Company (Brown) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit the firm to sell at upper tier ceiling prices all of the crude oil which would be produced from a well which currently is inoperative. In considering Brown's Application, the FEA determined that the substantial investment which is necessary to repair the well would be uneconomical under the provisions of 10 CFR 212.73 which require that the crude oil produced from the repaired well be sold at lower tier prices. The FEA also determined that if the well were not repaired, substantial quantities of crude oil would not be recovered from the reservoir. On the basis of these findings, the FEA concluded that the working interest owners should be granted exception relief which provides a sufficient economic incentive to undertake the capital investment required to repair the well. At the same time the relief approved should not permit the firm to earn windfall profits. The FEA concluded that these objectives would be effectuated if Brown were permitted to sell the first 23,729 barrels of crude oil produced from the well on behalf of the working interest owners at upper tier ceiling prices, and appropriate exception relief was therefore granted.

Pioneer Operations Co., Inc.; Russell, Kans.; FEE–3152; Crude Oil

Pioneer Operations Company, Inc. (Pioneer) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted would permit the firm to sell at exempt prices the crude oil that it will produce from a well which the firm plans to drill on the Dalton Lease. In considering Pioneer's application, the FEA determined that the crude oil produced from the well would qualify as new crude oil and could be sold at upper tier ceiling prices. The FEA also determined that those price levels would provide Pioneer with sufficient economic incentive to undertake the crude oil recovery project. On the basis of these findings, the FEA concluded that exception relief should be denied.

Shell Oil Co.; Houston, Tex.; FEE–3044 (Altamont), FEE–3045 (Calumet), FEE–3046 (Fashing), FEE–3047 (Grand Chenier), FEE–3048 (West Lake Verret); Natural Gas Liquid Products

Shell Oil Company (Shell) filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase the prices it charges for natural gas liquid products to reflect non-product cost increases which the firm has incurred at five of its nautral gas processing plants. In considering the applications, the FEA noted that as a general rule exception relief will be granted to any natural gas processor which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough for natural gas liquid products permitted under § 212.165. *See Superior Oil Co.*, 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Shell had made such a showing with respect to four of the five gas plants and granted Shell appropriate exception relief for those plants. However, the FEA denied exception relief for the West Lake Verret plant on the grounds that the non-product unit cost increase experienced by Shell with respect to that plant was not materially in excess of the $.005 per gallon passthrough for natural gas liquid products permitted under § 212.165.

Standard Oil Co. of California; San Francisco, Calif.; FEE–2556; Crude Oil

The Standard Oil Company of California (Socal) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil produced from the Tognazzini Lease located in Santa Barbara, California. Socal based its request for exception on its contention that unless exception relief were granted it would have no economic incentive to comply with an Order issued to it by the County of Santa Barbara Air Pollution Control District requiring the firm to install gas treating equipment on the Tognazzini Lease in order to comply with statutorily prescribed air quality standards. In considering the exception request, the FEA determined that there is little economic incentive for Socal to make the investment under current FEA crude oil pricing regulations and it is likely that Socal will abandon the lease in the absence of exception relief. The FEA also determined that if the lease were abandoned significant quantities of domestic crude oil would be lost. On the basis of past precedents and in view of the fact that the investment would further important national policy objectives, including the attainment of statutory air quality standards and the encouragement of domestic crude oil production, the FEA concluded that exception relief was warranted on the grounds that the application of the lower tier ceiling price rule to Socal with respect to the Tognazzini Lease resulted in a gross inequity. Accordingly, exception relief was granted which would enable Socal to undertake the pollution control project while at the same time avoiding the possibility that windfall profits would be obtained. In this particular case, the FEA determined that these objectives would be achieved if Socal were permitted to recover its investment in the air pollution control equipment by selling a sufficient quantity of crude oil produced for the benefit of the working interest owners at upper tier ceiling prices.

REQUEST FOR STAY

Little America Refining Co.; Evansville, Wyo.; FES–0973; Crude Oil

Little America Refining Company (Larco) requested that its obligation to purchase entitlements be stayed pending a determination of the firm's Appeal from a Decision and Order issued to it by the Federal Energy Administration on September 10, 1976. *Little America Refining Co.*, 4 FEA, Par. 83,082 (September 10, 1976). On July 1, 1976, Larco and an affiliated firm, Holdings Little America, formed a jointly-owned subsidiary corporation, Sinclair Oil Company (Sinclair), for the purpose of acquiring the refinery operations and related assets of Pasco, Inc. The September 10 Order granted in part the Application for Exception from the Old Oil Entitlements Program (10 CFR 211.67) which Larco had filed with respect to its expanded operations. In considering the stay request, the FEA determined that Larco had failed to make a *prima facie* showing that it was inappropriate for the FEA to have combined historical financial data for the separate Larco and Sinclair operations in order to determine whether exception relief should be granted to the entire Larco firm. The FEA also determined that Larco had not made a convincing showing that certain adjustments to the Larco historical financial data were necessary to accurately reflect the firm's operations. Consequently, the FEA found that Larco had failed to make the type of substantial *prima facie* showing of success on the merits which had in the past warranted the approval of a stay. In addition, the FEA found that a stay of Larco's obligation to purchase entitlements would prevent other refiners from receiving the full benefits of access to old crude oil and thereby effectively frustrate the purpose of the Entitlements Program. The Request for Stay was therefore denied.

The Refinery Corp.; Denver Colo.; FES–3276 Crude Oil

The Refinery Corporation (TRC) requested that its obligations under the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) be stayed pending a final determination on an Appeal and Application for Exception which the firm had filed. The firm's request, if granted, would stay TRC's obligation to purchase entitlements issued by the FEA pursuant to § 211.67(j) (2) and the "Notice of Revised Special Correction Amounts Under Entitlements Program." 41 FR 42700 (September 28, 1976). In considering TRC's Application for Stay, the FEA concluded that the firm had failed to demonstrate that the denial of the stay would cause TRC to incur an irreparable injury. The FEA noted that if it determined, upon full consideration of TRC's Appeal and Application for Exception, that the firm was entitled to relief from the Entitlements Program, TRC's future obligations could be adjusted to compensate it for any purchases which it had made in the past. The FEA also held that TRC had failed to make a substantial prima facie showing that it was likely that the firm would succeed on the merits of its Appeal or Application for Exception and also failed to make any other type of showing that a stay was appropriate. The Application for Stay was therefore denied.

REQUEST FOR MODIFICATION OR RESCISSION

Tenneco Oil Co.; Houston, Tex.; FMR–0063 Crude Oil

On June 8, 1976 the FEA issued a Remedial Order to Tenneco Oil Company (Tenneco). In the Remedial Order the Regional Administrator of FEA Region IV found that during the period October 1973 through June 1975 Tenneco had charged unlawfully high selling prices for certain crude oil which it produced and sold to West Coast Oil Company (West Coast) and Kern County Refinery, Inc. (Kern). The FEA further found that Tenneco had unlawfully terminated its supplier/purchaser relationship with West Coast. On the basis of these findings, Tenneco was ordered to immediately reinstate its supplier/purchaser relationship with West Coast and to make refunds to West Coast and Kern for the overcharges. On July 12, 1976 the FEA stayed those provisions of the Remedial Order which required Tenneco to reinstate its supplier/purchaser relationship with West Coast and to make refunds to West Coast and Kern. The approval of the stay was conditioned, however, upon Tenneco placing the funds involved in an escrow account pending the final determination of its Appeal of the Remedial Order. Tenneco was further required to deposit into the account on a weekly basis a sum of money equal to the number of barrels of crude oil which it would otherwise have been required to supply to West Coast, multiplied by the difference between West Coast's current weighted average cost of crude oil minus Tenneco's lower tier ceiling price at the property in question. *Tenneco Oil Co.*, 4 FEA Par. 85,006 (July 12, 1976). On October 4, 1976 Tenneco requested that the FEA issue a Supplemental Order which would relieve the firm of the escrow requirements specified in the July 12 Stay Order. In considering Tenneco's request, the FEA determined that Tenneco had made a convincing showing that a significant change had occurred in the circumstances which led to the issuance of the July 12 Order. Tenneco established a very strong probability that it will succeed on the merits of its Appeal with respect to the finding in the June 8 Remedial Order that Tenneco had charged Kern prices for crude oil which were in excess of the lower tier ceiling price. Tenneco also provided evidence that it had reinstated its supplier/purchaser relationship with West Coast. Consequently, the provisions of the July 12 Stay Order were modified to permit Tenneco to recover the funds which it had placed in escrow for the alleged overpayments to Kern. Tenneco was also relieved of the requirement that it make weekly deposits into the account since it had, in fact, reinstated its supplier/purchaser relationship with West Coast.

SUPPLEMENTAL ORDERS

Beacon Oil Co.; Hanford, Calif.; FEX–0059.
Delta Refining Co.; Memphis, Tenn.; FEX–0060.
EDG, Inc.; Los Angeles, Calif., FEX–0061.
Fletcher Oil & Refining Co.; Wilmington, Calif.; FEX–0062.
Good Hope Industries; Springfield, Mass.; FEX–0063.
Husky Oil Co. of Delaware; Washington, D.C.; FEX–0064.
Lunday-Thagard Oil Co.; Irvine, Calif.; FEX–0065.
Midland Cooperatives, Inc.; Minneapolis, Minn.; FEX–0066.
Mohawk Petroleum Corp.; Bakersfield, Calif.; FEX–0067.
Newhall Refining Co., Inc.; Newhall, Calif.; FEX–0068.
Pasco, Inc.; Washington, D.C.; FEX–0069.
Powerine Oil Co.; Washington, D.C.; FEX–0070.
Rock Island Refining Corp.; Indianapolis, Ind.; FEX–0071.
Southland Oil Co.; Washington, D.C.; FEX–0072.
Tosco, Inc.; Washington, D.C.; FEX–0073.
Warrior Asphalt Co. of Alabama; Washington, D.C.; FEX–0074.
West Coast Oil Co.; Newport Beach, Calif.; FEX–0075.
Young Refining Corp.; Douglasville, Ga.; FEX–0076.
Famariss Oil Corp.; Washington, D.C.; FEX–0077.
Laketon Asphalt Refining, Inc.; Evansville, Ind.; FEX–0078.
Navajo Refining Co.; Washington, D.C.; FEX–0079.
North American Petroleum Corp.; Abilene, Tex.; FEX–0080.
OKC Corp.; Washington, D.C.; FEX–0081.
San Joaquin Refining Co.; Newport Beach, Calif.; FEX–0082.
Sound Refining, Inc.; Tacoma, Wash.; FEX–0083.
Wicket Refining Co.; Midland, Tex.; FEX–0084 Crude Oil.

On August 30, 1976, the FEA published a Notice in the FEDERAL REGISTER indicating that it had reviewed the exception relief from the purchase requirements of the Entitlements Program granted to small refiners during 1975 in view of the actual financial

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results achieved by each firm for the year. 41 FR 36540 (August 30, 1976). Based on that review, a preliminary determination was reached with respect to each small refiner that had received exception relief as to whether the firm had obtained excessive benefits from the relief provided and should therefore be required to purchase entitlements or whether the firm had received an insufficient measure of exception relief and should therefore be granted additional benefits. The Notice described the manner in which the FEA had determined each firm's particular entitlement purchase obligation or sales requirement and invited comments from interested persons on the action which the FEA proposed to take. The firms which submitted comments raised a number of general issues concerning the FEA's proposal as well as arguments relating specifically to the FEA's calculation of the particular entitlement obligation or benefit. The FEA addressed the specific arguments raised by individual firms in letters to those firms. The general issues were considered in a Supplemental Order which also set forth the adjustments to the 1975 exception relief which the FEA will implement beginning with the month of November 1976. In the Supplemental Order, the FEA reached the following conclusions:

(1) The small refiners involved in the review proceeding have had a number of opportunities in the past to present arguments that the historical profit margin or return on invested capital calculated by the FEA for purposes of the exceptions analysis is inordinately low or unrepresentative of normal operations and to seek appropriate adjustments. Under the circumstances, a request to adjust historical profitability is not timely and a firm which is now seeking an adjustment will, as a general rule, be required to satisfy the standards which have been established for the approval of retroactive exception relief.

(2) There is considerable merit to the argument that financial results for the month of December 1975 and any subsequent month in the twelve month period under review in which a small refiner was exempt from purchasing entitlements under the provisions of Special Rule No. 6 should be excluded from the determination as to whether the firm received an excessive measure of exception relief in order to avoid depriving firms of the benefits which they realized as a result of the statutory exemption. Thus, if a small refiner files an Appeal from the FEA's determination of the adjustment to be made in the exception relief granted in 1975 and in connection with the Appeal provides full financial data for the period under review reporting separately its results for December 1975 and any subsequent month in the period in which it was exempt from purchasing entitlements, the FEA will eliminate those months from the determination and, if appropriate, will grant additional relief in a future Entitlement Notice.

(3) The firms which contended that the months in which they were fully or partially exempt from purchasing entitlements under the provisions of Special Rule No. 3 should also be excluded from the review did not present any convincing arguments in support of their position. The FEA observed that, unlike the situation with respect to Special Rule No. 6, the benefits which small refiners received under Special Rule No. 3 were not required by statute. Additionally, since the beginning of the Entitlements Program, it has been clear that the FEA woud consider financial results achieved during the period in which Special Rule No. 3 was in effect in evaluating exception requests from the purchase requirements of the Entitlements Program.

(4) As set forth in *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) and other Decisions, a rational basis exists for the FEA's use of a cash method of accounting in analyzing a firm's entitlement expenses in 1975 even though an accrual method of accounting was used in assessing exception applications submitted by small refiners in 1976. As indicated in the *Beacon* Decision, because the FEA assumed that the Entitlements Program would end in December of 1975, it was appropriate to review claims of serious hardship advanced by small refiners in terms of the immediate financial burden which the Entitlements Program would impose on those firms. In measuring the financial burden which small refiners would experience, it was appropriate to utilize a cash basis of accounting since that method most accurately reflected the immediate impact of the Entitlements Program on small refiners.

(5) Several firms did not receive any exception relief from their entitlement purchase obligations after the publication of the criteria for the approval of exception relief set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and, consequently, it appears to be unfair to apply those criteria in reviewing the appropriateness of the relief granted to those firms in 1975. However, the firms which received exception relief from the Entitlements Program after the *Delta* standards were announced voluntarily brought themselves under those standards and accepted the benefits conferred upon them as a result of the application of the standards. Thus, it is not improper to review the financial results which those firms achieved for the entire year under the *Delta* criteria.

(6) As a general rule, small refiners whose individual purchase obligations are $500,000 or less will be permitted to consummate their purchases over a period of six months, while those firms whose purchase obligations exceed $500,000 will have their obligations distributed evenly over a twelve month period. All entitlement sales requirements will be satisfied over a period of three months.

(7) The contention that the 1975 entitlements review did not satisfy the requirements of due process is wholly without foundation. Each exception Decision which was issued in 1975 contemplated that a further review would be performed of the relief granted and the FEA could simply have issued a Supplemental Order to each small refiner setting forth the determination as to whether the firm had obtained an excessive or insufficient measure of relief in 1975 and directing the firm to purchase or sell entitlements. Instead, each firm affected by the review was afforded an ample opportunity to participate in the review proceeding and to have its position on both general and specific matters fully considered.

Class Exception—Retroactive Application of the Separate Inventories Amendment; FEX–0094; Refined Petroleum Products

On September 24, 1976 the Federal Energy Administration issued a Decision and Order denying class exception relief which, if granted, would have permitted certain categories of resellers to calculate their cost of product in inventory on a retroactive basis utilizing separate inventory computations. *Class Exception—Retroactive Application of the Separate Inventories Amendment*, 4 FEA Par. 83,099 (September 24, 1976). For periods subsequent to May 1, 1976, this practice was permitted under the FEA regulations by virtue of an amendment to § 212.92. Subsequent to the issuance of the September 24 Decision and Order, various parties informed the FEA that they intended to appeal that determination and requested additional time in order to gather, prepare and file the necessary materials in connection with their appeals. After considering these requests, the FEA determined that in view of the importance of having complete and accurate evidence in the appeal proceeding and the reasonable basis for the requests for extension which had already been filed, a general extension of time until December 10, 1976 to appeal the September 24 Decision was approved. In addition, the FEA specified that any appeals from the September 24 Decision and Order should be formulated so as to cover two separate issues: (1) Whether a class has been properly formed; and (11) whether sufficient evidence exists to demonstrate that the class will be subject to a serious hardship or a gross inequity as a result of the separate inventories rule. The FEA also listed various categories of data which should be included in any appeal submission.

Melton Auto Service; Petersburg, Va.; FEX–0095 Motor Gasoline

On September 20, 1976 the Federal Energy Administration issued a Decision and Order to Melton Auto Service (Melton) granting the firm's Petition for Special Redress Relief with respect to an Assignment Order issued to it by the FEA Region III. In the September 20 Order, the matter was remanded to the Regional Administrator of Region III with instructions to issue a revised Assignment Order to Melton within 45 days. *Melton Auto Service*, 4 FEA Par. 87,015 (September 20, 1976). On remand, all interested parties were requested to submit additional information and comments in connection with the preparation and issuance of a new Assignment Order. Since that information had not yet been received by the Regional Administrator, the FEA on its own motion modified the September 20 Order to specify that the Regional Administrator shall issue a new Assignment Order to Melton within 75 days of the issuance of the September 20, 1976 Order.

Westla Oil Co.; Maryland Heights, Mo.; FEX–0096 Motor Gasoline

On September 21, 1976 the Federal Energy Administration issued a Decision and Order to the Westla Oil Company (Westla) granting the firm's Petition for Special Redress Relief with respect to an Assignment Order issued to it by FEA Region IX with instructions to issue a revised Assignment Order to Westla within 45 days. *Westla Oil Co.*, 4 FEA Par. 87,013 (September 21, 1976). On remand, all interested parties were requested to submit additional information and comments in connection with the preparation and issuance of a new Assignment Order. Since that information had not yet been received by the Regional Administrator, the FEA on its own motion modified the September 21 Order to specify that the Regional Administrator shall issue a new Assignment Order to Westla within 75 days of the issuance of the September 21, 1976 Order.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Basic Earth Science Systems; Denver, Colo.; FEE–3159.

Pryor Enterprises, Inc.; Griffin, Ga.; FMR–0060.

Sav-Mor Oil Co.; Los Angeles, Calif.; FEE–3080.

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Fred Goodstein; Casper, Wyo.; FEE–2899.

Hennessey-Freda, Inc.; Larchmont, N.Y.; FEE–3163.

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information: *Luke Bros., Inc.; Oklahoma City Okla.; FES–1004.*

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MICHAEL F. BUTLER,
General Counsel.

DECEMBER 23, 1976.

[FR Doc.76–38293 Filed 12–27–76;1:23 pm]

FEDERAL POWER COMMISSION

[RP 72–110; (PGA77–4a)]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant To Purchased Gas Cost Adjustment Provision

DECEMBER 21, 1976.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas"), on December 13, 1976, tendered for filing Substitute Twenty-Fifth Revised Sheet No. 10 to its FPC Gas Tariff, First Revised Volume No. 1.

This sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1. The rate change is being filed to reflect revised purchased gas costs filed by its sole supplier of natural gas, Texas Eastern Transmission Corporation.

The proposed effective date of Substitute Twenty-Fifth Revised Sheet No. 10 is January 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–38272 Filed 12–29–76;8:45 am]

[Docket Nos. E–8071, etc.]

ARKANSAS POWER & LIGHT CO.

Filing

DECEMBER 22, 1976.

Take notice that on December 10, 1976, Arkansas Power & Light (AP&L) tendered for filing a compliance report pursuant to the Order issued November 15, 1976, approving a Settlement Agreement reached in the above numbered dockets. AP&L states that the Report shows monthly billing determinants and revenues under prior, present and settlement rates; monthly settlement increase, monthly rate refund, monthly interest computation, and summarized information for the total refund period in each docket. Further, AP&L tendered for filing revised U–4 and B–4 rate schedules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–38281 Filed 12–29–76;8:45 am]

CAROLINA POWER AND LIGHT CO.

Order Approving Settlement Regarding Electric Rates

DECEMBER 22, 1976.

On September 15, 1976, Carolina Power and Light Company (CP&L) presented a Stipulation and Agreement of Settlement (Stipulation) which, if approved by the Commission, would dispose of all issues raised in this proceeding. For the reasons set forth below, the Commission shall approve the Stipulation.

By letter order of December 24, 1975, the Commission directed CP&L to file by January 15, 1976, a revised fuel adjustment clause conforming to § 35.14 of the Commission's Regulations as amended by FPC Order No. 517. The Commission directed further that this revised fuel adjustment clause have an effective date of January 1, 1976.

On January 15, 1976, as completed on March 3, 1976, CP&L tendered for filing a proposed fuel adjustment clause in purported compliance with Order No. 517. It was estimated that the revised fuel clause would increase 1976 jurisdictional revenues by about $180,000. Subsequently, by order issued March 31, 1976, in Docket No. ER76–338, CP&L's proposed fuel clause was suspended for one day, until January 2, 1976, and a hearing was ordered to resolve issues raised by the North Carolina Electric Membership Corporation, the Four County Electric Membership Corporation (EMC's), the Electricities of North Carolina, and the Cities of Bennetsville and Camden, South Carolina (ElectriCities).

The issues raised by the intervenors dealt primarily with whether the proposed fuel clause was to become effective for bills rendered in January or service rendered in January, for the period January 2, 1976, to May 1, 1976, that locked-in period of the fuel clause. The intervenors argued that in applying the clause the company stated that it intended to use it on bills rendered on and after the effective date of January 2, 1976, and that this would include some service rendered in December 1975. The intervenors contended that the proposed clause should be effective only for service rendered after the effective date established by the Commission. In addition, the intervenors questioned the calculation of CP&L's base rate for the proposed fuel clause.

A settlement conference was convened on September 15, 1976, at which time the proposed Stipulation was presented to the Administrative Law Judge (ALJ) requesting that it be certified to the Commission. The ALJ certified the settlement agreement to the Commission on September 20, 1976, stating that all parties and Staff concur in the certification of the settlement agreement, which resolves all conflicts among the company and its wholesale customers arising from the application of CP&L's fuel adjustment clause. The terms and conditions of the Stipulation are summarized as follows:

(1) The revised fuel clause shall not apply to bills rendered during January 1976.

(2) With respect to revenue increases collected as a result of application of the amended fuel clause to January billing, CP&L shall refund such increases to the customers with interest at the rate of 9% per annum from the date of original payment until such repayment.

(3) All other fuel adjustment clause revenues billed by CP&L to the wholesale customers on and after January 2, 1976, are permanent revenues of the company not subject to refund.

Although the Stipulation does not specifically mention the calculation of CP&L's base rate for the proposed fuel clause, the intervenors have accepted CP&L's calculation for purposes of the proposed Stipulation.

Public notice of certification of the Stipulation was issued on October 1, 1976, with comments due by October 15, 1976. On October 15, 1976, Staff filed comments in support of the Stipulation. No other comments were received.

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The Commission's review of the subject Stipulation indicates that the terms and conditions proposed therein are equitable to all parties concerned and are otherwise consistent with the public interest. Accordingly, the Stipulation shall be incorporated herein by reference, accepted and approved, subject to the conditions set forth below.

The Commission finds: Approval, as hereinafter ordered and conditioned, of the Stipulation submitted by CP&L in this docket on September 15, 1976, is just and reasonable and in the public interest in carrying out the provisions of the Federal Power Act.

The Commission orders: (A) The Stipulation and Agreement of Settlement presented in this proceeding on September 15, 1976, is incorporated herein by reference, accepted and approved.

(B) Within 30 days of the date of issuance of this order, CP&L shall file its billing methods and procedures entitled "Application of Wholesale Fuel Adjustment Clause" to effectuate the provisions of the Stipulation.

(C) Within 30 days after the compliance rate schedule is accepted for filing, CP&L shall make refunds to appropriate customers of all amounts collected in excess of the settlement rates provided for in the Stipulation and approved herein. Said refunds shall be made in accordance with the terms of the Stipulation and shall bear interest at the rate of 9% per annum.

(D) Within 15 days after refunds are made, CPL shall file a refund report with the Commission, shall serve a copy thereof upon all affected customers, and shall furnish a copy to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail. Such report shall show monthly billing determinants and revenues under prior, present and settlement rates; the monthly settlement rate change; the monthly rate refund; and the monthly interest computation together with a summary of such information for the total refund period.

(E) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order in any proceeding now pending or hereafter instituted by or against CP&L or any other person or party.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38282 Filed 12-29-76;8:45 am]

[Docket Nos. CP76-206, etc.]

CITIES SERVICE GAS CO.

Order Consolidating Proceedings, Granting Interventions, and Prescribing Hearing

DECEMBER 21, 1976.

These proceedings involve three applications filed pursuant to sections 7(b) and 7(c) of the Natural Gas Act[1] by Cities Service Gas Company (Cities Service) to abandon in place or to reclaim certain pipeline, compressor, and appurtenant facilities and to install additional and replacement pipeline, compressor, and appurtenant facilities and to drill new injection wells to enhance its ability to provide adequate peak day service to customers in its curtailment priorities 1, 2, and 3 by increasing the peak day deliverability of certain storage fields by a total of 115,600 Mcf at the same wellhead shut-in pressure and storage inventory. General Motors Corporation (GM) filed a protest, petition to intervene and request for formal hearing in each of these dockets.[2] For the reasons set forth below, the public interest requires that these proceedings be consolidated and that a public hearing be held.

Cities Service's application in Docket No. CP76-206 was filed on December 22, 1975, and requests authorization to:

i. Construct approximately 12.96 miles of 6-inch to 26-inch diameter loop pipeline and appurtenant facilities in the McLouth Storage Field, Jefferson and Leavenworth Counties, Kansas;

ii. Abandon in place or reclaim approximately 5.54 miles of 2-inch to 20-inch diameter pipeline and construct approximately 4.80 miles of 4-inch to 26-inch diameter pipeline and appurtenant facilities in the North Welda Storage Field, Anderson County, Kansas; and

iii. Abandon in place or reclaim approximately 6.64 miles of 3-inch to 16-inch diameter pipeline and construct approximately 6.18 miles of 4-inch to 26-inch pipeline and appurtenant facilities in South Welda Storage Field, Anderson County, Kansas.

The proposed facilities at the McLouth Storage Field will loop the existing pipeline to and from the Tonganoxie Compressor Station[3] and the main pipeline laterals within the field to correct excessive pressure drops which presently exist in the storage field pipeline system and thereby increase peak day deliverability from 120,000 Mcfd to 138,000 Mcfd or a net increase of 18,000 Mcfd. The proposed facilities in the North Welda and South Welda Storage Fields will replace deteriorated pipelines in these fields[4] and correct excessive pressure drops in part of the storage field pipeline system thereby increasing peak deliverability from 70,000 Mcfd to 81,000 Mcfd for the North Welda Storage Field and from 72,000 Mcfd to 92,500 Mcfd for the South Welda Storage Field, or a total of 31,500 Mcfd. However, as a result of the increased intake pressure at the Welda Compressor Station, the peak day deliverability of the Colony Storage Field will be reduced from 108,000 Mcfd to 91,500 Mcfd or 16,500 Mcfd.[5] Thus, the net increase in peak day deliverability from these three fields is 15,000 Mcfd. Total estimated cost of the proposed facilities is $3,358,100.

Cities Service states that these projects are necessary to increase present peak day deliverability to meet demands during the 1976-77 winter heating season and to provide additional operating flexibility and future deliverability increases. No service will be abandoned as a result of the abandonment of the facilities described above.

This application was noticed on January 22, 1976 (41 FR 4648 (January 30, 1976)). GM filed an untimely protest, petition to intervene and request for hearing on April 7, 1976. Cities Service filed its answer in opposition to GM's petition on May 7, 1976. On May 25, 1976, The Gas Service Company (Gas Service) filed an untimely petition to intervene in response to GM's protest of the subject application.

On July 26, 1976, Cities Service filed an application for a temporary certificate. By letter dater September 10, 1976, the Secretary of the Commission issued a temporary certificate which Cities Service accepted by letter dated October 8, 1976. By letter dated November 11, 1976, Cities Service advised that construction of these facilities commenced on October 27, 1976.

Cities Service's application in Docket No. CP76-335 was filed on April 14, 1976, and requests authorization to:

i. Abandon in place or reclaim 7.77 miles of 3-inch to 16-inch pipeline and construct approximately 7.77 miles of 4-inch to 20-inch pipeline and appurtenant facilities in the Craig Storage Field, Johnson County, Kansas;

ii. Abandon and reclaim three 230 horsepower compressor units and install and operate two 660 horsepower compressor units and appurtenant facilities at the Craig Compressor Station, Johnson County, Kansas;

iii. Install and operate one 2,400 horsepower compressor unit and appurtenant facilities at the Tonganoxie Compressor Station, Leavenworth County, Kansas; and

iv. Abandon and reclaim one 2,400 horsepower compressor unit at Haysville Compressor Station, Sedgwick County, Kansas.

The pipe to be installed in the Craig Storage Field will replace deteriorated pipe originally installed in 1943 and correct excessive pressure drops in the field gathering facilities. The two 660 horsepower compressor units installed at the Craig Compressor Station will replace three deteriorated 230 horsepower units, which no longer provide adequate service, and increase the peak day deliverability of the Craig Storage Field from 32,000 Mcfd to 48,000 Mcfd, or a net increase of 11,000 Mcfd. The transfer of one 2,400 horsepower compressor unit from the Haysville Compressor Station, where it is no longer necessary for adequate service due to declining volumes, to the Tonganoxie Compressor Station will increase the peak day deliverability of the McLouth Storage Field from 138,000 Mcfd to 156,000 Mcfd, or a net increase of 18,000 Mcfd. Total estimated cost of the facilities is $2,656,283.

Cities Service states that the proposed increase in peak day deliverability is required to serve both customers existing as of December 31, 1976, and projected new customers added after that date by Cities Service's distributor customers during the 1977-78 winter heating season. During subsequent years, Cities Service's declining gas supplies will allegedly require that these facilities be used solely to meet the peak day demands of customers existing as of December 31, 1976.

The application in Docket No. CP76-335 was noticed on April 23, 1976 (41 FR 18160 (April 30, 1976)). On May 19, 1976, GM filed a protest, petition to intervene, and request for formal hearings, and, on May 25, 1976, Gas Service filed a petition to intervene. Cities Service filed an answer in opposition to GM's petition on June 4, 1976.

On July 2, 1976, in Docket Nos. CP76-206 and CP76-335, GM filed a reply to Cities Service's answers in opposition to GM's petitions to intervene and a motion to consolidate the proceedings in these two dockets. Cities Service, on August 2, 1976, filed a motion to strike GM's reply and motion for consolidation and for the issuance of permanent certificates in both dockets pursuant to § 1.32 of the Commission's Rules of Practice and Procedure.[6]

Cities Service's application in Docket No. CP63-188 (Phase II) was filed on September 27, 1976, and requests authorization to:

i. Drill ten (10) gas injection and withdrawal wells, install appurtenant facilities and operate the same as gas storage facilities in its Webb Storage Field, Grant County, Oklahoma; and

ii. Construct 1.39 miles of 6-inch to 16-inch diameter pipeline from the 10 new wells to the existing storage field pipelines which lead to the Webb Compressor Station.

These facilities will increase the peak day deliverability of the Webb Storage Field from 216,400 to 270,000 Mcfd, or a net increase of 53,600 Mcfd. The total estimated cost of the facilities is $1,400,900.

Cities Service states that these facilities will enhance its ability to provide adequate peak day service to customers in its curtailment priorities 1, 2, and 3. Unlike the applications in Docket Nos. CP76-206 and CP76-335, Cities Service does not state whether these facilities are needed for either the 1976-77 or 1977-78 winter heating season.

This application was noticed on October 6, 1976 (41 FR 45049 (October 14, 1976)). On October 28, 1976 GM filed a protest, petition to intervene, and motion for formal hearings and consolidation with the proceedings in Docket Nos. CP76-206 and CP76-335.

We find that these three proceedings should be consolidated for purposes of hearing and disposition. The applications represent separate, but related, projects to increase Cities Service's peak day deliverability from storage by 115,600 Mcfd or 18.7 percent of the existing peak day deliverability of 618,400 Mcfd for these fields. The proposed replacement and rearrangement of facilities in Docket No. CP76-335 is stated in part to permit a second increase in peak day deliverability after the peak day deliverability is increased as a result of the proposal in Docket No. CP76-206. The proposed facilities in Docket No. CP63-188 (Phase II) are designed to provide a third increment to Cities Service's storage capability. In addition, Cities Service's August 2, 1976, motion in Docket Nos. CP76-206 and CP76-335 states that, subsequent to the 1977-78 winter heating season, the increases in peak day deliverability provided in those dockets will be required to meet the peak demands of firm customers existing as of December 31, 1976, due to declining gas supplies. Thus, there are common issues which require that these proceedings be consolidated.

GM's pleadings in these proceedings raise the issue of whether a pipeline, which is presently curtailing its firm customers, should be permitted to increase its storage capacity and/or peak day deliverability from storage to meet the additional demands of its distributor customers resulting from their attachment of new high-priority customers. We believe that this question should be explored at a hearing since a portion of the increased peak day deliverability proposed in Docket Nos. CP76-206 and CP 76-335 is to serve new customers added after December 31, 1976, at least through the 1977-78 winter heating season. While the Commission has consistently required pipelines to husband existing supplies of gas through the use of storage and has favored the development of new storage projects to assist pipelines in meeting existing peak day requirements, the question of whether pipelines should be permitted to increase storage to meet the demands of new high-priority customers has not been resolved. If gas supplies continue to decline, then all increased storage capability will ultimately be needed to meet the demands of existing customers. However, if growth occurs in the interim, the new customers will be assigned to the appropriate curtailment priorities with existing customers and curtailed proportionately. This could lead to a situation where other existing high-priority users, such as industrial feedstock consumers, are curtailed significantly in advance of the date that they would otherwise be curtailed because a pipeline has used its expanded storage capability to permit its distributors to add new residential and small commercial customers.

Because growth is a factor in these proceedings, we believe the hearings established below should address the question of whether Cities Service should be permitted to increase its storage capability to satisfy additional demands representing growth and, if the question is answered negatively, what conditions should be attached to any permanent certificates issued in these proceedings to prohibit such use. Thus the hearing, prescribed in these consolidated proceedings is to develop a record regarding the following issues:

i. How is the public convenience and necessity advanced by the construction and operation of these proposed facilities?

ii. What customers and which markets will be served if the proposed facilities are constructed?

iii. What effect would the construction and operation of the proposed facilities have on existing customers?

iv. Who should pay the cost of the proposed facilities and service?

v. Described the impact of diverting additional gas supplies to storage during the summer period on existing customers.

vi. Identify Cities Service's Order No. 467-B priority 1 and 2 peak day requirements and priority 1 and 2 daily contract demand. Identify the maximum volume of gas which could be delivered by Cities Service during a period of peak demand, with and without the proposed facilities?

vii. Will any existing customers of Cities Service receive less gas on an annual and peak day basis as a result of the proposed facilities?

viii. If new customers are proposed to be served, identify these customers and their peak day and annual requirements according to the priorities prescribed in 18 CFR 2.78 (a)(1).

ix. Does the continued addition of new customers advance the public interest?

x. What conditions, if any, should be attached to the permanent certificates, if any, issued in these proceedings?

The responses to these issues should give consideration to the Commission's determination in *Northern Natural Gas Company*, Opinion No. 773. -- F.P.C. -- (August 13, 1976), wherein we stated (*id.* at 2-3):

In general, we agree with the conclusion of the Administrative Law Judge, that a pipeline presently curtailing existing customers should not be authorized to attach new customers regardless of the priority of use to which the new customers would put any natural gas which they receive. In the absence of some compelling public interest consideration, existing customers should not be cut off in order that new customers may receive service who had never previously received natural gas deliveries. In addition we agree with the Judge that the *de minimis* nature of the proposed new service cannot be controlling since one *de minimis* approval

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[1] 15 U.S.C. 717f(b), (c).

[2] GM's petition in Docket No. CP76-206 was filed subsequent to the date established by the Commission for the filing of such petition.

[3] The Tonganoxie Compressor Station compresses gas in and out of the McLouth Storage Field as required.

[4] This pipeline was originally installed in 1934-1937 using bare pipe.

[5] Withdrawals from the North Welda, South Welda, and Colony Storage Fields feed into a common intake at the Welda Compressor Station which compresses the gas into Cities Service's 26-inch diameter Welda-Ottawa pipeline.

[6] 18 CFR 1.32.

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after another can accumulate to the point where there is a substantial effect on the other customers of the pipeline. We further agree with the Judge that the availability of alternate fuels is not controlling where the customers' facilities for using gas or other fuels have not yet even been installed and no determination on either an absolute or economic basis can be made.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented in these proceedings as hereinbefore described.

(2) Due to the related nature of the applications and since there may be common questions of law or fact involved, it is appropriate to consolidate the proceedings in Docket Nos. CP76–206, and CP76–335, and CP63–188 (Phase II).

(3) Participation in these proceedings by General Motors Corporation and The Gas Service Company may be in the public interest. Permitting the filing of the late petitions to intervene in Docket Nos. CP76–206 and CP76–335 will not delay the proceedings and may be in the public interest.

The Commission orders: (A) The proceedings in Docket Nos. CP76–206, CP76–335, and CP63–188 (Phase II) are hereby consolidated for purposes of hearing and disposition.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure (18 CFR Part 1), and the Regulations under the Natural Gas Act (18 CFR Chapter I, Subchapter E), a prehearing conference shall be held on January 17, 1977, commencing at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to discuss procedural issues and the clarification of issues.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the prehearing conference in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) The direct case of Cities Service, including testimony on the issues raised by this order, shall be filed and served on all parties, the Presiding Administrative Law Judge, and the Commission Staff on or before January 3, 1977. All supporting intervenors, shall file testimony and exhibits comprising their cases in chief on or before January 3, 1977.

(E) The above-mentioned intervenors are permitted to intervene in the instant consolidated proceeding subject to the rules and regulations of the Commission; *Provided, however*, That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in the proceeding.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38273 Filed 12-29-76;8:45 am]

[Docket No. ER77-115]

COMMONWEALTH EDISON CO.

Tariff Change

DECEMBER 22, 1976.

Take notice that Commonwealth Edison Company, on December 15, 1976, tendered for filing proposed changes in its FPC Electric Tariff. The proposed changes revise the Electric Service Contract between Commonwealth Edison Company and the City of Geneva, Illinois, to provide for a sixth point of electric supply to the City by the Company.

A copy of the filing has been served upon the City of Geneva, Illinois.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 10, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38263 Filed 12-29-76;8:45 am]

[Docket No. ER77-108]

DUKE POWER CO.

Supplement to Electric Power Contract

DECEMBER 21, 1976.

Take notice that Duke Power Company tendered on December 13, 1976, a supplement to Duke Power Company Rate Schedule FPC No. 230, which is to become effective on January 19, 1977. The customer affected by the supplement is the Town of Landis (customer).

Duke Power's contract supplement, agreed to by the customer, provides for an increase in contract demand from 5,500 KW to 6,500 KW. These figures were based on an estimate of sales and revenues for the 12 months immediately preceding and for the 12 months immediately succeeding the effective date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38275 Filed 12-29-76;8:45 am]

[Docket ER77-110]

DUKE POWER CO.

Supplement to Electric Power Contract

DECEMBER 21, 1976.

Take notice that Duke Power Company tendered on December 13, 1976, a supplement to Duke Power Company Rate Schedule FPC No. 145. The customer affected by the supplement is Little River Electric Cooperative, Inc. (customer). The dates on which these documents are to become effective are December 20, 1976 for Delivery Points No. 1 and 8 and January 19, 1977 for Delivery Point No. 5. Delivery Point No. 5 provides for an increase in demand from 2700 KW to 3000 KW. Delivery Points No. 1 and 8 respectively, provide only for a reallocation of SEPA (Southeastern Power Administration) preference customer capacity and energy. These estimates are based on sales and revenues for the 12 months immediately preceding and for 12 months immediately succeeding the effective date. Requisite agreement of Duke Power and customer has been obtained.

Duke Power, in addition, requests a waiver of the notice requirement as the reallocation by SEPA was made effective December 20, 1976 and notification from SEPA was not received until December 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38277 Filed 12-29-76;8:45 am]

[Docket No. ER77-111]

DUKE POWER CO.

Supplement to Electric Power Contract

DECEMBER 21, 1976.

Take notice that Duke Power tendered on December 13, 1976, a supplement to Duke Power Rate Schedule FPC No. 142 which is to become effective on January 19, 1977. The customer affected by the supplement is Blue Ridge Electric Cooperative, Inc. (customer). Duke Power's contract supplement, agreed to by the customer, provides for increases in demand as follows:

Delivery point No.:	Designated KW From	To
1	1,700	2,500
7	9,000	9,800
8	1,700	2,200
9	6,800	8,000
11	4,200	6,000

These figures were based on estimates of sales and revenues for the 12 months immediately preceding and for the 12 months immediately succeeding the effective date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38274 Filed 12-29-76;8:45 am]

[Docket No. ER77-112]

DUKE POWER CO.

Supplement to Electric Power Contract

DECEMBER 21, 1976.

Take notice that Duke Power Company tendered on December 13, 1976 a supplement to Duke Power Rate Schedule FPC No. 138 which is to become effective on January 19, 1977. The customer affected by the supplement is Piedmont Electric Membership Corporation (customer). Duke Power's contract supplement, agreed to by the customer, provides for increases in demand as follows:

Delivery point No.:	Designated KW From	To
2	5,000	7,000
3	2,700	3,700
5	1,400	7,000
6	6,000	6,500

These figures were based on estimates for the 12 months immediately preceding and for the 12 months immediately succeeding the effective date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38276 Filed 12-29-76;8:45 am]

[Docket No. ER77-113]

DUKE POWER CO.

Supplement to Electric Power Contract

DECEMBER 21, 1976.

Take notice that Duke Power tendered on December 13, 1976, a supplement to Duke Power Rate Schedule FPC No. 144 which is to become effective on January 19, 1977. The customer affected by the supplement is Laurens Electric Cooperative, Inc. (customer). Duke Power's contract supplement, agreed to by the customer, provides for increases in demand as follows:

Delivery point No.:	Designated KW From	To
1	1,100	1,400
4	2,600	3,200
6	2,500	3,300
7	3,000	4,000
10	3,000	3,600
12	2,500	2,800
13	2,200	2,500
20	2,400	3,600
21	2,800	3,600
24	1,200	2,200

These figures were based on estimates for the 12 months immediately preceding and for the 12 months immediately succeeding the effective date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38278 Filed 12-29-76;8:45 am]

[Docket No. RP76-90]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Order Providing for Evidentiary Hearing, Prescribing Procedures and Granting Petitions to Intervene Regarding Abandonment; Curtailment

DECEMBER 21, 1976.

On August 29, 1975, Kansas-Nebraska Natural Gas Company, Inc. (K–N), pursuant to Section 4 of the Natural Gas Act, filed in Docket No. RP76–8 proposed tariff sheets[1] reflecting increased rates, changes in the jurisdictional zone boundaries, consolidation of the rates charged for service to each rate zone from various tariff sheets to one sheet, changes in determination of contract demand and winter period demand, and revisions in the General Terms and Conditions section concerning definitions, measurement, and restrictions on new, additional, and existing service.

After due notice of the K–N filing, several petitions to intervene in opposition to K–N's tariff proposals were received, including that of The Central Kansas Power Company, Inc. (Central Kansas) which raised specific objection to Sections 1 and 13(b) of the General Terms and Conditions. By order issued October 10, 1975, the Commission accepted for filing the proposed tariff sheets and suspended their effectiveness until March 14, 1976. With regard to Central Kansas' objections, the Commission stated:

> Central Kansas argues that certain words and phrases contained in Sections 1 and 13b of the General Terms and Conditions applicable to the various jurisdictional tariffs must be deleted inasmuch as they relate to the terms of service for direct-industrial sales made by K–N, such service not being subject to the jurisdiction of the Federal Power Commission. Central Kansas seems to be suggesting that our acceptance and suspension of the General Terms and Conditions as filed would somehow give K–N the power or authority to effect modifications in terms of its service to direct industrial customers which it could not otherwise do without the consent of the Kansas Corporation Commission (KCC). Central Kansas' assertions notwithstanding, we find nothing in the abovementioned Section that would allow K–N to charge, by virtue of our acceptance of the General Terms and Conditions, rates to direct industrial users different from those on file with the KCC, or perform under terms different from those on file with the KCC. As pointed out by Central Kansas, we have no jurisdiction over the rates and terms of such sales, our authority and responsibility in this area being limited under section 7 of the Natural Gas Act to certification of all transportation facilities used to make such sales. The relevancy of the aforementioned Sections to wholesale rates and service may, in any event, be fully examined at the hearing to be established herein.

On May 9, 1975, K–N filed in Docket No. CP75–334 an application for authorization to develop the Big Springs storage

[1] K–N proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1.

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field in Deuel County, Nebraska. Nebraska Public Power District (NPPD) expressed opposition to the Big Springs storage project claiming that K–N's source of gas for the storage project would be those volumes K–N serves to its five largest electric generation customers which service is proposed to be abandoned in Docket No. CP74–299. By order of April 26, 1976, in Docket No. CP75–334, et al., the Commission certificated the Big Springs storage project, but addressed separately NPPD's question. The Commission found that the abandonment and curtailment issues raised in Docket No. CP75–334 overlapped with the question raised by Central Kansas in Docket No. RP76–8 concerning the appropriateness of certain limitations of deliveries specified in K–N's originally proposed Tariff.

Accordingly, by order dated April 26, 1976, the Commission severed from consideration in Docket No. RP76–8 issues related to certain of K–N's tariff sheets proposed therein providing for certain limitations on K–N's obligations to its customers.[2] The Commission directed that such severed issues be redocketed in Docket No. RP76–90 and that the relevant tariff sheet filings be renoticed for the purpose of receiving comments relative to their justness and reasonableness.

At issue, in Docket No. RP76–90 are, interalia,[3] the proposals in Section 13(b) of K–N's Tariff which provide limitations on gas deliveries in four following instances. First, the making of new or additional sales of gas is limited to a total annual volume of 50,000 Mcf delivered in any calendar year after 1975 to any new customer connected on or after the effective date of the tariff. Any existing customers are limited to a total annual volume of not more than the sum of the volume used in 1975 and 50,000 Mcf. Second, each customer using gas for generation of electricity served directly by K–N or by a buyer with gas purchased under rate schedules in K–N's FPC Gas Tariff shall be limited annually to the volume used during 1974 or the average of the volumes of the five calendar years 1970 through 1974, whichever is greater. No new or additional sale of gas for electric generation is permitted. Third, K–N may reduce deliveries to customers served directly by K–N on an interuptible basis or under an interruptible rate schedule in K–N's FPC Gas Tariff whenever gas supplies available to K–N are not adequate to permit injection of gas into gas storage reservoirs at required rates. These reductions shall be made in whatever manner which, in K–N's discretion, is required by system operating conditions to avoid to the maximum extent possible any undue discrimination among customers having similar characteristics. Fourth, K–N is not required to remove gas from gas storage reservoirs for delivery to consumers served by K–N on an interruptible basis or under interruptible service rate schedules in its FPC Gas Tariff.

By publication in the FEDERAL REGISTER on June 16, 1976 (41 FR 24423), K–N's proposed changes in section 13 of the General Terms and Conditions of its FPC Gas Tariff were renoticed. Timely petitions for leave to intervene have been filed by Central Kansas,[4] NPPD, City of Grand Island, Nebraska (Grand Island), Utilities Section of the League of Nebraska Municipalities, City of Hastings, Nebraska (Hastings), Minnesota Gas Company (Minnesota Gas), Northwest Public Service Company, and Farmland Industries, Inc. Untimely petitions for leave to intervene have been filed by Central Nebraska Public Power and Irrigation District, Natural Gas Distributing Company (Natural Distributing), City of Alma, Nebraska (Alma), Central City, Nebraska (Central City), Iowa Electric Light and Power Company and The Great Western Sugar Company (Great Western).[4] Untimely notices of intervention have been filed by the States of Oklahoma and Kansas.

In their filings, Central Kansas, Grand Island, NPPD, Central District and Great Western, interruptible customers of K–N, made the following allegations: They allege that the provision permanently restricting the use of natural gas for electric generation as proposed is in violation of existing certificates of public convenience and necessity, and appears to constitute an abandonment of service without proper section 7(b) approval. Furthermore, they assert the proposed volume limitations imposed on electric generation service at a time when K–N specifically permits the addition of new loads and/or increased usage by existing customers is unduly discriminatory and inconsistent with existing case law. They object to the stipulation that K–N will not have to serve interruptible loads out of storage arguing it is inconsistent with past Commission decisions. The provision in the subject tariff sheets calling for reductions in deliveries is characterized as being inconsistent with existing direct sales contracts as reflected in tariffs or rate schedules on file with state commissions and thus is invalid and of no effect. Moreover, the necessity for curtailment of any type by K–N at this time is questioned. Finally, it is claimed that certain terms within K–N's tariff require specific definition.

Central Kansas and Great Western indicate that K–N previously curtailed customer deliveries on the basis of the terms of section 13(b) of its Tariff even before Commission acceptance thereof and even though no interruptions were required to provide service to other customers. Central Kansas alleges that this action constitutes an unlawful abandonment and pleads that the Commission expand this proceeding to consider these possible discriminatory, arbitrary or unlawful actions taken by K–N. In an answer filed on July 8, 1976, K–N indicates its disagreement with the aforementioned charge but withholds further comment at this time.

Central Kansas, Natural Distributing, Alma, Hastings, Central City and Minnesota Gas all request evidentiary hearing in this proceeding. Of those requesting hearing, all but Central Kansas are distributor customers of K–N. These distributors state they have a direct and substantial economic interest in the possibility of initial curtailments on the K–N system and have filed their hearing requests in order to insure the development of an evidentiary record to determine more clearly K–N's present and future gas supply service requirements relationship.

We find that the tariff provisions hereinbefore described should be the subject of an evidentiary hearing to develop an official record as a basis for determining their justness and reasonableness. Without intending to limit the issues developed at hearing, the Commission presently envisions the resolution of the following matters: (1) K–N's present and future gas supply balanced against system requirements; (2) the role market growth plays in K–N's curtailment policy; (3) K–N's intentions regarding the filing of a comprehensive curtailment plan; (4) the clarification of present tariff language to avoid confusion as to the intent and scope of K–N's proposed restrictions; and (5) the legal applicability of the proposed tariff provisions permanently limiting volumes to certain K–N direct industrial and wholesale customers absent any section 7(b) action when K–N appears to be in a gas supply position not as yet dictating curtailment.

The Commission finds: (1) The tariff sheets filed by K–N on August 29, 1975, constituting sections 1 and 13 of the General Terms and Conditions of the Third Revised Volume No. 1 to K–N's FPC Gas Tariff may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful under the Natural Gas Act.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, particularly sections 4, 5, and 15 thereof, that a prehearing conference be convened in this proceeding for the purpose of setting the issues involved for hearing and establishing the procedures for such hearing as hereinafter provided.

(3) The participation of the above-named petitioners in this proceeding may be in the public interest, and the participation of those who filed untimely petitions will not delay the subject proceeding.

[2] Original Sheet Nos. 22, 23 and 24 to K–N's FPC Gas Tariff, Third Revised Volume No. 1 which sheets relate to section 13 of the General Terms and Conditions.

[3] To the extent provisions in other sections of K–N's tariff contribute to the implementation of the provisions of section 13(b), such other sections may also be the subject of consideration at the hearing hereinafter provided for.

[4] Central Kansas and Great Western also filed protests.

(4) Good cause, as defined in § 1.8(d) of the Commission's Rules of Practice and Procedure, exists to permit the filing of the late petitions to intervene and notices of intervention.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5 and 15 thereof, the Commission's Rules of Practice and Procedure (18 CFR Chapter 1), and the Regulations under the Natural Gas Act, a prehearing conference shall be held on January 4, 1977, at 10:00 a.m. (EST) in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning the procedures to be adopted for the disposition of the issues relating to the aforementioned tariff sheets of K–N.

(B) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority (18 CFR 3.5(d)), shall preside at the prehearing conference in this proceeding, with authority to establish all procedural dates and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(C) The petitioners hereinabove set forth are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38279 Filed 12-29-76;8:45 am]

[Docket No. ER77-117]

NEW ENGLAND POWER POOL

Filing

DECEMBER 21, 1976.

Take notice that, on December 15, 1976, New England Power Pool (NEPOOL) tendered for filing an amendments to its NEPOOL Agreement. By the Amendment NEPOOL seeks to include five municipal systems, i.e., Town of Middleton Municipal Light Department, Town of Georgetown Municipal Light Department, Town of Ipswick Municipal Light Department, Town of Groton Electric Light Department, and Village of Hyde Park, Inc., Water and Light Department, under its Agreement commencing December 1, 1976.

NEPOOL states that the five municipal systems request service to commence December 1, 1976, but, because of the delays in securing the necessary approvals and execution of the documents, the filing was delayed. NEPOOL, therefore, requests waiver of notice requirements to permit the filing to be effective December 1, 1976.

NEPOOL states that the amendment does not change in any manner the NEPOOL Agreement as previously filed with the Commission other than to make the five municipals additional participants in the power pool.

NEPOOL also states that copies of the proposed amendment have been mailed to all systems rendering or reciving service under the NEPOOL Agreement.

Any person desiring to be heard or to make protest with reference to this filing should, on or before January 12, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing and supporting documents are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38280 Filed 12-29-76;8:45 am]

[Docket No. CP77-82]

COLUMBIA GAS TRANSMISSION CORP. AND INLAND GAS CO., INC.

Application

DECEMBER 22, 1976.

Take notice that on December 9, 1976, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and the Inland Gas Company, Inc. (Inland), 340–17th Street, Ashland, Kentucky 41101, filed a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of an interconnecting measuring facility and the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Columbia and Inland presently exchange gas in accordance with Commission orders issued July 20, 1970, in Docket No. CP70–246 (44 FPC 124) and September 1, 1972, in Docket No. CP72–285 (48 FPC 426) at interconnections located near the southern end of Inland's pipeline system in Floyd County, Kentucky, in the northern part of Inland's system in Boyd County, Kentucky, and at the intersection of existing transmission facilities in Boyd County, Kentucky. Inland states that it is engaged in a drilling program on previously unoperated leaseholds located in Knott County, Kentucky, having a present deliverability of 2,500 Mcf per day for which Inland does not have capacity to transport. It is asserted that the proposed interconnection to be located at the terminus of Columbia's pipeline facilities in northern Knott County, Kentucky, would provide Inland with a means of making this new supply available to its existing markets.

Columbia estimates the cost of the proposed interconnecting measuring facility would be $9,600.00 and the estimated annual operating expense would be $250.00. Columbia further states that it would be reimbursed by Inland for the total cost of the construction of the proposed facility.

Inland projects a deficiency of approximately 12,600 Mcf per day for the first quarter of 1977 and states that the 2,500 Mcf of gas per day available herein would offset a portion of such deficiency.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party to any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38367 Filed 12-29-76;8:45 am]

[Project No. 2338]

CONSOLIDATED EDISON CO. OF NEW YORK

Order Denying Motions To Terminate License, Denying Without Prejudice Motions to Reopen Record, and Establishing Expedited Procedures

DECEMBER 22, 1976.

Presently before the Commission are alternative motions to either terminate a

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pumped storage hydroelectric project license or reopen the entire licensing proceeding, as well as the question of scheduling further hearings in this docket on certain specific environmental issues. We find that these motions to terminate the license should be denied; however, the altrenative motions to reopen the record should be denied without prejudice. We shall hereinafter prescribe a procedural schedule for determining whether the record should be reopened. This order establishes a hearing schedule on the remaneded fishery issue.

The Commission initially granted a license to Consolidated Edison Company of New York (Con Ed) to construct the Cornwall (or Storm King) Project—a pumped storage hydroelectric project to be constructed on the Hudson River near Cornwall, New York—in March of 1965 (33 FPC 428). That license was set aside by the Court of Appeals for the Second Circuit in December 1965, and remanded to us for further proceedings.[1] Following further proceedings, we again issued to Con Ed a license to construct the Project (44 FPC 350 (1970)), and on that occasion our action was affirmed by the Court of Appeals.[2] Thereafter, in connection with appeals filed with it by Scenic Hudson and the Hudson River Fishermen's Association, intervenors herein, the Court of Appeals turned again to the Cornwall Project and, prompted by fisheries information elicited in 1972 and 1973 in a proceeding before the Atomic Energy Commission, concluded that the Cornwall licensing proceeding should again be remanded to us, this time for our further consideration of the fisheries question.[3] Specifically the court asked us to consider further the question of "the extent to which the [Cornwall] plant poses a danger to fish life and whether such danger can, as a practical matter, be eliminated or greatly minimized." Supra note 3, 498 F.2d at 835. The court further stated that if we had not "affirmatively found fish protection and preservation adequate by January 1, 1975," then the petition filed with the court by Scenic Hudson to reopen the proceeding for the consideration of other issues could be renewed.

In response to the court's remand for further consideration of the fisheries question the Commission ordered hearings for late 1974, but, as these hearings progressed, it became evident that the court's timetable could not be met. As a result, the order of January 30, 1975, deferred further hearings until no earlier than October 1, 1976, in order to allow Con Ed sufficient time in which to complete analysis of its river sampling collections performed through 1975. In this same order the Commission denied intervenors' motions to vacate Con Ed's license for the Cornwall Project, although it did recognize that the parties could raise at a later date questions concerning the continued validity of the license. Finally, the Commission directed Con Ed to file by August 16, 1976, a report concerning Con Ed's continued need for the project, its financing plan, and the results of Con Ed's fisheries study. It also permitted all parties to comment on this report and to file motions by September 15, 1976, noting that thereafter the Commission would schedule further hearings and procedures. The court of appeals on August 8, 1975, in substance approved the Commission's timetable and stayed further construction.

Con Ed filed its report pursuant to the January 30, 1975, Commission order on August 16, 1976. In essence Con Ed concluded that the Cornwall Project remained necessary to its long-term power needs, that it will be capable of financing the project, and that the impact of the project upon the Hudson River striped bass will not be significant or irreversibly adverse. It noted, however, that its final fisheries report will not be available until January 1977. Con Ed concluded by requesting that a prehearing conference be convened for the establishment of hearing procedures, and in this regard it points out that ongoing proceedings before both the Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) involve the same parties presently before the Commission, thereby necessitating coordination of scheduling.

New York City, New York State, the Department of the Interior (Interior) and the environmental intervenors, Scenic Hudson Preservation Conference and Hudson River Fishermen's Association (Scenic Hudson and Fishermen), all responded in September 1976, in opposition to the conclusions reached in Con Ed's August 16, 1976, report that the Cornwall Project is needed, can be financed, and will not impact excessively upon the fish population. They refer to events following the licensing of the Cornwall Project in 1970 which indicate that it is no longer needed, uneconomical, and no longer feasible to finance. Scenic Hudson and Fishermen, Interior and New York State in addition move in the alternative for either termination of the license or a reopening of the record to reconsider these questions. Staff also responded to Con Ed's report. While it concluded that the Cornwall Project was still needed, can be financed by Con Ed, and is the most practical means for adding capacity, Staff agreed with the other parties that this August 16, 1976, report is much too general to adequately address the fisheries question. Staff requests that Con Ed be ordered to complete its fisheries study forthwith so that hearings can be reconvened.

Con Ed responded on September 28, 1976, in opposition to these motions for termination of its license or reopening of the record on other issues than fisheries. It argues that either action is legally impermissible, as well as being factually unsupported. On October 14, 1976, Con Ed likewise responded in opposition to New York City's unfavorable comments as to its August 16, 1976, report.

Finally, on October 21, 1976, Staff Counsel responded in support of the several motions to reopen the record for additional evidence, not only on the fisheries issue, but also as to need, financing and economic feasibility in light of the passage of time. Staff also notes the related proceedings before the NRC and EPA, and it suggests that hearings be scheduled for after the completion of those proceedings.

We begin by rejecting the several motions to terminate Con Ed's license for the Cornwall Project. With the possible exception of the fisheries question our licensing of the Cornwall Project was properly founded on substantial record evidence. With that exception, we do not have before us at this time record evidence which would indicate that we erred in that decision to grant the license. Accordingly, it would not be in the public interest to terminate this license on the basis of arguments made by several parties, and the license, although construction has been stayed, remains in the same posture as it has since "Hudson River Fishermen, supra" note 3.

Turning to the motions to reopen the record to consider the need for, financing of, and economic feasibility of the Cornwall Project, while a number of averments have been made in support thereof, we cannot act upon such an important issue as this with the case in its present posture. It would not be in the public interest to rule on these motions on the mere basis of pleaded allegations. It must be remembered that in licensing the Cornwall Project in 1970, as found in Opinion No. 584, we performed exhaustive analysis of the economic feasibility of the project "vis-a-vis" every conceivable alternative source of peaking power. The questions of need for and financing of the project received the same in depth scrutiny. Reopening of this record cannot be taken lightly. Accordingly, we shall not rule upon these motions and instead shall establish an expedited procedural schedule that will permit the issues to be framed in a better context.

Con Ed notes in its August 16, 1976, report to the Commission that a comprehensive report summarizing Hudson River ecological studies will be available in January 1977. We share Staff's desire for expedition in having this study completed, and our January 30, 1975, order contemplated that Con Ed would have completed the fisheries study by August 1976. In establishing a hearing schedule for the fisheries question, we must be cognizant of the ongoing proceeding before the Nuclear Regulatory Commission (NRC) and the scheduled proceeding before the Environmental Protection Agency (EPA), both concerning the impact of Con Ed's operations on the Hudson River and involving many of the parties to the instant proceeding in Project No. 2338. We shall order a prehearing conference to be convened on February 23, 1977, which will follow Con Ed's filing and service of its fisheries study on or before January 21, 1977. The Administrative Law Judge presiding over this conference shall establish an expedited schedule for presentation of evidence and hearing on the fisheries question at that time. Some flexibility is required to accommodate the aforementioned hearings before our sister agencies. In scheduling the presentation of prepared testimony and exhibits Con Ed should make the first filing, to be followed by all other parties with Con Ed having an opportunity for a rebuttal case. In so providing we are not assigning to Con Ed any ultimate burden of proof not otherwise attributable to it. Instead we are merely recognizing that Con Ed has the best access to the relevant facts in the first instance. Finally, we agree with Staff that striped bass are not to be the sole subject of the fisheries inquiry.[4]

It is clear from the court of appeals remand in "Hudson River Fishermen, supra" note 3, that, if the Commission finds after completion of the reopened proceeding on the fisheries question that operation of the project poses substantial danger to the fish population which cannot be eliminated or minimized, the Commission must consider a further reopening of the record. In light of this fact together with the need to comply with the court of appeals remand and to complete this lengthy proceeding as expeditiously as possible, we find that, pursuant to § 1.30(c)(2) of our Rules of Practice and Procedure and section 8(a) of the Administrative Procedure Act, "due and timely execution of [our] functions imperatively and unavoidably" requires that the intermediate decision in Project No. 2338 be waived. At the close of this expedited hearing on the fisheries question the Presiding Administrative Law Judge shall promptly certify the record to the Commission.

The following briefing schedule to the Commission will follow certification of the record: (1) The filing of initial briefs to the Commission within 30 days of the certification of the record, such briefs to consider (a) the remanded fish questions, and (b) the further questions, if any, that the filing party believes should be considered in reopened hearings before an Administrative Law Judge on Project No. 2338, together with an offer of proof of what such party proposes to offer concerning such questions; (2) The filing of reply briefs within 20 days from the date of filing of initial briefs; and (3) Oral argument before the Commission, to be held within 30 days from the date of the filing of reply briefs, on the issues presented in such briefs, to be followed by such further order as the Commission may issue. Inasmuch as this project has a substantial impact upon consumers in the State of New York, we encourage the Public Service Commission of the State of New York to become a party to this proceeding and to file briefs, with offers of proof, as to the economic and supply questions raised by parties to this proceeding (as well as any other issues it deems relevant) in order to aid the Federal Power Commission in making a final determination in this proceeding.

We feel that this procedure will both expedite resolution of the fisheries remand and also best focus the controversy over the need to reopen the record as to other matters.

The Commission further finds: (1) Motions to vacate the Cornwall Project license, filed by Scenic Hudson and Fishermen, Interior and New York State should be denied as explained in the body of this order.

(2) Motions to reopen the record to take evidence as to the continued need for, financing of, and economic feasibility of the Cornwall Project, also filed by Scenic Hudson and Fishermen, Interior and New York State, should be denied without prejudice as explained in the body of this order.

The Commission orders: (A) Motions to vacate the Cornwall Project license are hereby denied.

(B) Motions to reopen the record are denied without prejudice.

(C) Con Ed shall file with the Commission and serve upon all parties its final fisheries study on or before January 21, 1977.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge shall preside at a conference to be held on February 23, 1977, at 10:00 A.M. in a hearing room of the Federal Power Commission, 825 N. Capitol St., N.E., Washington, D.C. for the purpose of prescribing expedited hearing procedures whereby evidence may be presented as to the question of adverse impact on the Hudson River fish population from the Cornwall Project.

(E) Due and timely execution of the Commission's functions imperatively and unavoidably requires omission of the intermediate decision.

(F) Upon completion of the reopened fisheries record the Presiding Administrative Law Judge shall certify the record to the Commission.

(G) Within 30 days of such certification the parties shall file initial briefs, to be followed 20 days thereafter by reply briefs, within 30 days of which the Commission shall hold oral argument.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.78-38368 Filed 12-29-76;8:45 am]

[Project No. 2232]

DUKE POWER CO.

Application for Approval of Easement Over Project Lands

DECEMBER 22, 1976.

Public notice is hereby given that an application was filed on October 8, 1976, under the Federal Power Act, 16 U.S.C. 791a–825r, by Duke Power Company (Correspondence to: Mr. William L. Porter, Associate General Counsel, Duke Power Company, Box 2178, Charlotte, North Carolina 28242) for Commission approval of the grant of an easement over certain lands of the Bridgewater Development of the Catawba-Wateree Project, FPC No. 2232, to the State of North Carolina for the construction and maintenance of a highway bridge and its approaches. The affected project lands are located in McDowell County, North Carolina, on the Catawba River.

The proposed bridge would replace the existing steel truss and beam span bridge over which State Road 1501 crosses the Catawba River. Applicant states that the existing one-lane bridge is in poor structural condition and is considered a safety hazard to the public. The new bridge would be 30 feet wide and 480 feet long, and would accommodate two lanes of traffic. The right-of-way for the new bridge would be 140 feet wide, and the approaches from the north and south would be 800 feet long and 500 feet long, respectively.

Upon completion of the new bridge, the superstructure and a portion of the substructure of the old bridge would be removed, and the remaining portion of the substructure would be left intact. The new bridge would be located about 100 feet upstream (northwest) of the old bridge.

Applicant has requested the shortened procedure provided for under Section 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 11, 1977, file with the Federal Power Commission, 825 N. Capitol St. N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act, 16 U.S.C. section 825g and section 825h, and the Commission's Rules of Practice and Procedure, specifically § 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised,

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[1] *Scenic Hudson Preservation Conference* v. *FPC*, 354 F. 2d 608 (2d Cir. 1965), cert. denied, 384 U.S. 941 (1966).

[2] *Scenic Hudson Preservation Conference* v. *FPC*, 453 F. 2d 463 (2d Cir. 1971), *cert. denied*, 407 U.S. 926 (1972).

[3] *Hudson River Fishermen's Association* v. *FPC*, 498 F.2d 827 (2d Cir. 1974), *rehearing denied*, 498 F.2d 835.

[4] *Hudson River Fishermen*, *supra* note 3, 498 F.2d at 830, n. 2.

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It will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38369 Filed 12-29-76;8:45 am]

[Docket No. E-9575]

GEORGIA POWER CO.

Filing of Application to Sell Facilities

DECEMBER 22, 1976.

Take notice that on December 9, 1976, Georgia Power Company tendered for filing an application for an order authorizing the sale of approximately 435 miles of 230 kV transmission lines and two substations to the Municipal Electric Authority of Georgia ("MEAG").

The Company states that the parties have entered into an Integrated Transmission System Agreement (the "Transmission Agreement") providing for the establishment of an integrated transmission system to be operated by the Company and MEAG to carry the loads of both the Company and MEAG free of charge (subject to the conditions of the Transmission Agreement) and requiring an aggregate investment by each party in transmission facilities comprising the integrated transmission system in the proportion the load of each (as defined in the Transmission Agreement) bears to the aggregate load on such system. The Company further states that MEAG desires to purchase certain transmission facilities presently owned by the Company which after such sale shall become MEAG Transmission Facilities under the provisions of the Transmission Agreement.

Any person desiring to be heard or to protest said application should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38370 Filed 12-29-76;8:45 am]

[Project No. 2004]

HOLYOKE WATER POWER CO.

Application for Approval of Easements Over Project Lands

DECEMBER 22, 1976.

Public notice is hereby given that an application was filed on October 27, 1976, under the Federal Power Act, 16 U.S.C. 791a–825r, by Holyoke Water Power Company (Correspondence to: Mr. Leon E. Maglathlin, Vice President, Holyoke Water Power Company, One Canal Street, Holyoke, Massachusetts 01040; and Maurice L. Zilber, Esq., Peabody, Brown, Rowley & Storey, One Boston Place, Boston, Massachusetts 02108) for Commission approval of the grant of easements over certain lands of the Hadley Falls Project, FPC No. 2004, to the City of Holyoke, Massachusetts, for the construction, operation, and maintenance of sanitary sewer lines.

Applicant requests approval eleven easements across the canal system in the City of Holyoke, which is part of Project No. 2004. Ten of the sewers to be constructed on the easements would be installed in the bed of the canal; and one would be installed in the superstructure of an existing bridge over the canal. The latter sewer line would be a gravity sewer. Seven of the ten submerged lines would operate on the syphon principal, and the remaining three would be force mains pressurized to a maximum of 10 psi.

The sewer lines would carry sanitary and process wastewaters generated by industries located on the canal system to a nearby treatment plant. These wastewaters are currently discharged directly into the canal system.

The U.S. Environmental Protection Agency and the Commonwealth of Massachusetts, Division of Water Pollution Control have jointly issued National Pollutant Discharge Elimination System Permit No. MA010630 to the City of Holyoke pursuant to Section 402 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1342. This permit outlines the timetable pursuant to which the City must proceed with the construction under the approved water pollution control program.

Applicant has requested the shortened procedure provided for under § 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 7, 1977, file with the Federal Power Commission, 825 N. Capitol St. N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act, 16 U.S.C. 825g and 825h, and the Commission's Rules of Practice and Procedure, specifically § 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38371 Filed 12-29-76;8:45 am]

[Docket No. ES77-6]

IOWA POWER & LIGHT CO.

Application

DECEMBER 22, 1976.

Take notice that on December 2, 1976, Iowa Power & Light Company (Applicant) of Des Moines, Iowa, filed an application, pursuant to section 204 of the Federal Power Act, for authorization for authority to negotiate privately with the City of Council Bluffs, Iowa, for the purpose of financing the Company's undivided interest in certain pollution control facilities at Council Bluffs Power Station Unit 3 through the issuance of the City's Pollution Control Revenue Bonds. A loan agreement between the City and the Applicant would commit the City to issue and sell to underwriters its Pollution Control Bonds in an aggregate principal amount equal to the cost of the Company's ownership interest in such facilities and to loan the proceeds from the sale of such Revenue Bonds to the Applicant. The repayment obligation of the Applicant would be evidenced by debt obligations bearing identical terms with, and pledged to support the payment of, such Revenue Bonds.

Applicant is incorporated under the laws of the State of Iowa with its principal office at Des Moines, Iowa, and is engaged in the electric and gas utility business within the State of Iowa.

Any person desiring to be heard or to make any protest with reference to the Application should on or before January 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38372 Filed 12-29-76;8:45 am]

[Docket No. ER76-678]

MAINE ELECTRIC POWER CO.

Order Granting Late Interventions Regarding Electric Rates

Issued December 22, 1976.

On November 9, 1976, the Connecticut Light and Power Company, the Hartford Electric Light Company, Holyoke Water Power Company and Western Massachusetts Electric Company (collectively "the Northeast Utilities Companies") filed an untimely petition to intervene in the instant proceeding. On November 26, 1976, Cetral Maine Power Company (Central Maine) filed a similar untimely petition to intervene. For the reasons set forth hereinafter the Commission will grant these petitions to intervene

Each of the Northeast Utilities Companies and Central Maine are parties to the Power Purchase and Transmission Agreement dated December 1, 1971, which has been filed by Maine Electric Power Company (MEPCO) in this docket. Pursuant to the Power Purchase and Transmission Agreement, the Northeast Utilities Companies, Central Marine and certain other New England utilities have agreed to purchase a portion of the power which MEPCO has agreed to purchase from the New Brunswick Electric Power Commission (New Brunswick), pursuant to a Unit Participation Agreement dated November 15, 1971, which has also been filed in this docket.

By order issued September 15, 1976, the Commission, inter alia, instituted an investigation and hearing regarding the aforementioned agreements. By motion dated November 4, 1976, New England Power Company (NEP) requested that the Presiding Administrative Law Judge proceed to establish procedural dates regarding the aforementioned investigation and hearing to determine appropriate conditions, if any, to be imposed by the Commission upon the importation by MEPCO of power from New Brunswick and upon the resale of such power to purchasers under the Power Purchase and Transmission Agreement.

As purchasers under the Power Purchase and Transmission Agreement, the Northeast Utilities Companies and Central Maine state that they will be directly and substantially affected by the Commission's imposition of any condition upon the importation and resale by MEPCO of New Brunswick power. Furthermore, the Northeast Utilities Companies and Central Maine state that their interests cannot be adequately represented by any of the existing parties and that they may be bound by the Commission's action in this proceeding. The Northeast Utilities Companies and Central Maine also state that they became aware that an active effort had been undertaken to impose conditions on the importation of New Brunswick Power only upon receipt of NEP's November 4 motion.

Pursuant to a formal Prehearing Conference held on November 9, 1976, in this docket, the Presiding Administrative Law Judge issued a notice dated November 11, 1976, of the contents of NEP's motion to all the signatory parties to the Power Purchase and Transmission Agreement in order to give these parties the opportunity to take such action as they deemed appropriate. A similar notice was published by the Commission in the FEDERAL REGISTER on November 24, 1976.

In light of the foregoing, the Commission concludes that the Northeast Utilities Companies and Central Maine should be permitted to intervene in this proceeding.

The Commission finds: Participation in this proceeding by the Northeast Utilities Companies and Central Maine is in the public interest.

The Commission orders: (A) The Northeast Utilities Companies and Central Maine are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of these companies shall be limited to matters affecting asserted rights and interests as specifically set forth in their petition to intervene; and *Provided, further,* That the admission of these companies shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38373 Filed 12-29-76;8:45 am]

[Docket No. CP77-83]

NORTHERN NATURAL GAS CO.

Notice of Application

DECEMBER 22, 1976.

Take notice that on December 9, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP77-83 an application pursuant to section 7 (b) of the Natural Gas Act for authorization to abandon the transportation and delivery of natural gas to Eveleth Taconite Company (Eveleth) and to abandon certain pipeline and sales measuring facilities, located in St. Louis County, Minnesota, used in the transportation and delivery to Eveleth, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it was authorized by the Commission's order issued December 21, 1964 in Docket No. CP64-255 to transport and deliver to Eveleth a contract demand of 5,700 Mcf per day and to construct and operate 1.2 miles of 6-inch branchline and a sales measuring station located in St. Louis County, Minnesota and that by Commission authorization granted in Docket CP68-57 the contract demand was increased to the presently effective volume of 6,400 Mcf per day. Applicant further states that due to a shortage of natural gas in the lower 48 states it is experiencing extreme difficulty in meeting its firm peak day obligations. In order to bring its peak day obligations into balance with available supply, it is stated, Applicant has proposed that all firm consumers listed in the Directory of Consumers Served in Applicant's F.P.C. Gas Tariff whose contract demand is 3,000 Mcf per day or greater, with the exception of consumers who use natural gas for feedstock purposes, be allowed to receive their contract demand volumes only during the summer period (March 27 through September 26). It is stated that according to this proposal, Applicant, through its Peoples Division, transmitted a notice of cancellation to Eveleth has refused to execute a new contract.

Applicant proposes to abandon and remove 1.0 miles of 6-inch branchline and a sales measuring station and to abandon, cut and cap for abandonment in place 0.2 miles of 6-inch branchline. Applicant estimates the cost of the proposed removal, cutting and capping to be $20,800 to be financed from cash on hand. It is indicated that measures are being taken by Eveleth to have sufficient alternate fuel capabilities to meet its total energy requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a

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formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38374 Filed 12-29-76;8:45 am]

[Docket No. CP77-81]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

DECEMBER 22, 1976.

Take notice that on December 8, 1976, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-81 an aplication pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to $600,000,000 Btu's of natural gas per day on an interruptible basis for Union Gas Company (Union), a customer of Applicant, for a period commencing with the issuance of such certificate and ending April 30, 1977, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Union would purchase 600,000,000 Btu's of synthetic natural gas (SNG) from Algonquin Gas Transmission Company (Algonquin) which would make an equivalent quantity of gas available to Texas Eastern Transmission Corporation (Texas Eastern), on the basis of heat value, by reducing its purchases from Texas Eastern, and Texas Eastern would make an equivalent quantity available during the same time period to Applicant, on the basis of heat value, at a mutually agreeable existing and authorized point of interconnection with Applicant in the New Jersey-Pennsylvania area, for transportation and delivery to Union by Applicant. Applicant states that the proposed service is provided for in an agreement among Applicant, Algonquin, Texas Eastern and Union dated October 22, 1976. It is also stated that no additional facilities are required by the proposed service. Union, it is asserted, agrees to pay Applicant an initial charge of 9.75 cents per Mcf transported, which charge represents Applicant's estimated average unit cost of transporting gas within its Rate Zone 3 where the proposed service would be rendered.

It is stated that the additional gas made available by Algonquin would help offset curtailments experienced by Union from Applicant due to the shortage of flowing gas supplies on Applicant's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38375 Filed 12-29-76;8:45 am]

[Docket Nos. CP74-160, CP-207, and CP75-83-3]

PACIFIC INDONESIA LNG CO., AND WESTERN LNG TERMINAL ASSOCIATES, PACIFIC INDONESIA PROJECT

Environmental Impact Statement, Availability

DECEMBER 30, 1976.

Notice is hereby given in the above dockets that on December 30, 1976, as required by § 2.82(b) of Commission's Rules of Practice and Procedure (18 CFR 2.82(b)), a Final Environmental Impact Statement (FEIS) prepared by the staff of the Federal Power Commission was made available. This FEIS deals with applications by Pacific Indonesia LNG Company requesting authorization pursuant to Sections 3 and 7 of the Natural Gas Act to import (CP74-160) liquefied natural gas (LNG) from the Republic of Indonesia to a proposed LNG terminal in Oxnard, California, and to sell (CP74-207) the imported natural gas to Southern California Gas Company and Pacific Gas and Electric Company. Concurrent with these applications, Western LNG Terminal Associates has filed an application seeking certification (CP75-83-3) pursuant to Section 7 of the Natural Gas Act to construct and operate certain facilities necessary to unload, store, revaporize, and transport the revaporized gas. This latter application seeks approval for the construction and operation of an unloading dock and trestle, two 550,000-barrel LNG storage tanks, seawater vaporizer units, 12.4 miles of 42-inch diameter pipeline, and other appurtenant facilities.

This statement has been placed in the public files of the Commission and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. and at its regional office located at 555 Battery St., San Francisco, CA 94111. Copies of the FEIS are available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-38423 Filed 12-29-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

COMMITTEE ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY

Meeting

In acordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of February 1977:

COMMITTEE ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY

February 10–11; 9:00 a.m. Open meeting: Rooms 503A–507A, South Portal Building, HEW, 200 Independence Ave., N.W., Washington, D.C. Contact Dr. Carole B. Allan, Room 18–97, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3349.

Purpose: The Committee on Mental Health and Illness of the Elderly will study and make recommendations to the Secretary, HEW, respecting: (1) The future needs for mental health facilities, manpower, research, and training to meet the mental health care needs of elderly persons; (2) the appropriate care of elderly persons who are in mental institutions or who have been discharged from such institutions; and (3) proposals for implementing the recommendations of the 1971 White House Conference on Aging respecting the mental health of the elderly. A report on the findings and recommendations of this Committee shall be submitted by the Secretary, HEW, to the Senate Committee on Labor and Public Welfare and to the House Committee on Interstate and Foreign Commerce; the Committee shall terminate 30 days after submission of the report.

Agenda: The February 10–11 meeting of the Committee (the fourth of five 2-day meetings planned to accomplish its purpose) will be open to the public. On Thursday, February 10, discussion will include the development and preparation of its final report and presentations by outside resource persons. On Friday, February 11, the entire day will be devoted to general mental health issues in the area of aging as they relate to the work of the Committee, including attention to proposals for implementing the recommendations on mental health concerns of the 1971 White House Conference on Aging.

Attendance by the public will be limited to space available.

Substantive information may be obtained from the contact person listed above.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of the Committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: December 23, 1976.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-38356 Filed 12-29-76;8:45 am]

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Coal Mine Health Research Advisory Committee.

Date: February 4, 1977.

Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Time: 9 a.m.

Type of meeting: Open: 9 a.m. to 2:30 p.m., on February 4. Closed: Remainder of meeting.

Contact person: Marilyn K. Hutchison, M.D., Executive Secretary, Park Building, Room 9–14, NIOSH, 5600 Fishers Lane, Rockville, Maryland 20857, Phone: 301–443–6377.

Purpose: The Committee is charged with advising the Secretary Department of Health, Education and Welfare, on matters involving or relating to coal mine health research, including grants and contracts for such research.

Agenda: Agenda items for the open portion of the meeting will include announcements, consideration of minutes of previous meeting, administrative and staff reports, reports on the National Advisory Committee on Occupational Safety and Health, coal dust levels in coal mines, rulemaking for medical examinations of coal miners, status of third round of the National Coal Study, pathology standards of coal workers' pneumoconiosis, and coal miner protective equipment. During the closed session beginning at 2:45 p.m., the Committee will be performing the final review of a coal research grant application for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552(b)(5) and (6), Title 5, U.S. Code, and the Determination by the Director, Center for Disease Control, pursuant to Public Law 92-463. Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairman and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairman. At the discretion of the Chairman and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: December 23, 1976.

DAVID J. SENCER, M.D.,
Director, Center for Disease Control.

[FR Doc.76-38315 Filed 12-29-76;8:45 am]

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

Rechartering

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, the Center for Disease Control announces the rechartering by the Secretary, DHEW, on December 13, 1976, of the Coal Mine Health Research Advisory Committee.

Dated: December 23, 1976.

DAVID J. SENCER,
Director, Center for Disease Control.

[FR Doc.76-38443 Filed 12-29-76;8:45 am]

Federal Council on the Aging

RESEARCH AND MANPOWER COMMITTEE

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to Pub. L. 92-463 that the Council's Research and Manpower Committee will meet on January 24, 1977 from 9:30 a.m. to 5 p.m. in Room 4131 HEW-North Building, 330 Independence Ave., S.W., Washington, D.C. 20201. The agenda will consist of: Status of Health Manpower Project; Frail Elderly Research Considerations; Status of AoA Manpower Activities and FCA Research Priorities.

This meeting will be open for public observation.

Further information on the Council may be obtained from: Cleonice Tavani, Executive Director, Federal Council on the Aging, Washington, D.C. 20201, telephone: (202) 245-0441.

CLEONICE TAVANI,
Executive Director, Federal Council on the Aging.

DECEMBER 20, 1976.

[FR Doc.76-38261 Filed 12-29-76;8:45 am]

Office of Education

FOLLOW THROUGH PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Title V, Parts B and C of the Economic Opportunity Act, as amended by section 8(a) of Pub. L. 93-644, applications are being accepted for Follow Through grants or contracts for technical assistance to Follow Through projects.

In order to be assured of consideration for funding from appropriations for Fiscal Year 1977, all applications must be received by the U.S. Office of Education Application Control Center on or before February 3, 1977.

Processing of all applications will be subject to the availability of funds. In Fiscal Year 1977 for the 1977–78 school year, it is expected that approximately $725,000 will be available for approximately 52 new awards.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Grant and Procurement Management Division, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.433. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 31, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may

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be obtained from the Division of Follow Through, Bureau of Elementary and Secondary Education, 400 Maryland Avenue, S.W. (Regional Office Building Three, Room 3624), Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the Follow Through Regulations (45 CFR Part 158) published in the FEDERAL REGISTER on April 21, 1975 at 40 FR 17712 et. seq. The Office of Education intends that all Fiscal Year 1977 Follow Through grants and contracts be governed by the amendments to 45 CFR Part 158 which were published in the FEDERAL REGISTER as a Notice of Proposed Rulemaking November 30, 1976 at 41 FR 52488 in the event that these amendments are adopted as final regulations.

(Title V. Parts B and C of the Economic Opportunity Act, as amended by Pub. L. 93-644, Section 8(a), 42 U.S.C. 2929 et. seq.)

(Catalog of Federal Domestic Assistance Number 13.433; Follow Through Program.)

Dated: December 16, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

[FR Doc.76-38262 Filed 12-29-76; 8:45 am]

FOLLOW THROUGH PROGRAM

Closing Date for Receipt of Applications for Non-competing Continuation Awards

Notice is hereby given that pursuant to the authority contained in Title V, Parts B and C of the Economic Opportunity Act as amended by section 8(a) Pub. L. 93-644, applications are being accepted for Follow Through grants or contracts in the following two categories: (1) Non-competing continuation grants for carrying out Follow Through projects, and (2) non-competing grants or contracts for research and demonstration.

In order to be assured of consideration for funding from appropriations for Fiscal Year 1977, all applications should be received by the U.S. Office of Education Application Control Center on or before February 3, 1977.

Processing of all applications will be subject to the availability of funds. In Fiscal Year 1977 for the 1977-78 school year, it is expected that approximately $45 million will be available for an estimated 146 refundings under the first category of grants and approximately $6 million will be available for an estimated 20 refundings under the second category.

Those applicants in the first category of applications who are rated satisfactory according to the funding criteria stated in § 158.15 (a) through (k), (m), and (n) of the Follow Through Regulations (45 CFR Part 158) and who are also rated outstanding according to the criteria stated in § 158.15 (l) and (o) of the Follow Through Regulations (45 CFR Part 158) may later be invited to apply for additional Fiscal Year 1977 funds for the purpose of conducting expanded demonstration activities. The regulatory authority for grants of those additional funds and the funding criteria which would govern those grants were published as a Notice of Proposed Rulemaking in the FEDERAL REGISTER of Tuesday, November 30, 1976 (41 FR 52488). If the Office of Education decides to invite applications for those additional funds under the proposed regulations, a separate Notice of Closing Date for applications for those funds will be published in the FEDERAL REGISTER after all applications in the first category covered by this Notice have been received and reviewed by the Office of Education. Grants for those additional funds would be made only if and when the regulations governing those grants become effective as final regulations. Sections 431(b) and 431(d) of the General Education Provisions Act, 20 U.S.C. sections 1232(b) and 1232(d).

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Grant and Procurement Management Division, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.433. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The Application was sent by registered or certified mail not later than January 31, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays.

C. *Program information and forms.* Information and application forms may be obtained from the Division of Follow Through, Bureau of Elementary and Secondary Education, 400 Maryland Avenue, S.W. (Regional Office Building Three, Room 3624), Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the Follow Through Regulations (45 CFR Part 158) published in the FEDERAL REGISTER on April 21, 1975 at 40 FR 17712 et. seq. The Office of Education intends that all Fiscal Year 1977 Follow Through grants and contracts be governed by the amendments to 45 CFR Part 158 which were published in the FEDERAL REGISTER as a Notice of Proposed Rulemaking November 30, 1976 at 41 FR 52488 in the event that these amendments are adopted as final regulations.

(Title V. Parts B and C of the Economic Opportunity Act, as amended by Pub. L. 93-644, Section 8(a), 42 U.S.C. 2929 et. seq.)

(Catalog of Federal Domestic Assistance Number 13.433; Follow Through Program.)

Dated: December 16, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

[FR Doc.76-38263 Filed 12-29-76; 8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Correction

The FEDERAL REGISTER notice on Tuesday, December 21, (page 55612, FR Doc. 76-37454) of the meeting of The National Advisory Council on Extension and Continuing Education incorrectly stated the date the Council meeting would meet at the conclusion of the Conference.

The Council meeting will continue on Tuesday, January 11, (not January 10) until 6:00 p.m.; and on Wednesday morning, from 8:30 a.m. to Noon.

The Council regrets the error.

Dated: December 22, 1976.

JAMES A. TURMAN,
Executive Director.

[FR Doc.76-38335 Filed 12-29-76; 8:45 am]

Public Health Service

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

List

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of November 1976 the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

A. LIST OF QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS—NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(OPERATIONAL QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS: 42 CFR 110.603 (a))

1. Community Group Health Plan, D.B.A. PRIME HEALTH, 605 West 47th, Suite 208, Kansas City, Missouri 64112. Service area: The zip codes included in the area are as follows:

STATE OF MISSOURI

64012, 64030, 64031, 64034, 64050, 64052, 64053, 64054, 64055, 64062, 64063, 64065, 64078, 64083, 64101, 64102, 64105, 64106, 64108, 64109, 64110, 64111, 64112, 64113, 64114, 64120, 64123, 64124, 64125, 64126, 64127, 64128, 64129, 64130, 64131, 64132, 64133, 64134, 64136, 64137, 64138, 64139, 64145, 64146, 64147, 64149, 64701, 64702.

STATE OF KANSAS

66030, 66061, 66083, 66084, 66085, 66130, 66202, 66203, 66204, 66205, 66206, 66207, 66208, 66209, 66210, 66211, 66212, 66213, 66214, 66215, 66216, 66217, 66218, 66219, 66220, 66221, 66223 66224.

Date of Qualification: November 26, 1976.

2. Marion Health Foundation, Incorporated, 142 South Prospect Street, Box 14, Marion, Ohio 43302. Service area: Marion County and the township of Clairbourne in adjoining Union County. Date of Qualification: November 30, 1976.

(TRANSITIONALLY QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS: 42 CFR § 110.603(B))

1. Health Alliance of Northern California, Incorporated, 377 South Daniel Way, San Jose, California 95128. Service area: Bounded by the Santa Clara County line on the north, west and east of the County. The southern boundary is contiguous with the south limits of the cities of Los Gatos and San Jose. This boundary is roughly delineated by streets in a line running from west to east along Highway 17, Main Street, Los Gatos Boulevard, Shannon-Hicks Road, McKean Road, Bailey Avenue, Monterey Highway, Metcalf Road, San Felipe Road, White Road, Alum Rock Avenue, Mt. Hamilton Road, to the east County boundary. Date of Qualification: November 29, 1976.

B. REVISED SERVICE AREA—HEALTH CARE PLAN OF NEW JERSEY, INC.

The zip codes set forth below which are denoted by an asterisk (*) have been added to the service area published on November 30, 1976 in the FEDERAL REGISTER (41 FR 52544) with respect to Health Care Plan of New Jersey, Inc., 123 North Church Street, Moorestown, New Jersey 08057. Revised service area:

BURLINGTON COUNTY

08010, 08011, 08015, 08016, 08019, 08022, 08036, 08041, 08042, 08046, 08048, 08052, 08053, 08054, 08055, 08057, 08060, 08064, 08065*, 08068, 08073, 08075, 08077, 08088, 08215*, 08224*, 08505, 08511, 08515*, 08518, 08534, 08562, 08620*.

CAMDEN COUNTY

08002*, 08003*, 08004, 08007, 08009, 08021*, 08026, 08033, 08034, 08035, 08043*, 08045, 08049, 08078*, 08083, 08084, 08091, 08106, 08107*, 08108*.

Files containing detailed information regarding the qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Office of Quality Standards, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 14A-27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: December 21, 1976.

JOHN A. O'ROURKE,
Acting Director,
Office of Quality Standards.

[FR Doc.76-38316 Filed 12-29-76; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 9744]

ARIZONA

Airport Lease Application

DECEMBER 23, 1976.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-213), Robert Sparrow, Sandy, Utah, has applied for an airport lease for the following lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 40 N., R. 15 W.,
Sec. 7, S½.
T. 40 N., R. 16 W.,
Sec. 12, S½.

The purpose of this notice is to inform the public that the filing of this application segregates the described lands from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the undersigned officer of the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MILDRED C. KOZLOW,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-38320 Filed 12-29-76; 8:45 am]

[CA 3977]

CALIFORNIA

Application

DECEMBER 20, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), the Shell Oil Company has applied for a one inch steel oil pipeline, a two inch steel gas pipeline and a two inch steel water pipeline, across the following described public lands:

MOUNT DIABLO BASE AND MERIDIAN

CALIFORNIA

T. 32 S., R. 23 E.,
Sec. 35, E½NE¼.

These pipelines will carry oil, gas and water across national resource land in Kern County, California.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the State Office, Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

WALTER P. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-38321 Filed 12-29-76; 8:45 am]

[M 31621]

MONTANA

Application

DECEMBER 21, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 574), Northern Natural Gas Company has applied for a 6-inch natural gas pipeline right-of-way across the following lands:

PRINCIPAL MERIDIAN, MONTANA

T. 25 N., R. 19 E.,
Sec. 27, NW¼NW¼.
This pipeline will be a natural gas gathering line across .336 miles of national resource lands in Blaine County, Montana.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, Bank Electric Building, Drawer 1160, Lewistown, Montana 59457.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-38322 Filed 12-29-76; 8:45 am]

(NM 29290)

NEW MEXICO

Application

DECEMBER 23, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 10¾-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 27 E.,
Sec. 6, lot 6, E½SW¼ and SW¼SE¼;
Sec. 7, N½NE¼ and SE¼NE¼;
Sec. 8, SW¼NW¼, W½SW¼ and SE¼SW¼;
Sec. 17, SW¼NE¼, E½NW¼, E½SE¼ and NW¼SE¼;
Sec. 20, NE¼NE¼;
Sec. 21, W½NW¼ and SW¼SW¼;
Sec. 28, W½W½;
Sec. 29, SE¼SE¼;
Sec. 32, NE¼NE¼;
Sec. 33, W½W½ and SE¼SW¼.

T. 19 S., R. 27 E.,
Sec. 4, lot 3, SE¼NW¼, E½SW¼ and SW¼SE¼;
Sec. 9, W½NE¼, NW¼SE¼ and E½SE¼;
Sec. 15, SW¼NW¼ and W½SW¼;
Sec. 22, N½NW¼, SE¼NW¼, E½SW¼ and SW¼SE¼;
Sec. 27, W½NE¼, E½SE¼ and NW¼SE¼;
Sec. 34, NE¼NE¼;
Sec. 35, W½W½ and SE¼SW¼.

T. 20 S., R. 27 E.,
Sec. 2, lot 3, SW¼NE¼, SE¼NW¼, NE¼SW¼, W½SE¼;
Sec. 11, NE¼ and E½SE¼;
Sec. 12, SW¼SW¼;
Sec. 13, W½NW¼, N½SW¼ and SE¼SW¼.

This pipeline will convey natural gas across 15.138 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their

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name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-38323 Filed 12-29-76;8:45 am]

(NM 29293)

NEW MEXICO

Application

DECEMBER 20, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 6⅝-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 19 S., R. 27 E.,
Sec. 34, N½NE¼ and NE¼NW¼.

This pipeline will convey natural gas across .674 of a mile of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-38325 Filed 12-29-75;8:45 am]

(NM 28357)

NEW MEXICO

Proposed Withdrawal and Reservation of Lands; Correction

DECEMBER 22, 1976.

The Notice of Proposed Withdrawal under serial number NM 28357 dated December 10, 1976 appearing in the December 16, 1976 issue of the FEDERAL REGISTER, at pages 54994–54995 is hereby corrected as follows:

Paragraph one is corrected to show that the lands are withdrawn from settlement, sale, location or entry under the General Land Laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970, instead of from all forms of appropriation. Paragraph one is further corrected to delete the reference to grazing and casual mineral exploration.

Paragraph six is corrected to read: For a period of two years from December 16, 1976 the lands shall be segregated to the extent mentioned above unless the application is rejected or the withdrawal is approved prior to that time. If the withdrawal is approved, the segregation will remain in effect for a period of 20 years from the date of such approval.

FRED E. PADILLA,
Chief, Branch of Lands, and Minerals Operations.

[FR Doc.76-38324 Filed 12-29-76;8:45 am]

[NM 29327]

NEW MEXICO

Application

DECEMBER 20, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for three 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 19 S., R. 25 E.,
Sec. 31, SE¼SW¼.
T. 20 S., R. 25 E.,
Sec. 6, E½W½ and W½SE¼.
T. 24 S., R. 26 E.,
Sec. 34, SE¼SE¼.
Sec. 35, S½SW¼ and N½SE¼.
T. 25 S., R. 26 E.,
Sec. 3, lot 1.

These pipelines will convey natural gas across 2.459 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-38246 Filed 12-29-76;8:45 am]

[M 141]

SOUTH DAKOTA

Transfer of Submarginal Lands Cheyenne River Indian Reservation

DECEMBER 21, 1976.

1. Pursuant to Pub. L. 94–114 (89 Stat. 577) and section 2 thereof the land described in paragraph 3 of this notice, together with all minerals underlying this land, whether acquired or otherwise owned by the United States, are hereby declared to be held by the United States in trust for the use and benefit of the Cheyenne River Sioux Tribe of South Dakota. The land shall be a part of the established Cheyenne River Indian Reservation. These lands were submarginal lands acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781). This notice is issued under the authority delegated to me by Bureau Order No. 701, dated July 23, 1946, as amended.

2. All existing mineral leases, including oil and gas leases, which have been issued on this land will remain in force and effect in accordance with the terms and provisions of the Act under which the leases were issued. The lease files will be transferred to the Office of the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. Future rentals for these leases will be paid to and collected by that office. Jurisdiction of these mineral leases is transferred from the Bureau of Land Management to the Bureau of Indian Affairs in trust for the Cheyenne River Sioux Tribe.

3. Black Hills Meridian, South Dakota.

T. 16 N., R. 28 E.,
Sec. 7, lot 3 and NE¼SW¼.
T. 16 N., R. 29 E.,
Sec. 3, SW¼NW¼, W½SW¼, N½NE¼SW¼, SW¼NE¼SW¼, N½SE¼NE¼SW¼, SW¼SE¼NE¼SW¼, NW¼SE¼SW¼, W½NE¼SE¼SW¼, and S½SE¼SW¼:
Sec. 9, NE¼NE¼, E½NW¼NE¼, NW¼NW¼NE¼, N½SW¼NW¼NE¼, SW¼SW¼NE¼, N½SE¼NE¼, S½NW¼SW¼NE¼, NE¼SW¼SE¼NE¼, N½SE¼SE¼NE¼, and SE¼SE¼SE¼NE¼:
Sec. 10, NW¼NE¼NE¼NW¼, S½NE¼NE¼NW¼, NW¼NE¼NW¼, S½NE¼NW¼, NW¼NW¼, NW¼SW¼NW¼, S½SW¼NW¼, SW¼SE¼NW¼, S½SE¼SE¼NW¼, N½SE¼SW¼, NE¼NW¼SW¼, N½NW¼NW¼SW¼, and SE¼NW¼SW¼:
Sec. 11, SE¼NE¼SW¼SE¼, S½SE¼SW¼SE¼, NE¼SE¼SW¼SE¼, SW¼NW¼SE¼SE¼, W½SW¼SE¼SE¼, and SE¼SW¼SE¼SE¼:
Sec. 14, NE¼NW¼NE¼, E½NW¼NW¼NE¼, NE¼SW¼NW¼NE¼, S½SW¼NW¼NE¼, W½SE¼NW¼NE¼, W½NE¼SW¼NE¼, W½SW¼NE¼, SW¼SE¼SW¼NE¼, S½SE¼NW¼, E½SW¼NW¼NE¼SE¼, S½NE¼NW¼SE¼, W½NW¼SE¼, SE¼NW¼SE¼, SW¼SE¼, and SW¼SE¼SE¼:
Sec. 21, S½NW¼NE¼SW¼ and S½NE¼SW¼:
Sec. 23, N½NE¼ and N½S½NE¼:
Sec. 25, NW¼:
Sec. 26, NW¼:
Sec. 28, S½NW¼ and SW¼:
Sec. 29, SE¼NE¼ and NE¼SE¼:
Sec. 32, NE¼ and that portion of the NW¼ lying East of the railroad right-of-way; and
Sec. 33, NW¼.
T. 16 N., R. 30 E.,
Sec. 24, SW¼;
Sec. 25, SW¼ and W½SE¼:
Sec. 26, E½;
Sec. 30, NE¼;
Sec. 31, lots 1, 2, 3, and 4 and E½W½; and
Sec. 33, SE¼.
T. 16 N., R. 31 E.,
Sec. 8, W½NE¼NE¼, NW¼NE¼, S½NE¼, E½NE¼NE¼NW¼, SE¼SW¼NE¼NW¼, SE¼NE¼NW¼, N½NW¼NW¼, N½SW¼NW¼NW¼, NE¼SE¼NW¼, E½NW¼SE¼NW¼, SW¼NW¼SE¼NW¼, S½SE¼NW¼, NE¼NE¼SW¼, E½NW¼NE¼SW¼, S½NE¼SW¼, and SE¼:

Sec. 17, N½NE¼NE¼NE¼, NW¼NE¼NE¼, N½NE¼NW¼NE¼, and NE¼NW¼NW¼NE¼; and
Sec. 21, NW¼NW¼SE¼.

The areas described aggregate 3,738.47 acres.

EDWIN ZAIDLICZ,
State Director.

[FR Doc.76-38245 Filed 12-29-76;8:45 am]

[Wyoming 56834]

WYOMING

Application

DECEMBER 20, 1976.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Phillips Petroleum Company of Denver, Colorado filed an application for a right-of-way to construct a 6 inch pipeline for the purpose of transporting natural gas across the following described National Resource Lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING
T. 45 N., R. 76 W.,
Sec. 8, N½SW¼;
Sec. 9, NE¼NE¼ and SW¼NW¼;
Sec. 10, NW¼NE¼ and N½NW¼.
T. 46 N., R. 77 W.,
Sec. 10, E½SE¼;
Sec. 11, N½SW¼ and SE¼SW¼;
Sec. 23, W½NE¼, SE¼NE¼, and NE¼SE¼.

The pipeline will transport natural gas from points in the NW¼SE¼ of sec. 12, T. 45 N., R. 76 W., and the SE¼SE¼ sec. 10, T. 46 N., R. 77 W., to a point in the NW¼SE¼ of sec. 36, T. 46 N., R. 77 W., in Johnson County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their view should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 100 East "B" Street, P.O. Box 2834, Casper, Wyoming 82601.

GLENNA M. LANE,
Acting Chief, Branch of Lands Minerals-Operations.

[FR Doc.76-38247 Filed 12-29-76;8:45 am]

PACIFIC OUTER CONTINENTAL SHELF

Approval of Outer Continental Shelf Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams approved on the date indicated, are available, for information only, in the Pacific Outer Continental Shelf Office, Bureau of Land Management, Los Angeles, CA. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic areas they represent.

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAMS

Description:	Approval date
NI 10–5, Arguello Fan	Nov. 10, 1976
NI 10–8	Do.
NI 10–9, Santa Rosa Island	Do.
NJ 9–3, Delgada Fan	Do.
NJ 9–6	Do.
NJ 10–1, NOYO Canyon	Nov. 2, 1976
NJ 10–2, Ukiah	Do.
NJ 10–4, Navarro Canyon	Do.
NJ 10–5, Santa Rosa	Do.
NJ 10–7	Mar. 26, 1976
NJ 10–8, San Francisco	Nov. 2, 1976
NJ 10–10, Taney Seamount	Do.
NK 9–12, Escanaba Trough	Do.
NK 10–4, Cape Blanco	Nov. 10, 1976

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 300 N. Los Angeles St., Room 7127, Los Angeles, CA 90012. Checks or money orders should be made payable to the Bureau of Land Management.

WILLIAM E. GRANT,
Manager, Pacific Outer Continental Shelf Office.

[FR Doc.76-38326 Filed 12-29-76;8:45 am]

Geological Survey

COLORADO

Known Recoverable Coal Resource Area

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 203 Departmental Manual No. 1, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94–377, August 4, 1976), Federal lands within the State of Colorado have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(6) COLORADO

Revised Danforth Hills (Colorado) Known Recoverable Coal Resource Area (KRCRA); March 1, 1976; 126 acres previously within the KRCRA were deleted, and 41,328 acres were added. Total area now classified for leasing is 171,590 acres.

A diagram showing the revised boundary and acreage has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: December 20, 1976.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76-38328 Filed 12-29-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77–52]

CLINCHFIELD COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Clinchfield Coal Company has filed a petition to modify the application of 30 CFR 75.1100–2(b) to its Moss No. 3 Mine Portal "D", located in Dickenson County, Virginia.

30 CFR 75.1100–2(b) provides:

In all coal mines, waterlines shall be installed parallel to the entire length of belt conveyors and shall be equipped with firehose outlets with valves at 300-foot intervals along each belt conveyor and at tailpieces. At least 500 feet of firehose with fittings suitable for connection with each belt conveyor waterline system shall be stored at strategic locations along the belt conveyor. Waterlines may be installed in entries adjacent to the conveyor entry belt as long as the outlets project into the belt conveyor entry.

The substance of Petitioner's statement is as follows:

1. Petitioner seeks modification of the regulation as it relates to the installation of a fire suppression system and a belt automatic sensoring device for one 48-inch belt that is in operation and located in the 1 East area of the Moss No. 3 Portal "D" Mine.

2. The Petitioner is the operator of bituminous coal mines which are subject to the Mandatory Safety Standards for Underground Mines, in particular 30 CFR 75.1100–2b.

3. The Moss No. 3 Mine Portal "D" is located in a combination of the Upper and Lower Tiller Seams, is opened by drifts and operates a total of three mechanized units on a multiple shift operation. The mine employs approximately 175 men and has a daily estimated production of 1,800 tons of coal. The mine has been in operation for approximately 20 years.

4. Petitioner has established a portal, namely, 10 East Portal, on the back side of the mine property and has recently installed approximately 7,700 feet of outside belt structure in order to transport the coal being produced at the 10 East Portal. Of the 7,700 feet of belt approximately 7,300 feet is located on the surface. The remaining 400 feet, approximate, is tunneled through a point where the coal had been mined (first mining).[1] The belt drive at that operates this 400+ feet in question, as well as the tail section, are located on the surface.

5. Petitioner requests relief from being required to install a fire suppression system and an automatic sensoring system in the area of approximately 400 feet for the following reasons:

(a) The seam height in this area is 12 to 15 feet, or more. With a distance

[1] A mine map is available for inspection at the address listed in the last paragraph of this notice.

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of approximately 400 feet, one can see from one end of the tunnel to the other.

(b) The area where the belt is located is completely isolated from the rest of the mine and no workmen work in the tunnel area or any area adjacent to the tunnel.

(c) Fireproof seals have been installed on the left and right sides of the belt line by the use of fire proof stoppings, closing off all entries from all active areas in the mine.

(d) In such an isolated area and due to such a short distance through the so-called tunnel, the Petitioner will continuously face the danger of freezing and bursting of water lines during the winter months, if a water line were to be installed.

(e) Prior to the installation of this 7,700 feet of coal hauling belt line the Petitioner had to haul the coal produced at the 10 East Portal by truck, which necessitated the traveling over one large mountain, which, even though all safety precautions were followed, created a much more hazardous means of transporting the coal than by locating the belt through this 400 feet isolated area.

(f) In the event that any work has to be done in this area, such as belt maintenance or repair, cleaning up of loose coal, rock dusting, or additional roof support, this 400± foot section of belt will be stopped and the control line deenergized prior to the beginning of the work.

(g) Should a fire occur in this area, no persons will be exposed due to the isolated location of the belt.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 31, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 22, 1976.

[FR Doc.76-38329 Filed 12-29-76;8:45 am]

[Docket No. M 77-53]

CLINCHFIELD COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Clinchfield Coal Company has filed a petition to modify the application of 30 CFR 75.1103-1 to its Moss No. 3 Mine Portal D, located in Dickenson County, Virginia.

30 CFR 75.1103-1 provides:

A fire sensor system shall be installed on each underground belt conveyor. Sensors so installed shall be of a type which will (a) give warning automatically when a fire occurs on or near such belt; (b) provide both audible and visual signals that permit rapid location of the fire.

The substance of Petitioner's modification is as follows:

1. Petitioner seeks modification of the regulation as it relates to the installation of a fire suppression system and a belt automatic sensoring device for one 48-inch belt that is in operation and located in the 1 East area of the Moss No. 3 Portal D Mine.

2. The Petitioner is the operator of bituminous coal mines which are subject to the Mandatory Safety Standards for Underground Mines, in particular 30 CFR 75.1103-1.

3. The Moss No. 3 Mine Portal D is located in a combination of the Upper and Lower Tiller Seams, is opened by drifts and operates a total of three mechanized units on a multiple shift operation. The mine employs approximately 175 men and has a daily estimated production of 1,800 tons of coal. The mine has been in operation for approximately 12 years.

4. Petitioner has established a portal, namely 10 East Portal, on the back side of the mine property and has recently installed approximately 7,700 feet of outside belt structure in order to transport the coal being produced at the 10 East Portal. Of the 7,700 feet of belt approximately 7,300 feet is located on the surface. The remaining 400 feet, approximately, is tunneled through a point where the coal had been mined (first mining). The belt drive that operates this 400+ feet in question, as well as the tail section, are located on the surface.

5. Petitioner requests relief from being required to install a fire suppression system and an automatic sensoring system in the area of approximately 400 feet for the following reasons:

(a) The seam height in this area is 12 to 15 feet or more. With a distance of approximately 400 feet, one can see from one end of the tunnel to the other.

(b) The area where the belt is located is completely isolated from the rest of the mine and no workmen work in the tunnel area or any area adjacent to the tunnel.

(c) Fireproof seals have been installed on the left and right sides of the belt line by the use of fireproof stoppings. This closes off all entries from all active areas in the mine.

(d) In such an isolated area and due to such a short distance through the so called tunnel, the Petitioner will continuously face the danger of freezing and bursting of water lines during the winter months, if a water line were to be installed.

(e) Prior to the installation of this 7,700 feet of coal hauling belt line the Petitioner had to haul the coal produced at the 10 East Portal by truck, which necessitated the traveling over one large mountain, which, even though all safety precautions were followed, created a much more hazardous means of transporting the coal than by locating the belt through this 400 feet isolated area.

(f) In the event that any work has to be done in this area, such as belt maintenance or repair, cleaning up of loose coal, rock dusting, or additional roof support, this 400+ foot section of belt will be stopped and the control line deenergized prior to the beginning of the work.

(g) Should a fire occur in this area, no one will be exposed due to the isolated location of the belt.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 31, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DECEMBER 22, 1976.

DAVID TORBETT,
Acting Director, Office of
Hearings and Appeals.

[FR Doc.76-38330 Filed 12-29-76;8:45 am]

[Docket No. M 77-54]

CLINCHFIELD COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Clinchfield Coal Company has filed a petition to modify the application of 30 CFR 75.1100-2(b) to its Open Fork No. 2 Mine, located in Dickenson County, Virginia.

30 CFR 75.1100-2(b) provides:

In all coal mines, waterlines shall be installed parallel to the entire length of belt conveyors and shall be equipped with firehose outlets with valves at 800-foot intervals along each belt conveyor and at tailpieces. At least 500 feet of firehose with fittings suitable for connection with each belt conveyor waterline system shall be stored at strategic locations along the belt conveyor. Waterlines may be installed in entries adjacent to the conveyor entry belt as long as the outlines project into the belt conveyor entry.

The substance of Petitioner's statement is as follows:

1. The Petitioner seeks modification of the regulation as it relates to the installation of a fire suppression system for one 36-inch belt that is commonly known as the "tunnel belt" and is used to transport coal from the Open Fork No. 2 Mine surface stock pile to the railroad loading out facilities for Open Fork No. 2 Mine.

2. The Petitioner is the operator of bituminous coal mines which are subject to the Mandatory Safety Standards for Underground Mines, in particular 30 CFR 75.1100-2(b).

3. The Open Fork No. 2 Mine is located in the Upper Banner Seam, is opened by drifts and operates a total of five mechanized units on a multiple shift operation.

4. The mine employs approximately 200 men and has a daily estimated production of 1,800 tons of coal. The mine has been in operation for approximately 10 years.

5. Coal is transported from the working sections of Open Fork No. 2 Mine to the surface stock pile where it is stored. From the stock pile the coal is then loaded onto a 36-inch belt and transported an additional 800 feet on the surface, where, at this point, it is discharged onto the tunnel belt which is approximately 1,700 feet in length, at which point it is discharged onto a 36-inch belt located on the surface, a distance of approximately 850 feet into the railroad loading out facilities.

6. The 1,700 feet of the "tunnel belt" traverses through a portion of an abandoned and inactive mine, which is completely isolated from the active mine workings at the Open Fork No. 2 Mine.

7. The Petitioner has no intent of ever connecting the "tunnel belt" area with the Open Fork No. 2 Mine.[1] The belt drive and the tail section for the "tunnel belt" are both located on the surface.

8. The Petitioner requests relief from being required to install a fire suppression system on the 36-inch belt that is located through the isolated and inactive mine for the following reasons:

(a) "The tunnel belt" area is completely isolated from the Open Fork No. 2 Mine and no workmen working in the Open Fork No. 2 Mine would be exposed to any hazard, should a fire occur.

(b) In such an isolated area, and due to such a short distance through the so-called "tunnel," the Petitioner will continuously face the danger of freezing and bursting of water lines during the winter months, if a water line were to be installed.

9. In lieu of the provision listed under § 75.1100-2(b) the Petitioner proposes the following safeguards:

(a) Three 10-pound all-purpose fire extinguishers will be furnished and maintained at this "tunnel belt" area at all times and they will be located in the following manner:

One ten-pound fire extinguisher at each end of the "tunnel" entrance and one ten-pound fire extinguisher located near the center of the tunnel.

(b) The belt line will be equipped with a fire sensoring system which will give warning to the responsible person located on the surface at the Open Fork No. 2 Mine portal.

(c) A fan has been installed at the entrance of the "tunnel belt" area to ventilate the tunnel belt.

(d) "The tunnel belt" area will be examined in accordance with the Mandatory Provisions as outlined in § 75.303 (Pre-shift Examinations).

(e) In the event that any work has to be done in this area, such as belt maintenance or repair, rock dusting, or additional roof support, this 1,700-foot section of belt will be stopped and the control line deenergized prior to the beginning of the work.

[1] A mine map is available for inspection at the address listed in the last paragraph of this notice.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 31, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of
Hearings and Appeals.

DECEMBER 22, 1976.

[FR Doc.76-38331 Filed 12-29-76;8:45 am]

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-76-5B]

GOVERNMENT IN THE SUNSHINE

Additional Agenda Item

At its meeting of December 23, 1976, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 in conformity with proposed 19 CFR 201.38, voted to add the following item to its agenda for the meeting of December 28, 1976:

7. Consideration of an appeal filed pursuant to the Privacy Act.

Commissioners Minchew, Parker, Leonard, Moore, and Ablondi voted by unanimous consent, that Commission business requires the change in subject matter by addition of the agenda item, affirmed that no earlier announcement of the addition to this agenda was possible, and directed the issuance of this notice at the earliest practicable time. (Commissioner Bedell was not present for the vote.)

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 CFR 201.39(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Issued: December 27, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-38292 Filed 12-29-76;8:45 am]

[AA1921-162]

MELAMINE IN CRYSTAL FORM FROM JAPAN

Determination

DECEMBER 20, 1976.

On September 20, 1976, the United States International Trade Commission received advice from the Department of the Treasury that melamine in crystal form from Japan, is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on October 6, 1976, the Commission instituted investigation No. AA1921-162 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the FEDERAL REGISTER on October 14, 1976 (41 FR 45062). On November 9, 1976, a hearing was held in accordance with the notice at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, Vice Chairman Parker and Commissioners Moore and Bedell determined that an industry in the United States is being injured and is likely to be injured by reason of the importation of melamine in crystal form from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Chairman Minchew and Commissioners Leonard and Ablondi, on the other hand, determined that an industry in the United States is not being injured and is not likely to be injured by reason of the importation of melamine in crystal form from Japan that is being, or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[1]

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF VICE CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

In our opinion an industry in the United States is being injured and is likely to be injured by reason of the importation into the United States of melamine in crystal form (melamine) from Japan which, according to the finding of the Department of the Treasury (Treasury), is being, or is likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. Our reasons in sup-

[1] Vice Chairman Parker and Commissioners Moore and Bedell found in the affirmative, and Chairman Minchew and Commissioners Leonard and Ablondi found in the negative (see attached statements of reasons). Pursuant to section 201(a) of the Antidumping Act, 1921, as amended, the Commission is deemed to have made an affirmative determination if the Commissioners of the Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

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port of this determination are set forth below.

THE PRODUCT

The imported product found to be sold at LTFV by Treasury is melamine from Japan. Although there are differing manufacturing processes by which melamine is produced and various raw materials used in its production, by and large, is a uniform end product.

THE U.S. INDUSTRY

In this determination we have considered the industry in the United States which is being injured and which is likely to be injured by reason of sales at LTFV to consist of the facilities devoted to the production of melamine. Three firms have produced melamine in the United States since 1973. These firms are Melamine Chemicals, Inc. (MCI), American Cyanamid Co., and Allied Chemical Corp. A major portion of the production of American Cyanamid and Allied Chemical is retained for captive use. However, all of MCI's production is sold in the open market. It is significant that, in the domestic open market, in competition with the LTFV imports from Japan, MCI production represents 50 percent of domestic open-market sales.

LTFV SALES

Treasury examined LTFV sales of melamine from Japan during July-December 1975. In that period one Japanese firm, Nissan Chemical Industries, Ltd. (Nissan), was found to have sold melamine in the United States. Fair-value comparisons were made on 99 percent of the melamine from Japan sold in the United States during the period of investigation, and 100 percent of the sales compared were found to be at LTFV prices. Margins, as calculated by Treasury, ranged from 50 to 70 percent, with a weighted average margin of 60 percent. The Commission's investigation disclosed that this large LTFV margin more than equaled the amount by which these imports undersold domestically produced melamine.

MARKET PENETRATION BY LTFV IMPORTS

Imports of melamine from Japan increased from 300,000 pounds (or 7.6 percent of total U.S. imports from all sources) in 1973 to 5.1 million pounds (or 80 percent of total U.S. imports from all sources) in 1975. Imports of melamine from Japan amounted to 1.7 million pounds in July-December 1974 but increased to 4 million pounds in July-December 1975. Moreover, these imports from Japan in July–December 1975 were all sold at LTFV.

The ratio of Japanese imports of melamine to U.S. consumption rose from less than 1 percent in 1973 to more than 6 percent in 1975—the year in which at least four-fifths of such imports were sold at LTFV. In July-December 1974, imports from Japan accounted for less than 3 percent of U.S. apparent consumption. That ratio nearly tripled in July-December 1975, the period when all import sales were made at LTFV prices.

The sales impact of Japanese melamine is directed to open-market consumption, which accounts for about half of total U.S. production. The remainder is captive production used by Allied Chemical and American Cyanamid. Thus, the ratio of LTFV imports to open-market consumption is substantially greater than the ratio of LTFV imports to total consumption. For example, the ratio of imports from Japan to U.S. open-market consumption increased from less than 5 percent in July-December 1974 to 15–20 percent during July-December 1975, when all such imports were sold in the United States at LTFV.

The 1975 surge in imports occurred at a time when U.S. production was 34 percent below the level of 1974 and U.S. consumption was 37 percent below its 1974 level. The rate at which the U.S. industry operated its melamine facilities declined from 77 percent of capacity in 1974 to 51 percent of capacity in 1975. Thus, the increase in LTFV imports clearly were more injurious because the U.S. industry was already suffering from the economic recession in 1975.

Under the law, injury or likelihood of injury must have occurred "by reason of the importation of" LTFV merchandise into the United States. However, it is not necessary that importation of LTFV merchandise be a principal cause, a major cause, or a substantial cause of injury to an industry.[3] Even where several factors that may cause injury, other than LTFV sales, are present, all that is required for an affirmative determination is that the LTFV merchandise contributed to more than an inconsequential injury.[4] It is clear from the following indicators of injury that more than inconsequential injury was suffered by the U.S. melamine-producing industry by reason of sales and increased penetration of Japanese melamine in the United States at LTFV prices.

PRICE DEPRESSION RESULTING FROM LTFV IMPORTS

Imports of Japanese melamine were priced substantially higher than domestically produced melamine during most of 1974, were priced about the same as domestically produced melamine during the first few months of 1975, and were priced substantially lower than domestically produced melamine during the remainder of 1975 (including all of the LTFV period) and the early part of 1976. The underselling during the period of LTFV sales was equivalent to as much as 7.5 cents per pound, or 22 percent below the U.S. producers' prices in some instances. This underselling contributed to reductions of about 6 percent in U.S. producers' prices, beginning early in 1975 and continuing throughout the year. During the period of LTFV imports, the LTFV margin was greater in all instances than the margin of underselling. The underselling by the LTFV imports contributed to the price depression in the domestic market.

SALES LOST TO LTFV IMPORTS

Substantial evidence was obtained by the Commission that domestic sales which would have been made by all three U.S. producers of melamine (MCI, Allied, and American Cyanamid) were lost to LTFV imports of melamine from Japan. Many purchasers that had formerly obtained little or none of their melamine requirements from Japan suppliers bought substantial quantities of LTFV Japanese melamine during July–December 1975. In fact, two of the largest U.S. users of melamine first began to use Japan melamine in 1975; neither firm had used foreign melamine prior to that time. More than 70 percent of U.S. imports of LTFV melamine from Japan during July–December 1975 were sold to these two customers.

Prior to 1975, when U.S. suppliers at times could not fulfill domestic demand for melamine, Japanese melamine was sold in the United States at prices substantially higher than U.S.-produced melamine. However, during 1975, especially during the latter half of the year, and during early 1976, U.S. producers were capable of supplying virtually all of U.S. requirements of melamine. LTFV sales of Japanese melamine resulted in lost sales for U.S. producers solely because of LTFV pricing that allowed Japanese melamine to undersell the domestic product. All the U.S. purchasers that commented on this question stated that in the U.S. market the price of melamine is the controlling factor in making purchases.

DECLINE IN EMPLOYMENT RESULTING FROM LTFV IMPORTS

The employment of U.S. production and related workers producing melamine declined by 38 percent from 1974 to 1975 (or from 331 workers to 204 workers). During July–December 1974, such employment amounted to 238 workers but declined to 207 workers during July–December 1975, the period of LTFV sales. While part of the decline is probably due to such causes as the recession, the presence of LTFV imports certainly contributed to increased unemployment in the U.S. melamine industry.

PROFIT AND LOSS EFFECTS OF LTFV IMPORTS

Between 1974 and 1975 the ratio of net operating profits (before taxes) to net sales for the three U.S. producers of melamine declined by 28 percent. The decline in the ratio of net operating profits to net sales between July–December 1974 and the corresponding period in 1975 (when all Japanese imports were being sold at LTFV) was even more substantial—67 percent.

Of greater significance, however, is the effect of LTFV imports on the U.S. industry measured by the ratio of industry profitability to capital investment. The melamine industry is extremely capital intensive. When profitability is evaluated in terms of return on capital investment rather than return on sales, the profitability was low. Obviously, U.S. industry profitability, by whatever measure, was impaired by LTFV imports which resulted in reduced U.S. sales and depressed prices for U.S. producers.

LIKELIHOOD OF INJURY FROM LTFV SALES

The Japanese industry has the capacity to almost double its 1975 production of melamine. The ability and willingness of the Japanese industry to penetrate the U.S. market by selling melamine at LTFV prices (with margins ranging up to 70 percent as calculated by Treasury) has been clearly demonstrated. Unless effective action is taken to prevent the continuation of such unfair practices the injury found to have been suffered by the domestic industry will intensify.

CONCLUSION

We have determined that an industry in the United States is being injured and is likely to be injured by reason of the importation of melamine from Japan found by Treasury to be, or likely to be, sold at LTFV.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATION OF CHAIRMAN DANIEL MINCHEW AND COMMISSIONERS WILL E. LEONARD AND ITALO H. ABLONDI

On the basis of the reasons cited below, we have determined that an industry in the United States is no being injured and is not likely to be injured [4] by reason of the importation of melamine crystals (hereinafter referred to as melamine) from Japan which the Department of the Treasury (Treasury) has found are being, or are likely to be, sold at less than fair value (LTFV).

The LTFV determination by Treasury is based upon an examination of 99 percent of exports of such melamine from Japan to the United States during the period July 1, 1975, to December 31, 1975. Dumping margins ranged from 50 to 70 percent, according to the advice the Commission received from Treasury. All the imported melamine found to be sold at LTFV prices during July–December 1975 was manufactured by Nissan Chemical Industries, Inc. (Nissan), one of three Japanese producers of melamine.

U.S. INDUSTRY

Melamine, the imported article under investigation, is a fine white crystalline powder produced from urea and ammonia, both products of natural gas. Melamine is used to manufacture amino (melamine-formaldehyde) resins. These resins are in turn used in the following specific classes of products: High-pressure laminates used extensively in the construction industry (i.e., kitchen and bathroom counter tops); molding compounds (e.g., dinnerware); surface-coating resins (e.g., automotive topcoats); textile treating resins used primarily to impart wrinkle resistance to cotton; and paper treating resins used primarily to provide wet strength to paper towels.

The U.S. industry most likely to be impacted by the LTFV imports in question consists of domestic facilities devoted to the production of melamine. This is the only industry with respect to which evidence regarding alleged injury was presented to the Commission in this investigation.

Melamine is currently manufactured by the American Cyanamid Co. (American Cyanamid), the Allied Chemical Corp. (Allied), and the complainant before Treasury, Melamine Chemicals, Inc. (MCI). American Cyanamid and Allied retain a significant portion of their production for captive use. The remainder is sold in the U.S. merchant market and in export sales. MCI sells exclusively to the U.S. merchant market and the export market.

NO INJURY BY REASON OF LTFV IMPORTS

In this investigation, evidence of alleged injury to the domestic industry tended to focus on the year 1975. After careful examination of the evidence, we have concluded that any injury which the domestic industry did incur in 1975 and previous years was not by reason of LTFV sales. Such sales are not an identifiable cause of any such injury; rather, the recession in the markets for end products using melamine accounts for any such injury.

The decline in domestic production of melamine in 1975 is attributable to depressed conditions in the end-use markets for melamine and not to LTFV imports. U.S. melamine production fell by 34.3 percent between 1974 and 1975; however, most of this decrease occurred in the first 6 months of 1975, before the period of the Treasury investigation. Domestic production increased during the 6 months of 1975 (the period of Treasury-determined LTFV sales) by 97 percent over what it was in the first 6 months of 1975. Production slipped by less than 9 percent between the last 6 months of 1975 and the corresponding period in 1974.

Sharply reduced demand in two key sectors of the economy, the construction and automobile industries, led to production cutbacks in melamine in early 1975. The construction and automobile industries, which constitute over 50 percent of the end-use markets for melamine, were severely affected by recessionary influences in 1974 and 1975. Expenditures for new housing units declined more than 20 percent between 1973 and 1974, and 16 percent between 1974 and 1975. In 1975, private housing starts amounted to less than half the 1972 level. In the automobile industry, sales fell 24 percent in 1974 from the previous year's level. Sales again dropped in 1975, giving the automobile business its poorest sales record in many years.

The decline in employment at U.S. melamine facilities in 1975 was not related to LTFV imports, but rather to depressed economic conditions and a strike at American Cyanamid's Fortier plant. Although the number of domestic workers engaged in melamine production dropped in 1975 from what it was in 1974, the reduction in employment occurred principally in the first 6 months of 1975. The number of production workers at malamine facilities which did not experience strikes in 1975 remained constant or increased during the second 6 months of 1975, compared with the corresponding period in 1974. The total number of man-hours expended in the domestic production of melamine during the period in which Treasury found there to be LTFV sales (280,000 hours) was almost identical to the number of man-hours worked during the last 6 months of 1974 (281,000 hours). LTFV import sales thus had virtually no impact on domestic employment.

Melamine prices fell in 1975 because of oversupply and reduced demand in the construction and automobile industries. In 1974, shortages of melamine caused by a tight supply of urea (a primary raw material in malamine manufacture) resulted in a sharply upward trend in prices for melamine, which was reversed in 1975 as urea became more available and the supply of melamine correspondingly increased. Substantial decreases in U.S. producers' melamine prices occurred in the first quarter of 1975, before known LTFV sales. In the first 3 months of 1975, melamine imports from Japan totaled only 330,000 pounds, and were priced above prevailing domestic prices. LTFV sales cannot be considered to have had an impact upon the substantial decreases in prices made by domestic producers in the early months of 1975.

Although U.S. imports from Japan increased substantially in 1975, the increase only reflects the increased availability of melamine worldwide after the acute shortages of melamine in 1973 and 1974. The ratio of U.S. imports from Japan to consumption in 1975 was lower than the corresponding ratio in 1971.

Although net operating profits of U.S. melamine producers decreased between 1974 and 1975, the decline can be attributed to recessionary conditions in the economy rather than to LTFV sales. A comparison of the net profits before income taxes for producers of melamine with the pre-tax net profits for all manufacturers of industrial chemical synthetics revealed a downward trend for both groups over the period 1973–75; melamine producers, however, showed much higher profits. The profit-to-sales ratio for the melamine industry in 1975 was 24 percent; for all manufacturers of industrial chemicals and synthetics, the ratio was 11 percent. LTFV sales thus did not have an identifiable effect on the

[3] U.S. Senate, *Trade Reform Act of 1974; Report of the Commitee on Finance* • • •, S. Rept. No. 93-1298, (93d Cong., 2d sess.), 1974, p. 180.

[4] *Elemental Sulfur from Mexico, Determination* • • • *in Investigation No. AA1921–92* • • •, TC Publication 484, 1972 (statement of reasons for affirmative determination of Chairman Bedell and Commissioners Sutton and Moore, at p. 3); *Bicycle Speedometers from Japan, Determination* • • • *in Investigation No. AA192198* • • •, TC Publication 513, 1972 (statement of reasons for affirmative determination of Chairman Bedell, Vice Chairman Parker, and Commissioners Leonard and Moore, at p. 7). See also *Water-Circulating Pumps, Wet-Motor Type, From the United Kingdom, Determination* • • •, *in Investigation No. AA1921–152* • • •, USITC Publication 777, 1976 (statement of reasons of Chairman Will E. Leonard, at pp. 10–11).

[4] Prevention of establishment of an industry is not an issue in the instant case and will not be discussed further.

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profitability of U.S. melamine manufacturers.

Although two U.S. melamine producers claim loss of sales because of LTFV imports from Japan, the issue is not clear cut. A large purchaser of Nissan melamine in 1975 developed credit problems with a domestic producer at the end of 1974. As a result of this credit dispute, the purchaser sought other suppliers, both domestic and foreign. Other companies that purchased Nissan melamine did not substantially reduce purchases from domestic sources between 1974 and 1975.

In addition, the U.S. industry has apparently had little trouble competing in export markets in view of the fact that U.S. exports have increased each year since 1971, and U.S. exports during the first 9 months of 1976 were greater than U.S. exports during all of 1975. During July–December 1975, the LTFV period, U.S. exports were nearly three times as much as during the corresponding period of 1974.

NO LIKELIHOOD OF INJURY BY REASON OF LTFV IMPORTS

Although Nissan has recently installed a new melamine production facility with enlarged capacity, there is no substantial evidence that Nissan's exports to the United States will increase as a result. In 1977 and future years, Nissan will be required to supply a greater share of melamine demand within Japan. Of the two other manufacturers of melamine in Japan, one company (Nippon Carbide) announced an indefinite cessation of melamine production, and the other company (Mitsui-Toatsu) has an unstable production schedule which necessitates that it purchase some of its melamine needs from Nissan. Because of the increased demand within Japan and its present export commitments, Nissan has stated that it will be unable to supply melamine to new customers overseas. These factors make it unlikely that Nissan will enlarge its market in the United States. In addition, Nissan has indicated that it will, in the future, sell melamine in the U.S. market at fair value.

Both the Japanese and U.S. melamine industries had substantial over-capacity in 1975. However, the current economic recovery, particularly in the construction industry, which is underway in both Japan and the United States, will result in greater utilization of melamine productive capacity in both countries in 1976 and 1977. The domestic melamine industry is performing well in 1976, with domestic producers strongly rebounding from the economic recession. U.S. demand for melamine increased substantially in 1976, with melamine production in the first 6 months of 1976 up almost 138 percent from the level in the corresponding period in 1975. The recovery in the end-use markets for melamine indicates a favorable outlook for domestic production.

CONCLUSION

All this information leads to the conclusion that an industry in the United States is not being injured and is not likely to be injured by reason of LTFV imports of melamine from Japan.

Issued: December 20, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-38291 Filed 12-29-76;8:45 am]

REPORT TO THE PRESIDENT

[TA-201-15]

Results of Investigation Regarding Plant Hangers

DECEMBER 22, 1976.

To the President: In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation made under section 201(b)(1) of that act, relating to "plant hangers."

The investigation to which this report relates was undertaken to determine whether—

plant hangers, made of wood; of vegetable fibers, of wool, or of manmade fibers; of iron or steel or of copper; or of leather or of shell; all the foregoing of the types provided for in items 206.95 and 206.98; 365.78, 365.82, 365.86, 366.79, 366.84, 367.30, and 367.60; 653.95, 654.00, and 654.05; and 741.50, 791.90, and 792.50 of the Tariff Schedules of the United States (TSUS),

are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The investigation was instituted by the Commission on its own motion on June 22, 1976, in view of submissions received from the firm of Knots To You, Inc., Van Nuys, Calif., and others. Notice of the institution of the investigation and the public hearings was published in the FEDERAL REGISTER of July 2, 1976 (41 FR 27449).[1]

Hearings were held on August 24, 1976, in Los Angeles, Calif., and on August 31, 1976, in Washington, D.C. All interested parties were afforded an opportunity to be present, to produce evidence, and to be heard. A transcript of the hearings and copies of briefs submitted by interested parties in connection with the investigation are attached.[2]

The information for this report was obtained from fieldwork, from responses to questionnaires sent to domestic manufacturers, retailers, and importers, and from the Commission's files, other Government agencies, and evidence presented at the hearings and in briefs filed by interested parties.

DETERMINATION OF THE COMMISSION

On the basis of its investigation, the Commission determines that plant hangers of wood; of vegetable fibers, of wool, or of fibers; of iron or steel or of copper; or of leather or of shell; provided for in items 206.95 and 206.98; 365.78, 365.82, 365.86, 366.79, 366.84, 367.30, and 367.60; 653.95, 654.00, and 654.05; and 741.50, 791.90, and 792.50 of the Tariff Schedules of the United States, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

VIEWS OF THE COMMISSION

After considering a complaint received from the firm of Knots to You, Inc., Van Nuys, Calif., and other submissions, the United States International Trade Commission upon its own motion, on June 22, 1976, instituted an investigation under section 201(b) of the Trade Act of 1974 (Trade Act) to determine whether—

plant hangers, of wood; of vegetable fibers, of wool, or of manmade fibers; of iron or steel or of copper; or of leather or of shell, provided for in items 206.95 and 206.98; 365.78, 365.82, 365.86, 366.79, 366.84, 367.30 and 367.60; 653.95, 654.00, and 654.05; and 741.50, 791.90, and 792.50 of the Tariff Schedules of the United States

are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The Trade Act requires that each of the following conditions be met before an affirmative determination of eligibility of an industry for relief from imports can be made in this investigation:

(1) Imports of the articles concerned must be entering into the United States in increased quantities;

(2) The domestic industry producing articles like or directly competitive with the imported articles must be experiencing serious injury, or the threat thereof; and

(3) The increased imports of the articles concerned must be a substantial cause of the serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

DETERMINATION

On the basis of the evidence obtained by the Commission in this investigation, we have determined that the plant hangers described above are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat thereof to the domestic industry producing like or directly competitive products.

DOMESTIC INDUSTRY

In considering whether increased imports are a substantial cause of serious injury, or the threat thereof, to the domestic industry, it is first appropriate to determine what is "the domestic industry" which may be suffering the requisite injury. The Trade Act does not expressly define the term "domestic industry," but rather provides guidelines and permits the Commission to use its best judgment within those guidelines and the relevant economic factors in a given case.

In this investigation several possible industries or combinations thereof might be included in the definition of the scope of the domestic industry. One such industry is that which produces textile plant hangers. A second industry is that which produces nontextile plant hangers, and a third industry is that which produces hanging planters. The definition of the scope of the industry could be limited to textile plant hangers or it could include, in addition to textile plant hangers, nontextile plant hangers only or both nontextile plant hangers and hanging planters. Whatever the definition, however, the Commission's determination would not be affected. For purposes of this opinion, the data relied upon is mainly with respect to textile plant hangers since textile-plant-hanger manufacturers account for approximately 75 percent of U.S. production of plant hangers. Trends in any of the possible industries essentially parallel those of the textile-plant-hanger industry.

INCREASED IMPORTS ARE NOT A SUBSTANTIAL CAUSE OF SERIOUS INJURY, OR THE THREAT THEREOF, TO THE DOMESTIC INDUSTRY

Textile-plant-hanger imports first entered the United States in significant volume in 1972. Imports of these articles increased from 13,000 pieces in that year to about 21 million pieces in 1975 and continued to increase in the first 6 months of 1976 as compared with the same period of 1975. However, estimates of imports for the full year 1976 show a decrease to an estimated 10 million pieces. Many major importers reduced their orders in the second half of 1976 to negligible or nil amounts. Notwithstanding the increase in imports during the period 1972–75, there is no indication that the domestic industry producing like or directly competitive products was being seriously injured by imports at any time during this period. Since plant hangers were introduced into the U.S. market in volume as recently as 1972 and there were no substantial imports prior to that time, it is not surprising that imports have increased substantially.

Prior to 1972, there were no firms primarily involved in the production of textile plant hangers. In 1972, three firms began producing textile plant hangers in large quantities. The number of manufacturers producing in significant quantities increased steadily to 22 in 1975. Although five firms ceased production in 1976, their output in 1975 accounted for less than 3 percent of total U.S. production. Textile-plant-hanger production by reporting firms increased from less than 100,000 pieces in 1972 to 2.5 million pieces in 1975, and was 15 percent higher during January–June 1976 than it had been during the same period of 1975.

Of the 11 manufacturers of textile hangers for which profit and loss data are available, both total sales and profits increased without interruption during 1972–75. Net operating profits or losses for reporting firms rose from a small loss in 1972 to a profit of $417,000 in 1975. In addition, the ratio of net profits to net sales was 24 percent higher in 1975 than it had been in 1974 and also represented a great improvement over the loss reported for 1972. After 1972, only one individual firm for which data are available experienced a loss in any year.

Evidence obtained from responses by textile-plant-hanger manufacturers to the Commission's questionnaires indicates that the total number of workers employed by these manufacturers increased steadily from 1972 to 1975. Total man-hours worked by production and related workers producing textile plant hangers in these firms also increased without interruption from 1972 to 1975. In the first 6 months of 1976, the average total number of employees producing textile plant hangers was greater than the average number so employed in the corresponding period in 1975. Total man-hours worked on textile plant hangers by production and related workers for reporting firms also increased in the first 6 months of 1976 over the total they worked in the corresponding period of 1975.

In short, the domestic industry producing textile plant hangers has experienced a period of tremendous growth since its beginnings in 1972. The number of firms has increased, production and employment have increased, and the profitability of the reporting firms has improved. On the basis of these factors we have determined that increased imports are not a substantial cause of serious injury to the domestic industry.

With respect to the last half of 1976 and the future, there is no evidence that increased imports are a substantial cause of threat of serious injury to the domestic industry. Although U.S. manufacturers' shipments by reporting firms dropped slightly in the first 6 months of 1976 from what they were in the corresponding period of 1975, no evidence has been presented by producers of textile plant hangers that indicates that increased imports are a substantial cause of a threat of serious injury to the domestic industry.

Many factors may have led to the decline in shipments by the domestic industry. However, the major reason is a decline in U.S. consumption, as evidenced by the movement of almost all new supply (both imported and domestically produced hangers) into inventories. In the first 6 months of 1976, importers' inventories increased to 74 percent of imports and domestic manufacturers' inventories increased to 22 percent of production, compared with 28 and 8 percent, respectively, for the corresponding period in 1975. If any threat of serious injury does exist, increased imports are not a substantial cause of it, as they must be if the relevant industry is to receive relief.

CONCLUSION

As a result of the foregoing considerations, the Commission has concluded that increased imports of plant hangers are not a substantial cause of serious injury or the threat thereof to the domestic industry producing like or directly competitive products.

Issued: December 22, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-38290 Filed 12-29-76;8:45 am]

[TA-503(a)-3 and 332-81]

PRESIDENT'S LIST OF ARTICLES WHICH MAY BE DESIGNATED AS ELIGIBLE ARTICLES FOR PURPOSES OF GENERALIZED SYSTEM OF PREFERENCES

Removal of Certain Articles; Public Hearing

On December 7, 1976, notice of the institution of the above-captioned investigations and of a public hearing to be held in Houston, Texas, on January 4, 1977, in connection with these investigations, was published in the FEDERAL REGISTER (41 FR 5347). That notice also listed those articles furnished the United States International Trade Commission by the Special Representative for Trade Negotiations which will be considered for designation as eligible articles for purposes of the Generalized System of Preferences set forth in title V of the Trade Act of 1974.

On December 13, 1976, the Commission received a request from the Special Representative for Trade Negotiations that certain citrus fruits entering the United States under item numbers 147.16 and 147.31 of the Tariff Schedules of the United States be deleted from the aforementioned list of articles. Accordingly, no further consideration will be given to these articles in connection with the captioned investigations.

Notice is also given that the United States Internatonal Trade Commission's public hearing scheduled to be held in Houston, Texas, on January 4, 1977, in connection with these investigations, will instead be held in the Fish and Game Building, 600 South Walnut St., Boise, Idaho, 83707, beginning at 10:00 a.m., m.s.t., Tuesday, January 4, 1977.

Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: December 27, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-38403 Filed 12-29-76;8:45 am]

[1] Item 741.50 of the Tariff Schedules of the United States was added to the scope of the investigation on August 23, 1976. Notice of the amendment of the scope of the investigation was published in the FEDERAL REGISTER of August 26, 1976 (41 FR 36091).

[2] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

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DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD

Meeting

Pursuant to the provisions of Pub. L. 92–463, notice is hereby given that a meeting of the National Crime Information Center (NCIC) Advisory Policy Board will be held on February 16, 1977, at the Washington Hilton Hotel, Washington, D.C. The meeting will commence at 9 a.m. and conclude at 5 p.m.

The main topic of this meeting will concern the NCIC Stolen Article File and the inclusion of items bearing Owner-Applied Numbers in this file.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Board members must file written statements or questions at least twenty-four hours prior to the beginning of each meeting. All questions or statements shall be delivered to the person of the Designated Federal Employee or the Assistant Director, Administrative Services Division, FBI, Washington, D.C.

Additional information may be obtained from Mr. Frank B. Buell, Chief, NCIC Section, Administrative Services Division, FBI Headquarters, Washington, D.C. 20535, at telephone number 202/324–2606.

Minutes of the meeting will be available upon request from the above-designated FBI official.

CLARENCE M. KELLY,
Director.

[FR Doc.76–38344 Filed 12–29–76;8:45 am]

Immigration and Naturalization Service

[File No. CO 845–P]

IMMIGRATION AND NATIONALITY ACT AMENDMENTS OF 1976 (PUBLIC LAW 94–571)

Questions and Answers Setting Forth Service Interpretation

DECEMBER 27, 1976.

The following questions and answers are being published as a notice in the FEDERAL REGISTER in order to provide the general public with Service interpretation of the Immigration and Nationality Act Amendments of 1976 (Pub. L. 94–571). The questions and answers set forth below are believed to describe typical situations that may arise under the amendments. However, insofar as some answers may relate to proposed regulations, they would necessarily be subject to modification in accordance with any changes made in the proposed regulation as finally adopted.

1. Q. When do the provisions of Pub. L. 94–571 become effective?

A. January 1, 1977.

2. Q. What are the major changes effected in the Immigration and Nationality Act by the amendments contained in Pub. L. 94–571?

A. There are three major changes. Pub. L. 94–571 removes natives of independent countries of the Western Hemisphere and of the Canal Zone from the "special immigrant" classification and extends to the Western Hemisphere: the seven-category preference system, the 20,000 per country annual limitation on the number of immigrant visas available, and the provisions of section 245 for adjustment of status, all of which are presently in effect for Eastern Hemisphere countries.

3. Q. Is there any change in the overall annual numerical ceilings on the number of immigrant visas available for the Eastern and Western Hemispheres?

A. No, the overall annual numerical ceilings of 170,000 for the Eastern Hemisphere and of 120,000 for the Western Hemisphere remain unchanged. However, the current annual allocation of 200 immigrant visas (exclusive of "special immigrants" and "immediate relatives") available to natives of a colony or dependent area of a foreign state is increased to 600. In addition, the 20,000 per country annual limitation is now applicable worldwide.

4. Q. Are visas that are allocated to a dependent area or colony chargeable to the mother country as well as the colony or dependent area?

A. Yes, but they also will be chargeable to the annual numerical ceiling of the hemisphere in which the dependent area or colony is located, rather than the hemisphere of the mother country.

5. Q. Under existing law, the percentages allotted annually to each preference category (e.g., first preference, 20 percent; second preference, 20 percent, etc.) are applicable to the annual numerical ceiling of the Eastern Hemisphere as a whole, and not to the individual countries in the Western Hemisphere. Is this annual preference category percentage allocation altered in any manner?

A. Under the provisions of Pub. L. 94–571, this preference category percentage allotment of the annual numerical ceiling as a whole is retained for the Eastern Hemisphere and is extended to the Western Hemisphere.

6. Q. Is there a special provision for distribution of visa numbers to a country that uses the maximum annual number allowable?

A. Whenever the maximum of visas are made available to natives of any foreign state (20,000) or a dependent area (600) in any fiscal year, annual visa percentage allotments for preference categories (including conditional entries) will become applicable to that country or dependent area in the next following fiscal year. The percentage formula will be identical to the Hemisphere formula, with any visa numbers unused by the preference categories available to nonpreference aliens in that country or dependent area. This provision will not increase or decrease the total number of visas available to the country or dependent area to which it applies or to the Hemisphere in which the country or dependent area is located. Its aim is to insure distribution of visa numbers to all eligible preference categories in that country or dependent area when the special visa distribution system is triggered. The reason for this change in the law is to prevent the higher preferences in any particular country or dependent area from continually consuming the maximum allowable visa numbers, leaving no numbers for the lower preferences, e.g. the Philippines, Hong Kong.

7. Q. Does Pub. L. 94–571 alter the entitlement to immigrant status which natives of the Eastern Hemisphere had on December 31, 1976?

A. No. The savings clause contained in section 9 of Pub. L. 94–571 preserves the entitlement of any such alien to the immigrant status he had on December 31, 1976. However, in order to be considered eligible for the benefits of the savings clause, an alien must show that the facts established prior to January 1, 1977, upon which the entitlement to such immigrant status was based, continue to exist.

8. Q. How does Pub. L. 94–571 affect the immigrant status which natives of the Western Hemisphere had on December 31, 1976?

A. An alien chargeable to the annual numerical ceiling of the Western Hemisphere who has established a priority date at a consular office on the basis of entitlement to immigrant status under statutory or regulatory provisions in existence on December 31, 1976, is assimilated to the status of a nonpreference immigrant under section 203(a)(8) of the Immigration and Nationality Act, as amended, on January 1, 1977 and shall be accorded the priority date he had previously established.

9. Q. On January 1, 1977, does such a Western Hemisphere native assimilated to nonpreference status, who was previously exempt from the labor certification requirement of section 212(a)(14) when registered on a consular waiting list, continue to be exempt from the labor certification requirement as a nonpreference immigrant?

A. A native of the Western Hemisphere who established a priority date prior to January 1, 1977 and who was found to be entitled to an exemption from the labor certification requirement of section 212(a)(14) of the Act under the law in effect prior to January 1, 1977 as the parent, spouse or child of a United States citizen or lawful permanent resident alien, shall continue to be exempt from that requirement for so long as the relationship upon which the exemption was based continues to exist.

10. Q. May a Western Hemisphere native with such established priority date, who acquires nonpreference status on January 1, 1977, be the beneficiary of a visa petition to accord him a preference classification under section 203(a) of the Immigration and Nationality Act?

A. Yes, a visa petition may then be filed to accord him any preference classification under section 203(a) to which he may be entitled on the basis of relationship or occupation; and upon approval, it will be deemed to have been filed as of the priority date previously established by such alien.

11. Q. Although not approvable until on or after January 1, 1977, may such a preference petition be filed by or on behalf of a Western Hemisphere native prior to January 1, 1977?

A. No.

12. Q. Pending revisions of Forms I–130 and I–140, may such preference visa petitions be accepted if filed on presently existing edition of these Forms?

A. Yes.

13. Q. Will preference petitions filed by or on behalf of Western Hemisphere natives be accorded priority handling?

A. No, they shall be processed in chronological order according to date of receipt pursuant to outstanding Service policy.

14. Q. A third or sixth preference visa petition is filed on behalf of a Western Hemisphere native who acquires nonpreference status on January 1, 1977 and who was exempt from the labor certification requirement of section 212(a)(14) of the Act under the law in effect prior to January 1, 1977. Is the beneficiary exempt from the labor certification requirement?

A. No. He is not exempt from the labor certification requirement. A third or sixth preference visa petition must be accompanied by an individual labor certification unless the beneficiary is qualified for and will be engaged in an occupation which is listed in the Department of Labor's Schedule A. This is true notwithstanding the beneficiary may have been exempt from the labor certification requirement under the law in effect prior to January 1, 1977, on the basis of relationship to a United States citizen or permanent resident alien.

15. Q. What new factor must be taken into consideration in determining the filing date of a preference visa petition on behalf of a native of the Western Hemisphere?

A. Pub. L. 94–571 provides that any visa petition filed by, or in behalf of, a native of the Western Hemisphere to accord him a preference status under section 203(a) shall, upon approval, be deemed to have been filed as of any priority date previously established by such alien at a consular office under statutory or regulatory provisions in existence on December 31, 1976.

16. Q. Will Forms I–550 relating to Western Hemisphere natives which are on file with American consular offices on December 31, 1976, be treated as approved second preference visa petitions?

A. No. Such aliens will acquire nonpreference status on January 1, 1977; however, in order for them to be accorded a preference classification on the basis of relationship to a lawful permanent resident, the appropriate relative petition must be filed on their behalf and approved.

17. Q. What modifications in the preference categories are effected by Pub. L. 94–571?

A. Third preference classification for members of the professions and persons of exceptional ability in the sciences and the arts is amended to require that their services be sought by an employer in the United States; the fifth preference category is amended to require that a United States citizen must be at least 21 years of age in order to file a visa petition on behalf of a brother or sister.

18. Q. Will a third or fifth preference visa petition filed prior to but pending with a Service office on January 1, 1977, be subject to the provisions of Pub. L. 94–571?

A. No, the entitlement to immigrant status on the basis of a petition filed prior to January 1, 1977 is preserved by the savings clause of section 9 of Pub. L. 94–571. The petition will be adjudicated under the law and regulations in effect prior to January 1, 1977.

19. Q. Since the services of the beneficiary of a third preference visa petition must be sought by a U.S. employer, can an alien still file a third preference visa petition on his own behalf on and after January 1, 1977?

A. Yes, however, in addition to the other required supporting documentation, the Form I–140 must also be supported by the Department of Labor Job Offer for Alien Employment form (MA7–50B).

20. Q. In view of the foregoing, will a third preference visa petition be filed with the Service office having jurisdiction over the intended place of residence of the beneficiary or over the beneficiary's intended place of employment?

A. On and after January 1, 1977, a third preference visa petition shall be filed with the Service office having jurisdiction over the beneficiary's intended place of employment.

21. Q. How does the employment offer requirement for third preference classification affect the period of validity of an approved third preference petition filed on or after January 1, 1977?

A. A job offer must remain in effect. Unless revoked, the approval of a third preference petition shall remain valid for as long as the supporting labor certification is valid and unexpired provided there is no change in the respective intentions of the prospective employer and the beneficiary that the beneficiary will be employed by the employer in the capacity indicated in the supporting job offer.

22. Q. Where an alien files a third preference visa petition on his own behalf and subsequent to approval of the petition he acquires a new job offer, what effect does this have on the validity of the approved petition? Is a new visa petition required?

A. When the beneficiary of an approved third preference petition no longer intends to accept employment with the prospective employer or the offer of employment is withdrawn, the petition shall be deemed invalid and the beneficiary shall no longer be entitled to a priority as of the date of filing of the petition. However, upon submission of a new Job Offer for Alien Employment, and a certification under section 212(a)(14) in the case of an occupation not listed in Schedule A, the petition shall be deemed reinstated with the original priority date. The filing of a new petition is not required in such case.

23. Q. Under the law in effect on December 31, 1976, the Secretary of State may in his discretion, terminate the registration on a consular waiting list of any alien who fails to evidence his continued intention to apply for a visa. Is there any change in this regard?

A. Yes, termination becomes mandatory, instead of discretionary. Section 203(e) of the Immigration and Nationality Act is amended to require the Secretary of State to terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to him of the availability of such visa; however, the alien's registration shall be reinstated if he establishes within two years following notification of visa availability that his failure to apply was due to circumstances beyond his control.

24. Q. Will the validity of an approved preference visa petition be affected by the Secretary of State's termination of registration of the beneficiary pursuant to section 203(e) of the Act, as amended by Pub. L. 94–571?

A. Yes, the approval of such a visa petition shall be automatically revoked as of the date of approval upon termination of registration of the beneficiary by the Secretary of State.

25. Q. Is there any additional change or modification concerning automatic revocation of approved visa petitions?

A. Yes, a regulatory modification. The approval of a relative petition will not be automatically revoked upon the death of the petitioner if the Attorney General, in his discretion, determines that revocation would be inappropriate because of humanitarian reasons.

26. Q. Will 7th preference classification be available to natives of the Western Hemisphere under section 203(a)(7)?

A. For aliens chargeable to the Western Hemisphere, an annual total of 7,200 visa numbers are authorized for conditional entry of aliens found qualified under section 203(a)(7). Since Cuba is the only Communist-dominated country in the Western Hemisphere, only natives of that country will be able to qualify for conditional entry. Consultation is being had with the Department of State concerning the initiation of negotiations with the Government of Spain to obtain permission for the Service to process applicants for conditional entry in that country.

27. Q. Are there any modifications of the existing labor certification requirement of section 212(a)(14) of the Act?

A. Yes, in order for a labor certification to be issued in the case of an alien who is a member of the teaching profession or who has exceptional ability in the sciences or the arts, the alien must be better qualified than available domestic workers. Also, the shortage of workers must be at the place of intended employment rather than in the United

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States. In addition, the existing exemption from labor certification applicable to natives of the Western Hemisphere on the basis of close relationship to a U.S. citizen or permanent resident, is eliminated. Under Pub. L. 94–571, the labor certification requirement is applicable to immigrants from both hemispheres entering under the third and sixth preference categories, and under the nonpreference category if entering to work.

28. Q. An alien is admitted to the United States as a conditional entrant under the provisions of section 203(a)(7) of the Act. Two or more years following his admission, he applies for permanent resident status. Is he then subject to the labor certification requirement of section 212(a)(14) of the Act?

A. No. The labor certification requirement is not applicable to him.

29. Q. What, if any, changes are proposed in Department of Labor regulations concerning the Schedule A blanket certification?

A. Proposed Schedule A. (20 CFR Part 656) has been expanded to consist of four categories of employment for which the Secretary of Labor has, in effect, issued a blanket certification, and existing categories have been modified. As proposed, Group I of the categories in Schedule A has been modified to encompass only persons who have received an advanced degree (equivalent to U.S. Ph.D. or master's degree) in dietetics or physical therapy; Group II category consists of certain persons of exceptional ability in the sciences or the arts; Group III, aliens who seek admission to perform a religious occupation; and Group IV, aliens admitted as L nonimmigrants and currently working with same organization in positions that are managerial or executive in nature or require specialized knowledge. These regulations are not yet final and the Service has filed formal representations with respect to them.

30. Q. What changes are proposed in Labor Department procedures for applying for an individual labor certification?

A. Any alien requiring a labor certification, except an alien whose occupation is listed in Schedule A, must have an employer or prospective employer apply through the local state employment service office for a labor certification on his behalf by filing Department of Labor forms entitled Statement of Qualifications of Alien (hereafter referred to as MA 7–50A) and Job Offer for Alien Employment (hereafter referred to as MA 7–50B), and, in addition, Supplemental Statement for Live-at-Work Job Offers (hereafter referred to as MA 7–50C) if the application involves a job offer as a live-in domestic. Application for labor certification for a Schedule A occupation by a third or sixth preference or nonpreference alien shall be made directly to the Service or an American consular officer, who shall determine whether the alien is a qualified member of and intends to pursue the Schedule A occupation. While an advisory opinion may be requested of the regional office of the Employment and Training Administration as to whether the alien is qualified for the Schedule A occupation when a Service officer is unable to resolve the matter on the basis of the evidence submitted, the ultimate decision rests with the Service (or the State Department) and that decision shall be conclusive and final. (While the Department of Labor has advised that the form numbers MA 7–50A, MA 7–50B, and MA 7–50C will be changed, it is not anticipated that the change will be effected in the near future.)

31. Q. How does the foregoing affect the procedure for filing third and sixth preference petitions?

A. Forms MA 7–50A and MA 7–50B are an integral part of each third and sixth preference visa petition. Each third and sixth preference petition must be supported by Form MA 7–50A, and supporting evidence, and Form MA 7–50B, to which the individual labor certification under section 212(a)(14) of the Act has been affixed by the Secretary of Labor or his designated representative, except that such certification may be omitted if the beneficiary is qualified for and will be engaged in an occupation currently listed in the Department of Labor's Schedule A (20 CFR Part 656). Thus, a third or sixth preference petition filed on or after January 1, 1977, on behalf of an alien who is a member of the professions or who possesses exceptional ability in the sciences or the arts and whose profession or occupation is not listed on Schedule A, will no longer be referred to the Labor Department by the Service for an individual certification. In such a case, the individual-issued labor certification must accompany the petition. If it does not accompany the petition, the petition and supporting documents shall be returned to the petitioner with instructions as to the manner to apply for certification through the local state employment service office, and the petitioner shall be advised that he may not file the petition with the Service until Forms MA 7–50A and MA 7–50B have been returned to him with the required certification.

32. Q. Are there any circumstances under which a third or sixth preference visa petition filed on or after January 1, 1977, will be referred to the Department of Labor by the Service for a certification?

A. No.

33. Q. Under existing Labor Department regulations, individually-issued labor certifications are valid indefinitely except in the cases of teachers and live-in domestics. Is there any change in this regard?

A. Yes. Under the proposed amendments, all certifications will be valid indefinitely, unless invalidated subsequent to issuance because of fraud or willful misrepresentation of a material fact involving the labor certification application.

34. Q. In preference and nonpreference cases where a previously issued individual labor certification was of limited validity (teachers and live-in domestics), how will its revalidation be accomplished on and after January 1, 1977?

A. A previously issued labor certification of limited validity shall be considered to be revalidated indefinitely upon the district director establishing that there has been no significant change in the proposed employment conditions and intentions of the employer and the alien. This shall be accomplished by the use of Form I–71 to return Forms MA 7–50A, MA 7–50B, and MA 7–50C, as applicable, to the employer with appropriate instructions concerning notations as to any change(s).

35. Q. Since Pub. L. 94–571 removes the statutory bar in section 245 of the Act to adjustment of status by natives of the Western Hemisphere while in the U.S. if an immigrant visa is immediately available for that purpose, when can such application be filed with the Service?

A. On or after January 1, 1977.

36. Q. Do alien crewmen constitute the only class of aliens precluded from section 245 adjustment?

A. No. Pub. L. 94–571 adds two additional classes: Aliens who enter the U.S. in transit without visas (a group already barred by regulations), and aliens, other than "immediate relatives", who after January 1, 1977, continue in or accept unauthorized employment prior to filing a section 245 adjustment application.

37. Q. An alien has already been granted a labor certification or is granted a labor certification after December 31, 1976, but is ineligible to apply for adjustment of status because an immigrant visa is not immediately available. May the issued labor certification be equated to authorized employment for section 245 purposes?

A. No. The authority to grant or deny aliens permission to work lies with the Service. If an alien desires permission to engage in employment, he should request such permission of the Service. If permission is granted, his Form I–94 will be stamped to indicate his employment authorization.

38. Q. Will an alien who qualifies for the "investor exemption" from the labor certification requirement under 8 CFR 212.8(b)(4) be considered to have continued in or accepted unauthorized employment by reason of having acted as a principal manager in connection with his investment?

A. An alien who fully qualifies for the investor exemption will not be considered as performing employment. However, an alien who unsuccessfully seeks the investor exemption runs the risk that work performed in connection with his nonqualifying investment may be considered to be unauthorized employment.

39. Q. Section 245 of the Act, as amended by Pub. L. 94–571, requires that an immigrant visa must be immediately available to the applicant as of the date the application is filed, rather than as of the date the application is approved. When is an immigrant visa considered to be immediately available?

A. An immigrant visa is considered immediately available for accepting and processing a section 245 adjustment application if the preference or nonpreference category applicant has a priority date on the waiting list which is no later than the date shown in the current Visa Office Bulletin on Availability of Immigrant Visa Numbers, or the Bulletin reflects that numbers for applicants in his category are current.

40. Q. Under existing Service policy, voluntary departure may be granted a statutorily eligible native of an independent country of the Western Hemisphere or the Canal Zone who is admissible to the United States as an immigrant and who has been in the United States since a date prior to April 11, 1973, and who immediately prior to April 11, 1973 was and continues to be an immediate relative of a United States citizen, or the unmarried son or unmarried daughter of a United States citizen, or the spouse or unmarried son or unmarried daughter of a lawful permanent resident alien. Is there any change in this policy in the light of Pub. L. 94–571?

A. Yes, the crucial date of April 11, 1973 for a grant of extended voluntary departure is extended to January 1, 1977.

41. Q. Are applicants for adjustment of status as Cuban refugees under section 1 of the Act of November 2, 1966 chargeable to any annual numerical limitation?

A. No. Pub. L. 94–571 made statutory the administrative determination in that regard concerning any such Cuban refugee applicant physically present in the United States on or before January 1, 1977.

42. Q. Is an H–1 alien engaging in unauthorized employment if he continues to work after filing a timely application for extension of stay?

A. An H–1 alien whose authorized stay has expired, but who has filed a timely application for extension of H–1 stay with the same employer, may continue to perform previously authorized work for that employer while his application for extension is pending, and such employment will not be considered as unauthorized.

43. Q. What is considered to be "continuation of unauthorized employment" within the meaning of the provision of law that bars an alien from adjustment of status to permanent resident (Sec. 245)?

A. An alien who stops his unauthorized employment prior to January 1, 1977, and who properly files an application for adjustment of status after January 1, 1977, and resumes his unauthorized employment after filing this application will not be considered by the Service to have continued in unauthorized employment. It should be noted, however, that if this alien's adjustment application is subsequently rejected or denied, he will be barred by law from submitting a new application for adjustment. The bar to adjustment on the ground of unauthorized employment does not apply to the spouse or child of a United States citizen or the parent of an adult United States citizen.

Dated: December 23, 1976.

JAMES F. GREENE,
Acting Commissioner of Immigration and Naturalization.

[FR Doc.76–38254 Filed 12–29–76;8:45 am]

NATIONAL SCIENCE FOUNDATION

RESEARCH ADVISORY COMMITTEE, TASK GROUP NO. 15

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Task Group No. 15 of the Advisory Committee for Research.
Place: Room 405, 5225, Wisconsin Avenue North West, Washington, D.C. 20015.
Date: January 27–28, 1977.
Time: 9:00 a.m. each day.
Type of Meeting: Open.
Contact Person: Mr. Leonard F. Gardner, Executive Secretary, Advisory Committee for Research, National Science Foundation, Room 307, Washington, D.C. 20550—Telephone (202) 632–4278.
Purpose of Task Group: The purpose of the Task Group, composed of members of the Advisory Committee for Research, is to provide the full Committee with a mechanism to consider numerous issues of interest to the Committee that have been assigned by the National Science Foundation.
Summary Minutes: May be obtained from the Committee Management Coordination Staff, Div. of Personnel and Mgmt., Rm. 248, National Science Foundation, Washington, D.C. 20550.

JANUARY 27–28

To examine the various NSF programs and opportunities for undergraduate teaching faculty to participate in research or otherwise upgrade his/her potential, taking into consideration the possible improvements that could be recommended in undergraduate teaching faculty program.

M. REBECCA WINKLER,
Acting Committee Management Officer.

DECEMBER 27, 1976.

[FR Doc.76–38336 Filed 12–29–76;8:45 am]

RESEARCH ADVISORY COMMITTEE, TASK GROUP NO. 17

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Task Group No. 17 of the Advisory Committee for Research.
Place: Room 338, National Science Foundation, 1800 G Street N.W., Washington, D.C. 20550.
Date: January 27–28, 1977.
Time: 9:00 a.m. each day.
Type of Meeting: Open.
Contact Person: Mr. Leonard F. Gardner, Executive Secretary, Advisory Committee for Research, National Science Foundation, Room 307, Washington, D.C. 20550—Telephone (202) 632–4278.
Purpose of Task Group: The purpose of the Task Group, composed of members of the Advisory Committee for Research, is to provide the full Committee with a mechanism to consider numerous issues of interest to the Committee that have been assigned by the National Science Foundation.
Summary Minutes: May be obtained from the Committee Management Coordination Staff, Div. of Personnel and Mgmt., Rm. 248, National Science Foundation, Washington, D.C. 20550.

TENTATIVE AGENDA

JANUARY 27–28

To consider the potential advantages of a formula program for support of science at universities and the kinds of limitations that should be placed on the use of such funds.

M. REBECCA WINKLER,
Acting Committee Management Officer.

DECEMBER 27, 1976.

[FR Doc.76–38337 Filed 12–29–76;8:45 am]

SUBPANEL FOR MINORITY INSTITUTION GRADUATE TRAINEESHIP PROGRAM OF THE ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel for Minority Institution Graduate Traineeship Program ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS
Date and Time: January 21–22, 1977—January 21, 7:00 p.m. to 9:00 p.m.—January 22, 8:30 a.m. to 5:00 p.m.
Place: National Science Foundation, 5225 Wisconsin Avenue, N.W., Washington, D.C., Rm. 651.
Type of Meeting: Closed.
Contact Person: Dr. Douglas S. Chapin, Director, Graduate and Postdoctoral Programs, Room 478, National Science Foundation, 5225 Wisconsin Avenue, N.W., Washington, D.C. telephone (202) 282–7154.
Purpose of Panel: To provide advice and recommendations concerning support for science education.
Agenda: To review and evaluate science education proposals and projects as part of the selection process for awards.
Reason for Closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b). Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

DECEMBER 27, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.76–38338 Filed 12–29–76;8:45 am]

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DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Louisiana Grain Inspection Point

Notice is hereby given pursuant to § 26.99 of the regulations (7 CFR 26.99) under the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*) that on November 8, 1976, there was published in the FEDERAL REGISTER (41 FR 49188) a notice announcing a request by the Louisiana Department of Agriculture, Baton Rouge, Louisiana, that its assignment of inspection points be amended to revoke Opelousas, Louisiana, as a designated inspection point and to add Eunice, Louisiana, as a designated inspection point.

No comments were received with respect to the November 8, 1976, notice in the FEDERAL REGISTER. After due consideration of market needs and circumstances and other material available to the Department, the assignment of the Louisiana Department of Agriculture, Baton Rouge, Louisiana, is amended to revoke Opelousas, Louisiana, as a designated inspection point without prejudice and to add Eunice, Louisiana, as a designated inspection point.

Effective date: This notice shall become effective December 30, 1976.

Done in Washington, D.C. on: December 23, 1976.

DONALD E. WILKINSON,
Interim Administrator.

[FR Doc.76-38284 Filed 12-29-76;8:45 am]

Forest Service

FIRE MANAGEMENT IN THE SELWAY-BITTERROOT WILDERNESS—A PROPOSED POLICY CHANGE

Availability of Final Environmental Statement

DECEMBER 21, 1976.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Fire Management in the Selway-Bitterroot Wilderness—A Proposed Policy Change, Forest Service Report Number USDA–FS–FES (Adm.) R1–76–12.

The environmental statement discusses a proposal to allow some lightning-caused fires in the Selway-Bitterroot Wilderness to go unsuppressed so that fire, a recognized environmental force, may more nearly play a natural role in shaping, maintaining, and directing ecosystem development in that Wilderness. The statement explores the ways in which the proposal can be implemented to be compatible with the wilderness concept, responsible to human safety, private property, and resources outside the Wilderness. The proposal involves the 1,239,840 acre Selway-Bitterroot Wilderness located in Ravalli and Missoula Counties, Montana, and Idaho County, Idaho. Selway-Bitterroot Wilderness lands are administered by the Bitterroot, Clearwater, Nezperce and Lolo National Forests.

This final environmental statement was filed with CEQ on December 21, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., Room 3230, 12th Street and Independence Avenue SW., Washington, D.C. 20250.
USDA Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA Forest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.
USDA Forest Service, Clearwater National Forest, Route 4, Ahsahka Road, Orofino, Idaho 83544.
USDA Forest Service, Nezperce National Forest, 319 East Main, Grangeville, Idaho 83530.
USDA Forest Service, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59801.

A limited number of single copies are available upon request to the above National Forest offices and:

Stevensville District Ranger, Stevensville, MT 59870.
Darby District Ranger, Darby, MT 59829.
Sula District Ranger, Sula, MT 59871.
West Fork District Ranger, Darby, MT 59829.
Lochsa District Ranger, Kooskia, ID 83539.
Powell District Ranger, Powell Ranger Station, Lolo, MT 59847.
Missoula District Ranger, 2801 Russell, Missoula, MT 59801.
Moose Creek District Ranger, Grangeville, ID 83530.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

KEITH M. THOMPSON,
Acting Regional Forester, Northern Region, Forest Service.

[FR Doc.76-38308 Filed 12-29-76;8:45 am]

Forest Service

MEDICINE BOW NATIONAL FOREST GRAZING ADVISORY BOARD

Cancellation of Meeting

The annual meeting of the Medicine Bow National Forest Grazing Advisory Board will not be held as previously scheduled for January 11, 1977. The Charter for this Advisory Board will expire effective January 5, 1977.

Dated: December 23, 1976.

LADD G. FRARY,
Acting Forest Supervisor.

[FR Doc.76-38352 Filed 12-29-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 29740]

BELIZE AIRWAYS LTD.

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on January 25, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 23, 1976.

ARTHUR S. PRESENT,
Administrative Law Judge.

[FR Doc.76-38357 Filed 12-29-76;8:45 am]

[Docket No. 22493 et al.]

HUGHES AIRWEST

Oral Argument Regarding Los Angeles-Boise/Spokane Service

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on January 5, 1977, at 2:00 p.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

The Board, by Order 76–12–137, dated December 23, 1976, (a) granted discretionary review of the Initial Decision, (b) dispensed with the filing of briefs to the Board, and (c) limited the issue to be presented at oral argument to the question of carrier selection for the Los Angeles Boise market. Accordingly, Hughes Airwest and United Air Lines, Inc., will each be granted 15 minutes in that order to present oral argument to the Board on this limited issue.

Dated at Washington, D.C., December 23, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76-38360 Filed 12-29-76;8:45 am]

[Docket No. 29323]

INTERNATIONAL AIR SERVICE CO., LTD.

Prehearing Conference Regarding Acquisition of Control of Aloha Airlines, Inc.

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on February 28, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Stephen J. Gross.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before January 25, 1977, and the other parties on or before February 15, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., December 23, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76-38358 Filed 12-29-76;8:45 am]

[Dockets Nos. 24778 and 28308]

SOUTHERN AIRWAYS, INC. AND PIEDMONT AVIATION, INC.

Greenville/Spartanburg-Washington, D.C., New York/Newark Service; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on February 8, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

Dated at Washington, D.C., December 23, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76-38350 Filed 12-29-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

PURDUE UNIVERSITY ET AL

Applications Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before January 18, 1977.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00052. Applicant: Purdue University, ADMS Building, West Lafayette, Ind. 47907. Article: Ion Production and Delivery System, Model 30kv. Manufacturer: Danfysik A/S, Denmark. Intended use of article: The article is intended to be used in the preparation of surfaces, for use as potential catalytic analogues by deposition of ionic species on or very near the surface (e.g., 1–3 atomic layers) of catalyst support materials (e.g., silica or aluminum). The experiments will involve the production of ion beams of platinum, palladium, iridium and similar materials from Group VIII elements in the Periodic Table. Other experiments will deal with ion/surface interactions. Specifically, the experiments will deal with (a) changes in oxidation state caused by ion interactions with surface species; (b) compositional changes caused by differential sputtering; and (c) interactions between ions and the lattice materials. Application received by Commissioner of Customs: December 1, 1976.

Docket Number: 77–00053. Applicant: Vanderbilt University, Department of Molecular Biology, P.O. Box 1820, Station B. Nashville, Tennessee 37235. Article: Rapid Pressure Filtration Apparatus with automatic electronic timing device; mechanical component and electrical component. Manufacturer: Werkstatt fur Feinmechanik und Elektronik, West Germany. Intended use of article: The article is intended to be used for rapid filtration (time in seconds) so that kinetic studies can be carried out for enzyme reactions and for biological transport studies. The objectives of the experiments are to define the mechanism of active transport in natural biological membranes and to learn how to make membranes in the test tube with similar and new properties. The article will also be used to teach students to carry out research in molecular biology in the courses, Molecular Biology 390 (Special Topics and Advanced Techniques) and 399 (Ph.D. Dissertation Research). Application received by Commissioner of Customs: December 1, 1976.

Docket Number: 77–00054. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., P.O. Box 1000 Bullock Blvd., Socorro, New Mexico 87801. Article: (1000 pieces) Circular Waveguide, Model TE_{11} and (1025 each) Coupling sleeves. Manufacturer: Furukawa Electro Co. Ltd., Japan. Intended use of article: The article is intended to be used as part of the very Large Array radio telescope to transmit radio wavelength radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin, and evolution of the universe. Application received by Commissioner of Customs: December 1, 1976.

Docket Number: 77–00055. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60439. Article: Oxygen Meter Probe. Manufacturer: Interatom, West Germany. Intended use of article: The article is intended to be used to measure the concentration of oxygen in liquid sodium, as a means of detecting a leak of water into Na in a fast breeder reactor steam generator. Experiments will be conducted to develop an accurate reliable method for detecting water leaks into sodium, for use in the CRBR and future IMFBR sodium-heated steam generators. Application received by Commissioner of Customs: December 1, 1976.

Docket Number: 77–00056. Applicant: University of Pennsylvania, Department of Physics, DRL/E1—209 S. 33rd St., Philadelphia, Pennsylvania 19174. Article: Mass Spectograph, Micromass Model 622. Manufacturer: V. G. Micromass, United Kingdom. Intended use of article: The article is intended to be used for measuring the ^{13}C–^{13}C stable isotopic ratios of carbon in the form of CO_2. ^{13}C–^{13}C ratios will be measured as a check on fractionation of natural ^{14}C in plants and other carbon compounds as well as possible laboratory fractionation in the course of processing the samples. The article will also be used for educational purposes in the following courses:

(a) Anthropology 502.
(b) Anthropology 515.
(c) Anthropology 600.
(d) Geology 407.
(e) Geology 501.
(f) Metallurgy 585.
(g) Geology 511/Regional Planning.
(h) Geology 528/Regional Planning.
(i) Chemistry 223/224.
(j) Chemistry 999.
(k) Classical Archeology 405.

Application received by Commissioner of Customs: December 1, 1976.

Docket Number: 77–00057. Applicant: University of Utah, College of Pharmacy, Salt Lake City, Utah 84112. Article: Mass Spectrometer, Model MAT 713 and accessories. Manufacturer: Varian MAT, West Germany. Intended use of article: The article is intended to be used in research dealing with the structure elucidation of nucleotides and nucleosides of natural origin, development of mass spectrometric techniques for analysis of nucleotides and studies of the applications of field desorption mass spectrometry to involatile molecules of natural origin. The principal method used will be photographic recording of complete high resolution mass spectra from microgram-level samples which have been introduced into the mass spectrometer by gas chromatograph or by thermal or field desorption methods. Of particular interest are naturally modified nucleofrom transfer rebonucleic acid which are of high molecular weight (>500). Application received by Commissioner of Customs: December 1, 1976.

Docket Number: 77–00058. Applicant: North Carolina State University, Department of Geosciences, P.O. Box 5966, Raleigh, North Carolina 27607. Article: Lightweight, portable, rock coring drill, Model GSC with standard equipment included. Manufacturer: Diamond Products Ltd., Canada. Intended use of article: The article is intended to be used for educational purposes in the following ways: (a) obtaining fresh rock samples for thin sectioning to be used in course laboratories, and (b) obtaining fresh

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rock samples to be used by graduate students in thesis preparation. Application Received by Commissioner of Customs: December 1, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-38309 Filed 12-29-76;8:45 am]

Maritime Administration

[Docket No. S-530]

AMERICAN EAGLE TANKER CORP.

Application

Notice is hereby given that American Eagle Tanker Corp. (American Eagle), has applied for written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, in connection with its application for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire unless extended, on or before December 31, 1977, or upon completion of a voyage(s) then in progress. Previous written permission under section 805(a) was granted to American Eagle in connection with this application by the Assistant Secretary for Maritime Affairs/Maritime Subsidy Board on December 15, 1976, for the American Hawk to be operated in U.S. domestic trade by its owner, American Foreign Steamship Corporation, parent company of the applicant.

American Eagle now requests written permission pursuant to section 805(a) for the possible operation from time to time of its owned tanker, American Eagle, by itself or by a charterer, in domestic intercoastal or coastwise service. Such written permission is required notwithstanding the fact that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel engages in the domestic commerce of the United States on that voyage.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on January 10, 1977 file same with the Secretary, Maritime Administration/Maritime Subsidy Board, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: December 27, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-38353 Filed 12-29-76;8:45 am]

[Docket No. S-482—Sub. 1]

PACIFIC FAR EAST LINE, INC.

Amended Application

Notice is hereby given that Pacific Far East Line, Inc., (PFEL) has filed an amendment dated November 18, 1976, as supplemented by an amended application, Form MA-632, dated December 7, 1976, and as further amended by a letter dated December 15, 1976, to its application of December 18, 1975, for a new 20-year operating-differential subsidy contract to cover the operation of its vessels on Trade Routes Nos. 27 and 29, as extended. Notice of the original application was published in the FEDERAL REGISTER on February 2, 1976 (41 FR 4843), titled Docket No. S-482.

The amendment of November 18, 1976, proposes to change the service description relevant to the services to be performed by PFEL on Trade Route 29 (U.S.-Transpacific Freight Service, as extended). As originally published, the service description reads as follows:

Trade Route No. 29 (U.S.-Transpacific Freight Service, as etxended) Freight service with four owned LASH vessels with a maximum of 36 sailings annually between ports in California, Oregon, Washington, Alaska, British Columbia and ports[1] in the following areas: Japan, Hong Kong, Philippine Islands, Vietnam, Cambodia, Thailand, China (including Manchuria), Taiwan, Korea, Okinawa, the Marshall and Midway Islands, U.S.S.R. in Asia, Indonesia, Singapore, Malaysia, Burma, Bangladesh, India, Sri-Lanka, Pakistan, and ports in the Persian Gulf—Gulf of Oman. The operator may also make calls at Ensenada, Mexico for the purpose of carrying cargo between said port and foreign ports on the service.

PFEL now proposes to convert its four existing LASH vessels into full containerships of approximately 1904 Twenty-foot Equivalent Units capacity each. Conversion is to begin in the spring of 1977. PFEL plans to change the mode of its operations as follows:

[1] Including island ports adjacent thereto.

Phase I—PFEL will modify its LASH vessels to full container vessels commencing in the spring of 1977. After conversion, the vessels will be used in subsidized service in keeping with its present contract serving trade between California and the Far Eastern area of Trade Route No. 29, Indonesia/Malaysia and Ports in the Persian Gulf/Gulf of Oman area. Cargo moving beyond the Hong Kong area—*i.e.*, cargo for Indonesia/Malaysia/Persian Gulf/Gulf of Oman—will be relayed from the main-line vessels, to feeder vessels, in Hong Kong or Taiwan. This U.S.-flag feeder service will be maintained by three existing vessels which will be acquired by PFEL for this purpose. The Philippines may also be served by these feeder vessels.

Phase II—Upon award of a renewal 20-year Operating-Differential Subsidy Agreement, PFEL will contract to construct a fifth vessel, with cargo carrying capabilities comparable to the converted LASH vessels, to operate on the main-line service in conjunction with the four converted LASH vessels. Upon the entry into service of the fifth main-line vessel, PFEL will extend its main-line service beyond Hong Kong to include the Singapore area. Relay operations will be transferred to that area and, thereafter, PFEL will utilize the feeder vessels to serve ports in Indonesia/Malaysia, ports in Burma, Bangladesh, India, Sri-Lanka, Pakistan and ports in the Persian Gulf/Gulf of Oman/Gulf of Aden area. Service to the Gulf of Aden is in addition to the services requested in PFEL's original application.

Phase III—Since the feeder vessels acquired in Phase I represent, for all practical purposes, an extension of its main-line service—during the life of the renewed 20-year Operating-Differential Subsidy Agreement, PFEL will arrange to replace those vessels with new U.S.-flag vessels built and operated under the subsidy program.

As indicated under Phase I, the converted LASH vessels and the feeder vessels will be used in PFEL's subsidized service, in keeping with its current contract to provide service from California ports to the regular portion of TR 29 and from California and Pacific Northwest ports to ports on the current extended portion of TR 29 (Indonesia, Malaysia and the Persian Gulf/Gulf of Oman). PFEL is not now permitted to serve Singapore via Indonesia or Malaysian ports. PFEL intends to maintain this service under its new long-term ODSA until delivery of the proposed fifth container vessel. Thereafter, PFEL will extend its service to include Singapore and ports, including island ports adjacent thereto, in India, Sri-Lanka, Burma, Pakistan, Bangladesh and the Gulf of Aden.

Interested parties may inspect this amendment in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th & E Streets NW., Washington, D.C. 20230.

Any person, firm or corporation having an interest in such amendment and who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, by the close of business on January 10, 1977. The Maritime Subsidy Board will consider such views and comments, and will take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS).)

By Order of the Maritime Subsidy Board.

Dated: December 23, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-38355 Filed 12-29-76;8:45 am]

[Docket No. S-531]

SUN TRANSPORT, INC.

Application

Notice is hereby given that application has been filed under the Merchant Marine Act, 1936, as amended (the Act), for operating-differential subsidy to engage in bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on or before December 31, 1977, unless extended, or upon completion of a voyage(s) then in progress.

Inasmuch as the applicant, and/or related persons or firms, employ or may employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Act will be required if Sun Transport, Inc.'s application for operating-differential subsidy is to be granted.

The following vessels are operated by Sun Transport, Inc. and may engage in the domestic intercoastal and coastwise trades of the United States, excepting trade between United States Pacific Coast ports and ports of the State of Hawaii:

America Sun, Pennsylvania Sun, Texas Sun, New England Sun, Hartford Sun, Albany Sun, Chesapeake Sun, Newark Sun, Eastern Sun, Western Sun, New Jersey Sun, Delaware Sun, Toledo Sun, Corpus Christi Sun, Seminole Sun, Providence Sun, Revere Sun.

The following vessels are owned or operated by a related party of Sun Transport Inc. and may engage in the domestic intercoastal and coastwise trades of the United States, excepting trade between United States Pacific Coast ports and ports in the State of Hawaii:

Vessel:	*Owner and/or charterer*
Joseph D. Potts	Kee Leasing Co.
Ponce de Leon	Sun Leasing Co.
Great Land	Totem Ocean Trailer Express, Inc.
Eric Holzer	650 Leasing Co.
Sohio Intrepid	652 Leasing Co.
Sohio Resolute	653 Leasing Co.
Notre Dame Victory	660 Leasing Co.
Fortaleza	663 Leasing Co.
El Taino	666 Leasing Co.
Puerto Rico	670 Leasing Co.
Caribe Sun	Puerto Rico Sun.
Island Sun	Puerto Rico Sun.
Puerto Rico Sun	Puerto Rico Sun.
Prince William Sound	Sound Shipping, Inc.

In addition, Sun Shipbuilding & Dry Dock Company holds a 100 percent stock interest in GTS Venture Corporation which is a 50 percent participant with Export Venture Corporation in Sunexport Company, a joint venture which is bareboat charterer of the vessel, Admiral William M. Callabhan, subchartered to the Military Sealift Command. Sun Shipbuilding & Dry Dock Company also holds a 95 percent stock interest in TTT, Inc., which bareboat charters-in the vessel EL TAINO and bareboat subcharters the vessel Fortaleza, and a small minority stock interest in Ecological Shipping Corporation, which bareboat subcharters the vessel, Notre Dame Victory.

Such written permission is now required under section 805(a) notwithstanding the fact that a voyage in the proposed service on which the vessel engaged in domestic intercoastal or coastwise trade would not be eligible for subsidy.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on January 10, 1977 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating Differential Subsidies (ODS)).

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: December 27, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-38354 Filed 12-29-76;8:45 am]

National Bureau of Standards

I/O CHANNEL INTERFACE

Proposed Federal Information Processing Standard

Under the provisions of Pub. L. 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal Automatic Data Processing (ADP) Standards. The proposed standard for I/O Channel Interface is being recommended for Federal use. The technical specifications contained in this proposed standard were developed under the auspices of the American National Standards Institute, Technical Subcommittee X3T9, and have been published in ANSI document number X3T9/600, Rev. 2, "Draft Proposed American National Standard Specifications for I/O Channel Interface."

Prior to the submission of this proposal to the Secretary of Commerce for approval, it is essential to assure that proper consideration is given to the needs and views of the public, state and local governments, and manufacturers. The purpose of this notice is to solicit such views.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability and implementation of the standard and (2) a specification section which defines the technical parameters of the standard. Only the announcement section is provided in this notice.

Interested parties may obtain copies of the specification section from and submit their comments to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Comments to be considered must be submitted on or before March 31, 1977.

Dated: December 23, 1976.

ERNEST AMBLER,
Acting Director.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION

(Date)

ANNOUNCING THE STANDARD FOR I/O CHANNEL INTERFACE

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. I/O Channel Interface (FIPS PUB ——).

Category of Standard. Hardware Standard, Interface.

Explanation. This standard is one of a family that defines the functional, electrical, and mechanical interface specifications for attaching computer peripheral devices through their control units to the input/output channel of an ADP system. This standard does not include definitions of other interface parameters (such as the power control and operation specifications) that may be needed to achieve full plug-to-plug interchangeability at the I/O channel interface level; these other specifications as well as standards for other interfaces are presently being developed and will be considered for future adoption as Federal Information Processing Standards.

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This series of standards is intended to ensure the economic procurement and effective utilization of Federal ADP systems by enabling these systems to be configured with components:

(1) Procured from independent competitive sources.

(2) Drawn from the Federal inventory.

In the acquisition of ADP systems and components, Federal agencies shall reference this standard for specifying the I/O channel-to-peripheral controller interface.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standards Institute document X3T9/600, Rev. 2, Draft Proposed American National Standard Specifications for I/O Channel Interface.

Applicability. This standard is applicable to the acquisition of all Automatic Data Processing Systems by the Federal Government except those systems that are commonly referred to as minicomputer and microcomputer systems.

Specifically, this standard is applicable to:

New Systems. Whenever a new ADP system is being configured for acquisition by the Federal Government.

Replacement of Existing Systems. Whenever computer systems (CPU's and related peripheral components) are being replaced in an existing installation.

Augmentation of Existing Systems. Whenever an existing installation is being augmented either through add-on equipment or replacement of components for technological advantages, and the equipment originally installed meets the provisions of this standard.

Specifications. This standard incorporates by reference the technical specifications of ANSI document X3T9/600, Rev. 2, affixed.

Implementation. The provisions of this standard are effective January 1, 1978. All applicable equipment ordered on or after this date must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Exceptions. Exceptions to the provisions of this FIPS PUB are made in the following cases:

a. For equipment installed or on order prior to the effective date of this standard.

b. Where procurement actions are in solicitations phase (i.e., Requests for Proposals or Invitations for Bids have been issued) and the alteration of the procurement would be detrimental to the acquisition process.

Waivers. Heads of agencies are permitted to waive the requirements stated in this publication provided a comparative analysis shows that the advantages inherent in the use of Federal Standard I/O Channel Interface are clearly offset by an even greater advantage obtainable through the use of an alternative standard or equipment specification. Consideration of an alternative should be made consistent with the Government's overall objectives for the economic acquisition and efficient utilization of ADP systems employed by the Federal Government.

Proposed waivers to the Federal Standard I/O Channel Interface shall be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. They should describe the nature of the waiver and set forth the reasons therefor. The supporting documentation should include:

a. Relevant documentation considered by the head of the agency in authorizing the waiver.

b. Detailed technical specifications of the components for which the deviation is sought.

c. Possible recommendations for action by NBS concerning the improvement or future development of Computer Peripheral Interface standards, relative to the waiver, should be included.

Sixty days should be allowed for review and response by the National Bureau of Standards. However, the final decision for granting the waiver is the responsibility of the agency head.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication——(NBSFIPSPUB——), title, and Accession Number. When microfiche is desired, this should be specified. Payment may be made by check, money order, or deposit account.

[FR Doc.76-38258 Filed 12-29-76;8:45 am]

National Oceanic and Atmospheric Administration

MID-ATLANTIC REGIONAL FISHERY MANAGEMENT COUNCIL

Meeting Date Changed

Notice is hereby given of a change in the meeting January 12 and 13, 1977, 10 a.m. to 5 p.m., and 9 a.m. to 3 p.m., respectively, at the Sheraton Beach Inn, 36th Street, Virginia Beach, Virginia, of the Mid-Atlantic Regional Fishery Management Council which was published in the FEDERAL REGISTER, December 17, 1976, Volume 41, No. 244.

The meeting is now scheduled for January 13 and 14, 1977, 10 a.m. to 5 p.m., and 9 a.m. to 3 p.m., respectively, at the Sheraton Beach Inn., 36th Street, Virginia Beach, Virginia.

Dated: December 22, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-38251 Filed 12-29-76;8:45 am]

PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting Date Change

Notice is hereby given that the announcement pertaining to the Pacific Fishery Management Council's Scientific and Statistical Committee meeting published in the FEDERAL REGISTER December 23, 1976, Volume 41, Number 248, is amended. The Committee meeting originally scheduled to be held January 12 and 13, 1977, in the Bahia Motor Hotel, 998 West Mission Bay, San Diego, California from 8:00 a.m. until 5:00 p.m., each day, will now be held January 11 and 12, 1977, at the same location and times. The Pacific Fishery Management Council, Salmon Advisory Panel, and Anchovy Advisory Panel meetings also mentioned in the previously cited notice remain unchanged.

Dated: December 23, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-38252 Filed 12-29-76;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the South Atlantic Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The South Atlantic Council will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This is the fifth organizational meeting of the Council. The meeting will be held Tuesday, Wednesday and Thursday, January 25, 26 and 27, 1977, in the Polk Room at the Howard Johnson's Motor Lodge, Motor Inn Plaza, Lake Buena Vista, Florida. The meeting will convene at 9:00 a.m. and adjourn at approximately 5:00 p.m. each day, except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda:

1. Council Organization and Administration Procedures.
2. Technical Procedures Including Fishery Management Plan Development.

This meeting is open to the public and there will be seating for a limited number of public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact, on or about January 18, 1977:

Mr. Robert Cummins, Special Assistant to the Regional Director, South Atlantic Fishery Management Council, National Marine Fisheries Service, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Robert Cummins at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: December 27, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-38253 Filed 12-29-76;8:45 am]

AUDUBON PARK AND ZOOLOGICAL GARDENS

Issuance of Permit to Take Marine Mammals

On October 18, 1976, notice was published in the FEDERAL REGISTER (41 FR 45893), that an application had been filed with the National Marine Fisheries Service by Audubon Park and Zoological Gardens, PO Box 4327, New Orleans, Louisiana 20118, for a Permit to take six (6) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on December 23, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking to Audubon Park subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702; and

Regional Director, Natioanl Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 23, 1976.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.76-38351 Filed 12-29-76;8:45 am]

SEA WORLD, INC.

Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit issued to Sea World, Incorporated, 1720 South Shores Road, San Diego, California 92109, on May 7, 1974, as modified on August 23, 1974 (31 FR 30522), March 3, 1975, (40 FR 8846), October 2, 1975, (40 FR 45458), and September 3, 1976 (41 FR 37385), is further modified by means of Modification No. 5, in the following manner:

The period of validity, during which the authorized marine mammals may be taken, is extended from December 31, 1976, to December 31, 1979.

This modification is effective on December 30, 1976.

The Permit, as modified and documentation pertaining to the modification, are available for review in the following offices:

Director, National Marine Fisheries Service, Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Northwest Region, Lake Union Building, 1700 Westlake Avenue North, Seattle, Washington 98109; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

DECEMBER 23, 1976.

[FR Doc.76-38350 Filed 12-29-76;8:45 am]

FOREIGN VESSELS FISHING IN U.S. WATERS

Amendment to Draft Fee Schedule

On December 23, 1976, a notice was published in the FEDERAL REGISTER (41 FR 55925) describing a proposed fee schedule for fishing by foreign vessels in waters under the jurisdiction of the United States of America, pursuant to section 204(b)(10) of the Fishery Conservation and Management Act of 1976.

The following table was inadvertently left out of the section on page 55926, "Bases of Fees", that provides the exvessel prices (U.S. or foreign) for surplus species allocated to foreign nations. The table is essential to determine that part of the fee which relates to the surpluses available for allocation to foreign nations.

Prices in the table are calculated as average annual prices from commercial landings in the Unitel States and in foreign countries, in 1975. In general, U.S. exvessel prices are used wherever applicable. For species that were not fished by U.S. fishermen, or species with a different utilization (food fish versus fish for conversion to animal feed), foreign exvessel prices are applied. The 1975 prices are adjusted by using a factor of 1.315 to account for trends in 1976.

ESTIMATED AVERAGE EXVESSEL VALUE OF SURPLUS SPECIES

Species	*Average exvessel value (dollars per metric ton)*
Armorheads, pelagic	[1] 600
Cod, Pacific	330
Crab, tanner	580
Flounders, Pacific (except halibut)	418
Hake, Pacific	[1] 348
Hake, red	204
Hake, silver	[1] 329
Herring, Atlantic	[1] 352
Herring, Pacific	[1] 292
Mackerel, atka	[1] 172
Mackerel, Atlantic	335
Other Finfish, Atlantic	433
Other Groundfish, Pacific	421
Pollock, Alaska	[1] 158
Rockfish, Pacific	460
Sablefish	499
Snails (meats)	[1] 1,000
Squids	544

[1] Foreign price.

Dated: December 28, 1976.

JACK GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-38435 Filed 12-29-76;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

HAITI

Establishing Import Levels for Certain Cotton and Man-Made Fiber Textile Products Effective January 1, 1977

DECEMBER 27, 1976.

On March 23, 1976, in furtherance of the objectives of, and under the terms of, the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, the Governments of the United States and Haiti concluded a comprehensive bilateral textile agreement concerning exports of cotton, wool and man-made fiber textile products from Haiti to the United States over a period of three years beginning on January 1, 1976 and extending through December 31, 1978. The agreement was amended on September 14, 1976 to increase the level of restraint for man-made fiber textile products in Category 238 by 1,000,000 square yards equivalent and reduce the consultation limit for Category 237 by the same amount.

Among the provisions of the agreement, as amended, are those establishing specific levels of restraint for cotton textile products in Categories 39, 45/46/47, and 63 and man-made fiber textile products in Categories 219, 222, 224, 225, 228, 229, 233, 238, and 239 for the twelve-month period beginning on January 1, 1977. The agreement also establishes consultation levels for cotton textile products in Categories 51, 53, 54, and 55 and man-made fiber textile products in Categories 214, 215, 216, 217, 223, 230, 235, and 237 for the twelve-month period beginning on January 1, 1977 and extending through December 31, 1977.

Accordingly, there is published below a letter of December 27, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textile products in Categories 39, 45/46/47, 51, 53, 54, 55, and 63 and man-made fiber textile products in Categories 214, 215, 216, 217, 219, 222, 223, 224, 225, 228, 229, 230, 231, 233, 235, 237, 238, and 239, produced or manufactured in Haiti, which may be entered or withdrawn from warehouse for consumption in the United States during the twelve-month period begin-

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ning on January 1, 1977, be limited to the designated levels. The level of restraint for Category 238 has been reduced by 18,876 dozen to account for carryforward used during the agreement year which began on January 1, 1976.

The letter published below and the actions taken pursuant thereto are not designated to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DECEMBER 27, 1976.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 23, 1976, as amended, between the Governments of the United States and Haiti, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1977, and for the twelve-month extending through December 31, 1977, entry into the United States for consumption of cotton textile products in Categories 39, 45/46/47, 51, 53, 54, 55, and 63 and man-made fiber textile products in Categories 214, 215, 216, 217, 219, 222, 223, 224, 225, 228, 229, 230, 231, 233, 235, 237, 238, and 239 produced or manufactured in Haiti in excess of the following levels of restraint:

Category	*Twelve-Month Level of Restraint*	
39	303,374	dozen pairs
45/46/47	2,140,000	square yards equivalent
51	56,189	dozen
53	22,075	dozen
54	40,000	dozen
55	13,725	dozen
63	465,217	pounds
214	566,572	dozen pairs
215	152,174	dozen pairs
216	44,150	dozen
217	38,491	dozen
219	276,825	dozen
222	222,416	dozen
223	125,000	dozen
224	631,026	pounds
225	720,842	dozen
228	272,471	dozen
229	106,352	dozen
230	55,188	dozen
231	13,725	dozen
233	205,962	dozen
235	81,766	dozen
237	22,222	numbers
238	317,753	dozen
239	247,437	dozen

In carrying out this directive, entries of cotton and man-made fiber textile products in all of the foregoing categories except Categories 55 and 231, produced or manufactured in Haiti, which have been exported to the United States prior to January 1, 1977, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1976. In the event the levels of restraint established for these goods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Entries of cotton textile products in Category 55 and man-made fiber textile products in Category 231 which have been exported to the United States from Haiti prior to January 1, 1977, shall not be subject to this directive.

Cotton textile products in Category 55 and man-made fiber textile products in Category 231 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) before the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of March 23, 1976, as amended, between the Governments of the United States and Haiti which provide, in part, that: (1) the aggregate, group and specific limits will be increased 7 percent annually; (2) specific ceilings may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 30, 1975 (40 FR 60220).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Haiti and with respect to imports of cotton and man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.

[FR Doc.76-38311 Filed 12-29-76;8:45 am]

MALAYSIA

Establishing Import Control Levels for Certain Cotton and Man-Made Fiber Textile Products effective January 1, 1977

DECEMBER 27, 1976.

On January 8 and May 16, 1975, in furtherance of the objectives of, and under the terms of, the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, the Governments of the United States and Malaysia concluded a comprehensive bilateral agreement concerning exports of cotton, wool, and man-made fiber textile products from Malaysia to the United States over a period of three years beginning on January 1, 1975. Among the provisions of the agreement are those establishing specific levels of restraint for Categories 9/10, 18/19, 22/23, 26, 39, 45/46/47, 49, 50/51, 60, 229, and 234/235 for the agreement year beginning on January 1, 1977.

Accordingly, there is published below a letter of December 27, 1976, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that for the twelve-month period beginning on January 1, 1977 and extending through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Categories 9/10, 18/19, 22/23, 26, 39, 45/46/47, 49, 50/51, 60, 229, and 234/235 be limited to the designated levels.

This letter and the actions taken pursuant thereto are not designed to implement all of the provisions of the bilateral agreement but are designed to assist only in the implementation of certain of its provisions.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DECEMBER 27, 1976.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 8 and May 16, 1975, between the Governments of the United States and Malaysia, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1977 and extending through December 31, 1977, entry into the United States for consumption of textile products in Categories 9/10, 18/19, 22/23, 26, 39, 45/46/47, 49, 50/51, 60, 229 and 234/235 in excess of the following levels of restraint:

Category	*Twelve-Month Level of Restraint*	
9/10	1,602,860	square yards
18/19	2,633,270	square yards
22/23	2,747,760	square yards
26	6,296,950	square yards
39	457,960	dozen pairs
45/46/47	4,808,580	square yards equivalent
49	28,182	dozen
50/51	70,984	dozen (of which not more than 44,365 dozen may be in either Category 50 or in Category 51)
60	45,803	dozen
229	28,161	dozen
234/235	2,976,740	square yards equivalent

In carrying out this directive, entries of cotton and man-made fiber textile products in the foregoing categories, produced or manufactured in Malaysia and exported to the United States during the twelve-month period beginning on January 1, 1976 and extending through December 31, 1976, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that period. In the event those levels have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to future adjustment pursuant to the provisions of the bilateral agreement of January 8 and May 16, 1975 between the Governments of the United States and Malaysia which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Appropriate adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 30, 1975 (40 FR 60220).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Malaysia and with respect to imports of cotton, wool, and man-made fiber textile products from Malaysia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.76-38310 Filed 12-29-76;8:45 am]

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED

Correlation of Textile and Apparel Categories

DECEMBER 27, 1976.

There is published below a list of the Tariff Schedules of the United States Annotated numbers citing changes in the arrangement of the cotton, wool, and man-made fiber textile product categories used by the United States in administering the textile trade agreements program. A full description of the textile products falling within each of the cotton, wool and man-made fiber textile product categories may be obtained by using the Tariff Schedules of the United States Annotated which also provides category placement for the item numbers covered by the program. The list of Tariff Schedules of the United States Annotated numbers published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 30, 1975 (40 FR 60220), is hereby amended effective January 1, 1977.

Copies of the complete Correlation as amended are available upon request to the Office of Textiles, BRTA/DIBA, Room 2815, U.S. Department of Commerce, Washington, D.C. 20230.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

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List of the Tariff Schedules of the United States annotated numbers specifying changes in the arrangement of textile categories used by the United States in administering the textile trade agreements program

Category	Old TSUSA	New TSUSA	Description
39			Gloves and mittens:
	704.4510		Without fourchettes or sidewalls:
	704.4525		Of cotton:
		704.4502	Terry cloth type, looped pile fabric.
		704.4504	Jersey type, brushed or napped fabric.
		704.4506	Lisle type, no pile, not brushed or napped.
		704.4508	Other.
		704.4522	With fourchettes or sidewalls:
		704.4524	Jersey type, brushed or napped fabric.
		704.4526	Lisle type, no pile, not brushed or napped.
			Other.
40	376.5400 (pt)	376.5410	Coats, other, not knit:
			Coats and jackets designed for hunting and fishing.
62	382.0034		Wearing apparel, knit, n.e.s.:
		382.0036	Other wearing apparel:
		382.0038	Infants' sets up to and including 24 mo.
	382.0695		Other.
		382.0696	Other wearing apparel:
		382.0698	Infants' sets up to and including 24 mo.
	702.0520	702.0600	Other.
			Headwear, of cotton, knit.
64	727.8020	727.8210	Other textile articles n.s.p.p.
	727.8040	727.8220	Pillows and cushions.
200			Other.
			Textured yarns:
	310.0108		Singles not over $1/lb:
		310.0109	Polyamide.
	310.0112	310.0113	Nylon.
			Other.
	310.0208		Singles, over $1/lb:
		310.0209	Polyamide.
	310.0212	310.0213	Nylon.
			Other.
	310.1108		Plied over $1/lb:
		310.1109	Polyamide.
	310.1112	310.1113	Nylon.
202			Other.
			Yarns, wholly of continuous filament, other:
	310.0148		Not over $1/lb:
		310.0149	Polyamide.
	310.0152	310.0153	Nylon.
			Other.
	310.0248		Over $1/lb:
		310.0249	Polyamide.
	310.0252	310.0253	Nylon.
206	338.3089	338.3040	Other.
208			Woven fabrics, cellulosic, wholly continuous:
	338.3024		Necktie fabric.
		338.3027	Woven fabrics, other, wholly continuous:
	338.3025	338.3028	Not bleached and not colored:
	338.3026	338.3030	Polyamide.
	338.3029	338.3031	Nylon.
			Polyester.
	338.3035		Acrylic.
		338.3037	Other.
	338.3036	338.3038	Necktie fabric:
			Polyamide.
	338.3053		Nylon.
		338.3056	Polyester.
	338.3054	338.3057	Other:
	338.3055	338.3058	Polyamide.
	338.3059	338.3060	Nylon.
211			Polyester.
			Acrylic.
	345.5026		Other.
		345.5027	Knit fabrics:
	345.5029	345.5030	Wholly continuous:
			Not bleached and not colored:
	345.5046		Polyamide.
		345.5047	Nylon.
	345.5049	345.5050	Other.
			Other:
	345.5066		Not bleached and not colored:
		345.5067	Polyamide.
	345.5069	345.5070	Nylon.
			Other.
	345.5086		Polyamide.
		345.5087	Nylon.
	345.5089	345.5090	Other.
214			Gloves and mittens:
	704.3535	704.3220	Made from preexisting fabric.
	704.3545	704.3240	Other.

List of the Tariff Schedules of the United States annotated numbers specifying changes in the arrangement of textile categories used by the United States in administering the textile trade agreements program

Category	Old TSUSA	New TSUSA	Description
240			Other wearing apparel:
	376.5600 (pt)	376.5620	Other garments designed for hunting and fishing:
			Men's and boys':
			Ornamented:
	380.0474 (pt)	380.0465	Swim trunks and other swimwear.
	380.0472	No change	Judo, Karate, Kung Fu, and other martial art uniforms.
	380.0474 (pt)	380.0475	Other.
			Not ornamented:
	380.8485 (pt)	380.8453	Swim trunks and other swimwear.
	380.8460	No change	Judo, Karate, Kung Fu, and other martial art uniforms
	380.8485 (pt)	380.8486	Other.
			Women's, girls' and infants':
			Ornamented:
	382.0486 (pt)	382.0479	Swimming suits and other swimwear.
	382.0484	No change	Judo, Karate, Kung Fu, and other martial art uniforms.
	382.0486 (pt)	382.0487	Infants' sets up to and including 24 mo.
	382.0486 (pt)	382.0488	Other.
			Not ornamented:
	382.8152 (pt)	382.8135	Swimming suits and other swimwear.
	382.8148	No change	Judo, Karate, Kung Fu, and other martial art uniforms.
	382.8152 (pt)	382.8153	Infants' sets up to and including 24 mo.
	382.8152 (pt)	382.8156	Other.

[FR Doc.76-38255 Filed 12-29-76;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

NATIONAL ADVISORY COMMITTEE FOR THE FLAMMABLE FABRICS ACT

Meeting

Notice is given that a meeting of the National Advisory Committee for the Flammable Fabrics Act will be held on Tuesday, February 1, 1977 (9:00 a.m.—5:00 p.m.) and Wednesday, February 2, 1977 (9:00 a.m.—4:00 p.m.) in the Third Floor Hearing Room, 1111–18th Street, N.W., Washington, D.C.

The National Advisory Committee provides advice and recommendations on Commission proposals and plans for reducing the frequency and severity of burn injuries involving flammable fabrics.

Agenda topics tentatively scheduled include a discussion of the product profiles in the burn/fire hazard category and flammability of upholstered furniture. Additionally, at the request of a Committee member, there will be a discussion of possible modification of the children's sleepwear standard.

Persons wishing to make oral or written presentations to the National Advisory Committee should notify the Secretary at least 5 days in advance of the meeting.

The meeting is open to the public; however, space is limited. Further information concerning this meeting and the final agenda may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, phone (202) 634–7700.

Dated: December 27, 1976.

SHELDON D. BUTTS,
Acting Secretary.

[FR Doc.76-38362 Filed 12-29-76;8:45 am]

POISON PREVENTION PACKAGING (TECHNICAL ADVISORY COMMITTEE)

Meeting

Notice is given that the Technical Advisory Committee on Poison Prevention Packaging will meet on Tuesday, January 18, 1977 (9:00 a.m. to 5:00 p.m.) and Wednesday, January 19, 1977 (9:00 a.m. to 4:00 p.m.) in Room 440, 5401 Westbard Avenue, Bethesda, Maryland.

The Purpose of the Technical Advisory Committee is to provide advice and recommendations on the types and kinds of packaging that will protect children from injury or illness resulting from handling or ingestion of household substances.

The tentative agenda includes consideration of a toxic level for aspirin, a proposed regulation for aspirin substitutes, FDA proposed release of antihistamines from prescription drug requirements, possible PPPA coverage of pump-type spray containers, TAC resolution concerning contrasting colors for child-resistant closures, and a review of the McDonald-Little advertising agency contract concerning poison prevention.

Persons wishing to make oral or written presentations to the Committee should notify the Secretary of the Consumer Product Safety Commission at least 5 days in advance of the meeting. The meeting is open to the public; however, space is limited. Further information concerning this meeting and the final agenda may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, phone (202) 634–7700.

Dated: December 27, 1976.

SHELDON D. BUTTS,
Acting Secretary,
Consumer Product Safety Commission.

[FR Doc.76-38361 Filed 12-29-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

DECEMBER 20, 1976.

The USAF Scientific Advisory Board, Science and Technology Advisory Group, Air Force Systems Command, will hold a meeting on 25 January 1977 from 8:30 a.m. to 4:30 p.m. at Wright Patterson AFB, Ohio, in Area B, Bldg. 32, Auditorium.

The Group will discuss the Air Force Laboratories research programs, their management, and their interaction with the research community.

The meeting will be open to the public.

For further information contact the Scientific Advisory Board Secretariat at 202–697–8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-38313 Filed 12-29-76;8:45 am]

DELAWARE RIVER BASIN COMMISSION

PUBLIC HEARING

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, January 12, 1977, commencing at 2 p.m. The hearing will be held in the Raphael Peale Room (second floor) of the Holiday Inn-Penn Center, 1800 Market Street, Philadelphia, Pa. The subjects of the hearing will be as follows:

1. Applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact:

A. *Borough of Ambler (D–75–16 CP).* Expansion and upgrading of the existing "South" plant serving the Borough of Ambler and several adjacent municipalities in Montgomery County, Pa. The improved facility will be designed to remove 95 percent of BOD_5 and 92 percent of suspended solids a sewage flow of 6.5 million gallons per day. Treated effluent will discharge into Wissahickon Creek. The Borough's existing "North" plant will be abandoned.

B. *Perkiomen Woods Development (D–76–104 CP).* A well water supply project to serve the Perkiomen Woods Development in Upper Providence Township, Montgomery County, Pa. Designated as Well No. 3, the new facility is expected to yield approximately 270,000 gallons per day.

C. *Carmen Petronglo (D–76–68).* A farm well water supply project in Vineland, Cumberland County, N.J. The new well is expected to yield approximately 432,000 gallons per day and will be used for irrigating crops.

D. *J. G. Townsend Jr., Inc. (D–76–119).* An industrial waste discharge at the company's plant in Sussex County, Del. The treatment facility will provide removal of 92 percent of BOD_5 from an average wastewater flow of 433,000 gallons per day. Treated effluent will discharge to Savannah Ditch, a tributary of the Broadkill River.

E. *Getty Oil Co. (D–76–120).* A wastewater treatment facility to treat ship ballast water at the company's refinery in Delaware City, New Castle County, Del. Treatment facilities will operate intermittently to remove oil and grease from an average flow of about 5,000 gallons per minute. Treated effluent will discharge to Dragon Run, a tributary of the Delaware River.

F. *Colonial Pipeline Co. (D–76–114).* Relocation of 3,000 feet of the company's eight-inch diameter pipeline in Cinnaminson Township, Burlington County, N.J. About 750 feet of the pipeline will be located in North Branch Pennsauken Creek and its adjacent wetlands. Relocation is caused by construc-

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tion of Route 90 through Cinnaminson and Moorestown Townships.

G. *Bethlehem Steel Corp. (D–76–59–Phase II).* An industrial waste treatment project at the company's plant in the City of Bethlehem, Northampton County, Pa. Designated as Phase II, the project will provide for treatment of about 33.4 million gallons per day from a total of eight outfalls discharging to the Lehigh River, Laubach and Saucon Creeks, tributary to the Lehigh River. Treatment will remove suspended solids and oil to the limits provided by the Commission's water quality guidelines.

II. *Water supply contract.* A proposed water supply contract between the Commission and Public Service Electric and Gas Co. of New Jersey for the sale of water supplies to the company for use at the Salem Nuclear Generating Station, Units 1 and 2, located on the Delaware River at River Mile 50.23, Lower Alloways Creek Township, Salem County, N.J. The contract provides for minimum payments to the Commission by the company for water to be used for cooling a 2100-megawatt nuclear generating station. Annual payments will be in accord with the terms and conditions of the Commission's water supply policy and regulations as adopted by Resolution Nos. 71–4 and 74–6.

Documents relating to the items on this hearing notice may be examined at the Commission's offices. Persons wishing to testify are requested to notify the Secretary prior to the hearing.

W. BRINTON WHITALL,
Secretary.

DECEMBER 23, 1976.

[FR Doc.76–38312 Filed 12–29–76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PRIVACY ACT OF 1974

Notice of Systems of Records; Correction

The notice for system ERDA 42 was inadvertently omitted from the annual notice of the agency's systems of records under the Privacy Act published at 41 FR 48272, November 2, 1976. The text of the system is set forth below. The Clinch River Breeder Reactor Plant Project has been added under "System Location" and "Notification Procedure" for this system.

Dated: December 27, 1976.

RUSSELL RITCHIE,
Associate Assistant Administrator, Headquarters Operation.

ERDA 42

System name:

Document Distribution System—ERDA.

System location:

U.S. Energy Research and Development Administration (Headquarters), Washington, D.C. 20545.

U.S. Energy Research and Development Administration, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico 87115.

U.S. Energy Research and Development Administration, Bartlesville Energy Research Center, Box 1398, Bartlesville, Oklahoma 74003.

U.S. Energy Research and Development Administration, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439.

U.S. Energy Research and Development Administration, Grand Forks Energy Research Center, University Station, Box 8213, Grand Forks, North Dakota 58201.

U.S. Energy Research and Development Administration, Idaho Operations Office, 550 2nd Street, Idaho Falls, Idaho 83401.

U.S. Energy Research and Development Administration, Laramie Energy Research Center, P.O. Box 3395, University Station, Laramie, Wyoming 82071.

U.S. Energy Research and Development Administration, Morgantown Energy Research Center, Box 880, Morgantown, West Virginia 26505.

U.S. Energy Research and Development Administration, Nevada Operations Office, P.O. Box 14100, Las Vegas, Nevada 89114.

U.S. Energy Research and Development Administration, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee 37830.

U.S. Energy Research and Development Administration, Pittsburgh Energy Research Center, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213.

U.S. Energy Research and Development Administration, Richland Operations Office, P.O. Box 550, Richland, Washington 99352.

U.S. Energy Research and Development Administration, San Francisco Operations Office, 1333 Broadway, Wells Fargo Building, Oakland, California 94612.

U.S. Energy Research and Development Administration, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29801.

Categories of individuals covered by the system:

Persons who have requested information which is distributed by ERDA on a routine basis.

Categories of records in the system:

One record containing name and address and selection criteria.

Authority for maintenance of the system:

Pub. L. 93–438.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, punched cards, magnetic tape and disk, and microfiche.

Retrievability:

Records are retrieved by record identification code number and normally by type of information being disseminated, e.g., solar, nuclear, etc., or by the occupation, profession or other stated interest of an individual, or by selective distributions such as high schools interested in films or public interest organizations in a specific Federal Region.

Safeguards:

Access limited to employee's with need in performance of duties. System maintained in buildings with controlled access. Computer information is controlled through established ERDA computer center procedures of personnel screening and physical security in secure building.

Retention and disposal:

Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within ERDA are destroyed by shredding, burning, or burial in a sanitary landfill as appropriate.

System manager(s) and address:

Agency system manager—The Director, Division of Administrative Services, Energy Research and Development Administration, Washington, D.C. 20545.

The managers and directors of field locations listed under notification procedures below are designated system managers for their respective operations of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Adresses:

U.S. Energy Research and Development Administration (Headquarters), Washington, D.C. 20545.

U.S. Energy Research and Development Administration, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico 87115.

U.S. Energy Research and Development Administration, Bartlesville Energy Research Center, Box 1398, Bartlesville, Oklahoma 74003.

U.S. Energy Research and Development Administration, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439.

U.S. Energy Research and Development Administration, Grand Forks Energy Research Center, University Station, Box 8213, Grand Forks, North Dakota 58201.

U.S. Energy Research and Development Administration, Idaho Operations Office, 550 2nd Street, Idaho Falls, Idaho 83401.

U.S. Energy Research and Development Administration, Laramie Energy Research Center, P.O. Box 3395, University Station, Laramie, Wyoming 82071.

U.S. Energy Research and Development Administration, Morgantown Energy Research Center, Box 880, Morgantown, West Virginia 26505.

U.S. Energy Research and Development Administration, Nevada Operations Office, P.O. Box 14100, Las Vegas, Nevada 89114.

U.S. Energy Research and Development Administration, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee 37830.

U.S. Energy Research and Development Administration, Pittsburgh Energy Research Center, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213.

U.S. Energy Research and Development Administration, Richland Operations Office, P.O. Box 550, Richland, Washington 99352.

U.S. Energy Research and Development Administration, San Francisco Operations Office, 1333 Broadway, Wells Fargo Building, Oakland, California 94612.

U.S. Energy Research and Development Administration, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29801.

b. Required Identifying Information: Name as it appears on the mailing list or number as it appears on the mailing label.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Self-supplied by requestors.

NOTE: There will be no new ERDA rules or changes to previously published rules resulting from the addition of this new system of records.

APPENDIX AA.—Additional Routine Uses

The following routine uses apply to and are incorporated by reference into each system of records as stated therein:

1. In the event that a record within this system of records maintained by this agency indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred as a routine use to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to an Agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in response to a court subpoena, to appropriate parties engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony when necessary to courts, magistrates or administrative tribunals, to parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes, to individuals seeking information by using established discovery procedures, whether in connection with civil, criminal, or regulatory proceedings.

5. A record maintained by this agency to carry out its functions which relates to civil and criminal proceedings may be disclosed to the news media in accordance with guidelines contained in Department of Justice regulations 28 C.F.R. 50.2.

6. A record maintained by this agency to carry out its functions may be disclosed to foreign governments in accordance with treaty obligations.

7. A record from this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

8. A record from this system of records may be disclosed, as a routine use, to ERDA contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties subject to the same limitations applicable to ERDA officers and employees under the Privacy Act.

9. Congressional Inquiries—disclosure may be made to congressional office from the record of an individual in response to inquiries from the congressional office made at the request of that individual.

[FR Doc.76–38345 Filed 12–29–76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 664–7]

APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Adequacy of SO_2 Emission Limitations and Control Strategy in Kentucky Implementation Plan; Comment Period

On May 10, 1976 (41 FR 19105), the Administrator published approval/disapproval action on revisions in the Kentucky State implementation plan. Subsequent to this rulemaking notice, the Natural Resources Defense Council (NRDC), under section 307 of the Clean Air Act, petitioned the U.S. Court of Appeals for the Sixth Circuit for review of the Administrator's action. NRDC believed that several of the emission limits were not sufficient to protect ambient air quality standards. On December 14, 1976, both parties agreed that the Agency would solicit additional comments on the adequacy of the revised emission limits now in effect.

All comments received on or before March 1, 1977 will be carefully evaluated by the Agency, which will respond to them as appropriate in the FEDERAL REGISTER by June 2, 1977, and describe any action contemplated as a result of its review of the comments received. Such action, if any, will be taken by August 1, 1977. This solicitation of comments on the revised emission limitations of the Kentucky implementation plan does not invalidate any emission limit, standard, or compliance date, in whole or in part. The Agency is always interested in additional information on the adequacy of state implementation plans. In the meantime, the Kentucky implementation plan remains in effect and is fully enforceable. Moreover, the presentation here of the issues detailed below does not constitute a determination by the Environmental Protection Agency as to the legal relevance of these issues.

BACKGROUND

On August 15, 1974 (39 FR 29357), the Administrator published approval/disapproval action on the resubmitted Kentucky implementation plan to attain and maintain the national ambient air quality standards, his original approval of May 31, 1972, having been vacated by the U.S. Court of Appeals for the Sixth Circuit. In his rulemaking notice of August 15, 1974, the Administrator, in keeping with the Agency's clean fuels policy, encouraged the Kentucky Division of Air Pollution to reexamine its sulfur dioxide control strategy to determine if it could be modified without jeopardizing the attainment and maintenance of the national ambient standards for that pollutant. This step was also consistent with the amendments made in section 110 of the Clean Air Act by the Energy Supply and Environmental Coordination Act of 1974. With the assistance of the Agency's Region IV staff, the Kentucky Division of Air Pollution developed a new body of control regulations which was formally adopted on July 2, 1975.

On August 30, 1975, the Commonwealth of Kentucky submitted these new regulations to EPA as proposed revisions in Chapter 7 of the Kentucky implementation plan. The analytical material justifying the revised regulations was incorporated in the proposed revisions as Chapters 4 and 5 of the plan, and these were also submitted for the Agency's approval, specifically, on September 16, 1975.

It should be noted that many of the Kentucky air pollution control regulations were not affected or modified by the changes just described, and thus, required no action by EPA since they had already been approved on August 15, 1974.

Following review by the Agency, approval/disapproval action was taken on these three chapters of the Kentucky plan on May 10, 1976. All three chapters were approved, with the exception of the sulfur dioxide regulations for Boyd County and an interpretation of the application of certain regulations adopted to provide equivalents to the Agency's New Source Performance Standards (40 CFR Part 60).

ISSUES

The specific issues to which comments should be directed are as follows:

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(a) Whether the "background levels" of SO_2 used by the Commonwealth of Kentucky in developing the control strategy and associated emission limitations or by EPA in approving such control strategy and limitations are adequate to demonstrate attainment and maintenance of ambient air quality standards for SO_2.

(b) Whether (and by what amount) any relevant mathematical modeling results for any power plant sources of SO_2 in Kentucky require emission limitations more stringent than those adopted by Kentucky and approved by EPA on May 10, 1976, in order to ensure the attainment and maintenance of ambient air quality standards for SO_2.

(c) Whether EPA's Stack Height Guidelines, (41 FR 7450; February 18, 1976), require use of a different "credit" for stack height than the one used for any of the following power plants: Reid, Coleman, Ghent.

(d) Whether the control strategy demonstration for the approved emission limitations for power plants in the Kentucky implementation plan requires surveillance for compliance on an "instantaneous" basis or on an "average" basis.

(e) Whether appropriate consideration was given to the heat value of coal supplies in generating or applying the mathematical modeling results for power plant sources of SO_2.

COMMENTS

Comments relating to the above issues should be addressed to the Air Programs Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Attention: Mr. John Eagles. Comments must be received on or before March 1, 1977 to receive consideration. All pertinent documents will be available to the public at the above address throughout the comment period during normal business hours (8:15 a.m.–4:45 p.m., Monday-Friday).

Dated: December 22, 1976.

JOHN A. LITTLE,
Acting Regional Administrator.

[FR Doc.76-38390 Filed 12-29-76;8:45 am]

[FRL 664-8]

PREVENTION OF SIGNIFICANT DETERIORATION, STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to State of North Carolina

On December 5, 1974 (39 FR 42510), and June 12, 1975 (40 FR 25004) and September 10, 1975 (40 FR 42011), pursuant to Section 110 of the Clean Air Act, as amended, the Administrator promulgated regulations for the prevention of significant air quality deterioration (PSD). On December 23, 1971 (36 FR 24876) and March 8, 1974 (39 FR 9808), and August 6, 1974 (39 FR 33152), and September 23, 1975 (40 FR 43850), and January 15, 1976 (41 FR 2231, 2332), and January 26, 1976 (41 FR 3826), pursuant to section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations establishing standards of performance for five categories, seven categories, one category, five categories, four categories, and one category of new stationary sources subject to New Source Performance Standards (NSPS), respectively. On April 6, 1973 (38 FR 8820) and May 3, 1974 (30 FR 15396), and October 14, 1975 (40 FR 48291), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated national emission standards for three hazardous air pollutants (NESHAPS). Section 301 in conjunction with sections 101 and 110 authorizes the Administrator to delegate his authority to implement and enforce PSD to any State which has submitted adequate implementation and enforcement procedures. Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, under § 111(c)(2) and 112(d)(2), the Administrator is not prohibited from enforcing the standards.

During discussions held in the spring of 1975 with regard to the fiscal year 1976 program plan, EPA furnished to the State of North Carolina information setting forth the reuireqments for an adequate procedure for implementing and enforcing the standards for PSD, NSPS, and NESHAPS. On June 24, 1976, Mr. George W. Little, Secretary, North Carolina Department of Natural and Economic Resources, acting in behalf of the North Carolina Environment Management Commission, submitted to the EPA Regional Office a request for delegation of authority to implement and enforce NSPS and NESHAPS, and to implement the administrative and technical portions of PSD. On September 16, 1976, Mr. James A. McColman, Chief, Air Quality Section, North Carolina Department of Natural and Economic Resources, submitted additional information on his agency's procedures and resources for implementation of PSD, NSPS, and NESHAPS, and for enforcement of NSPS and NESHAPS. Submitted at the time of the initial request were copies of North Carolina regulations which incorporate by reference the Federal emission standards and testing procedures set forth in 40 CFR Parts 60 and 61, with certain exceptions. After a thorough review of the request and information submitted, the Regional Administrator has determined that for the source categories set forth in the following official letters to the Chairman of the North Carolina Environmental Management Commission, delegation is appropriate subject to the conditions set forth in detail in these letters:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IV
NOVEMBER 24, 1976.

MR. JOHN W. THOMAS, JR.,
Chairman, North Carolina Environmental Management Commission, P.O. Box 27687, Raleigh, N.C.

DEAR MR. THOMAS: This is in response to Mr. George W. Little's letter of June 24, 1976, and Mr. James A. McColman's letter of September 16, 1976, requesting responsibility for implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS).

We have reviewed the pertinent laws of the State of North Carolina and the rules and regulations thereof, and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS by the State of North Carolina. Therefore, pursuant to Section 111 and Section 112 of the Clean Air Act, as amended, P.L. 91-604, we hereby delegate our authority for implementation and enforcement of the NSPS and NESHAPS to the State of North Carolina as follows:

A. EPA delegates its authority for the following sources located or to be located in the State of North Carolina subject to the standards of performance for new stationary sources promulgated in 40 C.F.R. Part 60 and amendments thereto as published in the FEDERAL REGISTER as of the date of this letter: fossil-fuel steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; secondary lead smelters; phosphate fertilizer plants; primary aluminum plants; coal preparation plants; electric arc furnaces; and primary copper, zinc, and lead smelters. EPA does not delegate its authority for ferroalloy production facilities at this time.

B. EPA delegates its authority for all sources located or to be located in the State of North Carolina subject to the national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 as of the date of this letter. The three hazardous air pollutants covered by this authority are: asbestos, beryllium, and mercury. EPA does not delegate its authority for vinyl chloride at this time.

This delegation is based upon the following conditions:

1. Existing quarterly reports normally submitted to EPA through program plan reporting will be expanded to contain pertinent information relating to the status of sources subject to 40 CFR Parts 60 and 61. As a minimum, the following information should be provided to EPA: the name, address, type and size of each facility subject to the standards, the compliance status of each facility with accompanying explanations of non-compliance where applicable, notice of enforcement actions brought against facilities subject to 40 CFR Parts 60 and 61, surveillance actions undertaken for each facility, and the results of all reports relating to emissions data.

2. Enforcement of NSPS and NESHAPS in the State of North Carolina will be the primary responsibility of the Environmental Management Commission. If the State determines that such enforcement is not feasible and so notifies EPA, or where the State acts in a manner inconsistent with the terms of this granted authority, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources within the State of North Carolina subject to the NSPS and NESHAPS.

3. Acceptance of this delegation of presently promulgated NSPS and NESHAPS does not commit the State of North Carolina to request or accept enforcement authority of future standards and requirements. A new request for enforcement authority will be required for any standards not included in Paragraphs A and B above.

4. Upon approval of the Regional Administrator of Region IV, the Chairman of the North Carolina Environmental Management Commission may subdelegate his authority to implement and enforce the NSPS and NESHAPS to air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

5. This enforcement authority to the State of North Carolina does not include the authority to implement and enforce NSPS (40 CFR Part 60) and NESHAPS (40 CFR Part 61) for sources owned or operated by the United States, which are located in the State. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Parts 60 and 61.

6. The State of North Carolina will at no time grant a waiver of compliance with NESHAPS (40 CFR 61.11). The State of North Carolina will at no time grant a variance or other temporary or permanent exemption from compliance with NSPS (40 CFR Part 60) and NESHAPS (40 CFR Part 61) regulations. Should the State grant such a variance or other exemption, EPA will consider the source receiving the variance or exemption to be in violation of the applicable Federal regulations and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such variances by the State shall also constitute ground for revocation of delegation by EPA.

7. If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR Parts 60 and 61), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce a Federal regulation that is more stringent than the applicable State regulation, the pertinent portion of the delegation may be revoked.

8. Performance tests shall be conducted in accordance with the procedures set forth in 40 CFR Parts 60 and 61 unless alternate methods or procedures are approved by the EPA Administrator. Although the Administrator retains the exclusive right to approve equivalent and alternative test methods as specified in 40 CFR 60.8(b) (2) and (3), the State may approve minor changes in methodology provided these changes are reported to EPA. The Administrator also retains the right to change an opacity standard as specified in 40 CFR 60.11(e).

9. Alternatives to continuous monitoring procedures or reporting requirements, as outlined in 40 CFR 60.12(h)(i), may be approved by the State with the prior concurrence of the EPA Administrator.

10. If the Regional Administrator determines that the State procedure for enforcing or implementing the NSPS or NESHAPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the North Carolina Environmental Management Commission.

11. Information shall be made available to the public in accordance with 40 CFR 60.9(b) and 61.15(b). Any records, reports or information provided to, or otherwise obtained by the State in accordance with the provisions of these Sections shall be made available to the designated representative of EPA upon request.

The State and EPA will develop a system of communication sufficient to guarantee a program that includes the items described below:

a. Each agency is informed of the current compliance status of subject sources in the State of North Carolina;

b. Prior EPA concurrence is obtained on any matter involving interpretation of 40 CFR Parts 60 and 61 (including unique questions of applicability of the standards), and.

c. Enforcement actions (including requests for information and enforcement actions based thereon) already initiated by EPA prior to this delegation, shall be completed by EPA.

A notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NSPS and NESHAPS by sources located or to be located in the State of North Carolina should be submitted to North Carolina Environmental Management Commission, Department of Natural and Economic Resources, Division of Environmental Management, P.O. Box 27687, Raleigh, North Carolina 27611, Attention: Air Quality Section. Any such reports which have been or may be received by EPA, Region IV, will be promptly transmitted to the State agency.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within 10 days of the date of receipt of this letter, the North Carolina Environmental Management Commission will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

JACK E. RAVAN,
Regional Administrator.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IV
NOVEMBER 24, 1976.

MR. JOHN W. THOMAS, JR.,
Chairman, North Carolina Environmental Management Commission, P.O. Box 27687, Raleigh, N.C.

DEAR MR. THOMAS: This is in response to Mr. George W. Little's letter of June 24, 1976, and Mr. James A. McColman's letter of September 16, 1976, requesting responsibility for implementation of the technical and administrative portions of the Prevention of Significant Air Quality Deterioration. (PSD) program.

We have reviewed the procedures for new source review of the State of North Carolina and have determined that they provide an adequate and effective procedure for the implementation of the technical and administrative portions of the PSD program by the State of North Carolina. Therefore, pursuant to 40 CFR 52.01 and 52.21 (1975) and 40 FR 42012 (September 10, 1975) amending 40 CFR 52.21, and hereinafter referred to as 40 CFR 52.01 and 52.21, we hereby delegate our authority for the technical and administrative portions of the federal PSD program, as described in 40 CFR 52.01 and 52.21 (d) and (e), to the State of North Carolina as follows:

A. EPA delegates its authority for all sources located or to be located in the State of North Carolina subject to review under the federal regulations for the prevention of significant air quality deterioration promulgated in 40 CFR 52.21(d). The categories of new sources covered by the delegation are: fossil-fuel steam electric plants of more than 1000 million BTU per hour heat input; coal cleaning plants; kraft pulp mills; Portland cement plants; primary zinc smelter; iron and steel mills; primary aluminum ore reduction plants; primary copper smelters; municipal incinerators capable of charging more than 250 tons of refuse per 24-hour day; sulfuric acid plants; petroleum refineries; lime plants; phosphate rock processing plants; by-product coke oven batteries; sulfur recovery plants; carbon black plants (furnace process); primary lead smelters; fuel conversion plants; and ferroalloy production facilities.

B. EPA delegates to the State of North Carolina its authority and procedures for public participation promulgated in 40 CFR 52.21(e), but not its authority under 40 CFR 52.21(e)(1)(v) to take final action on an application, nor its authority to take enforcement action under 40 CFR 52.21(e)(2).

C. For purposes of and in accordance with paragraph B above, the State of North Carolina shall follow the procedures in 40 CFR 52.21(e), except that the word "State" shall be substituted for the word "Administrator." A copy of the State's preliminary determination, a copy of all materials submitted by the owner or operator, a copy or summary of other materials (if any) considered by the State in making its preliminary determination, and a copy of the notice pursuant to 40 CFR 52.21(e)(ii) (b) and (c) shall be sent to the EPA regional office within 30 days after receipt of a complete application. Within 30 days after the close of the public comment period, the State shall forward a copy of the final analysis to the EPA regional office. Upon receipt of the State's final analysis, the EPA regional office shall take final action on an application pursuant to 40 CFR 52.21(e)(1)(v).

D. This delegation is based upon the following conditions:

1. Quarterly reports containing pertinent information relating to the status of sources subject to 40 CFR 52.21 (or other reports as required by the Regional Administrator) will be submitted to EPA by the State of North Carolina as part of the existing quarterly reports normally submitted to EPA through program plan reporting.

2. Upon approval of the Regional Administrator of Region IV, the Chairman of the Environmental Management Commission may subdelegate his authority to implement the technical and administrative portions of PSD to local air pollution control

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authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

3. This technical and administrative authority delegated to the State of North Carolina does not include the authority to implement PSD for sources owned or operated by the United States, which are located in the State. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR 52.21.

4. If at any time there is a conflict between a State regulation and a federal regulation (40 CFR 52.01 and 52.21), the federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to implement a federal regulation that is more stringent than the applicable State regulation, the pertinent portion of the delegation may be revoked.

5. If the Regional Administrator determines that the State procedure for implementing the technical and administrative portions of PSD is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Environmental Management Commission.

6. Acceptance of this delegation of presently promulgated PSD regulations does not commit the State of North Carolina to request or accept technical and administrative review authority of future standards and requirements. A new request for authority will be required for any standards not included in Paragraph A above.

7. Public availability of information shall be in accordance with 40 CFR 52.21(e)(1)(ii)(b).

The State and EPA will develop a system of communication sufficient to guarantee a program that includes the items described below:

a. Each agency is informed of the current compliance status of subject sources in the State of North Carolina;

b. Prior EPA concurrence is obtained on any matter involving interpretation of 40 CFR 52.01 and 52.21 (including unique questions of applicability of the standards);

c. PSD reviews (including requests for information and enforcement actions based thereon) already initiated by EPA prior to this delegation, shall be completed by EPA;

d. The State is informed of the date of receipt by EPA, of any and all completed applications for PSD review affecting a source owned or operated by the United States and located or to be located in the State, and of the results of each such PSD review conducted; and EPA is informed of any State PSD reviews and progress that might affect the PSD review conducted by EPA.

A notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The notice will state, among other things, that, effective immediately, all reports required pursuant to PSD by sources located or to be located in the State of North Carolina should be submitted to the North Carolina Environmental Management Commission, Department of Natural and Economic Resources, Division of Environmental Management, P.O. Box 27687, Raleigh, North Carolina 27611, Attention: Air Quality Section. Any such reports which have been or may be received by EPA, Region IV, will be promptly transmitted to the State agency.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within ten (10) days of the date of receipt of this letter, the State will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

JACK E. RAVAN,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified the Chairman of the North Carolina Environmental Management Commission on November 24, 1976, that authority to implement the administrative and technical portions of the Prevention of Significant Deterioration (PSD), and authority to implement and enforce New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAPS), were delegated to the State of North Carolina.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region IV Office, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

Effective immediately, all reports required pursuant to the delegated Prevention of Significant Deterioration (PSD), New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPS) should not be submitted to the EPA Region IV Office, but instead should be submitted to the State agency at the following address:

North Carolina Environmental Management Commission, Department of Natural and Economic Resources, Division of Environmental Management, P.O. Box 27687, Raleigh, N.C. 27611.

Applications for PSD, NSPS, and NESHAPS review in process at the time of this delegation shall be processed through to completion by the EPA Region IV Office.

This notice is issued under the authority of Sections 110, 111, 112, and 301 of the Clean Air Act, as amended, 42 U.S.C. 1857, 1857c-5, 6, 7 and g.

Dated: December 21, 1976.

JOHN A. LITTLE,
Deputy Regional Administrator.

[FR Doc.76-38389 Filed 12-29-76;8:45 am]

[FRL 663-4]

CHESAPEAKE BAY PROGRAM

Policy Advisory Committee (Proposed)

Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a preliminary meeting of the (proposed) Chesapeake Bay Program Policy Advisory Committee will be held on January 19, 1977. The meeting will begin at 10:30 a.m. in Room 2123, Waterside Mall West Tower, 401 M Street, SW, Washington, DC.

The agenda includes discussion on Program Plan elements for Fiscal Year 1977, citizen participation status and technical program activities.

Currently, this Committee and its functions are under review by the Office of Management and Budget (OMB). EPA is continuing to coordinate with OMB to assure the most expeditious review and concurrence of this Committee.

The meeting is open to the public. Any member of the public wishing to attend, participate, present a paper, or obtain additional information should contact Mr. Leonard Mangiaracina, Executive Secretary, Policy Advisory Committee (215) 597-9872, no later than January 10, 1977.

DANIEL J. SNYDER, III,
Regional Administrator; Region III.

DECEMBER 22, 1976.

[FR Doc.76-38238 Filed 12-29-76;8:45 am]

[FRL 663-6; OPP-180103]

HAWAII

Issuance of Specific Exemption to Control Carmine Mite on Papaya on Island of Maui

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), notice is hereby given that the Environmental Protection Agency (EPA) has granted a specific exemption to the State of Hawaii (hereafter referred to as the "Applicant") to use Morestan 25W in ground applications to control an outbreak of carmine mite on sixty (60) acres of papaya on the Island of Maui. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street, SW, Room E-315, Washington, D.C. 20460.

According to the Applicant, carmine mite (*Tetranychus cinnabaricus*) infestation is prevalent during summer months when conditions are dry and dusty. Approximately sixty (60) acres of new nonbearing papaya, located in the 300 acre Princess Orchard on the Island of Maui, are infested. Monitored population of the pest indicated 70 adult carmine mites per square inch on foliage. The Applicant stated that present applications of malathion and sulfur have proven ineffective; a resistance buildup has been noted. There appear to be no registered pesticides nor alternative methods of control available to suppress this pest. The Applicant stated that there could be a potential yield loss of $675,000 if this pest is not controlled.

The Applicant proposed to use Morestan 25W at an application rate of twenty-four (24) ounces (six ounces A.I.) in three hundred gallons of water per acre. One application will be made; a follow-up application would be made three months later, if necessary. All applications will be made using ground power sprays. Personnel from the University of Hawaii, Cooperative Extension Service and the Hawaii Department of Agriculture will supervise and monitor the operations. The University of Hawaii Biochemistry laboratory will sample and analyze fruit ready for harvest about March 1977 for Morestan residues.

Morestan is not registered for control of the carmine mite on papaya. However, it is registered for control of mites on nonbearing cherries, peaches, pears, plums, prunes, and nectarines. The Applicant felt that this pesticide would be effective against this pest on papaya. Based on a petition now under review by this Agency that calls for a sixty (60) day preharvest interval after application of Morestan, EPA has granted a one-half (0.5) ppm tolerance for residues of the pesticide on papaya, a citrus plant. No adverse effects on man and the environment are anticipated as a result of use of this pesticide on papaya in Princess Orchard, located in an isolated area on the Island of Maui.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of carmine mite has occurred; (b) there is no pesticide presently registered and available for use to control the carmine mite on the Island of Maui, Hawaii; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the carmine mites are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 1, 1976, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The rate of application will not exceed six (6) ounces A.I. of Morestan per acre;

2. No more than two (2) applications of Morestan will be made;

3. A ninety (90) day preharvest interval will be observed after the second application. The first application of Morestan will be to nonbearing plants; however, if the second application becomes necessary, Morestan would be applied to papaya bearing fruit;

4. Application of Morestan is limited to sixty (60) acres of papaya on the Island of Maui;

5. All applications will be under the supervision of the University of Hawaii Cooperative Extension Service and the Hawaii Department of Agriculture;

6. Papayas with residue levels not exceeding 0.5 ppm Morestan may be offered in interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action; and

7. The University of Hawaii will submit to EPA residue data obtained from the March 1977 harvest of Morestan-treated papaya.

Dated: December 22, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-38239 Filed 12-29-76;8:45 am]

[FRL 663-5]

PROPOSED STAGE II VAPOR RECOVERY REGULATIONS

Hearing

Notice is hereby given, pursuant to the provisions of the Clean Air Act of 1970, as amended, that a hearing on the proposed Stage II vapor recovery regulations is assigned to be held on Thursday, January 27, 1977, at 7:00 pm and Friday, January 28, 1977 at 9:30 am (local time) in room 269 of the U.S. Post Office, 1823 Stout Street, Denver, Colorado 80202.

For information concerning the proposed regulations, interested persons are referred to the November 1, 1976 FEDERAL REGISTER (41 FR 48044), copies of which are available from the Office of Public Affairs, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. The proposed regulations will require the recovery of gasoline vapors emitted during vehicle refuelings in the metropolitan Denver Air Quality Control Region (AQCR).

All persons desiring to comment on the proposed regulations are requested to submit their names and affiliations along with a written summary of comments, to the Office of Public Affairs before January 24, 1977. All written comments postmarked no later than January 31, 1977, will be considered for the record.

Date: December 21, 1976.

ROGER WILLIAMS,
Acting Regional Administrator.

[FR Doc.76-38237 Filed 12-29-76;8:45 am]

[FRL 664-5]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Notice of Delegation to the State of Iowa

On December 23, 1971 (36 FR 24876), and March 8, 1974 (39 FR 9308), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing standards of performance for five categories and seven categories of new stationary sources, respectively. Section 111(c) authorizes the Administrator to delegate his authority to implement and enforce New Source Performance Standards (NSPS), except as they may apply to any source owned or operated by the United States, to any state which has submitted adequate procedures. Nevertheless the Administrator retains authority to implement and enforce the standards following delegation of authority to the State.

On February 25, 1975, Mr. Elmer H. Vermeer, Administrative Assistant to the Governor of the State of Iowa, submitted to the EPA Regional Office a request for delegation of authority. Included in that request were copies of the Iowa Department of Environmental Quality (DEQ) regulations which incorporate, by reference, the federal emission standards and testing procedures set forth in 40 CFR Part 60, with certain exceptions. Also included were copies of Iowa statutes which provide the DEQ with the requisite authority to enforce the NSPS. After a thorough review of that request, the Regional Administrator has determined that for the source categories listed in the following letter to the office of the Governor of Iowa, delegation is appropriate, subject to the conditions set forth in paragraphs 1. through 9. of that letter.

JUNE 6, 1975.

MR. ELMER H. VERMEER,
Administrative Assistant, Office of the Governor, State Capital, Des Moines, Iowa.

DEAR MR. VERMEER: This letter is in response to your request dated February 27, 1975, for delegation of authority for implementation and enforcement of the New Source Performance Standards (NSPS) for 11 of the 12 source categories promulgated by the Environmental Protection Agency (EPA) prior to April 1, 1974.

The EPA has determined that the following Iowa statutes and regulations for the Department of Environmental Quality (DEQ), generally, provide for adequate and effective procedures for implementation and enforcement of NSPS by the DEQ: Code of Iowa 1974, 455B.12(9), 455B.13(6), 455B.17, 455B.18, 455B.20 and 455.25; and Rules and Regulations Relating to Air Pollution Control 2.1(3), 2.1(4), 2.1(5), 2.1(6), 4.1 and 7.1(3). The EPA hereby delegates to the State of Iowa on behalf of the DEQ, subject to the conditions set forth, the authority for:

All sources in Iowa included in the list of source categories noted below which are subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60 prior to April 1, 1974. The 11 categories of new sources covered by the delegation are: incinerators, Portland cement plants, nitric acid plants, sulfuric acid plants, asphalt concrete plants, petroleum refineries, secondary lead smelters, secondary brass and bronze ingot production plants, iron and steel plants, sewage treatment plants and fossil fuel-fired steam generators.

This delegation is based upon the following condtions:

1. Sources subject to NSPS shall be excluded from Rule 3.2 which provides for variances from limitations contained in Rule 4 (40 CFR 60.01 does not allow for variance from emission limitations.)

2. Enforcement of the NSPS in Iowa will be the primary responsibility of the Iowa DEQ. If the state determines that such enforcement is not feasible and so notifies EPA, or where the state acts in a manner inconsistent with the terms of this delegation, the EPA may exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources which are subject to the NSPS.

3. Acceptance of the delegation of presently promulgated NSPS does not commit the state

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of Iowa and the DEQ to request or accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the state's request of February 27, 1975.

4. The DEQ will use the methods specified in 40 CFR Part 60 in performing tests pursuant to the regulations.

5. The DEQ will develop a system of communication sufficient to guarantee that the Region VII office is informed of the current compliance status of the subject sources and of interpretation of laws or regulations to which NSPS review procedures may apply. The DEQ shall immediately forward to EPA copies of all requests for determinations of whether the NSPS review procedures apply to a particulate source, and EPA concurrence shall be obtained on any such determinations before they are issued by the DEQ.

6. The delegation to the State of Iowa does not include the authority to implement and enforce NSPS for sources owned or operated by the United States which are located in Iowa.

7. If, at any time, there is a conflict between a state regulation and a federal regulation (40 CFR Part 60), the federal regulation must be applied if it is more stringent than that of the state.

8. Section 60.9 requires that all information concerning a source subject to the NSPS must be made available to the public unless it would divulge methods or processes entitled to protection as a trade secret. It appears that the Iowa interpretation of "privileged communication" might prevent the DEQ from releasing to the public certain information which must be released in accordance with § 60.9; therefore, any request for information with which the DEQ cannot comply because of its confidentiality laws must be forwarded to the Region VII office.

9. If the Regional Administrator determines that a state procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a "Notice of Revocation" to the Governor of the State of Iowa.

A notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The notice will state, among other things, that effective immediately, all reports required pursuant to the federal NSPS (except storage vessels for petroleum liquids) from sources located in Iowa should be submitted to the Iowa DEQ, Des Moines, Iowa, as well as to the EPA, Region VII office. However, the reports required pursuant to 40 CFR 60.7(c) (excess emissions and malfunctions) will be submitted to the state agency only. Any reports which have been or may be received in this office prior to the publication of the notice will be forwarded to the Iowa DEQ.

In order to indicate your concurrence in this delegation, we would appreciate your signature of approval on this original letter. A copy is enclosed for your records. We would appreciate it if you could return the original to this office by July 15, 1975.

Sincerely yours,

JEROME H. SVORE,
Regional Administrator.

cc: Iowa Department of Environmental Quality

Signature of approval:

(Signed)

ELMER H. VERMEER (Date),
Administrative Assistant,
Office of the Governor,
State of Iowa.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified Mr. Vermeer, Administrative Assistant to the Iowa Governor, that authority to implement and enforce the NSPS for the 11 source categories listed in the above letter was delegated to the State of Iowa.

Copies of the request for delegation of authority are available for public inspection at the EPA, Region VII office, 1735 Baltimore, Kansas City, Missouri 64108.

Effective immediately, all reports required pursuant to the NSPS for the sources listed above shall be submitted to the Iowa Department of Environmental Quality, 3920 Delaware Avenue, P.O. Box 3326, Des Moines, Iowa 50316. However, reports required pursuant to 40 CFR 60.7(a) shall be submitted to the EPA, Region VII office as well as to the State.

This notice is issued under the authority of section 111 of the Clean Air Act, as amended. (42 U.S.C. 1857c-6)

Dated: December 20, 1976.

JEROME H. SVORE,
Regional Administrator.

[FR Doc.76-38240 Filed 12-29-76; 8:45 am]

[FRL 664-2]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Notice of Delegation of Authority to State of Nebraska

On December 23, 1971 (36 FR 24876), and March 8, 1974 (39 FR 9308), pursuant to section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing standards of performance for five categories and seven categories of new stationary sources, respectively. These standards are commonly referred to as the New Source Performance Standards (NSPS). Section 111(c) authorizes the Administrator to delegate his authority to implement and enforce the NSPS to any State which he finds has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the NSPS following the delegation of authority to the State.

On July 18, 1973, and September 29, 1975, the State of Nebraska submitted to the EPA, Region VII office requests for the delegation of authority for the NSPS which were promulgated on December 23, 1971, and March 8, 1974, respectively. Included in those requests were copies of the State of Nebraska regulations which incorporate by reference the federal emission standards and testing procedures set forth in 40 CFR Part 60 (with certain exceptions). Also included with the most recent requests were copies of State statutes which provide the State with the requisite authority to enforce the NSPS. After a thorough review of that request, the Regional Administrator determined that for the source categories set forth in the following letter to the Governor of the State of Nebraska, delegation is appropriate subject to the conditions set forth in paragraphs 1. through 13. of that letter:

HON. J. JAMES EXON,
Goveror of Nebraska,
State Capitol,
Lincoln, Nebr.

DEAR GOVERNOR EXON: This letter is in response to the Department of Environmental Control (DEC) request of July 18, 1973, and your request dated September 29, 1975, for delegation to the DEC of authority for implementation and enforcement of the standards of performance for stationary sources, commonly referred to as the New Souce Performance Standards (NSPS), for the 12 source categories promulgated on December 23, 1971, and March 3, 1974. Your request for the delegation of Environmental Protection Agency (EPA) authority to conduct the preconstruction review and approval requirements, as promulgated in the prevention of significant deterioration regulations on December 5, 1974 (39 FR 52510) and the DEC request for EPA authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants (NESHAPS) are being handled separately.

The EPA has determined that the following statutes for the State of Nebraska and the following regulations for the DEC, generally, provide for an adequate and effective procedure for implementation and enforcement of the NSPS by the State of Nebraska and the DEC: Revised Statutes of Nebraska, 1974 Cumulative Supplement (R.S. Suppl., 1974) 81-1504(15), 81-1505(15), 81-1506, and 81-1527; Nebraska Air Pollution Control Rules and Regulations Rule 4, Rule 17, Rule 22 and Rule 24. The EPA hereby delegates to the State of Nebraska on behalf of the DEC, subject to the conditions set forth below, the authority for:

Review and control of all sources in the State included in the list of source categories noted below, which are subject to 40 CFR Part 60. The 12 categories of new sources covered by the delegation are: fossil fuel-fired steam generators; incinerators; Portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants (basic oxygen furnaces); and sewage treatment plants.

This delegation is based upon the following conditions:

1. All sources in the categories specified above shall conduct performance tests in accordance with the procedure specified at 40 CFR 60.8. The DEC shall only allow the use of testing methods or procedures specified in each applicable subpart of Part 60, unless prior approval for the use of some alternative or equivalent method has received the prior approval of the EPA Administrator.

2. The definitions of the source categories in 40 CFR 60.50 and 60.130 shall be used in lieu of the listing of affected source categories in Rule 4(a), which lists the second category as "municipal incinerators" while 40 CFR 60.50 is not confined to "municipal" incinerators, but includes all incinerators within the definition of § 60.51. Also Rule 4(a) omits the word "bronze" which should appear before the word "ingot" in the phrase "secondary brass and ingot production."

3. All sources subject to the NSPS must monitor emissions as specified by the revised 40 CFR Part 60 regulations which were promulgated on October 6, 1975 (40 FR 46240). In addition, these continuous monitoring instruments must be tested according to the performance specifications of 40 CFR 60.13. If the DEC finds that a testing method for emission monitoring equipment other than that specified in the applicable part of 40 CFR Part 60 is necessary, EPA concurrence shall be obtained prior to notifying the owner or operator of the acceptance of the alternative test method.

4. The DEC shall obtain the prior concurrence of the EPA, Region VII Regional Administrator prior to issuing any determination of the applicability which is questionable or is not covered in the list of applicability determinations we have previously forwarded to the DEC. This EPA concurrence is necessary to ensure that the NSPS will be uniformly enforced in all regions.

5. Enforcement of NSPS in the State will be the primary responsibility of the Nebraska DEC. If the State determines enforcement of its regulations is not feasible and so notifies the EPA, or if the State acts in a manner inconsistent with the terms of this delegation, or if the DEC fails to obtain satisfactory compliance, the EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act, as amended, with respect to sources which are subject to NSPS.

6. Upon express, prior approval of the Regional Administrator of Region VII, the Director of the DEC may sub-delegate his authority to implement and enforce the NSPS to local air pollution control agencies in the State, when such agencies have demonstrated that they have equivalent or more stringent programs in force.

7. Acceptance of this delegation of NSPS does not commit the State of Nebraska and the DEC to request or accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's requests of July 18, 1973, and September 29, 1975.

8. The DEC and the EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the compliance status of the subject sources and interpretations of the regulations to which NSPS review procedures apply.

9. Section 60.9 requires that all information concerning a source subject to NSPS must be made available to the public unless it would divulge methods or processes entitled to protection as a "trade secret." It appears that the DEC Rule 22 gives broader protection from public disclosure than is contemplated by the NSPS; therefore, any requests for information pertaining to sources subject to NSPS, with which the DEC cannot comply because of its confidentiality laws, must be forwarded to the Region VII office.

10. If it is necessary to obtain an injunction against the operation of a source found to be in violation of the NSPS, the approach provided in section 81-5108(3) of the Nebraska statute shall be used. The direct approach of section 81-5108 is preferable because it permits an injunction to be obtained without the lengthy administrative hearing process, which may result if Rule 24 and section 81-5107 are followed.

11. The delegation to the State of Nebraska does not include the authority to implement and enforce NSPS for sources owned or operated by the United States which are located in Nebraska.

12. If, at any time, there is a conflict between a Nebraska regulation and a federal regulation (40 CFR 60 or amendments thereto), the federal regulation must be applied if it is more stringent than the state regulation.

13. If the Regional Administrator determines that a state procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a "Notice of Revocation" to the State of Nebraska.

A notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The notice will state, among other things, that effective immediately, all reports required pursuant to federal NSPS for the 12 source categories previously mentioned from sources located in Nebraska should be submitted to the Nebraska DEC, Lincoln, Nebraska. Any reports which have been, or may be, received in this office prior to the publication of the notice will be forwarded to the DEC.

In order to indicate your concurrence in this delegation, we would appreciate your approval on this original letter. We would appreciate return of the original to this office by December 24, 1975.

Sincerely yours,

JEROME H. SVORE,
Regional Administrator.

Signature of Approval:

J. JAMES EXON,
Governor of Nebraska

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified Governor Exon on November 24, 1975, that authority to implement and enforce the NSPS for the 12 categories of sources listed in the above letter was delegated to the State of Nebraska.

Copies of the requests for delegation of authority are available for public inspection at EPA, Region VII office, 1735 Baltimore, Kansas City, Missouri 64108.

Effective immediately, all reports required pursuant to the NSPS for the new stationary sources listed above shall be submitted to the Nebraska Department of Environmental Control, P.O. Box 94653, State House Station, Lincoln Nebraska 68509. However, reports required pursuant to 40 CFR 60.7(a) shall be submitted to the EPA, Region VII office as well as to the State.

This notice is issued under the authority of section 111 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-6)

Dated December 20, 1976.

JEROME H. SVORE,
Regional Administrator.

[FR Doc.76-38242 Filed 12-29-76;8:45 am]

MARINE MAMMAL COMMISSION

MARINE MAMMAL COMMISSION AND COMMITTEE OF SCIENTIFIC ADVISORS ON MARINE MAMMALS

Meetings

Pursuant to the notice published in the FEDERAL REGISTER on November 12, 1976, further notice is hereby given that the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals will meet on January 13, 14, and 15, 1977, at the Tampa Airport Resort Hotel, 2222 North Westshore Boulevard, Tampa, Florida 33607.

The Commission and Committee will meet together in public session from 11:00 a.m. to 4:00 p.m. on January 13, and from 9:00 a.m. to 5:00 p.m. on January 14, to discuss and consider the status of activities and problems affecting marine mammals, including matters relating to:

(1) The taking of porpoises incidental to commercial yellowfin tuna fishing;
(2) The status of *Tursiops truncatus* in Florida waters;
(3) The status of *Trichecus manatus* in Florida waters;
(4) Harassment of *Megaptera novaeangliae* in Hawaiian waters;
(5) Harassment of *Eschrichtius robustus;*
(6) Research relating to *Enhydra lutris;*
(7) The marine mammal research activities of the National Marine Fisheries Service;
(8) The marine mammal research activities of the Fish and Wildlife Service;
(9) The concept of optimum sustainable populations;
(10) Special activities of subcommittees of the Committee of Scientific Advisors on Marine Mammals; and
(11) Such other matters as may appropriately come before the meeting.

These sessions will be open to the public, and seating will be available to accommodate those who are interested.

The remainder of the meeting will consist of executive sessions of the Commission and Committee. These sessions will be devoted to the review of memoranda, and exchange of opinions and deliberations concerning internal operations, budget, personnel, policy, interagency liaison, and the evaluation of proposals to conduct research related to marine mammal protection and conservation. Participants will be candidly discussing and appraising the professional qualifications and competence of the proposers, their potential contribution to the research program, and information given to the Commission and Committee in confidence.

Executive sessions will be held as follows:

January 13, from 9:00 a.m. to 10:40 a.m. and from 4:00 p.m. to 5:00 p.m.; and
January 15, from 9:00 a.m. to 12:00 noon.

These sessions are concerned with matters listed in 5 U.S.C. 552(b)(2), (3), (4), (5) and (6), and therefore will not be open to the public.

DECEMBER 22, 1976.

JOHN R. TWISS, Jr.,
Executive Director,
Marine Mammal Commission.

[FR Doc.76-38334 Filed 12-29-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for

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nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operations and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states.

As a part of this program, Safety Guide, SG–04, "Commissioning Procedures," has been developed and the NRC is soliciting U.S. public comment on it.

An IAEA Working Group, consisting of Mr. G. V. Nadkarny, India; Mr. M. Shibata, Japan; and Mr. G. B. T. Camsey, United Kingdom, developed this draft from an IAEA collation during a meeting on November 8, 1976.

An opportunity for public comment exists prior to review of this draft at the next meeting of the IAEA Technical Review Committee on Operation. Opportunities for public comments on later drafts will also be presented as this draft is later sent to the IAEA Senior Advisory Group, then to the member states.

Comments on this draft Safety Guide are requested by March 18, 1977. Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland, this 17th day of December 1976.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director,
Office of Standards Development.

[FR Doc.76–38302 Filed 12–29–76;8:45 am]

[Docket No. RM–50–5]

GENERIC ENVIRONMENTAL STATEMENT ON MIXED OXIDE FUEL

Order Concerning Resumption of Hearing January 11, 1977

The legislative type hearing called for by the Commission's Notice of Hearing published January 6, 1976 (41 FR 1133) began on November 30, 1976. It will resume at 9:30 a.m. on Tuesday, January 11, 1977 at Room 1046 at the offices of the Nuclear Regulatory Commission at 1717 H Street NW., Washington, D.C. At that time, the Board will continue its questioning of NRC Staff witnesses on the Final Generic Environmental Statement on the Use of Recycle Plutonium in Mixed Oxide Fuel in Light Water Cooled Reactors (Health, Safety and Environment), NUREG 0002, ES ("final GESMO I") and on the related notice of proposed rulemaking, Licensing of Production and Utilization Facilities, Licensing and Regulatory Policy and Procedures for Environmental Protection, Use of Mixed Uranium-Plutonium Oxide Fuels in Light-Water Nuclear Power Reactors, 41 FR 40506 (September 20, 1976).

The Board's Order Concerning Questioning of NRC Staff, Supplementing Final GESMO I, and Other Hearing Procedures docketed November 19, 1976 (p. 20) stated that we would postpone the date for full participants to file written testimony until 14 days after the questioning of the NRC Staff on final GESMO I was completed, if we were unable to complete such questioning in December. In our three weeks of questioning in December, we were able to complete about half of final GESMO I. It therefore appears that written testimony by full participants will not be due before some time in the latter part of February of 1977. The Board will issue an Order later providing deadlines for submission of written testimony by full participants, and for the subsequent steps described in our Order After Prehearing Conference docketed September 21, 1976 (pp. 6–7).

When the Board resumes questioning NRC Staff witnesses on January 11, 1977, we will continue the procedure in effect since the beginning of the hearing. The questions will be asked by Board Members, not by other full participants or their counsel. We believe the proceeding is progressing satisfactorily in this fashion. All full participants have had an opportunity to suggest questions to the Board to be asked of NRC Staff witnesses. We have not proposed any special procedure for full participants to use if they feel Board Members have not asked a question based on their suggestions, or, having asked such a question, have not followed up on the responses where a follow up was appropriate. However, as indicated in our Order of November 19, 1976 (p. 18) there is available for this purpose the general provision for motions in the Notice of Hearing January 6, 1976 (par. 7). Such a motion may be filed by a full participant and should be filed as soon as practicable after testimony has been completed on a subject by the witness of whom further questioning is desired by the full participant. In addition, each full participant will have an opportunity to suggest further questions for the Board to ask the NRC Staff concerning the Staff's written testimony after that testimony is submitted. Each full participant will also have an opportunity to submit its own written testimony on the subject.

It is so ordered.

Dated: December 21, 1976.

For the Gesmo Hearing Board.

GEORGE BUNN,
Chair.

[FR Doc.76–38297 Filed 12–29–76;8:45 am]

[Docket No. 50–331]

IOWA ELECTRIC LIGHT AND POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR–49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment will revise the Technical Specifications by reducing the Minimum Critical Power Ratios (MCPR) for the last 1000 MWD/T in their fuel cycle. The reduction is based on full scale test data which demonstrated that the fuel bundle bypass flow is greater than was assumed in previous analysis.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 9, 1976, (2) Amendment No. 25 to License No. DPR–49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of December 1976.

For the nuclear regulatory commission.

JAMES J. SHEA,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76–38300 Filed 12–29–76;8:45 am]

[Docket No. 50–17]

INDUSTRIAL REACTOR LABORATORIES, INC. AND N. L. INDUSTRIES, INC.

Proposed Issuance of Order Authorizing Termination of Facility License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an order to Industrial Reactor Laboratories, Inc. and N. L. Industries, Inc. (the licensees), authorizing termination of Facility License No. R–46 for the deactivated Industrial Reactor Laboratory Research Reactor (the facility), located in Plainsboro Township, Middlesex County, New Jersey.

Prior to issuance of the order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 14, 1977, the licensees may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the order in connection with the licensees' application. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for termination dated June 12, 1975, as supplemented November 26, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 20th day of December 1976.

For the nuclear regulatory commission.

VERNON L. ROONEY,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76–38298 Filed 12–29–76;8:45 am]

[Docket No. 50–30]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Amended Facility License No. TR–3, issued to the National Aeroautics and Space Administration (the licensee), which revised the license and Technical Specifications for the deactivated Plum Brook Reactor Facility (the facility) located near Sandusky, Ohio. The amendment is effective as of its date of issuance.

The amendment excludes certain areas from the controlled area of the Plum Brook Reactor Facility and from licensing requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 27, 1976, (2) Amendment No. 6 to License No. TR–3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of December 1976.

For the nuclear regulatory commission.

V. L. ROONEY,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76–38301 Filed 12–29–76;8:45 am]

[Docket Nos. 50–514 and 50–515]

PORTLAND GENERAL ELECTRIC CO., ET AL.

Order Convening Hearing

In the matter of Portland General Electric Co., Puget Sound Power and Light Company, and Pacific Power and Light Company, (Pebble Springs Nuclear Plant, Units 1 and 2).

The Atomic Safety and Licensing Board has been advised by Portland General Electric Company, et al. (Applicants), the Oregon Department of Energy, and the Regulatory Staff of the Commission, that the Board's suggestion of March 1, 1977 is a convenient date to resume the evidentiary hearings respecting the need for power issue in this proceeding. No obligation to this date has been received from other parties to the proceeding.

The Board will schedule this hearing to convene on the same time, date, and at the same place that the Skagit Board has set for the resumption of the evidentiary hearing for the consideration of the need for power issue in that proceeding. The two hearings will constitute a joint session but there is not any consolidation of the proceedings. The procedures therefore will be similar to those had in the August 1976 joint session of evidentiary hearings.

The Regulatory Staff has requested that February 15, 1977 be designated as the date on or before which all statements proposed to be offered as evidence in the proceeding shall be prepared and served upon all parties and the Board. From today's date, February 15, 1977 appears to be well enough in advance to provide adequate opportunity for preparation and service of such statements. The Board finds that good cause has been shown to adopt February 15th and the Board, therefore, orders that February 15, 1977 is the date on or before which all proposed statements intended to be offered as evidence, either orally or by documents, shall be served upon all parties to the proceeding and to the Board and filed with the Commission.

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Additional dates for specific submittals will be provided by a subsequent order.

Wherefore, It Is Ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that the evidentiary hearings to consider the need for power issue in this proceeding shall resume and shall commence at 9:00 a.m. on Tuesday, March 1, 1977, in Room 514 of the New Federal Building, 915 Second Avenue, Seattle, Washington 98174.

Issued: December 20, 1976, Bethesda, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
JAMES R. YORE,
Chairman.

[FR Doc.76-38303 Filed 12-29-76;8:45 am]

[Docket No. 50-278]

PHILADELPHIA ELECTRIC CO. ET AL.

Proposed Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. DPR-56 issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company (the licensees), for operation of the Peach Bottom Atomic Power Station, Unit No. 3, located in Peach Bottom, York County, Pennsylvania.

The proposed amendment would modify the provisions in the Technical Specifications to authorize operation with (1) up to 188 GE 8 X 8 reload fuel assemblies, (2) one Pressurized Test Assembly, (3) one Fast Scram Control Rod Drive, (4) holes drilled in the lower tieplate of all reload 8 X 8 fuel bundles and (5) a modified Rod Sequence Control System, in accordance with the licensees' application for amendment, dated November 17, 1976.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By January 31, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Troy B. Conner, Jr., Esquire, Conner and Knotts, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006, the attorney for the licensees.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board; designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated November 17, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401.

Dated at Bethesda, Maryland, this 22d day of December 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-38299 Filed 12-29-76;8:45 am]

[Docket Nos. STN 50-522 and STN 50-523]

PUGET SOUND POWER AND LIGHT CO., ET AL.

Order Convening Hearing

In the Matter of Puget Sound Power and Light Co., Portland General Electric Company, Pacific Power and Light Company, and the Washington Water Power Company (Skagit Nuclear Power Project, Units 1 and 2).

The Atomic Safety and Licensing Board has been advised by Puget Sound Power and Light Company, et al. (Applicants), the Oregon Department of Energy, and the Regulatory Staff of the Commission, that the Board's suggestion of March 1, 1977 is a convenient date to resume the evidentiary hearings respecting the need for power issue in this proceeding. No objection to this date has been received from other parties to the proceeding.

The Board will schedule this hearing to convene on the same time, date, and at the same place that the Pebble Springs Board has set for the resumption of the evidentiary hearing for the consideration of the need for power issue in that proceeding. The two hearings will constitute a joint session but there is not any consolidation of the proceedings. The procedures therefore will be similar to those had in the August 1976 joint session of evidentiary hearings.

The Regulatory Staff has requested that February 15, 1977 be designated as the date on or before which all statements proposed to be offered as evidence in the proceeding shall be prepared and served upon all parties and the Board. From today's date, February 15, 1977 appears to be well enough in advance to provide adequate opportunity for preparation and service of such statements. The Board finds that good cause has been shown to adopt February 15th and the Board, therefore, orders that February 15, 1977 is the date on or before which all proposed statements intended to be offered as evidence, either orally or by documents, shall be served upon all parties to the proceeding and to the Board and filed with the Commission. Additional dates for specific submittals will be provided by a subsequent order.

Wherefore, it is Ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that the evidentiary hearings to consider the need for power issue in this proceeding shall resume and shall commence at 9:00 a.m. on Tuesday, March 1, 1977, in Room 514 of the New Federal Building, 915 Second Avenue, Seattle, Washington 98174.

Issued: December 20, 1976, Bethesda, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc. 76-38304 Filed 12-29-76; 8:45 am]

[Docket No. 50-573]

WESTINGHOUSE ELECTRIC CORP.

Application for and Consideration of Issuance of Facility Export License

Please take notice that Westinghouse Electric Corporation, Pittsburgh, Pennsylvania, submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a pressurized water reactor with a thermal power level of 1876 megawatts to the Republic of Korea and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulations set forth in 10 CFR, Chapter 1, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported. Consequently, there are no safety analysis or Advisory Committee on Reactor Safeguards reports.

Unless on or before January 31, 1977, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of International Programs may, upon the determinations and findings noted above, cause to be issued to Westinghouse Electric Corporation a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 20th day of December, 1976.

For the Nuclear Regulatory Commission.

MICHAEL A. GUHIN,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc.76-38305 Filed 12-29-76;8:45 am]

[Docket No. 50-574]

WESTINGHOUSE ELECTRIC CORP.

Application for and Consideration of Issuance of Facility Export License

Please take notice that Westinghouse Electric Corporation, submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a pressurized water reactor with a thermal power level of 1876 megawatts to the Philippines and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

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No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulations set forth in 10 CFR, Chapter 1, and

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Unless on or before January 31, 1977, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of International Programs may, upon the determinations and findings noted above, cause to be issued to Westinghouse Electric Corporation a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 20th day of December, 1976.

For the Nuclear Regulatory Commission.

MICHAEL A. GUHIN,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc.76-38305 Filed 12-29-76;8:45 am]

[Docket No. 50-574]

WESTINGHOUSE ELECTRIC CORP.

Application for and Consideration of Issuance of Facility Export License

Please take notice that Westinghouse Electric Corporation, submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a pressurized water reactor with a thermal power level of 1876 megawatts to the Philippines and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulations set forth in 10 CFR, Chapter 1, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported. Consequently, there are no safety analysis or Advisory Committee on Reactor Safeguards reports.

Unless on or before January 31, 1977, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of International Programs may, upon the determinations and findings noted above, cause to be issued to Westinghouse Electric Corporation a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 17th day of December, 1976.

For The Nuclear Regulatory Commission.

MICHAEL A. GUHIN,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc.76-38306 Filed 12-29-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEES ON THE CHEROKEE NUCLEAR STATION, UNITS 1, 2, AND 3 AND THE PERKINS NUCLEAR STATION, UNITS 1, 2, AND 3

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittees on the Cherokee Nuclear Station, Units 1, 2, and 3 and the Perkins Nuclear Station, Units 1, 2, and 3, will hold a meeting on January 19, 1977 at the Roadway Inn/Airport, 4040 I-85 and Little Rock Road, Charlotte, NC (704/394-4111) to review the application of the Duke Power Company for a permit to construct Units 1, 2, and 3 of these Stations.

The agenda for subject meeting shall be as follows:

WEDNESDAY, JANUARY 19, 1977

9:30 A.M.—9:00 A.M. (OPEN)

The Subcommittees with any of their consultants who may be present will meet in Executive Session to explore their preliminary opinions, based upon their independent review of safety reports, regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

9:00 A.M. UNTIL THE CONCLUSION OF BUSINESS (OPEN)

The Subcommittees will hear presentations by representatives of the NRC Staff, the Duke Power Company, and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Subcommittees may caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee. Upon conclusion of this caucus, the Subcommittees will announce their determination.

It may be necessary for the Subcommittees to hold one or more closed sessions for the purpose of exploring with the NRC Staff and Applicant matters involving proprietary information, particularly with regard to specific features of plant design and plans related to plant security.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect confidential proprietary information (5 U.S.C. 552 (b)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittees is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meet-

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ings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittees at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than January 12, 1977, to Mr. Gary R. Quittschreiber, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555; at the Cherokee County Library, 300 E. Rutledge Ave., Gaffney, SC 29340 (regarding the Cherokee Station); and at the Davie County Public Library, 461 N. Main Street, Mocksville, NC 27028 (regarding the Perkins Station).

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittees will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on January 18, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. Gary R. Quittschreiber) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be propounded only by members of the Subcommittees and their consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Gary R. Quittschreiber of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection on or after January 26, 1977 at the NRC Public Document Room, 1717 H St., N.W., Washington, D.C. 20555; at the Cherokee County Library, 300 E. Rutledge Ave., Gaffney, S.C. 29340 (regarding the Cherokee Station); and at the Davie County Public Library, 461 N. Main St., Mocksville, N.C. 27028 (regarding the Perkins Nuclear Station).

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, D.C. 20555 after April 19, 1977.

Copies may be obtained upon payment of appropriate charges.

Dated: December 22, 1976.

JOHN C. HOYLE,
Advisory Committee Management Office.

[FR Doc.76-38296 Filed 12-29-76;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

RESEARCH AND STATISTICS

Supplemental Notice of Hearings

The Privacy Protection Study Commission, in a notice published in the FEDERAL REGISTER on December 16, 1976, (FR, Vol. 41, No. 243, p. 55007), announced that it will hold hearings on its draft recommendations on Research and Statistics between 9:30 a.m. and 5:30 p.m. on January 5 and 6, 1977 in Room 2358, Rayburn House Office Building, Washington, D.C.

The purpose of this supplemental notice is to announce that written statements concerning the Commission's draft recommendations will be accepted and made part of the record of the Commission until February 5, 1977 which is thirty days after the last day of the hearings.

CAROLE W. PARSONS,
Executive Director, Privacy Protection Study Commission.

[FR Doc.76-38339 Filed 12-29-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Administrative Proceeding File No. 3-5136
File Nos. 2-26768, 22-8118]

CANADIAN PACIFIC LIMITED

Application and Opportunity for Hearing

DECEMBER 21, 1976.

Notice Is Hereby Given That Canadian Pacific Limited ("Canadian Pacific") filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Bank of Montreal Trust Company ("Montreal Trust") under two indentures, one of which has been qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Montreal Trust from acting as Trustee under a new indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

Canadian Pacific alleges that: (1) Montreal Trust presently is acting as trustee under the Equipment Trust Agreement for Canadian Pacific Railway Company Equipment Trust, Series R (the "Series R Indenture") which is one of the six presently existing equipment trusts. The Series R Indenture was qualified under the Act. Of the $25,020,000 principal amount of Series R Certificates issued, $9,060,000 remains outstanding, and has a final maturity of July 17, 1982.

(2) None of the six existing equipment trusts is in default.

(3) Canadian Pacific intends to create, on or about January 1, 1977, an equipment trust to be designated as Canadian Pacific Limited Equipment Trust, Series W, under which approximately $35,000,000 principal amount of equipment trust certificates are expected to be issued pursuant to an Equipment Trust Agreement (the "Series W Indenture"). The Series W Indenture concerns a private offering not subject to the Act. The Series W Trust has a final maturity of January 15, 1992. Canadian Pacific desires to appoint Montreal to act as trustee under the Series W Indenture.

(4) The Series R equipment trust certificates are, and the Series W equipment trust certificates will be, secured by separate lots of identified railroad cars, so that should Montreal have occasion to proceed against the security under one of these trusts, such action would not affect the security, or the use of any security, under the other trust. Thus, the existence of the other trusteeship should in no way inhibit or discourage Montreal's actions.

(5) The trusteeship of Montreal Trust under the Series R equipment trust certificates, qualified under the Act, and under the new Series W equipment trust certificates not subject to the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Montreal Trust from acting as trustee of either said indenture.

Canadian Pacific has waived notice of hearing, hearing, and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission at the Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C. 20549.

Notice Is Further Given that any interested person may, not later than January 17, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-38257 Filed 12-29-76;8:45 am]

[File No. 81]

ELPAC, INC.

Application and Opportunity for Hearing

DECEMBER 16, 1976.

Notice Is Hereby Given that Elpac, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Applicant be granted an exemption from the reporting provisions of section 15(d) of that Act.

Section 15(d) provides that each issuer who has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to section 13 of the 1934 Act in respect of a security registered pursuant to section 12 of that Act.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the provisions of section 15(d) or if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, and nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part:

1. Applicant is a Delaware corporation subject to the reporting provisions of section 15(d) of the 1934 Act.

2. As a result of a merger on August 27, 1974, the Applicant became a wholly-owned subsidiary of Newpark Resources, Inc., a Nevada corporation.

In the absence of an exemption, Applicant would be subject to the periodic reporting requirements of section 15(d) of the 1934 Act through December 31, 1976.

Applicant argues that there would be no useful purpose served by the filing of continued reports for the fiscal year ending December 31, 1976, in view of the fact it has but one stockholder.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than January 10, 1977 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities & Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advise as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-38256 Filed 12-29-76;8:45 am]

[Rel. No. 34-13114]

TRADING IN SECURITIES ISSUED OR GUARANTEED BY THE GOVERNMENT OF HUNGARY

Applicability of Johnson Act

On January 22, 1974, the Commission published Securities Exchange Act Release No. 10610,[1] "Trading in Securities Issued or Guaranteed by the Governments of Bulgaria, Hungary and Romania." In that release the Commission withdrew, effective January 28, 1974, its earlier request that brokers and dealers refrain from effecting transactions in securities issued or guaranteed by the governments of Bulgaria, Hungary and Romania. The Commission advised, however, that its action was subject to the Johnson Act (18 U.S.C. 955), which prohibits trading in securities issued by foreign governments after April 13, 1934 if such foreign government is in default of obligations to the United States and is not a member of both the International Monetary Fund and the International Bank for Reconstruction and Development.

The Commission noted in Securities Exchange Act Release No. 10610 that it had been advised by the staff of the Department of State that Hungary was in default in payment of its obligations to the United States and, not being a member of both the International Monetary Fund and the International Bank for Reconstruction and Development, appeared to be subject to the Johnson Act prohibitions. The Commission has recently been advised by the Acting General Counsel of the Department of the Treasury that Hungary is not now in default of obligations to the United States and that, in his opinion, Hungary is therefore not now subject to the restrictions of the Johnson Act. Accordingly, the Commission believes it is now appropriate to withdraw its previous cautionary notice, in Securities Exchange

[1] 39 FR 3932 (Jan. 31, 1974).

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Act Release No. 10610, that "the Johnson Act may restrict trading in bonds issued by Hungary."

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 28, 1976.

[FR Doc.76-38466 Filed 12-29-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

CONCORD DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Concord District Advisory Council will hold a public meeting at 10 a.m. until 12 noon, Wednesday, January 19, 1977, in the Federal Building, 55 Pleasant Street, Room 213, Concord, New Hampshire, to discuss such matters as may be presented by members, staff of the Small Business Administration or others present. For further information write or call Bert Teague, at the above address (603) 834-7011.

Dated: December 20, 1976.

HENRY V. Z. HYDE, JR.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-38340 Filed 12-29-76;8:45 am]

LENDING INSTITUTIONS

Maximum Interest Rates

Notice is given that the Small Business Administration ("SBA") has established the maximum rates of interest that lending institutions participating with SBA may charge on loans approved by SBA after January 1, 1977, under Section 7 of the Small Business Act, as amended, and Section 502 of the Small Business Investment Act, as amended.

Effective January 1, 1977, the maximum rate of interest acceptable to SBA on a guaranteed loan or guaranteed revolving line of credit shall be nine and one-quarter percent (9¼%) per year, and the maximum rate on an immediate participation loan shall be eight and one-quarter percent (8¼%) per year. These maximum interest rates are three-quarters percent (¾%) lower than those published in the FEDERAL REGISTER on October 13, 1976 (41 FR 44903), and shall remain in effect until notification of a change is issued by SBA.

The "SBA Optional Peg Rate" for the quarter-year beginning January 1, 1977, will be seven and one-quarter percent (7¼%) per year. This is an optional "peg" rate for use in connection with fluctuating-interest rate loans made in participation with SBA.

This Notice is issued under 13 CFR 120.3(b)(2)(iv).

(Catalog of Federal Domestic Assistance Programs:
No. 59.002 Economic Injury Disaster Loans (E.F.)
No. 59.012 Small Business Loans
No. 59.013 State and Local Development Company Loans
No. 59.014 Coal Mine Health and Safety Loans
No. 59.017 Meat and Poultry Inspection Loans (Consumer Protection Loans)
No. 59.018 Occupational Safety Health Loans
No. 59.001 Displaced Business Loans
No. 59.003 Economic Opportunity Loans for Small Business
No. 59.010 Product Disaster Loans (E)
No. 59.020 Base Closing Economic Injury Loans (E.F.)
No. 59.021 Handicapped Assistance Loans (E.F.)
No. 59.022 Emergency Energy Shortage Economic Injury Loans (E.F.)
No. 59.023 Strategic Arms Economic Injury Loans (E.F.)
No. 59.024 Water Pollution Control Loans (E.F.)
No. 59.025 Air Pollution Control Loans (E.F.).)

Dated: December 28, 1976.

LOUIS F. LAUN,
Deputy Administrator.

[FR Doc.76-38459 Filed 12-29-76;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/11]

STUDY GROUP 2 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 2 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on January 26, 1977, at 9:30 a.m. in Room 521, Federal Office Building 10B, 7th and Independence Avenue SW., Washington, D.C.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic), and to interference problems concerning the radioastronomy and radar astronomy services. The purpose of the meeting will be a review of work programs in preparation for the international meeting of Study Group 2, Geneva, September 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: December 22, 1976.

JOHN J. O'NEILL, JR.,
Director, Office of International Communications Policy.

[FR Doc.76-38341 Filed 12-29-76;8:45 am]

[Public Notice CM-7/12]

STUDY GROUP CMTT OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group CMTT of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on January 26, 1977, at 10 a.m. in Room 4071, Communications Satellite Corporation, 950 L'Enfant Plaza SW., Washington, D.C.

Study Group CMTT deals with technical standards for telecommunication systems to permit the transmission of sound and television programs over long distances. The purpose of the meeting on January 26 is to review the work under way in preparation for the international meeting of CMTT in Geneva in September 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: December 22, 1976.

JOHN J. O'NEILL, JR.,
Director, Office of International Communications Policy.

[FR Doc.76-38342 Filed 12-29-76;8:45 am]

[Public Notice No. CM-7/10]

INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT); STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE

Meeting

The Department of State announces that Study Group 1 of the U.S. CCITT National Committee will meet on January 18-19, 1977 at 10:00 a.m. in Room 511 of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Committee will consider the development of U.S. positions to be taken at international CCITT meetings now scheduled for March and April, 1977 in Geneva, Switzerland. The Committee will discuss aspects of global maritime services and questions related to the settlement of accounts in international telecommunications relations on the first day (January 18). The following day's considerations will study questions and positions relative to international leased channel and public data services.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: December 17, 1976.

ARTHUR L. FREEMAN,
Chairman, U.S. CCITT National Committee.

[FR Doc.76-38249 Filed 12-29-76;8:45 am]

[Public Notice No. CM-7/9]

OCEAN AFFAIRS ADVISORY COMMITTEE

Meeting

The Ocean Affairs Advisory Committee will meet on January 25, 1977 in conference room 1408 of the Department of State, Washington, D.C. at 2:00 p.m.

The Committee will discuss the future of international cooperation in marine science and technology and executive branch organization for dealing with marine science and technology, including the further development of national marine science and ocean policy and upcoming programs and events. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairman.

The Ocean Affairs Advisory Committee will continue on January 26 in a session which will not be open to the public since the discussions will be devoted to matters exempt from public disclosure under 5 U.S.C. 552(b)(1) and the public interest requires that such discussions be withheld from disclosure. The purpose of the discussion will be to elicit views on alternatives and options open to the United States in development of international marine science and technology policy and its application in the conduct of U.S. foreign relations, and to assist in the preparations for future negotiations in these areas. The disclosure of the alternatives and options under consideration at this time, and discussions of their pros and cons, could be prejudicial to the U.S. negotiating position and the conduct of foreign relations. This portion of the meeting will include classified briefings and examination and discussion of classified documents, pursuant to Executive Order 11652.

Dated: December 21, 1975.

ROZANNE L. RIDGWAY,
Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc.76-38248 Filed 12-29-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) EXECUTIVE COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Executive Committee to be held January 28, 1977, Air Transport Association of America Conference Room A-B-C, 5th Floor, 1709 New York Avenue NW., Washington, D.C., commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Approval of Minutes of November 3, 1976 and November 17, 1976 Meetings; (2) Special Committee Activities Report for November-December, 1976; (3) Chairman's Report of RTCA Administration and Activities; (4) Briefing on Global Positioning System; (5) Consideration of Reports by Special Committees; and (6) Consideration of Establishing Special Committees.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on December 16, 1976.

KARL F. BIERACH,
Designated Officer.

[FR Doc.76-38097 Filed 12-29-76;8:45 am]

National Highway Traffic Safety Administration

Federal Highway Administration

EVALUATION OF ADEQUACY OF HIGHWAY SAFETY STANDARDS

Public Meeting

This notice announces that the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) will hold a joint public meeting, to receive preliminary briefings on the findings of the Safety Management Institute and Roy Jorgensen, Associates, Inc., two contractors working for the Department of Transportation on a study of the adequacy and appropriateness of the highway safety program standards. Initial analyses made by Department staff will also be discussed at the meeting.

The study is being conducted pursuant to section 208(b) of the Federal-Aid Highway Act of 1976, Pub. L. 94-280, 90 Stat. 454, which provides that the Secretary of Transportation shall conduct an evaluation of the adequacy and appropriateness of all uniform safety standards established pursuant to section 101 of the Highway Safety Act of 1966, Pub. L. 89-564, 80 Stat. 731 (23 U.S.C. 402).

The meeting will be held January 6, 1977, from 9 a.m. to noon and from 1 p.m. to 4 p.m. at the Department of Transportation Headquarters Building, Room 6244, 400 7th Street, SW., Washington, D.C. 20590.

State and local officials and other interested individuals and groups are invited to attend the meeting and to present oral or written comments. Persons may make written comments subsequent to the date of the meeting.

Such comments should be sent to Mr. H. V. Hawley, NHTSA, Room 5130, 400 7th Street, SW., Washington, D.C. 20590. Individuals with questions about the meeting may call Mr. Hawley at (202) 426-1693.

(Sec. 208(b), Pub. 92-280, 90 Stat. 454; Sec. 101, Pub. L. 89-564, 80 Stat. 731 (23 U.S.C. 401 et seq.).

Issued on: December 23, 1976.

HOWARD L. ANDERSON,
Associate Administrator for Safety, Federal Highway Administration.

FRED W. VETTER, JR.,
Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration.

[FR Doc.76-38226 Filed 12-29-76;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

GRANTING OF RELIEF PURSUANT TO SECTION 925(c), TITLE 18, UNITED STATES CODE

Notice is hereby given that pursuant to 18 U.S.C. section 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to acquisition, transfer, receipt, shipment or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety and that the granting of the relief will not be dangerous to the public interest.

Adams, Marion Alven, Route 2, Bardstown, Kentucky, convicted on November 25, 1974, in the Nelson Circuit Court, Nelson County, Kentucky.

Adelsberger, Robert G., 435 Keeney Drive, St. Charles, Missouri, convicted on April 13, 1954, in the Circuit Court, St. Louis, Missouri.

Anzivino, Lawrence Paul, Jr., South 30 West 29838 Sunset Drive, Waukesha, Wisconsin, convicted on September 17, 1963, and on March 10, 1965, in the County Court, Branch II, Waukesha, Wisconsin.

Ashley, Thomas Jason, 115 Hall Street, Jonesville, North Carolina, convicted on May 12, 1975, in the United States District Court for the Middle District of North Carolina.

Awtrey, Richard L., 3109 South St. Paul, Wichita, Kansas, convicted on March 20, 1967, in the Sedgwick County District Court, Wichita, Kansas.

Barber, George L., 7800 East 100th Street, Kansas City, Missouri, convicted on October 19 1938, in the District Court, Third Judicial District, Prowers County, Colorado; and on November 15, 1939, in the District Court of Sedgwick County, Kansas.

Beckman, William H., Rhame, North Dakota, convicted on April 6, 1931, in the District Court of North Dakota.

Bernard, James E., 2701 Clear Creek, South Lake Tahoe, California, convicted on January 11, 1973, in the United States District Court, Northern District of Illinois, Eastern Division, Illinois.

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Blackwood, Robert A., 56 Inman Circle, NE, Atlanta, Georgia, convicted on April 24, 1972, in the United States District Court, Southern District of New York, New York; and on November 21, 1972, in the United States District Court, Northern District of Georgia, Atlanta, Georgia.

Byrd, David K., 1250 East Main Street, Reedsburg, Wisconsin, convicted on September 22, 1972, in the County Court, Branch II, Sauk County, Wisconsin.

Cerda, James D., 2807 Anita Lane, Monroe, Louisiana, convicted on September 19, 1974, in the Fourth Judicial District Court, Parish of Ouachita, Louisiana.

Cooley, Eugene P., 19013 Wildemere, Detroit, Michigan, convicted on September 25, 1961, in the Recorder's Court, Detroit, Michigan.

Coon, Raymond S., 2110 Broadway, Everett, Washington, convicted on July 6, 1967, in the Superior Court for the County of Snohomish, Washington.

Dennison, Roger A., 53 Grove Street, Manchester, Connecticut, convicted on November 10, 1967, in the Hartford County Superior Court, Hartford, Connecticut.

Erspamer, Mark F., 1000 Lakeshore Drive, Moose Lake, Minnesota, convicted on November 14, 1969, and on December 17, 1971, in the District Court, Fourth Judicial District, Hennepin County, Minnesota.

Frye, Richard Wesley, 16 SW Pacific Avenue, Chehalis, Washington, convicted on October 29, 1973, in the Superior Court of Washington, Lewis County.

Gireth, Leslie B., 20006 Blackhawk, Chatsworth, California, convicted on September 28, 1935, and on October 26, 1955, in the Los Angeles Superior Court, Pasadena, California; and on February 26, 1969, in the Los Angeles County Superior Court, Los Angeles, California; and on January 22, 1974, in the Los Angeles Municipal Court, Los Angeles, California.

Goldthorpe, James W., 2551 Sierra Boulevard, Sacramento, California, convicted on December 1, 1958, in the Graham County Superior Court, Graham County, Arizona.

Gross, Felton Leroy, 1113 Sigsbee, SE, Grand Rapids, Michigan, convicted on December 29, 1958, in the Ingham County Circuit Court, Mason, Michigan.

Hallopeter, Donald R., 8025 NE 142nd, Bothell, Washington, convicted on July 17, 1968, in the Superior Court, Snohomish County, Washington.

Hamilton, David, 2533 Glendale, Detroit, Michigan, convicted on March 29, 1961, in the Circuit Court, Wayne County, Michigan.

Hayden, Wayne M., RR No. 3, Box 411, Martinsville, Indiana, convicted on September 27, 1939, in the Morgan County Circuit Court, Martinsville, Indiana.

Hockaday, Lafon Evans, Jr., 5471 SW 78th Street, Miami, Florida, convicted on September 9, 1971, in the United States District Court for the Southern District of Florida.

Honsbrink, Ernest W., 538 Bean Street, Anoka, Minnesota, convicted on July 19, 1944, in the General Court Martial, Fort Sheridan, Illinois.

Hudson, Billy A., Route 6, Box 225, Rocky Mount, Virginia, convicted on September 21, 1970, in the Corporation Court of Lynchburg, Virginia.

Johnson, Adrian W., 4430 Paradise Avenue West No. A, Tacoma, Washington, convicted on January 14, 1970, in the Pierce County Superior Court, Tacoma, Washington.

Jones, Arestine, 2620 Kim Avenue, Sacramento, California, convicted on August 9, 1962, in the United States District Court for the Northern District of California, Northern Division.

Kuethe, Robert W., 510 East University Avenue, Bloomington, Illinois, convicted on July 27, 1970, in the Superior Court, Glynn County, Georgia.

Laughridge, Roy L., 547 North Anteros Street, Stockton, California, convicted on October 5, 1951, in the Superior Court of San Joaquin County, California.

McCauley, Leroy A., 241 SW Lamar Street, Myrtle Creek, Oregon, convicted on April 28, 1971, in the Circuit Court, Douglas County, Roseburg, Oregon.

Marks, Elmer, Jr., Lakeshore Drive, Ontonagon, Michigan, convicted on or about January 13, 1960, in the Circuit Court for the County of Ontonagon, Michigan.

Massey, James G., Route 3, Keelers Mill Road, Greenville, South Carolina, convicted on May 10, 1963, in the Court of General Sessions, Greenville, South Carolina.

Maxwell, Robert H., 740 S. Brady Street, Dearborn, Michigan, convicted on August 25, 1952, in the Circuit Court for Kalamazoo County, Michigan.

Meyer, William T., RR 1, Box 147, Riverside, Iowa, convicted on May 18, 1970, and on February 22, 1971, in the District Court, Dickinson County, Iowa.

Monk, Rodney, 1505 Fourth Avenue, North, Fargo, North Dakota, convicted on September 24, 1964, and on November 29, 1968, in the District Court, First Judicial District, Cass County, North Dakota.

Mulroyan, Donald B., 1376 Selby Avenue, St. Paul, Minnesota, convicted on April 11, 1972, in the District Court, Second Judicial District for Ramsey County, Minnesota.

Murray, Harvey Gene, 519 Road of Remembrance, Jackson, Mississippi, convicted on October 20, 1972, in the United States District Court, Southern District of Mississippi.

Myers, William Lee, PO Box 524, Happy Top Section, Andrews, North Carolina, convicted on November 17, 1969, in the United States District Court for the Middle District of North Carolina; and on March 13, 1973, in Scotland County, North Carolina Superior Court.

Nelson, Gerald John, 16 East 15th Street, Minneapolis, Minnesota, convicted on October 3, 1973, in the District Court, Stearns County, St. Cloud, Minnesota.

Nelson, Richard L., 942 N. Adoline, Fresno, California, convicted on July 14, 1969, in the Superior Court, Merced County, Merced, California; and on August 29, 1972, in the Superior Court, Fresno County, Fresno, California.

Nielsen, Paul L., 214 North 6th Avenue, Wausau, Wisconsin, convicted on April 17, 1973, in the County Court, Marathon County, Wausau, Wisconsin.

Owen, Melton D., 7381 20th Avenue, Jenison, Michigan, convicted on January 17, 1949, in the Circuit Court for the County of Kent, Michigan.

Peters, Charles R., 3520 Horse Drive, Indianapolis, Indiana, convicted on December 26, 1968, in the Criminal Court, Division 1, Merion County, Indianapolis, Indiana.

Pierstorff, Duane H., 123 West Fifth Street, Central City, Kentucky, convicted on May 16, 1963, in the Dane County Court, Branch II, Madison, Wisconsin; and on July 6, 1972, in the Fayette County Circuit Court, Second Division, Lexington, Kentucky.

Plaisance, Lawrence N., 5849 Coubra Drive, Marrero, Louisiana, convicted on November 30, 1961, in the 24th Judicial District Court, Jefferson Parish, Louisiana.

Prestridge, Charles William, 1821 Pennsylvania Avenue, South, St. Louis Park, Minnesota, convicted on February 3, 1971, in the District Court for the Fourth Judicial District, County of Hennepin, Minnesota; and on June 15, 1971, in the United States District Court for the District of Minnesota, Fourth Division.

Ramsay, James W., 3323 Wilshire Drive, Redding, California, convicted on April 3, 1972, in the Superior Court of the State of California, in and for the County of Santa Clara.

Raymond, Kenneth V., 5948 California Avenue, SW, Seattle, Washington, convicted on January 15, 1957, in the United States District Court, Western District of Wisconsin.

Reed, Gene W., 1010 Mosby Road, Memphis, Tennessee, convicted on March 2, 1973, in the United States District Court, Western District of Tennessee.

Sedar, Joseph W., 9064 Willowgrove Avenue, Santee, California, convicted on January 31, 1966, in the United States District Court, Central Judicial District of California.

Showalter, George A., 11990 Beach Boulevard, Jacksonville, Florida, convicted on February 14, 1972, in the Circuit Court, Clay County, Florida.

Skelton, Randall A., 407 Collidge Avenue, Holden, West Virginia, convicted on April 11, 1972, in the Sixth Judicial Circuit Court, Pinellas County, Florida.

Smith, Ivay P., 8989 Concord Street, Detroit, Michigan, convicted on September 7, 1956, in the Recorder's Court, City of Detroit, Michigan.

Smith, Jerry W., Route 3, Box 24E, Saltville, Virginia, convicted on May 1, 1962, in the Circuit Court of Smyth County, Virginia.

Spaulding, Michael L., 19941 MacArthur, Redford, Michigan, convicted on July 25, 1969, in the United States District Court, Southern District, West Virginia.

Stebbins, Eugene T., 433 Brockwood Avenue, McMinnville, Oregon, convicted on September 24, 1971, in the Circuit Court for the State of Oregon, Yamhill County.

Stillwell, Jimmie Dean, 7707 East 111th Terrace, Kansas City, Missouri, convicted on February 20, 1961, in the District Court of Pottawatomie County, Oklahoma.

Woody, Hubert Nathaniel, Jr., Route 9, Box 401-B, Vander, North Carolina, convicted on May 17, 1962, in the United States District Court, Eastern District, North Carolina.

Younggren Gail Wayne, Box 17, Beldenville, Wisconsin, convicted on or about September 17, 1973, in the District Court, Fourth Judicial District, Hennepin County, Minnesota; and on February 16, 1971, in the District Court, Tenth Judicial District, Isanti County, Minnesota.

Signed at Washington, D.C., this 14th day of December, 1976.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.76-38270 Filed 12-29-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 223]

ASSIGNMENT OF HEARINGS

DECEMBER 27, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 2202 (Sub-No. 476), Roadway Express, Inc., has been continued to February 27, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 95540 (Sub-No. 961), Watkins Motor Lines, Inc., now being assigned January 31, 1977, (1 day), at Chicago, Ill., Room 350 230 South Dearborn St.

MC 66571 (Sub 7), Red Line, Inc. now assigned January 24, 1977 at Roanoke, Virginia and will be held in Room 226, Richard H. Poff Federal Building, 210 Franklin Road S.W.

MC 130387, Group Charter & Tour Concepts, Inc. now assigned January 5, 1977, at Newark, New Jersey and will be held in the Moot Court Room, 2nd Floor, Seton Hall Law School, 1111 Raymond Boulevard.

MC 141097 (Sub-No. 4), Cal-Tex, Inc., now being assigned March 8, 1977 (2 days), at Los Angeles, Calif.; in a hearing room to be later designated.

MC 141722, Norm's Delivery Service, Inc., now assigned March 8, 1977, at Los Angeles, Calif. is canceled and application dismissed.

MC 61592 (Sub 394), Jenkins Truck Line, Inc. now being assigned March 14, 1977 (2 weeks) at Seattle, Washington in a hearing room to be later designated.

MC 139236 (Sub 1), M.O.R.T. Enterprises, Inc. now being assigned March 9, 1977 (3 days) at Seattle, Washington in a hearing room to be later designated.

MC 74321 (Sub 123), B.F. Walker, Inc. now being assigned March 8, 1977 (1 day) at Seattle, Washington in a hearing room to be later designated.

No. 36467, Passenger Fare Increase, November 1976 Rockland Coaches, Inc. now assigned January 10, 1977 at New York, New York is cancelled and reassigned January 4, 1977 (4 days) at New York, New York and will be held in Room F-2220, Federal Building, 26 Federal Plaza.

FF-C-62, Rail Van, Inc., Freight Handlers Inc., Foutty Freight, Inc., Trailer Train, Inc. Trans-Rail, Inc. Lee Lydic, and Robert Marden—Investigation of Operations, now assigned February 7, 1977, at Cleveland Ohio is canceled.

MC 142310, H. O. Wolding, Inc., now being assigned February 7, 1977 (1 day), at Chicago, Ill., in Room 286, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 119988 (Sub-No. 96), Great Western Trucking Co., Inc., now being assigned February 8, 1977 (1 day), at Chicago, Ill. in Room 286, Everett McKinley Dirksen Building.

MC 117940 (Sub-No. 184), Nationwide Carriers, Inc., now being assigned February 9, 1977 (3 days), at Chicago, Ill. in Room 286, Everett McKinley Dirksen Building, 219 South Dearborn St.

MC-F 12822, Overnite Transportation Company — Purchase — O'Nan Transportation Co., Inc. and MC 109533 (Sub 75), Overnite Transportation Company now being assigned March 15, 1977 (9 days) at Louisville, Kentucky in a hearing room to be later designated.

MC 141172 (Sub-1), Retta Trucking Co., Inc., now being assigned March 28, 1977 (1 day) at New York, N.Y., in a hearing room to be later designated.

MC 103066 (Sub-No. 44), Stone Trucking Company, now being assigned March 29, 1977 (2 days) at New York, N.Y., in a hearing room to be later designated.

MC 142047 (Sub-2), Cheyenne Truck Leasing, Inc., now being assigned March 31, 1977 (2 days) at New York, N.Y., in a hearing room to be later designated.

MC 117644 (Sub 45), D & T Trucking Co., Inc. now being assigned March 28, 1977 (1 week) at Chicago, Illinois in a hearing room to be later designated.

MC 106603 (Sub 149), Direct Transit Lines, Inc. now being assigned March 25, 1977 (1 day) at Chicago, Illinois in a hearing room to be later designated.

MC 139928 (Sub 1), American Coach Lines, Inc. now being assigned March 22, 1977 (3 days) at Milwaukee, Wisconsin in a hearing room to be later designated.

Sec. 5b Appl. No. 2, Western Railroad Agreement now being assigned April 25, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

Sec. 5b Appl. 3, Eastern Railroads Agreement now being assigned May 9, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

Sec. 5b Appl. No. 6, Southern Railroads Agreement now being assigned May 18, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 109324 (Sub-34), Garrison Motor Freight, Inc., now being assigned February 14, 1977 (2 weeks), at Memphis, Tennessee; in the Executive Plaza Inn, 1471 E. Brooks Road.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38364 Filed 12-29-76;8:45 am]

[Notice No. 224]

ASSIGNMENT OF HEARINGS

DECEMBER 27, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction

MC-F-11025, Virginia - Carolina Freight Lines, Inc.—Purchase—Merit Transport Corporation (Joseph Keane, Statutory Receiver), now being assigned January 24, 1977, at the Offices of the Interstate Commerce, Commission, Washington, D.C., instead of January 24, 1976.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38365 Filed 12-29-76;8:45 am]

[NOTICE No. AB 18 (Sub-No. 18)]

CHESAPEAKE AND OHIO RAILWAY CO.

Abandonment of Portion of Railway Trackage (Elmdale Subdivision Between Alma and North Greenville, Also the Remus Subdivision Between Edmore and Remus, in Gratiot, Montcalm, Isabella and Mecosta Counties, Michigan)

DECEMBER 16, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment of the Chesapeake and Ohio Railway Company trackage between Alma and North Greenville and between Edmore and Remus, a distance of approximately 54.20 miles, in Gratiot, Montcalm, Isabella, and Mecosta Counties, Mich., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the associated environmental impacts are not considered significant because the diversion of traffic from the subject line to the area's highway network would result in an average traffic volume increase of less than five trucks a day with only minor consequent alterations in ambient noise levels, highway conditions, exhaust emissions, and fuel consumption. In addition, no definitive industrial location plans exist in the area and the likelihood of major industrial development in the near future appears remote. Accordingly, it was determined that rural and community development would not be subjected to a serious adverse effect, if the proposed abandonment is approved. Furthermore, no major historic or ecological impacts are involved with the potential railroad salvage operations, traffic diversion, or future uses of the right-of-way.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 31, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38366 Filed 12-29-76;8:45 am]

[Vol. No. 63]

PETITIONS FOR MODIFICATION, INTERPRETATION OF REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

DECEMBER 23, 1976.

The following petitions seek modification or interpretation of existing operat-

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ing rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's general rules of practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 119395 (Sub-No. 2) (Notice of filing of petition to modify permit), filed November 30, 1976. Petitioner: WILLIAM'S CHEMICAL TRANSPORT, INC., 500 Lambson Lane, New Castle, Del. 19720. Petitioner's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Petitioner holds a motor *contract carrier* Permit in No. MC 119395 (Sub-No. 2), issued November 16, 1973, authorizing transportation over irregular routes, of (1) (a) *drugs, in containers*, from the facilities of ICI America, Inc., at Newark, Del., to points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, and the District of Columbia; and (b) *returned shipments* of the commodities in (1) (a) above, from points in the destinations set forth in (1) (a) above to the above-described origin facilities; (2) *materials, equipment, and supplies* used in the manufacture and distribution of drugs (except in bulk), from points in the destinations set forth in (1) (a) above to the above-described origin facilities; (3) (a) *chemicals*, in containers, from the facilities of ICI America, Inc., at New Castle, Del., to points in Connecticut, Maine, Maryland (except Baltimore), Massachusetts, New Hampshire, New Jersey (except Trenton, Camden, and points within 20 miles of New York, N.Y.), New York (except Beacon, N.Y., and points in the New York, N.Y., commercial zone as defined by the Commission), Pennsylvania (except Ambler, Harrisburg, Philadelphia, Chester, Fernwood, and Marcus Hook), Rhode Island, and Vermont, and the District of Columbia; and (3) (b) *returned shipments* of the commodities in (3) (a) above, from points in the destinations set forth in (3) (a) above to the above-described origin facilities; and (4) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of chemicals (except in bulk), from points in the destinations set forth in (3) (a) above, including the excepted points, to the above-described origin facilities, limited in (1), (2), (3), and (4) above to a transportation service to be performed under a continuing contract, or contracts, with ICI America, Inc., of Wilmington, Del.

By the instant petition, petitioner seeks to modify the authority above to read as follows: "(1) *Drugs and chemicals*, in containers, and *materials, equipment, and supplies* used in the manufacture and distribution of drugs and chemicals (except in bulk), between the facilities of ICI United States, Inc., at or near Newark, Del., on the one hand, and, on the other, points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont and the District of Columbia; (2) *chemicals*, in containers, from the facilities of ICI United States, Inc., at or near New Castle, Del., to points in Connecticut, Maine, Maryland (except Baltimore), Massachusetts, New Hampshire, New Jersey (except Trenton, Camden, and points within 20 miles of New York, N.Y.), New York (except Beacon, N.Y., and points in the New York, N.Y. commercial zone as defined by the Commission), Pennsylvania (except Ambler, Harrisburg, Philadelphia, Chester, Fernwood, and Marcus Hook), Rhode Island, and Vermont, and the District of Columbia; and (3) *materials, equipment, and supplies*, used in the manufacture, sale, and distribution of chemicals (except in bulk), from points in the destinations set forth in (2) above, including the excepted points, to the above described origin facilities, restricted in (1), (2), and (3) above to the transportation of traffic transported under a continuing contract, or contracts, with ICI United States, Inc., of Wilmington, Del."

No. MC 119547 (Sub-No. 41) (Notice of filing of petition to modify certificate), filed October 27, 1976. Petitioner: EDGAR W. LONG, INC., Route 4, Zanesville, Ohio 43701. Petitioner's representative: Edgar W. Long (same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 119547 (Sub-No. 41), issued December 20, 1976, authorizing transportation over irregular routes, of *brick and clay products* (except commodities in bulk), from Ava, Ohio, to points in Wisconsin, Illinois, Indiana, Ohio, Kentucky, Virginia, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida.

By the instant petition, petitioner seeks to modify the authority above by adding an additional commodity and territorial description that reads as follows: "*supplies and materials* used in the manufacture and sale of brick and clay products (except in bulk), from points in that part of the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee and Mississippi, to Ava, Ohio."

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of protests to the granting of the authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's general rules of practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 136888 (Sub-No. 6) (Republication), filed January 19, 1976, published in the FEDERAL REGISTER issue of March 4, 1976, and republished this issue. Applicant: NORMAN & SON, INC., 2520 North 69th Street, Houston, Tex. 77080. Applicant's representative: Timothy Mashburn, P.O. Box 2207, Austin, Tex. 78767. An Order of the Commission, Review Board Number 2, dated November 29, 1976, and served December 14, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *metals and alloys* (except scrap metals), in bulk, in dump vehicles, between points in Texas, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the addition of Texas as an additional radial state in applicant's grant of authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest wil be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 4405 (Sub-No. 539), filed December 1, 1976. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Enterprise Bldg., Tulsa, Okla. 74103. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, semi-trailers and trailer chassis*, (except those designed to be drawn by passenger automobiles, in initial movements, in truckaway service), from Sedgwick County, Kans., to points in the United States (except Alaska, Hawaii and Kansas).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 19157 (Sub-No. 21), filed December 3, 1976. Applicant. McCORMACK'S HIGHWAY TRANSPORTATION, INC., Route 3, Box 4 Campbell Road, Schenectady, N.Y. 12306. Applicant's representative: Clem Tomlins, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cameras and commodities*, used in the operation, production, distribution and sale of cameras (except commodities in bulk, and those which because of size or weight require the use of special equipment), between Finley, Tenn., on the one hand, and, on the other, Cambridge, Waltham, Norwich, New Bedford and Needham, Mass., and Rochester and Binghampton, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Schenectady, N.Y., or Louisville, Ky.

No. MC 22195 (Sub-No. 169), (Correction), filed October 26, 1976, published in the FEDERAL REGISTER issue of November 24, 1976, and republished as corrected this issue. Applicant: DAN DUGAN TRANSPORT COMPANY, a Corporation, 41st & Grange Avenue, Sioux Falls, S. Dak. 57105. Applicant's representative: Fred Fischer, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, (1) from the facilities of Gulf Central Pipeline located at or near Spencer, Iowa, to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota, (2) from the facilities of Gulf Central Pipeline located at or near Holstein, Iowa, to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota; and (3) from the facilities of Gulf Central Pipeline located near David City, Nebr., to points in Iowa, Kansas, Minnesota, Nebraska, and South Dakota. Note: The purpose of this republication is to indicate the destination territory sought in paragraph (3) above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo. or Sioux Falls, S. Dak.

No. MC 35628 (Sub-No. 387), filed November 26, 1976. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a Corporation, 134 Grandville Avenue, S.W., Grand Rapids, Mich. 49503. Applicant's representative: Michael P. Zell, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), Serving: (1) plantsite and storage facilities of Auburn Hosiery Mills, Inc., at or near Auburn, Ky.; and (2) the plantsite and storage facilities of Ardco, Inc., at Elkton, Ky., as off-route points in connection with applicant's otherwise authorized operation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Bowling Green, Ky.; Nashville, Tenn.; or Washington, D.C.

No. MC 42537 (Sub-No. 54), filed November 26, 1976. Applicant: CASSENS TRANSPORT COMPANY, a Corporation, P.O. Box 468, Edwardsville, Ill. 62025. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except automobiles), in initial truckaway service, and motor vehicles in secondary truckaway service, cabs chassis and bodies, from the facilities of Chrysler Corporation, at St. Louis, Mo., and points in St. Louis County, Mo., to points in Delaware, Maryland, New Jersey, Virginia and the District of Columbia, restricted to traffic having a prior movement from the facilities of Chrysler Corporation, or imported by Chrysler Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 50307 (Sub-No. 86), filed November 22, 1976. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, N.Y. 10001. Applicant's representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel* in boxes or cartons and on hangers; and *materials, supplies and equipment* used in the manufacture of wearing apparel, (1) between Morgantown, W. Va., and Woodsfield, Ohio, (2) between Woodsfield, and Cleveland, Ohio; and (3) between Woodsfield, Ohio and Pennsylvania, New Jersey and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 65665 (Sub-No. 15), (Amendment), filed June 9, 1976, published in the FEDERAL REGISTER issue of September 16, 1976, republished as corrected this issue. Applicant: IMPERIAL VAN LINES, INC., 2805 Columbia St., Torrance, Calif. 90503. Applicant's representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potting mixes*, from Norco, Calif., to points in the United States (except Alaska and Hawaii). The purpose of this republication is to amend applicant's territorial description to read "from Riverside, Calif." in lieu of "from Norco, Calif."

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 66531 (Sub-No. 7), filed November 26, 1976. Applicant: INTERSTATE GROCERY DISTRIBUTION SYSTEM, INC., 2200 48th Street, North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, chemicals, pharmaceuticals, cleaning, scouring or washing compounds, impregnated paper, corn syrup* (except medicated corn syrup), *dental instruments, needles, glassware*, (except agricultural insecticides), *petroleum naphtha, coal tar dyes* (except indigo coal tar dyes), *coal tar colors* (except synthetic indigo coal tar colors), *bathroom or lavatory fixtures*

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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(except china), *flour enriching compound, dry flavoring compounds, advertising matter, glass and plastic bottles, steel, aluminum or plastic bottle caps, paper and paperboard,* and *tubes cellulose film,* between East Brunswick, Clifton, Lodi and East Rutherford, N.J., on the one hand, and, on the other, piers in New York Harbor, N.Y., as defined by the Commission.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washintgon, D.C.

No. MC 78687 (Sub-No. 43), filed December 2, 1976. Applicant: LOTT MOTOR LINES, INC., 118 Monell Street, Penn Yan, N.Y. 14527. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street, N.W., Suite 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Soda ash,* in bulk, from Solvay, N.Y., to points in North Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., together with application of Richard Dahn, Inc.

No. MC 94201 (Sub-No. 144), filed November 3, 1976. Applicant: BOWMAN TRANSPORTATION, INC., 1010 Stroud Avenue, Gadsden, Ala. 35903. Applicant's representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Brass, bronze, and copper pipe, tubing, fittings, rods, castings and valves or cocks,* from the plantsite, storage and warehouse facilities of Mueller Brass Co. located at or near Covington, Tenn., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Mississippi, Missouri, North Carolina, Ohio, Rhode Island, South Carolina, Texas, Virginia, points in Connecticut, New Jersey, and New York within 35 miles of Columbus Circle, N.Y., Baltimore, Md., Philadelphia, Pa. and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Charlotte, N.C. or Birmingham, Ala.

No. MC 94201 (Sub-No. 146), filed November 26, 1976. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, Ga. 30316. Applicant's representative: Maurice F. Bishop, 603 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Materials, equipment, machinery and supplies,* used in the manufacturing, processing and distribution of iron and steel articles (except commodities in bulk, in tank and dump vehicles), from points in the United States in and east of Iowa, Kansas, Minnesota, Oklahoma and Texas, to the plantsite and facilities of American Cast Iron Pipe Company, at Birmingham, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 100666 (Sub-No. 338), filed December 2, 1976. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Asphalt* (except in bulk), from Lawrenceville, Ill., to Shreveport, La.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 106497 (Sub-No. 137), filed November 18, 1976. Applicant: PARKHILL TRUCK COMPANY, P.O. Box 912, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Materials, equipment, parts and supplies* (except commodities in bulk), used in the manufacturing, processing, and distribution of boilers and boiler parts, from points in the United States (except Alaska and Hawaii), to Danville, Ky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Memphis, Tenn., or Washington,D.C.

MC 107403 (Sub-No. 993), filed December 3, 1976. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson, (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Alloys, ores and miners* (except salt, lime, limestone and flourspar products), dry, in tank or hopper type vehicles, from the plantsite of C-E Minerals, located at Wilmington, Del., to points in Ohio and Pennsylvania.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 109584 (Sub-No. 170), filed November 26, 1976. Applicant: ARIZONA-PACIFIC TANK LINES, a Corporation, 3980 Quebec St., P.O. Box 7240, Denver, Colo. 80207. Applicant's representative: Rick Barker (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid graphite,* in bulk, in tank vehicles, from Buckeye, Ariz., to Cucamonga, Calif.; Denver, and Pueblo, Colo.; Provo, Utah; and Houston, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Los Angeles, Calif.

No. MC 115651 (Sub-No. 27), filed November 29, 1976. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., Rockford, Ill. 61102. Applicant's representative: R. D. Higgins, (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Liquid and dry fertilizers,* in bulk; and (2) *liquid fertilizer solutions,* in bulk, from Fulton, Ill., to points in Illinois, Iowa, Minnesota, Missouri and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 116273 (Sub-No. 207), filed November 26, 1976. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid styrene,* in bulk, in tank vehicles, from Marseilles, Ill., to Valley Park, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 116325 (Sub-No. 74), filed December 2, 1976. Applicant: JENNINGS BOND, doing business as: BOND ENTERPRISES, P.O. Box 8, Lutesville, Mo. 63762. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Laminated beams, and accessories therewith, lumber and lumber products,* from Cedar County, Mo., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the production of laminated beams, and accessories therewith, lumber and lumber products (except commodities in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii), to Cedar County, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Birmingham, Ala.

No. MC 117815 (Sub-No. 261), filed December 1, 1976. Applicant: PULLEY FREIGHT LINES, INC., 405 S. E. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen potatoes and frozen potato products,* from Minneapolis, Minn., to points in Iowa, Kansas, Missouri and Nebraska.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 117940 (Sub-No. 201), filed November 26, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman, (Same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail and wholesale department and hardware stores (except foodstuffs, articles of unusual value, commodities in bulk, and household goods as defined by the Commission), from the Los Angeles, Calif., Commercial Zone as defined by the Commission; the Los Angeles, Calif., Harbor Commercial Zone as defined by the Commission; and the Seattle, Wash., Commercial Zone as defined by the Commission, to points in Minnesota and South Dakota, restricted to the transportation of traffic originating at the named origins and destined to the named destination points.
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NOTE.—Applicant holds contract carrier authority in MC 114789 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis, Minn. or St. Paul, Minn.

No. MC 118159 (Sub-No. 190), filed November 26, 1976. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Glass containers,* from the plantsite and warehouse facilities of Midland Glass Company, Inc. located at or near Henryetta, Okla., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of glass containers (except in bulk), from points in the United States (except Alaska and Hawaii), to the plantsite and warehouse facilities of Midland Glass Company, Inc. located at or near Henryetta, Okla.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 118431 (Sub-No. 23), filed November 22, 1976. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, 1310 Stagecoach Road, Little Rock, Ark. 72209. Applicant's representative: David R. Parker, 1600 Broadway, 2310 Colorado State Bank Bldg., Denver, Colo. 80202. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Wire, cable, power cords, bars, rods, scrap and reels,* (a) between points in Arizona, Georgia, Louisiana, Maryland, Michigan, New York, Ohio, Oklahoma, Oregon, Tennessee, Utah, Washington, Wisconsin, and the District of Columbia; and (b) between points in Arizona, Georgia, Louisiana, Maryland, Michigan, New York, Ohio, Oklahoma, Oregon, Tennessee, Utah, Washington, Wisconsin, and the District of Columbia, on the one hand, and, on the other, points in Arkansas, California, Florida, Illinois, Indiana, Kentucky, Massachusetts, Missouri, Nebraska, New Jersey, Pennsylvania, South Carolina, Texas, Vermont, and Virginia; and (2) *materials, supplies and equipment* utilized in the manufacture, production and distribution of the commodities named in (1) above between points in Arizona, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and the District of Columbia, restricted against the transportation of commodities in bulk, and further restricted to the transportation of traffic originating at or destined to the plantsites and facilities utilized by General Cable Corporation, under a continuing contract, or contracts, with General Cable Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo. or Little Rock, Ark.

No. MC 118959 (Sub-No. 141), filed November 19, 1976. Applicant: JERRY LIPPS, INC., 130 S. Frederick Street, Cape Girardeau, Mo. 63701. Applicant's representative. James W. Muldoon, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Adhesives,* when moving in mixed shipments with paper and paper products, (1) From the plantsites and facilities of The Mead Corporation located at or near Chillicothe and Schooleys, Ohio, to points in Florida, (2) From the plantsites and facilities of The Mead Corporation located at or near Chillicothe and Schooleys, Ohio, to points in that part of Georgia on and south of a line beginning on the Florida-Georgia State Boundary line, thence along U.S. Highway 319 to Thomasville, Ga., thence along Georgia Highway 122 to Waycross, Ga., thence along U.S. Highway 84 to the Atlantic Ocean, (3) From the plantsites and facilities of The Mead Corporation located at or near Chillicothe and Schooleys, Ohio, to points in that part of Alabama on and south of a line beginning at the Florida-Alabama State Boundary line, thence along U.S. Highway 331 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Alabama Highway 56 thence along Alabama Highway 56 to the Alabama-Mississippi State Boundary line (4) From the plantsites and facilities of The Mead Corporation located at or near Chillicothe and Schooleys, Ohio, to points in that part of Mississippi on and south of a line beginning at the Alabama-Mississippi State Boundary line, thence along Mississippi Highway 42 to Hattiesburg, Miss., thence along U.S. Highway 98 to the Mississippi-Lousiana State Boundary line, (5) From the plantsite and facilities of The Mead Corporation located at or near Chillicothe and Schooleys, Ohio, to points in that part of Louisiana on and south of a line beginning at the Mississippi-Louisiana State Boundary line, thence along U.S. Highway 84 to junction Louisiana Highway 28 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to the Louisiana-Texas State Boundary line; and (6) From the plantsite and facilities of The Mead Corporation located at or near Chillicothe and Schooleys, Ohio, to points in that part of Texas along Texas Highway 63 to Jasper, Tex., thence along U.S. Highway 190 to Bryan, thence along Texas Highway 21 to junction U.S. Highway 290 thence along U.S. Highway 290 to junction U.S. Highway 377, thence along U.S. Highway 377 to the International Boundary line between the United States and the Republic of Mexico.

NOTE.—Applicant presently has authority to transport paper and paper products from the above described origin to the requested destination territory. Applicant holds contract carrier authority in MC 125664, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio or Washington, D.C.

No. MC 119619 (Sub-No. 93), filed December 6, 1976. Applicant: DISTRIBUTORS SERVICE CO., A Corporation, 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, Suite 1515, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foods, frozen or other than frozen* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Clayton and Milford, Del., and Pocomoke City, Md., to Chicago, Ill., and Napoleon, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 119670 (Sub-No. 26), filed November 26, 1976. Applicant: THE VICTOR TRANSIT CORPORATION, 5250 Este Avenue, Cincinnati, Ohio 45232. Applicant's representative: Robert H. Kinker, P.O. Box 464, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer* and *Materials* used in the manufacture of fertilizer, (except in bulk), from Winchester, Ky., to points in West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cincinnati, Ohio.

No. MC 119789 (Sub-No. 319), filed December 3, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Melamine plastic materials and urea moulding compounds* (except in bulk), in mechanically refrigerated equipment, from the plantsite and warehouse facilities of Plastic Manufacturing Company, located at Dallas, Tex., to points in California, Mississippi, Ohio, Pennsylvania and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 123407 (Sub-No. 343), filed December 1, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert

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W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk), between Rapid City, S. Dak., on the one hand, and, on the other, points in the United States including Alaska but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Rapid City, S. Dak. or Minneapolis, Minn.

No. MC 123544 (Sub-No. 9), filed November 15, 1976. Applicant: BERTSCH TRUCKING, INC., Box 15, Hillsboro, N. Dak. 58045. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Farm machinery and implements and parts thereof*, from Fargo, N. Dak., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Lousiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Washington, Wisconsin and Wyoming; and (2) *damaged, broken, defective or rejected farm machinery, implements or parts thereof*, from the above named destinations in (1) above to Fargo, N. Dak.

NOTE.—Applicant holds common carrier authority in MC 135045 (Sub-No. 2), therefore dual operation may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 124373 (Sub-No. 17), filed December 2, 1976. Applicant: NELMAR TRUCKING CO., a Corporation, 1179½ Roosevelt Avenue, Carteret, N.J. 07008. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W. #805, Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foods, and materials and supplies*, used in the manufacture sale and distribution of prepared foods (except commodities in bulk), between the facilities of New England Apple Products Company, Inc., located at or near Littleton, Mass., on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, and the District of Columbia, restricted to traffic moving under a continuing contract or contracts with New England Apple Products Company, Inc., at Littleton, Mass.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 125820 (Sub-No. 8), filed November 24, 1976. Applicant: ELK VALLEY FREIGHT LINE, INC., P.O. Box 40723, 526 Hagan Street, Nashville, Tenn. 37203. Applicant's representative: A. O. Buck, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Fayetteville, Tenn., and Memphis, Tenn., serving no intermediate points: From Fayetteville over U.S. Highway 64 to its junction with Interstate Highway 40, thence over Interstate Highway 40 to Memphis, and return over the same route; and (2) between Nashville, Tenn., and Memphis, Tenn., as an alternate route for operating convenience only, in connection with carrier's presently authorized regular route operations and those proposed above, serving no intermediate points and serving Nashville, Tenn., for the purpose of joinder only: From Nashville over Interstate Highway 40 to Memphis, and return over the same route, restricted as follows: (I) Service at Memphis proposed above is restricted to that portion of Memphis and its commercial zone lying wholly within Tennessee; and (II) service at Memphis, Tenn., and its commercial zone is restricted against the handling of traffic originating at, destined to or interchanged at Nashville, Tenn., and/or Huntsville, Ala., and their respective commercial zones.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Fayetteville, Tenn.

No. MC 126049 (Sub-No. 19), filed December 2, 1976. Applicant: DODEN TRUCKING COMPANY, INC., Woden, Iowa 50484. Applicant's representative: Clayton L. Wornson, 626 Brick & Tile Bldg., Mason City, Iowa 50401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream, ice milk, sherbet and ice cream, ice milk, sherbet and fruit flavored novelty items*, from Mason City, Iowa to St. Cloud, Willmar, Wadena and Brainerd, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Mason City or Des Moines, Iowa.

No. MC 126600 (Sub-No. 14), filed November 22, 1976. Applicant: EHRSAM TRANSPORT, INC., 108 North Factory, Enterprise, Kans. 67441. Applicant's representative: Bob W. Storey, 403 Columbian Title Bldg., 820 Quincy, Topeka, Kans. 66612. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Elevator and power transmission equipment*; (2) *materials handling and processing equipment*; and (3) *foundary casting and materials and supplies* used in the manufacture of such commodities (except the commodities, the transportation of which because of their size and weight require use of special equipment and commodities in bulk), between Wichita, Kansas, on the one hand, and, on the other points in the United States, (except Alaska and Hawaii), under a continuing contract or contracts with Tramco Metal Products, Inc.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Topeka, or Kansas City, and/or Wichita, Kans.

No. MC 128030 (Sub-No. 109), filed November 26, 1976. Applicant: THE STOUT TRUCKING CO., INC., Rural Route No. 1, P.O. Box 177, Urbana, Ill. 61801. Applicant's representative: James F. Flanagan, 111 W. Washington Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, (1) from Evansville, Ind., to LaCrosse, Wis., Lockport, Chicago, LaGrange, Markham, Wheeling, Alsip, Calumet City, Geneva, and Waukegan, Ill.; (2) from LaCrosse, Wis., to Evansville, Ind., Lockport, Chicago, LaGrange, Markham, Wheeling, Alsip and Calumet City, Ill.; (3) from Newport, Ky., to Lockport, Chicago, LaGrange, Markham, Wheeling, Alsip, Calumet City, Geneva and Waukegan, Ill.; (4) from Milwaukee, Wis., to Mt. Carmel, Ill. and Monticello, Ind.; (5) from Louisville, Ky., to Monticello, Ind.; and (6) from Monroe, Wis., to Terra Haute, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Springfield or Chicago, Ill.

No. MC 128273 (Sub-No. 242), filed December 2, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, (except frozen); and (2) *materials, equipment and supplies* used in the manufacture and distribution of bakery products, between points in Colorado on the one hand, and, on the other points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo. or Washington, D.C.

No. MC 128273 (Sub-No. 243), filed December 2, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Non-ferrous metals*, from Houston, Tex., and Atlanta, Ga., to points in and east of Colorado, New Mexico, North Dakota, Nebraska, and South Dakota; and (2) *non-ferrous scrap metal*, from points in and east of Colorado, Nebraska, North Dakota, New Mexico and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex. or Atlanta, Ga.

MC 128273 (Sub-No. 245), filed November 24, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refrigerant and dispersant gas*, in packages, from the plantsite and storage facilities of Kaiser Aluminum and Chemical Corporation, located at Gramercy, La., to points in Arizona, California, Oregon and Washington; and (2) *Empty containers*, from points in Arizona, California, Oregon and Washington, to the plantside and storage facilities of Kaiser Aluminum and Chemical Corporation, located at Gramercy, La.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La. or Washington, D.C.

No. MC 129615 (Sub-No. 23), filed November 26, 1976. Applicant: AMERICAN INTERNATIONAL DRIVE-AWAY, a Corporation, P.O. Box 545, 123 N. First Street, Decatur, Ind. 46733. Applicant's representative: Robert Loser, Chamber of Commerce Building, Suite 1009, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fifth wheel trailers*, between points in Elkhart County, Ind., on the one hand, and, on the other, points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 129808 (Sub-No. 23), filed December 3, 1976. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., P.O. Box 2078, Grand Island, Nebr. 68801. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Home decorating trimmings and accessories* (except in bulk), from Big Springs, Tex., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and equipment* used in the manufacture, sale and distribution of the commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to Big Springs, Tex., under a continuing contract, or contracts with Burwood Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 133689 (Sub-No. 92), filed November 26, 1976. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *foodstuffs* (except commodities in bulk), from Minneapolis-St. Paul, Minn., to points in Georgia, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 133689 (Sub-No. 93), filed December 2, 1976. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Fremont and Schuyler, Nebr., and Spencer, Fort Dodge and Hartley, Iowa, to points in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the plantsite and facilities of Spencer Foods, Inc. at the above named origins.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 134113 (Sub-No. 9), filed December, 1, 1976. Applicant: HI-BALL TRUCKING, INC., 2348 Lockwood Road, P.O. Box 1117, Billings, Mont. 59101. Applicant's representative: Joe Gerbase, 100 Transwestern Building, 404 North 31st Street, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle Board*, (1) between points in Montana; (2) between points in Colorado, Idaho, North Dakota, Wyoming and Montana; (3) from points in Washington and Oregon to points in Wyoming, Colorado and New Mexico; (4) from points in Idaho and Montana to points in New Mexico; (5) from points in Washington, Oregon and Idaho to points in Kansas; and (6) between points in Washington, Oregon and Idaho, on the one hand, and, on the other, points in Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Billings, Mont. or Missoula, Mont.

No. MC 134145 (Sub-No. 64), filed November 30, 1976. Applicant; NORTH STAR TRANSPORT, INC., Rt. 1, Highway 1 and 59 West, Thief River Falls, Minn. 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Three wheeled utility trucks*, self-propelled, weighing less than 1500 pounds, from Roseau, Minn., to Spokane, Wash.; Santa Ana, Calif.; Gaithersburg, Md.; and Fuquay Varina, N.C., under a continuing contract, or contracts, with Polaris E-Z-Go Division of Textron, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134599 (Sub-No. 150), filed November 22, 1976. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products, and equipment, materials and supplies* used in the production thereof, (except commodities in bulk or those which because of size or weight require the use of special handling or equipment), between Eau Claire, Wis., on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, Montana, North Dakota, South Dakota, Minnesota, Iowa, Illinois, Indiana and Wisconsin), under continuing contract or contracts with Uniroyal, Inc.

NOTE.—Applicant holds common carrier authority in MC 139906 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 135819 (Sub-No. 4), filed November 30, 1976. Applicant: WILLIAM H. PHILLIPS AND WILLIAM I. PHILLIPS, a Partnership, doing business as: PHILLIPS & PHILLIPS TRUCKING COMPANY, P.O. Box 1304, Storm Lake, Iowa 50588. Applicant's representative: Arlyn L. Westergren, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsite and facilities utilized by Hygrade Products, Inc. located at or near Storm Lake and Cherokee, Iowa, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Rhode Island and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 135874 (Sub-No. 62), filed November 30, 1976. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street South, South St. Paul, Minn. 55075. Applicant's representative: Paul Nelson, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the facilities of Saluto Foods, Inc. located at or near Benton Harbor, Mich., to point in North Dakota and South Dakota, restricted to the transportation of shipments originating at the name origins and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 136168 (Sub-No. 13), filed November 18, 1976. Applicant: WILSON CERTIFIELD EXPRESS, INC., P.O. Box 717, Marshall, Mo. 65340. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106.

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Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the plantsites and warehouse facilities utilized by Wilson & Co., Inc., and its subsidiary, Anderson Meat Company, located at Oklahoma City, Okla., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; and (2) *returned shipments, and materials, supplies and equipment* utilized in the manufacture, sale and distribution of the commodities named in (1) above, from points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, to the facilities specified as origins in (1) above, under a continuing contract, or contracts, with Wilson & Co., Inc., and its subsidiary Anderson Meat Company, restricted to the transportation of traffic originating at the plantsites and warehouse facilities utilized by Wilson & Co., Inc., and its subsidiary, Anderson Meat Company, located at Oklahoma City, Okla.

NOTE.—Applicant has common carrier authority pending in MC 141641 Sub-Nos. 1 through 5, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex. or Kansas City, Mo.

No. MC 136228 (Sub-No. 25), filed December 2, 1976. Applicant: LUISI TRUCK LINES, INC., P.O. Box H, Milton-Freewater, Oreg. 97862. Applicant's representative: Philip G. Skofstad, 1300 NE Linden, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hanging beef carcasses, and fresh and frozen meat*, in boxes, from Wallula, Wash., to Reno and Sparks, Nev.

NOTE.—Applicant holds contract carrier authority in No. MC 136531 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 136385 (Sub-No. 6), filed December 2, 1976. Applicant: HALL WAY, INC., P.O. Box 22, Ankeny, Iowa 50021. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Spencer and Hartley, Iowa to points in Illinois, restricted to traffic originating at the plantsites or facilities utilized by Spencer Foods, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo. or Chicago, Ill.

No. MC 138741 (Sub-No. 29), filed November 26, 1976. Applicant: E. K. MOTOR SERVICE, INC., 2005 North Broadway, Joliet, Ill. 60435. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Building, 101 West Eleventh Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle board*, from Union and Wright City, Mo., to points in Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Chicago, Ill.

No. MC 138807 (Sub-No. 15), filed November 26, 1976. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, Miss. 39208. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines and toilet preparations*, in packages, from Gulfport, Miss., to Jacksonville, Fla., under a continuing contract, or contracts, with Sterling Drug, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 141652 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Jackson, Miss. or Jacksonville, Fla.

No. MC 138841 (Sub-No. 7), filed November 26, 1976. Applicant: BLACK HILLS TRUCKING CO., a Corporation, P.O. Box 2130, Rapid City, S. Dak. 57701. Applicant's representative: James W. Olson, 821 Columbus, Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat*, from Rapid City, S. Dak., to points in California, Oregon, Rhode Island and Washington.

NOTE. If a hearing is deemed necessary, the applicant requests it be held at either Rapid City, S. Dak. or Denver, Colo.

No. MC 139113 (Sub-No. 7), filed December 3, 1976. Applicant: BRUNDIDGE TRANSPORTATION, INC., P.O. Box 187, Brundidge, Ala. 36010. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ground, mixed, and blended spices, and mustard and mustard products*, from Grand Forks, N. Dak., to points in the United States (except Alaska and Hawaii); and (2) *Materials, equipment and supplies*, used in the manufacture or distribution of ground, mixed and blended spices, and mustard and mustard products, from points in the United States (except Alaska and Hawaii), to Grand Forks, N. Dak., under a continuing contract or contracts with The Baltimore Spice Company.

NOTE. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139360 (Sub-No. 4), filed November 26, 1976. Applicant: RAEMARC, INC., 1531 Taylor Ave., Racine, Wis. 53403. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or distributed by manufacturers and distributors of liquid soap, toilet preparations and chemicals, when moving in bulk tank vehicles; and shipper-owned bulk tank vehicles, between the manufacturing and storage facilities of S. C. Johnson & Son, Inc., at or near Racine and Mount Pleasant, Wis.; Rockford, Ill.; and Shipshewana, Ind., under continuing contract with S. C. Johnson & Son, Inc.

NOTE. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 139379 (Sub-No. 1), filed December 2, 1976. Applicant: LES MATHRE TRUCKING, INC., 417-8th Street, Story City, Iowa 50248. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg. Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 in connection therewith, *equipment, materials and supplies* used in the conduct of packinghouses (except commodities in bulk), between the facilities of Farmland Foods, Inc., located at or near Crete, Nebr., and Denison, Carroll and Iowa Falls, Iowa, on the one hand, and, on the other, points in Illinois, Iowa, Kansas, Missouri, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin.

NOTE. If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Des Moines, Iowa.

No. MC 139379 (Sub-No. 2), filed December 2, 1976. Applicant: LES MATHRE TRUCKING, INC., 417 8th Street, Story City, Iowa 50248. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Farmland Foods, Inc., located at or near Crete, Nebr., and Denison, Carroll and Iowa Falls, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Des Moines, Iowa.

No. MC 139410 (Sub-No. 4), filed December 1, 1976. Applicant: MIKE PHILLIPS ENTERPRISES, INC., 301 South Third Street, Phoenix, Ariz. 85004. Applicant's representative: Laudell Hames, 4301 West Country Gables, Glendale, Ariz. 85306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages and related packing material*, between Phoenix, Ariz.; Las Vegas, Nev. and St. George, Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Phoenix, Ariz. or Los Angeles, Calif.

No. MC 139495 (Sub-No. 183), filed December 2, 1976. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street, NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medical care devices or products*, in vehicles equipped with mechanical refrigeration, from Johnston County, N.C. to points in California, Colorado, Illinois, Louisiana, New Jersey, New York, Oregon, Tennessee, Texas, Utah, Washington and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139658 (Sub-No. 19), filed November 20, 1976. Applicant: HARRY POOLE, INC., 2322 Kensington Road, Macon, Ga. 31201. Applicant's representative: William Addams, Suite 212, 5299 Rosewell Road, N.E., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc sulphate*, in bulk, in dump semi-trailers, and in bags, from Pelham, Ga., to points in Alabama, Florida, Mississippi, North Carolina, South Carolina, Tennessee and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 141255 (Sub-No. 7) (Correction), filed November 10, 1976, published in the FEDERAL REGISTER issue of December 2, 1976, republished as corrected this issue. Applicant: TANDY TRANSPORTATION, INC., 3501 Fairview, P.O. Box 7135, Fort Worth, Tex. 76111. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Bldg., Dallas, Tex. 75202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electronic equipment, materials and supplies* (except commodities requiring the use of special equipment), from Seattle, Wash., to Randolph, Mass.; (2) *electronic equipment, materials and supplies* (except commodities requiring the use of special equipment), from Los Angeles, Calif. to Randolph, Mass.; (3) *antenna masts* (except commodities requiring the use of special equipment), from Tarrant City, Ala., to Randolph, Mass.; (4) *electronic stands KD* (except commodities requiring the use of special equipment), from St. Louis, Mo. to Randolph, Mass.; and (5) *electronic equipment* (except commodities requiring the use of special equipment), from Mundelein, Ill., to Randolph, Mass., the operations authorized herein in (1) through (5) are limited to a transportation service to be performed under a continuing contract or contracts with Tandy Corporation and its division.

NOTE.—The purpose of this republication is to indicate the correct origin in (3) above of this proceeding as Tarrant City, Ala., in lieu of Tarrant City, Mo., as previously published in error. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Washington, D.C.

No. MC 141652 (Sub-No. 8), filed December 2, 1976. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, Miss. 39208. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel doors, steel door frames, and brass, bronze, copper and steel hardware*, from the plantsite of Ceco Corporation located at or near Milan, Tenn., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—Applicant holds contract carrier authority in No. MC 138807 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 142107 (Sub-No. 1) (Amendment), filed May 24, 1976, published in the FEDERAL REGISTER issue of July 15, 1976, and republished as amended this issue. Applicant: H & M TRUCKING CO., P.O. Box 173, Clinton, Ill. 61727. Applicant's representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, Mo. 63105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients* (except commodities in bulk, in tank vehicles, and salt), between Cold Water, Mich.; Muncie, Plymouth, Logansport, Hammond, Indianapolis, Columbus, Frankfort and Mashawaka, Ind.; Cincinnati, Cleveland, Defiance, Wauseon and Clyde, Ohio; Kankakee, Deer Creek, Mason City, Chicago, Decatur, Rochelle, Lynn Center, East St. Louis, Danville, Champaign, Gibson City, Taylorville and Galesburg, Ill.; Milwaukee and Green Bay, Wis.; Cedar Rapids, Washington, Des Moines, Sioux City, Eagle Grove, Ft. Dodge, Belmont, Iowa Falls, Mason City, Davenport, Waterloo, Alta Vista and Tama, Iowa; Red Wing and Albert Lea, Minn.; and Marshall and Blackwater, Mo.

NOTE.—The purpose of this republication is to indicate applicant's amended request for authority. Hearing: Set for January 25, 1977 (2 days), at 9:30 a.m. local time, at Chicago, Ill.

No. MC 142346 (Sub-No. 1), filed November 10, 1976. Applicant: LARMER TRANSFER CO., a Corporation, 90129 Prairie Road, P.O. Box 706, Eugene, Oreg. 97402. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel plate, angle iron, bars, pipe and channel*, from the Portland docks, at Portland, Oreg., to the Farwest Steel Plant, at Eugene, Oreg., under contract with Farwest Steel Corporation.

NOTE.—If a hearing is deemed necessary, applicant request it be held at either Portland or Eugene, Oreg.

No. MC 142390 (Sub-No. 2), filed November 29, 1976. Applicant: TRANSIT MOVING, INC., Colonial Park, Suite 116, 1027 Hollywood Blvd., Iowa City, Iowa 52240. Applicant's representative: Carl E. Munson, 469 Fischer Building, Debuque, Iowa 42001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials*, expanded, in shipper-owned or shipper-leased trailers, (1) from Chicago, Ill., to Iowa City, Iowa, St. Louis, Mo. and Omaha, Nebr., and (2) from Omaha, Nebr., to Des Moines, Iowa, under a continuing contract, or contracts, with Clark-Crain Foam Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Des Moines, Iowa.

No. MC 142578 (Sub-No. 2), filed December 2, 1976. Applicant: L & M DISTRIBUTORS, INC., 1705 Murphy, Missoula, Mont. 59801. Applicant's representative: Roy Lewellen (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precut, knock down log homes, hardware and accessories*, used or useful in the construction thereof, (1) from the facilities of Alpine Log Homes, located at or near Victor, Mont., to points in the United States including Alaska, but excluding Hawaii; and (2) from points in the United States including Alaska, but excluding Hawaii, to the facilities of Alpine Log Homes, located at or near Victor, Mont., under a continuing contract or contracts with Alpine Log Homes, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Missoula, Helena or Billings, Mont.

No. MC 142593 (Sub-No. 2), filed December 3, 1976. Applicant: WARNER BROS. INC., P.O. Box 395, Sunderland, Mass. 01375. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt, rock salt and calcium chloride*, in bags and in bulk, between Deerfield and East Deerfield, Mass., on the one hand, and, on the other, points in Connecticut, Maine, New Hampshire, New York, Rhode Island and Vermont, under a continuing contract or

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contracts with International Salt Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hartford, Conn.; Boston, Mass.; or Albany, N.Y.

No. MC 142594 (Sub-No. 2), filed November 19, 1976. Applicant: BRAZOS, INC., 1602 Main Street, Lubbock, Tex. 79401. Applicant's representative: Richard Hubbert, 1607 Broadway, P.O. Box 2976, Lubbock, Tex. 79408. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between the Lubbock Regional Airport and Lubbock, Tex., and the Dallas Fort Worth Airport located near Dallas, Tex., and Dallas, Tex., restricted to traffic having an immediate prior or subsequent movement by air.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas or Lubbock, Tex.

No. MC 142656, filed November 22, 1976. Applicant: RON MORGAN, doing business as, DRILLING HOTSHOT SERVICE, Route 2, Box 229, Fort Smith, Ark. 72901. Applicant's representative: Tom Harper, Jr., 510 North Greenwood Avenue, P.O. Box 43, Fort Smith, Ark. 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials and supplies* used in replacing, servicing, and repair of machinery and equipment, used in or in connection with the discovery, development, and production of natural gas and petroleum and their products and by-products, between Fort Smith, Ark., on the one hand, and on the other, points in Adair, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Latimer, LeFlore, Mayes, McIntosh, Muskogee, Nowata, Ofuskee, Okmulgee, Osage, Ottawa, Pittsburg, Rogers, Sequoyah, Tulsa, Wagoner, and Washington Counties, Okla., restricted against the transportation of commodities in bulk.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Fort Smith, Ark.

No. MC 142672, filed November 18, 1976. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Box 232, Mulberry, Ark. 72947. Applicant's representative: Don Garrison, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing, fencing materials, wire and wire products and steel wire carriers*, (1) from Van Buren, Ark., to points in Alabama, Arizona, California, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Nevada, New Mexico, Ohio, Oklahoma, Tennessee, and Texas; and (2) from Reno, Nev., to Van Buren, Ark.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark.

No. MC 142686, filed November 15, 1976. Applicant: MID-WESTERN TRANSPORT, INC., 5320 Industrial Road, Fort Wayne, Ind. 46825. Applicant's representative: Anthony E. Young, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *General Commodities* (except commodities in bulk, foodstuffs and Classes A and B explosives), from the facilities of Essex International, Inc., at Paducah, Ky., and at points in Illinois, Indiana, Michigan, and Ohio, to points in Arizona, California, Colorado, Kansas, Nevada, Mexico, Oklahoma, Oregon, Texas, Utah and Washington; and (2) *returned shipments* of the above described commodities, *used reels and scrap wire*, from the destination states named in (1) above, to the facilities of Essex International, Inc., located at the points named in (1) above, restricted to a transportation service performed under a continuing contract, or contracts, with Essex International, Inc., at Fort Wayne, Ind.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 142688, filed November 26, 1976. Applicant: EDWARD G. LEROUX, JR., ROGER O. LEROUX, AND ROBERT ROMANO, a Partnership, doing business as LEROMA KENNELS, 304 Cambridge Road, Woburn, Mass. 01801. Applicant's representative: Edward G. Leroux, Jr., 4 Partridge Lane, Winchester, Mass. 01890. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Greyhound dogs*, between points in New Hampshire, Florida, Texas and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 142714, filed November 29, 1976. Applicant: HAWKEYE BUILDING SUPPLY TRANSPORTATION CO., 204 Iowa Street, Sioux City, Iowa 51102. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, building materials*, and *such commodities* as are dealt in by building material dealers (except commodities in bulk, in tank vehicles), (1) from points in Iowa, Minnesota, Nebraska, and South Dakota, to Sioux City, Iowa; and (2) from Sioux City, Iowa, and points in Idaho, Montana, Oregon, Washington, and Wyoming, to points in Iowa, Minnesota, Nebraska, and South Dakota, under a continuing contract, or contracts, with Hawkeye Building Supply Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Sioux City, Iowa or Lincoln, Nebr.

PASSENGER APPLICATIONS

No. MC 140113 (Sub-No. 6), filed November 22, 1976. Applicant: MAPLEWOOD EQUIPMENT COMPANY, a Corporation, 419 Anderson Avenue, Fairview, N.J. 07022. Applicant's representative: Edward F. Bowes, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, between the Port Authority of New York and New Jersey Bus Terminal, at New York, N.Y., and the office and warehouse site of Walter Kane & Son, Inc., at Carlstadt, N.J., under a continuing contract or contracts with Walter Kane & Son, Inc.

NOTE.—Applicant holds common carrier authority in MC 138828 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 141082 (Correction), filed June 16, 1975, and published in the FEDERAL REGISTER issue of July 17, 1975, and republished this issue. Applicant: DOOR-TO-DOOR LIMOUSINE, INC., 293 Alden Street, Fairfield, Conn. 06430. Applicant's representative: Brain T. Silvestro, P.O. Box 777, Westport, Conn. 06880. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, and their baggage* in the same vehicle with passengers, in door-to-door service in vehicles limited to eleven passengers, including the driver thereof, in charter and special operations, between Milford, Stratford, Bridgeport, Easton, Trumbull, Fairfield and Westport, Conn., on the one hand, and, on the other, the New York, N.Y. Commercial Zone as defined by the Commission and the Newark Airport, Newark, N.J.

NOTE.—The purpose of this republication is to indicate type of operations. If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn.

No. MC 142710, filed November 29, 1976. Applicant: NOMADIC ENTERPRISES, INC., 40 Highland Avenue, Easthampton, Mass. 01027. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, and *camping equipment*, in special operations, in personally conducted, all-expense, round-trip camping tours, beginning and ending at points in California, Connecticut, Maine, Massachusetts, New Hampshire, New York, (except points in that part of New York on and south of Interstate Highway 84), Rhode Island and Vermont, and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Hartford, Conn., Boston, Mass. or Albany, N.Y.

BROKER APPLICATIONS

No. MC 130426, filed November 16, 1976. Applicant: 4-SEASONS TOURS, INC., 150 Woodring Lane, Newark, Del. 19702. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Washington, D.C. 20036. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Newark, Del., to sell or offer to sell the transportation of *Passengers and their baggage* in the same vehicle with passengers, by motor carrier, in special and charter operations, beginning and ending at points in New Castle and Kent, Del., Salem County, N.J., Chester County, Pa., and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Wilmington, Del. or Philadelphia, Pa.

FINANCE APPLICATION

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 240 (c) or 240(d) of the Commission's general rules of practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13029. Authority sought for continuance of control by AL J. SCHNEIDER, 2661 South Broadway, Green Bay, WI., 54304, of TRANS-NATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, TX., 79105. Applicants' attorney: Charles W. Singer, 2440 East Commercial Boulevard, Ft. Lauderdale, FL., 33308. Operating rights sought to be controlled: *Meats, meat products, and meat by-products*, and articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, *hides and switches, outdoor cooking supplies*, and *advertising material* used in connection therewith, (1) *Canned vegetables*, and (2) *fresh vegetables* when moving in mixed shipments with canned vegetables, *lighting fixtures, light bulbs*, and *equipment, materials, and supplies* (except in bulk) used in the manufacture, production, distribution, and sale of lighting fixtures and light bulbs, *paper and paper products, paper bags, floor coverings, canned citrus juices*, and numerous other specified commodities, as a *common carrier* over irregular routes, from, to, and between specified points in all the States in the United States (except Alaska and Hawaii), with certain restrictions, as more specifically described in Docket No. MC 133655 and Sub numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety thereof. AL J. SCHNEIDER, holds no authority from this Commission. However, it is affiliated with SCHNEIDER TRANSPORT, INC. (MC 51146), SCHNEIDER TANK LINES, INC., (MC 110989), NATIONAL REFRIGERATED TRANSPORT, INC., (MC 118159), and W N I, INC., (MC 141871), all are common carriers, authorized to operate collectively in all the States in the United States including the District of Columbia. Application has not been filed for temporary authority under section 210 a(b).

NOTE.—Motion to Dismiss filed simultaneously.

No. MC-F-13044 (CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE—PURCHASE (PORTION)—POINT EXPRESS, INC.), published in the December 16, 1976, issue of the FEDERAL REGISTER on page 55049. Application filed December 15, 1976, for temporary authority under Section 210a(b).

No. MC-F-13049. Authority sought by RYDER SYSTEM, INC., (non-carrier), 3600 N.W. 82nd Avenue, Miami, FL., 33166, to purchase from CLARK TRANSPORT COMPANY, INC., 13101 South Torrence Avenue, Chicago, IL., 60633, certain motor vehicle equipment and parts together with shop and office equipment used in connection with the operations of CLARK TRANSPORT COMPANY, INC. Applicants attorneys: Walter N. Bieneman Suite 102, 100 West Long Lake Road, Bloomfield Hills, MI., 48013 and Charles W. Singer, 2440 East Commercial Blvd., Ft. Lauderdale, FL., 33308. RYDER SYSTEM, INC., holds no authority from this Commission. However, it is affiliated with (1) COMPLETE AUTO TRANSIT, INC., 18544 W. Eight Mile Rd., Southfield, MI., 48075 and (2) M. & G. CONVOY, INC., P.O. Box 104, Buffalo, N.Y., 14210, (1) which is authorized to operate as a contract carrier in all of the States in the United States (except Alaska and Hawaii), and (2) which is authorized to operate as a common carrier in all of the States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

NOTE.—As part of the transaction, CLARK TRANSPORT COMPANY, INC., submitted a Petition filed December 2, 1976, seeking (a) revocation or cancellation of certain portions of Docket No. MC 106647 and 106647 (Subs-No. 39 and 41) and (b) modification of a portion of Docket No. MC 106647. This petition is directly related to MC-F-13049.

No. MC-F-13059. Authority sought for purchase by NEW ULM FREIGHT LINES, INC., P.O. Box 347, New Ulm, MN 56073, of a portion of the operating rights of JOHNSRUD TRANSPORT, INC., Highway 9 West, P. O. Box 447, Cresco, IA 52136, and for acquisition by BARRY BLOEDEL, P.O. Box 347, New Ulm, MN 56073, of control of such rights through the purchase. Applicants' attorneys: James E. Ballenthin, 630 Osborn Bldg., Saint Paul, MN 55102 and Patrick E. Quinn, P.O. Box 82028, Lincoln, NE 68501. Operating rights sought to be transferred: *Dairy products*, as a *common carrier* over irregular routes from Mason City, Iowa, to points in Pennsylvania, New York, Massachusetts, Connecticut, New Jersey, Rhode Island, and Cleveland, Ohio, with no transportation for compensation on return except as otherwise authorized; *Butter*, from the plantsite of Associated Milk Producers, Inc., located at or near New Ulm, Minn., to points in Ohio, Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, and Massachusetts. Vendee is authorized to operate as a *common carrier* in Connecticut, Illinois, Indiana, Iowa, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin. Application has been filed for temporary authority under Section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's general rules of practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 27817 (Sub-No. 125), filed November 19, 1976. Applicant: H. C. GABLER, INC., R.D. No. 3, N., P.O. Box 220, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products and commodities* used in the manufacture, distribution and sale of paper and paper products (except commodities in bulk, in tank or hopper

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type vehicles), (1) between the facilities of Hoerner Waldorf Corporation, located at Roanoke Rapids, N.C., on the one hand, and, on the other, points in Virginia, Maryland (except Baltimore and points in its commercial zone, as defined by the Commission), Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Maine, Vermont, New Hampshire and Pennsylvania (except Philadelphia and points in its commercial zone, as defined by the Commission); and (2) from Washington, D.C., to the facilities of Hoerner Waldorf Corporation, located at Roanoke Rapids, N.C.

NOTE.—The purpose of this application is to convert a Permit to a Certificate of Public Convenience and Necessity. This is a matter directly related to a Section 5(2) finance proceeding in MC-F-13036 published in the FEDERAL REGISTER issue December 16, 1976. If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

MOTOR CARRIER INTRASTATE APPLICATION(S)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's general rules of practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T-3372, filed September 20, 1976. Applicant: WALSH TRUCKING COMPANY, INC., 54-60 48th Street, Maspeth, N.Y. 11378. Applicant's representative: Arthur Lieberstein, One Penn Plaza, New York, N.Y. 10001. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities*, from all points in Nassau, Suffolk and Orange Counties, N.Y., to New York, N.Y. Intrastate, interstate and foreign commerce authority south. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, N.Y. 12232 and should not be directed to the Interstate Commerce Commission.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-38217 Filed 12-29-76;8:45 am]

federal register

THURSDAY, DECEMBER 30, 1976

PART II



DEPARTMENT OF DEFENSE

Corps of Engineers

■

CONTINUING AUTHORITIES PROGRAM

Monetary Limitations

DEC 30 76 UMI
V 41 252 2

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1105-2-50]

PART 263—CONTINUING AUTHORITIES PROGRAM

Monetary Limitations

On 3 November 1976, the Chief of Engineers adopted a regulation on the Corps of Engineers Continuing Authorities Program. This program consists of seven legislative authorities under which the Chief of Engineers may plan, design and construct water resources projects without specific authorization from Congress. Each of the authorities has a monetary limitation per project and a monetary limitation for appropriations in any one fiscal year.

Section 133, Public Law 94-587, Water Resources Development Act of 1976 (90 Stat. 2917), amends two of these continuing authorities by raising the monetary limitations of Federal cost per project. The Act raised the limit on small flood control projects from $1 million to $2 million, except if the area has been declared a major disaster area by the President of the United States in the previous five years, in which case the limit is now $3 million rather than the previously authorized $2 million.

The Act also raised the limit of Federal cost on small navigation projects from $1 million to $2 million.

Since the amendments to this regulation do not change the policies and procedures for the Continuing Authorities Program, the changes are not being published under proposed rule-making procedures and are being adopted effective 22 October 1976, the date on which the President approved Public Law 94-587.

The Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 13, 1976.

RUSSELL J. LAMP,
Colonel, Corps of Engineers
Executive.

§ 263.17 [Amended]

1. Part 263, Subpart A, § 263.17(L)(1) is amended to change third word in sentence from "or" to "and" as follows: "Notify DAEN-CWO and DAEN-CWP-A * * * "

2. Part 263, Subpart A, § 263.20(a) is amended to add a third sentence as follows:

§ 263.20 Program funding.

(a) * * *

To expedite budget preparation, field operating agencies should insure that budgetary data on the Continuing Authorities Program are sent directly to DAEN-CWP-A or DAEN-CWO, depending on the authority.

* * * * *

3. Part 263, Subpart B, § 263.21(a) is amended by deleting the last three words, "states as follows", in the first sentence, and revising the sentence to read as follows:

§ 263.21 Small navigation project authority.

(a) *Legislative Authority.* Section 107 of the River and Harbor Act of 1960, as amended by section 310 of the River and Harbor Act of 1965, section 112 of the River and Harbor Act of 1970, and section 133(a) of the Water Resources Development Act, approved 22 October 1976, states:

4. Part 263, Subpart B, § 263.21(a)(b) is amended to change the amount from "$1,000,000" to "$2,000,000".

5. Part 263, Subpart C, § 263.23(a) is amended by deleting the last word, "states", in the first sentence, and revising the sentence to read as follows:

§ 263.23 Small flood control project authority.

(a) *Legislative Authority.* Section 205 of the Flood Control Act approved 30 June 1948, as amended by section 205 of the Flood Control Act approved 23 October 1962, Section 61 of the Water Resources Development Act approved 7 March 1974, and Section 133(b) of the Water Resources Development Act approved 22 October 1976, states:

* * * * *

6. Part 263, Subpart C, § 263.23(a) is amended to change the dollar amounts in third sentence of quoted matter to read as follows: "Not more than $2,000,000 shall be allotted under this section for a project at any single locality, except that are not more than $3,000,000 shall be allotted. * * *"

7. Part 263, App A(1). Table is amended to add new monetary limits established by law. The amended table reads as follows:

(1) Small Flood Control Project Authority (Sec. 205)

Section/law	Date	Public Law No.	Federal cost limitation per project/annual program limit
Sec. 205 of 1948 FCA	June 30, 1948	80-858	$100,000/$2,000,000
Sec. 212 of 1950 FCA	May 17, 1950	81-516	150,000/ 3,000,000
Public Law 685/84th Cong./2d sess.	July 11, 1956	84-865	400,000/10,000,000
Sec. 205 of 1962 FCA	Oct. 23, 1962	87-874	1,000,000/25,000,000
Sec. 61 of WRDA of 1974	Mar. 7, 1974	93-251	1,000,000/30,000,000 [1] 2,000,000
Sec. 133(b) of WRDA of 1976	Oct. 22, 1976	94-587	2,000,000/30,000,000 [1] 3,000,000

[1] Federal cost may go to higher amount if project is located in a major disaster area designated by the President.

8. Part 263, Appendix A(4). Table is amended to add new monetary limits established by law. The amended table reads as follows:

(4) Small Navigation Project Authority (Sec. 107)

Section/law	Date	Public Law No.	Federal cost limitation per project/annual program limit
Sec. 107 of 1960 R. & H. Act	July 14, 1960	86-645	$200,000/$2,000,000
Sec. 310 of 1965 R. & H. Act	Oct. 27, 1965	89-298	500,000/10,000,000
Sec. 112 of 1970 R. & H. Act	Dec. 31, 1970	91-611	1,000,000/25,000,000
Sec. 133(a) of WRDA of 1976	Oct. 22, 1976	94-587	2,000,000/25,000,000

[FR Doc.76-37204 Filed 12-29-76;8:45 am]

V 41 252 DEC 30 76 UMI

federal register

THURSDAY, DECEMBER 30, 1976

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Final and Proposed Flood Elevation Determinations

V 4 1 2 5 2 DEC 30 76 UMI

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2351]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Morrisville, Buck County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Morrisville, Buck County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Administrative Office, Borough Hall, 35 Union Street, Morrisville, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Delaware River	Southeast corporate limits	17	(1)	280
	Bowling Green Ave. (extended)	18	(1)	580
	E. Cleveland St. (extended)	19	(1)	460
	Philadelphia Ave. (extended)	20	(1)	140
	Moreau St. (extended)	22	(1)	1,300
	E. Palmer St. (extended)	25	(1)	100
	E. Trenton Ave.	27	(1)	25
	North corporate limits	28	(1)	300

[1] Outside of corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38033 Filed 12-29-76;8:45 am]

[Docket No. FI-2293]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Parkside, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Parkdale, Delaware County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Borough office, 505 West Forestview Road, Parkside, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Ridley Creek	From bank of Ridley Creek 120 ft along east corporate limits 280 ft along west corporate limits.	30	(1)	200

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38035 Filed 12-29-76;8:45 am]

[Docket No. FI-2568]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Belleair Bluffs, Florida

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Belleair Bluffs, Florida under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 115 Florence Drive, Belleair Bluffs, Florida 33540.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet—Distance from coastline line to V-zone boundary
Gulf of Mexico	Sunset Dr. (extended)	13	150
	Del Rio Dr. (extended)	13	55

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38024 Filed 12-29-76;8:45 am]

V 41 252 DEC 30 76 UMI

[Docket No. FI-2320]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Longmont, Colorado

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Longmont, Colorado under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Civic Center, Longmont, Colorado 80501.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary	
			Right	Left
St. Vrain Creek	N. 119th St.	4,915	2,260	460
	Main St., U.S. 287	4,946	1,460	1,560
	Pratt Parkway	4,948	650	930
	Upstream of Colorado and Southern R.R.	4,960	3,015	2,350
	Boston Ave.	4,964	2,435	1,620
	Upstream of Sunset St.	4,970	2,885	920
	Upstream of Hover St.	4,983	3,690	280
	Downstream of Airport Rd.	5,020	[1] 555	205
Left Hand Creek	Florida Ave.	4,933	1,735	200
	Main St., U.S. 287	4,948	70	40
	S. Pratt Parkway	4,956	62	60
	Bowen St.	4,963	110	35
	Pike Rd.	4,971	125	105
Dry Creek	Main Street, U.S. 287	4,946	200	2,780
	Pratt Parkway	4,953	520	85
	Bowen St.	4,961	150	140
	Sherman St.	4,965	100	335
Spring Gulch	Martin St.	4,952	380	830
	East 5th Ave.	4,963	140	295
	East 9th Ave.	4,980	620	156
	Upstream Mountain View Ave.	4,998	128	75

[1] Width shown is measured from center of channel to boundary of prime urbanized area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38023 Filed 12-29-76;8:45 am]

[Docket No. FI-2305]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Oil City, Venango County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Oil City, Venango County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of

ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the bulletin board at City Hall, 1 Sycamore Street, Oil City.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Oil Creek	Corporate limits (N)	1,009	5	340
	Con Rail	1,007	60	20
	Cornplanter Ave. (extended)	1,005	540	(1)
Allegheny River	Corporate limits (S)	989	40	(1)
	Cowell St. (extended)	990	0	20
	Innis St. (extended)	991	20	30
	U.S. Highway 62	992	60	50
	Con Rail	997	20	20
	Corporate limits (E)	1,002	(1)	

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38037 Filed 12-29-76;8:45 am]

[Docket No. FI-2304]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Pottsville, Schuylkill County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Pottsville, Schuylkill County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, a publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the City Clerks office, City Hall, 401 North Center Street, Pottsville.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Schuylkill River	Collins St.	617	[1] 50	50
	Route 61	614	175	125
	Con Rail bridge	612	20	75
	do	609	200	200
	Sheet flow (average depth)			
Norwegian Creek (culvert)	Norwegian St.	1.1	80	75
	East Arch St.	1.1	60	80
West Branch of Schuylkill River [2]	Upstream corporate limits		200	
	Route 209		100	
	Downstream corporate limits		60	[3]

[1] Width in feet from left bank of stream to corporate limit.
[2] Studied by approximate methods.
[3] Right bank, outside of corporate limits.

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2767, January 24, 1974.)

Issued: December 17, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38036 Filed 12-29-76;8:45 am]

[Docket No. FI-2307]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Sandusky, Erie County, Ohio

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Sandusky, Erie County, Ohio under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the bulletin board, City Building, 222 Meigs Street, Sandusky, Ohio.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Pipe Creek	Upstream corporate limits	583.0	960	105
	Con Rail	581.0	370	460
	Cleveland Rd. and U.S. Highway 6	579.0	540	900
Cold Creek main branch.	State Route 2	589.0	50	50
	Bardshar Rd. (State Route 99)	586.0	60	50
Mills Creek	Upstream corporate limits	597.0	20	200
	U.S. Highway 6 (extended)	589.0	290	580
	Con Rail	587.0	10	400
	do	586.0	200	50
	Monroe St	585.0	50	200
Sandusky Bay		577.2		
Lake Erie		577.2		

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2767, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38030 Filed 12-29-76;8:45 am]

[Docket No. FI-2568]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Stephenville, Erath County, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Stephenville, Erath County, Texas under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 354 North Belknap Street, Stephenville, Texas.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Town Creek	Upstream corporate limit	1,364	175	95
	Brenda St	1,328	60	160
	West Washington St	1,324	200	45
	Downstream corporate limit	1,310	115	150
Bosque River	Upstream corporate limit	1,276	(1)	690
	Route 108	1,270	(1)	225
	F.M. 8	1,263	80	280
	East Washington St	1,252	115	220
	South Graham St	1,244	295	295
	U.S. Route 377, 67	1,239	1,080	90
	Downstream corporate limit	1,237	730	540

(1) Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38040 Filed 12-29-76;8:45 am]

[Docket No. FI-2261]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Sylvania, Lucus County, Ohio

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Sylvania, Lucus County, Ohio under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the office of the Clerk-Auditor, City Hall, 6635 Maplewood Avenue, Sylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

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Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Ottawa River	South corporate limits	612	(1)	25
	Sylvania Country Club Bridge	615	70	120
	300 ft downstream from U.S. Route 23 exit ramp.	617	860	700
	50 ft downstream from Harroun Rd.	634	10	550
Ten Mile Creek	South Main St.	631	10	10
	100 ft upstream from Silica Dr.	638	145	230
	Olde Post Rd.	645	25	40
	100 ft downstream of Bonniebrook Rd.	651	85	150
	90° from Radcliffe at Westbourne	645	255	70
	Bonniebrook Rd. (extended)	655	440	420
	South corporate limits (extended)	656	460	150
McPeak Drain	Granville Dr. (extended)	650	90	55
	Winding Way	662	200	200
	Grenlock (extended)	670	125	810
	North corporate limits	670	130	150
Schrieber Ditch	500 ft upstream of junction with Ten-mile Creek.	655	215	20
	Little Rd. (extended)	660	15	125
	100 ft downstream from Centennial Rd.	675	115	45
	Centennial Rd. (corporate limits)	678	850	310
North Branch Ten-mile Creek.	Monroe St.	631	15	15
	Maplewood Ave. (extended)	639	65	20
	Erie St. (extended)	643	25	115
	North corporate limits	648	15	185

(1) Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38031 Filed 12-29-76;8:45 am]

[Docket No. FI-2285]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of York, York County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of York, York County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the bulletin board in the main lobby of City Hall, 50 West King Street, York, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Codorus Creek	250 ft upstream from northern corporate limits of the city of York.	363	80	(1)
	George Street Bridge	364	100	60
	Philadelphia Street Bridge	366	70	60
	College Avenue Bridge	367	60	10
	Granlley Road Bridge	369	120	(1)

(1) Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38038 Filed 12-29-76;8:45 am]

[Docket No. FI-1029]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Brookline, Massachusetts

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Brookline, Massachusetts under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 333 Washington Street, Brookline, Massachusetts 02146.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline or bank of stream (facing downstream) to 100-yr flood boundary
Muddy River	Carlton St.	11	Corporate limit to 270 ft northwest of corporate limit.
	Longwood Ave.	11	Corporate limit to 140 ft west of corporate limit.
	Aspinwall Ave.	11	Corporate limit to 100 ft northwest of corporate limit.
	do.	11	100 ft northwest Netherlands Rd. to 140 ft southeast of Kent St.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 22, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38025 Filed 12-29-76;8:45 am]

[Docket No. FI-2310]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Cheektowaga, Erie County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Town of Cheektowaga, Erie County, New York under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided.

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Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the bulletin board in the foyer of the Town Hall, Broadway and Union Roads, Cheektowaga.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Ellicott Creek	Upstream corporate limits	699	860	940
	Penn Central RR	698	950	[1] 1,800
	Rein Rd	697	170	1,850
	Aero Dr	694	200	3,750
	Amherst Villa Rd. (extended)	693	500	2,200
	New York State Thruway	684	0	(1)
	Downstream corporate limits	683	300	(1)
Scajaquada Creek	Upstream corporate limits	659	800	800
	Nagel Dr	655	300	200
	Union Rd	653	150	120
	Penn Central RR	651	125	275
	McNaughton Ave	650	600	1,400
	Central Blvd	649	500	1,300
	Harlem Rd	647	800	1,600
	Pinewood Terrace (extended)	645	300	200
	Upstream corporate limits	629	750	230
Cayuga Creek	Penn Central RR	628	50	30
	Rowley Rd	624	100	100
	Como Park Blvd	621	15	100
	Homewood Ave. (extended)	614	1,500	140
	Union Rd	608	60	900
	Henry St. (extended)	598	(1)	600
	Downstream corporate limits	569	(1)	900
Slate Bottom Creek	Upstream corporate limits (Transit Rd.)	667	120	150
	French Rd	664	120	200
	Borden Rd	660	80	100
	Brentwood Dr	648	110	100
	Towers Blvd	628	100	130
	Penn Central RR. (upstream)	612	300	550
	Union Rd	602	230	60

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38029 Filed 12-29-76;8:45 am]

[Docket No. FI-2309]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Vestal, Broome County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Town of Vestal, Broome County, New York under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the main entrance of the Town Hall, 605 Vestal Parkway West, Vestal.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	West corporate limits	828	1,750	(1)
	Casi Rd. (extended)	829	925	(1)
	Elisabeth St. (extended)	830	1,400	(1)
	Vestal Ave	831	50	(1)
	N.Y. Route 26	833	70	(1)
	N.Y. Route 17	833	40	(1)
	African Rd. (extended)	833	1,200	(1)
	Con Rail	836	700	(1)
	CFJ Memorial Bridge	837	50	(1)
	East corporate limits	839	100	(1)
Choconut Creek	Front St	830	100	140
	Main St	873	100	20
	do	887	10	400
	Meeker St	896	10	200
	Sheedy Rd. (extended)	930	70	220
	West Hill Rd	987	20	400
	Castleman Rd	1,023	200	100
	South corporate limits	1,039	40	500

[1] Outside corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38027 Filed 12-29-76;8:45 am]

[Docket No. FI-2318]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Williamstown, Massachusetts

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Williamstown, Massachusetts under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 1 North Street, Williamstown, Massachusetts 02167.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Broad Brook	Boston & Main R.R	598	75	25
	Simonds Rd	619	280	35
Hoosic River	do	587	125	75
	Cole Ave	596	25	25
Green River	Main St. (Route 2)	616	150	90
	Green River Road Bridge 1 (Route 43)	822	90	35
	Bridge 2 (Route 43) Green River Rd	(1)	75	1,725
	New Ashford Rd	965	50	110
Hemlock Brook	Buckley St	624	40	100
	Main St	661	40	50
	Route 7 and 2	677	50	70
Hopper Brook	Hopper Rd	(1)	630	1,540

[1] Varies.

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38026 Filed 12-29-76;8:45 am]

[Docket No. FI-2276]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Haverford, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)) hereby gives notice of his final determinations of flood elevations for the Township of Haverford, Delaware County, Pennsylvania under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Municipal Building, 2325 Darby Road, Havertown.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Naylor's Run	Langhorne Ave.	229	95	210
	Whitney Ave. (extended)	236	60	180
	Manoa Rd.	237	50	90
Cobbs Creek	South corporate limits	135	430	300
	Manoa Rd.	161	25	20
	Remington Rd. (extended)	171	160	60
	Lakeside Ave.	209	50	20
	Eagle Rd.	265	40	125
	Merwood Lane	284	140	20
	Admore Ave.	300	190	20
	College Ave.	337	240	100
Darby Creek	South corporate limit	155	60	(1)
	Burmont Rd.	159	400	(1)
	Fairview Ave. (extended)	166	220	(1)
	Old West Chester Pike	185	60	(1)
	200 ft upstream of West Chester Pike	185	460	(1)
	Marple Rd.	191	220	(1)
	Route 476, Mid-County Expressway	192	410	(1)
	Radnor and Chester Rd.	202	780	(1)
	North corporate limit	204	304	(1)
Meadowbrook Run	50 ft downstream of Darby Rd.	195	350	20

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38034 Filed 12-29-76;8:45 am]

[Docket No. FI-2348]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Lower Alsace, Berks County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Lower Alsace, Berks County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Municipal Building, 25th and Harvey Streets, Reading, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Schuylkill River	Southern corporate limit	181	40	(1)
	Northern corporate limit	183	67	(1)
Antietam Creek	Myrtle Ave.	397	20	267
	Marshall Ave. (extended)	411	70	40
Tributary C	T413	537	80	67
Tributary B	Lewis Rd. (extended)	438	250	160
	Butter Lane	497	(2)	253
	T454	560	133	187
	Pennsylvania Route 73 (T413)	572	25	67

[1] Corporate limit of stream is boundary.
[2] Outside corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38032 Filed 12-29-76;8:45 am]

[Docket No. FI-2286]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Spring Garden, York County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Spring Garden, York County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas

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and the final elevations are available for review at the Office—Municipal Building, 558 South Ogontz Street, Spring Garden.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Codorus Creek	Interstate 83 Bridge	362	(1)	1,280
	Eastern corporate limits of the city of York.	363	(1)	80
	Richland Avenue Bridge	371	(1)	160
	Indian Rock Dam Road Bridge	382	(1)	80
	Con Rail bridge	387	(1)	60
	Southern corporate limits of the township of Spring Garden.	390	(1)	30
Mill Creek	Loucks Mill Road Bridge	362	2,200	(1)
	Eberts Lane Bridge	374	600	(1)
	Eastern corporate limits of the city of York.	376	60	(1)
	Market Street Bridge	400	320	(1)
	Route 124 Bridge	433	180	(1)
	Southern corporate limits of the township of Spring Garden.	457	40	(1)

(1) Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38039 Filed 12-29-76;8:45 am]

[Docket No. FI-2284]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Village of Cayuga, Cayuga County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Village of Cayuga, Cayuga County, New York under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Village must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board in the Village Hall, Cayuga.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline to 100-yr flood boundary
Cayuga Lake	Wheat St.	388	20
	Cadet Lane	388	80
	Genesee	386	40
	B	386	100
	A	388	70
	Intersection of Court and Water St.	388	70

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38028 Filed 12-29-76;8:45 am]

[Docket No. FI-2567]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Village of Fremont, Wisconsin

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Village of Fremont, Wisconsin under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Village must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Village Hall, Fremont, Wisconsin 54940.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Wolf River	U.S. Highway 10	756	1,980	1,410

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38041 Filed 12-29-76;8:45 am]

V 41 252 DEC 30 76 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2571]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Borough of Landingville, Schuylkill County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Landingville, Schuylkill County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the fire company, Landingville, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable Bruce Unkle, Mayor of Landingville, Post Office, Landingville, Pennsylvania, 17942. The period of comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Schuylkill River	Upstream corporate limit.	490
	Main St.	486
	Downstream corporate limit.	477
Mahannon Creek	Upstream corporate limit.	486

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 16, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38021 Filed 12-29-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2578]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Brighton, Colorado

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Brighton, Colorado.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Honorable W. H. McNichols, Mayor, City Hall, 14th and Mannock, Denver, Colorado 80202. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
South Platte River	East 160th Ave.	4,960	1,350	(1)
	Base Line Rd.	4,953	900	(1)

[1] Bank outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38071 Filed 12-29-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2589]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Casper, Wyoming

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Casper, Wyoming.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Casper must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Room 124, City Clerk Treasurer's Office, City-County Building, Casper, Wyoming 82601.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Honorable Sam Wormus, Mayor, Room 124, City Clerk Treasurer's Office, City-County Building, Casper, Wyoming 82601. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
North Platte River	Burlington North	5,107	0	0
	Interstate	5,107	120	0
Garden Creek	Green Meadows	5,308	20	60
	Coffman Ave.	5,282	120	220
	25th St.	5,248	40	260
	23d St.	5,219	60	20
	Cy Ave.	5,178	120	20
	Bellaire Dr.	5,147	40	320
Sage Creek	15th St.	5,214	250	260
	12th St.	5,205	60	70
	2d St.	5,157	100	50
	Chicago & Northwestern RR.	5,130	(1)	450
	Burlington North	5,105	20	40

[1] Stream bank outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 18, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-38069 Filed 12-29-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2573]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Port Clinton, Ottawa County, Ohio

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 400-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Port Clinton, Ottawa County, Ohio.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Council Chamber, City Hall, P.O. Box I, Port Clinton, Ohio 43452.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor John Fritz, City Hall, P.O. Box I, Port Clinton, Ohio 43452. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Lake Erie	I. Intersection of Perry St. and:	
	a. Linden St.	578
	b. Walnut St.	578
	c. Cedar St.	578
	d. Ash St.	578
	e. Lincoln Ave.	578
	f. Fulton St.	578
	g. Jefferson St.	578
	h. Madison St.	578
	i. Harrison Ave.	578
	II. Intersection of 2d St. and:	
	a. Madison St.	578
	b. Monroe St.	578
	c. Jackson St.	578
	III. Lake Shore Dr. at western corporate limits.	578
	IV. Brooklyn St. (entire length).	578
	V. Lake Erie shoreline at western corporate limits.	581
	VI. Lake Erie shoreline at eastern corporate limits.	579

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38068 Filed 12-29-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2577]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the County of Alamosa, Colorado

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the County of Alamosa, Colorado.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the County of Alamosa must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Alamosa County Office Building, Box 630, Alamosa, Colorado 81101.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Lewis H. Entz, Chairman, Board of Commissioners, Alamosa County Office Building, Box 630, Alamosa, Colorado 81101. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Rio Grande	D. & R.G.W. RR. bridge.	7,537
	State Street Bridge	7,541

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38072 Filed 12-30-76;8:45 am]

V 41 252 DEC 30 76 UMI

[24 CFR Part 1917]

[Docket No. FI-2570]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the County of Garfield, Colorado

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the County of Garfield, Colorado.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the County of Garfield must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Garfield County Courthouse, P.O. Box 640, Glenwood Springs, Colorado 81601.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Flaven Cerise, Chairman, Board of Commissioners, Garfield County Courthouse, P.O. Box 640, Glenwood Springs, Colorado 81601. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Colorado River	South Rifle Rd. (upstream side).	5,300
	State Highway 13 (upstream side).	5,302
Cattle Creek	State Highway 82 (downstream side).	6,026
Roaring Fork Creek.	14.5 mi upstream of mouth.	6,164
	0.2 mi downstream of County Road 100.	6,268

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38070 Filed 12-29-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2570]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of North Providence, Providence County, Rhode Island

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Town of North Providence, Providence County, Rhode Island.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Hall, 2008 Smith Street, North Providence, Rhode Island.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Salvatore Mancini, 11 George Street, North Providence, Rhode Island 02911. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Woonasquatucket River.	Greystone Ave.	113
	Smith St.	105
	Redeem St. (extended).	99
	Allendale St.	89
	Southwest corporate limits.	72
West River	Pinewood Dr.	186
	Apartment Roadway	173
	Brook Farm Rd.	164
	West River Parkway	136
	Mineral Spring Ave.	121
	Alexander St. (extended).	110
	Douglas Ave.	90
	South corporate limits.	81
East Branch West River.	Conifer St.	160
	Brook Farm Rd.	141
	Side Dr. (extended)	137
	Brook Dale Rd.	135
Lincoln Downs Brook.	Angell Rd.	181
	Benjamin Dr.	169
	Mineral Spring Ave.	167
	Alexander St.	150
	Lexington Ave.	117
Upper Canada Pond Brook.	Garfield St.	92
	Charles St.	91
	Mineral Spring Ave.	82
	Southeast corporate limits.	60

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38022 Filed 12-29-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2576]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Steamboat Springs, Colorado

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Town of Steamboat Springs, Colorado.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town of Steamboat Springs must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Offices, P.O. Box 1174, Steamboat Springs, Colorado 80477.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Donald E. Barrett, President, Town Council, Town Offices, P.O. Box 1174, Steamboat Springs, Colorado 80477. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Yampa River	Stock Dr.	6,676
	12th St.[1]	6,669
Soda Creek	Lincoln Ave. (U.S. 40).	6,709
	11th St.[1]	6,703
	Pine St.	6,715
	Grove Pl.[1]	6,741

Source of flooding	Location	Elevation in feet above mean sea level
Butcherknife Creek.	Lincoln Ave.	6,711
	Oak St.	6,724
	Spruce St.	6,764
Spring Creek	Lincoln Ave. (U.S. 40).	6,731
	Oak St.[1]	6,739
	Amethyst Dr.	6,731
Fish Creek	U.S. Highway 40[1]	6,761
Walton Creek	do.	6,756
Burgess Creek	do.	6,757
	Sibley Rd.	6,762
	Poma Rd.	6,848
	Mount Werner Rd.	6,962
	Storm Meadows Dr.	7,038

[1] Downstream side of road.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38073 Filed 12-29-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2675]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Westport, Connecticut

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Town of Westport, Connecticut.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town of Westport must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, 90 East State Street, Westport, Connecticut 06880.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Ms. Jacqueline Henegage, 1st Select person, Town Hall, 90 East State Street, Westport, Connecticut 06880. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Saugatuck River	State Street Bridge	13
	North Canal St.	13
	Weston Rd.	35
West Branch Saugatuck River.	Cavalry Rd.	68
Aspetuck River	Weston Rd.	39
	Lyons Plains Rd.	45
	North Ave.	70
	Bayberry Lane	91
Stoney Brook	Riverside Ave.	11
	Sylvan Rd.	13
	Kings Highway	37
Dead Man's Brook.	Jesup Rd.	14
	Myrtle Ave.	14
	Evergreen Parkway	34
	Compo Rd.	41
	Lost Lodge Rd.	94
	Roseville Rd.	[1] 135
	Pumpkin Hill Rd.	[1] 165
	North Ave.	[1] 182
	Cross Highway	197
	Vine Yard Lane	199
	Merritt Parkway	200
Muddy Branch	Connecticut Turnpike	11
	Nyala Farms Rd.	14
	Center St.	21
	Morningside Dr.	28
	Turkey Hill Rd.	40
	Meadowbrook Lane	53
	High Point Rd.	68
Sasco Creek	Connecticut Turnpike	11
	Kings Highway	14
	Boston Post Rd.	[1] 17
	Wakeman Lane	40
	Long Lots Rd.	62

[1] Upstream side of road.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38074 Filed 12-29-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2574]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Township of Cherry Hill, New Jersey

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Township of Cherry Hill, New Jersey.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Township Hall, 820 Mercer Street, Cherry Hill, New Jersey 08002.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor John A. Rocco, M.D., Township Hall, 820 Mercer Street, Cherry Hill, New Jersey 08002. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cooper River	Cuthbert Rd.	13
	Kings Highway	20
	Pateo R.R.	37
	Interstate 295	41
	Evesham Rd.	42
North Branch Cooper River.	Park Blvd.	17
	Kings Highway	24
	Brace Rd.	23
	Covered Bridge Rd.	26
	Interstate 295	34
	New Jersey Turnpike	38
	Evans Lane	45
	Cropwell Rd.	53
	Evesham Rd.	70
Tindale Run	Haddonfield-Berlin Rd.	35
	Mansfield Blvd.	44
Tributary No. 1	Rapid transit	43
	Burnt Mill Rd.	45
	Haddonfield-Berlin Rd.	52
Tributary No. 2	Rapid transit	42
	Burnt Mill Rd.	44
	Dumas Rd.	49
	Evesham Rd.	61
South Branch Pennsauken Creek.	Moorestown Pike	13
	Coopertown Rd.	17
	New Jersey Route 38	34
	New Jersey Route 41	30
	Church Rd.	34
	Interstate 295	49
	New Jersey Turnpike	44
	Green Tree Rd.	58
	New Jersey Route 70	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1968, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38075 Filed 12-29-76;8:45 am]

DEC 30 76 V41 I252 D UMI

[24 CFR Part 1917]

[Docket No. FI-2672]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Village of Put-In-Bay, Ottawa County, Ohio

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Village of Put-In-Bay, Ottawa County, Ohio.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Village must adopt flood plain management measures that are consistent with the flood elevations detemined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Village Hall Meeting Room, Catawava Avenue, Put-In-Bay.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Richard H. Fox, P.O. Box 121, Put-In-Bay, Ohio 43456. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Lake Erie	Intersection of Victory Ave. and Bay View Ave.	578
	Intersection of Catawba Ave. and Bay View Ave.	578
	Intersection of Hartford Ave. and Bay View Ave.	578
	Entire Chapman Ave.	578
	North end of Park Dr.	578
	Entire Cincinatt Ave..	579
	South end of Bay St...	579
	South end of Ibis St...	579
	South end of Shore Villa.	578
	South end of Chapman Ave.	578

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 15, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-38020 Filed 12-29-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2540]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Marinette, Wisconsin

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Marinette, Wisconsin.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City of Marinette must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 1901 Hall Avenue, Marinette, Wisconsin 54143.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Edward J. Parsek, City Hall, 1901 Hall Avenue, Marinette, Wisconsin 54143. The period for comment will be ninety day following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Green Bay	Eastern coast	584
Menominee River.	Ogden St.	584
	U.S. Highway 41	584
	C. & N.W. RR.	585
	Hattie St.	587
	Scott Paper Co. lower dam (downstream side).	588
	Scott Paper Co. lower dam (upstream side).	590
	Scott Paper Co. upper dam (downstream side).	608
	Scott Paper Co. upper dam (upstream side).	610
Madigan-Laverman Ditch.	West Bayshore St.	585
	Shore Dr.	588
	James St.	591
	Paul St.	592
	Edwin St.	599
	Pierce Ave.	603
	Industrial Parkway	604
North Branch Madigan-Laverman Ditch.	Cleveland Ave.	598
	Pierce Ave.	604

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968) effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 15, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-38139 Filed 12-29-76;8:45 am]

federal register

THURSDAY, DECEMBER 30, 1976

PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

EDUCATION OF HANDICAPPED CHILDREN AND INCENTIVE GRANTS PROGRAM

Assistance to States

V 41 I 252 DEC 30 76 UMI

DEPARTMENT OF HEALTH, AND WELFARE

Office of Education

[45 CFR Parts 100b, 121a, and 121m]

EDUCATION OF HANDICAPPED CHILDREN AND INCENTIVE GRANTS PROGRAM

Assistance to States

The Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare proposes (1) to amend Part 121a of Title 45 of the Code of Federal Regulations (Assistance to States for Education of Handicapped Children), and (2) to add a new Part 121m (Incentive Grants Program for handicapped children ages three through five), and (3) to make certain conforming amendments to Part 100b (General provisions for State-administered programs), to read as set forth below.

The authority for these regulations is contained in Part B of the Education of the Handicapped Act (EHA), as amended by Pub. L. 94–142 (20 U.S.C. 1401, 1402, and 1411 through 1420). Part B of the Act provides formula grant funds to State and local educational agencies to assist them in the education of handicapped children.

Pub. L. 94–142, enacted on November 29, 1975, contains extensive amendments to Part B, including provisions which are designed to assure that all handicapped children have available to them a free appropriate public education, to assure that the rights of handicapped children and their parents are protected, to assist States and localities to provide for the education of handicapped children, and to assess and assure the effectiveness of efforts to educate such children.

Most of the Pub. L. 94–142 amendments to Part B become effective on October 1, 1977. Therefore, the existing regulations in Part 121a, which will remain effective through Fiscal Year 1977, will be completely replaced by the new Part 121a set forth below.

As an incentive to educating handicapped children in the three, four, or five year old range, the Congress established an incentive grant authority, in which funds would be given to States on the basis of the number of children in these age ranges receiving special education and related services. Regulations for this program are proposed as a new Part 121m.

Pub. L. 94–142 also added other requirements that are being dealt with separately from these proposed regulations:

1. Requirements in section 5(b) that the Commissioner develop regulations relating to specific learning disabilities are included in proposed regulations published November 29, 1976 (41 FR 52403). The specific learning disabilities regulations will eventually be included in Part 121a.

2. A new section 607 of the EHA establishes a grant program to assist State and local educational agencies with elimination of architectural barriers. Proposed regulations will be published shortly.

3. A new section 606 of the EHA relating to nondiscrimination in employment of handicapped individuals by recipients of assistance under the EHA is being administered by the Office for Civil Rights. The Conference Report indicates:

> It is clear that qualified handicapped individuals who, because of their handicap, are refused employment by recipients of assistance under the Act are fully covered by the prohibition in section 504 of the Rehabilitation Act of 1973. The conferees expect that the Department of Health, Education, and Welfare regulations implementing section 504 will cover employees of such recipients of Federal assistance under this Act. The language of the amendment is designed to underscore the responsibility of the Secretary to pursue vigorously the enforcement of section 504 especially as it relates to the employment of administrators and teachers in programs for the education of handicapped children.

(H.R. Rep. 94–664 at page 54)

4. Revisions to section 653 of the EHA (Centers on Educational Media and Materials for the Handicapped) will be included in reveisions to Part 1211 to be published in the future.

Public Participation

Because of the potential impact that Pub. L. 94–142 will have on the education of all handicapped children throughout the Nation, and on the agencies that serve them, the Office of Education has been vitally concerned about the need for intensive public participation in the development of implementing regulations.

Therefore, at the time Pub. L. 94–142 was enacted, a decision was made (1) to "take the law to the field" before any writing was done, in order to seek comments and suggestions from parties interested in the education of handicapped children, and (2) to convene a large outside writing group called RIT (regulations input team), to develop concept papers for use in writing the regulations.

The major steps and activties involved in carrying out these public participation objectives are set forth below:

(1) In January, 1976, the Office of Education contracted with the Council for Exceptional Children to develop three mediated tape-slide presentations for use in describing the significance and implication of Pub. L. 94–142 (one was geared to parents, one for general audiences, and one for administrators). Five hundred copies of these packets have been disseminated to State education agencies and major national parent organizations and advocate groups.

(2) In January, 1976, over 1,000 letters were sent to consumer/advocate agencies (a) to provide them with copies of the law and the Congressional Conference Report, and (b) to inform them about proposed public conferences on the law.

(3) During January and February, the Office of Education prepared a discussion guide and input sheets to be used at the various public meetings.

(4) From March through August, the Office of Education conducted or participated in approximately 20 public meetings about the law on both a geographic and special interest basis. Approximately 2,200 people participated in these meetings, and several hundred responses were received. An overview of these meetings is included below.

The first six conferences were regional meetings (conducted in Washington, San Francisco, Denver, Chicago, Boston, and Atlanta) attended by State and local educational agency personnel and representatives of parent coalitions.

In July, pilot meetings were conducted in four regions of the country (Tampa, Durham, New Hampshire, Minneapolis, and San Diego) for key policy makers in the States, including representatives from the Governors' offices, State legislators, and State educational agency personnel.

A series of other public meetings were conducted for (a) representatives from all colleges and universities who receive training grants in special education, (b) nonspecial education personnel in local school districts, (c) school board representatives, and (d) parent-advocate organizations.

In addition, Office of Education staff were principal speakers at a number of major national conferences (including meetings of the Council for Exceptional Children and the American Psychological Association). These conferences involved thousands of people who have a direct interest in the education of handicapped children.

During the month of May, the Office of Education staff reviewed, analyzed and prepared the written comments received during the first eleven input meetings, and subsequently divided the comments into twelve broad topical areas in the law (e.g., individualized education program, least restrictive environment, and free appropriate public education).

(5) On June 7–9, the Office of Education convened a large national writing group of approximately 170 people, composed of parents, advocates, handicapped persons, representatives of special interest groups (e.g., AFT, NFA, private schools), and administrators of State and local programs. The group was divided into twelve writing teams to develop concept papers on the major topics in the law. Each writing team was provided copies of the comments and questions received during the input meetings, together with the legislative history for each topic. The twelve completed products developed by the RIT, served as the basis for these regulations.

During the months of July–November, the Office of Education prepared several redrafts of the concept papers and continued to seek inputs on each of these drafts from the RIT and other interested parties.

Minimum Regulations

A basic issue relating to the entire regulations package is concerned with the amount of detail and degree of specificity that is best suited to these regulations. During the input meetings a few commenters expressed the need for a great

degree of specificity and direction from the Federal level in order to insure effective implementation of the Statute. A larger number of commenters, however, expressed concern that the Department may tend to over-regulate, which could result in all State and local educational agencies being in non-compliance from the outset.

The Department sees the development of regulations for implementing Pub. L. 94–142 as being an evolutionary process which will continue over a period of several years. The actual impact and consequences of the statutory provisions and problems which States and local educational agencies may have in implementing these provisions are not known at this time. Therefore, the Department feels that the most rational approach to follow is (1) to write minimum regulations at this point, and (2) to amend and revise such regulations in the future as need and experience dictate.

Because the Statute is very comprehensive and specific on many points, the Department has elected (1) to incorporate the basic wording or substance of the Statute directly into the regulations, and (2) to expand on the statutory provisions only where additional interpretation seem to be necessary. In the summary of each of the subparts that follows, an attempt has been made to indicate (whenever possible) which requirements are statutory and which ones are regulations that attempt to interpret, clarify, or implement a specific requirement in the Act.

Consistency With Section 504 Regulations

An issue with which the Department is deeply concerned is maintaining consistency between Part B of the Education of the Handicapped Act and regulations being developed under section 504 of the Rehabilitation Act of 1973 (proposed 45 CFR Part 84 was published July 17, 1976 (41 FR 19548) and final regulations are scheduled to be published in January). To maintain consistency with the timetables for making available a free appropriate public education under section 612 (2)(B) of the EHA and the priorities under section 612(3) of the EHA, the Department intends to provide in final regulations for Part 84 that between the effective date of Part 84 and September 1, 1978, a recipient will be in compliance with the elementary and secondary section of Part 84 if it has provided services to all qualified handicapped persons according to the Part B priorities and is in compliance with Part B and regulations adopted under Part B.

As the regulations being developed under section 504 of the Rehabilitation Act of 1973 are in the process of being finalized at the same time these proposed regulations for Part B of the Education of the Handicapped Act are being published, every effort will be made to have the final regulations for Part B be consistent in concept, policy, and, wherever possible, consistent with the language of the final 504 regulations.

Part 121a—Organization

Part 121a is organized into the following seven subparts: (A) General, (B) State annual program plans and local applications, (C) Services, (D) Private Schools, (E) Procedural Safeguards, (F) State Administration, and (G) Allocations of Funds and Reports. A summary of each of these subparts, together with a discussion of some specific issues that have been raised, is included in the remaining sections of this part of the preamble.

Subpart A: General

Subpart A (1) sets forth the purposes of Part 121a and the scope of these new provisions (e.g., that they apply to all public educational agencies in a State that have direct or delegated authority for the education of handicapped children); and (2) includes definitions of statutory terms (e.g., free appropriate public education, special education, and related services) and other definitions related to these terms.

Discussion of Specific Issues. (1) There are two interrelated questions which have been raised with respect to the implementation of Part B of the Act, as amended by Pub. L. 94–142: (a) Is Part B basically a civil rights law, and (b) does a State have to meet the requirements of the Act if the State elects not to receive a grant under Part B? In responding to these questions, it is essential to show the linkage between Part B and Section 504 of the Rehabilitation Act of 1973, which is administered by the Office for Civil Rights:

Part B is a formula grant program which provides financial assistance to States for the education of handicapped children. As a condition for receiving a grant under Part B in any fiscal year, a State must demonstrate to the Commissioner that it has established procedures to insure that handicapped children are guaranteed certain basic rights and protections (e.g., right to free appropriate public education, due process, least restrictive environment, and non-discriminatory testing).

Many of the provisions under Part B are regarded as basic rights of handicapped children which (1) are guaranteed under the U.S. Constitution, (2) have been reiterated in a series of court rulings over the past six years, and (3) are specifically included in the regulations on section 504 of the Rehabilitation Act of 1973. Section 504 is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance. The "504" regulations will apply (a) to each recipient of Federal financial assistance, and (b) to each program or activity that receives or benefits from such assistance.

Since Part B is a formula grant program, the requirements and conditions under the program apply to States which apply for and receive a grant. Thus, a State which elects not to receive a grant under Part B is not subject to its provisions. However, if the State receives any Federal financial assistance, it still would have to meet the basic rights provisions under section 504.

(2) Another related question was raised with respect to a situation in which a State receives a Part B grant, but one of the local educational agencies in that State elects not to participate under Part B. The response is similar to that given above:

If a local educational agency elected not to receive a Part B grant, that agency would not have to comply with the requirements of Part B. However, the State, as a recipient of Part B funds, would be required to insure that handicapped children residing in the jurisdiction served by the local educational agency would be afforded all of the rights and protections set out in the Statute and regulations. Moreover, if the local educational agency received any other Federal funds, it would have to meet the basic rights provisions under section 504.

(3) An additional question was raised with respect to whether the provisions of Part B apply to other public agencies that serve handicapped children within a State (e.g., State departments of mental health and welfare), since these agengrant. The question must be answered in cies are not eligible to receive a Part B the affirmative, based on the following:

First, under the provisions of section 612 of the Act, each State, as a condition for receiving a Part B grant in any fiscal year, must assure that the rights and protections of the Statute are extended to all handicapped children in the State. In order to insure that these provisions would be carried out, the Congress required that—

> The State educational agency shall be responsible for assuring that the requirements of this part are carried out and that all educational programs for handicapped children within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency and shall meet education standards of the State educational agency. (Sec. 612(6))

Second, since the basic rights provisions under Part B are also included in the regulations for section 504, any recipient of HEW funds would have to be in compliance with these provisions. The extent to which these provisions apply is clearly set out in the "504" definition of recipient:

> "Recipient" means any State or political subdivision thereof, any instrumentality of a State or political subdivision thereof, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. (Sec. 84.3(f))

Subpart B: State Annual Program Plans and Local Applications

State annual program plans—General. Any State which desires to receive funds under Part B of the Act must submit an annual program plan to the Commissioner through its State educational

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agency. Sections 121a.10–121a.14 of Subpart B are concerned with the submission, approval, publication, and effective dates of the annual program plan.

The requirement for submitting an annual program plan is set out in section 434(b) of the General Education Provisions Act (GEPA), as amended by Pub. L. 93–380. This provision requires each State to submit (1) a general application containing five basic assurances, and (2) an annual program plan for each Office of Education program under which funds are provided to local educational agencies, through, or under the supervision of, the State educational agency. Under section 434(b), and the implementing regulations (45 CFR 100b, Subpart B), the general application and an annual program plan take the place of a State plan for Part B (45 CFR 100b19).

Discussion of specific issues. Several commenters expressed a concern about requiring State educational agencies to submit annually an entire annual program plan when parts of the plan would not be changed from year to year. The Office of Education feels that this is a valid concern, and has adopted the following policy:

The fiscal year 1978 annual program plan, as the first plan under the provisions of Pub. L. 94–142, is to be a complete, intact document, which includes (1) all provisions previously required under Pub. L. 93–380 that were continued under Pub. L. 94–142, and (2) any new provisions in the Statute. In cases where no changes are required in procedures previously submitted under Pub. L. 93–380 (such as procedures on confidentiality), those procedures may be incorporated verbatim into the FY 1978 annual program plan.

Beginning with the FY 1979 annual program plan, and for each year thereafter, State educational agencies may incorporate by reference the basic procedural sections which do not require change. For most States, this would include procedural safeguards, least restrictive environment, non-discriminatory testing, confidentality, procedures with respect to private school handicapped children, and child identification procedures.

ANNUAL PROGRAM PLANS—CONTENTS

The provisions to be included in the annual program plan for Part B are set forth in §§ 121a.20–121a49 of these regulations. They include (1) the conditions of eligibility and the State plan requirements under sections 612 and 613 of the Act, and (2) a provision under section 434(b)(1)(B)(ii) of the GEPA, which requires each annual program plan to "set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted".

LOCAL EDUCATIONAL AGENCY APPLICATIONS—GENERAL

Section 614(a) of the Act requires that a local educational agency which desires to receive payments under Part B for any fiscal year shall submit an application to its State educational agency. Sections 121a.80–121a.87 of these regulations set out the requirements for submission of applications, responsibilities of State educational agencies, excess costs, requirements for consolidated applications, conditions for State educational agency approval or disapproval of a local application, and requirements relating to withholding of funds. These requirements are almost wholly statutory (See sections 614(b) and (c) of the Act).

Discussion of specific issues. The excess cost provision in the statute is designed to assure that all handicapped children receiving a free appropriate public education are guaranteed the basic funding provided all children in the local school district. The formula included in § 121a.82 of the regulations is related to the procedures set forth in the statute to identify the nature and extent of the basic per pupil allocation provided.

The Department has received numerous comments which have suggested that (a) the formula is unnecessary if one can accept the assumption that every child provided an education in the public schools automatically is provided the basic per pupil fiscal allocation, and (b) this provision would present enforcement difficulties given the relative lack of pupil based accounting systems in local educational agencies.

The basic intent of the excess cost provision is to insure that State and local educational agencies provide the same support for handicapped children as they do for all other children, and that the Part B funds are used to supplement the State and local commitment. In keeping with this intent, the regulations add that neither a State or local educational agency may use funds provided under Part B to pay all of the special education and related services given to a handicapped child.

The Department solicits further comment on the requirements regarding excess costs.

LOCAL EDUCATIONAL AGENCY APPLICATIONS CONTENTS

Sections 121a.100–121a.117 set forth the contents of the local applications. These provisions are taken directly from section 614(a) of the Statute; and, no substantive change is made, except to add an additional requirement that each local educational agency shall include a statement describing how the funds under Part B will be expended during the fiscal year for which the application is submitted.

Discussion of specific issues. Section 614(a)(2)(C) of the Statute sets forth the following requirement with respect to "comparability": The local application must provide satisfactory assurance that

> State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas which, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction which are not receiving funds under this part."

The regulations repeat the statutory requirement without elaboration. Comments are sought on how to interpret this requirement, which is identical to the comparability requirement under Title I of the Elementary and Secondary Education Act, except that it uses the term "program areas" rather than "project areas".

The issues which must be resolved are (1) what does "program area" mean, and (2) what is to be compared—e.g., equitable availability of services in geographic areas; whether all programs for handicapped children with a particular disability are comparable; or whether programs for one disability are comparable to those for another disability.

APPLICATION FROM SECRETARY OF INTERIOR

Sections 121a.124–121a.129 set forth the requirements for participation by the Secretary of Interior on behalf of handicapped children in schools on reservations operated by the Bureau of Indian Affairs. These regulations follow the Statutory requirement in section 611(f) with respect to payments and the submission of a local educational agency application by the Secretary of Interior to the Commissioner. However, the regulations (1) add certain additional requirements (e.g., monitoring procedures that are required in the State annual program plans and "other material as agreed to by the Commissioner and the Secretary of Interior"); and (2) authorize the Bureau of Indian Affairs to utilize the same amount of its allotment for "State administration" that is provided by the Statute for State educational agencies. These additions are necessary because of the fact that BIA, in effect, is both a State and a local educational agency.

PUBLIC PARTICIPATION

Section 612(7)(B) of the Act requires each State to assure that there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to the adoption of the policies, programs, and procedures required under sections 612 and 613 of the Statute. Sections 121a.130–121a.132 of these regulations set out the specific requirements for State educational agencies to follow in implementing this statutory provision with respect to their annual program plans.

SUBPART C: SERVICES

GENERAL

Section 121a.200 requires each State to insure that free appropriate public education is available to all handicapped children ages 3–18 by September 1, 1978, and to all such children ages 3–21 by September 1, 1980. This is a statutory provision, as is the exception that the provision does not apply to handicapped children ages 3–5 and 18–21 if it is inconsistent with State law or practice, or the order of any court.

Section 121a.201 deals with the methods, costs, and payments involved in providing free appropriate public education.

Section 121a.202 (1) interprets the statutory requirement that each State

and local educational agency adopt a goal of providing full educational opportunities to all handicapped children, and (2) requires those agencies to take steps to insure that handicapped children have available to them the variety of programs and services (including non-academic and extra curricular services) that are available to non-handicapped children.

Section 121a.203 specifically requires that physical education services be available to every handicapped child receiving a free appropriate public education.

Discussion of specific issues. (1) A question has been raised concerning the meaning of "free appropriate public education" and "full educational opportunity goal", since both terms are used in the Statute and are included in this subpart. There is an obvious interrelatedness between these two terms; but there are some clear differences, as set forth in the following paragraphs:

"Full educational opportunity goal" is a very broad, all encompassing term, which (a) covers all handicapped children, ages birth through twenty-one, (b) includes a basic planning dimension, including making projections of the estimated numbers of handicapped children, and (c) does not set specific timelines for service, but, rather, requires each State to set its own timetable. The term "goal" implies an intent or direction to follow and is future oriented. Based on these characteristics, a State could be totally committed to implementing this provision, and could be in compliance with the Act, but may never achieve its goal in the absolute sense.

"Free appropriate public education" refers to a part of the goal of providing full educational opportunities to all handicapped children, but it is more narrow in scope and specific in purpose. This provision (a) focuses on known handicapped children within specific age ranges, (b) sets out mandated timelines for service, and (c) is present oriented. As set forth in the Statute, the right to free appropriate public education, in effect, is regarded as a basic right; and each State must carry out this provision within the specified time limits in order to be in compliance with this Act:

(2) A number of commenters have asked for clarification (a) of the general provision on free appropriate public education in Section 612(2)(B) of the Statute, and (b) of the exception clause in that provision for handicapped children ages 3–5 and 18–21. These regulations interpret the Statute as follows:

First, with respect to the general provision—

Free appropriate public education must be available to all handicapped children within the State mandated age ranges by the dates set forth in the statute.

If a State has no mandatory law, the State must make a free appropriate public education available within the statutory timelines to all handicapped children ages six through seventeen.

Second, with respect to serving handicapped children ages three through five and eighteen through twenty-one—

If a State does in fact make available public education to all non-handicapped children in any of these age groups (e.g., kindergarten for five year olds), free appropriate public education must be available to all handicapped children in that age group by the dates set forth in the Statute.

If a State does in fact make available public education to a majority of Handicapped children in any of these age groups, a free appropriate public education must be made available to all handicapped children in that age group within the timelines.

In any case in which the provision of services to handicapped children ages 3–5 and 18–21 is inconsistent with State law or practice, or the order of any court, the State educational agency must, in its annual program plan, (a) provide a detailed description of the extent to which the exception applies, and (b) include a copy of each State law, court order, or other document which provides a basis for the exception.

Comments are specifically requested on the Department's interpretation of this statutory provision.

(3) Several questions arose concerning the meaning of the term "available" in the requirement that free appropriate public education must be available to all handicapped children. As used in these rules, the term "available" is intended to protect the individual rights of parents and children to decide whether or not to participate in programs which provide free appropriate public education. If the parents or child elect to avail themselves of these programs, it is the responsibility of the State or local educational agency to provide such programs in conformance with the provisions of this Act. This requirement applies to (1) both instructional and evaluational services, and (2) requires the timely delivery of such services.

(4) Several commenters have asked if free appropriate public education includes room and board. The proposed regulations state, in effect, that—

Each State may utilize whatever placement alternatives and methods of providing services that are necessary to assure that a free appropriate public education is available to all handicapped children.

Whenever placement in a public or private residential program is necessary to provide free appropriate public education to a handicapped child, the cost of the program, including room and board, must be at no cost to the parents of that child.

In carrying out these provisions, each State must determine the methods and sources of payment, and may utilize various State, local, Federal, and private sources of support that are available in the State.

(5) A number of commenters questioned why physical education services are given special attention in these rules. This position was taken to conform with Congressional intent as stated in the House of Representatives Report No. 94–332:

> The Committee expects the Commissioner of Education to take whatever action is necessary to assure that physical education services are available to all handicapped children, and has specifically included physical education within the definition of special education to make clear that the Committee expects such services, specifically designed where necessary, to be provided as an integral part of the educational program of every handicapped child.

PRIORITIES IN THE USE OF PART B FUNDS

As part of the provision on free appropriate public education, the law requires each State and local educational agency to establish priorities, first with respect to handicapped children not receiving an education (defined as "first priority children" in the regulations), and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education (defined as "second priority children"). The law further requires that, except for State Administration funds, each State and local educational agency must use its full entitlement under Part B "in accordance with the priorities established under section 612(3)."

Sections 121a.210–121a.214 of these regulations interpret the statute with respect to implementing these priority requirements.

Discussion of specific issues. (1) A number of questions were raised concerning the scope and extent of the priority requirement to the first priority children—e.g., (a) if a State's mandate is 3–18, would all of the Part B funds have to be expended for the first priority children in these age ranges before the funds could be spent on second priority children, and (b) are there any age spect to implementing these priority requirement?

The proposed regulations specify that all Part B funds must be utilized to provide direct special education and related services to first priority children ages 3–21, to the extent that State mandate applies to children in this age range. For example, if a State's mandatory law is 4–17, the Part B funds must be expended to provide a free appropriate public education to all first priority children in this age range, and may not be used for second priority children until this requirement is met.

The proposed regulations do not impose any age priorities. Thus, if a State's mandate is 3–18, the State may utilize its funds to provide special education and related services to any first priority child in that age range.

(2) A related question was raised concerning States which either do not have any mandate or their laws do not include all handicapped children covered by Part B. The wording of the Statute is such that it requires all States to make a free appropriate public education available to all handicapped children ages six through seventeen, who are defined in the Act, even if the State does not have a mandatory law in this age range.

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(3) Many commenters asked for clarification of when a local educational agency may proceed to use its Part B funds for the second priority. The proposed regulations specify that before the Part B funds can be used for any other purpose, the local educational agency must provide assurance satisfactory to the State educational agency (a) that all first priority children have a free appropriate public education available to them, (b) that it has a system for the identification, location, and evaluation of handicapped children, and (c) that whenever a first priority child is identified, located, and evaluated, the agency will make a free appropriate public education available to the child in accordance with an individualized education program.

(4) A question posed by a number of commenters is: If a State or local educational agency has met the first priority requirement under State mandate (e.g. 5–17), must that agency move to the second priority or can the Part B funds be targeted on first priority children below the mandated age range? Under the proposed rules, a State or local educational agency would have the option to spend its Part B funds (a) on other unserved handicapped children not covered by the mandate, including children ages 0–2, (b) to meet the second priority, or (c) to do both.

(5) Several commenters have asked if a State educational agency can utilize its portion of the Part B funds for inservice training if the training is related to the priorities. In accordance with the Statute and with Congressional intent, the first priority must be met before Part B funds could be used for any other purpose. Thus, if there are known first priority children in a State, the State educational agency would have to assure that a free appropriate public education is available to such children within the State mandated age range. Once that priority is met, the State may utilize its funds (a) for direct services to second priority children, (b) for inservice training under either priority, or (c) for other services under either priority, as authorized under § 121a.250 of Subpart C ("Use of State educational agency allocation for direct and support services.").

(6) A number of commenters have asked what the term "inadequate education" means in the second priority (e.g. handicapped children within each disability, with the most severe handicaps who are receiving an inadequate education).

Under the proposed regulations "inadequate education" means receiving some but not all of the special education and related services specified for a handicapped child in his or her individualized education program (IEP).

During school year 1977–78, it is expected that all second priority children will receive a basic education, but some of these children may not receive all of the services required by their EIPs. However, under the Statute, all services in a child's IEP must be provided by September 1, 1978.

Comments are invited on whether the regulations should require a local educational agency to provide all of the IEP services in school year 1977–78.

INDIVIDUALIZED EDUCATION PROGRAMS

Sections 121a.220–121a.226 of the regulations interpret the statutory requirement that free appropriate public education includes an individualized education program for every handicapped child so served.

The individualized education program (IEP) is a written statement developed in a meeting with a representative of the local educational agency, the teacher, the parent, and the child, where appropriate. The written statement on each child includes documentation of decisions reached about the objectives, content, implementation and evaluation of the child's educational program.

An IEP must be developed for any handicapped child who is placed in a private school by a State or local educational agency.

Discussion of specific issues. (1) Many commenters raised the issue of whether the IEP is a legally binding document.

The interpretation of these rules reflects the intent of Congress as stated in the Congressional Record of the House by Mr. Quie,

> It is important to point out that (the individualized educational program) is an educational program developed jointly, but it is not intended as a binding contract by the schools, children, and parents.

Therefore, while the State or local educational agency is responsible for providing the services delineated in the IEP, such agency does not violate these regulations if the child does not achieve the growth projected in the annual goals and objectives.

(2) Questions were asked concerning the participation in the planning conference of parents who have a communication barrier such as deafness or whose native language is other than English. The rules for this Subpart assure the active participation of such parents. The local educational agency must provide an interpreter or take whatever action is necessary in order that the parent may understand the proceedings.

(3) Several commenters requested an interpretation of the requirements for participants at the individual planning conference, specifically, the representative of the local educational agency. Questions were raised to determine whether (a) the representative of the local educational agency may be the child's teacher, and (b) what qualifications that representative must have. Under the statute, the representative of the local educational agency must be someone other than the child's teacher. The regulations repeat the statutory language regarding the local educational agency representative.

(4) Several commenters raised concerns regarding whether or not the agency may proceed to develop the individualized education program if the parents are unwilling or unable to attend the individual planning conference. The proposed rules specify that the agency shall make every attempt to assure parental participation, including convening the participants at a mutually agreed-upon time and place. However, if these efforts are unsuccessful, the agency must document these attempts and may proceed without parental participation.

(5) The statute mandates that an IEP for each child must be established or revised, as appropriate, at the beginning of each school year. Questions were raised concerning the timing of the individualized planning conferences in order to insure that this requirement would be met. These regulations specify that for a handicapped child already receiving special education and related services, the planning conferences must be conducted early enough to insure that the child's IEP is developed (or revised) by the beginning of the next school year. To meet this provision, a local educational agency could conduct the meeting for the child at the end of the school year or during the summer.

(6) A point was made by many commenters that a local educational agency may develop an IEP on a child based only on existing (limited) resources available in the school district. Under the proposed rules, each child's IEP must include specific services needed by that child (determined without regard to local availability of such services).

Part B funds may be used to provide these services for a first priority child. After the first priority is met, Part B funds may be used to provide services for a second priority child if that child was not previously receiving all of the services required under his or her IEP.

See the discussion under "PRIORITIES IN THE USE OF PART B FUNDS" (issue number (6)), which relates to whether all of these services must be provided.

DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY

Section 614(d) of the Act provides that whenever a State educational agency determines that a local educational agency is either unable or unwilling to submit a consolidated application or to serve handicapped children, or has a handicapped child who can best be served in a regional or State center, the State must use the local educational agency's Part B entitlement to provide special education and related services directly to the handicapped children residing in the area served by that agency. Section 121a.240 of Subpart C incorporates the statutory requirement verbatim.

Sections 121a.250 and 121a.251 set out statutory requirements regarding the use of the State educational agencies' entitlement for direct and support services.

Discussion of specific issues. With respect to the State educational agency's use of a local educational agency's entitlement to provide direct services to handicapped children in the local agency, several questions have been raised: (1) Can a local educational agency refuse "to establish and maintain programs of free appropriate public education for handicapped children"?

Under Section 504 of the Rehabilitation Act of 1973, "no otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Thus, a local educational agency would not be in compliance with the basic provisions of section 504 if the agency did not make available a free appropriate public education for its handicapped children.

(2) Since every local educational agency could potentially have a handicapped child who could best be served in a regional or State center, how is the requirement in section 614(d) of the Act (§ 121a.240 of this regulation) to be implemented?

Comments are requested regarding (a) the extent to which the Department should regulate on this provision, and (b) whether or not each State should be permitted to implement the requirement in accordance with its own State procedures (e.g., each State determines the conditions under which it will become directly involved in placing a handicapped child outside of the local educational agency and whether Part B entitlements will be used for such purposes).

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

Sections 121a.260–121a.268 implement the statutory requirement in section 613 (a)(3) that a State develop and implement a comprehensive system of personnel development including (a) inservice training of general and special educational instructional and support personnel, and (b) procedures to insure that all personnel necessary to carry out the purposes of the Act are appropriately and adequately prepared and trained. The statute also requires procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting promising educational practices and materials developed through those projects.

SUBPART D: PRIVATE SCHOOLS

PARTICIPATION OF PRIVATE SCHOOL CHILDREN

Section 613(a)(4)(A) of the Act requires States and local educational agencies to establish policies and procedures to insure that, to the extent consistent with the number and location of handicapped children enrolled in regular and special private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this part by providing for such children special education and related services. This basic statutory requirement, and the implementing regulations, have been in effect since 1966, when the original State grant program for the education of handicapped children was enacted. (Pub. L. 89-750).

Sections 121a.300–121a.306 of these proposed programmed regulations incorporate the existing rules regarding participation of private school handicapped children.

Section 121a.301 requires that determinations of the special educational needs of handicapped children enrolled in private elementary and secondary schools must be made on a basis comparable to that used for handicapped children who are enrolled in public, elementary and secondary schools.

Section 121a.302 specifies that programs assisted under Part B of this Act must be designed to provide services to handicapped children enrolled in private schools within the geographical area served by the program or project.

Section 121a.303 requires that the services of public school personnel must be made available to handicapped children enrolled in private schools provided that (1) the services required by such children are not normally provided by the private school, and (2) the administrative control and direction of these services is maintained by the State educational agency or local educational agency.

Section 121a.304 includes requirements regarding equipment purchased with Part B funds. The public agency shall retain the title and administrative control over such equipment which is placed for a limited time on private school premises.

Section 121a.305 speaks to the issue of prohibition of segregation of children who participate at a public school facility from a private school or another public school. Such children may not be placed in classes that are separated on the basis of the child's school enrollment or religious affiliation.

Section 121a.306 requires that funds provided under Part B or properly derived from those funds shall not be used to the benefit of a private school.

PLACEMENT OF HANDICAPPED CHILDREN IN PRIVATE SCHOOLS

Section 613(a)(4)(B) of the Act requires States to insure that handicapped children placed in or referred to a private school or facility by a State or local educational agency must be provided special education and related services (1) in conformance with an individualized education program, and (2) at no cost to the parents. The Statute further requires that the State educational agency must assure that the private facilities meet State standards and that children placed in such facilities have the same rights they would if served by a public educational agency.

Sections 121a.320–121a.323 of these regulations interpret this statutory requirement. These rules (1) set out the implementation requirements for State educational agencies to follow, (2) specify that if the parents of a handicapped child decide not to take the opportunity for a free appropriate public education, neither the State nor local educational agency is required to pay for the child's education; and (3) point out that disagreements between the parent and the public educational agency regarding the availability of an appropriate education may be the subject of a due process hearing.

SUBPART E: PROCEDURAL SAFEGUARDS

DUE PROCESS PROCEDURES

Sections 121a.400 through 121a.414 of Subpart E set forth requirements to insure that handicapped children and their parents are guaranteed procedural safeguards in matters relating to the provision of a free appropriate public education. Because of the specificity of the due process procedures in section 615 of the Statute, the Department has elected to incorporate these procedures substantially verbatim into the proposed regulations and to expand the statutory provisions only where additional interpretation seemed to be necessary. The additional items added by the proposed regulation are as follows:

(1) The Statute specifies that parents of a handicapped child must be afforded the opportunity to obtain an independent evaluation of the child. The proposed regulations address the issue of who pays for the evaluation and under what circumstances. (See § 121a.403)

(2) The Statute requires written prior notice in the native language of the parents in matters relating to the identification, evaluation, and educational placement of a handicapped child. The proposed regulations specify (a) what the content of the notice must be, (b) that the notice must be in language understandable to the general public, and (c) that when the native language is not written, steps must be followed by the agency to insure that the parents understand the notice. (See § 121a.404)

(3) The Statute specifies that a hearing may not be conducted by an employee of the agency in which the handicapped child receives education or care. The proposed regulations add: (a) That the person serving as hearing officer may not have a personal or profesional interest which would conflict with his or her objectivity in the hearings, and (b) that a person meeting the conditions of impartiality who is paid by an agency to serve as a hearing officer would not be considered to be an employee of the agency. (See § 121a.407)

(4) The proposed regulations require agencies to take steps to insure that all hearings and reviews (a) will be commenced and completed as quickly as possible and (b) will be conducted at times and places which are reasonably convenient to the parents of the child involved. (See § 121a.412)

(5) The statute requires an agency to appoint a surrogate parent (not an employee of the agency) to protect the rights of a handicapped child whenever the child's parents are unknown, unavailable, or the child is a ward of the State. The proposed regulations (a) require agencies to have a method for determining when a child needs a surrogate and for assigning a surrogate to the child, (b) set out criteria for selecting surrogates, and (c) specify that a person

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paid by an agency to serve as a surrogate would not be considered to be an employee of that agency. (See § 121a.415)

Discussion of specific issues. (1) Many commenters have expressed concerns (a) that local educational agencies are totally vulnerable in any due process hearing and (b) that the entire process works only to the advantage of the individual handicapped child or his parents regardless of what the subject or purpose of the hearing may be. The Department's view with respect to this concern is as follows:

A basic tenet of the American system of government, as provided by the United States Constitution, is that any individual who is threatened or becomes subject to serious or adverse action by public authorities must be provided with full rights of due process of law. Such procedures provide to the individual the opportunity to contest the proposed action within a series of proceedings which insure that fairness and good judgment govern the entire decision-making process.

The implementation of these procedures, however, must not be misunderstood by public educators, handicapped children, their families or advocates. They are not intended to give an advantage to any "side" in the decision-making process. Rather they are to produce a setting in which the interested parties effectiveness and finally, their rights understand the nature of a child, his needs, the procedures and process used to obtain that information, the proposed plan to meet the needs of the child, the review procedures to determine program effectiveness and finally, their rights under the law. Invoking due process procedures does not inherently create adversary settings. The goal of the process is better programming for children, with better understanding of all parties—parents, children, educators and advocates, of their responsibilities, and a forum for continuous review.

(2) A question has been raised regarding whether the superintendent of a public institution for the handicapped (such as a State residential school for the deaf) can serve as the surrogate parent for a child in that institution. Section 615(b)(1)(B) of the Statute provides that a surrogate parent may not be an employee of the State educational agency or local educational agency in which the child receives education or care. However, section 612 of the Act insures that the rights and benefits of the Statute (including due process rights) apply to all handicapped children in the State regardless of what agency is providing them with special education and related services. Therefore, the department's view is that it would be inconsistent with the Statute for the superintendent or any other employee of an institution to serve as a surrogate parent for a child in that institution.

PROTECTION IN EVALUATION PROCEDURES

Section 612(5)(C) of the Act requires States to establish non-discriminatory testing procedures for use in the evaluation and placement of handicapped children. The requirements for States to follow in carrying out this provision are set out in §§ 121a.430–121a.433 of Subpart E. These requirements are designed to insure that children are not misclassified or unnecessarily labeled as being handicapped because of inappropriate selection, administration, or interpretation of evaluation materials.

While the term "nondiscriminatory testing" is generally used with respect to this provision, the provision clearly applies to evaluation materials and procedures used with all handicapped children. Thus, the title "Protection in Evaluation Procedures", as used in these proposed regulations, is considered to be more appropriate than "Nondiscriminatory Testing".

A decision was made by the Office of Education to adopt the evaluation procedures in the proposed regulations under section 504 of the Rehabilitation Act of 1973. This decision was made (1) in order to insure consistency between the two sets of regulations and (2) because the "504" provisions cover the basic points on evaluation in which there is general professional agreement (e.g., that evaluation procedures be multi-factored, multisourced, and carried out by qualified personnel).

LEAST RESTRICTIVE ENVIRONMENT

Section 612(5)(B) of the Act requires States to establish procedures to insure that to the maximum extent appropriate, handicapped children are educated with children who are not handicapped, and that removal of handicapped children from the regular education environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. The minimum requirements for States to follow in carrying out this provision are set out in §§ 121a.440–121a.445 of Subpart E.

These proposed regulations (1) require each State educational agency to inform public educational agencies about the least restrictive alternative provision, to assist them with its implementation, and to monitor their progress, and (2) set forth additional requirements designed to insure effective implementation of this provision for each handicapped child.

Discussion of specific issues. (1) A number of comments expressed concerns (a) that in carrying out the least restrictive environment provision too much emphasis would be focused on having handicapped children educated with children who are not handicapped, and (b) that there may be an overzealous implementation of this provision without regard to the needs of individual handicapped children.

These concerns were dealt with directly in the June 6, 1975 Report of the House of Representatives on HR 7217 (H. Rept. No. 94–332, p. 9):

The Committee understands the importance of providing educational services to each handicapped child according to his or her individual needs. These needs may entail instruction to be given in varying environments, i.e., hospital, home, school, or institution. The Committee urges that where possible and where most beneficial to the child, special educational services be provided in a classroom situation. An optimal situation, of course, would be one in which the child is placed in a regular classroom. The Committee recognizes that this is not always the most beneficial place on instruction. No child should be denied an educational opportunity; therefore, H.R. 7217 expands special educational services to be provided in hospitals, in the home, and in institutions.

With respect to the above concerns, this proposed regulation sets out three points:

(a) That each handicapped child's educational placement must be determined at least anually and be based on his or her individualized education program.

(b) That steps be taken to assure that implementation of this provision will not produce a harmful effect on the child or reduce the quality of services which he or she requires.

(c) When there is evidence to suggest that a local educational agency is placing its handicapped children in an environment without regard to their specific, individual needs, the State educational agency must assist in planning and implementing any necessary corrective action.

(2) In drafting this proposed regulation, the issue was raised about the desirability of setting out a specific continuum of educational placements or program options which every State must follow. The decision was made to permit each State to develop its own continuum provided that the continuum includes the various alternative placements set forth in the Statute.

CONFIDENTIALITY

The regulations on confidentiality, as set out in §§ 121a.450–121a.466, were previously published in final form on February 27, 1976 (41 FR 8603–8610) to comply with the requirement under Pub. L. 93–380 and an additional provision under Pub. L. 94–142. These regulations are being republished and renumbered in this package of proposed rules for the convenience of the reviewers. Certain portions of the final (existing) regulations have been moved to other sections of these proposed rules, but the rules are substantially the same:

Section 121a.10 of the existing (February 27, 1976) regulations is incorporated in Subpart B of these proposed rules.

The definitions of "consent" and "formal evaluation" in § 121a.15 of the existing regulations have been moved to a definition section for Subpart E. The word "formal" has been deleted from "Formal evaluation" and the definition has been expanded.

The definition of "parent" has been moved to subpart A and has been revised to apply more generally to all parents covered under Part B of the Act.

The requirement that parental consent must be obtained before an evaluation is conducted (as set out in § 121a.15 of existing regulations) has been moved to the due process procedure in § 121a.504 of this subpart.

OFFICE OF EDUCATION HEARING PROCEDURES

Sections 121a.480 through 121a.483 set out the hearing procedures which the Office of Education will use whenever a State educational agency has the right to a hearing under Part B of the Act, including (1) disapproval of the State's annual program plan, (2) a decision by the Commissioner to withhold funds for non-compliance with Part B, and (3) a request by a State for a waiver of the supplanting requirement under section 613(a)(9) of the Statute. These hearing procedures are based on other procedures used within the Department (e.g., the grant appeals board, 45 CFR Part 16).

Additional procedures to be used in withholding funds from a State educational agency when the State is in substantial noncompliance with Part B of the Act are set out in §§ 121a.490–121a.493 of this subpart. These procedures are elaborated on in section 616 of the Act.

SUBPART F: STATE ADMINISTRATION

Sections 121a.500 through 121a.502 of Subpart F set forth the responsibilities of the State educational agency for the use of funds for all educational programs for handicapped children within the State. These proposed regulations (1) set forth the percentage of the State allotment for administration, (2) delineate the allowable administrative expenditure, and (3) provide for the reallocation of local educational agency funds.

ADVISORY PANEL

Sections 121a.550 through 121a.552 set forth requirements for a State advisory panel on the education of handicapped children. The membership of such panel is composed of persons who are involved in or concerned with the education of handicapped children.

The advisory panel is responsible for (1) advising the State educational agency of Statewide unmet needs in the education of handicapped children, (2) commenting on the rules for issuance by the State and the procedures for distributing funds under this Part, and (3) assisting the State in developing and reporting of data and evaluations to assist the Commissioner in performing his responsibilities under section 618.

Discussion of specific issues. Several persons have asked whether the State requirement for consultation with individuals concerned with the Education of the Handicapped Act as stated in section 612(7)(A) requires each State to assure that in carrying out the eligibility requirements in the Statute, procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children. Comments are invited on the issue of whether these requirements can be effectively met through the use of the State advisory panel.

SUBPART G: ALLOCATION OF FUNDS; REPORTS

ALLOCATIONS

Sections 121a.600 through 121a.607 set forth the conditions under which States receive and distribute funds under this part.

These proposed regulations (a) delineate the State entitlement and formula for each fiscal year from 1978 to 1982 and thereafter and (b) specify the limitations and exclusions related to this formula as set forth by the requirements for child count.

The procedures are defined for the ratable reduction of funds; (a) the dates for local educational agencies to report to the State, and (b) the reallocations of such monies and the amount of funds available.

Section 121a.603 of the proposed regulations repeats the hold harmless provision which ensures a funding level at least equal to that in fiscal year 1977, and the distribution of funds to the State educational agency and the local educational agencies for fiscal years 1978, 1979, and thereafter.

Sections 121a.604 and 121a.605 set forth the requirements for the distribution of funds to the State educational agency and local educational agencies for fiscal year 1978, 1979, and thereafter.

Section 121a.606 sets forth the formula and entitlements for local educational agencies and § 121a.607 specifies the provisions for entitlements to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

REPORTS

Sections 121a.650 through 121a.654 set forth the requirements for the annual report of children who have been served during that year. The proposed regulations specify (1) the report requirement, (2) information required in the report, (3) certification of the accuracy of the report, (4) the criteria used for counting children. Section 121a.654 sets forth additional responsibilities of the State educational agency to coordinate a Statewide effort to assure an accurate and unduplicated count to meet the requirements of section 611(a)(3) and section 617(a)(1)(D) of the Statue.

The preamble and regulations for Child Count were published in proposed form in the FEDERAL REGISTER on September 8, 1976. The comment period for these regulations has ended; however, they are being reprinted here for the convenience of the reader.

Discussion of specific issues. (1) One issue raised by the commenters on the proposed "child count" regulations is the eligibility of certain classes of children to be counted under Pub. L. 94–142: (e.g., Children who receive an education, provided at the expense of the military or the local educational agency, on a United States military base).

Further comments are invited as to the eligibility of those children to be counted under Pub. L. 94–142 and the effects that this count would have on the continued eligibility of those children to be counted (or even served) under other federal programs providing assistance to the military based school.

(2) A number of questions were raised with respect to counting handicapped children eprolled in regular private elementary and secondary schools under the provisions of section 613(a)(4)(A) of the Act §§ 121a.300–121a.306 of Subpart D of these regulations).

A private school handicapped child may be counted provided that the child (a) is a "handicapped child", as defined in § 121a.4 of Subpart A, and (b) is receiving special education and related services through State, local or Federal funds. It should be noted that private school handicapped children must receive special education and related services in conformance with an individualized education program.

(3) A question was raised as to whether (a) "deaf-blind" should be added as a category in the child count provisions, or (b) whether the Department should utilize only the specific types of handicaps defined in the Statute and have the children reported separately as "deaf" or "visually handicapped". The issue involved is that there are many other categories which could also be added; but in doing so, it would reduce the chances of receiving an unduplicated count of children. Comments are requested regarding this question.

(4) Another issue is whether funds available to a State under EHA Part B can be used in part to support educational programs for children in State operated or State supported schools. The present section 613(a)(9) of EHA (effective until 10/1/77) requires that a State Plan provide assurance that EHA Part B funds "shall not be made available for handicapped children eligible for assistance under section (121) of the Elementary and Secondary Education Act of 1965."

The Office of Education has interpreted this provision to preclude use of Part B funds on children who either were eligible to be counted or actually counted under section 121. For FY '78 and thereafter the present section 613(a)(9) will be dropped. New section 611(a)(5)(A)(iii) (effective 10/1/77) may only prohibit the Commissioner for purposes of Part B from counting handicapped children who are counted under section 121 of ESEA. This provision, once in effect, may not preclude Part B funding of those children who have not been counted under that section. Comments are invited on this issue.

PART 121m: INCENTIVE GRANTS

Part 121m sets forth the conditions under which States may receive incentive grants to assist in the education of handicapped children ages three through five. Congress established incentive grants in the recognition that when education begins at the earlier stages of development (1) benefits are maximized, (2) additional or more severe handicaps may be prevented, and (3) greater long-term cost effectiveness is realized.

Discussion of specific issues. (1) A question arose as to (a) whether States

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could use the incentive grant funds to provide services only to those children who were counted to generate those monies, or (b) whether the State educational agency may determine if additional, previously unserved children are to be served with these funds. These regulations reflect the intent of the legislation by allowing the State educational agency to determine the optimal use of these funds for children ages three through five who are counted as receiving special education and related services or children who were previously unserved.

(2) A related issue was raised regarding the expenditure of equal dollars for each child. It was felt that for optimal implementation of the legislation the States should have flexibility in determining the amount spent on individual children so long as each child served is provided a free appropriate public education.

(3) An issue was raised concerning the possible use of incentive grant funds for children from birth through two years of age. Section 619 and the legislative history specify that the use of incentive grant funds is limited to children ages three through five years. However, the State's entitlement under section 611 of the Act may be used for children from birth through age twenty-one.

(4) Another issue was whether a State must be serving all handicapped children ages three through five in order to qualify for the funds. The proposed rules interpret the statute to regard as eligible those States which offer programs to any of the handicapped children in this age range. Therefore, any State which serves any portion of the three, four, or five year old handicapped population may apply.

PUBLIC HEARINGS

The Office of Education will hold public hearings on these proposed regulations at the following times and locations:

City	Date/time	Address
Washington, D.C.	Feb. 3, 1977, 9:30 a.m. to 3 p.m.	Regional Office Bldg. No. 3, Auditorium No. 3, 7th and D Sts., SW., Washington, D.C. 20202.
San Francisco.	Feb. 8, 1977, 9:30 a.m. to 3 p.m.	Federal Office Bldg., 450 Golden Gate, Room 2007, San Francisco, Calif. 94102.
Denver	Feb. 9, 1977, 9:30 a.m. to 3 p.m.	Post Office Bldg., Room 269, 18th and Stout Sts., Denver, Colo. 80202.
Chicago	Feb. 10, 1977, 9:30 a.m. to 3 p.m.	Rebecca Crown Center/Hardin Hall, 633 Clark, Evanston, Ill. 60201.
Boston	Feb. 15, 1977, 9:30 a.m. to 3 p.m.	Post Office and Court House Bldg., Room 208, Boston, Mass. 02109.
Atlanta	Feb. 16, 1977, 9:30 a.m. to 3 p.m.	Board of Education, City of Atlanta, Board Room, 159 Garnett, SW., Atlanta, Ga. 30323.

The purpose of these hearings is to receive comments and suggestions on the proposed rules for consideration by the Office of Education in preparing final regulations for Part 121a. (Assistance to States for the Education of Handicapped Children) and Part 121m. (Incentive Grants program for Handicapped children ages three through five.)

In order to insure that all interested parties will have an opportunity to make comments at the hearings, the Office of Education recommends the following procedure:

(1) Each person planning to make an oral presentation should: (a) prepare a written statement of his/her comments in advance of the hearings; (b) make the presentation as concise as possible; and (c) submit a copy of the prepared statement to the Bureau of Education for the Handicapped, Office of Education, Regional Office Building No. 3, 7th and D Streets, SW, Washington, D.C. 20202.

NOTE.—If a person has extensive comments to make, it is recommended that the person's oral presentation include only a summary of the comments and that the full, written statement be sent to the above address.

(2) In presenting both oral and written statements, each commenter should (a) indicate his/her name, title, and address, (b) identify each specific subpart and section of the regulations on which comments are being made, (c) describe the concern with respect to that subpart and section, and (d) specify the recommended action to be taken.

NOTICE OF PUBLIC HEARINGS ON SPECIFIC LEARNING DISABILITIES REGULATIONS

In accordance with proposed rules on Specific Learning Disabilities, published in the FEDERAL REGISTER on November 29, 1976 (41 FR 52403), notice is hereby given that The Office of Education will hold six public hearings on these regulations. These hearings will be conducted in conjunction with the hearings on Parts 121a. and Parts 121m. to enable interested parties opportunity to comment on each of these proposed rules. The recommended procedures for making oral presentations on Specific Learning Disabilities are the same as those specified in the preceding paragraphs for Parts 121a and Parts 121 m. Following are the times and locations for the hearings on Specific Learning Disabilities:

City	Date/time	Address
Washington, D.C.	Feb. 4, 1977, 9:30 a.m. to 3 p.m.	Regional Office Bldg., No. 3, 7th and D Sts., S.W., Washington, D.C. 20202.
San Francisco	Feb. 7, 1977, 9:30 a.m. to 3 p.m.	Federal Office Bldg., 450 Golden Gate, Room 2007, San Francisco, Calif. 94102.
Denver	Feb. 8, 1977, 9:30 a.m. to 3 p.m.	Post Office Bldg., Room 269, 18th and Stout Sts., Denver, Colo. 80202.
Chicago	Feb. 9, 1977, 9:30 a.m. to 3 p.m.	Rebecca Crown Center/Hardin Hall, Northwestern University, 633 Clark, Evanston, Ill. 60201.
Boston	Feb. 16, 1977, 9:30 a.m. to 3 p.m.	Post Office and Court House Bldg., Room 208, Boston, Mass. 02109.
Atlanta	Feb. 17, 1977, 9:30 a.m. to 3 p.m.	Board of Education, City of Atlanta, 159 Garnett, S.W., Atlanta, Ga. 30323.

WRITTEN COMMENTS

The Office of Education invites written comments and recommendations on these proposed regulations. All written materials should be sent to: Bureau of Education for the Handicapped, Office of Education, Room 2015 Regional Office Building No. 3, 7th and D Streets, SW, Washington, D.C. 20202.

The written comments should (1) include the name, title, address, and telephone number of the commenter, (2) identify each specific subpart and section of the regulations on which comments are being made, (3) describe the concern with respect to that subpart/section, and (4) specify the recommended action to be taken.

Comments received in response to the notice will be available for public inspection at the above office Monday through Friday between 8 a.m. and 4 p.m. All relevant material must be received on or before March 1, 1977.

All comments written and oral will be reviewed by the Office of Education and considered in preparation of final regulations.

Questions about these proposed regulations may be addressed to Mr. Thomas B. Irvin, at the above address, or by phone (202) 245-9405.

The United States Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 1182 and OMB circular A-107.

(Catalog of Federal Domestic Assistance Number 13.449, Handicapped Preschool and School Programs.)

Dated: December 16, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

Approved: December 22, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

RT 100b—STATE ADMINISTRATED PROGRAMS

1. In Part 100b, § 100b.17 is revised to read as follows:

§ 100b.17 General applications.

(a) The general application of a State must meet the requirements of section 434(b)(1)(A) of the General Education Provisions Act.

(b) A State does not have to resubmit its general applications.

(20 U.S.C. 1232c(b)(1)(A).)

(c)(1) The following statutes require that a State must submit certain provisions to the Commissioner which are similar to provisions in the general application.

(2) Subject to paragraph (d) of this section, if the Commissioner has approved a State's general application, the State does not have to submit the provisions required under the following statutes:

(i) *Compensatory education.* Section 142(a)(2) and (3) of Title I of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 1232c(b)(1)(A)(i) (II), (III).)

(ii) *School library resources.* Section 203(a)(5), (6) and (7) of Title II of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 1232c(b)(1)(A)(i) (II), (III), and (IV).)

(iii) *Supplementary educational centers and services; guidance, counseling, and testing.* Section 305(b)(9)(B), (10), and (11) of Title II of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 1232c(b)(1)(A)(ii) (II), (III) and (IV).)

(iv) *Education of the handicapped.* Section 613(a)(7)(A), (9)(B), and (10) of Part B of the Education of the Handicapped Act, as amended.

(20 U.S.C. 1232c(b)(1)(A)(ii) (II), (III) and (IV).)

(v) *Adult education.* Section 306(a)(6) and (7) of the Adult Education Act, as amended.

(20 U.S.C. 1232c(b)(1)(A)(ii) (II), (III).)

(vi) *Strengthening instruction in academic subjects.* Section 1004(a)(2) and (3) of Title X of the National Defense Education Act of 1958, as amended.

(20 U.S.C. 1232c(b)(1)(A)(ii), (II), (III).)

(vii) *State reading improvement programs.* Section 714(a)(10) of Title VII-B of the Education Amendments of 1974.

(20 U.S.C. 1232c(b)(1)(A)(ii), (III).)

(d)(1) The general application does not change the legal substance of the provisions listed under paragraph (c)(2) of this section.

(2) If a provision listed in paragraph (c)(2) of this section is different in wording from an assurance in the general application, the provision listed in that paragraph governs any question of compliance with the assurance.

(20 U.S.C. 1232c(b)(1)(B)(i), (b)(1)(B)(iii), (b)(2).)

2. In Part 100b, § 100b.35 is revised to read as follows:

§ 100b.35 Effective date of an application, plan, or amendment.

(a) Federal funds are available only for obligations incurred under:

(1) A State plan approved by the Commissioner (in the case of the programs set forth in § 100b.10 other than those referenced in § 100b.15(a)); or

(2) A general application and an annual program plan approved by the Commissioner (in the case of the programs referenced in § 100b.15(a)).

(b) A State plan, general application, annual program plan, or amendment to any of them, is effective on the date the State submits it to the Federal Government in substantially approvable form. However, the effective date cannot be earlier than the first day of the fiscal period for which it is submitted.

(c) The Commissioner sends the State agency a notice of approval, including notice of the effective date, when the application, plan, or amendment is approved.

(d) Federal funds are not available for obligation by a State or local agency before the effective date of the State plan or annual program plan (whichever is submitted under paragraph (a) of this section). If funds are expressly made available by statute for the development of the State plan, general application, or annual program plan, the first sentence of this paragraph does not apply to obligations by the State for that purpose.

(20 U.S.C. 1221e-3(a)(1).)

3. In Part 100b, § 100b.55 is revised to read as follows:

§ 100b.55 Obligation by recipients.

(a) *Period for obligation.* Federal funds which the Federal government may obligate during a fiscal period remain available for obligation by State and local recipients through the end of that fiscal period. Federal funds made available for construction of facilities remain available for obligation by State and local recipients for that purpose for a reasonable period of time as determined by the Commissioner.

(b) *Carryovers.* In accordance with section 414(b) of the General Education Provisions Act, any Federal funds which are not obligated by State and local recipients before the end of the fiscal period under paragraph (a) of this section, remain available for obligation by those agencies for one additional fiscal year.

(c) *Determinations of obligation.* (1) An obligation for the acquisition of real or personal property, for the construction of facilities, or for the performance of work, is incurred by a recipient on the date it makes a binding written commitment.

(2) An obligation for personal services, for services performed by public utilities, for travel, or for the rental of real or personal property, is incurred by a recipient on the date it receives the services, its personnel takes the travel, or it uses the rented property.

(20 U.S.C. 1221c(a); 1225(b); 1232c(b)(1)(A)(ii)(II).)

4. Part 121a is revised to read as follows:

PART 121a—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

Subpart A—General

Sec.
121a.1 Purpose.
121a.2 Applicability to State, local, and private agencies.
121a.3 General provisions regulations.
121a.4 Definitions.

Subpart B—State Annual Program Plans and Local Applications

ANNUAL PROGRAM PLANS—GENERAL

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121a.10 Condition of assistance.
121a.11 Contents of plan.
121a.12 Certification by the State educational agency and attorney general.
121a.13 Approval; disapproval.
121a.14 Effective period of annual program plan.

ANNUAL PROGRAM PLANS—CONTENTS

121a.20 Public participation.
121a.21 Right to a free appropriate public education.
121a.22 Timelines and ages for free appropriate public education.
121a.23 Full educational opportunity goal.
121a.24 Full educational opportunity goal—data requirement.
121a.25 Full educational opportunity goal—timetable.
121a.26 Full educational opportunity goal—facilities, personnel, and services.
121a.27 Priorities.
121a.28 Identification, location, and evaluation of handicapped children.
121a.29 Confidentiality of personally identifiable information.
121a.30 Individualized education programs.
121a.31 Procedural safeguards.
121a.32 Least restrictive environment.
121a.33 Protection in evaluation procedures.
121a.34 Responsibility of State educational agency for all educational programs.
121a.35 Monitoring procedures.
121a.36 Implementation procedures—State educational agency.
121a.37 Procedures for consultation.
121a.38 Compliance with Part B of the Act.
121a.39 Other Federal programs.
121a.40 Comprehensive system of personnel development.
121a.41 Private schools.
121a.42 Recovery of funds for misclassified children.
121a.43 Control of funds and property.
121a.44 Records.
121a.45 Hearing on application.
121a.46 Prohibition of commingling.
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121a.48 State advisory panel.
121a.49 Description of use of Part B funds.

LOCAL EDUCATIONAL AGENCY APPLICATIONS—GENERAL

121a.80 Submission of application.
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LOCAL EDUCATIONAL AGENCY APPLICATIONS—CONTENTS

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121a.101 Confidentiality of personally identifiable information.
121a.102 Full educational opportunity goal; timetable.
121a.103 Facilities, personnel, and services.
121a.104 Personnel development.
121a.105 Priorities.
121a.106 Parent involvement.

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Sec.
121a.107 Participation in regular education programs.
121a.108 Public control of funds.
121a.109 Excess cost and nonsupplanting.
121a.110 Comparable services.
121a.111 Information—reports.
121a.112 Records.
121a.113 Public participation.
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121a.117 Use of Part B funds.

APPLICATION FROM SECRETARY OF INTERIOR

121a.124 Authority to participate; payments.
121a.126 Submission of annual application; approval.
121a.127 Public participation.
121a.128 Use of Part B funds.
121a.129 Applicable regulations.

PUBLIC PARTICIPATION

121a.130 Public hearings before adopting an annual program plan.
121a.131 Review of public comments before adopting plan.
121a.132 Publication and availability of approved plan.

Subpart C—Services

GENERAL

121a.200 Timelines for free appropriate public education.
121a.201 Free appropriate public education—methods and costs.
121a.202 Full educational opportunity goal.
121a.203 Physical education.
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121a.211 Priorities.
121a.212 First priority—age groups covered.
121a.213 Services to other children.
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121a.220 Scope.
121a.221 State educational agency responsibility.
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121a.224 Parent participation.
121a.225 Content of individualized education program.
121a.226 Private school placements.

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121a.266 Adoption of educational practices.
121a.267 Evaluation.
121a.268 Technical assistance to local educational agencies.

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121a.301 Determinations.
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121a.303 Personnel.
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121a. 651 Annual report of children served—information required in report.
121a. 652 Annual report of children served—criteria for counting children.
121a. 653 Annual report of children served—other responsibilities of the State educational agency.

AUTHORITY: Part B of the Education of the Handicapped Act, Pub. L. 91-230, Title VI, as amended, 89 Stat. 773 (20 U.S.C. 1401-1420), unless otherwise noted.

Subpart A—General

§ 121a.1 Purpose.

The purpose of this part is:

(a) To insure that all handicapped children have available to them a free appropriate public education which includes special education and related services to meet their unique needs,

(b) To insure that the rights of handicapped children and their parents are protected,

(c) To assist States and localities to provide for the education of all handicapped children, and

(d) To assess and insure the effectiveness of efforts to educate those children.

(20 U.S.C. 1401(c).)

§ 121a.2 Applicability to State, local, and private agencies.

(a) *States.* This part applies to each State which receives payments under Part B of the Education of the Handicapped Act.

(b) *Public agencies within the State.* The annual program plan is submitted by the State educational agency on behalf of the State as a whole. Therefore, the provisions of this part apply to all political subdivisions of the State that are involved in the education of handicapped children. These would include: (1) The State educational agency, (2) local educational agencies and intermediate educational units, (3) other State agencies (such as Department of Mental Health and Welfare), and (4) State correctional facilities.

(c) *Private schools.* The State educational agency, local educational agencies, and intermediate educational units are responsible for insuring that the rights and protection under this part are given to children referred or placed in private schools by a State or local educational agency.

(20 U.S.C. 1412(1); 1413(a)(1))

§ 121a.3 General provisions regulations.

Assistance under Part B of the Act is subject to Parts 100, 100b, 100c, and 121 of this chapter, which include definitions and requirements relating to fiscal, administrative, property management, and other matters.

(20 U.S.C. 1401-1418)

§ 121a.4 Definitions.

As used in this part:

"Free appropriate public education" means special education and related services which:

(a) Are provided at public expense, under public supervision and direction, and without charge,

(b) Meet the standards of the State educational agency, including the requirements of this part,

(c) Include preschool, elementary school, or secondary school education in the State involved, and

(d) Are provided in conformity with an individualized education program which meets the requirements under §§ 121a.220-121a.227 of Subpart C.

(20 U.S.C. 1402(18))

"Handicapped children" means those children evaluated in accordance with §§ 121a.430-121a.433 of Subpart E as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, or as having specific learning disabilities, who because of those impairments need special education and related services. The terms used in this definition are defined as follows:

(a) "Deaf" means a hearing impairment which is so severe that the child's hearing is non-functional for the purposes of educational performance.

(b) "Hard of hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of "deaf" in this section.

(c) "Mentally retarded" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.

(d) "Orthopedically impaired" means a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g. poliomyelitis, bone tuberculosis, etc.) and impairments from other causes (e.g., fractures or burns which cause contractures, amputation, cerebral palsy, etc.).

(e) "Other health impaired" means limited strength, vitality, or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes.

(f) "Seriously emotionally disturbed" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree: an inability to learn which cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms, or fears associated with personal or school problems. The term includes children who are schizophrenic or autistic. The term does not include children who are socially maladjusted but not emotionally disturbed.

(g) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, of motor handicaps, of mental retardation, or of environmental cultural, or economic disadvantages.

(h) "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects a child's educational performance.

(i) "Visually handicapped" means a visual impairment which, after correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.

(20 U.S.C. 1402(1), (15))

"Include" means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

(20 U.S.C. 1401-1418)

"Local educational agency," as defined in § 121.2 of this chapter, includes an intermediate educational unit.

(20 U.S.C. 1402(8), (22))

"Native language," when used with reference to a person of limited English-speaking ability, means the language normally used by that person, or in the case of a child, the language normally used by the parents of the child.

(20 U.S.C. 880b-1(a)(2); 1402(21))

"Parent" includes a parent, a guardian, a surrogate parent appointed under Subpart E, or a person acting as a parent of a child in the absence of a parent or guardian.

(20 U.S.C. 1401-1418)

Comment. The term "parent" is defined to include persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare.

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes school social work services, parent counseling and training, providing parents with information about child development, and assisting parents in understanding the special needs of their child. The terms used in this definition are defined as follows:

(a) "Audiology" means:

(1) Identification of children with hearing loss;

(2) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(3) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

(4) Creation and administration of programs of hearing conservation; and

(5) Counseling and guidance of pupils, parents, and teachers.

(b) "Counseling services" means activities conducted by a certified counselor.

(c) "Early identification" means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(d) "Medical services" means procedures performed by a licensed physician to determine a child's need for special education and related services.

(e) "Occupational therapy" means services provided by a licensed occupational therapist.

(f) "Physical therapy", means activities for restoring damaged or atrophied muscles to improve use.

(g) "Psychological services" means:

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(1) Administering psychological and educational tests;
(2) Interpreting the results;
(3) Gathering and interpreting information about child behavior;
(4) Working with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations; and
(5) Planning and managing a program of psychological services, including psychological counseling for children and parents.

(h) "Recreation" includes leisure education.

(i) "Speech pathology" means:
(1) The identification of children with speech or language disorders;
(2) Diagnosis and appraisal of specific speech or language disorders;
(3) Referral for medical or other professional attention necessary for the habilitation of speech or language disorders;
(4) Provision of speech and language habilitation; and
(5) Counseling and guidance of parents, children, and teachers

(j) "Transportation" includes:
(1) Travel to and from school and between schools,
(2) Travel in and around school buildings, and
(3) Specialized equipment if required.

"Special education" means specially designed instruction, at no cost to the parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. The term includes speech pathology, audiology, occupational therapy, and physical therapy, if the service is considered "special education" rather than a "related service" under State standards. The terms in this definition are defined as follows:

(a) "At no cost" means that all specially designed instruction is provided without charge, but does not preclude incidental fees which are normally charged to non-handicapped students or their parents as a part of the regular education program.

(b) "Physical education", includes special physical education, adapted physical education and motor development, and means the development of physical and motor fitness, fundamental motor skills and patterns, body mechanics, individual and group games and sports, skills to include intramural and lifetime sports, and dance and movement education.

(c) "Vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

(20 U.S.C. 1402(16))

Subpart B—State Annual Program Plans and Local Applications

Annual Program Plans—General

§ 121a.10 Condition of assistance.

(a) In order to receive funds under Part B of the Act, a State must submit an annual program plan to the Commissioner through its State educational agency.

(b) For the purposes of this subpart, the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1232c(b), 1402(6), 1412, 1413)

Comment. Section 434(b) of the General Education Provisions Act (GEPA), as amended by Pub. L. 93-380, requires each State to submit (1) a general application containing five assurances, and (2) an annual program plan for each Office of Education program under which funds are provided to local educational agencies through, or under the supervision of, the State educational agency. Under Section 434(b), and the implementing regulations (45 CFR 100b, Subpart B), the general application and an annual program plan take the place of a State plan for Part B (45 CFR 100b.19). Under 45 CFR 100b.18(c), material may be incorporated by reference in an annual program plan if the material is in a document previously approved by the Commissioner and on file in the Office of Education. This should save some paperwork, particularly in the years after the first annual program plan (for school year 1977-1978) is submitted under these regulations.

The provisions to be included in the annual program plan for Part B are set forth in §§ 121a.20-121a.49 of these regulations (which include the conditions of eligibility and the State plan requirements under sections 612 and 613 of the Act) and section 434(b)(1)(B)(ii) of the GEPA (which requires each annual program plan to "set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted").

§ 121a.11 Contents of plan.

Each annual program plan must contain the provisions required in this subpart.

(20 U.S.C. 1412, 1413, 1232(c)(b))

§ 121a.12 Certification by the State educational agency and attorney general.

Each annual program plan must include:

(a) A certification by the officer of the State educational agency authorized to submit the plan that:

(1) The plan has been adopted by the State educational agency, and

(2) The plan is the basis for the operation and administration of the activities to be carried out in that State under Part B of the Act; and

(b) A certification by the State Attorney General or other authorized State legal officer that:

(1) The State educational agency has authority under State law to submit the plan and to administer or to supervise the administration of the plan, and

(2) All plan provisions are consistent with State law.

(20 U.S.C. 1413(a))

§ 121a.13 Approval; disapproval.

(a) The Commissioner shall approve any annual program plan which meets the requirements of this part and Subpart B of Part 100b of this chapter.

(b) The Commissioner shall disapprove any annual program plan which does not meet those requirements but may not finally disapprove a plan before giving reasonable notice and an opportunity for a hearing to the State educational agency.

(c) The Commissioner shall use the procedures set forth in §§ 121a.480-121a.483 of Subpart E for a hearing under this section.

(20 U.S.C. 1413(c))

§ 121a.14 Effective period of annual program plan.

(a) Each annual program plan is effective for a period from the date it becomes effective under § 100b.35 of this chapter through the following June 30.

(b) The Commissioner may extend the effective period of an annual program plan on the request of a State.

(20 U.S.C. 1413(a), 1232c(b))

Comment. The Office of Education is proposing to use the period July 1-June 30 for State annual program plans in those programs where appropriations become available for obligation by the Federal Government each July 1 (the so-called "advance funded" programs). The purpose of this is to meet the statutory requirement for an annual program plan covering a 12-month period and at the same time to conform as closely as possible to the regular school year. However, even if the proposed procedure is adopted, the obligational period of State and local agencies for funds from any fiscal year would not be changed. If a State submits its annual program plan and receives its grant on the earliest possible date (July 1), the funds are available for obligation at the State and local level for 27 months. (This period includes the 12-month carryover provision under the Tydings Amendment. See 45 CFR 100b.55 (Obligation by recipients).) For example, if a State received its grant for fiscal year 1978 on July 1, 1977, the funds would be available for obligation at the State and local level from July 1, 1977 through September 30, 1979. The rules which govern when an annual program plan becomes effective, and State and local authority to obligate the Federal funds, are located in 45 CFR Part 100b, Subpart E. (Also, see the comment following § 121a.152 of this subpart.)

Annual Program Plans—Contents

§ 121a.20 Public participation.

(a) Each annual program plan must include procedures which insure that the requirements §§ 121a.130-121a.132 are met.

(b) Each annual program plan must also include the following:

(1) A statement describing the methods used by the State educational agency to provide notice of the public hearings on an annual program plan. The statement must include:
(i) A copy of each news release and advertisement used to provide notice,
(ii) A list of the newspapers and other media in which the State educational agency announced or published the notice, and
(iii) The dates on which the notice was announced or published.
(2) A list of the dates and locations of the public hearings on the annual program plan.
(3) A summary of comments received by the State educational agency and a description of the modifications that the State educational agency has made in the annual program plan as a result of the comments.
(4) A statement describing the methods by which the annual program plan will be made public after its approval by the Commissioner. This statement must include the information required under paragraph (b)(1) of this section.

(20 U.S.C. 1412(7))

§ 121a.21 Right to a free appropriate public education.

(a) Each annual program plan must include information which shows that the State has in effect a policy which insures that all handicapped children have the right to a free appropriate public education within the age ranges and timelines under § 121a.22.

(b) The information must include a copy of each State statute, court order, State Attorney General opinion, and other State document that shows the source of the policy.

(c) The information must show that the policy:
(1) Applies to all public agencies in the State which provide special education and related services to handicapped children;
(2) Applies to all handicapped children;
(3) Implements the priorities established under § 121a.27(a)(1) of this subpart; and
(4) Establishes timelines for implementing the policy, in accordance with § 121a.22.

(20 U.S.C. 1412(1))

§ 121a.22 Timelines and ages for free appropriate public education.

(a) *General.* Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken in order to insure that a free appropriate public education is available for all handicapped children ages three through eighteen within the State not later than September 1, 1978, and for all handicapped children ages three through twenty-one within the State not later than September 1, 1980.

(b) *Documents relating to timelines.* Each annual program plan must include a copy of each statute, court order, attorney general decision, and other State document which demonstrates that the State has established timelines in accordance with paragraph (a) of this section.

(c) *Exception.* The requirement in paragraph (a) of this section does not apply to a State with respect to handicapped children ages three, four, five, eighteen, nineteen, twenty, or twenty-one to the extent that the requirement would be inconsistent with State law or practice, or the order of any court, respecting public education for one or more of those age groups in the State.

(d) *Documents relating to exceptions.* Each annual program plan must:
(1) Describe in detail the extent to which the exception in paragraph (c) of this section applies to the State, and
(2) Include a copy of each State law, court order, and other document which provides a basis for the exception.

(20 U.S.C. 1412(2)(B))

§ 121a.23 Full educational opportunity goal.

Each annual program plan must provide that the State has a goal of providing full educational opportunity to all handicapped children ages birth through twenty-one.

(20 U.S.C. 1412(2)(A))

§ 121a.24 Full educational opportunity goal—data requirement.

(a) *Annual program plan for school year 1977-1978.* (1) The annual program plan for school year 1977-1978 must include the following information:
(i) The estimated number of handicapped children who need special education and related services.
(ii) The number of handicapped children ages 18 through 21 who are receiving special education and related services during school year 1976-1977.
(iii) The estimated number of handicapped children who will receive special education and related services during school year 1977-1978.
(2) The data under paragraph (a)(1) of this section must be provided:
(i) For each of the following age ranges (except under paragraph (a)(1)(ii) of this section): birth through two, three through five, six through seventeen, and eighteen through twenty-one, and
(ii) For each disability category (except for children ages birth through two).
(3) The annual program plan must include a description of the basis used to determine the data required under this paragraph.

(b) *Annual program plans for school years after 1977-1978.* Beginning with school year 1978-1979, each annual program plan must contain the following information:
(1) The estimated number of handicapped children who need special education and related services.
(2) For the current school year:
(i) The number of handicapped children, ages birth through two, who are receiving special education and related services; and
(ii) The number of handicapped children:
(A) Who are receiving a free appropriate public education,
(B) Who need, but are not receiving a free appropriate public education,
(C) Who are enrolled in public and private institutions who are receiving a free appropriate public education, and
(D) Who are enrolled in public and private institutions and are not receiving a free appropriate public education.
(3) The estimated numbers of handicapped children who are expected to receive special education and related services during the next school year.
(4) A description of the basis used to determine the data required under this paragraph.
(5) The data required by paragraph (b)(1), (2), and (3) of this section must be provided:
(i) For each disability category (except for children ages birth through two), and
(ii) For each of the following age ranges: birth through two, three through five, six through seventeen, and eighteen through twenty-one.

(20 U.S.C. 1414(2)(A))

Comment. In Part B of the Act, the term "disability" is used interchangeably with "handicapping condition". For consistency in this regulation, a child with a "disability" means a child with one of the impairments listed in the definition of "handicapped children" in § 121a.4, if the child needs special education because of the impairment. In essence, there is a continuum of impairments. When an impairment is of such a nature that the child needs special education, it is referred to as a disability, in these regulations, and the child is a "handicapped" child.

The data requirements for school year 1977-78 under paragraph (a)(1)(ii) of this section are written to avoid duplication with the "child count" requirements for school year 1976-77 as set forth in Subpart G. The count requirements in subpart G were published in proposed form in the Federal Register on September 8, 1976.

Most of the data required for school year 1978-79 parallel the evaluation requirements in section 618(d)(1) of Part B, and are included in the annual program plan for the following reasons:

(1) There is a close relationship between: (a) the requirement in section 618 (which calls for an annual report on the progress made toward the provision of a free appropriate public education for all handicapped children), and (b) the goal of full educational opportunity under section 612(2)(A).

(2) The inclusion of the data is also consistent with the practice of requiring States to incorporate both evaluation and planning components into their annual program plans (e.g., by indicating the extent to which the previous year's objectives were achieved and setting forth new objectives for the coming year). This practice has proven to be sufficiently effective over the six years before the enactment of Pub. L. 94-142 to justify continuing it.

The data on free appropirate public education in Section 618 will be provided for the first time in the annual program plan for fiscal year 1978-79. However, the requirement is included in the regulations at this time in order to enable States to begin developing the capacity to collect the data well in advance of the submission date.

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§ 121a.25 Full educational opportunity goal—timetable.

(a) *General requirement.* Each annual program plan must contain a detailed timetable for accomplishing the goal of providing full educational opportunity for all handicapped children ages birth through twenty-one, within each disability category.

(b) Content of timetable. The timetable must indicate what percent of the total estimated number of handicapped children the State expects to have full educational opportunity in each succeeding school year.

(20 U.S.C. 1412(2)(A))

§ 121a.26 Full educational opportunity goal—facilities, personnel, and services.

(a) *General requirement.* Each annual program plan must include a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet the goal of providing full educational opportunity for all handicapped children. The State educational agency shall include the data required under paragraph (b) of this section and whatever additional data is necessary to meet the requirement.

(b) *Statistical description.* Each annual program plan must include the following data:

(1) The number of additional special class teachers, resource room teachers, and itinerant or consultant teachers needed for each disability category and the number of each of these who are currently employed in the State.

(2) The number of other additional personnel needed, and the number currently employed in the State, including school psychologists, school social workers, occupational therapists, home-hospital teachers, speech pathologists, teacher aides, vocational education teachers, work study coordinators, physical education teachers, recreation therapists, diagnostic personnel, supervisors, and other instructional staff.

(3) The total number of personnel reported under paragraph (b) (1) and (2) of this section, and the salary costs of those personnel.

(4) The number and kind of facilities needed for handicapped children and the number and kind currently in use in the State, including regular classes serving handicapped children, self-contained classes on a regular school campus, resource rooms, private special education day schools, public special education day schools, private special education residential schools, public special education residential schools, hospital programs, occupational therapy facilities, physical therapy facilities, public sheltered workshops, private sheltered workshops, and other types of facilities.

(5) The total number of transportation units needed for handicapped children, the number of transportation units designed for handicapped children which are in use in the State, and the number of handicapped children who use these units to benefit from special education.

(c) *Data categories.* The data required under paragraph (b) of this section must be provided as follows:

(1) Estimates for serving all handicapped children who require special education and related services,

(2) Current year data, based on the actual numbers of handicapped children receiving special education and related services (as reported under Subpart G), and

(3) Estimates for the next school year.

(d) *Rationale.* Each annual program plan must include a description of the means used to determine the number and salary costs of personnel.

(20 U.S.C. 1412(2)(A))

§ 121a.27 Priorities.

(a) *General requirement.* Each annual program plan must include information which shows that:

(1) The State has established priorities which meet the requirements under §§ 121a.210–121a.212 of Subpart C,

(2) The State priorities meet the timelines under § 121a.22 of this subpart, and

(3) The State has made progress in meeting those timelines.

(b) *Child data.* (1) Each annual program plan must show the number of handicapped children known by the State to be in each of the first two priority groups named in § 121a.210(a) of Subpart C:

(i) By disability category, and

(ii) By the age ranges in § 121a.24(a)(2)(i) of this subpart.

(2) The annual program plan for school year 1977–1978 must include a description of the procedures the State educational agency has used in determining the number of handicapped children in the second priority group under § 121a.210(a) of Subpart C.

(c) *Activities and resources.* Each annual program plan must show for each of the first two priority groups:

(1) The programs, services, and activities that are being carried out in the State,

(2) The Federal, State, and local resources that have been committed during the current school year, and

(3) The programs, services, activities, and resources that are to be provided during the next school year.

(20 U.S.C. 1412(3))

§ 121a.28 Identification, location, and evaluation of handicapped children.

(a) *General requirement.* Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken to insure that:

(1) All children who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated; and

(2) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services.

(b) *Information.* Each annual program plan must:

(1) Designate the State agency (if other than the State educational agency) responsible for coordinating the planning and implementation of the policies and procedures under paragraph (a) of this section;

(2) Name each agency that participates in the planning and implementation and describe the nature and extent of its participation;

(3) Describe the extent to which:

(i) The activities described in paragraph (a) of this section have been achieved under the current annual program plan, and

(ii) The resources named for these activities in that plan have been used;

(4) Describe each type of activity to be carried out during the next school year, including the role of the agency named under paragraph (b)(1) of this section, timelines for completing those activities, resources that will be used, and expected outcomes;

(5) Describe how the policies and procedures under paragraph (a) of this section will be monitored to insure that the State educational agency obtains:

(i) The number of handicapped children within each disability category that have been identified, located and evaluated, and

(ii) Information adequate to evaluate the effectiveness of those policies and procedures; and

(6) Describe the method the State uses to determine which children are currently receiving special education and related services and which children are not receiving special education and related services.

(20 U.S.C. 1412(2)(C))

Comment. The State is responsible for insuring that all handicapped children are identified, located, and evaluated, including children in all public and private agencies and institutions in the State.

§ 121a.29 Confidentiality of personally identifiable information.

(a) Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken in order to insure the protection of the confidentiality of any personally identifiable information collected, used, or maintained under this part.

(b) The Commissioner shall use the criteria in §§ 121a.450–121a.465 of Subpart E to evaluate the policies and procedures of the State under paragraph (a) of this section.

(20 U.S.C. 1412(2)(D); 1417(c))

Comment. The confidentiality regulations were published in the FEDERAL REGISTER in final form on February 27, 1976 (41 FR 8603–8610), and meet the requirements of Pub. L. 94–142. Those regulations are incorporated in §§ 121a.450–121a.465 of Subpart E.

§ 121a.30 Individualized education programs.

(a) Each annual program plan must include information which shows that each local educational agency in the State maintains records of the individualized education program for each handicapped child, and each local educational agency establishes, reviews, and revises each program as provided in Subpart C.

(b) Each annual program plan must include:

(1) A copy of each State statute, policy, and standard that regulates the manner in which individualized education programs are developed, implemented, reviewed, and revised, and

(2) The procedures which the State educational agency follows in monitoring and evaluating those programs.

(20 U.S.C. 1412(4))

§ 121a.31 Procedural safeguards.

Each annual program plan must include procedural safeguards which insure that the requirements in §§ 121a.00–121a.414 of Subpart E are met.

(20 U.S.C. 1412(5)(A))

§ 121a.32 Least restrictive environment.

(a) Each annual program plan must include procedures which insure that the requirements in §§ 121a.440–121a.445 of Subpart E are met.

(b) Each annual program plan must include the following information:

(1) The number of handicapped children in the State, within each disability category, who are participating in regular education programs, consistent with §§121a.440–121a.445 of Subpart E.

(2) The number of handicapped children who are in separate classes or separate school facilities, or who are otherwise removed from the regular education environment.

(20 U.S.C. 1412(5)(B))

§ 121a.33 Protection in evaluation procedures.

Each annual program plan must include procedures which insure that the requirements in §§ 121a.430–121a.433 of Subpart E are met.

(10 U.S.C. 1412(5)(C))

§ 121a.34 Responsibility of State educational agency for all educational programs.

Each annual program plan must include information which shows:

(a) That the State educational agency is responsible for insuring that the requirements of this part are carried out; and

(b) That each educational program for handicapped children administered within the State, including each program administered by any other State or local agency:

(1) Is under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency, and

(2) Meet education standards of the State educational agency (including the requirements in this part).

(c) The information under paragraph (a) of this section must include a copy of each State statute, State regulation, signed agreement between respective agency officials, and other document that shows compliance with that paragraph.

(20 U.S.C. 1412(6).)

§ 121a.35 Monitoring procedures.

Each annual program plan must include monitoring procedures which the State educational agency follows in insuring that State and local agencies:

(a) Are effectively implementing the procedural safeguards under Subpart E; and

(b) Are using Part B funds properly and efficiently.

(20 U.S.C. 1412(6).)

§ 121a.36 Implementation procedures—State educational agency.

Each annual program plan must describe the procedures the State educational agency follows to inform each State and local agency of its responsibility for insuring effective implementation of procedural safeguards for the handicapped children served by that State or local agency.

(20 U.S.C. 1412(6).)

§ 121a.37 Procedures for consultation.

Each annual program plan must include an assurance that in carrying out the requirements of section 612 of the Act, procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children.

(20 U.S.C. 1412(7)(A).)

§ 121a.38 Compliance with Part B of the act.

Each annual program plan must set forth policies and procedures designed to insure that funds paid to the State under Part B of the Act are spent in accordance with the provisions of Part B, with particular attention given to sections 611(c) and 611(d) of the Act.

(20 U.S.C. 1413(a)(1).)

§ 121a.39 Other Federal programs.

Each annual program plan must provide that programs and procedures are established to insure that funds received by the State or any of its political subdivisions under any other Federal program, including section 121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241e–2), section 305(b)(8) of that Act (20 U.S.C. 844a(b)(8)) or Title IV–C of that Act (20 U.S.C. 1831), and section 110(a) of the Vocational Education Act of 1963, under which there is specific authority for assistance for the education of handicapped children, is used by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing free appropriate public education for all handicapped children, except that nothing in this section limits the specific requirements of the laws governing those Federal programs.

(20 U.S.C. 1413(a)(2).)

§ 121a.40 Comprehensive system of personnel development.

Each annual program plan must include the material required under §§ 121a.380–121a.388 of Subpart C.

(20 U.S.C. 1413(a)(3).)

§ 121a.41 Private schools.

Each annual program plan must include policies and procedures which insure that the requirements of Subpart D are met.

(20 U.S.C. 1413(a)(4).)

§ 121a.42 Recovery of funds for misclassified children.

Each annual program plan must include policies and procedures which insure that the State seeks to recover any funds provided under Part B of the Act for services to a child who is determined to be erroneously classified as eligible to be counted under section 611(a) or (d) of the Act.

(20 U.S.C. 1413(a)(5).)

§ 121a.43 Control of funds and property.

Each annual program plan must provide assurance satisfactory to the Commissioner that the control of funds provided under Part B of the Act, and title to property acquired with those funds, is in a public agency for the uses and purposes provided in this part, and that a public agency administers the funds and property.

(20 U.S.C. 1413(a)(6).)

§ 121a.44 Records.

Each annual program plan must provide for keeping records and affording access to those records, as the Commissioner may find necessary to assure the correctness and verification of reports and of proper disbursement of funds provided under Part B of the Act.

(20 U.S.C. 1413(a)(7)(B).)

§ 121a.45 Hearing on application.

Each annual program plan must include procedures to insure that the State educational agency does not take any final action with respect to an application submitted by a local educational agency before giving the local educational agency reasonable notice and an opportunity for a hearing.

(20 U.S.C. 1413(a)(8).)

§ 121a.46 Prohibition of commingling.

Each annual program plan must provide assurance satisfactory to the Commissioner that funds provided under Part B of the Act are not commingled with State funds.

(20 U.S.C. 1413(a)(9)(A).)

Comment. This assurance is satisfied by the use of a separate accounting system that includes an "audit trail" of the expenditure of the Part B funds. Separate bank accounts are not required. (See 45 CFR 100b, Subpart F (Cash Depositories).)

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§ 121a.47 Annual evaluation.

Each annual program plan must include procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children, including evaluation of individualized education programs.

(20 U.S.C. 1413(a)(11).)

§ 121a.48 State advisory panel.

Each annual program plan must provide that the requirements of §§ 121a.550–121a.552 of Subpart F are met.

(20 U.S.C. 1413(a)(12).)

§ 121a.49 Description of use of Part B funds.

(a) *State allocation.* Each annual program "plan" must include the following information about the State's use of funds under § 121a.250 of Subpart C and § 121a.500 of Subpart F:

(1) A list of administrative positions, and a description of duties for each person whose salary is paid in whole or in part with those funds.

(2) For each position, the percentage of salary paid with those funds.

(3) A description of each administrative activity the State educational agency will carry out during the next school year with those funds.

(4) A description of each direct service and each support service which the State educational agency will provide during the next school year with those funds, and the activities the State advisory panel will undertake during that period with those funds.

(b) *Local educational agency allocation.* Each annual program plan must include:

(1) An estimate of the number and percent of local educational agencies in the State which will receive an allocation under this part (other than local educational agencies which submit a consolidated application),

(2) An estimate of the number of local educational agencies which will receive an allocation under a consolidated application,

(3) An estimate of the number of consolidated applications and the average number of local educational agencies per application,

(4) A description of direct services the State educational agency will provide under § 121a.240 of Subpart C.

(20 U.S.C. 1232c(b)(1)(B)(ii).)

LOCAL EDUCATIONAL AGENCY APPLICATIONS—GENERAL

§ 121a.80 Submission of application.

In order to receive payments under Part B of the Act for any fiscal year a local educational agency must submit an application to the State educational agency.

(20 U.S.C. 1414(a).)

§ 121a.81 Responsibilities of State educational agency.

Each State educational agency shall establish the procedures and format which a local educational agency uses in preparing and submitting its application.

(20 U.S.C. 1414(a).)

§ 121a.82 Excess costs.

(a) Each local educational agency shall maintain records which show that the agency uses funds provided under Part B of the Act only for the excess costs of special education and related services for handicapped children.

(b) For the purposes of this part, "excess costs" means costs:

(1) Which are for special education and related services, and

(2) Which are above the costs of regular education for an elementary or secondary school student in the local educational agency.

(c) The cost of regular education is computed as follows:

(1) Add all expenditures of the local educational agency in the preceding school year, except capital outlay and debt service:

(i) For elementary school students, if the handicapped child is an elementary school student, or

(ii) For secondary school students, if the handicapped child is a secondary school student.

(2) From this amount, subtract the total of the following amounts:

(i) Amounts the agency spent in the preceding school year from funds awarded under Part B of the Act and Titles I and VII of the Elementary and Secondary Education Act of 1965, and

(ii) Amounts from other sources which the agency spent in the preceding school year for:

(A) Programs for handicapped children,

(B) Programs to meet the special educational needs of educationally deprived children, and

(C) Programs of bilingual education for children with limited English speaking ability.

(3) Divide the result under paragraph (d)(2) of this section by the average number of students enrolled in the agency in the preceding school year:

(i) In its elementary schools, if the handicapped child is an elementary school student, or

(ii) In its secondary schools, if the handicapped child is a secondary school student.

(d) The cost of regular education under a consolidated application of two or more local educational agencies is the average of the combined cost of regular education in those agencies for elementary or secondary school students, as the case may be.

(e) Neither a State educational agency or a local educational agency may use funds provided under Part B of the Act to pay for all of the special education and related services given to a handicapped child.

(20 U.S.C. 1401(20); 1414(a)(1).)

§ 121a.83 Consolidated applications.

(a) *Voluntary applications.* Local educational agencies may submit a consolidated application for payments under Part B of the Act.

(b) *Required applications.* A State educational agency may require local educational agencies to submit a consolidated application for payments under Part B of the Act if the State educational agency determines that an individual application submitted by a local educational agency will be disapproved because:

(1) The agency's entitlement is less than the $7,500 minimum required by section 611(c)(4)(A)(i) of the Act, or

(2) The agency is unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of handicapped children.

(c) *Size and scope of program.* The State educational agency shall establish standards and procedures for determinations under paragraph (b)(2) of this section.

(20 U.S.C. 1414(c)(1).)

§ 121a.84 Payments under consolidated applications.

In any case in which a consolidated application is approved by the State educational agency, the payments to the participating local educational agencies must be equal to the sum of the entitlements of the separate local educational agencies.

(20 U.S.C. 1414(c)(2)(A).)

§ 121a.85 State regulation of consolidated applications.

(a) The State educational agency shall issue regulations with respect to consolidated applications submitted under this part.

(b) The State educational agency's regulations must:

(1) Be consistent with section 612(1)–(7) and section 613(a) of the Act, and

(2) Provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this part.

(20 U.S.C. 1414(c)(2)(B).)

(c) If an intermediate educational unit is required under State law to carry out this part, the joint responsibilities given to local educational agencies under paragraph (b)(2) of this section do not apply to the administration and disbursement of any payments received by the intermediate educational unit. Those administrative responsibilities must be carried out exclusively by the intermediate educational unit.

(20 U.S.C. 1414(c)(2)(C).)

§ 121a.86 State educational agency approval; disapproval.

(a) *Approval.* A State educational agency shall approve any application submitted by a local educational agency if the State educational agency determines that the application meets the requirements under §§ 121a.100–121a.117. However, the State educational agency may not approve any application until the Commissioner approves its annual program plan for the school year covered by the application.

(b) *Disapproval.* The State educational agency shall disapprove an application if the State educational agency determines that the application does not meet a requirement under §§ 121a.100–121a.117.

(20 U.S.C. 1414(b)(1).)

(c) In carrying out its functions under this section, each State educational agency shall consider any decision resulting from a hearing under §§ 121a.400–121a.414 of Subpart E which is adverse to the local educational agency involved in the decision.

(20 U.S.C. 1414(b)(3).)

§ 121a.87 Withholding.

(a) If a State educational agency, after giving reasonable notice and an opportunity for a hearing to a local educational agency, decides that the local educational agency in the administration of an application approved by the State educational agency has failed to comply with any requirement in the application, the State educational agency, after giving notice to the local educational agency, shall:

(1) Make no further payments to the local educational agency until the State educational agency is satisfied that there is no longer any failure to comply with the requirement; or

(2) Consider its decision in its review of any application made by the local educational agency under § 121a.86;

(3) Or both.

(b) The public notice provision in § 121a.492 of Subpart E applies to any local educational agency receiving any notice from a State educational agency under paragraph (a) of this section.

(20 U.S.C. 1414(b)(2).)

LOCAL EDUCATIONAL AGENCY APPLICATIONS—CONTENTS

§ 121a.100 Child identification.

Each application must include procedures which insure that all children residing within the jurisdiction of the local educational agency who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, including a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services.

(20 U.S.C. 1414(a)(1)(A).)

Comment. The local educational agency is responsible for insuring that all handicapped children within its jurisdiction are identified, located, and evaluated, including children in all public and private agencies and institutions within that jurisdiction.

§ 121a.101 Confidentiality of personally identifiable information.

Each application must include policies and procedures which insure that the criteria in §§ 121a.450–121a.464 of Subpart E are met.

(20 U.S.C. 1414(a)(1)(B).)

§ 121a.102 Full educational opportunity goal; timetable.

Each application must: (a) Include a goal of providing full educational opportunity to all handicapped children, and

(b) Include a detailed timetable for accomplishing the goal.

(20 U.S.C. 1414(a)(1)(C))

§ 121a.103 Facilities, personnel and services.

Each application must provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal in § 121a.102.

(20 U.S.C. 1414(a)(1)(E))

§ 121a.104 Personnel development.

Each application must include procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under § 121a.40.

(20 U.S.C. 1414(a)(1)(C)(i))

§ 121a.105 Priorities.

Each application must include priorities which meet the requirements of §§ 121a.210–121a.212.

(20 U.S.C. 1414(a)(1)(C)(ii))

§ 121a.106 Parent involvement.

Each application must include procedures to insure that, in meeting the goal under § 121a.102, the local educational agency makes provision for participation of and consultation with parents or guardians of handicapped children.

(20 U.S.C. 1414(a)(1)(C)(iii))

§ 121a.107 Participation in regular education programs.

(a) Each application must include procedures to insure that to the maximum extent practicable, and consistent with §§ 121a.440–121a.445, of Subpart E, the local educational agency provides special services to enable handicapped children to participate in regular educational programs.

(b) Each application must describe:

(1) The types of alternative placements that are available for handicapped children, and

(2) The number of handicapped children within each disability category who are served in each type of placement.

(20 U.S.C. 1414(a)(1)(C)(iv))

§ 121a.108 Public control of funds.

Each application must provide assurance satisfactory to the State educational agency that control of funds provided under Part B of the Act and title to property acquired with those funds, is in a public agency for the uses and purposes under this part, and that a public agency administers the funds and property.

(20 U.S.C. 1414(a)(2)(A))

§ 121a.109 Excess cost and nonsupplanting.

Each application must provide assurance satisfactory to the State educational agency that the local educational agency uses funds provided under Part B of the Act:

(a) Only for the excess costs of special education and related services for handicapped children, and

(b) To supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant those State and local funds.

(20 U.S.C. 1414(a)(2)(B))

Comment. Under statutes such as Title I of the Elementary and Secondary Education Act of 1965, as amended, the requirement is to not "supplant" funds that "would" have been expended if the Federal funds were not available. The requirement under Part B, however, is to not supplant funds which have been "expended." This use of the past tense suggests that the funds referred to are those which the State or local agency actually spent at some time before the use of the Part B funds. Therefore, in judging compliance with this requirement, the Commissioner looks to see if Part B funds are used for any costs which were previously paid for with State or local funds.

§ 121a.110 Comparable services.

Each application must provide assurance satisfactory to the State educational agency that State and local funds are used in the jurisdiction of the local educational agency to provide services in program areas which, taken, as a whole, are at least comparable to services being provided in areas of the local educational agency which are not receiving funds under this part.

(20 U.S.C. 1414(a)(2)(C))

§ 121a.111 Information—reports.

Each application must provide that the local educational agency furnishes information (which, in the case of reports relating to performance, is in accordance with specific performance criteria developed by the local educational agency and related to program objectives) as may be necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of handicapped children participating in the local educational agency's programs for handicapped children.

(20 U.S.C. 1414(a)(3)(A))

§ 121a.112 Records.

Each application must provide that the local educational agency keeps such records, and affords access to those records, as the State educational agency may find necessary to insure the correctness and verification of the information that the local educational agency furnishes under § 121a.111.

(20 U.S.C. 1414(a)(3)(B))

§ 121a.113 Public participation.

Each application must:

(a) Include procedures for making the application and all documents related to the application available to parents and the general public, and

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(b) Provide that all evaluations and reports required under § 121a.111 are public information.

(20 U.S.C. 1414(a)(4))

§ 121a.114 Individualized education program.

Each application must include procedures to assure that the local educational agency complies with §§ 121a.220–121a.226 of Subpart C.

(20 U.S.C. 1414(a)(5))

§ 121a.115 Local policies consistent with statute.

Each application must provide assurance satisfactory to the State educational agency that all policies and programs which the local educational agency establishes and administers are consistent with section 612(1)–(7) and section 613(a) of the Act.

(20 U.S.C. 1414(a)(6))

§ 121a.116 Procedural safeguards.

Each application must provide assurance satisfactory to the State educational agency that the local educational agency has procedural safeguards which meet the requirements of §§ 121a.400–121a.414 of Subpart E.

(20 U.S.C. 1414(a)(7))

§ 121a.117 Use of Part B funds.

Each application must describe how the local educational agency will use the funds under Part B of the Act during the next school year.

(20 U.S.C. 1414(a))

APPLICATION FROM SECRETARY OF INTERIOR

§ 121a.125 Authority to participate; payments.

(a) The Commissioner is authorized to make payments to the Secretary of the Interior according to the need for that assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior.

(b) The amount of those payments for any fiscal year shall not exceed one percent of the aggregate amounts available to all States for that fiscal year under Part B of the Act.

(20 U.S.C. 1411(f)(1))

§ 121a.126 Submission of annual application; approval.

In order to receive payments under this, the Secretary of Interior shall submit an annual application which:

(a) Meets the substance of the requirements under section 614(a) (1)–(7) of the Act;

(b) Includes monitoring procedures which the Secretary of Interior follows to insure that all elementary and secondary schools operated by the Department of Interior are:

(1) Effectively implementing the procedural safeguards under Subpart E, and

(2) Are using Part B funds properly and effectively; and

(c) Includes other material as agreed to by the Commissioner and the Secretary of Interior.

(20 U.S.C. 1411(f))

§ 121a.127 Public participation.

The Secretary of Interior shall provide for public participation in the development of its application.

(20 U.S.C. 1411(f))

§ 121a.128 Use of Part B funds.

(a) The Secretary of Interior may use five percent of its payments in any fiscal year, or $200,000, whichever is greater, for administrative costs in carrying out the provisions of this Part.

(b) The remainder of the payments to the Secretary of Interior in any fiscal year must be used in accordance with the priorities under §§ 121a.210–121a.212 of Subpart C.

(20 U.S.C. 1411(f))

§ 121a.129 Applicable regulations.

The Secretary of Interior shall comply with the substance of the requirements under Subparts C, E, and F.

(20 U.S.C. 1414(a))

PUBLIC PARTICIPATION

§ 121a.130 Public hearings before adopting an annual program plan.

(a) Prior to its adoption of an annual program plan, the State educational agency shall:

(1) Make the plan available to the general public,

(2) Hold public hearings, and

(3) Provide an opportunity for comment by the general public on the plan.

(b) *Notice.* (1) The State educational agency shall provide notice to the general public of the public hearings.

(2) The notice shall be in sufficient detail to inform the public about:

(i) The purpose and scope of the annual program plan and its relation to Part B of the Education of the Handicapped Act,

(ii) The availability of the annual program plan,

(iii) The date, time, and location of each public hearing, and

(iv) The procedures for submitting written comments about the plan.

(2) The notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify the general public about the hearings, enough in advance of the date of the public hearings to afford interested parties throughout the State a reasonable opportunity to participate.

(c) Each State educational agency shall conduct the public hearings at times and places that afford interested parties throughout the State a reasonable opportunity to participate.

(20 U.S.C. 1412(7)(B))

§ 121a.131 Review of public comments before adopting plan.

Before adopting its annual program plan, the State educational agency shall:

(a) Review and consider all public comments, and

(b) Make any necessary modifications in the plan.

(20 U.S.C. 1412(7)(B))

§ 121a.132 Publication and availability of approved plan.

After the Commissioner approves an annual program plan, the State educational agency shall give notice in newspapers or other media, or both, that the plan is approved. The notice must name places throughout the State where the plan is available for access by any interested person.

(20 U.S.C. 1412(7)(B))

Comment. A State educational agency may elect to send a copy of its proposed annual program plan to the Commissioner for technical assistance purposes at the same time that the plan is being made available for public comment. However, funds cannot be obligated by a State before the date on which its official adopted plan is received in substantially approvable form by the Federal Government. (See 45 CFR 100b.35.)

EXAMPLE: A State educational agency's proposed plan for school year 1977–1978 is received by the Bureau of Education for the Handicapped on June 1, 1977. Its official plan is received on August 1. When BEH approves the plan (e.g. September 1), the State educational agency will receive a grant award document which will show August 1, 1977 as the earliest date of obligation under the 1977–1978 plan.

Subpart C—Services

GENERAL

§ 121a.200 Timeliness for free appropriate public education.

(a) *General.* Each State shall insure that free appropriate public education is available to all handicapped children ages three through eighteen within the State not later than September 1, 1978, and to all handicapped children ages three through twenty-one within the State not later than September 1, 1980.

(b) Paragraph (a) of this section does not apply to a State with respect to handicapped children ages three, four, five, eighteen, nineteen, twenty, or twenty-one, if the application of the requirement would be inconsistent with State law or practice, or the order of any court, respecting public education within those age groups in the State.

(c) As used in paragraph (b) of this section, the term "practice" means that the State:

(1) Does not in fact make public education available to all non-handicapped children in one or more of those age groups, and

(2) Does not in fact make public education available to a majority of handicapped children in the age groups to which paragraph (c)(1) of this section applies.

(20 U.S.C. 1412 (2)(B); Sen. Rept. No. 94-168, p. 19 (1975))

§ 121a.201 Free appropriate public education—methods and costs.

(a) Each State may use whatever placement alternatives and methods of

providing services to handicapped children which are necessary to carry out the requirement in § 121a.200 of this subpart, subject to the requirements in §§ 121a.440–121a.445 of Subpart E.

(b) If placement in a public or private residential program is necessary to provide free appropriate public education to a handicapped child, the cost of the program, including room and board, must be at no cost to the parents of that child.

(c) In carrying out this section, each State:

(1) Shall determine the methods and source of payment, and

(2) May use whatever State, local, Federal, and private sources of support are available in the State.

(20 U.S.C. 1402(18); 1412(2)(8))

§ 121a.202 Full educational opportunity goal.

(a) *Program options.* In meeting the full educational opportunity goal under §§ 121a.23 and 121a.102 of Subpart B, each State and local educational agency shall take steps to insure that handicapped children have available to them the variety of programs and services available to nonhandicapped children, including art, music, industrial arts, home economics and vocational education.

(b) *Non-academic services.* (1) Each State and local educational agency shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped children an equal opportunity for participation in those services and activities.

(2) Non-academic and extracurricular services and activities include athletics, health services, recreational activities, special interest groups or clubs sponsored by the State or local educational agency, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the State or local educational agency and assistance in making outside employment available.

(20 U.S.C. 1412(2)(A); 1414(a)(1)(C))

Comment. The terms "full educational opportunity goal" and "free appropriate public education" are distinguished in this regulation as follows. "Full educational opportunity goal" is an all encompassing term, which: (a) Covers all handicapped children, ages birth through twenty-one, (b) includes a basic planning dimension, including making projections of the estimated numbers of handicapped children, and (c) does not include specific statutory timelines for service, but rather, requires each State to set its own timetable. The term "goal" implies an intent or direction to follow and is future-oriented. Based on these characteristics, a State could be totally committed to implementing this provision, and could be in compliance with the Act, but may never fully achieve its goal in the absolute sense. On the other hand, "free appropriate public education" refers to a part of the goal of providing full educational opportunity to all handicapped children, but it is more narrow in scope and specific in purpose. This latter provision: (a) focuses on handicapped children within specific age ranges, and (b) includes the timelines required by statute.

§ 121a.203 Physical education.

(a) Physical education must be made available to every handicapped child receiving a free appropriate public education.

(b) Each handicapped child must be afforded the opportunity to participate in the regular physical education program available to non-handicapped children, unless:

(1) The child is enrolled full time in a separate facility;

(2) The child needs specially designed physical education, as prescribed in the child's individualized education program;

(3) The parents and the public educational agency agree that the child should not participate in the regular program.

(d) If specially designed physical education are prescribed in a child's individualized education program, the public agency responsible for the education of that child shall provide the services directly, or make arrangements for it to be provided through other public or private programs.

(e) The public agency responsible for the education of a handicapped child enrolled who is full time in a separate facility, or who is not able to participate in the regular physical education program, shall take steps to insure that physical education provided to that child is comparable to services provided to non-handicapped children.

(20 U.S.C. 1402 (16))

§ 121a.204 Incidental use of property.

Property may be used for purposes other than those provided in Part B of the Act only for related educational purposes on public premises, and only as long as that use does not interfere with the use of the property in a program carried out under Part B of the Act.

(20 U.S.C. 1413(a)(1))

PRIORITIES IN THE USE OF PART B FUNDS

§ 121a.210 Definitions of "first priority children" and "second priority children."

For the purposes of §§ 121a.211–121a.214, the term:

(a) "First priority children" means handicapped children who are not receiving any education; and

(b) "Second priority children" means handicapped children, within each disability, with the most severe handicaps who are receiving some but not all of the special education and related services specified in the individualized education programs of those children.

(20 U.S.C. 1412(2)(B).)

§ 121a.211 Priorities.

Except for funds which the State uses for administration under § 121a.500 of Subpart F, each State and local educational agency shall use funds provided under Part B of the Act in the following order of priorities:

(a) To provide free appropriate public education to first priority children, including the identification, location, and evaluation of first priority children.

(b) To provide free appropriate public education to second priority children.

(c) To meet the other requirements in this part.

(20 U.S.C. 1411 (b)(1)(B), (b)(2)(B), (c)(1)(B), (c)(2)(A)(ii).)

§ 121a.212 First priority—age groups covered.

The priority in § 121a.211(a) of this subpart applies to handicapped children in the age groups for which the State must make available free appropriate public education under § 121a.200 of this subpart.

(20 U.S.C. 1411 (b)(1)(B), (b)(2)(B), (c)(1)(B), (c)(2)(A)(ii); 1412(2)(B))

§ 121a.213 Services to other children.

If a State or local educational agency has fully met the priority under § 121a.211(a), that agency may use funds provided under Part B of the Act:

(a) To provide a free appropriate public education to first priority children in the age groups not covered under § 121a.200(a) in that State; or

(b) To meet the priority in § 121a.211(b); or

(c) Both.

(20 U.S.C. 1411 (b)(1)(B), (b)(2)(B), (c)(1)(B), (c)(2)(A)(ii).)

§ 121a.214 Application of local educational agency to use funds for the second priority.

A local educational agency may use funds provided under Part B of the Act for the priority in § 121a.211(b) if it provides assurance satisfactory to the State educational agency in its application (or an amendment to its application):

(a) That all first priority children have a free appropriate public education available to them;

(b) That the local educational agency has a system for the identification, location, and evaluation of handicapped children, as described in its application; and

(c) That whenever a first priority child is identified, located, and evaluated, the local educational agency makes available a free appropriate public education to the child.

(20 U.S.C. 1411 (b)(1)(B), (c)(1)(B); 1414(a)(1)(C)(ii).)

INDIVIDUALIZED EDUCATION PROGRAMS

§ 121a.220 Scope.

Each State and local educational agency shall insure that an individualized education program is provided for each handicapped child who is receiving or will receive special education, regardless of what institution or agency provides or will provide special education to the child.

(20 U.S.C. 1401(18); 1412(2)(B); 1414(a)(5), (a)(6).)

§ 121a.221 State educational agency responsibility.

(a) The State educational agency shall insure that each local educational agency

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establishes and implements an individualized education program for each handicapped child.

(b) The State educational agency shall require each public agency which provides special education or related services to a handicapped child to establish policies and procedures for developing, implementing, reviewing, maintaining, and evaluating an individualized education program for that child.

(20 U.S.C. 1412(4), (6).)

§ 121a.222 Local educational agency responsibility.

(a) Each local educational agency shall develop, or revise, whichever is appropriate, an individualized education program for every handicapped child at the beginning of the school year, and review and if appropriate revise its provisions periodically, but not less than annually.

(b) Each local educational agency is responsible for initiating and conducting meetings for developing, reviewing, and revising a child's individualized education program.

(c) For a handicapped child who is receiving special education, a meeting must be held early enough so that the individualized education program is developed (or revised, as appropriate) by the beginning of the next school year.

(d) For a handicapped child who is not receiving special education, a meeting must be held within thirty days of a determination that the child is handicapped, or that the child will receive special education.

(20 U.S.C. 1414(a)(5).)

Comment. The Conference report for Public Law 94-142 states:

The conference substitute also requires each local educational agency to provide assurances that it will establish, or revise, whichever is appropriate, an individualized education program for each handicapped child at the beginning of each school year and will then review and, if appropriate revise, the provisions of such program periodically, but not less than annually. In the initial year of a handicapped child's participation in a program of free appropriate public education the individualized education program shall be established at the beginning of the school year and reviewed at least once during that year. Thereafter, the Conferees intend that this provision requires at least one annual review of the child's individualized education program.

(H. Rept. No. 94-664, P. 39 (1975).)

§ 121a.223 Participants in meetings.

The local educational agency shall insure that each meeting includes the following participants:

(a) A representative of the local educational agency, other than the child's teachers, who is qualified to provide, or supervise the provision of, special education.

(b) The child's teacher or teachers, special or regular, or both, who have a direct responsibility for implementing the child's individualized education program.

(c) One or both of the child's parents, subject to § 121a.225.

(d) Where appropriate, the child.

(e) Other individuals, at the discretion of the parent or agency.

(20 U.S.C. 1414(a)(5).)

§ 121a.224 Parent participation.

(a) Each local educational agency shall take steps to insure that one or both of the parents of the handicapped child are present at each meeting or are afforded the opportunity to participate, including scheduling the meeting at a mutally agreed on time and place.

(b) If neither parent can attend, the local eduactional agency shall use other methods to insure parent participation, including individual or conference telephone calls.

(c) A meeting may be conducted without a parent in attendance if the local educational agency is unable to convince the parents that they should attend. In this case the local educational agency must have a record of its attempts to arrange a mutually agreed on time and place, such as:

(1) Detailed records of telephone calls made or attempted and the results of those calls,

(2) Copies of correspondence sent to the parents and any responses received, and

(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(d) The local educational agency shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

(20 U.S.C. 1414(a)(5).)

§ 121a.225 Content of individualized education program.

The individualized education program for each child must include:

(a) A statement of the child's present levels of educational performance, including academic achievement, social adaptation, prevocational and vocational skills, psychomotor skills, and self-help skills.

(b) A statement of annual goals which describes the educational performance to be achieved by the end of the school year under the child's individualized education program;

(c) A statement of short term instructional objectives, which must be measurable intermediate steps between the present level of educational performance and the annual goals;

(d) A statement of specific educational services needed by the child, (determined without regard to the availability of those services) including a description of:

(1) All special education and related services which are needed to meet the unique needs of the child, including the type of physical education program in which the child will participate, and

(2) Any special instructional media and materials which are needed;

(e) The date when those services will begin and length of time the services will be given;

(f) A description of the extent to which the child will participate in regular education programs;

(g) A justification for the type of educational placement which the child will have;

(h) A list of the individuals who are responsible for implementation of the individualized education program; and

(i) Objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

(20 U.S.C. 1414 (a)(5).)

§ 121a.226 Private school placements.

(a) The State educational agency shall insure that an individualized education program is developed, maintained, and evaluated for each child placed in a private school by the State educational agency or a local educational agency.

(b) The agency which places or refers a child shall insure that provision is made for a representative from the private school (which may be the child's teacher) to participate in each meeting. If the private school representative cannot attend a meeting, the agency shall use other methods to insure participation by the private school, including individual or conference telephone calls.

(20 U.S.C. 1413(2)(4)(B).)

DIRECT SERVICE BY THE STATE EDUCATIONAL AGENCY

§ 121a.240 Use of local educational agency allocation for direct services.

(a) A State educational agency shall use the payments which would have been available to a local educational agency and provide special education and related services directly to handicapped children residing in the area served by the local educational agency, if the State educational agency determines that the local educational agency:

(1) Is unable or unwilling to establish and maintain programs of free appropriate public education;

(2) Is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain those programs; or

(3) Has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of those children.

(20 U.S.C. 1414(d).)

(b) A State educational agency may not distribute funds to a local educational agency, and shall use those funds to insure the provision of a free appropriate public education to handicapped children residing in the area served by the local educational agency, in any fiscal year, if:

(1) The local educational agency is entitled to less than $7500 for that fiscal year, or

(2) The local educational agency does not submit an application that meets the requirements of §§ 121a.100-121a.117 of Subpart B.

(20 U.S.C. 1411(c)(4).)

§ 121a.241 Nature and location of services.

The State educational agency may provide special education and related services under § 121a.240(a) in such manner, and at such locations as it considers appropriate. The manner in which the education and services are provided must be consistent with the requirements of this part, but §§ 121a.440-121a.445 of Subpart E do not apply.

(20 U.S.C. 1414(d).)

§ 121a.250 Use of State educational agency allocation for direct and support services.

(a) The State shall use the remainder of its allocation under § 121a.600 of Subpart G above the amount used for administration under § 121a.500 of Subpart F, to provide support services and direct services in accordance with the priorities under §§ 121a.210-121a.214.

(b) For the purposes of paragraph (a) of this section:

(1) "Direct services" means services provided directly to a handicapped child by the State or by contract.

(20 U.S.C. 1411(b)(2); 1411(c)(2).)

(2) "Support services" includes implementing the comprehensive system of personnel development under §§ 121a.260-121a.268 recruitment and training of hearing officers and surrogate parents, and public information activities relating to a free appropriate public education for handicapped children.

(c) The requirement in section 613 (a)(9) of the Act, which relates to commingling, supplementing, and supplanting with Federal funds, does not apply to funds that the State uses under paragraph (a) of this section.

(20 U.S.C. 1411(c)(3).)

§ 121a.251 State matching.

Beginning in the period July 1, 1978-June 30, 1979, and for each following year, the funds that a State uses under § 121a.250 must be matched on a program basis by the State from funds other than Federal funds. This requirement does not apply to funds that the State uses under § 121a.240(b).

(20 U.S.C. 1411(c)(2)(B), (c)(4)(B).)

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

§ 121a.2660 Scope of system.

Each annual program plan must include a description of programs and procedures for the development and implementation of a comprehensive system of personnel development which includes:

(a) The inservice training of general and special educational instructional and support personnel;

(b) Detailed procedures to insure that all personnel necessary to carry out the purposes of the Act are appropriately and adequately prepared and trained, and that activities sufficient to carry out this personnel development plan are scheduled; and

(c) Effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices and materials developed through those projects.

(20 U.S.C. 1413(a)(3).)

§ 121a.261 Definition of "appropriately and adequately prepared and trained."

As used in §§ 121a.260-121a.268, "appropriately and adequately prepared and trained" means that the State has completed the following steps:

(a) Certification of all special education instructional personnel who qualify under State standards.

(b) Temporary certification, where allowable under State standards, of those personnel who do not qualify for certification.

(c) Certification, under State standards, of all regular education personnel who serve handicapped children, and participation by those personnel in inservice education programs designed to develop skills, attitudes, and the acquisition of information specific to the needs of handicapped children.

(d) State certification, registration, or licensing of all support personnel who provide direct services to handicapped children, including therapeutic recreation personnel, occupational therapists, itinerant resource personnel, physical therapists, diagnosticians, psychologists, counselors, and aides.

(e) Ongoing participation by all of the personnel named in paragraphs (a)-(d) of this section in training activities, based on the State's needs assessment under § 121a.263(b)(1), to update their skills and attitudes as necessary to educate handicapped children and to acquire information regarding new instructional practices and procedures.

(20 U.S.C. 1413(a)(3).)

§ 121a.262 Participation of other agencies and institutions.

(a) The State educational agency must insure that all public and private institutions of higher education, and other agencies and organizations (including parent and other advocacy organizations) in the State which have an interest in the preparation of personnel for the education of handicapped children, have an opportunity to participate fully in the development, review, and annual updating of the comprehensive system of personnel development.

(b) The annual program plan must describe the nature and extent of participation under paragraph (a) of this section and must describe responsibilities of the State educational agency, local educational agencies, public and private institutions of higher education, and other agencies:

(1) With respect to the comprehensive system as a whole, and

(2) With respect to the personnel development plan under § 121a.264.

(20 U.S.C. 1412(7)(A); 1413(a)(3).)

§ 121a.263 Inservice training.

(a) As used in this section, "inservice training" means any training other than that received by an individual in a full-time program which leads to a degree.

(b) Each annual program plan must provide that the State educational agency:

(1) Conducts an annual needs assessment to determine if a sufficient number of adequately and appropriately prepared and trained personnel are available in the State; and

(2) Initiates innovative and experimental inservice personnel development programs based on the assessed needs of State-wide significance related to the implementation of the Act.

(c) Each annual program plan must include the results of the needs assessment under paragraph (b)(1) of this section, broken out by need for new personnel and need for retrained personnel.

(d) The State educational agency may enter into contracts with institutions of higher education or other agencies, institutions, or organizations (which may include parent or other advocacy organizations), to carry out experimental or innovative personnel development programs, development or modification of instructional materials, and dissemination of significant information derived from educational research and demonstration projects.

(e) Each annual program plan must provide that the State educational agency insures that ongoing inservice training programs are available to all personnel who are engaged in the education of handicapped children, and that these programs include:

(1) The use of incentives which insure participation by teachers (such as released time, payment for participation, options for academic credit, salary step credit, certification renewal, or updating professional skills);

(2) The involvement of local staff; and

(3) The use of innovative practices which have been found to be effective.

(f) Each annual program plan must:

(1) Describe the process used in determining the inservice training needs of personnel engaged in the education of handicapped children;

(2) Identify the areas in which training is needed (such as individualized education programs, non-discriminatory testing, least restrictive environments, procedural safeguards, and use of parent surrogates in due process hearings);

(3) Specify: (i) The groups requiring training (such as special teachers, regular teachers, administrators, psychologists, speech pathologists, audiologists, physical education teachers, therapeutic recreation specialists, physical therapists, occupational therapists, medical personnel, parents, volunteers, hearing officers and parent surrogates), and

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(ii) The estimated number in each group;

(4) Describe the content and nature of training for each area under paragraph (f)(2) of this section;

(5) Describe how the training will be provided in terms of (i) geographical scope (such as Statewide, regional, or local), and (ii) staff training source (such as college and university staffs, State and local educational agency personnel, and non-agency personnel);

(6) Specify: (i) The funding sources to be used,

(ii) The cost of the training, and

(iii) The time frame for providing it; and

(7) Specify procedures for effective evaluation of the extent to which program objectives are met.

(g) Each annual program plan must include a description of changes the State educational agency expects to make in the provision under paragraph (f) of this section during the three years after the annual program plan takes effect.

(20 U.S.C. 1413(a)(3).)

§ 121.264 Personnel development plan.

Each annual program plan must: (a) Include a personnel development plan which provides a structure for personnel planning and focuses on preservice and inservice education needs;

(b) Describe the results of the needs assessment under § 121a.263(b)(1) with respect to identifying needed areas of training, and assigning priorities to those areas;

(c) Identify the target populations for personnel development, including general education and special education instructional and administrative personnel, support personnel, and other personnel (such as paraprofessionals, parents, parent surrogates, and volunteers);

(d) Identify programs of preservice and inservice training in the areas identified under § 121a.263(f)(2);

(e) Describe the instructional skills, attitudes, information, and interdisciplinary procedures indentified at the local or State level as essential to meeting the purposes of the Act;

(f) Provide for the use of local resources in personnel development activities;

(g) Provide for the identification of all personnel in need of training and provide that programs are available and provision is made for participation; and

(h) Describe the training of special education instructional and support personnel and regular education personnel during the current school year and the next school year, including steps that must be taken to insure that all personnel needed to meet the full educational opportunity goal under §§ 121a.23 and 121a.102 of Subpart B will be appropriately and adequately prepared and trained.

(20 U.S.C. 1413(a)(3).)

Comment. The data required in §§ 121a.24 and 121a.26 of Subpart B on the numbers of handicapped children and the kind and number of personnel needed will serve as the uniform data base within the State for the personnel development system under § 121a.264 of this subpart. The data may also be used by institutions of higher education and other nonprofit educational training agencies in submitting personnel preparation applications under Part D of the Act. Section 121f.9 of the regulations under Part D (45 CFR 121f.9) provides as follows:

§ 121f.9 *State personnel needs.*

Each application shall include (a) a statement by the State educational agency of personnel needs for education of the handicapped and a statement by the applicant of how the proposed program relates to those stated needs, and (b) a description of the ways in which the recipient's program goals and objectives relate to the purposes of Part D of the Act.

(20 U.S.C. 1431, 1432, 1434.)

§ 121a.265 Dissemination.

(a) Each annual program plan must include a description of the State's procedures for acquiring, reviewing, and disseminating to general and special educational instructional and support personnel, administrators of programs for handicapped children, and other interested agencies and organizations (including parent and other advocacy organizations) significant information and promising practices derived from educational research, demonstration, and other projects.

(b) Dissemination includes:

(1) Making those personnel, administrators, agencies, and organizations aware of the information and practices;

(2) Training designed to enable the establishment of innovative programs and practices targeted on identified local needs; and

(3) Use of instructional materials and other media for personnel development and instructional programming.

(20 U.S.C. 1413(a)(3).)

§ 121a.266 Adoption of educational practices.

(a) Each annual program plan must provide for a statewide system designed to cause the widespread adoption of educational practices proven effective through research and demonstration.

(b) Each annual program plan must provide for thorough reassessment of educational practices used in the State.

(c) Each annual program plan must provide for the identification of State, local, and regional resources (human and material) which will assist in meeting the State's personnel preparation needs.

(20 U.S.C. 1413(a)(3).)

§ 121a.267 Evaluation.

(a) The annual program plan must include procedures for evaluating the extent to which the State's comprehensive system of personnel development is meeting the needs for personnel in the State.

(b) These procedures must include:

(1) A plan for evaluating the overall organization and effectiveness of the comprehensive system and the State educational agency's procedures for administration of the system; and

(2) The use of accountability measures to insure the adequate delivery of the training and services outlined in the system.

(20 U.S.C. 1413(a)(3).)

§ 121a.268 Technical assistance to local educational agencies.

Each annual program plan must include a description of technical assistance that the State educational agency gives to local educational agencies in their implementation of the State's comprehensive system of personnel development.

(20 U.S.C. 1413(a)(3).)

Subpart D—Private Schools

Participation of Private School Children

§ 121a.300 General.

Each State and local educational agency shall insure that to the extent consistent with the number and location of handicapped children in the State who are enrolled in regular or special private elementary and secondary schools, provision is made for the participation of those children in the program assisted or carried out under this part by providing for those children special education and related services.

(20 U.S.C. 1413(a)(4)(A); 1414(a)(6).)

§ 121a.301 Determinations.

Determinations with respect to the special education and related services needs of handicapped children enrolled in private elementary and secondary schools, the number and types of children who will participate under this part, and the types of services which will be provided for them may be made only after consultation with persons knowledgeable as to the needs of those children, and on a basis comparable to that used in providing for the participation under this part, of handicapped children enrolled in public elementary and secondary schools.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.302 Services.

Programs and projects assisted or carried out under Part B of the Act must be designed to provide, to the extent consistent with the number of handicaped children enrolled in private elementary and secondary schools in the geographical area served by the program or project, services which aid in meeting the special education and related services needs of those children. Services may be provided through such arrangements as dual enrollment, educational radio and television, and the provision of mobile equipment, and may include professional and paraprofessional services.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.303 Personnel.

(a) Public school personnel may be made available in other than public school facilities only to the extent necessary to provide services required by the handicapped children for whose needs those services were designed, and only when those services are not normally provided by the private school.

(b) Each State or local educational agency providing services to children enrolled in private schools shall maintain administrative control and direction over those services.

(c) The services provided with funds under Part B of the Act for eligible handicapped children enrolled in private schools may not include the payment of salaries of teachers or other employees of private schools except for services performed outside their regular hours of duty and under public supervision and control, nor may the services include the use of equipment purchased with Part B funds, other than mobile or portable equipment, on private school premises, or the construction of private school facilities.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.304 Equipment.

(a) Equipment acquired with funds under Part B of the Act may be placed on private school premises for a limited period of time, but the title to and administrative control over all equipment must be retained and exercised by a public agency.

(b) In exercising administrative control, the public agency shall keep records of and account for the equipment, and shall insure that the equipment is used solely for the purposes of the program or project, and remove the equipment from the private school premises if necessary to avoid its being used for other purposes or if it is no longer needed for the purposes of the program or project.

(c) Mobile or portable equipment may be used on private school premises only for such period of time within the life of the current program or project for which the equipment is intended to be used, as is necessary for the successful participation in that program or project by eligible handicapped children enrolled in private schools.

(2 U.S.C. 1413(a)(4)(A).)

§ 121a.305 Prohibition of segregation.

Programs or projects carried out in public facilities, and involving joint participation by eligible handicapped children enrolled in private schools and handicapped children enrolled in public schools, may not include classes that are separated on the basis of school enrollment or the religious affiliations of the children.

(20 U.S.C. 1413(a)(4)(A).)

Placement of Handicapped Children in Private Schools

§ 121a.320 Responsibility of State educational agency.

Each State educational agency shall insure that a handicapped child who is placed in or referred to a private school or facility by the State educational agency or a local educational agency:

(a) Is provided special education and related services:

(1) In conformance with an individualized education program which meets the requirements under §§ 121a.220–121a.227 of Subpart C;

(2) At no cost to the parents or guardians; and

(3) Which meet education standards of that State educational agency (including the requirements in this part) which apply to public agencies under § 121a.34 of Subpart B; and

(b) Has all of the rights of a handicapped child who is served by a public agency.

(20 U.S.C. 1413(a)(4)(B).)

§ 121a.321 Implementation by State educational agency.

In implementing § 121a.320, the State educational agency shall:

(a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(b) Disseminate copies of the State standards to each private school to which the State educational agency or a local educational agency has referred or placed a handicapped child; and

(c) Provide an opportunity for those private schools to participate in the development and revision of the State standards.

(20 U.S.C. 1413(a)(4)(B).)

§ 121a.322 Placement of children by parents.

(a) If a handicapped child has available a free appropriate public education in a local educational agency that is in or readily accessible from the child's home community and the parents choose to place the child in a private school, neither the State or the local educational agency is required by this part to pay for the child's education.

(b) Disagreements between a parent and a State or local educational agency regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to the due process procedures under §§ 121a.400–121a.415 of Subpart E.

(20 U.S.C. 1413(a)(4)(B).)

§ 121a.323 Placement in another State.

In addition to the requirements under § 121a.320, if a State or local educational agency refers or places a child in a private school in another State, the State educational agency of the State where the private school is located shall insure that the school meets its education standards.

(20 U.S.C. 1413(a)(4)(B).)

Subpart E—Procedural Safeguards

Due Process Procedures for Parents and Children

§ 121a.400 Definitions of "consent", "evaluation", and "personally identifiable".

As used in this part: "Consent" means that: (a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication unless it clearly is not feasible to do so;

(b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and

(c) The parent understands that the granting of consent is voluntary on the part of the parent.

"Evaluation" means procedures used to determine whether a child is handicapped and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class.

(20 U.S.C. 1415.)

"Personally identifiable" means that information includes:

(a) The name of the child, the child's parent, or other family member;

(b) The address of the child;

(c) A personal identifier, such as the child's social security number or student number; or

(d) A list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty.

(20 U.S.C. 1415, 1417(c).)

§ 121a.401 General responsibility of State and local educational agencies.

(a) Each State and local educational agency shall provide procedural safeguards to handicapped children and their parents with respect to the provision of a free appropriate public education.

(b) The State educational agency shall insure that each public agency in the State adopts and implements procedural safeguards which meet the requirements of this subpart.

(20 U.S.C. 1415(a).)

§ 121a.402 Opportunity to examine records.

The parents of a handicapped child shall be afforded, in accordance with the procedures in §§ 121a.452–121a.459 an opportunity to examine all relevant records with respect to:

(a) The identification, evaluation, and educational placement of the child, and

(b) The provision of a free appropriate public education to the child.

(20 U.S.C. 1415(b)(1)(A).)

§ 121a.403 Independent educational evaluation.

(a) *General.* (1) The local educational agency shall inform the parents of a handicapped child that they have a right to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.

(2) For the purposes of this section, "independent educational evaluation" means an evaluation conducted by a fully certified or licensed professional examiner who is not employed by and

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does not routinely provide evaluations for, the State or local educational agency responsible for the education of the child in question.

(b) *Parent right to evaluation at public expense.* A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the local educational agency. However, the local educational agency may initiate a hearing under § 121a.406 of this subpart to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(c) *Parent initiated evaluations.* If the parent obtains an independent educational evaluation at his or her own expense, the results of the evaluation:

(1) Must be considered by the State and local educational agency in any decision made with respect to the provision of a free appropriate public education to the child, and

(2) May be presented by either party as evidence at a hearing under this subpart regarding that child.

(d) *Requests for evaluations by hearing officers.* If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(e) *Agency criteria.* Whenever the State or local educational agency pays for an independent educational evaluation, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the State or local educational agency uses when it initiates an evaluation.

(20 U.S.C. 1415(b)(1)(A))

§ 121a.404 Prior notice; parent consent.

(a) Written notice which meets the requirements under § 121a.405 must be given to the parents of a handicapped child a reasonable time before the State or local educational agency:

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the free appropriate public education provided to the child, or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the free appropriate public education provided to the child.

(b) Parental consent must be obtained before an evaluation is conducted.

(20 U.S.C. 1415(b)(1)(C), (D))

§ 121a.405 Content of notice.

(a) The notice under § 121a.404 must include:

(1) A full explanation of all of the procedural safeguards available to the parents under Subpart E;

(2) A description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected;

(3) A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal; and

(4) A description of any other factors which are relevant to the agency's proposal or refusal.

(b) The notice must be:

(1) Written in language understandable to the general public, and

(2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(c) If the native language or other mode of communication of the parent is not a written language, the State or local educational agency shall take steps to insure:

(1) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(2) That the parent understands the content of the notice, and

(3) That there is written evidence that the requirements in paragraph (c)(1) and (2) of this section have been met.

(20 U.S.C. 1415(b)(1)(D))

§ 121a.406 Impartial due process hearing.

(a) A parent or a local educational agency may initiate a hearing on any of the matters described in § 121a.404(a)(1) and (2).

(b) The hearing must be conducted by the State or local educational agency, as determined under State statute, State regulation, or a written policy of the State educational agency.

(20 U.S.C. 1415(b)(2))

§ 121a.407 Impartial hearing officer.

(a) A hearing must not be conducted:

(1) By an employee of the State or local educational agency who is involved in the education or care of the child, or

(2) By any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.

(b) A person who otherwise qualifies to conduct a hearing under paragraph (a) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(20 U.S.C. 1414(b)(2))

§ 121a.408 Hearing rights.

Any party to a hearing has the right to:

(a) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children;

(b) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(c) Obtain a written or electronic verbatim record of the hearing;

(d) Obtain written findings of fact and decisions. (The State or local educational agency shall transmit those findings and decisions, after deleting any personally identifiable information, to the State advisory panel established under Subpart F).

(20 U.S.C. 1415(d); 1417(c))

§ 121a.409 Hearing decision; appeal.

A decision made in a hearing conducted under this subpart is final, unless a party in the hearing appeals the decision under § 121a.411 or § 121a.412.

(20 U.S.C. 1415(c))

§ 121a.410 Administrative appeal; impartial review.

(a) If the hearing is conducted by a local educational agency, any party aggrieved by the findings and decision in the hearing may appeal to the State educational agency.

(b) If there is an appeal, the State educational agency shall conduct an impartial review of the hearing. The official conducting the review shall:

(1) Examine the entire hearing record.

(2) Insure that the procedures at the hearing were consistent with the requirements of due process,

(3) Afford the parties an opportunity for oral argument, and

(4) Make an independent decision on completion of the review.

(c) The decision made by the reviewing official is final, unless a party brings a civil action under § 121a.412.

(20 U.S.C. 1415(c))

§ 121a.411 Civil action.

Any party aggrieved by the findings and decision made in a hearing who does not have the right to appeal under § 121a.409 of this subpart, and any party aggrieved by the decision of a reviewing officer under § 121a.410, has the right to bring a civil action under section 615(e)(2) of the Act.

(20 U.S.C. 1415)

§ 121a.412 Timeliness and convenience of hearings and reviews.

State and local educational agencies shall take steps to insure that each hearing and review conducted under this subpart:

(a) Is commenced and completed as quickly as possible, consistent with fair consideration of the issues involved, but not later than 45 days after receipt of a complaint, unless the parties agree to an extension, and

(b) Is conducted at a time and place which is reasonably convenient to the parents and child involved.

(20 U.S.C. 1415)

§ 121a.413 Child's status during proceedings.

(a) During the pendency of any administrative or judicial proceeding regarding a complaint, unless the State or local educational agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement.

(b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.

(20 U.S.C. 1415(e)(3))

§ 121a.414 Surrogate parents.

(a) *General.* The State educational agency shall insure that the rights of a child are protected when the parents of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents. This must include a method (1) for determining whether a child needs a surrogate parent, and (2) for assigning a surrogate parent to the child.

(b) *Criteria for selection of surrogates.* (1) The State or local educational agency may select a surrogate parent in any way permitted under State law.

(2) State and local educational agencies shall insure that a person selected as a surrogate:

(i) Has no interest that conflicts with the interests of the child he or she represents; and

(ii) Has knowledge and skills, that insure adequate representation of the child.

(c) *Non-employee requirement; compensation.* (1) A person assigned as a surrogate must not be an employee of the State or local educational agency which is involved in the education or care of the child.

(2) A person who otherwise qualifies to be a surrogate parent under paragraph (b) and (c)(1) of this section, is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(d) *Responsibilities.* The surrogate may represent the child in all matters relating to:

(1) The identification, evaluation, and educational placement of the child, and

(2) The provision of a free appropriate public education to the child.

(20 U.S.C. 1415(b)(1)(B))

PROTECTION IN EVALUATION PROCEDURES

§ 121a.430 General.

Testing and evaluation materials and procedures used for the purposes of evaluation and placement of handicapped children must be selected and administered so as not to be racially or culturally discriminatory.

(20 U.S.C. 1412(5)(C))

§ 121a.431 Evaluation; change in placement.

(a) An evaluation must be conducted before any action is taken with respect to:

(1) The initial placement or denial of placement of a handicapped child in a special education program, or

(2) The transfer or denial of transfer of a child from a special education program to full-time regular class placement.

(b) Subject to paragraph (a) of this section, and the requirement for reevaluation in § 121a.433, any change in a child's special education placement (such as changing from a self contained special class to a resource room) must be based on:

(1) The child's current individualized education program, and

(2) Any other information relating to the child's current educational performance.

(20 U.S.C. 1412(5)(C))

§ 121a.432 Evaluation procedures.

State and local educational agencies shall insure, at a minimum, that:

(a) Tests and other evaluation materials:

(1) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;

(2) Have been validated for the specific purpose for which they are used;

(3) Are recommended by their producer for the specific purpose for which they are used; and

(4) Are administered by personnel who meet applicable certification or licensure requirements under State law;

(b) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;

(c) In test selection and administration, if a test is administered to a child with impaired sensory, manual or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (except where those skills are the factors which the test purports to measure);

(d) No one test or type of test or other means of evaluation is used as the sole criterion for placement;

(e) Information from sources other than ability or achievement tests, including information concerning physical condition, sociocultural background, and adaptive behavior in home and school, is gathered and considered and the weight given to each of these sources is documented;

(f) The interpretation of the evaluation data and the subsequent determination of the child's educational placement are made by a team or group of persons knowledgeable about the child, the meaning of the evaluation results, the placement options, and the personnel available to provide special education and related services; and

(g) If the information derived either from ability and achievement tests or from other sources results in a showing that the child does not, because of a disability, need instruction in a special setting, the child is not placed outside the regular instructional setting.

(20 U.S.C. 1412(5)(C))

§ 121a.433 Reevaluation.

Each State and local educational agency shall insure:

(a) That in accordance with Subpart C, each handicapped child's individualized education program is revised periodically, but not less than annually, and

(b) That an evaluation of the child, based on procedures which meet the requirements under § 121a.432, is conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.

(20 U.S.C. 1412(5)(C))

LEAST RESTRICTIVE ENVIRONMENT

§ 121a.440 General.

(a) Each State educational agency shall insure:

(1) That to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and

(2) That special classes, separate schooling or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) For the purposes of this subpart, "applicable agency" includes:

(1) Each State and local educational agency,

(2) Each public agency in the State which is involved in the education of handicapped children, and

(3) Each private school in which a State or local educational agency places or refers a handicapped child.

(20 U.S.C. 1412(5)(B))

§ 121a.441 Continuum of alternative placements.

(a) Each State and local educational agency shall insure that a continuum of alternative placements are available to meet the needs of handicapped children for special education and related services.

(b) The continuum required under paragraph (a) of this section must:

(1) Include the alternative placements listed in the definition of special education under § 121a.4 of Subpart A (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions), and

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

(20 U.S.C. 1412(5)(B))

§ 121a.442 Placements.

Each State and local educational agency shall insure that:

(a) Each handicapped child's educational placement:

(1) Is determined at least annually, and

(2) Is based on his or her individualized education program;

(b) To the extent necessary to implement an individualized education program for each handicapped child, the applicable agency must provide, or arrange for the provision of, all of the

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various alternative placements included under § 121a.441 of this subpart;

(c) Unless a handicapped child's individualized education program requires some other arrangement, the child is educated in the school which he or she would attend if not handicapped; and

(d) In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services which he or she needs.

(20 U.S.C. 1412(5)(B).)

§ 121a.443 Technical assistance and training activities.

Each State educational agency shall carry out activities to insure that teachers and administrators in all applicable agencies:

(a) Are fully informed about their responsibilities for implementing § 121a.440, and

(b) Are provided with technical assistance and training necessary to assist them in this effort.

(20 U.S.C. 1412(5)(B).)

§ 121a.444 Children in public or private institutions.

Each State educational agency shall make arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures) as may be necessary to insure that § 121a.440 is effectively implemented.

(20 U.S.C. 1412(5)(B).)

§ 121a.445 Monitoring activities.

(a) The State educational agency shall carry out activities to insure that § 121a.440 is implemented by each applicable agency.

(b) If there is evidence that a local educational agency makes placements that are inconsistent with § 121a.440 of this subpart, the State educational agency:

(1) Shall review the local educational agency's justification for its actions, and

(2) Shall assist in planning and implementing any necessary corrective action.

(20 U.S.C. 1412(5)(B).)

CONFIDENTIALITY OF INFORMATION

§ 121a.450 Definitions.

As used in this subpart:

"Destruction" means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

"Participating agency" means any agency or institution which collects, maintains, or uses information, or from which information is obtained, under this part.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.451 Notice to parents.

(a) The State educational agency shall give notice which is adequate to fully inform parents about the requirements under § 121a.28 of Subpart B, including:

(1) A description of the extent to which the notice is given in the native languages of the various population groups in the State;

(2) A description of the children on whom information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and children regarding this information, including the rights under section 438 of the General Education Provisions Act and Part 99 of this title (the Family Educational Rights and Privacy Act of 1974, and implementing regulations).

(b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.452 Access rights.

(a) Each participating agency shall permit parents to inspect and review any personally identifiable information relating to their children which is collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and before any hearing relating to the identification, evaluation, or placement of the child, and in no case more than 45 days after the request has been made.

(b) The right to inspect and review education records under paragraph (a) of this section includes:

(1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the information; and

(2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the information.

(c) An agency may presume that the parent has authority to inspect and review information relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.453 Record of access.

Each participating agency shall keep a record of parties obtaining access to information collected, maintained, or used under this part (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the information.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.454 Records on more than one child.

If any record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.455 List of types and locations of information.

Each participating agency shall provide parents on request a list of the types and locations of information collected, maintained, or used by the agency.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.456 Fees.

(a) A participating agency may charge a fee for copies of records which are made for parents under this subpart if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

(b) A participating agency may not charge a fee to search for or to retrieve information under this subpart.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.457 Amendment of records at parent's request.

(a) A parent who believes that information collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child, may request the participating agency which maintains the information to amend the information.

(b) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(c) If the agency decides to refuse to amend the information in accordance with the request it shall inform the parent of the refusal, and advise the parent of the right to a hearing under § 121a.458.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.458 Opportunity for a hearing.

The agency shall, on request, provide an opportunity for a hearing to challenge information to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.459 Result of hearing.

(a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

(b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of

the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(c) Any explanation placed in the records of the child under this section must:

(1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and

(2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.460 Hearing procedures.

A hearing held under § 121a.458 of this subpart must be considered according to the procedures under § 99.22 of this title.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.461 Consent.

(a) Parental consent must be obtained before personally identifiable information is:

(1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part, subject to paragraph (b) of this section; or

(2) Used for any purpose other than meeting a requirement under this part.

(b) An educational agency or institution subject to Part 99 of this title may not release information from education records to participating agencies without parental consent unless authorized to do so under Part 99 of this title.

(c) The State educational agency shall include policies and procedures in its annual program plan which are used in the event that a parent refuses to provide consent under this section.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.462 Safeguards.

(a) Each participating agency shall protect the confidentiality of information at collection, storage, disclosure, and destruction stages.

(b) One official at each participating agency shall assume responsibility for insuring the confidentiality of any personally identifiable information.

(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under § 121a.29 of Subpart B and Part 99 of this title.

(d) Each participating agency shall maintain, for public inspection, a current listing of the names of those employees within the agency who may have access to personally identifiable information.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.463 Destruction of information.

(a) All personally identifiable information collected, maintained, or used under this part must be destroyed within five years after the information is no longer needed to provide educational services to the child. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

(b) Before destruction of data, reasonable efforts must be made to notify parents that they have the right to a copy of any information which has been collected, maintained, or used under this part.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.464 Children's rights.

The State educational agency shall include policies and procedures in its annual program plan regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.465 Enforcement.

The State educational agency shall describe in its annual program plan the policies and procedures, including sanctions, which the State uses to insure that its policies and procedures are followed and that the requirements of the Act and the regulations in this part are met.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.466 Office of Education.

If the Office of Education or its authorized representatives collect any personally identifiable information which is not subject to 5 U.S.C. 552a (The Privacy Act of 1974), the Commissioner shall apply the requirements of 5 U.S.C. section 552a(b)(1)–(2), (4)–(11); (c); (d); (e)(1), (2), (3)(A), (B), and (D), (5)–(10); (h); (m); and (n), and the regulations implementing those provisions in Part 5b of this title.

(20 U.S.C. 1412(2)(D); 1417(c).)

OFFICE OF EDUCATIONAL PROCEDURES

§ 121a.480 Opportunity for a hearing.

The Commissioner gives a State educational agency reasonable notice and an opportunity for a hearing before taking any of the following actions:

(a) Disapproval of a State's annual program plan under § 121a.13 of Subpart B.

(b) Withholding payments from a State under § 121a.490 or under section 434(c) of the General Education Provisions Act.

(c) Waiving the requirement under § 121a.489 of this subpart regarding supplementing and supplanting with funds provided under Part B of the Act.

(20 U.S.C. 1232c(c); 1413(a)(9)(B); 1413(c); 1416.)

§ 121a.481 Hearing panel.

The Commissioner appoints a Hearing Panel consisting of not less than three persons to conduct any hearing under § 121a.480 of this subpart.

(20 U.S.C. 1232c(c); 1413(a)(9)(B); 1413(c); 1416.)

§ 121a.482 Hearing procedures.

(a)(1) If the Hearing Panel determines that oral testimony would not materially assist the resolution of disputed facts, the Panel shall give each party an opportunity for presenting the case:

(i) In whole or in part in writing, or

(ii) In an informal conference before the Hearing Panel.

(2) The Hearing Panel shall give each party:

(i) Notice of the issues to be considered (if this notice has not already been given); and

(ii) An opportunity to be represented by counsel.

(b) If the Hearing Panel determines that oral testimony would materially assist the resolution of disputed facts, the Panel shall give each party, in addition to the requirements under paragraph (a)(2) of this section:

(1) An opportunity to obtain a record of the proceedings;

(2) An opportunity to present witnesses on the party's behalf; and

(3) An opportunity to cross-examine witnesses either orally or with written questions.

(20 U.S.C. 1232c(c); 1413(a)(9)(B); 1413(c); 1416.)

§ 121a.483 Initial decision; final decision.

(a) The Hearing Panel shall prepare an initial written decision which includes findings of fact and the conclusions based on those facts.

(b) The Hearing Panel shall mail a copy of the initial decision to each party (or to the party's counsel) and to the Commissioner, with a notice that each party has an opportunity to submit written comments regarding the decision to the Commissioner within a specified reasonable time.

(c) The initial decision of the Hearing Panel is the final decision of the Commissioner unless, within 25 days after the end of the time for receipt of written comments, the Commissioner informs the Panel in writing that the decision is being reviewed.

(d) Review by the Commissioner is based on the decision, the written record, if any, of the Hearing Panel's proceedings, and written comments or oral arguments by the parties.

(e) No decision under this section becomes final until it is served on the State educational agency or its attorney.

(20 U.S.C. 1232c(c); 1413(a)(9)(b); 1413(c); 1416.)

§ 121a.489 Waiver of requirement regarding supplementing and supplanting with Part B funds.

(a) Under section 613(a)(9)(B) of the Act, the State educational agency must insure that Federal funds provided under Part B of the Act are used to supplement

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and increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant those State and local funds.

(b) If the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Commissioner may waive in part the requirement under section 613(a)(9)(B) of the Act if the Commissioner concurs with the evidence provided by the State.

(c) If a State wishes to request a waiver, it must inform the Commissioner in writing. The Commissioner then provides the State with a finance and membership report form which provides the basis for the request.

(d) In its request for a waiver, the State shall include the results of a special study made by the State to obtain evidence of the availability of a free appropriate public education to all handicapped children. The special study must include statements by a representative sample of organizations which deal with handicapped children, and parents and teachers of handicapped children, relating to the following areas:

(1) The adequacy and comprehensiveness of the State's system for locating, identifying, and evaluating handicapped children, and

(2) The cost to parents, if any, for education for children enrolled in public and private day schools, and in public and private residential schools and institutions.

(e) In its request for a waiver, the State shall include finance data relating to the availability of a free appropriate public education for all handicapped children, including:

(1) The total current expenditures for regular education programs and special education programs by function and by source of funds (State, local, and Federal) for the previous school year, and

(2) The full-time equivalent membership of students enrolled in regular programs and in special programs in the previous school year.

(f) The Commissioner considers the information which the State provides under paragraph (d) and (e) of this section, along with any additional information he may request, or obtain through on-site reviews of the State's education programs and records, to determine if all children have available to them a free appropriate public education, and if so, the extent of the waiver.

(g) The State may request a hearing under §§ 121a.480–121a.483 with regard to any final action by the Commissioner under this section.

(20 U.S.C. 1413(A)(9)(B).)

§ 121a.490 Withholding payments.

(a) The Commissioner may make the following findings only after reasonable notice and an opportunity for a hearing under §§ 121a.480–121.483 to the State educational agency involved (and to any local educational agency affected by any failure described in paragraph (a)(2) of this section):

(1) That there has been a failure to comply substantially with the provisions of section 612 and 613 of the Act, or

(2) That in the administration of the annual program plan there is a failure to comply with any provision of this part or with any requirement in the application of a local educational agency approved by the State educational agency under the annual program plan.

(b) After making either of the findings in paragraph (a) of this section, the Commissioner:

(1) Shall, after notifying the State educational agency, withhold any further payments to the State under this part, and

(2) May, after notifying the State educational agency, withhold further payments to the State under the Federal programs referred to in § 121a.39 of Subpart B which are within his jurisdiction, to the extent that funds under those programs are available for the provision of assistance for the education of handicapped children.

(c) If the Commissioner withholds payments under paragraph (b) of this section he may determine:

(1) That withholding is limited to programs or projects under the annual program plan, or portions of it, affected by the failure, or

(2) That the State educational agency must not make further payments under Part B of the Act to specified local educational agencies affected by the failure.

(20 U.S.C. 1416(a).)

§ 121a.491 Reinstating payments.

Until the Commissioner is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in § 121a.490(a):

(a) No further payments shall be made to the State under this part or under the Federal programs specified in section 613(a)(2) of the Act which are within his jurisdiction to the extent that funds under those programs are available for the provision of assistance for the education of handicapped children, or

(b) Payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure.

(20 U.S.C. 1416(a).)

§ 121a.492 Public notice by State and local educational agencies.

Any State educational agency and local educational agency which receives a notice under § 121a.490(a) shall, by means of a public notice, take any necessary measures to inform the public within the agency's jurisdiction of the pendency of the action.

(20 U.S.C. 141(a).)

§ 121a.493 Judicial review of Commissioner's final action on annual program plan.

If any State is dissatisfied with the Commissioner's final action with respect to its annual program plan submitted under Subpart B, the State may under section 616(b) of the Act, within sixty days after notice of the action, file a petition for review of that action with the United States Court of Appeals for the circuit in which the State is located.

(20 U.S.C. 1416(b).)

Subpart F—State Administration

General

§ 121a.500 Federal funds for State administration.

A State may use five per cent of the total State allotment in any fiscal year under Part B of the Act, or $200,000, whichever is greater, for administrative costs related to carrying out sections 612 and 613 of the Act. However, this amount cannot be greater than the amount which the State may use under § 121a.604(a) or § 121a.605(a), as the case may be.

(20 U.S.C. 611 (b), (c).)

§ 121a.501 Allowable costs.

(a) The State educational agency may use funds under § 121a.500 of this Subpart for:

(1) Administration of the annual program plan and for planning at the State level, including planning, or assisting in the planning, of programs or projects for the education of handicapped children;

(2) Approval, supervision, monitoring, and evaluation of the effectiveness of local programs and projects for the education of handicapped children;

(3) Technical assistance to local educational agencies with respect to the requirements of this part;

(4) Dissemination and use of the results of educational research and demonstrations and dissemination of information, relating to Statewide special education activities for handicapped children and projects assisted under Part B of the Act;

(5) Leadership services for the program supervision and management of special education activities for the handicapped, and

(6) Other State leadership activities and consultative services.

(b) The State educational agency shall use the remainder of its funds under § 121a.500 in accordance with § 121a.250 of Subpart C.

(20 U.S.C. 1411 (b), (c).)

§ 121a.502 Reallocation of local educational agency funds.

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all handicapped children residing in the area served by the local agency with State and local funds otherwise available to the local agency, the State educational agency may reallocate funds (or portions of those funds which are not required to provide special education and related services) made available to the local agency under § 121a.606 of Subpart G, to other local educational agencies within the State which are not adequately provi-

viding special education and related services to all handicapped children residing in the areas served by the other local educational agencies.

(20 U.S.C. 1414(e).)

State Advisory Panel

§ 121a.550 Establishment.

(a) Each State shall establish, in accordance with the provisions of this subpart, a State advisory panel on the education of handicapped children.

(b) The advisory panel must be appointed by the Governor or any other official authorized under State law to make those appointments.

(c) If a State has an existing advisory panel that can perform the functions in § 121a.552, the State may modify the existing panel so that it fulfills all of the requirements of this subpart, instead of establishing a new advisory panel.

(20 U.S.C. 1413(a)(12).)

§ 121a.551 Membership.

The membership of the State advisory panel must be composed of persons involved in or concerned with the education of handicapped children. The membership must include at least one person representative of each of the following groups:

(a) Handicapped individuals.

(b) Teachers of handicapped children.

(c) Parents of handicapped children.

(d) State and local educational officials.

(e) Special education program administrators.

(20 U.S.C. 1413(a)(12).)

§ 121a.552 Advisory functions and procedures.

(a) The State advisory panel shall:

(1) Advise the State educational agency of unmet needs within the State in the education of handicapped children;

(2) Comment publicly on the rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this part; and

(3) Assist the State in developing and reporting such information and evaluations as may assist the Commissioner in the performance of his responsibilities under section 618.

(b) The advisory panel shall meet as often as necessary to conduct its business.

(c) By July 1 of each year, the advisory panel shall submit an annual report of panel activities and suggestions to the State educational agency. This report must be made available to the public in a manner consistent with other public reporting requirements under this part.

(d) Official minutes must be kept on all panel meetings and shall be made available to the public on request.

(e) All advisory panel meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public.

(f) When reviewing the findings and decisions from the hearings, submitted in accordance with § 121a.409(d) of Subpart E, the advisory panel must be considered to be a participating agency under §§ 121a.450–121a.465 of Subpart E.

(g) The advisory panel shall serve without compensation but may be reimbursed from funds under § 121a.500 for reasonable and necessary expenses for attending meetings and performing duties.

(20 U.S.C. 1413(a)(12).)

Subpart G—Allocation of Funds; Reports

Allocations

§ 121a.600 State entitlement; formula.

(a) The maximum amount of the grant to which a State is entitled under section 611 of the Act in any fiscal year is equal to the number of handicapped children aged three through 21 in the State who are receiving special education and related services, multiplied by the applicable percentage, under paragraph (b) of this section, of the average per pupil expenditure in public elementary and secondary schools in the United States.

(b) For the purposes of the formula in paragraph (a) of this section, the applicable percentage of the average per pupil expenditure in public elementary and secondary schools in the United States for each fiscal year is:

(1) 1978—5 percent,

(2) 1979—10 percent,

(3) 1980—20 percent,

(4) 1981—30 percent, and

(5) 1982, and for each fiscal year after 1982, 40 percent.

(20 U.S.C. 1411(a)(1).)

(c) For the purposes of this section, the average per pupil expenditure in public elementary and secondary schools in the United States, means the aggregate expenditures during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for the purpose of this section, means the fifty States and the District of Columbia), plus any direct expenditures by the State for operation of those agencies (without regard to the source of funds from which either of those expenditures are made), divided by the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

(20 U.S.C. 1411(a)(4).)

§ 121a.601 Limitations and exclusions.

(a) In determining the amount of a grant under § 121a.600 of this subpart, the Commissioner may not count:

(1) Handicapped children in a State to the extent that the number of those children is greater than 12 percent of the number of all children ages five through 17 in the State;

(2) Children with specific learning disabilities to the extent that the number of those children is greater than two percent of the number of all children ages five through 17 in the State; and

(3) Handicapped children who are counted under section 121 of the Elementary and Secondary Education Act of 1965.

(b) For the purposes of paragraph (a) of this section, the number of children aged five through 17 in any State shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(20 U.S.C. 1411(a)(5).)

§ 121a.602 Ratable reductions.

(a) *General.* If the sums appropriated for any fiscal year for making payments to States under section 611 of the Act are not sufficient to pay in full the total amounts to which all States are entitled to receive for that fiscal year, the maximum amount which all States are entitled to receive for that fiscal year shall be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence is applicable, those reduced amounts shall be increased on the same basis they were reduced.

(20 U.S.C. 1411(g)(1).)

(b) *Reporting dates for local educational agencies and reallocations.*

(1) In any fiscal year in which the State entitlements have been ratably reduced, the State educational agency shall fix dates before which each local educational agency shall report to the State the amount of funds available to it which it estimates it will expend under this part.

(2) The amounts available under paragraph (a)(1) of this section, or any amount which would be available to any other local educational agency if it were to submit an application meeting the requirements of this part, which the State educational agency determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies which the State educational agency determines will need and be able to use additional funds to carry out approved programs.

(20 U.S.C. 1411(g)(2).)

§ 121a.603 Hold harmless provision.

No State shall receive less than the amount it received under Part B of the Act for fiscal year 1977.

(20 U.S.C. 1411(a)(1).)

§ 121a.604 Within-State distribution: fiscal year 1978.

Of the funds received under § 121a.600 of this subpart by any State for fiscal year 1978:

(a) 50 percent may be used by the State in accordance with the provisions of § 121a.500 of Subpart F and § 121a.250 of Subpart C, and

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(b) 50 percent shall be distributed to local educational agencies in the State in accordance with § 121a.606.

(20 U.S.C. 1411(b)(1).)

§ 121a.605 Within-State distribution: fiscal year 1979 and after.

Of the funds received under §121a.600 by any State for fiscal year 1979, and for each fiscal year after fiscal year 1979:

(a) 25 percent may be used by the State in accordance with §121a.500 of Subpart F and §121a.250 of Subpart C, and

(b) 75 percent shall be distributed to the local educational agencies in the State in accordance with § 121a.606.

(20 U.S.C. 1411(c)(1).)

§ 121a.606 Local educational agency entitlements; formula.

From the total amount of funds available to all local educational agencies, each local educational agency is entitled to an amount which bears the same ratio to the total amount as the number of handicapped children aged three through 21 in that agency who are receiving special education and related services bears to the aggregate number of handicapped aged three through 21 receiving special education and related services in all local educational agencies which apply to the State educational agency for funds under Part B of the Act.

(20 U.S.C. 1411(d).)

§ 121a.607 Entitlements to jurisdictions.

(a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) Each jurisdiction under paragraph (a) of this section is entitled to a grant for the purposes set forth in section 601 (c) of the Act. The amount to which those jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 percent of the aggregate of the amounts available to all States under this part for that fiscal year. Funds appropriated for those jurisdictions shall be allocated proportionately among them on the basis of the number of children aged three through twenty-one in each jurisdiction. However, no jurisdiction shall receive less than $150,000, and other allocations shall be ratably reduced if necessary to insure that each jurisdiction receives at least that amount.

(c) The amount expended for administration by each jurisdiction under this section shall not exceed 5 percent of the amount allotted to the jurisdiction for any fiscal year, or $35,000, whichever is greater.

(20 U.S.C. 1411(e))

REPORTS

§ 121a.650 Annual report of children served—report requirement.

(a) The State educational agency shall report to the Commissioner no later than April 1 of each year the number of handicapped children residing in the State who are receiving special education and related services.

(b) The State educational agency shall submit the report on forms provided by the Commissioner.

(20 U.S.C. 1411(a)(3); 1417(b))

§ 121a.651 Annual report of children served—information required in the report.

(a) In its report, the State educational agency shall include a table which shows:

(1) The number of handicapped children receiving special education and related services on October 1 and on February 1 of that school year, and the average of the numbers for those two dates;

(2) The number of those handicapped children within each disability category, as defined in the definition of "handicapped children" in § 121a.4 of Subpart A; and

(3) The number of those handicapped children within each of the following age groups:

(i) Birth through two;

(ii) Three through five;

(iii) Six through seventeen; and

(iv) Eighteen through twenty-one.

(b) The State educational agency may not report a multi-handicapped child under more than one disability category.

(20 U.S.C. 1411(a)(3); 1411(a)(5)(A)(ii); 1418(b); 1417(b))

§ 121a.652 Annual report of children served—certification.

The State educational agency shall include in its report a certification signed by an authorized official of the agency that the information provided is an accurate and unduplicated count of handicapped children receiving special education and related services on the dates in question.

(20 U.S.C. 1411(a)(3); 1417(b))

§ 121a.653 Annual report of children served—criteria for counting children.

(a) The State educational agency may include handicapped children in its report who:

(1) Are enrolled in a school or program which provides them with both special education and related services; or

(2) Are enrolled in a school or program which provides them only with special education, if they do not need related services to assist them in benefitting from that special education.

(b) The State educational agency may not include handicapped children in its report who:

(1) Are not enrolled in a school or program which provides them with special education;

(2) Are not provided with a related service that they need to assist them in benefitting from special education; or

(3) Are counted by a State agency under section 121 of the Elementary and Secondary Education Act of 1956, as amended.

(20 U.S.C. 1411(a)(3); 1417(b))

§ 121a.654 Annual report of children served—other responsibilities of the State educational agency.

In addition to meeting the other requirements in this subpart, the State educational agency shall:

(a) Establish procedures to be used by local educational agencies and other educational institutions in counting the number of handicapped children receiving special education and related services;

(b) Set dates by which those agencies and institutions must report to the State educational agency to insure that the State complies with § 121a.650(a);

(c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made;

(d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required under this subpart; and

(e) Assure that documentation is maintained which enables the State and the Commissioner to audit the accuracy of the count.

(20 U.S.C. 1411(a)(3); 1417(b))

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5. A new Part 121m is added, to read as follows:

PART 121m—INCENTIVE GRANTS

Sec.

121m.1 Scope; purpose.
121m.2 General provisions regulations.
121m.3 Eligibility.
121m.4 Application.
121m.5 Application contents.
121m.6 Amount of grant.
121m.7 Participation by children not counted under Part B of the Act.
121m.8 Excess costs.
121m.9 Administration.
121m.10 Annual evaluation report.

AUTHORITY: Sec. 619 of Pub. L. 91-230, as amended, 89 Stat. 793 (20 U.S.C. 1419), unless otherwise noted.

§ 121m.1 Scope; purpose.

(a) This part applies to assistance under section 619 of the Act.

(b) The Commissioner awards a grant to each State which provides special education and related services to handicapped children ages three, four, or five.

(c) The State shall use funds provided under this part to give special education and related services to handicapped children in the age groups named in paragraph (b) of this section.

(d) The terms "special education" and "related services" have the meanings defined in § 121a.4 of this chapter.

(20 U.S.C. 1419(c))

Comment. The terms "related services" and "special education" are defined in § 121a.4 as follows:

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes school social work services, parent counseling and training, providing parents with information about child development, and assisting parents in understanding the special needs of their child.

The terms used in this definition are defined as follows:

(a) "Audiology" means:

(1) Identification of children with hearing loss;

(2) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(3) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

(4) Creation and administration of programs of hearing conservation; and

(5) Counseling and guidance of pupils, parents, and teachers.

(b) "Counseling services" means activities conducted by a certified counselor.

(c) "Early identification" means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(d) "Medical services" means procedures performed by a licensed physician to determine a child's need for special education and related services.

(e) "Occupational therapy" means services provided by a licensed occupational therapist.

(f) "Physical therapy", means activities for restoring damaged or atrophied muscles to improved use.

(g) "Psychological services" means:

(1) Administering psychological and educational tests;

(2) Interpreting the results;

(3) Gathering and interpreting information about child behavior;

(4) Working with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations; and

(5) Planning and managing a program of psychological services, including psychological counseling for children and parents.

(h) "Recreation" includes leisure education.

(i) "Speech pathology" means:

(1) The identification of children with speech or language disorders;

(2) Diagnosis and appraisal of specific speech or language disorders;

(3) Referral for medical or other professional attention necessary for the habilitation of speech or language disorders;

(4) Provision of speech and language habilitation; and

(5) Counseling and guidance of parents, children, and teachers.

(j) "Transportation" includes:

(1) Travel to and from school and between schools,

(2) Travel in and around school buildings, and

(3) Specialized equipment if required.

(20 U.S.C. 1402(17))

"Special education" means specially designed instruction, at no cost to the parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. The term includes speech pathology, audiology, occupational therapy, and physical therapy, if the service is considered "special education" rather than a "related service" under State standards. The terms in this definition are defined as follows:

(a) "At no cost" means that all specially designed instruction is provided without charge, but does not preclude incidental fees which are normally charged to non-handicapped students or their parents as a part of the regular education program.

(b) "Physical education", includes special physical education, adapted physical education and motor development, and means the development of physical and motor fitness, fundamental motor skills and patterns, body mechanics, individual and group games and sports, skills to include intramural and lifetime sports, dance and movement education.

(c) "Vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

(20 U.S.C. 1402(16).)

§ 121m.2 General provisions regulations.

Assistance under this part is subject to the requirements in Parts 100, 100b, 100c, and 121 of this chapter (including definitions and fiscal, administrative, property management, and other matters).

(20 U.S.C. 1419.)

§ 121m.3 Eligibility.

A State is eligible to receive a grant if the Commissioner has approved its annual program plan under Part 121a of this chapter.

(20 U.S.C. 1419(a).)

§ 121m.4 Application.

(a) To receive funds under this part, a State must submit an application to the Commissioner through its State educational agency.

(b) The application must be submitted as an attachment to the State's annual program plan submitted under Part 121a of this chapter. The Commissioner does not accept an application submitted after the date of that submission.

(20 U.S.C. 1419(b).)

§ 121m.5 Application contents.

An application must include the following material:

(a) A description of the State's goals and objectives for meeting the educational needs of handicapped children ages three through five. These goals and objectives must be consistent with the State's full educational opportunity goal under § 121a.23 of this chapter.

(b) A description of the objectives to be supported by the grant in sufficient detail to determine what will be achieved with the grant.

(c) A description of the activities to be supported by the grant. The activities must be related to the objectives under paragraph (b) of this section and must be described in sufficient detail to determine how the grant will be used.

(d) A description of the impact the proposed activities will have on handicapped children ages three through five. This description must include evidence that the proposed activities are of sufficient size, scope, and quality to warrant the amount of the expenditure. The application must indicate the number of children to be served and the number of handicapped children who will be benefitted indirectly. If children are to be benefitted indirectly, there must be a rationale that demonstrates the benefit.

(e) The number of local educational agencies or intermediate educational units, and the number and names of other agencies which will provide contractual services under the grant, the activities they will carry out, and the reasons for selecting these agencies.

(f) The dollar amounts that will be spent for each major activity described.

(g) A description of the procedures the State will use to evaluate the extent to which the activities met the objectives described under paragraph (b) of this section.

(20 U.S.C. 1419(b).)

§ 121m.6 Amount of grant.

(a) The amount of a grant is $300 multiplied by the average number of children ages three through five counted during the current school year under §§ 121a.650–121a.654 of this chapter.

(b) If appropriated funds are less than enough to pay in full the grants under this part, the amount of each grant is ratably reduced.

(20 U.S.C. 1419(a), (d).)

§ 121m.7 Allowable expenditures.

The State educational agency may use funds under this part to give special education and related services to handicapped children ages three through five who are not counted under §§ 121a.650–121a.654 of this chapter if the State educational agency assures that if those children have all of the rights afforded under part 121a of this chapter.

(20 U.S.C. 1419(c).)

Comment. In carrying out the provisions of this part some activities are considered particularly appropriate for the use of these funds: (1) Providing parents with child development information; (2) assisting parents in the understanding of the special needs of their handicapped child; (3) providing parent counseling and parent training, where

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appropriate, to enable parents to work more effectively with their needs; (4) providing essential diagnosis and assessment; (5) providing transportation essential to the delivery of services; (6) providing speech therapy, occupational therapy, or physical therapy.

§ 121a.8 Excess costs.

(a) If local or State funds are available to pay for the education of non-handicapped children of the same age as the handicapped children served with funds under this part, funds equal to that amount must also be made available for these handicapped children, and the State may only use the funds under this part to supplement the local and State funds.

(b) If no local or State funds are available for non-handicapped children of the same age, funds under this part may be used to pay for all of the special education and related services for the handicapped children.

(20 U.S.C. 1419(c).)

§ 121m.9 Administration.

(a) The State educational agency shall administer the funds provided under this part.

(b) The State educational agency may use the funds itself, or may contract with local educational agencies, intermediate educational units, or other agencies.

(20 U.S.C. 1419(a).)

§ 121m.10 Annual evaluation report.

(a) Within 90 days after the end of the grant period, the State educational agency shall submit a report to the Commissioner on the activities carried out under this part during that period.

(b) The report must contain:

(1) The results of the evaluation under § 121m.5(g), and

(2) In brief narrative form, the impact that these funds have had on the State's educational services to handicapped children ages three through five.

(20 U.S.C. 1419(c).)

[FR Doc.76-38207 Filed 12-29-76;8:45 am]

federal register

THURSDAY, DECEMBER 30, 1976

PART V



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

GRANTS FOR COMMUNITY HEALTH SERVICES

Acquisition and Modernization of Existing Buildings

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Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—GRANTS

PART 51c—GRANTS FOR COMMUNITY HEALTH SERVICES

Acquisition and Modernization of Existing Buildings

The Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby adopts a new Subpart E, entitled "Acquisition and Modernization of Existing Buildings," of Part 51c of Title 42, Code of Federal Regulations. For the reasons set out below, the Secretary has determined that public participation in rulemaking prior to issuance of these regulations and a delay in their effective date would be impractical and contrary to the public interest, and, accordingly, that good cause exists for making these regulations effective immediately on publication in the FEDERAL REGISTER.

Title V of Pub. L. 94–63 repealed section 314(e) of the Public Health Service Act and added a new section 330 thereto (42 U.S.C. 254c). The new section 330 continues the community health services program previously supported under section 314(e) but with a number of changes. Among the changes made in the community health services program by section 330 is the addition of authority for grantees to acquire and modernize existing buildings. Interim regulations implementing section 330 (42 CFR Part 51c Subparts A–D) were published on June 11, 1976 (41 FR 23852). However, the interim regulations do not implement the statutory authority to acquire and modernize existing buildings; in the preamble to the regulations, the Secretary stated that regulations implementing that authority would be issued in the near future. The regulations set forth below fulfill this commitment. They are being issued on an interim basis in order to provide a basis for, and clarify the responsibility of grantees under, grants which include acquisition and modernization authority at the earliest possible date.

Attention is called to the following features of the new Subpart E:

1. The regulations apply only to grants under section 330 which include the authority to acquire and/or modernize existing buildings. Not all section 330 grants will include such authority, and where it is not included the regulations do not apply.

2. Under the regulations, section 330 grants may include authority for (1) acquisition only, (2) modernization only, (3) both acquisition and modernization. All applications and grants will be subject to the general requirements set out in §§ 51c.503(a) and 51c.504(a); the specific requirements of §§ 51c.503 (b) and (c) and 51c.504 (b) and (c) will be applicable to a project according to whether it involves acquisition or modernization.

3. The definition of the term "modernization" has been adapted from the definition of the same term in Title XVI of the Act.

4. The requirements set forth in § 51c.504 are, in general, those applicable to the other acquisition and construction grant programs of the Public Health Service Act. One difference that should be noted is that the minimum standards for construction and equipment usually applicable to such programs have been modified to reflect only those standards relevant to an ambulatory health care facility.

5. Section 51c.505 provides that in determining the costs of the acquisition and modernization to be supported with grant funds, the Secretary will consider only those costs which are necessary for the operation of the approved project. This requirement expresses a policy that grant funds are not to be awarded to support costs which are unrelated to the purposes of section 330 of the Act.

6. Sections 330(c)(1) and (d)(2) provide that the costs of acquisition and modernization supported under section 330 may include the costs of amortizing the principal of, and interest on, loans. Section 51c.506 makes clear that these costs may include the costs of amortizing the principal of, and paying the interest on, pre-existing loans. Thus, where a grantee owns a building which it has mortgaged, grant funds may be used for payment of the principal and interest on the loan, provided that the building is being used for the purposes of the grant.

Interested persons are invited to submit written comments, suggestions or objections concerning the new Subpart E of Part 51c to the Director, Division of Policy Development, Bureau of Community Health Services, Health Services Administration, Room 6–17, 5600 Fishers Lane, Rockville, Maryland 20857, on or before March 1, 1977. All comments received in timely response will be considered, and will be available for public inspection at the above address during regular business hours. Following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 60 days following the close of the comment period. The regulations as set forth below will be applicable and effective December 30, 1976. Revisions thereto, although applicable to grants awarded pursuant to the regulations promulgated herein, will be applicable only with respect to activities conducted under those grants on and after the date the revisions become effective.

A new Subpart E of Part 51c of Title 42, Code of Federal Regulations, is adopted effective December 30, 1976.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Dated: October 4, 1976.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: December 22, 1976.

DAVID MATHEWS,
Secretary.

Title 42, CFR Part 51c is amended by adding a new Subpart E, to read as follows:

Subpart E—Acquisition and Modernization of Existing Buildings

Sec.
51c.501 Applicability.
51c.502 Definitions.
51c.503 Application.
51c.504 Project elements.
51c.505 Determination of cost.
51c.506 Use of grant funds.
51c.507 Facility which has previously received Federal grant.

AUTHORITY: Secs. 215, 330, Public Health Service Act (42 U.S.C. 216, 254c).

SUBPART E—ACQUISITION AND MODERNIZATION OF EXISTING BUILDINGS

§ 51c.501 Applicability.

The regulations of this subpart, in addition to the regulations of the other applicable subparts of this part, are applicable to grants under section 330 of the Act for project costs which include the cost of acquisition and/or modernization of existing buildings (including the cost of amortizing the principal of, and paying the interest on, loans).

§ 51c.502 Definitions.

As used in this subpart:

(a) "Equipment" means discrete items of property which are necessary for the functioning of the project with respect to which the grant is made, but does not include items which have an expected service life of one year or less or items consumed or expended in use, such as glassware, chemicals, fuel, drugs, paper, and disposable household items.

(b) "Existing building" means a completed or substantially completed structure and the realty on which it is located.

(c) "Modernization" means the alteration, repair, remodeling and/or renovation of a building (including the initial equipment thereof) which, when completed, will render the building suitable for use by the project for which the grant is made. It includes onsite improvements to the building's site which are essential to the use of the building for the project.

§ 51c.503 Application.

(a) *General requirements.* An application for a grant under this part for a project under Subparts B, C, or D which includes the acquisition and/or modernization of an existing building must include the following:

(1) A legal description of the site and a drawing showing the location of the building;

(2) A description of the architectural, structural, and other pertinent characteristics of the building sufficient to show that it is, or that it will be, after alteration and renovation or after modernization, suitable for use by the project;

(3) A detailed estimate of the cost of the proposed acquisition and/or modernization;

(4) A description of, and copies of any relevant documents concerning, any existing or proposed financing arrangements for the acquisition and/or modernization;

(5) The proposed schedule for acquisition and/or modernization and occupancy;

(6) An assessment of the environmental impact of the proposed acquisition and/or modernization as called for by section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(c)) and such information as may be necessary to comply with the National Historic Preservation Act of 1966 (16 U.S.C. 470(f));

(7) Reasonable assurances that—

(i) The applicant has or will obtain a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure for a period of not less than 20 years (in the case of interim facilities, for the period constituting the estimated useful life of such facilities) undisturbed use and possession for the purpose of the operation of the project;

(ii) The building will be used for the purposes for which the grant is made;

(iii) The building complies, or after alteration and renovation or after modernization will comply, with applicable State and local codes and with:

(A) "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" Number ANSI A117.1–1961 (R 1971), as modified by other standards prescribed by the Secretary or the Administrator of the General Services Administration. The applicant shall be responsible for conducting inspections to insure compliance with the specifications;

(B) The applicable standards set forth in Life Safety Code 1973, NFPA No. 101, which is hereby incorporated by reference and made a part hereof. Copies of such document are available for examination at the Department's and Regional Offices' Information Centers listed in 45 CFR 5.31 and may also be obtained from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210 for $3.00 per copy.

(iv) In the case of a public applicant with an approved project which involves the displacement of persons or businesses on or after January 2, 1971, whose real property has or will be taken, the applicant will comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646) and the applicable regulations issued thereunder (45 CFR Part 15).

(v) Sufficient funds will be available to meet any portion of the cost of acquiring and/or modernizing the building not borne by the grant under this part;

(vi) Sufficient funds will be available after acquisition and/or modernization of the building for effective use of the building for the purposes of the project;

(vii) The applicable requirements of the Flood Protection Act of 1973 have been met;

(8) Such other information as the Secretary may reasonably require.

(b) *Requirement for acquisition grants.* Except for a grant solely for amortization of principal and payment of interest on an existing loan, an application for a grant for a project which includes the acquisition of an existing building must include, in addition to the requirements of paragraph (a) of this section, evidence satisfactory to the Secretary that the applicant has explored other alternatives to the proposed acquisition (such as leasing facilities or acquiring other facilities in the project's catchment area) and that the proposed acquisition constitutes the soundest alternative from a financial and program standpoint.

(c) *Requirements for modernization grants.* In addition to the requirements of paragraph (a), an application for a grant for a project which includes modernization of an existing building must include the following:

(1) Plans and specifications for the proposed modernization which conform to the standards specified in § 51c.503(a)(7)(iii);

(2) Reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the modernization project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a et seq.) and will receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of 8 hours in any calendar day; and

(3) Copies of any construction and materials contracts already entered into for the proposed modernization.

§ 51c.504 Project elements.

(a) *General requirements.* A grantee which has received a grant under section 330 of the Act for a project which includes the acquisition and/or modernization of an existing building must:

(1) *Assurances.* Comply with the assurances provided pursuant to this subpart.

(2) *Approval of estimated cost.* Not enter into any contract for the acquisition and/or modernization funded under this subpart where the cost of such acquisition and/or modernization exceeds the estimates in the application, without the prior approval of the Secretary.

(3) *Non-default.* Make every effort to prevent any default on any loan secured by the building and, in the event of a default, promptly notify the Secretary of the default and make every effort on a timely basis to cure the default.

(b) *Requirements for acquisition grants.* In addition to the requirements of paragraph (a) of this section, a grantee which has received a grant under section 330 of the Act for a project which includes the acquisition of an existing building must:

(1) *Bona-fide sale.* Acquire or, in the case of a grant solely for amortization of principal and payment of interest on an existing loan, have acquired the existing building pursuant to a bona-fide sale involving an actual cost to the applicant and resulting in additional or improved facilities for the purposes of the project.

(2) *Standards of construction and equipment.* Except in the case of a grant solely for amortization of principal and payment of interest on an existing loan, obtain a determination by the Secretary that the facility conforms (or upon completion of any necessary alteration and renovation or modernization will conform) to the standards set forth in § 51c.503(a)(7)(iii) of this subpart before entering into a final or unconditional contract for the acquisition. Where the Secretary finds that exceptions to or modifications of any such standards would be consistent with the purposes of the Act and of the program, he may authorize such exceptions or modifications.

(3) *Financing.* Where the grantee will obtain a loan secured by the building in order to acquire the building, obtain such financing at the lowest current rate prevailing in the area for comparable loans on comparable facilities.

(c) *Requirements for modernization grants.* In addition to the requirements of paragraph (a) of this section, a grantee which has received a grant under section 330 of the Act for a project which includes the modernization of an existing building must:

(1) *Costs in excess of approved costs.* Finance all costs in excess of the estimated costs approved in the application and submit to the Secretary for prior approval any changes that substantially alter the scope of the function, utilities, or safety of the facility.

(2) *Competitive bids.* (i) Obtain the approval of the Secretary before the project is advertised or placed on the market for bidding; such approval must include a determination by the Secretary that the final plans and specifications conform to the standards set forth in § 51c.503(a)(7)(iii) of these regulations.

(ii) Except as otherwise provided by State or local law, contract for construction (including the purchase and installation of built-in equipment) on a lump sum fixed-price basis, and award contracts on the basis of competitive bidding obtained by public advertising with award of the contracts to the lowest responsive and responsible bidders. The provision for exceptions based on State and local law shall not be invoked to give local contractors or suppliers a percentage preference over non-local contractors bidding for the same contract. Such practices are precluded by this paragraph.

(3) *Construction contracts.* (i) Include the following conditions and provisions in all construction contracts for the modernization project:

(A) The provisions set forth in "DHEW Requirements for Federally Assisted Construction Contracts Regarding Labor Standards and Equal Employment Opportunities," Form DHEW 514 (rev. 7/76) (issued by the Office of Grants Administration Policy, U.S. Department of Health, Education, and Welfare) pertaining to the Davis-Bacon Act, the Contract Work Hours Standards Act, and the Copeland Act (Anti-Kickback) Regulations, except in the case of contracts in the amount of $2,000 or less;

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and pertaining to Executive Order 11246, 30 FR 12319 (September 24, 1965), as amended, relating to nondiscrimination in construction contract employment, except in the case of contracts in the amount of $10,000 or less;

(B) That the contractor shall furnish performance and payment bonds each of which shall be in the full amount of the contract price, and shall maintain, during the life of the contract, adequate fire, workmen's compensation, public liability, and property damage insurance: *Provided, however,* That in the case of a State or local unit of government which enters into a construction contract of less than $100,000, State or local provisions with respect to performance and payment bonds shall be deemed to meet the requirements of this paragraph; and

(C) That the Secretary shall have access at all reasonable times to work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

(ii) *Executive Order 11246.* Comply with the requirements of Executive Order 11246, 30 FR 12319 (September 24, 1965) as amended, relating to nondiscrimination in construction contract employment, and the applicable rules, regulations, and procedures prescribed pursuant thereto.

(4) *Modernization supervision.* Provide and maintain competent and adequate architectural or engineering supervision and inspection at the modernization site to insure that the completed work conforms with the plans and specifications.

(5) *Completion responsibility.* Complete the modernization in accordance with the grant application and the approved plans and specifications.

(6) *Progress reports.* Furnish progress reports and such other information concerning the modernization as the Secretary may require.

(d) The Secretary may at any time approve exceptions to the provisions of this section where he finds that such exceptions are not inconsistent with section 330 of the Act, other requirements of law, or the purposes of the program.

§ 51c.505 Determination of cost.

The cost of acquisition and/or modernization of existing buildings for which funds may be granted under this part will be determined by the Secretary, utilizing such documentation submitted by the applicant as the Secretary may prescribe (including the reports of such real estate appraisers as the Secretary may approve) and other relevant factors, taking into consideration only that portion of the existing building necessary for the operation of the approved project.

§ 51c.506 Use of grant funds.

Grant funds may be used to amortize the principal of or pay interest on a loan or mortgage on an existing building acquired under this part, including a building purchased by a grantee prior to the promulgation of this part, but only if the building is being used for the purposes of section 330 and complies with the applicable provisions of this subpart and only to the extent the Secretary finds such principal amounts and interest rates to be reasonable.

§ 51c.507 Facility which has previously received Federal grant.

No grant for the acquisition of a facility which has previously received a Federal grant for construction, acquisition, or equipment shall serve either to reduce or restrict the liability of the applicant or any other transferor or transferee from any obligation of accountability imposed by the Federal Government by reason of such prior grant.

NOTE.—Incorporation by reference provision approved by the Director of the FEDERAL REGISTER on September 15, 1976 and is on file in the Federal Register library.

[FR Doc.76-38206 Filed 12-29-76;8:45 am]

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THURSDAY, DECEMBER 30, 1976

PART VI



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

COASTAL ZONE MANAGEMENT

State Administrative Grants

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 923]

COASTAL ZONE MANAGEMENT PROGRAM

Administrative Grants

The National Oceanic and Atmospheric Administration (NOAA) hereby proposes to amend regulations pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, et seq.), hereinafter referred to as the "Act," for the purpose of defining the procedures by which coastal States can demonstrate satisfactory completion of the new requirements contained in subsections 306(a)(1) pertaining to the three planning requirements of subsections 305(b)(7), (8) and (9) and 306(c)(2)(B) of the Act. Demonstration of satisfactory completion of these new requirements, in addition to completion of existing requirements, is necessary in order for the Associate Administrator for the Office of Coastal Zone Management of the National Oceanic and Atmospheric Administration to grant approval to State coastal management programs pursuant to section 306 of the Act. NOAA also proposes to adopt regulations pursuant to section 312 of the Act for the purpose of defining review, refinement and termination procedures for approved coastal management programs.

These new requirements were contained in or amended by Pub. L. 94-370, signed July 26, 1976, which made substantial changes in the Act. Previously, final regulations detailing procedures by which States can qualify to receive implementation grants pursuant to section 306 of the Act were published as 15 CFR Part 923 on January 9, 1975.

To effect necessary changes to 15 CFR Part 923, NOAA proposes the following:

(1) Adding three new sections to Subpart B of Part 923 to address the three new planning requirements included as part of section 306(a)(1) of the Act;

(2) Renumbering the sections of Subparts C, D, E and F to accommodate the addition of three new sections to Subpart B;

(3) Revising the renumbered § 923.42 in Subpart D to address the new requirements regarding State-local consultation procedures contained in subparagraphs (i), (ii) and (iii) of subsection 306(c)(2)(B) of the Act;

(4) Adding a new Subpart G to address the requirements contained in section 312 of the Act. Included in Subpart G are guidelines addressing amendments or modifications to approved coastal management programs, pursuant to subsection 306(g) of the Act;

(5) Making a number of deletions, additions, and changes in section references to the text of Subparts A–F to conform to changes in the Act resulting from the 1976 amendments or changes resulting from additions to the Part 923 requirements.

NOAA proposes to amend Part 923 to add the word "islands" into relevant portions of § 923.11 of Subpart B. The purpose of this insertion is to conform to the amended language of subsection 304(1) of the Act, which states in part:

> The term 'coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches.

NOAA proposes to amend Part 923 to add new §§ 923.18, 923.19 and 923.20 to address the approval requirements for the new planning elements of subsection 306(a)(1) of the Act relating to shorefront access, energy facility planning, and shoreline erosion. The details of these requirements are contained in proposed regulations amending 15 CFR 920 to add §§ 920.17, 920.18 and 920.19. These proposed regulations were published in the FEDERAL REGISTER on December 6, 1976 and are incorporated into these proposed regulations by reference. In reviewing State management programs for approval pursuant to section 306 of the Act, particular attention will be given to insuring that means have been developed to provide for:

(1) Implementation of policies or actions to ensure access or protection, as appropriate, for certain shorefront areas;

(2) Implementation of policies or actions to anticipate and manage impacts from energy facilities locating in or affecting a State's coastal zone; and

(3) Implementation of policies or actions to address shoreline erosion.

NOAA proposes to revise § 923.42 (as redesignated) of Subpart D to address the new requirements of subparagraphs (i), (ii) and (iii) of section 306(c)(2)(B) of the Act which deal with State-local consultation procedures during program implementation. Paragraphs (b) and (c) of § 293.42 contain the substance of these requirements which call for the incorporation of the following into State management programs:

(1) A procedure whereby local governments with zoning authority are notified to State management program decisions that may conflict with local zoning ordinances, decisions or other actions. The purpose of such notification is to enable local governments to determine if a conflict may occur, and to afford local governments an opportunity to comment on the proposed State management program decision;

(2) A provision indicating how the State agency will consider local comments and circumstances under which a State agency will consider holding public hearings;

(3) A provision indicating the procedures to be followed by a State agency with respect to implementation of a management program decision following receipt of local government comments; and

(4) A provision indicating what action the State agency will take in the event a local government pursues, during the thirty day comment period, an action that would conflict or interfere with the State's proposed management program decision.

Also included in this section are definitions of the terms "management agency," "management program decision," "conflict," "local zoning ordinance, decision or other action," "written comments," and "waiver" which are to be utilized for purposes of the State-local consultation mechanism required by subsection 306(b)(2)(B) of the Act.

Prior to issuance of these proposed regulations, NOAA distributed widely a draft paper on subsection 306(c)(2)(B) of the Act. A number of commentators indicated that it was unclear in the definition of management program decision whether individual permits would be subject to the State-local consultation procedure. The proposed regulations explicitly provide that individual permit or regulatory actions taken pursuant to major policy and planning decisions (which are subject to State-local consultation) are not subject to the State-local consultation mechanism. A number of reviewers indicated that the definition in the draft paper of what would constitute a local zoning ordinance, decision or other action was too broad. In response to these comments, the proposed regulations define this term as any local government land or water use action which regulates or restricts the construction, alteration or use of land, water or structures thereon or thereunder, and including specifically zoning ordinances, variances, special exceptions, master plans and official maps. State commentators objected to the provision in the draft paper that required provision in management programs requiring local governments to notify the State agency in writing of any actions taken by the local government during the thirty day comment period which would conflict or interfere with the proposed State management program decision. The proposed regulations encourage but do not require inclusion of such a provision in a State's management program.

NOAA proposes to add a new Subpart G—Review of Approved Management Programs to address the review, alteration and termination procedures of section 312 of the Act and the amendment procedures of subsection 306(g) of the Act.

Section 923.71 of Subpart G deals with the process of continuing review of approved management programs. The basic purposes of this review are to:

(1) Reassess and reconfirm the basic soundness and viability of a State's management program, given State and national goals and objectives;

(2) Evaluation State progress towards achievement of specific management policies and objectives; and

(3) Provide an opportunity for amendment or alteration, if appropriate, of a State's management program.

In reviewing performance, the Associate Administrator's primary concern will be to assess State adherence to the policies and programs contained in the approved management program and the fulfillment of work tasks contained in a State's grant application.

Section 923.72 deals with procedures for amending, pursuant to subsection 306(g) of the Act, an approved coastal management program. Amendments or modifications are defined as changes relating to (a) basic program goals, objectives or policies, (b) changes in techniques (for achieving those goals, objectives or policies) that result in an environmental impact significantly different from previously approved techniques, or (c) result in significantly altered intergovernmental relationship not reviewed by and/or concurred with by affected agencies or units of government at the time of proposed modification. Amendments will be justified if they are in response to changes in coastal zone needs, programs, issues, priorities, social or political expectations or other factors bearing on the relevancy and viability of a State's coastal management program, provided further that such amendments are consistent with the findings and policies of sections 302 and 303 of the Act and with the requirements of section 306 of the Act. A State may request a program amendment at any time during program administration when such amendment is deemed necessary by the State.

State management programs that have been or will be approved, pursuant to section 306 of the Act, prior to October 1, 1978 without meeting the requirements of subsections 305(b)(7), (8) and (9) will need to be amended to incorporate these three planning requirements into their approved management programs. Paragraphs (c) and (d) of § 923.72 detail the amendment procedures with respect to these three planning requirements.

Section 923.73 deals with procedures for refining an approved management program. Refinements which do not require program amendment are changes relating to programs or techniques for attaining particular goals or objectives or for implementing particular policies (but not changes in these goals, objectives, or policies themselves). In addition, these proposed refinements will not (a) have an environmental impact significantly different from previously approved programs or techniques and (b) will not significantly alter previously approved intergovernmental arrangements with other State agencies, local governments and/or Federal agencies, unless the affected agencies/units of government concur in these refinements and must have the concurrence of the Associate Administrator.

Section 923.74 provides the circumstances under which and the procedures by which the Associate Administrator may terminate or withdraw section 306 funding, pursuant to subsection 312(b) of the Act. In addition to the provisions contained in the Grants Manual relating to termination or withdrawal of funding awarded pursuant to section 306, the Associate Administrator may recommend to the NOAA Grants Office that grant funding pursuant to section 306 be terminated or withdrawn if the Associate Administrator determines that:

(1) A State has failed or is failing to adhere to and was or is not justified in deviating from its approved management program; and

(2) That State has been provided notice of intent to terminate or withdraw funding; and

(3) That State has been provided an opportunity to demonstrate adherence or justification for program alteration or modification.

Paragraph (b) of § 923.74 provides information as to the content of notice of proposed termination or withdrawal of funding from the Associate Administrator as well as the time frame for and opportunities on the part of the State to present evidence of adherence or justification for program modification.

Prior to issuance of these proposed regulations, NOAA distributed widely a draft paper on section 312 of the Act. A number of State reviewers commented on the desirability of integrating review requirements into existing reporting procedures. This comment has been accompanied in the proposed regulations by relying on existing quarterly report and grant application procedures rather than requiring a separate document for program performance review purposes. Additional comments received from States indicated that the questions posed in the draft paper were too oriented towards national considerations and should be focused more on the specifics of State programs. This shift in emphasis to the specifics of State programs is reflected in the language of § 923.71.

NOAA proposed to delete references to preliminary approval in §§ 923.2 and 923.3 of Subpart A and in § 923.30 (as redesignated) in Subpart C. Requirements for preliminary approval pursuant to section 305(d) of the Act are addressed in Subpart E—Preliminary Approval of Part 920. Proposed regulations for Subpart E of Part 920 were published in the FEDERAL REGISTER on December 6, 1976.

NOAA has reviewed these proposed regulations pursuant to the National Environmental Policy Act of 1969 and has determined that promulgation of these regulations will have no significant impact on the environment.

Compliance with Executive Order 11821. The economic and inflationary impact of these proposed regulations has been evaluated in accordance with OMB Circular A-107 and it has been determined that no major inflationary impact will result.

NOAA invites public comment on these proposed regulations so that they may be modified, where necessary and legally permissible, to reflect fully the needs of the public and parties affected by the provisions.

Written comments should be submitted to the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Page Building 1, 3300 Whitehaven Street, NW., Washington, D.C. 20235 on or before February 3, 1977. Following the close of the comment period, and after review of comments, these proposed regulations may be amended to reflect necessary and permissible changes. Final regulations will then be published in the FEDERAL REGISTER.

Dated: December 27, 1976.

R. L. CARNAHAN,
Deputy Assistant Administrator for Administration.

In consideration of the foregoing, 15 CFR Part 923 is proposed to be amended as follows:

The Table of Contents is revised as follows:

PART 923—COASTAL ZONE MANAGEMENT PROGRAM ADMINISTRATIVE GRANTS

Subpart A—General

Sec.
923.1 Purpose.
923.2 Definitions.
923.3 Submission of management programs—general.
923.4 Evaluation of management programs—general.
923.5 Environmental impact assessment.

Subpart B—Land and Water Uses

923.10 General.
923.11 Boundary of the coastal zone.
923.12 Permissible land and water uses.
923.13 Areas of particular concern.
923.14 Guidelines on priorities.
923.15 National interest facilities.
923.16 Area designation for preservation and restoration.
923.17 Local regulations and uses of regional benefit.
923.18 Shorefront access planning.
923.19 Energy facility planning.
923.20 Shoreline erosion/mitigation planning.

Subpart C—Authorities and Organization

923.30 General.
923.31 Means of exerting State control over land and water uses.
923.32 Organizational structure to implement the management program.
923.33 Designation of a single agency.
923.34 Authorities to administer land and water uses, control development and resolve conflicts.
923.35 Authorities for property acquisition.
923.36 Techniques for control of land and water uses.

Subpart D—Coordination

923.40 General.
923.41 Full participation by relevant bodies in adoption of management programs.
923.42 Consultation and coordination with other planning.

Subpart E—Miscellaneous

923.50 General.
923.51 Public hearings.
923.52 Gubernatorial review and approval.
923.53 Segmentation.
923.54 Applicability of air and water pollution control requirements.

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Subpart F—Applications for Administrative Grants

Sec.
923.60 General.
923.61 Administration of the program.
923.62 State responsibility.
923.63 Allocation.
923.64 Geographical segmentation.
923.65 Application for the initial administrative grant.
923.66 Approval of applications.
923.67 Amendments.
923.68 Applications for second and subsequent year grants.

Subpart G—Review of Approved Management Programs

923.70 General.
923.71 Review of performance.
923.72 Amendments or modifications to approved management programs.
923.73 Refinements to approved management programs.
923.74 Termination or withdrawal of administrative funding.

AUTHORITY: (Sec. 306 and 312, Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280, as amended by Pub. L. 94-370, 90 Stat. 1013).

Subpart A—General

Subpart A is amended as follows:

§ 932.1 [Amended]

(1) In subparagraph (b), the reference to "section 309 of the Act" should be changed to "section 312 of the Act".

§ 923.2 [Amended]

(2) Delete the definition of preliminary approval.

§ 923.3 [Amended]

(3) Delete subparagraph (b) which refers to preliminary approval.

(4) Redesignate subparagraph (c) as subparagraph (b).

§ 923.4 [Amended]

(5) In subparagraph (a), delete "national policies declared in section 303 of the Act" and substitute "national findings and policies contained in sections 302 and 303 of the Act".

Subpart B—Land and Water Uses

Subpart B is amended as follows:

§ 923.11 [Amended]

(1) In subparagraph (a)(3), insert the word "islands," between the words "of" and "transitional" so that the sentence reads in full:

(3) An identification of islands, transitional and intertidal areas, salt marshes, wetlands, and beaches.

(2) In subparagraph (b)(3), insert the word "islands," between "include" and "transitional" so that the sentence reads in full:

(3) A State's coastal zone must include islands, transitional and intertidal areas, salt marshes, wetlands, and beaches.

§ 923.12 [Amended]

(3) In subparagraph (b)(2)(iii), change "§ 923.17" to "§ 923.20" so that the sentence reads in full:

The analyses which the State will undertake pursuant to this section should also be useful in satisfying the requirements of §§ 923.13 through 923.20.

§ 923.13 [Amended]

(4) In subparagraph (b), after "Useful background information concerning the requirement appears in 15 CFR 920.13, which is incorporated here by reference.", insert the following:

States are advised to view this requirement in light of the specific requirements contained in §§ 923.18 through 923.20 and, to the extent possible, to incorporate these requirements into the analyses undertaken to fulfill the requirements of this section.

§ 923.14 [Amended]

(5) In subparagraph (b), after "The program should establish special procedures for evaluating land use decisions, such as the siting of regional energy facilities, which may have a substantial impact on the environment.", insert the following:

With specific regard to regional energy facilities, attention is drawn to § 923.19.

§ 923.15 [Amended]

(6) In subparagraph (b), revise statutory citation so it conforms to language in subsection 306(c)(8) of the Act, as amended. Therefore delete citation and substitute the following:

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that • • • (t)he management program provides for adequate consideration in planning for, and in the siting of, facilities (including energy facilities in, or which significantly effect, such states' coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has given such consideration to any applicable interstate energy plan or program.

(7) In subparagraph (b), after "The States should also consult with adjacent and nearby States • • • to determine how regional needs may be met in siting facilities.", add the following:

Where interstate energy plans or programs exist, States should specifically indicate the consideration given these plans and programs in the development of the State's management program.

(8) In the Table entitled "Requirements which are other than local in nature," under "Cognizant Federal Agencies" delete "Atomic Energy Commission" and substitute "Energy Research and Development Administration, Nuclear Regulatory Commission."

§ 923.16 [Amended]

(9) In subparagraph (b)(1), after the first sentence, add the following:

This requirement will also be closely linked to that contained in § 923.20 if, as part of that latter requirement, States choose to develop a procedure for designating erosion areas for restoration or preservation purposes.

(10) Section 923.18 is added to read as follows:

§ 923.18 Shorefront access planning.

(a) *Requirement.* In order to fulfill the requirement contained in subsection 305(b)(7) of the Act, the management program must show evidence that the State has developed a planning process that can identify public shorefront areas appropriate for protection and/or increased access. This process should include, at a minimum, those items contained in § 920.17:

(1) A definition of the term "beach" and identification of public areas subject to the definition;

(2) A procedure for assessing public areas requiring access and/or protection as part of the process outlined in section 923.13;

(3) Development of State policies pertaining to shorefront access and/or protection;

(4) A method for designation, if appropriate, of shorefront areas as areas of particular concern (either as a class or as specific sites) for protection and/or access purposes;

(5) A mechanism for continuing refinement and implementation of necessary management techniques; and

(6) An identification of existing programs that can be applied to meet management needs.

(b) *Comment.* Statutory Citation: Subsection 305(b)(7):

The management program for each coastal state shall include • • • (a) definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

Useful background information concerning this requirement appears in § 920.17, which is incorporated herein by reference. The basic purpose of developing and applying this planning process is to express some measure of State concern with respect to additional access or protection needs for public beaches and other public coastal areas of environmental, recreational, historic, esthetic, ecological or cultural value and to include these areas within the purview of the State's management program. Therefore, in reviewing the management program, particular attention will be directed towards development by the State of implementing policies or actions to insure access or protection, as appropriate, for these areas.

(11) Section 923.19 is added to read as follows:

§ 923.19 Energy facility planning.

(a) *Requirement.* In order to fulfill the requirements contained in subsection 305(b)(8) of the Act, the management program must show evidence that the State has developed a planning process that can anticipate and manage the impacts from energy facilities in or affecting the State's coastal zone. This process should include, at a minimum, those items contained in § 920.18:

(1) A means of identifying energy facilities which are likely to be located

in or which may significantly affect the coastal zone;

(2) A procedure for assessing impacts for such facilities;

(3) Development of State policies and other techniques for the management of energy facility impacts; and

(4) A mechanism for coordination and/or cooperative working arrangements, as appropriate, between the State coastal management agency and other relevant State, Federal and local agencies involved in energy facility planning and management.

(b) *Comment.* Statutory Citation: Subsection 305(b)(8):

The management program for each coastal state shall include • • • (a) planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zones, including, but not limited to, a process for anticipating and managing the impacts from such facilities.

Useful background information concerning this requirement appears in § 920.18, which is incorporated herein by reference. The purpose of identifying energy facilities which may significantly affect the coastal zone is to assure the consideration of energy facilities as land or water uses having direct and significant impact on coastal waters and therefore subject to the management program. Accordingly, in reviewing the management program, particular attention will be directed towards development by the State of implementing policies or actions to anticipate and manage impacts from energy facilities locating in or affecting a State's coastal zone.

(12) Section 923.20 is added to read as follows:

§ 923.20 Shoreline erosion/mitigation planning.

(a) *Requirement.* In order to fulfill the requirements contained in subsection 305(b)(9) of the Act, the management program must show evidence that the State has developed a planning process that can assess the effects of shoreline erosion and evaluate ways to mitigate, control or restore areas adversely affected by erosion. This process should include, at a minimum, those items contained in § 920.19:

(1) A method for assessing the effects of shoreline erosion;

(2) A procedure for handling erosion effects;

(3) Development of State policies pertaining to erosion;

(4) A method for designation, if appropriate, of areas for erosion control, mitigation and/or restoration as areas of particular concern (as part of the process outlined in § 923.13) or as areas for preservation or restoration (as part of the process outlined in § 923.16); and

(5) A mechanism for continuing refinement and implementation of necessary management policies and techniques.

(b) *Comment.* Statutory Citation: Subsection 305(b)(9):

The management program for each coastal state shall include • • • (a) planning process for (A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of, such erosion, and to restore areas adversely affected by such erosion.

Useful background information concerning this requirement is contained in § 920.19, which is incorporated herein by reference. The basic purpose in developing a process to evaluate and, if appropriate, control and mitigate shoreline erosion is to assure consideration of erosion impacts within the purview of a State's management program. Therefore, in reviewing the management program, particular attention will be directed towards development by the State of implementing policies or actions to address shoreline erosion.

Subpart C—Authorities and Organization

Subpart C is revised as follows:

(1) Section 923.20 is redesignated § 923.30 and is revised as follows:

(2) Delete the following sentence in this section which refers to preliminary approval:

"Preliminary approval, however, can be given to a proposal which will require subsequent legislative or executive action for implementation and eligibility for administrative grants under section 306."

(3) Section 923.21 is redesignated § 923.31 and is revised as follows:

(4) In subparagraph (b), change references to "§§ 923.24, 923.25, and § 923.26" to "§§ 923.34, 923.35 and § 923.36."

(5) In subparagraph (b) change reference to section "§ 923.21" to "§ 923.31."

(6) In subparagraph (b) next to last sentence, change reference to "§ 923.24 and § 923.25" to "§ 923.34 and § 923.35."

(7) Section 923.22 is redesignated § 923.32 and revised as follows:

(8) In paragraph (a) change reference to "§ 923.21" and "§ 923.31."

(9) In subparagraph (b), change reference to "§ 923.31" to "§ 923.41."

(10) In subparagraph (b), change reference to "§ 923.23" to "§ 923.33."

(11) Section 923.23 is redesignated § 923.33 and is revised as follows:

(12) In subparagraph (b) redesignation of § 92333 change reference to "§ 923.22" to "§ 923.32."

(13) Section 923.24 is redesignated § 923.34 and is revised as follows:

(14) In subparagraph (b), change reference to "§§ 923.21, 923.25, and § 923.26" to "§§ 923.31, 923.35 and § 923.36."

(15) Section 923.26 is redesignated § 923.37 and is revised as follows:

(16) In subparagraph (b)(5), change references to "sections 923.21, 923.24 and 923.25". to "sections 923.31, 923.34 and 923.35."

Subpart D—Coordination

Subpart D is revised as follows:

(1) Section 923.30 is redesignated § 923.40.

(2) Section 923.31 is redesignated § 923.41 and is revised as follows:

(3) In subparagraph (a)(2), change reference to "§ 923.32" to "§ 923.42."

(4) In subparagraph (b)(2)(1), change reference to "§ 923.32" to "§ 923.42."

(5) In subparagraph (b)(2)(i)(a), change reference to "§ 923.41" to "§ 923.51."

(6) Section 923.32 is redesignated as § 923.42 and is revised as follows:

§ 923.42 Consultation and coordination with other planning.

(a) *Requirement.* In order to fulfill the requirements contained in section 306(c)(2) of the Act, the management program must include:

(1) An identification of those entities mentioned which have plans in effect on January 1 of the year submitted;

(2) A listing of the specific contacts made with all such entities in order to coordinate the management program with their plans;

(3) An identification of the conflicts with those plans which have not been resolved through coordination and continuing actions contemplated to attempt to resolve them; and

(4) Indication that a regular consultation mechanism has been established and is active to undertake coordination between the State management agency designated pursuant to § 923.33 and the entities in paragraph (B) of section 306(c)(2), especially with respect to local governments with zoning authority.

(b) *Comment.* Statutory Citation: Section 306(c)(2):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find • • • that the State has:

(A) Coordinated its program with local, areawide and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) Established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title; except that the Secretary shall not find any mechanism to be "effective" for purposes of this subparagraph unless it includes each of the following requirements:

(1) Such management agency is required, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other ac-

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tion, to send a notice of such management program decision to any local government whose zoning authority is affected thereby.

(ii) Any such notice shall provide that such local government may, within the 30-day period commencing on the date of receipt of such notice, submit to the management agency written comments on such management program decision, and any recommendation for alternatives thereto, if no action is taken during such period which would conflict or interfere with such management program decision, unless such local government waives its right to comment.

(iii) Such management agency, if any such comments are submitted to it, within such 30-day period, by any local government—

(I) is required to consider such comments,

(II) is authorized, in its discretion, to hold a public hearing on such comments, and

(III) may not take any action within such 30-day period to implement the management program decision, whether or not modified on the basis of such comments.

Relevant background information on this requirement appears in § 920.55(f), and is incorporated by reference herein. While the State will exercise its authority over land and water uses of Statewide significance in the coastal zone by one or more of the techniques set forth in § 923.36, the State management program must be coordinated with existing local, areawide and interstate plans applicable to portions of the coastal zone. It should be noted that this section does not demand compliance of the State program with local plans, but the process envisioned should enable a State not only to avoid conflicts and ambiguities among plans and proposals, but also to draw upon the planning capabilities of a wide variety of governments and agencies. Coordination implies a high degree of cooperation and consultation among agencies, as well as a mutual willingness on the part of the participants to accommodate their activities to the needs of the others in order to carry out the public interest. Perceptions of the public good will differ and it is recognized that not all real or potential conflicts can be resolved by this process. Nevertheless, it is a necessary step. Effective cooperation and consultation must continue as the management program is put into operation so that local governments, interstate, regional and areawide agencies can continue to participate in the carrying out of the management program. The "plans" referred to in (A) shall be considered those which have been officially adopted by the entity which developed them, or which are commonly recognized by the entity as a guide for action. The list of relevant agencies required under § 923.41 will be of use in meeting this requirement. It will enable the State to identify those entities mentioned in (A) which have such plans and to provide evidence that coordination with them has taken place. In developing and implementing those portions of the program dealing with power transmission lines, pipelines, interstate transportation facilities which will significantly impact on neighboring States of a region, particular attention should be paid to the requirements of this section and to that of § 923.20.

(c) The purposes of the State-local consultation mechanism contained in subparagraphs (i), (ii) and (iii) of section 306(c)(2)(B) of the Act are:

(1) To provide explicitly in a State's management program for a mechanism to inform local governments with zoning authority of management program plans or policies which could conflict with such zoning authority;

(2) To allow local governments an opportunity to comment on State management program plans and policies which conflict with local government zoning;

(3) To require the State management agency to consider such comments, during which time it may hold a public hearing (at its discretion) on the matter, and to refrain from taking action to implement the proposed management program plan or policy during the comment period; and

(4) To permit the State management agency to implement the management program decision in the event the local government waives its right to comment, concurs with the proposed action, or takes action during the comment period which conflicts with or interferes with the proposed State management program decision (in which case, a local government forfeits its right to comment).

(c) Coastal zone management development and implementation is a dynamic process. Congress recognized that an effective means for pursuing this process required not only increased efforts by coastal State governments, but also participation by local governments. In its amendment of section 306(c)(2)(B) of the Act, Congress specifically developed a provision that major State policies and plan decisions to be implemented pursuant to an approved State management program require notice to local governments when such decisions could conflict with local government zoning. For the purposes of this section, the following terms shall have the following meanings:

(1) "Management agency" refers to the State agency designated by the Governor pursuant to § 923.33 to receive and administer grants for implementation of the management program and to any other State agency responsible for implementing a management program decision.

(2) "Management program decision" refers to major policy and planning elements such as the determination of permissible land and water uses, the designation of geographic areas of particular concern, the development of guidelines or standards regarding priority of uses in particular areas, the decision to acquire property for public uses, etc. Individual permit or regulatory actions taken pursuant to these major decisions are not subject to the State-local consultation mechanism. Examples of what might constitute a major State management program decision include, but are not limited to:

(i) A State management agency decision that a certain class of wetlands may not be filled and/or developed;

(ii) A decision prohibiting the development of non-water dependent facilities on certain shoreline areas;

(iii) A decision requiring that new development on the shoreline may not interfere with existing public rights of access to the sea, and that new developments of a certain magnitude are required to provide public access as part of the development; or

(iv) A decision to acquire urban shoreland for recreational purposes.

(3) "Conflict" (with a local zoning ordinance, decision or other action) shall be determined by the affected local government as a result of the notification procedure. A State management program decision may be considered to be in conflict with a local zoning ordinance if the decision is incompatible with or contradictory to that ordinance. However, a State management program decision that consists of additional but different requirements shall not be considered to be in conflict with a local zoning ordinance, decision or other action;

(4) "Local zoning ordinance, decision or other action" refers to any local government land or water use action which regulates or restricts the construction, alteration or use of land, water or structures thereon or thereunder. These actions include zoning ordinances, variances, special exceptions, master plans and official maps. Accordingly, a local government has the right to comment on a State management program decision when such decision conflicts with the above specified actions;

(5) "Written comments" from local governments shall be submitted in writing to the State management agency and may include recommendations for alternative actions and/or a request for a public hearing on the management program decision. The receipt of written documents during the 30-day comment period prohibits a State agency from taking any action during such period to implement the management program decision;

(6) "Waiver" of the right to a local government to comment (thereby permitting a State agency to proceed immediately with implementation of the management program decision) shall result following State agency receipt of a written statement on the part of a local government waiving its desire to comment, a written statement of concurrence with the management program decision, or a written statement indicating that the local government intends to take action which conflicts or interferes with the management program decision. A waiver of the right to comment or a waiver indicating concurrence may also be presumed if the local government fails to submit written comments to the State agency within the 30-day comment period. OCZM strongly encourages local government not to effect a waiver by silence as this process causes needless delay in implementing a management program decision.

(d) The State-local consultation mechanism called for in section 306(c)(2)(B) of the Act must be incorporated into each coastal State's management program.

(1) State programs must detail a procedure whereby local governments with zoning authority are notified of management program decisions which will affect their jurisdiction. For purposes of this consultation mechanism, local governments are those defined in section 304 (10) of the Act which have some form of zoning authority. Such notice must be in writing and must inform the local government of its right to submit comments to the State management agency in the event the proposed State management program decision conflicts with a local zoning ordinance decision or other action.

The purpose of this notice and comment procedure is to enable State agencies and local governments to achieve a consensus, when appropriate and possible, with respect to proposed State land and water use regulatory and acquisition decisions. Local governments are encouraged to submit comments to State agencies with the objectives of attempting to assure that policies and plans developed at the State level have sufficient flexibility to accommodate the various and diverse needs of coastal communities. For example, in response to a State agency management decision proposing to prohibit development of non-water dependent commercial uses on the shoreline within the jurisdiction of a local government, that local government might comment that the restriction conflicts with an urban waterfront zoning ordinance that selectively permits such development as a means of promoting the economic viability of a redeveloping area. Based on such comment, the State management agency might be persuaded to modify its original proposal.

(2) State management programs must also provide that the State agency adequately consider all comments received by local governments. This consideration shall include a written response by the State agency to the local government within a reasonable period of time following receipt of local comments as to the outcome of the State agency's consideration of local comments. Such consideration may include a decision, at the discretion of the State agency, to hold a public hearing. State management programs should include a provision indicating the criteria by which the State management agency will determine to hold a public hearing. The State management program also must set forth public notice and other hearing procedure requirements. In the event that a local government requests a public hearing and such a request is granted, the State management program may provide or require that the local government requesting such hearing shall provide the required public notice and/or meeting facility. In the event a public hearing is held, the State agency shall provide written response to the affected local government, within a reasonable period of time and prior to implementation of the management program decision, on the results of the State agency's consideration of public hearing comments.

(3) State management programs shall include a provision indicating the procedures to be followed by a State agency regarding implementation of a management program decision following receipt of a local government's comments. The effect of a local government's submission of comments to a State agency is to stay the implementation of the management program decision during the 30-day comment period. OCZM encourages State agencies to extend the period of non-implementation for as long as it takes to consider adequately an affected local government's comments. This recommended delay should include the period during which a hearing is held.

(4) State management programs are encouraged to include a provision regarding notification in writing by local governments to the appropriate State agency of any actions taken during the 30-day comment period which conflict or interfere with the proposed management program decision. State management programs also should include a provision for local governments to waive in writing their right to comment. The implementation of a management program decision only need be delayed when a local government submits comments indicating conflict with a local zoning ordinance or suggesting modifications to a proposed State action which conflicts with this zoning authority. In those instances where the local government chooses to waive its opportunity to comment, or concurs with the State management decision, there is no need for further delay in implementing the proposed State management decision. In order to apprise the State agency of these views, local governments are strongly encouraged to affirmatively transmit such views in writing to the State agency (using the procedure described in the State's management program). Otherwise, the State agency will be compelled to await unnecessarily the expiration of the 30-day comment period before proceeding with the proposed decision. A local government forfeits its right to comment on a proposed State agency decision and its right to request a public hearing where the local government takes action during the comment period which conflicts or interferes with the proposed management decision. Where a local government intends to take such conflicting or interfering action, OCZM strongly encourages local governments to so advise the State agency in writing.

(5) State management programs shall indicate what action the State agency will take in the event a local government pursues a conflicting or interfering action. States are encouraged to develop their responses to conflicting local actions within the framework of sections 306(d)(1) and 306(e)(2) of the Act, and the related requirements of §§ 923.34 and 923.17. Section 306(d)(1) of the Act provides, inter alia, that the State has the management authority to resolve conflicts among competing uses. Section 306(e)(2) of the Act requires that the management program provide for a method of assuring local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land or water uses of regional benefit.

Subpart E—Miscellaneous

Subpart E is revised as follows:

(1) Section 923.40 is redesignated § 923.50.

(2) Section 923.41 is redesignated § 923.51.

(3) Section 923.42 is redesignated § 923.52.

(4) Section 923.43 is redesignated § 923.53.

(5) Section 923.44 is redesignated § 923.54.

Subpart F—Applications for Administrative Grants

Subpart F is revised as follows:

(1) Section 923.50 is redesignated § 923.60.

(2) Section 923.51 is redesignated § 923.61 and is revised as follows:

§ 923.61 [Amended]

(3) Change address listed in this section to:

Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 3300 Whitehaven St., N.W., Washington, D.C. 20235.

(4) Section 923.52 is redesignated § 923.62.

(5) Section 923.53 is redesignated § 923.63 and is revised as follows:

(6) Change reference to "§ 923.55(e)" to "§ 923.65(e)."

(7) Section 923.54 is redesignated § 923.64 and is revised as follows:

(8) Change reference to "§ 923.43" to "§ 923.53."

(9) Section 923.55 is redesignated § 923.65 and is amended as follows:

§ 923.65 [Amended]

(10) In subparagraph (d), change reference to "Form CD–292" to "Form SF–424."

(11) In subparagraph (e), change reference to "Form CD–292" to "Form SF–424."

(12) In subparagraph (e)(3)(iii), change reference to "Form CD–292" to "Form SF–424."

(13) Section 923.56 is redesignated § 923.66.

(14) Section 923.57 is redesignated § 923.67.

(15) Section 923.58 is redesignated § 923.68 and is amended as follows:

§ 923.68 [Amended].

(16) In subparagraph (a)(1), change reference to "§ 923.55" to § 923.65."

(17) In subparagraph (a)(2), change reference to "Section 309(a)" to "Section 312(a) of the Act."

A new Subpart G is added as follows:

Subpart G—Review of Approved Management Programs

§ 923.70 General.

(a) This section establishes the procedures by which approved management programs will be reviewed annualy pur-

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suant to section 312 of the Act. This section also established the criteria and procedures by which funding for approved management programs may be terminated or withdrawn, also pursuant to section 312 of the Act. Finally, this section establishes the guidelines by which amendments or refinements to approved management programs may be made, pursuant to sections 360(g) and 312 of the Act, respectively.

§ 923.71 Review of performance.

(a) The primary purpose of a continuing review by States and the Associate Administrator of management programs approved pursuant to section 306 of the Act are to:

(1) Reassess and reconfirm the basic soundness and viability of a State's management program, given State and national goals and objectives;

(2) Evaluate State progress towards achievement of specific management policies and objectives; and

(3) Provide an opportunity for amendment or alteration, if appropriate, of a State's management program.

Both the Associate Administrator and the States will be involved in this continuing review.

(b) *Comment.* Statutory Citation: Section 312(a)(1):

> The Secretary shall conduct a continuing review of.—(1) The management programs of the coastal states and the performance of such states with respect to coastal zone management • • •

(1) The Associate Administrator's review of program performance will focus on both procedural and substantive aspects of coastal management. The Associate Administrator's primary concern will be to assess a State's performance in adhering to the goals, objectives, and policies contained in the approved management program and in carrying out the work task items contained in a State's grant application/work program approved pursuant to § 923.68. Satisfactory performance will consist of determinations that the State's coastal management program is being implemented procedurally in the manner described in the State's approved management document and approved grant award, and further that this operation is effective in terms of operational efficiency. Determinations of substantive program performance will include findings that the States' coastal management program policies and implementation techniques are in fact addressing the coastal management problems, goals, and objectives identified by the State, and further that adequate progress towards achievement of these goals has occurred over the course of the grant year. In setting these as the primary evaluation criteria, the Associate Administrator recognizes that these are not readily translatable into quantifiable indices of performance or progress, except to the extent a State's coastal management program goals and objectives are quantifiable. To the extent States can set quantifiable goals, they are encouraged to do so. It is further recognized that the adequacy of State performance with respect to any one aspect of the management program must be assessed in the context of overall performance in all areas as well as in the context of time scales required to accomplish particular objectives.

(2) To assist the Associate Administrator in assessing the quality of State performance, States will utilize their quarterly reports to the Associate Administrator (as defined in the Grants Manual) and their grant refunding applications (pursuant to section 923.68) to discuss progress and/or problems encountered in achieving particular substantive and procedural goals, objectives and policies. The level of reporting detail necessary will be determined by consultation between the Associate Administrator and the State management agency designated pursuant to § 923.33.

(3) States must build into their management programs their own monitoring systems that include techniques for insuring compliance by other State and local entities responsible for portions of program administration and implementation, for reporting violations of the management program, and for insuring public participation in the operation and evaluation of the management program. States may want to include a hearing and appeals procedure and/or a public hearing procedure as a monitoring mechanism.

(4) The Associate Administrator's assessment of State performance will consist to evaluation of the reports submitted by the State and periodic reviews, at the discretion of the Associate Administrator, of state implementation efforts, utilizing any of the following:

(i) Site visits by OCZM staff;

(ii) Meetings with or reviews by other Federal agencies;

(iii) Meetings with or reviews by other state agencies and or units of local governments involved in or affected by program implementation; and

(iv) Public hearings or meetings with public interest groups and the general public.

In cases where meetings with Federal agencies, other State agencies, local governments or the general public are requested, the designated State management agency shall be a co-sponsor of such meetings. Where the Associate Administrator's assessment of State performance, particularly with respect to continued effectiveness and relevancy of the management program, differs from the State's assessment, the Associate Administrator shall so advise the designated State management agency in order that the State agency may further assess their program objectives and procedures and or submit amendments or refinements, as and if appropriate, to the program.

§ 923.72 Amendments or modifications to approved management programs.

(a) Amendments or modifications to approved management programs will be justified if they are in response to changes in coastal zone needs, problems, issues, priorities, social or political expectations, or other factors bearing on the relevancy and viability of a State's coastal management program, provided further that such amendments/modifications are consistent with the findings and policies of sections 302 and 303 of the Act and with the requirements of section 306 of the Act. When a program amendment is necessary and justified, a State shall request, in consultation and cooperation with the Associate Administrator, and amendment to a State's approved management program pursuant to the requirements of subsection 306(g) of the Act.

(b) *Comment.* Statutory Citation: Subsection 306(g):

> Any coastal State may amend or modify the management program which it has submitted and which has been approved by the Secretary, under this section, pursuant to the Secretary, under this section, pursuant to the required procedures described in subsection (c).

(1) Amendments or modifications are changes relating to basic program goals, objectives, or policies or changes in techniques (for achieving those goals, objectives or policies) that result in an environmental impact (as defined in the National Environmental Policy Act of 1969, Pub. L. 91–190, as amended by Pub. L. 94–83) significantly different from previously approved techniques, or result in significantly altered intergovernmental relationships not reviewed by and/or concurred with by affected agencies or units of government at the time of proposed modification. States may request a program amendment at any time during program implementation when such amendment is deemed by the State to be necessary. States should consult with the Associate Administrator prior to formal submission of the amendment(s) to assure that they are justified in the opinion of the Associate Administrator and to obtain the Associate Administrator's cooperation in meeting the requirements of subsection 306(g) of the Act. Pursuant to this section, amendments to approved management programs are to be reviewed and approved according to the same procedures utilized for initial management program approvals. The specifics of these procedures are contained in § 925.5. It should be noted that this procedure includes Environmental Impact Assessment (EIA) and Federal agency review requirements. The Associate Administrator will make a case-by-case determination as to the necessity of issuing an Environmental Impact Statement (EIS) prior to approving any amendments or modifications.

(2) Federal consistency, as provided for in section 307 of the Act, shall not apply to those parts of a State's coastal management program that are proposed for amendment unless and until such amendments are approved pursuant to the procedure contained in § 925.5. Federal consistency requirements will, however, be in effect for all parts of a State's approved management program not proposed for amendment.

(3) In cases where an amendment relates to an already approved program goal, objectiye, policy, authority or other technique and the State acts to implement that amendment prior to approval by the Associate Administrator, such action may represent cause for notification by the Associate Administrator of intent to terminate or withdraw financial assistance pursuant to § 923.74. In cases where an amendment relates to a new goal, objective, policy or authority not previously contained in a State's approved coastal management program, the State may initiate implementation of such amendment provided it does not conflict with or contradict any existing approved management program goal, objective, policy or authority and with the understanding that section 306 funding for and Federal consistency relative to that amendment are not available unless and until the approval of the Associate Administrator is conferred.

(c) State management programs that have been or will be approved, pursuant to section 306 of the Act, prior to October 1, 1978 without meeting the requirements of subsection 305(b)(7), (8) and (9) and related §§ 923.18, 923.19 and 923.20 will need to be amended to incorporate these three planning requirements into their approved management programs.

(d) *Comment.* Statutory Citation: Subsection 306(g):

> Except with respect to any such amendment which is made before October 1, 1978, for the purpose of complying with the requirements of paragraph (7), (8) and (9) of section 305(b), no grant shall be made under this section to any coastal state after the date of such an amendment or modification, until the Secretary approves such amendment or modification.

(1) In order to meet the requirement regarding integration of the subsection 305(b)(7), (8) and (9) planning requirements into an approved management program, States must have completed the requirements contained in §§1923.18, 923.19 and 923.20 and submitted these as amendments to be processed pursuant to § 925.5 by October 1, 1978. States are advised to consult with the Associate Administrator well before this date to assure that their efforts will meet the relevant Part 923 requirements at the time of their submission.

§ 923.73 Refinements to approved management programs.

(a) Since one of the primary purposes, as stated in § 923.71, of conducting a continuing review of program performance is to reassess and reconfirm the basic soundness and viability of a State's coastal management program, States may make minor refinements to their management programs without following the formal amendment procedures specified in subsection 306(g) of the Act. Such refinements may be made following consultation with and approval by the Associate Administrator.

(b) Refinements are changes relating to programs or techniques for attaining particular goals and objectives or for implementing particular policies (but not changes in these goals, objectives or policies themselves). In addition, these refinements will not have an environmental impact (as defined in the National Environmental Policy Act of 1969, Pub. L. 91–190, as amended by Pub. L. 94–83) significantly different from previously approved programs or techniques and will not significantly alter previously approved intergovernmental arrangements with other State agencies, local governments and/or Federal agencies, unless the affected agencies/units of government and the Associate Administrator concur in these refinements.

§ 923.74 Termination or withdrawal of administrative funding.

(a) In addition to the provisions contained in the Grants Manual relating to termination or withdrawal of funding awarded pursuant to section 306, the Associate Admininrator may recommend to the NOAA Grants Office that grant funding pursuant to section 306 be terminated or withdrawn if the Associate Administrator determines that:

(1) A State has or is failing to adhere to and was or is not justified in deviating from its approved management program; and

(2) That State has been provided notice of intent to terminate or withdraw funding; and

(3) That State has been provided an opportunity to demonstrate adherence or justification for program alteration or modification.

(b) *Comment.* Statutory Citation: Subsection 312(b):

> The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assitance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

(1) Situations which may cause the Associate Administrator to provide notice of intent to terminate or withdraw funding include:

(i) In evaluating a State's performance as part of the continuing review function pursuant to section 312 of the Act, the Associate Administrator determines that the State has not adhered to its management program approved pursuant to section 306 of the Act, and such lack of adherence is not justified;

(ii) In evaluating the continuing viability and relevancy of an approved management program as part of the continuing review function, the Associate Administrator determines that proposed amendments or alterations are not justified;

(iii) In evaluating a State's performance as part of the continuing review function, the Associate Administrator determines that the State is not adhering to its approved management program and/or its approved work program, and such lack of adherence is not justified;

(iv) In going through the amendment process where the amendment relates to a previously approved program goal, objective, policy, authority or other technique, a State acts to implement that amendment prior to approval by the Associate Administrator.

(2) In the event the Associate Administrator finds cause for terminating or withdrawing section 306 funding, notice in the form of a written document to the Governor of the State in question shall be provided advising the Governor of the intent to terminate an approved grant or to withdraw any unexpended portions of funding assistance. Included in this notice will be the reasons for the proposed termination or withdrawal of funds as well as notice of opportunity for the State to present evidence of adherence of justification for alteration of refinement of its program. Such opportunity to present evidence as referred to in subsection 312(b) of the Act shall consist of a thirty day period, commencing on the receipt of notice, within which the State may respond to this notice by providing written materials demonstrating adherence to or justification for refining or modifying its program. Within this thirty day period, a State may request additional time beyond the thirty day period to present evidence of adherence or justification for alteration or refinement. Such additional time shall not extend beyond a subsequent thirty days from the termination of the first thirty day period. In total then, a State may have a maximum of sixty days, from receipt of notice, in which to respond. Following receipt and evaluation of State's evidence with respect to adherence or justification for alteration, the Associate Administrator shall make a final determination with respect to termination or withdrawal of funding assistance. If the Associate Administrator decides termination or withdrawal of funding is appropriate, he/she shall so advise the NOAA Grants Office which shall take appropriate action to terminate or withdraw funds.

[FR Doc.76-38259 Filed 12-29-76;8:45 am]

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THURSDAY, DECEMBER 30, 1976

federal register

THURSDAY, DECEMBER 30, 1976

PART VII

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

MOBILE HOMES

Construction and Safety Standards
and
Procedural and Enforcement Regulations

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Title 24—Department of Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–76–435]

PART 280—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

Modular Homes—Exemption From Standards Extended

The Department of Housing and Urban Development is issuing an amendment to 24 CFR 280.7, under which modular homes meeting the definition of "mobile home" found at § 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5402(6) (the Act), were exempted from meeting the Federal mobile home standards until 150 days from June 15, 1976. The amendment to 24 CFR 280.7 will extend the exemption for modular homes until June 30, 1977.

The original exemption for modular homes, 24 CFR 280.7, was issued by the Department on June 21, 1976, at 41 FR 24968. The exemption was issued as the result of significant comment received from the modular housing industry to the effect that modular homes should not be considered to be mobile homes, regardless of the statutory definition and further to the effect that the modular housing industry would be seriously damaged if modular homes meeting the statutory definition of mobile home were required to meet the mobile home standards and to be labeled as mobile homes. In the June 21, 1976, publication, the Department requested comment on the exemption and particularly on the question of whether a modular home transported on a permanent chassis can fairly be considered not to meet the statutory definition of mobile home. The period for public comment ended on August 15, 1976.

The Department received 92 comments after the June 21, 1976, publication. The Department has considered those comments and all other comments that had previously been received concerning the status of modular homes under the Act. Most comments argued that modular homes were different from mobile homes and, therefore, despite the statutory definition, modular homes should not be covered by the Act. The only real difference any of the commenters discussed was the fact that modular homes are built to different standards than are mobile homes. Many commenters pointed to the fact that modular homes are eligible for longer term financing and are not subject to restrictive zoning to the same extent as are mobile homes. The latter points are tied to the fact that the structure meets modular housing rather than mobile home standards, so the sole difference of significance is the fact that the modular house is built to a different standard. The Department is unable to consider this a basis for excluding modular homes from the coverage of the Act if they meet the statutory definition of "mobile home." Whether or not a structure falls under the act is not determined by the standard to which it is constructed, but by the question of whether or not it meets the statutory definition of "mobile home."

Having reviewed all the comments and further researched and considered the modular housing issue at great length, the Department has confirmed its original opinion, expressed in the Preamble to the Mobile Home Procedural and Enforcement Regulations at 41 FR 19846, May 13, 1976, that a modular home that meets the statutory definition of "mobile home" is subject to the Act. Normally this would mean that modular homes must meet the Federal mobile home construction and safety standards and otherwise be subject to all of the provisions of the Act and the regulations issued pursuant to the Act. In this case, however, the Department has determined that modular homes may be considered to be mobile homes for which the Department has not yet developed a standard. As such, modular homes are not required to meet the current Federal mobile home standards, though modular homes and modular housing manufacturers are subject to the other provisions of the Act, particularly the provisions of section 615, 42 U.S.C. 5414, relating to actions required of manufacturers where imminent safety hazards are discovered or determined to exist.

In order to reflect these conclusions, the Department is issuing two amendments to its regulations, this one which extends the exemption for modular homes to June 30, 1977, and an amendment to 24 CFR Part 3282 that will establish the extent to which modular homes and modular housing manufacturers are subject to that Part and how the Department will implement the imminent safety hazard provisions of section 615 of the Act with respect to modular homes. This amendment will simply extend the exemption for modular homes until June 30, 1977, and will add the one- and two-family building code as one of the standards to be considered in determining whether a particular structure is a modular home. The latter change was suggested by several of the comments. The Department recognizes that extending the exemption is not an adequate permanent solution to the modular housing issue. The additional time will permit the Department to weigh alternative solutions and develop an appropriate permanent response to the issue.

This amendment will be effective as of November 15, 1976. This early effective date is necessary to assure continuity of the currently effective rule and to avoid disruption of the modular housing industry and the administrative process.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection and copy according to Department rules and regulations during regular business hours at the Rules Docket Clerk, Office of the Secretary, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of the proposed rule have been carefully evaluated in accordance with OMB Circular A–107.

This rule is adopted as an amendment to Chapter II of 24 CFR because the mobile home standards were originally codified as part of that Chapter prior to the appointment of the Assistant Secretary for Consumer Affairs and Regulatory Functions who now has substantive responsibility for the mobile home standards. Because this is being published as part of Chapter II, it must be signed by the Assistant Secretary for Housing, as well as the Assistant Secretary for Consumer Affairs and Regulatory Functions. This will continue to be the case until the regulations have been appropriately recodified.

In consideration of the foregoing, 24 CFR 280.7 is revised to read as follows:

§ 280.7 Modular Homes.

A structure which meets the definition of "mobile home" set out in § 280.2(a)(16) is not subject to the provisions of this part if it enters the first stage of production before June 30, 1977, and meets any one or more of the following criteria:

(a) The structure is manufactured in accordance with and meets the following codes published by Building Officials and Code Administrators (BOCA) and the National Fire Protection Association (NFPA):

(1) BOCA Basic Building Code—1975;
(2) BOCA Basic Industrialized Dwelling Code—1975;
(3) BOCA Basic Mechanical Code—1975;
(4) BOCA Basic Plumbing Code—1975; and
(5) National Electrical Code—NFPA 70—1975.

(b) The structure is manufactured in accordance with and meets the following codes published by the Southern Building Code Congress (SBCC) and the NFPA:

(1) Standard Building Code—1976;
(2) Standard Gas Code—1976;
(3) Standard Mechanical Code—1976;
(4) Standard Plumbing Code—1975, with 1976 revision; and
(5) National Electrical Code—NFPA 70—1975.

(c) The structure is manufactured in accordance with and meets the following codes published by the International Conference of Building Officials (ICBO), the International Association of Plumbing and Mechanical Officials (IAPMO), and the NFPA.

(1) Uniform Building Code—1973; (ICBO)
(2) Uniform Mechanical Code—1975; (ICBO) and (IAPMO)
(3) National Electrical Code—NFPA 70—1975; and
(4) Uniform Plumbing Code—1973, (IAPMO)

(d) The structure is manufactured in accordance with and meets the following codes published by BOCA, SBCC, ICBO, the American Insurance Association and the NFPA:

(1) One- and Two-Family Dwelling Code, 1975 edition; and
(2) National Electrical Code—70—1975.

(e) The structure meets a standard established by a state for modular homes, as distinct from mobile homes as they are defined by the state.

(f) The structure is built in accordance with an FHA Structural Engineering Bulletin and FHA Minimum Property Standards and is eligible for long-term financing under section 203(b) of the National Housing Act, 12 U.S.C. 1701 et seq.

(g) The structure is manufactured with and meets the following codes published by the American Insurance Association, (NFPA), (BOCA), (SBCC), (ICBO), (IAPMO), and the National Association of Plumbing-Heating-Cooling Contractors (NAPHCC):

(1) The National Building Code—1976;
(2) National Electrical Code—NFPA—70—1975;
(3) BOCA Basic Plumbing Code—1975 or Standard Plumbing Code with 1976 revision or Uniform Plumbing Code (IAPMO)—1973 or National Standard Plumbing Code (NAPHCC)—1973.

Provided, that any aspects of the cited codes or any state codes which are intended to apply to mobile homes, as such codes may define them, are pre-empted by the comparable aspects of the Federal standards.

(Secs. 604 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5403, 5404 and 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Effective date: November 15, 1976.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing.

[FR Doc.76–38264 Filed 12–27–76;2:13 pm]

CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR CONSUMER AFFAIRS AND REGULATORY FUNCTIONS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–76–434]

PART 3282—MOBILE HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Modular Housing—Applicability of Imminent Safety Hazard Provisions; Interim Rule

The Department of Housing and Urban Development is issuing an Interim Rule to amend 24 CFR 3282.8(m) as published at 41 FR 24971 on June 21, 1976. The purpose of the amendment is to reflect the Department's conclusion that modular homes that meet the definition of mobile home in section 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5402(6) (the Act), and manufacturers of such homes, are subject to the Act and particularly to the requirement of section 615 of the Act, 42 U.S.C. 5414, that manufacturers correct imminent safety hazards that are discovered or determined to exist in the homes. This amendment states how and to what extent the modular homes and manufacturers in question are subject to the provisions of 24 CFR Part 3282.

In an amendment to 24 CFR Part 280, being published concurrently with this amendment, the Department is extending the period during which modular homes meeting the statutory definition of "mobile home" are exempt from the Federal mobile home standards. The preamble to that amendment describes the process through which the Department reached the conclusion that the modular homes in question are subject to the Act, though they may be considered to be mobile homes for which no standard has been issued and are, therefore, not subject to the standards. That preamble also discusses the various comments received from the public on the modular housing issue.

The Department previously reached the conclusion that modular homes meeting the definition of mobile home, and manufacturers of such homes, were subject to the imminent safety hazard provisions of the Act. However, the Department has not to date issued any regulations reflecting that position because the Department believed it to be advisable first to review all comments on the modular housing issue which might advance arguments that modular homes do not fall under the Act. Having reviewed the comments and confirmed its initial conclusion that these modular homes are subject to the Act, the Department is now issuing an Interim Rule to establish an enforcement mechanism under § 615 of the Act, 42 U.S.C. 5414, with respect to these modular homes. This Interim Rule will be effective December 30, 1976 and will remain effective until March 15, 1977. Because the Department believes that this rule must be made effective without advance notice of rule making to advise manufacturers of the appropriate procedures to follow if an imminent safety hazard is discovered, the Department has determined that because of the importance of protecting the public safety advance notice and public procedure are impracticable and contrary to the public interest in this case. However, because the Department has never requested comment on this issue before, this will be an interim rule, and the Department is requesting comment from the public on the issues raised herein. Those comments will be evaluated, and the Department expects to issue a final rule before the interim rule expires on March 15, 1977.

This amendment states that modular homes meeting the definition of mobile home and manufacturers of such homes are subject to the provisions of section 615 of the Act with respect to imminent safety hazards. It also states that such modular homes and manufacturers are subject to the provisions of Part 3282 to the extent necessary to enforce the provisions of section 615. The Department expects manufacturers to correct imminent safety hazards found in the modular homes in question and, if necessary, the Department will make any determinations that may be appropriate under section 615(e) of the Act. The impact of this amendment will be to render the provisions of Subpart I of Part 3282 concerning imminent safety hazards effective with respect to modular homes meeting the definition of mobile home and manufacturers of such homes. Other sections of Part 3282 governs any proceedings necessary to enforce the provisions of section 615 of the Act with respect to imminent safety hazards. In particular, Subpart D with respect to hearings, presentations of views and investigations will govern such proceedings as appropriate. Modular home manufacturers will not be subject to the provisions of Subparts E and H of Part 3282 which establish extensive requirements for plant inspection and certification using a label prescribed by the Department. The intent of the Department in issuing this amendment is simply to give fair notice to modular home manufacturers that some of their homes are subject to the provisions of section 615 of the Act and to allow the Department to enforce those provisions. There is no intent to require modular home manufacturers to certify their homes as meeting the Federal mobile home standards or to require that modular home manufacturers obtain the design and production approvals required of mobile home manufacturers that are subject to the Federal mobile home standards.

As stated above, the Department has determined that it is necessary to issue this Interim Rule without seeking public comment. The rule is being made effective fifteen days from its publication in the FEDERAL REGISTER rather than in the usual thirty days because of its importance to public safety.

Interested persons may participate in the final rulemaking by submitting written data, views, or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Comments received on or before January 31, 1977 will be considered before further action is taken with respect to this subject. Comments received after that date shall be considered only as time permits, or shall be considered as petitions for further rulemaking.

All written comments except those determined to be exempt by the Department under 24 CFR Part 15 under the Freedom of Information Act and the Privacy Act or the National Mobile Home Construction and Safety Standards Act of 1974 shall be available for examination by the public at the above address.

The Department has determined that an Environmental Impact Statement is

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not required with respect to this interim rule. A copy of the finding of inapplicability is available for inspection and copying according to Department rules and regulations during regular business hours at the Rules Docket Clerk, Office of the Secretary, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of the rule have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, 24 CFR 3282.8(m) is amended to read as follows:

§ 3282.8 Applicability.

* * * * * *

(m) *Modular homes.* Modular homes meeting the definition of mobile home set out at 24 CFR 3282.7(u) (modular-mobile homes) and manufacturers of such homes are subject to all provisions of Part 3282 unless the modular-mobile home is exempt from the mobile home standards under 24 CFR 280.7. A modular-mobile home that is exempt from the Federal mobile home standards under 280.7 and the manufacturer of such a home are subject to Part 3282 to extent necessary to assure that the manufacturer meets its responsibilities under section 615 of the Act, 42 U.S.C. 5414. Specifically, modular-mobile homes that are exempt from the Federal mobile home standards under 24 CFR 280.7 and manufacturers of such homes are subject to the provisions of Subpart I of Part 3282 with respect to imminent safety hazards. To the extent that other sections or subparts of Part 3282 must be followed in order to enforce section 615 of the Act, those sections and subparts will govern. In particular, Subpart D of Part 3282 will govern any hearings, presentations of views or investigations that are related to possible imminent safety hazards in modular-mobile homes. Modular-mobile homes that are exempt from the Federal mobile home standards under 24 CFR 280.7 and manufacturers of such homes are not subject to the requirements of the Subparts E and H with respect to certification of the modular-mobile home and with respect to the requirement that designs be approved and that production be subject to surveillance. This paragraph is effective until March 15, 1977.

(Secs. 615 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5414 and 5424 and sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)).

Effective Date: January 14, 1977.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.76-38265 Filed 12-27-76;2:13 pm]

federal register

THURSDAY, DECEMBER 30, 1976

PART VIII

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

HAZARDOUS MATERIALS REGULATIONS

Consolidation and Miscellaneous Amendments

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Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU DEPARTMENT OF TRANSPORTATION

[Docket No. HM-103/112; Amdt. Nos., 171-32B, 172-29B, 173-94B, 174-26B, 175-1B, 176-1B]

HAZARDOUS MATERIALS REGULATIONS AND MISCELLANEOUS AMENDMENTS

Consolidation

On April 15, 1976, the Materials Transportation Bureau published a series of amendments identified as Docket HM-103/HM-112; Amdt. Nos. 171-32, 172-29, 173-94, 174-26, 175-1, 176-1, 177-35 (41 FR 15972). These amendments consolidated the air, water, and surface transportation hazardous materials regulations into one volume of the Code of Federal Regulations, 49 CFR Parts 100-189. In addition, basic changes were made to these regulations pertaining to shipping papers, package marking, package labeling, and transport vehicle placarding, requirements. Subsequent to that time, additional changes were made to these regulations and published in the FEDERAL REGISTER as amendments under Docket HM-103/112 (41 FR 40614, September 20, 1976). These latest amendments were published as a result of docketed comments, suggestions, and petitions for reconsideration. As a result of further comments and petitions, this document has been prepared to handle the editorial and clarification aspects of this consolidation, plus address petitions for reconsideration.

The American Trucking Associations, Inc., (ATA) submitted comments contending that "* * * the Materials Transportation Bureau and its predecessor, the Hazardous Materials Regulations Board, have failed to give sufficent rationale for many of the final rules developed * * *." The Bureau disagrees. The amendments published under Docket HM-103/112 are justified and supported by adequate rationale. This rationale has been established from the information gathered in the nearly five years of careful analysis and study which included public hearings, and input by carriers and shippers prior to adopting final rules. The Bureau published an Advanced Notice of Proposed Rule Making on June 27, 1972, which first established the intent to promulgate new requirements pertaining to the transportation of hazardous materials. In that document, five problem areas were identified which stated that the regulations:

(1) Generally were not addressed to more than one hazard;

(2) Did not in all instances require disclosure of the presence of hazardous materials in transport vehicles;

(3) Were not addressed to the different hazard characteristics of a mixed load of hazardous materials;

(4) Did not provide sufficient information whereby fire fighting and other emergency response personnel can acquire adequate immediate information to handle emergency situations; and

(5) Are inconsistent in their application to the different modes of transport.

The Bureau feels that the major problems identified nearly five years ago have in fact been solved by the amendments made under this docket.

A number of petitioners have urged that the Bureau reconsider its position relative to the use of abbreviations or codes on shipping papers. The Bureau believes, however, that sufficient and adequate information, for purposes of safety, must be conveyed on shipping papers in a uniform and readable manner. In addition, emergency response personnel must be able to quickly identify hazards of materials being transported in order that appropriate action can be initiated immediately. The use of codes and abbreviations in the past have not satisfied these requirements.

Several petitioners made comments concerning problems they envision relative to new requirements for dual labeling of certain materials. New requirements prescribe that a material classed as a flammable liquid that also meets the definition of a Class B poison must have both labels on the package. In the past, some materials having both hazards have been transported with foodstuff, but since the secondary hazard of a Poison B was not required to be identified, carriers unknowingly transported poisonous materials with foodstuffs. Now, however, these same materials should not be accepted by carriers transporting foodstuffs since the package is labeled "Poison" in addition to "Flammable liquid." The Bureau does not believe any significant problems will be experienced due to the dual labeling requirements now prescribed.

Since all of the comments, suggestions, and petitions have now been addressed either through this preamble or by direct communication with the petitioner, this will be the final document dealing with the consolidation of the hazardous materials regulations.

LIST OF SECTIONS AFFECTED AND SUMMARY OF CHANGES MADE IN THIS PUBLICATION

PART 171

§ 171.8 Definition of "consumer commodity" changed to include materials suitable for retail sales even if not specifically so intended. This definition includes items packaged suitably for retail sale but which may in fact be used in some other fashion.

§ 171.15 Update of section references dealing with immediate notification of radioactive contamination.

PART 172

§ 172.100 Clarification of appropriate optional use of prefix "mono".

§ 172.101 Revisions to Hazardous Materials Table to correct errors and incorporate changes made by this docket publication.

§ 172.201 Contrast requirements for basic shipping paper descriptions clarified.

§ 172.203 Replacement of repetitive language in shipping paper requirements for empty tank cars by reference to § 174.25(c).

§ 172.204 Addition of "is" in fifth line.

§ 172.304 Clarification: "Requirements" changed to "specifications" in section heading.

§ 172.306 Clarification of section heading and alternate marking exceptions.

§ 172.312 Addition of limited quantity exception from closure orientation for liquids. Comments were received which objected to the requirements that packages of flammable liquids in limited quantities be shipped with closures upward and so marked. The MTB agrees and has revised the section to include the previous exception of certain limited quantities of flammable liquids since the record does not reveal any problems with the exception.

§ 172.328 Editorial reorganization of text on cargo tank marking size.

§ 172.330 Clarification of marking distinction between tank cars and multiunit DOT 106 and 110 tank car tanks; addition of marking exception for use of chlorine label.

§ 172.400 Editorial contraction of text on portable tank labeling exception.

§ 172.406 Spelling correction.

§ 172.504 (a): Clarification of applicability of general placarding requirements to freight containers. Table I: Clarification of placarding for Radioactive Yellow III label. Addition of exception for Corrosive placarding of uranium hexafiouride; shipment less than 1,000 lbs. excepted, paralleling § 172.504 (c). Table II: Reference to existing placarding exception for materials corrosive only to steel. (c): Freight containers containing less than 1,000 lbs. of hazardous materials excepted from highway placarding in same fashion as motor vehicles.

§ 172.508 Clarification of requirement that placarding of motor vehicles, transport containers and portable tanks on rail cars must be equivalent to rail car placarding to be acceptable in lieu of rail car placarding. An additional section reference is added to reflect this intent.

§ 172.512 (a): "Freight container placarding table" is deleted. This table is a graphic summary of placarding requirements, but has caused confusion. (b): Change in reference to clarify placarding exception for smaller freight containers which are properly labeled.

§ 172.514 Section reference correction, without substantive change.

Appendix B to Part 172—Amendment of list of Empty placards to include those for which the Flammable-empty placard specifications are representative.

PART 173

§ 173.8 Clarification of pressure integrity of packages containing liquids to be shipped by air. The higher of the two existing standards applies.

§ 173.8 Spelling correction.

§ 173.29 (a) and (b) consolidated, (c)-(g) redesignated (b)-(f). (b): Nonmandatory loading instruction deleted as unnecessary (d): Reference to EMPTY labor corrected. (e): Same as (d). (f): No change.

§ 173.33 (c): Deleted. This paragraph addressed special permits for nonspecification cargo tanks. Exemption procedures are now set out in Part 107.

§ 173.116 (c): Deleted. Outage requirement for 150 proof spirits is adequately addressed in the more general paragraphs of this section.

§ 173.119 (a) and (m): Addition of prohibition against bulk shipment of organic peroxides in cargo tanks and tank cars. Organic peroxides were not a separate class before amendment of the regulations under HM-103/112 and were generally treated as oxidizing materials. In 1973 (38 FR 20837, August 3, 1973), paragraphs (m)(10) through (m)(15) were added to this section authorizing bulk rail and highway shipments of flammable liquids which are also oxidizing materials. That this change authorized shipment of organic peroxides was not fully realized until those substances were given a separate class under HM-103/112. Although there may exist some liquid organic peroxides suitable for bulk shipment, a general authorization for such bulk shipments cannot be justified, was not intended, and is being withdrawn until such time as packaging specification for specifically identified organic peroxides can be published. (d): Correction of typographical error.

§ 173.124 (a)(5): Amendment of ethylene oxide tank car marking in favor of existing standard marking requirements of § 172.330.

§ 173.217 Correction of typographical error and section reference.

§ 173.232 Increase in allowable quantities of aluminum powder shipped in portable tanks. Increase from 5,000 to 6,500 pounds gross weight is justified by the shipping record and reflects package size used by shippers.

§ 173.244 Deletion of paragraph (c) which concerns packaging and exceptions for corrosive solids already substantially addressed in preceding paragraphs of this section.

§ 173.249 Clarification of packaging required for certain alkaline liquids presently authorized for shipment by passenger aircraft.

§ 173.263 Revision to authorize 15 percent hydrochloric acid to be shipped as ORM-D (see comment under § 173.1200).

§ 173.276 Deletion of reference to percentage concentration of hydrazine. "Hydrazine, aqueous solution" is an asterisk entry in § 172.101 and the shipper is responsible for determining whether the solution meets a hazard definition.

§ 173.288 Typographical correction.

§ 173.294 Clarification of packaging for monochloracetic acid solution. This section is intended to address packaging for both anhydrous and solution forms.

§ 173.300 Correction of classification for flammable compressed gas as "flammable gas". "Flammable compressed gas" is not an authorized class.

§ 173.301 Clarification of paragraph (l), concerning testing of compressed gas cylinders in domestic use, to reference existing exception in paragraph (j).

§ 173.306 Correction of two inaccurate section references.

§ 173.315 Note 14: Typographical correction. Correction of section references concerning MC 330 and 331 cargo tank marking and shipping paper entries for anhydrous ammonia. Note 15: Section reference correction as above for anhydrous ammonia.

§ 173.332 Amendment of tank car marking requirement for hydrocyanic acid in favor of standard marking requirements of § 172.330.

§ 173.336 Deleted. See 41 FR 15985 (April 15, 1976).

§ 173.343 Clarification of Class B poison definition eleminating extraneous reference and excluding Irritating materials.

§ 173.345 (a): Addition of exception for limited quantities of Poison B liquids from placarding and from highway and rail requirements other than those relating to shipping papers and to prohibition against commingling with foodstuffs. This exception parallels similar exceptions for limited quantity shipments of other classes of hazardous materials. (d): Clarification of permissible ORM-D classification of certain medicines.

§ 173.354 Amendment of tank car marking requirement for motor fuel antiknock compound in favor of standard marking requirements of § 172.330.

§ 173.364 Clarification of permissible ORM-D classification of certain medicines otherwise subject to Poison B solid classification.

§ 173.384 Addition of provisions for shipment of monochloracetone, stabilized. This same provision was deleted as proposed under HM-103/112, based on erroneous information that the material was not being shipped.

§ 173.385 "Exceptions" substituted for "Exemptions", as the latter is properly used in reference to procedures under Part 107.

§ 173.392 Correction of section references relating to marking, labeling and placarding requirements for low specific activity radioactive material.

Appendix following § 173.432—dejetion of appendix. This information already appears in Tables 1 and 2 of Appendix A to Part 172.

§ 173.800 Deletion of ORM-B classification of ammonium hydrogen flouride. Several petitioners indicate that classification as a corrosive material may be more appropriate, and the classification consequently has been withdrawn pending further evaluation.

§ 173.1025 Provision for water shipment of non-ferrous metal shavings in compressed bales. This manner of shipment is common and was previously authorized under 46 CFR Part 146.

§ 173.1200 (a): Typographical corrections. (a)(2)(iii): Revision permitting shipment as ORM-D of corrosive liquids in concentrations of 15 percent or less in 1 qt. inside containers. This revision is based on the fact that 15 percent solutions are available through consumer retail outlets and upon the excellent safety record in commercial transportation of such liquids in 1 qt. containers. The 15 percent limitation will be subject to further reevaluation in the future. (a)(8)(ii): Addition of requirement that metal containers be used to ship compressed gases in quantities between 7.22 and 50 cubic inches. The word "metal", appearing in (a)(8)(ii), was inadvertently omitted.

Appendix A—clarification of procedures used to test skin corrosion.

PART 174

§ 174.5 Deletion of requirement that railway fusees be carried in a metal box. Fusees are not explosives and may be carried by railway personnel for immediate use.

§ 174.8 Clarification of inspection requirements applicable to only those placarded cars that are loaded.

§ 174.10 (a): Deletion of roof inspection for cars laden with Explosives. Outside roof inspection is not practical. (c) Deletion of format requirement for freight bill placarding endorsement. This provision already appears in § 174.25(a).

§ 174.12 Amendment of requirement that intermediate carrier maintain file copy of shipper's certificate. The MTB agrees with comments suggesting that the origin carrier rather than intermediate carrier is the proper party to retain shippers' certificates.

§ 174.24 Transfer of (b) to § 174.26. Clarification of nonapplicability of general operating instructions to ORM classes.

§ 174.25 (a)(2)(ii): Elimination of spacing requirement for placard endorsement on rail shipping papers to facilitate computer processing. (b): Clarification of initial switching order requirements as applying only to loaded rail cars; deletion of shipper certification thereon when carrier has certified bill of lading; and deletion of requirement for placard endorsement thereon. (c): Rearrangement of text, and repeat of EMPTY placard requirements of § 172.510(c).

§ 174.26 (b): Elimination of "separate document" requirement for train consist showing car location. Documents required in paragraphs (a) and (b) may be separate, but need not be. (c): Former § 174.24(b).

§ 174.63 Substitution of "freight container" for "portable container" in section concerning lading requirements. "Freight container" is defined § 171.8 and includes "portable container", a term which is not defined.

§ 174.69 Revision to reflect existing requirements for removing, replacing or reversing placards on empty tank cars.

§ 174.84 Switching requirements clarified as applicable to flatcars carrying placarded freight containers.

§ 174.88 Placement of rail placarded "Explosives A" clarified with respect to occupied caboose.

§ 174.89 Placement of rail car placarded "Radioactive" clarified as applying only to loaded cars.

§ 174.104 Textual reorganization without substantive change.

§ 174.112 Addition of section references to reflect existing exceptions to closed rail car transportation of Class A explosives.

§ 174.480 Text change to reflect section heading, prohibiting comingling of poisonous flammable solids with foodstuffs.

§ 174.810 Authorization for wet electric storage batteries to be shipped in properly vented refrigerator or "plug-door" cars. Venting is intended to eliminate chance accumulation of hydrogen gas.

PART 175

§ 175.10 "Part" changed to "subchapter" to clarify exception from Hazardous Materials Regulations of certain items carried by air.

§ 175.30 Prohibition against accepting damaged containers for air carriage clarified. This section is not intended to prohibit acceptance of containers bearing superficial dents not affecting package integrity.

PART 176

§ 176.11 Clarification of use of IMCO Code for foreign shipments. Compliance with DOT Hazardous Materials Regulations is required for materials not addressed by IMCO requirements.

§ 176.30 Clarification of dangerous cargo manifest. This document is not intended to include any material not subject to the Hazardous Materials Regulations or the IMCO Code.

§ 176.45 Substitution of "Captain of the Port" for "District Commander". Coast Guard response to notification of damaged package can be more expeditiously handled in this manner.

§ 176.48 Similar change for same reasons as above.

§ 176.52 Same.

§ 176.63 Elimination of requirement for on-deck sun protection for portable tanks. The tanks are of such size as to render erection of shade structures impractical.

§ 176.74. Relaxation of 50 percent total open deck stowage limitation. The intent of this section as published was to establish a practical limitation. However the provision was not sufficiently detailed to be used so it is being made advisory rather than mandatory.

§ 176.83 (d)(3): Clarification of alternative nature of segregation requirements for containers stowed on or under deck. Some confusion exists as to whether fore-and-aft and athwartships separation requirements are additive. They are not. As between two containers, either fore-and-aft or athwartships separation is required, but not both.

§ 176.905 (c): Editorial. (1): Addition of exception to stowage requirements for vehicles when stowed in space especially suited for vehicles. (1): Clarification of stowage of vehicular equipment with vehicles, formerly contained in (1)(2). Vehicular equipment may be stowed with vehicles.

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GRANDFATHER CLAUSE

A number of commenters have requested an extension of the mandatory compliance dates. The bureau has reviewed the submitted comments and does not believe sufficient justification has been presented for an extension of the compliance dates. However, it has concern that there is a large package inventory and that shippers did not have sufficient time to make changes in their packaging, marking, and labeling of hazardous materials. To provide relief from this burden, the Bureau has decided to extend the grandfather clause to January 1, 1977. This will provide the time required to reduce large inventories of packagings that complied with regulations in effect before July 1, 1976.

The extension of the grandfather clause provides that a package which is filled, marked, or labeled before January 1, 1977, in accordance with regulations in effect on June 30, 1976, may be offered for transportation and transported before July 1, 1977, even though it may not comply with the package, marking, and labeling provision amendments published in Docket HM-103/112 and effective on July 1, 1976.

In consideration of the foregoing, 49 CFR Parts 171 through 176 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

§ 171.8 [Amended]

1. § 171.8 is amended by changing the word "and" in the third line of the definition of "Consumer commodity" to read "or."

2. In § 171.15 paragraph (a)(4) is revised to read as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

(a) • • •

(4) Fire, breakage, spillage, or suspected radioactive contamination occurs involving shipment of radioactive material. (See also §§ 174.45, 175.45, 176.48, and 177.807 of this subchapter.); or

• • • • •

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

3. In § 172.100 the introductory text of paragraph (c) is amended by changing "Compound, cleaning" in the fifth sentence to read "Compound, cleaning liquid"; paragraph (c)(7) is revised; the introductory text of paragraph (h) is amended by changing the word "specified" in the first line to read "specifies."

§ 172.100 Purpose and use of the table.

• • • • •

(c) • • •

(7) The use of the prefix "mono" is optional in any shipping name when appropriate. Thus, monoethanolamine may be used interchangeably with ethanolamine. In the "trichloromonofluoromethane" the term "mono" is considered as a prefix to the term "fluoromethane."

• • • • •

4. § 172.101 is revised as follows:

§ 172.101 Hazardous Materials Table.

§172.101 Hazardous Materials Table

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Accumulator, pressurized (*pneumatic or hydraulic*), *containing nonflammable gas*	Nonflammable gas	Nonflammable gas	173.306		No limit	No limit	1,2	1,2	
	Acetal	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Acetaldehyde (*ethyl aldehyde*)	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
A	Acetaldehyde ammonia	ORM-A	None	173.505	173.510	No limit	No limit			
•	Acetic acid (*aqueous solution*)	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Stow separate from nitric acid or oxidizing materials
	Acetic acid, glacial	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Stow separate from nitric acid or oxidizing materials. Segregation same as for flammable liquids
	Acetic anhydride	Corrosive material	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
	Acetone	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Acetone cyanohydrin	Poison B	Poison	None	173.346	Forbidden	55 gallons	1	5	Shade from radiant heat. Stow away from corrosive materials
	Acetone oil	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Acetonitrile	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1	4	Shade from radiant heat
	Acetyl benzoyl peroxide, solid	Forbidden								
	Acetyl benzoyl peroxide solution, *not over 40% peroxide*	Organic peroxide	Organic peroxide	None	173.222	Forbidden	1 quart	1,2	1	
	Acetyl bromide	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Acetyl chloride	Flammable liquid	Flammable liquid	173.244	173.247	1 quart	1 gallon	1	1	Stow away from alcohols. Keep cool and dry. Separate longitudinally by an intervening complete compartment or hold from explosives
	Acetylene	Flammable gas	Flammable gas	None	173.303	Forbidden	300 pounds	1	1	Shade from radiant heat
A	Acetylene tetrabromide	ORM-A	None	173.505	173.510	10 gallons	55 gallons			
	Acetyl iodide	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Acetyl peroxide solution, *not over 25% peroxide*	Organic peroxide	Organic peroxide	173.153	173.222	Forbidden	1 quart	1,2	1	
	Acid butyl phosphate	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	Glass carboys in hampers not permitted under deck
	Acid carboy empty. *See* Carboy, empty									
•	Acid, liquid, n.o.s.	Corrosive material	Corrosive	173.244	173.245	1 quart	5 pints	1	4	Keep cool
•	Acid, sludge	Corrosive material	Corrosive	None	173.248	Forbidden	1 quart	1,2	1	
	Acrolein, inhibited	Flammable liquid	Flammable liquid and Poison	None	173.122	Forbidden	1 quart	1,2	5	Keep cool. Stow away from living quarters
	Acrylic acid	Corrosive material	Corrosive	173.244	173.245	1 quart	5 pints	1	1	
	Acrylonitrile	Flammable liquid	Flammable liquid and Poison	None	173.119	Forbidden	1 quart	1,2	5	Keep cool
	Actuating cartridge, explosive (*fire extinguisher, or valve*)	Class C explosive	Explosive C	173.114		50 pounds	150 pounds	1,2	1,2	Keep cool and dry
•	Adhesive, n.o.s. *See* Cement, liquid, n.o.s.									
	Aerosol product, each aerosol container exceeding 50 cubic inches capacity. See Compressed gas, n.o.s.									
•	Air, compressed	Nonflammable gas	Nonflammable gas	173.306	173.302	150 pounds	300 pounds	1,2	1,2	
	Aircraft rocket engine (*Commercial*)	Flammable solid	Flammable solid	None	173.238	Forbidden	550 pounds	1,3	5	
	Aircraft rocket engine igniter (*Commercial*)	Flammable solid	Flammable solid	None	173.238	Forbidden	25 pounds	1,3	5	
	Airplane flare. See Fireworks, special									
•	Alcohol, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
•	Alcohol, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Aldrin	Poison B	Poison	173.364	173.376	50 pounds	200 pounds	1,2	1,2	
A	Aldrin, cast solid	ORM-A	None	173.505	173.510	No limit	No limit			
	Aldrin mixture, dry (*with more than 65% aldrin*)	Poison B	Poison	173.364	173.376	50 pounds	200 pounds	1,2	1,2	
A	Aldrin mixture, dry, with 65% or less aldrin	ORM-A	None	173.505	173.510	No limit	No limit			

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Aldrin mixture, liquid (*with more than 60% aldrin*)	Poison B	Poison	173.345	173.361	1 quart	55 gallons	1,2	1,2	If flash point less than 141 DEG F., segregation same as for flammable liquids
A	Aldrin mixture, liquid, with 60% or less aldrin	ORM-A	None	173.505	173.510	No limit	No limit			
	Alkaline corrosive battery fluid	Corrosive material	Corrosive	173.244	173.249 173.257	1 quart	5 gallons	1,2	1,2	
	Alkaline corrosive battery fluid with empty storage battery	Corrosive material	Corrosive	None	173.258	Forbidden	5 pints	1,2	1,2	
•	Alkaline corrosive liquid, n.o.s.	Corrosive material	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
•	Alkaline liquid, n.o.s.	Corrosive material	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
•	Alkanesulfonic acid	Corrosive material	Corrosive	173.244	173.245	5 pints	1 gallon	1,2	1	
	Alkyl aluminum halides. See Pyrophoric liquid, n.o.s.									
A	Allethrin	ORM-A	None	173.505	173.510	No limit	No limit			
	Allyl alcohol	Flammable liquid	Flammable liquid and Poison	173.118	173.119	1 quart	10 gallons	1,2	1	
	Allyl bromide	Flammable liquid	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,2	1	
	Allyl chloride	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Allyl chlorocarbonate	Flammable liquid	Flammable liquid	None	173.288	Forbidden	5 pints	1	5	Keep dry. Separate longitudinally by an intervening complete hold or compartment from explosives. Segregation same as for corrosive materials
	Allyl chloroformate. *See* Allyl chlorocarbonate									
	Allyl trichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Aluminum alkyls. *See* Pyrophoric liquid, n.o.s.									
	Aluminum bromide, anhydrous	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Aluminum dross, wet *or* hot. *See* Sec. 173.173									
	Aluminum hydride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous When Wet
•	Aluminum, liquid *or* paint. *See* Paint, enamel, lacquer stain, shellac, varnish, etc.									
•	Aluminum, metallic, powder	Flammable solid	Flammable solid	173.232	173.232	25 pounds	100 pounds	1,2	1,2	Keep dry. Segregation same as for flammable solids labeled dangerous when wet
	Aluminum nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
•	Aluminum phosphate solution	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Aluminum phosphide	Flammable solid	Flammable solid and Dangerous when wet	None	173.154	Forbidden	25 pounds	1,2	1,2	Stow away from acids and oxidizing materials
	Amatol. See High explosive									
	2-(2-Aminoethoxy) ethanol	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	N-Aminoethylpiperazine	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Aminopropyldiethanolamine	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	n-Aminopropylmorpholine	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	bis (Aminopropyl) piperazine	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Ammonia, anhydrous	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	Stow in well ventilated space
	Ammonia solution (*containing more than 44% ammonia*)	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	Stow in well ventilated space
	Ammonia solution (containing 44% or less ammonia in water). See Ammonium hydroxide									
	Ammonium arsenate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	Stow away from alkaline corrosives
	Ammonium bifluoride. *See* Ammonium hydrogen fluoride									

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Ammonium chlorate	Forbidden								
	Ammonium dichromate (*ammonium bichromate*)	Oxidizer	Oxidizer	173.153	173.154 173.235	25 pounds	100 pounds	1,2	1,2	
A	Ammonium fluoride	ORM-B	None	173.505	173.510 173.800	25 pounds	100 pounds			
•	Ammonium hydrogen fluoride solution	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	Keep dry
A	Ammonium hydrogen sulfate	ORM-B	None	173.505	173.510 173.800	25 pounds	100 pounds			
A	Ammonium hydrosulfide solution	ORM-A	None	173.505	173.510 173.605	10 gallons	55 gallons			
•	Ammonium hydroxide (*containing not more than 44% ammonia*)	Corrosive material	Corrosive	173.244	173.245	2 gallons	2 gallons	1	4	
	Ammonium nitrate (no organic coating)	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Ammonium nitrate (organic coating)	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Ammonium nitrate-carbonate mixture	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Ammonium nitrate fertilizer, *containing no more than 0.2% carbon*	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Ammonium nitrate-fuel oil mixture. See Nitro carbonitrate or *Explosive, Class A or B*									
•	Ammonium nitrate mixed fertilizer	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
•	Ammonium nitrate-phosphate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
•	Ammonium perchlorate	Oxidizer	Oxidizer	173.153	173.154 173.239a	25 pounds	100 pounds	1,2	4	Stow away from powdered metals
•	Ammonium perchlorate. *See* High explosives									
	Ammonium permanganate	Oxidizer	Oxidizer	None	173.154	Forbidden	Forbidden	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide. This material may be forbidden in water transportation by certain countries
	Ammonium picrate. See High explosive									
	Ammonium picrate, wet (*with 10% or more water*)	Flammable solid	Flammable solid	173.192		1 pound	1 pound	1	4	Stow away from heavy metals and their compounds
A	Ammonium polysulfide solution	ORM-A	None	173.505	173.510 173.605	10 gallons	55 gallons			
W	Ammonium sulfate nitrate	ORM-C	None	173.505	173.910			1,2	1,2	Must not be accepted for transportation while hot. Separate by an intervening hold or compartment from Class A explosives. Separate from other explosives, corrosive materials, flammable solids, liquids, or gases, oxidizing materials, organic peroxides, or organic materials
•	Ammonium sulfide solution	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Ammunition, chemical (containing a Poison A liquid or gas). See Chemical ammunition (containing a Poison A material)									
	Ammunition, chemical (containing a Poison B material). See Chemical ammunition (containing a Poison B material)									
	Ammunition, chemical (containing an irritating liquid or solid). See Chemical ammunition (containing an irritating material)									
	Ammunition, chemical, explosive, with Poison A material	Class A explosive	Explosive A and Poison gas	None	173.59	Forbidden	Forbidden	6	5	No other cargo may be stowed in the same hold with these items
	Ammunition, chemical, explosive, with Poison B material	Class A explosive	Explosive A and Poison	None	173.59	Forbidden	Forbidden	6	5	No other cargo may be stowed in the same hold with these items
	Ammunition, chemical, explosive, with irritant	Class A explosive	Explosive A and Irritant	None	173.59	Forbidden	Forbidden	6	5	No other cargo may be stowed in the same hold with these items
	Ammunition for cannon with empty projectile	Class B explosive	Explosive B	None	173.89	Forbidden	Forbidden	1,2	5	
	Ammunition for cannon with explosive projectile	Class A explosive	Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with gas projectile	Class A explosive	Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with illuminating projectile	Class A explosive	Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with incendiary projectile	Class A explosive	Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with inert loaded projectile	Class B explosive	Explosive B	None	173.89	Forbidden	Forbidden	1,2	5	

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Ammunition for cannon with smoke projectile	Class A explosive	Explosive A	None	173.54	Forbidden	Forbidden	6	5	
	Ammunition for cannon with solid projectile	Class B explosive	Explosive B	None	173.89	Forbidden	Forbidden	1,2	5	
	Ammunition for cannon without projectile	Class B explosive	Explosive B	None	173.89	Forbidden	Forbidden	1,2	5	
	Ammunition, non-explosive			173.55						
	Ammunition for small-arms with explosive projectile	Class A explosive	Explosive A	None	173.58	Forbidden	Forbidden	6	5	
	Ammunition for small-arms with incendiary projectile	Class A explosive	Explosive A	None	173.58	Forbidden	Forbidden	6	5	
	Ammunition, rocket. See Rocket ammunition									
	Ammunition, small-arms. *See* Small-arms ammunition									
	Amyl acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Amyl acid phosphate	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Amylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Amyl chloride	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Amylene, *normal*	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	1,3	
	Amyl formate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Amyl mercaptan	Flammable liquid	Flammable liquid	None	173.141	Forbidden	10 gallons	1,2	1	
	Amyl nitrite	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Amyl trichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	5	Keep dry
	Anhydrous ammonia. *See* Ammonia, anhydrous									
	Anhydrous hydrazine. *See* Hydrazine, anhydrous									
	Anhydrous hydrofluoric acid. *See* Hydrogen fluoride									
	Aniline oil drum, empty *See* 173.347(d)	Poison B						1,2	1	Do not accept unless returnable package notice is on drum and the instructions thereon have been carried out
	Aniline oil, liquid	Poison B	Poison	None	173.347	Forbidden	55 gallons	1,2	1,2	Stow away from oxidizing materials and acids
	Anisoyl chloride	Corrosive material	Corrosive	173.244	173.279	1 quart	1 quart	1	1	Keep dry
•	Antifreeze compound, liquid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Antifreeze compound, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Antifreeze preparation, liquid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Antifreeze preparation, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Antimonous chloride. *See* Antimony trichloride									
A	Antimony lactate, solid	ORM-A	None	173.505	173.510	No limit	No limit			
	Antimony pentachloride	Corrosive material	Corrosive	None	173.247	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
•	Antimony pentachloride solution	Corrosive material	Corrosive	173.244	173.245	1 quart	5 pints	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Antimony pentafluoride	Corrosive material	Corrosive	None	173.246	Forbidden	25 pounds	1	5	Keep dry
A	Antimony potassium tartrate solid	ORM-A	None	173.505	173.510	No limit	No limit			
A	Antimony sulfide, solid	ORM-A	None	173.505	173.510	No limit	No Limit			
	Antimony trichloride, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
•	Antimony trichloride solution	Corrosive material	Corrosive	173.244	173.245	1 quart	5 pints	1	1	Keep dry
•	Aqua ammonia solution (*containing 44% or less ammonia*). *See* Ammonium hydroxide									
•	Argon	Nonflammable gas	Nonflammable gas	173.306	173.302 173.314	150 pounds	300 pounds	1,3	1,3	
•	Argon, liquid pressurized	Nonflammable gas	Nonflammable gas	None	173.304	Forbidden	300 pounds	1,3	1,3	
	Arsenic acid, solid	Poison B	Poison	173.364	173.366	50 pounds	200 pounds	1,2	1,2	
•	Arsenic acid solution	Poison B	Poison	173.345	173.348	1 quart	55 gallons	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

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•	Arsenical compound n.o.s., liquid, *or* arsenical mixture, n.o.s., liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
•	Arsenical compound n.o.s., solid, or arsenical mixture, n.o.s., solid	Poison B	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	Keep dry
	Arsenical dip, liquid (*sheep dip*)	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Arsenical dust	Poison B	Poison	173.364	173.368	50 pounds	200 pounds	1,2	1,2	
	Arsenical fluc dust	Poison B	Poison	173.364	173.368	50 pounds	200 pounds	1,2	1,2	
	Arsenic bromide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Arsenic chloride (*arsenious*) liquid. *See* Arsenic trichloride									
	Arsenic iodide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Arsenic pentoxide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Arsenic, solid	Poison B	Poison	173.364	173.366	50 pounds	200 pounds	1,2	1,2	
	Arsenic sulfide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	Keep dry
	Arsenic trichloride, liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Arsenic trioxide, solid	Poison B	Poison	173.364	173.366 173.368	50 pounds	200 pounds	1,2	1,2	
	Arsenic, white, solid. *See* Arsenic trioxide, solid									
	Arsenious acid, solid. *See* Arsenic trioxide, solid									
•	Arsenious and mercuric iodide solution	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Arsine	Poison A	Poison gas and Flammable gas	None	173.328	Forbidden	Forbidden	1	5	
W	Asphalt, *at or above its flashpoint*	ORM-C	None	None	None	Forbidden	Forbidden	1	5	When applicable, no fire or residue thereof may be present in the furnace heating the substance while the vehicle is on board a cargo vessel
•	Asphalt, cut back	Flammable liquid	Flammable liquid	173.118	173.131	1 quart	10 gallons	1,2	1	
•	Asphalt, cut back	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Automobile, motorcycle, tractor, or other self-propelled vehicle. See Motor Vehicle									
	Automobile, motorcycle, tractor, or other self-propelled vehicle, engine, or other mechanical apparatus, with charged electric storage battery, wet See Motor Vehicle									
	1-Aziridinyl phosphine oxide (tris). *See* Tris-(1-aziridinyl) phosphine oxide									
	Bags, burlap, used, must be classed for the hazardous material previously contained in bag. See 173.28, 173.29									
	Bags, sodium nitrate, empty and unwashed	Flammable solid	Flammable solid	None	173.155	Forbidden	25 pounds	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
•	Barium azide, wet, *50% or more water*	Flammable solid	Flammable solid	None	173.239	Forbidden	1 pound	1,2	1,2	Stow away from heavy metals
	Barium chlorate	Oxidizer	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds. Stow away from powdered metals
•	Barium chlorate, wet	Oxidizer	Oxidizer	173.153	173.163	25 pounds	200 pounds	1,2	1,2	Separate from ammonium compounds. Stow away from powdered metals
	Barium cyanide, solid	Poison B	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Barium nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
• A	Barium oxide	ORM-B	None	173.505	173.510 173.800	25 pounds	100 pounds			
	Barium perchlorate	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Stow away from powdered metals
	Barium permanganate	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide
	Barium peroxide (*binoxide, dioxide*)	Oxidizer	Oxidizer	173.153	173.156	25 pounds	100 pounds	1,2	1,2	Keep dry
	Barrel, empty. *See* Drum, empty									
	Battery charger with electrolyte (acid or alkaline battery fluid)	Corrosive material	Corrosive	None	173.259	Forbidden	5 pints	1,2	1,2	
	Battery, dry. Not subject to Parts 170-189 of this subchapter									
	Battery, electric storage, wet	Corrosive material	Corrosive	173.260		Forbidden	No limit	1,2	1,2	

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§172.101 Hazardous Materials Table (cont'd)

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	Battery, electric storage, wet, with automobile, auto parts, engine (*or other specifically named mechanical apparatus*)	Corrosive material	Corrosive	173.250	173.260	No limit	No limit	1,2	1,2	Keep dry
	Battery, electric storage, wet with containers of corrosive battery fluid	Corrosive material	Corrosive	None	173.258	Forbidden	2 gallons	1,2	1,2	
	Battery fluid. See Electrolyte (acid) *or* Alkaline battery fluid							1,2	4	
W	Battery parts (*plates, grids, etc., unwashed, exhausted*)	ORM-C	None	173.505	173.915					
	Benzaldehyde	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Benzene (*benzol*)	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Benzene phosphorus dichloride	Corrosive material	Corrosive	None	173.250a	Forbidden	5 pints	1	5	
	Benzene phosphorus thiodichloride	Corrosive material	Corrosive	None	173.250a	Forbidden	5 pints	1	5	
•	Benzine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Benzoyl chloride	Corrosive material	Corrosive	173.244	173.247	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Benzoyl peroxide	Organic peroxide	Organic peroxide	None	173.157 173.158	Forbidden	25 pounds	1,2	1	
	Benzyl bromide (*bromotoluene, alpha*)	Corrosive material	Corrosive	None	173.281	Forbidden	5 pints	1	5	Keep dry
	Benzyl chloride	Corrosive material	Corrosive	173.244	173.295	Forbidden	1 quart	1	4	Keep dry
	Benzyl chloroformate (*or Benzyl chlorocarbonate*)	Corrosive material	Corrosive	None	173.288	Forbidden	5 pints	1	5	Keep dry
•	Beryllium compound, n.o.s.	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Black powder	Class A explosive	Explosive A	None	173.60	Forbidden	Forbidden	6	5	
	Black powder igniter with empty cartridge bag	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Blasting caps—(*1,000 or less*) (*Show actual number*)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5	Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded
	Blasting caps—(*more than 1,000*) (*Show actual number*)	Class A explosive	Explosive A	None	173.66	Forbidden	Forbidden	6	5	Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded
	Blasting caps—electric (*1,000 or less*) (*Show actual number*)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5	Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded
	Blasting caps—electric (*more than 1,000*) (*Show actual number*)	Class A explosive	Explosive A	None	173.66	Forbidden	Forbidden	6	5	Magazine. Do not stow blasting caps with any high explosives. Do not handle blasting caps at the same time high explosives are being loaded
	Blasting caps with metal clad mild detonating fuse—(*1,000 or less*) (*Show actual number*)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5	Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded
	Blasting caps with metal clad mild detonating fuse—(*more than 1,000*) (*Show actual number*)	Class A explosive	Explosive A	None	173.66 173.67	Forbidden	Forbidden	6	5	Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded
	Blasting caps with safety fuse—(*1,000 or less*) (*Show actual number*)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5	Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded
	Blasting caps with safety fuse—(*more than 1,000*) (*Show actual number*)	Class A explosive	Explosive A	None	173.66 173.67	Forbidden	Forbidden	6	5	Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded
	Blasting gelatin. See High explosive									
	Blasting powder. See Black powder									
W	Bleaching powder, *containing 39% or less available chlorine*	ORM-C	None	173.505	173.920			1,2	1,2	Keep dry. Stow separate from flammable liquids and acids. (Stow away from oils, grease, and similar organic materials)
	Bleaching powder, *over 39% available chlorine*	Oxidizer	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	Keep cool and dry
•	Boiler compound, liquid	Corrosive material	Corrosive	173.244	173.249	1 quart	10 gallons	1,2	1,2	
	Bomb, explosive. See Explosive bomb									

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Bomb, explosive with gas, smoke, or incendiary material. See Explosive bomb									
	Bomb, fireworks. See Fireworks, special									
	Bomb, gas, smoke, or incendiary, non-explosive. See Chemical ammunition									
	Bomb, incendiary, or smoke without bursting charge. See Fireworks, special									
	Bomb, practice, with electric primer or electric squib (non-explosive)			173.55						
	Bomb, sand-loaded or empty (non-explosive)			173.55						
A	Bone oil	ORM-A	None	173.505	173.510	No limit	No limit			
	Booster, explosive	Class A explosive	Explosive A	None	173.69	Forbidden	Forbidden	6	5	
•	Bordeaux arsenite, liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
•	Bordeaux arsenite, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Boron tribromide	Corrosive material	Corrosive	None	173.251	Forbidden	1 quart	1	5	
	Boron trichloride	Corrosive material	Corrosive	None	173.251	Forbidden	1 quart	1,2	5	Stow in well ventilated space. Shade from radiant heat. Segregation same as for nonflammable gases
	Boron trifluoride	Nonflammable gas	Nonflammable gas and Poison	None	173.302	Forbidden	Forbidden	1	5	Stow away from living quarters and foodstuffs
	Boron trifluoride-acetic acid complex	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1,2	1,2	
	Bottles, having previously contained a hazardous material and not cleaned. See 173.29									
W•	Box toe board (*nitrocellulose base*)	ORM-C	None	173.505	173.925			1,3	1,3	Provide cool stowage in a compartment having a temperature not exceeding 130 DEG F., well away from any sources of heat, and in position to protect or move, even to jettison in event of fire. Separate from explosives, flammable liquids or gases, oxidizing materials, organic peroxides, or corrosive liquids.
•	Box toe gum	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Box toe gum	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Bromine	Corrosive material	Corrosive	None	173.252	Forbidden	1 quart	1	5	Keep cool
	Bromine pentafluoride	Oxidizer	Oxidizer	None	173.246	Forbidden	100 pounds	1	5	Shade from radiant heat. Segregation same as for corrosives
	Bromine trifluoride	Oxidizer	Oxidizer and Poison	None	173.246	Forbidden	100 pounds	1	5	Shade from radiant heat. Segregation same as for corrosives
	Bromoacetic acid, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
•	Bromoacetic acid solution	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	Glass carboys in hampers not permitted under deck
	Bromoacetone, liquid	Poison A	Poison gas	None	173.329	Forbidden	Forbidden	1	5	Segregation same as for flammable liquids
	Bromobenzene	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Bromotoluene, alpha. *See* Benzyl bromide									
	Brucine, solid (dimethoxy strychnine)	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
W	Burlap bags, cleaned (*vacuum cleaned, wheel cleaned, or otherwise mechanically brushed*). *See* Burlap cloth									
W	Burlap bags, new. *See* Burlap cloth									
AW	Burlap bags, used and unwashed, *or* not cleaned	ORM-C	None	173.930		No limit	No limit	1	1	Keep cool
W	Burlap cloth (*hessian*)	ORM-C	None	173.931				1,2	1,2	Keep dry. Stow away from organic liquids
	Burnt cotton, not repicked	Flammable solid	Flammable solid	None	173.159	Forbidden	Forbidden	1	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Burnt fiber	Flammable solid	Flammable solid	None	173.169	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials or organic peroxides
	Burster, explosive	Class A explosive	Explosive A	None	173.69	Forbidden	Forbidden	6	5	
	Butadiene, inhibited	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	Stow away from living quarters
	Butane *or* Liquefied petroleum gas. *See* Liquefied petroleum gas									

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names†	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Butyl acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	n-Butyl acid phosphate. *See* Acid butyl phosphate									
•	Butyl alcohol. *See* Alcohol, n.o.s.									
	Butylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Butyl bromide, *normal*	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Butyl chloride	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Butyl ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Butyl formate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	n-Butyl isocyanate	Flammable liquid	Flammable liquid and Poison	173.118	173.119	1 quart	10 gallons	1,2	1	
	Butyl mercaptan	Flammable liquid	Flammable liquid	None	173.141	Forbidden	10 gallons	1,3	5	
	Butyl phosphoric acid. *See* Acid butyl phosphate									
	Butyl trichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Butyraldehyde	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Butyric acid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Calcium arsenate, solid	Poison B	Poison	173.364	173.367 173.368	50 pounds	200 pounds	1,2	1,2	
	Calcium arsenite, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
•	Calcium bisulfite solution. *See* *Calcium hydrogen sulfite solution									
	Calcium carbide	Flammable solid	Flammable solid and dangerous when wet	None	173.178	Forbidden	25 pounds	1,2	1,2	Keep dry. Stow away from copper, its alloys, and salts
	Calcium chlorate	Oxidizer	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds. Stow away from powdered metals and cyanide
	Calcium chlorite	Oxidizer	Oxidizer	None	173.160	Forbidden	100 pounds	1,2	1,2	Separate from ammonium compounds powdered materials, and cyanides
AW	Calcium cyanamide, not hydrated, containing more than 0.1% calcium carbide	ORM-C	None	None	173.945	25 pounds	200 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
•	Calcium cyanide, solid *or* Calcium cyanide mixture, solid	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2 [8]	Stow away from corrosive liquids. Keep dry
•	Calcium hydrogen sulfite solution	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Calcium hypochlorite mixture, *dry, (containing more than 39% available chlorine)*	Oxidizer	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	Keep cool and dry
	Calcium, metal	Flammable solid	Flammable solid and Dangerous when wet	173.153	173.154	25 pounds	100 pounds	1,2	4	Keep cool and dry. Segregation same as for flammable solids labeled Dangerous When Wet
	Calcium, metal, crystalline	Flammable solid	Flammable solid and Dangerous when wet	None	173.231	Forbidden	25 pounds	1,2	5	Keep cool and dry. Segregation same as for flammable solids labeled Dangerous When Wet
•	Calcium nitrate (*See Sec. 173.182 Note*)	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
AW	Calcium oxide	ORM-B	None	173.505	173.850	25 pounds	100 pounds	1,2	1,2	Keep dry. Stow away from explosives, acids, combustible materials, and ammonium salts
	Calcium permanganate	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide
	Calcium peroxide	Oxidizer	Oxidizer	173.153	173.156	25 pounds	100 pounds	1,2	1,2	Keep dry
	Calcium phosphide	Flammable solid	Flammable solid and Dangerous when wet	None	173.161	Forbidden	25 pounds	1	5	Keep cool and dry. Segregation same as for flammable solids labeled Dangerous When Wet
	Calcium resinate	Flammable solid	Flammable solid	None	173.166	Forbidden	125 pounds	1	5	
	Calcium resinate, fused	Flammable solid	Flammable solid	None	173.166	Forbidden	125 pounds	1	5	
AW	Camphene	ORM-A	None	173.505	173.610	No limit	No limit	1,3	1,3	Stow away from foodstuffs and living quarters
	Camphor oil	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Cannon primers	Class C explosive	Explosive C	None	173.107	50 pounds	150 pounds	1,3	5	
	Caprylyl peroxide solution	Organic peroxide	Organic peroxide	173.153	173.221	1 quart	1 quart	1,2	4	Keep cool. Stow separate from combustible materials, explosives, or acids
	Caps, blasting. *See* Blasting caps									
	Caps, toy. *See* Toy caps									
A	Carbaryl	ORM-A	None	173.505	173.510	No limit	No limit			
	Carbolic acid, liquid *or* Phenol, liquid (*liquid tar acid containing over 50% benzophenol*)	Poison B	Poison	173.345	173.349	1 quart	55 gallons	1,2	1,2	
	Carbolic acid, *or* Phenol	Poison B	Poison	173.364	173.369	50 pounds	250 pounds	1,2	1,2	
	Carbon bisulfide, *or* Carbon disulfide	Flammable liquid	Flammable liquid	None	173.121	Forbidden	Forbidden	1	5	Keep cool. Not permitted on any vessel transporting explosives
•	Carbon dioxide, liquefied	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
•	Carbon dioxide-nitrous oxide mixture	Nonflammable gas	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
•	Carbon dioxide-oxygen mixture	Nonflammable gas	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
AW	Carbon dioxide, solid, *or* Dry ice, *or* Carbonice	ORM-A	None	None	173.615	440 pounds	440 pounds	1	1	Stow away from open ventilators. Stow away from cyanides or cyanide mixtures, liquid or dry
	Carbon monoxide	Flammable gas	Flammable gas	173.306	173.302	Forbidden	150 pounds	1	4	
•	Carbon remover, liquid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
AW	Carbon tetrachloride	ORM-A	None	173.505	173.620	1 quart	55 gallons	1,2	1,2	Stow away from living quarters
	Carbonyl chloride. *See* Phosgene									
	Carboys, empty, must be classed for the hazardous material previously contained in carboy. *See* 173.29									
	Cartridge bags, empty, with black powder igniter	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Cartridge cases, empty, primed	Class C explosive	Explosive C	None	173.107	50 pounds	150 pounds	1,3	1,3	
	Cartridge, practice ammunition	Class C explosive	Explosive C	None	173.101a	50 pounds	150 pounds	1,2	1,2	
	Case oil. *See* Gasoline *or* Naphtha									
	Casinghead gasoline. *See* Gasoline									
W	Castor beans	ORM-C	None	173.505	173.952			1,2	1,2	Stow away from living quarters and foodstuffs. Bulk shipments permitted in tight vans or containers only on cargo vessels (Castor beans only)
W	Castor pomace. *See* Castor beans									
	Caustic potash, dry, solid, flake, bead, *or* granular. *See* Potassium hydroxide, dry, etc.									
•	Caustic potash, liquid *or* solution. *See* Potassium hydroxide solution									
	Caustic soda, dry, solid, flake, bead, *or* granular. *See* Sodium hydroxide, dry, etc.									
•	Caustic soda, liquid *or* solution. *See* Sodium hydroxide solution									
W	*Cellosolve*. *See* Ethylene glycol monoethyl ether									
W	*Cellosolve acetate*. *See* Ethylene glycol monoethyl ether acetate									
•	Cement, adhesive, n.o.s. *See* Cement, liquid, n.o.s.									
•	Cement, container, linoleum, tile, *or* wallboard, liquid	Flammable liquid	Flammable liquid	173.118	173.132	1 quart	15 gallons	1,2	1	
	Cement, leather	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Cement, liquid, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Cement, liquid, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.132	1 quart	10 gallons	1,2	1	
•	Cement, pyroxylin	Flammable liquid	Flammable liquid	173.118	173.132	1 quart	15 gallons	1,2	1	
•	Cement, roofing, liquid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Cement, rubber	Flammable liquid	Flammable liquid	173.118	173.132	1 quart	15 gallons	1,2	1	
	Cesium metal	Flammable solid	Flammable solid and dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet

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§172.101 Hazardous Materials Table (cont'd)

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*	Charcoal, activated	Flammable solid	Flammable solid	173.162	173.162	25 pounds	200 pounds	1,3	1,3	
	Charcoal briquettes *or* briquets	Flammable solid	Flammable solid	173.162	173.162	50 pounds	50 pounds	1,2	1,2	
	Charcoal screenings, made from "pinun" wood	Flammable solid	Flammable solid	173.162	173.162	25 pounds	200 pounds	1,2	1,2	
	Charcoal screenings, wet	Forbidden								
	Charcoal, shell	Flammable solid	Flammable solid	173.162	173.162	25 pounds	200 pounds	1,2	1,2	
	Charcoal, wet	Forbidden								
	Charcoal, wood, ground, crushed, granulated, *or* pulverized	Flammable solid	Flammable solid	173.162	173.162	25 pounds	200 pounds	1,2	1,2	
	Charcoal, wood, lump	Flammable solid	Flammable solid	173.162	173.162	50 pounds	50 pounds	1,2	1,2	
	Charcoal wood screenings, other than "pinun" wood screenings	Flammable solid	Flammable solid	None	173.162	Forbidden	Forbidden	1	1	
	Charged oil well jet perforating gun (*total explosive contents in guns 20 pounds or more per motor vehicle*)	Class A explosive	Explosive A	None	173.53 173.80	Forbidden	Forbidden			Forbidden
	Charged oil well jet perforating gun (*total explosive contents in guns not exceeding 20 pounds per motor vehicle*)	Class C explosive	Explosive C	None	173.53 173.110	Forbidden	Forbidden			Forbidden
	Chemical ammunition explosive. See Ammunition, chemical, explosive									
	Chemical ammunition, nonexplosive (*containing a Poison B material*)	Poison B	Poison	173.345	173.350	Forbidden	55 gallons			*See* correct shipping name of applicable Poison B material for stowage, special handling, and special segregation requirements
	Chemical ammunition, nonexplosive (*containing an irritating material*)	Irritating material	Irritant	None	173.383	Forbidden	20 pounds			*See* correct shipping name of applicable Irritant material for stowage, special handling, and special segregation requirements
	Chemical ammunition, nonexplosive (*containing a poison A material*)	Poison A	Poison gas	None	173.330	Forbidden	Forbidden			*See* correct shipping name of applicable Poison A material for stowage, special handling, and special segregation requirements
*	Chemical kit	Corrosive material	Corrosive	173.286		1 quart	1 quart	1,3	1,3	
*	Chlorate and borate mixture (*containing more than 28% chlorate*)	Oxidizer	Oxidizer	173.153	173.229	25 pounds	100 pounds	1,2	4	Stow away from ammonium compounds and away from powdered metals
*	Chlorate and magnesium chloride mixture (*containing more than 28% chlorate*)	Oxidizer	Oxidizer	173.153	173.229	25 pounds	100 pounds	1,2	4	Stow away from ammonium compounds, and away from powdered metals
	Chlorate explosive, dry. See High explosive									
	Chlorate, n.o.s.	Oxidizer	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	4	Stow away from ammonium compounds and away from powdered metals
*	Chlorate, n.o.s., wet	Oxidizer	Oxidizer	173.153	173.163	25 pounds	200 pounds	1,2	4	Stow away from ammonium compounds and away from powdered metals
	Chlorate of potash. *See* Potassium chlorate									
	Chlorate of soda. *See* Sodium chlorate									
	Chlorate powder. See High explosive									
*	Chlordane, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Chloric acid. (*see* chlorine dioxide hydrate)									
	Chloride of phosphorus. *See* Phosphorus trichloride									
	Chloride of sulfur. *See* Sulfur chloride									
W	Chlorinated lime (*chloride of lime.*) *See* Bleaching powder									
	Chlorine	Nonflammable gas	Nonflammable gas and Poison	None	173.304 173.314 173.315	Forbidden	Forbidden	1,2	5	Stow in a well-ventilated space. Stow away from organic materials
	Chlorine dioxide hydrate, frozen	Oxidizer	Oxidizer and Poison	None	173.237	Forbidden	Forbidden			Forbidden
	Chlorine trifluoride	Oxidizer	Oxidizer and Poison	None	173.246	Forbidden	100 pounds	1,3	5	Stow in well ventilated area away from organic material
	Chloroacetic acid, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
*	Chloroacetic acid, liquid *or* solution. *See* Monochloroacetic acid, liquid *or* solution									
	Chloroacetophenone, gas, liquid, *or* solid (CN)	Irritating material	Irritant	None	173.382	Forbidden	75 pounds	1	5	
	Chloroacetyl chloride	Corrosive material	Corrosive	None	173.253	Forbidden	1 quart	1	5	Keep dry
	Chlorobenzene. *See* Chlorobenzol									
	Chlorobenzol	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

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	p-Chlorobenzoyl peroside	Organic peroxide	Organic peroxide	None	173.157 173.158	Forbidden	25 pounds	1	1	
	Chlorodinitrobenzene. See Dinitrochlorobenzene									
	Chlorodinitrobenzol. See Dinitrochlorobenzol, solid									
AW	Chloroform	ORM-A	None	173.505	173.630	10 gallons	55 gallons	1,2	1,2	Stow away from living quarters and foodstuffs
	4-Chloro-o-toluidine hydrochloride	Poison B	Poison	None	173.362	Forbidden	1 quart	1,2	1,2	
	Chlorophenyltrichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Chloropicrin, absorbed	Poison B	Poison	None	173.357	Forbidden	Forbidden	1	5	Keep cool
	Chloropicrin and methyl chloride mixture	Poison A	Flammable gas and Poison gas	None	173.329	Forbidden	Forbidden	1	5	Keep cool
	Chloropicrin and nonflammable, nonliquefied compressed gas mixture	Poison A	Nonflammable gas and Poison gas	None	173.329	Forbidden	Forbidden	1	5	Keep cool
	Chloropicrin, liquid	Poison B	Poison	None	173.357	Forbidden	Forbidden	1	5	Keep cool
	Chloropicrin mixture (*containing no compressed gas or poison A liquid*)	Poison B	Poison	None	173.357	Forbidden	Forbidden	1	5	Keep cool
A	Chloroplatinic acid, solid	ORM-B	None	173.505	173.510 173.800	25 pounds	100 pounds			
	2-Chloropropene	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,2	5	
	Chlorosulfonic acid	Corrosive material	Corrosive	173.244	173.254	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Chlorosulfonic acid-sulfur trioxide mixture	Corrosive material	Corrosive	173.244	173.254	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Chromic acid mixture, dry	Oxidizer	Oxidizer	173.153	173.164	25 pounds	100 pounds	1,2	1,2	Stow away from foodstuffs
	Chromic acid, solid	Oxidizer	Oxidizer	173.153	173.164	25 pounds	100 pounds	1,2	1,2	Stow away from foodstuffs. Stow separate from flammable liquids and solids
*	Chromic acid solution	Corrosive material	Corrosive	173.244	173.287	1 quart	1 gallon	1	1	
	Chromic anhydride. *See* Chromic acid, solid									
	Chromic fluoride, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
*	Chromic fluoride solution	Corrosive material	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
	Chromic trioside. *See* Chromic acid, solid									
	Chromium oxychloride *or* Chromyl chloride	Corrosive material	Corrosive	None	173.247	Forbidden	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Cigar and cigarette lighter fluid. See Lighter fluid									
*	Cigarette lighter (*or other similar ignition device*)	Flammable gas	Flammable gas	173.21	173.308	21 ounces	25 pounds	1	1	Not permitted in nonventilated container
*	Cigarette lighter (*or other similar ignition device*)	Flammable liquid	Flammable liquid	173.21	173.118	Forbidden	Forbidden	1	1	Not permitted in nonventilated container
	Cigarette load	Class C explosive	Explosive C	None	173.111	50 pounds	150 pounds	1,2	1,2	
	Cloud gas cylinder. See Chemical ammunition									
	Coal briquettes, hot	Forbidden								
	Coal facings. *See* Coal ground bituminous, *etc.*									
	Coal gas. See Hydrocarbon gas, nonliquefied									
	Coal, ground bituminous, sea coal; coal facings; *etc.*	Flammable solid	Flammable solid		173.165	Forbidden	Forbidden	1	1	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Coal oil (*export shipment only*). *See* Kerosene									
*	Coal tar distillate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Coal tar distillate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Coal tar dye, liquid (*not otherwise specifically named in Sec. 172.101*)	Corrosive material	Corrosive	173.244	173.245 173.249a	1 quart	10 gallons	1,2	1,2	
*	Coal tar light oil	Combustible liquid	None	173.118a				1,2	1,2	
*	Coal tar light oil	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Coal tar naphtha	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
*	Coal tar naphtha	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Coal tar oil	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Coal tar oil	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
*	Coating solution	Flammable liquid	Flammable liquid	173.118	173.132	1 quart	15 gallons	1,2	1	
	Cobalt resinate, precipitated	Flammable solid	Flammable solid	None	173.166	Forbidden	125 pounds	1,2	1,2	
	Cocculus, solid (*fishberry*)	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
W*	Coconut-meal pellets *containing at least 6% and not more than 13% moisture and not more than 10% residual fat content*	ORM-C	None	173.505	173.955			1,2	4	Keep dry
	Coir. *See* Fibers									
	Coke, hot	Forbidden								
	Collodion	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Collodion cotton, wet. *See* Nitrocellulose, wet									
	Cologne spirits (*alcohol*)	Flammable liquid	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
	Columbian spirits (*wood alcohol*)	Flammable liquid	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
	Combination fuze	Class C explosive	Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Combination primer	Class C explosive	Explosive C	None	173.107	50 pounds	150 pounds	1,3	5	
	Combustible liquid, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Commercial shaped charge. *See* High explosive									
	Common fireworks. *See* Fireworks, common									
*	Compound, cleaning, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Compound, cleaning, liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
*	Compound, cleaning, liquid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Compound, cleaning, liquid (containing hydrochloric (muriatic) acid)	Corrosive material	Corrosive	173.244	173.263	1 quart	1 gallon	1	1	
*	Compound, cleaning, liquid (containing hydrofluoric acid)	Corrosive material	Corrosive	173.244	173.256	1 quart	1 gallon	1	4	
*	Compound, cleaning liquid (*containing phosphoric acid, acetic acid, sodium or potassium hydroxide*)	Corrosive material	Corrosive	173.244	173.245 173.249a	1 quart	1 quart	1,2	1,2	
*	Compound, enamel	Flammable liquid	Flammable liquid	173.118	173.128	1 quart	55 gallons	1,2	1	
*	Compound, lacquer, paint, or varnish removing, liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
*	Compound, lacquer, paint, or varnish, removing, reducing, or thinning, liquid	Combustible liquid	None	173.118a				1,2	1,2	
*	Compound, lacquer, paint, or varnish, removing, reducing, or thinning, liquid	Flammable liquid	Flammable liquid	173.118	173.128	1 quart	55 gallons	1,2	1	
*	Compound, polishing, liquid	Flammable liquid	Flammable liquid	173.118	173.129	1 quart	55 gallons	1,2	1	
*	Compound, rust preventing or Compound, rust removing	Corrosive material	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
*	Compound, tree or weed killing, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Compound, tree or weed killing, liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
*	Compound, tree or weed killing, liquid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Compound, tree or weed killing, liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
*	Compound, tree or weed killing, solid	Oxidizer	Oxidizer	173.153	173.154 173.229	25 pounds	100 pounds	1,2	1,2	
*	Compound, vulcanizing, liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
*	Compound, vulcanizing, liquid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Compound, water treatment, liquid. *See* Water treatment, liquid									
	Compressed gas, n.o.s.	Flammable gas	Flammable gas	173.306	173.302 173.304 173.305	Forbidden	300 pounds	1	4	

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Compressed gas, n.o.s.	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Consumer commodity	ORM-D	None	None	173.510 173.1200	65 pounds gross	65 pounds gross			Not subject to requirements of Part 176
	Container, reused or empty, must be classed for the hazardous material previously contained. *See* 173.28, 173.29									
	Copper acetoarsenite, solid (*emerald green, imperial green, King's green, moss green, meadow green, mitis green, parrot green, Vienna green*)	Poison B	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	
	Copper arsenite, solid (*Scheele's green, cupric green, copper orthoarsenite, Swedish green*)	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
A	Copper chloride	ORM-B	None	173.505	173.510 173.800	25 pounds	100 pounds			
	Copper cyanide	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
W	Copra	ORM-C	None	173.505	173.960			1,2	1,2	Segregation same as for flammable solids. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Copra pellets. *See* Coconut meal pellets									
	Cordeau detonant fuse	Class C explosive	Explosive C	None	173.104	50 pounds	300 pounds	1,2	1,2	
	Corrosive battery fluid. *See* Electrolyte (acid), *or* Alkaline Corrosive battery fluid									
	Corrosive liquid, n.o.s.	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Corrosive solid, n.o.s.	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1	4	
*	Cosmetics, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Cosmetics, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Cosmetics, n.o.s.	Flammable solid	Flammable solid	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
*	Cosmetics, n.o.s.	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
*	Cosmetics, n.o.s., liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
*	Cosmetics, n.o.s., solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
W	Cotton	ORM-C	None	173.505	173.965			1,2	1,2	Segregation same as for flammable solids. *See* 176.900 to 176.904
W	Cotton batting	ORM-C	None	173.505	173.970			1,2	1,2	Keep dry. Stow away from vegetable or animal oils. *See* 176.900 to 176.904
W	Cotton batting dross. *See* Cotton batting									
	Cotton, burnt. *See* Burnt cotton									
W	Cotton seed hull fiber *or* shavings, pulp, *or* cut linters. *See* Cotton batting									
	Cotton sweepings. *See* Cotton waste									
W	Cotton wadding. *See* Cotton batting									
W	Cotton waste	ORM-C	None	173.505	173.975			1,2	1,2	Keep dry. Stow away from vegetable or animal oils. *See* 176.900 to 176.904
	Cotton waste, oily (*with more than 5% of animal or vegetable oil*)	Flammable solid	Flammable solid	None	173.167	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Creosote, coal tar	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Creosote oil. *See* Creosote, coal tar									
	Crotonaldehyde	Flammable liquid	Flammable liquid and Poison	173.118	173.119	1 quart	1 gallon	1,2	1	
	Crotonic acid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Crotonylene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Crude nitrogen fertilizer solution (more than 25.3 p.s.i.g.)	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	Forbidden	300 pounds	1,3	1,3	
*	Crude oil, petroleum	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Crude oil, petroleum	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Cumene hydroperoxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Cupric cyanide. *See* Copper cyanide									

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Cyanide, n.o.s.	Poison B	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	
	Cyanogen	Poison A	Poison gas	173.314	173.315	Forbidden	Forbidden	1,3	1,3	
	Cyanogen bromide	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Cyanogen chloride	Poison A	Poison gas	173.314	173.315	Forbidden	Forbidden	1,3	1,3	
	Cyclohexane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Cyclohexanone	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Cyclohexanone peroxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Cyclohexylamine	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Cyclopentane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Cyclopropane	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Cymene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Decaborane	Flammable solid	Flammable solid	None	173.166	Forbidden	125 pounds	1,2	1,2	
	Decahydronaphthalene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Decahydronaphthalene peroxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Decanol	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Decyl acrylate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Decyl alcohol	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Decyltrichlorosilane	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Denatured alcohol	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Desensitized explosive, n.o.s.	Class C explosive	Explosive C	None	173.104	50 pounds	300 pounds	1,2	1,2	
	Detonating cord	Class C explosive	Explosive C	None	173.104	50 pounds	300 pounds	1,2	1,2	
	Detonating fuse	Class C explosive	Explosive C	None	173.104	50 pounds	300 pounds	1,2	1,2	
	Detonator	Class C explosive	Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Detonator assembly	Class C explosive	Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Developer, solid	Flammable solid	Flammable solid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Dextrine	ORM-C	None	173.505	173.960			1,2	1,2	Segregation same as for flammable solids. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Diacetone alcohol	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diacetone alcohol peroxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Diallyl	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diallylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diallyl ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dibenzoyl peroxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Diborane	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	Forbidden	300 pounds	1,3	1,3	
	Dibromodifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Dibutoxymethane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dibutylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dibutyl ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dibutyl peroxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Dibutyl phosphate	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Dibutyl phosphite	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dichloroacetic acid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Dichloroacetyl chloride	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Dichlorobenzene	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Dichlorobutane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dichlorodifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane and difluoroethane azeotrope	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane and ethylene oxide	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane and trichlorofluoromethane azeotrope	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Dichloroethane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dichloroethyl ether	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Dichlorofluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Dichloroisopropyl ether	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Dichloromethane	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Dichloropentane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dichloropropane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dichloropropanol	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Dichloropropene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dichloropropene-dichloropropane mixture	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dichlorotetrafluoroethane	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Dicyanogen	Poison A	Poison gas	173.314	173.315	Forbidden	Forbidden	1,3	1,3	
	Dicyclohexylamine	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Dicyclopentadiene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diesel fuel	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Diethanolamine	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Diethoxymethane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diethylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diethylaminoethanol	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Diethylbenzene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diethyl carbonate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diethyl ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diethyl ether peroxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Diethyl ketone	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diethyl peroxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Diethyl phosphite	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diethyl sulfate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Diethylzinc	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Difluoroethane	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Difluoroethane and ethylene oxide	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Difluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Diglycidyl ether	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Dihydrodichlorofluoroethane	Nonflammable gas	Nonflammable gas	173.306	173.302 173.304 173.305	150 pounds	300 pounds	1,2	1,2	
	Dihydrofuran	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dihydropyran	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diisobutylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diisobutylene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diisobutyl ketone	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diisopropanolamine	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Diisopropylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diisopropyl ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diisopropyl peroxydicarbonate	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Dilauryl peroxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Dimethoxymethane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylamine, anhydrous	Flammable gas	Flammable gas	173.306	173.302 173.304 173.305	Forbidden	300 pounds	1	4	
	Dimethylaminoethanol	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Dimethylaminopropylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylbenzene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylcarbamoyl chloride	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Dimethylcyclohexane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylcyclohexylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethyldichlorosilane	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Dimethylethanolamine	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Dimethylethoxysilane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylformamide	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylhexane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylhydrazine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylhydrazine, unsymmetrical	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylmethoxysilane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylpentane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethylpropane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethyl sulfate	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Dimethyl sulfide	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethyl sulfite	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethyltetrahydrofuran	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dinitrobenzene	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Dinitrobenzene, liquid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Dinitrobenzene, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Dinitrocresol	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Dinitrophenol	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Dinitrophenol, dry or wetted with less than 15% water	Explosive A	Explosive A	None	173.87	Forbidden	Forbidden	1	4	
	Dinitrophenol, wetted with not less than 15% water	Flammable solid	Flammable solid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Dinitrophenolates, dry or wetted with less than 15% water	Explosive A	Explosive A	None	173.87	Forbidden	Forbidden	1	4	
	Dinitrophenolates, wetted with not less than 15% water	Flammable solid	Flammable solid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Dinitrotoluene	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Dinitrotoluene, liquid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Dinitrotoluene, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Dioctyl phthalate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Dioctyl sebacate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Dioctyltin compound	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Dioxane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dioxolane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dipentene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diphenylamine chloroarsine	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Diphenylchloroarsine, liquid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Diphenylchloroarsine, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Diphenylmethane diisocyanate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Dipicryl sulfide, dry or wetted with less than 10% water	Explosive A	Explosive A	None	173.87	Forbidden	Forbidden	1	4	
	Dipicryl sulfide, wetted with not less than 10% water	Flammable solid	Flammable solid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Dipropylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dipropyl ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dipropyl peroxydicarbonate	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Disinfectant, liquid, n.o.s.	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Disinfectant, liquid, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Disinfectant, liquid, n.o.s.	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Disinfectant, solid, n.o.s.	Flammable solid	Flammable solid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Disinfectant, solid, n.o.s.	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Disodium trioxosilicate	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Disperse dye, liquid, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Disperse dye, liquid, n.o.s.	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Disperse dye, liquid, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Disperse dye, liquid, n.o.s.	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Disperse dye, solid, n.o.s.	Flammable solid	Flammable solid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Disperse dye, solid, n.o.s.	Poison B	Poison

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
•	Cuprietylene-diamine solution	Corrosive material	Corrosive	173.244	173.249	1 quart	1 gallon	1,2	1,2	
•	Cyanide or cyanide mixture, dry	Poison B	Poison	173.364	173.370	25 pounds	200 pounds	1,2	1,2	Keep dry. Stow away from acids
	Cyanogen bromide	Poison B	Poison	None	173.379	Forbidden	25 pounds	1	5	Shade from radiant heat. Segregation same as for corrosive materials
	Cyanogen chloride *containing less than 0.9% water*	Poison A	Nonflammable gas and Poison Gas	None	173.328	Forbidden	Forbidden	1	5	Shade from radiant heat
	Cyanogen gas	Poison A	Flammable gas and Poison Gas	None	173.328	Forbidden	Forbidden	1	5	
	Cyclohexane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Cyclohexanone peroxide, *50 to 85% peroxide*	Organic peroxide	Organic peroxide	173.157	173.158	Forbidden	25 pounds	1	1	
	Cyclohexanone peroxide, *not over 50% peroxide*	Organic peroxide	Organic peroxide	173.153	173.154	2 pounds	25 pounds	1,2	1,2	
	Cyclohexanone peroxide and bis (1-hydroxy cyclohexyl), peroxide mixture. *See appropriate cyclohexanone peroxide entry immediately preceding*									
	Cyclohexenyl trichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Cyclohexyl trichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Cyclopentane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Cyclopentane, methyl	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Cyclopropane	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	1	
	Cyclotrimethylenetrinitramine, desensitized. See High explosive									
	Cyclotrimethylenetrinitramine, wet with not less than 10% water. See High explosive									
	Cylinder, empty, including ton tanks, must be classed for the hazardous material previously contained in cylinder. See 173.29									
	2,4-D. *See* 2,4-Dichlorophenoxyacetic acid									
A	DDT *or* Dichlorodiphenyltrichlorethane	ORM-A	None	173.505	173.510	No limit	No limit			
	Dead oil. See Creosote, coal tar									
	Decaborane	Flammable solid	Flammable solid and Poison	None	173.236	Forbidden	25 pounds	1,2	1,2	
	Decahydronaphthalene	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Decalin. See Decahydronaphthalene									
	Delay electric igniter	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Denatured alcohol. *See* Alcohol, n.o.s.									
	Depth bomb. See Explosive bomb									
	Detonating fuze, Class A explosive, *with or without radioactive components*	Class A explosive	Explosive A	None	173.69	Forbidden	Forbidden	6	5	
	Detonating fuze, Class C explosive	Class C explosive	Explosive C	None	173.113	50 pounds	150 pounds	1,3	1,3	
	Detonating primer	Class A explosive	Explosive A	None	173.68	Forbidden	Forbidden	6	5	
•	Diacetone alcohol	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diacetyl	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
A	Diazinon	ORM-A	None	173.505	173.510	No limit	No limit			
	Diazodinitrophenol. *See* Initiating explosive									
A	Dibromodifluoromethane	ORM-A	None	173.505	173.510 173.605	10 gallons	55 gallons			
W	1,2-Dibromoethane. *See* Ethylene dibromide									
	Dichloroacetic acid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	Glass carboy in hampers not permitted under deck
	Dichloroacetyl chloride	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	4	Keep dry
A	Dichlorobenzene, ortho, liquid	ORM-A	None	173.505	173.510	No limit	No limit			
A	Dichlorobenzene, para, solid	ORM-A	None	173.505	173.510	No limit	No limit			

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Dichlorobutene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
A	Dichlorodifluoroethylene	ORM-A	None	173.505	173.510 173.605	10 gallons	55 gallons			
	Dichlorodifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture*)	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-dichlorotetrafluoroethane mixture	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-monochlorodifluoromethane mixture	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
•	Dichlorodifluoromethane-trichloromonofluoromethane mixture	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-trichloromonofluoromethane-monochloro difluoromethane mixture	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-trichlorotrifluoroethane mixture	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodiphenyltrichloroethane. *See* DDT									
	Dichloroethylene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dichloroisopropyl ether	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
A	Dichloromethane *or* methylene chloride	ORM-A	None	173.505	173.510 173.605	10 gallons	55 gallons			
•	Dichloropentane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
A	2,4-Dichlorophenoxyacetic acid	ORM-A	None	173.505	173.510					
	Dichlorophenyltrichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Dichloropropene and propylene dichloride mixture	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Dicumyl peroxide *50% solution*	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Dicumyl peroxide, dry	Organic peroxide	Organic peroxide	173.153	173.154	2 pounds	25 pounds	1,2	1,2	
A	Dieldrin	ORM-A	None	173.505	173.510	No limit	No limit			
	Diesel Fuel *See* Fuel oil									
	Diethylamine	Flammable liquid	Flammable liquid	173.118	173.119	Forbidden	5 pints	1,3	4	
	Diethyl cellosolve. *See* Ethylene glycol diethyl ether									
	Diethyl dichlorosilane	Flammable liquid	Flammable liquid	None	173.135	Forbidden	10 gallons	1	1	Keep dry. Segregation same as for corrosives
	Diethylene glycol dinitrate *See* 173.51	Forbidden								
	Di-(2-ethylhexyl) phosphoric acid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Diethyl ketone	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	1,1-Difluoro 1-chloroethane. *See* Difluoromonochloroethane									
	Difluoroethane	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Difluoromonochloroethane (*1,1-difluoro 1-chloroethane*)	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Difluorophosphoric acid, anhydrous	Corrosive material	Corrosive	None	173.275	Forbidden	1 gallon	1,2	1,2	
	Dihydropyran	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	4	
	Diisobutyl ketone	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Diisooctyl acid phosphate	Corrosive material	Corrosive	173.244	173.296	1 quart	1 quart	1,2	1,2	Glass carboys in hampers not permitted under deck
	Diisopropylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diisopropylbenzene hydroperoxide solution, *not over 60% peroxide*	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Diisopropylethanolamine	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Diisopropylether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	

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§172.101 Hazardous Materials Table (cont'd)

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	Dimethylamine, anhydrous	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	
*	Dimethylamine, aqueous solution	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	2,3-Dimethylbutane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Dimethyl carbonate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	1,4-Dimethylcyclohexane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dimethyldichlorosilane	Flammable liquid	Flammable liquid	None	173.135	Forbidden	5 pints	1,2	1	
	Dimethyl ether	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Dimethylhexane dihydroperoxide, dry	Forbidden								
	Dimethylhexane dihydroperoxide, (with 30% or more water)	Organic peroxide	Organic peroxide	None	173.157	Forbidden	25 pounds	1	1	
	Dimethylhydrazine, unsymmetrical (*UDMH*)	Flammable liquid	Flammable liquid and Poison	None	173.145	Forbidden	5 pints	1,2	1	Keep dry. Separate from corrosive and oxidizing materials, and organic peroxides
	Dimethyl sulfate	Corrosive material	Corrosive	None	173.255	Forbidden	1 quart	1	5	Keep cool
	Dimethyl sulfide	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,2	5	
	Dinitrobenzene, solid, *or* dinitrobenzol, solid	Poison B	Poison	173.364	173.371	50 pounds	200 pounds	1,2	1,2	
*	Dinitrobenzene solution	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Dinitrochlorobenzol, solid *or* Dinitrochlorobenzene	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
A	Dinitrocyclohexylphenol	ORM-A	None	173.505	173.510	No limit	No limit			
*	Dinitrophenol solution	Poison B	Poison	173.345	173.362a	1 quart	65 pounds	1,2	1,2	Stow away from heavy metals and their compounds. If flash point is 141 DEG F or less segregation same as for flammable liquids
	Dioxane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Dioxolane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Diphenylaminechloroarsine (*DM*)	Irritating material	Irritant	None	173.382	Forbidden	75 pounds	1	5	
	Diphenyl dichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Diphenyl methyl bromide, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1	4	
*	Diphenyl methyl bromide solution	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1,2	1,2	
	Diphosgene. See Phosgene									
*	Disinfectant, liquid, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Disinfectant, liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1	4	
*	Disinfectant, liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1	
*	Disinfectant, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1	
	Dispersant Gas *or* Refrigerant Gas *See* 173.314 NOTE 13 and 173.315 NOTE 9									
*	Distillate (*petroleum or coal tar*)	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Divinyl ether	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Dodecyl trichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
*	Dressing, leather	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Dressing, leather	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Drier. See Paint drier, liquid									
	Drill cartridge			173.55						
*	Drugs, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Drugs, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Drugs, n.o.s.	Flammable solid	Flammable solid	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
*	Drugs, n.o.s.	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
*	Drugs, n.o.s., liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

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*	Drugs, n.o.s., liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,3	1	
*	Drugs, n.o.s., solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
*	Drugs, n.o.s., solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,3	1,3	
	Drums, empty, must be classed for the hazardous material previously contained in drum. See 173.29									
	Dry ice. *See* Carbon dioxide, solid									
	Dusts, by-product, poisonous. *See* Arsenical dust									
*	Dye intermediate, liquid	Corrosive material	Corrosive	173.244	173.245 173.249a	1 quart	10 gallons	1,2	1,2	Stow away from foodstuffs and living quarters
	Dynamite. See High explosive									
	Electric blasting caps. *See* Blasting caps, electric									
	Electric squib	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Electric storage battery, wet. *See* Battery, electric storage, wet									
	Electrolyte (*acid*), battery fluid (*not over 47% acid*)	Corrosive material	Corrosive	173.244	173.257	1 quart	5 gallons	1,2	1,2	Glass carboys in hampers not permitted under deck
	Electrolyte (*acid*), *or* alkaline (*corrosive*) battery fluid packed with battery charger, radio current supply device, *or* electronic equipment and actuating device	Corrosive material	Corrosive	None	173.259	Forbidden	5 pints	1,2	1,2	
	Electrolyte (*acid*), *or* alkaline (*corrosive*) battery fluid packed with dry-storage battery	Corrosive material	Corrosive	None	173.258	Forbidden	5 pints	1,2	1,2	
*	Empty cartridge bag with black powder igniter	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Empty cartridge case, primed	Class C explosive	Explosive C	None	173.107	50 pounds	150 pounds	1,3	1,3	
*	Enamel. *See* *Paint, enamel, lacquer, etc.			173.120				1,2	1,2	Not permitted in unventilated containers
	Engine, internal combustion									
	Engine starting fluid	Flammable gas	Flammable gas	None	173.304	Forbidden	60 pounds	1,2	5	
*	Eradicator, paint *or* grease, liquid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Etching acid, liquid, n.o.s.	Corrosive material	Corrosive	None	173.299	Forbidden	10 pounds	1	5	
	Ethane	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	4	
	Ether (*ethyl*)	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Ether, Ethyl. *See* Ether									
	Ethyl acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl acrylate, inhibited	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl alcohol. *See* Alcohol, n.o.s.									
	Ethyl aldehyde. *See* Acetaldehyde									
	Ethyl benzene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl borate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	Keep dry
	Ethyl butyl acetate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethyl butyl ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl butyraldehyde	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl butyrate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Ethyl chloride	Flammable liquid	Flammable liquid	None	173.123	Forbidden	173.123	1,2	1	Segregation same as for flammable gases
	Ethyl chloroacetate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethyl chloroformate (*chlorocarbonate*)	Flammable liquid	Flammable liquid and Poison	None	173.288	Forbidden	5 pints	1,2	1	
	Ethyl chlorothioformate	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1,2	1	
	Ethyl crotonate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl dichlorosilane	Flammable liquid	Flammable liquid	None	173.135	Forbidden	5 pints	1,2	1	

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Ethylene	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Ethylene chlorohydrin	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Ethylene dibromide	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Ethylene dichloride	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethylene glycol monoethyl ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethylene glycol monoethyl ether acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethylene glycol monomethyl ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethylene glycol monomethyl ether acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethylene oxide	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Ethylene oxide and carbon dioxide mixtures	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Ethylene oxide and dichlorodifluoromethane mixtures	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Ethylene oxide and propylene oxide mixtures	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Ethyleneimine	Flammable liquid	Flammable liquid and Poison	None	173.119	Forbidden	1 pint	1,2	1	
	Explosive, n.o.s.	Class A explosive	Explosive A	None	173.53	Forbidden	Forbidden	1,3	1,3	
	Explosive, n.o.s.	Class B explosive	Explosive B	None	173.88	Forbidden	Forbidden	1,3	1,3	
	Explosive, n.o.s.	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Explosive, n.o.s.	Forbidden								
	Explosive, n.o.s.	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,3	1	
	Explosive, n.o.s.	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,3	1,3

§172.101 Hazardous Materials Table (cont'd)

(1) °/W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Ethylene	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	4	
	Ethylene chlorohydrin	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1	Segregation same as for flammable liquids
AW	Ethylene dibromide (1,2-dibromethane)	ORM-A	None	173.505	173.620	1 quart	55 gallons	1,2	1,2	Stow away from living quarters
	Ethylene dichloride	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethylene glycol diethyl ether (*diethyl "Cellosolve"*)	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethylene glycol monoethyl ether (*"Cellosolve"*)	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethylene glycol monoethyl ether acetate (*"Cellosolve acetate"*)	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethylene glycol monomethyl ether (*methyl "Cellosolve"*)	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethylene glycol monomethyl ether acetate (*methyl "Cellosolve acetate"*)	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethylene imine, inhibited	Flammable liquid	Flammable liquid and Poison	None	173.139	Forbidden	5 pints	1,2	1	
	Ethylene oxide	Flammable liquid	Flammable liquid	None	173.124	Forbidden	173.124	1,2	1	Segregation same as for flammable gases
	Ethyl ether. See Ether									
	Ethyl formate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Ethylhexaldehyde	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethyl lactate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethyl mercaptan	Flammable liquid	Flammable liquid	None	173.141	Forbidden	10 gallons	1,2	1	
	Ethyl methyl ether	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	1	Segregation same as for flammable gases
	Ethyl methyl ketone	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl nitrate (*nitric ether*)	Flammable liquid	Flammable liquid	173.118	173.119	Forbidden	Forbidden	1,2	1	
	Ethyl nitrite (*nitrous ether*)	Flammable liquid	Flammable liquid	None	173.119	Forbidden	Forbidden	1,3	5	
	Ethyl phenyl dichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	5	
	Ethyl phosphonothioic dichloride, anhydrous	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Ethyl phosphonous dichloride, anhydrous	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Ethyl phosphorodichloridate	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Ethyl propionate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Ethyl silicate (*tetra ethyl ortho silicate*)	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Ethyl trichlorosilane	Flammable liquid	Flammable liquid	None	173.135	Forbidden	5 pints	1,2	1	
	Etiologic agent, n.o.s.	Etiologic agent	Etiologic agent	173.386	173.387	173.386	4 liters			Not permitted except under specific conditions approved by the Department
W	Excelsior (shredded wood) *when dry, clean, and free from oil*	ORM-C	None	173.505	173.980			1,3	1,3	Stow away from organic, corrosive, or oxidizing materials
W	Exothermic ferrochrome	ORM-C	None	173.503	173.985			1	1	
W	Exothermic ferromaganese. *See* Exothermic ferrochrome									
W	Exothermic silicon chrome. *See* Exothermic ferrochrome									
	Explosive auto alarm	Class C explosive	Explosive C	None	173.111	50 pounds	150 pounds	1,2	1,2	
	Explosive bomb	Class A explosive	Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with these items
	Explosive cable cutter	Class C explosive	Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Explosive mine	Class A explosive	Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with this material
	Explosive, new approval, and evaluation See 173.86									
	Explosive power device, Class B	Class B explosive	Explosive B	None	173.94	Forbidden	150 pounds	1,2	5	
	Explosive power device, Class C	Class C explosive	Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	

§172.101 Hazardous Materials Table (cont'd)

(1) °/W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	burning. Not subject to requirements of									
	Explosive projectile	Class A explosive	Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with this material
	Explosive release device	Class C explosive	Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Explosive rivet	Class C explosive	Explosive C	None	173.100	50 pounds	150 pounds	1,2	1,2	
	Explosive, sample for laboratory examination			173.86		Forbidden	178.86			
	Explosive torpedo	Class A explosive	Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with this material
•	Extract, liquid, flavoring	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Fabric with animal or vegetable oil. See Fibers or fabric containing not more than 5% animal or vegetable fat									
AW	Feed, wet, mixed	ORM-C	None	173.505	173.990	Forbidden	Forbidden	3	3	Stow in cool, dry, well ventilated compartment. Do not stow bags over ten tiers high without flooring off. Do not overstow
W	Felt, waste. *See* Cotton waste									
	Felt, waste, wet. *See* Waste wool, wet									
	Ferric arsenate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Ferric arsenite, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
A	Ferric chloride, solid, *anhydrous*	ORM-B	None	173.505	173.510	25 pounds	100 pounds			
•	Ferric chloride solution	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	10 quarts	1,2	1,2	
W	Ferrophosphoros	ORM-A	None	173.505	173.635			1,2	1,2	Keep dry. Stow away from living quarters
AW	Ferrosilicon, *containing 30% or more but not more than 70% silicon*	ORM-A	None	173.505	173.510 173.645	Forbidden	25 pounds	1,2	1,2	Keep dry. Stow away from living quarters. Segregation same as for flammable solids labeled Dangerous When Wet
	Ferrous arsenate (*iron arsenate*), solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Fertilizer ammoniating solution *containing free ammonia (more than 25.3 p.s.i.g.)*	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	Forbidden	300 pounds	1,2	4	
	Fertilizer, tankage. *See* Garbage, tankage									
W	Fibers (*jute, hemp, flax, sisal, coir, kapok, and similar vegetable fibers*)	ORM-C	None	173.505	173.965			1,2	1,2	Stow away from animal or vegetable oils; Segregation same as for flammable solids
	Fibers, burnt	Flammable solid	Flammable solid	None	173.169	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Fibers *or* fabric, containing not more than 5% animal *or* vegetable oil	Flammable solid	Flammable solid	None	173.170	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Film (nitrocellulose)	Flammable solid	Flammable solid	None	173.177	50 pounds	200 pounds	1,3	1,3	Stow away from other flammable cargo or substances
	Film, photographic, (including scrap film), safety, nonflammable, or slow									
	this subchapter									
	Firecracker. See Fireworks, common or special									
	Firecracker salute. See Fireworks, common or special									
•	Fire extinguisher	Nonflammable gas	Nonflammable gas	173.306		150 pounds	300 pounds	1,2	1,2	
	Fire extinguisher charge containing not more than 50 grains of propellant explosive per unit. Not subject to requirements of this subchapter									
	Fire extinguisher charge containing sulfuric acid	Corrosive material	Corrosive	173.261		1 quart	1 gallon	1,2	1,2	
	Fireworks, common	Class C explosive	Explosive C	None	173.100 173.108	50 pounds	200 pounds	1,3	1,3	Passenger vessels in metal lockers only
	Fireworks, exhibition display piece. See Fireworks, special									
	Fireworks, special	Class B explosive	Explosive B	None	173.88 173.91	Forbidden	200 pounds	3	3	Passenger vessels in metal lockers only. Toy torpedoes must not be packed with other special fireworks

§172.101 Hazardous Materials Table (cont'd)

(1) °/W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Fluorine, compressed	Nonflammable gas	Nonflammable gas	173.306	173.304	Forbidden	300 pounds	1,2	4	
	Fluosilicic acid	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Formaldehyde solution	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Formic acid	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Fuel, aviation, turbine engine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Fuel oil	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Fuel, synthetic naphtha	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Fulminate of mercury, dry	Class A explosive	Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with this material
	Fulminate of mercury, wet, with not less than 20% water, or mixture of alcohol and water	Class B explosive	Explosive B	None	173.94	Forbidden	150 pounds	1,2	5	
	Fumigant, poisonous, n.o.s.	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Fumigated cargo space									
	Fumigated container									
	Fumigated unit load									
	Furfuryl alcohol	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Fuse, detonating, metal clad	Class A explosive	Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with this material
	Fuse, igniter, tubular, metal clad	Class C explosive	Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Fuse, instantaneous, non-detonating	Class C explosive	Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Fuse, nonexplosive, for use in mines	Class C explosive	Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Fuse, safety	Class C explosive	Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Garbage, tankage	ORM-C	None	173.505	173.980			1,3	1,3	Stow away from organic, corrosive, or oxidizing materials
	Gas identification set	Nonflammable gas	Nonflammable gas	173.306	173.304	Forbidden	300 pounds	1,2	4	
	Gas, n.o.s.	Nonflammable gas	Nonflammable gas	173.306	173.304	Forbidden	300 pounds	1,2	4	
	Gas, n.o.s.	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	4	
	Gas, n.o.s.	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Gas, n.o.s.	Poison A	Poison	173.306	173.304	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with this material
	Gas oil	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Gasoline	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Gelatin dynamite	Class A explosive	Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with this material
	Glass, broken	ORM-C	None	173.505	173.980			1,3	1,3	Stow away from organic, corrosive, or oxidizing materials
	Glass, empty, with residue of flammable liquid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Glass, empty, with residue of poison	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Glass, empty, with residue of poison	Poison A	Poison	173.306	173.304	Forbidden	Forbidden	1,2	5	Magazine stowage authorized. No other cargo may be stowed in the same hold with this material
	Glass, empty, with residue of poison	ORM-A	None	173.505	173.510	25 pounds	100 pounds			
	Glass, empty, with residue of poison	ORM-B	None	173.505	173.510	25 pounds	100 pounds			
	Glass, empty, with residue of poison	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Glass, empty, with residue of poison	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Glass, empty, with residue of poison	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Glass, empty, with residue of poison	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	5

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
W	Fish meal or fish scrap containing 6% to 12% water	ORM-C	None	173.505	173.995			1,2	1,2	Segregation same as for flammable solids. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides. *Use double strip stowage* for cargo 6-12 percent moisture containing not more than 12 percent fat. *Use single strip stowage* for cargo 6-12 percent moisture containing 12-15 percent fat
	Fish meal or fish scrap containing less than 6% or more than 12% water	Flammable solid	Flammable solid	None	173.171	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Fissile radioactive material. *See* Radioactive material, fissile									
•	Flame retardant compound liquid	Corrosive material	Corrosive	173.244	173.291	1 quart	10 gallons	1,2	1,2	
	Flammable Gas n.o.s. *See* Compressed gas, n.o.s.									
	Flammable liquid, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Flammable solid, n.o.s.	Flammable solid	Flammable solid	173.153	173.154	25 pounds	25 pounds	1,2	1,2	
	Flare. *See* Fireworks, common									
	Flare, airplane. *See* Fireworks, special									
	Flash cartridge. *See* Fireworks, special *or* Low explosives									
	Flash cracker. *See* Fireworks, common *or* special									
	Flash powder. *See* Fireworks, special *or* Low explosives									
	Flax. *See* Fibers									
	Flexible linear shaped charge, metal clad	Class C explosive	Explosive C	None	173.104	50 pounds	300 pounds	1,3	1,3	
	Flowers of sulfur. *See* Sulfur									
	Flue dust, poisonous	Poison B	Poison	173.364	173.368	50 pounds	200 pounds	1,2	1,2	
	Fluoboric acid	Corrosive material	Corrosive	173.244	173.283	1 quart	1 gallon	1,2	1,2	
	Fluoric acid. *See* Hydrofluoric acid									
	Fluorine	Nonflammable gas	Poison and Oxidizer	None	173.302	Forbidden	Forbidden	1	5	Stow in well ventilated space away from organic materials
	Fluorophosphoric acid, anhydrous. *See* Monofluorophosphoric acid, anhydrous									
	Fluorosilicic acid. *See* Hydrofluosilicic acid									
	Fluorosulfonic acid *or* Fluosulfonic acid	Corrosive material	Corrosive	None	173.274	Forbidden	1 gallon	1	5	Keep dry
AW	Formaldehyde, *or* formalin solution (*in containers of 110 gallons or less*)	ORM-A	None	173.505	173.510	10 gallons	55 gallons	1,2	4	
	Formaldehyde, *or* formalin solution (*in containers over 110 gallons*)	Combustible liquid	None	173.118a	None	10 gallons	55 gallons	1,2	1,2	
	Formalin. *See* Formaldehyde solution									
	Formic acid	Corrosive material	Corrosive	173.244	173.245 173.289	1 quart	5 gallons	1,2	1,2	Glass carboys in hampers not permitted under deck
•	Formic acid solution	Corrosive material	Corrosive	173.244	173.245 173.289	1 quart	5 gallons	1,2	1,2	
•	Fuel, aviation, turbine engine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Fuel oil	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Fuel oil, Diesel. *See* Fuel oil									
	Fuel oil, No. 1, 2, 4, 5 *or* 6	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Fulminate of mercury, dry	Forbidden								
	Fulminate of mercury, wet. *See* Initiating explosive									
	Fumaryl chloride	Corrosive material	Corrosive	173.244	173.245 173.152	1 quart	1 quart	1	1	Glass carboys not permitted
•	*Fumigant*									
•	Furfural	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1	
	Fusee (*railway or highway*)	Flammable solid	Flammable solid	None	173.154a	50 pounds	200 pounds	1,3	1,3	
	Fuse igniter	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Fuse, instantaneous	Class C explosive	Explosive C	173.100		50 pounds	150 pounds	1,2	1,2	
	Fuse lighter	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Fuel oil	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Fuse, mild detonating, metal clad	Class C explosive	Explosive C	None	173.104	50 pounds	300 pounds	1,2	1,2	
	Fuse, safety	Class C explosive	Explosive C	173.100		50 pounds	300 pounds	1,2	1,2	
	Fuze, combination	Class C explosive	Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Fuze, detonating	Class A explosive	Explosive A	None	173.69	Forbidden	Forbidden	6	5	
	Fuze, detonating, Class C explosive	Class C explosive	Explosive C	None	173.113	50 pounds	150 pounds	1,3	1,3	
	Fuze, detonating, radioactive	Class A explosive	Explosive A	None	173.69	Forbidden	Forbidden	6	5	
	Fuze, percussion	Class C explosive	Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Fuze, time	Class C explosive	Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Fuze, tracer	Class C explosive	Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Gallium metal, liquid	ORM-B	None	None	173.861	Forbidden	40 pounds	1	5	None
	Gallium metal, solid	ORM-B	None	None	173.862	Forbidden	40 pounds	1,3	1	Shade from radiant heat
W	Garbage tankage *containing 8% or more water*	ORM-C	None	173.505	173.1000			1,2	1,2	
	Garbage tankage, *containing less than 8% water*	Flammable solid	Flammable solid	None	173.209	Forbidden	Forbidden	1	1	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Gas cylinder, empty. *See* Cylinder, empty									
•	Gas drips, hydrocarbon	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Gas drips, hydrocarbon	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Gas identification set	Poison A	Poison gas	None	173.331	Forbidden	Forbidden	1	5	
•	Gas identification set	Irritating material	Irritant	None	173.331	Forbidden	Forbidden	1	5	
	Gas mine. *See* Explosive mine									
	Gas oil. *See* Fuel oil									
	Gasoline (*including casing-head and natural*)	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	4	
	Gelatine Dynamite. *See* High explosive									
	Germane	Poison A	Poison gas and Flammable gas	None	173.328	Forbidden	Forbidden	1	5	
	Grenade, empty, primed	Class C explosive	Explosive C	None	173.107	50 pounds	150 pounds	1,3	1,3	
	Grenade, hand *or* rifle, explosive (*with or without gas, smoke, or incendiary material*)	Class A explosive	Explosive A	None	173.56	Forbidden	Forbidden	1,2	5	No other cargo may be stowed with the same hold with these items
	Grenade, tear gas	Irritating material	Irritant	None	173.385	Forbidden	75 pounds	1,2	1	
	Grenade without bursting charge: With incendiary material (Special fireworks)	Class B explosive	Explosive B	173.91		Forbidden	Forbidden	3	3	Passenger vessels in metal lockers only
	Grenade without bursting charge: With smoke charge (Smoke grenade)	Class C explosive	Explosive C	173.108		50 pounds	150 pounds	1,3	1,3	
	Grenade without bursting charge: With Poison A gas charge	Poison A	Poison gas	173.330		Forbidden	Forbidden			*See* correct shipping name of applicable Poison A material for stowage, special handling, and special segregation requirements
	Grenade without bursting charge: With Poison B charge	Poison B	Poison	173.350		Forbidden	Forbidden			*See* correct shipping name of applicable Poison B material for stowage, special handling, and special segregation requirements
	Guanidine nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	Separate from nitro-compounds, chlorates, and acids
	Guanyl nitrosamino guanylidene hydrazine. *See* Initiating explosive									
	Guanyl nitrosamino guanyl tetrazene. *See* Initiating explosive									
	Guided missile, without warhead. *See* Rocket motor, Class A explosive *or* Rocket motor, class B explosive									
	Guided missile with warhead. *See* Rocket ammunition with explosive, illuminating, gas, incendiary, *or* smoke projectile									
	Guncotton. *See* High explosive									

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Hafnium metal, dry (*See Note 3, Sec. 173.214*)	Flammable solid	Flammable solid	None	173.214	Forbidden	75 pounds	1	5	
	Hafnium metal, wet	Flammable solid	Flammable solid	None	173.214	Forbidden	150 pounds	1,2	5	
	Hair, wet	Flammable solid	Flammable solid	None	173.172	Forbidden	Forbidden	1,2	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Hand signal device	Class C explosive	Explosive C	None	173.108	50 pounds	200 pounds	1,2	1,2	
W	Hay	ORM-C	None	173.505	173.1005			1,2	1,2	Segregation same as for flammable solids. Stow away from animal or vegetable oils
W	Hay or straw (*loose, wet, or damp*)									Forbidden for water shipment
	Heater for refrigerator car, liquid fuel type (*containing fuel*)	Flammable liquid	Flammable liquid	173.146		Forbidden	Forbidden	1,2	1	
*	Helium	Nonflammable gas	Nonflammable gas	173.306	173.302 173.314	150 pounds	300 pounds	1,2	1,2	
*	Helium-oxygen mixture	Nonflammable gas	Nonflammable gas	173.306	173.302	150 pounds	300 pounds	1,2	1,2	
	Heptane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
W	*Hessian. See* Burlap cloth									
W	Hexachloroethane	ORM-A	None	173.505	173.650			1,2	1,2	
	Hexadecyltrichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Hexadiene	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,2	5	
	Hexaethyl tetraphosphate and compressed gas mixture	Poison A	Poison gas	None	173.334	Forbidden	Forbidden	1	5	Shade from radiant heat
	Hexaethyl tetraphosphate, liquid	Poison B	Poison	None	173.358	Forbidden	1 quart	1	4	
	Hexaethyl tetraphosphate mixture, dry (*containing more than 2% hexaethyl tetraphosphate*)	Poison B	Poison	None	173.377	Forbidden	200 pounds	1,2	5	
*	Hexaethyl tetraphosphate mixture, dry (containing not more than 2% hexaethyl tetraphosphate)	Poison B	Poison	173.377	173.377	50 pounds	200 pounds	1,2	4	
	Hexaethyl tetraphosphate mixture, liquid (*containing more than 25% hexaethyl tetraphosphate*)	Poison B	Poison	None	173.359	Forbidden	1 quart	1,2	5	
*	Hexaethyl tetraphosphate mixture, liquid (containing not more than 25% hexaethyl tetraphosphate)	Poison B	Poison	173.359	173.359	1 quart	1 quart	1,2	4	
	Hexafluorophosphoric acid	Corrosive material	Corrosive	None	173.275	Forbidden	1 gallon	1,2	1,2	
	Hexafluoropropylene	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1	4	
*	Hexaldehyde	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Hexamethylene diamine, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
*	Hexamethylene diamine solution	Corrosive material	Corrosive	173.244	173.292	1 quart	10 gallons	1,2	1,2	
	Hexamethylene imine	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Hexane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Hexanoic acid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Hexyltrichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	High explosive	Class A explosive	Explosive A	173.65	173.61 to 173.87	Forbidden	Forbidden	6	5	
	High explosive, liquid	Class A explosive	Explosive A	None	173.62	Forbidden	Forbidden	6	5	
*	Hydraulic accumulator. *See* Accumulator, pressurized									
	Hydrazine, anhydrous	Flammable liquid	Flammable liquid and Poison	None	173.276	Forbidden	5 pints	1	5	Segregation same as for corrosives
*	Hydrazine, aqueous solution	Corrosive material	Corrosive	None	173.276	Forbidden	5 pints	1	5	
*	Hydriodic acid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 gallon	1	1	Glass carboys not permitted on passenger vessel
	Hydrobromic acid, anhydrous. *See* Hydrogen bromide									
	Hydrobromic acid, *more than 49% strength*	Corrosive material	Corrosive	None	173.262	Forbidden	Forbidden	1	1	Glass carboys not permitted on passenger vessel
*	Hydrobromic acid not more than 49% strength	Corrosive material	Corrosive	173.244	173.262	1 quart	1 gallon	1	1	Glass carboys not permitted on passenger vessel

§172.101 Hazardous Materials Table (cont'd)

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	Hydrocarbon gas, liquefied	Flammable gas	Flammable gas	173.306	173.304 173.314	Forbidden	300 pounds	1,2	1	
*	Hydrocarbon gas, nonliquefied	Flammable gas	Flammable gas	173.306	173.302	Forbidden	300 pounds	1,2	1	
*	Hydrochloric (*muriatic*) acid	Corrosive material	Corrosive	173.244	173.263	1 quart	1 gallon	1	1	Glass carboys not permitted on passenger vessel
	Hydrochloric acid, anhydrous. *See* Hydrogen chloride									
*	Hydrochloric acid mixture	Corrosive material	Corrosive	173.244	173.263	1 quart	1 gallon	1	1	Glass carboys not permitted on passenger vessel
*	Hydrochloric acid solution, inhibited	Corrosive material	Corrosive	173.244	173.263	1 quart	1 gallon	1	1	Glass carboys not permitted on passenger vessel
	Hydrocyanic acid, liquefied	Poison A	Flammable gas and Poison gas	None	173.332	Forbidden	Forbidden	1	5	
	Hydrocyanic acid (*prussic*), solution (*5% or more hydrocyanic acid*)	Poison A	Flammable gas and Poison gas	None	173.332	Forbidden	Forbidden	1	5	Shade from radiant heat. Aqueous solutions containing more than 20 percent hydrogen cyanide are not permitted in transportation by water
	Hydrocyanic acid (*prussic*), unstabilized	Forbidden								
	Hydrocyanic acid solution, less than 5% hydrocyanic acid	Poison B	Poison	None	173.351	Forbidden	25 pounds	1	5	Shade from radiant heat
	Hydrofluoric acid, anhydrous. *See* Hydrogen fluoride									
*	Hydrofluoric acid solution	Corrosive material	Corrosive	173.244	173.264	1 quart	1 gallon	1	4	
*	Hydrofluoric and sulfuric acids, mixture	Corrosive material	Corrosive	None	173.290	Forbidden	1 gallon	1	5	
	Hydrofluoroboric acid. *See* Fluoboric acid									
	Hydrofluorosilicic acid	Corrosive material	Corrosive	None	173.265	1 quart	1 gallon	1,2	1,2	
	Hydrogen	Flammable gas	Flammable gas	173.306	173.302 173.314	Forbidden	300 pounds	1,2	4	
	Hydrogen, Liquified	Flammable gas	Flammable gas	None	173.316	Forbidden	Forbidden			Forbidden
	Hydrogen bromide	Nonflammable gas	Nonflammable gas	173.306	173.304	Forbidden	300 pounds	1	4	
	Hydrogen chloride	Nonflammable gas	Nonflammable gas	173.306	173.304	Forbidden	300 pounds	1	4	
	Hydrogen fluoride	Corrosive material	Corrosive	None	173.264	Forbidden	110 pounds	1	5	Segregation same as for nonflammable gases
	Hydrogen iodide solution. *See* Hydriodic acid									
	Hydrogen peroxide solution (8% to 40% peroxide)	Oxidizer	Oxidizer	173.244	173.266	1 quart	1 gallon	1,2	1	Shade from radiant heat. Separate from permanganates. Keep away from powdered metals
	Hydrogen peroxide solution (40% to 52% peroxide)	Oxidizer	Oxidizer	173.244	173.266	Forbidden	Forbidden	1	4	Shade from radiant heat. Separate from permanganates. Keep away from powdered metals
	Hydrogen peroxide solution (over 52% peroxide)	Oxidizer	Oxidizer	None	173.266	Forbidden	Forbidden	1	5	Shade from radiant heat. Separate from permanganates. Keep away from powdered metals. Concentrations greater than 60% hydrogen peroxide not permitted on any vessel except under conditions approved by the Department
	Hydrogen selenide	Flammable gas	Flammable gas and Poison	None	173.328	Forbidden	Forbidden	1	5	
	Hydrogen sulfate. *See* Sulfuric acid									
	Hydrogen sulfide	Flammable gas	Flammable gas and Poison	None	173.304 173.314	Forbidden	300 pounds	1	5	
	Hydrosilicofluoric acid. *See* Hydrofluorosilicic acid									
	Hypochlorite solution *containing more than 7% available chlorine by weight*	Corrosive material	Corrosive	173.244	173.277	1 quart	4 gallons	1,2	1	Glass carboys in hampers not permitted under deck
A*	Hypochlorite solution containing not more than 7% available chlorine *by weight*	ORM-B	None	173.505	173.510	No limit	No limit			
	Igniter	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Igniter cord	Class C explosive	Explosive C	None	173.100	50 pounds	150 pounds	1,3	1,3	
	Igniter fuse, metal clad	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
*	Igniter, jet thrust (jato)	Class A explosive	Explosive A	None	173.79	Forbidden	Forbidden	6	5	
*	Igniter, jet-thrust (jato)	Class B explosive	Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
*	Igniter, rocket motor	Class A explosive	Explosive A	None	173.79	Forbidden	Forbidden	6	5	

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§172.101 Hazardous Materials Table (cont'd)

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•	Igniter, rocket motor	Class B explosive	Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
	Illuminating projectile. See Fireworks, special									
	Iminobispropylamine	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Initiating explosive *Diazodinitrophenol*	Class A explosive	Explosive A	None	173.70	Forbidden	Forbidden	6	5	
	Initiating explosive *Fulminate of mercury*	Class A explosive	Explosive A	None	173.71	Forbidden	Forbidden	6	5	
	Initiating explosive *Guanyl nitrosamino guanylidene hydrazine*	Class A explosive	Explosive A	None	173.72	Forbidden	Forbidden	6	5	
	Initiating explosive *Lead azide, dextrinated type only*	Class A explosive	Explosive A	None	173.73	Forbidden	Forbidden	6	5	
	Initiating explosive *Lead mononitroresorcinate*	Class A explosive	Explosive A	None	173.70	Forbidden	Forbidden	6	5	
	Initiating explosive Lead styphnate (*lead trinitroresorcinate*)	Class A explosive	Explosive A	None	173.74	Forbidden	Forbidden	6	5	
	Initiating explosive *Nitro mannite*	Class A explosive	Explosive A	None	173.75	Forbidden	Forbidden	6	5	
	Initiating explosive *Nitrosoguanidine*	Class A explosive	Explosive A	None	173.76	Forbidden	Forbidden	6	5	
	Initiating explosive *Pentaerythrite tetranitrate*	Class A explosive	Explosive A	None	173.77	Forbidden	Forbidden	6	5	
	Initiating explosive Tetrazene (*guanyl nitrosamine guanyl tetrazene*)	Class A explosive	Explosive A	None	173.78	Forbidden	Forbidden	6	5	
•	Ink	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Ink	Flammable liquid	Flammable liquid	173.118	173.144	1 quart	10 gallons	1,2	1	
•	Insecticide, dry, n.o.s.	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Insecticide, liquefied gas (*containing no Poison A or B material*)	Nonflammable gas	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,3	1,3	
	Insecticide, liquefied gas, containing Poison A material *or* Poison B material	Poison A	Poison gas	None	173.329 173.334	Forbidden	Forbidden	1	5	Shade from radiant heat
•	Insecticide, liquid, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Insecticide, liquid, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Insecticide, liquid, n.o.s.	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
W	Insulation tape (*varnished cloth type*). *See* Oiled material									
	Iodine monochloride	Corrosive material	Corrosive	None	173.293	Forbidden	1 quart	1	5	Keep dry
	Iodine pentafluoride	Oxidizer	Oxidizer and Poison	None	173.246	Forbidden	100 pounds	1	1	Keep dry
	Iron chloride, solid. *See* Ferric chloride, solid									
	Iron mass *or* sponge, *not properly oxidized*	Flammable solid	Flammable solid	None	173.174	Forbidden	Forbidden	1,2	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Iron mass *or* sponge spent	Flammable solid	Flammable solid	None	173.174	Forbidden	Forbidden	1,2	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
A	*Iron, oxide, spent*					Forbidden	Forbidden			
	Iron sesquichloride, solid. *See* Ferric chloride									
	Irritating agent, n.o.s.	Irritating material	Irritant	173.382		Forbidden	75 pounds	1	1	Stow away from living quarters
	Isobutane *or* Liquefied petroleum gas. *See* Liquefied petroleum gas									
	Isobutyl acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Isobutylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Isobutylene or Liquefied petroleum gas. *See* Liquefied petroleum gas									
	Isobutyric acid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Isobutyric anhydride	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Isooctane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Isooctene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Isopentane	Flammable liquid	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,3	4	

§172.101 Hazardous Materials Table (cont'd)

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	Isopentanoic acid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Isoprene	Flammable liquid	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,3	4	
	Isopropanol. *See* Alcohol, n.o.s.									
	Isopropyl acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Isopropyl acid phosphate solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
	Isopropylamine	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Isopropyl mercaptan	Flammable liquid	Flammable liquid	None	173.141	Forbidden	10 gallons	1,3	5	
	Isopropyl nitrate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Isopropyl percarbonate, stabilized	Organic peroxide	Organic peroxide	None	173.282	Forbidden	Forbidden	5	5	
	Isopropylpercarbonate, unstabilized	Organic peroxide	Organic peroxide	None	173.218	Forbidden	Forbidden	5	5	
	Isopropyl phosphoric acid, solid. *See* Isopropyl acid phosphate, solid									
	Jet thrust igniter. *See* Igniter, jet thrust									
•	Jet thrust unit (*jato*)	Class A explosive	Explosive A	None	173.79	Forbidden	Forbidden	6	5	
•	Jet thrust unit (*jato*)	Class B explosive	Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
W	*Jute. See* Fibers									
W	*Kapok. See* Fibers									
	Kerosene	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Lacquer. *See* *Paint, enamel, lacquer, stain, etc.									
•	Lacquer base, liquid. *See* *Paint, enamel, lacquer, stain, etc.									
•	Lacquer base, *or* lacquer chips, dry	Flammable solid	Flammable solid	173.153	173.175	25 pounds	100 pounds	1	1	
•	Lacquer base *or* lacquer chips, plastic (*wet with alcohol or solvent*)	Flammable liquid	Flammable liquid	173.118	173.127	1 quart	25 pounds	1,2	1	
•	Lacquer removing, reducing, *or* thinning compound. *See* Compound, lacquer, paint, *or* varnish, *etc.*, removing, reducing *or* thinning liquid									
	Lauroyl peroxide	Organic peroxide	Organic peroxide	173.153	173.157 173.158	2 pounds	25 pounds	1,2	1	
	Lead arsenate, solid	Poison B	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	
	Lead arsenite, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Lead azide. See Initiating explosive									
A	Lead chloride	ORM-B	None	173.505	173.510 173.800	25 pounds	100 pounds			
	Lead cyanide	Poison B	Poison	173.370		25 pounds	No limit	1,2	1,2	Stow away from acids
W	Lead dross	ORM-C	None	173.505	173.1010			1,2	1,2	Segregation same as for corrosive materials
	Lead mononitroresorcinate. See Initiating explosive									
	Lead nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	Stow away from foodstuffs
	Lead peroxide	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Stow away from foodstuffs
W	Lead scrap. *See* Lead dross									
	Lead styphnate (*lead trinitroresorcinate*). *See* Initiating explosive									
	Lead sulfate, solid (*containing more than 3% free acid*)	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
•	Leather bleach *or* dressing	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Leather bleach *or* dressing	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Lighter fluid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Lime-nitrogen. See Calcium cyanamide, not hydrated, etc.									
	Lime, unslaked. *See* Calcium oxide									
A	Lindane	ORM-A	None	173.505	173.510	No limit	No limit			
	Liquefied hydrocarbon gas. *See* Hydrocarbon gas, liquefied									

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
•	Liquefied nonflammable gas (*charged with nitrogen, carbon dioxide, or air*)	Nonflammable gas	Nonflammable gas	173.306	173.304	300 pounds	300 pounds	1,2	1,2	
	Liquefied petroleum gas	Flammable gas	Flammable gas	173.306a	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Liquid other than one classed as flammable, corrosive, poison or irritant, charged with nitrogen, carbon dioxide, or air. See Compressed gas n.o.s.									
	Lithium acetylide-ethylene diamine complex	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous When Wet
	Lithium aluminum hydride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous When Wet
	Lithium aluminum hydride, ethereal	Flammable liquid	Flammable liquid	None	173.137	Forbidden	1 quart	1	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium amide, powdered	Flammable solid	Flammable solid	173.153	173.168	25 pounds	100 pounds	1,2	4	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium borohydride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium ferro silicon	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium hydride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium hydride in fused solid form	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	100 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium hypochlorite compound, dry (*containing more than 39% available chlorine*)	Oxidizer	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	
	Lithium metal	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium metal, in cartridges	Flammable solid	Flammable solid and Dangerous when wet	173.206		1 pound	25 pounds	1,2	4	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium nitride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segretation same as for flammable solids labeled Dangerous When Wet
	Lithium peroxide	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Keep dry
	Lithium silicon	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
	London purple, solid	Poison B	Poison	173.364	173.363	50 pounds	200 pounds	1,2	1,2	
	Low blasting explosive. See Low explosive									
	Low explosive	Class A Explosive	Explosive A	None	173.60	Forbidden	Forbidden	6	5	
	Lye. See Sodium hydroxide, solid									
	Magnesium aluminum phosphide	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
	Magnesium arsenate, solid	Poison B	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	
	Magnesium dross, wet or hot	Forbidden		173.173						
•	Magnesium, metal (*powdered, pellets, turnings, or ribbons*)	Flammable solid	Flammable solid and Dangerous when wet	173.153	173.220	25 pounds	100 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
	Magnesium nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Magnesium perchlorate	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,3	1,3	Stow away from powdered metals
	Magnesium peroxide, solid	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Keep dry

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
•	Magnesium scrap (*borings, clippings, shavings, sheet, turnings, or scalpings*)	Flammable solid	Flammable solid and Dangerous when wet	173.153	173.220	Forbidden	Forbidden	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
A	Magnetized material	ORM-C	Magnetized material	None	173.1020	No limit	No limit			
A	Malathion	ORM-A	None	173.505	173.510	No limit	No limit			
A	Manganese dioxide	ORM-B	None	173.505	173.510	No limit	No limit			
	Matches, block. See Matches, strike anywhere									
	Matches, safety, *book, card, or strike-on-box*	Flammable solid	Flammable solid	173.176		50 pounds	50 pounds	1,2	1	
	Matches, strike anywhere	Flammable solid	Flammable solid	None	173.176	Forbidden	Forbidden	1,2	1	
	Matting acid. *See* Sulfuric acid									
•	Medicines, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Medicines, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Medicines, n.o.s.	Flammable solid	Flammable solid	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
•	Medicines, n.o.s.	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
•	Medicines, n.o.s., liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
•	Medicines, n.o.s., liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,3	1	
•	Medicines, n.o.s., solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
•	Medicines, n.o.s., solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,3	1,3	
	Mentetrahydro phthalic anhydride	Corrosive material	Corrosive	None	173.298	Forbidden	1 quart	1,2	1	
•	Mercaptan mixture, aliphatic (*in containers over 110 gallons*)	Combustible liquid	None	173.118a	None	Forbidden	10 gallons	1,2	1,2	
AW	Mercaptan mixture, aliphatic (*in containers of 110 gallons or less*) *see 173.141(b)*	ORM-A	None	173.505	173.510	Forbidden	10 gallons	1,3	5	Stow in well ventilated space away from living quarters
•	Mercaptan mixture, aliphatic	Flammable liquid	Flammable liquid	None	173.141	Forbidden	10 gallons	1,3	5	
	Mercuric acetate	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric-ammonium chloride, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric benzoate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric bromide, solid	Poison B	Poison	173.364	173.365	Forbidden	25 pounds	1,2	1,2	
	Mercuric chloride, solid	Poison B	Poison	173.364	173.372	Forbidden	25 pounds	1,2	1,2	
	Mercuric cyanide, solid	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Mercuric iodide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
•	Mercuric iodide solution	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Mercuric oleate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric oxide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric oxycyanide, solid	Poison B	Poison	173.364	173.365	25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Mercuric-potassium cyanide, solid	Poison B	Poison	173.364	173.363 173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Mercuric-potassium iodide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric salicylate solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric subsulfate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric sulfate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric sulfo cyanate, solid or mercuric thiocyanate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurol, or mercury nucleate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurous acetate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurous bromide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurous gluconate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
*	Liquefied nonflammable gas (*charged with nitrogen, carbon dioxide, or air*)	Nonflammable gas	Nonflammable gas	173.306	173.304	300 pounds	300 pounds	1,2	1,2	
	Liquefied petroleum gas	Flammable gas	Flammable gas	173.306a	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Liquid other than one classed as flammable, corrosive, poison or irritant, charged with nitrogen, carbon dioxide, or air. See Compressed gas n.o.s.									
	Lithium acetylide-ethylene diamine complex	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous When Wet
	Lithium aluminum hydride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous When Wet
	Lithium aluminum hydride, ethereal	Flammable liquid	Flammable liquid	None	173.137	Forbidden	1 quart	1	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium amide, powdered	Flammable solid	Flammable solid	173.153	173.168	25 pounds	100 pounds	1,2	4	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium borohydride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium ferro silicon	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium hydride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium hydride in fused solid form	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	100 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium hypochlorite compound, dry *(containing more than 39% available chlorine)*	Oxidizer	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	"
	Lithium metal	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium metal, in cartridges	Flammable solid	Flammable solid and Dangerous when wet	173.206		1 pound	25 pounds	1,2	4	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium nitride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Lithium peroxide	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Keep dry
	Lithium silicon	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
	London purple, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Low blasting explosive. See Low explosive									
	Low explosive	Class A Explosive	Explosive A	None	173.60	Forbidden	Forbidden	6	5	
	Lye. See Sodium hydroxide, solid									
	Magnesium aluminum phosphide	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
	Magnesium arsenate, solid	Poison B	Poison	173.364	173.367	50 pounds	200 pounds	1,2	1,2	
	Magnesium dross, wet or hot	Forbidden		173.173						
*	Magnesium, metal (*powdered, pellets, turnings, or ribbons*)	Flammable solid	Flammable solid and Dangerous when wet	173.153	173.220	25 pounds	100 pounds	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
	Magnesium nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Magnesium perchlorate	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,3	1,3	Stow away from powdered metals
	Magnesium peroxide, solid	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Keep dry

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
*	Magnesium scrap (*borings, clippings, shavings, sheet, turnings, or scalpings*)	Flammable solid	Flammable solid and Dangerous when wet	173.153	173.220	Forbidden	Forbidden	1,2	1,2	Segregation same as for flammable solids labeled Dangerous When Wet
A	Magnetized material	ORM-C	Magnetized material	None	173.1020	No limit	No limit			
A	Malathion	ORM-A	None	173.505	173.510	No limit	No limit			
A	Manganese dioxide	ORM-B	None	173.505	173.510	No limit	No limit			
	Matches, black. See Matches, strike anywhere									
	Matches, safety, *book, card, or strike-on-box*	Flammable solid	Flammable solid	173.176		50 pounds	50 pounds	1,2	1	
	Matches, strike anywhere	Flammable solid	Flammable solid	None	173.176	Forbidden	Forbidden	1,2	1	
	Matting acid. *See* Sulfuric acid									
*	Medicines, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Medicines, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Medicines, n.o.s.	Flammable solid	Flammable solid	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
*	Medicines, n.o.s.	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	
*	Medicines, n.o.s., liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
*	Medicines, n.o.s., liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,3	1	
*	Medicines, n.o.s., solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
*	Medicines, n.o.s., solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,3	1,3	
	Memtetrahydro phthalic anhydride	Corrosive material	Corrosive	None	173.298	Forbidden	1 quart	1,2	1	
*	Mercaptan mixture, aliphatic (*in containers over 110 gallons*)	Combustible liquid	None	173.118a	None	Forbidden	10 gallons	1,2	1,2	
AW	Mercaptan mixture, aliphatic (*in containers of 110 gallons or less*) *see 173.141(b)*	ORM-A	None	173.505	173.510	Forbidden	10 gallons	1,3	5	Stow in well ventilated space away from living quarters
*	Mercaptan mixture, aliphatic	Flammable liquid	Flammable liquid	None	173.141	Forbidden	10 gallons	1,3	5	
	Mercuric acetate	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric-ammonium chloride, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric benzoate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric bromide, solid	Poison B	Poison	173.364	173.365	Forbidden	25 pounds	1,2	1,2	
	Mercuric chloride, solid	Poison B	Poison	173.364	173.372	Forbidden	25 pounds	1,2	1,2	
	Mercuric cyanide, solid	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Mercuric iodide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
*	Mercuric iodide solution	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Mercuric oleate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric oxide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric oxycyanide, solid	Poison B	Poison	173.364	173.365	25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Mercuric-potassium cyanide, solid	Poison B	Poison	173.364	173.365 173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Mercuric-potassium iodide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric salicylate solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric subsulfate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric sulfate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercuric sulfo cyanate, solid or mercuric thiocyanate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurol, or mercury nucleate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurous acetate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurous bromide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurous gluconate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Mercurous iodide, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurous nitrate, solid	Oxidizer	Oxidizer	173.153	173.154	50 pounds	100 pounds	1,2	1,2	
	Mercurous oxide, black, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercurous sulfate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
•	Mercury compound, n.o.s., solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Mercury fulminate. See Initiating explosive									
A	Mercury, metallic	ORM-B	None	None	173.860	173.860	173.860			
	Mesityl oxide	Flammable liquid	Flammable liquid	None	173.119	1 quart	10 gallons	1,2	1,2	
W	Metal borings, shavings, turnings, *or* cuttings	ORM-C	None	173.505	173.1025			1,2	1,2	Keep dry. Not permitted if temperature of material is at or above 1300DEG0 F
	Methane	Flammable gas	Flammable gas	173.306	173.302	Forbidden	300 pounds	1,2	4	
	Methanol. *See* Methyl alcohol									
	Methyl acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl acetone	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methylacetylene-propadiene, stabilized	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Methyl acrylate, inhibited	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methylal	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Methyl alcohol	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methylamine, anhydrous *or* Monomethylamine	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
	Methyl amyl acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Methyl amyl ketone	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Methyl bromide and ethylene dibromide mixture, liquid	Poison B	Poison	None	173.353	Forbidden	55 gallons	1	1	
	Methyl bromide and more than 2% chloropicrin mixture, liquid	Poison B	Poison	None	173.353	Forbidden	Forbidden	1	5	Shade from radiant heat
	Methyl bromide and nonflammable, nonliquefied compressed gas mixture, liquid (*including up to 2% chloropicrin*)	Poison B	Poison	None	173.353a	Forbidden	300 pounds	1	5	Stow away from living quarters
	Methyl bromide, liquid (*bromomethane*) (*including up to 2% chloropicrin*)	Poison B	Poison	None	173.353	Forbidden	55 gallons	1	5	Stow away from living quarters. Segregation same as for nonflammable gas
	Methyl butene	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,2	5	
	Methyl butyrate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl cellosolve. See Ethylene glycol monomethyl ether									
	Methyl cellosolve acetate. See Ethylene glycol monomethyl ether acetate									
	Methyl chloride	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	
•	Methyl chloride-methylene chloride mixture	Flammable gas	Flammable gas	173.306	173.304 173.314	Forbidden	300 pounds	1,2	4	
	Methyl chlorocarbonate. *See* Methyl chloroformate									
A	Methyl chloroform	ORM-A	None	173.505	173.510 173.605	10 gallons	55 gallons			
	Methyl chloroformate	Flammable liquid	Flammable liquid and Poison	None	173.288	Forbidden	5 pints	1,2	1	
	Methylchloromethyl ether, anhydrous	Flammable liquid	Flammable liquid and Poison	None	173.143	Forbidden	Forbidden	1	5	Shade from radiant heat
	Methylcyclohexane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methylcyclopentane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Methyl dichloroacetate	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Methyldichloroarsine	Poison A	Poison gas	None	173.328	Forbidden	Forbidden	1	5	Shade from radiant heat

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Methyl dichlorosilane	Flammable liquid	Flammable liquid	None	173.136	Forbidden	5 pints	1,2	1	
	Methylene chloride. *See* Dichloromethane									
	Methyl ethyl ether. *See* Ethyl methyl ether									
	Methyl ethyl ketone	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl ethyl pyridine	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Methyl formate	Flammable liquid	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,3	4	
	Methylfuran	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Methylhydrazine	Flammable liquid	Flammable liquid and Poison	None	173.145	Forbidden	5 pints	1,2	1	Stow separate from oxidizing materials and corrosives
	Methyl isopropenyl ketone, inhibited	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl magnesium bromide in ethyl ether *not over 40% concentration*	Flammable liquid	Flammable liquid	None	173.149	Forbidden	Forbidden	1	1	Segregation same as for flammable solids. Separate from flammable gases or liquids, oxidizing materials or organic peroxides
	Methyl mercaptan	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Methyl methacrylate monomer, inhibited	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl methacrylate monomer, uninhibited (*high-purity, if acceptable under Sec. 173.21 of this subchapter*)	Flammable liquid	Flammable liquid	173.118	173.119	Forbidden	Forbidden	1,2	1	
	Methyl norbornene dicarboxylic anhydride. *See* Hemetetrahydro phthalic anhydride									
	Methyl parathion, liquid	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
•	Methyl parathion mixture, dry	Poison B	Poison	173.377	173.377	50 pounds	200 pounds	1,2	1,2	
•	Methyl parathion mixture, liquid, (containing 25% or less methyl parathion)	Poison B	Poison	None	173.359	1/2 pint	1 quart	1,2	1,2	
	Methyl parathion mixture, liquid, (*containing over 25% methyl parathion*)	Poison B	Poison	None	173.359	Forbidden	1 quart	1,2	1,2	
	Methylpentadiene	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl pentane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl phosphonothioic dichloride, anhydrous	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Methyl phosphonous dichloride	Corrosive material	Corrosive	173.244	173.245 173.245a	1 quart	1 quart	1	4	
	Methyl propionate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl propyl ketone	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Methyl sulfate. *See* Dimethyl sulfate									
	Methyl sulfide. *See* Dimethyl sulfide									
	Methyltrichlorosilane	Flammable liquid	Flammable liquid	None	173.135	Forbidden	10 gallons	1,2	1	
	Methyl vinyl ketone, inhibited	Flammable liquid	Flammable liquid	173.147	173.147	4 ounces	10 gallons	1,2	1	
	Mild detonating fuse, metal clad. See Fuse, mild detonating, metal clad									
	Mine, empty. See 173.55									
	Mine, explosive, with gas material. See Explosive mine									
	Mine rescue equipment containing carbon dioxide	Nonflammable gas	Nonflammable gas	173.306		150 pounds	300 pounds	1,2	1,2	
•	Mining reagent, liquid (*containing 20% or more cresylic acid*)	Corrosive material	Corrosive	173.244	173.245 173.249a	1 quart	10 gallons	1,2	1,2	
A	Mipafox	ORM-A	None	173.505	173.510	No limit	No limit			
	Mixed acid. *See* Nitrating (*mixed*) acid									
A	Molybdenum pentachloride	ORM-B	None	173.505	173.510 173.800	25 pounds	100 pounds			
	Monobromotrifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
•	Monochloroacetic acid, liquid *or* solution	Corrosive material	Corrosive	173.244	173.294	1 quart	1 quart	1,2	1,2	Glass carboys in hampers not permitted under deck
	Monochloroacetone	Forbidden								

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Monochloroacetyl chloride	Corrosive material	Corrosive	None	173.244	Forbidden	Forbidden	1	5	Shade from radiant heat
	Monochlorodifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochlorodifluoromethane and dichlorodifluoromethane azeotrope with approximately 74% monochlorodifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochlorodifluoromethane and dichlorotetrafluoroethane mixture with not more than 28% monochlorodifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochlorodifluoromethane and pentachloromonofluoropropane mixture with not more than 5% monochlorodifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochlorodifluoromethane and trichlorotrifluoroethane mixture with not more than 5% monochlorodifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochloroethane. *See* Ethyl chloride									
	Monochloroethylene. *See* Vinyl chloride									
	Monochloromethane. *See* Methyl chloride									
	Monochloromonofluoroethane. *See* Ethyl fluoride									
	Monochloropentafluoroethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochlorotetrafluoroethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochlorotrifluoroethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monoethanolamine	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Monoethylamine	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
	Monoethylaniline	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Monoethylhydrazine	Flammable liquid	Flammable liquid and Poison	None	173.145	Forbidden	5 pints	1,2	1	Stow separate from oxidizing materials and corrosives
	Monofluorodichloroethane. *See* Ethyl fluorodichloride									
	Monofluorotrichloromethane. *See* Trichlorofluoromethane									
	Monomethylamine. *See* Methylamine									
	Monomethylaniline	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Monomethylhydrazine	Flammable liquid	Flammable liquid and Poison	None	173.145	Forbidden	5 pints	1,2	1	Stow separate from oxidizing materials and corrosives
	Monomethylhydrazine, aqueous solution with not more than 20% monomethylhydrazine	Flammable liquid	Flammable liquid	None	173.145	Forbidden	5 pints	1,2	1	Stow separate from oxidizing materials and corrosives
	Monosodium methanearsonate	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Monovinylacetylene, inhibited	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
	Morpholine	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Motor fuel antiknock compound	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Naphtha, petroleum	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Naphtha, solvent	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Naphthalene, crude	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Naphthalene, molten	Combustible liquid	None	173.249	173.249	No limit	No limit	1,2	1,2	
	Naphthenic acid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Naphthenic acid, liquid, corrosive	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Naphthenic acid, liquid, flammable	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Naphthenic acid, solid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Naphthenic acid, solid, flammable	Flammable solid	Flammable solid	173.150	173.151	25 pounds	100 pounds	1,2	1	
	Naphthenic acid, vapor	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Naphthenic anhydride	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Naphthenic anhydride, liquid, corrosive	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Naphthenic anhydride, liquid, flammable	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Naphthenic anhydride, solid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Naphthenic anhydride, solid, flammable	Flammable solid	Flammable solid	173.150	173.151	25 pounds	100 pounds	1,2	1	
	Naphthenic anhydride, vapor	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Naphthenic peroxide	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Naphthenic peroxide, liquid, flammable	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Naphthenic peroxide, solid	Flammable solid	Flammable solid	173.150	173.151	25 pounds	100 pounds	1,2	1	
	Naphthenic peroxide, vapor	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Naphthol	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Naphthylamine	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Naphthylthiourea	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Naphthylurea	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Natural gas, compressed	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
	Natural gas, liquefied	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
	Neohexane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Neon, compressed	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Neon, refrigerated liquid	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Nickel carbonyl	Poison A	Poison gas	None	173.328	Forbidden	Forbidden	1	5	Shade from radiant heat
	Nickel chloride	ORM-A	None	173.505	173.510	25 pounds	100 pounds			
	Nickel cyanide	Poison B	Poison	None	173.364	50 pounds	200 pounds	1,2	1,2	
	Nickel nitrate	Oxidizer	Oxidizer	173.153	173.154	50 pounds	100 pounds	1,2	1,2	
	Nickel nitrite	Oxidizer	Oxidizer	173.153	173.154	50 pounds	100 pounds	1,2	1,2	
	Nickel sulfate	ORM-A	None	173.505	173.510	25 pounds	100 pounds			
	Nickel tetracarbonyl	Poison A	Poison gas	None	173.328	Forbidden	Forbidden	1	5	Shade from radiant heat
	Nicotine	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Nicotine compound, liquid, n.o.s.	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Nicotine compound, solid, n.o.s.	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Nicotine hydrochloride, liquid *or* solution	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Nicotine salicylate	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Nicotine sulfate, liquid *or* solution	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Nicotine tartrate	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Nitrating (*mixed*) acid	Oxidizer	Oxidizer	173.153	173.154	50 pounds	100 pounds	1,2	1,2	
	Nitrating (*mixed*) acid, spent	Oxidizer	Oxidizer	173.153	173.154	50 pounds	100 pounds	1,2	1,2	
	Nitration grade chemicals	Oxidizer	Oxidizer	173.153	173.154	50 pounds	100 pounds	1,2	1,2	
	Nitric acid	Oxidizer	Oxidizer	173.153	173.154	50 pounds	100 pounds	1,2	1,2	
	Nitric acid, fuming	Oxidizer	Oxidizer	173.153	173.154	50 pounds	100 pounds	1,2	1,2	
	Nitric oxide, compressed	Poison A	Poison gas	None	173.328	Forbidden	Forbidden	1	5	Shade from radiant heat
	Nitric oxide, refrigerated liquid	Poison A	Poison gas	None	173.328	Forbidden	Forbidden	1	5	Shade from radiant heat
	Nitroaniline	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Nitrobenzene	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
	Nitrobenzol. *See* Nitrobenzene									
	Nitrocellulose, dry	Flammable solid	Flammable solid	173.150	173.151	25 pounds	100 pounds	1,2	1	
	Nitrocellulose, plastic base	Flammable solid	Flammable solid	173.150	173.151	25 pounds	100 pounds	1,2	1	
	Nitrocellulose, solution, flammable, with not more than 12.6% nitrogen, by dry weight	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Nitrocellulose, solution, flammable, with not more than 12.6% nitrogen, by dry weight, and not more than 55% nitrocellulose	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Nitrocellulose, solution, flammable, with not more than 12.6% nitrogen, by dry weight, and not more than 55% nitrocellulose, and not more than 30% plasticizer	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Nitrocellulose, solution, flammable, with not more than 12.6% nitrogen, by dry weight, and not more than 55% nitrocellulose, and not more than 30% plasticizer, and not more than 45% total solvents	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Nitrocellulose, solution, flammable, with not more than 12.6% nitrogen, by dry weight, and not more than 55% nitrocellulose, and not more than 30% plasticizer, and not more than 45% total solvents, and not more than 2% alcohol	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Nitrocellulose, solution, flammable, with not more than 12.6% nitrogen, by dry weight, and not more than 55% nitrocellulose, and not more than 30% plasticizer, and not more than 45% total solvents, and not more than 2% alcohol, and not more than 2% ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Nitrocellulose, solution, flammable, with not more than 12.6% nitrogen, by dry weight, and not more than 55% nitrocellulose, and not more than 30% plasticizer, and not more than 45% total solvents, and not more than 2% alcohol, and not more than 2% ether

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging: (a) Exceptions	(5) Packaging: (b) Specific requirements	(6) Maximum net quantity in one package: (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package: (b) Cargo only aircraft	(7) Water shipments: (a) Cargo vessel	(7) Water shipments: (b) Passenger vessel	(7) Water shipments: (c) Other requirements
	Monochloroacetone, stabilized *or* inhibited	Irritating material	Irritant	None	173.384	Forbidden	5 gallons	1	1	Stow away from living quarters
	Monochlorodifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Monochloroethylene. *See* Vinyl chloride									
	Monochloropentafluoroethane	Nonflammable gas	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
	Monochlorotetrafluoroethane	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochlorotrifluoromethane	Nonflammable gas	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
	Monoethanolamine	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
•	Monoethanolamine solution	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Monoethylamine	Flammable liquid	Flammable liquid	None	173.148	Forbidden	5 pints	1,2	5	Segregation same as for flammable gas
	Monofluorophosphoric acid, anhydrous	Corrosive material	Corrosive	None	173.275	Forbidden	1 gallon	1,2	1,2	Keep dry
	Monomethylamine, anhydrous	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	
•	Monomethylamine, aqueous solution	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	Stow away from mercury and its compounds
	Mortar stain, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Mortar stain, liquid	Flammable liquid	Flammable liquid	173.118	173.128	1 quart	55 gallons	1,2	1	
	Moth balls. See Naphthalene									
	Motion picture film. See Film									
	Motor fuel antiknock compound *or* antiknock compound	Poison B	Poison	None	173.354	Forbidden	55 gallons	1	5	If flashpoint less than 141 deg F., segregation same as for flammable liquids
•	Motor fuel n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Motor fuel, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Motor, internal combustion			173.120						
	Motor vehicle, *etc., including automobile, motorcycle, truck, tractor, and other self-propelled vehicle or equipment powered by internal combustion engine, when offered new or used for transportation and which contain fuel in the engine or fuel tank or the electric storage battery is connected to either terminal of the electrical system*	ORM-C	None	173.120 173.230 173.306 173.120 173.250 173.257 173.306 175.305 176.905				1,2	1,2	Not permitted in nonvented container
	Muriatic acid. *See* Hydrochloric (muriatic) acid									
•	Naphtha	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Naphtha	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Naphtha distillate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Naphtha distillate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
AW	Naphthalene *or* Naphthalin	ORM-A	None	173.505	173.655	25 pounds	300 pounds	1,2	1,2	Segregation same as for flammable solids
•	*Naphtha petroleum. See* *Petroleum naphtha									
•	Naphtha, solvent	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Naphtha, solvent	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Natural gasoline. See Gasoline									
	Neohexane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
•	Neon	Nonflammable gas	Nonflammable gas	173.306	173.302	150 pounds	300 pounds	1,2	1,2	
	New explosive or explosive device			173.51	173.86					
	Nickel carbonyl	Flammable liquid	Flammable liquid and Poison	None	173.126	Forbidden	Forbidden	1	5	Not permitted on a vessel carrying explosives. Shade from radiant heat. Segregation same as for flammable liquids n.o.s. *
	Nickel catalyst, wet, *finely divided, activated, or spent. With not less than 40% water or other suitable liquid*	Flammable solid	Flammable solid	None	173.233	Forbidden	100 pounds	1,2	1	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Nickel cyanide, solid	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging: (a) Exceptions	(5) Packaging: (b) Specific requirements	(6) Maximum net quantity in one package: (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package: (b) Cargo only aircraft	(7) Water shipments: (a) Cargo vessel	(7) Water shipments: (b) Passenger vessel	(7) Water shipments: (c) Other requirements
	Nicotine hydrochloride	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Nicotine, liquid	Poison B	Poison	None	173.358	Forbidden	55 gallons	1,2	1,2	
	Nicotine salicylate	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
•	Nicotine sulfate, liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Nicotine sulfate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Nicotine tartrate	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Nitrate of ammonia explosives. See High explosive									
•	Nitrate, n.o.s.	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Nitrating (*mixed*) acid	Oxidizer	Oxidizer	None	173.267	Forbidden	1 quart	1	5	Segregation same as for corrosive materials
	Nitrating (*mixed*) acid, spent	Corrosive material	Corrosive	None	173.248	Forbidden	1 quart	1	5	
	Nitric acid (*over 40%*)	Oxidizer	Oxidizer and Corrosive	None	173.268	Forbidden	5 pints	1	5	Segregation same as for corrosive materials. Stow away from hydrazine, separate from diethylenetriamine
	Nitric acid, fuming	Oxidizer	Oxidizer and Poison	None	173.268	Forbidden	Forbidden	1	5	Segregation same as for corrosive materials. Stow away from hydrazine, separate from diethylenetriamine
	Nitric acid, 40% or less	Corrosive material	Corrosive	None	173.268	Forbidden	5 pints	1	5	Stow away from hydrazine, separate from diethylenetriamine
	Nitric ether. See Ethyl nitrate									
	Nitric oxide	Poison A	Poison gas	None	173.337	Forbidden	Forbidden	1	5	
	Nitroaniline	Poison B	Poison	173.364	173.373	50 pounds	200 pounds	1,2	1,2	
	p-Nitroaniline. *See* Nitroaniline									
	Nitrobenzol, liquid (*oil of mirbane, nitrobenzene*)	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Nitro carbo nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Nitrocellulose, colloided, granular *or* flake, wet with not less than 20% alcohol *or* solvent, *or* block, wet with not less than 25% alcohol	Flammable liquid	Flammable liquid	173.118	173.127	1 quart	25 pounds	1,3	1	
	Nitrocellulose, colloided, granular *or* flake, wet with not less than 20% water	Flammable solid	Flammable solid	173.153	173.184	25 pounds	100 pounds	1,3	1	
	Nitrocellulose, dry. See High explosive									
	Nitrocellulose flakes, wet with not less than 20% alcohol *or* solvent	Flammable liquid	Flammable liquid	173.118	173.127	1 quart	25 pounds	1,3	1	
	Nitrocellulose, wet with not less than 30% alcohol *or* solvent	Flammable liquid	Flammable liquid	173.118	173.127	1 quart	25 pounds	1,3	1	
	Nitrocellulose, wet with not less than 20% water	Flammable solid	Flammable solid	173.153	173.184	25 pounds	100 pounds	1,3	1	
	Nitrochlorobenzene, ortho, liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Nitrochlorobenzene, meta *or* para, solid	Poison B	Poison	173.364	173.374	50 pounds	200 pounds	1,2	1,2	
•	Nitrogen	Nonflammable gas	Nonflammable gas	173.306	173.302 173.314	150 pounds	300 pounds	1,2	1,2	
•	Nitrogen, pressurized Liquid	Nonflammable gas	Nonflammable gas	None	173.304	Forbidden	300 pounds	1,3	1,3	
	Nitrogen dioxide, liquid	Poison A	Oxidizer and Poison gas	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gases. Stow away from organic materials
•	Nitrogen fertilizer solution	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,3	1,3	
	Nitrogen peroxide, liquid	Poison A	Oxidizer and Poison gas	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gas. Stow away from organic materials
	Nitrogen tetroxide, liquid	Poison A	Oxidizer and Poison gas	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gases. Stow away from organic materials
	Nitroglycerin, liquid, desensitized. See High explosive, liquid									
	Nitroglycerin, liquid, undesensitized See 173.51	Forbidden								
	Nitroglycerin, spirits of. See Spirits of nitroglycerin									
	Nitroguanidine, dry. See High explosive									
	Nitroguanidine, wet with not less than 20% water	Flammable solid	Flammable solid	173.153	173.184	25 pounds	100 pounds	1,2	4	
	Nitrohydrochloric acid	Corrosive material	Corrosive	None	173.278	Forbidden	5 pints	1	5	
•	Nitrohydrochloric acid, diluted	Corrosive material	Corrosive	None	173.278	Forbidden	5 pints	1	5	
	Nitromannite. See High explosive									

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Nitromethane	Flammable liquid	Flammable liquid	173.118	173.149a	1 quart	10 gallons	1,2	1,2	
	Nitromuriatic acid. *See* Nitrohydrochloric acid									
	Nitrosoguanidine. *See* Initiating explosive									
	Nitrostarch, dry. *See* High explosive									
	Nitrostarch, wet with not less than 30% alcohol *or* solvent	Flammable liquid	Flammable liquid	173.118	173.127	1 quart	25 pounds	1,2	1	
	Nitrostarch, wet with not less than 20% water	Flammable solid	Flammable solid	173.153	173.184	25 pounds	100 pounds	1	4	
	Nitrosyl chloride	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	Forbidden	300 pounds	1	4	
	Nitrourea. *See* High explosive									
	Nitrous oxide	Nonflammable gas	Nonflammable gas	173.306	173.304 173.315	150 pounds	300 pounds	1,2	1,2	Under deck stowage must be in well-ventilated space
	Nitroxylol	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1	
	Nonflammable gas n.o.s. *See* Compressed Gas, n.o.s.									
•	Nonliquefied hydrocarbon gas	Flammable gas	Flammable gas	173.306	173.302	Forbidden	300 pounds	1,2	1	
	Nonyl trichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Nordhausen acid. *See* Sulfuric acid									
W	Oakum	ORM-C	None	173.505	173.1030			1,2	1,2	
	Octadecyltrichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Octane	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Octyl trichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
•	Oil, *described as oil*, n.o.s., petroleum oil, *or* petroleum oil, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Oil, *described as oil*, oil, n.o.s., petroleum oil, *or* petroleum oil, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Oiled clothing (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material									
AW	Oiled material (*manufactured article properly dried to prevent spontaneous heating*)	ORM-C	None	173.505	173.1035	No limit	No limit	1,3	1,3	
	Oiled paper (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material									
	Oil of mirbane. *See* Nitrobenzol, liquid									
	Oil of vitriol. *See* Sulfuric acid									
	Oil well cartridge	Class C explosive	Class C explosive	None	173.112	50 pounds	150 pounds	1,3	1,3	
	Oleum (*sulfuric acid fuming*)	Corrosive material	Corrosive	None	173.272	Forbidden	5 pints	1,2	1	Under deck stowage must be in metal drums only. Keep dry
•	Organic peroxide, liquid, *or* solution, n.o.s.	Organic peroxide	Organic peroxide	173.153	173.221	Forbidden	1 quart	1,2	1,2	Stow separate from combustible materials, explosives, or acids.
•	Organic peroxide, solid, n.o.s.	Organic peroxide	Organic peroxide	173.153	173.154	Forbidden	25 pounds	1,2	1,2	Stow separate from combustible materials, explosives, or acids.
•	Organic Peroxide liquid *or* solution, n.o.s.	Flammable liquid	Organic peroxide and flammable liquid	None	173.119	Forbidden	1 quart	1,2	5	Stow separate from combustible materials, explosives, or acids
•	Organic phosphate, organic phosphate compound, *or* organic phosphorus compound; mixed with compressed gas	Poison A	Poison gas	None	173.334	Forbidden	Forbidden	1	5	Shade from radiant heat
•	Organic phosphate, organic phosphate compound, *or* organic phosphorus compound; liquid	Poison B	Poison	None	173.358	Forbidden	1 quart	1,2	5	
•	Organic phosphate, organic phosphate compound, *or* organic phosphorus compound; solid *or* dry	Poison B	Poison	None	173.377	Forbidden	200 pounds	1,2	4	
•	Organic phosphate mixture, organic phosphate compound mixture, *or* organic phosphorus compound mixture; liquid	Poison B	Poison	173.359	173.359	1/2 pint	1 quart	1,2	5	
•	Organic phosphate mixture, organic phosphate compound mixture, *or* organic phosphorus compound mixture, solid *or* dry	Poison B	Poison	173.377	173.377	50 pounds	200 pounds	1,2	4	
AW	ORM-A n.o.s.	ORM-A	None	173.505	173.510	No limit	No limit	1,2	1,2	Stow away from living quarters
AW	ORM-B n.o.s.	ORM-B	None	173.505	173.510	No limit	No limit	1,2	1,2	
	ORM-C. *See* 173.500 & 176.900									
	Orthonitroaniline. *See* Nitroaniline									

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Oxidizer, *or* Oxidizing material, n.o.s.	Oxidizer	Oxidizer	173.153	173.154	25 pounds	25 pounds	1,2	1,2	
	Oxidizer material packed with other articles See 173.152									
•	Oxygen	Nonflammable gas	Oxidizer	173.306	173.302 173.314	150 pounds	300 pounds	1,2	1,2	Under deck stowage must be in well ventilated space
•	Oxygen, pressurized liquid	Nonflammable gas	Oxidizer	None	173.304	Forbidden	Forbidden	1,3	1,3	Stow separate from acetylene. Do not overstow with other cargo
•	Paint drier, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Paint drier, liquid	Flammable liquid	Flammable liquid	173.118	173.128	1 quart	55 gallons	1,2	1	
•	Paint, enamel, lacquer, stain, shellac, *or* varnish; aluminum, bronze, gold, wood filler, liquid or lacquer base, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Paint, enamel, lacquer, stain, shellac, *or* varnish; aluminum, bronze, gold, wood filler, liquid, *or* lacquer base, liquid	Flammable liquid	Flammable liquid	173.118	173.128	1 quart	55 gallons	1,2	1	
•	*Paint, reducing or thinning compound*. *See* *Compound, lacquer, paint, *or* varnish, reducing *or* thinning liquid, etc.									
	Paper caps. *See* Toy caps									
W	Paper scrap (*when dry, clean, and free from oil*)	ORM-C	None	173.505	173.1075			1,2	1,2	
	Paper stock, wet	Flammable solid	Flammable solid	None	173.185	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Paper waste (*when dry, clean, and free from oil*). *See* Paper scrap									
	Paper waste, wet. *See* Waste paper, wet									
	Paramenthane hydroperoxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	Paranitroaniline, solid. *See* Nitroaniline									
	Parathion and compressed gas mixture	Poison A	Poison gas	None	173.334	Forbidden	Forbidden	1,3	5	
	Parathion, liquid	Poison B	Poison	None	173.358	Forbidden	1 quart	1,3		
•	Parathion mixture, dry	Poison B	Poison	173.377	173.377	50 pounds	200 pounds	1,3	1,3	
	Parathion mixture, liquid	Poison B	Poison	None	173.359	Forbidden	1 quart	1,3	1,3	
	Paris green, solid. *See* Copper acetoarsenite, solid									
	Pentaborane	Flammable liquid	Poison and flammable liquid	None	173.138	Forbidden	Forbidden	1	5	Segregation same as for flammable solids. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Pentaerythrite tetranitrate. *See* Initiating explosive									
	Pentaerythrite tetranitrate, desensitized, wet. *See* High explosive									
	Pentane	Flammable liquid	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,3	4	
	Pentolite, dry. *See* High explosive									
	Peracetic acid solution, *not over 40% peracetic acid and not over 6% hydrogen peroxide*	Organic peroxide	Organic peroxide	173.223	173.223	1 pint	5 pints	1	4	Shade from radiant heat
•	Perchlorate, n.o.s.	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,3	1,3	Stow away from powdered metals
	Perchloric acid, *exceeding 50% but not exceeding 72% strength*	Oxidizer	Oxidizer	None	173.269	Forbidden	5 pints	1	5	Segregation same as for corrosive materials. Stow away from hydrazine
	Perchloric acid exceeding 72% strength	Forbidden								
•	Perchloric acid, not over 50% acid	Oxidizer	Oxidizer	173.244	173.269	Forbidden	5 pints	1	1	Segregation same as for corrosive materials. Stow away from hydrazine
	Perchloro-methyl-mercaptan	Poison B	Poison	173.345	173.360	Forbidden	10 pounds	1	4	
	Percussion cap	Class C explosive	Explosive C	None	173.107	50 pounds	150 pounds	1,3	1,3	
	Percussion fuse	Class C explosive	Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
A	Perfluoro-2-butene	ORM-A	None	173.505	173.510 173.605	10 gallons	55 gallons			
•	Permanganate, n.o.s.	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds, hydrogen peroxide, and acids
	Permanganate of potash. *See* Potassium permanganate									
•	Peroside, organic *See* Organic Peroxide									
W	Pesticide, water reactive, *including but not limited to fungicides, and herbicides, etc., which contain manganese ethylenebisdithio carbamate*	ORM-C	None	173.505	173.1040			2	2	Keep dry

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
W	Petroleum coke (*uncalcined*)	ORM-C	None	173.505	173.1045			1,2	1,2	Not permitted if temperature of material is at or above 130 deg F.
	Petroleum crude. *See* Crude oil									
*	Petroleum distillate	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Petroleum distillate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Petroleum ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Petroleum gas, liquefied. *See* Liquefied petroleum gas									
*	Petroleum naphtha	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Petroleum naphtha	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
A	Phencapton	ORM-A	None	173.505	173.510	No limit	No limit			
	Phenol. *See* Carbolic acid									
	Phenyl dichloro arsine	Poison B	Poison	None	173.355	Forbidden	30 gallons	1	5	
A	Phenylenediamine, meta or para, solid	ORM-A	None	173.505	173.510	No limit	No limit			
	Phenyl trichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Phosgene (diphosgene)	Poison A	Poison gas	None	173.333	Forbidden	Forbidden	1	5	
	Phosphine	Poison A	Flammable gas and Poison gas	None	173.328	Forbidden	Forbidden	1	5	
*	Phosphoric acid *or* Phosphoric Acid Solution	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Glass carboys in hampers not permitted under deck
	Phosphoric acid trichlorenemine. *See* Tris-(1-aziridinyl phosphine oxide)									
	Phosphoric anhydride (*phosphorus pentoxide*)	Corrosive material	Corrosive	None	173.188	Forbidden	100 pounds	1,2	1,2	Keep dry. Glass bottles not permitted under deck
	Phosphorus, amorphous, red	Flammable solid	Flammable solid	None	173.189	Forbidden	11 pounds	1,2	1,2	
	Phosphorus bromide. *See* Phosphorus tribromide									
	Phosphorus chloride. *See* Phosphorus trichloride									
	Phosphorus heptasulfide	Flammable solid	Flammable solid	None	173.225	Forbidden	10 pounds	1,2	1	Separate from oxidizing materials
	Phosphorus oxybromide	Corrosive material	Corrosive	None	173.271	Forbidden	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Phosphorus oxychloride	Corrosive material	Corrosive	None	173.271	Forbidden	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Phosphorus pentachloride, solid	Corrosive material	Corrosive	None	173.191	Forbidden	5 pounds	1	1	Keep dry
	Phosphorus pentasulfide	Flammable solid	Flammable solid, and Dangerous when wet	None	173.225	Forbidden	11 pounds	1,2	1,2	Separate from oxidizing material
	Phosphorus sesquisulfide	Flammable solid	Flammable solid, and Dangerous when wet	None	173.225	Forbidden	11 pounds	1,2*	1	Separate from oxidizing materials
	Phosphorus tribromide	Corrosive material	Corrosive	None	173.270	Forbidden	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Phosphorus trichloride	Corrosive material	Corrosive	None	173.271	Forbidden	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Phosphorus trisulfide	Flammable solid	Flammable solid	None	173.225	Forbidden	10 pounds	1,2	1	Separate from oxidizing materials
	Phosphorus, white *or* yellow, dry	Flammable solid	Flammable solid and Poison	None	173.190	Forbidden	Forbidden	1,2	5	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Phosphorus, white *or* yellow, in water	Flammable solid	Flammable solid and Poison	None	173.190	Forbidden	25 pounds	1,2	5	Separate from flammable gases or liquids, oxidizing materials or organic peroxides
	Phosphoryl chloride. *See* Phosphorus oxychloride									
	Photographic film. *See* Film									
	Photographic flash powder. *See* Fireworks, special *or* Low explosives									
	Picrate, dry. *See* High explosive									
	Picrate of ammonia. *See* High explosive									
	Picric acid, dry. *See* High explosive									
	Picric acid, wet, with not less than 10% water	Flammable solid	Flammable solid	None	173.192 173.193	1 pound	25 pounds	1	5	Under deck stowage permitted on cargo vessels if wet with more than 30% water. Stow away from heavy metals and their compounds

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Picric acid, wet with not less than 10% water, over 25 pounds. *See* High explosive									
	Pine oil	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Pinwheels. *See* Fireworks, common									
	Pivaloyl chloride. *See* Trimethyl acetylchloride									
*	Plastic solvent, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Plastic solvent, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Plutoniumnitrate solution	Radioactive material	Radioactive (See Sec. 172.403)	173.393	173.396			1,2	1,2	
	Poisonous liquid, n.o.s. *or* Poison B, liquid, n.o.s.	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1	
	Poisonous liquid *or* gas, n.o.s.	Poison A	Poison gas	None	173.328	Forbidden	Forbidden	1	5	
	Poisonous solid, n.o.s. *or* Poison B, solid, n.o.s.	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1	
*	Polish, metal, stove, furniture *or* wood, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Polish, metal, stove, furniture *or* wood, liquid	Flammable liquid	Flammable liquid	173.118	173.129	1 quart	55 gallons	1,2	1	
*	*Polymerizable material*			173.21						
	Potassium arsenate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Potassium arsenite, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
*	Potassium bifluoride solution. *See* *Potassium hydrogen fluoride solution									
	Potassium bromate	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds. Stow away from powdered metals
	Potassium chlorate (*potash chlorate*)	Oxidizer	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds. Stow away from powdered metals
	Potassium cyanide, solid	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
*	Potassium cyanide solution	Poison B	Poison	173.345	173.352	1 quart	55 gallons	1,2	1,2	Stow away from acids
	Potassium dichloro isocyanurate. *See* Potassium dichloro-s-triazinetrione									
	Potassium dichloro-s-triazinetrione, *dry (containing more than 39% available chlorine)*	Oxidizer	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	
A	Potassium dichromate	ORM-A	None	173.505	173.510	No limit	No limit			
A	Potassium fluoride	ORM-B	None	173.505	173.510	No limit	No limit			
*	Potassium fluoride solution	Corrosive material	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
	Potassium hydrate. *See* Potassium hydroxide									
*	Potassium hydrogen fluoride solution	Corrosive material	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
A	Potassium hydrogen sulfate, solid	ORM-B	None	173.505	173.510 173.800	25 pounds	100 pounds			
	Potassium hydroxide, dry solid, flake, bead, *or* granular	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry. Do not stow with metals or alloys such as brass, copper, tin, zinc, aluminum, solder, or lead
*	Potassium hydroxide, liquid *or* solution	Corrosive material	Corrosive	173.244	173.249	1 quart	10 gallons	1,2	1,2	
*	Potassium hypochlorite solution. *See* Hypochlorite solutions containing more than 7% available chlorine by weight									
A	Potassium metabisulfite	ORM-B	None	173.505	173.510	No limit	No limit			
	Potassium, metal	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Potassium, metal liquid alloy	Flammable solid	Flammable solid and Dangerous when wet	None	173.202	Forbidden	1 pound	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Potassium nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Potassium nitrite	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and cyanides. Stow away from foodstuffs
	Potassium nitrate mixed (*fused*) with sodium nitrite	Oxidizer	Oxidizer	173.153	173.183	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and cyanides. Stow away from foodstuffs
	Potassium perchlorate	Oxidizer	Oxidizer	173.153	173.219	25 pounds	100 pounds	1,3	1,3	Stow away from powdered metals

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Potassium permanganate	Oxidizer	Oxidizer	173.153	173.154 173.194	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide
	Potassium peroxide	Oxidizer	Oxidizer	None	173.154	Forbidden	100 pounds	1,2	1,2	Keep dry
	Potassium sulfide	Flammable solid	Flammable solid	173.153	173.207	25 pounds	300 pounds	1,2	1,2	Separate from liquid acids, flammable gases or liquids, oxidizing materials or organic peroxides
	Pressurized product. See Compressed gas, n.o.s.									
	Primer. See Cannon primer, combination primer, or small-arm primer									
	Primer, detonating. See Detonating primer									
	Projectile, explosive. See Explosive projectile									
	Projectile, gas, nonexplosive. See Chemical ammunition, containing Poison or Irritating Material									
	Projectile, gas, smoke, or incendiary, with burster or burster with or without detonating fuze. See Explosive projectile									
	Projectile, illuminating, incendiary or smoke, with expelling charge but without bursting charge. See Fireworks, special									
	Projectile, sand-loaded, empty or solid See 173.55									
	Propane *or* Liquefied petroleum gas. *See* Liquefied petroleum gas									
*	Propellant explosive	Class A explosive	Explosive A	None	173.64	Forbidden	Forbidden	6	5	
	Propellant explosive (*solid, Class B, and small-arms primer*) *See* *Propellant explosive, solid									
	Propellant explosive in water (*Smokeless powder*)	Class B explosive	Explosive B	None	173.93	Forbidden	Forbidden	1,3	5	Magazine stowage authorized
	Propellant explosive in water, unstable, condemned, *or* deteriorated (*smokeless powder*)	Class B explosive	Explosive B	None	173.93	Forbidden	Forbidden	1,3	5	Magazine stowage authorized
*	Propellant explosive, liquid	Class B explosive	Explosive B	None	173.93	Forbidden	10 pounds	1,2	5	Magazine stowage authorized
*	Propellant explosive, solid	Class B explosive	Explosive B	None	173.93	Forbidden	10 pounds	1,3	5	Magazine stowage authorized
	Propionaldehyde	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Propionic acid	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	Separated by a complete compartment or hold from organic peroxides
*	Propionic acid solution	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Separated by a complete compartment or hold from organic peroxides
	Propionic anhydride	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1	Keep dry
	Propyl acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Propyl alcohol. *See* Alcohol, n.o.s.									
	Propylamine	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Propyl chloride	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Propylene diamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Propylene dichloride	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Propylene imine, inhibited	Flammable liquid	Flammable liquid	None	173.139	Forbidden	5 pints	1,2	1	
	Propylene *or* Liquefied petroleum gas. *See* Liquefied petroleum gas									
	Propylene oxide	Flammable liquid	Flammable liquid	173.118	173.119	Forbidden	1 gallon	1,3	4	
	Propyl formate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Propyl mercaptan	Flammable liquid	Flammable liquid	None	173.141	Forbidden	10 gallons	1,2	3	
	Propyl trichlorosilane	Corrosive material	Corrosive	None	173.280	Forbidden	10 gallons	1	1	Keep dry
	Prussic acid. See Hydrocyanic acid (*prussic*), liquid *or* unstabilized									
	Pyridine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Pyrophoric liquid, *or* Pyroforic liquids, n.o.s.	Flammable liquid	Flammable liquid	None	173.134	Forbidden	Forbidden	1	5	Shade from radiant heat. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Pyro sulfuryl chloride	Corrosive material	Corrosive	173.244	173.247	1 quart	1 quart	1	4	Keep dry. Glass carboys not permitted on passenger vessels
	Pyroxylin plastic scrap	Flammable solid	Flammable solid	None	173.193	Forbidden	Forbidden	1	5	Shade from radiant heat
	Pyroxylin plastics, rods, sheets, rolls, or tubes	Flammable solid	Flammable solid	173.197		50 pounds	350 pounds	1,3	1	
*	Pyroxylin solution	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Pyroxylin solution	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Pyroxylin solvent, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Pyroxylin solvent, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Pyrrolidine	Flammable liquid	Flammable liquid	173.118	173.119	Forbidden	10 gallons	1,2	1	
	Quicklime. *See* Calcium oxide									
	Radioactive device, n.o.s.	Radioactive material	None	173.391				1,2	1,2	
*	Radioactive material, fissile, n.o.s.	Radioactive material	Radioactive	173.393	173.396			1,2	1,2	
*	Radioactive material, low specific activity *or* LSA, n.o.s.	Radioactive material	Radioactive	173.392	173.393			1,2	1,2	
*	Radioactive material, n.o.s.	Radioactive material	Radioactive	173.393	173.395			1,2	1,2	
*	Radioactive material, limited quantity, n.o.s.	Radioactive material	None	173.391				1,2	1,2	
*	Radioactive material, special form, n.o.s.	Radioactive material	Radioactive	173.393	173.394			1,2	1,2	
	Rags, oily	Flammable solid	Flammable solid	None	173.199	Forbidden	Forbidden	1,2	1,2	Keep dry. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Rags, wet	Flammable solid	Flammable solid	None	173.200	Forbidden	Forbidden	1	1	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Railway Fusee. See Fusee									
	Railway torpedo. *See* Torpedo, railway									
	Range oil. *See* Fuel oil									
*	*Reducing compound, paint, varnish, lacquer, etc. See* *Compound, lacquer, paint, *or* varnish, etc., removing, reducing, *or* thinning, liquid									
	Refrigerant gas *See* Dispersant Gas									
*	Refrigerating machine	Nonflammable gas	Nonflammable gas	173.306		No limit	No limit	1,3	1,3	
*	Refrigerating machine	Flammable gas	Flammable gas	173.306		No limit	No limit	1,3	1,3	
*	Refrigerating machine	Flammable liquid	Flammable liquid	173.130	173.306	No limit	No limit	1,2	1	
*	*Removing compound, paint, varnish, lacquer, etc., See* *Compound, lacquer, paint, *or* varnish, etc., removing reducing, *or* thinning, liquid									
*	Resin solution (*resin compound, liquid*)	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Resin solution (*resin compound, liquid*)	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	55 gallons	1,2	1	
	Rifle grenade. See Grenade, hand or rifle, explosive									
	Rifle powder. See *Propellant explosive, or Black powder									
	Road asphalt *or* tar (*when heated to or above its flash point*). *See* Asphalt									
	Road asphalt *or* tar, liquid. *See* Asphalt, cut back									
*	Road oil	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Rocket ammunition with empty projectile	Class B explosive	Explosive B	None	173.90	Forbidden	Forbidden	1,3	5	
	Rocket ammunition with explosive projectile	Class A explosive	Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Rocket ammunition with gas projectile	Class A explosive	Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Rocket ammunition with illuminating projectile	Class A explosive	Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Rocket ammunition with incendiary projectile	Class A explosive	Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Rocket ammunition with inert loaded projectile	Class B explosive	Explosive B	None	173.90	Forbidden	Forbidden	1,3	5	

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§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(4)	(5)						
	Rocket ammunition with smoke projectile	Class A explosive	Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Rocket ammunition with solid projectile	Class B explosive	Explosive B	None	173.90	Forbidden	Forbidden	1,3	5	
	Rocket body, with electric primer or electric squib. See 173.55									
	Rocket engine, liquid	Class B explosive	Explosive B	None	173.95	Forbidden	Forbidden	1,2	5	Magazine stowage authorized
	Rocket fireworks. See Fireworks, common									
	Rocket head. *See* Explosive projectile									
*	Rocket motor	Class A explosive	Explosive A	None	173.79	Forbidden	Forbidden	6	5	
*	Rocket motor	Class B explosive	Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
	Roman candle. See Fireworks, common									
W	Rosin (*colophony*) or Resin	ORM-C	None	173.505	173.1060			1,2	1,2	
*	Rough ammoniate tankage (*less than 7% moisture content*)	Flammable solid	Flammable solid	None	173.210	Forbidden	Forbidden	1	5	
*	Rough ammoniate tankage 7% or more moisture content	Flammable solid	Flammable solid	None	173.210	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides. Temperature of tankage must not exceed 100 deg F.
W	Rubber curing compound (*solid*)	ORM-C	None	173.505	173.1065			1,2	1,2	
	Rubber scrap or rubber buffings	Flammable solid	Flammable solid	173.153	173.201	10 pounds	10 pounds	1,2	1,2	
*	Rubber shoddy, regenerated rubber, or reclaimed	Flammable solid	Flammable solid	173.153	173.201	10 pounds	10 pounds	1,2	1,2	
	Rubidium metal	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous when wet
	Rubidium metal, in cartridges	Flammable solid	Flammable solid and Dangerous when wet	173.206		1 pound	25 pounds	1,2	4	Segregation same as for flammable solid labeled Dangerous when wet
	Rum, denatured	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
*	Rust preventive coating	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Safety fuse. *See* Fuse, safety									
	Safety squib	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Salute. See Fireworks common *or* special									
	Sand acid. *See* Hydrofluorosilicic acid									
W	Sawdust (*when dry, clean, and free from oil*)	ORM-C	None	173.505	173.1070			1,2	1,2	Keep dry
	Selenic acid, liquid	Corrosive material	Corrosive	None	173.245	Forbidden	5 pints	1,2	1,2	
	Self-lighting cigarette	Flammable solid	Flammable solid	173.21		Forbidden	Forbidden	1,2	1,2	Keep dry
	Self propelled vehicle *See* Motor vehicle									
	Shaped charge, commercial. See High explosive 173.65(h)									
	Shellac. See *Paint, enamel, lacquer, stain, shellac, varnish, etc.									
	Shell, fireworks. *See* Fireworks, common or special									
	Ship, distress signal. See Fireworks, special									
	Signal flare	Class C explosive	Explosive C	None	173.108	50 pounds	200 pounds	1,2	1,2	
	Silicofluoric acid. *See* Hydrofluorosilicic acid									
	Silicon chloride *or* silicon tetrachloride	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Silicon chrome, exothermic. See Exothermic silicon chrome									
	Silicon tetrafluoride	Nonflammable gas	Nonflammable gas	173.306	173.302	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Silver cyanide	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Silver nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	Stow away from foodstuffs
	Soap. See Fibers									
*	*Sludge acid. See* Acid, sludge									
	Small arms ammunition	Class C explosive	None	173.101		50 pounds	150 pounds	1,3	1,3	
	Small arms ammunition, irritating (*tear gas*) cartridge	Class C explosive	Irritant	None	173.101	Forbidden	150 pounds	1,3	1,3	

§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(4)	(5)		(6)		(7)		
				Packaging		Maximum net quantity in one package		Water shipments		
*/W/A	Hazardous materials descriptions and proper shipping names	Hazard class	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Small arms primer	Class C explosive	Explosive C	None	173.107	50 pounds	150 pounds	1,3	1,3	
	Smoke candle	Class C explosive	Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
	Smoke generator. See Chemical ammunition, Poison A or B Material									
	Smoke grenade	Class C explosive	Explosive C	None	173.108	50 pounds	150 pounds	1,3	1,3	
	Smokeless powder for cannon or small arms. See Propellant explosive, Class A or B									
	Smokeless powder for small arms (*100 pounds or less*)	Flammable solid	Flammable solid	173.88	173.197a	Forbidden	Forbidden	1,3	1,3	Segregation same as for explosives
	Smoke pot	Class C explosive	Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
	Smoke projectile with bursting charge. See Explosive projectile									
	Smoke projectile with expelling charge but without bursting charge. See Fireworks, special									
	Smoke signal	Class C explosive	Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
	Soda amatol. See High explosive									
	Soda lime, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
A	Sodium aluminate, solid	ORM-B	None	173.505	173.510 173.800	25 pounds	100 pounds			
*	Sodium aluminate solution	Corrosive material	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
	Sodium aluminum hydride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium amide	Flammable solid	Flammable solid and Dangerous When Wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solid labeled Dangerous When Wet
	Sodium arsenate	Poison B	Poison	173.364	173.365 173.368	50 pounds	200 pounds	1,2	1,2	
*	Sodium arsenite (*solution*) liquid	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Sodium azide	Poison B	Poison	173.364	173.375	50 pounds	100 pounds	1,2	1,2	Stow away from heavy metals, especially lead and its compounds. Stow separate from acids
	Sodium bisulfate, solid *or* solution. *See appropriate* Sodium hydrogen sulfate entry									
	Sodium bisulfite, solid. *See* Sodium hydrogen sulfite, solid									
	Sodium bromate	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Sodium chlorate (*soda chlorate*)	Oxidizer	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Sodium chlorite	Oxidizer	Oxidizer	None	173.160	Forbidden	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
*	Sodium chlorite solution (*not exceeding 42% sodium chlorite*)	Corrosive material	Corrosive	173.244	173.263	1 quart	4 gallons	1,2	1	Glass carboys in hampers not permitted under deck
	Sodium cyanide, solid	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
*	Sodium cyanide solution	Poison B	Poison	173.345	173.352	1 quart	55 gallons	1,2	1,2	Stow away from acids
	Sodium dichloro isocyanurate. *See* Sodium dichloro-s-triazinetrione									
	Sodium dichloro-s-triazinetrione (*dry, containing more than 39% available chlorine*)	Oxidizer	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	
A	Sodium dichromate	ORM-A	None	173.505	173.510	No limit	No limit			
A	Sodium fluoride, solid	ORM-B	None	173.505	173.510	No limit	No limit			
*	Sodium fluoride solution	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	Stow away from acids
	Sodium hydrate. *See* Sodium hydroxide									
	Sodium hydride	Flammable solid	Flammable solid and Dangerous when wet	None	173.198	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
A	Sodium hydrogen sulfate, solid	ORM-B	None	173.505	173.510 173.800	25 pounds	100 pounds			
*	Sodium hydrogen sulfate solution	Corrosive material	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(4)	(5)						
	Sodium hydrosulfite	Flammable solid	Flammable solid and Dangerous when wet	None	173.198	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium hydroxide, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
*	Sodium hydroxide solution	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Sodium hydrosulfite	Flammable solid	Flammable solid and Dangerous when wet	None	173.198	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium hypochlorite solution (*not exceeding 15% available chlorine*)	Corrosive material	Corrosive	173.244	173.263	1 quart	4 gallons	1,2	1	Glass carboys in hampers not permitted under deck
	Sodium monoxide	Flammable solid	Flammable solid and Dangerous when wet	None	173.198	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium nitrate	Oxidizer	Oxidizer	173.153	173.164	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Sodium nitrite	Oxidizer	Oxidizer	173.153	173.165	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Sodium peroxide	Oxidizer	Oxidizer	None	173.166	Forbidden	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Sodium phosphide	Flammable solid	Flammable solid and Dangerous when wet	None	173.198	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium picramate, wet	Flammable solid	Flammable solid	173.153	173.201	10 pounds	10 pounds	1,2	1,2	
	Sodium picramate, dry	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium potassium alloy, liquid	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium sulfide, anhydrous	Flammable solid	Flammable solid and Dangerous when wet	None	173.198	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium sulfide, hydrated	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Sodium sulfide, solution	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Sodium superoxide	Oxidizer	Oxidizer	None	173.166	Forbidden	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Soft soap	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Solder, liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Solvent naphtha	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Spar varnish. *See* *Paint, enamel, lacquer, stain, shellac, varnish, etc.									
	Spirit gum	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Spirits, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Stannic chloride, anhydrous	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Stannic chloride, hydrated	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Stannic chloride, solution	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Stannic phosphate	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Stannous chloride, anhydrous	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Stannous chloride, solution	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Starch	ORM-C	None	173.505	173.1070			1,2	1,2	Keep dry
	Starter, jet engine. *See* Rocket engine, liquid									
	Stearic acid	ORM-C	None	173.505	173.1070			1,2	1,2	Keep dry
	Steel chips	ORM-C	None	173.505	173.1070			1,2	1,2	Keep dry
	Stibine	Flammable gas	Flammable gas	173.300	173.304	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Stoddard solvent	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Storage battery, electric	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Storage battery, wet, filled with acid	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Storage battery, wet, filled with alkali	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Strontium chlorate	Oxidizer	Oxidizer	173.153	173.167	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Strontium nitrate	Oxidizer	Oxidizer	173.153	173.167	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Strontium peroxide	Oxidizer	Oxidizer	None	173.167	Forbidden	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Strychnine	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Styrene monomer, inhibited	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Sublimate. *See* Mercuric chloride									
	Substitute blasting agent	Class C explosive	Explosive C	None	173.114	50 pounds	150 pounds	1,3	1,3	
	Sugar, granulated	ORM-C	None	173.505	173.1070			1,2	1,2	Keep dry
	Sugar of lead. *See* Lead acetate									
	Sulfamic acid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Sulfite liquor	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Sulfur	ORM-C	None	173.505	173.1070			1,2	1,2	Keep dry
	Sulfur chloride	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Sulfur dioxide, liquefied	Nonflammable gas	Nonflammable gas	173.306	173.314	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Sulfur hexafluoride	Nonflammable gas	Nonflammable gas	173.306	173.315	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Sulfur monochloride	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Sulfur trioxide, stabilized	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Sulfuric acid	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Sulfuric acid, fuming	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Sulfuric acid, spent	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Sulfurous acid	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Sulfuryl chloride	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Supplies, hazardous, n.o.s.	ORM-A	None	173.505	173.510	No limit	No limit			
	Supplies, hazardous, n.o.s.	ORM-B	None	173.505	173.510	No limit	No limit			
	Supplies, hazardous, n.o.s.	Flammable solid	Flammable solid	173.153	173.201	10 pounds	10 pounds	1,2	1,2	
	Supplies, hazardous, n.o.s.	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Supplies, hazardous, n.o.s.	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Supplies, hazardous, n.o.s.	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Supplies, hazardous, n.o.s.	Poison B	Poison	173.364	173.375	50 pounds	100 pounds	1,2	1,2	Stow away from heavy metals, especially lead and its compounds. Stow separate from acids
	Supplies, hazardous, n.o.s.	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Supplies, hazardous, n.o.s.	Oxidizer	Oxidizer	None	173.160	Forbidden	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Supplies, hazardous, n.o.s.	Flammable gas	Flammable gas	173.300	173.304	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Nonflammable gas	Nonflammable gas	173.306	173.314	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Poison gas	Poison	173.306	173.314	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Supplies, hazardous, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.114	50 pounds	150 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Class B explosive	Explosive B	None	173.95	Forbidden	Forbidden	1,2	5	Magazine stowage authorized
	Supplies, hazardous, n.o.s.	Class B explosive	Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
	Supplies, hazardous, n.o.s.	Class B explosive	Explosive B	None	173.90	Forbidden	Forbidden	1,3	5	
	Supplies, hazardous, n.o.s.	Class A explosive	Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Supplies, hazardous, n.o.s.	Class A explosive	Explosive A	None	173.79	Forbidden	Forbidden	6	5	
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.114	50 pounds	150 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Class B explosive	Explosive B	None	173.95	Forbidden	Forbidden	1,2	5	Magazine stowage authorized
	Supplies, hazardous, n.o.s.	Class B explosive	Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
	Supplies, hazardous, n.o.s.	Class B explosive	Explosive B	None	173.90	Forbidden	Forbidden	1,3	5	
	Supplies, hazardous, n.o.s.	Class A explosive	Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Supplies, hazardous, n.o.s.	Class A explosive	Explosive A	None	173.79	Forbidden	Forbidden	6	5	

§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(4)	(5)		(6)		(7)		
				Packaging		Maximum net quantity in one package		Water shipments		
*/W/A	Hazardous materials descriptions and proper shipping names	Hazard class	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.114	50 pounds	150 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Class B explosive	Explosive B	None	173.95	Forbidden	Forbidden	1,2	5	Magazine stowage authorized
	Supplies, hazardous, n.o.s.	Class B explosive	Explosive B	None	173.92	Forbidden	550 pounds	1,3	5	
	Supplies, hazardous, n.o.s.	Class B explosive	Explosive B	None	173.90	Forbidden	Forbidden	1,3	5	
	Supplies, hazardous, n.o.s.	Class A explosive	Explosive A	None	173.57	Forbidden	Forbidden	6	5	
	Supplies, hazardous, n.o.s.	Class A explosive	Explosive A	None	173.79	Forbidden	Forbidden	6	5	
	Supplies, hazardous, n.o.s.	Irritant	None	173.101		Forbidden	150 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Irritant	None	173.505	173.1070			1,2	1,2	Keep dry
	Supplies, hazardous, n.o.s.	Poison gas	Poison	173.306	173.314	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Nonflammable gas	Nonflammable gas	173.306	173.314	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Flammable gas	Flammable gas	173.300	173.304	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Supplies, hazardous, n.o.s.	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Supplies, hazardous, n.o.s.	Poison B	Poison	173.364	173.375	50 pounds	100 pounds	1,2	1,2	Stow away from heavy metals, especially lead and its compounds. Stow separate from acids
	Supplies, hazardous, n.o.s.	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Supplies, hazardous, n.o.s.	Oxidizer	Oxidizer	None	173.160	Forbidden	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Supplies, hazardous, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Supplies, hazardous, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Supplies, hazardous, n.o.s.	Flammable solid	Flammable solid	173.153	173.201	10 pounds	10 pounds	1,2	1,2	
	Supplies, hazardous, n.o.s.	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Supplies, hazardous, n.o.s.	Flammable gas	Flammable gas	173.300	173.304	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Nonflammable gas	Nonflammable gas	173.306	173.314	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Poison gas	Poison	173.306	173.314	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Oxidizer	Oxidizer	173.153	173.167	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Supplies, hazardous, n.o.s.	Oxidizer	Oxidizer	None	173.167	Forbidden	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	
	Supplies, hazardous, n.o.s.	Corrosive material	Corrosive	173.244	173.247	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Supplies, hazardous, n.o.s.	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Supplies, hazardous, n.o.s.	Poison B	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
	Supplies, hazardous, n.o.s.	Poison B	Poison	173.364	173.375	50 pounds	100 pounds	1,2	1,2	Stow away from heavy metals, especially lead and its compounds. Stow separate from acids
	Supplies, hazardous, n.o.s.	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Supplies, hazardous, n.o.s.	Oxidizer	Oxidizer	None	173.160	Forbidden	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Supplies, hazardous, n.o.s.	Flammable gas	Flammable gas	173.300	173.304	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Nonflammable gas	Nonflammable gas	173.306	173.314	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Poison gas	Poison	173.306	173.314	Forbidden	300 pounds	1	4	Stow away from foodstuffs
	Supplies, hazardous, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Supplies, hazardous, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.106	50 pounds	150 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
	Supplies, hazardous, n.o.s.	Class C explosive	Explosive C	None	173.114	50 pounds	150 pounds	1,3	1,3	

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
A	Sodium hydrogen sulfite, solid	ORM-B	None	173.505	173.800	25 pounds	100 pounds			
	Sodium hydrosulfite (*sodium dithionite*)	Flammable solid	Flammable solid	173.153	173.204	25 pounds	100 pounds	1,2	1,2	Keep dry. Below deck stowage in metal drums only. Separate from flammable gases, liquids, oxidizing materials, or organic peroxides
	Sodium hydroxide, dry solid, flake, bead, or granular	Corrosive material	Corrosive	173.244	173.245b	25 pounds	200 pounds	1,2	1,2	Keep dry
•	Sodium hydroxide, liquid or solution	Corrosive material	Corrosive	173.244	173.249	1 quart	5 gallons	1,2	1,2	
A	Sodium metabisulfite	ORM-B	None	173.505	173.510	No limit	No limit			
	Sodium, metal or metallic	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium, metal dispersion in organic solvent	Flammable solid	Flammable solid and Dangerous when wet	None	173.230	Forbidden	10 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium, metal liquid alloy	Flammable solid	Flammable solid and Dangerous when wet	None	173.202	Forbidden	1 pound	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
•	Sodium methylate, alcohol mixture	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Sodium methylate, alcohol mixture	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	Sodium methylate, alcohol mixture	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Sodium methylate, dry	Flammable solid	Flammable solid	173.153	173.154	25 pounds	100 pounds	1,2	1	Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium monoxide, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry
	Sodium nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Sodium nitrate bags. See Bags, sodium nitrate, empty and unwashed									
	Sodium nitrite	Oxidizer	Oxidizer	173.153	173.154 173.234	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds and cyanides. Bagged material not permitted on passenger vessels
	Sodium nitrite mixed (*fused*) with potassium nitrate	Oxidizer	Oxidizer	173.153	173.183	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds and cyanides.
	Sodium nitrite mixture (*sodium nitrate, sodium nitrite, and potassium nitrate*)	Oxidizer	Oxidizer	173.153	173.234	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds and cyanides.
A	Sodium pentachlorophenate	ORM-A	None	173.505	173.510	No limit	No limit			
	Sodium perchlorate	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,3	1,3	Stow away from powdered metals
	Sodium permanganate	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide
	Sodium peroxide	Oxidizer	Oxidizer	None	173.187	Forbidden	100 pounds	1,2	1	Keep dry. Stow away from powdered metals, permanganates, combustible packing of other cargo, and combustible foodstuffs
	Sodium phenolate, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	
	Sodium phosphide	Flammable solid	Flammable solid and Dangerous when wet	None	173.154	Forbidden	25 pounds	1	5	
	Sodium picramate, wet (*with at least 20% water*)	Flammable solid	Flammable solid	None	173.205	Forbidden	25 pounds	1,2	5	Stow away from heavy metals, especially lead, and its compounds
	Sodium potassium alloy	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Under deck stowage must be readily accessible. Segregation same as for flammable solids labeled Dangerous When Wet
	Sodium sulfate, acid. *See appropriate* Sodium hydrogen sulfate entry									
•	Sodium sulfide, anhydrous	Flammable solid	Flammable solid	173.153	173.207	25 pounds	300 pounds	1,2	1,2	Stow separate from liquid acids. Separate from flammable gases or liquids, oxidizing materials or organic peroxides
•	Solvent, n.o.s.	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Solvent, n.o.s.	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
•	*Sparklers. See* Fireworks, common									
	Spent iron mass. See Iron mass, spent									
	Spent iron sponge. See Iron sponge, spent									
	Spent mixed acid. See Nitrating acid									
	Spent sulfuric acid. See sulfuric acid, spent									

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Spirits of nitroglycerin, (*1 to 10%*)	Flammable liquid	Flammable liquid	None	173.133	Forbidden	6 quarts	1,2	5	Segregation same as for explosives
	Spirits of nitroglycerin, not exceeding 1% nitroglycerin by weight	Flammable liquid	Flammable liquid	173.118	173.133	1 quart	6 quarts	1,2	1	
	Spirits of salt. *See* Hydrochloric acid									
	Sporting powder. See Black powder *or* Propellant explosive, solid, Class B explosive									
	Spray starting fluid. See Engine starting fluid									
	Spreader cartridge. See Fireworks, special									
	Squib, electric or safety. See Electric squib *or* Safety squib									
•	*Stain. See* *Paint, enamel, lacquer, stain, shellac, varnish, etc.									
	Stannic phosphide	Flammable solid	Flammable solid and Dangerous when wet	None	173.154	Forbidden	25 pounds	1	5	Segregation same as for flammable solid labeled Dangerous When Wet
A	Stannous chloride, solid	ORM-B	None	173.505	173.510	No limit	No limit			
•	Starter cartridge	Class B explosive	Explosive B	None	173.92	Forbidden	200 pounds	1,3	5	
•	Starter cartridge	Class C explosive	Explosive C	None	173.102	50 pounds	150 pounds	1,3	1,3	
	Storage battery wet. See Battery, electric storage, wet									
	Straw. *See* Hay									
	Strontium arsenite, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Strontium chlorate	Oxidizer	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
•	Strontium chlorate, wet	Oxidizer	Oxidizer	173.153	173.163	25 pounds	200 pounds	1,2	1,2	Stow separate from ammonium compounds. Stow away from powdered metals
	Strontium nitrate	Oxidizer	Oxidizer	173.153	173.182	25 pounds	100 pounds	1,2	1,2	
	Strontium peroxide	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Keep dry
•	Strychnine salt, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Strychnine, solid	Poison B	Poison	None	173.377	Forbidden	200 pounds	1,2	1,2	
	Styphnate of lead. See Initiating explosive									
	Styrene monomer, inhibited	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
	Succinic acid peroxide	Organic peroxide	Organic peroxide	173.153	173.157 173.158	Forbidden	25 pounds	1	1	
	Sulfur chloride (*mono and di*)	Corrosive material	Corrosive	None	173.247	Forbidden	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Sulfur dioxide	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	Stow away from living quarters
	Sulfur flower. *See* Sulfur									
	Sulfur hexafluoride	Nonflammable gas	Nonflammable gas	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
	Sulfuric acid (*For fuming sulfuric acid, see Oleum*)	Corrosive material	Corrosive	173.244	173.272	1 quart	1 gallon	1	1	Keep dry. Under deck stowage is permitted on cargo vessels only in metal drums
	Sulfuric acid, spent	Corrosive material	Corrosive	None	173.248	Forbidden	1 quart	1	1	Under deck stowage is permitted on cargo vessels only in metal drums
	Sulfuric anhydride. *See* Sulfur trioxide, stabilized									
•	Sulfurous acid	Corrosive material	Corrosive	173.244	173.245	2 gallons	2 gallons	1,2	1	Glass carboys in hampers not permitted under deck
W	Sulfur, solid	ORM-C	None	173.505	173.1080			1,2	1,2	Protect from sparks and open flame. Stow separate from oxidizing materials. Segregation same as for flammable solids
	Sulfur trioxide, stabilized	Corrosive material	Corrosive	173.244	173.273	Forbidden	1 gallon	1,2	1,2	Keep dry. Glass bottles not permitted under deck
	Sulfuryl chloride	Corrosive material	Corrosive	173.244	173.247	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Sulfuryl fluoride	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314	150 pounds	300 pounds	1,3	1	
	Sulphur. *See* Sulfur									
	Supplementary charge (explosive)	Class A explosive	Explosive A	None	173.69	Forbidden	Forbidden	6	5	
	Tankage. See Garbage tankage									

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
*	Tankage fertilizer	Flammable solid	Flammable solid	None	173.209	Forbidden	Forbidden	1	5	Keep dry. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
*	Tankage, rough ammoniate	Flammable solid	Flammable solid	None	173.210	Forbidden	Forbidden	1	5	Keep dry. Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Tank car, containing residual phosphorus and filled with water or inert gas. See 173.190									
	Tank car, empty (*previously used for a hazardous material*). *See* 173.29									
	Tank car, empty (*previously used for a Poison A material*). *See* 172.510 and 173.29									
	Tank, portable, empty (*previously used for a hazardous material*). *See* 172.510, 173.29, and 172.514									
	Tank truck, empty. *See* 172.510, 172.514 and 173.29.									
*	Tar, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
*	Tar, liquid	Flammable liquid	Flammable liquid	173.118	173.131	1 quart	10 gallons	1,2	1	
	Tear gas ammunition. See Chemical ammunition (containing an irritant material)									
	Tear gas candle	Irritating material	Irritant	None	173.385	Forbidden	75 pounds	1	5	Stow away from living quarters
	Tear gas cartridge. See Small arms ammunition irritating (*tear gas*) cartridge									
	Tear gas grenade. See Grenade, tear gas									
	Tertiary alcohol. See Alcohol, n.o.s.									
	Tertiary butyl isopropyl benzene hydroperoxide	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
AW	Tetrachloroethane	ORM-A	None	173.505	173.620	1 quart	10 gallons	1,2	1,2	
A	Tetrachloroethylene *or* Perchloroethylene	ORM-A	None	173.505	173.510 173.605	10 gallons	55 gallons			
	Tetraethyl dithio pyrophosphate and compressed gas mixture	Poison A	Poison gas	None	173.334	Forbidden	Forbidden	1	5	Shade from radiant heat. Stow away from living quarters. Segregation same as for nonflammable gases
	Tetraethyl dithio pyrophosphate, liquid	Poison B	Poison	None	173.358	Forbidden	1 quart	1	5	
	Tetraethyl dithio pyrophosphate mixture, dry	Poison B	Poison	None	173.377	Forbidden	200 pounds	1	5	
	Tetraethyl dithio pyrophosphate mixture, liquid	Poison B	Poison	None	173.359	Forbidden	1 quart	1	5	
	Tetraethyl lead, liquid (*including flash point for export shipment by water*)	Poison B	Poison	None	173.334	Forbidden	55 gallons	1	5	If flash point is 141 deg F. or less, segregation must be the same as for flammable liquids
	Tetraethyl pyrophosphate and compressed gas mixture	Poison A	Poison gas	None	173.334	Forbidden	Forbidden	1	5	Shade from radiant heat. Stow away from living quarters. Segregation same as for nonflammable gases
	Tetraethyl pyrophosphate, liquid	Poison B	Poison	None	173.358	Forbidden	1 quart	1,2	5	
	Tetraethyl pyrophosphate mixture, dry	Poison B	Poison	None	173.377	Forbidden	200 pounds	1,2	5	
	Tetraethyl pyrophosphate mixture, liquid	Poison B	Poison	None	173.359	Forbidden	1 quart	1,2	5	
	Tetrafluoroethylene, inhibited	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	1,2	Stow away from living quarters
	1,2,3,6-Tetrahydrobenzaldehyde	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Tetrahydrofuran	Flammable liquid	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
	Tetramethyl ammonium hydroxide, liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
A	Tetramethyl methylene diamine	ORM-A	None	173.505	173.510	No limit	No limit			
	Tetranitromethane	Oxidizer	Oxidizer	None	173.203	Forbidden	Forbidden	1	5	Shade from radiant heat. Stow away from foodstuffs
	Tetrazene (guanyl nitrosamino guanyltetrazene). See Initiating explosive									
	Tetryl. See High explosive									
*	Textile treating compound mixture, liquid	Corrosive material	Corrosive	173.244	173.245 173.249a	1 quart	10 gallons	1,2	1,2	
	Textile waste. *See* Cotton waste									
	Textile waste, wet	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
*	Thallium salt, solid, n.o.s.	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

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	Thallium sulfate, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Thinner for rust preventive coating. *See* *Rust preventive coating									
	Thinning compound, paint, varnish, lacquer, etc. See *Paint, enamel, lacquer, stain, shellac, varnish, etc.									
	Thiocarbonyl chloride. See Thiophosgene									
	Thioglycolic acid	Corrosive material	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	Glass carboys in hampers not permitted under deck
	Thionyl chloride	Corrosive material	Corrosive	None	173.247	Forbidden	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Thiophosgene	Poison B	Poison	None	173.356	Forbidden	1 gallon	1	5	Shade from radiant heat
	Thiophosphoryl chloride	Corrosive material	Corrosive	None	173.271	Forbidden	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
A	Thiram	ORM-A	None	173.505	173.510	No limit	No limit			
	Thorium metal, pyrophoric	Radioactive material	Radioactive and Flammable solid	173.226	173.226			1,2	1,2	
	Thorium nitrate	Radioactive material	Radioactive and Oxidizer	173.392	173.393			1,2	1,2	Separate longitudinally by a complete hold or compartment from explosives
	Time fuze. See Fuze, time, non-detonating									
	Tin chloride, fuming. *See* Tin tetrachloride, anhydrous									
*	Tinning flux. *See* *Zinc chloride solution									
	Tin perchloride. *See* Tin tetrachloride, anhydrous									
	Tin tetrachloride, anhydrous	Corrosive material	Corrosive	173.244	173.247	1 quart	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Titanium metal powder, dry or wet *with less than 20% water*	Flammable solid	Flammable solid	None	173.208	Forbidden	75 pounds	1,2	5	
	Titanium metal powder, wet with 20% or more water	Flammable solid	Flammable solid	None	173.208	Forbidden	150 pounds	1,2	5	
*	Titanium sulfate solution *containing not more than 45% sulfuric acid*	Corrosive material	Corrosive	173.244	173.297	1 quart	1 gallon	1	4	Shade from radiant heat. Keep dry
	Titanium tetrachloride	Corrosive material	Corrosive	173.244	173.247	1 quart	10 gallons	1	1	Keep dry. Glass carboys not permitted on passenger vessels
	Toluene (*toluol*)	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
A	Toluenediamine	ORM-A	None	173.505	173.510	No limit	No limit			
	Toluene diisocyanate	Poison B	Poison	173.345	173.346	Forbidden	55 gallons	1,3	1,3	Shade from radiant heat
	Toluene sulfonic acid, liquid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Torch. See Fireworks, common									
	Torpedo, railway	Class B explosive	Explosive B	None	173.91	Forbidden	200 pounds	1,2	1,2	Passenger vessels in metal lockers only
	Toy caps	Class C explosive	Explosive C	None	173.100 173.109	50 pounds	150 pounds	1,3	1,3	
	Toy propellant device	Class C explosive	Explosive C	None	173.111	50 pounds	150 pounds	1,3	1,3	
	Toy smoke device	Class C explosive	Explosive C	None	173.111	50 pounds	150 pounds	1,3	1,3	
	Toy torpedo. See Fireworks, special									
	Tracer	Class C explosive	Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Tracer fuze	Class C explosive	Explosive C	None	173.105	50 pounds	150 pounds	1,3	1,3	
	Tractor *See* Motor vehicle									
	Trailer or truck body with refrigeration or heating equipment *See* Motor vehicle									
	Treated paper (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material									
	Treated textile (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material									
	Trichloroacetic acid, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1	
*	Trichloroacetic acid solution	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	Glass carboys in hampers not permitted under deck
A	Trichloroethylene	ORM-A	None	173.505	173.510 173.605	10 gallons	55 gallons			
	Trichlorosilane	Flammable liquid	Flammable liquid	None	173.136	Forbidden	10 gallons	1	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Trichloro-s-triazinetrione (*dry, containing over 39% available chlorine*)	Oxidizer	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,3	1,3	Keep dry

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Trichlorotrifluoroethane	ORM-A	None	173.505	173.510 173.605	10 gallons	55 gallons			
	Triethylamine	Flammable liquid	Flammable liquid	None	173.119	Forbidden	1 quart	1,2	1,2	
	Triethylene glycol dinitrate, desensitized, with not less than 25% water, by mass	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Triethylene tetramine	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Trifluorochloroethylene, inhibited	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	1,2	Stow away from living quarters
	Trimethyl acetyl chloride	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Trimethyl chloroacetate	Poison B	Poison	None	173.358	Forbidden	1 quart	1,2	5	
	Trimethyl chlorosilane	Flammable liquid	Flammable liquid	None	173.119	Forbidden	1 quart	1,2	1,2	
	Trimethyl hexamethylene diisocyanate	Poison B	Poison	None	173.358	Forbidden	1 quart	1,2	5	
	Trimethyl phosphite	Flammable liquid	Flammable liquid	None	173.119	Forbidden	1 quart	1,2	1,2	
	Trinitrobenzene, dry or wet, *with less than 30% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrobenzene, wet, *with not less than 30% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Trinitrobenzenesulfonic acid	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrobenzoic acid, dry or wet, *with less than 30% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrobenzoic acid, wet, *with not less than 30% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Trinitrochlorobenzene (picryl chloride), dry or wet, *with less than 30% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrochlorobenzene (picryl chloride), wet, *with not less than 30% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Trinitrocresol, dry or wet, *with less than 30% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrocresol, wet, *with not less than 30% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Trinitrofluorenone, dry or wet, *with less than 30% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrofluorenone, wet, *with not less than 30% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Trinitrophenol (picric acid), dry or wet, *with less than 30% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrophenol (picric acid), wet, *with not less than 30% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Trinitroresorcinol (styphnic acid), dry or wet, *with less than 20% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitroresorcinol (styphnic acid), wet, *with not less than 20% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Trinitrotoluene (TNT), dry or wet, *with less than 30% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrotoluene (TNT), wet, *with not less than 30% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Trinitrotoluene and hexanitrostilbene, dry or wet, *with less than 30% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrotoluene and hexanitrostilbene, wet, *with not less than 30% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Trinitrotoluene and nitronaphthalene mixture, dry or wet, *with less than 30% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrotoluene and nitronaphthalene mixture, wet, *with not less than 30% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Trinitrotoluene and trinitrobenzene mixture, dry or wet, *with less than 30% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trinitrotoluene and trinitrobenzene mixture, wet, *with not less than 30% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Tripropylamine	Flammable liquid	Flammable liquid	None	173.119	Forbidden	1 quart	1,2	1,2	
	Tritonal	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Trivinylstibine	Flammable liquid	Flammable liquid	None	173.119	Forbidden	1 quart	1,2	1,2	
	Turpentine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Turpentine substitute	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Undecyl trichloride	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Uranium hexafluoride, fissile	Radioactive material	Radioactive and Poison	173.389	173.393			1,2	1,2	Separate longitudinally by a complete hold or compartment from explosives
	Uranium hexafluoride, fissile excepted	Radioactive material	Radioactive and Poison	173.389	173.393			1,2	1,2	Separate longitudinally by a complete hold or compartment from explosives
	Uranium hexafluoride, non-fissile	Radioactive material	Radioactive and Poison	173.389	173.393			1,2	1,2	Separate longitudinally by a complete hold or compartment from explosives
	Uranium metal, pyrophoric	Radioactive material	Radioactive and Flammable solid	173.226	173.226			1,2	1,2	
	Urea nitrate, dry or wet, *with less than 20% water*	Class A explosive	Explosive A	None	173.87	Forbidden	Forbidden	1	5	
	Urea nitrate, wet, *with not less than 20% water*	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Valeraldehyde	Flammable liquid	Flammable liquid	None	173.119	Forbidden	1 quart	1,2	1,2	
	Valeryl chloride	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Vanadium pentoxide, dry	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Vanadium pentoxide, fused	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Vanadium pentoxide, wet	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Vanadium trichloride	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Vanadium trioxide	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Vanadium tetrachloride	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Varnish. *See* *Paint, enamel, lacquer, stain, shellac, varnish, etc.									
	Vinyl acetate, inhibited	Flammable liquid	Flammable liquid	None	173.119	Forbidden	1 quart	1,2	1,2	
	Vinyl bromide, inhibited	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	1,2	Stow away from living quarters
	Vinyl chloride, inhibited	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	1,2	Stow away from living quarters
	Vinyl chloroacetate, inhibited	Poison B	Poison	None	173.358	Forbidden	1 quart	1,2	5	
	Vinyl ethyl ether, inhibited	Flammable liquid	Flammable liquid	None	173.119	Forbidden	1 quart	1,2	1,2	
	Vinyl fluoride, inhibited	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	1,2	Stow away from living quarters
	Vinylidene chloride, inhibited	Flammable liquid	Flammable liquid	None	173.119	Forbidden	1 quart	1,2	1,2	
	Vinyl methyl ether, inhibited	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	1,2	Stow away from living quarters
	Vinyl pyridine, inhibited	Poison B	Poison	None	173.358	Forbidden	1 quart	1,2	5	
	Warfarin and salts, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Warfarin and salts, liquid	Poison B	Poison	None	173.358	Forbidden	1 quart	1,2	5	
	Water gas, compressed	Flammable gas	Flammable gas	173.306	173.304	Forbidden	300 pounds	1,2	1,2	Stow away from living quarters
	Water gas, liquefied	Flammable gas	Flammable gas	None	173.314	Forbidden	Forbidden	1,2	1,2	Stow away from living quarters
	Wax, petroleum	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Wax, petroleum	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Wax, petroleum, solid	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Wax, petroleum, solid	Combustible solid	None	None	173.211	No limit	No limit	1,2	1,2	
	Wax, petroleum, solid, containing flammable liquid	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Wax, petroleum, solid, containing flammable liquid	Combustible solid	None	None	173.211	No limit	No limit	1,2	1,2	
	Wax, petroleum, solid, containing flammable liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Wax, petroleum, solid, containing flammable liquid	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	(mono-(Trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry (*containing over 39% available chlorine*)	Oxidizer	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,3	1,3	Keep dry
	Trick matches	Class C explosive	Explosive C	None	173.111	Forbidden	Forbidden	1,3	1,3	
	Trick noise maker, explosive	Class C explosive	Explosive C	None	173.111	50 pounds	150 pounds	1,3	1,3	
	Triethylamine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Trifluorochlorethylene	Flammable gas	Flammable gas	173.306	173.304 173.314	Forbidden	10 gallons	1,2	1	
	Trimethyl acetyl chloride	Corrosive material	Corrosive	173.244	173.247	1 quart	1 quart	1,2	1,2	
	Trimethylamine, anhydrous	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
•	Trimethylamine, aqueous solution	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	Stow away from mercury and mercury compounds
	Trimethylchlorosilane	Flammable liquid	Flammable liquid	None	173.135	Forbidden	10 gallons	1,2	1	
	Trinitrobenzene, dry. See High explosive									
•	Trinitrobenzene, wet *containing at least 10% water*	Flammable solid	Flammable solid	173.212		1 pound	1 pound	1	4	Stow away from heavy metals and their compounds
	Trinitrobenzoic acid, dry. See High explosive									
•	Trinitrobenzoic acid, wet, *containing at least 10% water*	Flammable solid	Flammable solid	None	173.192 173.193	1 pound	25 pounds	1	5	Stow away from heavy metals and their compounds
	Trinitrobenzoic acid, wet, containing at least 10% water, over 25 pounds in one outside packaging. See High explosive									
	Trinitroresorcinol. See High explosive									
	Trinitrotoluene, dry. See High explosive									
	Trinitrotoluene, wet *containing at least 10% water*	Flammable solid	Flammable solid	173.212		1 pound	1 pound	1	4	Stow away from heavy metals and their compounds
	Tris-(1-aziridinyl) phosphine oxide	Corrosive material	Corrosive	173.244	173.299a	1 quart	1 gallon	1	1	Keep dry. Glass carboys not permitted on passenger vessels
•	Turpentine	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Turpentine	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
•	Turpentine substitute	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
•	Turpentine substitute	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
W	Twisted jute packing (*rope*) (*treated or untreated*). *See* Oakum									
	Uranium hexafluoride, fissile (containing more than 0.7% U-235)	Radioactive material	Radioactive and corrosive	173.393	173.396			1,2	1,2	
	Uranium hexafluoride, low specific activity (*containing 0.7% or less U-235*)	Radioactive material	Radioactive and corrosive	173.392	173.393			1,2	1,2	
	Uranium metal, pyrophoric	Radioactive material	Radioactive and Flammable solid	173.392	173.393 173.396			1,2	1,2	
	Uranyl nitrate hexahydrate solution	Radioactive material	Radioactive and corrosive	173.392	173.393 173.395 173.396			1,2	1,2	
	Uranyl nitrate, solid	Radioactive material	Radioactive and oxidizer	173.392	173.393 173.396			1,2	1,2	Separate longitudinally by an intervening hold or compartment from explosives
	Urea nitrate, dry. See High explosive									
•	Urea nitrate, wet *with 10% or more water*	Flammable solid	Flammable solid	None	173.192 173.193	1 pound	25 pounds	1,2	1,2	
	Urea nitrate, wet with 10% or more water, over 25 pounds in one outside packaging. See High explosive									
	Urea peroxide	Organic peroxide	Organic peroxide	173.153	173.227	2 pounds	25 pounds	1	4	Keep dry. Shade from radiant heat
	Valeric acid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	Valeryl chloride	Corrosive material	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
	Vanadium oxytrichloride	Corrosive material	Corrosive	173.244	173.247a	Forbidden	1 quart	1	4	Shade from radiant heat
	Vanadium tetrachloride	Corrosive material	Corrosive	173.244	173.247a	Forbidden	1 quart	1	4	Shade from radiant heat
	Varnish. See *Paint, enamel, lacquer, stain, shellac, varnish, etc.									
	Varnish drier. See *Paint drier, liquid									

§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Varnish remover or reducer. See *Compound, lacquer, paint or varnish removing, reducing, or thinning liquid									
	Varnish thinning compound. See *Compound, lacquer, paint, or varnish removing, reducing, or thinning liquid									
	Very signal cartridge	Class C explosive	Explosive C	None	173.108	50 pounds	200 pounds	1,3	1,3	
	Vinyl acetate	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Vinyl chloride	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	4	Stow away from living quarters
	Vinyl ethyl ether, inhibited	Flammable liquid	Flammable liquid	None	173.119	Forbidden	1 gallon	1,3	5	
	Vinyl fluoride, inhibited	Flammable gas	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
	Vinylidene chloride, inhibited	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
	Vinyl isobutyl ether	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Vinyl methyl ether, inhibited	Flammable gas	Flammable gas	173.306	173.304 173.314	Forbidden	20 pounds	1,2	1	Stow away from living quarters
	Vinyl trichlorosilane	Flammable liquid	Flammable liquid	None	173.135	Forbidden	10 gallons	1,2	1	
	Vitriol, oil of. *See* Sulfuric acid									
	War head. See Explosive projectile									
	Waste paper, wet	Flammable solid	Flammable solid	None	173.186	Forbidden	Forbidden	1,2	1,2	Separate from flammable gas or liquids, oxidizing materials, or organic peroxides
	Waste textile, wet	Flammable solid	Flammable solid	None	173.211	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Waste wool, wet	Flammable solid	Flammable solid	None	173.213	Forbidden	Forbidden	1,2	1,2	Separate from flammable gases or liquids, oxidizing materials, or organic peroxides
	Water reactive solid, n.o.s.	Flammable solid	Flammable solid and Dangerous when wet	173.153	173.154	Forbidden	25 pounds	1,2	4	Segregation same as for flammable solids labeled Dangerous When Wet
•	Water treatment compounds, liquid	Corrosive material	Corrosive	173.244	173.249	1 quart	10 gallons	1	1	
•	Wax, liquid	Combustible liquid	None	173.118a	None	No limit	No limit	1,2	1,2	
	Wet hair. See Hair, wet									
	Wet textile waste. See Waste textile, wet									
	White acid (*ammonium bifluoride and hydrochloric acid mixture*)	Corrosive material	Corrosive	173.244	173.264	1 quart	1 gallon	1	1	
•	*Wood filler. See* *Paint, varnish, lacquer, stain, shellac enamel, etc.									
	Wood shavings (*when dry, clean and free from oil*). *See* Sawdust									
	Wool waste. *See* Cotton waste									
	Wool waste, wet. See Waste wool, wet									
•	Xenon	Nonflammable gas	Nonflammable gas	173.306	173.302	150 pounds	300 pounds	1,2	1,2	
	X-ray film. See Film									
	Xylene (*xylol*)	Flammable liquid	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
	Xylyl bromide	Irritating material	Irritant	None	173.382	Forbidden	75 pounds	1	5	Stow away from living quarters
A	Yeast, active, *in liquid or pressed form*	ORM-C	None	None	173.1085	No limit	No limit			
	Zinc ammonium nitrite	Oxidizer	Oxidizer	None	173.228	25 pounds	100 pounds	1,3	5	This material may be forbidden in water transportation by certain countries
	Zinc arseniate	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Zinc arsenite, solid	Poison B	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
	Zinc chlorate	Oxidizer	Oxidizer	173.153	173.163	25 pounds	100 pounds	1,2	1,2	Stow separate from ammonium compounds and away from powdered metals
•	Zinc chloride solution	Corrosive material	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
	Zinc cyanide	Poison B	Poison	173.370		25 pounds	200 pounds	1,2	1,2	Stow away from acids
	Zinc ethyl. See Pyrophoric liquids, n.o.s.									
•	Zinc muriate solution. *See* Zinc chloride solution									
	Zinc nitrate. See Nitrates, n.o.s.									

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§172.101 Hazardous Materials Table (cont'd)

(1) */W/A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	Zinc permanganate	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Separate from ammonium compounds and hydrogen peroxide
	Zinc peroxide	Oxidizer	Oxidizer	173.153	173.154	25 pounds	100 pounds	1,2	1,2	Keep dry
	Zirconium hydride	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	150 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
	Zirconium metal, dry, *chemically produced, finer than 20 mesh particle size*	Flammable solid	Flammable solid	None	173.214	Forbidden	75 pounds	1	5	Separate from flammable gases or liquids, oxidizing materials or organic peroxides
	Zirconium metal, dry, *mechanically produced, finer than 270 mesh particle size*	Flammable solid	Flammable solid	None	173.214	Forbidden	75 pounds	1	5	Separate from flammable gases or liquids, oxidizing materials or organic peroxides
•	Zirconium, metal, liquid, suspensions	Flammable liquid	Flammable liquid	None	173.140	Forbidden	5 gallons	1	5	
	Zirconium metal, wet, *chemically produced, finer than 20 mesh particle size*	Flammable solid	Flammable solid	None	173.214	Forbidden	150 pounds	1,2	5	
	Zirconium metal, wet *mechanically produced, finer than 270 mesh particle size*	Flammable solid	Flammable solid	None	173.214	Forbidden	150 pounds	1,2	5	
	Zirconium picramate, wet *with at least 20% of water*	Flammable solid	Flammable solid	None	173.216	Forbidden	25 pounds	1	1	Stow away from heavy metals and their salts
•	Zirconium scrap (*borings, clippings, shavings, sheets, or turnings*)	Flammable solid	Flammable solid	173.153	173.220	Forbidden	Forbidden	1	4	Separate from flammable gases of liquids, oxidizing materials, or organic peroxides
	Zirconium tetrachloride, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	

5. In § 172.201 the introduction to paragraph (a)(1) and paragraph (a)(1)(ii) are revised to read as follows:

§ 172.201 General entries.

(a) • • •

(1) When a hazardous material and a material not subject to the requirements of this subchapter are described on the same shipping paper, the hazardous material description entries required by § 172.202 and those additional entries that may be required by § 172.203.

• • • • • • •

(ii) Must be entered in a color that clearly contrasts with any description of a material not subject to the requirements of this subchapter on the shipping paper except that a description on a reproduction of a shipping paper may be highlighted, rather than printed, in a contrasting color. (The provisions of this paragraph apply only to the basic description required by § 172.202(a)(1) and (2).) or

• • • • • •

6. In § 172.203 paragraphs (e) and (g)(1) are revised; paragraph (g)(2) is deleted; paragraph (g)(3) is redesignated (g)(2) as follows:

§ 172.203 Additional description requirements.

• • • • •

(e) *Empty packagings.* For other than a tank car, the description on the shipping paper for an empty packaging containing the residue of a hazardous material may contain the word(s) "EMPTY"; or "EMPTY: Last contained • • •" followed by the name of the hazardous material last contained in the packaging. This entry may be before or after the basic description. For empty tank cars, see § 174.25(c) of this subchapter.

• • • • • •

(g) • • •

(1) The shipping paper for a rail car containing a hazardous material must contain the notation "Placarded" followed by the name of the placard required for the rail car.

(2) The shipping paper for each specification DOT 112A or 114A tank car (without head shields) containing a flammable compressed gas must contain the notation, "DOT 112A" or "DOT 114A," as appropriate, and either "Must be handled in accordance with FRA E.O. No. 5" or "Shove to rest per E.O. No. 5."

• • • • •

7. In § 172.204 the introductory text of paragraph (a) is revised to read as follows:

§ 172.204 Shipper's certification.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, each person who offers a hazardous material for transportation shall certify that the material offered for transportation is in accordance with this subchapter by printing (manually or mechanically) the following statement on the shipping paper containing the required shipping description:

• • • • • •

8. In § 172.304 the heading is revised to read as follows:

§ 172.304 Marking requirements.

• • • • • •

9. In § 172.306 the heading and paragraph (a)(1) are revised as follows:

§ 172.306 Consignee's or consignor's name and address.

(a) • • •

(1) Transported by highway and will not be transferred from one motor carrier to another, or

• • • • • •

10. In § 172.312 the introductory text of paragraph (a) is revised to read as follows:

§ 172.312 Liquid hazardous materials.

(a) Except as provided in this section and for limited quantities of flammable liquids packed in inside packagings of one quart or less, each package having an inside packaging containing liquid hazardous materials must be—

• • • • • •

11. § 172.328 is revised to read as follows:

§ 172.328 Cargo tanks.

(a) *Size of marking.* When required to be marked, each cargo tank containing a hazardous material must be legibly marked in lettering two inches (50.8 mm.) or more in height.

(b) *Required markings: Hazardous materials other than gases.* When transporting a hazardous material other than a compressed gas in a cargo tank required by Part 173 of this subchapter to be marked with the proper shipping name of the contents, it must be marked as specified in this Part on each end and each side.

(c) *Required markings: Gases.* Each cargo tank transporting flammable or nonflammable compressed gas subject to this subchapter must be marked as specified in this Part on each end and each side with—

(1) The proper shipping name of the gas, or

(2) An appropriate common name for the material such as "Refrigerant Gas."

(d) *QT/NQT marking for MC 330 and MC 331 cargo tanks.* Each specification MC 330 and MC 331 cargo tank must be appropriately marked "QT" or "NQT" to indicate it is constructed of quenched and tempered steel (QT) or other than quenched and tempered steel (NQT). These markings must be placed near the specification identification plate.

(e) A cargo tank marked with the name of a specific hazardous material may not be used to transport any other material unless the marking is removed, or changed to identify the hazardous material the cargo tank contains, whichever is appropriate.

12. In § 172.330 the introductory text of paragraph (a) and paragraphs (c)(1) and (2) and (d) are revised; and paragraph (e) is added to read as follows:

§ 172.330 Tank cars.

(a) Except as provided in paragraph (e) of this section, when required to be marked by Parts 173 or 179 of this subchapter, each tank car and tank car tank used to transport a hazardous material must be marked as specified in this subpart with the—

• • • • • •

(c) • • •

(1) Affixed to both sides of the tank car tank, and

(2) Except for tank cars transporting DOT 106 and 110 multi-unit tank car tanks, readily visible when viewed from each side of the tank car.

(d) A tank car tank marked with the name of a specific hazardous material may not be used to transport any other material unless the marking is removed, or changed to identify the hazardous material the tank car tank contains, whichever is appropriate.

(e) For a DOT 106 or 110 tank car tank, marking is not required when the CHLORINE label is used as provided in § 172.405(b).

13. § 172.400 paragraph (b)(6) is revised to read as follows:

§ 172.400 General labeling requirements.

• • • • • •

(b) • • •

(6) Portable tank which is placarded in accordance with § 172.514.

• • • • •

§ 172.406 [Amended]

14. In § 172.406 paragraph (a) is amended by changing the word "market" in the fifth line to read "marked."

15. In § 172.504 paragraph (a) is revised; Table 1 is amended by revising the heading, by revising and adding additional reference to footnotes 3 and 4, and by adding a new footnote 6; Table 2 is amended by revising the heading and footnote 6; and paragraph (c)(1) is revised to read as follows:

§ 172.504 General placarding requirements.

(a) Except as otherwise provided in this subchapter, each motor vehicle, rail car, and freight container containing any quantity of a hazardous material must be placarded on each end and each side with the type of placards specified in the following tables and other placarding requirements of this subpart, including the specifications for the placards named in the tables and described in detail in §§ 172.519 through 172.558.

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TABLE 1

If the motor vehicle, rail car, or freight container contains a material classed (described) as—	The motor vehicle, rail car, or freight container must be placarded on each side and each end—
. . .	. . .
	RADIOACTIVE [5] and CORROSIVE [6]
	RADIOACTIVE [4, 5] and CORROSIVE [6]

[1] . . .
[2] . . .
[3] FLAMMABLE SOLID "W" placard is required only when the DANGEROUS WHEN WET label is specified in § 172.101 for a material classed as a Flammable solid.
[4] Applies only to any quantity of packages bearing the RADIOACTIVE YELLOW III label. (See § 172.403.)
[5] . . .
[6] CORROSIVE placard not required for shipments of less than 1000 pounds gross weight.

TABLE 2

If the motor vehicle, rail car, or freight container contains a material classed (described) as—	The motor vehicle, rail car, or freight container must be placarded on each side and each end—
. . .	. . .

[1] See § 173.245(b) of this subchapter for authorized exemptions.

. . . . . .

(c) . . .

(1) Motor vehicle, or a freight container if transported by highway only, containing less than 1,000 pounds (aggregate gross weight) of one or more materials covered by Table 2, or

. . . . . .

16. In § 172.508, paragraph (a) is revised to read as follows:

§ 172.508 Placarding and affixing placards: rail.

(a) Each person offering a hazardous material for transportation by rail shall affix to the rail car containing the material, the placards specified by this subpart for the material unless the placards already displayed on motor vehicles, transport containers, or portable tanks that are on a rail car comply with §§ 172.502 and 172.504 as these sections pertain to placarding the rail car.

. . . . . .

17. In § 172.512 the freight container placarding table is deleted; paragraph (b) is amended by changing reference "§ 172.405" to read "§ 172.406(e)(3)" in the eighth line; paragraph (a) is revised as follows:

§ 172.512 Freight container.

(a) *Capacity of 640 cubic feet or more.* Each person who offers for transportation a hazardous material in a freight container having a capacity of 640 cubic feet or more shall affix to the freight container the placards specified for the material in accordance with § 172.504. However,

(1) The placarding exception provided in § 172.504 (c)(1) applies, and

(2) The placarding exception provided by subparagraphs (c)(1) and (c)(2) of § 172.504 applies to each freight container being transported for delivery to a consignee immediately following an air or water shipment.

. . . . . .

§ 172.514 [Amended]

18. § 172.514 paragraph (a) is amended by changing the section reference in the first sentence to read "§ 172.504(a)."

Appendix B—Part 172 [Amended]

19. In Appendix B To Part 172, paragraph 1.(c)(10) is amended by removing the word "COMBUSTIBLE" from the 7th line and adding the words "FLAMMABLE SOLID" and "FLAMMABLE SOLID W" in place thereof.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

19a. In the Table of Sections, § 173.338 is revised as follows:

Sec.
173.338 [Reserved].

20. § 173.6 paragraph (b)(3) is revised to read as follows:

§ 173.6 Shipments by air.

. . . . . .

(b) . . .

(3) For any packaging with a capacity of 110 gallons or less containing liquids, sufficient outage (ullage) must be provided to prevent liquid contents from completely filling the packaging at 130°F. The primary packaging (which may include composite packaging), for which retention of the liquid is the basic function, must be capable of withstanding, without leakage, an internal absolute pressure of no less than 26 lbs./sq. inch or no less than the sum of the absolute vapor pressure of the contents at 130°F. (55°C.) and the atmospheric pressure at sea level, whichever is greater.

. . . . . .

§ 173.8 [Amended].

21. In § 173.8 paragraph (b) is amended by changing "RTC" in the last sentence to read "CTC."

22. § 173.29 is revised to read as follows:

§ 173.29 Empty packagings, portable tanks, cargo tanks, and tank cars.

(a) Empty cylinders, barrels, kegs, drums, or other containers, except carboys (see paragraph (b) of this section) previously used for the shipment of any hazardous materials, as defined in this Part, if authorized for reuse must have all openings including removable heads, and filling and vent holes, tightly closed before being offered for transportation. Small quantities of the material with which containers were loaded may remain in "empty" containers. When the vapors remaining therein are unstable, it is permissible to add sufficient inert gas to render the vapors stable. They may be loaded in open or stock cars when desired. Cars should not be placarded but lighted open-flame lanterns or other open-flame lights should be kept away.

(b) Carboys previously used for the shipment of corrosive liquids, when offered to carriers for transportation as "empty" carboys, must have been thoroughly (completely) drained.

(c) Empty bottles, other than carboys previously used for the shipment of corrosive liquids, must be securely stoppered.

(d) Any packaging or accessory which has been used for a shipment of radioactive materials and which contains residual internal radioactive contamination, when shipped as empty, must be securely closed. The external surface must be free of significant removable radioactive contamination as provided in § 173.397(a). The radiation at the external surface of the packaging must not exceed 0.5 millirem per hour. The "Empty" label, described in § 172.450 of this subchapter, must be affixed to the packaging.

(e) Unless otherwise specifically provided, any empty packaging offered for transportation (see paragraph (a) of this section)' bearing labels described in §§ 172.411 through 172.446 (except § 172.450 of this subchapter) must have these labels removed, obliterated, or completely covered. The label described in § 172.450 of this subchapter is authorized for the latter purpose. Each packaging which last contained explosives and on which the word "EXPLOSIVES" or the shipping name is printed, stenciled, or otherwise marked or applied, when shipped as empty, must have this marking completely covered or obliterated if shipped in less-than-carload or less-than-truckload lots, or on open-top or flat cars, or on open-top or flat bed motor vehicles or trailers. Covering or obliteration of these labels and markings is not required for carload or truckload shipments made in closed cars or van-type motor vehicles when loaded by the shipper and unloaded by the consignee or their authorized agents.

(f) An empty portable tank, cargo tank, tank car or multi-unit tank car tank may not be offered for transportation unless—

(1) Each opening is tightly closed except heater coil inlet and outlet pipes of empty tank cars; and

(2) Except as otherwise specified in this subchapter it is offered for transportation in the same manner as when it previously contained a greater quantity of a hazardous material. This requirement, as well as other provisions in this subchapter, does not apply to any tank that has been cleaned or purged of all hazardous materials residue or when it is reloaded with a material not subject to this subchapter.

§ 173.33 [Amended].

23. In § 173.33 paragraph (c) is deleted; paragraphs (d) through (l) are redesignated (c) through (k) respectively.

24. In § 173.116 paragraph (c) is deleted as follows:

§ 173.116 Outage.

. . . . . .

(c) Deleted.

. . . . . .

25. In § 173.119 the introductory text of paragraph (a) and paragraph (d) are revised; and paragraphs (m)(10), (11), (12), (13), and (15) are amended by adding the sentence "Not authorized for flammable liquids which are also organic peroxides" at the end of each paragraph as follows:

§ 173.119 Flammable liquids not specifically provided for.

(a) *Flammable liquids with flash point 20° F. or below.* Flammable liquids with flash point 20° F. or below and having vapor pressure (Reid [1] test) not over 16 pounds per square inch, absolute, at 100° F., other than those for which special requirements are prescribed in this Part, must be prepared for shipment in specification containers of a design and constructed of materials that will not react dangerously with or be decomposed by the chemical packed therein as required in the following paragraphs (see paragraphs (c) to (i) of this section for high pressure liquids, paragraphs (j) to (l) of this section for viscous liquids, and paragraph (m) of this section for flammable liquids which are also oxidizers, corrosive liquids, poison B liquids, or organic peroxides and § 173.134 for flammable liquids that are also pyrophoric liquids):

. . . . . .

(d) *When the vapor pressure does not exceed 16 pounds per square inch, absolute, at 100° F.* When the vapor pressure does not exceed 16 pounds per square inch, absolute, at 100° F., flammable liquids must be packed as prescribed in paragraphs (a) and (b) of this section.

. . . . . .

§ 173.124 [Amended].

26. § 173.124 paragraph (a)(5) is amended by deleting the third sentence which begins with the word "Each" and ends with the word "number."

27. In § 173.217 paragraph (a)(5) is revised; paragraph (a)(6) is amended by changing the section reference in the next to the last line of the paragraph to "§ 174.63";

§ 173.217 Calcium hydrochlorite mixture, dry; lithium hypochlorite mixture, dry; mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry; potassium dichloro-s-triazinetrione, dry; sodium dichloro-s-triazinetrione, dry; trichloro-s-triazinetrione, dry.

(a) . . .

(5) Specification 21C (§ 178.224 of this subchapter). Fiber drum must be made with integral inner body ply having 0.010-inch minimum aluminum facing and bottom interior with 0.001-inch minimum aluminum facing. Cover of drum must be gasketed. Authorized net weight not over 400 pounds. Authorized only for calcium hypochlorite mixtures, dry.

. . . . . .

28. In § 173.232 paragraph (c)(6) is revised to read as follows:

§ 173.232 Aluminum, metallic powder.

. . . . . .

(c) . . .

(6) Portable tanks, not over 6,500 pounds gross weight.

. . . . . .

29. In § 173.244 paragraph (c) is deleted as follows:

§ 173.244 Limited quantities of corrosive materials.

. . . . . .

(c) Deleted.

§ 173.249 [Amended].

30. In § 173.249 the introductory text of paragraph (b) is amended by deleting the words "cargo only" in the 5th line.

31. In § 173.263 a new paragraph (e) is added to read as follows:

§ 173.263 Hydrochloric (muriatic) acid; hydrochloric (muriatic) acid mixtures; hydrochloric (muriatic) acid solution, inhibited; sodium chlorite solution (not exceeding 42 percent sodium chlorite); and cleaning compounds, liquids, containing hydrochloric (muriatic) acid.

. . . . . .

(e) Special exceptions for the shipment of certain dilute hydrochloric acid solutions in the ORM–D class are provided in Subpart N of this part.

32. In § 173.276 the introductory text of paragraph (a) is revised to read as follows:

§ 173.276 Anhydrous hydrazine and hydrazine solution.

(a) Anhydrous hydrazine and hydrazine solution must be packed in specification containers as follows:

. . . . . .

33. In § 173.288 the introductory text of paragraph (a) is revised to read as follows:

§ 173.288 Chloroformates.

(a) Allyl chloroformate, benzyl chloroformate, ethyl chloroformate, and methyl chloroformate must be packaged as follows:

. . . . . .

34. In § 173.294 the Heading and the introductory text of paragraph (a) are revised to read as follows:

§ 173.294 Monochloroacctic acid, liquid or solution.

(a) Monochloroacetic acid, liquid or solution, must be packed in specification containers as follows:

. . . . . .

35. In § 173.300 the introductory text of paragraph (b) is revised to read as follows:

§ 173.300 Definitions.

(b) *Flammable compressed gas.* Any compressed gas as defined in paragraph (a) of this section shall be classed as "flammable gas" if any one of the following occurs:

. . . . . .

36. In § 173.301 paragraph (i) is revised to read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

. . . . . .

(i) *Foreign cylinders in domestic use.* Except as provided in paragraph (j) of this section, a charged cylinder manufactured outside the United States may not be offered for transportation to, from, or within the United States unless it has been manufactured, inspected, and tested in accordance with the applicable DOT specification set forth in Part 178 of this subchapter.

. . . . . .

§ 173.306 [Amended]

37. In § 173.306 paragraph (d)(2) is amended by changing the reference "§ 176.328" to read "§ 176.905"; paragraph (f)(3)(i) is amended by changing the reference "(a)" to read "(f)."

38. In § 173.315 paragraph (a)(1) is amended by changing the references "§§ 173.401(a)(1) and 177.823(d)" to read "§§ 172.326 and 172.328"; Notes 14 and 15 are revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a) . . .

(1) . . .

. . . . . .

NOTE 14: Specifications MC 330 and MC 331 cargo tanks constructed of other than quenched and tempered steel "(NQT)" are authorized for all grades of anhydrous ammonia. Specifications MC 330 and MC 331 cargo tanks constructed of quenched and tempered steel "(QT)" (see marking requirements of § 172.328(c) of this subchapter) are authorized for anhydrous ammonia having a minimum water content of 0.2 percent by weight. Any tank being placed in anhydrous ammonia service or a tank which has been in other service or has been opened for inspection, test, or repair, must be cleaned of the previous product and must be purged of air before loading. See § 172.203(h) of this subchapter for special shipping paper requirements.

NOTE 15: Specifications MC 330 and MC 331 cargo tanks constructed of other than quenched and tempered steel (NQT) are authorized for all grades of liquefied petroleum gases. Only grades of liquefied petroleum gases determined to be "noncorrosive" are authorized in Specification MC 330 and MC 331 cargo tanks constructed of quenched and tempered steel (QT). "Noncorrosive" means the corrosiveness of the gas does not exceed the limitations for classification 1 of the ASTM Copper Strip Classifications when tested in accordance with ASTM D1838–64, "Copper Strip Corrosion by Liquefied Petroleum (LP) Gases." (For (QT) and (NQT) marking requirements see § 172.328(c) of this subchapter. For special shipping paper requirements, see § 172.203(h) of this subchapter.)

. . . . . .

39. In § 173.332 paragraph (d) is revised to read as follows:

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§ 173.332 Hydrocyanic acid, liquid (prussic acid) and hydrocyanic acid liquefied.

• • • • • •

(d) Spec. 105A500–W or 105A600–W (§§ 179.100 and 179.101 of this subchapter). *Tank cars.* Tank must be restenciled 105A300–W and be equipped with safety valves of the type and size used on spec. 105A300–W (§§ 179.100 and 179.101 of this subchapter) tank car. Tank car tank must be equipped with approved dome fittings and safety devices, and with cork insulation at least 4 inches in thickness. Each tank car must be marked "HYDROCYANIC ACID" in accordance with the requirements of § 172.330 of this subchapter. Written procedure covering details of tank car appurtenances, dome fittings and safety devices, and marking, loading, handling, inspection, and testing practices shall be filed with and approved by the Bureau of Explosives before any tank car is offered for transportation of hydrocyanic acid. The maximum permitted filling density is 63 percent of the water capacity of the tank.

40. Section 173.338 is reserved.

§ 173.338 [Reserved].

41. In § 173.343 the introductory text of paragraph (a) is revised to read as follows:

§ 173.343 Poison B.

(a) For the purposes of Parts 170–189 of this subchapter and except as otherwise provided in this Part, class B poisons are those substances, liquid or solid (including pastes and semisolids), other than Class A poisons or Irritating materials, which are known to be so toxic to man as to afford a hazard to health during transportation; or which, in the absence of adequate data on human toxicity, are presumed to be toxic to man because they fall within any one of the following categories when tested on laboratory animals:

• • • • • •

42. In § 173.345 the introductory text of paragraph (a) and paragraph (b) are revised to read as follows:

§ 173.345 Limited quantities of Poison B liquids.

(a) Limited quantities of Poison B liquids for which exceptions are permitted as noted by reference to this section in § 172.101 of this subchapter or as provided in § 173.359(c), in tightly closed inside packagings, securely cushioned when necessary to prevent breakage, are excepted from the specification packaging requirements when packed according to the following paragraphs. In addition, shipments are not subject to Subpart F of Part 172 of this subchapter, to Part 174 of this subchapter except §§ 174.24 and 174.680 and to Part 177 of this subchapter except §§ 177.817 and 177.841(e).

• • • • • •

(b) Special exceptions for shipment of certain drugs and medicines in the ORM–D class are prescribed in Subpart N of this Part.

43. In § 173.354 paragraph (a)(4) is revised to read as follows:

§ 173.354 Motor fuel antiknock compound or tetraethyl lead.

(a) • • •

(4) Specification 105A300–W (§§ 179.100 and 179.101 of this subchapter). *Tank car.* Each tank car must be marked "MOTOR FUEL ANTIKNOCK COMPOUND" in accordance with the requirements of § 172.330 of this subchapter. Tank car not authorized for tetraethyl lead. Openings in tank heads to facilitate application of nickel lining are authorized on tank cars constructed before January 1, 1975. These openings must be closed in an approved (§ 179.3 of this subchapter) manner.

• • • • • •

44. In §173.364 paragraph (a)(1) is amended by adding the word ", jars" following the word bags in the 7th line; paragraph (b) is revised to read as follows:

§ 173.364 Limited quantities of Poison B solids.

• • • • • •

(b) Special exceptions for shipment of certain drugs and medicines in the ORM–D class are prescribed in Subpart N of this Part.

45. In § 173.384 a new section is added to read as follows:

§ 173.348 Monochloracetone, stabilized.

(a) Monochloracetone, stabilized, must be packed in specification containers as follows:

(1) Specification 5, 5A, or 17C (single-trip) (§§ 178.80, 178.81, 178.115 of this subchapter). Metal barrels or drums.

(2) Specification 15A, 15B, 15C, or 16A (§§ 178.168, 178.169, 178.170, 178.185 of this subchapter). Wooden boxes with inside glass bottles or tubes in metal cans hermetically sealed or with covers securely taped. The metal cans must be in corrugated fiberboard cartons, specification 2C (§ 178.22 of this subchapter). Bottles must not contain more than 1 pound of liquid each, must not be filled to more than 95 percent capacity, must be tightly and securely closed, and must be cushioned in cans with at least one-half inch of absorbent material. Cans must be made of metal at least 32-gauge U.S. Standard. The total amount of liquid per package must not exceed 24 pounds.

§ 173.386 [Amended].

46. In § 173.386 the introductory text of paragraph (d) is amended by changing the first word to read "*Exceptions.*"

§ 173.392 [Amended].

47. In § 173.392 paragraph (a) is amended by changing the references "§§ 173.401 and 173.402" in the eighth and ninth lines to read "§§ 172.300 and 172.400 of this subchapter"; in paragraph (c)(7), the references to "§ 174.451(b) or § 177.823" in the fifth line are changed to read "§ 172.500"; in paragraph (d)(5) the references to "§ 174.541(b) or § 177.823" in the fifth line are changed to read "§ 172.500."

Appendix A Part 173 [Deleted].

48. The table shown as Appendix A to Part 173 and following § 173.432 is deleted.

§ 173.800 [Amended].

49. In § 173.800 the words "Ammonium hydrogen fluoride" are deleted and the word "Ammonium" is capitalized in the entry "ammonium hydrogen sulfate" in the Heading and introductory text of paragraph (a).

50. § 173.1025 is revised as follows:

§ 173.1025 Metal borings, shavings, turnings or cuttings.

Metal borings, shavings, turnings or cuttings, when offered for transportation by water, must be prepared for shipment in compliance with § 173.510 and must be packaged in a metal barrel or drum, or, for non-ferrous material only, in compressed bales wrapped in burlap provided the burlap shows no sign of oil.

51. In § 173.1200 the introductory text of paragraph (a), paragraph (a)(2)(iii), and paragraph (a)(8)(ii) are revised to read as follows:

§ 173.1200 Consumer Commodity.

(a) In order to be transported under the proper shipping name of "Consumer commodity," a material must meet that definition. It may be reclassed and offered for shipment as ORM–D material (see § 173.500) provided that an ORM–D exception is authorized in specific sections applicable to the material, and that it is prepared in accordance with the following paragraphs. (The gross weight of each package must not exceed 65 pounds and each package offered for transportation aboard aircraft must meet the requirements of § 173.6.)

• • • • • •

(2) • • •

(iii) In metal or plastic inside containers, each having a rated capacity of not over 1 quart, packed in strong outside packaging provided the liquid mixture contains 15 percent or less corrosive material and the remainder of the mixture does not meet the definition of a hazardous material as defined in this subchapter. Not authorized for transportation by air.

• • • • • •

(8) • • •

(ii) In inside metal container charged with a solution of materials and compressed gas or gases which is nonpoisonous, meeting all of the following:

• • • • • •

52. Appendix A to Part 173 is amended by adding "not less than" following the word measuring in paragraph 2.; paragraphs 6 and 7 are renumbered 7 and 8, and a new paragraph 6 is added to read "6. Following this initial reading, all test sites are washed with an appropriate solvent to prevent further exposure."

PART 174—CARRIAGE BY MAIL

53. In the Table of Sections, § 174.63 is revised to read as follows:

"Sec. 174.63 Freight containers and portable tanks."

54. § 174.5 is revised to read as follows:

§ 174.5 Carrier's materials and supplies.

This subchapter applies to the transportation of a carrier's materials and supplies moving by rail, except that the shipper's certification is not required when these materials and supplies are being transported by the carrier who owns them. The requirements of this subchapter do not apply to railway torpedoes or fusees when carried in engines or rail cars. Railway torpedoes must be in closed metal boxes when not in use.

§ 174.8 [Amended].

55. In § 174.8 paragraph (b) is amended by adding the word "loaded" in the second line between the words "each" and "placarded."

56. In § 174.10 paragraph (a) is amended by deleting the words "including the roof" and the period in the sixth line and placing a period after the word "line" in the fifth line; paragraph (c) is revised to read as follows:

§ 174.10 Inspection of cars at interchange.

• • • • • •

(c) A shipment of hazardous materials offered by a connecting carrier must comply with this subchapter, and the revenue waybill, freight bill, manifest of lading, card waybill, switching order, transfer slip ticket, or other billing, must bear the placard notation and endorsement prescribed by § 174.25 of this subpart.

• • • • • •

§ 174.12 [Amended].

57. In § 174.12 paragraph (a) is amended by deleting the word "intermediate" and adding the word "origin" in place thereof in the first line.

58. In § 174.24 paragraph (b) is deleted; paragraph (c) is redesignated paragraph (b) and revised to read as follows:

§ 174.24 Shipping papers.

• • • • • •

(b) This subpart does not apply to materials classed as ORM–A, B, C, or D.

59. In § 174.25 paragraph (a)(2)(ii) the introductory text of paragraph (b), paragraph (b)(4) and (c) are revised; paragraph (b)(6) is deleted as follows:

§ 174.25 Additional information on waybills, switching orders, and other billings.

(a) • • •

(2) • • •

(ii) In bold, upper case letters not less than $\frac{1}{10}$ of an inch high inside a rectangle made with asterisks (*) or the symbol for number (#).

• • • • • •

(b) When the initial movement of a loaded rail car required to be placarded is a switching operation, the switching order, switching receipt, or switching ticket, and all copies thereof, prepared by the shipper, or by the carrier under the shipper's written authority, must contain the following:

• • • • • •

(4) Except when a certified bill of lading is tendered to the carrier, the shipper's certification and signature specified in § 172.204 of this subchapter.

• • • • • •

(6) Deleted.

(c) For empty tank cars which previously contained a hazardous material, other than a combustible liquid, or unless the tank car has been reloaded with a material not subject to this subchapter, or has been sufficiently cleaned of residue and purged of vapor to remove any potential hazard, the billing must show the word(s) "EMPTY" or "EMPTY: Last Contained," followed by the name of the hazardous material last contained in the tank car, the hazard class of the material and the word, "PLACARDED." For example, EMPTY: SULFURIC ACID, Corrosive Material, Placarded; or EMPTY: Last Contained SULFURIC ACID, Corrosive Material, Placarded.

• • • • • •

60. In § 174.26 paragraph (b) is amended by deleting the words "on a separate document" in the last sentence of the paragraph; a new paragraph (c) is added to read as follows:

§ 174.26 Notice to train crews of placarded cars.

• • • • • •

(c) A member of the train crew of a train transporting hazardous materials must have in his possession a copy of the shipping papers for the shipment of hazardous materials being transported showing the information required by §§ 172.202 and 172.203 of this subchapter.

§ 174.63 [Amended].

61. In § 174.63 Heading and paragraph (a) are amended by deleting the word "portable" whenever it appears preceding the word "container" and adding the word "freight" in place thereof.

62. In § 174.69 is revised to read as follows:

§ 174.69 Removal of placards and car certificates after unloading.

When lading requiring placards or car certificates is removed from rail cars other than tank cars, placards and car certificates must be removed by the party unloading the car. For empty tank cars, the placards must be removed, replaced or reversed in accordance with the provisions of § 172.510(c) of this subchapter

§ 174.84 [Amended].

63. § 174.84 is amended by adding the word "freight" preceding the word "container" each time it appears in the section.

§ 174.88 [Amended].

64. § 174.88 is amended by adding the words "an occupied" preceding the word "caboose" in the fourth line.

§ 174.89 [Amended].

65. § 174.89 is amended by adding the word "loaded" preceding the word "placarded" in the third line.

§ 174.101 [Amended].

66. In § 174.101 paragraphs (n), (n)(1), and (n)(2) are amended by deleting the word "portable" each time it appears in these paragraphs and adding the word "freight" in place thereof; paragraph (n)(3) is amended by adding the word "freight" preceding the word "container" in the second line.

67. In § 174.104 paragraph (f) is revised as follows:

§ 174.104 Class A explosives; car selection, preparation, inspection, and certification.

• • • • • •

(f) Each car certificate for use in connection with the inspection of rail cars for the carriage of Class A explosives shall be printed on strong tag board measuring 7 by 7 inches, or 6 by 8 inches. It must be duly executed in triplicate by the carrier, and by the shipper if he loads the shipments. The original must be filed by the carrier at the forwarding station in a separate file and the other two must be attached to the car, one to each outer side on a fixed placard board or as otherwise provided.

---------- Railroad

CAR CERTIFICATE

No. 1---------- Station---------- 19--.

I hereby certify that I have this day personally examined Car Number----- and that the car is in condition for service and complies with the FRA Freight Car Safety Standards (49 CFR Part 215) and with the requirements for foreign cars used to transport explosives prescribed by the DOT Hazardous Materials Regulation (49 CFR Part 174).

Qualified Person Designated Under 49 CFR 215.15

No. 2 ---------- Station ---------- 19--.

I have this day personally examined the above car and hereby certify that the explosives in or on this car, or in or on vehicles or in containers have been loaded and braced; that placards have been applied, according to the regulations prescribed by the Department of Transportation; and that the doors of cars so equipped fit or have been stripped so that sparks cannot enter.

Shipper or his authorized agent

Qualified Person Designated Under 49 CFR 215.15

No. 3 ---------- Station ---------- 19--.

I hereby certify that I have this day personally supervised the loading of the vehicles or containers on and their securement to the above car.

Shipper or railway employee inspecting loading and securement

NOTE 1: A shipper must decline to use a car not in proper condition.

NOTE 2: All certificates, where applicable, must be signed.

NOTE 3: Car certificates remaining on hand as of the effective date of these regulations may be used until stocks are exhausted but not after July 1, 1977.

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§ 174.112 [Amended].

68. In § 174.112 paragraph (b) is amended by adding reference to "(n), or (o)," in the second line following (b).

§ 174.480 [Amended].

69. § 174.480 is amended by deleting the word "oxidizer" in the second line and adding the words "flammable solid" in place thereof.

70. § 174.810 paragraph (c) is revised as follows:

§ 174.810 Special handling requirements for wet electric storage batteries.

* * * * *

(c) Wet electric storage batteries are not authorized in refrigerator or "plug-door" type cars unless the cars are provided with vents which will prevent an accumulation of gas within the car.

PART 175—CARRIAGE BY AIRCRAFT

§ 175.10 [Amended].

71. In § 175.10 paragraph (a) is amended by changing the word "part" in paragraph (a) to read "subchapter."

§ 175.30 [Amended].

72. In § 175.30 paragraph (b) is amended by deleting the word "dents," in the tenth line.

PART 176—CARRIAGE BY VESSEL

§ 176.11 [Amended].

73. In § 176.11 paragraph (a) is amended by adding the following sentence at the end of the paragraph. "However, a material which is a hazardous material under this subchapter, but which is not a hazardous material under the provisions of the IMCO Code, may be offered and accepted for transportation only if it is classed, described, packaged, marked, labeled and in the condition for shipment required by subchapter."

74. In § 176.30 paragraph (a) is revised to read as follows:

§ 176.30 Dangerous cargo manifest.

(a) The master of a vessel transporting hazardous materials or his authorized representative shall prepare a dangerous cargo manifest, list, or stowage plan. This document may not include a material which is not subject to the requirements of 49 CFR or the IMCO Code. This document must be kept in a designated holder on or near the vessel's bridge. It must contain the following information:

* * * * *

§ 176.45 [Amended].

75. In § 176.45 paragraph (a) is amended by deleting the words "District Commander" and substituting therefor the words "Captain of the Port."

§ 176.48 [Amended].

76. In § 176.48 paragraphs (a) and (c) are amended by deleting the words "District Commander" and substituting therefor the words "Captain of the Port."

§ 176.52 [Amended].

77. In § 176.52 paragraph (b) is amended by deleting the words "District Commander" and substituting therefor the words "Captain of the Port."

§ 176.63 [Amended].

78. In § 176.63 paragraph (b) is amended by deleting the period at the end of the paragraph and adding the following "except that such protection is not required for shipment in portable tanks."

§ 176.74 [Amended].

79. In § 176.74 paragraph (c) is amended by changing the word "may" in the second line to "should."

§ 176.83 [Amended].

80. In § 176.83 paragraph (d)(3)(i)(B) is amended by deleting the period at the end of the first sentence and adding in place thereof the words "or a"; paragraph (d)(3)(ii)(A) is amended by deleting the period at the end of the first sentence and the word "a" at the beginning of the second sentence and adding in place thereof the words "or a"; paragraph (d)(3)(ii)(B) is amended by deleting the word "and" in the fourth line and adding in place thereof the word "or"; paragraph (d)(3)(iii)(A) is amended by deleting the word "and" in the fifth line and adding in place thereof the word "or."

81. In § 176.905 paragraph (c) is amended by deleting the period at the end of the paragraph and the following parenthetical expression and adding in place thereof the following "as the phrase "specially suited for vehicle is defined in 46 CFR 70.10-44 or 46 CFR 90.10-38 as is appropriate."; paragraph (i) is revised; paragraph (i)(2) is deleted and paragraph (i)(3), (4), and (5) are renumbered (i)(2), (3), and (4), respectively; a new paragraph (L) is added to read as follows:

§ 176.905 Motor vehicles or mechanical equipment powered by internal combustion engines.

* * * * *

(i) Except when being transported in a space specially suited for vehicles, the following additional requirements apply to the stowage of any vehicles containing a flammable liquid:

* * * * *

(l) No hazardous materials other than motor vehicles or mechanized equipment and their equipment may be stowed in the same hold or compartment with any vehicle having a flammable liquid or flammable compressed gas in its tank.

GRANDFATHER CLAUSE

The effective date provision in Docket HM-103/112 (41 FR 15972-16131, April 15, 1976), appearing at 41 FR 16131, as amended at 41 FR 26014 (June 24, 1976), and at 41 FR 40691 (September 20, 1976), is further amended by revising the third numbered paragraph to read as follows:

Effective date: * * *

(1) * * *

(2) * * *

(3) A package filled, marked, or labeled before January 1, 1977, in accordance with regulations in effect on June 30, 1976, may be offered for transportation and transported, even though it does not comply with the package, marking, and labeling provisions of this amendment, if it (i) is offered for transportation before July 1, 1977, and (ii) complies with the package, marking, and labeling regulations in effect on June 30, 1976.

* * * * *

(18 U.S.C. 834, 46 U.S.C. 170(7), 49 U.S.C. 1471, 1472(h)(1), 1807, 49 CFR 1.53(e)-(h). Under a final rule making (41 FR 38175), on January 3, 1977, the authority citation for this amendment is changed to read; (40 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

Effective Date: The changes effected by this publication consist of corrections, clarifications, and relaxations of previously published requirements. As these changes are not expected to impose significant burdens on anyone, and because of the need for expedited publication in order to avoid disruption of the staged implementation adopted for amendments in this docket, further public notice and opportunity for comment are being dispensed with, and the amendments contained herein are effective on December 30, 1976, subject to the applicable effective date provision at 41 FR 16131, as amended at 41 FR 26014 and 41 FR 40691, and as amended herein.

The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C. on December 22, 1976.

JAMES T. CURTIS, JR.,
Director,
Materials Transportation Bureau.

[FR Doc.76-38409 Filed 12-29-76;8:45 am]

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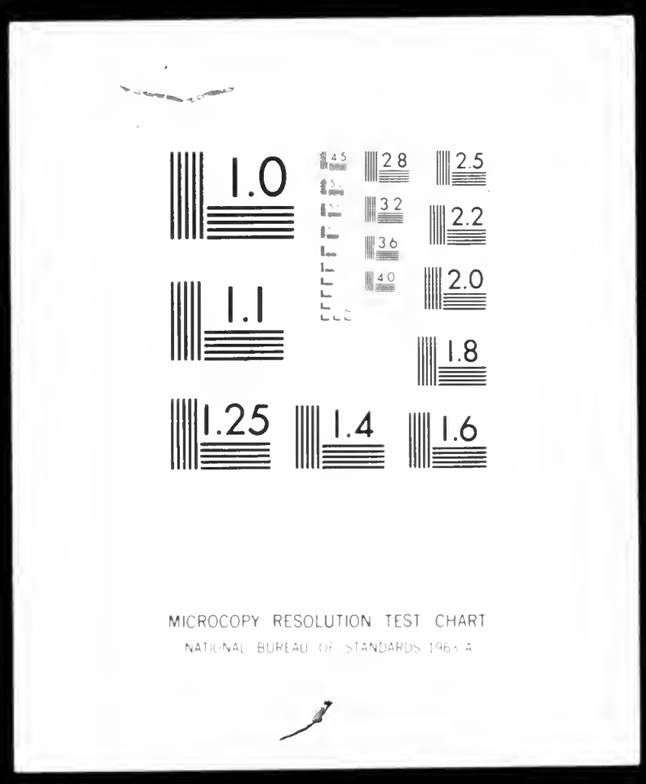
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RESOLUTION CHART



100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.

THE END